TITLE: FEDERAL REGISTER

VOLUME: 45 **ISSUES:** 153-165

DATE: August 6-22, 1980 Pages: 52139-56328
Reel 3 of 11

ISSN: 0042-1219 **PUBLICATION NO:** 2575

NOTICE: This periodical may be copyrighted, in which case the contents remain the property of the copyright owner. The microfilm edition is reproduced by agreement with the publisher. Duplication or resale without permission is prohibited.

University Microfilms International, Ann Arbor, Mich.

BEST COPY AVAILABLE.

8-6-80
Vol. 45 No. 153
Pages 52139-52354

federal register

Wednesday
August 6, 1980

Highlights

52139 **Strategic Petroleum Reserve** Executive Order

52287 **Grant Programs—Energy** NRC announces proposed availability of FY 1981 funds for financial assistance to enhance technology advancement of nuclear energy safety; apply from 10–1–80 to 9–30–81

52295 **Grant Programs—Refugees** HHS/Sec'y gives notice of grants to assist non-profit refugee Mutual Assistance Association in providing services to persons legally admitted as refugees; apply by 9–8–80

52296 **Medicare** HHS/HCFA gives notice of ruling to discontinue medicare coverage of heart transplant procedures; effective 6–13–80

52144 **Credit** FRS amends regulations regarding extension of credit by Federal Reserve Banks

52173 **Real Estate** FHLBB publishes revisions of real estate lending regulations; comments by 10–6–80

52195 **Fuel** DOE gives notice of alternative fuel production financial assistance; effective 7–29–80

52143 **Aliens** Justice/INS publishes regulations regarding registration and fingerprinting of aliens in the United States; effective 8–5–80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

52342 **Credit** USDA/CCC proposes intermediate credit export sales program for foreign market development facilities; comments by 9–5–80 (Part VII of this issue)

52177 **Securities** FHLBB publishes proposal regarding investment in consumer loans, commercial paper and corporate debt securities; comments by 10–6–80

52297 **Health Care** HHS/PHS announces scientific evaluation of clinical safety and effectiveness of electrical stimulation for treatment of facial nerve palsy

52326 **Accreditation** Commerce/Sec'y requests comments by 10–6–80 on preliminary finding of need to accredit laboratories that provide electromagnetic calibration services (Part IV of this issue)

52145 **Cadets** DOD/AF amends regulations regarding enlistment and discharge of AFROTC cadets; effective 7–15–80

52306 **Surface Mining** Interior/SMO amends bond and insurance requirements for surface coal mining and reclamation operations; effective 8–6–80 (Part III of this issue)

52151 **Telephone** FCC publishes regulations regarding connection of terminal equipment to the telephone network

52166 **Improving Government Regulations** Treasury/Comptroller publishes semiannual agenda regulations

52149 **Radio** FCC publishes regulations regarding applicants filing applications in the Domestic Public Land Mobile Radio Service must demonstrate interference free operation; effective 9–8–80

52284 **Privacy Act Document** Justice

52299 **Sunshine Act Meetings**

Separate Parts of This Issue

52303 **Part II, Interior/BLM**
52306 **Part III, Interior/SMREO**
52326 **Part IV, Commerce/Sec'y**
52332 **Part V, USDA/FGIS**
52339 **Part VI, USDA/FGIS**
52342 **Part VII, USDA/CCC**

Contents

Federal Register
Vol. 45, No. 153
Wednesday, August 6, 1980

The President
EXECUTIVE ORDERS
52139 Petroleum Reserve, Strategic (EO 12231)

EXECUTIVE AGENCIES

Agency for International Development
NOTICES
Authority delegations:
52261 Asia, Mission Directors, et al.; contracting functions

Aging, Federal Council
NOTICES
52188 Meetings

Agricultural Marketing Service
RULES
52143 Celery grown in Fla.
52141 Onions grown in Idaho and Oreg.
52141 Potatoes (Irish) grown in Wash.

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Federal Grain Inspection Service; Forest Service; Soil Conservation Service.

Air Force Department
RULES
Military personnel:
52145 ROTC Cadets; enlistment and discharge requirements, policies, and procedures

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
52260 Ashland Oil, Inc., et al.

Civil Aeronautics Board
NOTICES
Hearings, etc.:
52189 El Dorado/Camden, Ark., essential air service

Commerce Department
See also Foreign-Trade Zones Board; National Technical Information Service.
NOTICES
Laboratory Accreditation Program, National Voluntary:
52326 Electromagnetic calibration services

Commodity Credit Corporation
PROPOSED RULES
52342 Foreign market development facilities; intermediate credit export sales program

Commodity Futures Trading Commission
NOTICES
Futures contracts, proposed; availability:
52192 New Orleans Commodity Exchange
52299 Meetings; Sunshine Act

Comptroller of Currency
PROPOSED RULES
Improving Government regulations:
52166 Regulatory agenda

Defense Department
See Air Force Department; Engineers Corps.

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
52286 Schedules I and II, 1981 aggregate

Economic Regulatory Administration
NOTICES
Consent orders:
52195 Field Oil Co.
Energy Supply and Environmental Coordination Act; prohibition orders, rescissions, etc.:
52196 International Paper Co.
Natural gas; fuel oil displacement certification applications:
52198 Arizona Public Service Co.
52199 International Harvester Co.

Education Department
NOTICES
Meetings:
52194 Adult Education National Advisory Council

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
52195 Alternative fuels; feasibility studies and cooperative agreements
Meetings:
52195 Tar sands definitional workshop

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
52193 Central and South Florida Canal 18, Jupiter Inlet and Loxahatchee River Study
52192 Cowanesque Reservoir, Tioga County, Pa.; flood control storage to water supply storage
52194 Delta Pumping Plant, Tracy, Calif.; additional pumps

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
52148 Texas
Waste management, solid:
52149 Permit programs, consolidated; application and report signatory and certification requirements; policy statement
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
52184 Washington; advance notice

V45/153 AG6 80 UMI

Pesticide programs:
52184 Registration of pesticide producing establishments, submission of reports, labeling; addition of producers of active ingredients; extension of time
Water pollution; effluent guidelines for certain point source categories:
52185 Textile mills; best available technology, best conventional technology, and pretreatment and new source performance standards; correction
NOTICES
Meetings:
52241 Science Advisory Board
Pesticides; temporary tolerances:
52241 American Cyanamid Co.
Pesticides; tolerances in animal feeds and human food:
52241 American Cyanamid Co.; correction
Toxic and hazardous substances control:
52242 Premanufacture exemption applications
52241, 51243 Premanufacture notices receipts (2 documents)

Federal Communications Commission
RULES
Commercial radio operators and radio services, special:
52154 Marine radio operator permit establishment, radiotelephone third class operator permit abolishment, and examination order for licenses
Common carrier services:
52149 Domestic public mobile radio services; demonstration of interference-free operation when filing applications
52151 Terminal equipment, connection to telephone network
Television broadcasting:
52153 Cable television; system community unit facilities serving less than fifty people; registration requirement; clarification
Television stations; table of assignments:
52152 Michigan and Ohio
NOTICES
Hearings, etc.:
52244 Casey Broadcasting Co., Inc., et al.
52246 Denair Broadcasting Co., Inc., et al.
52252 Dick Lashbrook Corp.
52247 Everybody's Mood, Inc., et al.
52248 Grants Pass Broadcasting Co., et al.
52249 Hispanic Broadcasting Co., et al.
52253 Payne, Jim T., et al.
52253 Rockbridge Communications, Inc., et al.
52254 Southwest Television, Ltd., et al.
52255 Valcom, Inc., et al.
52256 Van Buren Community Service Broadcasters, Inc., et al.
52256 Visionary Radio Euphonics, Inc., et al.
Meetings:
52257 Marine Services Radio Technical Commission

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
52199 Alabama-Tennessee Natural Gas Co.
52200 Alaskan Northwest National Transportation Co.
52200 Central Virginia Electric Cooperative et al.
52200 Cimarron Transmission Co. et al.
52201 Consolidated Gas Supply Corp.
52203 El Paso Natural Gas Co. (2 documents)
52204 Harrison Western Corp. (2 documents)
52205 Michigan Wisconsin Pipe Line Co. (2 documents)
52206 Michigan Wisconsin Pipe Line Co. et al.
52206 Monongahela Power Co. et al.
52207 Natural Gas Pipeline Co. of America (2 documents)
52208 Panhandle Eastern Pipe Line Co.
52208 Peoples Natural Gas Co.
52209 Public Service Co. of Colorado (3 documents)
52210 Public Service Co. of New Mexico
52210 Tennessee Gas Pipeline Co.
52210 Transcontinental Gas Pipe Line Corp. et al.
52211 Trunkline Gas Co.
52211 United Gas Pipe Line Co.
52212 Virginia Electric & Power Co.
Natural Gas Policy Act of 1978:
52212-52232 Jurisdictional agency determinations (3 documents)

Federal Grain Inspection Service
PROPOSED RULES
Grain standards:
52339 Warehouseman's sample-lot inspection certificate
NOTICES
Grain standards; inspection points:
52332-52335 Indiana (6 documents)

Federal Home Loan Bank Board
PROPOSED RULES
Federal home loan bank system, etc.:
52173 Real estate lending regulations; security property location restrictions, lien priority, and dollar limits on loans
Federal savings and loan system, etc.:
52177 Consumer loans, commercial paper, and corporate debt securities; investment

Federal Maritime Commission
NOTICES
Complaints filed:
52257 Missouri Pacific Railroad Co.
Rate increases, etc.; investigations and hearings, etc.:
52258 Bultaco International, Ltd., et al.
52258 Certified Corp. et al.
52258 Rebates and similar malpractices in U.S. foreign commerce

Federal Reserve System
RULES
Credit extension by Federal Reserve Banks (Regulation A):
52144 Discount rate changes
NOTICES
52299 Meetings; Sunshine Act (2 documents)

Fine Arts Commission
NOTICES
52257 Meetings

Fish and Wildlife Service
RULES
Hunting:
52163 Seney National Wildlife Refuge, Mich., et al.

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
52189 Ohio
52189 Oregon

Forest Service
NOTICES
Environmental statements; availability, etc.:
52188 White River National Forest, Spruce Creek Wilderness Study Area, Colo.; hearing

General Accounting Office
NOTICES
52259 Regulatory reports review; proposals, approvals, violations, etc. (NRC)

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See also Health Care Financing Administration; Public Health Service.
NOTICES
52295 Resettling refugees; availability of funding

Health Care Financing Administration
NOTICES
Medicare:
52296 Heart transplantation procedures; exclusion from coverage

Housing and Urban Development Department
See Interstate Land Sales Registration Office.

Immigration and Naturalization Service
RULES
52143 Aliens, registration and fingerprinting; reference to alien registration receipt card (Form I-551)

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Surface Mining Office.
NOTICES
Meetings:
52261 Oil Shale Task Force
52260 Oil shale tract delineation-tract selection criteria

International Broadcasting Board
NOTICES
52299 Meetings; Sunshine Act

International Development Cooperation Agency
See also Agency for International Development.
NOTICES
Authority delegations:
52261 Agency for International Development, Administrator; trade and development program legal counsel functions

International Trade Commission
NOTICES
Import investigations:
52273 Chains and parts of cast-iron or steel from Italy
52273 Menthol from Japan and China
52280 Motor vehicles and certain chassis and bodies
52280 Slide fastener stringers, etc.

Interstate Commerce Commission
RULES
Practice and procedure:
52158 Motor carrier operating authority application procedures; interim rule and request for comments; correction
Railroad car service orders:
52160 Freight cars; distribution
Railroad car service orders; various companies:
52158 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
52161 Kansas City Terminal Railway Co.
Tariffs and schedules:
52161 Motor carriers and freight forwarders; identification of rates filed under zone of rate freedom
PROPOSED RULES
Practice and procedure:
52186 Rail carriers; recordation of documents; retention schedule
NOTICES
Motor carriers:
52271 Operating rights applications
52262, 52263 Permanent authority applications (2 documents)
52264, 52271 Temporary authority applications (2 documents)
Railroad services abandonment:
52272 Illinois Central Gulf Railroad Co.
52272 Oregon Short Line Railroad Co. et al.

Interstate Land Sales Registration Office
RULES
Interstate Land Sales Full Disclosure Act:
52144 Registration, purchaser's revocation rights, sales practices and standards, etc.; correction

Justice Assistance, Research and Statistics Office
NOTICES
Meetings:
52286 Juvenile Justice and Delinquency Prevention National Advisory Committee

Justice Department
See also Antitrust Division; Drug Enforcement Administration; Immigration and Naturalization Service; Justice Assistance, Research and Statistics Office.
RULES
Organization, functions, and authority delegations:
52145 Marshals Service, Director; approval of expenditures
52145 Small and Disadvantaged Business Utilization Office; establishment
PROPOSED RULES
52183 Judicial proceedings, open; policy guidelines
52183 Privacy Act; implementation
NOTICES
Pollution control; consent judgments:
52284 Lenoir City, N.C.
52284 Prisons Bureau institutions; list addition
52284 Privacy Act; systems of records

Land Management Bureau
PROPOSED RULES
52303 Alaska occupancy and use and native allotments; eligibility requirements and procedures

V 45 / 153 AG 6 80 UMI

NOTICES
Meetings:
52260 Las Vegas District Grazing Advisory Board
52260 Susanville District Grazing Advisory Board
Sale of public lands:
52260 California

Legal Services Corporation
NOTICES
52287 Grants and contracts; applications (2 documents)

National Technical Information Service
NOTICES
52190, 52191 Inventions, Government-owned; availability for licensing (2 documents)

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
52290 Dairyland Power Cooperative
52291 Georgia Power Co. et al.
52290 Kansas Gas & Electric Co. et al.
52291 Metropolitan Edison Co. et al.
52291 Omaha Public Power District
52292 Toledo Edison Co. et al.
Grants; availability, etc.:
52287 Nuclear energy safety technology advancement
Meetings:
52292 Reactor Safeguards Advisory Committee
52293 Regulatory guides; issuance and availability

Public Health Service
NOTICES
52297 Electrical stimulation; clinical safety and effectiveness for treatment of facial nerve palsy; technology evaluation
Meetings:
52298 Health Care Technology National Council

Small Business Admintration
NOTICES
Applications, etc.:
52298 First Oregon Capital Corp.
52293 PBC Venture Capital, Inc.
52294 Southwestern Venture Capital of Texas, Inc.
Disaster areas:
52294 Oklahoma

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
52188 Buggy Creek Critical Area Treatment RC&D Measure, Okla.
52189 Upper Howard's Creek Watershed, Ky.

Surface Mining Office
RULES
Surface coal mining and reclamation enforcement operations:
52306 Permanent regulatory program; performance bond requirements

Tennessee Valley Authority
NOTICES
52299 Meetings; Sunshine Act

Treasury Department
See also Comptroller of Currency.
NOTICES
Committees; establishment, renewals, terminations, etc.:
52295 International Monetary System Advisory Committee
52295 Senior Executive Service Performance Review Board; membership

Wage and Price Stability Council
NOTICES
Meetings:
52295 Pay Advisory Committee; cancellation

MEETINGS ANNOUNCED IN THIS ISSUE

EDUCATION DEPARTMENT
52194 Adult Education, National Advisory Council, 8–21 and 8–22–80

ENERGY DEPARTMENT
52195 Tar Sands Definitional Workshop, 8–7–80

ENVIRONMENTAL PROTECTION AGENCY
52241 Science Advisory Board, 8–8–80

FINE ARTS COMMISSION
52257 Meeting, 9–3–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Federal Council on the Aging—
52188 Meeting, 8–25 and 8–26–80
Public Health Service—
52298 Health Care Technology National Council, 8–14 and 8–15–80

INTERIOR DEPARTMENT
Bureau of Land Management—
52260 District Grazing Advisory Board, Susanville, Calif., 9–9–80
52260 Las Vegas District Grazing Advisory Board, 8–13–80
Office of the Secretary—
52261 Oil shale task force, 8–26 and 8–27–80
52260 Oil Shale Tract Delineation-Tract Selection Criteria, 8–25 and 8–28–80

JUSTICE DEPARTMENT
Juvenile Justice and Delinquency Prevention Office—
52286 National Advisory Committee for Juvenile Justice and Delinquency Prevention, 8–20 through 8–23–80

NUCLEAR REGULATORY COMMISSION
52292 Reactor Safeguards Advisory Commission, Reactor Fuel Subcommittee, 8–21–80

CANCELLED MEETING

COUNCIL ON WAGE AND PRICE STABILITY
52295 Pay Advisory Committee, 8–80–80

HEARINGS

AGRICULTURE DEPARTMENT
Forest Service—
52188 Spruce Creek Wilderness Study Area, White River National Forest, Pitkin County, Colorado, 9–9–80

INTERNATIONAL TRADE COMMISSION
52280 Certain Motor Vehicles and Certain Chassis and Bodies Therefor, 10–8–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
11790 (*See* EO 12231) ... 52139
12231 ... 52139
7 CFR
946 ... 52141
958 ... 52141
967 ... 52143
Proposed Rules:
800 ... 52339
1492 ... 52342
8 CFR
264 ... 52143
12 CFR
201 ... 52144
Proposed Rules:
Ch. I ... 52166
525 ... 52173
541 (2 documents) ... 52173, 52177
545 (2 documents) ... 52173, 52177
561 ... 52177
563 (2 documents) ... 52173, 52177
24 CFR
1710 ... 52144
28 CFR
0 (2 documents) ... 52145
Proposed Rules:
16 ... 52183
50 ... 52183
30 CFR
800 ... 52306
801 ... 52306
805 ... 52306
806 ... 52306
807 ... 52306
808 ... 52306
32 CFR
888d ... 52145
40 CFR
52 ... 52148
122 ... 52149
Proposed Rules:
52 ... 52184
167 ... 52184
169 ... 52184
410 ... 52185
43 CFR
Proposed Rules:
2560 ... 52303
47 CFR
13 ... 52154
22 ... 52149
68 ... 52151
73 ... 52152
76 ... 52153
81 ... 52154
83 ... 52154
87 ... 52154
49 CFR
1002 ... 52158
1003 ... 52158
1033 (3 documents) ... 52158, 52160, 52161
1045A ... 52158
1056 ... 52158
1062 ... 52158
1100 ... 52158
1130 ... 52158
1150 ... 52158
1309 ... 52161
1310 ... 52161
Proposed Rules:
1116 ... 52186
50 CFR
32 ... 52163

V 45 / 153 3 AG 6 80 UMI

V 45 / 153 AG 6 80 UMI

Federal Register
Vol. 45, No. 153
Wednesday, August 6, 1980

Presidential Documents

Title 3—

The President

Executive Order 12231 of August 4, 1980

Strategic Petroleum Reserve

By the authority vested in me as President of the United States of America by Title VIII of the Energy Security Act (Public Law 96–294) and by Section 301 of Title 3 of the United States Code, and in order to meet the goals and requirements for the strategic petroleum reserve, it is hereby ordered as follows:

1–101. The functions vested in the President by Section 160(c) of the Energy Policy and Conservation Act, as amended, are delegated to the Secretary of Energy (42 U.S.C. 6240(c); see Section 801 of the Energy Security Act).

1–102. The functions vested in the President by Section 7430(k) of Title 10 of the United States Code are delegated to the Secretary of Energy (see Section 804(b) of the Energy Security Act).

1–103. The functions vested in the President by Section 805(a) of the Energy Security Act are, consistent with Section 2 of Executive Order No. 11790, as amended, delegated to the Secretary of Energy.

Jimmy Carter

THE WHITE HOUSE,
August 4, 1980.

[FR Doc. 80–23907
Filed 8–5–80; 11:58 am]
Billing code 3195–01–M

V 45 / 153 AG 6 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 153
Wednesday, August 6, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

Irish Potatoes Grown in Washington; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the State of Washington Potato Committee. It enables the committee to collect assessments from first handlers on assessable potatoes and to use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Final Impact Statement relating to this rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: *Findings.* This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Pursuant to Marketing Order No. 946, as amended (7 CFR Part 946), regulating the handling of potatoes grown in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other information, it is found that the expenses and rate of assessment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open public meeting of the committee, held July 8, 1980, in Moses Lake, Washington. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

7 CFR Part 946 is amended by adding a new § 946.233 as follows:

§ 946.233 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1981, by the State of Washington Potato Committee for its maintenance and functioning, and for such other purposes as the Secretary determines to be appropriate will amount to $19,150.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.003 per hundredweight, or equivalent quantity, of assessable potatoes handled by him as the first handler during the fiscal period, except that potatoes for livestock feed, charity, seed, canning, freezing and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 946.42(a).

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 31, 1960.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23633 Filed 8-5-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 958

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oreg.; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of onions grown in certain designated counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum quality and size requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Final Impact Statement relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the July 16, 1980, **Federal Register** (45 FR 47692). The notice afforded interested persons through July 31, 1980, to file written data, views or arguments pertaining to that proposal. None was filed.

This regulation is based upon unanimous recommendations made by the committee at its public meeting in Ontario, Oregon, on June 19, 1980. The recommendations of the committee reflect its appraisal of the composition of the 1980 crop of Idaho-Eastern Oregon onions and the marketing prospects for this season and are

consistent with the marketing policy it adopted. Harvesting of onions is expected to begin about August 1.

The grade, size, pack, maturity and inspection requirements specified herein are necessary to prevent onions of low quality or less desirable sizes from being distributed in fresh market channels. They also provide consumers with good quality onions consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

Exceptions are specified to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to the grade, size, maturity, pack and inspection requirements, provided that safeguards are met to prevent such onions from reaching unauthorized outlets.

Special purpose shipments are allowed for planting, livestock feed, charity, dehydration, extraction and pickling since such shipments normally do not enter the commercial fresh market channels and no useful purpose is saved by regulating such shipments. Onions for canning and freezing are exempt under the legislative authority for this part.

Findings. After consideration of all relevant matters, including the proposal in the notice, it is found that the handling regulation will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of onions grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) notice of the regulation was published in the **Federal Register** of July 16, 1980, and information regarding its provisions, which are similar to those in effect during the previous season, has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date.

7 CFR Part 958 is amended by adding a new § 958.325 as follows:

§ 958.325 Handling regulation.

During the period August 6, 1980, through April 30, 1981, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d), or (e) of this section.

(a) *Grade and size requirements.* (1) *White varieties.* Shall be either:

(i) U.S. No. 2, 1 inch minimum to 2 inches maximum diameter; or

(ii) U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or

(iii) U.S. No. 1, at least 1½ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(2) *Red varieties.* U.S. No. 2 or better grade, at least 1½ inches minimum diameter.

(3) *All other varieties.* Shall be either:

(i) U.S. No. 2 grade, at least 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality; or

(ii) U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter; or

(iii) U.S. No. 1, at least 2¼ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) or (e) of this section.

(c) *Special purpose shipments.* The minimum grade, size, maturity and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

(1) Planting; (2) livestock feed; (3) charity; (4) dehydration; (5) canning; (6) freezing; (7) extraction; and (8) pickling.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

(1) First apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office may be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to recieve further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, one ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size, and maturity requirements of this section. This exception shall not apply to any portion of a shipment that exceeds one ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 2851.2830–2851.2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

(g) *Applicability to imports.* Pursuant to § 8e of the act and § 980.117 "*Import regulations; onions*" (43 FR 5499); onions imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in the introductory paragraph and paragraph (a) of this section.

(Secs. 1–19, 48 stat. 31, as amended; 7 U.S.C. 601–674)

Dated, August 1, 1980, to become effective August 6, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23737 Filed 8-5-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 967

Celery Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1980–81 season, with the objective of assuring adequate supplies and orderly marketing.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter (202) 447–2615.

SUPPLEMENTARY INFORMATION: This action is consistent with the marketing policy for 1980–81 which was designated "significant" under the procedures of Executive Order 12044.

The marketing policy and regulation were unanimously recommended by the Florida Celery Committee following discussion at a public meeting at Orlando on June 11, 1980. A final impact analysis on the marketing policy is available from Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–2615.

Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR 967) regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

The committee recommended a Marketable Quantity of 8,601,309 crates of fresh celery for the 1980–81 season. This is based on the appraisal of the expected supply and prospective market demand.

Notice of the proposed regulation was published in the July 16 **Federal Register** (45 FR 47693) inviting written comments by July 31, 1980. None was received.

The 8.6 million crate Marketable Quantity is ten percent more than the approximately 7.8 million crates expected to be marketed fresh during the season which ended July 31, 1980. Each producer registered pursuant to § 967.37(f) will have an allotment equal to 100 percent of his historical marketings. This regulation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1980–81 total Base Quantities is authorized for new producers and for increases by existing producers, with 277,700 crates to be allotted to each category. One producer submitted an application for 30,000 crates additional Base Quantities for use during the upcoming season and it was approved.

To maximize the benefits of orderly marketing the regulation should become effective as early as possible in August, when the marketing year begins. Interested persons were given an opportunity to comment on the proposal at an open public meeting on June 11, where it was unanimously recommended by the committee. This regulation is similar to ones in effect for past seasons.

Findings. On the basis of all considerations it is believed that this regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice was given of the handling regulation set forth in this section through publicity in the production area and by publication in the July 16 **Federal Register**, (2) as provided in the marketing agreement and order, this regulation applies to celery marketed during the 1980–81 season, (3) compliance with this section will not require any special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, approximately the latter part of October, (4) prompt issuance of this regulation will be beneficial to all interested persons because it should afford producers and handlers maximim time to plan their operations accordingly, and (5) no useful purpose will be served by postponing such issuance.

7 CFR Part 967 is amended by adding a new § 967.316 as follows:

§ 967.316 Handling regulation; marketable quantity; and uniform percentage for the 1980–81 season ending July 31, 1981.

(a) The Marketable Quantity is established under § 967.36(a) as 8,601,309 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders with 277,700 crates allotted to each category.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 1, 1980, to become effective August 6, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23736 Filed 8-5-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 264

Registration and Fingerprinting of Aliens in the United States; Reference to Form I-551

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document amends two sections of the regulations of the Immigration and Naturalization Service to include reference to the new Alien Registration Receipt Card, Form I-551. The amendments are necessary because the Service now issues Form I-551 as the alien registration document to aliens entitled to evidence of alien registration. The amendments are intended to update the Service's regulations.

EFFECTIVE DATE: August 5, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: In order to include reference to the Alien Registration Receipt Card now issued on Form I–551, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

§ 264.1 [Amended]

In § 264.1 paragraphs (f) and (g) are amended by changing all references to "I–151" to read "I–551".

* * * * *

(Sec. 103, 221, 261–265 (8 U.S.C. 1103, 1201, 1301–1305))

These amendments are published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 3838), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in

V 45 / 153 AUG 6 80 UMI

section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments contained in this order are editorial in nature, and up-date Service practice and procedure regarding the new Alien Registration Receipt Card in current use.

Effective date. These amendments become effective on August 5, 1980.

Dated: July 30, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-23635 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257).

SUPPLMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. Sec. 553 (b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

Pursuant to section 14[d] of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is revised to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of	Rate	Effective
Boston	10	July 29, 1980.
New York	10	July 28, 1980.
Philadelphia	10	July 29, 1980.
Cleveland	10	July 28, 1980.
Richmond	10	July 28, 1980.
Atlanta	10	July 28, 1980.
Chicago	10	July 28, 1980.
St. Louis	10	July 28, 1980.
Minneapolis	10	July 28, 1980.
Kansas City	10	July 28, 1980.
Dallas	10	July 28, 1980.
San Francisco	10	July 28, 1980.

2. Section 201.52 is revised to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of	Rate	Effective
Boston	10½	July 29, 1980.
New York	10½	July 28, 1980.
Philadelphia	10½	July 29, 1980.
Cleveland	10½	July 28, 1980.
Richmond	10½	July 28, 1980.
Atlanta	10½	July 28, 1980.
Chicago	10½	July 28, 1980.
St. Louis	10½	July 28, 1980.
Minneapolis	10½	July 28, 1980.
Kansas City	10½	July 28, 1980.
Dallas	10½	July 28, 1980.
San Francisco	10½	July 28, 1980.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	11	July 29, 1980.
New York	11	July 28, 1980.
Philadelphia	11	July 29, 1980.
Cleveland	11	July 28, 1980.
Richmond	11	July 28, 1980.
Atlanta	11	July 28, 1980.
Chicago	11	July 28, 1980.
St. Louis	11	July 28, 1980.
Minneapolis	11	July 28, 1980.
Kansas City	11	July 28, 1980.
Dallas	11	July 28, 1980.
San Francisco	11	July 28, 1980.

3. Section 201.53 is revised to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of	Rate	Effective
Boston	13	July 29, 1980.
New York	13	July 28, 1980.
Philadelphia	13	July 29, 1980.
Cleveland	13	July 28, 1980.
Richmond	13	July 28, 1980.
Atlanta	13	July 28, 1980.
Chicago	13	July 28, 1980.
St. Louis	13	July 28, 1980.
Minneapolis	13	July 28, 1980.
Kansas City	13	July 28, 1980.
Dallas	13	July 28, 1980.
San Francisco	13	July 28, 1980.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, July 30, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23636 Filed 8-5-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

24 CFR Part 1710

[Docket No. R-80-778]

Land Registration, Purchaser's Revocation Rights, Sales Practices and Standards, and Formal Procedures and Rules of Practice

Correction

In the correction to FR Doc. 80-17871 appearing on page 50735 in the issue of Thursday, July 31, 1980, change item (1) now reading

"(1) On page 40487, first column, the paragraph beginning with Exemption Notice, "Dil SR No" should be corrected to read "DILSR No"."

to read as follows:

(1) On page 40487, first column, in paragraph (4) of § 1710.15(c), in the paragraph designated Exemption Notice, "Oil SR No" should have read "OILSR No".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 905-80]

Delegation of Authority To Approve Certain Expenditures of the U.S. Marshals Service

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Title 28, United States Code, Section 567, provides that, under regulations prescribed by the Attorney General, each United States Marshal shall be allowed: (1) his actual and necessary office expenses; (2) the expense of transporting prisoners, including the cost of necessary guards and the travel and subsistence expense of prisoners and guards; and (3) other necessary expenditures in the line of duty, approved by the Attorney General. This order delegates the authority to approve "other necessary expenditures in the line of duty" to the Director, United States Marshals Service.

EFFECTIVE DATE: July 28, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert Leigh, Director, Finance Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (202-633-2728).

By virtue of the authority vested in me by 28 U.S.C. §§ 509, 510 and 567, and 5 U.S.C. § 301, Title 28, Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT

1. A new subsection (p), to read as follows, is added to § 0.111:

§ 0.111 General functions.

* * * * * *

(p) Approval of "other necessary expenditures in the line of duty" of U.S. Marshals and Deputy U.S. Marshals under 28 U.S.C. 567(3).

2. Section 0.113 is amended to read as follows:

§ 0.113 Redelegation of authority.

The Director, U.S. Marshals Service, is authorized to redelegate to any of his subordinates any of the powers and functions vested in him by this subpart, except that the authority to approve "other necessary expenditures in the line of duty" of U.S. Marshals and Deputy U.S. Marshals may not be delegated below the Assistant Director level.

Dated: July 28, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-23629 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 0

[Order No. 906-80]

Establishment of the Office of Small and Disadvantaged Business Utilization in the Department of Justice

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Small Business Investment Act was amended in 1978. Among other things, the 1978 amendment established in each Federal agency having procurement powers an office to be known as the "Office of Small and disadvantaged Business Utilization;" (OSDBU). This order attaches the Department of Justice OSDBU to the Office of the Deputy Attorney General and assigns certain responsibilities to the Director of that office.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530 ((202) 633-3452).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 15 U.S.C. 644(k), it is hereby ordered as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT

Subpart C of Part 0 of Chapter I, 28 Code of Federal Regulations, is amended by adding the following § 0.18a.

§ 0.18a Office of Small and Disadvantaged Business Utilization.

The Office of Small and Disadvantaged Business Utilization is headed by a Director appointed by the Attorney General, who shall be responsible to, and report directly to, the Deputy Attorney General. Subject to the general supervision and direction of the Deputy Attorney General, the Director shall:

(a) Be responsible for the implementation and execution of the functions and duties required by sections 637 and 644 of Title 15, United States Code;

(b) Establish Department goals for the participation by small businesses, including small businesses owned and controlled by socially and economically disadvantaged individuals, in Department procurement contracts;

(c) Have supervisory authority over Department personnel to the extent that the functions and duties of such personnel relate to the functions and duties described in paragraph (a) of this section;

(d) Provide resource information and technical training and assistance regarding utilization of small businesses, including small businesses owned and controlled by socially and economically disadvantaged individuals, to Department personnel who perform procurement functions;

(e) Assign a small business technical adviser to any Department offices to which the Small Business Administration assigns a procurement center representative, in accordance with section 644(k)(6) of Title 15, United States Code;

(f) Develop and implement appropriate outreach programs to include small minority businesses in procurement contracts;

(g) Cooperate and consult regularly with the Small Business Administration with respect to the functions and duties described in paragraph (a) of this section;

(h) Review, evaluate and report to the Deputy Attorney General on the performance of organizational units of the Department in accomplishing the goals for utilization of small and disadvantaged businesses; and

(i) Prepare the Department's annual report to the Small Business Administration on the extent of participation by small and disadvantaged businesses in Department procurement contracts.

Dated: July 30, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-23631 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 888d

Military Personnel; Enlistment and Discharge of AFROTC Cadets

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by revising Part 888d, Enlistment and Discharge of AFROTC Cadets. This revision clarifies the enlistment

V 45 / 153 AG 6 80 UMI

requirements for students selected for membership in the College Scholarship Program (CSP) and the Professional Officer Course (POC), AFROTC; prescribes the policies and procedures for enlistment in and discharge from the United States Air Force Reserve (USAFR); and for ordering certain discontinued members to extended active duty (EAD) involuntarily in their enlisted grade. It implements DOD Directives 1215.8, May 1, 1974; 1215.9, November 7, 1969; and Change 1, July 10, 1970.

EFFECTIVE DATE: July 15, 1976.

FOR FURTHER INFORMATION CONTACT:

Major Herbert L. Treger, telephone (202) 695–0318.

Title 32 of the Code of Federal Regulations is amended by revising Part 888d to read as follows:

PART 888d—ENLISTMENT AND DISCHARGE OF AFROTC CADETS

Sec.

888d.1 Purpose.
888d.2 Terms explained.
888d.3 Enlistment obligations.
888d.4 Enlistment prerequisites.
888d.5 Periods of enlistment.
888d.6 Who enlists applicants.
888d.7 Action at time of enlistment.
888d.8 Failure to complete training or accept commission.
888d.9 Basis for discharge.
888d.10 Reporting cadets for discharge or order to EAD.
888d.11 ARPC actions on cadets reported for EAD in their enlisted grade.

Authority: 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 45–14, July 15, 1976.

Note.—Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells the members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 888d.1 Purpose.

This part prescribes enlistment requirements for students selected for membership in the College Scholarship Program (CSP) and the Professional Officer Course (POC), AFROTC, under 10 U.S.C. Sections 2101 through 2111. It also prescribes the policies and procedures for enlistment in the United States Air Force Reserve (USAFR); for discharge from the USAFR; and for ordering certain discontinued members to extended active duty (EAD) involuntarily in their enlisted grade.

Note.—This part is affected by the Privacy Act of 1974. Each form which is required by this part contains a Privacy Act Statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 888d.2 Terms explained.

(a) *AF Form 1056, Air Force Reserve Officers' Training Corps Contract.* A contractual agreement jointly executed by the Department of the Air Force and a student programmed to serve on EAD. The agreement establishes membership in the CSP or POC. Part 870 of this chapter is the prescribing directive for this form.

(b) *AF Form 1448, Air Force Reserve Officers' Training Corps Contract (Air National Guard/Air Force Reserve).* A contract jointly executed by the Department of the Air Force and a student programmed for service in the Air National Guard/Air Force Reserve. This contract establishes membership in the POC. Part 870 of this chapter is the prescribing directive for this form.

(c) *College Scholarship Program (CSP).* A program in which selected cadets receive educational financial assistance including normal tuition, fees, laboratory expenses, books, and a monthly subsistence allowance. This program is prescribed under 10 U.S.C. 2107.

(d) *Extended Active Duty (EAD).* A tour of active duty (AD), normally for more than 90 days, performed by a member of the Air National Guard of the United States (ANGUS) or the USAFR. Strength accountability for persons on EAD changes from the ANGUS/USAFR to the active force.

(e) *General Military Course (GMC).* The first and second years of the 4-year program consisting of Aerospace Studies 100 and 200.

(f) *Prior Service Applicant.* A former member of the Armed Forces or the Reserve components of the Armed Forces who served a continuous period of AD, EAD, or active duty for training (ADT) of 6 months or more.

(g) *Professional Officer Course (POC).* The third and fourth years of the 4-year program and the first and second years of the 2-year program consisting of Aerospace Studies 300 and 400. This advanced training is prescribed under 10 U.S.C. 2104.

§ 888d.3 Enlistment obligation.

Each student selected for a scholarship award by the Commandant, AFROTC, or selected for POC membership must enlist in the USAFR under this part before being eligible to enroll as a member of the POC or CSP.

§ 888d.4 Enlistment prerequisites.

An applicant must meet the prerequisites for enlistment prescribed in Part 888 of this chapter and the eligibility requirements for admission to membership in the POC or CSP according to Part 870 of this chapter.

§ 888d.5 Periods of enlistment.

Applicants enrolled in the CSP are enlisted for a period of 8 years. All others are enlisted for a period of 6 years. However, nonscholarship cadets enlisted for a period of 6 years need not change their period of enlistment if they are subsequently granted scholarships.

§ 888d.6 Who enlists applicants.

Detachment Commanders and other officers assigned to AFROTC may enlist an eligible applicant in the USAFR.

§ 888d.7 Action at time of enlistment.

The enlistment authority:

(a) Completes counseling requirements according to Parts 888 and 870 of this chapter.

(b) Ensures that enlistment documents and forms are prepared according to Part 888 of this chapter.

(1) AF Form 22, Statement of Understanding (US Air Force Reserve), or AF Form 73, Statement of Understanding (AFROTC Airmen Scholarship and Commissioning Program), or AF Form 1404, Statement of Understanding (AFROTC Production for ANGUS and USAFR). Each student enlisted under this part must certify that the applicable provisions are understood.

(2) DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States, and DD Form 1966, Application for Enlistment Armed Forces of the United States. Prepare according to Part 888 of this chapter.

Note.—A cadet discontinued from AFROTC membership and discharged from the USAFR obligated reserve section (ORS) may apply for enlistment or reenlistment. If eligible for enlistment in the Regular Air Force under Part 888 of this chapter, or reenlistment in the USAFR under AFR 35–16, volume II, cadet service with concurrent Reserve status is creditable in computing basic pay and is creditable toward completing the enlisted member's military service obligation (MSO).

(3) AF Form 2061, USAF Drug Abuse Certificate (Appointment/Officer Training Applicants Only). Before enlistment, applicant completes AF Form 2061 according to Part 870 of this chapter.

(4) AF Form 2031, Drug Abuse Circumstances (Instructions to Recruiter). Accomplish AF Form 2031 according to Part 870 of this chapter.

(c) Ensures that an applicant who is a member of any military component, including the USAFR, on entrance into this program, is discharged and enlisted. Discharge is contingent on immediate enlistment under this part and orders must cite this fact.

(d) Determines the grade in which applicant must be enlisted.

(e) Publishes Reserve order according to AFR 10–7, chapter 3, assigning enlistee to the Air Reserve Personnel Center (ARPC) (ORS–RC) (AFROTC) with attachment to (Specify AFROTC detachment and educational institution.)

Exception.—The appropriate Detachment Commander publishes Reserve orders on receipt of enlistment documents from the AD enlisting activity for members enlisted in the USAFR to participate in the AFROTC ASCP.

§ 888d.8 Failure to complete training or accept commission.

(a) *General Military Course (CSP).* No GMC cadet will be ordered to AD involuntarily, except former Regular Air Force enlisted personnel who had 1 year or more remaining on their enlistment contract when discharged from AD to accept an AFROTC scholarship under the AFROTC ASCP. These members normally will be ordered to AD in enlisted status for a period of time equivalent to that not served on their AD enlistment contract.

(b) *POC (Nonscholarship).* A cadet who does not complete the course of instruction, or declines to accept a commission on completion, normally will be ordered to AD to serve in enlisted status for 2 years.

(c) *POC (College Scholarship Program).* A cadet who:

(1) Does not complete this program of instruction normally will be ordered to AD in enlisted status for 2 years; or

(2) Completes this program of instruction but declines a commission when offered, normally will be ordered to AD in enlisted status for 4 years.

(d) *Nurse Licensing Requirements.* A nurse who fails to complete licensing requirements within 8 months following completion of AFROTC and degree requirements normally will be discharged.

§ 888d.9 Basis for discharge.

Discharge is accomplished by ARPC on:

(a) Successful completion of the AFROTC program and acceptance of a commission. The discharge is:

(1) Effective the day preceding acceptance of the commission.

(2) For the convenience of the Government, citing this subparagraph as authority.

(b) Discontinuance of AFROTC membership for any reason unless reported for order to AD involuntarily under § 888d.10. A request for discharge must be accompanied by DD Form 785, Record of Disenrollment From Officer Candidate-Type Training, for permanent inclusion in the cadet's master personnel record (MPerR) group. Discharge for any of the reasons cited in AFR 35–41, volume III, chapter 5, paragraphs 5–20 through 5–22 and 5–31 through 5–36, is instituted when applicable. All other discharges are for the convenience of the Government, citing this subparagraph as authority.

(c) Termination of a scholarship when the student remains a member of the GMC or has completed GMC instruction, but has not begun POC instruction. Discharge occurs the day of scholarship termination and is for the convenience of the Government, citing this subparagraph as authority.

Note.—Discharge under §§ 888d.9(b) and 888d.9(c) does not relieve a male cadet from draft liability under the Military Selective Service Act of 1967.

§ 888d.10 Reporting cadets for discharge or order to EAD.

(a) The Commandant, AFROTC, reports the names of AFROTC cadets or former cadets who qualify for administrative discharge under this part to ARPC at least once a week. ARPC notifies the respective State Adjutant General of individuals under contractual agreement to the ANGUS who are eliminated from training.

(b) The Commandant, AFROTC, normally will report the name of a discontinued POC cadet to ARPC for order to involuntary AD in enlisted grade if the cadet was discontinued for indifference to training, disciplinary reasons, breach or anticipatory breach of the terms of the category agreement, or declining to accept a commission. However, each case will be considered on its own merits. This does not preclude waiving active enlisted service for physical disqualification, humanitarian reasons, the needs of the service, or other mitigating circumstances. When it is known that the cadet has disenrolled from the institution, this information is included. The period of involuntary AD is as described in § 888d.8. DD Form 785 must be completed and sent to ARPC with an information copy to AFMPC/DPMMPO, Randolph AFB TX 78148, in these cases.

(c) The Commandant, AFROTC, normally reports the name of a discontinued GMC or POC cadet to ARPC for order to involuntary AD in enlisted grade if the cadet was discharged from AD under the AFROTC ASCP to participate in the CSP and was discontinued for any reason except as outlined below. (This does not include a GMC cadet who had less than 1 year remaining on his or her Regular enlistment contract at time of discharge. Such a GMC cadet is reported for discharge under paragraph (a) of this section). The period of AD will be as described in § 888d.8. DD Form 785 must be completed and sent to ARPC with an information copy to AFMPC/DPMMPO in these cases. Although the Commandant, AFROTC, may include other unique cases on an individual basis, exceptions normally will be limited to those:

(1) Who have failed to maintain medical qualifications for commissioning;

(2) With a bona fide hardship (as determined by the Commandant, AFROTC);

(3) Who voluntarily enlist in the Regular Air Force;

(4) Discontinued for inaptitude or reasons involving undesirable traits of character; or

(5) Whose order to involuntary AD would not be in the best interest of the service.

§ 888d.11 ARPC actions on cadets reported for EAD in their enlisted grade.

(a) On notification from the Commandant, AFROTC, that discontinued cadets have been identified for order to EAD involuntarily in their enlisted grade, ARPC advises the discontinued cadets that they:

(1) Will be ordered to EAD involuntarily in their enlisted grade for the period prescribed in § 888d.8 except that:

(i) Discontinued cadets are not ordered to EAD until they complete undergraduate degree requirements or disenroll from the institution, whichever occurs first. Discontinued ASCP cadets are ordered to EAD at the end of the school term in which they are disenrolled. Discontinued cadets enrolled in graduate school are not ordered to EAC until they complete the academic year in which they are disenrolled or disenroll from the institution, whichever occurs first;

(ii) Individuals usually are given at least 60 days' notification before their EAD date; and

(iii) When ARPC notification permits, students are entered on EAD within 30 days after the date they normally would complete degree requirements or their current academic year of graduate school, as appropriate. When ARPC notification occurs after a disenrolled cadet has completed degree requirements, disenrolled from college, or is a graduate student between academic years, EAD is scheduled no later than 75 days after ARPC notification. A cadet may submit a written request to ARPC for an earlier or specific date of entry on EAD.

V 45 / 153 AUG 6 80 UMI

(2) Must keep ARPC informed of any change in current address or in their status which may have a bearing on their availability for EAD or affect their status in the USAFR.

(b) ARPC publishes appropriate orders not less than 30 days before scheduled EAD date and sends copies to the discontinued cadet by registered mail, return receipt requested.

(c) Exceptions to the provisions of this section require approval of AFMPC/DPMMPO, Randolph AFB TX 78148.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-23632 Filed 8-5-80; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1562-1]

Approval and Promulgation of State Implementation Plan Approval of Conditionally Approved Element in the Texas Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve that portion of the State Implementation Plan (SIP) revision for Texas, which commits to the identification and implementation of currently planned transportation control measures (TCMs) for Harris County. This revision was submitted by the Governor on December 28, 1979, to fulfill the requirements of Part D of Title 1 of the Clean Air Act, as amended in 1977, with regard to nonattainment areas.

When originally submitted certain portions of the SIP contained deficiencies which the State agreed to correct by a specified deadline. The deadline proposed by EPA in the rulemaking notice of August 1, 1979 was October 29, 1979. During the public comment period the State requested a new deadline of December 31, 1979. EPA concurred with this date and it was approved in the final rulemaking notice of March 25, 1980. The EPA received the required documentation on December 28, 1979 from the State and has evaluated the submittal. Based upon the approvable submittal, EPA has determined that the State has satisfied the condition specified in the March 25, 1980 notice and therefore is approving this element of the Texas SIP.

EFFECTIVE DATE: Effective August 6, 1980.

FOR FURTHER INFORMATION CONTACT:
Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Introduction

On August 1, 1979 (44 FR 45204), EPA published a notice of proposed rulemaking on revisions to the Texas SIP. Under that notice the Agency discussed the SIP in detail and described the deficiencies of the SIP pursuant to Part D of the Act and the General Preamble, which was published in the April 4, 1979 issue of the Federal Register (at 44 FR 20372) and supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

The July 2, 1979 supplement to the April 4, 1979 notice outlines the criteria for conditional approval. This discussion will not be restated in this notice.

In a notice of proposed rulemaking published in the Federal Register on August 1, 1979 EPA conditionally approved the transportation control measures portion of the Texas SIP provided the State commit to identify and implement TCMs for Harris County having beneficial air quality impacts.

Based upon discussions with the TACB and EPA the State committed to a conditional approval deadline of December 31, 1979. This date was approved in the final rulemaking notice of March 25, 1980.

On December 28, 1979 the State submitted to EPA under the signature of the Governor, their Plans for Implementation of Air Quality Related Transportation Control Measures for Harris County. The currently planned Transportation Control Measures committed to by local elected officials and having positive air quality impacts include two permanent park and ride lots and three long term lease lots that have a total capacity of 2650 parking spaces. In addition, the Metropolitan Transit Authority committed to continuation of the Houston Car Share (car-pooling) program.

These measures (i.e., park and ride programs and carpool programs) are considered by EPA to be acceptable TCMs and EPA feels that this submittal satisfies the condition specified in the March 25, 1980 notice. Therefore, EPA is withdrawing conditional approval, and is fully approving this portion of the SIP.

PUBLIC COMMENTS: The public was given the opportunity to comment on the substance and schedules of the conditionally approved items in the proposed rulemaking of August 1, 1979, 44 FR 45204. The public had no comments specific to the currently planned TCMs for Harris County but other comments received on the Texas SIP were discussed in the March 25, 1980 Notice of Final Rulemaking.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subjected to the procedural requirements of the Order or whether it may follow other specified development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

EPA finds that good cause exists for making this package immediately effective: (1) Implementation Plans are already in effect under State law and EPA approval imposes no additional regulatory burden;

(2) EPA has a responsibility under the Act to take final action as soon as possible on the portion of the SIP which were given conditional approval regarding Part D Requirements.

Dated: July 24, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding a new paragraph (24) as follows.

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(24) A revision identifying and committing to implement currently planned Transportation Control Measures (TCMs) for Harris County was submitted by the Governor on December 28, 1979.

2. § 52.2791 is revoked and reserved.

§ 52.2791 [Reserved]

[FR Doc. 80-23466 Filed 8-5-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 122

[FRL 1557-4]

Consolidated Permit Regulations; Signatories To Permit Applications and Reports; Statement of Policy Regarding Signatory and Certification Provisions

AGENCY: Environmental Protection Agency.

ACTION: Statement of policy.

SUMMARY: This policy statement is in response to several industry requests for clarification of certain terms contained in the signatory and certification provisions of 40 CFR 122.6. This policy statement does not change the meaning of the Consolidated Permit Regulations in anyway, but clarifies 1. the requirement of which corporate official must sign permit applications, 2. requirements for signers to have "personally examined" and be "familiar" with the information submitted, and 3. the requirement that the signer make "inquiry of those individuals immediately responsible for obtaining the information."

DATES: This Statement of Policy becomes effective August 6, 1980.

FOR FURTHER INFORMATION CONTACT:
Beth Osheim, Office of Water Enforcement (EN-336), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 426-4793.

SUPPLEMENTARY INFORMATION: The promulgation of the consolidated permit regulations in 45 FR 33290 (May 19, 1980), resulted in numerous inquiries from industry representatives who were having difficulty understanding certain terms used in the signature requirement and certification for permit applications and reports submitted by corporations found in 40 CFR 122.6(a)(1) and (d). We are setting forth this statement of policy to respond to these inquiries and to inform the public of our interpretation of these requirements. This statement of policy does not change the regulation in any way.

POLICY STATEMENT: The requirement that the signer of a permit application submitted by a corporation be a "principal executive officer of at least the level of vice-president" means that the signer must be a president, secretary, treasurer, or any vice-president of the corporation in charge of a principal business function. Any other person who performs similar policy-making functions for the corporation falls within the meaning of this phrase. For example, in cases of very large corporations having many divisions which are not separate corporate entities, the signature of a divisional vice-president or executive officer with such policy-making functions satisfies this requirement even though the divisional vice-president or executive officer technically is not a vice-president or executive officer of the corporation. The signature of the manager for the plan for which the application is being submitted will not satisfy this requirement unless that person is a principal executive officer of at least the level of vice-presient or performs similar policy-making functions for the corporation.

The requirement that the signer of a permit application or other report have "personally examined" and be "familiar" with the information submitted means that the signer must have read the document. The signer must sufficiently comprehend the information contained in the document and its regulatory consequences to enable him or her to make a reasonable inquiry as to the truth, accuracy, and completeness of the information.

To comprehend the regulatory consequences of an NPDES permit application would include, for example, understanding that the information submitted, such as the description of the plant, its processes, and the nature and quantity of pollutants being discharged, will form the basis for determining the effluent limitations, monitoring requirements, notification levels, and other conditions to be established in the NPDES permit.

The requirement that the signer make "inquiry of those individuals immediately responsible for obtaining the information" means that he or she must make a good faith effort to ascertain whether or not the information submitted complies with the requirements of this section. The inquiry must provide the signer with a reasonable basis to believe that the information submitted is true, accurrate, and complete. Because the nature and extent of the inquiry required will vary on a case-by-case basis, it would be impossible for the Agency to specify necessary steps here. In general, however, the signer at least must inquire of the person or persons who supervised the collection of the information. These persons must be able to supply the information necessary to ascertain the truth, accuracy, and completeness of the information being submitted. If inquiry of these supervisors is insufficient to provide a reasonable basis to believe that the information is true, accurate, and complete, the signer must make further inquiry as necessary to establish that basis before signing the document.

Dated: July 28, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

Dated: July 29, 1980.

Michele Beigel Corash,

General Counsel.

[FR Doc. 80-23741 Filed 8-5-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[FCC 80-450]

Making Clear That Applicants at the Time of Filing Applications in the Domestic Public Land Mobile Radio Service Must Demonstrate Interference-Free Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends its regulations to require that applicants for base station facilities in the Domestic Public Land Mobile Radio Service, at the time their applications are tendered for filing, must explicitly state whether there are any co-channel facilities within a specified distance and, if so, must submit interference studies which demonstrate tnat their proposed facilities will not cause co-channel electrical harmful interference.

EFFECTIVE DATE: September 8, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:
Charles Jay Isemen, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 22 of the Commission's rules to make clear that applicants at the time of filing applications in the Domestic Public Land Mobile Radio Service must demonstrate interference-free operation.

Memorandum Opinion and Order

Adopted: July 23, 1980.
Released: July 30, 1980.

1. In the Domestic Public Land Mobile Radio Service (DPLMRS), processing is often delayed because many applications do not contain interference studies that the staff needs in order to determine whether the proposed facilities will cause harmful electrical interference to existing stations. We have reviewed our existing rules that

V 45 / 153 3 AG 6 80 0 UMI

require applicants for base station facilities in the DPLMRS to demonstrate interference-free operation and have concluded that interference-free operation should be demonstrated at the time an application is tendered for filing. The changes we are making in our rules make it clear that such information must be submitted at the time an application is filed rather than withheld until the Commission specifically requests the information.

2. The interrelationship of §§ 22.15, 22.100(a), 22.502, 22.503, and 22.504, of the rules establishes the requirement that applicants for base station facilities in the DPLMRS demonstrate interference-free operation. Section 22.15 requires applications to "contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules * * *." 47 CFR § 22.15 Section 22.100(a) of the rules states that assignment of frequencies will be made only in such a manner as to facilitate the rendition of communications service on an interference-free basis in each service area. 47 CFR § 22.100(a). Section 22.504(a) of the rules defines the reliable service area of a base station entitled to protection from co-channel electrical harmful interference. 47 CFR § 22.504. As a guideline in making frequency assignments that will permit interference-free operation, § 22.502 and 2.503 classify co-channel stations by antenna height above average terrain and effective radiated power and establish the minimum mileage separation that normally will be required. 47 CFR 22.502 and 22.503. To aid the Commission staff in assuring that frequencies are assigned on an interference-free basis, FCC Form 401, Item 26, requires applicants to disclose the average elevation of radial in feet above mean sea level, the height of antenna radiation center in feet above elevation of radial, and the effective radiated power in radial direction, for those radials that are in the direction of a co-channel station within seventy-five miles.[1] It has been our practice to require applicants to submit interference studies demonstrating interference-free operation with all existing co-channel stations within seventy-five miles and with those proposed co-channel stations within seventy-five miles with which the application is "cut off" from comparative consideration by the provisions of § 22.31 of the Commission's rules, 47 CFR 22.31. Whenever interference studies have not been submitted with such applications, our staff has had to spend considerable time and effort in writing letters to the applicants requesting them to submit the information. Significant staff time and effort could be saved and the resultant processing delays could be substantially reduced if this information was provided at the time the application was submitted.[2] In the future, an application that does not contain the requisite interference studies would be subject to being returned as a defective application pursuant to § 22.20(a) of the rules, 47 CFR 22.20(a).

3. We are clarifying our rules to reflect existing practices and interpretations. We also wish to promote greater consistency in the information submitted by applicants. Accordingly, we are adding a new subsection (b) to § 22.15 of the Commission's rules, (technical content of applications) which will require applicants for base station facilities to explicitly state whether there are any co-channel facilities (whether existing or proposed by applications pending for more than 60 days from their public notice dates[3] within a specified distance and, if there are such facilities, to submit interference studies demonstrating that the applicant's proposed facilities will not cause harmful electrical interference to those facilities. The specified distance will be the minimum mileage separation established by §§ 22.502 and 22.503 whenever the application is for two-way base station facilities.[4] We realize that these minimum mileage separations establish a conservative estimate of the minimum mileage separation between co-channel stations when applied to one-way co-channel facilities. Consequently, we find that our present practice of requiring applicants for one-way facilities to identify co-channel facilities as far away as seventy-five miles is too burdensome in those cases where the table in § 22.503 indicates that the minimum milege separation is less than seventy-five miles. Accordingly we shall relax this burden and amend § 22.15(b) to require applicants for one-way base station facilities to explicitly state whether there are any protected co-channel facilities within seventy-five miles or the minimum mileage separation determined by applying the provisions of § 22.502 and the table shown in § 22.503(a), whichever is less, and if there are such facilities, to submit interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those facilities. We will not consider an application to be unacceptable for filing because it fails to identify applications for co-channel facilities that are pending for less than sixty days. In such cases, the Commission's staff may contact the applicant requesting the submission of appropriate interference studies.

4. In some cases, an applicant proposes operation where the average of the eight radials complies with the antenna height-power limit but the combination of effective radiated power and antenna height along a particular radial direction exceeds the limit that is computed by applying Section 22.505[5] in that direction. In these situations, our experience indicates that harmful electrical interference may be caused for a considerably greater distance. Consequently, we have been requiring applicants to explicitly state whether there are any protected co-channel facilities in that particular direction within 125 miles[6] and, if there are such facilities, to submit interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those facilities. Section 22.15(b) will also codify this requirement.

5. Authority for the adoption of the foregoing revisions is contained in Sections 4(i), 303(f), 303(r), 308(b), and 319(a) of the Communications act of 1934, as amended. 47 U.S.C. 154(i), 303(f), 303(r), 308(b) and 319(a).

6. In view of the fact that the amendments adopted herein are rules that clarify existing agency practice and procedure, prior publication of *Notice of Proposed Rule Making* under the provisions of Section 4 of the Administrative Procedure Act is unnecessary, and the amendments will become effective on

7. It is ordered, that effective September 8, 1980, § 22.15 of the Commission's rules is amended as set forth in the attached Appendix below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Section 22.15(b), Title 47, of the Code of Federal Regulations (47 CFR 22.15(b)) is amended to read as follows:

§ 22.15 Technical content of applications.

* * * * *

(b) Each Domestic Public Land Mobile Radio Service application for a construction permit for a new base station or a major modification to an existing base station must:

(1) Explicitly state whether there are any co-channel facilities (whether existing or proposed by applications pending for more than 60 days from their public notice dates) within:

(i)(A) The minimum mileage separation established by §§ 22.502 and 22.503(a), if the application is for two-way communications facilities, or

(B) The lesser of 75 miles or the minimum mileage separation determined by applying the provisions of § 22.502 and the table shown in § 22.503(a), if the application is for one-way communications facilities;

(ii) 125 miles along any radial direction where the combination of effective radiated power in that direction and antenna height above average terrain in that direction exceeds the limit that is computed by applying the provisions of § 22.505 to that direction;

(2) Contain interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those co-channel facilities (existing or proposed) identified in response to subparagraph (1) of this paragraph. The interference studies must use procedures consistent with § 22.504 and FCC Report No. R-6406, "Technical Factors Affecting the Assignment Of Facilities In The Domestic Public Land Mobile Radio Service," by Roger B. Carey. All supporting data and calculations must be included with the results of the studies.

[FR Doc. 80-23639 Filed 8-5-80: 8:45 am]

BILLING CODE 6712-01-M

[1] If there are no co-channel stations within seventy-five miles, applicants must respond to this item and state explicitly that there are no such stations. *RAM Broadcasting of Indiana, Inc.*, 76 FCC 2d 384 (Com. Car. Bur. 1980); *See also Public Notice*, Mimeo 30894, released April 24, 1980, "Mobile Services Division Will Return Public Mobile Radio Service Applications Found To Be Defective."

[2] As we have stated on another occasion, it is the applicant's responsibility to conduct interference studies to determine whether its proposed service can be rendered on an interference-free basis. *Dial-A-Page, Inc.*, 75 FCC 2d 432, 439, 46 RR 2d 1239, 1245 (1980).

[3] Such co-channel facilities will hereinafter be referred to as "protected co-channel facilities."

[4] In order to determine the class of station pursuant to § 22.502 of the the rules, 47 CFR 22.502, both the antenna height above average terrain and effective radiated power must be computed along the particular radial between the co-channel stations.

[5] Section 22.505 of the rules 47 CFR 22.505.

[6] *See Empire Mobilcomm Systems, Inc.*, 73 FCC 2d 203 (Com. Car. Bur. 1979).

47 CFR Part 68

[Docket No. 20774]

Connection of Terminal Equipment to the Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Final regulation.

SUMMARY: The FCC was notified by parties who were attempting to construct gauges in accordance with the dimensions of Figure 68.500(i)(4) that two dimensions were in error. The FCC is hereby correcting the errors which appear in Part 68 of the Commission's Rules and Regulations, published in the **Federal Register** July 12, 1976 at 41 FR 28694.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Common Carrier Bureau, (202) 632-6440.

SUPPLEMENTARY INFORMATION:

Released: July 15, 1980.

1. Certain dimensional errors have been found in Figure 68.500(i)(4), entitled, "8 Position Keyed Plug Specifications," which appears in Part 68 of the Commission's Rules and Regulations in the above-entitled matter, FCC 76-617, published in the **Federal Register** 7-12-76 at 41 FR 28694. See attachment for correction.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

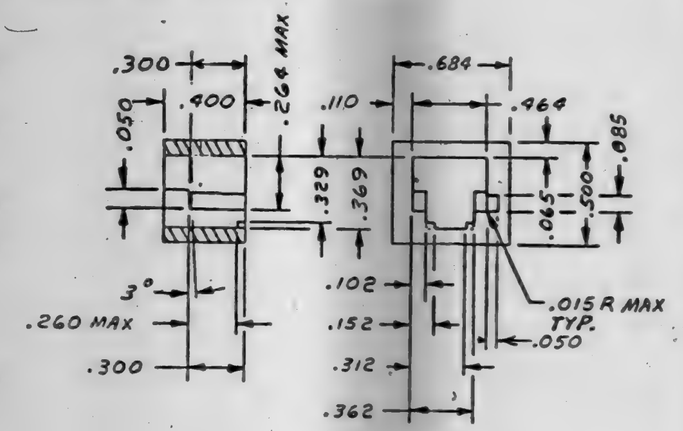

MAXIMUM CLEARANCE GAUGE

Figure 68.500(1)(4)--8 Position Keyed Plug Clearance Specification

[FR Doc. 80-23775 Filed 8-5-80: 8:45 am]

BILLING CODE 6712-01-M

V 45 / 153
AG 6 80
UMI

47 CFR Part 73

[BC Docket No. 80-143]

TV Broadcast Stations in Lansing and Saginaw, Mich.; Newark, Sandusky, and Toledo, Ohio; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: As a result of a Notice of Proposed Rule Making, adopted on the Commission's own motion, this action substitutes Channel 47 for Channel 36 at Lansing, Michigan; Channel 49 for Channel 45 at Saginaw, Michigan; Channel 51 for Channel 52 at Newark, Ohio; Channel 52 for Channel 51 at Sandusky, Ohio; and Channel 36 for Channels 54 and 60 at Toledo, Ohio. This action will allow use of the 806–890 MHz band for land mobile operations in the United States-Canadian border area.

DATE: Effective September 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gordon W. Godfrey, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Lansing and Saginaw, Michigan; Newark, Sandusky and Toledo, Ohio), BC Docket No. 80–143. See 45 FR 28775, April 30, 1980.

Report and Order—Proceeding Terminated

Adopted: July 25, 1980.

Released: August 4, 1980.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making,* adopted April 7, 1980, on the Commission's own motion. The *Notice* proposed the following changes in UHF television assignments:

City	Delete	Add
Lansing, Michigan	36	47
Saginaw, Michigan	45	49
Newark, Ohio	52	51
Sandusky, Ohio	51	52
Toledo, Ohio	54, 60	36

2. The only comment submitted in this proceeding was from Toledo Christian Broadcasting, Inc. ("TCB") in opposition to the proposed addition of Channel 36 and deletion of Channels 54 and 60 at Toledo. TCB states that it was incorporated in December, 1979, and has been in the process of preparing a construction permit application for Channel 54 at Toledo since then. TCB submits that Toledo is a market whose vitality deserves two independent television outlets and that keeping the two channels assigned to Toledo would further the Commission's objectives of maximizing diversity of viewpoints available in a broadcast marketplace.

3. TCB offers no supporting data regarding Toledo's claimed vitality. In addition, Channels 54 and 60 have remained vacant at Toledo for a number of years while in many communities all assigned television channels have been occupied. Finally, TCB does not indicate that Channel 36 could not be used for its planned station.

4. As was indicated in the *Notice,* these proposed changes are needed to resolve conflicts with a revised Canadian UHF television table. The revised Canadian table was originated to clear UHF Channels 70 through 83 (the 806–890 MHz frequency band) of Canadian television stations and assignments. This will make possible land mobile use of this band in the common border area by both countries.[1]

5. We have carefully considered the proposal herein and the comments of TCB, and believe it would be in the public interest to make the substitutions proposed. The need for land mobile use of the 806–890 MHz band in the border area far outweighs any reasons for retaining two unoccupied and unapplied for television assignments at Toledo.

6. Two recently granted construction permits specify channel assignments which are being deleted herein (File No. BPCT–5176 for Station WSFJ on Channel 52 in Newark, Ohio, and File No. BPCT–781023KE on Channel 51 in Sandusky, Ohio). Since the grants were specifically conditioned on the outcome of U.S./Canadian negotiations, and the channels assigned in Newark and Sandusky are being changed, we will modify their authorizations to specify the newly assigned channels.

7. Finally, at the time of the *Notice,* there were on file three applications for the use of Channel 36 in Lansing, Michigan. (Subsequently, one of the three applicants submitted an amendment to its application to specify Channel 53.) While we are substituting Channel 47 for Channel 36 in Lansing, each application, if amended to Channel 47 at its currently requested site, would have a short-spacing. Channel 53 is currently assigned to Lansing, though, and each remaining application may be amended to Channel 53 with no change in site and no short-spacings. We believe that since these applicants have concluded cut-off procedure once on Channel 36, they should have an opportunity to retain their cut-off protection. Since we have substituted Channel 47 for Channel 36, we will permit the applications to be amended to specify the Channel 47 assignment at a new site and retain cut-off protection. If, however, applicants wish to keep their proposed sites and specify Channel 53, we believe that they must face a new cut-off date with the possibility of additional competing applications.

8. In view of the foregoing, it is ordered, that effective September 10, 1980, § 73.606(b) of the Commission's rules, the Television Table of Assignments, is amended with respect to the channel assignments at the following communities:

City	Channel No.
Lansing, Michigan	6-, 47, 53-
Saginaw, Michigan	25-, 49-
Newark, Ohio	*31-, 51
Sandusky, Ohio	52
Toledo, Ohio	11-, 13, 24-, *30+, 36-

9. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. It is further ordered, that pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding construction permit held by Christian Television of Ohio, Inc. for Station WSFJ, Newark, Ohio, is modified, effective September 10, 1980, to specify operation on UHF–TV Channel 51 instead of UHF–TV Channel 52. The permittee shall inform the Commission in writing by no later than September 10, 1980, of its acceptance of this modification. In addition, the permittee shall, within 60 days of receipt of this *Order,* submit to the Commission the technical information normally required of an applicant for Channel 51.

11. It is further ordered, that pursuant to § 316(a) of the Communications Act of 1934, as amended, the outstanding construction permit held by Christian Faith Broadcast, Inc., for a television station in Sandusky, Ohio, is modified, effective September 10, 1980, to specify operation on UHF–TV Channel 52 instead of UHF–TV Channel 51. The permittee shall inform the Commission in writing by no later than September 10, 1980, of its acceptance of this modification. In addition, the permittee shall, within 60 days of receipt of this *Order,* submit to the Commission the technical information normally required of an applicant for Channel 52.

12. It is further ordered, that copies of this document SHALL BE SENT by Certified Mail, Return Receipt Requested, to the following permittees and applicants: Christian Television of Ohio, Inc., c/o Michael F. Riley, 8869 National Rd. SW., Pataskalia, Ohio 43062; Christian Faith Broadcast, Inc., 3809 Maple Ave., Castalia, Ohio 44824; Benko Broadcasting Company, 1503 Jolley Rd., Okemos, Michigan 48864; Kare-Kim Broadcasting Company, Inc., 2405 W. McNichols, Detroit, Michigan 48221; and F & S Communications/News, Inc., 4280 West Saginaw Highway, Lansing, Michigan 48917.

13. It is further ordered, that this proceeding is termined.

14. For further information concerning this proceeding, contact Gordon W. Godfrey, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-23642 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Land mobile use of the 806–890 MHz band has been allowed in the United States, except in the border areas, since 1970. See *Land Mobile Use of 806–890 MHz Band, Notice of Proposed Rule Making,* Docket 18262, 14 F.C.C. 2d 311 (1968); *First Report and Second Notice of Inquiry,* Docket 18262, 35 F.R. 8644 (1970); *Land Mobile Service, Memorandum Opinion and Order,* Docket 18262, 51 F.C.C. 2d 945 (1975).

47 CFR Part 76

[FCC 80-406]

Cable Television Services; Registration Statement; Clarification

AGENCY: Federal Communications Commission.

ACTION: Clarification and Amendment of Rules.

SUMMARY: The subject *Order* discusses § 76.12 of the Rules to make it clear that a cable facility which separately serves fewer than 50 subscribers but which is a part of a larger system which aggregately serves 50 or more subscribers is required to register. The *Order* also amends § 76.12(e) to remove any implication that more than one cable television system community unit may be listed on a single registration statement.

EFFECTIVE DATE: August 18, 1980.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Bob Ratcliffe, Cable Television Bureau, (202) 254–3407.

SUPPLEMENTARY INFORMATION:

Adopted: July 8, 1980.

Released: August 1, 1980.

By The Commission.

In the matter of: clarification and amendment of § 76.12 of the Commission's rules; Order.

1. It has come to our attention that some confusion exists among cable operators as to the exact scope of the registration requirements found in § 76.12 of the Commission's Rules. Specifically, questions have arisen concerning the circumstances under which a cable facility serving less than 50 subscribers is required to file a registration statement. The purpose of the present *Order* is to clarify this point and to amend certain language in § 76.12 which may have contributed to the prevailing uncertainty regarding that section's applicability.

2. Section 76.12 states, in part:

A system community unit shall be authorized to commence operation or to add a television broadcast signal to existing operations only after filing with the Commission [a registration statement].

The obligation to file a registration statement, then, is dependent upon whether or not the cable facility concerned constitutes a "system community unit" within the meaning of the rules. Section 76.5(mm) defines such a unit as follows:

A cable television system, or a portion of a cable television system, that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas).

The critical aspect of this definition for our purposes is the requirement that a cable facility constitute a cable television system or a portion of such a system in order to qualify as a community unit. Since a cable television system is defined, in part, by service to 50 or more subscribers [1], this requirement means that a qualifying facility must either serves 50 subscribers in its own right *or* operate as a part of a set of facilities which, taken together, serve 50 or more subscribers. There is no condition, however, in this definition or elsewhere in the rules that each facility comprising a multiple facility system serve 50 subscribers independently. Accordingly, a cable facility serving less than 50 subscribers separately, but which is a part of a system aggregately serving 50 or more subscribers, constitutes a community unit within the meaning of § 76.5(mm) and must file a registration statement pursuant to § 76.12 of the rules.[2]

3. In undertaking our review of § 76.12 in connection with this *Order,* it became apparent that § 76.12(e) is poorly drafted and may be one source of the current confusion concerning registration. Paragraph (e), as presently drawn, requires cable operators to submit the following information as part of a registration statement:

(e) The name of each separate community or area served and the county in which it is located.

Clearly, this provision implies that more than one community or area may be involved. But, since the entity required to file a registration statement is a community unit and such a unit serves, by definition, only one community or discrete area, this implication is contradictory. It is, moreover, inconsistent with our position, which we clearly stated upon adopting the registration process, that each individual community unit would be required to file a separate registration statement.[3] We shall, therefore, amend paragraph (e) to read as follows:

(e) The name of the community or area served and the county(ies) in which it is located.

Some clarification of § 76.12(d) also seems appropriate, although amendment of its terms is not necessary. This provision states that operators shall indicate "the date the system provided service to 50 subscribers" as a part of a registration statement. We wish to make it clear that where the community unit filing the registration statement is not a system unto itself, the information requested by paragraph (d) refers to the date on which the aggregate subscribership of the system of which the filing unit is a part reached 50.

4. Finally, we are aware that under the Commission's former certification

[1] Section 76.5(a) defines a cable television system as: A nonbroadcast facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment, under common ownership and control, that distributes or is designed to distribute to subscribers the signals of one or more television broadcast stations, but such term shall not include (1) any such facility that serves or will serve fewer than 50 subscribers * * *.

[2] Conversely, of course, a cable facility which serves fewer than 50 subscribers, but which stands alone, is not within the definition of a community unit and is not required to register.

[3] *See Report and Order in CT Docket No. 78–206,* FCC 78–690, 69 FCC 2d 697 (1978), at para. 12.

V 45 / 153
AG 6 80
UMI

process, community units with less than 50 subscribers, even though part of a system with 50 or more subscribers, were not required to obtain a certificate of compliance.[4] This policy may well have contributed to operator uncertainty regarding the obligation to register under 50 subscriber units upon our adoption of the registration process and deletion of the certificating mechanism. It is sufficient to confirm here that such registration is required and to note that our policy revision in this connection was based upon the greatly reduced burden which the registration obligation imposes on cable operators and our conclusion that registration of less than 50 subscriber units would contribute measurably to the accuracy and coherence of our information data base and thus to a more efficient administration of our regulatory responsibilities in the cable area.[5]

5. Since the clarification and rule amendment adopted herein are interpretive in nature, the prior notice and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are inapplicable. Authority for the amendment being adopted is contained in Sections 2, 3, 4(i) and (j), 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

ACCORDINGLY, IT IS ORDERED, That effective August 18, 1980, Section 76.12 of the Commission's Rules and Regulations IS AMENDED as set forth in the attached Appendix.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 76.12, paragraph (e) is revised to read as follows:

§ 76.12 Registration statement required.

* * * * *

(e) The name of the community or area served and the county in which it is located.

* * * * *

[FR Doc. 80-23640 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Parts 13, 81, 83, and 87

[Docket No. 20617; FCC 80-416]

Establishing a Marine Radio Operator Permit and Deleting the Radiotelephone Third-Class Operator Permit

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends Parts 13, 81, 83 and 87 of the Rules to institute a new radio operator license called the "Marine Radio Operator Permit", to abolish the Radiotelephone Third Class Operator Permit, and to change the examination order for its licenses. Primary purpose is to reduce operating costs by ceasing to issue licenses where no regulatory requirement exists for them.

EFFECTIVE DATE: To be specified later in a Public Notice.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roy E. Kolly or Vernon P. Wilson, Field Operations Bureau, 202-632-7240.

SUPPLEMENTARY INFORMATION:

In the matter of Amendments of Parts 13, 81, 83, and 87 of the Commission's Rules to establish a Marine Radio Operator Permit and delete the Radiotelephone Third Class Operator Permit; Third Report and Order *See also* 44 FR 66816, November 21, 1979.

Adopted: July 17, 1980.

Released: August 7, 1980.

By the Commission:

1. This instant Third Report and Order is intended to (1) abolish the Radiotelephone Third Class Operator Permit, and (2) institute a new Marine Radio Operator Permit. The Commission issues 53,000 third class permits annually, primarily to individuals having no legitimate need for the permit. The situation prevails in large part because of deregulation steps previously taken by the Commission in this docket.[1] Through this Order we are modifying the examination and license structure to eliminate the issuance of third class permits where no regulatory requirements for the permit exist.

2. We have explored the reasons why individuals obtain third class permits, and we can divide them into four categories. One category consists of those wanting third class permits so that they can become routine operators at AM, FM and TV stations. The routine operators at these stations need only Restricted Radiotelephone Operator Permits which require no examination.[2] Yet persons obtain third class permits—which require passing a relatively simple examination on basic radio laws and operating practices—because they believe the third class permit will give them an advantage when competing for employment in a tight market. Of the third class permits we issue, 40 percent are to individuals in this category.

3. To get a second class license an applicant must first pass the simple third class examination on basic radio laws and operating practice, and then a more difficult examination on electronic theory. The applicant may take these two examinations in one sitting, or break them up into two parts. Frequently, the applicant takes and passes the easier examination on radio laws and operating practice, and then waits a few months before taking the more difficult technical examination. Upon passing the examination on radio laws and operating practice, the applicant qualifies for and is issued a third class permit for which there is no need since the applicant's ultimate goal is a second class license. Forty percent of the third class permits we issue are to individuals in this category.

4. Some applicants for second class licenses do elect to take the simple and the difficult examination in one sitting. However, if the applicant does not pass the difficult technical examination after passing the simple examination on rules and operating practices, the applicant is issued the third class permit for which he qualified. These applicants have no need for the third class permit which they view as a consolation prize, for their goal is the second class license. Eighteen percent of the third class permits issued are to individuals in this category.

5. In the last category are individuals the FCC requires to hold third class permits. These are primarily the persons who operate the radios on Great Lakes freighters and on charter fishing vessels. Two percent of the third class permits issued are to individuals in this last category. These persons have a legitimate need for the permit because of the safety requirements of the Great Lakes Agreement and the FCC rules governing vessels carrying passengers for hire.

6. From the foregoing it can be seen that there is no FCC requirement for 98 percent of the third class permits that we issue, nor does there appear to be any public interest benefit for awarding third class permits in these situations. By merely revising the order in which the examinations are taken, we can eliminate the necessity of issuing most third class permits. By this order we are amending the Rules to require an applicant for a second class license to pass the more difficult technical examination (now called element three) before attempting the relatively simple examination (now called elements one and two) on FCC Rules and operating practices.

7. Those who pass both examinations will be issued a second class license. Those who fail the difficult technical examination will not be entitled to take the simple examination on Rules and operating practices, and no license will be issued. To the very few who pass the difficult part but fail the simple part, we will issue one-year credit certificates to spare them the burden of re-taking the passed examination.

8. We recognize the need for the maritime radio operators mentioned previously (Great Lakes vessels, charter fishing vessels, and some coast stations) to demonstrate their qualifications through a relatively simple examination. However, instead of issuing them third class permits, we will issue them a certificate more appropriately called a "Marine Radio Operator Permit." This permit will be valid only for operating maritime stations, and it cannot be used as credit toward any other operator license.

9. We also realize that on some occasions a person will need to hold both a Marine Radio Operator Permit for maritime communications, and a Restricted Radiotelephone Operator Permit for, perhaps, broadcast operation. We are thus modifying our Rules to allow an individual in such cases to hold more than one operator permit.

10. We now come to the question of how to deal with persons holding third class permits. These persons may continue to hold and use third class permits until they expire. However, the third class permits will not be renewed. Persons applying for a renewal will be issued the new Marine Radio Operator Permit if they so desire. Additionally, they may obtain the Restricted Radiotelephone Operator Permit. By having these two permits, a person will still be able to operate the same stations they could under the third class permit.

11. Authority for these amendments appears in Sections 4(i) and 303 of the Communications Act of 1934, as amended. In that the amendments adopted herein are editorial and procedural in nature, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553 are not applicable. However, as the amendments being adopted are subject to clearance of reporting requirements by the General Accounting Office, the effective date of this action will be announced by public notice in the near future.

12. Further information on this matter may be obtained from Vernon Wilson or Roy E. Kolly, telephone 202-632-7240.

13. Accordingly, it is ordered that Parts 13, 81, 83, and 87 of the Commission's Rules are amended as set forth in the attached Appendix, effective on the date to be specified in a Public Notice in the **Federal Register** in the near future.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 13—COMMERCIAL RADIO OPERATOR

Part 13 of the FCC Rules and Regulations is amended as follows:

1. Section 13.2(b)(2)(ii) is added to read as follows:

§ 13.2 Classification of operator licenses and endorsements.

* * * * *

(b) * * *

(2) * * *

(ii) Marine Radio Operator Permit.

* * * * *

2. Section 13.3(a) is revised to read as follows:

§ 13.3 Dual holding of licenses.

(a) U.S. citizens, citizens of American Samoa, and Trust Territory citizens may hold the Restricted Radiotelephone Operator Permit and the Marine Radio Operator Permit at the same time. Otherwise they may not hold more than one radiotelephone license and one radiotelegraph license at the same time.

* * * * *

3. Section 13.5(c)(2) is revised to read as follows:

§ 13.5 Eligibility for new license.

* * * * *

(c) * * *

(2) If the applicant afflicted with blindness is afforded a waiver of the written examination requirements and is found qualified for a Radiotelephone First Class Operator License, Radiotelephone Second Class Operator License, or a Marine Radio Operator Permit, the applicant may be issued the license or permit, provided that the license or permit so received shall bear an endorsement as follows:

This license is not valid for the operation of any station licensed by the Commission unless the station has been adapted for operation by a blind person and the equipment to be used in such station for the purpose is capable of providing for operation in compliance with the Commission's Rules.

Note.—Some Radiotelephone Third Class Operator Permits previously issued by the Commission also bear this endorsement.

* * * * *

4. Section 13.11(e) is revised to read as follows:

§ 13.11 Procedure.

* * * * *

(e) *Blind applicant.* A blind person seeking an examination for Radiotelephone First Class Operator License, Radiotelephone Second Class Operator License, or Marine Radio Operator Permit shall make a request in writing to the appropriate field office for a time and date to appear for such examination. The examination shall be administered only at the field office. Requests for examinations shall be made at least 2 weeks prior to the date on which the examination is desired.

5. Section 13.22 is revised to read as follows:

§ 13.22 Examination requirements.

Applicants for original licenses will be required to pass examinations as follows:

(a) *Radiotelephone First Class Operator License.* (1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements 3, 1, 2, and 4.

(b) *Radiotelephone Second Class Operator License.* (1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements 3, 1, and 2.

(c) *Marine Radio Operator Permit.* (1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements 1 and 2 (marine version).

(d) *Radiotelegraph First Class Operator License.* (1) Ability to transmit and receive spoken messages in English.

---

[4] *See First Report and Order in Docket 20561,* FCC 77-205, 63 FCC 2d 956 (1977) at n. 19.

[5] Given the uncertainty surrounding the registration obligation we have clarified today, we do not anticipate enforcement action against community units within the scope of this *Order* for failure to comply with Section 76.12, if such units file the required registration statement within 60 days of the effective date of this *Order.*

[1] The First Report & Order, Docket 20617, was released January 5, 1979 (44 FR 1733). The Second Report and Order was released November 16, 1979 (44 FR 66861). Docket 20617 involved a general review and revision of the FCC's radio operator licensing procedures.

[2] Section 318 of the Communications Act of 1934, as amended, allows the opertion of broadcast stations only by persons holding an operator license issued by the Commission.

V 45 / 153 AUG 6 80 UMI

(2) Transmitting and receiving code test of twenty-five (25) words per minute plain language and twenty (20) code groups per minute.

(3) Written examination elements 1, 2, 5, and 6.

(e) *Radiotelegraph Second Class Operator License.* (1) Ability to transmit and receive spoken messages in English.

(2) Transmitting and receiving code test of twenty (20) words per minute plain language and sixteen (16) code groups per minute.

(3) Written examination elements 1, 2, 5, and 6.

(f) *Radiotelegraph Third Class Operator Permit.* (1) Ability to transmit and receive spoken messages in English.

(2) Transmitting and receiving code test of twenty (20) words per minute plain language and sixteen (16) code groups per minute.

(3) Written examination elements 1, 2, and 5.

(g) *Restricted Radiotelephone Operator Permit.* No oral or written examination is required for this permit. In lieu thereof, applicants will be required to certify in writing to a declaration which states that the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands that it is his responsibility to keep currently familiar with all such provisions.

6. Section 13.25 is revised to read as follows:

§ 13.25 New class, additional requirements.

The holder of a first, second and third class license who applied for another license will be required to pass only the added examination requirements for the new class license. Provided that the holder of a radiotelegraph third class operator permit who takes an examination for a radiotelegraph second class operator license more than one year after the issuance date of the third class permit will also be required to pass the code test prescribed therefor:

7. Section 13.26 is revised to read as follows:

§ 13.26 Cancelling and issuing new licenses.

If the holder of a license qualifies for a new license as shown in the following table, the license held will be cancelled upon issuance of the new license:

New license issued	License to be cancelled
Radiotelegraph First Class Operator License.	Radiotelegraph Second or Third Class Operator License, Restricted Radiotelephone Operator Permit.
Radiotelegraph Second Class Operator License.	Radiotelegraph Third Class Operator Permit, Restricted Radiotelephone Operator Permit.
Radiotelegraph Third Class Operator Permit.	Restricted Radiotelephone Operator Permit.
Radiotelephone First Class Operator License.	Radiotelephone Second or Third Class Operator License, Restricted Radiotelephone Operator Permit, Marine Radio Operator Permit.
Radiotelephone Second Class Operator License.	Radiotelephone Third Class Operator Permit, Restricted Radiotelephone Operator Permit, Marine Radio Operator Permit.
Marine Radio Operator Permit.	Radiotelephone Third Class Operator Permit.

8. Section 13.27 is revised to read as follows:

§ 13.27 Eligibility for re-examination.

An applicant who fails an examination element, including a code test element, will be ineligible for 2 months to take an examination for any class of license requiring that element. Examination elements will be graded in the order listed (see § 13.22), and an applicant may, without further application, be issued the class of license for which he qualifies.

Note.—A month after date is the same day of the following month, or if there is no such day, the last day of such month. This principle applies for other periods. For example, in the case of the 2 month period to which this note refers, an applicant examined December 1 may be re-examined February 1, and an applicant examined December 29, 30, or 31 may be re-examined the last day of February while one examined February 28 may be re-examined April 28.

9. In § 13.28, headnote and text are revised to read as follows:

§ 13.28 License renewals.

(a) Restricted Radiotelephone Operator Permits issued to U.S. citizens, citizens of American Samoa, and Trust Territory Citizens are issued for the lifetime of the holder and need not be renewed.

(b) Other licenses issued for five year periods may be renewed upon proper application. There are no service or examination requirements for renewals.

(c) The Radiotelephone Third Class Operator Permit will not be renewed as such. Persons holding this permit may be issued a Marine Radio Operator Permit and a Restricted Radiotelephone Operator Permit.

10. Section 13.61(i) is added to read as follows:

§ 13.61 Operating authority.

* * * * *

(i) *Marine Radio Operator Permit.* Any station except:

(A) Stations transmitting telegraphy by any type of the Morse Code, or

(B) AM, FM, TV and International Broadcast Stations.

(C) Class I–B coast stations at which the power is authorized to exceed 250 watts carrier power or 1,000 watts peak envelope power, or

(D) Class II–B or Class III–B coast stations, other than those in Alaska, at which the power is authorized to exceed 250 watts carrier power or 1,000 watts peak envelope power, or

(E) Ship stations or aircraft stations at which the installation is not used solely for telephony, direct-printing or at which the power is more than 250 watts carrier power or 1,000 watts peak envelope power: Provided, That (*1*) such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (*2*) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the operations necessary to be performed during the course of normal rendition of the service of the station may cause off-frequency operation or result in any unauthorized radiation, and (*3*) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator license, either radiotelephone or radiotelegraph as may be appropriate for the class of station involved (as determined by the scope of the authority of the respective licenses as set forth in paragraphs (a), (b), (e), and (f) of this section and § 13.62), who shall be responsible for the proper functioning of the station equipment, and (*4*) in the case of ship radiotelephone or aircraft radiotelephone stations when the power in the antenna of the unmodulated carrier wave is authorized to exceed 100 watts, any needed adjustments of the transmitter that may affect the proper operation of the station are made only by or under the immediate supervision and responsibility of an operator holding a first or second class radiotelegraph or radiotelephone license, who shall be responsible for the proper functioning of the station equipment.

11. Section 13.62(c) is amended to read as follows:

§ 13.62 Special privileges.

* * * * *

(c) The holder of Radiotelephone or Radiotelegraph First, Second, and Third Class Licenses, or the holder of a Restricted Radiotelephone Operator Permit may perform routine transmitter operating duties at any AM, FM, or TV broadcast station. However, if the operator holds a license other than a First Class Radiotelephone Operator License, only such duties as set forth in paragraph (d) of this Section may be performed, under the following conditions and restrictions:

(1) The licensee of the station has fully instructed the operator in the performance of all transmitter adjustments described in paragraph (d) and in all other required operator duties such as the reading of meters and making of log entries.

(2) The licensee of the broadcast station has posted at each operating position step-by-step instructions for all transmitter adjustments and operating procedures which duty operators, employed under the provisions of this paragraph, are required to perform. Also posted must be a table or chart of the limiting values of transmission system operating parameters that are required to be observed and logged.

(3) The emissions of the station must be terminated whenever the transmitting system is observed operating beyond the posted limiting values or in any other manner inconsistent with the rule or station authorization when the adjustments listed in paragraph (d) are ineffective in correcting the improper operation.

* * * * *

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Part 81 of the FCC Rules and Regulations is amended as follows:

1. Section 81.151(a) and headnote are revised to read as follows:

§ 81.151 Graded values of commercial operator licenses.

(a) The classes of commercial radio operator authorizations are arranged in order of descending value for the purposes of this part, as follows:

T–1, Radiotelegraph First Class Operator License.
T–2, Radiotelegraph Second Class Operator License.
P–1, Radiotelephone First Class Operator License.
P–2, Radiotelephone Second Class Operator License.
T–3, Radiotelegraph Third Class Operator Permit.
P–3, Radiotelephone Third Class Operator Permit.
MP, Marine Radio Operator Permit.
RP, Restricted Radiotelephone Operator Permit.

2. Section 81.152(d) is revised to read as follows:

§ 81.152 Operator required.

* * * * *

	Minimum operator authorization
(d) Description of station:	
Public coast telegraph, all classes, except:	T–2
A1 Morse under supervision of T1 or T2.	T–3
NB–DP under supervision of T1 or T2.	T–3, P–3, MP
Coast telephone, all classes, except in Alaska:	
Exceeds 250 watts carrier power or 1,500 watts peak envelope power.	T–2 or P–2
250 watts or less carrier power or 1,500 watts or less peak envelope power operating on frequencies below 30 MHz.	T–3, P–3, MP
250 watts or less carrier power, or 1,500 watts or less peak envelope power operating on frequencies above 30 MHz.	RP
Coast telephone, in Alaska:	
Exceeds 250 watts carrier power, or 1,500 watts peak envelope power, Class I station.	T–2, or P–2
Exceeds 250 watts carrier power, or 1,500 watts peak envelope power, Class II or Class III station.	T–3, P–3, MP
250 watts or less carrier power, or 1,500 watts or less peak envelope power, all classes.	RP
Marine fixed, except in Alaska	RP
Marine fixed, in Alaska	RP
Marine utility coast	RP
Shipyard base	RP

* * * * *

3. Section 81.154(a), introductory text, is revised to read as follows:

§ 81.154 Limitations applicable to commercial radio operator permits.

(a) With respect to any station subject to this part which the holder of a Radiotelegraph or Radiotelephone Third Class Operator Permit, a Marine Radio Operator Permit, or a Restricted Radiotelephone Operator Permit may operate, the following provisions shall apply:

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVCIES

Part 83 of the FCC Rules and Regulations is amended as follows:

1. Section 83.151(a) is revised to read as follows:

§ 83.151 Graded values of commercial radio operator authorizations.

(a) The classes of commercial radio operator authorizations are arranged in order of descending value for the purposes of this part, as follows:

T–1, Radiotelegraph First Class Operator License.
T–2, Radiotelegraph Second Class Operator License.
P–1, Radiotelephone First Class Operator License.
P–2, Radiotelephone Second Class Operator License.
T–3, Radiotelegraph Third Class Operator Permit.
P–3, Radiotelephone Third Class Operator Permit.
MP, Marine Radio Operator Permit.
RP, Restricted Radiotelephone Operator Permit.

2. Section 83.155 (d) and (e) are revised to read as follows:

§ 83.155 Operator(s) required by Title III of Communications Act of 1934.

* * * * *

(d) Each cargo ship of the United States which, in accordance with Part II of Title III of the Communications Act, is equipped with a radiotelephone station shall for distress and safety purposes carry at least one qualified operator. Where the power of the station does not exceed 250 watts carrier power for A3 emission, or 1000 watts peak envelope power for A3A, A3H and A3J emissions, such operator shall hold a Marine Radio Operator Permit, a Radiotelephone Third Class Operator Permit, or a higher class of operator authorization. Where the power of the station exceeds 250 watts carrier power for A3 emission, or 1000 watts peak envelope power for A3A, A3H and A3J emissions such operator shall, as a minimum, hold a Radiotelephone Second Class Operator License.

(e) Each vessel of the United States transporting more than six passengers for hire, which in accordance with Part III of Title III of the Communications Act is equipped with a radiotelephone installation, shall for safety purposes carry at least one qualified operator. Where the power of the station does not exceed 250 watts carrier power or 1,500 watts peak envelope power, such operator shall hold a Marine Radio Operator Permit, a Radiotelephone Third Class Operator Permit, or a higher class of operator authorization. Where the power of the station exceeds 250 watts carrier power or 1,500 watts peak envelope power, such operator shall, as a minimum, hold a Radiotelephone Second Class Operator License.

3. Section 83.156(b)(3) is revised to read as follows:

V 45 / 153 AUG 6 80 UMI

§ 83.156 Operator(s) required by the Safety Convention.

* * * * *

(b) * * *

(3) Where the power of the station does not exceed 250 watts carrier power for A3 emission, or 1000 watts peak envelope power for A3A, A3H and A3J emissions such operator shall hold a Marine Radio Operator Permit, a Radiotelephone Third Class Operator Permit, or a higher class of operator authorization. Where the power of the station exceeds 250 watts carrier power for A3 emission or 1000 watts peak envelope power for A3A, A3H and A3J emissions such operator shall, as a minimum, hold a Radiotelephone Second Class Operator License.

4. Section 83.157(a) is revised to read as follows:

§ 83.157 Licensed operators required by Great Lakes Radio Agreement.

(a) For the purpose of complying with Article VII, paragraph 1 of the Great Lakes Radio Agreement, there shall be on board each United States vessel when underway and subject to the Great Lakes Radio Agreement, as an officer or member of the crew, at least one person who shall hold a Marine Radio Operator Permit, a Radiotelephone Third Class Operator Permit, or higher class of authorization.

* * * * *

5. Section 83.159 is revised to read as follows:

§ 83.159 Operator requirements for noncompulsory stations.

Description of station:	Minimum Operator Authorization
Ship telegraph, except direct-printing	T-2
Ship direct-printing telegraph	P-3, MP
Ship telephone, more than 250 watts carrier power or 1,000 watts peak envelope power.	P-2
Ship telephone, not more than 250 watts carrier power or 1,000 watts peak envelope power.	P-3, MP
Ship telephone, not more than 100 watts carrier power or 400 watts peak envelope power.	RP
Marine-utility	RP
Ship radiolocation-test, using radar only.	P-2[1]
Ship earth station	RP

[1] With ship radar endorsement.

6. Section 83.160(a), introductory text, is revised to read as follows:

§ 83.160 Limitations applicable to commercial radio operator permits.

(a) With respect to any station subject to this part which the holder of a Radiotelegraph or Radiotelephone Third Class Operator Permit, a Marine Radio Operator Permit, or a Restricted Radiotelephone Operator Permit may operate, the following provisions shall apply:

* * * * *

PART 87—AVIATION SERVICES

Part 87 of the FCC Rules and Regulations is amended as follows.

1. Section 87.133(a)(1), introductory text, is revised to read as follows:

§ 87.133 General operator requirements.

(a) * * *

(1) Only a person holding a Marine Radio Operator Permit or a third class or higher operator permit shall operate aircraft stations.

* * * * *

2. Section 87.136(a) is revised to read as follows:

§ 87.136 Operation of transmitter controls.

(a) Operation of the station by the holder of a Radiotelephone or Radiotelegraph Third Class Operator Permit, a Marine Radio Operator Permit, or a Restricted Radiotelephone Operator Permit shall be subject to the condition that the operation of the transmitter shall require only the use of simple external switching devices, excluding all manual adjustment of frequency determining elements, and the stability of the frequencies shall be maintained by the transmitter itself within the limits of tolerance specified by § 87.65 or the station license. In addition, when using an aircraft radio station on maritime mobile service frequencies the carrier power of the transmitter shall not exceed 250 watts (emission A3) or 1000 watts (emission A3A, A3H, A3J).

* * * * *

3. Section 87.139(b)(2) is revised to read as follows:

§ 87.139 Operator licenses not required for certain operations.

* * * * *

(b) * * *

(2) Operation by an unlicensed person shall be confined to transmitters which may be operated by the holder of a Marine Radio Operator Permit or a third class or a Restricted Permit as specified in § 87.136(a).

Note.—Whenever the term "license" is used generally to denote an operator authorization it includes "permit".

[FR Doc. 80-23041 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1003, 1045A, 1056, 1062, 1100, 1130, 1150

[Ex Parte No. 55; Sub-No. 43]

Rules Governing Applications for Operating Authority

AGENCY: Interstate Commerce Commission.

ACTION: Correction to Notice of interim rules and request for comments.

SUMMARY: At 45 FR 45534, July 3, 1980, there appeared a notice implementing the Motor Carrier Act of 1980 which revised the rules governing the application process for motor carriers entering the trucking field. In that notice, on page 45538, column 2, last paragraph, 2 lines of text were inadvertently omitted. To be inserted after the 6th line of that paragraph are the following lines: "retroactive effect unless they clearly provide for such effect. Nothing in the legislative history of the Act".

FOR FURTHER INFORMATION CONTACT:
Peter Metrinko, 202-275-7885.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23091 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[3rd Rev. S.O. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee)

Decided: July 29, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Third Revised Service Order No. 1474

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96-254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over MILW's lines pending the implementation of long-range solutions, this order permits carriers, previously providing service under various individual service orders to operate under authority of a single order which appendix describes their operations, and to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

In particular, this order grants authority to Burlington Northern Inc. In Sioux City, Iowa, between milepost 509.77 and milepost 512.62, a distance of approximately 2.85 miles.

EFFECTIVE DATE: 12:01 a.m., July 31, 1980, and continuing in effect until 11:59 p.m., September 30, 1980, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275-7840.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96-254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over MILW's lines pending the implementation of long-range solutions, this order permits carriers, previously providing service under various individual service orders to operate under authority of a single order which appendix describes their operations, and to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Third Revised Service Order No. 1474, is revised by granting authority to the Burlington Northern Inc., item 15, permitting an interim operation over lines in the state of Iowa.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1474 Third Revised Service Order No. 1474.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee). Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, in order to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as, hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced on the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., July 31, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304-10305 and Section 122, Public Law 96-254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the **Federal Register.**

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

Appendix A

MILW Lines Authorized To Be Operated by Interim Operators

1. Chicago and North Western Transportation Company (CNW):
   A. At DeKalb, Illinois.
   B. At Appleton, Wisconsin.
   C. At Lake Preston, Mitchell, and Sioux Falls, South Dakota, and from Wolsey to but not including Aberdeen, South Dakota.
   D. At Miloma and Montgomery, Minnesota.
   E. Between Jefferson and Marathon, Jefferson and Waukee, and Manning and Huxley, Iowa.
   F. Between Merriam Park and Norwood, Minnesota.
2. Illinois Central Gulf Railroad Company (ICG):
   A. Between Cedar Rapids and Louisa, Iowa, including Marion, Iowa.
   B. In Sioux City, Iowa, from Pearl Street west approximately 1.5 miles to Tri-View Industrial area, and from Court Street to Virginia Street.

3. Seattle and North Coast Railroad Company (SNC):
A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington.
4. Cedar Rapids and Iowa City Railway Company (CIC):
A. Between Middle Amana and Cedar Rapids, Iowa.
B. Over the Chicago, Rock Island and Pacific Railroad Company trackage—4th Street Corridor—in Cedar Rapids, Iowa, originally operated by MILW under trackage rights.
C. Over certain terminal and industry tracks in Cedar rapids, Iowa, between milepost 86 and milepost 87 in order to serve the 6th Street Power Station.
5. Escanaba and Lake Superior Railroad Company (ELS):
A. Between Iron Mountain, Michigan, and Green Bay, Wisconsin.
6. Consolidated Rail Corporation (CR):
A. At Momence, Illinois.
7. Des Moines Union Railway Company (DMU):
A. Between Des Moines (milepost 0) and Clive (milepost 8.5), Iowa; and between Clive (milepost 0) and Grimes, Iowa, (milepost 7), a total of 15.5 miles.
8. The La Salle and Bureau County Railroad Company (LSBC):
A. From Mendota, Illinois, (milepost 69.5) to Ladd, Illinois, (milepost 82.1), a total of 12.6 miles.
9. Chicago, Madison and Northern Railway Company (CMN):
A. Between Sparta, Wisconsin, (milepost 2.5) and Viroqua, Wisconsin, (milepost 34.7), a distance of approximately 32.2 miles.
B. Between Janesville, Wisconsin, (milepost 10.0) and Mineral Point, Wisconsin, (milepost 90.7), a distance of approximately 80.7 miles.
10. Wisconsin Central Railroad Company (WCRC):
A. Between Waukesha, Wisconsin, (milepost 20.5) and Milton Junction, Wisconsin, (milepost 61.5), a distance of approximately 41.0 miles.
11. Pend Oreille Valley Railroad, Inc., (POV):
A. Between Newport, Washington, (milepost 43.6) and Metaline Falls, Washington, (milepost 104.7), a distance of approximately 61.1 miles.
12. St. Maries River Railroad Company (SMRR):
A. Between St. Maries and Bovill, Idaho, the Bovill Branch, a distance of approximately 52 miles; and between St. Maries and Plummer, Idaho, a distance of approximately 19 miles.
13. Chippewa River Railroad Company (CRRC):
A. Between Eau Claire, Wisconsin, and Durand, Wisconsin, a distance of approximately 33 miles.
14. Wisconsin and Southern Railroad Company (WSR):
A. The following lines in the state of Wisconsin: (1) North Milwaukee (milepost 93.72) to Oshkosh (milepost 187.64).
(2) Horicon (milepost 140.27) to Cambia (milepost 165.7).
(3) Granville (milepost 100.5) to Menomonee Falls (milepost 104).
(4) Iron Ridge (milepost 133) to Mayville (milepost 140).
(5) Beaver Dam Junction (milepost 148.5) to Beaver Dam (milepost 150.5).
(6) Fox Lake Junction (milepost 154.5) to Fox Lake (milepost 156.7).
(7) Brandon (milepost 161.15) to Markesan (milepost 172.7).
15. Burlington Northern Inc. (BN) [1]
A. In Sioux City, Iowa, between milepost 509.77 and milepost 512.62, a distance of approximately 2.85 miles.

[FR Doc. 80-23690 Filed 8-5-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1480]

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1480.

SUMMARY: This order restates the provisions of 19th Revised Service Order No. 1234, which provided for the substitution of smaller cars for larger cars of any type when the larger cars were unavailable. This order is in effect for (60) sixty days to provide carriers with sufficient time to modify tariffs to incorporate the order's provisions.

EFFECTIVE DATE: 12:01 a.m., August 1, 1980, and continuing in effect until 11:59 p.m., September 30, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: July 31, 1980.

There is a shortage of high capacity covered hopper cars for transporting shipments of grain, grain products, and soy beans, caused by certain tariff provisions specifying the minimum quantities that must be loaded into cars offered to the shippers. At the same time smaller cars, suitable except as to capacity, are available for transporting these products. The inability of the carriers and shippers to utilize the smaller capacity cars in place of the larger cars required by tariff provisions is resulting in great economic loss to both shippers and carriers.

Service Order No. 1234 contained provisions which permitted railroads to substitute a sufficient number of smaller cars of any car type for larger cars ordered and which are unavailable to transport various commodities.

This order was based on a continuing freight car shortage of certain type cars, and the inability of carriers to provide the larger cars as ordered and as required by tariffs.

This order provides relief previously granted by provisions of Service Order No. 1234, which was vacated on July 31, 1980. We have concluded that the provisions contained in Service Order No. 1234, and restated in this order, should be resolved by appropriate tariff modifications. This order will remain in effect for (60) sixty days to provide the time necessary for tariffs to be amended to provide the relief herein granted.

In the opinion of the Commission, an emergency exists requiring immediate action to modify existing rules, regulations and practices with respect to car service to secure maximum utilization of the available supply of freight cars and to alleviate shortages of cars. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1480 Distribution of Freight Cars.

(a) Subject to the concurrence of the carrier and the shipper, carriers may substitute a sufficient number of smaller cars of any car type for larger cars ordered and which are unavailable to transport shipments of numerous commodities, regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See exceptions).

Exception. This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more per shipment.

Exception. This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(b) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by Section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(c) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Car of ( ) cu. ft. and/or of ( ) lbs. or greater capacity ordered. Smaller cars furnished authority ICC Service Order No. 1480.

(d) *Concurrence of Carrier and Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the carrier and shipper.

[1] Added.

(e) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(f) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(g) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(h) *Effective date.* This order shall become effective at 12:01 a.m., August 1, 1980.

(i) *Expiration.* The provisions of this order shall remain in effect until September 30, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23697 Filed 8-5-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Modification of Cost Data Submission Requirements for Directed Service Operations

Decided: July 29, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Modification of cost data submission requirements.

SUMMARY: In Directed Service Order No. 1398, pursuant to 49 U.S.C. § 11125, we directed the Kansas City Terminal Railway Company (KCT-DRC) to perform directed operations over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island or RI). Our regulations at 49 CFR § 1126.2 set forth the cost form to be filed by directed rail carriers to justify reimbursement for directed service. The form specified in our regulations is not designed to apply to directed service as performed by KCT-DRC. Therefore, we are waiving the requirements of 49 CFR 1126.2 for KCT-DRC's operations over Rock Island under DSO No. 1398 and substituting more applicable reporting requirements.

DATES: This decision shall be effective on August 4, 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Schiefelbein, (202) 275-0826.

SUPPLEMENTARY INFORMATION: In September 1979, Rock Island's cash flow position became so severe as to prevent continuation of normal rail operations. Therefore, we issued Directed Service Order No. 1398 (44 FR 56343, Oct. 1, 1979) directing KCT-DRC to perform operations over Rock Island lines. KCT-DRC provided a management team which operated Rock Island during the period of directed service under DSO No. 1398. These operations were performed predominantly with Rock Island, rather than KCT-DRC, equipment and employees.

Under 49 U.S.C. § 11125(b)(5), KCT-DRC is entitled to federal payment providing reimbursement for losses incurred as a result of providing directed service, and a reasonable profit. The form for submission of cost data to justify reimbursement is set forth at 49 CFR 1126.2. This cost form is structured for directed service operations which would include a predominance of joint costs. Because of the significantly different nature of the KCT-DRC operations from the type of operations anticipated by our cost submission regulations, we will modify the reporting requirements for KCT-DRC for submission of cost data under DSO No. 1398.

In place of the cost form specified in 49 CFR § 1126.2, KCT-DRC may submit the following reports and statements to justify reimbursement for operations under DSO No. 1398:

1. ICC Quarterly Report of Revenues, Expenses, and Income—Railroads (Form RE&I, 49 CFR 1243.1);

2. ICC Quarterly Condensed Balance Sheet—Railroads (Form CBS, 49 CFR 1243.2); and

3. Source and Application of Funds Statement (Schedule 240, "Statement of Changes in Financial Position" required in the Annual Report R-1).

These reports should cover directed service operations only (not including normal KCT operations) for the directed service period of railroad operations, and related accounting and administrative functions for the period from October 5, 1979, through July 31, 1980. Additionally, KCT-DRC should report estimated costs of all open and unfinished business, or unsettled amounts, including allowable interest and allowance for profit.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

(1) The requirements of 49 CFR 1126.2 are waived with respect to KCT-DRC operations under DSO No. 1398. DSO No. 1398 is modified to include the cost data submission requirements set forth in this decision.

(2) This decision shall be effective on August 4, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23782 Filed 8-5-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Parts 1309 and 1310

[Docket No. 37416]

Identification of Rates Filed Under Zone of Rate Freedom by Motor Common Carriers of Property and Freight Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Interstate Commerce Act, as amended by the Motor Carrier Act of 1980, permits motor common carriers of property and freight forwarders to reduce or increase rates within a 10 percent zone of rate freedom without investigation, suspension, revision, or revocation on the grounds that the changed rate is unreasonable because it is too high or too low. The Act requires that the carriers notify the Commission when they wish to have rates considered under this rate freedom.

This document establishes rules which will set forth the manner in which this notification will be made. The effect on the carriers and forwarders will be minimal since only a small amount of additional wording will be required on

the tariff publications and accompanying letters of transmittal.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275–7739.

SUPPLEMENTARY INFORMATION: Section 10708 of Title 49, United States Code, was amended by the Motor Carrier Act of 1980 by adding a "Zone of Rate Freedom for Motor Common Carriers of Property and Freight Forwarders" (Subsection (d)). Subsection (d)(1) reads as follows:

(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

In addition, for the first two years following the Motor Carrier Act, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included except to the extent that such general rate increases exceed 5 percent of the rate in effect one-year prior to the effective date of the proposed rate.

It is therefore necessary that the Commission establish rules that will require carriers to furnish sufficient information to allow identification and analysis of rates, charges, and provisions filed under the zone of rate freedom. The adopted rules will accomplish this.

The rules will require carriers and freight forwarders filing rates, charges, or provisions which they wish considered under the zone of rate freedom provisions to show on their tariffs or amendments an appropriate statement. The rates, charges, or provisions must be identified. The carrier or freight forwarder will be required to certify in the letter of transmittal that the rates or provisions do not exceed the amount allowed by section 10708(d)(3) (A or B); and fall within the 10 percent zone; also, if the rate is more than 10 percent above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureau which published the increase, and the effective date. In addition, the letter of transmittal shall contain an appropriate statement identifying the number of the item (or page) and tariff containing the rate, charge, or provision in effect a year earlier or July 1, 1980 (or later), as appropriate. The letter shall also state that the rate, charge, or provision was independently established by an individual carrier.

The Commission does not believe this revision requires notice and comment rulemaking under section 553 of the Administrative Procedure Act (5 U.S.C. 553) because it merely establishes notification procedures mandated by Congress and thus is only a procedural and not a substantive rule. Indeed, this will impose a very minor burden on the carriers who will benefit over all from the zone of rate freedom.

This decision does not affect significantly either the quality of the human environment or energy resources.

It is ordered: 1. Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth in the appendix below.

2. Notice of this decision will be given to the public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register as notice to all interested persons.

This decision is issued under authority of section 10762 of the Interstate Commerce Act, U.S.C. 10762, and under section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Decided: July 15, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

Part 1309 is amended by adding § 1309.8 as follows:

§ 1309.8 Zone of rate freedom.

(a) *Statement of carrier's intent required.* Each tariff, supplement, or loose-leaf page publishing a rate, charge, or provision which the freight forwarder wishes to have considered pursuant to the zone of rate freedom provisions of subsection (d) of section 10708 of Title 49, United States Code, shall indicate this by showing an appropriate statement. If a bound tariff or supplement, the statement shall be shown on the title page. Each rate, charge, or provision shall be identified. If the rates, charges, or provisions in a bound tariff or supplement are too numerous to be identified on the title page, identification shall be on the first printed page following the title page.

(b) *Letters of transmittal.* (1) The letter of transmittal accompanying each tariff, supplement, of loose-leaf page which contains a rate, charge, or provision which the freight forwarder wishes to have considered pursuant to the zone of rate freedom provisions of subsection (d) of section 10708 of Title 49, United States Code, shall indicate this by including an appropriate statement.

(2) If the application of the proposed rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 10 percent above that in effect 1 year prior to the effective date of the proposed increase.

(3) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 10 percent below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the freight forwarder on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(4) The letter shall identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect 1 year prior to the effective date of the proposed or in effect July 1, 1980, or later, as appropriate.

(5) The letter shall also state that the rates or provisions were set independently and were not discussed with any other carriers. If published by a rate bureau, the letter shall state that the docketing and publishing of the rate or provision were done in compliance with its agreement regarding independent notice actions.

(6) The freight forwarder will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by section 10708 (d)(3) (A or B); and that the rates or provisions fall within the 10 percent zone; also, if the rate is more than 10 percent above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureaus which published the increase, and the effective date.

(Sec. 20, 24 Stat. 386, as amended; secs. 204, as amended, 217, as amended, 219, as amended, 49 Stat. 546, as amended, 560, as amended, 563, as amended, secs. 403, 405, 413, 56 Stat. 285, 287, 295; 49 U.S.C. 20, 304, 317, 319, 1003, 1005, 1013)

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Section 1310.1(c) is amended by adding subparagraph (6) to paragraph (c) as follows:

§ 1310.1 Filing tariffs (Rule 1).

* * * * *

(c) * * *

(6)(i) The letter of transmittal accompanying each tariff publication which contains a rate, charge, or provision which the carrier wishes to have considered pursuant to the zone of rate freedom provisions of subsection (d) of section 10708 of Title 49, United States Code, shall indicate this by including an appropriate statement.

(ii) If application of the proposed rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 10 percent above that in effect 1 year prior to the effective date of the proposed increase.

(iii) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 10 percent below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the carrier on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(iv) The letter shall identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect 1 year prior to the effective date of the proposed reduction or in effect July 1, 1980, or later, as appropriate.

(v) The letter shall also state that the rates or provisions were set independently and were not discussed with any other carriers. If published by a rate bureau, the letter shall state that the docketing and publishing of the rate or provision were done in compliance with its agreement regarding independent notice actions.

(vi) The carrier will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by section 10708 (d)(3) (A or B) and that the rates or provisions fall within the 10 percent zone; also, if the rate is more than 10 percent above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureau which published the increase, and the effective date.

* * * * *

§ 1310.4(f) is amended by adding subparagraph (6) to paragraph (f) as follows:

§ 1310.4 Form, size, and printing (Rule 4).

* * * * *

(f) * * *

(6) Each loose-leaf page (original or revised) publishing a rate, charge, or provision which the carrier wishes to have considered pursuant to the zone of rate freedom provisions of subsection (d) of section 10708 of Title 49, United States Code, shall indicate this by showing an appropriate statement. The rate, charge, or provision shall be identified.

* * * * *

§ 1310.5 is amended by adding paragraph (m) as follows:

§ 1310.5 Title page original tariffs (Rule 5).

* * * * *

(m) *Zone of rate freedom statement.* Each tariff (or supplement) publishing a rate, charge, or provision which the carrier wishes to have considered pursuant to the zone of rate freedom provisions of subsection (d) of section 10708 of Title 49, United States Code, shall indicate this by showing an appropriate statement on the title page. Each rate, charge, or provision shall be identified. If the rates, charges, or provisions are too numerous to be identified on the title page, identification shall be on the first printed page following the title page.

(Secs. 204, 217, 49 Stat. 546, as amended, 560, as amended, sec. 210a, an amended, 52 Stat. 1238, as amended, 49 U.S.C. 304, 317, 310a)

[FR Doc. 80-23662 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges in Mich., Ohio, Ill., Iowa, Minn., and Wis.

AGENCY: Fish and Wildlife Service.

ACTION: Special Regulations.

SUMMARY: Migratory game bird hunting on certain National Wildlife Refuges has been determined by the Director to be compatible with the objectives for which the areas were established, will utilize a renewable resource, and will provide additional recreational opportunity to the public.

DATES: Effective August 6, 1980, for the duration of the 1980–81 migratory game bird season. See individual refuge and respective State regulations for exact dates.

FOR FURTHER INFORMATION CONTACT: The appropriate Area Manager or Refuge Manager at the address or telephone number listed below:

John S. Popowski, Area Manager, U.S. Fish and Wildlife Service, 202 Manly Miles Building, 1405 S. Harrison Road, East Lansing, Michigan 48823. Telephone: (517) 337–6600. Responsible for the Seney, Shiawassee and Ottawa National Wildlife Refuges.

George G. P. Bekeris, Area Manager, U.S. Fish and Wildlife Service, 530 Federal Building and U.S. Court House, 316 North Robert Street, St. Paul, Minnesota 55101. Telephone: (612) 725–7641. Responsible for the Chautauqua, Crab Orchard, Mark Twain (Big Timber Division), Sherburne, Tamarac and Upper Mississippi River National Wildlife Refuges.

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, Michigan 49883. Telephone: (906) 586–9851.

Robert S. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, RR No. 1, Saginaw, Michigan 48601. Telephone: (517) 777–5930 or (517) 777–5910.

Leland E. Herzberger, Refuge Manager, Ottawa National Wildlife Refuge, 14000 W. State Route 2, Oak Harbor, Ohio 43449. Telephone: (419) 898–0014.

Thomas S. Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, RR No. 2, Havana, Illinois 62644. Telephone: (309) 535–2290.

Wayne D. Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Illinois 62918. Telephone: (618) 997–3344.

Howard Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, Great River Plaza, 311 N. Fifth Street, Suite 100, Quincy, Illinois 62301. Telephone: (217) 224–8580.

Ronald Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route No. 2, Zimmerman, Minnesota 55398. Telephone: (612) 389–3323.

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge,

V 45 / 153 AG 6 80 UMI

Rural Route, Rochert, Minnesota 56578. Telephone: (218) 847–4355.

Robert Howard, Refuge Manager, Upper Mississippi River Wildlife and Fish Refuge, 122 W. 2nd Street, Winona, Minnesota 55987. Telephone: (507) 452–4232.

SUPPLEMENTARY INFORMATION: Hunting migratory game birds on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to the additional special regulations and conditions as indicated. Portions of refuges which are open to migratory game bird hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the respective Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; hunting migratory game birds; for individual wildlife refuge areas.

Michigan

Seney National Wildlife Refuge

Public hunting of Woodcock and Wilson's Snipe (Jacksnipe) is allowed subject to the following special condition:

Hunting is permitted on 33,525 acres of the refuge designated as Area B from September 15 through November 12.

Shiawassee National Wildlife Refuge

The State of Michigan has established a quota harvest for the Saginaw County Goose Management Area of which the refuge is a part. The season will be closed early should the quota be reached.

Posting the area "Closed" is required and is done unilaterally by both the Service and the State.

Public hunting of *geese only* is permitted on areas comprising 1,350 acres subject to the following special conditions:

(1) Hunting shall be by federal permit and only from assigned blinds or pits. Blind assignments will be determined by drawings each day.

(2) Permit application cards for hunting from season opening (concurrent with State of Michigan) until the end of October must be sent to Shiawassee Refuge on or before September 15, 1980. Only successful applicants will be notified.

(3) For the month of November a daily public drawing will be held to determine who may hunt during that day. Applicants must be present for each days drawing and need not have a permit card to participate in the drawing for blind selection.

(4) Goose hunting will be on odd days only throughout the entire season.

(5) Only non-toxic steel shot will be permitted. The limit is 12 shells per hunter.

(6) Hunters may not have shotgun shells containing lead or other toxic shot in their possession.

(7) A blind rental fee of $2.00/hunter is required. Decoys can be rented for $1.00/dozen.

(8) After completion of the days hunt, all hunters must proceed to refuge headquarters for check-out and the submission of geese for examination.

Ohio

Ottawa National Wildlife Refuge

Public hunting of Canada, snow (including blue color phase) and white-fronted geese is permitted, on an area encompassing 640 acres, subject to the following special conditions:

(1) Hunting shall be by State permit and only from assigned blinds. Blind assignments will be determined by drawings.

(2) A fee of five dollars per hunter will be required for blind rental.

(3) No more than two persons per blind (permit holder and one guest) are permitted.

(4) Hunters must report to the check station at least one hour before legal shooting time.

(5) Each hunter may possess not more than 10 shells. Only nontoxic steel shot, sizes no larger than No. 1, will be permitted. Hunters may not have shotgun shells containing lead or other toxic shot in their possession.

(6) Hunters will be permitted to pursue and shoot downed geese only within 75 yards of their assigned blind.

(7) Hunting hours shall be from the legal opening time in the morning until 12 noon.

(8) All hunters must be out of their assigned blinds by 1:00 P.M.

(9) All hunters must report to the check station and submit their geese for examination by 2:00 P.M.

(10) The use of trained dogs to retrieve downed geese within the hunting area is permitted.

Illinois

Chautauqua National Wildlife Refuge

Public hunting of migratory game birds is permitted only on areas, designated by signs, comprising 745 acres, subject to the following special conditions:

(1) Blinds—No permanent structure, excluding wood or brush duck blinds shall be permitted; no blinds shall be locked or otherwise sealed against public entry.

(2) Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

Crab Orchard National Wildlife Refuge

Public hunting of migratory game birds is permitted, on areas comprising 23,000 acres, designated as Areas I and III, subject to the following special conditions:

(1) Only portable or temporary blinds located on the immediate vicinity of the site may be used for hunting and these must be removed or dismantled at the end of the day's hunt. Blinds and pits beyond the shoreline of refuge waters may not be constructed, established, occupied or used.

(2) Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

(3) During the goose season, on Grassy, Orchard, Sawmill and Turkey Islands, hunters may hunt only from blinds provided by the refuge. Only hunters occupying these blinds are allowed on these islands during the goose hunting season.

(4) Only authorized waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road Areas from sunrise to 12:00 Noon daily during the goose season. Goose hunting on these areas is subject to the following conditions:

(a) Hunting is permitted only from existing refuge established blinds. This includes lake shorelines.

(b) Hunters must comply with all rules as posted.

Iowa

Mark Twain National Wildlife Refuge

Public hunting of migratory game birds is permitted, on areas designated by signs, comprising 1,760 acres on the Big Timber Division and Turkey Island Area, subject to the following special conditions:

(1) Blinds—no permanent structure; excluding wood or brush duck blinds, shall be permitted; no blinds shall be locked or otherwise sealed against public entry.

Minnesota

Sherburne National Wildlife Refuge

Public hunting of ducks, coots, rails, Wilson snipe and woodcock is permitted, on an area comprising 8,514 acres (designated as Area B on refuge map), subject to the following special conditions:

(1) Use of steel shot is required for hunting ducks and coots. Possession of lead shot shells while hunting ducks and coots is prohibited.

(2) Field possession of migratory birds in the refuge area closed to migratory bird hunting is prohibited.

(3) Only boats without motors will be permitted in the area open to the hunting of ducks and coots.

(4) Boats and decoys must be removed from the refuge at the end of each day.

Tamarac National Wildlife Refuge

Public hunting of ducks, geese and coots is permitted, on an area comprising approximately 12,500 acres, subject to the following special conditions:

(1) Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

(2) The use of dogs to retrieve downed waterfowl and coots is permitted and encouraged.

(3) Boats are permitted for waterfowl hunting.

Illinois, Iowa, Minnesota, Wisconsin

Upper Mississippi River Wild Life and Fish Refuge

Public hunting of migratory game birds is permitted where designated subject to the following conditions:

(1) Use of steel shot is required for hunting waterfowl and coots. Possession of lead shot shells while hunting waterfowl and coots is prohibited.

(2) The use of dogs for hunting and retrieving waterfowl is permitted, provided such dogs are under control at all times.

(3) The Illinois portion of the refuge is open for teal hunting as provided by "Illinois State Teal Regulations". Hunters may hunt during the special teal season from other than established waterfowl hunting blinds or small boats.

(4) The hunting of migratory waterfowl in the Illinois portion of the refuge, pools 12, 13, and 14 including Potter's Marsh is governed by special conditions which are hereby adopted and are available from the Refuge Manager, Upper Mississippi River Wild Life and Fish Refuge, Savanna District, P.O. Box 250, Savanna, Illinois 61074.

This special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32.

The public is invited to offer suggestions and comments at any time.

Harvey K. Nelson,

Regional Director.

July 29, 1980.

[FR Doc. 80-23630 Filed 8-5-80; 8:45 am]

BILLING CODE 4310-55-M

V 45 / 153 AUG 6 80 UMI

Proposed Rules

Federal Register
Vol. 45, No. 153
Wednesday, August 6, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Ch. I

[Docket No. 80-7]

Improving Government Regulations; Semiannual Agenda

AGENCY: Office of the Comptroller of the Currency, Department of the Treasury.

ACTION: Semiannual agenda.

SUMMARY: The semiannual agenda, implementing the President's Executive Order 12044 to improve government regulations, provides notice to the public of the Office of the Comptroller of the Currency's (Office) regulatory actions since February 1, 1980, including projects initiated or acted upon since that date, and projects on which action is expected during the next six months. In addition, this semiannual agenda discusses the Office's Information Collection Budget, Banking Bulletins and Circulars and other matters. The principal functions of the Office are chartering, examining, supervising and regulating national banks.

ADDRESS: Comments should be sent to Docket No. 80-7, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219, Attention: Marie Giblin. Comments will be available for inspection and photocopying. Suggestions for additional projects are welcome.

FOR FURTHER INFORMATION CONTACT: Alan Herlands, Director, Shela Turpin, Bank Analyst, Jonathan Levin, Senior Attorney, or David G. Hayes, Senior Economic Advisor, Regulations Analysis Division. Telephone: (202) 447-1177. Questions concerning specific projects discussed in this semiannual agenda may also be directed to the knowledgeable officials identified with each one as set forth below.

SUPPLEMENTARY INFORMATION: This agenda is divided into 6 sections which discuss the following topics: I—Regulations likely to be subject to review or other action within the next 6 months; II—Regulations issued or amended in final form within the last 6 months; III—Banking Bulletins and Circulars; IV—Information Collection Budget; V—Impact of selected regulations; and VI—Mailing schedules for Office issuances. Prior agenda have included only the information contained in Sections I and II. This agenda has been expanded to further enhance public participation in Office activities relating to the costs and benefits of bank regulation and supervision.

Regulations Discussed in Section I are

12 CFR Part 1—Investment securities regulation
12 CFR Part 2—Disposition of credit life insurance income
12 CFR Part 4—Description of office procedures, public information [1]
12 CFR Part 5—Supplemental application procedures
12 CFR Part 7—Interpretive rulings
12 CFR Part 8—Assessment of fees [1]
12 CFR Part 9—Fiduciary powers of national banks and collective investment funds
12 CFR Part 11—Securities Exchange Act disclosure rules
12 CFR Part 13—Employee stock option and stock purchase plans [1]
12 CFR Part 14—Changes in capital structure [1]
12 CFR Part 15—Change in bank control [1]
12 CFR Part 17—Required notification to nominate bank directors
12 CFR Part 20—International operations
12 CFR Part 21—Minimum security devices and procedures for national and District banks
12 CFR Part 25—Community Reinvestment Act
12 CFR Part 28—Federal branches and agencies of foreign banks [1]
Unassigned-Adjustable rate mortgages

Regulations Discussed in Section II are

12 CFR Part 4—Description of office, procedures, public information.
12 CFR Part 7—Interpretive rulings.
12 CFR Part 16—Securities offering disclosure circulars.
12 CFR Part 26—Management interlocks.

Section I: Action Expected

12 CFR Part 1—Investment securities regulation.

On December 16, 1979, the Comptroller announced that individual rulings under this regulation over the last seventeen years would be reviewed for the purpose of developing a general set of principles with respect to decisions concerning a national bank's ability to purchase, deal in, underwrite or hold securities (44 FR 76263). The purpose of this project is to decrease the need for individual banks to seek specific rulings and to decrease the need for attorneys to provide individual banks with detailed legal research. An advance notice of proposed rulemaking was issued on January 28, 1980, and comments closed March 7, 1980. A proposed rule is expected shortly (45 FR 6407).

For further information, contact Radcliffe Park, Assistant Director or Raija Bettauer, Attorney, Legal Advisory Services Division. Telephone (202) 447-1880.

12 CFR Part 2—Disposition of Credit Life Insurance income

On January 4, 1980, the Federal Financial Institutions Examination Council (FFIEC), on behalf of its member agencies, which include this Office, issued a joint notice of a proposed policy statement on this subject. Comments closed March 31, 1980. The proposed policy differs somewhat from the Office's present regulation. The Office may review the regulation after consideration by the FFIEC (45 FR 1152).

For further information, contact Ford Barrett, Assistant Chief Counsel, Telephone (202) 447-1896.

12 CFR Parts 4, 5, 8, 13, 14, 15, and 28—Comprehensive Review of Corporate Activities and Application Procedures

These regulations cover many significant aspects of applications for national bank corporate and structural activities. The Office has undertaken a long-term project to review the regulations, policy statements, procedures and forms. A major consolidation of those provisions under Part 5, and proposals to amend certain requirements, are expected shortly. Related regulations currently include:

12 CFR Part 4—Description of office, procedures, public information (describes, in part, basic information for filing a number of forms, including national bank charters, branches, conversions, mergers, changes in location, changes in title, changes in capital structure, fiduciary powers,

[1] Action expected is described under 12 CFR Part 5.

domestic operating subsidiaries, voluntary liquidations, receiverships and conservatorships, and federal branches and agencies of foreign banks); *12 CFR Part 5—Supplemental application procedures* (describes procedures for giving notice of applications, opportunities for interested parties to be heard, and related matters concerning applications); *12 CFR Part 8—Assessment of fees* (establishes fees for examinations, charter applications and other national bank activities); *12 CFR Part 13—Employee stock option and stock purchase plans* (describes procedures and conditions for the Office approval of bank applications for such plans); *12 CFR Part 14—Changes in capital structure* (describes procedures and conditions for the Office's approval of applications for authorized but unissued stock, stock dividends, preferred stock, subordinated notes and debentures, and other increases in common stock); *12 CFR Part 15—Change in bank control* (requires that individuals seeking to acquire control of a national bank give the Office 60 days advance notice, within which time the Office may disapprove the acquisition); and *12 CFR Part 28—Federal branches and agencies of foreign banks* (describes, among other matters, applications for federally chartered branches and agencies of foreign banks in the United States).

For further information, contact Darrell W. Dochow, Deputy Director, Bank Organization and Structure Division. Telephone (202) 447-1184.

12 CFR Part 7—Interpretive Rulings

Definition of capital (7.1100). The Office is reviewing this ruling to determine whether accounts other than shareholders' equity should continue to be included in the definition of capital for determining statutory limitations on certain national bank activities. The amount of a bank's defined capital affects the maximum which it may lend to a single entity or group of related entities, the amount of investment securities of a single issuer it may hold, other borrowing and investment limits, and branching capabilities. A notice of proposed rulemaking was issued July 24, 1980, with comments due on or before October 24, 1980 (45 FR 49276, Docket No. 80-6).

For further information, contact Robert B. Norris, National Bank Examiner. Telephone (202) 447-1786.

Other real estate owned (7.3025). The Office is reviewing the implementation of this recently revised ruling to determine if additional revisions would be appropriate. A final amendment which would take advantage of the new flexibility provided under the Depository Institutions Deregulation and Monetary Control Act (Pub. L. 96-221) by granting national banks greater leeway in the disposition of "other real estate" is expected shortly. In addition, a proposal is being developed to establish a uniform definition of "real estate" for all national banks. Currently, state law applies.

For further information, contact Alan Priest, Attorney, Legal Advisory Services Division. Telephone (202) 447-1880.

Investment in bank premises (7.3100). In January 1978, the Office issued for comment a proposed amendment to this interpretive ruling in order to provide greater consistency with revisions to generally accepted accounting principles. This change should not affect the costs to national banks in preparing their financial statements and should make the financial statements more useful to the banks themselves, the Office, and public users of national bank financial statements. A final interpretation is expected shortly (43 FR 2731).

For further information, contact Charles Byrd, Assistant Director, Legal Advisory Services Division. Telephone (202) 447-1880.

Data processing services (7.3500). On June 16, 1980, the Office issued an advance notice of proposed rulemaking soliciting comments on the extent to which this ruling accommodates national bank data processing activity in the face of recent major technological advances. Information about the current level of national bank involvement in data processing is being expressly sought from equipment manufacturers and users, suppliers of data processing services, banks and the general public. A proposal is expected by year-end (45 FR 40613, Docket No. 80-1).

For further information, contact Sharon Miyasato or David Ansell, Attorneys, Legal Advisory Services Division. Telephone (202) 447-1880.

Oath of directors (7.4415). The Office is considering amending this ruling to eliminate the requirement that national bank directors who are not residents of the state in which a majority of the board resides take their oath of office in their home state. If so amended, the ruling would permit all directors present at the first meeting of a board of directors, after its election, to take a joint oath.

For further information, contact Karen Main, Economist, Regulations Analysis Division. Telephone (202) 447-1177.

Indemnification (7.5217). The Office is reviewing this ruling which sets forth the conditions under which a national bank may indemnify bank directors and personnel. Alternatives to be considered include standards reflected in relevant state laws regarding indemnification and/or in the Model Business Corporation Act. An advance notice of proposed rulemaking was published on February 6, 1980, and comments closed on April 7, 1980. A proposed rule is expected within three months (45 FR 8025).

For further information, contact Raija Bettauer, Attorney, Legal Advisory Services Division. Telephone (202) 447-1880.

Loans originating at other than banking offices (7.7380). The U.S. Circuit Court of Appeals for the District of Columbia on June 11, 1980, reversed the district court ruling in *Independent Bankers Association of America* v. *Heimann*, which had ordered rescission of the Office's interpretive ruling regarding loans originated at other than banking offices (so called "loan production offices") (44 FR 29038). Pursuant to the Circuit Court's reversal, the Office is considering revoking the rescission of Interpretive Ruling 7.7380 and reinstating it in the precise language of the original.

Activities which would come within the terms of this ruling could be conducted either directly by a national bank or by a national bank subsidiary.

For further information, contact David L. Ansell, Attorney, Legal Advisory Services Division. Telephone (202) 447-1880.

Charitable foundations (7.7445). This ruling permits national banks to establish and contribute to charitable foundations. It does not cover foundations to which a national bank grants, in effect, the right to receive income for a specified period from assets (commonly securities) owned by the bank, although the Office has approved such foundations upon request under certain conditions. An amendment to the ruling is expected to be proposed to establish guidance in this area.

For further information, contact Fred Finke, National Bank Examiner, Commercial Examinations Division. Telephone (202) 447-1164.

Charitable contributions (7.7479). This ruling limits the amount which a national bank may contribute to charity on a semi-annual basis to five percent of income as reported on call reports to the Comptroller. The Office is reviewing this interpretation in connection with the review of charitable foundations (7.7445) to determine whether any modifications or guidance are necessary. Subjects under consideration include defining the term charitable, aggregating

contributions to charitable trusts and other charities, and modifying or removing the five percent limitation.

For further information, contact Fred Finke, National Bank Examiner, Commercial Examinations Division. Telephone (202) 447–1164.

Bank indebtedness—leasing (7.7520). In January 1978, the Office issued for comment a proposed interpretive ruling to provide greater consistency with revised generally accepted accounting principles for national banks which lease their banking premises. A final interpretation should be issued shortly. It should not affect the costs to national banks in preparing their financial statements and should make the financial statements more useful to the banks themselves, the Office, and the public users of national bank financial statements (43 FR 2731).

For further information, contact Charles Byrd, Assistant Director, Legal Advisory Services Division. Telephone (202) 447–1880.

Single premium annuities. On July 27, 1979, the Office published an advance notice of proposed rulemaking requesting comment concerning national bank participation in insurance company offerings of single premium annuity contracts which would utilize deposit accounts in national banks (44 FR 44172).

A preliminary review of the comments revealed significant legal and supervisory issues regarding the permissibility of this activity for national banks. Further review and analysis is being undertaken to determine whether the rulemaking process will continue, and a decision is expected shortly.

For further information, contact Howard Finkelstein, Attorney, Legal Advisory Services Division. Telephone (202) 447–1880.

12 CFR Part 9—Fiduciary Powers of National Banks and Collective Investment Funds

The Office is developing a proposal which would require national banks to prepare and make available a disclosure statement with respect to accounts over which investment discretion may be exercised. The statement would set forth policies and practices concerning commissions paid for effecting securities transactions. This proposal would be issued pursuant to Section 28(e) of the Securities Exchange Act of 1934 and follows the recent adoption of rules by the Securities and Exchange Commission.

The Office is also developing a possible amendment to the regulation to clarify certain sections and incorporate interpretations, previously provided to individual national banks upon request, relating to collective investment funds. The proposal also will contain amendments accommodating new statutory authority to revoke national bank trust powers, solicit public suggestions for review or revision of other sections of Part 9, and contain proposed rules relating to deposits of trust funds awaiting investment or distribution and retention rules for fiduciary records.

For further information, contact Dean E. Miller, Deputy Comptroller for Specialized Examinations. Telephone (202) 447–1731.

12 CFR Part 11—Securities Exchange Act Disclosure Rules

On June 4, 1979, the Office announced a long-term project to clarify and simplify this regulation in stages. The first proposal, dealing with tender offers, is expected within 6 months.

This part contains regulations substantially similar to those issued by the Securities and Exchange Commission (SEC). Periodically, the SEC revises its regulations, and the Office must propose substantially similar revisions or publish reasons why such revisions are not appropriate (44 FR 31984).

For further information, contact David Anderson, Attorney, or Michael Herrick, Attorney, Securities Disclosure Division. Telephone (202) 447–1954.

12 CFR Part 17—Required Notification To Nominate Bank Directors

This regulation states that national banks may adopt bylaws or articles of association that require any shareholder proposing to nominate a director, other than a management nominee, to file certain information in advance with the Office and the bank. Particularly in light of recent amendments to the Change in Bank Control rules (12 CFR Part 15), the Office is considering a proposal to rescind this regulation. A notice of proposed rulemaking was published in the **Federal Register** on April 14, 1980 and comments closed June 13, 1980. A final rule is expected within three months (45 FR 2578).

For further information, contact Larry Mallinger, Attorney, Legal Advisory Services Division. Telephone (202) 447–1880.

12 CFR Part 20—International Operations

This regulation requires prior notifications and reports to the Office of specified international activities by national banks. The need for receipts of those notices and reports from national banks is under review, since they are also filed with other Federal agencies.

For further information, contact William Ryback, Director, International Banking Activity Examination Division. Telephone (202) 447–1747.

12 CFR Part 21; 12 CFR 7.5225—Minimum Security Devices and Procedures

The Office's existing regulation requires several specific reports and records, refers to effective dates long past, overlaps with an interpretive ruling, and contains unnecessary gender-specific terminology. The Office is considering ways to eliminate certain reporting and recordkeeping requirements, the now meaningless effective dates, and the gender-specific terminolgoy. A proposed amendment, or a more general advance notice of proposed rulemaking, is expected to be issued for comment.

For further information, contact Richard C. Wanlin, Special Assistant to the Chief National Bank Examiner. Telephone (202) 447–1574.

12 CFR Part 25—Community Reinvestment Act

This regulation, and identical ones of three other federal supervisors of depository institutions, took effect in February 1979. The Office, in association with the other agencies, is evaluating more than a year's experience with the regulation. That evaluation is wide-ranging and includes consideration of such issues as: (1) Supplementing the previously issued list of questions and answers to clarify issues that do not individually justify amending the regulation; (2) issuing a policy information statement on the agencies' experiences during the first year of CRA's operation; (3) providing "plain-English" instructions to the public on how to comment on CRA-covered applications; (4) discussing alternative definitions for low-and moderate-income neighborhoods; and (5) assigning weights to the various assessment factors the agencies consider in appraising CRA performance.

For further information, contact Janice Booker, Customer Program Specialist, Customer Programs Division. Telephone (202) 287–4265.

Adjustable Rate Mortgages

The Office is considering adding a new regulation which would affirmatively authorize national banks to make residential mortgage loans carrying an interest rate subject to periodic adjustment. Authorization is intended to help ensure the availability of long-term mortgage funds by facilitating development of new instruments and to provide borrower protection provisions in the form of mandatory disclosures and rules designed to prevent too rapid an increase in installment payment amounts. A proposal is expected within 2 months.

For further information, contact Jonathan L. Fiechter, Deputy Director, Banking Research and Economic Analysis. Telephone (202) 447–1914.

Section II: Actions Taken

12 CFR Part 4—Description of Office, Procedures, Public Information

Office organization. On March 24, 1980, the Office published a final rule which incorporates into this regulation changes in the organization of the Office. Changes in the central office structure, title changes of key positions, revisions in functional descriptions as well as additions and updates of Regional Office information were included (45 FR 18906).

For further information, contact Barbara M. Yadley, Attorney, Legal Advisory Servcies Division. Telephone (202) 447–1880.

Forms. On July 25, 1980, the Office also published a final rule which incorporates into this Part a revised list of those forms used for, among other matters, corporate applications and the solicitation of data (45 49537, Docket No. 80–4).

For further information, contact Jonathan Levin, Senior Attorney, Regulations Analysis Division. Telephone (202) 447–1177.

12 CFR Part 7—Interpretive Rulings

Application of lending limits to standby letters of credit (7.1160). In the past, the Comptroller issued several informal opinions which allowed banks to meet the requirements of exception (2) of Interpretive Ruling 7.1160—"Prior to or at the time of issuance, the issuing bank has set aside funds in a segregated deposit account, clearly earmarked for that purpose, to cover the bank's maximum liability under the standby letter of credit."—with collateral in the form of United States Government securities or "marketable securities." the Prior Semiannual Agenda indicated that position would be reviewed.

After review, and consultations with the staffs of the Federal Reserve Board and Federal Deposit Insurance Corporation, the Office determined that a strict construction of exception (2)—"segregated deposit"—should be adopted. The Comptroller's Chief Counsel, in a letter dated June 12, 1980, stated that the exception would be restricted to cash and short-term certificates of deposit and that prior inconsistent opinions which permitted U.S. Government and "marketable securities" were withdrawn.

For further information, contact Ford Barrett, Assistant Chief Counsel. Telephone (202) 447–1896.

Directors' qualifying shares (7.4210). On July 24, 1980, an amendment to this ruling was published to accommodate certain statutory changes effected by the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96–221). Section 710 of that act authorizes the Office to determine that an equivalent ownership interest in a company controlling a national bank may satisfy the traditional requirement for directors' qualifying shares in the bank. Under the amendment, if any of the par, book, or market value of holding company stock, as of the date it was acquired or the date the person becomes a director. equals or exceeds $1,000, the person meets the stock ownership requirement for all subsidiary national banks (45 FR 49239, Docket No. 80–5).

For further information, contact James V. Elliott, Director, Bank Organization and Structure Division. Telephone (202) 447–1184.

Pension plans (7.5010). This ruling covers the authority of national banks to offer pension plans to their employees. As indicated in the last semiannual agenda, it was reviewed in light of legal changes which have occurred over the last several years, with a view to possible modification. The Office has concluded that changes are not necessary. Adding information to the ruling would only repeat legal and regulatory requirements already covered by other agencies and departments.

For further information, contact Laura McAuliffe, Executive Assistant to the Senior Advisor. Telephone (202) 447–1175.

National bank as guarantor or surety on indemnity bond (7.7010). The Office has reviewed the need for a formal amendment to clarify the role which marketable securities may have as collateral in guarantees and indemnity bonds. In the past, the Office has advised individual national bank inquirors that a national bank may become a guarantor by setting aside either cash or marketable securities to cover the total potential liability. The last semiannual agenda indicated that the ruling would be reviewed.

After review and analysis, the Office has determined that no change is warranted in the ruling at this time. Moreover, the Office has withdrawn previous interpretations allowing marketable securities to serve as collateral for guarantees and indemnity bonds.

For further information, contact Ford Barrett, Assistant Chief Counsel. Telephone (202) 447–1896.

12 CFR Part 16—Securities Offering Disclosure Circulars

The Office adopted amendments to the securities offering disclosure rules, effective March 21, 1980. Subject to certain exemptions, the disclosure rules generally require a national bank to provide an offering document to offerees when it offers or sells its equity or debt securities. The March amendments are intended to simplify and expedited the process through which national banks offer their securities to the public, while providing the information needed by investors.

The principal amendments to Part 16 concern: (a) A qualified exemption from offering circular requirements where the amount offered exceeds $500,000 in a twelve-month period (The regulation previously provided for an exemption at the $300,000 level.); (b) a requirement permitting use of an abbreviated offering circular where the amount offered does not exceed $2,000,000 in a twelve-month period; and (c) certain technical amendments to the offering circular format (45 FR 11115).

For further information, contact Michael Herrick, Attorney, Securities Disclosure Division. Telephone (202) 447–1954.

12 CFR Part 26—Management Interlocks

On April 9, 1980, the Office published final amendments to its regulation implementing the Depository Institution Management Interlocks Act (Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. 95–630)) in joint action with the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

The April amendments contain clarifying and technical changes to the regulation published in July 1979, and add a definition of the term "representative or nominee", as well as new provisions concerning "grandfather rights" and "changes in circumstances" (45 FR 24384).

For further information, contact Howard Finkelstein, Attorney, Legal Advisory Services Division. Telephone (202) 447–1880.

Section III: Banking Bulletins and Banking Circulars

The Office's formal regulations (those actions adopted into the Code of Federal Regulations as "regulations") do not

V 45 / 153 AUG 6 80 UMI

cover all regulatory issues meriting public attention. Often, there are special matters of supervisory concern and new or revised supervisory procedures that are not appropriate candidates for formal regulation. However, they must be communicated to the industry and other members of the public expeditiously. Such communication usually is accomplished by the Office system of banking bulletins and banking circulars. Both were initiated in 1968. Bulletins are numbered consecutively during the year issued and ordinarily remain in effect for one year or less. They are frequently used as cover memoranda to forward copies of proposed and final regulations to banks and other interested members of the public. Circulars are more permanent and are numbered consecutively. Since 1968, 144 have been issued, of which 64 were withdrawn, leaving 80 still in effect.

Review Project

The Office is presently reviewing all effective circulars to eliminate any inconsistencies between circulars and other authoritative documents, to update as needed and to review any requirements imposed on banks. A number of circulars are likely to be revised or rescinded. The project is scheduled for completion within six months. The public is invited to submit suggestions concerning any circular currently in effect. Comments should be sent to, and further information obtained from, Frank Carbone, Director, Commercial Examinations Division. Telephone (202) 447–1164.

Listing of Bulletins and Circulars

In the past, the Office has not disseminated periodic summary listings of recently issued bulletins and circulars. It appears that such a listing may be useful to national banks and other members of the public. Accordingly, this and other semiannual agenda will contain such listings.

Following, is a list of bulletins and circulars published since the last semiannual agenda together with a brief description of their contents.

For further information, contact Tibby Ford, Communications Division. Telephone (202) 447–1800.

Banking Bulletins

Number	Date	Subject	Contents
BB-80-3	February 15, 1980	Semiannual Agenda	Memorandum to presidents of all national banks conveying a copy of the Semiannual Agenda, as published in the **Federal Register** February 13, 1980 (45 FR 9743).
BB-80-4	February 27, 1980	12 CFR Part 12 (Disposition of Credit Life Insurance Income).	Memorandum to chief executive officers of all national banks, regional administrators and examiners, citing judicial support for Office directives requesting certain national banks to cease paying credit life insurance commissions to bank insiders.
BB-80-5	February 25, 1980	12 CFR Part 16 (Securities Offering Disclosure Rules).	Memorandum to chief executive officers of all national banks, regional administrators and examiners, conveying a copy of 12 CFR Part 16 as published in the **Federal Register** February 20, 1980 (45 FR 11115).
BB-80-6	March 6, 1980	Investment Securities Eligibility Rulings.	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of 12 CFR Part 1 (Investment Securities), as published in the **Federal Register** February 11, 1980 (45 FR 6407).
BB-80-7	March 26, 1980	12 CFR Part 103 (Financial Recordkeeping and Reporting of Currency and Foreign Transactions).	Memorandum to chief executive officers of national banks noting Office concern with Treasury reports of large cash flows through some banks and drawing attention to: (1) need for internal procedures that will permit full compliance with 12 CFR 103; and (2) Treasury intent to amend 12 CFR 103, as published in the **Federal Register** September 7, 1979 (44 FR 52258).
BB-80-8	Undated	Management Official Interlocks	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of 12 CFR Part 26 (Management Official Interlocks) as published in the **Federal Register** April 9, 1980 (45 FR 24384).
BB-80-9	April 17, 1980	12 CFR Part 17 (Required Notification to Nominate Bank Directors).	Memorandum to chief executive officers of all national banks, regional administrators, and examiners conveying a copy of a proposal to rescind 12 CFR Part 17 as published in the **Federal Register** April 14, 1980 (45 FR 2578).
BB-80-10	April 21, 1980	12 CFR Part 7 (Loans Secured by Real Estate).	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of 12 CFR Part 7, Subpart B as published in the **Federal Register** September 5, 1979 (45 FR 51795).
BB-80-11	April 23, 1980	Regulation E	Memorandum to chief executive officers of all national banks discussing the applicability and requirements of Federal Reserve Regulation E with special emphasis on those amendments which become effective May 10, 1980.
BB-80-12	Undated	Draft Consumer Program	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of the proposed Consumer Program, (required by Executive Order 12160), as published in the **Federal Register** April 24, 1980 (45 FR 27696).
BB-80-13	May 12, 1980	Community Development Division Brochure.	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of a brochure describing the purpose and organization of the Comptroller's Community Development Division.
BB-80-14	June 13, 1980	Revised Regulation Z	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of the Federal Reserve's revised Regulation Z, as released by the Federal Reserve Board April 28, 1980 and as published in the **Federal Register** May 5, 1980 (45 FR 29702).
BB-80-15	June 11, 1980	OCC adoption of FFIEC's Uniform Guideline on Internal Control for Foreign Exchange in Commercial Banks.	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of the subject Guideline, as released by the FFIEC May 22, 1980.
BB-80-16	June 27, 1980	Proposed Regulation D	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of the Federal Reserve's proposed Regulation D, published June 9, 1980 (45 FR 38368).
BB-80-17	June 30, 1980	Proposed Rulemaking—Data Processing Services.	Memorandum to chief executive officers of all national banks, regional administrators and examiners conveying a copy of an advance notice of proposed rulemaking for Interpretive Ruling 7.3500 (12 CFR 7.3500-Data Processing Services), as published in the **Federal Register** June 16, 1980 (45 FR 40613).
BB-80-18	July 1, 1980	Amendments to 31 CFR 103	Memorandum to chief executive officers of a national bank, regional administrators and examiners conveying a copy of Treasury Department Regulation 12 CFR 103, (Financial Recordkeeping and Reporting of Currency and Foreign Transactions), as published in the **Federal Register** June 5, 1980 (45 FR 37818).

Banking Circulars

Number	Date	Subject	Contents
BC-135	February 8, 1980	Fraudulent use of Documents Purporting to be "ICC notes".	Memorandum to chief executive officers of all national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; Regional administrators; and examiners conveying a notice from the United States Council of the International Chamber of Commerce, Inc., that documents purporting to be ICC notes are not obligations of the Council.
BC-136	February 8, 1980	European Credit Bank Corporation, Ratho Mill, Saint Vincent, West Indies.	Memorandum to chief executive officers of all national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; regional administrators; and examiners informing them that subject bank is not licensed to do business and has not honored checks drawn on it.
BC-137	February 19, 1980	Prohibition on Political Contributions by National Banks.	Memorandum to chief executive officers of national banks, regional administrators and examiners advising of the rescission of BC-62 and outlining, after consultation with the Federal Election Commission, prohibitions imposed on national banks by 2 U.S.C. 441(b) (Federal Election Campaign Act of 1971).
BC-138	February 29, 1980	Gold; 30 Ingots Paid as Ransom	Memorandum to chief executive officers of national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; regional administrators; and examiners indentifying gold ingots used to pay ransom and asking for information about them.
BC-139	March 14, 1980	Monetary and Credit Actions to Help Curb Inflation.	Memorandum to chief executive officers of all national banks describing the President's program to curb inflation and conveying copies of news releases and final regulations promulgated by the Federal Reserve that constituted a part of that program.
BC-79 (201) revision	March 19, 1980	National Bank Participation in the Financial Futures and Forward Placement Markets.	Memorandum to the chief executive officers of all national banks and to regional administrators describing Office policy on national banks entering into contracts calling for the future delivery of selected financial instruments.
BC-180 Supplement 2	March 24, 1980	12 CFR Part 27 (Fair Housing Home Loan Data System).	Memorandum to chief executive officers of national banks, regional administrators and examiners briefly describing the regulation and conveying a special questionnaire on past and expected home loan applications.
BC-140	May 2, 1980	Uniform Policy for Classification of Consumer Installment Loans Based on Delinquency Status.	Memorandum to presidents of all national banks, regional administrators and examiners describing the subject policy as recommended by the Federal Financial Institutions Examination Council and adopted by the Comptroller's Office.
BC-141	May 2, 1980	Brokered funds	Memorandum to chief executive officers of national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; regional administrators; and examiners warning of growing incidence of suspect offers of brokered deposits and asking that observed questionable offers be reported to the Office.
BC-142	May 23, 1980	Arab International Bank	Memorandum to chief executive officers of national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; regional administrators; and examiners advising that documents having the words ARAB INTERNATIONAL BANK are not those of the Arab International Bank, Cairo, Egypt.
BC-143	May 23, 1980	Status of Entities Licensed by Saint Vincent Trust Authority Ltd., Saint Vincent, West Indies.	Memorandum to chief executive officers of national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; regional administrators; and examiners advising extreme caution in dealing with four listed business entities.
BC-144	June 30, 1980	Status of Offshore Shell Bank Licenses Issued by Saint Vincent Trust Authority, Ltd., West Indies.	Memorandum to chief executive officers of national banks; all State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; regional administrators; and examiners advising extreme caution in dealing with four listed business entities.

SECTION IV: INFORMATION COLLECTION BUDGET

On December 4, 1979, the President issued Executive Order 12174 on Paperwork, calling for the establishment of "procedures that eliminate all paperwork burdens on the public above the minimum necessary to determine and implement public policy and ensure compliance with Federal laws". In response to a directive from the Office of Management and Budget (OMB) under that Executive Order, the Office has prepared an "Information Collection Budget" for fiscal year 1981. That document contains estimates of the time incurred by the public (including national banks) preparing information required by the Office in order to perform its supervisory responsibilities. The purpose of this Information Collection Budget, together with those of other Executive Branch agencies, is to establish a firm yet reasonable limit on the flow of paper between the Federal Government and the public. The Office has taken seriously its responsibility to lessen paperwork and regulatory burdens placed on national banks, as this and prior semiannual agenda demonstrate.

To prepare the Information Collection budget, the Office estimated the amount of time required to respond to each information request it expects to make.

The Office's Information Collection Budget estimates a total public cost of approximately 727,500 hours. That figure represents information collections ranging from activities requiring only 15 minutes to some requiring an average of 100 hours of a respondent's time. Most activities affect far fewer than the total number of national banks.

Information required in the examination process has been expressly excluded from the Information Collection Budget because of the unique aspects of the examination. The Office's estimate of the amount of time spent by a bank on all aspects of a commercial examination is 322 hours, with 107 hours devoted to paperwork. The Office recognizes there is wide variation in this figure resulting from variations in the size of institutions and the nature of the examination. The total amount of time spent on examination paperwork, including specialized examinations by banks, is an estimated 558,225 hours. This figure approximates only one-third of the time the Office estimates will be spent on paperwork by bank examiners.

In addition, the Office recognizes that during an economic down-turn, reporting and surveillance are likely to be increased. For this reason a contingency allowance of at least 500,000 hours has been proposed beyond the total cost estimated.

For further information, contact Susan Wagner, Special Assistant to the Comptroller. Telephone (202) 447–1766.

V 45 / 153 AUG 6 80 UMI

V 45 / 153 AG 6 80 UMI

SECTION V: IMPACT OF SELECTED REGULATORY CHANGES

As occasions warrant, the Office seeks to measure the impact on the banking industry of new or revised regulations. Two such analyses were undertaken since publication of the last semiannual agenda. One examined selected effects of the new 12 CFR Part 12 (Recordkeeping and confirmation requirements for certain transactions effected by national banks) an the other examined the effects of revisions to 12 CFR Part 18 (Annual financial disclosure to shareholders). Both regulatory developments became effective January 1, 1980.

Each analysis was based on voluntary returns of special questionnaires sent to a number of national banks. No bank received both questionnaires.

For further information, contact David C. Hayes, Senior Economic Advisor, Regulations Analysis Division. Telephone (202) 447–1177.

Part 12

The analysis of a survey on this new regulation has not been completed at this time. Preliminary indications are discussed below, and a further analysis should be reported in the next semiannual agenda. The requirements of the New Part 12, in summary form, are:

1. A chronological record of all securities transactions effected for customers must be kept. Banks effecting more than 200 securities transactions per year for customers, not counting transactions in government securities, must also keep account records, a memorandum of each order, and a record of broker/dealers used and commissions paid to each;

2. Each bank must provide each customer with a prompt confirmation of each transaction, unless the bank and customer agree to other confirmation procedures; and

3. Each bank must require its trading personnel to report to the bank any large transactions of their own, other than transactions in government securities.

A survey was sent to 273 national banks of various sizes, to develop information on bank practices prior to and after the effective date of the regulation, and related information. Responses were received from 75 percent of the banks.

A preliminary review of the data indicates the following matters of interest:

1. Prior to the regulation, only 25 percent of the responding banks required their trading personnel to report their own large transactions;

2. Most banks effecting large numbers of transactions were generally in compliance with all other requirements of the new regulation prior to its adoption;

3. Many banks effecting small numbers of transactions maintained one or more of the four records systems. However, the record(s) maintained were not usually the specific chronological record now required.

Further analysis is expected to cover such matters as:

1. The number and size of banks which would be affected if the regulation were changed by increasing the number of exempt transactions or by exempting banks of a certain size;

2. The changes in bank practices resulting from the prompt confirmation requirement and the flexibility providing for other confirmation arrangements; and

3. The impact of the regulation on small banks with a limited number of transactions.

Part 18

Analysis of revisions to Part 18 is complete. Revisions to Part 18 granted approximately 56 percent of all national banks flexibility in meeting their responsibility to keep their shareholders informed about the bank's financial condition. Previously, national banks that were neither wholly-owned subsidiaries of a bank holding company, nor subject to 12 CFR Part 11 (Securities Exchange Act disclosure rules) were obliged to send an annual financial report to each shareholder. Under the revised Part 18, those 2,485 national banks have the option of providing annual financial information in a more flexible format to each shareholder, or notifying each shareholder that such information is available and will be forwarded upon request without charge. The Office sought to estimate national bank use of the option and related cost savings. To accomplish that objective, a seven part questionnaire was mailed to a sample of 119 national banks. The sample was drawn from all national banks subject to Part 18 which were not to receive the Part 12 survey form. Banks were divided into three asset size classes: under $25 million, $25 million—$100 million; and $100 million and over. Potential respondents wer drawn at random from each size class. There was a 92 percent response rate. Banks were asked to state:

1. Number of shareholders;

2. Whether a notice or an annual report was sent in 1980;

3. If notice was sent, how many shareholders requested an annual report;

4. If notice will be sent in 1981;

5. Cost of sending an annual report to all shareholders;

6. Cost of sending a notice to all shareholders and a report to those who might request it; and

7. Time spent responding to survey.

Results, other than those concerning costs may be summarized as follows:

1. 7 percent of all respondents sent notices in 1980 and they found that only 4 percent of their shareholders wanted annual reports; and

2. 18 percent of all respondents plan to send notices in 1981.

Results of the cost questions are reflected in the following table.

Bank size (assets)	Cost of annual report		Cost of notice	
	Per bank	Per shareholder	Per bank	Per shareholder
Greater than $100 million:				
Average	$2,757	$9.01	$762	$2.46
Median	2,030	5.73	500	1.13
$25 million to $100 million:				
Average	837	7.39	408	4.02
Median	457	1.79	85	.47
Less than $25 million:				
Average	227	2.53	60	.66
Median	114	1.44	25	.65

If the survey results are extrapolated to all affected banks, the aggregate cost of providing an annual report to all shareholders, as was previously required, would have been approximately $1.5 million. The aggregate cost of sending a notice and furnishing the informatin upon request is approximately $600,000. Thus, the change in the regulation could reduce cost by $900,000, a 60% reduction, without significantly reducing the benefits of the regulation, i.e. providing shareholders easy access to financial information concerning the bank in which they own an interest.

Section VI: Mailing Schedules for Office Issuances

Many bankers have complained about the amount of paper received from the Office. The suggestion has been offered that the Office accumulate various issuances, including proposed and final regulations, and send them to banks on a monthly or quarterly schedule. Items whose timeliness is critical, such as requirements with which banks must comply by an early date, would be exempted from such a program.

While a periodic mailing of issuances would not necessarily reduce the imcoming volume of paper to a bank, it could have several advantages:

1. A predictable time for bank staff to devote to incoming OCC issuances;

2. Possible improvements in the distribution of issuances and where appropriate, the updating of manuals and other reference materials as well as in the preparation and submission of comments solicited by the Office; and

3. Potential savings in Office mailing costs.

The Office solicits comments on the desirability of a periodic mailing schedule and also requests comment on:

1. Preferred schedules and the reason for stated preferences;

2. Any suggestions for improvements in the format of OCC issuances; and

3. Methods other than monthly or quarterly mailings which might assist banks in dealing with regulatory issuances, such as publication in the weekly bulletins of each regional office a simple notice, including a short summary and such information as docket number, **Federal Register** citation, comment period and a knowledgeable Official who may be contacted for additional information.

For further information, contact Shela Turpin, Bank Analyst, Regulations Analysis Division. Telephone (202) 447–1177.

Dated: July 31, 1980.

Lewis G. Odom, Jr.,

Acting Comptroller of the Currency, Department of the Treasury.

[FR Doc. 80–23733 File 8–5–80; 8:45 am]

BILLING CODE 4810–33–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 525, 541, 545, and 563

[No. 80–469]

Federal Savings and Loan Associations; Revision of Real Estate Lending Regulations

Dated: July 31, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations implement in part Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, which comprehensively revised and expanded the investment authority of Federal savings and loan associations in the area of real-estate-related loans. Major changes include the lifting of restrictions on location of security property, lien priority and dollar amount of loans.

DATE: Comments must be received by: October 6, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Nancy L. Feldman, Associate General Counsel, (202) 377–6440, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation and Monetary Control Act of 1980 ("Act"), Pub. L. 96–221, 94 Stat. 132, greatly expanded the investment powers of Federal savings and loan associations; and important part of this expansion is set forth in section 401 of Title IV of the Act, which revised section 5(c) of the Home Owners Loan Act of 1933 (12 U.S.C. § 1464(c)) with regard to real-estate-related lending authority of Federals.

Since a major purpose of expanding Federals' lending authority was to make them more competitive with other financial institutions, the Board proposes to implement the new statutory authority not only by removing restrictions no longer mandated by statute, but also by rescinding some of its current rules which set forth detailed lending procedures the Board believes should more properly be determined by an association's management. The Board is also taking this opportunity to regroup its lending regulations to better reflect the proposed changes, and to delete provisions in other parts of its regulations which would be inconsistent with such changes. Major proposed changes are described below.

Dollar Limits on Loan

The Act eliminated the previous statutory restrictions on home loans of $75,000 ($112,500 for loans secured by real estate in Alaska, Guam, and Hawaii) and dollar limitations referenced to section 207(c)(3) of the National Housing Act of 1934, as amended, for apartment loans; it also eliminated the 20-percent-of-assets exception for the portion of loans in excess of these amounts. The Board therefore proposes to lift all of its dollar restrictions on loans, except with respect to its loans-to-one-borrower limitation and affiliated-person loan limitations, found in Part 563 of the Regulations for Insurance of Accounts of (12 CFR 563). The proposed removal of dollar limits extends to current regulatory limits on low-downpayment loans currently found in 12 CFR 545.6–2 (a)(2) and (3), and current limits on home improvement and equipping loans.

As a related matter, the Board also proposes to rescind 12 CFR 525.13 of the Regulations of the Federal Home Loan Bank System, which limits the dollar amount of home mortgages eligible as collateral for Bank advances. That provision implemented section 10(b)(2) of the Federal Home Loan Bank Act of 1932, which refers to the now-rescinded dollar limitations on home loan amounts in section 5(c) of the Home Owner's Loan Act.

Lien Priority

The Act eliminated the first-lien security requirement previously applied to Federals' basic residential lending authority. the Board therefore proposes to delete such limitation from its regulations, but to require that associations making loans on the security of junior liens prepare and maintain documentation sufficient to indicate that the total liens on such property do not exceed applicable loan-to-value ratios. Estimations of such ratios would reflect a current appraisal of the property at the time the association's loan is to be made and, if such loan is for improvement of the property, may include an estimate of the expected value of the property after completion of such improvements.

Location of Security Property

Revised section 5(c) does not restrict associations in their ability to invest in loans outside their local areas; the Board is therefore proposing to lift all geographic limitations on real estate loans, including loans made for property improvement and loans made on the security of mobile homes. Currently, Federal associations are limited to

investment in loans made in an area generally comprising their home states and a territory 100 miles around their home offices, with use of a 20 percent-of-assets "leeway" basket and a 20 percent-of-assets loan participation basket. Institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation are permitted by the Board, under the authority of section 403(b) of the National Housing Act, as amended (12 U.S.C. § 1726), to invest 40 percent of assets in loan participations secured by non-local property, and 15 percent of assets in non-local whole loans. In order to give parity to insured institutions in relation to the new proposed rules for Federals, the Board additionally is proposing to lift these current geographic limitations. Notwithstanding these changes, the Board will continue to evaluate an association's efforts to meet its responsibilities under CRA in satisfying its continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods.

Downpayments, Term of Years

The previous section 5(c) did not contain statutory references to loan-to-value ratios for real estate loans; the statute as revised uses 90 percent of value as a reference point for residential real-estate loans that will not require the extra security of mortgage insurance. The Board therefore proposes to liberalize its residential lending regulations to recognize 90 percent loans rather than 80 percent loans as the basic home finance benchmark, and to limit regulatory restrictions currently applied to home loans between 80 and 90 percent to those in excess of 90 percent. However, the 80 percent limit would continue to apply to short-term loans made to facilitate the trade-in or exchange of property because these are nonamortized loans, but this provision would be liberalized to authorize the making of such loans to realtors.

In addition, in order to provide associations with real estate loan authority comparable to that of national banks, the Board proposes to raise its multi-family loan limit from 80 to 90 percent of value, and its commercial real estate lending authority from 75 percent of value and 25 year terms to 90 percent of value and 30 year terms.

In recognition of recent rapid increases in housing costs, and as an expression of its desire to assist potential borrowers in meeting associations' eligibility requirements regarding loan repayments, the Board is also proposing to allow associations to make home loans with maximum terms of 40 years. Additionally, nonamortized residential loans would be permitted a maximum term of five years, rather than the current three year maximum.

Leeway Authority

The Board proposes to liberalize its current regulations pertaining to construction loans and nonconforming secured loans on residential real property which do not meet its regular lending requirements. Section 5(c) authorizes associations to invest up to five percent of assets in each of these categories; at present, however, the Board's regulations limit such investment to two percent of assets in each category unless an association has net worth in excess of regulatory requirements and meets certain eligibility criteria. The Board therefore proposes to permit investment up to the full statutory allowance, and notes that this would permit associations to invest in loans made by state-chartered associations which fall into either of the two categories, including adjustable-type mortgages.

Other Proposed Changes

Various regulatory definitions would be amended to reflect the new statutory language. Loans on building lots would no longer be restricted to builders. Certain percentage-of-assets limits which are regulatory rather than statutory, such as those pertaining to flexible payment mortgages and development loans, would be deleted. A new section providing for loans on unimproved real estate would be added to implement this new statutory authority. Loans of up to 15 years would be authorized on the security of building lots to be used for borrowers' personal residential use. the coverage of private mortgage insurance on loans in excess of 90 percent of value would be reduced to the amount of the loan exceeding 90 percent. The minimum loans-to-one-borrower authority for new associations would be increased.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend 12 CFR Parts 525, 541, 545, and 563, as set forth below.

Federal Home Loan Bank System

PART 525—ADVANCES

§ 523.13 [Deleted]

1. Delete § 525.13 Home Mortgages exceeding $60,000.

Federal Savings and Loan System

PART 541—DEFINITIONS

2. Amend Part 541 by revising §§ 541.12, 541.14, and 541.17 (a) and (b), and adding new §§ 541.18–1 and 541.21, to read as follows:

§ 541.12 Improved real estate.

Any of the real estate defined in §§ 541.3, 541.4, 541.11, 541.16, 541.17, or 541.23.

§ 541.14 Loans secured by liens on real estate.

(a) Loans secured by an interest in real estate in fee or in a leasehold or subleasehold extending or renewable automatically at the option of the holder or the Federal association for 5 years after maturity of the loan, if, in the event of default, the real estate interest could be used to satisfy the obligation with the same priority as a mortgage or a deed of trust in the jurisdiction where the real estate is located; and

(b) Loans secured by assignment of such loans.

§ 541.17 Other improved real estate.

(a) Commercial real estate containing (1) a permanent structure(s) constituting at least 25 percent of its value, or (2) improvements which make it usable by a business or industrial enterprise.

(b) Real estate containing offsite improvements, completed according to governmental requirements and general practice in the community, sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of being constructed for primarily residential use.

* * * * *

§ 541.18–1 Residential real property.

Real estate improved or to be improved by a structure(s) designed primarily for residential use, and deriving at least 80 percent of its value from the land and improvements attributable to such use.

§ 541.21 Unimproved real estate.

Any real estate which will become (a) improved real estate as defined in § 541.12, or (b) other improved real estate as defined in § 541.17(b) of this Part.

PART 545—OPERATIONS

3. Revise §§ 545.6, 545.6–1, and 545.6–2, by substituting new texts to read as follows:

§ 545.6 Real estate loans.

(a) *General.* A Federal association may invest in, sell, purchase, or otherwise deal with loans or interests in loans secured by liens on real estate, only as provided in this Part and subject to the limitations in § 563.9 of this chapter.

(b) *Determination of loan-to-value ratios.* (1) In determining compliance with maximum loan-to-value limitations in this Part, at the time of making a loan an association shall add together the amount of all real estate loans on the security property, and shall not make such a loan unless the total amount of such mortgages (including the one to be made) does not exceed applicable maximum loan-to-value limitations prescribed in this Part, as indicated by documentation retained in the loan file.

(2) In valuing the real estate security, an association shall use the current appraised value of the security property, and may include any expected value of improvements to be financed.

(c) *Purchase of loans from the Federal Savings and Loan Insurance Corporation.* An association may purchase from the Federal Savings and Loan Insurance Corporation any real-estate-related loan guaranteed by the Corporation under a guaranty contract made by the Corporation with the purchasing association.

§ 545.6–1 Insured and guaranteed real estate loans.

(a) Loans that are insured or guaranteed by a public mortgage insurer may be made in amounts and with terms and conditions of repayment acceptable to the insurer, provided the loan is at least 10 percent insured or 20 percent guaranteed.

(b) A loan is insured or guaranteed by a public mortgage insurer if:

(1) The loan is guaranteed, or a commitment to guarantee the loan has been made, under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code;

(2) The mortgagee is insured, or a commitment for insurance has been made, under the National Housing Act or the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, United States Code; or

(3) The loan is insured or guaranteed by an agency or instrumentality of a state (i) whose full faith and credit is pledged to support the insurance or guarantee, or (ii) whose insurance or guarantee program is approved by the Federal Home Loan Mortgage Corporation.

§ 545.6–2 Residential real estate loans.

(a) *Home loans.* (1) *General requirements.* Loans on the security of homes or combinations of homes and business property, repayable in regular monthly payments sufficient to liquidate the debt, principal and interest, wthin the loan term, shall not exceed 90 percent of the value of the security property and shall be repayable within 40 years. Except as otherwise specifically authorized in this Part, after the first payment on a loan described under this paragraph (a) which is secured by property occupied or to be occupied by the borrower, no subsequent payment shall be more than any preceding payment.

(2) *Ninety-five percent loan-to-value authorization.* The loan-to-value limitation in paragraph (a)(1) of this section shall be 95 percent, if:

(i) The loan contract requires that, in addition to principal and interest payments on the loan, one-twelfth of estimated annual taxes and assessments on the security property by paid monthly in advance to the association;

(ii) The borrower, including a purchaser who assumes the loan, has executed a certificate stating that the borrower occupies, or in good faith intends to occupy, the property (or one dwelling on the property) as the borrower's principal dwelling; and

(iii) As long as the unpaid balance of the loan exceeds 90 percent of the value or purchase price of the security property, determined at the time the loan was made, such excess is guaranteed or insured by a mortgage insurance company which the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer."

(3) *Non-monthly installment loans.* The term-of-years limitation shall be 15 years on loans made with interest payable less frequently than monthly but at least semi-annually and principal payable less frequently than monthly but at least annually in installments sufficient to retire the debt, both interest and principal, within the term, and 40 years on loans made on farm residences or combinations of farm residences and commercial farming enterprises with principal and interest payable less frequently than monthly but at least annually in installments sufficient to retire the debt, both interest and principal, within the loan term.

(4) *Loans to facilitate trade-in or exchange.* Loans made to facilitate the trade-in or exchange of security property described in this section, including bridge loans to individuals and realtors, shall not exceed 80 percent of value and shall be repayable within 18 months, with interest payable at least semi-annually: *provided,* that the aggregate amount of such loans may not exceed 5 percent of an association's assets.

(5) *Nonamortized loans.* Nonamortized loans (loans on which no principal payments are made until the end of the term) shall not exceed 60 percent of value and shall be repayable within 5 years, with interest payable at least semi-annually.

(6) *Loans made on the combined security of real estate and savings accounts.* Loans may be made under paragraph (a)(2) in excess of the maximum loan-to-value ration therein permitted, with such excess secured by savings accounts, subject to the following restrictions:

(i) The loan shall not exceed the appraised value of the real estate;

(ii) The savings account shall consist only of funds belonging to the borrower, members of his family, or his employer;

(iii) The association shall fully disclose to the prospective borrower the difference (including interest, private-mortgage-insurance costs, and equity interest) between a loan secured by real estate and savings and a loan secured by real estate alone; and

(iv) The loan shall comply with § 545.6–4(b)(2).

(7) *Flexible payment loans.* Loans authorized under this paragraph (a) which are secured by a single-family dwelling which the borrower has certified is or will be the borrower's principal dwelling, may be repayable in monthly installments, as follows:

(i) During an initial period not exceeding five years, installments shall equal at least one-twelfth the annual interest rate times the unpaid balance of the loan which rate may be increased only by subsequent agreement;

(ii) The amount of the first payment after such period shall be fixed at the beginning of the loan term and subsequent required payments may be less but not more;

(iii) Required payments shall be sufficient to liquidate the debt, principal and interest, within the loan term; and

(iv) The loan agreement shall describe the payment schedule.

(8) *Loans on cooperatives.* Loans may be made under paragraphs (a) (1) or (2) as follows:

(i) *Loans on the security of cooperative housing developments.* The association shall require that the cooperative housing development maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

V 45 / 153 AG 6 80 UMI

(ii) *Loans on individual cooperative units.* Such loans may be made on the security of (A) a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a non-profit cooperative housing organization, and (B) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(9) See §§ 545.6–4 and 545.6–4a of this Part for other mortgage plans which may be used for loans authorized under this paragraph.

(b) *Multifamily dwelling loans.* Loans on the security of other dwelling units, combinations of dwelling units, including homes, and business property involving only minor or incidental business use, shall not exceed 90 percent of the value of the security property and shall be repayable within 30 years: provided, that nonamortized loans shall not exceed 60 percent of value and shall be repayable within 5 years, with at least semi-annual interest payments.

(c) *Loans on unimproved real estate.* Loans to finance acquisition of land to be eventually developed for primarily residential usage shall not exceed 66⅔ percent of the value of the security property, and shall be repayable in 3 years with interest payable at least semi-annually.

(d) *Development loans.* (1) Loans to finance development of land for primarily residential usage shall not exceed 75 percent of the value of the security property and shall be repayable within 5 years, with interest payable at least semi-annually. An association shall not make such a loan unless it appears that the purpose of the loan is to enable the borrower to undertake residential development of the land to be acquired, as evidenced by a preliminary development plan that is satisfactory to the association.

(2) Upon release of any portion of the security property from the lien securing the loan, the principal balance of the loan shall be reduced by an amount at least equal to that portion of the outstanding loan balance attributable to the value of the property to be released. "Value" for the purposes of the preceding sentence is the value fixed at the time the loan was made.

(3) An association may extend the time for payment for an additional period not over 3 years, but no such extension may be made unless (A) interest on the loan is current, (B) the association's board has before it a current independent appraisal of the security property, and (C) the outstanding principal balance of the loan is or has been reduced to an amount not over 75 percent of the value of the security property.

(4) The aggregate amount of loans outstanding to any one borrower (including loans to any business entity with which such borrower is associated) or on any one project shall not exceed an amount equal to two percent of the association's assets.

(e) *Loans on building lots and sites.* Loans on the security of building lots and sites ("other improved real estates" as defined in § 541.17(b) of this Part) shall comply with the following requirements:

(1) Loans for a borrower's principal dwelling (as evidenced by a borrower's certification of intention, at the time the loan is made, that the property will be so used) shall not exceed 75 percent of the value of the security property and shall be repayable within 15 years. The loan contract shall provide for monthly payments of principal and interest sufficient to amortize at least 40 percent of the original principal amount before the end of the loan term.

(2) Loans other than for a borrower's principal dwelling shall not exceed 75 percent of the value of the security property and shall be repayable within 3 years, with semi-annual interest payments beginning not more than 1 year after the first disbursement.

(3) The provisions of paragraphs (d)(2), (3), and (4) of this section shall apply to this paragraph (e).

(f) *Construction loans.* (1) Construction loans shall not exceed 75 percent of the value of the security property and shall be repayable in 3 years, except that for construction of single family dwellings, construction of individual structures shall be completed within 18 months of disbursement of applicable loan funds.

(2) Associations shall reserve the right to impose limits on the number of structures under construction at a given time.

(3) The provisions of paragraphs (d)(2) and (4) of this section apply to this paragraph (f).

(g) *Rehabilitation loans.* Loans to finance substantial alteration, repair or improvement of primarily residential property may be made within the maximum loan-to-value ratios permitted for loans under paragraphs (a) and (b) of this section and shall be repayable within 3 years (18 months for a single family dwelling).

(h) *Combination loans.* (1) Loans authorized by this section may be combined, with the term of each loan beginning at the end of the term of the preceding loan.

(2) Development, lot and site, and construction loans combined with permanent financing loans, or made to borrowers who have secured permanent financing from other lenders, may be made within the maximum loan-to-value ratios permitted for loans under paragraph (a) and (b) of this section: *provided,* that disbursement of loan proceeds in excess of 80 percent of the value of the security property shall not be made until substantial completion of the construction.

(3) For a combination of loans to finance development and loans on building lots and sites and/or construction loans, whether or not development has been completed, (i) beginning not more than 3 years after the first disbursement of loan proceeds, the principal shall be amortized monthly at a rate of at least 1½ percent of that portion of the loan balance applicable to any home, including the building site, and (ii) beginning not more than 4 years after the first disbursement of any loan proceeds, principal shall be amortized monthly at a rate of at least 1½ percent of that portion of the loan balance not applicable to the construction of any home and its building site.

(i) See § 545.6–5 of this Part for residential loan leeway authority.

4. Delete § 545.6–2a, and revise § 545.6–3 by substituting a new text, to read as follows:

§ 545.6–2a Loans on cooperatives [Deleted]

§ 545.6–3 Home improvement loans.

An association may invest in any loans, with or without security, for residential real property alteration, repair or improvement, or for equipping residential real property, with equal installments payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. However, the loan contract may provide for a first and/or final installment in an amount other than that of the regular installment, but such installment shall not be less than one-half of, nor more than one and one-half times, the amount of the regular installment.

§ 545.6–4 [Amended]

5. Amend § 545.6–4(b) by deleting the phrase "under § 541.9 of this subchapter" in subparagraph (4), and changing the reference from § 545.6–1(a) to § 545.6–2(a) in subparagraph (5) thereof.

§ 545.6–4a [Amended]

6. Amend § 545.6–4a by deleting the phrase "of up to 30 years" in paragraph (b) thereof.

7. Revise §§ 545.6–5 and 545.6–6 by substituting new texts to read as follows:

§ 545.6–5 Leeway authority for loans relating to residential real property and farms.

(a) *Loans without requirement of security—for construction purposes.* In additional to loans in which it may invest under other provisions of this Part, an association may invest an amount not exceeding the greater of its net worth or 5 percent of assets in loans for construction, adding to, improving, altering, repairing, equipping or furnishing residential real property, where the association relies substantially for repayment on: (1) the borrower's general credit standing and forecast of income, with or without other security, or (2) other assurances of repayment, including a third-party guaranty or similar obligation.

(b) *Nonconforming secured loans.* In addition to loans in which it may invest under other provisions of this Part, an association may invest an amount not exceeding the greater of its net worth or 5 percent of assets in loans, advances of credit, and interests therein, secured by residential real property and real property used or to be used for commercial farming enterprises, which are not otherwise authorized under this Part.

§ 545.6–6 Commercial real estate loans.

(a) Loans secured by first liens on other improved real estate, as defined in § 541.17(a) and (c) of this subchapter, shall not exceed 90 percent of the value of the security property, and shall be repayable within 30 years: provided, that nonamortized loans shall not exceed 60 percent of value and shall be repayable within 5 years, with interest payable at least semi-annually.

(b) An association's aggregate investment under this section shall not exceed 20 percent of assets.

(c) See § 545.6–5 for additional authority to invest in real estate loans to commercial farming enterprises, and § 545.6–10 for additional authority to invest in community development loans.

8. Delete §§ 545.6–7, 545.6–8 and 545.6–12, and revise paragraph (a) of § 545.6–13, to read as follows:

§ 545.67–7 Insured loans to finance land development [Deleted]

§ 545.6–8 Housing facilities for the aging [Deleted]

§ 545.6–12 Nonconforming secured loans and loans without requirement of security. [Deleted]

§ 545.6–13 Farmers Home Administration rural housing program guaranteed loans.

(a) *General.* An association may invest in loans on residential real estate guaranteed under the Farmers Home Administration (FmHA) Rural Housing Program, without regard to other provisions in this Part.

* * * * *

§§ 545.7–6 and 545–7–7 [Amended]

9. Amend § 545.7–6 by deleting paragraph (d)(1) and paragraph (e)(2)(ii); amend § 545.7–7 by deleting paragraph (a)(3); and revise § 545.7–9 as follows:

§ 545.7–9 Collateral loans.

An association may make a collateral loan (secured by assignment of secured loans) if it could, under applicable law and regulations, make or purchase the underlying assigned loan(s).

10. Delete §§ 545.8, 545.8–1, 545.8–6, and 545.8–7, and revise the title of § 545.8–3, as follows:

§ 545.8 Participations. [Deleted]

§ 545.8–1 Purchase of loans. [Deleted]

§ 545.8–3 Contract provisions for real estate loans.

§ 545.8–6 Lending area. [Deleted]

§ 545.8–7 Percentage limitation on real estate loan investments. [Deleted]

Federal Savings and Loan Insurance Corporation

PART 563—OPERATIONS

11. Revise § 563.9 to read as follows:

§ 563.9 Nationwide lending.

An insured institution may invest in, sell, purchase, participate or otherwise deal in loans on security property located outside its normal lending territory but within the United States or its territories and possessions.

12. Delete §§ 563.9–1 and 563.9–2 as follows:

§ 563.9–1 Participation loans. [Deleted]

§ 563.9–2 Sales of interest in loans on real estate located outside normal lending territory. [Deleted]

13. Amend § 563.9–3 by deleting "$100,000" and substituting "$200,000" in paragraph (b) thereof.

(Sec. 10, 47 Stat. 725 (12 U.S.C. 1421 et seq.) sec. 5, 48 Stat. 132 (12 U.S.C. 1464), as amended by sec. 401, 94 Stat. 160; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730), Reorg. Plan No. 3 of 1947, 12 F.R. 4891, 3 CFR, 1943–48 comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-23735 Filed 8-5-80; 8:45 am]

BILLING CODE 6720-01-M

---

12 CFR Parts 541, 545, 561, 563

[No. 80–468]

Federally-Chartered Saving and Loan Associations and Mutual Savings Banks; Investment in Consumer Loans, Commercial Paper and Corporate, Debt Securities

Dated: July 31, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: These regulations are proposed to implement section 401 of Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980 which authorizes Federally-chartered savings and loan associations and mutual savings banks, subject to a 20 percentage-of-assets limitation, to make secured or unsecured consumer loans and to invest in, sell, or hold commercial paper and corporate debt securities as defined and approved by the Federal Home Loan Bank Board. These regulations also implement the Federal Financial Institutions Examination Council's recommended "Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status."

DATE: Comments must be received by: October 6, 1980.

ADDRESS: Please send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Ann Hume Loikow, Office of General Counsel, telephone number (202) 377–6448, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

Section 401 of The Depository Institutions Deregulation and Monetary Control Act of 1980 ("Act"), Pub. L. 96–221, 94 Stat. 132, greatly expanded the investment powers of Federally-chartered savings and loan associations and mutual savings banks. Among other things, section 401 of the Act completely

revised section 5(c) of the Home Owners Loan Act of 1933 (12 U.S.C. § 1464(c)) which contains the basic investment authority for Federally-charter savings and loan associations. A new subparagraph (B) was added to section 5(c)(2), the category of investments limited to 20 percent of assets, which authorizes Federals to engage in consumer lending and to invest in, sell, or hold commercial paper and corporate debt securities as defined and approved by the Board. These increased investment powers will assist associations in meeting their objective of financing the nation's housing needs.

Since a major purpose of revising section 5(c) and expanding Federals' investment powers was to make them more competitive with other financial institutions by enabling them to offer the consumer convenient one-stop financial services, the Board proposes to implement this new authority with a broad regulation and to leave the detailed decisions regarding exercise of this new lending and investment authority to each institution's management.

Consumer Lending

Definitions

Although Federals already had authority before the passage of this Act to make certain specialized kinds of consumer loans such as educational loans, home improvement loans, equipping loans, and mobile home loans, the only way in which a Federally chartered association could engage in generalized consumer lending was by investing in a service corporation which, under § 545.9–1 of the Rules and Regulations for the Federal Savings and Loan System ("Federal Regulations") (12 CFR 545.9–1), was authorized to originate, purchase, sell and service consumer loans in general, as well as make these more limited types of loans to consumers. Subparagraph (a)(3) of § 545.9–1 contains the Board's only definition of "consumer loan." Since generalized consumer lending is now authorized for Federals, as well as for their service corporations, the Board proposes to delete this provision and to add a new definition of "consumer loan," applicable to both Federals and their service corporations.

The proposed new definition is derived from the Act's language and the Federal Reserve Board's definitions of similar terms in its consumer protection regulations (Regulations B and Z in particular). Associations will now be authorized to make both secured and unsecured consumer loans. The major difference from the Federal Reserve Board's definitions is that loans secured by liens on real estate, as defined in § 541.14 of the Federal Regulations, are excluded. In addition, the proposed definition of "consumer loan" is broader than that found in § 545.9–1 since it does not limit secured consumer loans as § 545.9–1 does to those which are "secured by goods used or bought primarily for personal, family or household purposes." Thus, so long as a loan is not a loan secured by a lien on real estate and is made for personal, family or household purposes, which could include debt consolidation, there is no restriction on what can be used for security, if any is required.

Under the new definition, a consumer loan is a type of "consumer credit," which is a broader term and includes other types of loans which are separately authorized to be made to consumers. A consumer loan may be made as either "open-end" or "closed-end consumer credit." New definitions of these terms are proposed to be added to Part 561 of the Regulations of the Federal Savings and Loan Insurance Corporation ("Insurance Regulations"). The proposed definitions are modelled on the Federal Reserve Board's definitions in Regulations B and Z, with which associations are already familiar, and are needed to implement the "Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status" recommended by the Federal Financial Institutions Examination Council, which is incorporated into this proposal.

Another new definition has also been proposed to be added to Part 541 of the Federal Regulations. The statutory definition of "Loans," which states that any reference to a loan in section 5(c) of the Home Owners Loan Act also authorizes an association to have an interest in such loan, has been added to make it clear in the regulations that an association may participate in any loan it is authorized to invest in or make.

Consumer Loan Authority

A new § 545.7–10, which contains the basic authorization for, and limits on, an association's exercise of the new consumer loan authority, is proposed to be added to the subdivision "Other Loans" of Part 545 (Operations) of the Federal Regulations. Since a large amount of consumer lending is indirect, where the dealer enters into an arrangement with a lender under which the dealer directly arranges the consumer loan that the lender then acquires, associations would be at a competitive disadvantage if they were authorized only to make direct consumer loans. Thus, both direct and indirect consumer lending will be authorized. The only restrictions proposed are the following: such loans would come within the 20-percentage-of-assets limitation contained in the Act; a requirement that before indirect loans can be made through a dealer, the dealer must have been approved by the association's board of directors; a limitation on the total balances of all outstanding unsecured consumer loans to one borrower; and a requirement that all consumer loans that the assoociation makes—i.e., originates, purchases, sells, services, and participates in—conform to the association's written underwriting standards and are loans which the association could make directly.

The proposed requirement that the association's board of directors approve the dealer with whom the association engages in indirect consumer lending is designed to ensure that the board of directors is aware of the various arrangements the association has made to make consumer loans and that the association has examined the dealer's reliability and financial responsibility so that such arrangements are carefully and prudently considered.

The proposed limitatin on unsecured loans to one borrower would limit the association's authority to make unsecured consumer loans to the lesser of one-fourth of one percent of the association's assets or five percent of its net worth. These two measures are roughly equivalent and place an overall limitation on unsecured loans to the same borrower which is more restrictive that the restriction found in § 563.9–3 of the Insurance Regulations. Under that section, all associations may have at least $100,000 in total balances of all outstanding loans to the same borrower and may increase that minimum to an amount equal to the lesser of ten percent of the association's withdrawable accounts or an amount equal to the association's net worth. Under the proposed limitation, assuming a mature association whose net worth is five percent of assets, for example, an association with $100 million in assets could not make more than $250,000 in unsecured consumer loans to the same borrower, an association with $50 million in assets could not make more than $125,000 in sch loans, and an association with $10 million in assets could only make a maximum of $25,000 in such loans to the same borrower.

The more restrictive provisions of this section are proposed as a reasonable limitation on the amount of an association's portfolio that can be concentrated in *unsecured* personal loans to the *same* person. This limitation does not prevent an association from making additional *secured* loans to a borrower, since with a secured loan there is some sort of collateral to protect the association's interest if the borrower defaults. Section 563.9–3 would still limit the total amount of all loans which an association would be authorized to make to the same borrower.

No limitation (other than the overall 20 percent-of-assets limit for consumer loans) is proposed to be placed on the total amount of unsecured consumer loans an association can make to all borrowers, since such a limitation would have little practical effect unless it reached the unsecured loans made in connection with credit cards and NOW accounts, neither of which is subject under the Act to a percentage-of-assets limitation. However, the Board recognizes that it is normal business practice for a lender to place relatively low limits, in the range of several hundred to several thousand dollars, on such extensions of credit when an account is opened, so the danger of overconcentration in loans dependent on the credit of the same person is not as much of a problem as it is with unsecured loans made under § 545.7–10.

Although banks and other lenders often finance a dealer's inventory in order to induce the dealer to allow them to finance individual consumer loans, the Board is not proposing to authorize associations to do inventory financing because the Board does not consider inventory financing to fall within the Act's requirement that the loan be "for personal, family, or household purposes." Section 545.7–6 of Federal Regulations pertaining to mobile home financing, does authorize associations to finance a mobile home dealer's inventory. However, the language of section 5(c)(1)(J) of the Home Owners Loan Act, which that regulation implements, is much broader than that of section 5(c)(2)(B), which authorizes consumer lending, since it authorizes associations to make loans "*for the purpose of* manufactured home financing" (emphasis added). Section 5(c)(2)(B) is much more narrowly written and only authorizes associations to "*make* secured or unsecured loans for personal, family, or household purposes" (emphasis added). Since Congress's intention in authorizing associations to make consumer loans was to make them a "family finance center," which in one place could meet all the financial needs of the consumer, the Board feels that section 5(c)(2)(B) cannot be read as authorizing what is, in effect, a commercial loan.

The Board has received a number of inquiries about whether an association could finance loans secured by interval ownership interests in real estate. The Board has previously taken the position that a substantial portion of such loans is made for the purchase of benefits and services in addition to the real estate itself and that this portion, which is not secured by the real estate, must be considered to be an unsecured consumer loan which, prior to the enactment of the Act and and the issuance of these regulations, an association was not authorized to make. Because of the administrative difficulties in separating the real estate portion from the non-real estate portion of such loans, the Board has now determined that the total amount of loans made to purchase an interval ownership in real estate should be included within the category of unsecured consumer loans which an association will be authorized to make by this new section.

There may be some confusion as to what types of loans must be put into the 20% consumer loan category contained in § 545.7–10, since a number of other loans which Federals are authorized to make under separate statutory provisions, such as educational loans and equipping loans, are commonly thought of as "consumer loans" because they are loans to a natural person for personal, family, or household purposes. Because these specific lending activities have been expressly reauthorized in the Act, the Board has concluded that in order to provide associations with the maximum degree of flexibility associations should be given the option, under section 545.7–10(b), of choosing the category in which to place a particular loan.

Classification of Delinquent Consumer Loans

On February 7, 1980, the Federal Financial Institutions Examination Council recommended that all of the Federal financial regulatory agencies adopt a uniform examination policy on the classification of delinquent consumer installment loans. The Board declined to take action at that time since Congress had not yet taken final action to authorize Federals to make consumer loans. Since that has now occurred, the Board is proposing to include in the proposed regulations the provisions of the uniform policy, slightly modified to conform to the format and nomenclature of the regulatory and examination process pertaining to savings and loan associations.

The Examination Council recommended the establishment of uniform guidelines for the classification of installment credit based upon delinquency status, in order to provide uniform treatment of such loans by all insured financial institutions. The Examination Council's approach in determining how to classify delinquent consumer loans parallels, in principle, current banking practices and recognizes the statistical validity of measuring losses for both open-end and closed-end credit predicated on past-due status. Although the three Federal banking agencies have historically relied upon delinquency status as a major determinant in classifying consumer installment credit, no interagency standard has ever been used.

The Board recognizes that evaluating the quality of a consumer credit portfolio on a loan-by-loan basis is inefficient and unnecessary. Therefore, in order to give this policy equal weight with the Board's other accounting requirements which have been issued as regulations, the Board has chosen to propose that the Council's Uniform Policy be added as an amendment to the Insurance Regulations which would allow the Board's existing method of classifying loans to be modified to conform to the Examination Council's recommended policy.

Several new definitions are proposed to be added to Part 561 of the Insurance Regulations. Since the Uniform Policy divides "consumer credit," a broader concept than "consumer loan," as noted above, into "open-end" and "closed-end" credit, definitions of these three terms, derived from the Federal Reserve Board's Regulations B and Z, have been proposed to be added to Part 561. Unlike the Federal Reserve Board's regulations, however, loans secured by liens on real estate as defined in § 541.14 are excluded from the definition of "consumer credit." Thus, the types of loans which are subject to the proposed delinquency classification system are non-real estate loans for personal, family, or household purposes, including consumer loans, educational loans, unsecured loans for real property alteration, repair or improvement, or for the equipping of real property, and credit extended in connection with credit cards. Because the Board's present system for classifying loans already specifically provdies for the inclusion of delinquent mobile home loans (§§ 561.15 (i), (j), and (k)), mobile home loans are excluded from the term "consumer credit" and are thus not subject to the proposed classification system.

A proposed new definition of "slow consumer credit" (§ 561.16a), which

V 45 / 153 3 AG 6 80 UMI

corresponds to the Uniform Policy's definition of "substandard" consumer credit, has also been developed. The current definition of "scheduled items" would be amended so "slow consumer credit" would be counted in determining the amount of an association's scheduled items. Another new definition, "consumer credit classified as a loss" (§ 561.16b), is also to be added to Part 561 in connection with the proposed new § 563.46, which would require an association to charge off consumer credit classified as a loss to its net worth or against its current earnings. This proposed charge-off conforms to generally accepted accounting principles and to the banking industry's practices. An illustrative chart showing when a delinquent loan is to be classified as "slow" or as a "loss" has been included in proposed § 561.16a and § 561.16b.

Nevertheless, the Board recognizes that there may be instances, particularly where significant amounts are involved, that may warrant exceptions to the formula contained in the proposed regulations which would recognize those individual situations. Thus, proposed § 561.16a and § 561.16b would not require an association to classify a loan as "slow consumer credit" or as a "loss" if the association could clearly demonstrate that repayment would occur regardless of delinquency status. Examples of such situations might include: loans well secured by collateral and in the process of collection; loans supported by valid guarantees or insurance; and loans where claims have been filed against solvent estates.

The Board also recognizes that even a well managed association is likely to have a higher rate of slow consumer loans than slow real estate loans and that under the Board's regulations, associations are prohibited from engaging in certain activities if their scheduled items, which includes their slow loans and slow consumer loans, reach a certain level. Although the Board has proposed amendments to other sections of its regulations which will somewhat limit the impact of excessive scheduled items, the Board is considering ways to reflect this higher normal level of slow consumer loans so that associations operating well-managed consumer loan programs will not be subject to unreasonable limitations on their activities. Comments as to how this should be accomplished and what is an acceptable level of slow consumer loans are specifically solicited. However, it should be noted that the Board believes that the scheduled items computation is an important tool in determining an association's safety and soundness and that all scheduled items, including all slow consumer loans, should be fully reported and reflected in an association's net worth requirements.

Commercial Paper and Corporate Debt Securities

Definitions

Proposed new definitions of "commercial paper" and of "corporate debt securities" would be added to Part 541 of the Federal Regulations. In order to conform to the general practices of the securities industry, the proposed definition of "commercial paper" (§ 541.27) was derived from section 3(a)(3) of the Securities Act of 1933 (15 U.S.C. 77(c)(a)(3)) which exempts certain commercial paper with a maturity of nine months or less from the registration requirements of that act. Use of this definition would also be consistent with the amendments to section 5A(b)(1) of the Federal Home Loan Bank Act ("Bank Act") (12 U.S.C. 1425a(b)) now pending before Congress which would allow the Board to allow "highly rated commercial paper with 270 days or less remaining until maturity" to be counted for liquidity purposes.

Consistent with the goal of providing competitive equality with banks, the proposed new definition of "corporate debt securities" to be added as § 541.28 has been derived from the definition of "investment securities" contained in the national banking laws and regulations (12 U.S.C. 24 and 12 CFR 1.3(b)). Although there is no generally accepted limitation on the maturity of corporate debt securities, the proposed amendments now pending to section 5A(b)(1) of the Bank Act would also limit corporate debt obligations allowed to be used for liquidity purposes to those with three years or less remaining until maturity. Although the practical effect of enacting these amendments would be to encourage associations to invest in short-term securities, the Board feels that an additional requirement is needed to encourage associations to acquire short-term assets so that the maturities of the assets and liabilities in their portfolios will be more evenly balanced, with these new assets reflecting market rates much as the new savings certificates do. Because the Board feels that it is desirable to grant associations some flexibility in making these investments while encouraging investment in shorter-term securities, the Board has chosen to include in paragraph (b) of this section a requirement that the average maturity of such securities in an association's portfolio be limited to five years. By limiting the average maturity of the corporate debt securities in an association's portfolio rather than the maturity of each security, an association may invest in longer term securities, provided that such investments are offset by investments in much shorter term securities.

The Board has included the requirement that the corporate debt securities be "not predominantly speculative in nature." This is derived from the Comptroller of the Currency's regulatory definition of the types of investment securities in which national banks may invest (12 CFR 1.3(b)). This requirement is included to reinforce the Board's expectation that associations will exercise prudent judgment in exercising their new authority to invest in both commercial paper and corporate debt securities. The Board believes that the exercise of prudence by associations, together with the other limitations contained in § 545.9–4(b), will minimize or eliminate instances in which an association's corporate debt investment might be regarded as speculative.

Authorization To Invest in Commercial Paper and Corporate Debt Securities

A new § 545.9–4 is proposed to be added to the "Other Investments" section of Part 545 (Operations) of the Federal Regulations. Paragraph (a) of this section contains the general authorization for Federals to invest in, sell, or hold commercial paper and corporate debt securities as defined in § 541.27 and § 541.28 respectively, subject to the Act's 20 percentage-of-assets limitation and the limitations contained in paragraph § 545.9–4(b). The 20 percentage-of-assets limitation applies to the total investment under § 545.7–10 (Consumer loans) and § 545.9–4 (Commercial paper and corporate debt securities), added together, as provided by the Act. Federals are already authorized to issue their own commercial paper by § 545.24 (Borrowing, issuing obligations, and giving security), provided that the issuance complies with the provisions of § 563.8 (Borrowing limitations).

There are six proposed limitations, other than those contained in the definitions, on investments in commercial paper and corporate debt securities. First, as with investments in state and local government obligations (§ 545.7–11(b)(1)), at the time of purchase, such investments would be required to fall within certain grades as rated by nationally recognized investment rating services. Investments in commercial paper would be limited to those which are rated in one of the top two such grades, and investments in corporate debt securities to those which are rated in one of the top four such grades. At least two such rating companies must have published ratings of the investments placing them in the required grades. The Board believes that this approach will afford Federals a range of investment options consistent with safe and sound operations.

Second, the commercial paper or corporate debt securities in which Federals could invest would be required to be denominated in dollars and be issued by a corporation domiciled in the United States. This provision would limit investments to domestic paper and securities and eliminate the problems of dealing with ever-changing international exchange rates when trying to evaluate such an investment.

Third, a limit would be placed on an association's total investment in the commercial paper and debt securities of any one issuer. This limitation is similar to the "loans to one borrower provisions" of § 563.9–3 and the proposed limitation on unsecured consumer loans to one borrower in § 545.7–10(c). Most states have incorporated similar limitations in their state banking laws to prevent undue concentration of an institution's portfolio in the issues of one issuer. The Board is proposing that an association be limited to investing an amount equal to not more than one percent of its assets in the commercial paper and debt securities of any one issuer. As with § 563.9–3(a)(1), the term "issuer" includes any person or entity affiliated with the issuer. This limitation is consistent with the sixth proposed limitation, which would require associations to exercise prudent judgment in making investments in commercial paper and corporate debt securities. Such regulatory language is found in most state laws and is consistent with the Comptroller's requirement that national banks exercise "prudent banking judgment" in their investments.

Fourth, associations would be authorized to invest in corporate debt securities which are convertible into stock if several conditions are met. First, the securities must conform to all the other limitations contained in paragraph (b) of § 545.9–4. In addition, they must not be convertible at the option of the issuer, a limitation the Comptroller of the Currency's regulations also places on national banks' investments in convertible securities. This ensures that the exercise of the conversion feature is solely in the hands of the association. However, since Federals have not been given the statutory authority to invest in equity securities, two additional limitations are proposed to be included. The association would be prohibited from exercising the conversion feature itself and could only invest in convertible securities that are traded on a national exchange. The latter limitation would ensure that the security was readily marketable so that, although the association could not convert it itself, it could easily sell it to another investor who could.

The fifth limitation, which has already been discussed, limits the average maturity of all corporate debt securities contained in an association's portfolio to five years.

Accordingly, the Board hereby proposes to amend the Rules and Regulations for the Federal Savings and Loan System by deleting § 545.9–1(a)(3) and adding new §§ 541.25, 541.26, 541.27, 541.28, 545.7–10 and 545.9–4; and to amend the Rules and Regulations of the Federal Savings and Loan Insurance Corporation by adding new §§ 551.38, 561.39, 561.40, 561.16a, 561.16b, and 563.46, and amending § 561.15. Such new and amended sections shall read as follows:

§ 545.9–1 [Amended]

1. Delete the present subparagraph (3) to paragraph (a) of § 545.9–1 and renumber the present subparagraphs (4) through (8) as (3) through (7), respectively.

2. Add the following new definitions to Part 541:

§ 541.25 Consumer loan.

A secured or unsecured loan to a natural person for personal, family, or household purposes. Such loan is a type of consumer credit, as defined in § 561.38, and may be made as either open-end or closed-end consumer credit, as defined in § 561.39 and § 561.40.

§ 541.26 Loans.

Obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

3. Add a new § 545.7–10 to read as follows:

§ 545.7–10 Consumer loans.

(a) *General.* A Federal association may make direct or indirect consumer loans; *provided:* (1) that at any one time the total investment made under this section and § 545.9–4 ("Commercial paper and corporate debt securities"), added together, shall not exceed 20 percent of an association's assets; and (2) that before indirect loans are made through a dealer, the dealer is approved by the association's board of directors. The authority to make a consumer loan includes the authority to originate, purchase, sell, service, and participate in such loans; *provided,* such loans conform to the provisions of this section and the association's written underwriting standards.

(b) *Relationship to other provisions of this chapter.* If a loan which may be made under this section is also authorized to be made under another section, an association shall have the option of choosing under which applicable section, and its respective percentage of assets limitation, if any, the loan shall be made.

(c) *Limitation on unsecured loans to one borrower.* The total balances of all outstanding loans, as defined in § 563.9–3(a)(2), which may be made under this section in unsecured loans to one borrower, as defined in § 563.9–3(a)(1), is limited to the lesser of ¼ of one percent of an association's assets or five percent of its net worth.

4. Add the following new definitions (§§ 561.38, 561.39, 561.40, 561.16a, and 561.16b) to Part 561:

§ 561.38 Consumer credit.

Credit extended to a natural person for personal, family, or household purposes, except for loans secured by liens on real estate as defined in § 541.14 and chattel liens secured by mobile homes. Among the types of credit included are consumer loans, as defined by § 541.25; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; and credit extended in connection with credit cards.

§ 561.39 Open-end consumer credit.

Consumer credit extended on an account under a plan in which repeated transactions are reasonably contemplated, which describes the terms of such transactions and allows the consumer to pay in full without penalty or in installments, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. The term does not include negotiated advances under an open-end real estate mortgage.

§ 561.40 Closed-end consumer credit.

Consumer credit other than open-end consumer credit.

§ 561.16a Slow consumer credit.

The term "slow consumer credit" means closed-end consumer credit delinquent 90 to 119 days (4 monthly payments) and open-end consumer

V. 45 / 153 AUG 80 UMI

credit delinquent 90 to 179 days (4 to 6 zero billing cycles). For the purposes of computing delinquency, a payment of 90 percent or more of the contractual payment will be considered as a full payment. If an association can clearly demonstrate that repayment would occur regardless of delinquency status—for example the loan is well secured by collateral and is in the process of collection; the loan is supported by a valid guarantee or insurance; or it is a loan where the claims have been filed against a solvent estate—then such loan need not be classified as "slow consumer credit." The following chart illustrates the delinquency computation:

Closed-End Consumer Credit

Due date	Period	Delinquency status	Classification
March 10	March 10 to April 9	Not delinquent	
April 10	April 10-May 9	30 days or 2 payments	
May 10	May 10-June 9	60 days or 3 payments	
June 10	June 10-July 9	90 days or 4 payments	Slow.

Open-End Consumer Credit

Statement	Day	Zero billing cycle	Payment record	Days delinquent	Classification
1	1			0	
2	30	1	No payment	[1]5	
3	60	2	No payment	30	
4	90	3	No payment	60	
5	120	4	No payment	90	Slow.
6	150	5	No payment	120	Slow.
7	180	6	No payment	150	Slow.

[1] For purposes of illustration, assume customer has 25 days in which to pay before payment is considered delinquent.

§ 561.16b Consumer credit classified as a loss.

The term "consumer credit classified as a loss" means closed-end consumer credit delinquent 120 days or more (5 monthly payments or more) and open-end consumer credit delinquent 180 days or more (7 zero billing cycles or more). For the purposes of computing delinquency, a payment of 90 percent or more of the contractual payment will be considered as a full payment. If an association can clearly demonstrate that repayment would occur regardless of delinquency status—for example, the loan is well secured by collateral and is in the process of collection; the loan is supported by a valid guarantee or insurance; or it is a loan where claims have been filed against a solvent estate—then such loan need not be classified as a loss. The following chart illustrates the delinquency computation:

Closed-End Consumer Credit

Due date	Period	Delinquency status	Classification
March 10	March 10 to April 10	Not delinquent	
* * *	* * *	* * *	*
June 10	June 10-July 9	90 days or 4 payments	Slow.
July 10	July 10-August 9	120 days or 5 payments	Loss.[1]
August 10	August 10-September 9	150 days or 6 payments	Loss.[1]

Open-End Consumer Credit

Statement	Day	Zero billing cycle	Payment record	Days delinquent	Classification
1	1			0	
* * *	* * *	* * *	* * *	* * *	*
7	280	6	No payment	150	Slow.
8	210	7	No payment	180	Loss.[1]
9	240	8	No payment	210	Loss.[1]

[1] Charge-off as required by § 563.46 occurs.

5. Amend paragraph (a) of § 561.15 to read as follows:

§ 561.15 Scheduled items.

The term "scheduled items" means:

(a) Slow consumer credit, slow loans (other than loans specified in paragraph (b) of this section),

* * * * *

6. Add a new § 563.46 to read as follows:

§ 563.46 Charge-off of consumer credit classified as a loss.

When consumer credit is classified as a loss, as defined in § 561.16b, it shall be charged to the association's net worth or against its current earnings.

7. Add the following new definitions (§§ 541.27 and 541.28) to Part 541:

§ 541.27 Commercial paper.

Any note, draft, bill of exchange, or banker's acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

§ 541.28 Corporate debt security.

A marketable obligation, evidencing the indebtedness of any corporation in the form of bonds, notes and/or debentures which is commonly regarded as a debt security and is not predominantly speculative in nature.

8. Add a new § 545.9–4 to read as follows:

§ 545.9–4 Commercial paper and corporate debt securities.

(a) *General.* A Federal association may invest in, sell, or hold commercial paper and corporate debt securities, including corporate debt securities convertible into stock, subject to the limitations set forth in paragraph (b); *provided,* that at any one time the total investment made under this section and § 545.7–10 ("Consumer loans"), added together, shall not exceed 20 percent of an association's assets.

(b) *Limitations.* (1) As of the date of purchase, as shown by the most recently published rating made of such investments by at least two nationally recognized investment rating services, the commercial paper must be rated in either one of the top two grades and the corporate debt securities must be rated in one of the four highest grades.

(2) The commercial paper or corporate debt securities are denominated in dollars and are issued by a coporation domiciled in the United States.

(3) At any one time, an association's total investment in the commercial paper and coporate debt securities of any one issuer, or issued by any person or entity affiliated with such issuer, shall not exceed one percent of the association's assets.

(4) Investments in corporate debt securities convertible into stock are subject to the following additional limitations: (i) Purchase of securities convertible into stock at the option of the issuer is prohibited; (ii) such securities must be traded on a national exchange; and (iii) associations are prohibited from exercising the conversion feature.

(5) At any one time, the average maturity of all corporate debt securities in an association's portfolio may not exceed five years.

(6) An association shall exercise prudent judgment in making investments under this section.

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Pub. L. 96–221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80–23734 Filed 8–5–80; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 16

[AAG/A Order No. 54–80]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: In the Notice Section of today's **Federal Register,** the Department of Justice proposes to exempt a new system of records, the DEA Regional Automated Intelligence Data System (RAIDS), JUSTICE/DEA–028 from the provisions of 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f) (g) and (h) pursuant to 5 U.S.C. 552a(j) and (k). These exemptions are required in order to ensure the confidentiality of intelligence and narcotics law enforcement.

DATES: All comments must be received by September 5, 1980.

ADDRESS: All comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, 10th and Constitution Avenue, N.W., Room 1214, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:
William J. Snider (202–633–3452).

The authority for this proposed rule is 5 U.S.C. 552a. Accordingly, it is proposed that 28 CFR 16.98 be amended by adding paragraph (c)(16) as follows:

§ 16.98 Exemption of Drug Enforcement Administration Systems.

* * * * *

(c) * * *

* * * * * *

(16) Regional Automated Intelligence Data System (RAIDS) (JUSTICE/DEA–028).

* * * * * *

Dated: July 24, 1980.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

[FR Doc. 80–23696 Filed 8–5–80; 8:45 am]

BILLING CODE 4410–09–M

28 CFR Part 50

Open Judicial Proceedings; Policy

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This section establishes guidelines for Government attorneys for consenting to, or moving for, the closure of judicial proceedings. The policy adopts a strong presumption that judicial proceedings should be open to the public unless closure is plainly essential to the interests of justice. Government attorneys may not move for or consent to closure of a portion of a judicial proceeding without the approval of the Deputy or Associate Attorney General.

DATES: Comments are invited from the public and the media. Comments should be received by the Department of Justice by September 15, 1980.

ADDRESS: Comments should be submitted to: Larry L. Simms, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Constitution Avenue and 10th Street, NW., Washington, D.C. 20530.

Comments received in response to this notice will be available for public inspection in the Public Reading Room (Room 1266), Department of Justice, Constitution Avenue and 10th Street, N.W., Washington, D.C. between 9:00 a.m. and 5:30 p.m., Monday through Friday, except on Federal holidays, until the proposed rule is published in final form.

FOR FURTHER INFORMATION CONTACT:
T. Alexander Aleinikoff, Attorney-Adviser, Office of Legal Counsel, Department of Justice, Constitution Avenue and 10th Street, NW., Washington, D.C. 20530, (202) 633–2044.

SUPPLEMENTARY INFORMATION: Part 50 of Title 28 of the Code of Federal Regulations is proposed to be amended by adding a new § 50.9, to read as set forth below.

Dated: July 30, 1980.

Benjamin R. Civiletti,

Attorney General.

PART 50—STATEMENTS OF POLICY

It is proposed to add § 50.9 to read as follows:

§ 50.9 Policy with regard to open judicial proceedings.

Because of the vital public interest in open judicial proceedings, the Government has a general affirmative duty to oppose their closure. There is, moreover, a strong presumption against closing proceedings or portions thereof, and the Department of Justice foresees very few cases in which closure would be warranted. The Government should move for or consent to closed proceedings only when closure is plainly essential to the interests of justice. In furtherance of the Department's concern for the right of the public to attend judicial proceedings and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all attorneys for the United States.

(a) These guidelines apply to all federal trials, pre-trial evidentiary hearings, plea proceedings, sentencing proceedings, or portions thereof, except as indicated in paragraph (e) of this section.

(b) A Government attorney has a compelling duty to protect the societal interest in open proceedings.

(c) A Government attorney shall not move for a consent to closure of a proceeding covered by these guidelines unless:

(1) No reasonable alternative exists for protecting the interests at stake;

V 45 / 153 3 AG 6 80 UMI

(2) Closure is clearly likely to prevent the harm sought to be avoided;

(3) The degree of closure is minimized to the greatest extent possible;

(4) The public is given adequate notice of the proposed closure, and the motion for closure is made on the record;

(5) Transcripts of the closed proceedings will be unsealed as soon as the interests requiring closure no longer obtain; and

(6) Failure to close the proceedings will produce

(i) A substantial likelihood of denial of the right of a party to a fair trial,

(ii) A substantial likelihood of imminent danger to the safety of parties, witnesses, or other persons, or

(iii) A substantial likelihood that ongoing investigations will be seriously jeopardized.

(d) A Government attorney shall not move for or consent to the closure of:

(1) A civil proceeding except with the express authorization of the Associate Attorney General, based on articulated findings which meet the requirements of (c) above; or

(2) A criminal proceeding except with the express authorization of the Deputy Attoney General, based on articulated findings which meet the requirements of paragraph (c) of this section.

(e) These guidelines do not apply to:

(1) The closure of part of a judicial proceeding where necessary to protect national security information or classified documents; or

(2) *In camera* inspection, or the receipt, consideration or sealing, during the course of an open proceeding and as governed by substantive or procedural law (including the rules of evidence), of the following: trade secrets or similar commercial information, material which jeopardizes confidential investigative sources and methods, or grand jury information; or

(3) Conferences traditionally held at the bench or in chambers during the course of an open proceeding.

[FR Doc. 80-23670 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1562-4]

State of Washington; Availability of Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and advance notice of proposed rulemaking.

SUMMARY: EPA announces today receipt of a revision to the Washington State Implementation Plan which describes a strategy for the control of airborne lead within areas of the Central Puget Sound Region.

The public is invited to submit written comments to the record. A Notice of Proposed Rulemaking describing this revision and the action that EPA intends to take regarding this proposed revision will be published in the **Federal Register** at a later date. A second comment period for submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Preliminary comments on the proposed revisions will be accepted by EPA until such time as EPA publishes its Notice of Proposed Rulemaking. Subsequent to such proposal, EPA will again invite public comment on these proposed revisions to the Washington SIP.

ADDRESSES: The revisions to the Washington State Implementation Plan may be examined during normal business hours at the following locations:

Central Docket Section (#10A-80-10), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

State of Washington, Department of Ecology, 4224-6th Avenue SE., Rowesix, Bldg. #4, Lacey, WA 98503.

Comments Should Be Addressed To:

Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-1226, FTS: 399-1226.

FOR FURTHER INFORMATION CONTACT:

Richard F. White, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-1226, FTS: 399-1226.

SUPPLEMENTARY INFORMATION: Effective October 5, 1978 a National Ambient Air Quality Standard (NAAQS) for airborne lead was established at 1.5 u/m^3 averaged quarterly. Therefore, pursuant to Section 110 of the Clean Air Act, each state is required to submit to EPA an implementation plan to attain and maintain the national standard for lead. This plan must demonstrate attainment of the lead NAAQS by November 5, 1982, and maintenance thereafter.

The revision entitled "Airborne Lead: A Plan for Control," contains control strategies for the Central Puget Sound Region. This revision includes (1) the Interstate-5 nonattainment area for lead in Seattle, and (2) the three-phase plan for reduction in lead emissions from parking lots and RSR Quemetco secondary lead smelter on Harbor Island, Seattle and (3) documentation of available lead data concerning the ASARCo copper smelter in Tacoma. A more detailed description of this revision will be published in the **Federal Register** at a later date as part of the Notice of Proposed Rulemaking.

The purpose of this Notice is to call the public's attention to the fact that the Airborne Lead Implementation Plan for the Central Puget Sound Region has been formally submitted to EPA by the state and is available for public inspection at the locations listed above. The public is encouraged to submit written comments regarding the proposed revision and thus participate in this rulemaking activity. Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA on April 4, 1979 (44 FR 20372) which identifies the major considerations that will guide EPA's evaluation of SIP revisions.

(Secs. 110 Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: July 28, 1980.

Donald P. Dubois,

Regional Administrator.

[FR doc. 80-23747 filed 8-5-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 167 and 169

[FRL 1563-5]

Registration of Pesticide Producing Establishments, Submission of Pesticide Reports, Labeling; and Maintenance of Records; Proposed Amendment to Regulations for Registration of Establishments and Maintenance of Records

AGENCY: Office of Enforcement, Environmental Protection Agency (EPA or the Agency).

ACTION: Proposed rule, extension of comment period.

SUMMARY: In the **Federal Register** of July 9, 1980 (45 FR 46100 EPA proposed to amend its regulations on registration of pesticide producing establishments and recordkeeping (40 CFR Parts 167 and 169) to include producers of active ingredients used in making pesticides. Comments were requested by August 8, 1980. An industry group and companies representing a broad spectrum of the chemical and pesticide industry expressed interest in this proposal and requested an extension of the comment period. Accordingly, the Agency is extending the comment period to encourage public comment on its proposal.

DATE: Comments on the proposed amendments to 40 CFR Parts 167 and 169 must be received by September 8, 1980.

ADDRESS: Interested persons are invited to participate in this proposed rulemaking by submitting written comments to Mr. Peter J. Niemiec, Pesticides and Toxic Substances Enforcement Division (EN-342), Policy and Strategy Branch, EPA, 401 M Street S.W., Washington, D.C. 20460. All comments filed pursuant to this notice will be available for public inspection in the Pesticides and Toxic Substances Enforcement Division, Room 3624 at the address given above from 8:30 to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Peter J. Niemiec, Office of Enforcement, Pesticides and Toxic Substances Enforcement Division, EN-342, EPA 401 M Street S.W., Washington, D.C. 20460. (202) 755-9404.

SUPPLEMENTARY INFORMATION: On July 9, 1980, EPA published a proposed amendment to its regulations regarding the registration of pesticide producing establishments and recordkeeping (40 CFR Parts 167 and 169). The primary purpose of this proposed amendment is to require producers of active ingredients used to make pesticides to register their establishments and report their production as well. Congress directed the Agency to register active ingredient producers in the Federal Pesticide Act of 1978, Pub. L. 95-396, 92 Stat. 819, which amended the Federal Insecticide and Rodenticide Act, U.S.C. Section 136 *et seq* (hereinafter, "FIFRA" or "the Act").

Since the Notice of Proposed Rulemaking was published, EPA has received several written and oral requests to extend the comment period for an additional thirty days. The organizations requesting the extension ranged from a manufacturer of pesticides through manufacturers of commodity chemicals, to a trade group for chemical manufacturers. In general, the reason for the request was that the proposed amendments will affect manufacturers not currently regulated under FIFRA. Thus, it was felt that more time was needed to adequately assess the impact of the proposal.

EPA believes that this is a legitimate reason for extending the comment period. In particular, the Agency hopes that the extended comment period will encourage more public comment on the effects of its proposal on the commodity chemical industry. Comments on all other aspects of the proposal are also encouraged.

Dated: August 1, 1980.

Richard O. Wilson,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-23821 Filed 8-5-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 410

[FRL 1559-4]

Textile Mills Point Source Category Effluent Limitations Guidelines; Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability, correction.

SUMMARY: EPA is making available a correction in the development document supporting the Agency's October 29, 1979, proposed regulation (44 FR 62204) implementing Sections 301, 304, 306, and 307 of the Clean Water Act for the textile industry. The purpose of this notice is to clarify the methodology used by the agency to calculate the proposed numerical limitations. EPA is inviting submission of comments relating to the information presented in this notice.

DATE: Comments should be submitted no later than September 5, 1980.

ADDRESS: Comments should be submitted to Mr. James R. Berlow, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. James R. Berlow, Effluent Guidelines Division (WH-522), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 426-2554.

SUPPLEMENTARY INFORMATION: On October 29, 1979, the Environmental Protection Agency proposed a regulation (44 FR 62204) to establish best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) limits for existing sources, new source performance standards (NSPS), and pretreatment standards for existing and new sources (PSES and PSNS) for the Textile Mills Point Source Category.

The regulation, as proposed, requires no revision; however, the Agency inadvertently included an early draft of Table V-9 in the supporting *Development Document for Proposed Effluent Limitations Guidelines and Standards for the Textile Mills Point Source Category* (EPA 440/1-79/022b). Based upon additional data, Table V-9 had been revised prior to publication of the proposed regulation. EPA used the revised table in developing the proposed regulation, not the earlier draft. EPA regrets any inconvenience or confusion this oversight may have caused, and presents the corrected table provided in this notice.

Solicitation of Comments:

EPA invites and encourages public participation in its rulemaking process. Comments should be specifically directed to any changes between the original and corrected versions of Table V-9. EPA is soliciting comments only on the correction presented here. Any comments no related to the specific data contained in Table V-9 will not be appropriate. The Agency is allowing 30 days from the publication of this notice for evaluation and presentation of comments. Therefore, comments should be submitted to James R. Berlow at the above address no later than September 5, 1980.

Dated: July 23, 1980.

Eckart C. Beck,

Assistant Administrator for Water and Waste Management.

Table V-9 (Correct).—*Typical BPT Effluent Concentrations—Conventional and Nonconventional Pollutants*

[Summary of historical and field sampling data]

Subcategory	DOD (mg/l)	COD (mg/l)	TSS (mg/l)	O&G (mg/l)	Phenol (μg/l)	Chromium (μg/l)	Sulfide (μg/l)	Color APHA units
1. Wool Scouring	120	2,600	1,200	190	100	40	360	1,800
2. Wool Finishing	50	240	50	#	80	200	(2,000)	(150)
3. Low Water Use Processing	25	220	30	#	60	60	90	#
4. Woven Fabric Finishing:								
a. Simple Processing	15	240	40	25	30	20	130	150
b. Complex Processing	25	250	50	(8)	70	30	60	(150)
c. Complex Processing Plus Desizing	25	250	50	9	50	30	1,100	150
5. Knit Fabric Finishing:								
a. Simple Processing	15	270	35	15	60	60	130	150
b. Complex Processing	20	280	55	30	60	25	55	150
c. Hosiery Products	70	570	130	#	60	30	55	150
6. Carpet Finishing	35	290	60	#	100	25	60	150
7. Stock and Yarn Finishing	10	140	25	(90)	60	40	120	150

V45/153 AG6 80 UMI

Table V-9 (Correct).—Typical BPT Effluent Concentrations—Conventional and Nonconventional Pollutants—Continued

[Summary of historical and field sampling data]

Subcategory	DOD (mg/l)	COD (mg/l)	TSS (mg/l)	O&G (mg/l)	Phenol (µg/l)	Chromium (µg/l)	Sulfide (µg/l)	Color APHA units
8. Nonwoven Manufacturing	35	565	75	#	20	#	#	150
9. Felted Fabric Processing	35	305	95	#	80	#	#	150

Insufficient data to establish a typical value.
( ) Value is median of field sampling results.

[FR Doc. 80-23776 Filed 8-5-80; 8:45 am]

BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1116

[Ex Parte No. 382]

Recordation of Documents

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to modify certain administrative procedures by requiring a "notification of release" with the filing of any trust document or other instrument with the Secretary's Office for recordation, pursuant to 49 USC 11303. This provision will require the filing party to indicate when a document is filed, the period it should be retained by the Commission. At the end of the period, unless a continuation is requested, the Commission will dispose of the documents according to the retention schedule provided in this modified rule.

DATE: Comments on this proposed rulemaking are due on or before September 5, 1980.

ADDRESS: An original and 10 copies, if possible, should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: James H. Bayne, 202–275–7646 or Joseph Ross, 202–275–0956.

SUPPLEMENTARY INFORMATION: The purpose of this rulemaking is to provide a reasonable limitation on the retention period for documents filed with the Commission under 49 USC 11303, as evidence of proprietary or leasehold interest in certain transportation property. These documents include mortgages, leases, equipment trust agreements, conditional sales agreements or other instruments evidencing the mortgage, lease, conditional sale or bailment of railroad cars, locomotives, or other rolling stock or vessels. Assignment of a right or interest under one to those instruments and an amendment to that instrument or assignment are also included.

Section 49 U.S.C. 11303 does not provide a specific retention period for such documents filed with the Commission. The statute only requires the Commission to maintain a system for recording each document and an index of those documents, which is open to the public.

Since the recordation provision was enacted in 1952, the Commission has maintained such documents at its Washington Headquarters' office. It is no longer possible to retain all such documents for an indefinite period of time. The Secretary of the Commission is custodian of such records and as filing officer, has the power to destroy those documents that have lapsed or are no longer effective instruments. The Office of the Secretary has determined that a total retention period of 30 years will be sufficient to deal with most documents filed under 49 U.S.C. 11303. Upon the recommendation of the Secretary, we plan to adopt the following amendments to 49 CFR 1116.5 which proposes that such documents having an initial retention period of 15 years be maintained at the Commission's Washington offices. Documents which are still effective after the initial retention period would be transferred to the Federal Records Center for an additional period of 15 years. Expired or lapsed documents would be destroyed after the initial 15 year retention period. Our proposed rule would also provide special provisions by which the filing party can request that individual documents be maintained longer than 30 years.

We also propose to adopt the following retention schedule for documents now on file with the Commission under 49 U.S.C. 11303. Recorded documents filed prior to June 1, 1965, will be transferred immediately to the Federal Records Center, with a proposed destruction date of July 1, 1995. Documents filed between July 1, 1965, and the effective date of this rule will be retained by the Commission until July 1, 1995. Such documents will be disposed of under the provisions of this rule. If after July 1, 1995, they are no longer effective, the documents will be destroyed. Documents which expire after July 1, 1995, will be transferred to the Federal Records Center for an additional retention period of 15 years. After the additional retention period, the documents will be destroyed, unless a continuance is requested by the parties that filed the documents.

The action proposed will not have an adverse effect on either the quality of the human environment or conservation of energy resources. However, anyone may comment on this aspect of the proposal.

Oral hearings do not appear to be necessary at this time and none is contemplated. Anyone wishing to present views and evidence, either in support of or in opposition to this proposal, is invited to submit written data, views, or arguments. Written materials submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. during regular business hours.

This notice of proposed rules is issued under authority of 49 U.S.C. 11303 and 5 U.S.C. 553.

Decided: July 23, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix

This rulemaking proposes amending Subchapter B, Part 1116 of Chapter 10 of Title 49 of the Code of Federal Regulations by adding to paragraph (a) of Part 1116.5 so that Part 1116.5(a) reads as follows:

(a)(1) The original and copies of the documents filed with the Commission under the provisions of 49 U.S.C. 11303 will be stamped with a consecutive recordation number and the date and hour of recordation. A notation will be added to show that the document has been filed under the provision of 49 U.S.C. 11303. The original will be returned and the copies or counterpart retained by the Commission.

(2) The Secretary will accept a document for filing under these regulations only if the filing parties include a notification of release which states the period of time that such document must be retained by the Commission. This notification must specify the expiration date of the document. If the expiration date of the document or the requested retention period exceeds 30 years, the filing party must also submit a request for continuation which will inform the Commission of the need to retain the document beyond the 30-year retention period established by these regulations.

(3) Documents filed under these regulations which have an expiration date of 15 years or less will be retained in the Office of the Secretary for 60 days after the expiration of the initial 15 year retention period. At the end of the 60-day period, unless the filing party requests a continuation of the retention period, the documents will be destroyed.

(4) Documents with expiration dates of more than 15 years will be retained in the Office of the Secretary for an initial retention period of 15 years. Sixty days after the expiration of the initial 15-year period, the documents will be transferred to the Federal Records Center for an additional 15 years. Sixty days after the end of the second 15-year period, the documents will be destroyed unless the filing party requests a continuation of the retention period.

(5) A continuation request may also be made by the filing party between 180 days before and 60 days after the expiration of the retention period. Any such continuation request must be signed by the filing party. It must identify the recordation number of the original document, and state that the original document is still effective. Upon timely filing and acceptance of the continuation request, the retention period of the document will be extended for 5 years from the expiration date of the last retention period. Succeeding continuation requests may be made in the same manner to extend the retention period.

[FR Doc. 80-23777 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

V 45 / 153 3 AG 6 80 UMI

Notices

Federal Register
Vol. 45, No. 153
Wednesday, August 6, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting on August 25, 1980 from 9:00 a.m. to 5:00 p.m. and August 26, 1980 from 9:00 a.m. to 12:30 p.m. in Rooms 403A Hubert Humphrey Building, 200 Independence Avenue, S.W. Washington, D.C. 20201.

The agenda will consist of a discussion on the pros and cons of major issues emanating from the Council's Congressionally-Mandated Study and strategies for effectively "bounding" these issues. Status reports on committee activity will be presented. Also, special guests including Mr. Morton Leeds of the Department of Housing and Urban Development will make presentations.

Finally, non-mandated aging concerns/issues which will highlight Council work in FY' 81 are to be discussed.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441.

FCA meetings are open for public observation.

Dated: July 31, 1980.

Charles J. Fahey,
Chairman, Federal Council on the Aging.

[FR Doc. 80–23653 Filed 8–5–80; 8:45 am]
BILLING CODE 4110–02–M

DEPARTMENT OF AGRICULTURE

Forest Service

Spruce Creek Wilderness Study Area; White River National Forest Pitkin County, Colo.; Public Hearing

Notice is hereby given that a public hearing will be held during the hours of 2:00 to 5:00 p.m. and 7:00 to 10:00 p.m., September 9, 1980, at the Holiday Inn, Glenwood Springs, Colorado, on a proposal for the future management of the Spruce Creek Study Area contiguous to the Hunter Creek-Fryingpan Wilderness. The Area contains approximately 8,000 acres within the White River National Forest in the county of Pitkin in the State of Colorado.

A copy of the Draft Environmental Impact Statement may be obtained from the Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, Rocky Mountain Region, P.O. Box 25127, Lakewood, Colorado 80225. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester at the above address, prior to September 2, 1980. To be included in the official record, written comments must be received by October 9, 1980.

R. Max Peterson,
Chief, Forest Service.
July 31, 1980.
[FR Doc. 80–23650 Filed 8–5–80; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Environmental Impact Finding; Buggy Creek Critical Area Treatment RC&D Measure, Oklahoma

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Office Building, Farm Road & Brumley Street, Stillwater, Oklahoma 74074, telephone 405–624–4460.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buggy Creek Critical Area Treatment RC&D Measure, Caddo County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for a critical area treatment plan for erosion control. The planned works of improvement include gully shaping, waterways, vegetative protection, erosion control dams, a diversion, concrete channel liners, critical area plantings, and fencing.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Office Building, Farm Road & Brumley Street, Stillwater, Oklahoma 74074, telephone 405–624–4460. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.
July 25, 1980.

[FR Doc. 80–23620 Filed 8–5–80; 8:45 m]
BILLING CODE 3410–16–M

Environmental Impact Finding; Upper Howard's Creek Watershed, Kentucky

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504, telephone (606) 233–2749.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Upper Howard's Creek Watershed, Clark County, Kentucky.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Glen E. Murray, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Glen E. Murray. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 6, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: July 22, 1980.

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80–23621 Filed 8–5–80; 8:45 am]
BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket No. 36508]

Essential Air Service at El Dorado/Camden, Ark.; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on August 20, 1980, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party that wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before August 11, 1980, together with the name of the person who will represent it at the argument. Legal counsel is not required.

To assist the parties in making their presentations to the Board, copies of the rate-of-compensation agreement between each carrier and the Bureau of Domestic Aviation will be distributed to all parties in this case prior to the oral argument.

A notice setting forth the procedures to be followed at the oral argument will be issued after August 11, 1980.

Dated at Washington, D.C., August 1, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80–23683 Filed 8–5–80; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 12–77]

Application for Expansion of Foreign-Trade Zone No. 8, Toledo, Ohio; Withdrawal Approved

Notice is hereby given that the Toledo-Lucas County Port Authority, Grantee of Foreign-Trade Zone No. 8, Toledo, has requested the withdrawal without prejudice of its application to expand its zone, filed with the Foreign-Trade Zones Board on October 20, 1977 (Docket No. 12–77). The proposal was opposed by the domestic steel industry because the main purpose of the expansion was to handle foreign steel.

The withdrawal has been approved by the Board's executive secretary and the proposal is considered closed.

Dated: July 31, 1980.

John J. Da Ponte, Jr.,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 80–23675 Filed 8–5–80; 8:45 am]
BILLING CODE 3510–25–M

Foreign-Trade Zone Board

[Order No. 161]

Resolution and Order Approving Application of the Port of Portland, Oreg. for a Foreign-Trade Subzone in Portland; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–18u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Port of Portland, Oregon, Grantee of Foreign-Trade Zone No. 45, filed with the Foreign-Trade Zones Board (the Board) on May 30, 1979, as amended on February 29, 1980, requesting authority to establish a special-purpose subzone at the Beall Pipe and Tank Corporation facility, located at 12005 North Burgard Road in Portland, within the Columbia River Customs port of entry, for the purpose of storing imported steel coil and for the manufacture of electric resistance and spiral welded steel pipe for export, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Grantee shall notify the Board's Executive Secretary for approval prior to he commencement of any additional manufacturing operations at the subzone site. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Subzone at Portland, Oreg.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations provide (15 CFR 400.304) that the establishment of a foreign-trade subzone in an area separate from an existing zone, for one or more of the specialized purposes of storing, manipulating, manufacturing, or exhibiting goods may be authorized if the Board finds that existing or authorized zones will not serve adequately

the convenience of commerce with respect to the proposed purposes;

Whereas, the Port of Portland, Oregon, Grantee of Foreign-Trade Zone No. 45 (the Grantee), has made application (filed May 30, 1979, amended February 29, 1980) in due and proper form to the Board for the establishment, operation, and maintenance of a foreign-trade subzone at the Beall Pipe and Tank Corporation facility, located at 12005 North Burgard Road in Portland, Oregon, for the purposes of storing imported steel coil, and for the manufacture of electric resistance and spiral welded steel pipe for export only;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard;

Whereas, the Board has found that the proposed location of the foreign-trade subzone in Portland is suitable, and the facilities provided are sufficient; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade subzone for the above purposes, designated on the records of the Board as Foreign-Trade Subzone No. 45A, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto, the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the subzone other than that of electric resistance and spiral welded steel pipe for export.

The grant shall not be construed to relieve the Grantee or operator from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 31st day of July 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Philip W. Klutznick,

Chairman and Executive Officer.

Attest.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80-23693 Filed 8-5-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Chief, Intellectual Prop. Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, DC 20310

Patent application 6-059,937: Clutch Employing Constant Force Springs. Filed July 23, 1979.

Patent application 6-066,949: Disposable Contoiled Atmosphere System for Extending the Shipping and Storage Life of Lettuce. Filed August 16, 1979.

Patent application 6-082,378: Novel Process for Preparing O'O'Diethyl Methylphosphonite. Filed October 5, 1979.

Patent application 6-086,504: Acceleration Resistant Crystal Combination. Filed October 19, 1979.

Patent application 6-087,116: New Supports and Preparation Process for the Manufacture of a Calcium Chemical Pump for HF/DF Laser. Filed October 22, 1979.

Patent application 6-087,117: Improved High Energy Laser Beam Sampling Meter. Filed October 22, 1979.

Patent application 6-088,906: Triggered High Current Opening Switch. Filed October 29, 1979.

Patent application 6-089,832: Improved Pyrotechnic Fuel. Filed October 31, 1979.

Patent application 6-101,344: Fluidic Wetted Slip Range. Filed December 7, 1979.

Patent application 6-101,927: Circuit for Test of Ultra High Speed Digital Arithmetic Units. Field December 10, 1979.

Patent application 6-105,839: Individual Lead Pull Test for Beam Leaded Devices. Filed December 20, 1979.

Patent application 6-106,983: Method and Apparatus for Non-Destructive Testing of Beam-Lead Integrated Circuit Connections. Filed December 26, 1979.

Patent application 6-109,379: Holographic Plate Exposure Meter. Filed January 3, 1980.

Patent application 6-114,547: Interference Canceling System. Filed January 23, 1980.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324

Patent application 6-070,384: Hydraulic Seal Battery Terminal. Filed August 28, 1979.

Patent application 6-121,076: Low Profile Precision Actuator. Filed February 13, 1980.

Patent application 6-128,343: Loss-Free Scanning Antenna. Filed March 7, 1980.

Patent application 6-128,344: Method and Apparatus for Detecting Small Angular Beam Deviations. Field March 7, 1980.

Patent application 6-129,437: Solvent Mixture for Removing Polyurethane Coatings. Filed March 11, 1980.

Patent application 6-132,452: Large Dynamic Range Low Distortion Amplitude Modulation Detector Apparatus. Filed March 21, 1980.

Patent application 6-132,453: Low Temperature Braze Alloy.

Patent application 6,133,767: Aircraft Self-Sealing Fuel Tank and Method of Fabricating; filed Mar. 25, 1980.

Patent application 6,133,769: All-Flexure Linear Isolation/Suspension System; filed Mar. 25, 1980.

Patent application 6,134,597: Beam Alignment System; filed Mar. 27, 1980.

Patent 4,198,877: Control Cable Fail Safe Device; filed July 7, 1978; patented Apr. 22, 1980; not available NTIS.

Patent 4,198,990: Mouth Mounted Accelerometer Pack; filed Mar. 5, 1979; patented Apr. 22, 1980; not available NTIS.

Patent 4,199,175: Ribbed Flange Modified Seal; filed Apr. 28, 1978; patented Apr. 22, 1980; not available NTIS.

Patent 4,199,223: Portable Optical Fiber Coupling Device; filed Mar. 30, 1978; patented Apr. 22, 1980; not available NTIS.

Patent 4,200,875: Apparatus for, and Method of, Recording and Viewing Laser-made Images on High Gain Retroreflective Sheeting; filed July 31, 1978; patented Apr. 29, 1980; not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patent Branch, Administrative Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782

Patent application 6,132,582: Protein Concentrate from High-Protein Pearl Millet; filed Mar. 31, 1980.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, DC 20545

Patent application 6,005,263: Improved Gas Mixtures for Gas-Filled Particle Detectors; filed Jan. 22, 1979.

Patent application 6,027,439: Method of Preparing High-Temperature-Stable Thin-Film Resistors; filed Apr. 5, 1979.

Patent application 6,030,806: Electromechanical Solar Tracking Apparatus; filed Apr. 17, 1979.

Patent application 967,748: Method of Freezing Living Cells and Tissues with Improved Subsequent Survival; filed Dec. 8, 1978.

Patent application 4,152,248: Hydrogenation of Coal Liquid Utilizing a Metal Carbonyl Catalyst; filed May 2, 1978; patented May 1, 1979; not available NTIS.

U.S. Department of Interior, Branch of Patents, 18th and C Streets NW., Washington, DC 20240

Patent application 903,430: Spray Immunization of Fish; filed May 8, 1978.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6,041,037: Diver's Suit Excess Gas Exhaust Valve; filed May 21, 1979.

Patent application 6,094,269: Array Shading for a Broadband Constant-Directivity Transducer; filed Nov. 14, 1979.

Patent application 6,095,112: Ferrofluid Transducer; filed Nov. 16, 1979.

Patent application 6,095,868: Optical Amplification for the Fiber Interferometer Gyro; filed Nov. 19, 1979.

Patent application 6,101,362: Piezoceramic Tubular Element with Zero End Displacement; filed Dec. 7, 1979.

Patent application 6,115,643: Linear Acoustic Array; filed Jan. 28, 1980.

Patent application 6,116,173: Integrated Bias for Waveguide Amplitude Modulator; filed Jan. 28, 1980.

Patent application 6,121,625: Dark Field Surface Inspection Illumination Technique; filed Feb. 14, 1980.

Patent application 6,122,388: Cooling Apparatus for Electronic Modules; filed Feb. 19, 1980.

Patent application 6,123,339: Phase-Conjugate Interferometer; filed Feb. 21, 1980.

Patent application 6,126,068: Semiconductor Encapsulant for Annealing Ion-Implanted GaAs; filed Feb. 29, 1980.

Patent application 6,126,268: Application on Ion Implantation to $LiNbO_3$ Integrated, Optical Spectrum Analyzers; filed Mar. 3, 1980.

Patent application 6,126,589: Towed Array Condition Appraisal System; filed Mar. 3, 1980.

Patent application 6,127,020: Automatic Actuator for Variable Speed Pump; filed Mar. 4, 1980.

Patent application 6,129,300: Waveguide Coupler; filed Mar. 11, 1980.

Patent application 6,129,792: Wide-Band Varactor—Tuned Gunn Oscillator; filed Mar. 12, 1980.

Patent application 6,131,349: Resonantly Pumped Mid-IR Laser; filed Mar. 19, 1980.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, DC 20546

Patent application 6,126,063: Thermal Reactor and Process; filed Feb. 29, 1980.

Patent application 6,129,783: Improved Sun-Sensing, Guidance System for High-Altitude Aircraft; filed Mar. 12, 1980.

Patent 4,189,234: Noncontacting Method for Measuring Angular Deflection; filed Oct. 23, 1978; patented Feb. 19, 1980; not available NTIS.

Patent 4,192,290: Combined Solar Collector and Energy Storage System; filed Apr. 28, 1978; patented Mar. 11, 1980; not available NTIS.

Patent 4,192,910: Catalyst Surfaces for the Chromous/Chromic Redox Couple; filed Nov. 29, 1978; patented Mar. 11, 1980; not available NTIS.

Patent 4,192,994: Diffractoid Grating, Configuration for X-Ray and Ultraviolet Focusing; filed Sept. 18, 1978; patented Mar. 11, 1980; not available NTIS.

Patent 4,193,827: Atomic Hydrogen Storage; filed Sept. 29, 1977; patented Mar. 18, 1980; not available NTIS.

[FR Doc. 80-23615 Filed 8-5-80; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Chief, Intellectual Prop. Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, DC 20310

Patent application 6,077,862: Cargo Container Transporter. Filed September 21, 1979.

Patent application 6,078,892: Multipurpose Humidity Controlled Agent Generator. Filed October 24, 1979.

Patent application 6,091-227: Engine Simulator to Calibrate RPM and Cam-Dwell Test Sets. Filed November 5, 1979.

Patent application 6,099,262: Doppler Extended Depth of Field Imaging System with Coherent Object Illumination. Filed December 3, 1979.

Patent application 6,114,916: Laser Scanner Transport. Filed January 24, 1980.

Patent application 6,115,819: Kinetic Sabot System. Filed January 28, 1980.

Patent application 6,115,820: Propellant Charge for Blank Ammunition. Filed January 28, 1980.

Patent 4,137,757: Compression Testing Apparatus. Filed February 2, 1978, patented February 6, 1979. Not available NTIS.

Patent 4,158,503: Heterodyne Optical Correlator. Filed September 30, 1977, patented June 19, 1979. Not available NTIS.

Patent 4,162,509: Non-Contact Velocimeter Using Arrays. Filed June 21, 1978, patented July 24, 1979. Not available NTIS.

Patent 4,181,851: Automatic Astroposition Determination Apparatus. Filed February 24, 1978, patented January 1, 1980. Not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W. Washington, DC 20324

Patent application 6,118,006: High Energy Solid Propellant Composition. Filed February 4, 1980.

Patent application 6,118,384: Modular Multilayer Detector. Filed February 5, 1980.

Patent application 6,126,072: Mask-Slice Alignment Method. Filed February 29, 1980.

Patent application 6,126,073: Physical Deterrent Barrier with Upward Looking Detection Sensor for Intruder Detection System. Filed February 29, 1980.

Patent application 6,126,272: Survivable Satellite Bus Structural Frame. Filed March 3, 1980.

Patent application 6,127,017: Method of Making Integrated Waveguide Cavities. Filed March 4, 1980.

Patent application 6,129,858: Biaxial Shear Force Gauge. Filed March 13, 1980.

Patent application 6,132,454: Device for Generating Simulated Waveforms for an Electronic System Maintenance Trainer. Filed March 21, 1980.

Patent application 6,133,769: All-Flexure Linear Isolation/Suspension System. Filed March 25, 1980.

Patent application 6,134,716: Method and Apparatus for Augmenting Binary Patterns. Filed March 27, 1980.

Patent 4,196,435: Radar Pulse Phase Code System. Filed August 21, 1967, patented April 1, 1980. Not available NTIS.
Patent 4,199,079: Microsphere Loading Device. Filed July 31, 1978, patented April 22, 1980. Not available NTIS.
Patent 4,199,175: Ribbed Flange Modified Seal. Filed April 28, 1978, patented April 22, 1980. Not available NTIS.
Patent 4,199,759: System for Correlating Electronic Distance Measurement and Aerial Photography for the Extension of Geodetic Control. Filed August 10, 1978, patented April 22, 1980. Not available NTIS.
Patent 4,200,840: Dual Detection Scheme for Compressive Receivers. Filed October 6, 1978, patented April 29, 1980. Not available NTIS.
Patent 4,200,872: Doppler Compensated Digital Non-Linear Waveform Generator Apparatus. Filed December 13, 1978, patented April 29, 1980. Not available NTIS.

U.S. Department of Energy, Assist. Gen. Couns. for Patents, Washington, DC 20545

Patent application 6,003,558: Side-Welded Fast Response Sheathed Thermocouple. Filed January 15, 1979.
Patent application 6,021,291: Improved Magnetic Encoding Device and Method for Making the Same. Filed March 16, 1979.
Patent application 6,022,896: Cure-in-Place Process for Seals. Filed March 22, 1979.
Patent application 6,029-984: Radiation Detection System. Filed April 13, 1979.
Patent application 6,039,428: Scram Signal Generator. Filed May 15, 1979.
Patent application 957,632: Apparatus for Measuring Resistance Change Only in a Cell Analyzer and Method for Calibrating It. Filed November 3, 1978.
Patent application 966,524: LiCl Dehumidifier/LiBr Absorption Chiller Hybrid Air Conditioning System with Energy Recovery. Filed December 4, 1979.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent application 6,118,989: Instrument for Measuring True—RMS AC Voltage and AC Voltage Fluctuations. Filed February 5, 1980.

U.S. Department of the Navy Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va 22217

Patent application 6-094,250: Rare Earth-Iron Magnetostrictive Materials and Devices Using These Materials; filed Nov. 14, 1979.
Patent application 6-096,708: Buoy Anchoring System; filed Nov. 21, 1979.
Patent application 6-098,276: Offset-Pad Bearing; filed Nov. 28, 1979.
Patent application 6-101,965: Flexible Linear Thermal Array; filed Dec. 10, 1979.
Patent application 6-107,236: Boost Assisted Missile Launcher; filed Dec. 26, 1979.
Patent application 6-115,860: Multirate Digital Voice Communication Processor ; filed Jan. 28, 1980.
Patent application 6-123,338: Clutter Filter Using a Minimum Number of Radar Pulses; filed Feb. 21, 1980.
Patent application 6-125,005: Single Stage Twin Piston Cryogenic Refrigerator; filed Feb. 27, 1980.
Patent application 6-126,772: Underwater-Mateable Electrical Connector; filed Mar. 3, 1980.
Patent application 6-126,776: High Torque/Acceleration Stablized Sensor Platform; filed Mar. 3, 1980.
Patent application 6-127,707: Direct Reading Capacitance Meter; filed Mar. 6, 1980.
Patent application 6-128,326: Method of Modifying the Transition Temperature Range of TINI Base Shape Memory Alloys; filed Mar. 7, 1980.
Patent application 6-133,238: Position Interlock System for Submarine Masts and Closure ; filed Mar. 24, 1980.
Patent application 6-134,717: Tokamak Plasma Heating with Intense, Pulsed Ion Beams; filed Mar. 27, 1980.

National Aeronautics & Space Administration, Assistance General Counsels for Patent Matters NASA Code GP-2, Washington, DC 20546

Patent application 6-126,084: Apparatus for Damping Operator Induced Oscillations of a Controlled System; filed Feb. 29, 1980.
Patent application 6-128,229: Inorganic Spark Chamber Frame and Method of Making the Same; filed Mar. 7, 1980.
Patent application 6-129,779: Memory-Based Frame Synchronizer 1980.
Patent application 6-129,783: Improved Sun-Sensing Guidance System for High-Attitude Aircraft; filed Mar. 12, 1980.
Patent application 6-130,496: Method and Apparatus for Convection Control of Metallic Halide Vapor Density in a Metallic Halide Laser; filed Mar. 14, 1980.
Patent Application 957,452: Method and Apparatus for Doppler Frequency Modulation of Radiation; filed Nov. 3, 1980.
Patent Application 4,188,823: Detection of the Transition Layer Between Laminar and Turbulent Flow Areas on a Wing Surface; filed Nov. 27, 1979, patented Feb. 19, 1980; not available NTIS.
Patent Application 4,189,675: Satellite Personal Communications System; filed May 30, 1980, patented Feb. 19, 1980; not available NTIS.
Patent Application 4,193,388: Portable Heatable Container; filed Apr. 19, patented Mar. 18, 1980; not available NTIS.
Patent Application 4,193,693: Velocity Servo for Continuous Scan Fourier Interference Spectrometer; filed Feb. 24, 1978, patented Mar. 18, 1980; not available NTIS.
Patent application 4,195,279: Attaching of Strain Gages to Substrates; filed Feb. 16, 1978, patented Mar. 25, 1980; not available NTIS.

[FR Doc. 80-23614 Filed 8-5-80; 8:45 am]
BILLING CODE 3810-04-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contract; Availability

The Commodity Futures Trading Commission ("Commission") is making available and requesting public comment on a rough rice futures contract proposed to be traded by the New Orleans Commodity Exchange. The New Orleans Commodity Exchange has not yet been designated as a contract market by the Commission. Copies of this proposed contract will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City, and San Francisco. The Commission will also furnish copies upon request made to the Commission Secretary.

Any person interested in expressing views on the terms and conditions of this proposed contract should send comments by September 5, 1980 to Ms. Jane Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., 20581. (202) 254-6314. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington, D.C., on July 31, 1980.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 80-23582 Filed 8-5-80; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Reallocation of Flood Control Storage to Water Supply Storage in the Cowanesque Reservoir, Tioga County, Pa.

AGENCY: Baltimore District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The Baltimore District is currently studying the possiblity of reallocating flood control storage to water supply storage in the Cowanesque Reservoir. The Cowanesque Reservoir is an existing Corps of Engineers flood control project on the Cowanesque River in north central Pennsylvania. The existing project has been designed for flood control and recreation purposes with a 410 acre summer pool at elevation 1045 msl. The reallocation study is examining the potential of permanently storing additional water in the reservoir to provide for consumptive use downstream in the Susquehanna River Basin during periods of drought.

2. Alternatives under examination consist of three increased storage levels between 1045 feet msl and 1085 feet msl as well as the course of not providing water supply storage in the existing Federal project.

3. The study was initiated in June 1979 and a Stage I Report was circulated for review in February 1980. A public meeting was held on June 30, 1980. The responses to the Stage I report and the public meeting have been used to scope the significant issues. All parties that have not been previously notified and have an interest in the study and development of a DEIS are invited to participate by contacting the Baltimore District, Corps of Engineers.

Many comments were received on the report and at the public meeting. Issues that have been identified are the effects on flood control of impounding additional water, the inundation of the existing recreation facilities and replacement of facilities at higher pool levels, the effects of water supply drawdowns on recreation during late summer and fall, the effects of higher pool levels on terrestrial and aquatic habitat, and the effects of releasing additional water during droughts on the downstream fishery. Additional coordination with Federal, State, and local officials is anticipated prior to preparation of the DEIS. Additional public meetings and workshops will also be held.

4. A separate scoping meeting is not anticipated, and the additional workshops will be used to ascertain and elaborate upon the list of significant issues. If sufficient interest develops, a scoping meeting will be held.

5. The estimated date that the DEIS will be available to the public is October 1981.

6. Questions concerning the proposed action and DEIS can be directed to Mr. J. William Haines, Study Manager, Urban Studies Branch, Planning Division, U.S. Army Engineer District, Baltimore, P.O. Box 1715, Baltimore, Maryland 21203.

Dated: July 21, 1980.

James W. Peck,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-23617 Filed 8-5-80; 8:45 am]
BILLING CODE 3710-01-M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Central and South Florida Canal 18, Jupiter Inlet, and Loxahatchee River Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The study was authorized by resolutions adopted June 6, 1958 and December 19, 1960 by the Senate Public Works Committee, and July 1958 and June 7, 1961 by the House Public Works Committee. The resolutions requested a review of the authorized Central and Southern Florida Flood Control project with respect to and including flood control measures for northern Palm Beach County and adjacent portions of Martin County, and with particular reference to provision of flood control improvements at and in the vicinity of Jupiter Inlet and the Loxahatchee River; modification of Canal 18; and of treating this entire area as a single watershed. The planning objectives of the study include:

a. Provide flood protection for the purpose of reducing flood damages to land use activities in the C-18 drainage basin and Jupiter estuary areas, during the period of analysis (1985-2035).

b. Provide additional water supplies to meet existing and future municipal, industrial, and agricultural needs within the study area, during the period of analysis.

c. Restore, enhance, and preserve the natural environment with emphasis on the protection of the Loxahatchee River.

d. Improve and maintain water quality in C-18, Loxahatchee River, and associated waters to meet consumptive and environmental needs within the study area.

e. Preserve and enhance fish and wildlife habitat within the study area.

f. Provide sufficient groundwater recharge and surface flows to protect coastal water supplies subject to saltwater intrusion within the study area.

g. Improve esthetics and pressure scenic or unique sites for future generations within the study area.

h. Protect and enhance for future generations those free-flowing portions of the Loxahatchee River and its tributaries which possess outstanding wild, scenic, recreation, or other related values.

2. Alternative plans capable of satisfying the objectives of the study include structural and nonstructural measures. Those identified alternatives are not considered all-inclusive, but are preliminary in nature. If during the scoping process additional water resource problems, needs and alternative measures are identified, these will be assessed during the planning process. Structural measures include modification of C-18, construction of C-300, pumping, creation of floodways and conservation pools; well field development, and sedimentation traps. Nonstructural measures include deep aquifer storage, flood plain zoning, floodproofing, evacuation and/or relocation, water conservation, waste water recycling and land treatment, onsite retention, and designation of preservation areas.

3. The process for determining the scope of issues to be addressed and identifying the significant issues related to alternative actions has been initiated through a public involvement program. Three public meetings/workshops were held during Stage I planning. Additional meetings will be scheduled during the study to provide an active and continuous participation by the public in the planning process. The study is being coordinated with the National Park Service, U.S. Geological Survey, U.S. Heritage Conservation and Recreation Service, U.S. Fish and Wildlife Service, South Florida Water Management District, and Florida Game and Freshwater Fish Commission. Affected Federal, State, and local agencies; Indian tribes; and other interested organizations and individuals are invited to identify issues, problems, needs, and alternative courses of action not already considered by communicating with the addressee listed below.

a. Significant issues to be analyzed in the DEIS include flood control, water quality, water supply, and preservation and enhancement of environmental quality.

b. Consultation with the Florida State Historic Preservation Officer and U.S. Heritage Conservation and Recreation Service will be initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. The project is being coordinated with the U.S. Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act of 1972. Section 7 requirements of the Endangered Species Act of 1973, as amended, will be initiated.

4. A scoping meeting will not be held.

5. The DEIS will be available for review in February 1982.

ADDRESS: Questions regarding the proposed action and DEIS can be referred to Dr. Lloyd Saunders, Chief of the Environment and Resources Branch, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232, telephone (904) 791-2202 or FTS 946-2202.

V 45 / 153 3 AG 6 80 UMI

Dated: July 28, 1980.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-23681 Filed 8-5-80; 8:45 am]

BILLING CODE 3710-AJ-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Addition of Four Pumps to the Delta Pumping Plant Near Tracy, Calif.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS). The document will also serve as a draft environmental impact report under the California Environmental Quality Act.

SUMMARY: The State of California, Department of Water Resources, on October 21, 1975, applied for a Department of the Army permit for operation of the Delta Pumping Plant, Intake Channel, and Clifton Court Forebay, and for the installation and operation of four additional pumps at the pumping plant. The application was filed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and by order of the United States District Court (Sierra Club v. Morton). By making application, the Department of Water Resources in no way waives its right to withdraw the application if it prevails in overturning the order of the court referenced to above.

To facilitate compliance with the District Court's order, the Corps has treated the application as if it were two applications; first, for approval of the existing facilities; second, for the installation and operation for four additional pumps. A public notice and draft EIS for the first application was published on December 21, 1978, and a final EIS is presently being prepared.

The purpose of the Delta Pumping Plant is to divert water from the Sacramento-San Joaquin Delta to the California Aqueduct, part of the State Water Project (SWP), for use in the San Joaquin Valley, South San Francisco Bay, and Southern California areas. This water is entirely contracted for by local water vending agencies.

Project water flows through the channels of the Delta to the forebay, through control gates into the forebay, and then through the intake channel to the pumping plant. The pumping plant lifts water 244 feet from the intake channel to the California Aqueduct. The plant was designed for 11 pumps, presently 7 pumps are installed with a pumping capability of 6300 cubic feet of water per second.

The four additional pumps could each pump 1,067 cubic feet per second and each would be driven by a 34,500-horsepower electric motor. These pumps would be paired to discharge through existing manifolds into two existing 15-foot diameter discharge lines.

The additional units are a component of the Department of Water Resources' program to balance water supplies with needs in the State Water Project's service areas. Future components being planned include a peripheral canal for transferring water across the Delta, additional reservoirs north and south of the Delta, ground water storage south of the Delta, and water conservation and recycling programs in the service areas.

The purposes of the additional pumping units are:

a. Alleviate scheduling problems for maintenance of the existing units,

b. Minimize the peak power requirements of the SWP and energy costs, and,

c. Convey future water supplies developed by the aforementioned water transfer and storage facilities.

The following alternatives have been identified to date. All alternatives identified below, involve operation in compliance with California State Water Resources Control Board Decision D-1485 and/or other constraints.

a. Permit denial, no action, i.e., continued operation with existing seven pumps.

b. Installation and operation of one, two, or three additional pumps.

c. Installation of four additional pumps, with operations on a monthly basis limited to the diversions which could be made with the existing seven pumps.

d. Installation of four additional pumps, with operations on an annual basis limited to what could be diverted with the existing seven pumps.

e. Installation of 4 pumps, with no limits on diversions.

On July 7th 1980, the Sacramento District issued a Public Notice of Application (No. 582A) to all known, interested parties. In this notice we requested, that the reviewers provide comment on the topical scope, alternatives, and major issues to be covered by the EIS. Along with our public notice the Department of Water Resources issued a "Notice of Preparation of Draft Environment Impact Statement/Environmental Impact Report" and a "Notice of Solicitation of Views During Predraft EIS/EIP Consultation Process."

Based on experience with the draft EIS for the existing pumping plant the significant issues will be:

(1) Effects on the San Francisco Bay ecosystem.

(2) Effects on Sacramento San Joaquin Delta water quality, fisheries and wildlife.

(3) Effects on water levels in nearby Delta channels.

(4) Effects on the State Water Project (SWP) service areas.

(5) Effects on energy requirements of the Delta Pumping Plant.

(6) The relationship of the four additional pumps to the planned peripheral canal and other future facilities of the SWP.

Environmental review is also required by the California Environmental Quality Act (CEQA). Thus, the environmental statement will be the joint document described in the above public notices.

We hope to accomplish the scoping process by mail with these notices because of large geographical area affected by the proposal. If additional scoping is needed, meetings will be held after the close of the comment period for the public notices.

We estimate that the draft EIS will be published in August 1981.

Questions about the proposed action and draft EIS can be directed to Mr. Tom Coe, Regulatory Section, U.S. Army Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440-2541 (FTS 448-2541).

Paul F. Kavanaugh,

Colonel, CE, District Engineer.

July 14, 1980.

[FR Doc. 80-23618 Filed 8-5-80; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Liaison Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATE: August 21-22, 1980, 9:00 a.m. to 4:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th Street, N.W., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street, N.W., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Adult Education collaboration with other Human Service Programs.

Adult Education outreach with community based organizations.

Reauthorization issues.

Records shall be kept of all Committee proceedings, and shall be available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on August 1, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-23622 Filed 8-5-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Procurement and Contracts Management Directorate; Alternative Fuels Production Financial Assistance; Notice of Program Solicitation Availability

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, the Department of Energy (DOE) has been authorized by Congress (Supplemental Appropriations Bill for FY 1980) to provide financial assistance to incentivize and support the construction and operation of commercial scale alternative fuels production facilities.

Up to $100,000,000 is available for grants to support feasibility studies of projects leading to construction and operation of commercial scale facilities. Individual awards may not exceed $10,000,000.

An additional $200,000,000 is available for cooperative agreements with non-Federal entities to support commercial scale development of alternative fuel facilities. Individual awards may not exceed $25,000,000.

EFFECTIVE DATE: July 29, 1980.

FOR FURTHER INFORMATION CONTACT: Jean Leche (202) 633-8365 Alternative Fuels Task Force, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: The Program Solicitation for grant application for feasibility studies, Number DE-PS01-80RA50412, and the Program Solicitation for cooperative agreement proposals, Number DE-PS01-80RA50413, will become available on or about August 1, 1980. Organizations desiring a copy of these solicitations should send a written request to:

U.S. Department of Energy, Resource Applications, Mail Station 3344, Room 3500, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Organizations that were on the mailing list for the previous Alternative Fuels Program Solcitations need not submit another request to receive this solicitation.

Issued in Washington, DC July 30, 1980.

Joseph P. Cappello,

Director, Office of Procurement Operations.

[FR Doc. 80-23804 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-01-M

Tar Sands Definitional Workshop; Meeting

Notice is hereby given that the Office of Oil and Natural Gas within Resource Applications is holding a workshop to try to gather information to provide a basis for establishing a definition of tar sands. Representatives from industry, the Departments of Energy and the Interior, the Internal Revenue Service, the Congress, and several States have been invited to provide input on an appropriate definition. The workshop will be held at the U.S. Geological Survey National Center in Reston, Virginia, on Thursday, August 7, 1980, beginning at 9:00 a.m. and lasting until 3:30 p.m. If more time is required, the workshop will be continued on Friday, August 8, 1980, at 9:00 a.m.

The workship will be open to the public. The chairman of the workshop is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the chairman will be permitted to do so, either before or after the meeting. Members of the pulic who wish to make an oral statement should inform Ira C. Mayfield, Acting Director, Office of Oil and Natural Gas, (202) 633-8395, prior to the meeting and reasonable provision will be made for their appearance of the agenda.

Issued at Washington, D.C. on July 29, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

[FR Doc. 80-23740 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Field Oil Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account establishment pursuant to the Consent Order.

DATES: Effective date: July 22, 1980.

COMMENTS BY: September 5, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226. Phone: (303) 234-3195.

SUPPLEMENTARY INFORMATION: On July 22, 1980, the Office of Enforcement of the ERA executed a consent Order with

Field Oil Company, Inc. (Field) of Ogden, Utah. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Field, with its home office located in Ogden, Utah, is a firm engaged in the business of purchasing covered products and reselling them to wholesale purchasers and ultimate consumers, without substantially changing their form, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Field, the Office of Enforcement, ERA, and Field entered into a Consent Order, the significant terms of which are as follows:

1. Total overcharge during the audit period (March 1, 1979, through July 31, 1979) on all covered gasoline products was: $20,237.67.

a. Wholesale Reseller Overcharge: $16,001.75.

b. Retail End-User Overcharge: $4,236.12.

2. Field violated the gasoline price regulations contained in 10 CFR 212.93(a)(1) of the Mandatory Petroleum Price Regulations by exceeding its "maximum legal selling price" for the covered gasoline products sold to Field's wholesale and retail customers.

3. Field has agreed to refund the total overcharge on or before September 30, 1980.

4. Field has paid a civil penalty of $5,059.25 in connection with the overcharges.

5. The provisions of 10 C.F.R. 205.199J, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Field agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1.a. above, the sum of $16,001.75, plus interest, on or before September 30, 1980. Refund of those overcharges will be in the form of certified check(s) made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

Furthermore, Field agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of transactions specified in I.1.b. above, the sum of $4,236.12, plus interest, on or before September 30, 1980. Refund of those overcharges shall be in the form of payment by check or by credit memo against future purchases for each identified retail end-user overcharged.

III. Submissions of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount specified in I.1.a. above, should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Kenneth E. Merica, District Manager of Enforcement, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226. You may obtain a free copy of this Consent Order by writing to the same address or by calling (303) 234-3195.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Field Oil Company, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on (30 days after publication). You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 22nd day of July 1980.

Kenneth E. Merica,

District Manager of Enforcement, Rocky Mountain District.

[FR Doc. 80-23743 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-01-M

Energy Supply and Environmental Coordination Act; Rescission of Prohibition Orders

Pursuant to 10 CFR 303.137(d), the Department of Energy (DOE) hereby gives notice that on July 31, 1980, it issued orders rescinding the Prohibition Orders issued on June 30, 1977, to the International Paper Company's Pine Bluff, Arkansas Plant, Units 1 and 2 (Docket No. OCU-0786) pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 791 *et seq.*).[1] This action was initiated by DOE under the authority granted to it by Section 2(f) of ESECA and in accordance with the implementing regulations, 10 CFR Part 303, Subpart J. The Prohibition Orders, if made effective by issuance of Notices of Effectiveness (NOE), would have prohibited the above-named major fuel burning installations (MFBI) from burning natural gas or petroleum products as their primary energy source.

By the terms of the Clean Air Act Amendments of 1977 (Pub. L. 95-95), the written concurrence of the Governor of the State in which the facility is located must be obtained before the Environmental Protection Agency (EPA) may certify to DOE that the outstanding Prohibition Orders can take effect. By letter of July 16, 1979, Arkansas Governor Bill Clinton advised EPA that, because of environmental problems involving the disposal of solid wastes by the local jurisdictions surrounding the Pine Bluff Plant and his desire to see Pine Bluff Plant, Units 1 and 2 burn solid wastes as their primary energy source, he did not intend to concur on the Prohibition Orders requiring the conversion of the units to coal. Accordingly, by letter of February 6, 1980, EPA advised DOE that it could not certify the earliest date upon which Pine Bluff Plant, Units 1 and 2 would be able to burn coal as their primary energy source and be in compliance with applicable air pollution control requirements, as required by Section 2 of ESECA and Section 112(b)(2) of the Clean Air Act Amendments of 1977.

Based upon this information, DOE has determined that the outstanding Prohibition Orders issued to Pine Bluff Plant, Units 1 and 2 cannot be made effective without the EPA certification as required by 10 CFR 303.37(b)(1), and accordingly, DOE has rescinded the orders.

In its "Intention to Rescind a Prohibition Order" published in the **Federal Register** on March 25, 1980 (45 FR 19296), DOE gave notice of its intention to rescind the Prohibition Orders issued to the above-named MFBIs, and invited written comments on the proposed action. No comments were received during the period allotted for submission of written comments, and no issues were raised or called to DOE's attention, which would have caused DOE to terminate the rescission action.

These Rescission Orders were served on Mr. Gardiner L. Tucker, Vice President, Science and Technology, International Paper Company, 720 E. 42nd Street, New York, New York 10017, by registered mail, July 31, 1980. Copies of the Rescission Orders will be on display for any interestd members of the public to inspect at the DOE Public Docket Room located in Room B-120, 2000 M Street, NW., Washington, D.C. 20461, from 1:00 to 4:30 p.m., Monday through Friday of each week. Copies will also be available at the appropriate DOE regional office and in the Freedom of Information Reading Room, Room 5B-180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:15 a.m. and 4:15 p.m., Monday through Friday.

Any person aggrieved by the Rescission Orders may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Rescission Orders. Service by registered mail is complete upon mailing. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Any questions regarding this recission action should be directed to DOE as follows: Steven A. Frank, ESECA Programs Branch, Department of Energy, Economic Regulatory Administration, Room 3318, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3701). Written questions should be identified on the envelope and in the correspondence with the designation, "International Paper Company, Pine Bluff 1 and 2—Rescission Orders".

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-620; Federal Energy Administration Act of 1974 (15 U.S.C 761 *et seq.*) as amended by Pub. L. 95-70, and Pub. L. 95-91; Department of Energy Organization Act (42 U.S.C 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46167))

Issued in Washington, D.C., July 31, 1980.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

Rescission Orders

Registered Mail

To: International Paper Company, 220 E. 42nd Street, New York, New York 10017.
Attention: Mr. Gardiner L. Tucker, Vice President.

Docket No.	Owner	Plant and Units	Location
OCU-0786	International Paper Co.	Pine Bluff, 1 and 2.	Pine Bluff, Ark.

Pursuant to Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 792(f)) and in accordance with the implementing regulations, 10 CFR Part 303, Subpart J ("Modification of Rescission of Prohibition Orders and Construction Orders"), the Economic Regulatory Administration of the Department of Energy (DOE)[1] hereby rescinds the Prohibition Orders issued on June 30, 1977, to the above-named major fuel burning installations (MFBI). Such orders, if made effective by the issuance of Notices of Effectiveness (NOE), would have prohibited these MFBIs from burning natural gas or petroleum products as their primary energy source.

By the terms of the Clean Air Act Amendments of 1977 (Pub. L. 95-95), the written concurrence of the Governor of the State in which the facility is located must be obtained before the Environmental Protection Agency (EPA) may certify to DOE that the outstanding Prohibition Orders can take effect. By letter of July 16, 1979, Arkansas Governor Bill Clinton advised EPA that, because of environmental problems involving the disposal of solid wastes by the local jurisdictions surrounding the Pine Bluff Plant and his desire to see Pine Bluff Plant, Units 1 and 2 burn solid wastes as their primary energy source, he did not intend to concur on the Prohibition Orders requiring the conversion of the units to coal. Accordingly, by letter of February 6, 1980, EPA advised DOE that it could not certify the earliest date upon which Pine Bluff Plant, Units 1 and 2 would be able to burn coal as their primary energy source and be in compliance with applicable air pollution control requirements, as required by Section 2 of ESECA and Section 112(b)(2) of the Clean Air Act Amendments of 1977.

Based upon this information, DOE has determined that the outstanding Prohibition Orders issued to Pine Bluff Plant, Units 1 and 2 cannot be made effective without the EPA certification as required by 10 CFR 303.37(b)(1), and accordingly, DOE hereby rescinds the orders.

In its "Intention to Rescind a Prohibition Order" published in the **Federal Register** on March 25, 1980 (45 FR 19296), DOE gave notice of its intention to rescind the Prohibition Orders issued to the above-named MFBIs, and invited written comments on the proposed action. No comments were received during the period allotted for submission of written comments, and no issues were raised or called to DOE's attention, which would have caused DOE to terminate the rescission action.

Any person aggrieved by these Rescission Orders may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Rescission Orders. Service by registered mail is complete upon mailing. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Any questions regarding these Rescission Orders should be directed to DOE as follows: Steven A. Frank, ESECA Programs Branch, Department of Energy, Economic Regulatory Administration, Room 2104, 2000 M Street, NW., Washington, D.C. 20461 (telephone: (202) 653-3701). Written questions should be identified on the envelope and in the correspondence with the designation, "International Paper Company, Pine Bluff 1 and 2—Rescission Orders".

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-91; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267))

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

V 45 / 153 AUG 6 80 UMI

Issued in Washington, D.C. July 31, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-23581 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT 021]

Arizona Public Service Co.; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

Arizona Public Service Company (Arizona Public), P.O. Box 21666, Phoenix, Arizona 85036, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Ocotillo Plant in Tempe, Arizona, West Phoenix Plant in Phoenix, Arizona, Saguaro Plant in Red Rock, Arizona, and Yuma Plant in Yuma, Arizona, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on May 30, 1980. Notice of that application was published in the Federal Register (45 FR 48181, July 18, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

Arizona Public intends to purchase natural gas from Bixco, Inc., Phoenix, Arizona. On October 2, 1979, Arizona Public was previously granted a certificate (ERA Docket No. 79-CERT-084) of eligible use of the same amounts of natural gas to displace fuel oil requested in this application to be used at these same facilities but purchased from the Delhi Gas Pipeline Company (Delhi). To date, no natural gas has been purchased from Delhi under the certification. In this application, Arizona Public requested that it still be permitted to purchase gas from Delhi, but indicated that the total amount of gas used to displace fuel oil, even if purchased from both sellers, would not exceed the volumes requested in this application. Therefore, as recommended by the applicant, ERA is terminating the earlier certificate (79-CERT-084) upon issuance of this certificate, but incorporating into this certificate the authority to purchase oil displacement gas from Delhi.

The ERA has carefully reviewed Arizona Public's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Arizona Public's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on July 31, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

Department of Energy,
Washington, D.C.
July 31, 1980.

Re: ERA Certification of Eligible Use, ERA Docket No. 80-CERT-021, Arizona Public Service Company.

Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426

Dear Mr. Plumb: Pursuant to the provisions of 10 CRF Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. Also as noted in the certificate, the earlier certification (ERA Docket No. 79-CERT-084) issued to Arizona Public Service Company on October 2, 1979 authorizing the purchase of oil displacement gas from the Delhi Gas Pipeline Company (Delhi) is terminated upon the issuance of this certificate, but the authority to purchase gas from Delhi is incorporated in this certificate. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Albert F. Bass, Deputy Director, Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, NW, Room 7108, Washington, D.C. 20461, telephone (202) 653-3286. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80-CERT-021.

Sincerely,

F. Scott Bush

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

Enclosure:

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Arizona Public Service Co.

[ERA Docket No. 80-CERT-021]

Application for Certification

Pursuant to 10 CFR Part 595, Arizona Public Service Company (Arizona Public) filed an application for certification of an eligible use of 10,832,000 Mcf per year for the Ocotillo Plant, 1,671,000 Mcf per year for the West Phoenix Plant, 5,470,000 Mcf per year for the Saguaro Plant, and 2,808,000 Mcf per year for the Yuma Plant, with the Administrator of the Economic Regulatory Administration (ERA) on May 30, 1980. The application states that the eligible seller of the gas is Bixco, Inc. (Bixco) and that the gas will be transported by the El Paso Natural Gas Company. The eligible seller in the previous certificate (ERA Docket No. 79-CERT-084) for the same volumes is the Delhi Gas Pipeline Company (Delhi). Arizona Public requested that ERA terminate the earlier Certification of Eligible Use in Docket No. 79-CERT-084 and include both Bixco and Delhi as eligible sellers in a new certification.

This application indicates that the use of this natural gas is estimated to displace the following volumes of No. 6 and No. 2 fuel oil per year:

Estimated Barrels of Fuel Oil Displacement

	No. 6 fuel oil (0.9 percent sulfur)	No. 2 fuel oil (0.5 percent sulfur)
Ocotillo Plant	1,635,000	250,000
West Phoenix Plant	53,200	251,400
Saguaro Plant	715,800	243,800
Yuma Plant	346,300	147,800

The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of the following volumes of natural gas per year at Arizona Public's various plants purchased from Bixco and/or Delhi is an eligible use of gas within the meaning of 10 CFR Part 595:

Ocotillo Plant	10,832,000	Mcf/yr.
West Phoenix Plant	1,671,000	Mcf/yr.
Saguaro Plant	5,470,000	Mcf/yr.
Yuma Plant	2,808,000	Mcf/yr.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volumes of natural gas at the same facilities purchased from the same eligible sellers.

Upon the date of issuance of this certificate, the previous certificate in ERA Docket No. 79-CERT-084 is terminated.

Issued in Washington, D.C., on July 31, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-23744 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-022]

International Harvester Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

International Harvester Company (International Harvester), 401 North Michigan Avenue, Chicago, Illinois 60611, filed an application for certification of an eligible use of natural gas to displace fuel oil at its foundry and factory complex located in Memphis, Tennessee, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on June 9, 1980. Notice of that application was published in the Federal Register (45 FR 48182, July 18, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed International Harvester's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that International Harvester's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on July 31, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

Department of Energy,
Washington, D.C., July 31, 1980.

Re ERA Certification of Eligible Use, ERA Docket No. 80-CERT-022, International Harvester Company.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Albert F. Bass, Deputy Director, Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, N.W., Room 7108 Washington, D.C. 20461, telephone (202) 653-3286. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80-CERT-022.

Sincerely,

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the International Harvester Co.

ERA Docket No. 80-CERT-022

Application for Certification. Pursuant to 10 CFR Part 595, International Harvester Company (International Harvester) filed an application for certification of an eligible use of up to 75,000 Mcf of natural gas per year for its foundry and factory complex located in Memphis, Tennessee, with the Administrator of the Economic Regulatory Administration (ERA) on June 9, 1980. The application states that the eligible seller of the gas is the Southern Ohio Energy Company (Southern Ohio), a wholly owned subsidiary of International Harvester and the gas will be transported by the Columbia Gas Transmission Corporation, the Texas Gas Transmission Corporation, and The Memphis Light, Gas and Water Division. The application indicates that the use of this natural gas is estimated to displace approximately 500,000 gallons (11,905 barrels) of No. 6 fuel oil (0.3 percent sulfur) per year. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification. Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 75,000 Mcf of natural gas per year at International Harvester's foundry and factory complex purchased from Southern Ohio is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date. This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time required by 18 CFR Part 284, Subpart F. It is effective during this period of time for amounts not to exceed the certified volume when used to displace oil at the named facilities and when the gas is purchased from the eligible seller named in the certificate.

Issued in Washington, D.C., on July 31, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-23742 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA80-2-1 (PGA-80-2A)]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

July 30, 1980.

Take notice that on July 25, 1980, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

First Substitute Thirty-Third Revised Sheet No. 3-A

This tariff sheet has been filed to reflect a slight reduction in a similar filing by Alabama-Tennessee's supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., made on July 18, 1980 in Docket Nos. TA80-2-9 (PGA80-2) to become effective July 1, 1980. Accordingly, Alabama-Tennessee requests that its revised tariff sheet be made effective July 1, 1980 and, to permit this effective date, further requests a waiver of § 154.22 of the Commission's regulations to accomplish such effective date.

The revised tariff sheet provides for the following reduced rates:

Rate schedule	Rate after current adjustment
G-1:	
Demand	$2.12
Commodity	2.5032

V 45 / 153 3 AG 6 80 0 UMI

Rate schedule		Rate after current adjustment
SG-1:		
	Commodity	2.6581
I-1:		
	Commodity	2.5728

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23688 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-434]

Alaskan Northwest Natural Transportation Co.; Application

July 31, 1980.

Take notice that on July 1, 1980,[1] Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1528, Salt Lake City, Utah 84110, filed in Docket No. CP80-434 an application pursuant to Executive Order 10485, Executive Order 12038, and Delegation Order 0204-8 for a Permit to construct, operate, connect and maintain facilities at the international boundary in Alaska, United States, and the Yukon Territory, Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant herein proposes to construct, operate, connect and maintain at the international boundary between Alaska and the Yukon territory a fully enclosed meter building, four 24-inch diameter by 39-foot long meter runs, and a section of 48-inch pipeline. It is stated that these facilities are necessary to permit the transportation and delivery of natural gas from the Prudhoe Bay Area on the North Slope of Alaska to a point of interconnection with the proposed facilities of Foothills Pipeline, (Yukon) Ltd. (Foothills). Applicant states that all of the gas delivered by Applicant to Foothills (adjusted for heating value less fuel and unaccounted-for gas) would be transported and redelivered to the lower 48 states of the United States. Applicant asserts that this point of crossing of the Alaska segment of the Alaska Natural Gas Transportation System would be two miles south of the Alaska Highway intersection with the Alaska-Yukon border, and the metering station would be built in the vicinity of the nearby U.S. Customs Border Station.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23709 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The application was initially tendered for filing on July 1, 1980; however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (10 CFR 159.1) was not paid until July 2, 1980, thus the filing was not completed until the latter date.

[Docket No. EL78-13]

Central Virginia Electric Cooperative v. Appalachian Power Co.; Informal Settlement Conference

July 31, 1980.

There will be an informal settlement conference held on August 12, 1980 at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at 10:00 a.m. The room number will be posted on the second floor notice board.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23710 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-452]

Cimarron Transmission Co., Natural Gas Pipeline Co. of America, and United Gas Pipe Line Co.; Application

July 31, 1980.

Take notice that on July 17, 1980, Chevron Chemical Company (Chemical), 575 Market Street, San Francisco, California 94105, filed on behalf of Cimarron Transmission Company (Cimarron), 58 Broadlawn Village, Ardmore, Oklahoma 73401, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, in Docket No. CP80-452 a joint application pursuant to Section 7(c) of the Natural Gas Act and Section 157.100 of the Regulations thereunder (18 CFR 157.100) for a certificate of public convenience and necessity authorizing the transportation of gas purchased by Chemical from Love County, Oklahoma, to Luling, Louisiana, and the construction and operation of facilities to effectuate such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that Chemical purchases the natural gas at Marietta field, Love County, Oklahoma, and has entered into contracts with the other three companies to transport the gas to an anhydrous ammonia plant in Luling, Louisiana.

Under the five-year transportation agreement between Chemical and Cimarron dated July 1, 1980, Cimarron would take Chemical's gas from existing connections in the Marietta field, and transport the gas to an existing interconnection with Natural's facilities located at the outlet of Cimarron's measurement station in Love County, Oklahoma (Love Point). Applicants assert that Cimarron would not have to build any new facilities to transport and redeliver the contract maximum of 10,000 Mcf per day. Applicants further state that in the event Chemical does not take the entire amount of gas produced for its account, Cimarron has the option to purchase those non-taken quantities, predicated upon Natural's need for the gas.

It is stated that Chemical agrees to pay a monthly transportation and dehydration charge estimated to be $33,479.93, which when multiplied by the cost distribution factor of .166667 equals $5,580.

It is noted that Chemical and Natural entered into a separate five-year transportation agreement dated June 23, 1980. Pursuant to this agreement, Applicants state that Natural would redeliver thermally equivalent volumes less 7 percent retained for fuel usage of Chemical's gas received at the Love Point to an existing interconnection with United's facilities in Vermilion Parish, Louisiana (Vermilion Point). It is stated that Natural would transport 5,000 Mcf per day on a firm basis with up to a total of 10,000 Mcf per day on a firm basis with up to a total of 10,000 Mcf per day subject to capacity availability. Applicants assert that Natural would not build any new facilities as a result of this transportation, but if its mainline to its principle markets needs future capacity expansion, Chemical would either contribute a *pro rata* share of costs or suffer reduction in firm transportation volumes. Applicants further assert that Natural would charge Chemical 13.1 cents per Mcf for the transportation service.

Applicants state that pursuant to a 5-year transportation contract between Chemical and United dated June 20, 1980, United would receive Chemical's gas from Natural at the Vermilion Point. It is stated that United would then redeliver the gas, or equivalent quantities, less 2.3 percent for fuel use, to Chemical at the ammonia manufacturing facility located near Luling, St. Charles Parish, Louisiana, and would charge Chemical 19.4 cents per Mcf for the transportation service.

Applicants state that to facilitate United's redeliveries to Chemical, a new measuring and regulating facility would be built at a mutually agreeable point on United's Paradis Line in St. Charles Parish, Louisiana. It is stated that Chemical would reimburse United for all expenses incurred in constructing the new facilities which are estimated to be $32,000. Applicants state that United would operate and maintain the facility which Chemical would own.

Applicants further state that pursuant to § 157.103 of the Commission's Regulations, the subject gas would be used as process fuel and/or feedstock in the ammonia production process as an essential agricultural use.

Any person desiring to be heard or to make protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action be taken will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23711 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-455]

Consolidated Gas Supply Corp.; Application

July 31, 1980.

Take notice that on July 21, 1980, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-445 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 9.5 miles of pipeline in Wetzel and Tyler Counties, West Virginia, and for authorization to convert an existing pipeline to production service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its existing Line No. F-9, which is the principal supply feed for Sustersville and Paden City, West Virginia, has become pitted, corroded, and damaged by soil slippage. Moreover, it is stated, that the annual and peak day requirements in the Sisterville/Paden area have been increasing and are expected to increase further in the future, and that the Line No. F-9 in its present condition is unable to handle the increase in flows and gas pressure sufficient to meet these peak demands. Therefore, Applicant proposes to construct and operate approximately 9.5 miles of new 8-inch pipeline from a point on its existing line in Wetzel County, West Virginia, to a point near the present western terminus of Line No. F-9 at Buck Run in Tyler County. Applicant estimates the cost of the proposed pipeline facilities to be $1,494,559 which would be financed from funds on hand and funds to be obtained from Applicant's parent, Consolidated Natural Gas Company.

Applicant further notes that it is willing to purchase new local gas supplies, but because of this gas' high levels of water content it is unsuitable for direct market delivery. Applicant proposes to retain Line No. F-9 from Buck Run to its eastern terminus at Applicant's Hastings, West Virginia, extraction plant and to integrate the line with Applicant's low-pressure production facilities in this area. Applicant states that this new facility configuration would permit Applicant to purchase present and future locally produced gas and condition these supplies in its Hastings plant, thereby lowering Line No. F-9 operation pressure and more economically modernizing the supply feed to the Sistersville/Paden market area.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is

V 45 / 153 AUG 6 80 UMI

filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23712 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-450]

El Paso Natural Gas Co.; Application

July 31, 1980.

Take notice that on July 11, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-450 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of up to 750 Mcf of natural gas per day, on an exchange basis, with Warren Petroleum Company (Warren) at an existing point of delivery located in Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Warren are parties to certain residue gas purchase agreements dated February 3, 1954, and March 1, 1972, as amended, which agreements provide for the sale by Warren and the purchase by Applicant at the outlet of Saunders Gas Processing Plant located in Lea County, New Mexico, of all volumes of surplus residue gas processed in said plant and attributable to certain sources set forth in the agreements. In addition, it is stated that Warren processes at the Saunders Gas Processing Plant and delivers to Applicant certain quantities of gas attributable to Applicant's production in the vicinity of said plant. In the daily operation of the Saunders Gas Processing Plant, Warren purchases from Applicant up to 750 Mcf of natural gas per day at a point of interconnection of the pipeline facilities of Applicant and Warren located in Lea County, New Mexico, for use as fuel at its Saunders Field Booster Station, it is said. Applicant states that the said volumes of natural gas sold to Warren by Applicant are now classified as Priority 3 deliveries under Applicant's currently effective interim curtailment plan prescribed by the Commission in Docket No. RP72-6.

Applicant additionally states that in view of the reclassification of the subject deliveries of natural gas to Warren from a Priority 2 delivery to a Priority 3 delivery, Warren has expressed concern that its continued operation of the Saunders Gas Processing Plant could be seriously affected, and the sale and delivery of residue gas to Applicant may be partially or totally interrupted from time to time as a result of the extensive periods of partial or total curtailment of Priority 3 deliveries which have occurred and are expected to continue to occur on Applicant's interstate transmission system. Similary, Applicant asserts that it is concerned that during periods of curtailment of Priority 3 deliveries, Warren's Saunders Field Booster Station may experience difficulties due to the use by Warren of casinghead gas for fuel thereby causing a shutdown of such facilities, which shutdown would force Warren also to shut down its Saunders Gas Processing Plant. Applicant further submits that such a shutdown, whether it be caused by Applicant's curtailment of Priority 3 deliveries or difficulties in the operation of Warren's compressor facilities due to the use of casinghead gas, would interrupt the flow of gas (approximately 11,133 Mcf per day) which Applicant would otherwise have received and purchased from Warren and utilized in serving its system requirements.

It is stated that in consideration of Warren's concern, as well as Applicant's desire to insure continuity of deliveries of gas from Warren's Saunders Gas Processing Plant, applicant and Warren have entered into a gas exchange agreement dated April 7, 1980, wherein Applicant has agreed to deliver to Warren and Warren has agreed to accept and receive from Applicant, at the existing point of interconnection between the pipeline facilities of Applicant and Warren in Lea County, New Mexico, such quantity of pipeline quality natural gas as Warren may need, from time to time, not to exceed 750 Mcf per day for use in the operation of Warren's Saunders Field Booster Station which serves its Saunders Gas Processing Plant. In exchange therefor, Warren has agreed to deliver concurrently to Applicant at Applicant's existing meter station located at the outlet of the Saunders Gas Processing Plant and Applicant has agreed to accept and receive for the account of Warren a quantity of surplus residue gas equivalent, on a million Btu basis, to the total quantities of pipeline quality natural gas delivered by Applicant to Warren, it is said.

The exchange arrangement set forth herein would insure that pipeline quality natural gas would be available to Warren without interruption for use in fueling its Saunders Field Booster Station and thereby operating its Saunders Gas Processing Plant. In addition, it is asserted that the exchange arrangement would insure Applicant of the uninterrupted availibilty of residue gas from Warren's Saunders Gas Processing Plant for use on Applicant's interstate transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23713 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-449]

El Paso Natural Gas Co.; Application

July 31, 1980.

Take notice that on July 11, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-449 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the transportation and delivery of natural gas, on an exchange basis, with Amoco Production Company (Amoco) at a proposed point of delivery located in Andrews County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Amoco are parties to the 3-Bar Residue Gas Purchase Agreement dated March 1, 1966, as amended (3-Bar Agreement), which agreement provides for the sale by Amoco and the purchase by Applicant, at the outlet of the South Fullerton Gasoline Plant located in Andrews County, Texas, of all volumes of surplus residue gas processed in said plant attributable to certain sources set forth in the 3-Bar Agreement.

It is said that Amoco has, in the past, utilized a portion of the treated casinghead gas attributable to production from the 3-Bar Field for use in operating its 3-Bar Field facilities and appurtenances thereto. However, with the past decline in gas reserves available from the 3-Bar Field, Applicant states that Amoco has determined that its field processing facilities could no longer be efficiently operated and has, therefore, removed such processing facilities from the 3-Bar Field. Upon the removal of the above-mentioned facilities, Amoco utilized the untreated casinghead gas to fuel its 3-Bar Field facilities, it is said. Applicant asserts that the continued use of such rich high Btu casinghead gas in Amoco's 3-Bar Field facilities has caused difficulties which could force Amoco to shut down such field facilities, thereby ceasing the flow of casinghead gas from the 3-Bar Field to the South Fullerton Gasoline Plant and interrupting the sale and delivery of surplus residue gas to Applicant. Applicant further asserts that Amoco believes that processing in its South Fullerton Gasoline Plant of the volumes of casinghead gas now utilized by Amoco as fuel in the 3-Bar Field facilities would increase the efficiency of its South Fullerton Gasoline Plant.

In order that Amoco may have a constant and reliable supply of pipeline quality natural gas available to it for use in the operation of its 3-Bar Field facilities, which are an integral part of its South Fullerton Gasoline Plant operations, and in order to insure the continuity of the gas supply delivered from the South Fullerton Gasoline Plant by Amoco to Applicant for use on Applicant's interstate transmission system, Applicant states that it and Amoco have entered into a gas exchange agreement, dated June 12, 1980, wherein Applicant has agreed to deliver to Amoco and Amoco has agreed to accept and receive from Applicant, at a proposed point of delivery to be located in Andrews County, Texas, such quantities of pipeline quality natural gas as Amoco may need, from time to time, not to exceed 500 Mcf per day, for use in the operation of its 3-Bar Field facilities and/or appurtenances thereto. In exchange therefor, Applicant further states that Amoco has agreed to deliver concurrently to Applicant at Applicant's existing meter station located at the outlet of Amoco's South Fullerton Gasoline Plant, and Applicant has agreed to accept and receive, for the account of Amoco, a quantity of surplus residue gas equivalent, on an Mcf basis, to the total quantities of pipeline quality natural gas delivered by Applicant to Amoco.

In order to effectuate the delivery of pipeline quality natural gas to Amoco for use at its 3-Bar Field facilities, Applicant proposes to construct and operate the following facilities:

A 1-inch O.D. tap and valve assembly, with appurtenances, including one 2⅜-inch O.D. standard orifice-type meter station to be located at a point on Applicant's existing 20-inch O.D. Goldsmith-Dumas pipeline located in Andrews County, Texas.

Applicant further states that as a part of such arrangement, Amoco would be required to construct and operate, at its sole cost and expense, certain pipeline and regulating facilities required to receive deliveries of pipeline quality natural gas from Applicant at the proposed point of delivery.

The exchange agreement would continue in full force and effect for a period coterminous with the term of the 3-Bar Residue Gas Purchase Agreement dated March 1, 1966, between Applicant and Amoco.

Applicant states that the total estimated cost of those facilities proposed to be constructed and operated by Applicant is $6,200. Applicant further states that Amoco has agreed to reimburse Applicant for all actual costs and expenses incurred in the construction of such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23710 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3226]

Harrison Western Corp.; Application for Preliminary Permit

July 30, 1980.

Take notice that Harrison Western Corporation (Applicant) filed on June 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3226 to be known as the Horsetooth Project located on the Cache La Poudre River near the Town of Fort Collins, Larimer County, Colorado, at the existing Horsetooth Dam owned by the United States Water and Power Resources Service (Township 7 North

Range 70 West N.M.P.M.). Correspondence with the Applicant should be directed to: Mr. Warren Harrison, Engineering Manager, Harrison Western Corporation, 1208 Quail Street, Lakewood, Colorado 80215.

Project Description—The proposed project would utilize an existing government dam and would consist of a powerhouse with four Ossberger turbines connected to four generators with a total rated capacity of 2,300 kW. A transmission line with a minimum length of 6,000 feet would be required. The project could generate up to 17,900,000 kWh annually, which would save the equivalent of 29,400 barrels of oil or 8,300 tons of coal.

Purpose of Project—Power generated by the project would be sold to either the Rural Electric Associate or Public Service Company of Colorado.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 5, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth Plumb,

Secretary.

[FR Doc. 80-23700 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3225]

Harrison Western Corp.; Application for Preliminary Permit

July 30, 1980.

Take notice that Harrison Western Corporation (Applicant) filed on June 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3225 to be known as the Ruedi Project located on the Fryingpan River near the Town of Basalt, Eagle and Pitkin Counties, Colorado, at the existing Ruedi Dam owned by the United States Water and Power Resources Service (Township 8 South, Range 84 West N.M.P.M.). Correspondence with the Applicant should be directed to: Mr. Warren Harrison, Engineering Manager, Harrison Western Corporation, 1208 Quail Street, Lakewood, Colorado 80215.

Project Description—The proposed project would utilize an existing government dam and would consist of a powerhouse with seven Ossberger turbines connected to seven generators with a total rated capacity of 4,200 kW. A transmission line with a minimum length of 4,400 feet would be required. The project could generate up to 32,700,000 kWh annually, which would save the equivalent of 53,700 barrels of oil or 15,140 tons of coal.

Purpose of Project—Power generated by the project would be sold to either the Rural Electric Associate or Public Service Company of Colorado.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than Dec. 5, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth Plumb,

Secretary.

[FR Doc. 80-23701 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-134]

Michigan Wisconsin Pipe Line Co.; Application for Adjustment

July 30, 1980.

Take notice that on July 10, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. SA80-134 an application pursuant to section 502(c) of the Natural Gas Policy Act of 1978 and section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41) for an interim and permanent exemption for the filing requirements of § 281.204(b)(2) of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Section 281.204(b)(2) of the Regulations requires an interstate natural gas pipeline company to update its index of customer requirements annually in order to reflect changes, if any, in its priorities of service. Applicant asserts that preparation of the annual update requires substantial time and expense on its part and the part of its customers and the Data Verification Committee. Applicant anticipates that it would be able to meet the full requirements of its customers in the near term as indicated in its Form No. 15 for the year ended December 31, 1979, and that it can meet its customers' requirements through 1981 on the basis of presently contracted and certificated gas supplies. Accordingly, Applicant submits that compliance with the filing requirements of § 281.204(b)(2) is unnecessary and would result in special hardship and unfair distribution of burdens to it and its customers.

Applicant states that although it believes that compliance with § 281.204(b)(2) is unnecessary at this time, at such time as its Form No. 16 indicates that it would not be able to meet the full requirements of its customers, Applicant would timely make the necessary tariff filings to comply with the Commission's Regulations.

Applicant states further that it is currently required to update its index of requirements by November 1, 1980, and that in order to provide sufficient time for the Commission to consider its request for a permanent exemption, Applicant also requests interim relief.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before August 21, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23702 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-189

Michigan Wisconsin Pipe Line Co.; Trunkline Gas Co.; Petition To Amend

July 31, 1980.

Take notice that on July 16, 1980, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-189 a joint petition to amend the order issued May 17, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing the exchange of gas at additional delivery and redelivery points and the increase of the quantity of gas which would be exchanged, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued May 17, 1979, they were authorized to exchange up to 6,000 Mcf of natural gas per day pursuant to the terms of an exchange agreement between Trunkline and Mich Wis dated November 14, 1978. Petitioners state that Mich Wis makes deliveries of gas to Trunkline at the pipeline facilities of Stingray Pipeline Company (Stingray) in West Cameron Area Block 269, offshore Louisiana, and that Trunkline delivers equivalent volumes of exchange gas for Mich Wis at the High Island Offshore System (HIOS) pipeline at High Island Area Block A-332, offshore Texas, and/or an existing point of interconnection between the pipeline systems of Stingray and HIOS located in High Island Area Block A-330, offshore Texas.

Subsequent to the order, it is stated, Mich Wis acquired the right to purchase the gas reserves underlying West Cameron Area Blocks 537, 551, and 552, and agreed to participate as a joint owner in the lateral pipeline which connects the gas reserves underlying Block 537 to the Stingray pipeline facilities. Petitioners state that they have now amended their November 14, 1978, exchange agreement to provide for a new exchange point at Block 537 whereby Mich Wis can make deliveries of gas to Stingray for the account of Trunkline and permit Mich Wis to effectuate receipt of its Blocks 537, 551, and 552 gas supplies by exchange. It is further stated that the amended exchange agreement provides for an increase in the daily quantity of gas which can be exchanged from 6,000 Mcf per day to 15,000 Mcf per day. Moreover, Petitioners propose four additional points in the new exchange agreement where Trunkline can make redeliveries of exchange gas to Mich Wis. Petitioners describe the four points as follows:

(1) the outlet for the measurement facilities located on the High Island Block A-313 production platform at which point gas may be delivered by Trunkline for the account of Mich Wis

V 45 / 153
AG 6 80
UMI

with measurement to be conducted at the High Island Block A-313 platform;

(2) an existing tap in High Island Block A-539 where deliveries can be made to HIOS by Trunkline for the account of Mich Wis with measurement to be conducted at High Island Block A-511;

(3) an existing tap in High Island Block A-316 where deliveries can be made to HIOS by Trunkline for the account of Mich Wis with measurement to be conducted at High Island Block A-317; and

(4) the existing tap in High Island Block A-343 between the outlet of the 20-inch pipeline owned by Trunkline and others and the platform manifold owned by HIOS where a portion of Trunkline's gas may be delivered to HIOS for the account of Mich Wis with measurement to be conducted at High Island Block A-342.

Petitioners contend that they would use their best efforts to balance volumes of gas received and redelivered. Moreover, it is stated that no charge would be made, and no new facilities required by either of the Petitioners in providing the amended exchange service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23715 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-223]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

July 31, 1980.

Take notice that on July 14, 1980, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-223 a petition to amend the Commission's order issued June 8, 1979, in said docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction of a gas-purchase facility costing in excess of the prescribed single offshore project cost limitation of $3,500,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order of June 8, 1979, it was issued a budget-type certificate authorizing the construction of gas-purchase facilities aggregating $18 million pursuant to Section 157.7(b) of the Commission's Regulations.

Subsequently, Petitioner asserts that although anticipated total costs are still within the $18 million authorization, it has ascertained that one project has exceeded its budget such that its costs are now in excess of the single offshore project limitation of $3.5 million. Petitioner states that the project is a gas purchase facility comprised of 7.15 miles of 12-inch pipeline for the transportation of gas reserves from South Marsh Island Block 260, offshore Louisiana, to South Marsh Island Block 249. The costs of this project, Petitioner asserts, were originally estimated to be $3,114,300. Petitioner states that the project was completed on April 1, 1980, and put into service in late May 1980 and asserts that a revised work order has been compiled which reflects an estimated net upward revision in the cost of the project of $815,963 to $3,930,263.

Accordingly, Petitioner requests that the $3.5 million limitation contained in Section 157.7(b)(1)(iii) of the Commission's Regulations be waived to the extent required to authorize the construction of said gas-purchase facility project at a cost not to exceed $4,100,000.

Petitioner attributes the cost overruns experienced on the gas-purchase facility to four major factors. Petitioner asserts that the first factor was standby time for barge rental due to adverse weather conditions in November 1979. Petitioner submits that the second major factor concerned two incidents of damage to the pipeline during the initial construction period which delayed completion.

In addition, Petitioner states that Amoco as operator advised Petitioner in early December of 1979 of its plans to drill additional wells. Petitioner also states that by mutual agreement between it and Amoco, the commencement date of production initially projected to commence in November 1979 was postponed until the summer of 1980, and the contractor worked only intermittently on the project during the winter of 1979-1980. The third major factor which Petitioner attributes to the cost overrun was unexpected difficulty during late March 1980 in locating a subsea valve assembly in South Marsh Island Block 249 which, it is asserted, was necessary in order to connect the 12-inch pipeline to the existing system and stop the flow of gas through three leaking valves which had to be closed in order to complete the project. Petitioner submits that the fourth major factor was standby time for test boat rental due to adverse fog conditions in March 1980.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23716 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-456]

Monongahela Power Co., West Penn Power Co., and Potomac Edison Co., Filing

July 31, 1980.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on July 23, 1980, tendered for filing on behalf of Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), and West Penn Power Company (West Penn), the electric utilities which make up the integrated Allegheny Power System, Amendment No. 8 dated July 21, 1980 to the Operating Agreement dated January 1, 1973 between Monongahela, Potomac, and West Penn and Virginia Electric Power Company (Vepco) designated Monongahela Rate Schedule FPC No. 32, Potomac Rate Schedule FPC No 33, West Penn Rate Schedule FPC No. 31, and Vepco Schedule FPC No. 99.

Amendment No. 8: (1) provides for increases in the demand charges for Short Term power from $0.70 to $0.85 per kilowatt-week and Short Term power obtained by the supplying party from another system from $0.24 per kilowatt-week; (2) provides for increases in the demand charges for Limited Term power from $3.75 to $4.50 per kilowatt-month and Limited Term power obtained by the supplying party from another system from 0.75 to $1.00 per kilowatt-month; and (3) places a $0.002 per kilowatt-hour cap ($0.001 when coming from a third party as required by the Commission in Rule 35.23 (f)) on the adders to the out-of-pocket costs of providing energy sold under the Short Term and Limited Term Schedules.

APSC requests waiver of the Commission's notice requirements to allow these increases to become effective August 1, 1979. APSC states that since Short Term Power and Energy transactions and Limited Term Power and Energy transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate it is impossible to estimate the increases in revenues which would result from Amendment No. 8.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before August 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23715 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[TA 80-2-26 (PGA 80-3, IPR 80-3, AP 80-2, LFUT 80-2, and TT 80-2)]

Natural Gas Pipeline Co. of America; Change in Rates

July 31, 1980.

Take notice that on July 24, 1980, Natural Gas Pipeline Company of America (Natural) Submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective September 1, 1980:

Third Substitute Fortieth Revised Sheet No. 5
Second Revised Sheet No. 5C
Second Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under various sections of the General Terms and Conditions of its tariff and various articles of the Stipulation and Agreement in Docket No. RP78-78 (hereinafter Settlement) which was approved by Commission letter order issued October 4, 1979. The overall effect of the filed for adjustments to Natural's DMQ-1 sales rate is a decrease of $0.01 in the demand component and an increase of 2.19¢ in the commodity component. Appropriate adjustments were also made to Natural's other sales rate schedules. The annualized revenue increase amounts to approximately $20.1 million. The various components are summarized below:

	Rate schedule DMQ-1 rate adjustment		Annualized jurisdictional revenue increase (decrease)
	Demand	Commodity	
Purchased Gas Cost Adjustment:			
Producer Supplier		[1]7.76	$72.4
Pipeline Supplier		1.22	11.4
Deferred Purchased Gas Cost		(2.80)	(26.1)
Total PGA		[1]6.18	57.7
Louisiana First Use Tax		[1](0.84)	(7.8)
Advance Payments		[1](0.55)	(5.1)
Transportation Tracker	(0.01)	[1](2.60)	(24.7)
Total	(0.01)	[1]2.19	20.1

[1] In cents.

Sheet Nos. 5C and 5D reflect the fact that all of Natural's sale-for-resale customers reported zero MSAC. Natural's four direct industrial customers have either furnished exemption affidavits or are exempt based on information contained in Natural's records. Therefore, there is no PGA reduction due to incremental pricing.

Natural also states that it has credited its Deferred Purchased Gas Cost account for approximately $8.4 million principal and interest under the terms of Settlement Article XVI, Sales Refund Obligation.

Natural requests waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on September 1, 1980.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23718 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-446]

Natural Gas Pipeline Co. of America; Application

July 31, 1980.

Take notice that on July 11, 1980, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-446 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of two leased 3250 horsepower compressor units and related facilities, one in Lea County, New Mexico, and the other in Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its Permian System, which is the redelivery point of its only existing transportation agreement linking its two main supply lines, was certificated to operate at a design day capacity of 508,000 Mcf. However, Applicant states that due to declining wellhead pressures and contractual exchange agreements with lower delivery pressures, Applicant is currently limited to a line capacity of approximately 456,000 Mcf per day. Applicant states that the loss of capacity in the Permian System lessens its operational flexibility and restricts its ability to move gas during the upcoming heating season.

V 45 / 153 AG 6 80 UMI

Applicant proposes to restore the lost capacity needed to deliver existing and new gas supplies by installing compression at two points on the system. However, Applicant states that it projects a decline subsequent to the 1981–82 heating season which might eliminate the need for the additional compression, so it wishes to lease the compression units with an option to purchase. Applicant states it would install a 3250 horsepower compressor and related facilities on its Lockridge Line in Lea County, New Mexico, and a second 3250 horsepower unit and related facilities on its Indian Basin Line in Eddy County, New Mexico. It is asserted that the proposed facilities would restore the daily design capacity of the Permian System to approximately 508,000 Mcf per day and provide for a maximum capability of 570,000 Mcf per day.

Applicant estimates the cost of installation of the units to be $1,284,000 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23719 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-357]

Panhandle Eastern Pipe Line Co.; Petition To Amend

July 31, 1980.

Take notice that on July 15, 1980, Panhandle Eastern Pipe Line Company (Petitioner), 3000 Bissonnet, Houston, Texas 77001, filed in Docket No. CP79-357 a petition to amend the order issued February 27, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the horsepower to be contained in the proposed Warren Compressor Station, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order of February 27, 1980, Petitioner was authorized to construct the Warren Compressor Station, in Carson County, Texas, and to install therein 1,200 horsepower of compression facilities the first year and an additional 600 horsepower the second year, it is said.

Subsequently, Petitioner states that it has reevaluated the operating conditions as well as the initial recoverable reserves estimated in the vicinity of the Warren Station and has determined that such reserves are more extensive than originally thought. Because of this reevaluation, Petitioner requests that the horsepower of one of the certified compression engines be increased from 600 to 730 horsepower, and that it be permitted to install an additional 2,920 horsepower of new compression to the Warren Compressor Station.

Petitioner asserts that the increased compression is necessary in order to provide it with the ability to deliver natural gas supplies from the Carson County, Texas, production area into its mainline system. The total cost of the additional proposed facilities is estimated to be $3,147,000, which cost would be financed from Petitioner's available funds, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23720 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP67-383, *et al.*]

Peoples Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

July 31, 1980.

Take notice that on July 19, 1980, Peoples Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP67-383, *et al.*, a petition to amend in the instant dockets certain orders, supplements or amendments to the orders issued to Northern Natural Gas Company, operating as People's Natural Gas Division so as to change the company's name to People's Natural Gas Company, Division of InterNorth, Inc., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the stockholders of the Board of Directors of Northern Natural Gas Company resolved to change the company's name to InterNorth, Inc. on March 27, 1980. Petitioner reports that the Board declared that the following gas operations

Docket Number and Date of Commission Order
CP67-383, August 4, 1967.
CP69-277, July 28, 1969.
CP70-88, April 30, 1970.
CP70-132, February 24, 1970.
CP72-225,[1] September 22, 1972.
CP75-365, January 8, 1976.
CP76-385, October 27, 1976.
CP76-456, January 19, 1977.
CP76-533, February 2, 1977.
CP77-84,[1] May 24, 1977.
CP77-173,[2] September 30, 1977.
CP79-420, October 24, 1979.

would henceforth be conducted under the name of People's Natural Gas Company, Division of InterNorth, Inc. It is stated that Northern Natural Gas Company then filed an amendment to its corporate charter with the Secretary of the State of Delaware, the state of incorporation, effectuating the name change. Petitioner contends that under its new name the company would continue without interruption or cessation the identical operation and corporate activities formerly carried out by Northern Natural Gas Company, operating as People's Natural Gas Division.

[1] Abandonments.

[2] Construction and abandonments.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23721 filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-543]

Public Service Co. of Colorado; Filing

July 31, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) on July 23, 1980, tendered for filing an Energy Sales and Banking Agreement (Agreement) with Tri-State Generation and Transmission Association, Inc. (Tri-State).

PSCo states that the Agreement provides, *inter alia*, for exchanges of capacity and energy between the electric systems of PSCo and Tri-State either directly or through the systems of other parties. The Agreement provides for establishing terms and conditions of such exchanges, such as maintenance, standards for spinning reserve, standards for maintenance and settlement of accounts, and procedures for designating authorized representatives and their responsibilities.

PSCo states that copies of the filing were served upon all parties and affected stated commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23722 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-545]

Public Service Co. of Colorado; Filing

July 31, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) on July 23, 1980, tendered for filing as a rate schedule a contract for interconnections and transmission service between Tri-State Generation and Transmission Association, Inc., and PSCo.

The Agreement provides for the accepting and transmitting of power and energy by each party for delivery on the system of the other party. In addition, PSCo will provide emergency transmission back-up service for Tri-State during tempofary outages of the Craig-Ault 345 KV transmission line. Under the conditions of the Agreement, either PSCo or Tri-State may provide non-firm transmission service for the other party to the extent that it has transmission capacity available for such purposes as a cost established in the Agreement.

PSCo states that copies of the filing were served upon all parties and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23723 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-544]

Public Service Co. of Colorado; Filing

July 31, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) on July 23, 1980, tendered for filing proposed changes in its FERC Electric Tariff. PSCo states that the proposed changes are Supplement No. 10, a Letter Agreement signed October 19, 1978, Supplement No. 11, Revision No. 17 of Exhibit A, and Revision No. 4 of Exhibit D to PSCo's Contract for Interconnections and Transmission Service with Western Area Power Administration, formerly the United States Department of the Interior, on file with the Commission under PSCo's FERC Rate Schedule No. 7.

Supplement No. 10, dated August 21, 1978, privides, *inter alia*, for extending the provisions covering the Henderson Temporary Point of Delivery. The Supplement also specifies the PSCo's Happy Jack Tap and Fort Morgan North Circuit Tap as additional points of delivery.

The Letter Agreement signed October 19, 1978, provides for the transmission of power and energy by WAPA for Company to the City of Julesburg, Colorado.

Supplement No. 11, dated December 29, 1978, provides, *inter alia*, for the transmission of electric power and energy by WAPA for PSCo to the City of Julesburg, Colorado. Supplement No. 11 also amends PSCo's compensatory arrangements with the United States for the transmission service provided by WAPA.

Revision No. 17 of Exhibit A, dated January 1, 1980, established a maximum kilowatt demand for the 1983 calendar year and deletes Colorado-Ute Electric Association from the Exhibit.

Revision No. 4 of Exhibit D, dated May 28, 1980, removes Loveland East Tap from WAPA wheeling service,

V 45 / 153 AUG 6 80 UMI

increases the amount of "Exchange Wheeling" from 124.5 MW to the amounts shown, changes to "Seasonal" Maximum Rates of Delivery and includes format changes.

PSCo states that copies of the filing were served upon all parties and affected stated commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23724 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[[Docket No. ER80-313]

Public Service Co. of New Mexico; Order Granting Rehearing for Further Consideration

Issued July 30, 1980.

On June 30, 1980, the City of Gallup, New Mexico filed a petition for rehearing of the Commission's order issued May 30, 1980, in this proceeding. In that order, we *inter alia*, accepted for filing and suspended proposed increased rates and established procedures for determining the justness and reasonableness of those rates. The City of Gallup seeks review of Commission's determination of the applicable burden of proof for permitting the rates to be changed under the existing contract between it and Public Service Company of New Mexico.

In order to afford time for further evaluation of the issue raised by the City of Gallup, we shall grant rehearing for the limited purpose of further consideration. Under Section 1.34(d) of the Commission's regulations, no answers to the application for rehearing will be entertained since this order does not grant rehearing on any substantive issues.

The Commission orders: (A) Rehearing of our order of May 30, 1980, is hereby granted for the limited purpose of further consideration.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23700 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. RP73-114 (PGA79-2), RP74-24 (DCA79-2), RP74-73 (R&D79-2), and RP79-52]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Motion of Tennessee Gas Pipeline Co. To Terminate Refund Obligation

July 30, 1980.

Take notice that on April 16, 1980, Tennessee Gas Pipeline Company (Tennessee) filed, pursuant to 18 CFR 1.12, a motion to terminate certain refund obligations imposed by Commission orders issued June 29, 1979, and August 24, 1979, in the above-listed proceeding.

Tennessee states that by Commission order issued on June 29, 1979, the Commission accepted certain tariff sheets, suspended their effectiveness and allowed them to become effective, on July 1, 1979, but subject to refund obligations. Specifically, the June 29, 1979, Commission order provides that the costs associated with purchases from producer-affiliates of the company are collected, subject to refund, pending the ultimate determination of the appropriate maximum lawful price to be charged such affiliated purchases under the regulations implementing the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*

In addition, Tennessee notes that on August 24, 1979, the Commission in its subsequent rehearing order expressly limited the refund obligation with respect to Tennessee's May 21, 1979 filing to that portion of the attributable to pipeline-affiliate production.

Finally, Tennessee states that the Commission has promulgated final regulations governing the maximum lawful prices for pipeline-affiliated production [1] and that such regulations establish the justness and reasonableness of the purchases by the pipeline from its affiliates. Accordingly, Tennessee asserts that the refund obligations imposed on its May 31, 1979 filing respecting pipeline affiliate purchases should be removed and that the tariff sheets filed by Tennessee on May 31, 1979, be made fully effective.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23704 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[1] Order No. 58, "Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor, or Affiliate Production," Docket No. RM80-7 (issued on November 14, 1979).

[Docket Nos. CP80-24, et al.]

Transcontinental Gas Pipe Line Corporation, et al.; Filing of Pipeline Refund Reports and Refund Plans

July 30, 1980.

Take notice that the pipeline listed in Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, on or before August 15, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
7/10/80	Transcontinental Gas Pipe Line Corporation.	CP80-24	Report.
7/22/80	Northwest Pipeline Corporation.	RP79-57	Report.
7/22/80	Northern Natural Gas Company.	CP76-31	Report.
7/22/80	South Georgia Natural Gas Company.	RP81-5	Report.

Appendix—Continued

Filing date	Company	Docket No.	Type filing
7/22/80	Consolidated Gas Supply Corporation.	RP72-157	Report.

[FR Doc. 80-23705 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-448]

Trunkline Gas Co.; Application

July 31, 1980.

Take notice that on July 11, 1980, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-448 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities in its natural gas supply area situated in Terrebonne Parish and offshore Louisiana, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant states that recent increases in the deliverability of some of Applicant's existing supply sources in South Timbalier Blocks 165 and 171 as well as new supplies attached in South Timbalier Blocks 190 and 156 have, in part, necessitated an increase in the capacity of Applicant's Terrebonne System in the eastern part of offshore Louisiana. Applicant also states that it has acquired new supplies of natural gas in Eugene Island Block 392 and is negotiating to purchase new supplies of natural gas from South Timbalier Block 53. Applicant further asserts that a significant potential supply of natural gas has become available in South Timbalier Block 170 and that it is currently negotiating the purchase of this gas from Exxon Company, U.S.A.

It is stated that Applicant's Terrebonne System is being utilized to transport approximately 200,000 Mcf of natural gas per day for several other parties, in addition to Applicant's own purchases of natural gas. Applicant has agreed to increase the volumes of gas being transported on behalf of Consolidated Gas Supply Corporation and Transcontinental Gas Pipe Line Corporation from South Timbalier Block 185, it is stated. Applicant states that it is making arrangements with Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), to transport approximately 40,000 Mcf per day for Northern from Grand Isle Block 83 and West Delta Block 138.

To accommodate the additional volumes which have become available to Applicant from its offshore supply area, as well as the volumes of natural gas which other pipeline companies may have available for transportation onshore, Applicant proposes the construction of new pipeline facilities and additional looping of its Terrebonne System facilities. Specifically, Applicant proposes to construct 54.3 miles of 30-inch loop pipeline from Terrebonne Parish, Louisiana, to Ship Shoal Block 139, 18.4 miles of 20-inch pipeline from Ship Shoal Block 139 to South Timbalier Block 165, 6.9 miles of 16-inch new gathering pipeline from South Timbalier Block 170 and additions to its gas scrubber system at Applicant's compressor station near Patterson, Louisiana. Applicant asserts that the proposed facilities would increase the daily capacity of the Terrebonne System by 250,000 Mcf. Applicant estimates that the pipeline and related facilities would cost approximately $64,197,000 which would be financed from funds on hand and short-term bank borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23725 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-451]

United Gas Pipe Line Co.; Application

July 31, 1980.

Take notice that on July 16, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-451 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue the transportation of up to 5,000 Mcf of natural gas per day for Natural, as required by the gas transportation agreement of March 25, 1980, between Natural and Applicant. It is stated that this transportation service was commenced on June 11, 1980, under Applicant's blanket authorization in Docket No. CP80-137 issued pursuant to Section 284.221 of the Commission's Regulations.

Accordingy to Applicant, Natural has aquired a right to purchase natural gas produced from Eugene Island Block 72, offshore Louisiana. It is stated that gas delivered by, or for the account of, Natural to Applicant would be received at the producer's platform in Eugene Island Block 95, offshore Louisiana. Applicant would redeliver gas to Natural at:

(1) An existing interconnection located near Goodrich, Polk County, Texas;

(2) A newly certificated point on interconnection located in or near the James A. Williams Survey, A-717, Panola County, Texas; and/or

(3) An existing interconnection of the U-T Offshore System and Natural near Johnson's Bayou, Cameron Parish, Louisiana.

Applicant states that the transportation agreement between Applicant and Natural would remain in full force and effect for a primary term of 10 years beginning June 11, 1980, and

V45/153 AG 6 80 UMI

continuing from year to year thereafter until cancelled by either party upon proper notice. Applicant indicates that Natural would pay the rate in effect in the Northern and/or Southern Rate Zone, as applicable, less any amount attributable to gas consumed in the operation of Applicant's system. The transportation rate is currently 23.29 cents in the Northern Zone and 19.40 cents in the Southern Zone, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23726 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-537]

Virginia Electric & Power Co.; Notice of Filing

July 30, 1980.

The filing Company submits the following:

Take notice that on July 21, 1980, Virginia Electric and Power Company (VEPCO) tendered for filing a Contract Supplement dated June 6, 1980 to the Rate Contract between VEPCO and the Central Virginia Electric Cooperative.

Said Supplement requests the Commission's authorization for connection of a new delivery point designated as Trevilians Delivery Point, located in Louisa County, Virginia.

VEPCO requests an effective date for the new delivery point of June 11, 1980, the date of connection of the new facilities.

Any person desiring to be heard or to make any protests with reference to said application should on or before August 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23706 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 246]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued July 30, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

VOLUME 246 PAGE 001

JD NO	JA DK?	API NO	SEC # WELL NAME				
		FIELD NAME	PNOD	PURCHASER			
OKLAHOMA CONPORATION COMMISSION							
*AL MCCORD INC.	OK				RECEIVED:	07/03/80	JAI OK
8004576		MEND-RINGWOOD	80.0	PIONEER GAS PRODUCTS			
*ANDOVER OIL COMPANY	OK		3509321676	103	RECEIVED:	07/03/80	JAI OK
8004580		WILDCAT	180.0	DELMI GAS PIPELINE C			
*BEARD OIL COMPANY	OK		3501721178	103	MILLER #30-1		
8004582		CHUCTAW	100.0	OKLAHOMA NATURAL GAS			
*CHAMPLIN PETROLEUM COMPANY	OK		3510920351	102	RECEIVED:	07/03/80	JAI OK
8004579		WEST EDMOND	0.0	CHAMPLIN PETROLEUM C			
*CHASE EXPLORATION CORP	OK		3510900000	108	VAN BIBBER NU 1-A		
*CITIES SERVICE COMPANY	OK		3507121500	103	RECEIVED:	07/03/80	JAI OK
8004550		NEVA	10.0	CITIES SERVICE GAS C			
*COBTON ENERGY INC	OK		3500120233	102	JANEWAY #1		
8004593		NORTH RUSSELLVILLE	74.0	ARKANSAS LOUISIANA G			
8004595		DELAWARE CHILDRESS	5.7	PRODUCTION OIL CORP			
8004596		DELAWARE CHILDRESS	7.0	PRODUCTION OIL CORP			
8004598		DELAWARE CHILDRESS	1.2	PRODUCTION OIL CORP			
8004592		DELAWARE CHILDRESS	4.0	PRODUCTION OIL CORP			
8004588		DELAWARE CHILDRESS	72.0	PRODUCTION OIL CORP			
8004591		DELAWARE CHILDRESS	3.0	PRODUCTION OIL CORP			
8004590		DELAWARE CHILDRESS	9.0	PRODUCTION OIL CORP			
8004589		DELAWARE CHILDRESS	40.0	PRODUCTION OIL CORP			
*DAVID E GROBE JR	OK		3507100000	103	RECEIVED:	07/03/80	JAI OK
8004552		KELSNEN BAND	45.0	CHASE EXPLORATION CO			
8004557		NEVA	0.0	CHASE EXPLORATION CO			
8004556		NEVA	0.0	CHASE EXPLORATION CO			
8004549		NEVA	0.0	CHASE EXPLORATION CO			
8004551		NEVA	0.0	CHASE EXPLORATION CO			
8004570		NEVA	0.0	CHASE EXPLORATION CO			
8004571		NEVA	0.0	CHASE EXPLORATION CO			
8004558		NEVA	0.0	CHASE EXPLORATION CO			
8004572		NEVA	0.0	CHASE EXPLORATION CO			
*DAVIS OIL COMPANY	OK		3500520610	103	RECEIVED:	07/03/80	JAI OK
8004565		MOCANE-LAVERNE	800.0	DELMI GAS PIPELINE C			
8004566		MORRUW	80.0	DELMI GAS PIPELINE C			
*DUNK OIL INC	OK		3507120551	102	RECEIVED:	07/03/80	JAI OK
8004585		ARBUCKLE LIME	110.0	DIAMOND B GAS SYSTEM			
*EEDDYNE RESOURCES INC	OK		3507322227	103	RECEIVED:	07/03/80	JAI OK
8004575		CASHION NORTH	75.0	CONOCO INC			
*GREAT WESTERN DRILLING COMPANY	OK		3509300000	108	RECEIVED:	07/03/80	JAI OK
8004562		KINGWOOD	3.0	PIONEER GAS PRODUCTS			
*HAMPEN OIL COMPANY	OK		3510900000	108	RECEIVED:	07/03/80	JAI OK
8004567		BLUTCHEN	10.0	CITIES SERVICE GAS C			
8004568		NE EDMUND	14.0	CITIES SERVICE GAS C			
8004560		N URIUN	64.0	PHILLIPS PETROLEUM C			
*KAISER-FRANCIS OIL COMPANY	OK		3509300000	102	RECEIVED:	07/03/80	JAI OK
8004597		N M CALUMET	365.0	ARKANSAS LOUISIANA G			
8004563		E HINSH	912.0	ARKANSAS-LOUISIANA G			
*LAGUNA PETROLEUM CO	OK		3501520800	103	RECEIVED:	07/03/80	JAI OK
8004554		MISSISSIPPI	0.0	ARKANSAS LOUISIANA G			
			3500721790	103	RECEIVED:	07/03/80	JAI OK
					DALE NU 1		
			3510920745	103	HOWARD #1		
			3510920800	103	WATSON #1		
			3510921790	103	RECEIVED:	07/03/80	JAI OK
					DALE NU 1		
			3510921745	103	RECEIVED:	07/03/80	JAI OK
					DALE NU 1		
			3510921800	103	RECEIVED:	07/03/80	JAI OK
					DALE NU 1		
			3510922145	103	RECEIVED:	07/03/80	JAI OK
					VERNON MCCLUNE #1		
			3510922227	103	RECEIVED:	07/03/80	JAI OK
					ANDERSON NU 26-1		
			3510922745	103	RECEIVED:	07/03/80	JAI OK
					BUEMS #2		
			3510922800	103	RECEIVED:	07/03/80	JAI OK
					ALDEN #1		
			3510922820	103	JULIUS A-1		
			3510923745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510923800	103	WATSON #1		
			3510923820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510924745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510924800	103	WATSON #1		
			3510924820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510925745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510925800	103	WATSON #1		
			3510925820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510926745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510926800	103	WATSON #1		
			3510926820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510927745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510927800	103	WATSON #1		
			3510927820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510928745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510928800	103	WATSON #1		
			3510928820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510929745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510929800	103	WATSON #1		
			3510929820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510930745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510930800	103	WATSON #1		
			3510930820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510931745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510931800	103	WATSON #1		
			3510931820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510932745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510932800	103	WATSON #1		
			3510932820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510933745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510933800	103	WATSON #1		
			3510933820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510934745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510934800	103	WATSON #1		
			3510934820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510935745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510935800	103	WATSON #1		
			3510935820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510936745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510936800	103	WATSON #1		
			3510936820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510937745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510937800	103	WATSON #1		
			3510937820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510938745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510938800	103	WATSON #1		
			3510938820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510939745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510939800	103	WATSON #1		
			3510939820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510940745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510940800	103	WATSON #1		
			3510940820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510941745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510941800	103	WATSON #1		
			3510941820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510942745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510942800	103	WATSON #1		
			3510942820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510943745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510943800	103	WATSON #1		
			3510943820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510944745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510944800	103	WATSON #1		
			3510944820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510945745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510945800	103	WATSON #1		
			3510945820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510946745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510946800	103	WATSON #1		
			3510946820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510947745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510947800	103	WATSON #1		
			3510947820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510948745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510948800	103	WATSON #1		
			3510948820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510949745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510949800	103	WATSON #1		
			3510949820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510950745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510950800	103	WATSON #1		
			3510950820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510951745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510951800	103	WATSON #1		
			3510951820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510952745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510952800	103	WATSON #1		
			3510952820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510953745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510953800	103	WATSON #1		
			3510953820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510954745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510954800	103	WATSON #1		
			3510954820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510955745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510955800	103	WATSON #1		
			3510955820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510956745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510956800	103	WATSON #1		
			3510956820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510957745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510957800	103	WATSON #1		
			3510957820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510958745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510958800	103	WATSON #1		
			3510958820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510959745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510959800	103	WATSON #1		
			3510959820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510960745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510960800	103	WATSON #1		
			3510960820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510961745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510961800	103	WATSON #1		
			3510961820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510962745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510962800	103	WATSON #1		
			3510962820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510963745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510963800	103	WATSON #1		
			3510963820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510964745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510964800	103	WATSON #1		
			3510964820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510965745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510965800	103	WATSON #1		
			3510965820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510966745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510966800	103	WATSON #1		
			3510966820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510967745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510967800	103	WATSON #1		
			3510967820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510968745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510968800	103	WATSON #1		
			3510968820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510969745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510969800	103	WATSON #1		
			3510969820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510970745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510970800	103	WATSON #1		
			3510970820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510971745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510971800	103	WATSON #1		
			3510971820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510972745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510972800	103	WATSON #1		
			3510972820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510973745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510973800	103	WATSON #1		
			3510973820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510974745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510974800	103	WATSON #1		
			3510974820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510975745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510975800	103	WATSON #1		
			3510975820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510976745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510976800	103	WATSON #1		
			3510976820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510977745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510977800	103	WATSON #1		
			3510977820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510978745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510978800	103	WATSON #1		
			3510978820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510979745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510979800	103	WATSON #1		
			3510979820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510980745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510980800	103	WATSON #1		
			3510980820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510981745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510981800	103	WATSON #1		
			3510981820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510982745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510982800	103	WATSON #1		
			3510982820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510983745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510983800	103	WATSON #1		
			3510983820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510984745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510984800	103	WATSON #1		
			3510984820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510985745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510985800	103	WATSON #1		
			3510985820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510986745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510986800	103	WATSON #1		
			3510986820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510987745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510987800	103	WATSON #1		
			3510987820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510988745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510988800	103	WATSON #1		
			3510988820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510989745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510989800	103	WATSON #1		
			3510989820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510990745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510990800	103	WATSON #1		
			3510990820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510991745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510991800	103	WATSON #1		
			3510991820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510992745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510992800	103	WATSON #1		
			3510992820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510993745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510993800	103	WATSON #1		
			3510993820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510994745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510994800	103	WATSON #1		
			3510994820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510995745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510995800	103	WATSON #1		
			3510995820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510996745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510996800	103	WATSON #1		
			3510996820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510997745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510997800	103	WATSON #1		
			3510997820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510998745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510998800	103	WATSON #1		
			3510998820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3510999745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3510999800	103	WATSON #1		
			3510999820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3511000745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3511000800	103	WATSON #1		
			3511000820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3511001745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3511001800	103	WATSON #1		
			3511001820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-#1		
			3511002745	103	RECEIVED:	07/03/80	JAI OK
					HOWARD #1		
			3511002800	103	WATSON #1		
			3511002820	103	RECEIVED:	07/03/80	JAI OK
					LAMUNYON-

UMI 0 8 6GA 3 5 1 1 5 4 V

VOLUME 246 PAGE 002

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8044555	04390	3504721802	103	SCHREAM NO 1	VIOLA	0.0	ARKANSAS LOUISIANA G
*MACKELLAR INC				RECEIVED: 07/03/80 JA: OK			
8044551	04379	3510320860	103	OLIVIA #1	NORTH LUCIEN	36.0	ARCO OIL & GAS CO
*MARLIN OIL CORPORATION				RECEIVED: 07/03/80 JA: OK			
8044567	00284	3500721722	103	MARLIN ET AL NO 1 EVERETT	MOCANE-LAVERNE	275.0	COLORADO INTERSTATE
*MAY PETROLEUM INC				RECEIVED: 07/03/80 JA: OK			
*8044574	04485	3504320964	103	CHAPMAN #1 (043-56513)	NORTH OAKWOOD	292.0	DELHI GAS PIPE LINE
*MUSTANG PRODUCTION CO.				RECEIVED: 07/03/80 JA: OK			
8044577	04455	3501120758	103	HOACH #1-26	ELM GROVE	200.0	OKLAHOMA GAS & ELECT
8044578	04456	3501120844	103	WILLIAMS #1-32	SQUAW CREEK	700.0	OKLAHOMA GAS & ELECT
*OKLAHOMA PLAINS PETROLEUM INC				RECEIVED: 07/03/80 JA: OK			
8044581	04413	3509321642	103	MUDSON 22-2	RINGWOOD	0.0	PIONEER GAS PRODUCTS
*PATRICK & VAUGHN				RECEIVED: 07/03/80 JA: OK			
8044560	04275	3500700000	108	OKLAHOMA STATE #1 007 32419	DUNCAN	10.0	PANHANDLE EASTERN PI
*R & N ASSOCIATES + G W NEUBERT AGT				RECEIVED: 07/03/80 JA: OK			
8044586	04434	3500300000	108	D MANMAN NO 1	CASHION	17.0	SWAB CORP
*RICKS EXPLORATION CO				RECEIVED: 07/03/80 JA: OK			
8044540	03978	3515120951	103	VAN METER-DIMMICK 20A	DACOMA	350.0	PANHANDLE EASTERN PI
8044573	03979	3515120950	103	ZAMORSKY 8B	DACOMA	400.0	PANHANDLE EASTERN PI
*SAMSON RESOURCES COMPANY				RECEIVED: 07/03/80 JA: OK			
8044598	00251	3502920164	103	MCKINNEY NO 1 + LOWEN	CENTHAMOMA	24.7	ARKANSAS LOUISIANA G
*SOVEREIGN EXPLORATION CO				RECEIVED: 07/03/80 JA: OK			
8044555	04380	3515120925	103	SOVEREIGN #1 HUCKLAND	CHESTER	80.0	DELHI GAS PIPELINE C
*TEXACO INC				RECEIVED: 07/03/80 JA: OK			
8044566	03963	3501921716	103	BISCO UNIT #2	MEMITT EAST	1.1	CITIES SERVICE GAS C
*W M & A P FULLER				RECEIVED: 07/03/80 JA: OK			
8044569	03743	3504721852	103	PENTON TALBUTT NO 1	NORTHEAST WAUKOMIS	183.0	PANHANDLE EASTERN PI
*WORLDWIDE ENERGY CORPORATION				RECEIVED: 07/03/80 JA: OK			
8044550	07391	3500720568	108	CHABTREE ESTATE #1	MOCANE-LAVERNE	15.0	PANHANDLE EASTERN PI

****

WEST VIRGINIA DEPARTMENT OF MINES

****

*AIGT CORP				RECEIVED: 07/01/80 JA: WV			
8044496		4708504673	108	MITCHIE MINES #30	MITCHIE MINES LEASE	7.3	CONSOLIDATED GAS SUP
*BOWSER GAS & OIL COMPANY				RECEIVED: 07/01/80 JA: WV			
*8044365		4708504611	108	CONNULLY HEIRS #1	MURPHY DISTRICT	2.0	CONSOLIDATED GAS SUP
*8044343		4701303110	108	FRANK & IDA JOHNSON #1	CENTER DISTRICT	1.5	CONSOLIDATED GAS SUP
*8044347		4701303111	108	FRANK JOHNSON #1	CENTER DISTRICT	1.5	CONSOLIDATED GAS SUP
*8044360		4701300866	108	GAY (UM L B) WILSON #1	CENTER DISTRICT	2.8	CONSOLIDATED GAS SUP
*8044349		4701303108	108	M M BENNETT #2	CENTER DISTRICT	0.8	CONSOLIDATED GAS SUP
*8044336		4701303107	108	M M BENNETT #3	CENTER DISTRICT	3.1	CONSOLIDATED GAS SUP
*8044340		4701303113	108	IDA JOHNSON #1	CENTER DISTRICT	1.8	CONSOLIDATED GAS SUP
*8044283		4701303078	108	J C MATHURST #3	CENTER DISTRICT	1.6	CONSOLIDATED GAS SUP
*8044293		4701303080	108	J F WILSON #1	CENTER DISTRICT	1.8	CONSOLIDATED GAS SUP
*8044390		4710303075	108	J M MULHENT #1	CENTER DISTRICT	2.6	CONSOLIDATED GAS SUP
*8044366		4708504583	108	JOHN MYMAN #1	MURPHY DISTRICT	2.2	CONSOLIDATED GAS SUP
*8044368		4702103607	108	L A MANDMAN #1	DEKALB	1.1	CONSOLIDATED GAS SUP
*8044369		4702103605	108	L A MANDMAN #3	DEKALB DISTRICT	2.5	CONSOLIDATED GAS SUP
*8044359		4702103603	108	L A MANDMAN #5	DEKALB DISTRICT	4.7	CONSOLIDATED GAS SUP
*8044345		4701303114	108	M A WILSON #2	CENTER DISTRICT	0.2	CONSOLIDATED GAS SUP
*8044344		4701303115	108	M A WILSON #5	CENTER DISTRICT	0.4	CONSOLIDATED GAS SUP
*8044359		4701303104	108	MALINDA C MICHAMDS #9	CENTER DISTRICT	0.1	CONSOLIDATED GAS SUP
*8044367		4702103606	108	O C & T C MCQUAIN #1	DEKALB DISTRICT	0.8	CONSOLIDATED GAS SUP

VOLUME 246 PAGE 003

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
*8044370		4702103604	108	O C & T C MCQUAIN #3	DEKALB DISTRICT	1.9	CONSOLIDATED GAS SUP
*8044282		4701303079	108	R P WILSON #1	CENTER DISTRICT	0.9	CONSOLIDATED GAS SUP
*8044389		4701303071	108	R P WILSON #2	CENTER DISTRICT	0.9	CONSOLIDATED GAS SUP
*8044340		4702103602	108	RICHARDS-MCQUAIN #1	DEKALB DISTRICT	3.6	CONSOLIDATED GAS SUP
*8044361		4702100372	108	ROBERT MITCHELL #6	DEKALB DISTRICT	0.5	PENNZOIL CO
*8044341		4701303116	108	ROSA L NUNMAN #3	CENTER DISTRICT	0.1	CONSOLIDATED GAS SUP
*8044348		4701303109	108	ROSA L NUNMAN #5	CENTER DISTRICT	0.6	CONSOLIDATED GAS SUP
*8044365		4708504615	108	T J IRELAND #1	MURPHY DISTRICT	3.5	CONSOLIDATED GAS SUP
*8044342		4701303117	108	T J JACKSON #1	CENTER DISTRICT	1.5	CONSOLIDATED GAS SUP
*8044362		4708504613	108	T J PARKS #3	MURPHY DISTRICT	0.5	CONSOLIDATED GAS SUP
*8044364		4708504612	108	T J PARKS #4	MURPHY DISTRICT	1.3	CONSOLIDATED GAS SUP
*8044353		4701300047	108	W H JACKSON #3	CENTER DISTRICT	0.3	CONSOLIDATED GAS SUP
*8044352		4701300053	108	W H JACKSON #4	CENTER DISTRICT	0.5	CONSOLIDATED GAS SUP
*8044337		4701300057	108	W H JACKSON #5	CENTER DISTRICT	0.5	CONSOLIDATED GAS SUP
*8044338		4701303105	108	W L CAMDEN #1	CENTER DISTRICT	2.2	CONSOLIDATED GAS SUP
*8044284		4701303077	108	W M KNIGHT #7	CENTER DISTRICT	1.1	CONSOLIDATED GAS SUP
*8044391		4701303076	108	WILLIAM KIGHT #1	SHERMAN DISTRICT	1.0	CONSOLIDATED GAS SUP
*8044292		4708545840	108	ZICKEFOUSE #1	MURPHY DISTRICT	2.6	CONSOLIDATED GAS SUP
*CAMERON OIL & GAS COMPANY				RECEIVED: 07/01/80 JA: WV			
8044384		4700501295	108	GEORGE P ALDERSON #11	SCOTT DISTRICT	11.6	COLUMBIA GAS TRANSMI
8044275		4700501298	108	GEORGE P ALDERSON #9	SCOTT DISTRICT	11.6	COLUMBIA GAS TRANSMI
8044379		4704301297	108	GOLDEN STONE #3	HORSE CREEK	5.9	COLUMBIA GAS TRANSMI
8044276		4704301296	108	GOLDEN STONE #4	JEFFERSON DISTRICT	5.9	COLUMBIA GAS TRANSMI
8044414		4700501280	108	SMOOT #1	SMOOT #1	14.1	CONSOLIDATED GAS SUP
*CUMBERLAND GAS COMPANY				RECEIVED: 07/01/80 JA: WV			
8044382		4704302406	108	E L ADKINS #BR-28	UNION	0.2	COLUMBIA GAS TRANSMI
8044381		4704302405	108	G T MAY #BR-23	CANNULL	0.7	COLUMBIA GAS TRANSMI
8044383		4704302407	108	G T MAY #BR-26	CANNULL	0.7	COLUMBIA GAS TRANSMI
8044380		4704302404	108	HORSE CREEK LAND & MINING #BR-66	UNION	0.9	COLUMBIA GAS TRANSMI
8044388		4704302403	108	J L POWELL #BR-12	CANNULL	1.0	COLUMBIA GAS TRANSMI
8044373		4704302402	108	W G ADKINS #BR-4	SHERIDAN	3.0	COLUMBIA GAS TRANS C
*FRANCIS E GAIN				RECEIVED: 07/01/80 JA: WV			
8044415		4701303026	108	U U PENNELL #6	SHERIDAN	7.8	CABOT CORP
8044505		4701303123	108	BUNTON DESPAND HEIRS #5	CENTER DISTRICT	4.7	CONSOLIDATED GAS SUP
8044506		4701303126	108	C J THOMAS #1	SHERIDAN	3.0	CABOT CORP
8044508		4701303125	108	H M BUCKLEY #1	SHERMAN	0.0	CABOT CORP
8044507		4701303124	108	IRA HAVENTY #1	CENTER	3.2	CABOT CORP
*GRACE PETROLEUM CORPORATION				RECEIVED: 07/01/80 JA: WV			
8044432		4701302390	108	ELLIOTT #1	SHERIDAN	3.0	CONSOLIDATED GAS SUP
*HUNTINGTON OKLA/MIDWAY CITY GAS CO				RECEIVED: 07/01/80 JA: WV			
8044376		4709900000	108	BREWER #2	MANABONE	5.0	COLUMBIA GAS TRANSMI
*J M STONE				RECEIVED: 07/01/80 JA: WV			
8044386		4708700925	108	J M FENNELL WELL #1	LOUNEYVILLE GAS FIELD	0.5	COLUMBIA GAS TRANSMI
*LENORE DEEN				RECEIVED: 07/01/80 JA: WV			
8044280		4708523511	108	CAPITOL #1	MURPHY DISTRICT	5.0	CONSOLIDATED GAS SUP
*LONETREE OIL CO				RECEIVED: 07/01/80 JA: WV			
8044385		4709500786	108	HANK FARRELL FARM NO 1	ELLSWORTH DISTRICT	8.0	CONSOLIDATED GAS SUP
*MASSA OIL CO				RECEIVED: 07/01/80 JA: WV			
8044377		4708703255	108	G W SMITH WELL #5	CLOVER OIL FIELD	0.9	COLUMBIA GAS TRANSMI
*MOSSOR OIL & GAS COMPANY				RECEIVED: 07/01/80 JA: WV			
8044395		4708524588	108	DRY RUN #1	MURPHY DISTRICT	1.2	CONSOLIDATED GAS SUP
*N G & DELTA BUSCH				RECEIVED: 07/01/80 JA: WV			
8044351		4710506011	108	NEWTON KEMP NO 1	BUNNING SPRINGS DISTRICT	0.5	CONSOLIDATED GAS SUP

UMI 008 6GA 351\54V

VOLUME 246 PAGE 008

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
*NEW BIG CREEK GAS CO				RECEIVED: 07/01/80 JAI NV			
8044266		4704501081	108	NEW BIG CREEK GAS CO #2	GUYAN DISTRICT	10.2	PENNZOIL CO
*OKMAR OIL COMPANY				RECEIVED: 07/01/80 JAI NV			
8044301		4701323098	108	A M FLING #3	SHERIDAN DISTRICT	0.7	CONSOLIDATED GAS SUP
8044311		4701323083	108	A M JACKSON #1	SHERIDAN DISTRICT	0.7	CONSOLIDATED GAS SUP
8044297		4701323082	108	A T YOAK #1	SHERIDAN DISTRICT	1.2	CONSOLIDATED GAS SUP
8044313		4701323025	108	BENNETT #10	SHERIDAN DISTRICT	1.1	CONSOLIDATED GAS SUP
8044307		4701323088	108	BENNETT SAUNDERS #1	SHERIDAN DISTRICT	1.1	CONSOLIDATED GAS SUP
8044308		4701323087	108	C J THOMAS #1	CENTER DISTRICT	0.7	CONSOLIDATED GAS SUP
8044302		4701323096	108	D M MILLER #1	SHERIDAN DISTRICT	1.1	CONSOLIDATED GAS SUP
8044300		4701323099	108	P M DEPUE #3	CENTER DISTRICT	0.7	CONSOLIDATED GAS SUP
8044306		4701323089	108	HOLBERT-PELL #1	SHERIDAN DISTRICT	0.7	CONSOLIDATED GAS SUP
8044305		4701323090	108	JAMES METZ #10	CENTER DISTRICT	0.7	CONSOLIDATED GAS SUP
8044304		4701323091	108	JAMES METZ #6	CENTER DISTRICT	0.7	CONSOLIDATED GAS SUP
8044287		4701323097	108	M J WEBB #1 (INJUN)	SHERIDAN DISTRICT	0.9	CABOT CORP
8044309		4701323085	108	M J WEBB #1 (BEREA)	SHERIDAN DISTRICT	0.7	CONSOLIDATED GAS SUP
8044298		4701323081	108	OPHIA & SUSAN TAYLOR #3	CENTER DISTRICT	0.7	CONSOLIDATED GAS SUP
8044289		4701323094	108	PELL HEIRS #1	SHERIDAN DISTRICT	1.5	CABOT CORP
8044288		4701323093	108	T C CAIN #1	SHERIDAN DISTRICT	1.5	CABOT CORP
8044303		4701323092	108	TASRIL TAYLOR #4	CENTER DISTRICT	0.7	CONSOLIDATED GAS SUP
8044310		4701323084	108	YOAK & PLUMANTY #2	SHERIDAN DISTRICT	1.3	CONSOLIDATED GAS SUP
*PALEO INC				RECEIVED: 07/01/80 JAI NV			
8044493		4700700896	108	ADRIAN TOMS #2	SALT LICK	10.5	CONSOLIDATED GAS SUP
8044535		4700700946	108	AUDRA TAYLOR #1	SALT LICK	8.6	CONSOLIDATED GAS SUP
8044545		4702102194	108	BEESON #1	TROY	2.6	CARNEGIE NATURAL GAS
8044541		4702102756	108	BENNETT I-365	CENTER	0.5	CONSOLIDATED GAS SUP
8044542		4702102770	108	BUGGS I-396	CENTER	1.4	CONSOLIDATED GAS SUP
8044536		4700701208	108	BRAXTON MUTONS I-368	OTTER	6.8	CONSOLIDATED GAS SUP
8044537		4700704169	108	BRAXTON MUTONS I-369	OTTER	5.4	CONSOLIDATED GAS SUP
8044495		4700700914	108	CAMPEN #1	UTTEN	4.6	EQUITTABLE GAS CO
8044492		4700700887	108	CARRIE MOYERS #1	SALT LICK	7.1	CONSOLIDATED GAS SUP
8044534		4700700948	108	CARRIE MOYERS #2	SALT LICK	6.5	CONSOLIDATED GAS SUP
8044532		4700701945	108	CARRIE POSEY #1	SALT LICK	5.1	CONSOLIDATED GAS SUP
8044547		4700700867	108	DORA PUST #1	ARNETTE AREA	4.0	CONSOLIDATED GAS SUP
8044546		4700700836	108	DORA PUST #2	ARNETTE AREA	3.6	CONSOLIDATED GAS SUP
8044540		4702102629	108	ELLIS HEATER #1	GLENVILLE	10.2	CONSOLIDATED GAS SUP
8044531		4700700941	108	L E MINE #1	SALT LICK	6.1	CONSOLIDATED GAS SUP
8044494		4700700899	108	LESTER EDWARDS #1	SALT LICK	9.8	CONSOLIDATED GAS SUP
8044538		4700701040	108	MARSHALL #2	COPEN RUN	7.3	CONSOLIDATED GAS SUP
8044548		4702102806	108	MEADOWS I-395	CENTER	21.5	CONSOLIDATED GAS SUP
8044535		4700701025	108	POST HEIRS #1	COPEN RUN	1.5	CONSOLIDATED GAS SUP
8044539		4701302561	108	SYLVESTER STUMP I-392	SHERMAN	8.5	CONSOLIDATED GAS SUP
8044543		4702122893	108	W G BENNETT I-306	CENTER	12.7	CONSOLIDATED GAS SUP
*PALMER MILL				RECEIVED: 07/01/80 JAI NV			
8044503		4708502316	108	B M DENNING #1	MANRISVILLE AREA	1.8	CONSUMERS GAS UTILIT
8044499		4708504688	108	FENREBEE HEIRS #1	PENNSBORO AREA	2.2	CARNEGIA NATURAL GAS
8044500		4708504677	108	LEONARD #2	MANRISVILLE AREA	1.5	CONSUMERS GAS UTILIT
8044501		4708500406	108	LEONARD #3	MANRISVILLE AREA	1.5	CONSUMERS GAS UTILIT
8044502		4708500556	108	LEONARD #6	MANRISVILLE AREA	1.5	CONSUMERS GAS UTILIT
8044504		4708504691	108	STRICKLEN-MCGINNIS #2	MANRISVILLE AREA	1.5	CONSUMERS GAS UTILIT
*PENNZOIL COMPANY				RECEIVED: 07/01/80 JAI NV			
8044350		4706703257	108	A B CALDWELL #1	GEARY	11.0	CONSOLIDATED GAS SUP
8044354		4710500391	108	L R ROBERTS #7	BUNNING SPRINGS DISTRICT	1.5	CONSOLIDATED GAS SUP
8044357		4706703262	108	O D STUCKLEY #66	GEARY	0.0	CONSOLIDATED GAS SUP

VOLUME 246 PAGE 009

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8044356		4706703263	108	O D STUCKLEY #69	GEARY	0.0	CONSOLIDATED GAS SUP
8044355		4706703264	108	O D STUCKLEY #71	GEARY	0.0	CONSOLIDATED GAS SUP
8044358		4708703259	108	W D COMBS #1	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
*RAY RESOURCES DIV OF FLYING DIAMOND				RECEIVED: 07/01/80 JAI NV			
8044411		4703903543	108	FALLING ROCK #152 - (56)	BIG SANDY	3.5	PENZUIL UNITED INC
8044406		4703903538	108	FALLING ROCK #157 - (58)	BIG SANDY	3.5	PENZUIL UNITED INC
8044407		4703903537	108	FALLING ROCK #157 - (79)	BIG SANDY	3.5	PENZUIL UNITED INC
8044409		4703903535	108	FALLING ROCK #157 - (96)	BIG SANDY	3.5	PENZUIL UNITED INC
8044410		4703903534	108	FALLING ROCK #157 - (97)	BIG SANDY	3.5	PENZUIL UNITED INC
8044408		4703903536	108	FALLING ROCK #157 - (98)	BIG SANDY	3.5	PENZUIL UNITED INC
8044405		4703903539	108	FALLING ROCK #157-(57)	BIG SANDY	3.5	PENZUIL UNITED INC
*HAYBUCK & HARRIS GAS CO				RECEIVED: 07/01/80 JAI NV			
8044392		4701303103	108	HAYBUCK & HARRIS NO 1	SHERMAN DISTRICT	1.4	CONSOLIDATED GAS SUP
*RIVERMEAD GAS CO				RECEIVED: 07/01/80 JAI NV			
8044510		4700500048	108	NELSON #2 GPA 1274	MUD RIVER	8.1	PENNZOIL CO
8044511		4700500088	108	NELSON #3 GPA 1274	MUD RIVER	8.1	PENNZOIL CO
8044512		4700500089	108	NELSON #4 GPA 1274	MUD RIVER	8.1	PENNZOIL CO
8044513		4700500149	108	NELSON #6 GPA 1274	MUD RIVER	1.0	PENNZOIL CO
*ROY G MILORETH ET AL				RECEIVED: 07/01/80 JAI NV			
8044371		4701303102	108	SLIDEN GAS CO #1	LEE DISTRICT	5.7	CONSOLIDATED GAS SUP
*S K & J M BARTLETT				RECEIVED: 07/01/80 JAI NV			
8044299		4703903563	108	DAVID WARD #2402	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044271		4703903567	108	DAVID WARD 2447	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044273		4703903566	108	SUNDAY CREEK CUAL CO #1065	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044274		4703903565	108	SUNDAY CREEK CUAL CO #1071	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044291		4703903559	108	SUNDAY CREEK CUAL CO #1135	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044265		4703903564	108	SUNDAY CREEK CUAL CO #689	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044290		4703903560	108	THOMAS BURKE #5 PRESTHUN OIL #1717	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
8044286		4703903562	108	W M THOMAS #1711	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
*SIMERS OIL & GAS CO				RECEIVED: 07/01/80 JAI NV			
8044378		4702103598	108	SIMERS OIL & GAS CO #0795 WELL #1	DEKALB DISTRICT	15.1	HOPE NATURAL GAS CO
*SOUTHEASTERN GAS COMPANY				RECEIVED: 07/01/80 JAI NV			
*8044529		4701100624	108	A A SWANN #P-65	GRANT	0.8	COLUMBIA GAS TRANSMI
8044515		4700501282	108	A G HAGER #673	SCOTT	1.2	SOUTHERN PUBLIC SERV
*8044528		4701100619	108	A G JOHNSON #Z-15	GRANT	2.4	COLUMBIA GAS TRANSMI
*8044487		4707900949	108	A J ASHMUNTH #K-6	CUMRY	2.3	COLUMBIA GAS TRANSMI
*8044482		4704502584	108	A M SPURLOCK #W-2	DUVAL	1.0	COLUMBIA GAS TRANSMI
*8044458		4701100647	108	A M CONNER #Z-16	GRANT	1.0	COLUMBIA GAS TRANSMI
*8044520		4701100623	108	A V MCCULLOUGH #P-78	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044462		4701100643	108	ADDISON CONNER #Z-12	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044318		4701303069	108	ARCHIBALD SHOCK #604	SHERMAN	2.1	CONSOLIDATED GAS SUP
*8044315		4701303068	108	ARCHIBALD SHOCK #605	SHERMAN	2.1	CONSOLIDATED GAS SUP
*8044459		4701106560	108	AUGUSTA CHANEY #P-39	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044470		4701100667	108	AUGUSTA CHANEY #P-9	GRANT	0.8	COLUMBIA GAS TRANSMI
8044468		4701501743	108	B M SAMPLES #A-22	UNION	3.3	CONSOLIDATED GAS SUP
8044435		4701100628	108	BERTHA JACKSON #P-59	GRANT	1.2	COLUMBIA GAS TRANSMI
*8044268		4700501294	108	BREEDLOVE HEIRS #712	SCOTT	2.9	PENNZOIL CO
*8044295		4704302588	108	C M RICHMOND ET AL #163	UNION	1.8	PENNZOIL CO
*8044489		4707900951	108	CALIHAN GWASB #R-1	CUMRY	4.9	COLUMBIA GAS TRANSMI
*8044469		4701100668	108	CIDDIE JOHNSON #Z-9	GRANT	0.8	COLUMBIA GAS TRANSMI
8044420		4701500000	108	COAL & COKE RAILWAY #A-18	UNION	3.3	CONSOLIDATED GAS SUP
8044421		4701501746	108	COAL & COKE RAILWAY #A-23	UNION	3.3	CONSOLIDATED GAS SUP
8044423		4701501751	108	COAL & COKE RAILWAY #A-24	UNION	3.3	CONSOLIDATED GAS SUP

UMI 0 8 6 GA 3 5 1 5 4 V

VOLUME 246 PAGE 006

JD NO	JA DKT	API NO	SEC #	WELL NAME	FIELD NAME	PROD	PURCHASER
8044435		4701501729	108	D N SCHOONOVER #T-22	HENRY	3.9	CONSOLIDATED GAS SUP
*8044465		4701100640	108	DAVID M AKERS #P-3	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044333		4704302401	108	E G & MERTHA STONE #171	JEFFERSON	1.9	PENNZOIL CO
*8044294		4704302389	108	ED & MATTIE BARRETT #156	DUVAL	7.5	PENNZOIL CO
8044418		4702100000	108	EMMA DELONG #613	CENTER	0.9	CONSOLIDATED GAS SUP
8044416		4702100000	108	EMMA DELONG #614	CENTER	0.9	CONSOLIDATED GAS SUP
*8044323		4702103594	108	EMMA DELONG #616	CENTER	0.9	CONSOLIDATED GAS SUP
*8044483		4704302385	108	EMMA J STUMENS #G-3	CANRULL	1.0	COLUMBIA GAS TRANSMI
*8044520		4701100614	108	F F MCCULLOUGH #P-29	GRANT	0.8	COLUMBIA GAS TRANSMI
8044272		4700501291	108	F P MURPHY #676	SCOTT	1.5	SOUTHERN PUBLIC SERV
*8044461		4701100644	108	FREEMAN NELSON #P-42	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044459		4701100646	108	G A HUDGENS #Z-18	GRANT	8.1	COLUMBIA GAS TRANSMI
*8044525		4701100618	108	G M MATFIELD #P-57	GRANT	0.8	COLUMBIA GAS TRANSMI
8044436		4701501730	108	G W BUTCHER #T-12	HENRY	1.9	CONSOLIDATED GAS SUP
*8044463		4701100642	108	GENMAN CHAPMAN #Z-10	GRANT	0.8	COLUMBIA GAS TRANSMI
8044440		4701501735	108	H E SHADLE #T-11	HENRY	4.6	CONSOLIDATED GAS SUP
*8044320		4701501766	108	H E SHADLE #T-13	HENRY	1.7	CONSOLIDATED GAS SUP
*8044477		4701100660	108	H MATFIELD #P-47	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044312		4707900955	108	H J MILLER #741	CUNRY	3.5	PENNZOIL CO
*8044523		4701100617	108	HENRY GEHLACH #P-13	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044478		4701100659	108	HENRY GEHLACH #P-46	GRANT	1.0	COLUMBIA GAS TRANSMI
*8044475		4701100662	108	HENRY GEHLACH #P-56	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044457		4701100648	108	HENRY STONE #P-71	GRANT	4.8	COLUMBIA GAS TRANSMI
*8044451		4701106550	108	HUBERT MATFIELD #Z-19	GRANT	4.6	COLUMBIA GAS TRANSMI
*8044531		4704302398	108	I J BIAS ET UX #3	SHERIDAN	3.0	PENNZOIL CO
*8044519		4701501765	108	IDA CALDWELL #T-14	HENRY	0.6	CONSOLIDATED GAS SUP
8044439		4701501734	108	IDA CALDWELL #T-20	HENRY	2.7	CONSOLIDATED GAS SUP
*8044267		4704300213	108	IMA BUNGER ET UX #204	SHERIDAN	2.8	PENNZOIL CO
*8044449		4701106570	108	ISAAC GEHLACH #Z-17	GRANT	1.2	COLUMBIA GAS TRANSMI
*8044269		4700501293	108	J C HILL #716	SCOTT	1.1	PENNZOIL CO
*8044519		4701100613	108	J E MCKENY #P-53	GRANT	0.8	COLUMBIA GAS TRANSMI
8044509		4703903553	108	J H HANSFORD #M-12	CABIN CREEK	3.4	SOUTHERN PUBLIC SERV
*8044471		4701100666	108	J H HANSHBARGER #P-61	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044472		4701100665	108	J H HANSHBARGER #P-62	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044466		4701100639	108	J H WILLIAMS #P-6	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044460		4701100645	108	J L BLACKWOOD #P-83	GRANT	0.7	COLUMBIA GAS TRANSMI
8044518		4700501285	108	J M HOPKINS #677	SCOTT	1.6	SOUTHERN PUBLIC SERV
*8044474		4701100663	108	J N WALLACE #P-17	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044468		4701100669	108	J N WALLACE #P-23	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044315		4701303070	108	J R GODFREY #608	SHERMAN	1.5	CONSOLIDATED GAS SUP
8044438		4701303027	108	J R GODFREY #609	SHERMAN	1.3	CONSOLIDATED GAS SUP
*8044488		4707900950	108	J S BUNDETTE #K-7	CUNRY	7.6	COLUMBIA GAS TRANSMI
8044429		4701501754	108	JACKSON MULLINS #A-31	UNION	3.3	CONSOLIDATED GAS SUP
*8044464		4701100661	108	JAMES CONNER #Z-5	GRANT	0.8	COLUMBIA GAS TRANSMI
8044430		4701501755	108	JAMES REED #A-33	UNION	3.3	CONSOLIDATED GAS SUP
*8044328		4704302392	108	JOHN R MCCALLISTER #G-6	DUVAL	4.0	PENNZOIL CO
*8044491		4708703255	108	L F SMITH #537	GEARY	0.7	COLUMBIA GAS TRANSMI
*8044490		4708703252	108	L F SMITH #538	GEARY	0.7	COLUMBIA GAS TRANSMI
*8044485		4704302387	108	LEANDER MILLER #G-5	CANROLL	0.6	COLUMBIA GAS TRANSMI
*8044396		4701106260	108	M W MONAKEN #P-65	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044296		4704302382	108	MALINDA MEADOWS ET VIR #196	DUVAL	2.5	PENNZOIL CO
*8044285		4704302391	108	MALINDA MEADOWS ET VIR #197	DUVAL	2.5	PENNZOIL CO
8044516		4700501283	108	MARY JANE MILLER #705	WASHINGTON	0.4	SOUTHERN PUBLIC SERV

VOLUME 246 PAGE 007

JD NO	JA DKT	API NO	SEC #	WELL NAME	FIELD NAME	PROD	PURCHASER
*8044330		4704302397	108	MARY NOEL #8	SHERIDAN	3.2	PENNZOIL CO
8044437		4701501731	108	MATHEWS SCOTT & PRICE #T-19	HENRY	2.9	CONSOLIDATED GAS SUP
*8044530		4701100625	108	MATTIE HAGER #P-64	GRANT	2.0	COLUMBIA GAS TRANSMI
8044446		4701501741	108	MICHAEL CRAIG #A-14	UNION	3.3	CONSOLIDATED GAS SUP
8044447		4701501742	108	MICHAEL CRAIG #A-15	UNION	3.3	CONSOLIDATED GAS SUP
8044419		4701501744	108	MICHAEL CRAIG #A-20	UNION	3.3	CONSOLIDATED GAS SUP
8044427		4701501752	108	MICHAEL CRAIG #A-28	UNION	3.3	CONSOLIDATED GAS SUP
8044428		4701501753	108	MICHAEL CRAIG #A-29	UNION	3.3	CONSOLIDATED GAS SUP
8044404		4703903552	108	MONTGOMERY HEIRS #M-10	CABIN CREEK	5.5	SOUTHERN PUBLIC SERV
8044431		4701501732	108	N P GROSE #T-18	HENRY	3.9	CONSOLIDATED GAS SUP
8044398		4701900429	108	NEW RIVER CO #M-27	KANAWHA	1.5	SOUTHERN PUBLIC SERV
8044403		4701900434	108	NEW RIVER COMPANY #M-13	KANAWHA	1.3	SOUTHERN PUBLIC SERV
8044400		4701900431	108	NEW RIVER COMPANY #M-15	KANAWHA	1.9	SOUTHERN PUBLIC SERV
8044401		4701900432	108	NEW RIVER COMPANY #M-16	KANAWHA	1.9	SOUTHERN PUBLIC SERV
8044399		4701900430	108	NEW RIVER COMPANY #M-22	KANAWHA	1.3	SOUTHERN PUBLIC SERV
*8044453		4701100653	108	NORA MOHES #Z-39	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044526		4701100620	108	ORVILLE CUNNER #Z-16	GRANT	1.0	COLUMBIA GAS TRANSMI
*8044397		4701100627	108	OSCAR NELSON #P-72	GRANT	0.8	COLUMBIA GAS TRANSMI
8044422		4701501747	108	P S HART #A-1	UNION	3.3	CONSOLIDATED GAS SUP
8044423		4701501748	108	P S HART #A-2	UNION	3.3	CONSOLIDATED GAS SUP
8044424		4701501749	108	P S HART #A-3	UNION	3.3	CONSOLIDATED GAS SUP
8044426		4701501750	108	P S HART #A-5	UNION	3.3	CONSOLIDATED GAS SUP
*8044326		4704302393	108	PEARL STUMENS ET AL #176	JEFFERSON	5.4	PENNZOIL CO
*8044455		4701100651	108	PRESTON KEATUN #Z-44	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044456		4701100650	108	R C KILGORE #Z-35	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044481		4704302383	108	R L STANLEY #G-7	DUVAL	2.2	COLUMBIA GAS TRANSMI
*8044458		4701100652	108	R M MANDLEY #Z-37	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044322		4702103593	108	S A MAYS #617	CENTER	1.0	CONSOLIDATED GAS SUP
*8044321		4702103592	108	S E MINNEY #618	CENTER	0.7	CONSOLIDATED GAS SUP
*8044521		4701100615	108	S J HYMAN #P-31	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044480		4707900948	108	S L DENT #K-9	CUNRY	2.3	COLUMBIA GAS TRANSMI
*8044527		4701100622	108	SAMUEL BECKETT #P-6	GRANT	11.9	COLUMBIA GAS TRANSMI
*8044484		4704302386	108	SCOTT LAWSON #G-11	CANRULL	1.5	COLUMBIA GAS TRANSMI
*8044480		4704302381	108	SCOTT LAWSON #G-12	CANRULL	1.5	COLUMBIA GAS TRANSMI
*8044487		4704302380	108	SCUTT LAWSON #G-13	CANRULL	1.5	COLUMBIA GAS TRANSMI
*8044522		4701100616	108	T H DUTY #P-50	GRANT	0.8	COLUMBIA GAS TRANSMI
*8044327		4704302394	108	T M CHANDLER #177	JEFFERSON	0.5	PENNZOIL CO
*8044329		4704302396	108	T M CHANDLER #180	JEFFERSON	0.5	PENNZOIL CO
*8044316		4701501762	108	THOMPSON LAND & CUAL #T-10	PLEASANT	3.9	CONSOLIDATED GAS SUP
*8044318		4701501764	108	THOMPSON LAND & CUAL #T-16	PLEASANT	3.9	CONSOLIDATED GAS SUP
8044438		4701501738	108	THOMPSON LAND & CUAL #T-17	PLEASANT	3.9	CONSOLIDATED GAS SUP
8044441		4701501736	108	THOMPSON LAND & CUAL #T-2	PLEASANT	3.9	CONSOLIDATED GAS SUP
8044442		4701501737	108	THOMPSON LAND & CUAL #T-4	PLEASANT	3.9	CONSOLIDATED GAS SUP
8044443		4701501736	108	THOMPSON LAND & CUAL #T-5	PLEASANT	3.9	CONSOLIDATED GAS SUP
8044444		4701501739	108	THOMPSON LAND & CUAL #T-6	PLEASANT	3.9	CONSOLIDATED GAS SUP
*8044317		4701501763	108	THOMPSON LAND & CUAL #T-8	PLEASANT	3.9	CONSOLIDATED GAS SUP
*8044332		4704302400	108	W J & LEE SANSUM #15	SHERIDAN	2.9	PENNZOIL CO
8044270		4700501292	108	W A CHILDRESS #674	SCUTT	1.1	SOUTHERN PUBLIC SERV
*8044479		4701100658	108	W D MEADOWS #Z-8	GRANT	4.8	COLUMBIA GAS TRANSMI
8044445		4701501740	108	W M EVANS #A-6	UNION	3.3	CONSOLIDATED GAS SUP
*8044473		4701100664	108	W L HUCKER #P-2	GRANT	0.8	COLUMBIA GAS TRANSMI
8044417		4709901703	108	W L WILSON #G-1	CENEDO	9.5	COLUMBIA GAS TRANSMI
*8044334		4707900953	108	W M KINDEN #740	CUNRY	3.1	PENNZOIL CO

UMI 008 6GA 3515V

VOLUME 246 PAGE 008

JD NO	JA DKT	API NO	SEC & WELL NAME	FIELD NAME	PNOD	PURCHASER
*8044452		4701100654	108 W T MUNNIS #Z-51	GRANT	3,0	COLUMBIA GAS TRANSMI
*8044328		4704302395	108 W W NAY ET UX #125	CANNULL	2,9	PENNZOIL CO
*8044335		4707900952	108 W W VANDELINDE ET AL #183	CUNRY	1,6	PENNZOIL CO
*8044325		4707900540	108 W W VANDELINDE ET AL #185	CUNRY	1,6	PENNZOIL CO
8044402		4701900433	108 WHITE OAK MAIL-RAY #M-19	KANAWHA	1,9	SOUTHERN PUBLIC SERV
*8044476		4701100661	108 WILLIAM KIMTLEY #P-36	GRANT	0,8	COLUMBIA GAS TRANSMI
8044517		4700501284	108 WM M SHEILDS #880	SCOTT	1,9	SOUTHERN PUBLIC SERV
8044514		4700501281	108 WM M SHEILDS #881	SCOTT	1,9	SOUTHERN PUBLIC SERV
*SOUTHERN TRIANGLE OIL CO INC			RECEIVED: 07/01/80 JA: WV			
8044412		4701702600	108 JESSIE RICHARDS	COVE DISTRICT	9,0	CONSOLIDATED GAS SUP
*THE MUTUAL OIL & GAS COMPANY			RECEIVED: 07/01/80 JA: WV			
8044387		4703222267	108 AMUDA-BRUIBUN #1	BIG ROCK CAMP	8,2	CONSOLIDATED GAS SUP
*W A DEEM			RECEIVED: 07/01/80 JA: WV			
8044201		4708524600	108 MEE #1	UNION DISTRICT	1,2	CONSOLIDATED GAS SUP
*W H MOBBOR			RECEIVED: 07/01/80 JA: WV			
8044497		4708504585	108 GUFF #1	G L GUFF	2,5	CONSOLIDATED GAS SUP
8044393		4708524586	108 GREEN KNOB #1	MURPHY DISTRICT	3,5	CONSOLIDATED GAS SUP
8044277		4708504589	108 MILL #1	MURPHY DISTRICT	1,0	CONSOLIDATED GAS SUP
8044279		4708524592	108 MOUVEN #1	G L GUFF	2,0	CONSOLIDATED GAS SUP
8044496		4708524590	108 PRUNTY #1	PRUNTY GAS CO	1,2	CONSUMERS GAS UTILIT
8044278		4708520459	108 RACKET #L	MURPHY DISTRICT	12,5	CONSOLIDATED GAS SUP
8044394		4708524587	108 WILSON #1	C A WILSON	5,0	CONSOLIDATED GAS SUP
*WARNER OIL & GAS CO			RECEIVED: 07/01/80 JA: WV			
8044372		4708504594	108 WARNER OIL & GAS CO	MURPHY DISTRICT	10,3	GODFREY L CABOT INC
*WILLIAMS WELL SURVEYS INC			RECEIVED: 07/01/80 JA: WV			
8044374		4708503546	108 GLEN W ROBERTS #2 WELL	MURPHY DISTRICT	10,9	CONSOLIDATED GAS SUP
8044375		4708523824	108 GLEN W ROBERTS #3 WELL	MURPHY DISTRICT (CRAB RU	10,9	CONSOLIDATED GAS SUP
**********						
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM						
**********						
*C F RAYMOND			RECEIVED: 07/03/80 JA: CO 4			
8044643	COA-3973-79	0506705504	108 DAVIS #1	IGNACIO BLANCO	13,0	NORTHWEST PIPELINE C
8044642	COA-3972-79	0506705461	108 KIM UTE #1	IGNACIO BLANCO	15,0	NORTHWEST PIPELINE C
8044644	COA-3974-79	0506705806	108 UTE A #3	IGNACIO BLANCO	17,0	NORTHWEST PIPELINE C
*AMOCO PRODUCTION CO			RECEIVED: 07/03/80 JA: NM 4			
8044661	NM-0947-80	3003526322	103 GILLULLY FEDERAL GAS COM #17	EUMONT QUEEN	295,7	NORTHERN NATURAL GAS
8044654	NM-0927-79	3004506499	108 PU PIPKIN #4	BASIN-DAKOTA	21,0	EL PASO NATURAL GAS
*BILLY J KNOTT			RECEIVED: 07/03/80 JA: NM 4			
8044656	NM-0946-80	3004509616	108 KELLY #1	BLANCO MESA VERDE	20,0	EL PASO NATURAL GAS
*BRUCE ANDERSON			RECEIVED: 07/03/80 JA: NM 4			
8044633	NM-0295-80	3004523619	103 FEDERAL #2	BASIN DAKOTA	100,0	EL PASO NATURAL GAS
*CONOCO , INC			RECEIVED: 07/03/80 JA: NM 4			
8044658	NM 5258-79	3001504263	108 SANDERSON A NU 9	NMFU - EUNICE-MONUMENT (	3,1	WARREN PETROLEUM CO
*COQUINA OIL CORPORATION			RECEIVED: 07/03/80 JA: NM 4			
8044651	NM 4541-79	3001520824	102 MONSANTO FEDERAL #1	WILDCAT	180,0	
*DUME PETHOLEUM CORP			RECEIVED: 07/03/80 JA: NM 4			
8044636	NM-0187-80	3004523804	103 DUME NAVAJU 12-26-13 #1	WAW - NIPP	230,0	EL PASO NATURAL GAS
8044634	NM-0185-80	3004523807	103 DUME NAVAJU 13-26-13 #1	WAW - NIPP	355,0	EL PASO NATURAL GAS
8044645	NM-0188-80	3004523806	103 DUME NAVAJU 13-26-13 #2	WAW - NIPP	450,0	EL PASO NATURAL GAS
8044646	NM-0189-80	3004523805	103 DUME NAVAJU 13-26-13 #3	WAW - NIPP	699,0	EL PASO NATURAL GAS
8044647	NM-0190-80	3004523808	103 DUME NAVAJU 13-26-13 #4	WAW - NIPP	354,0	EL PASO NATURAL GAS
8044635	NM-0186-80	3004523802	103 DUME NAVAJU 18-26-12 #1	WAW - NIPP	201,0	EL PASO NATURAL GAS
*EL PASO NATURAL GAS COMPANY			RECEIVED: 07/03/80 JA: NM 4			

VOLUME 246 PAGE 009

JD NO	JA DKT	API NO	SEC & WELL NAME	FIELD NAME	PNOD	PURCHASER
*8044652	NM-5093-79	3003920278	108 CANYON LARGO UNIT #158	UTERO-CHACRA GAS	21,0	EL PASO NATURAL GAS
*8044660	NM-0110-80	3003920275	108 CANYON LARGO UNIT #155	UTERO-CHACRA GAS	20,0	EL PASO NATURAL GAS
8044657	NM-0004-80	3004510685	108 CASE #4	BLANCO-MESAVERDE GAS	20,0	EL PASO NATURAL GAS
8044616	NM-0002-80-E	3004510694	108 CASE 3	BLANCO-MESAVERDE GAS	9,5	EL PASO NATURAL GAS
8044630	NM-0201-80	3004506724	108 DAY B #5	BLANCO-MESAVERDE GAS	18,0	EL PASO NATURAL GAS
8044655	NM-4915-79	3004513085	108 GRAMBLING #4	BLANCO-PICTURED CLIFFS G	21,0	EL PASO NATURAL GAS
8044641	NM-0299-80	3004523714	103 HEATON #4A	BLANCO MESAVERDE	220,0	EL PASO NATURAL GAS
8044640	NM-0298-80	3004523715	103 HEATON #7A	BLANCO MESAVERDE	220,0	EL PASO NATURAL GAS
8044615	NM-0300-80	3004523871	103 HEATON #8A	BLANCO MESAVERDE	290,0	EL PASO NATURAL GAS
8044608	NM-0342-80-A	3004523580	103 KELLY #2A MV	BLANCO MESAVERDE	180,0	EL PASO NATURAL GAS
8044609	NM-0342-80-B	3004523580	103 KELLY #2A PC	BLANCO PICTURED CLIFFS	40,0	EL PASO NATURAL GAS
8044619	NM-0303-80	3004500000	108 LOUEWICK #6	FULCHER KUTZ-PICTURED CL	17,5	EL PASO NATURAL GAS
8044611	NM-0340-80	3004523885	103 NAGEEZI #5	BASIN DAKOTA	50,0	EL PASO NATURAL GAS
8044613	NM-0344-80	3004523739	103 NEMBERNT #4A	BLANCO MESAVERDE	180,0	EL PASO NATURAL GAS
8044610	NM-0341-80	3004523697	103 NIDDLE F #3A	BLANCO MESAVERDE	180,0	EL PASO NATURAL GAS
8044649	NM-4905-79	3003907416	108 SAN JUAN 28-5 UNIT #6	BLANCO-MESAVERDE GAS	20,0	EL PASO NATURAL GAS
8044653	NM-5091-79	3003920106	108 SAN JUAN 28-5 UNIT #77	BASIN-DAKOTA GAS	16,0	EL PASO NATURAL GAS
8044650	NM 4550-79	3003920872	108 SAN JUAN 28-6 UNIT #192	BLANCO SOUTH-PICTURED CL	16,0	EL PASO NATURAL GAS
8044614	NM-0343-80	3004523315	103 SAN JUAN 32-9 UNIT #18A	BLANCO MESAVERDE	220,0	EL PASO NATURAL GAS
*ENERGY RESERVES GROUP INC			RECEIVED: 07/03/80 JA: NM 4			
8044600	NM-0329-80	3004522239	108 GALLEGOS CANYON UNIT P C #268	WEST KUTZ P C	10,5	EL PASO NATURAL GAS
8044602	NM-0330-80	3004507045	108 GALLEGOS CANYON UNIT P C #4	WEST KUTZ P C	18,9	EL PASO NATURAL GAS
8044604	NM-0332-80	3004507182	108 GALLEGOS CANYON UNIT P C #40	WEST KUTZ P C	17,3	EL PASO NATURAL GAS
8044603	NM-0333-80	3004507212	108 GALLEGOS CANYON UNIT P C #7	WEST KUTZ P C	0,9	EL PASO NATURAL GAS
8044629	NM-0325-80	3004523706	103 GALLEGOS CANYON UNIT PC #281	KUTZ WEST PICTURED CLIFF	27,0	EL PASO NATURAL GAS
8044628	NM-0326-80	3004523821	103 GALLEGOS CANYON UNIT PC #290	KUTZ WEST PICTURED CLIFF	90,0	EL PASO NATURAL GAS
8044638	NM-0324-80	3004523822	103 GALLEGOS CANYON UNIT PC #291	KUTZ WEST PICTURED CLIFF	27,0	EL PASO NATURAL GAS
8044639	NM-0323-80	3004523998	103 GALLEGOS CANYON UNIT PC #298	KUTZ WEST PICTURED CLIFF	81,0	EL PASO NATURAL GAS
8044601	NM-0331-80	3003921303	108 JICARILLA 35 #6	UTERO CHACRA AND SOUTH B	17,0	NORTHWEST PIPELINE C
*GETTY OIL COMPANY			RECEIVED: 07/03/80 JA: NM 4			
8044612	NM-0345-80	3003905837	108 JICARILLA C NO 18	OTERO CHACRA	18,5	EL PASO NATURAL GAS
*J GREGORY MERRION&ROBERT L BAYLESS			RECEIVED: 07/03/80 JA: NM 4			
8044632	NM-0291-80	3004523691	103 CHACO #2-M	WAW FRUITLAND/PICTURED C	30,0	SOUTHERN UNION EXPLO
*MCCLELLAN OIL CORPORATION			RECEIVED: 07/03/80 JA: NM 4			
8044617	NM0001-80-ER	3001521955	108 MINKLE FEDERAL NO 4 FED LC-068677	HIGH NITRO GRAYBURG	16,6	EL PASO NATURAL GAS
*NORTHWEST PIPELINE CORPORATION			RECEIVED: 07/03/80 JA: NM 4			
8044659	NM-0163-80	3003921792	103 SAN JUAN 30-5 UNIT #84	BLANCO PICTURED CLIFFS	33,0	NORTHWEST PIPELINE C
*ODESSA NATURAL CORPORATION			RECEIVED: 07/03/80 JA: NM 4			
8044648	NM-0297-80	3003922195	103 CHACON JICARILLA D-15	CHACON DAKOTA ASSOCIATED	0,0	EL PASO NATURAL GAS
8044631	NM-0283-80	3003922152	103 JICARILLA JV KU NU 7	CHACON DAKOTA ASSOCIATED	0,0	EL PASO NATURAL GAS
*SCHALK DEVELOPMENT COMPANY			RECEIVED: 07/03/80 JA: NM 4			
8044625	NM-0320-80	3003922194	103 SCHALK 31-4 #1	WILDCAT MESA VERDE	0,0	NORTHWEST PIPELINE C
8044637	NM-0321-80	3003921956	103 SCHALK 43 #2	CHACRA	0,0	EL PASO NATURAL GAS
*SOUTHLAND ROYALTY CO			RECEIVED: 07/03/80 JA: NM 4			
8044620	NM-0301-80	3004520548	108 CHANDELL #5	BLANCO	15,0	SOUTHERN UNION GATHE
8044607	NM-0334-80	3004523884	103 STATE LINE #1	BASIN	60,0	EL PASO NATURAL GAS
*SUPRON ENERGY CORPORATION			RECEIVED: 07/03/80 JA: NM 4			
8044627	NM-0310-80	3004511557	108 NEWSOM B-10	BASIN DAKOTA	17,3	EL PASO NATURAL GAS
8044621	NM-0309-80	3004510390	108 SENTER FEDERAL #1	BASIN DAKOTA	16,8	EL PASO NATURAL GAS
*TENNECO OIL COMPANY			RECEIVED: 07/03/80 JA: NM 4			
8044623	NM-0306-80	3004523797	103 DELMI-TAYLOR PUE #1-E	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
8044622	NM-0307-80	3004523487	103 FIELDS #2	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
8044624	NM-0305-80	3004523827	103 PLUMANCE #117	BASIN DAKOTA	500,0	EL PASO NATURAL GAS

VOLUME 246 PAGE 010

FIELD NAME	PROD PURCHASER
BASIN DAKOTA	500.0 EL PASO NATURAL GAS
BLANCO MESAVERDE	550.0 SOUTHERN UNION GATHE
BASIN DAKOTA	500.0 EL PASO NATURAL GAS
WILDCAT	0.0 TRANSWESTERN PIPELIN

JAS NM #
AL NO 1

JD NO	JA DKT	API NU	SEC # WELL NAME
8044606	NM-0336-80-M	3004523478	103 MANNER JA DK
8044605	NM-0336-80-A	3004523478	103 MANNER JA MV
8044618	NM-0340-80	3004523614	103 TAPP #2

•YATES PETROLEUM CORPORATION RECEIVED: 07/03/80 JAS NM #
8044628 NM-0312-80 3001560014 102 MCCLELLAN MB FEDERAL NO 1

OTHER PURCHASERS

8044267	thru	8044269	Southern Public Service Co.
8044282	thru	8044284	Pennzoil Co.
8044285			Southern Public Service Co.
8044292	thru	8044293	Pennzoil Co.
8044294	thru	8044296	Southern Public Service Co.
8044312	thru	8044335	Southern Public Service Co.
8044336	thru	8044349	Pennzoil Co.
8044352	thru	8044353	Pennzoil Co.
8044359	thru	8044370	Pennzoil Co.
8044389	thru	8044391	Pennzoil Co.
8044396	thru	8044397	Southern Public Service Co.
8044469	thru	8044491	Southern Public Service Co.
8044519	thru	8044530	Southern Public Service Co.
8044549			Chase Gathering Systems Inc.
8044552			Chase Gathering Systems Inc.
8044556	thru	8044558	Chase Gathering Systems Inc.
8044561			Chase Gathering Systems.
8044562			Oklahoma Natural Gas Gathering Corp.
8044570	thru	8044572	Chase Gathering Systems Inc.
8044574			Transok Pipeline Co.
8044583			Chase Gathering Systems Inc.
8044586	thru	8044587	Champlin Petroleum Co.
8044652			North West Pipeline Corp.
8044660			North West Pipeline Co.

[FR Doc. 80-23898 Filed 8-5-80; 8:45 am]
BILLING CODE 6450-85-C

[Volume 247]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued July 31, 1980.

The Federal Energy Regulatory Commission received notices of determinations from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 21, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

V45/153
AG6 80
UMI

UMI 008 6GA 3515 4V

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

VOLUME 247

NOTICE OF DETERMINATIONS
BY JURISDICTIONAL AGENCIES UNDER
THE NATURAL GAS POLICY ACT OF 1978

JD NO	JA DKT	API NO	SEC # WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION						
*ADELANTE PETROLEUM CO			RECEIVED: 07/07/80 JA: TX			
8044910	13606	4216531945 103	MUDSPETH NO 1-73	MUDSPETH (CANYON)	150,0	LOVACA GATHERING CO
*AMARILLO OIL COMPANY			RECEIVED: 07/07/80 JA: TX			
8044740	10284	4239330666 103	FLOWERS A #1-4H	MENDOTA NORTHWEST GRANIT	220,0	PIONEER NATURAL GAS
*AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED: 07/07/80 JA: TX			
8044704	07717	4255500000 108	M ELLIFF - #19	AGUA DULCE (5600)	6,0	TENNESSEE GAS PIPELI
*AMOCO PRODUCTION CO			RECEIVED: 07/07/80 JA: TX			
8044710	08057	4221932551 102	ALEX A SLAUGHTER ESTATE A NO 47	SUNDOWN (ABO)	0,3	EL PASO NATURAL GAS
8044709	09046	4236530295 103	CANTHAGE GAS UNIT 12 NO 3	CANTHAGE (CUTTON VALLEY)	419,3	TEJAS GAS CORP
8044913	13482	4236530782 103	J B CANTEN NO 1	CANTHAGE (TRAVIS PEAK 60	18,3	UNITED GAS PIPELINE
8044901	12854	4236530886 102	J B DUKE NO 1	WILDCAT-(TRAVIS PEAK 653	182,5	UNITED GAS PIPE LINE
8044671	04685	4240931262 103	VANDENBENGE & MILL NO 28	PLACEDO EAST	31,0	TENNESSEE GAS PIPELI
8044947	16072	4220330618 102	WILLIAM MATTHEWS NO 1	BLUCHER (CUTTON VALLEY)	836,0	UNITED GAS PIPE LINE
*ANTARES OIL CORPORATION			RECEIVED: 07/07/80 JA: TX			
8044723	09162	4224930980 103	C W PRICE #3	TEHESA (3110)	1060,0	UNITED GAS PIPELINE
*ANAPAMUE PRODUCTION CO			RECEIVED: 07/07/80 JA: TX			
8044744	10440	4223500000 108	MITTIE STEVENSON #1 WELL	WEST PANHANDLE MUTCHINSU	40,0	PANHANDLE PRODUCING
8044745	10441	4223500000 108	MITTIE STEVENSON #2 WELL	WEST PANHANDLE MUTCHINSU	40,0	PANHANDLE PRODUCING
8044746	10483	4223500000 108	MITTIE STEVENSON #4 WELL	WEST PANHANDLE MUTCHINSU	40,0	PANHANDLE PRODUCING
*AMOCO OIL AND GAS COMPANY			RECEIVED: 07/07/80 JA: TX			
8044921	14310	4217310223 108	J B CALVERLEY 32 #2	SPRAYBERRY TREND AREA	8,0	EL PASO NATURAL GAS
8044686	06383	4213132343 103	J M FUSTEN #51	MAGIST RANCH (750)	0,5	NATURAL GAS PIPELINE
8044944	14846	4255531219 103	STATE TRACT 396 #8	REDFISH BAY (ZONE-18)	144,0	UNITED GAS PIPE LINE
8044742	10302	4206530665 103	WARE A #25	PANHANDLE CANSUN	15,0	GETTY OIL CO
8044741	10301	4206530666 103	WARE A #27	PANHANDLE CANSUN	9,0	GETTY OIL CO
8044743	10303	4206530661 103	WARE B #22	PANHANDLE MUTCHINSON COU	30,0	GETTY OIL CO
*ATOKA OPERATING INC			RECEIVED: 07/07/80 JA: TX			
8044760	10481	4241732486 103	PITTMAN GHOUM WELL #2	STAB (MISS)	154,0	DELMI GAS PIPELINE C
*BAY ROCK CORPORATION			RECEIVED: 07/07/80 JA: TX			
8044922	14467	4246931228 102	JAMIE M DEAN NO 1A	KOONTZ NE (6270)	250,0	TENNESSEE GAS PIPELI
8044923	14468	4246931536 102	JOHN M NEEMAN ET AL NO 1	KOONTZ NE (6710)	250,0	TENNESSEE GAS PIPELI
*BILL FURNEY INC			RECEIVED: 07/07/80 JA: TX			
8044763	12481	4229732004 102	J T LYNE NO 2 - 82579	CHANLINE (FURNEY 5) FIEL	110,0	TRANSCONTINENTAL GAS
*C L GAGE JR			RECEIVED: 07/07/80 JA: TX			
8044765	11099	4249700000 103	DIMIDUIL NO 1	BROWNSVILLE (BEND CONGL G	150,0	NATURAL GAS PIPELINE
8044761	11095	4249700000 103	GEORGE EATON NO 1 78469	BROWNSVILLE (BEND CONGL G	144,0	DELMI GAS PIPELINE C
8044684	06374	4249700000 103	GERALD STEPHENS #1	BROWNSVILLE (BEND CONGL G	132,0	NATURAL GAS PIPELINE
8044726	09264	4249700000 103	SIMYL ENIS NO 1	BROWNSVILLE (BEND CONGL G	110,0	NATURAL GAS PIPELINE
8044762	11096	4249700000 103	VIRGIL PARSONS NO 1 78468	BROWNSVILLE (BEND CONGL G	12,0	DELMI GAS PIPELINE C
8044685	06375	4249700000 103	WM & MAMIE LEWIS #1	BROWNSVILLE (BEND CONGL G	180,0	NATURAL GAS PIPELINE
8044683	06371	4249700000 103	WM & MAMIE LEWIS A-1	BROWNSVILLE	270,0	NATURAL GAS PIPELINE
*CANYON OPERATING UNIT			RECEIVED: 07/07/80 JA: TX			

JD NO	JA DKT	API NO	SEC # WELL NAME	FIELD NAME	PROD	PURCHASER
*8044781	12372	4241530763 103	CASE #1	VELMEX (CANYON UPPER)	58,0	CMA INC
*CARL M ARCHER			RECEIVED: 07/07/80 JA: TX			
8044719	09015	4219500000 108	HENNETT 35594	MANSFORD (UPPER MORROW)	8,0	NORTHERN NATURAL GAS
8044721	09017	4219500000 108	CITY OF SPEARMAN 28212	MANSFORD (UPPER MORROW)	18,0	NORTHERN NATURAL GAS
8044720	09016	4219530022 108	GLEN MILLER 50777	CLEMENTINE (MARMATON 802	9,0	PANHANDLE EASTERN PI
*CENTEX OIL & GAS INC			RECEIVED: 07/07/80 JA: TX			
8044966	17476	4224500000 102	HIGH ISLAND BLOCK 10-L NO 3	HIGH ISLAND BLOCK 10-L G	0,0	TRANSCONTINENTAL GAS
*CHALMERS OPERATING CO INC			RECEIVED: 07/07/80 JA: TX			
8044911	13608	4209330553 103	CUAN-SIMPSON #82057	MITTIE (MARBLE FALLS)	120,0	LONE STAR GAS CO
*CLOVER ENERGY CORP			RECEIVED: 07/07/80 JA: TX			
8044964	17242	4220130965 102	WELLESS NO 2-C	GUM GULLY N (KELLEY)	90,0	UNITED TEXAS TRANSMI
*COLORADO INTERSTATE GAS CO			RECEIVED: 07/07/80 JA: TX			
8044928	14471	4234130548 103	MASTERSON 101N	WEST PANHANDLE (RED CAVE	73,0	COLORADO INTERSTATE
*CONOCO, INC			RECEIVED: 07/07/80 JA: TX			
8044680	05879	4207930926 103	CONOCO-DEAN UNIT (60106) #125	SLAUGHTER / SAN ANDRES	0,7	AMOCO PRODUCTION CO
8044681	05975	4207930929 103	CONOCO-DEAN UNIT (60106) #132	SLAUGHTER / SAN ANDRES	0,7	AMOCO PRODUCTION CO
8044736	10224	4236900000 108	FORD-GERALDINE UNIT NO 12 21021	GERALDINE / FORD	2,9	EL PASO NATURAL GAS
8044732	10159	4222700000 108	G U CHALK D NO 12 02688	HOWARD-GLASSCOCK	0,4	PHILLIPS PETROLEUM C
8044738	10267	4243300000 108	GUEST/CANYON SAND/UNIT NO 22 10855	GUEST / CANYON SAND	0,4	CITIES SERVICE OIL C
8044739	10269	4222700000 108	H M CLAY A NO 22 02691	HOWARD-GLASSCOCK	0,4	PHILLIPS PETROLEUM C
8044737	10262	4243300000 108	J G DALBY (04291) #1	FLOWERS WEST / CANYON	0,5	CITIES SERVICE OIL C
8044848	12776	4232330549 108	N J CHITTIM NO A 23 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044847	12777	4232330548 108	N J CHITTIM NO A 24 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044844	12774	4232330551 108	N J CHITTIM NO A21 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044845	12775	4232330550 108	N J CHITTIM NO A22 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044848	12778	4232330547 108	N J CHITTIM NO B W 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044785	12610	4232330518 108	N J CHITTIM NO C10 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044780	12611	4232300000 108	N J CHITTIM NO E2 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044876	12825	4232330517 108	N J CHITTIM NO 1705 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044875	12823	4232300000 108	N J CHITTIM NO 3613 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044874	12822	4232300000 108	N J CHITTIM NO 3630 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044850	12780	4232330298 108	N J CHITTIM NO 3645 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044849	12846	4232330300 108	N J CHITTIM NO 3647 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044895	12845	4232330297 108	N J CHITTIM NO 3648 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044894	12844	4232330322 108	N J CHITTIM NO 3651 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044868	12812	4232330321 108	N J CHITTIM NO 3652 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044866	12810	4232330320 108	N J CHITTIM NO 3653 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044867	12811	4232330319 108	N J CHITTIM NO 3654 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044859	12796	4232330329 108	N J CHITTIM NO 3656 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044858	12795	4232330316 108	N J CHITTIM NO 3657 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044857	12792	4232330317 108	N J CHITTIM NO 3658 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044855	12789	4232330318 108	N J CHITTIM NO 3659 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044856	12788	4232300000 108	N J CHITTIM NO 3722 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044865	12836	4232300000 108	N J CHITTIM NO 3746 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044888	12833	4232300000 108	N J CHITTIM NO 3758 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044863	12832	4232300000 108	N J CHITTIM NO 3760 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044892	12841	4232300000 108	N J CHITTIM NO 3822 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044891	12840	4232300000 108	N J CHITTIM NO 3825 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044853	12787	4232330556 108	N J CHITTIM NO 3852 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044852	12786	4232331165 108	N J CHITTIM NO 3855 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044851	12785	4232330553 108	N J CHITTIM NO 3906 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044887	12838	4232330551 108	N J CHITTIM NO 3907 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO
8044886	12835	4232300000 108	N J CHITTIM NO 4005 02082	SACATOSA (SAN MIGUEL #1	0,4	LOVACA GATHERING CO

UMI 6GA 3515 4V 0808

VOLUME 247 PAGE 003

JD NO	JA DKT	API NO	SEC #	WELL NAME	FIELD NAME	PROD	PURCHASER
8044807	12736	4232300000	108	N J CHITTIM NO 4020 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044808	12737	4232300000	108	N J CHITTIM NO 4054 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044809	12738	4232300000	108	N J CHITTIM NO 4055 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044810	12740	4232300000	108	N J CHITTIM NO 4038 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044811	12741	4232300000	108	N J CHITTIM NO 4039 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044812	12742	4232300000	108	N J CHITTIM NO 4052 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044813	12743	4232300000	108	N J CHITTIM NO 4053 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044897	12849	4232330550	108	N J CHITTIM NO 4000 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044865	12809	4232300000	108	N J CHITTIM NO 412 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044898	12850	4232300000	108	N J CHITTIM NO 4156 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044899	12851	4232300000	108	N J CHITTIM NO 4159 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044900	12852	4232300000	108	N J CHITTIM NO 4143 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044864	12808	4232300000	108	N J CHITTIM NO 425 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044893	12843	4232300000	108	N J CHITTIM NO 4255 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044814	12744	4232330380	108	N J CHITTIM NO 4248 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044815	12745	4232330379	108	N J CHITTIM NO 4249 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044816	12746	4232330442	108	N J CHITTIM NO 4251 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044817	12747	4232330446	108	N J CHITTIM NO 4256 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044888	12837	4232330483	108	N J CHITTIM NO 4259 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044889	12838	4232330480	108	N J CHITTIM NO 4260 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044890	12839	4232300000	108	N J CHITTIM NO 4313 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044863	12807	4232330539	108	N J CHITTIM NO 459 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044862	12806	4232300000	108	N J CHITTIM NO 506 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044861	12805	4232300000	108	N J CHITTIM NO 511 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044860	12804	4232300000	108	N J CHITTIM NO 512 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044870	12818	4232300000	108	N J CHITTIM NO 513 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044869	12813	4232300000	108	N J CHITTIM NO 533 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044856	12791	4232300000	108	N J CHITTIM NO 536 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044881	12830	4232330302	108	N J CHITTIM NO 544 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044880	12829	4232300000	108	N J CHITTIM NO 603 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044879	12828	4232300000	108	N J CHITTIM NO 604 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044878	12827	4232300000	108	N J CHITTIM NO 605 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044877	12826	4232300000	108	N J CHITTIM NO 607 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044787	12694	4232330376	108	N J CHITTIM NO 6530 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044788	12695	4232330375	108	N J CHITTIM NO 6531 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044789	12696	4232330372	108	N J CHITTIM NO 6532 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044790	12697	4232330371	108	N J CHITTIM NO 6533 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044791	12698	4232330370	108	N J CHITTIM NO 6534 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044862	12831	4232330369	108	N J CHITTIM NO 6535 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044818	12748	4232330368	108	N J CHITTIM NO 6536 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO.
8044819	12749	4232330367	108	N J CHITTIM NO 6537 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044820	12750	4232330385	108	N J CHITTIM NO 6540 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044821	12751	4232330384	108	N J CHITTIM NO 6542 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044794	12702	4232330429	108	N J CHITTIM NO 6632 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044795	12704	4232330425	108	N J CHITTIM NO 6636 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044822	12752	4232330420	108	N J CHITTIM NO 6640 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044823	12753	4232330421	108	N J CHITTIM NO 6641 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044824	12754	4232330417	108	N J CHITTIM NO 6643 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044825	12755	4232330416	108	N J CHITTIM NO 6644 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044796	12705	4232330415	108	N J CHITTIM NO 6646 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044792	12700	4232330414	108	N J CHITTIM NO 6648 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044793	12701	4232330413	108	N J CHITTIM NO 6649 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044797	12706	4232330408	108	N J CHITTIM NO 6651 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO

VOLUME 247 PAGE 004

JD NO	JA DKT	API NO	SEC #	WELL NAME	FIELD NAME	PROD	PURCHASER
8044798	12708	4232330410	108	N J CHITTIM NO 6653 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044799	12709	4232330411	108	N J CHITTIM NO 6654 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044800	12710	4232330459	108	N J CHITTIM NO 6655 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044801	12711	4232330460	108	N J CHITTIM NO 6656 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044802	12712	4232330461	108	N J CHITTIM NO 6657 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044803	12713	4232330462	108	N J CHITTIM NO 6658 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044804	12714	4232331179	108	N J CHITTIM NO 6660 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044805	12715	4232300000	108	N J CHITTIM NO 6734 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044806	12716	4232300000	108	N J CHITTIM NO 6741 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044826	12756	4232330487	108	N J CHITTIM NO 6746 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044827	12757	4232330486	108	N J CHITTIM NO 6747 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044828	12758	4232330485	108	N J CHITTIM NO 6748 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044829	12759	4232330484	108	N J CHITTIM NO 6749 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044830	12760	4232330463	108	N J CHITTIM NO 6750 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044831	12761	4232330482	108	N J CHITTIM NO 6751 02082	BACATOSA BAN MIGUEL #1 B	0,0	LOVACA GATHERING CO
8044832	12762	4232330481	108	N J CHITTIM NO 6752 02082	BACATOSA BAN MIGUEL #1 B	0,0	LOVACA GATHERING CO
8044833	12763	4232330480	108	N J CHITTIM NO 6753 02082	BACATOSA BAN MIGUEL #1 B	0,0	LOVACA GATHERING CO
8044834	12764	4232330479	108	N J CHITTIM NO 6754 02082	BACATOSA BAN MIGUEL #1 B	0,0	LOVACA GATHERING CO
8044835	12765	4232330478	108	N J CHITTIM NO 6755 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044836	12766	4232330477	108	N J CHITTIM NO 6756 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044837	12767	4232330476	108	N J CHITTIM NO 6757 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044838	12768	4232330475	108	N J CHITTIM NO 6758 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044839	12769	4232330474	108	N J CHITTIM NO 6759 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044840	12770	4232330473	108	N J CHITTIM NO 6760 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044841	12771	4232330472	108	N J CHITTIM NO 6761 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044842	12772	4232330470	108	N J CHITTIM NO 6763 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044843	12773	4232330469	108	N J CHITTIM NO 6764 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044903	12903	4232330465	108	N J CHITTIM NO 6917 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044904	12904	4232330467	108	N J CHITTIM NO 6918 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044905	12905	4232330490	108	N J CHITTIM NO 6922 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044871	12815	4232330090	108	N J CHITTIM NO 7209 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044872	12816	4232330496	108	N J CHITTIM NO 9910 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044873	12817	4232330495	108	N J CHITTIM NO 9911 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044849	12779	4232330493	108	N J CHITTIM NO 9913 02082	BACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8044730	10046	4215100000	108	HOUND TOP (PALO PINTO) UNIT NO 56	HOUND TOP / PALO PINTO R	0,7	LONE STAR GAS CO
8044729	10045	4230100000	108	S A LINK NO 2 19342	TUNSTILL EAST / DEL	1,5	PHILLIPS PET CO
8044732	10185	4216500000	108	SUE STEPHENS NO 9 16297	WASSON / WICHITA ALBANY	2,2	SHELL OIL CO
8044731	10065	4230100000	108	TXL-17 NO 4 18451	TUNSTILL EAST / DEL	10,9	PHILLIPS PETROLEUM C
8044733	10184	4243300000	108	WEST PLUMERS UNIT NO 52 11787	PLUMERS N / CANYON SAND	0,3	CITIES SERVICE OIL C
8044758	10162	4215300000	108	WIGHT UNIT NO 72 20861	CUMDEN NORTH	36,5	AMOCO PRODUCTION CO
=CONVEST ENERGY CORP				RECEIVED: 07/07/80 JAS TX			
8044970	17911	4216931038	102	=WAYNE WILLIAMS ET AL #1A	POLLAN/ELLENBURGER	0,0	EL PASO NATURAL GAS
=CUNNELL OIL CO				RECEIVED: 07/07/80 JAS TX			
8044842	06270	4250131497	103	CUNNELL UNIT 5178	WASSON/SAN ANDRES	63,0	SHELL OIL CO
=DEBO PRODUCTION CO				RECEIVED: 07/07/80 JAS TX			
8044747	10455	4248300000	108	TINDALL #1	PANHANDLE EAST	3,1	WARREN PETROLEUM CO
=DELTA DRILLING CO				RECEIVED: 07/07/80 JAS TX			
8044956	15492	4236530897	103	PHOST LUMBER COMPANY #1	WILDCAT (COTTON VALLEY)	275,0	UNITED GAS PIPE LINE
=DELTA PRODUCING CO				RECEIVED: 07/07/80 JAS TX			
8044710	08/0A	4223500000	108	MCCARTY #4	PANHANDLE	12,0	GETTY OIL CO
=DISCOVERY OPERATING INC				RECEIVED: 07/07/80 JAS TX			
8044778	12270	4241330775	102	DELONG #1	RA-SE-SA (CANYON)	180,0	CMA INC
=ENSENCH EXPLORATION INC				RECEIVED: 07/07/80 JAS TX			

VOLUME 247 PAGE 005

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8044704	07432	4225732149	103	DURHAM-KEMPNER NO 3	BOUNSVILLE (BCG)	252,0	LONE STAR GAS CO
8044705	07437	4247931939	103	T M MIDDLETON E NO 4	LAS TIENDAS E (OLMOS)	292,0	LONE STAR GAS CO
8044706	07438	4247931940	103	T M MIDDLETON E NO 5	LAS TIENDAS E (OLMOS)	175,0	LONE STAR GAS CO
*EXXON CORPORATION				RECEIVED: 07/07/80 JA: TX			
8044925	14476	4224730873	103	MKS AMK BASS 38-D 82940	KELSEY DEEP (6920)	300,0	TRUNKLINE GAS CO
*F B LACY				RECEIVED: 07/07/80 JA: TX			
8044908	13385	4226531278	102	BRUSHY CREEK UNIT E 78306	BRUSHY CREEK (VEGUA 4700	0,0	TEXAS EASTERN TRANSM
*FITKIN OIL COMPANY				RECEIVED: 07/07/80 JA: TX			
8044949	15240	4223300000	108	UHREY #1	SHIRLEY CLEVELAND	14,0	NORTHERN NATURAL GAS
*FRANK CASS				RECEIVED: 07/07/80 JA: TX			
8044604	01369	4246100000	102	PRUCTOR 21 NO 4 MRC NO 07692	CALVIN (DEAN)	54,0	EL PASO NATURAL GAS
*GAS DEVELOPMENT CORP				RECEIVED: 07/07/80 JA: TX			
8044687	08402	4241330788	103	EMMONS #2 WELL NO 1	ELDORADO SOUTH (CANYON)	110,0	NORTHERN NATURAL GAS
*GENE MARTIN				RECEIVED: 07/07/80 JA: TX			
8044786	11782	4217931085	102	E P TUMLINSON #1	BOMBA E (CUOK MTN)	5,5	LO-VACA GATHERING CO
*GETTY OIL COMPANY				RECEIVED: 07/07/80 JA: TX			
8044770	11931	4208900000	103	H A JOHNSON C #1 #12225	SUBLIME (9200)	25,0	TENNESSEE GAS PIPELI
8044962	14851	4225330677	103	MERRING A NO 90	PANHANDLE	5,5	PANHANDLE EASTERN PI
8044705	07310	4236900000	108	O A ALEXANDER NO 1 ID #30147	CANTMAGE (PETTIT LO)	11,2	TEXAS GAS TRANSMISSI
*GHACE PETROLEUM CORPORATION				RECEIVED: 07/07/80 JA: TX			
8044909	13481	4224930950	103	STILLZIG-ZUMMERMAN #9	AMARGOSA (2200)	144,0	NATURAL GAS PIPELINE
*GULF ENERGY PRODUCING COMPANY				RECEIVED: 07/07/80 JA: TX			
8044759	10859	4250500000	103	M M RAMIREZ #U-4	LOPENO (QUEEN CITY OIL)	36,0	TENNESSEE GAS PIPELI
*GULF OIL CORPORATION				RECEIVED: 07/07/80 JA: TX			
8044960	16852	4247932352	102	BNUNI MINERAL TRUST A NO 13	JUANITA (LOBO)	500,0	TENNESSEE GAS PIPELI
8044724	09209	4236930886	107	J FROST WELL NO 15	MAMA WEST (ELLENBURGER)	350,0	TRANSWESTERN PIPELIN
*GUS EDWARDS CO				RECEIVED: 07/07/80 JA: TX			
8044974	19558	4204100000	102	ROYAL OAKS ESTATES UNIT NO 1	KURTEN (HOUDBINE)	100,0	PRODUCERS GAS CO
*H C FEDEREN				RECEIVED: 07/07/80 JA: TX			
8044950	15248	4217900000	108	NOEL #2 (TMRC ID NO 25706)	WEST PANHANDLE	4,2	GETTY OIL CO
8044951	15249	4217900000	108	NOEL NO 1	PANHANDLE	1,8	KERN MCGEE OIL CO
8044952	15250	4217900000	108	NOEL NO 3	PANHANDLE	1,8	KERN MCGEE OIL CO
8044953	15143	4223300000	108	WHITTENBURG NO 1	PANHANDLE-HUTCHINSON COU	0,1	GETTY OIL CO
*H V RIBIEN				RECEIVED: 07/07/80 JA: TX			
8044701	07224	4224930796	103	VALADEZ ESTATE #7	MAGNOLIA CITY	96,0	TENNESSEE GAS TRANSM
*HNG OIL COMPANY				RECEIVED: 07/07/80 JA: TX			
8044725	09250	4238930983	102	TEXAS STATE 24 #1-A ID#7183	DOUBLE EAGLE (CASTILE)	477,0	INTRATEX GAS CO
*HOPKINS & POPE				RECEIVED: 07/07/80 JA: TX			
8044751	10590	4222100000	108	HOUSTON RANCH #2 RRC #71022	HOUSTON RANCH (STRAWN)	0,1	TEXAS UTILITIES FUEL
8044750	10589	4222100000	108	HOUSTON RANCH #3 RRC #71023	HOUSTON RANCH (STRAWN)	20,6	TEXAS UTILITIES FUEL
8044749	10588	4222100000	108	HOUSTON RANCH #4 RRC #70897	HOUSTON RANCH (STRAWN)	0,1	TEXAS UTILITIES FUEL
8044748	10587	4222100000	108	HOUSTON RANCH #9 RRC #70899	HOUSTON RANCH (STRAWN)	10,2	TEXAS UTILITIES FUEL
*HURELL DRILLING INC				RECEIVED: 07/07/80 JA: TX			
8044959	16745	4212331006	102	FARL GARRETT GAS UNIT NO 1	GARRETT	175,0	
*HUGHES & HUGHES				RECEIVED: 07/07/80 JA: TX			
8044967	17014	4202531153	102	HILL WILSON GAS UNIT 13E NO 1	SINGLETON E (WILSON)	109,0	FERGUSON CROSSING PI
8044968	17015	4202531147	102	JUDITH MCMILLION MEALEY NO 1	MEALEY (PETTUS)	22,0	FERGUSON CROSSING PI
*8044958	16381	4235531418	102	THOMAS L BUSENLEHNEN ET UX NO 1	COTTON (BUSENLEHNEN)	109,5	UNITED TEXAS TRANSMI
*INTEGRAL ENERGY CORP				RECEIVED: 07/07/80 JA: TX			
8044938	14825	4248900000	103	PETROLEUM CO #1 82853	CHESS 44	400,0	TENNESSEE GAS PIPELI
*J CLEO THOMPSON				RECEIVED: 07/07/80 JA: TX			
8044957	14806	4210300000	108	MAGNOLIA NO 1 = 04212	MC ELROY	1,1	PHILLIPS PETROLEUM C
8044946	14913	4210300000	108	MAGNOLIA NO 10 = 04212	MC ELROY	1,4	PHILLIPS PETROLEUM C

VOLUME 247 PAGE 006

JD NO	JA DKT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8044939	14826	4210300000	108	MAGNOLIA NO 5 = 04212	MC ELROY	1,1	PHILLIPS PETROLEUM C
8044940	14827	4210300000	108	MAGNOLIA NO 7 = 04212	MCELROY	1,4	PHILLIPS PETROLEUM C
8044945	14912	4210300000	108	MAGNOLIA NO 9 = 04212	MC ELROY	0,0	PHILLIPS PETROLEUM C
*J M HUBER CORPORATION				RECEIVED: 07/07/80 JA: TX			
8044672	05105	4206500000	108	BURNETT R NO 37	PANHANDLE	10,5	GETTY OIL CO
8044673	05359	4225300000	108	BURNETT RF NO 1	PANHANDLE	0,7	PHILLIPS PETROLEUM C
8044674	05400	4225300000	108	MERRING-BURCH MERRING NO 59	PANHANDLE	1,2	COLORADO INTERSTATE
8044752	10660	4225300000	108	INGERTON NO 2 RC	PANHANDLE WEST	6,9	GETTY OIL CO
8044677	05719	4225300000	108	STATE B NO 37	PANHANDLE	0,3	GETTY OIL CO
8044678	05720	4225300000	108	STATE B NO 40	PANHANDLE	0,3	GETTY OIL CO
8044679	05735	4225300000	108	STATE B NO 42	PANHANDLE	0,3	GETTY OIL CO
8044676	05710	4225300000	108	STATE B NO 53	PANHANDLE	0,3	GETTY OIL CO
8044675	05712	4225300000	108	STATE B NO 8	PANHANDLE	0,3	GETTY OIL CO
*JACK L PHILLIPS				RECEIVED: 07/07/80 JA: TX			
8044764	11116	4216115496	108	F M HILL C U NO 1 15496			
*JOSEPH G GIBSON				RECIEVED: 07/07/80 JA: TX			
8044776	12183	4224730861	102	A K EAST FEE NO 11-U	BLACK DIAMOND	112,0	
8044775	12182	4224730871	102	A K EAST FEE NO 12	BLACK DIAMOND	33,0	
*KOMANCHE OIL & GAS				RECEIVED: 07/07/80 JA: TX			
8044700	07191	4217900000	108	HEITHOLT 23271	WEST PANHANDLE	15,0	CITIES SERVICE CO
*MARSHALL EXPLORATION INC				RECEIVED: 07/07/80 JA: TX			
8044869	04512	4220300000	108	T J TAYLOR ESTATE #1-C 58147	WOODLAWN (RODESSA)	12,0	MISSISSIPPI RIVER TR
*MCCULLUCH OIL CORP OF TEXAS				RECEIVED: 07/07/80 JA: TX			
8044707	07679	4221130075	108	MATHERS RANCH NO 6	HUMPHREYS-DOUGLAS	18,0	ARKANSAS LOUISIANA G
*MITCHELL ENERGY CORPORATION				RECEIVED: 07/07/80 JA: TX			
8044868	04128	4249730109	108	FLOIS CRUNNUVEN #2 52843	BOUNSVILLE BEND CONG	10,7	NATURAL GAS PIPELINE
8044742	12480	4249731425	103	G B FITZGERALD #3 81980	BOUNSVILLE (BEND CONGL G	150,0	NATURAL GAS PIPELINE
8044943	14843	4249731471	103	M J DEAVERS #9L 18509	ALVORD (ATOKA CONGL)	19,0	NATURAL GAS PIPELINE
8044912	13719	4200933598	103	H M PANMEN #1 19574	MELANGEL NORTH (MISS)	30,0	
*MURJO OIL & ROYALTY CO				RECEIVED: 07/07/80 JA: TX			
8044717	08804	4236700000	103	LADD-GILBERT B #1	BRAZOS EAST (CADDO)	0,0	LONE STAR GAS CO
*NANBO FARMS				RECEIVED: 07/07/80 JA: TX			
8044902	12866	4230100000	108	HAMILL ELLIS WELL #2	WHEAT	6,0	PHILLIPS PETROLEUM C
*NATOMAS NORTH AMERICA INC				RECEIVED: 07/07/80 JA: TX			
8044870	04750	4248330582	103	MOORE #1-A	WHEELER RAN (HUNTON)	1087,0	EL PASO NATURAL GAS
*OMEGA MINERALS INC				RECEIVED: 07/07/80 JA: TX			
8044663	00460	4217500000	108	GENTNUDE WIGGS NO 1 #31819	KAREN BEAUCHAMP (2100)	11,0	UNITED GAS PIPE LINE
8044662	00459	4217500000	108	PAUL BETMKE NO 3 #02278	KAREN BEAUCHAMP (2100)	18,0	UNITED GAS PIPE LINE
*ORLA PETCO INC				RECEIVED: 07/07/80 JA: TX			
8044784	12551	4238900000	108	TXL ML LEASE RRC #17891 #8	FOND EAST (DELAWARE SAND	0,3	CONOCO INC
*ORL PETROLEUM CO				RECEIVED: 07/07/80 JA: TX			
8044926	14550	4226531235	103	ALICE MINZE NO 1	COLOVACA (MIOCENE 2100)	48,0	LONE STAR GAS CO
8044927	14551	4208930901	103	B E DAVIS B NO 2-T	GARWOOD (3600)	66,5	LONE STAR GAS CO
8044928	14552	4208930908	103	B E DAVIS B NO 3	COLOVACA (MIOCENE 1900)	45,5	LONE STAR GAS CO
8044929	14553	4208931006	103	B E DAVIS B NO 4	GARWOOD (3600)	65,0	LONE STAR GAS CO
8044930	14554	4208930988	103	KALLINA ET AL NO 1-C	GARWOOD (3600)	60,0	LONE STAR GAS CO
8044931	14555	4208931011	103	KALLINA ET AL NO 3-T	GARWOOD (3600)	21,0	LONE STAR GAS CO
8044934	14559	4226530696	103	OLDHAM LITTLE CHURCH B NO 1	PROVIDENT CITY (3530 EAS	56,0	LONE STAR GAS CO
8044935	14560	4226531233	103	OLDHAM LITTLE CHURCH B NO 3-T	PROVIDENT CITY (3530 EAS	77,0	LONE STAR GAS CO
8044933	14558	4226531247	103	OLDHAM LITTLE CHURCH NO 10	COLORADA (MIOCENE 2100)	45,0	LONE STAR GAS CO
8044932	14557	4208930928	103	OLDHAM LITTLE CHURCH NO 9	GARWOOD (3600)	70,0	LONE STAR GAS CO
*PAN RESOURCES INC				RECEIVED: 07/07/80 JA: TX			
8044684	06798	4223300000	108	MAILE NO 1	PANHANDLE HUTCHINSON	1,7	GETTY OIL CO

UMI 008 6GA 351545V

VOLUME 247 PAGE 007

JD NO	JA DKT	API NO	SEC	WELL NAME
8044695	08806	4223300000	108	MAILE NU 5
8044694	08805	4223300000	108	MAILE NU 4
8044693	08804	4223300000	108	MAILE NU 3
8044691	08800	4223300000	108	MULIFIELD=MITTENBUNG A NO 5
8044690	08799	4223300000	108	MULIFIELD=MITTENBUNG A NU 4
8044692	08802	4223300000	108	MULIFIELD=MITTENBUNG A NO 6
8044696	08807	4223300000	108	MITTENBUNG J NO 1
•PAN OIL CORPORATION				RECEIVED: 07/07/80 JAI TX
8044963	16484	4221330246	102	PAN OIL CURPURATION=LITTLE NO 2
•PENNZOIL PRODUCING COMPANY				RECEIVED: 07/07/80 JAI TX
8044962	16935	4235531410	102	IRENE M WALTON NO B 4=F
•PHILCON DEVELOPMENT CO				RECEIVED: 07/07/80 JAI TX
8044965	17241	4248330621	102	ZYBACH #1
•PHILLIPS PETROLEUM COMPANY				RECEIVED: 07/07/80 JAI TX
8044956	15428	4213508523	108	(20149) BLOCK 11 DEVONIAN UNIT NU 8
8044955	15451	4213503163	108	(21193) GULDSMITH ANDECTON UNIT NU8
8044973	18778	4236530971	102	MAUDE 2 NU 2
•MIAL OIL COMPANY				RECEIVED: 07/07/80 JAI TX
8044936	14748	4203330519	103	SMUNTES NU 1 #67506
•SECO PRODUCTION CO				RECEIVED: 07/07/80 JAI TX
8044697	08878	4238300000	108	HUNEY #3 #05811
•SHAR=ALAN OIL CO				RECEIVED: 07/07/80 JAI TX
8044765	11674	4221513984	108	M E WILCOX 1
•SHELL OIL CO				RECEIVED: 07/07/80 JAI TX
8044906	13317	4221530897	103	A A MCALLEN NU 55
8044907	13318	4221530877	103	A A MCALLEN NO 57
8044961	016901	4242731278	103	HENTSEN BROS B NO 10
8044779	12350	4216531491	103	NEWBENN =A= NO 2
8044886	01440	4216530628	103	NEWBENN B
8044753	10675	4250131620	103	UNNBY SAN ANDRES UNIT NO 54
8044754	10677	4250131582	103	UNNBY SAN ANDRES UNIT NO 56
8044755	10678	4250131619	103	UNNBY SAN ANDRES UNIT NO 57
8044756	10679	4250131583	103	UNNBY SAN ANDRES UNIT NO 58
8044757	10680	4250131600	103	UNNBY SAN ANDRES UNIT NO 59
8044865	01424	4247530913	103	SEALY SMITH FOUNDATION 149
8044780	12351	4216531579	103	STARK T U NU 20
•SMITH PETROLEUM CO				RECEIVED: 07/07/80 JAI TX
8044971	17947	4215731000	102	ANDREW WALZEL NO 2
8044987	14968	4215700000	102	ANDREW WALZEL UNIT #1
8044948	14949	4215700000	102	WILBUR MIKESKA UNIT NO 1
•SUE=ANN OPERATING COMPANY				RECEIVED: 07/07/80 JAI TX
8044767	11810	4248131725	102	VINEYARD M NO 1=C 62202
•TAYLOR BROTHERS				RECEIVED: 07/07/80 JAI TX
8044688	08507	4242130050	103	75711 = MITCH & MITZIE NO 1
•TENNECO OIL COMPANY				RECEIVED: 07/07/80 JAI TX
8044702	07278	4217930576	103	CUMBS NO 107
8044667	01561	4219535648	108	LULA K JACKSON #6
•TENNU CO OF TEXAB				RECEIVED: 07/07/80 JAI TX
8044981	14828	4204903205	103	MICKMAN 1=A
•TEXACO INC				RECEIVED: 07/07/80 JAI TX
8044969	17802	4224730973	102	A A EAST #14
8044720	10038	4235700000	108	C U CONNEN NU 3
8044918	14263	4236530604	103	LIZZIE BURNS ET AL #2L

FIELD NAME	PROD	PURCHASER
PANHANDLE HUTCHINSON	1,7	GETTY OIL CO
PANHANDLE HUTCHINSON	1,7	GETTY OIL CO
PANHANDLE HUTCHINSON	1,7	GETTY OIL CO
PANHANDLE HUTCHINSON	1,5	GETTY OIL CO
PANHANDLE HUTCHINSON	1,5	GETTY OIL CO
PANHANDLE HUTCHINSON	1,5	GETTY OIL CO
PANHANDLE HUTCHINSON	3,5	GETTY OIL CO
TRINIDAD SOUTH (HUDESSA)	865,0	UNITED GAS PIPE LINE
AGUA DULCE	200,0	UNITED GAS PIPE LINE
BUFFALO WALLOW EAST (A C	1,5	EL PASO NATURAL GAS
BLOCK 11 (DEVONIAN)	11,0	EL PASO NATURAL GAS
GOLDSMITH (CLEARFORK)	16,0	EL PASO NATURAL GAS
CANTHAGE	300,0	UNITED GAS PIPE LINE
ACKERLY (DEAN SAND)	27,7	TEXACO INC
CALVIN (DEAN)	4,4	ALLIED CHEMICAL CORP
SAN SALVADOR FIELD (6500	0,0	TENNESSEE GAS PIPELI
MCALLEN RANCH (VICKSBURG	450,0	SOUTH TEXAS NATURAL
MCALLEN RANCH (VICKSBURG	250,0	SOUTH TEXAS NATURAL
LACOMITA (VICKSBURG 2 SW	140,0	TENNESSEE GAS PIPELI
ROBERTSON	8,0	PHILLIPS PETROLEUM C
ROBERTSON N (SAN ANDRES)	18,5	PHILLIPS PETROLEUM C
OWNBY	16,8	AMOCO PRODUCTION CO
OWNBY	71,1	AMOCO PRODUCTION CO
OWNBY	25,9	AMOCO PRODUCTION CO
OWNBY	98,5	AMOCO PRODUCTION CO
OWNBY	14,6	AMOCO PRODUCTION CO
MONAHANS (CLEARFORK)	41,0	EL PASO NATURAL GAS
ROBERTSON N (SAN ANDRES)	7,5	PHILLIPS PETROLEUM C
TAVENEN (YEGUA 7600)	600,0	LONE STAR GAS CO
TAVENEN (COOK MOUNTAIN 7	1100,0	LONE STAR GAS CO
TAVENEN (FMIO 5100)	200,0	LONE STAR GAS CO
JUANITA (MARG)	0,5	UNITED GAS PIPE LINE
TEXAS HUGOTON	180,0	PHILLIPS PETROLEUM C
PANHANDLE GRAY	9,0	PHILLIPS PETROLEUM C
MITCHLAND=BERNSTEIN	7,3	PANHANDLE EASTERN PI
BROWN COUNTY REGULAR (MA	70,0	ODESSA NATURAL GASOL
BLACK DIAMOND EAST (PETT	56,8	LO VACA GATHERING CO
FARNSWORTH	3,7	DIAMOND SHAMROCK COR
BETHANY EAST (COTTON VAL	130,0	UNITED GAS PIPE LINE

VOLUME 247 PAGE 008

JD NO	JA DKT	API NO	SEC	WELL NAME
8044919	14264	4236530604	103	LIZZIE BURNS ET AL #2U
8044727	10036	4208500000	108	M C BURNETT NCT=3 #13
8044972	18111	4208130810	102	MANCH MANCH NO 10
8044920	14266	4236530629	103	T C ADAMS NCT=1 #42
•THE SUPERIUR OIL COMPANY				RECEIVED: 07/07/80 JAI TX
8044777	12196	4247932005	102	DANIEL PLUMES 2
•THUMAS C CANAN				RECEIVED: 07/07/80 JAI TX
8044769	11928	4242900000	108	CARL FARNBUUGH NU 1 NU 60029
8044766	11926	4242900000	108	TRACEY NU 2 HRC NU 71048
•TRAVELERS OIL CO O=V PROJECT				RECEIVED: 07/07/80 JAI TX
8044711	08085	4217900000	103	CULEBANK #2 04300
•TRIPPLEHORN GAS CO				RECEIVED: 07/07/80 JAI TX
8044771	12027	4217900000	108	J B HUMENS #1
•TRIPPLEHORN OIL CO				RECEIVED: 07/07/80 JAI TX
8044772	12041	4217900000	108	J B BUMENS #4
8044773	12043	4223300000	108	R C WARE NU 10
8044774	12044	4223300000	108	R C WARE NU 11
•U S RESOURCES INC				RECEIVED: 07/07/80 JAI TX
8044716	08914	4228730197	103	HEMMAN MENZEL #1
•UNION OIL COMPANY OF CALIF				RECEIVED: 07/07/80 JAI TX
8044750	10703	4239330682	103	CAROLINE KILLEBREW #1=209
•W M GALLAWAY				RECEIVED: 07/07/80 JAI TX
8044699	07185	4233130080	108	M L WALLEN JM LEASE WELL NU 1
•WALSH AND WATTS INC				RECEIVED: 07/07/80 JAI TX
8044722	009061	4213300000	108	MUSS #6 02470
•WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 07/07/80 JAI TX
8044917	14087	4210330064	108	M P HENDERSON TR M NU 15#
8044916	14086	4210300000	108	M P HENDERSON TR M NU 61
8044914	14084	4210300000	108	STATE EG NU 9
8044915	14085	4210300000	108	STATE LB NU 4
•WILLARD OIL & GAS INC				RECEIVED: 07/07/80 JAI TX
8044715	08499	4223300000	103	KILLOUGH A=2 #04137
8044714	08496	4223300000	103	KILLOUGH B=5 #04176
8044713	08495	4223300000	103	KILLOUGH B=6 #04176
8044712	08494	4223300000	103	KILLOUGH B=7 #04176
•WM GRUENERWALD & ASSOC INC				RECEIVED: 07/07/80 JAI TX
8044698	06937	4234100000	103	MASTERSON M#13M 03947

FIELD NAME	PROD	PURCHASER
BETHANY (TRAVIS PEAK)	100,0	UNITED GAS PIPE LINE
PANHANDLE	15,8	PHILLIPS PETROLEUM C
HIGGINS RANCH (CANYON)	165,3	LONE STAR GAS CO
BETHANY (TRAVIS PEAK)	750,0	UNITED GAS PIPE LINE
WILDCAT	0,0	
WAYLAND FIELD	1,9	LONE STAR GAS CO
WAYLAND FIELD	24,0	SOUTHWESTERN GAS PIP
PANHANDLE = GRAY COUNTY	0,0	
PANHANDLE WEST	9,0	PHILLIPS PETROLEUM C
PANHANDLE	12,0	PHILLIPS PETROLEUM C
PANHANDLE = HUTCHINSON	1,8	GETTY OIL CO
PANHANDLE	1,8	GETTY OIL CO
GIDDINGS (AUSTIN CHALK)	20,0	PGP GAS PRODUCTS INC
CARRIE KILLEBREW (MUNROW	3,7	NORTHERN NATURAL GAS
JORDAN/NAVARRO B	2,8	PRODUCERS GAS CO
HARPER	1,0	PHILLIPS PETROLEUM C
MADDELL	3,0	EL PASO NATURAL GAS
MADDELL	2,0	EL PASO NATURAL GAS
DUNE	1,0	EL PASO NATURAL GAS
DUNE	1,0	EL PASO NATURAL GAS
PANHANDLE	28,8	PHILLIPS PETROLEUM C
PANHANDLE	45,2	PHILLIPS PETROLEUM C
PANHANDLE	45,8	PHILLIPS PETROLEUM C
PANHANDLE	25,2	PHILLIPS PETROLEUM C
PANHANDLE (RED CAVE)	71,7	COLORADO INTERSTATE

OTHER PURCHASERS

8044682	CULTERO CORP
8044778	NORTHERN NATURAL GAS CO
8044781	NORTHERN NATURAL GAS CO
8044950	HOUSTON P L CO

[FR Doc. 80-23707 Filed 8-5-80; 8:45 am]

BILLING CODE 6450-85-C

[Vol. 248]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued July 31, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 21, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

NOTICE OF DETERMINATIONS
BY JURISDICTIONAL AGENCIES UNDER
THE NATURAL GAS POLICY ACT OF 1978

VOLUME 248

JD NO	JA DKT	API NO	SEC # WELL NAME	DEN	PROD	PURCHASER	FIELD NAME
CALIFORNIA DEPARTMENT OF CONSERVATION							
*GENERAL AMERICAN OIL COMPANY OF TEX			RECEIVED: 07/08/80	JAI CA			
8045057	80-S-0001	0403920023	103 GENERAL AMERICAN NO 3		73.0		MOFFAT RANCH
KANSAS CONSERVATION COMMISSION							
*TEXAS OIL & GAS CORP			RECEIVED: 07/08/80	JAI KS			
8045061	K-76-1990	1512920388	102 BARKER A #1 (LUWEN)		120.0	PANHANDLE EASTERN PI	WILDCAT
LOUISIANA OFFICE OF CONSERVATION							
*GEORGE R SCHURMAN			RECEIVED: 07/02/80	JAI LA			
8045030	80-1V80	1704920112	102 STEWART #1		730.0	LOUISIANA GAS INTRAS	NORTHEAST MUDGE
8045031	80-1V81	1704920116	102 STEWART #2		0.0	LOUISIANA GAS INTRAS	NORTHEAST MUDGE
*GULF OIL CORPORATION			RECEIVED: 07/02/80	JAI LA			
8045029	80-1938	1707522590	102 J B ABERCRUMBIE NU 8		2482.0	TEXAS EASTERN TRANSM	BASTIAN BAY
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
*ALPHA TWENTY-ONE PRODUCTION CO			RECEIVED: 07/07/80	JAI NM			
8045050		3004520064	103 EL PASO SMITH NU 1		120.0	EL PASO NATURAL GAS	JALMAT
*AMERADA HESS CORPORATION			RECEIVED: 07/08/80	JAI NM			
8045039		3003900000	108 D MARVEY STATE #2		10.1	GAS CO OF NEW MEXICO	UTERU
*EL PASO NATURAL GAS COMPANY			RECEIVED: 07/08/80	JAI NM			
8045042		3004513115	108 BRUINGTON #6		10.0	EL PASO NATURAL GAS	BASIN-DAKOTA GAS
8045041		3003908102	108 CANYON LANGO UNIT #139		20.0	EL PASO NATURAL GAS	UTE-DOMECHA GAS
8045044		3003907047	108 KINCUN UNIT #21		20.0	EL PASO NATURAL GAS	BLANCO-MESAVERDE GAS
8045040		3003907983	108 SAN JUAN 32-5 UNIT #10		22.0	EL PASO NATURAL GAS	BLANCO-MESAVERDE GAS
*DUPONT ENERGY CORPORATION			RECEIVED: 07/08/80	JAI NM			
8045045		3004523532	103 MIMS STATE COM 1-A		130.0	SOUTHERN UNION GATHE	BLANCO PICTURED CLIFFS
OKLAHOMA CONSERVATION COMMISSION							
SAL RECORD INC			RECEIVED: 07/07/80	JAI OK			
8044997	04442	3509321624	103 ALVEY #1 - 25		20.0	PIONEER GAS PRODUCTS	MEMO = WINGWOOD
8044994	04437	3509321620	103 ARTHUR #1 - 19		69.0	PIONEER GAS PRODUCTS	MEMO = WINGWOOD
8044995	04441	3509321625	103 HAYS #1 - 25		20.0	PIONEER GAS PRODUCTS	MEMO=WINGWOOD
8044993	04438	3509321621	103 MCLEMA #1-19		51.0	PIONEER GAS PRODUCTS	MEMO=WINGWOOD
8044996	04440	3507321177	103 KHUSE #1		90.0	CITIES SERVICE GAS C	EAST LUTAL
*ANDOVER OIL COMPANY			RECEIVED: 07/07/80	JAI OK			
8045028	04460	3501721179	102 FLOYD MILLER #31-1		34.0	PIONEER GAS PRODUCTS	MEMO = WINGWOOD
					180.0	DELHI GAS PIPELINE C	WILDCAT

V45/153 3 AG6 80 UMI

UMI 008 6GA 35 1\54V

VOLUME 248 PAGE 002

JD NO	JA DKT	API NO	SEC	WELL NAME	RECEIVED	JA	FIELD NAME	PROD	PURCHASER
*ANCO OIL AND GAS COMPANY					07/07/80	JA			
8044991	00973	3500721269	103	ASA L MENDRICKS #2			BEAVER	219.0	MICHIGAN WISCONSIN P
8045005	00972	3500721315	103	R FADES UNIT #2			MUCANE	182.5	MICHIGAN WISCONSIN P
*BERRY PETROLEUM CORP					07/07/80	JA			
*8044998	00441	3500321584	103	HAT/LAPP #9-1			BOUNER TREND	150.0	UNION TEXAS PETROLEU
*CHASE EXPLORATION CORP					07/07/80	JA			
*8044981	00425	3507121030	103	CURFMAN #1-6			SEC 6 TWN 28 N RANGE 2E	25.1	CITIES SERVICE GAS C
*8044978	00420	3507121165	103	MONICK #1-3			C NE/4 SE/4 SEC 3 TWN 27	5.8	CITIES SERVICE GAS C
*8044977	00422	3507121006	103	JOHNS #2-24			C NW/4 SEC 24 TWN 28N 1E	23.7	CITIES SERVICE GAS C
*8044980	00418	3507121197	103	ARCENA #1-8			SEC 8 TWN 27 N	10.9	CITIES SERVICE GAS C
*8044975	00420	3507121017	103	MOUSEY #1-26			SEC 26 TWN 29N 1E	894.2	CITIES SERVICE GAS C
*8044976	00423	3507121475	103	SCHULZ #1-35			SEC 35 TWN 28N 1E	42.3	CITIES SERVICE GAS C
*8044979	00419	3507121475	103	BIMUMER #1-17			SEC 17 TWN 27 N RANGE 1E	13.2	CITIES SERVICE GAS C
*8044982	00424	3507121639	103	WOOD #2-31			SEC 31 TWN 28N R 2E	29.2	CITIES SERVICE GAS C
*COTTON PETROLEUM CORPORATION					07/07/80	JA			
8044996	00444	3505920801	103	MAYES C NU 1			BOILING SPRINGS	220.0	DELMI GAS PIPELINE C
*DAVIS OIL COMPANY					07/07/80	JA			
8045019	00433	3501120760	103	BURNS NU 1			SQUAW CREEK	37.0	OKLAHOMA GAS AND ELE
8045010	00430	3501120759	103	P & O NU 1			ELM GROVE	100.0	OKLAHOMA NATURAL GAS
8045011	00431	3501120008	103	THUMBLEY NU 1			ELM GROVE	135.0	OKLAHOMA NATURAL GAS
*F C O LTD					07/07/80	JA			
8044999	00456	3507322210	103	STATE 16-1			EAST LACEY	0.0	PHILLIPS PETROLEUM C
*GENERAL AMERICAN OIL COMPANY OF TEX					07/07/80	JA			
8045004	00927	3515721910	103	SPEARS 20			SHU-VEL-TUM	128.0	GETTY OIL CO
*J M HUBER CORPORATION					07/07/80	JA			
8045016	00473	3504520734	105	GRANTHAM NU 2			SOUTHEAST GAGE	10.0	UNG WESTERN INC
8045017	00474	3504520736	103	GRANTHAM NU 25-2			SOUTHEAST GAGE	16.0	UNG WESTERN INC
*JORDAN OIL & GAS COMPANY					07/07/80	JA			
8045020	00353	3504520767	103	FRITZLER ESTATE NU 1			MIGGINS SOUTH	180.0	NORTHERN NATURAL GAS
*KAISER-FRANCIS OIL COMPANY					07/07/80	JA			
8045009	03607	3501721069	102	COFFEY B #1			N M CALUMET	310.0	DELMI GAS PIPELINE C
*L E JONES PRODUCTION COMPANY					07/07/80	JA			
8045000	00462	3501921881	103	HALL-COLINE NU 1			KELLER	0.0	
*MAJORS PRODUCTION CO					07/07/80	JA			
8045008	00791	3504300000	103	O MEADOWS NU 1			SECTION 19-9N-10E	22.8	OKLAHOMA NATURAL GAS
*MUSTANG PRODUCTION CO,					07/07/80	JA			
*8044993	00447	3512120591	103	HENRY #1-29			WILBURTON	70.0	OKLAHOMA GAS & ELECT
*8044992	00448	3507920287	103	BLAIR #1-11			BOKOSHE	100.0	OKLAHOMA GAS & ELECT
*OKIE OIL INC					07/07/80	JA			
8045007	04039	3511900000	108	O STATE C - 1			WEST GEORGIA	0.0	SUN GAS CO
*OKLAHOMA PETROLEUM MANAGEMENT CORP					07/07/80	JA			
8044989	03507	3504120809	103	HUTIMRA #1			NORTH AGHA	219.0	COLORADO GAS COMPNES
*PACIFIC OIL & GAS CO					07/07/80	JA			
8044990	01120	3509321549	103	SCHOOL LAND NU 2			BADU	250.0	PHILLIPS PETROLEUM C
*PRODUCTION OIL CORP					07/07/80	JA			
8045022	04181	3510521806	103	HILL SHARP #12			NORTH CHILDERS	16.4	CITIES SERVICE GAS
8045023	04343	3510521708	103	JOE STEWART 10			NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8045018	04179	3510521504	103	MAC STEWART 3			NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8045019	04191	3510521428	103	MATTHEWS #1			EAST LENAPAH	16.4	CITIES SERVICE GAS C
8045021	04186	3510521502	103	W W CHOUTEAU #1			EAST LENAPAH FIELD	16.4	CITIES SERVICE GAS C
8045020	04189	3510521545	103	W W CHOUTEAU #5			EAST LENAPAH	16.4	CITIES SERVICE GAS C
*RONALD LEE MCCUTCHIN					07/07/80	JA			
8045025	04479	3510720578	103	MESSIE SEAT #1			SEC 35 TOWNSHIP 12N RANG	365.0	PUBLIC SERVICE CO OF

VOLUME 248 PAGE 003

JD NO	JA DKT	API NO	SEC	WELL NAME	RECEIVED	JA	FIELD NAME	PROD	PURCHASER
8045027	04478	3510720607	103	MAXWELL #1			SECT 4 TOWNSHIP 11N RANG	365.0	PUBLIC SERVICE CO OF
*B K TUTHILL & B J BARBEE					07/07/80	JA			
8045006	00541	3515300000	103	O WALKER #1-31			SE FAIRVALLEY	300.0	PANHANDLE EASTERN PI
*SOUTHERN UNION EXPLORATION COMPANY					07/07/80	JA			
8045026	04310	3515520075	102	HAWKINS #1			WILDCAT	730.0	ARKANSAS LOUISIANA G
8045026	04310	3515520075	103	HAWKINS #1			WILDCAT	730.0	ARKANSAS LOUISIANA G
*TENNECO OIL CO					07/07/80	JA			
8044986	00182	3515120771	103	REFFEN #2-5			OAKDALE N	145.6	PANHANDLE EASTERN PI
*TENNECO OIL EXPLORATION AND PRODUCT					07/07/80	JA			
8044987	00181	3515320866	103	SHORELINE #2-34			CHESTER W	13.6	NATURAL GAS PIPELINE
*TEXAS PACIFIC OIL COMPANY INC					07/07/80	JA			
8045003	04469	3501721166	103	HALL 2-27			WATONGA TREND (RED FORK)	28.0	CITIES SERVICE GAS C
*TRANSIERRA EXPLORATION CORP					07/07/80	JA			
8045001	04459	3504722011	103	PAUL MARINER NU 1			GARBER	182.0	ARCO OIL & GAS CO
8045002	04460	3504721993	103	STATE SCHOOL LAND NU 1			GARBER	182.0	ARCO OIL & GAS CO
*UNION TEXAS PETROLEUM					07/07/80	JA			
8044988	00045	3504721300	103	F ANDERSON NU 2			WAUKOMIS SW	72.0	PANHANDLE EASTERN PI
*UNIVERSAL RESOURCES CORPORATION					07/07/80	JA			
8045015	04435	3506521160	103	FLASCH 2-2			RUSSELL	190.0	
8045012	04429	3501721048	103	KRSMKA #2-8			RICHLAND NORTHWEST	100.0	CONOCO INC
8045013	04432	3501721304	103	MERVELDT #6-35			PIEDMONT WEST	350.0	DELMI GAS PIPELINE C

****

WEST VIRGINIA DEPARTMENT OF MINES

****

*ALLEGHENY LAND & MINERAL COMPANY					07/07/80	JA	WV		
8045239		4704701992	103	A-520			MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8045211		4703300916	108	A-538			SANDIS DISTRICT	0.0	CONSOLIDATED GAS SUP
8045095		4703302073	105	A-753			SANDIS DISTRICT	0.0	CONSOLIDATED GAS SUP
8045090		4703302207	103	A-776			SANDIS DISTRICT	0.0	CONSOLIDATED GAS SUP
8045263		4700101076	103	A-782			UNION DISTRICT	0.0	CONSOLIDATED GAS SUP
8045088		4703302172	103	A-787			SANDIS DISTRICT	0.0	CONSOLIDATED GAS SUP
8045242		4704101944	103	A-788			KNUTSVILLE DISTRICT	0.0	CONSOLIDATED GAS SUP
8045246		4703302058	103	A-799			TEN MILE DISTRICT	0.0	CONSOLIDATED GAS SUP
8045240		4704701935	103	A-807			WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRANSMI
8045243		4707700201	103	A-808			VALLEY DISTRICT	0.0	CONSOLIDATED GAS SUP
8045245		4703302085	103	A-809			SANDIS DISTRICT	0.0	CONSOLIDATED GAS SUP
8045089		4704102685	103	A-821			MALAENS CREEK DISTRICT	0.0	CONSOLIDATED GAS SUP
8045244		4703302091	103	A-822			EAGLE DISTRICT	0.0	CONSOLIDATED GAS SUP
8045235		4709701984	103	A-827			WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS SUP
8045237		4704701955	103	A-830			UNION DISTRICT	0.0	CONSOLIDATED GAS SUP
8045241		4704700183	103	A-833			UNION DISTRICT	0.0	CONSOLIDATED GAS SUP
8045236		4704701966	103	A-835			WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS SUP
8045187		4704701423	103	A-836			SALT LICK DISTRICT	0.0	CONSOLIDATED GAS SUP
8045238		4704701995	103	A-840			WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRANSMI
8045234		4709702002	103	A-850			WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS SUP
8045212		4703300073	108	C O ROBINSON A-337			EAGLE DISTRICT	14.0	CONSOLIDATED GAS SUP
*ASHLAND EXPLORATION INC					07/07/80	JA	WV		
8045184		4710900723	108	W M RITTER LUMBER CO #217			LOGAN WYOMING	20.1	CONSOLIDATED GAS SUP
*CITIES SERVICE COMPANY					07/07/80	JA	WV		
8045209		4701702118	108	BLAND A #1			SMITHBURG	5.2	CONSOLIDATED GAS SUP
8045208		4701702119	108	BLAND A #2			SMITHBURG	4.6	CONSOLIDATED GAS SUP
8045207		4701702121	108	CHAPMAN A #2			SMITHBURG	7.5	CONSOLIDATED GAS SUP
8045206		4701702122	108	JONES J #1			SMITHBURG	5.9	CONSOLIDATED GAS SUP
8045205		4701702124	108	MARNELL A #10			SMITHBURG	1.2	CONSOLIDATED GAS SUP

UMI 008 6GA 351/54V

VOLUME 248 PAGE 004

JD NO	JA DKT	API NO	SEC #	WELL NAME	FIELD NAME	PROD	PURCHASER
8045204		4701702127	108	MAXWELL A #11	SMITHBURG	2.0	CONSOLIDATED GAS SUP
8045203		4701702130	108	MAXWELL A #20	SMITHBURG	0.4	CONSOLIDATED GAS SUP
8045202		4701702131	108	MAXWELL A #21	SMITHBURG	5.2	CONSOLIDATED GAS SUP
8045201		4701702132	108	MAXWELL A #23	SMITHBURG	5.1	CONSOLIDATED GAS SUP
8045256		4701702133	108	MAXWELL A #26	SMITHBURG	5.8	CONSOLIDATED GAS SUP
8045255		4701702134	108	MAXWELL A #29	SMITHBURG	5.2	CONSOLIDATED GAS SUP
8045254		4701702135	108	MAXWELL A #38	SMITHBURG	5.5	CONSOLIDATED GAS SUP
8045253		4701702136	108	MAXWELL A #45	SMITHBURG	2.5	CONSOLIDATED GAS SUP
8045252		4701702137	108	MAXWELL A #46	SMITHBURG	1.9	CONSOLIDATED GAS SUP
8045251		4701702138	108	MAXWELL A #47	SMITHBURG	0.9	CONSOLIDATED GAS SUP
8045250		4701702139	108	MAXWELL A #50	SMITHBURG	4.2	CONSOLIDATED GAS SUP
8045249		4701702140	108	MAXWELL A #53	SMITHBURG	11.2	CONSOLIDATED GAS SUP
8045248		4701702141	108	MAXWELL A #54	SMITHBURG	11.8	CONSOLIDATED GAS SUP
8045175		4701702142	108	MAXWELL A #56	SMITHBURG	3.7	CONSOLIDATED GAS SUP
8045247		4701702143	108	MAXWELL A #59	SMITHBURG	7.8	CONSOLIDATED GAS SUP
8045182		4701702145	108	MAXWELL B #12	SMITHBURG	6.5	CONSOLIDATED GAS SUP
8045181		4701702146	108	MAXWELL B #13	SMITHBURG	3.2	CONSOLIDATED GAS SUP
8045180		4701702148	108	MAXWELL B #18	SMITHBURG	7.4	CONSOLIDATED GAS SUP
8045183		4701702144	108	MAXWELL B #9	SMITHBURG	3.6	CONSOLIDATED GAS SUP
8045179		4701702149	108	MAXWELL C #1	SMITHBURG	3.1	CONSOLIDATED GAS SUP
8045176		4701702152	108	MAXWELL C #10	SMITHBURG	0.4	CONSOLIDATED GAS SUP
8045128		4701702153	108	MAXWELL C #11	SMITHBURG	2.5	CONSOLIDATED GAS SUP
8045177		4701702150	108	MAXWELL C #3	SMITHBURG	6.1	CONSOLIDATED GAS SUP
8045178		4701702151	108	MAXWELL C #4	SMITHBURG	4.9	CONSOLIDATED GAS SUP
8045131		4701702157	108	MAXWELL D #19	SMITHBURG	7.1	CONSOLIDATED GAS SUP
8045129		4701702154	108	MAXWELL D #3	SMITHBURG	7.8	CONSOLIDATED GAS SUP
8045130		4701702155	108	MAXWELL D #5	SMITHBURG	6.2	CONSOLIDATED GAS SUP
8045132		4703902947	108	VICKERS A #2	CULBUN 6	4.2	CONSOLIDATED GAS SUP
8045133		4703902948	108	VICKERS A #6	CULBUN 6	2.2	CONSOLIDATED GAS SUP
8045096		4703902949	108	VICKERS A #7	CULBUN 6	2.2	CONSOLIDATED GAS SUP
8045134		4703902950	108	VICKERS A #8	CULBUN 6	1.0	CONSOLIDATED GAS SUP
8045135		4703902951	108	VICKERS A #9	CULBUN 6	1.8	CONSOLIDATED GAS SUP
*D A DURWARD				RECEIVED: 07/07/80 JAI WV			
8045103		4702101573	108	N G CULLINS #1	GLENVILLE	0.0	CONSOLIDATED GAS SUP
*DEVON CORPORATION				RECEIVED: 07/07/80 JAI WV			
8045171		4704501049	108	W 13 DINGESS RUM COAL CO #6	LOGAN	0.5	COLUMBIA GAS TRANSMI
8045228		4704501050	108	W 2 GUYAN MERCANTILE #1	LOGAN	4.0	COLUMBIA GAS TRANSMI
8045168		4704501052	108	W 20 DINGESS RUM COAL CO #15	LOGAN	7.0	COLUMBIA GAS TRANSMI
8045232		4704501056	108	W 24 DINGESS RUM COAL CO #16	LOGAN	4.0	COLUMBIA GAS TRANSMI
8045226		4704501065	108	W 27 DINGESS RUM COAL CO #20	LOGAN	1.0	COLUMBIA GAS TRANSMI
8045122		4704501063	108	W 7 YANKEY-FREEMAN #2	LOGAN	1.0	COLUMBIA GAS TRANSMI
8045172		4704501048	108	W15 DINGESS RUM COAL CO #8	LOGAN	3.0	COLUMBIA GAS TRANSMI
8045173		4704501047	108	W16 DINGESS RUM COAL CO #9	LOGAN	8.0	COLUMBIA GAS TRANSMI
8045174		4704501046	108	W17 DINGESS RUM COAL CO #10	LOGAN	2.0	COLUMBIA GAS TRANSMI
8045225		4704501066	108	W1M DINGESS RUM COAL CO #11	LOGAN	1.0	COLUMBIA GAS TRANSMI
8045169		4704501051	108	W19 DINGESS RUM COAL CO #12	LOGAN	7.0	COLUMBIA GAS TRANSMI
8045165		4704501055	108	W21 DINGESS RUM COAL CO #14	LOGAN	5.0	COLUMBIA GAS TRANSMI
8045231		4704501057	108	W24 DINGESS RUM COAL CO #17	LOGAN	4.0	COLUMBIA GAS TRANSMI
8045167		4704501053	108	W25 DINGESS RUM COAL CO #18	LOGAN	2.0	COLUMBIA GAS TRANSMI
8045170		4704501060	108	W26 DINGESS RUM COAL CO #19	LOGAN	0.5	COLUMBIA GAS TRANSMI
8045227		4704501064	108	W29 DINGESS RUM COAL CO #22	LOGAN	3.0	COLUMBIA GAS TRANSMI
8045224		4704501067	108	W30 DINGESS RUM COAL CO #23	LOGAN	8.0	COLUMBIA GAS TRANSMI
8045166		4704501054	108	W31 DINGESS RUM COAL CO #24	LOGAN	4.0	COLUMBIA GAS TRANSMI

VOLUME 248 PAGE 005

JD NO	JA DKT	API NO	SEC #	WELL NAME	FIELD NAME	PROD	PURCHASER
8045121		4704501061	108	W33 DINGESS RUM COAL CO #20	LOGAN	1.0	COLUMBIA GAS TRANSMI
8045230		4704501058	108	W37 YANKEY-FREEMAN #3	LOGAN	7.0	COLUMBIA GAS TRANSMI
8045229		4704501059	108	W5 WHITE HEIRS	LOGAN	2.0	COLUMBIA GAS TRANSMI
8045123		4704501062	108	W6 YANKEY-FREEMAN #1	LOGAN	4.0	COLUMBIA GAS TRANSMI
*FMF OIL & GAS PROPERTIES				RECEIVED: 07/07/80 JAI WV			
8045215		4708300246	103	BUNKE #2 PERMIT NO	ROARING CREEK DISTRICT	25.0	COLUMBIA GAS TRANSMI
8045220		4700101103	103	MERLEY #1 PERMIT NO BAR 001-1103	WELLS RUN VALLEY DISTRIC	45.0	COLUMBIA GAS TRANSMI
*FRANKLIN ADKINS				RECEIVED: 07/07/80 JAI WV			
8045217		4702123202	103	HYMEN #2	GLENVILLE DISTRICT	12.0	CONSOLIDATED GAS SUP
*INTERSTATE DRILLING INC				RECEIVED: 07/07/80 JAI WV			
8045164		4708503648	108	BEALL NO 1 47-085-3648	MURPHY	7.4	CONSOLIDATED GAS SUP
8045155		4704102485	108	BUNNETT 1 47-041-2485	MACKENS CREEK	7.2	CONSOLIDATED GAS SUP
8045158		4704102171	108	HUTCHEN 3 47-041-2171	FREEMANS	12.6	CONSOLIDATED GAS SUP
8045157		4710500830	108	CAMPBELL DEPUE 47-105-0830	CHELSTON	1.0	COLUMBIA GAS TRANSMI
8045156		4710506390	108	COUPER 47-105-0639	CHELSTON	9.3	COLUMBIA GAS TRANSMI
8045160		4704102136	108	LONG NO 1 47-041-2136	MACKENS CREEK	18.3	CONSOLIDATED GAS SUP
8045159		4704102140	108	LONG NO 2 47-041-2140	MACKENS CREEK	18.0	CONSOLIDATED GAS SUP
8045161		4704102089	108	MENTZ #2 47-041-2089	FREEMANS CREEK	15.8	CONS GAS SUPPLY CORP
*KEITH CRIMFIELD				RECEIVED: 07/07/80 JAI WV			
8045214		4700701069	108	EVA WILLIAMS #1	SALT LICK	10.0	EQUITABLE GAS CO
8045213		4700701084	108	HENNDON #1	SALT LICK	2.0	EQUITABLE GAS CO
8045219		4700710660	108	HUBERT TAYLOR #1	SALT LICK	14.0	EQUITABLE GAS CO
*P L GAINER AGENT				RECEIVED: 07/07/80 JAI WV			
8045138		4701501481	108	PETTIT NO 2 GAS CO	SHERIDAN	3.0	CONSOLIDATED GAS SUP
8045139		4701501539	108	PETTIT NO 5 GAS CO	SHERIDAN	3.5	CONSOLIDATED GAS SUP
8045136		4701501576	108	WITTUN NO 1	LEE	1.0	CONSOLIDATED GAS SUP
8045137		4701501404	108	WOODS NO 1	SHERIDAN	2.4	CONSOLIDATED GAS SUP
*PENNZOIL COMPANY				RECEIVED: 07/07/80 JAI WV			
8045210		4709500702	108	ISAAC BAKER HEIRS #3	MCELROY DISTRICT	0.0	CONSOLIDATED GAS SUP
8045087		4708703284	108	J J WHITE #2	GEARY	0.0	CONSOLIDATED GAS SUP
8045097		4708703279	108	O D STUCKLEY #102	GEARY	0.0	CONSOLIDATED GAS SUP
8045098		4708703278	108	O D STUCKLEY #103	GEARY	0.0	CONSOLIDATED GAS SUP
8045091		4708703283	108	O D STUCKLEY #104	GEARY	0.0	CONSOLIDATED GAS SUP
8045100		4701501770	108	O D STUCKLEY #106	HENRY	0.0	CONSOLIDATED GAS SUP
8045092		4708703281	108	O D STUCKLEY #54	GEARY	0.0	CONSOLIDATED GAS SUP
8045099		4705502417	108	OGDEN F F #2	SAMOIS	0.5	CONSOLIDATED GAS SUP
8045188		4708703274	108	P A TALLMAN #38	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045184		4708703276	108	P A TALLMAN #40	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045189		4708703275	108	P A TALLMAN #44	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045190		4708703282	108	P A TALLMAN #45	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045102		4701502823	108	W T HAPPENTY #5	SHERMAN DISTRICT	1.5	CONSOLIDATED GAS SUP
8045101		4701502824	108	W T HAPPENTY #6	SHERMAN DISTRICT	1.5	CONSOLIDATED GAS SUP
*RITCHIE PETROLEUM INC				RECEIVED: 07/07/80 JAI WV			
8045140		4708504651	108	BUNBRIDGE #1	MANRISVILLE AREA	0.5	CONSUMERS GAS UTILIT
8045126		4708504647	108	C E SIMMONS #2	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8045112		4708504657	108	G M CUKELEY #1	MANRISVILLE AREA	0.5	CONSUMERS GAS UTILIT
8045108		4708504633	108	G M HAMMER #15	OIL RIDGE AREA	0.5	CONSUMERS GAS UTILIT
8045113		4708504656	108	G M HAMMEN #1	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8045146		4708504636	108	G M HAMMEN #11	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8045223		4708502732	108	G M HAMMEN #13	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8045150		4708504631	108	G M HAMMEN #2	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8045110		4708504645	108	G M HAMMEN #4	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8045106		4708504622	108	G M HAMMEN #7	OIL RIDGE AREA	0.5	CONSUMERS GAS UTILIT

UMI 0 8 6GA 3 5 1 5 4 V

VOLUME 248 PAGE 006

JD NO	JA DKT	API NO	SEC	T	RGE	WELL NAME	FIELD NAME	PROD	PURCHASER
8045114		4708504655	108			G V KENNUAD #5	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045125		4708504648	108			I N CURELEY #1	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045124		4708504649	108			I N CURELEY #2	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045147		4708504654	108			J F MUUVER #3	OIL MIDGE AREA	2,5	CONSUMERS GAS UTILIT
8045193		4708504623	108			J F MUUVER #5	OIL MIDGE AREA	2,5	CONSUMERS GAS UTILIT
8045111		4708504658	108			J F MUUVER #6	OIL MIDGE AREA	0,3	CONSUMERS GAS UTILIT
8045188		4708504639	108			J N PIERMUNT #1	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045185		4708504638	108			J N PIERMUNT #2	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045109		4708504660	108			S M ZICKA FUUSE #12	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045152		4708504629	108			S M ZICKA FUUSE #16	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045151		4708504630	108			S M ZICKA FUUSE #22	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045153		4708504663	108			S M ZICKAFUUSE #15	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045110		4708504659	108			S M ZICKAFUUSE #16	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045154		4708504662	108			S M ZICKAFUUSE #20	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045198		4708504618	108			S M ZICKAFUUSE #23	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045199		4708504617	108			S M ZICKAFUUSE #26	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045200		4708504616	108			S M ZICKAFUUSE #28	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045142		4708504641	108			S M ZICKAFUUSE #4	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045192		4708504624	108			S M ZICKAFUUSE #5	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045191		4708504625	108			S M ZICKAFUUSE #7	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045120		4708504628	108			S M ZICKAFUUSE #9	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045106		4708504661	108			S M ZICKAFUUSE #29	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045196		4708504620	108			S SMITH #1	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045106		4708504627	108			S SMITH #10	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045197		4708504619	108			S SMITH #11	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045127		4708504646	108			S SMITH #17	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045195		4708504621	108			S SMITH #2	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045115		4708504653	108			S SMITH #4	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045143		4708504640	108			S SMITH #5	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045222		4708503316	108			S SMITH #6	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045141		4708504650	108			S SMITH #9	ELM RUN	0,3	CONSUMERS GAS UTILIT
8045118		4708504643	108			T M HANRIS #1	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045119		4708504642	108			W CURELEY #1	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045149		4708504632	108			W CURELEY #2	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045107		4708504626	108			W W TAPP #2	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
8045117		4708504644	108			W W TAPP #3	MANRISVILLE AREA	0,3	CONSUMERS GAS UTILIT
•HUGERS & SON						RECEIVED: 07/07/80 JAI NV			
8045218		4701329900	103			JOHN ANTHUN WELL NU 1	LEE DISTRICT	0,0	COLUMBIA GAS TRANSMI
•STONEWALL GAS CO INC						RECEIVED: 07/07/80 JAI WV			
8045103		4703322205	103			AME MAITHEY #2	UNION	30,0	CONSOLIDATED GAS SUP
8045093		4703322168	103			JAMES CONDER #1	UNION	0,0	CONSOLIDATED GAS SUP
•TEXAS INTERNATIONAL PET CORP						RECEIVED: 07/07/80 JAI NV			
8045104		4710900832	103			POCAMONTAS LAND CORP #C-10	BANKERS RIDGE	36,0	CONSOLIDATED GAS SUP
8045185		4710900767	103			POCAMONTAS LAND CORP #C-13	BANKERS RIDGE	25,0	CONSOLIDATED GAS SUP
8045105		4710900792	103			POCAMONTAS LAND CORP #C-21	BANKERS RIDGE	25,0	CONSOLIDATED GAS SUP
8045186		4710900759	103			POCAMONTAS LAND CORP #C-3	BANKERS RIDGE	25,0	CONSOLIDATED GAS SUP
8045094		4710900758	103			POCAMONTAS LAND CORP #C-4	BANKERS RIDGE	25,0	CONSOLIDATED GAS SUP
•THE CANTER JONES LUMBER CO						RECEIVED: 07/07/80 JAI NV			
8045221		4709500685	103			W KIMBLE #1	ELLSWORTH DISTRICT	15,0	
•UNITED OPERATING COMPANY						RECEIVED: 07/07/80 JAI NV			
8045210		4701702532	103			GULDIE WILSUN 1-A	CABIN RUN	0,0	

***

VOLUME 248 PAGE 008

JD NO	JA UNT	API NO	SEC & WELL NAME			
FIELD NAME		PROD	PURCHASER			
OCIO EXPLORATION INC		4900321065 102	RECEIVED1 07/08/80 JAI NM 5			
8004506A N 1251-9B			BULL PRUD UNIT #1 (OCIO-B)			
OAVID UIL COMPANY			RECEIVED1 07/08/80 JAI NM 5			
8004506B W 1190-9		4900321215 103	NICHEL UNIT #2			
OIAMUND SHAMROCK CORPORATION			RECEIVED1 07/08/80 JAI NM 5			
8004507U W 1273-9		4900321558 102	CAMPBELL FEDERAL NU 21-8			
8004508G W 1272-9		4900321559 102	CAMPBELL FEDERAL NU 23-6			
8004507J W 1275-9		4900321560 102	CAMPBELL FEDERAL NU 41-5			
OEMEGETICO INC			RECEIVED1 07/08/80 JAI NM 5			
8004508Z W 1106-9		4900321002 103	FEDERAL 10-19			
8004509J W 1045-9		4900320558 103	FEDERAL 10-3U			
NATIONAL COOP REFINERY ASSOC			RECEIVED1 07/08/80 JAI NM 5			
8004507E N 1261-9		4900321444 103	WALLACE CHECK 2A			
TEXAS UIL & GAS CORP		4900321439 103	WINSTON FEDERAL #1			
8004508U N 1247-9			RECEIVED1 07/08/80 JAI NM 5			
** BUREAU OF INDIAN AFFAIRS, USAGE AGENCY, FARMINGTON						
SUN OIL COMPANY (DELAWARE)			RECEIVED1 07/07/80 JAI OK 8			
8004505J		3511324311 103	CHAPMAN RANNARD A NU 1			
8004505Z		3511324355 103	CHAPMAN RANNARD NU 19			
8004506E		3511324354 103	CHAPMAN RANNARD NU 20			
8004507Y		3511324033 103	CHAPMAN RANNARD NU 21			
8004505S		3511324074 103	CHAPMAN RANNARD NU 22			
8004505W		3511324080 103	CHAPMAN RANNARD NU 23			

OTHER PURCHASERS

8004497S	CHASE GATHERING SYSTEMS INC	37.0	PHILLIPS PETROLEUM C
8004497R	CHASE GATHERING SYSTEMS INC	3.0	PHILLIPS PETROLEUM C
8004497T	CHASE GATHERING SYSTEMS INC	10.0	PHILLIPS PETROLEUM C
8004497U	CHASE GATHERING SYSTEMS INC	15.0	PHILLIPS PETROLEUM C
8004498Q	CHASE GATHERING SYSTEMS INC	20.0	PHILLIPS PETROLEUM C
8004498I	CHASE GATHERING SYSTEMS INC	80.0	PHILLIPS PETROLEUM C
8004498Z	PUBLIC SERVICE CO OF OKLAHOMA		
8004499J	PUBLIC SERVICE CO OF OKLAHOMA		
8004499R	PANHANDLE EASTERN PIPELINE CO		
8004501Z	MICHIGAN-WISCONSIN PIPELINE CO		
8004503W	MICHIGAN WISCONSIN PIPELINE CO		
8004503Y	SOUTHERN NATURAL GAS CO		
8004503S	PUBLIC SERVICE ELECTRIC & GAS CO		
8004504T	NORTHWEST PIPELINE CORP		
8004505I	TENNESSEE GAS PIPELINE CO		
8004506O	TENNESSEE GAS PIPELINE CO		
8004506Q	COLORADO INTERSTATE GAS CO		
8004508S	PANHANDLE EASTERN PIPELINE CO		

[FR Doc. 80-23708 Filed 8-5-80; 8:45 am]
BILLING CODE 6560-01-C

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1564-3]

Science Advisory Board; Meeting

The meeting is to be held in less than the 15 days required because the nature of the sampling to be performed must commence at once if it is to be completed before the onset of winter. Under Pub. L. 92-463, notice is hereby given for a meeting of the Study Group on Sampling Protocal of the Science Advisory Board of the U.S. Environmental Protection Agency to be held on August 8, 1980, starting at 8:30 a.m. and ending 5:00 p.m. The meeting location is: National Environmental Research Laboratory, Conference Room P 303, Research Triangle Park, North Carolina 27711.

This facility is located adjacent to the intersection of Highway 54 and Alexander Drive in Research Triangle Park, North Carolina. Visitors will be directed to the meeting room by the guard.

The purpose of the meeting is to provide review and comment on the sampling protocals that have been proposed for the Love Canal area, as requested by the Office of Research and Development.

The meeting is open to the public but the seating capacity is limited. Members of the public desiring to attend should preregister with Ms. Janice Phillips at 919-541-2106 no later than close of business August 7, 1980. Persons desiring additional information may contact Dr. Douglas Seba, Science Advisory Board, Environmental Protection Agency, Phone No. 202-472-9444.

Richard Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 80-23790 Filed 8-5-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1562-3; PP OG2275/T254]

American Cyanamid Co.; Pendimethalin; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been established for the combined residues of the herbicide pendimethalin [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-ethyl-3,5-dinitrobenzyl alcohol in or on wheat grain and wheat straw at 0.1 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division, (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/755-2916.

SUPPLEMENTARY INFORMATION: American Cyanamid Company, Agricultural Division, P.O. Box 400, Princeton, NJ 08540 submitted a pesticide petition (PP OG2275) to the EPA. The petition requested that a temporary tolerance be established for the combined residues of the herbicide pendimethalin [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-ethyl-3,5-dinitrobenzyl alcohol in or on wheat grain and wheat straw at 0.1 ppm.

These tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit being issued under the Federal Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80-104, 61 Stat. 163, as amended by Pub. L. 92-516, 86 Stat. 975; Pub. L. 94-140, 89 Stat. 754, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material have been evaluated, and it has been determined that the tolerances will protect the public health.

The temporary tolerance has been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the active herbicide to be used will not exceed the amount authorized in the experimental use permit.

2. American Cyanamid will immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires on September 1, 1981. Residues not in excess of the tolerance remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked of if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 346a(j)))

Dated: July 28, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-23649 Filed 8-5-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1562-2; PF-185A]

American Cyanamid Co.; Filing of Pesticide and Food Additive Petition; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects a notice that appeared on page 34054 in the **Federal Register** of May 21, 1980 (FR Doc. 80-15512).

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Office of Pesticide Programs, Registration Division (TS-767), Rm. E-341, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, 202/426-9741.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-15512 appearing at page 34054, May 21, 1980, Petition OF2347, the chemical "phenoxyphenyl)methyl-4-chloro-alpha-methylethyl) benzeneacetate" should have been (± cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate."

Dated: July 28, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-23648 Filed 8-5-80; 8:45 am]
BILLING CODE 6560-01-M

[OPTS-51105; FRL 1561-8]

Polyisobutenyl Succinic Anhydride Reaction Products With Substituted Ethanol; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA to least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice

V45/153 AG 6 80 UMI

announces receipt of a PMN and provides a summary.

DATE: Written comments by September 14, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Ann Radosevich, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202/426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for a new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential decription of the potential exposures from use, and a generic name of the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will developed one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. IF EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(a)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 14, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51105]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 29, 1980

Warren R. Muir,

Acting Deputy Assistance Administrator for Chemical Control.

PMN 80–172.

Close of Review Period. October 14, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polyisobutenyl succinic anhydride reaction products with substituted ethanol.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. The manufacturer did not submit toxicity data with the PMN, but stated that results of various toxicity tests will be provided the Agency at a later date.

Exposure. Claimed confidential.

Environmental Release/Disposal. Claimed confidential.

[FR Doc. 80–23647 Filed 8–5–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–59031; FRL 1561–7]

Certain Chemical Premanufacture Exemption; Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by September 5, 1980. Persons should submit written comments on the applications no later than August 21, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, DC 20460, 202–426–8816.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before August 21, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–59031]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 28, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

TM 80–35.

Close of Review Period. September 5, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential.

Use. Claimed confidential.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. Claimed confidential.

Exposure. Claimed confidential.

Environmental Release/Disposal. Claimed confidential.

[FR Doc. 80–23646 Filed 8–5–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51103; FRL 1561–6]

Polyester Reaction Product With Toluene Diisocyanate Acrylate Terminated; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of APMN and provides a summary.

DATE: Written comments by September 15, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426–8815.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10,

V 45 / 153 AG 6 80 UMI

1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under Section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless his information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 15, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51103]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 29, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–174.

Close of Review Period. October 15, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—$500 million.

Manufacturing site—South Atlantic region, U.S.

Standard Industrial Classification Code—2821.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polyester reaction product with toluene diisocyanate acrylate terminated.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Electronics photoresists coating.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data.

Acute dermal toxicity (rabbits)—Non-toxic at 2 g/kg.

Acute oral toxicity (rats)—Toxic at 5 g/kg.

Primary skin irritation (rabbits)—Draize 3.63 (Moderately irritating).

Primary eye irritation (rabbits)—Extremely irritating.

Occupational Exposure.

Activity	Exposure Route	Max. No. Exposed	Max Duration Hr/Da	Max Duration Da/Yr	Concentration Average	Concentration Peak (PPM)
Manufacture.	Dermal	3	1	150		0–1
Commercial use.	Dermal	5				

The manufacturer states that the manufacturing process is through a closed system and that the only exposure personnel would be subject to is during discharge. Minimum exposure would be expected as discharge goes directly form reactor to drums.

For commerical use, submitter will recommend that material be used in well ventilated areas and that personnel wear goggles and gloves.

Environmental Release/Disposal. The manufacturer claims that there will be no release to the environment of the PMN substance.

[FR Doc. 80–23645 Filed 8–5–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[BL Docket No. 80–381, et al]

Casey Broadcasting Co., Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: June 26, 1980.

Released: July 30, 1980.

In re Applications of Casey Broadcasting Company, Inc. St. Marys, Georgia, Req: 93.5 MHz, Channel 228 3 kW (H&V) 288 feet, BC Docket No. 80–381 File No. BPH–781215AH; Camden Broadcasting Corporation, St. Marys, Georgia, Req: 93.5 MHz, Channel 228 3 kW (H&V) 297.3 feet, BC Docket No. 80–382, File No. BPH–790228AF; Radio Charlton, Inc. St. Marys/Kingsland, Georgia, Req: 93.5 MHz, Channel 228 3 kW (H&V) 300 feet, BC Docket No. 80–383, File No. BPH–790328AD; Lloyd Brinks St. Marys, Georgia, Req: 93.5 MHz, Channel 228 3 kW (H&V) 298 feet, BC Docket No. 80–384, File No. BPH–790328AM.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above captioned mutually exclusive applications filed by Casey Broadcasting Company, Inc. (Casey), Camden Broadcasting Corporation (Camden), Radio Charlton, Inc. (Charlton), and Lloyd Brinks (Brinks).

2. *Camden.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Camden published the required notice. To remedy this deficiency, Camden will be required to publish local notice of its application, if it has not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

3. Camden has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has filed to survey leaders of significant population groups, specifically blacks and the elderly, as required by Questions and Answers 4 and 20. In addition, Camden failed to specify the dates of the community and general public surveys in accordance with Questions and Answers 2 and 15. As a result, a limited ascertainment issue will be specified.

4. *Brinks.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Brinks published the required notice. To remedy this deficiency, Brinks will be required to publish local notice of his application, if he has not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

5. Analysis of the financial portion of Brinks' application reveals that Brinks will require $44,446 to construct his proposed facility and operate for three months, without revenue, itemized as follows:

Equipment down payment	$14,500
Equipment payments with interest	4,446
Bank loan payments	1,000
Miscellaneous	14,500
Three months' operating expenses	10,000
Total	$44,446

To meet this requirement, Brinks intends to rely on a loan from the First National Bank of Dothan in the amount of $25,000, existing capital in the amount of $20,000 and deferred credit from an equipment supplier. The commitment letter in support of the loan did not specify the interest rate or terms of repayment in accordance with Paragraph 4(e), Section III of Form 301. An examination of Brinks' balance sheet reveals that his current liabilities exceed his current assets. Brink states in Section III that he has $13,000 on hand in the Fulton National Bank, but this is nowhere reflected in this balance sheet. As a result, we cannot find that he has any amount in existing capital to support his commitment. In addition, Brinks failed to submit a commitment letter from an equipment supplier showing that deferred credit is available. Accordingly, a general financial issue will be specified.

6. Brinks' ascertainment survey is not in substantial compliance with the *Primer.* The applicant has failed to consult leaders of the elderly in accordance with Questions 4 and 20. Furthermore, Brinks also failed to state (i) the dates of the community leader and general public surveys, and (ii) whether the general public survey was conducted in a manner which assured that a random sample of the population was contacted. Accordingly, a limited ascertainment issue will be specified.

7. *Casey.* The applicant has requested a waiver of Section 73.210 of the Commission's Rules to permit its main studio to be located outside the city of license. We will not rule on the request at this juncture. Rather, an issue will be specified so that the matter may be explored in hearing.

8. Casey has yet to receive FAA clearance for its proposed tower. Therefore, an air hazard issue will be specified.

9. The applicant originally filed as Lois V. Casey, an individual. Subsequently Ms. Casey amended her application to reflect a change to corporate status. The original notice published by Ms. Casey reflected only her status as an individual. Casey did not republish notice of the major amendment. To remedy this deficiency, the applicant will be required to republish local notice, if it has not already done so, and file a statement of publication with the presiding Administrative Law Judge.

10. *Charlton.* The applicant has requested that it be licensed to serve both St. Marys and Kingsland pursuant to Section 72.210(b) of the Rules. The Rule requires that the applicant make a "satisfactory showing that an unreasonable burden would be placed on the station if it were licensed to serve only one city, town, political subdivision or community," and the proposed co-communities of license must exhibit" an identity of interests for programming and other purposes sufficient to warrant dual city identification." *Saul M. Miller,* 4 FCC 2d 150, 8 RR 2d 148, *aff'd per curiam, Miller v. FCC,* 9 RR 2d 2031 (D.C. Cir. 1967). St. Marys and Kingsland do exhibit such an identity of interests. Both communities have common problems and needs, and Charlton has proposed programming designed to meet the needs of both communities. Charlton will divide equally 90% of its proposed 300 PSA's per week between St. Marys and Kingsland. Charlton has stated that serving only one community would result in unnecessary hardship and that there is a direct benefit to the applicant to be able to identify as "local" to both communities for purposes of attracting advertising revenue and public support. The Commission has traditionally required only a minimal showing with respect to economic and programming hardship. *Hymen Lake,* 46 FCC 2d 561, 565 (Rev. Bd. 1974). Accordingly, Radio Charlton has made a satisfactory showing under Section 73.210(b) of the Rules and its request for dual city licensing is granted.

11. Charlton will not be able to provide a 3.16 mV/m signal to the entire city of St. Marys as required by Section 73.315(a) of the Commission's Rules. Charlton has asked for a waiver of this provision. Only 2.3% of the population of St. Marys would lie beyond the 3.16 mV/m signal contour. We will not rule on the waiver request at this juncture. Rather, a city coverage issue will be specified so that the matter may be explored in hearing.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of Casey to locate its main studio outside its community of license is in compliance with Section 73.315(a) of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances exist which warrant a waiver of that Section.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Casey would constitute a hazard to air navigation.

V45/153 AG 6 80 UMI

3. To determine with respect to the efforts of Camden to ascertain the needs of its proposed service area:

(a) Whether the applicant interviewed leaders of blacks and the elderly in accordance with Questions 4 and 20;

(b) Whether the applicant specified the dates of the community leader and general public survey in accordance with Questions and Answers 2 and 15.

4. To determine whether the proposal of Charlton would provide coverage of the city sought to be served as required by Section 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant a waiver of that Section.

5. To determine whether Brinks is financially qualified to construct and operate the proposed station.

6. To determine with respect to the efforts of Brinks to ascertain the needs of its proposed service area:

(a) Whether the applicant interviewed leaders of the elderly in accordance with Questions and Answers 4 and 20;

(b) Whether the applicant specified the dates of the community leader and general public survey in accordance with Questions and Answers 2 and 15;

(c) Whether the interviews with members of the general public were conducted in such a manner to assure that a random sample of the population was contacted.

7. To determine the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from the respective proposals and the availability of other primary service to such areas and populations.

8. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

9. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

10. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

14. It is further ordered, That Camden Brinks and Casey file a statement of publication with the presiding Administrative Law Judge as described in Section 73.3580(h) of the Rules.

15. It is further ordered, That if the Casey application is granted, the permit shall specify that the provisions of Section 73.210 of the Commission's Rules are waived to permit the studio to be located outside the city of license.

16. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

17. It is further ordered, That if the Charlton application is granted, the permit shall specify that the provisions of Section 73.315(a) of the Commission's Rules are waived to permit a signal level of less than 3.16 mV/m over the entire city of St. Marys, Georgia.

18. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, purusuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23585 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-403—80-405; File Nos. BPH 780717AC, etc.]

Denair Broadcasting Co., Inc., et al; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: July 16, 1980.

Released: July 30, 1980.

In re applications of Denair Broadcasting Company, Inc. Denair, California, BC DOCKET NO. 80-403, File No. BPH-780717AC, Req: 95.9 MHz, Channel 240A 3.0 kW (H&V), 177 feet; Denair Wireless Co., Inc., Denair, California, BC DOCKET NO. 80-404, File No. BPH-790115AC, Req: 95.9 MHz, Channel 240A 3.0 kW (H&V), 300 feet; Robert J. Parreno, R. C. Duckett and William H. Colclough, a Joint Venture d.b.a. All-American Broadcasting Company, Delhi, California, BC DOCKET NO. 80-405, File No. BPH-790117AB; Req: 95.9 MHz, Channel 240A 3.0 kW (H&V), 300 feet; for a construction permit for a New FM Station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications of Denair Broadcasting Company, Inc. (DBC), Denair Wireless Co., Inc. (Wireless), and Robert J. Parreno, R. C. Duckett and William H. Colclough, a Joint Venture d.b.a. All-American Broadcasting Company (All-American) for a construction permit for a new FM station.

2. *DBC.* The applicant has not provided us with a current FAA clearance. Accordingly, an appropriate issue will be specified.

3. *Wireless.* Anthony D. Naish, a principal of the applicant, is an alien and has subscribed for a permissible 20% of the applicant's stock. Naish, however, is also an officer of RNF Media Corporation, Inc. (RNF), an entity in which three of the applicant's four principals own 99% of the stock. Of the $86,000 which the applicant claims it possesses to finance its proposal to construct and operate the station, RNF has agreed to loan the applicant $85,000. The loan is unsecured and need be repaid only at the demand of RNF. In view of RNF's financial control over the applicant and the substantial identity of RNF and the applicant, we believe that an issue is warranted as to whether Wireless is in violation of Section 310(b)(4) of the Communications Act of 1934, as amended. That section provides that no entity, of which an alien is an officer, may indirectly control an applicant for a broadcast license. An issue will, therefore, be specified to determine whether RNF indirectly controls Wireless.

4. Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Wireless published the required notice. To remedy this deficiency, Wireless will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

5. *All-American.* The applicant filed a petition for leave to amend on May 9, 1980, beyond the date prescribed by the Commission for amending its application as of right. The amendment consists of a Small Business Administration guarantee of a loan procured by the applicant. The loan agreement was filed within the time for amending the application as of right. Since the guarantee of the loan does not improve the applicant's comparative position, the petition for leave to amend will be granted and the corresponding amendment will be accepted under Section 73.3522(a)(2) of the Commission's Rules.

6. The applicant indicated that it will establish an auxiliary studio at its transmitter site, in addition to the main studio in Delhi, the community of license. All-American requested a waiver of Section 73.1130 of the Commission's Rules, consistent with *Arizona Communications Corporation,* 25 FCC 2d 837 (1970), *recon. denied,* 27 FCC 2d 283 (1971), as it appears to have proposed to originate a majority of its programs, exclusive of all its recorded music programs, at the Delhi main studio, with the remainder originating from the auxiliary studio. Therefore, the applicant's waiver request will be granted.

7. The respective proposals are for different communities. Consequently, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio services.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, It Is Ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications Are Designated For Hearing in a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Denair Broadcasting Company, Inc. would constitute a hazard to air navigation.

2. To determine whether Denair Wireless Co., Inc.'s proposal complies with Section 310(b)(4) of the Communications Act of 1934, as amended.

3. To determine the areas and population which would receive primary aural service (1 mV/m or greater in the case of FM) from the proposals and the availability of other primary service to such areas and populations.

4. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is Further Ordered, That Wireless file a statement of publication of local notice of its application with the presiding Administrative Law Judge, in accordance with § 73.3580(f) of the Commission's Rules.

11. It is Further Ordered, That the petition for leave to amend filed by All-American Is Granted, and the corresponding amendment is Accepted.

12. It is Further Ordered, That the Federal Aviation Administration IS MADE A PARTY to the proceeding.

13. It is Further Ordered, That if the All-American application is granted, the permit shall specify that the provisions of § 73.1130 of the Commission's Rules are waived.

14. It is Further Ordered, That in the event of a grant of the application of either DBC, Wireless or All-American, the construction permit shall contain the following condition:

Program tests will not be authorized until KLBS-FM, Los Banos, California, is authorized program tests on Channel 284; and a license will not be issued until KLBS-FM is issued a license on Channel 284.

15. It is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division,[1] *Broadcast Bureau*

[FR Doc. 80-23593 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-413—80-414; File No. BPH-780929 AP, BPH-790328AE]

Everybody's Mood, Inc., and Hilltop Radio, Inc.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Everybody's Mood, Inc., West Salem, Wisconsin, BC Docket No. 80-413, File No. BPH-780929AP, Req: 100.1 MHz, Channel 261, 2.5 KW (H&V), 344 feet; Hilltop Radio, Inc., West Salem, Wisconsin, BC Docket No. 80-414, File No. BPH-790328AE, Req: 100.1 MHz, Channel 261 3.0 KW (H&V), 300 feet; For construction permit for a New FM Station.

Adopted: July 2, 1980.

Released: July 29, 1980.

1. The commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (1) the above-captioned mutually exclusive applications of Everybody's Mood, Inc. (Everybody) and Hilltop Radio, Inc. (Hilltop), (ii) a petition to dismiss or deny filed by Everbody,[1] and (iii) related pleadings thereto.

2. On September 29, 1978, Everybody tendered for filing its application for Channel 261 in West Salem. The cut-off date for filing applications for that channel was March 28, 1979 and on that date the Hilltop application was filed. On May 21, 1979, Everybody filed its petition to dismiss or deny. The substance of this petition alleged that Hilltop's application was not substantially complete by the March 28, 1979 cut-off date in that it failed to list a properly available transmitter site. However Hilltop, by amendment dated May 7, 1979 rectified its application by specifying an available site. In its opposition to Everybody's petition filed on June 5, 1979, Hilltop included the affidavit of Dr. Bruce A. Polender, President of Hilltop, which attempted to explain the change in tower sites. This affidavit states: "Our group felt the original site would be available * * * and so instructed our engineer * * *. At the time of filing our application, we

[1] Pursuant to the Commission's recent decision in *K&L Communications, Inc.,* 70 FCC 2d 1987, 45 RR 2d 187 (1979), everybody's petition will be treated as an informal objection and will be disposed of in accordance with the policies expressed in Section 0.281(b)(1) of the Rules.

V 45 / 153 AG 6 80 UMI

discovered that the proposed site * * * was not available due to an exclusive option to lease to the other applicant * * *. We then immediately sought another acceptable site * * *. We did not have enough time to complete the new engineering data prior to submitting our application. We obtained an option for land use * * * and completed the new required engineering as rapidly as possible." It is these facts that from, the basis for Everybody's position that the Hilltop application must be dismissed "for deliberate misstatement and gross errors in significant areas."

3. Upon review of the facts and legal arguments before us, it is unclear whether Hilltop's actions constitute either deliberate misrepresentation or a violation of Commission requirements for substantial completeness of an application. The affidavit of Dr. Polender, as well as failing to meet the personal knowledge requirements of Section 309(d)(1) of the Act, as amended, is ambiguous as to how and when the events surrounding Hilltop's application transpired. Such ambiguity makes resolution of the issued raised by Everybody impossible at this stage of the proceedings. Therefore, on the basis of the foregoing, we conclude that further inquiry at hearing is warranted and a misrepresentation issue will be added.

4. As a further matter, the balance sheet submitted by Ellsworth Dissmore fails to support his commitment to donate certain equipment worth $15,326, and an appropriate issue is required.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place specified in a subsequent Order, upon the following issues:

1. To determine whether Hilltop misrepresented the availability of a transmitter site in its application and, if so, the effect thereof on the applicant's qualifications to be a Commission licensee.

2. To determine with respect to Hilltop:

(a) the source and availability of equipment worth $15,236 to be donated by Ellsworth Dissmore; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the petition to dismiss or deny filed by Everybody is Granted to the extent indicated herein, and is Denied in all other respects.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and §73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23590 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-352—80-353; File Nos. BPH-10877, BPH-780719AA]

Grants Pass Broadcasting Co. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: June 20, 1980.

Released: July 29, 1980.

In the matter of applications of James O. Wilson, Jr. and Elzie B. Parker, d/b/a Grants Pass Broadcasting Company, Grants Pass, Oregon, Req: 96.9 MHz, Channel 245 27.1 kW (H&V),—450 feet, BC Docket No. 80-352, File No. BPH-10877; William John Miner, Linda Jo Miner and Lawrence Brent Miner, d/b/a Lindavox, Grants Pass, Oregon, Req: 96.9 MHz, Channel 245 25 kW (H&V), 565 feet, BC Docket No. 80-353, File No. BPH-780719AA, for a construction permit for a New FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of James O. Wilson, Jr. and Elzie B. Parker, d/b/a Grants Pass Broadcasting Company (Wilson) and William John Miner, Linda Jo Miner and Lawrence Brent Miner, d/b/a Lindavox (Lindavox).

2. *Wilson.* The applicant proposes to duplicate the existing programming of its commonly owned station, KAJO. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inefficiency. *Jones T. Sudbury,* 8 FCC 2d 360, 10 RR 2d 114 (1967).

3. *Lindavox.* Analysis of the financial data submitted by Lindavox reveals that $78,462 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment payments	$53,962
Land	500
Buildings	4,000
Miscellaneous	8,500
Operating costs (three months)	11,500
Total	78,462

Lindavox plans to finance construction and operation with the following funds:

Cash from William and Linda Miner	$8,000
Cash from Lawrence Miner	12,600
Aged and certified accounts receivable at 75%	13,105
Loan from Family Bank of Commerce	50,000
Loan from Zion First National Bank	40,000
Total	123,905

Lindavox has not however, provided documentation that the accounts receivable are actually aged and certified for the indicated value. The $50,000 loan letter from the Family Bank of Commerce fails to comply with Paragraph 4(e) of Section III in that it does not specify the interest rate of the loan or the terms of repayments. Also, the $90,000 loan commitment letter from Zion First National Bank, of which Lindavox proposes to use only $40,000 for its station, expired by its own terms on June 16, 1979, because Lindavox did not apply for the loan by that date. The applicant has, therefore, shown only $20,800 available to meet a requirement of $78,462. The applicant has also failed to file a balance sheet for the partnership showing current assets and current liabilities, as required by Paragraph 2(a) of Section III. Accordingly, a limited financial issue will be specified.

4. Informal objections to the Lindavox application were filed by the Oregon State Department of Forestry (Forestry) and Pacific Power and Light Company (Pacific) alleging that operation as proposed with 25 kW effective radiated power from the Beacon Hill transmitter site might cause interference to Forestry's station KXU-350 in the Forestry—Conservation Radio Service and Pacific's station KOC-480 in the Power Radio Service. Under normal circumstances, interference between these existing operations and the Lindavox proposal would not occur. Thus, the objections are based solely on speculation. Nevertheless, it has long been our policy to require new stations to be responsible, financially and otherwise, for the elimination of any problems which may occur. In light of this policy, neither the exploration of this matter in hearing nor the imposition of a condition on Lindavox's construction permit, should it prevail in this proceeding, is necessary. *Athens Broadcasting Co. Inc.,* 68 FCC 2d 920 (1978). Accordingly, the objections will be denied.

5. *Other matters.* Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater strength, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to William John Miner, Linda Jo Miner and Lawrence Brent Miner, d/b/a/ Lindavox:

(a) The source and availability of additional funds over and above the $20,800 indicated; and

(b) The light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate the proposed station.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

8. It is further ordered, that the informal objections by the Oregon State Department of Forestry and the Pacific Power & Light Company are denied.

9. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23591 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-356—80-359; File Nos. BPH-790129AE etc.]

Hispanic Broadcasting Co., et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: June 26, 1980.

Released: July 29, 1980.

In the matter of applications of Hispanic Broadcasting Co., Las Vegas, Nevada, Req: 96.3 MHz, Channel 242, 31.5 kW (H&V), 1529 feet, BC Docket No. 80-356, File No. BPH-790129AE; Pan American Broadcasting Company, Inc., Las Vegas, Nevada, Req: 96.3 MHz, Channel 242, 31.38 kW (H&V), 1252 feet, BC Docket No. 80-357, File No. BPH-790524AC; Jomay Broadcasting, Inc., Las Vegas, Nevada, Req: 96.3 MHz, Channel 242, 100 kW (H&V), 1131 feet, BC Docket No. 80-358, File No. BPH-790529AH; Galaxy Broadcasting Corp., Las Vegas, Nevada, Req: 96.3 MHz, Channel 242, 100 kW (H&V), minus 11 feet, BC Docket No. 80-359, File No. BPH-790530AI, For Construction Permit For A New FM Station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) The above captioned mutually exclusive applications filed by Hispanic Broadcasting Co. (Hispanic), Pan American Broadcasting Company, Inc. (Pan American), Jomay Broadcasting, Inc. (Jomay) and Galaxy Broadcasting Corp. (Galaxy); (ii) a petition to reject and/or dismiss filed by Jomay against Galaxy; and (iii) related pleadings.

2. *Hispanic.* Analysis of the financial data submitted by Hispanic reveals that $41,893 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment (lease)	$1,815
Building	1,000
Miscellaneous	11,500
Operating Costs (three months)	27,578
Total	41,893

Though applicant is leasing the equipment for the purpose of deferring credit, its failure to provide a copy of the lease-purchase agreement makes it impossible to determine the extent of the deferred credit. Hispanic plans to finance construction and operation with the following funds: (i) Existing capital of $5,500; and (ii) new capital of $36,393. Because Hispanic has not complied with FCC Form 301, Section III paragraph 2(a)'s request for applicant's balance sheet, it is impossible to evaluate Hispanic's claim of $5,500 of existing capital. David P. Boyer, Jr. is, after various amendments, the only shareholder who will furnish funds to the applicant and the sole source of new capital, yet no evidence of any commitment by Mr. Boyer exists as required by Section III, Paragraph 4(a) of Form 301. Analysis of Mr. Boyer's balance sheet reveals that his net liquid assets do not exceed $4,000. This amount is insufficient to meet applicant's construction and operating expenses. Accordingly, a general financial issue will be specified.

3. Hispanic has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, Hispanic has not included a description of the composition of Las Vegas, indicating "the minority, racial or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive" as required by Question and Answer 9 of the *Primer*. While the absence of a demographic study makes it difficult to determine which groups in Las Vegas are significant for the purpose of the community leader survey, it is apparent that applicant has failed to interview leaders of groups that would seem significant in Las Vegas, such as blacks, elderly, labor, and the military, among others, as required by Questions and Answers 10, 13(a) and 16 of the *Primer*. Because applicant failed to identify the community of the leaders it did interview, it is impossible to determine the extent of applicant's ascertainment of the problems of major communities which are outside the city of license and which the applicant intends to serve as required by Question and Answer 7 of the *Primer*. Accordingly, a general ascertainment issue will be specified.

4. *Pan American.* Analysis of the financial data submitted by Pan American reveals that $66,203.75 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$4,857
Equipment payments with interest	12,142.50
Land	4,500
Building	1,750
Miscellaneous	15,000
Operating Costs (3 months)	27,954.25
Total	66,203.75

Both the equipment payment terms from Dyma Engineering and the lease agreement for applicant's transmitter site have expired, thus increasing costs. Applicant plans to finance construction and operation with the following funds: (i) $10,000 in cash; (ii) stock commitments by Jorge Santanilla for $10,000; by Doris Drucker for $10,000; by Donna Wiley for $40,000; and by John McDermott for $5,000; and (iii) a $100,000 loan from the Marquette Partnership. It is impossible to determine applicant's financial position within ninety days of the date of the application, as required by FCC Form 301, Section III 2(a), because applicant's balance sheet is not dated. Analyzing the balance sheets of the prospective stock purchasers, neither Mr. Santanilla nor Ms. Drucker has any current liquid assets in excess of current liabilities and thus cannot meet any part of their respective commitments.[1] Ms. Wiley can meet her commitment while Mr. McDermott has only $3,200 in net liquid assets to contribute to the applicant.[2] Applicant has not submitted any evidence of a commitment of a $100,000 loan by the Marquette Partnership, as required by Section III, Para. 4(a) of Form 301, and analysis of the Marquette's balance sheet shows no current liquid assets in excess of current liabilities, resulting in a total inability to meet its loan commitment. Applicant has only $43,200 in funding, an amount insufficient to meet construction and operating costs of $66,203.75. Accordingly, a limited financial issue will be specified.

5. Pan American has not shown Federal Aviation Administration approval for its tower site. Accordingly, an issue will be specified and the FAA will be made a party to the proceeding.

6. *Jomay.* Analysis of the financial data submitted by applicant reveals that $133,084.04 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment purchase outright	$3,000.00
Equipment down payment	31,054.63
Equipment payments with interest	8,229.41
Building	5,000.00
Miscellaneous	31,000.00
Operating Costs (3 months)	54,800.00
Total	133,084.04

Jomay plans to finance construction and operation with the following funds: (i) $8,500.00 in existing capital; and (ii) $144,000 in loan commitments from shareholders apportioned as follows: (a) Donald S. Gilday, $169,120; (b) Phillip Engel, $24,000; (c) Jerry Engel, $24,000; (d) M. V. Stober, $19,200; and (e) Thomas J. Graves, $7,680. While commitment letters and balance sheets have been submitted in support of these loans, no interest rate, repayment or collateral terms are shown. Moreover, Mr. Gilday has submitted a balance sheet of his and his wife's assets, while the loan commitment is solely his. Analysis of the balance sheets supporting the proposed loans shows that while Messrs. P. Engel and Stober have sufficient net liquid assets to meet their commitments of $24,000 and $19,200 respectively, Mr. Gilday has only $8,293 in net liquid assets, an amount insufficient to meet his commitment of $69,120, and Messrs. J. Engel and Graves have no net liquid assets to meet their commitments of $24,000 and $7,680 respectively. Thus, the applicant has $55,993 in funding, an amount insufficent to meet expenses of $133,084.04. Accordingly, a limited financial issue will be specified.

7. Jomay has failed to comply with the requirements of Questions and Answers 10, 13(a) and 16 of the *Primer* in failing to survey leaders of significant population groups set forth in its demographic study. For example, blacks constituted approximately 8 percent of the population of Las Vegas in the 1970 Census, yet applicant has interviewed no leaders of black groups. The applicant's compositional study states that Nellis Air Force Base is one of the largest employers in Southern Nevada, but no leaders of the military have been interviewed. Jomay has also not interviewed any leaders of recreation groups or professional groups. Therefore, a limited ascertainment issue will be specified.

8. *Galaxy.* Analysis of the financial data submitted by Galaxy reveals that $136,038 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$43,400
Equipment payments with interest	8,638
Building	10,000
Miscellaneous	14,000
Operating Costs (3 months)	60,000
Total	136,038

The equipment down payment and payments with interest costs could not be verified as Galaxy has not included the equipment supplier's letter evidencing its willingness to supply credit as required by Section III, Para. 4(e) of FCC Form 301. Galaxy plans to finance construction and operation with the following funds: (i) $10,000 in existing capital; and (ii) $300,000 in stock subscriptions from 10 subscribers. Because applicant's balance sheet is not dated it cannot be determined whether the balance sheet reflects applicant's financial position at the close of a month within 90 days of the date of application as required by Section III, Para. 2 of Form 301. None of the anticipated stock subscriptions totalling $300,000 can be verified because none are supported by commitment letters as required by Section III, Para. 4(a) of Form 301, and none, except one, are supported by balance sheets, as required by Section III, Para 4(b). While the applicant has submitted the balance sheet of Rafael E. and Charleen Vega, only Mr. Vega is listed as a stock subscriber, and there is no evidence that joint assets could be relied upon. Moreover, analysis of the balance sheet shows that there are no net liquid assests to meet Mr. Vega's commitment of $16,140. Accordingly, a general financial issue will be specified.

9. Galaxy has failed to comply with the requirements of the *Primer*. From the information before us, it appears that the applicant has failed to survey leaders of significant population groups set forth in its demographic study, as required by Questions and Answers 10, 13(a) and 16 of the *Primer*. For example, according to applicant's compositional study, women constitute 49.9% and blacks 11% of Las Vegas' population (1970 Census), yet applicant surveyed no leaders of groups representing women or blacks. The applicant has also not surveyed leaders of groups representing labor, military, professionals, consumer services, culture or religion. Additionally, it is impossible to determine whether applicant had conducted the general public survey within six months prior to filing, as required of Question and Answer 15, as the date was not disclosed. Since applicant has not discussed the methodology of its general public survey, it is impossible to determine whether the random sample required by Question and Answer 13(b) was achieved. Accordingly, a general ascertainment issue will be specified.

10. *Other matters.* Jomay filed a petition to reject and/or dismiss the application of Galaxy, on August 21, 1979, on the grounds that Galaxy's application as tendered for filing was not substantially complete at the close of business on May 30, 1979, the cut-off date, as required by the Commission's April 11, 1979 Public Notice establishing the cutoff date, and § 73.3564 of the Commission's rules.[3] The "omissions and/or deficiencies" enumerated by petitioner include: (1) No certified articles of incorporation; (ii) no certified By-Laws; (iii) failure to include a variety of information and documents required by Section III of Form 301; and (v) an incomplete ascertainment survey. Thus, petitioner argues, Galaxy's application was incomplete as filed and should be either rejected or dismissed. Galaxy's opposition to the petition, filed September 20, 1979 asserts that its application was substantially complete when filed, that the Commission was notified at the time of filing that certified copies of the articles of incorporation and the by-laws would be filed later and were subsequently filed, and that the application, as substantially complete, must be accepted for filing and processed by the Commission. Jomay's reply to Galaxy's opposition asserts: (i) That Galaxy's pleading was tardy and should have been filed September 6, 1979 according to § 1.45 of the Commission's rules; and (ii) that Galaxy's community leader survey was filed after the May 30 cutoff date.

11. Following the ruling in *K & L Communications, Inc.*, 70 FCC 2d 1987, 45 RR 2d 187 (1979), petitions to dismiss applications which have been accepted for filing on the grounds that these applications are defective or incomplete will be treated by the staff as informal objections and disposed of in accordance with § 0.281(b)(1). We find that the application, as originally filed, was not so patently violative of the rules as to render processing a "futile gesture", *K & L Communications, Inc., supra*, since the deficiencies could have been made the subject of issues in the hearing order and, in fact, have been insofar as they still remain. Moreover, the absence of the articles of incorporation, by-laws and portions of the community leader survey have been resolved by amendments filed as of right before the amendment cut-off date of February 8, 1980. Accordingly, the petition will be granted to the extent indicated, and denied in all other respects.

12. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such area, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

13. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

14. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Hispanic is financially qualified to construct and operate the proposed station.

2. To determine the efforts made by Hispanic to ascertain the community needs and problems of the area to be served and the means by which the

[1] Current liabilities were not segregated from long term liabilities and therefore all liabilities were considered current.

[2] Mr. McDermott proposed to rely upon his stock holding as well as his cash on hand. However Question 4b of FCC Form 301 requires that securities must be identified by the type of security, name of issuer, name of the market on which it is traded, and current value. Mr. McDermott did not offer any of the required information.

[3] The relevant subsections of § 73.3564 are (a) and (b) which provide as follows:

(a) Applications tendered for filing are dated upon receipt and then forwarded to the Broadcast Bureau, where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the FCC's administrative staff as to completeness. Such acceptance will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance with the FCC's rules.

V 45 / 153 AUG 6 80 UMI

applicant proposes to meet those needs and problems.

3. To determine with respect to Pan American:

(a) The source and availability of additional funds over and above the $43,200 indicated; and

(b) Whether, in light the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine whether there is a reasonable possibility that the tower height and location proposed by Pan American would constitute a hazard to air navigation.

5. To determine with respect to Jomay:

The source and availability of additional funds over and above the $55,993 indicated; and

(b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

6. To determine whether Jomay interviewed leaders of blacks, military, recreation and professions in connection with its ascertainment effort.

7. To determine whether Galaxy is financially qualified to construct and operate the proposed station.

8. To determine the efforts made by Galaxy to ascertain the community needs and problems of the area to be served and the means by which the applicant proposed to meet those needs and problems.

9. To determine which of the proposals would, on a comparative basis, best serve the public interest.

10. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

15. It is further ordered, that the Federal Aviation Administration IS MADE A PARTY to the proceeding.

16. It if further ordered, that the petition to reject and/or dismiss filed by Jomay is granted to the extent indicated above and is denied in all other respects.

17. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division Broadcast Bureau.

[FR Doc. 80-23589 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC DOCKET NO 80-333 File No. BPH-11,097; FCC 80-374]

Dick Lashbrook Corp. (WSIV-FM); Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: June 25, 1980.

Released: July 28, 1980.

In re Application of DICK LASHBROOK CORPORATION (WSIV-FM) Pekin, Illinois, Has: 95.3 MHz, Channel 237 2.8 KW, 89 feet; Req: 95.3 MHz, Channel 237 1.1 KW, 461 feet, For Construction Permit for Modification of Facilities.

By the Commission: Commissioners Lee and Brown absent.

1. The Commission has before it for consideration: (i) the above-captioned application, (ii) a request by Dick Lashbrook Corporation (DLC) for a waiver of Section 73.207 of the Commission's Rules, (iii) petitions to deny the application of DLC filed by Virginia Broadcasting Corporation (VBC) and Kankakee TV Cable Co. (Kankakee); and (iv) related pleadings thereto.

2. DLC has applied to the Commission for a construction permit to change the transmitter location of Station WSIV-FM, Pekin, Illinois. The new site which is 62.6 miles from the transmitter site of co-channel Station WRKX (FM) in Ottawa, Illinois, would put DLC in violation of Section 73.207 of the Commission's Rules which requires that co-channel Class A FM stations be spaced at least 65 miles apart. The Commission has granted DLC a waiver of Section 73.207 for the purpose of accepting DLC's application only.[1] However, VBC, licensee of WRKX, has petitioned the Commission to deny the grant of DLC's application on the ground that it objects to being short-spaced with WSIV-FM. Kankakee, licensee of FM station WSWT, Peoria, Illinois also petitioned to deny the grant of DLC's application based upon short-spacing with WRKX.

[1] Under similar circumstances, the Commission has granted waivers for short-spacing of one or two miles.

3. The Commission's Rules define interference to FM stations solely on the basis of minimum assignment and station separation requirements, maximum power, and antenna height rules. Section 73.209(b). Since VBC has filed an objection to the application, it must be given an opportunity under Section 316(a) of the Communications Act of 1934, as amended, to show in hearing why its license should not be modified. *FCC* v. *National Broadcasting Company Inc., (KOA),* 319 U.S. 239 (1943).

4. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. However, the Commission is unable to make the statutory finding that a grant of the above application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing.

5. It is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the nature and extent of the applicant's violation of Section 73.207 of the Commission's Rules, and whether circumstances exist which warrant a waiver of that Rule.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience, and necessity.

6. It is further ordered, That Virginia Broadcasting Corporation, licensee of WRKX, Ottawa, Illinois, and Kankakee TV Cable Co., licensee of WSWT, Peoria, Illinois ARE MADE PARTIES to the proceeding.

7. It is further ordered, That the petitions to deny filed by Virginia Broadcasting Corporation and Kankakee TV Cable Co., ARE GRANTED to the extent indicated above and ARE DENIED in all other respects.

8. It is further ordered, That the request by Dick Lashbrook Corporation for waiver of Section 73.207 of the Commission's Rules with respect to the short-spacing with WRKX is granted insofar as it requests acceptance for filing; and that insofar as it requests grant of the application is deferred pending outcome of this proceeding.

9. It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, That the applicant herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-23587 Filed 8-5-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-423—80-424; File Nos. BPH-790209AC, 790920AB]

Jim T. Payne and Ritchey Communications Co.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: July 28, 1980.

Released: July 30, 1980.

In the matter of applications of Jim T. Payne, Yoakum, Texas, Req: 102.3 MHz, Channel 272 3.0 kW (H & V), 300 feet, BC Docket No. 80-423, File No. BPH-790209AC, Ritchey Communications Co., Yoakum, Texas, Req: 102.3 MHz, Channel 272 3.0 kW (H & V), 299.875 feet, BC Docket No. 80-424, File No. BPH-790920AB, for a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Jim T. Payne (Payne) and Ritchey Communications Co. (Ritchey) for a construction permit for a new FM station.

2. *Ritchey.* Analysis of the financial data submitted by Ritchey reveals that $41,050 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$2,600
Principal and interest payments on equipment (4 months)	6,200
Buildings	1,000
Miscellaneous	26,000
Operating expenses (3 months)	6,250
Total	41,050

The applicant plans to finance its proposal with existing cash of $32,000 and profits from its existing AM station, KRJH, of which we can give credit for $6,410. Because Ritchey indicates only $38,410 available to meet a requirement of $41,050, a limited financial issue will be specified.

3. Except as indicated by the issue specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Ritchey Communications Co.:

a. The source and availability of additional funds over and above the $38,410 indicated; and

b. In light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate the proposed station.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, that the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23586 Filed 8-5-80; 8:45]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-364-80-365; File Nos. BP-21,113, BP-781205AJ]

Rockbridge Communications, Inc., and Erwin S. Solomon; Designation Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: June 25, 1980.

Released: July 30, 1980.

In re applications of Rockbridge Communications, Inc., Buena Vista, Virginia, Req: 1270 kHz, 1 kW, Day, BC Docket No. 80-364, File No. BP-21,113; Erwin S. Solomon, Hot Springs, Virginia, Req: 1270 kHz, 1 kW, Day, BC Docket No. 80-365, File No. BP-781205AJ, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations.

2. *Rockbridge Communications, Inc.* There is a discrepancy between the four corporate directors listed in Table I of Section II of the application form, and the three directors authorized in Article II of the corporation's by-laws. This discrepancy must be resolved by amendment.

3. Rockbridge has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650 (1971). Its compositional study of Buena Vista says little about governmental activities, and does not list local public service organizations. Further, it is not clear whether the representatives of local cultural groups it interviewed are in fact leaders of those groups. Therefore, a limited ascertainment issue will be specified.

4. *Erwin S. Solomon.* Applicants for new broadcast stations are required by § 73.3580 of the Commission's rules to give local notice of the filing of their applicaitons. They must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that Erwin Solomon published the required notice. To remedy this deficiency, the applicant will be required to demonstrate his compliance with the rule.

5. Analysis of the financial portion of Erwin Solomon's applicaiton indicates that he will require $67,175 to construct the proposed facility and operate for three months, itemized as follows:

Equipment	$25,000
Building	10,000
Legal costs	3,000
Other construction costs	9,000
Operating costs	20,175
Total	967,175

V 45 / 153 AG 6 80 UMI

Mr. Solomon has shown bank loans totaling $100,000 (gross) available to finance construction and operation. Allowing for loan repayments through the first three months of operation, there is a cushion over the estimated costs. However, the accuracy of the cost estimates is subject to doubt. While Instruction 1(b) of Section III of the application form requires applicants to state the basis for their estimates, this applicant only says that his "are based on figures supplied * * * by persons knowledgeable in the field of broadcasting." No allowance appears to have been made for acquiring a transmitter, or monitoring and test equipment; and the amount estimated for legal fees appears insufficient to cover the costs of a comparative hearing. In addition, there is no itemization of operating costs, as also required by Instruction 1(b). Therefore, a limited financial issue will be specified.

6. Erwin Solomon has also failed to comply with the requirements of the ascertainment *Primer*. First, his compositional study does not contain any information about Hot Springs. It notes that Census data is not available for the community, so provides only county-wide population, racial, and economic information. There is no discussion of governmental activities or public service organizations. We are therefore unable to determine what groups are significant in Hot Springs. Second, because purported community leaders are not fully identified, it appears that only a few groups were represented in the leader interviews, and it is not clear whether leaders of outlaying communities to be served were adequately contacted. Third, the description of the general public survey does not establish how many Hot Springs residents were interviewed, so we cannot determine whether a random sample was in fact achieved. Fourth, the dates of the interviews have not been stated, so we cannot determine they were timely. Because of these serious defects, a general ascertainment issue will be specified.

7. Finally, Mr. Solomon has not supplied the photographs of his proposed sited called for by Instruction 11 of Section V–A of the application form, so we cannot determine whether the site is suitable for the proposed antenna. An appropriate issue will be specified.

8. *Other matters.* The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will also be specified.

9. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

10. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the efforts of Rockbridge Communications, Inc. to ascertain the needs of its proposed service area:

a. Whether the applicant determined the governmental activities and public service organizations in Buena Vista, and

b. Whether the applicant interviewed leaders of Buena Vista cultural groups.

2. To determine with respect to Erwin S. Solomon:

a. Whether the applicant has accurately estimated the costs of constructing and operating the proposed station for three months, including legal costs incident to a comparative hearing, and

b. Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine the efforts mady by Erwin S. Solomon to ascertain the community needs and problems of the area to be served, and the means by which the applicant proposes to meet those needs and problems.

4. To determine whether the transmitter site proposed by Erwin S. Solomon is satisfactory, with particular regard to possible conditions in the vicinity of the antenna system which would distort the proposed non-directional radiation pattern.

5. To determine the areas and populations which would receive primary aural service from each proposal, and the availability of other primary service to such areas and populations.

6. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

7. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

8. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

11. It is further ordered, that Rockbridge Communications, Inc. shall file the amendment specified in paragraph 2, above, within 30 days after this Order is published in the **Federal Register.**

12. It is further ordered, that Erwin S. Solomon shall publish local notice of his application (if he has not already done do) and shall file a statement of publication with the presiding Administrative Law Judge within 40 days after this Order is published in the **Federal Register.**

13. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

14. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80–23582 Filed 8–5–80; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket Nos. 80–360—80–361; File Nos. BPCT–790615KG, BPCT–791026KJ]

Southwest Television, Ltd.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: June 20, 1980.

Released: July 28, 1980.

In re applications of Southwest Television, Ltd. (Eugene D. Adelstein and Edward B. Berger, General Partners), Spokane, Washington, Req: Ch. 22, New Commercial, BC Docket No. 80–360, File No. BPCT–790615KG; Frontier Media, Inc., Spokane, Washington, Req: Ch. 22 New Commercial, BC Docket No. 80–361, File No. BPCT–791026KJ, for construction permit.

Hearing Designation Order

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications.

2. Except as indicated by the issues specified below, the Commission finds Southwest Television, Ltd. and Frontier Media, Inc. legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of the applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below. [1]

3. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine which of the applications would better serve the public interest.

(b) To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

4. It is further ordered, that any grant to either applicant shall be conditioned upon Canada's consent regarding the applicant's authority to operate with maximum effective radiated power in excess of 1,000 kW.

5. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80–23586 Filed 8–5–80; 8:45 am]

BILLING CODE 6712–01–M

[1] Southwest Television, Ltd. (Southwest) is awaiting FAA clearance for its antenna proposal. If, during the hearing, the FAA advises that this proposal constitutes an air hazard, the Administrative Law Judge is authorized to specify an air hazard issue with respect to Southwest. In the unlikely event that the FAA study is not completed by the end of the hearing process, and should it be determined that Southwest's application would better serve the public interest, the construction permit shall be conditioned to require FAA approval prior to construction.

[BC Docket Nos. 80–409—80–410; File Nos. BPH–781020AE, BPH–790530AF]

Valcom, Inc., and Fox Valley Broadcasting Corp.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: July 7, 1980.

Released: July 29, 1980.

In re applications of Valcom, Inc., Fort Valley, Georgia, Req: 106.3 MHz, Channel 292, 3 kW (H&V), 297 feet, BC Docket No. 80–409, File No. BPH–781020AE; Fox Valley Broadcasting Corporation, Fort Valley, Georgia, Req: 106.3 Mhz, Channel 292, 1.59 kW (H&V), 415 feet, BC Docket No. 80–410, File No. BPH–790530AF; for construction permits for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above captioned mutually exclusive applications.

2. *Valcom Inc.* In response to Question 14 of FCC Form 301 Valcom proposes 5 hours and 6 minutes (4.1 percent) news; 2 hours and 52 minutes (2 percent) public affairs; and 2 hours and 52 minutes (2 percent) other programming (exclusive of entertainment and sports) as being responsive to community problems. However, the total amount of public affairs programming listed by Valcom in its ascertainment survey, if regularly scheduled each week, is 1 hour and 25 minutes, or 1.1 percent. Yet, most of Valcom's programs will not be aired each week. In Valcom's Exhibit 8 the proposed programs, "Valley Forum" and "Tell Us Why," are limited series of fourteen parts and four parts respectively; "In the Public Interest" is a proposed five minute public affairs program, not scheduled on a regular basis; "Labor Speaks" is only a three part series; and "Campus Week In Review" will only be broadcast during the eight month school year. "Know Your Rights," and "Washington Reports" are the only programs regularly scheduled on a weekly basis. Considering both the limited series and the regularly scheduled programs over the full three year term of the license, Valcom is proposing to allocate only 0.4 percent of its time to public affairs programming. A question arises as to whether Valcom has proposed sufficient programming to meet the perceived needs and problems of Fort Valley, Georgia. A limited ascertainment issue will be specified.

3. Since no determination has been reached that the antenna proposed by Valcom would not constitute a menace to air navigation, an issue regarding this matter is required.

4. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and population which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the efforts of Valcom to ascertain the needs of its proposed service area:

a. Whether Valcom has proposed sufficient programming to meet the perceived needs and problems of Fort Valley, Georgia.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Valcom, Inc. would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

V 45 / 153 AG 6 80 UMI

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that, the Federal Aviation Administration is made a party to the proceeding.

8. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.
Jerold L. Jacobs,
Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-23587 Filed 8-5-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 80-362—80-363; File Nos. BPH-11110, BPH-780908AB]

Van Buren Community Service Broadcasters, Inc. and Crawford County Communications, Inc.; Designating Applications for Consolidated Hearing on Stated Issues.

Hearing Designation Order

Adopted: June 20, 1980.
Released: July 28, 1980.

In re applications of Van Buren Community Service Broadcasters, Inc., Van Buren, Arkansas, Req: 102.3 MHz, Channel 272, 3 kW (H&V), 300 feet, BC Docket No. 80-362, File No. BPH-11110; Crawford County Communications, Inc., Van Buren, Arkansas, Req: 102.3 MHz, Channel 272, 3kW (H&V), 300 feet, BC Docket No. 80-363, File No. BPH-780908AB. For a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Van Buren Community Service Broadcasters, Inc. (Van Buren) and Crawford County Communications, Inc. (Crawford) a motion to specify issues filed by Crawford, and related pleadings.[1]

2. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues below.

3. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced to the foregoing issue, which of the applications, if either, should be granted.

4. It is further ordered, That, in the event of a grant of the application of Van Buren Community Service Broadcasting, Inc., the construction permit shall contain the following condition:

Prior to construction of the FM tower authorized herein, permittee shall notify AM station KFDF so that that station may determine operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the aforementioned AM station. Subsequent to construction of the FM tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antenna shall be made and sufficient field strength measurements, obtained at least 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional and, before FM program tests are authorized, the results submitted to the Commission in an application for the AM station to return to the direct method of power determination.

5. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.
Jerold L. Jacobs,
Chief, Broadcast Facilities Division.

[FR Doc. 80-23585 Filed 8-5-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 80-349—80-351; File Nos. BPH-781113AO etc.]

Visionary Radio Euphonics Inc., et al. Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: June 25, 1980.
Released: July 28, 1980.

In re applications of Visionary Radio Euphonics, Inc., Cottage Grove, Oregon. Req: 95.3 MHz, Channel 237, 0.12 kW (H&V), 1480 feet, BC Docket No. 80-349, File No. BPH-781113AO; Creswell Wireless Co., Inc., Creswell, Oregon, Req: 95.3 MHz Channel 237, 0.20 kW (H&V), 1160 feet, BC Docket No. 80-350 File No. BPH-790328AA; Bear Mountain Radio, Inc., Cottage Grove, Oregon, Req: 95.3 MHz, Channel 237, 0.0891 kW (H&V), 1477 feet, BC Docket No. 80-351, Filed No. BPH-790328AP; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Visionary Radio Euphonics, Inc. (Visionary), Creswell Wireless Co., Inc. (Creswell) and Bear Mountain Radio, Inc. (Bear Mountain).

2. *Bear Mountain.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that Bear Mountain published the required notice. To remedy this deficiency, Bear Mointain will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

4. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determne the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from the proposals and the availability of other primary service to such areas and populations.

2. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

6. It is further ordered, that Bear Mountain Radio, Inc. shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580(f) of the Commission's rules.

7. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.
Jerold L. Jacobs,
Chief, broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-23594 Filed 8-5-80; 8:45 am]
BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Executive Committee Meeting, Notice of August Meeting, Thursday, August 21, 1980—9:30 a.m., Conference Room 8240, Nassif (DOT) Building, 400 Seventh Street, S.W. at D Street, Washington, D.C.

Agenda

1. Administrative matters and committee reports.

2. Discussion concerning RTCM practices and procedures.

3. Consideration/discussion of petition received by National Ocean Industries Association to modify RTCM By-Laws.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-23599 Filed 8-5-80; 8:45 am]
BILLING CODE 6712-01-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, September 3, 1980, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW, Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statement should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated In Washington, D.C. July 31, 1980.
Charles H. Atherton,
Secretary.

[FR Doc. 80-23678 Filed 8-5-80; 8:45 am]
BILLING CODE 6330-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 80-51]

Missouri Pacific Railroad Co. v. Gulf European Freight Association, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Missouri Pacific Railroad Co. against Gulf European Freight Association; Lykes Brothers Steamship Co., Inc.; Barber Steamship Lines, Inc., as Agent for Gulf Europe Express; Biehl & Company, Inc., as Agent for Hapag Lloyd; Sea-Land Service, Inc.; United States Lines, Inc.; and Seatrain Lines, Inc. was served August 1, 1980. The complaint alleges that respondents' imposition of a surcharge for transportation of containers or trailers having a prior movement on various specifically named railroads results in violation of sections 15, 16 First, 17 and 18(a) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-

---

[1] Pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications; Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by Crawford in its pleadings have not been considered in this order. Accordingly, an opportunity to raise any allegations contained in the motion which have not been discussed herein will be afforded the parties post designation, pursuant to § 1.229.

V 45 / 153 3 AG 6 80 UMI

examination are necessary for the development of an adequate record.

Francis C. Hurley,

Secretary.

[FR Doc. 80-23625 Filed 8-5-80; 8:45 am]

BILLING CODE 6730-01-M

[Fact Finding Investigation No. 9]

Possible Rebates and Similar Malpractices in the United States Foreign Commerce; Extension of Investigation

By Order of August 6, 1979, the Federal Maritime Commission extended for a term of one year Fact Finding Investigation No. 9. This nonadjudicatory proceeding was instituted by Order of the Commission on July 9, 1976 (**Federal Register**, Vol. 41, No. 141, July 21, 1976), into the practices of rebates, absorptions, allowances in excess of those set forth in the tariff, and any other method of obtaining or allowing other persons to obtain transportation of property at less than the rates or charges which would otherwise be applicable in the United States foreign commerce.

Since its institution, Fact Finding Investigation No. 9 has been utilized as an integral part of the Commission's program into rebates and other malpractices in the foreign commerce of the United States. The Commission's continuing investigation into these matters raises the possibility that the compulsory processes authorized by Fact Finding Investigation No. 9 may have to be utilized to fully develop cases still pending final resolution.

In view of the above, the Commission has determined to extend the term of Fact Finding Investigation No. 9 for an additional two years. Further, that John Robert Ewers is designated Investigative Officer replacing James K. Cooper.

Therefore, it is ordered, that pursuant to sections 22 and 27 of the Shipping Act, 1916 (46 U.S.C. 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 [46 U.S.C. 1124(a)], Fact Finding Investigation No. 9 is extended for two years after publication of this Order in the **Federal Register**.

It is further ordered, that John Robert Ewers is designated Investigative Officer replacing James K. Cooper.

It is further ordered, that Notice of this Order be published in the **Federal Register**.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-23684 Filed 8-5-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-49]

Bultaco International, Ltd. and John Grace; Possible Violations of Allowable Rates and Charges; Order of Investigation and Hearing

Based on information developed by the Commission's Bureau of Enforcement, it appears that Bultaco International, Ltd. and John Grace may have obtained or attempted to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable by unjust or unfair device or means.

The Commission's General Counsel asserted a claim for civil penalties against Bultaco and John Grace, President of Bultaco, jointly and severally, for receiving rebates from common carriers by water in connection with the importation of motorcycles from Spain for the period beginning on or before September 20, 1973 and continuing through June 10, 1976. However, as of this date the claim has not been settled.

Accordingly, the Commission believes an investigation and hearing is necessary in order to determine whether Bultaco International, Ltd. and John Grace have violated section 16, initial paragraph, Shipping Act, 1916, and, if so, whether penalties should be assessed for such violations.

Now, therefore, it is ordered, that pursuant to section 16, initial and penultimate paragraphs (46 U.S.C. 815, initial and penultimate paragraphs), and section 22 (46 U.S.C. 821) of the Shipping Act, 1916, this proceeding is hereby instituted to determine: (1) Whether or not Respondents violated section 16, initial paragraph, by obtaining or attempting to obtain transportation by water for property at less than the rates and charges which would otherwise be applicable by any unjust or unfair device or means; and (2) Whether penalties should be assessed against Respondents if found to have violated section 16, initial paragraph, and, if so, the amount of such penalties;

It is further ordered, that Bultaco International, Ltd. and John Grace, 3509 Virginia Beach Blvd., Virginia Beach, Virginia 23462, are hereby made Respondents in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge at a date and place to be determined by the Administrative Law Judge presiding in accordance with Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61);

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Commission's Bureau of Hearing Counsel shall be a party to this proceeding.

It is further ordered, that any person other than Respondents and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72); and

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-23638 Filed 8-5-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-50]

Certified Corp., Seaway Distribution Corp.; Possible Violation of Allowable Rates; Order of Investigation and Hearing

Seaway Distribution Corporation is a non-vessel operating common carrier (NVOCC) in the trade to Hawaii from the U.S. West Coast. Certified Corporation, a wholesale distributor of grocery products in Hawaii, wholly owns Seaway. Certified ships its goods to Hawaii either by having the seller deliver directly to a vessel operating common carrier (VOCC) or by using Seaway as its agent to consolidate various goods and tender them to the VOCC in the name of Certified. At times Seaway will move the goods in its capacity as an NVOCC.

An investigation conducted by the Commission's Bureau of Enforcement indicates that between December 1, 1974 and August 5, 1975 Seaway, acting as a shipper, tendered VOCCs a total of 65 shipments destined to itself in Hawaii, the contents and/or weight or cube of which appear to have been knowingly misdeclared in order to obtain transportation at less than the applicable rate. The statute of limitations has run on 61 of these shipments; the remaining four shipments are listed in the Appendix.

Between March 4, 1975 and July 15, 1975 Seaway, as an agent for Certified, tendered five shipments to Matson Navigation Company for ocean carriage to Hawaii. Again, these shipments appear to have been misdeclared as to the nature of the commodity and/or its weight or cube. However, the statute of limitations has run on all shipments.

The shipments listed in the Appendix will be made the subject of an investigation to determine whether or not Certified or Seaway or both have violated section 16, Initial Paragraph, of the Shipping Act, 1916, and, if so, whether penalties should be assessed for such violations in accordance with Pub. L. 96-25 (93 Stat. 71).

Now therefore, it is ordered, that pursuant to section 16, Initial Paragraph (46 U.S.C. 815), and section 22 (46 U.S.C. 821) of the Shipping Act, 1916, this proceeding is hereby instituted to determine: (1) Whether or not Seaway Distribution Corporation and/or Certified Corporation violated section 16, Initial Paragraph, by knowingly and willfully misdeclaring the contents and/or the weight or cube of the shipments listed in the Appendix in order to obtain transporation at less than the applicable rate; and (2) whether penalties should be assessed against Respondents if they are found to have violated section 16, Initial Paragraph, and if so, the amount of such penalties;

It is further ordered, that Seaway Distribution Corporation and Certified Corporation are hereby made Respondents in this proceeding;

It is further ordered, that, in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Commission's Bureau of Hearing Counsel is a party to this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but in no event later than the time limitation set forth in Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61);

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure, (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix

B/L Number and Date
615429—8/4/75
615423—8/4/75
519426—8/2/75
519427—8/2/75

[FR Doc. 80-23624 Filed 8-5-80; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 28, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 25, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests an extension-without-change clearance of the Class Exemption for Reports Concerning Possible Generic Problems. As a part of its regulatory function the NRC conducts an inspection and enforcement program to ensure adequate protection of the health and safety of the public, common defense and security, and the quality of the environment. During the course of this process there have been occasions when an event or issue has or might have the potential for occurring at other facilities. This type of situation requires a prompt notificiation to others who may be similarly affected. Also, as a part of the NRC's licensing review process generic implications of events occur which may require licensees to then conduct a thorough evaluation of the problem and submit prompt formal reports to NRC. Currently there are 72 nuclear power plants licensed for operation and 89 plants which have received construction permits. In addition, applications for construction permits for 20 plants are under review. In the past, more than 90 percent of the generic problems identified have related to nuclear power plants. In addition to nuclear power plants, there are approximately 8,000 persons authorized by license to possess byproduct, source or special nuclear materials. Depending on the type of problem identified, the number of licensees affected could vary considerably. In the past notifications concerning possible generic problems have affected usually between 10 and 100 licensees. In one case in 1979, a notification of a possible generic problem was sent to approximately 4,900 licensees. The NRC estimates that respondent burden could average 139,000 hours annually per licensee depending on the number of events affecting each licensee and the complexity of reporting required for each event.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-23680 Filed 8-5-80; 8:45 am]

BILLING CODE 1610-01-M

V 45 / 153 AG 6 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Las Vegas District Grazing Advisory Board; Meeting

The Las Vegas District Grazing Advisory Board will meet Aug. 13 at 9 a.m. in the auditorium of the Caliente Elementary School, Caliente, NV.

The agenda is as follows: (1) Approval of previous meeting's minutes; (2) Introduction of the new district manager; (3) Discussion of FY–81 Range Betterment projects; (4) Discussion of the draft Barclay-Lime Mountain AMP; (5) Discussion of the Mustang AMP; (6) Public comment period; (7) Range tour of the Mustang Allotment.

The meeting is open to the public. Interested persons may make oral comments to the board during the public comment period or they may submit written comments for the board's consideration. Persons wishing to make an oral statement to the board must notify the District Manager (4765 W. Vegas Dr. or P.O. Box 5400, Las Vegas, NV 89102) prior to COB Aug. 12. Depending on the number of persons wishing to address the board, the District Manager may establish a per-person time limit.

Members of the public may also accompany the range tour, anticipated to leave Caliente at about 1 p.m., but they must provide their own transportation. Board members will be transported by BLM.

Summary minutes of the board meeting will be maintained at the district office. They will be available for inspection during regular business hours (7:30 a.m. to 4:15 p.m.) within 30 days after the meeting.

Dated: July 23, 1980.

Frank E. Bingham,

District Manager.

[FR Doc. 80-23679 Filed 8-5-80; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board, Susanville, Calif.; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Susanville District Grazing Advisory Board will be held on September 9, 1980.

The meeting will begin at 10:00 a.m. in the Surprise Area Office of the Bureau of Land Management, Cedarville, California.

The agenda for the meeting will include:

1. Report from Oregon Fish and Wildlife Service.
2. Range Betterment Project Priority Outlook for fiscal year 1981.
3. Cowhead/Massacre ES Status.
4. Cal Neva and Willow Creek ES Status.
5. Report on Tuledad AMP.
6. Base Property Requirements, Sec. 15, Memo CA–80–273.
7. Wilderness Study Review.
8. Wild Horse Gathering Report.
9. Advisory Board Funds.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by September 5, 1980. Depending on the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Herman L. Kast,

Acting District Manager.

[FR Doc. 80-23684 Filed 8-5-80; 8:45 am]

BILLING CODE 4310-84-M

Realty Action—Sale CA 6486; Public Lands in Plumas County, Calif.

July 28, 1980.

The following described land has been identified as suitable for disposal by sale under Section 203(a)(1) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value shown:

Legal description: Lot 18 in Sec. 24, T. 26 N., R. 9 E., Mount Diablo Meridian, California.

Acreage: 3.29.

Value: $22,500.00.

The above described land is being offered as a direct, noncompetitive sale to George and Alice Merrick, owners of the improvements on the sale tract. The land is bounded on three sides by privately-owned land. The Merricks own several structures on the land including a house which has been used by the family as their principal place of residence for many years. In 1978 the Merricks filed an application to obtain this land under the Color of Title Act, as amended, 43 U.S.C. 1068. However, the Merricks did not meet the requirements under the Act and their application was rejected. Therefore, disposal by direct sale, rather than public auction, will protect their equity investment in the improvements on the land, and eliminate an undue hardship if they were compelled to remove or otherwise dispose of the improvements. The lands are not required for any Federal purpose, and the public interest would be served by offering this land for sale.

The land will not be offered for sale until 60 days after the date of issuance of this notice.

The terms and conditions applicable to the sale are as follows:

1. All minerals in the land will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976.
2. A right-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.
3. A right-of-way for a road will be reserved to the United States under Section 507 of the Federal Land Policy and Management Act of 1976.

Detailed information concerning the sale is available for review at the California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (LLM 320), Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become a final determination of the Department of the Interior.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 80-23619 Filed 8-5-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Oil Shale Tract Delineation—Tract Selection Criteria; Meetings

Notice is hereby given that meetings to establish criteria for tract delineation and tract selection for additional prototype oil shale leasing will be held on August 25, 1980, from 9:00 a.m. until 4:30 p.m. at the Salt Palace, Room 128, Salt Lake City, Utah; and on August 28, 1980, from 8:30 a.m. until 4:00 p.m., at the Wyer Auditorium, Denver Public Library, 13th Ave. and Broadway, Denver, Colorado.

On May 27, 1980 a decision was rendered by James A. Joseph, Under Secretary of the Interior, to expand the Department's Prototype Oil Shale Leasing Program and to prepare for a permanent oil shale leasing program.

Pursuant to that decision the Department is initiating the process to determine criteria for delineating and selecting tracts to be leased in the expanded prototype program. The purpose of the meetings announced herein is to solicit comments in establishing these criteria.

The meetings in Salt Lake City and Denver will cover the same agenda. The meetings are open to the public. It is expected that space will permit approximately 100 persons to attend in addition to Department representatives.

A portion of each meeting will be devoted to a presentation of the issues. Following will be a comment period when interested persons may make brief presentations or file written statements. Written statements also may be submitted from the date of this announcement until August 27, 1980, to Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225. Further information concerning these meetings may be obtained from Mr. Ash's office (telephone number 303–234–3275).

James W. Curlin,

Deputy Assistant Secretary, Land and Water Resources.

August 1, 1980.

[FR Doc. 80-23643 Filed 8-5-80; 8:45 am]

BILLING CODE 4310-10-M

Oil Shale Task Force; Meetings

Notice is hereby given that meetings of the Oil Shale Task Force will be held on August 26, 1980, from 9:00 a.m. until 4:30 p.m., at the Salt Palace, Room 128, Salt Lake City, Utah; and on August 27, 1980, from 8:30 a.m. until 4:00 p.m., at the Wyer Auditorium, Denver Public Library, 13th Ave. and Broadway, Denver, Colorado.

The Oil Shale Task Force was established on May 17, 1980, pursuant to a decision of James A. Joseph, Under Secretary of the Interior, regarding expansion of the Department's Prototype Oil Shale Leasing Program and the preparation for a permanent oil shale leasing program. The purpose of the Task Force is to explore the issues involved in these two programs and present further information to the Under Secretary on the range of possible procedures that could be followed in achieving the objectives of his decisions and the effects that would flow from such procedures. The Task Force incorporates eleven Work Groups to address the issues involved. These Work Groups have met at various times throughout the summer and will provide consolidated reports of their findings to the Under Secretary on September 9, 1980 and October 1, 1980.

The purpose of the Task Force meetings announced herein is to solicit comment on Task Force findings prior to the submission of final reports to the Under Secretary.

The meetings in Salt Lake City and Denver will cover the same agenda. The meetings are open to the public. It is expected that space will permit approximately 100 persons to attend in addition to Task Force members. The first portion of each meeting will be devoted to presentation of Task Force work and findings. Following will be a comment period when interested persons may make brief presentations or file written statements. Written statements also may be submitted from the date of this announcement until August 27, 1980, to Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225. Further information concerning these meetings may be obtained from Mr. Ash's office (telephone number 303–234–3275).

James W. Curlin,

Deputy Assistant Secretary, Land and Water Resources.

August 1, 1980.

[FR Doc. 80-23644 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Administrator; Agency for International Development; Delegation of Authority No. 3, Legal Services To Trade and Development Program

1. Pursuant to authority vested in me by the International Development Cooperation Agency (IDCA) Delegation of Authority No. 4, effective July 1, 1980, I hereby delegate to the Administrator of the Agency for International Development (AID) the authority to provide legal counsel to the Trade and Development Program including, but not limited to, the functions of:

(A) providing legal advice by clearing and recommending approval of proposed contracts and agreements for transmission to the appropriate offices in AID;

(B) making recommendations to the Director of the Trade and Development Program concerning approval of proposed projects and determinations under § 607(a) of the Foreign Assistance Act; and

(C) providing any of the legal services as necessary to the Trade and Development Program.

2. The authority delegated herein may be redelegated to the General Counsel in AID, and successively redelegated as appropriate, and may be exercised by persons who are performing the functions of designated officers on an acting basis.

3. Nothwithstanding any provision of this Delegation of Authority the Director or Acting Director of the Trade and Development Program may at any time exercise any function delegated by this Delegation of Authority.

4. This delegation of Authority shall be deemed effective as of July 30, 1980 and actions within the scope of this delegation and any redelegation thereunder undertaking prior hereto which are consistent with the terms and scope of this delegation are hereby ratified and confirmed.

Dated: July 30, 1980.

Frank Stewart,

Acting Director, Trade and Development Program.

[FR Doc. 80-23431 Filed 8-5-80; 8:45 am]

BILLING CODE 4710-02-M

Agency for International Development

[Redelegation of Authority No. 5.25 and 38.23]

Asia Bureau, Authority of Mission Directors, et. al. To Waive Advertisement of Invitation for Bids; Amendment

Pursuant to the authority delegated to me by Delegation of Authority No. 5, dated December 29, 1961, (27 FR 499), as amended and Delegation of Authority No. 38, dated June 3, 1977 (42 FR 31511), I hereby amend Redelegation of Authority No. 38.23 dated September 6, 1979 (44 FR 184), as follows:

a. Immediately after the words "Redelegation of Authority" in the Title, delete the word "No." and insert in lieu thereof, the words "Nos. 5.25 and".

b. Immediately after the words "of Authority" in line two of the introductory paragraph, insert the words "No. 5, dated December 29, 1961 (27 F.R. 499) as amended, and Delegation of Authority".

c. Immediately prior to the words "Any person" in paragraph two, insert a new sentence to read as follows: "The sole basis for issuing such waivers shall be to avoid serious delay in project implementation."

Except as hereby amended, the subject redelegation remains in full force and effect.

V 45 / 153 3 AG 6 80 0 UMI

This amendment is effective immediately.

Dated: June 26, 1980.

John H. Sullivan,

Assistant Administrator Bureau for Asia.

[FR Doc. 80-23613 Filed 8-5-80; 8:45 am]

BILLING CODE 4710-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–004

Decided: July 25, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 119741 (Sub-271F), filed July 21, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI.

MC 139330 (Sub-6F), filed July 21, 1980. Applicant: F.V.T., INC., 106 Howard Dr., Williamstown Junction, NC 08094. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. Transporting (1) *fibrous glass products, mineral wool, mineral wool products, and insulating products,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between points in Baltimore County, MD, Middlesex and Camden Counties, NJ, DeKalb, Fulton, and Clarke Counties, GA, DuPage County, IL, Shelby County, TN, Dallas County, TX, Luzerne County, PA, Whitley County, KY, Wyandotte County, KS, Madera County, CA, Allen County, IN, and Marion and Shelby Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146451 (Sub-32F), filed July 21, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. Transporting *wood burning furnace components,* from Dothan, AL, to Kewanee, IL.

Volume No. OP2–002

Decided: July 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 112713 (Sub-307F), filed July 17, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: John M. Records (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8), between the junction of Interstate Hwy 75 and U.S. Hwy 27, and Tampa, FL, over interstate Hwy 75, serving no intermediate points.

Note.—Applicant intends to tack the authority sought with its authority in MC 112713.

MC 127042 (Sub-300F), filed July 18, 1980. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Fred E. Hagen (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, from points in Cook, DuPage, Kane, Kendall, Lake and Will Counties, IL, to points in IA, KS, NE and SD.

MC 149443F filed July 8, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: John M. Records (same as applicant). Robert E. DeLand (same as applicant). *Contract carrier,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

MC 151302F, filed July 16, 1980. Applicant: DONALD E. REYNOLDS d.b.a. BAR-TRAN, CO., 506 Manor, Box 119, Rock Port, MO 64482. Representative: Donald E. Reynolds (same as applicant). Transporting *petroleum and petroleum products,* in tank vehicles, between points in Wyandotte County, KS, on the one hand, and, on the other, points in DeKalb, Clay, Holt, and Atchison Counties, MO.

Volume No. OP2–005

Decided: July 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 123872 (Sub-117F), filed July 23, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). Transporting *meats, meat products, meat by-products and articles distributed by meat packinghouses* (except commodities in bulk and hides), between Finney County, KS, on the one hand, and, on the other, points in AL, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NC, ND, OH, SC, SD, TN, VA and WI.

MC 123872 (Sub-118F), filed July 23, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). Transporting *plastic articles* (except in bulk) (1) between points in NC, on the one hand, and, on the other, points in AZ, CA, CO, FL, GA, ID, IL, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY; and (2) between points in IL, on the one hand, and, on the other, points in AZ, CA, CO, FL, GA, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, NC, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, and WY.

MC 145102 (Sub-66F), filed July 21, 1980. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Avenue, Bakersfield, CA 93307. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. Transporting *cheese and cheese products* from Livingston, WI to points in TX.

Volume No. OP3–002

Decided: July 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 140665 (Sub-112F), filed July 21, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, and TN.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23659 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before September (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–003

Decided: July 25, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 128570 (Sub-21F), filed July 23, 1980. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 East 35th St., Wilmington, DE 19802. Representative: James F. Flint, Suite 406, 918 16th St., NW, Washington, DC 20006. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151351F, filed July 15, 1980. Applicant: MARCO EXPRESS FREIGHT, 1976 Linn, North Kansas City, MO 64116. Representative: William E. Martin (same address as applicant). Transporting *shipments weighing 100 pounds or less,* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP2–004

Decided: July 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 117142 (Sub-5F), filed July 23, 1980. Applicant: AMERICAN TRAILER HAUL, INC., 609B South Main Street, Woodstock, GA 30188. Representative: Archie B. Culbreth, Suite 202, Century Parkway, Atlanta, GA 30345. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in AL, AR, FL, GA, IL, IN, KY, MD, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV.

MC 141523 (Sub-1F), filed July 21, 1980. Applicant: C. R. KIDD PRODUCE, INC., P.O. Box 364, Springdale, AR 72764. Representative: Connie Ray Kidd (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in U.S., restricted to traffic handled for the U.S. Government.

MC 151353F, filed July 22, 1980. Applicant: GOULD BROTHERS TRUCKING, RR #3 Box 17B, Aberdeen,

V 45 / 153 AG 6 80 UMI

SD 57401. Representative: Charles A. Gould (same address as applicant). Transporting *food and other edible products* (except alcoholic beverages and drugs) intended for human consumption, *agricultural limestone and other soil conditioners* and *agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23858 Filed 8-5-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notices of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-46

The following applications were filed in Region I. Send protests to Regional Authority Center, Interstate Commerce Commission, 150 Causway St., Rm. 501, Boston, MA 02114.

MC 151369 (Sub-1-1TA), filed July 25, 1980. Applicant: VIGEANT FREIGHT SYSTEM, INC., 676 Dartmouth Street, South Dartmouth, MA 02748. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Ladies wearing apparel and accessories and materials and supplies used in the manufacture thereof* between No. Dartmouth, MA and points in PA, NJ, TN and New York, NY. Supporting shipper: Kay Windsor Co., 375 Faunce Corner Road, No. Dartmouth, MA 02747.

MC 42828 (Sub-1-2TA), filed July 28, 1980. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, Vermont 05641. Representative: William L. Rossi, P.O. Box 332, Barre, Vermont 05641. Supporting shippers: Rock of Ages Corporation, P.O. Box 482, Barre, Vermont 05641. Rock of Ages Building Granite Corporation, McGuire Street, Concord, New Hampshire. Transporting stone, between points in and east of Texas, Oklahoma, Missouri, Illinois, and Wisconsin on the one hand, and on the other, Barre, Vermont. The purpose of this Application is to substitute single line service for existing joint line service.

MC 141516 (Sub-1-1TA), filed July 28, 1980. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, ME 04988. Representative: John C. Lightbody Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Frozen foodstuffs and dry potato products* from points in Portland, ME to DE, DC, IL, IN, KY, MI, MO, NJ, NY, OH and PA. Supporting shipper: McCain Foods, Inc., Washburn, ME 04786.

MC 148893 (Sub-1-1TA), filed July 29, 1980. Applicant: WREN TRUCKING, INC., 572 Kennedy Road, Cheektowaga, NY 14227. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. (1) *Foodstuff (except in bulk)*, from the facilities of General Mills located in Buffalo, NY, to points in CT, DC, MA, MD, ME, NJ, NY, OH, PA, RI, IL, IN, MI, WV; (2) *Related materials, supplied and equipment in the manufacture, production, packaging, sale or distribution of such commodities*, in reverse direction.

MC 151389 (Sub-1-1TA), filed July 29, 1980. Applicant: T.R. & SONS TRUCKING INC., Garfield Avenue at 3rd Avenue, Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Appliances; furniture; radios; television sets; cameras; wheeled goods; petroleum products; chemicals; paints; displays; metal, paper, and plastic articles; hardware; books; packaging materials; dyes; colorings; and flavoring compounds; (2) Materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk in tank vehicles)*, between points in NJ; and New York, NY Commercial Zone; the Philadelphia, PA Commercial Zone; and Suffolk County, NY. Supporting shipper(s): Sayo Electric Co., 200 Riser Rd., Little Ferry, NJ; Deijon Co., 163 E. Union Ave., E. Rutherford, NJ; H. Kohnstamni & Co., 555 Columbia St., Brooklyn, NY.

MC 141932 (Sub-1-8TA), filed July 25, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. (1) Paper, (2) paper products, (3) printed matter, (4) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities named, (5) commodities otherwise exempt from economic regulation under Section 49 U.S.C. 10526(a)(6) of the Interstate Commerce Act, in mixed shipments with commodities described in (1), (2), (3), (4) above (except commodities in bulk and commodities, the transportation of which, because of size or weight require the use of special equipment), between Boston, Hingham, Plymouth and Westwood, MA and Wells, ME on the one hand, and, on the other, points in the United States, except AK and HI, restricted to the movement of traffic from or to the facilities of, or used by, Clark-Franklin-Kingston Press, Print Mail, Inc., and Spencer Press, Inc. Supporting shippers: Clark-Franklin, Kingston Press, Print Mail, Inc. and Spencer Press, Inc.

MC 144428 (Sub-1-3TA), filed July 29, 1980. Applicant: TRUCKADYNE INC., Route 16, Mendon, MA 01756. Representative: Joseph A. Reed, Truckadyne Inc., Route 16, Mendon, MA 01756. Contract carrier irregular routes, *abrasives, abrasives grains and powders and materials and supplies* used in the manufacture, processing sale and use of such commodities between points in the forty-eight (48) contiguous states. Under a continuing contract with Micro Abrasives Corporation, Westfield, MA. Supporting shipper: Micro Abrasives Corp., Westfield, MA.

MC 144428 (Sub-1-3TA), filed July 29, 1980. Applicant: TRUCKADYNE INC., Route 16, Mendon, MA 01756. Representative: Joseph A. Reed,

Truckadyne Inc., Route 16, Mendon, MA 01756. *Contract* carrier irregular routes, *abrasives, abrasives grains and powders and materials and supplies* used in the manufacture, processing sale and use of such commodities between points in the forty-eight (48) contiguous states. If under a continuing contract with Micro Abrasives Corporation, Westfield, MA. Supporting shipper: Micro Abrasives Corp. Westfield, MA.

MC 139424 (Sub-1-1TA), filed July 28, 1980. Applicant: FISHER TRUCKING COMPANY, INC., Lincoln & Passmore, Hammonton, NJ 08037. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Rd. & Cottman St., Jenkintown, PA 19046. *Petroleum fuel oils, gasoline, residual fuel oils, gasohol* and *distillates* from the facilities of Amerada Hess Corporation located at Delair, NJ to PA and DE, and located at Philadelphia, PA to NJ and DE. Supporting shipper: Ameradas Hess Corporation, 1 Hess Plaza Woodbridge, NJ 07095.

MC 115353 (Sub-1-4TA), filed July 7, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract*, irregular, transporting *steel articles and commodities used in the manufacture and distribution thereof*, between the facilities of Raritan River Steel Co. at Perth Amboy, NJ, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR and LA, under a continuing contract(s) with Raritan River Steel Co. located at Perth Amboy, NJ. Supporting shipper: Raritan River Steel Co., P.O. Box 309, Perth Amboy, NJ 08862.

MC 134806 (Sub-1-3TA), filed July 25, 1980. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277. Vernon Drive, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. *Contract* carrier: irregular routes, *plastic articles, in cartons*, from Malden, MA to Denver, CO, Salt Lake City, UT, Reno, NV and points in CA under continuing contract with Century Products, Inc. Supporting shipper: Century Products, Inc., 171 Medford Street, Malden, MA 02148.

MC 140768 (Sub-1-9TA), filed July 25, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Such commodities as are manufactured, dealt in or used by a manufacturer and distributor of bicycles and bicycle parts,* between Little Rock, AR, on the one hand, and, on the other, points in AL, FL, GA, LA, MS and TX. Restricted to shipments originating at or destined to the facilities of AMF Cycles Division, AMF, Inc. at or near Little Rock, AR. Supporting shipper: AMF Cycles Division, AMF, Inc., P.O. Box 344, Olney, IL 62450.

MC 143552 (Sub-1-2TA), filed July 25, 1980. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield Court, Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Washing, cleaning and scouring compounds, fabric and textile softeners, soap and soap powders; (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above (except commodities in bulk in tank vehicles)*, Between points in the US. Supporting shipper(s): PUREX CORPORATION, 1414 N. Radcliffe St., Bristol, PA 19007.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

Originally published in the **Federal Register** July 14, 1980.[1]

MC 107012 (Sub-II-55TA), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Parts, materials and supplies used in the manufacture of toys and games (except commodities in bulk and commodities which because of size or weight require the use of specialized equipment)*, between Edison and South Plainfield, NJ, on the one hand, and, on the other, pts. in Los Angeles and Orange Counties, CA for 180 days. (Restricted to traffic originating at or destined to the facilities of Mattel Toys). An underlying ETA seeks 90 days authority. Supporting shipper: Mattel Toys, 5150 Rosecrans Ave., Hawthorne, CA 90250.

Note.—Common control may be involved.

MC 107012 (Sub-II-66TA), filed July 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same as applicant). *Sporting goods equipment and parts therefor* from the facilities of Medalist Industries, Inc. at or near Crivitz, WI; San Diego, CA; Los Angeles, CA; and Leesburg, FL to points in the US (except AK and HI) for 270 days. Supporting shipper: Medalist Industries, Inc., 11525 Sorrento Valley Rd., San Diego, CA 92121.

Note.—Common control may be involved.

MC 112184 (Sub-II-2TA), filed July 25, 1980. Applicant: THE MANFREDI MOTOR TRANSIT CO., 11250 Kinsman Rd., Newbury, OH 44065. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: irregular; paint and paint products, in bulk*, from Cleveland, OH to pts. in PA and LA for 270 days. Supporting shipper: P.P.G. Industries, Inc., 1 Gateway Ctr., Pittsburgh, PA 15222.

MC 151229 (Sub-II-1TA), filed July 24, 1980. Applicant: JOHN L. OWEN d.b.a. CHESTER NEWELL TRANSIT, 451 Lycia Ave., Chester, WV 26034. Representative: John L. Owen (same as applicant). *Common; regular: Passengers* between Chester, Newell, and Waterford Park, WV; and East Liverpool and Calcutta, OH for 270 days. Serving all pts. below: (1) From Chester, WV south on Rte. 2 to Newell, WV, then continue south on Rte. 2 to Waterford Park, WV. (2) From Waterford Park, WV north on Rte. 2 to Newell, WV, then continue north on Rte. 2 over Newell Bridge into East Liverpool, OH. (3) From East Liverpool, OH north on Old Rte. 30 to Calcutta, OH. (4) From Calcutta, OH south on Old Rte. 30 to East Liverpool, OH, then east on Rte. 30 over Jennings Randolph Bridge to Chester, WV. An underlying ETA seeks 120 days authority. Supporting shipper(s): J. Floyd Peddycord, President, Golden Age Club, Senior Citizens, 336 Carolina Ave., Chester, WV.

MC 150769 (Sub-II-2TA), filed July 24, 1980. Applicant: ROBERT B. CONNERS TRUCKING CO., P.O. Box 3402, Morgantown, WV 26505. Representative: Robert B. Conners (same address as applicant). *Crushed stone*, between Fairchance, PA and pts. in WV, for 270 days. Restricted to traffic destined to facilities of VICO, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: VICO, Inc., P.O. Box 486, Fairchance, PA 15436.

MC 102616 (Sub-II-14TA), filed July 24, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same address as applicant). *Petroleum and Petroleum Products, in bulk, in tank vehicles*, from Todhunter, OH to Robinson, IL, for 270 days. Supporting shipper: Marathon Oil Co., Houston, TX 77001.

MC 61977 (Sub-II-2TA), filed July 22, 1980. Applicant: ZERKLE TRUCKING,

[1] The purpose of this republication is to add "Counties" to clarify the destination pts. of Los Angeles and Orange, CA.

V 45 / 153 AG 6 80 UMI

2400 Eighth Ave., Huntington, WV 25703. Representative: N. W. Bowen, Jr., (same as applicant). *Such commodities as are dealt in by retail, wholesale grocery and food business houses,* except commodities in bulk, between points in OH, on the one hand, and on the other, points in KY and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Fostoria Distribution Services Co., P.O. Box D, Fostoria, OH 44830.

MC 21866 (Sub-II–27TA), filed July 23, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Television tubes,* and *equipment, parts and materials* used in the manufacture and distribution of television tubes (except commodities in bulk), between the facilities of RCA Corporation at Marion, IN and Dunmore, PA, on the one hand, and, on the other, Forrest City, AR and Greeneville, TN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): RCA Corporation, Bldg. 204–2 Route 38, Cherry Hill, NJ 08358.

MC 151328 (Sub-II–1TA), filed July 21, 1980. Applicant: BARBARA R. WOMACK, d.b.a., THRIFTY RED CARPET COACHES, 3803 Fort Hill Dr., Alexandria, VA 22310. Representative: Gary E. Thompson, 4304 East-West Hwy., Washington, DC 20014. *Passengers and their baggage* between pts. in MD, VA, Adams County, PA, Jefferson County, WV, and Washington, DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Thrifty Tours, Inc., 438 Woodward Bldg., Washington, DC 20005.

MC 116763 (Sub-II–22TA), filed July 21, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *General commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which, because of size or weight, require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the United States (except AK and HI), for 270 days. Restricted to traffic originating at, or destined to the facilities utilized by Abbott Laboratories, Inc. Supporting shipper(s): Abbott Laboratories, Inc., Dept. 277, 1400 Sheridan Rd., Chicago, IL 60064.

MC 123744 (Sub-II–8TA), filed July 23, 1980. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 11 N. 2nd St., Clearfield, PA 16830. *Refractories and materials and supplies used in the manufacture or distribution of refractories except commodities in bulk,* between E. Canton, OH on the one hand, and, on the other, pts. in the U.S. in and east of ND, SD, NB, KS, OK, and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crescent Brick Co., P.O. Box 1110, Clearfield, PA 16830.

MC 67646 (Sub-II–2TA), filed July 17, 1980. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). Authority sought: *Common;* regular routes, *General commodities* (except those of unusual value, livestock, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission, serving Vesper, WI, and points in its commercial zone, as off-route points in connection with the carrier's authorized regular-route operations. Applicant intends to tack authority sought herein with authority held under docket numbers MC 67646 and MC 8600. Supporting shipper: Sanna Division-Beatrice Foods Company, P.O. Box 8046, Madison, WI 53708.

MC 151142 (Sub-II–2TA), filed July 17, 1980. Applicant: H&H TRANSPORTATION, INC., 1425 East Main St., Newark, OH 43055. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *(1) containers, and (2) equipment, materials and supplies used in the manufacture, sale, and distribution of containers (except commodities in bulk),* between Bridgewater, NJ, on the one hand, and, on the other, OH, IN, KY, WV, PA, and the lower peninsula of MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Prospect Industries Incorporated, 9 Finderne Ave., Bridgewater, NJ 08807.

MC 56388 (Sub-2–4TA), filed July 17, 1980. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Cement* from Martin Marietta Cement Plant in Martinsburg, WV, Baltimore, MD and DC to points and places in MD, DC, VA, WV, PA, and DE, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Martin Marietta Cement, 2 Hamill Road, P.O. Box 5618, Baltimore, MD 21210.

MC 148116 (Sub-II–1TA), filed July 21, 1980. Applicant: TOM JOSEPH ENTERPRISES, INC., 6320 Promler, NW, North Canton, OH 44720. Representative: Kevin R. Reichley, 50 W. Broad St., Suite 1815, Columbus, OH 43215. *Automobiles,* in secondary movements, between Dallas, Houston, San Antonio and Austin, TX, on the one hand, and, on the other, Alexandria, VA; Atlanta, GA; Miami, FL and Elizabeth and Newark, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Auto Movers, Inc., 2818 S. Eastern Ave., Los Angeles, CA 90040.

MC 123367 (Sub-II–2TA), filed July 21, 1980. Applicant: E. E. HENRY, INC., 1128 South Military Highway, Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 North Second Street, Clearfield, PA 16830. *Appliances,* between Chesapeake, VA, on the one hand, and, on the other, points in the United States in and east of WI, IL, KY, TN, and MS, for 270 days. Supporting shipper: Warwick Manufacturing Co., 1112 Cavalier Bldg., Chesapeake, VA 23220.

MC 113666 (Sub-II–11TA), filed July 21, 1980. Applicant: FREEPORT TRANSPORT, INC., P.O. Drawer A, Freeport, PA 16229. Representative: R. Scott Mahood (same address as applicant). *Industrial plaster,* from Gyposum, OH to New Eagle, PA. Supporting shipper: Allied Block Chemical Company, P.O. Box 455, Pine Street, New Eagle, PA 15067.

MC 151196 (Sub-II–1TA), filed July 14, 1980. Applicant: ARTHUR F. HAZEN & SON, INC., 525 Spring Ave., Ellwood City, PA 16117. Representative: Charles W. Garbett, 317 7th St., Ellwood City, PA 16117. Contract: Irregular: *Petroleum products, gasoline, fuel oil and related products,* (1) from Harmony, Ellwood City, Pittsburgh, PA to Youngstown, Canton, Warren and Ashtabula, OH; and (2) from Nowell, WV to Harmony, Ellwood City, Pittsburgh, PA and Youngstown, Canton, Warren and Ashtabula, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mid-Penn Refining Co., Harmony, PA 16037.

MC 107012 (Sub-II–64TA), filed July 21, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Carpet and carpet samples,* from the facilities of Dan River Floor Covering Division at or near Greenville, SC to points in MN for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dan River Floor Covering Division, P.O. Box 167/I–85 Plant, Greenville, SC 29602.

Note.—Common control may be involved.

MC 107012 (Sub-II–65TA), filed July 22, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). *Television chassis and component parts for televisions,* from the facilities of Zenith Radio Corp. at McAllen and Brownsville, TX to Chicago, IL and Springfield, MO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Zenith Radio Corp., 1900 S. Austin Blvd., Chicago, IL 60639.

Note.—Common control may be involved.

MC 124212 (Sub-II–2TA), filed July 21, 1980. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Fly ash, in bulk,* from Minneapolis, MN to Mason City, IA for 270 days. Supporting shipper: Lehigh Portland Cement Co., 718 Hamilton Mall, P.O. Box 1882, Allentown, PA 18105.

MC 146348 (Sub-2–2TA), filed July 21, 1980. Applicant: M. T. SERVICES, INC., P.O. Box 18402, Baltimore, MD 21237. Representative: Raymond P. Keigher, 1400 Gerard St., Rockville, MD 20850. *Contract: Irregular: such commodities as are dealt in or sold by book distributors (except in bulk),* between Westminster, MD, on the one hand, and, on the other, Baltimore and Savage, MD, Saddle Brook, NJ, Binghampton and Fenton, NY, New York, NY and points in its commercial zone, Dunmore, PA, and Harrisonburg, VA, for 270 days under continuing contract(s) with Random House, Inc., of Westminster, MD. Supporting shippers: Random House, Inc., 400 Hahn Rd., Westminster, MD 21157.

MC 4080 (Sub-II–1TA), filed July 25, 1980. Applicant: BRICK HAULER'S, INC., 403 Holland Lane, Alexandria, VA 22313. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Contract,* irregular: *Mortar and cement, in bags,* from Northhampton and Lehigh Counties, PA to Alexandria, VA and points in Arlington and Fairfax Counties, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Materials & Services, Inc., 7117 Wimsatt Rd., Springfield, VA 22151.

MC 123744 (Sub-II–9TA), filed July 25, 1980. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Refractories, refractory materials, and iron and steel articles,* Between Chicago, IL and its commercial zone on the one hand, and, on the other, points in OH and PA, for 270 days. An underlying ETA seeks 120 days authority. Shipper: Resco Products, Inc., P.O. Box 1110, Clearfied, PA 16830.

MC 102616 (Sub-II–15TA), filed July 25, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same address as applicant). *Petroleum and Petroleum Products, in bulk, in tank vehicles,* from Erie, PA to points in OH, for 270 days. Supporting shipper: United Refining Company, Warren, PA 16365.

The following applications were filed in Region 3. Send protests to ICC; Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 119777 (Sub-3–14TA), filed July 25, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Particleboard, fibreboard and accessories used in the installation thereof,* from Meridian, MS to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, NC, SC, OH, OK, PA, TN, TX, VA, and WV. Supporting shipper: Cant Strip Corporation of America, P.O. Box 3521, Meridian, MS 39301.

MC 136123 (Sub-3–6TA), filed July 25, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same address as above). *Floor tile and flooring accessories,* between Houston, TX and points in the U.S. in and east of MN, IA, MO, AR, and LA. Supporting shipper: Uvalde Rock Asphalt Company, P.O. Box 34030, San Antonio, TX, 78233.

MC 120910 (Sub-3–5TA), filed July 25, 1980. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009 Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *(1) Metallic ores, nonmetallic minerals (except fuels), primary metal products, fabricated metal products, machinery and supplies; waste or scrap materials; metal articles, pipe, gaskets, casings, fittings, breechings, valves, hydrants, boxes, tanks and vessels; (2) materials, equipment, parts and supplies used in connection with the manufacture, fabrication, distribution or installation of commodites in (1) above.* Restricted against commodites in bulk in tank vehicles. Between Tuscaloosa County, AL, on the one hand, and, on the other, all points in the United States (except AK and HI). Supporting shipper: Reliance Grating, Inc., P.O. Drawer 10, Cottondale, AL (35453), Blue River Alloy, Inc., P.O. Box 2322, 2600 Kaulton Road, Tuscaloosa, AL (35401), McAbee Construction, Inc., P.O. Box 1429, 5724 21st Street, Tuscaloosa, AL (35401), Southern Tube Company, Inc., P.O. Box 2214, Tuscaloosa, AL (35403), Southern Heat Exchanger Corporation, Box 2400, Tuscaloosa, AL (35401).

MC 75840, (Sub-3–8TA), filed July 24, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA. 30326. *Chemicals, NOI; plastic materials; liquid, NOI; synthetic liquid; metallic soaps of fatty acids; fatty acids esters of animal fats; adjuvant; adhesives, resins; stickers or spreaders; cleaning, scouring or washing compounds, liquid and dry; lubricating oil; acids, NOI; paints, NOI; dryees paint or varnish; wood preservatives, liquid, NOI; disinfectants, O/T medicinal, NOI,* Between Houston, TX, on the one hand, and, on the other, points in AL, AR, FL, DE, GA, KY, LA, MD, MS, NJ, NY, NC, OH, PA, SC, TN, VA & WV. Supporting Shipper: Witco Chemical Corporation, P.O. Box 308, Gretna, LA, 70054.

MC 12164 (Sub-3–22TA), filed July 24, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. (a) *Treated and untreated forest products, lumber, posts, poles, piling, timber, cross-ties, particle board, insulation board, insulation sheets, gypsum wallboard, plywood, laminated wood products, veneer;* and (b) *materials, equipment and supplies* (except commodities in bulk, in tank vehicles) used in the production and distribution of those products listed in (a) above, between points in the US lying in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to transportation of shipments originating at or destined to facilities of Weyerhaeuser Company, subsidiaries of Weyerhaeuser Company and suppliers of Weyerhaeuser Company, when making shipments for Weyerhaeuser Company and its subsidiaries. Supporting shipper: Weyerhaeuser Company, P.O. Box 2288, Columbus, MS (39701).

MC 114604 (Sub-3–7TA), filed July 25, 1980. Applicant: CAUDELL

TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30050. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in descriptions in motor carrier certificates, 61, M.C.C. 209 and 766 (except hides and commodities in bulk),* from Palestine, TX to points in AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, NC, OH, PA, SC, TN, VA and WV. Supporting shipper: Vernon Calhoun Packing Company, P.O. Box 709, Palestine, TX 75801.

MC 114604 (Sub-3–8TA), filed July 25, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Malt beverages and related advertising materials* (except in bulk), from Perrysburg, OH and Detroit, MI to MO, IL, IN, OH, PA, KY, WV, AR, TN, NC, LA, MS, AL, GA, SC, and FL. Supporting shipper: Stroh's, Inc., 1 Stroh's Drive, Detroit, MI 48226.

MC 111545 (Sub-3–6TA), filed July 25, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, S.E., Marietta, GA 30067. Representative: J. Michael May, P.O. Box 6426, Station A, Marietta, GA 30065. *Pipe,* from the facilities of Midwesco, Inc. at Lebanon, TN, to points in CA. Supporting Shipper: Midwesco, Inc., 1310 Quarles Drive, Lebanon, TN 37087.

MC 146281 (Sub-3–10TA), filed July 25, 1980. Applicant: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, P.O. Box 6089, Knoxville, TN 37194. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Foodstuffs* (except commodities in bulk), between the facilities of White Lily Flour, at or near Knoxville, TN, on the one hand, and, on the other, points in AL, MS, LA, GA, KY, NC, SC. Supporting Shipper(s): White Lily Flour, P.O. Box 871, Knoxville, TN 37901.

MC 114604 (Sub-3–9TA), filed July 25, 1980. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, State Farmers Market #33, Forest Park, GA 30050. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30050. *Canned and bottled foodstuffs, and pepper pulp in drums,* from Cade and Lozes, LA to points in IL, IN, MI, OH, WI, MO and KY. Supporting shipper: Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560.

MC 52704 (Sub-3–7TA), filed July 24, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY., INC., P.O. Drawer "H", LaFayette, AL 36862. Representatives: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Carbonated beverages,* (a) between points in AL, FL, GA, NC and SC and (b) between Kansas City, KS and St. Louis, MO, on the one hand, and, on the other, points in AL, GA, FL, NC and SC; and (2) *Materials, equipment and supplies,* used in the manufacture and distribution of carbonated beverages from points in the United States (except AK and HI) to points in AL, FL, GA, NC and SC. Supporting Shippers: King Cola Southeast Limited, 2810 New Spring Road, Suite 112, Atlanta, GA 30339 and King Cola Carolinas Corporation, 2800 Bush River Road, Columbia, SC 29210.

MC 149229 (Sub-2TA), filed January 22, 1980. Republication—Originally published in **Federal Register** of 03–19–80 page 17672 volume 45, No. 55. Applicant: JOYCLIFF TRUCK LEASING COMPANY, INC., 2010 Joycliff Circle, Macon, GA 30201. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract* carrier, over irregular routes, (1) *Articles dealt in by janitorial supply houses (except in bulk); and (2) materials and supplies used in the manufacture of janitorial supplies (except in bulk),* (1) from Macon, GA to points in AL, AR, FL, IN, KY, LA, MS, NY, NC, PA, SC, TN, TX, VA and WV and (2) from destination states named in (1) above to Macon, GA. Under a continuing contract with Southern Chemical Products Company, Supporting shipper: Southern Chemical Products Company, Inc., 430 Lower boundary Street, Macon, GA 31202.

MC 149218 (Sub-3TA), filed January 17, 1980. Republication—Originally published in **Federal Register** of 03–19–80 page 17672 volume 45, No. 55. Applicant: SUNBELT EXPRESS, INC., 118 Hamilton Circle, Bremen, GA 30110. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. (1) *Containers, container closures, container components and packaging products and* (2) *machinery materials and supplies used in the manufacture, sale and distribution of (1) above (except in bulk),* (1) from Tallapoosa, GA to points in AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA and WV; and, (2) from destination states named in (1) above to Tallapoosa, GA. Supporting shipper: Southern Can Company, 100 Stoffell Drive, Tallapoose, GA.

MC 85970 (Sub-3–9TA), filed July 7, 1980. Republication—Originally published in **Federal Register** of 07–16–80 page 47741 volume 45, No. 138. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38064. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Common* carrier: Regular: *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment,* between Union City, TN and Fulton, KY; from Union City, TN, over U.S. Highway 51 to Fulton, KY and return over the same route, serving all intermediate points. Applicant intends to interline at Memphis and Nashville, TN, and St. Louis, MO. Applicant intends to tack at Union City, TN. There are 7 statements in support to this application which may be examined at the ICC Regional office in Atlanta, GA.

MC 151171 (Sub-3–1TA), filed July 7, 1980. Republication—Originally published in **Federal Register** of 7–16–80 page 47739 volume 45, No. 138. Applicant: CIRCLE DELIVERY SERVICE, INC., 2008 Clark Tower, Memphis, TN 38137. Representative: Dennis D. Kirk, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 2005. *General Commodities, with the usual exceptions,* between points in Davidson County, TN, on the one hand, and, on the other, points in Lake County, IN; Cooke, DuPage, Kane, Lake and Will Counties, IL.

Note.—Interlining is requested at Nashville, TN and Chicago, IL. Common control may be involved.

Supporting shippers: There are 22 statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 10457 (Sub-5–2TA), filed July 28, 1980. Applicant: BURGGRABE TRUCK LINES, INC., Old Highway 40, Warrenton, MO 63383. Representative: Kerry L. Hart (same address as applicant). (1) *Vinyl and leather manufactured goods, and* (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1),* between Washington, MO, on the one hand, and, on the other, points in the commercial zones of St. Louis, MO, E. St. Louis, IL, Kansas City, MO, and Kansas City, KS. Supporting shipper: Hazel Company, 1200 S. Stafford St., Washington, MO 63090.

MC 60066 (Sub-5–3TA), filed July 28, 1980. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul Street, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Such commodities as are dealt in by manufacturers of medical, surgical, and hospital supplies,* between points in Custer, Platte, and Phelps Counties, NE; Litchfield County, CT; Cook County, IL; De Kalb County, GA; Queens County, NY; Morris, Middlesex, Somerset and Hudson Counties, NJ, on the one hand, and, on the other, points in the United States except HI. Supporting shipper: Becton Dickinson and Company, Rutherford, NJ 07070.

MC 88368 (Sub-5–7TA), filed July 28, 1980. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, 406 World Center Building, 918-16th Street, N.W., Washington, DC 20006. *Household goods as defined by the Commission* between points in the United States (including HI and excluding AK). The application is based upon the elimination of gateways and the promotion of efficient and economical operations. Supporting shipper: There is no supporting shipper.

MC 104523 (Sub-5–1TA), filed July 28, 1980. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 427, Seward, NE 68434. Representative: John T. Wirth, 717—17th Street, Suite 2600, Denver, CO 80202. *Bentonite, bentonite clay and drilling mud compounds,* from the facilities of Wyo-Ben, Inc. at Greybull and Lovell, WY to points in KS, NE, OK and AR. Supporting shipper: Wyo-Ben, Inc., 1241 North 28th Street, P.O. Box 1979, Billings, MT 59103.

MC 113908 (Sub-5–16TA), filed July 28, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G. S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Vegetable oil, vegetable oil products, by-products, and blends of vegetable oil, vegetable oil products, and by-products; non-exempt farm products, non-exempt food or kindred products, chemicals or allied products, rubber or miscellaneous plastics products, hazardous materials and general commodities (except household goods as defined by the commission and class A and B explosives),* between (Stuttgart) Arkansas County, and (Helena) Phillips County, AR, on the one hand, and, on the other, points in the United States. Supporting shipper: Riceland Foods, Inc., P.O. Box 927, Stuttgart, AR 72160.

MC 119399 (Sub-5–23TA), filed July 28, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (address same as applicant). *Wines and Spirits* from Fresno, Los Angeles, Kern, Madera, Napa, San Bernardino, San Francisco, San Mateo, Santa Clara, Sonoma and Stanislaus Counties, CA to points in OK. Supporting shipper: Dixie Liquors Company, McAlester, OK.

MC 124711 (Sub-5–3TA), filed July 28, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker (same as applicant). *Aviation Gasoline,* from Dallas, TX and Ft. Worth, TX to Hutchinson, KS and McPherson, KS. Supporting shipper: Century Oil Co., Inc., 1129 West 4th, Hutchinson, KS 67501.

MC 126118 (Sub-5–23TA), filed July 28, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in or used by manufacturers and distributors of furniture,* from points in AR, GA, MS, NC, SC and VA to points in TX. Supporting shipper: Viking Freight Service, Inc., Robert W. Brimmer, President, 9144 King Arthur, Dallas, TX 75247.

MC 128273 (Sub-5–16TA), filed July 28, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Such commodities as are used or dealt in by refiners, manufacturers and distributors of petroleum and plastic products* from points in Galveston, Chambers, Liberty, Montgomery, Harris, Fort Bend and Brazoria Counties, TX, to points in the United States (except AK, HI and TX). *Restricted against the transportation of commodities in bulk, in tank vehicles, and commodities which, because of size or weight require the use of special equipment.* Supporting shipper(s): Southwest Chemical & Plastics Company, P.O. Drawer 478, Seabrook, TX 77586, Witco Chemical Corporation, P.O. Box 308, Gretna, LA 70054, and Penreco Division of Pennzoil, 106 South Main Street, Butler, PA 16001.

MC 128273 (Sub-5–17TA), filed July 28, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. (1) *Containers, container ends, and closures,* (2) *commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and* (3) *materials, equipment, and supplies used in the manufacture and distribution of containers, container ends, and closures* between all points in the United States (except AK and HI), *restricted against the transportation of commodities in bulk.* Supporting shippers: Stafos Farms, Inc., 6235 Kansas Avenue, Kansas City, KS 66111; Shurfine-Central Corporation, 2100 North Mannheim Road, Northlake, IL 60164; Terminal Bag Co., Inc., P.O. Box 47, Yulee, FL 32097; Keyes Fibre, Upper College Avenue, Waterville, ME 04901; Cole Harford Company, 110 West 14th Avenue, North Kansas City, MO 64116; Ball Corporation, 345 South High Street, Muncie, IN 47302; International Paper Company, 220 East 42nd Street, New York, NY 10017; Anchor Hocking Corporation, 109 N. Broad Street, Lancaster, OH 43130; Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501; Menasha Corporation, P.O. Box 367, Neenah, WI 54956; and Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291.

MC 134405 (Sub-5–8TA), filed July 28, 1980. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Sodium sulfide solution,* from Wynnewood, OK to Pine Bluff, AR. Supporting shipper: Kerr-McGee Refining Corporation, Kerr McGee Center, P.O. Box 25861, Oklahoma City, OK.

MC 134783 (Sub-5–1TA), filed July 28, 1980. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life, 1600 Sherman Street, Denver CO 80203. *(1) Such commodities as are dealt in by or used by manufacturers and distributors of toilet preparations, beauty aids, hair grooming and conditioning aids, cosmetics, shaving cream, washing compounds, cleansing compounds, deodorizers, drugs, and store displays, (except in bulk) (2) materials, equipment and supplies used in the installation of store displays (except in bulk),* (A) from the facilities of Noxell Corporation at or near Cockeysville, MD; the facilities of Peterson Puritan, Inc. at or near Berkeley, RI; and the facilities of Howard Display, Inc. at or near New York, NY, to point in TN, OK, AR, MN, ND, SD, TX, NM, CO, WY, MT, ID, UT, NV, AZ, CA, OR and WA; (B) between the facilities of Noxell Corporation at or near Cockeysville, MD; the facilities of

V 45 / 153 3 AG 6 80 UMI

Peterson Puritan, Inc., at or near Berkeley, RI and the facilities of Howard Display, Inc. at or near New York, NY. Supporting shipper: Noxell Corporation, P.O. Box 1799, Baltimore, MD 21203.

MC 136008 (Sub-5–6TA), filed July 28, 1980. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Asphalt in Bulk on shipper-owned trailers,* from Moore County TX to Seward County KS. Supporting shipper: Herzog Contracting Corporation, 1900 Garfield Avenue, St. Joseph, MO 64503.

MC 140440 (Sub-5–1), filed July 28, 1980. Applicant: DAVIS TRUCK SERVICE, INC., Route 2, Box 43, Jeanerette, LA 70544. Representative: James M. Field and C. Randall Loewen, Gary & Field, 5420 Corporate Blvd., Suite 302, Baton Rouge, LA 70808. *General commodities in cargo containers, empty cargo containers, supplies, and heavy and cumbersome equipment and machinery not transportable in containers, and aluminum plate, all having a previous or subsequent move in interstate commerce,* from and between facilities of Kaiser Aluminum and Chemical Corporation at the LA cities of Baton Rouge, Gramercy, Chalmette, and the Parish of Lafayette, La. Supporting shipper: Kaiser Aluminum and Chemical Corporation, Suite 615, 10001 Lake Forest Blvd., New Orleans, LA 70127.

MC 140665 (Sub-5–25TA), filed July 28, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208, Springfield, MO 65804. *General commodities, except commodities in bulk.* (A) From the facilities utilized by Terminal Freight Co-Operative Association, Inc., at or near Cleveland, OH to Los Angeles, CA, Portland, Or and Seattle, WA, and (B) From the facilities utilized by Terminal Freight Co-Operative Association, Inc., Los Angeles, CA to Seattle, WA. Supporting shipper: Terminal Freight Co-Operative Association, Inc., 1430 Branding Lane, Downers Grove, IL 60515.

MC 143462 (Sub-5–25TA), filed July 28, 1980. Applicant: ERWIN TRUCKING, INC., 9100 "F" Street, Omaha, NE 68127. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular; *Foodstuffs, pet foods, and materials and supplies used in the manufacture, sale and distribution of food-stuffs and pet foods (except commodities in bulk),* between the facilities of Campbell Soup Company, Inc. and subsidiaries located in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Campbell Soup Company, Inc., Campbell Place, Camden, NJ 08101.

MC 144203 (Sub-5–4TA), filed July 28, 1980. Applicant: HERMAN BROS., INC., P.O. 189, Omaha, NE 69101. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract, irreg., *Liquid nitrogen, liquid oxygen, liquid argon, and compressed gas, in bulk, in tank vehicles,* between the facilites of M G Burdett Gas Products Company at or near St. Marys and Reading, PA.; and Hopewell and Richmond, VA, on the one hand, and, on the other, points in the U.S. in and east of MI, IN, KY, TN, and MS, under a continuing contract(s) with M G Burdett Gas Products Company of Norristown, PA. Supporting shipper: M G Burdett Gas Products Company, 1 Schuylkill Avenue, Norristown, PA 19401.

MC 146078 (Sub-5–13TA), filed July 28, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Dockboard, iron and steel, dock levelers, and rubber bump blocks, and material and equipment used in the manufacture, assembly and distribution of such items,* between the plant site facilites of DLM, Inc. at Malvern, AR, on the one hand, and, on the other, all points and places in Chicago, IL; Denver, CO; PA, NY, and TX. Supporting shipper: DLM, Inc., P.O. Box 37, Malvern, AR 72104.

MC 146360 (Sub-5–8TA), filed July 28, 1980. Applicant: FLOYD SMITH, JR. TRUCKING INC., 4415 Highline Blvd., Suite 107, Oklahoma City, OK 73148. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Dehydrated Potatoes,* from the facilities of Idaho Fresh-Pak, Inc. at or near Lewisville, ID, to points in the U.S. (except AK and HI) and Canada. Supporting shipper: Idaho Fresh-Pak, Inc., P.O. Box 130, Lewisville, ID 83431.

MC 151118 (Sub-5–3TA), filed July 28, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. (1) *Footwear and* (2) *equipment, materials and supplies used in the manufacture, sale and distribution of footwear (except commodities in bulk and those requiring special equipment)* between the facilities of Frolic Footwear, Division of Wolverine Worldwide, Inc., at or near Jonesboro, Craighead County, AR on the one hand, and, on the other, points in the U.S. in and east of WI, IL, MO, TN, MS, and LA. Supporting shipper: Frolic Footwear, Division of Wolverine Worldwide, Inc., 1030 Aggie Road, Jonesboro, AR 72401.

Note.—Dual operations may be involved.

MC 151378 (Sub-5–1TA), filed July 28, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John Clark (same address Applicant) *Copper wire bars, aluminum wire bars, and copper and aluminum ingots,* between Truesdale, MO, on the one hand, and, on the other, St. Louis, MO, E. St. Louis, IL, Kansas City, MO and Kansas City, KS and points in their commercial zones. Supporting shipper(s): H. and R. Metals Co., Truesdale, MO 63383.

MC 151379 (Sub-5–1TA), filed July 28, 1980. Applicant: T. J. KERVIN TRUCKING COMPANY, P.O. Box 48, Winnfield, LA 71483. Representative: Fletcher W. Cochran, 1338 Gause Blvd., Suite 245, P.O. Box 741, Slidell, LA 70459. Contract; Irregular: *Lumber, lumber products and forest products* from the plant site of Crown Zellerbach Corporation, Holden, LA, to all points in the states of AL, AR, FL, GA, TN, TX, MS, MO, IL, IN, MI, PA, OH, NY, MD, WV, NC, SC, WI, NE, KS, NM, AZ, CO, and MN. Supporting shipper: Crown Zellerback Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 151381 (Sub-5–1TA), filed July 28, 1980. Applicant: SUNBELT FREIGHT, a Division of SUNBELT HOLDING CORPORATION, 5520 West Channel Road, Catoosa, 74015. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. *Iron and steel articles* from the Port of Catoosa (near Tulsa), OK, to points in AR, CO, KS, LA, MO, NM, OK and TX. Supporting shippers:
Steel Pipe & Supply Company, Inc., P.O. Box 703, 205 Osage Street, Manhattan, KS 66502;
American Pipe Threading & Service, Inc., 1085 Fort Gibson Road, Catoosa, OK 74015;
Petrothread, P.O. Box 35591, Tulsa, OK 74135.

MC 151383 (Sub-5–1TA), filed July 28, 1980. Applicant: NICKELL TRUCKING CO., 5018 East Pine Street, Tulsa, OK 74115. Representative: Fred Rahal, Jr., Rahal & Anderson, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, Irregular; (A) *Steel articles and materials, equipment and supplies used in the production and distribution of steel articles,* between the facilities of John A. Gulick, Inc. at Tulsa, OK on the one hand, and, on the other, points in MO, KS, AR, OK, TX, NM, CO, CA, AZ, WY, IL, AL, MS, PA and OH; (B)(1) *Louvers, dampers, shutters, iron and steel articles, gas turbine silencers, and* (2) *materials and supplies used in the production of the commodities named in part (1) above,* between the facilities of The Dunlap Manufacturing Company at Tulsa, OK, on the one hand, and, on the other, points in TX, LA, KS, CO, WY, OH, IL, WI, MN, IN, MT, OR, WA, CA, NM, FL, MS, AL, NJ and MD; and (C)(1) *Paint boothes, paint ovens, washer assemblies, dip tanks, incinerators, paint finishing systems, with parts and accessories and (2) materials and supplies used in the production and erection of the commodities named in part (1) above,* from the facilities of Schweitzer Industrial Corporation at Madison Heights, MI; Indianapolis, IN; and Tulsa, OK to Shreveport, LA; Kansas City, KS; Kansas City, MO; Chicago, IL; Bowling Green, KY; Indianapolis, IN; Corsicana, TX; Port Huron, MI; Granite City, IL; Burlington, IA; Long Beach, CA; San Jose, CA; Los Angeles, CA; Seattle, WA; Denton, TX; Davenport, IA; Moline, IL; Lorain, OH; Tulsa, OK; Madison Heights, MI; Doraville, GA; Lima, OH and Moraine, OH. Supporting shippers:
John A. Gulick, Inc., P.O. Box 1665, Tulsa, OK 74101;
The Dunlap Manufacturing Company, P.O. Box 45226, Tulsa, OK 741435;
Schweitzer Industrial Corporation, P.O. Box 46, 32200 N. Avis Drive, Madison Heights, MI.

Republication

MC 117765 (Sub-5–7TA), filed May 27, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Pitch, lignin, dry, in containers* from Appleton, WI to AL and MS. Supporting shipper: Baker Chemicals, Inc., 2801 S. Post Oak, Suite 258, Houston, TX 77056.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23661 Filed 8-5-80; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 42]

Motor Carrier Temporary Authority Applications

July 31, 1980.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 56679 (Sub-158TA), filed December 5, 1979, and published in the **Federal Register** issue of February 19, 1980, and republished as corrected this issue. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, SW, Atlanta, GA 30310. Representative: Leonard S. Cassell (same as applicant). Common carrier, regular routes, transporting *general commodities, with usual exceptions,* (1) between Dothan, AL and Memphis, TN serving points within fifteen (15) miles of Memphis, TN; from Dothan over US Hwy 231 to junction US HWY 31, thence over US Hwy 31 junction MS Hwy 72, thence over US Hwy 72 to Memphis, TN. (2) Between Atlanta, GA and Birmingham, AL; from Birmingham over Interstate Hwy 20 to Atlanta, GA. (3) Between Phenix City, AL and Montgomery, AL; from Phenix City over US Hwy 80 to Montgomery, AL. (4) Between Birmingham, AL and Memphis, TN; from Birmingham, AL over US Hwy 78 to Memphis, TN, and (5) between Montgomery, AL and Tupelo, MS; from Montgomery, AL, over US Hwy 82 to junction US Hwy 45, thence over US Hwy 45 to Tupelo, MS, serving Tupelo for purposes of joinder only. Serving all points in AL as intermediate or off-route points, for 180 days. An underlying ETA seeks 90-day authority. Carrier requests authority to tack the authority sought with its existing operating authority. Applicant requests to interline with other carriers at Birmingham, Montgomery, and Dothan, AL; Memphis, TN, and Atlanta, GA. Supporting shipper(s): There are 60 statements of support. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309. The purpose of this republication is to show tacking and interlining as previously omitted.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23661 Filed 8-5-80; 8:45 am]
BILLING CODE 7035-01-M

Railroad Operating Rights Application(s) Directly Related To Finance Proceedings

The following operating rights application is filed in connection with pending abandonment applications under Section 10903 of the Interstate Commerce Act.

An application filed on or after March 1, 1979, is governed by Special Rule 247 of the Commission's *General Rules of Practice* also but is subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervent under rule 247(l) setting forth in the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to

intervene shall be served concurrently upon applicant's representative.

The applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 86779 M1F and MC 86779 (Sub-33M1F), filed July 7, 1980. Illinois Central Gulf Railroad Company, a Delaware Corporation, has filed a Petition for Modification of Certificates—Tennessee and Kentucky and an accompanying Application seeking removal of a restriction in its certificates affecting the following highway routes: Between Beaver Dam and Ownesboro, Kentucky, serving the intermediate points of Fordsville, Deanefield, Whitesville and Philpot, Kentucky. Between Princeton, Kentucky and Nashville, Tennessee, via Hopkinsville, Kentucky and Clarksville, Tennessee, serving various intermediate points. The restrictions sought to be removed require the carrier not to serve any point not a station on the Illinois Central Gulf Railroad. The justification given for removal of this restriction is that, pursuant to a plan of coordination of rail lines in Western Kentucky and Tennessee, the carrier has filed applications in Dockets AB-43 (Sub. No. 66) and AB-43 (Sub. No. 70) to abandon its rail lines between Fordsville and Ownesboro, Kentucky and between Hopkinsville, Kentucky and Nashville, Tennessee. Comments or objections to these proposed modifications of certificates should be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, with copy properly served upon counsel for Petitioner whose address is as follows: John H. Doeringer, Senior General Attorney, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, Illinois 60601; giving reasons for the objection if any.

By the Comission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23660 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 65F)]

Illinois Central Gulf Railroad Co., Abandonment Near Dwight, in Livingston County, IL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided July 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that the present and future public convenience and necessity permit the abandonment of a line of railroad known as the Dwight District, extending from railroad milepost 74.624 to milepost 75.424 near Dwight, IL, in Livingston County, IL, a distance of 0.8 miles, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that ICG shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment was issued to the Illinois Central Gulf Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective September 22, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23657 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36 (Sub-No. 11)]

Oregon Short Line Railroad Co., Abandonment, and Discontinuance of Service by Union Pacific Railroad Co., Between Newdale and Belt, ID; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and decision decided July 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that the present and future public convenience and necessity permit the physical abandonment by the Oregon Short Line Railroad Company and discontinuance of service by Union Pacific Railroad Company over a portion of a line of railroad known as the East Belt Branch extending from railroad milepost 38.56 near Newdale to milepost 44.28 at Belt, a distance of 5.72 miles in Fremont County, ID, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicants shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Short Line Railroad Company and Union Pacific Railroad Gompany. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective, September 22, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23658 Filed 8-5-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

Chains and Parts Thereof of Cast-Iron or Steel From Italy; Request for Public Comments on Termination of Countervailing Duty Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comments on proposed termination of countervailing duty investigation under section 704(a) of the Tariff Act of 1930 and section 104(b) of the Trade Agreements Act of 1979, with regard to chains and parts thereof of cast-iron or steel from Italy.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Office of Investigations, telephone number (202) 523-1376.

SUPPLEMENTAL INFORMATION: Section 104 of the Trade Agreements Act of 1979 contains the provisions for dealing with countervailing duty orders which had been issued under section 303 of the Tariff Act of 1930 as amended (19 U.S.C. 1303) prior to January 1, 1980. Where such orders are in effect, and have not been waived, section 104(b) requires the Commission to conduct an investigation upon the request of a government or a group of exporters of merchandise covered by the order, to determine whether an industry in the United States would be materially injured, threatened with material injury, or whether the establishment of such industry in the United States would be materially retarded if the order were to be revoked. Such investigation (similar to investigations carried under Title VII of the Trade Agreements Act) must be completed within three years of the date of its commencement (section 104(b)(3)).

On March 28, 1980, the Commission received a request from the Delegation of the Commission of European Communities for the review of the following countervailing duty order, *inter alia:*

Chains and parts thereof, of cast iron or steel from Italy. T.D. 77-249 (42 Fed. Reg. 54799, October 11, 1977).

The Commission has also been notified by counsel for the National Association of Chain Manufacturers, the original petitioner in the case leading to these countervailing duty orders, that the Association wishes to "withdraw its petition" with regard to chains and parts from Italy.

While there is no provision in the Trade Agreements Act of 1979, or in its legislative history, permitting termination of a transition case investigation, termination of a properly instituted countervailing duty investigation is permitted under section 704(a). That section directs the Commission to solicit public comment prior to termination and approve such termination only if it is in the public interest. Since termination is permitted under newly filed countervailing duty petitions, it should also be permitted in existing countervailing duty orders.

In light of the Commission's duty to consider the public interest, the Commission hereby requests written comments concerning the proposed termination of an investigation with regard to chains and parts thereof from Italy. These written comments must be filed with the Secretary of the Commission no later than September 5, 1980.

By order of the Commission.

Issued: July 30, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-23699 Filed 8-5-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-27 and 28 (Preliminary)]

Menthol From Japan and the People's Republic of China

Determination

On the basis of the record in investigation No. 731-TA-27 (Preliminary), the Commission determines (Commissioners Bedell and Moore dissenting) [1] that there is no reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, or that the establishment of an industry is being materially retarded by reason of imports from Japan of menthol, whether natural or synthetic, provided for in items 437.64 and 413.28 [2] of the Tariff Schedules of the United States (TSUS), which are allegedly sold or likely to be sold at less than fair value.

On the basis of the record in investigation No. 731-TA-28 (Preliminary), the Commission determines (Commissioner Stern dissenting) [3] that there is a reasonable indication that an industry in the United States is threatened with material injury [1] by reason of imports from the People's Republic of China of menthol, whether natural or synthetic, provided for in TSUS items 437.64 and 413.28,[2] which are allegedly sold or likely to be sold at less than fair value.

Background

On July 11, 1980, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of Haarmann & Reimer Corporation, alleging that natural or synthetic menthol imported from Japan or from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on June 16, 1980, the Commission instituted preliminary antidumping investigations Nos. 731-TA-27 and 28 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with materials injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of menthol, whether natural or synthetic, from Japan or from the People's Republic of China, as provided for in TSUS items 437.64 and 413.28. The statute directs that the Commission make its determination within 45 days of receipt of the petition, or in this case by July 28, 1980. On June 24, 1980, the Department of Commerce issued a notice announcing that it had found the petition to be properly filed within the meaning of its rules and that it was instituting an investigation. Notice to such effect was published in the **Federal Register** of July 2, 1980 (45 FR 44976). The product scope of the Commerce investigation is the same as that instituted by the Commission.

Notice of the institution of the Commission's investigations and of the public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and the Commission's office in New York City, and by publishing the notice in the **Federal Register** of June 19, 1980 (45 FR 41548). A public conference was held in Washington, D.C., on July 10, 1980.

In arriving at its determinations, the Commission has given due consideration to the information provided by the Department of Commerce, to all written submissions from interested parties, and to information adduced at the conference and obtained by the Commission's staff from questionnaires and other sources,

[1] Commissioners Bedell and Moore found reasonable indication of material injury or threat of material injury by reason of imports of menthol from Japan and the People's Republic of China.

[2] Item 408.60 for articles exported prior to July 1, 1980.

[3] Commissioner Stern finds that there not only is no indication of threat of material injury from alleged less-than-fair-value imports from the People's Republic of China of Menthol but also that there is no present injury from said imports.

V 45 / 153 AUG 6 80 UMI

all of which have been placed on the administrative record of these preliminary investigations.

Views of Chairman Bill Alberger and Vice Chairman Michael J. Calhoun

Determination and Conclusions of Law

On the basis of the record in investigation No. 731–TA–27 (Preliminary), we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports from Japan of menthol, whether synthetic or natural, allegedly sold or likely to be sold at less than fair value (LTFV)

On the basis of the record in investigation No. 731–TA–28 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from the People's Republic of China (China) of natural menthol allegedly sold or likely to be sold at less than fair value (LTFV).

Discussion

In these preliminary investigations, we consider the relevant domestic industry to be comprised of the four firms currently producing menthol in the United States. Section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) provides, in part, guidance for determining what constitutes a domestic industry as follows:

(A) In general.—The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

Section 771(10) of the Tariff Act of 1930 defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

The imported product alleged to be sold at LTFV is *l*-menthol. Imports of this product from Japan are synthetically produced while imports from China are exclusively natural menthol derived from the peppermint plant. The Ad Hoc Committee of American Importers of Natural Menthol argued in their post-conference submission that natural and synthetic menthols are not "like or similar" in characteristics and uses, and thus there exists no U.S. industry within the meaning of section 771(4)(A). The evidence indicates that synthetic and natural *l*-menthol have the same chemical formula and molecular structure, although synthetic menthol undergoes a chemical processing which natural menthol does not undergo. Apparently, while a small segment of endusers prefer the natural product because of actual or perceived qualitative differences, synthetic and natural menthol are used interchangeably by the vast majority of purchasers. We, therefore, find that domestically produced synthetic menthol is "like" the product imported from both Japan and China (synthetic and natural menthol, respectively) within the meaning of section 771(10) of the Tariff Act of 1930.

Having determined the nature of the domestic industry, Section 771(4)(D) of the Tariff Act of 1930 provides further guidance to the Commission in weighing the impact of alleged LTFV sales on that industry:

(D) Product Lines.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producers' profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range or products, which includes a like product, for which the necessary information can be provided.

In accordance with section 771(4)(D), we have attempted where possible, to assess the impact of alleged LTVF imports on the production in the United States of *l*-menthol, that being potentially the narrowest "product line" comparable to the *l*-menthol being imported. *L*-menthol is the principal commercial form of menthol, and differs in characteristics and uses with the other commercial forms of menthol—*d*-menthol, racemic menthol,[4] and liquid menthol. Domestic producers, however, do not use separate facilities or specific workers in the production of *l*-menthol, since *d*-menthol, racemic menthol, and liquid menthol are all obtained as by products in the synthesis of *l*-menthol. Most U.S. producers do not keep profit and loss data which would enable us to clearly identify a separate product line for *l*-menthol. Therefore, the effects of alleged LTFV imports have been assessed on the production of all menthol where separate data on *l*-menthol in unavailable. U.S. producers' commercial shipments of *l*-menthol have also accounted for more than 70 percent of all U.S. producers' commercial shipments of menthol since 1978. For purposes of this preliminary investigation, therefore, we have assumed that the overall trends for the menthol industry would be indicative of the trends for *l*-menthol.

The recommended determination of the Commission's Director of Operations [5] concluded that since imports from Japan and China are fungible, similar in chemical structure and uses, and compete in the same markets they should be cumulated for the purposes of assessing their impact on the domestic industry. We disagree. The facts revealed by these two investigations indicate that the impact of increasing menthol imports from China is in sharp contrast to the insignificant effect of the declining imports from Japan.

Based on the declining imports of menthol from Japan and the declining ratio of these imports to apparent U.S. open-market consumption, as well as statements made by officials from Takasago, USA, the exclusive importer of menthol from Japan and a wholly owned subsidiary of the foreign producer,[6] we have concluded that the Japanese are withdrawing from the U.S. menthol market. Thus it seems inappropriate to cumulate imports of menthol from Japan with imports from China. Inventories of menthol from Japan also declined in the first quarter of 1980 relative to the corresponding period in 1979, and the pricing data available to the Commission indicate that prices paid for the Japanese product have been consistently higher than prices paid for the domestic product in 1978 and 1979. Considering all these factors, it is apparent that menthol imported from Japan is not contributing in any meaningful way to the material injury, or threat thereof, that might be caused by imports from other countries. We have, therefore, determined that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of alleged LTFV sales of menthol from Japan.

Although the Director of Operations recommended that imports of menthol from China be cumulated with those from Japan, he also stated that if imports from these two countries were *not* cumulated, he would nevertheless still recommend an affirmative determination of threat of material injury be reason of alleged LTFV imports from China.[7] We agree with his analysis and conclusion on this issue. The economic factors that we have analyzed pursuant to section 771(7) of the Tariff Act of 1930, point to a steady improvement in the production of menthol in the United States. However, U.S. producers' inventories of menthol have increased to very high levels, prices for *l*-menthol have declined steadily since 1978, and the profitability of U.S. producers of *l*-menthol on their menthol operations has declined steadily since 1977. Based on the sharply increasing imports of menthol from China, the sharply increasing inventories of these imports, and the increasing margins of underselling that appear in the period July 1979 through March 1980, evidence of price depression, declining profitability of U.S. menthol producers' and their increasing inventories of menthol, we have concluded that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of alleged LTFV imports of menthol from China.

Findings of Fact

The following findings of fact are relevant to our determination in these investigations. These findings contain our analysis of the statutory criteria required by section 771(7) (B) and (C) of the Tariff Act of 1930.

A. *Volume of imports.*—1. The imported menthol alleged to be sold at LTFV is chemically and toxicologically the same as that produced in the United States, although there is a recognized difference between the natural and synthetic products. This difference resides in the odor, taste, and ability of the natural product to be certified as a natural ingredient. These differences, however, are only significant to a minor portion of the market (less than 10 percent). For the vast majority of end users of menthol, the synthetic and natural products appear to be interchangeable. (See Report at p. A–3)

2. Imports of menthol from Japan have declined steadily since 1978. They declined by more than 35 percent from 1978 to 1979, and by more than 15 percent in January–March 1980 over imports during the corresponding period in 1980. (See Report at p. A–28)

3. Imports of menthol from China increased dramatically from 29,000 pounds in 1977 to 649,000 pounds in 1979. (See Report at p. A–28)

4. Takasago, USA's end-of-period inventories of menthol increased by more than 50 percent from 1977 to 1979, but declined by more than 10 percent in January–March 1980 over those held for the corresponding period of 1979. (See Report at p. A–17)

5. U.S. importers' and end-of-period inventories of menthol from China have increased dramatically from virtually nothing in 1977 and 1978 to over 600,000 pounds in January–March 1980. Importers' inventories as of March 31, 1980, amounted to over 10 percent of apparent U.S. open-market consumption in 1979. Thus, inventories of menthol from China represent a significant overhang of the U.S. market. (See Report at p. A–17)

B. *The effect of imports on U.S. prices.*—6. U.S. producers' weighted average prices for *l*-menthol have generally declined since January 1978. the have declined from $7.30 per pound in January–March 1978 to $6.33 per pound in January–March 1980, or by 13 percent. (See Report at p. A–31)

7. The weighted average prices paid for *l*-menthol from Japan were consistently higher than prices paid for U.S. producers' *l*menthol from 1978 through 1979. Prices paid for imports from Japan dropped below U.S. producers' prices only in January–March 1980 and even then, the margin of underselling was less than 0.5 percent. (See Report at p. A–31)

8. The available data indicate that weighted average prices paid for menthol from China have declined at a faster rate than U.S. producers' weighted prices. Although these prices were generally higher than U.S. producers' weighted average prices throughout much of the period, they dropped below U.S. producers' prices in October–December 1979. The average margin of underselling in that quarter was three percent and increased to eight percent in January–March 1980. Prices of some importers of menthol from China were below the lowest U.S. prices from July 1979 through March 1980. In a market where menthol is sometimes traded within 10 cents per pound, these are significant margins. Moreover, since these prices generally reflect the delivered prices in contracts negotiated 1 to 2 years previous to the date of delivery, it may be assumed that the downward trend is significant and indicative of the trend for prices to be paid for menthol from China in 1980 and 1981. (See Report at p. A–31)

C. *Impact on the affected industry.*—9. After several years of sustained growth, U.S. producers' commercial shipments of menthol declined by 5 percent in January–March 1980 over shipments during the corresponding period of 1979. (See Report at p. A–8)

10. U.S. producers' inventories of menthol have increased to very high levels during the period under consideration. End-of-period inventories increased more than six-fold from 1977 to 1979 and nearly doubled in January–March 1980 relative to those in January–March 1979. As a ratio of net sales, U.S. producers' inventories of menthol more than doubled from 1977 to January–March 1980. (See Report at p. A–17)

11. Despite rapidly increasing sales, the profitability of domestic producers of *l*–menthol on their menthol operations has declined steadily since 1977. The ratio of net operating profits to net sales declined by more than 30 percent from 1977 to 1979. (See Report at p. A–23)

12. As a ratio of imports to apparent U.S. open-market consumption of menthol, imports from Japan have declined steadily since 1977. They declined from 10 percent in 1977 to 8 percent in January–March 1980, or by 24 percent. (See Report at p. A–28)

13. Imports from China have increased steadily and significantly as a ratio of apparent U.S. open-market consumption. The ratio increased from a nominal percentage in 1977 to over 30 percent in January–March 1980. (See Report at p. A–28)

14. The average number of production and related workers producing menthol declined slightly from 1978 to January–March 1980. (See Report at p. A–22)

15. Wages paid to all production and related workers producing menthol more than quadrupled from 1977 to 1979 and increased again in January–March 1980 over wages paid during the corresponding period in 1979. (See Report at p. A–22)

16. Overall U.S. capacity to produce menthol has increased steadily from 1977 to 1980 because Haarman & Reimer opened a new plant in 1978 which is still in the process of reaching optimal operating conditions. The capacity of other menthol producers has remained stable or declined. (See Report at p. A–14)

17. All information regarding U.S. producers' cash flow is considered "business confidential" and cannot be discussed publicly. Such information appears in the confidential version of the staff report at page A–36, and has been fully considered in our determination.

18. A $15 million investment was made by the petitioner Haarman & Reimer Corporation in a new U.S. production facility located in Bushy Park, South Carolina. Production at this plant was commenced in the first quarter of 1978. The inability of petitioner to operate this plant at a

[4] There are some similarities in characteristics between racemic menthol and *l*-menthol, and hence, some overlap in their applications.

[5] Chairman Alberger includes the recommended determination of the Director of Operations for informational purposes at the end of our opinion at pages 12–14.

[6] See transcript of Conference, page 92.

[7] Staff briefing at public Commission meeting, July 22, 1980.

V 45 / 153 AG 6 80 UMI

reasonable level of profit may threaten or impair the ability to raise additional capital necessary for future investments in U.S. facilities by petitioner and/or other firms. (Petition, public version, pages 37–41)

Supporting Statement by the Director of Operations for an Affirmative Preliminary Determination on Menthol From Japan and the People's Republic of China (Investigations Nos. 731–TA–27 and 28 (Preliminary))

I. *Recommendation.*—On the basis of my review of the information developed during these investigations, I recommend that the Commission determine that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the importation of menthol from Japan and the People's Republic of China (PRC) that is allegedly sold in the United States at less than fair value (LTFV). The question of material retardation of the establishment of an industry in the United States is not an issue in these investigations as there are four companies producing menthol in the United States.

II. *The industry.*—The industry in the United States is composed of four U.S. firms producing menthol. Although menthol is produced by the industry in four commercially signficant forms—*l*-menthol, *d*-menthol, racemic menthol, and liquid menthol, in 1979, *l* and racemic menthol represented over 90 percent of domestic production and over 98 percent of alleged LTFV imports. *D*-menthol is produced as a by-product of the petitioner's production process and internally consumed. Liquid menthol is dissimilar with all other forms of menthol in that it is a technical grade used in a limited number of industrial applications. Although the impact of LTFV imports appears to be on production of *l* and racemic menthol, all forms are produced in the same production facilities, utilizing the same equipment and the same employees. Most firms were unable to provide data in terms of labor and overhead costs or profitability on a product line basis. Therefore, the impact of alleged LTFV sales should be assessed on the domestic industry producing menthol.

III. *Material injury.*—(1) U.S. imports of menthol from Japan and the PRC are all alleged to be at LTFV prices. Alleged LTFV imports have increased substantially from over 300,000 pounds in 1977 to about 850,000 pounds in 1979. Imports from Japan and the PRC are fungiable, having the same chemical structures, the same end uses, similar prices and competing in the same markets. For these reasons the impact of imports from Japan and the PRC have been cumulated.

(2) The petition alleges significant price undercutting by imports from Japan and the PRC as compared with the price of like domestic products. The alleged result of such price undercutting was the 44 percent reduction of petitioner's price for *l*-menthol in slightly more than 3 years.

(3) Questionnaire data submitted to the Commission confirm a sharply downward trend in importers' and producers' prices. The prices of importers of Chinese and Japanese menthol began undercutting U.S. producers' prices for menthol delivered to U.S. customers beginning in the last quarter of 1979 and continuing into the first quarter of 1980.

(4) Despite rapidly increasing sales of menthol, profitability of U.S. producers' menthol operations declined sharply in 1979. Although net sales reported by the two largest U.S. producers increased by almost 15 percent from 1978 to 1979, the ratio of net operating profit to net sales declined by about 20 percent.

IV. *Threat of material injury.*—(1) Imports of menthol from Japan and the PRC, alleged to be sold at LTFV prices, increased by over 165 percent from 1977 to 1979.

(2) The share of the U.S. market accounted for by imports from Japan and the PRC increased from 11.0 percent in 1977 to 22.0 percent in 1979.

(3) U.S. producer's commercial shipments of menthol declined by 5 percent in Jan.–Mar. 1980 as compared to such shipments in Jan.–Mar. 1979.

(4) U.S. producers' inventories of menthol increased steadily during 1977–79 to extremely high levels. Inventories were equivalent to 21 percent of U.S. producers' sales in 1977 and to 33 percent in 1979. Inventories on March 31, 1980 were 85 percent greater than they were on March 31, 1979.

(5) The quantity of menthol held in inventory by producers' increased by more than 600 percent between December 31, 1977 and March 31, 1980.

(6) Importers of menthol from Japan and the People's Republic of China reported a thirteen-fold increase in inventories from 1977 to 1979. Importers' inventories continued to increase in 1980 reaching a level on March 31, 1980 over 200 percent greater than inventories on March 31, 1979.

(7) As a ratio of inventories to imports, importer's inventories represented 13 percent of imports in 1977 and over 74 percent of imports in 1979.

(8) According to data presented by the petitioner, the trend in price undercutting by alleged LTFV imports, confirmed by questionnaire data submitted to the Commission, is likely to worsen as deliveries on contracts negotiated in late 1979 and early 1980 are affected in late 1980 and in 1981.

(9) The PRC has dramatically increased its production of menthol from 1.1 million pounds in 1978 to an estimated 4.4 million pounds in 1980. Menthol has been designated by the Chinese Government as a product to be promoted for export to generate quick revenue without large investments. The PRC currently exports about 20 percent of its menthol production to the United States.

(10) The annual menthol production capacity of Takasago Perfumery, Ltd. is reported to be 1.0 million pounds. About 15 percent of Takasago's production in 1979 was exported to the U.S. In addition to Takasago, seven other Japanese firms produce menthol with a combined production capacity of over 600,000 pounds. These companies do not currently export to the United States.

V. *Conclusion.*—I recommend that the Commission determine that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the importation of menthol from Japan and the People's Republic of China that is allegedly sold in the United States at less than fair value.

Statement of Reasons of Commissioners George M. Moore and Catherine Bedell

On the basis of the information available in investigations Nos. 731–TA–27 and 28 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the importation of menthol from Japan and the People's Republic of China that is allegedly being sold or is likely to be sold at less than fair value (LTFV).

The following findings and conclusions, which are based on the record in these investigations, support our determination.

The Domestic Industry

The term "industry" is defined in section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)) as meaning "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is further defined in section 771(10) of the Tariff Act as meaning "a product which is like, or the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"

In the present case, we find the industry to consist of the four U.S. firms producing menthol. There are four commercial forms of menthol—*l*-menthol, *d*-menthol, racemic menthol, and liquid menthol. Although the product alleged to be sold at LTFV is *l*-menthol, domestic producers do not use separate facilities or specific workers in the production of *l*-menthol. The other three commercial forms of menthol, *d*-menthol, racemic menthol, and liquid menthol are obtained as byproducts in the synthesis of *l*-menthol, in using the same equipment and labor as in the production of *l*-menthol. Most firms were unable to provide data in terms of labor, overhead costs, and profitability on a product-line basis.[8] Therefore, the alleged LTFV sales have been assessed on the basis of the domestic industry producing all types of menthol.

The imported menthol allegedly sold at LTFV is chemically and toxicologically the same as that produced in the United States. Although there is a perceived difference in the odor and taste of the natural product compared with those of the synthetic product, and although the natural product can be certified as a natural ingredient, these differences are significant only to a minority of end users, which account for less than 10 percent of U.S. consumption of menthol.[9] Thus, the vast majority of end users consider domestic menthol, as well as menthol from Japan and China, to be fungible articles, which have the same chemical structures, the same end uses, and similar prices and which compete in the same markets.

The Question of a Reasonable Indication of Material Injury or Threat Thereof

Section 733(a) of the Tariff Act of 1930 directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination * * *." Section 771(7)(A) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." And section 771(7)B) and (C) directs that the Commission, in making its determination, consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigations, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of such merchandise on domestic producers of like products.

Volume of imports.—Imports of *l*-menthol, which are allegedly being sold at LTFV, increased from 224,000 pounds in 1977 to 854,000 pounds in 1979, or by 280 percent, while total imports of menthol from Japan and China more than doubled.[10] As a share of apparent U.S. open-market consumption, imports from Japan and China increased steadily, from 11 percent in 1977 to over 30 percent in January–March 1980.[11] Thus the volume and relative market share of alleged LTFV imports showed dramatic increases over the period under consideration.

The Japanese have the capacity to produce 1 million pounds of menthol annually from a variety of feedstocks including *d*-limonene, *d*-citronella, thymol, and cornmint oil (dementholized peppermint oil).[12] The capability of the Chinese to produce menthol is virtually unlimited. Menthol has been designated by the Chinese government as a product to be promoted for exportation, and production has increased dramatically in the last 2 years. Estimated Chinese production of menthol is estimated to be 1.1 million pounds in 1978, 3.3 million pounds in 1979, and 4.4 million pounds in 1979.[13] If Chinese production should reach the estimated 1980 level, it would be much greater than estimated open-market consumption in the United States.[14]

Effect of imports on prices.—The data collected by the Commission on delivered prices for *l*-menthol demonstrate that U.S. prices have declined steadily and significantly since 1978. U.S. producers' weighted average prices declined from $7.30 per pound in January 1978 to $6.33 per pound in January–March 1980, or by 13 percent.[15] Although weighted average prices for *l*-menthol from Japan and China were generally higher, they declined at a faster rate than U.S. producers' prices.[16] In October–December 1979, weighted average prices for menthol from China dropped 3 percent below U.S. producer's weighted average prices, and in January–March 1980 this margin of underselling increased to 8 percent.[17]

In a market where menthol is sometimes traded within 10 cents a pound,[18] these margins are already significant. When they are viewed as indicative of a downward trend in contract prices for delivery in late 1980 or 1981, they have a clearly adverse effect on future prices as well. More than 90 percent of the menthol traded in the United States is bought and sold through contracts for future delivery.[19] These contracts can be negotiated anywhere from 6 months to 3 years before the date of delivery. They contain firm commitments on price and quantity by the supplier, but usually contain an escape clause which allows the purchaser to break the contract if it can find a supplier offering menthol at a lower price. When spot-market prices for menthol fall, prices for menthol throughout the market decline, bringing about price competition for contracts under negotiation, and thus effectively depressing prices for future delivery.

Impact of alleged LTFV imports on the affected industry.—After several years of sustained growth, U.S. producers' commercial shipments of menthol declined by 5 percent in January–March 1980 compared with shipments during the corresponding period of 1979.[20] Yet despite the generally increasing sales, U.S. producers' inventory levels have increased dramatically. The ratio of end-of-period inventories to sales of menthol increased from 21 percent in 1977 to 48 percent in 1979 and nearly doubled again in January–March 1980 relative to the ratio for January–March 1979.[21] As of March 31, 1980, inventories of all menthol amounted to more than 200 percent of the menthol sold during January–March 1980.[22]

Moreover, U.S. importers' inventories of menthol from Japan and China increased more than thirteenfold from December 31, 1977, to December 31, 1979.[23] Inventories continued their strong upward movement in 1980, more than tripling from March 31, 1979, to March 31, 1980.[24] Inventories of menthol from Japan and China held as of March 31, 1980, amounted to more than 2.5 times the menthol imported from these countries during January–March 1980.[25]

Despite rapidly increasing sales of menthol, U.S. producers' profitability on their menthol operations declined steadily after 1977.[26] The ratio of net operating profit to net sales declined by

[8] See Commission Report in Investigations Nos. 731–TA–27 and 28 (Preliminary) (hereafter "Report"), at p. A–21.
[9] Report, at p. A–3.
[10] Report, at p. A–28.
[11] Report, at p. A–28.
[12] Report, at p. A–12.
[13] Report, at p. A–11.
[14] Report, at p. A–20.
[15] Report, p. A–31.
[16] Report, p. A–31.
[17] Report, p. A–31.
[18] Report, p. A–32.
[19] Report, p. A–6.
[20] Report, p. A–8.
[21] Report, at p. A–17.
[22] Report, at p. A–17.
[23] Report, at p. A–19.
[24] Report, at p. A–19.
[25] Report, at p. A–19.
[26] Report, at p. A–21.

more than 30 percent, reflecting the declining trend in prices.[27]

Conclusion

On the basis of the information developed during these investigations, we have concluded that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reasons of alleged LTFV imports of menthol from Japan and China.

Views of Commissioner Paula Stern

I have determined that there is no reasonable indication of material injury or threat of such injury due to alleged less-than-fair-value (LTFV) imports of menthol from Japan or from the People's Republic of China (China). I would have reached the same conclusion had I found it appropriate to cumulate the effect of the imports from Japan and China.

The Imported Product

The Commission instituted these investigations with regard to all menthol, whether natural or synthetic, as provided for in items 437.64 and 413.68 of the Tariff Schedules of the United States. The imported product alleged to be sold at LTFV is *l*-menthol, which is the principal commercial form of menthol and differs in characteristics and uses with the other commercial forms of menthol—*d*-menthol, racemic menthol,[28] and liquid menthol. The domestic producers do not use separate facilities or workers in the production of *l*-menthol. Rather, *d*-menthol, racemic menthol, and liquid menthol are all obtained as by-products in the synthesis of *l*-menthol.

The product imported from China is a natural product obtained by distilling peppermint oil from peppermint plants followed by crystalization and separation of the menthol from the peppermint oil. The Japanese product is synthesized chemically, as is the menthol produced in the United States. While the imported *l*-menthol allegedly sold at LTFV is chemically and toxicologically the same as that produced in the United States, there remains a perceived difference in the odor and taste of the natural product as compared to the synthetic product. In addition, the natural product can be certified by food and flavor manufacturers as a natural ingredient. However, because the vast majority of purchasers now use synthetic and natural menthol interchangeably,[29] I find that domestically-produced synthetic menthol is a "like product" for both the synthetically-produced and natural imports, within the meaning of section 771(10) of the Tariff Act of 1930.

The Domestic Industry

The domestic industry consists of the four U.S. producers of menthol.[30] The smallest U.S. menthol producer, Givauden Corporation, produces only liquid menthol, not a marketable substitute for *l*-menthol. The next largest U.S. producer, Union Camp Corporation, also exclusively produces liquid menthol, which it consumes internally. SCM Corporation (SCM), the second largest firm, produces *l*-menthol and racemic menthol, which are primarily sold on the open market. SCM took no position on this investigation. Givauden, Union Camp, and SCM all produce menthol on equipment used to produce other chemicals. In contrast, the largest producer and petitioner in this investigation, Haarmann & Reimer, which makes *l*-menthol and its by-products, utilizes a plant dedicated exclusively to the production of menthol. Since its entry in the first quarter of 1978, Haarmann & Reimer has steadily increased its importance in the domestic industry.

I have attempted where possible to assess the impact of alleged LTFV imports on the production in the United States of *l*-menthol. However, most U.S. producers do not keep product line data as to production process, labor, overhead, or profits that would allow me to confine my analysis to *l*-menthol. Therefore, the effects of alleged LTFV imports have been assessed on the production of all menthol where seaparate data is unavailable. Thus, Givauden and Union Camp were included as parts of the domestic industry in spite of the fact that they produce only liquid menthol.

U.S. producers' commercial shipments of *l*-menthol have accounted for more than 70 percent of all U.S. producers' commercial shipments of menthol since 1978.[31] I have, therefore, necessarily made the assumption that the overall trends for the menthol industry would be indicative of the trends for the *l*-menthol industry.

The Question of a Reasonable Indication of Material Injury

Available data depict a rapidly growing and reasonably profitable industry. U.S. production of menthol has increased steadily and dramatically since 1977, by over 200 percent.[32] U.S. capacity to produce menthol has also increased steadily, by over 150 percent from 1977 to 1979, and again by more than five percent in January–March 1980 compared to the corresponding period in 1979.[33] Utilization of this greatly increased capacity has also increased steadily to an exceptionally high level in January–March 1980.[34] The average number of all employees in U.S. establishments producing menthol increased by more than 20 percent from 1977 to January–March 1980.[35] Wages paid to and manhours worked by all producers and related workers producing menthol also increased steadily and significantly since 1977.[36]

The aggregate figures for U.S. producers' profitability show a decline from 1977 to 1979.[37] Having individually examined the profitability of each producer of *l*-menthol, I have concluded that the data indicate adequate profits for the two relevant U.S. producers. SCM's profits can be characterized as adequate, if not good.

As to Haarmann & Reimer's profitability, one must consider the fact that it is but one part of a large, multinational corporation, Bayer AG, and its profits are to a large extent influenced by the transfer prices applicable to its purchase of feedstocks from and its sale of menthol to its corporate affiliates in other countries.[38] One must also take into consideration the fact that this firm has only been in business since 1978 and that it was entering a new, unfamiliar, market.[39] For example, it is questionable whether in making its decision, in 1975, to build production facilities to supply a subtantial segment of the U.S. market it factored in China as a possible reentrant into this market.[40] In addition, Haarmann & Reimer was marketing a new form of the product—a synthetic menthol made from a petrochemical rather than natural menthol—which was not readily accepted by consumers. Moreover, Haarmann & Reimer incurred all the costs inherent in the start-up process at its $15 million facility at Bushy Park, South Carolina. In light of these circumstances, Haarmann & Reimer's performance has been quite good.

U.S. producers' inventories of menthol have admittedly increased to high levels. However, the reasons for much of these increases are unrelated to the alleged LTFV imports. Haarmann & Reimer's production process requires the plant to operate at maximum potential capacity, twenty-four hours a day, seven days a week, three-hundred-sixty-five days a year in order to achieve reasonable production costs.[41] Thus, if the company cannot find buyers for its annual production of menthol, near its capacity of 1.5 million pounds, inventories necessarily build up.

A closer look at U.S. producers' inventories reveals that the by-products, *d*-menthol, racemic, and liquid menthol, not *l*-menthol, constitute a substantial portion of total menthol inventories.[42] Increasing inventories of *d*-menthol, liquid, and racemic menthol resulting from the increased production of *l*-menthol cannot be associated with the alleged LTFV imports of *l*-menthol. Moreover, these byproduct inventories can be classified as raw materials since Haarmann & Reimer recycles them into the production process of *l*-menthol. Haarmann & Reimer's increasing ratio of inventories to production of all menthol [43] appears more dramatic since it starts at zero. But in fact normal inventories for this firm cannot be known from its two year experience in the businesss.

I have been unable to find indications of injury to the domestic industry. I find the lack of a causal nexus between any possible injury or threat of injury and the alleged LTFV imports even more compelling toward a negative determination in this case.

Imports in the Menthol Commodity Market

Menthol is easy to store. It requires no special facilities or handling and deteriorates only minimally even after several years in storage. These characteristics, combined with the fact that the menthol market has traditionally been supplied with a natural product which is subject to the vagaries of nature, have apparently encouraged the development of a commodity market for menthol.[44] The impact of importers must be considered in light of the nature of this market.

Today, more than 90 percent of menthol in the United States is sold through contracts for future delivery.[45] These contracts may be negotiated six months to three years prior to the date of delivery. They represent a firm commitment of price and quantity by the supplier, but require less of a commitment from the purchaser. The purchaser can, in fact, opt out of his contract if he finds a supplier offering menthol at a lower price.[46] Thus, in the short run, the menthol market is price sensitive downward, *i.e.*, if spot-market prices fall, contract prices will decline, whereas if spot-market prices rise, the contract prices will remain the same and hold overall market prices down until the effect of prices in new contracts become significant.

In 1978 the supply to the U.S. market increased dramatically. Demand was increasing moderately, although apparent consumption, perhaps due to brokers' inventories, saw a marked increase.[47] Meanwhile, on the supply side, SCM had reentered as a supplier in 1975; Haarmann & Reimer entered with record production; imports from Brazil, the predominant supplier, increased; China reentered the market with a substantial quantity of menthol; and Japan continued as a supplier.

Imports of menthol from Japan have declined steadily as a ratio of apparent U.S. open market consumption, while imports from China have increased markedly as a ratio to apparent U.S. consumption.[48] This ratio increase for China appears large since we are witnessing China's reentry into the market from near zero. However, this increase is more than offset by the decline in the ratio of imports from all other countries.[49] The ratio of total imports of menthol to apparent U.S. open-market consumption has declined steadily, by 11 percent from 1977 to January–March 1980.[50] Thus, China is not increasing its market share at the expense of domestic producers, since domestic producers' share of the market is actually increasing.

Since 1978, the oversupply in the menthol market led to high inventories and decreasing prices.[51] These require examination as portents of injury.

The pricing information obtained by the Commission shows that prices have declined steadily since 1978. However, when one considers the significant oversupply that commenced at that time, it is not surprising that prices for both imported and domestically produced menthol declined, especially in light of the fact that the menthol market is price sensitive downward. Moreover, the pricing information obtained by the Commission indicates that during most of the period under consideration, prices paid for imports of menthol from Japan and China were considerably higher than prices paid for the domestic product.[52]

In the last quarter of 1979 and the first quarter of 1980, the delivered price of Chinese imports fell below domestic producer-delivered prices.[53] And in the first quarter of 1980 Japanese-delivered prices fell marginally below those of domestic producers.[54] However, delivered price data for a commodity sold essentially by contract for future delivery do not offer a meaningful picture. Furthermore, even if the same relationship between the imported and domestic product held for contract prices, it could not be assigned much weight without first establishing comparability in the lengths of the contracts. Because the Chinese were willing to make a longer-term contract than at least one major domestic producer,[55] establishing comparability could be quite complicated. An interesting price-related aspect of this investigation is that SCM decided to reenter and Haarmann & Reimer decided to start up production during this period of high prices following crop failures in Brazil.[56]

Growth of importers' inventories of a commodity contracted for future delivery results from increased purchases by consumers availing themselves of the opportunity to buy low and sell high when prices rise. In fact, importers' inventories of Chinese imports have increased, but there is nothing to show the *overall* inventories have also increased. Inventories of Japanese imports have in fact declined in 1979–1980.

Questionnaire data from one U.S. importer of menthol who inadvertently

---

[27] Report, at p. A–24.

[28] There are some similarities in the characteristics between racemic menthol and *l*-menthol, and hence, some overlap in their applications.

[29] Estimated U.S. consumption is as follows: tobacco 60 percent, pharmaceuticals 15 percent, oral hygiene products 12 percent, personal care products 6 percent, and miscellaneous 7 percent. *See* report, p. A–3.

[30] *See* section 771(4)(a) of the Tariff Act of 1930.

[31] *See* Reports, p. A–10.

[32] *Ibid.*, p. A–14.

[33] *See* Report, p. A–14.

[34] *Ibid.*

[35] *Ibid.*, p. A–22.

[36] *Ibid.*

[37] *Ibid.*, p. A–23.

[38] *Ibid.*, p. A–24

[39] *See* report, p. A–24.

[40] *Ibid.*, p. A–17.

[41] *See* Post-Public Conference Brief of Petitioner, p. 14.

[42] *See* reports, p. A–17.

[43] *See* report, p. A–3.

[44] *Ibid.*, p. A–6.

[45] *Ibid.*

[46] *See* report, p. A–6.

[47] *Ibid.*, p. A–18.

[48] *Ibid.*, p. A–17.

[49] *See* report, p. A–17. The volume of Japanese imports has declined significantly during the period of investigation.

[50] *Ibid.*, p. A–17.

[51] The sensitivity of prices to supply in this market was illustrated dramatically in 1973 and 1974 when prices for natural menthol rose from $3 to $4 per pound to over $22 per pound following two consecutive crop failures in Brazil. (See post-Conference submission on behalf of the Ad-Hoc Committee of American Importers of Natural Menthol, p. 10, Table 1.) This happended in a market where prices are sticky upward.

[52] *See* report, p. A–31.

[53] *See* report, p. A–31.

[54] *Ibid.*

[55] *Ibid.*, p. A–32.

[56] SCM had been driven out of the market in 1963 by plummeting prices due to a large supply of Brazilian menthol in the U.S. market.

V 45 / 153 AG 6 80 UMI

supplied total inventory data tends to support the conclusion that inventories of menthol imported from China, like total imports of menthol from China, while growing, are for the most part simply displacing inventories of menthol from other sources. Therefore, I am unable to find a threat of injury from these Chinese imports.

In attempting to verify Haarmann & Reimer's allegation of lost sales, the Commission's staff found no clear cut case of a sale lost to alleged LTFV imports for reason of price.[57] The four firms contacted confirmed purchasing imports from Japan or China. However, each stated that these purchases did not represent a change in the company's supply patterns. One company also stated that Haarmann & Reimer was unwilling to offer them the long-term contract it desired, whereas China was willing to break the traditional pattern of offering a contract for one or two years by extending a three-year contract.[58]

It also appears that U.S. consumers of menthol are moving to diversify sources of supply and have some interest in seeing their long-term traditional supplier, China, returned to the market.

Conclusion

By 1975 the steady growth of the U.S. market, the new technological methods for the production of menthol, and the two consecutive crop failures in Brazil enticed U.S.-based producers into the production of menthol. Since that time their production of menthol, the success of Brazil's crops, and normalization of trade relations with China have created an oversupply in the commodity market for menthol. Nevertheless, U.S. industry has been able to withstand the competition in this situation. The economic indicators are positive and profits, when considered in relation to each individual producer, are good. Thus, I find no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports from the People's Republic of China and/or Japan.

By order of the Commission.

Issued: July 28, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-23666 Filed 8-5-80; 8:45 am]

BILLING CODE 7020-02-M

[57] *See* report, p. A-32.

[58] *Ibid.*

[TA-201-44]

Certain Motor Vehicles and Certain Chassis and Bodies Therefor; Hearing

Notice is hereby given that the public hearing in this matter set to begin at 10 a.m. Wednesday, October 8, 1980, will be held in the Great Hall of the U.S. Department of Justice, Constitution Avenue, between 9th and 10th Streets NW., Washington, D.C.

Notice of the investigation and hearing and notice of a change in Commission procedures were published in the **Federal Register** of July 7, 1980, and July 22, 1980 (45 FR 45731 and 45 FR 48996, respectively).

By order of the Commission.

Issued: July 28, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-23667 Filed 8-5-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-85]

Certain Slide Fastener Stringers and Machines and Components Thereof for Producing Such Slide Fastener Stringer; Denial of Motion To Strike Certain Portions of the Complaint of Talon Division of Textron, Inc.

Upon consideration of Motion Docket No. 85-2, as certified to the Commission by the Administrative Law Judge (ALJ) on June 25, 1980, and the ALJ's recommendation that the motion be denied, the Commission has ordered that said motion is denied.

Copies of the Commission action and Commission order are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C., telephone (202) 523-0161.

By order of the Commission.

Issued: July 29, 1980.

Kenneth R. Mason,

Secretary

[FR Doc. 80-23668 Filed 8-5-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment in United States v. Ashland Oil, Inc., et al., and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgement and a Competitive Impact Statement (CIS) as set out below have been filed with the United States District Court for the Western District of Kentucky, at Louisville, in *United States* v. *Ashland Oil, Inc., et al.*, Civil No. 77-0342 L(A). the Complaint in this case alleges that four corporations (Ashland Oil, Inc., Cargill, Incorporated, Reichhold Chemicals, Inc., and Reliance Universal, Inc.) violated the Sherman Act by conspiring to fix the prices of coatings resins sold throughout the United States.

The proposed Judgment enjoins the defendants from engaging in or renewing the alleged conspiracy and from communicating with one another or with other coatings resins manufacturers about prices.

Ashland Oil, Inc. sold its coatings resins business before the filing of the proposed Judgment. It is enjoined from engaging in or renewing the alleged conspiracy, but is excused from certain other requirements of the proposed Judgment so long as it is not in the coatings resins business.

The CIS describes the terms of the proposed Judgment and the background of the action and concludes that the proposed Judgment provides appropriate relief against the violation alleged in the Complaint.

Public comment is invited within the 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to John A. Weedon, Chief, Great Lakes Field Office, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Joseph H. Widmar,

Director of Operations.

U.S District Court for the Western District of Kentucky at Louisville

United States of America, Plaintiff, v. *Ashland Oil, Inc.; Cargill, Incorporated; Reichhold Chemicals, Inc.; and Reliance Universal, Inc.*, Defendants.

Civil Action No. C 77-0342 L (A), Judge Charles M. Allen.

Filed: July 11, 1980.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdrawns its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: July 11, 1980.

For the plaintiff: Sanford M. Litvack; Joseph H. Widmar; John A. Weedon; *Attorneys, Department of Justice.*

John L. Smith, *United States Attorney; Edmund Round; Michael J. Keane; Theresa M. Majkrzak; Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199; telephone: (216) 522-4189.*

For defendant Ashland Oil, Inc.: Ray S. Bolze, *Howrey & Simon.*

For defendant Cargill, Incorporated: Erwin C. Heininger, *Mayer, Brown & Platt.*

For defendant Reichhold Chemicals, Inc.: George Reycraft, *Cadwalder, Wickersham, and Taft.*

For defendant Reliance Universal, Inc.: Wesley P. Adams, Jr., *Ogden, Robertson & Marshall.*

U.S. District Court for the Western District of Kentucky at Louisville

United States of America, Plaintiff, v. *Ashland Oil, Inc.; Cargill, Incorporated; Reichhold Chemicals, Inc.; and Reliance Universal, Inc.*, Defendants.

Civil Action No. C 77-0342 L (A).

Filed: July 11, 1980.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on July 22, 1977, and plantiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment, the term:

(A) "Person" means any individual, corporation, partnership, firm, association, or other business or legal entity;

(B) "Alkyd resins" means synthetic resins produced by the reaction of a poly-basic acid, a poly-hydric alcohol, and a mono-basic fatty acid or oil;

(C) "Copolymer resins" means alkyd resins modified with unsaturated monomers, such as vinyl toluene, styrene, or acrylic materials;

(D) "Urethane resins" means synthetic resins made by the reaction of isocyanates with hydroxyl-containing compounds;

(E) "Coatings resins" means alkyd resins, copolymer resins, and/or urethane resins; and

(F) "Coatings resins manufacturer" means any person engaged in the business of manufacturing coatings resins.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, provided, however, that this Final Judgment shall not apply to transactions or activities solely between a defendant and its directors, officers, employees, parent companies, subsidiaries or any of them when acting in such capacity, nor does this Final Judgment apply to activities occurring outside the United States and not affecting the domestic or foreign commerce of the United States.

IV

Each defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination or conspiracy with any other coatings resins manufacturer to:

(A) fix, establish, raise, stabilize, or maintain the prices of coatings resins;

(B) allocate or divide the coatings resins business of any customer;

(C) allocate or divide coatings resins customers, territories, or markets;

(D) refrain from actively soliciting the coatings resins business of any customer or potential customer;

(E) submit any noncompetitive, collusive, or agreed-upon bids or quotations for coatings resins to any customer or potential customer.

V

Each defendant is enjoined and restrained from:

(A) Communicating to, requesting from, or exchanging with, any other defendant or any other coatings resins manufacturer any information concerning:

(1) the current or future prices, terms, or other conditions of sale for coatings resins by any coatings resins manufacturer, or any consideration or contemplation of changes therein;

(2) interest charges being or to be imposed for late payments by any customer or coatings resins;

(3) current or future drum differential charges to customers of coatings resins;

(4) current or future premium charges on any particular coatings resins;

(B) Complaining or otherwise commenting to any other coatings resins manufacturer concerning prices being or to be charged within the coatings resins industry, or those being or to be charged by that particular manufacturer.

VI

Nothing in Section V hereof shall:

(A) Prohibit the communication of prices, terms, or other conditions of sale or processing of coatings resins offered by a defendant to any other coatings resins manufacturer or offered by any other coatings resins manufacturer to a defendant in negotiating a purchase, sale, or contract for the processing of coatings resins, or other *bona fide* business transaction between that defendant and such other coatings resins manufacturer; or

(B) Be deemed to prohibit a defendant from entering into, participating, in, or maintaining with any other person an otherwise lawful joint venture agreement.

VII

Each defendant is ordered and directed to:

(A) Furnish a copy of this Final Judgment to each of its directors and to each of its officers, employees or agents who has any responsibility for the pricing or sale of coatings resins within sixty (60) days after the date of entry of this Final Judgment;

(B) Furnish a copy of this Final Judgment to each successor to those persons described in subsection (A) hereof within thirty (30) days after each such successor is employed;

(C) Obtain from each such person furnished a copy of this Final Judgment pursuant to subsections (A) and (B) hereof a signed receipt therefor, which receipt shall be retained in the defendant's files;

(D) Attach to each copy of this Final Judgment furnished pursuant to subsections (A) and (B) hereof a statement, in substantially the form set forth in Appendix A attached hereto, advising each person of his obligations and of such defendant's obligations under this Final Judgment, and of the criminal penalties which may be imposed upon him and upon such defendant for violation of this Final Judgment;

(E) Hold, within seventy-five (75) days after the date of entry of this Final Judgment, a meeting or meetings of the persons described in subsection (A) hereof, at which meeting such persons shall be instructed concerning the defendant's and their obligations under this Final Judgment. Similar meetings shall be held at least once a year for a period of five (5) years from the date of entry of this Final Judgment, which meetings shall also be attended by those persons described in subsection (B) hereof;

(F) Establish and implement a plan for monitoring compliance by the persons described in subsections (A) and (B) hereof with the terms of the Final Judgment; and

(G) File with this Court and serve upon the plaintiff within ninety (90) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of such defendant's compliance with subsections (A), (C), (D) and (E) hereof.

VIII

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets of its coatings resins business that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court and serve upon the

plaintiff its consent to be bound by this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in the this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees, and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the department of justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XI

This Final Judgment shall terminate ten (10) years from the date of its entry.

XII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

Appendix A

Notice

Re: *United States v. Ashland Oil, Inc.; Cargill, Inc.; Reichhold Chemicals, Inc.; and Reliance Universal, Inc.*

Civil Action No. C77-0342L(A) (W.D.Ky.).

Attached hereto is a copy of a Final Judgment entered ———, 1980 in the captioned case. We are required to provide this to you. You should read it carefully. The provisions of the Final Judgment contained in Sections IV and V apply to you. If you violate these provisions, you may subject the Company to a fine and you may also subject yourself to a fine and imprisonment.

U.S. District Court for the Western District of Kentucky at Louisville

United States of America, Plaintiff, v. *Ashland Oil, Inc.; Cargill, Incorporated; Reichhold Chemicals, Inc.; and Reliance Universal, Inc.*, Defendants.

Civil Action No. C 77-0342-L (A).

Filed: July 11, 1980.

Stipulation Concerning Final Judgment

Plaintiff, United States of America, and defendant, Ashland Oil, Inc., hereby stipulate that Section VII of the Final Judgment shall not apply to Ashland Oil, Inc., so long as Ashland Oil, Inc., does not manufacture or sell coatings resins, as defined in the Final Judgment.

Dated: July 11, 1980.

/s/ Edmund Round,

Counsel for the United States.

Ray S. Bolze,

Counsel for Ashland Oil, Inc.

United States District Judge.

U.S. District Court, for the Western District of Kentucky at Louisville

United States of America, Plaintiff, v. *Ashland Oil, Inc.; Cargill, Incorporated; Reichhold Chemicals, Inc.; and Reliance Universal, Inc.*, Defendants.

Civil No. C77-0342 l(A).

Judge Charles M. Allen.

Filed: July 11, 1980.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On July 22, 1977, the United States filed a civil antitrust Complaint alleging that four corporations had conspired to fix prices in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The Complaint alleges that, beginning in 1971 and continuing through November 1974, the defendants engaged in a combination and conspiracy to fix, raise, stabilize, and maintain the prices of coatings resins and to allocate among themselves the coatings resins business of certain of their major customers.

The Complaint seeks a judgment by the Court that the defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also asks that the Court perpetually enjoin and restrain the defendants from such activities in the future.

The defendants named in the Complaint are Ashland Oil, Inc. of Ashland, Kentucky; Cargill, Incorporated of Minneapolis, Minnesota; Reichhold Chemicals, Inc. of White Plains, New York; and Reliance Universal, Inc. of Louisville, Kentucky.

All the defendants in this action have previously pleaded *nolo contendere* to misdemeanor criminal charges concerning the same combination and conspiracy alleged in this action. Fines of $50,000 each were levied against Ashland Oil, Inc., Cargill, Incorporated, and Reichhold Chemicals, Inc. A fine of $40,000 was levied against Reliance Universal, Inc. This civil case had been held in abeyance until the criminal charges were resolved.

II

Description of the Practices Giving Rise to the Alleged Violation of the Antitrust Laws

For the purpose of this case, the Complaint defines "coatings resins" as alkyd, copolymer, and/or urethane resins. Coatings resins are used in the manufacture of paint and other protective and decorative coatings.

During the period covered by the Complaint, Ashland Oil, Inc., Cargill, Incorporated, and Reichhold Chemicals, Inc. manufactured and sold coatings resins throughout the United States. During the period covered by the Complaint, Reliance Universal, Inc. manufactured and sold coatings resins, other than urethane resins, throughout the United States, but principally in the area of the country east of the Mississippi River.

The Complaint alleges that the defendants engaged in an illegal combination and conspiracy beginning in 1971 and continuing thereafter through November 1974. That combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to fix, raise, stabilize, and maintain the prices of coatings resins and to allocate among themselves the coatings resins business of certain of their major customers.

The Complaint alleges that the combination and conspiracy had the following effects, among others:

(A) prices for coatings resins were fixed, raised, stabilized, and maintained at artificial and noncompetitive levels;

(B) competition in the sale of coatings resins was restrained; and

(C) customers were deprived of the benefits of free and open competition in the market for coatings resins.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it constitutes no admission by any party with respect to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest. Accordingly, Section XII of the proposed Final Judgment states that entry of this Judgment is in the public interest.

The proposed Final Judgment enjoins any direct or indirect renewal of the type of conspiracy alleged in the Complaint. Specifically, Section IV enjoins and restrains the defendants from entering into, adhering to, participating in, maintaining, furthering, enforcing, or claiming, either directly or indirectly, any rights under any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any other coatings resins manufacturer to:

(A) fix, establish, raise, stabilize, or maintain the prices of coatings resins;

(B) allocate or divide the coatings resins business of any customer;

(C) allocate or divide coatings resins customers, territories, or markets;

(D) refrain from actively soliciting the coatings resins business of any customer or potential customer;

(E) submit any noncompetitive, collusive, or agreed-upon bids or quotations for coatings resins to any customer or potential customer.

Section V further enjoins the defendants from communicating with each other or with any other coatings resins manufacturer about the prices or terms of sale of coatings resins. Specifically, the defendants are enjoined and restrained from:

(A) communicating to, requesting from, or exchanging with any other defendant or any other coatings resins manufacturer any information concerning:

(1) the current or future prices, terms, or other conditions of sale for coatings resins by any coatings resins manufacturer, or any consideration or contemplation of changes therein;

(2) interest charges being or to be imposed for late payments by any customer of coatings resins;

(3) current or future drum differential charges to customers of coatings resins;

(4) current or future premium charges on any particular coatings resins;

(B) complaining or otherwise commenting to any other coatings resins manufacturer concerning prices being or to be charged within the coatings resins industry, or those being or to be charged by that particular manufacturer.

Since manufacturers of coatings resins often sell coatings resins to one another as well as to makers of paint and other coatings, Section VI of the proposed Final Judgment permits *bona fide* buyer-seller communications between the defendants. Section VI also provides that Section V does not prohibit otherwise lawful joint venture agreements.

Section VII of the proposed Final Judgment orders the defendants to furnish a copy of the Final Judgment to each of their directors and each of their officers, employees, or agents who has any responsibility for the pricing or sale of coatings resins. Successors of those persons are also to be furnished a copy of the Judgment. Each copy of the Final Judgment so provided will have attached a statement informing the recipient that a violation of the Final Judgment could result in a fine for the company and a fine and imprisonment for the individual. Section VII also requires each defendant to hold a meeting every year for five years at which the persons listed above are instructed on their obligations and their company's obligations under the Final Judgment. The defendants are required to monitor the compliance of those persons.

Ashland Oil, Inc., is exempted from Section VII because it is no longer in the business of manufacturing or selling coatings resins. Ashland sold that business on December 11, 1978. The United States and Ashland Oil, Inc. have entered into a stipulation filed together with the proposed Final Judgment. That stipulation provides that, so long as Ashland Oil, Inc. does not manufacture or sell coatings resins, the provisions of Section VII will not apply to it. All other provisions of the proposed Final Judgment, including the injunctive provisions, will apply to Ashland Oil, Inc.

Section III of the proposed Final Judgment makes the Judgment applicable to each defendant and to the officers, directors, agents, employees, subsidiaries, successors, and assigns of each defendant, as well as all other persons in active concert or participation with any of them who have received actual notice of the Final Judgment. That Section exempts from the proposed Final Judgment the following:

(A) transactions or activities solely between a defendant and its directors, officers, employees, parent companies, or subsidiaries when acting in such capacity; and

(B) activities occurring outside the United States and not affecting the domestic or foreign commerce of the United States.

Section VIII requires that, if a defendant sells the assets of its coatings resins business, the purchaser must agree to be bound by the Final Judgment and must so inform the Court and the United States.

Section XI makes the Final Judgment effective for ten years from the date of its entry.

Standard provisions similar to those found in other antitrust Final Judgments entered by consent are contained in Section I (jurisdiction of the Court), Section IX (investigation and reporting requirements), and Section X (retention of jurisdiction by the Court).

It is anticipated that the relief provided by the proposed Final Judgment will have a salutory effect on competition in the coatings resins market. Not only have the defendants been enjoined from future collusive behavior, they are also required to provide copies of the Final Judgment to each of their directors and to each of their officers, employees, or agents who has any responsibility for the sale or pricing of coatings resins. In addition, those people must meet annually to be instructed about their responsibilities under the Judgment. It is anticipated that these provisions will reduce the possibility of future violations.

IV.—Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff that might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable relief that it may have had if the Final Judgment had not been entered. The Final Judgement may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V.—Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments within the 60-day period provided by the Act to John A. Weedon, Chief, Great Lakes Field Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216–522–4070). These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register.**

All comments will be given due consideration by the Department of Justice. The Department remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. Further, Section X of the proposed Judgment provides that the Court retains jurisdiction over this action for the life of the Final Judgment and that the parties may apply to the Court for such order as may be necessary or appropriate for the modification, interpretation, or enforcement of the Judgment after its entry.

VI.—Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial on the merits and on relief. The Division considers the proposed Judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violations alleged in the Complaint.

VII.—Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Consequently, none is being filed

V 45 / 153 AG 6 80 UMI

pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

Respectfully submitted,

John A. Weedon, David F. Hils, *Attorneys Department of Justice.*

Edmund Round, Michael J. Keane, Theresa M. Majkrzak, *Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: (216) 522–4189.*

[FR Doc. 80-23610 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-01-M

Office of the Attorney General

[Order No. 904–80]

Modifications to List of Bureau of Prisons Institutions

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805) classifies and lists the various Bureau of Prisons Institutions. Order No. 649–76 (41 FR 19233), Order No. 842–79 (44 FR 44629), Order No. 854–79 (44 FR 58002), and Order No. 860–79 (44 FR 64922) amended the list published by Order No. 646–76. This order further modifies the list by redesignating the Federal Correctional Institution at Seagoville, Texas, as a Federal Prison Camp; by designating new Federal Correctional Institutions at Lake Placid, New York and at Otisville, New York; and by deleting El Paso, Texas, as a Federal Detention Center.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Ira B. Kirschbaum, Assistant General Counsel, Bureau of Prisons, U.S. Department of Justice, 320 1st Street, NW., Washington, D.C. 20534 (202–724–3062).

By virtue of the authority vested in me by sections 4003, 4081 and 4082 of Title 18, United States Code, Attorney General Order No. 646–76, as amended, is further amended as follows:

Subparagraph B of Order No. 646–76 is amended to delete Seagoville, Texas, as a Federal Correctional Institution and to add Otisville, New York, and Lake Placid, New York, as Federal Correctional Institutions.

Subparagraph C of Order No. 646–76 is amended to add Seagoville, Texas, as a Federal Prison Camp.

Subparagraph F of Order No. 646–76 is amended to delete El Paso, Texas, as a Federal Detention Center.

Dated: July 25, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-23611 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree and Action To Obtain Damages for Discharge of Pollutants by the City of Lenoir, N.C.

In accordance with Department policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on March 17, 1980, a proposed consent decree in *United States of America* v. *City of Lenoir and State of North Carolina*, Civil Action No. St–C–79–29, was lodged with the United States District Court for the Western District of North Carolina, Statesville Division.

The consent decree imposes a civil penalty of $10,000 and requires the City to meet certain construction deadlines at the existing wastewater treatment facilities. The City is required to have its new wastewater treatment plant operational by June 1982.

The proposed consent decree may be examined at the Office of the United States Attorney for the Western District of North Carolina in Charlotte, North Carolina; at the Region IV office of the Environmental Protection Agency, Enforcement Division, 345 Courtland Street, NE., Atlanta, Georgia 30308; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 1734, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20530.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of 30 days from the date of this notice, comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *City of Lenoir and the State of North Carolina* (W.D.N.C., Civil Action ST–C–79–29; D.J. 90–5–1–1–895).

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-23612 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-01-M

Office of Attorney General

[AAG/A Order No. 53–80]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Drug Enforcement Administration (DEA). Further, in the Proposed Rules Section of today's **Federal Register**, DEA proposes to exempt the system, to the extent the information is subject to exemptions pursuant to 5 U.S.C. 552a(j) and (k), from the provisions of 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (H) pursuant to 5 U.S.C. 552a(j) and (k). the purpose of these exemptions is as follows:

(1) From (c)(3) because the release of the disclosure accounting for disclosure pursuant to the routine uses published for this system would permit the subject of a criminal investigation to obtain valuable information concerning the nature of that investigation and present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), and this subsection will therefor not be applicable.

(3) From subsection (d) because access to records contained in this system would alert a subject to the existence of investigation and thereby provide information to the subject which might enable him to avoid detection or apprehension, and present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations, DEA often detects violation of non-drug-related laws. In the interests of effective law enforcement, it is necessary that DEA retain all information obtained in criminal investigations because it can aid in establishing patterns of criminal activity and assist other law enforcement agencies that are charged with enforcing other segments of criminal law.

(5) From subsection (e)(2) because information collected to the greatest extent possible from the subject individual of a criminal investigation would provide the subject with valuable information which might preclude detection or apprehension of the subject individual.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life or physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(8) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual notice requirements could present a serious impediment to law enforcement by interfering with DEA's ability to issue administrative techniques and procedures.

(10) From subsection (f) because this system has been exempted from the access provisions of subsection (d).

(11) From subsections (g) and (h) because this system is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

The Regional Automated Intelligence Data System (RAIDS) (JUSTICE/DEA–028) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.**

5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the provisions of the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, 10th and Constitution Avenue, N.W., Room 1214, Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before October 6, 1980, the system will be implemented without further notice in the **Federal Register**, except that the final rule exempting the system will be published after 60 days. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: July 24, 1980.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

Justice/DEA–028

SYSTEM NAME:

Regional Automated Intelligence Data System (RAIDS).

SYSTEM LOCATION:

Drug Enforcement Administration, 8400 NW 53rd Street, Miami, Florida 33166.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of illicit narcotic trafficking.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information extracted from DEA investigative reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users as a matter of routine use for law enforcement and regulatory purposes: (a) Other federal law enforcement and regulatory agencies; (b) State and local law enforcement and regulatory agencies; (c) Foreign law enforcement agencies with whom DEA maintains liaison; (d) The Department of Defense and military departments; (e) The Department of State; (f) United States intelligence agencies concerned with drug enforcement; (g) The United Nations; (h) The International Police Organization (Interpol); and (i) To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: (a) To federal agencies for national security clearance purposes and to federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; (b) To the Office of Management and Budget, upon request, in order to justify the allocation of resources; (c) To state and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; and (d) To respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rulemaking, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspection conducted under the authority of 44 U.S.C. 2094 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records in the system are maintained on magnetic discs.

RETRIEVABILITY:

Information is retrieved by name of the subject and by various topical queries.

SAFEGUARDS:

The system is protected by both physical security and dissemination and access controls. The system is maintained in a secure DEA facility and protected by electronic means. Access to the computer is restricted by the assignment of unique input and query access codes to authorized DEA employees on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Records in the system are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director, DEA South Eastern Regional Office, 8400 N.W. 53rd Street, Miami, Florida 33166.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Unit, Drug

Enforcement Administration, 1405 I Street, NW, Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Records in the system consist entirely of information extracted from DEA investigative reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4)(G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and are being published in the Proposed Rules Section of today's Federal Register.

[FR Doc. 80-23605 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-09-M

Drug Enforcement Administration

Controlled Substances; Proposed Aggregate Production Quotas for 1981; Schedules I and II

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The quotas are to provide adequate supplies of each substance for (1) the estimated medical, scientific, research, and industrial needs of the United States, (2) lawful export requirements, and (3) the establishment and maintenance of reserve stocks.

In determining the below listed proposed 1981 aggregate production quotas, the Administrator considered the following factors:

(1) Total actual 1979 and estimated 1980 and 1981 net disposal of each substance by all manufacturers.

(2) Projected trends in the national rate of net disposal of each substance.

(3) Estimates of inventories of each substance and of any substance manufactured from it, and trends in accumulation of such inventories.

(4) Projected demand as indicated by procurement quota applications which were filed pursuant to § 1303.12 of Title 21 of the Code of Federal Regulations.

Pursuant to § 1303.23(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration will in early 1981 adjust individual manufacturing quotas allocated for the year based upon 1980 year-end inventory and actual 1980 disposition data supplied by quota applicants for each basic class of Schedule I or II controlled substance.

Based upon consideration of the above factors, the Administrator of the Drug Enforcement Administration hereby proposes that aggregate production quotas for 1981 for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed 1981 quota
SCHEDULE I	
2,5-Dimethoxyamphetamine	13,500,000
SCHEDULE II	
Alphaprodine	60,000
Amobarbital	4,398,000
Amphetamine	1,253,000
Anileridine	121,000
Cocaine	1,600,000
Codeine (for sale)	51,998,000
Codeine (for conversion)	3,125,000
Desoxyephedrine (1,771,000 grams for the production of levodesoxyephedrine for use in a non-controlled, non-prescription product, and 200,000 grams for the production of methamphetamine)	1,971,000
Dihydrocodeine	1,145,000
Diphenoxylate	652,000
Ecgonine (for conversion)	1,200,000
Ethylmorphine	25,000
Fentanyl	3,000
Hydrocodone	856,000
Hydromorphone	106,500
Levorphanol	13,000
Meperidine	11,000,000
Methadone	1,190,000
Methadone Intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)	1,700,000
Methaqualone	5,871,000
Methylphenidate	1,215,000
Mixed Alkaloids of Opium	17,000
Morphine (for sale)	878,000
Morphine (for conversion)	55,651,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	1,941,000
Oxycodone (for sale)	1,783,000
Oxycodone (for conversion)	10,000
Oxymorphone	4,000
Pentobarbital	17,000,000
Phenmetrazine	1,372,000
Phenylacetone	9,000,000
Secobarbital	6,516,000
Thebaine (for sale)	2,303,000
Thebaine (for conversion)	1,004,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposals relating to any one or more of the above mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by September 4, 1980. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a full hearing, the Administrator shall order a public hearing in the **Federal Register** summarizing the issues to be heard and setting the time for the hearing (which shall not be less than 30 days after the date of the order).

Dated: July 25, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-23623 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-09-M

Office of Justice Assistance, Research and Statistics

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) will meet August 20–23, 1980, in Portland, Oregon. The meeting will be held at The Benson Hotel. The Meeting is open to the public.

The NAC Executive Committee will meet from 8:00 p.m. to 9:00 p.m. Wednesday, August 20th. The full Committee will be called to order at 9:00 a.m. August 21st by Chair C. Joseph Anderson. After a welcome address and a report by the Executive Committee,

Mr. Ira Schwartz, Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) will give a report.

At 10:30 a.m., there will be a presentation by Committee members on Rules of Order. Following this at 10:40 a.m., a panel discussion on the issue of removal of children from adult jails will be held. Participants will include Judith Johnson of the National Coalition for Jail Reform, John Rector, former OJJDP Administrator, two young people previously or currently in the jurisdiction of the juvenile court system, and members of the OJJDP staff and programs.

From 12:00 noon to 1:30 p.m., the Committee will be recessed for lunch.

The Committee's four Subcommittees will meet from 1:30 p.m. to 8:00 p.m. that evening, focusing on review and finalization of their FY 81 workplan. The Subcommittee to Advise the Administrator of OJJDP will discuss Technical Assistance, OJJDP's FY 81 Program Plan and policy on continuation of grants.

The Concentration of Federal Effort Subcommittee will discuss the coordination of Federal programs for juveniles with particular emphasis on those within the Department of Education and OJJDP.

The Subcommittee to Advise the National Institute will consider its workplan for FY 81, review the NAC's position and recent research on aversion programs, discuss NIJJDP's training and assessment centers, and, discuss the status of the reanalysis of the recent UDIS research. Plans for a special meeting of the Subcommittee for the presentation of this reanalysis will be finalized.

The Standards Subcommittee will develop their workplan for FY 81 and discuss plans for the refinement and implementation of the NAC's Standards for Juvenile Justice.

On August 22, the Committee members and interested guests will be visiting various juvenile institutions and programs from 8:00 a.m. until 1:00 p.m., at which time the full Committee reconvenes.

Issues to be discussed for the rest of the day include: implementation of the NAC Standards for Juvenile Justice; definition of juveniles as all people under the age of 18; State Planning Agency alternatives for administering juvenile justice without LEAA; the Third Annual State Advisory Group Conference; report from the task force on Technical Assistance; the Committee's position on aversion programs; and site visits to juvenile institutions and programs.

There will be Public Commentary at 5:00 p.m., and the meeting will recess at 6:00 p.m.

On Saturday, August 23, the Committee will reconvene at 9:00 a.m. for Subcommittee reports. The Committee will discuss future agenda topics, the FY 81 Workplan and their Fifth Annual Report. An Executive Committee meeting will follow the 12:30 p.m. adjournment, and be concluded at 1:30 p.m.

For further information, contact Mr. James C. Shine, Executive Assistant and Special Counsel, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 80-23598 Filed 8-5-80; 8:45 am]

BILLING CODE 4410-18-M

LEGAL SERVICES CORPORATION

Grants and Contracts

July 31, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Anishinabe Legal Services, Inc., in Cass Lake, Minnesota, to serve Native Americans residing on or near Red Lake and White Earth Chippewa Reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Native American Desk, Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-23584 Filed 8-5-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

July 31, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Neighborhood Legal Services in Hartford, Connecticut, to serve migrants in the states of Connecticut and Massachusetts.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Massachusetts 02109.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-23583 Filed 8-5-80; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

Availability of Fiscal Year 1981 Funds for Financial Assistance To Enhance Technology Advancement of Nuclear Energy Safety

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission, (NRC), Office of Nuclear Regulatory Research announces proposed availability of FY 1981 funds to support research necessary to provide a technology base to assess the safety of nuclear power operation, plant siting and waste disposal. The program includes, but is not limited to, support of basic and applied research to advance understanding of and contribute to the store of scientific knowledge applicable to the design, operation, siting, systems and subsystems performance of nuclear power and disposal of waste products resulting from nuclear power applications. Projects will be funded through grants or cooperative agreements.

V 45 / 153 3 AUG 6 80 UMI

EFFECTIVE DATE: Applications will be accepted throughout FY 1981.

ADDRESS: U.S. Nuclear Regulatory Commission, Division of Contracts, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: The cognizant NRC program official for this program is Dr. John Larkins, telephone (301) 427–4344. The cognizant NRC grant official is Mr. Kellogg Morton, telephone (301) 427–4365.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Pursuant to Section 31.a and 141.b. of the Atomic Energy Act of 1954, as amended, the NRC, Office of Nuclear Regulatory Research proposes to support educational institutions, nonprofit institutions, state and local governments, or professional societies through providing funds for research necessary to provide a technology base to assess the safety of nuclear power operation, plant siting and waste disposal. The program includes, but is not limited to, support of basic and applied research to advance understanding of and contribute to the store of scientific knowledge applicable to the design, operation, siting, systems and subsystems performance of nuclear power and disposal of waste products resulting from nuclear power applications. In the selection of projects to be supported, preference is given to research which is concerned with scientific and technical information which advances the state-of-the-art. Research proposals in the following categories (but not limited to) are to be considered:

1. Nuclear Waste Research
2. Natural Hazards Research
3. Environmental Effects Research
4. Materials and Thermal Hydraulic Research

1. Nuclear Waste Research

The purposes of the research are to develop information and concepts in the applicability of the safe storage of nuclear waste. Research which undertakes to study the basic phenomena of nuclear waste material interaction with host rock in deep geologic environments will be considered. The research would include evaluation of the importance of slow processes such as solid state diffusion as compared to more rapid sorption processes. A more fundamental description of sorption processes and their role in retardation of radionuclide migration is required. A primary purpose of this effort is to stimulate the technical and research communities to apply their knowledge and skills to the development of methods for long-term predictions of the performance of nuclear waste repositories. The result will be an improved degree of confidence in the safety of nuclear waste disposal facilities. Key technical areas in resolving questions on the safe storage of nuclear waste are hydrogeology, geochemistry, evapotranspiration, infiltration, soil moisture. Area of interest also include non-invasive methods for measuring the parameters required for calculating groundwater flow, the unsaturated zone between the land surface and the water table (top of the saturated zone), predictive methods of precipitation and runoff plus temperature changes including those involving glacial advances and retreats, long-term prediction of flooding, hurricanes, tornados, earthquakes and other natural hazard occurrences, groundwater protection, random attenuation, stabilization of tailing, and other related engineering and physical sciences as they apply to increasing or verifying scientific knowledge contributing to the safety of short-term or long-term nuclear waste disposal considerations. Most of the information and concepts developed in these areas has focused on resource exploitation. A refocusing to consider extreme time periods and the confinement in deep geologic media will tap technical and scientific resources for evaluating the long-term performance of nuclear waste repositories.

The research information will be valuable to federal, state, local governments and private concerns in assessing the acceptability of waste storage sites and waste forms and containers.

2. Natural Hazards Research

The objective of this program is to understand and delineate natural hazards on a quantified basis in different regions of the country. The research will be used to advance scientific knowledge of the causes of earthquakes, tornadoes, floods, and severe weather, and to provide one of the bases for hazard prediction used by federal, state and local jurisdictions in mitigation planning, disaster assistance, and reviewing safety regulations for critical facilities (including nuclear facilities). The approach will be to monitor natural hazards activity in each region and to study empirically and theoretically the conditions which contribute to the generation of the natural hazards. Results of these activities will be integrated with previous results and with results being generated by other (non-NRC) projects to improve our ability to predict statistically the future recurrence of natural hazards by size in each region. Catalogs or reports of data will be distributed at appropriate intervals by the institutions, and reports of interpretations and conclusions will be printed and distributed by the NRC or will appear in technical journals.

3. Environmental Effects Research

The objective of this reseach is to advance the state-of-the-art in assessing environmental effects and related life sciences. The research should sharply define technical or scientific subjects related to environmental effects of facilities and activities. Present interest is focused on ecological effects or health effects which may be attributable to effluents from nuclear power stations.

The research information is expected to add and advance the state-of-the-art knowledge relating to siting, construction, operation, decommissioning of facilities and maintaining a safe working environment for workers and the public relative to radioactive materials, processes and practices.

Material and Thermal Hydraulic Research

The research is to identify and quantify the nature and rate of general material degradation. Degradation processes and mechanisms should be experimentally simulated and the results be interpreted with "first principles" of thermodynamics, interaction kinetics, and other applicable mechanics. The materials to be studies include those encompassing system and subsystem applications utilized with nuclear power generation. The state-of-the-art long prediction of material performance is largely based on phenomenological methods combined with statistical interpretation of data. This approach has been reasonably successful for the estimation of the life-time of the materials for a period of tens to a hundred years. However, much longer-term (say 1,000 years) prediction would require some fundamental understanding of material degradation and quantification of degradation rate and will lead to a better prediction of the life-time of these materials. Appropriate of various properties of the materials in the far future is essential for the protection of public health and safety.

Assistance for thermal hydraulic research related to nuclear powerplant operations will also be supported. Recipient will advance and provide more complete understanding of the thermal hydraulic phenomena related to reactor safety, such as the coolant behavior in the vessel and steam generator during off-normal transient conditions. Some important areas needing more fundamental knowledge are steam condensation and the effects of droplets, void fraction, and non-condensible gas on heat transfer rate.

The primary purpose will be to stimulate research to provide a technological base for the safety assessment to technologies used in nuclear power applications, and development of qualified professionals in the disciplines required for reactor safety evaluations and operations. The results of this program will be to increase public understanding relating to nuclear safety, to enlarge the fund of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety.

B. Eligible Applicants

Educational institutions, nonprofit entities, state and local governments and professional societies are eligible to apply for financial assistance under this announcement.

C. Research Applications

A research application should describe (i) the objectives and scientific significance of the proposed research, (ii) the methodology proposed and its suitability, (iii) the qualifications of the investigators and the proposing organization, and (iv) the level of financial support required to perform the proposed effort.

Applications should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

State and local governments shall submit proposals utilizing the standard forms specified in OMB Circular A–102, Attachment M. Nonprofit organizations and universities shall submit proposals utilizing the standard forms stipulated in OMB Circular A–110, Attachment M.

The format used for project applications should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each application should follow the format outlined unless the NRC specifically authorize exceptions.

1. Cover Page. The cover page should be typed according to the following format (submit separate cover pages if the application is multi-institutional):

Title of Proposal—A descriptive phrase or other similar designation to assist in the identification of the project.
Location of organization submitting the application and identification of facility where work is to be performed.
Name of Principal Investigators:
Total Cost of Proposal:
Period of Proposal:
Organization or Institution and Department:
Required Signatures:
Principal Investigators:

Name _____
Date _____
Address _____
Telephone Number _____

Required Organization Approval:

Name _____
Date _____
Address _____
Telephone Number _____

Organization Financial Officer:

Name _____
Date _____
Address _____
Telephone Number _____

2. Project Description. Each application shall provide, in twenty pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluation the proposal to determine its priority for funding.

Applicants must identify other proposed sources of financial support for a particular project.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(a) Project Goals and Objectives.

The project's objectives must be clearly and unambiguously stated. The application should justify the project including the problems it intends to clarify and the developments it may stimulate.

(b) Project Outline.

The application should clearly define the tasks that are to be performed, the key events or milestones in accomplishing the task schedule, and the feasibility of achieving these events or milestones.

(c) Project Benefits.

The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Management.

The proposal should described the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) Project Costs.

Nonprofit organizations shall adhere to the cost principles set forth in OMB Circular A–122; Educational Institutions shall adhere to the cost principles set forth in OMB Circular A–21; and state and local Governments shall adhere to the cost principles set forth in Federal Management Circular 74–4.

The application must provide a detailed schedule of project costs, identifying in particular:

(1) Salaries and fringe benefits.

(2) Equipment (rental and purchased).

(3) Travel and per diem/subsistence in relation to the project.

(4) Publication costs.

(5) Other direct costs (specify)—e.g., supplies.

(6) Indirect costs (attached negotiated agreement/cost allocation plan).

(7) Total costs.

3. Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the application.

D. Application Submission and Deadline

This program announcement is valid for the entire period of FY 1981 (from 10/1/80 to 9/30/81). Applications will be received during the entire period. Application submissions shall be in one signed original and six copies.

E. Funds

For fiscal year 1981, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research anticipates making about one and one-half million dollars available for funding the project(s) mentioned herein.

The NRC anticipates that approximately five to fifteen projects will be funded. Further, the NRC anticipates that its average support will be $100,000.00 to $200,000.00 per project.

F. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

G. Evaluation Criteria

The award of NRC financial assistance is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

The principal criteria by which a research proposal is evaluated are (i) the technical adequacy of the investigators and their institutional base, (ii) the adequacy of the research design, (iii) the scientific significance of

V 45 / 153 AG 6 80 UMI

their proposal, (iv) its utility or relevance, and (v) its implications for the scientific potential of the field. Criteria i, ii, and iii are emphasized. Criterion iv is primary invoked in the evaluation of applied research proposals, while Criterion v is invoked for each proposal as appropriate. In selecting among research proposals of substantially equal merit, consideration is given to such factors as geographic distribution and balance among the projects supported.

H. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose applications are unsuccessful will be so advised by the Grants Officer.

I. Applicability of OMB Circular A-95

The research areas described herein are national research programs and are not designed to meet the needs or to address problems of a particular state, area or locality and therefore do not come under the purview of OMB Circular A-95.

J. Application Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to: Grants Officer, U.S. Nuclear Regulatory Commission, Division of Contracts, Washington, D.C. 20555.

The address for hand-carried applications is: Grants Officer, U.S. Nuclear Regulatory Commission, 7915 Eastern Avenue, Room 392, Silver Spring, Md. 20901.

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Washington, D.C., this 28th day of July 1980.

For the Nuclear Regulatory Commission.

Edward L. Halman,

Director, Division of Contracts, Office of Administration.

[FR Doc. 80-23605 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Co-op.; (LaCrosse Boiling Water Reactor) Request for Hearing

Order

Dairyland Power Cooperative (Dairyland) currently operates the LaCrosse Boiling Water Reactor (LACBWR) under Provisional Operating License No. DPR-45. On February 25, 1980, the Director, Nuclear Reactor Regulation (Director), issued an Order to Show Cause regarding the design and operation of a dewatering system for this facility. The Order was based on the Director's conclusion that continued operation of the plant for an extended period of time may be potentially hazardous because the LACBWR site could be subject to liquefaction if the licensee—designated safe-shutdown earthquake were to occur. The order gave the licensee an opportunity to file a written answer, and also provided that "any other person whose interest may be affected by this Order" may request a hearing. 42 U.S.C. 22399.

On March 25, 1980 Dairyland submitted the "Licensee's Answer to Show Cause" which contained a contingent request for a hearing in the event that the staff did not consider the answer sufficient cause for not undertaking the steps outlined in the Show Cause Order. The staff is evaluating the licensee's answer to the Order and has requested Dairyland to provide additional information. Requests for a hearing have been received from Mr. Frederick M. Olsen, III of LaCrosse, Wisconsin (March 18, 1980) and Ms. Anne Morse for the Coulee Region Energy Coalition (March 19, 1980).

10 CFR 2.105(e) provides, among other things, that the Commission may designate an Atomic Safety and Licensing Board to rule on requests for a hearing. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and 10 CFR Part 2 of the Commission's regulations, these requests for hearing shall be considered and ruled on by an Atomic Safety and Licensing Board composed of Charles Bechhoefer, Esq., Chairman, Dr. George C. Anderson, and Mr. Ralph S. Decker. If the Board determines that a hearing is required, the Board is instructed to conduct an adjudicatory hearing solely on contentions within the scope of the issues identified in the February 25, 1980, Order: (1) whether the licensee should submit a detailed design proposal for a site dewatering system; and (2) whether the licensee should make operational such a dewatering system as soon as possible after NRC approval of the system, but no later than February 25, 1981, or place the LACBWR in a safe cold shutdown condition.

It is so Ordered.[1]

Dated at Washington, D.C., this 29th day of July, 1980.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-23604 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-482-A]

Kansas Gas & Electric Co., Kansas City Power & Light Co., and Kansas Electric Power Cooperative, Inc.; Receipt of Information for Antitrust Review of Operating License Application

The Kansas Gas and Electric Company, acting for itself, Kansas City Power and Light Company and Kansas Electric Power Cooprative, Inc., filed information for Antitrust Review of an Operating License Application, dated May 6, 1980. This information was filed pursuant to § 2.101 of the Commission's rules and regulations and is in connection with the plans of Kansas Gas and Electric Company, Kansas City Power and Light Company and Kansas Electric Power Cooprative, Inc. to operate a pressurized water reactor located on a site in Coffey County, Kansas. This reactor has been designated as the Wolf Creek Generating Station, Unit No. 1.

The portion of the application filed contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document room and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document room.

A copy of the information for Antitrust Review for Operating License Application is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the local public document room in the Coffey County Courthouse, Burlington, Kansas 66839.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before September 22, 1980.

Dated at Bethesda, Md., this 10th day of July 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-23156 Filed 7-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia.

This amendment was authorized by phone on July 2, 1980. It revises the Tecnical Specifications for the High Pressure Coolant Injection (HPCI) System to permit continued operation with an inoperable HPCI for up to 14 days. The amendment also adds a Limiting Condition for Operation to cover the situation where the demonstration of operability of the HPCI cannot be performed due to low reactor steam pressure. These changes conform the Hatch 1 specifications with current licensing practices. The urgency associated with this action was (1) to permit the licensee to conduct a diagnostic and repair program as directed by the Commission's Office of Inspection and Enforcement, and (2) the current specifications for Hatch 1 were defective since they did not cover the situation of startup without a demonstration of operability of the HPCI system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 2, 1980, (2) the Commission's letter to the licensee dated July 3, 1980, (3) Amendment No. 77 to License No. DPR-57 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of July 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4. Division of Licensing.

[FR Doc. 80-23602 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company (the licensee) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Londonderry Township, Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to allow the overpressure mitigating system as modified to protect the reactor vessel against overpressure during low temperature conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1978, as supplemented March 13, 1978, (2) Amendment No. 56 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of July 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-23601 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

[1] Section 201 of the Energy Reorganization Act, 42 U.S.C. § 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Gilinsky was not present when this Order was affirmed, but had previously voted by notation to approve this Order. Had Commissioner Gilinsky been present, he would have affirmed his prior vote. Accordingly, the formal vote of the Commission was 3-0 in favor of the Order.

V45/153 AG 6 80 UMI

issued Amendment No. 49 to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

This amendment changes the Technical Specifications to remove the requirement to cycle certain non-redundant pumps and valves and adds requirements for ensuring the availability of auxiliary feedwater.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings is required by the Act, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated July 5, 1979 and May 12, 1980, as supplemented May 14, 1980, (2) Amendment No. 49 to License No. DPR-40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-23606 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and The Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license and Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specification setpoint for the automatic closure of the decay heat removal system isolation valves, and implements a pessurizer heater interlock which deenergizes the heaters if reactor coolant system pressurization is attempted and both decay heat removal system isolation valves are not closed. This action satisfies the requirements of license conditions 2.C.(3)(d) and 2.C.(3)(j). In addition, the amendment adds a new condition to the license which requires, prior to operation beyond five effective full power years, the Toledo Edison Company to provide a reanalysis and proposed modifications, as necessary, to ensure continued means of protection against low temperature reactor coolant system overpressure events. Therefore, license condition 2.C.(3)(d) is replaced with the above new requirement and condition 2.C.(3)(j) is removed from the license.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 20, 1978, (2) Amendment No. 28 to License No. NPF-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July 1980.

For The Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-23603 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Reactor Fuel; Meeting

The ACRS Subcommittee on Reactor Fuel will hold a meeting on August 21, 1980 at the Westbank Motel Coffee Shop, 475 River Parkway, Idaho Falls, ID to continue its review of the NRC Fuel Behavior Research Branch (FBRB) Programs for the annual ACRS reports to NRC and Congress. Notice of this meeting was published July 25, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, August 21, 1980, 8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 31, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-23607 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems of postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FP 818-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Standard Format and Content of License Applications, Including Environmental Reports, for In Situ Uranium Solution Extraction" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide specific guidance on the format and content of an application, including an environmental report, for a commercial-scale in situ uranium extraction facility license.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by September 30, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies for future draft copies in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone Requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 28th day of July 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards, Development.

[FR Doc. 80-23600 Filed 8-5-80; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 10/10-0172]

First Oregon Capital Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1980)), by First Oregon Capital Corporation, 219 S.W. Stark Street, Portland, Oregon 97204 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and stockholders are:

Name and Address, Title, and Percent of Ownership

James M. Pippin, 2775 Old Orchard Road, Portland, Oregon 97201, President, General Manager, 50 percent.

Daniel R. Adams, 1905 Pallisades Terrace, Lake Oswego, Oregon 97034, Secretary-Treasurer, Director, 50 percent.

Le Roy E. Larsen, 3980 N.W. 192nd Street, Portland, Oregon 97229, Vice President, Director.

The Applicant proposes to begin operations with a capitalization of $500,000 and will be a source of both equity capital and long term loan funds for qualified small business concerns. However, it will emphasize equity investments with particular attention to growth potential.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Portland, Oregon.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 30, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-23672 Filed 8-5-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0266]

PBC Venture Capital, Inc.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1980)), by PBC Venture Capital, Inc., 1408 18th Street, Bakersfield, California 93301 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and stockholders are:

Name and Address, Title, and Percent of Ownership

Phillip E. Zachary, 635 Sycamore Avenue, Shafter, California 93263, President, General Manager and Director

Edward J. Biebrich, Jr., 605 Bobwhite Court, Bakersfield, California 93309, Vice President, Chief Financial Officer, and Director

Jo Ann C. Murphy, 408 Electra Avenue, Bakersfield, California 93309, Vice President, Secretary and Director

George C. Barstow, 1316 Lymric Way, Bakersfield, California 93309, Vice President and Director

Kenneth W. Jones, 4200 Boise, Bakersfield, California 93306, Director

Edwards C. Fant, 3000 College Avenue, Bakersfield, California 93306, Director

Charles E. Smith, 3805 Century Drive, Bakersfield, California 93306, Director

Pacific Bancorporation, 1810 Chester Avenue, Bakersfield, California 93386, 36.4 percent ownership of the SBIC

Community First Bank, 1810 Chester Avenue, Bakersfield, California 93386, 63.8 percent ownership of the SBIC

PBC Venture Capital, Inc., is a jointly-wned subsidiary of Pacific Bancorporation (PBC), a one-bank holding company, and Community First Bank (CFB), a California state-chartered commercial bank. CFB has 81 shareholders and is 97.3 percent owned by PBC. PBC has 2,016 shareholders and C. Wesley Buerkle is the only owner of 10 or more percent of PBC's outstanding stock.

The Applicant will use the services of National Investment Management, Inc. (NIM), as its investment manager. NIM's President is Richard D. Robins and it is located at 3838 Carson Street, Torrance, California 90503.

The Applicant proposes to begin operations with a capitalization of $540,000 and will be a source of equity capital and unsecured long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Bakersfield, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 30, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-23671 Filed 8-5-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0234]

Southwestern Venture Capital of Texas, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Southwestern Venture Capital of Texas, Inc., 108 La Plaza Building, 113 S. River St., Seguin, Texas 78155, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and ten-or-more percent shareholders of the Applicant are as follows:

James A. Bettersworth, Rt. 4, Box 473 AA, Seguin, Texas 78155; President, General Manager, Director, 2.5 percent shareholder.

Joe A. Mueller, Rt. 4, Box 433-A, Seguin, Texas 78155; Vice President, Director, 2.5 percent shareholder.

John Donegan, 1901 Mt. Vernon, Seguin, Texas 78155; Secretary, Treasury, Director.

Benton Donegan, 355 Voges Lane, Seguin, Texas 78155; Director.

J. B. McKean, Rt. 4, Box 338, Seguin, Texas 78155; Director, 7.5 percent shareholder.

Emmett Donegan, Rt. 1, Box 70, Seguin, Texas 78155; Director, 2.5 percent shareholder.

The First National Bank of Seguin, Texas; 15.0 percent shareholder.

There will be one class of stock authorized: 500,000 shares of no par common stock. Initially 100,100 shares will be issued with a resultant private captial of $1,001,000. Applicant proposes to conduct its operations principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Seguin, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 30, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-23673 Filed 8-5-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1881]

Oklahoma; Declaration of Disaster Loan Area

The following 6 counties and adjacent counties within the State of Oklahoma constitute a disaster area as a result of natural disaster as indicated:

County	Natural disaster(s)	Date(s)
Canadian	Wind, hail, heavy rain	May 17, 1980.
Custer	Hail	May 17, 20, 1980.
Harmon	Excessive rainfall, flooding, high winds, hail.	May 15, 27, 29, 1980.
Jackson	Excessive rainfall, flooding, high winds, hail.	May 15, 27, 29, 1980.
Pottawatomie	Hail, high wind, excessive rainfall.	May 17, 18, 1980.
Roger Mills	Tornado, hail, flood	May 28, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 28, 1981, and for economic injury until the close of business on April 28, 1981, at: Small Business Administration, District Office, 200 N.W. 5th Street—Suite 670, Federal Building, Oklahoma City, Oklahoma 73102, or other announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 28, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23674 Filed 8-5-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Advisory Committee on the International Monetary System; Notice of Continuation

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II), the Department of the Treasury announces the continuation of the following advisory committee:

Title: The Advisory Committee on the International Monetary System.

Purpose: The Committee, composed of representatives from banking, industry, labor and the academic community, as well as former government officials, discusses major issues concerning the effective functioning of the international monetary system now and in the future, and potential areas for improvement, advising the Secretary of the Treasury on these questions in the International Monetary Fund and in other forums.

Statement of Public Interest: The United States is and will continue to be engaged in discussions and negotiations on a number of key issues related to the operation and evolution of the international monetary system pursuant to the amended IMF Articles of Agreement (the amended Articles entered into force on April 1, 1978), including: development of the IMF's role in surveillance over exchange arrangements and the balance of payments adjustment process; the IMF's role in balance of payments financing during a period of unprecedented payments imbalances; the evolution of the roles of the dollar, other currencies and the Special Drawing Right in the international monetary system; and questions related to decisions on the appropriate level of IMF resources and on allocations of Special Drawing Rights. It is important that the Secretary of the Treasury continue to be able to receive the advice and recommendations of the Advisory Committee in this period as the United States develops positions on these issues. The depth and breadth of the members' experience in international monetary affairs cannot be duplicated from sources within the Treasury nor from another existing advisory committee.

Authority for this committee will expire August 21, 1982, unless the Secretary of the Treasury formally determines that continuance is in the public interest.

Dated: July 20, 1980.

C. Fred Bergsten,

Assistant Secretary (International Affairs).

[FR Doc. 80-23428 Filed 8-5-80; 8:45 am]

BILLING CODE 4810-25-M

[General Counsel Order No. 23 (Revised)]

Appointment of Substitute Member to the Legal Division Performance Review Board for Review of Deputy General Counsel

I hereby appoint William E. Douglas to replace Richard J. Davis on the Performance Review Board established by General Counsel Order No. 23.

Effective Date: July 31, 1980.

Robert H. Mundheim,

General Counsel.

[FR Doc. 80-23411 filed 8-5-80; 8:45 am]

BILLING CODE 4810-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Cancellation of Meeting

Announced Time and Place of Meeting: On June 5, 1980, the Council on Wage and Price Stability announced that a meeting of its Pay Advisory Committee had been scheduled for August 8, 1980, at 2:00 p.m., in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503 (45 FR 37875). This meeting has been cancelled. The next meeting of the Pay Advisory Committee is scheduled for Tuesday, September 16, at a time and location to be announced.

Additional Information: For additional information please telephone the Office of Public Affairs at (202) 456-6756.

Dated: August 1, 1980.

Patrick J. Macfarland,

Acting Advisory Committee, Management Officer.

[FR Doc. 80-23688 Filed 8-5-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Resettling Refugees: Availability of funding

AGENCY: HHS, Office of Refugee Resettlement (ORR), Office of the Secretary.

ACTION: Notice of the availability of funding.

SUMMARY: This document governs the award of grants for up to $50,000 each to assist non-profit refuge Mutual Assistance Association (MAAs) in providing services to persons legally admitted as refugees.

DATE: Grant application may be mailed, first class mail, postmarked not later than 11:59 p.m. Monday, September 8, 1980 or delivered not later than 5 p.m., Eastern Time, on the same date at the Central Office, Office of Refugee Resettlement, Room 1229 Switzer Building, 330 C Street S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Lam Pham, 202-245-0061.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Refugee Resettlement (ORR) is authorized to make grants to non-profit organizations which provide services to refugees to facilitate their resettlement and help them attain self-sufficiency. Nationwide, many MAAs have evidenced strong interest in assisting this effort. This resource is both significant and historically appropriate. However, as refugees, members of the MAAs often lack the financial resources necessary to develop their full potential in service delivery, and their lack of familiarity with American fund-raising practices often inhibits their ability to develop necessary community based funding sources. To take advantage of their interest in, willingness to, and special ethnic consideration in assisting their fellow-countrymen, ORR will fund specific resettlement activities and services of a number of MAAs, up to a total of $50,000 each, on a competitive and demonstration basis during FY 1980.

II. Authorization

Funds for the activity described below will be provided under the Refuge Act of 1980. Catalogue of Federal Domestic Assistance No. 13.814.

III. Eligible Grantees

Eligible grantees are MAAs which are incorporated as non-profit organizations under the laws of their State, and which have, as a major objectives, the provision of services on behalf of refugee resettlement. Coalitions of such organizations are encouraged, especially where linkages and coordination with other resettlement organizations can be shown. Excluded from funding under the notice are private for-profit agencies or firms. A major objective is to encourage organizations not already receiving substantial government funding, through other mechanisms, and so priority will be given to such organizations.

V 45 / 153 AG 6 80 UMI

IV. Allotment of Funds

Approximately $800,000 will be made available, nationwide, for purposes of this announcement for the 12-month period following the date of award. These will be one-year grants, in the maximum amount of $50,000. It is expected that successful applicants for these funds will seek subsequent funding, if warranted in future years, through other mechanisms.

V. Scope of Activities

Grants issued pursuant to this notice are intended to enhance the administrative and technical capacities of MAAs to deliver services, and to assist them in providing services in their respective communities. Such services should be in addition to those already being provided by the applying MAAs, and should be related to specific and demonstrated unmet service needs of refugees in the community where the MAA is headquartered.

In anticipation of subsequent funding through purchase of service contracts with the States in which they are operating, activities proposed may include one or any combination of the following: outreach, assessment, manpower, (career counseling, employability planning, job orientation, job development, job placement and follow-up), English As A Second Language training, vocational training, skills recertification, day care, transportation-related services, and social adjustment including information and referral services, counseling services, health related services and home management services, translation and interpreter services, and legal service.

In addition, in recognition of the need by MAA leaders and staff for training, courses for staff, related to activities proposed in the grant are encouraged, as well as activities related to capacity-building of the individual organizations. Rental of real estate for offices or service delivery is permitted, but purchase for this purpose is not. In anticipation of the MAA's needs to strengthen organizational capabilities, MAAs may include in this proposal a period of two months for activities related to start-up.

Not permitted under this notice are direct transfer of funds to refugees, purchase of resettlement resources such as furniture or food for clients, purchase of real estate for clients, funds for transportation except in connection with other services, or the funding of ethnic entertainments festivals, religious activities, or political activities. Notwithstanding the ethic makeup of the grantee, assurance must be given that service will provided to all refugees, regardless of country or origin.

VI. Application Submission and Approval Procedures

Associations which plan to apply should immediately comply with requirement of OMB Circular A–95, which requires that they notify both state and regional clearinghouses of their intent to submit an application. Details of this request and an address of the appropriate clearinghouse may be obtained by calling, toll-free, 800–424–0212. The short period of time between publication of this notice and award of grants makes it imperative that applicants comply with this requirement immediately.

Eligible applicants may request grant applications from the Office of Refugee Resettlement, HHS, 330 C Street S.W., Washington, D.C. 20201, 202–245–0403. an original application and six copies must be received by the Director, Office of Refugee Resettlement, Room 1229 Switzer Building, 330 C Street, S.W. Washington, D.C. 20201, by 5 p.m. Eastern time on Monday September 8, 1980, or sent by first class mail, postmarked before 11:59 p.m. September 8, 1980. No other grant applications will be accepted.

Panels will be convened to evaluate and rank the proposals based on criteria outlined in Section VII of this notice. Grant awards will be issued prior to September 30, 1980.

VII. Criteria for Evaluating Applications

Project grant applications will be evaluated and rated according to the following criteria:

1. Clear identification of a serious service need of the local refugee community it wishes to serve related to attaining self-sufficiency, which is not being met by current providers.
2. Familiarity of the applicant with local community refugee resettlement process.
3. The extent to which the association is clearly identified with and is supported by the refugee community and is familiar with the specific and distinct needs of its respective community.
4. The presentation of a clear and feasible method by which the applicant proposes to meet the previously unmet need or needs.
5. The extent to which activities can be evaluated quantitatively and qualitatively.
6. The extent to which the applicant can demonstrate the ability to deliver the proposed services, including program timelines.
7. Demonstration of staff competencies. When staff training and development is a part of the proposal, the extent to which this relates to a specific task or tasks to be performed should be indicated.
8. Capability of organization to manage and account for funds.
9. The reasonableness of anticipated costs.

VIII. Application content

All applicants will use Standard Form 424, "Federal Assistance" in submitting project proposals, Grant applications must also include the following:

1. Assurance that applicant has complied with procedures of OMB Circular A–95, involving notification of a State or regional clearinghouse. (See Item VI, Paragraph 1 above.)
2. Description of the applicant organization, including its organizational mandate, funding sources principal officers, addresses, telephone number, and photo copies of the organization's certificate of non-profit status (S01–C–3 papers).
3. Description of the MAA's resettlement activities at present, and its experience in the activities proposed in the grant application.
4. Staffing plan, including position description and qualifications of project director and key staff.
5. Work plan for carrying out activities.
6. Management plan. A plan for fiscal and program management to accomplish proposed objectives. The plan should describe how the proposed organization intends to administer the project, train staff, maintain records and evaluate performance.
7. Proposed budget.

IX. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for federal monitoring and auditing of the grant. Quarterly project progress reports will required, due 30 days after the last day of each quarter following the effective date of the grant.

Roger P. Winter,

Director, Office of Refugee Resettlement.

[FR Doc. 80-23869 Filed 8-5-80; 10:46 am]
BILLING CODE 4110-12-M

Health Care Financing Administration

Exclusion of Heart Transplantation Procedures From Medicare Coverage

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of HCFA ruling to discontinue medicare coverage of heart transplantation procedures.

SUMMARY: This notice announces a HCFA ruling discontinuing Medicare coverage of heart transplantation. In November, 1979, HCFA had tentatively authorized payment for heart transplantations at Stanford University Medical Center, pending development of final criteria for coverage of heart transplantations at Stanford and other institutions. However, our continuing review of the question of coverage has disclosed the existence of a number of important issues, such as patient selection and potential social and economic implications, and a lack of sufficient current information to support development of generally applicable coverage criteria. Consequently, HCFA is now excluding heart transplantations from Medicare coverage until appropriate criteria can be issued.

EFFECTIVE DATE: June 13, 1980.

FOR FURTHER INFORMATION, CONTACT: Henry J. Hehir, 301–594–8561.

SUPPLEMENTARY INFORMATION: The text of the HCFA ruling reads as follows:

Exclusion of Heart Transplantation Procedures From Medicare Coverage

HCFAR 80–1

Purpose: This ruling establishes national policy regarding Medicare coverage of heart transplantation procedures.

Citations: Sections 1862(a)(1) and 1879 of the Social Security Act (42 U.S.C. 1395y(a)(1) and 1395pp).

Pertinent History: On November 2, 1979, HCFA authorized Medicare payments for heart transplantation procedures performed for Medicare beneficiaries at Stanford University Medical Center. This was an interim decision, based on preliminary findings by the Public Health Service (PHS) regarding the safety and efficacy of heart transplants performed at that center. The PHS recommendation followed a preliminary analysis of the clinical experience of heart transplantation at Stanford for a substantial number of patients. The recommendation was limited to heart transplants performed at Stanford because only that center, among all the cardiac transplant centers in the United States, had produced sufficient data about its transplant protocols and its success rates to permit an assessment of the medical safety and efficacy of its procedures.

It was our expectation, when reimbursement was tentatively authorized, that we soon would be able to reach a final decision not only about coverage at that center, but also on generally applicable, broadly based criteria for Medicare coverage of heart transplantations at all facilities where such procedures might be performed. In the meantime, an Administrative Law Judge (ALJ) has ruled that Medicare coverage should be extended to a Medicare beneficiary respecting a heart transplantation performed at the University of Arizona Medical Center.

As we proceeded to review Medicare coverage of heart transplants, we determined that the issues are much more complex than originally contemplated and that many of them cannot be resolved now because adequate data do not exist. There are questions, for example, concerning the patient selection process, the basis for assessing safety and efficacy at medical centers other than Stanford, the long-term social and economic consequences of the procedure, broad ethical considerations, the cost effectiveness of the procedure, and the potential, if any, for substantial expansion in the availability of heart transplantation. We have concluded that there is not sufficient information to support the development of generally applicable coverage criteria.

The Medicare statute prohibits payment for any expenses incurred for items or services "which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member" (section 1862(a)(1) of the Social Security Act). In the absence of adequate data to determine whether heart transplantations meet this statutory requirement, we have determined that it is not appropriate to continue coverage of the procedures indefinitely. Therefore, we have terminated our tentative authorization to provide payment for heart transplantations.

At the same time, we have determined that the waiver of liability provisions in section 1879 of the Act (42 U.S.C. 1395pp) apply to heart transplantation procedures at Stanford and at the University of Arizona. Reimbursement of appropriate costs will continue to be provided with respect to Medicare beneficiaries who received heart transplantations, or who have been accepted as candidates for heart transplantations, at those centers on or before the effective date of this ruling.

As soon as possible, HCFA, in close cooperation with PHS National Center for Health Care Technology, will conduct a broad study of all aspects of Medicare coverage of heart transplants, including social, ethical, economic, and scientific issues. The study will also examine the impact of a coverage decision on beneficiaries, the Medicare program, and competing health care providers. The study will include patient care costs for a limited number of Medicare beneficiaries accepted for transplantation at appropriate institutions.

When the results of the study have been analyzed, we will publish a proposed decision as to Medicare coverage and give the public an opportunity to participate fully in the development of the final policy, with all pertinent facts being made available for analysis.

Ruling: Effective June 13, 1980, heart transplantations and medical treatment directly associated with heart transplantation procedures are excluded from Medicare coverage, except as provided below.

Medicare payment may be made, as authorized under section 1879 of the Social Security Act, for heart transplantations and medical treatment directly associated with heart transplantations, performed on Medicare beneficiaries at Stanford University Medical Center and at the University of Arizona Medical Center, but only with respect to heart transplantations that (1) were performed on or before June 12, 1980, or (2) are performed on transplantation candidates accepted on or before June 12, 1980.

(Sections 1102, 1862(a)(1), and 1879 of the Social Security Act; 42 U.S.C. 1302, 1395y(a)(1), and 1395pp)

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hospital Insurance and No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: July 31, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80-23869 Filed 8-5-80; 8:45 am]
BILLING CODE 4110-35-M

Public Health Service

Office of Health Research, Statistics, and Technology; National Center for Health Care Technology; Scientific Evaluation of Medical Technology

The National Center for Health Care Technology (Center) announces that it is beginning a scientific evaluation of the clinical safety and effectiveness of electrical stimulation for treatment of facial nerve palsy. Based on this evaluation, a recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy.

V. 45 / 153 AUG 6 80 UMI

Any person or group wishing to provide the Center with information relevant to this evaluation should do so in writing no later than 30 days from the day of this notice. To enable the Center's staff to give appropriate consideration to any literature references or analyses of clinical data, a written summary no longer than 10 pages should be attached to any such material submitted.

Written material should be submitted to: National Center for Health Care Technology, Room 17A–29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: D. J. Cotter, Health Science Analyst, National Center for Health Care Technology, Room 17A–29, Parklawn Building, Rockville, Maryland 20857, (301) 443-4990.

Dated: August 1, 1980.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-23576 Filed 8-5-80; 8:45 am]

BILLING CODE 4110-85-M

National Council on Health Care Technology; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463) notice is hereby given that the sixth meeting of the National Council on Health Care Technology, established pursuant to the Health Research, Health Statistics, and Health Care Technology Act of 1978 (Pub. L. 95–623) which advises the Secretary and the Director of the National Center for Health Care Technology on the activities of the Center will convene on Thursday, August 14, 1980 at 9:30 a.m. and Friday, August 15, 1980 at 9:00 a.m. in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

This meeting will be open to the public from 9:30 a.m. to 4:00 p.m. on August 14 and from 9:00 a.m. to 4:30 p.m. on August 15 to discuss the business of the Council and the Center. Principal consideration and discussion will be devoted to the reports of the Subcommittees on Criteria and Research Agenda, Coverage, and Grants and Contracts.

Additionally, there will be updates on Center activities including the heart transplant evaluation project, coverage issues, End Stage Renal Disease, and a report on the OTA Cost Effectiveness Study. The Council will also discuss the process for development of criteria and the process for development of critieria and standards for the use of health care technologies and finalize the Goals of the Council.

This meeting on August 14, 1980, will be closed to the public from 4:00 p.m. to adjournment in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information regarding the Council may be obtained by containing Sharon Paino, Acting Executive Secretary, National Council on Health Care Technology, Room 17A–43, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: July 17, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-23599 Filed 8-5-80; 8:45 am]

BILLING CODE 4110-85-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 153

Wednesday, August 6, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Reserve System	2, 3
International Broadcasting Board	4
Tennessee Valley Authority	5

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, August 15, 1980.

PLACE: 2033 N Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1486–80 Filed 8–4–80; 11:24 am]

BILLING CODE 6351–01–M

2

FEDERAL RESERVE SYSTEM.

(Committee on Employee Benefits of the Board)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 PR, 51041, July 31, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Tuesday, August 5, 1980.

CHANGES IN THE MEETING: Change in the time of the above closed meeting to 10 a.m., August 5, 1980.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 1, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–1483–80 Filed 8–1–80; 4:18 pm]

BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, August 11, 1980.

PLACE: 20th Street and Consitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 1, 1980.

Theordore E. Allison,

Secretary of the Board.

[S–1484–80 Filed 8–1–80; 4:19 pm]

BILLING CODE 6210–01–M

4

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE:

2:30 p.m., August 14, 1980.

9:30 a.m., August 15, 1980.

PLACE: Board for International Broadcasting Conference Room, Suite 430, 1030 15th Street, N.W., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, Suite 430, 1030 15th Street, N.W., Washington, D.C. 20005, 202–254–8040.

[S–1485–80 Filed 8–4–80; 11:04 am]

BILLING CODE 6155–01–M

5

[Meeting No. 1250]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 2 p.m., Monday, August 11, 1980.

PLACE: Conference room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

DISCUSSION ITEM: 1. Preliminary rate review.

ITEMS FOR ACTION: (A) Project authorization:

1. No. 3522—Design and construction of auxiliary shop/storage building for Power Service Shops, Muscle Shoals, Alabama.

(B) Purchase awards:

1. Req. No. 603009—Indefinite quantity term contract for unleaded gasoline for any TVA project or warehouse.

2. Req. No. 827480—Indefinite quantity term contract for fabricated nuclear quality reinforcing steel for Browns Ferry, Sequoyah, and Watts Bar Nuclear Plants.

3. Req. No. 823216—Seismic pipe supports for Yellow Creek Nuclear Plant.

4. Req. No. 827543—Indefinite quantity term contract for reinforcing steel for Phipps Bend Nuclear Plant.

5. Req. No. 529930—Requirement contract for wet-process phosphoric acid for Division of Chemical Operations, Sheffield, Alabama.

[1] 6. Req. No. 826975—Insulation for precipitators, ductwork, and related equipment, including installation, for Cumberland Fossil Plant.

7. Amendment to contract 71C62–54114–2 with Babcock and Wilcox Company, Lynchburg, Virginia, for Nuclear Steam Supply Systems for Bellefonte Nuclear Plant.

(C) Power items:

1. Agreements covering certain distributors' participation in TVA's systemwide load research program.

2. Transmission service agreement supplementing existing agreements with Alabama Power Company.

3. New power contract with Champion International Corporation, Courtland, Alabama, and deed and bill of sale conveying certain facilities in TVA's Nance 161–kV Switching Station to the Corporation.

4. New power contract with Fort Loudoun Electric Cooperative.

5. New power contract with Holston Electric Cooperative.

6. New power contract with Appalachian Electric Cooperative.

(D) Personnel actions:

[1] 1. Change of status for Larry H. Edwards from Assistant to the Manager, Office of Engineering Design and Construction, to Deputy Manager of Planning and Budget, Office of Planning and Budget, Knoxville, Tennessee.

[1] 2. Change of status for Douglas W. Hulme from Assistant Comptroller to Chief, Accounting Policy and Procedures Staff, Office of Planning and budget, Knoxville, Tennessee.

[1] 3. Change of status for Donald W. Earl from Project Manager, Office of the General Manager, to Chief, Financial Analysis and Cost Management Staff, Office of Planning and Budget, Knoxville, Tennessee.

[1] 4. Change of status for Daryl R. Armentrout, Assistant to the Manager, Office

V 45 / 153 AUG 6 80 UMI

of Engineering Design and Construction, Knoxville, Tennessee.

[1] 5. Change of status for James B. Bussell from Chief, Management Planning Staff, Engineering Design and Construction to Assistant to the Manager, Engineering Design and Construction, Office of Engineering Design and Construction, Knoxville, Tennessee.

[1] 6. Change of status for Gene M. Wilhoite from Chief, Civil Engineering & Design Branch, to Assistant Director, Division of Transmission Planning & Engineering, Office of Power, Chattanooga, Tennessee.

7. Renewal of consulting contract with Jack E. Gilleland, Signal Mountain, Tennessee, for advice and assistance in connection with TVA's power and energy-related programs, requested by the Office of Power.

8. Renewal of consulting contract with Roy W. Carlson, Berkeley, California, for advice and assistance in the field of concrete dam construction and inspection, requested by the Office of Engineering Design and Construction.

9. Renewal of personal services contract with Hartford Steam Boiler Inspection and Insurance Company, Hartford, Connecticut, for performance of authorized inspection services at TVA nuclear power plant sites, requested by the Office of Engineering Design and Construction.

(E) Real property transactions:

[1] 1. Grant of permanent easement to the Hiwassee Utility Commission, Athens, Tennessee, for a water pipeline, affecting approximately 0.15 acre of Chicamauga Reservoir land—Tract XTCR–169WL.

2. Grant of permanent easement to the city of Lexington, Tennessee, for a water treatment plant expansion, affecting 1.9 acres of Beech Dam Reservation land—Tract XTBRBR–1WP.

3. Sale of permanent easement to AAA Communications Company, Inc., for construction, operation, and maintenance of radio and television communication systems, affecting approximately 0.05 acre of TVA's Donelson Microwave Repeater Station site—Tract XCNRS–1E.

4. Sale of permanent easement to Lonas Strevel to resolve an encroachment created by the construction of an apartment building, affecting 0.09 acre of Cherokee Reservoir land—Tract XCK–570B.

5. Filing of condemnation suits.

(F) Unclassified:

1. Proposed sale of surplus property—Miscellaneous warehouse items (electrical cable, conduit, pipe fittings, pipe, small tools, etc.) in various quantities at several TVA projects.

2. New TVA policy code relating to the management of hazardous material and waste.

3. Revised TVA policy code relating to mosquito control and repeal of TVA policy code relating to malaria.

4. Final decision of the Secretary of Labor in the dispute resulting from the 45th Annual Wage Conference between International Brotherhood of Painters and Allied Trades and TVA relative to a prevailing wage for painters.

5. Changes in designation of officers to certify vouchers.

Dated: August 4, 1980.

CONTACT PERSON FOR MORE INFORMATION: Craven Crowell, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–1467–80 Filed 8–4–80; 4:43 pm]

BILLING CODE 8120–01–M

[1] Approved by individual Board members. This would give formal ratification to the Board's action.

V 45 / 153

AG 6 80

UMI

federal register

Wednesday
August 6, 1980

Part II

Department of the Interior

Bureau of Land Management

Alaska Native Allotment Act; Requirements for Occupancy and Use of a Native Allotment

V 45 / 153 AG 6 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2560

Alaska Native Allotment Act; Requirements for Occupancy and Use of a Native Allotment

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking will provide a procedure for carrying out the policy of the Department of the Interior regarding the requirement for 5 years use and occupancy under the Alaska Native Allotment Act, as amended. This procedure clarifies requirements for eligibility for a Native allotment and allows the orderly conveyancing of those allotments to Alaska Natives.

DATE: Comments by October 6, 1980.

ADDRESS: Comments should be sent to: Director (650), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Sue Wolf, 202 343–6511;
or
Robert C. Bruce, 202 343–8735.

SUPPLEMENTARY INFORMATION: This proposed rulemaking will incorporate Secretarial Order 3040, dated May 25, 1979, in the regulations of the Department of the Interior.

By memorandum from the Assistant Secretary, Land and Water Resources, to the Director, Bureau of Land Management, dated October 18, 1973, the Department of the Interior adopted a 5-year prior time rule for Native allotments. The memorandum sets out the rule as follows: "Vacant, unappropriated and unreserved land in Alaska is available for allotment under the Native Allotment Act. With respect to reserved or withdrawn land, if a Native has *completed* the 5-year period of statutory substantial use and occupancy prior to the effective date of the withdrawal or reservation, the withdrawal may be revoked and the allotment granted." This policy resulted in the denial of many applications for Native allotments. These denials have resulted in the filing of several lawsuits challenging this restrictive interpretation of the Act of May 17, 1906 (43 U.S.C. 270–1), which was repealed by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

In an effort to resolve the controversy, the Secretary of the Interior carefully analyzed the problem and on May 25, 1979, issued Secretarial Order 3040 which rescinded the policy position taken in the October 1973 memorandum and replaced it with a new policy. The new policy still requires that the full 5-years use and occupancy shall have been completed prior to the granting of the Native allotment, but allows the applicant either to have filed for a Native allotment or commenced use and occupancy prior to the withdrawal of the lands. This new policy will be incorporated in the Native Allotment regulations by this rulemaking.

The principal author of this rulemaking to Ms. Sue Wolf of the Alaska Program Staff, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C) is required.

Note.—The Department of the Interior has determined that this document is not a significant regulatory action and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Act of May 17, 1906 (34 Stat. 197), as amended August 2, 1958 (43 U.S.C. 270–1—270–3), and the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), it is proposed to amend § 2561.0–8, Subpart 2561, Part 2560, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 2561.0–8 Lands subject to allotment.

* * * * *

(e) Lands covered by applications for allotment shall have been vacant, unappropriated and unreserved at the time the applicant filed an application for a Native allotment or at the time occupancy commenced.

James W. Curlin,
Acting Assistant Secretary of the Interior.
July 30, 1980.

[FR Doc. 80–23409 Filed 8–5–80; 8:45 am]
BILLING CODE 4310–84–M

V 45 / 153 AG 6 80 UMI

federal register

Wednesday
August 6, 1980

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Performance Bonding

V. 45 / 153

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 800, 801, 805, 806, 807, and 808

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Performance Bonding (Subchapter J)

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) amends portions of Subchapter J of its permanent regulatory program relating to bond and insurance requirements for surface coal mining and reclamation operations. The changes revise provisions concerning the period of liability, the form of the performance bond, performance-bond requirements for long-term facilities and disturbances, and release and forfeiture of the bond. Several of the changes are in direct response to a petition for rulemaking filed with OSM, while others were generated from comments received during the petition review process.

EFFECTIVE DATE: September 5, 1980.

ADDRESSES: Copies of these amendments may be obtained from the following OSM offices:

Headquarters, U.S. Department of the Interior, South Building, Room 153, 1951 Constitution Avenue NW., Washington, DC 20240; 202–343–4728.

Region I, Thomas and Hill Building, 1st Floor, 950 Kanawha Boulevard, East Charleston, WV 25301; 303–342–8125.

Region II, Suite 500, 530 Gay Street SW., Knoxville, TN 37902; 615–637–8060.

Region III, Room 502, Federal Building & U.S. Courthouse, 46 East Ohio Street, Indianapolis, IN 46204; 317–269–2600.

Region IV, Scarritt Building, 5th Floor, 818 Grand Avenue, Kansas City, MO 64106; 816–374–2618.

Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202; 303–837–5511.

Copies of public comments received on the petition for rulemaking and proposed rules discussed below may be obtained at: Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, DC 20240, (202–343–4728).

FOR FURTHER INFORMATION CONTACT: David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior; 202–343–4264, or Russ Price, P.E. Division of Technical Services, Office of Surface Mining, U.S. Department of the Interior; 202–343–4022.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM promulgated permanent program regulations as required by Section 501(b) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87) ("the Act"). Subchapter J, Parts 800–809, of the permanent program regulations pertains to bond and insurance requirements for surface coal mining and reclamation operations. Notices pertaining to Subchapter J have been published in the Federal Register as follows: 44 FR 15385–15393 (Mar. 13, 1979), with corrections published at 44 FR 15485 (Mar. 14, 1979), 44 FR 28005–28008 (May 14, 1979), 44 FR 49673–49687 (Aug. 24, 1979), 44 FR 52098 (Sept. 6, 1979), 44 FR 53507–53509 (Sept. 14, 1979), and 44 FR 66195 (Nov. 19, 1979).

Additionally, portions of the bonding rules, as well as other permanent program rules, were suspended by announcements appearing at 44 FR 67942 (Nov. 27, 1979) and 44 FR 77455 (Dec. 31, 1979). These provisions were suspended as a result of their reevaluation in the context of pending litigation (*In Re: Permanent Surface Mining Regulations Litigation*, filed May 9, 1979, D.D.C.—Civil Action 79–1144).

As a result of a petition for rulemaking filed by the Mining and Reclamation Council of America (MARC), Travelers Indemnity Company, and Green Mountain Company, ("the petitioners"), and comments received on the petition, OSM concluded that several Sections of Subchapter J needed revision. Refer to 44 FR 28005–28008 (May 14, 1979) and 44 FR 52098 (Sept. 6, 1979), respectively.

Amendments were proposed by OSM on January 24, 1980. The rules proposed January 24, 1980 (45 FR 6028–6042) and the accompanying preamble contain much of the basis and rationale for the final rules adopted herein and are hereby incorporated in this notice by reference.

In addition to the 60-day comment period ending March 24, 1980, the comment period was reopened June 27, 1980, (45 FR 43437) for 5 days to include a comment from the U.S. Department of Agriculture (USDA), Forest Service, and a discussion of an April 16, 1980, meeting held with USDA after the comment period ended. The subject of this letter was a proposed provision for early release of operator liability for reclamation, if the reclamation is conducted by a Federal, State, or independent agency as part of a research project. This request is part of an official petition process and subject to a separate rulemaking. The petition was published for comment June 18, 1980, (45 FR 41166) and a public meeting was held on July 10, 1980.

The final rules adopted today resolve issues identified in the petition submitted by MARC, issues suspended by OSM as directed by the U.S. District Court for the District of Columbia, and issues raised in comments received during the comment periods and public meetings of the petition for rulemaking and proposed amendments. Those amendments proposed January 24, 1980, (45 FR 6028) for which no substantive comments were received are being adopted today as final amendments to Subchapter J of the permanent program regulations except for Section 806.11(a), which was changed to include another type of bonding method. Other comments were received which were not pertinent to the issues opened under this rulemaking. These comments, although considered, are not addressed in this document.

The bonding rules, as amended in this notice, will serve as the Federal standard for State Permanent Regulatory Program submissions required by 30 CFR Chapter VII, Subchapter C, Part 732. However, because 22 State programs are currently being reviewed by the Secretary and others have approval, States will be given an opportunity at a later date to change their programs to reflect the amendments adopted today. If a State's program has been approved, OSM will notify the State of any changes it considers necessary and the State will have 6 months to make changes that can be made by a change in State regulations. The State will have until the end of its next legislative session to make the change if a change in State law is required.

For State programs which are pending an initial decision by the Secretary or which have been resubmitted on the basis of such an initial decision, the final decision on the programs will be based on the regulations as they existed when the State programs were submitted, subject only to changes that have been mandated by the Court. States may, at any time, propose to amend their programs to comply with these new amendments and, subject to requirements for public comment, the Secretary may approve amendments in accordance with 30 CFR 732.17. In addition, program submissions which contain provisions incorporating these new rules or provisions based on the proposed rules not adopted today may be approvable under 30 CFR 806.11(b) (formerly 30 CFR 806.11(c)), alternative bonding schemes, or under 30 CFR 731.13, the "state window" provision, if the required showings are made. The States will be advised of further changes that may be required at the time of the Secretary's decision on their programs and will be allowed 6 months or until the next legislative session to accomplish the changes.

Discussion of Comments on Proposed Rules Issued January 24, 1980 (45 FR 6028–6042)

Part 800—General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs

§ 800.5 Definitions.

OSM proposed changes in the definitions of the terms "self-bond" and "collateral bond" to coincide with changes in the self-bonding and collateral-bonding regulations that were made in response to the issues raised by the petitioners and other commenters. Many comments were received on the proposed changes. One commenter noted that in the proposed amendment of the definition of collateral bonds, negotiable bonds of the United States or municipalities were included, but negotiable State bonds were not. He pointed out that State bonds were considered a valuable asset in bonding collateral and should be included. As a matter of fact, the definition of collateral bonds in the March 13, 1979, rulemaking included negotiable State bonds as well as those of the United States and municipalities. State bonds were unjustifiably omitted from the amended definition, and OSM is adopting a definition of collateral bond which includes negotiable State bonds.

Another commenter pointed out that the definition of collateral bonds includes irrevocable letters of credit issued by a bank permitted to do business in the United States. However, he pointed out that some State laws may allow only those banks incorporated or authorized to do business in the State to issue letters of credit. This restriction could preclude a meaningful bond option in the form of letters of credit, and local banks with limited credit capacity might be unable to meet the needs of the coal mining companies. In order to remedy this situation, the commenter suggested that the regulations include a provision permitting letters of credit to be issued to OSM in behalf of the regulatory authority. OSM can find no legal basis whereby it could undertake to act as agent for a State regulatory authority in the manner suggested. Moreover, OSM believes that the States, not OSM, should determine whether or not to allow letters of credit from out-of-State banks. If a State's regulations prohibit banks that are not incorporated or authorized to do business in the State from issuing letters of credit, then the State must decide whether or not to change its laws. Therefore, the provisions for allowing any bank in the United States to issue letters of credit is retained for use with State discretion, and the recommended change has not been accepted.

Another commenter requested that the requirements for letters of credit and self-bonding be clarified so that the States have the option of authorizing these methods of bonding but not be obligated to use them. OSM believes that it is clear that letters of credit and self-bonding are options that the States may elect to use but are not required to. In Section 806.11, letters of credit and self-bonding are listed as two of five approved methods of bonding, but any one of the five types alone is sufficient, as is supported by the word "or." As proposed Section 806.11(a) states, "The regulatory authority *may* allow for (1) a surety bond, (2) a collateral bond, (3) establishment of an escrow account, (4) self-bonding, *or* (5) a combination of these bonding methods" (emphasis added). The regulatory authority is not required to utilize *either* letters of credit *or* self-bonding, but rather it may select any of the types of bonding individually, or in combination. Therefore, no additional clarification has been provided in the final rules.

A State commenter proposed that the self-bond definition be rewritten to clarify the term as follows: "*Self-bond* means the unsecured bond of the applicant accompanied by one or more agreements executed by other persons indemnifying the regulatory authority against loss by reason of the applicant's failure to fulfill its bond." OSM intends to further study the options for securing performance under self-bonding and is not now eliminating the requirement that self-bonds be secured. Therefore, this request has been deferred pending the outcome of the proposed study. The definition of the term "self-bond" is not amended at this time.

§ 800.11 Requirements to file a bond.

Cumulative bonding was proposed to allow flexible use of bonds and reduce the amount of bond coverage necessary if bond release and reinstatement on subsequent increments can be sequenced to an operator's advantage. OSM received many comments on the proposal to allow bond amounts to be calculated on a cumulative basis. One commenter stated that cumulative bonding was an important addition to other bonding alternatives. Another stated that cumulative and incremental bonding are needed, but that the bonding rules need further revision for the regulatory program to be effective, efficient, and of least cost to the public. Another noted that although cumulative bonding should prove beneficial in theory, record keeping would be "horrendous" and timing on bond release and filing of new bonds would have to be exact. One commenter was concerned about the adequacy of a bond amount calculated cumulatively to cover the full cost of reclamation. Another commenter addressed the necessity of correctly projecting the acreage to be disturbed in order to ensure a proper bond amount. A State commenter maintained that, except for the entire permit area, bond amounts should not be tied to acreage, as is done under incremental or cumulative bonding. The State believes that tying bond amounts to acreage under incremental and cumulative bonding is confusing because these regulations seem to imply that bonding obligations apply only to a particular area and do not extend to the entire permit area. The State also asked whether cumulative bonds would circumvent the bond-release criteria of Part 807 and would be released automatically to float to the next area to be disturbed.

OSM considered three options: (1) Retain the original provision of § 800.11 as published March 13, 1979, (2) adopt revised regulations for § 800.11 as proposed January 24, 1980, or (3) adopt revised regulations for § 800.11 as proposed by commenters. OSM believes that the most important factor in applying a cumulative bond is the achievement of the proposed schedule by which affected areas in various phases of reclamation and areas not yet disturbed are included or excluded in the amount of bond coverage. Of course, variation of the bond amount cannot be allowed in a manner that would ever result in the amount forfeitable falling below the actual estimated full cost of completing reclamation on all disturbed areas.

OSM agrees that keeping records, timing bond release and filing of new bonds, determining accurate bond amounts to cover the cost of reclamation, and projecting the areas to be disturbed could become problems for the regulatory authority. However, OSM believes that most of these problems are inherent under any bonding system, and are not unique to cumulative bonding.

Timing on bond release and the filing of new bonds is critical and is based on

AG 6 80 UMI

the successful completion of reclamation according to the proposed schedule. Bond release under cumulative bonding is subject to timing and other criteria of Part 807 such as notification, hearings, and inspection. OSM believes that under cumulative bonding, it is to the operator's monetary advantage to complete reclamation on schedule and to fulfill the other requirements of § 800.11(b)(2). Obtaining bond on additional acreage will be difficult and costly for the operator if reclamation on previous acreage has not proceeded on schedule. In addition, the operator could face bond forfeiture under §§ 808.13(a)(1) and (2) and 808.13(b)(3). Consequently, OSM believes that an operator choosing cumulative bonding would have sufficient vested interest to proceed with reclamation as scheduled, thus minimizing problems for the regulatory authority.

Determination of accurate bond amounts to cover the cost of reclamation and protection of areas to be disturbed are also critical and are problems inherent in other bonding systems. Operators who elect a cumulative bonding schedule must adhere to requirements of Parts 805 and 806 to ensure that the bond amount is adequate to meet the costs of reclamation. In addition, the operator must comply with § 800.11(b)(2), which provides that the operator "must identify the initial and successive incremental areas for bonding on the permit application map submitted for approval as provided in 30 CFR 780.14 and shall specify the proportion of the total bond amount required for the term of the permit which will be filed prior to commencing operations on each incremental area." Thus, the regulatory authority can use criteria in Part 805 to determine adequate bond amounts and in § 800.11(b)(2) to project areas to be disturbed.

Concern about liability under cumulative and incremental bonding is justifiable. However, § 806.12(c) and proposed § 808.12(c) clearly provide that liability under any bond (whether full, incremental, or cumulative) can extend to cover the entire permit area. Cumulative bonds are not released automatically, nor do they "float" to the next increment. The residual bond amount after release may be used on a successive increment at the discretion of the regulatory authority. Cumulative bonds, as with other types of bonds, are subject to the bond-release criteria of Part 807 and bond-forfeiture requirements of Part 808. Therefore, OSM believes that no further clarification is necessary under § 800.11 concerning bond-liability or bond-release requirements.

On the basis of the foregoing discussion, and the frequency of inspections required by the Act, OSM has selected option 2. Cumulative bonding will allow an operator to provide a single bond for a permit area including all or part of the increments at differing levels of mining activity. Unlike bonds on separate increments, the forfeitable amount of the cumulative bond may vary as areas are added or deleted. As in incremental bonding, the total bond posted must be sufficient to assure completion of the reclamation plan by the regulatory authority in the event of forfeiture.

OSM proposed amendments to § 800.13(a) and (d) regarding forms for filing performance bonds and limiting the acceptance of self-bonds in lieu of surety or collateral bonds to instances where the permittee meets the requirements of § 806.14 and any additional requirements for a State or Federal program. No comments were received on these amendments. Consequently, these amendments are adopted without change.

Part 801—Bonding Requirements for Underground Coal Mines, Coal-Processing Plants, Associated Structures, and Other Coal-Related Long-Term Facilities and Structures

A new Part 801 was proposed at the suggestion of the petitioners to distinguish between a surface mine (short duration) bonds and the long-term bonding aspects of underground mines and coal-related processing facilities. Commenters were concerned with the need for this distinction and in general agreed with the provisions.

§ 801.11 Applicability.

This Section establishes that the Part applies to portions of coal mines and coal mining operations which generally have a life in excess of 5 years and continually disturb the same surface areas, operations such as underground mines, coal-processing plants, refuse areas, and coal-loading facilities.

§ 801.11(a)(1).—A commenter referring to proposed § 801.11(a)(1) maintained that if "continuously disturb the surface" is a condition of this Part, then the subsidence-control measures to be constructed under § 801.16(a) should not be included within its scope since, when completed, construction does not continue to disturb the surface. The intent of this Part is to include bond coverage only for construction of *surface* measures to prevent subsidence (as opposed to purely underground construction, such as backstowing), and therefore § 801.11(a)(1) has been revised to include the cost of construction of the facilities enumerated under § 801.16 as calculated as part of the bond amount under § 805.11.

§ 801.11(b).—This Paragraph as proposed intended to allow those operations listed in § 801.11(a), when conducted on a larger area at a surface mine, to be bonded under the method for long-term operations as a separate increment of the surface mining permit. This does not mean that a separate permit must be issued for both the surface and long-term operations.

§ 801.13 Period of liability.

This Section provides for continuous bond coverage by requiring that bond extension or replacement be posted 120 days prior to expiration of any bond. A commenter referring to the proposed language felt that provisions should specify an "extend or pay" clause, especially for letters of credit. This would ensure continuous coverage and all parties would be aware of the conditions of bond coverage. Section 801.13 has been clarified to specify the terms of liability on long-term operations and provide for continuous coverage throughout the liability period by requiring replacement or extension of bond coverage subject to forfeiture for failure to comply. This aspect is particularly important in operations nearing the end of their useful productive life. An operator may find increased difficulty in obtaining a replacement bond in this period. This provision requires that the operator and surety, if applicable, consider the consequences of forfeiture if bond coverage through extension or replacement is not provided. Since bonds must provide continuous coverage until replaced or released, the option of developing an escrow account or guarantees provided by the "Combined surety/escrow method," § 806.17, may be more acceptable, especially toward the end of the operation.

A commenter pointed out that this Section apparently requires a *new* bond to be posted to renew a permit and recommended that provisions be added for extending the current bond for the renewal term. The option of continued coverage is acceptable to OSM and would afford the same degree of coverage while giving maximum flexibility to extended bond coverage. This provision has been incorporated in Section 801.13(b) by deleting the word "new" in the final rule and allowing extension of current coverage.

§§ 801.14 and 801.15

No comments were received on proposed Sections 801.14 and 801.15. Therefore, these Sections have been incorporated into these final rules.

§ 801.16 Subsidence and mine drainage.

This Section requires that surface measures constructed to prevent subsidence be bonded. Since the bonded surface area of an underground mine may be isolated from surface-owners' property, the inspection of these surface measures may require access to private property.

§ 801.16(a).—One commenter posed the problem of what will happen if a property owner refuses to permit the regulatory authority access to his or her property for the purpose of inspecting surface facilities proposed to be released from bond coverage. No suggested remedy was offered. The Act requires surface disturbances to be bonded, and since the surface measures provide protection to the surface owner's property, it would appear to be in the best interest of both the operator and the owner to ensure proper construction to prevent subsidence and allow bond release. If the surface owner denies access for inspection, the regulatory authority should advise the surface owner of the pending bond release and request his or her comments. If no commnets are received, the bond may be released. Care should be taken that all correspondence is by certified mail with return receipt. A specific provision has been added to § 801.16(a) to provide guidance for bond release on surface measures if an owner refuses to allow inspection by the regulatory authority. It should be emphasized that although surface measures are taken, unplanned subsidence continues to be an operator responsibility under § 817.124(b).

Several industry commenters requested the addition of an exemption from bonding of surface measures when using conventional room-and-pillar mining methods similiar to that provided in § 817.121. They felt that since this mining method is usually conducted so as to preclude subsidence, no bond should be required. OSM feels that this Section clearly requires no bond if a method to control subsidence which does not disturb the surface is used. OSM agrees with this rationale, but feels that a blanket exemption is unnecessary. Under the room-and-pillar method, no surface measures are taken whether planned subsidence occurs or not, since the method is in itself a measure to prevent subsidence. However, if room-and-pillar methods cause unplanned subsidence, and damage to surface land use occurs, the provisions of § 817.124 apply. Therefore, OSM feels that an exemption for room-and-pillar mining is not required under the applicability of this Part. This provision is not considered to conflict with § 817.121, which authorizes the room-and-pillar mining method.

One State commenter pointed out that the State plans to require monitoring of subsidence regardless of whether subsidence is expected or not, and that their bond amount would include monitoring-survey costs. OSM feels that bonding of ongoing surveys to monitor subsidence may be included as part of more stringent control measures required under State reclamation-plan requirements, but that this requirement would exceed the bonding requirements of this Part if no subsidence is planned. Thus, a provision of this nature in the State program would be considered more stringent. Sections 817.121–817.124 provide insurance coverage or financial coverage for reimbursement for any damage caused by unplanned subsidence. OSM believes that only quantifiable actions fall under bond coverage and that unknown, unestimatable actions or ongoing monitoring are beyond the scope of performace bonding. Therefore, no provision for including monitoring-survey costs in the bond amount has been added to this Part.

§801.16(b).—This Section as proposed would have required bonding of surface facilities constructed to provide treatment of mine drainage. Such facilities may remain indefinitely to treat drainage or may be removed with the termination of mining. If revegetation has progressed satisfactorily and a sedimentation pond is no longer necessary, the impoundment may be removed. A commenter requested clarification of the extention of the liability period if sedimentation ponds and impoundments are to be removed as part of the postmining land use. Section 805.13 of the proposed regulations requires an extension of the liability period of 5 or 10 years if the impoundment is removed during the original-liability period. The regulations provide two alternatives to the regulatory authority. First, it may separate the area disturbed and reclaimed for removal of the impoundment as a segment of the bonded area as provided under Section 805.13(c); second, it may call for or authorize removal of the impoundment and reclamation of the area early in the original liability period as long as the conditions of Section 807.12 are met with respect to revegetation, sediment control, and runoff. Conditions of § 807.12(e)(2) (i) and (ii) must be met with respect to performance standards for sediment control and runoff, and an adequate standard of vegetation established before a sedimentation pond may be removed. The revegetation work on the impoundment area is subject to the full applicable liability period, thereby requiring extension. However, early removal in the original liability period will minimize the extended period.

OSM belives that no specific provision is required to address this problem, that adequate flexibility exists in the provisions of Section 805.13 for extension of liability on either permit or increment, separation of bonded areas, or approval or reclamation practices to allow a regulatory authority to handle this condition on a case-by-case basis. However, additional language has been added to clarify the intent that areas from which impoundments have been removed are subject to the liability period in determining successful revegetation.

§ 801.17 Bond forfeiture

This Section sets forth the conditions for bond forfeiture. No specific comments were received; therefore, this Section has been adopted as proposed.

Part 805—Amount and Duration of Performance Bond

§ 805.13 Period of liability

§ 805.13(a)—This Section requires an operator to be responsible for revegetation of the permitted area. No amendment was proposed to § 805.13(a), but a comment was received. The USDA Forest Service pointed out that the provisions of Part 805 did not allow a research activity to accept responsibility for reclamation and relieve the operator from the bonding obligation. Research activities sometimes use abandoned mines or portions of active mines to evaluate new plant species or to conduct reclamation research. The Forest Service also proposed that an operator's liability under performance bond in § 805.13(a) be released if the responsibility for revegetation has been assumed by Federal or State agencies or entities for reclamation, research activities, or demonstration of reclamation technology, provided that the responsible agency or entity will provide for normal reclamation. The same proposal is included as part of a formal petition to amend rules issued June 18, 1980 (45 FR 4116) considered for public comment and discussion under proposed rulemaking. Therefore, OSM

V 45 / 153
AG 6 80
UMI

has elected not to make any changes herein.

§ 805.13(b)(1).—This Paragraph was proposed in order to adapt the revegetative liability provisions of § 816.116(b) to those of bonding liability as required by Section 509 of the Act. In February 1980, the U.S. District Court for the District of Columbia ruled that initiation of the liability period, as defined in § 816.116, was inconsistent with Section 515(b)(20) of the Act. Therefore, the proposed change will not be made. The bond liability period will commence after the last year after augmented seeding, fertilization, irrigation, or other work consistent with Section 515(b)(20) of the Act. Also, this Section extends the liability period if augmented practices are applied.

§ 805.13(b)(2).—This Paragraph appeared in the proposed rules in response to petitioners who felt that certain "good husbandry" practices should be allowed as an incentive for an operator to continue reclamation efforts on an area. The provision requires a regulatory authority to approve and document acceptable practices as part of the initial or amended permit which if exceeded will constitute augmentation.

§ 805.13(b)(3).—Comments were received discussing whether or not to allow selective husbandry practices without extending the period of bond liability. Most commenters felt that this provision provides essential clarification of factors which might extend the liability period. Others felt this provision was required to allow good conservation practices without punishment. A few commenters felt that any seeding, fertilization, or irrigation is contrary to the Act and should not be allowed. It is important to note that the distinction between augmented and normal conservation practices must be identified and that OSM requires that practices be documented and supported as normal for similar land uses in the geographic area in order to be considered. OSM proposed that § 805.13(b)(3) be amended because it believes that permanent reclamation success may occasionally require selective husbandry practices exclusive of augmented seeding, fertilization, or irrigation. Therefore, such practices may be allowed if the permittee can demonstrate that discontinuance of such measures after the period of liability expires will not reduce the probability of continuous permanent revegetation success. Corrective action such as pest and vermin control, pruning, and repair of any rills and gullies, and any reseeding and/or transplanting specifically necessitated because of these actions, should not require reinitiation of the extended liability period if such practices are completed within the first part of the applicable liability period.

§ 805.13(c).—This proposed Section provided that a portion of a bonded area requiring extension of the liability period might be separated from the original area and bonded separately, if approved by the regulatory authority. It was added at the suggestion of the petitioners to allow a portion of a bonded area to be extended instead of extending bond liability and delaying bond release on the entire area. Commenters generally supported the provisions of § 805.13(c), but felt the terms and conditions needed some clarification. One commenter indicated that the word "contiguous" in § 805.13(c)(2) is confusing and asked whether the term meant that such an area must be a single, distinguishable parcel rather than several scattered parcels. The same commenter also believed that the regulatory authority should be given the discretion of allowing severence of more than one extended-liability parcel.

OSM interprets "contiguous" to mean being in actual contact. Acceptance of the severance of a segment from the whole also calls for it to be isolated and distinguishable. When combined OSM believes these provisions sufficiently define the new area to be bonded. Liability may be extended on several parcels that have been determined to be insignificant, as a whole, to the entire bonded area if they are limited to distinguishable, isolated segments of the bonded area and are not scattered or intermittent occurrences throughout the entire bonded area.

§ 805.13(e).—This Paragraph was proposed to insert a provision to exempt a bonded area from general revegetation requirements if intensive agricultural land use is approved. Plaintiffs in a suit in the District Court for the District of Columbia (*In Re: Permanent Surface Mining Regulation Litigation* filed May 9, 1979 D.D.C.-Civil Action 79–1144) contended that this reference to an exception to the revegetation standards of Part 816 provided too much latitude in waiving specific revegetation standards. The Department agreed and informed the Court that this Paragraph would be amended to exempt the general revegetation standards only if an intensive agricultural land use was approved. No comments were received. Therefore, this Paragraph has been adopted as proposed.

§ 805.13(f).—Proposed Paragraph (f) was added at the request of commenters to the petition who suggested that the implementation of the postmining land use is not a requirement of the bond.

A comment was received objecting to the proposal that excludes bonding the implementation of an approved postmining land use. OSM has referred to Section 515(b)(2) of the Act and has determined that the operator is responsible only for restoring the land to a condition capable of supporting the proposed postmining land use; that is, those reclamation actions specified in the reclamation plan. Although the objector has a good point, the statute does not support that interpretation, and the Section is adopted as proposed.

§ 805.13(g).—Paragraph (g) as proposed would have provided additional clarification of the provisions of Paragraph (c) with respect to segmenting a bonded increment. No specific comments were received, and this Paragraph is adopted as proposed.

§ 805.14 Adjustment of amount.

Changes in § 805.14 (a) and (b) were proposed at the request of the petitioners to include notification of surety as well as permittee in bond adjustments. OSM proposed notification of all persons involved in bond coverage, as well as the surety and permittee, the other persons to be anyone with a property interest in bond collateral.

§ 805.14(a).—One commenter suggested that the phrase "or other persons involved in bond coverage" should be replaced with "permittee, surety, or any person with property interest in collateral offered as bond coverage." OSM concurs that this change would eliminate any misconception such as the commenter apparently experienced. The commenter rationalized that any member of the public may feel he or she has a right to request a bond reduction or to receive notice of proposed bond adjustment, because the entire public is indirectly involved in bond coverage due to public-hearing requirements for bond release, and that this provision could require extensive notification duties and delay bond readjustments. OSM feels that the commenter misread the regulation, but has agreed to amend the rule in order to avoid any further confusion. This change in § 805.14(a) has also been inserted in § 805.14(b).

Part 806—Form, Conditions, and Terms of Performance Bonds and Liability Insurance

§ 806.11 Form of the performance bond.

§ 806.11(a).—Paragraph (a) as proposed listed alternative bonding methods which a regulatory authority could adopt for bond coverage. No comments were received on this Paragraph. However, in adopting the final rule an additional method, combined surety/escrow bonding, has been added. The specific requirements of this alternative are explained under Section 806.17 herein.

§ 806.11(b) [originally § 806.11(c)].—Self-bonding was proposed as a separate Section 806.14 at the request of commenters on the petition who stated that, given the complexity and length of this Paragraph as originally promulgated, the provisions might be more easily addressed if self-bonding were separated.

OSM proposed to delete existing § 806.11(b) and issue it as a new § 806.14 and to redesignate § 806.11(c) as § 806.11(b). Comments and recommendations were requested on bonding alternatives that would better implement Section 509(c) of the Act for approving bonding alternatives. OSM received no substantive comments on the proposed redesignation. Therefore, OSM has redesignated § 806.11(c) as § 806.11(b) with no change in the text. No comments were received suggesting new or innovative alternatives to present bonding methods.

§ 806.12 Terms and conditions of the bond.

§ 806.12(e).—This section of the permanent regulations promulgated March 13, 1979, contains terms and conditions of surety bonds. These provtsions require the term of the surety bond to last for the life of the mine, noncancellation provisions, and limits on the amount a surety can post. Although § 806.12(e) was not opened for comment or proposed for amendment, a comment concerning the term of the bond was received and testimony heard that cited the restrictions of this section as detrimental to surety involvement in bonding of surface coal mine reclamation operations. A new § 806.17, "Combined surely/escrow bonding," has been added authorizing a provision for variation of surety liability when coupled with an escrow-bond replacement.

§§ 806.12(e)(6)(iii) and 806.12(g)(7)(iii).—These paragraphs as proposed would provide a compliance period of up to 90 days in which an operator could replace bond coverage if it is lost through bank or surety incapacity. Only favorable comments were received, and these sections are added as proposed.

§ 806.12(g)(2).—Paragraph (g)(2) as proposed provided that letters of credit be irrevocable, but permitted withdrawal if approved by the regulatory authority as part of the permit and if replaced with other suitable collateral. Commenters felt that clarification of the proposed rule regarding the terms and conditions of the rules governing the use of letters of credit was necessary. This was true both for letters of credit for surface mines and of renewal of bonds under Part 801. Commenters proposed alternative language that incorporates an "extend or forfeit" provision. OSM has considered the comments on this issue and has adopted the provisions by the commenter under section 806.12(g) to clarify the continued use of letters of credit as follows:

(1) Letters of credit are irrevocable during their terms and not indefinitely irrevocable or without termination date.

(2) Letters of credit used under Part 801, which are subject to forfeiture and collection by the regulatory authority if a suitable alternative or extension of the letter of credit is not provided 30 days prior to withdrawal, have been specified in the rule to provide specific requirement for continuous bond coverage.

§ 806.12(h).—This new section contains rules governing acceptance of real and personal property as collateral. The provisions of § 806.12(h) were proposed as suggested by commenters who cited the value of real and personal property as bond collateral and objected to the current restriction of this valuable asset to self-bonding. Therefore, this provision was proposed as a separate paragraph in Section 806.12. It was expected that this provision could create a problem for some States, and that the type and magnitude of the problem might vary from State to State. Comments by States, in particular, were requested regarding problems which might be anticipated in liquidating real or personal property and whether such liquidation could be handled within their administrative operations. Only one State indicated that liquidation would impose an excessive administrative burden under its practices. Consequently, OSM believes those States that have no difficulty with this provision or that experience problems which do not create excessive burdens should be allowed to accept real and personal property as collateral subject to the restrictions on value, quality and acceptable collateral in the Federal rules.

Section 806.12(h) proposed January 24, 1980, has been redesignated in the final rules as follows:

Proposed	*Has been adopted as*
806.12(h)(2)(iii)(c)	806.12(h)(3)
806.12(h)(2)(iv)	806.12(h)(4)
806.12(h)(2)(iv)(A)	806.12(h)(4)(i)
806.12(h)(2)(iv)(B)	806.12(h)(4)(ii)
806.12(h)(2)(iv)(C)	806.12(h)(4)(iii)
806.12(h)(2)(iv)(D)	806.12(h)(4)(iv)
806.12(h)(2)(iv)(E)	806.12(h)(4)(v)

§ 806.12(h)(1).—This section as proposed limited real and personal property used for collateral value to property located in the State where the mining is conducted. This provision was restrictive so that a State would have the legal authority to attach and liquidate land in that State in the event of forfeiture. A commenter recommended amendment of proposed § 806.12(h)(1) to allow the perfected first-lien security interest in personal property to include personal property not necessarily located in the State in which mining will be conducted. OSM has determined that the regulatory authority should have flexibility to determine whether to accept first-lien security interest in personal property not located in the State in which mining will be conducted. Section 806.12(h)(1) has been changed to allow the regulatory authority this flexibility. Regulatory authorities are cautioned to consider very carefully the degree of security involved in accepting property outside the State for collateral bonding purposes and, in particular, their ability to locate and gain possession of property and the difficulty they would experience in liquidating the properties in the event of forfeiture of bond.

§ 806.12(h)(2)(ii).—This section proposed that evaluation of property at fair market value be determined by appraisers appointed by the regulatory authority. One commenter suggested that companies be allowed to select independent appraisers certified in the State in which the property is located. Appraisers appointed by the regulatory authority would be appropriate, the commenter suggested, only in those instances in which the authority felt it was necessary to challenge the appraisal of a company-selected appraiser. Other commenters recommended one appraisal from the permittee and one by the regulatory authority, with the average value binding. OSM in considering these recommendations has accepted them in part. The wording of § 806.12(h)(2)(ii) has been changed to allow appraisals by any certified appraiser. The revised provision requires submission by the permittee of two independent appraisals by appraisers certified in the State where the property is located. Provisions also allow the regulatory authority the flexibility of having certified appraisers help in determining final, acceptable fair market value of property if the submitted appraisals are

V 45 / 153 AUG 6 80 UMI

questioned. The regulatory authority is ultimately responsible for making the final determination of property value.

§ 806.12(h)(2)(iii)(A).—This section proposed that attorneys evaluating a leasehold asset be competent and not company affiliated, as determined by the regulatory authority. This provision provides for an impartial evaluation of bond value. One commenter suggested that the regulatory authority has no jurisdiction over approving the competency of attorneys, who are professionals regulated by the courts. OSM agrees and has removed the requirement that the attorney be satisfactory to the regulatory authority, which implied a review of the qualifications of the lawyer by the regulatory authority.

§ 806.12(h)(2)(iii)(B).—This section stated that an abstracting office must be satisfactory to the regulatory authority. A commenter suggested that under § 806.12(h)(2)(iii)(B) the regulatory authority has no jurisdiction over approving the credentials of abstract offices who are authorized to transact business within the State, that they are regulated by another State agency. OSM agrees and has removed the requirement that an abstract office be satisfactory to the regulatory authority, and only requires that an abstracting office provide title certification.

§ 806.12(h)(3).—This section provides that real property which is offered as security for bonds may be accepted only after the reclamation standards of phase II are completed on such lands. One commenter suggested that § 806.12(h)(3) (which was proposed as § 806.12(h)(2)(iii)(C)) be changed to allow land which is part of the permit area to be used as security under collateral bonding if not to be mined initially. It is stated that for many operators, particularly small- to medium-size companies, the most valuable, unencumbered asset available for bond collateral is the coal land to be mined. OSM agrees that coal land not yet mined or disturbed and land that has been mined, and on which reclamation standards of phases II and III are complete, have asset value for real-property purposes of collateral bonding. This is evident from the intent to include real property as collateral at its value after reclamation. However, OSM has stipulated that real property, if used for collateral, shall not be mined under any permit, since the continuous value may not be assured throughout the term of the bond. Additionally, land already mined within the permit area cannot be used as security for collateral bonding until after the land has been reclaimed to phase II standards. Section 806.12(h)(2)(iii)(C) has been redesignated as § 806.12(h)(3) and reflects this position and has been incorporated into the rules as proposed.

§ 806.12(h)(4)(iv) [formerly § 806.12(h)(2)(iv)(D)].—This Section restricted securities under personal property to negotiable securities of the U.S. Government, municipal bonds, and general State revenue bonds.

Commenters on this Section requested that other marketable securities may provide adequate value for bonding purposes, subject to regulatory-authority acceptance. One commenter suggested that "investment-grade" marketable securities be accepted as collateral under this Section. OSM has considered broadening the acceptance of collateral to this type of security in securing the obligation of the permittee under bond. OSM has decided that this suggestion is a good one and has determined that the marketable securities of the major publicly or privately held corporations and companies are valuable assets, the value of which at any given time may be readily determined. The use of securities as collateral does not extend to common or perferred stock, investments subject to a margin call, or any interest in commodities and securities which are not rated by a nationally recognized securities rating service. OSM has changed the wording of this proposed Section by adding a phase which leaves it up to the regulatory authority (1) to decide whether or not the to accept securities proposed for collateral bonding purposes which are not negotiable bonds of the U.S. Government or general revenue bonds of the State and (2) the determine the soundness and value of such securities and the margin (ratio of bond value to market value) which might be acceptable for bonding purposes, and has redesignated this Paragraph as 806.12(h)(4)(iv) for clarity. The only restrictions on the use of marketable securities under collateral bonding are the specific provision for the securities to be those of highest rating assigned by a nationally recognized securities rating service and that the business entity represented in the security not be directly affiliated with the mining operation. This change is also reflected in the amended definitions of collateral bonds under Section 800.5.

§ 806.12(h)(4)(v) [formerly Section 806.12(h)(2)(iv)(E)].—This Section required that certificates of deposit be federally insured and that the depository be acceptable to the regulatory authority. One commenter argued that limiting securities, other than U.S. Government securities used for collateral bonding, to only federally insured (FDIC/FSLIC) accounts is impractical, because a bond in the amount of tens of millions of dollars would require securities purchased from hundreds or thousands of different financial institutions. OSM disagrees, since as of early 1980, amounts of up to $100,000 are insured by the FDIC/FSLIC. In addition, State-chartered financial institutions have accounts insured for various amounts. Because the provision is available to all operators, OSM has decided to retain this provision, even if some operators, large ones in particular, encounter slight inconvenience. The value of the insurance—reducing the risk to the regulatory authority—outweighs the inconvenience of this requirement. Therefore, no change has been made. However, the Section has been redesignated as § 806.12(h)(4)(v) from § 806.12(h)(2)(iv)(E) as proposed.

§ 806.12(i).—A new § 806.12(i) has been added to clarify the bond value which may be accepted in the use of real and personal property, especially marketable accounts and securities as collateral. This provision is required to establish a basis for determining the acceptable bond value of the collateral. If the total market value were accepted as bond value, the regulatory authority might have inadequate funds available for reclamation under conditions of forfeiture, because of the costs incurred through liquidation, legal expenses, withdrawal penalty, or through fluctuation of the market value due to depreciation, devaluation, or lack of market. This rationale is similar to that used by lending institutions in accepting credit risks in issuing secured loans. The regulatory authority must determine acceptable margins of liquidation value to market value to ensure continued financial assurance throughout the bond period. Additionally, the regulatory authority must evaluate the liquidation plan as part of the analysis of the collateral value to establish the fees involved in converting the collateral into cash. It is assumed that this rationale will apply to all collateral including letters of credit, certificates of deposit, real and personal property, and marketable securities authorized under the final rules. The margin percentages would vary for differing collateral, with those most convertible to cash the highest. This Section is added in conjunction with the acceptance of collateral for purposes of broadening the scope of performance assurance available to coal mine operators.

§ 806.13 Escrow bonding.

OSM proposed escrow bonding as an alternative means of generating bond collateral to cover extended liability in lieu of surety involvement, or paralleling a surety's involvement by compensating for additional increments under cumulative bonding, while having a constant surety bond. Escrow bonding is a form of collateral bonding, developed over a period of time through funds deposited with the regulatory authority or into an account payable only to the regulatory authority, on a coal-production, acreage-affected, or other similar basis. The provision was considered to allow flexibility in accepting bonding alternatives allowed by the Act which States may adopt at their discretion.

OSM believes that escrow bonding is a viable option and included this provision in the proposed rules, as stated in the preamble (45 FR 6028). OSM received two comments concerning escrow bonding. One industry commenter state that escrow bonding would not be a viable option for coal operators because it would tie up limited capital assets. While recognizing that some operators will not find the escrow-bond method viable for their operations, OSM believes that the benefits to other operators are sufficient to justify authorizing such an arrangement.

Escrow bonding is expected to supplement other bonding methods by replacing or adding bond coverage at a rate increasing with mining operations. The concept of escrow bonding as a supplement to other methods would provide the operator with (1) a method to develop a bond alternative which could be used to cover the liability period, (2) a method to develop a collateral bond in a short period to cover long-term facilities over the life of the operations and the subsequent liability period without imposing long-term involvement of surety companies, and (3) a method to compensate for bond increases due to inflation without renegotiating with the surety on all bond adjustments. An example of an escrow situation would occur is an operator posted a surety bond on the initial increment to be mined. By depositing an amount into an escrow account on the basis of production, the operator could establish collateral for the next increment. The original surety bond could remain constant throughout the life of the mine subject to other conditions of § 806.12(e). When mining operations end and the entire permit area is in varying phases of reclamation, the escrow account could be sufficient to cover the amount of bond required for the extended period of liability. This could eliminate a surety's role during the extended-liability period by releasing the surety's liability through provisions of § 807.11. This limited involvement of a surety would probably make it easier for an operator to obtain surety bonding. After reaching the end of the liability period, and approval by the regulatory authority, the balance of the escrow account would be released to the operator as with other collateral bonds.

The other comment, from a surety association, requested clarification of which bond would pay first under joint surety and escrow bond coverage if a bond were forfeited. It was also suggested that escrow funds be used initially to perform reclamation since the principal (operator) is primarily liable. With regard to the question as to which bond should pay first under joint surety and escrow bond coverage, OSM believes the parties involved should specify the order, as part of the bonding arrangement, in a binding agreement signed by the operator and surety. This determination should be made between the surety and the operator and be included in the surety contract, a copy of which is filed with the regulatory authority. The only criterion required by the regulatory authority is that the combination bond be sufficient to cover the full cost of reclamation. If the forfeited bond is in excess of the completed cost of reclamation, the residual money would be returned by the regulatory authority to the appropriate party.

On the basis of the foregoing discussion, OSM has elected to adopt the language proposed under § 806.13, without change.

§ 806.14 Self-bonding [originally § 806.11(b)].

Self-bonding was issued as part of the permanent regulatory program promulgating the statutory provisions of Section 509(c) of the Act which allow a permittee to self-bond under specific conditions. These conditions include a record of continuous operation and a satisfactory financial history. Conditions of bonding in general require sufficient indemnity or collateral for the regulatory authority to complete the reclamation operation if necessary under conditions of forfeiture. In the case of self-bonding, the regulatory authority must be satisfied the the bond under forfeiture has a sufficiently high cash value or that attachable assets may be liquidated for use in contracting for reclamation. Self-bonding has been the subject of much criticism since it was originally proposed.

Comments on self-bonding rules varied, but the most substantive stated that the provisions as proposed lacked the financial assurances necessary to complete reclamation. Commenters felt that an unsecured bond was in violation of the Secretary's own § 806.11(b). OSM received 50 comments on the proposed self-bonding regulations from 10 individuals and organizations. The general issues raised did not necessarily address the specific Sections which were opened, but changes were recommended for many of the provisions for self-bonding.

Some early commenters on the self-bonding regulations issued March 13, 1979, felt that the restrictions imposed in the regulations were unnecessarily severe, and that only the largest operators could consider this method. The surety industry feels if large operators are allowed to self-bond, they would no longer be among the surety industry's most desirable bonding clients.

The self-bonding rules published March 13, 1979, contained conditions which were intended to provide the degree of security necessary to meet the standard of ensuring that adequate funds would be available under forfeiture. The provisions require: (1) net worth to bond amount ratio of 6; (2) the operator to grant a security interest in collateral in favor of the regulatory authority; (3) submission of financial statements, including financial ratios; and (4) a signed agreement personally indemnifying the permittee, officers of corporations, or others signing the agreement. OSM received comments from many commenters including those writing surety bonds, environmentalists, regulators, and coal operators. The commenters felt that the provision for restricting the use of real and personal property to only self-bonding was discriminatory against small- and medium-sized operators, who would be unlikely to be able to meet the other qualifying provisions of self-bonding but who nevertheless have tangible assets in the form of real and personal property. To prevent such discrimination, OSM proposed to remove the real- and personal-property requirement from self-bonding and allow all operators/permittees to consider use of these assets as collateral bond.

Other commenters felt that the net-worth to bond-amount restriction was overly restrictive, by requiring standards of 6 times the bond amount to qualify for self-bonding. Therefore, OSM proposed to delete this provision. Another aspect cited in the comments as

V 45 / 153
AG 6 80
UMI

restricting the use of self-bonding was the requirement for a 10-year history of continuous operation and financial history. OSM considered this issue for change, but failed to find adequate support from the documents reviewed. (See preamble 45 FR 6028.)

A number of commenters were concerned about the requirement for a spouse's signature on the indemnity agreement, since an individual could not force a spouse to sign. OSM proposed to clarify this requirement by requiring a spouse to sign only if involved in the business.

In addition to the comments on the specific provisions of self-bonding, commenters cited the length and complexity of the rules as confusing and in need of rearrangement. Therefore, OSM proposed this Section on self-bonding as a separate § 806.14 to provided for this clarification, especially since the issue is included in a separate paragraph of the Act.

Among the most relevant comments received were those which stated that without the use of real and personal property as collateral the regulatory authority had no guarantee that funds would be available, especially under bankruptcy circumstances. Others felt that the use of an indemnity agreement alone would place financial and legal obligations on personal assets beyond the financial ability of the endorsees, and would not necessarily provide sufficient assets under forfeiture. It was pointed out that these persons would be signing as individuals who would be liable for financial assurance of the performance standards.

Other commenters questioned the need for highly detailed financial statements when securities and credit-rating services continually conduct financial analysis and continually analyze market indices. Others pointed out that while detailed provisions of self-bonding require financial data and interest in property, minimum standards for acceptance of ratios and for financial solvency were not specifically addressed.

Some commenters felt that self-bonding should be allowed for qualifying companies, so that the surety bonding market would be available for those who do not qualify. Sureties, on the other hand, stated that operators who could not self-bond under the OSM rules might not be considered for surety bonds, depending on self-bonding criteria of the regulatory authority.

A State regulatory authority pointed out that self-bonding without the requirement for collateral support does not comply with the provisions of the Act or § 806.11(b) of the rules, which require adequate funds be available at all times for reclamation and that there be substantial economic incentives for compliance. An operator in financial distress would (1) not have adequate funds to forfeit by which to complete reclamation and (2) have no economic benefit to be gained by completing the reclamation.

Other commenters cited including a need to develop a rationale for reviewing self-bonding, and a method for screening the potential self-bonding applicant. Also, they felt that a permittee should be able to understand the basis for qualifying for self-bonding before deciding whether to apply.

Therefore, on the basis of the general lack of support of the self-bonding rules as proposed and the need to further evaluate the provisions, OSM has chosen to leave in place the rules as they were published on March 13, 1979 (44 FR 15387). OSM believes that self-bonding as adopted in the permanent program rules provide highly secure financial assurance that reclamation will be completed, because the indemnity agreement provides a financial interest in marketable assets if forfeiture occurs. OSM also believes that the addition of real and personal property as part of collateral bonds and the provision for escrow accounts and combined surety/escrow bonds provide additional methods of self-bonding which are available to all operators.

OSM considered three options in rejecting the proposed amendment to the rules proposed January 24, 1980: (1) To further revise the proposed rules to comply with the commenters' requests, which woud probably require further public comment, (2) to delete self-bonding entirely, or (3) to reinstate the rules issued March 13, 1979, under the new Section 806.14 and further investigate and propose changes and modifications to correct identified deficiencies.

In considering these options, OSM felt that deleting the self-bonding rules entirely would delete a statutory requirement which, although criticized as being overly stringent, nevertheless is considered to provide the adequate degree of assurance the Act intends. Revising the proposed rules to provide adequate cash under forfeiture and to provide economic incentive requires reinstating of the security interest in real and personal property and qualification standards not in the proposed rule. This would further delay the issuance of this rulemaking by requiring further comment and analysis. Therefore, options 1 and 2 were rejected, and option 3 has been selected with the provision that OSM acknowledges the difficulties observed in the original self-bonding provisions and accepts all comments received during this rulemaking for consideration in evaluating further amendments to self-bonding.

OSM intends to conduct a study of alternatives to the original language and identification of implementing qualification guidelines. The proposed study will encompass methods to evaluate companies who should be eligible for self-bonding, methodology for review of financial credentials, guidelines to establish qualifying financial ratios, the nature and effect of operating histories, collateral requirements, corporate and individual liability, risk-analysis techniques, and other specific elements of the detailed provisions in § 806.14 not opened during this rulemaking. OSM will present the results of the study for public comment in a future rulemaking. Until revised, the provisions issued herein shall be used in any self-bonding program for surface coal mining operations.

OSM finds, based on the comments and discussion above, that self-bonding as proposed in the January 24, 1980 (45 FR 6028) rules, does not provide adequate financial assurance to the regulatory authority, and has decided to retain the rules governing self-bonding as they were promulgated March 13, 1979. A regulatory authority finding that amendments are necessary to self-bonding, and that demonstrates adequate financial assurances, can be submitted as a formal request for OSM consideration as a "State Window" under provisions of 30 CFR 731.13 and in accordance with alternative bonding systems under 30 CFR 806.11(b) of this notice.

As was proposed January 24, 1980, however, original § 806.11(b) is redesignated as § 806.14, § 806.11(b)(1) becomes § 806.14(a), and so forth throughout.

§ 806.17 Combined surety/escrow bonding.

Section 806.17 is added to the regulations as an extension of the use of escrow bonds in conjunction with surety coverage. This method resulted from comments from surety and industry to allow a short-term solution to surety liability. One industry commenter expressed concern over the restrictions imposed on the surety companies in writing bond coverage. These restrictions included the long-term nature of the bond and the noncancellation requirements. In a meeting with the Surety Association of America at the Department of the Interior on March 6, 1980, the surety representative expressed the following reasons for the surety industry's reluctance to issue bonds: (1) long-term commitment, (2) lack of control of bond amount due to adjustment for unforeseen reclamation costs, and (3) delay of bond release due to citizen involvement in the bond-release process.

The commenter cites, for example, the requirement that the regulatory authority not accept a surety bond unless it is noncancellable by the surety for any reason. The commenter sees this as an attempt by OSM to impose its own standards of insurable risks upon the surety industry and to force a merger of the obligations of the surety and the operator not for the life of a bonding contract negotiated at arm's length by the surety and the operator, but for the life of the mine plus up to 10 additional years. It is contended that this forced merger is excessive and unfair and that unless a mechanism is created to balance the projected cost of surety bonding with the projected revenues from providing such an instrument, surety companies will elect not to offer surety bonding.

In answer to these concerns of the surety industry, the commenter suggested a possible solution that would allow short-term bonding of a duration of 1 to 2 years. At the end of the initial period, the operator could replace the surety bond either by renewal or by posting another alternative bond acceptable to the regulatory authority.

OSM has reviewed this proposal and has determined that the provisions for long-term surety bonds must remain unchanged, because the Act requires bond coverage to extend until reclamation has been completed. Therefore, unless a specific alternative coverage is introduced to release a surety liability, the bond must extend for an indefinite term. However, the comment recommending that a provision be developed to allow short-term surety bonds led to the consideration of surety terms which, when combined with other demonstrated financial assurance such as an escrow account, would allow the surety company to avoid long-term commitment, could allow a constant surety bond amount by varying escrow deposit rates to cope with adjustments, and subject the escrow balance rather than the surety bond to public comment. This relief from the burden pointed out by the surety industry is similar to that of substitution of bonds in § 805.15. This alternative would provide the conditions requested by the commenters, but it would obligate an operator to establish an escrow account to ensure adequate substitution upon surety-bond termination. The method as issued provides for a surety bond to be issued for a fixed term and fixed amount, with a guaranteed escrow replacement upon surety bond expiration. The surety bond may be reduced periodically or remain constant, but the total bond amount must equal or exceed the estimated reclamation costs. Conditions of forfeiture for the combined surety/escrow bond method would include failure to maintain the escrow in accordance with the established deposit schedule. The regulatory authority and surety would receive quarterly escrow statements.

Since this bonding method combines surety and escrow methods, but alters the terms of the surety bond from those in § 806.12(e), this alternative has been issued under § 806.17, "Combined surety/escrow bonding," for adoption in State and Federal regulatory programs as deemed appropriate. OSM believes that this method will facilitate surety-industry involvement in the bonding of coal mine reclamation by eliminating some of the more objectionable restrictions.

Part 807—Procedures, Criteria, and Schedule for Release of Performance Bond

§ 807.12 Criteria and schedule for release of performance bond.

§ 807.12(a).—As proposed, this Section would have allowed the regulatory authority discretion to release a portion or all of the performance bond upon completion of reclamation by providing that it "may" release, portions rather than that it "shall" release. Commenters requested that the wording of § 807.12(a) be changed to require the regulatory authority to release specific bond amounts as each phase of reclamation is completed. The proposed language is consistent with Section 519(c) of the Act which states "may," indicating an intention that the regulatory authority have the discretion to release. Thus, to adopt the commenters' suggestion and make release mandatory would be in conflict with the Act. Consequently, OSM feels that no change is required in this Section.

§ 807.12(b).—This Paragraph sets forth the maximum amounts of bond which may be released by the regulatory authority as reclamation phases are achieved. The provisions as published March 13, 1979, allow 60 percent, 25 percent, and 15 percent release for phases I, II, and III, respectively. Industry comments have presented proposals for varying the percentage release and redefinition of the reclamation phases. Several commenters responded to the Department's request in the notice of proposed rules to present alternative bond-release percentages under this Section. Review of the proposals shows the following breakdowns of bond-release percentages:

Percentage of bond released

Phase	Existing rules 30 CFR 807.12	Proposal 1	Proposal 2	Proposal 3
I Backfilling and grading, drainage control, and topsoil replacement	60	[1] 60	60	60
Topsoil replacement and seeding		15		
II Successful vegetation	25	20	30	35
III Termination of liability	15	5	10	5

[1] Does not include topsoil replacement.

Permanent rule § 807.12 interprets bond-release phase I as including the following stages:

(a) Backfilling and regrading: Return of overburden material to achieve rough contour as set forth in the reclamation plan.

(b) Topsoil replacement: Return of the soil horizons which are capable of supporting vegetation, and fine grading of this stratum to finished contours.

(c) Drainage control: Construction of diversion ditches, swales, erosion-control structures, sediment control, and other aspects of fine grading required before initial planting.

In considering a separation of the initial reclamation phase into (1), backfilling, grading, and drainage control, and (2) topsoil replacement and seeding, the following proposals were made by commenters.

Proposal 1 would allow 60 percent of the bond to be released upon completion of backfilling and grading, 15 percent upon completion of topsoil replacement and initial planting, and 20 percent upon achievement of vegetative success, with 5 percent retained during the liability period.

The industry commenters took the position that replacing topsoil and seeding an area should be considered as another phase, separate from backfilling, grading, and drainage control, because backfilling and grading can be performed continuously, whereas topsoiling and seeding are seasonal. They argue that under current rules, bond release on a backfilled and graded area must wait until topsoil replacement and drainage control have been achieved before any release is possible. Section 519(c)(1) of the Act clearly requires that an operator complete backfilling, regrading, and drainage

V 4 5 / 1 5 3
A G 6 8 0
UMI

control before 60 percent of the bond can be released. At the time of completion of backfilling operations alone, only a portion of the 60 percent could be released. Some States, in proposing additional phases of bond release, have specified 40 percent for backfilling and 20 percent for topsoil replacement. This interpretation coincides with the OSM interpretation of the Act. Therefore, OSM considers a 75-percent release of bond upon completion of backfilling, grading, and topsoil replacement, as specified in proposal 1, to be excessive.

Proposal 1 calls for retention of 5 percent of the bond for the extended-liability period as sufficient to repair any problems existing during the 5- or 10-year waiting period.

OSM believes that 5 percent of the total bond might be adequate for repairing isolated occurrences of vegetation failure if the funds were available on an average per-acre basis, but Section 509 of the Act requires sufficient funds for a third party to reestablish revegetation in the event of a failure and does not specify whether reparable or total vegetative failure has occurred. The cost of seedbed preparation, seeding, fertilization, and any augmented practices to ensure vegetative success must be considered in developing the cost of reestablishing revegetation. Therefore, an amount of not less than the original cost to an operator of establishing the vegetation must be used as a basis for the amount retained. This vegetative portion of the bond must be sufficient to cover the contingency of vegetative failure after initial vegetation, as well as covering the initial cost to vegetate if the operator forfeits the bond before conducting initial vegetation.

Proposals 2 and 3 are similar to proposal 1 in that they propose variations in the phase I and phase II percentages. Proposal 2 would allow 30-percent release after successful vegetation, and proposal 3 would allow 35 percent. In addition, the amount to be retained during the liability period would be reduced to 10 percent and 5 percent, respectively.

These proposals request additional bond release at achievement of successful vegetation, which reduces the amount retained during the liability period.

Cost factors for contracting, the scale of operation, and area adjustments must be included in the percentage to be retained. Additionally OSM recognizes that proposals 2 and 3 request that the amount of performance bond to be held during the remainder of the liability period be reduced to 10 or 5 percent, respectively, of the total reclamation cost. It is not apparent whether the 5- and 10-percent values proposed take into account the addition of topsoil, seedbed preparation, or other corrective action which might be required. Therefore, the present figure in the OSM regulations of 15 percent of the total estimated cost of reclamation appears to be justified, in light of the possibility that a State would be contracting for the reclamation including revegetation, administration, contracting expenses, contingency actions, and uncertainty as to the degree of corrective action necessary. To date, commenters have requested reduction of the amount retained from 15 percent to 10 percent or less, but no substantive data has been provided with which to evaluate the conclusion that a reduction is necessary. Therefore, proposals 1, 2, and 3 have been rejected, and no change in the percentages currently specified in Section 807.12 will be made in this rulemaking. Experience may prove the necessity for revising these percentages in the future, but, in the initial implementation of the regulatory program, OSM believes these amounts are realistic.

§ 807.12(b)(2).—As proposed, this Section included a requirement governing the amount of bond to be retained to cover revegetation and construction of drainage-control structures on an increment or the entire permit area. A commenter pointed out that the requirement to include reconstruction of any drainage structure on the entire permit area may apply only if the bond covers the entire permit. The intent is to cover all drainage structures cumulatively under each separate increment. Failure to make this intent clear is an oversight, since the bond amount is calculated on an incremental basis and should include drainage structures only on the increment. Although the bond amount is computed to cover a specific increment, under conditions of forfeiture a bond on an increment may extend to the entire permit area. Therefore, language has been added to the final rule to reflect the cost of reconstructing drainage structures on the area covered by the bond.

§ 807.12(c).—This Section as proposed eliminated the bond-release formula which tied final percentage released with achievement of phase III reclamation on the entire permit area. A commenter pointed out that there might be confusion as to the difference between release of bond and release of surety. The confusion occurs since liability periods, bond releases, and other milestones are applied to bond coverage. The surety liability covers the life of the mine, but no specific Section addresses when the surety liability terminates. The commenter recommended that a surety be released by an official written notice from the regulatory authority.

OSM feels that this provision would be consistent with the notification of surety in other Sections of Subchapter J. Section 805.13 requires that bond liability extend until reclamation operations have been completed and that the bond be released through provisions of Part 807. OSM feels that no amendment to the regulation is necessary since the suggested provision for notification can be found in § 807.11(f) (2) and (3), where a regulatory authority is required to notify a permittee and other interested parties in writing of its decision to release or not to release all or a part of the performance bond. It is intended that the final bond-release notice and final release of the operator from the permit requirements also release surety liability.

Another commenter felt that this Section provides for an increment to be totally released from bond coverage after phase III reclamation has been achieved, even if the remaining increments of the permit area are in varying phases of mining reclamation or liability. A commenter pointed out that § 807.12(c) appeared to release bond liability on an increment by releasing that increment from the permit area. The preamble for § 807.12 (44 FR 15121) incorrectly referred to release of an increment as part of the permit area after phase III reclamation was completed. However, OSM believes that the land area of a permit must remain intact unless amended through the permitting process. OSM intends this Section to allow total release of bond coverage on an increment before completion of the liability period on the remaining bonded permit area. However, bond liability on any increment within the permit area extends to the entire permit area under conditions of forfeiture. Therefore, no increment can be totally released from the permit area until bond on the last increment is released, unless the permit is amended by the regulatory authority. The final rule reflects the intent of § 808.12(c) in requiring any incremental bond to extend to the entire permit area and requires that no increment be totally released from bond liability for the entire permit area until conditions of phase III reclamation have been met on the entire permit area.

Part 808—Performance Bond Forfeiture Criteria and Procedures

§§ 808.11(c), 808.12(d), and 808.13.—OSM proposed additional paragraphs under conditions of forfeiture under §§ 808.11(c), 808.12(d), and various Paragraphs of 808.13. No comments were received on these issues, and therefore the proposed rules are being adopted as final.

§ 808.12(c).—This Section requires that the liability of each bond on any portion of the permit area extend to the entire permit area under conditions of forfeiture, if reclamation funds exceeding those specified for a particular increment are required. The permanent program adopted on March 13, 1979, added this provision at the request of commenters but restricted coverage indirectly only to protection of the hydrologic balance. However, the specific reference to "hydrologic balance" was challenged. Plaintiffs in a suit in the District Court for the District of Columbia challenging some of the permanent program rules (*In Re:* Permanent Surface Mining Regulations Litigation, filed May 9, 1979, D.D.C.-Civil Action 79–1144) contended this restriction was unauthorized by the Act. The Department agreed and informed the Court that this provision will be amended to eliminate the restriction to hydrolgic balance. Therefore, the proposed rule reflected the concept that any bond must extend to any condition on the entire permit area.

One comment concerning proposed Part 808 requested deletion of the last sentence in § 808.12(c), which reads, "Liability under any bond covering any increment of the permit area may extend to the entire permit area." The commenter contended that the concept of incremental bonding is that portions of a bond are tied to specific portions of the permit area and therefore that there is no reason why, even though a complete reclamation plan may apply to the entire permit area, each incremental surety cannot suffice to cover each increment's reclamation independently. In the explanation of incremental bonding in the March 13, 1979, rules, the preamble discussion of § 807.13 (44 FR 15121) stated that the important concept is that while the filing and release of bond liability may be incremental, any bond applicable to a permit extends to all acreage within the permit area. This is stated explicitly in Section 509 of the Act, which requires liability on any bond including separate increments to be conditional upon performance of all the reclamation. Therefore, the last sentence cannot be deleted.

Statements of Significance and Environmental Impact

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of the Interior has determined that amendment of the rules within the scope of this document will not significantly affect the qualify of the human environment. Accordingly, this action is not subject to the environmental impact statement requirements of the National Environmental Policy Act.

Dated: July 31, 1980.

Charles P. Eddy,

Acting Assistant Secretary, Energy and Minerals.

SUBCHAPTER J—BOND AND INSURANCE REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

PART 800—GENERAL REQUIREMENTS FOR BONDING OF SURFACE COAL MINING AND RECLAMATION OPERATIONS UNDER REGULATORY PROGRAMS

A. Section 800.5 is amended as follows:

1. The definition of collateral bond is revised to read in its entirety as set forth below.

§ 800.5 Definitions.

* * * * *

Collateral bond means an indemnity agreement in sum certain deposited with the regulatory authority or executed by the permittee and supported by one or more of the following—

(1) The deposit of cash in one or more federally insured accounts, payable only to the regulatory authority upon demand;

(2) Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of, and in the possession of, the regulatory authority;

(3) Negotiable certificates of deposit, payable only to the regulatory authority and in its possession;

(4) An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only upon presentation by the regulatory authority;

(5) A perfected, first-lien security interest in real or personal property, in favor of the regulatory authority;

(6) Investment-grade rated securities, having the highest rating issued by a nationally recognized securities rating service, endorsed to the order of, and in the possession of, the regulatory authority, excluding all issues of the type traded on a commodity exchange such as contracts for future delivery of goods.

* * * * *

B. Section 800.11(b)(1) is amended as follows:

1. Paragraph (ii) is redesignated as Paragraph (iii).

2. New Paragraph (ii) is added to read in its entirety as set forth below.

§ 800.11 Requirement to file a bond.

* * * * *

(b)(1) * * *

(ii) A cumulative bond schedule listing the areas covered by the bond and the sequence for release of acreage as it progresses through varying reclamation phases and for the addition of other acreage as it is affected. The amount of bond required to obtain a permit shall include the full reclamation cost of the initial area being affected; or

* * * * *

C. Section 800.13 is amended as follows:

1. Paragraph (a) is revised to read in its entirety as set forth below.

2. Paragraph (d) is revised to read in its entirety as set forth below.

§ 800.13 Regulatory authority responsibilities.

(a) The regulatory authority shall prescribe and furnish forms for filing performance bonds.

* * * * *

(d) The regulatory authority may not accept a self-bond in lieu of a surety or collateral bond, unless the permittee meets the requirements of 30 CFR 806.14 and any additional requirements in the State or Federal program.

* * * * *

A new part 801, proposed January 24, 1980, is added in its entirety to read as set forth below.

PART 801—BONDING REQUIREMENTS FOR UNDERGROUND COAL MINES, COAL-PROCESSING PLANTS, ASSOCIATED STRUCTURES, AND OTHER COAL-RELATED LONG-TERM FACILITIES AND STRUCTURES

Sec.

801.1 Scope.
801.2 Objective.
801.4 Responsibilities.
801.11 Applicability.
801.12 Amount of bond required.
801.13 Period of liability.
801.14 Form of bond.
801.15 Applicability of other sections.
801.16 Subsidence and mine drainage.
801.17 Bond forfeiture.

Authority: Sections 102, 201, 501, 503, 504, 507, 508, 509, 510, 515, 516, 519, and 701 of Pub. L. 95–87; 91 Stat. 448, 449, 467, 468, 470,

V 45 / 153 AG 6 80 UMI

471, 477, 479, 480, 486, 495, 498, 501, and 516, (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1257, 1258, 1259, 1260, 1265, 1266, 1267, and 1269).

§ 801.1 Scope.

This Part establishes bonding procedures applicable to long-term facilities, such as underground mines, coal-processing plants, refuse areas, and other long-term facilities and structures associated with surface and underground coal mining. Such permits may have several renewal terms, or may have a single permit term in excess of 5 years, so long as the surface area affected during the life of the facility remains basically unchanged.

§ 801.2 Objective

The objective of this Part is to set forth special bonding rules for long-term operations to account for differences between short-term and long-term operations and between surface and underground mines.

§ 801.4 Responsibilities.

The regulatory authority shall ensure that bond coverage is provided for long-term surface facilities and surface areas of underground mines subject to the requirements of this Chapter. Specific reclamation techniques required for underground mines and long-term facilities, such as the removal of deposits of coal fines, sealing of shafts and portals, and removal of structures, shall be considered in determining the amount of bond to complete the reclamation and as determined in the associated cost estimates.

§ 801.11 Applicability.

(a) Operations subject to provisions of this Part are—

(1) Portions of underground coal mines which will continuously disturb the surface for a period in excess of 5 years and surface construction activities included under subsidence-control measures and mine-drainage treatment in 30 CFR 801.16;

(2) Coal-processing plants to be operated for more than 5 years from the date a permit is first issued under the regulatory program;

(3) Coal-refuse areas to be operated for more than 5 years;

(4) Coal-loading facilities to be operated for more than 5 years from the date a permit is first issued for it under the regulatory program; and

(5) Long-term coal-related facilities to be permitted for operation longer than 5 years in accordance with 30 CFR 785.21.

(b) Operations listed in Paragraph (a) of this Section, conducted within a permit area for a mine which includes areas or facilities not subject to this Part, may be bonded as a separate increment of the surface mine permit area. If bonded separately, provisions of this Part shall apply to that increment. If bonded as part of the permit area which includes areas or facilities not subject to this Part, bond liability shall continue in accordance with 30 CFR 805.13.

§ 801.12 Amount of bond required.

(a) The regulatory authority shall determine the bond amount necessary to complete reclamation of the area in accordance with 30 CFR 805.11.

(b) The area considered in the reclamation plan shall include the entire area disturbed.

(c) The amount of bond necessary to obtain a permit is the entire performance bond required during the term of the permit.

§ 801.13 Period of liability.

(a) The period of liability for every bond covering a long-term operation shall commence with issuance of a permit and extend until all reclamation, restoration, and abatement work under provisions of the permit have been completed, and the bond released in accordance with Part 807 or replaced in accordance with Paragraph (b) of this Section.

(b) To achieve the liability requirements for long-term operations, continuous bond coverage shall be provided. Bond coverage shall commence with issuance of a permit, cover the initial term of the bond, and be conditioned to extend, replace, or pay the full amount of the bond 120 days prior to the expiration of any bond term, which in no case shall be less than 5 years. Failure to extend or replace bond coverage not less than 120 days prior to expiration shall subject the bond to conditions of forfeiture under Part 808.

§ 801.14 Form of bond.

Performance bonding may be authorized by the regulatory authority in accordance with the methods listed in 30 CFR 806.11. An escrow account may be established on the basis of a coal-production rate, periodic-deposit schedule, or other similar schedule, so that replacement of surety bond with collateral bond in whole or in part may be authorized in accordance with 30 CFR 806.13. Upon development of full bond coverage under an escrow account, any surety bond or indemnity agreement may be released. All bonding methods shall comply with the provisions and conditions set forth in this Part.

§ 801.15 Applicability of other Sections.

Except to the extent that provisions of other Parts of Subchapter J conflict with this Part, all other portions of Subchapter J shall apply to bonding requirements for underground coal mining operations and long-term coal-related facilities subject to this Part.

§ 801.16 Subsidence and mine drainage.

(a) 30 CFR 784.20 and 817.121 through 817.126 shall apply to the protection of surface-owner property rights against potential damage caused by unplanned subsidence. All measures undertaken to conform with 30 CFR 784.20(b) in the prevention of damage to surface facilities through planned subsidence shall be subject to performance bond coverage, and the estimated cost of such measures shall be included under 30 CFR 805.11. In addition, the bond liability shall extend to performance of the construction, site preparation, and relocations approved by the regulatory authority under 30 CFR 784.20(a). Release of bond coverage for construction of control measures to prevent subsidence shall be authorized only after final inspection, acceptance, and approval by the regulatory authority, and shall not be subject to the liability period of 30 CFR 805.13 or the bond-release criteria of 30 CFR 807.12. Procedures for seeking bond release for construction of surface measures shall be conducted in accordance with 30 CFR 807.11. Inspections of the construction of surface control measures shall be coordinated with the surface owner, if possible. If a surface owner refuses to allow an inspection, a separate request to waive inspection shall be sent to the surface owner, by certified mail with return receipt requested. If the regulatory authority receives no response within 30 days of delivery of the notice, or if within such period a response is received which waives the inspection or denies reasonable access for inspection, the regulatory authority may assume that the inspection has been waived and the applicable portion of the bond may be released without inspection having occurred.

(b) Performance-bond liability shall include construction of planned impoundments, conveying systems, and treatment facilities for mine drainage in accordance with the standards of 30 CFR 816.42, 816.48, 816.50, 817.42, 817.48, and 817.50. Bond release for such facilities shall be authorized only after final inspection, acceptance, and approval by the regulatory authority and is not subject to the period of liability of 30 CFR 805.13 or the bond-release criteria of 30 CFR 807.12. Procedures for seeking bond release shall be conducted in accordance with 30 CFR 807.11. Bond liability with respect to mine drainage shall extend to the construction and ultimate removal of facilities described in the permit application or reclamation plan as associated with the treatment of mine drainage. Bond coverage for any subsequent revegetation on that area previously used as an impoundment shall be subject to liability and releases of 30 CFR 805.13, 807.11, and 807.12. The estimated bond amount computed under 30 CFR 805.11 need not include continuous treatment, monitoring, or potential unpredictable expenses as a result of mine drainage.

§ 801.17 Bond forfeiture.

The regulatory authority shall forfeit a bond pursuant to this Part if—

(a) The operator has not filed a performance bond or other security as required under this Part, 120 days prior to bond expiration; or

(b) The regulatory authority determines that a permittee is subject to forfeiture under the criteria of 30 CFR 808.13(a).

PART 805—AMOUNT AND DURATION OF PERFORMANCE BOND

A. Section 805.13 is amended as follows:

1. Paragraphs (b)(1) through (b)(3) are revised to read in their entirety as set forth below.

2. Paragraph (c) is redesignated as Paragraph (d).

3. Paragraph (c) is added to read in its entirety as set forth below.

4. Paragraph (d) is redesignated as Paragraph (e) and is amended to read in its entirety as set forth below.

5. A new Paragraph (f) is added to read in its entirety as set forth below.

6. A new Paragraph (g) is added to read in its entirety as set forth below.

§ 805.13 Period of liability.

* * * * *

(b)(1) In addition to the period necessary to achieve compliance with all requirements of the Act, this Chapter, the regulatory program, and the permit, the period of liability under performance bond shall continue for a minimum period in accordance with Paragraph (b)(2) of this Section, beginning after the last year of augmented seeding, fertilization, irrigation, or other work.

(2) The minimum period of liability shall continue for not less that 5 years in areas with more than 26.0 inches average annual precipitation, and for not less than 10 years in areas with 26.0 inches or less average annual precipitation. The period of liability shall begin again whenever augmented seeding, fertilization, irrigation, or other work is required or conducted on the site prior to bond release, except as noted in Paragraph (b)(3) of this Section.

(3) The regulatory authority may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of bond liability, if the permittee can demonstrate that discontinuance of such measures after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices may include pest and vermin control, pruning, and repair of any rills and gullies and any reseeding and/or transplanting specifically necessitated by such actions, but shall be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the area covered by the bond.

(c) A portion of a bonded area requiring extended liability because of augmentation may be separated from the original area and bonded separately upon approval by the regulatory authority. Before determining that extended liability should apply to only a portion of the original bonded area, the regulatory authority shall determine that such portion—

(1) Is not significant in extent in relation to the entire area under the bond; and

(2) Is limited to isolated, distinguishable, and contiguous portions of the bonded area and does not comprise scattered or intermittent occurrences throughout the bonded area.

(d) * * *

(e) If the regulatory authority issues a written finding approving a long-term intensive agricultural land use, the operation shall be exempt from the requirements of 30 CFR 816.111(a) or 817.111(a). Such a finding shall not constitute a grant of an exception of the bond-liability periods of this Section.

(f) The bond liability of the permittee shall include only those actions which the operator is obliged to take under the permit, including completion of the reclamation plan in such a manner that the land will be capable of supporting a postmining land use approved under 30 CFR 816.133(c) or 817.133(c). Actions of third parties which are beyond the control and influence of the operator and for which the operator is not responsible under the permit need not be covered by the bond.

(g) If an area is separated under Paragraph (c) of this Section, that portion shall be bonded separately and the applicable period of liability, in accordance with 30 CFR 805.13(b), shall commence anew. The period of liability for the remaining area shall continue in effect without extension. The amount of bond on the original bonded area may be adjusted in accordance with 30 CFR 805.14.

B. Section 805.14 is amended as follows:

1. Paragraph (a) is revised to read in its entirety as set forth below.

2. Paragraph (b) is revised to read in its entirety as set forth below.

§ 805.14 Adjustment of amount.

(a) The amount of the performance bond liability applicable to a permit shall be adjusted by the regulatory authority as the acreage in the permit area is revised, methods of mining operation change, standards of reclamation change, or when the cost of future reclamation, restoration, or abatement work changes. The regulatory authority shall notify persons involved in bond coverage of any proposed bond adjustments and provide those persons an opportunity for an informal conference on the adjustment. For purposes of this Section, a person involved in bond coverage shall include the permittee, the surety, and any other person with a property interest in collateral posted under this Subchapter who has in writing to the regulatory authority requested such notification at the time the collateral is posted or the interest is acquired, whichever occurs later. The regulatory authority shall review each outstanding performance bond at the time permit reviews are conducted under 30 CFR 788.11, and shall reevaluate those perfomance bonds in accordance with the standards in 30 CFR 805.11.

(b) A permittee, surety, or any person with property interest in collateral offered as bond coverage may request reduction of the required performance bond amount upon submission of evidence to the regulatory authority proving that the permittee's method of operation or other circumstances will reduce the maximum estimated cost to the regulatory authority if it has to complete the reclamation and therefore warrants a reduction of the bond amount. The request shall be considered as a request for partial bond release in accordance with the procedures of 30 CFR Part 807 of this Chapter.

PART 806—FORM, CONDITIONS, AND TERMS OF PERFORMANCE BONDS AND LIABILITY INSURANCE

A. Section 806.11 is amended as follows:

1. Paragraph (a) is revised to read in its entirety as set forth below.

2. Paragraph (b) is redesignated as § 806.14 without text change.

3. Paragraph 806.11(c) is redesignated as § 806.11(b).

V 4 5 / 1 5 3 A G 6 8 0 UMI

§ 806.11 Form of the performance bond.

(a) The form of the performance bond shall be prescribed by the regulatory authority in accordance with the provisions of 30 CFR Parts 805 and 806. The regulatory authority may allow—

(1) A surety bond,

(2) A collateral bond,

(3) An escrow account,

(4) Self-bonding,

(5) Combined surety/escrow bonding, or

(6) A combination of any of these bonding methods.

* * * * *

B. Section 806.12 is amended as follows:

1. Paragraph (e)(6)(iii) is revised to read in its entirety as set forth below.

2. Paragraph (g)(2) is revised to read in its entirety as set forth below.

3. Paragraph (g)(7)(iii) is revised to read in its entirety as set forth below.

5. Paragraph (h) is added to read in its entirety as set forth below.

6. A new paragraph (i) is added to read in its entirety as set forth below.

§ 806.12 Terms and conditions of the bond.

* * * * *

(e) * * *

(6) * * *

(iii) Upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the permittee shall be deemed to be without bond coverage in violation of 30 CFR 800.11(b). The regulatory authority shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days. During this period the regulatory authority shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program, and the Act. Such notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a "pattern of willful violation" under 30 CFR 843.13 and need not be reported as a past violation in permit applications under 30 CFR 778.14 or 782.14. If such a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued.

* * * * *

(g) Letters of credit shall be subject to the following conditions:

* * * * *

(2) Letters of credit shall be irrevocable during their terms. The regulatory authority may approve the use of letters of credit as security in accordance with a schedule approved with the permit. Any bank issuing a letter of credit for the purposes of this paragraph shall notify the regulatory authority in writing at least 90 days prior to the maturity date of such letter of credit or the expiration of the letter of credit agreement. Letters of credit utilized as security in areas requiring continuous bond coverage shall be forfeited and collected by the regulatory authority if not replaced by other suitable evidence of financial responsibility at least 30 days before the expiration date of the letter of credit agreement.

* * * * *

(7) * * *

(iii) Upon the incapacity of a bank by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without bond coverage in violation of 30 CFR 800.11(b). The regulatory authority shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days. During this period the regulatory authority shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program, and the Act. Such notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a "pattern of willful violation" under 30 CFR 843.13 and need not be reported as a past violation in permit applications under 30 CFR 778.14 or 782.14. If such a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued.

* * * * *

(h) Real and personal property posted as a collateral bond shall meet the following criteria:

(1) The applicant shall grant the regulatory authority a mortgage or perfected first-lien security interest in real or personal property.

(2) The instrument creating such mortgage or security interest shall vest such interest in the regulatory authority so as to secure the right and power in the regulatory authority to immediately attach said property concurrent with the issuance of a notice of forfeiture under 30 CFR Part 808 and to sell or otherwise dispose of the property by a public or private transaction, and to establish the regulatory authority as the sole secured creditor with respect to such property, so as to assure the regulatory authority of a preferred claim over all other creditors in case of bankruptcy. For classes of property with respect to which a preferred claim cannot be maintained against subsequent bona fide purchasers for value under the Uniform Commercial Code, the instrument shall require possession of the property by the regulatory authority. The property subject to the security interest shall not be subject to any conflicting or prior security interest. The instrument creating the interest in real property shall be recorded as authorized for fee interests. The instrument creating the security interest in personal property shall be recorded in accordance with, and otherwise conform to, the requirements of the Uniform Commercial Code for perfecting a security interest in the State. In order for the regulatory authority to evaluate the adequacy of the property offered to satisfy this requirement, the applicant shall submit a schedule of the real or personal property which shall be pledged to secure the obligations under the indemnity agreement. The schedule shall include—

(i) A description of the property;

(ii) The fair market value as determined by at least two independent appraisals conducted by appraisers certified in the State in which the property is located. The reasonable expense of the appraisals shall be borne by the permittee, and final acceptance of the value of property for bonding purposes shall be subject to regulatory-authority determination and shall be based on findings by appointed appraisers when deemed necessary;

(iii) Proof of the mortgagor's possession of, and title to, the unencumbered real property within the State which is offered to secure the obligations under the bond. Such proof shall include—

(A) If the interest arises under a Federal or State lease, a status report prepared by a non-affiliated attorney competent to evaluate the asset, and an affidavit from the owner in fee establishing that the leasehold can be transferred to the regulatory authority upon forfeiture; and

(B) If the title is in fee, a title certificate or similar evidence of title and encumbrances prepared by an abstract office authorized to transact business within the State.

(3) The property may include land which is part of the permit area only after reclamation standards of phase II are met on such land. The bonding value of land within a permit area may not exceed 85 percent of the appraised value if reclaimed to standards of phase III reclamation, based on the value of surrounding land less the value for any coal in place and the current uses of the land. Land pledged as security shall not be mined under any permit.

(4) Proof that the person granting the security interest holds possession of, and title to, personal property within the State which is offered to secure the obligation of the permittee under the bond. Evidence of such ownership shall be submitted in a form satisfactory to the regulatory authority. The regulatory authority may accept a perfected first-lien security interest in negotiable bonds of the U.S. Government, general revenue bonds of the State, municipal bonds, or rated marketable securities, excluding commodity issues, of non-affiliated companies registered under the Federal Securities Act, which are rated at the highest rating offered by a nationally recognized securities rating service. The ratio of bond value to market value of each security or bond shall be determined by the regulatory authority on the basis of its marketability and a financial analysis. The personal property offered shall not include—

(i) Property in which a security interest is held by any other person;

(ii) Goods which the operator sells in the ordinary course of his or her business;

(iii) Fixtures;

(iv) Securities which do not meet the standards of Paragraph 806.12(h)(4); or

(v) Certificates of deposit which are not federally insured or are issued by a depository that is unacceptable to the regulatory authority.

(i) The estimated bond value of all collateral posted as bond assurance under 30 CFR 806.12(f), (g), and (h) shall be subject to a margin—bond value to market value ratio—determined by the regulatory authority. This margin shall reflect legal and liquidation fees, as well as value depreciation, marketability, and fluctuations which might affect the net cash available to the regulatory authority in performing reclamation. The bond value of collateral may be evaluated at any time, but shall be evaluated as part of permit renewal. In no case shall the bond value exceed the market value.

C. Section 806.13 is amended as follows:

1. Section 806.13 is redesignated as § 806.15.

2. Section 806.13 is added to read in its entirety as set forth below.

§ 806.13 Escrow bonding.

(a) The regulatory authority may authorize the operator to supplement a bonding program through the establishment of an escrow account deposited in one or more federally insured accounts payable on demand only to the regulatory authority or deposited with the regulatory authority directly. Contributions to the account may be based on acres affected or tons of coal produced or any other rate approved by the regulatory authority. In all cases, the total bond including the escrow amount, as determined by the regulatory authority in the bonding schedule, shall not be less that the amount required under 30 CFR Part 805 including any adjustments, less amounts released in accordance with 30 CFR Part 807.

(b) Escrow funds deposited in federally insured accounts shall not exceed the maximum insured amount under applicable Federal insurance programs such as by FDIC or FSLIC.

(c) Interest paid on an escrow account shall be retained in the escrow account and applied to the bond value of the escrow account unless the regulatory authority has approved that the interest be paid to the operator. In order to qualify for interest payment, the operator shall request such action in writing during the permit-application process under 30 CFR 800.11.

(d) Certificates of deposit may be substituted for escrow accounts upon approval of the regulatory authority. Provisions of 30 CFR 806.12(f) shall apply to certificates of deposit as a collateral bond.

D. Section 806.14 is amended as follows:

1. Section 806.14 is redesignated as § 806.16.

2. Section 806.14, "Self-bonding," is redesignated from § 806.11(b) to read in its entirety as set forth below.

§ 806.14 Self-bonding

(a) The regulatory authority may accept a self-bond from the applicant under the following conditions:

(1) The applicant shall designate the name and address of a suitable agent to receive service of process in the State where the surface coal mining operation is located.

(2) The applicant, or the applicant's parent organization in the event the applicant is a subsidiary corporation, has a net worth, certified by a certified public accountant, of no less than six times the total amount of self-bond obligations on all permits issued to the applicant in the United States for surface coal mining and reclamation operations.

(3) The applicant grants the regulatory authority a mortgage or security interest in real or personal property located in the State which shall have a fair market value equal to or greater than the obligation created under the indemnity agreement.

(4) The instrument creating such mortgage or security interest shall vest such interest in the regulatory authority so as to secure the right and power in the regulatory authority to immediately attach said property concurrent with the issuance of a notice of forefeiture under Part 808, and to sell or otherwise dispose of the property by a public or private transaction, and to establish the regulatory authority as the sole secured creditor with respect to such property, so as to assure the regulatory authority of a preferred claim over all other creditors in case of bankruptcy. For classes of property with respect to which a preferred claim cannot be maintained against subsequent bona fide purchasers for value under the Uniform Commercial Code, the instrument shall require possession of the property by the regulatory authority. The property subject to the security interest shall not be subject to any conflicting or prior security interest. The instrument creating the interest in real property shall be recorded as authorized for fee interests. The instrument creating the security interest in personal property shall be recorded in accordance with, and otherwise conform to, the requirements of the Uniform Commercial Code for perfecting a security interest in the State. In order for the regulatory authority to evaluate the adequacy of the property offered to satisfy this requirement, the applicant shall submit a schedule of the real or personal property which will be pledged to secure the obligations under the indemnity agreement. The schedule shall include—

(i) A description of the property;

(ii) The value of the property. The property shall be valued at fair market value as determined by an appraisal conducted by appraisers appointed by the regulatory authority. The appraisal shall be expeditiously made, and a copy thereof furnished to the regulatory authority and the permittee. The reasonable expense of the appraisal shall be borne by the permittee; and

(iii) Proof of the mortgagor's possession of, and title to, the unencumbered real property within the State which is offered to secure the obligations under the bond. Such proof shall include—

(A) If the interest arises under a Federal or State lease, a status report prepared by an attorney, satisfactory to the regulatory authority as disinterested and competent to so evaluate the asset, and an affidavit from the owner in fee establishing that the leasehold could be transferred to the regulatory authority upon forfeiture;

V 45 / 153 3 AG 6 80 UMI

(B) If title is in fee, a title certificate or similar evidence of title and encumbrances prepared by an abstract office authorized to transact business within the State and satisfactory to the regulatory authority; and

(C) The property shall not include any lands in the process of being mined, reclaimed, or the subject of this application. The operator may offer any lands the bonds for which have been released. In addition, any land used as security shall not be mined while it is security.

(iv) Proof that the person granting the security interest holds possession of, and title to, personal property within the State which is offered to secure the obligation of the permittee under the bond. Evidence of such ownership shall be submitted in a form satisfactory to the regulatory authority. The personal property offered shall not include—

(A) Property in which a security interest is held by any person;

(B) Goods which the operator sells in the ordinary course of his or business;

(C) Fixtures;

(D) Securities which are not negotiable bonds of the U.S. Government or general revenue bonds of the State;

(E) Certificates of deposit which are not federally insured or are issued by a depository that is unacceptable to the regulatory authority.

(5) The applicant, or the applicant's parent organization in the event the applicant is a subsidiary corporation, shall have demonstrated to the satisfaction of the regulatory authority a history of financial solvency and continuous operation as a business entity for 10 years prior to filing the application. For purposes of this Paragraph, such demonstration shall include a financial statement in sufficient detail to allow the regulatory authority to determine whether it is reasonable to predict from the ownership patterns and financial history of the applicant that it will be financially capable of completing all reclamation requirements throughout the life of the surface coal mining and reclamation operation. Such statement shall include, at the minimum—

(i) Identification of operator by—

(A) For corporations, name, address, telephone number, State of incorporation, principal place of business, principal office in the State where the operation is located, the name, title, and authority of persons signing the application, and a statement of authority to do business in the State where the operation is located; and

(B) For all other forms of business enterprises, name, address, and telephone number and statement of how the enterprise is organized, law of the State under which it is formed, place of business, relationship and authority of the person signing the application, and principal office in the State where the operation is located;

(ii) Estimated amount of bond likely to be required after approval of the permit which will be determined in accordance with 30 CFR Part 805, and the estimated maximum liability likely to be required during the life of the mine;

(iii) History of other bonds procured by the operator for mining operations in any State, including—

(A) Names of sureties, if any, for outstanding bonds;

(B) Amounts of outstanding bonds;

(C) Name of any surety which denied any bond; and

(D) Unsatisfied claims against any bond;

(iv) Brief chronological history of business operations conducted within the last 10 years, including information showing—

(A) Continuous operation for the 10-year period, and

(B) The jurisdiction within which each operation has been conducted;

(v) A financial statement, including—

(A) Audited financial statements prepared and certified by a disinterested independent certified public accountant. All statements shall be prepared following generally accepted principles of accounting and shall include—

(*1*) A common-size comparative balance sheet which shows assets, liabilities, and owner's equity for the preceding 10-year period. The regulatory authority shall have the discretion to increase this length of time to any period which is necessary to show financial solvency and continuous operation. The common-size comparative balance sheet shall be detailed with regard to owner's equity, especially retained earnings, so as to set forth a series of retained-earnings statements showing the changes that have occurred in retained earnings during the required period of time;

(*2*) A common-size comparative income statement which shows all revenues and expenses for the preceding 10-year period or for such longer time as is required for the common-size comparative balance sheet; and

(*3*) A statement of the operator's working capital and an analysis of assets and liabilities which shall include the following calculation for each year covered by the common-size comparative balance sheet and income statement—

(*i*) A schedule showing the percentage of each classification of current assets to total current assets;

(*ii*) The current ratio;

(*iii*) The acid-test ratio;

(*iv*) The liquidity ratio;

(*v*) The asset ratio; and

(*vi*) The return on investment;

(*4*) In addition to the above, all ratios must be calculated with the bond amount added to the operator's current or total liabilities; and

(*5*) A ratio of the operator's capital assets subject to a mortgage or security interest to those liabilities to which the assets are subject. If the offer of real property or collateral for the bond will alter this ratio, this shall be illustrated;

(B) A satisfactory basis to compare all ratios submitted pursuant to (A) above.

(C) The regulatory authority shall have the right to challenge, prohibit, or prescribe the inclusion of any specific item or the value thereof within any of the above statements or ratios. If the value is challenged, the regulatory authority shall appoint an appraiser or appraisers to value the item. Any such appraisal shall be expeditiously made, and a copy thereof furnished to the regulatory authority and the permittee. The reasonable expense of the appraisers shall be borne by the operator. The findings of the appraisal shall be final and binding.

(D) A final determination by an independent certified public accountant regarding the operator's ability to satisfactorily meet all obligations and costs under the proposed reclamation plan for the life of the mine; and

(E) If the regulatory authority deems necessary, evidence of financial responsibility through letters of credit or a rating of securities issued to the applicant by a recognized national securities rating company;

(vi) A statement listing any liens filed on the assets of the permittee or applicant in any jurisdiction in the United States, actions pending or judgments rendered within the last 10 years against the permittee or applicant but not satisfied, and petitions or actions in bankruptcy including actions for reorganization. Each such lien, action petition, or judgment shall be identified by the named parties, the jurisdiction in which the matter was filed, and the case, file, and final disposition or current status of any action still pending; and

(vii) A statement listing any notices issued by the Securities and Exchange Commission or proceedings initiated by any party alleging a failure to comply with any public disclosure or reporting requirement under the securities laws of the United States. Such statement shall include a summary of each such allegation, including the date, the requirement alleged to be violated, the party making the allegation, and the disposition or current status thereof.

(6)(i) The indemnity agreement has been executed by the applicant, and said agreement has also been executed by—

(A) If a corporation, two corporate officers who are authorized to sign the agreement by a resolution of the board of directors, a copy of which shall be provided;

(B) To the extent that the history or assets of a parent organization are relied upon to make the showings of this Part, the parent organization and every parent organization of which it is a subsidiary, whether first-tier, second-tier, or further removed, in the form of (A) above;

(C) If the applicant is a partnership, all of its general partners and their parent organization or principal investors; and

(D) If the applicant is a married individual, the applicant's spouse;

(ii) The name of each person who signs the indemnity agreement shall be typed or printed beneath the signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he or she signs the indemnity agreement;

(iii) The indemnity agreement shall be a binding obligation, jointly and severally, on all who execute it;

(iv) For purposes of this Paragraph, *principal investor* or *parent organization* means anyone with a 10-percent or more beneficial ownership interest, directly or indirectly, in the applicant.

(*7*) If at any time the conditions upon which the self-bond was approved no longer prevail, the regulatory authority shall require the posting of a surety or collateral bond before mining operations may continue.

G. A new § 806.17, "Combined surety/escrow bonding," is added to read in its entirety as set forth below.

§ 806.17 Combined surety/escrow bonding.

(a) The regulatory authority may accept a combined surety/escrow bonding schedule provided that—

(1) A surety bond payable to the regulatory authority is posted in the amount determined under 30 CFR 805.11 for reclamation of each successive increment, and

(2) An interest-bearing escrow account payable to the regulatory authority with a predetermined deposit amount and frequency is established.

(b) Conditions of the combined surety/escrow bonding method shall be as follows:

(1) *Surety bond.*

(i) The term of the surety bond shall be not less than 2 years.

(ii) The amount of the surety bond shall always be sufficient to cover the difference between the escrow balance and the total reclamation cost.

(iii) The surety bond may be reduced in amount, but the liability remaining shall depend on the escrow-deposit rate which shall be subject to provisions of 30 CFR 805.14 and 806.15.

(iv) The surety bond shall be noncancellable by the surety during the bond term.

(v) Surety-bond coverage may be released by the regulatory authority without applying the bond-release criteria of 30 CFR Part 807 at any time during the bond term, provided provisions of Paragraph (b)(2)(vi) of this Section are met or are in accordance with the provisions of bond replacement under 30 CFR 806.15.

(vi) The surety bond is subject to the conditions of bond forfeiture of 30 CFR Part 808, including noncompliance with the escrow-account provisions of Paragraph (b)(2).

(2) *Escrow account.*

(i) The terms and conditions of the escrow account shall be developed jointly by the operator, surety, and regulatory authority. For the purposes of this Section, the development of the escrow account shall be based on a production basis in an amount not less than that required to make the escrow account equal to or greater than the bond requirement within the term of the surety bond as agreed on jointly by the operator, the surety, and the regulatory authority. Deposits to the escrow account by the operator shall be made monthly and so reported to the regulatory authority. Failure to make deposits on schedule shall be just cause for action by the regulatory authority.

(ii) A certified escrow-account balance statement shall be provided quarterly to the surety and the regulatory authority.

(iii) Provisions of the escrow account shall be in accordance with 30 CFR 806.13.

(iv) The deposit amount shall be adjusted to provide for changing reclamation costs in accordance with 30 CFR 805.14. However, when the escrow account equals or exceeds the total bonding amount, the monthly payment of the operator shall continue, at the option of the regulatory authority, in an amount necessary to provide for any foreseeable adjustments.

(v) The escrow account shall be subject to the bond-forfeiture conditions of 30 CFR Part 808.

(vi) The escrow-account balance shall equal the initial bond amount, plus any adjustments required by Paragraph (b)(2)(i), 120 days prior to surety-bond termination, unless the total bond amount required has been previously reduced through the bond-release procedures of 30 CFR Part 807.

(vii) Release of liability under the escrow account shall be subject to the provisions of 30 CFR Part 807.

(c) Provisions of 30 CFR Part 807 may be applied to both surety- and escrow-bond coverage during the bond term.

(d) The surety/escrow combination may be repeated successively or amended during the term by replacing the escrow account with a surety bond, and reestablishing the escrow terms and deposit rate, subject to regulatory-authority approval.

PART 807—PROCEDURES, CRITERIA, AND SCHEDULE FOR RELEASE OF PERFORMANCE BOND

A. Section 807.12 is amended as follows:

1. Paragraph (a) is revised to read in its entirety as set forth below.

2. Paragraph (b) is revised to read in its entirety as set forth below.

3. Paragraph (c) is revised to read in its entirety as set forth below.

4. Paragraph (d) is revised to read in its entirety as set forth below.

5. Paragraph (e)(3) is revised to read in its entirety as set forth below.

§ 807.12 Criteria and schedule for release of performance bond.

(a) The regulatory authority may release portions of the liability under performance bonds applicable to the permit area following the completion of reclamation phases as defined in Paragraph (e) of this Section.

(b) The maximum liability of performance bonds applicable to an increment or permit area which may be released shall be calculated on the following basis:

(1) Release of an amount not to exceed 60 percent of the total bond amount on the increment or permit area upon completion of phase I reclamation.

(2) Release of an additional amount not to exceed 25 percent of the total original bond amount on the permit area or an increment upon completion of phase II reclamation, but in all cases the amount remaining shall be sufficient to reestablish vegetation and reconstruct any drainage structures.

(3) Release of the remaining portion of the total performance bond on the increment or permit area after standards

V 45 / 153 3 AG 6 80 UMI

of phase III reclamation have been attained and final inspection and procedures of 30 CFR 807.11 have been satisfied.

(c) The regulatory authority may choose to release all bond coverage for an increment if the phase III reclamation of the increment is complete. The portion of the permit area being released from bond coverage shall be capable for supporting the proposed postmining land use independent of the successful completion of the reclamation of portions of the permit area still under bond or not yet initially disturbed. No increment shall be totally released from the permit area until conditions of phase III reclamation for the last increment of the permit area have been met.

(d) The regulatory authority shall require performance-bond liability, applicable to the permit area of an increment, in the amount necessary to—

(1) Allow someone other than the operator to complete the approved reclamation plan, achieving compliance with the Act, this Chapter, the regulatory program, and the permit;

(2) Allow someone other than the operator to abate any significant environmental harm to air, water, or land resources, or danger to public health and safety prior to release of the land under the terms of the permit;

(3) Achieve the capability of supporting any alternative postmining land-use plan proposed in the permit, consistent with 30 CFR 816.116, 816.133, 817.116, and 817.133 of this Chapter, including such measures as may be necessary in the event the permittee fails to undertake development within the 2 years required by 30 CFR 806.116(b)(3)(ii) or 817.116(b)(3)(ii) of this Chapter; and

(4) Fulfill the minimum bond amount of $10,000 as required by 30 CFR 805.12.

(e) * * *

(3) Phase III reclamation shall be deemed to have been completed when—

(i) The permittee has successfully completed all surface coal mining and reclamation operations in accordance with the approved reclamation plan so that the land is capable of supporting any postmining land use approved pursuant to 30 CFR 816.133 or 817.133;

(ii) The permittee has achieved compliance with the requirements of the Act, this Chapter, the regulatory program, and the permit; and

(iii) The applicable liability period under § 515(b)(20) of the Act and 30 CFR 805.13(b) of this Subchapter has expired.

PART 808—PERFORMANCE BOND FORFEITURE CRITERIA AND PROCEDURES

A. Section 808.11 is amended as follows:

1. Paragraph (c) is added to read in its entirety as set forth below.

§ 808.11 General.

* * * * *

(c) The regulatory authority may allow the surety to complete the reclamation plan if the surety can demonstrate the ability to complete the reclamation plan, including achievement of the capability to support the alternative postmining land use approved by the regulatory authority. No bond shall be released, except for partial releases authorized under 30 CFR 807.11, until successful completion of all reclamation under the terms of the permit, including applicable liability periods of 30 CFR Part 807.

B. Section 808.12 is amended as follows:

1. Paragraph (c) is revised to read in its entirety as set forth below.

2. Paragraph (d) is added to read in its entirety as set forth below.

§ 808.12 Procedures.

* * * * *

(c) The regulatory authority may forfeit any or all bonds deposited for an entire permit area or any increment thereof in order to satisfy 30 CFR 808.11–808.14. Liability under any bond covering any increment of the permit area shall extend to the entire permit area.

(d) The regulatory authority shall utilize funds collected from bond forfeiture to complete the reclamation plan on the permit area on which bond coverage applies, and to cover associated administrative expenses.

C. Paragraph 808.13(a) is amended as follows:

1. Paragraphs (a)(1) through (3) are added to read in their entirety as set forth below.

§ 808.13 Criteria for forfeiture.

(a) * * *

(1) The permittee has violated any of the terms or conditions of the bond and has failed to take corrective action;

(2) The permittee has failed to conduct the surface mining and reclamation operations in accordance with the Act, the conditions of this Chapter, the regulatory program and the permit within the time required, and the regulatory authority has determined that it is necessary, in order to fulfill the requirements of the permit and the reclamation plan, to have someone other than the operator correct or complete reclamation;

(3) The permit for the area under the bond has been revoked, unless the operator or surety assumes liability for completion of the reclamation work and is, in the opinion of the regulatory authority, diligently and satisfactorily performing such work; or

(Secs. 102, 201(c), 501(b), 503, 504, 507, 508, 509, 510, 515, 516 and 519, Pub. L. 95–87, 91 Stat. 448, 449, 468, 470, 471, 477, 478, 479, 480, 486, 495, and 501 (30 U.S.C. 1201, 1202, 1211, 1251, 1253, 1254, 1257, 1258, 1259, 1260, 1265, 1266, and 1269))

[FR Doc. 80-23663 Filed 8-5-80; 8:45 am]
BILLING CODE 4310-05-M

V 45 / 153 AG 6 80 UMI

federal register

Wednesday
August 6, 1980

Part IV

Department of Commerce

Office of the Secretary

Preliminary Finding of Need To Accredit Laboratories That Provide Electromagnetic Calibration Services

V 45 / 153 AG 6 80 UMI

DEPARTMENT OF COMMERCE

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Preliminary Finding of Need of Accredit Laboratories That Provide Electromagnetic Calibration Services

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

ACTION: Request for comments on the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services.

SUMMARY: Under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Parts 7a, 7b, and 7c), this notice announces the Department of Commerce's preliminary finding of need to accredit testing laboratories that provide electromagnetic calibration services. The set of standards and test methods initially proposed for inclusion in this laboratory accreditation program (LAP) would be limited to a specific set or group of electromagnetic measurements based upon the formal request for this LAP from Weinschel Engineering. This notice sets out the basis for the preliminary finding of need, including how accreditation of laboratories that provide electromagnetic calibration services would benefit the public interest and why there is a national need to accredit such laboratories. Comments are invited.

DATES: Written comments are due on or before October 6, 1980. A request for an informal hearing may be made before August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377–3221.

SUPPLEMENTARY INFORMATION:

Background

The procedures for the operation of the National Voluntary Laboratory Accreditation Program (NVLAP) were announced in the **Federal Register** on February 26, 1976 (41 FR 8163–8168, 15 CFR Part 7 which has been recently redesignated 15 CFR Part 7a). That notice, amended by publication in the **Federal Register** on March 9, 1979 (44 FR 12982–12990 designated 15 CFR Part 7b), on April 25, 1979 (44 FR 24274–24282 designated 15 CFR Part 7c), and on April 21, 1980 (45 FR 26993–26994), described the program as providing a national voluntary system to examine, upon request, the professional and technical competence of private and public testing laboratories that serve regulatory and non-regulatory product evaluation and certification needs. The program will accredit those laboratories that meet the qualifications established under these procedures

Section 7a.4(b) of the NVLAP procedures sets out the requirements to be met by those persons who seek to have the Department of Commerce (DoC) find that there is a need to accredit testing laboratories which provide services relating to a specific product. By letter of February 23, 1977, Bruno O. Weinschel of Weinschel Engineering, Gaithersburg, Maryland, requested DoC to find that there is a need to accredit testing laboratories which provide electromagnetic calibration services for instruments and measurement standards which operate at microwave frequencies. Weinschel Engineering manufactures and sells radio frequency attenuators and attenuation measuring systems, sweep frequency signal generators, microwave power measuring equipment, and power and attenuation standards.

The processing of this request was postponed initially due to a lack of resources. Subsequently, careful consideration was given to the development of a laboratory accreditation program (LAP) under Federal agency (Part 7b) NVLAP procedures and accommodating the request within a possible Federal agency request for a LAP encompassing these calibration services. The National Bureau of Standards (NBS) provides such calibration services. The Part 7b procedures upon which this alternative approach was considered were promulgated on March 9, 1979. In a September 6, 1979 memorandum, John W. Locke, Coordinator of NVLAP, requested guidance from James R. Wright, Deputy Director of the National Engineering Laboratory, on whether NBS might desire to initiate a LAP on calibration services. In a December 18, 1979 memorandum to Mr. Locke, Dr. Wright advised that NBS recommended the use of the General (Part 7a) NVLAP procedures so that the need for the proposed LAP could be established through public debate among interested parties. In that same memorandum, shortcomings in the request were identified which needed to be modified before proceeding with the preparation of a **Federal Register** notice of a preliminary finding of need. In a letter of January 2, 1980, Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, asked Dr. Weinschel to supply some additional information responding to Dr. Wright's comments. After further informal discussion between representatives of Weinschel Engineering and the NVLAP staff, Dr. Weinschel submitted a letter on May 14, 1980 to clarify and support his original request. For the purposes of analysis, this letter and the original request letter of February 23, 1977 represent the formal request submitted to comply with section 7a.4(b) of the NVLAP procedures.

This request has been analyzed and evaluated, resulting in a preliminary finding of need to establish a LAP for electromagnetic calibration services as set forth at the conclusion of this notice.

Request for Comments

Interested persons desiring to comment on the preliminary finding of need are invited to submit their comments on or before September 6, 1980, to the Assistant Secretary for Productivity, Technology and Innovation, U.S. Department of Commerce, Room 3864, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal public hearing relative to this preliminary finding of need must do so by communicating that desire in writing on or before August 21, 1980, to the Assistant Secretary for Productivity, Technology, and Innovation. Upon receipt of such a request, informal public hearings will be held to give all interested persons an opportunity to orally present data, views, or arguments in addition to the opportunity to make written submissions. If deemed appropriate, hearings may be held at two locations, one of which will be east of the Mississippi River and the other west thereof. Notice of any hearings will be published in the **Federal Register** at least 20 days in advance thereof. A transcript will be made of any oral presentations.

Comments are invited particularly to determine whether there is a need to establish a LAP for "electromagnetic calibration services." The specific standards and test methods identified by the requestor would be included in the LAP. As a result of comments in response to this preliminary finding of need, additional standards and test methods directly related to electromagnetic calibration services could be included.

Procedure Following Receipt of Comments

Upon receipt of all written and oral comments and testimony, a thorough evaluation of the comments and testimony will be undertaken. Upon completion of that evaluation, a notice will be published in the **Federal Register** announcing a final finding of need to accredit testing laboratories which provide "electromagnetic calibration services," or announcing withdrawal of the preliminary finding of need. The notice will set out the basis for a final finding of need or for the withdrawal of the preliminary finding of need.

If a final finding of need is published, the NVLAP procedures call for the establishment of a National Laboratory Accreditation Criteria Committee for calibration services or use of an existing committee. Since there is no existing criteria committee with expertise in this area, a new committee would have to be formed. In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), a charter setting forth the objectives and scope of the committee's activity, a description of the duties for which the committee is responsible, and an estimated number and frequency of committee meetings would be prepared. The NVLAP procedures require that a separate notice be published in the **Federal Register** announcing DoC's intention to form such a committee simultaneously with the publication of any final finding of need. Furthermore, the separate notice would outline the size and basis for selection of the committee members. Comments on the objectives and scope of the Committee and on the size and basis for selection of the members of the committee are also invited at this time.

Documents in Public Record

The documents mentioned or otherwise referenced in this notice are part of the public record and are available for inspection and copying in DoC's Central Reference and Records Inspection Facility (CRRIF), Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

All written and oral comments and testimony in response to this notice will be made part of the public record and will be available for inspection and copying at CRRIF.

Issued: August 1, 1980.

Howard I. Forman,

Acting Assistant Secretary for Productivity, Technology and Innovation.

Preliminary Finding of Need

The request of Weinschel Engineering that DoC find that there is a need to accredit testing laboratories which provide electromagnetic calibration services has been carefully considered. The analysis of the request is contained in the report entitled "NVLAP Summary and Analysis Report, Electromagnetic Calibration Services."

Identification of the Product (Section 7a.4(b)(1))

The requestor identified the product (as defined in section 7a.3(a)) as electromagnetic calibration services for instruments and measurements standards which operate at microwave frequencies. The request is limited to calibration services for microwave power and attenuation measurements. The instruments for the power measurements include bolometric power meters, bolometric detectors, bolometric units, bolometric mounts and bolometric-coupler units. The instruments for the attenuation measurements include fixed and variable attenuators.

NVLAP procedures allow standards and test methods to be added to a LAP once a LAP is established if the standards and test methods fall within the boundaries established by the definition of the product for the LAP. The specific standards and test methods identified by the requestor would be included in the LAP. At some future date, or even as a result of comment in response to this preliminary finding of need, additional standards and test methods directly related to electromagnetic calibration services could be included.

Text of Applicable Standards and Test Methods (Section 7a.4(b) (2) and (3))

The requestor identified the applicable standards and test methods as those given in the Institute for Electrical and Electronic Engineers (IEEE) documents IEEE–STD–470–1972, "IEEE Standard Application Guide for Bolometric Power Meters" and "IEEE–STD–474–1973", "IEEE Standard Specifications and Test Methods for Fixed and Variable Attenuators, DC to 40 GHz." As noted in the identification of the product, the electromagnetic calibration services would be limited to microwave power and attenuation measurements. The requestor suggests specific ranges and uncertainties for these measurements. If this LAP is established, laboratories will be accredited for a specific range of measurements with a specified uncertainty within the capability of the equipment possessed by each laboratory. Of course, the range and uncertainty for which DoC will grant accreditation cannot exceed the capability of NBS. It is essential that an accredited laboratory's reference standards be traceable to the appropriate national standards of measurement. In this context traceability means that each instrument used for calibration purposes has itself been calibrated against an instrument of higher quality to the level at which the higher quality instrument is the accepted national standard. The limits of range and uncertainty which would be available for each measurement area offered in the LAP would be established by the DoC based upon advice from the advisory committee to be organized if a final finding of need is determined. The requestor's suggestions, pertinent comments from the public, NBS expertise, as well as the expertise of the committee members themselves would provide the input for determining ranges and uncertainties.

Basis of Need (Section 7a.4(b)(4))

The requestor includes in his request information addressing each of the five items set out in section 7a.5 of the NVLAP procedures. This information is incorporated into the discussion under the section of this notice entitled, *"Basis for Preliminary Finding of Need for Accrediting Laboratories That Provide Electromagnetic Calibration Services (Section 7a.5)."*

Number of Laboratories and Users (Sections 7a.4(b)(4) (i) and (ii))

The requestor provided a list of 69 industry and 15 government laboratories which perform calibration services at radio and microwave frequencies and claimed that these laboratories have a potential need for accreditation or would be users of accredited laboratories. These laboratories are listed in the 1975 edition of the "Directory of Standards Laboratories" prepared by the National Conference of Standards Laboratories (NCSL). The 1979 edition of the NCSL directory lists about 160 industry and 25 government laboratories capable of performing calibration services at radio and microwave frequencies.

The requestor asserted that the number of users which would desire the services of accredited laboratories is difficult to determine, but potentially includes all electronic equipment manufacturers and users. No listing of

users of those laboratories which provide calibration on a fee basis was available to the requestor. However, the requestor indicated that NBS, as of 1977, calibrated about 325 reference standards or instruments per year for electromagnetic quantities. More recent data indicates that NBS calibrates about 300–400 reference standards per year.

In view of the above information, it is concluded that the submitted request meets the requirements of section 7a.4 of the NVLAP procedures.

Basis of Preliminary Finding of Need for Accrediting Laboratories That Provide Electromagnetic Calibration Services (Section 7a.5)

The basis for this preliminary finding of need, keyed to the information items listed in section 7a.5 of the NVLAP procedures, is as follows:

(1) *Whether the establishment of general or specific criteria and other conditions for accrediting testing laboratories that provide electromagnetic calibration services would benefit the public interest (section 7a.5(a)).* Criteria and other requirements for accrediting laboratories would benefit the public interest by—

(a) Providing a measure of assurance for tests of conformance with accepted standards;

(b) assuring a common basis for quantitative measures of conformance with these standards;

(c) providing a mechanism for assurance that measurements and calibrations made by the private sector are equivalent to those made by government laboratories; and

(d) addressing regulatory concern for the accuracy of test results in certain consumer product and environmental areas.

(2) *Whether there is a national need to accredit testing laboratories for electromagnetic calibration services beyond that served by any existing laboratory accreditation programs in the public and private sector (section 7a.5(b)).* Although NBS has provided calibration services for over 70 years, the tremendous growth of the industry particularly in the electrical and electronics area has forced NBS progressively to restrict its services to non-routine measurements, then to measurement standards only, and then to measurement laboratory reference standards only. These restrictions have required establishment of additional calibration levels which increase the uncertainties and the number of calibration laboratories, thereby reducing the efficiency of resource utilization. Facilities are no longer readily available to obtain measurements of electromagnetic devices (other than reference standards traceable to a common national standard) without maintaining a calibration facility equivalent to that of a national laboratory. The Department of Defense (DoD) has established such facilities, but they are not available to non-Defense contractors. The need for an alternative to having calibration services provided by NBS exists in instances where the cost, time, or uncertainty of NBS services is too great, where the service is not available from NBS, when the number of calibrations to be made exceeds the resource capabilities of NBS, or when the shipping of sensitive instruments to NBS is impractical because of possible damage to such instruments. The need for accreditation is dependent upon the scope of calibration services available from NBS. NBS does not disagree with the requestor's assertion regarding the scope of the calibration services it offers in the microwave spectrum.

Calibration is the cornerstone on which all other measurements rest. Without properly executed calibrations, quality test data cannot be produced. The validity and reliability of the calibration chain (i.e., traceability to national standards) must be affirmed. Thus, the need for a formal means of developing and recognizing competent laboratories that provide certain types of calibration services seems indicated. The National Association of Testing Authorities (NATA) of Australia considers the accreditation of a full range of calibration services to be a major factor in improving the quality of testing provided by Australia's laboratories. In announcing the establishment of the British Calibration Service, the British government published the following:

> "The state of measurement science and practice in a country is one of the surest signs of its technical efficiency. Modern industrial technology depends on accurate measurement. The country requires both a comprehensive system of national standards of measurement, tied to the recognized international standards, and also facilities for checking, or calibrating measuring instruments and other test gear against such standards so that their accuracy can be authenticated."

Based on the experience of these and other countries' systems, a system of accrediting laboratories to perform calibration services in this country appears desirable. International recognition of our nation's laboratories may depend upon the validity and reliability of our calibration chain.

NBS does offer measurement assurance programs (MAPs), but these programs do not include evaluation of a laboratory against specified criteria. MAPs relate only to an assessment of results obtained by the laboratories when measuring reference materials and are generally restricted to primary international standard (SI) units. In effect, a MAP is similar to the proficiency testing requirements of a LAP which represent only one of three elements used to evaluate the competence of a laboratory. Further, participation in a MAP does not provide formal recognition.

(3) *Whether for electromagnetic calibration services, there is in existence a standard important to commerce, consumer well-being, or public health and safety (Section 7a.5(c)).* Many standards requiring electromagnetic calibration services are important to commerce, consumer well-being, and the public health and safety. The requestor identified standards developed by several organizations, including the Federal Communications Commission (FCC), and the Occupational Safety and Health Administration (OSHA), and provided a brief statement indicating the benefit of each set of standards established by these organizations. Specific parts of the FCC Rules and Regulations were cited which indicate the importance placed upon power and attenuation measurements particularly on radio frequency devices to assure compliance with FCC standards. Also, the requestor identified the specific subsection of OSHA regulations entitled "Nonionizing Radiation," which defines radio frequency and microwave radiation levels that should not be exceeded. Both the FCC and OSHA regulations indicate that the IEEE standards are acceptable for use in power and attenuation measurements. Thus, assuring the quality of measurements in these areas is deemed important to commerce, consumer well-being, and the public health and safety.

(4) *Whether there is in existence a valid testing methodology (Section 7a.5(d)).* The IEEE standards identified by the requestor provide test methods (i.e., calibration procedures) for use in calibrating electromagnetic power and attenuation measuring instruments. If any requests are received to add other standards and test methods to this LAP and if a final finding of need is established, they will be carefully reviewed for possible addition to the LAP.

(5) *Whether it is feasible and practical to accredit testing laboratories that provide electromagnetic calibration services (Section 7a.5(e)).* DoC is not aware of any characteristic of the IEEE standards or of laboratories in which such calibrations would typically be performed as would make an electromagnetic calibration services LAP less feasible and practical than the other LAPs now in the program. The requestor claimed that the MAPs offered by NBS provide a mechanism which makes it feasible and practical to accredit testing laboratories for calibration services. Such MAPs are comparable to proficiency testing programs in that they help laboratories check their traceability to primary standards. If available, a MAP can and probably would be employed in this proposed LAP as an accreditation requirement. Based on this NBS experience, it is deemed feasible and practical to accredit testing laboratories that provide electromagnetic calibration services.

Preliminary Finding of Need

The request to find that there is a need to accredit testing laboratories that provide electromagnetic calibration services has been carefully examined and analyzed. Based on that examination and analysis, which are described above, it is preliminarily found that a need exists to accredit testing laboratories that provide electromagnetic calibration services. It is proposed that if a final finding of need is determined this LAP would initially include the two IEEE standards identified by the requestor as IEEE–STD–470–1972, "IEEE Standard Application Guide for Bolometric Power Meters" and IEEE–STD–474–1973, "IEEE Standard Specifications and Test Methods for Fixed and Variable Attenuators, DC to 40 GHz." Other standards and test methods would be added in the future, as requested, if they meet the requirements of the NVLAP procedures.

[FR Doc. 80–23682 Filed 8–5–80; 8:45 am]
BILLING CODE 3510–13–M

V 45 / 153 AG 6 80 UMI

V 45 / 153 AG 6 80 UMI

federal register

Wednesday
August 6, 1980

Part V

Department of Agriculture

Federal Grain Inspection Service

Grain Inspection; Assignment of Geographic Areas; Indiana

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Assignment of Geographic Area to the Frankfort Grain Inspection, Inc., Frankfort, Ind.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Frankfort Grain Inspection, Inc., Frankfort, Indiana, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

The Frankfort Grain Inspection, Inc. (the "Agency"), RR 2, Frankfort, Indiana 46041, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2655). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is:

Bounded: on the North by the northern Fulton County line;

Bounded: on the East by the eastern Fulton County line south to State Route 19; State Route 19 south to State Route 114; State Route 114 southeast to the eastern Fulton and Miami County lines; the northern Grant County line east to State Route 221; State Route 221 south to State Route 18; State Route 18 east to the Grant County line; the eastern Grant County line; the southern Grant County line; the eastern Tipton County line; the eastern Hamilton County line south to State Route 32;

Bounded: on the South by State Route 32 west to the Boone County line; the eastern and southern Boone County lines; the southern Montgomery County line;

Bounded: on the West by the western and northern Montgomery County lines; the western Clinton County line; the western Carroll County line north to State Route 25; State Route 25 northeast to Cass County; the western Cass County line; the western Fulton County line.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Titus Grain Inspection, Inc.: Buckeye Feed and Supply Company, Leiters Ford, Indiana, in Fulton County; Cargill, Inc., Linden, Indiana, in Montgomery County; and the Andersons, Delphi, Indiana, in Carroll County. These locations have been restated to more accurately describe the location by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 1, 1980.

Neil E. Porter,
Acting Director, Compliance Division.

[FR Doc. 80–23727 Filed 8–5–80; 8:45 am]
BILLING CODE 3410–02–M

Assignment of Geographic Area to the Winchester Grain Inspection, Winchester, Ind.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Winchester Grain Inspection, Winchester, Indiana, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

The Winchester Grain Inspection (the "Agency"), 220 North East Street, Winchester, Indiana 47394, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2652). One comment was received. Information was received from the Agency and Indianapolis Grain Inspection & Weighing Service, Inc., Indianapolis, Indiana, regarding grain inspection services in Rush County north of State Route 244 in Indiana. After review of this matter with all parties involved, it was mutually agreed that the Agency was better able to provide more timely service in that specified section of this County and to add that section of this County to the geographic area of the Agency.

After due consideration of all relevant matters and information available to the United States Department of Agriculture, the geographic area assigned to this agency shall be the area within the following counties: Blackford, Delaware, Fayette, Jay, Henry, Madison (east of State Route 13 and north of State Route 132), Randolph, Rush (north of State Route 244), Union, and Wayne, all in Indiana. In Ohio, the area shall include Darke County.

The above has been restated to utilize entire counties and sections of counties, instead of county lines, for clarification purposes and does not alter the geographic area as originally proposed in any way except for the addition of that specified section of Rush County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 1, 1980.

Neil E. Porter,
Acting Director, Compliance Division.

[FR Doc. 80–23728 Filed 8–5–80; 8:45 am]
BILLING CODE 3410–02–M

Assignment of Geographic Area to the Titus Grain Inspection Inc., West Lafayette, Ind.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Titus Grain Inspection, Inc., West Lafayette, Indiana, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

The Titus Grain Inspection, 111 East Eight Hundred North, West Lafayette, Indiana 47906, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

Also, the Titus Grain Inspection has been incorporated, effective February 6, 1979, and the Agency's name is now Titus Grain Inspection, Inc. (the "Agency"). The change in name does not involve a change in management or ownership.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announce

[FR Doc. 80– Filed 8–5–80; 8:45 am]

BILLING CODE d in the January 12, 1979, issue of the FEDERAL REGISTER (44 FR 2650). One comment was received. Information was received that the York Richland Grain Elevator, Inc., Earl Park, Indiana, a location outside the Agency's proposed contiguous geographic area, which is presently serviced and was in the past by the Agency, was omitted from the proposed geographic area. This location was proposed to be in the geographic area of the Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois. After review of this matter with all affected parties, it was mutually agreed that the York Richland Grain Elevator, Inc., shall be added to the Agency's geographic area.

After due consideration of all information available to the United States Department of Agriculture, the geographic area assigned to this Agency is as follows:

Bounded: on the North by the northern Pulaski County line;

Bounded: on the East by the eastern and southern Pulaski County lines; the eastern White County line; the eastern Carroll County line south to State Route 25; State Route 25 southwest to Tippecanoe County; the eastern Tippecanoe County line;

Bounded: on the South by the southern Tippecanoe County line; the eastern Fountain County line; the southern Fountain County line west to U.S. Route 41;

Bounded: on the West by U.S. Route 41 north to the northern Benton County line; the northern Benton County line east to State Route 55; State Route 55 north to U.S. Route 24; U.S. Route 24 east to the western White County line; the western White and Pulaski County lines.

The above has been restated for clarification purposes and does not alter the geographic area as originally proposed in anyway.

In addition, the following locations which are outside of the foregoing contiguous geographic area and which have been and will continue to be serviced by the Agency and shall be considered as part of the Agency's geographic area:

Boswell Grain Company, Boswell, Indiana, in Benton County; The Andersons, Delphi, Indiana, in Carroll County; Dunn Grain, Dunn, Indiana, in Benton County; York Richland Grain Elevator, Inc., Earl Park, Indiana, in Benton County; Buckeye Feed and Supply Company, Leiters Ford, Indiana, in Fulton County; Cargill, Inc., Linden, Indiana, in Montgomery County; and

V 45 / 153
AG 6 80
UMI

Raub Grain Company, Raub, Indiana, in Benton County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by Schneider Inspection Service: Central Soya, and Farmers Grain, Winamac, Indiana, in Pulaski County.

These locations have been restated to more accurately describe the locations by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 1, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80–23729 Filed 8–5–80; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area to the William F. Christen Grain Inspection, Decatur, Ind.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the William F. Christen Grain Inspection, Decatur, Indiana, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

William F. Christen Grain Inspection (the "Agency"), 108 W. Monroe Street, P.O. Box 87, Decatur, Indiana 46733, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on October 20, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2651). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is:

Bounded: on the North by the northern Lagrange and Steuben County lines;

Bounded: on the East by the eastern Steuben, Dekalb, Allen, and Adams County lines;

Bounded: on the South by the southern Adams and Wells County lines; the eastern Grant County line sought to State Route 18, State Route 18 west to State Route 221; State Route 221 north to Huntington County; the southern Huntington County and Wabash County lines; and

Bounded: on the West by the western Wabash County line north to Disko, Indiana; State Route 114 northwest to Akron, Indiana; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on August 1, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80–23730 Filed 8–5–80; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area to the Schneider Inspection Service, Inc., Lowell, Ind.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Schneider Inspection Service, Inc., Lowell, Indiana, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 30, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Schneider Inspection Service, Inc. (the "Agency"), 15406 White Oak, Lowell, Indiana 46356, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on October 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2649). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area assigned to this Agency is as follows:

Bounded: on the North by the northern Will County line from Interstate 57 east to the Illinois-Indiana State line; the Illinois-Indiana State line north to Interstate 94; Interstate 94 east-northeast to the northern Laporte County line; the northern St. Joseph and Elkhart County lines;

Bounded: on the East by the eastern and southern Elkhart County lines; the eastern Marshall county line;

Bounded: on the South by the southern Marshall and Starke County lines; the eastern Jasper County line south-southeast to U.S. Route 24; U.S. Route 24 west to Indiana State Route 55; Indiana State Route 55 south to the Newton County line; the southern Newton County line west to U.S. Route 41; U.S. Route 41 north to U.S. Route 24; U.S. Route 24 west across the Indiana-Illinois State line to Illinois State Route 1; and

Bounded: on the West by Illinois State Route 1 north to Kankakee County; the southern Kankakee County line west to U.S. Route 52; U.S. Route 52 north to Interstate 57; Interstate 57 north to the northern Will county line.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the geographic area as originally proposed in any way.

In addition, the following locations, which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Central Soya and Farmers Grain, Winamac, Indiana, in Pulaski County; and Tidewater Grain Company, Fort Iroquois Supply and Service, and Summer Elevator, Sheldon, Illinois, in Iroquois County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by:

Champaign-Danville Grain Inspection Departments, Inc.:

Gillespie Grain Company, Pittwood, Illinois, in Iroquois County.

These locations have been restated to more accurately describe the locations by listing the elevator site serviced rather than by general reference to the city, town, or area in which situated.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on August 1, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80–23731 Filed 8–5–80; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area to the Indianapolis Grain Inspection and Weighing Service, Inc., Indianapolis, Ind.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Indianapolis Grain Inspection and Weighing Service, Inc., Indianapolis, Indiana, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 5, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Indianapolis Grain Inspection & Weighing Service, Inc. (the "Agency"), 727 Board of Trade Building, 143 North Meridian Street, Indianapolis, Indiana 46204, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.)* (the "Act"), for the performance of official grain inspection functions on November 20, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2649). One comment was received. Information was received from the Agency and Winchester Grain Inspection, Winchester, Indiana, regarding grain inspection services in Rush County north of State Route 244 in Indiana. After review of this matter with the agencies, it was mutually agreed that Winchester Grain Inspection was better able to provide more timely service in that specified section of this County and to delete this section of this County from the geographic area of the Agency.

V 45 / 153 AG 6 80 UMI

After due consideration of all relevant matters and information available to the United States Department of Agriculture, the geographic area assigned to this Agency shall be the area within the following counties:

Bartholomew, Brown, Hamilton (south of State Route 32), Hancock, Hendricks, Johnson, Madison (west of State Route 13 and south of State Route 132), Marion, Monroe, Morgan, and Shelby, all in Indiana.

The above has been restated to utilize entire counties and sections of counties, instead of county lines, for clarification purposes and does not alter the geographic area as originally proposed in any way, except for the deletion of that specified section of Rush County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 1, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-23732 Filed 8-5-80; 8:45 am]

BILLING CODE 3210-02-M

federal register

Wednesday
August 6, 1980

Part VI

Department of Agriculture

Federal Grain Inspection Service

Warehouseman's Sample-Lot Inspection Certificate; Proposed Revision

V 45 / 153 AG 6 80 UMI

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Proposed Revisions to the Warehouseman's Sample-Lot Inspection Certificate

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes to revise the Warehouseman's Sample-Lot Inspection Certificate by adding two qualifying statements. The addition of the qualifying statements will clarify the certificates as to the nature of the inspection service rendered and their status under the United State Grain Standards Act, as amended.

DATE: Comments must be received on or before October 6, 1980.

ADDRESS: Comments should be submitted in writing, in duplicate to: Director, Issuance and Coordination Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Room 1127-Auditors Building, Washington, D.C. 20250, telephone (202) 447–3910.

FOR FURTHER INFORMATION CONTACT: John W. Marshall, Director, Inspection Division, telephone (202) 447–8497.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from: Director, Issuance and Coordination Staff, telephone (202) 447–3910.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Pursuant to the authority in section 16(a) of the United States Grain Standards Act, as amended (7 U.S.C. 87e), hereinafter cited as the Act, notice is hereby given that the Administrator of the Federal Grain Inspection Service proposes to amend § 800.161(b)(23) (7 CFR 800.161(b)(23)) of the regulations under the Act to include two statements further qualifying the Warehouseman's Sample-Lot Inspection Certificate.

Section 800.161(d)(1) of the regulations under the Act requires, in part, that FGIS use a color code on certificates to differentiate the kinds of inspection services. The color code identifies an official sample-lot inspection by use of a white certificate, a warehouseman's sample-lot inspection by use of a yellow certificate, and a submitted sample inspection by use of a pink certificate.

A report prepared by the Comptroller General of the United States, General Accounting Office (GAO), states, in part, that the certificates issued under the warehouseman's sample-lot inspection program do not adequately inform users of the source of the sample used to determine the results of the inspection. Based on this report, it was determined that certificate color alone is not sufficient to alert the grain industry of the limitations in rendering such a service. FGIS proposes to add two qualifying statements on the warehouseman's certificate to clarify its status and more clearly differentiate the warehouseman's certificate from other official inspection certificates.

If this proposed change to § 800.161(b)(23) of the regulations under the Act is adopted, the change will become effective 1 month after the final rule is published in the **Federal Register.** Persons issuing warehouseman's certificates will be permitted to use their current supply for a period of 6 months after the effective date.

Consideration will be given to submitted comments and to all other information available to the U.S. Department of Agriculture prior to a final determination with respect to this proposal.

All comments submitted pursuant to this proposal will be made available for public inspection at the Issuance and Coordination Staff, FGIS, during regular business hours.

It is proposed that paragraph(b)(23) of § 800.161 of the regulations under the Act be revised to read as follows:

§ 800.161 Official certificate requirements.

* * * * *

(b) * * *

(23) Warehouseman's sample-lot inspection. For a certificate for a warehouseman's sample-lot inspection service, the name of the licensed employee, the number of the contract entered into by the licensed employee, and the statements: (i) in bold print, "The results of this inspection were based on a sample obtained and submitted by an elevator employee licensed under a contract with the Service. This certificate does not meet the inspection requirements of section 5 of the Act." and (ii) in ghost or shadow type diagonally across the face of the certificate, the word "QUALIFIED."

* * * * *

(Sec. 16, Pub. L. 94–582, 90 Stat. 2884 (7 U.S.C. 87e))

Done at Washington, D.C., August 1, 1980.

D. R. Galliart,

Acting Administrator.

[FR Doc. 80–23738 Filed 8–5–80; 8:45 am]

BILLING CODE 3410–02–M

V 45 / 153 AG 6 80 UMI

federal register

Wednesday
August 6, 1980

Part VII

Department of Agriculture

Commodity Credit Corporation

CCC Intermediate Credit Export Sales Program for Foreign Market Development Facilities

V 45 / 153 AG 6 80 UMI

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1492

[GSM-301]

CCC Intermediate Credit Export Sales Program for Foreign Market Development Facilities

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Notice of proposed rulemaking.

SUMMARY: In accordance with Section 4(b) of the Food for Peace Act of 1966, as added by the Agricultural Trade Act of 1978 ("Act"), the Commodity Credit Corporation is proposing an Intermediate Credit Export Sales Program for Foreign Market Development Facilities (GSM-301) which will authorize CCC to enter into project agreements with U.S. or foreign private entities, or with foreign governments, under which CCC may finance the sale and export of U.S. agricultural commodities for periods in excess of three years but not more than ten years. The project agreement will provide that local currency generated from the import and sale of U.S. agricultural commodities in the importing country be used by the program participant in the importing country to establish facilities to improve the handling, marketing, processing, storage, or distribution of imported commodities. Pursuant to a related commodity agreement, CCC will purchase the exporter's account receivable by paying the exporter the export value of the agricultural commodity. GSM-301 is intended both to expand U.S. exports in order to create a more favorable balance of payments and to enhance farm income for United States producers by expanding future import opportunities in foreign countries for U.S. agricultural commodities.

DATE: In order to assure consideration, comments must be received by September 5, 1980.

ADDRESS: Mail or deliver comments to the General Sales Manager, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: W. R. Randoph, Agricultural Marketing Specialist, Planning and Evaluation Division, Foreign Market Development, Foreign Agricultural Service, Washington, D.C. 20250. Telephone (202) 447-6937. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from W. R. Randolph.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant." Kelly Harrison, General Sales Manager, Foreign Agricultural Service, has determined that an emergency situation exists which warrants less than a 60-day comment period on this proposed action because a timely adoption of the program is crucial to ensure implementation of the program during Fiscal Year 1980. In Fiscal year 1980, $50 million is available in the CCC program budget to fund the proposed program. Potential projects have been identified and proposed to the General Sales Manager which could be started before the end of the fiscal year to effectively utilize the available funds. Because of the time necessary to complete the process of implementing the proposed program and approve the projects before the end of the fiscal year, a comment period of less than the 60-days is necessary. The purpose of extending financing under GSM-301 is to develop or expand the importing country as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal U.S. commercial sales, or to otherwise improve the capability of the importing country to purchase and use, on a long-term basis, U.S. agricultural commodities.

The decision to utilize this GSM-301 program was arrived at after thorough consideration of the following three alternatives: First, no action be taken to implement the intermediate credit program for the establishment of foreign market development facilities authorized in the Act; second, reinstate the former Private Trade Entity Program (PTE) authorized by Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended; and third, develop and implement an intermediate credit program to finance sales of agricultural commodities on credit terms of more than three years but not more than ten years for the establishment of facilities to improve marketing, processing, storage, or distribution of imported agricultural commodities in the importing country as authorized by the Act.

The first alternative considered by CCC contemplates reliance on private financing and other credit facilities now available to establish market development facilities in foreign importing countries. These include facilities and programs administered by agencies or institutions such as the Export-Import Bank, the Overseas Private Investment Corporation, the World Bank, and private financing institutions. The countries which this proposed rule will benefit are not presently eligible for U.S. Agency for International Development or Pub. L. 480 Programs and may not be eligible to receive loan capital for market development projects from other financial institutions. In many instances, private financing is not available from traditional domestic or foreign sources to fund such projects.

The World Bank and other lending institutions have increased their funding of commodity and marketing projects but the total volume of resources made available for such activities remains low relative to expected needs. This situation appears to be attributed to two factors: (1) higher priority given to projects to encourage domestic production and export development of the host country and (2) lending procedures of international institutions which limit the number of approvable projects. It appears to CCC that the aforementioned priorities and lending procedures preclude the World Bank and other lending institutions from funding suitable market development projects which would increase the importation of agricultural commodities and expansion of commercial markets in the importing country. The conclusion, therefore, is that funding for the kinds of projects contemplated in the Agricultural Trade Act of 1978 is not readily available from international lending institutions.

Furthermore, the loan criteria of some of these lending institutions would exclude many market development projects which could be undertaken to improve market opportunities for U.S. agricultural exports. For example, the Export-Import Bank of the United States provides financing of U.S. exports of capital goods and services and is limited to the financing of local costs of projects. Also, the U.S. goods shipped by ocean freight must be transported by U.S. flag vessels unless a waiver is obtained from the U.S. Maritime Administration. This requirement would increase the cost of construction materials and equipment to construct facilities. To qualify for OPIC financing, the projects must have U.S. investors owning a meaningful share of the investment. Generally this is considered to be at least 25 percent of the voting shares. Even in such cases, only 40-45 percent of the total project cost is eligible for financing. In addition, wholly government-owned projects are not eligible for OPIC financing. The first alternative, therefore, is not acceptable to CCC.

The second alternative considered by CCC was to reinstitute the former Private Trade Entity Program (PTE) pursuant to Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended. The PTE program in effect during the 1964–72 period authorized the Secretary of Agriculture to enter into agreements with foreign or U.S. private trade entities to finance export sales of U.S. agricultural commodities, thereby assisting economic and market development in developing countries. Foreign governments were not eligible to participate under the PTE Program. Agreements provided for the development of projects which resulted in the establishment of facilities designed to improve the storage or marketing of agricultural commodities or which otherwise stimulated and expanded private enterprise in friendly developing countries.

If the PTE program was revived and operated in the same manner as before, program regulations would need to be re-issued. There is a legislative requirement that the private trade entity would be eligible for financing only if a country's usual marketing requirements were adhered to. This requirement proved difficult to administer during the time the program was in effect and, because of this requirement, many proposals could not be approved since the private trade entity could not give CCC assurance that the importing country would comply with the usual marketing requirements. There is another legislative requirement that the commodity to be financed must be in "surplus" at the time of export. Finally, it is assumed that the proposed PTE projects would be subject to extensive interdepartmental review as they were in the past. In conclusion, CCC feels that the restrictive legislative requirements resulted in a program which was difficult to administer, burdened both by excessive delays in the approval of projects because of interdepartmental reviews and reluctance on the part of private trade entities to participate because of the imposition of usual marketing requirements over which they had no control, and the uncertainty that commodities programmed in the project agreements would be in "surplus" at the time export of the commodity was planned to occur. Accordingly, CCC has rejected the second alternative.

The third alternative considered by CCC and published herein as a proposed rule is to develop an intermediate credit program to finance sales of U.S. agricultural commodities on credit terms of more than three years but not more than ten years for the establishment of facilities to improve marketing, processing, storage, or distribution of imported agricultural commodities. Essentially, the facilities would be established through the use of local currency generated from the import and sale of the U.S. agricultural commodities in the importing country.

The ability of many countries in the world to import U.S. food and other farm commodities, particularly developing countries, is limited by the lack of adequate marketing facilities in such countries. In a recent USDA survey, 23 countries specified needed projects which they would undertake themselves, or undertake in a joint venture with private U.S. agribusiness firms, if acceptable financing terms were available. Projects of interest to such countries include the construction of adequate port facilities, bulk grain unloading, handling and distribution facilities, feed and flour mills, slaughter and freezer plants, cold storage units, soybean processing plants, vegetable oil refineries, livestock and poultry processing facilities, plus expansion and modernization of existing facilities.

Under the proposed program, and as required by the Act, no export sales may be financed unless the sale develops or expands, on a long-term basis, the importing country as a foreign market for the commercial sale of U.S. agricultural commodities without displacing normal U.S. commercial sales, or otherwise improves the capability of the importing country to purchase and use U.S. agricultural commodities on a long-term basis. Moreover, intermediate credit financing may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling. Foreign governments, as well as private trade, would be eligible to participate under the program.

Commodities financed under the proposed program would be those which are determined to be in sufficient supply. Engineering and marketing feasibility studies would be required for each proposed market development project except when such studies are determined to be unnecessary. Periodic compliance reviews would determine whether the project is being carried out in accordance with the project plans. The participant would be required to maintain an adequate system of bookkeeping records to account for the receipt and use of the local currency received from the import and sale of the commodity. The participant will furnish CCC periodic reports on the use of the local currency and reports on the progress made toward completion of the project.

Under the proposed program, the prticipant would not be required to purchase U.S. capital goods and services to carry out the project and no limitation would apply to the amount of local costs which could be paid for with funds made available through the import and sale of the U.S. agricultural commodity. Furthermore, no requirement would be made of the participant to make future purchases of U.S. agricultural commodities. The U.S. would compete with other exporting countries for the opportunity to export to the foreign country in which the facility was established.

The applicant for a project agreement would be required to establish adequate financial assurance in favor of CCC to protect CCC from failure to repay the financing as well as failure to complete the planned project or to perform other obligations under the agreement. Proposed project agreements would be subject to review only by the National Advisory Council on International Monetary and Financial Policies.

The public is invited to submit written comments regarding the proposed rule. Each person submitting comments regarding the proposed rule shall include his or her name and address and give reasons for any suggested changes in the proposed rule. Copies of all written communications received and an approved Draft Impact Analysis will be available for examination by interested persons in Room 4079, South Agriculture Building, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250, during regular business hours.

Proposed Rule

Accordingly, it is proposed to amend Subchapter C of Chapter XIV of Title 7 of the Code of Federal Regulations by adding a new part 1492, CCC Intermediate Credit Export Sales Program for Foreign Market Development Facilities (GSM-301) and a new subpart A thereunder as follows:

PART 1492—CCC INTERMEDIATE CREDIT EXPORT SALES PROGRAM FOR FOREIGN MARKET DEVELOPMENT FACILITIES

Subpart A—Financing Export Sales of Agricultural Commodities Under CCC Intermediate Credit Export Sales Program (GSM-301)

General

Sec.

1492.1 General statement.

Sec.
1492.2 Definitions of terms.

Project Agreements

1492.3 General.
1492.4 Eligible projects and participants.
1492.5 Submission of application for a project agreement.
1492.6 Project plan and information.
1492.7 Legal opinions and documents.
1492.8 Subsequent legal opinions and documents.
1492.9 Investment by the participant.
1492.10 Assurance of payment to CCC.
1492.11 Credit terms and other financing provisions.
1492.12 Eligible importing countries.
1492.13 Commodity purchase authorizations.
1492.14 Export periods.
1492.15 Export value of the commodity to be financed.
1492.16 Determination of project funds.
1492.17 Deposit of project funds.
1492.18 Use of project funds.
1492.19 Signing of project agreements.
1492.20 Customs entry.
1492.21 Books, records, reports, and compliance policies.
1492.22 Warranties by the participant.
1492.23 Events of default.
1492.24 Remedies of CCC in the event of default.

Commodity Agreements

1492.25 General.
1492.26 Submission of application for a commodity agreement.
1492.27 Commodity agreements.
1492.28 Amendments to commodity agreements.
1492.29 Export periods.
1492.30 Partial payment by the participant.
1492.31 Documents required after export.
1492.32 Assignments.
1492.33 Covenant against contingent fees.
1492.34 Exporter's records and accounts.

Miscellaneous Provisions

1492.35 Use of representatives.
1492.36 Successors to rights of CCC.
1492.37 Applicable law.
1492.38 Notice.
1492.39 Officials not to benefit.
1492.40 Purchasing agents.
1492.41 Waiver.
1492.42 English language.
1492.43 Communications.

Authority: Sec. 4(b), 80 Stat. 1537, as added by Sec. 101, 92 Stat. 1685 (7 U.S.C. 1707a); Sec. 5(f), 62 Stat. 1070, as amended.

General

§ 1492.1 General statement.

(a) Section 4(b) of the Food for Peace Act of 1966, as added by the Agricultural Trade Act of 1978, authorizes the Commodity Credit Corporation (CCC) to finance export sales of United States agricultural commodities out of CCC and private stocks on credit terms in excess of three years but not more than ten years.

(b) Intermediate credit financing made available by CCC on the export sale of United States agricultural commodities may be used to establish facilities in the importing country to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities through the use of local currency generated from the import and sale of the U.S. agricultural commodities to finance the development of such facilities.

(c) No export sale may be financed unless the General Sales Manager determines that the sale will: (1) develop or expand the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal U.S. commercial sales; or (2) otherwise improve the capability of the importing country to purchase and use, on a long-term basis, U.S. agricultural commodities.

(d) Intermediate credit financing may not be used for projects for which financing is available under other U.S. programs, such as programs administered by the Overseas Private Investment Corporation and the Export-Import Bank. However, financing provided by such institutions may be supplemented to the extent the General Sales Manager determines that such supplementation is necessary to accomplish the objectives of this program.

(e) Intermediate credit financing may not be used to encourage credit competition or for the purpose of foreign aid or debt rescheduling.

(f) The terms of credit for export sales financed shall include the following conditions:

(1) Repayment of financing shall be made in U.S. dollars and shall bear interest for the period of the financing. The interest rate shall be specified in the project agreement and shall apply to export sales made during a designated period of time. Interest rates will be determined by CCC using generally the same criteria as used in determining interest rates charged under CCC's short-term Export Credit Sales Program.

(2) The participant shall be required to make an initial payment of at least 15 percent of the export value of the agricultural commodity at the time of export of the commodity.

(3) When deemed appropriate to protect the interests of CCC, the participant shall also be required to make a further investment in the project. Such investment may include initial working capital, the payment of feasibility and engineering studies, organizational expenses, land cost, construction cost, machinery and equipment cost, etc., with the participant's own resources.

(g) CCC shall, when deemed appropriate, obtain commitments from participants that the products produced in facilities covered by the project agreement will not be exported from the importing country if such products compete with the same or similar product being exported from the United States.

(h) Subject to the terms and conditions as set forth in GSM–301, CCC will purchase, after export of the commodity, the exporter's account receivable arising from an export sale of U.S. agricultural commodities.

(i) The provisions of Pub. L. 83–864 (Cargo Preference Act) shall not apply to exports of U.S. agricultural commodities financed under GSM–301.

(j) Participation under GSM–301 will not be conditioned upon the participant's use of U.S. goods and services to establish the facilities except that only U.S. agricultural commodities will be financed under the program.

(k) The GSM–301 program will be administered by the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture.

§ 1492.2 Definition of terms.

As used in this GSM–301, the project agreement, USDA announcements, and the forms and documents related thereto, the following terms shall have the meanings assigned to them in this section:

(a) "Account receivable" means the contractual obligation of the participant to the exporter for the export value of the U.S. agricultural commodity exported by the exporter to the participant. The account receivable establishing the contractual obligation between the exporter and the participant shall be evidenced by documents in form and substance satisfactory to CCC.

(b) "General Sales Manager" means the General Sales Manager, Foreign Agricultural Service, USDA, or the General Sales Manager's designee.

(c) "Assurer" means the institution which assures, on behalf of the participant, repayment in U.S. dollars of the amount financed by CCC with interest in accordance with provisions of the project agreement between CCC and the participant. An "assurer" may be a U.S. bank or financial institution; a foreign private bank or financial institution; or a central bank, government financial agency, or a foreign government.

(d) "Carrying charges" means storage, insurance, and interest charges involved in the cost of handling and storing the agricultural commodity before export and such other incidental costs as may be approved by the General Sales Manager.

(e) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(f) "Commodity agreement" means the written agreement entered into between CCC and an exporter under which the exporter agrees to export an eligible U.S. agricultural commodity in accordance with the exporter's export sales contract with the participant and the provisions of GSM–301 in consideration of CCC's agreement to purchase the exporter's account receivable after export of the commodity and upon submission of the required documents specified in § 1492.29.

(g) "Commodity purchase authorization" means a USDA announcement published by the U.S. Department of Agriculture pursuant to GSM–301 in which the General Sales Manager authorizes the participant to purchase commodities from exporters in accordance with the commodity purchase authorization and project agreement.

(h) "Date of export" means the onboard date of an ocean bill of lading, or the date of an airway bill, or if export is by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country.

(i) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the participant under which a firm dollar-and-cent price has been established or a mechanism to establish the price has been agreed upon.

(j) "Eligible commodity" means any agricultural commodity or product thereof, including eligible cotton, produced in the United States and designated by the General Sales Manager as eligible for financing under GSM–301. Commodities which have been purchased from CCC are also eligible for export under GSM–301. Commodities exported pursuant to any CCC barter contract, Public Law 480 agreement, Agency for International Development agreement, direct loan by the Export-Import Bank, or any other concessional-type transactions are not eligible for financing under GSM–301.

(k) "Eligible cotton" means upland and extra-long staple cotton grown in the United States that is eligible for financing hereunder but excludes reginned or repacked cotton, as defined in regulations of the U.S. Department of Agriculture under the U.S. Cotton Standards Act (7 CFR 28.40), by-products of cotton such as cotton mill waste, motes, and linters, and any cotton that contains any by-products of cotton. CCC's determination as to the eligibility of cotton shall be final.

(l) "Eligible exporter" or "exporter" means a person who is (1) engaged in the business of buying or selling commodities for export and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the United States, (2) financially responsible, and (3) not suspended or debarred from contracting or participating in any program administered by CCC on the date of issuance of the commodity agreement.

(m) "Eligible importing country" means the country (i) which is named in the porject agreement between CCC and the participant and in the commodity agreement between CCC and the exporter, and (ii) which meets the licensing requirements of the U.S. Department of Commerce.

(n) "Export" means the export of the agricultural commodity as required by the export sale contract between the participant and exporter to transfer to the participant full or conditional title to the commodity. Export from the United States shall be f.a.s. or f.o.b. export carrier at U.S. ports, airports, and border points of exit or, if transshipped through Canada, at ports on the Great Lakes and the St. Lawrence River.

(o) "Export value" means the net amount of the exporter's sale price for the commodity delivered to the participant under a commodity agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, airports or border points of exit, or, if transshipped through Canada, at ports on the Great Lakes or on th St. Lawrence River. The export value shall not include ocean freight for a c & f sale, or ocean freight and marine and war risk insurance for a c.i.f. sale, but may include carrying charges as provided for in the export sales contract. The net amount of the exporter's sales price means the exporter's contract price for the commodity, on the basis stated above, less any payments made to the exporter and less any discounts, credits, or allowances by the exporter.

(p) "Financing period" means the number of years and months over which payment is to be made which shall be in excess of three years but not more than ten years. Such period shall start on the date of export of the commodity and shall expire on the expiration of the financial assurance established by the participant or the specified period over which repayments are to be made, whichever occurs first.

(q) "GSM–301" menas the regulations contained in this Subpart A and USDA announcements thereto, setting forth the terms and conditions governing the CCC Intermediate Credit Export Sales Program for Foreign Market Development Facilities.

(r) "Project agreement" means the written agreement entered into between CCC and a participant for the financing of U.S. agricultural commodities on credit pursuant to the purpose described in § 1492.1 (b).

(s) "Participant" means a foreign government, a U.S. or foreign individual, group of individuals, partnership, corporation, association, cooperative or other entity which (1) enters into a project agreement with CCC, (2) purchase U.S. agricultural commodities from an exporter to be exported from the U.S. to the importing country named in the commodity agreement, and (3) executes the documents evidencing the account receivable which is assigned to CCC.

(t) "Supply year" or "fiscal year" means the twelve-month period beginning October 1 and ending the following September 30.

(u) "United States" means the 50 States, the District of Columbia, and Puerto Rico.

Project Agreements

§ 1492.3 General.

To qualify for a project agreement, an applicant must submit: (a) an application for a project agreement; (b) a project plan and cost information; (c) a feasibility study and engineering report except when the General Sales Manager determines that such a study or report is not necessary; (d) certain legal documents; and (e) an assurance of payment. After a project agreement is signed by the General Sales Manager and the participant, the General Sales Manager will issue an authorization for the participant to purchase U.S. agricultural commodities. The commodities are then purchased and imported into the eligible country and sold by the participant, or the commodity may be processed into products and the products sold, and the proceeds from the sale of the commodity or product deposited in a financial institution. The funds are then available to the participant to carry out the construction of the market development project approved in the agreement. The participant will be required to make reports on the use of project funds and progress toward completion of the project. Activities under a project agreement will be reviewed by CCC to determine compliance with the project agreement.

V 45 / 153 AG 6 80 UMI

§ 1492.4 Eligible projects and participants.

(a) Local currency generated from the import and sale of the commodity, or product thereof, shall be used by the participant for the establishment of facilities in the importing country to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities which will improve market opportunities for the export sale of U.S. agricultural commodities.

(b) Projects which may be approved include, but are not limited to, feed and flour mills; bulk unloading, handling and storage facilities at ports and inland points; oilseed crushing and vegetable oil refining facilities; livestock receiving facilities; livestock feeding lots; processing plants; model bakeries; poultry facilities; and tallow refining facilities.

(c) The General Sales Manager may enter into project agreements with foreign governments, U.S. or foreign individuals, group of individuals, partnerships, corporations, associations, cooperatives, and other entities.

(d) If the project agreement is entered into with a foreign government, the foreign government may carry out the establishment of facilities directly or the foreign government may, if approved in the project agreement, enter into an agreement with a private business entity under which the private business entity would carry out the establishment of the facility. The private business entity and the plan of the private business entity to carry out the establishment of the facility must be approved by the General Sales Manager.

(e) If a non-government entity is to be the participant, it must furnish the General Sales Manager with a written statement from the foreign government of the country in which the project is to be carried out showing the foreign government's approval of the proposed project.

(f) The General Sales Manager will request the Agricultural Counselor or Attache assigned to the country in which the project is to be carried out and other interested U.S. agencies to furnish their recommendations concerning the proposed project.

§ 1492.5 Submission of application for a project agreement.

(a) An applicant for a project agreement shall submit a written application to the General Sales Manager. The application shall include, but is not limited to the following:

(1) Name of the applicant and address, type or organization (company, corporation, cooperative, government or other entity), nature of its business and operations and, if a corporation, a copy of its articles of incorporation and by-laws.

(2) Name and address of any firm or individual with which the applicant has a business affiliation, i.e. ownership interest.

(3) A summary of the applicant's experience in dealing with agricultural commodities.

(4) If the applicant is a private organization and the Government of the importing country is to participate in the project, the nature and extent of Government participation in the ownership, financing, or operation of the project. If the Government of the importing country will not be participating in the project, the extent to which the applicant has discussed the proposal with officials of the Government.

(5) Information on each of the applicant's principal officers and managerial personnel as follows: (i) full name, (ii) position, (iii) place and date of birth (day, month, and year), (iv) present citizenship, (v) business and private addresses, and (vi) summary of business experience.

(6) The name of the importing country.

(7) The kind and quantity of agricultural commodity proposed for financing.

(8) The period of time during which the commodities would be exported.

(9) A statement of the applicant's plans for selling the commodity to end users within the importing country or, if the applicant is the intended processor or user, the applicant's plans for processing or using the commodity.

(10) The repayment period considered necessary by the applicant to carry out the project.

(11) Name and address of the financial institution which shall provide the required assurance of U.S. dollar payment to CCC as provided in § 1492.10.

(12) The most recent statment of financial position and profit and loss statement of the applicant.

(13) Projected cash-flow statements covering the repayment period.

(14) The extent to which the applicant has discussed the proposal with the U.S. Agricultural Counselor or Attache or with representatives of the American Embassy and other U.S. agencies.

(15) Brief statement explaining any requests made by the applicant to other U.S. lending organizations, such as the Overseas Private Investment Corporations or the Export-Import Bank of the U.S., to obtain financing for the proposed project and the results of such requests.

(16) Project plans and information as provided in § 1492.6.

(17) Other information or documents as may be requested by the General Sales Manager.

(b) An application may be approved as submitted, approved with modification, or rejected by the General Sales Manager.

§ 1492.6 Project plan and information.

(a) The applicant shall furnish the following information to the General Sales Manager:

(1) *Project plans.* A complete description of the project; plan for carrying out the project; time schedule for carrying out the project, including the approximate starting and completion dates; purpose and need of the project in the importing country; expected effect the project will have on future imports of agricultural commodities into the importing country; and any other information which would demonstrate the soundness of the project plan.

(2) *Project cost estimates.* An estimate of the total cost to carry out the project with a breakdown of the total costs among major categories involved in the project, such as technical services (architectural and engineering), land, construction services, materials, machinery and equipment, financing costs, administrative and overhead costs. An allocation of each such category of costs to project funds and to resources to be provided by the participant. Unless otherwise agreed to in writing by the General Sales Manager, financing cost (other than interest to be paid by the participant for the financing provided by CCC under the project agreement) and related guarantee fees and administrative and overhead charges incurred by the participant cannot be allocated to project funds.

(3) *Project fund estimate.* An estimate of the project funds needed to carry out the project and a certification by the participant which provides substantially as follows: "I certify that the project cost estimates allocated to be paid with project funds represents a reasonable estimate of the financing needed to carry out the project."

(4) *Participant resources.* An estimate of the value of resources (working capital, land, buildings, machinery and equipment, etc.) to be provided by the participant. Include as a resource, that portion of the estimated export value of the commodity to be exported from the U.S. which the applicant will pay with the applicant's own resources. If the applicant is required by the General Sales Manager to make a further investment in the project, a detailed description of the nature and the value of the resource which will represent such investment. When requested by the General Sales Manager, the applicant must furnish a detailed independent appraisal of the value of the resources.

(5) *Tentative schedule of disbursements.* A tentative time schedule for project fund disbursements which shows the estimated disbursement for each major cost category for each semi-annual period of the financing period.

(b) The applicant must furnish a feasibility study to demonstrate the soundness of the proposed project except when the General Sales Manager determines that such a study is not necessary.

(c) (1) The applicant shall employ the services of a competent engineering firm for the planning and development of the project and for supervision of the execution of the project except when the General Sales Manager determines that such services are not necessary.

(2) If the services of an engineering firm are required, the applicant's arrangement with the engineering firm shall provide that the engineering firm furnish a certification with respect to the project plans and cost estimates as follows: "We hereby certify that we have reviewed the accompanying information on the project plans which we understand (name of applicant) is required to submit to the Commodity Credit Corporation. We further certify that this information is in accordance with the project plans and the specifications prepared by us, or with our advice and consultation, and that the cost estimates are reasonable and proper." The certification shall show the name and address of the engineering firm and shall be signed by an authorized representative of the firm.

(d) The General Sales Manager shall have the right to request the applicant to furnish copies of the detailed architectural and engineering plans and specifications and detailed cost estimates.

(e) The applicant shall furnish such other information, certifications, or documents as requested by the General Sales Manager.

(f) After the project plans have been approved by the General Sales Manager, the project and the plan for carrying out the project may be modified only by mutual agreement of the General Sales Manager and the participant in writing.

§ 1492.7 Legal opinions and documents.

Unless otherwise agreed to by the General Sales Manager in writing, the applicant shall furnish to the General Sales Manager in form and substance satisfactory to the General Sales Manager, the following.

(a) An opinion prepared by the applicant's counsel showing that under the laws of the importing country:

(1) The applicant has the power and authority to enter into the project agreement and perform its obligations under the project agreement;

(2) The project agreement, as signed by the participant, or on behalf of the participant, is valid and legally binding upon the participant;

(3) Repayments of principal and interest due CCC will be made in U.S. dollars;

(4) The project agreement may be enforced by legal proceedings against the participant upon failure of the participant to meet its obligations under the project agreement;

(5) Judgments rendered in favor of CCC may be collected in U.S. dollars.

(6) Such other legal opinions including, but not limited to, an opinion with respect to the validity of the assurance of payment, certifications and documents furnished to CCC.

The opinions shall refer to all pertinent documents, decrees, laws, regulations, and legal precedents which serve as a basis for the conclusions stated therein, and shall set forth the procedures which CCC would have to follow in any legal proceedings against the participant and in collecting judgments awarded to CCC pursuant to such proceedings.

(b) A designation by name and title of the person or persons authorized to represent the participant in accordance with § 1492.35 and the authenticated specimen signature of each person.

(c) A foreign exchange authorization showing the signature, title, and organization of the issuing official of the foreign government which authorizes U.S. dollar funds for the repayment of principal and interest in accordance with the project agreement and a certificate of authentication of the authorization executed by an officer of the American Embassy in the importing country.

(d) An assurance of payment acceptable to CCC covering the principal and interest.

(e) Evidence satisfactory to the General Sales Manager that the participant has made arrangements for the services of an engineering firm acceptable to the General Sales Manager, except when the General Sales Manager determines that the services of an engineering firm are not necessary.

(f) The name and address of the financial institution in which project funds are to be deposited.

§ 1492.8 Subsequent legal opinions and documents.

Subsequent to the issuance of the first purchase authorization but prior to the issuance of each additional purchase authorization or any amendment which increases the maximum amount of a purchase authorization, the participant shall, when requested by the General Sales Manager, furnish:

(a) Additional assurance of payment if, as determined by the General Sales Manager, existing assurances are not sufficient.

(b) Additional foreign exchange authorization and related documents specified in § 1492.7(c), if, as determined by the General Sales Manager, existing authorizations and related documents are not sufficient.

(c) Such other additional legal opinions and documents as may be requested by the General Sales Manager.

§ 1492.9 Investment by the participant.

(a) The participant is required to make an initial payment at the time of export of the commodity of at least 15 percent of the export value of the commodity. The percentage amount and manner of making such payment will be specified in the project agreement and in the commodity purchase authorization issued by the General Sales Manager pursuant to § 1492.13.

(b) When deemed appropriate by the General Sales Manager to protect the interests of CCC, the participant shall also be required to further invest in the project. Such investment may include initial working capital, administrative and overhead cost, the cost of feasibility and engineering studies, organizational expenses, land, construction, machinery and equipment, etc. When requested by the General Sales Manager, the participant must furnish a detailed independent appraisal of the value of the investment to be made by the participant.

§ 1492.10 Assurance of payment to CCC.

(a) Repayment of amounts due CCC for commodities financed under a project agreement must be secured by an assurance of payment issued by an assurer acceptable to CCC. The assurance of payment must provide adequate protection to CCC from failure of the participant to make scheduled repayments, from failure of the participant to complete the planned project, or to perform other obligations under the project agreement. An application for a project agreement will not be approved if the proposed assurer is not acceptable to the General Sales Manager because of its ability to

V 45 / 153 AG 6 80 UMI

provide reasonable and adequate assurance of full repayment to CCC.

(b) The assurance of payment shall be in the form of a letter of credit or other assurance of payment acceptable to the General Sales Manager.

(c) The assurance of payment shall obligate the assurer to pay CCC on demand in U.S. dollars the amount of the outstanding balance of the principal in default plus interest in the event of non-compliance with the project agreement.

(d) An acceptable assurance of payment covering the estimated export value of the commodity to be purchased and financed by CCC must be received by the General Sales Manager prior to the issuance of a commodity purchase authorization.

§ 1492.11 Credit terms and other financing provisions.

(a) The financing of commodities to the participant shall be through the purchase by CCC of an exporter's account receivable arising from an export sale after the commodity has been exported.

(b) Repayment shall be made to CCC by the participant in approximately equal semi-annual amounts with the first repayment being due on the date specified in the project agreement with subsequent repayments to be made semi-annually thereafter. Any semi-annual repayment, or repayment of the total amount of principal outstanding, may be made at any time prior to the due date thereof.

(c) The financing period approved for a particular project agreement will be based on factors such as the type of project, planning and completion time of the project and the project's ability to generate funds to liquidate the financing extended. The financing period determined appropriate shall be stated in the project agreement.

(d) At the end of each calendar year, CCC will furnish to the participant a repayment schedule of the principal applicable to commodities exported in the prior twelve month period. The principal shall consist of the U.S. dollar amount disbursed for the account of the participant by CCC for the commodities exported in each calendar year less any adjustments. The principal with interest thereon shall be repaid to CCC semi-annually in accordance with the terms of the project agreement.

(e) The project agreement shall stipulate the interest rate to be paid to CCC. The interest rate shall be fixed at the time the project agreement is signed by the General Sales Manager and the participant and shall apply to export sales made during a designated period of time. After the expiration of such period, CCC shall determine the interest rate which will apply to subsequent export sales. The project agreement will be amended to reflect such rate and the period of time the rate will be in effect for export sales.

(f) Interest on the unpaid balance of the principal shall begin on the date of export of the commodity. Accrued interest shall be paid in U.S. dollars on the date on which payment of principal is scheduled to be paid. Interest shall accrue on any installments determined by CCC to be in arrears.

(g) Repayments made by the participant shall be applied first to accrued interest due and then to principal. Principal and interest shall be paid without deduction for any taxation, including fees and impositions, now or at any time hereafter imposed under the laws of the importing country or any other country.

(h) All obligations of the participant to make repayments to CCC under the project agreement shall be stated in U.S. dollars and shall be discharged by payments in U.S. dollars.

(i) CCC shall have the right to sell or otherwise dispose of the amounts due CCC from the participant. CCC will give notice to the participant prior to any such sale or other disposition.

(j) The participant shall have the right to make prepayments of accrued interest and scheduled principal installments, in part or in full, without penalty.

(k) Information as to financing terms and interest rates may be obtained from the General Sales Manager.

§ 1492.12 Eligible importing countries.

Commodities financed under GSM–301 must be imported into the country in which the local currency generated from the sale of such commodities is to be utilized for the establishment of market development facilities.

§ 1492.13 Commodity purchase authorizations.

(a) After a project agreement is signed, the participant may request the General Sales Manager to issue commodity purchase authorizations for the commodity to be purchased under the terms of the project agreement.

(b) Commodity purchase authorizations will specify: the purchase authorization number; the kind of commodity to be purchased; contracting period; the period during which the commodity must be exported; the approximate quantity and maximum U.S. dollar value of the commodity to be purchased; the importing country; the name of the participant or its agent, to whom bids must be submitted by the exporter; the percentage amount of the U.S. dollar value of the commodity exported which will be financed by CCC; the percentage amount of the U.S. dollar value of the commodity exported which will be paid for by the participant with the participant's own resources; and other information deemed necessary by the General Sales Manager.

§ 1492.14 Export periods.

The commodity to be financed shall be exported during the export period specified in the project agreement and purchase authorization unless the General Sales Manager agrees in writing to an extension of such export period. If a project agreement provides for the purchase of commodities during more than one supply year, the issuance of purchase authorizations for each supply year shall be subject to the General Sales Manager's determinations as to: availability of funds; the availability of the kind of commodity specified in the project agreement; and evidence that satisfactory progress has been made by the participant in carrying out the project.

§ 1492.15 Export value of the commodity to be financed.

CCC will finance only that portion of the export value of the commodity exported by the exporter to the participant pursuant to the provisions of the export sale and the purchase authorization for which the exporter has complied with the applicable provisions of GSM–301.

§ 1492.16 Determination of project funds.

Project funds shall consist of the local currency proceeds received by the participant from the sale of the imported commodity or the sale of products produced from the imported commodity which shall, unless otherwise agreed in writing by the General Sales Manager and the participant, be determined as follows:

(a) *Imported commodities sold without processing.* When the commodity imported by the participant is sold without processing, the amount of the project funds shall be the total sale proceeds which the participant receives from such sales; *Provided*, that, in determining the amount of the project funds, the participant may deduct from the total sale proceeds, the local currency equivalent of the following costs if paid by or for the account of the participant and if such costs are included in fixing the sales price of the imported commodity: (1) ocean freight and marine insurance; (2) fees and other related charges of banks for commercial letters of credit used to effect payment to exporters of the commodity and suppliers of related ocean freight and marine insurance; and (3) such other costs incident to the procurement, importation, handling, and sale of the commodity as may be approved by the General Sales Manager in writing; *Provided Further*, that, the participant shall not deduct from the total proceeds any local currency to offset the amount of the initial payment made by the participant with the participant's own funds.

(b) *Imported commodities processed before being sold.* When the imported commodities are used in the production of a processed commodity (hereinafter called "the product"), the amount of project funds shall be computed by (1) determining the percentage of the value of the imported commodity used in the processing of the product to the total cost of the product and (2) multiplying such percentage by the total sale proceeds received, or to be received, from the sale of the product; *Provided*, that, in determining the value of the imported commodity to be included in the cost of the product, the participant may, if paid by or for the account of the participant, deduct the local currency equivalent of the following costs: (i) ocean freight and marine insurance; (ii) fees and other related charges of banks for commercial letters of credit used to effect payment to exporters of the imported commodity and suppliers of related ocean freight and marine insurance; and (iii) other such costs incident to the procurement, importation, and handling of the commodity and sale of the product as may be approved by the General Sales Manager in writing; *Provided Further*, that, the participant shall not deduct from the total sale proceeds any local currency to offset the amount of the initial payment made by the participant with the participant's own resources. For example: The participant is a flour miller who imports wheat for production of flour. Proceeds from the sale of the flour milled from wheat imported under a project agreement are to be used to expand the milling capacity and for modernization of the existing facility. Proceeds from the sale of the flour which would be considered as project funds would be calculated in the following manner:

	Metric ton
Value of the imported wheat at mill location [1]	$250.00
Processing costs	$50.00
Total cost of producing flour	$300.00
Value of imported wheat to total cost of flour (percentage)	83.3%
Revenue received from the sale of flour	$325.00
Project funds ($325 × 83.3%)	$270.73

[1] After deduction of allowable expenses.

The participant's method of recording sales and production costs, including the value of the imported commodity and allocation of the participant's processing costs to the product produced from the imported commodity and the computation of project funds must be approved by the General Sales Manager in writing.

(c) *Sale proceeds which are less than export value.* If the net sale proceeds determined under this section are less than the U.S. dollar equivalent of the export value of the commodity, the participant shall be required to establish additional equity in the project with the participant's own resources equivalent in value to the difference between the U.S. dollar equivalent of the net sale proceeds and the export value of the commodity. The method of establishing the additional equity must be approved by the General Sales Manager in writing.

(d) *Sale proceeds which are more than export value.* If the net sale proceeds determined under this section are more than the U.S. dollar equivalent of the export value of the commodity, the entire amount of the net sale proceeds shall be used by the participant for carrying out the approved project.

(e) *Other proceeds which are considered project funds.* Where reference is made in this section to the amount which the participant receives on the sale of the imported commodity or the product processed from imported commodity, it means all considerations of any kind, including commissions and interest, which the participant is entitled to receive on such sale.

(f) *Disallowance of deductions.* The General Sales Manager shall be entitled to disallow any of the deductions or exclusions claimed by the participant and to require the participant to use the total amount of such disallowances for approved project purposes.

(g) *Market value of commodity.* Notwithstanding any other provision of GSM–301 or the project agreement, the General Sales Manager may consider the prevailing market value of the commodity in the importing country, less allowable deductions as determined by the General Sales Manager, as the amount of the project funds for the imported commodity.

§ 1492.17 Deposit of project funds.

The participant shall deposit the local currency proceeds from the sale of the commodity or the products thereof in a financial institution acceptable to the General Sales Manager immediately following the receipt of such process. Interest earned on such deposits shall be retained in the account.

§ 1492.18 Use of project funds.

Local currencies accruing from the sale of the commodity, or the products thereof, including interest earned on such local currencies, shall only be used for carrying out the approved project.

§ 1492.19 Signing of project agreements.

The project agreement shall be signed by the participant. The General Sales Manager shall sign the project agreement on behalf of CCC.

§ 1492.20 Customs entry.

(a) The participant shall furnish evidence of customs entry into the importing country of the commodities purchased under a project agreement. The evidence shall consist of a copy of a customs entry certificate issued by a duly authorized official of the importing country showing (1) the kind and quantity of the commodity, (2) carrier identification, (3) purchase authorization numbers, (4) the exporter's name, and (5) exporter's sales invoice number.

(b) The customs entry certificate shall be furnished to the General Sales Manager no later than sixty (60) days after the date of export of the commodity from the United States.

§ 1492.21 Books, records, reports, and compliance policies.

(a) The participant shall maintain books and records covering all transactions relating to the project agreement. Such books and records, including pertinent documents, correspondence, memoranda and other records of the participant shall be subject to examination by the General Sales Manager or the General Sales Manager's authorized representative during normal business hours for a period of three years after the entire amount due CCC under the project agreement has been repaid.

(b) The participant shall furnish to the General Sales Manager such books, reports and information as may be required by the project agreement. Such reports shall include, but shall not be limited to, progress reports on the

V 45 / 153 AG 6 80 UMI

implementation of the project, reports covering the receipt and expenditure of project funds and financial reports.

(c) Activities under a project agreement shall be subject to such other review or investigation as the General Sales Manager deems necessary to assure compliance with the provisions of the project agreement.

(d) The participant shall cooperate with and give reasonable assistance to the General Sales Manager or the General Sales Manager's authorized representative in such review or investigation as well as the examination referred to in paragraph (a) of this section.

§ 1492.22 Warranties by the participant.

The participant represents, warrants, and undertakes as follows:

(a) The participant is a duly organized and existing legal entity under the laws applicable to it, has full authority to carry on its present business and to enter into the project agreement, and has furnished the General Sales Manager with a true copy of the documents by which it was organized.

(b) The participant has no business affiliations, i.e. ownership interest, with any firm or individual other than those disclosed in the application for a project agreement.

(c) The participant has disclosed to the General Sales Manager in writing all agreements which are material to the project agreement.

(d) The participant knows of no conditions which will interfere with, or threaten to interfere with, the participant's ability to discharge its obligations under the project agreement, and agrees to promptly inform and consult with the General Sales Manager with respect to any conditions which may arise which would have such effect.

(e) The participant shall not transfer or assign the project agreement or any of its rights thereunder, nor sell, transfer or assign its rights to any facility or any other real or personal property financed in whole or in part with project funds without the approval of the General Sales Manager.

(f) The participant shall obtain the written approval of the General Sales Manager before entering into any joint venture or any other arrangement with another entity that involves the commodities imported or to be imported under this agreement or which involves the project financed with project funds.

(g) The participant warrants that no person or selling agency has been employed or retained to solicit or secure the project agreement on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the participant for the purpose of securing business. For breach or violation of this warranty, the General Sales Manager shall have the right, without limitation on any other rights it may have, to cancel the project agreement without liability to CCC.

(h) If the participant is required under § 1492.9 to invest in the project, the participant warrants that none of the resources invested are subject to any encumbrances other than those which are disclosed in the financial information referred to in § 1492.5(a)(12) or otherwise disclosed in writing to the General Sales Manager.

§ 1492.23 Events of default.

The occurrence of any of the following events may, at the election of the General Sales Manager, be deemed to be a default in the performance of the participant under the project agreement:

(a) Failure of the participant to make prompt and full repayment of principal or interest when due, or of any other payment required under the project agreement.

(b) A breach on the part of the participant of any obligation or warranty under the project agreement unless the General Sales Manager permits the participant to cure the breach within a specified time and the participant cures it to the satisfaction of CCC within that time.

(c) A false representation made by or on behalf of the participant in obtaining the project agreement, in the project agreement, or in the performance of the project agreement.

(d) A determination by a court of competent jurisdiction or an admission by the participant that the participant is insolvent, bankrupt, or otherwise unable to pay its debts as they become due.

§ 1492.24 Remedies of CCC in the event of default.

(a) *Termination of disbursements.* Upon the occurrence of any default set forth in § 1492.23, or upon the failure of the participant to perform any other obligation specified in the project agreement which permits the taking of the actions set forth in this § 1492.24, the General Sales Manager shall have the right to take any or all of the following actions:

(1) Decline to issue commodity purchase authorizations to the participant;

(2) Cancel outstanding commodity purchase authorizations;

(3) Decline to enter into a commodity agreement with an exporter; and

(4) Suspend or cancel outstanding commodity agreements entered into with exporters under which CCC agreed to purchase the exporter's accounts receivable.

(b) *Change in political, economic, or monetary situation.* In the event of any material change in the political, economic, or monetary situation in the importing country which the General Sales Manager determines will have an adverse effect on the ability of the participant to fulfill its obligations under the project agreement, the General Sales Manager shall have the right to take any or all of the actions set forth in paragraph (a) of this section.

(c) *Acceleration of payment of principal.* Upon the occurrence of any default set forth in § 1492.23, the General Sales Manager shall have the right to declare all or any part of the principal and interest thereon to be immediately due and payable.

(d) *Remedy in case of contingent fee.* For breach or violation of the warranty against contingent fees which is set forth in § 1492.22(g), the General Sales Manager shall be entitled to cancel the project agreement or, at the General Sales Manger's discretion, to require the participant to pay to CCC in U.S. dollars the full amount such commission, percentage, brokerage, or contingent fee or to deduct commission, percentage, brokerage, or contingent fee from payments of prinicpal made to CCC by the participant.

(e) *Refunds to CCC.* If the General Sales Manager determines that any disbursement of project funds is not supported by valid documentation as required by GSM–301 or the project agreement, or was at the time of disbursement in violation of the project agreement or the laws governing CCC, the participant shall pay to CCC on demand the amount of such disbursement together with the interest thereon at the interest rate specified in the project agreement from the date of such disbursement to the date payment is received by CCC. Upon receipt of such refund, CCC will deduct the amount of the refund, exclusive of interest, from the total principal outstanding and due CCC.

(f) *Force majeure.*

(1) The provisions of this paragraph § 1492.24(g) shall apply in lieu of any other provisions of GSM–301 or the project agreement with respect to default, delay, or failure to perform in carrying out the project if the participant maintains, and the General Sales Manager determines in writing, that such default, delay, or failure to perform on the part of the participant is due to force majeure (including, but not limited to, war, insurrection, riots, fires, strikes, floods, acts of God, acts of governments and agencies thereof which the participant had no reason to anticipate) and such default, delay, or failure to perform could not have been prevented by the exercise of reasonable diligence on the part of the participant.

(2) The General Sales Manager shall have the right to take any or all actions set forth in § 1492.24(a) pending a final determination as to whether the project may be carried out. If the cause of the default, delay, or failure to perform cannot be overcome by the participant, the General Sales Manager shall be entitled to take any or all actions set forth in § 1492.24(a) and to declare all or any part of the outstanding principal due CCC to be immediately due and payable to CCC.

(g) *Other remedies.* The use by the General Sales Manager of any remedy provided for in this § 1492.24 shall not prevent the General Sales Manager from using any other remedy provided for in the project agreement or otherwise available at law or equity, including any sanction or penalty under criminal or civil fraud statutes.

Commodity Agreements

§ 1492.25 General.

(a) Sections 1492.25 to 1492.43 contain the provisions under which an exporter who makes an export sale to a participant and who has entered into a commodity agreement with CCC may, after export of the commodity, receive payment from CCC for the export value of the commodity through the purchase by CCC of the exporter's account receivable for that portion of the export value of the commodity for which CCC will provide financing. CCC will issue commodity purchase authorizations pursuant to § 1492.13 which will authorize the participant or the participant's authorized agent to purchase eligible commodities from exporters.

(b) After export of the commodity, the exporter must furnish the applicable documents and certifications required by § 1492.31 to the address specified in § 1492.43(b)(2). If the documents and certifications are in order and acceptable to CCC, CCC will purchase only that portion of the exporter's account receivable for which the exporter has complied with the applicable provisions of this regulation will make prompt payment to the exporter.

(c) The General Sales Manager reserves the right at any time and for any reason or cause whatsoever to supplement, modify, or revoke any commodity purchase authorization, including termination of commodity agreements made pursuant to such purchase authorization.

§ 1492.26 Submission of application for a commodity agreement.

(a) An exporter shall submit a written application (e.g. letter, telex, or TWX) to enter into a commodity agreement to the office specified in § 1492.43(b). If the application is made by telephone, it must be confirmed in writing. An application shall include the full business name and address of the exporter and the following information:

(1) Name and address of the participant and, if export is to be made to an agent of the participant, the name and address of such agent.

(2) The name of the importing country.

(3) Date of sale.

(4) Exporter's sale number.

(5) Delivery period.

(6) Kind and description of commodity.

(7) Quantity and sale contract tolerance, if applicable.

(8) The unit price and total export value of the commodity.

(9) The name and address of the intervening purchaser, if the commodity is to be sold through an intervening purchaser, and a statement that the sale of the commodity is or will be conditioned on its resale by the intervening purchaser to the participant and that the commodity will be shipped directly to the participant or to the participant's agent in the destination country.

(10) CCC purchase authorization number.

(11) Any additional information as determined by the General Sales Manager.

(b) Upon receiving an application complying with the applicable provisions of GSM–301, the General Sales Manager shall determine whether the application shall be approved. If approved, the General Sales Manager shall cause a commodity agreement to be issued to the exporter.

(c) An application may be approved as submitted, approved with modification, or rejected by the General Sales Manager.

§ 1492.27 Commodity agreements.

(a) The commodity agreement between the exporter and CCC shall consist of the exporter's application, the General Sales Manager's written acceptance of the application and the applicable terms and conditions of GSM–301, including any amendments or supplemental announcements here under which are in effect at the time the commodity agreement is issued to the exporter.

(b) The commodity agreement shall provide that CCC will purchase the exporter's account receivable after export of the commodity to the participant and upon submission to CCC of the applicable documents and certifications required by § 1492.31.

(c) The commodity agreement may contain such terms and conditions, not inconsistent with GSM–301, as the General Sales Manager deems necessary in the interest of CCC.

(d) An exporter shall promptly notify the General Sales Manager when he is unable to fulfill his obligations under a commodity agreement.

§ 1492.28 Amendments to commodity agreements.

The commodity agreement may be amended provided such amendment is in conformity with GSM–301 at the time of the amendment and the amendment is determined by the General Sales Manager to be in the interest of CCC.

§ 1492.29 Export periods.

The commodity shall be exported during the export period specified in the commodity agreement and purchase authorization unless the General Sales Manager agrees to an extension of such export period.

§ 1492.30 Partial payment by the participant.

Purchase authorizations issued pursuant to § 1492.13 shall specify that the project participant make at the time of export an initial payment of at least 15 percent of the export value of the commodity. The arrangement for payment of the amount of the export value not financed by CCC is a matter for agreement between the exporter and the participant.

§ 1492.31 Documents required after export.

(a) CCC will purchase an exporter's account receivable only if the documents specified in paragrahs (b) and (c) of this section are received by the Treasurer, CCC, within forty-five (45) days, or any extension thereof granted by the Treasurer, CCC, after the date of export of the commodity.

(b) The exporter shall submit a "Combined Application for Disbursement, Assignment of Account Receivable and Certification (GSM–301)" which shall include:

(1) A written application for disbursement showing: (i) the commodity agreement number; (ii) total export value of the commodity exported. and (iii) the value of the commodity for which payment is requested from CCC.

V 45 / 153 AG 6 80 UMI

(2) An assignment of the account receivable, acceptable to CCC, arising from the export sale.

(3) A certification by the exporter which provides: (i) that the exporter has entered into an export sales contract with the participant to sell the commodity exported; (ii) the date of the sale; (iii) the kind, grade, quality, quantity, agreed upon price for the commodity and delivery terms of the sale; (iv) that the exporter has in the exporter's files documents evidencing the export sale contract and the obligation of the participant to the exporter for that portion of the value of the export sale for which CCC will purchase the exporter's account receivable, and that the exporter will retain and furnish such documents to CCC on demand until 3 years after the final date of export of the commodity under the export sale; (v) that the kind, grade, quality, and quantity of the commodity called for in the export sales contract and reported to CCC in the application for a commodity agreement has been exported to the participant; and (vi) that the exporter knows of no defenses to the account receivable to be assigned to CCC.

(4) A copy of the sales invoice to the participant or, if the commodity has been sold through an intervening purchaser, a copy of the intervening purchaser's sales invoice to the participant.

(c) The exporter shall furnish with the application or disbursement, the following evidence of export, as applicable:

(1) If the commodity is exported by ocean carrier, one non-negotiable copy of either (i) an onboard ocean bill of lading or (ii) an ocean bill of lading with an onboard endorsement, dated and signed or initialed on behalf of the carrier. The bill of lading must be certified by the exporter as being a true copy and must show the kind and quantity of commodity, the date and place of loading the commodity, the name of the ocean carrier, the importing country, and the name and address of both the exporter and the participant, or if the export was made to an agent of the participant, the name and address of the agent.

(2) If the commodity is exported by aircraft, one non-negotiable copy of an airway bill, dated and signed or initialed on behalf of the carrier. The airway bill must be certified by the exporter as being a true copy and must show the kind and quantity of commodity, date and place of loading the commodity, the name of the airline, the destination country and the name and address of both the exporter and the participant, or if export was made to an agent of the participant, the name and address of the agent.

(3) If the commodity is exported by rail or truck, one copy of the bill of lading certified by the exporter as being a true copy, an authenticiated landing certificate or similar document issued by an official of the government of the importing country showing the kind and quantity of commodity, the place and date of entry into the importing country, rail or truck identification, and the name and address of both the exporter and the participant, or if export was made to an agent of the participant, the name and address of the agent.

(4) If the consignee shown in the document provided for in paragraph (c) of this section is other than the participant named in the commodity agreement, the exporter shall furnish such additional information as the Treasurer, CCC, may request to show that export was made in accordance with the instructions of, or the export sale contract with the participant.

(5) For commodities transshipped through Canada via the Great Lakes or the St. Lawrence River, the exporter shall certify that the commodity transshipped was produced in the United States.

(6) A statement from a U.S. bank showing that the documents required under the letter of credit established by the participant in favor of the exporter for that portion of the export value of the commodity for which the participant will pay with the participants own resources have been received by the U.S. bank and such documents are in order. If a letter of credit was not established by the participant in favor of the exporter, such other evidence acceptable to the Treasurer, CCC, showing that the participant, or the participant's agent, has accepted the commodity exported.

(7) If the exporter is unable to supply documentary evidence of export as specified in this section, the exporter may submit such other documentary evidence as may be acceptable to the Treasurer, CCC.

(d) On receipt of the documents described in paragraphs (b) and (c) of this section, the Treasurer, CCC, will promptly pay to the exporter, the amount of the account receivable for which CCC will finance.

(e) If an acceptable application for disbursement and the supporting documents described in paragraphs (b) and (c) of this section have not been received by the Treasurer, CCC, within 45 days from the date of delivery, or any extension thereof, the commodity agreement shall be null and void.

§ 1492.32 Assignments.

The exporter shall not assign any claim or rights or any amounts payable under the commodity agreement, in whole or in part, without written approval of the Controller, CCC.

§ 1492.33 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the commodity agreement on an agreement or understanding of a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, the General Sales Manager shall have the right, without limitation on any other rights the General Sales Manager may have, to cancel the commodity agreement without liability to CCC.

§ 1492.34 Exporter's records and accounts.

The General Sales Manager, or the General Sales Manager's authorized representative, shall have access to and the right to examine any directly pertinent books, documents, papers and records of the exporter involving transactions related to the financed export credit sale until expiration of three years from the date the last export was made under the commodity agreement.

Miscellaneous Provisions

§ 1492.35 Use of representatives.

The participant may designate one or more representatives or agents who may be given authority to request purchase authorizations under the project agreement on behalf of the participant and to execute any and all documents required to be furnished to the General Sales Manager by the participant.

§ 1492.36 Successors to rights of CCC.

If, by operation of any law of the United States or by virtue of assignment, any agency of the Government of the United States succeeds to the rights and obligations of CCC under a project agreement, such agency shall be deemed to be CCC for purposes of the project agreement.

§ 1492.37 Applicable law.

The project agreement shall be deemed to be a contract made under the laws of the United States and shall be governed by and construed in accordance with such laws.

§ 1492.38 Notice.

Any notice, request, or communication made by the General Sales Manager, CCC, or by the participant pursuant to the project agreement or by the exporter pursuant to the commodity agreement shall be in writing and shall be deemed to have been duly made to the other party when received by such other party by hand or my mail, telegram, cable, radiogram, or other method.

§ 1492.39 Officials not to benefit.

No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the project agreement with the participant or to the commodity agreement with the exporter or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the project agreement or to the commodity agreement if made with a corporation for its general benefit.

§ 1492.40 Purchasing agents employed by the participant.

Prior to entering into any agreement for the services of a United States person or firm as its agent to handle procurement of the commodities to be financed under the project agreement, the participant shall submit the name of the proposed purchasing agent and the agent agreement to the General Sales Manager for approval. The participant shall also obtain the approval of the General Sales manager of any amendments to such agent agreement. The General Sales Manager will notify the participant in writing of its approval or disapproval of the proposed purchasing agent and of the proposed agent agreement or amendment thereto. A copy of the executed agent agreement and any amendment shall be furnished to the General Sales Manager.

§ 1492.41 Waiver.

Any failure or delay by CCC to exercise any of its rights, in whole or in part, under a project agreement or under a commodity agreement shall not constitute a waiver of any of such rights.

§ 1492.42 English language.

All documents, opinions, and certificates required to be furnished by the participant under a project agreement shall be furnished without cost to the General Sales Manager or to CCC, and, if not in the English language shall be accompanied by certified English translations.

§ 1492.43 Communications.

(a) *Project agreements.* (1) Unless otherwise provided, all written applications, requests, notifications, or communications by the participant pertaining to the project agreement shall be addressed to the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(2) Information to be furnished in an application for a project agreement, financing terms and interest rates currently in effect may be obtained from the General Sales Manager at the address provided in subparagraph (1) above.

(3) The participant shall make payment of the principal and interest and all other payments required to be made to CCC, as agreed to by CCC and the participant, to the Treasurer, Commodity Credit Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, unless otherwise instructed by CCC in writing.

(b) *Commodity agreements.* (1) Unless otherwise provided, all applications, both telephone and written, notifications, or communications by the exporter pertaining to the commodity agreement shall be addressed to the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(2) The exporter shall forward documents for financing to the U.S. Department of Agriculture, Commodity Credit Corporation, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., August 4, 1980.

Kelly Harrison,

Vice President, Commodity Credit Corporation and General Sales Manager, Foreign Agricultural Service.

[FR Doc. 80-23840 Filed 8-5-80; 8:45 am]

BILLING CODE 3410-10-M

V 45 / 153 AUG 6 80 UMI

V 45 / 153 AG 6 80 UMI

Reader Aids

Federal Register
Vol. 45, No. 153
Wednesday, August 6, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1
51539-51754.....4
51755-52138.....5
52139-52354.....6

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139

Proclamations
4776.....51539

Administrative Orders:

Memorandums:
July 31, 1980.....51169-51174

5 CFR
410.....51755
Ch. XIV.....51541

Proposed Rules:
359.....51214

6 CFR
705.....51175
706.....51541

7 CFR
210.....51175
301.....51176
331.....51755
722.....51755
910.....51177
917.....51179
921.....51180
924.....51180
946.....52141
948.....51182
958.....52141
967.....52143
1137.....51542
1446.....51756
2853.....51757

Proposed Rules:
29.....51572
272.....51216
273.....51216
404.....51573
800.....52339
985.....51818
1464.....51579
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR
264.....52143

Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR

Proposed Rules:
318.....51832

10 CFR
110.....51184
212.....52112
445.....51763

Proposed Rules:
205.....51833
378.....51581

12 CFR
201.....52144

Proposed Rules:
Ch. I.....52166
Ch. II.....51581
525.....52173
541.....52173, 52177
545.....52173, 52177
561.....52177
563.....52173, 52177

13 CFR
101.....51763

14 CFR
39.....51543-51546
71.....51546
91.....51547
121.....51547
127.....51547
135.....51547
375.....51838

Proposed Rules:
71.....51587-51590
73.....51591

15 CFR

Proposed Rules:
19.....51592

16 CFR
436.....51763, 51765

Proposed Rules:
13.....51593, 51596
239.....51838
705.....51218

17 CFR
7.....51520

Proposed Rules:
1.....51598
4.....51600

18 CFR

Proposed Rules:
271.....51219
273.....51219
274.....51219
301.....51614

19 CFR

Proposed Rules:
Ch. I.....51490

20 CFR
404.....52078

416.....52078
Proposed Rules:
Ch. II.....51615

21 CFR
172.....51766
175.....51184
176.....51767
193.....51768
884.....51185, 51186
Proposed Rules:
Ch. II.....51832
610.....51226
660.....51226

23 CFR
Proposed Rules:
625.....51720
652.....51720
663.....51720

24 CFR
203.....51769, 51770
207.....51769, 51771
213.....51771
220.....51769, 51770
221.....51770, 51771
222.....51770
226.....51770
235.....51770
279.....51510
571.....51516
885.....51186
1710.....52144
Proposed Rules:
570.....51227
865.....51228
866.....51615
886.....51228
888.....51228
889.....51229

26 CFR
26a.....51771
Proposed Rules:
26.....51840

27 CFR
Proposed Rules:
Ch. I.....51496

28 CFR
0.....52145
Proposed Rules:
Ch. I.....51506, 51832
16.....52183
50.....52183

29 CFR
11.....51187
40.....51192
102.....51192
1952.....51775
1625.....51547
1999.....51187
2520.....51446
2550.....51194
Proposed Rules:
Ch. XIV.....51229
2520.....51231
2530.....51231
2550.....51231, 51840

30 CFR
Ch. VII.....51547

800.....52306
801.....52306
805.....52306
806.....52306
807.....52306
808.....52306
Proposed Rules:
784.....51240
817.....51240

32 CFR
763.....51776
888d.....52145

33 CFR
117.....51550
207.....51551, 51555
Proposed Rules:
117.....51617, 51618

34 CFR
Proposed Rules:
100.....52052

36 CFR
Proposed Rules:
7.....51618
1202.....51843

37 CFR
304.....51197

38 CFR
21.....51777

39 CFR
Proposed Rules:
111.....51846

40 CFR
35.....51484
52.....51198, 51199, 52148
122.....52149
180.....51200, 51781, 51782
Proposed Rules:
52.....51619, 51620, 52184
167.....52184
169.....52184
180.....51854
410.....52185
717.....51855

41 CFR
Ch. 101.....51201

42 CFR
57.....51201, 51205
58.....51209, 51556
405.....51783
455.....51559
Proposed Rules:
72.....51241

43 CFR
8351.....51740
Proposed Rules:
2560.....52303
Public Land Orders:
5742.....51787
5743.....51787
5744.....51788

44 CFR
65.....51212, 51788

67.....51213, 51559, 51789, 51796
Proposed Rules:
6.....51426
67.....51855–51858

45 CFR
1060.....51561
1210.....52130
1210p.....52130
1210q.....52130
1210r.....52130
Proposed Rules:
1210q.....52136
190.....51243

47 CFR
13.....52154
22.....52149
68.....52151
73.....51561–51563, 52152
74.....51563
76.....52153
81.....52154
83.....52154
87.....52154
90.....51811
97.....51564
Proposed Rules:
Ch. I.....51251
2.....51251, 51252
15.....51251
21.....51252
73.....51624
74.....51252
94.....51252

48 CFR
Proposed Rules:
9.....51253

49 CFR
571.....51569
1002.....51213, 52158
1003.....51213, 52158
1033.....51812–51815, 52158, 52160, 52161
1045A.....51213, 52158
1056.....51213, 52158
1062.....51213, 52158
1100.....51213, 52158
1130.....51213, 52158
1150.....51213, 52158
1309.....52161
1310.....52161
Proposed Rules:
398.....51625
571.....51626, 51628
1102.....51858
1116.....52186

50 CFR
Proposed Rules:
32.....52163
216.....51254
265.....51858
611.....51254
655.....51254
661.....51861

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL EMERGENCY MANAGEMENT AGENCY

45862 7–7–80 / Disaster assistance project administration provisions

TREASURY DEPARTMENT

Customs Service—

45579 7–7–80 / Metric conversion of quantities of merchandise which may be included in an individual's personal exemption

Deadlines for Comments On Proposed Rules for the Week of August 10 through August 16, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

50347. 7–29–80 / Domestic shipments of Florida seedless limes and imports of seedless limes; size requirements comments by 8–13–80

Food Safety and Quality Service—

40129 6–13–80 / Transportation and other transactions concerning certain undenatured lungs or lung lobes; comments by 8–12–80

Rural Electrification Administration—

47436 7–15–80 / Specification for aerial and underground telephone cables; comments by 8–14–80

47437 7–15–80 / Specification for Direct Burial Telephone Cables (Air Core); comments by 8–14–80

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

42608 6–25–80 / Information availability; procedures for obtaining information (interim rule); comments by 8–11–80

CIVIL AERONAUTICS BOARD

42317 6–24–80 / Simplification of regulations for airline ticket and ticket counter notices to passengers; comments by 8–15–80

[*See also* 45 FR 25817, 4–16–80]

COMMERCE DEPARTMENT

Economic Development Administration—

39242 6–10–80 / Public works projects involving skill training center facilities and land assembly; comments by 8–11–80

National Oceanic and Atmospheric Administration—

39507 6–11–80 / Marine sanctuaries; designation of the Gray's Reef Marine Sanctuary 17.5 mi east of Sapelo Island, Ga.; comments by 8–11–80

CONSUMER PRODUCT SAFETY COMMISSION

39434 6–10–80 / Urea-formaldehyde foam insulation; performance and technical data notification; comments by 8–11–80

DEFENSE DEPARTMENT

Engineers Corps—

46093 7–9–80 / Banana River, Cape Canaveral Air Force Station; establishment of restricted area; comments by 8–15–80

EDUCATION DEPARTMENT

Elementary and Secondary Education Office—

39712 6–11–80 / Financial assistance to local and State agencies to meet special educational needs and financial assistance to local educational agencies for children with special educational needs; comments by 8–11–80

Office of the Secretary—

39708 6–11–80 / Amendment of EDGAR to clarify Department's policy regarding participation of students enrolled in private schools; comments by 8–11–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

41330 6–18–80 / Standby Gasoline Rationing Plan; comments by 8–15–80

Federal Energy Regulatory Commission—

45597 7–7–80 / Availability of petition requesting rulemaking for an incentive price for natural gas produced from certain depths; comments by 8–15–80

47863 7–17–80 / High-cost natural gas produced from wells drilled in deep water; comments by 8–11–80

V 45 / 153 AG 6 80 UMI

49591 7–25–80 / Small hydroelectric power projects with a proposed installed capacity of 5 megawatts or less, exemption from all or part of part I of the Federal Power Act; comments by 8–12–80

49958 7–28–80 / Water power projects and project works; dam safety requirements; comments by 8–15–80

[*See also* 45 FR 41608, 6–19–80]

ENVIRONMENTAL PROTECTION AGENCY

47166 7–14–80 / Approval and promulgation of implementation plans—Massachusetts; Procter and Gamble sulfur in fuel limitation; comments by 8–13–80

47168 7–14–80 / Carbon dioxide, nitrogen, and combustible production gas; exemption from requirement of a tolerance; comments by 8–13–80

25828 4–16–80 / Proposed policy and procedures for identifying, assessing, and regulating airborne substances posing a risk of cancer; Advance notice of proposed generic standards; comments extended to 8–12–80

[*See also* 44 FR 58642, 58862, 10–10–79]

FARM CREDIT ADMINISTRATION

39507 6–11–80 / Internal Control for operations of the Farm Credit banks and associations; comments by 8–11–80

FEDERAL COMMUNICATIONS COMMISSION

32013 5–15–80 / Allocating spectrum in the 928–941 MHz Band and to establish other rules, policies, and procedures for one-way paging stations in the Domestic Public Mobile Radio Service and the Private Land Mobile Radio Services; comments by 8–15–80

46458 7–10–80 / Deleting Provisions That Limit the Entry of New Stations Into the VHF Public Coast Station Market and Requiring Applicants for Public Coast Stations To Meet Certain Financial Qualifications; reply comments period extended to 8–15–80

[*See also* 45 FR 46458, 7–10–80]

37868 6–5–80 / FM broadcast station in Grover City, Calif.; changes in table of assignment; reply comments by 8–11–80

42725 6–25–80 / FM broadcast station in Lake Havasu City, Ariz.; changes in table of assignments; comments by 8–11–80

37869 6–5–80 / FM broadcast station in Orchard, Nebr.; Proposed changes in table of assignments; reply comments by 8–11–80

47885 7–17–80 / FM broadcast stations in North Charleston, Goose Creek, and Mount Pleasant, S.C.; reply comments by 8–11–80

17603 3–19–80 / Modification of FM broadcast station rules to increase the availability of commercial FM broadcast assigments; reply comments by 8–13–80

49624 7–25–80 / MTS and WATS Market Structure; Compensation for use of local telephone exchange facilities for interstate or foreign telecommunications; comments extended to 8–15–80

[*See also* 45 FR 20142, 3–27–80 and 45 FR 26274, 4–21–80]

25418 4–15–80 / Station identification requirements in the Amateur Radio Service; reply comments by 8–15–80

43442 6–27–80 / Swept frequency automatic vehicle identification system using microwave frequencies; reply comments by 8–15–80

42347 6–24–80 / Verification and methods of measurement of computing devices; reply comments by 8–15–80

GENERAL SERVICES ADMINISTRATION

Automated Data and Telecommunications Services—

31313 5–13–80 / ADP Services; sharing and procurement; temporary regulations; comments by 8–11–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

40153 6–13–80 / Bottled water; quality standard; comments by 8–12–80

Social Security Administration—

39309 6–10–80 / Federal old-age, survivors, and disability insurance benefits for husbands and surviving young divorced fathers; comments by 8–11–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

31447 5–13–80 / Endangered and threatened wildlife and plants; review of status of the orangefin madtom (*Noturus gilberti*) and the Roanoke logperch (*Percina rex*); comments by 8–11–80

47716 7–16–80 / Hunting and sport fishing; proposed addition of National Wildlife Refuges to list of open areas; comments by 8–15–80

National Park Service—

47092 7–11–80 / Right-of-way regulations for areas of National Park System; interim rule; comments by 8–11–80

Surface Mining Reclamation and Enforcement Office—

47162 7–14–80 / Procedures for review of State Program Amendments; comments by 8–15–80

46818 7–11–80 / Reclamation of eligible land and water, petition for rulemaking; comments by 8–11–80

INTERSTATE COMMERCE COMMISSION

47172 7–14–80 / Conferring designated port status on Dallas/Forth Worth, Texas; import, export, and interstate transportation of wildlife; comments by 8–13–80

46459 7–10–80 / Special temporary authority procedures; comments period extended to 8–11–80

[*See also* 45 FR 37912, 6–5–80]

NUCLEAR REGULATORY COMMISSION

39519 6–11–80 / Rulemaking petition for exemption of industrial radiography licensees from general licensing requirements; comments by 8–11–80

PEACE CORPS

47710 7–16–80 / Public access to classified mail; comments by 8–15–80

PERSONNEL MANAGEMENT OFFICE

39277 6–10–80 / Recruitment, selection, and placement (general); comments by 8–11–80

SECURITIES AND EXCHANGE COMMISSION

40145 6–13–80 / Consideration of a system of classifying smaller issuers for purposes of modifying certain reporting and other requirements; comments by 8–15–80

47853 7–18–80 / Proposed revision of Form U-4, Uniform Application for Securities and Commodities Industry Registration; comments by 8–13–80

SMALL BUSINESS ADMINISTRATION

31410 5–13–80 / Removal of interest rate ceiling of 8 percent on section 501 loans to State development companies and setting a rate that is consistent with the rate for section 7(a) business loans; comments by 8–11–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

39857 6–12–80 / Certification and operations: Land airports serving CAB-certificated air carriers; expansion of applicability; comments by 8–11–80

Research and Special Programs Administration—

46417 7–10–80 / Hazardous wastes; identification numbers, comments by 8–12–80

40627 6–16–80 / Reduction in requirements for written reports of transportation incidents involving packagings containing certain low risk hazardous materials; comments by 8–14–80

TREASURY DEPARTMENT

Comptroller of the Currency—

40613 6–16–80 / Use of data processing technology and the offering of data processing services by national banks; comments by 8–15–80

Internal Revenue Service—

39869 6–12–80 / Coordination of vesting and discrimination requirements for qualified plans; comments by 8–11–80

39512 6–11–80 / Income tax; treatment of gain from disposition of certain oil, gas, or geothermal property; comments by 8–11–80

VETERANS ADMINISTRATION

47166 7–14–80 / Incompetent veterans hospitalized, institutionalized, or domiciled at Government expense; reduction of payable benefits; comments by 8–13–80

Deadlines for Comments On Proposed Rules for the Week of August 17 through August 23, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

50773 7–31–80 / Milk marketing orders; Nebraska and Western Iowa; comments by 8–20–80

Animal and Plant Health Inspection Service—

40965 6–17–80 / Brucellosis indemnity; comments by 8–18–80

Commodity Credit Corporation—

49085 7–23–80 / Terms and conditions of 1980–81 Price Support Program for Milk; comments by 8–18–80

Farmers Home Administration—

41647 6–20–80 / Business and Industry Loan Program; administrative provisions; comments by 8–19–80

Federal Crop Insurance Corporation—

41640 6–20–80 / Proposed grape crop insurance regulations; comments by 8–19–80

Rural Electrification Administration—

48909 7–22–80 / Loan terms and conditions; comments by 8–21–80

41646 6–20–80 / Proposed revision of accounting and disclosure requirements for jointly-owned electric plants; comments by 8–19–80

48909 7–22–80 / Revision of REA Form 805, "Electric Transmission Specifications and Drawings"; comments by 8–21–80

48910 7–22–80 / Revision of standard for minimum acceptable quality of wood poles, stubs, and anchor logs; comments by 8–21–80

CIVIL AERONAUTICS BOARD

48654 7–21–80 / Fare flexibility for Puerto Rico/Virgin Islands, Hawaii, and Alaska; comments by 8–18–80

48654 7–21–80 / Interim fare suspension policies for Puerto Rico/Virgin Islands, Hawaii, and lower-48-Alaska (but not intra-Alaska) markets; comments by 8–18–80

42318 6–24–80 / Intermodal Services of air carriers and foreign air carriers; liberalize regulation; comments by 8–22–80

ENERGY DEPARTMENT

48910 7–22–80 / Patent licensing; comments by 8–21–80

Economic Regulatory Administration—

41450 6–19–80 / Exemption from natural gas incremental pricing for certain industrial facilities that commit to conversion from natural gas or petroleum to other fuels; comments by 8–20–80

40078 6–12–80 / Motor gasoline allocation revision; comments by 8–19–80

Federal Energy Regulatory Commission—

49102 7–23–80 / Affirmative action in accordance with Section 604 of Outer Continental Shelf Lands Act Amendments of 1978; inquiry; comments by 8–18–80

ENVIRONMENTAL PROTECTION AGENCY

48168 7–18–80 / Ambient air quality monitoring, data reporting, and surveillance provisions for the State of Minnesota; comments by 8–18–80

48169 7–18–80 / Ambient air quality monitoring, data reporting, and surveillance provisions for the State of Ohio; comments by 8–18–80

47877 7–17–80 / Approval and promulgation of Ohio implementation plan, comments by 8–18–80

49960 7–28–80 / Evaporative emission standard and test procedure for 1983 and later model year gasoline fueled heavy-duty vehicles; comments by 8–18–80

[*See also* 45 FR 28922, 4–30–80]

48171 7–18–80 / Financial requirements for owners and operators of hazardous waste management facilities; comments extended to 8–18–80

[Originally published at 45 FR 33154, 5–19–80]

48142 7–18–80 / Hazardous waste guidelines and regulations, interim final listing; comments extended to 8–18–80

[Originally published at 45 FR 33123, 5–19–80]

48142 7–18–80 / Hazardous waste management system; identification and listing of hazardous waste; comments extended to 8–18–80

[Originally published at 45 FR 33066, 33084, 33124, 5–19–80]

49117 7–23–80 / Methoxychor; proposed tolerance; comments by 8–22–80

49112 7–23–80 / Metropolitan Pima County, Ariz. nonattainment area plan and regulations; comments by 8–22–80

48171 7–18–80 / Phensulfonic acid–Formaldehyde-Urea condensate, proposed tolerance exemption; comments by 8–18–80

48164 7–18–80 / San Francisco Bay area air basin nonattainment area plan; comments by 8–18–80

50825 7–31–80 / Visibility protection for Federal class I areas; comments by 8–22–80

[*See also* 45 FR 34762, 5–22–80]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

48614 7–21–80 / Procedural regulations; reconsideration of previously issued determinations of reasonable cause or dismissals of charges (interim rule); comments by 8–20–80

FEDERAL COMMUNICATIONS COMMISSION

46457 7–10–80 / FM broadcast station in Bemidji, Min., changes in table of assignments; comments by 8–22–80

40176 6–13–80 / FM Broadcast Station in Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge and West Memphis, Ark.; Portageville, Mo. and Collierville, Tenn.; Proposed Changes in Table of Assignments; reply comments by 8–21–80

40181 6–13–80 / FM broadcast station in Boise, Idaho; reply comments by 8–21–80

40184 6–13–80 / FM broadcast stations in Chubbock and Pocatello, Idaho; table of assignments; reply comments by 8–21–80

40186 6–13–80 / FM broadcast station in Edenton, N.C.; reply comments by 8–21–80

40182 6–13–80 / FM broadcast station in Eureka, Calif.; table of assignments; reply comments by 8–21–80

46453 7–10–80 / FM broadcast station in Fruita, Colo.; channel assignment; comments by 8–22–80

41171 6–18–80 / FM broadcast station in Hertford, N.C.; reply comments by 8–21–80

V 45 / 153 AUG 6 80 UMI

40180 6-13-80 / FM broadcast station in Idaho Falls, Idaho, table of assignments; reply comments by 8-21-80

45601 7-7-80 / FM broadcast station in Seneca, Kans.; changes in table of assignments; comments by 8-18-80

46454 7-10-80 / FM broadcast stations in West Tulsa, Sand Springs, and Pawhuska, Okla.; changes in table of assignments; comments by 8-22-80

45600 7-7-80 / Frequency allocation to the instructional television fixed service, the multipoint distribution service and private operational fixed microwave; comment period extended to 8-18-80

[*See also* 45 FR 42724, 6-25-80]

47885 7-17-80 / Scope and coverage of restrictions on employee financial interests; comments by 8-22-80

FEDERAL MARITIME COMMISSION

48172 7-18-80 / Public information; appeals of denials of requests for information; comments by 8-18-80

41024 6-17-80 / Used household goods; tariff filing regulations applicable to carriers in the foreign and domestic offshore commerce of the U.S.; comments by 8-18-80

FEDERAL TRADE COMMISSION

41650 6-20-80 / Pay Less Drug Stores Northwest, Inc.; consent agreement with analysis to aid public comment; comments by 8-19-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

48125 7-18-80 / Acrylamide and *N*-(Hydroxymethyl) Acrylamide, use as indirect food additive; objections by 8-18-80

48124 7-18-80 / Amendment to adhesives and components of paper and paperboard in contact with dry food, use of certain mixtures; objections by 8-18-80

48123 7-18-80 / Microcapsules for flavoring substances; objections by 8-18-80

Health Care Financing Administration—

41794 6-20-80 / Medicare and medicaid programs; conditions of participation: hospitals; coments by 8-19-80

Social Security Administration—

41453 6-19-80 / Supplemental Security income for the aged, blind, and disabled; reports required; comments by 8-18-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

41936 6-23-80 / PHA-owned projects; modernization of oil-fired heating plants; comments by 8-22-80

[Corrected at 45 FR 46380, 7-10-80]

Fair Housing and Equal Opportunity Office—

40999 6-17-80 / State and local fair housing laws; recognition of; coments by 8-18-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

44540 7-1-80 / Migratory bird hunting; late season frameworks; comments by 8-23-80

[*See also* 45 FR 13630, 2-29-80]

48830 7-21-80 / Potential proposals to amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; comments by 8-20-80

41322 6-18-80 / Proposal to determine Callirhoe Scabriuscula (Texas Poppy-Mallow) to be endangered species; comments by 8-18-80

48677 7-21-80 / Proposals by Australia and South Africa to amend Appendices to the Convention on International Trade in Endangered Species in Wild Fauna and Flora; comments by 8-20-80

41326 6-18-80 / Proposal to determine Spiranthes Parksii (Navasota Ladies'-Tresses) To be an endangered species; comments by 8-18-80

46465 7-10-80 / Scientific authority procedures under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; preliminary notice of 1980-81 export findings for certain Appendix II species; comments by 8-18-80

Indian Affairs Bureau—

47869 7-17-80 / Attorney contracts with Indian tribes; comments by 8-18-80

47869 7-17-80 / Recognition of attorney and agents to represent claimants; comments by 8-18-80

Land Management Bureau—

41860 6-20-80 / Public lands; exchanges; comments by 8-19-80

Surface Mining Reclamation and Enforcement Office—

46129 7-18-80 / Disposal of excess spoils and durable rock fills; comment by 8-18-80

INTERNATIONAL COMMUNICATION AGENCY

49103 7-23-80 / Appointment of foreign service personnel; comments by 8-22-80

INTERSTATE COMMERCE COMMISSION

48792 7-21-80 / Appellate procedures governing Commission's handling of non-rail proceedings; (interim rules); comments by 8-20-80

48676 7-21-80 / Cost standards for railroad rates; interpretation of statutory provisions; comments by 8-20-80

48796 7-21-80 / Policy statement on motor carrier pooling applications; comments by 8-20-80

JUSTICE DEPARTMENT

Attorney General—

41001 6-17-80 / Federal financial assistance; nondiscrimination on the basis of sex in education programs; comments by 8-18-80

Justice Assistance, Research, and Statistics Office—

40156 6-13-80 / Confidentiality of identifiable research and statistical information; comments by 8-20-80

40156 6-13-80 / Criminal intelligence systems operating policies; comments by 8-20-80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

35298 5-23-80 / Provisions for access to employee exposure and medical records in agricultural employments; comments by 8-21-80

MANAGEMENT AND BUDGET OFFICE

43236 6-26-80 / Draft Federal Acquisition Regulation; contracts with Government employees or organizations owned or controlled by them, Component Breakout, and Value Engineering; comments by 8-22-80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48879 7-22-80 / Space transportation system; procurement of spinning solid upper stages; comments by 8-21-80

NATIONAL CREDIT UNION ADMINISTRATION

42628 6-25-80 / Share accounts and Share certificates; penalties for premature withdrawals; comments by 8-18-80

PERSONNEL MANAGEMENT OFFICE

40990 6-17-80 / Grade and pay retention; comments by 8-18-80

POSTAL RATE COMMISSION

48663 7-21-80 / Streamline of procedures for cases filed by the Postal Service as experiments under section 3623 of the Postal Reorganization Act; comments by 8-20-80

TRANSPORTATION DEPARTMENT

Coast Guard—

45327 7-3-80 / Unmanned barges carrying certain bulk dangerous cargoes; comments by 8-18-80

Federal Aviation Administration—

41596 6-19-80 / Operations review program; comments by 8-18-80

49290 7-24-80 / Recordation of conveyances affecting title to, or an interest in aircraft; comment period extended to 8-21-80

[*See also* 45 FR 34286, May 22, 1980]

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

14069 3-4-80 / Recodification of wine regulations; comments by 8-20-80

[*See also* 44 FR 29691, 5-22-79 and 44 FR 53178, 9-13-79]

VETERANS ADMINISTRATION

41169 6-18-80 / Improving Government Regulations; Semiannual Agenda of Regulations; comments by 8-18-80

49297 7-24-80 / Veterans benefits; service records as evidence of service and character of discharge; comments by 8-22-80

41661 6-20-80 / Veterans education; ratio of Federally-supported to other students for flight courses; comments by 8-18-80

Next Week's Meetings

AGRICULTURE DEPARTMENT

Science and Education Administration—

50377 7-29-80 / Joint Council on Food and Agricultural Sciences Executive Committee, Washington, D.C. (open), 8-13-80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

49199 7-23-80 / Humanities Panel, Washington, D.C. (closed), 8-11 through 8-13-80

CIVIL RIGHTS COMMISSION

49966 7-28-80 / Georgia Advisory Committee, Jekyll Island, Ga; (open), 8-15-80

49120 7-23-80 / Massachusetts Advisory Committee, Boston, Mass. (open), 8-8-80

[Originally published at 45 FR 47717, 7-16-80]

43817 6-30-80 / New Hampshire Advisory Committee, Manchester, N.H. (open), 8-12-80

49311 7-24-80 / South Carolina Advisory Committee, Columbia, S.C. (open), 8-13-80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

47179 7-14-80 / Caribbean Fishery Management Council, Scientific and Statistical Committee and Advisory Panel (open), 8-12 through 8-14-80

47179 7-14-80 / Mid-Atlantic Fishery Management Council, Essington, Pa. (open), 8-15-80

DEFENSE DEPARTMENT

Navy Department—

44979 7-2-80 / Chief of Naval Operations Executive Panel Advisory Committee, Washington, D.C. (closed), 8-12 and 8-13-80

46471 7-10-80 / Chief of Naval Operations Executive Panel Advisory Committee, Command, Control and Communications Subpanel, Alexandria, Va. (closed), 8-12 and 8-13-80

Office of the Secretary—

48937 7-22-80 / DOD Advisory Group on Electron Devices, Arlington, Va. (closed), 8-15-80

47903 7-17-80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 8-15-80

43458 6-27-80 / Defense Science Board, San Diego, Calif. (closed), 8-11 through 8-15-80

46151 7-9-80 / Electron Devices Advisory Group, Arlington, Va. (closed), 8-13 through 8-15-80

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL

48999 7-22-80 / Meeting, Washington, D.C. (open), 8-15-80

EDUCATION DEPARTMENT

49323 7-24-80 / Bilingual Education National Advisory Council, Vail, Colo. (open), 8-14 and 8-15-80

48180 7-18-80 / Career Education National Advisory Council Bethesda, Md. (open), 8-16-80

47720 7-16-80 / Education of Disadvantaged Children, National Advisory Council, Washington, D.C.:

Impacts of Inflation on Title I Service Delivery, Committee, 8-12-80

Educationally Disadvantaged Children with Special Needs and Dual Eligibility Committee, 8-15-80

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

49591 7-25-80 / Small hydroelectric power projects with a proposed installed capacity of 5 megawatts or less, exemption from all or part of Part I of the Federal Power Act, Washington, D.C., 8-12-80

ENVIRONMENTAL PROTECTION AGENCY

49600 7-25-80 / FIFRA Scientific Advisory Panel, Arlington, Va., 8-13 through 8-15-80

FEDERAL EMERGENCY MANAGEMENT AGENCY

United States Fire Administration—

49356 7-24-80 / Board of Visitors for the National Fire Academy, Washington, D.C. (open), 8-12 and 8-13-80

FINE ARTS COMMISSION

64863 11-8-79 / Meeting, Washington, D.C. (open), 8-12-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

49681 7-25-80 / Consumer exchange, Chicago, Ill. (open), 8-13-80

Health Resources Administration—

45374 7-3-80 / National Advisory Council on Health Professions Education, Bethesda, Md. (partially open), 8-11 through 8-13-80

National Institutes of Health—

47924 7-17-80 / Biometry and Epidemiology Contract Review Committee, Bethesda, Md. (partially open), 8-14 and 8-15-80

INTERIOR DEPARTMENT

Land Management Bureau—

47932 7-17-80 / Albuquerque District Advisory Council, Albuquerque, N. Mex. (open), 8-13-80

46912 7-11-80 / Federal-State Coal Advisory Board, Denver, Colo. (open), 8-12 and 8-13-80

47732 7-16-80 / Multiple Use Advisory Council, Moab, Utah (open), 8-14-80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

47539 7-15-80 / Board for International Food and Agricultural Development; Joint Committee for Agricultural Development, Washington, D.C. and Arlington, Va. (open), 8-11 and 8-12-80

47540 7-15-80 / Board for International Food and Agricultural Development; Joint Research Committee, Rosslyn, Va. (open), 8-12 and 8-13-80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

49723 7-25-80 / NASA Advisory Council, Pasadena, Calif. (closed), 8-13 through 8-15-80

49723 7-25-80 / Space and Terrestrial Applications Steering Committee (STASC), Proposal Evaluation Advisory Committee, Greenbelt, Md. (closed), 8-12 through 8-14-80

NATIONAL SCIENCE FOUNDATION

47999 7-17-80 / Earth Sciences Advisory Committee, Geology Subcommittee, Golden, Colo. (closed), 8-14 and 8-15-80

V 45 / 153 3 AG 6 80 UMI

UPPER MISSISSIPPI RIVER BASIN COMMISSION

50034 7–28–80 / 35th Quarterly meeting, Brainerd, Minnesota, 8–12 through 8–13–80

WAGE AND PRICE STABILITY COUNCIL

42364 6–24–80 / Price Advisory Council, Washington, D.C. (open), 8–13–80

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

47432 7–15–80 / Milk in the St. Louis-Ozarks and certain other marketing areas, Clayton, Mo., 8–12–80

CIVIL AERONAUTICS BOARD

45338 7–30–80 / Competitive marketing of air transportation, Washington, D.C., 8–12–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

46075 7–9–80 / Energy conservation program for consumer products, Washington, D.C., 8–11 through 8–22–80
[Originally published at 45 FR 44086, 6–30–80]

Economic Regulatory Administration—

48568 7–18–80 / Gas Utility rate design proposals, Chicago, Ill., 8–13–80

46811 7–11–80 / Mandatory petroleum price regulations; equal application rule, Washington, D.C., 8–15–80
[Originally published at 45 FR 44238, 6–30–80]

45098 7–2–80 / Review and establishment of natural gas curtailment priorities, Washington, D.C., 8–12–80

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

47162 7–14–80 / Procedures for review of State Program Amendments, Washington, D.C., 8–14–80

LABOR DEPARTMENT

Mine Safety and Health Administration—

39310 6–10–80 / Respirable dust, Pittsburgh, Pa. and Lexington, Kentucky, 8–12–80 and Charleston, W.Va. and Denver, Colorado, 8–14–80

NUCLEAR REGULATORY COMMISSION

48007 7–17–80 / Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), prehearing conference, Harrisburg, Pa., 8–12–80

TRANSPORTATION DEPARTMENT

Coast Guard—

46591 7–10–80 / Proposed highway bridge across the Steinhatchee River, Steinhatchee, Fla., 8–13–80

List of Public Laws

Last Listing Aug. 4, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 1466 Pub. L. 96–318 To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27–A and 241, 289, and 27–B and 338, and for other purposes. (Aug. 1, 1980; 94 Stat. 968) Price $1.

S. 2508 Pub. L. 96–319 To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236–A, 236–B, and 236–E before the Indian Claims Commission and the United States Court of Claims, and for other purposes. (Aug. 1, 1980; 94 Stat. 972) Price $1

S. 2492 Pub. L. 96–320 Ocean Thermal Energy Conversion Act of 1980. (Aug. 3, 1980; 94 Stat. 974) Price $1.75

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

51484 8–1–80 / EPA—State and local assistance: grants for underground water source protection programs; effective 8–1–80

51209 8–1–80 / HHS/PHS—Grants for graduate programs in health administration; effective 8–1–80

51201 8–1–80 / HHS/PHS—Grants for residency training in general internal medicine or general pediatrics; effective 8–1–80

51205 8–1–80 / HHS/PHS—Grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for support of their educational programs; effective 8–1–80

51516 8–1–80 / HUD/CPD—Community development block grants for Indian tribes and Alaskan natives, Housing Assistance Plan (HAP); effective 9–12–80

DEADLINES FOR COMMENTS ON PROPOSED RULES

50296 7–28–80 / CSA—Grantees, funding; community action agencies; program management system; republication; comments by 8–27–80

51243 8–1–80 / ED—Basic educational opportunity grant program; Family Contribution Schedules; comments by 9–30–80

51241 8–1–80 / HHS/PHS—Grants for various health manpower projects; comments by 9–30–80

APPLICATIONS DEADLINES

49967 7–28–80 / Commerce—NTIA/Satellite Teleconference on increasing participation of minorities and women in public telecommunications, grant proposal applications by 8–15–80

50622 7–30–80 / ED—Bilingual education and minority language affairs; applications to serve as field readers to evaluate grant applications for FY 1981 funding cycle by 10–31–80

50623 7–30–80 / ED—Mina Shaughnessy Scholars Program to improve postsecondary education; applications for awards by 10–17–80

51286 8–1–80 / HHS/CDC—Project grants—Health programs for refugees, emergency notice of availability of FY 1980 funds; notification of intent to apply by 8–15–80

MEETINGS

51318 8–1–80 / NFAH—Design Arts (Design Exploration/ Research), Washington, D.C. (closed), 8–18 and 8–19–80

50687 7–30–80 / NSF—Policy Research and Analysis and Science Resources Studies Advisory Committee, Subcommittee on Output Indicators, Washington, D.C. (open), 8–19–80

OTHER ITEMS OF INTEREST

51490 8–1–80 / EPA—Women's business enterprise policy for the construction grants program; Final program requirements memorandum; effective 10–1–80

50524 7–29–80 / HHS/NIH—Recombinant DNA Research; actions under guidelines

49960 7–28–80 / HHS/PHS—Community Health Centers; Provisional Nature of Amounts of Initial Operation and Staffing, Conversion, and Financial Distress grants under Community Mental Health Centers Act; correction to proposed rule

51227 8–1–80 / HUD/Secretary—Community development block grants; Innovative grants program; transmittal of interim rule to Congress

51227 8–1–80 / HUD/Secretary—Community development block grants and urban development action grants; transmittal of interim rule to Congress

51303 8–1–80 / Labor/ETA—Intent to reallocate funds under Title II–D of the Comprehensive Employment and Training Act; comments by 9–2–80

V. 45 / 153 AUG 6 80 UMI

8-7-80
Vol. 45 No. 154
Pages 52355-52768

federal register

Thursday
August 7, 1980

Highlights

52356 **Campaign Funds** FEC announces 8–7–80 as effective date for ruling regarding contributions to and expenditures by delegates to national party nominating conventions

52750 **Motor Vehicles** FTC proposes rule concerning practices and information disclosure on used car sales; comments by 10–7–80 (Part IV of this issue)

52542 **Mass Transportation** DOT/FRA proposes guidelines for Federal financing of Amtrak; comments by 9–22–80

52373 **Income Tax** Treasury/IRS provides final regulations relating to investment in U.S. property by controlled foreign corporations

52399 **Income Tax** Treasury/IRS proposes regulations relating to deductibility of expenses in connection with business use, or rental to others of dwelling units

52371 **Public Housing** HUD/FHC implements certain changes pertaining to continued operation of public housing projects after completion of debt service for the project; effective 9–15–80; comments by 10–6–80

52762 **Housing** HUD/CPD publishes interim rule authorizing use of certain funds; effective 9–15–80; comments by 10–6–80 (Part V of this issue)

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

52442 **Petroleum** DOE/ERA issues notice of entitlement program of crude oil cost data for November 1978 through May 1980

52441 **Petroleum** DOE intends to prepare environmental impact statement on potential use of salt domes to store crude oil

52359 **Natural Gas** DOE/FERC exempts certain small industrial boiler fuel facilities from incremental pricing

52538 **Oil Pollution** DOT/CG solicits information pertinent to study of large tank barges, comments by 10–1–80

52408 **Oil and Gas Exploration** Interior/GS plans to provide for the submission of a plan of operations for leases in the Western Gulf of Mexico; comments by 9–8–80

52411 **Water Pollution Control** EPA announces availability of, and invites comments on, effluent limitation guidelines for certain subcategories of canned and preserved seafood processing point source category; comments by 9–8–80

52676 **Air Pollution Control** EPA prints requirements for preparation, adoption, and submittal of implementation plans; effective 8–7–80 (Part III of this issue)

52410 **Surface Mining** Interior/SMO extends comment period until 8–18–80 on proposed rule to define "surface coal mining operations" and "coal processing plants"

52365 **Highways and Roads** DOT/FHWA issues requirements for certifying State enforcement on size and weight laws on Federal-aid highway systems; effective 10–1–80

52386 **Freight** DOT/CG revises tables which list flammable and combustible bulk cargoes; effective 9–10–80

52397 **Improving Government Regulations** Justice/DEA issues semiannual agenda

52547 **Sunshine Act Meetings**

Separate Parts of This Issue

52628 **Part II, EPA**
52676 **Part III, EPA**
52750 **Part IV, FTC**
52762 **Part V, HUD/CPD**

Contents

Federal Register
Vol. 45, No. 154
Thursday, August 7, 1980

Agricultural Marketing Service
RULES
52356 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Forest Service; Soil Conservation Service.
RULES
Authority delegations by Secretary and General Officers:
52355 Rural Development, Assistant Secretary, et al.; departmental energy programs

Air Force Department
NOTICES
52439 Senior Executive Service Performance Review Board; membership

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages and tobacco products:
52407 Excise taxes; payment by electronic fund transfer and return and deferral periods for payments by large manufacturers; extension of time

Arts and Humanities, National Foundation
NOTICES
Meetings:
52516 Design Arts Panel
52517 Expansion Arts Panel

Center for Disease Control
NOTICES
Meetings:
52457 Staphylococcus aureus; discussion of extracellular products and genetic characteristics

Civil Aeronautics Board
NOTICES
Hearings, etc.:
52437 South Bend-Chicago Subpart Q proceeding
52437 Southeast Airlines, Inc., enforcement proceeding
52547 Meetings; Sunshine Act

Civil Rights Commission
NOTICES
52547 Meetings; Sunshine Act

Coast Guard
RULES
Dangerous cargoes:
52386 Flammable and combustible bulk cargoes
Vessel inspections;
52387 Tailshaft examination
NOTICES
52538 Tank barges, large, carrying crude oil; study of oil pollution causes; inquiry

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
52439 Self-regulatory organizations; supervision of futures commission merchants compliance with financial requirements; proposed joint audit plan; inquiry; correction

Community Planning and Development, Office of Assistant Secretary
RULES
52762 Urban homesteading program; interim

Defense Department
See Air Force Department.

Drug Enforcement Administration
PROPOSED RULES
Improving Government regulations:
52397 Regulatory agenda

Economic Regulatory Administration
NOTICES
Crude oil, domestic; entitlements program cost data, 1978–1980:
52442 November through May

Education Department
NOTICES
Education Appeal Board:
52439 Applications
52440 Decisions

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
Environmental statements; availability, etc.:
52441 Gulf of Mexico; use of salt domes for crude oil storage by Strategic Petroleum Reserve
International atomic energy agreements; civil uses; subsequent arrangements:
52442 Canada
52442 Japan and European Atomic Energy Community

Environmental Protection Agency
RULES
Air Quality implementation plans:
52676 State implementation plans; preparation, adoption, submittal, approval, and promulgation; prevention of significant air quality deterioration (PSD), etc.
PROPOSED RULES
Pesticides programs:
52628 Registration denial or cancellation and change to use classification, issuance procedures; revision of hearing procedures
Water pollution; effluent guidelines for point source categories:
52411 Seafood, canned and preserved, processing; rulemaking petition, availability and request for comments

NOTICES
Grants, State and local assistance:
52446 Water treatment works, increased use of minority consultants and construction contractors; policy statement; regional implementation
Toxic and hazardous substances control:
52445 Premanufacture notices receipts

Federal Aviation Administration
RULES
Airworthiness directives:
52357 Boeing (2 documents)
52358 Standard instrument approach procedures
PROPOSED RULES
52396 Jet routes
52396 VOR Federal airways
NOTICES
Aircraft certification, status etc.:
52539 McDonnell Douglas Corp.; DC-9-80

Federal Communications Commission
RULES
Common carrier service:
52389 Second computer inquiry (telephone deregulation); extension of time to file oppositions to petitions for reconsideration, etc.; waiver of page limitation provisions
NOTICES
52547 Meetings; Sunshine Act

Federal Deposit Insurance Corporation
NOTICES
52547, 52548 Meetings; Sunshine Act (4 documents)

Federal Election Commission
RULES
52356 Delegates to National nominating convention; contributions to and expenditures by

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
52383 Arizona et al.
Flood insurance; special hazard areas:
52384 Arizona et al.
PROPOSED RULES
Flood elevation determinations:
52422 Alabama et al.
52416 Michigan; correction
52417 Minnesota; correction
52427 New Jersey et al.
52417 Pennsylvania et al.

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
52359 Incremental pricing; new small industrial boiler fuel users; definition and permanent exemption
NOTICES
52548 Meetings; Sunshine Act

Federal Highway Administration
RULES
Engineering and traffic operations:
52365 Motor vehicles; certification of size and weight enforcement
NOTICES
Environmental statements; availability, etc.:
52539 Ballard, Carlisle, Hickman, and Fulton Counties, Ky.; intent to prepare
52540 Fairbanks, Alaska; intent to prepare
52540 Jessamine and Fayette Counties, Ky.; intent to prepare
52540 Las Vegas, Clark County, Nev.; intent to prepare

Federal Maritime Commission
NOTICES
52451 Agreements filed, etc.
52548 Meetings; Sunshine Act

Federal Procurement Policy Office
NOTICES
52525 Labor surplus area program; proposed policy letter; inquiry

Federal Railroad Administration
NOTICES
Meetings:
52541 Signal system between Baldwin, Pa., and Regan, Del., modification petition by National Railroad Passenger Corp.
52542 National Railroad Passenger Corporation (Amtrak); Federal financing; proposed guidelines
Petitions for exemptions, etc.:
52541 Texas South-Eastern Railroad Co.

Federal Reserve System
NOTICES
Applications, etc.:
52455 Bosque Corp.
52455 Citizens Investment Co., Inc.
52455 Citizens State Agency of Tyler, Inc.
52456 First Decatur Bancshares, Inc.
52456 Illini Bancshares, Inc.
52456 Shawnee Mission Bancshares, Inc.
52456 Shelbyville Bancshares, Inc.
52456 Tradewater Bancshares, Inc.

Federal Trade Commission
PROPOSED RULES
52750 Motor vehicles; dealer window sticker requirements for sale of used cars

Fish and Wildlife Service
RULES
Hunting:
52393 Ankeny National Wildlife Refuge et al., Oreg.
52392 Bear Lake National Wildlife Refuge et al., Idaho
Public entry and use:
52391 Back Bay National Wildlife Refuge, Va.
NOTICES
52458, 52459 Endangered and threatened species permits; applications (3 documents)
Pipeline applications:
52459 McFaddin National Wildlife Refuge, Tex.

Forest Service
NOTICES
Environmental statements; availability, etc.:
52434 Fishlake National Forest land and resource management plan, Utah
52434 Texas national forests and grasslands, land and resource management plan
52435 Lumber price index trends; sugar pine; final policy

General Accounting Office
NOTICES
52457 Regulatory reports review; proposals, approvals, violations, etc. (FMC, NRC)

General Services Administration
NOTICES
52457 Automatic data processing resources acquisition; public information availability, pilot program; extension

Geological Survey
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
52408 Gulf of Mexico, western; submission of operations plan instead of development and production plan

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department

Health and Human Services Department
See Center for Disease Control.

Heritage Conservation and Recreation Service
NOTICES
Environmental statements; availability, etc.:
52459 National wild and scenic rivers system; designation of certain California rivers
52459 National wild and scenic rivers system; designation of certain California rivers

Housing and Urban Development Department
See also Community Planning and Development, Office of Assistant Secretary.
RULES
Low income housing:
52371 PHA-owned projects; continued operation after completion of debt service; interim rule and request for comments
NOTICES
Organization and functions:
52457 Indian programs; reorganization

Indian Affairs Bureau
NOTICES
Law enforcement functions performance determinations:
52460 Nooksack Indian Tribe, Wash.

Interior Department
See Fish and Wildlife Service; Geological Survey; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Office.

Internal Revenue Service
RULES
Income taxes:
52373 Foreign corporations; investment in U.S. property
PROPOSED RULES
Income taxes:
52399 Dwelling units, business or rental use; deduction of expenses
52399 Employee retirement plans; coordination of vesting and discrimination requirements; announcement of inclusion of examples in final rule

International Development Cooperation Agency
NOTICES
Authority delegations:
52470 Agency for International Development, Administrator; Foreign Assistance Act functions

International Trade Administration
NOTICES
Meetings:
52437 Electronic Instrumentation Technical Advisory Committee

Interstate Commerce Commission
NOTICES
Motor carriers:
52481 Permanent authority applications
52472 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways, and pack and crate
52470 Railroad car service rules, mandatory; exemptions

Justice Department
See also Drug Enforcement Administration.
NOTICES
Meetings:
52516 Hispanic Advisory Committee to Attorney General

Land Management Bureau
RULES
Public land orders:
52382 California
52382 Montana
NOTICES
Authority delegations:
52462 Montana and North Dakota District Managers; temporary road rights-of-way
Management framework plans, review and supplement, etc.:
52461 Idaho
Meetings:
52461 Dickinson District Advisory Council
52461 Medford District Advisory Council
52462 Yuma District Multiple Use Advisory Council
Survey plat filings:
52465 Washington
Wilderness areas; characteristics, inventories, etc.:
52465 Montana
52462 Wilderness review of public land status
Withdrawal and reservation lands, proposed, etc.:
52466 Oregon (2 documents)

Management and Budget Office
See also Federal Procurement Policy Office.
NOTICES
52522, 52523 Agency forms under review (2 documents)

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
52365 Tires, new pneumatic, for passenger cars; correction

V 45 / 154 AG 7 80 UMI

NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
52545 White Motor Corp.; speedometers and odometers

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
52439 Sea Lions Promotion Ltd.
Meetings:
52439 New England Fishery Management Council
52438 Pacific Fishery Management Council; time change
Procurement:
52438 Commercial or industrial activities and service contracts; Government versus contract operation review

National Transportation Safety Board
NOTICES
52517 Accident reports, safety recommendations and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
52521 Florida Power & Light Co. et al.
52522 Houston Lighting & Power Co. et al.

Saint Lawrence Seaway Development Corporation
RULES
52376 Seaway regulations; safety procedures, hazardous cargo transportation, etc.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
52525 Beneficial National Life Insurance Co. et al.
52527 Edie Special Growth Fund, Inc.
52532 Georgia Power Co.
52534 UCB Financial Services, Ltd.
52536 Wacoal Corp.
52536 Warner-Lambert International Capital Corp.
52549 Meetings; Sunshine Act
Self-regulatory organization; proposed rule changes:
52526 Cincinnati Stock Exchange
52527 Depository Trust Co.
52528 Municipal Securities Rulemaking Board
52533 National Association of Securities Dealers, Inc.
52528 New York Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
52533 Midwest Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
52537 Cornell Capital Corp.
52537 Hop Chung Capital Investors, Inc.
52538 Roger Cox Small Business Investment Co.
52537 Southern Venture Corp.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
52435 Donaldson Creek Watershed, Ky.
52436 East Finley Township Park Public Water-Based Recreation and Critical Area Treatment RC&D Measure, Pa.
52436 Hudson River Supplemental Watershed Plan, Ga.
52436 Grant-Shanghai Watershed, Chautauqua County, Kans.

Surface Mining Office
RULES
Surface coal mining and reclamation enforcement operations:
52375 Permanent regulatory program; land exempt from designation as unsuitable; correction
PROPOSED RULES
Permanent program submission; various States:
52406 Kansas; public disclosure of comments
52407 Tennessee; public disclosure of comments
Surface coal mining and reclamation enforcement operations:
52410 Permanent regulatory program; "surface coal mining operations"; definition; extension of time
NOTICES
52467 Coal mining operations, underground; Mower Lumber Co. request for determination of valid existing rights in Monongahela National Forest, W. Va.
Surface coal mining operations; lands unsuitable for mining; petitions, designations, etc.:
52469 West Virginia; meeting

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Saint Lawrence Seaway Development Corporation.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

United States Railway Association
RULES
52389 Consolidated Rail Corporation; determination of attainment of standards relating to employee stock ownership plans

Water Resources Council
NOTICES
Senior Executive Service:
52545 Performance Review Board; membership
52546 Schedule for awarding bonuses

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
52516 Design Arts (Design Communication), 8–25 and 8–26–80
52517 Expansion Arts Panel, 8–27 through 8–29–80

COMMERCE DEPARTMENT
International Trade Administration—
52437 Electronic Instrumentation Technical Advisory Committee, 8–26–80
National Oceanic and Atmospheric Administration—
52439 New England Fishery Management Council, 8–27 and 8–28–80

HEALTH AND HUMAN SERVICES
Center for Disease Control—
52457 Extracellular Products and Genetic Characteristics of *Staphylococcus aureus*, 8–14–80

INTERIOR DEPARTMENT
Heritage Conservation and Recreation Service—
52459 California Rivers as part of the National Wild and Scenic Rivers System, 8–13, 8–14, 8–15, and 8–19–80
Land Management Bureau—
52461 Bennett Hills-Timmerman Hills Management Framework Plan, 9–10–80
52461 Dickinson District Advisory Council, 9–12–80
52461 Medford District Advisory Council, 9–12–80
52462 Multiple Use Advisory Council, 9–10 and 9–11–80
Surface Mining Office—
52469 Petition to designate certain Federal lands unsuitable for surface coal mining operations, 8–12–80

JUSTICE DEPARTMENT
52516 Hispanic Advisory Committee to the Attorney General, 9–18 and 9–19–80

TRANSPORTATION DEPARTMENT
Federal Highway Administration—
52540 Proposed highway project in Las Vegas, Clark County, Nevada, 8–6–80
Federal Railroad Administration—
52541 National Railroad Passenger Corporation (Amtrak), 8–26–80

CHANGED MEETING

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
52438 Pacific Fishery Management Council, Scientific and Statistical Committee, Salmon Subpanel, 8–19 through 8–21–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

MOTOR VEHICLES
Sales practices for used cars. Federal Trade Commission.

V45/154 AG7 80 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
2 52355
908 52356

11 CFR
100 52356
110 52356

14 CFR
39 (2 documents) 52357
97 52358

Proposed Rules:
71 52396
75 52396

16 CFR

Proposed Rules:
455 52750

18 CFR
282 52359

19 CFR
571 52365

21 CFR

Proposed Rules:
Ch. II 52397

23 CFR
657 52365
658 52365

24 CFR
590 52762
869 52371

26 CFR
1 52373

Proposed Rules:
1 (2 documents) 52399

27 CFR

Proposed Rules:
19 52407
70 52407
240 52407
245 52407
250 52407
270 52407
275 52407

30 CFR
762 52375

Proposed Rules:
Ch. VII (2 documents) 52407, 52408
250 52408
700 52410
701 52410

33 CFR
401 52376

40 CFR
51 52676
52 52676
124 52676

Proposed Rules:
162 52628
164 52628
408 52411

43 CFR

Public Land Orders:
5745 52382
5746 52382

44 CFR
64 52383
65 52384

Proposed Rules:
67 (5 documents) 52416, 52417, 52422, 52427

46 CFR
30 52386
61 52387
151 52386

47 CFR
Ch. I 52389

49 CFR
941 52389

50 CFR
26 52391
32 (2 documents) 52392, 52393

V 45 / 154 AG 7 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 154
Thursday, August 7, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department; Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary to reflect the Assignment of responsibility for Departmental energy programs to the Assistant Secretary for Rural Development and to the Director of Economics, Policy Analysis and Budget.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: C. R. Hanna, Jr., Director, Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6111.

SUPPLEMENTARY INFORMATION: Department-wide responsibility for coordination, evaluation, and policy development on energy issues has heretofore been located in the Office of the Secretary. Two actions are now being taken to strengthen these functions on a day-to-day basis. First, authority to provide operational support to Departmental efforts to encourage the production of alternate fuels is being transferred to the Assistant Secretary for Rural Development. Second, authority for Department policy development and coordination and allocation of scarce fuel resources is being transferred to the Director of Economics, Policy Analysis, and Budget.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, Improving Government Regulations, and, thus, does not require the preparation of a regulatory impact analysis.

Accordingly, 7 CFR Part 2 is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries and the Director of Economics, Policy Analysis and Budget

1. Section 2.23 is amended by adding a new paragraph (g) to read as follows:

§ 2.23 Delegations of Authority to the Assistant Secretary for Rural Development.

* * * * *

(g) *Related to Energy.*

(1) Provide Department-wide operational support and coordination for loan and grant programs to foster and encourage the production of fuels from agricultural and forestry products or by-products

(2) Participate as a Department representative at conferences, meetings and other contacts including liaison with the Department of Energy and other government agencies and departments with respect to implementation of established Department energy policy.

(3) Serve as Co-Chairperson of the Energy Coordinating Committee of the Department.

2. Section 2.27 is amended by adding a new paragraph (h) to read as follows:

§ 2.27 Delegations of Authority to the Director of Economics, Policy Analysis and Budget.

* * * * *

(h) *Related to energy.* (1) Advise the Secretary and other policy-level officials of the Department on energy policies and programs.

(2) Participate as the Department representative at hearings, conferences, meetings and other contacts with respect to policy matters related to energy, including liaison with the Department of Energy and other governmental agencies and departments.

(3) Serve as Co-Chairperson of the Energy Coordinating Committee of the Department.

(4) Provide Department-wide leadership in developing the agricultural and rural components of the National Energy Policy Plan.

(5) Develop and evaluate Departmental energy policies and strategies, including those regarding the allocation of scarce resources.

(6) Review and evaluate Departmental energy and energy-related programs and progress.

(7) Work with the Assistant Secretary for Governmental and Public Affairs to maintain Congressional and public contacts in energy matters, including development of legislative proposals, preparation of reports on legislation pending in Congress, appearances before Congressional Committees and related activities.

(8) Incorporate into existing budgetary systems and procedures the capabilities necessary to carry out functions and responsibilities for USDA energy planning, policies, and strategies, including the management of funds transferred to USDA from the Department of Energy pursuant to interagency agreements.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

3. Section 2.37 is hereby revoked and reserved as follows:

§ 2.37 [Revoked and reserved]

Subpart I—Delegations of Authority by the Assistant Secretary for Rural Development

4. Section 2.70 is amended by adding a new paragraph (a)(29) to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) *Delegations.* * * *

(29) Provide Department-wide operational support and coordination for loan and grant programs to foster and encourage the production of fuels from agricultural and forestry products or by-products.

Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget

5. Section 2.84 is amended by revising that part of paragraph (a) which precedes § 2.84(a)(1) and adding new paragraphs (a)(13) thru (a)(18) to read as follows:

§ 2.84 Director, Office of Budget, Planning and Evaluation.

(a) *Delegations.* Pursuant to § 2.27 (a) and (h), the following delegations of authority are made by the Director of Economics, Policy Analysis and Budget to the Director, Office of Budget, Planning and Evaluation:

* * * * *

(13) Provide Department-wide leadership in developing the agricultural and rural components of the National Energy Policy Plan.

(14) Develop and evaluate Departmental energy policies and strategies, including those regarding the allocation of scarce resources.

(15) Review and evaluate Departmental energy and energy-related programs and progress.

(16) Represent the Director of Economics, Policy Analysis and Budget at conferences, meetings, and other contacts where energy matters are discussed, including liaison with the Department of Energy and other governmental departments and agencies.

(17) Work with the Assistant Secretary for Governmental and Public Affairs to maintain Congressional and Public contacts in energy matters, including development of legislative proposals, preparation of reports on legislation pending in Congress, appearances before Congressional Committees and related activities.

(18) Incorporate into existing budgetary systems and procedures the capabilities necessary to carry out functions and responsibilities for USDA energy planning, policies, and strategies, including the management of funds transferred to USDA from the Department of Energy pursuant to interagency agreements.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

Dated: August 1, 1980.

For Subparts C and D:

Bob Bergland,

Secretary of Agriculture.

Dated: August 1, 1980.

For Subpart I:

Alex P. Mercure,

Assistant Secretary for Rural Development.

Dated: August 1, 1980.

For Subpart K:

Howard W. Hjort,

Director of Economics, Policy Analysis and Budget.

[FR Doc. 80-23807 Filed 8-6-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 658]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 8–August 14, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 5, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges has decreased.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 908.958 is added as follows:

§ 908.958 Valencia Orange Regulation 658.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 8, 1980 through August 14, 1980, are established as follows:

(1) District 1: 329,000 cartons;
(2) District 2: 371,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 6, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24027 Filed 8-6-80; 11:42 am]

BILLING CODE 3410-02-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 1980-26]

Contributions to and Expenditures by Delegates to National Nominating Conventions; Effective Date

AGENCY: Federal Election Commission.

ACTION: Final rule: announcement of effective date.

SUMMARY: On May 23, 1980, (45 FR 34865) The Commission published the text of regulations to govern the application of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*), to contributions to and expenditures by delegates to national party nominating conventions. The Commission announces that these regulations are effective as of August 7, 1980.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463, (202) 523–4143.

SUPPLEMENTARY INFORMATION: 2 U.S.C. 438(d) requires that any rule or regulation proposed by the Commission to implement Chapter 14 of Title 2, United States Code be transmitted to the Speaker of the House and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulation within 30 legislative days after its transmittal, the Commission may finally prescribe the regulation in question. The regulations being made effective by this notice were transmitted to Congress on May 14, 1980. Thirty legislative days expired in the Senate as of June 28, 1980, and in the House as of July 21, 1980.

Announcement of Effective Date

11 CFR 100.5(e)(5), 110.5(d) and 110.14, as published at 45 FR 34867–34868, are effective as of August 7, 1980.

Dated: August 4, 1980.

Max L. Friedersdorf,

Chairman, Federal Election Commission.

[FR Doc. 80-23839 Filed 8-6-80; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-38-AD. Amdt. 39-3871]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment revises Airworthiness Directive (AD) 78–24–05 which requires inspection for interference between the escape slide girt bar and the mid-cabin galley door. The requirement for repeat inspections is eliminated if a high lift gate modification is incorporated on the mid-cabin galley door.

DATE: Effective date August 18, 1980.

ADDRESSES: The service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young Airframe Section, ANW–212, Engineering and Manfacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: Amendment 39–3355 (43 FR 56017) AD 78–24–05, requires inspection for interference between the escape slide girt bar and the mid-cabin galley door. The manufacturer has developed a modification to the door gate which will provide for more clearance between the girt bar and galley door and thus prevent interference.

Since this regulation is relieving in nature and imposes no additional burden, it is found that notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive 78–24–05, (Amdt. 39–3355, 43 FR 56017) as follows:

By amending Paragraph C to read:

"C. Repeat the inspections, described in paragraph A, at intervals not to exceed 1,500 flight hours time-in-service or one (1) year from the last inspection, whichever comes first, unless the galley door is modified as described in Boeing Service Bulletin 727–25–A247, Revision 2, paragraph III, part II, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. This modification is terminating action for this AD."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Comany, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

This amendment becomes effective August 18, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on July 29, 1980.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

E. O'Connor,

Acting Director, Northwest Region.

[FR Doc. 80-23800 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NW-22-AD, Amdt. 39-3867]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 79–17–02 (Amdt. 39–3526; 44 FR 46782), requires repetitive inspection of 7079–T6 aluminum lower cargo door sill truss and latch support fittings on Boeing Model 747 airplanes, and also requires that those fittings be replaced with 7075–T73 fittings by April 1, 1982. This amendment decreases the repetitive inspection interval for the affected fittings, but eliminates the requirement that they be replaced.

DATES: Effective date September 13, 1980.

FOR FURTHER INFORMATION, CONTACT: Mr. William M. Perrella, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTAL INFORMATION:

History

Following several reported instances of cracks in the lower cargo door sill truss and latch support fittings on Boeing Model 747 airplanes, AD 79–17–02 was issued, requiring inspection and eventual replacement of affected fittings. The inspections conducted pursuant to AD 79–17–02 have shown significant variations between operators in the incidence of stress corrosion cracks. To date, there have been no instances where cracks have resulted in fitting failures.

V 4 5 / 1 5 4 A G 7 8 0 UMI

Public Participation

A petition was received from the Air Transport Association of America, on behalf of numerous operators, for an amendment to AD 79-17-02 which would delete the requirement for replacement of the 7079-T6 fittings. The FAA determined to issue a Notice of Proposed Rule Making (NPRM), proposing to delete the mandatory replacement requirement. Due to the unpredictable nature of the stress corrosion as demonstrated by the varying inspection reports from different operators, and in view of the proposal to allow indefinite use of the 7079-T6 fittings, the FAA incorporated into the proposal a decrease in the repetitive inspection interval for the fittings which are not replaced, from 2,000 flight hours to 1,200 flight hours. An NPRM was published in the **Federal Register** (45 FR 27770) on April 24, 1980. All interested parties have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. Nine comments were received.

Discussion of Comment

One commenter responded in favor of the proposed amendment. All of the others agreed with the proposed deletion of the mandatory replacement requirement, but suggested varying reinspection intervals, including: 1,350 hours; 250 days; and 4,000 hours or 12 months.

The first two inspections conducted pursuant to AD 79-17-02 show a significant variation among operators in the incidence of stress corrosion cracks. This is to be expected due to different operational environments. Based on the results of these inspections, the FAA does not believe that a 2,000 hour interval is adequate for all cases, but that a 1,200 hour interval will assure an acceptable level of safety. However, amended paragraph (D) is incorporated into the AD which will permit alternate inspections depending on an operators individual circumstances, including type and quality of inspection, operating environment, corrosion treatment program, and service experience.

This amendment allows operators to make one more inspection at the 2,000 flight hour interval originally specified in AD 79-17-02, measured from the last inspection conducted prior to the effective date of this AD, before complying with the 1,200 flight hour repetitive inspection interval required by this amendment.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 3913) is amended by amending Airworthiness Directive number 79-17-02 (Amdt. 39-3526, 44 FR 26782), as follows:

Boeing: Applies to model 747 airplanes.

1. Amend paragraph C to read:

"C. Repeat the inspection in accordance with paragraph A at intervals not to exceed 1,200 flight hours, until all affected fittings are replaced with 7075-T73 fittings. Apply BMS-3-23 or equivalent to the internal lower sill areas after each inspection. Operators may make one more inspection at an interval not exceeding 2,000 flight hours (as required by AD 79-17-02, Amendment 39-3526, 44 FR 46782), measured from the last inspection conducted prior to the effective date of this Amendment, before complying with the 1,200 hour repetitive inspection."

2. Amend paragraph D to read:

"D. Upon request of an operator, an FAA Maintenance Inspector, subject to the prior approval by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the repetitive inspection intervals specified in this AD if the request contains substantiating data to justify such adjustment."

This amendment becomes effective September 13, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 1134; February 26, 1979).

Issued in Seattle, Washington, on July 25, 1980.

David E. Jones,

Acting Director, Northwest Region.

[FR Doc. 80-23638 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 97

[Docket No. 20573; Amdt. No. 1170]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; 2. The FAA Regional Office of the region in which the affected airport is located; or 3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or 2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and §97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective September 18, 1980.*

Columbus, TX—Columbus, VOR-A, Amdt. 2, cancelled

** * * Effective September 4, 1980.*

Durhamville, NY—Kamp, VOR Rwy 28, Original

Note.— The FAA published an amendment in docket No. 20480, amdt. No. 1167 to part 97 of the Federal Aviation Regulations (vol. 45 FR No. 127 Page 43699; dated June 30, 1980) under section 97.23 effective August 7, 1980, which is hereby amended as follows: Marshfield, MA—Marshfield, VOR-A, amdt. 3 is rescinded. Marshfield, MA—Marshfield, VOR-A, amdt. 2 remains in effect.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective July 17, 1980.*

Hawthorne, CA—Hawthorne Muni, LOC Rwy 25, Amdt. 5

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective September 18, 1980.*

Clarendon, TX—Clarendon Muni, NDB Rwy 1, Original
Houston, TX—David Wayne Hooks Memorial, NDB Rwy 35L, Original
New Braunfels, TX—New Braunfels Muni, NDB Rwy 22, Original
Pleasanton, TX—Pleasanton Muni, NDB-A, Amdt. 4

** * * Effective September 4, 1980.*

St. Paul Island, AK—St. Paul Island, NDB-3 Rwy 36, Original
New Bedford, MA—New Bedford Muni, NDB Rwy 5, Amdt. 6
Rota Island, Mariana Is.—Rota Intl, NDB Rwy 9, Original
Rota Island, Mariana Is.—Rota Intl, NDB Rwy 27, Original

** * * Effective July 24, 1980.*

Ontario, CA—Ontario Intl, NDB Rwy 25R, Amdt. 29, cancelled
Clinton, OK—Clinton-Sherman, NDB Rwy 17R, Amdt. 6

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective September 4, 1980.*

New Bedford, MA—New Bedford Muni, ILS Rwy 5, Amdt. 15

** * * Effective July 24, 1980.*

Ontario, CA—Ontario Intl, ILS Rwy 25R, Amdt. 31
Clinton, OK—Clinton-Sherman, ILS Rwy 17R, Amdt. 2

Note.— The FAA published an amendment in docket No. 20409, amdt. No. 1166 to part 97 of the Federal Aviation Regulations (vol. 45 FR No. 115 page 39838; dated June 12, 1980) under section 97.29 effective July 10, 1980, which is hereby amended as follows: Minot, ND—Minot Intl, ILS Rwy 3L, amdt. 4 is changed to Minot, ND—Minot Intl, ILS Rwy 31, amdt. 4.

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective September 18, 1980.*

El Paso, TX—El Paso Intl, RADAR 1, Amdt. 10

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective September 18, 1980.*

Dickinson, ND—Dickinson Municipal, RNAV Rwy 14, Original
Dickinson, ND—Dickinson Municipal, RNAV Rwy 32, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 1, 1980.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

John S. Kern,

Acting Chief, Aircraft Programs Division.

[FR Doc. 80-23805 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-46; Order No. 96]

Section 206 (d) Exemption for Small Industrial Boiler Fuel Facilities From the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978

Issued July 29, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule, subject to congressional review.

SUMMARY: Under authority of section 206(d) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission issues a final rule, exempting certain small industrial boiler fuel facilities from incremental pricing. The exemption applies to facilities whose average per day use of natural gas as boiler fuel does not exceed 300 Mcf, but which do not qualify for an existing small user exemption under section 206(a)(2) of the Act. This rule is

V 45 / 154 AG 7 80 UMI

designed to place new small facilities in the same position as existing small facilities with respect to the incremental pricing program.

EFFECTIVE DATE: September 5, 1980, or such later date as represents the first day following 30 days of continuous session of the Congress, if not disapproved by either House.

FOR FURTHER INFORMATION CONTACT: Alice Fernandez, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–9095 or Carol M. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8114.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

I. Background

Issued July 29, 1980.

The Federal Energy Regulatory Commission (Commission) amends its regulations under the Natural Gas Policy Act of 1978 (18 CFR Subchapter I, Part 282, Subpart B) to provide an exemption from incremental pricing for certain small industrial boiler fuel facilities not previously exempt.

Title II of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*, requires the Commission to prescribe and make effective a program of incremental pricing of natural gas used as industrial boiler fuel. Section 206(a) of the NGPA, however, grants an exemption from incremental pricing surcharges for natural gas used as boiler fuel by "small" industrial boiler fuel facilities which were "in existence on the date of enactment" (November 9, 1978). Regulations governing this exemption were promulgated in final form in Commission Order No. 85, which was issued on May 8, 1980.[1] Among other things, these regulations provide that a facility may qualify for such an exemption if (1) it was in existence on November 9, 1978, and (2) its average daily use of natural gas as a boiler fuel during the month of peak use in 1977 did not exceed 300 Mcf.

However, no exemption was provided in Title II of the NGPA, for "new" small boiler fuel facilities; *i.e.*, for facilities which were *not* in existence on November 9, 1978. Similarly, there is no provision in the statute for an exemption for "newly" small facilities; *i.e.*, for facilities which have reduced their boiler fuel usage to below the 300 Mcf per day threshold since 1977. Both the statute and the legislative history are silent as to the reason for the lack of such exemptions.

Congress did, however, provide in section 206(d) of the NGPA that the Commission may promulgate rules exempting from incremental pricing any appropriate category of facilities for which there is no specific statutory exemption. Pursuant to this discretionary authority, the Commission has determined that it would be both equitable and consistent with implementation of the incremental pricing program to provide an exemption for small boiler fuel facilities not exempted under Order No. 85. To this end, the Commission has issued two Notices of Proposed Rulemaking and conducted two sets of public hearings.

Initial proposals to exempt "new" small facilities were made in this docket in a Notice of Proposed Rulemaking issued on September 28, 1979.[2] On March 6, 1980, a further Notice of Proposed Rulemaking, was issued.[3] In the March 6th Notice the Commission requested additional comments to supplement the record developed on the September proposal. In addition, the scope of the proposed exemption was expanded to include all small industrial boiler fuel facilities not eligible for the statutory exemption under section 206(a) of the NGPA.

The comments filed in response to the Notices, and the Commission's analysis of those comments, are summarized below.

II. Summary of Public Comments

Thirty-one companies, industry groups or State regulatory commissions filed written comments in response to the March 6th proposal. In addition, representatives of fourteen organizations testified at public hearings held in Washington, D.C. on March 28, 1980, and in Los Angeles, California on March 31 and April 1, 1980. The commenters unanimously supported the concept of an exemption for all small industrial boiler facilities, but many disagreed with the Commission's proposals for implementation of such an exemption.

A. Suggested Exemption of First 300 Mcf per day of Usage for All Industrial Boiler Fuel Facilities

A number of commenters proposed that the Commission replace the rules proposed in this docket with an across-the-board exemption of the first 300 Mcf per day of natural gas consumed by all industrial boiler fuel facilities, existing or new, large or small. It was asserted that this approach would be administratively attractive, would prevent load loss [4], and would eliminate inequities which could occur where, for example, a facility consuming 310 Mcf per day (and thus subject to incremental pricing) is in economic competition with a facility consuming 290 Mcf per day (and thus exempt from incremental pricing).

The Commission agrees that this approach would be easy to administer and might eliminate certain potential inequities in the program. However, the Commission believes that it would not be consistent with the overall Congressional approach to incremental pricing as established in Title II. Congress intended industrial boiler fuel facilities to be incrementally priced on their entire natural gas consumption. A specific statutory exemption was provided for small existing users, and the Commission is extending this exemption to other small users. However, there is no indication of a Congressional intent to exempt a portion of gas consumption for *all* industrial boiler fuel facilities. Indeed, such an exemption would remove a large proportion of natural gas used as industrial boiler fuel from the incremental pricing program and thus undercut Congressional intent. In addition, the 300 Mcf per day figure proposed by Congress for existing small boiler fuel facilities was predicated upon a *full* exemption from incremental pricing. The use of this figure for a partial exemption scheme for boiler fuel users would not necessarily be appropriate. Accordingly, this proposal has not been adopted in the final rule.

B. The 12-Month Rule

The rule proposed in the March 6th Notice, and herein adopted as a final rule, provides an exemption from incremental pricing for facilities whose average per day use of natural gas as a boiler fuel does not exceed 300 Mcf, but which do not qualify for an existing small user exemption under section 206(a)(2) of the NGPA. The rule provides that such facilities may qualify for a small user exemption based upon a 12-month record of boiler fuel usage at a level not exceeding an average of 300 Mcf per day in any month.

[1] Docket No. RM80–24, 45 FR 31980 (May 15, 1980).

[2] 44 FR 57783 (October 5, 1979).

[3] 45 FR 15556 (March 11, 1980).

[4] The commenters asserted that load loss might occur where a facility's normal gas consumption slightly exceeded 300 Mcf per day. The facility might switch to oil for part of the month to keep average consumption at a figure below 300 Mcf per day and thereby obtain a small user exemption. This, in turn, could subject high priority gas users to a larger portion of fixed charges.

Under this 12-month rule, two types of facilities will be able to qualify for an exemption:

(1) A facility which was not in existence on November 9, 1978, but which can establish, on the basis of its most recent 12-month record, that its average per day use of natural gas as boiler fuel does not exceed 300 Mcf; and

(2) A facility which was in existence on November 9, 1978, and whose average per day use of natural gas as boiler fuel exceeded 300 Mcf during the 1977 base period, but which has subsequently decreased its gas consumption to the point at which it can establish, on the basis of its most recent 12-month record, an average per day use of 300 Mcf or less.

The choice of 300 Mcf per day as the threshold for determining small facilities under this rule is consistent with the Commission's implementation of a 300 Mcf per day threshold in the permanent rule defining "existing" small facilities.[6] Also consistent with the rule for existing facilities are: (1) the method set forth in this rule for determining a facility's average per day use of a natural gas as boiler fuel (*see* § 282.203(b)(2)(ii)); and (2) the requirement that suppliers file a statement, under oath, with the Commission stating that for all exemptions granted on the basis of company records under this rule, the supplier has determined that the facility meets the definition of a "small industrial boiler fuel facility" set forth in § 282.203(b)(2)(i).

This rule provides that an exemption may be based on the supplier's company records or, if unable to be determined on that basis, may be based on the filing of an affidavit by the user. An exemption will continue to be effective so long as consumption does not exceed the 300 Mcf threshold for any month. If the threshold is exceeded, the exemption is lost until such time as the facility qualifies under § 282.203(b)(2)(i)(A), or under any available exemption in accordance with § 282.203(a).

Although the great majority of commenters supported the 12-month rule as proposed, one commenter suggested that the 12-month period be shortened to 6 months. This suggestion has not been adopted in the final rule, because the Commission believes that a 12-month period, which emcompasses the entire seasonal pattern of boiler fuel usage, will provide a more accurate record of a facility's average natural gas consumption.

[6] *See* n.1, *supra.*

C. New Facilities Do Not Fall Within the 12-Month Rule

The March 6th Notice proposed that facilities which do not have a 12-month gas consumption record be permitted to qualify for an exemption on the basis of boiler capacity. The proposed method to determine boiler capacity was to total the nameplate ratings of all of the facility's boilers which have gas burning capacity, and then to multiply that number by 16. This approach assumed that gas-fired boilers would be operated at rated capacity for an average of 16 hours per day.

A large majority of commentors opposed this proposal. They pointed out that it is not unusual for a facility to have at least one stand-by boiler which would have to be counted even though not ordinarily being used. In addition, they argued that there is a wide variation in the number of hours each facility's boilers are operated. A 16-hour per day average is arbitrary and, frequently, would not reflect actual operating conditions. The alternative proposed by many commenters was an exemption based on the filing of an affidavit reflecting actual use of natural gas as boiler fuel.

After consideration of the comments, the Commission has determined that it would be both reasonalbe and equitable to adopt an affidavit approach in lieu of the nameplate rating approach. Accordingly, the final regulations provide for exemptions based upon the filing of an affidavit by the end user. Two types of situations will be involved: (1) if the facility has possessed the physical components necessary to receive and use natural gas as boiler fuel for less than 12 months, the user must affirm, under oath, that from the initial month of such possession to the present, the facility's average per day use of natural gas as boiler fuel has not exceeded 300 Mcf, and that the facility's future daily use is not expected to exceed 300 Mcf, or; (2) if the facility does not yet possess the necessary components, the user must affirm, under oath, that the facility's estimated usage does not exceed the 300 Mcf threshold. In the first situation, the estimates need be made only for the number of months in the future which are necessary to make up a 12-month period, including the number of months since initial installation of the components. In the second situation, the estimates must be made for the first 12 months after the components are installed. In either situation, the exemption shall continue so long as the facility does not exceed an average of 300 Mcf per day in any month. Once an exemption affidavit is filed, it will not be necessary to refile on the basis of 12 months of actual usage. However, if the 300 Mcf figure is exceeded in any month, the Commission and the natural gas supplier must be immediately notified of the changed circumstances in accordance with § 282.205, and the facility loses its exemption until it qualifies under § 282.203(b)(2)(i)(A), or under any available exemption in accordance with § 282.203(a).

D. Potential Incentive for Increased Oil Consumption

In the March 6th Notice, the Commission specifically requested comments on whether the proposed exemption for small industrial users would act as an incentive for users to limit their use of natural gas as boiler fuel to an average of 300 Mcf per day simply to gain an exemption from incremental pricing surcharges. This, in turn, might serve as an incentive for the consumption of other boiler fuels, such as oil, or might lead to proliferation of small plants.

A number of commenters noted that they shared the Commission's concern about this potential problem. However, aside from the previously discussed proposal that the first 300 Mcf of usage be exempted for all industrial boiler fuel facilities, only two commenters suggested methods of preventing users from burning oil for part of their fuel requirements in order to retain a small user exemption. The first suggestion was that the exemption be based on the natural gas equivalent of the users's total fossil fuel use in any month. The Commission agrees that this approach has merit, but has rejected the suggestion because it would be too difficult to implement from an administrative standpoint. The second suggestion was that the 12-month rule be eliminated and exemptions granted solely on the basis of nameplate ratings. The Commission has not adopted this suggestion, because, as discussed above, it is persuaded that the nameplate approach is inappropriate.

A number of commenters indicated that the small user exemption would not in fact provide an incentive for usage of alternative fuels. Among the reasons given for this conclusion were: (1) use of fuels other than gas might subject some users to penalties under take-or-pay obligations in their contracts; (2) a user who needed more than 300 Mcf of gas per day but engaged in temporary fuel switching to hold gas consumption below that level would be establishing a record of gas demand which the supplier would use in projecting allocation of available supplies, and thus would be

V 4 5 / 1 5 4 AG 7 80 UMI

placing itself in a position of dependency on an alternative fuel source; (3) the delivered price of alternative boiler fuels generally exceeds the price of incrementally priced gas; and (4) in some industries temporary fuel switching is simply not feasible. In addition, one commenter noted that the small industrial user rule could have a beneficial effect in that it might encourage those users slightly over the 300 Mcf threshold to undertake conservation measures which would reduce consumption to a point at which the facility would fall below the threshold and receive an exemption.

The Commission remains concerned about the rule's potential as an incentive for marginal use of alternative fuels. Nevertheless, it concludes that increased alternative fuel consumption will not be so significant a factor under this rule so as to offset its equitable benefits in other respects.

E. Adjustments

A number of commenters expressed concern about facilities which might exceed the 300 Mcf threshold for only one month due to an operational abberation. It was asserted that such facilities should not be subjected to incremental pricing for the next 12 months before regaining their small user exemption.

The Commission recognizes that there may occasionally arise unrepresentative circumstances which cause a small facility to exceed the 300 Mcf threshold in a given month. A user faced with this situation may seek both interim and final relief from the Commission under section 502(c) of the NGPA, implemented in § 1.41 of the Commission's regulations. If a waiver of a Commission rule is necessary in order to prevent special hardship, inequity, or an unfair distribution of burdens to the applicant, an ajustment may be granted. Adjustments under the Act are considered on a case-by-case basis.

F. Retroactivity

Several commenters proposed that the Commission make the small user rule issued in this docket retroactive in application to January 1, 1980, the date of implementation of the incremental pricing program. The Commission declines to adopt this proposal, because it would be administratively impractical to attempt to make this rule apply retroactively.

G. Obtaining an Exemption

As set forth in §§ 282.204 (c) and (d), an exemption under this rule may be based on the supplier's company records or, where appropriate, on the filing of an exemption affidavit by the end user. Under § 282.204(d)(2)(i)C), natural gas suppliers are required to mail or otherwise supply exemption affidavits to their end users which are not otherwise exempt from incremental pricing and which the supplier determines may be eligible for an exemption under § 282.203(b).

An exemption will take effect as of the dates set forth in § 282.204(c)(3)(ii), for exemptions based on company records, or § 282.204(d)(7), for exemptions based on affidavits. An exemption on either basis will continue until such time as the facility exceeds the 300 Mcf per day threshold in any month. If the threshold is exceeded, the Commission and the natural gas supplier must be notified of the changed circumstances in accordance with § 282.205, and the facility then becomes subject to incremental pricing. If the facility subsequently experiences twelve consecutive months of usage at 300 Mcf or below, another exemption on the basis of company records or on the basis of an exemption affidavit may be obtained, and the facility may regain its exemption.

One commenter suggested that monthly review of data to determine continuing eligibility was unnecessary and that annual review should instead be conducted, prior to the supplier's annual purchased gas adjustment review. The Commission disagrees. It believes that it is important that small user exemptions be based upon the most current data available. The monthly review is not burdensome to small users when weighed against the benefits of continuing exemption from incremental pricing surcharges.

The exemption affidavit requires that all records, documents or data which form the basis of any response on the affidavit be retained. In order to conform to this requirement, § 282.204(d)(8) has been revised to provide that such records must be retained regardless of the type of exemption claimed. The section also makes clear that it is not necessary to keep records for a period greater than three years from the date the affidavit is filed.

Section 282.204(d) has been revised to delete the listing of the contents of the exemption affidavit.

H. Change of Circumstances

The duty to report usage in excess of the 300 Mcf threshold is on the user, not the supplier. *See* § 282.205. Several commenters suggested that this duty should fall on the supplier, who, it was asserted, is in the best position to monitor usage. The Commission does not adopt this suggestion. The incremental pricing exemption program is basically an oath program which relies on sworn statements by industrial boiler fuel users that they qualify for a particular exemption. The Commission does not wish to place the natural gas supplier in the position of a program monitor for each individual facility. If a small user elects to take advantage of an incremental pricing exemption, that user has the obligation to monitor boiler fuel gas usage and to report consumption in excess of the exemption threshold. As the Commission has noted in other incremental pricing orders, both civil and criminal penalties may be levied under section 504 of the NGPA for noncompliance with regulations promulgated under the Act.

I. Technical Changes in Regulations

Minor technical, conforming or clarifying changes have been made to §§ 282.201, 282.202(g), 282.204(c)(2)(iii), 282.204(d)(2)(B), 282.204(d)(4), 282.204(f)(2) and (3), 282.205 and 282.207(c)(2)(i).

IV. Effective Date

Section 206(d)(2) of the NGPA requires that any rule which grants an exemption under section 206(d) be submitted to each House of Congress for review prior to taking effect. Unless either House adopts a resolution of disapproval within 30 calendar days of continuous session (determined in accordance with section 507(b) of the NGPA), these regulations will take effect on the day after expiration of the 30-day review period. Accordingly, this rule will be effective on the day following the expiration of the 30-day period for Congressional review.

(Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350, 15 U.S.C. 3301-3434)

In consideration of the foregoing, if neither House of Congress passes a Resolution of Disapproval of the regulations transmitted to them in this rulemaking within 30 days of Congressional review (as determined in accordance with section 507(b) of the NGPA), Part 282 of Subchapter I, Chapter 1, Title 18, Code of Federal Regulations, is amended as set forth below, effective on the day following the expiration of the 30-day Congressional review period.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 282.201 is revised to read as follows:

§ 282.201 General rule.

The provisions of this subpart govern the exemption (and the termination of the exemption) of natural gas from incremental pricing under this part. Pursuant to section 206 of the NGPA, natural gas specified in § 282.203 shall be exempt from incremental pricing. The procedures for determining exemptions are set forth in § 282.204. Adjustments under authority of 502(c) of the NGPA as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens may be obtained as provided in § 1.41.

2. Section 282.202 is amended in paragraph (g) to read as follows:

§ 282.202 Definitions.

For purposes of this subpart:

* * * * *

(g) "Average per day use of natural gas as a boiler fuel during the month or peak use during calendar year 1977" means the average daily use of natural gas as a boiler fuel, calculated by dividing the total boiler fuel use of natural gas in the month of peak use during calendar year 1977 by the total of: (1) the number of days in that month on which service was available at 100 percent of normal delivery level; and (2) the sum of the number of days in that month on which service was available at less than 100 percent of normal delivery level (which sum is computed by multiplying the number of days at each delivery level less than 100 percent of normal times the percentage of normal delivery level experienced on those days, and adding the products).

* * * * *

3. Section 282.203 is revised to read as follows:

§ 282.203 Exempt end-uses.

Exemptions in this subpart from the incremental pricing provisions of this part shall apply only to industrial facilities which use natural gas as boiler fuel.

(a) *Statutory exemptions.* In accordance with the provisions of sections 206(a), (b), and (c) of the NGPA, natural gas used for the following purposes shall be exempt from incremental pricing under this part:

(1) All gas used for boiler fuel by an industrial boiler fuel facility:

(i) Which was in existence on November 9, 1978; and

(ii) Whose average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977 did not exceed 300 Mcf;

(2) All gas used for an agricultural use;

(3) All gas used in a school, hospital, or similar institution;

(4) All gas used for the generation of electricity by an electric utility; and

(5) All gas used in a qualifying cogeneration facility.

(b) *Exemption for small industrial boiler fuel facilities under section 206(d).* (1) *General Rule.* Natural gas used for boiler fuel in a small industrial boiler fuel facility, as defined in paragraph (b)(2)(i) of this section, which is not eligible for an exemption under paragraph (a)(1) of this section shall be exempt from incremental pricing under this part.

(2) *Definitions.* For purposes of this paragraph, the following definitions apply.

(i) "Small industrial boiler fuel facility" means an industrial boiler fuel facility which:

(A)(*1*) Possessed, for the twelve preceding consecutive months, the installed lines, piping, regulators, meters and any other similar components necessary for that facility to have received and used natural gas as a boiler fuel, and

(*2*) Did not experience an average per day use of natural gas as a boiler fuel, calculated in accordance with paragraph (b)(2)(ii) of this section, exceeding 300 Mcf during any month of the preceding twelve consecutive months; or

(B) Did not, in all of the twelve preceding consecutive months, possess the installed lines, piping, regulators, meters and any other similar components necessary for that facility to have received and used natural gas as a boiler fuel, but which either:

(*1*)(*i*) Did possess such components during some of the preceding twelve consecutive months, and

(*ii*) Did not experience an average per day use of natural gas as boiler fuel during such months, calculated in accordance with paragraph (b)(2)(ii) of this section, exceeding 300 Mcf during any of those months, and

(*iii*) Is not expected, based on estimates by a person qualified to make such estimates, to experience an average per day use of natural gas as boiler fuel, calculated in accordance with paragraph (b)(2)(ii) of this section, exceeding 300 Mcf for any of the number of future months necessary to make up the necessary twelve month consecutive period; or

(*2*)(*i*) Did not possess such components during any of the preceding twelve consecutive months, and

(*ii*) Is not expected, based on estimates by a person qualified to make such estimates, to experience an average per day use of natural gas as boiler fuel, calculated in accordance with paragraph (b)(2)(ii) of this section, exceeding 300 Mcf for any of the first twelve consecutive months during which the facility possessed such components.

(ii) "Average per day use of natural gas as a boiler fuel", with respect to an industrial boiler fuel facility, means the facility's average daily use of natural gas as a boiler fuel, calculated by dividing the facility's total boiler fuel use of natural gas in a particular month by the total of:

(A) the number of days in that month on which service was available to the facility at 100 percent of the normal delivery level; and

(B) the sum of the number of days in that month on which service was available to the facility at less than 100 percent of the normal delivery level (which sum is computed by multiplying the number of days at each delivery level less than the normal level times the percentage of the normal delivery level experienced on those days, and adding the products).

4. Section 282.204 is amended by revising paragraphs (a), (c)[2](iii)(A) and (B), (d)(1), (d)(2)(i)(B), (d)(3), (d)(4), (d)(5), (d)(6)(i) and (ii), (d)(8), (f)(2) and (3), and by adding paragraphs (c)(3), (d)(2)(i)(C), and (d)(2)(ii)(C) as follows:

§ 282.204 Obtaining an exemption.

(a) *General.* This section establishes procedures by which natural gas which qualifies for an exemption under § 282.203 is to be exempted from incremental pricing.

* * * * *

(c) *Exemption on the basis of company records.*

* * * * *

(2) *Exemption after September 30, 1980.*

* * * * *

(iii) * * *

(A) The exempted facility was in existence on November 9, 1978; and

(B) The exempted facility's average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977 did not exceed 300 Mcf.

(3) *Facilities exempt under § 282.203(b).* (i) On or before [30 days following expiration of the 30-day Congressional review period], each natural gas supplier shall determine from an examination of its records which industrial boiler fuel facilities are not eligible for an exemption under § 282.203(a)(1) but meet the definition of a "small industrial boiler fuel facility" set forth in § 282.203(b)(2)(i)(A).

(ii) The natural gas supplier shall treat an industrial boiler fuel facility for which an affirmative determination is made under paragraph (c)(3)(i) of this

section as exempt from incremental pricing under this part without further action by the owner or operator of the facility. Such exemption shall be effective as of the beginning of the first full month following the date the supplier determines under paragraph (c)(3)(i) of this section that the facility is exempt from incremental pricing.

(iii) On or before November 1, 1980, each natural gas supplier shall file with the Commission a statement, under oath, that for all exemptions from incremental pricing granted under paragraph (c)(3) of this paragraph, the facility met the definition of a "small industrial boiler fuel facility" set forth in § 282.203(b)(2)(i)(A).

(d) *Exemption on the basis of affidavit.* (1) *Commission to provide exemption affidavits.* The Commission will provide exemption affidavits as described in paragraph (d)(3) of this section to natural gas suppliers and to any other interested person upon request. Requests should be directed to the Division of Public Information, Federal Energy Regulatory Commission, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(2) *Availability from natural gas suppliers.* (i) *Initial Service.* (A) * * *

(B) Not later than August 15, 1980, each natural gas supplier shall mail or otherwise supply an exemption affidavit, as described in paragraph (d)(3) of this section, to the owner or operator of each industrial boiler fuel facility on such supplier's system which the supplier does not determine to be exempt pursuant to paragraph (c) of this section, or which is not otherwise exempt under this part, and which the supplier determines may be eligible for an exemption under § 282.203(a).

(C) Not later than [30 days following expiration of the 30-day Congressional review period], each natural gas supplier shall mail or otherwise supply an exemption affidavit to the owner or operator of each industrial boiler fuel facility on such supplier's system which the supplier does not determine to be exempt pursuant to paragraph (c) of this section, or which is not otherwise exempt under this part, and which the supplier determines may be eligible for an exemption under § 282.203(b).

(ii) *Response date.*

* * * * *

(C) Natural gas suppliers which supply exemption affidavits under paragraph (d)(1)(i)(C) of this section shall request that executed affidavits be filed on or before [60 days following expiration of the 30-day Congressional review period], in accordance with paragraph (d)(4) of this section.

* * * * *

(3) *Contents of exemption affidavit.* (i) The exemption affidavit shall provide the owner or operator of an industrial boiler fuel facility with the opportunity to respond to a series of questions so that the owner or operator may establish, if appropriate, the basis for one or more of the exemptions set forth in this part.

(ii) The exemption affidavit shall indicate the record retention obligation which may be incurred by the customer under paragraph (d)(8) of this section.

(4) *Filing of exemption affidavits.* In order to obtain an exemption, under this paragraph, from incremental pricing, an owner or operator of an industrial boiler fuel facility shall file an executed exemption affidavit, signed and dated by a responsible official associated with the facility, under oath, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20428, and send a copy of the executed affidavit to the natural gas supplier serving the industrial boiler fuel facility.

(5) *Effect of filing an exemption affidavit.* (i) If the owner or operator of an industrial boiler fuel facility files an affidavit in accordance with paragraph (d)(4) of this section, claiming that all of the natural gas used in the facility is exempt from incremental pricing surcharges, then natural gas used in the facility shall be exempt from incremental pricing under this part.

(ii) If the owner or operator of an industrial boiler fuel facility files an affidavit in accordance with paragraph (d)(4) of this section, claiming that a portion of the natural gas used in the facility is not subject to incremental pricing, then natural gas used in the facility shall be exempt from incremental pricing surcharges as follows:

(A) For the period January 1, 1980, through October 31, 1981, to the extent determined in accordance with § 282.207; and

(B) On and after November 1, 1981, to the extent determined in accordance with the applicable provision of paragraph (d)(6) of this section.

(6) *Determination of extent of partial exemption on and after November 1, 1981.* (i) If the owner or operator of an industrial boiler fuel facility files an affidavit in accordance with paragraph (d)(4) of this section, claiming that a portion of the natural gas used in the facility is exempt under § 282.203(a)(2), then:

* * * * *

(B) * * *

(ii) If the owner or operator of an industrial boiler fuel facility files an affidavit in accordance with paragraph (d)(4) of this section, claiming that a portion of the natural gas used in the facility is exempt under § 282.203(a) (3), (4), or (5), or is not subject to incremental pricing for the reason that the gas is not consumed as a boiler fuel, then:

* * * * * *

(8) *Record retention.* If the owner or operator of an industrial boiler fuel facility obtains an exemption by filing an affidavit in accordance with paragraph (d)(4) of this section, the owner or operator shall, for a period of at least three years from the date of filing the exemption affidavit, retain all records, documents or data which formed the basis of the responses on the affidavit.

* * * * * *

(f) *Protests.*

* * * * * *

(2) The procedures set forth in § 1.10 shall govern the filing of such a protest, except that any person filing such a protest shall serve a copy of the protest on the affiant of the exemption affidavit or on the natural gas supplier who determined the exemption on the basis of supplier records, as appropriate.

(3) The affiant or the natural gas supplier, as appropriate, may file an answer to any protest. Such answer must be filed within 30 days of the service date of a protest. The affiant or the natural gas supplier, as appropriate, shall serve a copy of the answer on the party filing the protest.

5. Section 282.205 is revised to read as follow:

§ 282.205 Change of circumstances.

(a) *General rule.* If an industrial boiler fuel facility whose natural gas has been exempt under this subpart from incremental pricing under this part experiences a change of circumstances described in paragraph (b) of this section, the owner or operator of the facility shall promptly, in writing, under oath, notify the Commission and the natural gas supplier serving the facility. The natural gas which was exempt, and with respect to which circumstances have changed in accordance with this section, shall be subject to incremental pricing in accordance with and to the extent required by the provisions of this part.

(b) *Circumstances.* For purposes of paragraph (a) of this section, a change of circumstances which subjects natural gas, previously exempt under this subpart, to the incremental pricing

provisions of this part includes the following:

(1) If the natural gas was exempted on the basis of its use in accordance with § 282.203(a), a change in the use of the gas such that it is no longer used for the purpose on the basis of which it was exempted under § 282.203(a);

(2) If the natural gas was exempted on the basis of actual or estimated average per day use of natural gas as a boiler fuel in accordance with § 282.203(b), a change in the amount of gas used for boiler fuel such that the average per day use of natural gas as a boiler fuel in the facility exceeds 300 Mcf in any calendar month; and

(3) Any other change such that the basis for the exemption has changed or no longer exists.

(c) *Filing of Notification.* The notification filed pursuant to paragraph (a) shall be marked, "Changed of Exemption Status Under Incremental Pricing Program" and shall be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(d) *Effective date.* A notification filed pursuant to paragraph (a) shall be effective as of the beginning of the first full month of service after the notification is filed with the Commission and is received by the natural gas supplier serving the facility.

§ 282.207 [Amended]

6. Section 282.207 is amended in paragraph (c)(2)(i) by replacing "§ 282.203(b)" by "§ 282.203(a)(2)".

[FR Doc. 80-23443 Filed 8-6-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

19 CFR Part 571

[Docket No. 80-02; Notice 2]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires, Passenger Cars

In FR Doc. 80-22418, appearing at page 49938, in the issue of Monday, July 28, 1980, please make the following corrections to Appendix A in § 571.109:

1. In the first table on page 49939, designated as Table I-JJ, in the line beginning "P235/70R14", in the seventh column, the number "620" should be changed to read "820".

2. In the same table, the last line, which begins "P255/70R15", in the fifth column, the number "990" should be changed to read "900."

BILLING CODE 1505-01-M

Federal Highway Administration

23 CFR Part 657 and 658

Certification of Size and Weight Enforcement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) issues requirements for certifying that each State is enforcing all State size and weight laws on the Federal-aid highway systems, including the Interstate System in accordance with 23 U.S.C. 127, as required by 23 U.S.C. 141 and section 123 of the Surface Transportation Assistance Act of 1978. An initial submission and annual revision of a plan for enforcement and an annual certification of compliance are required. Failure to meet the requirements of this regulation may result in a reduction of apportioned Federal-aid highway funds.

DATES: This regulation is effective on October 1, 1980. The initial submission of a plan is due on November 1, 1980. Annual updates are required thereafter, preferably on or before July 1 of each year. The State must have an approved plan by October 1 of each year thereafter. The first certification under this regulation is due by December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. William Bauch, 202/426-1993, Office of Traffic Operations, or Mr. David C. Oliver, 202/426-0825, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to the requirements of 23 U.S.C. 141, each of the States has submitted certifications of enforcement of vehicle size and weight laws prior to January 1 in each of the years from 1976 to 1979. The accumulation of data extracted from these certifications is considerable, but insufficient *per se* to determine the adequacy of State enforcement efforts.

As a result of the insufficiency of the prior certification requirements and the enactment of section 123 of the Surface Transportation Assistance Act of 1978, the FHWA issued a Notice of Proposed Rulemaking on March 14, 1979 (44 FR 15638, FHWA Docket No. 77-21, Notice 2). The notice set forth requirements providing for the development of an enforcement plan by each State. Elements of the plan were discussed in some detail. The plan, after review and approval by the FHWA, would become the benchmark against which the quantitative results of each year's certification could be compared in order to evaluate a State's success in accomplishing its enforcement goals.

The development of this procedure was based upon the difficulty encountered in assessing State enforcement on a quantitative basis alone. Individual variances in geography, volume of traffic, budget, and philosophy of enforcement cannot be accounted for on the basis of numbers, whether numbers of vehicles weighed, registered, or cited. However, the quantitative assessment is sufficient to indicate questionable areas in a State's enforcement efforts, and past evaluations have relied upon the numbers to initiate a dialogue in States where programs appeared inadequate in reducing violations. In the past two years, conferences have been held with the representatives of more than 18 States to develop a complete assessment of State efforts. Program improvements have resulted in every State for which a conference was held.

Beginning with the quantitative references provided by prior certifications, the material addressed at each conference included enforcement philosophy, budgetary and personnel considerations, policies and practices with respect to penalizing violators, the issuance of special permits, and plans for implementing improvements in all of the above areas. The dialogue begun with these States has helped us engender perspective on each State's individual conditions, needs, and success in enforcement.

This experience has led to the development of a certification process which involves a two-stage procedure consisting of an enforcement plan and certification. The intent of this procedure is to reduce the red tape involved in the certification process to a minimum, while at the same time establishing a thorough process of review and understanding of enforcement on a nationwide basis.

At the same time, the notice discussed the development by the FHWA of guidelines which would enable the States to integrate objective components in their enforcement plans, to equalize the assessment of the certification. Consideration has been given to establishing minimum numbers for vehicles weighed, ratios of violations to vehicles weighed and target numbers based upon a combination of integral

V 45 / 154 AG 7 80 UMI

factors, including vehicles registered, vehicles weighed, and vehicle miles traveled. Each of the above has been found inadequate, confusing and susceptible to misinterpretation. The appendix to this regulation provides plan guidelines, which, however, do not provide minimum requirements.

Comments on these guidelines are solicited and can be submitted to the Docket No. 77–21, which is being continued for this purpose. The guidelines are not mandatory but have been designed for use as a frame of reference in developing enforcement plans.

Discussion of Comments

Twenty-one comments were received in the docket in response to the Notice of Proposed Rulemaking. The majority of comments received (14) were from State organizations, including State highway or transportation agencies, enforcement agencies and motor vehicle departments. Several of the comments reflected dissatisfaction with the proposed regulation on the general philosophical basis that it constituted an intrusion into traditional State prerogatives. There was also concern that the development of an enforcement plan would constitute an unnecessary administrative exercise contrary to the FHWA's policy of reducing red tape.

These State responses focused on three major areas of concern: that reporting requirements under the regulation be reasonable and not require large numbers of personnel hours to accumulate data which would take enforcement personnel away from their primary mission; that guidelines be provided for States' use in plan development; and that minimum criteria be established, such as an annual target number of vehicles to be weighed by each State.

Comments were also received from three associations which indicated general approval of the intent of the proposed rule. The American Association of State Highway and Transportation Officials (AASHTO) was concerned with the level of detail required in the development of the plan. This comment was repeated often by State organizations. The final regulation has been modified to accommodate specific suggestions and to alleviate the concern over the level of detail. Specific comments on this point will be included below.

The American Trucking Associations (ATA), while concurring generally in the proposed rule, expressed concern that portable scales be accurate, particularly where they are the primary tool in a State's enforcement efforts. The FHWA is aware of difficulties arising out of portable scale use and is continuing to evaluate the experience of the States in their usage. No specific requirements are set forth in the final regulation, but information will be disseminated to the States as it becomes available to the FHWA on the equipment available and its correct usage. The ATA also raised a valid point concerning the potential for undue delay which can result from multiple weighings in relatively short distances; this matter is under further review. The FHWA regional offices have already been requested to assist the States in coordinating enforcement efforts, including scale placement, to reduce delay to a minimum.

Other comments included one from an independent trucker in opposition to the proposed rule; one from a railroad pertaining to weighing practices in a particular State; and one comment from a Florida State legislator, who expressed concern over the failure of the regulation to establish uniform criteria, since those States with recognized strong enforcement efforts are affected economically by those which have little or no enforcement. The FHWA agrees with this latter concern; however, the specific comment indicates that a statement of the underlying basis of the regulation is needed. Those States with strong enforcement efforts will benefit from the implementation of this regulation, as it is the underlying intent of the FHWA to guide all States into improved, effective weight enforcement programs. While quantification alone is insufficient as a benchmark of program effectiveness, there are no intrinsic difficulties in identifying weak programs. It is obvious that States which have low numbers of vehicles weighed, little equipment, minimum personnel, and weak penalties can be generally said to have ineffective enforcement programs. However, it is the FHWA's belief that it is not conversely possible to establish an effective program simply on the basis of the number of vehicles weighed. By requiring each State to analyze its needs and to manage its resources, in time all States will have effective enforcement programs.

For example, the guidelines which accompany this regulation support the regulation's presumption that 23 U.S.C. 127, which limits the weight of vehicles using the Interstate System, provides the States with a set of parameters for the design of structures and pavements. Similarly, it is the belief of the FHWA that the law of each State applicable to other Federal-aid systems provides a basis for structure and pavement design as well as for classifying vehicles for licensing purposes.

It is the belief that truck use of the Nation's highways should be limited to those vehicles with legislatively authorized gross vehicle and axle weights which underlies this regulation, and it is the explicit intent of the regulation to activate this belief by ensuring effective enforcement. It is a further fundamental presumption of this regulation that effective enforcement is predicated upon a high-volume weighing capability, utilizing a system of monitoring/weighing to maximize the potential for apprehension of weight violators. Permanent platform scales are the most effective means of achieving this goal, however, weighing-in-motion systems, semi-portable scales used in a strike-team concept and other techniques can also achieve the goal. Nevertheless, a State which chooses to adopt an enforcement plan without including provisions for high-volume weighing must demonstrate conclusively that such a plan will be as effective as one which includes the use of high-volume weighing.

The specific comments received in the docket have been accommodated and, with the principles set forth above as the underlying premise of the regulation, a discussion of the individual regulation sections follows.

The Final Rule

The response to the Notice of Proposed Rulemaking together with evaluation of the most recent certifications confirm the initial determination of the FHWA that little objective data are available in a format useful for the development of minimum criteria at this time. As a result no substantive changes have been made in the introductory sections of the regulation (657.1–657.7).

However, several changes have been made in § 657.9, which addresses the formulation of a plan for enforcement. Several comments were received on the requirement that the plan address facilities and resources. The major comment was that it was difficult to estimate the hours of personnel assignments in advance. There were also repeated comments indicating that the proposed rules appeared to remove the FHWA from any objective assessment of State efforts based on minimum acceptable numbers.

The requirement that equipment be sufficient to cover the Federal-aid systems has been modified to require that each State utilize a combination of two or more types of listed scales in its enforcement plan. This requirement is based on the significant technological advances which have been made since 1975, the first date of the certification requirement. At that time there were two basic types of equipment in use, the fixed platform scale and the portable wheel-weigher scale. In the interim, two additional scale types have come into use, the semi-portable scale and the weighing-in-motion (WIM) unit. Each of the 4 types of weighing equipment has unique capabilities with respect to the locations and facilities necessary for operation and in terms of the numbers of vehicles which can be weighed. The WIM and platform scales have a high capacity, while semi-portable scales are of a lesser capacity and wheel-weigher portable scales can be used on a selective basis at best.

A combination of the various types of equipment will enable every State to devise an effective program fitting its geographical and fiscal needs. It is particularly important that in those States relying on high-volume weighing equipment, programs should include plans for the deployment of portable weighing equipment on routes which bypass the fixed weighing locations.

This modification requiring the use of a mix of equipment derives from the FHWA analysis of types of weighing operations from which three generalized operations have been developed. In the *port-of-entry* or *perimeter weighing system*, operations are characterized by permanent facilities near State borders on major highways where inbound trucks must stop to be weighed and checked for motor vehicle law requirements (registration, fuel tax, reciprocity, etc.). Such operations are generally categorized by high numbers of vehicles weighed.

Many States have developed operations relying exclusively on *portable scales*, including a more recent addition of *semi-portable ramp-type scales*. This operation is categorized by selective enforcement, as personnel generally select only the obviously heavily laden vehicles for weighing. However, capacity is low and reporting for such systems is characterized by low numbers of vehicles weighed with relatively high numbers of citations.

Finally, several States have begun to develop systems using *combinations of high-volume equipment and portable or semi-portable equipment*. Such operations are distinguished from perimeter systems in that the fixed or high-volume scale placements are strategically located throughout the State rather than at or near State boundaries. Operations characterized by this system report high numbers of vehicles weighed.

This modification addresses the lack of measurable criteria by establishing a firm requirement for each State to equalize enforcement efforts as plans are developed.

A further modification deletes the requirement to identify staff assigned to the program by work hours. A general statement of the number of uniformed and administrative personnel assigned exclusively to size and weight enforcement will be sufficient.

Likewise, modifications have been made to the requirements for identifying practices and procedures in the plan. The comments received on the level of specificity and detail warrant some explanation of the intent of this section. The proposed plan of operation should be sufficiently detailed to indicate that the major Federal-aid systems will be covered on a regular basis daily and weekly. If operations are based on a 5-day work week, a 7-day round-the-clock week or some other system, this should be indicated in general terms. There is no need to provide shift charts on an individual or troop basis. It is the FHWA concern that the major systems be identified and that each State provide comprehensive geographical coverage with enforcement efforts underway throughout the day, night and week periods. Also, seasonal curtailments of efforts should be identified.

The policy and practices with respect to both special permits and violators are particularly important to the plan. It was apparent to the FHWA, in conducting the survey required by section 123 of the Surface Transportation Assistance Act of 1978, that little coordination among agencies is present, that policies and practices often depart from legal requirements, and that management personnel are often unaware of actual practices. It is the expectation of the FHWA that this requirement will induce each State to undertake a management review of practices and to make changes necessary to the efficient administration of a quality enforcement effort.

The requirements for policy and practices with respect to mobile homes and other oversized vehicles, and levels of weighing and measuring by highway class and by time of day and week have been deleted. The requirement for levels of weighing and measuring by highway class is red tape which involves statistical crystalball calculations of uncertain validity and significance. Also, it has been determined that the requirement for policies with respect to mobile homes and other oversized vehicles is unnecessary, because it does not significantly relate to the enforcement of weight laws.

In response to comments received from the States by the FHWA, on the difficulty of coordinating a State plan with State budgetary cycles and on the requirement for a semi-annual review of the State's operations, modifications have been made in the requirement for the evaluation of operations. The final regulation requires an initial submission of a plan on or before November 1, 1980, following which a State will be notified of the plan's acceptance or rejection. Updates shall be made on an annual basis with some flexibility for timing based on State legislative or budgetary cycles. The State must have an improved plan by October 1 of each year. Further, the requirement for FHWA review and evaluation of operations has been reduced to an annual requirement.

Modifications have also been made in § 657.15 with respect to the certification content, by eliminating the requirements for reporting data where those data do not have a significant value to the evaluation process.

Significant changes were made to the requirements for the submittal of changes in law; vehicles weighed; vehicles measured; reporting citations; reporting permits; and in the procedure for the reduction of funds. These changes are described below.

Submittal of changes in the law. Each State shall be required to submit a copy of any State law or regulation pertaining to vehicle sizes and weights adopted since the State's last certification, together with an analysis of changes made.

The analysis should include an assessment by the State's Attorney General where necessary. This requirement has been included to reduce the confusion which can result from a finding that a State law is inconsistent with 23 U.S.C. 127, particularly where several significant changes are made at one time. The analysis of changes made will enable the FHWA to identify and review amendments in a more efficient manner. This requirement will also enable highway management officials to develop more efficient mechanisms for communicating with State legislatures on such bills. Our experience indicates that laws which conflict with 23 U.S.C. 127 are often passed without the knowledge of highway management officials.

Vehicles weighed. In previous certification years the gross number of vehicles weighed was required to provide a level of comparison with a previous year's activity. But the gross number, which is derived from cumulative totals of vehicles weighted on high-volume as well as low-volume

V 45 / 154 AG 7 80 UMI

equipment, is meaningless in terms of developing criteria for performance. To develop such criteria, the numbers of vehicles weighed must be broken down by fixed scales, semi-portable scales, portable, and WIM units. Where vehicles are weighed on WIM equipment, only those vehicles weighed as part of an enforcement exercise are to be reported.

Vehicles measured. The confusion surrounding the measurement of vehicles for length has made this figure meaningless. As it is not a significant element in terms of evaluating the certification, the requirement for reporting a bulk number of vehicles measured for length is being deleted. This change does not mean that vehicle measurements need not be made in the future, as Federal law with respect to width, and State height and length laws, are still applicable, though they are not significant in evaluating enforcement programs.

Reporting Citations. The certification shall include citations for gross and axle weights and also now must include, by specific reference, violations of the bridge formula, which is the central element in ensuring compliance with 23 U.S.C. 127. In raising the permissible weight limit to 80,000 pounds in 1975, the Congress specifically made the number and spacing of axles a condition of the permissible truck weight on the Interstate, to prevent overstressing highway bridges. One State, Florida, which does maintain bridge formula enforcement efforts, contends that few other States may be enforcing the bridge formula. Data available to the FHWA through planning studies indicate that a high percentage of weight violations may be bridge formula violations. It is essential that the bridge formula be enforced and it is not possible to evaluate State efforts in this respect without a specific reporting of activity.

Reporting Permits. Only those numbers of permits issued for overweight and overweight-oversize combination loads shall be reported, with specific reference to whether the load was divisible or indivisible. The only breakdown necessary on trip types are the numbers issued on an annual basis and those issued on a trip basis, whether for 1 day, 3 days, 1 week, or 1 month. Specific breakdowns for each of the trip categories are not necessary. This will simplify recordkeeping and reporting requirements.

Reduction of Funds. Several comments indicated misunderstanding of the possibility for informal resolution in situations involving a certification which has been questioned. Such informal resolution is not only possible but encouraged. The regulation reflects the availability of an informal conference and procedures for making an explanation and offer of settlement which would resolve certification questions at the level of the Federal Highway Administrator. The regulation also clarifies the right of the States to secure formal administrative procedures to resolve such matters.

The regulation does not provide mandatory minimum or target numbers, but does require the application of relatively uniform management approaches to enforcement. It is the intent of the FHWA to bring about uniformity of effectiveness in encouraging management initiatives. In utilizing the guidelines, each State should be able to develop an acceptable plan which will provide satisfactory quantifications in the certification report. Changes will be recommended in the future to incorporate needed modifications as indicated by an expanded data base and experience with plan evaluations.

Note.—The Federal Highway Administration has determined that this document contains a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. William Bauch at the address specified above.

This regulation is effective on October 1, 1980. The first submission under this regulation is due on November 1, 1980.

Issued on: August 4, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

PART 658—NATIONAL MAXIMUM SPEED LIMIT; MAXIMUM VEHICLE SIZE AND WEIGHT

In consideration of the foregoing, Chapter I of Title 23, Code of Federal Regulations, is amended as follows:

§ 658.9 [Reserved]

1. Vacate and reserve from the table of sections in Part 658 the heading "§ 658.9 Certification of size and weight enforcement," and the corresponding section within the part.

2. Add a new Part 657 to read as set forth below:

PART 657—CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Sec.

657.1 Purpose.
657.3 Definition.
657.5 Policy.
657.7 Objective.
657.9 Formulation of a plan of enforcement.
657.11 Evaluation of operations.
657.13 Certification requirement.
657.15 Certification content.
657.17 Certification submittal.
657.19 Effect of failure to certify or to enforce State laws adequately.
657.21 Procedure for reduction of funds.
Appendix—Guidelines to be used in developing enforcement plans and certification evaluation.

Authority: Sec. 123, Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689; 23 U.S.C. 127, 141, and 315; 49 CFR 1.48(b).

§ 657.1 Purpose.

To prescribe requirements for administering a program of vehicle size and weight enforcement on Federal-aid (FA) highways, including the required annual certification by the State.

§ 657.3 Definition.

"Enforcing" or "enforcement" means all actions by the State to obtain compliance with size and weight requirements by all vehicles operating on the FA Interstate, primary, urban, and secondary systems.

§ 657.5 Policy.

Federal Highway Administration (FHWA) policy is that each State enforce vehicle size and weight laws to assure that violations are discouraged and that vehicles traversing the highway system do not exceed the limits specified by law. These size and weight limits are based upon design specifications and safety considerations, and enforcement shall be developed and maintained both to prevent premature deterioration of the highway pavement and structures and to provide a safe driving environment.

§ 657.7 Objective.

The objective of this regulation is the development and operation by each State of an enforcement process which identifies vehicles of excessive size and weight and provides a systematic approach to eliminate violations and thus improve conditions.

§ 657.9 Formulation of a plan for enforcement.

(a) Each State shall develop a plan for the maintenance of an effective enforcement process. The plan shall describe the procedures, resources, and facilities which the State intends to devote to the enforcement of its vehicle size and weight laws. Each State plan must be accepted by the FHWA and will then serve as a basis by which the annual certification of enforcement will be judged for adequacy.

(b) The plan shall discuss the following subjects:

(1) *Facilities and resources.* (i) No program shall be approved which does not utilize a combination of at least two of the following listed devices to deter evasion of size and weight measurement in sufficient quantity to cover the FA system: fixed platform scales; portable wheel weigher scales; semiportable or ramp scales; WIM equipment.

(ii) Staff assigned to the program, identified by specific agency. Where more than one State agency has weight enforcement responsibility, the lead agency should be indicated.

(2) *Practices and procedures.* (i) Proposed plan of operation, including geographical coverage and hours of operation in general terms.

(ii) Policy and practices with respect to overweight violators, including off-loading requirements for divisible loads. In those States in which off-loading is mandatory by law, an administrative variance from the legal requirement shall be fully explained. In those States in which off-loading is permissive administrative guidelines shall be included.

(iii) Policy and practices with respect to penalties, including those for repeated violations. Administrative directives, booklets or other written criteria shall be made part of the plan submission.

(iv) Policy and practices with respect to special permits for overweight. Administrative directives, booklets or other written criteria shall be made part of the plan submission.

(3) *Updating.* Modification and/or additions to the plan based on experience and new developments in the enforcement program. It is recognized that the plan is not static and that changes may be required to meet changing needs.

§ 657.11 Evaluation of operations.

(a) The State shall submit its initial plan to the FHWA Division Administrator on or before November 1, 1980. Following consultation with the FHWA Regional Administrator, the State will be notified of its acceptance or rejection. The plan shall be updated annually thereafter, preferably on or before July 1, but an alternate date acceptable to both the FHWA and the State, may be chosen if a State's legislative or budgetary cycle is not consonant with July 1. In any event, a State must have an approved plan in effect by October 1 of each year. Failure of a State to submit or update a plan will be deemed to be a failure to certify in accordance with § 657.13.

(b) The FHWA division office shall review the State's operation under the accepted plan on a continuing basis and shall prepare an evaluation report annually. The State will be advised of the results of the evaluation, and of any needed changes either in the plan itself or in its implementation. Copies of the evaluation report and subsequent modifications resulting from the evaluation shall be forwarded through the region to the Washington Headquarters.

§ 657.13 Certification requirement.

Each State shall certify to the Federal Highway Administrator before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weight permitted on the FA primary, secondary, and urban systems, including the Interstate System, in accordance with 23 U.S.C. 127. The certification shall be supported by information on activities and results achieved during the preceding 12-month period ending on September 30.

§ 657.15 Certification content.

The certification shall consist of the following elements and each element shall be addressed even though the response is negative:

(a) A statement by the Governor of the State, or an official designated by the Governor, that the size and weight laws and regulations in the State governing use of the Interstate System conform to 23 U.S.C. 127.

(b) A statement by the Governor of the State, or an official designated by the Governor, that all State size and weight limits are being enforced on the FA Interstate, primary, urban, and secondary systems. Urban areas not subject to State jurisdiction shall be identified and the statement shall address total FA mileage involved and an analysis of enforcement efforts in such areas.

(c) The certifying statement required by paragraphs (a) and (b) of this section shall be worded as follows: I (name of certifying official), (position title), of the State of , do hereby certify that all State laws and regulations are being enforced on the FA primary, urban, and secondary systems and the Interstate System in accordance with 23 U.S.C. 127.

(d) A copy of any State law or regulation pertaining to vehicle sizes and weights adopted since the State's last certification and an analysis of the changes made. Those laws and regulations pertaining to special permits and penalties shall be specifically identified and analyzed in accordance with section 123 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599).

(e) A report of State size and weight enforcement efforts during the period covered by the certification which addresses the following:

(1) Actual operations as compared with those forecast by the plan submitted earlier, with particular attention to changes in or deviations from the operations proposed.

(2) Impacts of the process as actually applied, in terms of changes in the number of oversize and/or overweight vehicles.

(3) Measures of activity.

(i) Vehicles weighed. Separate totals shall be reported for the annual number of vehicles weighed on fixed scales, on semi-portable scales, on portable scales, and on WIM when used for enforcement.

(ii) Penalties reported shall include citations issued, civil assessments, and incidences of load shifting or off-loading of excess weight categorized as follows: violations of axle and/or gross vehicle weights, or violations resulting from application of the bridge formula.

(iii) Permits. The number of permits issued for *overweight* loads shall be reported. The reported numbers shall specify permits for divisible and nondivisible loads and whether issued on a trip or annual basis. Permits issued for excess height, length, or width need not be reported except where issued for the overwidth movement of a divisible load.

§ 657.17 Certification submittal.

(a) The Governor, or an official designated by the Governor, shall each year submit one copy of the certification to the FHWA Division Administrator prior to January 1.

(b) The division office shall forward the original certification to the Office of the Chief Counsel and one copy to the Associate Administrator for Engineering and Traffic Operations. Copies of appropriate evaluations and/or comments shall accompany any transmittal.

§ 657.19 Effect of failure to certify or to enforce State laws adequately.

Beginning January 1, 1981, if a State fails to certify as required by this regulation or if the Secretary determines that a State is not adequately enforcing all State laws respecting maximum vehicle sizes and weights on FA highways notwithstanding the State's certification, the FA highway funds apportioned to the State for the next fiscal year shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104, and/or by the amount required pursuant to 23 U.S.C. 127.

V 45 / 154
AG 7 80
UMI

§ 657.21 Procedure for reduction of funds.

(a) If it appears to the Federal Highway Administrator that a State has not submitted a certification conforming to the requirements of this regulation, or that the State is not adequately enforcing State laws respecting maximum vehicle size and weight, including laws applicable to vehicles using the Interstate System with weights or widths in excess of those provided under 23 U.S.C. 127, the Federal Highway Administrator shall make in writing a proposed determination of nonconformity, and shall notify the Governor of the State of the proposed determination by certified mail. The notice shall state the reasons for the proposed determination and inform the State that it may, within 30 days from the date of the notice, request a hearing to show cause why it should not be found in nonconformity. If the State informs the Administrator before the end of this 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for requesting a hearing. In the event of a request for informal resolution, the State and the Administrator (or designee) shall promptly schedule a meeting to resolve the matter.

(b) In all instances where the State proceeds on the basis of informal resolution, a transcript of the conference will be made and furnished to the State by the FHWA.

(1) The State may offer any information which it considers helpful to a resolution of the matter, and the scope of review at the conference will include, but not be limited to, legislative actions, including those proposed to remedy deficiencies, budgetary considerations, judicial actions, and proposals for specific actions which will be implemented to bring the State into compliance.

(2) The information produced at the conference may constitute an explanation and offer of settlement and the Administrator will make a determination on the basis of the certification, record of the conference, and other information submitted by the State. The Administrator's final decision together with a copy of the transcript of the conference will be furnished to the State.

(3) If the Administrator does not accept an offer of settlement made pursuant to paragraph (b)(2) of this section, the State retains the right to request a hearing on the record pursuant to paragraph (d) of this section, except in the case of a violation of section 127.

(c) If the State does not request a hearing in a timely fashion as provided in paragraph (a) of this section, the Federal Highway Administrator shall forward the proposed determination of nonconformity to the Secretary. Upon approval of the proposed determination by the Secretary, the fund reduction specified by § 657.19 shall be effected.

(d) If the State requests a hearing, the Secretary shall expeditiously convene a hearing on the record, which shall be conducted according to the provisions of the Administrative Procedure Act, 5 U.S.C. 555 *et seq.* Based on the record of the proceeding, the Secretary shall determine whether the State is in nonconformity with this regulation. If the Secretary determines that the State is in nonconformity, the fund reduction specified by section 567.19 shall be effected.

(e) The Secretary may reserve 10 percent of a State's apportionment of funds under 23 U.S.C. 104 pending a final administrative determination under this regulation to prevent the apportionment to the State of funds which would be affected by a determination of nonconformity.

(f) Funds withheld pursuant to a final administrative determination under this regulation shall be reapportioned to all other eligible States one year from the date of this determination, unless before this time the Secretary determines, on the basis of information submitted by the State and the FHWA, that the State has come into conformity with this regulation. If the Secretary determines that the State has come into conformity, the withheld funds shall be released to the State.

(g) The reapportionment of funds under paragraph (e) of this section shall be stayed during the pendency of any judicial review of the Secretary's final administrative determination of nonconformity.

Appendix.—Guidelines To Be Used in Developing Enforcement Plans and Certification Evaluation

A. Facilities and Equipment

1. Permanent Scales
   a. Number
   b. Location (a map appropriately coded is suggested)
   c. Public-private (if any)
2. Weigh-in-motion (WIM)
   a. Number
   b. Location (notation on above map is suggested)
3. Semi-portable scales
   a. Type and number
   b. If used in sets, the number comprising a set
4. Portable Scales
   a. Type and number
   b. If used in sets, the number comprising a set

B. Resources

1. Agencies involved (i.e., highway agency, State police, motor vehicle department, etc.)
2. Personnel—numbers from respective agencies assigned to weight enforcement
3. Funding
   a. Facilities
   b. Personnel

C. Practices

1. Proposed schedule of operation of fixed scale locations in general terms
2. Proposed schedule of deployment of portable scale equipment in general terms
3. Proposed schedule of deployment of semi-portable equipment in general terms
4. Strategy for prevention of bypassing of fixed weighing facility location
5. Proposed action for implementation of off-loading, if applicable

D. Goals

1. Short term—the year beginning October 1 following submission of a vehicle size and weight enforcement plan
2. Medium term—2–4 years after submission of the enforcement plan
3. Long term—5 years beyond the submission of the enforcement plan
4. Provision for annual review and update of vehicle size and weight enforcement plan

E. Evaluation

The evaluation of an existing plan, in comparison to goals for strengthening the enforcement program, is a difficult task, especially since there is very limited experience nationwide.

The FHWA plans to approach this objective through a continued cooperative effort with State and other enforcement agencies by gathering useful information and experience on elements of enforcement practices that produce positive results.

It is not considered practicable at this time to establish objective minimums, such as the number of vehicles to be weighed by each State, as a requirement for satisfactory compliance. However, the States will want to know as many specifics as possible about what measuring tools will be used to evaluate their annual certifications for adequacy.

The above discussion goes to the heart of the question concerning numerical criteria. The assumption that a certain number of weighings will provide a maximum or even satisfactory deterrent is not supportable. The enforcement of vehicle size and weight laws requires that vehicles be weighed but it does not logically follow that the more vehicles weighed, the more effective the enforcement program, especially if the vehicles are weighed at a limited number of fixed locations. A "numbers game" does not necessarily provide a deterrent to deliberate overloading. Consistent, vigorous enforcement activities, the certainty of apprehension and of penalty, the adequacy of the penalty, even the publicity given these factors, may be greater deterrents than the number of weighings alone.

In recognizing that all States are unique in character, there are some similarities between certain States and useful perspectives may be obtained by relating their program elements. Some comparative factors are:

1. Truck registration (excluding pickups and panels)
2. Population
3. Average Daily Traffic (ADT) for trucks on FA highways
4. To total mileage of Federal-aid highways
5. Geographic location of the State
6. Annual truck miles traveled in State
7. Number of truck terminals (over 6 doors)
8. Vehicle miles of intrastate truck traffic

Quantities relating to the above items can become factors that in the aggregate are descriptive of a State's characteristics and can identify States that are similar from a trucking operation viewpoint. This is especially applicable for States within the same area.

After States with similar truck traffic operations have been identified in a regional area, another important variable must be considered: the type of weighing equipment that has been or is proposed for predominant use in the States. When data become available on the number of trucks weighed by each type of scale (fixed, portable, semi-portable, etc.) some indicators will be developed to relate one State's effort to those of other States. The measures of activity that are a part of each certification submitted will provide a basis for the development of more precise numerical criteria by which an enforcement plan and its activities can be judged for adequacy.

Previous certifications have provided information from which the following gross scale capabilities have been derived.

Potential Weighing Capacities

1. Permanent scales 60 veh/hr.
2. Weigh-in-motion scales 100 veh/hr.
3. Semi-portable scales 25 veh/hr.
4. Portable scales 3 veh/hr.

To meet the mandates of Federal and other laws regarding truck size and weight enforcement, the FHWA desires to become a resource for all States in achieving a successful exchange of useful information. Some States are more advanced in their enforcement activities. Some have special experience with portable, semi-portable, fixed, or weighing-in-motion devices. Others have operated permanent scales in combination with concentrated safety inspection programs. The FHWA is interested in information on individual State experiences in these specialized areas as part of initial plan submissions. If such information has recently been furnished to the Washington Headquarters, an appropriate cross reference should be included on the submission.

It is the policy of the FHWA to avoid red tape, and information volunteered by the States will be of assistance in meeting many needs. The ultimate goal in developing information through the evaluation process is to assemble criteria for a model enforcement program.

[FR Doc. 80-23879 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 869

[Docket No. R-80-829]

Low-Income Public Housing—PHA-Owned Projects—Continued Operation as Low-Income Housing After Completion of Debt Service

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule and request for comments.

SUMMARY: This Interim Rule implements certain amendments to § 9 of the United States Housing Act of 1937, pertaining to continued operation of a public housing project as low-income housing after the completion of debt service for the project. These statutory changes wer made by section 211 of the Housing and Community Development Amendments of 1979.

EFFECTIVE DATE: September 15, 1980.

COMMENT DUE DATE: October 6, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading of this document. Copies of all written comments received will be available for copying and inspection in the Office of the Rules Docket Clerk at the above address. The rule may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Wayne Hunter, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone number (202) 755-6460 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This rule, which implements recent amendments to the United States Housing Act of 1937, (Act) made by § 211 of the Housing and Community Development Amendments of 1979, provides a basis for maintaining the low-income nature of a public housing project after the completion of all debt service on the project under § 5 of the Act. Specifically, the Act states that a PHA may not dispose of a public housing project without HUD approval for 10 years after all operating subsidy payments for that project have ceased. Under this rule, the maintenance of the low-income nature of a project allows for continued eligibility for payment of operating subsidy with respect to the project. This rule is applicable only to public housing projects owned by public housing agencies (PHAs).

For most of the PHA-owned public housing projects whose Annual Contributions Contract (ACC) terms would otherwise expire within the next few years, as a result of the completion of debt service, the ACC terms have been, or are expected to be, extended in connection with modernization, pursuant to 24 CFR 868. For those projects which may not be included under modernization programs before the expiration of their existing ACC terms, this rule provides for extension of the term of those ACC provisions which relate to project operation. ACC provisions related to development and debt service would not remain in effect for the project during such an extension.

For use in determining the exact time of ACC expiration for a particular project, § 869.103(a) sets forth a definition of "ACC Expiration Date." Provision is made in § 869.104 for the payment of operating subsidy with respect to a project during continued operation as low-income public housing, until and after the completion of debt service, pursuant to an ACC amendment under § 869.105 or § 869.108, extending the term of the ACC provisions related to project operation.

Under § 869.105, this rule requires that, as a condition for the first HUD approval for payment of operating subsidy under a particular ACC for a PHA fiscal year beginning after the effective date of this rule, the PHA and HUD must enter into an ACC amendment stipulating that each project which is subject to the ACC shall continue to be operated as low-income public housing, on accordance with the ACC provisions related to project operation, for a period of 10 years after the last PHA fiscal year for which operating subsidy is paid with respect to the project.

An ACC amendment under § 869.105 will result in an automatic extension for any project under an ACC whenever, and to the extent that, less than 10 years of the project's ACC term would otherwise remain after the end of the last PHA fiscal year for which operating subsidy is paid with respect to the project. After the initial ACC extension is effected under § 869.105, successive annual payments of operating subsidy with respect to the project will automatically result in successive annual extensions of the project's ACC

term. Complete expiration for a project will occur only if no operating subsidy is paid with respect to the project for the last 10 years of the project's ACC term. Even if a PHA chooses to accept no further operating subsidy for a project, the Act requires that it still seek HUD approval for disposition of the project for a period of 10 years following the last operating subsidy payment.

Where there is a Consolidated ACC covering two or more projects, the PHA's decision not to receive operating subsidy for any of the projects will result in a reduction of the total amount of operating subsidy payable under the ACC, as explained in § 869.105(b). Before deciding not to receive operating subsidy for a particular project under § 869.105, the PHA should evaluate the impact of such a decision on the other projects under the ACC.

Where the project has not received operating subsidy for the last 10 years of its ACC term and thus is not subject to an ACC extension under § 869.105, the PHA may still desire such an extension as a basis for maintaining the project's eligibility for operating subsidy beyond the anticipated date of ACC expiration. For this situation, § 869.106 provides that, upon request by the PHA, HUD may approve a one to ten year extension of the term of the ACC provisions related to project operation.

Notwithstanding these provisions, HUD may approve the disposition of a project before the scheduled expiration of the term of the ACC for the project (i.e., at any time prior to the completion of debt service or during an extended term under this Part). This possibility is acknowledged in § 869.107, which makes it clear that this Part is not intended to restrict or preclude demolition or disposition of a project pursuant to HUD approval in accordance with 24 CFR 870.

This rule is being issued as an Interim Rule because it is urgent that the statutory changes mandated by § 211 of the Housing and Community Development Amendments of 1979 be implemented immediately. Unless the Annual Contributions Contracts governing certain Low-Income Public Housing projects are extended before their scheduled expiration dates, the affected projects will become ineligible for operating subsidy after ACC expiration, and some local Public Housing Agencies may be unable in that case to maintain the decent, safe and sanitary housing they now provide to the low-income residents of the projects that would be affected. The first of the ACC expirations which are affected by these statutory changes is scheduled for October 1980 and additional expirations are scheduled to occur in 1981. It is very important for this rule to be in place well before any expirations occur, so that local PHAs may have planning time to consider the options this rule offers.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 had been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk at the above address.

This rule is listed as item number H-60-79 in the Department's semi-annual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Chapter VIII of Title 24 of the Code of Federal Regulations is amended to add a new Part 869, as follows:

PART 869—PHA-OWNED PROJECTS—CONTINUED OPERATION AS LOW-INCOME HOUSING AFTER COMPLETION OF DEBT SERVICE

Sec.

869.101 Purpose.
869.102 Applicability.
869.103 Definitions.
869.104 Continuing eligibility for operating subsidy.
869.105 Extension of ACC upon payment of operating subsidy.
869.106 ACC extension in absence of current operating subsidy.
869.107 HUD approval of demolition or disposition before ACC expiration.

Authority: United States Housing Act of 1937, (42 U.S.C. 1437 et seq.); Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 869.101 Purpose.

This Part provides a basis for maintaining the low-income nature of a public housing project after the completion of debt service on the project, specifying methods for extending the effective period of those provisions of the Annual Contributions Contract (ACC) which relate to project operation. Such an extension provides a contractual basis for the continued operation of the project under the Low-Income Public Housing Program, including continued eligibility for Operating Subsidy.

§ 869.102 Applicability.

This Part applies to any low-income public housing project which, on or after the effective date of this Part, is owned by a Public Housing Agency (PHA) and is subject to an ACC under § 5 of the United States Housing Act (Act), including any Turnkey III or Mutual Help housing which is owned by the PHA. This Part does not apply to the Section 8 and Section 23 Housing Assistance Payments Programs, the Section 10(c) and Section 23 Leased Housing Programs, or Lanham Act projects which remain under Administration Contracts.

§ 869.103 Definitions.

(a) "ACC Expiration Date" means the last day of the term during which a particular public housing project is subject to all or any of the provisions of the ACC. The ACC term for a particular project expires at the latest of:

(1) The end of the "Debt Service Completion Date," which is the last day of a one-year period beginning with, and inclusive of, the last debt service Annual Contribution Date for the project, as determined under the ACC (e.g., if the last debt service Annual Contribution Date is June 15, 1983, the one-year period continues through the end of the day on June 14, 1984, which is the Debt Service Completion Date); or

(2) The end of the date of full repayment of any indebtedness of the PHA to the Federal government in connection with the project; or

(3) The end of the last date of an extension of the term of the ACC provisions related to project operation, as effected under § 869.105 or § 869.106.

(b) "Operating Subsidy" means additional annual contributions for operations under section 9 of the Act.

§ 869.104 Continuing eligibility for operating subsidy.

Until and after the Debt Service Completion Date for any project, HUD shall pay Operating Subsidy with respect to such project only in accordance with an ACC amendment providing for extension of the term of the ACC provisions related to project operation, pursuant to § 869.105 or § 869.106. The ACC amendment shall be in the form prescribed by HUD and shall specify the particular provisions of the ACC which relate to continued project operation and, therefore, remain in effect for the extended ACC term. These provisions shall include a requirement that the PHA execute and file for public record an appropriate document evidencing the PHA's covenant not to convey, encumber or make any other disposition of the project before the end of the project's ACC Expiration Date, without HUD approval.

§ 869.105 Extension of ACC upon payment of operating subsidy.

(a) *ACC Amendment.* As a condition for the first HUD approval for payment of Operating Subsidy with respect to the projects under a particular ACC for a PHA fiscal year beginning after the effective date of this Part, the PHA and HUD shall enter into an amendment to the ACC for all projects under the ACC. This ACC amendment shall provide that the ACC provisions related to project operation shall continue in effect with respect to each project under the ACC for a period of 10 years after the end of the last PHA fiscal year for which Operating Subsidy is paid with respect to the project.

(b) *Consolidated ACC.* Where a single ACC covers more than one project (Consolidated ACC), each annual Operating Subsidy payable under that ACC is a lump-sum amount, which is not divided into discrete amounts for the individual projects which are subject to the Consolidated ACC (see 24 CFR 890). Accordingly, if a PHA, before submitting a request for Operating Subsidy pursuant to paragraph (a) of this section, determines that any project(s) under the Consolidated ACC will not require Operating Subsidy and should not be subject to the provisions of paragraph (a), the PHA shall accompany its request with a resolution certifying that no Operating Subsidy shall be utilized with respect to such project(s) after the effective date of this rule and that all financial records and accounts shall be kept separately for such project(s). In such case, the removal of the project(s) from the request for Operating Subsidy shall be reflected by the exclusion of that number of unit months available for the project(s) when making the calculations, under 24 CFR 890, for determination of the total amount of Operating Subsidy payable under the Consolidated ACC. In any event, no Operating Subsidy payable under a Consolidated ACC or otherwise shall be used to pay, directly or indirectly, any costs attributable to a project which is ineligible or otherwise excluded from Operating Subsidy under § 869.104. Even if no Operating Subsidy is received with respect to a project, the PHA remains obligated to maintain and operate the project in accordance with the provisions of the ACC related to project operation so long as those ACC provisions remain in effect.

§ 869.106 ACC extension in absence of current operating subsidy.

Where Operating Subsidy under an ACC is not approved for payment during a time period which results in extension of the term of the ACC provisions related to project operation, with respect to a particular project, pursuant to § 869.105, the PHA shall, at least one year before the anticipated ACC Expiration Date for the project, notify HUD as to whether or not the PHA desires to maintain a basis for receiving Operating Subsidy with respect to the project after the anticipated ACC Expiration Date. This notification shall be submitted to the appropriate HUD Field Office in the form of a resolution of the PHA's Board of Commissioners. If the PHA does not desire to maintain a basis for Operating Subsidy payments with respect to the project after the anticipated ACC Expiration Date, the resolution shall certify that no Operating Subsidy shall be utilized with respect to the project after the effective date of this rule and that all financial records and accounts for such a project shall be kept separately. If the PHA does desire to maintain a basis for such Operating Subsidy payments, the resolution shall include the PHA's request for extension of the term of the ACC provisions related to project operation, for a period of not less than one nor more than 10 years. Upon HUD's receipt of the request, HUD and the PHA shall enter into an ACC amendment effecting the extension for the period requested by the PHA, unless HUD finds that continued operation of the project cannot be justified under the standards set forth in 24 CFR 870 (HUD's regulation on demolition or disposition of public housing).

§ 869.107 HUD approval of demolition or disposition before ACC expiration.

This Part is not intended to preclude or restrict the demolition or disposition of a project pursuant to HUD approval in accordance with 24 CFR 870. Subject to the requirements of 24 CFR 870, HUD may authorize a PHA to demolish or dispose of public housing at any time before the ACC Expiration Date.

Issued at Washington, D.C., June 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-23885 Filed 8-6-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7712]

Income Tax; Investment in United States Property by Controlled Foreign Corporations

AGENCY: Internal Revenue Service. Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the exceptions to the definition of United States property under section 956 (b) (2) of the Internal Revenue Code of 1954. Changes in the applicable tax law were made by the Tax Reform Act of 1976. This document also contains final regulations under section 956 (c) which affect the computation of the investment of earnings in United States property by controlled foreign corporations. The regulations provide the public with the guidance needed to comply with the provisions of the Tax Reform Act of 1976 as well as guidance with respect to the clarification of existing regulations. The final regulations affect controlled foreign corporations making certain investments in United States property and their United States shareholders.

DATE: The amendments in general apply to taxable years beginning after December 31, 1975 except that the amendment to § 1.956–2 (c) (2) applies with respect to pledges made after September 8, 1980.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1979, the **Federal Register** published proposed regulations under sections 956 and 958 of the Internal Revenue Code of 1954 (44 FR 23880). Amendments under section 956 (a), (b)(2), and 958 were proposed to conform the regulations to amendments made to the Code by section 1021 of the Tax Reform Act of 1976 (90 Stat. 1618). Amendments made under section 956 (c) were intended to clarify existing regulations. A public hearing was held on October 30, 1979. After consideration all comments regarding the proposed amendments, this Treasury decision is adopted.

Discussion

The proposed amendments made changes to the regulations under section 965 (b) and 958 to conform the regulations to amendments made to the Code by section 1021 of the Tax Reform Act of 1976 (90 Stat. 1618). In addition, amendments were made to the regulations under section 956 (c) to clarify existing regulations.

Proposed § 1.956–2 (c) (2) dealing with indirect pledges or guarantees has been modified. Under the final regulations the pledge of stock of a controlled foreign corporation will be considered as an indirect pledge of the assets of the controlled foreign corporation only if at least 66⅔ percent of the voting power of the stock of the controlled foreign

corporation is pledged and only if, in addition, the pledge of stock is accompanied by negative covenants or similar restrictions. This provision applies to pledges made after September 8, 1980.

Proposed § 1.956–2 (c) (3) dealing with the facilitation of loans to shareholders has been eliminated. Although the Committee Report accompanying the Tax Reform Act of 1976 supports the position taken in the proposed regulations, a number of comments were received that the proposed section was too vague and could be misconstrued to cover situations not prohibited by section 956. Any need for specificity will be covered in rulings on particular facts. Examples (4) and (5) under proposed § 1.956–2 (c) (3) have also been eliminated. Example (4) dealt with the operation of an effective date which has been modified and Example (5) dealt with the concept of facilitation.

A change was also made under proposed § 1.956–2 (b) (1) (ix) in order to expand the concept of "when used" to include situations in which equipment has been purchased for use and not as yet used. Another change of a clarifying nature was made under § 1.956–2 (b) (1) (ix) with respect to the definition of movable drilling rigs and other oil and gas exploration and exploitation equipment used on the continental shelf of the United States.

Drafting Information

The principal author of these regulations is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Paragraph (b) of § 1.956–1 is amended by redesignating subparagraphs (2) and (3) as subparagraphs (3) and (4), respectively, and by adding new subparagraph (2) to read as set out below:

§ 1.956–1 Shareholder's pro rata share of a controlled foreign corporation's increase in earnings invested in United States property.

* * * * *

(b) *Amount of a controlled foreign corporation's investment of earnings in United States property.* * * *

(2) *Aggregate amount of United States property.* For purposes of determining an increase in earnings invested in United States property for any taxable year beginning after December 31, 1975, the aggregate amount of United States property held by a controlled foreign corporation at the close of—

(i) Any taxable year beginning after December 31, 1975, and

(ii) The last taxable year beginning before January 1, 1976

does not include stock or obligations of a domestic corporation described in section 956(b)(2)(F) or movable property described in section 956(b)(2)(G).

Par. 2. Section 1.956–2 is amended as follows:

1. Paragraph(b)(1) is amended by revising subdivision (iii), by redesignating subdivision (viii), as subdivision (x), and by adding subdivisions (viii) and (ix) as set forth below.

2. Paragraph (c) is amended as follows:

a. Subparagraph (1) amended by deleting "subparagraph (2)" from the first sentence and by inserting in lieu thereof "subparagraph (4)", and by deleting the last sentence and the examples.

b. Subparagraph (2) is redesignated as subparagraph (4) and new subparagraphs (2) and (3) are added to read as set forth below.

3. Paragraph (d)(1)(i) is revised by deleting "of paragraph (a)" from the first sentence, and by revising paragraph (d)(1)(i)(*b*) to read as set forth below.

4. Paragraph (d)(2) is revised by deleting "of paragraphs (a)(1)(iii) and (b)(1)(v)" from the first sentence.

§ 1.956–2 Definition of United States property.

(b) *Exceptions*—(1) *Excluded property.* * * *

(iii) Deposits with persons carrying on the banking business, unless the deposits serve directly or indirectly as a pledge or guarantee within the meaning of paragraph (c) of this section. See paragraph (e)(2) of § 1.956–1.

* * * * *

(viii) For taxable years beginning after December 31, 1975, the voting or nonvoting stock or obligations of an unrelated domestic corporation. For purposes of this subdivision, an unrelated domestic corporation is a domestic corporation which is neither a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation making the investment, nor a corporation 25 percent or more of whose total combined voting power of all classes of stock entitled to vote is owned or considered as owned (within the meaning of section 958 (b)) by United States shareholders of the controlled foreign corporation making the investment. The determination of whether a domestic corporation is an unrelated corporation is made immediately after each acquisition of stock or obligations by the controlled foreign corporations.

(ix) For taxable years beginning after December 31, 1975, movable drilling rigs or barges and othet movable exploration and exploitation equipment (other than a vessel or an aircraft) which are used exclusively on the Continental Shelf (as defined in section 638) of the United States in the exploration for, development, removal or transportation of natural resources from or under ocean waters. Property of the kind described in this subdivision which is being constructed or is in storage or in transit within the United States meets the requirements of § 1.956–2(b)(1) defining excluded property if it is actually used on the Continental Shelf by the last day of the taxable year following the year of purchase, commencement of storage or commencement of transit, and has nto been used by the taxpayer anyplace else. In general, the type of property which qualifies for the exception under this subdivision includes any movable property which would be entitled to the investment credit if used outside the United States in certain geographical areas of the Western Hemisphere pursuant to section 48(a)(2)(B) (x) (without reference to sections 49 and 50).

* * * * *

(c) *Treatment of pledges and guarantees*— (1)*General rule.* * * *

(2) *Indirect pledge or guarantee.* If the assets of a controlled foreign corporation serve at any time, even though indirectly, as security for the performance of an obligation of a United States person, then, for purposes of paragraph (c)(1) of this section, the controlled foreign corporation will be considered a pledgor or guarantor of that obligation. For this purpose the pledge of stock of a controlled foreign corporation will be considered as the indirect pledge of the assets of the corporation if at least 66 2/3 percent of the total combined voting power of all classes of stock entitled to vote is pledged and if the pledge of stock is accompanied by one or more negative covenants or similar restrictions on the shareholder effectively limiting the corporation's discretion with respect to the disposition of assets and the incurrence of liabilities other than in the ordinary course of business. This paragraph (c)(2) applies only to pledges and guarantees which are made after September 8, 1980. For purposes of this paragraph (c)(2) a refinancing shall be considered as a new pledge or guarantee.

(3) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). A, a United States person, bortows $100,000 from a bank in foreign country X on December 31, 1964. On the same date controlled foreign corporation R pledges its assets as security for A's performance of A's obligation to repay such loan. The place at which or manner in which A uses the money is not material. For-purposes of paragraph (b) of § 1.956–1, R Corporation will be considered to hold A's obligation to repay the bank $100,000, and, under the provisions of paragraph (e)(2) of § 1.956–1, the amount taken into account in computing R Corporation's aggregate investment in United States property on December 31, 1964, is the unpaid principal amount of the obligation on that date ($100,000).

Example (2). The facts are the same as in example (1), except that R Corporation participates in the transaction, not by pledging its assets as security for A's performance of A's obligation to repay the loan, but by agreeing to buy for $1,00,000 at maturity the note representing A's obligation if A does not repay the loan. Separate arrangements are made with respect to the payment of the interest on the loan. The agreement of R Corporation to buy the note constitutes a guarantee of A's obligation. For purposes of paragraph (b) of § 1.956–1, R Corporation will be considered to hold A's obligation to repay the bank $100,000, and, under the provisions of paragraph (e)(2) of § 1.956–1, the amount taken into account in computing R Corporation's aggregate investment in United States property on December 31, 1964, is the unpaid principal amount of the obligation on that date ($100,000).

Example (3). A, a United States person, borrows $100,000 from a bank on December 10, 1981, pledging 70 percent of the stock of X, a controlled foreign corporation, as collateral for the loan. A and X use the calendar year as their taxable year. in the loan agreement, among other things, A agrees not to cause or permit X Corporation to do any of the following without the consent of the bank:

(a) Borrow money or pledge assets, except as to borrowings in the ordinary course of business of X Corporation;

(b) Guarantee, assume, or become liable on the obligation of another, or invest in or lend funds to another;

(c) Merge or consolidate with any other corporation or transfer shares of any controlled subsidiary;

(d) Sell or lease (other than in the ordinary course of business) or otherwise dispose of any substantial part of its assets;

(e) Pay or secure any debt owing by X Corporation to A; and

(f) Pay any dividends, except in such amounts as may be required to make interest or principal payments on A's loan from the bank.

A retains the right to vote the stock unless a default occurs by A. Under paragraph (c)(2) of this section, the assets of X Corporation serve indirectly as security for A's performance of A's obligation to repay the loan and X Corporation will be considered a pledgor or guarantor with respect to that obligation. For purposes of paragraph (b) of § 1.956–1, X Corporation will be considered to hold A's obligation to repay the bank $100,000 and under paragraph (e)(2) of § 1.956–1, the amount taken into account in computing X Corporation's aggregate investment in United States property on December 31, 1981, is the unpaid principal amount of the obligation on that date.

(d) *Definitions*—(1) *Meaning of "acquired"*—(i) *Applicable rules.* For purposes of this section—

* * * * *

[*b*) Property which is an obligation of a United States person with respect to which a controlled foreign corporation is a pledgor or guarantor (within the meaning of paragraph (c) of this section) shall be considered acquired when the corporation becomes liable as a pledgor or guarantor or is otherwise considered a pledgor or guarantor (within the meaning of paragraph (c)(2) of this section); and

* * * * *

Par. 3. Section 1.958–2 is amended as follows:

1. The first sentence of paragraph (a) is revised as set out below.

2. Paragraph (b)(3) is amended by adding a new sentence immediately after the first sentence as set forth below.

3. Paragraph (d)(2) is amended by adding a new sentence immediately after the first sentence as set forth below.

§ 1.958–2 Constructive ownership of stock.

(a) *In general.* Section 958(b) provides that, for purposes of sections 951(b), 954(d)(3), 956(b)(2), and 957, the rules of section 318(a) as modified by section 958(b) and this section shall apply to the extent that the effect is to treat a United States person as a United States shareholder within the meaning of section 951(b), to treat a person as a related person within the meaning of section 954(d)(3), to treat the stock of a domestic corporation as owned by a United States shareholder of a controlled foreign corporation under section 956(b)(2), or to treat a foreign corporation as a controlled foreign corporation under section 957. * * *

(b) *Members of family.* * * *

(3) *Stock owned by nonresident alien individual.* * * * However, this limitation does not apply for purposes of determining whether the stock of a domestic corporation is owned or considered as owned by a United States shareholder under section 956(b)(2) and § 1.956–2(b)(1)(viii). * * *

* * * * *

(d) *Attribution to partnerships, estates, trusts, and corporations.* * * *

(2) *Limitation.* * * * This limitation does not apply for purposes of determining whether the stock of a domestic corporation is owned or considered as owned by a United States shareholder under section 956(b)(2) and § 1.956–2(b)(1)(viii). * * *

(Secs. 956(c), 7805, Internal Revenue Code of 1954 (76 Stat. 1017, 68A Stat. 917; (26 U.S.C. 956(c) and U.S.C. 7805 respectively))]

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: July 18, 1980.

Emil M. Sunley,
Acting Assistant Secretary of the Treasury.

[FR Doc. 80-23878 Filed 8-6-80; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 762

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects § 762.13 of the Permanent Regulatory Program published in the **Federal Register**, March 13, 1979, Part II, Book 3 of 3. The provision relates to land exempt from designation as unsuitable for surface coal mining operations.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Boyd B. Lewis (202) 343–5361. Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: This document corrects an error that appeared in the March 13, 1979, Permanent Regulatory Program and Title 30, Code of Federal Regulations, 1979. The page number corresponds to the March 13, 1979, **Federal Register** document. The following instructions will aid the user in locating the referenced:

Page—indicates the page number that appears in the upper margin of the March 13, 1979, **Federal Register**;

V 45 / 154 AG 7 80 UMI

Section—indicates the Section and paragraph where the error occurred;
Lines—indicates the number of lines down from the referenced section.

The following correction is made:

§ 762.13 [Corrected]

On page 15344, § 762.13(a), line 3, "on the date of enactment;" is corrected to read "on the date of enactment of the Act;"

Dated: July 28, 1980.

Walter N. Heine,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 80-23872 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations; Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and its counterpart agency, the St. Lawrence Seaway Authority of Canada, after reviewing their joint Seaway Regulations have determined that several sections are in need of revision. The Seaway Corporation will therefore amend Subpart A of 33 CFR Part 401 in order to 1) require certain new safety features and procedures, 2) revise provisions concerning the transportation of hazardous cargo in accordance with the International Maritime Dangerous Goods Code as promulgated by the Intergovernmental Maritime Consultative Organization (IMCO), 3) insure its consistency with actual operating procedures, and 4) clarify several existing regulations.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315) 764-0271, Ext. 245.

SUPPLEMENTARY INFORMATION:

Background

On June 19, 1979, the Seaway Corporation published in the **Federal Register** (44 FR 35256) proposed amendments to the Seaway Regulations which had been developed jointly with the Canadian Seaway Authority for the reasons set forth in the Summary.

Two comments were submitted in response to the notice of proposed rulemaking. The first comment was from the National Transportation Safety Board which suggested that two minor changes be made to the revised section on Dangerous Cargo, both of which have been made. As a result of the Board's suggestion, the word "flammable" (which had been used in the proposed rule interchangeably with "inflammable") will be used consistently. The Board also suggested that a phrase be added which explains the method by which a cargo's flashpoint is determined. This comment, too, has been adopted.

The second comment was from The Research and Special Projects Administration of the U.S. Department of Transportation. A request was made that The Hazardous Materials Transportation Act of the United States be included in the list of laws and regulations with which we require compliance in Part 401.66 of the Seaway Regulations. In accordance with this request, this suggestion has also been adopted.

Explanation of Changes

Since publication of the notice of proposed rulemaking, the Seaway Corporation and the Canadian Seaway Authority have held further discussions concerning the proposed amendments. As a result, several minor technical and editorial changes have been made, none of which have affected the substance of the amendments. Following is an explanation of the revised regulations.

The Table of Contents has been amended to reflect changes in several section headings.

In § 401.2, a definition for "flashpoint" was added in accordance with a request from the National Transportation Safety Board. A definition for "tanker" was also added. This was necessary as several of the sections included under the heading "Dangerous Cargo" are applicable to these vessels.

In § 401.3, paragraphs (b) and (d) have been amended to restrict vessel dimensions so as to protect all structures which could be interfered with at any of the locks. In the proposed rule, a specific reference was made to bascule bridges, but since bascule bridges are located at only a few of the locks, it is essential that the regulations provide for the protection of structures at all locks. Section 401.3(d)(1) was formerly noted only in Appendix I, but has now become § 401.3(d)(1) since it is a substantial rule. Appendix I has been retained to provide a block diagram which shows maximum allowable vessel dimensions as well as some explanatory notes.

In § 401.3(b), a correction in translation has been made, and § 401.3(d) has been redesignated as § 401.19(c).

The main text of § 401.5(b) has been relocated in substantially the same form to § 401.21 while its subparagraphs have been set forth in a new Schedule I. This change is designed to clearly indicate that the requirements contained therein apply only to the U.S. waters of the Seaway.

The heading to § 401.6 has been changed from "Draft markings" to "Markings" and a new paragraph (c) has been added to the section which requires that vessels with bulbous bows so indicate by placing special markings above their draft markings. This has appeared as a strong recommendation in the general Seaway Notice published by both Seaway entities for a number of years and is necessary so that the vessel may be safety spotted in the lock. Because the regulation will not be effective until the beginning of the 1981 navigation period, vessels will have an adequate time in which to comply with a relatively simple requirement.

In § 401.16, a reference to the vessel's weight has been substituted for a reference to the vessel's length. This will make the equipment required by the section dependent on the gross tonnage of the vessel rather than on its length and will keep the Seaway Regulations consistent in their requirements for equipment. Subsection 401.16(b) has been reworded for clarity with no change in substance.

As indicated above, a new paragraph (c) has been added to § 401.19 which prohibits the discharge of any substance onto lock or tie-up walls. In addition, the section's heading has been changed to read "Disposal and discharge systems".

The heading to § 401.20 has been changed to more accurately reflect the substance of the regulation. This had originally been changed in 1978 (43 FR 25817). However, the modification did not appear in the most recent edition of Title 33 of the Code of Federal Regulations.

As further stated above, § 401.21 has been modified to indicate that in addition to the requirements contained elsewhere in the Seaway Regulations, certain requirements as set forth in Schedule I are applicable only to the U.S. waters of the Seaway. The present § 401.21 provision that vessels be equipped with rudder angle indicators has been included in Schedule I.

Section § 401.23(a) is revised to reflect the fact that a condition of approval of an application for preclearance must show that the vessel is covered by liability insurance equal to or exceeding $100 per gross registered ton.

Section 401.26 along with § 401.29(c), § 401.31(c)(4), § 401.35, § 401.43, § 401.62 and § 401.63 have been amended so as to delete any reference to the Canadian Sault Ste. Marie Lock. This is necessary to reflect that the Canadian Seaway Authority no longer has any responsibility for the area.

New security required of vessels as a result of the recently revised Tolls Schedule (43 FR 11672) has been set forth in § 401.26.

Subsection 401.31(c)(2) has been amended to prohibit smaller pleasure craft from overtaking and passing commercial vessels near lock entrances, the practice of which endangers both vessels.

As indicated previously, bascule bridges overhang several lock walls within the Seaway system. Section 401.3 has been amended to provide for this. Section 401.33 has also been amended to require that vessels whose dimensions exceed the maximum allowable under § 401.3(d) must apply for special transit instructions from either the Seaway Corporation or the Seaway Authority.

Section 401.35 has been reworded to conform to changes in Sections 401.3(b) and 401.3(d).

Subsection 401.40(a) has been revised to indicate that stop symbols rather than "Stop" signs are now in use at the locks.

Section 401.51 has been amended to require that a vessel master signal the vessel's presence to a bridgemaster by VHF radio rather than by using the vessel's whistle. This will make the regulation consistent with the usual practice.

Subsection 401.59(b) has been revoked and a new provision substituted therefor which requires that vessels only discharge substances in accordance with the applicable U.S. Federal Regulations and Canadian Regulations. Additionally, in the Welland Canal, two zones have been designated as prohibited discharge areas due to their proximity to municipal intake areas.

In Section 401.63 the control sectors beginning with Control Sector Number 4 are renumbered as follows to reflect the actual Sector Numbers.

Station; Control Sector Number

Seaway Clayton; 4.
Seaway Sodus; 4.
Seaway Newcastle; 5.
Seaway Welland; 6.
Seaway Long Point; 7.

In Sections 401.68 and 401.69, references to metric and short tons have been deleted, and the term, "tonnes" substituted in view of the fact that the phrase tonnes is metric.

Sections 401.66 through 401.73 have been revised in accordance with IMCO standards and applicable U.S. and Canadian statutes concerning the transportation of dangerous cargo.

Section 401.77, "Pleasure craft tolls" has been deleted because of non-use. However, Section 401.77 will be reserved.

Section 401.78 has been expanded to include additional required documents.

Section 401.80 has been amended to require a hazardous cargo vessel to report certain particulars of its cargo to the nearest Seaway station prior to entering or getting underway in the Seaway system.

Sections 401.84 and 401.85 have been substantially revised so as to group in one place applicable vessel reporting requirements.

A new Section 401.95, "Compliance with Regulations" has been added. This addition is necessary so that there is no misunderstanding as to whom the Regulations apply.

Sections 401.95 and 401.96 under NAVIGATION CLOSING PROCEDURES have now been redesignated Section 401.96, "Defintions", and Section 401.97, "Closing Procedures".

Schedules I, II and III presently follow Section 401.94. However, they will be moved to follow Section 401.97.

A new Schedule I which indicates additional maneuvering data and equipment required to be on board vessels transiting the U.S. waters of the Seaway has been added. This Schedule includes the requirements previously set forth in § 401.5(b). The remaining Schedules have been renumbered accordingly. In addition, several minor changes have been made to the redesignated Schedules II and III in order to make them consistent with operating procedures now in effect.

Appendix I is titled "Vessel Dimensions".

The Seaway Corporation has determined that the expected impact of this regulation is so minimal that it does not warrant either a Regulatory Analysis or a formal Evaluation as required by the Secretary of Transportation's Order concerning Regulatory Policies and Procedures (44 FR 11034). It is expected to result in negligible cost to a few vessel owners. There should be no added cost to or impact on consumers and/or Federal, state and local governments.

Since these amendments should require minimal action on the part of vessel owners and operators, good cause exists for making them effective upon publication.

1. The Table of Contents to the Seaway Regulations is amended by revising the section headings of Sections 401.6, 401.19, 401.20, 401.21, 401.77, 401.80, 401.84, 401.95, 401.96, 401.97; revising the headings of Schedules I, II and III, and adding Appendix I.

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

Sec.

* * * * *

401.6 Markings.

* * * * *

401.19 Disposal and discharge systems.
401.20 Oily water extractors.
401.21 Requirements for U.S. waters of the St. Lawrence Seaway.

* * * * *

401.77 [Revoked]

* * * * *

401.80 Reporting Dangerous Cargo.

* * * * *

401.84 Reporting of impairment or other hazard by vessels transiting within the Seaway.
401.85 Reporting of impairment or other hazard by vessels intending to transit the Seaway.

* * * * *

401.95 Compliance with Regulations.

Navigation Closing Procedures

401.96 Definitions.
401.97 Closing procedures.

Schedule I—Vessels Transiting U.S. Waters.
Schedule II—Table of Speeds.
Schedule III—Calling-in-Table.
Appendix I—Vessel Dimensions.

2. Section 401.2 is amended by adding in alphabetical order defintions for "flashpoint" and "tanker" and by redesignating the subparagraphs to reflect these additions.

§ 401.2 Interpretation.

* * * * *

"Flashpoint" means the temperature as determined by the closed-cup method.

* * * * *

"Tanker" means any vessel specifically constructed for carrying bulk cargoes of liquid petroleum products, liquid chemicals, liquid edible oils and liquified gases in tanks which form both an integral part and the total cargo carrying portion of that vessel.

* * * * *

3. Section 401.3 is amended by revising paragraphs (b) and (d) to read as follows:

§ 401.3 Maximum vessel dimensions.

* * * * *

(b) No vessel shall transit if any part of the vessel or anything on the vessel

extends more than 35.5 meters (116.5 feet) above water level.

* * * * *

(d) No vessel's hull or superstructure when alongside a lock wall shall extend beyond the limits of the lock wall, as illustrated in Appendix I.

(d)(1) A vessel having a beam width less than 23.16 meters (76 feet) and having dimensions exceeding the limits of the block diagram illustrated in Appendix I shall not transit a lock except in accordance with a permit to transit issued by the Authority.

§ 401.5 [Deleted]

4. Section 401.5(b) is deleted.

5. The heading to § 401.6 is changed and a new paragraph (c) is added as follows.

§ 401.6 Markings.

* * * * *

(c) Effective April 1, 1981, where a vessel's bulbous bow extends forward beyond her stem head, a symbol of a bulbous bow shall be marked above the 79.25 decimeters (26 feet) mark in addition to a "+" symbol followed by a number indicating the total length in meters by which the bulbous bow projects beyond the stem.

6. Section 401.16 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

§ 401.16 Propeller direction alarms.

Every vessel of 1600 gross registered tons or more shall be equipped with

* * * * *

(b) Visible and audible wrong-way propeller direction alarms located in the wheelhouse and the engine room, unless the vessel is fitted with a device which renders it impossible to operate engines against orders from the bridge telegraph.

7. The heading to § 401.19 will be changed and a new paragraph (c) added as follows:

§ 401.19 Disposal and discharge systems.

* * * * *

(c) No substance shall be discharged or disposed of onto a lockwall or tie-up wall by any means, including overboard discharge pipes.

8. The heading to Section 401.20 is revised to read as follows.

§ 401.20 Oily water extractors.

* * * * *

9. Section 401.21 is revised to read as follows:

§ 401.21 Requirements for U.S. waters of the St. Lawrence Seaway.

In addition to the requirements set forth elsewhere in these Regulations, vessels transiting the U.S. waters of the St. Lawrence Seaway are subject to the requirements set out in Schedule I.

10. Section 401.23(a) is amended to read as follows:

§ 401.23 Liability insurance.

(a) It is a condition of approval of an application for preclearance that the vessel is covered by liability insurance equal to or exceeding $100 per gross registered ton.

* * * * *

11. The introductory paragraph to § 401.26(a) and § 401.26 (b) and (c) are revised to read as follows:

§ 401.26 Security for tolls.

(a) Before transit by a vessel to which the requirement of preclearance applies, security for the payment of tolls in accordance with the St. Lawrence Seaway Tariff of Tolls as well as security for any other charges, shall be provided by the representative by means of * * *

* * * * *

(b) The security for the tolls of a vessel shall be sufficient to cover the gross registered tonnage of the vessel:

(1) On the Seaway between Montreal and Lake Ontario, at $1.50 per ton for transit each way or at $3.00 per ton for a round trip;

(2) On the Welland Canal, at $1.25 per ton for transit each way or at $2.00 per ton for a round trip; and shall be maintained in an amount sufficient to cover each transit for which tolls have been incurred and are unpaid.

(c) Where a number of vessels:

(1) Are owned or controlled by the same individual or company, and

(2) Have the same representative, the security for the tolls may be provided in an amount estimated by the representative to be equal to $2.20 per ton for the aggregate maximum tonnage of the vessels within the Seaway at any one time and shall be maintained in an amount sufficient to cover each transit for which tolls have been incurred and are unpaid.

* * * * *

§ 401.29 [Amended]

12. Paragraph (c) of § 401.29 is revoked.

13. Section 401.31 (c)(2) is revised as follows and (c)(4) is revoked.

§ 401.31 Meeting and passing.

* * * * *

(c) * * *

(2) Within 609.60 meters (2,000 feet) of a canal or lock entrance

* * * * *

14. Section 401.33 is revised to read as follows:

§ 401.33 Special instructions.

Special instructions shall be applied for from the Corporation or the authority in connection with the intended transit of vessels of unusual design, hulks, sections of vessels, large dredges, all vessels in tow and vessels whose limits exceed the requirements of § 401.3(d), and such vessels shall not transit except in compliance with such instructions.

15. Section 401.35 is revised to read as follows:

§ 401.35 Employment of tugs.

No tug shall be fastened alongside a vessel in a canal so that the aggregate of the beams exceeds 23 meters (75 feet 6 inches).

16. In § 401.40, paragraph (a) is revised to read as follows:

§ 401.40 Entering a lock.

(a) No vessel shall proceed into a lock in such a manner that the stem passes the stop symbol on the lock wall nearest the closed gates.

* * * * *

17. Section 401.43 is revised to read as follows:

§ 401.43 Mooring table.

Unless otherwise directed by an officer, vessels passing through locks in the South Shore, Beauharnois, Wiley-Dondero, Iroquois and Welland Canals shall moor at the side of the tie-up wall or lock as shown in the table to this section.

§ 401.43 [Table Amended]

The table to § 401.43 is amended by deleting therefrom the portion entitled "Canadian Sault Ste. Marie".

18. Section 401.51 is revised as follows:

§ 401.51 Signalling approach to a bridge.

Unless a vessel's approach has been recognized by a flashing signal, the master shall signal the vessel's presence to the bridgemaster by VHF radio when it comes abreast of any of the bridge whistle signs, which signs shall be placed at distances varying between 670.56 meters and 1500 meters (2200 feet and 4921 feet) upstream and downstream from movable bridges at sites other than lock sites.

19. Paragraph (b) of § 401.59 is amended to read as follows:

§ 401.59 Pollution.

* * * * *

(b) No vessel shall discharge into Seaway waters any substance not in conformity with applicable United States Federal Regulations and Canadian Regulations with the exception of the waters of the Welland Canal where two specific zones are established in which no substances shall be discharged, namely,

(1) From Lock 7 (Thorold) to mile 17 (Welland); and

(2) From Lock 8 (Port Colborne) to the outer Port Colborne Piers (Lake Erie).

* * * * *

20. Section 401.62 is amended as follows:

§ 401.62 [Amended]

The following Seaway station is deleted:

VDX23 (Seaway Sault)—Sault Ste. Marie, Ontario—Traffic Control Sector No. 6.

21. In § 401.63, the control sectors are renumbered to reflect the actual Sector Numbers.

§ 401.63 Radio procedure.

* * * * *

Control Sector; No. and Station

* * * * *

4 Seaway Clayton.
4 Seaway Sodus.
5 Seaway Newcastle.
6 Seaway Welland.
7 Seaway Long Point.

The following is deleted.

9 Seaway Sault	C.I.P. No. 17 to C.I.P. No. 18	Channel 14	Channel 14	Channel 16

22. Sections 401.66 through 401.73 under the heading of "DANGEROUS CARGO" are revised as follows:

Dangerous Cargo

§ 401.66. Applicable laws.

Vessels carrying a cargo or part cargo of fuel oil, gasoline, crude oil or other flammable goods in bulk, including empty tankers which are not gas free, and vessels carrying dangerous substances whether break-bulk or containerized, to which regulations made under the *Canada Shipping Act*, or under the *Transportation of Dangerous Goods Act* or to which the *Dangerous Cargo Act* or the *Hazardous Materials Transportation Act* of the United States or regulations issued pursuant thereto apply, shall be deemed to carry dangerous substances and shall not transit unless all requirements of the said Statutes and regulations and of these Regulations have been fulfilled.

§ 401.67 Explosive vessles.

A vessel carrying explosives, either Government or commercial, as defined in the Dangerous Cargo Act of the United States and in the International Maritime Dangerous Goods Code, Class 1, Divisions 1.1 to 1.5 inclusive, shall be deemed for the purpose of these Regulations to be an explosive vessel.

§ 401.68 Explosives permit.

(a) A Seaway Explosives Permit is required for an explosive vessel in the following cases:

(1) For all vessels carrying any quantity of explosives with a mass explosive risk, up to a maximum of 2 tonnes (2.2 tons) (IMCO Class 1, Division 1.1);

(2) For all vessels carrying more than 10 tonnes (11.02 tons) and up to a maximum of 50 tonnes (55.12 tons) of explosives that do not explode en masse (IMCO Class 1, Division 1.2);

(3) For all vessels carrying more than 100 tonnes (110.23 tons) and up to a maximum of 500 tonnes (551.16 tons) of explosives having a fire hazard without explosive effect (IMCO Class 1, Division 1.3); and

(4) For all vessels carrying more than 100 tonnes (110.23 tons) and up to a maximum of 500 tonnes (551.16 tons) of safety explosives and shop goods (IMCO Class 1, Divisions 1.4 and 1.5).

(b) When an explosive vessel is carrying quantities of explosives above the maximum mentioned in paragraph (a), no Seaway Explosives Permit shall be granted and the vessel shall not transit.

(c) A written application for a Seaway Explosives Permit may be made to the Chief, Office of Lock Operations, Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662 or to the Manager of Operational Services, The St. Lawrence Seaway Authority, 202 Pitt Street, Cornwall, Ontario K6J 3P7. The application shall show that the cargo is packed, marked, labeled, described, certified, stowed and otherwise conforms with all relevant regulations of the country in which it was loaded and of Canada and the United States.

(d) A signed copy of a Seaway Explosives Permit and a true copy of any certificate as to the loading of dangerous cargo shall be kept on board every explosive vessel in transit and shall be made available to any officer requiring production of such copies.

§ 401.69 Hazardous cargo vessels.

For the purpose of these Regulations, a vessel shall be deemed to be a hazardous cargo vessel in the following cases:

(a) A tanker carrying fuel oil, gasoline, crude oil or other flammable liquids in bulk, having a flashpoint below 61°C, including a tanker that is not gas free where its previous cargo had a flashpoint below 61°C;

(b) A tanker carrying compressed liquefied gases, bulk acids or liquefied chamicals;

(c) A dry cargo vessel carrying the following dangerous substances, whether in bulk, break-bulk or containerized, that are

(1) In excess of 50 tonnes (55.12 tons) of gases, compressed, liquefied or dissolved under pressure (IMCO Class 2),

(2) In excess of 50 tonnes (55.12 tons) of flammable liquids having a flashpoint below 61°C (IMCO Class 3),

(3) In excess of 50 tonnes (55.12 tons) of flammable solids spontaneously combustible material or substances emitting combustible gases when wet (IMCO Class 4),

(4) In excess of 50 tonnes (55.12 tons) of oxidizing substances or organic peroxides (IMCO Class 5),

(5) Any quantity of poisonous (toxic) substances and infectious substances (IMCO Class 6),

(6) Any quantity of radioactive substances (IMCO Class 7),

(7) In excess of 50 tonnes (55.12 tons) of corrosive substances (IMCO Class 8),

(8) Any quantity of metal turnings, borings, cuttings, or shavings in bulk having a temperature on loading or in transit in excess of 65.5°C, and

(9) Any quantity of grain that is under fumigation, where the chemical being used is hazardous to human life.

§ 401.70 Fendering—Explosive and hazardous cargo vessels.

All explosive vessels requiring a permit in accordance with § 401.68 and

all tankers carrying cargo with a flashpoint of up to 61°C, except those carrying such cargo in center tanks with gas free wing tanks, shall be equipped with a sufficient number of non-metallic fenders on each side to prevent any metallic part of the vessel from touching the side of a dock or lock wall.

§ 401.71 Signals—Explosive and hazardous cargo vessels.

(a) An explosive vessel shall display at the masthead or at an equivalent conspicuous position a "B" flag.

(b) A hazardous cargo vessel shall display at the masthead or at an equivalent conspicuous position a "B" superior to numeral pennant number 1.

§ 401.72 Reporting—Explosive and hazardous cargo vessels.

(a) Every explosive vessel or hazardous cargo vessel shall, when reporting information related to cargo as required by § 401.64(a), report the nature and tonnage of its explosive or hazardous cargo and the flashpoint of that cargo where applicable. Every vessel carrying grain which is under fumigation shall declare the nature of the fumigant and its properties.

(b) Every explosive vessel requiring a Seaway Explosives Permit shall, when reporting in, give the number of its Seaway Explosives Permit.

(c) Every hazardous cargo vessel carrying metal turnings, shavings, cuttings or borings in bulk shall, when reporting information related to cargo as required by § 401.64(a), give the high temperature reading of each compartment at that time, together with the high temperature reading in each compartment taken on completion of loading.

(d) Every vessel carrying radioactive substances shall, when reporting in, give the number and date of issue of any required certificate issued by the Atomic Energy Control Board authorizing such shipment.

§ 401.73 Cleaning tanks—Hazardous cargo vessels.

Gas freeing and cleaning of cargo tanks shall not take place:

(a) In a canal or a lock;

(b) In an area that is not clear of other vessels or structures; and

(c) Before gas freeing and tank cleaning has been reported to the nearest Seaway station.

§ 401.77 [Reserved]

22. Section 401.77 entitled Pleasure craft tolls is revoked and reserved because of non-use.

23. Section 401.78 under INFORMATION and REPORTS is revised as follows:

§ 401.78 Required information.

(a) Documentary evidence, comprising inspection certificates, load line certificates, crew lists, dangerous cargo manifest and the cargo stowage plan, shall be carried on board and shall be made available to any officer requiring production of such evidence.

(b) Documentary evidence, comprising evidence of cargo declared, cargo manifest, dangerous cargo manifest and bills of lading, shall be kept by the agent, owner or operator for a period of five years, or until an audit has been performed by the Corporation or the Authority, whichever occurs first, and such documents shall be made available to an officer requiring production of such evidence.

24. Section 401.80 is revised to read as follows:

§ 401.80 Reporting dangerous cargo.

(a) The master of any explosive vessel or hazardous cargo vessel shall report or shall cause to be reported to the nearest Seaway station at least three hours prior to expected entry into the Seaway System, the nature and quantity of the dangerous cargo and where it is stowed on the vessel.

(b) The master of any vessel, that takes an explosive or hazardous cargo while in the Seaway System, shall report to the nearest Seaway station at least three hours prior to commencing transit the nature and quantity of the dangerous cargo and where it is stowed on the vessel.

25. Section 401.84 is revised to read as follows:

§ 401.84 Reporting of impairment or other hazard by vessels transiting within the Seaway.

While transiting the Seaway, the master of a vessel shall immediately report to the nearest Seaway station:

(a) Any condition of the vessel that might impair its ability to transit safely and expeditiously;

(b) Any hazardous condition of the vessel;

(c) Any malfunction on the vessel of equipment required by § 401.5 and § 401.21;

(d) Any difficulty on the part of the vessel in controlling its tow or tows;

(e) Any hazard, dangerous situation or malfunctioning aid to navigation which has not been published in a Notice to Mariners;

(f) Any loss of anchor with particulars of the precise location of the loss; and

(g) Any location where visibility is less than one nautical mile (1.15 statute miles).

26. Section 401.85 is revised to read as follows:

§ 401.85 Reporting of impairment or other hazard by vessels intending to transit the Seaway.

The master of any vessel which intends to transit the Seaway shall report to the nearest Seaway Station, prior to entering the Seaway, any of the conditions set out in paragraphs (a) to (d) of § 401.84.

27. Sections 401.95 and 401.96 are renumbered as §§ 401.96 and 401.97 respectively and the introductory text to § 401.96 is revised as follows:

§ 401.96 Definitions.

In § 401.97: * * *

* * * * *

28. A new § 401.95 is added as follows:

§ 401.95 Compliance with regulations.

The master or owner of a vessel shall ensure that all requirements of these Regulations applicable to that vessel are complied with.

29. A new general heading, **"Navigation Closing Procedures"** is added before § 401.96

30. Schedule I, "Table of Speeds", and Schedule II, "Calling-in Table", are renumbered as Schedules II and III, respectively, A new Schedule I is added as follows:

Schedule I—

Vessels Transiting U.S. Waters

No vessel of 1600 gross tons or more shall transit the U.S. waters of the St. Lawrence Seaway unless it is equipped with the following maneuvering data and equipment:

(a) Charts of the Seaway that are currently corrected and of large enough scale and sufficient detail to enable safe navigation. These may be published by a foreign government if the charts contain similar information to those published by the U.S. Government.

(b) U.S. Coast Guard Light List, currently corrected.

(c) Current Seaway Notices Affecting Navigation.

(d) The following maneuvering data prominently displayed on a fact sheet in the wheelhouse:

(1) For full and half speed, a turning circle diagram to port and starboard that shows the time and distance of advance and transfer required to alter the course 90 degrees with maximum rudder angle and constant power settings:

(2) The time and distance to stop the vessel from full and half speed while maintaining approximately the initial heading with minimum application of rudder;

(3) For each vessel with a fixed propeller, a table of shaft revolutions per minute, for a representative range of speeds;

(4) For each vessel that is fitted with an auxiliary propeller, a table of control settings for a representative range of speeds;

(5) For each vessel that is fitted with an auxiliary device to assist in maneuvering, such as a bow thruster, a table of vessel speeds at which the auxiliary device is effective in maneuvering the vessel;

(6) The maneuvering information for the normal load and normal ballast condition for:

(A) Calm weather—wind 10 knots or less, calm sea;

(B) No current;

(C) Deep water conditions—water depth twice the vessel's draft or greater; and

(D) Clean hull.

(7) At the bottom of the fact sheet, the following statement:

Warning

The response of the (name of the vessel) may be different from the above if any of the following conditions, on which the maneuvering is based, are varied:

(a) Calm weather—wind 10 knots or less, calm sea;

(b) No current;

(c) Deep water conditions—water depth twice the vessel's draft or greater;

(d) Clean hull;

(e) Intermediate drafts or unusual trim.

(e) Illuminated magnetic compass at main steering station with compass deviation table, graph or record.

(f) Gyro-compass with illuminated gyro-repeater at main steering station.

(g) Marine radar system for surface navigation.

(h) Efficient echo sounding device.

(i) Illuminated rudder angle indicator or repeaters that are:

(1) Located in the wheelhouse;

(2) Arranged so that they can easily be read from any position on the bridge.

(j) Illuminated indicator showing the operating mode of that device when vessel is equipped with auxiliary maneuvering devices.

Schedule II [Amended]

31. Schedule II, "Table of Speeds*", is amended by deleting entry 14, renumbering entries 15 and 16 as 14 and 15 respectively, and revising entries 1, 3, 4, 5, 9 and 10 as follows:

From	To	Maximum speed over the bottom (knots) Col. III	Col. IV
1. Upper Entrance South Shore Canal.	Lake St. Louis Buoy 13A.	10.4 (12 mph).	10.4 (12 mph)
• • • • •			
3. Upper Entrance Beauharnois Lock Buoy 5B.	Lake St. Francis Buoy 27F.	8.6 (10 mph upb).	8.6 (10 mph dnb)
4. Lake St. Francis Buoy 27F.	Lake St. Francis Buoy 67 F.	15.5 (18 mph).	15.5 (18 mph)
5. Lake St. Francis Buoy 67F.	Snell Lock	8.6 (10 mph upb).	7.7 (9 mph upb)
• • • • •			
9. Ogden Island Buoy 99.	Blind Bay ½ mile east of Buoy 162.	13 (15 mph)	10.4 (12 mph)
10. Blind Bay ½ mile east of Buoy 162.	Deer Island Lt. 186.	11.3 (13 mph).	10.4 (12 mph)
• • • • •			
14. Port Robinson.	Ramey's Bend through the Welland By-Pass.	7.7 (9 mph)	7.7 (9 mph)
15. All other canals.		6.1 (7 mph)	6.1 (7 mph)

*Maximum speeds at which a vessel may travel in identified area in both normal and high water conditions are set out in this schedule. The Corporation and the Authority will, from time to time, designate the set of speed limits that is in effect.

32. Schedule III, "Calling-in Table" is amended by revoking Items 25, 26, 27, 28 and 52. In addition, Item 53 will be revised to read as follows:

C.I.P. and Checkpoint	Station to Call	Message Content
Downbound vessels—		
• • • • •		
53. St. Nicholas Island.	Seaway Beauharnois Ch. 14.	1. Name of Vessel. 2. Location. 3. Confirm harbor or river pilot requirement—St. Lambert. 4. Montreal Harbor Berth Number (if applicable).

* * * * *

33. The former Schedule III which noted locations where pleasure craft tickets could be purchased is revoked.

34. Appendix I is added to read as follows.

Appendix I—Vessel Dimensions

Structures are located at a number of Seaway locks which, when fully raised, overhang the lock wall at a given point, thereby limiting:

(a) The height of a vessel above the water line measured at the vessel's side; and

(b) The height of other structures that are located near the sides of the vessel, such as derricks, crosstrees, antennas, etc.

The following block diagram shows the limits beyond which a vessel's hull or superstructure cannot extend *when the vessel is alongside the lock wall.*

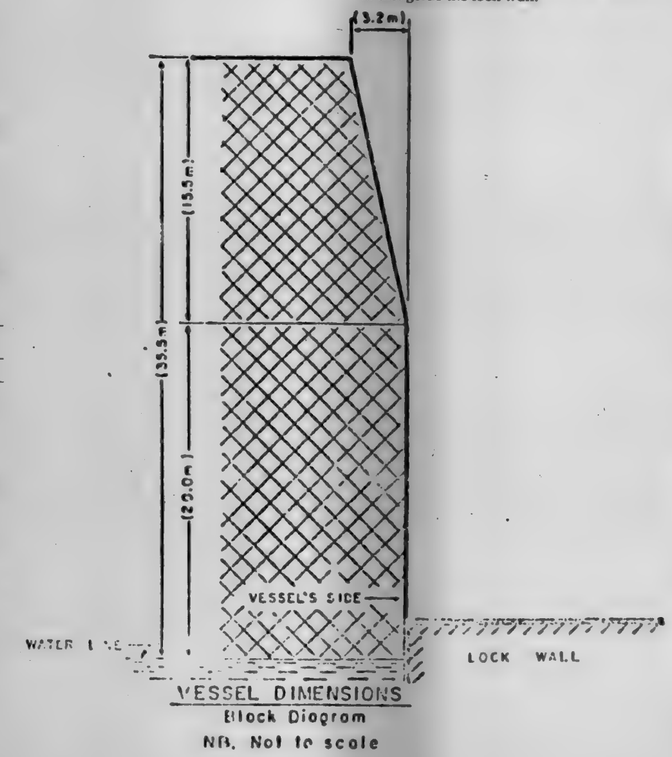

VESSEL DIMENSIONS
Block Diagram
NB. Not to scale

The limits in the block diagram are based on vessels with a maximum allowable beam of 23.16 m (76 feet). For vessels that have a beam width less than this and that have dimensions exceeding the limits of the block diagram (measured with the vessel alongside the lock wall), a special permission to transit must be obtained. (Accurate measurements may be required before such permission is granted).

Caution: Masters must take into account the ballast draft of the vessel when verifying the maximum permissible dimensions.

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended and Sections 4, 5, 6, 7, 8, 12 and 13 of SEC. 2 of Pub. L. 95–474, 92 Stat. 1471).

Issued at Washington, D.C. on July 21, 1980.

1980.

Saint Lawrence Seaway Development Corporation.

D. W. Oberlin,

Administrator.

[FR Doc. 80–22236 Filed 8–6–80; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5745

[M–39381]

Montana; Withdrawal of National Forest Lands for Selway-Bitterroot Wilderness Trailhead Facility and Recreation Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 80.72 acres of national forest land for a recreation area and trailhead facilities into the Selway-Bitterroot Wilderness Area.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Dan Stark, Montana State Office, 406–657–6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2), for a trailhead facility into the Selway-Bitterroot Wilderness Area:

Lolo National Forest

Principal Meridian

T. 11 N., R. 21 W.,
Sec. 6, West 660 feet of lot 3, East 1,000 feet of lot 4, and East 1,000 feet of lot 5.

The area described contains 80.72 acres in Missoula County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

James W. Curlin,

Acting Assistant Secretary of the Interior.

July 31, 1980.

[FR Doc 80–23883 Filed 8–6–80; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 5746

[R–1663]

California; Withdrawal for National Forest Recreation and Administrative Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 789.97 acres of national forest lands from the mining laws for recreation and administrative sites in the Inyo National Forest.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, 916–484–4431.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751, 43 U.S.C. 1714), it is hereby ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the United States mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

Inyo National Forest

Mount Diablo Meridian

June Lake Loop Recreation Area

Rush Creek Campground

T. 1 S., R. 26 E.,
Sec. 33, E½SW¼SW¼, W½SE¼SE¼.
T. 2 S., R. 26 E.,
Sec. 4, W½ of Lot 1, E½of Lot 2, SW¼NE¼, NW¼SE¼NE¼, NE¼SE¼NW¼, S½SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼, S½NW¼SW¼, N½NW¼SE¼, SW¼SW¼, W½SE¼SW¼;
Sec. 5, SE¼SE¼SE¼;
Sec. 8, NE¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, SE¼SW¼NE¼;
Sec. 9, W½W½NW¼, NE¼NW¼NW¼.

June Lake Beach

T. 2 S., R. 26 E.,
Sec. 1, Lot 5;
Sec. 2, S½ of Lot 5.

Silver Lake Campground

T. 2 S., R. 26 E.,
Sec. 8, E½ of Lot 1, W½ of Lot 2, E½NW¼SE¼, W½NE¼SE¼, N½NE¼NE¼SE¼

Oh! Ridge Viewpoint

T. 2 S., R. 26 E.,
Sec. 12, Lot 1.

Gull Lake Campground

T. 2 S., R. 26 E.,
Sec. 14, N½SW¼SW¼;
Sec. 15, E½E½ of Lot 2.

Lone Pine Creek Recreation Area

Whitney Portal

T. 15 S., R. 34 E.,
Sec. 35, S½SE¼NE¼, SE¼SW¼NE¼, E½NW¼SE¼;
Sec. 36, E½SW¼NW¼NE¼, SE¼NW¼NE¼, W½SW¼NE¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼.

Lone Pine

T. 15 S., R. 35 E.,
Sec. 29, S½N½SE¼, N½S½SE¼.
The areas described aggregate approximately 789.87 acres in Inyo and Mono Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

James W. Curlin,

Acting Assistant Secretary of the Interior.

July 31, 1980.

[FR Doc. 80–23882 Filed 8–6–80; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5871]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Arizona	Maricopa	Chandler, city of	040040B	July 16, 1980, suspension withdrawn	May 24, 1977, and Jan. 17, 1978.
Arkansas	Benton	Bentonville, city of	050012B	do	May 10, 1974, and Feb. 27, 1976.
Do	Monroe	Clarendon, city of	050165B	do	Dec. 28, 1973.
Do	Scott	Waldron, city of	050193B	do	Apr. 5, 1974, and Dec. 10, 1976.
California	Santa Clara	Los Altos, city of	060341B	do	June 7, 1974, and Sept. 24, 1976.
Connecticut	Hartford	Berlin, town of	090022B	do	Aug. 16, 1974, and April, 8, 1977.
Do	Middlesex	Chester, town of	090060B	do	Sept. 7, 1973, and Nov. 5, 1976.
Do	do	Essex, town of	090065B	do	Oct. 26, 1973, and Aug. 20, 1976.
Florida	Bay	Callaway, city of	120005B	do	Aug. 9, 1974, and Oct. 15, 1976.
Georgia	Gwinett	Snellville, city of	130102A	do	Mar. 19, 1976.
Illinois	do	Dolton, village of	170083C	do	Mar. 22, 1974, and Apr. 2, 1976, and May 12, 1976.
Do	Madison	Madison, city of	170446B	do	Nov. 23, 1973, and Aug. 27, 1976.
Do	do	Palos Park, village of	170144B	do	Mar. 15, 1974, and June 4, 1976.
Do	do	Park Forest, village of	170145C	do	Apr. 12, 1974, and Nov. 28, 1975, Mar. 31, 1978.
Do	Cook and Will	Park Forest South, village of	170708A	do	Sept. 19, 1975.
Do	Madison	Pontoon Beach, Village of	170447A	do	Nov. 22, 1974; Mar. 22, 1974, and Sept. 12, 1975.
Louisiana	Caddo	Oil City, town of	220262B	do	Dec. 27, 1974, and Oct. 3, 1975.
Do	St. Martin	Parks, village of	220190B	do	Jan. 23, 1974, and Dec. 5, 1975.
Do	Madison	Richmond, village of	220125A	do	Oct. 1, 1976.
Maine	Oxford	Fryeburg, town of	230093B	do	Aug. 2, 1975, and Oct. 29, 1976.
Michigan	Oakland	Farmington, city of	260171B	do	Oct. 12, 1973, and June 4, 1976.
Do	Macomb	Mount Clemens, city of	260124B	do	Oct. 5, 1973, and Mar. 5, 1976.
Do	do	Shelby, township of	260126B	do	May 31, 1974, and Mar. 18, 1977.
Do	Berrien	St. Joseph, township of	260045A	do	July 30, 1976.
Do	Washtenaw	Ypsilanti, city of	260216B	do	June 14, 1974, and June 11, 1976.

State	County	Location	Community No	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota	Anoka	Ham Lake, city of	270674B	do	Aug. 15, 1975, and May 28, 1976.
Do	Dakota and Washington	Hastings, city of	270105C	do	Nov. 16, 1973, and June 11, 1976; Apr. 15, 1977.
Do	Jackson	Jackson, city of	270213D	do	Oct. 26, 1973, and May 28, 1976, Dec. 31, 1976, and Mar. 18, 1977.
Do	Todd	Long Prairie, city of	270479B	do	Apr. 12, 1974, and Aug. 6, 1976.
Do	Dakota	Randolph, city of	270112B	do	July 19, 1974, and Oct. 31, 1975.
Do	do	Rosemount, city of	270113B	do	June 7, 1974, and Nov. 14, 1975.
Do	Morrison	Sobieski, city of	270304B	do	Aug. 16, 1974, and June 11, 1976.
Missouri	Greene	Ash Grove, city of	290751A	do	Apr. 25, 1975.
Do	Shannon	Birch Tree, city of	290417B	do	Mar. 15, 1974, and Nov. 21, 1975.
Do	Stone	Crane, city of	290430B	do	June 7, 1974 and Oct. 3, 1975.
New York	Steuben	Hornellsville, town of	360778	do	June 28, 1974 and Apr. 15, 1977.
North Dakota	Cass	Noble, township of	380268A	do	
Do	do	Wiser, township of	380267A	do	
Oklahoma	Osage	Avant, town of	400147B	do	Sept. 13, 1974 and Jan. 9, 1976.
Do	do	Barnedall, city of	400148B	do	Dec. 17, 1973 and Apr. 9, 1976.
Do	McCurtain	Idabel, city of	400108B	do	Jan. 23, 1974 and Jan. 17, 1978.
Do	Osage	Pawhuska, city of	400152B	do	Mar. 15, 1974 and Nov. 26, 1976.
Do	Tulsa and Osage	Skiatook, town of	400212C	do	June 7, 1974 and Aug. 9, 1977.
Do	Pottawatomie	Tecumseh, city of	400179B	do	July 19, 1974 and Nov. 12, 1976.
Do	Oklahoma	The Village, city of	400420A	do	Oct. 29, 1976.
Pennsylvania	Erie	McKean, township of	422623B	do	Mar. 9, 1979.
Do	Allegheny	Springdale, borough of	421282B	do	Feb. 8, 1974, and July 16, 1976.
Do	do	Springdale, township of	420074B	do	May 24, 1974, and May 14, 1976.
South Carolina	Orangeburg	Bowman, town of	450161B	do	May 31, 1974, and Apr. 23, 1976.
Do	do	Orangeburg, city of	450164B	do	June 28, 1974 and Sept. 26, 1975.
Texas	Tarrant	Blue Mound, city of	480587B	do	Dec. 17, 1973, and Apr. 23, 1976.
Do	do	Pantego, town of	481116A	do	Aug. 13, 1976.
Do	Rockwall	Royse City, city of	480548B	do	June 28, 1974 and June 25, 1976.
Vermont	Orleans	North Troy, village of	500087B	do	Aug. 2, 1974 and Nov. 5, 1976.
Washington	Thurston	Lacey, city of	530190B	do	June 28, 1974 and Oct. 3, 1975.
Wisconsin	Dodge	Theresa, village of	550106B	do	Dec. 7, 1973 and Jan. 2, 1976.
Pennsylvania	Crawford	Summerhill, township of	422399	July 16, 1980, emergency	Jan. 31, 1975.
Alabama	Madison	Triana, town of	010155	July 21, 1980, emergency	June 25, 1976.
Texas	Harris and Fort Bend	Chelford City Municipal Utility District.	481568—New	do	
Do	do	Kingsbridge Municipal Utility District.	481567	do	
New York	Rensslae	Brunswick, town of	361130B	Aug. 26, 1977, emergency, June 4, 1980, regular, June 4, 1980, suspended, July 25, 1980, reinstated.	Nov. 12, 1976.
Pennsylvania	Luzerne	Conynham, borough of	420992B	Aug. 24, 1973, emergency, July 16, 1980, regular, July 16, 1980, suspended, July 28, 1980, reinstated.	May 10, 1974 and Oct. 22, 1976.
Colorado	Grand	Winter Park, town of	080305—New	July 30, 1980, emergency	
Illinois	Cook	Bedfork Park, village of	171007—New	do	
New York	St. Lawrence	Morristown, town of	360706B	do	Sept. 6, 1974, July 16, 1976, and July 1, 1977.
Pennsylvania	Susquehanna	Lathrop, township of	422085	do	Nov. 29, 1974.
Connecticut	Hartford	Enfield, town of	090028B	Apr. 4, 1974, emergency, Mar. 28, 1980, regular, Mar. 28, 1980, suspended, June 19, 1980, reinstated.	Apr. 5, 1974 and May 10, 1977.
Illinois	Henry	Green Rock, city of	170285C	July 22, 1975, emergency, July 16, 1980, regular, July 16, 1980, suspended, July 29, 1980, reinstated.	Jan. 16, 1974, May 28, 1976, Mar. 11, 1977.
Pennsylvania	Northampton	Forks, township of	421930B	Sept. 19, 1975, emergency, July 16, 1980, regular, July 16, 1980, suspended, July 30, 1980, Reinstated.	Nov. 8, 1974 and Jan. 23, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: July 29, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-23842 Filed 8-6-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5872]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) for acquisition and construction of buildings, and

(2) for buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

One year after the identification of the community as flood-prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.)

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
44 FR 12421
44 FR 26051
44 FR 31318
44 FR 34120
45 FR 49570
45 FR 52385

(b) *Flood Insurance Rate Maps (FIRM's)*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
44 FR 12421
45 FR 49570

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 65.6:

State	Community name and number	County	Hazard ID date	Rescission date	Reason
Arizona	City of Eloy, 040083A, E	Pinal	Oct. 10, 1978	Aug. 5, 1980	2
Arkansas	Town of Norvell, 050268	Crittenden	Aug. 15, 1975	Aug. 5, 1980	4
Louisiana	Town of Brusly, 220241R	West Baton Rouge Parish	Aug. 15, 1977	Aug. 5, 1980	2
Missouri	Village of Bellerive, 290331E	St. Louis	Sept. 10, 1976	Aug. 5, 1980	1
Pennsylvania	Boro of Hunker, 420880A, E	Westmoreland	Feb. 7, 1975	Aug. 5, 1980	2
Utah	Town of Mona, 490081A, E	Juab	June 21, 1977	Aug. 5, 1980	1

KEY TO SYMBOLS

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
R—The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
3. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
4. The community lacked land-use authority over the special flood hazard area.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.
10. Miscellaneous.

(44 CFR § 65.6)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 29, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-23841 Filed 8-6-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30 and 151

[CGD 80-02]

Revisions to Lists of Flammable and Combustible Bulk Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising two tables found in its regulations which list flammable and combustible cargoes that may only be transported in bulk in certificated tank vessels. The revisions add to the lists cargoes that the Coast Guard has evaluated and determined to be flammable or combustible in the period since the tables were last revised. In addition, certain editorial corrections are being made to the tables.

EFFECTIVE DATE: This amendment is effective on September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis Payne, Office of Merchant Marine Safety (G–MHM/14), Room 1400–B, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426–6260.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking concerning this amendment was published in the **Federal Register** on April 7, 1980 (45 FR 23475). Interested persons were invited to submit comments on the proposal by May 22, 1980.

Two pertinent comments were received. The first of these recommended the inclusion of Tallow Fatty Acid on the Subcharter D list. This has not been done owing to the fact that this commodity has yet to be evaluated and classified. The second commenter stated that several commodities proposed for inclusion in the revised Subchapter D list are in reality solids at ambient temperatures. These commodities are Ethylene-Propylene Copolymer, 2-Mercaptobenzothiazole, and Propylene Polymer. They were included in the Subchapter D list because they are sometimes shipped as components of mixtures containing other Subchapter D commodities which are liquids at ambient temperatures. These commodities have in the past been authorized for shipment in bulk and will continue to be so authorized. However, their entries on the Subchapter D list are being modified to indicate that these commodities are only regulated when contained in liquid mixtures.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. Curtis Payne, Project Manager, Office of Merchant Marine Safety, and Mr. Coleman Sachs, Project Counsel, Office of the Chief Counsel.

This amendment has been reviewed and determined to be nonsignificant under the Department of Transportation's "Regulatory Policies and Procedures" published on February 26, 1979 (44 FR 11034). A final evaluation has been prepared and included in the public docket. This may be obtained from the Marine Safety Counsel (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, D.C. 20593.

§ 30.25–1 [Amended]

§ 151.01–10 [Amended]

In consideration of the foregoing, the Coast Guard is amending Title 46, Code of Federal Regulations by revising the contents of Table 30.25–1 in § 30.25–1 in Part 30 and Table 151.01–10(d) in § 151.01–10(d) in Part 151 to read as follows:

Acetone.
Acetophenone.
Acetyl Tributyl Citrate.
Alcohols (Mixed).
Alkenylsuccinic Acid.
Alkenylsuccinic Anhydride.
Alkyle Benzene Sulfonic Acid (4% or less).
Alkyl Phthalates (n-).
Alkyl Succinate Formaldehyde Hydroxy Amino Condensate (3.2% or less).
Amyl Acetate (iso-, n-).
Amyl Alcohol (n-).
Amylene.
Amyl Methyl Ketone.
Amyl Tallate.
Asphalt.
Asphalt Blending Stocks: Roofers Flux.
Straight Run Residue.
Behenyl Alcohol.
Benzyl Alcohol.
Bicyclic Terpenel Polyamine Amide Salt.
Butane.
Butyl Acetate (iso-, n-, sec-).
Butyl Alcohol (iso-, n-, sec-, tert-).
Butyl Benzyl Phthalate.
Butylene.
1,3-Butylene Glycol.
Butylene Polyglycol.
Butyl Heptyl Ketone.
Butyl Methyl Ketone.
Butyl Stearate.
Butyl Toluene.
Butyrolactone (Gamma).
Calcium Alkylphenate.
Calcium Alkyl Salicylate.
Calcium Amino Nonyl Phenolate.
Calcium Carboxylate.
Caprolactam Solutions.
Carbon Black Base.
Cetyl Alcohol (Hexadecanol).
Cetyl Stearyl Alcohol.
Cleaning Spirit (unleaded).
Cumene.
Cyclopentadiene Polymers.
Cycloaliphatic Resins.
Cyclohexane.
Cyclohexanol.
Cymene (para-).
Decaldehyde (iso-, n-).
Decane.
Decene.
Decyl Alcohol (iso-, n-).
Decyl Benzene (n-).
Detergent Alkylate.
Diacetone Alcohol.
Dibutyl Carbinol.
Dibutyl Phthalate (ortho-).
Dicyclopentadiene.
Diethylbenezene.
Diethylene Glycol.
Diethylene Glycol Diethyl Ether.
Diethylene Glycol Monobutyl Ether (Methyl Carbitol).
Diethylene Glycol Monobutyl Ether Acetate.
Diethylene Glycol Monoethyl Ether.
Diethylene Glycol Monoethyl Ether Acetate.
Diethylene Glycol Monomethyl Ether.
Diethylene Glycol Monomethyl Ether Acetate.
Diethylene Glycol Monophenyl Ether.
Di (Ethylhexyl) Phthalate.
Diethyl Phthalate.
Digylcidyl Ether of Bisphenol A.
Diheptyl Phthalate.
Dihexyl Phthalate.
Diisobutyl Carbinol.
Diisobutylene.
Diisobutyl Ketone.
Diisobutyl Phthalate.
Diisodecyl Phthalate.
Diisononyl Phthalate
Diisooctyl Phthalate.
Diisopropyl Benzene.
Dimethyl Benzene.
Dimethyl Phthalate.
2,2-Dimethylpropane-1, 3-Diol.
Dinonyl Phthalate.
Di(Octyl Phenyl) Amine.
Dioctyl Phthalate.
Dipentene.
Diphenyl.
Diphenyl-Diphenyl Oxide.
Diphenyl Ether.
Dipropylene Glycol.
Dipropylene Glycol Monomethyl Ether.
Distillates: Flashed Feed Stocks.
Straight Run.
Diundecyl Phthalate.
Dodecane
Dodecanol.
Dodecene.
Dodecylbenzene (commercial).
Dodecyl Phenol.
Epoxylated Linear Alcohols, C11–C15.
Ethane.
Ethoxyethanol.
Ethoxyethyl Acetate.
Ethoxylated Alcohols, C11–C15.
Ethoxy Triglycol (crude).
Ethyl Acetate.
Ethyl Alcohol.
Ethyl Amyl Ketone.
Ethyl Benzene.
Ethyl Butanol.
Ethyl Cyclohexane.
Ethylene.
Ethylene Carbonate.
Ethylene Glycol.
Ethylene Glycol Diacetate.
Ethylene Glycol Methyl Butyl Ether.
Ethylene Glycol Monobutyl Ether.
Ethylene Glycol Monobutyl Ether Acetate.
Ethylene Glycol Monoethyl Ether.
Ethylene Glycol Monoethyl Ether Acetate.
Ethylene Glycol Monoispropyl Ether.
Ethylene Glycol Monomethyl Ether.
Ethylene Glycol Monomethyl Ether Acetate.
Ethylene Glycol Phenyl Ether.
Ethylene-Propylene Copolymer (in liquid mixtures).
Ethylhexaldehyde.
Ethylhexanoic Acid.
2-Ethyl Hexanol.
Ethylhexoic Acid.
Ethyl Hexyl Phthalate.
Ethyl Hexyl Tallate.
Ethyl Toluene.
Fatty Acid Amides.
Formamide.
Furfuryl Alcohol.
Gas Oil. Cracked.
Gasoline Blending Stocks; Alkylates.
Reformates.
Gasolines: Automotive (containing not over 4.23 grams lead per gallon).
Aviation (containing not over 4.86 grams lead per gallon).
Casinghead (natural).
Polymer.
Straight Run.
Glycerine.
Glycerol.
Glyceryl Triacetate.
Glycidyl Ester of Tertiary Carboxylic Acid.
Glycidyl Ester of Versatic Acid.
Glycol Diacetate.

Glycols, Resins, & Solvents Mixture.
Glycol Triacetate.
Glyoxal (40%).
Grease.
Heptadecane.
Heptane.
Heptanoic Acid.
Heptanol.
Heptene.
Herbicide ($C_{14}H_{20}NO_2Cl$).
Hexaethylene Glycol.
Hexamethylene Glycol.
Hexane (iso-, n-).
Hexanol.
Hexene.
Hexyl Acetate.
Hexylene Glycol.
Hog Grease.
Isophorone.
Jet Fuels: JP–1 (Kerosene).
JP–3.
JP–4.
JP–5 (Kerosene, Heavy).
Kerosene.
Lactic Acid.
Lard.
Latex, Liquid Synthetic.
Magnesium Nonyl Phenol Sulfide.
Magnesium Sulfonate.
Maleic Anhydride Copolymer.
2-Mercaptobenzothiazole (in liquid mixtures).
Methane.
Methoxy Triglycol.
Methyl Acetate.
Methyl Acetoacetate.
Methyl Alcohol.
Methyl Amyl Acetate.
Methyl Amyl Alcohol.
Methyl Amyl Ketone.
Methyl Butanol.
Methyl Ethyl Ketone.
Methyl Formal (Dimethyl Formal).
Methyl Heptyl Ketone.
Methyl Isobutyl Carbinol.
Methyl Isobutyl Ketone.
Methyl Naphthalene.
Methyl Pentene.
Methyl Pyrrolidone (n-).
Methyl tert-Butyl Ether.
Mineral Spirits.
Naphtha: Aromatic (10% or less benzene).
Cracking Fraction.
Heavy.
Paraffinic.
Petroleum.
Solvent.
Stoddard Solvent.
Varnish Makers' and Painters' (75%).
Naphthenic Acid.
Nonane.
Nonanoic Acid.
Nonanoic-Tridecanoic Acid Mixture.
Nonene.
Nonyl Alcohol.
Nonyl Phenol.
Nonyl Phenol (ethoxylated).
Nonyl Phenol Sulfide (30% or less).
Octadecene.
Octadecenoamide (Oleamide).
Octane.
Octene.
Octyl Acetate.
Octyl Alcohol (iso-, n-).
Octyl Aldehyde (iso-).
Octyl Epoxytallate.
Octyl Phthalate.
Oils: Absorption.
Aliphatic.
Animal.
Aromatic.
Aviation F2300.
Clarified.
Coal.
Coal Tar.
Croton.
Crude.
Diesel.
Fuel Oils: No. 1 (Kerosene).
No. 1–D.
No. 2.
No. 2–D.
No. 4.
No. 5.
No. 6.
Gas, Low Pour.
Gas, Low Sulphur.
Heartcut Distillate.
Lanolin.
Linseed.
Lubricating.
Mineral.
Mineral Seal.
Motor.
Neatsfoot.
Otticica.
Penetrating.
Perilla.
Pilchard.
Pine.
Range.
Residual.
Resin.
Resinous Petroleum.
Road.
Rosin.
Seal.
Soapstock.
Sperm.
Spindle.
Spray.
Tall.
Tall, Fatty Acid.
Tanner's.
Transformer.
Tung.
Turbine.
Whale.
White (Mineral).
Wood.
Edible Oils, including: Babassu.
Beechnut.
Castor.
Cocoa Butter.
Coconut.
Coconut Oil Fatty Acid.
Coconut Oil, Esterfield.
Coconut Oil, Methyl Ester.
Cod Liver.
Corn.
Cotton Seed.
Cotton Seed Fatty Acid.
Fish.
Grapeseed.
Groundnut.
Hazelnut.
Lard.
Maize.
Mustard Seed.
Nutmeg Butter.
Olive.
Palm.
Peanut.
Poppy.
Raisin Seed.
Rapeseed.
Rice Bran.
Safflower.
Salad.
Sesame.
Soya Bean.
Soybean (Epoxidized).
Sunflower Seed.
Tucum.
Vegetable.
Walnut.
Oleic Acid.
Oleyl Alcohol (Octadecenol).
Organic Amine 70 (mixture of high molecular weight alcohol amines).
Pentadecanol.
Pentaethylene Glycol.
Pentane (iso-, n-).
1-Pentene.
Petrolatum.
Phosphosulfurized Bicyclic Terpene.
Phthalate Plasticizers.
Pinene.
Polyalkenyl Succinic Anhydride Amine.
Polyamine, Amide Mixture.
Polybutene.
Polyethlene Glycols.
Polyisobutylene.
Polymerized Esters.
Polypropylene.
Polypropylene Glycols.
Polypropylene Glycol Methyl Ether.
Polystyrene Dialkyl Maleate.
Propane.
Propyl Acetate (iso-, n-).
Propyl Alcohol (iso-, n-).
Propyl Benzene.
Propylene.
Propylene Butylene Polymer.
Propylene Glycol.
Propylene Glycol Monoethyl Ether.
Propylene Glycol Monomethyl Ether.
Propylene Polymer (in liquid mixtures).
Propylene Tetramer.
Propylene Trimer.
Propyl Ether (iso-).
Pseudocumene (1,2,4-Trimethylbenzene).
Rum.
Sodium Acetate, Glycol, Water Solutions.
Sodium Sulfonate.
Stearic Acid.
Sulfolane.
Stearyl Alcohol (Octadecanol).
Tallow.
Tallow Alcohol.
Tallow Nitrile.
Tetradecanol.
Tetradecene.
Tetradecyl Benzene.
Tetraethylene Glycol.
Tetrahydronaphthalene.
Tetrapropyl Benzene.
Toluene.
Triarylphosphate.
Tricresyl (Tritolyl) Phosphate (containing less than 1% of the ortho isomer).
Tridecane.
Tridecanoic Acid.
Tridecanol.
Tridecene.
Tridecyl Benzene.
Triethyl Benzene.
Triethylene Glycol.
Triethylene Glycol Diethyl Butyrate.
Triethylene Glycol Monomethyl Ether.
Triethyl Phosphate.
Triisooctyl Trimellitate.
Trimethyl Benzene.
2,2,4-Trimethyl Pentanediol-1,3-Diisobutyrate.
2,2,4-Trimethyl-3-Pentanol-1-Isobutyrate.
Tripropylene.
Tripropylene Glycol.
Tripropylene Glycol Monomethyl Ether.
Trixylonyl Phosphate.
Turpentine.
Turpentine Substitute (White Spirit).
Undecanol.
Undecene.
Undecylbenzene.
Vinyl Acetate, Fumerate Copolymer.
Waxes: Candelilla.
Carnauba.
Paraffin.
Petroleum.
White Spirit.
White Spirit, Low Aromatic.
Wine.
Wool Grease.
Xylene (meta-, para-, Ortho-).
Zinc Dialkyldithiophosphate.

(46 U.S.C. 391a, 49 CFR 1.46(n)(4))

Dated: July 24, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-23830 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 61

[CGD 78–153]

Tailshaft Examination

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the vessel inspection requirements for tailshafts with oil lubricated bearings to allow the shaft to be shifted for inspection in lieu of being drawn as currently required. Shifting the shaft allows for examination of all components that are prone to develop defects or experience failure, and accordingly, a drawing is unnecessary to ensure the satisfactory operational condition of the shaft.

The rule also adds specific inspection requirements for flanged tailshafts; specifies bearing weardown criteria for tailshafts with oil lubricated bearings and water lubricated rubber bearings; and authorizes the Officer in Charge, Marine Inspection to grant all extensions pertaining to tailshaft examination intervals.

EFFECTIVE DATE: This rule is effective on September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael P. Rolman, Office of Merchant Marine Safety (G–MVI–1/24), Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202–426–1464).

SUPPLEMENTARY INFORMATION: On November 1, 1979, the Coast Guard published a Notice of Proposed Rulemaking (44 FR 62915) concerning these amendments. A correction was published in the November 19, 1979 issue of the **Federal Register** (44 FR 66219). Four written comments were received on the proposal.

Drafting Information

The principal persons involved in drafting this rule are: Lieutenant Michael P. Rolman, Project Manager, Office of Merchant Marine Safety, and John W. Salter, Project Counsel, Office of the Chief Counsel.

Discussion of Comments

The four comments received generally supported the proposal.

§ 61.20–17. One commenter suggested a five year drawing interval for tailshafts on multiple screw vessels referencing a 1976 American Bureau of Shipping (ABS) circular sanctioning the practice. The 1980 ABS rules provide for a four year examination interval for these shafts. Moreover, given the revised examination procedures for tailshafts with oil lubricated bearings and the additional two year extension period, the Coast Guard has retained the

four year period pending experience under the new examinations.

§ 61.20–21. One commenter indicated that on occasion vessels have been required to drydock for an examination pursuant to the granting of a two year extension. It is not mandatory to drydock a vessel to conduct the examination. Any examination procedure that provides for inspection of the shafts' bearing clearance, seals, and lubricating system would meet the requirements. To clarify this fact, the provision in paragraph (3)(i) concerning examination of the propeller in place has been deleted from the final rule. This provision was included to differentiate the examination for extensions from the normal examination during which the propeller is removed.

§ 61.20–23. Two commenters felt that listing the manufacturer's recommendations concerning bearing weardown as a criteria for the Officer in Charge, Marine Inspection (OCMI) to consider would cause that officer to use them as the sole consideration. The commenters recommended listing sound engineering practices and the recommendations of the marine inspector as additional criteria for the OCMI to consider. The OCMI will, as a matter of course, consider these criteria during any examination. However, since they address general criteria and the paragraph is solely concerned with bearing weardown, the Coast Guard does not believe their inclusion would serve any useful purpose. Therefore, the rule has been retained as proposed.

This regulation has been reviewed under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034) and is considered "non-significant." A final evaluation has been prepared and placed in the public docket for inspection.

Accordingly, Part 61 of Title 46, Code of Federal Regulations, is amended by revising § 61.20–15 and adding new §§ 61.20–17 through 61.20–23 to read as follows:

§ 61.20–15 Tailshaft examination.

The rules in §§ 61.20–15 through 61.20–23 apply only to vessels in ocean and coastwise service. Each examination, inspection and test prescribed by these sections must be conducted in the presence of a marine inspector.

§ 61.20–17 Examination intervals.

(a) Except as provided in paragraphs (b) and (c) of this section, each tailshaft on a vessel must be examined at least once within two years.

(b) Tailshafts fabricated of materials resistant to corrosion by sea water, or fitted with a continuous liner or a sealing gland which prevents sea water from contacting the shaft must be examined at the following intervals:

(1) A tailshaft on a vessel with a single tailshaft must be examined at least once within three years, except that a tailshaft with a taper, keyway, and propeller designed in accordance with American Bureau of Shipping standards to reduce stress concentrations must be examined at least once within four years.

(2) Each tailshaft on a vessel with multiple tailshafts must be examined at least once within four years.

(c) A tailshaft on a mobile offshore drilling unit is not subject to the examination intervals prescribed in paragraphs (a) and (b) of this section if it is:

(1) Examined during each regularly scheduled drydocking; or

(2) Regularly examined in a manner acceptable to the Commandant.

§ 61.20–18 Examination details.

(a) Except as provided in paragraphs (b) and (c) of this section, each tailshaft on a vessel must be drawn and visually inspected at each examination.

(b) Tailshafts with a taper, keyway, and propeller designed in accordance with American Bureau of Shipping standards to reduce stress concentration must be examined as follows:

(1) Each tailshaft with water lubricated bearings must be drawn for examination. At each examination, in addition to a visual inspection of the entire shaft, the forward ⅙ of the shaft's taper section must be nondestructively tested.

(2) Each tailshaft with oil lubricated bearings must be examined as prescribed in paragraph (b)(1) of this section or as follows:

(i) The shaft must be shifted aft, as directed by the attending marine inspector, to expose the after end of its bearing contact area;

(ii) The exposed bearing contact area and the forward ⅙ of the shafts' taper section must be nondestructively tested and

(iii) The shaft's bearing clearance, seals, and lubricating system must be inspected.

(c) Tailshafts with a propeller fitted is the shaft by means of a coupling flange must be examined as follows:

(1) Each flanged tailshaft with water lubricated bearings must be drawn for examination. At each examination, in addition to a visual inspection of the entire shaft, the flange, fillet at the propeller end and each coupling bolt must be nondestructively tested.

(2) Each flanged tailshaft with oil lubricated bearings must be examined as prescribed in paragraph (c)(1) of this section or as follows:

(i) The shaft must be shifted aft, as directed by the attending marine inspector, to expose the after end of its bearing contact area;

(ii) The exposed bearing contact area, flange fillet at the propeller end, and each coupling bolt must be nondestructively tested; and

(iii) The shaft's bearing clearance, seals, and lubricating system must be inspected.

(d) If any defects are detected after a tailshaft is shifted for examination, the attending marine inspector may direct that the tailshaft be drawn for further examination of the shaft, seals, and bearings.

§ 61.20–21 Extension of examination interval

(a) The Officer in Charge, Marine Inspection, may extend the interval between tailshaft examinations as follows;

(1) An extension to the next drydocking period may be granted, except that the period of extension shall not exceed six months.

(2) If a vessel has had a long period of layup after its last tailshaft examination, an extension equal to the time the vessel has been laid up may be granted, except that the period of extension shall not exceed one year for vessels that have tailshafts with oil-lubricated bearings and six months for all other vessels.

(3) An extension of up to two years may be granted to vessels that have tailshafts with oil lubricated bearings if:

(i) Each tailshaft is examined in place with consideration given to the condition of the shafts' bearing clearance, seals, and lubricating system;

(ii) No major repairs by grinding or welding have ever been made to the shaft; and

(iii) Review of the vessel's file, drydock reports, and operations since its last tailshaft examination shows no deficiencies exist that would preclude the extension.

§ 61.20–23 Tailshaft clearance; bearing weardown.

(a) Water lubricated bearings, other than rubber, must be rebushed as follows:

(1) Where the propelling machinery is located amidship, the after stern tube bearing must be rebushed when it is worn down to 6.4 mm (0.25 in) clearance for shafts of 229 mm (9 in) or less in diameter, 7.95 mm (0.3125 in) clearance for shafts exceeding 229 mm (9 in) but not exceeding 305 mm (12 in) in diameter, and 9.53 mm (0.375 in) clearance for shafts exceeding 305 mm (12 in) in diameter.

(2) Where the propelling machinery is located aft, the after stern tube bearing must be rebushed when weardown is 1.6 mm (.0625 in) less than the applicable clearance for propelling machinery located amidship.

(b) Water lubricated rubber bearings must be rebushed when any water groove is half the original depth.

(c) Oil lubricated bearings must be rebushed when deemed necessary by the Officer in Charge, Marine Inspection. The manufacturer's recommendation shall be considered in making this determination.

(46 U.S.C. 375, 390b, 391a, 416; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: July 31, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-23831 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Docket No. 20828]

Second Computer Inquiry; Motion for Waiver Granted

AGENCY: Federal Communications Commission.

ACTION: Waiver of page limitation requirement (Second Computer Inquiry).

SUMMARY: In response to a motion filed by the Computer and Business Equipment Manufacturers Association (CBEMA), the Chief Common Carrier Bureau, acting on delegated authority, has waived 47 CFR 429(f), which provides that oppositions to a petition for reconsideration shall not exceed 25 pages, and 47 CFR 429(g), which provides that replies to oppositions shall not exceed 10 pages, for all parties filing such pleadings in the Second Computer Inquiry (45 FR 31319, May 13, 1980).

DATES: July 24, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: H. Russell Frisby, Jr., Common Carrier Bureau, Tele: (202) 632–9342.

Order

Adopted: July 24, 1980.

Released: July 28, 1980.

In the Matter of Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry).

By the Chief, Common Carrier Bureau:

1. The Computer and Business Equipment Manufacturers Association (CBEMA) has moved that the Commission waive in this proceeding the 25 page limitation imposed on oppositions to petitions for reconsideration, contained in Section 1.429(f) of the Commission's Rules, and the 10 page limitation imposed on replies to oppositions, contained in Section 1.429(g) of the Rules. In support of its motion, CBEMA states that the Chief of the Common Carrier Bureau has previously waived the 25 page limitation for the petitions for reconsideration filed herein and that if similar action is not taken parties opposing these petitions will be denied a comparable opportunity to analyze fully and comment upon the issues.

2. In light of the fact that the similar 25 page limitation for petitions for reconsideration was waived, it appears reasonable and in the public interest that the 25 page limitation on oppositions and the 10 page limitation on replies to oppositions be likewise waived. Accordingly, it is ordered, pursuant to Section 0.291 of the Commission's Rules on delegation of authority, that CBEMA's motion for waiver is granted. The 25 page limitation provision of Section 1.429(f) of the Commission's Rules and the 10 page limitation of Section 1.429(g) of the Commission's Rules are hereby waived for all parties filing oppositions to petitions for reconsideration and replies to oppositions in this proceeding.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-23803 Filed 8-6-80; 8:45 am]

BILLING CODE 6712-01-M

UNITED STATES RAILWAY ASSOCIATION

49 CFR Part 941

Regulations for Determination of the Attainment by Consolidated Rail Corporation of Certain Standards Relating to the Corporation's Employee Stock Ownership Plan

AGENCY: United States Railway Association.

ACTION: Final regulations.

SUMMARY: The regulations hereby promulgated by the United States Railway Association (the Association) with the concurrence of the Finance Committee are the regulations required by Section 216(f) of the Rail Act for determining whether the Consolidated Rail Corporation (Conrail) has attained the positive net income test and the freight labor cost to freight revenue ratio test set forth in that Section so that the rights of the participants to the securities in the employee stock ownership plan established by Conrail (ESOP) will not be subject to defeasance.

DATE: These regulations are effective as of January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Edwin Rector, Assistant General Counsel (USRA) (202) 755–6763.

Supplementary Information

United States Railway Association Amendments Act of 1978, Pub. L. 95–565, 92 Stat. 2397, enacted November 1, 1978, provides, among other things, for an increase from $2,100,000,000 to $3,300,000,000 in the authorization for appropriations to the Association to be used for the purchase of securities of Conrail.

Section 3 of Pub. L. 95–565 added a new Subsection (f) to Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 700–794) (hereafter referred to as "the Rail Act"). Subsection (f) provides, in part, that:

(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied.

"(2) The employee stock ownership plan shall:

"(A) provide:

"(i) for a transfer to the plan and allocation to the accounts of plan participants in periodic installments of Series A preferred stock of the Corporation with a stated redemption value of at least $345,000,000 or any other securities in an amount determined by the Association, with the concurrence of the Finance Committee, as constituting a meaningful interest in the Corporation, or any combination thereof so determined by the Association, with the concurrence of the Finance Committee. The use of Series A preferred stock to fund the Employee Stock Ownership Plan shall not be interpreted to relieve Conrail of the responsibility for repaying in full to the United States Railway Association its indebtedness as represented by all shares originally issued under Public Law 94–210 and this Act;

"(ii) for immediate vesting of the rights of participants to such securities upon allocation, subject to defeasance as a result of the plan's termination which termination shall occur in the event that, by the end of the 120th month beginning after the month in which securities or interests therein are first

allocated to participants' accounts, the Corporation has not attained for two consecutive quarters positive net income and a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I railroads in 1977, as determined pursuant to procedures adopted by the Corporation pursuant to regulations promulgated by the Association with the concurrence of the Finance Committee. * * *

Proposed regulations were published in the **Federal Register** on February 20, 1980 (45 FR 11141–11142). These final regulations reflect revisions made after consideration of comments received with respect to the proposed regulations.

Analysis of Comments:

The proposed regulations provided for public comment to be submitted on or before March 14, 1980. The Association received comments submitted on behalf of Conrail and other comments submitted on behalf of the Railway Labor Executives' Association (RLEA) and the Conrail employees whose interest in the Conrail (ESOP).

RLEA represents under Section 216(f) of the Rail Act. These comments were carefully considered by the Association and revisions to the proposed regulations have been made as described below.

Both sets of comments maintained that Conrail's own costs and revenues should be included in the computation of the average freight labor costs to freight revenue ratio for all Class I railroads in 1977. This suggestion has been adopted and the final regulations have been amended accordingly. The average freight labor costs to freight revenue ratio for all Class I railroads (including Conrail) in 1977 has been calculated by the Association to be 0.4164. The details of this calculation have been included in the final regulations.

Both sets of comments contend that the accounting methodology incorporated in the final regulations should be that of generally accepted accounting principles (GAAP) rather than the railroad accounting principles prescribed by the Interstate Commerce Commission (ICC). The Association believes that ICC accounting is the appropriate methodology to be used for the purposes of determining whether the statutory tests have been attained by Conrail. The ICC is the Government agency with the statutory authority to issue accounting rules for railroads; and the ICC accounting methodology applies to the railroads with which Conrail is being compared. In the absence of a clear directive in the statute to use another accounting methodology these regulations will be based on the ICC system of accounts in effect for the period for which the determinations are made.

Both sets of comments point out that the statutory term "positive net income" is not a standard accounting term and they therefore suggest that the Association should construe that term in one special manner or another. The Association has concluded that the term "positive net income" means simply a net income greater than zero. The proposed and final regulations reflect this interpretation.

Both sets of comments maintain that the two tests, each of which must be met during two consecutive quarters need not be met during the *same* two consecutive quarters. While Public Law 95–565 may be subject to different interpretations on this point, the Association concludes that the better interpretation of the statutory language is that both tests must be met during the same two-quarter period.

The comments submitted on behalf of Conrail question whether the proposed regulations are in accordance with the statutory language regarding the determination of whether the tests have been attained. The final regulations have been drafted to make it clear that this determination will be made pursuant to procedures adopted by Conrail pursuant to these regulations.

The comments submitted on behalf of Conrail point out that the proposed regulations do not prescribe the manner in which the test computations will be adjusted in the event there is a substantial restructuring of Conrail's capital structure or assets at some future time. There are at this time no specific proposals to restructure Conrail's capital structure or assets, therefore, it would be difficult to provide for such possibilities in these regulations. Should such plans be developed, appropriate amendments to these regulations may be necessary.

Pursuant to the authority set forth in Pub. L. 95–565, 49 CFR is amended by adding a new Part 941 to read as follows:

PART 941—REGULATIONS FOR DETERMINATION OF THE ATTAINMENT BY CONSOLIDATED RAIL CORPORATION OF CERTAIN STANDARDS RELATING TO THE CORPORATION'S EMPLOYEE STOCK OWNERSHIP PLAN

Secs.

941.1 Purpose of regulations.
941.2 Positive net income test.
941.3 Freight labor cost to freight revenue ratio test.
941.4 Average freight labor cost to freight revenue ratio for all Class I Railroads in 1977.
941.5 Period of application of the tests.
941.6 Procedures for determination of attainment of the positive net income test and the freight labor cost to freight revenue ratio test.

Authority: The Regional Rail Reorganization Act of 1973 (45 U.S.C. 700–794) as amended by Pub. L. 95–565 (92 Stat. 2397).

§ 941.1 Purpose of regulations.

The purpose of the regulations is to set forth the definitions and criteria for determining whether by the end of the 120th month beginning after the month in which securities or interests therein are first allocated to the accounts of the participants in the employee stock ownership plan established by Consolidated Rail Corporation (Conrail), Conrail has attained for two consecutive quarters (a) positive net income, and (b) a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I railroads in 1977.

§ 941.2 Positive net income test.

Positive net income is defined to mean net income greater than zero. Net Income of Conrail shall be determined on a company-only basis (excluding extraordinary items) as prescribed by the Interstate Commerce Commission (ICC) Uniform System of Accounts for Railroads in effect for the period for which the determination is made. Net Income for each quarter shall be the amount shown as such on Conrail's "Quarterly Report of Revenues, Expenses and Income—Railroads" as filed with the ICC. Determination of Conrail's net income shall be subject to adjustment whenever Conrail is required to restate its quarterly net income on an amended ICC Quarterly Report of Revenues, Expenses and Income—Railroads.

§ 941.3 Freight labor cost to freight revenue ratio test.

(a) The freight labor cost to freight revenue ratio shall be determined by dividing freight labor cost by total revenues assignable to freight service. Freight labor cost is the amount expended by Conrail for freight salaries and wages. Total revenues assignable to freight service is the freight-related portion of total railway operating revenues. Each quarter Conrail shall determine these costs and revenues on the basis of accounting systems and practices consistent with those used in the preparation of the corresponding annual data for inclusion on the annual report submitted by Conrail to the ICC on Report R–1.

(b) On Report R–1 freight labor cost is the freight salaries and wages included in *"Total Carrier Operating Expenses"* (Column (b) of Line 620) on schedule 410 (*"Railway Operating Expense"*): and total revenues assignable to freight service is the freight-related portion of *"Total Railway Operating Revenues"* (Column (d) of Line 13) on schedule 210 (*"Results of Operations"*).

§ 941.4 Average freight labor cost to freight revenue ratio for all Class I railroads in 1977.

(a) The average freight labor cost to freight revenue ratio for all Class I railroads (including Conrail) in 1977 is 0.4164. This ratio was calculated by dividing total freight labor cost by railway operating revenues assignable to freight service. The statistics used to derive the numbers used to calculate this ratio are reported in *Transport Statistics in the United States for the year ended December 31, 1977* (published by ICC Bureau of Accounts) (hereafter referred to as *ICC Transport Statistics, 1977*).

(b) The amount of railway operating revenues—assignable to freight service is $19,505,457,000 (as reported in *ICC Transport Statistics, 1977*, table 4, column 1, line 242). Total freight labor cost is $8,122,128,000, and was calculated by multiplying $8,511,085,000, the amount of employee compensation chargeable to operating expenses (as reported in *ICC Transport Statistics, 1977*, table 5, column 1, line 456A) by .9543, the ratio of freight labor expenses to total labor expenses for all Class I railroads. This ratio was derived by dividing the employees health and welfare benefits expenses for freight service, which is $486,801,000 (as reported in *ICC Transport Statistics, 1977*, table 10, column 3, sum of items in lines 277, 335, 359, 409, 449, and 456) by the difference between the employees health and welfare benefits expenses, all districts, and such expenses of the National Railroad Passenger Corporation. That difference is $510,128,000 (as reported in *ICC Transport Statistics, 1977*, table 5, column 1, the sum of lines 308, 340, 359, 421 and 434, minus, in column 2, the sum of all items listed).

§ 941.5 Period of application of the tests.

For purposes of determining whether Conrail has attained for two consecutive quarters the positive net income test and the freight labor cost to freight revenue ratio test in order that the plan will not be terminated under the provisions of Section 216(f) of the Rail Act, both tests must be met during the same two consecutive quarters.

§ 941.6 Procedures for determination of attainment of the positive net income test and the freight labor cost to freight revenue ratio test.

Determinations of whether Conrail has attained the positive net income test and the freight labor cost to freight revenue ratio test will be made pursuant to procedures adopted by Conrail pursuant to these regulations.

Signed at Washington, D.C. this 21st day of July 1980.

Donald C. Cole,

President, United States Railway Association.

Concurrence by the Finance Committee

By resolution enacted on July 24, 1980, the Finance Committee of the Board of Directors of the United States Railway Association has concurred with the promulgation of the above Regulations for Determination of the Attainment by Consolidated Rail Corporation of Certain Standards Relating to the Corporation's Employee Stock Ownership Plan.

William E. Loftus,

Acting for the Secretary of the Finance Committee of the USRA Board.

[FR Doc. 80–23802 Filed 8–6–80; 8:45 am]
BILLING CODE 8240–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Amendment to Back Bay National Wildlife Refuge, Va.; Public Entry and Use

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations—amendments.

SUMMARY: This document amends certain portions of the special regulations governing public access, use, and recreation on Back Bay National Wildlife Refuge, Virginia, published on page 35823, **Federal Register**, Volume 45, No. 104, Wednesday, May 28, 1980.

DATES: July 25, 1980 through December 31, 1982.

ADDRESSES: Contact the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke No. Two Building, Suite 218, Virginia Beach, Virginia 23462, at 804–490–0505.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Edward S. Moses, U.S. Fish and Wildlife Service, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 222), is the primary author of this amendment.

Background

On July 25, 1980, President Jimmy Carter signed into law Senate Bill #2382 which reads in part:

Section 3(a) During any period in which the Secretary of the Interior, by regulation, limits vehicular access to Back Bay National Wildlife Refuge, the Secretary of the Interior shall issue to any eligible applicant, a renewable annual permit to enable the applicant to commute across the Back Bay National Wildlife Refuge. For purposes of this section, the term "eligible applicant" shall include all full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain full-time residents. The south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point one thousand and six hundred feet due south of the Currituck Lighthouse.

(b) As used in this section, the term—

(1) "residence" means a place of general abode;

(2) "place of general abode" means a principal, actual dwelling place in fact, without regard to intent; and

(3) "dwelling" means a residential structure occupied on year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(c) Any permit issued pursuant to this section shall assure that eligible applicants shall be allowed at least two round trips per day. Travel pursuant to such permits may be restricted to between the hours of 5 a.m. and 12 p.m. (midnight). In addition the Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood.

(d) Permits pursuant to this section shall be renewed upon the submission of a signed, notarized statement by an eligible applicant that conditions of the previous permit have not changed.

(e) The Secretary of the Interior, may, subject to the foregoing provisions of this section, issue such regulations as are necessary to protect the resources of the refuge.

Accordingly the amended portions of § 26.34 are set forth below.

V 45 / 154
AG 7 80
UMI

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

Virginia

Back Bay National Wildlife Refuge

Access

(a) Who can qualify for access?

(1) Permanent, full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of continuous and continuing residence, commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent, full-time residents, are authorized beach access. The south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck Lighthouse Residence is defined as the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. For the purposes of this section, a dwelling shall mean a residential structure occupied on a year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied. The burden of proof showing that the prospective permittee meets these criteria shall be on the applicant by presentation of appropriate documentation. Only one permit will be issued per family.

* * * * *

(c) How many trips are allowed?

Permitted vehicles of permanent full-time residents shall be limited to a total of two round trips per day. Travel is restricted to the designated route of travel between the hours of 5 a.m. and 12 p.m. (midnight).

* * * * *

General Rules

* * * * *

(q) *Dogs.* Dogs on a hand-held leash are permitted on refuge public use areas.

* * * * *

Note.—The Department of the Interior has determined that these amendments are not a significant rule and do not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Robert L. Miller,

Acting Regional Director, U.S. Fish and Wildlife Service.

July 30, 1980.

[FR Doc. 80-23909 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

National Wildlife Refuges in Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Idaho is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1980 to February 28, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: L. A. Mehrhoff, Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, Idaho 83705.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 32, and the following special regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on designated roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 NE Multnomah Street, Portland, OR 97232.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds except mourning doves, common snipe, and crows, may be hunted on the following refuge areas:

Bear Lake National Wildlife Refuge, P.O. Box 9, Montpelier, Idaho 83254, phone 208–847–1757.

Special Regulations: (1) Air-thrust boats are prohibited. Camas National Wildlife Refuge, Hamer, Idaho 83425, phone 208–662–5423.

Deer Flat National Wildlife Refuge, Snake River Island Sector, and Lake Lowell Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208–467–9278.

Special Conditions: (1) Waterfowl and coot hunters are required to use native materials for hunting blind construction. (2) Hunting is on a first-come-first-served basis. (3) Goose hunting is prohibited on the Lake Lowell Sector.

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276, phone 208–547–4996.

Special Conditions: (1) Air-thrust boats are prohibited. (2) Entry to the hunting area is limited to foot travel only.

Kootenai National Wildlife Refuge, Star Route No. 1, Box 160, Bonners Ferry, Idaho 83805, phone 208–267–3888.

Special Conditions: (1) Hunting is permitted on Saturdays, Sundays, Tuesdays and Thursdays. (2) Hunters are required to use native materials for blind construction.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350, phone 208–436–3580.

§ 32.22 Special regulations; upland game (excluding mourning dove and crows); for individual wildlife refuge areas.

Bear Lake National Wildlife Refuge, P.O. Box 9, Montpelier, Idaho 83254, phone 208–847–1757.

Special Conditions: Cottontail (including pygmy) rabbit hunting will be permitted concurrent with the State season.

Camas National Wildlife Refuge, Hamer, Idaho 83425, phone 208–662–5423.

Deer Flat National Wildlife Refuge, Lake Lowell and Snake River Sectors, Route 1, Box 1457, Nampa, Idaho 83651, phone 208–467–9278.

Special Conditions: (1) Lake Lowell sector is open only during waterfowl season.

Kootenai National Wildlife Refuge, Star Route 1, Box 160, Bonners Ferry, Idaho 83805, phone 208–267–3888.

Special Conditions: (1) Only that portion of the refuge west of the West Side road is open to upland game hunting. (2) Pheasant hunting is prohibited.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350, phone 208–436–3589.

Special Conditions: Upland game may be hunted on the public hunting area during the waterfowl season only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208–467–9278.

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276, phone 208–547–4996.

Special Conditions: (1) Entry to the hunting area is by foot travel only. (2) Horses may only be used to retrieve bagged animals.

Kootenai National Wildlife Refuge, Star Route #1, Box 160, Bonners Ferry, Idaho 83805, phone 208–267–3888.

Special Conditions: Only that portion of the refuge west of the West Side road is open to big game hunting.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11494 and OMB Circular A–107.

Dated: July 30, 1980.

W. D. Carter,

Acting Boise Area Manager.

[FR Doc. 80-23778 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

National Wildlife Refuges in Oreg.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Oregon is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: August 15, 1980 to February 28, 1981.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: L. A. Mehrhoff, Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, Idaho 83705, 208–334–1960.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 32, and the following special regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on designated roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 NE Multnomah Street, Portland, OR 97232.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds may be hunted on the following refuge areas: Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oregon 97352, phone 503–327–2444.

Special Conditions: (1) Mourning dove and band-tailed pigeon hunters must check in and out of the refuge by use of self-service permits. (2) Waterfowl, coot, and snipe hunting is permitted on Wednesdays, Saturdays and Sundays from opening shooting time until 12 noon during the authorized season. (3) A Federal permit is required for waterfowl, coot, and snipe hunting and will be issued on an advanced reservation basis. Applications for reservations will be accepted between September 15 and October 15. (4) Steel shot only may be possessed or used on the refuge while hunting waterfowl, coot, and snipe. (5) Waterfowl, coot, and snipe hunters are limited to the possession and use of twenty (20) shells per day.

Baskett Slough National Wildlife Refuge, 10995 Highway 22, Dallas, Oregon, 97338, phone 503–623–2749.

Special Conditions: (1) Mourning dove and band-tailed pigeon hunting is prohibited. (2) Waterfowl, coot, and snipe hunting is permitted on Wednesdays, Saturdays and Sundays from opening shooting time until 12 noon during the authorized season. (3) A Federal permit is required for waterfowl, coot, and snipe hunting and will be issued on an advanced reservation basis. Application for reservations will be accepted between September 15 and October 15. (4) Steel shot only may be possessed or used on the refuge while hunting waterfowl, coot, and snipe. (5) Waterfowl, coot, and snipe hunters are limited to the possession and use of twenty (20) shells per day.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route, 1, Box 1457, Nampa, Idaho 83651, phone 208–467–9278.

Special Conditions: (1) Waterfowl and coot hunters are required to use native materials for hunting blind construction. (2) Hunting is on a first-come-first-serve basis.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720, phone 502–493–2323.

Special Conditions: (1) That portion of the Blitzen Valley west of Highway 205, the Malheur Lake area, and the Kern Reservoir will be open to hunting as posted. (3) The Malheur Lake hunt area is open for scouting with boats two weeks prior to season opening. (4) Use of motors on boats, all-terrain vehicles and construction or use of permanent blinds are prohibited.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330, phone 503–757–7236.

Special Conditions: (1) Mourning dove and band-tailed pigeon hunters are required to check in and out of the refuge daily by use of self-service permits. (2) Waterfowl, coot and snipe hunting is permitted on Wednesdays, Saturdays and Sundays from opening shooting time until 12 noon during the authorized season. (3) A Federal permit is required for waterfowl, coot and snipe hunting and will be issued on an advanced reservation basis. Applications for reservations will be accepted between September 15 and October 15. (4) Steel shot only may be possessed or used on the refuge while hunting waterfowl, coots and snipe. (5) Waterfowl, coot and snipe hunters are limited to the possession and use of twenty (20) shells per day.

2. Migratory game birds, except mourning doves, band-tailed pigeons and common snipe, may be hunted on the following refuge areas: Cold Springs National Wildlife Refuge, Hermiston, Oregon, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232.

Klamath Forest National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, phone 916–667–2231).

Special Conditions: (1) Boats with or without motors are permitted except air-thrust and inboard water-thrust are prohibited. (2) All decoys, boats and other personal property must be removed from the refuge at the close of each day. (3) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl.

Lower Klamath National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, phone 916–667–2231).

Special Conditions: (1) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones. (2) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited. (3) All decoys, boats, and other personal property must be removed at the close of each day.

McKay Creek National Wildlife Refuge, Pendleton, Oregon, (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232).

Special Conditions: Hunting is permitted on Wednesdays, Saturdays, Sundays and State holidays, except Christmas.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232.

Special Conditions: (1) Waterfowl and coot hunting is permitted on Wednesdays, Saturdays, Sundays and State holidays, except Christmas. (2) A Federal permit is required and will be issued on an advance reservation basis. Successful applicants may bring one guest and must arrive at check station at least one hour before shooting time or reservation is cancelled. (3) Applications will be accepted during two sign-up periods. Permits are non-transferable. (4) Steel shot only may be possessed or used during waterfowl and coot hunting. (5) Waterfowl and coot hunting will be from blinds only. Upper Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, phone 916–667–2231).

Special Conditions: (1) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited. (2) All decoys, boats and other personal property must be removed from the refuge at the close of each day. (3) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl.

3. Ducks, geese, coots, and snipe may be hunted on the following refuge areas:

Lewis and Clark National Wildlife Refuge, Route 1, Box 376 C, Cathlamet, Washington 98612, phone 206–795–3915.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

Upland game may be hunted on the following refuge areas: Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oregon 97352, phone 503–327–2444.

Special Conditions: (1) Only pheasant and quail may be hunted. (2) No upland game hunting is permitted after November 2, 1980. (3) All hunters must check in and out of the refuge daily by use of self-service permits. (4) Hunters on the area served by each registration station may be limited to 50 at any one time.

Baskett Slough National Wildlife Refuge, 10995 Highway 22, Dallas, Oregon 97338, phone 503–623–2749.

Special Conditions: (1) Only pheasant and quail may be hunted. (2) No upland game hunting is permitted after November 2, 1980. (3) All hunters must check in and out of the refuge daily by use of self-service permits. (4) Hunters on the area served by each registration station may be limited to 50 at any one time.

Cold Springs National Wildlife Refuge, Hermiston, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232).

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208–467–9278.

Hart Mountain National Wildlife Refuge, P.O. Box 11, Lakeview, Oregon 97630, phone 503–947–3315.

Lower Klamath National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, phone 916–667–2231.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720, phone 503–493–2323.

Special Conditions: (1) Pheasant, quail and partridge hunting will be permitted on the Blitzen Valley upland game hunting area during the last nine days of the State season. (2) Pheasant, quail and partridge hunting will be permitted on the Malheur Lake waterfowl hunting area during the waterfowl season. (3) Hunting will be permitted in the Blitzen Valley west of Highway 205 and the Kern Reservoir area as posted.

McKay Creek National Wildlife Refuge, Pendleton, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232).

Special Conditions: (1) Hunting is permitted on Wednesdays, Saturdays, Sundays and State holidays, except Christmas. Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503–922–3232.

Special Conditions: (1) A Federal advanced reservation permit is required to hunt pheasants on the opening weekend of pheasant season. (2) Hunting is permitted from 12 noon until closing time on Wednesday, Saturdays, Sundays and State holidays, except Christmas. (3) Pheasant hunters are required to check in and out of the refuge at check stations.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330, phone 503–757–7326.

Special Conditions: (1) Only pheasant and quail may be hunted. (2) Hunters are required to check in and out of the refuge by use of self-service permits. (3) Upland game hunting is prohibited after November 2, 1980. (4) Each registration station may be limited to 100 hunters at any one time.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208–467–9278.

Hart Mountain National Wildlife Refuge, P.O. Box 11, Lakeview, Oregon 97630, phone 503–947–3315.

Special Conditions: (1) Hunters are required to check in and out of the refuge. (2) Antelope and sheep hunters are required to attend a prehunt indoctrination session.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720, phone 503–947–3315.

Special Conditions: (1) That portion of the refuge in the Blitzen Valley west of Highway 205 will be open as posted to deer hunting concurrent with the regular State season. (2) That portion of the refuge in the Blitzen Valley west of Highway 205 and the Kern Reservoir will be open to hunting of coyotes, rabbits and hare from September 1, 1980 to January 31, 1981.

William L. Finley National Wildlife Refuge, Route 2, Box 208 Corvallis, Oregon 97330, phone 503–757–7326.

Special Conditions: (1) Hunters are required to check in and out of the refuge by use of self-service permits. (2) The use of rifles is prohibited.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuges areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: July 30, 1980.

W. D. Carter,

Acting Area Manager.

[FR Doc. 80–23779 Filed 8–6–80; 8:45 am]

BILLING CODE 4310–55–M

V 45 / 154 AG 7 80 UMI

Proposed Rules

Federal Register
Vol. 45, No. 154
Thursday, August 7, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-SO-29]

Revocation of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to revoke Federal Airways, V-51E, between Louisville, Ky., and Livingston, Ky., and V-140N, between Nashville, Tenn., and London, Ky. Use of these airways has steadily declined for the last several years. In 1979, less than one percent of the aircraft in the area utilized these airway segments. This action will simplify charting and lessen storage requirements for the ATC automation data base.

DATES: Comments must be received on or before September 8, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 80-SO-29, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Horne, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before September 8, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would revoke Federal Airways, V-51E between Louisville, Ky., and V-140N between Nashville, Tenn., and London, Ky. Use of these airways has steadily declined for the last several years. In 1979, less than one percent of the aircraft in the area utilized these airway segments. This action will simplify charting and lessen storage requirements for the air traffic control automation data base. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

1. Under V51 after "Livingston, Tenn.: Louisville, Ky., including an" delete "E alternate and also a"

2. Under V140 after "London, Ky." delete ", including a north alternate from Nashville to London via INT Nashville 049 degree and London 258 degree radials"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.65)

Note: The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 30, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-23442 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 80-ASW-30]

Alternation of Jet Route and Establishment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Jet Route J-13 between Truth or Consequences, N. Mex., and Delicias, Mex., and establish new Jet Route J-141 from El Paso, Tex., to Delicias. These actions would reduce controller workload by permitting air traffic control flexibility for operations between the United States and Mexico.

DATES: Comments must be received on or before September 8, 1980.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASW-30, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76010.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before September 8, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Dockets for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or be calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign Jet Route J-13 between Truth or Consequences, N. Mex., and Delicias, Mex., and establish new Jet Route J-141 from El Paso, Tex., to Delicias. These changes have been requested by the Government of Mexico in order to improve traffic flow in the Cuidad Juarez, Mex., airport terminal area and would provide for an improved departure route from El Paso International Airport. The action requested would reduce controller workload, improve traffic flow, and aid flight planning. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980, (45 FR 732).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 74.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

1. By revising Jet Route No. 13 to read as follows: "From Delicias, Mex., to Chihuahua, Mex.; thence via Truth or Consequences, N. Mex., 165°T(152°M) radial to Truth or Consequences; Albuquerque, N. Mex.; Alamosa, Colo.; Denver, Colo.; Cheyenne, Wyo.; Casper, Wyo.; Billings, Mont.; Great Falls, Mont.; to Lethbridge, Alberta, Canada. The airspace within Mexico and the airspace within Canada are excluded."

2. By adding a new Jet Route No. 141 to read as follows: "Jet Route No. 141 From El Paso, Tex., via INT El Paso 137°T(125°M) and Fort Stockton, Tex., 273°T(262°M) radials; to Delicias, Mex. The airspace within Mexico is excluded."

Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 30, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-23637 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Ch. II

Semiannual Agenda of Regulations

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Publication of semiannual agenda.

SUMMARY: In compliance with Executive Order No. 12044 and Attorney General Order No. 831-79, the Drug Enforcement Administration (DEA) is providing public notice of its plan to simplify its regulations and to streamline its administrative procedures.

FOR FURTHER INFORMATION CONTACT: Richard Ira Lebovitz, Office of the Chief Counsel, Drug Enforcement Administration, Washington, D.C. 20537. Telephone: (202) 633-1141.

I. REVIEW OF SIGNIFICANT REGULATIONS

All regulations concerning the importation, exportation, manufacture, distribution and dispensing of controlled substances, the scheduling of such substances, the registration of all legitimate handlers of controlled substances, and the administrative procedures to be followed by DEA, registrants under the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and interested members of the public with respect to such matters, are presently contained in a single volume of the Code of Federal Regulations, 21 CFR Part 1300 to End.

While some of the regulations contained in this volume are clearly of a less significant or housekeeping nature, we consider the majority significant because they have an impact upon, and create some burden or responsibility which devolves upon, one or more of the classes of DEA registrants. For the most part, these regulatory controls are Congressionally mandated and necessary if the integrity of the closed system of controlled substance distribution is to be maintained.

DEA seeks to clarify and simplify its regulations to reduce to the greatest degree possible consistent with the requirements of the Controlled Substances Act and the public health and safety, the burdens imposed by its regulations upon those who legitimately handle controlled substances.

The following parts of Title 21, Code of Federal Regulations, were identified in our initial review as being subject to review during the subsequent six month period:

V 45 / 154
AUG 7 80
UMI

Part 1301—Registration of Manufacturers, Distributors and Dispensers of Controlled Substances
Part 1303—Quotas
Part 1304—Records and Reports of Registrants
Part 1308—Schedules of Controlled Substances
Part 1311—Registration of Importers and Exporters of Controlled Substances
Part 1316—Administrative Functions, Practices and Procedures

In addition to those sections listed above, our last semiannual agenda, published on September 19, 1979, identified a significant regulation that was under review concerning the limitation on importation of narcotic raw materials. During the 60-day comment period which followed the publication, approximately 15 individuals and organizations commented on the parts under review. We received many other comments on parts not under review during the six month period covered by the agenda. We will keep those comments, many of which concerned Part 1306, Prescriptions, for future consideration. We are reviewing comments received on the affected parts to ascertain what regulatory changes, if any, should be considered.

The significant regulation concerning the limitation on importation of narcotic raw materials, identified in the semiannual agenda, was published as a proposed rule on February 12, 1980 (see 45 FR 9289).

Additionally, the review by DEA has generated proposed regulations concerning the partial filling of prescriptions for controlled substances (45 FR 24199, April 9, 1980), the transfer of prescriptions for controlled substances between pharmacies as a recordkeeping task (45 FR 21652, April 2, 1980), the elimination of the need for obtaining a permit to maintain records in a central location (45 FR 24198, April 9, 1980) and the issuance of a statement of policy concerning the maintenance of emergency kits containing controlled substances in long term care facilities (45 FR 24128, April 9, 1980).

These notices of proposed rulemaking and the statement of policy provided the opportunity for comment. DEA reviewed comments received on the statement of policy concerning emergency kits and the proposed rule concerning central recordkeeping permits. By formal publication dated June 18, 1980 (45 FR 40576), DEA placed the statement of policy into effect and also published a final rule concerning central recordkeeping permits on July 1, 1980 (45 FR 44266).

After consideration of all timely comments submitted in response to the other proposed regulations referred to above, DEA will decide whether to publish final orders.

DEA also proposes to engage in a review of the following parts of its regulations in 21 CFR Part 1300 to End:

Part 1302—Labeling and Packaging Requirements for Controlled Substances
Part 1307—Miscellaneous
Part 1310—Piperidine Reporting and Purchaser Identification

Part 1302—Labeling and Packaging Requirements for Controlled Substances

Regulations in Part 1302 require that controlled substances distributed in commercial containers bear labeling which displays the appropriate symbol to identify in which schedule the controlled substances are placed. This part requires that commercial containers for certain controlled substances be sealed to deter and detect tampering.

Legal Basis—21 U.S.C. 825.

Knowledgeable Official—Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1321.

Regulatory Analysis—Not required.

Discussion—Review of this part will focus on the clarification and simplification of terms defined and used in this regulation.

Part 1307—Miscellaneous

The regulations in Part 1307 provide the authority in furtherance of the Controlled Substances Act for the Administrator to except persons from DEA regulations concerning registration, packaging and labeling, order forms, quotas, records and reports, prescription requirements, controlled substances schedule requirements, importation and exportation requirements, and administrative functions, practices and procedures. This part merely provides the authority to grant exceptions; it is stressed that the exercise of this authority is entirely in the Administrator's discretion. This part further provides special exceptions from regulations for certain manufacturing and distribution activities and provides procedures for the proper disposal and disposition of controlled substances.

Legal Basis—21 U.S.C. 821 and 871(b).

Knowledgeable Official—Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1091.

Regulatory Analysis—Not required.

Discussion—Review of this part will include identifying the need or desire, and the practicalities, of providing additional exceptions for registrants' activities beyond those special exceptions for manufacture and distribution of controlled substances currently set forth in Part 1307.

Part 1310—Piperidine Reporting and Purchaser Identification

Regulations in Part 1310 were first published on March 9, 1979 (44 FR 12993) pursuant to the mandate of Title II, PCP Criminal Penalties and Piperidine Reporting, of the Psychotropic Substances Act of 1978, Pub. L. 95–633. The 1978 Act amended the Controlled Substances Act by creating a new section 310 (21 U.S.C. 830) that requires sellers of the chemical piperidine to report their sales to DEA and to require proof of positive identification from the piperidine purchaser. Section 310 authorizes the Attorney General to establish regulations detailing the reporting requirements and identification procedures to be met by sellers of piperidine, and, in consequence, the Administrator has issued Part 1310. Part 1310 requires reports from persons who distribute, transfer, sell, import, or suffer theft or loss of, piperidine. Part 1310 also particularizes the information such reports must contain, sets out the format for the reports, and notes when they must submitted. It also sets out the acceptable type of identification which purchasers should present to sellers during a sale of piperidine. Lastly, Part 1310 allows sellers an exemption from reporting sales to known customers.

Legal Basis—21 U.S.C. 830.

Knowledgeable Official—Dale Schuitema, Staff Coordinator, Office of Enforcement, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633–1463.

Regulatory Analysis—Not required.

Discussion—Review of Part 1310 will encompass the productivity of these reporting and purchaser identification requirements. The authority for Part 1310 is section 310 of the Controlled Substances Act, and by the terms of Pub. L. 95–633, section 310 is repealed, effective January 1, 1981. If DEA's review reveals that the reporting and purchaser identification requirements have proven to be worthy tools in curtailing illegal sales and purchases of piperidine, DEA will recommend that the "sunset" provision of Pub. L. 95–633 be repealed.

There will be a 60-day comment period following the present publication of DEA's semiannual agenda. DEA will consider any and all comments submitted by interested persons on the parts currently scheduled for reviews. If this review shows that amendments or deletions are necessary, whether initiated by interested persons through their comments filed within the 60-day period or by DEA through its own initiative, DEA will then publish notices of proposed rulemaking.

A second 60-day comment period will follow publication of any such proposed revised regulations. During the entire review period, DEA will solicit and encourage active participation by the affected industries and professions and by DEA staff within the limitations imposed by budgetary constraints and normal day-to-day workloads.

Dated: July 23, 1980.

Marion W. Hambrick,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-23847 Filed 8-6-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-164-78]

Coordination of Vesting and Discrimination Requirements for Qualified Plans; Announcement

AGENCY: Internal Revenue Service, Treasury.

ACTION: Announcement.

SUMMARY: This document announces that the Internal Revenue Service has published on August 4, 1980, a news release, IR–80–85, dated August 4, 1980, that provides examples of the coordination of vesting and discrimination rules for employee retirement plans that may be included in the final regulations for determining if a plan's vesting schedule discriminates in favor of certain types of employees.

FOR FURTHER INFORMATION CONTACT: George H. Bradley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3486, not a toll-free call.

Announcement

Proposed regulations for Internal Revenue Code section 411(d)(1) were published in the **Federal Register** on April 9, 1980 (45 FR 24201). In response to comments received, modifications to the proposed regulations were published in the **Federal Register** on June 12, 1980, (45 FR 39869) with three examples showing how the facts and circumstances test for discriminatory vesting in the proposed regulations was to be applied.

At the July 10, 1980, public hearing on the modified proposed regulations several commenters asked the IRS to include the three examples in the final regulations and to provide additional examples as guidance. The Treasury Department has indicated that other examples will be publicized before the final regulations are adopted so that the public and members of Congress can make comments.

The three original examples, with modifications, and two new examples are attached to IR–80–85. All five examples may be included in the final regulations under 411(d)(1).

Written comments on the examples should be sent to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE–164–78), 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 80-23799 Filed 8-6-80; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-261-76]

Income Tax; Deductions for Business Use or Rental of Dwelling Unit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the deductibility of expenses in connection with the business use, or the rental to others, of a dwelling unit that the taxpayer is deemed to have used for personal purposes during the taxable year. The Tax Reform Act of 1976 established new conditions for the deductibilty of such expenses. The regulations would provide the public with needed guidance in complying with the Act and would affect individuals, partnerships, trusts, estates, and electing small business corporations that incur business expenses for dwelling units which are deemed to have been used for personal purposes during the taxable year.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 6, 1980. The amendments are proposed to be effective for taxable years beginning after 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–261–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Paul A. Francis (202–566–6640).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 183, 212, 262, and 280A of the Internal Revenue Code of 1954. These amendments are proposed to provide regulations under section 280A which was added to the Code by section 601 of the Tax Reform Act of 1976 (90 Stat. 1569) and amended by section 306 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 152) and section 701(h) of the Revenue Act of 1978 (92 Stat. 2904). The amendments to the regulations under sections 183, 212, and 262 provide for coordination of those sections with section 280A. These amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

General Rule

Section 280A generally disallows business deductions for expenses with respect to the use of a dwelling unit used by the taxpayer as a residence during the taxable year, but there are several exceptions to this general rule. Section 280A prescribes certain criteria for determining whether a taxpayer who uses a dwelling unit for business purposes or rents a dwelling unit to others has used the dwelling unit as a residence during the taxable year. A dwelling unit may be a house, apartment, condominium, mobile home, boat, or similar property with basic living accommodations. Section 280A also applies to other property, such as a garage, which is closely related to the dwelling unit itself. If the taxpayer has used the dwelling unit as a residence, the taxpayer may deduct the expenses attributable to the business use or rental of the unit only to the extent provided in section 280A.

Use as a Residence

A taxpayer uses a dwelling unit as a residence during a taxable year if the number of calendar days on which the taxpayer uses the unit for personal purposes exceeds the greater of 14 days or 10 percent of the number of calendar days on which the unit is rented at a fair rental (excluding days on which the taxpayer uses the unit for personal purposes). A special rule applies in certain situations in which the taxpayer

is renting out a unit used by the taxpayer as a principal residence.

A taxpayer is treated as using a unit for personal purposes on any day on which the unit is used—

(1) For personal purposes by the taxpayer or any other person with an interest in the unit, or by certain relatives of either;

(2) By any person under an arrangement which enables the taxpayer to use another unit; or

(3) By any person (except certain employees) if fair rental has not been paid for the use of the unit for that day.

The proposed regulations explain how these rules apply to units in which entities, such as partnerships or trusts, have an interest. The proposed regulations also provide that an individual who works on repair or maintenance of the unit on a substantially full-time basis will not be treated as using the unit for personal purposes.

Business Use of Home

A taxpayer who uses a dwelling unit as a residence may deduct expenses for business use of the unit only if the use is within one of the exceptions enumerated in section 280A. No deductions are allowed unless the taxpayer uses the unit for a specified business purpose on a regular basis. Deductions are subject to the limitation explained below.

A taxpayer may deduct expenses allocable to the use of a portion of a dwelling unit as the taxpayer's principal place of business if the taxpayer makes no use of that portion of the unit other than for business purposes. The proposed regulations provide that this exception applies only if the unit is the principal place of the taxpayer's overall business activity. Use of a unit as the principal place of business for a secondary business does not qualify. The proposed regulations do not follow the decision of the tax Court in *Curphey v. Commissioner*, 73 T.C. No. 61 (Feb. 4, 1980).

Expenses allocable to the use of a portion of a unit as a place of business used by patients, clients, or customers in meeting or dealing with the taxpayer are deductible if the taxpayer makes no use of that portion of the unit other than for business purposes.

A taxpayer who, in connection with a trade or business, uses a separate structure which is related to the dwelling unit but not attached to it may deduct expenses allocable to the use of the separate structure if the taxpayer makes no use of the structure other than for business purposes.

An employee may deduct expenses under the three exceptions just described only if the employee's use of the unit is for the convenience of the employer.

There is also an exception for expenses allocable to space within the unit in which the taxpayer stores inventory. The inventory must be held for use in the taxpayer's trade or business of selling products at wholesale or retail, and the unit must be the sole fixed location for that trade or business.

A taxpayer may deduct expenses allocable to the use of a unit in the taxpayer's trade or business of providing day care for children, for individuals who have attained age 65, or for individuals who are physically or mentally incapable of caring for themselves. The regulations distinguish day care services, which are primarily custodial, from educational activities.

There are two special rules that apply to the exception for day care services. The taxpayer may deduct expenses accuring after August 1977, only if the taxpayer is taking, or has taken, whatever steps may be necessary to comply with applicable state laws such as licensing or registration requirements. The proposed regulations indicate when a taxpayer will be deemed to have satisfied this rule. If the taxpayer uses any portion of the unit for day care services and for some other purpose besides the purposes described in section 280A, the taxpayer must make a time allocation of the expenses attributable to that portion of the unit according to the formula specified in the proposed regulations.

Limitation on Deductions for Business Use

Deductions allowable under the five exceptions just described are subject to a special limitation. As the proposed regulations indicate, the first step necessary to apply the limitation is to determine the gross income derived from the use of the unit. If the taxpayer carries on the trade or business in more than one location, the taxpayer must allocate the income to the activity in the different locations. The gross income derived from the use of the unit equals the excess of the gross income allocable to the business activity in the unit over the expenses incurred in the activity but not allocable to the use of the unit itself, such as expenditures for supplies and compensation paid to assistants. The gross income derived from the use of the unit is the ceiling for all other deductions. The proposed regulations prescribe the sequence in which the deductions must be claimed.

Rental of Dwelling Unit

Section 280A prescribes several special rules with respect to the deductibility of expenditures in connection with the rental of dwelling units.

Section 280A(d)(3) provides that the days on which the taxpayer used the rental unit as a principal residence are disregarded in determining whether a taxpayer may deduct rental expenses in excess of income from a "qualified rental period." A "qualified rental period" is a consecutive period of 12 or more months, or a shorter period ending with the sale or exchange of the unit, during which the unit is rented to someone other than a family member, or is held for rental, at fair rental value.

Section 280A(f)(1)(B) excludes from the definition of "dwelling unit", and therefore from the general disallowance provision of section 280A(a), any portion of a unit "used exclusively as a hotel, motel, inn, or similar establishment". The proposed regulations state that this exception applies only if the portion of the unit is regularly available for occupancy by paying customers and only if no person with an interest in the property is deemed to have used it as a residence during the taxable year.

If a taxpayer uses a unit as a residence and actually rents it to others for less than 15 days during the year, the taxpayer disregards the rental use altogether for tax purposes. Thus, the taxpayer excludes the rental income from gross income for the year and may not deduct the rental expenses.

If a taxpayer who rents a dwelling unit to others makes any personal use of the unit during the taxable year, the taxpayer may not deduct more than a proportionate share of the expenses for the unit as rental expenses. The proposed regulations explain this limitation, which applies even if the personal use of the unit by the taxpayer is insufficient to constitute use as a residence.

A taxpayer who uses a unit as a residence and rents it to others for more than 14 days during the year may deduct rental expenses only to the extent of the gross rental income from the unit. The taxpayer must deduct expenses allocable to the rental use of the unit in the sequence prescribed in the proposed regulations. Items which are deductible without regard to any connection to a business activity, such as mortgage interest and taxes, are deducted first, then operating expenses, and finally items which affect basis, such as depreciation.

Special Property Arrangements

The proposed regulations provide for the application of section 280A to two types of special property arrangements: rental pools and time-sharing arrangements.

Rental pools are arrangements whereby a number of dwelling units are made available for rental and the owners of the units agree to share at least a portion of the rental receipts without regard to the actual rental of the individual units. The proposed regulations require each pool participant to include in gross income the amounts received from the pool. The limitation on the allocation of expenses to the rental use of a unit is applied by reference to the actual use of each unit.

A time sharing arrangement is an arrangement whereby two or more persons with interests in a dwelling unit agree to exercise control over the unit for different periods during a year. In general, the proposed regulations treat such arrangements as tenancies in common.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations was Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department particpated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.183–1 is amended by adding at the end thereof the following new paragraph:

§ 1.183–1 Activities not engaged in for profit.

* * * * *

(g) *Coordination with section 280A.* If section 280A(a) (relating to disallowance of deductions for certain expenses with respect to the use of a dwelling unit used as a residence) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

(1) Section 183 and this section shall not apply to that unit (or portion thereof) for that year, but

(2) That year shall be taken into account as a taxable year for purposes of applying section 183(d).

See section 280A and the regulations thereunder for definitions and rules relating to use of dwelling units. Note that the limitation of section 280A(e) and § 1.280A–3(c) applies in any case where an individual or an electing small business corporation uses a dwelling unit for personal purposes on any day during the taxable year.

Par. 2. Paragraph (h) of § 1.212–1 is amended by adding at the end thereof a new sentence to read as follows:

§ 1.212–1 Nontrade or nonbusiness expenses.

* * * * *

(h) * * * But see section 280A and the regulations thereunder.

* * * * *

Par. 3. Paragraph (b)(3) of § 1.262–1 is amended to read as follows:

§ 1.262–1 Personal, living and family expenses.

* * * * *

(b) *Examples of personal, living, and family expenses.* * * *

(3) Expenses of maintaining a household, including amounts paid for rent, water, utilities, domestic service, and the like are not deductible. For rules relating to expenses incurred in connection with dwelling units used for both business purposes and personal purposes, see section 280A and the regulations thereunder.

* * * * *

Par. 4. The following new sections are inserted immediately after § 1.279–7:

§ 1.280A–1 Limitations on deductions with respect to a dwelling unit which is used by the taxpayer during the taxable year as a residence.

(a) *General rule.* In the case of an individual, a partnership, a trust an estate, or an electing small business corporation (as defined in section 1371 (b)), no deductions which would otherwise be allowable under chapter 1 of the Code shall be allowed with respect to the use of a dwelling unit used by such person during the taxable year as a residence except as provided in section 280A and in §§ 1.280A–1 through 1.280A–3. The requirements imposed by section 280A are in addition to the requirements imposed by other provisions of the Code. If a deduction is claimed for an item attributable to a dwelling unit used by the taxpayer during the taxable year as a residence, the taxpayer must first establish that it is otherwise allowable as a deduction under chapter 1 of the Code before the provisions of section 280A become applicable. Section 1.280A–2 sets forth the rules relating to the deductibility of expenses attributable to the business use of a dwelling unit used as a residence. Section 1.280A–3 sets forth the rules relating to the deductibility of expenses attributable to the rental of a dwelling unit used as a residence. Note that the allocation rule of section 280A (e) and § 1.280A–3 (c) applies to expenses attributable to any dwelling unit used by the taxpayer for personal purposes on any day during the taxable year, whether or not the taxpayer is treated as using the unit as a residence.

(b) *Deductions allowable without regard to any connection with a trade or business or an income-producing activity.* Deductions which are allowable without regard to any connection with a trade or business or an income-producing activity are allowed with respect to the use of dwelling units. Such deductions include the deduction for interest under section 163, the deduction for taxes under section 164, and the deduction for casualty losses under section 165.

(c) *Dwelling unit*—(1) *In general.* For purposes of this section and §§ 1.280A–2 and 1.280A–3, the term "dwelling unit" includes a house, apartment, condominium, mobile home, boat, or similar property, which provides basic living accommodations such as sleeping space, toilet, and cooking facilities. All structures and other property appurtenant to a dwelling unit which do not themselves constitute dwelling units are considered part of the unit. For example, an individual who rents to another person space in a garage which is appurtenant to a house which the individual owns and occupies may claim deductions with respect to that rental activity only to the extent allowed under section 280A, paragraph (b) of this section, and § 1.280A–3.

(2) *Exception.* Notwithstanding the provisions of paragraph (c)(1) of this section the term "dwelling unit" does not include any portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment. Property is so

V 45 / 154 AG 7 80 UMI

used only if it is regularly available for occupancy by paying customers and only if no person having an interest in the property is deemed under the rules of this section to have used the unit as a residence during the taxable year. For example, this exception will apply to a unit entered in a rental pool (see § 1.280A–3 (e)) only if the owner of the unit does not use it as a residence during the taxable year.

(d) *Use as residence*—(1) *In general.* For purposes of this section and §§ 1.280A–2 and 1.280A–3, a taxpayer uses a dwelling unit during the taxable year as a residence if the taxpayer uses the unit for personal purposes for a number of days which exceeds the greater of—

(i) 14 days, or

(ii) 10 percent of the number of days during the year for which the unit is rented at a fair rental.

For purposes of this determination, a unit shall not be treated as rented at fair rental for any calendar day on which it is used for personal purposes.

(2) *Examples.* The provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). B owns a boat suitable for overnight use. B is deemed, under paragraph (d) of this section, to have used the boat for personal purposes for 16 days during B's taxable year. B rents the boat at fair rental for 163 days during B's taxable year. B is not deemed to have used the boat for personal purposes on any of the 163 days for which it is rented at fair rental. Since the number of days on which B used the boat for personal purposes does not exceed 16.3 (10 percent of 163, the number of days on which the boat is treated as rented at a fair rental for purposes of this determination), B has not used the boat as a residence for the taxable year.

Example (2). Assume the same facts as in example (1) of this subparagraph, except that 5 of the 16 days on which B is deemed to have used the boat for personal purposes were included in the 163 days on which the boat was rented at fair rental. On those 5 days the boat is not treated as rented at a fair rental for purposes of this paragraph. Since the number of days on which B used the boat for personal purposes exceeds 15.8 (10 percent of 158, the number of days on which the boat is treated as rented at a fair rental for purposes of this determination), B has used the boat as a residence for the taxable year.

(e) *Personal use of dwelling unit*—(1) *General rule.* For purposes of this section and §§ 1.280A–2 and 1.280A–3, a taxpayer shall be deemed to have used a dwelling unit for personal purposes for a calendar day if, for any part of such day, any portion of the unit is used—

(i) For personal purposes by the taxpayer or any other person who has an interest in the unit;

(ii) By a brother or sister (whether by the whole or half blood), spouse, ancestor, or lineal descendant of the taxpayer or of any other person who has an interest in the unit;

(iii) By any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit for any period of time, whether or not a rental is charged for the use of the other unit and regardless of the length of time that the taxpayer uses the other unit; or

(iv) By any individual, other than an employee with respect to whose use section 119 (relating to meals or lodging furnished for the convenience of the employer) applies, unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

For purposes of this paragraph, a person is considered to have an interest in a dwelling unit if that person holds any interest in the unit (other than a security interest or an interest under a lease for a fair rental) even if there are no immediate rights to possession and enjoyment under the interest.

(2) *Special rule for "qualified rental period".* For purposes of determining whether section 280A(c)(5) and § 1.280A–3(d) limit deductions for expenses allocable to a "qualified rental period", a taxpayer shall not be considered to have used the rented unit for personal purposes on any day during the taxable year before or after a "qualified rental period" described in paragraph (e)(2)(ii) of this section, or before a "qualified rental period" described in paragraph (e)(2)(ii) of this section, if the rented unit was the principal residence of the taxpayer with respect to that day. The use of the unit for personal purposes shall, however, be taken into account for all other purposes of section 280A. A "qualified rental period" is a consecutive period of—

(i) 12 or more months which begins or ends during the taxable year, or

(ii) less than 12 months which begins in the taxable year and at the end of which the rented unit is sold or exchanged, and

for which the unit is rented to a person other than a member of the family of the taxpayer, or is held for rental, at a fair rental. For purposes of the preceding sentence, the family of the taxpayer includes the brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal decendants of the taxpayers. For the meaning of the term "principal residence", see section 1034 and § 1.1034–1 (c)(3).

(3) *Dwelling units in which a partnership, a trust, an estate, or an electing small business coporation has an interest.* For purposes of applying the provisions of paragraph (e) (1) of this section to a dwelling unit in which a partnership, a trust, an estate, or an electing small business corporation (as defined in section 1371 (b)) has an interest, the entity shall be considered to have made personal use of the unit on any calender day on which any member of the partnership, beneficiary of the trust or estate, or shareholder in the corporation would be considered to have made personal use of the unit if that member, beneficiary, or shareholder had an interest in the dwelling unit.

(4) *Use of the unit for repairs and maintenance.* For purposes of applying the provisions of paragraph (e)(1) of this section, the use of a dwelling unit by any individual on any calendar day shall be disregarded if on that calendar day that individual is engaged in repair or maintenance work on the unit on a substantially full-time basis. An individual will be deemed to have satisfied this condition on any calendar day on which the individual works on the unit for the lesser of 8 hours or ⅔ of the time that the individual is present on the premises. If all individuals on the premises on a calendar day who are capable of working do work on the unit on a substantially full-time basis, incidental use of the unit on the same day by other individuals incapable of working, *e.g.*, small children, shall be disregarded for purposes of paragraph (e) (1) of this section.

(5) *Examples.* The provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). B owns a vacation home which B rents to S, B's sister, at a fair rental for 19 days. B also rents the home to C at fair rental for 11 days as a part of an arrangement whereby B is enabled to use D's home for 6 days. As a favor, B rents the home to F at a discount rate for 15 days. On the basis of the rental activity described, B is deemed to have used the home for personal purposes on 36 days.

Example (2). X Inc., an electing small business corporation in which A and B are shareholders, is the owner of a fully equipped recreational vehicle. During the month of July, the vehicle is used by three individuals. A uses the vehicle on a 7-day camping trip. D, who is B's daughter, rents the vehicle from A and B at fair rental for 10 days. E rents the vehicle at fair rental for 12 days under an arrangement whereby B is enabled to use an apartment owned by F, a friend of E, for 9 days. X Inc. is deemed to have used the dwelling unit for personal purposes on any day on which any of its shareholders would be deemed to have so used the unit if each shareholder had an interest in the unit.

Example (3). A owns a lakeside cottage which A rents during the summer. A arrives at the cottage alone at 8 p.m. on a Thursday to prepare it for the summer season. A works on the cottage for 3 hours that evening and for 10 hours on Friday. B, A's spouse, joins A at the cottage at noon on Saturday. A works on the cottage for 9 hours that day, and B works on the cottage for 4 hours. On Sunday A and B work on the cottage for one hour and then return home. A and B ate their meals in the cottage and slept there during the time that they were present. A will be deemed to have used the cottage for personal purposes on Saturday because B, who made personal use of the cottage on that day, did not work on the cottage on a substantially full-time basis. A also made personal use of the cottage on Sunday on which A worked only briefly. A will not be deemed to have used the cottage for personal purposes on Thursday or Friday because the use by A, the only person making use of the cottage on those days, is disregarded since A was engaged in repair and maintenance work on the unit for more than ⅔ of the time that A was on the premises on Thursday and for more than 8 full hours on Friday.

Example (4). A owns a mountain cabin which A rents for most of the year. A works on maintenance of the cabin on a substantially full-time basis for several days. A's four-year old son, S, accompanies A to the cabin and plays while A works. The personal use of the cabin by S is disregarded since S, who is incapable of working is accompaning A, who is working on a substantially full-time basis. If S were 16 years old and otherwise capable of working, however, A would be deemed to have used the cottage for personal purposes unless S worked on the cabin on a substantially full-time basis.

Example (5). B, an individual whose taxable year is the calendar year, uses a dwelling unit as a principal residence from January 1, 1978, to June 30, 1978. On July 1, 1978, B rents the unit at a fair rental to D, an unrelated individual, for a two-year period beginning immediately. In determining whether section 280A(c)(5) and § 1.280A–3(d) limit deductions for expenses allocable to this "qualified rental period", B is not considered to have used the unit for personal purposes from January 1, 1978, to June 30, 1978. Note, however, that section 280A(e) and § 1.280A–3(c) limit the portion of the total 1978-expenses with respect to the unit which may be attributed to the "qualified rental period." B's personal use of the unit is similarly taken into account in applying section 280A(c)(5) to any other use of the unit during the taxable year, *e.g.*, the use of a portion of the unit as a place of business.

(f) *Coordination with section 183.* If a dwelling unit is used by the taxpayer during the taxable year as a residence, section 183 (relating to activities not engaged in for profit) shall not apply with respect to the unit for the taxable year. The taxable year shall, however, be taken into account as a taxable year for purposes of determining whether the presumption described in section 183(d) applies.

Example. B owns a cottage which B rents for part of the summer in 1976, 1977, and 1978. B also uses the cottage as a residence in 1976 and 1977, but not in 1978. B's rental income for 1976 exceeds the expenses allocable to the rental activity, but in 1977 the expenses exceed the rental income. In determining whether B may claim for 1978 the benefit of the presumption described in section 183(d), the rental activity in 1976 and 1977 is taken into account even though section 183 did not apply with respect to the cottage for those years.

(g) *Effective date.* This section and §§ 1.280A–2 and 1.280A–3 apply to taxable years beginning after December 31, 1975.

§ 1.280A–2 Deductibility of expenses attributable to business use of a dwelling unit used as a residence.

(a) *Scope.* This section describes the business uses of a dwelling unit used as a residence for which items may be deductible under an exception to the general rule of section 280A and explains the general conditions for the deductibility of items attributable to those uses. Deductions are allowable only to the extent provided in section 280A(c)(5) and in paragraph (i) of this section. See § 1.280A–1 for the general rules under section 280A.

(b) *Use as the taxpayer's principal place of business*—(1) *In general.* Section 280A(c)(1)(A) provides an exception to the general rule of section 280A(a) for any item to the extent the item is allocable to a portion of the dwelling unit which is used exclusively and on a regular basis as the taxpayer's principal place of business.

(2) *Determination of principal place of business.* For purposes of section 280A(c)(1)(A) and this section, a taxpayer may have only one principal place of business regardless of the number of business activities in which the taxpayer may be engaged. When a taxpayer engages in business activities at more than one location, it is necessary to determine the principal place of the taxpayer's overall business activity in light of all the facts and circumstances. Among the facts and circumstances to be taken into account in determining an individual's principal place of business are the following:

(i) The portion of the total income from business activities which is attributable to activities at each location;

(ii) The amount of time spent in business activities in each location; and

(iii) The facilities available to the taxpayer at each location.

For example, a home office in which a taxpayer engages in business as a self-employed person would rarely qualify as the taxpayer's principal place of business if the taxpayer's primary source of income is wages for services performed in another business on the employer's premises. On the otherhand, if an outside salesperson has no office space except at home and spends a substantial amount of time on paperwork at home, the office in the home may qualify as the salesperson's principal place of business.

(c) *Use by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of business.* Section 280A (c)(1)(B) provides an exception to the general rule of section 280A(a) for any item to the extent the item is allocable to a portion of the dwelling unit which is used exclusively and on a regular basis as a place of business in which patients, clients, or customers meet or deal with the taxpayer in the normal course of the taxpayer's business. This exception applies only if the use of the dwelling unit by patients, clients, or customers is substantial and integral to the conduct of the taxpayer's business. Occasional meetings are insufficient to make this exception applicable.

(d) *Use of a separate structure not attached to the dwelling unit in connection with the taxpayer's trade or business.* Section 280A(c)(1)(C) provides an exception to the general rule of section 280A(a) for any item to the extent that the item is allocable to a separate structure which is appurtenant to, but not attached to, the dwelling unit and is used exclusively and on a regular basis in connection with the taxpayer's trade or business. An artist's studio, a florist's greenhouse, and a carpenter's workshop are examples of structures that may be within the description of this paragraph.

(e) *Use as a storage unit for taxpayer's inventory.* Section 280A(c)(2) provides an exception to the general rule of section 280A(a) for any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer's trade or business of selling products at retail or wholesale. The storage unit includes only the space actually used for storage; thus, if a taxpayer stores inventory in one portion of a basement, the storage unit includes only that portion even if the taxpayer makes no use of the rest of the basement. The exception provided under section 280A(c)(2) applies only if—

(1) The dwelling unit is the sole fixed location of that trade or business, and

(2) The space used is a separately identifiable space suitable for storage.

V 45 / 154 4 AG 7 80 UMI

(f) *Use in providing day care services*—(1) *In general.* Section 280A(c)(4) provides an exception to the general rule of section 280A(a) for any item to the extent that the item is allocable to the use of any portion of the dwelling unit on a regular basis in the taxpayer's trade or business of providing day care services for children, for individuals who have attained age 65, or for individuals who are physically or mentally incapable of caring for themselves.

(2) *Day care services.* Day care services are services which are primarily custodial in nature and which, unlike foster care, are provided for only certain hours during the day. Day care services may include educational, developmental, or enrichment activities which are incidental to the primary custodial services. If the services performed in the home are primarily educational or instructional in nature, however, they do not qualify as day care services. The determination whether particular activities are incidental to the primary custodial services generally depends upon all the facts and circumstances of the case. Educational instruction to children of nursery school age shall be considered incidental to the custodial services. Further, educational instruction to children of kindergarten age would ordinarily be considered incidental to the custodial services if the instruction is not in lieu of public instruction under a State compulsory education requirement. In addition, enrichment instruction in arts and crafts to children, handicapped individuals, or the elderly would ordinarily be considered incidental to the custodial services rendered.

(3) *State law requirements.* This paragraph applies to items accruing after August 31, 1977, only if the owner or operator of the day care business is, at the time the item accrues, acting in accordance with the applicable State law relating to the licensing, certification, registration, or approval of day care centers or family or group day care homes. A person satisfies the condition stated in the preceding sentence for any period for which—

(i) There is no applicable State law of the type described;

(ii) The person is exempt from the requirements of the applicable State law;

(iii) The person has whatever license, etc., is required under the applicable State law; or

(iv) The person has applied for whatever license, etc., is required under the applicable State law, provided, that the application has not been rejected, and provided that the person has corrected or removed any deficiencies that resulted in the revocation of any previous license, etc., or in the rejection of any previous application.

(g) *Exclusive use requirement*—(1) *In general.* Paragraph (b), (c), or (d) of this section may apply to the use of a portion of a dwelling unit for a taxable year only if there is no use of that portion of the unit at any time during the taxable year other than for business purposes. Paragraph (b), (c), or (d) may apply to a portion of a unit which is used for more than one business purpose. Necessary repair or maintenance does not constitute use for purposes of this paragraph.

(2) *Convenience of the employer.* In the case of an employee, paragraph (b), (c), or (d) shall apply to a use of a portion of a dwelling unit only if that use is for the convenience of the employer.

(h) *Use on a regular basis.* The determination whether a taxpayer has used a portion of a dwelling unit for a particular purpose on a regular basis must be made in light of all the facts and circumstances.

(i) *Limitation on deductions*—(1) *In general.* The deductions allowable under chapter 1 of the Code for a taxable year with respect to the use of a dwelling unit for one of the purposes described in paragraphs (b) through (f) of this section shall not exceed the gross income derived from such use of the unit during the taxable year, as determined under subparagraph (2) of this paragraph. Subparagraphs (3) and (4) of this paragraph provide rules for determining the expenses allocable to the business use of a unit. Subparagraph (5) of this paragraph prescribes the order in which deductions are allowable.

(2) *Gross income derived from use of unit*—(i) *More than one location.* If the taxpayer engages in a business in the dwelling unit and in one or more other locations, the taxpayer shall determine the portion of the gross income from the business that is attributable to business activity in the unit. In making this determination, the taxpayer shall take into account the amount of time that the taxpayer engages in business activity at each location, and any other facts and circumstances that may be relevant.

(ii) *Exclusion of certain amounts.* For purposes of section 280A and this section, gross income derived from use of a unit means gross income from the business activity in the unit reduced by expenditures required for the activity but not allocable to the use of the unit itself, such as expenditures for supplies and compensation paid to other persons. For example, a physician who uses a portion of a dwelling for treating patients shall compute gross income derived from use of the unit by subtracting from the gross income attributable to the business activity in the unit any expenditures for nursing and secretarial services, supplies, etc.

(3) *Expenses allocable to portion of unit.* The taxpayer may determine the expenses allocable to the portion of the unit used for business purposes by any method that is reasonable under the circumstances. If the rooms in the dwelling unit are of approximately equal size, the taxpayer may ordinarily allocate the general expenses for the unit according to the number of rooms used for the business purpose. The taxpayer may also allocate general expenses according to the percentage of the total floor space in the unit that is used for the business purpose. Expenses which are attributable only to certain portions of the unit, *e.g.*, repairs to kitchen fixtures, shall be allocated in full to those portions of the unit. Expenses which are not related to the use of the unit for business purposes, *e.g.*, expenditures for lawn care, are not taken into account for purposes of section 280A.

(4) *Time allocation for use in providing day care services.* If the taxpayer uses a portion of a dwelling unit in providing day care services, as described in paragraph (f) of this section, and the taxpayer makes any use of that portion of the unit for non-business purposes during the taxable year, the taxpayer shall make a further allocation of the amounts determined under subparagraph (3) of this paragraph to be allocable to the portion of the unit used in providing day care services. The amounts allocated to the business use of the unit under this subparagraph shall bear the same proportion to the amounts determined under subparagraph (3) of this paragraph as the length of time that the portion of the unit is used for day care services bears to the length of time that the portion of the unit is available for all purposes. For example, if a portion of the unit is used for day care services for an average of 36 hours each week during the taxable year, the fraction to be used for making the allocation required under this subparagraph is 36/168, the ratio of the number of hours of day care use in a week to the total number of hours in a week.

(5) *Order of deductions.* Business deductions with respect to the business use of a dwelling unit are allowable in the following order and only to the following extent:

(i) The allocable portions of amounts allowable as deductions for the taxable year under chapter 1 of the Code with respect to the dwelling unit without regard to any use of the unit in trade or business, *e.g.*, mortgage interest and real estate taxes, are allowable as business deductions to the extent of the gross income derived from use of the unit.

(ii) Amounts otherwise allowable as deductions for the taxable year under chapter 1 of the Code by reason of the business use of the dwelling unit (other than those which would result in an adjustment to the basis of property) are allowable to the extent the gross income derived from use of the unit exceeds the deductions allowed or allowable under subdivision (i) of this subparagraph.

(iii) Amounts otherwise allowable as deductions for the taxable year under chapter 1 of the Code by reason of the business use of the dwelling unit which would result in an adjustment to the basis of property are allowable to the extent the gross income derived from use of the unit exceeds the deductions allowed or allowable under subdivisions (i) and (ii) of this subparagraph.

(6) *Cross reference.* For rules with respect to the deductions to be taken into account in computing adjusted gross income in the case of employees, see section 62 and the regulations prescribed thereunder.

(7) *Example.* The provisions of this subparagraph may be illustrated by the following example:

Example. A, a self-employed individual, uses an office in the home on a regular basis as a place of business for meeting with clients of A's consulting service. A makes no other use of the office during the taxable year and uses no other premises for the consulting activity. A has a special telephone line for the office and occasionally employs secretarial assistance. A also has a gardener care for the lawn around the home during the year. A determines that 10% of the general expenses for the dwelling unit are allocable to the office. On the basis of the following figures, A determines that the sum of the allowable business deductions for the use of the office is $1,050.

Gross income from consulting services	$1,900
Expense for secretary	500
Business telephone	150
Supplies	200
Total expenditures not allocable to use of unit	850
Gross income derived from use of unit	1,050
Deductions allowable under subparagraph (5) (i) of this paragraph:	
Mortgage interest (total $5,000)	[1] 500
Real estate taxes (total $2,000)	[1] 200
Amount allowable	700
Limit on further deductions	350
Deductions allowable under subparagraph (5) (ii) of this paragraph:	
Insurance (total $600)	[1] $60
Utilities, other than residential telephone (total $900)	[1] 90
Lawn care (total $500)	[1] 0
Amount allowable	150
Limit on further deductions	200
Deductions allowable under subparagraph (5)(iii) of this paragraph:	
Depreciation (total $3,200)	[1] 320
Amount allowable	200

[1] Allocable to office.

No portion of the lawn care expense is allocable to the business use of the dwelling unit. A may claim the remaining $6,300 paid for mortgage interest and real estate taxes as itemized deductions.

§ 1.280A–3 Deductability of expenses attributable to the rental of a dwelling unit used as a residence.

(a) *Scope.* This section provides rules for determining the deductibility of expenses attributable to the rental of a dwelling unit used as a residence. Note that paragraph (c) of this section applies to any dwelling unit used by the taxpayer for personal purposes on any day during the taxable year, whether or not the taxpayer is treated as using the unit as a residence. See § 1.280A–1 for the general rules under section 280A.

(b) *Short rental period.* If a dwelling unit used by the taxpayer as a residence during the taxable year is actually rented for less than 15 days during the taxable year,

(1) No deduction otherwise allowable because of the rental use shall be allowed, and

(2) The rental income shall not be included in gross income.

(c) *Allocation*—(1) *In general.* If a taxpayer uses a dwelling unit for personal purposes on any day during the taxable year, the amount deductible by reason of the rental use of the unit during the taxable year shall not exceed an amount which bears the same relationship to the total expenses paid or incurred with respect to the unit during the taxable year as the number of calendar days on which the unit is rented at fair rental during the year bears to the total number of calendar days that the unit is used for any purpose during the taxable year. For purposes of section 280A(e) and this section, the fact that a unit is deemed to be used for personal purposes on a particular day does not prevent that day from being counted as a day on which the unit is rented at fair rental. Use of a unit for repair and maintenance which is disregarded under § 1.280A–1(e)(4) shall be disregarded for purposes of this paragraph.

(2) *Portion of unit rented.* If the taxpayer rents only a portion of the dwelling unit, the rule prescribed in subparagraph (1) of this paragraph shall be applied to the expenses attributable to that portion of the unit, and the days to be taken into account shall be the days on which that portion of the unit is rented at fair rental during the taxable year and the days on which that portion of the unit is used for any purpose during the taxable year. The expenses attributable to any portion of a unit shall be determined in accordance with the rules prescribed in § 1.280A–2(i)(3).

(3) *Deductions allowable without regard to rental use.* This paragraph shall not disallow any part of those deductions with respect to a dwelling unit which are allowable without regard to the rental use of the unit.

(4) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. A, an individual, owns a cottage which A rents to vacationers at fair rental for 120 days during the taxable year. A is deemed to have made personal use of the cottage on 15 of those 120 days. The unit is used for one or more purposes (other than repair or maintenance) on 160 days during the taxable year. The amount that A may claim as rental expenses may not exceed 120/160 of the total expenses paid or incurred with respect to the unit during the taxable year. If A itemizes deductions, A may claim the remaining 40/160 of items, such as mortgage interest and taxes, which are deductible without regard to the rental use of the unit.

(d) *Limitation on deductions if taxpayer has used dwelling unit as a residence*—(1) *In general.* The deductions allowable under chapter 1 of the Code for a taxable year with respect to the rental use of a dwelling unit which the taxpayer is treated as having used as a residence during such year shall not exceed the gross rental income from the unit for such year. See section 280A(d)(3) and § 1.280A–1(e)(2) for special rules affecting the determination whether the taxpayer has used a unit as a residence if any day during the taxable year is part of a "qualified rental period."

(2) *Gross rental income.* For purposes of section 280A and this section gross rental income from a unit equals the gross receipts from rental of the unit reduced by expenditures to obtain tenants for the unit, such as realtors' fees and advertising expense. The gross rental income from a unit for a taxable year includes rental income for periods during which the unit is rented at less than a fair rental as well as rental income for periods during which the unit is rented at fair rental.

(3) *Order of deductions.* Deductions with respect to the rental use of a dwelling unit are allowable in the following order and only to the following extent:

V 45 / 154 AG 7 80 UMI

(i) The allocable portions of amounts otherwise allowable as deductions for the taxable year under chapter 1 of the Code with respect to the dwelling unit without regard to the rental use of the unit, *e.g.*, mortgage interest and real estate taxes, are deductible as rental expenses to the extent of the gross rental income from the unit.

(ii) The allocable portions of amounts otherwise allowable as deductions for the taxable year under chapter 1 of the Code by reason of the rental use of the dwelling unit (other than those which would result in an adjustment to the basis of property) are allowable to the extent the gross rental income exceeds the deductions allowed or allowable under subdivision (i) of this subparagraph.

(iii) The allocable portions of amounts otherwise allowable as deductions for the taxable year under chapter 1 of the Code by reason of the rental use of the dwelling unit which would result in an adjustment to the basis of property are allowable to the extent the gross rental income exceeds the deductions allowed or allowable under subdivisions (i) and (ii) of this subparagraph.

For purposes of this subparagraph, the portion of any item which is allocable to the rental use of a unit during a taxable year shall be that amount which bears the same relationship to the total amount of the item as the number of days on which the unit is rented at a fair rental during the taxable year bears to the number of days on which the unit is used for any purpose (other than repair or maintenance) during the taxable year.

(4) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. B owns a lakeside home which B rents at a fair rental for 90 days during the taxable year. B uses the home for personal purposes on 20 other days during the taxable year and also rents it to a friend at a discount for 10 days. Thus, the home is used for some purpose (other than repair or maintenance) on 120 days during the taxable year, and the rental allocation fraction may not exceed 90/120. On the basis of the following figures, B determines that the sum of the rental expenses for the home for the taxable year that are deductible under subparagraph (3) of this paragraph is $2,200. The advertising expense and the realtor's fee are also deductible.

Gross receipts from rental:	
90 days at $25 per day	$2,250
10 days at $15 per day	150
Total	2,400
Computation of gross rental income:	
Gross receipts from rental	2,400
Less: Advertising and realtor's fee	200
Gross rental income	2,200

	Total	Allocable to rental
Deductions allowable under subparagraph (3)(i) of this paragraph:		
Mortgage interest	$1,000	$750
Real estate taxes	800	600
Amount allowable		1,350
Limit on further deductions		950
Deductions allowable under subparagraph (3)(ii) of this paragraph:		
Insurance	400	300
Utilities	600	450
Amount allowable		750
Limit on further deductions		100
Deductions allowable under subparagraph (3)(iii) of this paragraph:		
Depreciation	1,500	1,125
Amount allowable		100

NOTE.—If B itemizes deductions, B may claim the other $250 in mortgage interest and the other $200 in real estate taxes as itemized deductions.

(e) *Application of the provisions of § 1.280A–1 and this section to rental pools*—(1) *In general.* In the case of a dwelling unit which is entered in a rental pool, as defined in subparagraph (2) of this paragraph, during the taxable year, the provisions of § 1.280A–1 and this section shall be applied in accordance with this paragraph.

(2) *Rental pool.* For purposes of this section, the term "rental pool" means any arrangement whereby two or more dwelling units are made available for rental and those persons with interests in the units agree to share at least a substantial part of the rental income from the units without regard to the actual use of the various units. The fact that those persons with interests in a particular unit are entitled to an occupancy fee or other payment for the actual use of the unit does not prevent the arrangement from constituting a rental pool if the percentage of the rental income in which the participants in the arrangement share is substantial.

(3) *Gross rental income of participants.* Participants in a rental pool shall include in gross rental income all amounts received or accrued by reason of participation in the rental pool (including payments such as occupancy fees) except amounts which are clearly not rental income, *e.g.*, interest earned on deposits held in escrow on behalf of the rental pool participants. Thus, a taxpayer who participates in a rental pool may have gross rental income although the unit in which the taxpayer has an interest is not actually rented during the taxable year.

(4) *Determination of use.* For purposes of § 1.280A–1(d)(1) and paragraph (c) of this section, the number of days on which the unit is rented at fair rental and the number of days on which the unit is used for any purpose shall be determined by reference to the actual use of the unit. Availability for rental through the rental pool does not constitute rental at a fair rental or use of the unit for any other purpose. If the taxpayer's unit is actually rented at a fair rental on any day during the taxpayer's participation in the rental pool, the taxpayer may count that day as a day on which the unit is rented at a fair rental although the taxpayer receives only a portion of the rental paid.

(5) *Reciprocal arrangements.* If the rental pool agreement provides that a participant whose unit is rented on a given day may make use of another unit in the pool on that day, a taxpayer who has an interest in a unit so used by another participant shall be deemed to have used the unit for personal purposes on any day on which another participant uses the unit under that provision of the agreement.

(f) *Application of the rules of § 1.280A–1 and this section to time sharing arrangement*—(1) *In general.* In the case of a dwelling unit which is used during the taxable year under a time sharing arrangement, as defined in subparagraph (2) of this paragraph, the provisions of § 1.280A–1 and this section shall be applied in accordance with this paragraph.

(2) *Time sharing arrangement.* For purposes of this section, the term "time sharing arrangement" means any arrangement whereby two or more persons with interests in a dwelling unit agree to exercise control over the unit for different periods during the taxable year. For example, an arrangement under which each of twelve persons with interests in a unit is entitled to exercise control over the unit for one month during the taxable year is a time sharing arrangement. Whether all twelve persons have undivided interests in the unit for the entire year or each has the sole interest in the unit for a single month during the year is immaterial.

(3) *Use for personal purposes.* For purposes of § 1.280A–1 (d) and (e), each of the persons with an interest in the unit subject to the time sharing arrangements shall be considered to have a continuing interest in the unit regardless of the terms of the interest under local law.

(4) *Short rental period.* The provisions of paragraph (b) of this section shall be applied on the basis of the number of days that the unit is actually rented during the entire taxable year.

(5) *Allocation rule.* The provisions of paragraph (c) of this section shall apply if any person with an interest in the unit is deemed to use the unit for personal purposes on any day during the taxable year. The provisions of paragraph (c) of this section shall be applied on the basis of the taxpayer's expenses for the unit, the number of days during the taxable year that the unit is rented at a fair rental, and the number of days during the taxable year that the unit is used for any purpose.

(6) *Limitation on deductions.* The provisions of paragraph (d) of this section shall be applied on the basis of the taxpayer's rental income and expenses with respect to the unit.

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 80-23877 Filed 8-6-80; 8:45 am]
BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 70, 240, 245, 250, 270, and 275

[Notice No. 346; RE: Notice Nos. 341 and 342]

Electronic Fund Transfer and Return and Deferral Periods for Certain Alcohol and Tobacco Products Excise Tax Payments and Other Provisions; Extension of Comment Periods

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rules; extension of comment periods.

SUMMARY: This notice extends the comment priod for Notice No. 341 (45 FR 38258, June 6, 1980) and for Notice No. 342 (45 FR 38271, June 6, 1980). ATF published for comment proposed regulations that (1) would require large alcohol and tobacco products excise taxpayers to pay their excise taxes by electronic fund transfer (Notice No. 341) and that (2) would change for large manufacturers of tobacco products the return period from a semimonthly to a weekly tax return period and the deferral period from the last day of the next succeeding return period to no later than three business days succeeding the last day of the proposed weekly return period (Notice No. 342).

According to Notice Nos. 341 and 342, the comment period is to end August 5, 1980. The comment period on both notices are being extended an additional 30 days since several large taxpayers of tobacco products requested an extension of time to comment on both notices.

DATE: Comments must be received on or before September 8, 1980.

ADDRESS: Send comments on Notice Nos. 341 and 342 separately to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044.

Notice.—AFT will not recognize any material in comments designated as confidential or as not to be disclosed; any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments; the name of any commenter is not exempt from disclosure.

FOR FURTHER INFORMATION CONTACT:
A. N. Stickney or James A. Hunt at 202–566–7626.

Authority: This notice is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: August 5, 1980.
G. R. Dickerson,
Director.

[FR Doc. 80-23839 Filed 8-5-80; 2:48 pm]
BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Disclosure of Comments Received From Federal Agencies on Tennessee Proposed Permanent Program Submitted Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Tennessee Program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve a permanent State regulatory program submitted under Section 503(a) of the Surface Mining and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies on the Tennessee State Program, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Administrative Record Room, Office of Surface Mining Reclamation and Enforcement, Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902.

Tennessee Department of Conservation, Division of Surface Mining and Reclamation, 1720 West End Avenue, Nashville, Tennessee 37203.

Tennessee Department of Conservation, Division of Surface Mining and Reclamation, 618 Church Avenue, S.W., Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT:

John T. Davis, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 637–8060; or

Carl C. Close, Assistant Director, State & Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Tennessee permanent regulatory program submitted by Tennessee for his review on February 28, 1980. See 45 FR 15578–15580 (March 11, 1980), 45 FR 28369 (April 29, 1980), and 45 FR 41979–41981 (June 23, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Tennessee program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of the Department of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Tennessee Program:

Tennessee Valley Authority
Advisory Council on Historic Preservation
Department of Labor:
  Mine Safety and Health Administration
Ohio River Basin Commission
Appalachian Regional Commission
U.S. Army Corps of Engineers
Department of Agriculture:
  U.S. Forest Service
  Soil Conservation Service
Water Resources Council
Department of Energy
U.S. Environmental Protection Agency
Department of the Interior:
  Bureau of Indian Affairs
  Bureau of Land Management
  Heritage Conservation & Recreation Service
  U.S. Geological Survey
  Bureau of Mines
  U.S. Fish & Wildlife Service
  National Park Service

Of those agencies invited to comment, OSM received comments from the following offices:

U.S. Forest Service

V 45 / 154 AG 7 80 UMI

Heritage Conservation and Recreation Service
Bureau of Mines
Mine Safety and Health Administration
U.S. Army Corps of Engineers
Tennessee Valley Authority
U.S. Fish and Wildlife Service
Department of Energy
Bureau of Land Management
Appalachian Regional Commission
Soil Conservation Service

Dated: July 31, 1980.

Carl C. Close,

Assistant Director, State & Federal Programs.

[FR Doc. 80-23673 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-05-M

---

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Kansas State Permanent Program Submitted Under Pub. L. 95-87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Kansas program.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing receipt and availability for public review of agency comments on the Kansas State Program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106, Telephone (816) 374-5056.
Mined Land Office, 107 West 11th Street, Pittsburg, Kansas.
Kansas Corporation Commission, Legal Office, 4th Floor, State Office Building, 915 Harrison, Topeka, Kansas.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone (816) 374-3920.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the permanent regulatory program submitted by Kansas for his review on February 26, 1980. See the March 4, 1980, **Federal Register** (45 FR 14152-14153); April 18, 1980, **Federal Register** (45 FR 26368); and the June 16, 1980, **Federal Register** (45 FR 40619-40621). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Kansas program may not be approved until the Secretary has solicited and publicly disclosed the views of the administrator of the Environmental Protection agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Kansas program:

Department of Agriculture
State Land Use Committee
SEA-Extension
Farmers Home Administration
Agricultural Stabilization and Conservation Service
SEA-Agricultural Research
Soil Conservation Service
Forest Service
SEA-Cooperative Research
Advisory Council on Historic Preservation
Department of Labor
Mine Safety & Health Administration
U.S. Enviornmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Heritage Conservation & Recreation Service
Water & Power Services
Fish & Wildlife Service
National Park Service
Geological Survey
U.S. Dept. of the Army Corps of Engineers
Missouri River Basin Commission
Council on Environmental Quality

Of these agencies invited to comment, OSM recieved comments from the following offices:

Advisory Council on Historic Preservation
U.S. Dept. of the Army Corps of Engineers
Soil Conservation Service
Fish and Wildlife Service
Heritage Conservation and Recreation Service
Bureau of Mines
National Park Service
Mine Safety and Health Administration
Geological Survey
Department of Energy

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: July 31, 1980.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 80-23674 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-05-M

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: A final rule incorporating the modification of 30 CFR § 250.34 required to conform to the Outer Continental Shelf (OCS) Lands Act Amendments of 1978, 92 Stat. 629 (herein referred to as the "Act"), was published September 14, 1978 (44 FR 53685). This proposed revision would amend 30 CFR § 250.34, exploration, development, and production plans, to provide for the submission of a plan of operations for leases in the western Gulf of Mexico in lieu of the current requirement for the submission of a development and production plan. Interested persons are invited to submit written comments and recommendations on the proposed regulation.

DATE: Written comments and recommendations must be submitted on or before September 8, 1980.

ADDRESS: Comments and recommendations should identify the subject matter and be directed to the Deputy Division Chief, Offshore Minerals Regulation, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Conservation Division. U.S. Geological Survey, National Center, Mail stop 640 Reston, Virginia 22092, (703) 860-7531.

AUTHOR: Richard B. Krahl, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, (703) 860-7531.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of final rule on September 14, 1978 (44 FR 53685), a number of parties petitioned the Secretary of the Interior requesting a review and revision of the requirements of 30 CFR § 250.34. Under the current requirements of § 250.34-2, development and production plans are required of all lessees in all OCS areas including the Gulf of Mexico. There are special provisions permitting the submission of less detailed information with respect to development and production plans covering activities in the western Gulf of Mexico. Under the proposed rule, a plan of operations would be submitted for development and production activities on leases in the western Gulf of Mexico. The plan of operations would contain all

the information needed for the determinations required to assure that the proposed activities described in the plan are adequate from the standpoint of safety, protection of the environment, and prompt and efficient development and production. Moreover, a plan of operations would constitute an "OCS Plan" within the meaning of 15 CFR § 930.73(a) and together with the related Environmental Report (Development and Production) would provide the data and information necessary to determine the consistency of proposed Federal license and permit activities described in detail in "OCS plans." 15 CFR § 930.77(a). 44 FR 37142. While the receipt of a plan of operations need not be published in the **Federal Register**, a plan of operations for a lease or leases in the western Gulf of Mexico would be accompanied by an Environmental Report (Development and Production) when the activities in the plan affect the land or water use of an affected State, such as Alabama, which has a coastal zone management program approved under the Coastal Zone Management Act. The proposed modification should reduce the chances for inadvertent delays in the Conservation Division's review and and decisionmaking process while assuring that those Gulf of Mexico coastal States with coastal zone management programs approved under the Coastal Zone Management Act are provided adequate information on which to make the required coastal zone consistency concurrence determination.

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that this proposed revision of the provisions of 30 CFR § 250.34 is not a major Federal action significantly affecting the quality of the human environment, and, therefore, preparation of an Environmental Impact Statement is not required. The Department has also determined that this proposed rule is not a significant regulatory action and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: August 1, 1980.

Charles P. Eddy,

Acting Assistant Secretary—Energy and Minerals.

It is proposed to amend the provisions of 30 CFR § 250.34 as follows:

§ 250.34-2 [Amended]

1. Revise the first sentence of § 250.34-2(a)(1) to read:

(a)(1) No development or production activities may be commenced or conducted on any leased area, except in accordance with a development and production plan or a plan of operations approved by the Director. * * *

2. Revise the portion of the fourth sentence of § 250.34-2(a)(1) which precedes the colon to read:

(a)(1) * * *

* * * A development and production plan, or in the western Gulf of Mexico a plan of operations, shall include: * * *

3. Revise § 250.34-2(a)(2) to read:

(a)(1) * * *

(2) For leases in the western Gulf of Mexico, a plan of operations may be submitted in lieu of a development and production plan. The Director may limit the information that will be required to be included in a plan of operations to those parts of paragraph (a)(l)(i) through (viii) that are necessary to assure conformance with the Act; other laws, including § 307 of the Coastal Zone Management Act; applicable regulations; and lease provisions. In determining the information to be included in a plan, the Director shall consider current and expected operating conditions together with experience gained during past operations of a similar nature in the area of proposed activities.

4. Revise § 250.34-2(a)(4) to read:

(a) * * *

* * * * *

(4) The Director may require the lessees of tracts on which oil or gas, or both, have been discovered in paying quantities and which are adjacent to or nearby the area covered in a development and production plan or a plan of operations to submit a preliminary description of their plans for development and production from those leases which are on adjacent or nearby areas.

5. Revise the first sentence of § 250.34-2(a)(5) to read:

(a) * * *

* * * * *

(5) The lessee shall indicate which portions of a development and production plan, or a plan of operations for a lease in the western Gulf of Mexico, the lessee believes are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and the implementing regulations (43 CFR Part 2). * * *

6. Revise the portion of § 250.34-2(a)(6) preceding the colon to read:

(a) * * *

* * * * *

(6) A development and production plan or a plan of operations shall not be deemed submitted until: * * *

7. Revise § 250.34-2(b)(2) to read:

(b) * * *

* * * * *

(2) The Governor of an affected State adjacent to the western Gulf of Mexico that does not have a coastal zone management program approved pursuant to § 306 of the Coastal Zone Management Act may receive copies of plans of operation and development and production plans by submitting to the Director a written request for the documents. The Director shall notify the appropriate lessees immediately upon receipt of such a request. The Governor of Florida will receive copies of plans under the provisions of paragraph (b)(1) of this section.

8. Revise § 250.34-2(c)(3)(i) to read:

(c) * * *

* * * * *

(3)(i) When it is determined that the activities proposed in a development and production plan or in a plan of operations will affect any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to § 306 of the Coastal Zone Management Act, the plan will be processed in accordance with the regulations in this section and the regulations governing Federal Coastal Zone Management Consistency Procedures (15 CFR Part 930).

9. Revise § 250.34-2(d) to read:

* * * * *

(d) The Director shall review the environmental impacts of the activities described in a development and production plan or in a plan of operations pursuant to the provisions of § 250.34-4.

10. Revise the first part of § 250.34-2(e)(1) to read:

* * * * *

(e)(1) If the Director determines, subject to the provisions of § 120(2)(C) of the National Environmental Policy Act, that approval of a development and production plan or a plan of operations is a major Federal action * * *

11. Revise § 250.34-2(e)(2) to read:

(e)(1) * * *

(2) Prior to or immediately after a determination by the Director that approval of a development and production plan or a plan of operations requires that the procedures under the National Environmental Policy Act shall commence, the Director may require lessees of tracts in the vicinity, for which development and production plans or plans of operations have not been approved, to submit preliminary or final plans for their leases.

12. Revise the first part of § 250.34-2(e)(3) to read:

(e) * * *

(3) A determination by the Director that approval of a development and

production plan or a plan of operations requires commencement * * *

13. Revise the first part of § 250.34–2(f) to read:

* * * * * *

(f) After reviewing the record of any public hearing held with respect to the approval of a development and production plan or a plan of operations for which an * * *

14. Revise the first part of § 250.34–2(g)(1) to read:

* * * * * *

(g)(1) In the evaluation of a development and production plan or a plan of operations, the Director shall consider * * *

15. Revise § 250.34–2(g)(3) to read:

(g) * * *

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a plan of operations or a development and production plan or for requiring modification of a plan and the conditions which must be met for plan approval.

16. Revise § 250.34–2(h) to read:

* * * * * *

(h) The lessee may submit either a development and production plan or a plan of operations, as modified, to the Director. Within 60 days following the 60-day comment period provided for in § 250.34–2(c)(1), the Director shall approve or disapprove a modified development and production plan based upon the criteria in subparagraphs (g)(1)(i) through (vi) of this section.

17. Revise the first part of § 250.34–2(i)(1) to read:

* * * * * *

(i)(1) If a development and production plan or a plan of operations is disapproved for the sole reason * * *

18. Revise the first part of § 250.34–2(i)(2) to read:

(i)(1) * * *

(2) If a development and production plan or a plan of operations is disapproved because a State * * *

19. Revise § 250.34–2(j) to read:

* * * * * *

(j) A modified development and production plan or a plan of operations which has been disapproved pursuant to subsection (h) of this section may be revised in the same manner as, and with the same information required for, a new plan.

20. Revise the first sentence of § 250.34–2(l)(1) to read:

* * * * * *

(l)(1) The Director shall periodically review the activities being conducted under an approved development and production plan or under an approved plan of operations.

21. Revise the first sentence of § 250.34–2(l)(2) to read:

(l)(1) * * *

(2) Proposals to revise an approved development and production plan or to revise an approved plan of operations, whether initiated by the lessee or ordered by the Director, shall be submitted to the Director for approval in the same manner as, and with the same information required for, a new plan.

22. Revise the first part of § 250.34–2(l)(3) to read:

(l) * * *

* * * * * *

(3) When any revision to an approved development and production plan or to an approved plan of operations is proposed by the lessee, * * *

23. Revise the first sentence of § 250.34–2(n) to read:

* * * * * *

(n) In order to ensure that activities to be carried out under a proposed development production plan or an proposed plan of operations or activities which are being carried out under an approved plan, are carried out in a safe and environmentally acceptable manner. The Director may authorize or direct the lessee to conduct geological, geophysical, or other surveys that the Director determines are necessary for the evaluation of such activities.

24. Revise the last sentence of § 250.34–2(o) to read:

* * * * * *

(o) * * * Permit activities must conform to the activities described in detail in the related approved development and production plan or the related approved plan of operations, and shall not be subject to a separate State coastal zone consistency review.

25. Revise the last sentence of § 250.34–2(p) to read:

* * * * * *

(p) * * * In such situations, the Director may approve or require departures from an approved development and production plan or from an approved plan of operations.

§ 250.34–3 [Amended]

1. Revise the first sentence of § 250.34–3(b) to read:

* * * * * *

(b) At the same time a lessee submits a development and production plan or a plan of operations to the Director, an Environmental Report (Development/Production) shall be submitted, except as provided for in § 250.34–2(a)(3)(ii).

* * *

2. Revise the portion of § 250.34–3(b)(1) which precedes the colon to read:

* * * * * *

(b)(1) To the extent that information is not contained in the related development and production plan or plan of operations, the environmental report shall contain: * * *

§ 250.34–4 [Amended]

1. Revise the first part of the first sentence of § 250.34–4(a) to read:

(a) Prior to approval of an exploration plan, a development and production plan, or a plan of operations, or approval of significant revisions to an approved exploration plan, development and production plan, or plan of operations, the Director shall * * *

[FR Doc. 80-23818 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701

Definition of Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of extension of comment period on proposed rulemaking.

SUMMARY: On June 24, 1980, the Office of Surface Mining Reclamation and Enforcement (OSM) proposed rules to amend the definitions of "surface coal mining operations" and "coal processing plants." 45 FR 42333. Comments on these proposed rules were solicited until July 24, 1980 and a public hearing was held on July 16, 1980. Several persons requested an extension of the comment period on these rules. Because these rules will be applicable during the interim regulatory program, which program is expected to expire early next year, OSM is concerned about any extension of the comment period that might delay the final adoption of these rules. On the other hand, OSM wishes to provide all interested persons with an adequate opportunity to submit comments.

DATE: Accordingly, OSM has decided to extend the comment period until August 18, 1980. Comments received after 5:00 p.m. EST on that date will not be considered.

ADDRESSES: Written comments should be addressed to: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044 or may be hand-delivered to Office of Surface Mining Reclamation and Enforcement, Room 153, U.S. Department of the Interior, South Building, Washington, D.C. 20240, where all comments will be available for public inspection. In addition, representatives of OSM will be available to meet with interested persons upon request before the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, (202) 343–8061 or Mark Squillace, Office of the solicitor, U.S. Department of the Interior, (202) 343–4671.

Dated: August 1, 1980.

Charles P. Eddy,

Acting Assistant Secretary, Energy and Minerals.

[FR Doc. 80-23875 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 408

[FRL 1564–2]

Canned and Preserved Seafood Processing Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and request for public comment on petitions to modify regulations.

SUMMARY: This notice announces the availability of, and invites public comment on a Petition for Modification and a Supplemental Petition for Modification of the BPT effluent limitations guidelines for certain subcategories of the Canned and Preserved Seafood Processing Point Source Category. The Petitions, submitted by a portion of the Alaskan seafood industry, request that the regulations cited below be modified to delete Anchorage, Cordova, Juneau, Ketchikan, and Petersburg from the "non-remote" Alaska subcategories. The practical effect of this modification would be to change the wastewater control technology from screening and solids handling to grinding for plants located in these areas.

DATE: Comments must be received on or before September 8, 1980.

ADDRESS: Send comments to: Mr. Gary S. Kasaoka, Effluent Guidelines Division, U.S. Environmental Protection Agency, 401 M Street, S.W., Room 925, WSME (WH–552), Washington, D.C. 20460, Attention: Seafood Effluent Guidelines Modification.

The Petition for Modification, the Supplemental Petition for Modification, and all supporting information including appendices to these Petitions will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM–213 (EPA Library), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; U.S. Environmental Protection Agency, Region X, Regional Library, 1200 Sixth Avenue, Seattle, Washington, 90101; and Alaska Operations Office, U.S. Environmental Protection Agency, Room E535, 701 C Street, Box 19, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: Gary S. Kasaoka, Effluent Guidelines Division, 401 M Street, SW., Room 925, WSME (WH–552), Washington, D.C. 20460 (202) 426–2707.

SUPPLEMENTARY INFORMATION: On May 7, 1980, a portion of the Alaskan seafood industry submitted a Petition for Suspension and a Preliminary Petition for Modification of EPA's effluent limitations guidelines based on the Best Practicable Control Technology Currently Available (BPT) for certain subcategories of the Canned and Preserved Seafood Processing Point Source Category, 40 CFR Part 408. These had been promulgated under the Clean Water Act (33 U.S.C. 1251, *et seq.*) ("the Act). The Petition for Suspension requested that the applicability of BPT effluent limitations guidelines regulations be suspended for the 1980 salmon processing season (May 15 through October 15) for facilities located in the following cities originally classified as "non-remote" by EPA: Anchorage, Cordova, Juneau, Ketchikan, and Petersburg. The current regulations for the Alaska seafood processing subcategories divide the State of Alaska into two classifications—"remote" and "non-remote." BPT regulations for "remote" areas are based upon grinding technology. BPT regulations for "non-remote" areas are based upon screening and solids handling technology. Thus, the practical effect of this temporary suspension is to designate grinding as BPT for facilities at these "non-remote" locations, rather than screening and solids handling technology. EPA granted the Petition to Suspend the applicability of the BPT "non-remote" regulations to facilities located in Anchorage, Cordova, Juneau, Ketchikan, and Petersburg for the 1980 salmon processing season. A notice of Suspension of the Regulations was published in the May 19, 1980 Federal Register (45 FR 32676).

The petitioners filed a Supplemental Petition for Modification dated June 16, 1980 in accordance with the schedule set forth in the May 19, 1980 Notice. The schedule requires that EPA review the Petition for Modification and the Supplemental Petition for Modification and make any request for clarification or additional data by July 16, 1980. Any additional submissions in response to such requests must be made by the petitioners by August 15, 1980. EPA will either grant or deny the petition by October 15, 1980, the date on which the temporary suspension of the regulations expires.

The petitioners maintain that "the costs of screening are wholly out of proportion to the effluent reduction benefits achieved and that other factors indicate that screening is not a practicable technology." Sections of the Petitions examine the costs of screening and barging and the lack of Alaskan waste disposal alternatives to barging, such as landfills, municipal sewage treatment facilities, and reduction (fish meal) facilities. The petitioners claim that screening in Alaska, other than in Kodiak, achieves no effluent reduction benefits. The petitioners also claim that the following factors were not properly considered by the Administrator in setting BPT and are appropriate for consideration: (1) The significant energy requirements of screening and barging; (2) the potential for violating the Sanitation Standards of the U.S. Food and Drug Administration (20 CFR Part 110) if wastes are stored near the processing plant; and (3) the fact that the increased costs of screening will frustrate the purposes of the Fisheries Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*). Published as an Appendix to this Federal Register Notice are the Petition for Modification

and Supplemental Petition for Modification. Appendices to these Petitions and other supporting data are available for inspection at the addresses listed above.

The Agency hereby solicits comments on the Petitions. EPA will review the Petitions for Modification and any comments received. Notice of EPA's final action will be published in the **Federal Register.** Anyone who wishes to comment on the Petitions and proposed modification of the regulations must do so on or before September 8, 1980.

Dated: July 31, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Petition For Modification

I. Introduction

In Re Effluent Guidelines Regulations for Alaskan Subcategories of the Canned and Preserved Seafood Processing Point Source Category (40 CFR Part 408).

Petitioners Pacific Seafood Processors Association, Morpac, Inc., Nefco-Fidalgo Packing Company, North Pacific Processors, E. C. Phillips and Son, Inc., Washington Fish & Oyster Company and Whitney-Fidalgo Seafoods, hereby request reconsideration and modification by The Environmental Protection Agency ("EPA") of the 1977, effluent guidelines for certain subcategories of the Canned and Preserved Seafood Processing Point Source Category, which were promulgated under the Clean Water Act (33 U.S.C. 466, *et seq.*) ("the Act").[1]

Specifically, petitioners seek to modify the following subcategory regulations:

40 CFR 408.40 (Subpart D); 40 CFR 408.60 (Subpart F); 40 CFR 408.90 (Subpart I); 40 CFR 408.162 and 408.165 (Subpart P); 40 CFR 408.172 and 408.175 (Subpart Q); 40 CFR 408.202 and 40 CFR 408.205 (Subpart T); 40 CFR 408.292 and 40 CFR 408.295 (Subpart AC); and 40 CFR 408.312 and 408.315 (Subpart AE).[2]

In summary, petitioners' request is that the regulations be modified to delete Anchorage, Cordova, Juneau, Ketchikan and Petersburg from the non-remote Alaska subcategories. The effect of this modification, under the current regulations, would be to designate grinding as the best practicable control technology currently available ("BPT") for facilities at those locations, rather than the current screening technology.

II. Background

The Administrator, pursuant to the Act, published the effluent limitations for the seafood processing category in two parts. The first, referred to as Phase I, was published on June 26, 1974. These regulations covered, in part, the Alaska crab subcategories and the Alaska shrimp subcategories. On December 1, 1975 the Phase II regulations were published covering, in part, the Alaska salmon, Alaska bottom fish, Alaska scallop and Alaska herring subcategories.

The regulations prescribe as BPT grinding of solids at most locations in Alaska (designated as remote locations) and screening at certain other locations in Alaska (designated as non-remote locations).

The discharge which is the subject of the regulations is effluent from seafood processing plants, which includes only the residuals of the seafood that are not utilized in the processing operation. Nothing is added during the processing of the seafood. The effluent enters the food chain at a high level as a food source for birds (such as gulls and terns), fish (such as flounders, sea trout and the like) and crab.

III. The Legal Basis for the Request

This petition for modification is a petition for rulemaking under the Administrative Procedure Act (5 U.S.C. 553(e)). Although EPA has not promulgated regulations specifically governing such petitions, the courts have recognized this mechanism for modifying EPA regulations. Two early cases under the Clean Air Act held that the appropriate procedure to seek a modification of EPA regulations is to petition the agency. *Union Electric Company* v. *EPA,* 515 F.2d 206 (8th Cir. 1975), *aff'd,* 427 U.S. 246 (1976), *reh. denied* 429 U.S. 873 (1977) and *Oljato Chapter of Navajo Tribe* v. *Train,* 515 F. 2d 654 (D.C. Cir. 1975). The relevant judicial review section of the Clean Water Act, Section 509(b)(1), is analogous to the review provision of the Clean Air Act, Section 307(b)(1). Similarly, the Ninth Circuit Court of Appeals, in a recent opinion on certain regulations at issue in this proceeding, stated:

"The Act provides for annual revision of guidelines for effluent limitations—such as the challenged regulations—promulgated under Section 304, 33 U.S.C. Section 1314. Section 304(b), 33 U.S.C. Section 1314(b) * * * In an appropriate case, moreover, a petition for reconsideration may be filed with the EPA to consider whether evidence such as that offered by petitioners requires the agency to review its original actions (citation). Thus, there are mechanisms for the agency to consider evidence developed after promulgation of the 1977 regulations."

Association of Pacific Fisheries v. *Environmental Protection Agency,* No. 75–2007, slip op. at 23 (9th Cir. February 4, 1980).

IV. The Environmental Protection Agency Should Modify the Regulations at Issue Because Screening is not BPT for Areas in Alaska, except Kodiak.

The current regulations for the Alaska seafood processing subcategories divide the State of Alaska into two classifications—remote and non-remote. BPT for remote areas is grinding. BPT for the non-remote areas is screening. This petition seeks the reclassification of a number of areas from non-remote to remote, limiting the area where screening is BPT. The petition is based on the fact that screening in Alaska locations, with exception of Kodiak, does not meet the statutory criteria for BPT.

A. *The Costs of Screening in Alaska Are Wholly Out of Proportion to the Effluent Reduction Benefits Achieved.* Section 304 of the Act sets forth the factors the Administrator must consider in establishing BPT. Among those factors is:

"* * * the total cost of application of technology in relation to the effluent reduction benefits to be achieved by such application."

Section 304(b)(1)(B). The Congress, in explaining the cost-benefit factor, stated:

"The balancing test between total cost and effluent reduction benefit is intended to limit the application of technology only where the additional degree of effluent reduction is wholly out of proportion to the cost of achieving such marginal level of reduction for any class or category of sources."

Congressional Research Service, A Legislative History of the Water Pollution Control Act Amendments of 1972, at 170 (1973).

1. *EPA's cost determinations for screening are significantly understated.* In 1975, as part of the determination of BPT, EPA determined the cost of installation of screening with the attendant of barging required for disposal.[3] Recently, EPA, as part of its re-evaluation of best available technology economically achievable, commissioned its contractor to update these cost estimates.[4] As the chart below illustrates, EPA's costs are significantly understated.

CAPITAL COSTS [5]

	EPA 1975 [6]	EPA 1979 [7]	Industry 1980 [8]
Screening and storage	$84,000	$196,000	$166,500
In plant	0	220,000	220,000
Barging	62,000	25,000	475,000
Dock construction	0	0	156,000
Total	146,000	443,000	1,037,500

[5] These represent the capital costs for the Alaska Mechanized Salmon subcategory (Subpart Q).
[6] From the Development Document.
[7] From the 1979 Reassessment.
[8] This data is preliminary Cordova data. The plant costs figure is adopted from the EPA figure. The barging cost is based on a self-powered, twin engine, 65' x 24' barge. The dock construction is a small platform, 1200 sq. feet with steel pilings.

The two significant items of discrepancy are the cost of a barge and the dock construction. EPA as based its recent barge estimate on the cost of a scow provided with a plastic liner being towed by an "available power boar." [9] A plastic lined barge would not be sufficiently durable for use in Alaska. Further, plants do not have extra power boats of the size needed to tow a barge. In addition, EPA ignored the cost of dock loading facilities which is a significant capital expense in any area, but especially with the exceedingly high materials and labor costs in Alaska. The cost of the dock is based on $130 per square foot.

Petitioner submit that a result of these understated costs, EPA's assessment of the relationship between the cost of treatment and the effluent reduction benefits achieved produced an inaccurate conclusion.

2. *Screening in Alaska, other than in Kodiak, achieves no effluent reduction benefit.* It has been settled, that the "effluent reduction benefits" referenced in Section 304(b)(1)(B) are not primarily water quality benefits. *Weyerhaeuser Company v. Costle,* 590 F.2d 1011 (D.C. Cir. 1978). Effluent reduction benefit is the reduction in the pounds of waste which are discharged into the water.

It is petitioners' position that screening in Alaska, other than in Kodiak,[10] achieves no effluent reduction benefit. This position is based on the fact that the only practicable disposal method in Alaska is barging with ocean discharge. Such a screening and barging operation does not result in the removal of waste from the receiving water. In other words, the same number of pounds of seafood waste is discharged into the water whether by grinding or by screening.[11]

The development documents discuss other methods of disposing of screened seafood waste. These include landfill, reduction facilities for by-product recovery, and discharge into municipal sewer systems. These alternate methods, in fact, are utilized for the non-Alaska seafood processing subcategories in Washington, Oregon and California. However, these alternatives are not available in Alaska.

First, there are no available landfill sites in any of the presently designated non-remote Alaska locations. Because seafood waste is very watery after screening, any discharge in a landfill near the water could result in the leaching of the seafood material into the water.

Second, while there has been much discussion about reduction facilities as a method of disposing of screened seafood waste, this is not a practicable disposal method. Currently the City in Kodiak is the only year-round processing location in Alaska. Even with its 17 facilities, the reduction facility loses money each year and requires an annual subsidy from the processors. To construct a reduction facility in any other location would not only require a significant capital investment, but would result in unreasonably large deficits given the seasonal operations and the lack of processor concentration in any of these other locations.[12]

Finally, none of the municipalities in Alaska are equipped to receive seafood processing waste in their sewage treatment facilities. Discussions have been undertaken with each of the affected municipalities and each has refused to accept seafood processing waste.

In summary, the only practicable method of handling the waste collected on the screens is the barging method—and this method achieves no effluent reduction benefit because screening with barging does not reduce the pounds of waste discharged.

3. *Summary.* Based on the above information, petitioners submit that the high cost of implementing screening and barging (in excess of $1,000,000 per processing facility) satisfies the test of being "wholly out of proportion" to the effluent reduction benefits—one million dollars per plant does not remove one pound of waste.

B. *The Administrator did not consider other significant factors in establishing BPT.* In addition to the cost-benefit factor, required under the Act, Section 304(b)(1)(B) provides that in determining BPT consideration should be given to "such other factors as the Administrator deems appropriate." Petitioners suggest that the following factors were not considered by the Administrator, and are appropriate for consideration.

1. *The energy requirements of screening and barging are significant.* The State of Alaska is constantly operating under the threat of serious curtailments in petroleum products, especially diesel fuel. This fuel is required for the fishing vessels which operate throughout Alaskan waters and as the source of fuel for the generation of electricity and steam. It is important to point out that many of the plants generate their own electricity and steam.

The operation of a barge will require significant quantities of diesel fuel each day during the fishing season—at the time of peak demand. This is a significant drain on the diesel fuel resources in a particular area and also results in a significant additional daily operating cost.

2. *The Sanitation Standards of U.S. Food and Drug Administration and the State of Alaska may conflict with screening.* Both the U.S. Food and Drug Administration sets stringent standards for sanitation in a food processing facility. Because of the location of the processing facilities in Alaska—that is, either between the mountains and the water or at the end of a pier—the storage area for seafood waste must be directly adjacent to the processing facility. Seafood wastes attract a number of insects, vermin, birds and rodents. Because of their proximity to the processing plant the waste storage facilities may cause significant problems by attracting such animals into the processing facility itself. It is already a major job to keep such animals out of the plants and waste storage will serve to aggravate the problem.

3. *The increased costs from screening will frustrate the purposes of the Fisheries Conservation & Management Act of 1976.* One of the major purposes

[1] This petition presents preliminary material. Petitioners have advised EPA that they will complete this submission, with all the relevant supporting data, by June 16, 1980.
[2] The proposed modifications to each section are attached as Appendix A.

[3] See: "Development Document for Effluent Guidelines and New Source Performance Standards for the Fish Meal, Salmon, Bottom Fish, Clam, Oyster, Sardine, Scallop, Herring, and Abalone Segment of the Canned & Preserved Fish & Seafood Processing Industry Point Source Catagory." (September, 1975). ("Development Document").

[4] "Reassessment of Effluent Limitations Guidelines and New Source Performance Standards For the Canned & Preserved Seafood Point Source Category." Prepared for EPA by E. C. Jordan & Co. (December, 1979) ("1979 Reassessment").
[9] 1979 Reassessment at p. 232
[10] In the City of Kodiak, there are enough year-round processors to support a reduction facility where the screened waste can be utilized.

[11] The NPDES permits issued direct the location of the dump site. These vary from less than one mile to 2½ miles.
[12] One of the companies in Petersburg, Icicle Seafoods, owns an existing reduction facility. There is some question as to whether that facility can handle all the waste generated by all three Petersburg plants. In addition, the logistics and costs of moving waste from the Whitney-Fidalgo plant to the reduction facility makes disposal at the facility not practicable. (This subject will be discussed in greater detail in petitioners' supplemental filing.)

V 45 / 154 AG 7 80 UMI

of the Fisheries Conservation & Management Act of 1976 (16 U.S.C. 1801 *et seq.*) was to establish a preference for American processors.

Congressman John Murphy, Chairman of the House Merchant Marine and Fisheries Committee, stated in explaining the final language of the 1978 amendments to the Fisheries Conservation & Management Act that the language:

"* * * would give preference to U.S. fish processors of U.S. harvested fish* * *."

Congressional Record, H–8266, August 10, 1978. The House Report accompaning the 1978 amendments states:

"* * * Some of the species which would appear to be fully utilized by U.S. processors are salmon, king crab, halibut, surf clams, menhaden, lobster and shrimp. When processing capacity and intent is sufficient, the committee feels that foreign processing vessels should not be allowed to participate in such fisheries."

H. Rep. No. 95–1024, 95th Cong. 2d Sess. 6 (1978).

The imposition of the significant screening costs will adversely affect the ability of American processors to compete with foreign-owned floating processors which operate outside U.S. waters, and, therefore, are not required to install pollution control technology of any type. The result of this discrepancy will be to frustrate the Congressional intent of encouraging more American processing with its attendant employment base, material support and the resulting increase in export of processed fish which will help significantly to lessen this country's balance of payment deficit.

IV. Summary

Petitioners submit that screening is not BPT for Alaska, other than in the City of Kodiak, for the reasons stated in this petition. Petitioners submit that the information above shows that the costs of screening are wholly out of proportion to the effluent reduction benefits achieved and that other factors further indicate that screening is not a practicable technology. Petitioners urge the administrator to propose a modification of the regulations, as submitted by petitioners, which will reclassify a number of areas in the State of Alaska and establish a true BPT.

Dated: May 7, 1980.

Respectfully submitted,

Bogle & Gates.

Charles R. Blumenfeld,

Attorneys for Petitioners.

Supplemental Petition for Modification

In Re Effluent Guidelines Regulations for Alaskan Subcategories of the Canned and Preserved Seafood Processing Point Source Category (40 CFR Part 408).

I. Introduction

Petitioners Pacific Seafood Processors Association, Morpac, Inc., Nefco-Fidalgo Packing Company, North Pacific Processors, E. C. Phillips & Son, Inc., Washington Fish & Oyster Company and Whitney-Fidalgo Seafoods, submit this Supplemental Petition for Modification of the 1977 effluent guidelines for certain subcategories of the Canned and Preserved Seafood Processing Point Source Category, which were promulgated under the Clean Water Act (33 U.S.C. 466, *et seq.*).

This Supplemental Petition is filed in accordance with the schedule set forth in the May 19, 1980 **Federal Register** (45 FR 32676). The purpose of this Supplemental Petition and the accompanying appendices is to provide additional material and supporting documentation for petitioners' Petition for Modification ("Original Petition") filed on May 7, 1980.

As stated in the Original Petition, petitioners request that the regulations at issue [1] be modified to delete Anchorage, Cordova, Juneau, Ketchikan and Petersburg from the non-remote Alaska subcategories. The effect of this modification, under the current regulations, would be to designate grinding as the best practicable control technology currently available ("BPT") for facilities of those locations, rather than the current screening technology.

II. The Cost of Screening

Petitioners, in their Original Petition (Part IV.A.1.), set forth comparative costs for screening and barging. The information which follows supplements the material in the Original Petition. In particular, the following chart is intended to supersede the chart on page 6 of the Original Petition.

Capital Costs [2]

	EPA[3] 1975	EPA[4] 1979	Cordova[5]	Ketchikan[6]	Anchorage[7]	Juneau[8]	Petersburg (barging)[9]	Petersburg (reduction)[10]
Screening and storage	$64,000	$196,000	$257,000	$312,000	*$151,000	$277,000	*$75,000	$314,000
Barging	82,000	25,000	479,000	*485,000	[10]225,000	485,000	[10]225,000	0
Dock	0	0	164,000	172,000	135,000	90,000	0	800,000
Total	146,000	*223,000	900,000	969,000	*511,000	852,000	*300,000	1,114,000

*Corrected as of June 20, 1980.

[2] These represent the capital costs for the Mechanized salmon subcategory (Subpart Q).

[3] Source: "Development Document for Effluent Guidelines and New Source Performance Standards for the Fish Meal, Salmon, Bottom Fish, Clam, Oyster, Sardine, Scallop, Herring, and Abalone Segment of the Canned and Preserved Fish & Seafood Processing Industry Point Source Category." (September, 1975); Table 194 at p. 429.

[4] Source: "Reassessment of Effluent Limitations Guidelines and New Source Performance Standards For the Canned and Preserved Seafood Point Source Category." Prepared for EPA by E. C. Jordan & Co. (December, 1979); Table 100 at p. 252.

[5] These costs are the average costs from the three Cordova petitioners: Morpac, Inc., North Pacific Processors, and St. Elias (Washington Fish & Oyster Co.). The individual plants costs are detailed in Appendix B.

[6] These costs are the costs for petitioner Nefco-Fidalgo's facility. The other Ketchikan Petitioner, E. C. Phillips, has only a cold storage facility. Because of the minimal waste generated by cold storage facilities, its waste disposal costs are not typical. The individual costs are detailed in Appendix C.

[7] Petitioner Whitney-Fidalgo operates the only facility in Anchorage. These costs are detailed in Appendix D.

[8] Petitioner Juneau Cold Storage (Washington Fish & Oyster Co.) operates the only facility in Juneau. These costs are detailed in Appendix E.

[9] The only petitioner operating a facility is Whitney-Fidalgo. Costs are presented for both barging and transportation to the reduction facility operated by Icicle Seafoods. (See discussion in Part III.C., below). The costs are detailed in Appendix F.

[10] This barging cost is based on a non-self-propelled barge and tender. Petitioner Whitney-Fidalgo selected this method because of the lesser amount of waste generated at these two facilities.

One item deserves note—the "In-Plant" category has been deleted. In petitioners' haste to file the Original Petition, EPA's in-plant costs were included; however, these costs are not appropriate for BPT considerations. Thus, this category has been deleted.

III. Waste Disposal Alternatives, Other Than Barging, Are Not Available in Alaska

As discussed in the Original Petition (Part IV.A.2.), landfill, reduction facilities for by-product recovery, and discharge into municipal sewer systems are not available alternatives in Alaska.

A. *Landfill.* Appendix G includes correspondence from the cities of Cordova and Ketchikan discussion the unavailability of municipal landfills for

[1] The proposed modifications to each section are attached as Appendix A.

the discharge of seafood waste.[11] Petitioners initiated inquiries and the correspondence is the municipality's response.

B. *Municipal Sewage Treatment Facilities.* Appendix G includes correspondence from the cities of Cordova and Ketchikan discussion the unavailability of municipal treatment facilities for seafood processing wastes.[11] Petitioners initiated inquiries and the correspondence is the municipality's response.

C. *Reduction Facilities.* As petitioners mentioned in their Original Petition (at page 8), reduction facilities are not a feasible method of disposing of screened seafood waste. Currently, the only independent reduction facility in Alaska is operated in the City of Kodiak. All the processors located in Kodiak subsidize the reduction facility. Even though processors located in the City of Kodiak operate nearly year round, and seventeen facilities are located there, the reduction facility continues to lose money each year. The subsidy for 1980 has increased to $20.00 per ton of wet waste handled. To construct a reduction facility at any other location would not only require a significant capital investment, but would result in an unreasonably large annual operating deficit—given the seasonal nature of processing and the limited number of processors.

Petitioner Washington Fish & Oyster Company has developed capital costs for its Cordova and Juneau processing locations.[12]

An EPA contractor evaluated the profitability of reduction facilities at certain Alaska locations.[13] Among those locations which are relevant to this petition, were Cordova and Ketchikan. The contractor concluded that a reduction facility in Cordova would have a net profit of $22 per ton and, in Ketchikan, a net profit of $15 per ton. To achieve this profit figure the contractor assumed that the reduction facility would recover 25% of the raw waste material delivered.[14] However, the operators of existing reduction facilities in Alaska have experienced no more than a 20% recovery. This 20% recovery, instead of 25%, significantly decreases the profitability of a reduction facility, since the expense of operating the facility remains constant (because the volume of waste delivered is not reduced). For example, at 20% recovery the net profit in Cordova is reduced to only $5 per ton and a net *loss* of $5 per ton is created in Ketchikan.

Cordova

	25 percent recovery [15]		20 percent recovery	
	Tons	Annual gross revenue	Tons	Annual gross revenue
Fish meal	940	$360,000	752	$288,000
Fish oil	300	117,000	300	117,000
Shell fish meal	135	13,000	135	13,000
		490,000		418,000
Less: annual cost		(399,000)		(399,000)
Net profit		$91,000		$19,000
Divided by: raw tons delivered		4,136		4,136
Net profit per ton of raw material		$22.00		$4.59

Ketchikan

	25 percent recovery [16]		20 percent recovery	
	Tons	Annual gross revenue	Tons	Annual gross revenue
Fish meal	950	$360,000	760	$288,000
Fish oil	300	120,000		
			300	120,000
		480,000		408,000
Less: annual cost		(427,000)		(427,000)
Net profit/(loss)		$53,000		$(19,000)
Divided by: raw tons delivered		3,533		3,533
Net profit per ton of raw material		$15.00		$(5.38)

[15] *Id.* at p. 173. See Appendix I.

[16] *Id.* at p. 182. See Appendix I.

In addition, it is important to point out that the contractor has undersized the Cordova facility, and as a result, it would be unable to handle all the waste material generated. In an earlier study, by another EPA contractor, it was concluded that a 50-ton per day facility in Cordova would only handle 66% of the waste generated. [17] It is this 50-ton per day plant which is used by contractor E. C. Jordan Co., Inc. in its 1979 Reassessment to fix capital costs and operating expense. [18] To process 100% of the waste generated in Cordova, the facility in Cordova would have to be approximately the same size as the Ketchikan facility, used in the 1979 Reassessment, and its operating expenses would be similar to that facility, also. Therefore, the actual profitability of an adequately-sized Cordova reduction facility would result in approximately the same $5 per ton *loss* as at the Ketchikan facility.

There is an existing reduction facility in Petersburg, Alaska. This facility is owned and operated by Icicle Seafoods, a processor. Petitioners question whether that facility has enough capacity to handle waste generated in Petersburg during the peak of the season. (The peak capacity is the key, because any waste disposal system, to be viable, must be able to handle waste generated at the peak of the season.)

Petitioners also are concerned about a facility having to rely on a competitor's reduction plant for waste disposal. Such dependence could be vulnerable to anti-competitive practices. For example, if the operator of the reduction facility either refused to accept waste material from another processor, or significantly increased its price for the waste at the peak of the processing season, the dependent processor could be faced

[11] Petitioners expect to receive further correspondence on this matter. Such correspondence will be forwarded to the Agency when received. The letters in Appendix G, however, are representative of the position of each municipality involved.

[12] These costs are detailed in Appendix H.

[13] See: "Reassessment of Effluent Limitation Guidelines and New Source Performance Standards For the Canned and Preserved Seafood Point Source Category." Prepared by E. C. Jordan Co., Inc. ("1979 Reassessment"); at pp. 164–190.

[14] *Id.* at p. 169.

[17] "Draft Report Market Feasibility Study of Seafood Waste Reduction in Alaska." Prepared by Development, Planning and Research Associates, Inc. (March 1979); Table III–1 at p. III–5).

[18] 1979 Reassessment at p. 169.

V. 45 / 154 4 AG 7 80 UMI

with a choice of shutting down or violating its NPDES permit—neither is an attractive alternative.

Finally, petitioner Whitney-Fidalgo has submitted material which indicates that its cost of transporting waste material to the existing Petersburg reduction facility is significantly more costly than barging. (See: Chart on p. 3, above). The reason for this is that Whitney-Fidalgo must increase the width of its 800 foot dock so that vehicles can move the material to the shore. [19]

D. *Summary.* As stated in the Original Petition, the above information indicates that the only viable method of disposing of seafood wastes collected on screens is by barging; yet, this method achieves no reduction in the volume of effluent discharged. The same number of pounds of waste are discharged with screening and barging as with direct discharge through grinding.

IV. Consideration of Other Significant Factors in Establishing BPT

As discussed in the original Petition (Part IV.B.), there are a number of other significant factors which were not considered in establishing BPT. Among those are U.S. Food & Drug Administration regulations which set forth the current good manufacturing practice in manufacturing, processing, packing or holding human food (20 CFR Part 110). [20] Petitioners are particularly concerned about the storage of seafood waste directly adjacent to the processing plant which may constitute an attractant, breeding place, or harborage for rodents, insects and other pests.

V. Summary

Petitioners submit that screening is not BPT for Alaska, other than in the City of Kodiak, for the reasons stated in petitioners' Petition for Modification and Supplemental Petition.

Petitioners further submit that the information included in the petition demonstrates that the costs of screening are wholly out of proportion to the effluent reduction benefits achieved and that other factors further indicate that screening is not BPT.

Petitioners respectfully urge the Administrator to propose a modification of the regulations, as submitted by petitioners, which will reclassify a number of areas in the State of Alaska; thus, establishing a true BPT.

Respectfully submitted,

Bogle & Gates.

Dated: June 16, 1980.

Charles R. Blumenfeld,

Attorneys for Petitioners.

[FR Doc. 80-23809 Filed 8-6-80; 8:45 am]

BILLING CODE 6560-01-M

[19] The Whitney-Fidalgo plant is located at the end of a one-lane 800-foot dock. In order to get waste material to the reduction facility a transportation system would have to be established. This would include loading 2,000-pound bins, which can be handled at the end of the dock, with waste and carrying these bins on a forklift to the shore where larger waste bins would be constructed. The larger waste bins would be emptied into a truck for transport across Petersburg from the Whitney facility to the reduction plant. Given the volume of waste from Whitney's Petersburg facility, the logistics would be complicated inasmuch as a forklift would be traveling down the dock every five to ten minutes with a 2,000-pound bin and a truck would make 50 trips a day through the center of Petersburg. The major cost of the transportation system is the necessity to add an additional lane on the dock. A forklift traveling along the dock every five to ten minutes will tie up one lane on the dock and the existing one-lane-wide dock would not be sufficient to handle that volume of forklift traffic along with all the other traffic which presently uses the dock.

[20] See: Appendix J.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5843]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Commerce, Oakland County, Michigan, previously published at 45 FR 42699 on June 25, 1980.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Commerce, Oakland County, Michigan previously published at 45 FR 42699 on June 25, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)). The location described as, "Just downstream of Farr Road," under the Source of Flooding of Huron River should read, "Just downstream of Farr Street."

The location described as, "Just upstream of Fox Lake Dam," under the Source of Flooding of Huron River should read, "Just upstream of Fox Lake Outlet Dam."

The Source of Flooding listed as Channel from Lake Pleasant should read Carus Lake and Lake Pleasant Channel. Also under this Source of Flooding, the location described as, "About 3,000 feet downstream of Haggerty Road," should read, "About 3,000 feet downstream of Haggerty Highway," and the location described as, "Just downstream of Haggerty Road," should read, "Just downstream of Haggerty Highway."

The Source of Flooding listed as Commerce Lake should read North Commerce Lake.

The Source of Flooding, South Commerce Lake, location—Shoreline, with a corresponding elevation of 910 feet should be added.

The Source of Flooding, Fox Lake, location—Shoreline, with a corresponding elevation of 931 feet should be added. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp) Commerce, Oakland County.	Huron river	Just downstream of Farr Street	*929
			Just upstream of Fox Lake Outlet Dam	*931
		Carus Lake and Lake Pleasant Channel.	About 3,000 feet downstream of Haggerty Highway	*931
			Just downstream of Haggerty Highway	*934
		North Commerce Lake	Shoreline	*910
		South Commerce Lake	Shoreline	*910
		Fox Lake	Shoreline	*931

[National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367)

Issued: July 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-23849 filed 8-6-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5818]

National Flood Insurance Program

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Rice County, Minnesota, previously published at 45 FR 31443 on May 13, 1980.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Rice County, Minnesota previously published at 45 FR 31443 on May 13, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The Source of Flooding of Cannon Lake must be added. The location described as, "Shoreline, south of County Road 13," which originally appeared under the Source of Flooding of Cannon River should now appear under Cannon Lake. The accompanying Flood Insurance Study (profile) and Flood Insurance Rate Map were correct as printed.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Minnesota	(Uninc.), Rice County	Cannon Lake	Shoreline, south of County Road 13	*982

[National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367)

Issued: July 29, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-23848 Filed 8-6-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5873]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

V. 45 / 154 AUG 7 1980 UMI

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Caernarvon, Township, Lancaster County.	Conestoga Creek	Approximately 1,200 feet downstream of Private Lane	*418
			Private Land (upstream	*424
			State Route 23 (upstream)	*429
			Approximately 700 feet upstream of State Route 23	*430
	Maps available at the Caernarvon Township Office.			
	Send comments to Honorable Jerald Martin, Chairman of the Caernarvon Board of Supervisors, Churchtown, Narvon, Pennsylvania 17555.			
Pennsylvania	Centre, Township, Perry County....	Little Juniata Creek	Downstream Corporate Limits with Borough of Bloomfield	*654
			Private Road approximately 2,600 feet upstream of Bloomfield Corporate Limits (Downstream).	*663
			Private Road approximately 5,300 feet upstream of Bloomfield Corporate Limits (Upstream).	*676
			Point approximately 6,940 feet upstream of Bloomfield Corprate Limits	*685
	Maps available at the residence of Ms. Christina Morrow, Township Secretary, New Bloomfield, Pennsylvania.			
	Send comments to Honorable Samuel R. Wagner, Chairman of the Centre Board of Supervisors, R.D. 1, Elliottsburg, Pennsylvania 17024.			
Pennsylvania	Dupont, Borough, Luzerne County	Mill Creek	Downstream Corpoate Limits	*712
			Upstream Center Street	*720
			Downstream Main Street	*728
			Upstream Main Street	*733
			Upstream Chestnut Street	*749
			Upstream Bear Creek Road	*752
			Approximately 1,465' upstream of Bear Creek Road	*800
		Collins Creek	Downstream Chestnut Street	*742
			Downstream Walnut Street	*753
			Upstream Walnut Street	*757
			Upstream Ash Street	*774
			Downstream I-81	*799
			Upstream I-81	*826
			Downstream Pennsylvania Turnpike (Northeast Extension)	*836
			Upstream Pennsylvania Turnpike (Northeast Extension)	*853
			Approximately 320' upstream of Pennsylvania Tuxppike	*868
		Liddy Creek	Confluence of Mill Creek	*713
			Downstream Main Street	*731
			Downstream State Route 315	*734
			Upstream Walnut Street	*749
			Upstream Private Road	*820
			Downstream Pennsylvania Turnpike (Northeast Extension)	*838
	Maps available at the Municipal Building, 600 Chestnut Street, Dupont, Pennsylvania.			
	Send comments to Honorable Edward Zurek, Council President of Dupont, 411 Front Street, Dupont, Pennsylvania 18641.			
Pennsylvania	Edinboro, Borough, Erie County....	Conneauttee Creek	Upstream of Kinter Hill Road	*1,185
			Upstream of Normal Street	*1,200
			Upstream of Chestnut Street	*1,203
			Upstream Corporate Limits	*1,204
		Tributary A	Downstream Corporate Limits (First Crossing)	*1,206
			Upstream Corporate Limits (First Crossing)	*1,212
			Upstream Corporate Limits (Second Crossing)	*1,219
	Maps available at the Municipal Building, 124 Meadville Street, Edinboro, Pennsylvania.			
	Send comments to Honorable David A. Crase, Manager of Edinboro, 124 Meadville Street, Edinboro, Pennsylvania 16412.			
Pennsylvania	Ephrata, Township, Lancaster County.	Cocalico Creek	Legislative Route 36060 upstream	*309
			Middle Creek Road	*313
			Royer Road	*319
			Rettewmill Road upstream	*328
			Confluence of Indian Run	*345
			Mohlers Church Road upstream	*353
			Garden Spot Road upstream	*357
		Indian Run	Confluence with Cocalico Creek	*345
			Approximately 850 feet upstream of Trout Run Road	*348
	Maps available at the Ephrata Township Building.			
	Send comments to Honorable Robert D. Staller, Secretary of the Township of Ephrata, R.D. 4, Ephrata, Pennsylvania 17522.			
Pennsylvania	Greenwood, Township, Perry County.	Juniata River	Downstream Corporate Limits	*399
			Extension of Legislative Route 50001	*404
			Corporate Limits downstream of Millerstown	*408
			Corporate Limits upstream of Millerstown	*409
		Cocolamus Creek	Approximately 2,200 feet downstream of the confluence of Pioutz Valley Run.	*432
			Upstream State Route 17	*440
			Upstream side of Legislative Route 50042	*470
			Upstream Corporate Limits	*475
	Maps available at the Office of Mr. W. N. Zelders, Township Secretary, R.D. 1, Millerstown, Pennsylvania.			
	Send comments to Honorable Kenneth Bonsall, Chairman of the Greenwood Board of Supervisors, R.D. 1, Box 278, Millerstown, Pennsylvania 17062.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Heidelberg, Borough, Allegheny County.	Chartiers Creek	Downstream Corporate Limits	*780
			Walnut Street (Extended)	*782
			Upstream of State Route 50	*783
			Upstream of 2nd Street (Extended)	*784
			Third Street (Extended)	*785
			Fourth Street (Extended)	*786
			Upstream Corporate Limits	*787
	Maps available at the Office of the Tax Collector, 1642 Walnut Street, Heidelberg, Pennsylvania.			
	Send comments to Honorable James Marra, Council President, 1631 Railroad Street, Heidelberg, Pennsylvania 15106.			
Pennsylvania	Mill Village, Borough, Erie County.	Tributary to French Creek	Downstream of Conrail Bridge	*1,198
			Downstream of North Main Street Bridge	*1,202
			Downstream of Depot Street Bridge	*1,220
			Upstream of Friebee Street Bridge	*1,258
	Maps available at the residence of Mrs. Rita Naculich, Secretary of Mill Village, South Main Street, Mill Village, Pennsylvania.			
	Send comments to Honorable James Naculich, Mayor of Mill Village, P.O. Box 29, Mill Village, Pennsylvania 16427.			
Pennsylvania	Millerstown, Borough, Perry County.	Juniata River	Downstream corporate limits	*406
			Approximately 3,000 feet upstream of State Route 17	*407
			Upstream corporate limits	*409
	Maps available at the Millerstown Borough Hall.			
	Send comments to Honorable Paul Graybill, Council President, P.O. Box 235, 313 East Sunbury Street, Millerstown, Pennsylvania 17062.			
Pennsylvania	Mountville, Borough, Lancaster County.	Strickler Run	Downstream Corporate Limits	*358
			Upstream of Main Street (State Route 462)	*372
			Downstream of Hill Street	*386
			Upstream Corporate Limits	*392
	Maps available at the Mountville Borough Hall.			
	Send comments to Honorable John R. Eby, Council President, 19 North Manor Street, Mountville, Pennsylvania 17554.			
Pennsylvania	Pittston, Township, Luzerne County.	Mill Creek	Upstream Pennsylvania Turnpike (N.E. Extension)	*869
			Upstream Private Road	*876
			Upstream Dam	*900
			Approximately 2,200' upstream of Dam	*940
			Approximately 4,500' upstream of Dam	*1,024
		Collins Creek	Downstream Corporate Limits	*868
			Downstream Private Road	*910
			Upstream Private Road	*916
			Upstream Corporate Limits	*929
	Maps available at the Municipal Building, 421 Broad Street, Pittston, Pennsylvania.			
	Send comments to Honorable Anthony Attardo, Chairman of the Pittston Board of Supervisors, 421 Broad Street, Pittston, Pennsylvania 18640.			
Pennsylvania	Thompsontown, Borough, Juniata County.	Delaware Creek	Downstream Corporate Limits	*423
			Approximately 800' downstream of Main Street Bridge	*428
			Upstream of Main Street Bridge	*437
			Confluence of Platte Hollow Run	*438
			Approximately 700' upstream of Platte Hollow Run confluence	*445
			Upstream Corporate Limits	*451
	Maps available at the residence of Mr. Donald Frey, Borough Secretary, Thompsontown, Pennsylvania.			
	Send comments to Honorable Robert Eichman, Council President, Thompsontown, Pennsylvania.			
Pennsylvania	Washington, Township, Erie County.	Shenango Creek	Upstream side of Lake View Drive	*1,204
			Approximately 600' downstream of Lay Road	*1,206
			Upstream side of Lay Road	*1,210
			Approximately 900' downstream of Crane Road	*1,216
			Upstream side of Crane Road	*1,222
		Conneauttee Creek	Approximately 500' downstream of Kinter Hill Road	*1,180
			Upstream side of Kinter Hill Road	*1,184
			Upstream side of Foot Bridge (Approximately 3,100' upstream of Kinter Hill Road.	*1,193
		Tributary A	Approximately 400' downstream of Highland Drive	*1,204
			Upstream side of Highland Drive	*1,205
			Approximately 800' upstream of Highland Drive	*1,211
			Approximately 200' downstream of Angling Road	*1,222
			Upstream side of Angling Road	*1,228
			Approximately 350' upstream of Angling Road	*1,229
		Tributary B	Approximately 130' downstream of Lay Road	*1,208
			Upstream side of Lay Road	*1,211
			Approximately 900' upstream of Lay Road	*1,220
			Approximately 840' downstream of Angling Road	*1,230
			Approximately 180' downstream of Angling Road	*1,240
			Upstream side of Angling Road	*1,252
	Maps available at the Washington Municipal Building, 11800 Edinboro Road, Erie, Pennsylvania.			
	Send comments to Honorable James Skelton, Mayor of Washington, R.D. 1, Edinboro, Pennsylvania 16412.			

V 45 / 154 AG 7 80 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Wattsburg, Borough, Erie County..	West Branch French Creek	Confluence with French Creek	*1,286
			Downstream of State Route 8/Main Street Bridge	*1,289
			Upstream Corporate Limits	*1,291
Maps available at the Borough Hall, Main Street, Wattsburg, Pennsylvania.				
Send comments to Honorable S. Gene Combe, Mayor of Wattsburg, 14400 Main Street, P.O. Box 233, Wattsburg, Pennsylvania 16442.				
Pennsylvania	Wesleyville, Borough, Erie County	Fourmile Creek	Downstream Corporate Limits	*682
			Buffalo Road (Downstream)	*698
			Buffalo Road (Upstream)	*705
			Rose Avenue (Extended)	*725
			Station Road (Upstream)	*749
			Upstream Corporate Limits	*771
Maps available at the Borough Hall, 3421 Buffalo Road, Wesleyville, Pennsylvania.				
Send comments to Honorable Raymond Van Horn, Council President of Wesleyville, 2828 East 30th Street, Wesleyville, Pennsylvania 16510.				
Pennsylvania	West Donegal, Township, Lancaster County.	Conewago Creek East	Downstream Corporate Limits	*329
			Downstream of Conrail	*352
			Upstream of Conrail	*358
			Upstream of Zeager Road	*371
			Upstream Corporate Limits	*385
		Snitz Creek	Downstream Corporate Limits	*395
			Downstream of Private Bridge	*433
			Upstream of Private Bridge	*439
			Downstream of Bossler Road	*442
		Conoy Creek	Upstream of Stone Mill Road	*357
			Confluence of Tributary No. 1 to Conoy Creek	*361
		Tributary No. 1 to Conoy Creek	Upstream of confluence with Conoy Creek	*362
			Upstream of Miller Road	*365
			Downstream of Private Road	*377
			Approximately 1,600 feet upstream of Private Bridge	*388
Maps available at West Donegal Township Building.				
Send comments to Honorable Christian Miller, Secretary of the Township of West Donegal, R.D. 1, Box 560, Elizabethtown, Pennsylvania 17022.				
Pennsylvania	West Earl, Township, Lancaster County.	Cocalico Creek	Approximately 2,950 feet downstream from State Route 772	*300
			State Route 772 (Upstream)	*306
			Approximately 5,200 feet upstream from State Route 772	*306
		Conestoga River	State Route 772	*296
			Log Cabin Road (Upstream)	*299
			Approximately 2,900 feet upstream from Log Cabin Road	*302
		Groff Creek	Confluence with Conestoga River	*296
			State Route 722 (Upstream)	*299
			Private Lane approximately 2,150 feet upstream from State Route 772 (Upstream).	*302
			Approximately 4,150 feet upstream from State Route 772	*307
Maps available at the West Earl Township Building.				
Send comments to Honorable Jay C. Buch, Chairman of the West Earl Board of Supervisors, Brownstown, Pennsylvania 17508.				
Tennessee	Unincorporated Areas of Cheatham County.	Cumberland River	Just upstream of County limits	*397
			Just downstream of Cheatham Dam	*399
			Montgomery Bell Bridge	*402
		Harpeth River	Just upstream of State Highway 49	*401
			Just downstream of Ashland City Road	*425
			Just downstream of U.S. Highway 70	*483
			Just downstream of Louisville & Nashville Railroad (Downstream Crossing).	*496
			Just downstream of I-40 (Downstream Crossing)	*514
			Just upstream of Riverview Drive	*525
		South Harpeth River	Just downstream of Unnamed Road	*517
			Just upstream of County Road	*525
		Marrowbone Creek	Just upstream of State Highway 12	*406
Maps available at Cheatham County Courthouse, Ashland City, Tennessee 37015.				
Send comments to Honorable Robert Pennington, County Judge, Cheatham County Courthouse, Ashland City, Tennessee 37015.				
Tennessee	Goodlettsville (City), Davidson and Sumner Counties.	Dry Creek	Intersection of Janette Avenue and Melissa Drive	*450
			Intersection of creek and center of Dickerson Pike (U.S. Highway 31 west, 41 and State Highway 11.	*496
		Mansker Creek	Intersection of creek and center of Interstate Highway	*444
		Goodlettsville Outlett Ditch	Intersection of Ditch and center of Louisville and Nashville Railroad	*#1
			100 feet upstream from center of Two Mile Pike	*461
		Slaters Creek	Intersection of Interstate Highway 65 and U.S. Highway 31W	*465
		Lumsley Fork	Intersection of Hitt Lane and Utley Drive	*466
Maps available at 117 Memorial Drive, Goodlettsville, Tennessee.				
Send comments to the Honorable Raymond C. Massie, 117 Memorial Drive, Goodlettsville, Tennessee 37072.				
Tennessee	Hendersonville (City), Sumner County.	Mansker Creek (Back-water from the Cumberland River).	Intersection of creek and center of Gallatin Pike (U.S. Highway 31E and State Route 6).	*430
		Madison Creek (Backwater from the Cumberland River).	Intersection of creek and center of Jackson Road	*430

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Madison Creek	100 feet upstream from center of Long Hollow Pike	*449
		Willis Branch	50 feet upstream from center of county road	*459
		Drakes Creek	Intersection of Thirty Road and Stop Road	*477
			30 feet upstream from center of Long Hollow Pike (County Route 6126).	*516
		Drakes Creek Right Bank Tributary No. 1.	20 feet upstream from Louisville and Nashville Railroad	*463
			50 feet upstream from center of New Shackle Island Road	*497
		Drakes Creek Right Bank Tributary No. 2.	Intersection of South Burn Drive and Wessington Place	*464
			50 feet upstream from center of Shackle Island Road (County Route 6127).	*495
		Drakes Creek Right Bank Tributary No. 3.	100 feet south of intersection of Yorkside Place and Lousnn Lane	*475
		Drakes Creek Left Bank Tributary No. 1.	30 feet upstream from center of Callender Lane	*485
			Intersection of creek and center of Thirty Road	*531
		Station Camp Creek	Intersection of creek and center of Long Hollow Pike	*489
		Cumberland River	50 feet upstream from center of Old Hickory Dam	*450
			50 feet downstream from center of Old Hickory Dam	*430
Maps available at P.O. Box 1570, Hendersonville, Tennessee.				
Send comments to the Honorable T. W. Patterson, P.O. Box 1570, Hendersonville, Tennessee 37075.				
Texas	City of Bishop, Nueces County.	Carretta Creek	Approximately 300 feet upstream of Missouri Pacific Railroad	*55
		North Carretta Creek	Approximately 300 feet upstream of US 77 Bypass	*53
			Just upstream of Missouri Pacific Railroad	*58
Maps available at City Hall, Bishop, Texas 78343.				
Send comments to Mayor Herbert Danmier, or Ms. Irene Rodriguez, City Administrator, City Hall, P.O. Box 356, Bishop, Texas 78343.				
Texas	City of Brownwood, Brown County.	Pecan Bayou	Just downstream of U.S. Highway 64 and 87	*1,332
			Just upstream of A concrete dam	*1,336
		Adam Branch	Just downstream of Austin Avenue	*1,335
			Just downstream of Coleman Avenue	*1,350
		Tom Williams Creek	Just downstream of U.S. Highway 64 and 87	*1,337
		Willis Creek	Just downstream of Austin Avenue	*1,327
			Just downstream of Southside Street	*1,335
		South Willis Creek	Just downstream of Southside Street	*1,336
			Just downstream of Stephan Austin Drive	*1,353
		Tributary of South Willis Creek	Just downstream of Morris Sheppard Drive	*1,375
Maps available at City Hall, 110 South Greenleaf, Brownwood, Texas 76801.				
Send comments to Mayor W. T. Harlow, or Mr. Virgil C. Gray, City Manager City Hall, 110 South Greenleaf, Brownwood, Texas 76801				
Texas	City of Gregory, San Patricio County.	Drainage Ditch	Approximately 600 feet downstream of southern most crossing of U.S. Highway 181.	*29
			Approximately 850 feet downstream of Sunset Road	*31
		Shallow Flooding Area (Ponding)	Intersection of North and McKaney Avenues	*32
Maps available at City Hall, 308 Ayers, Gregory, Texas 78358.				
Send comments to Mayor Celestino Fambrano or Mr. Robert Mancian, City Administrator, City Hall, 308 Ayers, Gregory, Texas 78358.				
Texas	City of Odem, San Patricio County.	Peter's Swale	Just downstream of Missouri Pacific Railroad	*71
			Just upstream of U.S. Highway 77	*73
Maps available at City Hall, 514 Park Avenue, Odem, Texas 78370.				
Send comments to Mayor Sanley Webb III, or Ms. Billie Joe Tennill, City Secretary, P.O. Drawer AG, Odem, Texas 78370.				
Washington	Kirkland (City), King County	Forbes Creek	At the intersection of Forbes Creek and center of 108th Avenue	*48
			At the intersection of Forbes Creek and center of Northeast 108th Street (most upstream crossing).	*89
		Unnamed Drainageway Shallow Flooding.	At the intersection of 3rd Street and Commercial Street	*28
		Yarrow Creek	Along Yarrow Creek 100 feet northwest from intersection of creek with State Highway 908.	*#1
Maps available at 210 Main Street, Kirkland, Washington.				
Send comments to the Honorable D. V. Hurst, 210 Main Street, Kirkland, Washington 98033.				
Washington	Renton (City), King County	Green River	Intersection of River and South West 43rd Street	*28
		Cedar River	100 feet upstream of intersection of River and Houser Way North	*32
			75 feet upstream of intersection of river and the second crossing of the Chicago, Milwaukee, St. Paul, and Pacific Railroad.	*53
		May Creek	25 feet downstream of intersection of creek and Interstate Highway 405.	*35
			Intersection of creek and downstream crossing of northeast 31st Street.	*96
		Springbrook Creek	Intersection of creek and southwest Grady Way	*15
		Black River	25 feet upstream of intersection of River and P-1 Pumping Station	*15
Maps available at 200 Mill Avenue, South, Renton, Washington.				
Send comments to the Honorable Barbara Y. Shinpoch, 200 Mill Avenue, South, Renton, Washington 98055.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Washington	Ridgefield (City), Clark County	Gee Creek	10 feet downstream from center of Division Street	*37
		Columbia River	Center of Mill Street at approximately 500 feet west of its intersection with Railroad Avenue.	*24
	Maps available for inspection at City Hall, 230 Pioneer Avenue, Ridgefield, Washington.			
	Send comments to Honorable William Alexander, P.O. Box 606, Ridgefield, Washington 98642.			
Washington	Tukwila (City), King County	Green River	100 feet upstream from intersection of river and Interstate Highway 5	*14
			100 feet upstream from intersection of river and Strander Boulevard	*25
		Springbrook Creek	Center of South 158th Street approximately 150 feet north of its intersection with the Chicago Milwaukee St. Paul and Pacific railroad.	*16
	Maps available for inspection at City Hall, 6200 Southcenter Blvd., Tukwila, Washington.			
	Send comments to Honorable Frank Todd, 6200 Southcenter Blvd., Tukwila, Washington 98188.			
Washington	Vancouver (City), Clark County	Columbia River	Intersection of river and center of Interstate Highway 5	*28
		Burnt Bridge Creek	Intersection of creek and center of Leverich Parkway	*56
			Intersection of creek and center of Devine Road	*165
	Maps available at City Hall, 210 E. 13th Street, Vancouver, Washington.			
	Send comments to Honorable Jim Justin, 210 East 13th Street, Vancouver, Washington 9660.			
Washington	City of Westport, Grays Harbor	Pacific Ocean	Along Western Coastline	*20
		Grays Harbor Entrance	Along the northern corporate limits	*19
		South Bay	At the intersection of Pacific Avenue and the Levee	*10
			At the intersection of First Avenue and Dock Street	*10
			The intersection of Spokane Avenue and Montseano Street	*10
		Grays Harbor Entrance	The intersection of West Haven Drive and Core Streets	*2
			At circle at the end of Revetment Drive	*1
			At the intersection of Harbor Street and Second Avenue	*1
	Map available at Office of Clerk Treasurer, City Hall, 505 N. Montseano Street, Westport, Washington 98595.			
	Send comments Major Engle or Ms. Bertha Wilcox, Clerk Treasury, City Hall, P.O. Box 505, Westport, Washington 98595.			
Wisconsin	(C) West Allis, Milwaukee County	Root River	About 700 feet downstream of West Morgan Avenue	*729
			Just upstream of West Morgan Avenue	*731
			Approximately 200 feet downstream of West Lincoln Avenue	*756
		Hale Creek	Just downstream of Parkway Road	*735
			Approximately 2100 feet upstream of West Cleveland Avenue	*737
			Approximately 3300 feet upstream of West Cleveland Avenue	*738
		West Branch Root River	500 feet upstream of West Oklahoma Avenue	*736
			Approximately 100 feet downstream of South 124th Street	*750
	Maps available at West Allis Engineering & Planning Department, City Hall, 7525 West Greenfield, West Allis, Wisconsin.			
	Send comments to Honorable John F. Barlich, Mayor, City of West Allis, City Hall, 7525 West Greenfield, West Allis, Wisconsin 53214.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40001–4128); Executive Order 12127, 44 FR 19367)

Issued: July 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administration.

[FR Doc. 80-23844 Filed 8-6-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5874]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Fultondale, Jefferson County.	Five Mile Creek	Just upstream of corporate limits	*498
			Just upstream of U.S. Highway 31	*509
		Black Creek	Just upstream of Sloats Road	*497
			Just downstream of New Castle road	*515
	Maps available at City Hall, 1005 Walkers Chapel road, Fultondale, Alabama 35068.			
	Send comments to Mayor James Arwood or City Clerk, Milton Stuckey, City Hall, P.O. 378, Fultondale, Alabama 35068.			
Arkansas	City of Greenwood, Sebastian County.	Vache Grasse Creek	Approximately 150 feet upstream of Route 10	*488
			Approximately 400 feet upstream of Route 71B	*493
		Heartsill Creek	Just downstream of Arkansas Route 10	*491
			Just downstream of Denver Street	*505
		Hester Creek	Just upstream of Interstate 71	*508
	Maps available at City Hall, 101 North Aster Street, Greenwood, Arkansas 72936.			
	Send Comments to Mayor T. P. BROWN OR Ms. Bobbie Jones, Recorder of Deeds, City Hall, P.O. Box 206, Greenwood, Arkansas 72936.			
California	Dixon (City), Solano County	Dickson Creek	At intersection of North First Street and Stratford Avenue	*61
			At intersection of North Almond Street and West H Street	*63
			Intersection of North Washington Street and Park Drive	*#1
	Maps available at City Hall, Dept. of Public Works, 600 East A Street, Dixon, California.			
	Send comments to the Honorable Marime Burton-Halloran, 600 East A Street, Dixon, California 95620.			
California	Rio Vista (City), Solano County	Sacramento River	Intersection of river and center of State Highway 12	*8
		Marina Creek	100 feet upstream from center of Second Street	*9
		Marina Creek Tributary	100 feet upstream from corporate limits	#1
		Industrial Creek	100 feet downstream from center of St. Francis Way	*13
			Intersection of creek and center of St. Francis Way	#2
	Maps available at City Eng. Office, City Hall, 1 Main Street, Rio Vista, California.			
	Send comments to the Honorable Milton Wallace, 1 Main Street, Rio Vista, California 94571.			
Illinois	(V) Bloomingdale, DuPage County	Spring Brook Creek	Just downstream of Medinah—On-The-Lake Road	*705
			Just upstream of Circle Avenue	*714
			About 430 feet upstream of Foster Avenue	*726
			Just upstream of private drive (about 520 feet upstream of Foster Avenue).	*729
		West Branch Tributary to Spring Brook Creek.	About 200 feet upstream of confluence with Spring Brook Creek	*720
			About 120 feet downstream of Maple Avenue	*740
			About 250 feet downstream of Lake Street	*750
	Maps available at the Engineer's Office, Village Hall, 201 South Bloomingdale Road, Bloomingdale, Illinois.			
	Send comments to Honorable Sam Tenuto, Village President, Village of Bloomingdale, Village Hall, 201 South Bloomingdale Road, Bloomingdale, Illinois 60108.			
Illinois	(V) Eldred, Greene County	Hurricane Creek	At downstream corporate limits	*443
			About 700 feet downstream Bluff Street	*446
			Just downstream Bluff Street	*449
			At upstream corporate limits	*452
		Illinois River	About 0.75 mile downstream State Route 108 (West of Maple Street; North of Locust Street).	*443
	Maps available at Eldred Post Office, Eldred, Illinois.			
	Send comments to Honorable Glenn Jones, Village President, Village of Eldred, Village Hall, Eldred, Illinois 62027.			
Illinois	(V) Justice, Cook County	Justice Ditch	Downstream corporate limits	*597
			About 600 feet upstream Banks Street	*600
		71st Street Ditch	At mouth at Sanitary Drainage and Ship Canal	*581
			About 100 feet upstream Illinois Central Gulf Railroad	*593
			Upstream corporate limits	*594

V 45/154 AG 7 80 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Des Plaines River Diversion Channel.	Within corporate limits	*598

Maps available at the Village Clerk's Office, 7800 Archer Road, Justice, Illinois.

Send comments to Honorable Edward C. Rasch, Village President, Village of Justice, 7800 Archer Road, Justice, Illinois 60458.

Indiana	(T) Burns Harbor, Porter County	East Arm Little Calumet River	Downstream corporate limit	*596
			Just downstream of State Route 149	*606
			At upstream corporate limit	*613
		Lake Michigan	Shoreline	*584

Maps available at Burns Harbor Town Hall, R.R. #1, P.O. Box 155, Chesterton, Indiana.

Send comments to Honorable George Smith, President of the Town Board, Town of Burns Harbor, Burns Harbor Town Hall, R.R. #1, P.O. Box 155, Chesterton, Indiana 46304.

Indiana	(C) Elwood, Madison County	Big Duck Creek	At South P Street	*843
			Just downstream of South 9th Street	*850
			Just upstream of North C Street	*855
			About 1,700 feet upstream of North 20th Street	*856
		Little Duck Creek	At southern corporate limits	*850
			About 200 feet downstream of South J Street	*855
			About 600 feet upstream of South 28th Street	*856

Maps available at the Mayor's Office, City Hall, 1601 Main Street, Elwood, Indiana.

Send comments to Honorable Webb Morris, Mayor, City of Elwood, City Hall, 1601 Main Street, Elwood, Indiana 46036.

Indiana	(T) Frankton, Madison County	Pipe Creek	About 630 feet downstream of Conrail	*821
			About 240 feet downstream of Conrail	*822
			About 200 feet downstream of Washington Street	*823
			About 100 feet upstream of Washington Street	*824
			About 0.72 mile upstream of Washington Street	*825

Maps available at the Clerk's Office, Town Hall, 1206 Penn Street, Frankton, Indiana.

Send comments to Honorable Larry Whetsel President of the Town board, Town of Frankton, Town Hall, 1206 Penn Street, Frankton, Indiana 46044.

Indiana	(C) Michigan City, La Porte County.	Trail Creek	At mouth at Lake Michigan	*584
			Just upstream on Springland Avenue	*595
			Just upstream of Michigan Avenue	*603
		Deer Creek	At mouth at Trail Creek	*598
			Just downstream of Golf Course Road	*609
			Just upstream of Golf Course Road	*616
			Just downstream of Meer Road	*634
		Otter Creek	At mouth at Trail Creek	*592
			Just downstream of Kerwick Road	*606
			Just upstream of Karwick Road	*614
		Beck Ditch	At mouth of Otter Creek	*596
			Just upstream of Karwick Road	*608
		Lake Michigan	Entire length of community along Lake Michigan	*584
		North Branch Deer Creek	About 600 feet upstream Warnke Road	*616
			Just downstream of private road (about 1,900 feet upstream Warnke Road).	*622
			Just upstream of private road (about 1,900 feet upstream of Warnke Road).	*628
			About 1,800 feet upstream of Chicago South Shore and South Bend Railroad.	*634
		White Ditch	About 1,100 feet downstream of confluence of Kimball Ditch	*607
			Just downstream of Grand Beach Road	*613
			Just upstream of U.S. Route 12	*622
		Kimball Ditch	At confluence with White Ditch	*608
			Just upstream of Duneland Beach Drive	*608
		Kintzele Ditch	Just upstream of County Line Road	*617
			At confluence with Striebel Arm	*618
		Striebel Arm	Just upstream of Hitchcock Road	*619
			Just upstream of Earl Road	*628
			Just upstream or Louisville and Nashville Railroad (southern crossing)	*642

Maps available at the Planning Department, City Hall, 100 E. Michigan Boulevard, Michigan City, Indiana.

Send comments to Honorable Clifford Arnold, Mayor, City of Michigan City, City Hall, 100 E. Michigan Boulevard, Michigan City, Indiana 46360.

Iowa	Cambridge, City, Story County	South Skunk River	Downstream Corporate Limits	*849
			Confluence of Ballard Creek	*851
			County Trunk E63 Bridge	*852
			Upstream Corporate Limits	*853

Maps available at the City Hall, Cambridge, Iowa.

Send comments to Honorable Donald Wilson, Mayor of Cambridge, P.O. Box 563, Cambridge, Iowa 50046.

Louisiana	City of Jennings, Jefferson Davis Parish.	East Grand Marais Ditch	Just downstream of W. Division Street	*13
			Just downstream of Elevated conduit of the Tiptop Canal	*17
		Northeast Outfall Ditch (Backwater flooding from Bayou Nezpique).	Intersection of Fifth Street and Hickory Lane Extended	*17
		Southeast Outfall Ditch (Backwater flooding from Bayou Nezpique).	Just downstream of U.S. Highway 90	*15

Maps available at City Hall, Broadway, Jennings, Louisiana 70546.

Send comments to Mayor Melvin Gramin or Mrs. Sadie Manuel, City Clerk, City Hall, P.O. Drawer 1249, Jennings, Louisiana 70596.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Town of Lake Arthur, Jefferson Davis Parish.	Lake Arthur	Entire Shoreline	*7
			Intersection of Kellogg and Sixth Streets	*8

Maps available at Town Hall, 102 Arthur Avenue, Lake Arthur, Louisiana 70549.

Send comments to Mayor Harry Kratzer, Town Hall, 102 Arthur Avenue, Lake Arthur, Louisiana 70549.

Louisiana	Town of Plain Dealing, Bossier Parish.	Little Cypress Bayou	Just downstream of St. Louis South-western Railway	*261
			Just upstream of Mary Lee Street	*264
			Just upstream of North Street	*272
		West Fork of Little Cypress Bayou.	Just upstream of Arkansas Street	*263
			Just downstream of Louisiana Highway 3	*267
		East Fork of Little Cypress Bayou	Just downstream of Gilmer Street	*260
			Just downstream of Lynch Street	*265
			Just upstream of Vance Avenue Extended	*269

Maps available at City Hall, Corner of Arkansas and Palmetto, Plain Dealing, Louisiana 71264.

Send comments to Mayor Leon Sanders, Jr. or Ms. Sally Chandler, City Clerk, City Hall, P.O. Box 426, Plain Dealing, Louisiana 71264.

Maine	Casco, Town, Cumberland County.	Songo River	Confluence with Sebago Lake	*268
			Confluence of Crooked River	*272
		Crooked River	Confluence with Songo River	*272
			Upstream side of Songo Locks Road	*274
			Upstream side of U.S. Route 302	*284
			Upstream Corporate Limits	*291
		Sebago Lake	Entire Shoreline within Corporate Limits	*268

Maps available at the Town Office, Casco, Maine.

Send comments to Honorable Dave Martin, Town Manager of Casco, Town Office, Casco, Maine 04015.

Maine	Dayton, Town, York County	Saco River	Upstream Dayton-Biddeford Corporate Limits	*70
			Downstream Skelton Station Dam	*76
			Upstream Skelton Station Dam	*128
		Cooks Brook	Upstream Dennett Dam	*190
			Upstream Dyer Road	*192
			700' downstream of Clarks Mill Dam	*201
			Upstream Clarks Mill Dam	*224
			Upstream Route 5	*229
			Upstream Dayton-Waterboro Corporate Limits	*246

Maps available at the Town Offices, Route 35, Dayton, Maine.

Send comments to Honorable David Hill, Chairman of the Board of Selectmen of Dayton, Town Offices, Dayton, Maine 04005.

Maine	Raymond, Town, Cumberland County.	Sebago Lake	Entire Shoreline within the Town of Raymond	*268
		Panther Pond	Entire Shoreline within the Town of Raymond	*279
		Cresent Lake	Entire Shoreline within the Town of Raymond	*279

Maps are available at the Raymond Town Office, Raymond, Maine.

Send comments to Honorable Carlton E. Edwards, Chairman of the Board of Selectmen of Raymond, Town Offices, Raymond, Maine 04071.

Maryland	Crisfield, City, Somerset County	Chesapeake Bay	Entire shoreline of Crisfield	*5

Maps available at the City Hall, Main Street, Crisfield, Maryland.

Send comments to Honorable Charles McClenahan, Mayor of Crisfield, City Hall, Main Street, Crisfield, Maryland 21817.

Massachusetts	Yarmouth, Town, Barnstable County.	Cape Cod Bay	Mill Creek	*11
			Chase Garden Creek	*10
		Nantucket Sound	Lewis Bay	*10
			Confluence of Bass River	*10
		Bass River	Confluence with Nantucket Sound	*10
			Follins Pond	*5
		Parkers River	Confluence with Nantucket Sound	*10
			Swan Pond	*9

Certain areas of the community are subject to flood with velocity (wave action). See maps for designated Zones V3, V4, V8, and V9.

Maps available for review at the Town Engineer's Office, Town of Yarmouth, Town Office, South Yarmouth, Massachusetts 02664.

Send comments to Honorable Arthur Luke, Chairman of the Board of Selectmen of Yarmouth, Yarmouth Town Office, South Yarmouth, Massachusetts 02664.

Michigan	Harrison (Township), Macomb County.	Clinton River	Intersection of Clinton River and center of Interstate Highway 94	*581
		Clinton River Spillway	Intersection of Clinton River Spillway and center of Interstate Highway 94.	*580
		Lake St. Clair	Intersection of Conger Bay Drive and North River Road	*579

Maps available at Township Hall, 38151 L'Anse Creuse, Mountt Clemens, Michigan.

Send comments to the Honorable David Mercer, 38151 L'Anse Creuse, Mount Clemens, Michigan 48045.

Michigan	(C) Imlay City, Lapeer County	North Branch Belle River	About 850 feet downstream Grand Trunk Western Railroad (near eastern corporate limits).	*801
			Just upstream State Highway 21 (near private driveway)	*810
			About 100 feet upstream Grand Trunk Western Railroad (near western corporate limits).	*816

Maps available at City Hall, 150 N. Main Street, Imlay City, Michigan.

Send comments to Honorable Shirley Metcalf, Mayor, City of Imlay City, City Hall, 150 N. Main Street, Imlay City, Michigan 48444.

V 4 5 / 1 5 4 A G 7 8 0 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(C) Rochester, Oakland County	Clinton River	About 150 feet downstream of downstream corporate limit	*711
			Just upstream of Diversion Street	*730
			At the upstream corporate limit	*731
		Paint Creek	Mouth at Clinton River	*718
			Just upstream of Second Street	*723
			Just upstream of Rochester Road	*742
			About 1,300 feet downstream of Ludlow Street	*757
			Just upstream of Ludlow Street	*763
			At the upstream corporate limit	*770
		Sargent Creek	At the confluence with Paint Creek	*765
			At the upstream corporate limit	*775
			About 800 feet upstream of corporate limit	*778
			About 1,150 feet upstream of corporate limit	*784

Maps available at City Hall, 400 6th Street, P.O. Box 10, Rochester, Michigan.

Send comments to Honorable Kenneth A. Johnson, City Manager, City of Rochester, City Hall, 400 6th Street, P.O. Box 10, Rochester, Michigan 48063.

Michigan	(Twp.) Sumpter, Wayne County	North Branch Swan Creek	About 100 feet downstream Judd Road	*646
			About 300 feet upstream Sumpter Road	*670
			Just downstream Elwell Road	*678

Maps available at Sumpter Township Hall, 23480 Sumpter Road, Belleville, Michigan.

Send comments to Honorable Robert Demski, Supervisor, Township of Sumpter, Sumpter Township Hall, 23480 Sumpter Road, Belleville, Michigan 48111.

Minnesota	(C) Dilworth, Clay County	County Ditch 41	Downstream corporate limits	*907
			Upstream corporate limits	*911
		County Ditch 50	Downstream corporate limits	*905
			Upstream corporate limits	*912

Maps available at City Hall, 107 Center Avenue East, Dilworth, Minnesota.

Send comments to Honorable Arlo Brown, Mayor, City of Dilworth, City Hall, 107 Center Avenue East, Dilworth, Minnesota 56529.

Minnesota	(C) Greenfield, Hennepin County	Crow River	At downstream corporate limit	*904
			About 2,000 feet downstream of City of Rockford northern corporate limit.	*912
			About 400 feet upstream of City of Rockford southern corporate limit	*915
		South Fork Crow River	At confluence with Crow River	*918
			At upstream corporate limit	*919

Maps available at the Office of the City Clerk, City Hall, P.O. Box 418, Rockford, Minnesota.

Send comments to Honorable Gerald Schleif, Mayor, City of Greenfield, City Hall, P.O. Box 418, Rockford, Minnesota 55373.

Minnesota	(C) Hanover, Wright County	Crow River	Downstream corporate limits	*891
			Just downstream from dam	*899
			Just downstream from County Highway 123	*902
			About 4,800 feet upstream of County Highway 123	*905

Maps available at City Hall, P.O. Box 406, 11250 Fifth Street, Hanover, Minnesota.

Send comments to Honorable Immanuel Busach, Mayor, City of Hanover, City Hall, P.O. Box 406, 11250 Fifth Street, NE, Hanover, Minnesota 55341.

Minnesota	(C) Melrose, Stearns County	Sauk River	About 300 feet upstream of eastern corporate limit	*1,189
			Just downstream of Dam	*1,192
			Just upstream of Dam	*1,202
			Approximately 1,000 feet downstream of northwestern corporate limits	*1,203

Maps available at the Office of the City Clerk-Treasurer, City Hall, 225 East 1st Street North, Melrose, Minnesota.

Send comments to Honorable Theodore Truhna, Mayor, City of Melrose, City Hall, 225 East 1st Street North, Melrose, Minnesota 56352.

Minnesota	(Uninc. Sherburne County	Elk River	At City of Elk River western corporate limit	*882
			Just upstream Burlington Northern railroad	*900
			About 200 feet upstream County Highway No. 15	*913
			About 100 feet downstream County Road No. 43	*923
			About 200 feet downstream County Highway No. 5	*927
			Just upstream County Road No. 73	*934
			Just upstream County Highway No. 11	*939
			About 900 feet upstream County Highway No. 4	*947
		Mississippi River	At City of Elk River western corporate limit	*873
			About 14,400 feet upstream City of Elk River western corporate limits	*883
		Big Elk Lake	At Shoreline	*966
		Rush lake	At Shoreline	*966
		Lake Briggs	At Shoreline	*966
		Lake Julia	At Shoreline	*966

Maps available at the County Auditor's Office, Sherburne County Administration Building, Elk River, Minnesota.

Send comments to Honorable Lyle R. Smith, Chairman of the County Board, Sherburne County, Sherburne County Administration Building, Elk River, Minnesota 55330.

Missouri	(C) Neelyville, Butler County	Poplar Bluff to Corning Landward Right Overbank Floodway.	Just north of Hart Street and 800 feet west of Old Highway 67	*302
			About 900 feet south of Hart Street to about 0.5 mile north of County Highway 270.	*301
			About 0.5 mile north of County Highway 270 south to 700 feet north of Highway 270.	*300
			Between Circle Drive and southern corporate limits	*300

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Between Marler Street and County Highway 268	*300
			Just east of County Highway 271 at southern corporate limits	*300
			East of Missouri Pacific Railroad and north of Owen Street	*302
			South of Center Street and east of Old Highway 67 at the corporate limits.	*300
			East of Missouri Pacific Railroad and south of Owen Street	*301

Maps available at City Hall, P.O. Box 66, Neelyville, Missouri.

Send comments to Honorable Ralph D. Shelton, Jr., Mayor, City of Neelyville, City Hall, P.O. Box 66, Neelyville, Missouri 63954.

Missouri	(C) Troy, Lincoln County	Whitcomb Branch	Downstream corporate limits	*516
			Upstream corporate limits	*520
		Buchanan Creek	About 665 feet downstream of Lincoln Drive	*498
			About 740 feet upstream of Lincoln Drive	*504
			Just downstream of Old Moscow Mill Road	*513
			About 480 feet upstream of Old Moscow Road	*517
			About 2,280 feet upstream of Main Street	*541
		Town Branch Creek	About 500 feet downstream of U.S. Highway 61	*474
			Just downstream of U.S. Highway 61	*478
			About 350 feet upstream of U.S. Highway 61	*485
			Just upstream of State Highway 47	*491
			Just downstream of East Cherry Street	*492
			Just upstream of Lincoln Drive	*502
			About 350 feet upstream of abandoned bridge	*508
			About 2,000 feet upstream of abandoned bridge	*521

Maps available at City Hall, 451 Main Street, Troy, Missouri.

Send comments to Honorable G. Howard Briggs, Mayor, City of Troy, City Hall, 451 Main Street, Troy, Missouri 63379.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-23845 Filed 8-6-80; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 67

[Docket No. FEMA- 5875]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

V 45 / 154 AUG 7 80 UMI

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Atlantic Highlands, Borough, Monmouth County.	Sandy Hook Bay	Entire shoreline	*12
			Tidal flooding on Wagner Creek downstream from upstream corporate limits.	*12
			Tidal flooding of Many Mind Creek downstream of State Route 36	*12
	Maps available at the Office of the Borough Clerk, Atlantic Highlands, New Jersey.			
	Send comments to Honorable J. Leonard Clark, Clerk Administrator of Atlantic Highlands, 100 First Avenue, Atlantic Highlands, New Jersey 07716.			
New Jersey	Deerfield, Township, Cumberland County.	Maurice River	Downstream Corporate Limits	*39
			Upstream Corporate Limits	*36
	Maps available at the Municipal Building, Deerfield, New Jersey.			
	Send comments to Honorable Anthony Standione, Mayor of Deerfield, P.O. Box 327, Municipal Building, Rosenhayn, New Jersey 08352.			
New Jersey	Township of Harmony, Warren County.	Delaware River	Downstream corporate limits	*202
			4,000 feet upstream of corporate limits	*203
			At Conrail Bridge 2,280 feet upstream of corporate limits	*213
			Confluence of Buckhorn Creek	*220
			At 2nd Conrail Bridge 42,350 feet upstream of corporate limits	*228
			1,650 feet upstream of 2nd Conrail Bridge	*230
		Lopatcong Creek	Downstream corporate limits	*334
			At dam 70 feet upstream of corporate limits	*345
			1,400 feet upstream from corporate limits	*358
			400 feet downstream from County Route 519	*363
			At County Route 519	*370
			At private road 1,000 feet upstream of County Route 519	*380
			At private road 2,000 feet upstream of County Route 519	*391
			1,000 feet downstream of Decker Road	*402
			400 feet downstream of Decker Road	*409
			Upstream side of Decker Road	*417
			800 feet upstream of Decker Road	*425
			Hartman Drive	*437
			800 feet upstream of Hartman Drive	*448
			1,400 feet upstream of Hartman Drive	*457
			1,800 feet upstream of Hartman Drive	*465
			1,400 feet downstream of Harmony Brass Castle Road	*474
			800 feet downstream of Harmony Brass Castle Road	*487
			Approximately 300 feet downstream of Harmony Brass Castle Road	*497
			Allen's Mill Road	*508
			270 feet upstream from Allen's Mill Road	*513
		Buckhorn Creek	At confluence with Delaware River	*220
			1,000 feet upstream of Hutchison State Road	*228
			2,000 feet upstream of Hutchison State Road	*238
			1,500 feet downstream of Reeder Road	*247
			300 feet downstream of Reeder Road	*255
			At Reeder Road	*265
			1,100 feet upstream of Reeder Road	*276
			2,500 feet upstream of Reeder Road	*286
			2,000 feet downstream of Roxburg Station Road	*298
			At confluence of Tributary No. 1 to Buckhorn Creek	*301
			At upstream corporate limits	*303
		Tributary No. 1 to Buckhorn Creek.	At confluence with Buckhorn Creek	*301
			200 feet upstream of confluence with Buckhorn Creek	*303
			200 feet downstream of County Route 519	*315
			At County Route 519 and Hill Road	*322
			300 feet upstream of County Route 519	*332
			600 feet upstream of County Route 519	*341
			700 feet upstream of County Route 519	*351
			800 feet upstream of County Route 519	*362
			900 feet upstream of County Route 519	*372
			1,000 feet upstream of County Route 519	*381
			1,100 feet upstream of County Route 519	*391
			1,200 feet upstream of County Route 519	*404
			1,300 feet upstream of County Route 519	*416
			1,400 feet upstream of County Route 519	*433
			1,500 feet upstream of County Route 519	*444
			1,650 feet upstream of County Route 519	*454
			1,745 feet upstream of County Route 519	*463
			1,880 feet upstream of County Route 519	*472
	Maps available at the Harmony Township School, Harmony, New Jersey.			
	Send comments to Honorable J. Richard Collins, Mayor of Harmony, Mounted Route 12, Phillipsburg, New Jersey 08865.			
New Jersey	Ocean Gate, Borough, Ocean County.	Tributary to Toms River	Upstream Chelsea Avenue	*6
			Upstream Point Pleasant Avenue	*6
			Approximately 800' upstream of Point Pleasant Avenue	*6
			Confluence with Toms River	*6
	Maps available for review at the Office of the Borough Clerk, 153 East Longport Avenue, Ocean Gate, New Jersey.			
	Send comments to Clarence G. Cashman, Mayor of Ocean Gate, 153 East Longport Avenue, Ocean Gate, New Jersey 08740			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Red Bank, Borough, Monmouth County.	Navesink River	Along entire shoreline including Swimming River	*9
	Maps available at the Municipal Building, Red Bank, New Jersey.			
	Send comments to Honorable Michael Aronone, Mayor of Red Bank, 32 Monmouth Street, Red Bank, New Jersey 07701.			
New York	Addison (Village), Steuben County.	Canisteo River	100 feet upstream from center of Main Street	*992
		Tuscarora Creek	100 feet upstream from center of South Street	*992
	Maps available at Village Hall, 35 Tuscarora Street, Addison, New York.			
	Send comments to Honorable Edward Fort, 35 Tuscarora Street, Addison, New York 14801.			
New York	Caledonia, Village, Livingston County.	Spring Creek	Downstream Corporate Limits	*635
			Downstream Conrail	*643
	Maps available at the Village Hall, Caledonia, New York.			
	Send comments to Honorable Edward Matthews, Mayor of Caledonia, Village Hall, 3095 Main Street, Caledonia, New York 14423.			
New York	Camillus (Town), Onondaga County.	Ninemile Creek	Upstream side of Airport Road over the channel	*386
			Meadow Lane	*403
			The southernmost intersection of Martisco Road and State Highway 174.	*459
		Geddes Brook	Horan Road over the channel	*419
			Approximately 200 feet east along Myron Road from its intersection with Jones Street.	*432
			Intersection of Inwood Drive and Shrineview Drive	*479
		Unnamed Stream near Garden Terrace.	Intersection of Conrail and the channel	*386
			Upstream side of Pottery Road over the channel	*387
		Unnamed Stream East	Upstream side of State Highway 5 and 20 over the channel	*469
	Maps available at Town Hall, Camillus, New York.			
	Send comments to the Honorable Rocco C. Pirro, Town Hall, P.O. Box 217, Camillus, New York 13031.			
New York	Camillus (Village), Onondaga County.	Ninemile Creek	Intersection of MacLaughlin Street and Meadow Lane	*411
			Intersection of Genesee Street and New North Street	*413
			300 feet east of intersection of Union Street and Elm Street	*415
		Unnamed Stream East	Approximately 200 feet east along Green Street from its intersection with South Street.	*415
			Upstream side of Bingham Place over the channel	*440
			Intersection of Conrail and the channel	*458
	Maps available at Village Hall, Main Street, Camillus, New York.			
	Send comments to the Honorable Morris Raichlin, Main Street, Camillus, New York 13931.			
New York	Dresden, Village, Yates County	Keuka Lake Outlet	Confluence with Seneca Lake	*449
			Charles Street	*456
			Conrail (Downstream)	*459
			Conrail (Upstream)	*473
			State Route 14	*473
	Maps available at the Village Clerk's Office, 70 Cornilius Street, Dresden, New York.			
	Send comments to Honorable Burge Morris, Mayor of Dresden, P.O. Box 106, Dresden, New York 14441.			
New York	Stephentown, Town, Rensselaer County.	Kinderhook Creek	Upstream side of Gould Road	*795
			Downstream side of Stephentown Road	*832
			Upstream side of Stephentown Road	*835
			Downstream side of Presbyterian Hill Road	*841
			Upstream side of Presbyterian Hill Road	*842
			Confluence of East Brook and West Brook	*864
			Downstream side of State Highway 22	*907
			Upstream side of State Highway 22	*909
			Downstream of Pease Road	*945
			Upstream of Pease Road	*948
			State Boundary	*955
	Maps available at the Office of the Town Clerk, 9 Garfield Road, Stephentown, New York.			
	Send comments to the Honorable Joseph Manns, Town Supervisor of Stephentown, Staple Road, Stephentown, New York 12168.			
New York	Wellsburg, Village, Chemung County.	Chemung River	Upstream State Route 367	*824
			Upstream Corporate Limits	*828
		Bentley Creek	Upstream Conrail	*826
			Upstream State Route 427	*829
			Upstream Main Street	*856
			Upstream State Boundary	*871
	Maps are available at the City Clerk's residence, 207 Main Street, Wellsburg, New York.			
	Send comments to Honorable Doris Morris, Mayor of Wellsburg, 193 Main Street, Wellsburg, New York 14890.			

V 45 / 154 AG 80 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
North Dakota	Casselton (City), Cass County	Tributary to Swan Creek Diversion.	Intersection of Third Street North and Twelfth Avenue North	*933
			Intersection of Ninth Avenue North and Second Street North	#1
			Intersection of Second Street, North and Fifth Avenue North	#2
		Swan Creek, Diversion	Northwest corner of intersection of First Street South and Third Avenue South.	*938
			Intersection of Diversion and County Route 637	*942
	Maps available at City Auditor's Office, Box 548, Casselton, North Dakota.			
	Send comments to the Honorable Dellis Schrock, Box 548, Casselton, North Dakota 58012.			
Ohio	(Uninc.), Clermont County	Little Miami River	Just upstream of Milford corporate limits	*530
			Just upstream of Conrail	*552
			Just downstream of Loveland-Miamiville Road	*557
			Just downstream of Loveland corporate limits	*585
		Stonelick Creek	Just upstream of confluence with East Fork Little Miami River	*538
			Just downstream of U.S. Route 50	*541
			About 2,000 feet upstream of U.S. Route 50	*550
			Just upstream of Stonelick-Williams Corner Road	*576
			About 3,700 feet upstream of Stonelick-Williams Corner Road	*584
			About 1.3 miles upstream of Stonelick-Williams Corner Road	*598
			Just downstream of State Route 132	*646
			About 4,700 feet upstream of State Route 132	*657
			About 1.92 miles upstream of State Route 132	*714
		Bullskin Creek	Just upstream of confluence with Ohio River	*510
			About 2.5 miles upstream of U.S. Route 52	*515
			Just downstream of Felicity-Cedron Rural Road (at upstream crossing).	*538
			About 300 feet upstream of Felicity-Cedron Rural Road (at upstream crossing).	*545
			At upstream county boundary	*553
		Ohio River	Downstream county boundary	*505
			Upstream county boundary	*511
		East Fork Little Miami River	Downstream county boundary (south of Milford)	*511
			About 300 feet downstream of Roundbottom Road	*527
			Just downstream Stonelick Road	*540
			About 2.0 miles upstream Stonelick Road	*556
			About 500 feet upstream State Route 32	*570
			Just upstream of State Route 222	*590
			About 2.3 miles upstream State Route 222	*608
			At the downstream Village of Williamsburg corporate limits	*804
			About 200 feet upstream of Norfolk & Western Railway	*807
			About 1.4 miles upstream of McKeever Road	*817
			About 3.4 miles upstream of McKeever Road	*832
		Twelvemile Creek	Mouth at Ohio River	*505
			About 0.7 mile upstream of U.S. Route 52	*505
	Maps available at the Clermont County Administration Building, South Riverside Drive, Batavia, Ohio.			
	Send comments to Honorable Jerome Wisenhahn, President of the County Commission, Clermont County Administration Building, South Riverside Drive, Batavia, Ohio 45103.			
Ohio	(Uninc.), Greene County	Little Miami River	About 1.4 miles downstream of Roxanna Road	*740
			About 0.5 mile upstream of Roxanna Road	*750
			About 0.2 mile upstream of U.S. Route 42	*757
			About 0.4 mile downsteam of State Route 725	*763
			Just downstream Upper Bellbrook Road	*783
			About 1.4 miles downstream of Indian Ripple Road	*789
			Just upstream of Indian Ripple Road	*795
			Just upstream of Conrail	*800
			Just upstream of Fairgrounds Road	*816
			About 0.2 mile upstream of State Route 235	*826
			About 0.5 mile upstream of Grinnell Road	*864
			Just downstream of Wilberforce-Clifton Road	*987
			Just upstream of Wilberforce-Clifton Road	*991
			Just downstream of Dam	*994
			Just upstream of Dam	*1002
			About 1.6 miles upstream of Dam	*1008
		Glady Run	About 0.5 mile downstream of State Route 725	*758
			Just upstream of Schnebly Road (first of two crossings)	*773
			About 200 feet upstream of Richland Road	*788
			Just downstream of Schnebly Road (second of two crossings)	*801
			About 0.1 mile downstream of Conrail (first of three crossings)	*806
			About 0.5 mile upstream of Conrail (first of three crossings)	*820
			Just upstream of Conrail (second of three crossings)	*838
			Just upstream of Conrail (third of three crossings)	*850
			Just upstream of Hedges Road	*857
			About 0.7 mile upstream of Hedges Road	*879
			About 0.9 mile upstream of Hedges Road	*885
			At City of Xenia Bypass	*897
		Sperling Lane Brook	About 0.1 mile upstream of confluence with Little Miami River	*789
			About 0.15 mile upstream of confluence with Little Miami River	*796
			Just upstream of private road	*805
			About 0.25 mile upstream of private road	*821
			About 0.5 mile upstream of Private Road	*841
		Ripple Road Brook	About 0.7 mile upstream of confluence with Little Miami River	*796

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Ripple Road	*825
			About 0.4 mile upstream of Ripple Road	*847
		Beaver Creek	About 0.6 mile upstream of confluence with Little Miami River	*796
			Just downstream of U.S. Route 35	*802
			Just upstream of U.S. Route 35	*808
			Just upstream of Dayton-Xenia Road	*809
			Just upstream of Fairgrounds Road	*817
			About 0.6 mile upstream of Trebein Road	*835
			Just upstream of Yellow Springs Road	*839
			Just downstream of Interstate 675	*840
		Little Beaver Creek	About 150 feet upstream of Factory Road	*807
			Just downstream of Fairfield Road	*830
			Just upstream of Fairfield Road	*834
			Just upstream of U.S. Route 35	*841
			Just upstream of Grange Hall Road	*859
			About 1.0 mile upstream of Grange Hall Road	*869
		Fairbrook School Tributary	About 0.1 mile upstream of mouth	*812
			Just upstream of Farm Road	*832
			Just upstream of Shakertown Road	*853
			About 0.4 mile upstream of Shakertown Road	*867
			Just upstream of Bellbrook Road	*900
			About 0.2 mile upstream of Bellbrook Road	*908
		Shawnee Creek	About 0.3 mile upstream of mouth	*809
			Just upstream of Hawkins Road	*820
			About 0.8 mile upstream of Hawkins Road	*842
			About 1.3 miles upstream of Hawkins Road	*868
			About 1.7 miles upstream of Hawkins Road	*880
			About 0.2 mile downstream of Orphanage Road	*935
			Just downstream of Dam	*942
			Just upstream of Dam	*950
			Just upstream of South Columbus Street	*954
			Just upstream of Chessie System (about 0.8 mile upstream of Columbus Street).	*970
			Just upstream of South Bickett Road	*998
			About 0.25 mile upstream of South Bickett Road	*1002
		Ludlow Creek	About 0.2 mile upstream of Hilltop Road	*811
			Just upstream of Fairgrounds Road	*834
			Just upstream of Ludlow Road	*849
			Just upstream of Linebaugh Road	*859
			About 1.1 mile upstream of Linebaugh Road	*874
		Oldtown Creek	About 0.2 mile downstream of Brush Row Road	*826
			Just upstream of Brush of Row Road	*831
			About 0.5 mile downstream of Kinsey Road	*854
			Just upstream of Kinsey Road	*880
			About 0,1 mile upstream of Stevenson Road	*937
			Just downstream of U.S. Route 42	*970
			Just upstream of U.S. Route 42	*973
			About 700 feet upstream of U.S. Route 42	*980
			Just upstream of University Park Road	*988
			Just upstream of South Bickett Road	*998
			Just downstream of Conrail	*1009
			Just upstream of Conrail	*1013
			Just downstream of U.S. Route 35	*1028
		Massies Creek	At confluence with Little Miami River	*824
			Just upstream of Conrail	*826
			Just upstream of Stevenson Road	*861
			Just upstream of Wilberforce-Clifton Road	*879
			Just upstream of Charleton Mill Road	*898
			Just upstream of Tarbox Cemetary Road	*935
			Just upstream of private road	*944
			About 0.2 mile upstream of private road	*947
			About 0.8 mile downstream of Cedarville Bridge Street	*960
			About 0.4 mile downstream of Cedarville Bridge Street	*999
			About 0.1 mile downstream of Cedarville Bridge Steeet	*1014
		North Fork	At corporate limits with Cedarville	*1035
			Just downstream of Barber Road	*1037
		North Wilberforce Brook	About 0.1 mile upstream of confluence with Massies Creek	*892
			Just upstream of Charleton-Mill Road	*946
		Yellow Springs Creek	About 0.1 mile upstream of Grinnell Road	*859
			About 0.4 mile upstream of Grinnell Road	*867
			About 0.9 mile upstream of Grinnell Road	892
			Just upstream of Fairfield Road	*947
			Just upstream of Dam	*953
			Just upsteam of Conrail	*957
			About 0.3 mile upstream of Ellis Park Dam	*961
		New Germany Branch	About 600 feet downstream of New Germany-Trebein Road (downstream crossing).	*829
			Just upstream of eastbound Interstate 675 (downstream crossing)	*849
			About 0.1 mile upstream of eastbound Interstate 675 (upsteam crossing).	*873
			Just upstream of Locke Drive	*898
			Just upstream of New Germany-Trebien Road (upstream crossing)	*932
			Just downstream of Fairfield Road	*951

V 45 / 154 4 AG 7 80 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Jr. High Fork	Just downstream of Conrail	*880
			About 0.6 mile upstream of Conrail	*888
		Caesar Creek	Just downstream of New Jasper-Paintersville Road	*970
			Just downstream of Jasper Road	*992
			Just downstream of dam	*1005
			Just upstream of dam	*1025
			Just upstream of Shawnee Trail	*1027
			Just upstream of Chessie System	*1038
			Just upstream of State Route 72	*1055
			About 1.5 miles upstream of State Route 72	*1068
		South Branch Caesar Creek	Just upstream of Jasper Road	*1021
			Just upstream of Parker Road	*1031
			Just downstream of Chessie System	*1048
			About 1.0 mile upstream of Chessie System	*1059
		Township High Tributary	About 0.2 miles upstream of mouth	*1058
			About 1.0 mile upstream of mouth	*1072
		Estate Brook	Mouth at Caesar Creek	*1044
			About 0.65 mile upstream of mouth	*1061
		Zimerman Brook	Just downstream of Conrail (first of two crossings)	*837
			Just upstream of Conrail (first of two crossings)	*840
			Just upstream of Dayton-Xenia Road	*868
			About 300 feet upstream of Dayton-Xenia Road	*870
		Hebble Creek	About 0.6 mile downstream of Black Lane	*850
			About 600 feet upstream of Armstrong Road	*865
		South Fork Massies Creek	Just upstream of Conrail	*1034
			About 0.2 mile upstream of Conrail	*1037
			About 1.0 mile upstream of Conrail	*1047
			Just downstream of Weimer Road	*1052
		Fairgrounds Road Tributary	Mouth at Beaver Creek	*813
			Just upstream of Fairgrounds Road	*817
			Just upstream of Beaver Valley Road	*835
			About 0.6 mile upstream of Beaver Valley Road	*865
			About 100 feet upstream of Hanes Road	*925
		Painters Creek	About 1.0 mile downstream of Bone Road	*983
			Just upstream of Bone Road	*998
			Just downstream of Hussey Road	*1007
		Shawnee Creek Right Bank Tributary.	About 0.3 mile downstream of Hoop Road	*951
			Just downstream of Hoop Road	*969
		Shawnee Park Tributary	About 0.70 mile downstream of U.S. Route 42	*920
			About 0.5 mile downstream of U.S. Route 42	*922
			Just downstream of U.S. Route 42	*943
		Little Miami River By-Pass	Confluence with Sugar Creek	*773
			Dirvergence with Little Miami River	*776
		Sugar Creek	Confluence with Little Miami River	*765
			Just upstream Waynesville Road	*774
			About 1.6 miles upstream Waynesville Road	*791
		Little Sugar Creek	Confluence with Sugar Creek	*773
			About 130 feet upstream Waynesville Road	*775
			Aboput 1.1 miles upstream Waynesville Road	*812
			Just downstream Little Sugar Creek Road	*845
			Just downstream Feed Wire Road	*870
			Just upstream Swigart Road	*907
			About .25 mile upstream Reel Road	*956
		Possum Run	Downstream corporate limits	*913
			Just downstream Wilmington Pike	*947
		Brewsters Run	About 200 feet downstream of downstream corporate limits	*845
			About 150 feet upstream of upstream corporate limits	*850

Maps available at Greene County Courthouse, 69 Greene Street, Xenia, Ohio.

Send comments to Mr. Donald Brezine, County Administrator, Greene County, Greene County Courthouse, 69 Greene Street, Xenia, Ohio 45385.

Oklahoma	City of Choctaw, Oklahoma County.	North Canadian River	NE 50th Street (extended)	*1100
		Chocktaw Creek	Just upstream of Indian Meridian Road	*1099
			Just upstream of Henney Road	*1116
			Just downstream of Anderson Road	*1147
			Just downstream of Mayer Drive	*1164
			Just downstream of S.E. 15th Street	*1203
		Chocktaw Creek, Tributary 1	Just upstream of Chicago, Rock Island and Pacific Railroad	*1099
			Just downstream of N.E. 10th Street	*1137
		Chocktaw Creek, Tributary 2	Just downstream of N.E. 10th Street	*1111
			Just upstream of N.E. 10th Street	*1117
			Just downstream of East Reno Avenue	*1132
			Just upstream of East Reno Avenue	*1139
			Just downstream of S.E. 15th Street	*1169
		Chocktaw Creek, Tributary 2, East Branch.	Just upstream of East Reno Avenue	*1134
			Just upstream of S.E. 15th Street	*1154
		Chocktaw Creek, Tributary 2, West Branch.	Just downstream of S.E. 15th Street	*1174
		Chocktaw Creek, Tributary 3	Just downstream of N.E. 10th Street	*1146
			Just upstream of N.E. 10th Street	*1151

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	City of Jenks, Tulsa County	Arkansas River	Just upstream of East Main Street	*615
		Polecat Creek	Just upstream of S. Peoria Avenue	*620
			Just upstream of S. 33rd W. Avenue	*633
		Posey Creek	Just upstream of Missouri Pacific Railroad	*606
			Just upstream of 141st Street	*620
		Coal Creek	Approximately 100 feet downstream of 121st Street	*644

Maps available at City Planner's Office, City Hall, 123 East Main Street, Jenks, Oklahoma 74037.

Send comments to Mayor R. O'Donley or Mr. Richard Hall, City Planner, City Hall, 123 East Main Street, Jenks, Oklahoma 74037.

Oregon	Barlow (City), Clackamas County..	Pudding River	At western most corporate limits (approximately 1,200 feet west of South Barlow Road) 150 feet north of Fred Anderson Road.	*95
		Molalla River	100 feet west of the intersection of Railroad Drive and the northern corporate limits..	*97

Maps Available at 103 South Main Street, Barlow, Oregon.

Send comments to Honorable Michael Barnett, 103 South Main Street, Barlow, Oregon, Oregon 97013.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–23843 Filed 8–6–80; 8:45 am]

BILLING CODE 6718–03–M

V 4 5 / 1 5 4 A G 7 8 0 UMI

Notices

Federal Register
Vol. 45, No. 154
Thursday, August 7, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Fishlake National Forest, Juab, Millard, Sanpete, Sevier, Beaver, Piute, Iron, Garfield, and Wayne Counties, Utah; Intent To Prepare an Environmental Impact Statement for Proposed Forest Land and Resource Management Plan

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the proposed Forest Land and Resource Management Plan for the Fishlake National Forest. The Management Plan for the Fishlake will encompass 1,525,412 acres.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. The Forest Plan will be prepared according to regulations promulgated by the Secretary of Agriculture. The regulations implement section 6 of the National Forest Management Act of 1976.

The resulting Plan will provide for multiple use and sustained yield of products and services from the Fishlake National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. It will determine resource management practices, harvesting levels, and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

The Forest Plan will be selected from among representative alternatives which will include at least: (1) a no-change in existing resource outputs alternative, (2) a range of alternatives that displays possible outputs of resources available at each of several expenditure levels, and (3) alternatives designed to resolve the identified major public issues and management concerns.

Public participation will be an integral part of the planning process. Small "scoping" meetings to identify issues to be addressed will be held early in the process. Times and places for these meetings will be announced by notices in area newspapers, news releases to news media, and announcements mailed to other agencies, organizations, and individuals known to have interest in management of the Fishlake National Forest. Four general meetings will be held in 1980 at the following places: Fillmore Ranger District, 390 S. Main, Fillmore; Beaver Ranger District, 190 N. 100 E., Beaver; and Richfield Ranger District, 55 S. 100 E., Richfield, Utah, 1:00 to 5:00 p.m. and 7:00 to 9:00 p.m., September 3. Loa Ranger District will hold their meeting in conjunction with the Teasdale Ranger District of the Dixie National Forest at Wayne High School (lunch room), 55 N. Center, Bicknell, 7:00 to 10:00 p.m., August 12 and 13.

Jeff M. Sirmon, Regional Forester, is the responsible official for this Plan.

Further information about the planning and Environmental Impact Statement process or comments on the Notice of Intent should be directed to Andrew E. Godfrey, Forest Planning Staff Officer, Fishlake National Forest, 70 North Main Street, Richfield, UT 84701, (801) 896–4491.

The estimated date for filing the Draft Environmental Impact Statement is December 1981; and the anticipated date for filing the Final Environmental Statement is August 1982.

Dated: July 31, 1980.

Richard K. Griswold,

Director, Planning and Budget, Intermountain Region.

[FR Doc. 80-23813 Filed 8-6-80; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan National Forests and National Grasslands in Texas; Angelina, Fannin, Houston, Jasper, Montague, Montgomery, Nacogdoches, Newton, Sabine San Augustine, San Jacinto, Shelby, Trinity, Walker and Wise Counties, Tex.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on the Land and Resource Management Plan for the National Forests and National Grasslands in Texas which include the Angelina, Davy Crockett, Sabine, and Sam Houston National Forests and the Caddo and LBJ National Grasslands.

The Land and Resource Management Plan is being prepared in accordance with requirements of the Secretary's regulations promulgated pursuant to the National Forest Management Act of 1976. The resulting plan will provide for the multiple use and sustained yield of goods and services from the National Forests and National Grasslands in Texas.

The planning process will integrate all resource planning—timber, range, fish and wildlife, water, wilderness, and recreation—together with resource protection and resource use activities. The process will be issue-oriented, i.e., public issues, management concerns, and development opportunities will be analyzed continually throughout the process.

A reasonable range of alternatives will be formulated by an interdisciplinary team to provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during this planning process.

Alternatives will reflect a range of resource outputs and expenditure levels. In formulating these alternatives, the following criteria will be met:

(1) Each alternative will be capable of being achieved.

(2) A no-action alternative will be formulated, that is the most likely condition expected to exist in the future if current management direction continues unchanged.

(3) Each alternative will provide for orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple-use objectives of that alternative.

(4) Each identified major public issue and management concern will be addressed in one or more alternatives; and

(5) Each alternative will represent to the extent practicable the most cost efficient combination of management practices examined that can meet the objectives established in the alternative.

Each alternative will state at least:

(1) The condition and uses that will result from long-term application;

(2) The goods and services to be produced, and the timing and flow of these outputs;

(3) Resource management standards and guidelines; and

(4) The purposes of the management direction proposed.

As an early step in the planning process, Federal, State, and local agencies, organizations, and individuals who may be interested in, or be affected by the decision will be invited to participate in a scoping process which includes:

(a) identification of those issues to be addressed;

(b) identification of those issues to be analyzed in depth; and

(c) elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review. To accomplish this scoping effort, the National Forests and National Grasslands in Texas will send out information packets in late Fall 1980. The packets will be sent to and comments solicited from Federal, State, and local agencies, organizations, and individuals who may be interested or have expressed an interest in National Forest and National Grassland Planning. Public input on this packet will be received for 60 days.

Written comments should be sent to: Mr. Gordon Steele, National Forest in Texas, P.O. Box 969, Lufkin, Texas 75901. The Supervisor's Office is located at the corner of Third Street and Lufkin Avenue in Lufkin. The commercial telephone number is 713–632–4446.

The draft environmental impact statement and plan will be available by March 1983 for a 90 day comment period. The final environmental impact statement and plan is scheduled for completion by December 1983.

Lawrence M. Whitfield, Regional Forester, Southern Region on the Forest Service, is the responsible official for approval of the environmental impact statement and plan.

For further information about the planning process or the environmental impact statement, contact: Gordon Steele, I. D. Team Leader, National Forests in Texas (713–632–4426).

Dated: July 30, 1980.

James S. Sabin, Jr.,

Acting Regional Forester.

[FR Doc. 80-23774 Filed 8-6-80; 8:45 am]

BILLING CODE 3410-11-M

Lumber Price Index Trends; Sugar Pine

AGENCY: Forest Service, USDA.

ACTION: Final policy.

SUMMARY: This policy sets forth Forest Service procedures for the replacement of the current sugar pine index based upon a 1971 recovery study used for adjustment of contract rates in timber sale contracts with a sugar pine index based upon a 1977–1978 recovery study. The Western Wood Products Association (WWPA) discontinued the 1971 basis sugar pine index after publication of the March 1980 data.

FOR FURTHER INFORMATION CONTACT: James Thorne or George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013 (202) 447–4051.

SUPPLEMENTARY INFORMATION: On February 26, 1980, the Chief, Forest Service, published a Notice of Intent (45 FR 12463) which set forth procedures for replacing the Western Wood Products Association (WWPA) Sugar Pine Index based upon a 1971 recovery study with a new index based upon a 1977–1978 recovery study. This index is used by Government agencies in the appraisal of public timber and to adjust prices paid for timber under certain timber sale contracts. There were no responses to the notice.

IMPLEMENTATION OF THE REPLACEMENT INDEX: It has been determined that the 24-month period, January 1977 through December 1978 is appropriate to establish the differential for replacing the 1971 basis sugar pine base indices in existing timber sale contracts. This 24-month period will properly alleviate any seasonal bias. The differential is calculated as follows:

24-mo Average Index (Weighted) January 1977–December 1978

	Board feet	Value (dollars)	Dollars per thousand board feet
Sugar pine (1971 basis)	363,956,967	151,807,861.57	417.10
Sugar pine (1977–78 basis)	2,209,334,994	860,133,967.68	389.32
Per thousand board feet difference			−27.78

The formula to adjust present contract base indices for sugar pine is:

New base Index = (present contract base index) + (−27.78).

Transition of present contracts with a 1971 basis sugar pine base index to the new 1977–1978 sugar pine base index will be made for the second quarter of calendar year 1980.

The 1971 basis sugar pine index was used for sugar pine sold during April 1980, until base period values for the new 1977–1978 basis sugar pine index could be prepared. New sale offerings advertised after April 30, 1980, have used or will use the new index. Publication of the Sugar Pine Index (1971 basis) was discontinued by WWPA after March 30, 1980.

Holders of existing contracts that are subject to base index changes are being notified in writing of the change by the appropriate Forest Service Official.

Dated: July 28, 1980.

R. Max Peterson,

Chief, Forest Service.

[FR Doc. 80-23832 Filed 8-6-80; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Donaldson Creek Watershed, Kentucky

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of availability of a record of decision.

FOR FURTHER INFORMATION CONTACT: Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504, telephone number (606) 233–2749.

NOTICE: Pursuant to the National Environmental Policies Act (Pub. L. 91–90), Regulations for Implementing the Provisions of the National Environmental Policies Act (40 CFR 1500–1508), and Soil Conservation Service Regulations for Compliance with NEPA (7 CFR 650), Glen E. Murray gives notice of availability of his record of decision as the responsible Federal official for the Donaldson Creek Watershed project, a project planned under authority of Pub. L. 83–566 (16 USC 1001–1008) and located in Caldwell and Crittenden Counties, Kentucky. Single copies of the record of decision may be obtained by writing Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504, telephone number (606) 233–2749.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83–566, 16 U.S.C. 1001–1008)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-23761 Filed 8-6-80; 8:45 am]

BILLING CODE 3410-16-M

V 45 / 154
AG 7 80
UMI

East Finley Township Park Public Water-Based Recreation and Critical Area Treatment R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania, 17108, telephone 717–782–2202.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the East Finley Township Park Public Water-Based Recreation and Critical Area Treatment R.C. & D. Measure, Washington County, Pennsylvania.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for recreation facilities and critical area treatment. The planned works of improvement include picnic tables, grills and benches, a picnic shelter, a water well, comfort station, and a parking area. Conservation practices include subsurface drains, diversions, a stone waterway, streambank stabilization, and seeding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717–782–2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 8, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87–703, 16 U.S.C. 590a–f, q)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

July 18, 1980.

[FR Doc. 80-23760 Filed 8-6-80; 8:45 am]
BILLING CODE 3410-16-M

Grant-Shanghai Watershed, Chautauqua County, Kans.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. John W. Tippie, State Conservationist, Soil Conservation Service, 760 South Broadway, P.O. Box 600, Salina, Kansas 67401, telephone number (913) 825–9535.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Grant-Shanghai Watershed project, Chautauqua County, Kansas.

The environmental evaluation of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John W. Tippie, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The remaining project works include one single-purpose flood prevention dam to be implemented under the authority of the Watershed Protection and Flood Prevention Act (Pub. L. 566, 83d Congress, 68 Stat. 666) as amended.

The Finding of No Significant Impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by interested parties at the Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone number (913) 825–9535. The Finding of No Significant Impact and environmental assessment report have been reviewed by various Federal, State, and local agencies and interested parties. A limited number of copies are available to fill single copy requests.

Implementation of the proposal will not be initiated until September 8, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

July 16, 1980.

[FR Doc. 80-23762 Filed 8-6-80; 8:45 am]
BILLING CODE 3410-16-M

Hudson River Supplemental Watershed Plan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, Robert G. Stephens Federal Building, 355 East Hancock Avenue, Athens, Georgia 30603, Telephone 404–546–2273.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Supplemental Watershed Plan for the Hudson River Watershed project located in Madison, Banks, and Franklin Counties, Georgia.

The environmental assessment of this Federal action indicates that the project will not create significant local, regional, or national impacts on the environment and that no significant controversy is associated with the planned measure. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The supplemental watershed plan concerns a plan for the land stabilization measures on 144 acres of critically eroding gully areas. These measures are planned to reduce erosion that is causing damage to property and the environment.

A Finding of No Significant Impact (FNSI) has been prepared and sent to various Federal, State and local agencies, and interested parties. The Notice of a Finding of No Significant Impact has been forwarded to the

Environmental Protection Agency. The environmental assessment and basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Dwight M. Treadway, State Conservationist, 206 Federal Building, 355 East Hancock Avenue, Athens, Georgia 30603, Telephone: 404–546–2273. A limited number of copies of the assessment and FNSI are available from the same address to fill single copy requests.

Implementation of the proposal will not be initiated until September 8, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008)

Dated: July 15, 1980.

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-23760 Filed 8-6-80; 8:45 am]
BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 80-7-203]

South Bend-Chicago Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause.

SUMMARY: The Board is instituting the *South Bend-Chicago Subpart Q Proceeding* and is proposing to grant unrestricted authority to Air Wisconsin in the South Bend-Chicago market under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATE: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than September 4, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38343, which we have entitled the *South Bend-Chicago Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Air Wisconsin; South Bend-Mishawaka Area Chamber of Commerce; the Indiana Aeronautics Commission; the Governor of Illinois; the Mayors of Chicago and South Bend; the Airport authority, Chicago-O'Hare International Airport and the airport authority, Michiana Regional Airport, South Bend, Indiana.

FOR FURTHER INFORMATION CONTACT:
Lucille J. Mellema, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5105.

SUPPLEMENTARY INFORMATION: The complete text of order 80–7–203 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–7–203 to that address.

By the Bureau of Domestic Aviation: July 31, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-23837 Filed 8-6-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38496]

Southeast Airlines, Inc., Enforcement Proceeding; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., August 1, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-23838 Filed 8-6-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, August 26, 1980, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Discussion of automatic test equipment (ATE) in the infrastructure of manufacturing.
(4) Discussion of keystone technology in the ATE system.

Executive Session

(5) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

With respect to agenda item (5), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory

V 45 / 154 AG 7 80 UMI

Committee and of any subcommittees thereof was published in the **Federal Register** on December 27, 1978 (43 FR 60328).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, International Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–2583.

For further information, contact Mrs. Cornejo, either in writing or by phone at the address or number shown above.

Dated: August 4, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-23851 Filed 8-6-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Intent To Conduct Reviews of Government Versus Contract Operation of Commercial or Industrial Activities and Service Contracts

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice.

SUMMARY: Pursuant to Office of Management and Budget (OMB) Circular A–76 and the Department of Commerce Administrative Order 201–41 implementing OMB Circular A–76, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) intends to conduct reviews of the feasibility and/or cost of contract operation versus Government operation of commercial and industrial activities listed below under Supplemental Information. Specific invitation for bids or request for proposals will be announced in the Commerce Business Daily. A contract or contracts may or may not result from each feasibility or cost comparison study. Results of each study will be made available to responding bidders or offerors and other interested parties.

DATES: See specific dates in table under Supplemental Information.

FOR FURTHER INFORMATION CONTACT: Samuel A. Lawrence, Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852, 443–8134.

SUPPLEMENTARY INFORMATION: Studies to be made are identified in the following tabulation:

Name of activity	Location of activity	Review start date	Review end date
Operation of ship chapman [1]	Seattle, Washington	07/31/80	07/31/81
Imagery processing laboratory [2]	Washington, D.C.	07/31/80	07/31/81
Central distribution	Rockville, Maryland	10/01/80	10/01/81
Duplicating plant	Rockville, Maryland	10/01/80	10/01/81
Central logistics supply center	Kansas City, Missouri	01/01/81	01/01/82
Airport obstruction surveys	Rockville, Maryland	10/31/80	10/31/81
Data entry	Asheville, North Carolina	10/01/80	10/01/81
Microfilming	Boulder, Colorado	10/01/80	10/01/81
Repair of weather equipment	Kansas City, Missouri	10/01/80	10/01/81
Aeronautics drafting	Silver Spring, Maryland	12/01/80	12/01/81
Photography laboratory	Suitland, Maryland	03/01/81	03/01/82
Radiosonde reconditioning	Kansas City, Missouri	03/01/81	03/01/82

[1] Previously published at FR 36432, 6/9/80. [2] Previously published at FR 39683, 6/12/80.

Service Contracts

Description of activity	Location of activity	Contract end date	Options end date	Review start	Review end
Lease of aircraft for flying aerial photography.	Washington, D.C.	09/30/80	09/30/81	09/30/80	06/30/81
Photographic reproduction of imagery from environmental and experimental satellites.	Prince Georges County, Md.	11/30/80	09/30/81	09/30/80	06/30/81
Maintenance services for CDC 6600 computer system.	Boulder, Colo	09/30/80	09/30/81	09/30/80	06/30/81
On-site maintenance of UNIVAC 1108 computer system.	Miami, Fla	09/30/80	09/30/81	09/30/80	06/30/81
Operation and maintenance of the GOES Central Distribution System.	Various locations across United States.	09/30/80	09/30/81	09/30/80	06/30/81
Engineering and technical services	Rockville, Md.	04/07/81	04/06/82	01/07/81	01/07/82
Operation and maintenance of Control Tide Stations.	Various parts of Florida	11/13/80	11/13/82	08/13/81	08/13/82
Maintenance of UNIVAC 1100/10 Computer System.	Asheville, N.C.	09/30/80	09/30/83	06/30/82	06/30/83
Calibration of Oceanographic Instruments.	Bellevue, Wash	10/31/80	10/31/84	06/01/83	06/01/84
Technical support services for the NOAA Data Buoy Office.	Bay St. Louis, Miss	04/30/81	03/31/85	12/31/83	12/31/84
Maintenance and repair services for NOAA Weather Radio RF transmitters.	Nationwide	06/30/80	06/30/86	03/30/84	03/30/85

Date: August 1, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Services.

[FR Doc. 80-23769 Filed 8-6-80; 8:45 am]

BILLING CODE 3510-12-M

Pacific Fishery Management Council, Scientific and Statistical Committee and Salmon Subpanel; Public Meeting With Partially Closed Session; Rescheduling

AGENCY: National Marine Fisheries Service.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) and its Salmon Subpanel have changed meeting dates and times (FR Vol. 45, No. 144, July 24, 1980, page 49312):

From

Salmon Subpanel (open meeting) August 19–20, 1980 (2 p.m. to 5 p.m. on August 19; 8 a.m. to 5 p.m. on August 20)

To

August 20 (2 p.m. to 5 p.m.) and August 21 (8 a.m. to 12 noon)

From

Council (open meeting) August 20, (9 a.m. to 5 p.m.) and August 21 (8 a.m. to 5 p.m.)

To

August 20 (9 a.m. to 5 p.m.) and August 21 (11 a.m. to 5 p.m.)

From

Council (closed meeting) August 20, (8 a.m. to 9 a.m.)

To

August 21 (9 a.m. to 11 a.m.)

All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: August 4, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23854 Filed 8-6-80; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss status of groundfish fishery; oversight committee reports for lobster, scallops, and herring, as well as other business.

DATE: The meetings, which are open to the public, will convene on Wednesday, August 27, 1980, at approximately 10 a.m., and will adjourn on Thursday, August 28, 1980, at approximately 5 p.m. The meetings may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the Samoset Resort, Rockport, Maine.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway, Route One, Saugus, Massachusetts 01906, Telephone: (617) 231–0422.

Dated: August 4, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23853 Filed 8-6-80; 8:45 am]

BILLING CODE 3510-22-M

Sea Lion Promotions Ltd.; Issuance of Permit

On May 30 1980, Notice was published in the **Federal Register** (45 FR 36466), that an application had been filed with the National Marine Fisheries Service by Sea Lion Promotions Limited, 9 Auckland Terrace, Parliament Street, Ramsey, Isle of Man, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on July 31, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Sea Lion Promotions Limited subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 31, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23852 Filed 8-6-80; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Joint Audit Plan, Correction

In FR Doc. 80–21785, appearing at page 48682 in the **Federal Register** of Monday, July 21, 1980, the following changes should be made:

1. On page 48683, in the third column, immediately below the boldface heading, "Chicago Board of Trade-FCM's," the FCM "Aardvark Financial Inc." should be added. Also, on the fourteenth line under that boldface heading, the FCM denoted as "Brown & Co., Inc., K.J.," should be deleted.

2. On page 48684, the first column, on line 28, the name "Shearson Loeb Rhoades, Inc." should be inserted in lieu of "Shearson Hayden Stone, Inc." and on line 36, the name "Gill & Duffus Services, Inc." should be inserted in lieu of "Truebner & Company, Inc." Also, immediately below line 36, the following two FCMs should be added: "Virginia Trading Corporation" and "Western Farm Commodities Company."

Issued in Washington, D.C., on August 4, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-23635 Filed 8-6-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Performance Review Boards; List of Members; Addition

AGENCY: Department of the Air Force, DOD.

ACTION: Addition of names to notice on "Performance Review Boards List of Members."

SUMMARY: In FR Doc. 80–22455, appearing on pages 49970–49972 of the July 28, 1980 **Federal Register** add the following names: Under *Air Force Logistics Command (AFLC):* Armond Meacham, Deputy for Contracting and Manufacturing, AFALD, AFLC. Under *Air Force Systems Command (AFSC):* George Huffman, R&D Executive Chief Scientist, Air Force Aero Propulsion Lab, AFSC. Under *Air Force Systems Command (AFSC):* Michael Salkind, Director, Electronic and Solid State Sciences, AFOSR, AFSC. Under *Other:* Marion Williams, Scientific Advisor (Test and Evaluation), AFTEC.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, telephone: (202) 697–1861.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-23773 Filed 8-6-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Applications for Review

AGENCY: Department of Education.

ACTION: Notice of applications for review accepted for hearing by Education Appeal Board.

SUMMARY: This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between May 3, 1980, and June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 456 of the General Education Provisions Act (20 USC 1234), the Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For

V 45/154 AG 7 80 UMI

information concerning the Board and its procedures, see the Board's final regulations published in the **Federal Register** on April 3, 1980 (45 FR 22634).

This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between May 3, 1980, and June 30, 1980.

Two applications for review involved programs conducted under Title I of the Elementary and Secondary Education Act of 1965, as amended:

(1) *Appeal of the State of Nevada,* Docket No. 6–(61)–80. The State appealed a final audit determination that the Washoe County School District had no supporting documentation for its fiscal year 1975 and 1976 comparability reports and could not demonstrate that services provided from State and local funds to schools serving Title I project areas were comparable to the services provided schools not serving Title I project areas. The Department of Education requested a refund from the State in the amount of $640,699.00.

(2) *Appeal of the State of Illinois,* Docket No. 7–(62)–80. The State appealed final audit determinations that the Chicago Board of Education (1) used Title I funds in fiscal years 1975 and 1977 to support a project for the education of pregnant girls that was not eligible for Title I funds, and supplanted State and local funds that should have been used to support the project; (2) approved projects in fiscal year 1977 at two schools that did not meet the Title I comparability requirements, and (3) overclaimed indirect costs in fiscal years 1975 through 1977. The Department of Education requested a refund from the State in the amount of $3,335,680.00.

Two applications for review involved programs conducted under the Emergency School Aid Act:

(1) *Appeal of the City of Detroit, Michigan,* Docket No. 5–(60)–80. The city appealed final determinations that some of the funds made available to the city under the Emergency School Aid Act were improperly used for out-of-State trips and space rental costs under one grant, and for additional costs and activities that were unauthorized under a second grant. The Department of Education requested a refund from the city in the amount of $116,729.00.

(2) *Appeal of Community School District 22, Brooklyn, New York,* Docket No. 8–(63)–80. The school district appealed a final determination that some of the funds made available to the school district under an Emergency School Aid Act grant were used to hire additional personnel without the prior approval of the Grants Officer. The Department of Education requested a refund from the school district of $105,362.00.

Section 100d.43 of the Board's final regulations provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the four listed above.

The application must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the intervenor has an interest in and information relevant to the specific issues raised in the appeals. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(Catalog of Federal Domestic Assistance Number not applicable. Part I of one circular A–95 does not apply.)

(20 U.S.C. 1234)

Dated: August 4, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-23866 Filed 8-6-80; 8:45 am]

BILLING CODE 4000-01-M

Education Appeal Board; Final Decisions Adopted

AGENCY: Department of Education.

ACTION: Summaries of Final Decisions of the Education Appeal Board.

SUMMARY: This notice contains summaries of the two decisions of the Education Appeal Board which were adopted at the final decisions of the Department of Education between January 5, 1980, and June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 456 of the General Education Provisions Act (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations published in the **Federal Register** on April 3, 1980 (45 FR 22634).

This notice summarizes the two decisions of the Education Appeal Board that were adopted as the final decisions of the Department of Education between January 5, 1980, and June 30, 1980. Summaries of the Board's decisions are published on a semiannual basis in order to keep the public informed as to the Board's activities.

The summaries are prepared as a convenience to the public and are intended only to highlight the holdings of the Education Appeal Board. The summaries are not official parts of the decisions and should not be relied upon as guidance from the Department of Education or legal precedent. Copies of the full decisions of the Education Appeal Board are available at the address given above on request and with payment of the full costs of reproduction.

Summary of Final Decision: *Appeal of the State of Michigan,* Docket No. 9–(24)–76, February 26, 1980.

Michigan appealed a final audit determination, made by the Deputy Commissioner for School Systems, that during the summer of 1970, the Traverse Bay Area Intermediate School District improperly charged the shared costs of a State-funded day care program and a Federally-funded migrant youth education program solely to the Federal program. The Federal program was funded under Title I of the Elementary and Secondary Education Act of 1965, as amended. The Deputy Commissioner requested a refund from the State in the amount of $55,557.00.

On February 12, 1979, the Hearing Panel issued an interim decision holding that Michigan was required to refund the amount of Title I migrant funds improperly expended on the day care program, but leaving open the issue of how to properly compute that amount. In the Panel's concluding decision issued on December 19, 1979, the Panel approved the auditors' use of average daily attendance figures as the basis for prorating the shared costs of the two programs, and noted that the State had not met its burden of proving that the average daily attendance figures were inaccurate.

The Panel held that Michigan was required to refund $55,557.00 to the Department of Education. On February 26, 1980, the Panel's decision was adopted as the final decision of the Department.

Summary of Final Decision: *Appeal of the State of New Jersey,* Docket No. 14–(29)–76, May 3, 1980.

New Jersey appealed final audit determinations, made by the Deputy Commissioner for Elementary and Secondary Education, that the Newark local educational agency misspent funds under Title I of Elementary and Secondary Education Act of 1965, as amended, in fiscal years 1971 and 1972. After applying the statute of limitations, the amount of Title I funds remaining in dispute was $1,031,304.00.

In a decision issued February 19, 1980, the Hearing Panel ruled that the Commissioner of Education was not limited to withholding future Title I funds but could recover funds improperly spent within the applicable limitation period. The Panel found that the Newark local educational agency spent Title I funds at schools which the Newark local educational agency, by using an eligiblity formula that inflated the percentages of children from low-income families attending the schools, improperly classified as eligible for Title I services. The Panel also ruled that recalculations of the percentages submitted during the appeal proceedings failed to show that the schools were eligible. The Panel further rejected New Jersey's argument that all the Newark schools were disadvantaged and therefore eligible to receive Title I services.

The Panel ruled that New Jersey was required to refund $1,031,304.00 to the Department of Education. On May 3, 1980, the Panel's decision was adopted as the final decision of the Department.

(Catalog of Federal Domestic Assistance Number not applicable. Part I of OMB Circular A–95 does not apply.)

Dated: August 4, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-23867 Filed 8-6-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Intent To Prepare Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) on the potential use of a group of salt domes in the Gulf of Mexico off the coast of Texas and Louisiana for crude oil storage by the Strategic Petroleum Reserve.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS to assess the environmental implications of a proposed DOE action to use one of three salt domes located in the Gulf of Mexico approximately 40–65 miles off the coast of Texas and Louisiana for storage of up to 200 million barrels (MMB) of crude oil as a part of the Strategic Petroleum Reserve (SPR).

Interested agencies, organizations, and members of the general public desiring to submit commnts or suggestions for consideration in connection with this EIS are invited to do so. Upon completion of the EIS, its availability will be announced in the **Federal Register,** at which time comments will again be solicited.

Written comments may be submitted to: Harry A. Jones, Deputy Assistant Secretary, Strategic Petroleum Reserve Office, U.S. Department of Energy, 1726 M St. NW., Washington, DC 20461 (202) 634–5521.

For general information on the DOE Environmental Impact Statement (EIS) process contact: Ms. Mary E. Shaughnessy, NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Room 4G–064, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585 (202) 252–4610.

BACKGROUND INFORMATION: Congress mandated the SPR in Title I, Part B, of the Energy Policy and Conservation Act of 1975 (Pub. L. 94–163) to provide the United States with sufficient petroleum reserves to minimize the effects of any future oil supply interruption. SPR Plan Amendment No. 2, submitted to the Congress in May 1978, increased the goal of the Reserve from 500 million to 1 billion barrels by 1985 and provided for implementation of a 750 million barrel Government Reserve.

A final programmatic EIS addressing the effects of SPR implementation was made available in December 1976. A final supplement updating the programmatic EIS and addressing the expansion of the SPR to a billion barrel program was made available in January 1979. The programmatic EIS and its supplement addressed the establishment of several different types of reserves (e.g. Industrial Petroleum Reserve, Regional Product Reserve, and the Early Storage Reserve) as well as several different types of storage media (e.g., surplus tanker ships, conventional steel surface tanks, underground storage in salt domes and rock caverns). In addition, the programmatic EIS addresses cumulative effects expected from use of varying combinations of media types.

Five sites are presently being developed in Gulf coastal areas of Texas and Louisiana as a part of the SPR. These include: solution-mined salt dome sites at Bryan Mound, Texas, and West Hackberry, Bayou Choctaw and Sulphur Mines, Louisiana, and one mechanically mined site at Weeks Island, Louisiana. Site specific EIS's are available for each of these sites. With an increased goal of the SPR of one billion barrels, additional storage sites must be identified and evaluated. The development of storage below the floor of the Gulf of Mexico in an offshore group of salt domes is proposed as one alternative to provide up to 200 MMB of the total SPR capacity.

The purpose of this Notice is to present, pertinent background information regarding the proposed scope and content of the EIS and to solicit comments and suggestions for consideration in its preparation. Environmental effects of this proposal will be assessed in the EIS. This offshore group of salt domes is proposed for storage of up to 200 MMB although full utilization of all three sites could provide up to 600 MMB of storage. The offshore sites under consideration have been named for the lease blocks in which they are located. The three sites are identified as Galveston Island Block 86 (GA86), Galveston Island Block 64, (GA64) and East Cameron Block 192 (EC192). Site GA86 lies approximately 45 miles south of Freeport, Texas; site GA64 lies approximately 50 miles southwest of Freeport; and site EC192 lies approximately 65 miles southwest of Cameron, Louisiana.

Development of 200 MMB of storage capacity at any one of the sites would require leaching 24 storage caverns from the salt dome. Each cavern would be planned for a 10 MMB net capacity; however, since unforeseen construction or geological conditions might result in less than desired capacity in some caverns, planning would assume development of 16 caverns at 10 MMB and 8 caverns at 5 MMB. Erection of 24 drilling platforms would be required for cavern entry wells to be used for leaching, oil fill and oil withdrawal. Water for leaching would be withdrawn from the Gulf of Mexico, and the brine produced during cavern development would be discharged into the Gulf through two discharge ports positioned 15 feet apart and 25 feet below the water surface at each platform. Return of the brine to a central pumping platform for discharge is not proposed because of (1) the extensive piping required, (2) the potentially greater effect on the water column of a larger concentration of brine discharge at one location, and (3) the potential for brine recirculating through the leach water intake and adversely affecting the rate of cavern leaching.

V 45 / 154 AG 7 80 UMI

Additional principal facilities at an offshore salt dome site would include a large pumping platform for seawater intake (leach water), oil pumping, offshore control center, and living quarters; connecting pipelines; and six single point moorings (SPM). Establishment of anchorages and shipping safety fairways to provide tanker access to the SPM's would also be required.

Onshore support facilities would be provided at either Freeport or Port Arthur, Texas. Principal onshore support base components would include a small boat harbor and docking facility, a warehouse and storage area, heliport, an administration center, and oil spill control equipment.

A primary advantage of using offshore sites is that very large crude carriers could be moored at a site for offloading directly into storage caverns. Oil withdrawn from storage could be transported by small and/or large tankers to refineries in the northeastern United States and/or in the Caribbean. Tankers could also transport oil to Gulf Coast refineries.

Identification of Environmental Issues

Issues which will analyzed during preparation of the DEIS include but are not limited to the following list which is not intended to be a predetermination of effects:

(1) Effects resulting from site preparation and operation of oil storage facilities including a permanent loss of salt resources, adverse effects on local water quality due to sediment suspension, effects of brine disposal, and effects of accidents resulting in oil spills and/or on-site fires;

(2) Effects on biota resulting from construction and operation including disruption of bottom sediments and resultant loss of benthos, creation of a favorable reef habitat at the platforms, and entrainment and impingement of organisms by intake structures;

(3) The release of hydrocarbon emissions due to tanker venting during withdrawal may result in exceeding air quality standards for up to 20 miles from SPM's;

(4) Cumulative effects of cavern area preemption from commercial fishing and oil/gas development; and

(5) Effects resulting from development of a 10-acre onshore support base which would include loss of terrestrial and aquatic habitats with indirect effects on fish and wildlife.

ALTERNATIVES: The DEIS for the proposed development of offshore domes for use in the SPR will examine the environmental effects of that development and compare them to effects of reasonable alternatives. The DEIS will consider this proposal from the standpoint of various development options. The DEIS will also consider these alternatives: storage underground in caverns developed in Gulf Coast and inland salt domes, storage underground in hard rock mines, and a "no action" alternative whereby no additional storage would be developed for the SPR beyond that already provided in SPR Gulf Coast facilities.

All suggestions, comments and questions submitted to DOE on or before August 27, 1980, will be carefully considered in the preparation of the DEIS. Comments received after that date will also be considered to the maximum extent practicable.

Dated at Washington, DC, this 1st day of August 1980.

For the United States Department of Energy.

Lynda L. Brothers,

Acting Assistant Secretary for Environment.

[FR Doc. 80-23800 Filed 8-6-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following contract:

WC–CA–20, United States to Canada, fuel rods containing 245 kilograms uranium, with 7.3 kilograms of U–235 (2.98%), to be used for a loss of coolant accident study at the NRU reactor, Atomic Energy of Canada, Limited, Chalk River, Canada. This study is sponsored by the U.S. Nuclear Regulatory Commission. It is intended that this material will be returned to the United States within two years after completion of the study.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 22, 1980.

For the Department of Energy.

Dated: August 1, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Programs.

[FR Doc. 80-23794 Filed 8-6-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan and the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/JA(EU)–21, from West Germany to Japan, two prototype material test reactor fuel elements, one of which contains 520 grams uranium enriched to 92.65% in U–235, and one of which contains 980 grams of uranium enriched to 19.99% in U–235, to be utilized in the material test reactor at the Japan Atomic Energy Research Institute.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 22, 1980.

For the Department of Energy.

Dated: August 1, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-23795 Filed 8-6-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Entitlements Program Crude Oil Cost Data, November 1978 Through May 1980

The Economic Regulatory Administration (ERA) hereby issues its bi-monthly notice of crude oil cost data. The purpose of this notice is to make available to the public information on the effect of the entitlements program on the crude oil costs of the various segments of the refining industry. Table I (attached) sets forth the pre-entitlements costs of crude oil to (1) the major refiners (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, and Union-Oil), (2) large independent refiners (Ameriada Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee, and Champlin), and (3) small refiners. Table II (attached) shows the post-entitlements crude oil cost distribution for the 22 major and large independent companies. Table III (attached) shows the pre-entitlements imported crude oil cost distribution for the same 22 companies.

The data are based on the reports filed each month on the Form ERA–49 by all refiners in the entitlements program.

Issued in Washington, D.C. on July 31, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

FOR FURTHER INFORMATION CONTACT:

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461 (202/653–3475).

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B–110 Washington, D.C. 20461 (202/653–4055).

Table I.—*Crude Oil Costs Before and After Entitlement Payments*

[Dollars per barrel]

	Majors (top 15)**		Large independents***		Small refiners	
	Pre	Post*	Pre	Post*	Pre	Post*
1978:						
Nov	$12.51	$12.91	$13.26	$12.95	$13.07	$12.23
Dec	12.68	13.06	13.78	13.25	13.22	12.43
1979:						
Jan	$12.76	$13.24	$14.06	$13.48	$13.60	$12.65
Feb	13.17	13.65	14.22	13.60	13.72	12.77
Mar	13.40	13.82	14.60	14.55	14.11	13.23
Apr	14.15	14.60	15.85	15.27	14.82	13.96
May	14.82	15.42	17.10	16.41	15.89	14.78
Jun	16.43	16.93	18.61	17.39	17.76	17.17
Jul	18.13	18.71	20.74	19.19	18.74	18.11
Aug	19.11	19.62	21.73	20.25	20.52	20.06
Sep	19.29	19.85	21.43	20.10	21.43	20.78
Oct	20.02	20.68	22.63	23.89	21.60	20.62
Nov	21.03	21.81	25.87	24.61	22.92	21.97
Dec	22.71	23.55	26.00	23.65	24.96	24.23
1980:						
Jan	23.96	24.90	26.19	25.15	26.81	24.62
Feb	25.22	26.13	26.60	26.15	27.32	26.51
Mar	25.85	26.88	29.23	26.87	28.69	27.34
Apr	26.16	27.02	29.41	27.96	28.90	27.22
May	26.96	28.00	29.33	29.22	29.89	27.04
Change Jan 1979 to May 1980	14.20	14.76	15.27	15.74	16.29	14.39

*Post entitlements payment costs show the effect of the entitlements payments in the month for which the notice is published even though the payments take place two months later. For example, November 1979 data are shown in the entitlement notice for November 1979 published in January 1980.

**(Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco and Union-Oil).

***(Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee & Champlin).

Table II.—*Post Entitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies**

Number of companies with per barrel costs of	Nov 78	Dec 78	Jan 79	Feb 79	Mar 79	Apr 79	May 79
$11.00 to $11.99	2	1	1	0	0	0	0
12.00 to 12.99	6	6	8	2	3	2	0
13.00 to 13.99	13	11	7	12	5	0	2
14.00 to 14.99	1	4	5	6	13	10	5
15.00 to 15.99	0	0	1	0	0	7	5
16.00 to 16.99	0	0	0	0	1	3	6
17.00 to 17.99	0	0	0	0	0	0	2
18.00 to 18.99	0	0	0	0	0	0	1
19.00 to 19.99	0	0	0	0	0	0	1
20.00 to 20.99	0	0	0	0	0	0	0
21.00 to 21.99	0	0	0	0	0	0	0
22.00 to 22.99	0	0	0	0	0	0	0
23.00 to 23.99	0	0	0	0	0	0	0
24.00 to 24.99	0	0	0	0	0	0	0
25.00 to 25.99	0	0	0	0	0	0	0
26.00 to 26.99	0	0	0	0	0	0	0
27.00 to 27.99	0	0	0	0	0	0	0
28.00 to 28.99	0	0	0	0	0	0	0
29.00 to 29.99	0	0	0	0	0	0	0

V 45 / 154 AG 7 80 UMI

Table II.—*Post Entitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies**—Continued*

Number of companies with per barrel costs of	Nov 78	Dec 78	Jan 79	Feb 79	Mar 79	Apr 79	May 79
30.00 to 30.99	0	0	0	0	0	0	0

	Jun 79	Jul 79	Aug 79	Sep 79	Oct 79	Nov 79	Dec 79	Jan 80
$11.00 to 11.99	0	0	0	0	0	0	0	0
12.00 to 12.99	0	0	0	0	0	0	0	0
13.00 to 13.99	0	0	0	0	0	0	0	0
14.00 to 14.99	2	0	0	0	0	0	0	0
15.00 to 15.99	3	1	0	0	0	0	0	0
16.00 to 16.99	4	0	1	2	1	0	0	0
17.00 to 17.99	5	4	2	1	1	0	0	0
18.00 to 18.99	6	5	5	1	1	1	0	0
19.00 to 19.99	0	4	2	4	3	1	1	0
20.00 to 20.99	2	6	7	6	1	2	1	0
21.00 to 21.99	0	0	1	3	7	3	4	2
22.00 to 22.99	0	0	3	3	3	5	3	3
23.00 to 23.99	0	2	0	1	2	6	2	1
24.00 to 24.99	0	0	1	1	2	3	5	1
25.00 to 25.99	0	0	0	0	0	0	2	4
26.00 to 26.99	0	0	0	0	1	0	2	5
27.00 to 27.99	0	0	0	0	0	0	1	2
28.00 to 28.99	0	0	0	0	0	0	0	4
29.00 to 29.99	0	0	0	0	0	1	1	0
30.00 to 30.99	0	0	0	0	0	0	0	0

	Feb 80	Mar 80	Apr 80	May 80
$11.00 to $11.99	0	0	0	0
12.00 to 12.99	0	0	0	0
13.00 to 13.99	0	0	0	0
14.00 to 14.99	0	0	0	0
15.00 to 15.99	0	0	0	0
16.00 to 16.99	0	0	0	0
17.00 to 17.99	0	0	0	0
18.00 to 18.99	0	0	0	0
19.00 to 19.99	0	0	0	0
20.00 to 20.99	0	0	0	0
21.00 to 21.99	0	0	0	0
22.00 to 22.99	0	0	0	0
23.00 to 23.99	4	1	1	0
24.00 to 24.99	3	3	2	2
25.00 to 25.99	4	5	5	0
26.00 to 26.99	1	1	2	3
27.00 to 27.99	4	2	1	4
28.00 to 28.99	1	1	3	2
29.00 to 29.99	3	6	2	8
30.00 to 30.99	1	3	2	5
31.00 to 31.99	0	0	3	0
32.00 to 32.99	1	0	0	1
33.00 to 33.99	0	0	0	0
34.00 to 34.99	0	0	1	0

Table III.—*Pre-Entitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies***

Number of companies with per barrel crude oil cost of	Nov 78	Dec 78	Jan 79	Feb 79	Mar 79	Apr 79	May 79
$13.00 to 13.99	4	1	0	0	0	0	0
14.00 to 14.99	10	10	5	2	2	0	0
15.00 to 15.99	7	9	7	10	3	1	0
16.00 to 16.99	1	1	8	6	11	8	2
17.00 to 17.99	0	1	0	2	3	2	6
18.00 to 18.99	0	0	1	1	2	3	3
19.00 to 19.99	0	0	0	0	1	5	5
20.00 to 20.99	0	0	0	1	0	2	2
21.00 to 21.99	0	0	0	0	0	0	2
22.00 to 22.99	0	0	0	0	0	0	0
23.00 to 23.99	0	0	0	0	0	0	1
24.00 to 24.99	0	0	0	0	0	0	1
25.00 to 25.99	0	0	0	0	0	0	0
26.00 to 26.99	0	0	0	0	0	0	0
27.00 to 27.99	0	0	0	0	0	0	0
28.00 to 28.99	0	0	0	0	0	0	0
29.00 to 29.99	0	0	0	0	0	0	0

Table III.—*Pre-Entitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies**—Continued*

Number of companies with per barrel crude oil cost of	Nov 78	Dec 78	Jan 79	Feb 79	Mar 79	Apr 79	May 79
30.00 to 30.99	0	0	0	0	0	0	0
31.00 to 31.99	0	0	0	0	0	0	0
32.00 to 32.99	0	0	0	0	0	0	0
33.00 to 33.99	0	0	0	0	0	0	0
34.00 to 34.99	0	0	0	0	0	0	0
35.00 to 35.99	0	0	0	0	0	0	0
36.00 to 36.99	0	0	0	0	0	0	0
37.00 to 37.99	0	0	0	0	0	0	0
38.00 to 38.99	0	0	0	0	0	0	0

	Jun 79	Jul 79	Aug 79	Sep 79	Oct 79	Nov 79	Dec 79	Jan 80
$13.00 to 13.99	0	0	0	0	0	0	0	0
14.00 to 14.99	0	0	0	0	0	0	0	0
15.00 to 15.99	0	0	0	0	0	0	0	0
16.00 to 16.99	1	0	0	0	0	0	0	0
17.00 to 17.99	0	0	0	0	0	0	0	0
18.00 to 18.99	2	1	0	0	0	0	0	0
19.00 to 19.99	5	0	1	0	0	0	0	0
20.00 to 20.99	1	2	2	2	1	1	0	0
21.00 to 21.99	2	3	2	0	1	0	0	0
22.00 to 22.99	4	4	3	1	4	1	0	0
23.00 to 23.99	1	3	1	5	2	1	1	0
24.00 to 24.99	3	3	4	3	1	2	3	1
25.00 to 25.99	0	1	3	4	0	3	1	0
26.00 to 26.99	1	2	3	2	6	2	2	2
27.00 to 27.99	0	0	1	1	2	4	1	1
28.00 to 28.99	0	2	1	2	2	4	4	3
29.00 to 29.99	0	0	0	2	1	0	2	1
30.00 to 30.99	0	0	0	0	0	1	4	2
31.00 to 31.99	0	0	0	0	0	0	0	3
32.00 to 32.99	0	0	0	0	0	0	1	1
33.00 to 33.99	0	1	1	0	0	0	0	0
34.00 to 34.99	0	0	0	0	0	2	2	3
35.00 to 35.99	0	0	0	0	1	1	1	3
36.00 to 36.99	0	0	0	0	0	0	0	0
37.00 to 37.99	0	0	0	0	0	0	0	1
38.00 to 38.99	0	0	0	0	0	0	0	1

	Feb 80	Mar 80	Apr 80	May 80
$13.00 to 13.99	0	0	0	0
14.00 to 14.99	0	0	0	0
15.00 to 15.99	0	0	0	0
16.00 to 16.99	0	0	0	0
17.00 to 17.99	0	0	0	0
18.00 to 18.99	0	0	0	0
19.00 to 19.99	0	0	0	0
20.00 to 20.99	0	0	0	0
21.00 to 21.99	0	0	0	0
22.00 to 22.99	0	0	0	0
23.00 to 23.99	0	0	0	0
24.00 to 24.99	0	0	0	0
25.00 to 25.99	0	0	0	0
26.00 to 26.99	0	0	1	0
27.00 to 27.99	1	0	0	0
28.00 to 28.99	1	1	1	0
$29.00 to $29.99	3	3	0	0
30.00 to 30.99	0	0	2	2
31.00 to 31.99	2	1	1	4
32.00 to 32.99	2	1	1	1
33.00 to 33.99	5	1	1	0
34.00 to 34.99	1	5	3	2
35.00 to 35.99	0	3	4	1
36.00 to 36.99	4	2	2	6
37.00 to 37.99	0	3	5	3
38.00 to 38.99	1	0	1	2
39.00 to 39.99	2	2	0	0
40.00 to 40.99	0	0	0	1

*(Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee & Champlin).

[FR Doc. 80-23783 Filed 8-6-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51106; FRL 1564-1]

Isocyanate Terminated Urethane Prepolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 19, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202/426-3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture

notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 19, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51106]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 1, 1980.

Warren R. Muir,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-178

Close of Review Period. October 19, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided. Isocyanate terminated urethane prepolymer.

Use. Claimed confidential.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. Claimed confidential.

Exposure. Claimed confidential.

Environmental Release/Disposal. Claimed confidential.

[FR Doc. 80-23600 Filed 8-6-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1563-8]

Regional Implementation of EPA Policy for Increased Use of Minority Consultants and Construction Contractors

The U.S. Environmental Protection Agency (EPA) announces these regional goals for utilization of minority consultants and construction contractors in the four States of Region 10: Alaska, Idaho, Oregon and Washington. This action implements EPA's Policy for "Increased Use of Minority Consultants and Construction Contractors" published in the **Federal Register,** Vol. 43, No. 248, page 60220 (Tuesday, December 26, 1978). These goals shall become effective thirty (30) days after publication in the **Federal Register.**

I. Introduction

Public hearings were held in each of the four Region 10 States to assist EPA in identifying and establishing goals for minority business enterprises (MBE) in the Region. Notice of these hearings was published in five major newspapers, including one newspaper in each of the four Region 10 States. In addition, notice of these hearings was mailed to more than 700 MBE's, contractors, material suppliers, engineering firms and others interested in the MBE program in Region 10. The hearings were held in Boise, Idaho on January 8, 1980, Anchorage, Alaska on January 15, 1980, Seattle, Washington on January 17, 1980, and in Portland, Oregon on January 24, 1980.

Based on the comments and testimony received, the Regional Administrator, Region 10, establishes a variable goal which takes into account the type, size and location of EPA-assisted projects. This notice also establishes regional policy and procedures regarding non-minority controlled firms to curb the potential abuse of non-MBE firms taking a share of business which otherwise would go to MBE under the policy.

The goals announced are established for three separate components of the engineering, planning and construction industry: (1) Architectural and engineering (A/E) services; (2) construction contracting; and (3) the supply of equipment and materials. Region 10 has established a separate goal and a separate method of computing MBE participation for material and equipment suppliers based on testimony from MBE and the industry generally that construction contractors have used non-minority manufactured equipment and mateials, supplied by minority firms, to totally meet the MBE goal without taking further positive efforts to retain MBE in other construction related areas.

The EPA policy was issued prior to the final promulgation by the Office of Management and Budget (OMB) of Revised Attachment O to OMB Circular A-102, **Federal Register,** Vol. 44, No. 159, page 47874 (August 15, 1979). However, the EPA policy is based upon and consistent with the positive efforts requirements contained in Revised Attachment O.

II. Summary of Comments and Agency Response

The four hearings held in Idaho, Alaska, Washington and Oregon were conducted by the EPA Region 10, Office of Regional Counsel, Water Division and Office of External Affairs (civil rights office). Participants at the hearings included both minority and non-minority architects and engineers, material and equipment suppliers and construction contractors from the private sector as well as public officials associated with State and local governments implementing MBE programs.

Persons testifying at each of the hearings stated that the EPA Policy has increased opportunities for MBE participation in all segments of the construction industry and has been effective to a greater or lesser extent in overcoming past discrimination and lack of minority involvement in the industry. Nevertheless, numerous commenters stated that discrimination against minorities is continuing in the construction and architectural and engineering industry, and that additional efforts are needed to overcome this problem.

Oregon Hearing

The hearing in Oregon was held in Portland on January 24, 1980.

Testimony was received on each of the questions asked in the notice of public hearing, and on other issues involving the MBE program. Witnesses expressed concern over implementation of a uniform regional goal, given the diversity of population in areas and number of minority owned firms in those areas. There was discussion regarding "importing" minority firms and workers to do jobs that "locals" could do. Many expressed the view that there should be no relationship between minority population in an area and goal-setting for that area.

Those present expressed a belief that some majority contractors were not contracting with MBE's because MBE's would not travel. MBE's stated that they were willing to travel for work, wherever it was, but expected to be compensated for travel like any other contractor.

Commentors stated they wanted the opportunity to bid jobs fairly, rather than submitting bids that are never responded to, which are extremely time consuming and costly to prepare. It was suggested that the EPA engineers be more involved in working with grantees, prime contractors, and MBE's.

Some minority group members testified that non-minority contractors tried to avoid using minority contractors by delaying jobs to be performed and calling them at the last minute to submit bids. It was also stated that prime A/E firms were making minority firms bid against one another for A/E work rather than selcting minority firms on their qualifications.

Commentors suggested that the goal should either remain at the same percentage of total project costs or be increased. Persons testifying also requested that changes in the goal not be based solely on availability of minority contractors in a give locality.

Many of those present stated that women-owned businesses should have either a separate goal or no goal at all and not be allowed to compete with the MBE program. It was also stated that the MBE program should be extended to all EPA grant programs.

Washington Hearing

The hearing was intially scheduled for January 8, 1980, but was deferred until January 17, because of inclement weather.

Some commenters stated that the minority work force was adequate in size, skills and interest to increase our present goals to about 30 percent. They argued that the minorities are able and willing to travel and therefore, goals should be uniform throughout the Region. Some present expressed opposite beliefs; i.e., that the minority work force is limited, MBE's cannot competitively travel from urban areas to all remote areas and that goals should vary with location and trade. Some said minority population or number of minority business enterprises should be considered by area in setting goals. Others said there was no relationship between population or number of MBE's and realistic goals.

Some comments were received indicating minority A/E firms wanted to be selected on the basis of qualifications as are non-minority firms but were requested to submit bids to prime A/E firms to obtain work. They did not believe the prime A/E firm should be hired based on qualifications and a different process be used for A/E subcontractors. Other commenters indicated that some A/E subcontractors gave responses to potential work offers which were not conclusive and could not be readily used in completing a proposal. Based upon these comments, it appears that minority and non-minority A/E firms are not cooperating with one another at times.

Problems were identified in measuring activities of MBE material and equipment brokerage firms to meet MBE goals. Specifically criticized was the practice of purchasing supplies from a minority supplier as a means of totally meeting the MBE requirements. Also, concerns were expressed about sham MBE's not being identified and administrative actions to identify such shams not being initiated by EPA as rapidly as possible.

Testimony was received regarding setting MBE goals separately from goals for women's business enterprises.

One commenter suggested a direct incentive bonus grant program of 85 percent federal financial participation in sewage treatment project costs be implemented for grantees who excelled in achieving "maximum" MBE participation.

Alaska Hearing

Most of those present at the January 15, 1980 hearing in Anchorage, Alaska, testified that the present Region 10 goal of 10 to 15 percent minority business enterprise participation has been instrumental in creating opportunities for minority businesses. Participants stated that this percentage goal should be maintained or increased for all segments of the architectural engineering and construction industry.

It should be noted that EPA has no statutory authority to increase the share of Federal financial participation in sewage treatment projects beyond seventy-five per cent (75%) on the basis of excellent MBE performance.

The most frequently mentioned problems with the program were: (1) Financial difficulties for small minority firms due to delays between submission of a bid and approval of the contract by the grantees, State and EPA, or due to delays in submitting and processing requests for payment: (2) "sham" or non-minority controlled firms obtaining work by claiming to be minority businesses; and (3) lack of timely knowledge by minority businesses of potential EPA projects or projects going to bid.

Several persons testified that the MBE program should be extended to all grant programs administered by EPA, and that a separate goal should be established for utilization of women's business enterprises (WBE).

Idaho Hearing

At the Idaho hearing held in Boise on January 8, 1980, virtually all substantive testimony focused on (a) the past tendency of Region 10's Office of Civil Rights to apply goals as if they were quotas, and (b) the difficulty encountered in trying to meet such goal/quotas in areas which are relatively remote from population centers where minority firms tend to be concentrated. Suggestions for improvement focused on having the EPA provide a clear, advance indication of what levels of minority business participation are viewed as acceptable if positive efforts to increase MBE participation prove inadequate to achieve the goal in any given project.

V. 45 / 154 AG 7 80 UMI

Witnesses also emphasized reluctance by grantees in the State of Idaho to use contractors or any sort who do not maintain offices in the State of Idaho, or to help to increase the number of minority business enterprises that might meet the grantee's qualifications.

III. Specific Comments and Agency Response

In the notice of the public hearings, EPA Region 10 requested testimony and comment on six areas of particular concern in developing MBE goals. There were:

a. What has been the experience of municipal, state or other agencies in the establishment of MBE goals?

b. Should different goals be established for A/E's, equipment and material suppliers, construction firms, and planning consultants?

c. Most MBE's are located in urban areas. Should this have an impact on the establishment of goals?

d. To what extent are MBE's willing to travel throughout the Region to compete for EPA funded contracts? Are MBE's interested in relocating to serve relatively rural projects?

e. What major factors should EPA consider to setting goals and how should these factors be used? For example, to what extent should population ratios impact MBE goals?

f. What goals should be set for MBE utilization in grantee procurements under EPA-assisted programs other than Title II Clean Water Act grants?

The public's comments on these areas of concern and EPA's responses are as follows:

(a) We received limited response regarding public entities implementing MBE goals. One effective local agency appears to be The Municipality of Metropolitan Seattle (Seattle Metro) which implements a dual-envelope bidding program. At bid opening the contractor's MBE participation commitment is evaluated first: only those with qualifying MBE commitments have the bid envelope stating their dollar-bid opened.

Henceforth, EPA will "delegate" its MBE contract approval responsibilities to grantees who demonstrate an "equivalent or better" MBE program than EPA's. Thus the Region has accepted Metro's MBE program as a grantee sponsored equivalent program.

(b) A wide range of suggestions regarding setting different goals for A/E, construction, and supply firms has been received, including suggestions for combined and individual goals for these categories. A particular target of concern is suppliers, where repeated reference has been made to "pass through" brokers or sales offices and allegedly "sham" MBE corporations. Some commenters desired goals based on the number of firms available, while others suggested a flat goal of three percent (3%) of total project costs. Region 10 believes that a flat goal of three percent (3%) or less would be a retreat from current performance of minority contractors in the Region and would not be appropriate.

Testimony was received regarding abuse of MBE goals in the area of materials and equipment supply or brokerage. Region 10 is clarifying what it will consider to be an acceptable supplier and what percentage of costs will be credited toward meeting the MBE goals. The credit will vary depending on whether the procurement is through a manufacturer, distributor with supply and service or a pass-through agency. EPA Region 10 solicited information from seven pipe manufacturers and other EPA regions to assist in establishing appropriate credits toward achievement of the goal through the use of material and equipment suppliers.

(c) Based on both written and oral comments, EPA Region 10 has reviewed the concept of separate goals for rural and urban areas. The complexities of (1) population ratios; (2) location of a project versus location of the majority of minority businesses; and (3) availability of minority business enterprises, affects regional areas differently. With these variables in mind, EPA regards the task of developing goals which reflect area needs as vital to a working program. EPA Region 10 is hereby establishing a varying goal with a basic core covering all projects and meeting the needs of the programs as well as the grantees as discussed in Section III.

(d) Although travel is viewed by some firms as a constraint to achieving MBE participation, EPA has received many responses that MBE are willing to travel. Travel expenses naturally impact the total price required for goods and services. Since cost is one of the items that is considered in procurement negotiations, the expense of travel like any other expense has a bearing on the selection of contractors and subcontractors. EPA agrees with commenters who suggested travel needs be identified and discussed with all interested parties at pre-bid or early negotiation phases of procurement. It is also recognized that portions of A/E work are usually performed in home offices of A/E firms, while construction work is primarily performed at the construction site. Therefore travel may have a larger impact on availability of MBE involved in construction. MBE have expressed a willingness to relocate which is dependent upon the size of the project and the amount of their participation.

(e) Many commenters said the Region 10 Office had applied goals in the past as if they were quotas. The MBE program which the EPA administers is a goal-oriented system. The main difference between a goal-oriented system and a quota system lies in the manner in which the sanction contract disapproval is applied. In EPA's goal-oriented system a contractor may be approved for award even though a stated percentage goal is not met as long as the contractor can demonstrate to the grantee and the EPA that it has undertaken the required efforts to enlist MBE participation in good faith. In a quota system, contract approval would not be obtained unless the stated percentage MBE participation has in fact been achieved. EPA Region 10 operates its MBE program as a goal-oriented system and will continue to approve proposed contract awards where the goal has not been reached as long as the contractor demonstrates adequate efforts to meet the goal.

Several commenters suggested that EPA Region 10 set different goals for different geographic areas based, among other variables, on the ratio of minorities to the local area population, the ration of minority enterprises to all other enterprises, the ratio of minority construction enterprises to other construction enterprises, the ratio of minorities to others in the construction business, or other similar ratios. Exclusive use of these ratios would result in goals that perpetuate historical performance rather than improve opportunities for MBE participation.

We recognize that it may be more difficult to obtain minority construction contractors in some areas than in others, for some jobs than others, and for some trades than others. Region 10 believes, however, that such increases must occur. Testimony received indicated that substantial and continuing discrimination against minorities has occurred and is occurring in the construction industry within Region 10. EPA's 1980–81 goal is based on need to insure that serious efforts are made to use suitable minority business enterprises wherever they can be found, and to the degree that they are able and willing to participate. We believe, however, that grantees and prime contractors should have a more precise indication of the level of participation that EPA thinks may be possible in different situations, and our goal seeks to provide this flexibility.

(f) Both written and oral comments were received stating that goals should be established for EPA grantee procurements in areas other than in Title II Clean Water Act Construction Grant Program. Those testifying stated that, because this is a goal-oriented system rather than a set aside, the goal for such procurements should be the same as that established for construction grants. Based on comments received it is the intent of the Region to extend the goal-oriented system to program other than the Title II Construction Grants Program. However, this will be a new program and consequently implementation of the goal system must be delayed until internal procedures can be developed.

A number of commenters have offered views on the possibility of having a goal for women's business enterprises participation in federal projects, a program currently being reviewed by the Federal Government. *See* Federal Register, Vol. 45, No. 78, page 26934, Monday, April 21, 1980. Most of the minority testimony received favored a separate goal, or favored requiring female minority business enterprises to be given the opportunity to choose whether they wish to be considered as MBE or WBE. EPA will shortly announce a Women's Business Enterprise. Comments should be directed to Ms. Joan Arnold, Office of the Deputy Administrator (A–101), EPA, 401 M Street SW., Washington, D.C. 20460.

III. Statement of the Goal

Based on the above public discussion and after considering all comments received, EPA Region 10 establishes the following varying goal to measure positive efforts for including minority business enterprises on federally funded programs.

It is each grantee's responsibility to assure that positive efforts are taken to provide opportunity to minority business enterprises in all aspects of grant funded projects.

A core goal of 13 to 15 percent is sought generally on all projects by EPA, two subgoals are established within an 8 to 20 percent range for projects of various sizes and in various locations to provide flexibility in determining compliance with the EPA policy. In the case of participation of certain MBE equipment or material suppliers, a reduced credit toward meeting the goal may apply. *See* Section IV, 4 below.

A goal is established of between eight percent (8%) to fifteen percent (15%) for projects which are:

1. Small-sized projects ($300,000 and under in total construction costs); and
2. Located in rural areas well removed from urban areas.

For example, in remote rural areas where construction would constitute a project of less than $300,000 consideration would be given to achieving the low end of the goal. Smaller projects, regardless of location, that do not readily lend themselves to being segmented into smaller parts are included in this category.

A goal of between thirteen and twenty percent (13–20%) is established for projects which are:

1. Large projects (over $2,000,000 in total construction costs) or
2. Located in large urban areas; and
3. Projects which can be broken down into multiple contracts suitable for MBE participation.

For example, a large construction job in urban areas where the greatest MBE resources exist should achieve the maximum goals. EPA will encourage grantees and their contractors to obtain maximum MBE participation on *all* jobs, but with understanding of the difficulty of attracting MBE's to small specialty jobs.

IV. Regional Implementation of Policy Regarding Minority Control and Management of MBE Firms.

The EPA Policy for Increased Utilization of Minority Consultants and Construction Contractors (43 FR 60,220, December 26, 1978) defines a minority business enterprise (MBE) as:

> "a business, at least 51 percent of which is owned and controlled by minority group menbers. The minority ownership must exercise actual day-to-day management." *Id.* at 60,221.

The actual implementation of this definition has lead to several instances where EPA Region 10 and its grantees have been called upon to interpret this definition. Based upon this experience, we believe it advisable to set forth the following criteria which EPA Region 10 will typically consider in determining whether a purported MBE meets EPA's definition of MBE.

Day-to-Day Management and *actual control* will be determined by the following standards:

a. The ownership by the minority owner or owners must be real, substantial and continuing and must go beyond the nominal ownership of the business as reflected in its ownership documents, (e.g. partnership stock control.) The minority owner or owners must enjoy the customary incidents of ownership, including risks and profits commensurate with their ownership interests. These interests must not be subject to the over-riding control of the non-minority owner or owners.

b. The minority owner or owners must actively participate in the management policy decisions and the direction of operations of the business. The participation must be commensurate with the ownership interests, taking into consideration the size and work performed by the business. The minority owner or owners' control shall not be subject to any formal or informal restrictions which limit the customary discretion of a controlling partner or other owner.

c. The business must be an independent and continuing enterprise. Recognition of a business as a separate entity for tax or corporate purposes may not be sufficient for recognition as an MBE. In determining whether a firm is independent and continuing, all relevant factors will be considered, including:

(1) Date business was established;

(2) Adequacy of resources for work contracted;

(3) The degree to which financial, equipment leasing and other relationships between the business and other non-minority firms vary from normal industry practice.

d. The contribution of capital, equipment or expertise made by minority owners to acquire their interests in a business must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minority owners, or the mere participation as an employee.

e. All securities which evidence ownership and/or control of a business for purposes of establishing it as a minority business enterprise under this program shall be held directly by minority owners. No securities held in trust, or by a guardian for a minor, shall be considered as held by a minority group member in determining the ownership or control, unless the trustee or guardian is qualified as a minority owner.

f. The determination as to whether the minority owners possess sufficient ownership and control will be made by reviewing the substance rather than the form of arrangements and balancing all relevant factors. The following facts, although not in themselves cause to disqualify a business, will make the business subject to especially close scrutiny.

(1) Newly formed firms and firms whose ownership and/or control has changed since the date of the advertisement of the contract.

V 45 / 154 AG 7 80 UMI

(2) The presence of past or continuing employer-employee relationships among the owners of the business.

4. Suppliers of Materials or Equipment

In response to concerns and comments by the overall construction industry, Region 10 will employ the following criteria to determine whether a supply firm is a MBE as defined by the Policy:

A firm will be considered a supplier when it:

a. Assumes the actual and contractual responsibility for furnishing the supplies and materials and is the manufacturer of those supplies and materials; or

b. Is recognized as a distributor by the industry involved in the contracted supplies and materials; and

c. Owns or leases warehouse, yard buildings or whatever other facilities are viewed as customary or necessary by the industry; and

d. Distributes, delivers and services products with its own staff.

Where a MBE supplier is not the manufacturer, but has assumed the actual and contractual responsibility for furnishing the required supplies or materials and is performing a commercially useful function, a credit of twenty percent (20%) of the value of the contract will be awarded toward the MBE goal.

Where a MBE is performing a commercially useful function as a manufacturer's sales representative, ten percent (10%) of the value of the contract will be awarded toward the MBE goal.

A commercially useful function or service is one, such as a sales function, which is customarily performed as a distinct and necessary part of the supply process.

If the service is commercially unnecessary, such as the case when a firm acts only as a passive conduit in the supply process or duplicates a service provided by others in the same chain of supply from manufacturer to purchaser, no credit will be granted toward the MBE goal. Where the MBE is a manufacturer, one hundred percent (100%) of the furnished supplies and materials will be credited toward the MBE goal.

V. Use of EPA Roster of MBE

Over the past five years EPA Region 10 has maintained a roster of minority business in the Region. This roster is maintained as a service to grantees. A/E firms, construction contractors and MBE's.

EPA does not require that a business be included on the roster to be considered an MBE. However, the roster provides contractors and grantees ready access to MBE. MBE are encouraged to submit information to EPA in order that they may be included on this roster, and also in order that the process of confirming the status of the firm as an MBE does not delay contract award or approval.

VI. Procedures for Appeal of Civi Rights Office Determinations Regarding MBE Status

EPA Region 10 has established procedures for appeal of Civil rights office determinations made outside of the grantee procurement review process regarding the eligibility of a firm for meeting goals for MBE utilization. These procedures are in addition to the procedure for appeals of responsibility determinations of bidders or offerors under 40 CFR 35.939, as set forth in the Policy. These procedures are:

1. The regional civil rights office will notify the firm, in writing, that it is not considered an MBE, including a brief statement of reasons for that determination. If the firm has previously been considered an MBE by EPA Region 10, it shall continue to be treated as an MBE until a final administrative decision has been rendered by Region 10 in accordance with these procedures.

2. If a firm intends to appeal a civil rights office determination, it must file a written notice of appeal with the Director, Office of External Affairs, within thirty (30) days of receipt of the notification regarding MBE status by the regional civil rights office. The notice of appeal must include brief written contentions of the firm as to its qualifications as an MBE under the policy.

3. Upon receipt of a timely notice of appeal, the Director, Office of External Affairs, shall confer with the civil rights office regarding the determination. If the Director disagrees with the civil rights office determination, the Director shall reverse the determination and communicate such action to the affected business in writing. If the Director agrees with the civil rights office determination, he shall forward it to the Regional Administrator. The Director shall either reverse the determination or forward the appeal to the Regional Administrator within seven (7) days of receipt of the notice of appeal.

4. Upon receipt of the notice of appeal from the Director of External Affairs, the Regional Administrator shall appoint an EPA Region 10 attorney not associated with the case as hearing officer. The hearing officer shall conduct an informal administrative hearing on the matter. Review of the matter shall be *de novo*, with the firm having the burden of producing evidence that it is a qualified minority business under the Policy, and also having the burden of persuasion on this issue.

5. One or more prehearing conferences may be held, at the discretion of the hearing officer. The rules of evidence applicable to judicial proceedings shall be relaxed so as to develop a full record to facilitate administrative review. However, in the event oral presentation of evidence or oral argument is offered, any witnesses shall be under oath and a verbatim transcript of the hearing shall be made. Written testimony shall not be received in lieu of oral testimony.

6. The parties shall have one week or such extended period of time as the hearing officer deems appropriate to present proposed findings, conclusions and order to the hearing officer. The hearing officer shall submit a complete report of proceedings and official file together with a recommended decision to the Regional Administrator within thirty (30) days of receipt of proposed findings, conclusion and order from the parties. Within ten (10) days thereafter, the Regional Administrator shall either adopt the recommended decision, or reverse or modify it. The decision of the Regional Administrator shall constitute the final decision of the Agency.

7. Summary Dismissal of Appeal

The Regional Administrator may summarily dismiss an appeal or one or more claims made in an appealing party's letter of appeal. Such summary dismissal may be made by the Regional Administrator without the proceedings set forth above, if it is determined that such appeal or issue is untimely, frivolous, or without merit. Any such determination shall refer briefly to the facts supporting the determination.

EPA's MBE policy contemplates an annual review of the regional goals. While the goals set forth above will be diligently applied by Region 10, we will continue to learn from the experiences of the community as to improvements or refinements which might create a substantially better program. We invite your observations on a contemporary basis during the year; and we will appreciate your participation at the annual review hearings. Comments concerning further improvements to the program should be addressed to: Director, Office of External Affairs, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Dated: July 29, 1980.

Donald P. Dubois,

Regional Administrotor.

[FR Doc. 80-23881 Filed 8-6-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 80-52]

Agreements Filed for Approval; Order of Investigation and Hearing

In the matter of Agreements Nos. 10186, as amended, 10332, as amended, and 10371, as amended; order of investigation and hearing and pendente lite approval; Agreement No. 10377, order of investigation and hearing and denial of petition for pendente lite approval; and Agreements Nos. 10364 and 10329, order of investigation and hearing.

The following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916:

Agreement No. 10186–4 seeks to amend Agreement No. 10186, a space chartering agreement between Orient Overseas Container Line, Inc. (OOCL) and Korea Shipping Corporation (KSC) in the trade between the United States and the Far East. The purpose of Agreement No. 10186–4 is to extend the term of the basic agreement through June 30, 1985 and to also extend its geographic scope to include Malaysia.

Notice of the filing of Agreement No. 10186–4 appeared in the **Federal Register** on February 6, 1980. Lykes Bros. Steamship Co., Inc. (Lykes) subsequently protested the agreement and requested a hearing. American President Lines, Ltd. (APL) and United States Lines, Ltd. (USL) filed comments adopting Lykes' protest and request for hearing.

Agreement No. 10332–1 proposes to amend the basic agreement, Agreement No. 10332, a space charter arrangement between Korea Marine Transport Company (KMTC) and Nippon Yusen Kaisha (NYK) which permits each party to operate a 1,050 TEU container vessel in a direct service between Korea and the U.S. Pacific Coast, including Hawaii and Alaska. Each party is permitted to charter space aboard its vessel to the other on terms as they may agree, and may also charter and/or subcharter up to 420 TEUs per calendar month to Showa Line, Ltd. (Showa).[1]

The purpose of Agreement No. 10332–1 is to extend the term of the basic agreement for three years, through July 1, 1983 and modify the basic agreement by removing the limitation on NYK from transporting cargoes to/from Far Eastern counties other than Korea,[2] excluding NYK's non-Korean/U.S. carryings from revenue sharing, and including NYK's non-Korean/U.S. carryings in the current reporting requirements.

Notice of the filing of Agreement No. 10332–1 appeared in the **Federal Register** on March 19, 1980. Protests and comments were received from Sea-Land Service, Inc. (Sea-Land), USL, Lykes and APL.

Agreement No. 10371–1 seeks to extend the basic agreement, Agreement No. 10371, for three years through July 1, 1983. Agreement No. 10371 provides for KMTC and NYK to collectively subcharter up to 420 TEUs per month to Showa, per the enabling authority of Agreement No. 10332.

Notice of the filing of Agreement No. 10371–1 appeared in the **Federal Register** on March 19, 1980. Protests and comments were received from USL, Lykes and APL.

Agreement No. 10377 proposes a space chartering arrangement which provides for the charter by Toko Kaiun-Kaisha, Ltd. (Toko) of unused space on its conventional type vessel to Suh Jin Shipping Co., Ltd. (Suh Jin) for loading of iron and steel products, plywood and other general cargoes in Korean ports for discharge in U.S. West Coast ports. Toko and Suh Jin are restricted from transporting any cargoes in containers from Korean or Japanese port to the U.S. West Coast ports. The agreement seeks approval until October 30, 1983, unless cancelled by mutual assent of all the parties.

Notice of the filing of Agreement No. 10377 appeared in the **Federal Register** on September 5, 1979.[3] On September 25, 1979, Seatrain Pacific Services S.A. (Seatrain) filed a protest and request for a hearing. Proponents filed a reply to Seatrain's protest on October 10, 1979. On October 23, 1979, Seatrain submitted further comments and subsequently withdrew its protest on December 4, 1979.

Position of Proponents

Agreement No. 10186–4

In justification of Agreement No. 10186–4, Proponents state that during the 3½ years that KSC has been functioning as a common carrier by water of containerized cargo, it has acquired considerable operational skill and proficiency. KSC believes that it is fully competent to operate its own vessels and to enjoy the economic rewards emanating therefrom. However, KSC contends that its present fleet will not support a viable containerized service. KSC argues that in order to conduct such a service, with the frequency of calls required to induce shipper patronage, additional sailings are required. KSC argues that with space chartered aboard the 10 ships owned by OOCL and available to KSC pursuant to Agreement No. 10186, KSC can readily offer its shippers one sailing every seven to eight days, thus operating an economically viable service.

Agreement Nos. 10332–1 and 10371–1

In statements submitted in support of the agreements, Proponents state that additional shipping opportunities and more efficient service result from the direct, evenly-spaced sailings under Agreement No. 10332, that Agreement No. 10332 avoids overtonnaging and lessens fuel consumption, that the use of common terminal facilities reduces costs and avoids terminal congestion, that the ability to serve directly reduces in-transit handling problems, and that access to bi-weekly sailings reduces inventory requirements and storage expenses while allowing a prompt and dependable cash flow to shippers from consignees. Proponents contend that Agreement No. 10332 has not given the parties an unreasonably strong competitive position, citing their low (less than 50 percent) utilizations and the competition posed by conference and nonconference carriers.

Proponents claim that the change proposed by Agreement No. 10332–1, concerning NYK carriage of Far East cargo, will be limited to Taiwan and Hong Kong, will afford NYK the same privilege as KMTC, will enable NYK to improve the frequency of its Taiwan and Hong Kong feeder services, will improve KMTC's and NYK's low utilizations, and will increase the efficiency of their two-vessel operation.

As to Agreement No. 10371, Proponents state that the agreement provides an additional direct service with shorter transit times and reduced delays in delivery and has also aided KMTC's and NYK's generally low utilizations. Proponents believe that the

---

[1] In its Order of Conditional Approval of Agreement No. 10332, dated November 9, 1978, the Commission set forth certain modifications to be made to Agreement No. 10332, *inter alia*, the inclusion of a sentence that no "continuing charter arrangement with Showa" would be implemented without prior FMC approval. This condition resulted in the filing of an interim arrangement, Agreement No. 10366 and subsequently Agreement No. 10371.

[2] While the involved provision prohibits NYK from transporting cargo booked, forwarded, transhipped or feeder-fed from or to Japan or any other Far Eastern nation, the modification would make the restriction continue to apply to Japan.

[3] Pursuant to the notice, USL commented that it has no objections to the agreement based on cargo restrictions which preclude, among other restrictions, the carriage of cargoes in containers.

service has resulted in less loss and damage, has avoided the need for more tonnage, has saved energy, and has resulted in cost savings.

Agreement No. 10377

In support of Agreement No. 10377, Proponents contend that the agreement will provide Suh Jin, which presently lacks market identity, access to a greater sailing frequency than it could maintain by itself while helping it to establish a service record with shippers.

Proponents assert that Toko will be acquiring a means of utilizing otherwise empty vessel space and that the economies of the neo-bulk trade require that operators have full, or nearly full, ship loads of cargo in order to be profitable.

Proponents also state that shippers have indicated an interest in this frequent service at nonconference rates. This, they argue, means that sales' margins of relatively low value commodities will not be reduced to the point where it no longer pays to deal in these products. Proponents also state that steel mills in Japan and Korea have limited storage capacity for their output and need frequent vessel calls to avoid inventory storage problems.

Position of Commentators/Protestants

Agreement No. 10186–4

Lykes

Lykes filed a protest and request for an investigation and hearing on Agreement No. 10186–4. In its protest Lykes states that the Commission has approved several space charter agreements, one by one, without addressing, in its orders, any consideration of their cumulative impact on the trade. Specific objections to the agreement include: (1) the fact that there is no limitation on the number of ships that may be employed by the parties and no limit on the capacity that may be cross-chartered, other than the number of vessels that KSC may at any given time decide to operate; (2) that a five-year term is too long; (3) that the agreement is far too broad as to the range of countries and ports served and that there is no justification for expanding the scope to include Malaysia; and (4) that the arrangement contemplates joint scheduling of services and, perhaps, joint advertising of vessels not provided for in the agreement.

APL and USL

APL and USL filed comments essentially adopting Lykes' protest and request for hearing.

Agreements Nos. 10332–1 and 10371–1

Sea-Land

Sea-Land protests only Agreement No. 10332–1, stating that it does not oppose a three-year extension but does object to removal of the limitation on NYK from transporting other Far East cargoes under the agreement. Sea-Land contends that the parties have not shown that the proposed change is necessitated by a serious transportation need or is necessary to secure an important public benefit, that the justification contains no data to warrant approval, that the Proponents' statements as to the limitation of additional service to Taiwan and Hong Kong and a 10 percent container capacity dedicated to these countries does not appear in the agreement, and that additional capacity will result from the proposed change.

USL

USL does not object to the agreements or their continuation. It does, however, believe that only a one-year extension is supported because revenue sharing in agreements of this nature leads to a common approach in rate-making and also to conference bloc voting.

Lykes

Lykes believes that, as stated in its protest of Agreement No. 10186–4, the Commission should review the total impact of space charter arrangements in the Korean trade. Lykes contends that the subject agreements have contributed to overtonnaging and that the parties' operating reports should be made part of the record.

Lykes suggests that a staff investigation should be initiated and distributed for comment which would focus on the following: total impact on the service and competition from expansion of Agreement No. 10332 to allow NYK to transport other Far East cargo in the service; possibility of limiting the parties' authority in certain regards; the parties' voting rights in conferences; the possibility that subchartering to Showa, per Agreement No. 10371, perpetuates overtonnaging; an explanation by the parties as to Korean maritime policy and the relation between the agreements and the Korean Maritime Transportation Promotion Law (Korean Law); and a precise statement by KMTC or the Korean Maritime and Port Administration as to how the waiver system under the Korean Law operates.

APL

APL opposes any long-term approval of Agreements Nos. 10332–1 and 10371–1 without a general investigation and hearing of space charter agreements in the Pacific trade.

Response to Protests

Agreement No. 10186–4

With respect to the issue of space chartering agreements contributing to overtonnaging, Proponents retort that Lykes presents no facts to support this assertion and that the issue is the approvability of the instant agreement, not the impact of all space charters on the trade.

Proponents point out that Agreement No. 10186 was of a five-year fixed duration when it was originally approved and that Agreement No. 10186–2 added the termination date of June 30, 1980. Proponents argue that since the agreement was permitted to run for four years during which no problems surfaced, Proponents believe that a five-year renewal term is reasonable.

As to the broadenings of the geographic scope, Proponents state that they serve the Gulf via mini-land bridge operation by rail between the Gulf and Pacific Coasts. Although the major portion of the carryings are to Korea, Japan, Hong Kong and Taiwan, reports filed with the Commission will reflect carryings to other destinations included within the trade. Proponents argue that reports will also show that Proponents have made carryings from Thailand and Singapore, countries which are contiguous to Malaysia. Proponents see no reason why this extension to Malaysia should not be approved.

Insofar as joint advertising of vessels is concerned, Proponents claim that they have not engaged in this practice and do not plan to. As to the joint scheduling of services, Proponents reply that the specifics of these arrangements will be filed with the Commission as they are developed pursuant to Article 1, paragraph D of the agreement.

Agreements Nos. 10332–1 and 10371–1

Response to Sea-Land

Proponents claim that extending NYK's service will result in more efficient use of space in a direct service, would only have a minor impact on the trade, would afford shippers an additional shipping opportunity, and would put NYK on equal footing with KMTC. Proponents are willing to accept a condition whereby NYK would limit transshipment authority to Taiwan and Hong Kong, with such carryings not to exceed 10 percent of NYK's allocated capacity.

Response to USL

Proponents do not believe there is any reason to limit the term of approval to one year. They also argue that any instability in the Pacific trade would constitute greater reason and need for approval. They further argue that the Commission can reexamine the agreements at any time, and short-term approval leads to uncertainty while a three-year approval would establish stability. Finally, Proponents argue that the agreements have not led to bloc voting and in the event they did, it would not obstruct voting in conferences.

Response to Lykes

Lykes has not shown how it will be harmed by the agreements nor has it tendered a justifiable reason for the institution of a general trade investigation. The parties have no intention of withdrawing from the Korean trade if their agreements are not approved. There continues to be a need for the quality of the parties' services and their recent low utilization is attributable to the recent intensity of rate competition. The Commission has rejected the contention that revenue sharing renders parties to a space charter and pooling arrangement "one," and each party maintain its own, separate common carrier business. Proponents claim that NYK could carry no more than 79 additional TEUs per month under the modification to include Taiwan and Hong Kong, which would assist the parties' direct service operation but could not reasonably have an adverse impact on the Taiwan, Hong Kong or Japan trades. Proponents assert that the information Lykes demands relative to the Korean Law is not relevant to Commission approval of the subject agreements.

Response to APL

Proponents believe that APL has failed to advance reasons to limit approval of the agreement to less than three years, refers to comments which are not directed to the parties or the subject agreements, and has offered no commentary regarding the subject agreements.

Further Comments/Reply

Agreement Nos. 10332–1 and 10371–1

Lykes' Comments

Lykes filed further comments in which it states that Proponents have offered no convincing reason why the Commission should not undertake a comprehensive investigation, and further states that Lykes would not oppose a 90-day extension. Lykes contends that Proponents have an understanding, not filed pursuant to section 15, in which they agree to limit any additional tonnage as long as they obtain the approvals they deem necessary. Lykes also asserts that statements filed in support of the instant agreements are inconsistent with statements filed with the basic agreement and that approval will only further overtonnage the trade.

Proponents' Reply

Proponents responded by stating that the requested investigation is hardly suitable for exercise of the section 15 approval process and that Lykes has failed to delineate any harm or adverse impact the agreements are having upon it. Proponents believe that space chartering is a sensible means of addressing overtonnaging, and that any contention that they contribute to overtonnaging would reverse prior Commission holdings. As to unfiled agreement activity, Proponents assert that their supporting statements were merely advising the Commission of the probable result should continued approval not be granted. Proponents state that there is no inconsistency in the current and past statements and that each speaks for itself at the particular time that it was made.

Discussion

In exercising its statutory authority to approve and disapprove agreements subject to section 15, the Commission is required to consider competitive conditions in the affected trades and the antitrust implications of proffered agreements. *U.S. Lines* v. *Federal Maritime Commission*, 584 F.2d 519, 528 (D.C. Cir. 1978). In this instance, protestants have contended that previous Commission considerations of space charter arrangements in the Korean trade have been unduly narrow and have failed to take into account the cumulative impact of these agreements on the trade. Protestants have also questioned whether adequate justification has been presented for certain of the agreements.

Also relevant to the consideration of these agreements is the Korean Law. Passed on February 28, 1967, and revised and implemented through presidential decree, the Promotion Law was designed to increase greatly the participation of Korean-flag vessels in the Korean trade. To achieve this goal, the law calls for 100 percent carriage of the Korea trade in Korean-flag vessels. The only way of avoiding this requirement is to obtain either an exemption or a waiver.

While it is clear that the Promotion Law plays a significant role in the ocean borne trade between Korea and its trading partners, the precise nature of its impact upon the agreements before the Commission is not. Because the Commission has been unable to define satisfactorily the relationship between the Promotion Law and the space charter agreements, it has decided to order an investigation, which will, among other things, more fully explore this issue.

As part of the effort to define more precisely the relationship between the Promotion Law and these agreements, the Commission would like the parties to address the issue of whether approval of any or all of the agreements will significantly affect the availability of waivers to shippers seeking to transport cargo on non-Korean flag vessels. Economic issues which require consideration are the effects of the proposed agreements on rate stability and cargo capacity in the trade between the U.S. and Korea. It is also important to determine whether approval of any or all of these agreements will lead to unjust discrimination or unfairness against non-signatory carriers and what impact approval would have on voting patterns within the conferences which now serve the U.S./Korea trade. A question also exists as to whether approval of the agreements would be consistent with existing treaties of friendship, commerce, and navigation between the U.S. and other nations with interests in the U.S./Korea trade.

During the Commission's examination and analysis of the Promotion Law and the agreements, the status of the agreements themselves came into question. Although they were presented to the Commission as standard commercial agreements, the impact which the Korean Promotion Law had upon them could not be ignored. In fact, is is possible that the agreements have been so influenced by the Promotion Law that they are not commercial agreements at all, but rather products of unilateral action by the Korean Government. Accordingly, the Commission may not have the authority to approve or disapprove such agreements. Indeed, the executive branch, which has the responsibility for negotiating intergovernmental agreements, may be the proper forum for these agreements, instead of the Commission. Therefore, the investigation instituted by this Order will also address the issue of whether these agreements are so tied to the unilateral action by the Korean Government as to be outside the Commission's jurisdiction.

V 4 5 / 1 5 4 AG 7 80 UMI

Pending the resolution of the issues presented and the ultimate disposition of the agreements submitted for approval, the Commission has determined to permit the continuation of the existing arrangements on the same terms reflected in the presently approved agreements on file with the Commission. The protesting parties have not alleged nor does the Commission have reason to believe that these parties are being injured by the agreements currently in effect, while the abrupt cessation of these activities is likely to injure the carriers involved and be highly disruptive to the U.S./Korea trade in general. Under such circumstances the public need for stable trading conditions warrants the preservation of the *status quo* for the relatively brief period necessary to complete the instant investigation. The measures being taken by the Commission to insure the prompt disposition of this matter include the imposition of strict time limitations on the conduct of the proceeding. Agreement No. 10377 is not be be approved *pendente lite*, however. This agreement has not been previously approved and no shippers have grown dependent on its service. Because no other valid reason for granting interim approval has been presented, the "Petition for Interim Approval" of Toko-Kaiun Kaisha, Ltd. and Suh Jin Shipping Company, Ltd. will be denied.

Although Agreements Nos. 10329 and 10364 stand approved through June 30, 1982 and January 8, 1983 respectively, the Commission has also decided to include them in this proceeding. This is because these agreements are integrally related to the matters placed at issue and to the general scope of the investigation. *Marine Space Enclosures, Inc.* v. *FMC*, 420 F.2d 577, 585 (D.C. Cir. 1969).

The Commission's decision to permit the continuation of the existing arrangements beyond their present termination dates will require proponents of these agreements to submit appropriate amendments which conform the proposed agreements to the presently approved agreements. Failure to so act within the time limitations specified below will void the *pendente lite* approval granted.

Therefore, It Is Ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether: (1) Agreements Nos. 10186, 10186–4, 10332, 10332–1, 10371, 10371–1, and 10377 are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or are in violation of the Shipping Act, 1916, and, therefore, whether they should be approved, disapproved, or modified; and (2) whether Agreements Nos. 10364 and 10329 are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest or are in violation of the Shipping Act, 1916, and, therefore, whether they should be disapproved or modified; and

It Is Further Ordered, That Agreements Nos. 10186, 10186–4, 10332, 10332–1, 10371, and 10371–1 are approved *pendente lite* effective from July 31, 1980 on the condition that they are amended to conform precisely to the terms of the respective agreements approved by and on file with the Commission, and that such amendments be submitted to the Commission within 30 days from the date of this Order; and

It Is Further Ordered, That the *pendente lite* approval accorded by this Order will become null and void 31 days from the date of this Order if the conforming amendments required by the preceding paragraph are not timely filed; and

It Is Further Ordered, That the Petition for Approval *Pendente Lite* of Agreement No. 10377 is denied; and

It Is Further Ordered, That the parties, in addressing the approvability of these Agreements under the standards of section 15 specifically address the following issues:

1. Whether and to what extent approval of any or all of the subject agreements will significantly affect the availability of waivers to shippers seeking to transport cargo on non-Korean flag vessels.

2. Whether and to what extent approval of any or all of the subject agreements will significantly affect cargo capacity in the United States trades with Korea.

3. Whether approval of any or all of the subject agreements will adversely affect rate stability in the United States trades with Korea.

4. Whether approval of any or all of the subject agreements will result in unjust discrimination or unfairness against non-signatory carriers serving the United States trade with Korea.

5. The manner in which approval of any or all of the subject agreements will affect voting patterns within steamship conferences operating in the United States trades with Korea.

6. Whether approval of any or all of the subject agreements is consistent with existing treaties of friendship; commerce, and navigation between the United States and other nations whose interests are represented in the United States trades with Korea.

7. Whether the imposition of the waiver system by the Korea Government under its Maritime Transportation Promotion Law and other Governmental cargo control activities have forced third flag carriers to enter into these space charter agreements in order to have reasonable access to cargo in the U.S.-Korean trades.

8. If the waiver system and other cargo control activities of the Korean Government have forced third flag carriers to enter these space charter agreements, whether the agreements are so impregnated with unilateral government action as to be, in reality, non-commercial agreements over which the Commission should take no jurisdiction under Section 15 of the Shipping Act, 1916; and

It Is Further Ordered, That the carriers listed in the Appendix attached hereto are hereby made proponents and protestants as so designated in the Appendix; and

It Is Further Ordered, That Hearing Counsel shall be a party to this proceeding; and

It Is Further Ordered, That a public hearing shall be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record; and

It Is Further Ordered, That the Presiding Administrative Law Judge issue his Initial Decision in this proceeding on or befere December 31, 1980; and

It Is Further Ordered, That notice of this Order be published in the **Federal Register**, and a copy thereof be served upon Proponents and Protestants as listed in the Appendix hereto and the Commission's Bureau of Hearing Counsel; and

It Is Further Ordered, That persons having an interest and desiring to participate in this proceeding file a petition for leave to intervene in accordance with section 502.72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72); and

It Is Further Ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record; and

It Is Further Ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with section 502.118 of the Commission's Rules (46 CFR 502.118) as well as being mailed directly to all parties of record.

By the Commission.[1]

Francis C. Hurney,

Secretary.

Appendix

Proponents:
Orient Overseas Container Line, Inc.
Korea Shipping Corporation
Korea Marine Transport Company, Ltd.
Nippon Yusen Kaisha
Showa Line, Ltd.
Toko Kaiun Kaisha, Ltd.
Suh Jin Shipping Co., Ltd.
Korea Line Corporation
Hanjin Container Lines, Limited
Sea-Land Service, Inc. (for Agreement No. 10364 only)

Protestants:
Lykes Bros. Steamship Co., Inc.
American President Lines, Ltd.
United States Lines, Inc.
Sea-Land Service, Inc.

[FR Doc. 80-23781 Filed 8-6-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSYTEM

Bosque Corp.; Formation of Bank Holding Co.

Bosque Corporation, Meridian, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bosque County Bank of Meridian. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 31, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23798 Filed 8-6-80; 8:45 am]
BILLING CODE 6210-01-M

Citizens Investment Co., Inc.; Proposed Continuation of General Insurance Agency Activities

Citizens Investment Co., Inc., Glenville, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance activities in a town with less than 5,000 population. These activities would be performed from Applicant's offices in Glenville, Minnesota, and the geographic area to be served is Glenville, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 2, 1980.

Board of Governors of the Federal Reserve Systems, July 31, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23815 Filed 8-6-80; 8:45 am]
BILLING CODE 6210-01-M

Citizens State Agency of Tyler, Inc.; Proposed Continuation of Insurance Agency Activities

Citizens State Agency of Tyler, Inc., Tyler, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in a town with less than 5,000 population. These activities would be performed from offices of Applicant in Tyler, Minnesota, and the geographic area to be served is Lincoln County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, ikdentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of

[1] Chairman Daschbach, dissenting:
I dissent from the issuance of this Order of Investigation and Hearing because it fails to provide an adequate basis for inquiry into legal or factual issues. It focuses instead upon matters of policy which should be addressed by the Commissioners themselves rather than by an investigative proceeding.

V 45 / 154 AG 7 80 UMI

Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 29, 1980.

Board of Governors of the Federal Reserve System, July 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23798 Filed 8-6-80; 8:45 am]

BILLING CODE 6210-01-M

First Decatur Bancshares, Inc.; Formation of Bank Holding Co.

First Decatur Bancshares, Inc., Decatur, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Decatur, Decatur, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 30, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23797 Filed 8-6-80; 8:45 am]

BILLING CODE 6210-01-M

Illini Bancshares, Inc.; Formation of Bank Holding Co.

Illini Bancshares, Inc., Girard, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of State Bank of Girard, Girard, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 1, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23814 Filed 8-6-80; 8:45 am]

BILLING CODE 6210-01-M

Shawnee Mission Bancshares, Inc.; Formation of Bank Holding Co.

Shawnee Mission Bancshares, Inc., Fairway, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Shawnee Mission, Fairway, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 1, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23816 Filed 8-6-80; 8:45 am]

BILLING CODE 6210-01-M

Shelbyville Bancshares, Inc.; Formation of Bank Holding Co.

Shelbyville Bancshares, Inc., Shelbyville, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Citizens Bank, Shelbyville, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 31, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23795 Filed 8-6-80; 8:45 am]

BILLING CODE 6210-01-M

Tradewater Bancshares, Inc.; Formation of Bank Holding Co.

Tradewater Bancshares, Inc., Providence, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Providence State Bank, Providence, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 1, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23817 Filed 8-6-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on August 1, 1980 (NRC), and August 4, 1980 (FMC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such acceptances.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 25, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Maritime Commission

The FMC requests clearance of a new, single-time, voluntary questionnaire to be sent to survey conferences and water borne common carriers in the U.S. foreign commerce with the dual rate contract system. The purpose of the questionnaire is to secure information for internal FMC decisionmaking on current practices and experiences under this contract system. The Commission estimates that the one-time only questionnaire will be sent to approximately 46 respondents and that response time will average 8 hours per questionnaire.

Nuclear Regulatory Commission

The NRC is requesting clearance of a new, single-time letter requesting additional information from its licensees regarding degree of compliance with NUREG/CR 0660, "Enhancement of onsite emergency diesel generator reliability." Therefore a letter requesting a detailed response to each of the recommendations contained in Section 5 of NUREG/CR 0660 will be issued to all operating power reactor licensees. The NRC estimates approximately 63 plants fall within the scope of this generic letter and that response burden is expected to average 240 hours per plant.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-23836 Filed 8-6-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

Automated Data and Telecommunications Service

Freedom of Information Act (FOIA); Information Available to the Public/ Pilot Test

The Brooks Bill, Pub. L. 89-306, tasks the General Service Adminisration (GSA) to provide, directly or by delegation, for the economic and efficient acquisition of automatic data processing (ADP) resources. Vital to this end is GSA's responsibility to promote open competition, wherever practicable, by ensuring a ready exchange of information while still protecting information critical to the Federal procurement process.

Accordingly, GSA established a pilot program which was announced in the **Federal Register** on April 9, 1980 to make certain ADP procurement information promptly and routinely available to the public. The information posted is:

1. Weekly listing of Agency Procurement Requests (including requesting agency, GSA control number, and brief description of planned acquisition.),

2. Copies of synopses of major procurements, and

3. Copies of Delegations of Procurement Authority.

Portions of the documents which contain information which would normally be withheld under FOIA procedures are also withheld under these procedures.

This notice extends the pilot program for 60 days. It is anticipated that the program will continue but will be relocated to space in GSA's Central Office at 18th and F Streets, NW.

The program is currently operatonal at GSA's Region W Business Service Center (7th and D Streets SW., Washington, DC). Question about this program may be directed to Ms. Ann Costello on (202) 566-1133.

Dated: July 30, 1980.

Robert A. Coyer,

Acting Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 80-23759 Filed 8-6-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Extracellular Products and Genetic Characteristics of "Staphylococcus aureus"; Open Meeting

The following meeting will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: August 14, 1980.
Time: 9 a.m.
Place: Building 3, B-19, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.
Purpose: To discuss extracellular products and genetic characteristics of *Staphylococcus aureus* and their relationship to possible changes in the clinical manifestations of infections caused by these organisms.
Additional information may be obtained from: Kathy Shands, M.D., Bacterial Diseases Division, Bureau of Epidemiology, Center for Disease Control, Atlanta, Georgia 30333. Telephones: FTS: 236-3687; Commercial: 404/329-3687.

Dated: August 4, 1980.

William C. Watson, Jr.,

Acting Director, Center for Disease Control.

[FR Doc. 80-23822 Filed 8-6-80; 8:45 am]

BILLING CODE 4110-86-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Administration

[Docket No. N-80-969]

Indian Programs Reorganization

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Administration.

ACTION: Notice of Indian programs reorganization.

SUMMARY: The Department is restructuring its field organization to improve the delivery and administration of Indian Programs. The purpose of the restructuring is to provide a more centralized and focused, coherent, and productive emphasis on Indian Programs.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Lynn, Office of

Organization and Management Information, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–5206.

SUPPLEMENTARY INFORMATION: A description and cost benefit analysis of the reorganization was published in the Federal Register on Monday, January 14, 1980, in accordance with section 908 of the Housing and Community Development Amendments of 1978, Public Law 95–557, 95th Congress, 2nd Sess. This document reflects no changes from the version published on January 14, 1980.

A. Introduction and Background

The Department of Housing and Urban Development is restructuring its field organization to improve the delivery and administration in Indian programs. The purpose of the restructuring is to provide a more centralized and focused, coherent, and productive emphasis on Indian programs.

The Department is making these changes in response to the expressed concerns of Indian clients regarding the level and quality of service provided by HUD. Because of these concerns, the Department examined the manner in which Indian programs are delivered and determined that the current delivery system is ineffective. It was determined that staff is spread too thin, that Indian programs are more staff intensive than non-Indian programs, that Indian program staffing is being diverted to non-Indian programs, that Indian programs require direct sustained personal contact with clients and that Indian programs require special knowledge, skills and training.

B. Description of Changes

Responsibility for administering and deliverying all Departmental Indian programs will be vested in five Offices of Indian Programs, plus the Anchorage Area Office. The location and jurisdiction of these offices follow:

A new Office of Indian Programs is being established in the Regional Office of Region V (Chicago) serving all locations in Region I (Boston), Region II (New York), Region III (Philadelphia), Region IV (Atlanta), and Region V (Chicago), plus all locations in the State of Iowa.

The existing Office of Indian programs in the Regional/Area Office of Region VIII (Denver) will serve all locations in that Region, plus all locations in the State of Nebraska.

A separate Division of Indian Programs is being established within the Oklahoma City Area Office which will continue serving all locations in the State of Oklahoma and in addition will serve Kansas, Missouri, Texas, Arkansas, and Louisiana. This Division will report to the Area Manager.

The existing Office of Indian Programs in the Regional Office of Region IX (San Francisco) will continue to serve all locations in that Region, plus all locations in the State of New Mexico. Some staff of this Office will continue to be duty stationed in field offices located in Phoenix and Albuquerque to provide localized service in Arizona and New Mexico.

A new Office of Indian Programs is being established in the Regional Office in Region X (Seattle) serving all locations in that Region, except for the State of Alaska. A group of Indian Program specialists which is now a part of the Seattle Area Office serving the State of Washington only, will be included in this new Office.

The existing Anchorage Area Office will serve all locations in the State of Alaska.

All Indian activities for the Department's housing and community planning and development programs will be administered through the Offices indicated above, rather than through the Department's normal field structure.

At Headquarters a position has been established in the Office of Policy Planning under the Assistant Secretary for Community Planning and Development (CPD) to work exclusively with Indian and Alaska Native CPD programs. Indian Housing Programs will continue to be administered by the recently established Office of Indian Housing under the Deputy Assistant Secretary for Public Housing and Indian Programs. The position and functions of Special Assistant for Indian Programs will continue without change. Affected clients will receive 30 days advance notice of the actual effective date.

C. Comments Received

Sixteen comments were received. While the concept of separate consoldiated Indian Offices was generally well received, concerns were raised regarding the great distance and resulting costs some tribes would incur in dealing with the new Offices of Indian Programs. Small tribes were also concerned about their ability to compete successfully for Community Development Block Grant funds with large tribes also being served by the new Offices. CPD will assure that small tribes can compete effectively for CDBG funds by developing selection criteria which do not discrimiante against them. Access to HUD will be assured by providing adequate travel funds to HUD staff and by improved processing which will result in less need for clients to visit HUD Offices.

(Sec. 107(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d) and sec. 908 of the Housing and Community Development Amendments of 1978, Pub. L. 95–557, 95th Congress, 2nd Session)

Issued at Washington, D.C., July 11, 1980.

William A. Medina,

Assistant Secretary for Adminsitration.

[FR Doc. 80-23828 Filed 8-6-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Dr. Jerome Jackson, Mississippi State University, Mississippi State, MS 39762.

The applicant requests a permit to capture red-cockaded woodpeckers (*Picoides borealis*) in Mississippi, Alabama, Georgia, and South Carolina, for banding and marking for scientific research and enhancement of survival.

Humane care and treatment of captured birds has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–6866. Interested persons may comment on this application on or before September 8, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 1, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-23755 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Ronald L. Walker, Hawaii Division of Forestry and Wildlife, Honolulu, HI 96813.

The applicant requests a permit to capture for the purposes of scientific research and enhancement of propagation and survival one or more of the following endangered species, and to band, mark, tag, and release or retain in a propagation program:

Nene goose *(Branta Sandivicensis)*
Koloa *(Anas wyvilliana)*
Hawaiian stilt *(Himantopus mexicanus knudseni)*
Hawaiian coat *(Fulica americana alai)*
Hawaiian gallinule *(Gallinula chloropus sandivicensis)*
Laysan duck *(Anas laysanensis)*
Marianas mallard *(A. oustaleti)*

Humane care and treatment of captured birds has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–6744. Interested persons may comment on this application on or before September 8, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 1, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-23754 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: San Antonio Zoological Gardens and Aquarium, 3903 North Saint Mary's Street, San Antonio, TX 78212. (PRT 2–6724)

The applicant requests a permit to import one male and one female captive born maned wolf (*Chrysocyon brachyurus*) from West Germany for the enhancement of propagation.

Applicant: Zoological Society of San Diego, P.O. Box 551, San Diego, CA 92112. (PRT 2–6737)

The applicant requests a permit to import 2 male and 1 female captive born Pampas deer (*Ozotoceras bezoarticus*) from West German for the enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before September 8, 1980 by submitting written data, views, or arguments to the Director at the above address.

Dated: July 30, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 80-23756 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-55-M

Pipeline Application; McFaddin National Wildlife Refuge, Tex.

Notice is hereby given that under section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576), that the Florida Gas Transmission Company has applied for a right-of-way permit to construct and operate a 22-inch natural gas pipeline across McFaddin National Wildlife Refuge in Jefferson County, Texas.

The purpose of this notice is to inform the public that the U.S. Fish and Wildlife Service will be proceeding with consideration of whether this application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within 30 days by sending their comments with their name and address to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Gordon H. Hansen,

Acting Deputy Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-23765 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

Intent To Prepare Environmental Impact Statement

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Notice.

SUMMARY: The Heritage Conservation and Recreation Service will prepare an Environmental Impact Statement to evaluate the impact of designating five California rivers as part of the National Wild and Scenic Rivers System pursuant to Section 2(a)(ii) of the Wild and Scenic Rivers Act, Pub. L. 90–542, as amended. Designation by the Secretary would preclude any department or agency of the United States from assisting by loan, grant, license or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which the river was established. The five rivers, including tributaries, are described as follows:

(a) *Klamath River.* The main stem from 100 yards below Iron Gate Dam to the Pacific Ocean; the Scott River from the mouth of Shackleford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to the river mouth; Wooley Creek, from the western boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

(b) *Trinity River.* The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the Southern Boundary of the Salmon Trinity Primitive Area downstream to the river mouth near Burnt Ranch; South Fork of the Trinity from the junction of the river with State Highway 36 to the river mouth near Salyer.

(c) *Smith River.* All its tributaries from the Oregon-California State boundary to the Pacific Ocean.

(d) *Eel River.* The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.

(e) *American River.* The Lower American from Nimbus Dam to its junction with the Sacramento River.

These five rivers are designated components of the California Wild and Scenic Rivers System, and would remain under the administration of the State (except for Federal lands) if the application is approved by the Secretary of the Interior. The Environmental Impact Statement will consider the alternatives of designation and no

designation for each of the five rivers. The Heritage Conservation and Recreation Service will assess whether the rivers quality for inclusion in the National System.

This notice is to announce that the Heritage Conservation and Recreation Service will hold scoping meetings at the following times and locations:

August 13, 1980—1:30 p.m.—San Francisco.
7:00 p.m.—California Hall, 625 Polk Street, Rm. 101.
August 14, 1980—1:30 p.m.—Junipero Serra State Office Bldg., Los Angeles.
7:00 p.m.—South Broadway, Rm. 1138.
August 15, 1980—1:30 p.m.—Eureka.
7:00 p.m.—CalTrans Building, 1656 Union Street, Rms. 57 and 58 and 59.
August 19, 1980—1:30 p.m.—Fresno.
7:00 p.m.—Federal Building, 1130 O Street, Public Rm. 4104.

The purpose of the scoping meetings is to solicit comments on a) identification of those issues to be addressed; b) identification of those issues to be analyzed in depth; and c) identification of those issues which are not significant. All Federal, State and local agencies, organizations and individuals who may be interested in, or be affected by the decision are invited to participate in the scoping process.

Comments may be submitted orally or in writing, preferrably both. Those not able to attend any of the meetings may submit written comments to the Regional Director, Pacific Southwest Regional Office, Heritage Conservation and Recreation Service, U.S.D.I., 450 Golden Gate Avenue, San Francisco, California 94102. Comments should be received no later than August 20, 1980.

Further public comment will be sought on the draft NEPA document through a later **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: John Haubert, Outdoor Recreation Planner, Heritage Conservation and Recreation Service, U.S.D.I., Washington, D.C. 20243 (202–343–4793). The primary author of this notice is John Haubert.

Dated: August 4, 1980.

Chris Therral Delaporte,
Director.

[FR Doc. 80-23794 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-03-M

Request To Designate Certain California Rivers as Components of the National Wild and Scenic Rivers System

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces that by letter dated July 18, 1980, the Governor of California requested that certain California rivers be designated as units of the National Wild and Scenic Rivers System pursuant to Section 2(a)(ii) of the Wild and Scenic Rivers Act (Pub. L. 90–542, as Amended). Section 2(a)(ii) provides for the inclusion into the National System of those rivers which are protected by (or pursuant to) an act of the State legislature, and which will be administered permanently by an agency or political subdivision of the State without expense to the Federal Government (other than for administration and management of federally-owned lands.)

The following rivers are included in the request:

(a) *Klamath River.* The main stem from 100 yards below Iron Gate Dam to the Pacific Ocean; the Scott River from the mouth of Shackleford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

(b) *Trinity River.* The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the Southern Boundary of the Salmon Trinity Primitive Area downstream to the river mouth near Burnt Ranch; South Fork of the Trinity from the junction of the river with State Highway 36 to the river mouth near Salyer.

(c) *Smith River.* All its tributaries from the Oregon-California State boundary to the Pacific Ocean.

(d) *Eel River.* The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.

(e) *American River.* The Lower American from Nimbus Dam to its junction with the Sacramento River.

Before approving or disapproving an application for inclusion of a State designated river in the National System, the Secretary of the Interior is required under Section 4(c) of the Act to circulate the proposal for review and comment by affected Federal agencies. No action will be taken on this application until compliance with the National Environmental Policy Act has been completed.

Questions concerning this application may be addressed to the Heritage Conservation and Recreation Service, U.S. Department of the Interior, 450 Golden Gate Avenue, San Francisco, California 94102 (phone 556–8313) or 440 G Street, NW, Washington, D.C. (phone 202–343–4793).

The primary author of this notice is John Haubert, Heritage Conservation and Recreation Service, 440 G Street, NW, Washington, D.C. 20243.

Dated: August 4, 1980

Chris Therral Delaporte,
Director.

[FR Doc. 80-23793 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-03-M

Bureau of Indian Affairs

Indian Tribes Performing Law Enforcement Functions; Determination

July 25, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions.

The listing published beginning on page 13758 of the May 25, 1973 issue of the **Federal Register** (38 FR 13758) identified all eligible Indian tribes and the specific law enforcement functions they have responsibility to perform. Determination and certification of those tribes not listed will be made on an individual basis upon application by such tribes.

It has been determined by the Assistant Secretary—Indian Affairs that the Nooksack Indian Tribe of Washington, has responsibility to exercise the functions listed below:

Therefore, the listing published, beginning on page 13758 of the May 25, 1973 Federal Register, is further amended by adding the entry for the Nooksack Indian Tribe in the State of Washington to read as follows:

Tribal entities recognized by the Federal Government and listed by State	Employ tribal police	Establish a tribal court	Adopt a tribal law and order code	Undertake correction function	Prevent adult crime and juvenile delinquency	Adult and juvenile rehabilitation programs
Washington: Nooksack Indian Tribe.	X	X	X	X	X	X

Ralph R. Reeser,
Assistant Secretary, Indian Affairs.

[FR Doc. 23763 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[INT NOI]

Bennett Hills-Timmerman Hills Management Framework Plan Amendment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of a proposed amendment to the Bennett Hills-Timmerman Hills Management Framework Plan (MFP) and invitation for public participation.

SUMMARY: In accordance with 43 CFR 1601.3(g) the Shoshone BLM District is proposing to amend the Bennett Hills-Timmerman Hills MFP concerning the potential change of a utility corridor to facilitate the construction of a 138 kv power line through the Timmerman Hills Planning Unit.

DATE: A public meeting will be held at the Shoshone District BLM Office at 7:30 p.m. on September 10, 1980. Written or oral comments may be submitted at the public meeting, or letters may be mailed to the Shoshone District BLM Office no later than close of business on September 25, 1980.

ADDRESS: Comments should be sent to: BLM District Manager, Shoshone District Office, P.O. Box 2B, Shoshone, ID 83352.

FOR FURTHER INFORMATION CONTACT: Ervin R. Cowley, Monument Resource Area Manager, Bureau of Land Management, Shoeshone District Office, P.O. Box 2B, Shoshone, ID 83352. Telephone: (208) 886–2208 or FTS 554–6576.

SUPPLEMENTARY INFORMATION: Idaho Power Company has proposed to construct a new 138 kv power line from the Midpoint Substation to a substation near Picabo, Idaho. The utility corridor identified in the Bennett Hills-Timmerman Hills MFP runs almost directly from the vicinity of Richfield, Idaho, north to the Big Wood River Valley. The proposed corridor would run in a northeastly direction from the vicinity of Richfield, Idaho, parallel to U.S. Highway 93, then northwesterly to the Wood River Valley. Idaho Power has proposed to remove the existing line from the abandoned corridor after completion of the new line.

An Environmental Assessment will be completed to identify and mitigate adverse impacts prior to issuing a right-of-way. Anticipated adverse impacts of constructing the new line in the proposed corridor would include visual intrusions and additional road construction. Benefits of the proposal would include removal of the existing line from a crucial deer winter area, improving the dependability of electrical power for the Wood River Valley, and providing capability for increasing power transmission capacity in the future by upgrading rather than new construction.

Dated: July 29, 1980.

Charles J. Haszier,
District Manager.

[FR Doc. 80-23822 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-84-M

Dickinson District, North Dakota District Advisory Council Meeting

July 31, 1980.

The first meeting of the Dickinson District Advisory Council will be held September 12, 1980, beginning at 9:00 A.M. at the Dickinson State College Student Center, Dickinson, North Dakota. This council has been established by, and will be managed in accordance with, the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improverment Act of 1978.

The agenda for the first meeting will include: discussion of the function of the council; introduction of council members; election of officers; arrangements for future meetings; and an orientation to the Bureau of Land Management in general and to specific Dickinson District programs. The main topics will be coal-related planning in Golden Valley County and west-central North Dakota; the Fort Union Regional Coal Environmental Impact Statement; BLM surface lands in North Dakota; and federal oil and gas leasing in the State.

The public is welcome to attend the meeting and may make oral statements before the council between 3:00 and 4:00 p.m. A per-person time limit may be imposed depending on the number of people wishing to speak. The meeting will be adjourned at 4:00 P.M.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

Charles E. Steele,
District Manager.

July 31, 1980.

[FR Doc. 80-23819 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-84-M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with 43 CFR Part 1780 that a meeting of the Medford District Advisory Council will be held on September 12, 1980.

The meeting will begin at 9:00 a.m. in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon.

The agenda for this meeting will include:

1. A discussion of the functions of the Council.
2. An election of a chairperson and vice chairperson.
3. An orientation to Medford District programs and current issues.
4. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the Council between 2:00 and 3:00 p.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97501, telephone 503–776–4187, by close of business September 5, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

V 45 / 154 AUG 7 80 UMI

Summary minutes of the Council meeting will be maintained at the District Office and be available for public inspection and reproduction at the cost of duplication.

Dated: July 28, 1980.

George Francis,

District Manager.

[FR Doc. 80-23825 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-84-M

Montana, North Dakota, South Dakota; Redelegation of Authority

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980 (FR Doc. 80-2428 filed 1-24-80; 8:35 a.m.), authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, reassign or revoke rights-of-way under the Federal Land Policy and Management Act of 1976 to Bureau of Land Management District and Area Managers.

That authority with respect to temporary road rights-of-way issued for a term of not more than 2 years is hereby redelegated to Montana and North Dakota District Managers. This authority may, without approval, be redelegated to Area Managers.

This notice has no other effect on the provisions of FR Doc. 80-2428.

EFFECTIVE DATE: This redelegation will become effective August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Montana State Office, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, (406) 657-6291.

Michael J. Penfold,

State Director.

[FR Doc. 80-23826 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-84-M

Multiple Use Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Multiple Use Advisory Council; Meeting.

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Yuma District Multiple Use Advisory Council will be held Wednesday and Thursday, September 10 and 11, 1980, beginning at 10 a.m. at the Bureau of Land Management Office, 2450 South Fourth Avenue, Yuma, Arizona.

The agenda for the meeting will include:

1. Introductions and biographical sketches of members.
2. Overview of the purpose of the Council.
3. Discussion of the history of the Yuma District and its special programs.
4. Overview of programs by Resource Area.
5. Discussion of Council functions.
6. Organizational discussion and election of officers.
7. Close out and arrangement and next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by September 5, 1980. Depending on the number of people wishing to make an oral statement, a time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

H. M. Bruce,

District Manager.

[FR Doc. 80-23804 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-84-M

Status of Wilderness Review of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Status of Wilderness Review of Public Lands.

SUMMARY: This notice summarizes the present status of the wilderness review of roadless public lands and islands required by the Federal Land Policy and Management Act (FLPMA), section 603(a). The purposes of this notice and calendar of events are to provide (1) one source of information summarizing current wilderness review activities, and (2) advance notice of upcoming decisions, and public review periods.

DATE: All information in this notice is current through August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gary G. Marsh, Bureau of Land Management, Division of Wilderness and Environmental Areas, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: (202) 343-6064.

SUPPLEMENTARY INFORMATION: This calendar of events is the seventh of a series whose last notice appeared in the **Federal Register** July 14, 1980, (p. 47247). The calendar of events focuses only on the current status of all ongoing wilderness review activities. Those inventories whose final decisions are in effect, as well as studies or reports not yet initiated, are not reported in this notice. For detailed information regarding each specific activity, reference is made either to the appropriate notice previously appearing in the **Federal Register**, or to notices which are anticipated to be published in the upcoming 30 days. It must be noted that "anticipated" dates are projected only, and thus are subject to change.

The Bureau of Land Management wilderness review includes (1) an inventory of public lands to identify roadless lands and islands having wilderness characteristics; (2) a study of those areas found to have wilderness characteristics (wilderness study areas or "WSA's"); and (3) a report from the Secretary of the Interior to the President as to whether each WSA is more suitable for wilderness or other resource uses. The President will send his recommendations to Congress. Only Congress can actually designate and area as wilderness.

The inventory process has two stages: (1) an initial inventory designed to quickly identify and release from wilderness review those lands which clearly and obviously lack wilderness characteristics; and (2) an intensive inventory for those lands which may possess wilderness characteristics. The initial inventory process was completed in the contiguous Western States by October 1, 1979. In instances where important resource use decisions are pending, the inventory process may be accelerated in order to reach final decisons as quickly as possible. Such inventories are referred to as "special project inventories" or "accelerated intensive inventories."

The FLPMA also requires early study of 55 natural and primitive areas which were formally identified by the Secretary of the Interior prior to November 1, 1975. They are referred to as "instant study areas" (ISA's). As of August 1, 1980, the reports are under administrative review.

The wilderness inventory deadline of September 30, 1980, for the contiguous Western States has been extended to November 15, 1980, as announced in the **Federal Register** on June 17, 1980 (p. 41074).

The statistical summary table reflects both proposed and final intensive inventory decisions in the contiguous Western States and Minnesota. Other Eastern States will be listed in future statistical summaries as decisions are announced. All acreages are presented by State political boundaries and not BLM administrative boundaries. Some final decisions listed under the "inventory completed" column may be under protest or appeal. In those instances, decisions are not yet in effect. It has been determined as a matter of Bureau policy that the appropriate means to handle any appeals of the State Directors' intensive inventory decisions are the procedures outlined in Title 43 Code of Federal Regulations, Part 4. This regulation identifies the Interior Board of Land Appeals as the office to hear and evaluate such appeals.

Dated: August 4, 1980.

James W. Monroe,

Assistant Director, Recreation and Environmental Areas.

Calendar of Events

Arizona

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** May 30, 1980 (p. 36525); supplemental information published in **Federal Register** July 24, 1980 (p. 49364); 90-day public comment period ends August 28, 1980.

Accelerated Intensive Inventory

—Hualapai-Aquarius awaiting final decision. Affects units 2-37, 2-43, 2-46, 2-48, 2-50, 2-51, to 2-54, 2-56 to 2-63, 2-65, 2-67.

—Awaiting State Director's announcement of decision on protests for the Overthrust Belt. Affects units: 1-105 to 1-109, 1-12 to 1-115, 1-119 to 1-124, 1-127 to 1-130, 1-134, 1-135.

—Safford District units contiguous to Coronado National Forest final decision announced in **Federal Register** July 11, 1980 (p. 46913) initiating protest period which ends August 18, 1980. Affects units 4-66, 4-70, 4-72, 4-73, 4-79, 4-80, 4-81.

Study/Reporting

—Aravaipa Canyon Instant Study Area final environmental impact statement and suitability report complete; under administrative review.

—Paiute, Paria, and Vermillion Cliffs ISA's draft suitability report and draft environmental impact statement availability announced in **Federal Register** April 22, 1980 (p. 27022); public comment period extended until 30 days after the U.S. Geological Survey and Bureau of Mines report is made available to the public as announced in **Federal Register** May 8, 1980 (p. 30547).

California

Statewide Intensive Inventory

—State Director's announcement of decision on protests for 9 units anticipated August 28, 1980. Affects non-CDCA units: 010-064, 075; 020-211, 609, 1013; 030-402, 501, 504; 060-026.

—Proposed decision for Oregon-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); 90-day public comment period ended June 25, 1980; final decision anticipated November 15, 1980.

—Proposed decision for Nevada-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); 90-day public comment period ended June 30, 1980; final decision anticipated November 15, 1980.

Units Under Appeal to IBLA

—Notice of appeal announced in **Federal Register** January 7, 1980, (p. 1456). Affects CDCA intensive inventory units: 117, 131, 136, 137A, 143, 150, 156, 158, 172, 207, 217, 221, 222, 227, 242, 251, 251A, 263, 264, 265, 266, 271, 299, 305, 321, 325, 334, 343, 348, 376.

—Notice of appeal announced in **Federal Register** January 7, 1980, (p. 1457). Affects non-CDCA initial inventory units: 010-031, 033, 047, 069, 087, 101; 020-701; 901, 1001; 030-300, 400, 500.

—Notices of appeals filed with State Director late July; to be announced in the **Federal Register** August 28, 1980. Affects non-CDCA intensive inventory units 010-040, 060, 063, 065, 068; 050-131, 134, 135, 211.

Study/Reporting

—Proposed CDCA plan expected to be released September 30, 1980.

Colorado

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** February 1, 1980 (p. 7312); 90-day public comment period ended April 30, 1980; public comments being analyzed prior to final decision.

Units under Appeal to IBLA

—Notice of appeal filed January 21, 1980. Affects initial inventory unit 070-031.

Study/Reporting

—Powderhorn ISA draft environmental impact statement and draft suitability report availability announced in **Federal Register** May 7, 1980 (p. 30141); public comment period ended July 1, 1980.

Eastern States

Statewide Intensive Inventory (Minnesota Only)

—Proposed decision on remaining 174 islands announced in **Federal Register** May 20, 1980 (p. 33730); began 90-day public comment period which ends August 18, 1980.

Idaho

Statewide Initial Inventory

—State Director's proposed intensive inventory decision on unit 23-1 announced in **Federal Register** June 4, 1980 (p. 37738) initiating 90-day comment period which ends September 2, 1980; State Director's decision on protests announced in **Federal Register** June 30, 1980 (p. 43876), initiating 30-day appeal period. Affects units 35-3, 35-4, 35-5.

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** April 3, 1980 (p. 22195); 90-day public comment period ended July 3, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of decision on protests for Owyhee Planning Area anticipated August 1980. Affects units 16-26, 16-28, 16-36, 16-40 to 16-42, 16-44, 16-45, 16-47, 16-49 a, b, d, e, 16-52.

Study/Reporting

—Great Rift (Grassland Kipuka) ISA draft environmental impact statement availability announced in **Federal Register** March 5, 1980 (p. 14251); public comment period ended May 27, 1980; under administrative review.

Units Under Appeal to IBLA

—Notice of Appeal filed April 11, 1980, affecting stateline initial inventory units 16-48a, b, and c, 16-53, 16-56a, 16-59, 16-70e, 17-19, 17-21, 17-26, 22-1.

—Two Notices of Appeal filed April 11, 1980, affecting Challis Planning Area intensive inventory units 46-11, 46-13, 46-14, 46-14a.

Montana

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** March 26, 1980 (p. 20570); public comment period ends August 30, 1980.

Accelerated Intensive Inventory

—Bitter Creek (unit 064-356) as affected by proposed Alaska Natural Gas Transportation System final decision

V 45 / 154 AG 7 80 UMI

announced in **Federal Register** April 9, 1980 (p. 24254); protest period ended May 9, 1980; protests received; awaiting State Director's announcement of decision on protests.

—State Director's announcement of Overthrust Belt decision on protests anticipated August 15, 1980. Affects units 074–151a and b, 155; 075–102, 105 to 107, 110, 114, 115, 123, 133, 138; 076–001 to 003, 006 to 008, 011, 015, 022, 025, 026, 028, 029, 033, 034, 059, 063, 069, 070, 079.

Units Under Appeal to IBLA

—Notice of appeal filed June 11, 1980. Affects intensive inventory unit 076–026.

—Notice of appeal filed July 27, 1980. Affects accelerated intensive inventory units 075–123; 076–003, 011, 025.

Study/Reporting

—Humbug Spires and Bear Trap Canyon ISA's draft environmental impact statements and draft suitability reports availability announced in **Federal Register** April 18, 1980 (p. 26477) and April 30, 1980 (p. 28823); public comment period ended June 17, 1980.

Nevada

Statewide Intensive Inventory

—Proposed decision announced in the **Federal Register** April 1, 1980 (p. 21356); 90-day public comment period ended June 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of Overthrust Belt decision on protests announced in the **Federal Register** July 31, 1980 (p. 50942), initiating 30-day appeal period. Affects units 0161, 0231, 0233, 0235, 0236, 0238, 0411, 0412, 0423, 0438, 04R–15.

New Mexico

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** March 28, 1980 (p. 20572); corrections announced in **Federal Register** May 2, 1980 (p. 29417); public comment period ended July 21, 1980; public comments being analyzed prior to final decision.

Oregon

Statewide Intensive Inventory (includes Washington)

—Proposed decision announced in **Federal Register** March 27, 1980 (p. 20167); 90-day public comment period ended June 25, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of decision on protests anticipated August 5, 1980. Affects units: 1–76, 1–77, 1–105, 2–1, 2–11, 2–23E, 2–26, 2–74E, 2–74N, 2–81L, 2–82H, 3–154, 5–14.

Units Under Appeal to IBLA

—Notice of appeal announced in the **Federal Register** November 29, 1979 (p. 68526); affects initial inventory unit 11–6.

Utah

Statewide Intensive Inventory

—90-day public comment period ended June 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—Joshua Tree and Book Cliffs ISA's final intensive inventory decision in effect as announced in **Federal Register** June 18, 1980 (p. 41223); protests received on Devil's Garden and Link Flats ISA's; awaiting final decision by the State Director.

Units Under Appeal to IBLA

—Notice of appeal filed January 24, 1980. Affects accelerated intensive inventory units 050–233; 060–007, 011, 012.

—Notice of appeal announced in the **Federal Register** July 17, 1980 (p. 47936). Affects accelerated intensive inventory unit 050–236.

Wyoming

Statewide Intensive Inventory

—Proposed decision announced in **Federal Register** April 4, 1980 (p. 23073); public comment period extended to August 19, 1980, as announced in **Federal Register** on June 5, 1980 (p. 37894).

Units Under Appeal to IBLA

—Three notices of appeal filed April 14, 1980. Affects accelerated intensive inventory units 040–110, 221, 222, 223.

Statistical Summary Table—BLM Wilderness Inventory Results (Shown in Acres) as of Aug. 1, 1980

1. Contiguous Western States

State	Public lands subject to wilderness inventory	Proposed intensive inventory decisions: Announced subject to public review: Not yet announced	Proposed intensive inventory decisions: Announced subject to public review: Lacking wilderness characteristics	Proposed intensive inventory decisions: Announced subject to public review: With wilderness characteristics	Inventory completed Final Decisions Announced: Lacking wilderness characteristics	Inventory completed Final Decisions Announced: Wilderness study areas
AZ	12,596,000	0	2,705,000	2,164,000	7,210,000	517,000
CA	16,585,000	0	120,000	9,000	10,118,000	6,338,000
CO	7,996,000	0	491,000	765,000	6,690,000	50,000
ID	11,949,000	252,000	1,090,000	804,000	8,983,000	820,000
MT	8,140,000	0	1,357,000	475,000	6,000,000	308,000
NV	49,118,000	17,000	11,319,000	3,079,000	33,077,000	1,626,000
NM	12,847,000	0	1,327,000	886,000	10,486,000	148,000
ND	68,000	0	0	0	68,000	0
OK	7,000	0	0	0	7,000	0
OR	*13,965,000	0	4,192,000	1,750,000	7,584,000	439,000
SD	277,000	0	5,000	0	272,000	0
UT	22,076,000	0	3,190,000	1,752,000	16,707,000	427,000
WA	310,000	0	14,000	15	296,000	0
WY	17,793,000	0	562,000	497,000	16,678,000	56,000
Totals	173,727,000	269,000	26,372,000	12,181,000	124,176,000	10,729,000

2. Eastern States

State	Public lands subject to wilderness inventory	Proposed intensive inventory decisions: Announced subject to public review: Not yet announced	Proposed intensive inventory decisions: Announced subject to public review: Lacking wilderness characteristics	Proposed intensive inventory decisions: Announced subject to public review: With wilderness characteristics	Inventory Completed Final Decisions Announced: Lacking wilderness characteristics	Inventory Completed Final Decisions Announced: Wilderness study areas
MN	**45,000	0	701	0	44,299	0

*Does not include 1,759,200 acres of Oregon and California Grant Lands which are exempt from wilderness review.

**Includes an estimated 2,000 acres of unsurveyed islands.

[FR Doc. 80-23801 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-84

Montana Wilderness Inventory; Announcement of Decision on Protests for Overthrust Belt Units

July 30, 1980.

This notice announces the Montana State Director's final decision on protests received on Overthrust Belt wilderness inventory units.

Background

A notice appeared in the Friday, February 22, 1980, **Federal Register** (Vol. 45, No. 37, pages 11920 and 11921) announcing the Montana State Director's final wilderness inventory decision for 48 wilderness inventory units located in the Rocky Mountain overthrust belt. The wilderness inventory for these units was accelerated ahead of the statewide schedule because of potential conflicts with energy exploration and development. The overthrust belt in Montana is located entirely within the Butte BLM District.

This notice described 21 inventory units totaling 131,768 acres which were proposed to be designated wilderness study areas. The remaining 27 inventory units totaling 249,360 acres were proposed to be dropped from further wilderness consideration.

A follow-up notice appeared in the Friday, March 28, 1980, **Federal Register** (Vol. 45, No. 62, Page 20570) which established a 30 day protest period beginning March 30 and ending April 30, 1980. A total of 42 protests were received during the protest period which expressed disagreement with the State Director's final decision for all but 15 inventory units which were to be dropped from further wilderness consideration.

Current Status

The final decision for the following inventory units was not protested and the decision to drop these units from further wilderness consideration is now in effect:

Unit No.	Unit name	Acreage dropped from wilderness consideration
MT–076–004	Big Spring Gulch	43,327
MT–076–009	Antelope Flats	14,130
MT–076–010	Basin Creek South	10,815
MT–076–024	Camp Creek South	7,200
MT–076–031	Cold Spring Creek	7,100
MT–076–042	Red Rock River Island #2.	3
MT–076–043	Red Rock River Island #1.	0
MT–076–047	Jimmy New Creek	6,275
MT–076–051	Maiden Rock Islands	1
MT–076–054	Nez Perce Hollow	12,743
MT–076–071	Elk Gulch	10,292
MT–075–124	Missouri River Island	12
MT–075–125	Missouri River Island	5
MT–075–126	Missouri River Island	17
MT–075–134	Yellowstone River Island.	23
Total		111,943

Protest letters were received on the decision for the following inventory units. The State Director's final decision for these units remains unchanged. Those lands proposed to be dropped from wilderness consideration will continue to be managed under the guidelines provided by the BLM Wilderness Interim Management Policy until a 30 day notice of appeal period has elapsed for all protestors. The responses to the protests have been handled on a case-by-case basis.

Unit No.	Unit name	Acreage identified for WSA status	Acreage dropped from wilderness consideration
MT–076–001	Ruby Mountains	26,357	5,643
MT–076–007	E. Fork of Blacktail Deer Cr.	6,180	
MT–076–022	Hidden Pasture Creek.	15,475	
MT–076–034	Farlin Creek	1,260	60
MT–076–063	Tobacco Root Tack-On.	860	
MT–076–069	Axiold Lakes	6,578	666
MT–076–079	Madison Tack-One	1,469	51
MT–075–102	Blind Horse Creek	4,927	
MT–075–105	Chute Mountain	3,085	
MT–075–106	Deep Creek/Battle Creek.	3,086	
MT–075–107	N. Fork of Sun River	196	
MT–075–110	Beaver Meadows	595	
MT–075–114	Elkhorn	3,585	2,113
MT–075–115	Black Sage	5,976	
MT–075–133	Yellowstone River Island.	53	
MT–074–151a	Hoodoo Mountain	11,380	1,293
MT–074–151b	Gallagher Creek	4,257	1,670
MT–074–155	Quigg West	520	
MT–076–003	Blacktail Mountains West.		2,130
MT–076–006	White Hills South		8,850
MT–076–008	Basin Creek North		17,960
MT–076–011	Lima Reservoir		5,360
MT–076–015	Red Rocks Refuge North.		440
MT–076–025	McCartney Mtn./ Sandy Hollow.		16,380
MT–076–029	Bachelor Mountain		13,000
MT–076–033	Garrett Hill		1,120
MT–076–059	Block Mountain		6,700
MT–076–070	Sweetwater		7,749
MT–075–123	Missouri River Island		22
MT–075–138	Missouri River Island		40
Total		95,839	91,467

The following inventory unit decisions have been changed as a result of new information provided in protest letters:

Unit No. and unit name	Acreage identified for WSA status	Acreage dropped from wilderness consideration
MT–076–002—		
Former Decision: Blacktail Mountains	19,189	2,261
Present Decisions: (–1,550)	17,639	3,811
MT–076–026—		
Former Decision: Bell/Limekiln Canyons	6,629	16,100
Present Decision: (+2,959)	9,588	13,141
MT–076–028—		
Former Decision: Henneberry Ridge	10,111	27,589
Present Decision: (–355)	9,756	27,944
Total, present decision	36,983	44,896

Individual's Right of Protest

Any individual who disagrees with the changed decisions for the three above-mentioned units and has information which may influence the decision, may file a protest with the Montana State Director. A 30 day protest period is hereby established beginning August 15 and ending September 15, 1980. Protests must be filed with the Montana State Director by 4:30 p.m. September 15, 1980, and identified as follows: "Protest to Montana State Director's Final Wilderness Inventory Decision—Overthrust Belt Units." No specific forms are required.

Protests should be submitted to: State Director (931), Montana State Office, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Additional information may also be obtained by writing this office or calling (406) 657–6474.

Kannon Richards,

Acting State Director.

[FR Doc. 80-23772 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-84-M

Washington; Filing of Plats of Survey

Plats of survey of the islands located within the townships described below

will be officially filed in the Oregon State Office, Portland, Oregon, effective at 10:00 a.m. on September 5, 1980.

Willamette Meridian

T. 37 N., R. 4 W.,
Island No. 1, Bare Island; Island No. 2, Un-named Island; Island No. 3, Skipjack Island; Island No. 4, White Rock Island; and Island No. 5, Danger Rock.
T. 36 N., R. 4 W.,
Island No. 1, Sentinel Rock; Island No. 2, Battleship Island; Island No. 3, Posey Island; and Island No. 4, Barren Island.
T. 37 N., R. 4 W.,
Island No. 1, Pudding Island; Island No. 2, Ripple Island; Island No. 3, Un-named Rock; and Island No. 4, Gull Reef.
Some islands are barren rock or partly submerged, and others have vegetation consisting of brush, grass or trees.
All the islands within T. 37 N., R. 3 W., T. 36 N., R. 4 W., and Islands 2, 3, and 4 of T. 37 N., R. 4 W., are withdrawn for the San Juan Islands National Wildlife Refuge, and are administered by the U.S. Fish and Wildlife Service.

Roger F. Dierking,
Chief, Branch of Records and Data Management.
July 31, 1980.
[FR Doc. 80-23764 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-84-M

[OR 49; 2310 (943.4)]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 4132 on January 3, 1967, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 35 S., R. 6 W.,
Sec. 9, NW¼ and NW¼SE¼.

The area described contains 200 acres in Josephine County, Oregon.

The purpose of the withdrawal is to protect the Sprague Tree Seed Orchard, established for the production of pine and fir seed. The land is currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before September 16, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 16, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97201.

Dated: July 31, 1980.

Harold A. Berends,
Chief, Branch of Lands and Minerals Operations.
[FR Doc. 80-23757 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-84-M

[ORE 015487; 2310 (943.4)]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 3609 on April 8, 1965, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Managment Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 4 S., R. 3 E.,
Sec. 13, W½.

The area described contains 320 acres in Clackamas County, Oregon.

The purpose of the withdrawal is to protect the Horning Tree Seed Orchard. the land is currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before September 16, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 16, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Managment will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is

reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. box 2965, Portland, Oregon 97208.

Dated: July 31, 1980.

Harold A. Berends,
Chief, Branch of Lands and Minerals Operations.
[FR Doc. 80-23758 Filed 8-6-80; 8:45 am]
BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within Monongahela National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Preliminary findings on Mower Lumber Company's request for determination of valid existing rights to conduct underground coal mining operations in the Upper Shavers Fork Sub-Unit of the Monongahela National Forest, in Randolph County, West Virginia.

SUMMARY: The Mower Lumber Company is seeking a determination that its proposed underground coal mining operations on Federal lands in the Monongahela National Forest are not prohibited or limited by Section 522(e) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1272(e). Specifically, Mower Lumber Company has requested the Director of OSM to determine that the Company has "valid existing rights" under that Section of the Act. The Director is giving notice of this preliminary finding determining valid existing rights and requesting public comments thereon.

DATES: Interested persons may submit written comments on the preliminary findings. Comments must be received on or before August 22, 1980.

ADDRESSES: Written comments should be addressed to the Director, Office of Surface Mining, U.S. Department of the Interior, Room 233, South Interior Building, 1951 Constitution AVenue, N.W., Washington, D.C. 20240, with one copy to the Regional Director, Office of Surface Mining, Region I, U.S. Department of the Interior, 950 Kanawha Boulevard, East, Charleston, West Virginia 25301. Copies of the Mower Lumber Company's "Request for Determination Pursuant to Section 522(e) of the Surface Mining Control and Reclamation Act of 1977" are available for inspection in the OSM Region I, Charleston, West Virginia, office and in Room 153, South Interior Building, Washington, D.C.

FOR FURTHER IMFORMATION CONTACT: Patrick Boggs, Regional Director, Region I, Office of Surface Mining, 950 Kanawha Boulevard, East, Charleston, West Virginia 25301, (304) 342–8125, or Carl Close, Assistnat Director, State and Federal Programs, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington,D.C. 20240, (202) 343–4225.

SUPPLEMENTARY INFORMATION: Background. Section 522 of the Surface Mining Control and Reclamation Act of 1977 prohibits "surface coal mining operations" on Federal lands within the boundaries of any national forest subject to "valid existing rights" and another exemption not relevant here. The term "surface coal mining operations" is defined in Section 701(28) of the Surface Mining Control and Reclamation Act (30 U.S.C. 1291(28)) and 30 CFR 700.5 and includes the surface impacts incident to underground coal mining operations. The term "valid existing rights" is defined at 30 CFR 761.5, as modified by the February 26, 1980, opinion of the District Court for the District of Columbia, *In re: Permanent Surface Mining Regulation Litigation,* No. 79–1114, Slip Opinion at p. 17–18.

By letter dated March 13, 1980, the Mower Lumber Company requested the Office of Surface Mining, Region I, for a determination of valid existing rights for their planned underground mining activities on Federal lands in the Upper Shavers Fork Sub-Unit of the Monongahela National Forest in Randolph County, West Virginia. Mower Lumber Company's request was filed with the Regional Director in which the lands involved are located (Region I) pursuant to informal procedures previously prepared by OSM to implement 30 CFR 761.4(a)(2). The geographical area of the Company's request is also included within the area which is the subject of a petition to designate all federally owned lands in the Shavers Fork Basin as unsuitable for all types of coal mining filed by the West Virginia Highlands Conservancy under Section 522(c), 30 USC 1272(e), and 30 CFR Part 769. Notice of receipt of that petition was published by OSM at 45 FR 41542, June 19, 1980.

Mower Lumber Company alleges that it owns the mineral rights including coal under approximately 28,000 acres of Federal lands in the Monongahela National Forest. The Company's March 13, 1980, filing contains three separate and alternative requests for determinations that the development plan submitted for the entire mineral estate by the Company to the U.S. Forest Service and described in the Forest Service's Upper Shavers Fork Sub-Unit Plan and Environmental Impact Statement is: (1) within the "valid existing rights" of Mower as that term is used in Section 522(e) of the Surface Mining Control and Reclamation Act; or (2) is an "existing" surface coal mining operation as that term is used in the Section 522(e) of the Surface Mining Control and Reclamation Act; or (3) is "not incompatible" with the values enumerated in Section 522(e)(2) of the Surface Mining Control and Reclamation Act.

The Director has reached a preliminary decision that Mower Lumber Company does have valid existing rights, and proposes to issue a letter-decision similar to that which appears below. This decision would mean that compatibility determinations under Section 522(e)(2) would be unnecessary in order for Mower to mine in areas with valid existing rights. The proposed determination of valid existing rights will also exempt those specified areas from the petition to designate Federal lands in the Shavers Fork Basin as unsuitable for all underground coal mining filed by the Highlands Conservancy. All of Section 522 concerns the designation of lands unsuitable for mining. Under Section 522(e) and 30 CFR 761.11, those operations with valid existing rights are exempt from the Congressionally mandated prohibitions in Section 522(e); under Section 522(1)(6) and 30 CFR 762.13(e) lands where substantial financial and legal commitments were made in coal mining operations are exempt from designation by the petition process outlined in Section 522(c). The relationship between these two phrases is discussed in the preamble to the permanent regulations, 44 FR 14991–14992 (March 13, 1979). There it is made clear that valid existing rights is a greater property right than significant financial and legal commitments:

First, OSM decided that the VER phrase must be distinguished from the definition of substantial legal and financial commitments . . . in order for property owners to qualify for VER and thereby mine in the prohibited areas of Section 522(e), they must have a property interest in the mine that is even greater than the substantial legal and financial commitments needed to mine despite a designation by petition under Section 522(a). Thus, OSM believes that VER must be more than "significant investments, that have been made on the basis of a long-term coal contract, in powerplants, railroads, coal preparation, extraction, handling and storage facilities, and other capital intensive activities," as substantial legal and financial commitments is defined in Section 762.5.

Therefore, a finding of valid existing rights will also include a finding of substantial financial and legal commitments, and thereby exempt those areas with VER from further consideration for designation as unsuitable for mining. However, any finding of valid existing rights and significant financial and legal commitments will in no way affect the responsibility of Mower to comply with the permitting and performance standards requirements of the interim and permanent Federal lands programs, 30 CFR Part 211 and 30 CFR Part 740, respectively.

OSM is in the process of obtaining additional information in order to determine precisely the physical extent of the valid existing rights claimed by Mower and specifically solicits public comment on this issue. As set forth below, even though Mower claims valid existing rights on its entire 28,000 acre mineral holding, OSM's proposed finding of VER is limited to five underground mines for which Mower submitted operating plans to the Forest Service prior to August 3, 1977. These operating plans are on file at the U.S. Forest Service headquarters, Sycamore Street, Elkins, West Virginia. OSM is considering basically two alternatives in delineating the exact extent of the VER: (1) have VER cover only the surface area affected by the face-up and support activities incident to the underground mining; or (2) have VER cover only those areas (including surface overlying underground workings) contemplated to be affected under the operating plans submitted to the Forest Service prior to August 3, 1977.

Finally, pursuant to 30 CFR 761.5(b) OSM is proposing to include a finding of VER for haul roads serving the five mines and existing as of August 3, 1977. This determination would not extend to new roads constructed after that date.

Preliminary Decision

Mr. Richard A. Flye, Sellers, Conner & Cuneo, 1625 K Street, N.W., Washington, D.C. 20006.

Re: The Mower Lumber Company

Dear Mr. Flye:

This is in response to your letter of March 14, 1980, written on behalf of your client, Mower Lumber Company, in which you requested certain determinations pursuant to Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 relating to Mower's planned underground mining activities on Federal lands in the Upper Shavers Fork Sub-Unit of the Monongahela National Forest in Randolph County, West Virginia. Our analyses and determination of the existence of valid existing rights for mining operations are described below:

Legal Requirements

Section 522(e) of the Act states:

After the enactment of this Act and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted . . . (2) on any Federal lands within the boundaries of any national forest (proviso omitted). . . .

Further, 30 CFR 761.5(a) defines "valid existing rights" as

(a) Except for haul roads,

(1) Those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant to produce coal by a surface coal mining operation; and

(2) The person proposing to conduct surface coal mining operations on such lands either

(i) Had been validly issued, on or before August 3, 1977, all State and Federal permits necessary to conduct such operations on those lands, or

(ii) Can demonstrate to the regulatory authority that the coal is both needed for, and immediaely adjacent to, an on-going surface coal mining operation for which all permits were obtained prior to August 3, 1977;

(b) For haul roads, valid existing rights means:

(1) A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

(2) Any other road in existence as of August 3, 1977 . . .

The "all permits" requirement of 30 CFR 761.5(a)(2)(i) was later modified by an opinion rendered by Judge Flannery in *In re Permanent Surface Mining Regulation Litigation*, No. 79–1114, February 26, 1980, such that ". . . a good faith attempt to obtain all permits before the August 3, 1977, cut-off date should suffice for meeting the all permits test." Slip opinion at 17–18.

Mower Lumber Company has not requested a determination under 30 CFR 761.5(a)(2)(ii). As a result, the Company will qualify for valid existing rights if it possesses a valid conveyance, lease or other document (30 CFR 761.5(a)(1)) and all required permits for operation or can show a good faith attempt to secure all permits prior to August 3, 1977 (30 CFR 761.5(a)(2)(i)). For haul roads, the company will possess valid existing rights on roads which were existing, which were under permit or which were covered by a recorded easement as of August 3, 1977 (30 CFR 761.5(b)).

Conveyance of Right to Mine

The area within the scope of Mower's request was previously owned by the West Virginia Pulp and Paper Company. On December 10, 1936, the West Virginia Pulp and Paper Company, by two separate deeds, conveyed the relevant tracts of land to the United States, reserving for 40 years from the 15th day of August, 1935, the right to extract minerals under the land. The deed also stated that at the end of the 40-year period the parcel would revert to fee simple ownership by the United States unless the minerals had been actively extracted for an average of 50 days over the preceding five years. If the minerals were being extracted, then the deed called for automatic five-year extensions of the mineral reservation. The forty-year period was originally scheduled to expire on August 15, 1975. On August 18, 1943, West Virginia Pulp and Paper Company conveyed its mineral rights to F. Edwin Mower. On September 17, 1943, F. Edwin Mower conveyed these rights to the Mower Lumber Company. Underground mining on these tract began in the 1940's and continued until the 1960's.

It is my conclusion that the aforementioned documents validly conveyed to the Mower Lumber Company the right to the coal under these Federal lands, and that they contemplated that the coal would be mined by undergrouind methods, as is seen from the actual mining which took place for approximately thirty years. Therefore, the first element of the valid existing rights test is satisfied.

All Permits Test

The next question is whether on August 3, 1977, Mower possessed all permits required to conduct mining operations, or had made a good faith effort to obtain such permits prior to that date. During the late 1960's and early 1970's, Mower and its lessees mined, or made preparation to mine, five separate underground sites. The three sites on Shavers Fork were known as Linan Nos. 1, 2 and 3, while two sites on Glade Run were known as Mower Nos. 1 and 2. At the present time, Mower is attempting to begin mining at two sites known as Enviro No. 1 and Enviro No. 2. Enviro No. 1 is the same mine as Mower No. 2, and Enviro No. 2 is the same mine as Linan No. 2. Mower has already received permits and authorizations to operate these mines from West Virginia Department of National Resources (DNR) Reclamation Division, DNR Water Resources Division and the U.S. Forest Service. Applications for other permits have been made and are presently pending before Environmental Protection Agency (EPA) and the West Virginia Department of Mines.

All of these permit applications outlined above were made after August 3, 1977, and they alone could not constitute valid existing rights. It is the activities of Mower at the same sites prior to August 3, 1977, which must vest Mower with valid existing rights. On March 2, 1973, Mower entered into a moratorium agreement with the Federal Government whereby Mower agreed to suspend its mining opertions in the entire upper Shavers Fork Sub-Unit area until September 2, 1978, in order to allow the Forest Service to develop an environmental impact statement concerning all contemplated development in the watershed, including coal mining. The moratorium agreement also acted to toll the running of Mower's forty-year period within which to develop the mineral resources of the area under the terms of the 1936 deed to the United States. At pages 2 and 3 of the moratorium agreement it is stated:

It is in the interest of the United States that mining operations in the reserved minerals be suspended as hereinafter provided pending completion of the environmental impact statements, the mineral survey and the Shavers Fork unit plan . . .

2. The United States hereby extends the forty (40) year mineral reservation contained in each of said deeds to the United States and in said condemnation judgment to Midnight, August 15, 1982, and waives performance by Mower of all acts necessary to preserve title to the Reserved Minerals in Mower during the period of suspension from September 3, 1971, to September 2, 1978, inclusive, and agrees that title to the Reserved Minerals is now and will remain vested in Mower until Midnight, August 15, 1982.

Since the August 3, 1977, cutoff date for valid existing rights occurred during the pendancy of moratorium, Mower's valid existing rights, if any, must be determined by its actions to obtain permits prior to the moratorium.

Because of the proliferation of regulatory programs affecting coal mining prior to the passage of the Surface Mining Control and Reclamation Act, the types of permits required for operation of a mine in West Virginia varied according the date the mining was contrmeplated to begin. When Mower originally applied for approval to mine in the early 1970's, the actions of the following State and Federal Agencies were relevant.

(1) Since 1905, the West Virginia Department of Mines has required a license to operate a deep mine. In 1958 the statute, *W. Va. Code*, Section 22–2–63, was amended to require an identification number for deep mines. In 1971 the subsection (a) of this statute was again amended to require "prior approval" by the Director of the Department before a mine could be opened. In 1976, subsections (e) and (g) of the statute were amended to require the posting of a reclamation bond to cover surface disturbance at deep mines and vest the West Virginia (DNR), Reclamation Division, with jurisdiction over reclamation and restoration of deep mine sites.

(2) Pursuant to *W. Va. Code*, Section 20–5A–5, in 1969 the West Virginia DNR, Water Resources Division, received the power to require permits for point source discharges of industrial wastes, which included discharges from coal mines.

(3) In addition to State permits, all mining operations in national forests had to receive authorization to operate from the Forest Service pursuant to the 1911 Rules of the Secretary of Agriculture and their successor, 36 CFR Part 251.

At the Linan Nos. 1, 2 and 3 mines prior to the moratorium agreement, Mower had obtained permits or authorizations to operate from the West Virginia Department of Mines, and the West Virginia DNR, Walter Resources Division. Mower also applied for Forest Service authorization, and on September 2, 1971, the operating plan for Linan No. 1 was approved. However, on the same date the Forest Service informed Mower that a federally funded mineral evaluation study and environmental study prescribed by the National Environmental Policy Act of 1969 should be completed before the operating plans for Linan Nos. 2 and 3 were approved. Although Linan No. 1 possessed all necessary authority to operate, Mower decided not to put the mine into production until approval was received from the U.S. Forest Serice to operate Linan Nos. 2 and 3 mines.

Concerning Mower Nos. 1 and 2 mines prior to the moratorium agreement, Mower had received permits and authorizations to operate from the West Virginia Department of Mines and the Forest Service. As in the case of the Linan mines, the Forest Service approved the operating plan for Mower Nos. 1 and 2 and then decided to prepare an extensive environmental impact statement on the entire watershed area. Mower also applied for permits from the West Virginian DNR, Water Resources Division, on March 23, 1972. After requesting and receiving additional information from Mower, the Division took no action on the permit application prior to the moratorium. Additionally, in regard to each of the mines discussed above, Mower has alleged that a number of haul roads were actually constructed in connection with these mines in the early 1970s.

Even though Mower did not actually possess each and every permit required to operate the mines, it is my preliminary decision that Mower Lumber Company had made a good faith effort to obtain all such permits and to put its mines into operation prior to August 3, 1977. Based upon the information supplied to OSM by the Company, I conclude that Mower has "valid existing rights" as to these five (5) mines, and their associated haul roads existing as of August 3, 1977. However, OSM reserves the right to further define the parameters of the valid existing rights of these mine sites in my final decision. It should be understood that I have not determined at this time whether or not valid existing rights would extend to the entire 28,000-acre mineral estate. When this determination is made, you will be notified.

This decision does not constitute agreement with or a favorable decision on all of the statements and arguments in Mower's request. However, it should be noted that a final decision granting valid existing rights means that the Company need not seek a determination of compatibility with values pursuant to Section 522(e)(2) of the Surface Mining Act and 30 CFR 761.12(c) prior to commenncing operations at these five (5) mines. The Company must still comply with the permitting and performance standards requirements of the interim and permanent Federal lands programs, 30 CFR Part 211 and 30 CFR Chapter VII respectively.

Following the close of the comment period, a final decision will be issued which takes into account additional information and any comments received on the preliminary decision. The Director's final decision will be administratively reviewable under 30 CFR 787.11.

Dated: July 31, 1980.

Paul L. Reeves,

Acting Director.

[FR Doc. 80–23864 Filed 8–6–80; 8:45 am]

BILLING CODE 4310–05–M

Petition To Designate Certain Federal Lands Unsuitable for Surface Coal Mining Operations; Public Meeting

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: A public meeting on issues raised by a petition to designate certain Federal lands in West Virginia as unsuitable for surface coal mining and reclamation operations.

SUMMARY: A public meeting is scheduled for August 12, 1980, to evaluate a petition to designate certain Federal lands in the Monongahela National Forest of West Virginia as unsuitable for surface coal mining and reclamation operations in accordance with Section 522(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and implementing regulations at 30 CFR Part 769. The public meeting is intended to elicit information on the range of issues raised by the petition which should be analyzed by OSM in order to render a decision on the petition and to publish a detailed statement as may be required by Section 522(d) of SMCRA.

DATES: The meeting will be held on August 12, 1980. Written statements must be received by August 15, 1980, at the address below by no later than 5 p.m.

ADDRESSES: The public meeting will be held on Tuesday, August 12, 1980, in two sessions (2 p.m. and 7 p.m.) at the National Guard Armory, Flood Control Road, Elkins, Virginia.

Written statements must be mailed or hand-carried to the Division of State and Federal Programs, Office of Surface Mining, Region I, 950 Kanawha Blvd., East, Charleston, West Virginia 25301. The file on the petition is available for public review during normal working hours at the above address of OSM,

V. 45 / 154 AUG 7 80 UMI

Region I and also at the United States Forest Service Headquarters, Sycamore Street, Elkins, West Virginia. Copies of the petition and the information sheet presenting the issues to be studied may be obtained from OSM, Region I, at the address given above.

FOR FURTHER INFORMATION CONTACT: David Halsey, Division of State and Federal Programs, Office of Surface Mining, Region I, 950 Kanawha Blvd., East, Charleston, West Virginia 25301; telephone: (304) 344–2331.

SUPPLEMENTARY INFORMATION: The public meeting is intended to identify relevant issues to be addressed by OSM in processing the petition to designate as unsuitable for surface coal mining certain Federal lands within the Monongahela National Forest, located in the watershed of Shavers Fork from Cheat Bridge, Randolph County, to Parsons, Tucker County. The petitioner is the West Virginia Highlands Conservancy. The location of the petitioned lands was given in the notice of recript of the complete petition published in the Federal Register on page 41542 on June 19, 1980.

Major allegations set forth in the petition include the adverse impacts of surface coal mining operations on: water quality, black bear habitat, rare plants and animals, and recreational activities.

At this meeting, the public is invited to identify other issues that should be considered by OSM in evaluating the petition and to comment on other environmental impacts of the proposed designation. OSM also seeks comments on the other issues to be analyzed under Section 522(d): Potential coal resources of the area, demand for coal resources, and impact of the designation on the economy and the supply of coal.

Participation of the public and all interested government agencies at the public meeting is encouraged. Individual comments at the meeting will be limited to 10 minutes except where the number of persons to comment allows for more time. Anyone who wishes to comment will be given the opportunity to do so. A court reporter will be present to record all comments. Filing of a written statement at the time of giving oral comments would be helpful and would ensure proper consideration. Submission of written statements in advance of the meeting date, whenever possible, would greatly assist OSM officials who will conduct the meetings. Advance submission will give these officials an opportunity to consider appropriate questions which could be asked to clarify or elicit more specific information from the person commenting. However, written statements may be mailed to OSM, Region I, at Charleston, West Virginia, address listed above, after the meeting, but must be received no later than the time indicated under "Dates" in order to be considered.

OSM has prepared an information release which outlines the issues raised by the petition. Copies of this release may be obtained from the OSM, Region I address given above, additional copies will also be made available at the meeting. OSM seeks comments on the proposed issues to be studied either by submission of a written statement or by oral comments at the meeting.

Dated: August 4, 1980.

Paul L. Reeves,

Acting Director.

[FR Doc. 80-23078 Filed 8-6-80; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Delegation of Authority No. 7

Section 1–201(a)(11) of Executive Order 12163 of September 29, 1979 (44 FR 56673) (hereinafter referred to as the "Executive Order") vested the President's authority under Section 620(s) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2370(s)) (hereinafter referred to as the "Act") in the Secretary of State. Pursuant to the authority vested in him by Section 1–201(d) of the Executive Order, the Secretary of State has redelegated the functions conferred on the President by Section 620(s) of the Act to me as Director of the United States International Development Cooperation Agency, by State Department Delegation of Authority No. 145–1 of July 15, 1980 which amends State Department Delegation of Authority No. 145 of February 4, 1980.

By virtue of the authority vested in me by Section 3(e)(1) of State Department Delegation of Authority No. 145 I hereby redelegate the functions conferred on the President by Section 620(s) of the Act to the Administrator of the Agency for International Development (hereinafter referred to as "AID"), with authority further to redelegate successively any of such functions. The Administrator is to exercise these functions in consultation with the Under Secretary of State for Security Assistance, Science and Technology.

This delegation shall be deemed effective as of July 15, 1980.

Dated: July 29, 1980.

Thomas Ehrlich,

Director, United States International Development Cooperation Agency.

[FR Doc. 80-23789 Filed 8-6-80; 8:45 am]

BILLING CODE 4710-02-M

INTERSTATE COMMERCE COMMISSION

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

[Eighty-Seventh Revised Exemption No. 90]

Service Date: August 4, 1980.

To all railroads:

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–D, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks:
The Ahnapee & Western Railway Company
Reporting Marks: AHW
Amador Central Railroad Company
Reporting Marks: AMC
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company,
Reporting Marks: AN
Arkansas & Louisiana Missouri Railway Company
Reporting Marks: ALM
The Arcata and Mad River Railroad Company
Reporting Marks: AMR
The Atchison, Topeka and Santa Fe Railway Company
Reporting Marks: ATSF
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
Berlin Mills Railway, Inc.
Reporting Marks: BMS
Boston and Maine Company
Reporting Marks: BM
*Burlington Northern Inc.
Reporting Marks: BN–CBQ–GN–NP–SPS
Cadiz Railroad Company
Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
Central Vermont Railway, Inc.
Reporting Marks: CV
Chesapeake Western Railway
Reporting Marks: CHW
Chippewa River Railroad
Reporting Marks: CVSR
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbia & Cowlitz Railway Company
Reporting Marks: CLC
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Delaware and Hudson Railway Company
Reporting Marks: DH
Delray Connecticut Railroad Company
Reporting Marks: DC
Delta Valley & Southern Railroad Company
Reporting Marks: DVS
*Denver and Rio Grande Western Railroad Company
Reporting Marks: DRGW
Detroit and Mackinac Railway Company
Reporting Marks: D&M–DM
Detroit, Toledo and Ironton Railroad Company
Reporting Marks: DT&I–DTI
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Ferdinand Railroad Company
Reporting Marks: FRDN
Galveston Wharves
Reporting Marks: GWF
Genessee and Wyoming Railway Company
Reporting Marks: GNWR
Green Bay and Western Railway Company
Reporting Marks: GBW
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
The Hutchinson and Northern Railway Company
Reporting Marks: HN
Helena Southwestern Railroad Company
Reporting Marks: HSW
Illinois Terminal Railroad Company
Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc. D/B/A The Hoosier Connection
Reporting Marks: HOSC
Iowa Terminal Railroad Co.
Reporting Marks: IAT
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lamoille Valley Railroad Company
Reporting Marks: LVRC
Lancaster and Chester Railway Company
Reporting Marks: LC
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Longview, Portland & Northern Railway Company
Reporting Marks: LPN
Louisiana Midland Railway Company
Reporting Marks: LOAM
The Louisiana and North West Railroad Company
Reporting Marks: LNW
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
McCloud River Railroad Company
Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Minneapolis, Northfield and Southern Railway
Reporting Marks: MNS
Mississippian Railway
Reporting Marks: MISS
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT–BKTY
Missouri Pacific Railroad Company
Reporting Marks: MP–C&EI–MI–TP
Moscow, Camden & San Augustine Railroad
Reporting Marks: MCSA
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Jersey, Indiana & Illinois Railroad Company
Reporting Marks: NJII
New Orleans Public Belt Railroad
Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
Norfolk and Western Railway Company
Reporting Marks: ACY–N&W–NKP–WAB
Norfolk, Franklin and Danville Railway Company
Reporting Marks: NFD
North Louisiana & Gulf Railroad Company
Reporting Marks: NL&G
Octararo Railway, Inc.
Reporting Marks: OCTR
Ontario Midland Railroad Corp.
Reporting Marks: OMID
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Oregon, California & Eastern Railway Company
Reporting Marks: OCE
Oregon, Pacific and Eastern Railway Company
Reporting Marks: OPE
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Pittsburgh, Allegheny & McKees Rocks Railroad Company
Reporting Marks: PA&M
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: P&LE
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Port of Tillamook Bay Railroad
Reporting Marks: POTB
Prairie Trunk Railway
Reporting Marks: PARY
Rahway Valley Railroad Company
Reporting Marks: RV
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
St. Louis Southwestern Railway Company
Reporting Marks: SSW
St. Marys Railroad Company
Reporting Marks: SM
Sandersville Railroad Company
Reporting Marks: SAN
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Seattle and North Coast Railroad Company
Reporting Marks: SNCT
Sierra Railroad Company
Reporting Marks: SERA
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: CG–NS–SA–SOU
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Transkentucky Transportation Railroad, Inc.
Reporting Marks: TTIS
Union Railroad of Oregon
Reporting Marks: UO
Upper Merion and Plymouth Railroad Company
Reporting Marks: UMP
Valley and Siletz Railroad Company
Reporting Marks: VS
Vermont Railway, Inc.
Reporting Marks: VTR
The Virginia and Maryland Railroad Company
Reporting Marks: VAMD
Virginia Central Railway
Reporting Marks: VC
Warwick Railway Company
Reporting Marks: WRWK
Wabash Valley Railroad Company
Reporting Marks: WVRC
WCTU Railway Company
Reporting Marks: WCTR
Western Pacific Railroad Company
Reporting Marks: WP
Winchester and Western Railroad Company
Reporting Marks: WW
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

*Additions.

Effective July 15, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 11, 1980.

V 45 / 154 AUG 7 80 UMI

Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 80-23791 Filed 8-6-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 24]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Interstate Commerce Commission, MC 137032 (notice of filing an application for a postal certificate of public convenience and necessity), filed June 11, 1980, as amended July 9, 1980. Applicant: B & B INDUSTRIES, INC., 825 S. Fellows St., South Bend, IN 46618. Representative: Thomas Rollins, 3480 Lacon Rd., Hilliard, OH 43026. By application filed June 11, 1980, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory: (1) Columbus, OH to Chicago, IL—Rt. 33 West to Ft. Wayne, IN, then Rt. 30 West to Merillville, IN, then Rt. 65 North to Gary, IN, then I–94 West to Chicago, IL, (2) Cincinnati, OH to Cleveland, OH—I–71 North to intermediate stop at Columbus, OH Post Office then continue on I–71 North to Cleveland, OH, (3) Chicago, IL to New York City, NY—I–94 East to I–65 South To Rt. 30 East to I–71 North to I–76 East to I–80 East to intermediate stop at Kearny, NJ off Rt. 280 then Rt. 1 & 9 West through Lincoln Tunnel to NY Main Post Office then Rt. 1 & 9 to I–80 West to I–76 West to I–71 South to Columbus, OH terminal, (4) South Bend, IN to Chicago, IL—Rt. 2 West to Rt. 20 West to I–94 West to I–65 North to intermediate stop at Gary, IN Post Office then back to I–94 West to Chicago, IL Post Office, (5) South Bend, IN to Warsaw, IN—Rt. 31 South to Rt. 30 East to Rt. 15 South into Warsaw, IN Post Office, (6) Chicago, IL to Toledo, OH—I–94 East to Rt. 20 East to Rt. 2 East to intermediate stop at South Bend, IN, then Rt. 20 East to Toledo, OH Post Office, and (7) South Bend, IN to Ft. Wayne, IN— Rt. 31 South to Rt. 30 East to Ft. Wayne, IN Post Office. Appended to the application are copies of the postal contracts held by applicant were in effect on July 1, 1971, the critical "grandfather" date. Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views or arguments in opposition to the application on or before September 8, 1980. A copy of each such pleading should be served upon applicant's representative.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 124245 (Sub-10 M1F) and MC 124245 (Sub-14 M1F), filed April 21, 1980 (notice of filing of petition to delete restrictions). Petitioner: ACE REFRIGERATED TRUCKING SERVICE, INC., 219 East Tutt St., South Bend, IN 46618. Representative: Bernice A. Carney, 3231 Cottonwood, R.R. 4, Bremen, IN 46506. Petitioner holds *common carrier* authority in MC 124245 (Sub-10) and (Sub-14), served February 20, 1968 and May 5, 1972, respectively. MC 124245 (Sub-10) authorizes the transportation over irregular routes, of *meats, meat products, and meat by-products, dairy products,* and *articles distributed by meat packinghouses,* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides, skins and pieces thereof), between South Bend, IN, on the one hand, and, on the other, points in Bartholomew, Boone, Brown, Clay, Clinton, Dearborn, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Randolph, Ripley, Rush, Shelby, Tipton, Union, Vermillion, Vigo, Warren, and Wayne Counties, IN, restricted against (1) tacking with any other authority now held by carrier; and (2) interchange at Muncie, IN. MC 124245 (Sub-14) authorizes over irregular routes, the transportation of *meats, meat products, and meat by-products, dairy products,* and *articles distributed by meat packinghouses* as described in sections A, B, and C of Appendix I to the report in *Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from South Bend, IN, to points in Clark, Crowford, Daviess, Dubois, Floyd, Gibson, Greene, Harrison, Jackson, Jefferson, Jennings, Knox, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Scott, Spencer, Sullivan, Switzerland, Vanderburgh, Warrick, and Washington Counties, IN, and points in Allen, Auglaize, Butler, Champaign, Clark, Clinton, Darke, Defiance, Fulton, Greene, Hamilton, Hancock, Hardin, Henry, Logan, Mercer, Miami, Montgomery, Paulding, Preble, Putnam, Shelby, Van Wert, Warren, and Williams Counties, OH, restricted against tacking or joinder with any authority presently held by carrier for the purpose of performing a through movement. By the instant petitioner, petitioner seeks to delete (1) both restrictions in MC 124245 (Sub-10) which involves tacking and interchange, and (2) the restriction in MC 124245 (Sub-14) which involves tacking or joinder.*

MC 134145 (Sub-75 M1F), filed June 2, 1980 (notice of filing of petition to modify the commodity description). Petitioner: NORTH STAR TRANSPORT, INC., Route #1, Hwy 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack (same address as applicant). Petitioner holds *contract carrier* authority in MC 134145 (Sub-75), served April 21, 1980, which authorizes over irregular routes, the transportation of (1) *computing machine parts* and (2) *materials and supplies* used in the manufacture and operation of computing machines (except commodities in bulk), between points in the U.S. (except AK and HI), on the one hand, and, on the other, the facilities of Control Data Corporation, at or near (a) Merced, Los Angeles, LaJolla, San Francisco, and San Diego, CA, (b) Campton, KY, (c) Arlington, TX, (d) Rochester, MI, (e) Omaha and Lincoln, NE, (f) Rapid City, SC, (g) Washington, DC, (h) Baltimore, MD, (i) Manchester, CT, (j) Morristown, PA, (k) Minneapolis, MN, (l) Oklahoma City, OK, under continuing contract(s) with Control Data Corporation, of Minneapolis, MN. By the instant petition, petitioner seeks to modify the commodity description to include *"computers"* in (1) above.

MC 134574 (Sub-14 M1F), filed May 20, 1980 (notice of filing of petition to modify the territorial description). Petitioner: FIGOL DISTRIBUTORS LIMITED, P.O Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Petitioner holds common carrier authority in MC 134574 (Sub-14), served October 31, 1974. MC 134574 (Sub-14) authorizes over irregular routes, in foreign commerce, the transportation of foodstuffs (except in bulk), from points in CA, OR, and WA, to ports of entry on the U.S.-Canada Boundary line located in WA, ID, and MT, restricted to the transportation of traffic destined to points in the Provinces of Alberta and Saskatchewan, Canada. By the instant petition, petitioner seeks to modify the above territorial description to read: "from points in CA, OR, and WA, to ports of entry on the U.S.-Canada Boundary line," and the restriction deleted.

MC 134574 (Sub-21 M1F), filed May 27, 1980 (notice of filing of petition to modify the territorial description). Petitioner: FIGOL DISTRIBUTORS LIMITED, P.O Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Petitioner holds common carrier authority in MC 134574 (Sub-21), served November 14, 1978. MC 134574 (Sub-21) authorizes over irregular routes, in foreign commerce, the transportation of fertilizer and fertilizer ingredients, in bags, from the ports of entry on the international boundary line between the U.S. and Canada located at Sweetgrass, MT, Eastport, ID and Orville, and Sumas, WA, to points in CA and AZ, restricted to the transportation of traffic originating at points in the province of Alberta, Canada. By the instant petition, petitioner seeks to modify the territorial description to read: "from ports of entry on the international boundary line between the U.S. and Canada to points in CA and AZ," and the restriction deleted.

MC 138335 M1F and MC 138335 (Sub-1 M1F), filed May 28, 1980 (notice of filing of petition to modify permits). Petitioner: HARTLEY TRUCKING COMPANY, INC., P.O. Box 398, Rte. 2 South, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Petitioner holds *contract carrier* authority in MC 138335 and MC 138335 (Sub-1), served February 3, 1978 and February 5, 1979, respectively. MC 138335 authorizes over irregular routes, the transportation of (1) *telephone cable,* on reels, from the facilities of Hartley Oil Company, Inc., at Ravenswood, WV, to points in WV, under contract with the Chesapeake & Potomac Telephone Company, of WV; (2) *electric cable* on reels and in coils, from Newington (Fairfax County), VA, to points in WV; (3) *electric cable,* on reels and in coils, from the facilities of Hartley Oil Company, Inc., at Ravenswood, WV, to points in WV, limited in (3) above to the transportation of traffic having a prior movement by rail and motor carrier; and (4) *empty reels, surplus cable, and junk cable,* on reels, or loose, from points in WV, to Newington (Fairfax County), VA, and points in Arlington County, VA; in (2), (3) and (4) above under continuing contracts with Western Electric Company, New York, NY, and Chesapeake and Potomac Telephone Company of West Virginia. MC 138335 (Sub-1) authorizes the transportation, over irregular routes, of (1) electric cable, on reels and in coils, from Baltimore, MD, to points in WV, and (2) empty reels, in the reverse direction, under continuing contract with Western Electric Company, Inc., of New York, NY. By the instant petition, petitioner seeks to modify both permits. The commodity description in both permits by the instant petition would read: "telephone equipment, materials and supplies used in the construction, installation, maintenance and repair of telephone systems, including junk cable, used equipment, materials and supplies, and empty reels." The territorial description and restriction as modified in MC 138335 would read: "between Ravenswood, WV and Newington (Fairfax County), VA and points in Arlington County, VA, on the one hand, and, on the other, points in WV, under continuing contract(s) with Western Electric Company, Inc. of New York, NY, and The Chesapeake and Telephone Company of West Virginia. The territorial description and restriction as modified, in MC 138335 (Sub-1) would read: "between Baltimore, MD, on the one hand, and, on the other, points in WV, under continuing contract(s) with Western Electric Company, Inc., of New York, NY, and The Chesapeake and Potomac Telephone Company of West Virginia."

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before September 8, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 142508 (Sub-59F) (republication), filed March 19, 1979, published in the **Federal Register** issue of August 28, 1979, and republished this issue. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. A Decision of the Commission, Division 1, decided June 19, 1980, and served July 8, 1980, finds that the present and future

V 45 / 154 AG 7 80 UMI

public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, transporting *foodstuffs*, and *materials, equipment and supplies* used in the manufacture, distribution and sale of foodstuffs (except commodities in bulk, in tank vehicles) between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Ocean Spray Cranberries, Inc., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 143971 (Sub-1F) (republication), filed November 10, 1977, previously noticed in the **Federal Register** issue of January 5, 1978. Applicant: JESSEE TRUCKING CO., INC., Route 1, P.O. Box 100, Dryden, VA 24243. Representative: Harry J. Jordan, 1000 16th Street NW, Washington, DC 20036. A Decision by the Commission, Division 1, acting as an Appellate Division, decided January 14, 1980, and served January 25, 1980, finds on reopening and further consideration that applicant is authorized to operate as a *contract carrier*, transporting *surface mining and construction equipment* (a) between Norton, VA, on the one hand, and, on the other, points in Pike, Harlan, Lecher, and Bell Counties, KY and Greenbrier, Summers, McDowell, Pocahontas, Mingo, Monroe, Mercer, Wyoming, and Logan Counties, WV, under a continuing contract(s) with Carter Machinery Company, Inc., of Norton, VA, (b) between Wise, VA, on the hand, and, on the other, points in Greenbrier, Summers, McDowell, Pocahontas, Mingo, Monroe, Mercer, Wyoming, and Logan Counties, WV, and Pike, Harlan, Leslie, Johnson, Knott, Letcher, Bell, Perry, Floyd, and Knox Counties, KY, under a continuing contract(s) with Shelton-Witt Equipment Corporation, of Wise, VA, and (c) between Kingsport, TN, on the one hand, and, on the other, Bristol, VA, and points in Scott Wise, Buchanan, Tazewell, Smyth, Pulaski, Washington, Lee, Dickenson, Russell, Wythe, and Roanoke Counties, VA, under a continuing contract(s) with Power Equipment Company, of Kingsport, TN. The purpose of this republication is to broaden the territorial scope from a one-way radial movement to a two-way radial movement.

MC 145541 (Sub-1F), (Republication), filed February 5, 1979, previously noticed in the **Federal Register** issue of May 9, 1979. Applicant: SUNWAY CORPORATION, 118 W. Main St., Thomasville, NC 27360. Representative: Stephen L. Ervin, Fairview Ch. Rd., P.O. Box 22, Trinity, NC 27370. A Decision by the Commission, Review Board Number 1, decided February 12, 1980, and served February 21, 1980, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle over irregular routes transporting (1) *new furniture and new furniture parts* from the facilities of Thomasville Furniture Industries, Inc., at Thomasville, Pleasant Garden, Winston-Salem, Hickory and Lenoir, NC, and Appomattox, VA, to points in Arizona, California, and Texas, and (2) *furniture parts and materials used in the manufacture of furniture*, in the reverse direction, restricted to the transportation of traffic originating at or destined to the facilities of Thomasville Furniture Industries, Inc. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to indicate the authority actually granted.

MC 145980 (Sub-2F), (Republication), filed March 16, 1979, previously noticed in the **Federal Register** issue of July 18, 1979. Applicant: H. C. COOK & BOBBY JOE COOK, d.b.a. COOK TRUCKING, 2200 Willow Creek Road, Casper, WY 82601. Representative: Bobby Joe Cook (same address as applicant). An Initial Decision by the Commission, Administrative Law Judge, decided April 10, 1980, and served April 16, 1980, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle over irregular routes transporting (1) *well drilling muds and compounds*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution and utilization of the commodities in (1) above, between points in Colorado, Idaho, Montana, Nevada, Utah and Wyoming. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republican is to add Utah as a destination state.

MC 146231F (Republication), filed January 28, 1979, previously noticed in the **Federal Register** issue of May 7, 1979. Applicant: SEATON SMITHSON FLEGEL AND JERRY DEAN FLEGEL d.b.a. S. S. FLEGEL TRUCKING, Route 1, Box 867, Prineville, OR 97754. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. A Decision by the Commission, Administrative Law Judge, decided March 3, 1980, and served March 11, 1980, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood products* (except wood residuals in bulk), and lumber, between points in Jefferson, Deschutes, Crook, Grant, Union, and Baker counties, OR, on the one hand, and, on the other, points in Shasta, Tehama, and Lassen Counties, CA, Yakima, Okanogan, Klickitat, and Walla Walla Counties, WA, and Canyon, Payette, Ada, and Gem Counties, ID. Applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code and the Commission's regulations. The purpose of this republication is to include Gem County, ID, in the territorial description.

Permanent Ex-Water Authority; Decision-Notices

Decided: June 30, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commerical zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission on or before September 8, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Tile 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlton, Joyce, and Jones.

MC 126420 (Sub-15F), filed June 16, 1980. Applicant: FOSS L & T CO., 660 W. Ewing St., Seattle, WA 98119. Representative: Donald W. Hearn (same address as applicant). To operate as a *common carrier*, by motor vehicle, interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commerical zone of Unalaska, AK, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Seattle, WA.)

MC 127090 (Sub-7F), filed June 2, 1980. Applicant: PACIFIC STORAGE, INC., 440 East 19th St., Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commerical zones of (a) Seattle, WA, and (b) Tacoma, WA, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Seattle, WA.)

MC 150431F, filed March 26, 1980. Applicant: WILLIAM J. ANDREWS, d.b.a. ABG CARTAGE CO., P.O. Box 3051, Jacksonville, FL 32206. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commerical zones of Jacksonville, FL, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Jacksonville, FL.)

Permanent Authority Deicisions; Decision-Notice

Decided: July 22, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action

V 45 / 154 AG 7 80 UMI

significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed on or before September 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 130151 (Sub-1F), filed June 26, 1980. Applicant: FRONTIER ENTERPRISES, INC., d.b.a. FRONTIER TRAVEL & TOURS, 1923 North Carson St., Carson City, NV 89701. Representative: Mike Soumbeniotis, 402 North Division St., P.O. Box 646, Carson City, NV 89701. To engage in operations, in interstate or foreign commerce, as a broker, at Carson City, NV, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S. (including AK and HI).

MC 130890F, filed May 6, 1980. Applicant's name and address are ANTHONY S. COTTA, 176 King Street, Hanover, MA 02339. The name under which operations will be performed is ASCOTT ASSOCIATES CO. Applicant is represented by A. C. Gardner in this proceeding whose address is 176 King Street, Hanover, PA. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Anthony S. Cotta, President, Director, and shareholder, Anthony F. Cotta, Vice President, Director, and shareholder, Alton C. Gardner, Vice President, Director, and shareholder, M. B. Kemp, Vice President, Director, Treasurer, and shareholder (same address as applicant), Thomas H. Murphy, Director and clerk, 84 State Street, Boston, MA 02100. The daily operations will be managed by Michael P. DePelice whose business address is 378 Commercial Street, Malden, MA 02148. Applicant is affiliated with the following shipper or warehouse: None.

MC 130950F, filed June 17, 1980. Applicant: AMERICAN TRAVEL CORPORATION, 404 Hillsborough St., P.O. Box 25399, Raleigh, NC 27612. Representative: George F. Newsom (same address as applicant). To engage in operations, in interstate or foreign commerce, as a broker, at Raleigh, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in Wake County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 130960F, filed November 7, 1979. Applicant's name and address are STEVENS VAN LINES, INC., 121 S. Niagara St., Saginaw, MI 48603. The name under which operations will be performed is STEVENS TRANSPORTATION SYSTEMS. Applicant is represented by Robert J. Gallagher, in this proceeding whose address is 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first four principal shareholders, with their appropriate titles: Archie H. Stevens, Sr., Chairman of the Board Morrison M. Stevens, President, Member of the Board, Archie H. Stevens, Jr., Vice President, Member of the Board, and James R. Stevens, Secretary, Member of the Board (same address as applicant). The daily operations will be managed by Morrison M. Stevens, whose business address is 121 S. Niagara St., Saginaw, MI 48602. Applicant is affiliated with the following shipper or warehouse: None.

MC 130961F, filed November 7, 1979. Applicant's name and address are STEVENS FORWARDERS, INC., 121 S. Niagara Street, Saginaw, MI 48602. The name under which operations will be performed is STEVENS FORWARDERS, INC. Applicant is represented by Robert J. Gallagher, in this proceeding whose business address is 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners) and first three principal shareholders, with their appropriate titles: Morrison M. Stevens, President, Member of the Board Archie H. Stevens, Jr., Vice President, Member of the Board, and James R. Stevens, Secretary, Member of the Board (same address as applicant). The daily operations will be managed by Morrison M. Stevens whose business address is 121 S. Niagara Street, Saginaw, MI 48602. Applicant is affiliated with the following shipper or warehouse: Stevens Van Lines, Inc.

MC 130967F, filed June 18, 1980. Applicant: AMERICANA TRAVEL BUREAU INC., 833 North Main St., Fall River, MA 02720. Representative: Gerald H. Silva (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Falls River, MA, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in Bristol County, MA, on the one hand, and, on the other, points in the U.S., including AK and HI.

W 406 (Sub-15F), filed May 19, 1980. Applicant: OHIO BARGE LINE, INC., 600 Grant St., Pittsburgh, PA 15219. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by water, by non-self propelled vehicles, which the use of towing vessels, in interstate or foreign commerce, transporting *refractories*, from Newell, WV, to ports and points along the Illinois Waterway, the Mississippi and Ohio Rivers, and the Gulf Intra-coastal Waterway. (Hearing site: Washington, D.C. or Pittsburgh, PA.)

W 547 (Sub-4F), filed April 18, 1980. Applicant: THE GREAT LAKES TOWING COMPANY, 1800 Terminal Tower, Cleveland, OH 44113. Representative: Gregory G. Binford, 650 Terminal Tower, Cleveland, OH 44113. To operate as a *common carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels, in interstate or foreign commerce, transporting *general commodities*, between all ports and points on the Great Lakes and all connecting tributary waterways, except the Illinois Waterway. (Hearing site: Cleveland, OH or Washington, D.C.

W 1326 (Sub-F), filed May 7, 1980. Applicant: HUNTER MARINE TRANSPORT, INC., 6820 Charolotte Ave., Nashville, TN 37209. Representative: Peter A. Greene, 900—17th St., NW., Washington, D.C. 20006. To operate as a *common carrier*, by water, by non-self propelled vessels with the use of separate towing vessels, in interstate or foriegn commerce, transporting (1) *general commodities* and (2) the performance of general towage by towing vessels, between ports and points on the Cumberland, Tennessee, Ohio and Illinois Rivers, and the Mississippi River between its confluence with the Illinois River at Grafton, IL, and its confluence with the Ohio River at Cairo, IL. (Hearing site: Nashville, TN or Washington, D.C.)

FF 128 (Sub-4F), filed June 26, 1980. Applicant: CLIPPER EXXPRESS COMPANY, A Corporation, 3401 W. Pershing Rd., Chicago, IL 60602. Representative: Charles A. Webb, 1828 L St., NW., Suite 1111, Washington, DC 20036. To operate as a *freight forwarder*, in interstate commerce, in the transportation of *general commodities*, (1) from points in ME and NH to points in AZ, CA, CO, ID, LA, MT, NV, NM, OR, TX, UT, WA, and WY, (2) from points in CA, OR, and WA, to points in ME, NH, NC, and TN, (3) from points in DE, KY, ME, MD, NH, NC, RI, TN, VT, VA, WV, MO, and DC, to points in HI, (4) from points in ME, MD, NH, NC, TN, VT, VA, WV, WI, MO, and DC, to points in AK, and (5) from points in AZ, ID, NV, and UT, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MO, MN, NE, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, WI, and DC, restricted to the use of facilities of common carriers by motor vehicle and rail.

Motor Carrier Alternate Route Deviations Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 8, 1980.

Each applicant states that here will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 29910 (Deviation No. 47), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Ft. Smith, AR 72902, filed July 14, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Luddock, TX over US Hwy 84 to Santa Rosa, NM, then over US Hwy 66 to Clines Corners, NM, and (2) From Luddock, TX over US Hwy 84 to Ft. Summer, NM, then over US Hwy 60 to Encino, NM, then over US Hwy 285 to Clines Corners, NM and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Lubbock, TX, over US Hwy 87 to Amarillo, TX, then over US Hwy 66 to Clines Corners, MN and return over the same routes.

MC 41432 (Deviation No. 34), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, TX 75207, filed July 22, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicles, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Pyote, TX over TX Hwy 115 to Andrews, TX, then over US Hwy 62 to Brownfield, TX, and (2) From Pyote, TX over TX Hwy 115 to Andrews, TX, then over US Hwy 62 to Lubbock, TX and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: (1) From Pyote, TX over US Hwy 80 to Big Spring, TX, then over US Hwy 87 to Lamesa, TX, then over TX Hwy 137 to Brownfield, TX, and (2) From Pyote, TX over US Hwy 80 to Big Spring, TX, then over US Hwy 87 to Lubbock, TX, and return over the same routes.

Motor Carrier Alternate Route Deviations Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 8, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 61615 (Deviation No. 41), MIDWEST BUSLINES, INC., Suite 415, 1500 Jackson St., Dallas, TX 75201, filed July 18, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers over a deviation route as follows: From St. Louis, MO over Interstate Hwy 70 to junction US Hwy 54 near Kingdom City, MO, then over US Hwy 54 to Jefferson City, MO and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From St. Louis, MO over US Hwy 50 to Jefferson City, MO and return over the same routes.

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T–958, filed April 15, 1980. Applicant: SPEED MOTOR EXPRESS, 11 Botsford Place, Buffalo, NY 14216. Representative: Willian J. Hirsch, 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between all points in Erie and Niagara Counties. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Notices

Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought", (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2 (For example questions may be raised relating to applicant's

contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form or verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 8, 1980.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the varacity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An orginal and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

MC 142335 (Sub-13F), filed April 25, 1980. Applicant: C & E TRUCKING CO., INC., 11910 Greenstone Ave., Santa Fe Springs, CA 90670. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery* and (2) *materials, equipment, and supplies* incidental to, or used in mining, milling, building construction, and highway building and maintenance, between points in CA, on the one hand, and, on the other, points in AZ. *The sole purpose of this application is to substitute single-line for joint-line operations.* (Hearing site: Los Angeles or San Francisco, CA.)

Note.—The single-line service proposed in this application in lieu of joint-line service connects with applicant's existing authority to transport the same commodities between CA, on the one hand, and, on the other, points in NV.

Permanent Authority Decisions Decision-Notice

Substitution Applications: Single-Line Service for Existing Joint-Line Service

July 22, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before September 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell.

MC 1977 (Sub-39F), filed August 28, 1980. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, CO 50216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. To operate as common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment); Regular routes: (1) Between Pasco, WA and Olympia, WA, serving the intermediate points of Seattle and Tacoma, WA, and points between Pasco and Ellensburg, WA (including the designated termini), and, as off route points, Moxee City, WA and the WA counties of: Clark, Clallam, Cowlitz, Grays Harbor, Jefferson, King, Kitsap, Lewis, Mason, Pierce, Snohomish (on and west of Washington Hwy 9) and Thurston. (a) From Pasco over WA Hwy 14 to Kennewick, then from Kennewick over U.S. Hwy 12 to junction WA Hwy 22 then over WA Hwy 22 to junction U.S. Hwy 97, then over U.S. Hwy 97 to junction I–82, then over I–82 to junction I–90, then over I–90 via Ellensburg to Seattle, then via I–5 to Olympia and return over the same route. (b) From Pasco over WA Hwy 14 to Kennewick, then from Kennewick over U.S. Hwy 12 to junction I–82, then over I–82 to junction I–90, then over I–90 via Ellensburg to Seattle, then via I–5 to Olympia and return over the same route. (2) Between Pasco, WA and Portland, OR, serving the intermediate points of Kennewick, WA and Hood River, OR and, as off route points, Dallas, Mommouth, Independence, Stayton, West Stayton, Keizer and Salem, OR and those located in the Oregon counties of: Clackamas, Clatsop, Columbia, Multnomah, Tillamook, Washington, and Yumhill. From Pasco over WA Highway 14 to Kennewick, then via Highway 14 and unnumbered Oregon Highway to Umatilla, OR, then via U.S. Highway 730 to junction I–80 N, then via I–80 N to Portland, and return over the same route. Restricted in (1) and (2) above against any traffic having both an origin and a destination in the states of Washington or Oregon, or either, and further restricted against any local traffic between Boise, ID and Portland, OR. *Alternate routes:* (for joinder and operating convenience only) (1) Between Boise, ID and Portland, OR. From Boise over I–80 N to junction U.S. Highway 26, then via U.S. Highway 26 to Portland and return over the same route. (2) Between Spokane, WA and Seattle, WA. From Spokane over I–90 to Seattle and return over the same route. (3) Between Boise, ID and Kennewick, WA. From Boise over I–80 N to junction U.S. Highway 395, then via U.S. Highway 395 to junction U.S. Highway 730, then over U.S. Highway 730 to Umatilla, OR, then over unnumbered highway to junction WA Highway 14, then via WA Highway 14 to Kennewick and return over the same route. (4) Between Boise, ID and Portland, OR. From Boise over I–80 N to Portland and return over the same route. (5) Between Portland, OR, and Olympia, WA. From Portland over I–5 to Olympia and return over the same route. Restricted in (1) through (5) inclusive above against traffic having both an origin and a destination in the states of Washington, or Oregon or either of them; and further restricted against any local traffic between Boise, ID and Portland, OR. (Hearing site: Portland, OR, or Seattle, WA.)

Note.—The purpose of this application is to substitute single line for joint line operations. Applicant proposes to tack this authority with its existing regular-route authority.

MC 2473 (Sub-21F), filed March 11, 1980. Applicant: BILLINGS TRANSFER CORP., INC., Green Needles Rd., Lexington, NC 27292. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, DC 20036. To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY and points within 20 miles of New York, NY; points in that part of PA, on, south, and east of a line beginning at Easton and extending along U.S. Hwy 22 to Harrisburg and then along the Susquehanna River to the PA–MD state line; points in NJ and Baltimore, MD, to points in NC and SC (except those in Forsyth, Guilford, Davidson, and Stokes Counties, NC, and points in NC and SC within 100 miles of the named NC counties).

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 2473 (Sub-24F), filed May 8, 1980. Applicant: BILLINGS TRANSFER CORP., INC., Green Needles Rd., Lexington, NC 27292. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles and textile products*, (1) from Richmond, Hopewell and Norfolk, VA, and points in SC and VA within 100 miles of Forsyth, Guilford, Davidson and Stokes Counties, NC, to Washington, DC, Baltimore, MD, Wilmington, DE, and points in NJ, points in NY within 20 miles of New York, NY, including New York, NY and to Union County, PA, and points in PA on and within the boundaries of a line along the west bank of the Susquehanna River beginning at the PA–MD state line and extending north to U.S. Hwy 6, then east along U.S. Hwy 6 to the PA–NJ state line, then south along the PA–NJ state line to the PA–MD state line, then west along this line to the point of beginning, and (2) between Richmond, Hopewell and Norfolk, VA and points in NC, SC, and VA, within 100 miles of Forsyth, Guilford, Davidson and Stokes Counties NC.

Note.—The sole purpose of this application is to substitute single-line service for joint-line operations on traffic involved.

MC 4963 (Sub-122F), filed June 18, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Suite 501, Perpetual Bldg., 111 E St. NW., Washington, DC 20004. To operate in interstate or foreign commerce, as a *common carrier* over irregular routes transporting, *general commodities*, (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in AL on and north of U.S. Hwy 278, points, in GA on, north and east of a line beginning at the GA–SC state line extending along Interstate 16 to Junction Interstate 75, then along Interstate 75 to the GA–TN stateline, points in SC, on the one hand, and, on the other, NC.

Note.—Applicant presently holds authority for all NC points and intends to tack at those points. Applicant seeks substitution of single

V. 45 / 154 AUG 7 1980 UMI

line service for its existing joint line operations.

MC 29910 (Sub-261F), filed May 2, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), (1) between Danville and Little Rock, AR, over AR Hwy 10, serving all intermediate points, (2) between Fort Smith and Booneville, AR, from Fort Smith, over U.S. Hwy 71 to Greenwood, AR, then over AR Hwy 10 to Booneville, and return over the same route, serving no intermediate points, and (3) between Booneville and Danville, AR, over AR Hwy 10, serving all intermediate points. (Hearing site: Little Rock, AR, or Washington, DC.)

Note.—Applicant intends to tack this authority with its existing authority. The sole purpose of this application is to substitute single-line for joint-line operations.

MC 36517 (Sub-9F), filed May 12, 1980. Applicant: JAMES J. KEATING, INC., P.O. Box 830, Perth Amboy, NJ 08862. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, from Bayonne, Cateret, Elizabeth, and Jersey City, NJ, and Springfield, MA, to points in CT, MA, NY, and RI. (Hearing site: Newark, NJ.)

Note.—The sole purpose of this application is to substitute single line for joint line operations.

MC 42487 (Sub-985F), filed March 21, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *classes A, B, and C explosives*, from Rockdale, IL, to Norfolk, VA, and Sunny Point Military Ocean Terminal, NC. *Condition:* To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue. (Hearing site: Chicago, Il.)

Note.—The sole purpose of this application is to substitute single line for joint line operations. Applicant intends to tack the authority herein with its existing authority.

MC 55777 (Sub-12F), filed April 24, 1980. Applicant: MILLS TRANSFER CO., a corporation, 234 Pike St., Marietta, OH 45750. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *structural steel and iron and steel articles*, between points in OH, PA, VA, and WV, on the one hand, and, on the other, points in IL, IN, MI, AR, TN, IA, KS, MO, NM OK, TX, and UT; and (2) *parts for coal mining machinery, coal handling machinery, and coal preparation machinery*, (a) between points in IL, IN and MI, on the one hand, and, on the other, points in AL, KY, OH, PA, TN and WV; and (b) between points in OH, PA and WV, on the one hand, and, on the other, points in TN.

Note.—The purpose of this application is to substitute single-line for joint-line operations.

MC 71652 (Sub-45F), filed March 25, 1980. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Hwy, P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *building materials* between the facilities of Empire Pacific Industries, customers, and suppliers, at points in CA, OR, ID, and WA, on the one hand, and, on the other, points in CA, ID, OR, and WA. The sole purpose of this application is to substitute single-line for joint line operations. (Hearing site: Portland or Medford, OR.)

MC 76266 (Sub-135F), filed April 2, 1980. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC., 215 S. 11th St., Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cleveland, OH and New York City, NY: from Cleveland over Interstate Hwy 77 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 495, then over Interstate Hwy 495 to New York City, NY, and return over the same route. (Hearing site: St. Paul, MN, or Washington, DC.)

Note.—Applicant intends to tack the authority sought with its existing authority at Cleveland, OH. The sole purpose of this application is to substitute single line for joint line operations.

MC 99656 (Sub-4F), filed January 21, 1980. Applicant: IDDINGS TRUCKING, INC., State Route 60, Box 388, Lowell, OH 45744. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ferro alloys*, in bulk in dump vehicles, from the plant site of Interlake Incorporated, Washington County, OH, to points in IN, IL, KY, MD, MI, MO, NY, PA, and WV. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, or its certificate of registration authority. (Hearing site: Columbus, OH.)

Note.—The purpose of this application is to substitute single-line for joint-line operations.

MC 108962 (Sub-5F), filed May 8, 1980. Applicant: MIDWEST SPECIALIZED HAULERS, INC., P.O. Box 753, Dubuque, IA 52001. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate in interstate and foreign commerce as a *common carrier*, over irregular routes, transporting *heavy machinery and contractors' machinery, equipment, materials, and supplies*, and *commodities* the transportation of which, because of size or weight, requires the use of special equipment or special handling, from points in WI and MN to points in the U.S. (except AK, HI, OH, WV, VA, MD, PA, DE, NJ, NY, CT, and DC).

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 119176 (Sub-32F), filed June 26, 1980. Applicant: THE SQUAW TRANSIT COMPANY, a corporation, 6211 South 49th West Avenue, P.O. Box 9368, Tulsa, OK 74107. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *machinery, equipment, materials and supplies*, used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (b) *machinery, equipment, materials and supplies*, used in, or in connection with, the construction, operations, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof (except in connections with main pipelines and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from commodities into or from holes or wells, between CA and AZ, on the one hand, and, on the other, TX, LA, KS, IL, IN, WV, AR, MI, OH, OK, PA, GA, MO, CO, NE, KY, NM, NV, TN, AL, FL, MS, and ports of entry on the international boundary line between the U.S. and Canada at points in MN and ND. (Hearing site: Columbus, OH.)

Note.—The purpose of this application is to substitute single-line for joint-line operations.

MC 120116 (Sub-5F), filed March 17, 1980. Applicant: J. W. HUMBERT, INC., Kansas St., Green Springs, OH 44836. Representative: Keith D. Warner, 420 Security Blvd., Toledo, OH 43604. To operate as a common carrier, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in OH, on the one hand, and, on the other, points in PA on and west of U.S. Hwy 219, and points in WV on and north of U.S. Hwy 50. (Hearing site: Columbus or Cleveland, OH.)

Note.—The purpose of this application is to substitute single-line for joint-line operations. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its certificate of registration authority.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 18, 1980. A copy must also be served upon applicant or its representative Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 106407 (Sub-No. E6) (correction), filed June 4, 1974, published in the **Federal Register** March 3, 1976. Applicant: T. E. MERCER TRUCKING CO., INC., P.O. Box 1809, Fort Worth, TX 76101. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. *Pipe, pipeline material, machinery*, and *equipment* incidental to and used in connection with the construction, repairing, or dismantling of gas, gasoline or oil pipelines, restricted to traffic moving to or from pipeline rights-of-way, between points in CA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WI, WV, and DC. (Gateway eliminated: points in MS) Purpose of replublication-show entire territory.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23792 Filed 8-6-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions Volume No.; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petiton for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petiton to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 7, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before September 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before September 8, 1980. Or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, except as otherwise noted.

Volume No. 267

Decided: June 24, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton and Liberman.

MC 7555 (Sub-76F), filed May 21, 1980. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. Transporting (1) *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (a) from the facilities of M&M/Mars, Snack-Master Division, at or near Albany, GA, to points in FL, NC, SC, TN, MD, NJ, MA, OH, MI, IL, CT, DE, NY, PA, RI, and IN; (b) from Jacksonville, FL, to points in GA, NC, SC, TN, MD, NJ, MA, OH, MI, IL, CT, DE, NY, PA, RI, and IN; and (c) from points in NJ to points in FL, GA, NC, SC, TN, MD, MA, OH, MI, IL, CT, DE, NY, PA, RI and IN; and (2) *roasted peanuts* from Sylvester, GA to Cleveland, TN. (Hearing site: Washington, DC.)

MC 7555 (Sub-77F), filed June 12, 1980. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, N.W., Suite 300, Washington, DC 20006. Transporting *foodstuffs* (except commodities in bulk), and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between points in NY, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, and TN. (Hearing site: Washington DC.)

MC 8535 (Sub-120F), filed June 4, 1980. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, Washington, DC 20036. Transporting *plastic pipe and pipe fittings*, from Vestal, NY, to points in IL, IN, and MI. (Hearing site: Binghamton, NY or Washington DC.)

MC 22065 (Sub-5F), filed June 9, 1980. Applicant: COMMERCIAL TRANSFER, INC., 3475 West Franklin Avenue, P.O. Box 12004, Fresno, CA 93776. Representative: John Paul Fischer, 256 Montgomery Street, Fifth Floor, San Francisco, CA 94104. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) between San Francisco, CA and junction U.S. Hwy, 101 and Interstate Hwy 5 at or near Los Angeles, CA, over U.S. Hwy 101, (2) between San Francisco, CA and junction CA Hwy 1 and Interstate Hwy 5 at or near Capistrano Beach, over CA Hwy 1, (3) between Sacramento, CA and San Ysidro, CA over Interstate Hwy 5, (4) between Yuba City, CA and junction CA Hwy 99 and Interstate Hwy 5 at or near Wheeler Ridge, CA over CA Hwy 99, (5) between junction CA Hwy 33 and Interstate Hwy 205 at or near Banta, CA and junction CA Hwy 33 and U.S. Hwy 101 at or near Ventura, CA, over CA Hwy 33, (6) between junction CA Hwy 65 and CA Hwy 198 and junction CA Hwy 65 and CA Hwy 99, over CA Hwy 65, (7) between junction CA Hwy 63 and CA Hwy 180 and junction Hwy 63 and CA Hwy 198, over CA Hwy 63, (8) between junction CA Hwy 245 and CA Hwy 198 and junction CA Hwy 245 and CA Hwy 180, over CA Hwy 245, (9) between junction CA Hwy 198 and U.S. Hwy 101 and the boundary of Sequoia National Park over CA Hwy 198, (10) between junction CA Hwy 180 and CA Hwy 33 and the boundary of Kings' Canyon National Park, over CA Hwy 180, (11) between Clovis, CA and Pineridge, CA, over CA Hwy 168, (12) between junction CA Hwy 1 and CA Hwy 41 to the boundary of Yosemite National Park, over CA Hwy 41, (13) between junction CA Hwy 43 and CA Hwy 99 and junction CA Hwy 43 and Interstate Hwy 5, over CA Hwy 43, (14) between junction Interstate Hwy 5 and CA Hwy 140 over CA Hwy 140 to the boundary of Yosemite National Park, over CA Hwy 140, (15) between junction CA Hwy 145 and CA Hwy 33 and junction CA Hwy 145 and CA Hwy 41, over CA Hwy 145, (16) between Watsonville, CA and junction CA Hwy 152 and CA Hwy 99, over CA Hwy 152, (17) between junction CA Hwy 156 and CA Hwy 1 and junction CA Hwy 156 and CA Hwy 152, over CA Hwy 156, (18) between Paso Robles, CA and junction CA Hwy 46 and CA Hwy 99, over CA Hwy 46, (19) between junction CA Hwy 58 and U.S. Hwy 101 and junction CA Hwy 58 and CA Hwy 99, over CA Hwy 58, (20) between Bakersfield, CA and Trona, CA, over CA Hwy 178, (21) between junction CA Hwy 166 and CA Hwy 1 and junction CA Hwy 166 and CA Hwy 99, over CA Hwy 166, (22) between Gorman, CA and junction CA Hwy 138 and CA Hwy 14, over CA Hwy 138, (23) between junction CA Hwy 14 and Interstate Hwy 5 and junction CA Hwy 14 and U.S. Hwy 395, over CA Hwy 14, (24) between junction CA Hwy 126 and U.S. Hwy 101 and junction CA Hwy 126 and Interstate Hwy 5, over CA Hwy 126, (25) between junction U.S. Hwy 395 and CA Hwy 89 and junction U.S. Hwy 395 and Interstate Hwy 15, over U.S. Hwy 395, (26) between Interstate Hwy 15 and its intersection with the CA–NV border, and junction Interstate Hwy 15 and Interstate Hwy 8, at or near San Diego, CA over Interstate Hwy 15 and Interstate Hwy 15E, (27) between junction Interstate Hwy 8 and Interstate Hwy 5 at or near San Diego, CA, and Winterhaven, CA, over Interstate Hwy 8, (28) between Barstow, CA and Needles, CA, over Interstate Hwy 40, (29) between junction U.S. Hwy 95 and Interstate Hwy 40 and junction U.S. Hwy 95 and Interstate Hwy 10, over U.S. Hwy 95, (30) between junction Interstate Hwy 10 and Interstate Hwy 15 and Blythe, CA, over Interstate Hwy 10, (31) between junction CA Hwy 86 and Interstate Hwy 10 and junction CA Hwy 86 and Interstate Hwy 8, over CA Hwy 86, (32) between Brawley, CA and junction CA Hwy 78 and Interstate Hwy 10 at or near Blythe, CA, over CA Hwy 78, (33) between junction CA Hwy 78 and Interstate Hwy 5 and junction Hwy 78 and CA Hwy 86, over CA Hwy 78, (34) between Cloverdale, CA and San Francisco, CA, over U.S. Hwy 101, (35) between junction U.S. Hwy 101 and CA Hwy 128 at or near Geyserville, CA and junction CA Hwy 29 and Interstate Hwy 80, from junction U.S. Hwy 101 and CA Hwy 128 at or near Geyserville, CA over CA Hwy 128 to Calistoga, CA, then over CA Hwy 29 to junction CA Hwy 29 and Interstate Hwy 80, and return over the same route, (36) between San Jose, CA and Santa Cruz, over CA Hwy 17, (37) between Saratoga, CA and Santa Cruz, CA over CA Hwy 9, (38) between San Francisco, CA and Saratoga, CA, from San Francisco, CA over CA Hwy 1 to junction CA Hwy 92, then over CA Hwy 92 to junction CA Hwy 35, then over CA Hwy 35 to junction CA Hwy 9, then over CA Hwy 9 to Saratoga, CA, and return over the same route, (39) between San Francisco, CA and Oakland, CA over Interstate Hwy 80, (40) between Oakland, CA and Sacramento, CA, over Interstate Hwy 80, (41) between Oakland, CA and junction Interstate Hwy 205 and Interstate Hwy 5 from Oakland, CA over Interstate Hwy 580 to junction Interstate Hwy 205, then over Interstate Hwy 205 to junction Interstate Hwy 205 and Interstate Hwy 5, and return over the same route, (42) between Sacramento, CA and junction U.S. Hwy 50 and CA Hwy 89, over U.S. Hwy 50, (43) between Placerville, CA and junction CA Hwy 49 and Interstate Hwy 80, over CA Hwy 49, (44) between junction CA Hwy 89 and U.S. Hwy 50 and junction CA Hwy 89 and U.S. Hwy 395, over CA Hwy 89, (45) between Yuba City, CA and Marysville, CA, over CA Hwy 20, (46) between Marysville, CA and junction CA Hwy 65 and Interstate Hwy 80 at or near Roseville, CA, over CA Hwy 65, (47) between Sacramento, CA and junction Interstate Hwy 80 and CA Hwy 174 at or near Colfax, CA, over Interstate Hwy 80, (48) between junction Interstate Hwy 80 and CA Hwy 49, and Grass Valley, CA, over CA 49, (49) between Grass Valley, CA and junction CA Hwy 174 and Interstate Hwy 80 at or near Colfax, CA, over CA Hwy 174, (50) between Pinole, CA and Stockton, CA over CA Hwy 4, (51) between Oakland, CA and Walnut Creek, CA over CA Hwy 24, (52) between junction Interstate Hwy 680 and Interstate Hwy 80 and junction Interstate Hwy 680 and U.S. Hwy 101 over Interstate Hwy 680, (53) between junction CA Hwy 12 and Interstate Hwy 80 and junction CA Hwy 12 and CA Hwy 99, over CA Hwy 12, (54) between junction CA Hwy 88 and CA Hwy 99 and junction CA Hwy 88 and CA Hwy 49, over CA Hwy 88, (55) between junction CA Hwy 12 and CA Hwy 88 and junction CA Hwy 12 and CA Hwy 49, over CA Hwy 12, (56) between junction CA Hwy 26 and CA Hwy 99 and junction CA Hwy 26 and CA Hwy 12, over CA Hwy 26, (57) between Stockton, CA and junction CA Hwy 4 and CA Hwy 49, over CA Hwy 4, (58) between Bakersfield, CA and Barstow, CA over CA Hwy 58, serving all intermediate points, serving points in Imperial, San Diego, Orange, Riverside, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Kern, San Bernardino, Kings, Tulare, Inyo, Fresno, San Benito, Monterey, Merced, Madera, Mariposa, Mono, Tuolumne, Stanislaus, Santa Clara, Santa Cruz, San Mateo, Alameda, San Francisco, Contra Costa, San Joaquin, Calaveras, Alpine, Amador, Sacramento, Solano, Marin, Napa, Sonoma, Yolo, Sutter, Yuba, Nevada, Placer, Eldorado, Sierra, Colusa, Lake and Mendocino Counties, CA, as off-route points. (Hearing site: Fresno or San Francisco, CA.)

Note.—Applicant intends to tack the authorities in (1) through (55) above with one another and with its outstanding regular route authority.

MC 29555 (Sub-107F), filed June 4, 1980. Applicant: BRIGGS TRANSPORTATION CO., a corporation, N–400 Griggs-Midway Bldg., St. Paul, MN 55104. Representative: Winston W. Hurd (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Columbus, Oconomowoc, and Portage, WI as off-route points in connection with applicant's existing regular route operations. (Hearing site: Madison or Milwaukee, WI.)

MC 31675 (Sub-29F), filed June 12, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Garland V. Moore (same address as applicant). Transporting *beer* and *materials and supplies* used in the distribution of beer, between Williamsburg, VA, and Shelby, NC. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 50935 (Sub-34F), filed June 4, 1980. Applicant: WOLVERINE TRUCKING COMPANY, 1020 Doris Road, Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *malt beverages* from Milwaukee, WI, to points in Saginaw County, MI. (Hearing site: Detroit or Lansing, MI or Washington, DC.)

MC 50935 (Sub-35F), filed June 4, 1980. Applicant: WOLVERINE TRUCKING COMPANY, a corporation, 1020 Doris Road, Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting (1) *malt beverages*, and *malt beverage containers*, between Milwaukee, WI and Perry, GA, and (2)(a) *malt beverages*, from Perry, GA, to Neward, NJ, and (b) *malt beverage containers*, in the reverse direction. (Hearing site: Detroit or Lansing, MI.)

MC 50935 (Sub-36F), filed June 9, 1980. Applicant: WOLVERINE TRUCKING COMPANY, a corporation, 1020 Doris Road, Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *wine* (except in bulk), from New York and Hammondsport, NY, to Detroit, MI. (Hearing site: Detroit or Lansing, MI.)

MC 56244 (Sub-107F), filed May 21, 1980. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. Transporting (1) *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), between the facilities of Duffy-Mott Company, Inc., in Adams, Cumberland, Dauphin, Franklin and York Counties, PA, on the one hand, and, on the other, points in TN, restricted to traffic originating at the named origins and destined to the

V 45 / 154 AG 7 80 UMI

indicated destinations; and (2) *materials, supplies and equipment* used in the manufacturing, packing and distribution of the commodities in (1) above (except commodities in bulk), from points in IL, IN, IA, KY, MO, MI, OH, PA, and those in WV on and north of U.S. Hwy 50, Baltimore, MD, and New York, NY, to the facilities of Duffy-Mott Company, Inc., in Adams, Cumberland, Dauphin, Franklin, and York Counties, PA, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 60014 (Sub-188F), filed May 28, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *tank components and tank parts*, from the facilities of R.F.I. Services, Inc., at The Woodlands, TX, to points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 73165 (Sub-516F), filed June 6, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *commodities*, which because of size or weight require special handling or equipment, (2) *self-propelled articles*, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk) between the facilities of W. H. Manufacturing Co., at or near Pocatello, ID, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 73165 (Sub-517F), filed June 9, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *aluminum and aluminum products*, from points in Berkely County, SC, to points in the U.S. (except AK, HI, MI, IN, OH, OK, TX, AR, LA, MS, FL, AL, GA, NC, SC, and TN), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) from points in the U.S. (except AK and HI) to points in Berkely County, SC, restricted in (1) and (2) to traffic originating at or destined to the facilities of Alumax of South Carolina, Inc. (Hearing site: Atlanta, GA or Washington, DC.)

MC 93224 (Sub-26F), filed May 21, 1980. Applicant: S & N FREIGHT LINE INC., P.O. Box 12147, Norfolk, VA 23502. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St. NW., Washington, DC 20005. Transporting *malt beverages* from Williamsburg, VA, to points in PA and NY. (Hearing site: Washington, DC.)

MC 94265 (Sub-354F), filed June 9, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *meats, meat products and meat by products, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from Denver, CO, Amarillo, TX and Omaha, NE to points in IL and IN. (Hearing site: Chicago, IL or Washington, DC.)

MC 105984 (Sub-26F), filed May 19, 1980. Applicant: JOHN B. BARBOUR TRUCKING COMPANY, a Corporation, P.O. Box 577, Iowa Park, TX 76367. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting (1) *wire products*, from Madill, OK, to points in AR, AL, IA, IL, IN, KY, KS, LA, MI, NM, MO, MS, NE, ND, OH, SD, TN, TX, and WI, and (2) *materials and equipment* used in the manufacture of wire products, in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 107295 (Sub-985F), filed June 11, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Dale L. Cox (same address as applicant). Transporting (1) *chimney assemblies, pipe, venting, and air conditioners*, from Wichita, KS, to points in the U.S. (except AK and HI), and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Kansas City, MO or Dallas, TX.)

MC 107295 (Sub-986), filed June 9, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Dale L. Cox (same address as applicant). Transporting *lumber and wood products*, from points in AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 107555 (Sub-5F), filed June 6, 1980. Applicant: CLARENCE ALLEN, JR., d.b.a. BROWN'S TRANSFER, 405 Main St., Ronceverte, WV 24970. Representative: John M. Friedman, 2930 Putnam, Ave., Hurricane, WV 25526. Transporting *electronic equipment, and household goods* as defined by the Commission between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC. (Hearing site: Charleston, WV.)

MC 110325 (Sub-152F), filed June 5, 1980. Applicant: TRANSCON LINES, a Corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore ave., Kansas City, MO 64105. Over regular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between junction U.S. Hwy 75 and Interstate Hwy 10, (at Houston, TX), and junction Interstate Hwy 59 and U.S. Hwy 78 (at Birmingham, AL), from junction U.S. Hwy 75 and Interstate Hwy 10 over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction U.S. Hwy 78, and return over the same route, (2) between junction Interstate Hwy 59 and U.S. Hwy 78 and junction of Interstate Hwy 24 and U.S. Hwy 27 (at Chattanooga, TN), from junction Interstate Hwy 59 and U.S. Hwy 78 over Interstate Hwy 59 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 27, and return over the same route, (3) between junction Interstate Hwy 24, and U.S. Hwy 27 and junction Interstate Hwy 81 and U.S. Hwy 11-W (near Bristol, VA), from junction Interstate Hwy 24 and U.S. Hwy 27 over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 40, then over Interstate Hwy 75 to junction Interstate Hwy 40, then over Interstate Hwy 75 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction U.S. Hwy 11-W, and return over the same route, and (4) between junction Interstate Hwy 81 and U.S. Hwy 11-W and junction Interstate Hwy 81 and combined U.S. Hwys 22 and 322 (at Harrisburg, PA), over Interstate Hwy 81, serving no intermediate points and serving the termini for purposes of joinder only, as alternate routes, for operating convenience only, in connection with applicant's otherwise authorized regular route operations. (Hearing site: Los Angeles, CA.)

Note.—Applicant intends to tack this authority with its otherwise authorized regular-route authority.

MC 110325 (Sub-153F), filed June 9, 1980. Applicant: TRANSCON LINE, a Corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), betwwen junction Interstate Hwy 55 and Interstate Hwy 70 at St. Louis, MO and junction Interstate Hwy 30 and Interstate Hwy 45 (at Dallas, TX), from junction Interstate Hwy 55 and Interstate Highway 70 over Interstate Hwy 55 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 45, and return over the same route, serving no interstate points, but serving the termini and junction Interstate Hwy 55 and Interstate Hwy 40 (at Memphis, TN) for purposes of joinder only, as an alternate route for operating convenience only in convenience only in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA.)

Note.—Applicant intends to tack this authority with its otherwise authorized regular route authority.

MC 112595 (Sub-91F), filed June 11, 1980. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, 50 W. Broad ST., Columbus, OH 43215. Transporting *liquid chemicals*, in bulk, in tank vehicles, between the facilities of Union Carbide Corporation, at or near Charleston, WV, on the one hand, and on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, MA, MI, MN, MO, MS, NH, NJ, NY, OH, PA, RI, TN, VT, and WI. (Hearing Site: Columbus, OH or Washington, DC.)

MC 113325 (Sub-136F), filed June 5, 1980. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, MO 63104. Representative: T. M. Tahan, (same address as applicant). Transporting *commodities in bulk*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Ralston Purina Company. (Hearing Site: St. Louis, Mo.)

MC 113855 (Sub-513F), filed June 4, 1980. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *lumber and wood products*, from points in WA, ID, MT, OR, CA, and AZ, to those points in MO west of U.S. Hwy 65. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 113974 (Sub-72F), filed May 28, 1980. Applicant: PITSBURGH & NEW ENGLAND TRUCKING CO., A Corporation, 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). Transporting (1) *metal articles*, and (2) *equipment, materials and supplies* used in the manufacture or production of metal articles, between points in the U.S. (except AK and HI). (Hearing site: Philadelphia, PA or Washington, DC.)

MC 114334 (Sub-85F), filed May 19, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, a Corporation, 3710 Tulane Rd., Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103. Transporting *wire products*, and *materials* used in the manufacture of wire products, between Madill, OK, on the one hand, and, on the other, points in AR, MO, TN, MS, AL, KY, IL, IN, IA, and WI. (Hearing site: Memphis, TN.)

MC 118535 (Sub-152F), filed June 5, 1980. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting (1) *agricultural chemicals, animal and poultry feed* and *feed supplements* and (2) *materials, equipment and supplies* used in manufacturing and marketing of the commodities in (1) above (except liquid commodities in bulk), between points in AL, AR, AZ, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, ND, NE, NM, OH, OK, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to the facilities of American Cyanamid Company. (Hearing site: Kansas City, MO.)

MC 118745 (Sub-26F), filed May 21, 1980. Applicant: JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518. Representataive: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Contract carrier*, transporting *overburden and crushed stone*, in dump vehicles, from the facilities of Glasgow, Inc., in Upper Marion Township and Plymouth Township, Montgomery County, PA, to points in DE, MD, NJ, and NY, under continuing contract(s) with Glasgow, Inc. of Glenside, PA. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 118745 (Sub-28F), filed May 2, 1980. Applicant: JOHN PFROMER, INC., P.O. Box 307, Douglassviile, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Contract carrier*, transporting *scrap metal*, in dump vehicles, from points in CT, DE, MD, NJ, and NY to points in PA, under continuing contract(s) with Mayer Pollock Steel Corporation of Pottstown, PA 19464. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 118745 (Sub-29F), filed May 28, 1980. Applicant: JOHN PFROMER, INC., P.O. Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Contract carrier*, transporting (1) *slag, sand, and gravel*, from the facilities of the Warner Company, Falls Township, PA. to points in DE, MD, NJ, and NY, (2) *sand and gravel*, from the facilities of New Jersey Silica Sand Company, (subsidiary of Warner Company), at Millville, NJ, to points in CT, DE, MD, NC, NH, NY, OH, PA, RI, VA, WV, and DC, and (3) *lime, limestone, and limestone products*, from the facilities of the Warner Company, at or near Devault, PA, to those points in the U.S. in and east of MN, IA, MO, AR, and LA (except CT, ME, NC, SC, NY, and DC), under continuing contract(s) with the Warner Company, of Bala Cynwyd, PA. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 119634 (Sub-52F), filed May 19, 1980. Applicant: DICK IRVIN, INC., 218 12th Ave., N. P.O. Box F, Shelby, MT 59474. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. Transporting *dry urea*, from the facilities of Cominco American, Inc., at or near Borger, TX, to points in OK, CO, KS, NE, WY, and MT. (Hearing site: Kansas City, MO.)

MC 119955 (Sub-8F), filed June 4, 1980. Applicant: RUDOLPH LaBRANCHE, INC., P.O. Box 23, 394 North Main St., West Franklin, NH 03235. Representative: Raymond P. D'Amante, 246 Loudon Rd., P.O. Box 494, Concord, NH 03301. *Contract carrier*, transporting (1) *tools, jigs, machine parts, sating sand, castings, rods, ingots, forgings, and casting scrap*, and (2) *such commodities* as are dealt in or used by manufacturers of valves, between points in the U.S. (except AK and HI), under continuing contract(s) with Watts Regulator Company, of Lawrence, MA. (Hearing site: Concord, NH, or Boston, MA.)

MC 123405 (Sub-81F), filed June 13, 1980. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N.

Front, St., Harrisburg, PA 17101. Transporting *confectionery* (in vehicles equipped with mechanical refrigeration), from the facilities of Katharine Beecher Candies at or near Manchester, PA, to points in the U.S. (except AK and HI). (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 126555 (Sub-79F), filed June 4, 1980. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *lumber and lumber mill products*, from points in ID, MT, OR, and WA to points in CO. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 126555 (Sub-80F), filed June 4, 1980. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting (1) *concrete products* between points in MN, ND, MT, WY, IA, NE, CO, and SD and (2) *masonry suppliers* from points in CO to points in WY and MT. (Hearing site: Rapid City, SC, or Casper, WY.)

Note.—Dual operations may be involved.

MC 134755 (Sub-220F), filed June 10, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant). Transporting *such commodities* as are used, manufactured or distributed by manufacturers and distributors of plastic articles, between Winchester, VA, on the one hand, and, on the other, points in MO, KS, NE, IA, IL, AR, OK, TX, CO, WI, MN, ND, and SD. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 135524 (Sub-43F), filed August 30, 1979, previously noticed in the T4Federal Register issue of March 5, 1980, and May 1, 1980. Applicant: C. F. TRUCKING CO., P.O. Box 229, 1038 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting *doors, doorskins, and lumber*, from Mobile, AL, Tupelo, MS, and Cameron, TX, to those points in the United States in and east of MT, WY, UT, and AZ. (Hearing site: Columbus, OH, or Phoenix, AZ.)

Note —This republication indicates the correct destinations.

MC 136605 (Sub-154F), filed May 12, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Transporting *aluminum and aluminum products*, from the facilities used by Aluminum Company of America in CA, to points in WA, OR, IA, KS, and TX. (Hearing site: Pittsburgh, PA.)

MC 140665 (Sub-109F), filed June 4, 1980. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *meat, meat products, and meat by-products*, and *articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Mason City, Britt, and Sioux City, IA, St. Paul, Mankato, Worthington, and Fairmont, MN, Omaha, Madison, and Fremont, NE, St. Joseph and Kansas City, MO, and Huron, SD, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, (2) *frozen foods*, and *materials and supplies* used in the production and marketing of frozen foods, from Monroe, Eau Clair, Portage, and Green Bay, WI, to the destinations in (1) above, and (3) *dairy products*, from points in WI, to the destinations in (1) above. (Hearing site: Washington, DC, or San Francisco, CA.)

MC 141804 (Sub-423F), filed May 12, 1980. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *general commodities* (except foodstuffs requiring refrigeration, meats, packinghouse products, and commodities used by packinghouses, as described in Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766, articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CA to points in NC, SC, GA, and FL, and those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK, HI, and CA), restricted to traffic having a prior or subsequent movement by water and restricted further to traffic originating at the facilities used by Arthur J. Fritz & Co. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-436F), filed May 22, 1980. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *drilling mud, drilling mud compounds*, and *drilling mud additives*, in containers, between Houston, TX, and Garden City, LA, on the one hand, and, on the other, points in CA, MI, FL, OR, RI, and WA. (Hearing site: Los Angeles, CA.)

MC 142935 (Sub-16F), filed May 19, 1980. Applicant: PLASTIC EXPRESS, a corporation, 2999 La Jolla St., Anaheim, CA 92633. Representative: Richard C. Celio, 2300 Camino del Sol, Fullerton, CA 92633. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and west of MT, WY, CO, OK, and TX, restricted to traffic originating at or destined to the facilities used by the Ralston Purina Company. (Hearing site: Los Angeles, CA.)

MC 144715 (Sub-12F), filed June 9, 1980. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *synthetic twine and cord*, and *materials and supplies* used in the manufacture and distribution of synthetic twine and cord (except commodities in bulk), between Mt. Airy, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Charlotte, NC.)

MC 145315 (Sub-3F), filed June 10, 1980. Applicant: CHARLES LINCOLN VICKERS, d.b.a. C. O. VICKERS TRANSFER, Route 2, Albemarle, NC 28001. Representative: Charles Lincoln Vickers (same address as applicant). Transporting *fertilizer* and *fertilizer materials*, in bulk, in dump vehicle, between points in NC, SC, GA, VA, TN, and KY. (Hearing site: Charlotte, NC.)

MC 146494 (Sub-2F), filed June 9, 1980. Applicant: BILL JACKSON RIG COMPANY, INC., 1813 S.E. 25th St., Oklahoma City, OK 73143. Representative: Paul Ross Jackson (same address as applicant). Transporting (1) *oilfield equipment and supplies*, (2) *iron and steel articles*, and (3) *commodities* which because of size or weight require the use of special equipment, between points in OK and TX. (Hearing site: Oklahoma City or Tulsa, OK.)

MC 147315 (Sub-4F), filed June 3, 1980. Applicant: TRIWAYS, INC., 2455 East 27th St., Los Angeles, CA 90058. Representative: William Davidson (same address as applicant). *Contract carrier*, transporting *such commodities* as are dealt in by retail department stores, from Los Angeles, CA, to Salt Lake City, UT, under continuing contract(s) with Sears, Roebuck & Co., of Los Angeles, CA. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA.)

MC 149165 (Sub-2F), filed June 4, 1980. Applicant: DAYTON VALLEY BUS LINES, INC., 6224 Janice Pl., Dayton, OH 45414. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Auglaize, Butler, Clark, Clermont, Darke, Greene, Hamilton, Warren, Mercer, Miami, Montgomery, Preble, and Shelby Counties, OH, and extending to points in the U.S. (including AK, but excluding HI). (Hearing site: Dayton, OH.)

MC 150145 (Sub-1F), filed June 9, 1980. Applicant: RALPH L. NORTON, P.O. Box 27, Route 15, Jericho, VT 05465. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. Transporting *paper*, and *materials, equipment, and supplies* used in the manufacture of paper, between Gilman, VT, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and DC. (Hearing site: Montpelier, VT, or Plattsburgh, NY.)

Note.—Dual operations may be involved.

[Volume No. 269]

Decided: June 30, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 475 (Sub-6F), filed June 23, 1980. Applicant: WYMORE TRANSFER CO., a corporation, P.O. Box 448, Oregon City, OR 97045. Representative: Earle V. White, 2400 S.W. Fourth Avenue; Portland, OR 97201. Transporting *potato starch*, in bags; and *potato preparations*, in bags or cartons, from those points in ID in and south of Fremont, Clark, Lemhi, Valley, and Adams Counties, to Longview, WA, and Portland, OR. (Hearing site: Portland, OR.)

MC 2484 (Sub-56F), filed June 23, 1980. Applicant: E & L TRANSPORT COMPANY, a corporation, 23420 Ford Road, Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Transporting *motor vehicles*, in secondary movements, in truckaway service, from (1) Elkhart, IN, to points in the U.S. (except AK and HI); and (2) from Cassopolis, MI, to points in the U.S. (except AK and HI), restricted to traffic having a prior movement from the facilities of the Ford Motor Company. (Hearing site: Detroit, MI.)

MC 60014 (Sub-191F), filed June 18, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *lumber* and *lumber products*, from points in CA, NV, OR, WA, ID, and MT, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 69024 (Sub-4F), filed June 9, 1980. Applicant: H. B. RUSSELL TRUCK SERVICE, INC., 104 Orange St., Red Bud, IL 62278. Representative: Gale H. Stellhorn (same address as applicant). Transporting (1) *heat exchangers*, and *equalizers* for air, gas or liquids; (2) *equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas or liquids; and (3) *materials, equipment and supplies* used in the manufacture, distribution, installation, or operation of those items named in (1) and (2) above (except commodities in bulk and those requiring the use of special equipment), between the facilities of The Singer Company Climate Control Div., at or near Red Bud, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 85934 (Sub-121F), filed June 23, 1980. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *liquid commodities*, in bulk, in tank vehicles, from the facilities of the Neatsfoot Oil Refineries Corp., at or near Philadelphia, PA, to points in CT, CA, IL, IN, ME, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TX, VT, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 96165 (Sub-16F), filed June 13, 1980. Applicant: T. DEL FARNO TRUCKING CO., a corporation, 30 Lockbridge Street, Pawtucket, RI 02860. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting (1) *iron and steel articles*, between points in RI, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, MS, and LA; (2) *steel piling*, (a) between Old Bridge, NJ, on the one hand, and, on the other, points in CT, ME, MA, NH, NY, and VT; and (b) from Bridgeport, CT, to points in CT, ME, MA, NH, and VT; and (3) *pile driving equipment and parts and accessories* for pile driving equipment between Old Bridge, NJ, and Pawtucket, RI, on the one hand, and, on the other, points in CT, ME, MA, NH, NY, RI, and VT. (Hearing site: Providence, RI, or Boston, MA.)

MC 106674 (Sub-492F), filed June 11, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *iron* and *steel articles*, and *furniture parts*, and *materials* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Leggett & Platt, Inc. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-493F), filed June 16, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *plywood, plywood wall paneling*, and *composition board*, from the facilities of Plywood Panels, Inc., at or near Norfolk, VA, to points in IN, IL, MI, OH, PA, CT, MD, NJ, WV, and DE. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107295 (Sub-988F), filed June 17, 1980. Applicant: PRE–FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Dale L. Cox (same address as applicant). Transporting (1) *building and insulating materials, pipe, pipe fittings, and couplings*, and (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture or distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by CertainTeed Corporation. (Hearing site: Washington, DC.)

MC 107515 (Sub-1371F), filed June 13, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road NE., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in the U.S. (except AK and HI), restrict to the transportation of traffic originating at or destined to the facilities used by Minnesota Mining and Manufacturing Company or its subsidiaries. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

V 45 / 154 AUG 7 80 UMI

MC 107515 (Sub-1372F), filed June 20, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road NE., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *petroleum products, and paints,* (except commodities in bulk), in packages and containers, from facilities of Mobil Oil Corporation, at or near Beaumont, TX, to points in AL, AR, CA, GA, IL, KS, LA, MA, MI, MN, MO, NE, NJ, NY, NM, OH, PA, TX, OK, and WI. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 113434 (Sub-156F), filed May 28, 1980. Applicant: GRA-BELL TRUCK LINE, INC., A5253 144th Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, OH, PA, TN, VA, WV, WI, and DC, restricted to traffic originating at or destined to the facilities used by Ralston Purina Co. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 114284 (Sub-95F), filed June 23, 1980. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, P.O. Box 82307, Oklahoma City, OK 73108. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *foodstuffs,* between the facilities used by Geo. A. Homel & Co., at (a) Oklahoma City, OK; (b) Austin, MN; (c) Fremont, NE; and (d) Ottumwa and Ft. Dodge, IA, restricted to traffic originating at and destined to the above-named points. (Hearing site: Oklahoma City, OK.)

MC 117384 (Sub-8F), filed June 16, 1980. Applicant: PAUL E. DAVIDSON, MAHLON E. DAVIDSON, AND HAROLD DAVIDSON, d.b.a. DAVIDSON BROTHERS, R.D. No. 3, Bellefonte, PA 16823. Representative: J. Bruce Walter, 410 North Third Street, Harrisburg, PA 17108. Transporting (1) *limestone products,* and (2) *matrials, equipment, and supplies* used in the production, storage and distribution of limestone products, between points in Centre County, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, MS, and LA, restricted to the transportation of traffic originating at the indicated origin of and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 129645 (Sub-83F), filed June 23, 1980. Applicant: SMEESTER BROS., INC., 1330 South Jackson Street, Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *iron and steel articles* and *iron ferrous metal alloys,* and (2) *mining, ore milling* or *smelting equipment, materials, and supplies* (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Lake Shore, Inc., at Kingsford, Marquette and Negaunee, MI, on the one hand, and, on the other, points in AZ, CA, IA, IL, IN, MN, NC, NM, OH, OR, PA, WA, and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 133194 (Sub-21F), filed June 13, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Rd., P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr. (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Little Rock, AR, and Freeport, TX, serving the intermediate points of Dallas and Houston, TX, and the off route point of Fort Worth, TX, from Little Rock, over Interstate Hwy 30 to Dallas, TX, then over Interstate Hwy 45 to Houston, then over U.S. Hwy 288 to Freeport and return over the same route, and (2) between Memphis, TN, and Little Rock, AR, serving no intermediate points in AR, over Interstate Hwy 40. (Hearing site: Little Rock, AR, or Memphis, TN.)

Note.—Applicant intends to tack the above rights with each other and its existing authority. Applicant also intends to interline with other carriers at Springdale, Harrison, Ft. Smith, Little Rock, AR, Memphis, TN, Freeport, Dallas, Fort Worth, and Houston, TX.

MC 134064 (Sub-44F), filed June 20, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting (1) *such commodities as are dealt in by nursery and horticulture supply stores* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Stim-U-Plant, Inc., at or near (a) Columbus, OH, (b) Atlanta, GA, (c) Dallas, TX, (d) Victory Gardens, NJ, (e) Lenexa, KS, and (f) Milwaukee, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Columbus, OH, or Atlanta, GA.)

MC 134855 (Sub-7F), filed June 17, 1980. Applicant: GEORGE A. LaBAGH, 713 North St., Middletown, NY 10940. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglasville, PA 19518. Transporting (1) *fruit juices* and *fruit drinks* (except frozen, or in bulk); and (2) *materials, equipment, and supplies* used in the packaging, and distribution of the commodities in (1) above, between Middletown, NY, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, GA, NC, SC, FL, AL, MS, LA, NT, KY, WV, OH, IN, IL, MI, WI, MN, TX, KS, MO, and DC. (Hearing site: Middletown, NY.)

MC 135524 (Sub-139F), filed June 16, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44510. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *lumber, particleboard, composition board, poles, piling, pallets, timbers, crossties, and wallboard,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NC, NE, NY, OH, OK, PA, SC, TN, TX, VA, WV, and WI. (Hearing site: Tampa, FL.)

MC 135524 (Sub-140F), filed June 6, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44510. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *fencing,* and (2) *supplies and materials* used in the installation of fencing, between Alpena, Gladstone, and Stephenson, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Tampa, FL.)

MC 135524 (Sub-141F), filed June 20, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *wheels, wheel parts, and accessories* for wheels, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of wheels, between points in Los Angeles and Orange Counties, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Tampa, FL.)

MC 135524 (Sub-142F), filed June 20, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Rd., Youngstown, OH 44509. Transporting (1) *log homes, lumber and lumber products, metal* and *metal products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Tampa, FL.)

MC 135524 (Sub-143F), filed June 20, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *drilling fluids and drilling mud,* and (2) *drilling fluid and drilling mud ingredients,* between points in AR, CO, FL, IA, IL, IN, KS, KY, MN, MO, MT, NC, ND, NE, NJ, NM, NV, NY, OH, OK, PA, SD, TN, TX, UT, WA, WI, WV, and WY. (Hearing site: Tampa, FL.)

MC 135524 (Sub-144F), filed June 20, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *brick and clay products,* and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1) above, (a) between points in GA, NC, SC, and VA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, MI, NJ, NY, OH, PA, RI, and WV, and (b) between Flemington, NJ, on the one hand, and, on the other, points in CT, IL, IN, KY, MA, MI, NY, OH, PA, and RI. (Hearing site: Tampa, FL.)

MC 135524 (Sub-145F), filed June 23, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *plastic, plastic products, rubber, and rubber products,* and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Grand Prairie, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Tampa, FL.)

MC 135684 (Sub-103F), filed June 24, 1980. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, NJ 08822. Representative: Herbert Alan Dubin, 818 Connecticut Avenue NW., Washington, DC 20006. Transporting (1) *chemicals, plastics, paints, and oils,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 135895 (Sub-104F), filed June 16, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *chemicals, toilet preparations, shampoo, soap,* and *such commodities* as are dealt in by department, grocery and hardware stores (except foodstuffs, meat, and commodities in bulk), and (2) *materials and supplies* used in the manufacture of the commodities described in (1) above, (except commodities in bulk), between the facilities of American Cyanamid Company, at or near Jackson, MS, on the one hand, and, on the other, points in FL, OK, and TX. (Hearing site: Jackson, MS, or Houston, TX.)

MC 135895 (Sub-105F), filed June 16, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *non-electric reflective traffic control products,* and *glass abrasive products* (except commodities in bulk and those requiring special equipment), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Cataphote Division, Ferro Corporation, at or near Flowood, MS, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM. (Hearing site: Jackson, MS.)

MC 136315 (Sub-133F), filed June 17, 1980. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O Box 22807, Jackson, MS 39205. Transporting (1) *paper, paper products,* and *wood pulp,* from the facilities of Weyerhaeuser Company, at or near Trinity, MS, to points in the U.S. (except AK and HI); and (2) *equipment, materials, and supplies* used in the manufacture, and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Jackson, MS, or Washington, DC.)

Note.—Dual operations may be involved.

MC 138415 (Sub-22F), filed June 24, 1980. Applicant: TRAILER EXPRESS, INC., Box No. 327, Topeka, IN 46571. Representative: Michael M. Yoder, Box No. 157, Topeka, IN 46571. *Contract carrier,* transporting (1) *mobile homes,* from the facilities of Redman Homes, Inc., at Topeka, IN, to points in OH, WV, KY, WI, MI, IL, MO, and PA; and (2) *materials* used in the manufacture of mobile homes, from points in GA, NC, MN, and IA, to the facilities in (1) above, under continuing contract(s) in (1) and (2) with Redman Homes, Inc. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 140484 (Sub-80F), filed June 13, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *foodstuffs,* from points in IL, IA, KS, MI, MN, NE, TN, TX, and WI, to points in Collier and Lee Counties, FL. (Hearing site: Tampa, FL, or Washington, DC.)

MC 140484 (Sub-81F), filed June 23, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *meats, meat products,* and *meat by-products, dairy products,* and *articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company, at (a) points within the Chicago Commercial Zone, and (b) at or near Rochelle and East St. Louis, IL, to points in MI, NJ, NY, OH, and PA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 140635 (Sub-29F), filed June 24, 1980. Applicant: ADAMS LINES, INC., 2619 "N" St., Omaha, NE 68107. Representative: John L. Hornung (same address as applicant). Transporting (1) *glass* and *glass products,* from the facilities of General Glass International Corp., at or near (a) Jeannette, PA, (b) South Kearny, NJ, and (c) Clarksburg, WV, to those points in the U.S. in and west of WI, IL, MO, AR, and LA, and those points in IN in the Chicago Commercial Zone; and from Kingsport, TN, to points IL, and WI, and those points in IN in the Chicago Commercial Zone; and (2) *meats, meat products, meat by-products,* and *articles distributed* by meat packinghouses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Spencer Foods, Inc., at or near Oakland, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, WV, and DC; and from Fort

V 45 / 154 AG 7 80 UMI

Dodge, IA, to points in OH. (Hearing site: Omaha, NE.)

MC 141385 (Sub-7F), filed May 30, 1980. Applicant: PENNER FEED & SUPPLY, INC., Inman, KS 67546. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. *Contract carrier,* transporting *plastic and plastic products,* (1) from points in LA and NJ to McPherson, KS, and (2) from McPherson, KS, to points in the U.S. (except AK and HI), and *materials, supplies, and equipment* used in the manufacture and sale of plastic and plastic products (except commodities in bulk), in the reverse direction, under continuing contract(s) with Vanguard Plastics, Inc., of McPherson, KS. (Hearing site: Topeka, KS.)

MC 141804 (Sub-455F), filed June 23, 1980. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *computers* and *parts and accessories* used in the manufacture and maintenance of computers, between Richardson, TX, Charlotte, NC, and Sudbury, MA, and points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Apple Computer, Inc. (Hearing site: Los Angeles, CA.)

MC 142064 (Sub-3F), filed June 13, 1980. Applicant: CAROLINA CARPET CARRIERS, INC., P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Contract carrier,* Transporting *floor coverings, materials and supplies* used in the installation, manufacture, packaging, and sale of floor coverings, and *yarn,* (1) from the facilities of Bigelow-Sanford, Inc., at points in GA and SC to those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI); and (2) between the facilities of Bigelow-Sanford, Inc., at points in GA and SC, under continuing contract(s) with Bigelow-Sanford, Inc. (Hearing site: Columbia, SC.)

MC 144054 (Sub-13F), filed June 23, 1980. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, OR 97210. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting (1) *horticultural implements,* (2) *plastic articles,* and (3) *insecticides, plant foods,* and *fertilizer,* from Des Moines, IA, Duluth, MN, and Newton, IA, to those points in the U.S. in and west of ND, SD, NE, KS, MO, OK, and TX (except AK and HI). (Hearing site: Des Moines, IA, or Medford, OR.)

MC 145574 (Sub-3F), filed June 17, 1980. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 West Lake Street, Melrose Park, IL 60160. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Transporting *wire, screws, rivets, and fasteners,* between Chicago, IL, on the one hand, and, on the other, Frankfort, MI. (Hearing site: Chicago, IL.)

MC 145695 (Sub-4F), filed June 24, 1980. Applicant: MAZCO SYSTEMS, INC., 200 Route 17 South, Mahwah, NJ 07430. Representative: Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier,* Transporting *refined copper* between New Haven, CT, and New York, NY, on the one hand, and, on the other, those points in the U.S. and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Cerro Sales Corp. of New York, NY. (Hearing site: New York, NY.)

MC 145904 (Sub-32F), filed June 23, 1980. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Warterloo, IA 50704. Representative: Roger D. Herman (same address as applicant). Transporting *such commodities* as are dealt in by grocery stores (except commodities in bulk), from the facilities used by Hunt-Wesson Foods, Inc., at Shakopee, MN, to points in IA, restricted to traffic originating at the named origin and destined to the named State. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146964 (Sub-11F), filed June 9, 1980. Applicant: RELIABLE TRUCK LINES, INC., 1451 Spahn Ave., York, PA 17403. Representative: Michael Valencik (same address as applicant). Transporting *margarine, shortening and peanut butter,* from the facilities of Sunnyland Refining Co., Inc., at or near Birmingham, AL, to points in CT, DE, FL, GA, MA, MD, ME, NH, NJ, NY, PA, VA, VT, and DC. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 147585 (Sub-6F), filed June 25, 1980. Applicant: DICK WELLER, INC., Shoham Road, P.O. Box 313, Warehouse Point, CT 06088. Representative: Gerald A. Joseloff 80 State Street, Hartford, CT 06103. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Charter Oak Shippers Cooperative Association, Inc., at Berlin, CT, to points in GA, FL, TX, IL, MN, CA, MI, OH, and PA. (Hearing site: Hartford, CT, or Boston, MA.)

MC 148135 (Sub-2F), filed June 16, 1980. Applicant: C. C. CASTOR, 64 Dandridge Ct., Antioch, CA 94509. Representative: Thomas M. Loughran, 100 Bush St., 21th Floor, San Francisco, CA 94104. *Contract carrier,* transporting *gypsum wallboard,* from Sigurd, UT, to Elk Grove, CA, under continuing contract(s) with Capp Homes, a division of Evans Products, of Elk Grove, CA. (Hearing site: San Francisco, CA.)

MC 148485 (Sub-3F), filed June 16, 1980. Applicant: EARL P. SMITH, d.b.a. Smith Cartage Company, 104 South Vine Avenue, Marshfield, WI 54449. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract carrier,* transporting *clay,* in containers, from Ochlocknee, GA, to points in IL, IA, MI, MN, ND, SD, and WI, under continuing contract(s) with Oil-Dri Corporation. (Hearing site: Madison, WI.)

MC 149244 (Sub-2F), filed June 23, 1980. Applicant: PEAKE, INC., P.O. Box 855, Des Moines, IA 50304. Representative: E. Check (same address as applicant). Transporting *cement,* from Rapid City, SD, to points in NE. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 150884F, filed May 23, 1980. Applicant: FROZEN TRANSPORTATION, INC., 11 Taft Road, P.O. Box 384, Totowa, NJ 07512. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Contract carrier,* transporting *foodstuffs* (except commodities in bulk), between the facilities of Swift & Company, at Totowa, NJ, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV, under continuing contract(s) with Swift and Company. (Hearing site: Chicago, IL.)

MC 151074F, filed June 16, 1980. Applicant: LA MONTANA MOVING & STORAGE INC., 1976 Crotona Parkway, Bronx, NY 10460. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Transporting *household goods,* as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in CT, NJ, and NY, restricted to traffic having a prior or subsequent movement by water or air. (Hearing site: New York, NY.)

[Volume No. 277]

Decided: July 8, 1980
By the Commission, Review.
Board Number 2, Members Chandler, Liberman and Eaton.

MC 13134 (Sub-94F), filed June 16, 1980. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: Joe Haydon (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX, restricted to traffic originating at or destined to facilities of C–E Industrial Products Group Division of Combustion Engineering, Inc. (Hearing site: Columbus, OH, or Philadelphia, PA.)

MC 30114 (Sub-10F), filed June 16, 1980. Applicant: MOLA TRUCKING, INC., d.b.a Mitchko Trucking, 650 Myrtle Ave., Boonton, NJ 07005. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *chemicals,* and *materials, equipment, and supplies* used in the manufacture and sale of chemicals (except commodities in bulk), between Kearny, Harrison, Booton, and Middlesex, NJ, on the one hand, and, on the other, points in IN, MA, MD, NJ, TN, NY, PA, CT, ME, VT, NH, OH, IL, VA, WV, DE, NC, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 39395 (Sub-8F), filed September 17, 1979. Applicant: NEHALEM VALLEY MOTOR FREIGHT, INC., P.O. Box 10304, Portland, OR 97210. Representative: Curtis E. McCracken (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Astoria, OR, and Oysterville, WA: from Astoria over U.S. Hwy 101 to junction WA Hwy 103, then over WA Hwy 103 to Oysterville and return over the same route, serving all intermediate points, and (2) between Astoria, OR, and Naselle, WA: from Astoria over U.S. Hwy 101 to junction WA Hwy 401 then over WA Hwy 401 to Naselle, and return over the same route, serving all intermediate points.

Note—Applicant intends to tack with existing authority.

Passenger

MC 60325 (Sub-10F), filed April 25, 1979, previously noticed in the FR issue of January 17, 1980. Applicant: JEFFERSON LINES, INC., 1206 Currie Ave., Minneapolis, MN 55403. Representative: Elvin S. Douglas, Jr., P.O. Box 280, 117 South Lexington, Harrisonville, MO 64701. Transporting passengers and their baggage, in the same vehicle with passengers, in special operations, beginning and ending at points in (a) Hennepin, Scott, Dakota, Rice, Steel, Freeborn, Washington, LeSueur, Blue Earth, Sibley, Nicollet, Fairbault, Olmstead, and Goodhue Counties, MN; (b) Worth, Cerro Gordo, Franklin, Wright, Hamilton, Story, Polk, Warren, Madison, Clarke, Decatur, Mitchell, Floyd, Bremer, Black Hawk, Butler, Hardin, Linn, and Benton Counties, IA; (c) Harrison, Daviess, Caldwell, Clinton, Clay, Jackson, Cass, Bates, Vernon, Barton, Jasper, Newton, McDonald, Greene, Worth, Mercer, Grundy, Gentry, Ray, Platte, Lafayette, Dade, Cear and DeKalb Counties, MO; and (d) Benton, Washington, Crawford, Sebastion, Scott, Polk, Sevier, Little River, Miller, Pulaski, Perry, Yell, and Logan Counties, AR; (e) Bowie Country, TX; and extending to points in the United States (including AK but excluding HI).

Note.—This application correct the territorial description.

MC 85934 (Sub-116F), filed March 28, 1980. Applicant: MICHIGAN TRANSPORTATION COMPANY, A Corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *tractors and tractor attachments; snow blowers, and snow blower attachments* between Milwaukee, WI on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 85934 (Sub-123F), filed June 16, 1980. Applicant: MICHIGAN TRANSPORTATION COMPANY, A Corporation, 3601 Wyoming, P.O. Box 248, Northville, MI 48167. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *chemicals,* in bulk, in tank vehicles, from the facilities of Petrochem Services, Inc., at or near Lemont, IL, to points in IN, IA, KY, LA, MI, MN, MO, NJ, OH, PA, TN, TX, and WI. (Hearing site; Chicago, IL, or Washington, DC.)

MC 94265 (Sub-355F), filed June 20, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *general commodities* (except commodities in bulk) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Union Camp Corporation. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring five years from its date of issue. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 94265 (Sub-356F), filed June 16, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *meats and meat products and meat byproducts* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Smithfield, VA, to points in AL, FL, GA, NC, SC, NY, NJ, NH, ME, DE, PA, MD, MS, LA, and TX. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 96324 (Sub-42F), filed June 13, 1980. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV, 26554. Representative: Mel P. Booker, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *can ends, metal containers,* and *equipment, materials and supplies* used in the manufacture and distribution of can ends and metal containers, between those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 107295 (Sub-987F), filed June 23, 1980. Applicant: PRE-FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Dale L. Cox (same address as applicant). Transporting *plastic pipe and fittings and accessories* for plastic pipe, from Broken Arrow, OK, to points in the U.S. (except AK and HI). (Hearing site: Kansas City, MO.)

MC 109634 (Sub-8F), filed June 11, 1980. Applicant: TRAILER CONVOYS, INC., 1248 Highway 31, Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier,* transporting *trailers and trailer chassis,* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the contracting shippers named below and their subsidiaries, under continuing contract(s) with Polar Tank Trailers, Inc., Brenner Tank, Inc., Transportation Equipment Corp., Phelan Manufacturing Co., and Blackburn Trailer & Equipment Sales, Inc. (Hearing site: Washington, DC.)

MC 116544 (Sub-213F), filed June 16, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk, in tank vehicles), from the facilities of Colgate-Palmolive Company at Berkeley, CA, to points in AZ, OR, and

V 45 / 154 AG 7 80 UMI

WA, restricted to traffic originating at the named facilities and destined to the indicated States. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 116544 (Sub-214F), filed June 16, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company at Chicago, Rochelle, and St. Charles, IL, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. (Hearing site: San Francisco, CA, or Chicago, IL.)

MC 117384 (Sub-7F), filed June 13, 1980. Applicant: DAVIDSON BROTHERS, a partnership, R.D. No. 3, Bellefonte, PA 16823. Representative: J. Bruce Walter, P.O. Box 1146, 410 North Third St., Harrisburg, PA 17108. Transporting (1) *electrical equipment, iron and steel articles, machinery, machine parts,* and *tools,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Sutton Engineering Company, at Spring Township, Centre County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 126555 (Sub-81F), filed June 16, 1980. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *beer, carbonated beverages, bar supplies, and bar accessories,* from points in the U.S. (except AK, HI, and SD) to Rapid City, SD. (Hearing site: Rapid City, SD.)

Note.—Dual operations may be involved.

MC 127625 (Sub-38F), filed June 16, 1980. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, SC 29059. Representative: Frank B. Hand, Jr., Box C, Berryville, VA 22611. Transporting (1) *lumber,* and (2) *building and construction board,* from points in SC, to Georgetown and Charleston, SC. (Hearing site: Columbia, SC, or Washington, DC.)

MC 133194 (Sub-16F), filed March 25, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Rd., P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr. (same address as applicant). Transporting *rough forgings, iron and steel pipe fittings, iron, steel,* and *seats,* (except commodities in bulk, and those requiring special equipment), between the facilities of Ladish Company at or near (a) Russellville, AR, and (b) Houston, TX.

MC 133565 (Sub-20F), filed March 24, 1980. Applicant: TRUE TRANSPORT, INC., 15 Stockton St., Newark, NJ 07101. Representative: Carles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and (2) *empty containers, trailers,* and *trailer chassis,* between points in CT, MA, MD, NJ, NH, NY, PA, RI, and VA, restricted in (1) above to traffic having a prior or subsequent movement by water.

Note.—Applicant intends to tack this authority with its existing authority at New York, NY, to provide service between the points named above, on the one hand, and, on the other, points in DE.

MC 134224 (Sub-16F), filed June 19, 1980. Applicant: HAUSER TRUCKING CORP., P.O. Box 241, Cobleskill, NY 12043. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207.Transporting (1) *molding sand,* from points in Albany County, NY, to points in OH, WV, VA, MD, and DE; (2) *coke* and *pig iron,* from points in Erie and Niagara Counties, NY, to points in ME, VT, NH, MA, CT, and RI; and (3) *coal,* from points in PA, to points in Albany County, NY; and (4) *aggregates,* from points in Albany County, NY, to points in MD. (Hearing site: Albany, NY.)

MC 136285 (Sub-36F), filed June 16, 1980. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and motor vehicles), and (2) *containers, trailers and trailer chassis,* between Wilmington and Morehead City, NC, on the one hand, and, on the other, points in NC, SC, VA, WV, TN, AL, FL, and GA, restricted in (1) to traffic having an immediately prior or subsequent movement by water. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 138714 (Sub-6F), filed June 13, 1980. Applicant: VIRGINIA TRANSPORTATION, INC., Box 26449, Richmond, VA 23261. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Contract carrier,* transporting *general commodities* (except those of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between Richmond and Ashland, VA, on the one hand, and, on the other, points in FL and MI, restricted to traffic originating at or destined to the facilities of Best Products Company, Inc., under continuing contract(s) with Best Products Company, Inc. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

Note.—Dual operations may be involved.

MC 140294 (Sub-13F), filed May 9, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Middleburg Pike, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *printed matter,* and (2) *materials and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between the facilities of Regency Greetings, Inc., at or near Waynesboro, PA, and Hagerstown, MD.

Note.—Applicant intends to tack this authority with its existing authority at Hagerstown, MD, to provide service to Washington, DC, and Baltimore, MD.

MC 140615 (Sub-54F), filed November 16, 1979, previously noticed in the FR of March 27, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Chicago, IL, Philadelphia, PA, and Hoboken, NJ, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX.

Note.—This republication deletes a restriction. (Hearing site: Philadelphia, PA.)

MC 140665 (Sub-111F), filed June 24, 1980. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *salad dressings* (except frozen and in

bulk), from the facilities of Swiss Chalet Food Products Co., at or near Wichita, KS, to Fredericksburg, VA, Atlanta, GA, and Orlando, FL.

MC 141804 (Sub-400F), filed March 31, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant.) Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, frozen foods, and commodities requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Reichhold Chemicals, Inc.

MC 141804 (Sub-446F), filed June 12, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *motor vehicle parts* and *motor vehicle accessories, between points in the U.S. (except AK and HI.)*

MC 141804 (Sub-447F), filed June 12, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant.) Transporting *paper,* from Dallas, TX, to points in CA, restricted to traffic originating at the facilities of Texas Stock Tab, Inc.

MC 141804 (Sub-448F), filed June 16, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *glass articles,* (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, and (3) *rigid polypropylene sheets,* from the facilities of PPG Industries, Fiberglass Division at or near Lexington and Shelby, NC, to points in AZ, CA, ID, IN, MI, MT, NV, OR, and WA, restricted to traffic originating at the named facilities.

MC 141804 (Sub-449F), filed June 16, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *such commodities* as are dealt in or used by book stores, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of B. Dalton Book Seller. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-450F), filed June 16, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *flour, flour products* and *equipment, materials, and supplies* used in the manufacture and sale of flour and flour products, between Kent, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Continental Mills, Inc. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-451F), filed June 23, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting (1) *electric refrigeration units* and *parts and accessories* for refrigeration units, between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-452F), filed June 25, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, (same address as applicant). Transporting *non-powered kitchen hand tools* and *security hardware,* between Los Angeles, CA, Chicago and Franklin Park, IL, Canton, Massillon and Byesville, OH, Locke Mills, ME, Holyoke, MA, and Lancaster, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted (1) to traffic originating at or destined to the facilities of Ekco Housewares Corporation, and (2) against traffic moving from Chicago, IL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-453F), filed June 25, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *sewing articles,* between points in GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 142485 (Sub-8F), filed June 24, 1980. Applicant: KENDRICK MOTOR FREIGHT, INC. (FORMERLY KENDRICK MOVING & STORAGE, INC.), P.O. Box 209, Lebanon, OH 45036. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215.Transporting (1) *mattresses, upholstered or stuffed furniture, batting, padding, frames, springs, and molds;* (2) *equipment, materials and supplies* used in the manufacture or distribution of the commodities in (a) between the facilities of Sterns & Foster Co., at or near Lockland and Mason, OH, on the one hand, and, on the other, points in WI; and (b) between the facilities of Sterns & Foster Co., at or near Pontotoc, MS, on the one hand, and, on the other, points in AR, IL, IN, KY, MI, MO, NY, OH, PA, TN, WI, and WV; and (3) *equipment, materials and supplies* used in the manufacture or distribution of the commodities in (1) above, from points in AR, IL, IN, KY, MI, MS, MO, NY, PA, TN, and WV, to the facilities of Sterns & Foster Co., at or near Lockland and Mason, OH. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 142715 (Sub-102F), filed May 30, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *building materials, equipment, and supplies* (except commodities in bulk, and commodities requiring special equipment), between Plymouth, MN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: St. Paul, MN.)

MC 142715 (Sub-103F), filed June 13, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting (1) *metal products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal products (except commodities in bulk), between Minneapolis, MN, on the one hand, and on the other, points in the U.S. in and east of ND, SD, NE, CO, OK, and TX, restricted to traffic originating at or destined to the facilities of DeBourgh Mfg. Co., at Minneapolis, MN. (Hearing site: St. Paul, MN.)

MC 142715 (Sub-104F), filed June 13, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting (1) *clothing,* and (2) *materials, equipment, and supplies* used in the sale and distribution of clothing, between Minneapolis, MN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: St. Paul, MN.)

MC 142715 (Sub-105F), filed June 13, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting (1) *foodstuffs,* and (2) *materials and*

V 45 / 154 AG 7 80 UMI

supplies used in the manufacture and distribution of foodstuffs (except commodities in bulk), between Minneapolis, MN, and Cincinnati, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, CO, OK, and TX. (Hearing site: St. Paul, MN.)

MC 142715 (Sub-106F), filed June 13, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting (1) *metals and metal products*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of metals and metal products (except commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of ND, SD, NE, KS, CO, OK, and TX. (Hearing site: St. Paul, MN.)

MC 142765 (Sub-10F), filed June 13, 1980. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Rd., Bethany, CT 06460. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. *Contract carrier,* transporting *such commodities* as are dealt in by bakeries, between Baltimore, MD; and Clifton, NJ, under continuing contract(s) with Silber's Bakery, Inc., of Baltimore, MD. (Hearing site: Washington, DC, or New York, NY.)

MC 142835 (Sub-7F), filed June 24, 1980. Applicant: CARSON MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St. Columbus, OH 43215. Transporting *bakery products* from the facilities of Nabisco, Inc., at Richmond, VA, to points in CT, FL, ME, MA, NH, NJ, NY, PA, RI, and VT. (Hearing site: Washington, DC.)

MC 144574 (Sub-5F), filed May 21, 1980. Applicant: RUSSELL TRANSFER COMPANY, INC., P.O. Box 829, Washington, GA 30673. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. Transporting *wood residuals*, from Washington, GA, to points in Charleston, County, SC. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 142994 (Sub-10F), filed June 20, 1980. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in Augusta, Rockingham, and Page Counties, VA, and Hardy, Grant, and Pendleton Counties, WV. (Hearing site: Harrisonburg, VA.)

MC 145544 (Sub-7F), filed June 19, 1980. Applicant: W. & M., INC., P.O. Box 2237, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract carrier,* transporting (1) *air moving control equipment*, and (2) *materials, equipment, and supplies* used in the manufacture of air moving control equipment, between Niles, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Garden City Fan & Blower Co., of Niles, MI. (Hearing site: Chicago, IL.)

MC 145974 (Sub-9F), filed June 19, 1980. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract carrier,* transporting *lumber and wood products*, from points in WA, OR, ID, MT, and CA, to points in MD, SD, MN, and WY, under continuing contract(s) with Louisiana Pacific. (Hearing site: Minneapolis, MN.)

MC 146015 (Sub-10F), filed June 13, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: E. J. Mumma, Jr. (same address as applicant). *Contract carrier,* transporting *glass*, from the facilities of Lamilite, Inc., at Saratoga Springs, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Lamilite, Inc., of Saratoga Springs, NY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 147264 (Sub-6F), filed June 19, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood, Muncie, IN 47302. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *bananas and commodities* otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6), when transported in mixed loads with bananas, from Mobile, AL, to points in OH, IN, IL, MI, KY, MO, KS, and WI. (Hearing site: Chicago, IL.)

MC 147724 (Sub-1F), filed June 4, 1980. Applicant: TYRONE SCHULZ, d.b.a. TY SCHULZ TRUCKING, Rt. 1, Box 221, Ione, CA 95640. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89601. *Contract carrier,* transporting *refractories, brick, crude clay* and *equipment, materials, and supplies* used in the manufacture, distribution and installation of refractories, brick and crude clay, (1) between Pittsburg, CA, and the facilities of C. E. Cast Industrial Products and Interpace Corp., in Amador County, CA, on the one hand, and, on the other, Carson City, NV, and points in CA, OR, and WA, and (2) in foreign commerce only, between Pittsburg, CA, and the facilities of C. E. Cast Industrial Products and Interpace Corp., in Amador County, CA, under continuing contract(s) with C. E. Cast Industrial Products and Interpace Corp.

MC 148604 (Sub-3F), filed June 13, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44306. Representative: Paul A. Englehart (same address as applicant). Transporting, (1) *soap and cleaning compounds, fuel oil conditioners, ice control compounds, specialty cleaners and chemicals, automotive cleaners and waxes, fuel oil additives, and household deodorants and disinfectants* (except commodities in bulk); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between those points in the U.S. east of ND, SD, WY, CO, and NM, restricted to traffic originating at or destined to facilities of Malco Products, Inc. (Hearing site: Columbus or Akron, OH.)

Note.—Duel operations may be involved.

MC 148874 (Sub-2F), filed May 7, 1980. Applicant: PROFICIENT FOOD CO., 17872 Cartwright Rd., Irvine, CA 92705. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract carrier,* transporting *such commodities* as are dealt in or used by donut houses, from points in NM, CO, NE, IA, MO, TN, KS, OK, AR, LA, MS, CA, and IL, to Arlington, TX, restricted to traffic originating at and destined to facilities used by Winchell's Donut Houses, under continuing contract(s) with Winchell's Donut Houses. Conditions: (1) Applicant must conduct for-hire transportation activities and other business activities independently and maintain separate records for each. (2) the person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA; Dallas, TX.)

MC 149105 (Sub-2F), filed June 20, 1980. Applicant: BAYOU STATE TRUCKING, INC., 639 S. Rendon Street, Suite 303, New Orleans, LA 70119. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 367, Arlington, VA 22201. Transporting (1) *canned foodstuffs* and *canned animal foods*, from the facilities of Campbell Soup Company at or near Paris, TX, to points in AR, LA, and MS, and (2) *frozen foodstuffs*, from the facilities of Campbell Soup Company at or near Fayetteville and Springdale, AR, to points in AR, LA, and MS. (Hearing site: Camden, NJ; Washington, DC.)

Note.—Dual operations may be involved.

MC 14935 (Sub-1F), filed March 24, 1980. Applicant: C. MAXWELL TRUCKING COMPANY, 9108 Reeds Dr., Overland Park, KS 66206. Representative: John C. Picardy (same address as applicant). *Contract carrier,* transporting (1) *lubricating oils, greases, carbon, gum and sludge removing compounds, automotive filters, valves and valve parts, fender covers, brake fluids, compressor oils, and antifreeze engine coolants*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, from the facilities of STP Corp., at (a) Chicago, IL, (b) Evansville, IN, (c) Dallas, TX, and (d) Kansas City, KS, to points in IL, KS, MO, IN, OK, TX, NM, CA, WA,and OR, under continuing contract(s) with STP Corporation, of Fort Lauderdale, FL.

MC 149305 (Sub-2F), filed June 20, 1980. Applicant: REBEL EXPRESS, INC., Route 1, Box 66, Dry Prong, LA 71423. Representative: Gerald F. Nugent, Sr. (same address as applicant). *Contract carrier,* transporting *valves* from the facilities of Dresser Industrial Valve & Instruments, at or near Alexandria, LA, to points in AR, AL, FL, GA, MS, OK, TN, and TX, under continuing contract(s) with Dresser Industries, of Alexandria, LA.

MC 150315 (Sub-1F), filed June 10, 1980. Applicant: SCOTT BROTHERS BUS SERVICE, INC., 233 Sands Street, Brooklyn, NY 11201. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations beginning and ending at New York, NY, and extending to points in the U.S. (except AK and HI). (Hearing site: New York, NY.)

MC 150924F, filed June 23, 1980. Applicant: HAROLD M. LAMM, d.b.a. HML COMPANY, 6107 Malibu Drive, Raleigh, NC 27603. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contact carrier,* transporting *fabrics and yarn*, between points in NC, SC, and GA, under continuing contract(s) with Know-How Knits, Inc., of Belmont, NC. (Hearing site: Raleigh, NC.)

MC 151004F, filed June 9, 1980. Applicant: WARNACO TRUCKING CORP., 350 Lafayette Street, Bridgeport, CT 06602 Representative: William J. Meuser, 86 Cherry Street, P.O. Box 507, Milford, CT 06460. Transporting *Clothing* (except on hangers), *piece goods, feathers, boots, shoes, garment hangers, pulpboard, sewing machines,* and *textile machinery*, between points in AL, AZ, AR, CA, CT, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, and WI. (Hearing site: New York, NY, or Hartford, CT.)

MC 151005F, filed June 9, 1980. Applicant: MOTOR CARGO, INC., 12872 Brady, Redford, MI 48239. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring the use of special equipment), between the facilities of Detrex Chemical Industries, Inc., at or near Detroit, MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Detroit, MI.)

MC 151015F, filed June 24, 1980. Applicant: DON SWART TRUCKING, INC., P.O. Box 49, Route 2, Wellsburg, WV 26070. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Contract carrier,* transporting (1) *concrete block* from Tiltonsville, OH to Monongah, WV, and (2) *cement*, from Bessemer, PA to Monongah, WV, under continuing contract(s) with Belot Concrete Industries, Inc. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 151044F, filed June 23, 1980. Applicant: MIELE'S EXPRESS, INC., 23 William Road, Holbrook, MA 02043. Representative: Robert G. Parks, 20 Walnut Street, Suite 101 Wellesley Hills, MA 02181. *Contract carrier,* transporting (1) *processed, cured, or smoked meats and poultry*, and (2) *equipment, materials, and supplies* used in the processing and distribution of the commodities named in (1) above in vehicles equipped with mechanical refrigeration, between the facilities of Colonial Provision Co., Inc., at Boston, MA, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, and VA, under continuing contract(s) with Colonial Provision Co., Inc., of Boston, MA. (Hearing site: Boston, MA.)

MC 150705 (Sub-4F), filed June 23, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Contract carrier,* transporting *such commodities* as are dealt in or used by manufacturers or distributors of containers between those points in the U.S. in and east of ND, SD, NE, KS, and TX, under continuing contract(s) with Smith Container Corporation. (Hearing site: Atlanta, GA; Washington, DC.)

Note.—Dual operations may be involved.

Volume No. 278

Decided: July 18, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 8515 (Sub-40F), filed June 25, 1980. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment, and classes A and B explosives), between points in IL and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 40915 (Sub-53F), filed June 30, 1980. Applicant: BOAT TRANSIT, INC., P.O. Box 1403, Newport Beach, CA 92663. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of fiberglass and fiberglass products (except commodities in bulk), from points in WA to points in the U.S. (except AK and HI).

MC 44735 (Sub-54F), filed June 25, 1980. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th St., Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Transporting (1) *pipe, pipe fittings and couplings*, (2) *building and insulation materials*, and (3) *material and supplies* used in the installation, distribution and manufacture of the commodities in (1) and (2), (except commodities in bulk), between points in AR, CO, IN, IA, IL, KS, KY, LA, MO, MN, NE, OK, TN, TX, and WI, restricted to traffic originating at or destined to the facilities of CertainTeed Corporation.

MC 53965 (Sub-177F), filed June 30, 1980. Applicant: GRAVES TRUCK LINE, INC., P.O. Box 838, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *meats, meat products, meat by-products*, and *articles*

V 45 / 154 AG 7 80 UMI

distributed by meat packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near Ft. Smith, AR, to points in IA, IL, MO, NE, OH, OK, SD, TX and WI, restricted to traffic originating at the facilities of John Morrell & Co.

MC 65475 (Sub-38F), filed June 27, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22304. Transporting (1) *batteries*, (2) *equipment, materials, and supplies* used in the manufacture of batteries (except commodities in bulk), and (3) *scrap batteries*, between points in the U.S. in and east of MN, IA, MO, OK, and TX. Restricted to traffic originating at or destined to facilities used by Gould, Inc.

MC 97394 (Sub-31F), filed June 25, 1980. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 13303, Louisville, KY 40231. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *such commodities as are dealt in by automotive parts stores*, between Bowling Green, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, MS, NC, OH, SC, TN, VA, and WV.

MC 97394 (Sub-32F), filed June 27, 1980. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 13303, Louisville, KY 40231. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. Transporting (1) *wheel balancing materials*, and (2) *equipment and supplies used in the manufacture, and distribution or wheel balancing material*, between Bowling Green, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, MS, NC, OH, SC, TN, VA and WV.

MC 106674 (Sub-495F), filed June 19, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *plastic containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic containers, between Langhorne, PA and Worcester, MA, on the one hand, and, on the other, points in DE, MA, CT, RI, NY, NJ, VA, MD, ME, NH, VT, PA, and DC.

MC 107515 (Sub-1378F), filed June 25, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.W., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *malt beverages* (except in bulk) (1) from points in AR and TX, to points in the US in and east of LA, AR, MO, IA and MN; and (2) from points in VA, MD, and PA to points in TX.

MC 107515 (Sub-1379F), filed June 25, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.W., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *General Commodities* (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, and those which because of size or weight require the use of special equipment), from New York City, NY and Philadelphia, PA, to points in CA, TX, MO, GA, and FL, restricted to traffic on bills of lading of West Coast Shippers Association, Inc., a nonprofit shippers' association under 49 USC § 10562(3).

MC 107515 (Sub-1380F), filed June 25, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *petroleum, and petroleum products, chemicals, vehicle body sealer and sound deadening compounds (except in bulk)*, (1) from points in PA on and west of U.S. Hwy 219 to points in the U.S. (except AK and HI), and (2) from St. Louis, MO, to points in AL, AR, FL, GA, LA, MS and TN.

MC 107515 (Sub-1381F), filed June 30, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *meats, meat products, meat by-products*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities used by MBPXL Corporation at Tolleson, AZ, to points in the U.S. (except AK and HI).

MC 107515 (Sub-1382F), filed June 30, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *(1) cleaning compounds, buffing and polishing compounds, textile softener, lubricants, hypochlorite solution, deodorants, disinfectants, paints, plastic bags and fillers (except commodities in bulk, and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) (except commodities in bulk)*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Economics Laboratory, Inc.

MC 111375 (Sub-125F), filed February 15, 1980, previously noticed in the **Federal Register** issue of May 29, 1980. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting (1) *such commodities* as are dealt in or used by grocery, drug and hardware business houses and retail chain stores; (2) *industrial products, institutional products*, and *swimming pool products;* and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk), between points in AZ, CA, CO, ID, IL, NV, NM, OH, OR, TX, UT, and WA, restricted to traffic originating at or destined to the facilities of the Purex Corporation. (Hearing site: Los Angeles, CA.)

Note.—This republication correctly states the restriction.

MC 116725 (Sub-28F), filed June 28, 1980. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Ave., Harleysville, PA 19438. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. (1) Transporting *foodstuffs (except commodities in bulk)*, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs, between the facilities of La Choy Food Products, Div. of Beatrice Foods Co., at Archbold and Napoleon, OH, on the one hand, and, on the other, points in U.S. in and east of MT, WY, CO and NM, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 121205 (Sub-2F), filed June 24, 1980. Applicant: SPECIAL SERVICE DELIVERY COMPANY, INC., 2514 Bridge Ave., Cleveland, OH 44113. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *(1) such commodities as are dealt in or used by manufacturers of photographic products* (except commodities in bulk), and (2) *laundry care products, home care products, beauty care toiletry products, stainless steel cookware, cutlery and food supplements* (except commodities in bulk), between Cleveland, Columbus and Toledo, OH, on the one hand, and,

on the other, points in OH, restricted to traffic having a prior or subsequent movement in interstate commerce.

MC 121654 (Sub-39F), filed June 30, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA. Transporting *air pollution equipment* (except that which because of size or weight requires the use of special equipment), from Jacksonville, FL, to Bakersfield, CA.

MC 124624 (Sub-6F), filed June 30, 1980. Applicant: EXPRESSWAY, INC., 1105 St. Louis Ave., Louisville, KY 40210. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Transporting *household appliances, floor covering, furniture, computer and electronic equipment, radios, television sets, phonographs, sound recorders, sound players, amplifiers, loud speakers, electric games, and electric toys*, from Louisville KY, to points in IN on and south of IN Hwy 46 and points in IL on and south of U.S. Hwy 50.

MC 124705 (Sub-4F), filed June 25, 1980. Applicant: SWAN MESSENGER SERVICE, INC., P.O. Box 2042, Princeton, NJ 08540. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *general commodities* (except Classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, cash letters, articles of unusual value, radio pharmaceuticals and medical isotopes and exposed and processed film and prints) between Laurel, MD and Washington, DC, on the one hand, and on the other, points in NJ, those in CT on and west of Interstate Highway 91, those in New York State on and south of Interstate Highway 84, Wilmington, DE and Philadelphia, PA, restricted against the transportation (1) of any package weighing more than 250 pounds each and (2) of packages weighing in the aggregate more than 5,000 pounds from one consignor to one consignee on any one day.

MC 125335 (Sub-106F), filed June 4, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *insulated copper wire cable*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities named in (1), above, between Schuylkill Haven, PA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WI, WV, and DC.

MC 126635 (Sub-3F), filed June 25, 1980. Applicant: CHRISTIE–LAMBERT VAN & STORAGE CO., INC., 1010 6th Avenue North, Kent, WA 98031. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. Transporting *Used household goods*, between points in MT, ID, OR, WA, ND and SD, restricted to shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

MC 128484 (Sub-3F), filed June 20, 1980. Applicant: BOWEIL STORAGE & TRANSIT CO., a corporation, 5850 Center Hill, Cincinnati, OH 45232. Representative: Richard D. Mathias, 1100 Connecticut Ave., NW., Washington, DC 20036. Transporting *household goods* as defined by the Commission, (1) between points in Dayton, KY, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IN, IA, KS, MD, MA, MI, MO, NJ, NY, NC, PA, RI, SC, VA, WI, and DC; (2) between points in Hamilton County, OH, on the one hand, and, on the other, points in AL, CT, FL, GA, IL, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC; and (3) between points in KY (except Dayton), points in OH (except Hamilton County), and points in IN, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC. (Hearing site: Cincinnati, OH.)

MC 129974 (Sub-20F), filed June 25, 1980. Applicant: THOMPSON BROS., INC., P.O. Box 1283, Sioux, Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. Contract carrier transporting *meat, meat products and meat by-products*, and *articles distributed by meat packinghouses*, from West Fargo, ND, to points in the U.S. (Except AK and HI), under contract(s) with Held Beef Industries, West Fargo, ND.

MC 135524 (Sub-147F), filed June 19, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs, Road, Youngstown, OH 44509. Transporting (1) *metal shelving, tables, check-out counters and display cases*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Maytex Manufacturing Co., at or near Terrell, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135524 (Sub-148F), filed June 25, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting (1) *polyethylene pallets and bins*, and (2) *parts, attachments, and accessories* for the commodities in (1), between Tacoma and Enumclaw, WA on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 135524 (Sub-149F), filed June 27, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting *Commodities, the transportation of which, because of size or weight, requires the use of special equipment or special handling, and when moving in connection therewith, related commodities, the transportation of which because of size or weight, does not require the use of special equipment or special handling, and iron or steel articles*, between points in Bradley and Hamilton, Counties, TN, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 135524 (Sub-150F), filed June 30, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting *(1) iron and steel articles* and *(2) materials, equipment and supplies* used in the distribution, and manufacture of iron and steel articles (except commodites in bulk), between the facilities of North Star Steel Corp., at, or near Wilton, IA, on the one hand, and on the other points in the U.S. (except AK and HI).

MC 135524 (Sub-151F), filed June 30, 1980. Applicant: G. F. TRUCKING COMPANY, a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salt Springs Road, Youngstown, OH 44509. Transporting *(1) Plastic and plastic articles* and *(2) materials and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk, in tank vehicles) between Evansville, IN, on the one hand, and on the other, points in the U.S. (except AK and HI).

V 45 / 154 AUG 7 80 UMI

MC 135895 (Sub-106F), filed June 27, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204 Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *(1) paper and paper articles* and *(2) equipment, materials and supplies* used in the manufacture, and distribution of paper and paper articles, (except commodities in bulk and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Olinkraft, Inc.

MC 138635 (Sub-108F), filed June 27, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton, P.O. Box 3995, Gastonia, NC 28052. Transporting *(1) store furnishings, fixtures, furniture, shelving,* and *(2) materials, equipment, and supplies used in the manufacture, and distribution thereof,* between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the facilities of Maytex Manufacturing Company.

MC 139495 (Sub-532F), Filed June 30, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dublin, 818 Connecticut Avenue, NW, Washington, DC 20006. Transporting (1) *heating and air conditioning equipment,* and (2) *materials and supplies* used in the manufacture, repair, installation, and distribution of heating and air conditioning equipment, from Wichita, KS, to points in the U.S. (except AK and HI).

MC 139495 (Sub-538F), Filed June 30, 1980. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 818 Connecticut Avenue, NW, Washington, DC 20006 transporting *canoes, camping equipment, outdoor recreational equipment,* and *car top carriers,* from New Braunfels, TX, to points in the U.S. (except AK and HI).

MC 140645 (Sub-17F), Filed June 27, 1980. Applicant: UNITED TRUCKING, INC., P.O.Box 398, Tallapoosa, GA 30716. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier,* transporting *cleaning, buffing, polishing compounds, textile softeners, lubricating oils and deodorants and disinfectants* (except in bulk), from the facilities of Economics Laboratory, Inc., at or near South Holland, IL, to points in GA, AL and TN, under continuing contracts(s) with Economics Laboratory, Inc.

MC 141804 (Sub-456F), Filed June 25, 1980. Applicant: WESTERN EXPRESS, DIVISION, OF INTERSTATE RENTAL, INC., P.O. Box 2488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *general commodities* (except foodstuffs requiring refrigeration as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by The Pillsbury Company, and its subsidiaries.

MC 141804 (Sub-457F), Filed June 25, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting (1) *Chemicals, fabrics,* and *products,* and (2) *materials and supplies* used by Olin Chemical Group (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Olin Chemical Group.

MC 145635 (Sub-2F), filed June 25, 1980. Applicant: THOMAS R. REED, d.b.a. RANDLE REED TRUCKING, Route 4, Box 50C, Louisville, MS 39339. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Contract carrier,* transporting *brick and structural tile,* (1) between the facilities of Delta Brick & Tile Co., Inc., at or near Indianola, MS, on the one hand, and, on the other, points in DE, IA, IL, IN, KS, MD, MI, MN, NC, NE, NJ, NY, OH, PA, SC, VA, WI and WV; and (2) between the facilities of Delta Shuqualak Brick & Tile Co., Inc., at or near Shuqualak, MS, and the facilities of Delta-Macon Brick & Tile Company, Inc., at or near Macon, MS, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, NC, NE, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WI and WV, under a continuing contract(s) with Delta Brick & Tile Co., Inc., Indianola, MS.

MC 145855 (Sub-4F), filed March 28, 1980. Applicant: JOHN RAY TRUCKING COMPANY, INC., P.O. Box 206, Eastaboga, AL 36260. Representative: John W. Cooper, 200 Woodward Bldg., 1927 1st Ave., North, Birmingham, AL 35203. *Contract carrier,* transporting (1) *pipe, and pipe fittings,* and (2) *accessories* for the commodities named in (1) above, from Anniston, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) and (2) above, in the reverse direction, under continuing contract(s) with Southeastern Specialty & Manufacturing Co., of Anniston, AL. (Hearing site: Birmingham, AL.)

MC 147074 (Sub-19F), filed June 27, 1980. Applicant: E Z FREIGHT LINES, 70 Gould Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *such commodities* as are dealt in by retail department stores (except foodstuffs and commodities in bulk), between the facilities of Zayre Corp., at Alsip, IL, and points in IL, on the one hand, and, on the other, points in IN, IA, KY, MI, OH and WI.

MC 147654 (Sub-3F), filed June 27, 1980. Applicant: TORNETTA'S MOTOR TRUCK, INC., P.O. Box 349, Conshohocken, PA 19428. Representative: Barry D. Kleban, 1430 Land Title Building, Philadelphia, PA 19110. *Contract carrier,* transporting *iron and steel articles,* (1) between the facilities of Dynacure pre-Coated Steel, Inc., at or near Cornwells Heights (Bucks County), PA, on the one hand, and, on the other, points in CT, MA, MD, NJ, NY, OH and WV; and (2) from Baltimore, MD, and Weirton, WV, to the facilities of Penco Products, Inc., at Oaks (Montgomery County), PA, under a continuing contract(s) with Dynacure Pre-Coated Steel, Inc. and Penco Products, Inc.

MC 148655 (Sub-6F), filed June 25, 1980. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44114. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting (1) *carpet strip and carpet adhesives,* from Asheville, NC, to points in the U.S. east of MT, WY, CO, and NM; and (2) *nails,* from Savannah, GA, to Asheville, NC.)

MC 149195 (Sub-7F), filed June 25, 1980. Applicant: ARCADIAN MOTOR CARRIERS, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting (1) *malt beverages* and (2) *materials, supplies and equipment* used in the manufacture or distribution of malt beverages, (except commodities in bulk or in tank vehicles), between Portland, OR, on the one hand, and, on the other, points in CA.

MC 149195 (Sub-8F), filed June 25, 1980. Applicant: ARCADIAN MOTOR CARRIERS, a corporation, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting (1) *labels,* (2) *bottle filling and labeling machines,* and (3) *material and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Avery Label.

MC 149195 (Sub-9F), filed June 27, 1980. Applicant: ARCADIAN MOTOR CARRIERS, a corporation, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting (1) *plastic expanded foam and products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), from points in CA, to points in the U.S. (except AK and HI).

MC 149195 (Sub-10F), filed June 25, 1980. Applicant: ARCADIAN MOTOR CARRIERS, a corporation, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting *fiberboard,* from the facilities of Aurora Paper Board, at Aurora, IL, to Jefferson City, Kansas City, and Marceline, MO, and Iola, Topeka, and Kansas City, KS.

MC 149195 (Sub-11F), filed June 25, 1980. Applicant: ARCADIAN MOTOR CARRIERS, a corporation, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting *such commodities* as are dealt in or used by clothing stores, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Foxmoor Casuals and Chess King Products.

MC 149195 (Sub-12F), filed June 25, 1980. Applicant: ARCADIAN MOTOR CARRIERS, a corporation, 1831 Simpson, Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant). Transporting (1) *welders, welder parts, welder systems, welding compounds and welding supplies,* and (2) *material and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or consigned to the facilities of the Stoody Company and the Stoody International Company.

MC 149325 (Sub-2F), filed June 30, 1980. Applicant: WALTS TERMINAL, INC., 401 West South Street, Indianapolis, IN 46225. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *precast structural concrete,* from the facilities of American Precast Concrete, Inc., and its subsidiary Span-Deck, Inc., at or near Indianapolis, IN and Westfield, IN, to points in IL, KY, MI, MO, OH, and WI.

MC 149344 (Sub-2F), filed June 27, 1980. Applicant: JERRY R. WHITE, WILLIAM CROSS & KENNETH J. STOTTS, a Partnership d.b.a. WHITE, CROSS AND STOTTS REFRIGERATED FREIGHT LINES, 329 E. 157th St., Gardena, CA 90247. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract carrier,* transporting *such commodities as are used in hair care; hair conditioning concentrate, in drums;* and *fibre-board cartons,* from Gardena, CA, to Philadelphia, PA, under continuing contract(s) with Best-Way Hair Products Co., Gardena, CA.

MC 150714 (Sub-1F), filed June 30, 1980. Applicant: SHAW TRUCKING, INC., 2201 Riverside Blvd., Norfolk, NE 68701. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Contract carrier,* transporting (1) *non-alcoholic beverages* and (2) *materials and supplies* used in the manufacture and distribution of non-alcoholic beverages, between the facilities of The Shaw Company, at Norfolk, NE, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, WI, and WY, under continuing contract(s) with The Shaw Company, at Norfolk, NE.

MC 150925F, filed May 27, 1980. Applicant: MORING, INC., R.R. #1, Baileyville, IL 61007. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *liquid fertilizer,* from (a) LaSalle and Fulton, IL, to points in WI, and (b) from Dubuque, IA, to points in IL and WI, and (c) from Burlington and Muscatine, IA, to points in IL, and (2) *fertilizer,* from Albany, Amboy, Cordova, East Dubuque, Fulton, Lemont, Marseilles, Pekin, Riverdale and Seneca, IL, and Clinton, IA, to points in IA, IN and WI.

MC 151065F, filed June 19, 1980. Applicant: KANSAS CITY PIGGYBACK, INC., P.O. Box 15236, Fairfax Sta., Kansas City, KS 66115. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *general comomodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, on the one hand, and, on the other, points in AR, IA, KS, MO, NE and OK, restricted to traffic having a prior or subsequent movement by rail piggyback.

MC 151075F, filed June 16, 1980. Applicant: WEST-CONN TRANSPORTATION SERVICE, INC., Anarock Drive, Somers, NY 10589. Representative: Sidney J. Leshin, 575 Madison Ave., New York, NY 10022. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in Westchester, Putnam and Dutchess Counties, NY and Fairfield County, CT, on the one hand, and, on the other, White Plains, NY.

MC 151085F, filed June 19, 1980. Applicant: FREDERICK M. OPPEL, 145 South Enola Drive, Enola, PA 17025. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting (1) *bananas* and (2) *agricultural commodities* otherwise exempt from economic regulations when transported in mixed loads with bananas, from Baltimore, MD, Wilmington, DE, and Philadelphia, PA, to points in PA.

Volume No. 285

DECIDED: July 16, 1980.

By the Commission Review Board Number 1, Members Carleton, Joyce and Jones.

The following twenty-four (24) applications filed April 7, 1980 involve authority to transport (A) *glass articles, metal articles, plastic articles, and clay articles,* (B) *molds and machinery* used in the production of glass articles, plastic articles and metal articles, (C) *bottle coating systems,* (D) *parts and accessories* for the commodities in (A), (B), (C) and, above, (E) *Feldspar products* and *talc products,* and (G) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (A), (B), (C), (D), and (E) above, between the facilities of Wheaton Industries, at or near Springfield, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI). (1) MC–7840 Sub 29F. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY, 13601. (2) MC–48441 Sub 60F. Applicant: R.M.E. Inc., P.O. Box 418, Streator, IL, 61364. (3) MC–65628 Sub 39F. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY, 14063. (4) MC–73688 Sub 116F. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., P.O. Box 7195, Memphis, TN, 38107. (5) MC–78687 Sub 108F. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. (6) MC–106920 Sub 96F. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe

V 45 / 154 AG 7 80 UMI

St., P.O. Box 28, New Bremen, OH 45869. (7) MC–115331 Sub 542F. Applicant: TRUCK TRANSPORT, INCORPORATED, 11040 Manchester Rd., St. Louis, MO 63122. (8) MC–119349 Sub 38F. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 2148, Fort Pierce, FL 33450. (9) MC–120636 Sub 8F. Applicant: BRUNTON STORAGE & VAN CO., INC., 6th and Locust Streets, P.O. Box 577, Chatsworth, IL 60921. (10) MC–127303 Sub 77F. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. (11) MC–133085 Sub 18F. Applicant: TRENCO, INCORPORATED, 2109 Marydale Ave., P.O. Box 697, Williamsport, PA 17701. (12) MC–136161 Sub 32F. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. (13) MC–136511 Sub 100F. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Rd., Lynchburg, VA 23502. (14) MC–141914 Sub 79F. Applicant: FRANKS & SONS, INC., Route 1, Box 108A, Big Cabin, OK 74332. (15) MC–142873 Sub 5F. Applicant: DEWEY L. WILFONG, d/b/a D & W TRUCK LINES, 209 First St., Parsons, WV 26287. (16) MC–144676 Sub 8F. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. (17) MC–145950 Sub 81F. Applicant: BAYWOOD TRANSPORT, INC., Route 6, P.O. Box 2611, Waco, TX 76706. (18) MC–146573 Sub 12F. Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354. (19) MC–146890 Sub 24F. Applicant: C & E TRANSPORT, INC., d/b/a/ C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. (20) MC–147452 Sub 4F. Applicant: W.D.W. TRUCKING, INC., 2620 S.W. 66th Terrace, Miramar, FL 33023. (21) MC–148600 Sub 4F. Applicant: TRANSHIELD TRUCKING, INC., 1470 N. Farnsworth Ave., P.O. Box 1617, Aurora, IL 60507. (22) MC–148655 Sub 4F. Applicant: ERIEVIEW CARGAGE, INC., 1200 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44114. (23) MC–0149370 Sub 4F. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. (24) MC–150265 Sub 1F. Applicant: GUY J. JOHNSON TRANSPORTATION COMPANY, INCORPORATED, 5 Timberline Dr., Newark, DE 19711. Representative for all applicants above: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001.

Volume No. 295

Decided: June 26, 1980.

By the Commission Review Board No. 3, Members Parker, Fortier and Hill.

MC 20582 (Sub-8F), filed June 18, 1980. Applicant: HENRY H. STEVENS. INC., 1273 Broadway, Flint, MI 48506. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Transporting *household goods* as defined by the Commission, between points in UT and NV, on the one hand, and, on the other, points in the U.S. (except ND, SD, MT, WY, ID, AK and HI). (Hearing site: Detroit, MI, or Washington, DC.)

MC 59292 (Sub-40F), filed June 19, 1980. Applicant: THE MARYLAND TRANSPORTATION COMPANY, a corporation, 1111 Frankfurst Ave., Baltimore, MD 21225. Representative: Charles J. Braun, Jr. (same address as applicant). Transporting (1) *iron and steel articles* from the facilities of Commercial Shearing, Inc., at Berkley Springs, WV, to points in the U.S. in and east of WI, IL, KY, TN, MS, and LA; (2) *iron and steel articles* from the facilities of Commercial Stamping and Forging Co. at Bedford Park, IL, to points in the U.S. in and east of WI, IL, KY, TN, MS and LA; (3) *iron and steel articles* from the facilities of Syro Steel Co. at Girard, OH, to points in the U.S. in and east of WI, IL, KY, TN, MS and LA; (4) *iron and steel articles* from the facilities of Young Galvanizing, Inc., at Pulaski, PA, to points in the U.S. in and east of WI, IL, KY, TN, MS and LA; (5) *iron and steel articles* from the facilities of Lane Metal Products, Co., Inc., at Pulaski, PA, to points in the U.S. in and east of WI, IL, KY, TN, MS and LA; (6) *machinery and machinery parts* from the facilities of Commercial Shearing, Inc., at Youngstown, OH, to points in the U.S. in and east of WI, IL, MO, AR and LA; and (7) *machinery and machinery parts* from the facilities of Commercial Shearing, Inc., at Benton, AR, to points in U.S. in and east of AR, LA, MO, IA and MN, restricted in (1) through (7) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 69052 (Sub-43F), filed June 12, 1980. Applicant: REED TRUCKING CO., P.O. Box 216, Milton, DE 19968. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., N.W., Washington, D.C. 20004. Transporting (1) *dry chemicals* (except in bulk), from points in NJ to Cambridge, MD, and (2) *empty drums*, from South Brunswick, NJ, to Cambridge, MD. (Hearing site: Cambridge, MD.)

MC 71652 (Sub-48F), filed June 16, 1980. Applicant: BYRNE TRUCKING, INC., P.O. Box 280, Medford, OR 97501. Representative: David J. Stewart (same address as applicant). Transporting *building materials*, from the facilities of Guardian Industries at or near Kingsburg, CA, to points in AZ, CO, MT, NM, NV, UT, and WY. (Hearing site: San Francisco, CA or Portland, OR.)

MC 80262 (Sub-4F), filed June 17, 1980. Applicant: SOUTH ATLANTIC BONDED WAREHOUSE, a corporation, 2020 E. Market St., Greensboro, NC 27402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *such commodities as are dealt in by wholesale, retail and chain, grocery, drug and food business houses*, between Greensboro, NC, on the one hand, and, on the other, points in VA and Morehead City and Wilmington, NC. (Hearing site: Greensboro, NC or Wash, DC.)

MC 103993 (Sub-1052F), filed June 16, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *railway track material*, from the facilities of Midwest Steel Division, Midwest Corporation, at or near Pomeroy, OH, and Nitro, WV, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Charleston, WV.)

MC 103993 (Sub-1053F), filed June 18, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *lumber and wood products*, from the facilities of Allied Forest Products at or near Fredonia, AZ, Alamagordo, NM, and Panquitch and Escalante, UT, to points in OK, TX, AR, MO, IA, IL, IN, OH, MI, MN, KY and TN. (Hearing site: Portland, OR.)

MC 107403 (Sub-1324F) (correction), filed March 3, 1980, published in the Federal Register, issue of May 9, 1980, and republished, as corrected, this issue. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (address same as applicant). The commodity restriction in part (1) thru (4) should read as follows: *"In bulk, in tank vehicles"*, instead of except bulk, in tank vehicles. (Hearing site: Chicago, IL, or Washington, DC.) The purpose of this republication is to correct the restriction in part (1) thru (4). The rest of the publication remains the same.

MC 111672 (Sub-13F), filed June 6, 1980. Applicant: R & M TRUCK LINE, INC., P.O. Box 422, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *plastic articles*, from the facilities of Holloway Industries, Inc., at

or near Japan, MO, to points in IL and MI. (Hearing site: Des Moines, IA.)

MC 111812 (Sub-731F), filed June 16, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting: (1) *automobile accessories, home canning kits, cleaning compounds*, and *plastic, metal, wooden and rubber articles*, and (2) *equipment* and *supplies* used in the manufacture of the commodities in (1) above, between Huron, SD and Savage, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Minneapolis, MN.)

MC 115162 (Sub-532F), filed June 16, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, (same address as applicant). Transporting *(1) plastic and steel articles* (except commodities in bulk, in tank vehicles) from Mexico, MO, to points in the U.S. (except AK and HI); and *(2) materials, equipment and supplies used in the manufacture, sale and distribution of plastic and steel articles* (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: St. Louis, MO or Washington, DC.)

MC 118142 (Sub-248F), filed June 13, 1980. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting *meats, meat products, meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities utilized by MBPXL Corporation, at or near Phoenix, AZ, to points in the U.S. on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada. (Hearing site: Wichita, KS or Kansas City, MO.)

MC 119493 (Sub-386F), filed June 16, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting *wood products and lumber, and materials and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities in bulk), between points in MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: St. Louis, or Kansas City, MO.)

MC 120822 (Sub-6F), filed June 18, 1980. Applicant: INDUSTRIAL FREIGHT SYSTEM, INC., 9120 San Fernando Road, Sun Valley, CA 91352. Representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. Transporting *general commodities* (except those of unusual value, Classes A and B explosive, household goods as defined by the Commission, commodities in bulk and motor vehicles), moving on bills of lading of freight forwarders, between points in CA, AZ, NV, NM, OR, and WA. (Hearing site: Los Angeles, CA.)

MC 121272 (Sub-7F), filed June 10, 1980. Applicant: HESS TRUCKING CO., 1000 West Chocolate Avenue, Hershey, PA 17033. Representative: J. Bruce Walter, Esquire, P.O. Box 1146, Harrisburg, PA 17108. Transporting *such commodities as are dealt in by grocery and food business houses* (except commodities in bulk) from the facilities of Dauphin Distribution Services Co. in Camp Hill Borough Hampden Township, Cumberland County, PA, to points in Adams and York Counties, PA, and that portion of Cumberland, County that lies west of PA Hwy 34. (Hearing site: Harrisburg, PA or Washington, DC.)

MC 125433 (Sub-423F), Filed June 16, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *camping equipment and supplies, sporting goods and supplies*, and *outdoor and recreational furniture, goods and supplies*, and (2) equipment, *material and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S. (except AK and HI). (Hearing: Dallas, TX.)

MC 125433 (Sub-424F), Filed June 16, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *equipment, material and supplies* used in the manufacture, hydrogenation, gasification and processing of coal and coal byproducts, and (2) *equipment, material and supplies* used in the manufacture or processing of petro-chemicals, shale oil, tar sands, sulfuric acid, dust collectors, pulp, inorganic chemicals, ferrous and nonferrous metals, fibers and textiles, coatings, extractors and separators, detergents, oils and fats, hydrogen (except in bulk), between points in the U.S. (except AK and HI). (Hearing: San Francisco, CA.)

MC 125433 (Sub-425F), filed June 16, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *iron and steel roofing*, and (2) *iron, steel, and aluminum building sections*, from Stockton, CA, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of the H. H. Robertson Company. (Hearing: San Francisco, CA.)

MC 126822 (Sub-94F), Filed June 18, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt (same address as applicant). Transporting *canned goods* from Terminal Island, CA, to points in the U.S. (except AK and HI). Hearing site: Los Angeles, CA.

Note.—Common control may be involved.

MC MC 128273 (Sub-396F), Filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by The Mead Corporation, its subsidiaries and affiliates. (Hearing site: Columbus, OH, or Washington, DC.)

MC 129712 (Sub-31F), filed June 12, 1980. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough GA 30253. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract carrier* transporting *such commodities as are dealt in of used by manufacturers, distributors and dealers or (1) agricultural equipment; (2) construction equipment; (3) forestry equipment; (4) industrial equipment; (5) irrigation equipment; (6) lawn and leisure products; and, (7) equipment used in the maintenance, feeding and housing of hogs, livestock, and poultry (except commodities in bulk)*, between points in the U.S. in and east of MT, WY, CO, and NM, under continuing contract(s) with Ford Motor Company, Ford Tractor Operations, Troy, MI. (Hearing site: Atlanta, GA.)

MC 133182 (Sub-4F), filed June 16, 1980. Applicant: JOSEPH H. IRBY and LEON E. CROENNE, a partnership d.b.a. MISSISSIPPI COAST LIMOUSINE SERVICE, P.O. Box 222, Gulfport, MS

39501. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *passengers and their baggage, express, newspapers and mail, in special operations,* between points in Hancock, Harrison and Jackson Counties, MS, on the one hand, and, on the other, New Orleans, LA, the New Orleans, LA, International Airport, points in St. Tammany Parish, LA, Mobile, AL, and the Mobile Airport, restricted to traffic having a prior or subsequent movement by air. (Hearing site: Gulfport or Biloxi, MS.)

MC 136343 (Sub-219F), (correction), filed May 2, 1980, published in the Federal Register, issue of July 10, 1980, and republished, as corrected, this issue. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting *floor coverings and equipment, materials, and supplies* used in the manufacture, distribution, installation, and maintenance of floor covering (except commodities in bulk), between the facilities of Armstrong World Industries, Inc., at or near Lancaster, PA and East Hempfield Township, Lancaster County, PA, Kankakee, IL and Jackson, MS, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at the named origins or destined to the indicated destinations.

Note.—The purpose of this republication is to correctly state the name of the shipper.

MC 136713 (Sub-23F), filed June 16, 1980. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Road NE., Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2-A, Grand Rapids, MI 49503. Transporting *liquified petroleum gas,* in bulk, in tank vehicles, from the port of entry of the International Boundary Line between the United States and Canada, at or near Port Huron, MI, to points in IL. (Hearing site: Lansing or Detroit, MI, or Chicago, IL.) (Condition: Any certificate issued shall be limited to a period of 5 years from its date of issuance.)

Note.—Dual operations may be involved.

MC 138772 (Sub-9F), filed June 12, 1980. Applicant: ALL WAYS FREIGHT LINES, INC., 215 North 18th, Leavenworth, KS 66048. Representative: Marvin D. Robertson, P.O. Box 2426, Kansas City, KS 66110. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Beatrice, NE, and Marysville, KS, serving all intermediate points, from Beatrice, NE, over NE Hwy 4 to jct NE Hwy 103, then over NE Hwy 103 to NE Hwy 41, then over NE Hwy 41 to U.S. Hwy 81, then over U.S. Hwy 81 to KS Hwy 9, then over KS Hwy 9 to KS Hwy 15, then over KS Hwy 15 to U.S. Hwy 36, then over U.S. Hwy 36 to Marysville, KS, and return over the same route; (2) Between Marysville, KS, and Belleville, KS, over U.S. Hwy 36, serving all intermediate points between Beatrice, NE, and Hebron, NE over U.S. Hwy 136, serving all intermediate points; (4) between the junction of NE Hwy 15 and NE Hwy 41 and the junction of KS Hwy 15W and U.S. Hwy 36, over NE Hwy 15–KS Hwy 15W, serving all intermediate points; (5) serving off-route points in Marshall, Washington, Republic, and Cloud Counties, KS, and off-route points in Jefferson and Thayer Counties, NE, and those in Fillmore and Saline Counties, NE, lying south of NE Hwy 41, east of U.S. Hwy 81 and west of NE Hwy 103; and (6) between Leavenworth, KS, and St. Joseph, MO, as an alternate route for operating convenience only, from Leavenworth, KS, over KS Hwy 92 to junction MO Hwy 45, then over MO Hwy 45 to junction with U.S. Hwy 59, then over U.S. Hwy 59 to St. Joseph, MO, and return over the same route. Applicant intends to join this authority at Marysville, St. Joseph, MO, and Beatrice, NE, with present authority. (Hearing site: Kansas City, MO.)

MC 139112 (Sub-21F), filed June 10, 1980. Applicant: ALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, PA 18708. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting (1) *pools, toys, and lawn and garden furniture and parts and accessories* for the foregoing commodities and (2) *plastic articles, paint and paint products, and materials, equipment and supplies* used in the manufacture, sale and distribution of the foregoing commodities, between points in the U.S. (except AK and HI). (Hearing site: Harrisburg, PA or Washington, DC.)

MC 139552 (Sub-1F), filed June 19, 1980. Applicant: R.L.C. TRUCKING, INC., 21 Edythe Lane, Peabody, MA 01960. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting *such commodities as are used or dealt in by wholesale and retail grocery and department stores and food business houses* (except in bulk), between Augusta and Portland, ME, and Lawrence, MA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MO, NJ, NY, NC, OH, PA, SC, TN, TX, and VA. (Hearing site: Boston, MA.)

MC 140243 (Sub-12F), filed June 17, 1980. Applicant: APPLE HOUSE, INC., 3726 Birney Ave., Scranton, PA 18505. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Transporting *rope, synthetic cording and strapping and tools, seals and buckles used with synthetic strapping, oakum and packing and synthetic twine* (1) from Honesdale, PA, to New Orleans, LA, and Jacksonville and Tampa, FL, (2) from New Orleans and Lafayette, LA, to Jacksonville and Tampa, FL, and (3) from Lafayette, LA, to Honesdale, PA. (Hearing site: Wilkes Barre, PA.)

MC 141962 (Sub-2F), filed June 11, 1980. Applicant: NORTHEAST REFRIGERATED DISTRIBUTION CO., INC., 1650 Shawsheen Street, Tewksbury, MA 01876. Representative: Joseph M. Klements, Richardson & Tyler, 84 State St., Boston, MA 02109. Transporting (1) *meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as described in Section A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, *61 M.C.C. 209 and 766 (except commodities in bulk),* in vehicles equipped with mechanical refrigeration, and (2) *food and food products,* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Northeast Refrigerated Distributing Co., Inc., at or near Tewksbury, MA, to points in RI. (Hearing site: Boston, MA.)

MC 142672 (Sub-145F), filed June 13, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 27701. Transporting *such commodities* as are dealt in by wholesale and retail food business houses, (except in bulk, in tank vehicles), from the facilities utilized by Lever Brothers Company at or near St. Louis, MO, to points in AR, IA, LA, NE, TN and TX. (Hearing site: St. Louis, MO or Ft. Smith, AR.)

MC 143702 (Sub-14F), filed June 16, 1980. Applicant: ALL FREIGHT SYSTEMS, INC. (a Kansas corporation), 1026 South 10th Street, Kansas City, KS 66106. Representative: Donald J. Quinn, Attorney at Law, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Transporting *canned goods,* from the facilities of Lakeside Packing Company at Manitowoc, WI, and Plainview, MN, to points in AZ, CO, KS, LA, MO, MS, NE, NM, OK and TX. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 143702 (Sub-15F), filed June 18, 1980. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66106. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Transporting *candles and candles in containers and metal holders,* from the facilities of Muench-Kreuzer Candle Company at Liverpool, NY, on the one hand, and, on the other, points in CO, IA, KS, MN, MO, NE and ND. (Hearing site: Syracuse, NY.)

Note.—Dual operations may be involved.

MC 143702 (Sub-16F), filed June 16, 1980. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66106. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Transporting *canned goods and non-alcoholic mixes* (except in bulk), from the facilities of Master of Mixes, Inc., at Byhalia, MS, to points in IA, IL, IN, KS, MI, MN, NE, MO and OH, restricted to traffic originating at the facilities of Master Mixes, Inc., at Byhalia, MS, and destined to the named points. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 144572 (Sub-42F), filed June 13, 1980. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th Street, Denver, CO 80202. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Los Angeles, CA, to Salt Lake City, UT, and Denver, CO, restricted to traffic moving on bills of lading of freight forwarders. (Hearing site: New York, NY, or Denver, CO.)

Note.—Dual operations may be involved.

MC 144603 (Sub-8F), filed June 16, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). Transporting *paper and paper products, and materials, equipment, and supplies* used in the manufacture and sale of foregoing commodities, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by American Pad and Paper Co. (Hearing site: St. Louis, MO or Washington, DC.)

MC 145102 (Sub-64F), filed June 16, 1980. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting *canned goods and pet food* from Terminal Island, CA, to points in IL, IN, MN, OH, OR, UT, WA, and WI. (Hearing site: Madison, WI or Terminal Island, CA.)

MC 146032 (Sub-8F), filed June 17, 1980. Applicant: SKYCAB, INC., 137 North 4th Street, Philadelphia, PA 19106. Representative: Steven M. Tannenbaum, Esquire, 135 North 4th Street, Philadelphia, PA 19106. Transporting *medical test kits,* between the facilities of Roche Diagnostics at Belleville, NJ, and points in the U.S. (except AK and HI). (Hearing site: Philadelphia, PA.)

MC 146643 (Sub-49F), filed June 16, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Marc J. Blumenthal, 39 S. LaSalle St., Chicago, IL 60628. Contract carrier, transporting *foodstuffs,* except in bulk, from the facilities of Fearn International, Inc., at Franklin Park, IL, to points in IN, IA, KS, MI, MN, MO, OH, PA, and WI, under continuing contract(s) with Fern International, Inc. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 146643 (Sub-50F), filed June 16, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60628. Contract carrier, transporting *paper and paper products, and materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between the facilities of International Paper Compnay at or near Indianapolis, IN, on the one hand, and, on the other, points in IL, KS, MI, MN, MO, NY, OH, OK and PA, under continuing contract(s) with International Paper Co. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 146892 (Sub-13F), filed June 10, 1980. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, Classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Brown, Clinton, Fayette and Highland Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to points in Brown, Clinton, Fayette, and Highland Counties, OH. (Hearing sites: Columbus or Cincinnati, OH.)

MC 147042 (Sub-2F), filed June 16, 1980. Applicant: SEARS TRUCKING, INC., 8023 East Slauson Avenue, Montebello, CA 90640. Representative: Robert Evans (same address as applicant). Transporting *brass, bronze, and copper, strips, bars, rods, and tubing,* from points in AZ and NV. (Hearing site: Los Angeles or Santa Ana, CA.)

MC 147312 (Sub-2F), filed June 16, 1980. Applicant: DALOR TRANSIT, INC., 7520 Ryan Road, Franklin, WI 53132. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Contract carrier, transporting *printed matter,* from the facilities of Moebius Printing Co. at Milwaukee, WI, to points in MI, OH, IN, IL, IA and MN, under continuing contract(s) with Moebius Printing Co. (Hearing site: Chicago, IL or Milwaukee, WI.)

MC 148083 (Sub-3F), filed June 9, 1980. Applicant: SELLARS TRANSPORT SERVICE, 1620 Parnell Drive, Eugene, OR 97404. Representative: Robert W. Sellars (same address as applicant). Transporting *pneumatic filter systems, bins and conveyors, veneer stackers, and pipe and parts and accessories* for the foregoing commodities, from the facilities of Clarke Sheet Metal Inc., at Eugene, OR, to points in the U.S. (except AK and HI). (Hearing site: Eugene, OR.)

MC 147462 (Sub-1F), filed June 16, 1980. Applicant: CLAYTON H. TEN PAS, d.b.a. C. H. TEN PAS TRANSPORT, Route 1, Plymouth, WI 53073. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Contract carrier, transporting *liquid concrete additives,* bulk, in tank vehicles, from Port Washington, WI, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, and TX, under continuing contract(s) with Sika Chemical Corporation, of Lyndhurst, NJ. (Hearing site: Milwaukee, WI.)

MC 148362 (Sub-4F), filed June 11, 1980. Applicant: HAR-BET, INC., 7209 Tara Boulevard, Jonesboro, GA 30236. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Rd., NE., Atlanta, GA 30326. Contract carrier, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Gulf Atlantic Distribution Services at New Orleans, LA, Houston and Arlington, TX, Memphis, TN, Birmingham, AL, Charlotte, NC, Greenville, SC, Denver, CO, and Seattle and Spokane, WA, on

V. 45 / 154 AUG 7 80 UMI

the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Gulf Atlantic Distribution Services. (Hearing site: Atlanta, GA.)

MC 148502 (Sub-3F), filed June 13, 1980. Applicant: L. F. CARTER, INC., Field Avenue, P.O. Box 224, Pittsford, VT 05763. Representative: Jack R. Abell, 27 South Main Street, P.O. Box 782, Rutland, VT 05701. *Contract carrier,* transporting (1) *dry reclaimed alumina oxide,* in bulk, from Worcester, MA, to Proctor, VT, and (2) *limestone ground products* (except in bulk, in tank vehicles), from the facilities of OMYA, Inc., at Florence, VT, to points in ME, NH, NY, MA and CT, under continuing contract(s) in (1) with Vermont Marble Company, and in (2) with OMYA, Inc. (Hearing site: Rutland or Burlington, VT.)

MC 148632 (Sub-1F), filed June 16, 1980. Applicant: DIXON LEASING CO., INC., a corporation, 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Robert B. Einhorn, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19102. Transporting *paper* and *paper products,* and *equipment, materials, and supplies* used in the manufacture and distribution of the foregoing commodities, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of the Scott Paper Company. (Hearing site: Philadelphia, PA or Washington, DC.).

MC 150052 (Sub-1F), filed June 13, 1980. Applicant: SEAPORT TRANSPORTATION COMPANY, 312 West End, Detroit, MI 48209. Representative: Alex J. Miller, Fabrizio, Miller & Graham, P.C., 1520 N. Woodward Ave., P.O. Box 244, Bloomfield Hills, MI 48013, (313) 642–1012. Contract Carrier, transporting *self contained room air conditioners,* between Jonesville and Detroit, MI, restricted to traffic having a prior or subsequent movement by rail, under continuing contract(s), with York Division, Borg Warner Corp. (Hearing site: Detroit or Lansing, MI, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 150292 (Sub-1F), filed June 16, 1980. Applicant: PITTS TRUCKING, INC., R.R. No. 2, Hutchinson, KS 67501. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L2 Topeka, KS 66612. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides), from the facilities of DPM of Kansas, Inc. at or near Wichita, KS, to points in OR, CA, and WA. (Hearing site: Kansas City, MO.)

MC 150322 (Sub-1F), filed June 16, 1980. Applicant: WILLIAM NOEL, d.b.a. GREGORY MOTOR EXPRESS, 1221 West Madison St., Chicago, IL 60607. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. Transporting *store, tavern, and restaurant fixtures and equipment,* between points in WI, IN, IL, IA, MI, MO, OH, KY and MN. (Hearing site: Chicago, IL.)

MC 150512 (Sub-1F), filed June 18, 1980. Applicant: B & M TRANSIT, INC., Route 603, Plymouth, OH 44865. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Contract carrier transporting *fresh meats* between the facilities of The Dicillo Corp. at Cleveland, OH on the one hand, and, on the other, points in MA, MD, NJ, NY, and PA, under continuing contracts with The Dicillo Corp., of Cleveland, OH. (Hearing site: Cleveland, OH.)

Volume No. 296

Decided: June 26, 1980.

By the Commission Review Board No. 1. Members Carleton, Joyce and Jones.

MC 107012 (Sub-556F), filed June 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801, (219) 429–2110. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: parts, materials and supplies used in the manufacture of toys and games (except commodities in bulk and commodities which because of size or weight require the use of specialized equipment), from the facilities of Mattel Toys located at or near Edison and South Plainfield, NJ, to Canonsburg and Houston, PA to points in Los Angeles and Orange Counties, CA, and from the facilities of Mattel Toys located in Los Angeles and Orange Counties, CA, to Edison and South Plainfield, NJ and Canonsburg and Houston, PA. (Hearing sites: Los Angles, CA, or Washington, DC.)

Note.—Common control may be involved.

MC 107012 (Sub-557F), filed June 25, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801, (219) 429–2110. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: absorbent cotton, cotton or rayon balls, and bandages or dressings, from the facilities of National Patent Development Corporation located at or near Dayville, CT to points in the United States (except AK, HI and CT). (Hearing sites: Hartford, CT, or Washington, DC.)

Note.—Common control may be involved.

MC 107012 (Sub-558F), filed June 24, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801, (219) 429–2110. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Vending machines, and such commodities as are sold in or used in conjunction with vending machines, and parts for vending machines* between the facilities of Fawn Sales Corp. located at or near Des Moines, IA, on the one hand, and, on the other, points in AZ, CA, CO, NV, NM, OK, OR, TX, UT, WA, NC, VA, KY, TN, AR, ID, MN and KS.

MC 107012 (Sub-562F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Forty Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). transporting *furniture and parts for furniture,* from the facilities of Burlington Industries Inc., Burlington Furniture Division, at or near Robbinsville, NC, to points in IN, IL, MI, MN, NY, OH, and PA.

MC 107012 (Sub-563F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Forty Wayne, IN 46801. Representative: Bruce W. Boyarko, P.O. Box 988, Fort Wayne, IN 46801, (219) 429–2224. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) dried, silk, and plastic flowers and foliage; dried, silk, and plastic flower arrangements, and (2) decorations, accessories, supplies, and materials used in the manufacture, assembly, and distribution of the commodities named in (1) above, from Atlanta, GA; New Albany, IN; Bolivar, MO; and Dallas, TX to points in AR, GA, IL, IN, IA, MN, NE, TX, and WI. (Hearing sites: Springfield, MO or Washington, DC.)

Note.—Common control may be involved.

MC 107012 (Sub-564F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Forty Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). Transporting *tires and tire tubes,* from

Conshohocken, Frazer, Montgomery Ville, Norristown, and Royersford, PA, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, SC, TN, VA, WV, and WI.

MC 107012 (Sub-565F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Forty Wayne, IN 46801. Representative: Bruce W. Boyarko. Transporting *books,* from the facilities of Encyclopaedia Britannica Inc., at (a) Chicago, IL, (b) Willard, OH, and (c) Kingsport, TN, to points in the U.S. (except AK and HI).

MC 119522–49F, filed June 25, 1980. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and Petroleum Products, automotive chemicals, and cleaning compounds,* and such equipment, materials, and supplies, as are used by automotive service centers (except in bulk). Between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc. located at Willow Springs, IL on the one hand, and, on the other, points in AR, CO, IN, IA, KY, KS, LA, MI, NM, MO, MT, NE, MN, ND, OH, OK, PA, SD, TN, TX, WI and WY. restricted to traffic originating at or destined to named facilities. should a hearing be deemed necessary, applicant requests it be held in Chicago, IL or Washington, D.C.

MC 119632 (Sub-118F). Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). Transporting: *Animal and pet foods, (except frozen or in bulk)* between the facilities of Benco Pet Foods, Inc., at Zanesville, OH and points in the states of DC, DE, IL, IN, KY, MD, MI, MO, NJ, NY, PA, VA, and WV. Restricted to shipments originating at or destined to facilities of Benco Pet Foods, Inc. (Hearing site: Columbus, OH.)

MC 119632 (Sub-119F). Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). Transporting Foodstuffs (except frozen or in bulk) from the facilities of D'Amico Company at Steger and Park Forest, IL to points in the states of DE, IN, KY, MD, MI Commercial Zone of St. Louis, MO, NJ, NY, OH, PA, VA, WV and DC. (Hearing site: Chicago, IL.)

MC 119632 (Sub-120F). Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence, 634 Ralston Avenue, Defiance, OH 43512. Transporting *Such commodities as are dealt in by grocery and food business houses (except frozen or in bulk),* from Milton, PA to points in the states of KY, NY and OH. Restricted to traffic originating at facilities of American Home Foods and destined to the named states. (Hearing site: New York, NY or Washington, DC.)

MC 119632 (Sub-121F), filed June 27, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). Transporting *Toilet preparations,* from St. Louis, MO. to points in MD, MI, NY, and PA, restricted to traffic originating at the facilities of Vi-Jon Laboratories, Inc.

MC 124692 (Sub-336F), filed June 30, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT. 59806. Representative: J. David Douglas (same address as applicant). Transporting *Modular panels* from Centralia, IL to points in the United States (including AK and HI). (Hearing site: Chicago, IL or St. Louis, MO.)

MC 124813 (Sub-226), filed June 9, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Commodities used in the construction and operation of soybean processing plants and power generating plants, from points in the United States (except AL and HI) to Eagle Grove, IA. (Hearing site: St. Paul, MN; Omaha, NE.)

MC 126822 (Sub-96F), filed June 25, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt (same as applicant). *Foodstuffs* from Laredo, TX, to points in CA, CO, FL, IL, IN, KS, MO, NE, NJ and NY. Supporting shipper: A.T.M. Gamesa, P.O. Box 188, Laredo, Texas 78040.

MC 126822 (Sub-97F), filed June 26, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt (same as applicant). *Paper and paper articles* between the facilities of Texas Stock Tab, Inc. at Dallas, TX, on the one hand, and points in the United States (except AK and HI) on the other. Supporting shipper: Texas Stock Tab, Inc., 8808 Sovereign Row, Dallas, Texas 75247.

MC 126822 (Sub-98F), filed June 26, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, Kansas 66061. Representative: John T. Pruitt (same as applicant). *Wooden doors, wooden screens, wooden blinds, compressed wood fire logs and other wood products* from Fort Worth and Mt. Pleasant, TX, to points in AL, AR, GA, KS, MO, NC, OK and TN. Supporting shipper: McLeland-Harris Door Company, Inc., P.O. Box 11482, Fort Worth, Texas 76109.

MC 129032 (Sub-127F), filed June 23, 1980. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, Oklahoma 74121. Representative: Mr. John P. Fischer, Silver, Rosen, Fischer & Stecher, 256 Montgomery Street, 5th Floor, San Francisco, CA 94104. Common carrier, irregular routes, transporing *canned and preserved foodstuffs from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to points in AR, KS, LA, MO, OK, TN and TX, restricted to traffic originating at the named facilities and destined to the named States.* Supporting shipper: Heinz USA, Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. (Hearing site: Pittsburgh, PA or St. Louis, MO.)

MC 134922 (Sub-329F), filed June 23, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, Classes A and B explosives and those which because of size or weight require the use of special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Velsicol Chemical Corporation.

Note.—Applicant states the purpose of this Application is to replace interline service it is presently providing (in part) in conjunction with other carriers.

MC 134922 (Sub-330F), filed June 27, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *such commodities* as are dealt in by retail and discount department stores (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Dayton-Hudson Corporation and its divisions.

MC 134922 (Sub-331F), filed June 27, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting *Wine and Brandy and*

materials and supplies used in the manufacturing and distribution of Wine and Brandy (except in bulk), between points in the U.S. (except AK and HI), restricted to traffic moving from, to or through the facilities of Paul Masson Vineyards.

Note.—Common control may be involved. If a hearing is deemed necessary, it is requested it be held at San Francisco, CA or Little Rock, AR.

MC 134922 (Sub-332F), filed June 27, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Potatoes, fresh frozen or cooked frozen and Potatoes, cooked, diced, flaked, sliced, other than frozen*, from Quincy, Richland, and Connell, WA, Hermiston, OR, American Falls, ID, and Clearfield, UT to Moline and Rock Island, IL and points in IA.

Note.—Common control may be involved. If a hearing is deemed necessary, it is requested it be held at Chicago, IL or Little Rock, AR.

MC 141532 (Sub-80F), filed June 25, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting commodities of the type dealt in or used by manufacturers of heating and cooling systems (except in bulk), and *solar energy heating and cooling systems*, between points in the U.S. (except AK and HI). Restricted to shipments originating at or destined to the facilities of Lennox Industries. (Hearing site: Dallas, TX.)

MC 141532 (Sub-82), filed July 1, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting *flat glass*, from the facilities of PPG Industries, Inc., located at Cumberland, MD and Crystal City, MO to points in WA, OR, ID, MT, CA, NV, AZ, UT, CO and WY. (Hearing site: Los Angeles, CA.)

MC 141532 (Sub-83), filed June 17, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting *iron and steel articles and construction equipment, materials and supplies* from KS, OK, TX, NM, UT, AZ and CA to points in CA, AZ, OR, WA, NV, ID, UT and MT. (Hearing site: Los Angeles, CA.)

MC 142672 (Sub-150), filed June 30, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *clothing, NOI*—from the facilities of Sidney Bernstein & Son, at or near Lancaster, PA—to points in AZ, CA, MO, NM, NV, OK, OR, TX and WA. (Hearing site: Philadelphia, PA or Ft. Smith, AK.)

MC 142672 (Sub-151), filed June 30, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *foodstuffs* (except in bulk), from the facilities of Anderson Clayton Foods, at or near Sherman, TX, to Memphis, TN, and points in AR, LA, MS, and OK.

MC 144122 (Sub-75F), filed June 26, 1980. Applicant: CARRETTA TRUCKING, INC., S 160 Route 17, Paramus, NJ 07652. Representative: Joseph Carretta, President, S 160 Route 17, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *toilet preparations and health and beauty aids* (except in bulk), from Northvale, NJ to points in GA and IL.

MC 144572 (Sub-45F), filed June 30, 1980. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *malt beverages*, from St. Paul, MN, San Antonio, TX, Omaha, NE, and Tumwater, WA, to the facilities of Murray Brothers Distributing Company, at Denver, CO.

MC 145042 (Sub-6F), filed June 25, 1980. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th St., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting, *vetetable oil*, in bulk, in tank vehicles, from the facilities of Cargill, Incorporated, at or near Chicago, IL, to points in IL, IN, KY, MI, and OH.

MC 145722 (Sub-2F), filed July 1, 1980. Applicant: REM LEASING, INC., 114 Royal Road, Jamestown, NC 27282. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street N.W., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile products and materials used in the manufacture thereof*, from points in NC and SC to Atlanta, GA; Tulsa, OK and points in CA. (Hearing site: Atlanta, CA.)

MC 145782F (Sub-4F), filed July 1, 1980. Applicant: MERCHANTS HOME DELIVERY SERVICE OF TEXAS, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, Morgan Brown & Schneider, P.O. Box 1540, Edmond, OK 73034. *New furniture, furnishings and appliances*, from the facilities of Levitz Furniture Corporation of the Pacific at or near Milwaukee, OR to points in Cowlitz, Clark and Skamania counties, WA, for 180 days. An underlying temporary authority is pending. (Hearing site: Miami, FL; Ft. Lauderdale, FL.)

MC 146343 (Sub-9F), filed March 18, 1980. Applicant: SOUTHERN EXPRESS CORPORATION, 308 South Ocean Blvd., Pompano, FL 33062. Representative: Mr. Daniel Sumner, 131 Airport Rd., Warwick, RI 02889, 401–739–0333. *Contract carrier*, Transporting *garden supplies, machinery and equipment; agricultural products as garden supplies:* Between Providence RI and Points in the U.S. (except AK and HI) under a continuing contract or contracts with the Crawford Garden Supplies Company of Providence, RI. (except in bulk). (Hearing site: preferred: Washington DC; alternate: Florida.)

MC 146402 (Sub-23), filed July 1, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske, (address same as applicant). Authority granted to engage in operations in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, transporting: *Wooden Reels* between the facilities of Wood Fabricators, Inc. at Yelm, WA and points in the United States (except Alaska and Hawaii). Restricted to traffic originating at or destined to facilities owned, utilized, or operated by Wood Fabricators. (Hearing site: Atlanta, Georgia or Washington, DC.)

MC 148392 (Sub-3F), filed May 8,1980. Applicant: SERVICE TRANSPORT, INC., P.O. Box 2749, Cookeville, Tennessee 38501. Representative: James Clarence Evans, Attorney, 1800 Third National Bank Building, Nashville, Tennessee 37219. General commodities, with the exception of household goods, classes A and B explosives, commodities in bulk, and those requiring specialized equipment, over the following described routes, all of which

are to be used in conjunction with each other and with other authority which applicant may hold: (a) Between Crab Orchard, Tennessee and Memphis, Tennessee via Interstate Hwy. 40, and serving all intermediate points between Crab Orchard and the junction of Interstate Hwy. 40 and TN Hwy. 56, and serving Nashville, Tennessee for the purpose of joinder only. (b) Between Cookeville, Tennessee and Jamestown, Tennessee over the following described route: From Cookeville, TN, via TN Hwy. 42 to the junction of TN Hwy. 52, thence TN Hwy. 52 to Jamestown and return over the same route, serving all intermediate points. (c) Between Monterey, Tennessee and Livingston, Tennessee, via TN Hwy. 84, serving all intermediate points. (d) Between Crossville, Tennessee and Jamestown, Tennessee, via U.S. Hwy. 127, serving all intermediate points. (e) Between Monterey, Tennessee and Clarkrange, Tennessee, via TN Hwy. 62, serving all intermediate points. (f) Between Crab Orchard, Tennessee and Cookeville, Tennessee over the following described route: From Crab Orchard, TN to Crossville, TN via U.S. Hwy. 70, thence via U.S. Hwy. 70N to Cookeville and return over the same route, serving all intermediate points. (g) Between Spencer, Tennessee and Cookville, Tennessee, via TN Hwy. 111, serving all intermediate points. (h) Between Fall Creek Falls State Park and the junction of TN Hwy. 30 and U.S. Hwy. 70S, near McMinnville, TN, via TN Hwy. 30, serving all intermediate points. (i) Between Sparta, Tennessee and McMinnville, Tennessee, via U.S. Hwy 70S, serving all intermediate points. (k) Between McMinnville, Tennessee and the junction of TN Hwy. 56 and Interstate Hwy. 40, via TN Hwy. 56, serving no intermediate points and serving the said junction for joinder only. (l) Between McMinnville, Tennessee and Nashville, Tennessee over the following described route: From McMinnville via TN Hwy. 55 to its junction with Interstate Hwy. 24, thence via Interstate Hwy. 24 to Nashville and return over the same route, serving all intermediate points between McMinnville and Morrison, Tennessee, including Morrison, and serving Nashville for the purpose of joinder only. The authority sought includes all of the commercial zones of all points, irrespective of the states in which a portion thereof might lie. All the foregoing shall include authority to tack or join any of these aforesaid routes, or portions thereof, at intersections between any of them, and also authority over any convenient streets and highways between any point on Interstate Hwy. 40 and any point at which service is otherwise authorized, but with no authority to serve any intermediate point along such streets and highways unless otherwise authorized. Authority includes authority to interline.

MC 148432 (Sub-2F), filed May 27, 1980. Applicant: MARGO TRANSPORT, INC., 1317 East Scott, Olney, IL 62450. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier*, transporting: *Paper, paper products, and materials and supplies* used in the manufacture and distribution of paper products (except in bulk), between Fenton, MO on the one hand, and on the other, points in AR, IL, IN, IA, KY, KS and TN under continuing contract(s) with: Inland Container Corporation of: 151 North Delaware, Indianapolis, IN 46206. (Hearing site: St. Louis, MO; Chicago, IL.)

MC 148732 (Sub-3F), filed June 30, 1980. Applicant: L & J TRUCKING, INC., P.O. Box 1325, Wisconsin Rapids, WI 54494. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities* as are dealt in or used by manufacturers, converters, printers and distributors of paper and paper products (except commodities in bulk), from points in Wood and Portage County, WI to points in AZ, CA, CO, ID, MT, WV, NM, OR, UT, WA and WY.

MC 150942 (Sub-1F), filed June 11, 1980. Applicant: STAGE COACH LEASING CO., INC., d.b.a. STAGE COACH CHARTERING SERVICES CO., 3536 Windermere Drive, Hephzibah, GA 30815. Representative: Jeffrey Kohlman, Born, Kohlman & Duvall, P.C., Suite 508, 1447 Peachtree Street, NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage*, in charter and special operations, in round-trip movements, beginning and ending at points in Richmond County, GA, and Aiken and Orangeburg Counties, SC, and extending to points in AL, FL, GA, LA, MS, NC, SC, TN, VA and DC. (Hearing site: Augusta, GA or Atlanta, GA.)

MC 150952 (Sub-1F), filed June 23, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K St., NW., Suite 300, Washington, DC 20006. *Contract carrier*, transporting *dairy products*, between points in UT, and those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX, under continuing contract(s) with Cheese Specialties Services, Inc., of Wisconsin Rapids, WI.

MC 151072F, filed June 16, 1980. Applicant: NORTH CANTON TRANSFER CO., 7836 Freedom Ave., N. Canton, OH 44720. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. *Petroleum products*, from Freedom, McKees Rocks, and Washington, PA, and Congo, WV, to points in OH, PA on and west of U.S. Hwy. 219, and points in WV on and north of Interstate Hwy. 70. (Hearing site: Columbus, OH; Pittsburgh, PA; or Washington, DC.)

MC 151142F, filed June 24, 1980. Applicant: H & H TRANSPORTATION, INC., 1425 East Main ST., Newark, OH 43055. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *containers*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of containers (except commodities in bulk), between Bridgewater, NJ, on the one hand, and, on the other, points in OH, IN, KY, WV, PA, and those in the Lower Peninsula of MI.

MC 151142 (Sub-1F), filed June 24, 1980. Applicant: H & H TRANSPORTATION, INC., 1425 East Main ST., Newark, OH 43055. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *Plastic and plastic articles* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Newark, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before September 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set

V 45 / 154 AG 7 80 UMI

forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before September 8, 1980, or the application shall stand denied.

By the Commission, Review Board Number, Members.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 300

Decided: July 17, 1980.

By the Commission, Review Board No. 2, Members Chandler, Liberman, and Eaton.

FF 252 (Sub-6F), filed May 19, 1980. Applicant: CHI-CAN FREIGHT FORWARDING. LTD., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. *Freight forwarder,* in foreign commerce, through the use of rail and motor carriers, transporting *general commodities* (except commodities in bulk, motor vehicles, used household goods, classes A and B explosives, and unaccompanied baggage), between ports of entry on the international boundary line between the U.S. and Canada in MN, MT, and ND, on the one hand, and, on the other, points in NC, restricted to import and export traffic only.

FF 252 (Sub-7F), filed June 24, 1980. Applicant: CHI-CAN FREIGHT FORWARDING, INC., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. Freight forwarding, in interstate commerce, through the use of rail and water carriers, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, motor vehicles, unaccompanied baggage, commodities in bulk, and those requiring special equipment) between ports of entry, on the international boundary line, between the U.S. and Canada in MN, MT, ND, MI, NY, VT, NH, and ME, on the one hand, and, on the other, points in NC, FL, SC, GA, KY, TN, AL, and AR, restricted to import-export traffic only.

MC 732 (Sub-16F), filed June 3, 1980. Applicant: ALBINA TRANSFER CO., INC., 4320 N. Suttle Rd., Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except classes A and B explosives), in cargo containers, between points in OR, WA, ID, CA and MT, restricted to traffic having a prior or subsequent movement by water.

MC 2232 (Sub-15F), filed June 23, 1980. Applicant: CREGER FREIGHT LINES, INC., a NJ corporation, Old Tyburn Rd. and Corbin Lane, Morrisville, PA 19067. Representative: Daniel C. Sullivan, Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of foodstuffs or pet foods (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Nabisco, Inc.

MC 3062 (Sub-53F), filed June 20, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Ave., Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Wayne City, IL as an off-route point in connection with carriers otherwise authorized regular route operations.

MC 14702 (Sub-86F), filed June 23, 1980. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting (1) *electrical wiring harnesses,* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of electrical wiring harnesses (except commodities in bulk), between the facilities of the General Motors Corporation, Packard Electric Division, in OH, on the one hand, and, on the other, the facilities of General Motors Corporation, Packard Electric Division, in TX. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file and application under 49 U.S.C. § 11343 or submit an affidavit indicating why such approval is unnecesary.

MC 52793 (Sub-65F), filed June 23, 1980. Applicant: BEKINS VAN LINES CO., NEW PRODUCTS DIVISION, a corporation, 3090 Via Mondo, Compton, CA 90221. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., 1800 United California Bank Bldg., Los Angeles, CA 90017. Transporting *new furniture and furnishings,* from Fall River, MA, to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 57992 (Sub-9F), filed June 25, 1980. Applicant: SEWELL MOTOR EXPRESS, INC., 149 South Mulberry St., Wilmington, OH 45177. Representative: Joe F. Asher, 88 East Broad St., Columbus, OH 43215. Transporting *gneral commodities* (except those of unusual value and classes A and B explosives), between Columbus, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, PA and WV, restricted to traffic having a prior or subsequent movement by rail.

MC 64932 (Sub-616F), filed June 19, 1980. Applicant: ROGERS CARTAGE CO., a corporation, 10735 So. Cicero Avenue, Oak Lawn, IL 60453. Representative: Carl L. Steiner, 39 So. LaSalle Street, Chicago, IL 60603. Transporting *Chemicals,* in bulk, in tank or hopper type vehicles, from the facilities of United States Steeel Corporation at or near Haverhill, OH, to points in the U.S. (except AK and HI).

MC 96813 (Sub-6F), filed March 10, 1980. Applicant: FISK TRUCKING & TRANSFER COMPANY, a corporation, 716 San Fernando Rd., P.O. Box 65978, Los Angeles, CA 90065. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *general commodities* (except household goods as defined by the Commission, automobiles, trucks, buses, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in Los Angeles County, CA. Condition: Issuance of this Certificate is subject to prior or coindidental cancellation, at applicant's written request, of Certificate of Registration No. MC–96813 (Sub-1), issued December 17, 1963.

MC 103993 (Sub-1057F), filed June 23, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *asphalt handling equipment,* from Kansas City, MO, to points in the U.S. (except AK and HI).

MC 107012 (Sub-559F), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *hunting and camping products,* from Henryetta, OK, to points in the U.S. (except AK and HI).

MC 107012 (Sub-560F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *such commodities* as are used in the operation of restaurants

(except commodities in bulk and those which because of size and weight require the use of special equipment), from points in Orange County, CA, to points in the U.S. (except AK and HI).

MC 107012 (Sub-561F), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *ranges, prefabricated fireplaces, and heaters,* and (2) *accessories and materials* used in the manufacture of the commodities in (1) above, (a) from points in the U.S. (except AK and HI), to Wisconsin Rapids and Stevens Point, WI, and San Bernardino, CA, and (b) from the facilities of Preway Inc., at San Bernardino, CA, to points in the U.S. (except AK and HI).

MC 107403 (Sub-1271F), filed October 1, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *liquid chemicals, in bulk, in tank vehicles,* from Cartersville, GA, to points in AR, and, TX, those in LA west of the Mississippi River, and those in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 108452 (Sub-10F), filed June 27, 1980. Applicant: ATWOOD'S TRANSPORT LINES, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at Baltimore, MD, and extending to points in the U.S. (including AK, but excluding HI).

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 110012 (Sub-74F), filed June 27, 1980. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Rd., Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting (1) *new furniture and furniture parts,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles) (a) between Houston, TX, on the one hand, and, on the other, points in LA, MS, and AR, (b) between Clifton, NJ, on the one hand, and, on the other, points in PA, MD, DE, and DC, (c) between Atlanta, GA, on the one hand, and, on the other, points in NC, VA, KY, TN, and SC, and (d) between Chicago, IL, on the one hand, and, on the other, points in IN and OH.

MC 112713 (Sub-294F), filed November 30, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same as applicant). Regular route, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Coldwater, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 112713 (Sub-306F), filed June 12, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: R. E. Delund (same address as applicant). Regular route, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between Nashville, TN Evansville, IN: from Nashville over U.S. Hwy 31W to Junction U.S. Hwy 231, then over U.S. Hwy 231 to Owenboro, KY, then over U.S. Hwy 60 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, and return over the same route, serving the intermediate point of Owensboro, KY.

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affadavit indicating why such approval is unnecessary.

MC 112822 (Sub-483F), filed July 1, 1980. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little St., Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). Transporting *plastic articles,* and (2) *materials* and *supplies* used in the manufacture of plastic articles, from Houston, TX, to points in the U.S. (except AK and HI).

MC 113362 (Sub-399F), filed July 1, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *such commodities* as are dealt in or used by retail stores (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, CO, and NM, restricted to traffic originating at or destined to the facilities of Ardan, Inc.

MC 114632 (Sub-289F), filed June 19, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, and VT, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of New England Shipping Association Cooperative and its members.

MC 115092 (Sub-110F), filed July 1, 1980. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Dr., St. Charles, IL 60174. Transporting (1) *building materials,* and (2) *equipment* and *supplies* used in the manufacture or distribution of the commodities in (1) above, on the facilities of the Celotex Corp., a Jim Walter Company, at Fremont, CA, to those points in the U.S. and west of MT, WY, CO, and NM (except AK and HI).

MC 119632 (Sub-122F), filed June 27, 1980. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). Transporting (1) *rubber products* (except commodities in bulk, in tank vehicles, and those which because of size or weight require the use of special equipment), from the facilities of B.F. Goodrich Company, at or near Woodburn, IN, to points in AL, GA, NC, OH, SC, and TN, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of rubber products (except commodities in bulk, in tank vehicles, and those which because of size or weight require the use of special equipment), in the reverse direction.

MC 121372 (Sub-9F), filed May 29, 1980. Applicant: EXPRESS TRANSPORT CO., INC., 1333 West Seventh St., Cincinnati, OH 45203. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting *pipe and pipe fittings, couplings, connectors, and accessories,* from the facilities of Armco, Inc., at Bowling Green, OH, to those points in the U.S. and east of ND, SD, NE, KS, OK, and TX.

V. 45 / 154 AG 7 80 UMI

MC 123872 (Sub-116F), filed June 30, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting (1) *cellulose wadding and padding* (2) *paper products,* and (3) *extruded plastic foam and film* (except commodities in bulk), from East Hartford, CT, Grenada, MS, Patterson, NC, and Paxinos and Lititz, PA, to those points in the U.S. in and west of MN, IA, NE, KS, OK, and TX.

MC 124212 (Sub-109F), filed June 27, 1980. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *cement,* in bulk, between points in CT, restricted to traffic having an immediately prior movement by rail.

MC 134922 (Sub-333F), filed June 25, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting (1) *such commodities* as are dealt in by home improvement centers, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Color Tile Supermart, Inc.

MC 136343 (Sub-221F), filed June 11, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting *paper and paper products,* between those points in the U.S. in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Simon Miller Sales Company, Inc.

MC 136713 (Sub-24F), filed June 23, 1980. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Rd. N.E., Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–A, Grand Rapids, MI 49503. Transporting *liquified petroleum gas,* in bulk, in tank vehicles, from Blue Island, IL, to points in MI, IN, and WI. Condition: Any certificate issued in this proceeding shall be limited in term to a period expiring 5 years from its date of issue.

MC 136713 (Sub-25F), filed June 23, 1980. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Rd. N.E., Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–A, Grand Rapids, MI 49503. Transporting *fertilizers,* from Burns Harbor, IN, to points in MI.

MC 138882 (Sub-370F), filed June 27, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *rubber articles and plastic articles,* (except commodities in bulk, in tank vehicles), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk, in tank vehicles) between points in the U.S. (except AK and HI).

MC 139663 (Sub-9F), filed June 23, 1980. Applicant: HASKINS & SON, INC., 815 Max Ave., Lansing, MI 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *scrap plastic materials,* in dump vehicles, from the facilities of Dow Chemical U.S.A., at or near Midland, MI, to points in OH.

MC 139863 (Sub-9F), filed June 23, 1980. Applicant: HASKINS & SON, INC., 815 Max Ave., Lansing, MI 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *scrap plastic materials,* in dump vehicles, from the facilities of Dow Chemical U.S.A., at or near Midland, MI, to points in OH.

MC 139892 (Sub-2F), filed June 23, 1980. Applicant: M.E. TRANSFER & STORAGE, INC., P.O. Box 1095, Moses Lake, WA 98837. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *petroleum products,* in containers, from Moses Lake, WA, to points in Hood River, Wasco, Crook, Jefferson, Dechutes, Wheeler, Gilliam, Sherman, Lake, Harney, Grant, Morrow, Umatila, Union, Wallowa, and Baker Counties, OR, and Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, and Idaho Counties, ID.

MC 139923 (Sub-63F), filed October 1, 1979. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer D, Stroud, OK 74079. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *household appliances and parts* for household appliances, from the facilities of The Maytag Company, at Newton, IA, to points in AZ, CA, CO, MT, NV, NM, TX, UT, and WY.

MC 141532 (Sub-81F), filed July 1, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting (1) *commodities* which because of size or weight require the use of special equipment, (2) *self-propelled vehicle* (except motor vehicles), (3) *metal articles,* (4) *pipe* (except meal) and *pipe fittings,* (5) *construction, road building, and mining equipment, materials, and supplies;* (6) *agricultural machinery and implements,* and (7) *lumber, lumber products, and wood products,* between points in OR, WA, UT, CA, ID, MT, CO, WY, AZ, and NV, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) through (7) above against the transportation of commodities in bulk, in tank vehicles, commodities of unusual value, and classes A and B explosives.

MC 141532 (Sub-84F), filed June 27, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy., Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *tanks, machinery, construction equipment, mining equipment, and commodities* which because of size or weight require the use of special equipment, between the facilities of Klein Products, Inc., at or near (a) Jacksonville, TX, and (b) Ontario, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141532 (Sub-85F), filed June 24, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a WA corporation, 10244 Arrow Hwy., Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting (1) *commodities* which because of size or weight require the use of special equipment, (2) *self-propelled vehicle* (except motor vehicles), (3) *metal articles,* (4) *pipe* (except meal) and *pipe fittings,* (5) *construction, road building, and mining equipment, materials, and supplies;* (6) *agricultural machinery and implements,* and (7) *lumber, lumber products, and wood products,* between points in OR, WA, UT, CA, ID, MT, CO, WY, AZ, and NV, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) through (7) above against the transportation of commodities in bulk, in tank vehicles, commodities of unusual value, and classes A and B explosives.

MC 142873 (Sub-6F), filed June 24, 1980. Applicant: D & W TRUCK LINES, INC., 209 First St., Parsons, WV 26287. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *adhesives, cleaning, preserving and sealing products, solvents, stains, plastic carpeting, carpet strip, and moldings, and equipment and supplies* used in the installation of the commodities (?) from Kalamazoo, MI, and Dayton, OH, to those points in the U.S. in and east of MT, WY, CO and NM.

MC 142873 (Sub-8F), filed May 29, 1980. Applicant: D & W TRUCK LINES, INC., 209 First St., Parsons, WV 26287. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *animal feed and animal feed ingredients,* except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Columbus, OH, and (b) Mattoon, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the above named facilities.

MC 143152 (Sub-7F), filed June 3, 1980. Applicant: HODGE TRUCKING COMPANY, a corporation, P.O. Box 386, Hoxie, AR 72433. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. Transporting *ground clay,* from Ripley, MS, and Ochlocknee, GA, to points in IL, IN, AR, IA, NE, KS, AL, TX, LA, OK, MN, WI, MO, TN, NC, and SC.

MC 143522 (Sub-4F), filed June 27, 1980. Applicant: CONSOLIDATED CARRIERS, INC., 123 Sunrise Dr., Irwin, PA 15642. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of McGraw-Edison.

MC 144293 (Sub-15F), filed June 23, 1980. Applicant: DUANE McFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005. Transporting *beverages* (except in bulk), between the facilities of Shasta Beverages, at (a) Columbus, OH, (b) Kansas City, KS, and (c) St. Louis, MO, on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, ND, SD and WI.

MC 141742 (Sub-13F), filed June 26, 1980. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111. Transporting (?) *lumber* from points in AZ, CA, and OR to Douglas, AZ, and the port of entry on the international boundary line between the U.S. and Mexico at Calexico, CA; and (2) in foreign commerce only, *box shook, moulding, millwork, and lumber products,* from the ports of entry on the international boundary line between the U.S. and Mexico at Douglas, AZ and Calexico, CA to points in AZ, UT, CO, MN, and CA.

MC 144572 (Sub-43F), filed June 30, 1980. Applicant: MONFORT TRANSPORTATION CO., a corporation, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting (1) *steel doors and steel door accessories,* (2)(a) *fireplaces, chimneys, and chimney assemblies,* and (b) *accessories and supplies* for the commodities in (2)(a) (except commodities in bulk), and (3)(a) *plumbing fixtures and fittings,* and (b) *accessories and supplies* for the commodities in (3)(a), (except commodities in bulk) from Cincinnati, Tiffin, and Salem, OH, Huntington, IN, Louisville, KY, and New Orleans, LA, to points in CO, restricted to traffic originating at the facilities of American Standard, Inc.

MC 144622 (Sub-177F), filed June 9, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J.B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *such commodities* as are dealt in or used by manufacturers of paper, (except commodities in bulk), between the facilities used by International Paper Co., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144622 (Sub-178F), filed June 30, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219 Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *foodstuffs* (except in bulk) between Birmingham, AL, Atlanta, GA, Starkeville, MS, Chester and Rock Hill, SC, Columbus and Van Wert, OH, Wellsboro, PA, Linden, NJ, Syracuse, NY, Pine Point, ME, Plymouth, WI, St. Paul, MN, Chicago and North Brook, IL, Los Angeles, CA, Dallas, TX, and Milwaukie, OR, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 144622 (Sub-179F), filed June 26, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *refractories, foundry supplies, and chemicals* (except commodities in bulk), (1) from Chicago, IL, to points in OR, WA, TX, and UT, and (2) from points in OR, WA and UT, to Cleveland, OH.

MC 144653 (Sub-2F), filed August 10, 1979. Applicant: A & D HITCHCOCK TRUCKING, INC., 2990 Gramer Road, Webberville, MI 48892. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier,* in foreign commerce only transporting *sunflower oil meal, soya bean oil meal, linseed oil meal,* and *rapeseed meal,* from the ports of entry on the international boundary line between the U.S. and Canada at Detroit, Port Huron, and Sault Ste. Marie, MI, to points in MI, under continuing contract(s) with Michigan Elevator Exchange, Division of Farm Bureau Services, Inc., of Lansing, MI.

MC 145102 (Sub-65F), filed June 27, 1980. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting *foodstuffs,* (1) from Le Mars, IA, Milwaukee, WI, Omaha, NE, and Mankato and Wichita, KS, to points in AZ, CA, NV, OK, OR, TX, UT, WA, and WI, and (2) from San Francisco, CA to points in AZ, IA, KY, OK and TX.

MC 145442 (Sub-2F), filed June 30, 1980. Applicant: COSSAIR MARINE, INC., 8217 Lankershim Boulevard, Suite 8, North Hollywood, CA 91605. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Transporting *boats and boating equipment, and accessories* for boats and boating equipment, between points in Orange County, CA on the one hand, and, on the other, points in OR, WA, MN, WI, IN, MI, OH, NY, RI, PA, ME, VT, NH, MA, CT, FL, NJ, DE, VA, NC, SC, GA, AL, MS, LA, TX, and MD.

MC 145812 (Sub-1F), filed May 7, 1980. Applicant: MARYLAND CONTINENTAL EXPRESS, INC., 129 Overhill Dr., Hagerstown, MD 21740. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier,* transporting (1) *veneer,* from Martinsburg, WV, to points in NY and VT, and (2) *lumber,* from Martinsburg, WV, to points in WA, OR, CA, ID, AZ, CO, KS, OK, TX, IL, MO, LA, MI, WI, OH, TN, MS, AL, GA, under continuing contract(s) in (1) and (2) with Erath Veneer Corporation.

MC 145872 (Sub-7F), filed May 19, 1980. Applicant: TREVIS BERRY TRANSPORTATION, a corporation, 655 Luchessa, P.O. Box 1802, Gilroy, CA 95020. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579. *Contract carrier,* transporting (1) *fibreboard, paper, and pulpboard products (2) materials and supplies used in the manufacture and distribution of fibreboard, paper and pulpbord products, and (3) waste paper products,* between the facilities of Crown Zellerbach Corporation, at or

V. 45 / 154
AG 7 80
UMI

near Antioch and Gilroy, CA, on the one hand, and, on the other, points in Carson City, Humboldt and Washoe Counties, NV, under continuing contract(s) with Crown Zellerbach Corporation.

MC 145912 (Sub-4), filed June 30, 1980. Applicant: TRUCK SERVICE, INC., 303 Vance St., Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier,* transporting *plastic containers and plastic container lids,* from the facilities of Genpak Corporation, at or near Forest City, NC, to points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, and DC, under continuing contract(s) with Genpak Corporation.

MC 146643 (Sub-51), filed June 19, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Joel H. Steiner, 39 South LaSalle St., Chicago, IL 60603. *Contract carrier,* transporting *refractory products,* and *steel mill and foundry supplies,* between Cleveland, OH, and Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX, under continuing contract(s) with Foseco, Inc., of Brookpark, OH.

MC 146782 (Sub-33), filed July 1, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Ave. South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. Transporting (1) *aluminum articles,* and (2) *equipment, materials and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of Alumax of South Carolina, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the named facilities.

MC 147323 (Sub-25), filed June 12, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers, distributors, and processors of iron and steel articles, between points in the U.S. (except AK and HI).

MC 148512 (Sub-3), filed June 26, 1980. Applicant: WESTERN TANK LINE, INC., 2222 North 11th St., Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *asphalt emulsion,* in bulk, in tank vehicles, from Alton, IA, to points in MN, SD, and NE.

MC 148542F, filed October 4, 1979. Applicant: KLINSTIVER'S, INC., R.R. 1, Elizabeth, IN 47117. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *sand, gravel dirt, crushed stone, and blacktop,* in dump vehicles, from points in Harrison and Floyd Counties, IN, to points in Jefferson, Beckinridge, Hancock, Hardin, Bullit, and Meade Counties, KY.

MC 149173 (Sub-2F), filed June 2, 1980. Applicant: NATIONAL EXPRESS, INC., 8138 Balson Ave., St. Louis, MO 63130. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting (1) *malt beverages,* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages (except commodities in bulk), between the facilities of Anheuser-Busch, Inc., on the one hand, and, on the other, Columbus, OH.

MC 149232 (Sub-1F), filed April 15, 1980. Applicant: MARION D. DAY d.b.a. DAY'S EXPRESS, 1942 7th St., Columbus, IN 47201. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. Transporting *such commodities* as are dealt in by grocery houses, department stores, drug stores and hardware stores, from the facilities of Colgate-Palmolive Company, at near Jeffersonville, IN to points CA, NV, and OR.

MC 149432F, filed March 13, 1980. Applicant: MARC BAGGAGE LINES, INC., 9033 Hollyberry Ave., Des Plaines, IL 60016. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016. *Contract carrier, transporting electric products and electronic products,* between the facilities of GTE Products Corporation, at or near Elk Grove Village, IL, on the one hand, and, on the other, points in IL, IN, IA, MN, WI, and those in the Upper Peninsula of MI, under continuing contract(s) with GTE Products Corporation, of Danvers, MA.

MC 150262 (Sub-1F), filed June 26, 1980. Applicant: S AND Q TRUCK AND TRACTOR SERVICE, INC., P.O. Box 477, Odin, IL 62870. Representative: Edward D. McHamara, Jr., 907 South Fourth St., Springfield, IL 62703. Transporting (1) *panels* for earthen-covered structures, and (2) *parts and machinery* used in the construction and erection of earthenware covered structures, mixed loads with the commodities in (1) above, between the facilities of American Solartron Corp., at or near Centralia, IL, on the one hand, and, on the other, points in WA, TX, AZ, NE, MO, IA, IN, MN, AL, TN, PA, NY, CO, CA and CT.

MC 150372 (Sub-1F), filed May 5, 1980. Applicant: DALE C. FINCK, P.O. Box 263, Black Hawk, SD 57718. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Transporting *such commodities* as are dealt in by retail and catalogue order stores, between Rapid City, SD, on the one hand, and, on the other, points in Crook, Campbell and Weston Counties, WY.

MC 150413 (Sub-1F), filed May 19, 1980. Applicant: JOE COSTA TRUCKING, a corporation, Hwy 299 at Arlington Way, P.O. Box 748—Drawer BB, Arcata, CA 95521. Representative: Marvin Handler, 100 Pine St, Suite 2550, San Francisco, CA 94111. *Contract carrier,* transporting *wood residuals, from Brookings, OR, to Fairhaven Smith River, and Crescent City, CA, under continuing contract(s) with South Coast Lumber Company of Brookings, OR.*

MC 150432 (Sub-1F), filed June 13, 1980. Applicant: H & M TRANSPORTATION, INC., U.S. 42 & 70, London, OH 43140. Representative: Owen B. Katzman, 1800 M Street, N.W., Suite 800—South, Washington, DC 20036. *Contract carrier,* transporting *such commodities* as are used in the construction and installation of tennis and racketball courts from Columbus, OH, to points in the U.S. (except AK and HI), under continuing contract(s) with Wilson Courts, Inc., of Columbus, OH.

MC 150592 (Sub-1F), filed April 15, 1980. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. Transporting *Meats, meat products and meat by-products and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Kingston, NY, to points in IL, MI, OH and PA, and (2) from Hawarden, IA, to Kingston, NY.

MC 150642 (Sub-1F), filed June 30, 1980. Applicant: RENNIE & CLARK, INC., 7100 N. Ritchie Highway, Glen Burnie, MD 21061. Representative: Robert L. Flanagan, Esquire, 10 Light Street, Baltimore, MD 21202. Transporting *wrecked, abandoned, disabled, and stolen motor vehicles, and replacement vehicles* in truckaway service, by use of wrecker equipment only, between points in MD, on the one hand, and, on the other, points in CT, DE, NJ, NY, NC, PA, SC, OH, VA, WV, GA, IL, IN, KY, MS, TN, WI, and DC.

MC 151063 (Sub-1F), filed June 19, 1980. Applicant: LODWICK TRANSPORT LIMITED, R.R. No. 1, Brechin, Ontario, Canada LOK 1B0. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. *Contract carrier,* in foreign commerce only, transporting (1) *automobile jacks and handles,* and (2) *materials, supplies and equipment,* used in the manufacture and distribution of commodities in (1) above, between ports of entry on the international boundary line between the U.S. and Canada in MI, and NY, on the one hand, and, on the other, points in DE, IL, IN, MD, MA, MI, NY, OH, WI, under continuing contract(s), with Seeburn Metal Products Limited, see Metal Product Limited.

MC 151222F, filed July 1, 1980. Applicant: AIRPORTS SERVICE LINES, INC., 2925 Lapeer Road, Pontiac, MI 48057. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, between points in Wayne, Oakland, Macomb, Washtenaw, and St. Clair Counties, MI, on the ond hand, and, on the other, points in the U.S. (including AK, but excluding HI).

Vol. No. 301

Decided July 25, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill.

MC 20992 (Sub-62F), filed June 13, 1980. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *Such commodities as are dealt in or used by agricultural, industrial, recreational and materials handling equipment dealers and manufacturers* (except commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 20992 (Sub-63F), filed June 9, 1980. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *Such commodities as are dealt in by home improvement centers* (except commodities in bulk), between points in MN, IA, ND, SD, NE, IL, WI and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Plywood Minnesota, Inc.

MC 47583, (Sub-129F), filed June 9, 1980. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, 66115. Representative: D. S. HULTS, P.O. Box 225, Lawrence, KS 66044. Transporting *paper and paper products and materials, equipment and supplies used in the manufacture and distribution of paper and paper products* (except in bulk) between points in the U.S. restricted to traffic originating at or destined to facilities of Olinkraft, Inc.

MC 87103 (Sub-83F), filed June 12, 1980. Applicant: MILLER TRANSFER AND RIGGINS CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same as applicant). Transporting (1) *Construction equipment, machinery and parts,* (2) *road construction equipment, machinery and parts,* (3) *contractors' equipment,* (4) *equipment, materials and supplies* used in the manufacture or distribution of the commodities in (1), (2) and (3) above (except commodities in bulk) (a) between the facilities of L. B. Smith Incorporated at Camp Hill, PA on the one hand, and, on the other, points in the U.S. (except AK and HI) and (b) between points in the U.S. (except AK and HI) restricted in (b) above to traffic originating at or destined to the facilities of L. B. Smith Incorporated.

MC 87103 (Sub-84F), filed June 12, 1980. Applicant: MILLER TRANSFER AND RIGGINS CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same as applicant). Transporting (1) *Boilers and boiler parts, heat exchangers, pressure vessels, tanks, tubing, pressure piping and commodities* which, because of size or weight, require the use of special handling or special equipment and (2) *equipment, materials and supplies* used in the manufacture or distribution of the commodities named in (1) above (except commodities in bulk) between the facilities of R. Munroe & Sons Manufacturing Corporation at Pittsburgh, and Oakmont, PA, and Youngstown, OH on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the named facilities.

MC 87103 (Sub-85F), filed June 12, 1980. Applicant: MILLER TRANSFER AND RIGGINS CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko (same as applicant). Transporting (1) *Industrial fans and blowers, parts, attachments and accessories* and (2) *equipment, materials and supplies* used in the manufacture or distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of TLT Babcock at Medina, OH on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the named facilities.

MC 103993 (Sub-1050F), filed June 13, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same as applicant). Transporting *building materials,* from (1) Port Allegany, PA and (2) Sedalia, MO, to points in the U.S. (except AK and HI).

MC 103993 (Sub-1051F), filed June 13, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same as applicant). Transporting (1) *steel shelving, pallet racks, and (2) parts and accessories* utilized in the erection of steel shelving and pallet racks (except commodities in bulk), between North East, PA, on the one hand, and, on the other, points in the U.S. in the east of ND, SD, NE, KS, OK, and TX.

MC 107012 (Sub-547F), filed June 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Ralston Purina Co.

MC 107012 (Sub-548F), filed June 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Transporting (1) *kitchen utensils and cookware,* (a) from Sheridan, AR to points in the US (except AK and HI), and (b) from Jackson, MS, Sparks, NV, and Trenton, NJ to West Bend and Oak Creek, WI, and (2) *appliances,* from Sheridan, AR, to points in AL, AZ, CA, CO, FL, GA, ID, IA, KS, KY, LA, MN, MS, MT, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA and WY.

MC 107012 (Sub-549F), filed June 12, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Transporting *plastic articles* from the facilities of Visual Design, at or near Houston, TX to points in the US (except AK and HI).

MC 107403 (Sub-1338F), filed June 12, 1980. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes,

V 45 / 154 AG 7 80 UMI

Jr. (same address as applicant). Transporting (1) *chemicals,* in bulk, from the facilities of United States Steel Corporation, at or near Haverhill, OH, to points in the U.S. (except AK and HI).

MC 108453 (Sub-38F), filed June 10, 1980. Applicant: G & A TRUCK LINE, INC., 404 W. Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract carrier,* transporting *paper, paper products and scrap paper,* (except commodities in bulk), between the facilities of Continental Forest Industries, Consumer Products Division, at Three Rivers, MI, on the one hand, and, on the other, points in PA, IA, NY, NJ, MN, KY and MO, under a continuing contract(s) with Continental Forest Industries, Consumer Products Division of Three Rivers, MI.

MC 111812 (Sub-728F), filed June 16, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same as applicant). Transporting *Confectionery products,* (1) from Boston, MA and North Grosvenordale, CT to points in AZ, AR, CA, CO, ID, LA, MT, NM, OK, OR, TX, UT, WA and WY; and (2) from North Grosvenordale, CT to points in MN and WI.

MC 111812 (Sub-729F), filed June 16, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same as applicant). Transporting *Petroleum and petroleum products, automotive chemicals and cleaning compounds, and such equipment, materials and supplies* as are used by automotive service centers (except in bulk), between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc. at Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI and WY, restricted to traffic originating at or destined to the facilities of Valvoline Oil Company.

MC 111812 (Sub-730F), filed June 16, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same as applicant). Transporting *Such commodities* as are dealt in by wholesale and retail grocery store outlets, between Indianapolis, IN, Dorsey, MD, Lyons, IL, and Kansas City, KS, on the one hand, and, on the other, points in the U.S. in and East of ND, SD, NE, KS, OK and TX.

MC 111882 (Sub-2F), filed May 9, 1980. Applicant: SERV U, INC., 6640 Quad Avenue, Baltimore, MD 21237. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities, chassis or trailer, and empty containers,* having prior or subsequent movements by water, between Baltimore, MD, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA and DC.

MC 112223 (Sub-133F), filed June 10, 1980. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Representative: Earl Hacking (same as applicant). Transporting *liquid fertilizer,* in bulk, in tank vehicles, from Minneapolis, St. Paul, and Pine Bend, MN, to points in IA and WI.

MC 113362 (Sub-395F), filed June 12, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *floor tile,* and (2) *equipment, materials and supplies* used in the installation, manufacture and distribution of the commodities in (1) above, (except in bulk), from the facilities of Kentile Floors, Inc., at Chicago, IL, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 113362 (Sub-396F), filed June 10, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766,* from the facilities of Wilson Foods Corporation, at Omaha, NE, to points in IL, KY, MI, MO, TN, WV, and WI, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 114273 (Sub-749F), filed June 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting (1) *tool and utility boxes, chests, work benches, cabinets and shelving,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, from Pocahontas, AR, Sedalia, MO and Waterloo, IA, to points in CT, DE, IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI and DC.

MC 114273 (Sub-750F), filed June 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from points in CT, DE, IN, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, and VA to the facilities of Venture Stores in IL, IN, IA, KS, MO, and DC.

MC 114273 (Sub-751F), filed June 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *foodstuffs* and such articles as are dealt in by wholesale, retail and chain grocery and food business houses (except in bulk), between points in IA, IL, IN, KS, KY, MA, MD, MI, MN, MO, NC, NE, NJ, NY, OH, PA, and VA, restricted to traffic originating at or destined to the facilities of John Sexton and Co., Division of Beatrice Foods.

MC 114273 (Sub-752F), filed June 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *paper and paper products,* (except in bulk), from Niagara Falls, NY, to points in WI, and IL.

MC 114273 (Sub-753F), filed June 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: (1) *chemicals, starch, and* (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except in bulk) from the facilities of National Starch and Chemical Co. at or near Meredosia, IL and Indianapolis, IN, to points in CT, DE, IA, IL, IN, KS, KY, MA, MD, MI, MN, MO, NE, NJ, NY, OH, and PA.

MC 114273 (Sub-754F), filed June 12, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *paper and paper articles* (except in bulk), from Menominee, MI, Potsdam, NY, Mosinee and Rhinelander, WI, to Ft. Madison, IA.

MC 114273 (Sub-755F), filed June 10, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *silicon carbide and aluminum oxide* (except in bulk), from the facilities of

General Abrasive at or near Niagara Falls, NY to points in the U.S. in and east of ND, SD, NE, KS, CO, OK, and TX.

MC 114273 (Sub-756F), filed June 10, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *plastic materials* (except in bulk), from Leominster, MA to points in IA, IL, IN, KY, MI, MO, OH, PA, TN, and WI.

MC 114273 (Sub-757F), filed June 10, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *foodstuffs* (except in bulk), from Buffalo, NY to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 114273 (Sub-758F), filed June 10, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, IN, TX, VT, VA, WV, WI, and DC, Restricted to traffic originating at or destined to the facilities of Minnesota Mining and Manufacturing Company (3 M Company) or its wholly owned subsidiaries.

MC 114273 (Sub-759F), filed June 10, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *plastic articles and rubber articles,* from points in NJ, NY, OH, and PA to points in KS and IA.

MC 116763 (Sub-672F), filed June 12, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting *containers and plastic articles* (except commodities in bulk, in tank vehicles), between points in the US in and east of MN, IA, MO, OK, and TX, restricted to traffic originating at or destined to the facilities of Paramount Packaging Company.

MC 118202 (Sub-158F), filed June 12, 1980. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge St., P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005. Transporting *beverages* (except in bulk), from (1) New Bedford, MA to points in NY, NJ, PA, and MD; (2) Columbus, OH, to points in IL, PA, NY, IN, and MI; (3) Kansas City, KS to points in CO, IA, MN, ND, and SD; (4) Union, NJ to points in OH and PA; (5) Tampa, FL to Charlotte, NC, and (6) St. Louis, MO to points in IL, IA, MN, and KY, restricted to traffic originating at or destined to the facilities of Shasta Beverages.

MC 125433 (Sub-422F), filed June 10, 1980. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission), between points in the U.S. (except AK and HI), restricted to traffic originating at the facilities used by Southern Bonded Warehouse and Transtop Incorporated. Condition: To the extent this certificate authorizes the transportation of classes A and B explosives, it shall be limited to a term expiring 5 years from the date of issuance.

MC 127042 (Sub-299F), filed June 10, 1980. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Joseph B. Davis (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from Hospers, IA to points in AZ, CA, CO, ID, IN, MI, MT, ND, NE, NV, OR, SD, UT, WA, and WY.

MC 128273 (Sub-395F), filed June 10, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities,* as are used or dealt in by processors and distributors of diatomaceous earth and diatomaceous earth products, between Maricopa, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY.

MC 138882 (Sub-367F), filed June 10, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *roofing and roofing materials,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in Frederick County, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138882 (Sub-368F), filed June 13, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *construction materials,* between the facilities of Kemp Furniture Industries, Inc., at or near Goldsboro, NC, on the one hand, and, on the other, Jasper and Salem, IN, Ft. Smith, AR, Watsontown, PA, and Memphis and Knoxville, TN. (Hearing site: Raleigh, NC or Birmingham, AL.)

MC 138882 (Sub-369F), filed June 13, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *electric storage batteries, spent batteries, accessories and supplies* used in connection with batteries, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of ESB, Incorporated division of Exide Corporation and its subsidiaries.

MC 141932 (Sub-35F), filed June 10, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. in and east of ND, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to the facilities of W. R. Grace & Co. Condition: Issuance of this certificate is subject to prior or coincidental cancellation at applicant's written request of the outstanding Certificate in MC–141932 Sub 14, issued April 21, 1980.

MC 141932 (Sub-36F), filed June 13, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). Transporting *carbon, charcoal, carbon wood products, charcoal briquets, chips, hickory,* and *equipment, materials and supplies* used in the distribution or manufacture of charcoal and charcoal briquets, and fluid lighter (except commodities in bulk, and articles which because of size or weight require the use of special equipment), between Atlanta, GA, Branson, MO, Isanti, MN, Ocala and Romeo, FL, Pachuta, MS, Scotia and Stamford, NY, and Waupaca, WI, on the

V 45 / 154 AG 7 80 UMI

one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Husky Industries, Inc.

MC 142423 (Sub-7F), filed June 12, 1980. Applicant: BIG D. CARTAGE, INC., 20891 Kingberry Drive, Mt. Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *malt beverages* from the facilities of the Miller Brewing Company, or near Trenton, OH, and Albany, GA to points in MI.

MC 142423 (Sub-8F), filed June 12, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingberry Drive, Mt. Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *malt beverages* from Columbus, OH to Detroit, MI.

MC 142423 (Sub-9F), filed June 12, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingberry Drive, Mt. Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *malt beverages* (a) from Fulton, NY to points in MI, (b) from Milwaukee, WI to points in the Lower Peninsula of MI.

MC 144622 (Sub-176F), filed June 16, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *petroleum products, chemicals, and plastic materials (except in bulk) in vehicles equipped with mechanical refrigeration* between Big Spring, TX, Calumet City and Chicago, IL, Orange and Los Angeles, CA, Hammond, IN, Windsor and Trenton, NJ on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146402 (Sub-22F), filed June 13, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (address same as applicant). Transporting *malt beverages* (except commodities in bulk, in tank vehicles) from Williamsburg, VA, to the facilities of Mirablile Beverage Company in Bucks and Montgomery Counties, PA.

MC 147323 (Sub-26F), filed June 12, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same as applicant). Transporting *such commodities* as are used by or dealt in by manufacturers, distributors or processors of iron and steel articles (except commodities in bulk) (1) between the facilities of North Atlantic Steel Co., Inc. at New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI) and (2) between points in the U.S. (except AK and HI), restricted in (2) above to the transportation of traffic for North Atlantic Steel Co., Inc. of New York, NY.

MC 148292 (Sub-8F), filed June 11, 1980. Applicant: J. POSA, INC., P.O. Box 335, Elmont, NY 11003. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *malt beverages*, and *equipment and supplies* used in the production and distribution of malt beverages, between Trenton, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148292 (Sub-9F), filed June 13, 1980. Applicant: J. POSA INC., P.O. Box 335, Elmont, NY 11003. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting: *paper and paper products and woodpulp* from West Point, VA to points in CT, DE, MA, ME, MD, MI, NH, NJ, NY, OH, PA, RI, VT, and WV.

MC 148292 (Sub-10F), filed June 16, 1980. Applicant: J. POSA, INC., P.O. Box 335, Elmont, NY 11003. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Union Camp Corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23652 Filed 8-6-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Hispanic Advisory Committee to the Attorney General; Open Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), there will be a meeting of the Hispanic Advisory Committee to the Attorney General. The Committee will meet on September 18 from 9:00 a.m. until 5:00 p.m., and on September 19 from 9:00 a.m. until 12:00 noon in Conference Room B, First Floor of the Main Justice Building. The Building is located between Pennsylvania and Constitution Avenues, NW and Ninth and Tenth Streets, Washington, D.C. Please enter at Tenth Street and Constitution Avenue, NW. The agenda will include the following topics:

1. Equal Employment Opportunity.
2. Civil Rights Units, U.S. Attorneys Offices.
3. Education.
4. Immigration.

The members of the Hispanic Advisory Committee to the Attorney General are:

Armando De Leon (Phoenix, Arizona)
Jose Enrique Amadeo (San Juan, Puerto Rico)
Joaquin Avila (San Antonio, Texas)
Ruben Bonilla (Corpus Christi, Texas)
Adelfa Callejo (Dallas, Texas)
Maria Cerda (Chicago, Illinois)
Victoria Diaz (Palo Alto, California)
Manolo Fernandez (Elizabeth, New Jersey)
Father Jose J. Gallego (Chicago, Illinois)
Dr. Hector P. Garcia (Corpus Christi, Texas)
Robert Gonzales (San Francisco, California)
Lorenzo Patino (Sacramento, California)
Ana Maria Perera (Washington, D.C.)
Ben Reyes (Houston, Texas)
Hector Roman (New York, New York)
Pablo Sedillo (Washington, D.C.)
M.D. "Lita" Taracido (New York, New York)
Arnhilda Gonzalez-Quevedo (Miami, Florida)

Both sessions will be open to the public and will be held in rooms that accommodate approximately 50 people. On September 18 after the Committee members finish discussing the items on the agenda, there may be time for statements by non-members. If you want to make a statement at this meeting or if you would like the Committee to consider a written statement, please call or write to the Special Assistant to the Attorney General, Department of Justice, Room 5132, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Lupe Salinas, Special Assistant to the Attorney General, Department of Justice, (202) 633-2927 (not toll free).

Dated: August 1, 1980.

Lupe Salinas,

Special Assistant to the Attorney General, Department of Justice.

[FR Doc. 80-23771 Filed 8-6-80; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Design Arts (Design Communication); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Communication) to the National Council on the Arts will be held August 25, 1980 from 9:00 a.m. to 5:30 p.m., and August 26, 1980 from 9:00 a.m. to 5:30 p.m. in Room 1426, Columbia Plaza Office Complex, 2401 E St., N.W. Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director Office of Council and Panel Operations National Endowment for the Arts.

July 28, 1980.

[FR Doc. 80-23823 Filed 8-6-80; 8:45 am]

BILLING CODE 7537-01-M

Expansion Arts Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Panel to the National Council on the Arts will be held August 27, 1980 from 9:00 a.m. to 7:00 p.m., August 28, 1980 from 9:00 a.m. to 7:00 p.m., August 29, 1980 from 9:00 a.m. to 6:00 p.m. at the School of American Research, 660 Garcia Street, Santa Fe, New Mexico.

This meeting will be open to the public on a space available basis. The topic for discussion will be guidelines, questions and answers with the public, on-site visits.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 80-23824 Filed 8-6-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-Ar 80-32]

Safety Recommendations and Responses; Availability

Highway Safety Recommendation Letter

H-80-45 and -46 to the Arkansas State Highway and Transportation Department, July 28, 1980.—The National Transportation Safety Board has issued two "Class I, Urgent Action" recommendations in view of the accident which occurred June 5, 1980, when a chartered bus carrying 33 people accelerated out of control while descending a curved, steep, long grade on State Route 7, south of Jasper, Ark. The northbound bus ran off the road into a drainage ditch and traveled partially in the ditch until it struck a culvert, where the bus was redirected across the road. It left the road at a high rate of speed and plunged down an embankment. The front of the bus came to rest 40 feet below the highway. Twenty people were killed.

As a result of previous accidents on this hill, an escape ramp is being constructed 1,000 feet south of the accident site. The estimated completion date for the ramp is mid-August. About 1 mile farther south, a brake check area has been completed but not signed or marked. The Safety Board believes that safety benefits could accrue immediately from utilizing the completed brake check area if all trucks, buses, and cars with trailers were required to pull off and check their vehicle's brakes.

The Safety Board states that the drivers of these vehicles should be confronted with a large advance warning sign directing them to check their brakes at the brake check area. Another sign at the brake check area should advise them to use low gear, maintain their braking capability, and drive at a safe speed while descending the hill. The latter sign could be enhanced by a diagrammatic depiction of the sharp curves ahead, the steep grades, and the length of the grades. When the escape ramp is completed, its location should be shown on the sign.

Therefore, the Safety Board recommends that the Arkansas State Highway and Transportation Department:

Install signs on State Route 7 to require northbound trucks, buses, and cars with trailers to pull off and check their brakes at the brake check area south of Jasper. (H-80-45)

Install signs in the brake check area to inform the drivers of these vehicles of the roadway alignment ahead. The signs should include percentage of grades, length of grades, horizontal curvature, maximum safe speeds, and other pertinent information which will aid motorists to safely negotiate the roadway ahead. (H-80-46)

Pipelines Safety Recommendation Letters

P-80-59 to the Research and Special Programs Administration of the U.S. Department of Transportation, July 15, 1980.—At 11:36 a.m. last October 30, a natural gas explosion and fire demolished a townhouse at 215 Third Street, SE., in Washington, D.C., and damaged nearby buildings and cars. No one was inside the townhouse at the time, but three persons in a stopped car were injured when debris from the explosion shattered a car window.

After the accident, an inspection of the gas service line that served the townhouse revealed that it had been struck by excavating equipment. The investigation determined that the 1-inch plastic service line inside of a 1¼-inch steel line had been pulled out of a transition compression coupling, allowing the natural gas to leak under low pressure and migrate into the townhouse where it was ignited by an unknown source. Shortly after the accident, gas company employees removed the plastic line from the steel casing before exposing the coupling. This prevented Safety Board investigators from determining the distance the plastic pipe had been pulled from the coupling and the amount of slack provided in the line to compensate for contraction and expansion of the plastic pipe.

The Safety Board notes that the gas company has established procedures for analyzing accidents and failures that comply with 49 CFR 192.617, "Investigation of failures." Removing evidence prematurely during onsite investigations makes it more difficult for investigators to determine the cause of an accident. In this case, the lines should not have been disturbed until both the Safety Board and gas company personnel had completed the onsite investigation. Therefore, the Board recommends that the Research and Special Programs Administration:

Amend 49 CFR 192.617 to require that operators preserve to the extent practicable the accident site and its affected gas facilities until onscene investigations have been completed. (P-80-59)

P-80-60 to the Washington Gas Light Company, July 15, 1980.—A separate letter, containing identical background information as that provided above regarding the October 30, 1979, Washington pipeline accident, recommended that the gas company:

V 45 / 154 AG 7 80 UMI

Instruct its employees to comply with company policy requiring the preservation of evidence at the accident site until onscene investigations have been completed. (P–80–60)

Both of the above recommendations are designated "Class II, Priority Action." The Safety Board's formal investigation report concerning this accident is being prepared for distribution, and copies will be available in the near future.

Responses to Safety Recommendations

Aviation

A–79–86, from the Federal Aviation Administration, July 25, 1980.—Letter is a followup to FAA's response of February 12 (45 FR 13237, February 28, 1980) concerning one of two recommendations issued by the Safety Board as a result of investigation of the crash on March 3, 1979, of a Beech Travel Air into mountains east of Elko, Nev. The aircraft was on an instrument flight rules flight plan and under the control of the Salt Lake City Air Route Traffic Control Center. The recommendation asked FAA to require all terminal facilities located in designated mountainous areas to install and use emergency obstruction video radar maps (EOVM).

FAA's July 25 response reports completion of terminal radar facilities in designated mountainous areas (14 CFR Part 95, Subpart B), and FAA has determined the availability of resources to produce EOVM's for these sites. Based on its findings, FAA has decided to adopt recommendation A–79–85. To fully implement the recommendation, an EOVM would be required at 77 terminal radar facilities. Since approximately half of these facilities do not have space in their 5-channel video mappers to accommodate another map, FAA says it cannot guarantee that all 77 facilities will employ an EOVM. Additionally, several of the identified facilities are operated by the military and may elect not to participate. FAA will, however, require that those facilities which now employ all video mapper channels evaluate alternatives such as combining existing maps, merging EOVM's with their minimum vectoring altitude maps or eliminating maps considered to be lower priorities than the EOVM's.

A list of the 77 facilities in priority order is attached to FAA's letter. The priorities within each region were determined by FAA's regional offices and the overall list structured to avoid impacting a regional office with excessive EOVM coordination workload. Specifically, no more than two EOVM's per month should be delivered to a region. FAA expects EOVM delivery to the lead site within 120 days and then continued deliveries at the rate of two to three facilities per month, dependent on resources at the National Ocean Survey.

FAA notes that future automation enhancements such as the Discrete Address Beacon System/Data Link and the Automatic Traffic Advisory and Resolution Service will probably dictate radar operation in the full digital mode. In this event, FAA may no longer have the capability to display a map in the EOVM format (i.e., contour lines) at a number of FAA's major facilities in mountainous areas such as Denver, Oakland, Los Angeles, and Pittsburgh in the not too distant future. Eventually, FAA expects that all radar facilities will be operating in the full digital mode. However, FAA will investigate alternative map formats such as a gross outline of mountainous terrain through straight-line depictions or grid mapping which appear to be viable strategies for a digital EOVM.

The Safety Board on March 18 acknowledged FAA's February 12, 1980, response to recommendation A–79–86 and companion recommendation A–79–87. FAA's July 25 followup is directed only to A–79–86.

A–80–32 through –34, from the Federal Aviation Administration, July 18, 1980.—Response is to recommendations issued April 24 as a result of investigation of the crash at sea of a Sikorsky S–76A, PT–HKB, operating off the coast of Brazil, South America, last March 20. (See 45 FR 30573, May 8, 1980.) The Safety Board's metallurgical examination of the recovered main rotor head spindle section from the accident aircraft revealed a fatigue crack with multiple origins. FAA notes that this finding, as understood by FAA, was not related to the accident cause.

With respect to recommendation A–80–32, which asked FAA to issue an airworthiness directive (AD) to require, prior to further flight, a one-time detailed inspection of the inboard threaded area of the main rotor spindles for evidence of cracks on all Sikorsky–76A model helicopters, FAA reports that a telegraphic AD, T8ONE–21, was issued by FAA's New England Regional Office on April 24. Issuance of the AD adopts the recommendation with some minor differences which FAA discusses in the response letter; a copy of the AD is provided. Telegraphic AD T8ONE–21 action requires:

1. Prior to further flight, inspection of the P/N 76102–08000–041 main rotor blade spindle assemblies in accordance with Sikorsky Alert Service Bulletin 76–65–13A, paragraphs G(1) through G(3), dated April 24.

2. Within the next 25 hours time-in-service after receipt of AD T8ONE–21, the P/N 76102–08000 main rotor blade assemblies are modified in accordance with Sikorsky Alert Service Bulletin 76–65–13A, paragraphs G(4) and G(5).

3. Main rotor blade spindles with more than 200 hours time-in-service, unless already accomplished within the last 50 hours time-in-service, will be fluorescent penetrant inspected within the next 5 hours time-in-service in accordance with Sikorsky Alert Service Bulletin 75–65–13A, paragraph G(6).

Specific requirements of these inspections are detailed in FAA's July 18 response letter.

In response to recommendation A–80–33, which asked FAA to notify Foreign Regulatory Agencies of this action, FAA reports that a listing of all domestic and foreign owners/operators of the Sikorsky Model S–76A was forwarded to the Aircraft Engineering Division in FAA's Office of Airworthiness for that purpose when the AD was issued. Telegrams were sent to the respective Civil Aviation Authorities (CAA) or equivalent of foreign-registered aircraft as part of the FAA telegraphic AD procedures. Additionally, requested background information pertaining to AD T8ONE–21 was supplied via airmail to the CAA (Australia) on May 2 and via telegram to the Brazilian Consulate (Atlanta) and the Technical Airspace Center (CTA) (Brazil) on April 30.

FAA concurs with recommendations A–80–34, which called for evaluation of the need for a recurring spindle inspection based on the initial inspection results. FAA indicates that this was its intent in issuing AD T8ONE–21. Paragraph 3 of AD T8ONE–21 requires that *all* of the results of the inspections required per the AD be reported to FAA's New England Regional Office. These data, in conjunction with other investigations, will be utilized to make a finding with respect to a need for a recurrent fluorescent penetrant spindle inspection.

FAA notes that further investigations have taken place to confirm the existing fatigue substantiation of the spindle and to further assess the consequences of a missing or displaced spindle shear bearing inner race. FAA has now completed this work and preliminary findings indicate that there is no requirement for a recurring spindle inspection. This determination is based on FAA investigation which reveals that the problem lies not with the spindle itself, but rather with the main rotor blade spindle shear bearing inner race. This inner race cracks, then moves out and fully displaces the droop stop ring. Once this happens, the inner race tends to crack more and subsequently fully departs from the spindle, resulting in a very high stress situation which tends to shorten the spindle life. Fatigue of the spindle occurred under loads caused by the bearing inner race having moved out to full displacement, resulting in fatigue and subsequent complete static failure of the spindle. FAA has worked closely with Sikorsky Aircraft in conducting appropriate laboratory tests to substantiate this sequence of events. Sikorsky Company is currently working on a redesign of the inner race as a result of this investigation and resultant findings, FAA reports. In the interim, AD T8 ONE–21 ensures that appropriate corrective action relative to the shear bearing inner race is required on a continuing basis.

Marine

M–79–39 through –47, from the United States Coast Guard, June 4, 1980.—Response is to recommendations developed as a result of investigation of the capsizing and sinking of the self-elevating mobile offshore drilling unit (MODU) OCEAN EXPRESS in the Gulf of Mexico on April 15, 1976. The recommendations were issued April 17, 1979 (44 FR 24657, April 26, 1979), and the Safety Board last October 1 asked to be informed of Coast Guard's action on the recommendations.

Recommendation M–79–39 asked Coast Guard to require that operation manuals for MODU's include guidance regarding: (1) The stability of the unit for the complete range of mat-platform separations; (2) the number of tugs and the horsepower required for towing the unit, and the recommended towing arrangements and equipment; (3) contingency plans for emergencies afloat, including towing mishaps and severe weather; (4) transit preparations, including an appropriate checklist; (5) the expected results of exceeding the design limits for jacking operations; and (6) the minimum wind speeds, sea conditions, and unit motions which would result in instability or structural failure.

With reference to item (1) of recommendation M–79–39, Coast Guard concurs with the need for stability guidance. The new MODU regulations 46 CFR 109.121, according to Coast Guard, contain sufficient wording to include all loading and operating conditions. As to item (2), Coast Guard will propose amendments to 46 CFR 109.121 to include towing plans with required number of towing vessels, minimum horsepower, and recommended towing equipment. Procedures for emergency conditions will be included. Concerning item (3), Coast Guard notes that § 109.121 requires guidance for safe operations of the unit under normal and emergency conditions. The emergency conditions requirement is interpreted to include severe weather and loss of towing force.

Coast Guard, with reference to item (4) of recommendation M–79–39, notes that § 109.121 of the new MODU regulations covers instructions for operation of the unit while changing operating conditions including preparations prior to making a move (§ 109.121(9)(ii)). Concerning item (5), Coast Guard believes that to require additional information on expected results of going beyond design limitations could implicitly condone such operations and that, in the interest of safety, such information should not be included. In connection with item (6), Coast Guard states that minimum wind speeds resulting in instability can be specified in an operating manual. The new MODU regulations require that each unit meet 70 knots (normal) and 100 knots (severe storm) wind speeds in intact condition and knots in damaged condition. Coast Guard notes that sea conditions, related to unit motions, are not deterministic at this time. Coast Guard will not require the operating manual to specify operational limits with respect to structural failure.

In response to recommendation M–79–40, which asked Coast Guard to require self-elevating MODU's to be equipped with a recording fathometer and a recording anemometer, Coast Guard states that it recognizes the need for water depth information when a MODU is in transit, either in an oil field or ocean. For this reason, 46 CFR 108.701 requires all self-propelled MODU's to be equipped with a sounding apparatus. Similarly, because of the need for accurately navigating and positioning non-self-propelled MODU's, virtually every tug employed in MODU service is fathometer equipped. Coast Guard cannot see any need for replacing these installations with recording fathometers or for adding recorders to existing fathometers. Coast Guard objects to these installations if they are to be justified primarily for accident investigation. Seldom are all witnesses lost in a marine casualty involving MODU's, and events leading up to a casualty can usually be reconstructed. Coast Guard also said that if stability criteria for all MODU's in severe storm conditions are met, there would be little need to identify wind speeds while the unit is bottom bearing. While underway, the safety of the MODU's is the responsibility of the towing vessel operator. Coast Guard notes that the Safety Board's report (NTSB–MAR–79–5) states that the OCEAN EXPRESS had a recording anemometer yet the testimony of the crew contained no statement that it was a necessary instrument. Coast Guard says it cannot support a requirement for expensive, maintenance-intensive equipment only for accident reconstruction.

Coast Guard does not concur with rcommendation M–79–41 which called for requiring that critical operating limits for self-elevating MODU's be specified in terms of motion amplitudes and periods, and requiring on-board motion sensing and recording instruments to determine the actual unit motions. In response, Coast Guard says it does not feel that the state of present technology can fulfill the intent of this recommendation. Although the technology exists to measure, process, and display a real time analog of the motions or accelerations of marine vehicles, problems arise when attempting to develop a total system that can reliably provide meaningful non-misleading information that is free from electronic and mechanical drift and does not desensitize the operator to his responsibility. Coast Guard believes that sensor and display units may serve in a monitoring capacity. Commercially available response and prediction units which utilize wave buoy data and motion sensor input are intended only for determination of the lifting performance of shipboard cranes. This represents a much less complex problem than the prediction of limiting values, Coast Guard states.

Coast Guard concurs in part with recommendation M–79–42 which called for a study of the feasibility of predicting self-elevating MODU's by on-board computer analysis of data from motion sensors and wave-measuring instruments. Coast Guard's response refers to its ongoing studies of stress/motion monitoring being conducted in response to the Safety Board's recommendations resulting from the 1972 TEXACO OKLAHOMA accident investigation. Coast Guard believes that the results can be applied to recommendation M–79–42. Upon completion of the long-range study, consideration will be given to a similar study of MODU's.

Recommendation M–79–43 asked Coast Guard to expedite the promulgation of regulations for personnel qualifications and manning standards for the self-elevating MODU's and require that industrial personnel who perform seafaring duties obtain appropriate training and licenses. Coast Guard partially concurs with this recommendation and reports that manning and crew qualifications are

V 45 / 154 AG 7 80 UMI

being applied to MODU's of the bottom-bearing, non-self-propelled type as they come under the 46 CFR I–A inspection process in the next several years. These standards will apply only while the unit is being navigated. It is contemplated that the standard manning will consist of: 1-Designated Person in Charge; 2-Able Seaman; 1-Ordinary Seaman; and Lifeboatman (number appropriate for the installed lifesaving equipment necessary to accommodate the number of persons on board). The Outer Continental Shelf Act limits the Coast Guard's ability to fulfill the intent of this recommendation while the unit is in the botton-bearing mode.

Coast Guard concurs with recommendation M–79–44, which asked the agency to determine and require a functional chain of command on mobile offshore drilling units to effectively cope with extreme situations. Coast Guard says that an effective chain of command, while the vessel is in navigation, is inherent in the manning scale discussed in M–79–43.

With respect to recommendation M–70–45, which asked Coast Guard to develop appropriate survival capsule performance standards, including standards for safe towing, Coast Guard states that a more complete understanding of the rough water characteristics of all types of totally enclosed lifeboats and liferafts is needed. A program of research and development for enclosed lifeboats, rescue boats, and inflatable liferafts is presented. The program will include studies of towing, capsizing and self-righting characteristics and rough water performance. Also, Coast Guard discusses its activities in representing the United States at the Inter-Governmental Maritime Consultative Organization in the revision of Chapter III, "Life-saving Appliances," of the Safety of Life at Sea Convention. Coast Guard reports that the program schedule for the research and development to satisfy the recommendation is set up to cover a 5-year period, to be completed in 1984. Significant findings that develop during the course of the program may be used before the program is completed.

To the extent of its comments regarding M–79–45, Coast Guard concurs with recommendation M–76–46, which called for model tests and computer simulations to be conducted with Whittaker Corporation to determine the survival capsule's capsizing characteristics and behavior in storm seas.

Recommendation M–79–47 asked Coast Guard to require that survival capsules be equipped with accessible towing and mooring fittings, proper fendering, and markings to indicate the location of the towing and mooring points. Coast Guard concurs in part with this recommendation, and notes that the Wittaker Company has offered a retrofit towing kit since the accident. Coast Guard has directed Whittaker to install towing fitting on new 14 and 28 passenger capsules and to continue to offer retrofit kits for existing capsules and to make installation of the kits a standard procedure during overhauls. Coast Guard plans no action for "proper fendering," since the capsule is adequately fendered by a flange that runs completely around the perimeter of the capsule. Coast Guard states that neither its Marine Board of Investigation nor the Safety Board's report (NTS B–MAR–75–5) identified any shortcomings in the performance of the flange.

Railroad

R–76–55 and R–78–35, from the Federal Railroad Administration, July 15, 1980.—Response is made to the Safety Board's letter of June 3 which commented on FRA's previous response forwarded last February 6 (45 FR 13238, February 28, 1980).

With respect to recommendation R–76–55, which rcommended that FRA revise the Code of Federal Regulations to insure tha wheels exposed or suspected of being exposed to critical temperatures are removed from service, the Safety Board's June 3 letter notes that the Railroad Freight Car Safety Standards provide that a car may not be continued in service if:

(b) A wheel on the car shows signs of having been overheated as evidenced by a reddish brown discoloration on the front or back face of the rim, that extends more than four inches into the plate area measured from the botton of the back face of the rim; . . . .

The Safety Board states that discoloration does indicate that a wheel has been overheated; however, broken wheels as a result of thermal cracks have been found in numerous derailments with no discoloration. At present, discoloration may be the only method available to detect wheels that have been overheated; however, better methods of detection should be explored. The Board requested the FRA study this problem further and attempt to establish a positive means of identifying any wheel that has been exposed to thermal abuse.

FRA's July 15 response indicates agreement with the Board's objectives. FRA notes that thermal abuse can cause undesirable residual stress changes in the wheel which can lead to abrupt wheel failure. For 5 years or more, FRA's Office of Research and Development has aimed to develop a practical means for detecting tensile and compressive stress fields in wheels. Further, FRA and the Federal Highway Administration are working together obtaining stress measurement tools for bridge members as well as rail wheels. FRA states that despite some early encouragement in the laboratory, no nondestructive techniques which can address the typical railroad environment either in the shops or over-the-road are currently available. A joint committee of FRA and FHWA is overseeing an investigation of combinations of new techniques which might be applicable in detecting the significant stress levels in rail wheels and bridges. Although there is no guarantee of success, it is anticipated that initial survey information for the preliminary development stage will be compiled by the last quarter of 1982. FRA does not recommend a change in the regulations until a more effective system for determining wheel stress states is defined and proven. At present, wheel discoloration is still the most reliable way for non-destructively assessing the likelihood of potential wheel failure due to thermal abuse, FRA stated.

With respect to recommendation R–78–35, which called on FRA to identify critical car component failure rates and assure that they are properly addressed either by regulation or emergency order as required and to expand communication channels with the Association of American Railroads (AAR) to facilitate this program, the Safety Board's June 3 letter states the Railroad Freight Car Safety Standards do not satisfy this recommendation nor does reliance on the voluntary cooperation of the railroad industry. The Board notes that the Southern wheel failures due to high carbon content are illustrative of the type of car component failure rates the Board intended to be identified by recommendation R–78–35. The Board states that the railroad industry and AAR knew about the problem of failures of this wheel, but were responding slowly even though some very serious accidents occurred. The Board notes that FRA did not have a system to identify that the Southern wheel was failing at a much higher rate than other rail wheels. The Board believes that FRA, in connection with its establishment of freight car safety standards, must establish a method to determine when a car component demonstrates a high failure rate and must take appropriate action on the basis of failure rates identified. Reconsideration of recommendation R–78–35 was requested.

FRA's June 3 response refers to the February 6 response which stated that FRA will rely heavily on the voluntary cooperation of the railroad industry and its employees to identify critical safety problems. This cooperation included an assessment of available technical information collected by AAR. FRA states that the AAR statistical monitoring program consists of data reported by the larger member roads on a voluntary basis relative to defective components removed from freight cars in service. Also, manufacturers report total numbers of components sold to railroads. FRA says this system, however, does not include reliable information relative to the number of components in sevice. Therefore, reliable failure rates of the various critical components cannot be readily indentified. FRA is exploring the feasibility of developing a system utilizing FRA accident and field data and information provided by AAR under voluntary arrangement. This action is expected to be accomplished in the first quarter of 1981.

The Safety Board's June 3 letter additionally commented on recommendations R–76–52 and –53, both of which have now been classified as "Closed—Acceptable Action," predicated on FRA's February 6, 1980, response.

R–80–23 and –24, from The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), June 23, 1980.—Response is to recommendations issued June 3 following investigation of an Amtrak passenger train derailment last October 2 which occurred as the train was moving through a 7° curve on the Santa Fe tracks at Lawrence, Kans. The recommendations asked that Santa Fe establish rules and procedures to verify that locomotive engineers are familiar with a district so that they can operate safely in the event any fixed or other pertinent sign is inoperative or missing (R–80–23), and establish special rules which explain and identify the location of automatic train stop indicators that are not located at automatic block signals (R–80–24). (See 45 FR 39988, June 12, 1980.)

Santa Fe's response first refers to recommendation R–80–26, addressed to the Federal Administration. The recommendation asked FRA to determine and advise if test procedures being employed by Santa Fe at all locations are sufficient to determine if automatic train stop apparatus is functioning properly for in-service operation. Santa Fe's June 23 response points to its letter of last February 20 (45 FR 22314, April 3, 1980), sent in response to earlier Safety Board recommendations stemming from the subject accident. That letter expressed Santa Fe's belief that the testing of automatic train stop (ATS) equipment at initial terminals is properly the responsibility of Amtrak. Santa Fe notes that testing is being conducted by Amtrak at Chicago and Los Angeles, and that Santa Fe require the engineman to determine that ATS devices have been tested and to properly report in the event that an ATS cut-out cock is not sealed or the cab fails to indicate a proper test has been made. A Santa Fe Mechanical Department employee also checks the cab card to see if the ATS has been tested and makes sure that the ATS cut-out cock is sealed before an Amtrak locomotive departs on a passenger train over Santa Fe territory equipped for ATS.

With reference to recommendation R–80–23, Santa Fe notes that at the time of this occurrence, the Railway Company had in effect Bulletin 308 requiring an engineer to take a familiarization trip over the district during the year preceding an assignment over that district. In November 1979, the Eastern and Middle Divisions initiated procedures requiring the road foreman of engines to review the trip assignments of engineers and furnish a list to the crew callers' offices identifying the engineers who are eligible for assignment over the various districts based on their compliance with Bulletin 308. In addition, engineman are now required to report semi-annually their actual trip experience over various districts on which they may be called to operate engines.

With respect to recommendation R–80–24, Santa Fe believes that any "special rules" would have no more impact than the timetable itself, which clearly identifies by mile post locations all speed restrictions, including those protected by inert ATS inductors. Thus, Santa Fe states, any "special rules" would be nothing more than a reiteration of the information already contained in the timetable.

Santa Fe's June 23 letter refers further to the February 20 response, wherein was set forth Fanta Fe's practices and policy regarding postacknowledgement of all ATS inductor locations, as well as Santa Fe practices prior to the Amtrak era of equipping its locomotives with preacknowledgment devices. Santa Fe notes that this policy emphasizes the importance of promptly determining whether a particular ATS device is operating properly.

R–80–25, from National Railroad Passenger Corporation (Amtrak), June 20, 1980.—Response is to a recommendation also issued June 3 as a result of investigation of the Amtrak derailment at Lawrence, Kans. The recommendation asked Amtrak to redesign automatic train stop equipment to provide an audible and visual alarm which will indicate that the system is functioning during both preacknowledgment and postacknowledgment procedures. (See 45 FR 39989, June 12, 1980.)

Amtrak reports that on May 20 the recommendation was reviewed at a meeting with the Union Switch and Signal Company, vendor of the ATS equipment used on locomotives operating over the Santa Fe Railroad. The Union Switch and Signal Company has been requested to review this equipment and to advise Amtrak of the modifications required to provide audible and visual indications recommended by the Safety Board. Amtrak assumes at this time that the present equipment can accommodate additional indicators.

Note.—Copies of the Safety Board's recommendation letters, as well as responses and related correspondence, are provided free of charge. All requests for copies must be in writing, identified by recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

August 4, 1980.

[FR Doc. 80-23827 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389-A]

Florida Power & Light Co., City of Orlando, Fla., and the Orlando Utilities Commission Receipt of Additional Antitrust Information Time for Submission of Views on Antitrust Matters

Florida Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, (the Act), filed on June 13, 1980, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of the City of Orlando, Florida and the Orlando Utilities Comission, as an owner of the St. Lucie Plant, Unit 2, located on Hutchinson Island in St. Lucie County, Florida. The Orlando Utilities Commission was created by the Florida State Legislature and is a part of the City of Orlando, Florida.

V 45 / 154 AUG 7 80 UMI

The information was filed in connection with Florida Power and Light Company's application for an amendment to Construction Permit No. CPPR-144 to the St. Lucie Plant, Unit 2. Construction Permit No. CPPR-144 was issued on May 2, 1977 and construction of the plant is underway.

The original Notice of Receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the **Federal Register** on June 16, 1971, (36 FR 11473).

A copy of the Florida Power and Light Company letter, dated June 13, 1980 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room located at 1717 H Street, NW, Washington, D.C. and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Any person who wishes to have his views on the antitrust matters with respect to the City of Orlando, Florida and Orlando Utilities Commisson presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation on or before September 29, 1980.

Dated at Bethesda, Maryland this 18th day of July 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-22794 Filed 7-29-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-445A, 50-446A, 50-498A, and 50-499A]

Houston Lighting & Power Co., et al. (South Texas Project, Units 1 and 2) and Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Hearing

July 31, 1980.

Please take notice that a hearing on all pending motions and other matters will be held on Friday, August 8, 1980 at 10:00 a.m., local time, in the Nuclear Regulatory Commission's Hearing Room, located at 4350 East-West Highway, 5th floor, Bethesda, Maryland.

It is so ordered.

Dated at Bethesda, Maryland this 31st day of July 1980.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman.

[FR Doc. 80-24003 Filed 8-6-80; 10:08 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

July 30, 1980

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available):

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Richard J. Schrimper—447-6201)

New Forms

Farmer's Home Administration
Farm Labor Housing Loan and Grant Policies, Regulations
7 CFR 1944-D
On occasion
Farm owners and family farm corporations, 1,530 responses; 3,360 hours
Charles A. Ellett, 395-7340

Revisions

Animal and Plant Health Inspection Service
7 CFR 319, 321, 352—Foreign Quarantine Notices
PPQ 587, 546 and 368
On occasion
Importers of plants and plant products
5,865 responses; 997 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michals—377-3627)

Revisions

Departmental and other Privacy Act Information Request
CD-316
On occasion
Individuals requesting info under the Privacy Act, 2,122 responses; 106 hours
William T. Adams, 395-4814
Maritime Administration
War Risk Insurance Reports
MA-828
On occasion
Vessel owners and operators 350 responses; 450 hours
William T. Adams, 395-4814

DEPARTMENT OF DEFENSE

(Agency Clearance Officer—John V. Wenderoth—697-1195)

Revisions

Department of the Air Force
Maintenance Data Collection Record and Repair
AFTO 349, 349-3 and 350
On occasion
MFG. and maintenance contractors 342,623 responses; 17,131 hours
Edward C. Springer, 395-4814
Department of the Navy
Application for scholarship Program (NP 1750/7) High School and College Transcript Request (NP 1750/9)
NAVPERS 1750/7 and 1750/9
Annually Students (Ages 16-22) hi school & college officials) 12,500 responses; 10,000 hours
Edward C. Springer 395-4814
Departmental and Other DOD Working Dog Program
AF 534, 549, 558
On occasion
Proffers of military working dogs 3,900 responses, 1,833 hours
Kenneth B. Allen, 395-3785

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Diane W. Lique—633-8526)

New Forms

Annual Report of the Origin of Natural Gas Liquids
Production
EIA-64A
Annually
Natural gas processing plant operators 682 responses; 6,138 hours
Jefferson B. Hill, 395-7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Agency Clearance Officer—Joseph J. Strand—245-7488)

New Forms

Center for disease Control
Survey of State Epidemiologists—Evaluation of Surveillance
Single time
State Epidemiologists 52 Responses, 9 hours
Richard Eisinger, 395-6880
Center for Disease Control
Fluoridation Quarterly Report
Quarterly
Fluoridation grantees 200 responses, 1,300 hours
Richard Eisinger, 395-6880
Food and Drug Administration
Source Plasma (Human) Amendment to Storage Temperature Requirements
On Occasion
Source plasma suppliers
Richard Eisinger, 395-6880

Reinstatements

Alcohol, Drug Abuse and Mental Health Administration
Annual Census of Patient Characteristics—1979 State and County Mental Hospital Inpatient Services
ADM 45-1
Annually
State and county mental hospitals 123 Responses; 246 hours
Official of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF THE INTERIOR

(Agency Clearance Officer—William L. Carpenter—343-6716)

Revisions

Departmental and Other
Youth Conservation Corps Medical History Form
Annually
YCC participants their parents, and physician 25,000 responses; 25,000 hours
Charles A. Ellett, 395-7340

NATIONAL SCIENCE FOUNDATION

(Agency Clearance Officer—Herman Fleming—357-7811)

Revisions

Reviewer Background Information
428, 1028, 1084, 1090, 1092, 1093, 1096, 1105, & 1112
Weekly
Scientists 50,000 responses; 4,166 hours
Marsha D. Traynham, 395-7340

RAILROAD RETIREMENT BOARD

(Agency Clearance Officer—Pauline Lohens—312-751-4692)

New Forms

Pilot Study—Disability Monitoring Program
T-13
Single time
Disability annuitants
Barbara F. Young, 395-6880

SMALL BUSINESS ADMINISTRATION

(Agency Clearance Officer—John Anderson—653-6890)

New Forms

Client Response Card/Attendee Response Card
On occasion
Small Business Clients 15,000 responses; 2,500 hours
Edward C. Springer, 395-4814

C. Louis Kincannon,

Acting Deputy Assistant Director For Reports Management.

[FR Doc. 80-23445 Filed 8-6-80; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including pubic hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from

whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and suporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficutly in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New Forms

Food and Nutrition Service
National Evaluation of school nutrition programs: Cross sectional study household survey
Single time
Stud. In grade 1–12, their parents, nutrition prog. staff, 21,044 responses; 24,715 hours
Charles A. Ellett, 395–7340

Revisions

Farmer's Home Administration
7 CFR 1980–E, Business and Industrial Loan Program
FMHA 449–22
On occasion
Small local businesses, 35,505 responses; 307,679 hours
Charles A. Ellett, 395–7340
Farmer's Home Administration
7CFR 1980–A, Guaranteed Loan Program 449–14, 18, 30, 35, 36 and 1980–19, 24, 43, and 44
On occasion
Small local businesses, 28,265 responses; 25,087 hours
Charles A. Ellett, 395–7340

DEPARTMENT OF EDUCATION

Agency Clearance Officer—William A. Wooten—472–2655

New Forms

Office of Education
Call Report Request for Payment of Interest—GSL
ED 1166 and ED 1166–2
Quarterly
Lending institutions, 87,500 responses; 105,000 hours
Laverne V. Collins; 395–6880

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph J. Strnad—245–7488

New Forms

Health Care Financing Administration (Medicare) Home Dialysis Target Rate Agreement and Instructions
HCFA–119A
On occasion
Part. ESRD facilities furnishing home dialysis, 100 responses; 33 hours
Richard Eisinger, 395–6880
Office of Human Development
Program Review Manual for Child Welfare Services
Other (See SF–83)
Staff of State child welfare agencies; 20 responses; 4,500 hours
Barbara F. Young, 395–6880
Office of the Secretary
Section 504 Regional Technical Assistance Priorities
OS–14–80
Annually
Disabled individuals; 400 responses; 100 hours
Barbara F. Young, 395–6880

Revisions

Health Care Financing Administration (Medicaid)
Third Party Resource Worksheet Medicaid
HCFA–301C (Test)
Single time
Title XIX Beneficiaries, 188,000 responses; 10,967 hours
Maria Gonzalez, 395–6132
Health Resources Administration
Survey Instrument for Health Planning Performance Evaluation Program
On occasion
Health systems agencies staff, 40 responses; 120 hours
Maria Gonzalez, 395–6132

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

New Forms

Employment and Training Administration
Impact Evaluation of Youth Incentive Entitlement Pilot Projects
ETA–13
Single time
Youth in pilot and control sites, 4,350 responses; 3,625 hours
Arnold Strasser, 395–6880

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

Revisions

Federal Highway Administration
Certification of Enforcement of Vehicle Size and Weight Laws
Annually
State agencies designated by Governor, 52 responses; 104 hours
Susan B. Geiger, 395–7340

Reinstatements

Federal Aviation Administration
Examiner Designation and Qualification Record
FAA Form 8710–6
On occasion
Individual candidates for designation as FAA pilot, 2,100 responses; 1,050 hours
Susan B. Geiger, 395–7340

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—287–0747

New Forms

DMS Community Impact Survey
Single time
Sewage treatment authorities, 1 response; 250 hours
Edward H. Clarke, 395–7340

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—634–6983

New Forms

ABAR Needs Assessment Questionnaire
On occasion
Private attorneys, 8,000 responses; 2,000 hours
Laverne V. Collins, 395–6880

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

PATC–LOB Spring 1981 Survey
Annually
Private establishments with over 100 employees, 1,500 responses; 3,750 hours
Edward C. Springer, 395–4814

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Reinstatements

Appeals From Determination Under the Railroad Unemployment Insurance Act
UI–85, UI–86
On occasion
Railroad employees, 100 responses; 34 hours
Barbara F. Young, 395–6880

C. Louis Kincannon,

Acting Deputy Assistant Director For Reports Management.

[FR Doc. 80–23857 Filed 8–6–80; 8:45 am]

BILLING CODE 3110–01–M

Office of Federal Procurement Policy

Request for Comment on Proposed Policy Letter

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Request for comment on proposed OFPP Policy Letter.

SUMMARY: The Office of Federal Procurement Policy is requesting public and Government agency review and comment on a proposed Policy Letter to clarify certain issues which have been raised in connection with the existing policy guidance on Labor Surplus Area (LSA) set-asides.

DATE: Comments must be received on or before September 30, 1980.

ADDRESS: Submit comments to Owen Birnbaum, Deputy Assistant Administrator for Procurement Practices, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Owen Birnbaum (202) 395–3455.

SUPPLEMENTARY INFORMATION: Questions have been raised by several Federal agencies as to whether certain types of procurements can be counted towards their goals for LSA awards. The following proposed policy letter is intended to clarify these issues.

Dated: August 1, 1980.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

Executive Office of the President,
Office of Management and Budget.
Washington, D.C. 20503.

Policy Letter 80–
To: The Heads of Executive Departments and Establishments.
Subject: Policy Guidance for the Labor Surplus Area Program.

Background

Public Law 95–89, August 4, 1977, amended section 15 of the Small Business Act to authorize Federal agencies to set-aside procurements for concerns agreeing to perform a substantial proportion of the contract work in labor surplus areas (LSA's). The President included the LSA Program as part of the National Urban Policy announced in March 1978. Executive Order 12073, August 16, 1978, provides the framework for Government-wide operation of the LSA Program. Regulations implementing the LSA program are contained in Section I, Part 8 of the Defense Acquisition Regulation (DAR), the Federal Procurement Regulations (FPR), and the National Aeronautics and Space Administration Regulation (NASAPR). The Labor Surplus Area classification procedures of the Department of Labor are set forth in 20 CFR 654.

Action

Government procurement policy should be uniform and consistent in application. This directive provides uniform policy applicable to the Labor Surplus Area Set-Aside Program. The following policy statements clarify certain issues which have been raised under existing regulations concerning LSA set-asides. If any amendment to the DAR, FPR and NASA PR is appropriate to conform to this policy guidance, such amendment shall be uniform.

1. *Target Setting and Performance.* In accordance with Executive Order 12073, the Administrator of General Services shall establish annual LSA targets in consultation with the heads of executive agencies. These targets shall be based on total estimated dollars to be *obligated* under LSA set-aside contracts during a fiscal year.

2. *GSA Multiple Award Schedule Contracts.* Agencies are encouraged to use LSA firms to the maximum extent possible when placing orders against GSA multiple award schedule contracts. The Federal Procurement Data System report on LSA contracts will contain a separate category identifying all agency orders against GSA multiple award schedules. GSA will establish Government-wide LSA targets for each agency for these schedule contracts, based on past performance and estimated future potential. Each agency will report its individual performance on the basis of actual obligations under these schedules. GSA will be responsible for monitoring agency performance and encouraging agencies to achieve the schedule targets.

3. *Construction and Other "Site Specific" Contracts.* The requirements of Public Law 95–89 apply to construction and other "site specific" contracts.

4. *GOCO Subcontracting.* Subcontracts by Government-owned/Contractor Operated (GOCO) facilities shall be counted toward an agency's LSA performance when these subcontracts are performed in LSA's and are designated as set-asides.

5. *Section 8(a) Contracts, Purchases From the Blind and Handicapped, Federal Prison Industries, and Other Single Source Contracts.* Public Law 95–89 indicates that LSA set-asides are to be made when there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns to ensure that awards will be made at reasonable prices. In view of this statutory procedure designed to assist Labor Surplus Areas, noncompetitive 8(a) contracts, purchases from blind and handicapped workshops and Federal Prison Industries, shall not be counted toward an agency's LSA set-aside performance. However, if an agency or the Small Business Administration is able to find adequate competition for a particular product or service among firms in labor surplus areas who are also in the 8(a) program, such contracts may be counted toward LSA set-aside performance.

Karen Hastie Williams,

Administrator.

[FR Doc. 80–23787 Filed 8–6–80; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11283; 812–4532]

Beneficial National Life Insurance Co. et al.; Filing of Application To Amend an Order of Exemption Approving Certain Offers of Exchange

July 31, 1980.

In the matter of Beneficial National Life Insurance Co., Dreyfus Rainbow Annuity Variable Account A, Two Park Avenue, New York, NY 10016, Dreyfus

V 45 / 154 AG 7 80 UMI

Liquid Assets, Inc., and Dreyfus A Bonds Plus, Inc., 767 Fifth Avenue, New York, NY 10153.

Notice Is Hereby Given that Beneficial National Life Insurance Company ("Beneficial") a stock life insurance company organized under the laws of the State of New York, The Dreyfus Rainbow Annuity Variable Account A (the "Separate Account"), a separate account of Beneficial registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, Dreyfus Liquid Assets, Inc. ("DLA") and Dreyfus A Bonds Plus, Inc. ("A Bonds") (collectively the "Funds") diversified, open-end management companies registered under the Act (hereinafter, Beneficial, the Separate Account, and the Funds are collectively referred to as "Applicants") filed an application on July 2, 1980 for an order amending an existing order of exemption pursuant to Section 11 of the Act approving certain offers of exchange (Investment Company Act Release No. 11173, May 19, 1980).

Applicants' existing order pursuant to Section 11 of the Act permits shareholders of the Funds to exchange their shares for variable annuity contracts (the "Contracts"). However, only purchase payments for the Contracts in the form of shares of DLA are invested by the Separate Account in DLA. Purchase payments for the Contracts in the form of cash or shares of A Bonds are invested by the Separate Account in A Bonds. Also, Contract owners who have DLA as the investment underlying their Contracts may reallocate such underlying investment to A Bonds. However, Contract owners who have A Bonds as the investment underlying their Contracts may not reallocate such underlying investment to DLA. The exchange privilege, according to Applicants, was limited in this way because of a recent regulation of the Federal Reserve Board placing reserve requirements on any increase in average assets of money market funds subsequent to March 14, 1980. As a result of this regulation, the Board of Directors of DLA decided to limit future sales of additional shares of DLA.

Subsequent to the Order being granted, the Federal Reserve Board announced a series of changes in its credit restraint program concerning money market funds and other similar investment media. As a result, investments in DLA by the Separate Account are exempt from the definition of "covered credit" in the Federal Reserve Board's regulations. Pursuant to such change, the Board of Directors of DLA has decided to allow the sale of shares of DLA to the Separate Account.

Applicants request that their existing Order be amemded to permit Applicants to offer shareholders to A Bonds the option to exchange their shares for Contracts under which they would designate DLA as the underlying investment and to allow Contract owners to have investments which underlie the Contracts reallocated from A Bonds to DLA.

Applicants submit that the proposed exemption fully consistent with the policy and purposes of the Act, and that it will permit Applicants to make a desirable contractual feature available to Contract owners.

Applicant assert that the requested exemption is appropriate and in the public interest, is consistent with the protection of investors and the purpose fairly intended by the policy and provisions of the Act.

Notice Is Further Given that any interested person may, no later than August 26, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or that person may request notification if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon Applicants at the address stated above. Proof of such service (by Affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23858 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17039; File No. SR–CSE–80–3]

The Cincinnati Stock Exchange; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on June 20, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: The Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule change.

Effective July 1, 1980, the Board of Trustees of The Cincinnati Stock Exchange ("CSE") is revising the National Securities Trading System ("NSTS") fee schedule to alter the per share charges for non-members and contributing dealer members acting as principals and public agency transactions of both members and non-members. The revision would also set $150 as the maximum charge for any single transaction executed by an indiidual firm. The Cincinnati Stock Exchange's Statement of Basis and Purpose.

At a meeting held on May 15, 1980, the Board ot Trustees approved the amended schedule of fees charged for the NSTS. The restructured schedule would more accurately reflect NSTS access cost and usage, and would attract new agency order flow to the System. Deeper and tighter markets are expected to be created through these economic incentives.

Section 6(b)(4) of the Act is the basis for these fees since specified charges are reasonable and equitably allocated to those who avail themselves of such Exchange services.

No comments were solicited from Member nor were any received.

Fees as set forth impose no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the proteciton of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the fiing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number references in the caption above and should be submitted on or before August 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 1, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23883 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17040; File No. SR–DTC–80–3]

The Depository Trust Co.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 3, 1980 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change permits National Securities Clearing Corporaton (NSCC) Sponsored Participants to utilize the Collateral Loan Program of The Depository Trust Company (DTC). The proposed rule change is attached as Exhibit 2 to DTC's filing on Form 19b–4A, File No. SR–DTC–80–3.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to permit NSCC Sponsored Participants to utilize DTC's Collateral Loan Program. An NSCC Sponsored Participant is an NSCC member who is not a direct DTC Participant but who is able to participate in DTC under the sponsorship of NSCC. NSCC maintains a separate DTC account for each Sponsored Participant.

The proposed rule change would carry out the purposes of Section 17A of the Securities Exchange Act of 1934 by enabling NSCC Sponsored Participants to effect book-entry pledges in DTC's Collateral Loan Program, which reduces the need for physical movement of securities certificates.

Discussions were held with Pledgees regarding the proposed rule change. All Pledgees in DTC's Collateral Loan Program will be notified of the proposed rule change by the DTC Important Notice attached as Exhibit 2 to DTC's filing on Form 19b–4A, File No. SR–DTC–80–3.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written Submissions will be available for inspection and copying in the public reference room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 1, 1980.

George A. Fitzsimmons,

Secretary

[FR Doc. 80–23880 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11284; 811–1823]

Edie Special Growth Fund, Inc.; Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

July 31, 1980.

Notice is hereby given that Edie Special Growth Fund, Inc. ("Applicant"), 100 E. Pratt St., Baltimore, Maryland 21202, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 19, 1980, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on March 6, 1969 and filed a registration statement pursuant to Section 8(b) of the Act on May 26, 1969. An S–5 registration statement was filed on March 6, 1969 with respect to 7,500,000 shares of stock and became effective on August 21, 1969.

On June 28, 1979, Applicant transferred substantially all of its assets, amounting to $25,898,211.20, to Rowe Price New Horizons Fund, Inc. ("New Horizons Fund"), and in exchange therefor, New Horizons Fund issued to Applicant a number of shares based on the companies' respective net asset values. The number of shares Applicant received from New Horizons Fund was determined by dividing the aggregate value of Applicant's net assets transferred by the net asset value per share of New Horizons Fund. Applicant's Board of Directors had approved the form, terms and provisions of the reorganization and the liquidation thereafter at a regular meeting held on January 31, 1979. At a special meeting of stockholders held on June 27, 1979, Applicant's stockholders approved the reorganization and authorized the liquidation and dissolution of Applicant and the distribution of shares of New Horizons Fund to the holders of shares of Applicant. The shares of New Horizons Fund issued to Applicant's shareholders were issued as book shares of New Horizons Fund. Applicant filed a certificate of dissolution in the State of Delaware on July 12, 1979, which became effective on August 15, 1979.

Applicant indicates that it currently retains no assets and has no debt outstanding. Further, Applicant asserts

that it no longer has any security holders, is not a party to any litigation or administrative proceeding and does not propose to engage in any activity other than necessary for winding up its business affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 25, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegateld authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23859 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17030; SR–MSRB–80–2]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

July 31, 1980.

On March 26, 1980, the Municipal Securities Rulemaking Board (the "MSRB") Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b–4 thereunder, copies of a proposed rule change which would amend its Arbitration Code, MSRB rule G–35. The proposed rule change would establish a simplified procedure for the resolution of intra-industry disputes involving $5000 or less. MSRB rule G–35 currently provides that all intra-industry disputes subject to the Arbitration Code be submitted to a panel of at least three arbitrators, and that a hearing be held unless waived in writing by all the parties. Under the proposed rule change, such intra-industry disputes ordinarily would be decided without a hearing by a single arbitrator from the securities industry.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16726 (April 8, 1980)) and by publication in the **Federal Register** (45 FR 25981 (April 16, 1980)). No comments with respect to the proposed rule change have been received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23862 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17038; File No. SR–NYSE–80–2]

New York Stock Exchange Inc.; Order and Statement of Reasons Disapproving Proposed Rule Change of the New York Stock Exchange, Inc.

August 1, 1980.

On April 3, 1980, the Commission instituted proceedings pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] to determine whether to disapprove a proposed rule change (SR–NYSE–80–2) of the New York Stock Exchange, Inc. ("NYSE") Eleven Wall Street, New York, New York 10005 which would amend Articles IX, Section 1(b) of the NYSE constitution, regarding physical access annual membership, to permanently limit the number of physical access memberships to two.[2]

After considering the proposed rule change together with all comments and submissions filed with the Commission regarding the filing, the Commission cannot conclude, for the reasons discussed below, that the proposed rule change is consistent with Sections 6(b)(5) and (8) of the Act,[3] and, therefore, has determined to disapprove the proposed rule change.

Background

1. Physical Access Annual Membership

Physical access annual membership was one of several means adopted by the NYSE to increase access to that exchange following the enactment of the 1975 Amendments.[4] When the Commission approved the creation of annual memberships on March 7, 1978, it found that the establishment of annual physical presence membership was consistent with the provisions of the Act and the rules and regulations thereunder, particularly Section 6(b)(5) of the Act, and stated that in making available electronic access and physical presence annual memberships, the NYSE was providing a "means of increasing access to most or all of the range of benefits (and obligations) attendant upon ownership of a NYSE seat (historically limited in number)."[5]

Article IX, Section 1(b) of the NYSE constitution provides for the Board of Directors to establish the number of physical access memberships based on periodic determinations as to the space and facilities available on the floor.[6]

Footnotes continued on next page

[1] 15 U.S.C. § 78a *et seq.*, as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94–29 (June 4, 1975) ("1975 Amendments").

[2] Notice was given by a Commission release (Securities Exchange Act Release No. 16721 (April 3, 1980)), and publication in the **Federal Register**, 45 FR 24743 (April 10, 1980).

[3] 15 U.S.C. § 78f(b) (5), (8) (1975).

[4] In December 1976, the NYSE Committee on Access, *Report on Achieving Greater Access to the New York Stock Exchange* (December 1976) recommended, among other things, that the NYSE create both electronic and physical access annual memberships, and permit equity members to lease seats in order to enhance "the NYSE's ability to compete within the emerging national market system * * *." *Id.* at 8.

[5] Securities Exchange Act Release No. 14535 (March 7, 1978), 14 SEC Docket 383, 384 (March 21, 1978).

[6] Article IX, Section 1(b) of the NYSE constitution provides that the exchange's membership shall consist of: Such number of members of the Exchange, as the Board of Directors may from time to time determine, consistent with available physical floor space and facilities, each of whom shall have paid an annual dues, which shall entitle

Persons interested in becoming physical access members are subject to the same application procedures and must meet the same qualifications as individuals who purchase equity memberships ("seatholders"). Physical access members pay annual dues of $35,000,[7] which entitles them to go on the trading floor to carry out business in any of the capacities available to seatholders, but they have no equity interest in the exchange. Presently, physical access membership provides the only means, other than by NYSE constitutional amendment, by which the number of NYSE members permitted to maintain physical presence and facilities on the NYSE trading floor can be increased beyond the traditional 1,366 equity members.[8]

2. The Proposed Rule Change

The proposed rule change would amend the NYSE constitution to permanently limit the number of physical access members to no more than two, the number in effect on August 31, 1979, when the NYSE was presented with a membership petition, pursuant to Article XX, Section 3b of the NYSE constitution, to obtain a membership vote on the proposed limitation.

The proposed limitation on physical access membership was sponsored by the Alliance of Floor Brokers, Inc. ("Alliance")[9] and was strongly opposed by the NYSE Board of Directors.[10] It was approved by a membership vote in November 1979, and filed as a proposed rule change with the Commission on January 7, 1980, pursuant to Section 19(b)(1) of the Act.[11]

3. Institutions of Disapproval Proceedings

After considering the proposed rule change together with the comments filed by the Alliance,[12] the Commission determined that it could not find that the proposal was consistent with the Act and that it would be necessary to institute proceedings to determine whether to disapprove the proposed rule change. The Commission's order instituting the present proceedings stated that the grounds for disapproval under consideration were Section 6(b)(8) of the Act, which requires that exchange rules not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and Section 6(b)(5), which requires, among other things, that exchange rules be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Interested persons were invited to submit written data, views, and arguments, and to submit a rebuttal to any other person's submission. The Commission received two submissions during the hearing period which are summarized below.[13]

II. Summary of Submissions Received

In addition to certain arguments it made to the Commission during the comment period for the proposed rule change, the Alliance raises one new, essentially procedural, argument in its submission. The Alliance states that since Section 6(c)(4) of the Act expressly grants a securities exchange the qualified right to impose numerical limitations on its membership,[14] the exclusive means by which the Commission may remove or modify such a limitation is pursuant to Section 19(c) of the Act which grants the Commission authority to abrogate, add to and delete from self-regulatory organization rules.[15]

In the Alliance's view, in order to amend an exchange's limitation on membership (under Sections 6(c)(4) and 19(c)), the Commission must find that, under the circumstances, the limitation—"independently of the numerical limitation itself"—imposes a burden on competition not necessary or appropriate under the Act.[16] As a result, the Alliance states that the instant 19(b)(2) proceedings as well as any reference to the standards embodied in Section 6(b) of the Act are inappropriate.

The Alliance also restates several arguments it previously made to the Commission. It points out that there is numerical underutilization of the exchange floor (only about 51 percent of the equity members are present at any one time), and states that this "underutilized capacity of the Exchange clearly indicates that there is no need for forcing an exchange to theoretically permit unlimited numbers of physical

---

Footnotes continued from last page

such member, during the period for which dues have been paid and while such member remains in good standing, to enter physically upon the trading floor and to have facilities thereon for the execution of orders.

[7] NYSE Constitution, Article X, Section 1(b). The dues were raised from $25,000 (the original rate) on October 4, 1979, pursuant to Section 19(b)(3)(A)(ii) of the Act (SR–NYSE–79–43), Securities Exchange Act Release No. 16279 (October 15, 1979) 44 FR 60463 (October 19, 1979).

[8] *See* NYSE Constitution, Article IX, Section 1.

[9] The grounds for the membership petition—which subsequently were submitted to the Commission in support of the instant proposed rule change—were summarized in the Commission's order instituting proceedings to determine whether to disapprove the proposed rule change. Briefly, the Alliance argued that the physical access program had not been successful and thus had not improved either competition on the NYSE floor or the NYSE's ability to attract or process increased order flow. The Alliance took the position that the exchange had the right to eliminate physical access membership because it was not required by the Act. It maintained that elimination of physical access membership would not be anticompetitive because other forms of access, such as leasing, exist and that, in any event, the 1,366 equity members already provide more than adequate competition on the NYSE floor. It also alleged that the availability of the relatively low-priced physical access memberships would depress the value of equity seats. Moreover, the Alliance stated that the NYSE floor already was overcrowded and could not support additional personnel.

[10] The NYSE Board of Directors' position also was summarized in the order instituting disapproval proceedings. The Board took the position that as part of a comprehensive effort to provide varying forms of membership opportunities, offering physical access annual membership had enhanced the public credibility of the exchange as a progressive and competitive component of the capital raising mechanism of the country. The NYSE Board disputed the claim that there was insufficient space on the NYSE floor to accommodate new physical access members, stating that as many as 20 additional physical access members could be accommodated in the near term.

[11] Notice of the proposed rule change was given by publication of a Commission Release [Securities Exchange Act Release No. 16538] in the **Federal Register** (45 FR 7022 (January 31, 1980)).

[12] The Alliance filed extensive comments on a Form 19b–4A. The NYSE incorporated substantial portions of those comments into item 3 (purpose of the proposed rule change), item 4 (basis under the Act), and item 6 (burden on competition) of its Form 19b–4A by an amendment to the Form filed with the Commission on January 25, 1980. The remainder of the Alliance's filing was placed in the public file as comments on the proposed rule change.

[13] Thomas G. Kahn, an individual equity member of the NYSE, and the Alliance of Floor Brokers, Inc., submitted views supporting approval of the proposed rule change.

[14] Section 6(c)(4) of the Act, 15 U.S.C. 78f(c)(4), provides:

A national securities exchange may (A) limit the number of members of the exchange and (B) the number of members and designated representatives of members permitted to effect transactions on the floor of the exchange without the services of another person acting as broker: Provided, however, That no national securities exchange shall have the authority to decrease the number of memberships in such exchange, or the number of members and designated representatives of members permitted to effect transactions on the floor of such exchange without the services of another person acting as broker, below such number in effect on May 1, 1975, or the date such exchange was registered with the Commission, whichever is later: And, provided further, That the Commission, in accordance with the provisions of section 19(c) of this title, may amend the rules of any national securities exchange to increase (but not to decrease) or to remove any limitation on the number of memberships in such exchange or the number of members or designated representatives of members permitted to effect transactions on the floor of the exchange without the services of another person acting as broker, if the Commission finds that such limitation imposes a burden on competition not necessary or appropriate in furtherance of the purposes of this title.

[15] Section 19(c) of the Act provides that the Commission, by rule, may abrogate, add to and delete from the rules of a self-regulatory organization as it deems necessary or appropriate to ensure the fair administration of the self-regulatory organization, or to conform the organization's rules to the requirements of the Act and the rules and regulations thereunder.

[16] Alliance at 11.

access memberships."[17] It also states that any qualified broker or dealer can obtain access by leasing or buying a seat from an equity member. The Alliance argues further that vigorous competition currently exists among floor brokers and among all members of the exchange, and that there is no evidence in the record which would support the proposition that competition on the NYSE would be advanced by increasing the number of members entitled to go on the NYSE trading floor beyond 1,368.[18] Finally, the Alliance argues that Commission disapproval of the proposed rule change would chill the development of other innovative programs by the exchanges.

The other commentator states that the proposed rule change represents "reasonable self-regulatory procedures designed to protect the at-risk equity capital of exchange members, while providing for reasonable physical access to any qualified individual on fair and reasonable terms."[19] It points out that any qualified person currently can obtain access to the NYSE floor by buying or leasing a seat, and notes that if conditions so warrant, the number of physical access memberships available could be increased in the future.

III. Discussion

A. Statutory Criteria

Under Section 19(b)(2) of the Act, the Commission must approve a proposed rule change of an exchange if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, in particular Section 6(b) of the Act which establishes substantive requirements governing exchange rules. It must disapprove a proposed rule change if it does not make these findings.

Contrary to the Alliance's argument that the Commission must institute Section 19(c) proceedings to disapprove the proposed rule change, the Commission believes that the current proceedings were correctly instituted under Section 19(b) of the Act. The Act provides different procedures for Commission consideration of self-regulatory organization-initiated rule changes and changes to self-regulatory organization rules that are initiated independently by the Commission. Section 19(b) of the Act specifies the procedures applicable to self-regulatory organization rule changes proposed by the organizations. With respect to proceedings instituted by the Commission, Section 19(c) of the Act specifies the procedures which govern the Commission's actions.

Section 6(c)(4) does not modify the statutory scheme. While Section 6(c)(4) specifies that 19(c) proceedings are necessary for Commission-instituted amendments to limitations on exchange membership, the section is silent on the procedures which must be followed in considering limitations proposed by an exchange. The commentators argued that the Congress intended, in Section 6(c)(4), to permit exchanges to impose numerical limitations on their membership irrespective of the requirements of Section 6(b)(8) of the Act and without Commission approval under Section 19(b). However, in the Commission's view, nothing in Section 6(c)(4) permits an exchange unilaterally to alter restrictions on membership without obtaining Commission approval under Section 19(b) of the Act.[20] And, in determining whether to approve or disapprove proposed rule changes affecting restrictions on membership, the Commission must apply the substantive standards under Section 6(b) of the Act, which defines the rulemaking authority of securities exchanges.[21]

Moreover, the fact that Section 6(c)(4) permits exchanges to impose limitations on membership does not, in the Commission's view, constitute a determination by the Congress either that such limitations are not burdens on competition or that any burdens resulting from such limitations are necessary or appropriate under the Act. Rather, the section should properly be read to sanction limitations on access (particularly those existing at the time of the 1975 Amendments) and to leave any determination with respect to the competitive aspects of those limitations to the Commission on a case-by-case basis—either in the context of a proposed rule change filed by an exchange pursuant to Section 19(b) or in proceedings instituted by the Commission under Section 19(c).

B. Grounds for Disapproval

The Commission is unable to find that the proposed rule is consistent with the requirements of the Act and, therefore, must disapprove the proposed rule change. In particular, the Commission is unable to find that the proposed rule is consistent with Section 6(b)(8) of the Act which requires that the rules of an exchange not impose a burden on competition not necessary or appropriate under the Act.

While the Act does not expressly require the creation of new types of memberships (including annual memberships with physical access privileges), an exchange may limit or eliminate existing forms of membership by rule only if such action would not impose any burden on competition not necessary or appropriate under Section 6(b)(8) of the Act. It appears that the proposed rule change, by placing an arbitrary limit on the number of persons entitled to physical access under its annual membership program, would result in a burden on competition by restricting existing and potential competition for floor brokerage and other business requiring physical presence on the NYSE floor.

The proponents of the proposed rule change claim that alternative means of access to the NYSE exist—such as leasing, electronic annual access, "other market" access through the Intermarket Trading System ("ITS"), and "economic access" through negotiated commission rates. The Commission notes, however, that, of those "alternatives," only leasing provides the right to go on the NYSE floor and compete directly with equity members for business.[22] However, leasing does not provide the potential for increasing the number of members entitled to compete on the NYSE floor, and, thus, cannot be viewed as a substitute for physical access

[17] *Id.* at 19.

[18] This figure represents the 1,366 equity members plus two physical access members.

[19] Submission of Thomas G. Kahn at 2. Mr. Kahn states that the arbitrary nature of the proposed rule change does not constitute a sufficient ground for disapproval since many government rules and regulations are arbitrary.

[20] The Commission notes that the Alliance's interpretation of Section 6(c)(4) would lead to the anomalous result by that the Commission would be forced to approve an exchange rule filing limiting the number of members on the ground that it was consistent with the Act (including Section 6(b)(8)) and then institute 19(c) proceedings to remove or amend the limitation on the ground that the proposal imposed an undue burden on competition.

[21] At most, Section 6(c)(4) may be read to restrict the circumstances under which the Commission could eliminate or increase an existing numerical limitation on exchange membership, in the course of a Section 19(c) proceeding, to those instances in which the Commission concludes that the limitations imposes a burden on competition not necessary or appropriate under the Act. However, the Commission has independent authority to place restrictions on exchange membership under Section 19(c).

[22] The other alternatives affect only the ability to execute transactions on the NYSE at lower costs and are not substitutes for the right of physical presence on the floor. Electronic access annual members obtain only a right of access to the NYSE's Designated Order Turnaround System, the Intermarket Trading System ("ITS") or the facilities of an equity member. Similarly, while so-called "economic access" through negotiated commission rates and "other market" access through ITS do provide a means for effecting trades on the NYSE, these forms of access do not provide the time and place execution advantages arising from physical presence on the floor or the opportunity to compete with equity members for floor brokerage or other business which depends on the floor presence.

annual membership.[23] Moreover, even though only a small number of persons have thus far applied for physical access membership, the arbitrary limitation which would result from adoption of the proposal may, in the long run, adversely affect potential competition on the floor of the nation's primary stock market.[24]

It does not appear, and the proponents of the proposed rule change have not demonstrated, that the burden on competition that would result from limitation of physical access membership is necessary or appropriate to achieve any purpose in furtherance of the Act. Commentators on the proposed rule change argued, in effect, that to the extent the proposed rule change would impose a burden on competition, the burden is justified by space limitations on the floor of the NYSE. While the Act permits an exchange, subject to Commission oversight, to limit the number of memberships and the number of personnel permitted on its trading floor at any given time (in order, for example, to assure the comfort and safety of its members and employees), the proposed rule change, by placing a permanent limitation on physical access membership, seems to be wholly unrelated to space considerations on the NYSE. The Commission notes that, in October 1979, the NYSE Board of Directors determined that the floor was capable of accommodating as many as 20 additional physical access members in the near term.[25]

The commentors suggest that the present 1,366 seatholders provide adequate competition and fair prices on the exchange and that there is no indication that an increase in the number of members entitled to go on the trading floor would result in an increase in competition. But, the NYSE Board of Directors believes that the physical access membership program has enhanced the credibility of the exchange as a public institution, and that the proposed rule change would not promote the best interests of the exchange, the membership or the investing public.[26] The exchange also believes that certain key factors which prompted it to create physical access membership in 1978 are still relevant today—in particular that new forms of membership are essential if the exchange is to implement new products and meet increasing competition for order flow and that easier access to the exchange would provide an economic incentive for new members to bring capital, expertise and additional business to the NYSE.[27] The Commission has considered these views in concluding that it cannot find that the burden on competition which would result from adoption of the proposed rule change would be necessary or appropriate in furtherance of the purposes of the Act.

The Commission also has concluded that the proposed rule change, by permanently limiting the number of physical access memberships to two, irrespective of the availability of space and facilities on the NYSE floor, would restrict access to the NYSE the nation's "primary" stock market. As volume on the NYSE increases, it becomes more difficult to justify limitations on access to that exchange in light of the competitive objectives of the Act of ensuring free and open markets.[28] Thus, the Commission cannot find that the proposal is consistent with the requirements of Section 6(b)(5) of the Act, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission believes that the result today is consistent with its continued belief that a securities exchange should enjoy considerable latitude to develop—and terminate—regulatory experiments if the exchange can demonstrate that such experiments or their termination would be consisent with the Act. In light of the fact that the NYSE Board of Directors favors the continuation of the physical access membership program on the ground that the program makes the NYSE a more competitive and, therefore, more attractice marketplace, it appears unlikely that disapproval of the proposed rule change will deter the self-regulatory organizations from developing experiments designed to achieve the Act's broader goals as well as their own regulatory objectives. Finally, disapproval of the proposed rule change should reaffirm the Commission's strong commitment to the removal of artificial barriers to marketplaces and the fostering of competition within and among exchange markets.

IV. Findings

The Commission is unable to find that the proposed rule change is consistent with Section 6(b)(8) of the Act. The Commission concludes that the proposed rule change would impose a burden on competition by limiting access to the NYSE floor. On the basis of the data, views and arguments before the Commission, it cannot conclude that those burdens are either necessary or appropriate in furtherance of the purposes of the Act. The Commission also is unable to find that the proposed

[23] In addition, leasing does not require that all qualified individuals be given an "equal" opportunity to obtain access to the NYSE. While the NYSE must, under Section 6(b)(2) of the Act, permit any qualified person to become a member of the exchange, seatholders possess virtually unlimited discretion to determine to whom, and under what terms they will lease their seats. As a result, if physical access membership is eliminated, individuals who meet the NYSE membership qualification standards may be denied access to the exchange floor by seatholders for an arbitrary reason even though leases would be available. Moreover, there may be periods of time when no seats are available for leasing. And, if physical access membership is eliminated, persons seeking physical access to the floor during such periods could obtain access only through the purchase of a seat. The price of seats may be so high as to be, in effect, a barrier to entry for smaller, less well-capitalized brokers and dealers.

[24] The small number of physical access members may result, in part, from the controversy which has surrounded the program since its inception. Moreover, the opposition of certain floor members to the program caused the NYSE to impose an eight month informal moratorium on the granting of physical access memberships which was not lifted until September 1979. Finally, certain floor members filed suit in July 1980, in the New York State Court to enjoin the NYSE from granting physical access memberships. That suit was resolved in favor of the NYSE in January 1980. *Higgins* v. *Hall*, [Current] Fed. Sec. L. Rep. (CCH) ¶ 97,355 (N.Y. Sup. Ct., January 21, 1980). Thus, even if the physical access annual membership program were an experiment, as the Alliance argues, the Commission believes that the program has not thus far had a practical opportunity to develop.

[25] This determination was based on current estimates of the lead time required to provide the supporting personnel and services annual members need to conduct their activities, and on considerations arising from the NYSE's Facilities Upgrade Program which is currently being implemented.

[26] In creating physical access memberships in 1978, the NYSE Board stated that annual membership would increase the potential for access to the NYSE and encourage greater participation therein. The exchange urged that the creation of physical access membership was consistent with Section 6(b)(2) in enabling any qualified person to become a member of the exchange, and with Section 6(b)(5) in that the existence of various forms of membership tended to remove impediments to the mechanism of a free and open market. File No. SR–NYSE–77–21.

[27] NYSE Form 19b–4A. Exhibit B at 3–4 (Special Membership Bulletin: October 5, 1979), Exhibit C (Special Membership Bulletin; November 1, 1979).

[28] In 1979, the NYSE accounted for 88.13 percent of all consolidated volume compared to 85.34 percent in 1976 (NYSE 1980 *Fact Book* at 15).

The Commission notes that it does not appear that the existence of physical access membership has had an adverse effect on the price of NYSE seats. In 1977, the year physical access annual membership was approved (at $25,000/year) by the NYSE membership, the average price of NYSE seats was $54,100 (high of $95,000), and in 1978, the year the Commission approved the physical access rule, the average price of NYSE seats was $63,746 (high of $105,000). In 1979, the year the Alliance sued to have the NYSE enjoined from granting physical access membership and obtained a membership vote on the proposed limitation, NYSE seats sold for an average of $139,500 (high of $210,000). The NYSE raised physical access dues to $35,000 in late 1979. Seats presently are selling for approximately $205,000.

V 45 / 154 AG 7 80 UMI

rule change is consistent with Section 6(b)(5), which requires the NYSE's rules to remove impediments to and perfect the mechanism of a free and open market and the development of a national market system. Rather, the Commission believes the proposed rule change would restrict access to the trading facilities of the NYSE in ways that appear to restrict free and open markets without providing countervailing benefits.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–80–2) to amend Article IX, Section 1(b) of the NYSE Constitution to limit physical access annual memberships to two, be, and hereby is, disapproved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-23861 Filed 8-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21668; 70-6481]

Georgia Power Co.; Proposed Acquisition of Undivided Ownership Interests in Coal-Fired Generating Units

July 31, 1980.

Notice is hereby given that Georgia Power Company ("Georgia") 270 Peachtree Street, N.W., Atlanta, Georgia 30302, a public utility subsidiary of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Georgia is currently the owner of a 23.5% undivided ownership interest in two 810 MWe nominally rated coal-fired generating units under construction in Monroe County, Georgia, to be known as the Robert W. Scherer Units Numbers One and Two (collectively, the "Units"), the owner of an 83.5% undivided ownership interest in two additional 810 MWe nominally rated coal-fired generating units under construction at the same site to be known as the Robert W. Scherer Units Numbers Three and Four (collectively, the "Additional Units") and the owner of a 23.5% undivided ownership interest in certain property and facilities to be used in common by, or in connection with, the Units and the Additional Units (the "Common Facilities"). Georgia owns such interests in the Units, the Additional Units, and the Common Facilities as a tenant in common with Oglethorpe Power Corporation (An Electric Membership Generation & Transmission Corporation) ("OPC"), the Municipal Electric Authority of Georgia, a public body corporate and politic and an instrumentality of the State of Georgia ("MEAG"), and the City of Dalton, Georgia, an incorporated municipality in the State of Georgia acting by and through its Board of Water, Light and Sinking Fund Commissioners ("Dalton"), the percentage ownership interests of which are as follows:

[In percent]

	Units	Additional units	Common facilities
OPC	60.0	0	60.0
MEAG	15.1	15.1	15.1
Dalton	1.4	1.4	1.4

Georgia proposes to purchase from MEAG and Dalton their respective 15.1% and 1.4% undivided ownership interests in the Additional Units and to sell to MEAG an additional 15.1% undivided ownership interest in the Units, pursuant to a Plant Robert W. Scherer Purchase, Sale and Option Agreement between Georgia and MEAG, dated as of May 15, 1980 (the "MEAG Purchase Agreement"), and a Plant Robert W. Scherer Purchase and Sale Agreement between Georgia Dalton, dated as of May 16, 1980 (the "Dalton Purchase Agreement"). As a result of such purchases and sales, Georgia will own an 8.4% undivided ownership interest in the Units, a 100 % undivided ownership interest in the Additional Units, and 23.5% undivided ownership interest in the Common Facilities; OPC will own a 60% undivided ownership interest in the Units and in the Common Facilities; MEAG will own a 30.2% undivided ownership interest in the Units and a 15.1% undivided ownership interest in the Common Facilities; and Dalton will own a 1.4% undivided ownership interest in the Units and in Common Facilities. Georgia will obtain a release of the 15.1% undivided ownership interest in the Units to be sold to MEAG from the lien of Georgia's First Mortgage Bond Indenture.

At the closing, in consideration for the sale by MEAG and Dalton of their respective ownership interests in the Additional Units, Georgia is to pay to MEAG and Dalton an amount equal to their respective costs of acquiring and constructing their undivided ownership interests in that portion of the Additional Units acquired constructed, or completed prior to the closing plus an amount in respect of MEAG's and Dalton's respective costs of bonds issued to finance such acquisition and construction. At the closing, in consideration of the sale by Georgia to MEAG of a 15.1% ownership interest in the Units, MEAG is to pay Georgia an amount equal to 15.1% of the cost incurred in the construction of the Units prior to the closing plus an amount in respect of Georgia's cost of long-term borrowings incurred to finance such construction.

Assuming the closing of such purchases and sale were to take place on August 15, 1980, Georgia estimates that it would pay MEAG approximately $2,196,000 for its 15.1% ownership interest in the Additional Units, that Georgia would pay Dalton approximately $202,000 for its 1.4% ownership interest in the Additional Units, and that Georgia would receive approximately $76,076,000 from MEAG for the 15.1% additional ownership interest which MEAG would acquire in the Units. Georgia expects to apply the net proceeds of such proposed transactions toward the cost of its construction program.

Under the MEAG Purchase Agreement, Georgia has given MEAG an option to purchase a 15.1% undivided ownership interest in the Additional Units exercisable by MEAG on or before December 31, 1990, but only following notice from Georgia to MEAG that the Additional Units will be built. Such option is subject, among other things, to Georgia's sole discretion as to whether the Additional Units will be completed and the schedule for construction and completion thereof. MEAG may exercise such option either by selling Georgia a 15.1% undivided ownership interest in the Units and purchasing from Georgia a 15.1% undivided ownership interest in the Additional Units or by purchasing from Georgia a 15.1% undivided ownership interest in the Additional Units with no transaction involving the Units. MEAG must pay Georgia compensation for the use of a 15.1% ownership interest in the Common Facilities in a declining amount which is a function of Georgia's carrying costs for such ownership interest in the common facilities and the historical periodic expenditures for construction of the Common Facilities. Georgia has given MEAG an option to terminate such payments by purchasing an additional 15.1% undivided ownership interest in the Common Facilities. The application states that the Act is not applicable to any of the proposed for potential sales by Georgia to MEAG or Dalton because MEAG is an instrumentality of the State of Georgia and Dalton is a subdivision of the State of Georgia within the meaning of Rule 44.

The fees and expenses to be paid or incurred, directly or indirectly, in connection with the proposed transactions are to be filed by amendment. It is stated that no state and no federal commission, other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested persons may, not later than August 27, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Corporate Regulation Division, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-23752 Filed 8-6-80; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges; Opportunity for Hearing

July 31, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

American General Corp. (AGC)
Common Stock, $1.50 Par Value (File No. 7–5684)

Benguet Corp. (BE)
Class B Common Stock (File No. 7–5685)

DMG, Inc. (DMG)
Common Stock, $.01 Par Value (File No. 7–5686)

Fishbach Inc. (FIS)
Common Stock, $1 Par Value (File No. 7–5687)

Gearhart Industries, Inc. (GOI)
Common Stock, $.50 Par Value (File No. 7–5688)

JWT Group Inc. (JWT)
Common Stock, $.10 Par Value (File No. 7–5689)

Metro-Goldwyn-Mayer Film Company (MGM)
Common Stock, No Par Value (File No. 7–5690)

Tri-South Investments, Inc. (TSI)
Common Stock, $.10 Par Value (File No. 7–5691)

Augat, Inc. (AUG)
Common Stock, $.10 Par Value (File No. 7–5692)

Black Hills Power & Light Co. (BHP)
Common Stock, $1 Par Value (File No. 7–5693)

Canadian Pacific Enterprises Ltd. (ENT)
Common Stock, No Par Value (File No. 7–5694)

Flight-Safety International Inc. (FSI)
Common Stock, $.10 Par Value (File No. 7–5695)

Horizon Bancorp (HZB)
Common Stock, $4 Par Value (File No. 7–5696)

James River Corp. of Virginia (JR)
Common Stock, $.10 Par Value (File No. 7–5697)

Keystone Foods Corp. (KFC)
Common Stock, $.10 Par Value (File No. 7–5698)

Naples Federal Savings & Loan Association (NAF)
Common Stock, $.01 Par Value (File No. 7–5699)

Nobel Affiliates, Inc. (NBL)
Common Stock, $3.33⅓ Par Value (File No. 7–5700)

Recognition Equipment Inc. (REC)
Common Stock, $.25 Par Value (File No. 7–5701)

Safeguard Business Systems, Inc. (SGB)
Common Stock, $.10 Par Value (File No. 7–5702)

Southwest Florida Banks, Inc. (SFB)
Common Stock, $1 Par Value (File No. 7–5703)

Ti-Caro, Inc. (TCX)
Common Stock, $1 Par Value (File No. 7–5704)

Tricentrol Limited (TCT)
American Depository Receipt for American Shares (File No. 7–5705)

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 21, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR 80-23749 Filed 8-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17028; SR–NASD–80–14]

National Association of Securities Dealers, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

July 30, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on July 18, 1980, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, filed with the Commission copies of a proposed rule change. The proposed rule change would amend Article I, Section 7 and Article XV, Sections 4 and 5 of the NASD's By-Laws to provide that the NASD retains jurisdiction over members and associated persons who have resigned or been terminated until one year after the effective date of their resignation or termination. In addition, the proposed rule change would amend Appendix E under Article III, Section 5 of the NASD's Rules of Fair Practice to change the level at which members are required to report positions in options contracts. The reporting threshold would be increased from 100 to 200 contracts in a particular class of options on the "same side of the market."

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street,

Washington, DC 20549. Reference should be made to File No. SR–NASD–80–14.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered securities association and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change would conform NASD rules to the rules of other self-regulatory organizations. Accordingly, the Commission believes that accelerated approval of the NASD proposal is necessary and appropriate in order to achieve a consistent and equal regulatory scheme.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-23753 Filed 8-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11282; 812-4297]

UCB Financial Services, Ltd.; Filing of Application for Order Exempting Applicant From All Provisions of the Act

July 31, 1980.

Notice is hereby given that UCB Financial Services, Ltd. ("Applicant"), c/o United California Bank, 707 Wilshire Boulevard, Los Angeles, California 90017, an Ontario corporation, filed an application on April 27, 1978, and amendments thereto on June 26, 1979, and May 16, 1980, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Background

Applicant states that it incorporated as a financial service company under the Business Corporations Act of Ontario, Canada, on October 8, 1975, and that it is a wholly owned subsidiary of United California Overseas Investment Company ("Overseas"), a corporation organized pursuant to Section 25(a) of the Federal Reserve Act, 12 U.S.C. 611 *et seq.* ("Edge Act"). According to the application, Overseas is a wholly owned subsidiary of United California Bank ("UCB"), a bank chartered under the provisions of the California Financial Code. The application states that Overseas was organized for the purpose of holding equity investments made by UCB in non-bank financial institutions. UCB is a wholly owned subsidiary of Western Bancorporation ("WBC"), a publicly traded Delaware corporation which is a bank holding company.

Applicant states that its business consists of wholesale lending to both indigenous and foreign owned corporations in Canada and that each loan it makes is individually negotiated and memorialized in a written agreement. Such loans generally will be oriented to include companies engaged in developed and processing natural resources in Canada. In addition, Applicant proposes to provide term loans to Canadian commercial and industrial firms engaged in the exportation of Canadian products.

Applicant represents that WBC is subject to regulation under the Bank Holding Company Act and that WBC and its subsidiaries, including Applicant, are subject to examination by the Board of Governors of the Federal Reserve System ("Board"). Applicant further represents that UCB is subject to regulation and supervision by both federal and California banking authorities, and that WBC, Overseas and Applicant, as affiliates of UCB, are also subject to the supervision of such authorities. In addition, Applicant asserts that as a foreign owned financial service company incorporated pursuant to Ontario law, it is subject to the provisions of the Canadian Foreign Investment Review Act. in this regard, Applicant states that it has entered into an aggreement with the Foreign Investment Review Agency under which it has made certain undertakings with respect to its management, ownership, financial structure, capital structure, regulation and business objectives. This agreement is to remain in effect until such time as Applicant or any affiliate or associate of Applicant becomes subject to express regulation under the Canadian Bank Act. Applicant states that UCB intends to apply for a Canadian Bank Charter, and if such charter is granted, convert the operations of Applicant into those of a chartered bank subsidiary. Upon such conversion, Applicant would be regulated under the Canadian Bank Act.

Applicant states that, although it has a separate corporate existence, it is operated in substantially the same manner as if it were a foreign branch of UCB. All final credit decisions involving loans of more than $500,000 are made by a credit committee which is the same committee that oversees the lending operations of UCB. A complete file on each of Applicant's credit transactions, as well as complete and up-to-date financial information on Applicant, is maintained by UCB. Applicant asserts that, as a consequence of both internal controls applied by UCB and the supervision effected by the Board in its application of the federal banking laws, the operations of Applicant are supervised in a manner consistent with the supervision exercised over banks incorporated and operating under the California Financial Code.

Proposed Offerings

The application states that all of Applicant's equity securities are currently held, and will be held, by UCB, WBC or their wholly owned subsidiaries. The remainder of Applicant's capital is currently derived through the sale of notes with maturities of not more than 270 days ("Short-Term Notes"). The Short-Term Notes are sold through institutional intermediaries located in Canada in multiples of $1,000 with a minimum allotment of $50,000. They are guaranteed by UCB, payable in Canadian dollars (or the equivalent thereof in other currencies) and such notes may not be rolled over. Applicant states that from time to time it acquires other funds through individually negotiated borrowings from substantial and financially sophisticated entities doing business in Canada.

Applicant states that at the present time a substantial portion of the funds invested in its Short-Term Notes is derived from sources located in the United States. However, Applicant asserts that, because the Short-Term Notes are guaranteed by UCB, they are exempted from registration under the Securities Act of 1933 ("1933 Act") pursuant to Section 3(a)(2) thereof, and because all of Applicant's securities (other than short-term paper) are held by a company which is excepted from the definition of "investment company," Applicant is currently excluded from the applicability of the Act by the provisions of Section 3(b)(3) thereof.

Applicant asserts that, if it is to compete effectively in the Canadian financial marketplace, it must have available sources of funds having maturities in excess of 270 days in order to enable it to offer certain types of long-term loans to its customers. Accordingly, Applicant proposes to commence the issuance and sale of debt securities having maturities of more than 270 days ("Long-Term Debt"). Such Long-Term Debt will be sold outside the United States, in denominations of $100,000 or more, pursuant to private placements with substantial and financially sophisticated investors located outside the United States. Purchasers of the Long-Term Debt will be required to provide written assurance to Applicant or its underwriters that they are purchasing for investment and not with a view toward resale. Further, Applicant states that underwriters offering and selling the Long-Term Debt will be required to provide written assurance to Applicant that they will not offer or sell such securities: (1) To persons residing in the United States, its territories or possessions, or to a national or resident thereof; (2) to persons other than substantial and financially sophisticated institutions; or (3) to persons unwilling or unable to provide written assurances that they are purchasing such securities for investment and not with a view toward resale. Applicant states that the certificates representing the Long-Term Debt will bear a prominent legend to the effect that such securities may not be transferred (except by operation of law to the successor of the holder thereof) without the prior written consent of Applicant or its underwriter.

Applicant further states that, because the Canadian short-term note market is an important source of funds, it desires to continue to sell its Short-Term Notes. Upon the issuance of an order granting the exemption Appliant requests, Applicant states that the minimum denomination of the Short-Term Notes will be increased to $100,000 to reduce the possibility that such notes might be purchased by investors other than substantial and financially sophisticated institutions.

Applicant states that the Short-Term Notes and Long-Term Debt will rank on a *pari passu* basis with one another and will constitute direct obligations of Applicant. The rights of the Short-Term Notes and Long-Term Debt will be superior to the rights of Applicant's equity shares, and will be equal or superior to the rights of any other debt securities issued by Applicant. The Short-Term Notes will continue to be guaranteed by UCB and, as a result, will have rights superior to the rights of equity shares issued by UCB.

Requested Exemption

Applicant states that once it proceeds to offer the Long-Term Debt, it will no longer be able to rely on Section 3(b)(3) of the Act. Accordingly, Applicant has requested that it be exempted from all provisions of the Act. Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, from any provisions of the Act, or of any rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that, prior to proceeding with any offering of Short-Term Notes without registration under the 1933 Act, it will obtain an opinion of its United States counsel that the offering will qualify for the exemption from registration provided by Section 3(a)(2) of the 1933 Act which exempts securities issued or guaranteed by U.S. banks. Applicant further represents that, in the event it makes any offering of short-term notes in the United States which are not guaranteed by UCB, such issue will be registered under the 1933 Act unless Applicant has received an opinion of its United States councel that the offering will qualify for an exemption from the registration provisions of the 1933 Act, such counsel having taken into account the doctrine of "integration" as it might apply. Applicant does not request Commission review or approval of such opinion letters, and the Commission expresses no opinion as to the availability of any such exemptions.

In addition, Applicant undertakes to insure that each offeree of the Short-Term Notes will be provided with a memorandum including the most recent publicly available consolidated financial statements of UCB (which statements include the assets and liabilities, and profits and losses, of Applicant). Such memorandum will be at least as comprehensive as memoranda customarily used in connection with the issuance of bank guaranteed short-term notes in Canada. A similar memorandum will be provided to each offeree in connection with any exempt offering in the United States by Applicant of short-term notes not guaranteed by UCB, and will describe the business of Applicant and contain its most recent publicly available financial statements prepared in accordance with generally accepted accounting principles in Canada. According to the application, the memoranda utilized in connection with such offerings of non-guaranteed short-term notes in the United States will be at least as comprehensive as those customarily used in connection with the issuance of short-term notes in the United States and will include a description of material differences between United States and Canadian generally accepted accounting principles, if any. The memoranda utilized in connection with both types of offerings of short-term notes will be updated periodically, and at least annually, to reflect material changes in Applicant's financial condition.

In the case of any offering in the United States of short-term notes not guaranteed by UCB, and not required to be registered under the 1933 Act, Applicant states that such notes shall have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating agencies. Applicant will advise in writing its U.S. counsel, in connection with the preparation of its opinion regarding exemption from the 1933 Act, that such rating has been received; provided, however, that if such notes are guaranteed by WBC, Applicant shall not be required to secure a rating so long as the outstanding commercial paper of WBC, at the time of the issuance of such notes, has received one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating agencies.

Applicant represents that it has no present intention to sell long-term debt securities in the United States. However, any public offering of such long-term debt securities in the United States will be registered under the 1933 Act. Applicant undertakes that it will comply with the prospectus delivery requirements of the 1933 Act in offering and selling such securities. In the case of any offering of long-term debt securities in the United States not requiring registration under the 1933 Act, Applicant undertakes to provide to each offeree in the United States a memorandum at least as comprehensive in its description of Applicant as those customarily used in such offerings of

long-term debt in the United States. All financial statements included in such memoranda will be prepared in accordance with generally accepted accounting principles in Canada and will include a statement describing the material difference, if any, between United States and Canadian generally accepted accounting principles. Such memoranda will be updated at the time of subsequent offerings to reflect material changes in Applicant's financial position.

Applicant states that any order granting its application may be expressly conditioned upon compliance with its undertakings regarding disclosure memoranda. It represents that, in connection with the issuance of the Short-Term Notes and any other securities, it will appoint UCB as agent to accept service of process in any action based upon the securities issued and brought by a holder thereof. Applicant will accept jurisdiction in any state or federal court in california with respect to such actions. The appointment of UCB as agent for service of process and the acceptance of jurisdiction shall be limited to suits brought by a holder of Applicant's securities and based upon the acts of Applicant in connection with the purchase and sale of such securities, or the performance of any of Applicant's obligations thereunder, and shall be irrevocable until the amounts due or to become due on the securities have been paid.

In view of the foregoing representations and undertakings, Applicant asserts that the granting of the requested exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 25, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23751 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–630]

Wacoal Corp.; Application and Opportunity for Hearing

July 30, 1980.

Notice is hereby given that Wacoal Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the reporting requirements of Section 15(d) of the 1934 Act.

The Application states, in part:

1. Applicant, a Japanese corporation, is a leading manufacturer and marketer in Japan of women's intimate apparel.

2. On January 11, 1977 the Applicant's registration statements for 6,000,000 shares of common stock and related American Depositary Receipts were declared effective.

3. As of September 1, 1979, the first day of Applicant's current fiscal year, the number of holders of Applicant's common stock and ADRs resident in the U.S. was 34.

In the absence of an exemption, Applicant is required to file certain reports with the Commission pursuant to Section 15(d) of the 1934 Act, including an annual report on Form 20–K for the fiscal year ended August 31, 1980. Applicant argues that no useful purpose would be served in filing the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the office of the Commission at 1100 L Street, NW, Washington, D.C. 20549.

Notice is further given that any interested person not later than August 25, 1980 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23750 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–624]

Warner-Lambert International Capital Corp.; Application and Opportunity for Hearing

Notice is Hereby Given That Warner-Lambert International Capital Corporation (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting it from the periodic reporting requirements under Section 13 of the 1934 Act.

The Applicant states:

(1) The Applicant is a wholly owned subsidiary of Warner-Lambert Company which files periodic reports pursuant to Section 13 of the 1934 Act.

(2) The Applicant's 4¼% Guaranteed Debentures due 1981 (the "Debentures") are the only class of security issued by Applicant which is registered under the 1934 Act.

(3) The Applicant's parent, Warner-Lambert Company, has unconditionally guaranteed the Debentures.

(4) Holders of the Debentures can be fully informed by referring to the reports of Warner-Lambert.

(5) Applicant has undertaken to report any event which would materially affect the rights of the holders of the Debentures.

In the absence of an exemption, Applicant is required to file reports pursuant to Section 13 of the 1934 Act and the rules and regulations thereunder. Applicant believes that its request for an order exempting it from the provisions of Section 13 of the 1934 Act is appropriate, in view of the fact that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice Is Further Given that any interested person no later than August 25, 1980, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued to this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23798 Filed 8–6–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0390]

Cornell Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On February 11, 1980, a Notice was published in the **Federal Register** (45 FR 9146) stating that Cornell Capital Corporation, 405 Lexington Avenue, New York, New York 10017, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business February 26, 1980, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on July 18, 1980, issued License No. 02/02–0390 to Cornell Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: July 31, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–23866 Filed 8–6–80; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–5368]

Hop Chung Capital Investors, Inc.; Issuance of a Small Business Investment Company License

On April 14, 1980, a notice was published in the **Federal Register** (45 FR 2506) stating that an application has been filed by Hop Chung Capital Investors, Inc., 214 Mott Street, New York, New York 10013, with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license as a small business investment company.

Interested parties were given until close of business April 29, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–5368 on July 18, 1980 to Hop Chung Capital Investors, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 31, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–23867 Filed 8–6–80; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 04/04–5194]

Southern Venture Corp.; Application for License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.(1980) under the name of Southern Venture Corporation (Applicant) for a License to operate as a Small Business Investment Company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

The Applicant is incorporated under the laws of the State of Florida and it will commence operations with a capitalization of $500,000 which will be obtained through the sale of 1000 shares of its Common Stock, $1.00 Par Value, to Mr. Alex Matway for $500 per share. The Applicant has authorized 500 shares of its Preferred Stock, Series A for possible issuance to the Small Business Administration.

The following are proposed to be the officer and directors of the Applicant:

Name and Title

Alex Matway, President and Director, 1196 Stephen Foster Drive, Largo, Florida 33540.

Robert L. Collins, Vice President and Director, 1629 Amerlea Drive So., Dunedin, Florida 33528.

Donald E. Sells, Secretary, Treasurer and Director, 9675 Commodore Drive, Seminole, Florida 33542.

The Applicant will have its principal place of business at Interair Complex, St. Petersburg—Clearwater Airport, Clearwater, Florida 33520. It intends to make investment principally in Penellas, Hillsborough, Pasco, Polk, Manateo and Sarasoto Counties of Florida, and will also seek and be receptive to investment opportunities elsewhere in the United States.

As a Small Business Investment Company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include

V 45 / 154 AG 7 80 UMI

the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the Applicant to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in Clearwater, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 31, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-23868 Filed 8-6-80; 8:45 am]

BILLING CODE 8025-01-M

Roger Cox Small Business Investment Co.; License Surrender

[License No. 06/06-0221]

Notice is hereby given that Roger Cox Small Business Investment Co., 4121 Wyoming Boulevard, N.E., Albuquerque, New Mexico 87111 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Roger Cox Small Business Investment Co., was licensed by the Small Business Adinistration on September 27, 1979.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on July 25, 1980, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 31, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR 80-23869 Filed 8-6-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-98]

Study of Large Tank Barges and Solicitation of Information

AGENCY: Coast Guard, DOT.

ACTION: Notice.

PURPOSE: The purpose of this notice is—

1. To inform the public that the Coast Guard is conducting a study of the operation of large tank barges (tank barges of 20,000 DWT or more that carry crude oil and of 30,000 DWT or more that carry products) with particular emphasis on the causes of oil pollution from these barges;

2. To solicit information concerning the operation and potential environmental impact of large tank barges; and

3. To solicit information concerning certain operations at terminals serving large tank barges.

Discussion: In the November 19, 1979 **Federal Register** (44 FR 66502, 66531) the Coast Guard issued interim final rules to implement the vessel equipment and construction standards of the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973* (MARPOL Protocol), which were developed at the Tanker Safety and Pollution Prevention (TSPP) Conference held under the auspices of the Inter-Governmental Maritime Consultative Organization (IMCO) in London during February 1978. These regulations were issued under the authority of the Port and Tanker Safety Act of 1978 (92 Stat 1480, 1484; 46 USC 391a) and were adopted as final rules on June 30, 1980 (45 FR 43705, 43717).

These regulations do not differentiate between self-propelled and non self-propelled vessels regarding the applicability of the requirements for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT) and crude oil washing (COW) systems. Interpretations of the standards of the MARPOL Protocol are developed by the Marine Environmental Protection Committee of IMCO. To date the interpretations have focused upon the applicability of the standards to various types of typical self-propelled vessel operations, and have not given consideration to the differing operating procedures of large tank barges. The Coast Guard feels that the operating differences are sufficient to warrant exploring the development of specific interpretations for these large barges.

The standards of the MARPOL Protocol and the regulations require all existing tank vessels of over 40,000 DWT which carry oil in bulk to be provided with either SBT CBT or a COW system (as appropriate to the vessel's cargo). Since there are few, if any, existing tank barges of this size, this requirement has little effect. However, the MARPOL Protocol and the regulations further require that all new tank vessels of 20,000 DWT and above which carry crude oil be fitted with a COW system and protectively located segregated ballast tanks (PL/SBT), and that all new tank vessels of 30,000 DWT and above which carry product oils be provided with PL/SBT. There are several tank barges in these size ranges currently under construction in the U.S. or being contemplated by U.S. owners.

In the discussion contained in the November 19, 1979 **Federal Register**, the Coast Guard indicated that there was only limited data available to establish conclusions on the cause of oil pollution from tank barges of the DWT sizes addressed by those regulations, and that it could not be determined at that time whether there was a need for additional standards on tank barges in that size range. Further, the Coast Guard indicated that it had decided to undertake a study to determine the causes of oil pollution from these large tank barges.

Preliminary work by the Coast Guard on this study has been inconclusive and contradicts unsolicited information provided by some members of the tank barge industry. Therefore, in order to attempt to resolve these differences, and to aid in the development of interpretations of the MARPOL Protocol which may be more appropriate to the operation of large tank barges, the Coast Guard is asking knowledgeable and interested members of the public and industry to provide information regarding the design of new large tank barges and related terminal facilities, and the operation of existing large tank barges. Specifically the Coast Guard is interested in obtaining information regarding—

- The number and size of tank barges of over 20,000 DWT that are currently on order or contemplated for the carriage of crude oil.
- The number and size of tank barges of over 30,000 DWT that are currently on order or contemplated for the carriage of product oils.
- The trading routes of existing barges and those being contemplated for future expansion, especially those involving international trade.
- The anticipated impact of crude oil washing on the terminal facilities used by large tank barges.

- Whether provision for shore-supplied inert gas has been contemplated at any terminal facilities for use by large crude oil carrying tank barges during crude oil washing.
- The practicality and feasibility of installing and operating COW systems on large tank barges which carry crude oil.
- The practicality and feasibility of installing and operating an inert gas system on large tank barges.
- How frequently existing large tank barges change from product oil trade to crude oil trade.
- Whether the large barges currently under construction or contemplated are being designed for the carriage of both crude and product oils.
- The amount of ballast required for sea-keeping on tank barges of 20,000 DWT and over.
- The number of existing large barges that normally ballast cargo tanks or, for sea-keeping purposes, have ballasted cargo tanks.
- The number of existing large barges that operationally discharge oil or oil residues at-sea for routine tank cleaning or tank cleaning prior to shipyard entry.
- The probable effect that a standard requiring all oily ballast, tank washings or cargo residues to be retained on board for discharge to reception/treatment facilities would have on the operation of those barges which ballast cargo tanks or conduct tank washing at sea.
- Alternatives other than a retain-on-board standard which would effectively reduce operational discharges by these barges.
- Probable market effects if standards for tank barges were to differ significantly from standards for self-propelled vessels.

If the results of the study indicate that regulatory action is warranted the public will be informed by means of an appropriate notice in the **Federal Register.**

Person to Contact: For any questions regarding this Notice and the scope of the information desired, or to submit information contact LCDR Alan E. Spackman, Merchant Marine Technical Division (G-MMT-1/13), Room 1308 Trans Point Building, 2100 2nd St. S.W., Washington, D.C. 20593 (202-426-4431). To be most helpful, information or notice that information is forthcoming should be provided by October 1, 1980.

Dated: July 31, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-23811 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

McDonnell Douglas Corp.; Certification Status

On July 9, 1980, a Notice of Certification status was issued concerning the application for type certificate of the DC-9-80 series aircraft submitted by McDonnell Douglas Corporation in accordance with Part 21 of the Federal Aviation Regulations (FAR). The application was submitted on August 24, 1977. The July 9 notice stated that the type certification program for the DC-9-80 was entering the final phase, however, certain issues still had to be resolved prior to certification. In that notice it was stated that the type certificate for the DC-9-80 would be issued no sooner than August 8, 1980, however, it further cautioned that this process could take longer if all issues were not satisfactorily resolved.

Due to the complexity of the program, the considerable amount of time required to review recent data submission, and the conduct of flight tests needed to provide a basis for the redemonstration of continued safe flight and landing with a total failure of both hydraulic systems, it is necessary to extend the projected certification date.

While substantial progress has been made toward certification, the following procedural steps must be completed before the type certificate can be issued:

Compliance with the certification requirements established by the Federal Aviation Administration must be demonstrated, including specific compliance with applicable provisions of the following regulations:

1. • FAR Part 25, amendment 25-1 through 25-40 except that certain sections of FAR Part 25 are at amendment levels earlier or later than Amendment No. 40, effective May 7, 1977;
   - Special Conditions No. 25-95-WE-77, as amended, dated April 3, 1980;
   - Special Conditions No. 25-88-WE-25, dated March 9, 1979;
   - FAR Part 36 amendments 36-1 through 36-11, including the retroactive requirements and acoustical change provisions of FAR Section 36.2 and 36.7, repectively;
   - Special Federal Aviation Regulation 27, as amended and made applicable by 40 CFR 87 (Environmental Protection Agency) with regard to air pollutant emissions;

2. A comprehensive review of the safety aspects of DC-9-80 operation crew complement must be completed and the results presented for review to the FAA Administrator (Ref. FAR 25.1523, and FAR 25 Appendix D).

3. Plans must be reviewed for the conduct of a test to demonstrate continued safe flight and landing with a total failure of both hydraulic systems (Ref. Special Conditions No. 25-95-WE-27); and, this test must be successfully accomplished.

Upon completion of these steps, I will then review the entire process to determine, in accordance with my responsibilities under the Federal Aviation Act, whether the type certificate can be issued.

In light of the complexities involved, the type certificate for the DC-9-80 will be issued no sooner than August 18, 1980, and this process could take longer if all issues are not satisfactorily resolved.

Langhorne Bond,

Administator.

[FR Doc. 80-24008 Filed 8-6-80; 10:24 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Ballard, Carlisle, Hickman, Fulton Counties, Ky.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Ballard, Carlisle, Hickman and Fulton Counties, Kentucky.

FOR FURTHER INFORMATION CONTACT: Ron George, Environmental Coordinator, Federal Highway Administration, P.O. Box 536, Frankfort, Kentucky 40602, Telephone: (502) 227-7321.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Kentucky Department of Transportation is preparing an environmental impact statement for the construction of approximately 50 miles of the Great River Road corridor located in Kentucky and the purchase and development of associated amenities by FHWA and the Kentucky Department of Transportation. The Great River Road is a scenic corridor along the Mississippi River from Canada to the Gulf of Mexico. Several alternate alignments are under

consideration, as well as, the "do-nothing" alternative.

This project has been on-going for many years and scoping meetings public meetings and an Interdisciplinary Team Meeting have been held. A Kentucky Great River Road Commission is established to expedite the development of this project. The project has been coordinated with various federal, state and local agencies and officials and private organizations and parties identified as being impacted by this project or having an interest in its development. No further scoping meetings are planned.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: July 30, 1980.

James W. Hilborn III,

Assistant Division Administrator, Frankfort, Ky.

[FR Doc. 80-23787 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Fairbanks, Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Glenn E. Johns, Environmental Coordinator, Federal Highway Administration, P.O. Box 1648, Juneau, Alaska 99802, Telephone: (907) 586-7421. Mike Tinker, Alaska Department of Transportation and Public Facilities, 2301 Peger Road, Fairbanks, Alaska 99701, Telephone (907) 452-1911.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on a proposal to improve Farmers Loop Raod in Fairbanks, Alaska. The proposed improvement would involve the reconstruction of the existing Farmers Loop road between Mileposts 0 and 8. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Alternatives under consideration include (1) taking no action; (2) widening the existing two-lane highway to four lanes; and (3) constructing a two-lane or four-lane highway on new location within the area bounded by College Road on the south and Farmers Loop Road on the north.

Letters describing the proposed action and soliciting commments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Public meetings will be held in Fairbanks, Alaska between July, 1980, and March, 1981. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Alaska Department of Transportation and Public Facilities at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and Local Clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: July 31, 1980.

Gene Hanna,

regional Administrator, Federal Highway Administration, Juneau, Alaska.

[FR Doc. 80-23770 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Jessamine and Fayette Counties, Ky.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for a proposed highway project in Jessamine and Fayette Counties, Kentucky.

FOR FURTHER INFORMATION CONTACT: Ron George, Environmental Coordinator, Federal Highway Administration, P.O. Box 536, Frankfort, Kentucky 40602, Telephone: (502) 227-7321.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Kentucky Department of Transportation is preparing an environmental impact statement for the improvement of existing US 27 from the Kentucky River at Camp Nelson in Southern Jessamine County north to New Circle Road in Southern Fayette County, Kentucky. This improvement would include reconstruction of the existing two lanes of US 27 to four lanes and a possible four-lane bypass around the City of Nicholasville. There are presently 5 alternatives with varying alignments under consideration including the "do nothing" alternative. The total length of the project is about 16.6 miles. The improved US 27 would provide additional highway capacity needed to meet existing and future travel demands between the rapidly growing cities of Nicholasville and Lexington.

Early in the planning process, a Nicholasville Citizens Transportation Advisory Committee representing various interest groups within the community was formed to provide local input. Numerous meetings of this committee, scoping meetings, public meetings and interdisciplinary team meetings were held for this project. The project has been coordinated with various federal, state and local agencies and officials and private organizations identified as being impacted by this project or having an interest in its development. No additional scoping meetings are planned.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: July 30, 1980.

James W. Hilborn III,

Assistant Division Administrator, Frankfort, Ky.

[FR Doc. 80-23788 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement, Las Vegas, Clark County, Nev.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Las Vegas, Clark County, Nevada.

FOR FURTHER INFORMATION CONTACT: J. L. Hirsch, Acting Division Administrator, Federal Highway Administration, 1050 East William Street, Suite 300, Carson City, Nevada 89701, Telephone: (702) 885-5320 or J. J. King, Supervisor, Roadside Development and Environmental Studies, Nevada Department of Transportation, 1263 South Stewart Street, Carson City, Nevada 89712, Telephone: (702) 885-5680.

SUPPLEMENTARY INFORMATION: At the request of the Clark County (Nevada) Regional Transportation Commission and other entities, the Nevada Department of Transportation (NDOT) is preparing an Environmental Impact Statement. The purpose of this EIS is to determine the impacts of proposed Transportation modifications designed to improve the east/west movement of traffic in the Flamingo Road, Las Vegas corridor.

Possible alternatives for accomplishing the project objectives include (1) extension of Flamingo Road from Interstate 15 westward to Decatur Boulevard and construction of a full interchange on I-15 at Flamingo Road, (2) modification of the I-15 interchanges and other major intersections on any one or a combination of Sahara Avenue, Spring Mountain Road or Tropicana Avenue, (3) some combination of (1) and (2), and (4) taking no action at all.

The scoping process will begin with an "Intent to Study" letter to be sent to appropriate Federal, State and local agencies as well as interested private organizations and individuals. A formal scoping meeting will be held on August 6, 1980 at 10 o'clock a.m. in the NDOT District Office at 1200 North Main Street, Las Vegas. In addition, the scoping process will include the establishment and operation of an Inter-Agency Project Development Team, a Public Informational Meeting, the operation of a Project Office at 3305 West Spring Mountain Road, No. 38, Las Vegas, Nevada 89102 (702-873-4511) by the Project Consultant, and personal solicitation of input from concerned agencies, organizations and individuals by members of the consultant's staff. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments, suggestions or questions concerning this proposed action and the EIS should be directed to the FHWA or NDOT at the addresses provided above.

(CFDA Program Number 20.205. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: July 28, 1980.

J. L. Hirsch,

Acting Division Administrator, Carson City, Nev.

[FR Doc. 80-23820 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[BS-Ap-No. 1588]

National Railroad Passenger Corp.; Public Meeting

The National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for authority to modify a portion of the signal system which controls train operations between Baldwin, Pennsylvania and Regan, Delaware. The proposed modification involves the initial installation of the revised signal system that Amtrak intends to utilize on all portions of the Northeast Corridor trackage between Boston, Massachusetts and Washington, D.C. The proposed signal changes are part of a comprehensive improvement program which is designed to enhance the overall performance of rail service on this line.

The Amtrak request is contained in several related proceedings which are identified as FRA Block Signal Application 1588 and four waiver petitions designated RS&I Number 607, RS&I Number 608, RS&I Number 609 and RS&I Number 610. The Railroad Safety Board of the FRA (Board), which has been delegated responsibility to determine whether to grant the request contained in these proceedings, has previously held two public hearings in these proceedings. The hearings were held on October 16, 1979 in Philadelphia, Pennsylvania and on October 18, 1979 in Boston, Massachusetts in accordance with a public notice published in the **Federal Register** on September 10, 1979 (44 FR 52783).

The information obtained during those hearings as well as that obtained during a detailed investigation of the Amtrak request has convinced the Board that there is a need to hold a public meeting to explore some of the issues about the proposed modification that have been raised in these proceedings. Consequently, the Board has voted to schedule a public meeting. The public meeting will be held at 10:00 a.m. on August 26, 1980 in Room 8334 of the Nassif Building located at 400 Seventh Street, SW, in Washington, D.C.

The public meeting will be informal and will be conducted by a representative designated by the Board. The representative of the Board will make an opening statement concerning the scope of the meeting and any procedures necessary for the conduct of the meeting.

Issued in Washington, D.C. on July 30, 1980.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-23654 Filed 8-6-80; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS-80-7]

Texas South-Eastern Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Texas South-Eastern Railroad (TSE) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the TSE be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The TSE seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-80-7, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. Communications received before September 19, 1980, will be considered by the FRA before final action is taken. Comments received after that date will

V 45 / 154 AG 7 80 UMI

be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 7th Street, SW, Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on July 30, 1980.

Joseph W. Walsh,
Chairman, Railroad Safety Board.

[FR Doc. 80-23655 Filed 8-6-80; 8:45 am]
BILLING CODE 4910-06-M

[Docket No. AMFG-1, Notice No. 1]

Federal Financing of Amtrak Under Sections 601 and 602 of the Rail Passenger Service Act of 1970; Proposed Guidelines

AGENCY: Federal Railroad Administration ("FRA"), Department of Transportation ("Department").

ACTION: Notice of Proposed Guidelines.

SUMMARY: These proposed guidelines implement sections 601(b) and 602(h) of the Rail Passenger Service Act, as amended, 45 U.S.C. 601(b), 602(h), ("the Act"). They establish a basis for a sound financial relationship between the National Railroad Passenger Corporation ("Amtrak") and the Department, acting through the FRA, by setting out the information to be acquired by Amtrak and evaluated by Amtrak and FRA in making financial planning decisions, the procedures through which federal funds will be made available to Amtrak, and the documentation required for the expenditure of those funds.

DATED: Written comments must be received before September 22, 1980. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

ADDRESS: Written comments should identify the docket number and notice number and should be submitted in triplicate to: Docket Clerk, Chief Counsel's Office, Federal Railroad Administration, Room 5101, Department of Transportation, Washington, D.C., 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed post card with their comments. The Docket Clerk will indicate on the post card the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 8211 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Principal Program Person: Richard G. Wakeman, Rail Passenger Programs Division, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–755–9332. Principal Attorney: David M. Talley, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–472–5438.

SUPPLEMENTARY INFORMATION:

Background

Section 601(b) of the Act authorizes the Secretary of Transportaion ("the Secretary") to grant Amtrak funds for operating and capital expenses. Grant funds appropriated pursuant to section 601(b) are required to be expended in accordance with guidelines established by the Secretary. In addition, section 602(a) allows the Secretary to guarantee loans made to Amtrak for capital acquisitions and repairs. Section 602(i) requires that Amtrak's guaranteed loan requests comply with general guidelines drawn under section 602(h) by the Secretary to assist Amtrak with capital and budgetary planning.

These guidelines shall apply to both the Department's grants under section 601(b) and it loan guarantees under section 602(a). They set forth the procedures by which grant funds will be released or loan guarantees issued, and provide for Amtrak's annual submission to FRA of a comprehensive operating and capital plan.

The Secretary is required by section 308(c) of the Act to report on the effectiveness of the Act and include his or her findings in the Department's annual report to Congress. Amtrak's submissions pursuant to these guidelines will be utilized in the preparation of those annual reports.

The form and content of loan guarantee applications will continue to be regulated by 49 CFR Part 251.

Economic Impact

Since the procedural and reporting requirements of these guidelines impose no significant burden on Amtrak, these guidelines are not considered significant for the purposes of the Department's Regulatory Policies and Procedures Order (44 FR 11034, February 26, 1979) implementing Executive Order 12044. Procedural in nature, these guidelines specify the timing and content of submissions Amtrak has been required to provide to the Department pursuant to the terms and conditions of existing loan guarantees made under section 602(a) of the Act. Also, Amtrak is presently collecting for internal management purposes, or as a result of loan guarantee terms and conditions, the information required for inclusion in the Comprehensive Operating and Capital Plan referred to in section 2.1 of these guidelines. Consequently, the additional costs to Amtrak of compliance with these guidelines would be insignificant. Furthermore, the guidelines will not have an economic impact on any organization or individual other than Amtrak. Therefore, it is the determination of the FRA that these proposed guidelines will impose so minimal a regulatory burden that they do not warrant a full regulatory evaluation under the Department's Regulatory Policies and Procedures Order.

Small Business Impact

FRA has evaluated this document and determined that it does not have any special impact on small business.

In consideration of the foregoing, the following guidelines are proposed.

Table of Contents

Article One: Definitions
Article Two: Planning and Policy
  Section 2.1 Comprehensive Operating and Capital Plan
  Section 2.2 Budget Request and Approved Budget Request
  Section 2.3 Consistency of Assumptions
Article Three: Funding Procedures
  Section 3.1 General Principles
  Section 3.2 Procedure for Requesting Funds
  Section 3.3 Procedure for Issuance of Loan Guarantees
  Section 3.4 Release of Grant Funds
  Section 3.5 Subsequent Justification of Expenditures Required
Article Four: Control and Management of Expenditures
  Section 4.1 Internal Accounting Procedures Required
  Section 4.2 Retention of Records
  Section 4.3 Reporting Requirements
Article Five: Compliance
  Section 5.1 Expenditures in Compliance with Approved Budget Request and Guidelines
  Section 5.2 Right to Defer or Refuse Funding
  Section 5.3 Waiver by Administrator
Article Six: Effective Date

Article One: Definitions and References

1.1 As used in these guidelines:

(a) "Act" means the Rail Passenger Service Act, as amended (45 U.S.C. 501 *et seq.*).

(b) "Administrator" means the Federal Railroad Administrator or his or her delegate.

(c) "Amtrak" means the National Railroad Passenger Corporation.

(d) "Approved Budget Request" means that document transmitted to Amtrak from FRA setting forth the Budget Request as approved or modified by Congress in appropriating funds pursuant to section 601(b) of the Act.

(e) "Budget Request" means those documents submitted to the Congress by the Department in justification of a request for an appropriation for Amtrak pursuant to section 601(b) of the Act.

(f) "Budget Year" means the second fiscal year commencing after April 1 of the then-current year.

(g) "Capital Authorization Request" or "CAR" means that document defined in section 3.2.

(h) "Capital Grant Funds" means Grant Funds appropriated for payment of Amtrak's captial expenditures pursuant to section 601(b) of the Act.

(i) "Comprehensive Operating and Capital Plan" or "Plan" means the Comprehensive Operating and Capital Plan referred to in séction 2.1.

(j) "Cost reimbursement agreement" means any agreement in which Amtrak's obligation to pay is determined in whole or in part by the costs incurred by a third party in fulfilling the agreement.

(k) "Department" means the United States Department of Transportation.

(l) "Grant Funds" means any funds appropriated for Amtrak's use under section 601(b) of the Act.

(m) "Guaranteed Loan Funds" means sums borrowed by Amtrak on obligations guaranteed by the Administrator under section 602(a) of the Act.

(n) "Operating Grant Funds" means Grant Funds appropriated for the payment of Amtrak's operating expenses pursuant to section 601(b) of the Act.

(o) "Route and Service Criteria" means the Criteria and Procedures for Making Route and Service Decisions established pursuant to section 404(c) of the Act.

(p) "Secretary" means the Secretary of Transportation or his or her delegate.

Article Two: Planning and Analysis

2.1 Comprehensive Operating and Capital Plan

(a) Amtrak shall submit to the Administrator by April 1 of each year a Comprehensive Operating and Capital Plan that shall have been approved by Amtrak's Board of Directors.

(b) Amtrak shall submit to the Administrator by August 1 of each year a reconciliation of the Plan reflecting Congressional Appropriation Committee action on the Budget Request for the next fiscal year.

(c) The Plan shall present information for the past fiscal year, the then-current fiscal year and each of the succeeding six fiscal years. Each fiscal year shall commence October 1.

(d) For each of the years identified in section 2.1(c), the Plan shall present at least the following information:

(i) A source and application of funds statement

(ii) A pro forma income statement;

(iii) An operating statement presenting, for each train that Amtrak anticipates will operate during the Budget Year and the two following fiscal years, the information contained in Attachment I of these guidelines, together with a statement of the principles followed in allocating costs to each train to determine its avoidable and fully allocated costs, the calculations used to generate those costs for each train, and the assumptions used to estimate the passenger-miles generated by each train and its revenue yield per passenger mile;

(iv) A profit improvement (or loss minimization) plan, together with supporting detail for each of its elements including, without limitation, a narrative description of each element, the operating and capital expenses, if any, associated with each element and the adjustments each element is expected to produce in each year's pro forma and operating statements; and.

(v) A capital plan covering the then-current fiscal year and each of the succeeding six fiscal years, including the proposed timing of expenditures for each of its elements and an analysis demonstrating the merit of each capital plan item in excess of $100,000 that is not included as an element of the profit improvement (or loss minimization) plan prepared in response to section 2.1(c)(iv).

(e) For fiscal years prior to the earliest fiscal year identified in section 2.1(c), Amtrak shall provide the Administrator, upon request, with data comparable to that required under the Plan.

(F) Within thirty (30) days after submission of the Plan, the Administrator shall transmit his or her questions, comments, recommendations and intended actions to Amtrak. Within (30) days following receipt of that material, Amtrak will provide the Administrator with answers to his or her questions and responses to his or her comments, recommendations and intended actions.

2.2 Budget Request and Approved Budget Request

(a) The pro forma income statement and capital plan for the second fiscal year following the then-current fiscal year, submitted as a part of the Plan, shall constitute Amtrak's submission to the Department supporting the Department's annual Budget Request for appropriations to Amtrak.

(b) If the Budget Request for an appropriation to Amtrak submitted by the Department to the Congress is inconsistent with the pro forma income statement and capital plan submitted by Amtrak, the Department will provide Amtrak with a written explanation of the difference.

(c) Amtrak will provide the Administrator, upon request, with the information that the Administrator determines is necessary to analyze and substantiate any submission Amtrak makes to the Congress in connection with the Budget Request.

(d) Within thirty (30) days after enactment of appropriations for Amtrak pursuant to section 601(b) of the Act as a part of the Department's annual appropriations Act, the Administrator shall prepare and transmit to Amtrak the Approved Budget Request. The Approved Budget Request will be prepared in accordance with the same standards and practices employed by the Department in interpreting its own appropriations Acts.

2.3 Consistency of Assumptions

Any submission Amtrak makes to the Congress, including Amtrak's annual report, shall be consistent with the accounting, cost allocation and other assumptions used in preparing the Plan. In the vent that Congress requires specific alternative assumptions, Amtrak shall provide the Administrator with a reconciliation of any such submission with the Plan.

Article Three: Funding Procedures

3.1 General Principles

(a) All requests by Amtrak for funds shall be consistent with the Approved Budget Request in which the expenditure requested was projected.

(b) All expenditures of such funds shall be made solely for the purpose and in the amounts specified in Amtrak's request as approved by the Administrator.

3.2 Procedure for Requesting Grant Funds and Adjustments to Guaranteed Loan Drawdown Authority

(a) At least ten (10) business days prior to each fiscal quarter, Amtrak shall submit to the Administrator for such quarter a request for Grant Funds and Adjustments to Guaranteed Loan Drawdown Authority that shall detail the proposed use of such funds. Where it appears that the amount of Grant Funds

V. 45 / 154
AG 7 80
UMI

requested will exceed the quarterly apportionment authorized by the Office of Management and Budget, Amtrak shall submit its request at least thirty (30) days prior to the beginning of the fiscal quarter.

(b) Such request shall contain the certifications and information required in Attachment II of these guidelines.

(c) Requests for operating grants shall include a reconciliation with the source and application of funds statement in the most recent Plan unless a later statement, consistent with the Approved Budget Request, has been filed with the Administrator. Any variation in a line item that exceeds, by either twenty (20) percent or $2,000,000, the amount projected in the source and application of funds statement shall be explained in the request.

(d) Each request for funds for capital expenditures, whether for Capital Grants Funds or Guaranteed Loan Funds, shall reference the projected amounts coming due on an approved Capital Authorization Request.

(i) CARs shall have been approved by Amtrak's Board of Directors in accordance with Amtrak's corporate by-laws.

(ii) Any increase by more than either five (5) percent or $100,00 in the amount of an approved CAR shall be explained in detail and approved by the Board of Directors by means of a supplemental CAR.

3.3 Procedures for Issuance of Loan Guarantees

Loan guarantees will be issued upon filing of an application by Amtrak pursuant to 49 CFR Part 251, subject to approval by the Administrator. The Administrator may attach such terms and conditions to any loan guarantee as he or she may determine in his or her sole discretion to be necessary or appropriate. Any note guaranteed pursuant to section 602(a) shall provide that drawdowns under the note by Amtrak shall not exceed the loan drawdown authority established by the Administrator.

3.4 Release of Grant Funds

(a) Capital Grant Funds shall be released quarterly in an amount equal to the quarterly apportionment approved by the Office of Management and Budget. Capital Grant Funds shall not be used to defray operating expenses. To the extent that the quarterly capital funding needed to meet expenditures coming due during the quarter is less than the quarterly funding available for capital expenditure purposes (e.g. capital grant, unexpended loans or Penn Central settlement), the Administrator may reduce the aggregate amount of drawdowns authorized by him under section 3.3 hereof by the difference between the quarterly funding available for capital expenditure purposes and the amount of capital funding needed to meet expenditures coming due during the quarter. If capital funding needed to meet expenditures coming due during the quarter is in excess of the quarterly capital funding available, then the Administrator may increase the aggregate amount of drawdowns authorized by him by the difference between the amount needed to meet capital expenditures coming due during the quarter and the quarterly capital funding available.

(b) Operating Grant Funds shall be released quarterly in amounts not to exceed the quarterly apportionment approved by the Office of Management and Budget.

(c) All Grant Funds shall be paid by letter of credit in conformity with Treasury Department Circular 1075, and with the requirements of Office of Mangement and Budget Circular A–34.

3.5 Subsequent Justification of Expenditures

The Administrator may request, and the chief financial officer of Amtrak shall submit upon such request, documents substantiating that Amtrak has in fact expended Grant and Guaranteed Loan Funds for the purposes and in the amounts specified in its quarterly requests for funds.

Article Four: Administrative and Fiscal Requirements

4.1 Accounting

(a) Amtrak shall operate and maintain an effective accounting system and related internal controls, and insure that adequate records are being maintained, that all funds are being controlled and expended in accordance with these guidelines and the Approved Budget Requests, and that its accounting techniques are designed to allocate accurately its costs to the various aspects of its operations.

(b) Amtrak shall obtain the right to audit contractors, including cost reimbursement subcontractors, under any cost reimbursement agreement of $100,000 or more entered into subsequent to the effective date of these guidelines unless this requirement is waived in writing by the Administrator. Amtrak shall conduct regular audits under any cost reimbursement agreement that provides for such audit.

4.2 Retention of Records

Amtrak shall retain for a period of seven (7) years after the expiration of its fiscal year all financial records, including all summary and principal source documents, supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, reports of aduits, both internal and external, and all other related documents and records. The Administrator, the Inspector General of the Department, and their designated representatives shall have access to such documents and related memoranda and papers for purposes of audit, examination, and copying.

4.3 Reporting Requirements

Amtrak shall submit to the Administrator, within ninety (90) days after the close of each month, the monthly reports designated in Attachment III of these guidelines.

Article Five: Compliance

5.1 Expenditures in Compliance With Approved Budget Request and Guidelines

All Grant Funds expended by Amtrak shall be spent in accordance with Approved Budget Requests and with these guidelines.

5.2 Right to Defer or Refuse Funding

In the event the Administrator determines under the provisions of section 601(b) or 602(i) of the Act that Amtrak has failed to comply with the Approved Budget Request or with these guidelines, he may defer payment of funds appropriated for Amtrak's use either in part or in whole, or refuse to guarantee loans for Amtrak, until such time as Amtrak complies with the Approved Budget Request and these guidelines.

5.3 Waiver by Administrator

The Administrator may, upon request with good cause shown, waive or modify any requirement of these guidelines not required by law. Amtrak may not rely upon any purported oral waiver or modification. A waiver or modification of a requirement on one occasion may not be relied upon as an indication that such requirement will be waived or modified on any future occasion.

Article Seven: Effective Date

These guidelines shall become effective as of ————.

Attachment I—Train Revenue and Expense Statement

Train No.

Origin Point
Terminal Point
Frequency
Revenue:
  Transportation
  Food Service Car (includes Amdinette and Amcafe)
  Lounge Car
  Mail & Express
  Other
  Total Revenue
Expenses:
  Direct Expenses
  Train/Engine Crew
  Fuel & Lubrication
  On Board Labor
  On Board Supplies
  Subtotal
Contribution (Loss) Net of Direct Expenses
Avoidable Expenses
  Station Services
  Other Facility Expenses
  Switching
  Maintenance of Equipment
  Maintenance of Way
  Incentives/Penalties
  Other
Total Avoidable Expenses
Contribution (Loss) Net of Avoidable Expenses
Allocated Expenses
  Station Svcs.
  Other Facility
  Switching
  Maintenance of Equipment
  Maintenance of Way
  Depreciation
  Incentive/Penalties
  Other
  Total Allocated Expenses
Total Contribution (Loss) Net of Fully Allocated Expense
Total Passengers
Total Passenger miles
Total Train miles
Total Car miles
Total Locomotive miles

Attachment II—Quarterly Funding Requisitions

Quarterly funding requisitions shall contain the information and assurances set forth below:

1. The total amount of funds requested, detailed by operating grant, capital and labor protection grant and the proposed adjustment to drawdown authority under the guaranteed loan program.
2. An itemized statement of the proposed application of the funds requested.
3. A statement of estimated cash sources and application.
4. A statement of capital expenditures by CAR showing the projected expenditures in the coming quarter, the estimated expenditures in the current quarter, the actual expenditures in the previous quarter, the authorized amount of the CAR, the actual expended balance, the estimated expended balance at the end of the coming quarter, proceeds from the sale of rolling stock and the capital portion of lease obligations.
5. A projection of capital expenditures by quarter for the remainder of the fiscal year.
6. The certification of Amtrak's chief financial officer that the information contained in the request and supporting documents is true and accurate to the best of his knowledge, and that all funds provided by the Department of Transportation will be used only for the financial purposes permitted by law and in accordance with the document contained in the request.
7. A statement of capital expenditures paid or to be paid during the fiscal year out of sources other than grant or loan funds.
8. An opinion of counsel that all expenditures proposed in the quarterly funding requisition have been approved by Amtrak in accordance,with its internal procedures, and that any funds provided pursuant thereto will be used only for the purposes stated therein.

Attachment III—Monthly Reporting

Amtrak shall submit the following report, certified by the Chief Financial Officer, 90 days after the close of each month:

(1) A source and application of funds statement.

(2) An obligation status report of capital expenditures including total expenditures to date for each approved project (CAR) OF $100,000 or more in Amtrak's capital plan.

(3) A responsibility report stating each corporate department's operating expenses.

(4) An income (profit and loss) statement, with a summary for the fiscal year to date, for the system and for the NEC showing the variance from the budget contained in the Plan.

(5) A balance sheet with a comparison with the same month of the previous year.

Issued in Washington, D.C. on July 31, 1980.

John M. Sullivan,
Administrator.

[FR Doc. 80–23865 Filed 8–6–80; 8:45 am]
BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. IP80–01; Notice 2]

White Motor Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by White Motor Corporation of Eastlake, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.127, Motor Vehicle Safety No. 127, *Speedometers and Odometers.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on March 10, 1980 (45 FR 15360) and an opportunity afforded for comment.

Beginning September 1, 1979, paragraph S4.1.4 of Standard No. 127 requires the figure "55" to appear on speedometers and to be highlighted. White inadvertently produced nine vehicles before October 23, 1979, equipped with old style speedometers that do not comply with S4.1.4. It argued that the noncompliance is inconsequential because the vehciles are heavy duty diesel powered trucks fitted with governors, and are typically capable of top speeds varying from 50 and 60 mph. The trucks otherwise meet Standard No. 127. White also believes the noncompliance is not safety related and that a recall would inconvenience the owners and discourage them from having real safety problems corrected in the future.

No comments were received on the petition.

The NHTSA concurs with petitioner's argument that the noncompliance has an inconsequential relationship to safety because it occurs on a limited number of speed-governed vehicles. Petitioner has met its burden of persuasion, and its petition is hereby granted.

(Secs. 102, Pub. L. 93–492, 99 Stat. 1480 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 29, 1980.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 80–23516 Filed 8–6–80; 8:45 am]
BILLING CODE 4910–59–M

WATER RESOURCES COUNCIL

Appointment to the Performance Review Board, Senior Executive Service

AGENCY: U.S. Water Resources Council.

SUBJECT: Notice of appointment to the Performance Review Board, Senior Executive Service.

ACTION: Notice.

DATE EFFECTIVE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis A. Smith, Director, Management Programs Division, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037, Phone: (202) 254–6448.

Pursuant to the Civil Service Reform Act, (4314)(c)(4) requires that the appointment of Performance Review Board Members be published in the **Federal Register.**

The following person replaces Lewis D. Walker as a member of the U.S. Water Resources Council's Performance Review Board which oversees the utilization and evaluation of the Council's Senior Executive Service:

Frank H. Thomas

Dated: August 1, 1980.

Gerald D. Seinwill,

Deputy Director.

[FR Doc. 80-23834 Filed 8-6-80; 8:45 am]

BILLING CODE 6401-01-M

Schedule Awarding SES Bonuses

AGENCY: U.S. Water Resources Council.

SUBJECT: Notice of schedule awarding SES bonuses.

ACTION: Notice.

DATE EFFECTIVE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis A. Smith, Management Programs Division, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037, Phone: (202) 254-6448.

The Council has established the following schedule for awarding SES bonuses:

Process	Completion date
End of Rating Period	July 12, 1980.
Performance Appraisal	Aug. 1, 1980.
Assessment Conference	Aug. 11, 1980.
Performance Review Board	Aug. 14, 1980.
Compensation Decisions	Aug. 15, 1980.
Bonus Paid	Aug. 25, 1980.

Gerald D. Seinwill,

Deputy Director.

[FR Doc. 80-23833 Filed 8-6-80; 8:45 am]

BILLING CODE 6410-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 154

Thursday, August 7, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Civil Rights Commission	2
Federal Communications Commission	3
Federal Deposit Insurance Corporation	4-7
Federal Energy Regulatory Commission	8
Federal Maritime Commission	9
Securities and Exchange Commission	10

1

[M-287 Amdt 1, Aug. 1, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of items to the August 7, 1980 meeting.

TIME AND DATE: 9:30 a.m. (after regular scheduled Board meeting) August 7, 1980.

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

29. Docket 37730, Standard Foreign Fare Level Investigation (Instructions to staff) (OGC).

28. Docket 37951—Application of Pan American World Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 132 to include Bombay, India (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1497-80 Filed 8-5-80; 3:10 pm]

BILLING CODE 6320-01-M

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: August 5, 1980, 2 p.m.

PLACE: 1121 Vermont Avenue NW., Washington, D.C. 20425.

STATUS: Conference call meeting, open to public.

MATTER TO BE CONSIDERED: Proposal for Miami hearing.

PERSON TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division (202) 254-6697.

[S-1488 Filed 8-5-80; 10:33 am]

BILLING CODE 6335-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Thursday, July 31, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: Deletion of an item.

Agenda, Item Number, and Subject

Broadcast—7—*Title:* Requests for the formation of a new Government-Industry Advisory Committee, and for the inauguration of an omnibus proceeding to facilitate a comprehensive approach to AM and FM matters now being considered in separate dockets, and for the inauguration of rule making to discontinue the threshold requirements of Section 73.37(e)(2) of the rules. *Summary:* The Commission will consider staff recommendations for action upon the foregoing requests.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: July 31, 1980.

[S-1496-80 Filed 8-5-80; 1:49 pm]

BILLING CODE 6712-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 4, 1980, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman Irvine H. Sprague, seconded by Mr. Paul M. Homan, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of Item No. V.3, an appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: August 4, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1491-80 Filed 8-5-80; 11:51 am]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 4, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Mr. Paul M. Homan, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of The Bank of Miami, Miami, Florida, an insured State nonmember bank, for consent to merge, under its charter and title, with Interamerican Bank of Miami, Miami, Florida, and for consent to establish the three offices of Interamerican Bank of Miami as branches of the resultant bank.

An appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

The Board further determined, by that same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: August 4, 1980.

Federal Deposit Insurance Corporation

The meeting will be held in the Board

Requests for information concerning

CONTACT PERSON FOR MORE

The subject matter of the open

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1492-80 Filed 8-5-80; 11:51 am]
BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions to the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is here given that at 2:30 p.m. on Monday, August 11, 1980, the Federal Deposite Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10), of Title 5, United States Code, to consider the following matters:

Application for Federal deposit insurance:

Manatee Community Bank, a proposed new bank, to be located at 1700 59th Street West, Bradenton, Florida, for Federal deposit insurance.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,405-SR—Bank of Lake Helen, Lake Helen, Florida.
Case No. 44,414-SR—Bank of Lake Helen, Lake Helen, Florida.
Memorandum re: American City Bank and Trust Company, National Association, Milwaukee, Wisconsin.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclsoure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 4, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1493-80 Filed 8-5-80; 11:51 am]
BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions to the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is here given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 11, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Memorandum and Resolution re: City and County Bank of Campbell County, Jellico, Tennessee—Resolutions appointing officers and directors of Campbell County Leasing Company.

Memorandum and Resolution re: Delegation of Authority to Suspend Time Deposit Withdrawal Penalties for Disaster Areas.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Report of the Controller on the termination of the liquidation of The Cedar Vale National Bank, Cedar Vale, Kansas.
Report of the Controller regarding the Corporation's securities portfolio inventory as of June 30, 1980.
Reports of the Office of Corporate Audits regarding the inventory of Gateway National Bank of Chicago, Chicago, Illinois.
Report of the Office of Corporate Aduits regard the inventory of Guaranty Bank & Trust Company, Chicago, Illinois.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 4, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1494-80 Filed 8-5-80; 11:51 am]
BILLING CODE 6714-01-M

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 50035, July 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., July 30, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

ER-19, ER80-422, Central Vermont Public Service Commission.

Kenneth F. Plumb,
Secretary.
[S-1490-80 Filed 8-5-80; 10:55 am]
BILLING CODE 6450-85-M

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., August 13, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Agreements Nos. 8770-6 and 9988-5: Modification of the United Kingdom/U.S.A. Gulf Westbound Rate Agreement and the Continental/U.S. Gulf Freight Association, respectively to modify their membership provisions and Agreement No. 9984-12: Modification of the South Atlantic North Europe Rate Agreement to exclude certain service from its intermodal authority.
3. Consideration of Tariff Rule 26 (Control of Cargo)—West Coast of Italy, Sicilian and Adriatic Ports, North Atlantic Conference.

Portion closed to the public:

1. Docket No. 80-6: Specific Commodity Rates of Far Eastern Shipping Company in the Philippines/U.S. Pacific Coast Trade and U.S. Gulf/Australia Trade—Consideration of request of respondent for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.
[S-1489-80 Filed 8-5-80; 10:33 am]
BILLING CODE 6730-01-M

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 11, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, August 12, 1980, at 10:00 a.m., and on Wednesday, August 13, 1980, following the 10:00 a.m. open meeting. An open meeting will be held on Wednesday, August 13, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522B(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioner Friedman, as Duty Officer, determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 12, 1980, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Litigation matter.
Freedom of Information Act appeal.
Formal order of investigation.
Subpoena enforcemnt action.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceeding and injunctive action.
Institution of injunctive actions.
Institution of injunctive action and access to investigative files by Federal, State, or Self-Regulatory Authorities.
Opinion.
Administrative proceeding of an enforcement nature.
Freedom of Information Act appeals and requests for Confidential Treatment.
Personnel security matter.

The subject matter of the closed meeting scheduled for Wednesday, August 13, 1980, following the 10:00 a.m. open meeting, will be:

Institution of injunction actions.

The subject matter of the open meeting scheduled for Wednesday, August 13, 1980, at 10:00 a.m., will be:

1. Consideration of whether to grant the application of Joel L. Halpern to become associated with Donald Sheldon & Co., Inc., a registered broker-dealer, as a registered representative. For further information, please contact David P. Tennant at (202) 272–2945.
2. Consideration of whether to affirm action, taken by the Duty Officer, granting Professor Thomas K. McCraw, Graduate School of Business Administration, Harvard University, access to Commission minutes from 1933 to 1940 and correspondence of Commissioners Landis and Douglas. For further information, please contact Shirley Hollis at (202) 272–2600.
3. Consideration of whether to adopt amendments to Regulation S-K and certain forms and rules under the Securities Act of 1933 and the Securities Exchange Act of 1934 relating to the filing of exhibits to certain frequently used forms. For further information, please contact Joseph G. Connolly, Jr. at (202) 272–3097.
4. Consideration of whether to grant the request of Randolph Phillips, pursuant to the Government in the Sunshine Act, for a copy of an official Commission minute dated June 18, 1980. For further information, please contact Myrna Siegel at (202) 272–2430.
5. Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272–2454.
6. Consideration of whether to propose for public comment a rule under the Public Utility Holding Company Act of 1935 (the "Act") which, if adopted, would exempt certain non-utility subsidiaries of registered holding companies from the duties, obligations, and liabilities imposed under the 1935 Act on a subsidiary company, if no more than 50% of the voting securities or other voting interests of any such company are owned, directly or indirectly, by any one or more registered holding companies. For further information, please contact Grant G. Guthrie at (202) 523–5156.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

Dated: August 4, 1980.
[S-1495-80 Filed 8-5-80; 12:36 pm]
BILLING CODE 8010-01-M

V 45 / 154 AG 7 80 UMI

V
4
5
/
1
5
4

A
G
7

8
0
UMI

federal register

Thursday
August 7, 1980

Part II

Environmental Protection Agency

Pesticide Programs; Rebuttable Presumption Against Registration (RPAR) Proceedings and Hearings Under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

V 45 / 154 AG 7 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 162 and 164

[FRL 1491-6; OPP 60004]

Pesticide Programs; Rules Governing Rebuttable Presumption Against Registration (RPAR) Proceedings; Rules of Practice Governing Hearings Under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: These proposed rules amend Part 162 of Title 40 of the Code of Federal Regulations by establishing a new Subpart which comprehensively revises the procedures for the issuance of notices of intent to deny or cancel registration or to change classification of pesticides uses.[1] The proposed rules also amend the title of Subpart A of Part 162 and redesignate and consolidate some of its existing sections, add definitions to Subpart A, and establish a new Subpart C of Part 162 by redesignating and consolidating other existing sections.

These proposed rules also amend Part 164 of Title 40 of the Code of Federal Regulations by comprehensively revising the rules of practice governing hearings under section 6 of FIFRA.

DATE: Comments must be received on or before November 5, 1980.

ADDRESS: Send comments to: Federal Register Section, Program Support Division (TS-757), Office of Pesticides Programs, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. All comments should bear the identifying notation "OPP-60004." All written comments will be available for public inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday.

It should be noted that since these regulations are procedural in nature, the Agency is not required to promulgate them through notice-and-comment rulemaking. However, because of the importance of these procedural reforms, the Agency has determined in its discretion to publish them in proposed form and to solicit comment on them.

FOR FURTHER INFORMATION CONTACT:

David E. Menotti, Associate General Counsel for Pesticides, Office of General Counsel (A-132), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-0794.

or

William F. Pedersen, Jr., Deputy General Counsel, Office of General Counsel (A-130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426-05058.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency is today proposing comprehensive revisions to the Rebuttable Presumption Against Registration ("RPAR") process set out in 40 CFR Part 162. The Agency also proposes to amend significantly the procedures specified in 40 CFR Part 164 for conducting adjudicatory hearings under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act as amended ("FIFRA") (7 U.S.C. 136 et seq.).

The objective of the proposal is to make the Agency's procedures for identifying and assessing potential problem pesticides, and making and implementing regulatory decisions concerning them, more open, responsive and efficient. The fundamental theme of the proposal is to create an integrated system in which decisions about registration or cancellation of problem pesticides are made in the RPAR process (as revised to facilitate informed participation by interested parties at all stages), and in which adjudicatory hearings are utilized primarily to probe and challenge decisions reached in the RPAR process, after appropriate screening to identify disputed fact questions which can profitably be illuminated through the use of trial-type procedures.

This document has five parts. Part I ("Introduction") and Part V ("Additional Issues on Which Comment is Solicited") are relative short sections whose titles are self-explanatory. Part II ("Background") provides background information concerning the proposal, including a discussion of the relevant statutory provisions and case law, and the Agency's experience in administering the RPAR process since its creation in 1975. Part III discusses in detail the principal revisions to the RPAR process which are included in the proposal. As indicated above, these changes are designed to enhance public participation in the process. Among other ways, this is accomplished by changes requiring the Agency to specify what decisions made during the process are based on, and by providing opportunities for comment at critical stages. Most of the changes reflect the Agency's accumulated experience with the RPAR process over the almost five year since its creation; many of the changes reflected have been used in the RPAR process on an informal basis already.

Part IV discusses the changes to the rules of practice governing adjudicatory procedures under FIFRA section 6 which are included in the proposal. While the changes to the RPAR process as it has evolved over time which are included in the proposal are relatively minor, the changes to the rules of practice contained in the proposal are, by comparison, broad and sweeping. As is explained in more detail below, this is primarily because the Rules of Practice have never been modified to provide for adjudicatory hearings which would follow informal procedures like the RPAR process in which decisions concerning registration or cancellation of pesticide uses were in fact reached. Instead, the Rules of Practice currently in place were designed for a much different purpose, *i.e.*, to serve as the mechanism for gathering information, assessing that information, and making decisions concerning the cancellation or denial of registrations for pesticide uses. The new hearing regulations include measures to reduce the excessive and crippling length of these hearings by providing alternative methods for resolution of issues where a trial-type approach is not appropriate; by setting time limits for completion of the hearing stage; and by linking the RPAR process closely to the hearing provisions to create an integrated mechanism for reaching final decisions on registration or cancellation of a pesticide use. Finally, the proposed revisions to the Rules of Practice provide mechanisms to allow the Administrator to make the maximum appropriate use of the Agency's expertise in various fields when final decisions are rendered at the conclusion of adjudicatory proceedings under FIFRA section 6.

II. Background

A. The Origins of the RPAR Process

The standard governing the registration or cancellation of a pesticide use requires the Administrator to balance the risks associated with a pesticide use with the benefits which flow from that use. Thus, the Administrator is required to determine the various risks associated with a pesticide use, to determine the benefits which flow from that pesticide use, and to permit those pesticide uses whose benefits appear to be greater than the associated risks. He is similarly required to prohibit those pesticide uses whose risks appear to be greater than the benefits associated with the pesticide use. The standard remains the same whether the Administrator is considering the initial registration of a new pesticide use, or the cancellation of an existing registered pesticide use. In either case, the ultimate question is whether the risk/benefit balance favors the risks or the benefits; if risks are greater, then cancellation or denial of registration for the pesticide use is required. On the other hand, if benefits are greater, then a new registration may be approved, or an existing registration may be allowed to remain undisturbed. Labeling, classification for restricted use, and other mechanisms are available to the Administrator as tools to reduce the risks associated with a pesticide use. In some circumstances, these measures may be employed to produce a risk/benefit balance with respect to a particular pesticide use which satisfied the standard for registration, in a situation where without such measures the pesticide use would not satisfy the standard for registration.

The fact that the ultimate standard controlling registration requires a balancing of risks and benefits has never been seriously disputed or controversial. However, it was only relatively recently that the statute itself clearly and explicitly reflected that the benefits of the use of a pesticide were to be considered in deciding whether or not to register or cancel the pesticide use. This explicit statutory recognition of the requirement to consider benefits, and the role of risk/benefit balancing in decisions to register or cancel, occurred in the 1972 amendments. The 1972 amendments accomplished a wholesale reenactment of the statute creating the federal pesticide regulatory program. Among other things, the standard governing registration and cancellation was re-formulated to provide that registration should be cancelled or denied if it appeared that the pesticide when used as directed or in accordance with widespread and commonly recognized practice "generally causes unreasonable adverse effects on the environment * * *." (FIFRA sections 3(c)(5), 6(b)). "Unreasonable adverse effects on the environment" was then defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." (FIFRA section 2(bb)).

While the Administrator's authority to weigh risks and benefits in making registration or cancellation decisions prior to the 1972 amendments was never seriously doubted, the statutory tests governing registration nowhere expressly authorized such consideration. Instead, the various statutory rests appeared to require the Administrator to find that the pesticide was safe, i.e., that it posed no risks. Thus, in the statute which controlled immediately preceding the 1972 amendments, the Administrator was required to deny or cancel registrations for pesticides which were "misbranded" (7 U.S.C. 135b(c)(1979)). The pesticide was then defined to be misbranded in any of the following situations:

"If the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public * * *." (7 U.S.C. 135(Z)(2)(c)(1970))

"If the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation and invertebrate animals * * *." (7 U.S.C. 135(Z)(2)(d)(1970))

"If in the case of an insecticide, nematocide, fungicide or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison * * *." (7 U.S.C. 135(Z)(2)(g)(1970))

Thus, while the Administrator's authority to consider the benefits and the risks of pesticide uses in making registration decisions was not explicit prior to the 1972 amendments, his authority to do so was regarded as implicit, *Environmental Defense Fund v. Ruckelshaus*, 439 F.2d 584 (D.C. Cir., 1971), and strongly endorsed by at least one congressional subcommittee commenting on federal pesticide policy. (*Id.* at 594, fn. 36)

While the Administrator's authority to consider risks and benefits in finally deciding whether to register or cancel a pesticide use was never seriously challenged, there was considerable litigation under the version of the statute prior to the 1972 amendments concerning the *procedure* for assessing risks and benefits and reaching final regulatory decisions for those pesticide uses with respect to which some significant risks had been identified. The controversy concerned whether the Secretary could refuse to hold a cancellation hearing in situations where he identified significant risks associated with a pesticide use, or uses, but determined that the benefits associated with the pesticide use or uses in question exceeded these risks. In *EDF* v. *Ruckelshaus*, Chief Judge Bazelon of the D.C. Circuit gave what became the definitive answer to this question under the 1947 FIFRA, by announcing what came to be known as the "substantial question of safety doctrine."

EDF v. *Ruckelshaus* was one of a series of appellate opinions spawned by cancellation actions concerning the pesticide DDT. The Secretary of Agriculture had found that DDT posed significant risks to man and the environment, and had cancelled uses of DDT. However, with respect to a number of other uses, he had refused to issue cancellation notices on the basis that he had not yet concluded his study of the benefits of these uses. The court noted the authority of the Secretary to balance risks and benefits in making final cancellation decisions. However, it found that the Secretary's findings that DDT posed significant risks required the issuance of notices of intent to cancel to "trigger the administrative process" (*id.* at 593), and that any consideration of benefits information and the balancing of the benefits against the risks would have to occur in the cancellation hearing itself. Accordingly, the court issued a writ of mandamus requiring the Secretary to issue cancellation notices for the uses of DDT not covered by notices of intent to cancel already issued by the Secretary. (*id.* at 592).

EDF v. *Ruckelshaus* interpreted the statute prior to the 1972 amendments. Accordingly, after the enactment of comprehensive amendments to FIFRA in 1972, a question arose concerning whether the substantial-question-of-safety doctrine was still the law. Although the question was not altogether free from doubt, the Agency took the position that the substantial-question-of-safety doctrine had survived the 1972 amendments. The arguments in support of this position are developed at great length in the preamble to the regulations implementing the registration provisions of the 1972 amendments (40 FR 28242, July 3, 1975).

In its regulations implementing the registration provisions of the 1972 amendments, the Agency created the Rebuttable Presumption Against Registration (RPAR) process (40 CFR 162.11). The process at that stage in its evolution was designed primarily as a mechanism for identifying pesticide uses which might pose substantial questions of safety (which the regulations also termed a "rebuttable presumption against registration"), and providing for a relatively brief informal exchange between the Agency and interested persons on the question whether a

[1] On August 7, 1979, the Agency proposed Regulations for Registration of Pesticides by States to Meet Special Local Needs (44 FR 46414) to be designated as Subpart B. Those regulations will instead be designated as Subpart D when they are made final.

substantial question of safety in fact existed. If one was found to exist, i.e., if the presumption was found not to have been rebutted, the regulations required initiation of formal adjudicatory proceedings under FIFRA. Provision was made in the RPAR process for some consideration of benefits. However, it is important to note that benefits information was not relevant to rebutting a presumption against registration. Rather, the regulations provided for limited consideration of benefits information for the purpose of deciding what kind of cancellation proceeding should be initiated under FIFRA section 6—a proceeding initiated by an Agency notice of intent to cancel (a section 6(b)(1) hearing) or a proceeding initiated by a notice of intent to hold a hearing to determine whether or not a registration should be cancelled (a section 6(b)(2) hearing). In any event, the amount of time available for consideration of benefits information even for this purpose was extremely brief, and the clear thrust of the regulations was that the primary vehicle for assessing benefits information, and for that matter for making risk/benefit decisions, was to be an adjudicatory hearing.

B. The Administrator's 1975 Ad Hoc Review Panel and the 1975 Amendments to FIFRA.

The fundamental theme of the Agency's 1975 regulations implementing the registration provisions of the 1972 amendments was to continue the primary role of trial-type procedures in gathering information, assessing information ans making regulatory decisions on whether pesticide uses which pose some significant risk should be cancelled or denied initial registration. In the fall of 1975, however, only a few months after the promulgation of these regulations, procedural changes were accomplished by Congress and EPA which fundamentally altered the role of the adjudicatory hearing in pesticide decisionmaking.

The procedural changes instituted by the Agency resulted from an *ad hoc* review of Agency procedures for decisionmaking about problem pesticides which was directed by the Administrator personally. The *ad hoc* review panel made a number of recommendations for changes in Agency procedures. However, the central theme of these recommended changes was to de-emphasize the role of FIFRA adjudicatory hearings in decisionmaking about problem pesticides, and institute a system in which the Agency would make pesticide decisions prior to hearings, through procedures which maximize participation by all interested parties. The Administrator accepted the recommendations of the ad hoc review panel in a memorandum dated October 10, 1975.[2] While pointing out that he "remain[ed] convinced that our pesticide decisions have been sound," the Administrator accepted the fundamental conclusions of the ad hoc review panel concerning the need for a de-emphasis in the role of trial-type procedures in pesticide decisionmaking:

> "With regard to cancellation and suspension decisions, I believe that misconceptions by the public are attributable, in part, to our reliance on the adversary hearing process to ensure that all pertinent facts are brought out. While these procedures have been effective, they have inhibited full participation by the Office of Pesticide Programs in the decision process and have restricted effective public involvement in this aspect of the program. I have determined that the Agency should carry out a more open evaluation of risks and benefits in advance of decision to issue notices of intent to cancel or suspend. By involving interested parties and by soliciting external scientific and technical review of our data and analysis, as appropriate, we can ensure that our decisions continue to be based on the objective evaluation of all available data."

The key findings made by the Administrator in support of his decision to require procedural changes in the Agency's assessment of problem pesticides have continuing validity. First, it is clear that a system which is characterized by heavy reliance on trial-type procedures for decisionmaking inevitably inhibits participation by interested persons in the decisionmaking process. Trial-type procedures are the most time-consuming and expensive procedures which can be utilized. Accordingly, it is very easy to envision interested groups and individuals not participating, or participating in minimal ways, because of inability or unwillingness to go to the time, expense and inconvenience required to become a participant in the hearing. Moreover, the adversarial atmosphere inevitably generated by the use of trial-type procedures also inhibits participation. In the Agency's judgment, a substantial number of groups and individuals with information relevant to pesticide decisions will decline to participate in the decisionmaking process, if participation is understood to require a potentially unpleasant appearance at a trial. Finally, the use of trial-type procedures creates the impression that the Agency has made up its mind already about the fate of a given chemical; accordingly, many groups and individuals with relevant information may decline to participation simply in the belief that their participation would have no impact on the outcome of the proceeding.

The inhibiting effect of the use of trial-type procedures on participation by the Office of Pesticide Programs in the decisionmaking process is also worthy of further comment. In broad summary, the consequence of primary reliance on trial-type procedures for making decisions about problem pesticides is to emphasize the role of lawyers in the decisionmaking process, and to de-emphasize the role of program managers. This is primarily because it is inevitable that the group managing the decisionmaking process is necessarily going to have a great impact on the development of the record, and on the shape of the ultimate decision. In the course of a hearing, decisions must be made on an almost daily basis concerning what witnesses to call, what strategies to utilize in cross-examination, what motions to make, how to respond to motions filed by other parties, and the like. Each of these decisions inevitably involves choices of varying importance to the ultimate outcome. At the end of the hearing, massive briefs must be prepared, usually on extremely short notice. In many cases, key policy questions, often of first impression, must be addressed. Although procedures have been developed and utilized to ensure program involvement in key decisions arising during or at the conclusion of hearings, the sheer number of decisions which need to be made, and, in many cases, the extremely short deadlines under which decisions have to be made, inevitably inhibits full participation by the Agency's policy-making arm in the decision process.

Lastly, it is important to emphasize the significant inhibiting effect which the utilization of trial-type procedures for decisionmaking about problem pesticides had on the participation of other federal agencies, particularly the Department of Agriculture, in the decisionmaking process. A system utilizing trials for gathering and assessing information on the benefits of a pesticide use requires the Agency to use a courtroom for consultations with a sister federal agency with considerable expertise on benefits questions. The expense and inefficiency of trial-type

[2] In addition to accepting the recommendations of the *ad hoc* review panel in the October 10, 1975 memorandum, the Administrator also directed the creation of an action plan for the implementation of these recommendations. This action plan was prepared and submitted to the Administrator on December 9, 1975; it was accepted by the Administrator on December 17, 1975.

procedures, and the chilling effect which their use has on a free exchange of ideas, affect the Agency's relationship with another federal agency in the same way that these factors affect relationships within the private sector. Moreover, aside from the inhibiting effect which these procedures have on a free exchange of information on a particular problem chemical, a system which requires two agencies to deal with one another through their lawyers, in adversarial hearings, inevitably creates barriers of bitterness which inhibit cooperation and exchange of views on other matters important to successful accomplishment of both agencies' missions. Problems of both varieties have, unfortunately, affected the relationship between the Department of Agriculture and the Environmental Protection Agency in the past, and were attributable to a large extent on the reliance on trial-type procedures for decisionmaking about problem pesticides.

In summary, the Administrator's October 10, 1975 memorandum was a landmark in the history of the Agency's stewardship of the Federal pesticide control program. In it, the Administrator firmly committed the Agency to revise its procedures for decisionmaking about problem pesticides, in order to implement a system characterized by decisionmaking prior to hearings, using procedures which would maximize participation by all interested persons in the decisionmaking process, followed by hearings to challenge decisions reached prior to the hearing through such informal procedures.

Contemporaneous with the Agency's decision to de-emphasize trial-type procedures in pesticide decisionmaking, the Congress enacted changes to the statute which were based on the same fundamental theme. The changes to the statute became law on November 28, 1975 (Pub. L. 94–140, 89 Stat. 751). The changes require the Administrator to submit proposed cancellation actions under FIFRA section 6 for review prior to the initiation of trial-type hearings. The statutory changes require pre-hearing review by two separate entities. First, the Administrator is required to submit the proposed action, along with an analysis of its impact on the agricultural economy, to the Secretary of Agriculture for review. This submission must occur at least 60 days prior to making the action effective. (The action becomes effective when it is announced in such a way as to start the time periods running for registrants or other adversely affected persons to request hearings.) If the Secretary of Agriculture comments on the proposed action within 30 days, the Administrator is required to publish the comments of the Secretary, along with his responses to them, in the **Federal Register**, along with the notice activating the hearings rights of registrants and other adversely affected persons.

The second body to which the Administrator is required to submit proposed cancellation actions under FIFRA section 6 for prior review is a Scientific Advisory Panel (SAP), which the Administrator was required to establish pursuant to detailed procedures specified in FIFRA section 25(d). Referral of proposed cancellation actions to the Scientifc Advisory Panel is for the purpose of receiving comment "as to the impact on health and the environment of the action proposed * * *." The procedures governing the timing of submissions to the SAP and response to any comments received from the SAP are identical to the procedures governing review by the Department of Agriculture.

The central theme of the procedural changes required by the 1975 amendments is essentially similar to the theme embodied in the procedural reforms directed by the Administrator in the October 10, 1975 memorandum. That theme is that the Agency should make decisions about problem pesticides prior to initiating adjudicatory cancellation hearings under FIFRA section 6, and that formal hearings should be used as vehicle to challenge and test decisions so reached. Moreover, it is clear that in order to comply with the external review requirements imposed by the 1975 amendments, the Agency must look at *both* risks and benefits in a reasonably thorough way *prior* to cancellation hearings. Accordingly, the Agency regards the 1975 amendments as overruling the substantial-question-of-safety doctrine set forth in *EDF* v. *Ruckelshaus*, to the extent that that doctrine required the Agency to "trigger" the cancellation hearing process by issuing a cancellation notice upon a finding that substantial question of safety existed, and leave to the hearing itself the consideration of benefits of the use, and the proper balance which should be drawn between risks and benefits.

C. Agency Experience in Running the RPAR Process from 1976 to the Present

In early 1976, a special organizational unit within the Agency's Office of Pesticide Programs was created to administer the RPAR process. This group was originally called the Office of Special Pesticide Review ("OSPR"). Recently, it has been renamed the Special Pesticide Review Division ("SPRD"). Since its creation, this group has been actively engaged in administering the RPAR process in accordance with the regulations set out at 40 CFR 162.11, the Administrator's directives implementing the pesticide decisionmaking reform proposals of the Ad Hoc Review Committee, and the amendments to FIFRA.

The activities of the Agency in implementing the RPAR process can best be summarized by briefly describing the various stages in the RPAR process, and listing the actions which have been taken at each stage.

The first stage in the process is the acceptance chemical as a candidate for the possible issuance of an RPAR. Approximately 190 chemicals have been nominated for RPAR candidate status by diverse groups of people including Agency employees, public interest groups, and Congressmen. Of these, approximately 55 have been accepted as candidate chemicals; approximately 86 have been rejected as candidate chemicals; and approximately 49 are currently pending determinations concerning acceptance or rejection as candidate chemicals.

Once a chemical has been accepted as a candidate, the next stage in the process involves deciding whether one or more risk criteria ("triggers") have been met. This stage generally involves collection of information bearing on the possible risk triggers, and the review of this information to determine whether a risk trigger has in fact been met. (This stage in the process also involves informal notification to registrants or applicants for registration that a pesticide has been accepted as an RPAR candidate, together with notification of the general nature of the Agency's concerns about the pesticide. Such notifications are typically followed by informal exchanges of information between the Agency and the registrant or applicant.)

In 36 cases, a decision was made to issue a notice of rebuttable presumption against registration for some or all uses of the chemical. The RPAR notices were each accompanied by a support document (called "Position Document No. 1") which sets forth the Agency's reasons for concluding that one or more risk criteria had been met and that issuance of an RPAR was warranted. These decisions to issue RPAR's were published in the **Federal Register** as follows: [3]

[3] In the case of one chemical, picloram, the Agency determined that no risk criterion had been met and that issuance of an RPAR was not warranted (41 FR 8824, March 1, 1976).

Federal Register. The Final Notice of

This section imposes requirements

agreed to the inclusion in the

Amitraz 42 FR 18299 (April 6, 1977)
Benomyl 42 FR 61788 (December 6, 1977)
BHC (benzene hexachloride) 41 FR 46024 (October 19, 1976)
Cadmium 42 FR 56574 (October 26, 1977)
Calcium arsenate 43 FR 48267 (October 18, 1978)
Chlorobenzilate 41 FR 21517 (May 26, 1976)
Chloroform 41 FR 14586 (April 6, 1979)
Coal tar 43 FR 48154 (October 18, 1978)
Creosote 43 FR 48154 (October 18, 1978)
DBCP (dibromochloropropane) 42 FR 49026 (September 22, 1977)
Diallate 42 FR 27669 (May 31, 1977)
Dimethoate 42 FR 45806 (September 22, 1977)
EBDC (ethylenebisdithiocarbamates) 42 FR 40618 (August 10, 1977)
Endrin 41 FR 31316 (July 27, 1976)
EPN (ethyl p-nitcophenyl thionobenzenephosphonate) 44 FR 54384 (September 19, 1979)
Ethylene dibromide 42 FR 63134 (December 14, 1977)
Ethyleneoxide 43 FR 3800 (January 27, 1978)
Inorganic arsenicals 43 FR 63134 (October 18, 1978)
Kepone 41 FR 12333 (March 25, 1976)
Lead arsenate 43 FR 48267 (October 18, 1978)
Lindane 42 FR 9616 (February 18, 1977)
Maleic hydrazide 42 FR 56920 (October 28, 1977)
PCNB (pentachloronitcobenzene) 42 FR 61894 (December 7, 1977)
Pentachlorophenol 43 FR 48443 (October 18, 1978)
Pronamide 42 FR 32302 (June 24, 1977)
Silvex 43 FR 17116 (April 21, 1978)
Sodium arsenate 43 FR 48267 (October 18, 1978)
Sodium fluoroacetimide (1081) 41 FR 52792 (December 1, 1976)
Sodium fluoroacetate (1080) 41 FR 52792 (December 1, 1976)
Sodium pyroarsenate 43 FR 48267 (October 18, 1978)
Strychnine 42 FR 2714 (January 13, 1977)
Strychnine sulfate 42 FR 2714 (January 13, 1977)
2,4,5-T 43 FR 17116 (April 21, 1978)
2,4,5-TCP 42 FR 41288 (September 15, 1978)
Thiophonate methyl 42 FR 61970 (December 7, 1977)
Toxaphene 42 FR 26860 (May 27, 1977)

The next stage of the RPAR process involves the Agency's receipt of the information submitted by registrants, applicants for registration and other interested persons concerning the accuracy or sufficiency of the risk concerns and the benefits of the pesticide use or uses in question. After this information is assembled, the Agency critically reviews it and determines whether the presumption has been rebutted, and (if the determination is that the presumption has not been rebutted) whether the risks associated with the pesticide use in question are unreasonable. At this stage, in the event that the Agency determines that the presumption has not been rebutted, it also considers a number of regulatory options, which typically range in severity from unconditional cancellation to relatively minor changes in the terms and conditions of registration for a pesticide use. A key purpose for considering a range of options is to determine whether approaches short of full cancellation and total removal from the market can achieve exposure (and therefore risk) reductions which are sufficient to remedy the unreasonable adverse effect problem which the Agency has found to be presented by the pesticide use. The Agency announces its preliminary determinations in a Preliminary Notice of Determination, which is accompanied by a support document (called either "Position Document No. 2" or "Position Document No. 2–3").[4] If the Agency concludes in the Preliminary Notice of Determination that the presumption has not been rebutted and that some regulatory action is necessary, the Preliminary Notice of Determination will include a description of the regulatory actions which the Agency has decided to implement.

The Agency has issued the following Preliminary Notices of Determination, which were published in the **Federal Register** on the dates indicated:

Amitraz 44 FR 2678 (January 12, 1979)
Benomyl 44 FR 51166 (August 30, 1979)
Chlorobenzilate 43 FR 29824 (July 11, 1978)
Dimethoate 44 FR 66556 (November 19, 1979)
Endrin 43 FR 51132 (November 2, 1978)
Pronamide 44 FR 3083 (January 15, 1979)
Silvex 44 FR 41536 (July 17, 1979)
2,4,5–T 44 FR 41536 (July 17, 1979)
Thiophonate methyl 44 FR 58796 (October 11, 1979)
Trifluralin 44 FR 50911 (August 30, 1979)

The next stage in the process involves review of the Preliminary Notice of Determination by the Secretary of Agriculture, the FIFRA Scientific Advisory Panel, and interested members of the public.

Since the Scientific Advisory Panel is an advisory committee, its procedures are governed by the Federal Advisory Committee Act (5 U.S.C. Appendix section 1 et seq.). Among other things, the Federal Advisory Committee Act requires the committee to act in public sessions after appropriate notice, and to offer interested persons an opportunity to appear and to participate. Because of these procedural requirements, the Scientific Advisory Panel sessions are, in effect, informal hearings, at which presentations are made by the Agency and other interested persons. They typically involve a spirited give-and-take between panel members, Agency technical staff and scientists appearing on behalf of other interested persons. A transcript of the proceedings is taken and becomes a part of the public record of the RPAR proceeding. At the conclusion of the panel's deliberations, the panel typically prepares a report to the Agency containing its comments on the impact of the proposed action on health and the environment.

Since the Federal Advisory Committee Act does not apply to the Secretary of Agriculture's review of a Preliminary Notice of Determination, the procedures used by the Secretary are informal, and need not involve hearings or other opportunities for the formal presentation of views by persons outside the Department of Agriculture.

The Agency has adopted a policy of inviting comment from registrants, public interest groups and other interested members of the public at the same time that it solicits comments from the Scientific Advisory Panel and the Secretary of Agriculture. This policy has been adopted because it is consistent with the principal theme of the RPAR process, i.e., to facilitate the broadest possible public exchange of views on issues relevant to Agency decisionmaking concerning problem pesticides. The Agency has invited public comments through the publication of **Federal Register** notices and through other means; the time period for submission of public comments has generally been the same as the time period for submission of comments by the Secretary of Agriculture and the Scientific Advisory Panel.

The external review phase ends either with the submission of comments by the Scientific Advisory Panel, the Secretary of Agriculture, and/or interested members of the public, or by the expiration of time periods provided for comment (together with any extensions agreed upon) without the submission of comments. The Agency then reviews any comments which have been submitted, and decides whether to implement the regulatory action which was proposed, or to withdraw the proposal or modify it in some way. The Agency's determinations in this regard, and the reasons for them, are set forth in a Final Notice of Determination, and an accompanying position document (called "Position Document No. 4"). These documents are sent by registered mail to all registrants and applicants for registration, and published in the

[4] If the Agency concludes that the presumption has been rebutted, the Position Document will address risk issues only, and will be called "Position Document No. 2." If the Agency concludes that the presumption has not been rebutted, it generally proceeds to consider benefits issues and regulatory options, without stopping to prepare a separate position document on risk issues alone. Accordingly, in such cases (i.e., where the presumption is *not* rebutted) the position document is called "Position Document 2–3."

Federal Register. The Final Notice of Determination specifies the regulatory action which is being implemented, and provides notification to registrants and others concerning the hearing rights available under the statute, and what steps must be taken to perfect these hearing rights. (If the Agency has determined to initiate cancellation proceedings under section 6(b)(1) or section 6(b)(2) of FIFRA, the Final Notice of Determination is the document which effectuates this action.)

The Agency has issued the following Final Notices of Determination, which were published in the **Federal Register** on the dates indicated:

Amitraz 44 FR 32736 (June 7, 1979) 44 FR 59938 (October 17, 1979) (correction)
Chlorobenzilate 44 FR 9547 (February 13, 1979)
DBCP 43 FR 40911 (September 13, 1978) and 44 FR 65135 (November 9, 1979)
Endrin 44 FR 43631 (July 25, 1979)
Kepone 42 FR 18885 (April 11, 1977)
Pronamide 44 FR 61640 (October 26, 1979)
Silvex 44 FR 72316 (December 13, 1979)
2,4,5–T 44 FR 72316 (December 13, 1979)

(The Agency has also accepted voluntary cancellations of the following chemicals: acrylonitrile, aramite, arsenic trioxide, basic copper arsenate, benzac, BHC, chloranil, chlordecone, copper acetoarsenite, monuron, OMPA [acetamethylpyrophosphoramide], 10,10-oxbisphenoxarsine, phenarzinechloride, safrole, sodium arsenite, strobane and trysben.)

D. The 1978 Amendments to FIFRA

On September 30, 1978, the Federal Pesticide Act of 1978 was enacted and accomplished, for the third time in six years, significant amendments to FIFRA. Several provisions of the Federal Pesticide Act of 1978 are relevant to the RPAR process and the Agency's Rules of Practice for cancellation hearings. These provisions are as follows:

1. *Interim Administrative Review*—a. *FIFRA Section 3(c)(8).*—Section 6 of the Federal Pesticide Act of 1978 added new section 3(c)(8) to FIFRA, which provides as follows:

"*Interim Administrative Review.* Notwithstanding any other provision of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this Act, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or the environment. Notice of the definition of the terms 'validated test' and 'other significant evidence' as used herein shall be published by the Administrator in the Federal Register."

This section imposes requirements concerning the quality of the information which must be available to the Administrator to issue an RPAR. These requirements are similar to the requirements imposed in the 1975 regulations, to the effect that risk criteria must be met by:

"tests conducted with the animal species and pursuant to the test protocols specified in the Registration Guidelines, or by test results otherwise available. In making this determination, the Agency will take into consideration the type of effect, the statistical significance of the findings and whether the tests were conducted in accordance with the material requirements for valid tests as recognized by experts in the field." [40 CFR 162.11(a)(3)].

The requirement that the Agency publish a notice in the **Federal Register** defining the terms "validated tests" and "other significant evidence" was satisfied on February 14, 1979, by the publication of a notice titled "Proposed Definitions of 'Validated Tests' and 'Other Significant Evidence.'" (44 FR 9626, February 14, 1979.) This document provides that the definitions of these terms shall be the definitions given to them in the Conference Report on the Federal Pesticide Act of 1978 (S. Rep. No. 94–1188, 95th Cong., 2d Sess. 35 (1978)). Those definitions are as follows:

"The Administrator shall insure that the pesticide shall be subject to the RPAR process only on the basis of a validated test or other significant evidence (and not on the basis of unsubstantiated claims), and that the term 'validated test' be defined as a test conducted and evaluated in a manner consistent with accepted scientific procedures, and that the term 'other scientific evidence,' be defined as evidence that relates to the uses of a pesticide and their adverse risk to man or the environment. It is the intent of the conferees that 'other significant evidence' of risk means factually significant information and is not to include evidence based only on the misuse of a pesticide."

The Agency invited comments on these definitions by reminding interested persons that changes to the RPAR procedures were underway, and that comments on the definitions or other relevant matters would be welcome.

b. *RPAR Procedureal Guidance in the Conference Report.*—Section 3(c)(8) of FIFRA was originally proposed by Congressman Grassley, and became a part of the House version of what became the Federal Pesticide Act of 1978. The Senate version contained no comparable provision; in conference, the Senate Conferees deferred to the House on this matter.

In addition to agreeing to the inclusion of what became FIFRA section 3(c)(8) in the conference substitute, the Conferees agreed to the inclusion in the Conference Report of several paragraphs of procedural guidance concerning the RPAR process. (S. Rep. No. 95–1188, 95th Cong., 2d Sess. 35–36 (1978)). While the procedural guidance included in the Conference Report is not reflected in the statute, the Agency has decided as a policy matter to implement this procedural guidance to the extent practicable.

The first area addressed by the Conferees concerned early notice to registrants of the possibility that a pesticide may meet RPAR risk criteria, in order to facilitate an early exchange of views. In the view of the Conferees, this notification should be written, and should be a private communication between the Agency and the registrant.

As representatives of the Agency noted before the Conference Committee, the Agency has followed a practice in the past of notifying registrants by letters when a pesticide has been accepted as a candidate for the possible issuance of a rebuttable presumption against registration. Such leters have typically informed the registrant in general terms of the bases for the Agency's tentative conclusions that a pesticide may meet RPAR risk criteria. The letters have often been followed by both written and oral exchanges between the registrant and the Agency relating to the Agency's tentative risk concerns about the pesticide. Moreover, the Agency has typically made available the underlying data upon which its tentative risk concerns were based, to the extent these data were not protected from disclosure pursuant to FIFRA section 10.

In view of the practice which the Agency has developed of early notification to registrants of its tentative risk concerns, the Agency will have little difficulty in implementing the guidance of the Conferees in this regard. However, the Agency notes that it is probably not possible to conduct private written communications with registrants concerning this subject, since any documents prepared by the Agency would be subject to release to interested members of the public pursuant to the Freedom of Information Act.

The other subject addressed in the Conference Report concerned modifications to the RPAR process in situations where the Agency is convinced that exposure is insignificant. The Conferees' guidance in this area is primarily relevant to pesticides which meet the oncogenicity and mutagenicity risk triggers. These triggers do not take

exposure into account,[8] because it is generally recognized that these effects are effects with respect to which it is not possible to define a "threshold" below which it is unlikely that the effect would occur. In the view of the Conferees, if the Agency has information at the time that it is deciding whether to issue an RPAR which indicates that exposure is insignificant, it is wasteful to proceed with the normal RPAR procedures (which would require the Agency to issue an RPAR, and conclude at the end of the rebuttal period that the presumption had been rebutted, because exposure was insignificant). The conferees felt that in such situations the Agency should "rebut its own presumption."

The Agency agrees that this approach has merit in some situations, and, as discussed more fully below, has included in this proposal provisions authorizing use of abbreviated RPAR procedures (§ 162.29). Moreover, the Agency notes that it has recently announced an action in which it "rebutted its own presumption," by issuing a Preliminary Notice of Determination without first having issued a Notice of Rebuttable Presumption Against Registration. (44 FR 50911, August 30, 1979.)

2. *Conditional Registration.*—The Federal Pesticide Act of 1978 added a new section 3(c)(7) to FIFRA, authorizing the Agency to issue "conditional" registrations in certain circumstances, in addition to so-called "permanent" registrations under FIFRA section 3(c)(5). The considerations underlying the inclusion of this new section in the Act, and the manner in which the Agency intends to implement the section, are extensively developed in the preamble which accompanied the Agency's Interim Final Regulations implementing sections 3(c)(7) (A) and (B) 44 FR 27932, May 11, 1979).

In implementing the conditional registration provisions, the Agency decided not to utilize the RPAR process for purposes of making decisions concerning whether or not to grant conditional registrations. Accordingly, the implementing regulations amended 40 CFR 162.7 to provide, in effect, that conditional registrations could be approved under FIFRA sections 3(c)(7)(A) and (B) for chemicals which met RPAR risk criteria without resort to the RPAR process. A substitute process better designed to meet the needs of the conditional registration program was created in the implementing regulations. While the implementing regulations do not cover conditional registration actions under section 3(c)(7)(C), the preamble provides that decisions will be made under this section on a case-by-case basis. The implication is clear with respect to actions under section 3(c)(7)(C) that the RPAR process will not generally be utilized in taking action under this section.

There are sound reasons for excepting the conditional registration program from the RPAR process. Among other considerations, this decision reflects the fact that the RPAR process was designed to facilitate Agency decisionmaking about whether to grant new permanent registrations (or cancel existing registrations), by permitting in-depth public examination of any potential unreasonable adverse effects posed by such pesticides. Since the process is designed for making decisions which are expected to have lasting effect, the operation of the process requires considerable time and the expenditure of considerable resources by the Agency and participants in the private sector. Conditional registration decisions, on the other hand, are by definition decisions of less permanency, and procedures requiring smaller resource expenditures are therefore appropriate and in the public interest.

While the RPAR process will not be used for making decisions about whether to grant conditional registrations, the RPAR risk criteria will play important roles in the conditional registration program. Under section 3(c)(7)(B), the Agency may not approve a conditional amendment to permit an additional use of a currently registered pesticide if:

"the Administrator has issued a notice stating that such pesticide or ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure enumerated in regulations issued under this Act, and during the pendency of such risk-benefit evaluation initiated by such notice if (i) the additional use of such pesticide involves a major food or feed crop, or (ii) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria."

In effect, this complicated section prohibits the Agency from permitting use of a registered pesticide on additional major food or feed crops if the pesticide is subject to an outstanding RPAR (or a cancellation proceeding following an RPAR) based upon risk concerns associated with human dietary exposure to the pesticide. If the requested use involves a minor food or feed crop, the Agency cannot approve the use if the Agency and the Secretary of Agriculture agree that an alternative pesticide is available which does not meet or exceed RPAR risk criteria.

Finally, the RPAR risk criteria play an important role in the operation of FIFRA section 3(c)(7)(C). This section authorizes the Administrator to grant a conditional registration for pesticides including active ingredients not included in any currently registered pesticide, under certain limited conditions. However, the section goes on to provide expressly that one of the conditions shall be that the data "not meet or exceed risk criteria enumerated in regulations issued under this Act * * *." In effect, this provision means that the conditional registrations granted under this section on the condition that certain additional studies be done can be cancelled if these studies meet or exceed an RPAR risk criterion. Thus, for example, if a required chronic study is conducted which demonstrates that a pesticide conditionally registered under this section is oncogenic, then the pesticide would meet or exceed an RPAR risk criterion, and the conditional registration could be cancelled for that reason.

3. *Simplified Registration Procedures.*—The 1978 amendments added new section 3(c)(2)(C) to the Act, which requires the Administrator to "by regulation, prescribe simplified procedures for the registration of pesticides * * *."

The Agency intends to implement this provision by establishing a generic registration system, called the Registration Standards System. As presently conceived, the Registration Standards System will develop a document containing a comprehensive statement of the Agency's regulatory position on all pesticide products containing the same active ingredient(s). This document, or registration standard, will describe the data (including all limitations and deficiencies in the data) upon which the Agency's regulatory position is based, and the conditions which must be met to register (or reregister) a product under the standard. The Agency has described its plans for the Registration Standards System in detail in an Advanced Notice of Proposed Rulemaking ("ANPRM"), 44 FR 76311, December 26, 1979.

One of the Agency's goals is to merge the RPAR process with the Registration Standards System. Under such a system, the intensive review given to certain uses of a pesticide would occur as part of the review of all uses of any product containing that particular pesticide. However, merger of the RPAR process and the Registration Standards System would not affect either the thoroughness of the Agency's evaluation of RPAR chemicals, or the opportunities for public participation in the RPAR process. Many details of how and when the merger of the RPAR process and the Registration Standards System will occur have yet to be resolved. Persons interested in informing the Agency of their views on the merger question should do so by submitting comments in this rulemaking proceeding.

[8] The oncogenicity trigger, for example, provides that an RPAR shall arise if a pesticide ingredient, metabolite, or degradation product

"[i]nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *" [40 CFR 162.11(a)(3)(ii)(A)].

In contrast, the risk trigger for chronic effects other than oncogenicity or mutagenicity provides that an RPAR shall arise if a pesticide ingredient, metabolite or degradation product

"[p]roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *" [40 CFR 162.11(a)(3)(ii)(B)].

III. Proposed Changes to the RPAR Rules

This section discusses the significant aspects of the revised RPAR regulations which are being proposed. As indicated earlier, the changes which the Agency is proposing to these regulations will not make broad or sweeping changes in the program. Rather, this part of the proposal has as its central theme modification of the existing regulations to reflect the experience with the Agency has gathered over the past several years in running the RPAR process under the 1975 regulations. In addition, the proposal reflects the Agency's efforts to conform its rules to the changes in the Act since the 1975 regulations were promulgated, and to implement, to the extent practicable, the procedural guidance of the Conferees, as reflected in the Conference Report accompanying the 1978 amendments to FIFRA.

A. The Pesticide Use—the Basic Building Block

The regulation of pesticides involves decisions about whether specific *uses* of a pesticide are likely to pose unreasonable adverse effects on the environment. In making a decision about a pesticide use, the Administrator considers the biological and chemical characteristics of the compound. This information by itself, however, can only suggest potential problems. To focus the regulatory decision which must be made, the Administrator must have a great deal of practical information about such subjects as how the pesticide is applied, by whom and in what amounts, where and when it is applied, and the purpose for which it is applied, and the importance of using the pesticide for this purpose. Information about these and other subjects is necessary to define what groups of people or what plant or animal species may be at risk and to what extent, and to assess the value of the pesticide as a tool for accomplishing a particular purpose. For registered pesticides, the basic starting point for analysis of these subjects is the regulatory restrictions currently in effect as reflected in the labeling of the pesticide and elsewhere. (For pesticides for which applications for registration are pending, the restrictions which have been proposed by the applicant serve the same purpose.) Taken together, the restrictions in effect (in the case of registered pesticides) or proposed (in the case of applications for registration) comprise the terms and conditions of registration or proposed terms and conditions of registration for the use; these restrictions define the legal limits on what can be done with the pesticide.

In addition to playing a central role in focusing regulatory decisionmaking about pesticide uses, the terms and conditions of registration shape the final decision about problem pesticide uses in another way. In the course of reaching a decision about a particular use of a pesticide, the Administrator often must consider whether exposure (and therefore risk) reductions can be achieved by imposing restrictions more stringent than those that exist or are proposed, but less stringent than the ultimate statutory remedy of full cancellation. This is because the Act provides the Administrator with a wide variety of tools for dealing with the situations where a particular pesticide use appears to pose unreasonable risks, including, in appropriate circumstances, imposition of additional restrictions to remedy unreasonable adverse effect problem.

Since the basic unit in pesticide decisionmaking is the pesticide use, and since the existing or proposed array of restrictions associated with a use (together with possible changes to these restrictions) are central in evaluating the registrability of the use, the proposed regulations include definitions for the terms "pesticide use" and "terms and conditions of registration" (§ 162.3(ss) and § 162.3(tt)). The proposed regulations are built around these defined terms, in order to insure that regulatory decisionmaking in the RPAR process remains focused on its basic objectives—identification and assessment of unreasonable adverse effect problems with particular pesticide uses, evaluation of the options available to the Administrator under the Act for resolving such problems, and the selection and implementation of a solution.

B. Criteria for Beginning RPAR Proceedings

1. Proposed § 162.22 incorporates the requirement imposed by new section 3(c)(8) of the Act that an RPAR not be initiated except in situations where the Administrator is persuaded that a risk criterion has been met, based upon a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or the environment. Definitions for the terms "validated test" and "other significant evidence" are included in the proposal (§ 162.3(ww) and § 162.3(xx)). These definitions are the same as the ones which were published in the **Federal Register** on February 14, 1979 (44 FR 9626).

2. The specific risk criteria included in the 1975 regulations are utilized again in the proposal, without change. There have been suggestions for changes in some of the risk criteria; however, the Agency working group on this topic felt that the question whether substantive changes should be made in the risk criteria should be left for consideration later, in another rulemaking proceeding. The Agency reached this conclusion because it felt that consideration of substantive changes in the risk criteria in this rulemaking proceeding could seriously delay the accomplishment of the Agency's primary objective for this rulemaking proceeding, which is to accomplish procedural changes to the RPAR rules and the Rules of Practice for cancellation proceedings.

3. The proposal does, however, add an additional basis for initiating an RPAR proceeding. (§ 162.21(a)(2)). This section provides, in effect, that the Administrator may issue an RPAR when a specific risk criteria is not met, but the Administrator otherwise determines that it is necessary to consider publicly whether a use poses a potential unreasonable adverse effect. This additional basis for initiating an RPAR proceeding has been included in order to better serve the fundamental objectives of the RPAR process.

The basic purpose of the RPAR process is to allow the Agency to conduct open and public debates concerning pesticide uses which may pose unreasonable adverse effects, and therefore warrant regulatory action. In the 1975 regulations, the Agency attempted to define as many situations

V 45 / 154 A G 7 80 UMI

as it could where unreasonable adverse effects problems may be presented. However, in any effort of this sort it is inevitable that situations will arise later which are not anticipated, where the Agency feels that an unreasonable adverse effect may be presented. The solution to this problem adopted in the 1975 regulations was to permit the Agency in such situations to initiate cancellation proceedings, without prior resort to the RPAR process [*see,* 40 CFR 162.11(a)(6)]. In the Agency's judgment, this was not a sound solution. Where the Agency determines that it has risk concerns which warrant public consideration, it should not have to convene cancellation proceedings in order to consider these concerns. Instead, it should be able to deal with them through the RPAR process, in the same manner as it would use the RPAR process to address other risk concerns. Accordingly, the proposed regulations include a section which would allow the Agency to begin RPAR proceedings in situations where no specific risk criterion has been met, but the Agency nonetheless finds that a potential unreasonable adverse effect may be presented.

C. New FIFRA section 3(c)(8) and the procedural guidance of the Conferees

1. *New FIFRA section 3(c)(8).*—As discussed in Section II ("Background"), the Federal Pesticide Act of 1978 inserted a new section 3(c)(8) in FIFRA, which prohibits the Administrator from starting an RPAR unless it is based upon a validated test or other significant evidence raising prudent risk concerns about pesticide. Section 3(c)(8) also required the Administrator to publish notice of his definitions of the terms "validated test" and "other significant evidence" in the **Federal Register.** As discussed above, the Administrator published a **Federal Register** notice on February 14, 1979 (44 FR 9626) adopting as his definitions for the terms "validated test" and "other significant evidence" the definitions for these terms included in the conference report accompanying the Federal Pesticide Act of 1978. Moreover, the Administrator solicited comments concerning these definitions in that **Federal Register** notice. The present proposal repeats these definitions (§ 162.3(ww) and § 162.3(xx)).

2. *The Procedural Guidance of the conferees.*—As also discussed in Section II ("Background"), the conference report accompanying the Federal Pesticide Act of 1978 contained guidance to the Agency concerning procedures to be utilized in the RPAR process. While this guidance is not reflected in the statute, the Agency has nonetheless decided as a policy matter to implement it to the extent feasible. Accordingly, the proposed regulations include provisions concerning preliminary communications with registrants and applicants for registration prior to the beginning of an RPAR proceeding (§ 162.22) and concerning alternate, simplified procedures in situations where such simplified procedures appear to the Agency to be in the public interest (§ 162.29).

Proposed § 162.22 deals with the subject of preliminary, informal notification to registrants prior to the beginning of RPAR proceedings. In concept, this section builds upon current practice and the guidance of the Conferees, by generally requiring the Administrator to notify registrants at an early stage of the Agency's concerns about a pesticide. The proposed section also would require the Administrator to consider information received from registrants in deciding whether or not to begin an RPAR.

Several points should be made concerning proposed § 162.22 and the policy underlying it. First, its preliminary notification provisions envision that the Administrator would communicate to registrants in writing the *general* nature of the Agency's tentative concerns about a pesticide. This kind of notice should be contrasted with the detailed explanation of the Administrator's position which the proposed regulations require in RPAR decision documents, once it is determined to issue an RPAR (see proposed § 162.33). In the Agency's view, preliminary notification to registrants is designed primarily to facilitate exchange of views with respect to a preliminary position of the Agency, and to determine whether the position is generally within reasonable bounds. If the Agency determines that is is in fact within reasonable bounds, the RPAR process itself is the place for thorough explication of the Agency position and detailed and thorough presentation of positions by registrants and other interested persons in response to the Agency position.

Second, proposed § 162.22 provides that the period of time for preliminary exchanges of views between the registrant and the Agency should generally not exceed 90 days. The notification itself will specify the length of the response period (on a case-by-case basis), but the 90-day limit is in keeping with the overall theme that the preliminary notification phase should primarily consist of general and relatively informal exchanges. Moreover, it is consistent with the instructions from Senator Leahey in the floor debates in the Senate accompanying passage of the 1978 amendments to the effect that in conducting preliminary exchanges with registrants prior to public RPAR proceedings, the Agency should keep in mind the need for expedition, since time expended in private discussions with registrants about potential public health or environmental problems is inevitably time during which the public is deprived of notice of potential problems and an opportunity to participate in discussions about matters affecting them (123 Cong. Rec. 13,095 (1977)).

Proposed § 162.29 provides for the utilization of simplified RPAR procedures in situations where simplified procedures appear to be in the public interest. The discussion in the conference report concerning simplified procedures dealt solely with situations where the Agency was able to resolve its risk concerns prior to initiating an RPAR, because available exposure information established that exposure (and therefore risk) was minimal. In such situations, the conferees concluded that it would be wasteful to issue an RPAR since the question which would be answered in the rebuttal phase—whether the pesticide posed significant risk concerns—appeared to be resolvable without requiring the submission of exposure information by registrants as part of a rebuttal.

Proposed § 162.29 deals with this situation, and also provides authority for abbreviating the RPAR process in other situations where abbreviated procedures would be in the public interest. Specifically, it permits the Administrator to abbreviate the RPAR process and immediately issue a Preliminary Notice of Determination without previously having issued a Notice of Rebuttable Presumption Against Registration in any situation where he determines that the information in his possession on risks and/or benefits is complete and dispositive of the issues for resolution in the RPAR process, and he determines that no significant and novel policy questions are presented. However, the Administrator would be required to set out in any such Preliminary Notice of Determination the findings which he has made which warrant the use of abbreviated procedures.

Moreover, the general requirement for public comment on Preliminary Notices of Determination (in proposed § 162.30) would apply to a Preliminary Notice of Determination issued under this

proposed section. Accordingly, the primary goal of the RPAR process—public discussion about potential problem pesticides—would be fulfilled. If, in the public comment period, additional information is brought to the Administrator's attention which warrants a different conclusion than the one announced in the Preliminary Notice of Determination, the Administrator would have authority to take appropriate action. In such a situation, the Administrator could issue a revised Preliminary Notice of Determination, could begin a new RPAR proceeding by issuing a Notice of Rebuttable Presumption Against Registration, or could utilize the saving provision in proposed § 162.20 to fashion other procedures appropriate to the case at hand.

D. Rebuttal Criteria

Proposed § 162.25 sets forth the Agency's proposed revisions to the rebuttal criteria. As is the case with other provisions in the proposed RPAR regulations, the revisions to the rebuttal criteria reflect the experience which the Agency has gained in running the RPAR process under the 1975 regulations over the past almost five years. In the Agency's judgment, the revised rebuttal criteria are a significant improvement over the rebuttal criteria contained in the 1975 regulations, because the revised rebuttal criteria more accurately set forth the matters which the proponents of registration must establish in order to lay to rest the Agency's concerns about a pesticide use.

1. The proposal lists three separate standards for rebutting an RPAR. The first standard (§ 162.25 (a)(1) and (b)(1)) requires proponents of registration to establish that the Agency was wrong in concluding that a risk criterion had been met. For the most part, this rebuttal standard would be applicable to those situations where applicants or registrants desire to attack the Agency's assessment of the toxicology and other adverse effects data which supported the Agency's decision to issue an RPAR.

2. The second rebuttal standard (§ 162.25(a)(2) and (b)(2)) addresses the question of whether a risk of significant proportion is in fact posed by the pesticide use in question even assuming that a risk criterion has been met. There are two components in any risk analysis: (1) the likelihood that a compound will cause an effect in an organism, i.e., its toxic properties, and (2) the likelihood that a susceptible organism will be exposed to the compound in question. The proposed rebuttal standard requires the proponent of registration to establish that no significant risk would result from use of the pesticide in accordance with the terms and conditions of registration and widespread and commonly recognized practice, taking into account all factors relevant to assessing risk and pertinent to the risk concerns underlying the RPAR proceeding.

The proposed rebuttal standard articulates the major risk factors which proponents of registration would have to address in their rebuttals. For example, proponents of registration are required to take into account exposure to the pesticide ingredient, degradation product or metabolite of concern by all routes of exposure (including exposures resulting from the concentration, persistence or accrual of the pesticide ingredient, degradation product or metabolite in man or the environment). However, the rebuttal standard is carefully drawn in order not to exclude any factor which would be applicable in a given situation in the future. This is accomplished by including a paragraph requiring proponents of registration to address all factors relevant to assessing the risks posed by the pesticide use in question.

Applying this rebuttal standard will, of course, require the Agency to make decisions about whether the risks posed by a pesticide use are significant or not. In this regard, the Agency intends to continue to follow the approach it has taken in its previous RPAR decisions—to determine on a case-by-case basis whether the risks associated with a use are of sufficient magnitude to require the Agency to consider the social, economic and environmental benefits of the use, and to make a specific finding that the risks are not unreasonable, in light of the social, economic and environmental benefits of the use.

3. The last of the rebuttal standards requires proponents of registration to prove that the risks of the pesticide use are not unreasonable (§ 162.25(a)(3) and (b)(3)). The inclusion of this ground as a basis for rebuttal of a rebuttable presumption against registration is a significant addition to the rebuttal standards included in the 1975 regulations. In the 1975 regulations, the rebuttal standards solely addressed risk issues. Economic data and other information relevant to assessing the reasonableness of a risk posed by a pesticide use could be submitted by proponents of registration of the use; however, such information was not relevant to rebuttal of the presumption.

The 1975 regulations were structured in this way because the purpose of the RPAR process originally was to identify "substantial questions of safety" requiring the convening of cancellation proceedings pursuant to FIFRA § 6. As discussed in detail in Section II ("Background"), the fundamental changes in the law which occurred shortly after the promulgation of the 1975 regulations, and contemporaneous decisions made by the Administrator concerning how the PRAR process should function, have resulted in a situation where benefits information is always solicited in the RPAR process, and routinely considered in cases where the Agency's risk concerns were not resolved by the rebuttal submissions. Since information bearing on the reasonableness of any risk is now clearly relevant to determining what if any regulatory action should be taken at the conclusion of the RPAR process, the Agency is proposing to make the reasonableness of the risk a basis for rebuttal of the presumption.

The rebuttal standard concerning the reasonableness of the risk posed by a pesticide use directs proponents of registration of a pesticide use to demonstrate two things. First, they must establish that the benefits of the use outweigh the risks which are associated with it. Secondly, they must establish that the risk cannot be reduced further by modifications to the terms and conditions of registration without costs which are unreasonable in light of the risk reductions which could be achieved. The Agency has required that both conditions be satisfied because it has consistently taken the position that a risk may be unreasonable *either* because the level of risk is not justified by the benefits which derive from having the chemical available as a tool to society, *or* because the risks which are posed by the use are higher than they need to be, in light of available risk reduction possibilities.

E. Consequences of not Rebutting an RPAR

The purpose of the RPAR process is to identify unreasonable adverse effect problems, and to make decisions about the appropriate regulatory response. Accordingly, the rebuttal standards have been designed so that if a rebuttal attempt is successful (i.e., proponents of registration establish that one or more of the rebuttal standards have been satisfied), it will follow that there is no unreasonable adverse effect problem requiring a regulatory response. On the other hand, if the proponents of registration fail to establish that one of the rebuttal standards has been met in full, it follows that an unreasonable adverse effect problem requiring some regulatory response has been identified.

Proposed § 162.26 is designed to set forth the consequences of failures to

successfully rebut a rebuttable presumption against registration. The concept underlying proposed § 162.28 is relatively simple. If an unreasonable adverse effect problem has been demonstrated, and the Administrator has not found that the problem can be remedied by changes to the terms or conditions of registration of the pesticide use, the Agency will initiate proceedings to cancel the pesticide use unconditionally or, in the case of uses for which applications for registration are pending, to deny registration for the pesticide use. On the other hand, if it appears to the Administrator that an unreasonable adverse effect exists, but that the problem can be adequately remedied by specific changes to the terms and conditions of registration, then the Agency will take appropriate action to implement those changes to the terms and conditions of registration. Finally, if the Administrator determines that there is uncertainty surrounding any issue relevant to determining whether or not the presumption should be considered to have been successfully rebutted, or whether an unreasonable adverse effect problem can be remedied by changes to the terms and conditions of registration, the Agency will take appropriate action to initiate cancellation or change in classification proceedings under § 6(b)(2) of FIFRA.

With respect to pesticide uses which pose unreasonable adverse effect problems which may be remedied by changes to the terms and conditions of registration, the proposal provides merely that the Agency shall initiate appropriate action to implement the changes to the terms or conditions of registration which it has determined are necessary. In drafting this part of the proposal, the Agency considered but rejected an approach which would have set forth much more precise instructions concerning the type of administrative proceeding which should be used to implement specific kinds of changes to the terms and conditions of registration which the Agency had decided upon. This approach was rejected primarily because the statute provides the Administrator with a number of mechanisms for accomplishing changes to the terms and conditions of registration, and in some instances more than one statutory proceeding is available for accomplishing a given change.

For example, initial classification decisions can be accomplished either through conditional concellation actions under FIFRA section 6(b)(1) [see, *e.g.*, 44 FR 9547 (February 13, 1979) (chlorobenzilate)], or through rulemaking proceedings under existing § 162.30. Moreover, in many instances, the Administrator will decide to impose a number of changes in the terms and conditions of registration, requiring the use of several statutory procedures simulaneously. For example, the Administrator could decide to change the directions for use of a particular pesticide use, by a conditional cancellation action under FIFA section 6(b)(1), and at the same time to initially classify the pesticide use for restricted use and impose an "other regulatory restriction" through a rulemaking proceeding under FIFRA section 3(d)(1)(C)(ii).

In short, it did not appear possible to provide meaningful and clear instructions concerning which statutory procedures should be utilized to accomplish particular changes to the terms and conditions of registration, in light of the complexities of the statute and the number of factors bearing on the use of particular statutory tools in actual cases. Accoringly, the Agency selected the option of prescribing the outcome—effectuation of changes to the terms and conditions of registration. The proposal then leaves to the Administrator on a case-by-case basis the selection of appropriate statutory procedures for accomplishing those changes to the terms and conditions of registration.

The proposal also gives the Administrator the flexibility to utilize the statutory option of initiating cancellation or change in classification proceedings under section 6(b)(2) rather than under section 6(b)(1). Under the statute, a section 6(b)(2) hearing is "open-ended" in the sense that it commences without a specific proposal to cancel a pesticide use, but instead is called "to determine whether or not" cancellation or change in classification is necessary. However, although a section 6(b)(2) hearing begins without the Agency's having taken a position on the ultimate regulatory questions at issue, it can still result in the issuance after its completion of unconditional or conditional cancellation orders if the record generated supports that result. Similarly, it may culminate in a determination that existing terms and conditions of registration are adequate and that no modifications or further regulatory actions are necessary.

The proposal directs the Administrator to make the choice between section 6(b)(1) proceedings and section 6(b)(2) proceedings on the basis of his evaluation, after reviewing the administrative record, of the extent to which formal evidentiary proceedings are likely to change his final decision regarding the uses at issue. If he concludes that the administrative record appears to establish that regulatory action should be taken and that formal proceedings are not likely to change that determination, he will issue a section 6(b)(1) notice. The regulatory actions proposed in that notice will then become final unless a person adversely affected requests a formal hearing. If he concludes that the administrative record fails to resolve certain questions which could be answered in a decisionally significant way by formal proceedings, he will issue a section 6(b)(2) notice requiring those issued to be explored in an adjudicatory hearing. Such hearing will then automatically be held; even if no one else participates, an agency trial staff will be named, and will make a record on the issues designated. Finally, if the administrator determines that no regulatory action is called for, he will state that position in his final Notice of Determination. No further regulatory proceedings will be held, but his decision will be subject to review in a United States Court of Appeals under section 16(b) of FIFRA.

The Agency's purpose in proposing these distinctions is to make the standards for use of section 6(b)(1) and section 6(b)(2) notices parallel the reforms being made to the hearing procedures in Part 164.

The centerpiece of those reforms, described in detail below, is a set of "screening tests" that will be applied in hearings following a section 6(b)(1) notice to establish the extent to which introduction of additional evidence, cross-examination, and the referral of issues to the National Academy of Sciences will be permitted. The broad purpose of these tests is to ensure that formal hearings are focussed on the types of issues they are best qualified to address, and do not expend time and resources on matters which have little prospect of being further clarified or achieving decisional significance.

Against this background, issuance of a section 6(b)(1) notice places a burden on those who request hearings to show that the screening tests have been satisfied and that further proceedings are justified. The Agency anticipates that in many cases the tests will be satisfied at least in part. In these cases the effect of issuance of the section 6(b)(1) notice will be to trigger party efforts to meet the screening tests, thus resulting in a more focussed hearing than would otherwise have resulted. And, in cases where no hearing is requested, or further proceedings are not justified, issuance of a section 6(b)(1) notice allows the Agency to implement without hearings

the decision it reached when it issued the section 6(b)(1) notice.

In other cases, however, the Agency may become convinced before the end of the RPAR process that these secreening tests have been satisfied. In such cases it would serve no purpose to require parties to argue for a result which the Agency had already accepted. It is in these circumstances that section 6(b)(2) notices providing for an automatic hearing will be issued. To preserve consistency in the operation of these regulations, the tests for issuing a section 6(b)(2) notice closely parallel the tests for screening requests for further proceedings received in 6(b)(1) hearings.

Two additional points should be made concerning the interplay of this provision with the proposed changes to Part 164. First, the Agency interprets the term "adversely affected"—as used in the context of standing to request a hearing in response to section 6(b)(1) notices—to include ony persons who want to prevent proposed actions from becoming effective, and to litigate with the Agency an unreasonable adverse effects problem. The term does not include persons who believe that the Agency did not go far enough and who therefore want the Agency to take actions more restrictive than those proposed in the section 6(b)(1) notice.

Accordingly, the proposal would afford this latter class of persons an opportunity to demonstrate to the Administrator—during the RPAR process—that an action which he has proposed is inadequate, based on a showing that the RPAR has failed to satisfactorily resolve substantial factual issues which could have a significant impact on the final regulatory outcome. This showing would most likely be made by such a person during the public comment period (under proposed § 162.28) on a Preliminary Notice of Determination which proposed the action claimed to be inadequate, or during SAP consideration of that notice. If the Administrator then made the requisite findings described above, the Final Notice of Determination would initiate section 6(b)(2) [6] hearings on the issues to be resolved concerning the pesticide use at stake.

Second, the proposed "screening stage" of the Part 164 regulations would not apply to the issues specified in a section 6(b)(2) notice. As explained more fully below, the purpose of screening issues before the presentation of evidence commences in a formal evidentiary public hearing is to streamline the hearing to eliminate issues which are not genuinely in dispute, which are not significant to the decision, or which may be better resolved on the basis of official notice of accumulated Agency expertise. A person requesting further proceedings on a section 6(b)(1) notice would be required to show that the issues which he wants to explore meet these criteria; he would also be required to show why the issues were not satisfactorily resolved in the RPAR process.[7]

But in deciding to initiate section 6(b)(2) proceedings on a particular issue, the Administrator necessarily would have already decided that the factual uncertainty was not satisfactorily resolved in the RPAR process, and that the uncertainty was of ultimate decisional significance—in other words, that it was an issue which could and should be profitably explored in an adjudicatory context. Accordingly, the proposed Part 164 regulations provide for an automatic "pass-through" of the issues specified by the Administrator in a section 6(b)(2) notice. This is accomplished by limiting the application of the screening process to requests for further proceedings in response to section 6(b)(1) notices, and by not including any parallel screening process for issues designated by the Administrator in a section 6(b)(2) notice.

F. Review of Preliminary Notices of Determination

Proposed § 162.30 deals with review by the Scientific Advisory Panel (SAP) and the Secretary of Agriculture (USDA) of Preliminary Notices of Determination by requiring their referral to those bodies for review and comment. The proposal also provides for the solicitation of comments from interested members of the public concerning Preliminary Notices of Determination.

The Act only requires the Agency to forward proposed cancellation actions (under FIFRA section 6) and proposed and final regulations (under FIFRA section 25) for review by the SAP and by USDA. Accordingly, the Agency has no obligation to refer decisions not to initiate cancellation actions, or decisions to deny registration, which result from the RPAR process. However, the Agency clearly has discretion to refer additional matters to the SAP and to USDA and to request comments; moreover, the Agency believes that it would be useful to have the views of the SAP and USDA on all decisions which are reached at the conclusion of the RPAR process, and not just those decisions which involve the initiation of cancellation actions, or proposed or final regulations. Accordingly, the proposal provides for referral of all Preliminary Notices of Determination to the SAP and USDA for comment.

The proposal also calls for the solicitation of comments from interested members of the public concerning Preliminary Notices of Determination. In this regard, the proposal restates the Agency's longstanding practice of soliciting public comment on RPAR decisions, at the same time that comment is solicited from the SAP and USDA. The Agency adopted this practice because, in its view, it was consistent with the broad aim of the RPAR process of maximizing public participation in Agency decisionmaking concerning problem chemicals. This rationale has, of course, continuing validity. Moreover, since meetings of the SAP must be open anyway under the Federal Advisory Committee Act, this practice simply extends an opportunity for public comment to those who might lack the time or resources to attend and participate in that meeting of the SAP.

The proposal establishes a flexible approach toward the establishment of deadlines for the submission of comments by the SAP, USDA, and interested members of the public, which is designed to eliminate some of the problems which the Agency has experienced to date in running this aspect of the RPAR process. First, the proposal requires the Administrator to establish a deadline for the submission of comments by the SAP and USDA. The proposal provides that the deadline shall not be less than thirty days from the date of referral of the Preliminary Notice of Determination, unless the SAP and USDA agree to a shorter period. However, the proposal provides no fixed maximum period for comment.

This approach reflects the Agency's interpretation of the deadline aspects of the referral provisions in FIFRA as imposing minimum periods which cannot be altered except with the concurrence of the SAP or USDA. At the same time, however, it is the Agency's view that the law does not prohibit it

[6] It is conceivable that the Administrator could determine that certain minimum actions are warranted in any event (e.g., specific modifications to the terms and conditions of registration), and that the only uncertainty concerns whether *additional* restrictions or modifications are necessary. In those circumstances, the Final Notice of Determination could propose certain actions under section 6(b)(1)—which would take effect by operation of law if no requests for a hearing were received—and could also initiate a section 6(b)(2) hearing on specified issues in order to decide whether the more restrictive actions were necessary.

[7] In the case of requests to introduce new material, he would have to show good cause for not including the material in the RPAR administrative record: in the case of requests for cross-examination, he would have to show why the examination of the issue in the RPAR process has not provided adequate clarification.

from extending the comment periods

to do so; and the administrative record

of Determination instead of a Final

H. Administrative Records and

the information upon which the Agency

constant telephonic and written

from extending the comment periods beyond this thirty day minimum, in appropriate circumstances. In fact, it has been the Agency's practice to allow for longer comment periods in appropriatae circumstances. For example, the Agency has frequently extended to the SAP more than thirty days to submit comments, in order to accommodate the inevitable scheduling problems which it faces. The scheduling problems arise both because the SAP is not continually in session, but rather schedules meetings periodically, and also because of the public notice requirements which it must adhere to in scheduling meetings. These public notice requirements arise under the Federal Advisory Committee Act which requires advisory committees like the SAP to give reasonable public notice of scheduled meetings, and to afford interested persons an opportunity to attend and present views.[8] Scheduling problems brought on by satisfying the public notice requirement, and the need for scheduling meetings on a periodic basis have made it practically impossible to require the SAP to submit comments within thirty days. Accordingly, the proposal adopts a common sense, flexible approach to scheduling deadlines which the Agency believes will work well in practice.

The proposal also provides for establishing a deadline for the submission of public comments which is earlier than the deadline for submission of comments by the SAP and by USDA. This is in order to permit the public comments to be considered by the SAP and USDA in the process of formulating their comments for the Agency on a specific proposal. Thus, proposed § 162.30 provides that the working record for the final position document shall be made available to the SAP and USDA; proposed § 162.34 provides that the working records shall include any comments submitted to the Agency in accordance with the instructions of the Administrator.

The Agency envisions that in implementing proposed § 162.30 it will select a deadline for the submission of public comments which is also in advance of the planned date for the SAP public meeting at which the Preliminary Notice of Determination is to be considered. This would be accomplished through close coordination with the Executive Secretary for the SAP. Of course, interested persons desiring to appear and make oral presentations before the SAP would still be permitted to do so; and the administrative record for the Final Notice of Determination will include the transcript of the SAP public meeting.

G. Final Notices of Determination

Proposed § 162.31 provides for the issuance of a Preliminary Notice of Determination to conclude an RPAR proceeding. The concept behind this section is relatively simple: the Agency will assimilate the comments which are received in accordance with the Act and the instructions of the Administrator, and make such changes in the Preliminary Notice of Determination as are appropriate in light of these comments and the Agency's analysis of them. In effect, the Preliminary Notice of Determination is a re-play of the Preliminary Notice of Determination, with one significant change—the record has been augmented by the comments received on the Preliminary Notice of Determination from the SAP, USDA, and interested members of the public.

The proposal provides that the Agency will issue a Final Notice of Determination in all situations where it has issued a Preliminary Notice of Determination, with two exceptions. The first exception is in cases where the Preliminary Notice of Determination announced a decision that a presumption had been rebutted on risk grounds, *i.e.*, either because the Agency had erred in issuing the RPAR notice in the first place (§ 162.25(a)(1) and (b)(1)) or because no significant risks would result from the pesticide use, when used in accordance with the existing (or the proposed) terms and conditions of registration and widespread and commonly recognized practice. (§ 162.25(a)(2) and (b)(2)). The proposal provides for the issuance of a revised Preliminary Notice of Determination in a situation where the Agency determines, based upon public comment or the comments of the SAP or the Secretary of Agriculture, to withdraw such a determination and substitute a determination that the presumption has not been rebutted. This is because in such situations the Agency will typically not have considered the benefits of the pesticide use, or whether any risks associated with the pesticide use are unreasonable, because consideration of such issues would have been irrelevant. Accordingly, the RPAR proceeding has to be rerouted back to the Preliminary Notice of Determination stage, in order to permit consideration of issues which have become relevant because of the Agency's decision that the presumption has *not* been rebutted on risk grounds.

The proposal also calls for the issuance of a revised Preliminary Notice of Determination instead of a Final Notice of Determination in a situation where the Agency selects a regulatory option which is not within the range of regulatory options considered and discussed in the first Preliminary Notice of Determination. The Agency expects this will rarely occur. However, in situations where it does occur, the Agency's view is that the underlying purpose of the requirements for referring proposed cancellation actions to the SAP and USDA—that is, to obtain the views of the SAP and USDA on the risk and benefit impacts of proposed regulatory actions—require, in effect, a re-cycling of the RPAR proceeding back through those bodies. The Agency's standard practice in Preliminary Notices of Determination, however, is not to discuss a single regulatory option, but rather to discuss a range of regulatory options which the Agency has considered, from which the final decision is selected. It is the Agency's view that all of the options which are considered and discussed in detail in the documents which are referred to the SAP and USDA for review and comment are in fact before the SAP and USDA for consideration. Moreover, in practice, the SAP and USDA appear to have taken a view of their roles in commenting on Preliminary Notices of Determination which is consistent with the Agency's position on this matter.

In any event, the Agency thinks that it would be foolish and inconsistent with the Congressional purpose behind these review provisions to re-refer a matter to the SAP or USDA in a situation where the Agency decides, based upon comments received during the review process, to select an option which is within the range of options discussed and considered in the Preliminary Notice of Determination. Such a re-referral policy would serve no useful purpose. It is obvious that Congress intended the referral provisions to be taken seriously and expected that the Agency would sometimes change its actions as a result of comments received during the comment periods; however, it is also clear the Congress did not intent the referral provisions to paralyze the Agency by becoming an endless merry-go-round of purposeless activity. Accordingly, the Agency intends only to re-refer RPAR proceedings to the SAP and USDA when such a re-referral is necessary to serve the purposes of the referral provisions—i.e., in those situations where the regulatory option finally selected is outside the range of options considered and discussed in the Preliminary Notice of Determination.

[8] Agency and Office of Management and Budget guidance generally requires the notice period to be at least 60 days. (Exec. Order No. 12,044, 43 Fed. Reg. 12,661 (1978)).

H. Administrative Records and Standards for Decision Documents and Comments

Section 162.34 of the proposal requires clearly defined administrative records for each RPAR decision document. In addition, the section requires the establishment of working records for pending decisions on chemicals for which RPAR proceedings are in progress. The proposal then provides for public access to the administrative records to the maximum extent permitted by law.

Establishment of clearly defined administrative records for Agency decisions has been suggested in recent years both for agencies generally and for this Agency specifically. Pedersen, *Formal Records and Informal Rulemaking*, 85 Yale L.J. 38 (1975); Verkuil, *A Study of Informal Adjudication Procedures*, 43 U. Chi. L. Rev. 739, 790 (1976). The Food and Drug Administration has adopted regulations requiring "records" for virtually every decision it makes. 42 Fed. Reg. 4680 (January 25, 1977).

Two complementary themes underly the call for clearly defined records: the desire to make agencies more accountable for their actions by clearly identifying the underlying information upon which the decision is based, and a desire to improve the quality of agency decisionmaking in the first instance by insuring that it is as rational and orderly as possible.

While the existing RPAR regulations do not require the maintenance of administrative records, the Agency has adopted informally a practice of maintaining reasonably well defined administrative records for RPAR proceedings. Accordingly, the requirements which are reflected in the proposal for maintenance of administrative records do not constitute significant or dramatic departures from current practice. Instead, they restate and in some respects refine and improve administrative practices which the Agency has adopted in the course of administering the RPAR process over the past several years.

Two kinds of administrative records are required to be maintained by the proposal. First of all, the Agency would be required to maintain records for RPAR decisions which it has announced. These records would include the information which the Agency relied upon in making the decisions which it announced in an RPAR decision document; the information would be available to individuals desiring to participate in the RPAR process by fully understanding the information upon which the Agency has acted. The record would be compiled no later than the time the decision in question is announced, and the documents in it would not change except as the result of further separate stages of the RPAR process.

The proposal also provides for the maintenance of another kind of administrative record, called a "working administrative record." A "working administrative record," in essence, contains documents which will be considered by the Agency in making its next decision on a chemical which is in the RPAR process. This record may change from day to day, even within a single stage of the RPAR process, as new material is added to it. The requirement for maintaining working records in addition to records for completed RPAR decision documents was included in order to maximize public participation in RPAR decisionmaking as it unfolds through the various steps in the RPAR process. The Agency felt that it was desirable to make it possible for participants in the RPAR process to keep as current as possible on the information which is being submitted to the Agency, and on the completed staff analyses created by the Agency in the course of an RPAR proceeding.

Thus, for example, an individual preparing a rebuttal submission in response to an RPAR notice would be entitled to review the administrative record for the Notice of RPAR. In addition, the working record for the preliminary Notice of Determination would also be available for the individual to consult. By consulting the working record, the interested person would be kept reasonably abreast of information developed and submitted by other participants in the process, and staff analyses which had been completed by the Agency on issues which were relevant to the issues to be decided in the Preliminary Notice of Determination. By becoming familiar with the record for the Notice or RPAR, and by keeping current on additions to the working record for the Preliminary Notice of Determination, a participant in the process can effectively and efficiently marshal its resources and energies towards preparing the most effective presentation possible on behalf of the interests it is attempting to represent.

It is also hoped that by providing for Agency inclusion of completed staff analyses in the working record, that participants in the process will find it less necessary to expend their time and the time of Agency staff personnel in constant telephonic and written communications with project managers concerning the progress of Agency staff analyses of relevant issues, and requesting copies of completed projects. It is the Agency's hope that the frequency of such contacts will diminish with the provision of a mechanism for the inclusion of completed projects in the working record from time to time as they become available.

While the Agency is requiring the maintenance of working records in order to maximize public participation, it does not intend to sacrific orderly and efficient decisionmaking in the process. Specifically, the Agency intends to require rigid adherence to the comment periods which it has allowed for submission of comments during the process. Thus, if a completed staff analysis on an issue is put in the working record after the expiration of the deadline for comments on that issue, the Agency will not regard this action as tantamount to reopening the comment period on that particular issue. Instead, the Agency will be giving participants in the process advance knowledge of positions which it has tentatively reached, and which will affect the next decision to be made in the process. The time to comment on the next decision, however, is *after* the decision is announced, and in accordance with the instructions for submission of comments which are to accompany that decision. Attempts to "jump the gun" by submitting comments at an earlier time will generally result in the comments being returned to the submitter or commenter without consideration.

Proposed § 162.33 also includes some general standards for Agency decision documents, and for rebuttal submissions and comments. The purpose of these general standards is to insure that the overall goals of the RPAR process—informed, open, public decisionmaking about problem pesticides—are realized. Accordingly, the Agency has imposed on itself general requirements to disclose all relevant information, and to provide resonable explanations for the positions which it is taking. In imposing, in effect, the same requirements on participants in the process, the Agency is really underscoring the obvious—attempts to influence rational debate inevitably reach their own level. Informed and carefully put together submissions warrant and receive careful attention, while conclusory, poorly thought out submissions receive little weight.

I. Supplemental Notices of RPAR

Proposed § 162.24 provides for the use in appropriate circumstances of a

Supplemental Notice of Rebuttable Presumption Against Registration. This section addresses a problem which has occasionally occurred in the Agency's administration of the RPAR process: the situation where the Agency discovers that an additional risk criterion has been met after the issuance of a Notice of Rebuttable Presumption Against Registration. Proposed § 162.24 sets out a practical way of dealing with this problem. Specifically, it gives the Administrator two options: he may issue a Supplemental Notice of RPAR, or he may deal with the additional risk criterion in the Preliminary Notice of Determination, and provide time for comment on the additional risk criterion (and his response to it) after the Preliminary Notice of Determination has been issued.

The Administrator is given discretion to select either option, but generally speaking, the point in time in the process when the additional risk criterion comes to the Agency's attention will determine which option is selected. Thus, if the additional risk criterion comes to the Agency's attention shortly before the Agency is prepared to issue a Preliminary Notice of Determination, the Administrator would probably select the option of dealing with the risk criterion in the Preliminary Notice of Determination without issuing a Supplemental Notice of RPAR. On the other hand, if the additional risk criterion comes to the Agency's attention much earlier, it would be preferable to issue a Supplemental Notice of RPAR. In either, case, the Administrator would be balancing the need for orderly and expeditious conduct of the RPAR with the desirability of providing early notice to registrants and other interested persons of the full compass of his risk concerns respecting the pesticide uses which are subject to RPAR proceedings. It should be noted, however, that in the event that the Administrator selects the option of not publishing a Supplemental Notice of RPAR, the overall objective of the process of providing opportunities for public comment would be achieved, since full opportunity for comment on the additional risk criterion would be afforded after the Preliminary Notice of Determination had been issued.

The concepts reflected in proposed § 162.24 have been tested in actual practice. In the RPAR proceeding concerning the pesticide chlorobenzilate, for example, the Agency discovered an additional risk criterion—testicular atrophy—shortly before the publication of a Preliminary Notice of Determination. (43 FR 29824, July 11, 1978.) In this situation, the Agency chose to deal with the risk criterion initially in the Preliminary Notice of Determination, and to afford opportunities to comment on it prior to the Final Notice of Determination.

J. Dealines for RPAR Decision Documents

The 1975 regulations allow registrants 45 days to submit rebuttal information, with the possibility of a 60-day extension (§ 162.11(a)(1)(i)). They further provide 150 days for the preparation of a benefits analysis, and 180 days for the issuance of a Notice of Determination by the Administrator. (§ 162.11(a)(5)).

This scheme of deadlines has proven to be unworkable. The proposal includes a new system which has flexibility as its dominant theme. In this regard, proposed § 162.23 provides that a Notice of RPAR shall include a notification of the dealine which the Administrator has imposed for the issuance of a Preliminary Notice of Determination in that particular proceeding. In selecting a deadline, the proposal provides that the Administrator will take into account the many factors which are peculiar to a given proceeding which are relevant to settling a deadline, including the number and complexity of the issues which must be addressed and the extent to which expeditious conclusion of the RPAR proceeding is in the public interest. Proposed § 162.28, concerning Preliminary Notices of Determination, contains a similar provision requiring the establishment of reasonable deadlines for submission of information and comments and the issuance of a final Notice of Determination. Finally, as discussed earlier, the parts of the proposal dealing with deadlines for review by the SAP and USDA are drafted to provide flexibility to establish deadlines appropriate to the circumstances of a proceeding.

K. Federal Register Notices

The proposal provides for the publication of **Federal Register** notices at all major decision points in the RPAR process. Although the 1975 regulations do not require publication of **Federal Register** notices, the Agency has always followed the practice of publishing them. Accordingly, in this regard the proposal restates current practice. The proposal also specifies standardized formats for each **Federal Register** notice which is required, including provisions for specific guiadance to registrants and other intersted persons, in order to assist them in understanding the notice and in deciding what action to take in response to it. Again, for the most part, the format requirements included in the proposal restate current practice.

L. Saving Provision

Proposed § 162.20 provides that the Agency will generally utilize the RPAR process for making decisions about whether or not to initiate cancellation or denial proceedings concerning a problem pesticide use. However, proposed § 162.20 includes an important saving provision, to the effect that the Agency reserves authority to utilize modified procedures or other procedures in appropriate circumstances where the Agency determines that it would be in the public interest to do so. One situation in which the Agency envisions it will utilize other procedures to initiate a cancellation proceeding is where it is necessary to initiate cancellation proceedings in order to issue a suspension order. Under section 6(c) of FIFRA, the Agency may not issue a suspension order unless cancellation proceedings concerning the pesticide are already in progress, or are commenced at the same time that the suspension order is issued. In situations where the Agency finds it necessary to issue a suspension order, and a cancellation proceeding is not in progress already, it would be contrary to the public interest to delay the commencement of a cancellation proceeding by using the RPAR process. Accordingly, in such situations the Agency would use the authority it has reserved in proposed § 162.20 to commence cancellation proceedings without prior resort to the RPAR process.

M. Voluntary Cancellation and Withdrawal of Application

The proposal also provides that a registrant or applicant may petition the Administrator at any time to voluntarily cancel the registration of a pesticide use or to withdraw an application for registration of a pesticide use. It is important to note, however, that the Administrator has full discretion to either grant or deny such a petition in situations where the pesticide use is subject to an RPAR or a cancellation or denial proceeding and that he may elect to deny the petition and proceed in accordance with Parts 162 and 164.

N. Procedures for Denial of Registration

Although the statutory provision governing the procedures and time-frames for the denial of an application for registration (section 3(c)(6)) differs somewhat from the provision governing cancellations of registered pesticide uses (section 6(b)), the proposal treats both actions in a uniform procedural fashion consistent with the statutory provisions.

Specifically, section 3(c)(6) of the Act directs that if the Administrator determines that an application for registration of a pesticide use cannot be approved because the pesticide use fails to meet the statutory criteria for registration, he shall so notify the applicant and provide him 30 days within which to correct the deficiencies. If the applicant fails to correct them, the Administrator then "may refuse to register the pesticide," in which case the applicant must *again* be so notified, and a notice of the denial of registration must be published in the **federal register**. At that point, the applicant has "the same remedies as provided for in section"—under which the applicant has *another* 30 days within which to make "the necessary corrections, if possible," or to request a hearing.

Under the proposal, the section 3(c)(6) notification that the statutory criteria for registration had not been met will be set forth in a Preliminary Notice of Determination. Applicants and other interested persons will then be invited to comment upon the bases (factual or otherwise) which support that determination; and the matte will be referred to the SAP and USDA for their consideration and comments. The Administrator would then consider all significant comments received from the applicant, USDA, SAP, or other interested persons, and would set forth his responses to them together with his final determination concerning granting or denial of registration in a Final Notice of Determination. At that point, the applicant would have the "remedies as provided for in section 6"—that is, the opportunity to either make "the necessary corrections, if possible" in accordance with the instructions set forth in the Final Notice of Determination, or to request a formal evidentiary public hearing.

It is important to understand, however, that if the applicant fails to take either of these actions in response to the Final Notice of Determination within the statutory 30-day period, the denial of registration will become final and effective—the Agency will *not* provide a "second" 30-day period for making corrections. This position is premised on the fact that the applicant will already have had its comment opportunity under section 3(c)(6), because the applicant will have had the chance to comment on the Preliminary Notice of Determination.

IV. Proposed Changes to Rules of Practice for Hearings (Part 164)

A. Background to the Proposal

1. *Statutory Changes.*—Since 1964, FIFRA has allowed pesticides to be removed from the market through formal agency hearings conforming to 5 U.S.C. secs. 554, 556 and 557. (Before that, court action was required).

These hearing requirements have not been directly amended since 1972. Since then, however, changes to other provisions of the statute have significantly altered the context in which they are set, and the functions that such a hearing should logically be expected to serve.

As discussed above, under both the 1964 and 1972 versions of FIFRA, EPA was required to begin the formal hearing process whenever information raised a "substantial question of safety" regarding a pesticide use, without waiting to consider benefits or the balance of risks and benefits. The hearing under this test would virtually have to begin before the questions relevant to a final decision had been deeply analyzed, and would itself be the primary vehicle for probing and balancing the relevant factors, and for generating the record for final decision.

Since 1975, however, Congress has required that in most circumstances the full range of questions relevant to final action be addressed, and an agency position formed, before a notice of intent to cancel is issued regarding a pesticide use.[9] In 1975 Congress required EPA to refer proposed pesticide use cancellations to two expert bodies, one to examine risks primarily and the other to examine benefits primarily. EPA then had to consider and respond to the views of these two bodies before taking final action. Congress thus overruled the "substantial question of safety" doctrine and required EPA to consider (and document) the full range of statutorily relevant factors before a hearing could begin. In 1978 Congress further specified the factors the agency should consider, and the procedure it should follow, before beginning the formal hearing process.

These changes should assure that pesticide uses come to formal hearing accompanied by a substantial background of fact, analysis, and discussion addressing the questions which are crucial under the statute. The issues should already be focussed and most of the material for their final resolution should already be on hand.

It would be unacceptably inefficient to conduct formal hearings as though the RPAR stages which generated this background had never taken place. That would mean that the work of these preliminary stages would have to be fully reconstructed from the ground up through the time-consuming formal mechanisms of an adjudicatory hearing. Such duplication of effort, particularly at a time of general concern for expedition and economy, has no place in a rational administrative process.

Yet the existing rules contain no mechanisms to prevent such a result. Since they were written to implement the "substantial question of safety" doctrine, they contain no references to any pre-existing stages of agency review of a pesticide use, and no procedures to take account of the results reached in those stages.

Accordingly, one major purpose of the changes to Part 164 is to ensure that the formal hearing takes the results of the RPAR process as a starting point, accepts the RPAR results in cases where the particular procedures of formal hearings would not be likely to change them, and devotes its energies to the types of questions which formal procedures are particularly qualified to address.

2. *The Nature of the Cancellation Decision.*—Pesticide use cancellations, we believe, rank among the most intricate policy decisions in the Federal government as measured by the number, varying nature, interdependence, and complexity of the issues involved. Considering risks, questions can arise concerning the impact on non-target species and their inter-relationship, the dispersion and persistence of the pesticide in the environment and certain parts of it, the conduct of animal feeding studies, the meaning of those studies for human health, arguments about and projections from other data concerning possible human health risks, and finally on what the upper and lower boundaries of any risks may be and how firmly they are established. Considering benefits, questions can be raised about the extent of use, the crops involved, the availability and effectiveness of substitutes both now and in the future, the value of non-agricultural uses, and the range of the probable economic impacts of banning or restricting some or all of the uses at issues in the light of all these factors.

All these factors are explicitly made relevant by the statute, which provides for cancelling any pesticide use that "generally causes unreasonable adverse effects on the environment" and then defines "unreasonable adverse effects

[9] This procedure is not required for cancellation notices issued in connection with a suspension action, or for cancellations for failure to comply with certain narrowly specified legal tests.

V 45 / 154 AG 7 80 UMI

on the environment" in these encompassing terms:

> The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide. FIFRA sec. 2(bb).

Factual certainty even on individual factors in the required balancing analysis will rarely be attainable. Indeed, answers to some questions—like projecting cancer risk to man from animal studies, or projecting the future economic impact of present actions—are beyond our capacity to answer precisely in the current state of medical and economic science.[10] In addition, when so many factors must be considered, it is inevitable that the data available to address at least some of them will be less than fully satisfactory even in cases where it might theoretically be provided. Yet, under the statute, EPA must consider the full range of logically relevant factors—whether known, partly known, unknown, or unknowable—both as to risks and benefits in making a final decision either to cancel an old pesticide use or to register a new one.

Decisions of this nature cannot efficiently be made through complete reliance on the court-room type proceedings traditionally associated with formal hearings. To sort through all the issues involved using cross-examination can result in crippling delays, while the sheer weight of material introduced may lead participants to lose sight of the forest for the trees. And in many cases, there may be a sharp limit to the ability of cross-examination to clarify the issues. The issues may be issues of policy (such as how much risk of human health damage to accept) or, though factual, may be resolvable only through advances in the general state of knowledge, or through additional studies, not through clarification of the opinions of individual witnesses.

Often, in grappling with such issues, providing professional advice to the decisionmaker is more useful than providing him with a cold record. Indeed, if the Administrator of EPA were not free to consult staffers with expert knowledge of and experience with the highly technical and complex issues often involved in pesticide use cancellations, and were restricted to grappling with the record himself, with perhaps the assistance of one or two law clerks, his decision could hardly claim to be based on the expert knowledge and judgment which Congress expects when it assigns problems to an agency.

Accordingly, a second major purpose of these regulations is to provide expert assistance and advice to the Administrator and then allow him to use it, not just to analyze the record after the hearing is over, but to structure the questions to be addressed at the hearing. The Administrator, with such assistance, should be able to determine which policy questions are most significant and most in need of further probing, which factual issues are reasonable candidates for clarification through cross-examination, and which, by contrast, cannot be answered with more certainty by such methods. This approach should result in more structured proceedings than would the alternative of leaving the form of the hearing entirely to the discretion of a single Administrative Law Judge, who as a practical matter cannot be expert in all the technical questions involved and who will have no familiarity with the discussion of those questions during the various stages of RPAR proceedings. This approach seeks to ensure that the virtues of having technical issues addressed by technically expert groups, a practice Congress has required prior to issuance of cancellation notices are not lost at the formal hearing stage, and are not denied to the Administrator of EPA when he makes the final decision.

B. The Proposed Amendments

1. *General.*—In proposing comprehensive changes to the formal hearing procedures in Part 164, EPA is trying to better adapt these procedures both to the statutory changes during the past eight years, and to the nature of the decision they are used to make. The solution, discussed below, consists both of explicit measures to fuse the RPAR process and the formal hearing process into a single over-all proceeding, and of reforms to the procedures for conducting the formal hearing itself. The basic approach of the proposed rules is to resolve disputed questions in the least procedurally burdensome way permissible under the governing statutes. To achieve this, questions will be sifted through successive procedures of increasing formality, beginning with an exchange of written documents during RPAR and ending with formal cross-examination with only those questions that cannot be resolved by the less burdensome approaches passing on to the more formal stages.

2. *Coordinating the RPAR Proceedings and the Formal Hearing.*—The proposed rules contain two major reforms to coordinate RPAR proceedings with a formal hearing.

First, they provide, in section 164.52(b)(4), that no evidentiary material may be placed before the Agency in a formal hearing that was not previously presented for consideration during RPAR, unless "good cause" is shown for the failure to present it. The regulation goes on to provide that:

> "Good cause" means either that the material was not available at the stage of the RPAR process at which it should have been presented, or that the material is of such a nature that it can only be presented meaningfully in a trial-type hearing.

EPA belives that the recent amendments to FIFRA demonstrate that Congress intended EPA to fully consider the entire range of issues relevant to a pesticide use before making any final decision whether or not to issue a notice of intent to cancel or deny registration. It will not be possible to achieve that purpose if interested persons are free to withhold relevant information without good cause until the formal hearing stage. In addition, such a practice would ensure that any issues raised by the new material would have to be considered entirely through the complex procedures of a formal hearing, without any chance for being focused or resolved by the relatively flexible procedures of RPAR. Inefficiency and delay would be bound to result from such a practice.

Second, the regulations provide in section 164.31 that the administrative record of the RPAR proceeding will automatically be introduced into evidence at the hearing and may not be stricken. This will make sure that the presiding officer and other decisionmakers are familiar with the prior course of the proceeding and the extent to which issues were raised and clarified during it, and will allow these persons to frame the course of subsequent proceedings accordingly.

It will also provide a store of factual material for use by the decisionmakers. EPA anticipates that in many cases the evidentiary value of items in the RPAR record will be clear from the face of that record, given the many opportunities for rebuttal and analysis which the RPAR process provides. However, one of the major purposes of the formal hearing is of course to provide an opportunity for cross-examination and the regulations explicitly provide that parties are free to contest the factual portions of the administrative record in the hearing, and to argue that portions of it should not be given weight unless sponsored by a witness who will be available for cross-examination. If the Administrator

[10] For further discussion of this point, see McGarity, "Substantive and Procedural Discretion in Administrative Resolution of Science Policy Questions Regulating Carcinogens in EPA and OSHA", 67 Geo. L. J. 729, 731–47 (1979).

or Presiding Officer grants such a request for a sponsoring witness, and the witness is not provided, the Presiding Officer may reduce the factual weight he gives to that piece of the administrative record accordingly.

3. *Changes to the Hearing Process Directly.*—The keystone of the changes made directly to the hearing procedures by this proposal (as opposed to changes made to relate it to the RPAR process) is the screening mechanism set forth in §§ 164.50 through 164.56. Though screening mechanisms for hearing issues have been adopted by a number of different agencies in recent years (most notably the Food and Drug Administration) several features of this proposal are new and warrant preamble discussion.

a. *General Approach.*—FDA's approach to screening issues is to apply a series of tests to determine whether a hearing will be granted at all, before the hearing has formally begun. See 41 FR 5170–6–51710, 51721–22 (Nov. 23, 1976). Courts have upheld this general approach, but have often required the agency to meet a high standard before denying the hearing. Since the Food, Drug and Cosmetic Act on its face requires a formal hearing before making certain decisions, it is certainly understandable that courts have restricted the agency's power to dispense with it in this manner.

In EPA's view, the FDA approach rests on a overly rigid conception of what a formal hearing must consist of. Nothing in the Administrative Procedure Act requires such hearings to consist exclusively of courtroom presentation of oral testimony and cross-examination of witnesses. These were certainly meant to be part of the record-building process, but the Presiding Officer and the agency were also meant to have discretion to mix these procedures with others to achieve the ultimate statutory goal—the provision of an adequate and adequately tested record for final decision. That general authority takes on additional weight in the FIFRA context because the statute now requires the formal hearing to be preceded in most cases by an informal sifting of the issues such as that which is accomplished in the RPAR process.

Accordingly, the proposed regulations provide, in § 164.32, for a formal hearing to be granted relatively automatically upon the filing of a timely request satisfying minimal requirements. Only *after* the hearing has begun will the issues be further sifted and detailed decisions made as to the future course of the proceedings.

b. *Screening Procedure.*—At present Presiding Officers of course have broad powers to structure the course of a formal proceeding through prehearing orders or through rulings during the course of the hearing. To some extent the screening criteria proposed here simply formalize and define the standards that should be applied in doing that.

The regulations, however, also depart from that pattern in an attempt to remedy one central defect of formal proceedings for making decisions such as those involved in pesticide use cancellations. That is lack of any provision for scientific advice to the decisionmaker. As discussed above, it is inefficient, and contrary to the purposes for which administrative agencies are established, to require the Administrator or the Presiding Officer, as laymen, to grapple with the full range of issues involved in a cancellation without any opportunity for informal consultation with technical experts.

Unfortunately, where Presiding Officers are concerned, a strong argument can be made that providing such advice is improper. 5 U.S.C. 554(d)(1) forbids a Presiding Officer to "consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate". The Supreme Court in dictum has indicated that this language should be given a literal reading. See *Butz* v. *Economu*, 98 S. Ct. 2894, 2915 (1978).

Accordingly, though arguments on the other side can be made, EPA has elected at present not take the legal risk of making informal expert advice available to Presiding Officers.

Instead, EPA has provided, in § 164.55, for providing expert advice to the Administrator when *he* makes decisions regarding cancellation of a pesticide use. This practice is unquestionably legal. 5 U.S.C. 554(d)(1) does not apply to agency heads, and, as the United States Court of Appeals for the First Circuit has stated, to shut agency experts out of the final decision would run:

> counter to the purposes of the administrative agencies which exist, in part, to enable government to focus broad ranges of talent on particular multidimensional problems. The Administrator is charged with making highly technical decisions in fields far beyond his individual expertise. "The strength [of the administrative process] lies in staff work organized in such a way that the appropriate specialization is brought to bear upon each aspect of a single decision, the synthesis being provided by the men at the top." 2 K. Davis, Administrative Law Treatise 84 (1958).

Seacoast Anti-Pollution League v. Costle, 572 F.2d 872 881 (1978). EPA believes that as a practical matter the absence of such advice probably increases the pressure on the Administrator to accept the views of agency trial staff by denying him the technical equipment with which to challenge it.

Many agencies provide staff advice to their heads to assist in writing final decisions after adjudicatory hearings. The novelty in these regulations is that the technical staff named to advise the Administrator will also be used to help structure the course of the hearing. EPA believes it will clearly be more efficient for the Administrator and his expert advisors to indicate in advance of a courtroom presentation on the basis of party submissions and the administrative record where further issues need to be addressed and what proceedings will be useful than to allow the hearing to proceed in ignorance of these basic views. Accordingly, the regulations provide in § 164.55 that the Presiding Officer may certify the task of framing the course of an adjudicatory hearing to the Administrator who in turn will act with the assistance of such a panel, and that if the Presiding Officer frames the course of the hearing himself, the result may be taken to the Administrator through an interlocutory appeal as of right. EPA anticipates that this same panel would be kept in existence throughout the hearing to deal with other issues as they arose and to advise on the final decisions.

C. The Screening Tests

A formal hearing in connection with the cancellation of a pesticide use can consist of one or more of three types of component procedures. These are: (i) presentation of direct evidence in addition to the administrative record, (ii) cross-examination of witnesses; and (iii) referral of issues of scientific fact to the National Academy of Sciences. The proposed regulations provide separate tests for screening requests for each of these possible types of further proceedings. They are contained in §§ 164.52 (additional evidence), 164.53 (cross-examination) and 164.54 (referral to the National Academy of Sciences).

Three criteria are common to each test. They are that the party requesting the further proceedings show that: (i) a genuine and substantial question of fact is involved; (ii) the proceedings at issue are likely to resolve the issue; and (iii) the resolution of the issue one way or another has the potential to change the change the outcome of the proceeding.

These criteria are designed to ensure that trial-stage proceedings held as part of a formal hearing serve the central function of a trial stage—to clarify disputed issues of material fact. There is no purpose in holding trial proceedings

V 45 / 154 4 AG 7 80 0 UMI

that have no reasonable change of serving that end. This is true even in cases where substantial factual uncertainty does indeed exist, but trial proceedings will not reduce it. In those cases, the uncertainties must simply be presented to the decisionmaker for resolution as a matter of policy or expert judgment (accompanied, of course, by appropriate briefs from the parties.

These three criteria are taken directly from the "summary judgment" criteria of the Food and Drug Administration. They are further discussed in various preambles to FDA regulations, see 40 FR 40698–407010 (September 3, 1975); 41 FR 51708–51711 (November 23, 1976), and in a recent law review article, see Ames & McCracken, *Framing Regulatory Standards to Avoid Formal Adjudication: The FDA as a Case Study*, 64 Calif. L. Rev. 14–49 (1976).

A fourth criterion common to all three tests—that the matter not be one of which "official notice" can be taken—is discussed in the next section.

Finally, requests to introduce further direct evidence must, as stated above, demonstrate why that evidence was not introduced as part of the RPAR record. Similarly, requests to refer issues of scientific fact to the National Academy of Sciences must show why those issues were not adequately addressed by an independent scientific group in being referred to a Scientific Advisory Panel during the RPAR process. Both these tests aim to ensure that the formal hearing does not duplicate jobs which should have been done earlier.

d. *"Official Notice"*.—A central feature of this proposal is its use of "official notice" as a tool for setting limits to the courtroom nature of formal APA hearings. Because the approach is new, it will be discussed in some detail.

5 U.S.C. sec. 556(e) provides that "When an agency decision [after a formal hearing] rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary."

This language on its face demonstrates that in some cases—those in which "official notice" is proper—an agency may rest its decision on facts which have not gone through the full record-building procedures characteristics of a formal hearing. Otherwise the sentence would add nothing to the powers contained in other APA provisions which generally authorize an agency to make decisions provided it observes such procedures. Accordingly, the "opportunity to show the contrary" mentioned in this provision must mean something less than the otherwise applicable scope of rights to cross-examine witnesses and present testimony.

This provision must also be read in the light of four other factors.

First, the rules of "judicial notice" in court proceedings, on which the APA provision was modelled in part, provided a considerable degree of latitute for taking "official notice." Rule 201 of the Federal Rules of Evidence, which now governs the matter, only provides for judicial notice of "adjudicative facts." The reason, stated in the Advisory Committee's Note, is that courts may take notice of "legislative" facts—those relevant to general policy decisions—without affording parties any rebuttal opportunities at all of the sort Rule 201 provides. See K. Davis, Administrative Law of the Seventies, sec. 15.00–1 (1976).

Second, the definition of a fact as "legislative"—the type that may be noticed without process under the Rule 201 test—is not static, but varies with the nature of the proceeding. "Legislative" facts are supposed to be those that help tribunals decide questions of law or policy or discretion; it follows that the more heavily a decision involves these elements, the more each of the facts that goes into making it is likely to be classified as "legislative." Indeed, Professor Davis has recently stated that *all* facts in a notice-and-comment rulemaking are legislative by definition because the main purpose of such a proceeding is to determine the content of law or policy. See 2 K. Davis, Administrative Law Treatise, sec. 6.17 at 529 (2d. ed. 1978). This approach would support classification of the great majority of facts in a cancellation proceeding as "legislative".

Third, even within the sphere of "adjudicative" facts subject to the rebuttal requirements of the official notice rule, agencies probably have greater power to take official notice than do courts. Even formal administrative proceedings, after all, are meant to be less rigid than court proceedings, while agencies are created in large measure to be storehouses of information and to apply it in an expeditious and flexible manner to proceedings before them. According to the Attorney General's Manual on the Administrative Procedure Act (pp. 79–80), Congress in the APA meant to adopt the 1941 recommendations of the Attorney General's Committee on Administrative Procedure and allow agencies to take official notice of "all matters as to which the agency by reason of its function is presumed to be expert, such as technical or scientific facts within its specialized knowledge." See the Final Report of the Attorney General's Committee Administrative Procedure pp. 71–73 (1941).

Agency official notice rules since then have often provided for taking official notice of such specialized matters, and this result has been endorsed by such commentators as Professor Davis and Professor Nathanson. See K. Davis, Administrative Law of the Seventies sec. 15.00–7 (1976); Nathanson, *Probing the Mind of the Administrator: Hearing Variations and Standards of Judicial Review under the Administrative Procedure Act and Other Federal Statutes*, 75 Colum. L. Rev. 721, 738, 761 (1975).

Finally, as noted above, the agency and the Presiding Officer have inherent power, through evidentiary rulings and pretrial conferences, to structure the course of a proceeding quite apart from any "official notice" rule so as to generate a good record at the least procedural cost, and this concern is underlined in the case of FIFRA by the fact that a stage of informal review precedes the hearing in FIFRA cases.

Each of these four principles could probably be pushed to the point where it gave results contrary to the basic purpose of Congress in enacting FIFRA. But EPA believes that they can also each be applied in a way that furthers both that intent, and decisionmaking procedures under which issues are resolved by the most appropriate methods, without resort to highly formal methods of generating a record except where those methods are necessary.

EPA therefore proposes to apply these principles by requiring each person seeking further proceedings in the form of introducing additional evidence, cross-examination, or referral of an issue to the National Academy of Sciences, to show that the factual questions concerned are not ones of which official notice can be taken. The regulations provide a full opportunity to document any such showing.

The Presiding Officer (on the panel) will then rule on the request. "Official notice" will be taken of those matters, and only those matters, which the panel members, on review of the administrative record, conclude already have been established one way or another by that record and are not legitimately in dispute.

Under this approach the "opportunity to show the contrary" provided by the statute would be furnished both before and after official notice was proposed to be taken. It would be furnished before that tentative decision during the various stages of the RPAR process, and after it through the opportunity to comment on and contest the tentative

conclusions of the Presiding Officer or the panel before they become final.

"Offical notice" as the term is used here, becomes in effect a synthetic concept drawn from several different fields of administrative law. It is a principle which could be justified either as "official notice" under 5 U.S.C. sec. 556(e), on the basis that the facts at issue were "legislative", as part of the general authority of the agency to structure a hearing, or as an implementation of the special characteristics of FIFRA. Under each approach, however, EPA's intention would be the same—to set for hearing only those factual issues which seem open to decisionally significantly elucidation through the type of formal proceeding requested.

EPA anticipates that under this approach, requests for cross-examination will be granted far more readily than requests to introduce additional evidence or refer matters to the NAS. Cross-examination is, after all, the procedure for which formal hearings are particularly well adapted, while there is no reason why the other two procedures could not be performed just as well in the RPAR process.

Even where cross-examination is involved, however, it is very possible that in many cases requests for further proceedings may be denied. Courts have increasingly expressed skepticism as to whether cross-examination is the best methods of establishing the facts where scientific or technical questions are involved, or where large numbers of economic factors must be weighed, and many law review articles have seconded these conclusions. Pesticides cancellation hearings, of course, can be expected to involve such factors predominantly, and EPA intends to apply the tests for cross-examination in the light of that fact.

C. Secondary Features

The discussion above has outlined the two main purposes of the revisions to Part 164—to splice the RPAR process into the formal hearing procedures and to modernize and streamline the conduct of those hearings.

In addition, several other significant changes have been made in these regulations, which are set out below.

1. *Implementation of Use-Specific and Registration-Specific Cancellation Actions.*—Under FIFRA, pesticide products are registered and regulated on the basis of the uses for which the products are intended, and registration decisions, classification decisions, and cancellation decisions are all taken on the basis of specific uses. This use-specific approach to decisionmaking is embodied in § 3 of FIFRA as well as in the registration and RPAR provisions of Part 162, and reflects the fact that a single registration is comprised of severable, independent components, each relating to a different registered pesticide use. It is the Agency's position that since cancellation and denial decisions focus on specific individual components (uses) of specific registrations, a particular pesticide use of a product or application may be cancelled or denied under section 6 or section 3 of FIFRA without affecting the status of other pesticide uses of the same registered product or application. At the same time, a request for a hearing relating to one pesticide use of a product or application which is proposed to be cancelled or denied has no legal effect with respect to other pesticide uses which are also proposed to be cancelled or denied; the other pesticide uses will be cancelled or denied by operation of law unless a request is received which specifically relates to them.

On a related matter, it is the Agency's general practice to issue a single section 6(b)(1) (or section 3(c)(6)) notice to initiate cancellation (or denial) actions with respect to the affected pesticide uses of *all* pesticide products containing the active ingredient which is under consideration; each such pesticide product is identified in the notice by registration number or application file symbol. It is important to emphasize, however, that despite this consolidation into a single notice, separate cancellation and denial actions are being initiated with respect to the affected pesticide uses of *each* identified registration and application, and all of these cancellation and denial actions are legally independent of one another.

In other words, each affected pesticide use of each registration or application subject to the notice will be separately cancelled or denied by operation of law at the end of a specified 30-day period unless within that period certain actions (such as a request for a hearing) are taken with respect to *that specific* pesticide use of *that specific* registration or application. It is the Agency's position that a request for a hearing relating to a pesticide use of one registration or application will *not* be effective with respect to that same pesticide use of another (unidentified) registration or application, even if it is held by the same registrant or applicant.

Proposed § 164.20 formalizes this use-specific and registration-specific approach to implementation of cancellation and denial actions by requiring each request for a hearing under Section 6(b)(1) or Section 3(c)(6) to specifically identify both the pesticide registration number(s) or the application file symbol(s) *and* the particular pesticide use(s) of the particular registration(s) or application(s) as to which a hearing is being requested. If a particular pesticide use of a particular registration or application is not specified in any request for a hearing, the actions proposed in the notice relating to *that* pesticide use of *that* registration or application will become final and effective at the end of the specified 30-day period, notwithstanding that a hearing might have been requested with respect to other pesticide uses of the same registration or application or with respect to the same pesticide use of other registrations or applications.

These requirements of particularity and specific identification of pesticide uses and of registration numbers or application file symbols apply to *all* requests for hearings, including requests from adversely affected persons other than registrants. Moreover, the regulations explicitly provide that any request for a hearing which fails to specifically identify both a particular pesticide use and a registration number of application file symbol will be denied. The basis of such a denial would be that such a request would lack the requisite particularity under Section 6(b) of FIFRA for preventing specific proposed cancellation or denial actions from taking effect by operation of law.

This requirement does *not* apply, however, to requests to participate in a Section 6(b)(2) hearing under proposed § 164.23. Unlike the cancellation and denial actions proposed in Section 6(b)(1) or Section 3(c)(6) notices—which become final and effective at the end of 30 days unless corrections are made or a hearing is requested—a notice of hearing under Section 6(b)(2) is not a "self-executing" cancellation action. That is, a Section 6(b)(2) notice does nothing more than convey a hearing on certain issues specified by the Administrator; *at the conclusion* of that hearing, a final order of cancellation can be issued for any of the pesticide uses subject to the notice. Because hearing requests under Section 6(b)(2) do not prevent any action from taking effect automatically, there is no need for the hearing request to specify the actions which are stayed by it. Accordingly, identification of specific pesticide uses, including registration numbers or application file symbols, is not required by the proposal for Section 6(b)(2) hearings.

V 45 / 154 AG 7 80 UMI

Instead, the proposal requires Section 6(b)(2) hearing requests to contain an exposition of the person's position on the factual, legal, and policy questions which he believes to be involved with respect to *each* of the issues specified by the Administrator in the notice. This requirement should not be construed, however, as allowing persons to expand the scope of the issues to be considered in the hearing beyond those specified by the Administrator. As explained earlier, the proper time to request such an expansion of issues is during the RPAR process—typically, in the comment period following issuance of a Preliminary Notice of Determination. Accordingly, the Agency has determined *not* to provide any mechanisms in Part 164 for motions to enlarge the issues in Section 6(b)(2) hearings beyond those specified by the Administrator in the Section 6(b)(2) notice.

2. *Status of Registered Pesticide Uses Following Issuance of Notice of Intent to Cancel.*—The regulations also set forth the Agency's approach to the issue of the status of registered pesticide uses as to which hearings have been timely and properly requested. It is clear that under Section 6(b) of FIFRA, the proposed cancellation of a particular registered pesticide use of a particular registration shall not become final and effective if a request for a hearing on that pesticide use is timely and properly made by any person adversely affected by the Section 6(b)(1) notice; such pesticide use will be lawfully registered until the conclusion of the hearing. A somewhat unique situation arises, however, when *only* a person *other* than the registrant (such as a user group) requests a hearing with respect to a particular registered pesticide use of a particular registration. This situation is most likely to occur in the case of so-called "minor" uses, where a registrant does not desire to defend its registration for a particular use, but a user group does want to defend it.

If the registrant is willing to market the product for the minor use if it is successfully defended by the user group, it is consistent with the purposes of FIFRA to allow the user group to defend the continued registration of the particular pesticide use in a hearing. On the other hand a registrant may decide that it is no longer interested in maintaining its license for a particular use in effect, and that it affirmatively wishes to relinquish its license for that particular use. There is no provision in FIFRA which requires a registrant to maintain in effect a registration for any particular pesticide use. Indeed, section 6(a)(1) of FIFRA, which provides for routine administrative cancellations after five years, states that only the registrant—or an interested person *with the concurrence of the registrant*—may request that a registration be continued in effect. If the registrant chooses to allow a registration to lapse, a user group is powerless to overrule that decision. Further, even if a registration is effective, the manufacturer has the sole discretion to determine whether or not to manufacture and distribute the product under its license. In light of these factors, it would generally not make any sense for the Agency and user groups to engage in a protracted hearing concerning the continued registration of a pesticide use which the registrant affirmatively wishes to discontinue. The proposed regulations (under Part 162) therefore provide that the registrant may *at any time* petition the Administrator to voluntarily cancel any registered pesticide use of its registration. This provision will apply even if a request for a hearing has been filed in accordance with Part 164 by an adversely affected person other than the registrant.[11] If a petition to voluntarily cancel registration for a pesticide use is accepted in such a situation, no section 6(b) hearing will be held on the pesticide use. See *McGill v. EPA*, 593 F.2d 631 (5th Cir. 1979).

The regulations also deal with the consequences of a request for a hearing in the somewhat more complicated context of a conditional cancellation or a conditional denial. As explained more fully elsewhere in this preamble, the Administrator may decide at the conclusion of an RPAR that a particular pesticide use will meet the requirements of FIFRA only if specific modifications to its terms and conditions of registration (or proposed terms and conditions of registration), as directed by the Administrator, are accomplished. In those situations, the notice which the Administrator would issue under section 6(b)(1) or section 3(c)(6) of FIFRA would provide that a particular pesticide use of a particular registration or application will be cancelled or denied unless the specific modifications to the terms and conditions of registration (or proposed terms and conditions of application) are accomplished.

However, section 6(b) of FIFRA provides that the actions proposed in a section 6(b)(1) notice of intent to cancel shall become final and effective at the end of a specified 30-day period unless *within that time:*

"either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice."

Accordingly, the Agency has determined that the modifications to the terms and conditions of registration (or proposed terms and conditions of registration) prescribed in a conditional cancellation or conditional denial notice must be accomplished *during* the statutory 30-day period. In other words, unless within the 30-day period either the "necessary corrections" (modifications to the terms and conditions of registration) are accomplished *or* a request for a hearing is made by a qualified person, the affected pesticide use of the affected registration or application will be finally cancelled or denied as a matter of law at the expiration of the 30 days.

The proposed regulations also lay to rest several issues which may arise when the Administrator issues conditional cancellation or conditional denial notices. First, a registrant may not itself unilaterally amend the terms and conditions of its registration; it must apply to the Agency for such amendments, and such amendments are not effective unless and until they are approved by the Agency in accordance with the provisions of Part 162. Moreover, the Agency process for consideration and approval of such applications for amended registration may extend well beyond the statutory 30-day period. Accordingly, the Agency has determined that the registrant shall be deemed to have made the "necessary corrections" within the applicable 30-day period, for the purposes of stopping the effectiveness of the proposed cancellation actions, if within that period it submits an application for amended registration which, if granted, would accomplish the specified modifications to the terms and conditions of registration.

The proposal also deals with the situation where the registrant responds to a section 6(b)(1) conditional cancellation notice by submitting the application for amended registration, and another party adversely affected by the notice, such as a user group, requests a hearing.[12] Although section 6(b) contemplates that *either* of these actions will prevent the cancellation

[11] The proposed regulations under Part 162 similarly provide that applicants may at any time petition the Administrator to withdraw an application for registration. The analysis above is equally applicable to that situation, especially since interested persons other than the applicant may request a hearing on a denial under § 3(c)(6) of FIFRA only "with the concurrence of the applicant."

[12] The parallel situation is not likely to occur in the denial context, since only "interested persons *with the concurrence of the applicant*" may request hearings to challenge denial decisions under section 3(c)(6).

action from becoming effective, the statute is silent on the consequences of *both* conditions being satisfied, each by a different party. The fundamental theme of section 6(b)(1) provides the answer to this problem of statutory interpretation. As pointed out earlier, section 6(b)(1) allows the Agency to act without hearings; hearing requests under this section operate to stop actions from taking effect, until the conclusion of a trial to test whether the action proposed is necessary. If a hearing request were submitted by a registrant, the Agency's proposed changes in terms or conditions of registration would not become effective, and a hearing would be held. In the Agency's view, the statute was intended to operate the same way if an adversely affected person other than a registrant requests a hearing, regardless of the action taken by the registrant. The fact that a registrant is willing to go along with the changes has no more bearing on the action *stopping* nature of a third party hearing request than a registrant's silence would have. In either case, the proposed changes in the terms or conditions of registration do not take effect until the conclusion of the hearing, and the proposed regulations so provide.

3. *Timeliness of requests for hearings.*—Proposed section 164.20 provides that the timeliness of requests for hearings by *all* non-registrants and non-applicants in response to Notices of Action (i.e., notices of intent to cancel or change classification and notices of intent to deny registration) will be determined *exclusively* by the date of publication of the notice in the **Federal Register.** In the case of registrants and applicants *only,* the proposal provides that the timeliness may be determined instead by the date of receipt of the notice when such receipt occurs *after* the publication in the **Federal Register.** This interpretation of section 6(b) of the Act has been previously upheld by the Administrator in the case of a request for a hearing on the conditional cancellation of the citrus uses of the pesticide chlorobenzilate, and the proposal merely embodies that decision (*Final Decision,* FIFRA Docket Nos. 411, et al., August 20, 1979).

In this regard, prior to 1972 only registrants could request a cancellation hearing. The version of FIFRA then in effect only required that a notice of cancellation be sent to the registrant, and the timeliness of a request for a hearing was determined by the date of service of the notice. In 1972, however, FIFRA was amended to provide in section 6(b) that a notice of intent to cancel "shall be sent to the registrant and made public"; section 6(b) also provides that unless a hearing is requested (or necessary corrections made), the action initiated by a section 6(b)(1) notice "shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of [the notice], whichever occurs later."

Thus, when the 1972 amendments expanded the class of persons who could request a hearing to include non-registrants, they continued in effect the requirement that a notice of intent to cancel be sent directly to a registrant, since the registrant's identity is known to the Administrator. They also provide that the date of *receipt* of the notice (instead of *service* of the notice) would determine the timeliness of a registrant's request for a hearing.

At the same time however, the amendments did *not* require the notice to be sent to non-registrants, since the number and identity of all persons with an interest in the continued registration of a pesticide could not generally be known or readily ascertained by the Administrator. Instead, Congress provided for publication of the section 6(b)(1) notice to inform the general public of the pendency of the cancellation action so that non-registrants who wanted to stop it from taking effect could do so by requesting a hearing.

By providing for publication, Congress achieved two objectives. First, it provided a mechanism for non-registrants to learn of pending cancellations so that they would not have to rely exclusively on communications with informed registrants. Since the very purpose of expanding the class of persons who could request a hearing was to allow non-registrants to defend a registration when the registrant chose not to, the provision for publication facilitated the ability of non-registrants to act independently of registrants. Second, and more significantly, the date of publication of a section 6(b)(1) notice provide a single, neutral, objective benchmark for determining the time that *all* non-registrants are put on constructive notice that a cancellation action is pending and will take effect unless stopped by a request for a hearing.

By including the phrase "whichever occurs later" to qualify the phrase "from receipt by the registrant, or publication," Congress merely intended to extend a grace period to a registrant in circumstances where it receives its copy of the notice prior to the pulication of the notice; it did *not* intend to measure the 30-day period for the entire class of non-registrants from the *latest* date of receipt by some registrant. Accordingly, the proposal provides *all* non-registrants (and non-applicants) 30 days from the date of publication of the Notice of Action within which to request a hearing. The provision for an alternative date for determining timeliness will *only* apply to registrants and applicants who receive their individual copies of the notice after the date of pulication in the **Federal Register.**

4. *Time Limits for Completing Hearings.*—The Agency believes the current state of affairs—where the cancellation hearings that have been held have typically taken over three years from start to finish—cannot be reconciled with any reasonable concept of administrative procedure.

Deadlines for the completion of these proceedings have been recommended by the National Academy of Sciences. National Academy of Sciences, Decisionmaking for Regulating Chemicals in the Environment, p. 30 (1975).

Accordingly, the regulations contain such a provision. Of course, no such deadline could properly be imposed if it would unduly abridge a person's right to clarify factual issues that were legitimately in controversy. The screening process described above, therefore, is an indispensable complement to any establishment of deadlines, since it aims at making sure that hearing time is used more efficiently than it often has been in the past. If the screening process works as it should, and if presiding officers and participants act in the knowledge that the time available to them is not unlimited, the Agency believes substantial economies in time and effort can be realized without any sacrifice in quality of results.

5. *Judicial Review.*—Section 164.90 provides that decisions concerning a pesticide cancellation made while screening requests for further participation shall be reviewed in the Circuit Court of Appeals as provided in Section 16(b) of FIFRA.

That section provides for Court of Appeals review of "any order issued by the Administrator following a public hearing." Even if this language meant a formal evidentiary public hearing as provided in 5 U.S.C. 554, 556 and 557, the Agency believes that § 164.90 would accurately state the law. The screening of requests for further participation is a means of implementing those statutory provisions for hearings.

However, it is clear that the reference to "public hearing" does not mean such formal adjudicatory hearings exclusively. During the 1975 consideration of FIFRA amendments, various changes to the language quoted

V 4 5 / 1 5 4 A G 7 8 0 UMI

were considered. In the end, the conferees decided to leave the section as it was, and added the following legislative history:

"It is the intent of the conferees, however, that an adequate reviewable record be developed by the Environmental Protection Agency in each of its public hearing although such hearings need not necessarily be adjudicatory in nature." H.R. Rep. No. 94–668, 94th Cong., 1st. Sess. 6 (1975).

The reference to the record here echoes the 1972 Senate Report (p. 13).

The clear implication of this language that Court of Appeals review should follow any hearing at which an adequate record for review is developed also expresses the holding of the only courts to consider the question. *State of Louisiana v. Train,* 392 F. Supp. 564 (W.D. La. 1975), *aff'd,* 514 F.2d 1070 (5th Cir. 1975).

It is the Agency's position that the RPAR process set forth in the proposed revisions to Part 162—with its multiple opportunities for public input and with its requirements of carefully articulated decisions based on specifically identified records—together with the requirements of Part 164 for screening requests for further proceedings, together comprise the requisite "public hearing" for purposes of judicial review.

6. *Presentation of Evidence.*—These rules contain three reforms to the way evidence is presented at a formal adjudicatory public hearing which are designed to promote efficiency and reduce hearing time.

First, the filing of all exhibits, and of substantially all direct testimony by all parties in written form will be required (§ 164.61). In addition, the regulations contemplate that hearings will be divided into distinct stages (for example, a risk stage and a benefits stage) and that the exhibits and testimony relating to each stage will be introduced early in each stage. Use of written direct testimony has been the rule in previous cancellation hearings, and has resulted in substantial time savings. The Agency believes that it has authority to require filing of written direct testimony in cancellation hearings in cases where no showing can be made that elucidation of the issues involved depends on oral presentation. *See* 41 FR 51716–17 (Nov. 23, 1976). The regulations proposed today allow oral direct testimony if such a showing can be made.

Second, these regulations provide, § 164.62, for an initial screening of direct evidence to enforce comformity with the Hearing Order which determines the scope of the hearing. This will ensure that the hearing is run in conformity with the principles laid down for its conduct by the Administrator. At the same time, the Agency recognizes that new evidence may become available after a particular stage of a hearing has been completed (or after the time for filing evidence for a particular stage has expired) that is relevant to the issues involved in the proceeding. Accordingly, the same provision, § 164.62, also provides that such evidence may be admitted at a later stage upon a showing that it could not reasonably have been made available, or its relevance could not reasonably have been foreseen, at an earlier stage.

Finally, some provisions for control of excess cross-examination are made, though in general decisions here are left to the discretion of the Presiding Officer. The Conference Report and Order of the hearing conference will set a detailed schedule for all oral proceedings (§ 164.60), and in drawing it up the Presiding Officer is directed to consider alternatives to oral cross-examination if the issues could be more economically clarified by using them. It should also be noted in this regard that the proposal specifically contemplates that more than one hearing conference will be held. Hearing conferences are valuable opportunities to dispose of procedural and other matters, and both the parties and the Presiding Officer should view the hearing conference as an indispensable tool for expediting the hearing.

The general discovery provisions in the present regulations have been eliminated. This is not intended to result in any lesser degree of disclosure by parties to the hearing. Rather, the obligation to make disclosure has in effect been shifted forward to Part 162 proceedings by § 164.52.

7. *Burden of Proof.*—Section 164.3 restates the accepted view that the ultimate burden of persuasion always rests on the proponent of registration of a pesticide use. (*See,* e.g., *Environmental Defense Fund v. Environmental Protection Agency,* 548 F.2d 998 (1976), cert. denied, 431 U.S. 925 (1977).) It also states that the burden of producing evidence beyond the RPAR record shall be specified by the Presiding Officer. This provision does not rest on any legal conclusion as to where that burden rests in the abstract, which the Agency in any event would find to be of limited usefulness. Rather, it recognizes that the Presiding Officer will be working from the prior administrative record and documents based on it. Against that background, he will be able to discern where the areas of factual dispute lie, and on which party it is most fair to place the burden of clarifying them.

8. *Alternative Forms of Public Hearing.*—Under FIFRA, a person adversely affected by a notice of intent to cancel has the right to request a formal evidentiary public hearing as provided by these regulations. Given the variety of different types of questions and patterns of questions that may arise, however, it may be that all parties will be able to agree that some alternative approach will best fit their needs. Indeed, such alternative forms have been increasingly used under other statutes in recent years, and have been favorably mentioned in various contexts. For example, there has been repeated discussion of proposals for a "science court" which proponents believe could clarify technical issues in a more efficient and less adversarial way by adopting some of the mechanisms of scientific investigation rather than those designed for trial of issues of adjudicatory fact.

Accordingly, § 164.24 has been included to allow the parties to select such an alternative form if they wish, and to provide some guidance as to what the permissible choices are.

The section provides that persons with a right to request a formal hearing under FIFRA may instead elect to have the proceeding conducted under the rules of practice that apply to rulemakings under section 6 of the Toxic Substances Control Act, or in the form of a one-day proceeding before the Administrator personally, or before a panel of mutually acceptable persons not employed by EPA.

The Toxic Substances Control Act, 15 U.S.C. 2601 et seq., allows EPA to regulate problem chemicals other than pesticides. The factural and policy issues raised by these chemicals may often be very similar to those that arise in the pesticide context.[13] Under that statute, decisions involving such chemicals may be taken through "hybrid rulemaking" procedures rather than through a formal hearing.

EPA believes that the TSCA procedures will not result in any sacrifice in quality of decisions as compared to the FIFRA procedures, and are almost certain to be vastly shorter and cheaper than formal hearings. (TSCA section 6 rulemakings to date have averaged less than one year from start to finish, while FIFRA hearings have averaged more than three years.) Accordingly, EPA proposes to allow FIFRA hearings to be governed by these

[13] The similarity between FIFRA and TSCA has been recognized by members of the separate committees concerned with the two statutes. Legislative history of the Toxic Substances Control Act (Committee Print, House Committee on Interstate and Foreign Commerce), pp. 231–233 (1976) (dialogue of Sens. Allen, Talmadge, and Tunney).

procedures if those with a right to request them consent.

The second option—a hearing before the Administrator personally—recognizes that in some cases, predominantly those involving major policy choices, the parties may conclude that an opportunity to address personally the final decisionmaker—the Administrator—is what matters most to them. To date it has not been the practice for the Administrator to even hear oral argument personally in FIFRA proceedings, and, given the press of his other duties, this pattern is certainly understandable. However, if the Administrator knew that by devoting a day to hearing the contentions of the parties in a FIFRA proceeding, he could substantially reduce the burden of formal proceedings that would otherwise have to be borne by other parts of the Agency, the incentive for him to make the time available would obviously be greater. Accordingly, the regulations make this option available also.

The third alternative—a hearing before a panel of mutually acceptable persons—corresponds to the format generally suggested for a "Science Court." These suggestions often assume that the panel members would be scientists expert in the field. Though the EPA proposal is certainly consistent with that approach, it could encompass any panel of mutually acceptable persons, not one consisting of scientists only.

The regulations do not attempt to specify in elaborate detail the procedures for these latter two alternative types of public hearing. By their nature, they are somewhat experimental and the procedures may have to be worked out, at least during the first few tries, on a case-by-case basis. However, the regulations do provide for full publicity to be given in each case to the procedures that have actually been agreed on. This will safeguard the right of the public to know of and participate in alternative hearing forms as it could participate in the traditional form of public hearing.

The regulations also provide that any alternative form of public hearing must be approved by the Administrator.

D. *Suspension Prodecures.*—Section 6(c) of FIFRA allows the Administrator to suspend the registration of a pesticide—that is, to forbid temporarily its distribution, sale and use by abbreviated procedures—where he determines that an "imminent hazard" would result from its use. An "imminent hazard" exists where a pesticide would have unreasonable adverse effects on the environment during the time required for the completion of cancellation proceedings.

The statute makes suspension decisions subject to the same hearing rights as cancellation decisions, except that the time limits are shorter and the Presiding Officer need not be an Administrative Law Judge.

Most provisions of the regulations for suspension proceedings in Subpart C of Part 164 follow the procedures laid down for cancellation proceedings with whatever changes are necessary to accommodate the much tighter timetable and the preliminary nature of the decision.

As one such change, the stage of screening requests for further participation has been eliminated. It would be hard to reconcile such a stage with the very short timetables for decision specified in the statute. In addition, the usefulness of this stage really depends on the whole course of proceedings under Part 162 having been completed, and in many instances of suspension this will not be the case.

In addition, these regulations provide that a panel of agency employees with expert knowledge of or responsibility for the subject area of the proceeding may be named to preside at a suspension hearing either instead of or in cooperation with an Administrative Law Judge. The direct participation of such experts will make it easier for the Agency to assess the evidence and the issues, particularly under time pressure, and should lead to better final decisions through the principle of the division of labor. The Agency believes Congress had the possibility of some such approach in mind when it specified in section 6(c) of FIFRA that the person presiding over a suspension hearing need not be a certified Administrative Law Judge.

E. Implementation of Final Cancellations and Suspensions and Existing Stocks Problems

The proposal includes a provision (§ 164.140) requiring the preparation of a Notification of Cancellation after cancellation actions under section 6(b) have become final, either by operation of law or at the conclusion of hearings under Part 164. This Notification would be sent to all registrants of pesticide uses affected by the final cancellation action, and would be published in the **Federal Register.**

The Notification of Cancellation is designed to deal with certain "housekeeping" matters. Once a cancellation action has become effective, registrants need to know what actions are required of them in order to bring their pesticide products into compliance with it. For example, registrants need to know such things as whether, how and when they should submit amended product labeling to the Agency, and what practices the Agency will allow (in appropriate circumstances) for modifying the labeling of pesticide products currently in commerce (e.g., whether "stickering" of the labels of such products will be permitted, and whether obliteration of portions of the label will be permitted.) In the past, the Agency generally has sent instructions to registrants on these matters; accordingly, the Notification of Cancellation provision in the proposal in large measure codifies current practice.

The proposal also provides for a similar Notification of Suspension after suspension actions have become final (§ 163.142). With respect to implementation of suspension actions, however, it should be noted that any labeling and other changes required to comply with final suspension orders have validity only for the duration of the cancellation proceedings concerning the pesticide use in question. At the conclusion of cancellation proceedings, the Agency may impose different requirements, or may decide to permit registration for the use to continue without any changes to the terms and conditions of registration which existed at the beginning of the suspension and cancellation proceedings. Because suspension orders are limited in duration and effect, the Agency has always permitted registrants to make changes necessary to comply with suspension orders on an interim basis, and without prejudice to their right to contest the necessity for these changes in cancellation proceedings. This practice will, of course, not change.

The provisions in the proposal regarding existing stocks of products not in compliance with final cancellations or suspensions mark a departure from current Agency practice. In the past, the Agency has resolved in the cancellation or suspension proceedings whether and to what extent to permit the sale and use of existing stocks of pesticide products which do not comply with the cancellation or suspension action. This approach has not worked well, primarily because it is not possible to develop a record concerning the disposition of existing stocks of cancelled or suspended pesticides before it is known what pesticide uses are in fact going to be cancelled or suspended—which, of course, cannot be known until the end of the proceeding. In light of this problem, it is not surprising that the Agency's decisions concerning existing stocks have twice been overturned on appeal,

V 45 / 154 AG 7 80 UMI

because the records supporting these orders were wholly inadequate. *Environmental Defense Fund v. Environmental Protection Agency*, 548 F.2d 908 (D.C. Cir. 1976), *cert. denied*, 431 U.S. 925 (1977)); *Environmental Defense Fund v. Environmental Protection Agency*, 510 F.2d 1292 (D.C. Cir. 1975).

For cancellation proceedings, the proposal resolves this problem by providing for a *separate* proceeding, after a cancellation action under Part 164 has become effective, to deal with existing stocks problems (§ 164.141). Under the proposal, the Notification of Cancellation would include a discussion of the legal status of existing stocks of pesticide products which are not in compliance with the final cancellation action, together with the Agency's determination concerning the continued distribution, sale or other movement in commerce, and use, of such existing stocks. The Notification of Cancellation would then inform registrants and other interested persons that if they disagree with the Agency's determination, they may petition the Agency to modify it, and would specify where, how and when such petitions must be filed, and the information which must be included in them. The proposal then requires the Agency to dispose of such existing stocks petitions by promulgating a regulation, after complying with the procedural requirements applicable to rulemaking under FIFRA and the Administrative Procedure Act.[14]

The proposal does not provide for a separate proceeding to deal with existing stocks problems after final suspension orders. There are several reasons for not permitting separate existing stocks proceedings after suspensions. First, a suspension order is of limited duration and effect, and is intended in part to resolve whether existing stocks of products registered for a particular pesticide use should be sold or used while cancellation proceedings are in progress. Second, because suspensions are temporary, and last only until the conclusion of cancellation proceedings, existing stocks questions generally can be deferred until the conclusion of cancellation proceeding. Third, because the question of permission to use existing stocks is so closely intertwined with the merits of a suspension order, any provision allowing petitions to permit use of existing stocks of suspended pesticides would in effect allow petitions to modify the suspension order. The Agency already has procedures for petitions for modification of suspension orders (See 40 CFR Part 164, Subpart D). In the Agency's view, petitions for relief from suspension orders should continue to be governed by those procedures.

[14] FIFRA does not impose any procedural requirements governing the disposition of petitions to allow sale or use of cancelled or suspended pesticides. See FIFRA. §§ 6(a)(1), 15(b)(2). Accordingly, the procedural requirements applicable to existing stocks matters are those in the Administrative Procedure Act ("APA"). In the Agency's view, these matters are rulemaking matters within the purview of § 4 of the APA [5 U.S.C. § 553 (1976 edition)].

V. Questions on Which Comment is Particularly Requested

A. How should cancellation hearings not following an RPAR be handled?

As discussed above, the revised Part 164 procedures proposed today are specifically designed to graft together the increasingly important stage of decisionmaking through informal procedures in the RPAR process and the examination and testing of those decisions in a formal hearing.

EPA anticipates that the great majority of regulatory actions involving pesticides which pose unreasonable adverse effect problems will be made through the RPAR process followed by a hearing opportunity as described above. Under the statute, however, there are two major types of actions which may lead to a formal hearing and yet which may not or will not have been preceded by the full range of RPAR procedures. These are discussed below.

1. Cancellation in Connection With Suspension.—Suspension of the registration of a pesticide use, as explained above, is a preliminary remedy similar to a preliminary injunction. It is designed to be invoked rapidly when new information or new interpretations of old information, raises serious concerns about registrability of a pesticide use. Because of the nature of the procedure, it is quite likely that, if invoked, it will be invoked rapidly, and quite possibly before an RPAR proceeding concerning the pesticide use at issue has been completed. Yet the statute also provides that the Administrator may not issue a suspension order for a pesticide use without at the same time also initiating cancellation proceedings for the pesticide use at issue. The question then arises how to conduct a cancellation hearing on that pesticide use if one is requested.

Several possible solutions to this problem are suggested by past Agency practice. The first is to stay any hearing on the cancellation action until after final agency action on the suspension. (See e.g., the Agency's cancellation hearings on heptachlor/chlordane (FIFRA Docket Nos. 336 et al.) and aldrin/dieldrin (FIFRA Docket Nos. 145 et al.)) Without such a stay, the Agency would be conducting two hearings on closely related issues simultaneously, with all the duplication of effort that would require from all parties.

The second is to stay the cancellation hearing until the suspension hearing is over and then to automatically introduce the record of the suspension proceeding into evidence in the cancellation hearing. (See, e.g., the Agency cancellation hearing on heptachlor/chlordane (FIFRA Docket Nos. 336 et al.)) Such an approach provides the cancellation proceeding with a running start on at least some of the issues it will have to face. Indeed, the case for automatic introduction of the suspension record is stronger than the case, discussed above, for automatic introduction of the administrative record. Introducing the suspension record serves the same purposes as introducing the administrative record, while the suspension record has also been subject to examination in a prior evidentiary hearing.

The third possibility is to stay cancellation hearings when a notice of cancellation is issued in connection with a suspension, pending completion of RPAR proceedings on the use in question. Such RPAR proceedings would serve a purpose analogous to discovery in civil litigation. At the conclusion of the RPAR proceeding, the Administrator could (if appropriate) narrow or broaden the scope of the cancellation proceeding. This approach has been used by the Agency already in connection with its suspension of some uses of the pesticide DBCP (42 FR 57545, November 3, 1977). It proved acceptable to all sides, and allowed the issues involved in cancellation to be addressed in the flexible, informal RPAR setting before moving on to the rigidity and expense of formal proceedings.

The Agency recognizes that there are a number of alternatives available in connection with the second and the third possible solution. One would be to start the cancellation hearing at any time after the final suspension decision, without waiting for any RPAR or RPAR-type proceedings, but to retain the formal screening of issues before any new presentation of evidence or cross-examination. The screening could proceed on the basis of the suspension record, plus the submissions of the parties.

Another would be to start the hearing, once again, any time after suspension proceedings were over, but to move directly to the hearing conference, and to provide for screeing of issues in a somewhat less structured fashion at the discretion of the Presiding Officer.

The Agency specifically invites comments on the approaches to this problem discussed above, and on any other approaches that might be utilized.

On a related matter, the Agency also solicits comments on the issue of whether a suspension order may be supported by a notice under section 6(b)(2) of the Act. Although section 6(c)(1) read literally requires the Administrator to issue a notice under section 6(b)(1) in order to support a suspension order, it is clear that Congress' concern in enacting section 6(c)(1) was only that proceedings which could result in cancellation of a pesticide use be initiated or in progress before that pesticide use was suspended (because suspension was only intended as an interim remedy *pending* such cancellation proceedings). See S. Rep. No. 92–838 (SUPPLEMENTAL REPORT), 92d Cong., 2d Sess. 47 (1972); S. Rep. No. 92–1540, 92d Cong., 2d Sess. 32 (1972). Since a hearing under section 6(b)(2) is a cancellation hearing in the fullest sense, and since it may culminate in an order of conditional or unconditional cancellation of any pesticide use subject to it, the Agency believes that such a hearing may serve as the predicate for issuance of a suspension order. Accordingly, the Agency specifically invites comments on this question.

2. Cancellation Without Weighing of Risks and Benefits.—Both cancellation or denial following RPAR, and cancellation in connection with suspension under the statute, must be based on a weighing of the risks of pesticide uses against their benefits, and on a final judgment by the Administrator as to whether the risks of each pesticide use at issue in the proceeding are unreasonable.

The statute also provides for cancellation or denial of registration on other grounds. Specifically, it allows cancellation under section 6(e) for failure to comply with the conditions on which conditional registration was granted under section 3(c)(7), cancellation under section 3(c)(1)(D) for failure to comply with the terms of data-sharing requirements, and cancellation under section 6(b) if it appears that a pesticide's labeling or other material required to be submitted does not comply with the provisions of the Act. With respect to denials, the Administrator may deny registration under section 3(c)(6) if the pesticide's composition is not such as to warrant the proposed claims for it (section 3(c)(5)(A)), or if the pesticide's labeling or other material required to be submitted does not comply with the requirements of the Act (section 3(c)(5)(B)). Finally, the Act provides for "suspension" under section 3(c)(2)(B)(iv) for failure to enter into data-sharing arrangements. Unlike suspension under section 6(c), suspension under section 3(c)(2)(B)(iv) is not analogous to a preliminary injunction, and there is no requirement for instituting cancellation proceedings under section 6 in conjunction with suspension proceedings under section 3(c)(2)(B)(iv).

As discussed in detail above, the revisions to the formal hearing rules proposed today are designed to create a unified procedural system under which large, technically complex policy decisions are made in the RPAR process and challenged and refined in formal hearings thereafter. Since the types of cancellation and denial proceedings described above would not follow RPAR proceedings, the rules of practice set out in the proposal would not be appropriate for them.

The Agency specifically solicits comment on the question of what rules should govern these "other" kinds of cancellation proceedings. One proposal which may have merit is to use the consolidated civil penalty regulations which the Agency recently has promulgated for these hearings. [See 45 FR 24360 (April 9, 1980).] The Agency specifically invites comment on the feasibility of this approach. If the Agency decides to adopt that approach, the necessary revisions to the consolidated civil penalty regulations will be promulgated directly without an intervening reproposal.

B. Briefing in Suspension Hearings

Suspension hearings are required by statute to be expedited proceedings, and, as a result, the time available for briefing is extraordinarily short. The Presiding Officer must recommend findings and conclusions to the Administrator within "ten days from the conclusion of the presentation of evidence" and the Administrator then has seven days to render a final order. Parties must await the conclusion of the presentation of evidence before they can prepare final briefs for the Presiding Officer, and must await the Presiding Officer's recommended decision before they can prepare briefs to the Administrator; the briefing schedules which result from this timetable subject the parties to excrutiating time pressures to create briefs which synthesize a highly technical record. Because of the compressed schedules, simultaneous briefing is a necessity, and almost no time is available for reply briefs.

The Agency believes that the past practice of briefing in suspension hearings, which has been continued in the proposal, may unnecessarily subject parties to an overwhelming burden to create a document which may come too late in the process to have any impact at all. Accordingly, we are specifically soliciting comments concerning alternative methods of advocacy in expedited hearings. In particular, we have two ideas under consideration, although we invite commenters to suggest other alternatives.

The first idea would be to eliminate the requirement of final written briefs, and replace it with an oral argument on the record before the Presiding Officer (and then before the Administrator) somewhat akin to the English system of advocacy. This alternative would relieve the parties from the crushing burden of creating extensive written briefs at the conclusion of suspension proceedings. Moreover, an on-the-record colloquy between the Presiding Officer and the parties, or even between the parties themselves, may sharpen the focus of the controversy much more efficiently than written presentations.

The second idea would be to give the Presiding Officer the discretion to require interim briefs at the conclusion of various stages of the hearing. Under this approach, parties would brief the issues involved at each stage as it was completed, so that only the final stage (and the overall decision urged) would require briefing at the "conclusion of the presentation of evidence." This would have the additional beneficial effect of having issues briefed while they are still fresh in everyone's minds, and would provide them to the Presiding Officer *before* he undertakes the arduous task of preparing his final decision covering all stages and all issues involved in the proceeding.

C. Subpart D

This proposal does not affect the existing regulations under Subpart D of Part 164, which govern petitions to reconsider previous cancellation or suspension orders, to allow use of a pesticide at a site and on a pest for which registration has been finally cancelled or suspended. Subpart D provides generally that reconsideration of a previous cancellation or suspension order is warranted only if the applicant presents substantial new evidence which may materially affect the prior order and which was not available to the Administrator at the time of that order, *and* such evidence could not, through the exercise of due diligence, have been discovered by the parties to the cancellation or suspension

V 45 / 154 AG 7 80 UMI

proceeding prior to the issuance of the final order (40 CFR 164.131).

The Agency believes that Subpart D is based on sound policy considerations, but invites comments on any amendments, revisions, additions or deletions which might be made to those regulations consistent with other changes being proposed today.

D. Discovery

As explained earlier, the proposal eliminates the formal discovery procedures of the present regulations, since the obligation to make disclosure has in effect been shifted to the RPAR process. However, the Agency solicits comments as to whether any provision should be made allowing use of particular discovery devices, or some combination of discovery devices, after the initiation of formal proceedings under Section 6(b). Such comments should contain specific proposals for such discovery and explain why provision for such discovery in the rules of practice would further the Agency's overall procedural reform objectives.

E. Applicability of revised rules to RPAR proceedings and cancellation proceedings currently in progress.

As indicated in Part II above, the Agency currently has a number of RPAR proceedings in progress. In addition, there currently are two cancellation hearings in progress. The Agency solicits comment on whether, to what extent, and under what conditions it should make the revised RPAR rules applicable to ongoing RPAR proceedings and the revised Rules of Practice applicable to ongoing cancellation proceedings.

EPA presently intends to make these rules applicable to all RPAR proceedings in progress on the date the rules become effective, and to any hearings arising out of those RPARs. Those hearings will comprise the vast bulk of the formal proceedings under FIFRA for the next several years, and it would be unacceptably inefficient for the reasons discussed above to conduct them under rules that gave no formal recognition to the role of the RPAR process. Since the RPAR process is already conducted in essential conformity with the proposed requirements, no unfairness will result from such a step, particularly if EPA provides, as it currently intends to, a comment period during which interested persons can point out any inconsistencies between the actual form of an RPAR record and the form it would have under the proposed regulations, and EPA can correct them.

Note.—The Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Orders 11821 and 11949 and OMB Circular A-107

Regulatory Analysis

Executive Order 12044 requires preparation of a Regulatory Analysis for major regulations and standardized development procedures for all significant regulations. In EPA's final report implementing the Order (44 FR 30988) we identified several categories of regulatory actions which we defined as "specialized" and not subject to the uniform procedural requirements. I have determined that this proposal is administrative and procedural in nature and does not significantly alter the stringency, compliance costs, or benefits of the pesticide regulatory program. I have therefore classified this proposal as a "specialized regulation."

Compliance With FIFRA Section 25

As required by FIFRA Section 25, copies of this proposed regulation were provided to the Department of Agriculture ("USDA"), the FIFRA Scientific Advisory Panel ("SAP"), the Committee on Agriculture of the House of Representatives, and the Committee of Agriculture, Nutrition and Forestry of the Senate on May 19, 1980. Notice of transmittal of a copy of this proposed regulation to the USDA was published in the **Federal Register**, as required by FIFRA Section 25(a)(2)(D). [See 45 FR 38087 (June 6, 1980).] USDA elected not to exercise its right to submit written comments within the prescribed period. However, EPA and USDA will consult informally during the course of this rulemaking proceeding. The SAP elected not to exercise its right to submit written comments during the prescribed period.

This notice of proposed rulemaking is issued under authority of section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136w.

Dated: July 30, 1980.

Douglas M. Costle,

Administrator.

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

(1) It is proposed to revise 40 CFR Part 162 by:

Subpart A—[Amended]

(a) Amending the title of Subpart A to read "Registration and Reregistration Procedures" and by redesignating or deleting the existing sections (and amending the table of sections accordingly) as follows:

Present Section and New Section
162.11(a)(b)—Deleted
162.12—162.11
162.13—162.12
162.14—162.13
162.15—162.14
162.16—162.15
162.17—162.16
162.21—162.17
162.22—162.18
162.23—162.19

(b) Amending § 162.3 to add the following paragraphs (ss), (tt), (uu), (vv), (ww), (xx), and (yy):

§ 162.3 Definitions.

* * * * *

(ss) The term "pesticide use" means a use of a pesticide (described in terms of the target pest, the application site, and other applicable identifying factors) which is included in the labeling of a pesticide product which is registered, or for which an application for registration is pending, and the terms and conditions of registration or the proposed terms and conditions of registration for the use.

(tt) The term "terms and conditions of registration" means the terms and conditions governing lawful sale, distribution and use which were approved in conjunction with registration, including the approved labeling, the use classification, the composition, and the packaging.

(uu) The term "proposed terms and conditions of registration" means the terms and conditions of registration proposed by an applicant for registration in an application for registration.

(vv) The term "RPAR" means rebuttable presumption against registration.

(ww) The term "validated test" means a test conducted and evaluated in a manner consistent with accepted scientific procedures.

(xx) The term "other significant evidence" means evidence that relates to the uses of a pesticide and their adverse risk to man or the environment.

(yy) The term "Scientific Advisory Panel" means the FIFRA Scientific Advisory Panel established by the Administrator pursuant to Section 25(d) of the Act.

(c) Establishing a new Subpart C entitled "Classification of Pesticide Uses" to consist of §§ 162.40 through 162.42, by redesignating existing sections of Part 162 (and changing all references in those sections accordingly) as follows:

Present Section and New Section
162.11(c), (d)—162.40
162.30—162.41
162.31—162.42

The Table of Sections is also proposed to be amended accordingly to add the following:

Subpart C—*Classification of Pesticide Uses*

Sec.
162.40 Use classification criteria.
12.41 Optional procedures for classification of pesticide uses by regulation.
162.42 Pesticide use classification.

Because redesignation of present § 162.11(c) and (d) as new § 162.40 involves extensive renumbering of paragraphs and subparagraphs, the text of new § 162.40 is set out below. *No changes other than changes in the numbering of paragraphs and subparagraphs have been made in these provisions.*

§ 162.40 Use classification criteria.

(a) *Classification criteria for new registrations.* Except as provided in paragraph (d) of this section, a specific use(s) of a pesticide product not previously registered shall be classified for general use if each of the applicable criteria set forth in paragraph (a)(1)(a)(3) of this section is met. Otherwise, the product use(s) shall be classified for restricted use unless a review of the labeling pursuant to paragraph (c) of this section indicates that the product use may be classified for general use or the benefits from unrestricted use of the pesticide outweigh the risks of unrestricted use of the pesticide. Each of the separate criteria as set forth below must be applied for the product use(s) to be classified unless the formulation, packaging, or method of use of the product can reasonably be expected to eliminate the route of exposure. New data submitted to support classification must conform to the specifications of the Registration Guidelines.

(1) *Domestic applications.* A pesticide use(s) intended for domestic application will be a candidate for general use classification if the pesticide formulation:

(i) Has an acute dermal LD_{50} greater than 2,000 mg/kg;

(ii) Has an inhalation LC_{50} greater than 2 mg/liter;

(iii) Causes no corneal opacity, or causes eye irritation reversible within 7 days or less;

(iv) Causes no more than moderate skin irritation within 72 hours;

(v) Has an acute oral LD_{50} greater than 1.5 g/kg for the formulation as diluted for use; and

(vi) Causes, under conditions of label use or widespread and commonly recognized practice of use, only minor or no discernible subacute, chronic, or delayed effects on man or other nontarget organisms from single or multiple exposures to the product ingredient(s), their metabolite(s), or degradation product(s).

(2) *Nondomestic applications.* A pesticide use(s) intended for nondomestic application will be a candidate for general use classification if the pesticide formulation:

(i) Has an acute dermal LD_{50} greater than 200 mg/kg;

(ii) Has an acute dermal LD_{50} greater than 16 g/kg for the formulation as diluted for use as a mist or spray;

(iii) Has an inhalation LD_{50} greater than 0.2 mg/liter;

(iv) Is not corrosive to the eye or causes corneal opacity reversible within 7 days;

(v) Is not corrosive to the skin and causes no more than severe skin irritation within 72 hours; and

(vi) Causes under conditions of label use, or widespread and commonly recognized practice of use, only minor or no discernible subacute, chronic, or delayed toxic effects on man or other nontarget organisms, from single or multiple exposures to the product ingredient(s), their metabolite(s), or degradation product(s).

(3) *Outdoor applications.* A pesticide use(s) intended for outdoor application will be a candidate for general use classification if it meets the applicable set of criteria set forth immediately above for either domestic or nondomestic application, as appropriate, and if the pesticide:

(i) Occurs as a residue immediately following application in or on the feed of a mammalian species representative of the species likely to be exposed to such feed in amounts equivalent to the average daily intake of such representative species, at levels less than ⅛ the acute LD_{50} measured in mammalian test animals as specified in the Registration Guidelines.

(ii) Occurs as a residue immediately following application in or on the feed of an avian species representative of the species likely to be exposed to such feed in amounts equivalent to the average daily intake of such representative species, at levels less than ⅛ the subacute dietary LC_{50} measured in avian test animals as specified in the Registration Guidelines.

(iii) Results in a maximum calculated concentration following direct application to a 6-inch layer of water less than $\frac{1}{10}$ the acute LC_{50} for aquatic organisms representative of the organisms likely to be exposed as measured in test animals as specified in the Registration Guidelines.

(iv) The pesticide causes, under conditions of label use, or widespread and commonly recognized practice of use, only minor or no discernible adverse effects on the physiology, growth, population levels, or reproduction rates of nontarget organisms, resulting from exposure to the product ingredients, their metabolites, or degradation products, whether due to direct application or otherwise resulting from application, such as through volatilization, drift, leaching or lateral movement in soil.

(b) *Classification criteria for previously registered products.* All pesticide products registered by this agency prior to October 21, 1974 have been assigned a Toxicity Category [see § 162.10(h)(1)]. Unless the applicant for reregistration submits or has submitted the toxicity data on the product use(s) required in paragraph (a) of this section, the existing Toxicity Category determinations shall be used to establish whether the pesticide use(s) is a candidate for general or restricted use classification. Except as provided in paragraph (d) of this section, specific use(s) of a product shall be classified for general use if the applicable criteria set forth in paragraph (b)(1)–(b)(3) of this section are met. Otherwise, the product use shall be classified for restricted use unless a review of the labeling pursuant to paragraph (c) of this section indicates that the use may be classified for general use or the benefits from unrestricted use of the pesticide outweigh the risks of unrestricted use of the pesticide. Each of the separate criteria as set forth below must be applied for the product use(s) to be classified unless the formulation, packaging, or method of use of the product can reasonably be expected to eliminate the route of exposure.

(1) *Domestic applications.* A pesticide use(s) intended for domestic application shall be a candidate for general use classification if the pesticide formulation:

(i) Does not meet the criteria of Toxicity Category I or II; and

(ii) Causes, under conditions of label use, or widespread and commonly recognized practice of use, minor or no discernible subacute, chronic, or delayed effects on man or other nontarget organisms from single or multiple exposures to the product ingredients, their metabolites, or degradation products.

(2) *Nondomestic applications.* A pesticide use(s) intended for nondomestic application shall be a

candidate for general use classification

forth below to determine the adequacy

shall be reviewable in the appropriate

Rebuttable Presumption Against

(C) Results in a maximum calculated

(b) The Notice of RPAR shall include

candidate for general use classification if the pesticide formulation:

(i) Does not meet the criteria of Toxicity Category I; and

(ii) Causes, under conditions of label use, or widespread and commonly recognized practice of use, only minor or no discernible subacute, chronic, or delayed toxic effects on man or other nontarget organisms from single or multiple exposures to the product ingredients, their metabolites, or degradation products.

(3) *Outdoor applications.* A pesticide use(s) intended for outdoor application will be a candidate for general use classification if it meets the applicable set of criteria set forth immediately above for either domestic or nondomestic application as appropriate, and if the pesticide:

(i) Occurs as a residue immediately following application in or on the feed of a mammalian species representative of the species likely to be exposed to such feed in amounts equivalent to the average daily intake of such representative species, at levels less than ⅕ the acute oral LD_{50} measured in mammalian test animals as specified in the Registration Guidelines.

(ii) Occurs as a residue immediately following application in or on the feed of an avian species representative of the species likely to be exposed to such feed in amounts equivalent to the average daily intake of such representative species, at levels less than ⅕ the subacute dietary LC_{50} measured in avian test animals as specified in the Registration Guidelines.

(iii) Results in a maximum calculated concentration following direct application to a 6-inch layer of water less than 1/10 the acute LC_{50} for aquatic organisms representative of the organisms likely to be exposed as measured in test animals as specified in the Registration Guidelines.

(iv) The pesticide causes, under conditions of label use, or widespread and commonly recognized practice of use, only minor or no discernible adverse effects on the physiology, growth, population levels, or reproduction rates of nontarget organisms, resulting from exposure to the product ingredients, their metabolites, or degradation products, whether due to direct application or otherwise resulting from the application, such as through volatilization, drift, leaching or lateral movement in soil.

(c) *Adequacy of label and labeling.* The directions, warnings, and cautions for any product use(s) not meeting the criteria set forth in paragraphs (a) and (b) of this section shall be further evaluated according to the criteria set forth below to determine the adequacy of the label or labeling to prevent unreasonable adverse effects on man or the environment. If these criteria are met, the labeling for the affected uses will be considered adequate to prevent unreasonable adverse effects on the environment without further regulatory restrictions, and the affected uses will be classified for general use. The criteria for evaluating labeling adequacy are as follows:

(1) To follow label directions, the user of a pesticide product would not have to perform complex operations or procedures requiring specialized training and/or experience;

(2) Failure to follow the use directions in any minor way would result in minor or no discernible adverse effects;

(3) Widespread and commonly recognized practices of use would not nullify label directions relative to prevention of unreasonable adverse effects on man and the environment;

(4) The directions do not call for specialized apparatus, protective equipment or material unless they would be expected to be available to the general public;

(5) Following directions for use would result in only minor or no discernible adverse effects of a delayed or indirect nature, such as through bioaccumulation, persistence, or pesticide movement from the original application site, on nontarget organisms.

(d) *Other Hazards.* Any product use(s) which meets the general use criteria of paragraph (a), (b), or (c) of this section shall nonetheless be classified for restricted use if the Agency determines that based on human toxicological data (including epideminological studies), use history, accident data, monitoring data, or such other evidence as the Administrator identifies the product use(s) may pose a serious hazard to man or the environment which can reasonably be prevented by classification for restricted use.

(e) *Other regulatory restrictions.* Any product use(s) classified for restricted use under the provisions above may be limited to use by or under the direct supervision of a certified applicator. The Administrator may additionally or alternatively impose other restrictions by regulation. Such regulatory restrictions may include, but not limited to, seasonal or regional limitations, limitation of use to approved pest management programs, or a requirement for monitoring or residue levels after use, and may be utilized to reduce human health and environmental hazards associated with persistent, bioaccumulative, or mobile, or highly toxic pesticides. Any such regulation shall be reviewable in the appropriate Court of Appeals upon petition of a person adversely affected filed within 60 days of the publication of such regulation in final form.

(f) *Change in classification from general to restricted use.* (1) *Determination and notification.* If the Administrator determines that a change in classification of any pesticide product use(s) from general to restricted use in necessary to prevent unreasonable adverse effects on man or the environment he shall, be certified mail, notify the registrant of such pesticide of such determination at least 30 days before reclassifying, and shall publish notice of the proposed reclassification in the **Federal Register.**

(2) *Appeal rights.* Within 30 days following publication of the notice in the **Federal Register,** the registrant or a person adversely affected by the notice may request a hearing as provided for in section 6(b) of the Act and Part 164 of these regulations.

(d) Establishing a new Subpart B entitled "Rules Governing Rebuttable Presumption Against Registration (RPAR) Proceedings" consisting of §§ 162.20 through 162.34 to read as follows:

Subpart B—Rules Governing Rebuttable Presumption Against Registration (RPAR) Proceedings

Sec.

162.20 Overview; alternate procedures.
162.21 Rebutable presumption against registration; criteria for issuance.
162.22 Preliminary notification to registrant(s) and applicant(s) for registration.
162.23 Notice of rebuttable presumption against registration.
162.24 Supplemental notice of RPAR.
162.25 Criteria for rebuttal of an RPAR.
162.26 Agency action if an RPAR is not rebutted.
162.27 Informal public hearings.
162.28 Preliminary notice of determination.
162.29 Alternative procedure for issuance of preliminary notice of determination.
162.30 Review of preliminary notice of determination; deadlines for comments.
162.31 Final notice of determination.
162.32 Voluntary cancellation and withdrawal of application.
162.33 General standards for documents in RPAR proceedings.
162.34 Administrative records.

Authority: Section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136w.

Subpart B—Rules Governing Rebuttable Presumption Against Registration (RPAR) Proceedings

§ 162.20 Overview; alternate procedures.

This Subpart sets forth substantive standards and procedures for the

Rebuttable Presumption Against Registration ("RPAR") process. These procedures are the ones which the Agency generally will utilize in determining whether to cancel or deny registration for a pesticide use on the basis that the pesticide use causes unreasonable adverse effects on the environment. The Agency expressly reserves authority in particular cases to modify these procedures or utilize other procedures (including initiation or cancellation or denial proceedings without prior resort to the RPAR process), if it determines that modified procedures or other procedures are in the public interest.

§ 162.21 Rebuttable presumption against registration; criteria for issuance.

(a) An RPAR with respect to a pesticide use shall arise upon a determination by the Administrator that:

(1) A pesticide ingredient, metabolite or degradation product meets any risk criterion set out in paragraph (b) of this section, as indicated by (i) validated test(s) or (ii) other significant evidence; or

(2) A pesticide ingredient, metabolite or degradation product otherwise appears to pose a risk to man or the environment of sufficient magnitude, as indicated by (i) validated test(s) or (ii) other significant evidence, to require the Agency to make specific findings that the use offers offsetting social, economic or environmental benefits.

(b) *Risk criteria. (1) Acute toxicity. (i) Hazard to humans and domestic animals.* (A) Has an acute dermal LD_{50} of 40 mg/kg or less as formulated;

(B) Has an acute dermal LD_{50} of 6 g/kg or less as diluted for use in the form of a mist or spray; or

(C) Has an inhalation LC_{50} of 0.04 mg/liter or less as formulated.

(ii) *Hazard to wildlife.* (A) Occurs as a residue immediately following application in or on the feed of a mammalian species representative of the species likely to be exposed to such feed in amounts equivalent to the average daily intake of such representative species, at levels equal to or greater than the acute oral LD_{50} measured in mammalian test animals as specified in the Registration Guidelines.

(B) Occurs as a residue immediately following application in or on avian feed of an avian species, representative of the species likely to be explosed to such feed in amounts equivalent to the average daily intake of such representative species, at levels equal to or greater than the subacute dietary LC_{50} measured in avian test animals as specified in the Registration Guidelines.

(C) Results in a maximum calculated concentration following direct application to a 6-inch layer of water more than ½ the acute LC_{50} for aquatic organisms representative of the organisms likely to be exposed as measured on test animals specified in the Registration Guidelines.

(2) *Chronic toxicity.* (i) Induces oncogenic effects in experimental mammalian species or in man as a result or oral, inhalation or dermal exposure; or induces mutagenic effects, as determined by multitest evidence.

(ii) Produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety; or

(iii) Can reasonably be anticipated to result in significant local, regional, or national population reductions in nontarget organisms, or fatality to members of endangered species.

(3) *Lack of Emergency Treatments.* Has no known antidotal, palliative, or first aid treatments for amelioration of toxic effects in man resulting form a single exposure.

§ 162.22 Preliminary notification to registrant(s) and applicant(s) for registration.

(a) If it appears to the Administrator that an RPAR may have arisen with respect to a pesticide use, he shall notify the registrant(s) or applicant(s) in writing of the general nature of his concerns and the bases for them, and shall offer them an opportunity to respond. The time limit for submitting a response shall generally not exceed ninety (90) days.

(b) The Administrator shall consider any information submitted in response to a notification under this section in determining whether to issue a Notice of Rebuttable Presumption Against Registration under § 162.23, or a Preliminary Notice of Determination under § 162.28, as appropriate.

§ 162.23 Notice of rebuttable presumption against registration.

(a) Except as provided in § 162.29, the Administrator shall announce his determination that an RPAR has arisen with respect to a pesticide use in a Notice of Rebuttable Presumption Against Registration ("Notice of RPAR"). The Notice of RPAR shall be published in the **Federal Register,** and sent by certified mail to each registrant and applicant for registration of the pesticide use or uses subject to the Notice of RPAR.

(b) The Notice of RPAR shall include the following:

(1) Identification of the pesticide use or uses as to which an RPAR has arisen;

(2) For each pesticide use, identification of each risk criterion which has been met;

(3) With respect to each risk criterion which has been met, a discussion which satisfies the requirements of § 162.33 of the Agency's reasons for so concluding;

(4) The name, address and telephone number of the Project Manager or other person within the Agency who should be contacted for information concerning the RPAR;

(5) The location of the administrative records for the RPAR proceedings (see § 162.34) and the times during which the administrative records will be available for inspection and copying;

(6) An invitation to all registrants and applicants for registration of pesticide uses subject to a Notice of RPAR, and all other interested persons, to submit information relevant to determining whether any rebuttal criterion in § 162.25 has been satisfied;

(7) A statement that proponents of registration of pesticide uses subject to a Notice of RPAR have an affirmative burden of proving that one or more of the rebuttal criteria have been satisfied, and that failure to satisfy this burden will result in initiation of proceedings to cancel or deny registration, or modify the terms and conditions of registration or proposed terms and conditions of registration, as appropriate;

(8) The deadline for submission of rebuttal information and the date on which the Agency contemplates that it will announce its preliminary deteminations by issuance of a Preliminary Notice of Determination under § 162.28. In selecting these dates, the Agency shall take into consideration the facts unique to each RPAR proceeding which are relevent to scheduling, including the number and complexity of the issues which must be addressed, and the extent to which expeditious conclusion of the RPAR proceeding is in the public interest.

§ 162.24 Supplemental notice of RPAR.

(a) Subject to paragraph (b), if the Administrator determines that an additional risk criterion has been met for a pesticide use after the publication of a Notice of RPAR with respect to that pesticide use, he shall prepare a Supplemental Notice of RPAR with respect to the additional risk criterion. The Supplemental Notice of RPAR shall contain the information specified in § 162.23, and shall be published and distributed as provided in § 162.23. The Administrator shall afford registrants,

applicants for registration and other interested persons sufficient time to submit information in rebuttal of the additional risk criterion.

(b) If the Administrator determines that an additional risk criterion has been met for a pesticide use after publication of Notice of RPAR with respect to that pesticide use, he may elect not to publish a Supplemental Notice of RPAR if he determines it is in the public interest not to do so. In such situations, the Administrator shall address the additional risk criterion in the Preliminay Notice of Determination, and make such determinations as are appropriate based upon information which is available to the Agency. The Administrator shall afford registrants, applicants for registration and other interested risk criterion addressed in this fashion, by providing additional time for comment on the Preliminary Notice of Determination.

§ 162.25 Criteria for rebuttal of an RPAR.

(a) *Registered pesticide uses.* Registrants and other interested persons may rebut an RPAR with respect to a registered pesticide use by sustaining the affirmative burden of proving that one of the following rebuttal criteria has been satisfed for each risk criterion which has been met by the pesticide use:

(1) The determination by the Agency that the pesticide use meets the risk criterion was in error.

(2) When used in accordance with its terms and conditions of registration and with widespread and commonly recognized practice, the pesticide use will not pose any significant risk to man or to any plant or animal species of concern with respect to any adverse effect caused by the pesticide ingredient, degradation product or metabolite, taking into account:

(i) Exposure to the pesticide ingredient, degradation product or metabolite by all routes of exposure (including exposure resulting from the concentration, persistence or accrual of the pesticide ingredient, degradation product or metabolite in man or the environment);

(ii) The potency of the pesticide ingredient, degradation product or metabolite; and

(iii) All other factors relevant to assessing the risks posed by he pesticide ingredient, degradation product, or metabolite.

(3) The risks posed by the pesticide use are not unreasonable, when used in accordance with its terms and conditions of registration and with widespread and commonly recognized practice, taking into account the economic, social and environmental costs and benefits of the pesticide use. In order to establish that risks are not unreasonable under this paragraph, the registrant or other interested person must prove:

(i) That the benefits of the pesticide use are greater than the risks of the pesticide use; and

(ii) That the risks cannot be reduced, by modifications to the terms and conditions of registration, without costs which are unreasonable in light of the risk reductions which would be achieved.

(b) *Pesticide uses for which applications for registration are pending.* Applicants for registration and other interested persons may rebut an RPAR with respect to a pesticide use for which an application for registration is pending by sustaining the affirmative burden of proving that one of the following rebuttal criteria has been satisfied for each risk criterion which has been met by the pesticide use:

(1) The determination by the Agency that the pesticide use meets the risk criterion was in error.

(2) When used in accordance with its proposed terms and conditions of registration and with widespread and commonly recognized practice, the pesticide use will not pose any significant risk to man or to any plant or animal species of concern with respect to any adverse effect caused by the pesticide ingredient, degradation product or metabolite, taking into account:

(i) Exposure to the pesticide ingredient, degradation product or metabolite by all routes of exposure (including exposure resulting from the concentration, persistence or accrual of the pesticide ingredient, degradation product or metabolite in man or the environment);

(ii) The potency of the pesticide ingredient, degradation product or metabolite; and

(iii) All other factors relevant to assessing the risks posed by the pesticide ingredient, degradation product, or metabolite.

(3) The risks posed by the pesticide use are not unreasonable, when used in accordance with its proposed terms and conditions of registration and with widespread and commonly recognized practice, taking into account the economic, social and environmental costs and benefits of the pesticide use. In order to establish tht risks are not unreasonable under this paragraph, the applicant for registration or other interested person must prove:

(i) That the benefits of the pesticide use are greater than the risks of the pesticide use; and

(ii) That the risks cannot be reduced, by modifications to the proposed terms and conditions of registration, without costs which are unreasonable in light of the risk reductions which would be achieved.

§ 162.26 Agency action if an RPAR is not rebutted.

(a) Subject to paragraphs (b) and (c) of this section, if the Administrator determines that an RPAR with respect to a pesticide use has not been rebutted, he shall take appropriate action to cancel or deny unconditionally the registration of the pesticide use.

(b) If the Administrator determines that an RPAR with respect to a pesticide use has not been rebuted, and also determines that specific modifications to the terms and conditions of registration or proposed terms and conditions of registration of the pesticide use will remedy the unreasonable adverse effect problem posed by the pesticide use, he shall take appropriate action to implement those specific modifications to the terms and conditions of registration or proposed terms and conditions of registration.

(c) If the Administrator determines that an RPAR with respect to a registered pesticide use has not been rebutted, and also determines that there is factual uncertainty regarding any issue under consideration in the RPAR proceedings (including, but not limited to, determinations whether rebuttal criteria have been satisfied or whether modifications to the terms and conditions of registration will remedy an unreasonable adverse effect problem), he shall take appropriate action to initiate cancellation or change in classification proceedings under section 6(b)(2) of the Act, if he finds that:

(1) There is a genuine and substantial factual uncertainty to be resolved;

(2) The factual uncertainty may not properly be resolved on the basis of official notice of matters within the expert knowledge of the Agency;

(3) The factual uncertainty is capable of being resolved or substantially reduced through use of adjudicatory, trial-type proceedings; and

(4) Resolution or reduction of the factual uncertainty would have a significant impact on the final regulatory action taken with respect to the registered pesticide use.

§ 162.27 Informal public hearings.

(a) At any time prior to the issuance of a Preliminary Notice of Determination under § 162.28, the Administrator may conduct an informal public hearing to gather relevant information or otherwise assist Agency decision-making.

(b) The Administrator shall announce a decision to hold an informal public hearing under this section by publishing a notice in the **Federal Register**, which shall contain the following information:

(1) The time, date, and place of the hearing;

(2) A brief description of the procedures to be followed in the hearings, including the procedures governed participation in the hearing by registrants, applicants for registration, and other interested persons; and

(3) A statement of the issues to be considered at the hearing.

(c) A verbatim transcript of the hearing shall be prepared, which shall become part of the administrative records under § 162.34.

§ 162.28 Preliminary notice of determination.

(a) The Administrator shall announce his determination whether or not an RPAR has been rebutted in a Preliminary Notice of Determination. The Preliminary Notice of Determination shall be published in the **Federal Register** and sent by certified mail to each registrant and applicant for registration of the pesticide use or uses subject to the Notice of RPAR.

(b) The Preliminary Notice of Determination shall include the following:

(1) With respect to each risk criterion found to have been met for any pesticide use, a determination whether registrants, applicants for registration or other interested persons have rebutted the RPAR by proving that any of the rebuttal criteria set forth in § 162.25 have been satisfied, accompanied by a discussion which satisfies the requirements of § 162.33 of the reasons for the determination.

(2) With respect to each pesticide use for which a determination is reached that an RPAR has not been rebutted, a clear statement of the regulatory action which the agency intends to initiate with respect to the pesticide use in question under § 162.26, accompanied by a discussion which satisfies the requirements of § 162.33 of the reasons for initiating that regulatory action.

(3) With respect to each registered pesticide use for which the Administrator announces (i) an intention to cancel registration, (ii) an intention to cancel registration unless modifications to the terms and conditions of registration are accomplished in accordance with the directions of the Administrator, (iii) an intention to change the classifications from general use to restricted use, or (iv) an intention to hold a hearing to determine whether or not its registration should be cancelled or its classification changed, an analysis of the impact of the proposed action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy.

(4) Notification to registrants, applicants for registration and other interested persons:

(i) that the Preliminary Notice of Determination will be referred to the Secretary of Agriculture and the Scientific Advisory Panel for review and comment, in accordance with the Act and these regulations;

(ii) that comments from registrants, applicants for registration and other interested persons may be submitted, provided that they are submitted in accordance with instructions for submission of comments included in the Preliminary Notice of Determination;

(iii) that the Administrator will consider any comments from the Scientific Advisory Panel, the Secretary of Agriculture, or interested members of the public which are submitted in accordance with the requirements of the Act and the instructions of the Administrator, and may change in whole or in part the actions announced in the Preliminary Notice of Determination in response to such comments; and

(iv) that the Administrator will announce his response to such comments in a Final Notice of Determination under § 162.31.

(5) Instructions to registrants, applicants for registration and other interested persons on how to submit comments (including the deadline for submission of comments).

(6) The location of the administrative records (see § 162.34) and the times during which the administrative records will be available for inspection and copying.

(7) The date on which the Agency contemplates it will announce its final determinations by issuance of a Final Notice of Determination under § 162.31. In selecting this date, the Agency shall take into consideration all relevant factors, including the number and complexity of issues to be addressed, and the extent to which expeditious conclusion of the RPAR proceeding is in the public interest.

§ 162.29 Alternative procedure for issuance of preliminary notice of determination.

(a) The Administrator may issue a Preliminary Notice of Determination with respect to a pesticide use, without having first issued a Notice of RPAR, if he determines that:

(1) One or more risk criteria in § 162.21 have been met;

(2) The information upon which to base a Preliminary Notice of Determination is unlikely to be significantly augmented by issuance of a Notice of RPAR because:

(i) The facts relevant to assessing the risks and (when applicable) the benefits of the pesticide use are generally known; and

(ii) The assessment of the risks and (when applicable) the assessment of the benefits of the pesticide use and the balancing of risks and benefits does not require resolution of significant and novel questions of policy; and

(3) It is in the public interest to abbreviate the RPAR process by issuing a Preliminary Notice of Determination without first having issued a Notice of RPAR.

(b) If the Administrator determines to issue a Preliminary Notice of Determination without first having issued a Notice of RPAR, he shall announce his determinations in a Preliminary Notice of Determination, which shall be published in the **Federal Register** and sent by certified mail to each registrant and applicant for registration of the pesticide use or uses subject to the Preliminary Notice of Determination.

(c) The Preliminary Notice of Determination shall include the following:

(1) For each pesticide use subject to it, the items required to be included in a Notice of RPAR under § 162.23(b)(1)–(5);

(2) For each pesticide use subject to it, the items required to be included in a Preliminary Notice of Determination under § 162.28(b); and

(3) The Administrator's findings under paragraph (a).

§ 162.30 Review of preliminary notice of determination; deadlines for comments.

(a) The Administrator shall refer any Preliminary Notice of Determination to the Secretary of Agriculture and to the Scientific Advisory Panel for review and comment and shall make available to them the Administrative Record for the Preliminary Notice of Determination, and the Working Administrative Record for the Final Notice of Determination (see § 162.34).

(b) The Administrator shall establish deadlines for the submission of comments by the Scientific Advisory Panel and the Secretary of Agriculture which are appropriate under the circumstances. These deadlines shall be later than the deadline for submission of

V 45 / 154 AG 7 80 UMI

V 45 / 154 AG 7 80 UMI

public comments under paragraph (c), and shall not be less than 30 days from the date of referral of the Preliminary Notice of Determination (unless a shorter deadline has been agreed upon). In establishing appropriate deadlines, the Administrator shall take into account such factors as:

(1) The need for the Sceintific Advisory Panel to schedule a public meeting under the Federal Advisory Committee Act, and to provide reasonable notice of the time of the meeting and the matters to be considered in the meeting; and

(2) The need for ending the RPAR proceedings expeditously.

(c) The Administrator shall establish a deadline for submission of public comments which is appropriate under the circumstances, taking into account such matters as:

(1) Other opportunities for public comment which have been extended;

(2) Whether § 162.24(b) or § 162.29 has been utilized; and

(3) The need for ending the RPAR proceedings expeditiously.

§ 162.31 Final notice of determination.

(a) Subject to paragraph (c), the Administrator shall prepare a Final Notice of Determination after conclusion of the comment periods on a Preliminary Notice of Determination. The Final Notice of Determination shall be published in the **Federal Register** and sent by certified mail to registrants and applicants for registration of pesticide uses subject to the Preliminary Notice of Determination.

(b) The Final Notice of Determination shall include the following:

(1) For each pesticide use subject to the Preliminary Notice of Determination, the determinations and discussions of reasons required by § 162.28(b)(1) and (2);

(2) Any comments submitted by the Secretary of Agriculture or the Scientific Advisory Panel in accordance with the Act and the instructions of the Administrator, and the responses of the Administrator to these comments;

(3) The reponse of the Administrator to any significant public comments submitted in accordance with the instructions of the Administrator; and

(4) Instructions to registrants, applicants for registration, and other interested persons concerning the procedures which will be used to implement any regulatory action which the Administrator has decided upon, including instructions concerning how to request hearings, if hearings are available as of right under the Act, or have been made available by the Administrator under the Act.

(c) The Administrator shall issue a revised Preliminary Notice of Determination with respect to a pesticide use subject to an RPAR, instead of a Final Notice of Determination, in the following circumstances:

(1) When the Administrator determines to withdraw a preliminary determination under § 162.28(b)(1) that an RPAR has been rebutted under § 162.25(a)(1), (a)(2), (b)(1) or (b)(2), and to substitute a determination that the RPAR has not been rebutted; or

(2) When the Administrator determines to implement a regulatory action different from the regulatory action proposed in the Preliminary Notice of Determination, and the Administrator further determines that the regulatory action in question is not within the range of regulatory options discussed in the Preliminary Notice of Determination, or otherwise placed before the Secretary of Agriculture and the Scientific Advisory Panel.

§ 162.32 Voluntary cancellation and withdrawal of application.

(a) A registrant may at any time petition the Administrator to voluntarily cancel the registration of a pesticide use. If the pesticide use is subject to an RPAR or a cancellation proceeding, or is under consideration for an RPAR or a cancellation proceeding, the Administrator may, in his discretion, either grant or deny the petition for voluntary cancellation of the pesticide use.

(b) In the event that the Administrator grants a petition for voluntary cancellation of a pesticide use, he may permit the sale, distribution or other movement in commerce, and/or the use of pesticide products affected by the cancellation action, to such an extent, under such conditions, and for such uses as he may specify if he determines that such sale, distribution or other movement in commerce, and/or use is not inconsistent with the purposes of the Act, and will not have unreasonable adverse effects on the environment.

(c) An applicant for registration may at any time petition the Administrator to withdraw an application for registration of a pesticide use. If the pesticide use is subject to an RPAR or a denial proceeding, or is under consideration for an RPAR or a denial proceeding, the Administrator may, in his discretion, either grant or deny the petition for withdrawal of the application.

§ 162.33 General standards for documents in RPAR proceedings.

(a) Each Notice of RPAR, Supplemental Notice of RPAR, Preliminary Notice of Determination and Final Notice of Determination shall contain a concise and organized discussion of the relevant and significant issues of fact, law and policy. For each such issue, the discussion shall fully disclose the facts and other matters pertaining to a decision, state how the issue has been decided, and explain the reasons for the decision. Citations to necessary supporting materials shall be provided.

(b) Rebuttals and comments submitted to the Agency in an RPAR proceeding shall be given weight to the extent that they satisfy the general standards of paragraph (a) of this section for RPAR decision documents.

§ 162.34 Administrative records.

(a) *Contents of administrative records.* (1) *Notices of RPAR and supplemental notices of RPAR.* The Administrative Record for a Notice of RPAR and a Supplemental Notice of RPAR shall consist of the following documents:

(i) The Notice of RPAR or Supplemental Notice of RPAR and the documents referred to in that notice;

(ii) Any preliminary notification letter sent to a registrant or applicant for registration under § 162.22, and all documents referred to in the letter;

(iii) Any written response to a preliminary notification letter under § 162.22;

(iv) The transcript of any hearing held under § 162.27; and

(v) Any other document designated by the Administrator.

(2) *Preliminary notices of determination.* The Administrative Record for a Preliminary Notice of Determination shall consist of the following documents:

(i) The Administrative Record for the Notice of RPAR or Supplemental Notice of RPAR, if any;

(ii) The Preliminary Notice of Determination, and the documents referred to in that notice;

(iii) Each written response to the Notice of RPAR or Supplemental Notice of RPAR submitted in accordance with the Act and the instructions of the Administrator;

(iv) The transcript of any hearing held under § 162.27; and

(v) Any other document designated by the Administrator.

(3) *Final notices of determination.* The Administrative Record for a Final Notice of Determination shall consist of the following documents:

(i) The Administrative Record for the Preliminary Notice of Determination;

(ii) The Final Notice of Determination, and the documents referred to in that notice;

(iii) Any written response to the Preliminary Notice of Determination from the Secretary of Agriculture submitted in accordance with the Act and the instructions of the Administrator;

(iv) Any written response to the Preliminary Notice of Determination from the Scientific Advisory Panel submitted in accordance with the Act and the instructions of the Administrator;

(v) The transcript of any meetings of the Scientific Advisory Panel at which the Preliminary Notice of Determination was considered;

(vi) Any other written response to the Preliminary Notice of Determination submitted in accordance with the instructions of the Administrator; and

(vii) Any other document designated by the Administrator.

(b) *Working administrative records for pending decisions.* After issuing a Notice of RPAR, a Supplemental Notice of RPAR, or a Preliminary Notice of Determination, the Administrator shall maintain a Working Administrative Record for the next RPAR decision document. The Working Administrative Record shall consist of the following documents:

(1) Each written response to the preceding RPAR decision document which was submitted in accordance with the Act and the instructions of the Administrator;

(2) The transcript of any hearing held under § 162.27 after the issuance of the preceding RPAR decision document;

(3) Any document designated by the Administrator which was prepared by Agency staff specifically in connection with the next RPAR decision document; and

(4) Any other document designated by the Administrator.

(c) *Access to administrative records and working administrative records.* (1) Subject to paragraph (c)(2), Administrative Records and Working Administrative Records shall be available for public inspection during the normal business hours of the Agency, at a place or places designated by the Administrator.

(2) Information contained in Administrative Records and Working Administrative Records which is a trade secret or otherwise subject to the provisions of § 10 of the Act shall not be disclosed to the public, except in accordance with Section 10 of the Act and the regulations of the Agency implementing that section.

(2) It is proposed to amend 40 CFR Part 164 by revising the Part title and revising Subparts A, B, and C and adding Subpart E to read as follows:

PART 164—RULES OF PRACTICE GOVERNING HEARINGS UNDER SECTION 6 OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

Subpart A—General

Secs.
164.1 Scope and applicability of this part.
164.2 Definitions.
164.3 Burden of proof.
164.4 Computation of time.
164.5 Filing and service of submissions.
164.6 Filing and service by mail.
164.7 Motions.
164.8 Subpoenas; fees of witnesses.
164.9 Official transcript.
164.10 Consolidation.
164.11 Enforcement of Rules of Practice and of proper standards of conduct.
164.12 Separation of functions; ex parte communications.

Supbart B—Formal Hearings Under Section 6(b) of FIFRA

Requests for a Hearing
164.20 Requests for a formal hearing following a Notice of Action.
164.21 Consequences of failure to identify specific pesticide uses.
164.22 Effect of requests for hearings on the status of registered pesticide uses.
164.23 Requests to participate in a Section 6(b)(2) hearing.
164.24 Requests for alternative form of public hearing.

Commencement of a Formal Evidentiary Public Hearing
164.30 Beginning of a hearing.
164.31 Transfer of administrative record.
164.32 Notice of Hearing after a Notice of Action.
164.33 Notice of Hearing after a notice of Section 6(b)(2) hearing.
164.34 Requests to intervene in a hearing.
164.35 Parties and appearances.
164.36 Active and inactive parties.

Presiding Officer
164.40 Presiding Officer.
164.41 Commencement of functions.
164.42 Authority of Presiding Officer.
164.43 Disqualification of Presiding Officer.
164.44 Unavailability of Presiding Officer.

Focussing the Issues
164.50 Scheduling Order.
164.51 Requests for further proceedings after a Notice of Action.
164.52 Standards for introducing additional evidence.
164.53 Requests for cross-examination.
164.54 Requests for referring questions to the National Academy of Sciences.
164.55 Procedures for consideration of requests for further proceedings.

Further Proceedings
164.60 Hearing conference.
164.61 Filing of direct case and other information.
164.62 Ruling on direct case.
164.63 Referral to the National Academy of Sciences.
164.64 Time limits.
164.65 Evidence.
164.66 Summary decision.
164.67 Interlocutory appeal.
164.68 Briefs and argument.

Record
164.70 Availability of record.
164.71 Correction of record.

Initial and Final Decisions
164.80 Initial decision.
164.81 Appeal from or review of initial decision.
164.82 Decision by the Administrator on appeal from or review of initial decision.
164.83 Reconsideration and stay of action.

Judicial Review
164.90 Judicial review of final Agency action.

Subpart C—General Rules of Practice for Expedited Hearings

164.100 Notification.
164.101 Request for expedited hearing.
164.102 Intervention.
164.103 Time limits.
164.104 Presiding Officer.
164.105 Beginning of expedited hearing.
164.106 Hearing conferences.
164.107 Direct testimony.
164.108 Availability of record.
164.109 Recommended findings and conclusions.
164.110 Final decision and order of suspension.
164.111 Emergency order.
164.112 Applicability of other sections.

* * * * *

Subpart E—Implementation of Final Cancellations and Suspensions; Disposition of Existing Stocks of Cancelled Pesticides

164.140 Notification of Cancellation.
164.141 Petitions concerning existing stocks of pesticides subject to final cancellation action.
164.142 Notification of Suspension.

Appendix A—Memorandum of Understanding

Authority: Section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136w.

Subpart A—General

§ 164.1 Scope and applicability of this part.

Subpart B governs formal evidentiary public hearings under the Federal Insecticide, Fungicide and Rodenticide Act, as amended, arising out of refusals to register, cancellations of registrations, changes in classification, and Section 6(b)(2) hearings, which follow RPAR review under Part 162. It does not govern formal evidentiary public hearings arising out of such actions

which do not follow RPAR review under Part 162, in which cases the applicable procedures shall be specified by the Administrator in the notices initiating such actions. Subpart C governs formal evidentiary public hearings arising out of proposed suspensions of registrations under the Act. Subpart D governs proceedings to consider applications to modify previous cancellation or suspension orders. Subpart E governs proceedings to determine the disposition of existing stocks of pesticide products whose registrations have been unconditionally cancelled or suspended under the Act.

§ 164.2 Definitions.

(a) As used in this Part, the following terms shall have the following meanings:

(1) "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

(2) "Administrative record" means the administrative record for a Final Notice of Determination as defined in § 162.34.

(3) "Administrator" means the Administrator of the Environmental Protection Agency, or any officer or employee thereof to whom authority has been delegated to act for the Administrator.

(4) "Adversely affected" means a person with an interest in preventing the implementation of a proposed cancellation or change in classification action on the ground that the action is not necessary to remedy unreasonable adverse effects on the environment.

(5) "Agency" means the Environmental Protection Agency.

(6) "Agency trial staff" means the Agency trial staff designated under § 164.12.

(7) "Conditionally cancel" or "conditionally deny" means to cancel or deny unless specific modifications to the terms and conditions of registration of the proposed terms and conditions of registration are accomplished.

(8) "Hearing Clerk" means the Hearing Clerk, Environmental Protection Agency, Washington, D.C. 20460.

(9) "Judicial officer" means a judicial officer designated as follows:

(i) The Administrator may designate one or more judicial officers, one of whom may be Chief Judicial Officer. As work requires, a judicial officer may be designated to act for purposes of a particular case. All prior designations of judicial officers shall stay in force until further notice.

(ii) A judicial officer shall be a permanent or temporary employee or officer of the Agency who may perform other duties for the Agency. In any case in which he serves as judicial officer, such person shall not have performed investigative or prosecutorial functions for the Agency in that or a factually related case.

(10) "Notice of section 6(b)(2) hearing" means notice of intent to hold a hearing under section 6(b)(2) of the Act to determine whether or not the registration of a pesticide use should be cancelled or its classification changed.

(11) "Notice of Action" means a notice of intent to cancel the registration or to change the classification of a pesticide use or uses, or a notice of intent to deny registration of a pesticide use or uses.

(12) "Party" means a party to a formal evidentiary public hearing under Subpart B or Subpart C.

(13) "Person" means an individual, partnership, association, corporation, state or federal agency, or any organized group or persons whether incorporated or not.

(14) "Pesticide use" means a use of a pesticide (described in terms of the target pest, the application site, and other applicable identifying factors) which is included in the labeling of a pesticide product which is registered, or for which an application for registration is pending, and the terms and conditions of registration or the proposed terms and conditions of registration for the use.

(15) "Presiding Officer" has the meaning in Subpart B given in § 164.40, and the meaning in Subpart C given in § 164.104.

(16) "RPAR" means rebuttable presumption against registration. (See § 162.20 *et seq.*)

(17) "Terms and conditions of registration" means the terms and conditions governing lawful sale, distribution and use which were approved in conjunction with registration, including the approved labeling, the use classification, the composition and the packaging.

(b) Words in the singular form shall be deemed to include the plural, words in the masculine form shall be deemed to include the feminine, and vice versa, as the context may require.

(c) Terms defined in the Act and not explicitly defined herein are used with the meanings given in the Act.

§ 164.3 Burden of proof.

At all stages of proceedings under this Part 164, the ultimate burden of persuasion shall rest with the proponent(s) of registration of a pesticide use. The burden of producing evidence shall be specified in the Conference Report and Order issued under § 164.60.

§ 164.4 Computation of time.

(a) In computing the expiration of any deadline prescribed or allowed by these rules, the day of the act, event, or default from which the deadline begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be included in computing the running of the deadline, except that when the deadline expires on a Saturday, Sunday, or legal holiday, the deadline shall be extended to include the next following business day.

(b) Subject to the limitations of § 164.64, any deadline established by the Presiding Officer in the course of a formal evidentiary public hearing, and deadlines for responses to motions under § 164.7, may be extended by the Presiding Officer on motion for good cause shown, which motion may be made ex parte if made before the expiration of the deadline. Any other deadline established by or under this Part may be extended by the Administrator upon application in writing for good cause shown.

(c) The statutory deadlines established by the Act cannot be extended by the Presiding Office or the Administrator under any circumstances.

§ 164.5 Filing and service of submissions.

(a) All submissions, including pleadings, relating to a formal evidentiary public hearing shall be filed with the Hearing Clerk.

(b) A copy of each such submission other than papers commencing a proceeding shall be served by the person making the submission upon each other active party to the proceeding, and, when appropriate, on parties who have elected limited participation.

(c) Service under this section shall be accomplished by mailing or personal delivery.

(d) All submissions under this section shall be accompanied by a signed certification stating the extent to which the submission has been served on each active party.

(e) Each document filed, other than papers commencing a proceeding, shall contain the FIFRA docket number of the proceeding.

(f) In addition to copies served on all other active parties, each party shall file an original and two copies of all documents with the Hearing Clerk.

(g) Inactive parties need not be served with any documents other than briefs. Parties with limited participation need only be served with documents which relate to the area of their participation.

§ 164.6 Filing and service by mail.

(a) Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a notice or other document upon him, and the notice or other document is served upon him by mail, 3 days shall be added to the prescribed period; *provided,* that such additional time after service by mail shall not apply in the case of filing initial requests for hearings, in which cases the date of receipt of the Notice of Action shall be controlling.

(b) If filing is accomplished by mail addressed to the Hearing Clerk, filing shall be deemed timely if the papers are post-marked on the due date; *provided,* that this paragraph shall not apply to filings requesting a formal evidentiary public hearing under § 164.20, filings requesting participation in section 6(b)(2) hearings under § 164.23, filings requesting intervention in hearings under § 164.34, and filings requesting and expedited hearing under § 164.101, which filings shall be timely only if they are received by the Hearing Clerk on or before the due date.

§ 164.7 Motions.

(a) Any party may make a motion to the Presiding Officer with respect to any matter relating to the hearing. All motions shall be in writing except motions made in the course of an oral hearing before the Presiding Officer and ex parte motions for extensions of time under § 164.4.

(b) Within 10 days after service of any such motion, which may be shortened or extended by the Presiding Officer for good cause shown, any party to the hearing may file a response to the motion.

§ 164.8 Subpoenas; fees of witnesses.

(a) In proceedings under Subpart B, the attendance of witnesses or the production of documentary evidence may, by subpoena, be required at any designated place of hearing. Subpoenas may be issued by the Presiding Officer upon his own initiative or upon a showing by a party that the attendance of the witness or the documentary evidence sought for hearing is relevant and material to the issues involved in the hearing. No subpoena shall be issued unless the person to whom it will be directed is first given an opportunity to contest the propriety or scope of the subpoena before the Presiding Officer. The Presiding Officer shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of a witness or the contents of the documents produced.

(b) Subpoenas for the production of documentary evidence, unless issued by the Presiding Officer upon his own initiative, shall be issued only upon a written motion. Such motion shall specify, as exactly as possible, the documents desired.

(c) Subpoenas shall be served as provided by the Federal Rules of Civil Procedure.

(d) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness is summoned.

§ 164.9 Official transcript.

(a) Any oral testimony given at a formal evidentiary public hearing shall be reported verbatim. The Presiding Officer shall make provision for a stenographic record of the testimony and for at least three copies of the transcript.

(b) One copy of such transcript shall be placed on public display in the Office of the Hearing Clerk upon receipt, where it may be reviewed by any interested person.

(c) Any person desiring a copy of the transcript of the testimony taken at the hearing or of any part thereof shall be entitled to the same upon application to the official reporter and payment of the costs thereof.

§ 164.10 Consolidation.

The Chief Administrative Law Judge, by motion or on his own initiative, may consolidate two or more proceedings whenever it appears that this will expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

§ 164.11 Enforcement of Rules of Practice and of proper standards of conduct.

(a) The Presiding Officer may either bar any party from further participation in the hearing, or render a decision against a party on some or all of the issues involved, for:

(1) Failure to file the material required by § 164.61 in the form required by that section; or

(2) Failure to comply with the Conference Report and Order, or with any procedural order made during the hearing.

(b) The Presiding Officer may bar any individual appearing as counsel or in a representative capacity for a party from further participation in the hearing for disrespectful, disorderly or contumacious language or conduct, continued use of dilatory tactics, or refusal to adhere to reasonable standards of orderly and ethical conduct.

(c) Interlocutory review of any decision rendered against a party on the merits under paragraph (a) of this section shall be available within 10 days of the decision. Interlocutory review of a bar on further participation issued under paragraph (b) of this section shall be available only as specified in § 164.67.

§ 164.12 Separation of functions; ex parte communications.

(a) No later than the date of issuance of a Notice of Hearing under § 164.32 or § 164.33, the Administrator shall designate:

(1) The Agency employees who will be available to serve on or assist an advisory panel under § 164.55; and

(2) The Agency employees who will be available to perform investigative or prosecuting functions for the Agency in that hearing. An Agency trial staff shall promptly be designated from among such employees.

(b) No agency employee may be named or serve in both capacities described in paragraphs (a)(1) and (a)(2) of this section.

(c) Upon issuance of a Notice of Hearing, no person designated under paragraph (a)(2) of this section and no subordinate of such a person shall participate or advise in any decision arising out of issuance of that Notice of Hearing except as witness or counsel in public proceedings. all employees of the Agency (including all panel members named under § 164.55) other than persons designated under paragraph (a)(2) of this section, and persons subordinate to persons so designated, shall be available to advise the Administrator on any of his functions relating to the hearing and final decision.

(d) Between the date of issuance of a Notice of Hearing and the date of the Administrator's final decision, communication with respect to the matters involved in the hearing shall be restricted as follows:

(1) No person designated under paragraph (a)(2) of this section, no subordinate of such a person, and no person outside the agency shall have any ex parte communication, orally or in writing, with the Presiding Officer, the Judicial Officer, the Administrator, or any person who may reasonably be expected to advise the Administrator, with respect to the merit of the proceeding. The only such communications with such persons shall be public communication, as witness or counsel, in accordance with the applicable provisions of this Part.

(2) Any written communications in

(2)(i) In lieu of a request for a formal public hearing. The statement of the

§ 164.33 Notice of Hearing after a notice

(2) Any written communications in violation of this section shall immediately be filed with the Hearing Clerk and served on the parties, who may then file responses within the time permitted for responses to motions under § 164.76.

(3) Any oral communication in violation of this section shall immediately be recorded in a memorandum and filed with the Hearing Clerk as a part of the hearing record. Any person, including any representative of any party to a hearing, who is involved in any such oral communication shall be made available for formal cross-examination in the hearing with respect to the substance of that conversation. Rebuttal testimony pertinent to any such oral communication shall be permitted. Any cross-examination and rebuttal testimony shall be transribed and filed as part of the hearing record.

Subpart B—Formal Hearings Under Section 6(b) of FIFRA Requests for a Hearing

§ 164.20 Requests for a formal hearing following a Notice of Action.

(a) The following persons may request a formal evidentiary public hearing following a Notice of Action issued under Part 162:

(1) In the case of a notice of intent to cancel, the registrant or other person adversely affected by the notice;

(2) In the case of a notice of intent to change classification, the registrant or other interested person with the concurrence of the registrant;

(3) In the case of a notice of intent to deny registration, the applicant or other interested person with the concurrence of the applicant.

(b) Any such request shall be submitted to the Hearing Clerk and shall be deemed timely if it is received on or before the 30th day after publication of the Notice of Action in the **Federal Register** (or, in the case of a registrant or applicant, the 30th day after receipt of the Notice of Action, if that occurs later).

(c) Such requests shall specifically identify:

(1) The identity and interest of the person requesting the hearing;

(2) The registration number(s) or application file symbol(s) of the pesticide product(s) as to which a hearing is requested; and

(3) Each specific pesticide use of the pesticide product(s) identified under paragraph (c)(2) of this section as to which a hearing is requested. Each such pesticide use must be described in such a manner as to sufficiently identify its characteristics, and to comply with any requirements concerning specification of pesticide uses contained in the Notice of Action.

§ 164.21 Consequences of failure to identify specific pesticide uses.

(a) Any request under § 164.20 which does not specifically identify a registration number or application file symbol and a particular pesticide use (or uses) of each identified registration number or application file symbol shall be denied.

(b) Any pesticide use subject to a Notice of Action which is not specifically identified in one or more timely requests for a hearing under § 164.20 (or as to which an application for amended registration or an amended application for registration is not timely submitted under § 164.22) shall be deemed to have been cancelled or denied or its classification changed by operation of law at the expiration of the applicable statutory 30-day period.

(c) Any cancellation or denial or change in classification of a pesticide use shall not of itself affect the status of other pesticide uses with the same registration number or application file symbol.

§ 164.22 Effect of requests for hearings on the status of registered pesticide uses.

(a) Any registered pesticide use subject to a Notice of Action as to which a timely request for a hearing is filed in accordance with § 164.20 shall remain registered with its existing classification unless the Administrator:

(1) Issues a final order cancelling the registration or changing the classification of such pesticide use pursuant to these Rules, or

(2) Grants a petition for voluntary cancellation of such pesticide use.

(b) The following rules apply to pesticide uses which have been conditionally cancelled (or conditionally denied) in a Notice of Action:

(1) A conditionally cancelled (or conditionally denied) pesticide use shall be deemed to have been cancelled (or denied) by operation of law at the expiration of the applicable statutory 30-day period unless within that time either:

(i) The registrant (or applicant) makes the necessary corrections in accordance with paragraph (b)(2) of this section; or

(ii) A request for a hearing is made in accordance with the requirements of this Part by a person specified in § 164.20(a)(1) (or § 164.20(a)(3)).

(2) The registrant (or applicant) shall be deemed to have made the necessary corrections if it submits an application for amended registration (or an amended application for registration) which if granted would accomplish the modifications to the terms and conditions of registration (or proposed terms and conditions of registration) directed by the Administrator in the Notice of Action.

(3) In the event that the conditions of paragraphs (b)(1)(i) and (b)(1)(ii) of this section are both satisfied, the application for amended registration (or amended application for registration) submitted under paragraph (b)(2) of this section shall not be acted upon until the conclusion of the hearing.

§ 164.23 Requests to participate in a section 6(b)(2) hearing.

(a) Any interested person may request to participate in a section 6(b)(2) hearing.

(b) Any such request shall be submitted to the Hearing Clerk and shall be accepted for filing if it is received on or before the 30th day after the publication of the notice of section 6(b)(2) hearing in the **Federal Register.**

(c) Such requests shall set forth the identity and interest of the person and, with respect to each issue specified by the Administrator in the notice of section 6(b)(2) hearing, an exposition of the person's position on the factual, legal, and policy questions alleged to be involved, together with a designation of the factual areas to be explored and the hearing time estimated to be necessary for that exploration.

§ 164.24 Requests for alternative form of public hearing.

(a) A person who has the right to request a formal evidentiary public hearing under this Subpart B may waive that opportunity and in lieu thereof request one of the following alternative forms of public hearing:

(1) A hearing before a panel of Agency employees under the same procedures used to implement section 6 of the Toxic Substances Control Act. (These procedures are detailed at 40 CFR Part 750.)

(2) A hearing not to exceed one day in length before the Administrator personally to consider certain designated issues.

(3) A hearing before a panel of non-Agency employees acceptable both to the Agency and to the persons requesting the hearing, using such procedures as the panel may designate.

(b) Any such request shall be:

(1) Submitted in writing to the Hearing Clerk at any time prior to publication of the Scheduling Order under § 164.51, and

(2)(i) In lieu of a request for a formal evidentiary public hearing under this Subpart B; or

(ii) If submitted after or with a request for a formal evidentiary public hearing under this Subpart B, in the form of a waiver of the right to such a hearing conditioned upon acceptance of the request for an alternative form of public hearing. Upon acceptance by the Adminstrator, such a waiver becomes binding and can thereafter be withdrawn only by waiving the right to any form of a hearing unless the Administrator for good cause determines otherwise.

(c) Where more than one person who has the right to request a formal evidentiary public hearing has done so under § 164.20, an alternative form of hearing may be used only if all such persons concur and waive their right to a formal evidentiary public hearing under this Subpart B. It shall not be necessary to obtain the concurrence or waiver of any other person, including persons who have intervened or moved to intervene under § 164.34.

(d) The Administrator shall determine whether an alternative form of public hearing shall be used, and if so, which alternative will be acceptable to him, after considering the requests submitted and the appropriateness of the alternative forms of public hearing for the resolution of the issues raised in the objections. A determination by the Administrator that an alternative form of public hearing is acceptable becomes binding upon him unless for good cause he determines otherwise.

(e) The Administrator shall publish in the **Federal Register** a Notice of Hearing announcing an alternative form of public hearing under this section, setting forth the following information:

(1) A statement of the provisions of the Notice of Action which are the subject of the alternative form of public hearing;

(2) The time, date, and place of the hearing, or a statement that such information will be published in a subsequent **Federal Register** notice;

(3) The names of the parties to the alternative form of public hearing;

(4) The time within which requests to intervene must be filed;

(5) A statement that final Agency action with respect to registration for any pesticide use(s) for which an alternative form of public hearing has been granted will be stayed pending the completion of the hearing;

(6) A brief description of the type of hearing granted and the procedures to be followed;

(7) A statement of the issues to be considered at the alternative form of public hearing. The statement of the issues determines the scope of the public hearing; and

(8) A schedule for the hearing up to and including issuance of the initial decision or a statement that such information will be published in a subsequent **Federal Register** notice.

(f) Any initial decision issued after a hearing held under this section shall be based on a record which shall consist of:

(1) The adminstrative record;

(2) The request(s) for an alternative form of public hearing submitted under this section and all related documents;

(3) The **Federal Register** notice under paragraph (e) ruling on such request(s); and

(4) The transcript of the hearing and any exhibits admitted as part of the hearing record.

Commencement of a Formal Evidentiary Public Hearing

§ 164.30 Beginning of a hearing.

A formal evidentiary public hearing begins with the publication of a Notice of Hearing in the **Federal Register.**

§ 164.31 Transfer of adminstrative record.

Prior to the publication in the **Federal Register** of any Notice of Hearing under § 164.32 or § 164.33, the administrative record on which that notice was based shall be transferred to the Hearing Clerk. This record shall automatically be entered in evidence at the hearing.

§ 164.32 Notice of Hearing after a Notice of Action.

(a) If one or more hearing requests are received from persons specified in § 164.20(a), the Chief Administrative Law Judge shall issue and publish in the **Federal Register** a Notice of Hearing.

(b) Any issue as to whether a hearing request was timely or whether it complied with the requirements of § 164.20, shall be decided by the Presiding Officer before he conducts any other proceedings under this Part.

(c) The Notice of Hearing shall contain:

(1) The designation of the Presiding Officer to conduct the hearing or a statement that the Presiding Officer will be designated in a subsequent notice;

(2) The time within which requests to intervene must be filed; and

(3) A statement that no final order will be issued cancelling or denying registration or changing the classification of any pesticide use as to which a formal evidentiary public hearing has been convened until that hearing is concluded (or until a petition for voluntary cancellation or withdrawal of application is granted by the Administrator).

§ 164.33 Notice of Hearing after a notice of section 6(b)(2) hearing.

(a) After the time for requesting participation in a section 6(b)(2) hearing under § 164.23 has expired, the Chief Administrative Law Judge shall issue and publish in the **Federal Register** a Notice of Hearing.

(b) The Notice of Hearing shall contain:

(1) A reiteration of the issues which the Administrator determined would be explored in the hearing;

(2) A list of each person who responded to the notice of section 6(b)(2) hearing and a statement of his position and interest with respect to each issue under paragraph (b)(1) of this section;

(3) The designation of the Presiding Officer to conduct the hearing or a statement that the Presiding Officer will be designated in a subsequent notice;

(4) The time within which requests to intervene must be filed;

(5) The time within which requests to refer questions to the National Academy of Sciences under § 164.54 must be filed, and a statement that all such requests will be considered by the Presiding Officer rather than by a panel;

(6) A statement that the Notice of Hearing determines the scope of the proceedings and the matters as to which the development of evidence will be permitted;

(7) A statement that at the conclusion of the hearing, the Administrator shall take such action as he may consider justified by the record, including, but not limited to, conditional or unconditional cancellation of the pesticide use(s) subject to the notice of section 6(b)(2) hearing.

§ 164.34 Requests to intervene in a hearing.

(a) Any person may file a motion to intervene in a hearing within 30 days after the Notice of Hearing is published in the **Federal Register.**

(b) Each such motion shall set forth:

(1) The position and interest of the movant in the proceeding;

(2) A statement of the factual, legal and policy issues to be raised;

(3) Where appropriate, a statement as to why the movant believes that its interest will not be fairly and adequately represented by the existing parties; and

(4) A summary of the evidence to be introduced.

(c) The Presiding Officer shall grant such a motion timely filed, subject to later restriction of participation in the hearing under §§ 164.50 through 164.66, whenever he determines that the movant will substantially assist in the

V 45 / 154 4 AG 7 80 UMI

resolution of the issues described in the Notice of Hearing.

(d) Any motion to intervene filed after 30 days after publication of the Notice of Hearing in the **Federal Register** shall contain, in addition to the information required by paragraph (b) of this section, a statement of good cause for failure to file earlier. The granting of such motions is discretionary with the Presiding Officer, but only upon a finding that extraordinary circumstances justify the granting of the motion, and only upon the condition that the movant shall be bound by any rules or conditions for the hearing previously specified or agreed upon by the parties to the hearing.

(e) Persons who have been granted intervention in a hearing under this section are parties with the full status of the original parties, except that a determination under § 164.24 to use an alternative form of public hearing may be made without their concurrence or waiver.

(f) Persons who are not parties may file a brief amicus curiae by leave of the Presiding Officer granted on motion. Unless all parties otherwise consent, an amicus curiae shall file its brief within the time allowed the party whose position the brief will support.

§ 164.35 Parties and appearances.

(a) The parties to a formal evidentiary public hearing are the Assistant Administrator for Pesticides and Toxic Substances, represented by Agency trial staff, any person who has properly filed a request for such a hearing under § 164.20, any person who has properly filed a request to participate in such a hearing under § 164.23, and any person who has been granted intervention under § 164.34.

(b) Parties may appear in person or by counsel or other representative. Persons who appear as counsel or in a representative capacity must file a notice of appearance with the Hearing Clerk and must conform to the standards of ethical conduct required of practitioners before the courts of the United States.

§ 164.36 Active and inactive parties.

(a) Each person requesting a hearing under § 164.20, requesting to participate under § 164.23, or requesting to intervene under § 164.34 shall state in the request whether active, inactive or limited participation status is elected. The Presiding Officer at any time before the issuance of the Conference Report and Order under § 164.60 may afford all parties an opportunity to change status.

(b) Any person who fails to explicitly request active status at any time when a choice of status is required shall be classified as inactive.

(c) An inactive party has the right to file briefs in a proceeding and to appeal any initial decision to the Administrator and any final decision to court. Inactive parties need not be served with any of the evidence or motions in the proceeding.

(d) Parties electing limited participation shall designate the portions of the proceedings in which they intend to actively participate, and need only be served with documents relating to those portions. As to the remaining portions, they shall have the same rights as an inactive party under paragraph (c) of this section.

(e) A party is bound by its choice of inactive status or limited participation unless either:

(1) the Presiding Officer affords all parties an opportunity to change status under paragraph (a) of this section; or

(2) the Presiding Officer upon motion grants the party's application to change status.

Presiding Officer

§ 164.40 Presiding Officer.

A Presiding Officer shall preside over every formal evidentiary public hearing held under this Subpart B. The Presiding Officer shall be an Administrative Law Judge qualified under 5 U.S.C. 3105.

§ 164.41 Commencement of functions.

The functions of the Presiding Officer shall commence upon designation and shall terminate upon the filing of the initial decision under § 164.80.

§ 164.42 Authority of Presiding Officer.

The Presiding Officer shall have the authority and duty to conduct a fair and expeditious hearing and to maintain order. The Presiding Officer shall have all powers necessary to these ends, including but not limited to the power to:

(a) Take any action necessary to carry out his duties under this Part;

(b) Hold conferences to settle or simplify the issues in the hearing or to consider other matters that may facilitate the expeditious disposition of the hearing;

(c) Administer oaths and affirmations;

(d) Issue subpoenas under section 6(d) of the Act;

(e) Regulate the course of the hearing and govern the conduct of participants therein;

(f) Rule on, admit, exclude or limit evidence;

(g) Dispose of procedural requests or similar matters;

(h) Rule on motions for summary decision in accordance with § 164.66;

(i) Make rulings to enforce proper standards of conduct under § 164.11; and

(j) Take any action permitted to the Presiding Officer as authorized by this Subpart B or in conformance with law for the maintenance of order at the hearing and for the expeditious, fair and impartial conduct of the proceeding.

§ 164.43 Disqualification of Presiding Officer.

(a) Any party may, by motion made to the Presiding Officer, request that the Presiding Officer disqualify himself and withdraw from the hearing. The Presiding Officer shall rule upon any such motion and shall promptly certify the motion and his ruling thereon to the Administrator for interlocutory review.

(b) A Presiding Officer shall withdraw from any hearing in which he deems himself disqualified for any reason.

§ 164.44 Unavailability of Presiding Officer.

(a) In the event that the Presiding Officer is unable to act for any reason whatsoever, the powers and duties to be performed by him in connection with any hearing shall be assigned to another Presiding Officer by the Chief Administrative Law Judge. Such substitution shall have no effect on any aspect of the hearing, except as the new Presiding Officer may order under the provisions of this Subpart B.

(b) Any motion predicated upon such substitution shall be made within 10 days thereafter.

Focusing the Issues

§ 164.50 Scheduling Order.

(a) Within 60 days after publication under § 164.32 of a Notice of Hearing after a Notice of Action, the Presiding Officer shall issue a Scheduling Order which shall specify:

(1) The time within which the parties shall submit requests for further proceedings under § 164.51; and

(2) The time for ruling on those requests under § 164.55.

(b) The Presiding Officer in his discretion may receive submissions from the parties and meet with the parties before issuing any Scheduling Order.

§ 164.51 Requests for further proceedings after a Notice of Action.

(a) Within the time specified in the Scheduling Order issued under § 164.50, each party shall submit its request for further proceedings. Each request for further proceedings shall contain:

(1) Specific objections to the Notice of Action, including expositions of the factual, legal and policy questions alleged to be at issue and their relevance to the basic decision to be made, together with a designation of the factual areas to be explored and the hearing time estimated to be necessary for that exploration;

(2) To the extent the party wishes to introduce additional evidence, a description of the evidence conforming to the standards of § 164.52, together with an explanation of why the substantive standards of that section have been met;

(3) To the extent the party wishes to engage in formal cross-examination, a description of the subjects to be covered conforming to the standards of § 164.53, together with an explanation of why the substantive standards of that section have been met; and

(4) To the extent the party wishes certain questions to be referred to a Committee of the National Academy of Sciences for consideration, a description of the questions conforming to the requirements of § 164.54 together with an explanation of why the substantive standards of that section have been met.

(b) Parties shall have thirty days to comment on each others' request for futher proceedings, and to amend their own requests in light of requests filed by others.

§ 164.52 Standards for introducing additional evidence.

(a) Any request to introduce additional evidence at a hearing shall contain a detailed description of the evidence to be introduced and an explanation of why the standards of paragraph (b) of this section have been met. A copy of any report, article, survey, letter of comment, or other written document which is to be introduced or otherwise relied upon shall be submitted or designated from the administrative record. The request shall specifically indicate whether oral presentation of the material in question is desired.

(b) A request to present additional evidence shall be granted only to the extent that the person who wishes to present it has shown that all of the following are true:

(1) There is a genuine and substantial issue of fact for resolution.

(2) The factual issue is not one which may properly be decided on the basis of official notice of matters within the expert knowledge of the Agency.

(3) The factual issue is capable of being resolved by available and specifically identified reliable evidence. A request will not be granted on the basis of mere allegations or denials or general description of positions and contentions.

(4) Good cause existed for not presenting the material in question to the Agency for inclusion in the administrative record. "Good cause" means either that the material was not available at the stage of the RPAR process at which it should have been presented, or that the material is of such a nature that it can only be presented meaningfully in a trial-type hearing.

(5) The material in question if accepted as valid would be adequate to justify resolution of the factual issue in the way sought by the person. A request will be denied to the extent the Administrator concludes that, even assuming the truth and accuracy of all of the data and information sought to be introduced, they are insufficient to justify the factual determination urged.

(6) Resolution of the factual issue in the way sought by the person is adequate to justify granting some or all of the relief sought by that person. A request will not be granted to the extent the Administrator concludes that his action would be the same even if the factual issue were resolved in the way sought.

§ 164.53 Requests for cross-examination.

(a) Any request to cross-examine at a hearing shall state with particularly the subject(s) to be covered, and shall also contain an explanation of why the standards set forth in paragraph (b) of this section have been met. A request for cross-examination may consist of or contain a request that a sponsoring witness be provided for a portion or portion of the administrative record.

(b) A request for cross-examination shall be granted only to the extent that the person requesting cross-examination shows that each of the following is true:

(1) There is a genuine and substantial issue of fact for resolution. Cross-examination will not be granted on questions of law or policy.

(2) The factual issue is not one which may properly be decided on the basis of official notice of matters within the expert knowledge of the Agency.

(3) The requested cross-examination is likely to result in resolution or substantial clarification of the factual issue. Explanations of why this condition has been met shall state why the examination of the issue in the RPAR process has not provided adequate clarification, why it is likely that the area of uncertainty can be significantly reduced by cross-examination, and why cross-examination is the most efficient method of clarifying the factual issue when compared with other methods such as the submission of additional evidence or informal conferences.

(4) Resolution of the factual issue in the way sought by the person is adequate to justify some or all of the relief sought by the person. Cross-examination will not be granted to the extent that the Administrator concludes that his action would be the same even if the factual issue were resolved in the way sought.

§ 164.54 Requests for referring questions to the National Academy of Sciences.

(a) Any request to refer questions of scientific fact to a Committee of the National Academy of Sciences shall state with particularity the questions to be referred, and shall also contain an explanation of why the standards set forth in paragraph (b) of this section have been met.

(b) A request for the referral of questions of scientific fact to the National Academy of Sciences shall be granted only to the extent that the person requesting it shows that each of the following is true:

(1) There is a genuine and substantial question of scientific fact to be resolved by such referral. Referrals of questions of policy or law will not be allowed.

(2) The factual question is not one which may properly be decided on the basis of official notice of matters within the expert knowledge of the Agency.

(3) The requested referral is likely to result in resolution or substantial clarification of the factual question. Explanations of why this condition has been met shall state why the examination of the question in the RPAR process (including the referral of issues to the Scientific Advisory Panel under Section 25(d) of the Act) has not provided adequate clarification, and why it is likely that the area of uncertainty can be substantially reduced by referral to a Committee of the National Academy of Sciences in light of the prior referral to the Scientific Advisory Panel.

(4) Resolution of the factual question in the way sought by the person is adequate to justify some or all of the relief sought by the person. A referral will not be granted to the extent that the Administrator concludes that his action would be the same even if the factual question were resolved in the way sought.

§ 164.55 Procedurs for consideration of requests for futher proceedings.

(a) Upon receipt of requests for further proceedings under § 164.51 the Presiding Officer shall either proceed to evaluate them himself or shall certify the matter to the Administrator. Proceedings under this section shall be completed within 120 days after the deadline for filing requests for further proceedings.

V 45 / 154 AG 7 80 UMI

(b) If the Presiding Officer certifies the matter to the Administrator, the Administrator shall designate a panel of Agency employees from among the persons named under § 164.12(a)(1) to consider the extent to which the request meets the standards of § 164.51. Notice of the designation of the panel, and the names of the panel members, shall be filed with the Hearing Clerk and served on all parties.

(c) The panel shall consider any Notice of Action, any requests for a hearing, the Notice of Hearing, all requests for futher proceedings, all comments on those requests, and the administrative record. The panel may hold a hearing to receive the views of the persons who requested further proceedings. The panel in it discretion may also hold public hearings or issue public requests for additional information to assist its consideration of the questions involved. A verbatim transcript shall be made of all hearings held under this paragraph.

(d) Based on its consideration, the panel shall issue a draft Hearing Order specifying:

(1) The extent to which requests to introduce additional evidence, cross-examine, and refer questions to the National Academy of Sciences have been granted;

(2) The extent to which requests have been denied, together with a detailed statement explaining why the regulatory standards for granting such requests were not met; and

(3) A target date for the issuance of the initial decision by the Presiding Officer, together with a statement as to why completion of the hearing within that time is practicable.

(e) The panel's draft Hearing Order shall be filed with the Hearing Clerk and served on all parties to the hearing who shall then have thirty days from the date of service to file comments on it with the Hearing Clerk.

(f) Within thirty days after the expiration of the comment period on the panel's draft Hearing Order, the Administrator shall issue a final Hearing Order which shall be filed with the Hearing Clerk and served on all parties. The Administrator in his discretion may call for oral argument during this thirty day period on any question presented.

(g) If the Presiding Officer elects to consider the requests for further proceedings himself, he shall consider any Notice of Action, any request for a hearing, the Notice of Hearing, all requests for further proceedings, all comments on those requests, and the administrative record. he may also hold a hearing to receive the views of the persons who requested further proceedings, and a verbatim transcript of that hearing shall be made. Based on his consideration, the Presiding Officer shall issue a Hearing Order specifying the information set forth in paragraph (d) of this section.

(h) The Presiding Officer shall file the Hearing Order with the Hearing Clerk and shall serve it on all parties, who may then obtain interlocutory review by the Administrator within 10 days of service. Upon such interlocutory review, the Administrator shall have full power to reconsider any finding or determination by the Presiding Officer. He may designate a panel of Agency employees from among the persons named under § 164.12(a)(1) to assist and advise him in his review, and may in his discretion schedule oral argument on any question presented. As the result of his review, the Administrator may affirm the Presiding Officer's Hearing Order, or may issue a revised Hearing Order which shall explain in detail the basis for all revisions to the Presiding Officer's Hearing Order.

(i) The Administrator's decision either affirming or revising the Hearing Order shall be filed with the Hearing Clerk and served on all parties.

(j) The final Hearing Order determines the scope of the further proceedings and the matters as to which the development of evidence will be permitted.

(k) If the Administrator in the Hearing Order completely denies all requests for further proceedings with respect to any pesticide use subject to a Notice of Action, he shall simultaneously issue a final order implementing the action proposed in the Notice of Action with respect to that pesticide use.

Further Proceedings

§ 164.60 Hearing conference.

(a) Subject to paragraph (d), of this section, the Presiding Officer shall hold a hearing conference in each § 6(b)(2) hearing and in each case in which further proceedings have been granted under this Subpart B. The conference shall be scheduled by filing a PreConference Order with the Hearing Clerk directing the parties or their counsel to appear at a specified time and place, and specifying the purpose of the hearing conference and the matters to be resolved at it. More than one such conference may be held.

(b) The Presiding Officer may conduct a hearing conference for the following purposes:

(1) To divide the further proceedings into discrete stages (for example, a risk stage and a benefits stage), each of which shall be completed separately under this subpart;

(2) To set forth the manner of and the deadline(s) for the filing of the parties' direct cases under § 164.61;

(3) To consider or rule on motions to strike or limit portions of a party's direct case under § 164.62, *provided*, that no document contained in the administrative record may be stricken. If a request under § 164.53 for a sponsoring witness for a portion or portions of the administrative record has been granted, and no witness is provided, the presiding officer may reduce the weight to be afforded the appropriate portion or portions of the administrative record as a factual statement accordingly;

(4) To consider or rule on motions for oral direct testimony submitted as required by § 164.61. To the extent such a motion is denied, the Presiding Officer shall order the prompt filing of the testimony involved in written format;

(5) To consider or rule on motions for the issuance of subpoenas under § 164.8;

(6) To identify the most appropriate techniques for the development, if necessary, of additional evidence on issues in controversy and the manner and sequence in which they shall be used;

(7) To group participants with substantially similar interests for the purposes of eliminating duplicative or repetitive development of the evidence, for the purpose of making and arguing motions and objections, including motions for summary decision, and/or for the purpose of filing briefs or presenting oral argument;

(8) To set the time and place for beginning the presentation of evidence, and the schedule for conducting the hearing. The schedule shall include the sequence in which witnesses will be presented, and the amount of time, if any, for the oral cross-examination of the witnesses. In passing on requests for oral cross-examination, the Presiding Officer shall apply the standards set forth in § 164.53;

(9) In the case of section 6(b)(2) hearings, to set a target date for the issuance of the initial decision by the Presiding Officer;

(10) To consider and rule on requests submitted under § 164.64 for extending the time by which the initial decision is to be rendered; and

(11) To take any other steps to narrow or simplify the issues in controversy, and to consider such other matters and to take such other action as may aid in the expeditious disposition of the proceeding.

(c) All parties shall appear at any hearing conference fully prepared to discuss in detail and resolve all matters specified in the pre-conference order. All parties shall cooperate fully at all

stages of the proceeding to achieve the objective of a fair and expeditious hearing, through advance preparation for the hearing conference, including communications between the parties, and requests for information at the earliest possible time. The failure of any party to appear at the hearing conference or to raise any matters that could reasonably be anticipated and resolved at the hearing conference shall not be permitted to delay the progress of the hearing and shall constitute a waiver of the rights of the party with respect thereto, including all objections to the agreements reached, actions taken, or rulings issued by the Presiding Officer with regard thereto.

(d) Upon a finding on motion or on his own initiative that to hold a hearing conference would be unnecessary or inadvisable, the Presiding Officer may order that the hearing conference not be held. In these circumstances he may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section. Such correspondence shall not be made a part of the record, but the Presiding Officer shall submit a written summary for the record if any action is taken as a result of it.

(e) No transcript of any hearing conference shall be made except to the extent that a request therefor by one of the parties is granted by the Presiding Officer or the Presiding Officer orders a transcript to be made on his own initiative. Any party whose request for a transcript is granted shall bear the cost of the taking of the transcript unless otherwise ordered by the Presiding Officer.

(f) The Presiding Officer shall prepare a written Conference Report and Order reciting the actions taken at a hearing conference and setting forth the schedule for further proceedings and the date for completing the hearing or the stage of the hearing covered by the Conference Report and Order. The Conference Report and Order shall also include a written statement of the areas of factual agreement and disagreement and of the methods and procedures to be used in developing the evidence and the respective duties of the parties in connection therewith. The Conference Report and Order shall be consistent with the Hearing Order issued under § 164.55. The Conference Report and Order shall control the subsequent course of the stage of the hearing which it addresses except to the extent it may be modified by the Presiding Officer for good cause shown.

§ 164.61. Filing of direct case and other information.

(a) Within the time specified in a Conference Report and Order, each party shall file the following information with the Hearing Clerk:

(1) A list of all witnesses whose testimony will be offered at that stage of the hearing, together with a full curriculum vitae in standard format for each witness.

(2) Either the direct testimony of each such witness in written form, or a statement that the testimony concerns matters of such particular fact that oral presentation of direct testimony is justified, together with a description of that testimony and a statement that a motion to permit oral direct testimony will be made. The written direct testimony of a witness may consist in whole or in part of identification of portions of the administrative record.

(3) All other documentary data and information on which the party wishes to rely.

(b) At the same time the material described in paragraph (a) of this section is filed with the Hearing Clerk, each party shall make available to all other parties (but shall not file with the Hearing Clerk) all prior written statements by the persons who have been identified as witnesses, which shall include articles, written statements signed or adopted, and any recording or transcription of any oral statement made, if all of the following conditions are met:

(1) The statement is available without making request of the witness;

(2) The statement relates to the subject matter of the witness' testimony; and

(3) The statement was either made before the time the person agreed to become a witness or has been made publicly available by the witness.

(c) If any prior written statement required to be made available under paragraph (b) of this section has been published in the public literature, a party may comply with paragraph (b) of this section with respect to that statement by furnishing all other parties with a full citation to the public literature which identifies where the statement may be found.

§ 164.62 Ruling on direct case.

(a) The Presiding Officer, on motion, shall strike any portion of a party's direct case (other than material included in the administrative record) or limit the purpose for which it is received, to the extent he finds that the evidence presented is outside the scope of the Hearing Order (or the Notice of Hearing under § 164.33).

(b) Evidence not offered under § 164.61 may nevertheless be admitted at any later stage of the hearing upon a showing that it could not reasonably have been made available, or its relevance could not reasonably have been foreseen, at an earlier stage.

(c) The standards set forth in paragraph (a) of this section shall be applied in all rulings on motions to introduce evidence made throughout the hearing.

§ 164.63 Referral to the National Academy of Sciences.

(a) Not less than 30 days after a decision has been made to refer questions of scientific fact to a Committee of the National Academy of Sciences, the Presiding Officer shall formally refer these questions. The Committee shall report in writing to the Presiding Officer within 60 days after such referral on these questions of scientific fact and the report, its record and any other matter transmitted as provided for by the Administrator's agreement with the National Academy of Sciences shall be made public and considered as part of the hearing record.

Note.—The Memorandum of Understanding between the Agency and the National Academy of Sciences governing such referrals is reproduced as Appendix A.

(b) At any time before the hearing record is closed, a party may request by motion that questions of scientific fact not previously referred be referred, or that questions previously referred be amended or expanded. The Presiding Officer, upon such motion or on his own initiative, may refer such questions or amendments if he finds that good cause existed for the failure to request such referral within the time specified in the Scheduling Order and that the substantive standards of § 164.54 have been met.

§ 164.64 Time limits.

(a) The Presiding Officer may upon motion or his own initiative extend the target date for the issuance of the initial decision specified in the Hearing Order (or in the Conference Report and Order, in the case of Section 6(b)(2) hearings) to any extent up to sixty days total. Such motions may not be made ex parte.

(b) Extensions which, when considered together with prior extensions granted, would extend by more than sixty days the target date specified in the Hearing Order (or in the Conference Report and Order, in the case of Section 6 (b)(2) hearings) for issuance of the initial decision may only be granted by the Administrator. No request for such an extension originating with a party shall be considered by the

V 4 5 / 1 5 4 A G 7 8 0 UMI

Administrator unless made by motion to the Presiding Officer and unless the Presiding Officer has recommended it be granted and has given supporting reasons. Requests for such an extension by the Presiding Officer on his own initiative shall also give supporting reasons. All parties to the proceeding shall have the right to file comments with the Administrator on the proposed extension. No hearing shall be delayed while a request for extension of the time for completing it is being considered.

§ 164.65 Evidence.

(a)(1) The administrative record shall automatically be admitted in evidence. All material filed or designated under § 164.61 or submitted at some later stage in accordance with § 164.62 shall automatically be admitted into evidence unless an objection as to its admissibility has been filed and sustained under § 164.62.

(2) Any written evidence excluded by the Presiding Officer as inadmissible shall remain a part of the hearing record, as an offer of proof, for purposes of judicial review.

(b) Oral testimony, whether on direct or on cross-examination, shall be admissible as evidence unless a party objects and the Presiding Officer excludes it as inadmissible. The Presiding Officer shall exclude oral evidence as inadmissible only on the following grounds:

(1) The oral evidence is irrelevant, immaterial, incompetent or repetitive;

(2) The oral evidence is outside the scope of further proceedings determined by the Hearing Order (or the Notice of Hearing under § 164.33); or

(3) Other good cause exists for its exclusion.

(c) An automatic exception to any evidentiary ruling of the Presiding Officer shall be entered on behalf of the party(s) to whom the ruling is adverse.

(d)(1) Whenever oral evidence is deemed inadmissible, the party offering such evidence may make an offer of proof, which shall be included in the transcript, and which shall consist of a brief statement describing the evidence excluded and the purpose for which it is offered.

(2) If the Administrator upon appeal determines that the Presiding Officer erred in excluding an item of oral evidence, and prejudice to a party resulted, the hearing may be reopened to permit the taking of such evidence, or, where appropriate, the administrator may evaluate the evidence and proceed to a final decision.

(e) If questions have been submitted under § 164.63 to a Committee of the National Academy of Sciences, the report of that Committee, other materials that may be required by the Administrator pursuant to the Memorandum of Understanding between the Agency and the National Academy of Sciences, and a list of witnesses and evidence relied on shall be received into evidence and made a part of the record of the hearing. Objections to any such material shall go to the evidentiary value of that material.

§ 164.66 Summary decision.

(a) Any party may, after commencement of the hearing, submit a motion with or without supporting affidavits for a summary decision in its favor with respect to any issue under consideration. Any other party may serve opposing affidavits or cross-move for summary decision. The Presiding Officer may, in his discretion, set the matter for argument and call for the submission of briefs.

(b) The Presiding Officer shall grant such motion if the objections, requests for hearing, other pleadings, affidavits, and any material filed in connection with the hearing, show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The order granting such motion shall be filed with the Hearing Clerk and served on all parties.

(c) affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon mere allegations or denials or general descriptions of position and contentions. Its response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue of material fact for the hearing.

(d) If it appears from the affidavits of a party opposing the motion that it cannot, for sound reasons stated, present by affidavit facts essential to justify its opposition, the Presiding Officer may deny the motion for summary decision or may order a continuance to permit affidavits or additional evidence to be obtained or may make such order as is just.

(e) If on motion under this section a summary decision is not rendered upon the whole case or for all the relief requested, and development of evidentiary facts is found necessary, the Presiding Officer shall make an order specifying the facts that appear without substantial controversy and directing further evidentiary proceedings. The facts so specified shall be deemed established.

(f) Any party may obtain interlocutory review by the Administrator of an order of the Presiding Officer granting a motion for summary decision within 10 days of service.

§ 164.67 Interlocutory appeal.

(a) Except as provided in paragraph (b) of this section and in §164.11, §164.43, §164.55 and §164.66, no decision of the Presiding Officer shall be reviewed by the Administrator prior to review of the initial decision rendered under §164.80.

(b) The Presiding Officer may certify an order or ruling for interlocutory appeal to the Administrator if he finds that:

(1) The order or ruling involves an important question of law or policy about which there is substantial ground for difference of opinion; and

(2) Either:

(i) An immediate appeal from the order and ruling will materially advance the ultimate termination of the proceeding; or

(ii) Review after the final judgment is issued will be inadequate or ineffective.

The Presiding Officer shall issue such a certification upon a motion of a party made within 10 days of the order or ruling.

(c) If the Administrator determines that certification under paragraph (b) of this section was improvidently granted, or takes no action within thirty days of certification, the appeal shall be automatically dismissed.

(d) Any order or ruling not certified for interlocutory appeal by the Presiding Officer shall be the subject of interlocutory review by the Administrator only when he determines, upon motion of a party and in exceptional circumstances, that delaying review would be deleterious to vital public or private interests.

(e) Except in extraordinary circumstances, proceedings, shall not be stayed pending an interlocutory appeal. Any stay of more than 14 days must be approved by the Administrator.

(f) Ordinarily, any interlocutory appeal will be decided on the basis of the submissions made to the Presiding Officer in connection with the motion for certification, but the Administrator in his discretion may allow further briefs and oral argument.

§ 164.68 Briefs and argument.

(a) As soon as possible after the completion of the taking of evidence, the Presiding Officer shall announce a schedule for the filing of briefs. Briefs shall include a statement of position on each issue, which shall be supported by specific and complete citations to the evidence, together with citations of points of law relied upon. Briefs may contain proposed findings of fact and conclusions of law.

(b) The Presiding Officer may permit the presentation of oral argument at his discretion and in such manner as he believes is both practicable and fair.

Record

§ 164.70 Availability of record.

The hearing record shall be available to the public, *provided*, that information which is a trade secret or otherwise subject to the provisions of section 10 of the Act shall not be disclosed to the public except in accordance with section 10 of the Act and the regulations of the Agency implementing that section.

§ 164.71 Correction of record.

After the close of the taking of evidence, the Presiding Officer shall allow witnesses, parties, and their counsel up to 30 days (or up to 45 days in unusual cases) in which to submit written proposed corrections of the transcript of any oral testimony taken at the hearings. The Presiding Officer shall thereafter allow witnesses, parties, and their counsel 5 additional days to comment upon any proposed correction to the transcript as are necessary to make it conform to the testimony.

Initial and Final Decisions

§ 164.80 Initial decision.

(a) Within the time specified in the Hearing Order (or in the Conference Report and Order, in the case of section 6(b)(2) hearings), as it may have been extended under § 164.64, the Presiding Officer shall prepare an initial decision. The initial decision shall contain:

(1) Findings of fact based on relevant, material, and reliable evidence of record;

(2) Conclusions of law;

(3) A full articulation of the reasons for the findings and conclusions, including a discussion of the significant factual and legal contentions made by any party; and

(4) An appropriate order supported by substantial evidence of record and based on the findings of fact and conclusions of law.

(b) The initial decision shall be filed with the Hearing Clerk and served on all parties.

(c) The initial decision shall become the decision of the Administrator by operation of law unless a party timely appeals under § 164.81 or unless the Administrator on his own initiative files a notice of review under § 164.81.

§ 164.81 Appeal from or review of initial decision.

(a) Any party may appeal an initial decision to the Administrator by filing exceptions to it with the Hearing Clerk and serving them on the other parties. Exceptions must be filed and served within twenty days of the service of the initial decision, unless that period is extended by the administrator under paragraph (d) of this section.

(b) Exceptions to the initial decision shall contain specific statements of alleged error in the findings of fact or conclusions of law with specific reference to those parts of the record on which the exceptions are based. If oral argument before the Administrator is desired, it shall be specifically requested in the exceptions.

(c) Any party may file a reply to any exceptions filed under paragraph (a) of this section. A reply shall be filed with the Hearing Clerk and served on the other parties within 10 days after the period for filing exceptions has expired, unless that period is extended by the Administrator under paragraph (d) of this section.

(d) The Administrator may extend the time for filing exceptions or replies to exceptions for good cause shown.

(e) After the filing of exceptions and replies, the Administrator shall determine whether he wishes to hear oral argument on the matter. If the Administrator decides to hear oral argument, the parties shall be informed of the date, time and place for such oral argument, the amount of time to be allowed each party, and the issues to be addressed.

(f) Within 10 days after the time for filing exceptions (including any extensions) has expired, the Administrator may file with the Hearing clerk, and serve on the parties, a notice that he will review the initial decision on his own initiative. The Administrator may invite the parties to file briefs or present oral argument on the matter. The time for filing briefs or presenting oral argument shall be specified in the notice of review or in a later notice.

§ 164.82 Decision by the Administrator on appeal from or review of initial decision.

(a) On appeal from or review of the initial decision, the Administrator shall have all the powers he would have in making the initial decision. On his own motion or the motion of any party, he may remand the proceeding to the Presiding Officer with specific directions (e.g., to receive further evidence relating to a particular issue) where he concludes that such action is necessary for a proper decision in the matter.

(b) The scope of the issues on appeal shall be the same as the scope of the issues at the formal evidentiary public hearing unless the Administrator specifies otherwise.

(c) Within 90 days after filing of the initial decision, the Administrator shall issue his final decision based solely on the record. This final decision shall meet the requirements of § 164.80. The Administrator in preparing his final decision may consult with any Agency employee other than a member of the trial staff named under § 164.12 or a subordinate of a trial staff member. The Administrator may consult in this manner any member of an advisory panel named under section 164.55.

(d) The Administrator may adopt the initial decision as the final decision, in whole or in part.

(e) The final decision shall be filed with the Hearing Clerk and served on all parties.

§ 164.83 Reconsideration and stay of action.

Following publication of notice of the final decision, any party may petition the Administrator for reconsideration of part or all of such decision or for a stay of such decision under 5 U.S.C. 705.

Judicial Review

§ 164.90 Judicial review of final Agency action.

(a) The following are final Agency actions which are reviewable in a United States Court of Appeals under section 16(b) of the Act:

(1) Any final decision under § 164.82; and

(2) Any final order under § 164.55(k) implementing the action proposed in a Notice of Action following a denial of a request for further proceedings.

(b) Before requesting an order from a Court of Appeals for a stay of the effectiveness of a final order under § 164.82 or § 164.55(k), any person seeking judicial review shall first request the Agency to stay such action under 5 U.S.C. 705.

Subpart C—General Rules of Practices for Expedited Hearings

§ 164.100 Notification.

(a) Except as provided in § 164.111 (relating to emergencies), whenever the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, he shall notify the registrant of his intent to suspend the registration of the pesticide use at issue.

V 45 / 154 AG 7 80 UMI

(b) Such notice shall include:

(1) Findings relating to the existing of an imminent hazard;

(2) Designation of an administrative records for suspension on which the findings in paragraph (b)(1) are based. This record shall be automatically entered into evidence at the expedited hearing. The notice shall also specify the location of the record, the hours it will be available for public inspection, and the name and office telephone number of the person in charge of it;

(3) Designation of an Agency trial staff, and of persons available to assist the Administrator in making a final decision, as specified in § 164.12;

(4) A time limit for completing any such expedited hearing; and

(5) A statement either (i) designating the person(s) to preside at any such expedited hearing or else (ii) stating that an Administrative Law Judge to be named by the Chief Administrative Law Judge will preside. In the latter case the Administrator may also designate Agency employees to sit with the presiding Administrative Law Judge as a panel.

(c) Any notice of intent to suspend shall either be personally served on the registratant or be sent to the registrant by registered or certified mail, return receipt requested. A copy shall also be filed with the Hearing Clerk.

§ 164.101 Request for expedited hearing.

(a) A registrant affected by a notice of intent to suspend may obtain an expedited hearing on the question of whether an immient hazard exists by filing a request in writing or by telegram with the Hearing Clerk. The request must be received by the Hearing Clerk within five days of the registrant's receipt of the notice of intent to suspend.

(b) At the time of filing a request for an expedited hearing, the registrant shall also file a document setting forth objections to the Administrator's notice of intent to suspend. This document shall conform to the requirements of § 164.20 to the maximum extent possible.

§ 164.102 Intervention.

(a) Any interested person may move to intervene at any time prior to the commencement of the presentation of evidence in an expedited hearing held under this Subpart C.

(b) Leave to intervene may be granted only if the motion to intervene indicates that the movant would introduce evidence pertinent to the issue of whether an imminent hazard exists and which would substantially assist the resolution of that issue. A motion for leave to intervene filed after the first hearing conference shall also contain a statement of good cause for failure to file earlier. Such motions may be granted only upon a finding that extraordinary circumstances justify the granting of the motion, and only upon the condition that the intervenor shall be bound by any rules or conditions for the expedited hearing previously specified or agreed upon by the parties to the expedited hearing.

(c) Any interested person who is denied permission to intervene under this section may file proposed findings and conclusions under § 164.109. Any person filing such documents under this paragraph shall be considered a party to the proceeding for all purposes of its further review.

(d) When an "emergency order" is issued under § 164.111, no person other than the Agency trial staff and the registrant shall participate in the expedited hearing except that any interested person may file proposed findings and conclusions under § 164.109. Any person filing under this paragraph shall be considered a party to the proceeding for all purposes of its further review.

§ 164.103 Time limits.

The time limit specified in the notice of intent to suspend for completing any expedited hearing under this Subpart C may be extended only by the Administrator upon the request of the Presiding Officer.

§ 164.104 Presiding Officer.

The Presiding Officer for a hearing under this subpart shall either meet the standards specified in § 164.40, or shall be a general or special Agency employee who is not part of the Agency trial staff named under § 164.12. More than one person having the qualifications specified in the preceding sentence may be named to sit as a panel in expedited suspension hearings. In such cases, one panel member shall be designated as Presiding Officer for purposes of these regulations. If an Administrative Law Judge is included on the panel, the Administrative Law Judge shall be the Presiding Officer.

§ 164.105 Beginning of expedited hearing.

The expedited hearing shall begin within 5 days after the filing with the Hearing Clerk of the last request for a hearing, by holding a hearing conference under § 164.106. Unless the Agency's trial staff and the registrant agree that it shall be held at a later time, it shall be held no later than 15 days after the issuance of the notice of intent to suspend. As soon as possible, the Presiding Officer shall publish in the Federal Register notice of such expedited hearing.

§ 164.106 Hearing conferences.

(a) The Presiding Officer may hold further hearing conferences in any case in which an expedited hearing has been granted under this Subpart C. Any conference shall be scheduled by filing a Pre-Conference Order with the Hearing Clerk directing the parties or their counsel to appear at a specified time and place, and specifying the purpose of the hearing conference and the matters to be resolved at it. More than one such hearing conference may be held.

(b) The Presiding Officer may conduct a hearing conference for the following purposes:

(1) To determine the extent to which the documents submitted by registrants or intervenors under § 164.101 and § 164.102 comply with the standards of § 164.20;

(2) To consider or rule on motions to intervene under § 164.102;

(3) To consider or rule on motions for oral direct testimony under § 164.107;

(4) To set a date by which all written direct testimony shall be filed, or a series of dates by which all written direct testimony related to specific designated stages of the expedited hearing shall be filed;

(5) To consider or rule on motions to strike or limit evidence as not within the scope of the issues raised by the notice of intent to suspend, or for other cause;

(6) To identify the most appropriate techniques for the development, if necessary, of additional evidence on issues in controversy and the manner and sequence in which they shall be used;

(7) To set the time and place for beginning the presentation of evidence at the expedited hearing, and the schedule for conducting it. The schedule shall include the sequence in which witnesses will be presented, and the amount of time, if any, for oral cross-examination of the witnesses. In passing on requests for oral cross-examination, the Presiding Officer shall consider whether the matters at issue could be more economically clarified in whole or in part by the required submission of additional direct evidence or by use of written cross-examination. The schedule shall also include a date by which the receipt and examination of evidence shall be concluded and intermediate dates where appropriate;

(8) To take any other steps to narrow or simplify the issues in controversy, and to consider such other matters and to take such other action as may aid in the expeditious disposition of the proceeding.

(c) All parties shall appear at any hearing conference fully prepared to discuss in detail and to resolve all matters specified in the Pre-Conference Order. All parties shall cooperate fully at all stages of the proceeding to achieve the objective of a fair, and expeditious hearing, through advance preparation for the hearing conference, including communications between parties and requests for information at the earliest possible time. The failure of any party to appear at a hearing conference or to raise any matters that could reasonably be anticipated and resolved at the hearing conference shall not be permitted to delay the progress of the expedited hearing and shall constitute a waiver of the rights of the party with respect thereto, including all objections to the agreements reached, actions taken, or rulings issued by the Presiding Officer with regard thereto.

(d) No transcript of any hearing conference shall be made except to the extent that a request therefor by one of the parties is granted by the Presiding Officer or the Presiding Officer orders a transcript to be made on his own initiative. Any party whose request for a transcript is requested shall bear the cost of the taking of the transcript unless otherwise ordered by the Presiding Officer.

(e) The Presiding Officer may prepare a written Conference Report and Order reciting the actions taken at the hearing conference and setting forth the schedule for the expedited hearing. This Conference Report and Order may include a written statement of the areas of factual agreement and disagreement and of the methods and procedures to be used in developing the evidence and the respective duties of the parties in connection therewith. Any such Conference Report and Order shall be consistent with the statement of issues in the notice of intent to suspend issued under § 164.100. Any such Conference Report and Order shall control the course of the proceeding except to the extent it may be modified by the Presiding Officer for good cause shown.

§ 164.107 Direct testimony.

(a) All direct testimony shall be submitted in writing except to the extent a motion for oral direct testimony has been made and granted.

(b) Motions for oral direct testimony shall be granted only upon a showing that the testimony concerns matters of such particular fact that oral presentation of direct testimony is justified.

(c) No later than the time the direct testimony of a witness is filed (or no later than three days before the scheduled appearance of a witness, if a motion to permit oral diect testimony has been granted) the party presenting that witness shall make available to all other parties (but shall not file with the Hearing Clerk):

(1) A full curriculum vitae for the witness;

(2) All prior written statements by the person who has been identified as a witness, which shall include articles, written statements signed or adopted, and any recording or transcription of any oral statement made, if all of the following conditions are met:

(i) The statement is available without making request of the witness;

(ii) The statement relates to the subject matter of the witness' testimony; and

(iii) The statement was either made before the time the person agreed to become a witness or has been made publicly available by the witness.

(d) If any prior written statement required to be made available under paragraph (c)(2) of this section has been published in the public literature, a party may comply with paragraph (c)(2) of this section with respect to that statement by furnishing all other parties with a full citation to the public literature which identifies where the statement may be found.

§ 164.108 Availability of record.

The expedited hearing record shall be available to the public, *provided*, that information which is a trade secret or otherwise subject to the provisions of section 10 of the Act shall not be disclosed to the public except in accordance with section 10 of the Act and the regulations of the agency implementing that section.

§ 164.109 Recommended findings and conclusions.

(a)(1) Within 4 days of the conclusion of the presentation of evidence, the parties may propose findings and conclusions to the Presiding Officer.

(2) Within 8 days of the conclusion of the presentation of evidence, the Presiding Officer shall submit to the parties his recommended findings and conclusions and a statement of the grounds on which they are based.

(3) Within 10 days of the conclusion of the presentation of evidence, the Presiding Officer shall submit to the Administrator his recommended findings and conclusions, together with the hearing record specified in § 164.108.

(4) Within 12 days of the conclusion of the presentation of evidence, the parties shall submit to the Administrator their objections to the Presiding Officer's recommended findings and conclusions accompanied by a written brief in support thereof.

(b) All proposed and recommended findings and conclusions under paragraph (a) of this section shall contain:

(1) Findings of fact based on relevant, material, and reliable evidence of record;

(2) Conclusions of law;

(3) A full articulation of the reasons for the findings and conclusions, including a discussion of the significant factual and legal contentions made by any party; and

(4) An appropriate recommended order supported by substantial evidence of record and based on the findings of fact and conclusions of law.

(c) The recommended findings and conclusions shall be filed with the Hearing Clerk and served on all parties.

§ 164.110 Final decision and order of suspension.

(a) Within 7 days of receipt of the record and of the Presiding Officer's recommended findings and conclusions, the Administrator shall issue a final decision and order. In making his decision, the Administrator shall have all the powers he would have in making the initial decision. On his own motion or the motion of any party, he may remand the proceeding to the Presiding Officer with specific directions (e.g., to receive further evidence relating to a particular issue) when he concludes that such action is necessary for a proper decision in the matter.

(b) The scope of the issues before the Administrator shall be the same as the scope of the issues at the expedited hearing.

(c) The Administrator's decision and order shall conform to the requirements of § 164.109(b). The Administrator may adopt the recommended findings and conclusions as the final decision and order, in whole or in part.

(d) The final decision and order shall be filed with the Hearing Clerk and served on all parties.

(e) Prior to, or together with, the issuance of an order of suspension, the Administrator shall initiate cancellation proceedings by issuing a notice of intent to cancel the registration or change the classification of the pesticide use(s) at issue, or by issuing a notice of section 6(b)(2) hearing with respect to the pesticide use(s) at issue.

§ 164.111 Emergency order.

(a) Whenever the Administrator determines that an emergency exists that does not permit him to hold an expedited hearing before suspension, he

V 4 5 / 1 5 4 A G 7 8 0 UMI

may issue a suspension order in advance of notification to the registrant.

(b) The Administrator shall immediately notify the registrant of the suspension order. The registrant may then request an expedited hearing in accordance with § 164.101, but the suspension order shall remain in effect during the expedited hearing.

§ 164.112 Applicability of other sections.

The provisions of Subparts A and B (except § 164.8 and the provisions relating to referral of questions of scientific fact to a committee of the National Academy of Sciences) shall apply to proceedings under this Subpart C except where their application would be clearly inappropriate. § 164.71 shall apply except that two days, not thirty days, shall be allowed for the submission of proposed corrections.

Subpart E—Implementation of Final Cancellations and Suspensions; Disposition of Existing Stocks of Cancelled Pesticides

§ 164.140 Notification of cancellation.

(a) When a cancellation action becomes final by operation of law under Section 6(b) of the Act, or at the conclusion of a hearing under this Part, the Administrator shall publish in the **Federal Register** and send to each registrant of an affected pesticide product a Notification of Cancellation.

(b) The Notification of Cancellation shall include the following:

(1) With respect to each affected registered pesticide use, a description of the action which has become final.

(2) Where applicable, instructions on how to bring pesticide products into compliance with the cancellation action including, for example, instructions on implementation of required changes in labeling, packaging or other terms and conditions of registration.

(3) Notification of the conditions under which existing stocks of pesticide products which are not in compliance with the final cancellation action can be distributed, sold or otherwise moved in commerce, and/or used.

(4) Notification that registrants or other interested persons may petition the Administrator under this Subpart to modify his determination concerning distribution, sale or other movement in commerce, and/or use of existing stocks of pesticide products which are not in compliance with the final cancellation action, and instructions concerning the content and filing of such petitions.

(5) Where applicable, instructions for the disposal of existing stocks of pesticide products which are not in compliance with the final cancellation action.

§ 164.141 Petitions concerning existing stocks of pesticides subject to final cancellation actions.

(a) Registrants or other interested persons may petition the Administrator to modify his determination concerning the distribution, sale or other movement in commerce, and/or the use of existing stocks of pesticide products which are not in compliance with final cancellation actions under this Part.

(b) Petitions under this section shall contain the information required by and shall be filed in accordance with the instructions contained in the Notification of Cancellation under § 164.140.

(c) The Administrator shall by order promulgate a regulation disposing of a petition appropriately under Section 6(a)(1) of the Act, after having complied with the requirements of Section 25 of the Act and 5 U.S.C. 553.

§ 164.142 Notification of suspension.

(a) When a suspension action becomes final by operation of law under Section 6(c) of the Act, or at the conclusion of a hearing under this Part, the Administrator shall publish in the **Federal Register** and send to each registrant of an affected pesticide product a Notification of Suspension.

(b) The Notification of Suspension shall include the following:

(1) With respect to each affected registered pesticide use, a description of the action which has become final.

(2) Where applicable, instructions on how to bring pesticide products into compliance with the suspension action including, for example, instructions on implementation of required changes in labeling, packaging or other terms and conditions of registration.

(3) Notification whether and under what conditions existing stocks of pesticide products which are not in compliance with the final suspension action can be distributed, sold or otherwise moved in commerce, and/or used.

Appendix A—Memorandum of Understanding

The Administrator of the Environmental Protection Agency, on behalf of EPA, and the President of the National Academy of Sciences, on behalf of NAS, hereby enter into the following agreement regarding studies to be conducted by the Academy under contract between EPA and NAS.

1. The NAS in preparing any report called for by a contract between EPA and NAS which incorporates this memorandum by reference shall, in accordance with its established procedures as currently specified in Chapter 6 of the NAS document entitled "Nominations and Appointments to Assemblies and Commissions, Divisions, Offices and Boards, Committees and Subunits of the National Research Council" dated October 1975, conduct a review for potential sources of bias of the members of any of its committees engaged in preparing such report. A record of this bias review shall be kept consisting at a minimum of the curriculum vitae of each member of the committee, the form "On Potential Sources of Bias" (as set forth in Appendix 3 to the above document) filed by each member of the committee, and a verbatim transcript or recording of the committee discussions of potential sources of bias required under Chapter 6 above. On request by the Administrator of EPA for information concerning possible bias or conflict of interest of a particular committee member (or members) described above, the NAS shall make available to the Administrator the record of the bias review for that committee member (or members). Such information provided to the Administrator of EPA by the NAS shall be treated by EPA as private information to be held in confidence and shall not be disclosed outside EPA except as authorized by the Administrator of EPA for good cause shown and with the consent of the committee member (or members) concerned. The NAS shall notify the EPA of any changes in the Academy's bias review procedures.

2. No later than 15 days after the release of any final report called for by a contract between EPA and NAS which incorporates this memorandum by reference, the NAS shall make available to the public and to EPA the record of its committee deliberations concerning that report to the extent provided in the document entitled "Policy on Public Access to Information Concerning Studies Conducted Under the Auspices of the National Academy of Sciences," adopted by the National Academy of Sciences, April 20, 1975.

3. The NAS shall also undertake to ensure that one or more members of a committee engaged in the preparation of a report referred to in paragraph 2 above will for a reasonable time make themselves available upon request at any EPA regulatory proceedings or Congressional hearings to which the report may be relevant to answer questions about the report and its record. The contract between EPA and NAS shall provide for reimbursement of staff, travel, and related expenses incurred by NAS for the purpose of such appearances.

P. Handler,
President, National Academy of Sciences.

Douglas Costle,
Administrator, Environmental Protection Agency.

[FR Doc. 80-23812 Filed 8-6-80; 8:45 am]
BILLING CODE 6560-01-M

V45/154 AG 7 80 UMI

federal register

Thursday
August 7, 1980

Part III

Environmental Protection Agency

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, and 124

[FRL 1538-2]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rules.

SUMMARY: In response to the decision of the U.S. Court of Appeals for the D.C. Circuit in *Alabama Power Company* v. *Costle,* EPA is today amending its regulations for the prevention of significant deterioration of air quality, 40 CFR 51.24, 52.21. Today's amendments also include regulatory changes affecting new source review in nonattainment areas, including restrictions on major source growth (40 CFR 52.24) and requirements under EPA's Emission Offset Interpretative Ruling (40 CFR Part 51, Appendix S) and Section 173 of the Clean Air Act (40 CFR 51.18 (j)).

DATES: The regulatory amendments announced here come into effect on August 7, 1980. State Implementation Plan revisions meeting today's regulatory changes are to be submitted to EPA within nine months after this publication.

FOR FURTHER INFORMATION CONTACT: James B. Weigold, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919/541–5292.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline. A section entitled Summary of PSD Program has been added to provide a concise narrative overview of this program.

Outline

I. Summary of PSD Program
A. PSD Allows Industrial Growth Within Specific Air Qualtiy goals
B. Who is Subject to the Prevention of Significant Deterioration Regulations?
C. What Must a Source or Modification Do to Obtain a PSD Permit?
II. Background
III. Highlights
IV. Transition
A. Part 52 PSD Regulations
B. Part 51 PSD Regulations
C. Offset Ruling
D. Part 51 Nonattainment Regulations
E. Construction Moratorium
F. Pending SIP Revisions
G. Effective Date of Nonattainment Provisions
H. Miscellaneous
V. Potential To Emit
A. Control Equipment
B. Continuous Operation
C. Additional Guidance
VI. Fifty-Ton Exemption
VII. Fugitive Emissions
VIII. Fugitive Dust Exemption
IX. Source
A. Proposed Definitions of "Source"
B. PSD: Comments on Proposal and Responses
C. Nonattainment: Comments on Proposal and Responses
X. Modification
A. Final Definition of "Major Modification"
B. No Net Increase
C. Pollutant Applicability
D. Netting of Actual Emissions
E. Contemporaneous Increases and Decreases
F. Otherwise Creditable Increases and Decreases
G. The Extent to Which Increases and and Decreases are Creditable
H. Accumulation
I. Restrictions on Construction
J. Reconstruction
K. Exclusions
L. Example of How The Definitions Work
XI. *De Minimis* Exemptions
XII. Geographic and Pollutant Applicability
A. Background
B. PSD Applicability
C. Nonattainment Applicability
D. Case Examples
E. Interstate Pollution
F. Geographic Applicability for VOC Sources
G. Response to Comments
XIII. Baseline Concentration, Baseline Area, and Baseline Date
A. Baseline Concentration
B. Baseline Area
C. Baseline Date
D. Pollutant-Specific Baseline
XIV. Increment Consumption
A. Rationale for Use of Actual Emissions
B. Exclusions from Increment Consumption
C. Increment Expansion due to Emissions Reductions
D. Gulf Coast Problem
E. Potential Increment Violations
XV. Best Available Control Technology
XVI. Ambient Monitoring
XVII. Notification
XVIII. PSD SIP Revisions
A. Equivalent State Programs
B. Baseline Area
C. State Monitoring Exemption
XIX. Additional Issues
A. Innovative Control Technology
B. Modified Permits
C. Nonprofit Institutions
D. Portable Facilities
E. Secondary Emissions
F. Baseline for Calculating Offsets under Section 173(1)(A)
G. Economic Impact Assessment
H. Consolidated Permit Regulations

I. Summary of PSD Program

The purpose of this summary is to help those people who are unfamiliar with the PSD program gain an understanding of it. Because this summary seeks to condense the basic PSD rules, it may not precisely reflect the amendments announced in this notice. Should there be any apparent inconsistency between the summary and the remainder of the preamble and the regulations, the remaining preamble and the regulations shall govern.

A. PSD Allows Industrial Growth Within Specific Air Quality Goals

The basic goals of the prevention of significant air quality deterioration (PSD) regulations are (1) to ensure that economic growth will occur in harmony with the preservation of existing clean air resources to prevent the development of any new nonattainment problems; (2) to protect the public health and welfare from any adverse effect which might occur even at air pollution levels better than the national ambient air quality standards; and (3) to preserve, protect, and enhance the air quality in areas of special natural recreational, scenic, or historic value, such as national parks and wilderness areas.

States are required to develop SIP revisions for PSD pursuant to regulations published today. *See* 40 CFR 51.24, "Requirements for Preparation, Adoption and Submittal of Implementation Plans." If EPA approves the proposed PSD plan, the state can then implement its own program. In the absence of an approved state PSD plan, another portion of today's regulations will govern PSD review. *See* 40 CFR 52.21, "Approval and Promulgation of Implementation Plans." EPA will implement this regulation itself if the state does not submit an approvable PSD program of its own.

States can identify in their SIPs the local land use goals for each clean area through a system of area classifications. A "clean" area is one whose air quality is better than that required by the National Ambient Air Quality Standards. Each classification differs in the amount of growth it will permit before significant air quality deterioration would be deemed to occur. Significant deterioration is said to occur when the amount of new pollution would exceed the applicable maximum allowable increase ("increment"), the amount of which varies with the classification of the area. The reference point for determining air quality deterioration in an area is the baseline concentration, which is essentially the ambient concentration existing at the time of the first PSD permit application submittal affecting that area. To date, only PSD increments for sulfur dioxide and particulate matter have been established. Increments or alternatives

to increments are currently under investigation for the other criteria pollutants.

There are three types of area classifications. Class I areas have the smallest increments and thus allow only a small degree of air quality deterioration, while Class II areas can accommodate normal well-managed industrial growth. Class III designations have the largest increments and are appropriate for areas desiring a larger amount of development. In no case would the air quality of an area be allowed to deteriorate beyond the National Ambient Air Quality Standards. Except for certain wilderness areas and national parks, which are mandatory Class I areas, all clean areas of the country were initially designated as Class II. Flexibility exists under the Act to adjust most of these designations, except for those mandated by Congress.

The principal mechanism within the SIP to implement the objectives of the PSD program is the preconstruction review process. These provisions require that new major stationary sources and major modifications are carefully reviewed prior to construction to ensure compliance with the National Ambient Air Quality Standards, the applicable PSD air quality increments, and the requirements to apply the best available control technology on the project's pollutant emissions. In addition, proposed SIP relaxations which would limit further use of increment must be reviewed for their anticipated impact and not be approved if the applicable increment would be violated. The SIP must also contain PSD provisions for periodically reviewing all emissions increases, including those which occur outside the SIP revision and the new source review (NSR) process, and for restoring clean air when such increases cause violations of the applicable PSD increment. This corrective action may require additional controls on existing emissions sources which contribute to the problem.

B. Who is Subject to the Prevention of Significant Deterioration Regulations?

The requirements of today's PSD regulations apply to major stationary sources and major modifications which meet certain criteria concerning the geographic location, type of pollutants to be emitted, and timing of proposed construction. No source or modification subject to today's rules may be constructed without a permit which states that the stationary source or modification would meet all applicable PSD requirements. This section summarizes how PSD review as modified in response to *Alabama Power* will apply.

The primary criterion in determining PSD applicability is whether the proposed project is sufficiently large (in terms of its emissions) to be a major stationary source or major modification. Source size, for applicability purposes, is defined in terms of "potential to emit." "Potential to emit" means the capability at maximum design capacity to emit a pollutant after the application of all required air pollution control equipment and after taking into account all federally enforceable requirements restricting the type or amount of source operation. A "major stationary source" is any source type belonging to a list of 28 source categories which emits or has the potential to emit 100 tons per year or more of any pollutant subject to regulation under the Act, or any other source type which emits or has the potential to emit such pollutants in amounts equal to or greater than 250 tons per year. A stationary source generally includes all pollutant-emitting activities which belong to the same industrial grouping, are located on contiguous or adjacent properties, and are under common control. Pollutant activities which belong to the same major group as defined in a standard industrial classification scheme developed by the Office of Management and Budget are considered part of the same industrial grouping. (*See* SOURCE).

A "major modification" is generally a physical change in or a change in the method of operation of a major stationary source which would result in a significant net emissions increase in the emissions of any regulated pollutant. In determining if a proposed increase would cause a significant *net* increase to occur, several detailed calculations must be performed. First, the source owner must quantify the amount of the proposed emissions increase. This amount will generally be the potential to emit of the new or modified unit. Second, the owner must document and quantify all emissions increases and decreases that have occurred or will occur contemporaneously (generally within the past five years) and have not been evaluated as part of a PSD review. The value of each contemporaneous decrease and increase is generally determined by subtracting the old level of actual emissions from the new or revised one. Third, the proposed emissions changes and the unreviewed contemporaneous changes must then be totalled. Finally, if there is a resultant *net* emissions increase that is larger than certain values specified in the regulations, the modification is major and subject to PSD review.

Certain changes are exempted from the definition of major modification. These include: (1) routine maintenance, repair, and replacement; (2) use of an alternative fuel or raw material by revision of an order under sections (2)(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation); (3) use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act; (4) use of an alternative fuel at a steam generating unit to the extent it is generated from municipal solid waste; (5) use of an alternative fuel which the source is capable of accommodating; and (6) an increase in the hours of operation, or the production rate. The last two exemptions can be used ony if the corresponding change is not prohibited by certain permit conditions established after January 6, 1975.

If a source or modification thus qualifies as major, its prospective location or existing location must also qualify as a PSD area, in order for PSD review to apply. A PSD area is one formally designated by the state as "attainment" or "unclassifiable" for *any* pollutant for which a national ambient air quality standard exists. This geographic applicability test does not take into account what new pollutant emissions caused the construction to be major. It looks simply at whether the source is major for any pollutant and will be located in a PSD area.

Once a source applicant has determined that proposed construction falls under PSD based on the above size and location tests, it must then assess whether the pollutants the project would emit are or are subject to PSD. If a new major stationary source emits pollutants for which the area it locates in is designated nonattainment, then the source is exempt from PSD review for those pollutants. These sources must, however, meet the applicable requirements of NSR for each nonattainment pollutant. Similarly, if a major modification to be constructed in a PSD area involves changes only for nonattainment pollutants then the source is not subject to PSD. These modifications must meet the appropriate nonattainment NSR under the SIP for the pollutant. Once the question of NSR jurisdiction is resolved, then the PSD review applies to all signficant emissions increases of regulated air pollutants. Specific numerical cutoffs which define what emissions increases are "significant" have been spelled out in the regulations. These pollutant-

V 4 5 / 1 5 4
A G 7 8 0
UMI

specific cutoffs can exempt a source from PSD review for a particular pollutant, except where the proposed construction would adversely impact a Class I area.

If a proposed source or modification would be subject to PSD review based on size, location, and pollutants emitted, then its construction schedule must meet certain tests before the PSD rules promulgated today would apply. All major construction otherwise qualifying for PSD review would not need a PSD permit under these regulations if the proposed construction: (1) was subject to the old PSD rules, has submitted a complete application under these rules before today, and was or is subsequently approved to construct based on this application; or (2) was not subject to the old PSD rules, has received all federal, state, and local air permits needed before today and commences construction in a continuous fashion at the proposed site within a reasonable time.

Finally, the PSD regulations contain some specific exceptions for some forms of source construction. The requirements of today's regulations do not apply to any major stationary source or major modification that is: (1) a nonprofit health or educational institution (only if such exemption is requested by the governor); or (2) a portable source which has already received a PSD permit and proposes relocation.

C. What Must A Source or Modification Do To Obtain A PSD Permit?

1. It must apply the best available control technology.

Any major stationary source or major modification subject to PSD must conduct an analysis to ensure application of best available control technology (BACT). During each analysis, which will be done on a case-by-case basis, the reviewing authority will evaluate the energy, environmental, economic and other costs associated with each alternative technology, and the benefit of reduced emissions that the technology would bring. The reviewing authority will then specify an emissions limitation for the source that reflects the maximum degree of reduction achievable for each pollutant regulated under the Act. In no event can a technology be recommended which would not meet any applicable standard of performance under 40 CFR Parts 60 and 61.

In addition, if the reviewing authority determines that there is no economically reasonable or technologically feasible way to accurately measure the emissions, and hence to impose an enforceable emissions standard, it may require the source to use source design, alternative equipment, work practices or operational standards to reduce emissions of the pollutant to the maximum extent. For example, if an immense pile of uncovered coal emits coal dust into the atmosphere, it woud make little sense to impose an emission, standard, since measuring the amount of coal dust rising off the pile is nearly impossible. A much more direct approach to controlling emissions is, for example, requiring the owner to wet the coal pile daily. This type of standard or practice will be equivalent to an emissions limitation for purposes of the BACT requirement.

2. It must conduct an ambient air quality analysis.

Each PSD source or modification must perform an air quality analysis to demonstrate that its new pollutant emissions would not violate either the applicable NAAQS or the applicable PSD increment. This analysis ensures that the existing air quality is better than that required by national standards and that baseline air quality will not be degraded beyond the applicable PSD increment.

Each proposed major construction project subject to PSD must first assess the existing air quality for each regulated air pollutant that it emits in the affected area. This analysis requirement does not apply to pollutants for which the new emissions proposed by the applicant would cause insignificant ambient impacts. Today's PSD regulations define pollutant-specific impacts that are typically considered inconsequential and that can be exempted from analysis, unless existing air quality is poor or adverse impacts to a Class I area are in question. For pollutants for which a NAAQS exists, the applicant must provide ambient monitoring data that represent air quality levels in the year's period preceding the PSD application. Where no existing data are judged representative or adequate, then the source applicant must conduct its own monitoring program. This is often the case where the applicant will be establishing the baseline concentration for the affected area. Typically air quality dispersion modeling is used by applicants to support or extend the assessment made with gathered monitoring data. For pollutants for which there is no NAAQS, the required analysis will normally be based on dispersion modeling alone.

Source applicants who are subject to the ambient analysis requirement for sulfur dioxide or particulate matter must also perform an analysis to compute how much of the PSD increment remains available to them. In general the amount of increment that is available depends on certain changes in actual emission. First, actual emissions changes occurring after January 6, 1975 which are associated with physical changes or changes in the method of operation at a major stationary source can affect the available increment. Accordingly, cleanup adds to the available growth margin while new emissions diminish it. Second, all changes in emissions, including those from minor sources and other types of changes at major sources, affect the available increment provided they occur after the baseline date. The baseline date is essentially the time that the first PSD application affecting the area is filed.

Once the question of how much increment remains is resolved, then the applicant must demonstrate that his proposed new emissions would not exceed the remaining PSD increment. Where a proposed project would cause a new violation of the increment or contribute to an existing violation, it cannot be approved. Existing violations must be entirely corrected before PSD sources which affect the area can be approved.

3. It must analyze impacts to soils, vegetation, and visibility.

An applicant is required to analyze whether its proposed emissions increases would impair visibility, or impact on soils or vegetation. Not only must the applicant look at the direct effect of source emissions on these resources, but it also must consider the impacts from general commercial, residential, industrial and other growth associated with the proposed source or modification. The results of this analysis may be used to determine if the project would have an adverse impact on a Class I area.

4. It must not adversely impact a Class I area.

If the reviewing authority receives a PSD permit application for a source that could impact a Class I area, it will immediately notify the Federal Land Manager and the federal official charged with direct responsibility for managing these lands. These officials are responsible for protecting the air quality-related values in Class I areas and for consulting with the reviewing authority to determine whether any proposed construction will adversely affect such values. If the Federal Land Manager demonstrates that emissions from a proposed source or modification would impair air quality-related values, even though the emissions levels would not cause a violation of the allowable air quality increment, the Federal Land Manager may recommend that the reviewing authority deny the permit.

5. Its application must undergo adequate public participation.

The regulations solicit and encourage participation by the general public, industry, and other affected persons impacted by the proposed major source or major modification. Specific public notice requirements and a public comment period are required before the PSD review agency takes final action on a PSD application. The public notice must indicate whether the reviewing authority proposed permit approval, denial, or conditional approval of a proposed major source or major modification. Consideration is given to all comments received provided they are relevant to the scope of the review. Where requested, or at its own discretion, the reviewing authority may conduct a public hearing to help clarify the issues and obtain additional information to assist in making a final permit decision.

6. It must start construction on time.

The source owner, once receiving a PSD permit, must start construction within a reasonable period of time (typically within 18 months of approval) and must stay on a continuous construction schedule. Normally, long delays will invalidate the permit.

II. Background

On August 7, 1977, the President signed the Clean Air Act Amendments of 1977 (1977 Amendments) into law. Those amendments established, in the form of Part C of Title I of the Clean Air Act (CAA), a set of requirements for the prevention of significant deterioration (PSD) of air quality in "clean air" areas. Sections 160–69, 42 U.S.C. 7470–79. The requirements for preconstruction review of new stationary sources and modifications in Part C follow the outline of the PSD regulations that EPA promulgated in 1974, but are more elaborate and in many ways more stringent. Part C also requires that each state implementation plan (SIP) contain the new PSD requirements.

In response to Part C, EPA promulgated two sets of PSD regulations on June 19, 1978. One set specified the minimum requirements that a PSD SIP revision would have to contain in order to warrant EPA approval. *See* 43 FR 26380 (codified at 40 CFR 51.24 (1979)) (hereinafter, the "1978 Part 51 regulations") The other set comprehensively amended the 1974 PSD regulations, incorporating into them the new Part C requirements. 43 FR 26388 (codified at 40 CFR 52.21 (1979)) (hereinafter, the "1978 Part 52 regulations"). EPA intended that, until it had approved a PSD SIP revision for a state, the permitting of new sources and modifications for PSD purposes would continue under the 1978 Part 52 regulations.

On June 18, 1979, the United States Court of Appeals for the District of Columbia Circuit issued a decision that upheld some of the substantive provisions of both the 1978 Part 51 and Part 52 regulations and overturned others. *Alabama Power Company v. Costle,* 13 ERC 1225. In its opinion, the court merely summarized its holdings, but promised to issue supplemental opinions after it had considered any petitions for reconsideration. In an order that accompanied the summary opinion, the court stayed the effect of its decision until it had issued the supplemental opinion. The purpose of that procedure, the court explained, was "to enable EPA to proceed as soon as possible to commence rulemaking or other proceedings necessary to promulgate those revisions in the PSD regulations required by [the court's] rulings * * *." *Id.* at 1227.

By a notice that appeared in the Federal Register for September 5, 1979, EPA began the process the court had in mind. 44 FR 51924. There EPA proposed various amendments to the PSD regulations that were to replace the provisions the court had held invalid, for instance, the definitions of "source," "modification," and "potential to emit." EPA also proposed amendments that were to add entirely new provisions to supplement the replacement provisions, for instance, the *de minimis* exemptions.

Prior to September, EPA had issued, also in response to the 1977 Amendments, various regulations and guidelines relating to the construction of new sources and modifications in and near "nonattainment" areas. In January 1979, the Agency revised its Emission Offset Interpretative Ruling ("Offset Ruling"), which now appears at 40 CFR Part 51, Appendix S (1979). Then, in April 1979, EPA issued a guideline entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas." 44 FR 20372.[1] Finally, in July 1979, EPA issued an interpretative rule concerning certain statutory restrictions on new construction in nonattainment areas. 44 FR 38471 ("construction moratorium").[2] EPA also asked for comment on certain issues concerning new construction in such areas. 44 FR 38583.

In the September Federal Register notice, EPA also proposed various changes to those nonattainment regulations and guidelines. The purpose of those changes generally was to conform those regulations and guidelines to the decisions in *Alabama Power* concerning the statutory terms "source," "modification," and "potential to emit."

On September 18, 1979, EPA announced that it would hold public hearings on the September proposal on October 15 and 16 in Washington, D.C., and on October 18 and 19 in San Francisco. *See* 44 FR 54069. At the same time, the Agency set November 18 as the deadline for submitting information rebutting or supplementing any presentation at the hearings. Subsequently, EPA held the public hearings as scheduled.

On October 4, 1979, EPA announced various corrections to technical errors in the September proposal. 44 FR 57107. At the same time, it extended the period for submitting written comments until November 5, 1979. It added that it would hoid the rulemaking docket open until November 18, 1979, not only for information rebutting or supplementing any presentation at the hearings, but also for information rebutting or supplementing any written comment.

On November 9, 1979, EPA announced that it had recently released for public comment a draft of a revision of the *Ambient Monitoring Guideline for Prevention of Significant Deterioration (PSD)* (OAQPS 1.2–096), which the Agency had originally published in May 1978. 44 FR 65084. EPA also announced that it would accept any written comments on the draft until December 10, 1979.

On December 14, 1979, the Court of Appeals handed down its final opinion in *Alabama Power.* 13 ERC 1993. Subsequently, in order to avoid the uncertainty and confusion that would occur in PSD permitting if the final opinion came into effect before EPA completed the rulemaking, EPA and many of the other parties to the litigation petitioned the court to keep the final opinion from coming into effect until June 2, 1980. On March 14, 1980, the court granted the request.

On May 30, 1980, EPA and other parties to the litigation again petitioned the court, requesting a further extension of time until July 18, 1980. The court granted an extension, to July 28, on June 23, 1980.

On January 30, 1980, EPA announced that it would reopen the rulemaking docket for the receipt of written

[1] For supplements to the General Preamble, *See* 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 51924, 51928–29 (September 5, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979).

[2] For a fuller description of those nonattainment regulations and guidelines, *See* 44 FR 51925 and 45 FR 31304–05.

V 45 / 154 AG 7 80 UMI

comments on various aspects of the rulemaking, including the final opinion of the court, certain issues that the Agency described in the notice, the redraft of the monitoring guidelines, and various meetings between EPA and others. 45 FR 6802.

On February 5, 1980, EPA issued a stay of the 1978 Part 52 PSD regulations as to certain sources and modifications. 45 FR 7800. The stay was effective as of January 30, 1980. Its purpose was "to relieve from the permitting requirements of the 1978 PSD regulations roughly those sources and modifications that would not be subject to the permitting requirements of valid replacement regulations that would comport with the *Alabama Power* opinion." *Id.*

On May 13, 1980, EPA promulgated a stay of the Offset Ruling and the construction moratorium that is similar to the PSD stay. *See* 45 FR 31304. On the same day, EPA promulgated certain amendments to the Offset Ruling, the regulations relating to new source review at 40 CFR 51.18, and the construction moratorium. Those amendments established the geographic applicability of the various nonattainment requirements relating to the construction of new sources and modifications. 44 FR 31307. Those amendments embody EPA's responses to many of the comments on the September proposal.

Finally, on May 19, 1980, EPA promulgated regulations aimed at consolidating and unifying various permit requirements and procedures. 45 FR 33290. Those new regulations contain provisions which will govern the processing of applications for permits under the new Part 52 PSD regulations.

During the course of the rulemaking that EPA began in September, it received approximately 375 written comments. The discussion that follows summarizes the proposals, the comments on them, EPA's responses, and the final provisions.

III. Highlights

Several significant changes from the September 5, 1979 proposal have occurred. These changes include the addition of certain provisions not addressed by the September 5, 1979 proposal but which are necessary under the Act. Several regulatory provisions which are unchanged in substance by today's notice have also been reprinted to clarify the effects of any revised paragraph numbering.

A. *Transition:* The proposed transition scheme for phasing in the additional monitoring requirements has been expanded to require no new monitoring requirements for PSD applications submitted and complete within 10 months of the promulgation date. In addition, today's rules allow less than a full year of monitoring data to be included with PSD applications filed after the above times but before 18 months after the promulgation date. PSD applications filed later than 18 months from the date of promulgation will be subject to the full new monitoring requirements.

B. *Potential To Emit:* Potential to emit is the maximum design capacity of the source, except as constrained by federally enforceable permit conditions. This would include permit conditions restricting hours or type of source operation.

C. *50-Ton Exemption:* Today's regulations essentially delete the "50-Ton Exemption" for both nonattainment and PSD. The eligibility date for the section 165(b) exemption has been changed from August 7, 1977 to March 1, 1978.

D. *Fugitive Emissions:* For the purpose of PSD and nonattainment, "fugitive emissions" now means those emissions released directly into the atmosphere, which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. Fugitive emissions are not to be considered in determining whether a source would be a major source, except when such emissions come from specified source categories.

E. *Fugitive Dust:* Today's regulations promulgate the proposed deletion of the "fugitive dust exemption" from the applicable provisions of both PSD and the Offset Ruling.

F. *Stationary Source:* The definition of source for PSD purposes has been made more liberal than the previous regulations. Under today's rules, a PSD source is a grouping of all pollutant emitting activities at one location and owned or under the control of the same person or persons. This generally relates to the common notion of a plant. Smaller portions of such a plant no longer will be examined for applicability purposes. For added clarification, pollutant-emitting activities will now be considered part of the same "plant" if they belong to the same "major group" as described in the Standard Industrial Classification Manual. At this time, however, the Agency has decided not to change its previous approach to defining source for nonattainment purposes. Therefore, today's rules continue to incorporate the "dual definition" concept of source which requires consideration of overall emissions from a "plant" and from each "installation" within that plant. In a change from the proposal, this dual definition will apply to major sources in all nonattainment areas designated under section 107 of the Act, regardless of SIP approvability or degree of completion.

G. *Modification:* The definition and treatment of modifications have been changed since the September 5, 1979 proposal. The concept of accumulating minor changes made at an existing minor source until the sum was equivalent to a major stationary source has been deleted. Rather, a source must now qualify as a major stationary source prior to making a modification to become subject to review, unless the change itself is greater than 100 or 250 tons per year. Contemporaneous changes now generally refer to emissions increases and decreases occurring within the same 5-year time period unless the state opts for a different time period in its Part D SIP or PSD program. Reductions, to be creditable, must be enforceable under the SIP before the contemporaneous emission increase would begin construction. Such reductions, as well as significant increases, will be quantitatively assessed on the basis of an "actual emissions" baseline, rather than a "potential to emit" baseline, as was proposed. "Reconstruction" (*i.e.*, 50% or more capital replacement) has been deleted from PSD but has been retained for nonattainment NSR, including the prohibition on construction.

H. *"De Minimis" Exemptions:* Three types of changes from the September 5 proposal appear in today's regulations: (1) different numbers have been developed for defining significant emissions from new sources and significant net emissions increases from modifications; (2) new air quality *de minimis* numbers have been generated and can only be used to exempt PSD sources from the ambient monitoring requirements; and (3) a ten kilometer proximity cutoff has been specified to indicate when a source, regardless of pollutant emissions, must be prepared to demonstrate that no 24-hour impact greater than 1 $\mu g/m^3$ would occur in the Class I area.

I. *Geographic Applicability:* PSD will generally apply only if the otherwise subject major construction locates in a section 107 area which is designated attainment or unclassified under section 107 for any criteria pollutant (regardless of what pollutants the proposed construction would emit or what pollutant qualified it as major). An exception to this rule is that no PSD permit is required for major construction which emits only the pollutant for which the area of location is nonattainment.

J. *Pollutant Applicability:* Any net significant emissions increase of any pollutant subject to regulation under the Act (not just those pollutants for which the source is major) now qualifies as a PSD modification. Nonattainment review will continue to focus on only the major nonattainment pollutant. No PSD review will be required for a given criteria pollutant, if a source would construct in an area designated nonattainment for that pollutant.

K. *Baseline Area/Date:* Baseline area now refers to all section 107 areas which are designated attainment or unclassified for PM or SO_2 (as may be redesignated) in which the PSD source triggering the baseline date would locate or would have an annual air quality impact equal to or greater than 1 $\mu g/m^3$. Interstate impacts, however, do not trigger baseline date. This differs from the proposal, which focused on the AQCR rather than the designated area. Baseline dates are pollutant specific and can be established by the first PSD application of a source with significant emissions of the applicable pollutant. States will have the flexibility to redesignate clean or unclassified areas under section 107 and thereby remove baseline dates for certain areas. However, no redesignation may subdivide the impact area (>1 $\mu g/m^3$) of the source triggering a baseline date.

L. *Best Available Control Technology:* Today's regulations reflect the proposal with one exception. A provision has been added that requires BACT for modifications only when both a net emissions increase occurs at the changed unit(s) and a significant net emissions increase occurs at the plant; BACT applies only to the units actually modified.

M. *Monitoring:* The proposed transition scheme for phasing in the additional monitoring requirements will provide relief for sources covered under the existing regulations that are in the process of monitoring and offer allowances for setup time of monitors in gathering the required data.

N. *Notification:* The notification provisions appearing in the September 5, 1979 proposal have been deleted from today's regulations.

O. *PSD SIP Revisions:* The requirements proposed on September 5 for governing the development of PSD SIP submittals are essentially unchanged. These regulations allow limited flexibility in the development of different but equally effective state plans.

P. *Increment Consumption:* A discussion has been included in the preamble to summarize the effects that the *Alabama Power* decision has had on increment tracking. This section also discusses how certain SIP related issues are to be addressed, such as the Gulf Coast problem (SIP shows a theoretical increment violation in a clean area, unrelated to actual air quality impact) and temporary SIP relaxations. (SIP would be relaxed and only temporary emissions would occur.)

Q. *Public Participation:* The requirements of paragraph (r) of § 52.21 have been replaced with the public participation procedures associated with the consolidated permit regulations (40 CFR 124).

IV. Transition

This section focuses on those provisions of the final PSD and nonattainment regulations which govern the transition from the preexisting requirements to the new ones. It begins with a discussion of the new transition provisions of the Part 52 PSD regulations and then deals in turn with the transition provisions of the Part 51 PSD regulations, the Offset Ruling, the Part 51 nonattainment regulations, and finally the construction moratorium.

A. Part 52 PSD Regulations

The new transition provisions of the Part 52 PSD regulations fall into three categories: those that relate to the new coverage of the regulations, those that relate to the new requirements for best available control technology (BACT) and air quality assessments, and those that relate to the new procedural requirements. The discussion which follows deals with each in that order.

1. *Coverage.*

a. *Proposed transition provisions:* The preconstruction permit requirements of the 1978 Part 52 regulations applied to a certain class of projects that emit or would emit pollutants. The keystone of those regulations, section 52.21(i)(1), provided that "[n]o major stationary source of major modification shall be constructed unless the [permit] requirements of [the Part 52 regulations] have been met." It established the general rule that the permit requirements applied to any "major stationary source" or "major modification." The balance of section 52.21(i) then listed certain exceptions to that general rule. The main exceptions established various "grandfather" exemptions. The permit requirements of the regulations applied, therefore, to any pollutant-emitting project that was "major" and had no "grandfather" status.

In September 1979, EPA proposed to establish new Part 52 PSD regulations whose coverage would be substantially different from that of the 1978 regulations. First, it proposed to define "major stationary source" differently than it had defined that term in the 1978 regulations. Under the 1978 regulations, whether a "source" was "major" depended upon whether its "potential to emit" any pollutant regulated under the Act would equal or exceed certain thresholds. "Potential to emit" referred largely to the maximum rate at which a "source" would emit a pollutant *without* control equipment. Under the amendments that EPA proposed in September, "potential to emit" would be the maximum rate at which a "source" would emit a pollutant *with* control equipment. Second, EPA proposed to define "major modification" differently than it had defined that term in the 1978 regulations. There, a "major modification" was any change at a "source" that would increase the "potential to emit" of the "source" by 100 tons per year of any pollutant regulated under the Act, or 250 tons per year, depending on source type and ignoring any emission reductions. Under the amendments that EPA proposed in September, "major modification" would have become any change at a "source" that would result in a *significant net* increase in the "potential to emit" of the "source." "Significant" is defined as emissions greater than certain *de minimis* values. Finally, EPA proposed to limit the geographic applicability of the PSD permit requirements by adding an exception to section 52.21(i) that would exclude a "source" or "modification" from PSD review on the basis of its location.[3]

Amendments of the sort that EPA proposed in September would have left many projects that previously fell or would have fallen within the coverage of the 1978 Part 52 regulations outside the coverage of the resulting Part 52 regulation. For instance, many new "sources" that were "major" under the 1978 regulations would not have been "major" under the proposed amendments, because while their maximum uncontrolled emissions would exceed the applicable thresholds, their maximum controlled emissions would not.

Of those projects that were or would have been subject to the PSD permit requirements under the 1978 PSD regulations, but not under the proposed

[3] Specifically, EPA proposed that the permit requirements would apply only to any "major stationary source" or "major modification" that would be located in an area designated under section 107 of the Act as attainment or unclassifiable for a pollutant for which the "source" or "modification" would be major or would significantly impact an area in another state which is designated as attainment or unclassifiable for any such pollutant.

V 45 / 154
AG 7 80
UMI

amendments, some have already received a PSD permit, while others have not. In September, EPA proposed to put both sets of projects outside the reach of the permit requirements as soon as possible by putting the new definitions of "potential to emit" and "modification" and the new limitation on geographic applicability into effect immediately upon their promulgation. *See* 44 FR 51927. But EPA also proposed that any permit that had already been issued would remain in effect, binding and particular project to its terms, until the permit had been rescinded under a proposed paragraph (w) or had expired under an existing paragraph (s). *See id.* at 51927, 51956. Under paragraph (w), a permittee would have been able to obtain rescission only if the permittee filed a complete application with the issuing authority within 90 days after paragraph (w) had come into effect.

Amendments of the sort that EPA proposed in September would also have brought some projects that previously fell or would have fallen outside the coverage of the 1978 regulations inside the coverage of the Part 52 regulations. For instance, many changes at a "source" that would result in a *gross* increase in "potential to emit" well below 100 or 250 tons per year might nevertheless result in a significant net increase.

In September, EPA proposed to exempt from PSD review certain of these projects that fell or would have fallen beyond the reach of the PSD permit requirements under the 1978 regulations, but not under the proposed amendments. In particular, EPA proposed to "grandfather" any such project which before the promulgation of the new amendments had received each preconstruction permit that the state implementation plan (SIP) required and which will have "commenced" construction within 18 months after promulgation. *See id.* at 51928 (first column), 51953 (proposed § 52.21(i)(7);) 44 FR 57108 (items B(1) and (C)(2)).

Finally, EPA proposed to add another new grandfather provision to § 52.21(i). That provision would have stated that the permit requirements of those regulations do not apply to any "source" or "modification" on which construction "commenced" before August 7, 1977, the date of enactment of the 1977 Amendments. *See id.* at 51928 (first column), 51953 (proposed § 52.21(i)(3)). The purpose of the proposal was merely to state in regulatory form what section 168(b) of the Act, 42 U.S.C. 7478(b), already provides.

b. *Comments and final action on the proposed transition provisions relating to coverage:* EPA received no comments on its proposal to put the new definitions of "potential to emit" and "modification" and the new limitation on geographic applicability into effect immediately upon promulgation. EPA therefore has put those provisions into effect as of the date this notice appears in the **Federal Register**. Some projects that were within the coverage of the 1978 Part 52 regulations, but have yet to receive a PSD permit, are now outside the coverage of the new Part 52 regulations, since the prohibition on construction without a permit in § 52.21(i)(1)(i) no longer applies to them. As a result, construction on them may begin immediately.[4] Because further delay is pointless, and might be harmful in some cases, EPA finds that it has "good cause" to put the new applicability provisions into effect immediately upon promulgation, within the meaning of section 4(d)(3) of the Administrative Procedure Act (APA), 5 U.S.C. 553(d)(3). *See also* APA 4(d)(1), 5 U.S.C. 553(d)(1).

EPA did receive numerous comments on its proposal to rescind certain permits, and to treat them as binding unless and until rescinded. While one commenter agreed with the proposal, most did not. They objected primarily to two aspects of the proposal: first, that it would place on the permittee the dual burden of coming forward with an application for rescission and of providing proof that the project in question does fall outside the coverage of the new Part 52 regulations and, second, that it would bar rescission if the permittee failed to file a complete application within a certain period of time. The commenters argued that EPA had no authority originally to require a permit for any project that falls outside the coverage of the new regulations and that it therefore has no authority now either to place the burden of coming forward and of proof on a permittee or to keep a rescindable permit in effect merely because of a failure to file a complete application for rescission by a certain time.

In response, EPA has promulgated a new provision, § 52.21(w), which does place the burden of coming forward and of proof on the permittee, but imposes no deadline for filing an application. Whether EPA had authority originally to require a permit for a project that falls outside the coverage of the new regulations is immaterial. EPA has authority under section 301(a)(1) of the Act, 42 U.S.C. 7601(a)(1), to fashion within reason the regulatory tools it needs to carry out its tasks. Here EPA has undertaken not only to release certain PSD permittees from the constraints of their PSD permits, but also to settle as finally, as publicly, and as quickly as possible which old permits are binding and which are not. Prospective applicants, in order to prepare applications, and permitting authorities, in order to meet their obligations under the PSD regulations, must assess increment consumption. Confusion and uncertainty over whether particular projects are subject to the emissions limitations in their PSD permits can only frustrate efforts to assess increment consumption. New § 52.21(w) maximizes EPA's ability to perform satisfactorily the tasks it has undertaken.

First, by stating explicitly that a permit generally remains in effect until rescinded, § 52.21(w) gives each permittee with a rescindable permit a strong reason to bring it before the reviewing authority as soon as possible. Second, by putting the burdens of coming forward and of proof on the permittee, § 52.21(w) ensures that the reviewing authority will spend its time efficiently and will have adequate information with which to make a sound decision. Third, by establishing that only the reviewing authority may rescind a permit, the provision promotes the soundness and therefore the finality of the rescission, since the reviewing authority will have the expertise and objectivity necessary to check adequately whether the permittee has applied the intricate applicability rules correctly. Finally, by requiring that the reviewing authority publish each rescission, § 52.21(w) ensures that the status of each permit will be in the public record.

Certain commenters suggested two alternatives to EPA's proposed rescission provision. One alternative was to declare upon promulgation that any PSD permit for a project that falls outside the coverage of the new regulations is null and void as of that time, but that any permittee which concludes it holds such a permit must send the reviewing authority a bare notice of that conclusion. The other alternative was to require any such permittee to send the reviewing authority an application for rescission and to establish that the failure of the reviewing authority to act on the application within a certain period would operate to grant the application. EPA has decided to adopt neither alternative. Under both, a project that should not be able to escape PSD

[4] The partial stay of the 1978 regulations that EPA issued in January 1980 has probably already relieved most of those projects from the permit requirements of those regulations.

constraints would be able to escape them merely because of an oversight or a manpower deficiency. EPA, however, has no authority to allow escape from review on that basis.

Certain commenters also objected to other aspects of the proposed rescission provision. In particular, one commenter asserted that proposed § 52.21(w)(3), which would say that "[t]he permitting authority may approve" an application that does show that the permit is rescindable, should state instead that "[t]he permitting authority *shall* approve" such an application. (Emphasis added.) EPA agrees, and has placed the necessary mandatory language in the final provision. Other commenters urged that the final provision recognize the possibility that a permittee may wish to obtain rescission of only certain elements of a permit. In response, EPA has introduced language under which the reviewing authority may rescind only certain elements, if that is appropriate in the particular case.

With respect to the rescission provision, it should be noted that rescission of a permit would in no way affect any other limitations on the project that may apply by virtue of the SIP or a state permit. It should also be noted that, if a source or modification whose permit is rescinded were later found to be causing or contributing to an increment violation, additional controls might be necessary. *See* 40 CFR 51.24 (a)(3)(1979).

EPA received many comments on its proposal to "grandfather" certain projects that fall outside the coverage of the 1978 regulations, but not the new Part 52 regulations. Two commenters, while not focusing specifically on that proposal, expressed general opposition to "grandfathering" any project that would otherwise fall within the coverage of the new regulations. In its view, EPA should adhere to the transitional rules that it established in the 1978 regulations, so that in general a project would escape PSD review under the new Part 52 regulations only if certain permits were obtained for it by March 1, 1978, and construction "commenced" on it by March 19, 1979.

EPA disagrees that it should or must adhere to the transitional rules in the 1978 regulations in deciding which of the projects in question here should have to get a PSD permit. Part C of Title I of the Act contains two provisions, sections 165(a) and 168, which describe how the PSD permit requirements of Part C are to be implemented. Those sections, however, contradict each other irreconcilably. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 851–54, 860–73 (D.C. Cir., 1979). EPA has authority under section 301(a)(1) of the Act, therefore, to set transitional rules which accommodate reasonably the purposes and concerns behind the two contradictory provisions. *See id.* at 873–74.

The court in *Citizens to Save Spencer County* identified those "considerations" as follows:

> (1) enhanced protection of the environmental quality of the nation's air; (2) minimization of economic dislocation and loss as a result of such enhanced protection; (3) a heightened enforcement role for states * * *; and (4) facilitation of an efficient administrative transition from enforcement of the "old" to "new" preconstruction review requirements. (*Id.* at 889 (footnotes omitted).)

Here, the proposed grandfather provision would reasonably accommodate those considerations. Most of the projects in question are modifications that would result in a significant net increase in the maximum controlled emissions of the "source," but not in a gross increase in uncontrolled emissions equal to or above 100 or 250 tons per year. This discrete group of small modifications, even in the aggregate, have a relatively minor effect on air quality. But, because they are numerous, delaying them by imposing new PSD requirements could frustrate economic development. The proposed provision would strike a rough balance between the benefits and the cost of applying PSD to those projects by allowing any company that has already obtained each of the preconstruction permits otherwise necessary under the SIP to proceed to construction without delay. To require such a company to obtain a PSD permit could mean substantial delays. To impose such delays here would be excessive.[5]

One commenter urged EPA to promulgate a grandfather provision that would use the date of complete application instead of the date of permit issuance. The commenter was concerned that the proposed provision would treat unfairly a company that obtained the last permit necessary under the SIP just a day or two after the date this notice appeared in the **Federal Register**. Use of such a date, however, might exempt many more projects from review. Hence, in EPA's view, it would fail to give adequate expression to the interests behind section 165, especially the goal of protecting air quality.

[5] Even if the conflict between sections 165(a) and 168 had not conferred on EPA the discretion to exempt certain projects that would otherwise be subject to PSD review for the first time, EPA would have authority under section 301(a)(1) to exempt those projects in order to phase-in new requirements on a reasonable schedule.

Certain commenters pointed out that a company might be unable to "commence construction" within the proposed 18-month period, because it might be unable to get sufficiently in advance any preconstruction permits that federal or state law outside the SIP might require. They recommended that EPA set the deadline 18 months from issuance of the last necessary federal authorization. That recommendation parallels a proposal EPA made in July 1979 to amend the grandfather provisions of the 1978 regulations so as to extend the "commence" construction deadlines in those provisions generally to a date nine months from the issuance of the last necessary federal authorization. *See* 44 FR 42722. EPA has not yet completed that rulemaking. When it does, it will decide whether to accept the recommendation of the commenters here.

EPA has decided to promulgate the grandfather provision basically as proposed. *See* § 52.21(i)(4)(v). The final provision contains the following clause: "the owner or operator * * * obtained all final federal, state and local preconstruction approvals or permits necessary" under the SIP by a certain date. EPA intends that clause to refer only to the date on which the reviewing authority issues the permit. For emissions increases as a result of SIP relaxations, the appropriate date is the effective date of final EPA approval. Because of the construction moratorium, 40 CFR 52.24, 44 FR 38471, some SIP permits may be issued before the time that the owner or operator is allowed to begin construction. Nevertheless, in EPA's view, the owner or operator "obtains" the permit when the reviewing authority issues it, even if permission to begin construction takes effect subsequently.

EPA received no comments on its proposal to put into regulatory language the provision in section 168(b) of the Act that only the PSD regulations in effect before August 7, 1977, apply to any project on which construction "commenced" by then. Hence, EPA is promulgating that provision basically as proposed. *See* section 52.21(i)(4)(i).

2. *Substantive Provisions Relating to BACT.*

a. *Proposed transition provisions:* In September, EPA proposed certain new substantive requirements. One of the new requirements was that a project apply BACT for each pollutant regulated under the Act that the project would emit in a significant, but "minor" amount. Under the 1978 Part 52 regulations, a project has to apply BACT only for each pollutant regulated under the Act that the project would emit in a

"major" amount. EPA added that it intended to put the new BACT requirement into effect immediately upon its promulgation.

In proposing the new BACT requirement, EPA also proposed to exempt certain projects from it. In particular, the Agency proposed not to apply the requirement to any project whose application for a PSD permit was complete before the requirement came into effect. *See* 44 FR 51928, 51954 (proposed § 52.21(j)(2)).

b. *Comments and final action on proposed transition provisions relating to BACT requirements:* In general, those commenting on the proposal to grandfather any project whose application was complete before the date of publication of this notice from the new BACT requirement favored such an exemption for at least those projects. Only two commenters, the same two who opposed the grandfather provision discussed above, opposed such an exemption for any project. They argued that EPA should adhere to the transitional rules that it established in the 1978 regulations, so that the new BACT requirements would apply to any project that fell or would fall within the coverage of those regulations, even to those which have already received a PSD permit.

EPA disagrees that it should or must adhere to the 1978 transitional rules in applying the new BACT requirements. As discussed above, the court in *Citizens to Save Spencer County* held that EPA has a "responsibility to harmonize the statutory provisions [sections 165(a) and 168] so as to implement the congressional mandate that new federal preconstruction review requirements be instituted promptly but with minimum economic dislocation." 600 F.2d at 851. Requiring a company which has already received a permit, or completed application for one, to amend project designs and permit applications to include BACT for pollutants to be emitted in "minor" amounts would hardly minimize economic dislocation. To the contrary, it would delay construction substantially in many cases. The benefits of that delay in those cases would probably fail to counterbalance its cost, since the new BACT requirements would apply only to pollutants this discrete group of projects would emit in "minor" amounts. Thus, applying the new BACT requirements retroactively to projects that already have a permit or a complete application would fail to give adequate expression to the economic considerations behind section 168.

Another commenter argued that the proposal did not go far enough, in that it would require companies which on the date of promulgation were just about to file a complete application to amend project designs and applications. The commenter urged EPA to apply the new BACT requirement only to projects whose applications were not complete within one year after the date of publication of this notice in the Federal Register. That alternative, however, would fail to give adequate expression to the environmental considerations behind section 165(a). EPA therefore has rejected it, too.

Instead, EPA has decided to adopt a provision like the proposal which exempts from the new BACT requirements any project whose application was complete before this notice appears in the Federal Register. *See* § 52.21(i)(9). EPA believes that the final provision reasonably accommodates the purposes and concerns behind sections 165(a) and 168.[6]

The final provision differs from the proposed provision somewhat. First, it appears in paragraph (i), instead of paragraph (j), the provision that sets forth the general BACT requirement. EPA has sought to gather each of the exemption provisions into paragraph (i). Second, the new exemption provision exempts an eligible project from the new BACT requirement entirely, but adds that the project is subject to the BACT requirements of the 1978 regulations, if they would otherwise have applied. The purpose of that structure is in part to assure that BACT would apply to a pollutant for which the project would be "major" under the 1978 regulations, but "minor" under the new Part 52 regulations due to the new concepts of "potential to emit" and "modification."

The final Part 52 regulations contain a definition of the term "complete" in reference to an application. Under that definition an application becomes "complete" when it contains all of the information necessary for application processing.

It should be noted, finally, that the date an application was complete will generally differ from the date on which the reviewing authority makes its completeness determination, since the filing of the last necessary piece of information will typically occur before the determination is made. When EPA makes a completeness determination, it will specify the date as of which the application was "complete." That date will be the date on which the last necessary piece of information was received. One of the provisions of the Consolidated Permit Regulations, 40 CFR 124.3(f) (discussed below), refers to the "effective date" of an application. Generally, the "effective date" of an application will follow the date it is "complete."

3. *Substantive Provisions Relating to Air Quality Analyses.*

a. *Proposed transition provisions:* Another new substantive requirement that EPA proposed in September was that an applicant provide an analysis of air quality in the area the project would affect for each pollutant regulated under the Act that the project would emit in "minor," but still significant, amounts. Under the 1978 regulations, an applicant had to provide such an analysis only for those pollutants for which the project would be "major" and for which EPA had set a national ambient air quality standard (NAAQS). The remaining new requirement was that, if the project would emit particulate matter or sulfur dioxide in a significant amount, the analysis focus on the extent to which ambient concentrations of the particular pollutant had consumed the applicable PSD increments.

In proposing the new requirements for air quality analyses, EPA also proposed to exempt certain projects from them. In particular, EPA proposed not to apply the new requirements to any project whose application was complete before the requirements came into effect. *See* 44 FR 51928, 51954 (proposed § 52.21(n)(1)(i)).

The 1978 Part 52 regulations contained a requirement that any air quality analysis for a pollutant for which a NAAQS exists ("criteria pollutant") must generally include monitoring data gathered over and relating to the year preceding the submission of a complete application. In September, EPA proposed a reformulation of that requirement. That requirement, however, when coupled with the new requirement for an analysis for each criteria pollutant emitted in "minor" amounts, could cause a prospective applicant substantial delay. As a result, EPA also proposed to require any applicant who does not file a complete application before the date of promulgation to gather monitoring data for any such "minor" pollutant only over the period (up to one year) from the date of promulgation and the date the applicant would file an otherwise complete application. *See id.* at 51928, 51954 (proposed § 52.21(n)(1)(iii)).

b. *Comments and final action on transition provisions relating to air quality analysis requirements:* Two

[6] Even if the conflict between sections 165(a) and 168 had not conferred on EPA the discretion to exempt projects with a complete application, EPA would have authority under section 301(a)(1) to exempt them, since applying the new BACT requirements to such projects would be unfair.

commenters argued that EPA should adhere to the transitional rules of the 1978 regulations with respect to the new requirements for air quality analyses. In their view, the monitoring requirements should apply in general to any "major" project for which certain permits were not obtained by March 1, 1978, and on which construction had not commenced by March 19, 1979. Certain other commenters objected to any application of the new monitoring requirements to a company which, although it had not filed a complete application by the date of promulgation, had nevertheless previously undertaken a program of monitoring the EPA or a state had approved.

Some additional comments were directed to the proposed phase-in provision. Those comments contended that a prospective applicant would find it impossible to satisfy that provision, since the purchase, installation, and "debugging" of new monitoring equipment, together with the analysis of any new data, would require at least several months. Many commenters did note that the draft of the revision of the monitoring guideline would allow three months for those tasks, but asserted that even three months would generally be insufficient. See U.S. EPA, *(Draft) Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD),* (October 1979). Some recommended an allowance of 2–5 months, others 6–9 months, and still others more than 10 months.

A number of commenters observed that the proposed regulatory language failed to embody the intent that the preamble had described. First, the proposed exemption for each "major" project whose application was complete before the date of promulgation focused only on the new requirement for an analyses for each pollutant that the project would emit in a "minor" amount. Hence, it would have failed to shield each such project from the new requirement for an analysis for each non-criteria pollutant that the project would emit in a "major" amount. Second, the provision that would have phased-in any new monitoring requirements focused only on projects whose applications were complete by the date of promulgation. Consequently, it specified no phase-in rules for projects whose applications were not complete by then, the very projects that EPA intended the rules to benefit.

Finally, one commenter pointed out an anomaly in the proposed phase-in provision: it focused only on the new requirement, in proposed § 52.21(n)(1)(iii), that an applicant provide monitoring data for any criteria pollutant that the project would emit in "minor" amounts. As a result, the proposed provision would have required a company with a project that is "major" under the new regulations, but was not under the 1978 regulations, to gather the full amount of monitoring data for each of its "major" pollutants, but none of its "minor" pollutants. But, since the monitoring requirements would have been new for the "major" pollutants, as well as the "minor" pollutants, such a company should have protection with respect to the "major" pollutants, too.

The final transition provisions relating to the new requirements for air quality analyses adhere to the spirit of the proposed provisions, but differ substantially in structure and articulation. One of the four final provisions, § 52.21(i)(9), exempts certain sources and modifications from the new requirements with respect to monitoring entirely. It provides that those requirements shall *not* apply to a source of modification that was subject to the 1978 Part 52 regulations, if its application becomes complete on or before the date this notice appears in the Federal Register. Instead, the air quality analysis requirements in the 1978 regulations apply to the source or modification.

Two of the three remaining provisions exempt certain other sources and modifications from the new monitoring requirements for criteria and non-criteria pollutants. One of those provisions, § 52.21(i)(10)(i), exempts a source or modification that would have been subject to the 1978 Part 52 regulations from those new monitoring requirements, if its application becomes complete with respect to the requirements of the new Part 52 regulations, other than the new monitoring requirements, on or before a date ten months from the date of promulgation. The provision adds the clarification that the monitoring requirements of the 1978 regulations apply instead to the source or modification. The other exemption provision, § 52.21(i)(10(ii), is similar. It exempts a source or modification that would not have been subject to the 1978 Part 52 regulations, if its application becomes complete with respect to the requirements of the New Part 52 regulations, other than those for monitoring, on or before a date ten months from the date this notice appears in the Federal Register.

The remaining provision, § 52.21(m)(1)(v), phases-in the monitoring requirements of new § 52.21(m)(1)(iv) to the extent that they place monitoring burdens on an applicant that the 1978 Part 52 regulations would not have imposed. Section (m)(1)(iv) provides in general that any required air quality analysis for a criteria pollutant must include monitoring data gathered over a period of at least one year. However, the new phase-in provision establishes the general rule that for certain applications the required monitoring data shall have been gathered over a period at least equal to the period from the date six months from the date of promulgation to the date the application becomes complete, except as to the monitoring requirements of the new Part 52 regulations. The applications to which this provision applies are those which become complete, except as to those monitoring requirements, between the date ten months from promulgation and the date eighteen months from promulgation. The new phase-in provision then states three exceptions to that general rule. First, an applicant with a project that would have been subject to the 1978 Part 52 regulations must provide at least whatever monitoring data the 1978 Part 52 regulations would have required the applicant to provide. Second, if the Administrator determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a shorter period (not to be less than four months), the required data may be gathered over at least that shorter period. Finally, if the monitoring data would relate exclusively to ozone and would not have been required under the 1978 regulations, the Administrator may waive the otherwise applicable requirements of the phase-in provision to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

The following example illustrates how the proposed phase-in provision works. A company proposes to construct a new plant that would emit sulfur dioxide and particulate matter. Under both the new Part 52 regulations and the 1978 regulations, the plant would be "major" for sulfur dioxide and "minor" for particulate matter. The emissions of particulate matter would not be *de minimis.* But for the phase-in provision, the new Part 52 regulations would require an application for a permit for the plant to contain a year's worth of monitoring data for both sulfur dioxide and particulate matter. (This assumes that the Administrator does not determine that a complete and adequate analysis could be accomplished with data gathered over a shorter period.)

The 1978 regulations would have required the application to contain a year's worth of data for just sulfur dioxide. The company submits an application which becomes complete, except with respect to monitoring, at the end of the fifteenth month after promulgation. Under the phase-in provision, the application must contain (1) a year's worth of monitoring data for sulfur dioxide and (2) nine months' worth of data for particulate matter.

The four final provisions embody EPA's response to the comments on the proposals. First, EPA has adopted the fundamental approach of the proposal, which was to apply the new monitoring requirements prospectively only. EPA has concluded that that approach reasonably accommodates the purposes and concerns of sections 165(a) and (e)(2), on the one hand, and section 168, on the other. In brief, the approach institutes the new requirements promptly, but with minimum economic dislocation. See *Citizens To Save Spencer County* v. *EPA*, 600 F.2d at 851. Full and immediate application of the new monitoring requirements would have caused substantial delays in the submission of complete applications and hence the issuance of permits, but provided little direct environmental benefit in return. As for applicants who undertook an approved program of monitoring before the date of this notice, the phase-in provision affords them adequate protection from delay, while at the same time generally demanding as much compliance with the new monitoring requirements as possible.[7] In short, EPA disagreed with the commenters who complained that the proposals would have instituted the new requirements too late, and with those who complained that the proposals would have instituted them too soon.

Second, with respect to the new monitoring requirements for criteria and non-criteria pollutants, EPA has established a grace period of ten months in the final grandfather provisions. It has done so because it agrees with the commenters who asserted that instituting a new monitoring program and analyzing the data it generates requires more than three months in many, if not most, circumstances. EPA has selected a grace period of ten months with respect to monitoring for both criteria and non-criteria pollutants, first, because six months is an estimate of the amount of time that would generally be needed to complete those tasks and, second, because there is little usefulness to less than four months of data for most pollutants.

The promulgated provisions cure the ambiguities in the proposal observed by some commenters. Section 52.21(i)(10) exempts an eligible project from the requirements relating, not only to any non-criteria pollutant that it would emit in "minor" amounts, but also to any non-criteria pollutant that it would emit in "major" amounts. In addition, the phase-in provisions now deal explicitly with projects whose applications were *not* complete by the applicable deadline. Finally, § 52.21(i)(10) protects not only projects that were subject to the 1978 regulations, but also projects that were not subject to them.

4. *Comments on the effective date of the substantive provisions.*

In proposing the new substantive provisions relating to BACT and air quality analyses the Agency stated that it intended to put those new provisions into effect immediately upon their promulgation. One commenter contended that EPA should put the new provisions into effect 30 days after promulgation, rather than immediately on the date of promulgation, so that "potential applicants [would have] sufficient lead time in planning modifications and new sources." With respect to the new provisions relating to air quality monitoring, the 10-month grace period and phase-in provision described above should satisfy the concerns of the commenter. With respect to the new BACT provisions, however, EPA disagrees. Prospective applicants have had ample warning of the new BACT provisions. The court in *Alabama Power* held in June of 1979 that Congress intended them to be imposed and in September 1979 EPA specified when it intended to impose them. Therefore, there is good cause to make these requirements immediately effective. The Administrative Procedure Act (APA), moreover, would not require a 30-day delay in implementation, since the provisions amount to legal interpretations. *See* APA section 4(d)(2), 5 U.S.C. section 553(d)(2).

5. *New Provisions Governing Procedure.*

EPA recently promulgated regulations aimed at consolidating and unifying various permit requirements and procedures. *See* 45 FR 33290 (May 19,1979) (the "Consolidated Permit Regulations"). Those new regulations contain provisions which will govern the processing of applications for permits under the Part 52 PSD regulations. Those provisions appear as 40 CFR 124.1–124.21 and 124.41–124.42, 45 FR 33485–93. Paragraph (r) of the 1978 Part 52 regulations has governed the processing of PSD permit applications under those 1978 regulations.

The Consolidated Permit Regulations contain a provision, section 124.21, which describes the transition from the procedures of paragraph (r) to the new consolidated permit procedures. It provides that those new procedures shall "apply to PSD proceedings in progress on July 18, 1980." 45 FR 33492. It adds that the requirements of sections 124.9 and 124.18, which would require the preparation of a formal administrative record, shall apply only to "PSD permits for which draft permits [*i.e.*, preliminary determinations] were prepared after the effective date of these regulations." *Id.*

In promulgating the new Part 52 regulations, EPA has adopted a new paragraph (q). It states that the new consolidated permit procedures govern the processing of PSD permit applications to the extent that they apply. It adds that the procedures of the 1978 Part 52 regulations continue to apply to the extent that the new procedures have not yet displaced them. In time, the new procedures will displace the old ones entirely.

B. Part 51 PSD Regulations

In September, EPA did not propose an amendments to the 1978 Part 51 regulations that paralleled the proposed Part 52 transition provisions. The Part 51 amendments that EPA did propose paralleled only the Part 52 provisions that would affect coverage and substance. The few comments that were submitted focused on this gap.

One commenter asked that EPA state in the Part 51 regulations that a state which has already adopted and obtained EPA approval of its own PSD program may, in conforming that program to the new Part 51 regulations, adopt a rescission provision like new § 52.21(w) into its plan. EPA believes that it is unnecessary to make such a statement in regulatory form. A state is free, in any event, to adopt such a provision and EPA would approve it.

Another commenter asked EPA to establish in the Part 51 regulations that a state with its own PSD program, in adopting new, more stringent requirements for BACT and air quality assessments in accordance with the new Part 51 regulations, may also adopt grandfather provisions that would apply the new requirements prospectively. In response, EPA had added a new section 51.24(a)(6) to the Part 51 regulations. The new section provides that PSD SIP revision may operate prospectively, thereby establishing that a state may adopt grandfather provisions of that sort. It adds, however, that the revision must take effect no later than the date of its approval. EPA has also added a new section 51.24(i)(9) to the Part 51 regulations. It provides that an approval revision to a state PSD program, which program EPA has already approved, may contain transition provisions that parallel the new Part 52 transition provisions. The new section also establishes that the proposed transition provisions must operate at least as stringently as their Part 52 counterpart would in the context of the state PSD program.

Finally, a third commenter urged EPA to require a state with its own PSD program to delete these aspects of the plan that go beyond the requirements of the new Part 51 regulations within nine months after the date of promulgation of those new regulations, unless the state within that period of time submits "to EPA written acknowledgment that it is not required by federal law to include such provisions in its state plan, but has nevertheless elected to do so under state law pursuant to section 116 of the Act." The commenter feared that, absent such a requirement, inertia and lack of resources might prevent some states from deleting the provisions in question. Such a requirement, however, would interfere unnecessarily in the affairs of a state. EPA, moreover, doubts that it would have the authority in any event to repeal the more stringent aspects of a state plan simply because the state failed to say by a certain time that it wanted to retain those aspects. EPA therefore has not promulgated the requirement sought by the commenter.

After examining the Part 51 regulations in response to those comments, EPA has decided to add two new provisions. The first, section 51.24(a)(6), merely states in regulatory form what section 406(d)(2)(B) of the Clean Air Act Amendments of 1977 already states: any PSD SIP revision required by the new Part 51 regulations must be adopted and submitted within nine months of the date this notice appears in the **Federal Register**. The second provision, § 51.24(a)(6)(ii), establishes explicitly that any PSD SIP revision must contain provisions which describe when and as to what sources and modifications the revision is to take effect. The purpose of that requirement is merely to minimize confusion and uncertainty during the transition from any old to new PSD SIP requirements.

C. Offset Ruling

The amendments to the Offset Ruling which EPA is announcing in this notice expand its coverage, just as the amendments to the Part 52 PSD regulations expand its coverage. In EPA's view, the expansion of the coverage of the Offset Ruling should operate prospectively only. Hence, it has inserted into the Ruling a grandfather provision that parallels the relevant PSD grandfather provision. It provides that the Ruling does not apply to any source or modification that was not subject to the version of the Ruling in effect prior to the date this notice appears in the **Federal Register**, if all necessary SIP permits were obtained for the source or modification by that date and if construction commences within 18 months of that date.

D. Part 51 Nonattainment Regulations

Pursuant to section 406(d)(2)(B) of the Clean Air Act Amendments of 1977, states will have nine months after the date of this notice appears in the **Federal Register** in which to adopt and submit any new definitions and other regulatory provisions required by new 40 CFR 51.18(j). States need not adopt verbatim the definitions in section 51.18(j)(1), but they must demonstrate that any different definitions they retain or adopt have the effect of being at least as stringent as those set out in § 51.18(j)(1). If a state plan currently includes definitions or regulatory provisions which are more stringent than the nonattainment definitions and other provisions contained in these final rules, the state has the choice of retaining its current regulations or of revising them so as to conform to EPA's rules. If a state does not submit any necessary revisions to its plan within nine months after the date this notice appears in the **Federal Register**, the construction moratorium will go into effect 15 months after this date in all nonattainment areas in that state. The additional 6 months is consistent with the review period allotted for Part D submitted under section 110(a)(2)(I) and 129(c) of Pub. L. 95–95.

EPA received only one comment on transitional requirements for § 51.18(j). This commenter requested that EPA allow states which have already adopted NSR regulations pursuant to section 173 of the Act be permitted to adopt a rescission provision like that of § 52.21(w). EPA believes that to make such a statement in regulatory form is unnecessary. A state is free to adopt such a provision, and EPA will approve it, provided that the state's NSR program meets the requirements of section 173 and that permit rescission will not interfere with reasonable further progress or attainment of ambient air quality standards.

E. Construction Moratorium

The amendments to the construction moratorium expand its coverage in some ways, too. Hence, EPA has promulgated a grandfather provision patterned after the relevant PSD and Offset Ruling provisions. It appears as § 52.24(g).

F. Pending SIP Revisions

By the date this notice appears in the **Federal Register**, EPA will not have taken final action on many PSD and nonattainment SIP revisions that states have already submitted. EPA intends to review those pending revisions under the requirements that applied to them before the date of promulgation. To wait until a state had revised its revisions to bring them into line with the new PSD and nonattainment requirements would cause the state and its industry to suffer a heavy and undue burden, particularly in those cases where approval of a Part D plan is needed to lift the construction moratorium.

G. Effective Date of the Nonattainment Provisions

EPA has made all of the new nonattainment provisions announced here effective immediately upon their promulgation. EPA finds that it has "good cause" within the meaning of the relevant provisions of the Administrative Procedure Act to do so. First, the new provisions in the main provide relief from pre-existing regulatory burdens. Second, the decision in *Alabama Power* and the September 1979 proposal provided ample warning of the new changes. Finally, it is important for planning and management by EPA, the states and industry that these new provisions come into effect as soon as possible.

H. Miscellaneous

Under the amendments announced in this notice, each set of PSD and nonattainment regulations uses the phrase "this section" at some points and phrases such as "40 CFR 52.21" at other points. EPA intends "this section," when used in a particular set of regulations to refer only to the version of the regulations which has resulted from the amendments announced here. For example, the phrase "this section" in new § 52.21(i)(1)(i) refers only to the Part 52 PSD regulations as newly constituted. EPA intends phrases such as ' '40 CFR 52.21" to refer to any version of the particular regulations which has appeared or is to appear at the particular location in the Code of Federal Regulations. For example, "40 CFR 52.21" refers to each version of the Part 52 PSD regulations that has ever

[7] Even if the conflict between sections 165(a), 165(e)(2), and 168 had not conferred on EPA the discretion to exempt certain projects from the new air quality analysis requirements, EPA would have had authority under section 301(a)(1) to exempt those projects, because application of those requirements would have been unfair.

V 45 / 154 AG 7 80 UMI

existed, including the version that has resulted from the amendments announced here.

V. Potential to Emit

The preconstruction review requirements of section 165 of the Act apply to any "major emitting facility." 42 U.S.C. 7475. Pursuant to section 169(1), that term includes any stationary source which emits or has the "potential to emit" 100 tons per year or more of any pollutant, for sources included in one of 28 specified source categories, or 250 tons per year or more of any pollutant for any other type of source. 42 U.S.C. 7479(1).

A. Control Equipment

Obviously, many more sources would be affected if the term "potential to emit" referred to the amount of pollution that a source would emit without controls than if it took the operation of control equipment into account. In the PSD regulations promulgated on June 19, 1978, EPA took the former approach and defined "potential to emit" as "the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment." 40 CFR 51.24(b)(3), 52.21(b)(3) (1979). This approach was rejected by the *Alabama Power* decision which held that Congress intended that, in determining a facility's potential to emit, EPA "must look to the facility's 'design capacity' a concept which not only includes a facility's maximum productive capacity (a criterion employed by EPA) but also takes into account the anticipated functioning of the air pollution control equipment designed into the facility." 13 ERC 1993, 2003.

In response to the court's decision, EPA proposed, on September 5, 1979, a revised definition under which the application of control equipment would be taken into account in computing potential emissions. That approach, which was very strongly supported by public comments, is now being promulgated. 40 CFR 51.24(b)(5) and 52.21(b)(5).

The proposal noted that EPA will assume that a facility's air pollution control equipment will function in the manner reasonably anticipated. In this promulgation the Administrator is implementing the proposed approach by requiring that operation of control equipment be an enforceable requirement. In other words, a company may receive credit for the application of control equipment only to the extent that the resulting reduction in emissions is federally enforceable (see below). This provision is necessary, as a practical matter, to ensure that sources will perform the proper operation and maintenance for the control equipment. Thus, a source installing control equipment that would reduce emissions more than that required by generally applicable emissions limitations cannot receive credit for the additional increment of pollution reduction, unless it is federally enforceable. The definition of "potential to emit" is being modified appropriately.

Under the definition being promulgated, the potential to emit of existing sources with respect to the treatment of enforceable in-place control equipment shall be defined in the same fashion as discussed above for new sources. This responds to commenters who complained of this discrepancy in the September 5 proposal. Accordingly, potential to emit for all sources means the ability at maximum design capacity to emit air pollution, taking into account any *in-place* control equipment. Design capacity, and thus potential to emit, may be further limited if control equipment better than that normally required by the applicable SIP is installed and a correspondingly more stringent level of emissions control is included as an enforceable permit conditon. Finally, it should be noted that the potential to emit of a stationary source in today's rule is of primary importance in defining when a source would be major; it is not generally used in determining increment consumption or the baseline for assessing emission increases and decreases at a source (*see* Modification).

B. Continuous Operation

Under the existing definition of "potential to emit," a source can avoid PSD review if it binds itself, in a federally enforceable permit, to sufficiently limited hours of operation. 40 CFR 51.24(v)(5), 52.21(b)(5) (1979). In the September 5, 1979 proposal, EPA proposed to delete the clause which allows such adjustments and to presume continuous (24 hours per day, 365 days per year) operation. Consistent with that change, EPA also proposed to delete, from the same regulation, the words "or amount"; those words at present allow permit limitations on amount of materials combusted, processed, or stored to be considered in computing potential to emit. In making this proposal, the Administrator also requested comment on the need to adjust the assumption of continuous operation, in the case of sources which are physically incapable of such operation.

Many commenters (169 of 173) have strongly criticized this proposal, the most frequent response being that few sources operate constantly, and most cannot do so. These commenters also advised the Agency of certain benefits which would accrue from allowance of permit conditions in computing potential to emit. For example, a benefit noted is that such an approach would better relate the PSD permit applicability of new sources to the offset potential of existing sources, and to how the increment would be consumed. This approach was also claimed to be consistent with EPA's stated goal of developing PSD requirements which will fit into state programs in such a way as to minimize disruption of those programs and promote PSD SIP development by the states. Additionally, insignificant reviews would be minimized and PSD applicability would be more reflective of emissions actually produced by the source.

There was some comment in support of the proposal. A state environmental agency noted that emissions limits calculated from less than continuous operation are less easily enforceable than those which are based on continuous opertion. An environmental group supported the proposal on the grounds that it is consistent with the interpretation of "full design capacity," that it would be appropriately technology-forcing, and that it is necessary to protect the short term increment. These concerns are addressed below.

The court based its definition of "potential to emit" on the source's full design capacity. *Id.* at 2003. The June opinion in *Alabama Power* did not directly address the acceptability of legal limitations on operation but did stress design capacity in the sense of physical and technological, as opposed to operational, limitations. However, in the final opinion, released on December 14, 1979, the court stated:

> The design capacity of a facility rarely contemplates uninterrupted operation 24 hours per day, 365 days per year. Projected downtime for repairs and maintenance *or other factors* may reduce the hours of operation that are appropriately considered in the calculation of a facility's "potential to emit." (*Id.* at 2005, n. 73.) (Emphasis added)

EPA interprets this language as not precluding permit conditions, that are federally enforceable under the applicable SIP, from circumscribing a source's potential to emit. In view of the above, the Agency believes it has discretion to adopt the most reasonable approach to this issue and has, therefore, reconsidered its proposal. Today's regulations recognize the ability of all federally enforceable limitations to constrain the potential to emit of a stationary source.

The Administrator believes that the policy concerning "enforceable permit conditions" is responsive to most of the concerns raised by commenters who were critical of EPA's proposal. New sources are now allowed to avoid NSR for PSD and nonattainment areas by limiting their type or amount of operation. Moreover, potential to emit is now defined in the same way for new and existing stationary sources. The use of certain permit conditions also addresses the concerns raised regarding physical incapability and peak load or standby units. This is, source owners or operators can now agree to source-specific permit conditions to limit their operation as appropriate. Such conditions can make infrequent operation and other physically limiting factors outside the design capacity of an emissions unit legally enforceable and can thereby limit the applicability of NSR.

The final policy concerning enforceable permit conditions has also taken in account the concerns of those favoring the proposal. One commenter noted that limited operation conditions would require greater enforcement attention. The Administrator agrees, but he believes that such conditions can be reasonably enforced. Another commenter also noted the need to minimize any air quality threats to short term increments by sources with intermittent operation but high short term rates of emission. No commenter presented a solution to this problem. EPA believes, however, that short term emissions limitations can be computed to address threats to short term increments, should any problems actually arise. It would be the responsibility of the reviewing authority to identify, in periodic evaluations, any sources causing such problems and apply appropriate limitations on their emissions. The Administrator will consider rulemaking to develop short term applicability thresholds, if necessary, after a reasonable amount of review experience has been developed.

Finally, as a result of today's policy, a potential problem exists concerning the future relaxation of a preconstruction permit that previously caused a proposed stationary source to enjoy minor rather than major status. For example, a source might evade NSR through agreement to unrealistically stringent operating limitations in its permit, and later obtain a relaxation of the condition. The Agency believes that the problem can be dealt with by 40 CFR 52.21(r)(4), entitled "Source Obligation." That paragraph provides that any owner or operator of a source, who would receive a relaxation of a permit condition that had enabled avoidance of NSR, would then become subject to review for all units subject to the original permit, as if they were new sources. In other words, if operational limitations are to be considered as an aspect of a source's design, it is reasonable that the permit accurately incorporate that design. If such operation is changed, the permit, and concomitant obligations, should be correspondingly changed.

C. Additional Guidance

Fugitive emissions under today's regulations are applicable in defining potential to emit. (*See* Fugitive Emissions.) However, like the proposal, such emissions do not count in assessing permit applicability unless a specified type of source category is involved. To accomplish this a specific exemption has been added to the final regulations by which fugitive emissions will be included in determining potential to emit only for specified source categories.

The definition of "potential to emit" is important not only to PSD preconstruction review, but also to NSR under the Offset Ruling (44 FR 3274), the statutory requirements for nonattainment areas, and the restrictions on construction in sections 110(a)(2)(I) and 173(4) of the Act. EPA is promulgating for each of those nonattainment programs the same definition of "potential to emit" that it is promulgating for the PSD program, as well as a provision like § 52.21(r)(4). EPA also intends this definition to be implemented for those programs in the same way as for PSD.

EPA has traditionally distinguished, for the purpose of NSR, between the direct emissions of a source and its "secondary emissions." (*See* Additional Issues.) In revising the Offset Ruling in January 1979 the Agency added a definition of "secondary emissions" and a provision describing for what purposes and under what circumstances those emissions are to be taken into account. *See* 44 FR 3281, 3283–84 (January 16, 1979). EPA is now adding that concept to the PSD regulations and to the nonattainment provisions relating to NSR and the restrictions on construction. For each of those sets of provisions "secondary emissions" are to be excluded in determining whether the regulations apply to a source (*i.e.*, whether a source or modification is "major"). Similarly, the control technology requirements of BACT and lowest achievable emission rate (LAER) do not apply to secondary emissions. How the Agency would treat those emissions for other purposes, including PSD air quality impact analysis, is described in Additional Issues.

VI. 50-Ton Exemption

Under the 1978 PSD regulations, stationary sources or modifications with allowable emissions of less than 50 tons per year, 1000 pounds per day, or 100 pounds per hour were in general exempted from the BACT and ambient air quality analysis PSD requirements. 40 CFR 51.24(j)(2), (k), and 52.21(j)(2), (k) (1979). In its preliminary *per curiam* decision the court thought that its ruling on "potential to emit" made a ruling on the 50-ton exemption "academic," since no 50-ton source would ever be major if "potential to emit" referred to controlled emissions. 13 ERC at 1228–29. Nevertheless, it remanded the exemption to the Agency for reconsideration and noted that the Agency had exceeded its authority in establishing the exemption. In response, EPA proposed to delete the provisions which embodied the exemption, and to delete parallel provisions in the Offset Ruling. EPA, however, proposed adding to the PSD regulations a 50-ton exemption for certain modifications. The proposed exemption tracked section 165(b) of the Act closely, but not exactly. Essentially it provided that a source qualifying for the exemption would face a limited air quality review for SO_2 and PM. Use of the exemption would be restricted to modifications, at a plant existing as of August 7, 1977, entailing emissions increases of 50 tons or less of any pollutant after application of BACT and which would impact no Class I area or interfere with the attainment of PM or SO_2 standards. All net emission changes since August 7, 1977 would be aggregated in applying the exemption.

All of the seventeen commenters who focused on the proposed provision expressed general agreement with this approach, but some commenters stated that the exemption should be broader. For example, four commenters wanted an additional 50-ton exemption after each full review. Five commenters requested a special, more lenient, review for pollutants whose emissions rates fall between 50 tons per year and the *de minimis* level in those cases where the exemption would not apply. The Administrator finds no grounds for providing additional exemptions after each review. Similarly, there is no justification or authority under section 165(b) for a special limited review for emissions increases falling between *de minimis* amounts and the 50-ton level. A few commenters suggested that other eligibility values than 50 tons be used. EPA responds that section 165 of the Act

mandates the 50-ton figure, but that much of these commenters' concerns are dealt with by the *de minimis* provisions being promulgated today. Two other commenters requested that the exemption be governed by net emissions increases. Today's regulations provide that review is applicable to net emissions increases, thus addressing the concerns of the two commenters cited above. With this exception, and the two noted below, the 50-ton exemption is being promulgated as proposed.

Some commenters pointed out that EPA's proposed 50-ton exemption clause was more limted in its application than the Clean Air Act language of section 165(b), in that the September 5 proposal contained additional consideration of Class I area impacts (*e.g.*, 44 FR 51949, 40 CFR 51.24(k)(2)(i)). EPA agrees with these commenters and has eliminated that portion of the 50-ton exemption language dealing with Class I areas. *See* 40 CFR 51.24(i)(7) and 52.21(i)(7).

The 50-ton exemption contained in the Act made those sources existing as of August 7, 1977, eligible for the exemption; the same applicability date was proposed in September 1979 for this revised exemption. The *Alabama Power* final opinion suggested that EPA had authority to conform the eligibility date for the section 165(b) exemption to the "effective date" of the preconstruction permit requirements of the 1978 regulations, i.e., March 1, 1978. In the January 30, 1980 **Federal Register** notice EPA sought comment on changing the eligibility date and on whether March 1, 1978 would be the appropriate choice.

Twenty-four commenters addressed the issue of the eligibility date. Nineteen of these favored a date of March 1 or 19, 1978. Four wanted the date to be that of the final promulgation of these regulations. One commenter disagreed with the date change because it considers the exemption itself to be unauthorized; however, the Act clearly provides for the exemption, as explained elsewhere in this section. One industrial group alleged that the date of promulgation would be the proper eligibility date for the specific case of fugitive emissions, in that fugitives were not regulated as of March 1, 1978. This is apparently a reference to the fact that rulemaking relative to potential to emit (*see* Potential To Emit) had not yet been performed. In fact, though, fugitive emissions were covered by the 1978 regulations and the calculation of potential to emit does not change that circumstance. The commenters preferring March 19 to March 1 referred to a statement in *Alabama Power* that March 19, 1978 is the "effective date" of the regulations. 13 ERC at 2006, n.79. The "effective date" of those regulations is, however, March 1, 1978. *See Citizens to Preserve Spencer County* v. *EPA*, 12 ERC 1961, 1978; and Preamble to 1978 Regulations, 43 FR 26380, 26390. Concerning the comments favoring the date of this promulgation as the eligibility date, the Administrator notes that section 165(b) of the Act limits eligibility for the 50-ton exemption to those sources in existence on the date of enactment of the 1977 Admendments to the Act. For the reasons noted in the *Alabama Power* decision, EPA has authority to extend eligibility to March 1, 1978. However, the Agency cannot extend this deadline to today's promulgation. For these reasons March 1, 1978 is now promulgated as the eligibility date for the 50-ton exemption.

VII. Fugitive Emissions

For PSD determinations prior to the *Alabama Power* decision, EPA considered *all* reasonably quantifiable emissions of a pollutant—including both point emissions (*e.g.*, from a stack or chimney) and fugitive emissions—on the ground that the emissions deteriorate air quality regardless of how they emanate. This practice applied to calculations of a source's emissions and potential emissions of a given pollutant both: (1) for the threshold determination under section 169(1) of whether the source was a "major emitting facility" subject to section 165, and (2) for the permitting requirements of section 165 itself.

The *Alabama Power* court upheld EPA's practice for the latter purpose, and confirmed that:

> The terms of section 165, which detail the preconstruction review and permit requirements for each new or modified "major emitting facility" apply with equal force to fugitive emissions and emissions from industrial point sources.
>
> * * * * *
>
> EPA is correct that a major emitting facility is subject to the requirements of section 165 for each pollutant it emits irrespective of the manner in which it is emitted. [13 ERC at 2016–2017.]

However, as to the first practice, the court held that section 169(1) is controlled by the rulemaking provision of section 302(j), and that fugitive emissions of a given pollutant may be included in the threshold calculation under section 169(1) only if the Administrator first determines, by rule, that they are to be included.

Accordingly, as part of the September 5, 1979 rulemaking proposal, the Administrator identified 27 categories of stationary sources for which he proposed to include fugitive emissions in threshold calculations of "major emitting facility" status for purposes of both section 165 and new source review regulations. Numerous commenters responded that the Administrator's proposal did not constitute "adequate" rulemaking, and that fugitive emissions could not be included in threshold calculations unless the rulemaking also established, on an industry-by-industry basis, methods for quantification of fugitive emissions and for analysis of their impacts on air quality, and included the identification of effective techniques for their control. EPA has considered these comments, but believes that Congress intended the rulemaking provision of section 302(j) to serve a much simpler and narrower purpose.

As the court itself noted, "[t]he legislative history of this rulemaking provision is sparse," and it is therefore particularly difficult to discern Congress' motivation for including it. 13 ERC at 2017. In general, section 302(j) sets out the criteria for determining whether a source is "major" and hence subject to the stringent requirements of certain key provisions of the Act. Congress clearly intended such determinations to always include point emissions, the type most commonly associated with major polluters. It also expressed its affirmative intent *not* to exclude "non-point" or "fugitive" emissions from those determinations:

> [T]he "major stationary source" definition is clarified to indicate the inclusion of major sources of fugitive emissions (last year's bill was unclear in this respect) * * *.[H.R. Rep. 95–294, 95th Cong. 1st Sess. 4 (1977).]

Rather than include fugitive emissions across-the-board, however, Congress left it to the Administrator to determine for which particular categories of sources fugitive emissions will be included in threshold calculations.

EPA therefore believes that the purpose of the rulemaking under section 302(j) is to afford members of affected categories of sources an opportunity to comment on the Administrator's determination to include fugitive emissions in the threshold calculation, and to allow them to present factual or policy arguments in support of claims that it would *not* be appropriate to do so. Although many such presentations will be technically oriented, EPA does not agree that section 302(j) requires the formal promulgation of measurement, modeling or control techniques or guidelines, because the fundamental decision which the Administrator is making under section 302(j) is *whether* fugitive emissions should be included in threshold calculations.

EPA finds support for this interpretation of section 302(j) in the fact that section 165 does *not* contain any rulemaking provision governing the *substantive* regulation of fugitive emissions. As explained earlier, the *Alabama Power* court confirmed that once a source is determined to be a major emitting facility under section 169(1), the substantive preconstruction review and permitting requirements of section 165 "apply with equal force to fugitive emissions and emissions from industrial point sources." In other words, even if fugitive emissions remain excluded from threshold calculations, section 165 requires that fugitive emissions be taken into account in determinations of whether NAAQS or allowable increments will be violated (section 165(a)(3)) and that fugitive emissions be subjected to BACT requirements (section 165(a)(4)). But these substantive provisions do *not* require EPA's prior promulgation of technical rules governing measurement, analysis or control such as those which the commenters suggest are necessary under section 302(j). Since the determination to include fugitive emissions in threshold applicability calculations is discretionary under sections 302(j) and 169(1), while the substantive regulation of fugitive emissions from all major emitting facilities is mandatory under section 165, EPA does not believe that the rulemaking provision of section 302(j) was intended to require the promulgation of such technical guidelines or regulations.

EPA therefore concludes that the rulemaking which it conducted was "adequate" under section 302(j) since affected sources were afforded the opportunity to comment upon the proposed inclusion of fugitive emissions in their threshold calculations. EPA's responses to more specific comments are set out below. Several commenters objected that the first 26 specific categories of sources identified in the proposal (as sources whose fugitive emissions would be taken into account in threshold calculations) were virtually identical to the 28 categories of sources identified in section 169(1) as sources with threshold tonnages of 100 tons per year (rather than 250 tons per year) for determinations of "major emitting facility" status.[8] The commenters complained that by merely copying the 28 sources without any other supporting rationale, EPA failed to conduct proper rulemaking.

Although it is true that the two lists are virtually identical, it is not true that EPA failed to conduct proper rulemaking. To the contrary, the Administrator recognized that in specifically identifying 28 categories of sources in section 169(1), "Congress' intention was to identify facilities which, due to their size, are financially able to bear the substantial regulatory costs imposed by the PSD provisions and which, as a group, are primarily responsible for emission of the deleterious pollutants that befoul our nation's air." 13 ERC at 2003. In light of that intent, the Administrator initially determined that as a matter of policy, it would be appropriate to count *all* emissions—including fugitive emissions—in threshold calculations of applicability for those 28 categories. The proposal reflected that determination as well as the Administrator's observation that, because those sources have traditionally been considered the major polluters in the country, EPA's experience in quantifying fugitive emissions from them is, in general, greater than its experience in doing so for other sources.[9]

Source Category and Reference
Primary zinc smelters
Technical Guidance for Control of Industrial Process Fugitive Particulate Emissions—March 1977 (EPA–450/3–77–010)
Portland cement plants (EPA–450/3–77–010)
Iron and steel mill plants
Particulate Emission Factors Applicable to Iron and Steel Industry (EPA–450/4–79–028) (EPA–450/3–77–010)
Primary aluminum ore reduction plants (EPA–450/3–77–010)
Primary copper smelters (EPA–450/3–77–010)
Petroleum refineries
Compilation of Air Pollutant Emission Factors (AP–42)
Lime plants
(NSPS) (AP–42) (EPA–450/3–77–010)
Phosphate rock processing plants (EPA–450/3–77–010)
Coke oven batteries (EPA–450/4–79–028)
Carbon black plants (AP–42)
Primary lead smelters (AP–42) (EPA–450/3–77–010)
Sintering plants
(See Iron and steel mill plants)
Fossil fuel-fired boilers
(See Fossil fuel-fired steam electric plants)
Petroleum storage and transfer units (AP–42)
Fossil fuel-fired steam electric plants
(EPA–450/3–77–010)

Several commenters pointed out, however, that the two lists were not identical insofar as certain restrictions or limitations for six categories of sources in the section 169(1) list were not reflected in the proposed section 302(j) list. Specifically, the section 169(1) list includes only the following (the italicized portions were omitted from the proposal): fossil-fuel fired steam electric plants *of more than two-hundred-and-fifty million British thermal units per hour heat input;* coal cleaning plants (*thermal dryers*); municipal incinerators *capable of charging more than two-hundred-and-fifty tons of refuse per day;* carbon black plants (*furnace process*); fossil-fuel boilers *of more than two-hundred-and-fifty million British thermal units per hour heat input;* and petroleum storage and transfer facilities *with a capacity exceeding three-hundred-thousand barrels.* These discrepancies are the result of an inadvertent administrative error, since EPA intended to identify in the proposed section 302(j) list the same categories of sources identified by Congress in the section 169(1) list. Accordingly, the final list promulgated today reflects the qualifying descriptions specified above for the six categories of sources. Several commenters objected to the last category on the list of sources for which the Administrator proposed to include fugitive emissions in threshold calculations—namely, "any other stationary source category which, at the time of the applicability determination, is being regulated under section 111 or 112 of the Act." Section 111 concerns the establishment of standards of performance for new stationary sources (new source performance standards or NSPS) and section 112 concerns the establishment of national emissions standards for hazardous air pollutants (NESHAP). The commenters argued that the focus of these provisions is on emissions controls rather than on ambient air quality, and that there is therefore no logical link to support the automatic inclusion of fugitive emissions from a source for PSD threshold calculation purposes simply because the source is being regulated under section 111 or section 112. EPA disagrees with some of the commenters' assumptions and characterizations of NSPS and NESHAP regulation, but concludes for other reasons that the last category should be revised to apply only to sources which are being regulated under section 111 or section 112 as of the effective date of the amended PSD and NSR regulations.

[8] The apparent discrepancy in the number of categories (i.e., 26 versus 28) is explained by the fact that the September 5, 1979 proposal listed hydrofluoric, sulfuric and nitric acid plants together in a single subheading.

[9] For example, EPA has previously published fugitive emissions data for many of the identified categories of sources:

V 45 / 154 AG 7 80 UMI

The commenters contend that since an NSPS under section 111 merely reflects, for a category of sources, an emissions limitation which is achievable through the best system of continuous emissions reduction which "the Administrator determines has been adequately demonstrated," the establishment of an NSPS for a source is unrelated to the ambient air quality considerations which are at the heart of PSD review. What the commenters overlook, however, is that under section 111(b)(1)(B), NSPS are only promulgated for categories of stationary sources which have been included in a list under section 111(b)(1)(A); and section 111(b)(1)(A) directs the Administrator to "include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." In other words, although the NSPS itself may be based on technological considerations, the decision to develop the NSPS is clearly based on ambient air quality concerns. Moreover, under section 112, ambient air quality is clearly a compelling concern because a hazardous air pollutant to which a NESHAP will apply is one "which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness."

In short, categories of sources are regulated under section 111 or section 112 on the basis of determinations by the Administrator that their emissions seriously and adversely impact ambient air quality, and the Administrator therefore determined that it would be appropriate to include their fugitive emissions in their threshold calculations for purposes of PSD and NSR review and regulation. That basic policy determination is being finalized today.

At the same time, however, EPA believes that the comments about "automatic" inclusion of categories of sources which are not now regulated under section 111 or section 112, but which may be regulated thereunder at some point in the future, raise valid concerns. Although EPA believes that the same basic policy considerations would support the inclusion of fugitive emissions for such categories of sources, EPA recognizes that unless a source had affirmative notice during this rulemaking that it will be regulated in the future under section 111 or section 112, it will not really have been afforded a meaningful opportunity to comment on the proposed inclusion of its fugitive emissions in its threshold calculations. Accordingly, EPA has determined to limit the scope of the last category on the proposed list to sources which are being regulated under section 111 or section 112 as of the effective date of these amended PSD and NSR regulations. At the time of any future rulemaking under section 111 or section 112 proposing to regulate additional categories of sources, EPA will conduct parallel section 302(j) rulemaking concerning the proposed inclusion of fugitive emissions in threshold calculations. On the issue of the appropriateness of including fugitive emissions in threshold calculations for particular categories of sources, the basic objection expressed by most commenters was that fugitive emissions data were either unavailable or inadequate, and that it would therefore be inappropriate to include fugitive emissions in threshold calculations for a particular category.

In response, EPA notes that such concerns should and will be addressed in the context of particular applicability determinations, but that they have not changed the basic policy decision made by the Administrator under section 302(j). As explained earlier, fugitive emissions *must* be taken into account under section 165 in determining the impact on ambient air quality of a proposed new source and the BACT requirements which will apply to it, even if there are no existing fugitive emissions data, or if the available data are crude. Obviously, the nature and extent of the available data and technologies are important factors in determining how fugitive emissions should be taken into account and how they should be regulated under the review and permitting process of section 165; but those factors will not avoid or eliminate the consideration of fugitive emissions under that process. Similarly, although the issue of quantification may be relevant to particular applicability determinations, EPA does not believe that that issue alone is critical in determining whether, as a general policy matter, it is appropriate to include fugitive emissions in threshold calculations for a particular category of sources.

EPA emphasizes, however, that fugitive emissions from a source in one of the listed categories will only be included in threshold calculations "to the extent quantifiable." EPA's intent was and is to provide sources the flexibility to explore with the reviewing authority in the context of a particular applicability determination, issues of quantification which might be peculiar to an individual source. (Of course, fugitive emissions will not have to be quantified for threshold purposes if the source would qualify as a "major emitting facility" on the basis of point emissions alone, a situation which EPA believes will occur more often than not.) As indicated above, EPA has in the past published data and other information relating to the quantification of fugitive emissions for various categories of sources and, as some commenters noted, additional data and information are currently under development. EPA considers these publications concerning quantification of fugitive emissions as guidance to be used as the starting point for analysis, not as methodology or data which must be rigidly adhered to in all circumstances.

EPA encourages the development of more sophisticated or precise methods or models for quantification of fugitive emissions, and will accept any estimate of a source's fugitive emissions if the source can support the accuracy and reliability of the methodology which it has developed or employed. In situations where there are no published emissions factors or other fugitive emissions data for a particular category of sources, EPA will consider quantification estimates developed by a source which have any reasonable and rational basis, including estimates based on the transfer of technology or based on principles of material balance. Moreover, if a source satisfactorily demonstrates that all such methodologies are inappropriate in its circumstances and that there is absolutely no basis for reasonably estimating its fugitive emissions, EPA would be willing to discount fugitive emissions in the threshold calculation for that individual source.

In short, sources will have an opportunity to discuss the appropriateness and reasonableness of fugitive emissions estimates for purposes of both the threshold calculation, as well as the requirements of section 165. EPA is therefore finalizing today the proposed list of categories of sources whose fugitive emissions will be included in threshold calculations. EPA has considered comments with respect to the proposed definition of "fugitive emissions," and has determined that one change is appropriate. Instead of defining fugitive emissions as "those emission which *do not* pass through a stack, chimney, vent, or other functionally equivalent opening," EPA believes that the term should apply to "those emissions which *could not reasonably pass* through a stack, chimney, vent or other functionally equivalent opening." This change will ensure that sources will not discharge as fugitive emissions those emissions which would ordinarily be collected and discharged through stacks or other functionally equivalent openings, and will eliminate disincentives for the construction of ductwork and stacks for the collection of emissions. Emissions which could reasonably pass through a stack, chimney, vent, or other functionally equivalent opening will be treated the same as all other point emissions for threshold calculation purposes.

In addition, in light of EPA's action today deleting the fugitive dust exemption (*see* Fugitive Dust Exemption), EPA is finalizing the proposed deletion of the existing definition of "fugitive dust" at 40 CFR 51.24(b)(6) and 52.21(b)(6) (1979).

VIII. Fugitive Dust Exemption

The 1978 PSD regulations provided that "fugitive dust" from a major stationary source or major modification be excluded from air quality impact assessment, 40 CFR 51.24(k)(5), 52.21(k)(5)(1979). Because of its decision regarding inclusion of fugitive emissions in threshold calculations, and because it questioned EPA's authority to establish the exemption in the manner in which it did, the court in *Alabama Power* vacated EPA's generalized excemption for fugitive dust and remanded it to the Agency for further consideration. 13 ERC at 1231 and 13 ERC at 2017.

In response to the court's opinion, EPA proposed deletion of the fugitive dust exemption. It also proposed to delete a parallel provision in the Offset Ruling (44 FR 3274). The majority of the public commenters directly opposed this proposal. The primary reasons were that fugitive dust allegedly has little impact on health and that techniques of evaluating its air quality impacts are unreliable.

As indicated above, the *Alabama Power* court vacated EPA's partial exemption of fugitive dust from the requirements of section 165 because the exemption was premised on the erroneous assumption that "the statute of its own momentum subjects major sources of fugitive emissions to PSD preconstruction review and permit requirements" 13 ERC at 2017. However, the court also expressed serious doubt that EPA had the statutuory authority to establish such an exemption by regulation, because (1) section 165 does not distinguish between fugitive emissions and point emissions, but applies "with equal force" to both types of emissions, 13 ERC at 2016, and (2) in the absence of explicit statutory exemption authority, EPA's "general" exemption authority is narrow in reach. 13 ERC at 2005–2010.

The court did outline, though, a mechanism which it indicated is available under the statutory scheme for acccomplishing the objective of partially exempting fugitive dust emitted by major emitting facilities from the requirements of section 165. That approach would involve defining the pollutant "particulate matter" "to exclude particulates of a size or composition determined not to present substantial health or welfare concerns," 13 ERC at 2018, n. 134, and then regulating such "excluded particulates" under section 111. Pursuant to section 109, EPA is currently reviewing the criteria document for the particulate matter NAAQS, and particle size is a factor being considered in this review. If the standard is revised, the rulemaking requirements of section 307(d) will apply.

EPA today is adopting its proposed deletion of the existing "fugitive dust exemption" and is deferring further action on any such "exemption" pending completion of the standard review process.

IX. Source

A. Proposed Definitions of "Source"

In the 1978 PSD regulations, EPA defined "source" as "any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." The Offset Ruling contained the same definition of "source."

In its June 1979 opinion in *Alabama Power*, the Court of Appeals rejected the definition of "source" in the PSD regulations. It concluded that Congress intended section 111(a)(3) of the Act to govern the definition of "source" for PSD purposes. That section defines "source" as "any building, structure, facility, or installation which emits or may emit any air pollutant." In defining "source," EPA used the terms "building," "structure," "facility," and "installation," but then added "equipment," "operation," and "combination thereof." The court held that EPA, in adding those terms, exceeded its authority. It stated, however, that the Agency has substantial discretion to define one or more of the four terms in section 111(a)(3) to include a wide range of pollutant-emitting activities.

In its June opinion, the court also focused on the clause "which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or persons under common control)." The court held that the approach, which that clause embodied, of grouping pollutant-emitting activities solely on the basis of proximity and control is generally acceptable, since the Agency had "evidenced an intention to refrain from unreasonable literal applications of the definition and instead to consider as a single source only common sense industrial groupings." 13 ERC at 1230.

In September 1979, EPA proposed to define "building, structure, facility and installation" for PSD purposes as "any grouping of pollutant-emitting activities which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control)." As the preamble to the September proposal explains in detail, EPA concluded that the proposed definition would serve the purposes of PSD adquately by requiring review of those major projects that would cause air quality deterioration. At the same time, the definition would operate to avoid review of projects that would not increase deterioration significantly. In EPA's view, the dominant purpose of PSD review is to maintain air quality within the applicable increments.

In September, EPA proposed to define the four component terms differently for nonattainment purposes. Specifically, the Agency proposed to define "building, structure and facility" as it had proposed to define them for PSD purposes, and "installation" as "an identifiable piece of process equipment." One effect of that proposal would be the application of nonattainment requirements to a new piece of equipment that would emit significant amounts of a pollutant for which the area had been designated nonattainment, regardless of any accompanying emissions offsets at the plant. The preamble to the proposal explained: "Unlike the PSD provision, the nonattainment provisions are primarily intended not merely to prevent excessive increases in emissions, but to reduce emissions. This fundamental difference in purpose requires a different approach to defining the sources that will be subject to NSR." 44 FR 51932. EPA proposed to apply this definition to "incomplete" SIPs, i.e., those which did not demonstrate attainment based exclusively on currently approved requirements. Fully

V 45 / 154 AG 7 80 UMI

"complete" SIPs could, under EPA's proposal, use the PSD definition.

In December 1979, the court issued its final opinion on the 1978 PSD regulations, which opinion superseded the June 1979 opinion. In the December opinion, the court reaffirmed its earlier conclusions that EPA must adhere to section 111(a)(3) in defining "source" for PSD purposes and that EPA has discretion to define the component terms "reasonably to carry out" the purposes of PSD. 13 ERC at 2039. The court added that "a plant is to be viewed as a source" and that the Agency "should" provide for the aggregation of polluting-emitting activities "according to considerations such as proximity and ownership." *Id.* at 2039 and 2040. But it warned that "EPA cannot treat contiguous and commonly owned units as a single source unless they fit within the four permissible statutory terms." Finally, the court said that any new definitions "should also provide explicit notice as to whether (and on what statutory authority) EPA construes the term source, as divided into its constituent units, to include the unloading of vessels at marine terminals and 'long-line' operations such as pipelines, railroads, and transmission lines. We agreed with Industry Groups that EPA has not yet given adequate notice as to whether it considers those industrial activities to be subject to PSD." *Id.* at 2040.

In January 1980, EPA solicited comment on the September proposals in light of the December opinion of the court. 45 FR 6803. EPA specifically asked for comment on whether factors other than proximity and control, such as the functional relationship of one activity to another, should be used. The Agency also asked for specific examples of cases where a literal application of the proposed definition would be unreasonable.

B. PSD: Comments on Proposal and Responses

Most commenters agreed that for PSD purposes EPA should adopt definitions of "building," "structure," "facility," and "installation" that would aggregate pollutant-emitting activities, instead of definitions that would restrict one or more of those terms to an individual activity. One commenter, however, argued that EPA should adopt for PSD purposes the same definitions of those terms that it had proposed to adopt for nonattainment purposes. The commenter asserted that the decision of the court in *ASARCO* v. *EPA*, 578 F.2d 319 (D.C. Cir. 1978), required the Agency to impose BACT on a new unit at a plant, even if the unit would result in no net increase in emissions. The commenter also asserted that the "all-encompassing definition * * * destroys the intent of the PSD program by letting opportunities for *reducing* increment consumption disappear before control technology standards (*i.e.*, NSPS) can be in place." (Emphasis added.)

EPA has decided to adopt for PSD purposes the sort of "all-encompassing" definitions that the commenter opposed. First, in its December 1979 opinion in *Alabama Power*, the court explicitly held that *ASARCO* "does not prevent aggregation of individual units of a plant into a single source." 13 ERC at 2040. Second, the dominant purpose of PSD review is not to reduce increment consumption, but rather to maintain air quality deterioration below an applicable increment. A definitional structure that aggregates pollutant-emitting activities into one "source" would serve that purpose, since it would allow only those changes at the "source" that would not significantly worsen air quality to escape review.

Some of the commenters who agreed that each of the component terms of "source" should aggregate pollutant-emitting activities also supported the use of proximity and control as the sole criteria for aggregating them. Most of those commenters, however, objected to the use of proximity and control as the sole criteria, some on the ground that the proposed definitions would be too inclusive and others on the ground that the definitions would not be inclusive enough.

The commenters who thought the definitions would be too inclusive asserted that they would group sets of activities at one site and under common control that are functionally or operationally distinct. Typical of the examples they gave are the following activities at one site and under common control: (1) a surface coal mine and coal-burning electrical generators that the mine supplies with coal; (2) a rock quarry and the portland cement plant that the quarry supplies with raw material; (3) a primary aluminum ore reduction plant, an aluminum fabrication plant and an aluminum reclamation plant; (4) a refinery, a service station, a research laboratory, a fertilizer factory, and a pesticide factory; and (5) a uranium mill and an oil field. With the language of the June 1979 opinion in mind, the commenters contended generally that to group the nominally different activities in each of those examples would violate any common sense notion of "plant."

The commenters who thought the proposed definitions would be too inclusive suggested a wide range of alternative definitions. For example, one group proposed that activities at one site and under common control should be combined only if: (1) they share the first three digits under the Standard Industrial Classification Code of the U.S. Department of Commerce, (2) they are dependent upon or affect the process of each other, (3) they use a common raw product or produce a common product, and (4) the proponent of the project in question does not show that the activities have entirely separate air quality impacts.

The commenters who thought the proposed definitions would not be inclusive enough urged the Agency to abandon control as a factor and adopt function in its place. Some of them described a plan by a group of independent companies to construct jointly a single coal-burning power plant to replace oil-burning power plants at various manufacturing sites belonging to those companies near to the site of the coal-burning plant. The commenters contended that EPA should treat the old plants and the new plant as being within one "source," so that the new plant might escape PSD review. They argued that the new plant would not deteriorate air quality, since presumably the decrease in emissions from the shutdown of the old plants would offset the increase from the new plant, and that to allow it to escape review would facilitate the national switch from oil to coal.

After considering the comments of those who objected to the use of proximity and control only, EPA has decided to adopt for PSD purposes a definition of "building, structure, facility, and installation" that is different from the one it proposed in September. The final definition provides that those component terms each denote "all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same 'Major Group' (*i.e.*, which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively)."

In EPA's view, the December opinion of the court in *Alabama Power* sets the following boundaries on the definition for PSD purposes of the component terms of "source": (1) it must carry out reasonably the purposes of PSD; (2) it must approximate a common sense notion of "plant"; and (3) it must avoid aggregating pollutant-emitting activities that as a group would not fit within the ordinary meaning of "building," "structure," "facility," or "installation."

The comments on the proposed definition of "source" have persuaded EPA that the definition would fail to approximate a common sense notion of "plant," since in a significant number of cases it would group activities that ordinarily would be considered as separate. For instance, a uranium mill and an oil field would ordinarily be regarded as separate entities, yet the proposed definition would treat them as one.

In formulating a new definition of "source," EPA accepted the suggestion of one commenter that the Agency use a standard industrial classification code for distinguishing between sets of activities on the basis of their functional interrelationships. While EPA sought to distinguish between activities on that basis, it also sought to maximize the predictability of aggregating activities and to minimize the difficulty of administering the definition. To have merely added function to the proposed definition as another abstract factor would have reduced the predictability of aggregating activities under that definition dramatically, since any assessment of functional interrelationships would be highly subjective. To have merely added function would also have made administration of the definition substantially more difficult, since any attempt to assess those interrelationships would have embroiled the Agency in numerous, fine-grained analyses. A classification code, by contrast, offers objectivity and relative simplicity.

EPA has chosen the classification code in the *Standard Industrial Classification Manual, 1972*, as amended in 1977 ("*SIC*"), because it is both widely-known and widely-used. EPA has also chosen to use just one set of categories in the manual, those that describe each "Major Group" in the classification system and that bear a two-digit classification number, although the commenter who suggested that EPA use such a code also suggested that the Agency use the categories at the three-digit level. On the one hand, the two-digit categories are narrow enough to separate sets of activities into common sense groupings. In fact, most of the nominally different sets of activities in the examples given above would fall into a different two-digit category; only the fertilizer factory and the pesticides factory would fall into the same category. On the other hand, the categories are broad enough to minimize the likelihood of artificially dividing a set of activities that does constitute a "plant" into more than one group and the likelihood of disputes over whether a set of activities falls entirely into one category or another.

Each source is to be classified according to its primary activity, which is determined by its principal product or group of products produced or distributed, or services rendered. Thus, one source classification encompasses both primary and support facilities, even when the latter includes units with a different two-digit SIC code. Support facilities are typically those which convey, store, or otherwise assist in the production of the principal product. Where a single unit is used to support two otherwise distinct sets of activities, the unit is to be included within the source which relies most heavily on its support. For example, a boiler might be used to generate process steam for both a commonly controlled and located kraft pulp mill and plywood manufacturing plant. If the yearly boiler output is used primarily by the pulp mill, then the total emissions of the boiler should be attributed to the mill.

In adopting the new definition of "source," EPA rejected the requests of those commenters who thought that the proposed definition would not be inclusive enough. As noted above, they urged that EPA formulate a definition that looked only to proximity and *function*. But such a definition by looking to function would unnecessarily increase uncertainty and drain the Agency's resources. In addition, such a definition would present groupings, such as the example the commenters gave, that would severely strain the boundaries of even the most elastic of the four terms, "building," "structure," "facility," and "installation."

Many commenters urged EPA to clarify the extent to which the final definition of those terms encompasses the activities along a "long-line" operation, such as a pipeline or electrical power line. For example, some urged EPA to add to the definition the provision that the properties for such operations are neither contiguous nor adjacent. To add such a provision is unnecessary. EPA has stated in the past and now confirms that it does not intend "source" to encompass activities that would be many miles apart along a long-line operation. For instance, EPA would not treat all of the pumping stations along a multistate pipeline as one "source."

EPA is unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determinations. One commenter asked, however, whether EPA would treat a surface coal mine and an electrical generator separated by 20 miles and linked by a railroad as one "source," if the mine, the generator, and the railroad were all under common control. EPA confirms that it would not. First, the mine and the generator would be too far apart. Second, each would fall into a different two-digit *SIC* category.

Three commenters focused on whether and to what extent the emissions from each ship that would dock at a proposed marine terminal should be taken into account in determining whether the terminal would be "major" for PSD purposes. One commenter argued in effect that the emissions of each such ship that are quantifiable and occur while the ship is coming to, staying at or going from the terminal should be taken into account. In the view of that commenter, all of those activities would be "integral" to the operation of the terminal. Another commenter asserted that none of the emissions of any such ship should be taken into account, because ships are mobile sources. The remaining commenter contended that only the emissions that: (1) come from a ship which is under the proprietary control of the owner or operator of the terminal and (2) occur while the ship is at the dock should be included in an applicability determination. That commenter viewed the ability of the terminal owner or operator to regulate the behavior of a ship as the critical consideration.

The permit requirements of the final Part 52 PSD regulations apply to a collection of pollutant-emitting activities according to the "potential to emit" of just those activities in that collection which constitute a "stationary source." Whether and to what extent the emissions of ships that would dock at a terminal are to be taken into account in determining PSD applicability depends, therefore, on whether and to what extent the term "stationary source" in the final regulations encompasses not only the activities of the terminal itself, but also the activities of the ships while they are coming to, staying at, or going from the terminal.

The final definition of "building, structure, facility, and installation" resolves that question. EPA intends the term "stationary source" under that

V 4 5 / 1 5 4 AG 7 80 UMI

definition to encompass the activities of a marine terminal and only those dockside activities that would serve the purposes of the terminal directly and would be under the control of its owner or operator. The term "dockside activities" means those activities in which the ships would engage while docked at the terminal. While "stationary source" encompasses combinations of activities, it is limited to combinations that would be "stationary," that is, fixed to the particular site. The activities of a terminal itself would be stationary, but all ship activities would not be. Only those that would directly serve the purposes of the terminal, such as loading and unloading, would be stationary since they alone would be in a sense fixed to the particular site. Hence, "stationary source" encompasses the activities of a marine terminal and only those dockside activities that would directly serve its purposes.

In addition, while "stationary source" encompasses combinations of stationary activities, it is further limited to those that would locate on "contiguous or adjacent properties." In EPA's view, only dockside activities would be located on "property" that is contiguous or adjacent to the terminal. Next, "stationary source" is also limited to those combinations of activities that would be "under the control" of one person or one group of persons who are themselves under common control. Hence, "stationary source" encompasses only the activities at a terminal and those dockside activities over which the owner or operator of the terminal would have control. Finally, the activities at a terminal and any such dockside activities fall under a single two-digit *SIC* category, namely "Water Transportation" (number 44).

Whether a particular dockside activitiy would directly serve the purposes of a terminal and would be under the control of its owner or operator depends upon the circumstances of a specific situation. Presumably, however, the activity of loading or unloading a ship would in every case directly serve the purposes of the terminal and would be under the control of its owner or operator to a substantial extent. In particular, the Agency would expect that no loading or unloading could occur without the consent of the owner or operator and consequently that the owner or operator would set, or at least have a significant say in the setting of, the schedule for loading or unloading.

In adopting this interpretation of "stationary source," EPA in large measure has rejected the arguments of the commenters on the ship emissions issue. First, to treat *all* of the activities of a ship while it is coming to, staying at, and going from a terminal would violate any common sense notion of "building," "structure," "facility," or "installation." To group just those activities occurring at the terminal that are essential to its functioning entirely comports with common sense. Second, an activity such as loading and unloading is certainly stationary, even if the ships that engage in it have mobility. Ships, moreover, are not "mobile sources" within the meaning of section 110(a)(5) of the Act, the provision restricting indirect source review. Finally, the fact that a terminal owner or operator does not own a particular ship does not mean that the owner or operator has no control over behavior of the ship at the terminal.

In deference to the position taken in *Alabama Power*, EPA has decided to treat the definition of "source" in the 1978 PSD regulations as *not* encompassing any ship or ship activity. As a result, ship emissions are not to be taken into account at all in determining whether a marine terminal is subject to review under the 1978 PSD regulations. A terminal which would not be subject to review under the 1978 regulations if ship emissions are not included in the determination of potential to emit can also be excluded from review under the new regulations provided certain conditions are met. These conditions are that the owner or operator of such a source has obtained each of the permits required under the SIP for the terminal before the date this notice appears in the **Federal Register** and commences construction on it within 18 months after that date.

The final definition of the component terms of "stationary source" differs from the proposed definition in one significant respect. The proposed definition used the phrase *"any grouping of* pollutant-emitting activities." The final definition uses the phrase *"all of the* pollutant-emitting activities." Taken literally, the proposed definition would have referred not only to all of the activities at a plant, but also to any subgroup of those activities. EPA, however, intended it to refer only to all of the activities. The final definition merely makes that explicit.

C. Nonattainment: Comments on Proposal and Response

Many commenters objected to EPA's proposed definition of "source" for nonattainment areas. Several commenters argued that there was no statutory basis for the distinction drawn in the proposal between "complete" and "incomplete" SIPs. Most of the commenters further claimed that the "dual definition" (*i.e.*, treating a source as both a plant and an individual piece of process equipment at the plant) both was illegal under the statute and *Alabama Power* and was wrong as a matter of policy.

The legal arguments presented by the commenters fell into two broad categories. First, they argued that the dual definition really defined "source" as a combination of surces, which had been forbidden by both *Alabama Power* and *ASARCO*. EPA therefore could, in these commenters' view, define "source" as either the entire plant or an individual piece of process equipment, but not both. These commenters opted for the former approach.

The second legal argument challenged EPA's contention that use of the plant-wide definition would be improper in nonattainment areas, because the purpose of the nonattainment new source review program is to reduce emissions, not to hold emissions constant. The commenters claimed that the Act gives primary responsibility for assuring reasonable further progress to the states, and the states therefore can choose whatever mix of strategies they want to achieve reasonable further progress. This suggested to the commenters that EPA had no authority to ban a plant-wide definition for new source review if the state could otherwise demonstrate reasonable further progress.

Several commenters also pointed to a variety of policy concerns which they felt militated against EPA's proposed dual definition. First, they argued that the definition would discourage technological innovation that could actually reduce emissions, because sources would be reluctant to modernize for fear that such requirements as LAER would be applied to them. In particular, they felt sources would be unwilling to retire old inefficient facilities and replace them with efficient cleaner ones. Second, some commenters claimed that there was no point to reviewing a facility where offsetting emissions could be obtained, since on the whole ambient air quality would not get any worse. Finally, many commenters complained that the definitional structure as a whole was far too complex, and they urged that EPA simplify the system both by eliminating the distinction between "complete" and "incomplete" SIPs and by adopting one definition for both PSD and nonattainment areas. Most commenters preferred the PSD

definition, although some urged that the dual definition be used.

In revising the Offset Ruling in January 1979, EPA adopted definitions of "source" and "modification" which had the effect of requiring any increase greater than 100 tons in the potential to emit of a plant to undergo nonattainment new source review, even if offsetting reductions at the plant were to accompany the change. The effect of the proposed definitions of "source" and "modification" which are being promulgated today would be basically the same as those in the Offset Ruling. Adoption of the proposed definitions would constitute, therefore, a continuation of an established approach to nonattainment new source review.

The comments on the dual definition have failed to persuade EPA that it should abandon the established approach at this time. As a result, the agency has decided to adopt the dual definition in each set of nonattainment regulations. For the reasons given below, EPA does not agree that the dual definition is either illegal or unsound from a policy standpoint. In addition, the agency has decided that the dual definition should be used regardless of whether the SIP is complete or incomplete. EPA agrees with the commenters that there is little support in the statute for defining "source" according to the complete or incomplete status of the SIP, and that the proposed definition was complicated.

The dual definition, by defining individual units as a "source," will bring more units in for review in areas with unhealthy air and thereby result in reducing emissions from the status quo. The legislative history of the Act indicates that new source review was intended to be an important tool in the drive towards attainment of ambient air quality standards. As the House Report stated:

> [M]aximum pollution control from new sources is necessary in order to permit room for maximum potential economic growth. This is particularly true in light of the requirement for reasonable further progress and the indications that emissions from many existing sources in nonattainment areas will be increasing (due to fuel switching, natural gas curtailments) or remaining static (due to delayed compliance orders, et cetera). Finally, the technology forcing purpose of the act is best served by requiring maximum feasible pollution control from these new sources in dirty air areas. For all these reasons, the committee adopted the requirement for proposed new or modified major stationary sources in nonattainment areas to meet the lowest achievable emission rate requirement.

H. Rep. No. 95–294, 95th Congress, 1st Sess. 215 (1977). In addition, after hearing testimony that no steel sources owned by five major steel companies were in compliance, the House inserted into section 173 a requirement that the owner of a proposed source or modification demonstrate that all other sources owned, operated, or controlled by him in the state are in compliance with the applicable SIP. *Id.* at 210–213. In this way, Congress meant to use new source review as a means of cleaning up *existing* sources as well.

To realize this goal fully, Congress intended that new source review be applied to the greatest extent possible. For example, Senator Muskie, in presenting the Clean Air Act Amendments of 1977 to the Senate, spoke of reviewing "any physical change which increases [emissions] * * *," and he went on to note:

> Thus, [under the offset ruling and Part D NSR requirements] a new source is still subject to such requirements as "lowest achievable emission rate" even if it is constructed as a replacement for an older facility resulting in a new reduction from previous emission levels. 123 Cong. Rec. at S 13702 (daily edition, August 4, 1977).

Since the dual definition would bring in more sources or modifications for review than would the plant-wide definition used for PSD purposes (including many replacement facilities which would not be reviewed under a plant-wide definition), use of the dual definition clearly is more consistent with Congressional intent.

The dual definition also is consistent with *Alabama Power* and *ASARCO*. *Alabama Power* held that EPA had broad discretion to define the constituent terms of "source" so as best to effectuate the purposes of the statute. Different definitions of "source" can therefore be used for different sections of the statute. *See* 13 ERC at 2039. As EPA discussed in detail in its proposal, the purpose of the nonattainment provisions is to "positively reduce emissions," not merely to hold emissions constant. In addition, unrestricted use of meeting emissions at an entire plant in nonattainment areas would make attainment more difficult, since many of the limited number of cost-effective opportunities to reduce emissions will in fact be used to avoid review. *See* 44 FR 51932. The dual definition therefore comports with the purposes of Part D of the Act.

Moreover, *Alabama Power* and *ASARCO* taken together suggest that there is a distinction between Clean Air Act programs designed to *enhance* air quality and those designed only to *maintain* air quality. In *ASARCO*, the Court of Appeals for the District of Columbia Circuit struck down the definition of "source" for new source performance standards (NSPS), which had employed a "bubble" concept. An important element in the court's decision was its belief that the "bubble," by allowing sources to escape NSPS, was inconsistent with the purpose of NSPS, which was to improve air quality. *See* 578 F.2d at 327–28. But in *Alabama Power*, the same court held that for PSD purposes, EPA must use a "bubble" approach, precisely because PSD is designed to maintain air quality and therefore deals with "a significantly different regulation and statutory purpose." 13 ERC at 2044.

Under this analysis, use of a plant-wide definition to avoid new source review would appear to be inappropriate in nonattainment areas, since the purpose of nonattainment SIPs is to improve existing air quality so as to attain the ambient air quality standards. EPA therefore believes that it would be more consistent with the purposes of the Act not to permit states to choose a plant-wide definition of source.

Promulgation of the dual definition follows the mandate of *Alabama Power*, which held that, while EPA could not define "source" as a combination of sources, EPA had broad discretion to define "building," "structure," "facility," and "installation" so as to best accomplish the purposes of the Act. 13 ERC at 2039. This holding contemplates that one term (such as "building") may be more inclusive than another term (such as "installation"), and so a "building" may include many "installations." In this way, a "source" can, under *Alabama Power*, be composed of smaller "sources," yet not be a combination of sources. The dual definition fits into *Alabama Power*, since under EPA's definitional scheme, a "source" is either an individual piece of process equipment or the entire plant; it is not a combination of sources. That is, when deciding whether a source must undergo new source review, the reviewing authority must determinine whether there was a significant increase in emissions at either a "major" individual piece of equipment or at the plant as a whole. Wherever such an increase occurs is a "source." Thus the plant itself is a source, not a combination of sources, although it may contain smaller sources.

EPA recognizes that use of different definitions for PSD and nonattainment areas adds to the complexity of the permitting process. But this additional complexity is outweighed by the need for a more inclusive definition of source in nonattainment areas in order to assure attainment of standards.

V 45 / 154 AG 7 80 UMI

Although it is claimed that some sources may not be willing to modernize their facilities due to the perceived added expense of LAER and the need to demonstrate statewide compliance, EPA believes that its approach is justified by the fact that the dual definition will bring in more sources and modifications for review and will require better pollution control technology in nonattainment areas.[10]

EPA disagrees that use of a plant-wide definition would allow a plant with a new installation to achieve the same emissions reductions as LAER, but in a less expensive manner by finding offsets elsewhere in the plant. This argument assumes that LAER is markedly more costly than the requirements that would otherwise apply. EPA believes that its own past actions, and those of the states, indicate that LAER need not and is not generally being interpreted in this manner.

EPA believes, and most commenters agreed, that new facilities should install state-of-the-art control technology. Such a requirement is imposed by the Clean Air Act for major new sources in PSD areas (BACT), for major new sources in nonattainment areas (LAER), and whenever EPA has set new source performance standards (NSPS). EPA therefore intends to interpret the LAER requirement in a reasonable manner, as it believes it has in the past, and to take a close look whenever LAER would be substantially stricter than these other requirements.

EPA intends that its interpretation of "building, structure, and facility" be identical to that for "building, structure, facility, or installation" used for PSD purposes.[11]

X. Modification

This section discusses the final PSD and nonattainment definitions of "major modifications" and "net emissions increase" which EPA is promulgating in this notice. The section first describes those final provisions. It then focuses on each of their major aspects, giving in particular the relevant proposal, the comments on it and EPA's responses. An example of how the definitions work appears at the end of the section. The section also discusses a provision which appears in the PSD and nonattainment definitions of "major stationary source," but which stems from the final formulation of "major modification." That provision establishes that a physical change at a "minor" stationary source which change by itself would constitute a "major stationary source" shall be treated as a "major stationary source."

A. Final Definitions of "Major Modification" and "Net Emissions Increase"

With the final amendments announced here, the Part 51 and Part 52 PSD regulations now define "major modification" as any *"physical change"* or *"change in method of operation"* at a major stationary source which would result in a *"significant net emissions increase"* in any pollutant subject to regulation under the Act. *See* §§ 51.24(b)(2) and 52.21(b)(2).

While the new PSD regulations do not define "physical change" or "change in method of operation," they provide that those phrases do not encompass certain specific types of events. Those types are: (1) routine maintenance, repair and replacement; (2) a fuel switch due to an order under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or due to a natural gas curtailment plan under the Federal Power Act; (3) a fuel switch due to an order or rule under section 125 of the Clean Air Act; (4) a switch at a steam generating unit to a fuel derived in whole or in part from municipal solid waste; (5) a switch to a fuel or raw material which (a) the source was capable of accommodating before January 6, 1975, so long as the switch would require no change in any preconstruction permit condition established after that date under the SIP (including any PSD permit condition) or (b) the source is approved to make under a PSD permit; (6) any increase in the hours or rate of operation of a source, so long as the increase would require no change in any preconstruction permit condition established after January 6, 1975 under the SIP; and (7) a change in the ownership of a stationary source.

The new PSD regulations define "significant" in terms of *de minimis* thresholds for each pollutant subject to regulation under the Act. Those thresholds appear in §§ 51.24(b)(21) and 52.21(b)(21). For example, the threshold for sulfur dioxide is 40 tons per year. A "net emissions increase" in sulfur dioxide below that level is not "significant." For a fuller discussion of the thresholds, see the section entitled *De Minimis* Exemptions.

Finally, the new PSD regulations contain definitions of "net emissions increase," which appear as §§ 51.24(b)(3) and 52.21(b)(3). Under those definitions, "net emissions increase" denotes the positive sum of any increase in "actual emissions" from a particular physical or operational change at a source and any other increases and decreases in "actual emissions" that are contemporaneous with the particular change and otherwise creditable.

The first step in determining whether a "net emissions increase" would occur is to determine whether the physical or operational change in question would itself result in an increase in "actual emissions." If it would not, then it could not result in a "net emissions increase." If it would, the second step is to identify and quantify any other prior increases and decreases in "actual emissions" that would be contemporaneous with the particular change and otherwise creditable. The third step, finally, is to total the increase from the particular change with the other contemporaneous increases and decreases. If the total would exceed zero, then a "net emissions increase" would result from the change.

The definitions of "net emissions increase" specify which increases and decreases in "actual emissions" are contemporaneous. Under the definition in the Part 52 PSD regulations, increases or decreases are contemporaneous with a proposed change only if they occur between two dates: first, the date five years before construction "commences" on the proposed physical or operational change in question and, second, the date the increase from that change "occurs." An increase from a physical change "occurs" when the affected emissions unit becomes operational and begins to emit a particular pollutant. Any unit that requires shakedown becomes operational only after a reasonable shakedown period (not to exceed 180 days). Under the definition in the Part 51 regulations, a state in revising its SIP may set a period other than the five-year period of the Part 52 regulations to define what is contemporaneous and what is not, so long as the period is not unreasonably long.

The definitions of "net emissions increase" in the PSD regulations also specify which contemporaneous increases and decreases in "actual emissions" are creditable. A contemporaneous increase or decrease is creditable only if the relevant reviewing authority has not relied on it in issuing a PSD permit for the source, and that permit is still in effect when the increase in "actual emissions" from the particular change occurs. A reviewing authority "relies" on an increase or decrease when, after taking the increase or decrease into account, it concludes that the proposed project would not cause or contribute to a violation of an increment or ambient standard. A contemporaneous increase or decrease in "actual emissions" of sulfur dioxide or particulate matter that occurs before the applicable baseline date is creditable only if, in addition, it is required to be considered in calculating how much of a particular increment remains available.

Finally, the definitions of "net emissions increase" in the new PSD regulations specify the extent to which any contemporaneous and otherwise creditable increase or decrease is creditable. Any such increase is creditable to the extent that the new level of "actual emissions" exceeds the old level of "actual emissions." Any such decrease is creditable only to the extent that (1) the old level of "actual emissions" (or the old level of "allowable emissions," if it is lower) exceeds the new level of "actual emissions," (2) the decrease is federally enforceable at the time construction begins on the proposed physical or operational change which it is intended to offset, and (3) the decrease has roughly the same health and welfare significance as the increase from the proposed change.

Under the final PSD regulations, the phrase "actual emissions" means the rate at which an emissions unit actually emits a particular pollutant. *See* §§ 51.24(b)(21) and 52.21(b)(21). In general, that rate as of a particular date equals the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and is representative of normal source operation. The reviewing authority may presume that any "source-specific allowable emissions" for the unit is equivalent to the actual emissions of the unit. For any unit which has yet to begin normal operations on the date in question, its actual emissions equal its "potential to emit" on that date. For a fuller discussion of the concept of "actual emissions" and in particular of what constitutes "source-specific allowable emissions," see the section on Increment Consumption.

The final PSD regulations also describe in detail the concept of "allowable emissions." *See* §§ 51.24(b)(16) and 52.21(b)(16). That phrase means in essence the maximum rate at which an emissions unit under the most stringent of certain legal constraints may emit a particular pollutant. The legal constraints are (1) any applicable standards in 40 CFR Parts 60 and 61, (2) any applicable SIP limitations, including any with a future compliance date, and (3) any applicable condition in a permit issued under the SIP that is federally enforceable, also including any condition with a future compliance date.

The final amendments to the Offset Ruling, 40 CFR 51.18 and 40 CFR 52.24 which are announced here also include new definitions of "major modification," "significant," "net emissions increase," "actual emissions," and "allowable emissions." In general those definitions follow the pattern of the PSD definitions. Only the definitions of "net emissions increase" in those nonattainment provisions vary significantly. They add that a decrease in "actual emissions" which is contemporaneous with the increase in question may be credited only if and only to the extent that the relevant permitting authority has not already accepted it as a satisfactory "offset" in issuing a preconstruction permit under the SIP.

B. No Net Increase

The *Alabama Power* decision rejected EPA's regulatory approach of requiring PSD review of potential emissions increases at existing stationary sources only when such increases would equal or exceed the 100/250 ton threshold used in the review of new sources. It held instead that a change in a major stationary source is subject to review only if it would result in any significant net increase. In response, EPA proposed on September 5, 1979, an approach that would subject to new source review (NSR) under the relevant PSD or nonattainment provisions only each significant net increase that would occur in the potential to emit of a major stationary source. Under the proposal, a significant net increase was to be an overall increase in the potential to emit of the source equal to or greater than a pollutant-specific emissions cutoff (*see De Minimis* Exemptions), taking into account contemporaneous emissions increases and decreases at the same source. An exception to this general rule of netting contemporaneous increases and decreases was to be the case of construction restrictions under sections 110(a)(2)(I) and 173(4). There, accumulated increases would count toward triggering the growth prohibitions, without regard to any contemporaneous reductions occurring at the same source.

Public comment supported this proposal (except with respect to the construction restrictions) as the clear and proper interpretation of the *Alabama Power* decision. Sixty-two of sixty-three commenters endorsed the general netting approach to modification taken in the proposal, although several took issue with certain of the specific rules relating to the concept (see discussion below). Several commenters felt that requiring any significant net increase to undergo review was too strict on existing sources as compared with new sources, since new sources can emit up to 100/250 tons per year and still not be subject to review. The terms of the Act and the court decision preclude allowing such a general exemption for existing sources. Pursuant to *Alabama Power*, the Administrator is today promulgating the netting concept for determining the review applicability of changes at existing major stationary sources (consistent with each program's definition of source). This promulgation affects regulations for PSD (40 CFR 52.21 and 40 CFR 51.24), nonattainment NSR (Emissions Offset Interpretative Ruling and 40 CFR 51.18(j), Review of New Stationary Sources and Modifications), and the construction restrictions under sections 110(a)(2)(I) and 173(4), (40 CFR 52.24, Statutory Restriction on new Stationary Sources). Allowance of netting for determining the applicability of 40 CFR 52.24 is a change from the proposal and is discussed below.

C. Pollutant Applicability

EPA proposed to require preconstruction review only if the increase in potential to emit would be for a pollutant which the source emits in major amounts. Once an increase in the major pollutant triggered PSD review then review would be required for all regulated pollutants emitted in greater than *de minimis* amounts as a result of the modification. Review would also be required if the emissions change itself were equivalent to a major stationary source.

Only limited comment was received on EPA's proposal to require review where major changes in emissions of minor pollutants or greater than *de minimis* changes in emissions of a major pollutant would occur. While a few groups endorsed the September 5 proposal, one group argued that *Alabama Power* did not restrict PSD applicability to just modifications involving the pollutant(s) which the source emits in major amounts. That group pointed out that section 111(a)(4) of the Act defines "modification" as "any physical change in, or change in the method of operation of, a stationary

[10] Contrary to one commenter's argument, EPA believes that the dual definition will not cause sources to locate in clean areas. Any such source would be subject to PSD review in any event.

[11] One commenter requested EPA define "source as one emitting the criteria pollutants, and not "any pollutant regulated under the Act." EPA has decided to retain its definition, since it comports with section 302(j) of the Act. However, pursuant to section 172(b)(6), EPA will require new source review permits only for those pollutants for which an area has been designated nonattainment and for which the source is major.

source which increases the amount of *any* air pollutant emitted by such source or which results in the emissions of *any air pollutant not previously emitted.*" (Emphasis added.)

The Administrator agrees that requiring review for a net emissions increase in any pollutant subject to regulation under the Act is consistent with the *Alabama Power* decision. Consequently, EPA is promulgating a final rule that requires PSD preconstruction review for net emissions increases in greater than *de minimis* amounts at a major stationary source for any pollutant subject to regulation under the Act emitted by the source, regardless of whether the source is major for that pollutant.

The Administrator is not changing the September 5 proposal with respect to pollutant applicability in nonattainment areas. *See* Geographic and Pollutant Applicability. The source must be major for the nonattainment pollutant(s) and must make a greater than *de minimis* emissions change in such a pollutant in order to trigger nonattainment review for that pollutant(s). A PSD review, however, would be triggered if a greater than *de minimis* change occurs at that major source for any regulated pollutant emitted by the source other than the nonattainment pollutant(s).

D. Netting of Actual Emissions

EPA proposed on September 5 that an activity be deemed a major modification when the "potential to emit" of the major stationary source experiences a net increase greater than a *de minimis* amount, taking into account all contemporaneous changes. EPA also proposed that a reduction would be creditable only if the physical capability of the source to emit a pollutant were actually reduced. In addition, where "allowable emissions" for a source, as defined in the 1978 PSD regulations and the Offset Ruling would be less than its "potential to emit," no credit would be given for reducing potential emissions to "allowable emissions." "Allowable emissions," as defined in those regulations, meant the emissions rate calculated using the maximum rated capacity of the source and is represented by the most stringent than any of the following: (1) any applicable standards in 40 CFR Parts 60 and 61; (2) any applicable SIP emissions limitations; and (3) any emissions rate specified as a permit condition under the SIP. The applicable SIP limitation in the case of designated nonattainment areas included the emissions rate that was assumed for the source in the attainment demonstration and in the schedule for making reasonable further progress.

Forty of forty-two commenters favored an allowable emissions baseline, for determining whether a net emissions increase would occur, instead of one using "potential to emit." The other two commenters endorsed EPA's proposal. Many also complained of the different criteria for determining "potential to emit" from new and existing sources. (Under the proposal, "allowable emissions" and physical incapability could have constrained the "potential to emit" of existing but not new stationary sources.)

There are problems with using a baseline for netting that is based on the existing source's "potential to emit." A computation of an existing source's potential emissions could give a figure considerably higher than what it is actually emitting. This would be especially true if the source operated only a small part of the time or used considerably cleaner fuels than it is allowed to burn. Such an approach would therefore create a "paper offset" that could permit actual air quality to deteriorate seriously, while the change which increased actual emissions avoided NSR. Similar problems would arise if offsets were based on allowable emissions, as recommended by most commenters.

In the June 1979 opinion in *Alabama Power,* the court held that the definition of "modification" in section 111(a)(4) governs the definition of that term for PSD purposes. Section 111(a) provides that a "modification" is "any physical change in, or change in the method of operation of, a stationary source which increases *the amount* of any air pollutant *emitted* by such source or which results in *the emissions* of any air pollutant not previously *emitted.*" (Emphasis added.) Although the *underlined* words in the definition appear to refer to what the source is actually emitting at a particular time, the court in the June opinion described the concept of "modification" in terms of changes in the "potential to emit" of a source. As a result, EPA proposed definitions which also referred to changes in "potential to emit."

In its December 1979 opinion, however, the court used an entirely different set of terms to describe "modification." Instead of using "potential to emit," it used language which, like the section 111(a)(4) definition, suggest changes in actual emissions. For example, at one point the court states: "If these plants *increase* pollution, they will generally need a permit. Exceptions to this rule will occur when the *increases* are *de minimis,* and when the *increases* are offset by contemporaneous decreases of pollutants, as we discuss below * * *" (Emphasis added.)

Following the lead of the court, EPA has also shifted the focus of its regulatory definitions from "potential to emit" to "actual emissions." For both PSD and nonattainment purposes, a "major modification" is now any significant "net emissions increase" at a major stationary source that results from certain changes. "Net emissions increase" is, in turn, roughly any net increase in "actual emissions." Not only are those definitions consistent with the court's view of section 111(a)(4), but they also avoid the "paper offset" problem described above, thereby better serving PSD and nonattainment purposes.

E. Contemporaneous Increases and Decreases

Under *Alabama Power,* a modification is any net increase in emissions that would result form "contemporaneous" changes at a major stationary source, The court decision left to EPA the task of defining what changes should be considered "contemporaneous."

A narrow interpretation of the term "contemporaneous" would restrict creditable decreases in emissions to those occurring at the same time as the emissions increases to be offset. The administrator decided against proposing such an interpretation, since it might promote the continued operation of old or obsolete equipment in order to preserve offset credit. Instead, EPA proposed a system that would grant credit for *any* post-promulgation emissions reduction and for certain pre-promulgation emissions reductions involving recent shutdowns or production curtailments. In order to be creditable, the reductions were to be enforceable before operation of the emissions unit(s) that would result in the emissions increases (except that a 180-day shakedown period could be granted for replacements). A preconstruction notice was also proposed as a mandatory means to record any reduction credit. (For a discussion of that proposed notice requirement, see the section entitled Notification.)

On January 30, 1980 (45 FR 6802), EPA solicited additional comment on its proposal for "contemporaneous." In particular, the Administrator asked whether a three-year time limit should be imposed for qualifying reductions as "contemporaneous." The proposed three-year time cap would have run from the time of the emissions reduction to the time that the source would have filed any necessary permit application

for the prospective emissions increase(s). Where a permit would have not been required, the reference time would instead be the date on which construction commenced on the change resulting in the emissions increase.

Several comments were received on the September 5 proposal. Many confused the dates for accumulation at minor stationary sources (see discussion below) with the time limits for "contemporaneous" changes at major stationary sources. The majority of commenters on the January 30 **Federal Register** notice were from the industrial sector and they urged EPA to treat *any* emissions decrease which occurs before a proposed increase as being "Contemporaneous" with that increase. EPA however, has rejected those urgings. To credit any decrease that occurs before a proposed increase would violate any common sense notion of what is "contemporaneous," since a period of contemporaneity must have some definite boundaries.

EPA agrees with those industry commenters, however, to the extent that they contended that the period of contemporaneity should be fairly large. In particular, EPA believes that the period should be wide enough so as to minimize any incentive for keeping old or obsolete equipment in operation beyond its usefulness. As a result, EPA has set five years, plus time for construction, as the period of contemporaneity for the purposes of the Part 52 PSD regulations, the Offset Ruling and the construction moratorium. Specifically, the definition of "net emissions increase" in each of those regulations provides that a decrease in "actual emissions" may be credited only if it occurs between the date five years before construction "commences" on a proposed physical or operational change and the date the increase in "actual emissions" from that change occurs. A five-year limit was selected for those regulations rather than a three-year value, since five years is frequently used as the time duration over which corporate expansion planning is conducted.

For the purposes of the Part 51 PSD and nonattainment regulations, EPA has established that each state may set the period of contemporaneity for its own NSR regulations. The state may not, however, set a period of unreasonable or undefined length.

F. Otherwise Creditable Increases and Decreases

Whether an increase or decrease in "actual emissions" is creditable for PSD or nonattainment purposes depends, not only on whether it is contemporaneous with the increase in question, but also on certain other factors. First, under each of the PSD and nonattainment definitions, a prior increase or decrease is creditable only if the relevant reviewing authority has not relied upon it in issuing a permit under the relevant NSR program. As stated earlier, a reviewing authority "relies" on an increase or decrease when, after taking the increase or decrease into account, it concludes that the proposed project would not cause or contribute to a violation of an increment or ambient standard. The purpose of that rule is to "wipe the slate clean." Once the reviewing authority has evaluated a significant net increase in issuing an NSR permit the net increase should not be a factor in deciding whether subsequent events should undergo scrutiny, too.

Second, under the PSD definition of "net emissions increase," an increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the baseline date is creditable only if it would be considered in calculating how much of an increment remains available. In formulating that definition, EPA sought to establish as close a correspondence as possible between what consumed increment and what must undergo NSR for PSD. Without that rule, some changes that *would* consume increment could escape review because of a prior decrease that was subsumed in the baseline concentration. In addition, without that rule, some changes that *would not* consume increment could have to undergo review because of a prior increase that was also subsumed in the baseline concentration.

G. The Extent to Which Increases and Decreases are Creditable

Each of the definitions of "net emissions increase" in the PSD and nonattainment regulations contains provisions which govern the extent to which a creditable increase or decrease in "actual emissions" may be credited.

The rules in each of those definitions relating to increases are simple. An increase is creditable to the extent that the new level of "actual emissions" at the emissions unit in question exceeds the old level. The old level of "actual emissions" is that which prevailed just prior to the physical or operational change which caused the increase. The new level is that which prevails just after the change.

The rules relating to decreases that are common to each of the definitions are more complex. First, a decrease is creditable only to the extent that "the old level of actual emissions or *the old level of allowable emissions, whichever is lower,* exceeds the new level of actual emissions." (Emphasis added.) Since "allowable emissions" encompasses any federally enforceable requirement, including any with a future compliance date, the underlined language prevents a company from taking credit for decreases that it has had to make or will have to make in the future. EPA concluded that to give credit for a decrease a company has had to make in order to bring an emissions unit into compliance was unwise, since together with the five-year "contemporaneous" period it would create an incentive to stay out of compliance. Furthermore, it would be contrary to the purposes of the Act and good sense to provide what is in essence a benefit for recalcitrance. Similarly, EPA concluded that to give credit for a decrease a company will ultimately have to make anyway in order to meet a requirement by a certain date would also be unwise, since it would encourage procrastination. Further, allowing decreases which fulfill preexisting requirements to be used to avoid review would undermine the purposes of the PSD and nonattainment programs by interfering with efforts to preserve or achieve attainment.

Second, a decrease is creditable only to the extent that it is "federally enforceable" from the moment that actual construction begins on the physical or operational change which causes the "actual emissions" increase in question. The purpose of that rule is to ensure that the decrease is real and that it remains in effect. The term "federally enforceable" is defined in the regulations as any limitation or conditions which EPA can enforce, such as any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved under 40 CFR 51.18 and 40 CFR 51.24.

Finally, a decrease is creditable only to the extent that it has the same health and welfare significance as the increases in question. By this provision, EPA seeks mainly to prevent an increase in emissions with considerable health and welfare significance from escaping review merely because of a contemporaneous decrease in less harmful emissions. The basic health and welfare protection purposes of the Act mandate this provision.

The definitions of "net emissions increase" in the nonattainment regulations contain a restriction on crediting decreases that the PSD regulations do not contain. Specifically, they provide that a permitting authority may not credit a decrease to the extent that any permitting authority has

V 4 5 / 1 5 4
A G 7 8 0
UMI

already accepted the decrease in satisfaction of the offset requirements of the applicable nonattainment regulations and consequently has issued a preconstruction permit to any source or modification, including the source at which the decrease occurred. The purpose of that rule is to prevent any "double crediting" of decreases in "actual emissions." Double crediting would allow air quality to deteriorate without prior review.

EPA is considering whether to introduce a provision to prevent double crediting in the PSD context. A discussion of the problem appears in the section on Increment Consumption.

H. Accumulation

On September 5, 1979, EPA proposed to continue the current policy of requiring PSD and nonattainment NSR when aggregate new emissions from individually minor units at the same stationary source, which itself was minor as of a certain date, are sufficient to require the series of changes to be treated as a major stationary source. In addition, the Administrator proposed to make the current policy consistent with the *Alabama Power* decision by applying NSR when the aggregate *net* increase in potential to emit after the applicable date qualifies it as a major stationary source (the existing rules accumulate only emissions increases and do not take decreases in account). For PSD review, the date from which emissions increases were to be aggregated was August 7, 1977, the date found in the 1978 PSD regulations. The proposed December 21, 1976 date for each of the nonattainment regulations, including the construction moratorium, marks the time when sources constructing in nonattainment areas were placed on notice that accumulation could later subject them to review.

EPA also proposed that, once a series of individually minor changes or one major change at a minor stationary source had qualified for review, the control technology assessment would focus on the last changed unit triggering review while the air quality assessment would consider all aggregated emissions.

Finally, the Administrator proposed on September 5 that accumulation would also govern the review of individual *de minimis* changes at major stationary sources. Once a source had aggregated enough emissions to make it major, a subsequent emissions increase of any size at the source would have to undergo review, unless the increase together with any contemporaneous increases or decreases of any size would qualify as a *de minimis* increase.

Twenty of the twenty-three comments received did not favor retaining the accumulation concept, even with the addition of netting. Two other commenters endorsed accumulation, but with different starting dates. Two industrial commenters claimed that accumulation cannot be legally required, since section 111(a)(4) defines modification in terms of *any change* and not a *series of changes* at a stationary source. Most other commenters agreed that neither the court nor the Act takes a position on accumulation, but they requested that the Agency not adopt or maintain such a concept. These commenters claimed that both major and minor source accumulation complicates the regulations and could eventually subject the most minor of emissions changes to review. The increase in paperwork, and the administrative strain of trying to document and report *de minimis* emissions changes, were claimed to be overwhelming, costly, and counterproductive.

These concerns might have had merit if the proposed *de minimis* emission levels had not been raised in the final regulations and the accumulation of *de minimis* changes was to continue even after a preconstruction permit had been issued. It was suggested that the general NSR procedures found in all SIPs be relied upon to effect good control for the *de minimis* or minor emissions changes, instead of accumulation. Commenters stressed that, in any event, accumulation of *de minimis* increases should run over the same time period for crediting contemporaneous reductions.

The Administrator has reconsidered the need for an accumulation rule and has decided to retain accumulation to determine if a greater than *de minimis* increase would occur at a major stationary source and to delete accumulation for aggregating changes at minor stationary sources. The primary reason for proposing accumulation at minor sources was to prevent circumvention of the regulations by the systematic construction of carefully sized emissions units which only in the aggregate would trigger review. Even though all signficant changes at a source would face reveiw once the source became major, a significant loophole was thought to exist. For example, absent an accumulation rule, a company could construct a 498-ton source without having to get a PSD permit by constructing first one-half of it and then subsequently the other half. The Administrator, however, does not find adequate support in the Act for applying PSD review to the change at a minor source which would make the source major. Section 165 applies only to major emitting facilities on which "construction" commences after a specified date, where the term "construction" includes "modification." Similarly, section 172(b)(6) requires permits for the construction of new or modified major stationary sources. EPA believes that, in general, PSD and nonattainment review cannot be applied to a modification unless it would occur at a source that is already major. The one exception to this rule is where a proposed addition to an existing minor stationary source would be major in its own right. Such construction is equivalent to a new major stationary source and should therefore be subject to PSD and nonattainment review. A new subsection in each of the PSD and nonattainment regulations embodies that view.

In general, under the promulgation announced here a series of minor changes at the same minor stationary source will not be accumulated. On the other hand, a series of individually *de minimis* changes at a major stationary source would be accumulated within a contemporaneous time frame to see if a review would be required. This is reflected in the definitions of "net emissions increase" in the PSD and nonattainment regulations. Plainly, a series of individually *de minimis* increases in emissions in the aggregate deteriorate air quality significantly.

I. Restrictions on Construction

EPA proposed that the netting of emissions changes would not be permitted in areas subject to construction restrictions under section 110(a)(2)(I) or 173(4). EPA based this proposal on an interpretation that Congress intended all forms of offsets to cease after June 30, 1979, in the absence of an approved Part D plan. This policy would also have promoted the timely submittal of attainment plans and prevented the nonattainment problem from growing worse while the plan was being developed. The Administrator believed that sources might convert reductions later needed for attainment into offsets before the plan requiring those reductions could be adopted and approved.

Thirty-two of thirty-five commenters said that the proposed "increase only" approach was unacceptable. No substantial support was given by the three that favored it. Several questioned the legality of the proposed interpretation and claimed that *Alabama Power* authorized only a netting approach, despite any programmatic sense that another

approach might have. Several asserted that EPA's proposal would discourage early cleanup and actually perpetuate the existing air quality problem.

The Administrator has reconsidered the interpretation that led to the proposal of the "increase only" approach for carrying out the growth restrictions and concluded that the *Alabama Power* decision does not support it. Thus, in the final rules promulgated today, a major stationary source can construct in a growth restricted area, if sufficient contemporaneous, creditable net reductions are found (subject to the limitations on reconstruction described below).

J. Reconstruction

In the September 5, 1979 proposal, a reconstruction (roughly, improvements at an existing source which equal 50% or more of the capital cost for replacing the source) was to be treated as if it were a new source for purposes of NSR under both PSD and nonattainment rules. Under the proposal, a reconstructed major stationary source would be subject to review regardless of any contemporaneous emissions reductions that would occur at the same source. The Administrator proposed this approach in accordance with Congressional intent to subject new construction in nonattainment areas to requirements such as meeting the lowest achievable emission rate (LAER), even though a replacement of an older unit would result in a net reduction from previous emission levels (*see* 123 CONG. REC. 13702, col. 2 (daily ed. August 4, 1977) (statement of Senator Muskie)). In the agency's view nonattainment areas require very stringent NSR Procedures to overcome the inertia of the nonattainment problem. Having a reconstruction provision would promote maximum air quality improvements from an area's limited reduction capability by requiring more construction projects to meet LAER and bring other sources in the State under common control into compliance with the SIP.

The reconstruction rule was also proposed for PSD in an effort to be consistent with nonattainment NSR. Although the Administrator recognized that the air quality rationale for having reconstruction in nonattainment areas was considerably stronger than that for PSD inclusion, it was believed that less confusion would result with a parallel application of the reconstruction rule.

All ten commenters on the reconstruction topic voiced general disapproval for the proposal. Eight of the ten favored dropping the concept entirely from both sets of regulations, with the remaining two requesting that its applicability be restricted. They advised that EPA should rely instead on the reconstruction provisions of NSPS and NESHAP to ensure such construction would apply adequate control technology. Commenters complained that review criteria based solely on the replacement cost of equipment regardless of air quality improvements make little sense for NSR rules charged with safeguarding air quality. They further argued that the added regulatory complexity inherent to the inclusion of a reconstruction provision was not warranted and its addition to NSR would not be consistent with the "no net increase" exemption under *Alabama Power*.

The Administrator agrees that the reconstruction requirement makes only limited air quality sense for PSD and has reconsidered the need to retain this concept for the program. It is true that a reconstructed source not otherwise subjected to PSD review as a major modification (i.e., such source would not cause a significant net emissions increase) would not interfere with the PSD air quality objective of allowing only limited deterioration of existing air quality. On the other hand, the PSD objective of maximizing future use of the allowable increments through application of best availabie control technology (BACT) would not be strictly met. Nevertheless, the Administrator believes that the general PSD objective of safeguarding existing air quality from significant degradation will not be undermined by deleting the requirement for review of reconstructions.

The proposal would have implemented reconstruction for PSD only on a plant wide basis. Thus, an entire plant would have to be reconstructed in order for it to be subjected to PSD review as a reconstruction. Few instances of plantwide reconstruction are expected. The limited applicability under PSD brings further doubt as to the real need for the added complexity that a reconstruction provision would bring to determining the permit applicability of construction projects. Furthermore, the deletion of reconstruction from PSD would avoid some increment tracking problems; treating reconstruction as new PSD sources could lead to increment consumption unrelated to actual air quality changes.

The Administrator does not agree with the commenters who argued that applying "reconstruction" in nonattainment areas would bring unwarranted complexity and no air quality benefits. As explained in the proposal, EPA believes that the reconstruction provision within nonattainment NSR rules is consistent with stated Congressional intent and programmatic goals to get reasonable air quality improvements from each major construction activity. Since *Alabama Power* did not strictly bind EPA in nonattainment concerns and since the reconstruction concept was not expressly precluded, the Administrator has determined that reconstruction is warranted in nonattainment areas and is today promulgating this concept as proposed for nonattainment NSR rules.

Commenters also asked that several exemptions be considered if a reconstruction rule were promulgated. Among the exemptions suggested were: (1) current NSPS exemptions for modifications, (2) Fuel-Use Act exemptions, (3) involuntary replacement of damaged equipment, and (4) voluntary fuel switches. The Administrator is not promulgating any of these exemptions into the reconstruction provision. First, the current NSPS exemptions and involuntary replacement of damaged equipment do not avoid applicability of NSPS under 40 CFR 60.15 when a unit would have been reconstructed. Therefore, it would be inconsistent to establish such a concept under nonattainment NSR. In addition, 40 CFR 60.15, which governs how the reconstruction rule will apply in the affected NSR programs (*see e.g.*, 40 CFR Part 51 Appendix S, section II. A(12)), allows the Administrator, in paragraph (f), some case-by-case discretion in determining when a reconstruction would occur. Thus, no specific exemptions such as those suggested appear warranted at this time.

K. Exclusions

In September, EPA proposed to exclude "routine maintenance, repair and replacement" from the category "physical change" which appeared in the proposed PSD and nonattainment definitions of "major modification." At the same time EPA proposed to exclude the following events from the category "change in method of operation," unless previously limited by enforceable permit conditions: (1) a fuel switch due to an order under the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (or any superseding legislation) or due to a natural gas curtailment plan under the Federal Power Act; (2) a voluntary switch to an alternative fuel or raw material that the source prior to January 6, 1975, was capable of accommodating; (3) a fuel switch due to an order or rule under section 125 of the

Clean Air Act; (4) a switch to "refuse derived fuel generated from municipal solid waste" (RDF), and (5) a change in the ownership of a source.

EPA received few comments on the proposed exclusions. Certain commenters expressed reservations about the legal and policy basis of the RDF exclusion. Another commenter urged EPA to expand the exclusion for voluntary switches to an alternative fuel or raw material. Specifically, the commenter urged the Agency to drop the provisions which limited the exclusion to switches that would not require a change in permit conditions and to sources that were capable of accommodating the fuel or material before January 6, 1975. The commenter agreed with the position EPA took in the preamble to the 1978 Part 52 PSD regulations that Congress in enacting section 169(2)(C) intended that voluntary switches to an alternative fuel or raw material should be treated in the same way that they were being treated under section 111. *See* 43 FR 26396 (June 19, 1978). At the time Congress enacted section 169(2)(e), the regulations promulgated under section 111 excluded any such switch if the source could accommodate the fuel or material before the relevant NSPS applied to the source type. Whether a permit condition would restrict the switch was immaterial. *See* 40 CFR 60.14(e)(4) (1979). In view of this, the commenter argued that Congress intended the exclusion in the PSD and nonattainment regulations to look only at whether the source was capable of accommodating the fuel or material before those regulations first applied to it.

After considering the comments on the RDF exclusion, EPA has decided to promulgate it. The Resource Conservation and Recovery Act of 1974, 42 U.S.C. 3251 *et seq.*, firmly supports the exclusion. In that statute, Congress expressed a strong interest in the development and use of RDF. In addition, the exclusion has a sound policy basis, in view of the importance of reducing the nation's dependence on foreign oil.

In promulgating the exclusion, however, EPA has drawn it, by way of clarification, somewhat more tightly. It now excludes only a switch to RDF by a "steam generating unit." EPA intends that term to have the same meaning for the purposes of PSD and nonattainment NSR as it does for the purposes of the new NSPS for certain electric utility "steam generating units." For the NSPS definition of that term, see 40 CFR 60.41a (1979).

In response to the comment on the voluntary fuel and raw material switch provision, EPA has retained the language which limited it to sources which were capable of accommodating the fuel or material before January 6, 1975 (or December 21, 1976, for the Offset Ruling and 40 CFR 51.18; or July 1, 1979, for the construction moratorium) and the language which limited the exclusion to those not requiring a permit alteration. First, EPA disagrees that the cutoff date in the counterpart NSPS exclusion is analogous to the date the particular preconstruction permit regulations applied to a particular source. To the contrary, the NSPS counterpart is more broadly drawn; it focuses on the date the NSPS first applied to the *source type*. Second, EPA disagrees that the counterpart governs whether the NSR exclusions must ignore permit conditions. The NSPS program does not involve assessments of the impact of a source on air quality. In EPA's view, any switch to another fuel or raw material that would distort a prior assessment of a source's air quality impact should have to undergo scrutiny.

It should be noted that EPA has added a new clause to the exclusion for voluntary fuel switches. It provides that a switch which the relevant reviewing authority has already approved is not a "physical change" or "change in the method of operation" for NSR purposes. Obviously, a second evaluation of the air quality impact of the switch would be unnecessary.

The comment relating to voluntary switches has prompted EPA to add one more exclusion. It would exclude any increase in hours or rate of operation, as long as the increase would not require a change in any preconstruction permit condition established under the SIP (including PSD permits) after the relevant date of concern.

This exclusion stems largely from EPA's decision that the definitions of "major modification" should focus on changes in "actual emissions." While EPA has concluded that as a general rule Congress intended any significant net increase in such emissions to undergo PSD or nonattainment review, it is also convinced that Congress could not have intended a company to have to get a NSR permit before it could lawfully change hours or rate of operation. Plainly, such a requirement would severely and unduly hamper the ability of any company to take advantage of favorable market conditions. The emphasis of the relevant statutory provisions on "construction" strongly supports EPA's interpretation of Congress' intent. *See, e.g.*, section 165(a), 42 U.S.C. 7475. At the same time, any change in hours or rate of operation that would disturb a prior assessment of a source's environmental impact should have to undergo scrutiny.

Because of the absence of any significant comments on the other four exclusions, EPA has promulgated them as proposed.

L. Example of How the Definitions Work

The way in which the definition of modification works is best illustrated by an example. The example also demonstrates the relationship among a source's potential to emit, its actual emissions, and its allowable emissions.

In December 1980, a new source (Source A) that will emit SO_2 and PM files a PSD application to locate in an area that is attainment for SO_2 and PM. At maximum operating capacity including application of best available control technology, and assuming year-round continuous operation, the source can emit 700 tons of SO_2 per year. Seven hundred tons per year (tpy) is the source's physical potential to emit SO_2. Its physical potential to emit PM is 15 tpy. Provided that the 15 tpy of PM emissions is made federally enforceable, PM emissions will not be significant (*i.e.*, less than 25 tpy) and are, therefore, not subject to PSD review.

In the course of review, modeling reveals the SO_2 increment will be violated in the source's area of impact if it emits 700 tons SO_2 per year. The source, therefore, decides to limit its operation so as to decrease its emissions to 600 tons SO_2 per year. This reduction proves sufficient to eliminate the predicted violation. The source is issued a PSD permit that sets an SO_2 emissions limitation of 600 tpy, which reflects the revised source operation (approximately 20 hours a day, seven days a week). This emissions rate is the source's legal potential to emit. It is also the source's allowable emissions, since it is the emissions rate specified as a federally enforceable permit condition. *See e.g.*, § 52.21(b)(15)(iii).

During the first three years of operation, from March 1982 to March 1985, the demand for the source's product is less than anticipated. As a result, the source's actual emissions are 250 tpy during the first year and 300 tpy during the next two years.

In April 1985, another new source of SO_2 (Source B) proposes to locate in the area of impact of Source A. Consequently, in calculating its impact on ambient standards and its increment consumption, Source B is required to model the emissions of Source A. Under EPA's increment consumption policy (*see* Increment Consumption), Source

A's actual emissions should be modeled. Because Source A has an individually-tailored PSD permit, the definition of actual emissions allows the reviewing authority to presume that the allowable emissions in Source A's PSD permit reflects its actual emissions, unless the reviewing authority or source applicant has reason to believe that allowable emissions are not representative of actual source emissions.

In the case of Source A, allowable emissions, in fact, differ from actual emissions. Assuming that the reviewing authority is aware of this difference as a result of its periodic assessment or because Source B has presented this information in its application, Source A is modeled at its actual emissions rate representative of normal source operation during a two-year period preceding the date of concern. In this case, the date of concern would be approximately the date Source B submits its application. The reviewing authority should, therefore, look to the two-year period preceding that date unless that period of time was atypical of normal source operation. For Source A, the two-year period preceding Source B's application can be considered representative of normal source operation. Source A's actual emissions during that period, on an average annual basis, are approximately 300 tpy. The modeling of increment consumption for Source B should assume that emissions rate for Source A.

Unless Source A's permit is revised at this point to reflect its actual emissions rate of 300 tpy, Source A could attempt to use the decrease in its actual emissions in the future to offset a future emissions increase of its own. This would result in a large net increase in actual emissions for the area which could violate the applicable PSD increment. The potential problem of double counting of emissions decreases is discussed in more detail in Increment Consumption.

Assume that in June 1987, Source A decides to modify its facility. Demand for its product has increased and Source A wants to add a new emissions unit that will emit 60 tpy SO_2. In addition, Source A plans to increase the hours of operation at the units which began production in March 1982, to result in an actual emissions increase of 75 tpy at those units. If no contemporaneous decreases have occurred, both changes will result in significant net increases in actual emissions. Both changes then qualify as modifications. The addition of a new unit is a physical change. The increase in hours of operation is a change in the method of operation. assuming that the reviewing authority revised Source A's permit to reflect its actual emissions of 300 tpy at the time Source A's actual emissions were used by Source B in modeling increment consumption.

If Source A was able to decrease sufficiently its actual emissions at another unit at the source, it would be able to avoid PSD review for one or both modifications. Assume, for example, that in April 1986, Source A applied additional control equipment and decreased actual SO_2 emissions across the facility by 100 tpy. In June 1987, Source A can use those decreases to offset its proposed contemporaneous increases provided the decreases are made federally enforceable. If Source A's proposed increase in hours of operation for the units which began operation in March 1982 would result in an emissions increase of 75 tpy and the emissions from the proposed new unit are 60 tpy, Source A can use its 100 tpy decrease to avoid PSD review for both changes. Seventy-five tons of the decrease can be used to offset the increase in hours of operation and 25 tons of the decrease can offset 25 tons of the increase due to the new unit. Since the net emissions increase of 35 tons is not significant, it would not be a major modification requiring PSD review.[12]

Suppose Source A then plans to increase its emissions by 150 tpy in November 1990 and to decrease emissions by 80 tpy in February 1989. The increases and decreases since April 1986 are all contemporaneous because they occurred within the same five-year period. Now, assume Source A revises its permit to reflect only 50 tons of the 80-ton decrease in February 1989. Source A can receive credit for only 50 tons of the 80-ton decrease, since only this amount was made federally enforceable. However, Source A does receive credit for the April 1986 decrease of 100 tpy, assuming that decrease was made federally enforceable at the time of the June 1987 increase, or is made federally enforceable prior to commencement of construction on the November 1990 increase. Source A's total creditable decreases are then 150 tpy. Its increases are 135 tpy in June 1987 and 150 tpy in November 1990, for a total increase of 285 tpy. The net emissions increase is 135 tpy, which is significant for SO_2. Source A must get a PSD permit for the change leading to the 150 tpy increase in November 1990. However, it is not required to get a PSD permit for the June 1987 increases.

If, from March 1982 to March 1985, Source A had exceeded its allowable rate of 700 tpy, Source A could not receive full credit for its April 1986 decrease. For example, assume Source A's actual emissions from March 1982 to March 1986 were 800 tpy, 100 tpy over its allowed rate. None of the 100 tpy reduction in April 1986 would then be creditable. The amount of Source A's creditable decrease could also be reduced if the designation of the area where Source A is located were changed from attainment to nonattainment in March 1985 and Source A became subject to a new, more stringent SIP requirement in March 1986. If, for example, the SIP required Source A to reduce emissions from 700 to 600 tpy by December 1988, none of the 100 tpy decrease in April 1986 would again be creditable.

XI. De Minimis Exemptions

In the *Alabama Power* decision, the court indicated that emissions from certain small modifications, and emissions of certain pollutants at new sources, could be exempted from some or all PSD review requirements on the grounds that such emissions would be *de minimis*. In other words, the Administrator may determine levels below which there is no practical value in conducting an extensive PSD review. The court also indicated that the Agency could establish exemptions based on administrative necessity (e.g., the inability of reviewing authorities to provide the necessary work force to properly review a very large number of permit applications). The September 5 proposal incorporated the *de minimis* concept and requested comments on the approach taken. At that time, the Administrator noted that because of the urgency associated with the proposal, the *de minimis* numbers published were not supported by extensive analysis, and that a more thorough analysis would be undertaken prior to promulgation.

The proposal included two tables, one for defining significant emissions changes (in tons per year) and one for defining significant air quality changes (in micrograms per cubic meter). Values lower than those in the proposed tables were recommended as being *de minimis*. These tables, with respect to criteria pollutants, were generally based on the "significance" levels published in the preamble to the June 19, 1978 PSD regulations (43 FR 26398) and in the Offset Ruling (44 FR 3283). These significance levels in turn were derived from the Class I increment values listed

[12] Under the provisions of 40 CFR Part 51 Appendix S, 40 CFR 51.18(j), and 40 CFR 52.24, the emissions increases at Source A would probably be subject to review as modifications, notwithstanding the contemporaneous decreases at the source.

areas while limiting PSD review to requirement. (A separate table would be percentages of the primary standard for

in Part C of Title I of the Clean Air Act. For noncriteria pollutants, a similar approach was taken: the Agency extrapolated emissions rates from documented air quality guideline numbers, where available.

In the proposal, the tables were presented as preamble guidelines to be used in the following manner. For PSD, any new source subject to review was to be analyzed for the application of BACT for each pollutant whose emissions would exceed the value in Table 1. In addition, an air quality analysis to determine the impact of these pollutants was required. For modifications, any pollutant for which the source was major and for which there was a contemporaneous net increase equal to or greater than the applicable value(s) in Table 1 would trigger PSD review of the modification; as in the case of new sources, BACT and air quality impact analyses were required for each pollutant whose net emissions increased by greater than a *de minimis* amount. Table 2 was proposed to provide an exemption from air quality impact analysis (including monitoring) for those sources and modifications which could demonstrate that their maximum expected air quality impact would be less than the values listed. Sources, including modifications, claiming to be exempt from reviews on the basis of *de minimis* emissions would be required to so notify the Administrator. The *de minimis* requirements also would apply to nonattainment sources, but would be restricted to the pollutant(s) for which the area is nonattainment.

The Agency received extensive comments on the proposed *de minimis* approach. In all there were 121 comments addressing this issue. While there was almost universal endorsement of the concept, a large number of commenters (65) criticized the proposed values as being too low. Some of these commenters stated that there was a lack of support for the numbers presented and felt that the emissions table was more restrictive than the table of air quality concentrations; others claimed that the low *de minimis* levels made the applicability of the review process inequitable for modifications in comparison to new sources. A consistent theme was that the proposed values would necessitate unproductive review in terms of environmental benefit while consuming applicant and reviewing authority resources. Although there were suggestions concerning how big the emissions numbers should be (100 tons per year was a popular choice), little specific guidance was given on how to develop alternative numbers. Suggestions generally were limited to using various percentages of the national ambient air quality standards or the amount of existing emissions. One commenter did suggest the use of an equation that accounted for variability in stack height.

Only one commenter criticized the *de minimis* levels for being too high. This commenter also believed that exemptions from review because of emissions less than the *de minimis* rate should not be automatic, but should be allowed only after a case-by-case review of source impact. In addition, the commenter stated that in areas where the increment is almost entirely consumed, sources should be subject to PSD review for any increase in emissions.

A frequently addressed aspect was the perceived need to incorporate any *de minimis* values in the regulations, as opposed to leaving them as guidelines in the preamble. Forty-eight of fifty-six commenters favored such a change. The general concern was that since the preamble is omitted from the Code of Federal Regulations, the regulations as written would appear to be ambiguous as to the term "significant." Those that favored leaving the tables as guidelines did so generally to provide more flexibility either for sources to demonstrate that they should be exempt or for states to develop alternative *de minimis* values.

There were several other meaningful comments. Sixteen commenters recommended that *de minimis* coverage be limited to criteria pollutants. Eighteen commenters contended that the need to accumulate *de minimis* changes was burdensome, environmentally unnecessary, and should be dropped; some questioned the legislative basis for this requirement. Several commenters cited the difficulty, if not impossibility, of monitoring for all regulated pollutants. These commenters were especially concerned regarding monitoring for noncriteria pollutants, indicating that the requisite technology was not available in some cases. Other commenters questioned how the term "no impact," which is used in the regulations to protect Class I areas, relates to the Table 2 *de minimis* values.

Mindful of the comments received, the Administrator has undertaken a reassessment of the *de minimis* issue. This reassessment is decribed in two documents. One is a report entitled "Impact of Proposed and Alternative *De Minimis* Levels for Criteria Pollutants," EPA–450/2–80–072, and the other is a staff paper entitled "Approach to Developing *De Minimis* Values for Noncriteria Air Pollutants." These are available for examination in the rulemaking docket. In addition, copies may be obtained by writing to the Air Information Center, U.S. EPA Library Services, MD–35, Research Triangle Park, NC 27711.

Obviously, a significant part of the reassessment involved the use of reasonable judgment. The task requires consideration of an area in which not only is data limited, but criteria for decision making is almost non-existent. The first task of the reevaluation was to identify the basic objectives to be met in selecting *de minimis* values. The primary objectives identified were: (1) provide effective Class I area protection; (2) guard against excessive "unreviewed" consumption of the Class II or III increments; and (3) assure meaningful permit reviews. "Meaningful" in this context implies that there would be a possibility of obtaining useful air quality information or obtaining greater emission reductions as a result of BACT analysis than would be expected from normal state permit or NSPS/NESHAP processing.

The proposed *de minimis* air quality values, which stemmed from the legislated Class I increments, caused concern for two reasons. First, if a modification occurs near enough to a Class I area, almost any *de minimis* emissions level could impact the area. Thus, proximity rather than emissions level appears to be more important in Class I area protection. Second, the general imposition of Class I criteria on the review process for Class II and III areas may be overly stringent. These concerns were examined as part of the *de minimis* reassessment.

As a result of this examination, the Administrator has decided that higher *de minimis* emissions rates than those used in the proposal could apply to review of sources which would not construct within a specified distance of a Class I area. However, a proposed source or modification that would construct close to a Class I area must be prepared to demonstrate for each regulated pollutant that it would emit that it would not have a significant impact on such area (defined as one microgram per cubic meter ($\mu g/m3$) or more, 24-hour average), even if the proposed emissions increases are below the applicable *de minimis* threshold. The effect of this change is to require less review for many sources through higher *de minimis* values (compared to the proposal), while adding a limited air quality analysis requirement for only a few sources. Such a change is consistent with the objectives of protecting Class I areas while limiting PSD review to projects with significant impact.

There were three basic alternatives available for specifying *de minimis* cutoffs—one based solely on air quality impact, one based solely on emissions rate, and one based on a combination of these, such as was proposed on September 5. The Administrator has chosen to specify *de minimis* cutoffs in terms of emissions rate for applicability, BACT and air quality analysis purposes, with no provisions for case-by-case demonstration of a source's air quality impact. This is a departure from the proposal in that, as proposed, a source could avoid air quality analysis requirements for a given pollutant by demonstrating that it would produce a maximum impact less than the air quality concentrations listed for that pollutant. An air quality concentration *de minimis* level for each pollutant for which measurement methods are available is included in the regulations only for the purpose of providing a possible exemption from monitoring requirements.

This approach has been adopted for several reasons. First, the Congress specified emissions rates, not projected air quality impacts, in the Clean Air Act as the criteria for determining which sources are major and therefore subject to PSD review. Moreover, the court, in the *Alabama Power* decision, continually refers to emissions rate rather than air quality concentration in its discussion of the *de minimis* issue. Therefore, it would be inconsistent with the existing guidance to abandon the emissions rate concept.

Second, if applicability decisions depended on confirming a demonstration by the source that its impact would be less than a given air quality level, it is the Administrator's opinion that the review process would become excessively complex and greatly increase the resources needed by reviewing authorities to carry out the program. In addition, such an approval would create and atmosphere of uncertainty as to whether individual sources needed to apply for a permit or not, and could lead to uneven application of the regulations from state to state. Third, the task of establishing *de minimis* air quality levels for noncriteria pollutants, with proper consideration of threshold levels and factors of safety (if any), is very complex and could not be done in the time available.

Finally, given the inclusion of a *de minimis* exclusion for monitoring, it serves little purpose to have a separate table to permit an exclusion from the remaining air quality impact analysis requirement. (A separate table would be required because monitoring capability and concern for potential effects are unlikely to be associated with the same air quality concentrations.) Besides making the regulations more complicated, this resultant demonstration necessary to earn an exemption from air quality impact analysis would in itself *be* an air quality impact analysis.

In analyzing the basis for *de minimis* emissions rates, it was apparent that two distinct classes of pollutants were involved. The first consists of the criteria pollutants for which extensive health and welfare information has been developed and documented in the respective criteria documents. The other class consists of the noncriteria pollutants for which, as the name implies, no criteria on ambient effects exist. Rather, these pollutants are covered by either New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP), both of which are based on a national emissions standard, rather than an air quality management approach. That is, the regulations developed pursuant to both these legislative requirements generally specify emissions limitations and/or equipment performance standards as opposed to threshold air quality levels that must be achieved as for the criteria pollutants. Thus, it appeared reasonable to develop *de minimis* cutoffs from separate perspectives—to base criteria pollutant *de minimis* emissions cutoffs on air quality "design values" and to base the noncriteria pollutant *de minimis* values on the emissions rates embodied in the NSPS and NESHAP.

The first step in developing *de minimis* emissions rates for the criteria pollutants, therefore, was the establishment of air quality "design values." Such design values were then converted to emission rates in accordance with EPA modeling procedures,[13] using data on sources permitted under the PSD program. The latter provided modeling parameters associated with sources of the type expected to be most affected by the *de minimis* requirements. Ambient concentations representing percentages of the primary 24-hour air quality standard, as well as percentages of the Class II increment, were evaluated for particulate matter (PM) and sulfur dioxide (SO_2). Similarly, various percentages of the primary standard for the other criteria pollutants were examined.

The primary standard was chosen as the basis for design values because, except for PM and SO_2, none of the criteria pollutants have a secondary standard that is different than the primary standard. The 24-hour standard instead of the annual standard was used for PM and SO_2 since short term rather than the long term impact tends to be the controlling factor in determining whether air quality increments are exceeded. In addition, levels higher than five percent of the primary standard were not seriously considered because that percentage equates to approximately 35 percent of the TSP Class II increment. The Administrator does not believe that a source which, due to its own emissions, could potentially consume more than that amount of increment should be exempt from review.

Two factors had an important influence on the choice of *de minimis* emissions levels within the resulting range of annual emissions rates. The primary one was the cumulative effect on increment consumption of multiple sources in an area each making the maximum *de minimis* emissions increase (thereby going unreviewed under PSD at the time of the change). The other, and secondary one, was the projected consequence of a given *de minimis* level on administrative burden. To determine the cumulative effect on increment consumption expected from several sources, all making maximum *de minimis* increases (a rather unlikely event) in the same area, actual source distributions in the Dayton, Ohio, area were used. Dayton was chosen because it is a fairly representative industrialized community, and source data suitable for modeling was readily available. To check the impact of the various *de minimis* levels on administrative burden, data from past permitting experience were again used, in this case to prepare curves showing the number of sources expected to require review at various *de minimis* emissions levels. A description of these analyses is found in the *de minimis* report on criteria pollutants cited earlier.

As a result of the reevaluation, the Administrator has decided to use four percent of the 24-hour primary standard as a design value for both PM and SO_2. These ambient levels correspond to emissions rates of 25 tons per year for PM and 40 tons per year for SO_2 (except for lead, all emissions rates predicted from the modeling for criteria pollutants were rounded to the nearest five tons).

[13] Guidelines for Air Quality Maintenance Planning and Analysis, Volume 10 (Revised): Procedures for Evaluating Air Quality Impact of New Stationary Sources, OAQPS No. 1.2–029R, October 1977.

V 45 / 154 AG 7 80 UMI

Four percent of the lead standard was also used, yielding an emissions rate of 0.6 tons per year. The emissions rate for carbon monoxide (CO) in all cases was greater than 100 tons per year, the limit set in the Clean Air Act to define major for many source categories. Therefore, as proposed, the *de minimis* emissions rate for CO is established at 100 tons per year.

Because the nitrogen dioxide standard is expressed only as an annual average, a factor of two percent was used to determine the design value. There were two reasons for this decision. First, for a given level of emissions, a predicted annual concentration will be smaller than a short-term value. Conversely, therefore, a lower percentage for the annual standard than for a shorter term standard is indicated if one is to maintain a reasonably consistent rationale for emissions rates. Second, the emissions rate corresponding to two percent of the standard is 40 tons per year, which is comparable to the rate established for SO_2. Both these pollutants are frequently emitted from the same source, in roughly equivalent amounts; for example, a typical power plant meeting the NSPS with low sulfur coal would emit about 1300 tons per year of nitrogen oxides and about 1500 tons per year of SO_2.

Finally, models for use in establishing a relationship between individual source hydrocarbon (VOC) emissions and ozone concentrations are not presently available. Thus, it was not possible to model an emissions rate from an air quality design value. However, in view of the link between VOC and NO_x emissions in the formation of ozone, the emissions rate for VOC was also set at 40 tons per year.

It should be recognized that several sources or modifications can be allowed in the same area even though each might consume up to four percent of the standard (about 16 percent of the Class II increment for SO_2 and about 28 percent for PM). This is because the source specific concentration occurs in only a limited area (often one point) and the temporal and spatial conditions which lead to maximum consumption by one source are seldom the same for other sources that may be making similar *de minimis* changes. To reinforce this understanding, a modeling analysis of 37 sources in the Dayton area was conducted. The maximum aggregate increment consumption projected to occur as a result of all major sources each making a *de minimis* emissions increase equal to 40 tons per year (*e.g.*, that for SO_2) was less than 1.5 μg/m3 on a 24-hour basis. While representative of only one set of conditions, this result could probably be expected in most industrialized areas.

Excessive increment consumption is unlikely, given the safeguards existing in the regulations. Although such sources would not get PSD permits, they do not go unreviewed. Most, if not all, will be permitted under ongoing state NSR programs pursuant to 40 CFR 51.18. Moreover, their contribution to increment consumption will be evaluated either by the next major source undergoing PSD review, or during the periodic assessment of source growth. Nevertheless, in atypical situations there might still be concern with the *de minimis* levels causing accelerated increment consumption. This can be controlled by a state, upon taking the program, through the establishment of smaller *de minimis* levels.

To determine a proximity cutoff that gives assurance of protection of Class I areas, a modeling analysis was performed to identify the effect of the *de minimis* emissions levels on such areas using Volume 10 screening procedures. For the purpose of this analysis, the effect of varying stack height and meteorology, as well as the influence of terrain features, was considered. Significant impact was taken to be one $\mu g/m^3$, 24-hour average. The results indicate that sources locating more than 10 kilometers from a Class I area would not have such an impact as a result of making *de minimis* changes. Therefore, the regulations promulgated here require that any new or modified major stationary source within that distance from a Class I area will be subject to review if the source would have an impact on the area equal to or greater than one $\mu g/m^3$, 24-hour average. It must be pointed out that while the preceding responds to those commenters concerned about how to judge whether a source has "no impact" on a Class I area, the analysis of impact on such an area from major sources subject to PSD review must be done on a case-by-case basis. Further, such sources may be subject to an evaluation by the appropriate Federal Land Manager as described in the regulations.

Noncriteria pollutant emissions rates were developed from the existing emission standards (NSPS and NESHAP). In general, a fraction of the applicable standard was used. In the Administrator's judgment, since the NSPS represents the best adequately demonstrated control technology on a nationwide basis, and the NESHAPs are established with an ample margin of safety to prevent unreasonable risk to the public health from hazardous pollutants, a small percentage of these standards would, for PSD purposes, prevent a significant change from escaping review.

Levels generally representing 20 percent of a NSPS emissions standard and, because of their greater impact on health, ten percent of a NESHAP emissions standard, were evaluated. The air quality impacts of the resulting NSPS emissions rates were then calculated in a manner similar to that used for the criteria pollutants. These concentrations were compared to available health and welfare data to assure that significant adverse effects were avoided. In the case of fluorides, this check resulted in a reduction of the emissions rate originally indicated. No adjustment based on resultant effect was made for the hazardous pollutants since the NESHAP emissions rate, as noted above, is itself intended to protect the public health with an ample margin of safety; therefore, ten percent of such a value is in the Administrator's judgment sufficiently stringent for use as a *de minimis* level.

A brief discussion of the rationale for each noncriteria pollutant emissions rate is given below. For more information, see the staff paper cited earlier.

Hazardous Pollutants (NESHAP):

Asbestos—Reevaluation of existing data indicates that trying to establish a quantitative link between emissions and potential effects is not possible. No level of exposure can be presumed *de minimis*. Therefore, a theoretical *de minimis* emissions rate of zero was considered. Such a value is not practical, however, since changes of any kind at sources using materials containing even traces of asbestos could trigger review regardless of the amount of asbestos emitted. Therefore, an estimate was made of the emissions from well controlled sources from which asbestos can be emitted. Although data is very limited, rough estimates of emissions from four source categories were developed. Three categories are covered by the NESHAP regulations: asbestos milling, manufacturing using asbestos in the process (e.g., textiles, asbestos tile), and asbestos asphalt manufacture. Rock crushing, a fourth category not covered by the NESHAP, was also examined. Emissions rates from these four categories, using available data, were respectively 0.2 tons per year (TPY), 0.07 TPY, 0.04 TPY, and 0.06 TPY. Because asbestos is carcinogenic, a conservative approach to establishing the *de minimis* emissions rate has been taken. The *de minimis* level is based on a source category which has relatively small asbestos emissions, and which includes the majority of asbestos emitting sources—manufacturing operations using asbestos. Therefore, the promulgated asbestos *de minimis* rate is 0.007 TPY, based on ten percent of the emissions estimated from asbestos manufacturing sources.

Beryllium—The NESHAP emissions rate is ten grams per day or 0.004 tons per year. Ten percent of this yields a *de minimis* emission rate of 0.0004 tons per year.

Mercury—The NESHAP emissions rate is 2300 grams per day which equates to approximately one ton per year. At ten percent, the promulgated *de minimis* emissions rate is 0.1 tons per year.

Vinyl chloride—The NESHAP standard is expressed in parts per million of the effluent stream. It was therefore necessary to assume model plant characteristics in order to develop expected emissions from a well controlled plant. As in the case of asbestos, the Administrator believes that it is prudent to base these calculations on a small model plant considering the suspected carcinogenicity of this pollutant. Such plants, well controlled, emit about 10 tons per year. Based on this value, the promulgated *de minimis* emissions rate is one ton per year.

NSPS Pollutants:

Fluorides—The proposed *de minimis* emissions rate for fluorides was extremely conservative, and was strongly criticized as being too low by several commenters. Upon reevaluation, the Administrator agrees with the comments. A *de minimis* emissions rate based on the NSPS for aluminum plants is 30 tons per year—a well controlled, moderate sized, plant emits about 150 tons per year of fluorides. At a rate of 30 tons per year, the predicted maximum 24-hour ambient concentration is approximately ten micrograms per cubic meter. That concentration is about ten times the level that has been observed to produce effects on vegetation (about one microgram). In order to limit the potential for such damage, a *de minimis* emissions rate of three tons per year, corresponding to a one microgram impact, is promulgated.

An alternative would have been to base the emissions rate on the NSPS for phosphate fertilizer plants. Fertilizer plants typically emit much less than aluminum plants (i.e., about two tons per year controlled). A 20 percent *de minimis* value would then be less than 0.5 tons, which is unrealistic in view of other sources such as aluminum plants. Moreover, changes at a fertilizer plant that resulted in a fluoride emissions increase of 0.5 tons per year would probably get reviewed under state new source review and/or NSPS requirements.

Sulfuric Acid—A model plant of 1300 tons per day of production was used. The NSPS emissions limit is 0.15 pounds of sulfuric acid per ton of product processed. Thus, the model plant would emit about 35 tons per year. This yielded a *de minimis* emissions rate of seven tons per year using the 20 percent factor.

Total Reduced Sulfur, Reduced Sulfur—These pollutant classes include hydrogen sulfide (H_2S) and are regulated primarily to avoid nuisance (odor) problems. Total reduced sulfur (TRS) emissions are based on a representative kraft pulp mill (900 tons of pulp per day) which at 20 percent yields a *de minimis* emissions rate of 10 tons per year. Similarly, using a model refinery of about 100 long tons per day, the reduced sulfur (RS) compound emissions rate is 10 tons per year.

(The emissions rates calculated on the above model plants were 8.3 tons per year for TRS and 9.4 tons per year for RS. Both values were rounded to 10 tons per year for administrative purposes.)

Hydrogen Sulfide—Regulated under the refinery NSPS only. Specified as one thirtieth of reduced sulfur emissions, in major part as a check on control efficiency. Since concern, at the NSPS emissions levels, for TRS, RS, and H_2S is the same (nuisance rather than health impact) the *de minimis* emissions rate for H_2S alone is set at ten tons per year.

Methyl Mercaptan, Dimethyl Sulfide, Dimethyl Disulfide, Carbon Disulfide, Carbonyl Sulfide—*De minimis* emissions rates were proposed for these compounds. However, none of them are individually regulated under the Act. Rather, they are described as constituents of either TRS or RS. Therefore, since *de minimis* emissions rates are promulgated for TRS and RS, individual *de minimis* for the five compounds have been dropped.

The complete list of the emissions levels promulgated today, and where applicable, the *de minimis* air quality design values from which they are derived, is given below in Table A:

Table A.—*De Minimis Values*

Pollutant	De Minimis emissions rate (TPY)	Design air quality value (average time) ($\mu g/m^3$)
Carbon monoxide	100	
Nitrogen oxides	40	2 (annual).
Sulfur dioxide	40	14.6 (24-hour).
Total suspended particulates.	25	19.4 (24-hour).
Ozone (volatile organic compounds).	40	
Lead	0.6	0.06 (3 month).
Asbestos	0.007	
Beryllium	0.0004	
Mercury	0.1	
Vinyl chloride	1.0	
Fluorides	3	
Sulfuric acid mist	7	
Total reduced sulfur (including H_2S).	10	
Reduced sulfur (including H_2S).	10	
Hydrogen sulfide	10	

The air quality design values are not included in the regulations. *De minimis* emissions levels are included for use in defining the term "significant." As in the proposal, these values determine the need to review modifications and determine which pollutants require BACT and air quality impact analyses for any new source or modification requiring review.

The Administrator does not believe that the promugated *de minimis* levels will produce an extraordinary administrative burden on reviewing authorities. Based on the data available, it is estimated that approximately 700 more sources will be subject to PSD review annually, all for small modifications not heretofore reviewed.

The regulations also include a list of air quality concentrations for each pollutant as criteria for exempting sources from the monitoring requirements at the discretion of the reviewing authority. Table B summarizes the applicable air quality values by pollutant type.

Table B.—*Monitoring Exemption*

Pollutant	Air quality value (averaging time) ($\mu g/m^3$)
Carbon monoxide	575 (8-hour).
Nitrogen dioxide	14 (24-hour).
Sulfur dioxide	13 (24-hour).
Total suspended particulates	10 (24-hour).
Ozone	(1)
Lead	0.1 (24-hour).
Asbestos	(2)
Beryllium	0.0005 (24-hour).
Mercury	0.25 (24-hour).
Vinyl chloride	15 (24-hour).
Fluorides	0.25 (24-hour).
Sulfuric acid mist	(2)
Total reduced sulfur (including H_2S).	10 (1-hour).
Reduced sulfur (including H_2S)	10 (1-hour).
Hydrogen sulfide	0.023 (1-hour).

[1] All cases where emissions of VOC are less than 100 tons per year.

[2] No satisfactory monitoring technique available at this time.

Several Table B values are somewhat different from the design air quality numbers shown in Table A. This is because the Table B values are based on the current capability to provide a

attainment or unclassifiable for *any*

250 tons per year (tpy) (depending on

nonattainment areas, but causing or

meaningful measurement of the pollutants. The values promulgated represent five times the lowest detectable concentration in ambient air that can be measured by the instruments available for monitoring each pollutant. The factor of five was chosen after reviewing test data for the various methods considered reasonably available. The decision was based in part on considerations of instrument sensitivity, potential for sampling error, problems with instrument variability (*e.g.*, zero drift) and the capability to read recorded data. For a more thorough discussion of this determination, see the memorandum from K. Rehme to W. Peters dated May 20, 1980, which is available in the rulemaking docket and from the address given for the other reports.

There also are several changes in the use of Table B from the Table 2 proposed on September 5. First, a source deemed subject to review may claim the *de minimis* air quality impact exemption from only the monitoring requirement for the reasons noted earlier. Next, under the proposal, a source had to demonstrate that its ambient impact would be *de minimis* to obtain an exemption from monitoring. As promulgated, the regulation allows a source to be exempted from the preapplication monitoring requirement if it shows either that existing air pollution in the source impact area or its projected impact in the affected area is *de minimis*. In most cases, little is to be gained from preconstruction monitoring in situations where either condition applies.

Finally, because there will be situations where monitoring will be necessary even if modeling predicts *de minimis* conditions, the exemption is not automatic but rather must be with the approval of the reviewing authority. For example, Table B values should not be used when (1) there is an apparent threat to an applicable PSD increment or NAAQS based on modeling alone or (2) when there is a question of adverse impact on a Class I area. Questions of adverse impact on a Class I area are to be decided on a case-by-case basis with the objectives of the affected Federal Land Manager in mind.

Some of the suggestions made in the comments have not been adopted. For the reasons stated earlier, many of the *de minimis* values have been increased. The automatic exemption on the basis of emissions rate is retained, although the exemption from monitoring has been made discretionary. The Administrator believes that a clear indication of applicability is necessary. It is not reasonable to expect a potential applicant to have continuous knowledge of the status of increment consumption and thus know when an application is required and when it is not. Nor have the *de minimis* values been promulgated as a guide only, with a screening review of all sources made mandatory as suggested by one commenter. The Administrator does not believe that there is a substantial programmatic benefit to be derived from such a stringent requirement.

Accumulation of *de minimis* values has not been dropped, because for most pollutants the promulgated *de minimis* emissions levels are now substantially higher than those proposed. The suggestion to allow sources with greater than *de minimis* emissions to make a showing that their air quality impact was *de minimis* and escape review was considered and then rejected. The higher emissions levels promulgated will offer much of the requested relief. Moreover, such an approach would not streamline the review process (*i.e.*, a detailed air quality analysis would still be necessary), and several sources with taller stacks might avoid review and the BACT requirement. Variations in actual impact because of stack height can be a factor in the BACT review. Similarly, an equation considering stack height to determine the *de minimis* emissions rate cutoff has not been promulgated. It is questionable whether such an equation could be developed for application nationwide that would be any less judgmental than the fixed *de minimis* emissions rates promulgated. Moreover, that approach would be little more than a case-by-case applicability assessment which the Administrator believes is inadvisable for reasons already described.

Other suggestions not accepted were to raise the *de minimis* emissions levels to 100/250 tons per year for the criteria pollutants, and to limit the *de minimis* concept to only the criteria pollutants. In developing an approach to defining *de minimis* for PSD purposes and consequently calculating the specific *de minimis* values under the guidance given within the Act and *Alabama Power*, emissions levels as high as 100 tons per year could not be justified for most criteria pollutants. Use of the *de minimis* concept with respect to only the criteria pollutants suggests that any increase (i.e., a zero *de minimis* value) would be significant for noncriteria pollutants and must be reviewed. As mentioned earlier, a zero *de minimis* is not practical for this program.

XII. Geographic and Pollutant Applicability

A. Background

Alabama Power held that in determining the applicability of PSD review, EPA must look to whether a source locates in an area to which Part C of the Act applies, rather than to the impact the source would have upon such an area. Accordingly, EPA proposed on September 5 to apply PSD review to a source if the source locates in an area designated attainment or unclassifiable for a pollutant which the source emits in major amounts. Each pollutant emitted by the source would be subject to PSD review, unless the pollutant was one for which an area is designated nonattainment and the source emitted that pollutant in major amounts. A modification to a source would be subject to PSD review under the September 5 proposal if it would result in a significant net increase in the emissions of any regulated pollutant for which the source is major and for which the area is designated attainment or unclassifiable. In addition, EPA proposed on September 5 to apply PSD review to a source or modification that would significantly affect an area in another state designated as attainment or unclassifiable for a pollutant for which the source or modification would be major. *See* 44 FR 5190–41, 51949 (§ 51.24(i)(2)), 5193–54 (§ 52.21(i)(8)).

On January 30, 1980, EPA stated that it intended not to apply PSD review based solely on interstate impact, because the court's final interpretation of the Act in *Alabama Power* suggested that PSD review was not appropriate in such circumstances. EPA also noted that under its September 5 proposal, a source or modification would be exempt from PSD review if it emitted in major amounts only pollutants for which an area had been designated nonattainment. EPA solicited comments on whether this exclusion should be retained, as well as on its proposal to delete PSD review based solely on interstate impacts. *See* 45 FR 6803 (January 30, 1980).

B. PSD Applicability

After further evaluation of its proposed approach, and consideration of the comments submitted in response to the September 5, 1979, and January 30, 1980, notices (see discussion below), EPA has decided to modify the September 5 proposal somewhat. Under today's action, except with respect to nonattainment pollutants, PSD review will apply to any source that emits any pollutant in major amounts, if the source would locate in an area designated attainment or unclassifiable for *any* criteria pollutant. If the source is subject to PSD review, then PSD review will be applied to each pollutant the source emits in greater than *de minimis* amounts, unless the area is designated as nonattainment under section 107(d)(1) for the particular pollutant. It should be noted that in order for PSD review to apply to a source, the source need not be major for a pollutant for which an area is designated attainment or unclassifiable; the source need only emit *any* pollutant in major amounts (i.e., the amounts specified in section 169(1) of the Act) and be located in an area designated attainment or unclassifiable for that or any other pollutant. Therefore, sources that are major only for pollutants for which an area is designated nonattainment will not be exempt from PSD review unless the source is located in an area which is designated nonattainment for all criteria pollutants or unless all of the regulated pollutants emitted by the source in greater than *de minimis* amounts are nonattainment pollutants.

The applicability of the PSD regulations to modifications mirrors that for new sources (*see* Modification). PSD review will apply to any modification to a source which emits any pollutant subject to regulation under the Act in major amounts, if the modification would result in a significant net increase in the emissions of *any* pollutant, and if the source is located in an area designated attainment or unclassifiable for any criteria pollutant. PSD review would not apply to any nonattainment pollutant. Unlike the approach proposed on September 5, in order for PSD review to apply, the modification need not increase emissions of a pollutant for which the source is major, nor need the source be major for a pollutant for which the area is designated attainment or unclassifiable.

EPA believes that this approach is required by *Alabama Power* and sections 165(a) and 169(1) of the Act. Section 165(a) states that "[n]o major emitting facility on which construction is commenced after the date of the enactment of [Part C of the Act], may be constructed in any area to which this part applies unless" the conditions set out in section 165(a) are met. *Alabama Power* held that this provision must be interpreted literally and that, in particular, EPA should focus on the *location* of the source, not its impact. *See* 13 ERC at 2012–2016. Today's action provides the necessary literal interpretation. A "major emitting facility" is defined in section 169(1) as a source which would emit at least 100 or 250 tons per year (tpy) (depending on the type of source) of "any" pollutant. This would cover both critiera pollutants, for which national ambient air quality standards have been promulgated, and non-criteria pollutants subject to regulation under the Act. Section 165 refers to an "area to which this part [part C] applies," which the Court in *Alabama Power* interpreted to mean "clean air areas," *i.e.* areas designated pursuant to section 107 as attainment or unclassifiable for a particular air pollutant 13 ERC at 2013. *See also* sections 161, 162, and 167 of the Clean Air Act. But neither section 165 nor section 169(1) links the pollutant for which the source is major and the pollutant for which an area is designated attainment or unclassifiable. Read literally, section 165(a) applies PSD preconstruction review to all sources that are major for any pollutant subject to regulation under the Act and locate in an area designated attainment or unclassified for any pollutant.

Section 165(a) also does not link review of a particular pollutant to the attainment status for that pollutant or limit review to pollutants for which a source is major. Rather, read literally, section 165(a) applies PSD review to *all* pollutants subject to regulation under the Act emitted by the source provided that the source is major for *some* pollutant and is located in a clean air area for some pollutant. However, implicit in *Alabama Power* and the structure of the Act is a recognition that where nonattainment pollutants are emitted in major amounts (i.e., where a source emits in major amounts a pollutant for which the area in which the source would locate is designated nonattainment), Part D NSR rather than Part C PSD review should apply to these pollutants (see below). PSD review does not apply to the nonattainment pollutants emitted by the source otherwise subject to review.

C. Nonattainment Applicability

On May 13, 1980, 45 FR 31307, EPA promulgated a final rule setting out the applicability of nonattainment review of new and modified sources. In brief, EPA clarified that the construction moratorium under section 110(a)(2)(I) and NSR under the Offset Ruling and section 173 apply to all major construction proposed in such areas. This applicability is unaffected by the particular air quality levels within the designated nonattainment area which would be caused or impacted by the proposed major source or major modification. States still are required under section 110(a)(2)(D) to review new or modified sources locating outside of nonattainment areas, but causing or contributing to a violation of an ambient air quality standard; however, review need not meet all of the nonattainment requirements under section 173 and the offset policy.

The current regulations concerning pollutant applicability in nonattainment areas have not been changed. These rules are different from the PSD pollutant applicability rules. Major sources are subject to review under the Offset Ruling, section 173, and the construction moratorium only if they emit in major amounts the pollutant(s) for which the area is designated nonattainment. In addition, only those nonattainment pollutants which the source emits in major amounts are subject to review or the construction moratorium. Similarly, only if a modification increases emissions of a pollutant for which the source is major and for which the area is designated nonattainment do nonattainment requirements apply. The basic rationale for these restrictions is that section 110(a)(2)(I), which contains the construction moratorium, restricts the construction moratorium to pollutants for which the source is major and for which the area is designated nonattainment. Since there is no requirement similar to the one in section 165(a) that subjects a source to review for all regulated pollutants it emits once it is subject to review for one pollutant, preconstruction review under the Offset Ruling and section 173 is restricted in the same manner as the construction moratorium.

For example, construction of a new plant with potential emissions of 500 tpy PM and 50 tpy SO_2 in an area designated nonattainment for both PM and SO_2 would be subject to nonattainment requirements for PM only, since the source is minor for SO_2. Similarly, modification of this plant resulting in a net increase in emissions of 50 tpy in SO_2 would not be subject to nonattainment requirements. See also examples (3), (4), and (7).

D. Case Examples

The following additional examples illustrate how applicability of PSD requirements will work under today's final regulations:

(1) Construction of a new plant with potential emissions of 500-tpy PM and 50 tpy SO_2 in an area designated attainment for both PM and SO_2 would be subject to PSD review for both PM and SO_2.

(2) Construction of the same plant as in example (1), but in an area designated attainment for SO_2 and nonattainment for PM, would be subject to PSD review

for SO_2 and nonattainment requirements

Fourteen commenters argued that EPA should not apply PSD review to

PSD preconstruction review for greater than *de minimis* net increases in the

definition of source are separate issues

V 45 / 154 AG 7 80 UMI

for SO_2 and nonattainment requirements for PM.

(3) Construction of the same plant as in example (1), but in an area designated attainment for PM and nonattainment for SO_2, would be subject to PSD review for PM only. PSD review would not apply for SO_2, since SO_2 is a nonattainment pollutant.

(4) Construction of the same plant as in example (1), but in an area designated nonattainment for both PM and SO_2 would be subject to no PSD review and to nonattainment requirements for PM. This would be the case even if the SO_2 emissions would have an impact on a nearby Class I area for SO_2 or on an area located in another state which is designated attainment or unclassifiable for PM.

(5) Modification to the plant in example (1), where the plant is located in an area designated attainment for both PM and SO_2 resulting in a 30 tpy net increase in PM emissions, would be subject to PSD review for PM.

(6) Modification to the plant in example (1), where the plant is located in an area designated attainment for SO_2 and nonattainment for PM, resulting in increased emissions of 50 tpy in SO_2, would be subject to PSD review for SO_2. (It is a significant increase at a major source located in an attainment area.) But if the modification only were to increase the emissions of PM by 30 tpy, only nonattainment requirements would apply, since this is a modification of a major source for a nonattainment pollutant.

(7) Modification to the plant in example (1), where the plant is located in an area designated attainment for PM and nonattainment for SO_2, resulting in increased emissions of 50 tpy SO_2, would be subject to neither PSD review, nor the nonattainment NSR requirements. Nonattainment NSR would not apply since the 50 tpy increase in the nonattainment pollutant does not occur at an existing major stationary source for that pollutant. PSD does not apply since the only change is to a nonattainment pollutant. Instead, the general NSR under the SIP would typically apply to this pollutant, and the new emissions of SO_2 would be accommodated in the SIP's allowance for area and minor source growth.

(8) Construction of a new plant with potential emissions of 500 tpy hydrogen sulfide (H_2S) in an area designated attainment for PM would be subject to PSD review for H_2S. If, in addition, the plant had potential emissions of 50 tpy PM, PSD review would be applied to both H_2S and PM.

(9) Construction of a new plant with potential emissions of 500 tpy CO and 50 tpy H_2S in an area designated nonattainment for CO and attainment for SO_2 would be subject to PSD review for H_2S and to nonattainment requirements for CO. If this plant were later modified, resulting in a net increase in emissions of 30 tpy in H_2S, PSD review would apply for H_2S.

(10) Construction of a new plant with potential emissions of 500 tpy H_2S in an area designated nonattainment for all criteria pollutants would not be subject to either PSD review or nonattainment requirements. Part D applies only to criteria pollutants, and the area here is not subject to Part C, since it is not designated attainment or unclassifiable for any criteria pollutant.

E. Interstate Pollution

The September 5 proposal, in response to the *per curiam Alabama Power* decision issued on June 18, 1979, would have required PSD review for a major source locating or modifying in a designated nonattainment area only if such construction would substantially impact a clean air area in another state. In its final opinion issued on December 14, 1979, the court reversed its earlier position regarding the need for a PSD review of all interstate impacts to a neighboring state's clean air area. Under both rulings, PSD review would apply in all cases where the construction would take place in a clean area. Pursuant to the court's revised ruling in *Alabama Power*, EPA will not apply PSD review to a pollutant emitted by a source locating in an area designated nonattainment for that pollutant, even where the source would impact a PSD area in another state. Sixteen of the nineteen comments received by EPA supported this decision. Three commenters requested EPA to propose regulations to control interstate pollution pursuant to sections 110(a)(2)(E) and 161. EPA is now evaluating how best to control interstate pollution, and may propose regulations some time in the future.

F. Geographic Applicability for VOC Sources

On September 5, EPA proposed to delete the "36 hour rule," which subjected a source of volatile organic compounds (VOC) to review, if the source proposed construction within 36 hours pollutant travel time of an ozone nonattainment area. Pollutant travel time was to be calculated using wind conditions associated with concentrations exceeding the ambient standard for ozone. Most commenters agreed with the proposal to delete this requirement. One commenter who disagreed focused on the need for the rule as a means of determining which sources locating outside a designated nonattainment area should be subject to nonattainment review. Another argued that without the rule EPA will end up unnecessarily reviewing sources in remote rural areas whose impact on the ozone nonattainmnent problem is insignificant, since ozone is a regional problem.

For the reasons expressed on September 5 (44 FR 51940), EPA has decided to delete the 36 hour rule. The commenters' concerns are taken care of by the rules on geographic applicability for nonattainment areas, as set out at 45 FR 31307 (May 13, 1980). Thus, all major VOC sources locating in a designated ozone nonattainment area will be subject to review under section 173. Major VOC sources locating outside a designated nonattainment area will be subject to PSD review and will be required to monitor for ozone. If the monitoring indicates that the area of source location is nonattainment, then the provisions of the Offset Ruling or State plans adopted pursuant to section 110(a)(2)(D) of the Act shall apply until the area is redesiginated as nonattainment and a SIP revision has been approved. Of course, a source of VOC may choose to accept nonattainment review requirements immediately (i.e., LAER, offsets, statewide compliance of other sources under the same ownership) and conduct post-approval monitoring as presently permitted under the PSD regulations.

G. Response to Comments

Additional responses to comments regarding applicability of nonattainment requirements can be found at 45 FR 31307. Comments concerning interstate pollution and the geographic applicability of VOC sources, are responded to above.

With regard to PSD review, several commenters argued that EPA's approach would be overly complex and would impose great administrative burdens with few corresponding benefits to air quality. EPA does not agree. Applicability of PSD review as outlined above is required by the Act. Congress believed that such broad applicability was needed to adequately guard against significant deterioration in existing clean areas. EPA cannot restrict applicability and override Congressional intent simply because of an added administrative burden such applicability might impose. For similar reasons, EPA disagrees with the suggestion that it should restrict PSD review to only those pollutants that a source emits in major amounts.

Fourteen commenters argued that EPA should not apply PSD review to noncriteria pollutants, because the lack of NAAQS and increments for noncriteria pollutants indicates that Congress did not consider these pollutants to be able to cause significant deterioration and felt that the extent of harm by these pollutants has yet to be demonstrated. They claimed noncriteria pollutant sources are already subject to NSPS and NESHAP regulation. However, as other commenters have correctly noted, section 169(1) refers to sources with the potential to emit "any" pollutant above certain amounts. Moreover, section 165(a)(4) states that BACT must apply to "each polluant subject to regulation under this Act" emitted by a source. Neither of these provisions is limited to criteria pollutants. *See also Alabama Power*, 13 ERC at 2045.

Two commenters urged that if EPA decides to regulate sources with minor but significant emissions of criteria pollutants and sources of noncriteria pollutants, it should do so only if there already exists a SIP emission limit for the "minor" pollutants or only if section 111 or 112 (NSPS and NESHAP, respectively) has been made applicable after appropriate rulemaking to such sources of noncriteria pollutants. The difficulty with this approach is that the Act requires PSD review, regardless of whether another rule already applies to the source except in the case of nonattainment pollutants (see above). Moreover, the suggested approach could allow an unacceptably large number of sources to escape review, since many sources may not have an applicable SIP emissions limit or NSPS or NESHAP limit.

While most commenters endorsed the September 5 proposal that PSD permitting should be limited to instances where greater than *de minimis* changes in a major pollutant would occur, one commenter argued that *Alabama Power* did not restrict PSD applicability to modifications involving the pollutant(s) which the source emits in major amounts. This commenter claimed that section 111(a)(4) of the Act defines "modfication" as "*any* physical change in , or change in the method of operation of a stationary source which increases the amount of *any* air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted." (Emphasis added.) As mentioned above in the Modification section, the Administrator agrees with this interpretation. Thus, today's final rule, with the exception of nonattainment pollutants, requires a PSD preconstruction review for greater than *de minimis* net increases in the potential to emit of a major stationary source for any pollutant subject to regulation under the Act.

Twenty-three commenters supported exempting nonattainment pollutants from PSD review. However, three commenters argued that PSD review should apply to nonattainment pollutants emitted in minor amounts, claiming that review in nonattainment areas should be as broad as that in PSD areas. EPA agrees with the former comments. As noted earlier, sections 165(a) and 169(1) apply to "any" pollutant regulated under the Act. The only restraint on PSD review, then, is section 173 in Part D, which governs the specific review of sources emitting nonattainment pollutant(s) in major amounts. In addition, sources emitting the nonattainment pollutants in minor amounts are subject to the general NSR contained in SIPs, and the impacts of such sources are accounted for in demonstrations of reasonable further progress and within the growth allowance provisions of the SIP. Thus, there is no need to apply PSD review to either type of nonattainment pollutant which already faces adequate review.

Twenty-three commenters also supported exempting from PSD review sources which emit only nonattainment pollutants in major amounts, but PSD pollutants in minor amounts, citing *Alabama Power* for support. Neither *Alabama Power* nor the Act support such an exemption. *Alabama Power* held that, at a minimum, PSD review does not apply to major sources which locate in an area designated nonattainment for all criteria pollutants. But the court did not take into account the fact that the same source may emit both PSD and nonattainment pollutants. Since, as noted above, section 165(a) does not link the pollutant for which the source is major and the pollutant for which an area is designated attainment or unclassifiable, EPA interprets section 165(a) as requiring PSD review for each source that is major for some pollutant and locates in an area designated attainment or unclassifiable for that or any other pollutant and that this review encompasses PSD pollutants whether or not emitted in major amounts.

Finally, some commenters perceived an inconsistency in requiring broader pollutant applicability for PSD review than for nonattainment review, yet using a broader definition of "source" for nonattainment areas than for PSD areas. However, EPA's actions are consistent with the Act. The scope of PSD review applicability and the nonattainment definition of source are separate issues and there is no basis for requiring that they be resolved in such a way as to in some manner equalize their effects.

XIII. Baseline Concentration, Baseline Area, and Baseline Date

EPA's June 1978 PSD regulations generally define baseline concentration as the ambient concentration level reflecting actual air quality as of August 7, 1977, including projected emissions of major sources commencing construction or modification before January 6, 1975, but not in operation by August 7, 1977, and excluding emissions from major sources commencing construction (including modification) after January 6, 1975. (40 CFR 51.24(b)(11), 52.21(b)(11) (1979).) Emissions from major source construction commencing after January 6, 1975, as well as most emissions increases occurring from existing sources after the baseline date are counted against the applicable PSD increments. (A more detailed discussion of the relationship between baseline concentration and increment consumption is provided in Increment Consumption.) Actual air quality includes emissions increases after the baseline date at existing sources whose emissions are counted in the baseline concentration, if the increases are due to increased hours of operation or capacity utilization authorized under the SIP and reasonably anticipated to occur on the baseline date. The baseline concentration also includes emissions increases allowed under a SIP relaxation pending final EPA approval on the baseline date, if the allowable emissions under the revision were higher than the source's actual emissions on the baseline date. The June 1978 regulations established a uniform baseline date of August 7, 1977 for all clean air areas. A definition of baseline area was unnecessary since all PSD areas were covered by the August 7, 1977 baseline date.

The *Alabama Power* decision held that a uniform baseline date was not authorized by section 169(4). It required the baseline date to be established at the time of the first application for a permit in an area subject to PSD requirements. EPA's regulations were consequently remanded for change.

The *Alabama Power* decision, however, supports EPA's definition of baseline concentration. In holding that monitoring data is required under section 165(e)(2), the court confirmed that actual air quality data should be used to determine baseline concentrations. *See* 13 ERC 2022. Since monitoring data provide information on actual air quality concentrations from

V 4 5 / 1 5 4 A G 7 8 0 UMI

existing sources and since section 169(4) explicitly states that required monitoring data should be used in establishing baseline concentrations, the court's decision supports EPA's requirement that baseline concentrations reflect actual air quality. In addition, the court implicitly affirmed EPA's approach in ruling that EPA correctly excluded from baseline concentrations emissions increases due to voluntary fuel switches after the baseline date. Since actual air quality on the baseline date would not reflect these increases, their exclusion from baseline concentrations is consistent with EPA's actual air quality approach to baseline concentrations. Finally, the court noted Congress' rejection of a House bill that would have allowed certain source emissions to be included in baseline concentrations, even though the emissions have not occurred by the baseline date. *See* 13 ERC 2026. The court concluded that Congress considered and rejected an approach that would depart from actual air quality in calculating baseline concentrations, except in the limited circumstances set forth in section 169(4).

In its September 5, 1979 response to the court's decision, EPA proposed to delete the uniform August 7, 1977 baseline date and to define baseline date as the date of the first complete application, after August 7, 1977, for a PSD permit to construct or modify a major stationary source in an area subject to PSD requirements. As part of that definition, EPA proposed to define baseline area as all parts of an Air Quality Control Region (AQCR) designated as attainment or unclassifiable under section 107(d) of the Act. Under that definition, an application of a major stationary source to construct in any part of an AQCR designated as attainment or unclassifiable would trigger the baseline date for both SO_2 and PM in all portions of the AQCR.

EPA's proposed definition of baseline area was based in part on its consistency with the term "area" as used in section 107, which requires air quality designations for AQCRs or portions thereof. The definition was also intended to avoid implementation problems that might result from having different baseline areas and dates within the same AQCR. EPA proposed, however, to allow states some flexibility in defining baseline area. *See* discussion at 44 FR 51942.

EPA further proposed to retain its current definition of baseline concentration but asked for comment on a particular problem specific to the Gulf Coast areas (*see* 44 FR 57107, October 4, 1979 and discussion in Increment Consumption). EPA's September 5 proposal specifically asked for comment on two aspects of its proposal: (1) whether baseline area should be defined as clean portions of the AQCR in which a source applies for a permit, and (2) whether a permit application should trigger the baseline date only in the clean portions of the AQCR in which the source would locate or also in clean areas of any AQCR which would be impacted by the source.

After issuance of the court's full opinion in December, EPA proposed and asked for comment on three changes to its September 5 proposal (45 FR 6802, January 30, 1980). First, EPA stated it was considering defining baseline area as any area designated attainment or unclassifiable under section 107(d) in which a source subject to PSD requirements would locate or impact, rather than all clean portions of an AQCR in which a source would locate or impact. Second, EPA's solicited comment on whether states should be allowed to redefine the boundaries of areas designated as attainment or unclassifiable. EPA suggested, however, that states should be limited to redesignations no smaller than the source's area of impact. Third, EPA indicated it was considering adoption of a pollutant-specific baseline date and area. Under that approach, a source would trigger the baseline only for the pollutants it emitted. Thus, if the source would emit neither SO_2 nor PM, it would not trigger any baseline. EPA also requested comment on whether a source which would be major for SO_2 and minor for PM would trigger a baseline date only for SO_2 or for both pollutants.

EPA's final action and response to comments on each of the issues is discussed below. For simplification, the discussion focuses on the four basic issues of baseline concentration, baseline area, baseline date, and pollutant-specific baseline. Issues related to increment consumption are discussed in the next section.

A. Baseline Concentration

As proposed, EPA is continuing its current definition of baseline concentration as the ambient concentration levels at the time of the first permit application in an area subject to PSD requirements. Baseline concentration generally includes actual source emissions from existing sources but excludes emissions from major sources commencing construction after January 6, 1975. Actual source emissions are generally estimated from source records and any other information reflecting actual source operation over the two-year time period preceding the baseline date. The baseline concentration also includes projected emissions from major sources commencing construction (including modification) before January 6, 1975, but not in operation by August 7, 1977.

Unlike the June 1978 policy, baseline concentration will no longer routinely include those emissions increases after the baseline date from sources contributing to the baseline concentration, which are due to increased hours of operation or capacity utilization. Existing policy permitted this grandfathering, provided such increases were allowed under the SIP and reasonably anticipated to occur as of the baseline date. Today's policy which normally excludes such increases is consistent with using actual source emissions to calculate baseline concentrations. An actual emissions policy, however, does allow air quality impacts due to production rate increases to sometimes be considered as part of the baseline concentration. If a source can demonstrate that its operation after the baseline date is more representative of normal source operation than its operation preceding the baseline date, the definition of actual emissions allows the reviewing authority to use the more representative period to calculate the source's actual emissions contribution to the baseline concentration. EPA thus believes that sufficient flexibility exists within the definition of actual emissions to allow any reasonably anticipated increases or decreases genuinely reflecting normal source operation to be included in the baseline concentration.

EPA is also promulgating a change in its current policy on SIP relaxations. Under that policy, emissions allowed under SIP relaxations pending on August 7, 1977 are included in the baseline concentration if the allowed source emissions were higher than actual source emissions. EPA adopted that policy in June 1978 in recognition of the fact that some states with SIP revisions pending on August 7, 1977 had allowed sources to increase emissions prior to final EPA approval of the relaxations, while other states with pending relaxations had required sources to comply with the lower emissions limitations in the existing SIP until final approval occurred. *See* 43 FR 26401 col. 3. To avoid penalizing sources in states that did not allow increases prior to approval, EPA provided that baseline concentrations include the allowable emissions under revised SIPs, if the relaxation was pending on August 7, 1977 and the allowed emissions exceeded the source's actual emissions.

The effect was to allow sources to avoid increment consumption analyses for the emissions increase allowed in the revision. EPA considered the exemption justified because states and sources were unaware that EPA would establish a uniform baseline date of August 7, 1977, and those emissions increases after that date would consume increment.

EPA believes this exemption from increment consumption analyses is no longer necessary. States and sources have been on notice since June 1978 that emissions increases at existing sources due to SIP relaxations must be evaluated for possible increment consumption. No state or source has been uncertain as to the applicable baseline date, or been placed in an inequitable position as to other states or sources. Therefore, today's regulations do not exempt from increment consumption analyses those SIP relaxations not finally approved by EPA prior to the baseline date in the affected area.

One commenter suggested that EPA extend the transition provision within the June 1978 regulations for assessing increment consumption. 43 FR 26401 col. 2. This provided that increased emissions from plan relaxations received after the August 7, 1977 baseline date but before the June 19, 1978 promulgation would consume the applicable increment but could be reviewed as part of the periodic assessment rather than assessed individually for increment consumption prior to plan approval.

EPA does not believe that a similar exception is required under today's regulations. EPA considered the exception necessary in June 1978 due to uncertainty as to how the 1977 Amendments would affect pending SIP relaxations. Such uncertainty no longer exists, since sources have been on notice since June 1978 that SIP relaxations after that date must be individually reviewed for increment consumption. Therefore, emissions increases due to plan relaxations received after June 19, 1978 must be individually evaluated for increment consumption prior to EPA approval.

EPA is concerned, however, that the new definition of baseline concentration may work a hardship on states with SIP relaxations pending when a PSD application is filed in an area. A state may submit a SIP relaxation affecting a source, or group of sources, located in an area where the baseline date has not been set, and would not be required to provide an increment consumption analysis. If prior to final EPA approval, a source filed a PSD application in the area, the application would establish a baseline date and the state would have to withdraw the revision until it has conducted the necessary increment analysis. To prevent such burdensome delays, EPA is exempting from individual increment analyses SIP relaxations pending at the time a baseline date is established in the area affected by the revision. However, increment consumption due to emissions from these relaxations must be evaluated as part of a state's periodic assessment. Exemptions from individual analyses is analogous to the previous relief provided for sources subject to SIP relaxations submitted after August 7, 1977, but before EPA's June 1978 promulgation. The exemption is therefore consistent with prior EPA policy.

B. Baseline Area.

In response to the September 5, 1979 proposal, fifty-three commenters felt that an AQCR definition of baseline area would not produce a great deal of administrative relief and would, simultaneously, limit an area's growth options. These commenters favored defining baseline area as the area of significant source impact, based on required modeling and monitoring analysis. Such an approach was claimed to provide just as much administrative relief, more growth options, and elimination of the problem of a small PSD source triggering the baseline date for a large area. Seventeen commenters favored a baseline area definition geared to areas designated as clean or unclassified under section 107. Those favoring this alternative strongly preferred a "redesignation" procedure to accompany this option. Other commenters objecting to the AQCR approach suggested: county boundary lines (three), and the entire state (one).

In response to EPA's January 30 notice, fourteen of sixteen commenters favored a source impact area definition of baseline area. One of the remaining two commenters favored retention of the AQCR approach while the other commenter desired a county or some other legal boundary approach. All eighteen comments received favored triggering a baseline only in the area in which a source would locate, and not in those other areas which it would impact. Nineteen of twenty-nine commenters favored permitting state redesignation but to areas no smaller than a source impact area. Seven other commenters favored no limitations on the redesignation procedure. The remaining three commenters opposed allowing states to redefine baseline areas through redesignation.

EPA has determined that baseline area should be defined as the area designated as attainment or unclassifiable under section 107(d) in which a source or modification subject to PSD review would construct or on which it would have an impact equal to or greater than 1 $\mu g/m^3$ on an annual basis. EPA has concluded that "an area subject to this part," as used in section 169(4), refers to areas designated attainment or unclassifiable under section 107(d).

This view is strongly suggested by Judge Robinson's opinion on baseline concentration in the December 1979 *Alabama Power* ruling. Referring to Congress' intent to use actual air quality data to establish baseline concentrations, Judge Robinson states that "the task of monitoring existing ambient pollution levels *in attainment areas* is assigned to the first permit applicant, who will provide the information essential to calculation of the baseline." (Emphasis added) 13 ERC 1993, 2022. The footnote which follows that sentence discusses a state's obligation under section 107(d)(1) to submit area designations to EPA and the fact that section 107 lists submitted to date by the states indicate that many areas lack acceptable air quality information. *Id.* The references to attainment areas and section 107(d) designated areas indicate that the court interprets the statute as requiring that baseline concentrations be calculated for each clean area designated under section 107(d)(1).

EPA thus believes that neither the statute nor the court opinion support the proposed AQCR approach. The majority of comments also opposed defining baseline area as AQCR. Opposition was based on the view that it would do little to alleviate administrative problems, offered no flexibility in states, and would often limit an area's growth options by encompassing too large an area.

EPA has also determined that a PSD source should trigger the baseline in all intrastate clean areas that it impacts as well as the area it locates in. One objective of PSD is to track air quality changes in clean air areas. If a major source significantly affects any clean air area in the same state the purposes of PSD will be served if air quality deterioration from minor/area source growth and actual changes in baseline source emissions are tracked from the time significant SO_2 or PM emissions from a new or modified major source impact a clean area. Such a policy is also consistent with the language of section 165(e)(1) of the Act which

V 4 5 / 1 5 4
AG 7 80
UMI

requires an air quality analysis of the affected area, not just the area of immediate location. The Administrator does not believe that such a policy should transcend state boundaries. Since triggering baseline dates is an important factor in managing growth, EPA has concluded that states should have jurisdiction over their own baseline dates. On the other hand, establishment of baseline dates does not affect increment consumption across state borders by major source construction commencing after January 6, 1975.

EPA has concluded that baseline areas may be redefined by the states through area redesignations. Section 107(d) specifically authorizes states to submit redesignations to the Administrator. Consequently, states may submit redefinitions of the boundaries of attainment or unclassifiable areas at any time. If EPA agrees that the available data support the change, it will redefine the areas as requested. As long as no PSD source has located in, or significantly impacted on a clean area being considered for redesignation, the area can be redesignated as a new attainment or unclassifiable area, even if the area were previously part of a larger clean area in which the baseline date had been set.

Area redesignations are subject to certain restrictions. The boundaries of any area redesignated by a state cannot intersect the area of impact of any major stationary source or major modification that established or would have established a baseline date for the area proposed for redesignation or that is otherwise required to obtain a PSD permit. In addition, area redesignations can be no smaller than the area of impact of such sources. These restrictions comport with the PSD objective of tracking air quality effects in an area once a major source or modification has affected an area. By setting the baseline date at the time a major source or modification impacts an area and preventing the date from being changed by subsequent area redesignations, the system ensures that future growth in the area will be assessed for its air quality effects from that date forward. Moreover, if states could define baseline areas as small as the immediate area in which a source is located and not include the source impact area, air quality could deteriorate or increments could be violated in a nearby area impacted by the source, but neither the state nor EPA would review the air quality impact. The source could therefore affect air quality but the reviewing authority would be unaware of the deterioration. In addition to jeopardizing air quality, "postage stamp" baseline areas would be difficult to administer.

A source will be considered to impact an area if it has an impact of 1 $\mu g/m^3$ or more of SO_2 or PM on an annual basis. This figure has been selected because it corresponds to levels of significance used in previous Agency determinations for SO_2 and PM. The annual average was selected over the short term value due to its ease of implementation. That is, the shape of source impact areas is less complex and the 1 $\mu g/m^3$ annual average provides ample area coverage of the source impact area.

The Administrator believes that defining baseline area as section 107 areas and allowing state redesignation will satisfy most of the commenters who objected to the proposed AQCR definition and favored state flexibility in designations. The redesignation process partially meets the concerns of commenters who preferred defining baseline area as source impact area. Where a baseline date is established for an area that is large relative to the impact area of the triggering source, the state has the option of redefining the area to reflect more accurately the area affected by the source.

C. Baseline Date

Consistent with the Agency's proposal, today's promulgation defines baseline date as the date after August 7, 1977 on which the first complete application for a PSD permit is filed with the appropriate reviewing authority. Section 51.24(b)(14), 52.21(b)(14). As discussed in the September 5 notice, EPA has determined that this definition is mandated by the court's interpretation of section 169(4), which requires a baseline concentration to be set on the date, after August 7, 1977, "of the first application for a permit in an area subject to this part." *See* 44 FR 51941 col. 3. Consequently, the first complete PSD permit application by a major source to construct in a baseline area, as that term is defined in § 51.24(b)(15) and 52.21(b)(15), and explained above, will trigger a baseline date.

As discussed below, under *Pollutant-Specific Baseline*, the regulation further requires that a baseline date be set for each pollutant emitted by the applicant source in greater than *de minimis* amounts, if increments or other equivalent measures under section 166 have been established for the pollutant. At present, increments are established only for SO_2 and PM, and no increments or equivalent measures for other pollutants have been established. Section 166 requires EPA to adopt regulations establishing increments or other equivalent measures for other criteria pollutants. Section 166 does not by its terms require EPA to apply section 169(4) in determining baseline dates for criteria pollutants other than SO_2 and PM. EPA is now conducting rulemaking under section 166 to develop increments or equivalent measures for the other criteria pollutants. As part of that rulemaking, EPA is considering how to establish baseline dates for those pollutants.

While comments supported EPA's proposal to establish the time of the first complete application in an area as the baseline date, eight commenters suggested that the date be set at the time of the first application after August 7, 1978, rather than August 7, 1977. This review is consistent with other comments noting that section 165(e)(2) requires permit applicants after August 7, 1978 to provide one year's monitoring or other equivalent air quality analysis to determine a baseline concentration for the area. These commenters claimed that since baseline concentration is to be established through actual ambient air quality data and no applicant can gather the necessary monitoring data before one year after the effective date of the part, the baseline date should not be triggered by applications filed before that date.

EPA understands the commenter's concerns. However, EPA believes Congress was aware that prior to August 7, 1978, applicants could not provide a full year of monitoring data, as evidenced by the fact that the monitoring requirement in section 165(e)(2) is not effective until August 7, 1978. Congress nonetheless provided that baseline concentrations be established by the first permit application, an event which could occur at any time after August 7, 1977. Congress therefore considered that baseline concentrations and increment consumption could be determined with less than a full year's monitoring data. The need to accept less data is reflected in the provision of section 169(4) that baseline concentrations be based on available air quality data and on such monitoring data as the applicant is required to submit. The provision suggests that calculations of baseline and increment use may have to be made with limited data, if available data, such as that from the state agencies, is not appropriate. EPA interprets the requirements for monitoring data after August 7, 1978, and not August 7, 1977, as intended to provide a grace period for sources, rather than evidencing intent to postpone the establishment of baseline dates.

One commenter questioned whether baseline dates would be triggered by permit applications previously filed by sources that were major under the June 1978 PSD regulations, but no longer major under the regulations promulgated today, even if the permit applicant failed to apply for a permit rescission. EPA concurs in the commenter's suggestion that a subsequent permit applicant in any area may inform the permitting authority that the baseline date was not triggered on the date that a source which no longer qualifies as major applied for a PSD permit. As the commenter points out, this eliminates the need for an immediate rescission of all past permits affecting sources no longer subject to PSD review. It also avoids penalizing permit applicants if a source that is no longer major fails to apply for a permit rescission.

The Administration wishes to clarify another point related to a change in review status for the source which has triggered the baseline date. If the applicant that established the baseline date is later denied a PSD permit or voluntarily withdraws its PSD application, a question arises as to whether the baseline date has been triggered. In the Administrator's judgment the applicable baseline date remains in place, since no change in date is authorized under the Act. Section 169(4) establishes source application as the baseline triggering mechanism and does not qualify this by the later issuance of a permit. This policy is consistent with the establishment of a baseline concentration which is based on the available monitoring data, typically that gathered by the source applicant. The data to establish the baseline concentration would be available regardless of the eventual permit status of the baseline triggering application. Using source application also stabilizes the NSR permitting process. Later applicants can determine whether a baseline date has been set in an area by looking to whether a previous application has been filed, rather than needing to determine if the permit has been or will be issued.

Finally, the Administrator wishes to point out that it is the first PSD application submitted under either 40 CFR 52.21 or state PSD regulations developed pursuant to 40 CFR 51.24 which triggers a baseline date. When states assume responsibility for implementing the PSD program, several PSD baseline dates may well have been triggered. However, as mentioned above, states can minimize the impact of early baseline dates by redesignating the size of the baseline area which is affected by a previously established baseline date.

D. Pollutant-Specific Baseline

The Agency has concluded that a pollutant-specific baseline is consistent with section 169(4) and the statutory structure. Section 169(4) requires that a baseline concentration be established "with respect to a pollutant * * * in an area subject to (Part C)." Therefore, by the terms of the statute, a baseline concentration is established for individual pollutants. Moreover, such concentrations are established for areas subject to PSD. Section 107(d), which provides that areas designated attainment or unclassifiable are subject to PSD, requires designations to be made on a pollutant-specific basis. Section 107(d)(1)(D) and (E). To be consistent, both baseline date and baseline area (and any subsequent redesignations under section 107 of the Act) must also be pollutant-specific.

The comments that favored a pollutant-specific baseline generally did so on two grounds: the reference to "pollutant" in section 169(4) and the statutory requirement to use monitoring data to establish baseline concentration. Since monitoring and increment consumption are pollutant-specific, baseline concentrations must be as well. The Administrator agrees that the monitoring requirement supports pollutant-specific baselines. Four of the thirty-eight commenters that opposed pollutant-specific baselines did so primarily for implementation reasons. Although pollutant-specific baselines may add some complexity to the PSD program, EPA has concluded that the statutory structure contemplates pollutant-specific area designations.

The following example illustrates the concept of pollutant-specific baseline dates. If a major source of NO_x that would also emit SO_2 in significant amounts and PM in less than significant amounts submits a complete application for a permit to construct in an area designated under section 107(d)(1) as attainment for all pollutants, and no previous source has triggered any baseline dates, the source would establish the baseline date for SO_2 but not PM. If a later modification to the source results in a significant net increase in PM emissions and no other application previously triggered the PM baseline date, the proposed PSD application for the modification would then establish the PM baseline date.

XIV. Increment Consumption

There are two basic issues in the area of increment consumption: (1) which source emissions consume increment and (2) how to calculate the amount of increment consumed by those emissions. The *Alabama Power* decision addressed neither question. EPA, therefore, proposed in September to continue its current approach. Under the approach, four categories of source emissions affect increment: (1) as provided by section 169(4), emissions from major source construction (including modification) commencing after January 6, 1975. This group includes emissions from sources issued PSD permits and state new source review (NSR) permits (including those issued in accordance with section 51.18(j) and the Offset Ruling) as well as emissions from non-permitted sources; (2) emissions changes occurring after the baseline date at sources whose previous emissions on the baseline date are included in the baseline concentration; (3) emissions changes due to SIP revisions that are approved after the baseline date; and (4) minor and area source growth occurring after the baseline date. EPA's current regulations provide that the first and third category of sources affect increment on the basis of emissions allowed under the permit and emissions allowed under the SIP as revised, respectively. The second and fourth categories affect increment on the basis of actual emissions changes from the emissions included in the baseline concentration.

Since its proposal, EPA has reevaluated its current policy in light of both the December opinion of the court and the Gulf Coast problem (discussed below). EPA has concluded that increment consumption and expansion should be based primarily on actual emissions increases and decreases, which can be presumed to be allowable emissions for sources subject to source-specific emissions limitations. This change principally affects increment calculations for major source construction not subject to source-specific permits or SIP requirements and for sources whose allowable limits are demonstrated not to reflect actual emissions. PSD applications pending today before EPA or a state agency authorized to review or issue PSD permits will be reviewed for increment consumption on the basis of the revised policy.

A. Use of Actual Emissions

1. Rationale for Use of Actual Emissions.

V 45 / 154 AG 7 80 UMI

As discussed in the *Baseline Concentration* section, the *Alabama Power* decision supported EPA's requirements that baseline concentrations reflect actual air quality in an area. Increment consumption or expansion is directly related to baseline concentration. Any emissions not included in the baseline are counted against the increment. The complementary relationship between the concepts supports using the same approach for calculating emissions contributions to each. Since the *Alabama Power* decision and the statute both provide that actual air quality be used to determine baseline concentrations, but provide no guidance on increment consumption calculations, EPA has concluded that the most reasonable approach, consistent with the statute, is to use actual source emissions, to the extent possible, to calculate increment consumption or expansion.

EPA's decision is also based on concerns raised by the Gulf Coast problem, discussed below. In that area, and possibly others, source emissions allowed under permits and SIP provisions in many cases are higher than actual source emissions. Sources could therefore increase their emissions without being subject to PSD review or the SIP revision process. However, if increment calculations were based on allowable emissions, EPA believes increment violations would be inappropriately predicted and proposed source construction would be delayed or halted. In practice, EPA expects that few, if any, sources will increase their emissions to allowable levels.

EPA believes it is unwise to restrict source growth based only on emissions a source is permitted to emit but which, in many instances, have not been and are not likely to ever be emitted. Increment calculations based on the best prediction of actual emissions links PSD permitting more closely to actual air quality deterioration than calculations based on allowable "paper" emissions. In addition, use of actual emissions for increment consumption is consistent with using an actual emissions baseline for defining a major modification and for calculating emissions offset baselines.

2. Calculation of Increment Consumption Using Actual Emissions.

To determine how much increment remains available to a proposed major source or modification, the source owner or operator must analyze several types of emissions changes as of its application date. These changes generally include: (1) emissions changes that have occurred at baseline sources and emissions from new minor and area sources since the baseline date; (2) emissions that have occurred or will occur at sources which have submitted complete PSD applications as of thirty days prior to the date that the proposed source files its application; and (3) emissions changes reflected in SIP relaxations submitted after August 7, 1977, and pending as of thirty days prior to the date the source files its application, or emissions changes reflected in SIP relaxations which have been approved since August 7, 1977, but which have not yet occurred. (*See*, discussion below on calculation of increment consumption for SIP relaxations.) The thirty-day cutoffs are specified to stabilize the review process by preventing new applications and SIP relaxation proposals from invalidating otherwise adequate increment consumption analyses without warning.

Increment calculations will generally be based on actual emissions as reflected by normal source operation for a period of two years. EPA has selected two years based on its recent experience in reviewing state NSR programs for nonattainment areas. The state submittals use periods of between one and three years to evaluate source emissions. In EPA's judgment, two years represents a reasonable period for assessing actual source operation. Since the framework for nonattainment NSR programs will generally form the basis for a state's PSD plan, EPA believes it is appropriate to use the same time period for evaluating actual source emissions in the PSD program. Two years is also being used to calculate the emissions offset baseline for modifications in nonattainment areas.

The two-year period of concern should generally be the two years preceding the date as of which increment consumption is being calculated, provided that the two-year period is representative of normal source operation. The reviewing authority has discretion to use another two-year period, if the authority determines that some other period of time is more typical of normal source operation than the two years immediately preceding the date of concern. In general, actual emissions estimates will be derived from source records. Actual emissions may also be determined by source tests or other methods approved by the reviewing authority. Best engineering judgments may be used in the absence of acceptable test data.

EPA believes that, in calculating actual emissions, emissions allowed under federally enforceable source-specific requirements should be presumed to represent actual emission levels. Source-specific requirements include permits that specify operating conditions for an individual source, such as PSD permits, state NSR permits issued in accordance with § 51.18(j) and other § 51.18 programs, including Appendix S (the Offset Ruling), and SIP emissions limitations established for individual sources. The presumption that federally enforceable source-specific requirements correctly reflect actual operating conditions should be rejected by EPA or a state, if reliable evidence is available which shows that actual emissions differ from the level established in the SIP or the permit.

EPA believes two factors support the presumption that source-specific requirements represent actual source emissions. First, since the requirements are tailored to the design and operation of the source which are agreed on by the source and the reviewing authority, EPA believes it is generally appropriate to presume the source will operate and emit at the allowed levels. Second, the presumption maintains the integrity of the PSD and NSR systems and the SIP process. When EPA or a state devotes the resources necessary to develop source-specific emissions limitations, EPA believes it is reasonable to presume those limitations closely reflect actual source operation. EPA, states, and sources should then be able to rely on those emissions limitations when modeling increment consumption. In addition, the reviewing authority must at least initially rely on the allowed levels contained in source-specific permits for new or modified units, since these units are not yet operational at a normal level of operation. EPA, a state, or source remains free to rebut the presumption by demonstrating that the source-specific requirement is not representative of actual emissions. If this occurs, however, EPA would encourage states to revise the permits or the SIP to reflect actual source emissions. Such revisions will reduce uncertainty and complexity in the increment tracking system, since it will allow reviewing authorities and sources to rely on permits and SIP emissions limitations to model increment consumption.

Review of increment usage due to SIP relaxations will also be based initially on emissions allowed under the SIP as revised (provided this allowed level is higher than the source emissions contributing to the baseline concentration). Calculations will generally be made on the difference between the source emissions included in the baseline concentration and the emissions allowed under the revised SIP. Initial use of allowable emissions is necessary because the increment calculation generally occurs before the source has actually increased its emissions. Therefore, at the time the revision is reviewed, increment consumption must be based on the predicted source operation under the revision. In addition, since SIP revisions are commonly based on source requests, it is reasonable to assume such sources will actually emit at levels permitted by the relaxation.

Subsequent to the initial review process, increment calculations for SIP relaxations may depart from allowable emissions under the SIP, if the source has not actually increased its emissions. For example, three years after approval of a SIP relaxation, if it is found that the source has not increased its emissions to levels allowed in the SIP, estimates of increment usage should be revised to reflect actual source emissions. If this occurs, EPA would also encourage states to revise the emissions levels allowed in the SIP to represent the source's actual emissions.

Finally, the required increment consumption analysis can be amended by the applicant after the PSD review process has begun. For example, an applicant would normally revise its analysis to reflect increment made available by the withdrawal of PSD applications previously considered in the applicant's calculation of increment consumption. In no event, however, will the source be required to take account of emissions changes or changes due to pending PSD applications or SIP relaxations that could increase the amount of increment consumed by other sources.

B. Exclusions From Increment Consumption

1. *Exclusions Requested by Governors.*

Section 163(c) authorizes four exclusions from increment consumption upon the request of a governor. Exemptions are available for federally-ordered fuel switches under the Energy Supply and Environmental Coordination Act of 1974 or superseding legislation, fuel switches due to natural gas curtailment plans under the Federal Power Act, temporary emissions of particulate matter due to construction and related activities, and new sources constructing outside the United States. In the cases of the federally-ordered switches and natural gas curtailment plans, the exclusion is limited to a maximum of five years after the effective date of the order or plan.

The statute provides that these exclusions are available only if the state has an EPA-approved PSD plan. Section 163(c). In its June 1978 regulations, however, EPA permitted governors to use the exclusions during the nine-month period between promulgation of the regulations and the date plan revisions were required to be submitted. *See* § 52.21(f)(3) (1979). As discussed in the preamble to the June 1978 regulations, EPA concluded that prohibiting use of the exclusions after the nine-month period would be an adequate incentive to states to submit PSD plans. *See* 43 FR 26402 (Col. 1).

EPA has decided to extend this policy to today's regulations. In view of the many changes in the regulations resulting from the court's decision, states which have already submitted plans will have to submit revised provisions and states which have not yet submitted plans will have to develop plans based on the new regulations. As with the June 1978 requirements, EPA believes that disallowing the exclusions nine months from today will provide sufficient encouragement to states to submit plans, and will offer states more flexibility for growth in this interim period. Therefore, governors may request the exclusions until nine months from today's promulgation, even if no PSD plan has been submitted to or approved by EPA. Thereafter, the exclusions will be unavailable unless the state has submitted an approvable PSD plan to EPA.

2. Temporary Emissions

EPA's June 1978 regulations and the September 1979 proposal provided that temporary emissions from new sources or modifications would be exempt from impact analysis requirements §§ 51.24(k)(iii), 52.21(k)(iii) (1979); 51.24(k)(1), 52.21(k)(1) (proposed). Temporary emissions typically include, but are not limited to, emissions from a pilot plant, a portable facility, construction or exploration activities. Similarly, EPA proposed to exempt from increment analyses the impacts on the PSD increments from the temporary emissions associated with the development of an approved innovative control technology system, provided the applicable ambient standards were not jeopardized. The regulations, however, did not provide a comparable exemption for temporary emissions resulting from short-term SIP relaxations.

Only three commenters addressed the concern of temporary emissions and increment consumption. These commenters offered suggestions in light of the proposed position on innovative control systems. These commenters supported the existing policy of exempting temporary emissions from increment air quality analyses when no Class I areas or areas with known increment violations would be impacted.

Temporary SIP relaxations are comparable to temporary emissions from new and modified major stationary sources since both affect air quality for a limited period of time. Therefore, the Administrator has decided that the existing policy of exempting temporary emissions should be extended to those associated with certain SIP relaxations. A SIP relaxation will be eligible for such relief if it meets the following five conditions. These conditions are intended to ensure that the emissions increase associated with the SIP relaxation will be limited in duration and that no residual harm will occur to the environment as a result of the relaxation. (1) The SIP revision allows an emissions increase for a temporary period only. As stated in the preamble to the June 1978 regulations, temporary emissions generally would last no more than two years at one location, although emissions for a longer period of time may be considered temporary if an appropriate demonstration is made. *See* 43 FR 26394 col. 2. (2) The revision is nonrenewable. This condition is intended to prevent sources from indefinitely postponing compliance with emissions limitations necessary to prevent PSD increment violations. (3) The temporary emissions will not cause or contribute to the violation of any applicable NAAQS. (4) At the expiration of the temporary SIP relaxation, the source must be required to comply with an emissions limitation that ensures the post-exemption emissions will be equal to or less than the emissions existing before the exemption was granted. (5) The temporary emissions from the revision do not impact any Class I area and any area where an increment is known to be violated. Restricting the exemption to sources impacting Class II or III areas conforms to Congress' intent to provide maximum protection of air quality values in Class I areas and meets the commenter's concerns.

In addition to SIP relaxations for individual sources, the exemption will be available for temporary emissions due to SIP relaxations that apply to several sources, if the state provides adequate assurances that no standards will be violated.

C. Increment Expansion Due to Emissions Reductions Prior to the Baseline Date

EPA's policy under the June 1978 regulations is unclear as to whether emissions reductions prior to the

the violation is corrected. 43 FR 26401

utilities would be unable to make the

increment. The statute provides no

baseline date increase the amount of available increments. The policy allows decreases after January 6, 1975, and prior to the baseline date, to be used by sources to offset subsequent increases and exempt the increases from the requirement for an ambient air quality assessment. In effect, EPA treats such decrease as expanding available increments, since the decreases permit later emissions increases at the same source to avoid the otherwise required air quality assessment. The policy did not state, however, whether isolated decreases not made in conjunction with intrasource increases were considered to expand available increments. In contrast, the policy is clear that emissions reductions after the baseline date increase available increments.

As a result of the revised definition of modification which permits offset credit for emissions reductions occurring within a moving five-year period, EPA has decided to clarify its existing policy. All emissions reductions prior to the baseline date at major stationary sources will now be considered to expand available increments. Since contemporaneous emissions reductions accomplished before the baseline date can be used by a source to offset a contemporaneous post-baseline emissions increase, and thereby avoid PSD review, it is also reasonable to allow these contemporaneous pre-baseline date reductions to expand the increment. Without this change, source owners that reduce emissions by retiring or controlling old equipment before the baseline date will be penalized by having increases after the baseline date count against increments even though the pre-baseline decrease might offset the later increase and eliminate the need for PSD review. In contrast, source owners that postpone the reductions and increases until after the baseline date is set would both secure contemporaneous offsets and avoid increment consumption.

EPA believes that this inequity should be eliminated to encourage early retirement of old equipment. Section 169(4) provides that emissions from major emitting facilities that commenced construction after January 6, 1975, shall be counted against available increments. The provision implies that both emissions increases and decreases should be considered for their impact on available increments. In view of the statutory language and policy considerations, EPA has determined that decreases made prior to a baseline date can expand available increments in the same manner as decreases made after a baseline date. However, to ensure that the emissions reductions remain effective, reductions will add to available increments only if the lower emissions limitations are federally enforceable.

The changed policy is reflected in a new definition of "construction" which is any physical change or change in the method of operation of a stationary source resulting in a change in the actual emissions of the source (including fabrication, erection, installation, demolition, or modification). Any construction commencing at a major source since January 6, 1975, may result in an increase or decrease in actual source emissions. If an actual decrease involving construction at a major stationary source occurs before the baseline date, the reduction will expand the available increment if it is included in a federally enforceable permit or SIP provision. An actual increase associated with construction activities at a major stationary source will consume increment.

The Administrator would also like to clarify that changes in fugitive emissions levels (to the extent quantifiable) at major stationary sources, resulting from construction commenced since January 6, 1975, will consume or expand the available increment. This is true even if such changes occurred prior to the baseline date.

D. Gulf Coast Problem.

In the September 5 proposal, and in an October 4, 1979 correction notice, EPA solicited comments on how to calculate increment consumption by gas-fired boilers in the Gulf Coast area that had received state approval to burn oil in the event of a future natural gas shortage. *See* 44 FR 51942 (September 5, 1979), and 44 FR 57107 (October 4, 1979). The affected units include both boilers that could accommodate such a fuel-switch before January 6, 1975 and boilers that were altered to accommodate the fuel-switch after that date. All affected units were permitted to switch fuel before August 7, 1977, the earliest possible baseline date. Assuming the baseline date is set in the area where these sources are located, which EPA believes is the case for most of the sources, each group of sources may cause increment violations.

For sources that could burn alternative fuels prior to January 6, 1975, the problem is posed by the fact that if all sources made the switch to oil allowed under their permits, SO_2 increment violations would occur. Since neither a SIP revision nor a PSD Permit would be required for the sources to make the fuel switches, EPA and the state could be unaware of the violations until another source applied for a PSD permit or until a periodic assessment was made. If actual increment violations were discovered during the PSD review process for the proposed source, the source would not be permitted to build or modify until the violations were corrected. If violations were found during a periodic assessment, the state would have to suspend further growth until its plan was revised to correct the violations. Consquently, the inadequacy of the exiting permits to prevent increment violations could result in increment violations which would delay, and possibly prevent, additional growth in the area.

A similar problem is posed by sources that could not accommodate oil before January 6, 1975. Since these sources increased their potential to emit after January 6, 1975, under EPA's June 1978 policy, this change would have constituted "construction" at a major stationary source after January 6, 1975. Therefore, under section 169(4), any emissions increases caused by the "construction" would have consumed increment. As noted above, EPA's June 1978 policy required increment calculations to be based on emissions allowed under a permit or SIP and not on actual source emissions. If a PSD source applied to locate in an area and these Gulf Coast sources were modeled based on emissions increases due to fuel switches allowed by their permits, EPA believes several SO_2 increment violations would be predicted. Under existing policy, the proposed PSD source would then be required to correct the violations prior to receiving construction approval. Future growth in the area could, therefore, be delayed or prevented.

The problem posed by the second group of sources is reduced to some extent by the increment consumption policy promulgated today. Since increment usage will now be based on changes in actual source emissions, increment violations will not occur in the area unless the sources actually switch to oil from natural gas. Because natural gas is expected to remain less expensive and more available than oil, EPA believes few, if any, switches are likely. Therefore, while the increments may still be jeopardized due to inadequate permit conditions, PSD review can proceed as long as actual emissions increases at existing sources and actual emissions from sources with PSD or NSR permits are not predicted to cause increment violations.

If an actual increment violation has occurred, EPA's June 1978 policy imposes a PSD permit moratorium until

the violation is corrected. 43 FR 26401 (col. 1), June 19, 1978. This policy is continued in today's regulations. Therefore, if an increment violation is predicted to occur within the significant impact area of a proposed source (1 $\mu g/m^3$ on an annual average), a PSD permit cannot be issued to the source, unless the state or source obtains sufficient emissions reductions to restore the increment. The issue of how to deal with potential increment violations due to inadequate permit conditions is addressed in the next discussion.

Several comments were received in response to EPA's request for comments on the Gulf Coast problem. Although EPA believes its revised policy of using actual emissions to calculate increment consumption resolves the immediate Gulf Coast dilemma, and similar potential problems in other states, EPA is responding below to suggestions made by commenters.

EPA's notices questioned whether the Agency should or may include in the baseline concentration emissions increases due to fuel switches. Twelve of thirteen commenters on the issue supported including increases due to fuel switches in the baseline concentration and the majority of the commenters favored including in the baseline concentration other emissions increases approved prior to the baseline date but not occurring by that date. Commenters also proposed using allowable emissions in all cases to calculate baseline concentrations.

As discussed above and in Baseline Concentration, EPA has determined that both baseline concentrations and increment consumption should be based on actual air quality impacts. This decision is consistent with the suggestion of some commenters that EPA consider increment consumption to occur only when actual emissions increase and not when the permit or SIP allowing the increase is approved. As a result of EPA's revised policy, emissions increases due to fuel switches cannot be included in the baseline concentration unless the increase occurred prior to the baseline date and at a source which could accommodate this switch prior to January 6, 1975 without physical change or received approval under a PSD permit to make the switch.

One commenter was particularly concerned that unless allowable emissions were included in the baseline concentration, utilities with SIP relaxations approved shortly before the baseline date would be penalized if the utilities were unable to make the allowed increase by the baseline date. The commenter argued that some utilities would be unable to make the technical changes necessary to accommodate the fuel switch prior to the baseline date. Such utilities would, therefore, be required to do an increment consumption analysis, in contrast to other sources that made the switch before the baseline date. The commenter suggested that accounting for the allowed emissions increase in the baseline concentration would resolve this inequity and would be consistent with EPA's June 1978 policy of including in the baseline concentration emissions allowed under SIP relaxations pending before EPA on the baseline date.

While appreciating the commenter's concerns, EPA has concluded that no exemption from increment consumption analyses is appropriate in these cases. First, as discussed in Baseline Concentration, EPA has changed its June 1978 policy to provide that increment is consumed by emissions increases due to SIP relaxations pending EPA approval on the baseline date. Therefore, the exemption cited by the commenter no longer applies. Second, the June 1978 exemption was provided for sources whose emissions increases were delayed by the administrative process and not by physical limitations at the source. Therefore, the June 1978 exemption would not have applied to these utilities. Third, under the regulations promulgated today, if significant construction is necessary to make the allowed emissions increase, the change is a modification and would be subject to PSD review, including increment consumption analysis, in any case.

Other commenters suggested that prospective application of the definitions of major emitting facility and modification promulgated today would resolve the Gulf Coast problem. Under this approach, emissions increases that occurred after January 6, 1975, and would otherwise be considered modifications that consume increment under today's regulations, would not be evaluated under the new definitions. These commenters argued that the Gulf Coast problem is due to increment consumption from emissions increases not subject to the PSD permitting process at the time the increases were approved. The commenters stated that EPA has flexibility in deciding the effective date of the definitions.

EPA believes that section 169(4) requires emissions from all major emitting facilities (as defined in the Act and not as defined in the old PSD regulations) commencing construction after January 6, 1975 to count against increment. The statute provides no discretion to exempt these emissions from increment consumption. EPA also notes that under the PSD regulations effective from January 6, 1975 to August 7, 1977, emissions increases at such sources would have consumed increment to the extent the fuel switches occurred. (*See* 39 FR 42510).

E. Potential Increment Violations

1. Inadequate SIP and Permit Provisions. While the use of actual emissions to calculate increment consumption partially resolves the Gulf Coast problem, the potential for increment violations remains, due to inadequate SIP and permit provisions. As stated in the preceding discussion, many sources in the Gulf Coast area, and in other states as well, have permits or SIP requirements that allow actual emissions increases without subjecting the source to PSD review or the SIP revision process. For example, sources may be allowed to burn fuels with higher sulfur contents, as in the Gulf Coast area, or may have high allowable limits that would permit sources to relax existing pollution controls. If all sources in an area increased actual emissions to levels allowed under the SIP or permits, EPA believes increment violations would occur. Because no PSD review or SIP revision would be required, neither the state nor EPA would know of the violations until a PSD application was filed or a periodic assessment occurred. Growth would be halted until the violation was corrected.

At present, increment violations due to allowed but unreviewed emissions increases, and consequent construction delays, are only potential problems. EPA has therefore concluded that it is premature to promulgate remedial regulations to prevent such theoretical violations. EPA, however, encourages states to be alert to emissions increases that affect the increment. EPA urges states to closely monitor emissions increases from baseline sources and from new or modified sources not subject to PSD review which affect the available increment. States should consider requiring sources to report any emissions increases after the baseline date, including increases reflecting changed operating conditions that will continue for an extended period of time, perhaps six months. States would then learn of increases that consume increments and could take those increases into account in PSD permit reviews and periodic increment assessments. In addition, states are encouraged to revise SIPs and/or issue operating permits so that SIP requirements and permits reflect actual

V 45 / 154 AG 7 80 UMI

source operating conditions. This will protect against large unreviewed emissions increases. While EPA is not promulgating a reporting requirement today, it will reconsider the need for a notification system if it finds that unreviewed emissions increases are causing or contributing to increment violations.

2. Double Counting of Emissions Decreases.

EPA is concerned about another potential problem: double counting of emissions decreases. The problem could arise if an existing source (Source A) reduces its actual emissions and a new source (Source B) seeking to locate in the area proposes to use the decrease when modeling increment consumption. Source B would do this by including the emissions decrease in its modeling of actual emissions from Source A. If the reviewing authority does not require Source B to ensure that the decrease at Source A is federally enforceable and does not record Source B's use of the decrease at the time Source B conducts its modeling, Source A may well use the same decrease to offset a future contemporaneous increase at Source A and thereby avoid PSD review for the increase. The use of one emissions decrease to offset two emissions increases could lead to air quality deterioration, and possible increment violations that would require correction before more PSD permits could be issued.

While EPA believes double counting of decreases should not be permitted, it is not promulgating regulations today to address the problem. EPA is uncertain how often, if ever, the problem will arise. Certainly it will be difficult for a new source to prove to the satisfaction of the reviewing authority the value of an emissions decrease accomplished at another source. Moreover, while EPA believes double counting of decreases should not occur, it is uncertain what solution is equitable for affected sources. In the absence of a formal increment banking system, or other provisions regulating increment allocation, the reviewing authority would have no basis for denying Source B use of any available increment. This could result in hardship to Source A if it deprives Source A of use of its decrease as an offset for future increases.

The issue of double counting is part of the broader question of increment management and allocation of air quality rights. EPA intends to develop banking regulations, which will include guidance to states on methods of increment allocation and regulating use of emissions decreases. To this end, EPA solicits suggestions on how to prevent double counting of decreases and on methods of increment allocation and management.

XV. Best Available Control Technology

Section 165 of the Act provides in part that any "major emitting facility" constructed in a PSD area must apply best available control technology (BACT) "for each pollutant subject to regulation under this Act emitted from, or which results from, such facility." Section 169(3) of the Act defines BACT and specifically requires that it not be applied in a manner so as to result in emissions in excess of those that are allowed by standards established pursuant to sections 111 or 112 of the Act. 42 U.S.C. 7479(3). The Agency's existing regulations required BACT only for each pollutant for which a source or modification would be "major." 40 CFR 51.24(i)(1), 52.21(i)(1)(1978).

The *Alabama Power* decision held that the Act requires that BACT be applied to all pollutants subject to regulation under the Act, not only those for which the source is major, and that EPA is without authority to circumscribe the requirement in this manner. 13 ERC 1993, 2046. The court did conclude, however, that EPA has authority to set *de minimis* thresholds for BACT applicability, in order to alleviate economic and administrative burdens. *Id.*

In response to the court's decision, EPA proposed and is now promulgating regulations regarding application of BACT. 40 CFR 51.24(k)(1), 52.21(k)(1). With respect to new major stationary sources, BACT will be required for each regulated pollutant emitted in excess of specified *de minimis* amounts. Application of BACT is also required, in the case of major modifications, for each regulated pollutant emitted for which there is a significant net emission increase (greater than *de minimis* amounts) at the source. The BACT requirement applies to only the modified units and added units at the source whose construction results in a source-wide significant net increase in the emissions of the regulated pollutant. The new BACT requirements apply only to the owner or operator of a PSD source or modification whose application for a PSD permit was not complete before today's promulgation. (*See* Transition).

The *de minimis* emissions rates promulgated by the Administrator (*see De Minimis* Exemption) will apply to both BACT and LAER requirements. The Agency specifically solicited comments on the need to specify *de minimis* levels for BACT, since the case-by-case BACT determinations would presumably take *de minimis* levels and such related issues as cost into account. Twenty-six commenters addressed this issue. Seventeen agreed in principle but generally considered the proposed levels too low and requested special consideration for pollutants emitted in less than major amounts. Eight of nine dissenters preferred case-by-case BACT determinations, with no *de minimis* values.

The Administrator is implementing the proposed *de minimis* approach for determining BACT applicability, although several values have been increased. (*See De Minimis* Exemptions.) This action should alleviate the concerns of those commenting about the need for BACT review of those pollutants emitted in small amounts. The Agency also solicited comments on the potential problem of a source obtaining lenient BACT determinations and later applying better controls to offset additional expansion plans. Twelve of thirteen commenters addressing this issue concluded that no such problem would arise. They claimed that it would be implausible to suppose that state programs and EPA regional offices would evade such responsibility, especially since loose BACT determinations would result in accelerated consumption of increment. The Administrator agrees that there appears to be adequate protection against loose BACT determinations.

Each of the three comments that addressed a need to phase in the BACT requirement favored a six month to one year grace period because of the complexity of the program. However, the Administrator believes that the case-by-case flexibility of BACT determinations is sufficient to phase in these regulations. Moreover, sources have effectively had a one year notice, in that the original *Alabama Power* decision, published June 18, 1979, informed them of the new BACT requirements. (*See* Transition.)

An additional issue, regarding the pollutant applicability of the BACT requirement, arose during the comment period. The proposal required BACT for the new or modified emissions units which were associated with the modification and not for those unchanged emissions units at the same source. Thus, if an existing boiler at a source were modified or a new boiler added in such a way as to significantly increase particulate emissions, only that boiler would be subject to BACT, not the other emissions units at the source. However, the proposal could be interpreted as requiring BACT for certain pollutants where the

Administrator did not intend to require BACT. For example, the proposal could be interpreted as requiring BACT review for any pollutant emitted from a source that was modified, regardless of whether the emissions of the pollutant increased. However, that was not the Agency's intent.

If a new unit were added or if a modification were made to a unit at a source, but there are contemporaneous decreases in emissions elsewhere at the source, BACT is required only for the pollutants for which there is a net significant plant-wide increase. For example, consider the addition of a boiler whose emissions of PM, SO_2, and NO_x each exceed *de minimis* levels. If, at the same time, an emission unit of SO_2 elsewhere at the source were shut down, such that plant-wide emissions of SO_2 either do not increase or increase by less than a *de minimis* amount; BACT is required for the new boiler only for PM and NO_x. Of course, BACT will not be required if there is no significant plant-wide increase in emissions of any pollutant. Similarly, if an existing emissions unit of a source were modified such that there is an emissions increase for one or more pollutants, but not all, BACT is required only for the pollutants for which there is both a net increase at the unit and a net significant plant-wide increase.

The above final policy governing the applicability of BACT to modifications is also consistent with existing policy under section 111, which the court said should govern modification concerns. The applicable regulation, 40 CFR 60.14(a), states that "any physical or operational change to an existing facility which results in an increase in the emissions rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility *for each pollutant to which a standard applies and for which there is an increase in the emissions rate* to the atmosphere." (Emphasis added.)

The regulation cited above makes two important statements about the applicability requirements. First, the BACT requirements apply only with regard to those pollutants for which there has been a net significant increase. This was emphasized by the Alabama Power decision: "Congress wished to apply the permit process, then only where industrial changes might increase pollution in an area, not where an existing plant changed its operations in ways that produced no pollution increase * * *. The interpretation of 'modification' as requiring a net increase is thus consistent with the purpose of the Act * * *. The EPA has properly exempted from best available control technology (BACT) and ambient air quality review those 'modifications' of a source that do not produce a net increase in any pollutant." 13 ERC at 2043.

Second, BACT is required for net significant increases of *any* pollutant regulated under the Act, regardless of the category of source involved or the emissions standards generally applicable to it. Section 165(a)(4) of the Act requires application of BACT "for each pollutant subject to regulation under this Act" emitted from a subject facility. 42 U.S.C. 7475(a)(4). This includes not only criteria pollutants but also all pollutants regulated under NSPS or NESHAP. In this manner, BACT can complement the NSPS process by extending coverage to additional source types and units and perhaps identifying candidates for future NSPS and NESHAP regulations.

XVI. Monitoring

In *Alabama Power*, the court held that section 165(e)(1) of the Act requires an ambient air quality analysis for each pollutant subject to regulation under the Act that a proposed source or modification would emit, prior to applying for a PSD permit. Since existing PSD regulations require monitoring only for criteria pollutants emitted in major amounts, EPA responded to the June 18, 1979 *per curiam* opinion by proposing to require, for criteria and noncriteria pollutants, an air quality analysis that would generally include monitoring data. In order to gather and analyze the appropriate data necessary to apply for a PSD permit, a proposed source would have to establish an appropriate monitoring network or would have to gather and analyze representative air monitoring data resulting from ongoing monitoring activities.

As proposed, preconstruction monitoring data was required as part of the air quality analysis when: (1) the estimated ambient impact of any new pollutant emissions from the stationary source or modification would be larger than the pollutant specific *de minimis* air quality concentration (Table B); or (2) the new emissions or net emissions increases for the pollutant would be major (100/250 tons per year). In addition to this rule, EPA proposed that a case-by-case analysis of the proposed stationary source or modification which would impact on a Class I area be conducted even though the anticipated impact would fall below the *de minimis* level. Later, in October 1979, EPA provided further guidance for applying these requirements in the draft revision of the *Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD)*, OAQPS 1.2-096, U.S. EPA, Office of Air Quality Planning and Standards and Office of Research and Development, RTP, NC 27711.

The proposal stated that certain noncriteria pollutants (sulfuric acid mist, carbon disulfide, carbonyl sulfide, methyl mercaptan, dimethyl disulfide, and dimethyl sulfide) were lacking measurement methods approved by EPA. Until such time as approved techniques would become available, the Agency proposed to use mathematical modeling to estimate the air quality resulting from the emissions of these pollutants. Considering these limitations and the general lack of experience in monitoring on a routine basis, the Administrator proposed to implement noncriteria pollutant monitoring requirements on a case-by-case basis.

In addition to the pre-application monitoring requirements already described, EPA's proposal included discretionary authority for requiring post-construction monitoring to determine the effects of the new emissions on existing air quality. For cases in which larger pollutant emission impacts are anticipated, post-construction monitoring can be a particularly useful aid in adjusting modeling results used to predict concentrations resulting from the source's operation. The approach was thought to be responsive to the *Alabama Power* decision which required EPA to use monitors to help refine modeling techniques. Accordingly, EPA proposed to generally require post-construction monitoring from large sources of particulate matter and sulfur dioxide. Other sources whose emissions are estimated to result in air quality levels approaching an allowable increment or a NAAQS could also be required to submit post-construction monitoring data. The rule promulgated today is consistent with the proposal.

The Administrator believed that the required monitoring data would be most productive in checking the accuracy of models and, in some cases, could be used to calculate increment consumption. If an applicant or other party believes that a model required by EPA had either overpredicted or underpredicted the air quality impact of a source, EPA stated that monitoring data would be evaluated to the extent possible to determine whether adjustments would be necessary. EPA anticipated that the future development of more sophisticated monitoring

V 45 / 154 AG 7 80 UMI

techniques may permit increased use of monitoring data to track increment consumption and establish ambient baselines, as well as improve the level of confidence in modeling.

Lastly, EPA considered the approach needed to smoothly usher in the new monitoring requirements. The September 5 **Federal Register** indicated that EPA intended to require any additional monitoring requirements, as now necessary under *Alabama Power*, to be phased in. Later, in October 1979, the draft ambient monitoring guidelines specified that a three-month allowance would be subtracted from the time interval over which the owner must monitor to allow for procuring and setting up the necessary monitoring equipment. (*See* Transition).

There was a large response to EPA's proposal and draft monitoring guidelines—nearly 100 public comments and over 800 requests for the guidance document were received. The comments indicated general agreement with EPA's interpretation of the court's preliminary opinion. But some concern was expressed over certain specific portions of the proposal: (1) the limited technology available to monitor the noncriteria pollutants in the ambient air; (2) the large cost associated with gathering all the required air quality data for all regulated pollutants; (3) the identification process for "representative" data; and (4) the need for post-construction monitoring.

Subsequent to the publication of the September 5, 1979 proposal and the receipt of the public comment, the court issued its final decision on December 14, 1979. One important change the court made upon reconsideration of the June 18 opinion was "that section 165(e)(1) requires that *an analysis* be conducted, and that it be conducted for each pollutant regulated under the Act. But * * * that section 165(e)(1), standing alone does not require monitoring as *the* method of analysis to be employed in the fulfillment of its requirements." 13 ERC 1993, 2019. This ruling gave EPA more flexibility in defining the minimum requirements for a proper analysis of the noncriteria pollutants. "EPA might * * * choose *either* monitoring or modeling as the method of analysis * * *" *Id.* In other monitoring issues the court essentially affirmed its preliminary opinions.

Today, the Administrator is promulgating the proposed monitoring requirements with the noted exceptions. (*See* 40 CFR 51.24(m), 52.21(m)). EPA will generally require one year's worth of monitoring data as part of the air quality analysis for only the criteria pollutants. For the noncriteria and hazardous pollutants, modeling, not monitoring, will be the mechanism used to perform most detailed air quality analyses. However, there may be certain circumstances where monitoring may be the only option available to perform an adequate analysis for the noncriteria pollutants (e.g., when little or no data on emission inventories for the area of concern exist). In that case, EPA will require ambient monitoring for the noncriteria pollutants if there is an acceptable method for the monitoring of that pollutant. Presently, the Administrator has acceptable methods for measuring ambient concentrations of: (1) all the criteria pollutants; (2) mercury; (3) beryllium; (4) vinyl chloride; (5) fluorides; and (6) hydrogen sulfide. A list of acceptable methods and copies of the method description are available by writing to: U.S. EPA, Environmental Monitoring Systems Laboratory, Quality Assurance Division (MD–77), Research Triangle Park, N.C. 27711. Also, techniques to measure ambient total reduced sulfur and reduced sulfur compounds have been chosen and will be added to the list within the next several months. At this time there are no acceptable methods for measuring ambient levels of asbestos and sulfuric acid mist.

As EPA gains more experience from the PSD program with respect to noncriteria pollutant analysis and as the technology develops, the Administrator will consider an increased role for ambient monitoring within the required air quality analysis.

In addition to the exemptions given in the *de minimis* section of this **Federal Register** publication, EPA may not always require a source owner to establish a monitoring network when the data would not validate or improve the estimates made by the mathematical models. When the existing air pollution levels are conservatively estimated to be quite small and a monitoring network could not reliably measure the predicted background concentrations, EPA will generally not require the source owner to generate preconstruction monitoring data. Also, if the source owner has submitted preconstruction data for the source site, and the post-construction monitoring network could not measure a predicted degradation in the air quality, then EPA will generally not require the source owner to collect further monitoring data. More guidance for meeting all the monitoring requirements is given in the *Ambient Monitoring Guidelines for Prevention of Significant Deterioration* (PSD), EPA–450/4–80–012, July 1980, available from the Monitoring and Data Analysis Division, OAQPS, (MD–14), U.S. EPA, Research Triangle Park, N.C. 27711.

In the September 5, 1979 proposed regulations and the October 1979 draft of *Ambient Monitoring Guidelines for Prevention of Significant Deterioration* (PSD), EPA solicited comments on the use of representative air quality data to satisfy PSD monitoring requirements. Thirty-nine comments were received on the various aspects of the use of representative air quality data. The major responses were as follows: twenty-four commenters supported the use of existing representative air quality data, especially for remote areas. Five commenters wanted EPA to allow the use of bubbler data in lieu of continuous monitoring data, seven respondents believed that data older than two years should be allowed, and three objected to the quality assurance requirements for the representative data.

EPA has considered all of the comments and has taken the following actions:

(1) The use of existing representative air quality data will be permitted in lieu of monitoring, provided that the data meet the criteria in the above reference guideline.

(2) No bubbler data will be permitted because the data should be of the same quality as that obtained if the applicant monitored according to the requirements in the above referenced guideline. This guideline specifies monitoring must be done with continuous instruments to eliminate measurement biases associated with bubbler data. Continuous measurements are also more suitable for routine monitoring purposes in checking for compliance with short-term standards.

(3) EPA will allow the use of data, for preconstruction purposes only, collected in the three-year period preceding the permit application provided reference/equivalent quality assurance procedures were followed during the measurement period. The draft guideline has previously specified a two-year requirement.

(4) EPA reaffirms the intent that all monitoring data collected must have been collected in accordance with acceptable quality assurance procedures. The specifics of the minimum quality assurance program needed for collecting air quality data are contained in the referenced guideline.

Finally, the court held that EPA had failed to provide concrete guidance to the states for designating when less than one year of monitoring data would meet the required air quality analysis, as specifically allowed under section 165(e)(2). Such guidance is given under

PSD SIP Revisions located elsewhere in today's **Federal Register** publication.

XVII. Notification

The proposal contained a requirement that certain construction projects exempt from PSD permit rules file a report at least 90 days in advance of the time that the exempted construction would commence. Notification requirements similar to those in the PSD proposal were also included in the proposed nonattainment rules, under 40 CFR 51.18(j) and 52.24, and Appendix S of Part 51 (the Emission Offset Interpretative Ruling). These notice requirements would apply to source construction which would not be subject to NSR solely because (1) the increase in emissions was offset by a contemporaneous decrease so as not to cause a significant net increase at the source (*see* Modification), or (2) the application of air pollution controls not generally required by the applicable SIP or 40 CFR 60 or 61, would lower the "potential to emit" of the source below the applicable threshold for permitting. The proposal would have required the submittal of comprehensive data for both new and existing emissions units at the stationary source and all other information needed by the reviewing authority to determine if the exemption reported by the source was proper. No formal applicability determination, however, was to be made and no major delays in the construction program of any such source were intended.

The Administrator believed such reporting was necessary because of the additional complexity of such determinations and the decreased number of sources subject to PSD due to changes in applicability rules. A need was apparent to record unreviewed emission increases and reductions occurring years apart at the same plant, in order to assess their impacts on air quality as well as to simply register in advance claims for reduction credits. For these reasons the Administrator proposed to use his authority under section 114 to monitor these determinations of offsetting emissions reductions and increased control efficiency. Section 114 authorizes the Administrator to require a source owner to provide such information as he may reasonably require in order to carry out Part C of the Act or to determine if a source owner is in violation of a SIP requirement.

Fifty-nine comments were received on the notification requirements. Only two comments completely supported the Agency proposal. Thirty-eight of the commenters felt that the requirements were unnecessary and not authorized by the Clean Air Act. Many stated that the requirements were burdensome and equivalent to a preconstruction permit process. Twenty-four commenters specifically stated that section 114 does not allow such a comprehensive data gathering requirement, although reasonable data gathering is allowed.

Those who thought the requirements unnecessary cited the adequacy of existing state permitting programs to deal with these problems and the possibility of post-construction recordkeeping to accomplish the same objectives. EPA was advised to take enforcement action against the few source owners who would incorrectly exempt a source from review and then construct the source without obtaining a permit, rather than risk pervasive construction delays of properly exempted sources. Many commenters felt that the administrative burden to both the reviewing agency and the source outweighed its benefits. Seventeen commenters specifically stated that the extra cost to source owners would remove the real incentives for early cleanup and would act to perpetuate the operation of older units with high air pollutant emissions.

The Administrator maintains that reporting similar to the preconstruction notice is needed and can be required under section 114. However, the comments, particularly those concerning the potential of existing state programs to accomplish this function, have caused EPA to reconsider the need at this time for a preconstruction notification requirement. State comments and meetings with several state representatives in Atlanta (*see* Docket account of III–D–4) indicate that all states currently learn of all proposed emission units and changes before such would commence construction. Most states acquire such knowledge through their existing general NSR procedures, approved under 40 CFR 51.18, even if a net decrease would occur at the source. Other states learn of proposed emission increases through notification letters filed by the source pursuant to a formal applicability determination.

Many states do not routinely require sources to record emission decreases, especially when such would occur well in advance of related emission increases. While a preconstruction notice would be desirable to document these decreases, the requirements for contemporaneous emission reduction credit (*see* Modification) are sufficient to fulfill this need. That is, emission reductions, in order to be creditable in offsetting any contemporaneous increase at the same stationary source, must be enforceable before the associated unit(s) with the emissions increase(s) commence construction. Such reductions, to be enforceable, must generally be made part of an enforceable operating or construction permit or be processed as a formal SIP revision. Although the Administrator is still concerned that sufficient information may not be available when a source owner wishes to document previous emissions reductions, he is opting for a "wait-and-see" approach in order to alleviate the concerns of the majority of the commenters who felt the notification requirements were unjustified and burdensome.

Also, since states will soon be administering the PSD program, it is best to allow them the flexibility to integrate notification requirements into their existing permit programs. The notification requirements in each state will be different, depending upon whether the state has an emission banking system and how it operates, the type of emission inventory system, and the information available from operating and construction permits. PSD increment tracking systems will also be set up by states, which can tailor informational requirements to their own tracking systems.

While today's regulations do not contain a formal preconstruction notice requirement, owners and operators are hereby put on notice for the following: (1) Sufficient records regarding the details of contemporaneous emission increases and decreases or applicable source determinations of "potential to emit" should be maintained so as to verify that no permit was required should the Administrator so require under section 114; (2) If experience in implementing the "no net increase" provisions of PSD applicability indicates that a more comprehensive notification system is required, the Administrator will promulgate an amendment to PSD and nonattainment regulations similar to the deleted provisions of the September 5 proposal; and (3) Any source which improperly avoids review and commences construction will be considered in violation of the applicable SIP and will be retroactively reviewed under the applicable NSR regulation.

XVIII. PSD SIP Revisions

Comments have been solicited on three aspects of the development of acceptable PSD plans by states. The issues are: (1) the authority of states to submit different but equally effective PSD programs, (2) state flexibility in defining baseline areas, and (3) state flexibility in allowing monitoring exemptions.

V 45 / 154 AG 7 80 UMI

A. *Equivalent State Programs.* Under existing regulations, the Administrator cannot approve proposed state PSD regulations unless the state requirements are identical to or individually more stringent than the corresponding 40 CFR 51.24 regulations. While the Act does contain specific requirements for several major aspects of PSD programs, it does not prohibit states from using, in other areas, approaches equivalent to those of the federal regulations in order to meet the statutory objectives. Accordingly, the Administrator proposed on September 5, 1979 that states be given some flexibility in preparing PSD plans. The Administrator requested comment on such an approach and suggested portions of the PSD requirements for which equivalent approaches might be acceptable, and others for which alternative regulations would not be approvable. Where SIPs were allowed to differ, a test of overall equivalence was to be used based on the ability of the state system to capture as many emissions as would the 40 CFR 51.24 regulations.

All forty-nine comments on this topic strongly endorsed the general approach of giving states flexibility in developing PSD programs, although several commenters expressed the desire for a more extended area for SIP flexibility. Among those areas are: (1) the entire PSD program, (2) fugitive dust applicability, (3) modeling techniques, and (4) treatment of minor modifications and exempted sources. Another commenter asserted that EPA could hold the states responsible only for plans that addressed minimal requirements, such as maximum increment consumption.

After consideration of the comments, the Administrator has decided to treat PSD SIP revisions generally in the manner proposed. This means that states will be permitted to meet the following requirements of 40 CFR 51.24 with different but equivalent regulations, or implement the federal regulations with considerable discretion:

a. Baseline area.
b. Type and amount of data needed for monitoring purposes.
c. Temporary exclusions from increment consumption.
d. Defining "contemporaneous" as a reasonable period that may be greater or shorter than 5 years.
e. Banking of emissions reductions for future offsets.
f. Source information and analysis required of the applicant.
g. Public participation after providing the opportunity for public hearing.
h. Alternatives to first-come-first-served permit processing.

State PSD programs must follow the federal regulations in other matters. This includes, but is not limited to the following:

a. Maximum allowable increments.
b. Modeling techniques.
c. Class I area protection.
d. Notice to the Administrator or the applicable Federal Land Manager for prospective permit actions.
e. New (grass roots) major stationary source applicability.
f. NSPS, NESHAP minimum requirements for BACT determinations.
g. Definitions generally as contained in 40 CFR 51.24(b). (State definitions need not be verbatim translations, but must have the same effect).

The Agency is not expanding the area of state program flexibility to those four areas, noted earlier, that were suggested by the commenters. First, the Administrator does not believe that complete program flexibility is allowable under the Act, nor does he find a basis for the comment that EPA is without authority to require that SIPs include more than skeletal program components. The second suggestion, regarding fugitive dust, is not feasible at this time for reasons detailed elsewhere (*see* Fugitive Dust Exemption). With regard to the third comment, the Act specifically directs the Administrator to specify air quality models. Section 165(e)(3), 42 U.S.C. 7475(e)(3). In addition, national consistency is important for such air quality impact analysis in order to standardize how increment would be consumed or enhanced across the country.

With regard to the degree of state flexibility in exempting additional types of new and modified sources, EPA believes that adequate exemptions have been provided in today's regulations and no further ones are authorized under the Act. The Administrator wishes to note that today's rules allow a state the opportunity to change the time period defining contemporaneous emissions increases. This change affects the definition of major modification and thereby affects the number of PSD reviews.

The opportunity for states to change the time period within which emissions changes would be considered contemporaneous is not constrained by a test of equivalency. Rather, it should be considered by states in developing PSD SIPs in conjunction with their deliberations on alternatives to first-come-first-served permitting and emission offset banking. The Administrator believes these issues are related to the state's inherent flexibility under the Act to manage increment consumption.

B. Baseline Area

This aspect of the equivalent state program issue deals with the definition of the area for which the baseline date is triggered by a PSD permit application and, specifically, with whether this definition must be the same under a PSD SIP as it is in 40 CFR 52.21. The proposal defined baseline area for both 40 CFR 51 and 52 as every part of an affected AQCR designated attainment or unclassified on the baseline date. Comments were solicited concerning the desirability of allowing states to define "area" as any *portion* of an AQCR that had been designated as attainment or unclassifiable, or, conversely, to allow states to define "area" as the entire state.

All commenters specifically addressing the issue of allowing states to have flexibility in defining baseline area were in favor of that approach. Many were more specific, suggesting that 107 designated areas or source impact areas be used.

The Administrator has decided to allow flexibility to states, not by accepting alternative definitions in SIPs, but by defining baseline area in such manner as to allow flexibility. This change in definition arises from a revised legal interpretation of what meaning "area" may be given under the Act. (*see* Baseline Concentration). Baseline area is now defined as all areas (and every part therein) within the state that are designated attainment or unclassified under section 107(d)(1) (D) or (E) of the Act in which the source establishing the baseline date would locate or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) for the pollutant (SO_2 and/or TSP) for which the baseline date is established. Flexibility is inherent in state authority to redesignate areas under section 107. Thus, large tracts of land belonging to one clean or unclassified PSD area can later be divided into several smaller PSD baseline areas with potentially different baseline dates. Other than the limitations associated with processing 107 area redesignations as SIP revisions, EPA requires that area redesignations under section 107 cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a baseline date or is subject to PSD and would be constructed in the same state as the state proposing the redesignation. A baseline date will, therefore, be triggered for the entire designated section 107 area unless nonimpacted portions are redesignated to smaller areas.

This approach allows the flexibility requested by the commenters, but precludes "postage-stamp" designations designed to trigger baseline only in the immediate vicinity of the source. It also avoids the difficult area boundary problems which would arise from defining area as the PSD source impact area. States are cautioned to carefully weigh any inclination to postpone baseline dates through area redesignations against increased difficulties associated with tracking increment consumption.

C. State Monitoring Exemption

Alabama Power remanded to EPA that portion of the monitoring requirements which allowed states to accept less than one year of preconstruction monitoring data for cases in which a shorter period would be sufficient to perform a complete and adequate analysis. The court ruled that EPA had not provided adequate guidance to the states for making this determination. 13 ERC 1993, 2020.

The proposal contained concrete guidance for use by states in determining if less than one year of monitoring data is sufficient. That guidance provided that as little as four months of monitoring data for the criteria pollutants was acceptable if the applicant demonstrated that the maximum pollutant concentrations would occur within that time.

Fourteen comments were received on various aspects of this proposal. Thirteen commenters supported the flexibility of requiring less than one year of monitoring data under specified circumstances. Two commenters addressed ozone monitoring requirements where there were more than four months with average daily maximum temperatures greater than 20°C (68°F).

The Administrator has decided to promulgate the proposed regulations except for the following:

(1) Less than one year of monitoring data will be permitted for all regulated pollutants, rather than for just the criteria pollutants. However, it must be demonstrated through historical data or dispersion models that the data for such shorter periods of time, but not less than four months, will be obtained during a time period when maximum air quality levels can be expected.

(2) Guidance for monitoring ozone during the warmest four months of the year has been deleted. Monitoring for ozone, as well as other pollutants, will still be required during the time period when maximum air quality levels can be expected. Ozone concentrations will generally be higher during the warmest four months of the year. However, ozone monitoring must also be conducted when the yearly maximum ozone concentrations are likely to occur during months other than the warmest four months of the year. This will ensure that ozone monitoring will cover the expected maximum concentrations.

XIX. Additional Issues

A. Innovative Technology

In the September 5, 1979, **Federal Register** the Agency proposed a new paragraph (u) which sets out specific requirements for reviewing sources that wish to utilize innovative control technologies. The new paragraph sets out criteria to be used by the Administrator in determining whether a proposed control technology is innovative, in addition to establishing specific provisions for implementing the BACT and modeling requirements.

All of the commenters recognized the need to encourage the development of technology and generally approved of EPA's approach. One large environmental group commented that while it approved of the added flexibility in specifying BACT for innovative technologies, it was concerned that Class I areas might be compromised if increment violations were allowed to occur during the period of testing. We share this concern of the environmental group and are today promulgating a regulation which ensures full protection of Class I areas.

Today's amendments provide that, for a source whose technology has been designated as "innovative" by the Administrator, the BACT requirement should insure the installation of the innovative system and the adoption of a compliance schedule for meeting a final emission limitation. This final emission limitation must at least represent the BACT level that would have been initially defined under § 52.21(j), assuming the use of proven state-of-the-art technology. The compliance schedule may extend no more than 7 years after permit issuance or 4 years after startup of the source. The regulations also provide that the Administrator may withdraw his approval if a source: (1) fails to meet the final emissions limitation by the specified date, (2) fails to protect the public health, welfare, or safety, or (3) shows an indication that the innovative control system will not be successful. The source will then be given a period of no more than 3 years to come into compliance with the BACT level determined with the use of the demonstrated system of control.

The September 5 **Federal Register** proposed that with the consent of the governor an "innovative technology" source could conduct the increment impact analysis using the final emission limitation specified in the permit, provided that no interference with applicable NAAQS would result during the interim period. EPA reasoned that any increased level of emissions which might occur during the interim period would be temporary and would not significantly impact the increments. However, one of the commenters pointed out that Class I areas require protection even from temporary violations. We agree with the concerns of this commenter and cite § 52.21(i)(7) in their support. That section exempts temporary sources from the modeling requirements except when they impact Class I areas or areas where the increment is known to be violated. Today's regulations allow an "innovative" source to use its final emission limitation for increment modeling purposes, but only if there is no impact on any Class I area or any area with a known increment violation. As in the proposal, the final rules requiring modeling for the purpose of evaluating the impact on NAAQS must take into account interim emission projections. Under no condition may a source be approved if it would cause a violation of the NAAQS, even a temporary violation.

B. Modified Permits

In the September 5, 1979 **Federal Register**, EPA proposed to add a new paragraph (t) entitled "Modified Permits." The new paragraph provided a simplified approval procedure for sources that make minor changes in design capacity or in the nature of process equipment between the time they obtain a PSD permit and the time they complete construction. It also required prior approval, through permit modifications, of increases in hours of operation.

The comments on this section were mixed. Some commenters felt that the new paragraph was redundant and superfluous, while others generally approved of it but asked for clarification. Upon further consideration, the Agency believes that there is a need to distinguish between situations in which permits would be changed for primarily administrative reasons, such as a change to reflect a revised construction schedule, and situations in which the permit change involves a significant increase in emissions. In the latter case a new permit must be issued; in the former, however, an abbreviated procedure involving modification of the permit might be preferable. There are numerous issues to be considered in implementing

V 4 5 / 1 5 4
A G 7 8 0
UMI

such an approach. These include the means to differentiate between significant and nonsignificant changes, and the specific procedural requirements for modifying a permit. Those issues were not adequately addressed in the proposal and for that reason the Agency has decided that it does not have a sufficient basis for completing rulemaking at this time. However, further rulemaking is being considered for future proposal and comment will be requested on the issues at that time.

C. Nonprofit Institutions

EPA proposed on September 5 to exempt modifications of nonprofit institutions from PSD review requirements as is already done for new construction of this type. This would mean that, upon written request by the governor of the state, a PSD permit would not be required of a major stationary source or major modification that qualifies as a nonprofit health or educational institution. Today the Administrator promulgates this exemption as proposed since no signficant public comment was received. It should be noted that although such major new or modified sources would not require a PSD permit, the emissions from these sources would consume the applicable PSD increment(s) after January 6, 1975.

D. Portable Sources

With regard to portable sources, EPA proposed to change the 30 day notice to a 10 day notice for previously permitted PSD sources wishing to relocate. Based on experience in implementing the PSD regulations, and having received no adverse public comments on this proposal, the Administrator is adopting this proposal with one exception. Sources with PSD permits must provide a notice to the reviewing authority not less than ten days before relocation activities would commence, unless the Administrator has previously approved a different minimum time for relocation notice.

The Administrator would also like to clarify that a source is portable only if it would have temporary location and temporary emissions. Existing EPA policy defines temporary emissions as emissions from a stationary source that would be less than two years in duration, unless the Administrator determines that a longer time period would be appropriate. Thus, for a portable source to qualify for the above exemption, it must typically be located at the new location less than two years.

E. Secondary Emissions

Desiring to make the PSD review requirements similar to nonattainment requirements wherever possible, the Administrator proposed to add the definition of secondary emissions found in the offset ruling (44 FR 3274) to the PSD regulations. *See* 43 FR 26403. Secondary emissions would mean emissions from new or existings sources which occur as a result of the construction and/or operation of a major source or major modification, but do not necessarily come from the source itself. Secondary emissions would include:

(a) emissions from ships or trains coming to or from a source or modification; or

(b) emissions from offsite support sources which would otherwise increase emissions as a result of construction or operation of a major source. Although reasonably quantifiable secondary emissions would be reviewed in the air quality anaylsis, such emissions would not be included in determining "potential" emissions.

Public reaction to the September 5, 1979 proposal and the final *Alabama Power* opinion regarding EPA's treatment of secondary emissions was small. Generally the commenters favored the exclusion of secondary emissions from the PSD permit process altogether. Their objections centered on the availability and reliability of the emission factor data to "reasonably" quantify secondary emissions. Also the possibility of redundant reviews was highlighted by several commenters. The Administrator, in weighing these comments, has decided to promulgate the regulations addressing secondary emissions as proposed on September 5, 1979. *See* 40 CFR 51.24(b)(3), 52.21(b)(3), 51.24(b)(20), and 52.21(b)(20).

The Clean Air Act clearly calls for a detailed and extensive air quality impact assessment. For instance, each permit application must include impacts from the growth projected in the area that would occur as a result of the proposed source's construction. *See* section 165(a)(6). Also, once the baseline date is set, such emissions would consume the maximum allowable increments, so each permit decision must give consideration to all the possible ramifications of allowing a source or modification to construct. *See* section 165(a)(3) ("cause or *contribute*"). Secondary emissions must be considered when those emissions are specific, well defined, reasonably quantifiable, and impact the same general area.

F. Baseline for Calculating Offsets Under Section 173(1)(A)

The Offset Ruling sets out rules and guidance for determining the baseline for calculating emissions offset credit, as well as guidance on the location of offsetting emissions. *See* 40 CFR Part 51, Appendix S, Sections IV.C. and D. To aid the states in developing their NSR regulations for nonattainment areas, or in revising those regulations, EPA has decided to promulgate those rules and guidance in § 51.18(j)(3).[14] The langauge promulgated today is identical to that used in the Offset Ruling, except as explained below.

On January 16, 1979, EPA modified the Offset Ruling to conform to section 129(a)(1) of the Act by setting the baseline for determining emissions offset credit at the emissions level specified for the source in the applicable SIP. EPA is retaining this baseline level for the Offset Ruling. However, the approach for NSR programs adopted pursuant to section 173 is slightly different. Section 173(1)(A) sets the baseline as the "allowable" emissions of the source, but it further specifies that the offsets obtained by the source must be sufficient to represent reasonable further progress (RFP). Some Part D SIP revisions approved by EPA have demonstrated attainment and RFP based on the allowable emissions of sources in a nonattainment area. However, many Part D SIP revisions have based their demonstrations on the *actual* emissions of the sources in a nonattainment area, rather than the sources' allowable emissions. This means that to be consistent with RFP, sources must reduce their actual, rather than their allowable, emissions. Otherwise, sources could claim credit for offsets in situations where the offset would actually interfere with RFP.[15]

To accommodate the different approaches to RFP, EPA has provided that the baseline for determining emissions offset credit shall be the

[14] On January 16, 1979, EPA solicited comments on certain aspects of the Offset Ruling, none of which directly concerned the matters published today. EPA will respond to those comments after today's promulgation.

[15] For example, suppose a source's allowable emissions are 1,000 tpy, and its actual emissions are 500 tpy. Now suppose it wants to add a new emissions unit, thereby adding 100 tpy, and the SIP requires a 100 tpy reduction for RFP. The source might achieve both objectives by decreasing its total allowable emissions to 900 tpy, i.e., it adds the 100 tpy for the new facility, but makes other reductions in allowable emissions of 200 tpy. This is adequate if the RFP demonstration relies upon allowable emissions, since the source started at 1,000 typ and now is at 900 tpy. But if RFP is based on actual emissions, then there is a *loss* of 100 tpy, because RFP assumed 500 tpy and now the source emits 600 tpy.

allowable emissions of the source, where the SIP relies upon allowable emissions to demonstrate RFP; but the baseline must be actual emissions where the demonstration is based on reductions in actual emissions. EPA believes for the reasons discussed above that this approach is necessary to assure RFP towards attainment of ambient air quality standards.

G. Economic Impact Assessment

In the September 5 proposal, it was stated that the Agency would prepare an economic impact assessment of the proposed changes after the final court opinion was issued, which took place on December 14, 1979. The Agency further indicated that it would make the report available for public comment prior to promulgation, and that any resulting comments would be taken into account in the promulgated regulations.

Although the results of the impact assessment released today have been considered in developing the regulations, primarily for understanding *de minimis* effects, it has not been possible to complete the assessment in time to get comments prior to promulgation. In fact, because of the inherent complexity of the program, it has not been possible to do a true economic impact assessment (*i.e.*, one which considers impacts on market positions, prices, closures, etc.).

The document made available today presents as assessment of the overall impact of the proposed regulations with respect to several of the major issues or changes in the proposed regulations. The assessment does not attempt to quantify the impact of every issue nor does it attempt to assess the overall impact associated with the implementation of the PSD regulations in general. It is designed to provide a relative assessment of the impact of the September 5 proposal versus the June 1978 regulations in terms of the: sources to be affected, their associated emissions, major requirements which must be met (or which are no longer required to be met), and estimated cost savings for sources no longer subject to PSD review as a result of the proposed regulations. In short, the analysis provides an estimate of differential cost impact of the 1978 versus the proposed PSD regulations and an assessment of the major issues associated with the proposed PSD regulations.

As noted, the assessment focused on the difference between the June 1978 regulations and those proposed on September 5. However, there are significant changes in the promulgated regulations compared to those proposed, especially with regard to the *de minimis* values. Since these values have a major impact on expected cost, a projection of the impact of the final regulations was also made.

It is estimated that there will be a savings as a result of the promulgation for sources which would have been subject to the old regulations but which would not be subject to the new. This would represent an annual savings of $2.2 to 6.1 million assuming the sources which have received permits from April 1978 to November 1979 are representative of those which will receive permits in the future.

Although there is an overall savings for sources which would not longer be subject to PSD review, the new regulations require more extensive review for some sources, as well as review of sources which were not previously covered; that is, modified sources with uncontrolled emissions of less than 100 or 250 tons per year but which have controlled emissions greater than *de minimis*. Since these sources are not now subject to PSD review, they would be required to prepare a PSD permit, conduct the necessary air quality impact assessments, incur some delays in construction as a result of undergoing PSD review in addition to state NSR review, and install BACT instead of just meeting the emissions limits required by the State Implementation Plan or New Source Performance Standards as applicable. As a result of the additional cost incurred because of more extensive review and by the sources not currently subject to PSD, the overall effect of the promulgated regulations (including the savings described above) is an increase of approximately $12.4 to 24.5 million per year.

The complete analysis is contained in the document entitled *Regulatory Impact Assessment for the September 5, 1979 Proposed Prevention of Significant Deterioration Regulations*, EPA–450/2–80–073. This document is available for inspection in the rulemaking docket. Copies may be obtained by writing to the Air Information Center, U.S. EPA Library Services, (MD–35), Research Triangle Park, NC 27711.

H. Consolidated Permit Regulations

As mentioned in the section on TRANSITION, EPA recently promulgated regulations, known as the Consolidated Permit Regulations, which now generally govern the processing of applications for permits under Part 52 PSD regulations. Among the regulatory amendments announced here are three minor changes to the Consolidated Permit Regulation. First, EPA has deleted the substantive language of 40 CFR 124.3(b) and put "Reserved" in its place. Section 124.3(b) related primarily to the 50–ton exemptions of the 1978 Part 52 regulations. With the deletion of those exemptions, § 124.3(b) would have become superfluous. Second, EPA has conformed 40 CFR 124.5(g)(2) to the numbering in the new Part 52 regulations. Finally, the agency has corrected 40 CFR 124.42(b) by substituting "submitted" for "requested."

Final Action

The following regulatory amendments are nationally applicable, and this action is based upon determinations of nationwide scope and effect. Therefore, under section 307(b)(1) of the Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before October 6, 1980.

(Sections 101(b)(1), 110, 160–169, 171–178, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7401(b)(1), 7410, 7470–7479, 7501–7508, and 7601(a)); Section 129(a) of the Clean Air Act Amendments of 1977 (Pub. L. No. 95–95, 91 Stat. 685 (August, 7, 1977)))

Dated: July 31, 1980.

Douglas M. Costle,

Administrator.

State Plans For New Source Review For PSD Purposes

1. Section 51.24 of Title 40 of the Code of Federal Regulations is amended by deleting paragraph (k) and redesignating paragraphs (l) through (s) as (k) through (r) and then by revising paragraphs (a)(2), (b), (f), (i)–(k), (m) and (r) and adding new paragraphs (a)(6) and (s) to read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

(a)(1) *Plan Requirements*

* * * * *

(2) *Plan Revisions.* If a State Implementation Plan revision would result in increased air quality deterioration over any baseline concentration, the plan revision shall include a demonstration that it will not cause or contribute to a violation of the applicable increment(s). If a plan revision proposing less restrictive requirements was submitted after August 7, 1977 but on or before any applicable baseline date and was pending action by the Administrator on that date, no such demonstration is necessary with respect to the area for which a baseline date would be established before final action is taken on the plan revision. Instead, the assessment described in paragraph

operation or on the type or amount of

(11) "Begin actual construction"

construction before

(a)(4) shall review the expected impact to the applicable increment(s).

* * * * *

(6) *Amendments.* (i) Any state required to revise its implementation plan by reason of an amendment to this section, including any amendment adopted simultaneously with this paragraph, shall adopt and submit such plan revision to the Administrator for approval before May 7, 1981.

(ii) Any revision to an implementation plan that would amend the provisions for the prevention of significant air quality deterioration in the plan shall specify when and as to what sources and modifications the revision is to take effect.

(iii) Any revision to an implementation plan that an amendment to this section required shall take effect no later than the date of its approval and may operate prospectively.

(b) *Definitions.* All state plans shall use the following definitions for the purposes of this section. Deviations from the following wording will be approved only if the state specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definitions below:

(1)(i) "Major stationary source" means:

(*a*) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(*b*) Notwithstanding the stationary source size specified in paragraph (b)(1)(i)(*a*) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Act; or

(*c*) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) as a major stationary source if the change would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds shall be considered major for ozone.

(2)(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(ii) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(*a*) Routine maintenance, repair, and replacement;

(*b*) Use of an alternative fuel or raw material by reason of any order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(*e*) Use of an alternative fuel or raw material by a stationary source which:

(*1*) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(*2*) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.24;

(*f*) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(*g*) Any change in ownership at a stationary source.

(3)(i) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(*a*) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(*b*) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within a reasonable period (to be specified by the state) before the date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the reviewing authority has not relied on it in issuing a permit for the source under regulations approved pursuant to this section, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that:

(*a*) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(*b*) It is federally enforceable at and after the time that actual construction on the particular change begins; and

(*c*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.

(6) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972,* as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

(7) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.

(8) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(9) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(11) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(12) "Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Act which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60 and 61. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(13)(i) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(*a*) The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph (b)(13)(ii);

(*b*) The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(ii) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(*a*) Actual emission from any major stationary source on which construction commenced after January 6, 1975; and

(*b*) Actual emissions increases and decreases at any stationary source occurring after the baseline date.

(14)(i) "Baseline date" means the earliest date after August 7, 1977, that:

(*a*) A major stationary source or major modification subject to 40 CFR 52.21 submits a complete application under that section; or

(*b*) A major stationary source or major modificatioin subject to regulations approved pursuant to 40 CFR 51.24 submits a complete application under such regulations.

(ii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(*a*) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i) (D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.24; and

(*b*) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(15)(i) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1) (D) or (E) of the Act in which the major source or major modification establishing the baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the baseline date is established.

(ii) Area redesignations under section 107(d)(1) (D) or (E) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(*a*) Establishes a baseline date; or

(*b*) Is subject to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.24, and would be constructed in the same state as the state proposing the redesignation.

(16) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits

V. 45 / 154 AG 7 80 UMI

which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) The applicable standards as set forth in 40 CFR Parts 60 and 61;

(ii) The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(iii) The emissions rate specified as a federally enforceable permit condition.

(17) "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(18) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(i) Emissions from ships or trains coming to or from the new or modified stationary source; and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(19) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(20) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(21)(i) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subparagraphs (ii)–(iv) below.

(ii) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(iii) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(22) "Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

(23)(i) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate
Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy
Asbestos: 0.007 tpy
Beryllium: 0.0004 tpy
Mercury: 0.1 tpy
Vinyl chloride: 1 tpy
Fluorides: 3 tpy
Sulfuric acid mist: 7 tpy
Hydrogen sulfide (H_2S): 10 tpy
Total reduced sulfur (including H_2S): 10 tpy
Reduced sulfur compounds (including H_2S): 10 tpy

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Act that paragraph (b)(23)(i) does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

(24) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(25) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(26) "Low terrain" means any area other than high terrain.

(27) "Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(28) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

* * * * *

(f) *Exclusions from increment consumption.* (1) The plan may provide that the following concentrations shall be excluded in determining compliance with a maximum allowable increase:

(i) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

(ii) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(iii) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(iv) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

(v) Concentrations attributable to the temporary increase in emissions of sulfur dioxide or particulate matter from stationary sources which are affected by plan revisions approved by the Administrator as meeting the criteria specified in paragraph (f)(4).

(2) If the plan provides that the concentrations to which paragraph (f)(1)(i) or (ii) refers shall be excluded, it shall also provide that no exclusion of such concentrations shall apply more than five years after the effective date of the order to which paragraph (f)(1)(i) refers or the plan to which paragraph (f)(1)(ii) refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(3) No exclusion under paragraph (f) of this section shall occur later than 9 months after August 7, 1980, unless a State Implementation Plan revision meeting the requirements of 40 CFR 51.24 has been submitted to the Administrator.

(4) For purposes of excluding concentrations pursuant to paragraph (f)(1)(v), the Administrator may approve a plan revision that:

(i) Specifies the time over which the temporary emissions increase of sulfur dioxide or particulate matter would occur. Such time is not to exceed two years in duration unless a longer time is approved by the Administrator;

(ii) Specifies that the time period for excluding certain contributions in accordance with paragraph (f)(4)(i) is not renewable;

(iii) Allows no emissions increase from a stationary source which would:

(*a*) Impact a Class I area or an area where an applicable increment is known to be violated; or

(*b*) Cause or contribute to the violation of a national ambient air quality standard;

(iv) Requires limitations to be in effect the end of the time period specified in accordance with paragraph (f)(4)(i) which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

* * * * *

(i) *Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions.*

(1) The plan shall provide that no major stationary source or major modification shall begin actual construction unless, as a minumum, requirements equivalent to those contained in paragraphs (j) through (r) of this section have been met.

(2) The plan shall provide that the requirements equivalent to those contained in paragraphs (j) through (r) of this section shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the Act that it would emit, except as this section would otherwise allow.

(3) The plan shall provide that requirements equivalent to those contained in paragraphs (j) through (r) of this section apply only to any major stationary source or major modification that would be constructed in an area which is designated as attainment or unclassifiable under section 107(a)(1)(D) or (E) of the Act; and

(4) The plan may provide that requirements equivalent to those contained in paragraphs (j) through (r) of this section do not apply to a particular major stationary source or major modification if:

(i) The major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution; or

(ii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

(*a*) Coal cleaning plants (with thermal dryers);

(*b*) Kraft pulp mills;

(*c*) Portland cement plants;

(*d*) Primary zinc smelters;

(*e*) Iron and steel mills;

(*f*) Primary aluminum ore reduction plants;

(*g*) Primary copper smelters;

(*h*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*i*) Hydrofluoric, sulfuric, or nitric acid plants;

(*j*) Petroleum refineries;

(*k*) Lime plants;

(*l*) Phosphate rock processing plants;

(*m*) Coke oven batteries;

(*n*) Sulfur recovery plants;

(*o*) Carbon black plants (furnace process);

(*p*) Primary lead smelters;

(*q*) Fuel conversion plants;

(*r*) Sintering plants;

(*s*) Secondary metal production plants;

(*t*) Chemical process plants;

(*u*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(*v*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*w*) Taconite ore processing plants;

(*x*) Glass fiber processing plants;

(*y*) Charcoal production plants;

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*aa*) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act; or

(iii) The source or modification is a portable stationary source which has previously received a permit under requirements equivalent to those contained in paragraphs (j) through (r) of this section, if:

(*a*) The source proposes to relocate and emissions of the source at the new location would be temporary; and

(*b*) The emissions from the source would not exceed its allowable emissions; and

(*c*) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(*d*) Reasonable notice is given to the reviewing authority prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the reviewing authority not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the reviewing authority.

(5) The plan may provide that requirements equivalent to those contained in paragraphs (j) through (r) of this section do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the Act.

(6) The plan may provide that requirements equivalent to those contained in paragraphs (k), (m), and (o) of this section do not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(7) The plan may provide that requirements equivalent to those contained in paragraphs (k), (m), and (o) of this section as they relate to any maximum allowable increase for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the Act from the modification after the application of best available control technology would be less than 50 tons per year.

(8) The plan may provide that the reviewing authority may exempt a proposed major stationary source or major modification from the requirements of paragraph (m) with

respect to monitoring for a particular pollutant, if:

(i) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

(*a*) Carbon monoxide—575 ug/m³, 8-hour average;
(*b*) Nitrogen dioxide—14 ug/m³, annual average;
(*c*) Total suspended particulates—10 ug/m³, 24-hour average;
(*d*) Sulfur dioxide—13 ug/m³, 24-hour average;
(*e*) Ozone [1]
(*f*) Lead—0.1 ug/m³, 24-hour average;
(*g*) Mercury—0.25 ug/m³, 24-hour average;
(*h*) Beryllium—0.0005 ug/m³, 24-hour average;
(*i*) Fluorides—0.25 ug/m³, 24-hour average;
(*j*) Vinyl chloride—15 ug/m³, 24-hour average;
(*k*) Total reduced sulfur—10 ug/m³, 1-hour average;
(*l*) Hydrogen sulfide—0.04 ug/m³, 1-hour average;
(*m*) Reduced sulfur compounds—10 ug/m³, 1-hour average; or

(ii) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in (i)(8)(i); or

(iii) The pollutants is not listed in paragraph (i)(8)(i).

(9) If EPA approves a plan revision under 40 CFR 51.24 as in effect before August 7, 1980, any subsequent revision which meets the requirements of this section may contain transition provisions which parallel the transition provisions of 40 CFR 52.21(i)(9), (i)(10) and (m)(1)(v) as in effect on that date, which provisions relate to requirements for best available control technology and air quality analyses. Any such subsequent revision may not contain any transition provision which in the context of the revision would operate any less stringently than would its counterpart in 40 CFR 52.21.

(j) *Control Technology Review.* The plan shall provide that:

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emission standards and standard of performance under 40 CFR Parts 60 and 61.

(2) A new major stationary source shall apply best available control technology for each pollutant subject to regulation under the Act that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each pollutant subject to regulation under the Act for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the least reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) *Source Impact Analysis.* The plan shall provide that the owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reduction (including secondary emissions) would not cause or contribute to air pollution in violation of:

(1) Any national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

(l) *Air Quality Models.*

* * * * * *

(m) *Air Quality Analysis.* (1) Preapplication analysis.

(i) The plan shall provide that any application for a permit under regulations approved pursuant to this section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(*a*) For the source, each pollutant that it would have the potential to emit in a significant amount;

(*b*) For the modification, each pollutant for which it would result in a significant net emissions increase.

(ii) The plan shall provide that, with respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the reviewing authority determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(iii) The plan shall provide that with respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maxiumum allowable increase.

(iv) The plan shall provide that, in general, the continuous air monitoring data that is required shall have been gathered over a period of one year and shall represent the year preceding receipt of the application, except that, if the reviewing authority determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

(v) The plan may provide that the owner or operator of a proposed major stationary source or major modification of volatile organic compounds who satisfies all conditions of 40 CFR Part 51 Appendix S, section IV may provide postapproval monitoring data for ozone in lieu of providing preconstruction data as required under paragraph (m)(1).

(2) Post-construction monitoring. The plan shall provide that the owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the reviewing authority determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operation of monitoring stations. The plan shall provide that the owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to Part 58 of this chapter during the operation of monitoring stations for purposes of satisfying paragraph (m) of this section.

(n) *Source Information.*

* * * * * *

(o) *Additional Impact Analyses.*

* * * * * *

(p) *Sources Impacting Federal Class I Areas—Additional Requirements.*

* * * * * *

(q) *Public Participation.*

* * * * * *

(r) *Source Obligation.* (1) The plan shall include enforceable procedures to provide that approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, state or federal law.

(2) The plan shall provide that at such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of paragraphs (j) through (s) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(s) *Innovative Control Technology.* (1) The plan may provide that an owner or operator of a proposed major stationary source or major modification may request the reviewing authority to approve a system of innovative control technology.

(2) The plan may provide that the reviewing authority may, with the consent of the governor(s) of other affected state(s), determine that the source or modification may employ a system of innovative control technology, if:

(i) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(ii) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraph (j)(2) by a date specified by the reviewing authority. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance;

(iii) The source or modification would meet the requirements equivalent to those in paragraphs (j) and (k) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the reviewing authority;

(iv) The source or modification would not before the date specified by the reviewing authority:

(*a*) Cause or contribute to any violation of an applicable national ambient air quality standard; or

(*b*) Impact any Class I area; or

(*c*) Impact any area where an applicable increment is known to be violated;

(v) All other applicable requirements including those for public participation have been met.

(3) The plan shall provide that the reviewing authority shall withdraw any approval to employ a system of innovative control technology made under this section, if:

(i) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

(ii) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(iii) The reviewing authority decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) The plan may provide that if a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with paragraph (s)(3), the reviewing authority may allow the source or modification up to an additional 3 years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

New Source Review For PSD Purposes

2. (a) Section 52.21 of Title 40 of the Code of Federal Regulations is amended by deleting paragraph (k) and redesignating paragraphs (l) through (v) as (k) through (u) and then by revising paragraphs (b), (f), (i), (j), (k) and (g) and adding new paragraphs (r)(4), (v) and (w) as follows:

§ 52.21. Prevention of significant deterioration of air quality.

* * * * * *

(b) *Definitions.* For the purposes of this section:

(1)(i) "Major stationary source" means:

(*a*) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(*b*) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Act; or

(*c*) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(2)(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(ii) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(*a*) Routine maintenance, repair and replacement;

(*b*) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plant pursuant to the Federal Power Act;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(*e*) Use of an alternative fuel or raw material by a stationary source which:

(*1*) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21

[1] No *de minimis* air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform and ambient impact analysis, including the gathering of ambient air quality data.

V 4 5 / 1 5 4 A G 7 8 0 UMI

or under regulations approved pursuant

(viii) An increase that results from a

construction of the source, to be

design, equipment, work practice or

impact of any major stationary source or

(20) "Fugitive emissions" means those

or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.24;

(f) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(g) Any change in ownership at a stationary source.

(3)(i) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(*a*) The date five years before construction on the particular change commences; and

(*b*) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the Administrator has not relied on it in issuing a permit for the source under this section, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that:

(*a*) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(*b*) It is federally enforceable at and after the time that actual construction on the particular change begins; and

(*c*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(viii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.

(6) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the *Standard Industrial Classification Manual, 1972,* as amended by the 1977 Supplement (U. S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

(7) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.

(8) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(9) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(11) "Begin actual contruction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activites other than preparatory activities which mark the initiation of the change.

(12) "Best available control technology" means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under Act which would be emitted from any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emisstons of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Parts and 60 and 61. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the impostion of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(13)(i) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(*a*) The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph (b)(13)(ii);

(*b*) The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(ii) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(*a*) Actual emissions from any major stationary source on which construction commenced after January 6, 1975; and

(*b*) Actual emissions increases and decreases at any stationary source occurring after the baseline date.

(14)(i) "Baseline date" means the earliest date after August 7, 1977, on which the first complete application under 40 CFR 52.21 is submitted by a major stationary source or major modification subject to the requirements of 40 CFR 52.21.

(ii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(*a*) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i) (D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21; and

(*b*) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(15)(i) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Act in which the major source or major modification establishing the baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the baseline date is established.

(ii) Area redesignations under section 107(d)(1)(D) or (E) of the Act cannot intersect or be smaller than the area of impact of any mjaor stationary source or major modification which:

(*a*) Establishes a baseline date; or

(*b*) Is subject to 40 CFR 52.21 and would be constructed in the same state as the state proposing the redesignation.

(16) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) The applicable standards as set forth in 40 CFR Parts 60 and 61;

(ii) The applicable State Implemenation Plan emissions limitation, including those with a future compliance date; or

(iii) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(17) "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 and 40 CFR 51.24.

(18) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(i) Emissions from ships or trains coming to or from the new or modified stationary source; and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(19) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(20) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(21)(i) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subparagraphs (ii)–(iv) below.

(ii) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedies the particular date and which is representative of normal source operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(iii) The Administrator may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(22) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(23)(i) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate
Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy
Asbestos: 0.007 tpy
Beryllium: 0.0004 tpy
Mercury: 0.1 tpy
Vinyl chloride: 1 tpy
Fluorides: 3 tpy
Sulfuric acid mist: 7 tpy
Hydrogen sulfide (H_2S): 10 tpy
Total reduced sulfur (including H_2S): 10 tpy
Reduced sulfur compounds (including H_2S): 10 tpy

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Act that paragraph (b)(23)(i) does not list, any emissions rate.

V 45 / 154 AG 7 80 UMI

(iii) Notwithstanding paragraph (b)(23)(i), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 μg/m³, (24-hour average).

(24) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(25) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(26) "Low terrain" means any area other than high terrain.

(27) "Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(28) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of selfgovernment.

* * * * *

(f) *Exclusions from increment consumption.* (1) Upon written request of the governor, made after notice and opportunity for at least one public hearing to be held in accordance with procedures established in 40 CFR 51.4, the Administrator shall exclude the following concentrations in determining compliance with a maximum allowable increase:

(i) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

(ii) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(iii) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(iv) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

(v) Concentrations attributable to the temporary increase in emissions of sulfur dioxide or particulate matter from stationary sources which are affected by plan revisions approved by the Administrator as meeting the criteria specified in paragraph (f)(4).

(2) No exclusion of such concentrations shall apply more than five years after the effective date of the order to which paragraph (f)(1)(i) refers or the plan to which paragraph (f)(1)(ii) refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(3) No exclusion under paragraph (f) of this section shall occur later than 9 months after August 7, 1980, unless a State Implementation Plan revision meeting the requirements of 40 CFR 51.24 has been submitted to the Administrator.

(4) For purposes of excluding concentrations pursuant to paragraph (f)(1)(v), the proposed plan revision shall:

(i) Specify the time over which the temporary emissions increase of sulfur dioxide or particulate matter would occur. Such time is not to exceed two years in duration unless a longer time is approved by the Administrator;

(ii) Specify that the time period for excluding certain contributions in accordance with paragraph (f)(4)(i) is not renewable;

(iii) Allow no emissions increase from a stationary source which would:

(*a*) Impact a Class I area or an area where an applicable increment is known to be violated; or

(*b*) Cause or contribute to the violation of a national ambient air quality standard;

(iv) Require limitations to be in effect at the end of the time period specified in accordance with paragraph (f)(4)(i) which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

* * * * *

(i) *Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions.* (1) No stationary source or modification to which the requirements of paragraphs (j) through (r) of this section apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements. The Administrator has authority to issue any such permit.

(2) The requirements of paragraphs (j) through (r) of this section shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the Act that it would emit, except as this section otherwise provides.

(3) The requirements of paragraphs (j) through (r) of this section apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Act.

(4) The requirements of paragraphs (j) through (r) of this section shall not apply to a particular major stationary source or major modification, if;

(i) Construction commenced on the source or modification before August 7, 1977. The regulations at 40 CFR 52.21 as in effect before August 7, 1977, shall govern the review and permitting of any such source or modification; or

(ii) The source or modification was subject to the review requirements of 40 CFR 52.21(d)(i) as in effect before March 1, 1978, and the owner or operator:

(a) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

(iii) The source or modification was subject to 40 CFR 52.21 as in effect before March 1, 1978, and the review of an application for approval for the stationary source or modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such a case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978; or

(iv) The source or modification was not subject to 40 CFR 52.21 as in effect before March 1, 1978, and the owner or operator:

(a) Obtained all final federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time; or

(v) The source or modification was not subject to 40 CFR 52.21 as in effect on June 19, 1978 or under the partial stay

of regulations published on February 5, 1980 (45 FR 7800), and the owner or operator:

(a) Obtained all final federal, state and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before August 7, 1980;

(b) Commenced construction within 18 months from August 7, 1980, or any earlier time required under the applicable State Implementation Plan; and

(c) Did not discontinuue construction for a period of 18 months or more and completed construction within a reasonable time; or

(vi) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor of the state in which the source or modification would be located requests that it be exempt from those requirements; or

(vii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act; or

(viii) The source is a portable stationary source which has previously received a permit under this section, and

(*a*) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(*b*) The emissions from the source would not exceed its allowable emissions; and

(*c*) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(*d*) Reasonable notice is given to the Administrator prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Administrator not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the Administrator.

(5) The requirements of paragraphs (j) through (r) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the Act.

(6) The requirements of paragraphs (k), (m) and (o) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

(i) Would impact no Class I area and no area where an applicable increment is known to be violated, and

(ii) Would be temporary.

(7) The requirements of paragraphs (k), (m) and (o) of this section as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the Act from the modification after the application of best available control technology would be less than 50 tons per year.

(8) The Administrator may exempt a stationary source or modification from the requirements of paragraph (m) with respect to monitoring for a particular pollutant if:

(i) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide—575 μg/m³, 8-hour average;

Nitrogen dioxide—14 μg/m³, annual average;

Total suspended particulate—10 μg/m³, 24-hour average;

Sulfur dioxide—13 μg/m³, 24-hour average;

Ozone; [2]

Lead—0.1 μg/m³, 24-hour average;

Mercury—0.25 μg/m³, 24-hour average;

Beryllium—0.0005 μg/m³, 24-hour average;

Fluorides—0.25 μg/m³, 24-hour average;

Vinyl chloride—15 μg/m³, 24-hour average;

Total reduced sulfur—10 μg/m³, 1-hour average;

Hydrogen sulfide—0.04 μg/m³, 1-hour average;

Reduced sulfur compounds—10 μg/m³, 1-hour average; or

(ii) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (i)(8)(i), or the pollutant is not listed in paragraph (i)(8)(i).

(9) The requirements for best available control technology in paragraph (j) of this section and the requirements for air quality analyses in paragraph (m)(1) shall not apply to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submitted an application for a permit under those regulations before August 7, 1980, and the Administrator subsequently determines that the application as submitted before that date was complete. Instead, the requirements at 40 CFR 52.21(j) and (n) as in effect on June 19, 1978 apply to any such source or modification.

(10)(i) The requirements for air quality monitoring in paragraphs (m)(1)(ii)-(iv) of this section shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an

[2] No *de minimis* air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

application for a permit under this

increases from the proposed source or

application becomes otherwise

the procedures of 40 CFR Part 124 do not

(*c*) Impact any area where an

§ 52.1116 (MD), § 52.1180 (MI), § 52.1234

application for a permit under this section on or before June 8, 1981, and the Administrator subsequently determines that the application as submitted before that date was complete with respect to the requirements of this section other than those in paragraphs (m)(1)(ii)-(iv) and with respect to the requirements for such analyses at 40 CFR 52.21(m)(2) as in effect on June 19, 1978. Instead, the latter requirements shall apply to any such source or modification.

(ii) The requirements for air quality monitoring in paragraphs (m)(1)(ii)-(iv) of this section shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if the owner or operator of the source or modification submits an application for a permit under this section on or before June 8, 1981, and the Administrator subsequently determines that the application as submitted before that date was complete, except with respect to the requirements in paragraphs (m)(1)(ii)-(iv).

(j) *Control Technology Review.* (1) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emissions standard and standard of performance under 40 CFR Parts 60 and 61.

(2) A new major stationary source shall apply best available control technology for each pollutant subject to regulation under the Act that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each pollutant subject to regulation under the Act for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) *Source Impact Analysis.* The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(1) Any national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

(l) *Air Quality Models.*

* * * * *

(m) *Air Quality Analysis.* (1) Preapplication analysis.

(i) Any application for a permit under this section shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(*a*) For the source, each pollutant that it would have the potential to omit in a significant amount;

(*b*) For the modification, each pollutant for which it would result in a significant net emissions increase.

(ii) With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Administrator determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(iii) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(iv) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the Administrator determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.

(v) For any application which becomes complete, except as to the requirements of paragraph (m)(1) (iii) and (iv), between June 8, 1981, and February 9, 1982, the data that paragraph (m)(1)(iii) requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:

(*a*) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over at least the period required by those regulations.

(*b*) If the Administrator determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that paragraph (m)(1)(iii) requires shall have been gathered over at least that shorter period.

(*c*) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Administrator may waive the otherwise applicable requirements of this paragraph (v) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(vi) The owner or operator of a proposed stationary source or modification of violatile organic compounds who satisfies all conditions of 40 CFR Part 51 Appendix S, section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as requried under paragraph (m)(1).

(2) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Administrator determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to Part 58 of this chapter during the operation of monitoring stations for purposes of satisfying paragraph (m) of this section.

(n) *Source Information.*

* * * * *

(o) *Additional Impact Analyses.*

* * * * *

(p) *Sources Impacting Federal Class I Areas—Additional Requirements.*

* * * * *

(q) *Public Participation.* The Administrator shall follow the applicable procedures of 40 CFR Part 124 in processing applications under this section. The Administrator shall follow the procedures at 40 CFR 52.21(r) as in effect on June 19, 1979, to the extent that the procedures of 40 CFR Part 124 do not apply.

(r) *Source Obligation.*

* * * * *

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs (j) through (s) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

* * * * *

(s) *Environmental Impact Statements.*

* * * * *

(t) *Disputed Permits or Redesignations.*

* * * * *

(u) *Delegation of Authority.*

* * * * *

(v) *Innovative Control Technology.* (1) An owner or operator of a proposed major stationary source or major modification may request the Administrator in writing no later than the close of the comment period under 40 CFR 124.10 to approve a system of innovative control technology.

(2) The Administrator shall, with the consent of the governor(s) of the affected state(s), determine that the source or modification may employ a system of innovative control technology, if:

(i) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(ii) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under paragraph (j)(2) by a date specified by the Administrator. Such date shall not be later than 4 years from the time of startup or 7 years from permit issuance;

(iii) The source or modification would meet the requirements of paragraphs (j) and (k) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Administrator;

(iv) The source or modification would not before the date specified by the Administrator:

(*a*) Cause or contribute to a violation of an applicable national ambient air quality standard; or

(*b*) Impact any Class I area; or

(*c*) Impact any area where an applicable increment is known to be violated; and

(v) All other applicable requirements including those for public participation have been met.

(3) The Administrator shall withdraw any approval to employ a system of innovative control technology made under this section, if:

(i) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

(ii) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(iii) The Administrator decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with paragraph (v)(3), the Administrator may allow the source or modification up to an additional 3 years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

(w) *Permit rescission.* (1) Any permit issued under this section or a prior version of this section shall remain in effect, unless and until it expires under paragraph (s) of this section or is rescinded.

(2) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under 40 CFR 52.21 as in effect on June 19, 1978, may request that the Administrator rescind the permit or a particular portion of the permit.

(3) The Administrator shall grant an application for rescission if the application shows that this section would not apply to the source or modification.

(4) If the Administrator rescinds a permit under this paragraph, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

2. (b) In § 52.60 (AL), § 52.96 (AK), § 52.144 (AZ), § 52.131 (AR), § 52.270 (CA), § 52.343 (CO), § 52.383 (CT), § 52.432 (DE), § 52.499 (DC), § 52.530 (FL), § 52.632 (HI), § 52.683 (ID), § 52.738 (IL), § 52.793 (IN), § 52.833 (IA), § 52.884 (KS), § 52.931 (KY), § 52.986 (LA), § 52.1116 (MD), § 52.1180 (MI), § 52.1234 (MN), § 52.1280 (MS), § 52.1339 (MO), § 52.1382 (MT), § 52.1436 (NB), § 52.1485 (NV), § 52.1529 (NH), § 52.1603 (NJ), § 52.1634 (NM), § 52.1689 (NY), § 52.1778 (NC), § 52.1884 (OH), § 52.1929 (OK), § 52.1987 (OR), § 52.2058 (PA), § 52.2083 (RI), § 52.2131 (SC), § 52.2178 (SD), § 52.2303 (TX), § 52.2346 (UT), § 52.2451 (VA), § 52.2497 (WA), § 52.2528 (WV), § 52.2581 (WI), § 52.2676 (GU), § 52.2729 (PR), § 52.2779 (VI), and § 52.2827 (AmS), paragraphs (a) and (b) are revised to read as follows:

* * * * *

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met, since the plan does not include approvable procedures for preventing the significant deterioration of air quality.

(b) *Regulations for preventing significant deterioration of air quality.* The provisions of 52.21(b) through (w) are hereby incorporated and made a part of the applicable state plan for the State of ———.

Emission Offset Interpretative Ruling

3. Sections I, II, III and IV of the Emission Offset Interpretative Ruling, 40 CFR Part 51 Appendix S, as revised 44 FR 3274 (January 16, 1979) and 45 FR 31307 (May 13, 1980), are amended as follows:

A. By adding a new third paragraph to Section I, to read as follows:

I. Introduction

* * * * *

The requirement of this Ruling shall not apply to any major stationary source or major modification that was not subject to the Ruling as in effect on January 16, 1979, if the owner or operator:

A. Obtained all final federal, state, and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before August 7, 1980;

B. Commenced construction within 18 months from August 7, 1980, or any earlier time required under the applicable State Implementation Plan; and

C. Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

B. By revising Section II, subsection A. to read as follows:

II. Initial Screening Analyses and Determination of Applicable Requirements.

A. *Definitions*—For the purposes of this Ruling:

1. "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.

2. "Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control

emissions unit as determined in accordance

category of stationary source. This limitation,

(24) Glass fiber processing plants;

of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

3. "Installation" means an identifiable piece of process equipment.

4. "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

5.(i) "Major stationary source" means:

(*a*) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act; or

(*b*) Any physical change that would occur at a stationary source not qualifying under paragraph 5.(i)(*a*) as a major stationary source, if the change would constitute a major stationary source by itself.

(ii) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

6.(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(ii) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(*a*) Routine maintenance, repair, and replacement;

(*b*) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(*e*) Use of an alternative fuel or raw material by a stationary source which:

(*1*) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, purusant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(*2*) The source is approved to use under any permit issued under this ruling;

(*f*) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24;

(*g*) Any change in ownership at a stationary source.

7.(i) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(*a*) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(*b*) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(*a*) The date five years before construction on the particular change commences and

(*b*) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the Administrator has not relied on it in issuing a permit for the source under this Ruling which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(*a*) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(*b*) It is federally enforceable at and after the time that actual construction on the particular change begins;

(*c*) The reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51.18; and

(*d*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

8. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.

9. "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 per cent of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f) (1)–(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this Ruling. In determining lowest achievable emission rate for a reconstructed stationary source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.

10. "Fixed capital cost" means the capital needed to provide all the depreciable components.

11. "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Ruling, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(i) Emissions from ships or trains coming to or from the new or modified stationary source and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

12. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

13.(i) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate
Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy

14. "Allowable emissions" means the emissions rate calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards as set forth in 40 CFR Parts 60 and 61;

(ii) Any applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(iii) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

15. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to this Ruling, 40 CFR 52.21, or under regulations approved pursuant to 40 CFR 51.18 or 51.24.

16.(i) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with subparagraphs (ii)–(iv) below.

(ii) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.

(iii) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

17. "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

18. "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

19. "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

20. "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

21. "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:

(i) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(ii) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

22. "Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under this Ruling.

C. By amending Section II, subsection C by deleting footnote 2 and the second paragraph. The first paragraph is revised to read as follows:

C. *Review of specified sources for air quality impact.*

In addition, the reviewing authority must determine whether the major stationary source or major modification would be constructed in an area designated in 40 CFR 81.300 *et seq.* as nonattainment for a pollutant for which the stationary source or modification is major.

D. By revising Section II, subsection F to read as follows:

F. *Fugitive emissions sources.* Section IV. A. of this Ruling shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(1) Coal cleaning plants (with thermal dryers);
(2) Kraft pulp mills;
(3) Portland cement plants;
(4) Primary zinc smelters;
(5) Iron and steel mills;
(6) Primary aluminum ore reduction plants;
(7) Primary copper smelters;
(8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(9) Hydrofluoric, sulfuric, or nitric acid plants;
(10) Petroleum refineries;
(11) Lime plants;
(12) Phosphate rock processing plants;
(13) Coke oven batteries;
(14) Sulfur recovery plants;
(15) Carbon black plants (furnace process);
(16) Primary lead smelters;
(17) Fuel conversion plants;
(18) Sintering plants;
(19) Secondary metal production plants;
(20) Chemical process plants;
(21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(23) Taconite ore processing plants;
(24) Glass fiber processing plants;
(25) Charcoal production plants;
(26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
(27) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

E. By deleting Footnote 3 of subsection C of Section III and revising the third paragraph as follows:

C. *Review of specified sources of air quality impact.*

* * * * *

For ozone, sources of volatile organic compounds, locating outside a designated ozone nonattainment area, will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be permitted under the provisions of any state plan adopted pursuant to section 110(a)(2)(D) of the Act until the area is designated nonattainment and a State Implementation Plan revision is approved. If no state plan pursuant to section 110(a)(2)(D) has been adopted and approved, then this Ruling shall apply.

* * * * *

F. By adding a new subsection F. to IV., to read as follows:

IV. Sources That Would Locate in a Designated Nonattainment Area

F. *Source Obligation.*

At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Ruling shall apply to the source or modification as though construction had not yet commenced on the source or modification.

State Plans For New Source Review For Nonattainment Purposes.

4. Section 40 CFR 51.18(j) is amended to read as follows:

§ 51.18 Review of new stationary sources modifications.

* * * * *

(j) State Implementation Plan provisions satisfying sections 172(b)(6) and 173 of the Act shall meet the following conditions:

(1) All such plans shall use the specific definitions. Deviations from the following wording will be approved only if the state specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definition below:

(i) "Stationary source" means any building, structure, facility, or installation which emits or may emit

V 45 / 154 AG 7 80 UMI

any air pollutant subject to regulation under the Act.

(ii) "Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

(iii) "Installation" means an identifiable piece of process equipment.

(iv) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(v)(*a*) "Major stationary source" means:

(*1*) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act; or

(*2*) Any physical change that would occur at a stationary source not qualifying under paragraph (v)(*a*)(*1*) as a major stationary source, if the change would constitute a major stationary source by itself.

(*b*) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(vi)(*a*) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(*b*) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(*c*) A physical change or change in the method of operation shall not include:

(*1*) Routine maintenance, repair and replacement;

(*2*) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*3*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*4*) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(*5*) Use of an alternative fuel or raw material by a stationary source which:

(*i*) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(*ii*) The source is approved to use under any permit issued under regulations approved pursuant to this section;

(*6*) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(*7*) Any change in ownership at a stationary source.

(vii)(*a*) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(*1*) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(*2*) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(*b*) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(*c*) An increase or decrease in actual emissions is creditable only if:

(*1*) It occurs within a reasonable period to be specified by the reviewing authority; and

(*2*) The reviewing authority has not relied on it in issuing a permit for the source under regulations approved pursuant to this section which permit is in effect when the increase in actual emissions from the particular change occurs.

(*d*) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(*e*) A decrease in actual emissions is creditable only to the extent that:

(*1*) The old level of actual emissions or the old level of allowable emissions, whichever, is lower, exceeds the new level of actual emissions;

(*2*) It is federally enforceable at and after the time that actual construction on the particular change begins; and

(*3*) The reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51.18 or the state has not relied on it in demonstrating attainment or reasonable further progress.

(*4*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(*f*) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(viii) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.

(ix) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f) (1)–(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this subsection. In determining lowest achievable emission rate for a reconstructed stationary source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.

(x) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(xi) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must

be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(*a*) Emissions from ships or trains coming to or from the new or modified stationary source; and

(*b*) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(xii) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(xiii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate
Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy

(xiv) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(*a*) The applicable standards set forth in 40 CFR Parts 60 or 61;

(*b*) Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

(*c*) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(xv)(*a*) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with subparagraphs (*b*)–(*d*) below.

(*b*) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(*c*) The reviewing authority may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(*d*) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(xvi) "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:

(*a*) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(*b*) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

(xvii) "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to this section, 40 CFR 51.18, or 51.24.

(xviii) "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(xix) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(*a*) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(*b*) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(xx) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(xxi) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(2) Each plan shall adopt a preconstruction review program to satisfy the requirements of sections 172(b)(6) and 173 of the Act for any area designated nonattainment for any national ambient air quality standard under 40 CFR 81.300 *et seq.* Such a program shall apply to any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment, if the stationary source or modification would locate anywhere in the designated nonattainment area.

(3)(i) Each plan shall provide that for sources and modifications subject to any preconstruction review program adopted pursuant to this subsection the baseline for determining credit for emissions reductions is the emissions limit under the applicable State Implementation Plan in effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:

(*a*) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted; or

(*b*) The applicable State Implementation Plan does not contain an emissions limitation for that source or source category.

(ii) The plan shall further provide that:

(*a*) Where the emissions limit under the applicable State Implementation

V 45 / 154 AG 7 80 UMI

Plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

(*b*) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable State Implementation Plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The reviewing authority should ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches;

(*c*) Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emissions offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment credit for such shutdown or curtailment may be applied to offset emissions from the new source;

(*d*) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds." (42 FR 35314, July 8, 1977);

(*e*) All emission reductions claimed as offset credit shall be federally enforceable;

(*f*) Procedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR Part 51 Appendix S, section IV.D.

(*g*) Credit for an emissions reduction can be claimed to the extent that the reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51.18 or the state has not relied on it in demonstrating attainment or reasonable further progress.

(4) Each plan may provide that the provisions of this subsection do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(*a*) Coal cleaning plants (with thermal dryers);

(*b*) Kraft pulp mills;

(*c*) Portland cement plants;

(*d*) Primary zinc smelters;

(*e*) Iron and steel mills;

(*f*) Primary aluminum ore reduction plants;

(*g*) Primary copper smelters;

(*h*) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(*i*) Hydrofluoric, sulfuric, or nitric acid plants;

(*j*) Petroleum refineries;

(*k*) Lime plants;

(*l*) Phosphate rock processing plants;

(*m*) Coke oven batteries;

(*n*) Sulfur recovery plants;

(*o*) Carbon black plants (furnace process);

(*p*) Primary lead smelters;

(*q*) Fuel conversion plants;

(*r*) Sintering plants;

(*s*) Secondary metal production plants;

(*t*) Chemical process plants;

(*u*) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(*v*) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(*w*) Taconite ore processing plants;

(*x*) Glass fiber processing plants;

(*y*) Charcoal production plants;

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(*aa*) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(5) Each plan shall include enforceable procedures to provide that:

(i) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the plan and any other requirements under local, state or federal law.

(ii) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirments of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Restrictions on Construction For Nonattainment Areas

5. 40 CFR 52.24 is amended by adding new paragraphs (f), (g), (h) and (i) to read as follows:

§ 52.24 Statutory restriction on new stationary sources.

* * * * *

(f) The following definitions shall apply under this section.

(1) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.

(2) "Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the following document, *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively).

(3) "Installation" means an identifiable piece of process equipment.

(4) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5)(i) "Major stationary source" means:

(*a*) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act; or

(*b*) Any physical change that would occur at a stationary source not qualifying under paragraph (5)(i)(*a*) as a major stationary source, if the change would constitute a major stationary source by itself.

(ii) A major stationary source that is major for volatile for organic compounds shall be considered major for ozone.

(6)(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(ii) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(*a*) Routine maintenance, repair, and replacement;

(*b*) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(*e*) Use of an alternative fuel or raw material by a stationary source which:

(*1*) The source was capable of accommodating before July 1, 1979, unless such change would be prohibited under any federally enforceable permit condition which was established after July 1, 1979 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(*2*) The source is approved to use under any permit issued under regulations approved pursuant to 40 CFR 51.18;

(*f*) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after July 1, 1979 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(*g*) Any change in ownership at a stationary source.

(7)(i) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(*a*) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(*b*) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(*a*) The date five years before construction on the particular change commences and

(*b*) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the Administrator has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.18 which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(*a*) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(*b*) It is federally enforceable at and after the time that construction on the particular change begins; and

(*c*) The Administrator or reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51.18 or the State has not relied on it in demonstrating attainment or reasonable further progress.

(*d*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vi) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(8) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.

(9) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f) (1)–(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this subsection.

(10) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(11) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(i) Emissions from ships or trains coming to or from the new or modified stationary source and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(12) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(13) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy

(14) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) The applicable standards set forth in 40 CFR Parts 60 and 61;

(ii) Any applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(iii) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(15) "Federally enforceable" means all limitations and conditions which are

enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 and 51.24.

(16)(i) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subparagraphs (ii)–(iv) below.

(ii) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(iii) The Administrator may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(17) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification) of an emissions unit which would result in a change in actual emissions.

(18) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(19) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

(20) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(g) This section shall not apply to a major stationary source or major modification if the source or modification was not subject to 40 CFR Part 51 Appendix S, as in effect on January 16, 1979, and the owner or operator:

(1) Obtained all final federal, state, and local preconstruction approvals or permits necessary under the applicable State Implementation Plan before August 7, 1980;

(2) Commenced construction within 18 months from August 7, 1980, or any earlier time required under the applicable State Implementation Plan; and

(3) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(h) This section shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(1) Coal cleaning plants (with thermal dryers);

(2) Kraft pulp mills;

(3) Portland cement plants;

(4) Primary zinc smelters;

(5) Iron and steel mills;

(6) Primary aluminum ore reduction plants;

(7) Primary copper smelters;

(8) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(9) Hydrofluoric, sulfuric, or nitric acid plants;

(10) Petroleum refineries;

(11) Lime plants;

(12) Phosphate rock processing plants;

(13) Coke oven batteries;

(14) Sulfur recovery plants;

(15) Carbon black plants (furnace process);

(16) Primary lead smelters;

(17) Fuel conversion plants;

(18) Sintering plants;

(19) Secondary metal production plants;

(20) Chemical process plants;

(21) Fossil-fuel boilers (or combination thereof) totaling more than 250-million British thermal units per hour heat input;

(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23) Taconite ore processing plants;

(24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(27) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(i) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then:

(1) If the construction moratorium imposed pursuant to this section is still in effect for the nonattainment area in which the source or modification is located, then the permit may not be so revised; or

(2) If the construction moratorium is no longer in effect in that area, then the requirements of 40 CFR 51.18(j) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Consolidated Permit Regulations

6. 40 CFR Part 124 is amended as follows:

a. 40 CFR 124.3(b) is deleted and reserved as follows:

§ 124.3 Application for a permit.

* * * * * *

(b) [Reserved]

* * * * * *

§ 124.5 [Amended]

b. 40 CFR 124.5(g)(2) is revised as follows:

* * * * * *

(g) * * *

(2) PSD permits may be terminated only by rescission under § 52.21(w) or by automatic expiration under § 52.21(r). Applications for rescission shall be processed under § 52.21(w) and are not subject to this Part.

§ 124.42 [Amended]

c. The first sentence of 40 CFR 124.42(b) is amended by substituting "submitted" for "requested."

[FR Doc. 80-23788 Filed 8-6-80; 8:45 am]
BILLING CODE 6560-01-M

federal register

Thursday
August 7, 1980

Part IV

Federal Trade Commission

Sale of Used Motor Vehicles; Disclosure and Other Regulation

V 45 / 154 4 AG 7 80 0 UMI

V 4 5 / 1 5 4

FEDERAL TRADE COMMISSION

16 CFR Part 455

Sale of Used Motor Vehicles; Disclosure and Other Regulation

AGENCY: Federal Trade Commission.

ACTION: Proposed rule.

SUMMARY: On May 16, 1980, the Federal Trade Commission tentatively adopted the proposed Trade Regulation Rule concerning the Sale of Used Motor Vehicles. The proposed Rule would require dealers to post a window sticker ("Buyers Guide") on used cars offered for sale to consumers. The window sticker would explain to consumers that spoken promises may not be enforceable, and that consumers should ask that all promises be put in writing. The sticker would also list 14 systems of the car (for example, "frame and body", "engine", "transmission and drive shaft".) Dealers would be required to check off the condition of each of these systems as "OK", "Not OK" or "We Don't Know". Additionally, the sticker would inform consumers whether or not a warranty or service contract was offered with the car, and how the warranty, service contract, or the lack of such protection affected the consumer's right to have the dealer make repairs on the car after sale.

An earlier version of the proposal would have required dealers to inspect all used cars that they offered for sale and to report the inspection results on the sticker. The Commission has determined not to adopt a Rule mandating dealers to inspect all vehicles. The proposed Rule as tentatively adopted would not require dealers to inspect all used cars prior to sale, but would require dealers who do not inspect to notify consumers that they have not done so by checking "We Don't Know" on the window sticker. Additionally, dealers would have to disclose all known defects, whether or not they inspect the vehicles.

The proposed Rule has been revised in Section 455.1(a) to include a listing of the acts or practices in the sale of used motor vehicles which are unfair or deceptive in order that the Rule may "define with specificity" the illegal practices in a manner that complies with the decision in *Katharine Gibbs, Inc. v. F.T.C.*, 612 F.2d 658 (2nd Cir. 1979). Before the Commission promulgates the final Rule, it will determine whether compliance with §§ 455.2–455.7 of the Rule constitutes full compliance with the Rule.

The Commission has determined not to require written disclosures concerning repair cost estimates on the window sticker unless the dealer has chosen to make such estimates to the consumer, and has also determined not to require disclosure of whether a vehicle has ever been declared a total insurance loss. These provisions had been included in an earlier version of the proposed Rule.

DATES: Comments will be accepted through October 7, 1980.

ADDRESS: Send comments to Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. Submissions should be labeled "Sale of Used Motor Vehicles."

FOR FURTHER INFORMATION CONTACT: Michael A. Katz or Wallace W. Lovejoy, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, (202) 523–1670.

Section A. Invitation to Comment

The Commission believes that this rulemaking has provided interested persons full opportunity to make submissions and presentations on all issues relevant to the tentatively adopted proposed rule. (41 FR 1089; 10233; 20896; 26032; 39337, January 6; March 10; May 21; June 24; September 15, 1976.)

The Commission also believes that the question of whether the remedy selected is reasonably related to the violations found to exist is a matter largely within the Commission's expertise, subject to judicial review. However, the Commission has decided in its discretion, and pursuant to § 1.14(a) of its Rules of Practice, that it would benefit from additional written comments on certain remedial and drafting issues.

Comments are sought on whether the proposed Rule is likely to prevent, diminish the incidence of, or reduce the injury to consumers from the unfair or deceptive acts or practices in the sale of used motor vehicles listed in § 455.1(a) of the Rule. Comments on the format of the window sticker and comments identifying drafting errors are also sought. Comments on issues other than these remedial and drafting issues will not be considered. Written comments will be accepted through October 7, 1980. The Commission does not intend to conduct informal hearings or to permit rebuttal submissions on these issues.

Following the close of the comment period, the Commission will determine whether revisions should be made in the proposed Rule, including the window sticker. An effective date, that provides for a period of congressional review as required by Section 21 of the Federal Trade Commission Improvements Act of 1980, will be announced when the Commission promulgates a final Rule.

Section B. Questions

Interested persons are urged to submit comments on the following questions. Although the proposed Rule (including the window sticker) is drafted in specific language, the Commission retains its authority to promulgate a final Rule in ways suggested by the responses to these questions and based on the rulemaking record. Comments should indicate by number which question(s) are being addressed.

Questions: 1. Is the "Buyers Guide" likely to reduce the incidence of oral misrepresentations by dealers about the mechanical condition of or warranty coverage offered in connection with the sale of used cars? For example, will dealers be less likely than at present to make oral misrepresentations about the mechanical condition of the systems of a used car if the "We Don't Know" box is checked? Will the disclosure of warranty terms on the "Buyers Guide" make it less likely than at present that dealers will orally misrepresent the nature and extent of warranty coverage offered? For what reasons?

2. What are the incentives for dealers to mark "OK", "Not OK", or "We Don't Know"? If some dealers mark the disclosure form "OK," will that put competitive pressure on other dealers to inspect and offer "OK" vehicles as well?

3. When a vehicle's systems are marked "We Don't Know" or "Not OK" on the "Buyers Guide", will buyers be more cautious than at present about relying on oral promises by a dealer that a vehicle is in good mechanical condition? Will it be difficult or easy for dealers to explain away the fact that a vehicle's system is marked "We Don't Know", for example, by stating that they are saving buyers the cost of the inspection? Will buyers believe that a used car marked "OK" is in better condition than a used car marked "We Don't Know"? Will buyers be more or less likely than at present to demand that a dealer perform an inspection or to independently arrange for an inspection if there is a "Buyers Guide" posted on which "We Don't Know" has been marked? Will buyers be less likely than at present to rely on oral promises by a dealer to repair defects after sale if the "No Warranty—'As Is' " disclosure is marked on the "Buyers Guide"? For what reasons?

4. Does the "Buyers Guide" make clear and will buyers understand that the "OK" disclosure is not a promise by the dealer concerning future performance but a description of the condition of 14 vehicle systems at the time of sale? How often will dealers mistakenly mark a system "OK" that is, in fact, "Not OK"? When this occurs, will buyers be misled to their detriment? If a dealer marks a system "OK" and the system breaks down shortly after sale, is the dealer more likely than at present to pay the costs of repair? Will dealers be able to avoid liability by claiming that the system was "OK" when it left the lot? Will buyers be able to show that a defect existed at the time of sale because of the severity of the defect and the short time span between sale and discovery of the defect? Will it be more difficult for buyers to show that the defect existed at the time of sale when the defect first manifests itself after several months? If a dealer marks a system "OK" and then refuses to pay the cost of repair, is it more likely than at present that the dealer will be sued for breach of warranty by an injured consumer or groups of consumers (perhaps represented by legal aid or public interest law groups)? Will it be worthwhile for buyers to bring lawsuits, perhaps in small claims courts, if only $100 or $200 is at stake? Even if it is not likely that a dealer will be sued, will an "OK" disclosure put a buyer in a sufficiently better negotiating position than at present so that a dealer will pay for repairs that become necessary shortly after sale without resort to the courts? Will the "Buyers Guide" make it more difficult than at present for a consumer or groups of consumers to succeed in litigation against a dealer who sold a seriously defective car marked "We Don't Know" or "No Warranty—'As Is' "?

5. Would a "Buyers Guide" that clearly discloses the meaning of "as is" and also clearly discloses the terms of any warranty that is offered, but does not contain a mechanical condition checklist, reduce the incidence of oral misrepresentations by dealers about the condition of used vehicles? Would such a "Buyers Guide" reduce the incidence of buyer reliance on oral promises by a dealer that a vehicle is in good condition? Would such a "Buyers Guide" be more or less effective than the proposed "Buyers Guide" in reducing the incidence of oral misrepresentations by dealers and in reducing the incidence of buyer reliance on oral promises concerning mechanical condition by the dealer?

6. Does the "Buyers Guide" provide information to buyers in a useful and understandable manner? What revisions in format or wording would improve its ability to do so?

7. Are there any technical errors in the wording of the Rule or "Buyers Guide"?

Section C

It is proposed to amend 16 CFR by adding a new Part 455—Used Motor Vehicle Trade Regulation Rule to read as follows:

PART 455—USED MOTOR VEHICLE TRADE REGULATION

Sec.

455.1 General duties of a used vehicle dealer; definitions.
455.2 Consumer sales—window form.
455.3 Window form.
455.4 Contrary statements.
455.5 Foreign languages.
455.6 Records.
455.7 Inspection standards.
455.8 Declaration of Commission intent.

Authority: 38 Stat. 717, as amended (15 U.S.C. 41 et seq.)

§ 455.1 General duties of a used vehicle dealer; definitions

(a) It is an unfair or deceptive act or practice for any used vehicle dealer, when that dealer sells or offers for sale a used vehicle in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act:

(1) To misrepresent the mechanical condition of a used vehicle;

(2) To fail to disclose, prior to sale, any material defect in mechanical condition of the used vehicle known to the dealer;

(3) To represent that a used vehicle, or any system thereof, is free from material defects in mechanical condition at the time of sale unless the dealer had a reasonable basis for such representation at the time it is made;

(4) To fail to make available, prior to sale, the terms of any express or implied warranty offered in connection with the sale of a used vehicle;

(5) To misrepresent the terms of any express or implied warranty offered in connection with the sale of a used vehicle;

(6) To fail to disclose, prior to sale, that a used vehicle is sold without an express or implied warranty.

(b) In order to prevent the unfair or deceptive acts or practices listed in paragraph (a) of this section, but regardless of whether any such acts or practices have been committed by an individual used vehicle dealer, it is an unfair or deceptive act or practice for any used vehicle dealer to fail to comply with §§ 455.2 through 455.7 of this rule when that dealer sells or offers for sale a used vehicle in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act.

(c) The following definitions shall apply for purposes of this part:

(1) "Vehicle" means any motorized vehicle, other than a motorcycle, with a gross vehicle weight rating (GVWR) of less than 8500 lbs., a curb weight of less than 6000 lbs., and a frontal area of less than 46 sq. ft.

(2) "Used Vehicle" means any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer, but does not include any vehicle sold only for scrap or parts (title documents surrendered to the state and a salvage certificate issued).

(3) "Dealer" means any person or business which sells or offers for sale a used vehicle after selling or offering for sale five (5) or more used vehicles in the previous twelve (12) month period, but does not include a bank or financial institution, a business selling a used vehicle to an employee of that business, or a lessor selling a leased vehicle to that vehicle's lessee or an employee of the lessee.

(4) "Consumer" means any person who is not a used vehicle dealer.

(5) "Warranty" means any undertaking in writing in connection with the sale by a dealer of a used vehicle to refund, repair, replace, maintain or take other action with respect to such used vehicle and provided at no extra charge beyond the price of the used vehicle.

(6) "Service contract" means a contract in writing for any period of time or any specific mileage to refund, repair, replace, maintain or take other action with respect to a used vehicle and provided at an extra charge beyond the price of the used vehicle.

(7) "Repair insurance" means a contract in writing for any period of time or any specific mileage to refund, repair, replace, maintain or take other action with respect to a used vehicle and which is regulated in your state as the business of insurance.

(8) "You" means any dealer, or any agent or employee of a dealer, except where the term appears on the window form required by § 455.2(a).

§ 455.2 Consumer sales—window form.

(a) *General duty.* Before you offer a used vehicle for sale to a consumer, you must prepare, fill in as applicable and display on that vehicle a used vehicle "Buyers Guide" as required by this rule.

(1) Use a side window to display the form so both sides of the form can be read, with the title "Buyers Guide" to the

A G 7 8 0 UMI

outside. You may remove a form temporarily from the window during any test drive, but you must return it as soon as the test drive is over.

(2) The capitalization, punctuation and wording of all items, headings, and text on the form must be exactly as required by this Rule. The entire form must be printed in 100% black ink on a white stock no smaller than 10.5 inches high by 8.5 inches wide in the type styles, sizes and format indicated.

BILLING CODE 6750-01-M

BUYER$GUIDE

12 pt Helvetica Black → **Spoken promises may be no good. Ask us to put all promises in writing.**

DEALER NAME

8 pt Helvetica → ADDRESS

SEE FOR COMPLAINTS

VEHICLE: MAKE — MODEL ← Hairline rules

MODEL YEAR — VEHICLE ID NUMBER

14 pt Helvetica Black → **Condition**

12 pt Helvetica Black →

OK	NOT OK		WE DON'T KNOW
☐	☐	Frame & Body	☐
☐	☐	Engine	☐
☐	☐	Transmission & Drive Shaft	☐
☐	☐	Differential	☐
☐	☐	Cooling System	☐
☐	☐	Electrical System	☐
☐	☐	Fuel System	☐
☐	☐	Accessories	☐
☐	☐	Brake System	☐
☐	☐	Steering System	☐
☐	☐	Suspension System	☐
☐	☐	Tires	☐
☐	☐	Wheels	☐
☐	☐	Exhaust System	☐

12 pt Helvetica →

9 pt Helvetica Bold → **Look at the back of this form for the details of our inspection.**

12 pt Helvetica Black → **Items Marked "OK"**

9 pt Helvetica → If anything we've marked "OK" is not OK on delivery, we have to fix it or give you back some money. If the problem's bad enough, you can make us take the car back. This is true whether you buy with a warranty or "as is." You must tell us within _____

Hairline rules → _____ after delivery if something marked "OK" was not OK.

12 pt Helvetica Black → **Items Marked "Not OK" or "We Don't Know"**

9 pt Helvetica → You pay all the costs to fix things marked "We Don't Know" or "Not OK." Here is what's wrong with things marked "Not OK."

Hairline rules →

14 pt Helvetica → **Important:** The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer

8 pt Helvetica → purchase (except for purposes of test-driving) is a violation of federal law (16 C.F.R. 455)

14 pt Helvetica Black ← **Warranties**

12 pt Helvetica Black ← **No Warranty—"As Is"**

9 pt Helvetica ← This means you will pay all costs to fix things that break after you buy. But we have to pay to fix things marked "OK" that are not OK on delivery.

12 pt Helvetica Black ← **Full/Limited Warranty**

9 pt Helvetica ← We will pay _ % of the total repair bill for covered systems that break during the warranty. **This warranty adds to our responsibilities for items marked "OK."** State law "implied warranties" may give you even more rights.

THESE SYSTEMS ARE COVERED ← 6 pt Helvetica

Hairline rules ←

DURATION ← 6 pt Helvetica

14 pt Helvetica Black ← **Additional Information**

18 pt Helvetica Black → **If a system is marked "OK," we have inspected it, and it doesn't have the problems listed below:**

14 pt Helvetica Black → **Frame & Body**
- Frame—apparent cracks, corrective welds, or rusted through
- Dogtracks—bent or twisted frame
- Inoperative doors

14 pt Helvetica Black → **Engine**
- Known or visible oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses
- Abnormal visible exhaust discharge

14 pt Helvetica Black → **Transmission & Drive Shaft**
- Improper fluid level or visible leakage, excluding normal seepage
- Cracked or damaged case, which is visible
- Abnormal noise or vibration
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

14 pt Helvetica Black → **Differential**
- Improper fluid level or visible leakage, excluding normal seepage
- Cracked or damaged housing, which is visible
- Abnormal noise or vibration

14 pt Helvetica Black → **Cooling System**
- Improper fluid level or visible leakage
- Leaky radiator
- Improperly functioning water pump
- Inadequate antifreeze strength for season of year

14 pt Helvetica Black → **Electrical System**
- Improper fluid level or visible leakage of battery
- Battery fails to start engine
- Improperly functioning alternator, generator, or starter

14 pt Helvetica Black → **Fuel System**
- Visible leakage

14 pt Helvetica Black → **Broken Accessories**
- Gauges or warning devices
- Radio
- Air conditioner
- Heater & defroster
- Windows
- Dash lights

14 pt Helvetica Black → **Brake System**
- Failure warning light broken
- Pedal not firm under pressure (DOT specs.)
- Not enough pedal reserve (DOT specs.)
- Does not stop vehicle in straight line (DOT specs.)
- Hoses damaged
- Drum or rotor too thin (mfgr. specs.)
- Lining or pad thickness less than $^{1}/_{32}$ inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than ¼ inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking
- Shock absorber functioning improperly

Tires
- Tread depth less than $^{2}/_{32}$ inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Apparent leakage

Inspection procedures and "DOT specs." are printed in Vol. 16 C.F.R. (Code of Federal Regulations) Part 455.

BILLING CODE 6750-01-C

When filling out the form, follow the directions in paragraphs (b) through (g) of this section and § 455.4.

(b) *Warranties.*—(1) *No Warranty—"As Is"/Implied Warranties Only.* If you offer the vehicle "as is," mark the box provided. If you offer the vehicle with implied warranties only, substitute the disclosure specified below, and mark the box provided. If you first offer the vehicle "as is" or with implied warranties only but then sell it with a warranty, cross out the "No Warranty—'As Is' " or "Implied Warranties Only" disclosure, and fill in the warranty terms in accordance with paragraph (b)(2) of this section.

If your state limits or prohibits "as is" sales of vehicles, that state law overrides this part and this rule does not give you the right to sell "as is." In such states, the heading "No Warranty—'As Is' " and the paragraph immediately below it must be deleted from the form, and the following heading and paragraph must be substituted. If you sell vehicles in states that permit "as is" sales, but you choose to offer implied warranties only, you must also use the following disclosure instead of "No Warranty—'As Is' ".

12 pt Helvetica Black → **Implied Warranties Only**

9 pt Helvetica Black → **This means that we do not make any promises to fix things that break after you buy. But, state law "implied warranties" may give you some rights to have us fix things marked "OK" if they are not OK on delivery.**

(2) *Full/Limited Warranty.* If you offer the vehicle with a warranty, mark the box provided and briefly describe the warranty terms in the space provided. This description must include the following warranty information:

(i) Whether the warranty offered is "Full" or "Limited." [1] Cross out the inappropriate designation.

(ii) Which of the systems are covered (for example, "engine, transmission, differential"—you cannot use shorthand, such as "drive train," for covered systems);

(iii) The duration (for example, "30 days or 1,000 miles, whichever occurs first");

(iv) The percentage of the repair cost paid by you (for example, "We will pay 100% of the total repair bill" or "We will pay 60% of the total repair bill"); and

(v) If the warranty does not cover parts and labor equally, you must disclose this. Delete the line from the form which reads "We pay —% of the total repair bill." and substitute "We will pay —% of the labor and —% of the parts." Fill in the percentage of the cost of parts and labor you will pay under the warranty.

If you first offer the vehicle with a warranty, but then sell it without one, cross out the offered warranty and mark either the "No Warranty—'As Is' " box or the "Implied Warranties Only" box, as appropriate.

(3) *Service Contracts.* If you make a service contract available on the vehicle, you must add the following heading and paragraph below the "Full/Limited Warranty" disclosure and fill it in as applicable.

[1] A "Full" warranty is defined by the Federal Minimum Standards for Warranty set forth in § 104 of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2304 (1975). The Magnuson-Moss Warranty Act does not apply to vehicles manufactured before July 4, 1975. Therefore, if you choose not to designate "Full" or "Limited" for such cars, cross out both designations, leaving only "Warranty".

12 pt Helvetica Black → **Service Contract**

9 pt Helvetica Black → **A services contract is available from for $ extra. This service contract adds to our responsibilities for items marked "OK" and to our responsibilities under any warranty. If you buy a service contract, state law "implied warranties" may give you even more rights.**

(c) *Condition—Inspections.* You may inspect, at your option, any or all of the vehicle systems listed on the front side of the "Buyers Guide" form. You may choose your own inspection procedure, but that procedure must produce the same results as the procedure set out in § 455.7.

For each system listed on the "Buyers Guide," you must mark either "OK," "Not OK," or "We Don't Know" as explained in this section.

(1) "OK": If all parts of a system pass your inspection you may mark that system "OK" on the form. If you do not inspect, you must not mark the system "OK."

(2) "Not OK": If any part of the system does not pass your inspection, and you don't repair the problem, you must mark the system "Not OK" on the form; you must not mark the system "We Don't Know." Also, you must mark a system "Not OK" if you know it would fail an inspection, even if you do not perform an inspection. Use the space provided to explain briefly the problem with each system marked "Not OK." If you give an estimate of the cost to repair the problem, you must provide it in writing on the form. If you repair all problems in a system, you may mark the system "OK."

Examples of "Not OK" explanations:

(i) Sufficient: "Brake master cylinder leaking." Insufficient: "Brakes need work."

(ii) Sufficient: "Engine burns oil." Insufficient: "Engine bad."

(3) "We Don't Know": If you have not inspected all parts of a system and do not know that any part of the system would fail an inspection, you must mark it "We Don't Know." If all parts of a system pass your inspection, but you do not wish to certify the condition of the system to the buyer, you may mark the system "We Don't Know."

You may limit how long the buyer has to notify you about a problem with an item marked "OK" by writing the limitation in the spaces provided on the window form. The limitation may be defined by time and/or mileage. If you do not limit the period to notify, you must insert the term "a reasonable time" in the spaces provided.

(d) *Name and Address.* Put the name and address of your dealership in the

space provided. If you do not have a dealership, use the name and address of your place of business (for example, your service station) or your own name and home address.

(e) *Complaints.* Put the name and telephone number of the person who will settle any complaints after sale in the space provided. This person must have full authority to negotiate and settle complaints for you.

(f) *Make, Model, Model Year, VIN.* Put the vehicle's name (for example, "Chevrolet"), model (for example, "Vega"), model year, and Vehicle Identification Number (VIN) in the spaces provided.

(g) *Additional Information.* You may include in the space provided at the bottom of the form repair insurance information or any other information not prohibited by this rule. Lines or text may be preprinted on the form for this information.

§ 455.3 Window form.

(a) *Part of Contract.* You must incorporate the information on the window form into the contract of sale (sales agreement) for each used vehicle you sell to a consumer by using the following language in each consumer contract of sale:

"The information you see on the window form for this vehicle is part of this contract. If anything in this contract is different, the window form has the correct information."

The capitalization, punctuation and wording of this notice must appear exactly as shown above. The notice must be printed in 12 point extra-boldface type using Roman letters with 100% black ink.

(b) *Copy to Buyer.* Give the buyer of a used vehicle sold by you the original of the window form displayed under § 455.2. If the original cannot be removed from the window without damage, give the buyer a second copy, completed just like the original.

§ 455.4 Contrary statements.

You may not make any statements, oral or written, or do anything which takes away from or contradicts the disclosures in §§ 455.2 and 455.3. You may still negotiate over warranty coverage, as provided in § 455.2(b) of this part, as long as the final warranty terms are identified in the contract of sale and summarized on the copy of the window form you give to the buyer.

§ 455.5 Foreign languages.

(a) *General duty.* If you conduct a sale in a language other than English, the window form required by § 455.2 and the contract disclosures required by § 455.3 must be in that language. You may display on a vehicle both an English language window form and foreign language translation(s) of that form. Where possible, follow the layout requirements of §§ 455.2 and 455.3 (type, type size, color and format) for foreign language forms.

(b) *Spanish language sales.* Use the following translation for Spanish language sales:

BILLING CODE 6750-01-M

GUIA DEL COMPRADOR

12 pt Helvetica Black → **Promesas verbales podrian resultar sin valor. Solicite hagamos todas nuestras promesas por escrito.**

Hairline rules →

DISTRIBUIDOR NOMBRE

PARA QUEJAS VER A:

8 pt Helvetica → DIRECCION

VEHICULO MARCA MODELO

AÑO NUMERO DE IDENTIFICACIÓN

14 pt Helvetica Black → **Condición**

12 pt Helvetica Black →

OK	Esta OK	No Sabemos
☐	☐ Chasis y Carroceria	☐
☐	☐ Motor	☐
☐	☐ Transmisión y Eje del motor	☐
☐	☐ Diferencial	☐
☐	☐ Sistema de Enfriamiento	☐
☐	☐ Sistema Eléctrico	☐
☐	☐ Sistema de Combustible	☐
☐	☐ Accessorios	☐
☐	☐ Sistema de Frenos	☐
☐	☐ Sistema de Conducción	☐
☐	☐ Sistema de Suspensión	☐
☐	☐ Llantas	☐
☐	☐ Ruedas	☐
☐	☐ Sistema de Escape	☐

12 pt Helvetica →

9 pt Helvetica Bold → **Vea en el reverso de ésta forma los detalles de nuestra inspeccion.**

12 pt Helvetica Black → **Articulos Marcados "O.K."**

Si algún articulo marcado "O.K." resulta defectuoso a la entrega nosotros tenemos que repararlo o devolverle parte de su dinero. Si el defecto es grave, usted

9 pt Helvetica → tiene derecho a devolvernos el vehiculo. Esto aplica independientemente de si usted compró el vehiculo con garantia o no. Debe notificarnos dentro de un término de _____ después de la entrega si algo marcado O.K. no lo está.

TERMINO DE LA GARANTIA

12 pt Helvetica Black → **Articulos Marcados "No Esta O.K." o "No Sabemos"**

9 pt Helvetica → Usted paga el costo de reparación de artículos marcados "No esta O.K." o "No sabemos". A continuación se encuentra el defecto.

Hairline rules →

Garantias

Sin Garantia ("Tal como esta")

Usted pagará la reparación de piezas o sistemas que se dañen despues de usted haber comprado el vehiculo. Nosotros tendremos que pagar el costo de la reparación de aquellos articulos que no se encuentren "O.K." a la entrega.

Garantia Completa/Parcial

Nosotros pagaremos % de la cuenta total de reparación por esos sistemas incluidos en la garantia si se quiebren. **Esta garantia aumenta nuestra responsabilidad por articulos marcados "O.K.".** Las "garantias implicitas" de la ley estatal podrian reconocerle hasta más derechos que esta garantia.

SISTEMAS INCLUIDOS

Infórmacion Adicional

Hairline rules

14 pt Helvetica Black → Hairline rules

14 pt Helvetica → **Importante:** La información en ésta forma es parte de cualquier contrato de compraventa de éste vehiculo. Remoción de

8 pt Helvetica → ésta etiqueta antes de la compra de éste vehiculo (excepto para conducción de prueba) constituye una violación a la reglamentación federal (16 C.F.R. 455).

§ 455.6 Records.

(3) Air conditioner:

(c) *Rise and drop condition*

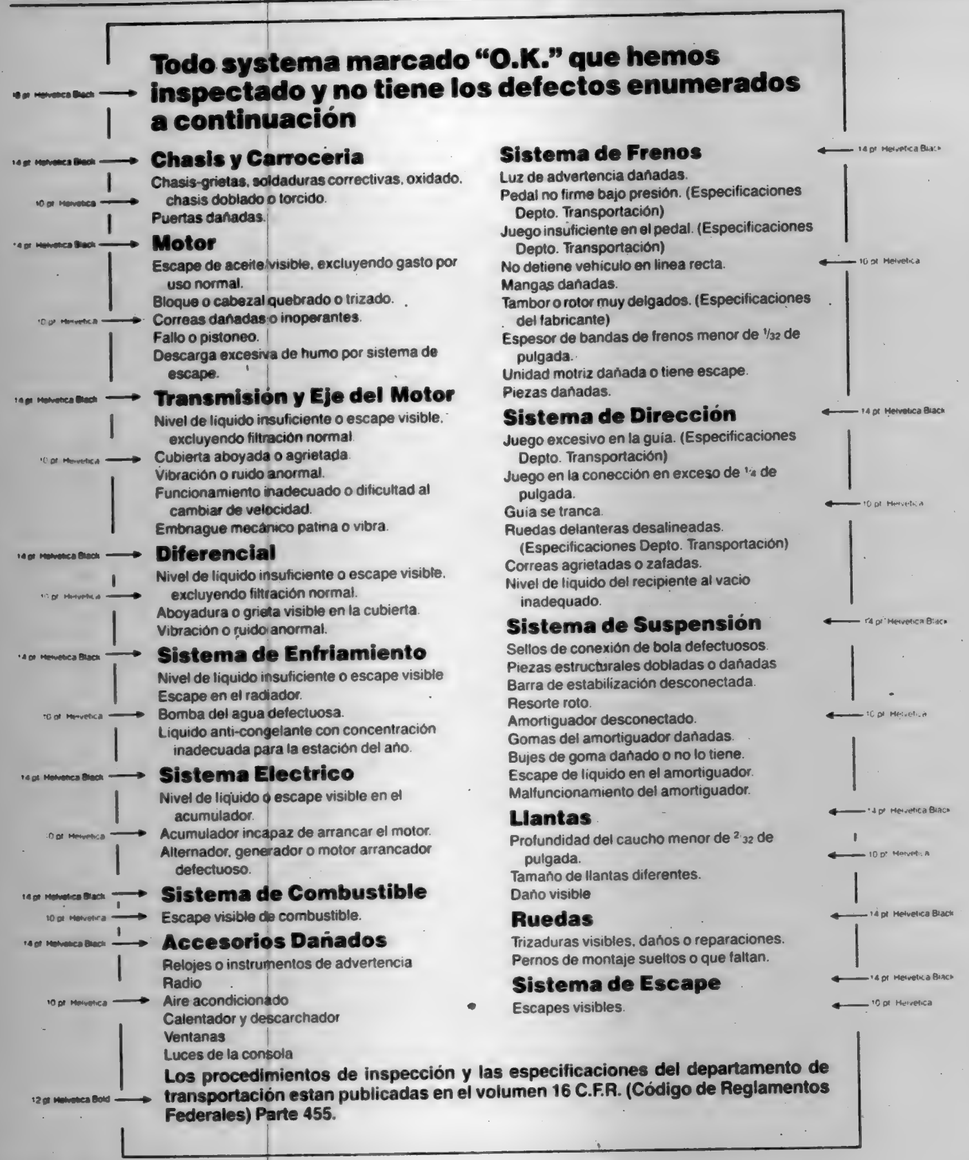

§ 455.6 Records.

When you sell a used vehicle, keep a fully filled-in, legible copy of each document that you used or received under §§ 455.2, 455.3, and 455.5. Keep these copies for three years from the date of sale.

§ 455.7 Inspection standards.

To inspect any or all of the vehicle systems for § 455.2(c), use the following inspection procedure or any other procedure that would produce the same results. For non-safety systems (paragraphs (a)–(i) of this section), the inspection procedure includes a test drive, an examination under the chassis, an examination under the hood, and a walk-around inspection. For safety systems (paragraphs (j)–(n) of this section), additional inspection procedures accompany each system. When deciding whether an item is "OK" or "Not OK," treat all vehicles the same; do not use lower standards for older or cheaper vehicles.

(a) *Frame and body.* (1) Frame—apparent cracks, corrective welds or rusted through;

(2) Dogtracks—bent or twisted frame;

(3) Inoperative doors.

(b) *Engine.* (1) Known or visible oil leakage, excluding normal seepage;

(2) Cracked block or head;

(3) Belts missing or inoperable;

(4) Knocks or misses;

(5) Abnormal visible exhaust discharge.

(c) *Transmission and drive shaft.* (1) Improper fluid level or visible leakage, excluding normal seepage;

(2) Cracked or damaged case, which is visible;

(3) Abnormal noise or vibration;

(4) Improper shifting or functioning in any gear;

(5) Manual clutch slips or chatters.

(d) *Differential.* (1) Improper fluid level or visible leakage, excluding normal seepage;

(2) Cracked or damaged housing, which is visible;

(3) Abnormal noise or vibration.

(e) *Cooling system.* (1) Improper fluid level or visible leakage;

(2) Leaky radiator;

(3) Improperly functioning water pump;

(4) Inadequate antifreeze strength for season of year.

(f) *Electrical system.* (1) Improper fluid level or visible leakage of battery;

(2) Battery fails to start engine;

(3) Improperly functioning alternator, generator, or starter.

(g) *Fuel system.* (1) Visible leakage.

(h) *Broken accessories.* (1) Guages or warning devices;

(2) Radio;

(3) Air conditioner;

(4) Heater and defroster;

(5) Windows;

(6) Dash lights.

(i) *Exhaust system.* (1) Apparent leakage.

(j) *Brake system.—General procedure.* Use 25 lbs. of force to test power-assisted or full-power brakes (50 lbs. for non-power brakes) unless a different force is given below.

(1) *Failure warning light (if original equipment).* Procedure: Apply the parking brake and turn the ignition to "start" or test by other means set by the manufacturer to make sure the light works.

(2) *Brake system integrity.* Procedure: With the engine running on vehicles equipped with power brake systems, and the ignition turned to "on" in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 10 seconds. Make sure that there is no decrease in pedal height and that the failure lamp does not light.

(3) *Brake pedal reserve.* Procedure: Depress the brake pedal fully (with the engine running in vehicles equipped with power assisted brakes). The pedal travel must not be more than 80 percent of the distance from the pedal's free position to the floorboard or pedal stop. This test is not needed for full power (central hydraulic) brake systems or for vehicles with brake systems designed to work with more than 80 percent of pedal travel.

(4) *Service brake performance.* Procedure: With the tire pressure at the manufacturer's specification, test by either procedure (a) or (b):

(i) Roller-type or drive-on platform procedure: Using either a drive-on platform or a roller-type brake analyzer which can measure equalization, make sure that the forces applied by the front brakes are within 20 percent of each other and that the forces applied by the rear brakes are within 20 percent of each other. Follow the directions of the maker of the test equipment.

(ii) Road test procedure: Drive on a road that is level (not more than one percent grade), dry, smooth, hard-surfaced and free from loose material, oil or grease. Make sure that the vehicle stops from 20 miles per hour within 25 feet staying in a 12 foot-wide lane.

(5) *Brake hoses and assemblies.* Procedure: Look at all the brake hoses to make sure that the hoses do not touch the vehicle's body or chassis and that the hoses are not cracked, chafed or flattened. Do not count a protective device like a "rub ring" as part of the hose or tubing. Examine the front brake hoses through all wheel positions from full left to right.

(6) *Disc and drum condition.* Procedure: Remove at least one front and one rear wheel and look (measure as needed) to see if the drum diameter and rotor thickness are within the manufacturer's specifications. (Vehicles built after January 1, 1971 and some earlier models have drums embossed with the maximum safe drum diameter dimension and the rotors embossed with the minimum safe rotor thickness dimension.)

(7) *Friction materials.* Procedure: With at least one front and one rear wheel removed, look to see if the brake linings or pads have cracks or breaks that extend to rivet holes, except minor cracks that do not impair attachment. See if the drum brake linings are securely attached to the brake shoes and the disc brake pads are securely attached to the shoe plate. Measure to see if there is at least one thirty-second of an inch of lining left. (With riveted linings, measure the thickness of the lining over the rivet heads. With bonded linings or pads, measure the lining thickness over the shoe surface at the thinnest point on the lining or pad.)

(8) *Brake structural and mechanical parts.* Procedure: With at least one front and one rear wheel removed, look to see if backing plates and caliper assemblies are deformed or cracked; whether system parts are broken, misaligned, missing, binding or severely worn; and if automatic adjusters and other parts are assembled and installed correctly.

(9) *Power brake unit.*

Procedure: With the engine running, look and listen to made sure vacuum hoses are not collapsed, scraped, broken, improperly mounted or leaking audibly. Stop the engine and apply the service brakes several times to destroy vacuum in the system. Depress the brake pedal with 25 pounds of force and start the engine while maintaining that force. The power assist is defective if the brake pedal does not fall slightly when the engine starts. (This test is not needed for vehicles with full power brake systems. The service brake performance test is enough for those vehicles.)

(k) Steering system.—(1) *System play.*

Procedure: With the engine on and the wheels in the straight ahead position, turn the steering wheel in one direction until there is a slight movement of a front wheel. Turn the steering wheel the other way until the same wheel again moves slightly. If you had to turn the steering wheel more than the distance shown in Table I, there is excessive lash or free play in the steering system.

V 4 5 / 1 5 4 AG 7 8 0 UMI

Table I.—*Steering System Free Play Values*

[In inches]

Steering wheel diameter	Lash
16 or less	2
18	2¼
20	2½
22	2¾

(2) *Linkage play.*

Procedure: Elevate the front end of the vehicle to load the ball joints. Insure that the wheel bearings are correctly adjusted. Grasp the front and rear of a tire and attempt to turn the tire and wheel assembly left and right. If the free movement at the front or rear tread of the tire exceeds one-quarter inch there is excessive steering linkage play.

(3) *Free turning.*

Procedure: Turning the steering wheel through the limit of travel in both directions. Feel for binding or jamming in the steering gear mechanisms. (The wheel should turn freely.)

(4) *Alignment.*

Procedure: Toe-in or toe-out must not be greater than 1.5 times the values listed in the vehicle manufacturer's service specification for alignment settings as measured by a bar-type scuff gauge or other toe-in measuring device. Values to convert toe-in readings in inches to scuff gauge readings in feet/mile side-slip for different wheel sizes are provided in Table II. Tire diameters used in computing scuff gauge readings are based on the average maximum tire dimensions of grown tires in service for typical wheel and tire assemblies.

Table II.—*Toe-in settings from vehicle MFR's Service Specifications*

Wheel size (included)	Nominal tire diameter (inches)	Readings in feet per mile sideslip								
		1/16"	1/8"	3/16"	1/4"	5/16"	3/8"	7/16"	1/2"	9/16"
13	25.2	13.1	26.2	39.3	52.4	65.5	78.6	91.7	104.8	117.9
14	26.4	12.5	25.0	37.5	50.0	62.5	75.0	87.5	100.0	112.5
15	28.5	11.5	23.0	34.5	46.0	57.5	69.0	80.5	92.0	103.5
16	35.6	9.3	18.6	27.9	37.2	46.5	55.8	65.1	74.4	83.7

(5) *Power steering system.* Procedure: Examine the fluid reservoir to see that it has enough fluid. Check to see that the pump belts are not cracked or slipping.

(l) *Suspension system.*—(1) *Suspension.* Procedure: Examine the front and rear suspension parts to make sure that the ball joint seals are not cut or cracked; the structural parts are not bent or damaged; the stabilizer bars are connected; the springs are not broken or extended by spacers; the shock absorber mountings, shackles and U-bolts are securely attached; rubber bushings are not cracked, extruded out from or missing from suspension joints; and the radius rods are not missing or damaged.

(2) *Shock absorber.* Procedure: Look at the shock absorbers to make sure their seals are not leaking (oil on the housing leaking from within). Make sure the vehicle does not rock freely more than two cycles by pushing down on one end of the vehicle, releasing and counting the cycles. Repeat at the other end of the vehicle. Test on a level surface.

(m) *Tires.*—(1) *Tread depth.* Procedure: make sure that the tread on each tire is at least two thirty-seconds of an inch deep. On passenger cars look for exposed tread depth indicators (check two adjacent major grooves at three points about equally spaced around the tire). On other vehicles, you may have to measure tread depth with a tread gauge.

(2) *Type.* Procedure: Look to make sure that the tires on each axle are matched in tire size designation, construction and profile, and are not a major deviation in size from the manufacturer's recommendation. (Given on a glove box sign in 1968 or later passenger cars.)

(3) *General condition.* Procedure: Look to make sure that the tires are free from clunking, bumps, knots, or bulges evidencing cord, ply, or tread separation from the casing or other adjacent materials.

(4) *Damage.* Procedure: Look at the tires and use a blunt instrument (to probe cuts or abrasions) to make sure that the tire cords or belting materials are not exposed.

(n) *Wheels.*—(1) *Integrity.* Procedure: Look at the wheels (tire rim, wheel disc, and spider) to make sure that there are no visible cracks, elongated bolt holes, or signs of repair welding.

(2) *Deformation.* Procedure: Use a runout gauge and stand to make sure that the lateral and radial runout of each rim bead area is not more than one-eighth of an inch of total indicated runrout. (Measure each wheel through a full rotation.)

(3) *Mounting.* Procedure: Make sure all wheel nuts and bolts are in place and tight.

§ 455.8 Declaration of Commission intent.

(a) This rule is intended to prevent the unfair or deceptive acts or practices set forth in 455.1(a). By requiring the disclosures of this part, it is not the Commission's intent to preempt state or local laws, rules or regulations which relate to vehicle condition or warranties and which provide greater protection to the consumer than this part provides. It is also not the Commission's intent to preempt by this part other state or local laws, rules or regulations which govern aspects of used vehicle sales other than those regulated by this part.

(b) If, upon application of an appropriate state or local governmental agency, the Commission determines that any requirement of such state or local government (1) affords protection to consumers greater than the requirements of this rule and (2) does not unduly burden interstate commerce, then that requirement shall be applicable to the extent specified in the Commission's determination so long as the state or local government administers and enforces effectively any such greater requirement.

(c) Applications for exemption should be directed to the Secretary of the Commission. When appropriate, proceedings will be commenced in order to make a determination and will be conducted in accordance with Subpart C of Part 1 of the Commission's Rules of Practice.

(d) These Rules, requirements and declaration of intent and their application are each separate and severable.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-23908 Filed 8-6-80; 8:45 am]

BILLING CODE 6750-01-M

federal register

Thursday
August 7, 1980

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Urban Homesteading Program; Implementation of Section 106 of the Housing and Community Development Amendments of 1979

V 45 / 154
AG 7 80
UMI

V 4 5 / 1 5 4 A G 7 8 0 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 590

[Docket No. R-80-854]

Urban Homesteading Program; Implementation of Section 106 of the Housing and Community Development Amendments of 1979

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Community Planning and Development.

ACTION: Interim rule.

SUMMARY: This interim rule would implement Section 106 of the Housing and Community Development Amendments of 1979 (Pub. L. 96-153) and the related Section 102(a) of the Housing and Community Development Amendments of 1978, (Pub. L. 95-557). Section 106 authorized HUD to use funds authorized by Section 810 of the Housing and Community Development Act of 1974 to reimburse the Administrator of Veterans' Affairs and the Secretary of Agriculture for properties conveyed to a unit of general local government, State or agency for use in a HUD-approved local urban homesteading program.

Section 102(a) amends Section 810(f) of the Housing and Community Development Act of 1974 to allow for the provision of lists of properties by the Administrator of Veterans' Affairs.

DATES: Effective date: September 15, 1980.

Comment due date: October 6, 1980.

ADDRESS: Comments should be addressed to: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410. Please refer to the docket number shown in the heading of this interim rule.

FOR FURTHER INFORMATION CONTACT: Lenore R. Siegelman, Urban Homesteading Division, Office of Urban Rehabilitation and Community Reinvestment, Room 7176, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, Telephone: (202) 755-6935.

SUPPLEMENTARY INFORMATION: This interim rule is needed because earlier Urban Homesteading Program legislation limited the reimbursement for federally-owned properties conveyed for use in such local homesteading programs to those held by HUD. Current legislation authorizes that reimbursement. HUD anticipates that appropriations currently available for reimbursement to the Federal Housing Administration Funds will have been authorized to reimburse the Department of Agriculture and the Veterans Administration as proposed in the pending 1981 Appropriation Bill presently under Congressional consideration.

A Finding of No Significant Impact respecting the National Environmental Policy Act of 1969 (24 CFR Part 590) has been made in accordance with HUD procedures. A copy of this Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address. This interim rule was not listed in the Department's semi-annual agenda of significant regulations published in the **Federal Register** on February 5, 1980. Accordingly, Part 590 is amended to read as follows:

PART 590—URBAN HOMESTEADING

Sec.
590.1 Scope of regulation.
590.3 Purpose of program.
590.5 Definitions.
590.7 Program requirements.
590.9 Listing of HUD-owned and VA-owned properties.
590.11 Applications.
590.13 HUD Review and Approval of Application.
590.15 Urban Homesteading Agreement.
590.17 Transfer of HUD-Owned Properties.
590.18 Reimbursement to the Department of Agriculture and to the Veterans Administration.
590.19 Implementing Funds.
590.21 Reduction of Funds.
590.23 Program Close Out. [Reserved]
590.25 Retention of Records.
590.27 Audit.
590.29 Applicable Federal Laws and Regulations.
590.31 HUD Review of Local Urban Homesteading Agency's Performance.
590.33 Corrective and Remedial Action.
590.35 Evaluation by HUD.

Authority: Sec. 810 of the Housing and Community Development Act of 1974, Pub. L. 93-383, as amended, 88 Stat. 633 (12 U.S.C. 1706e)

§ 590.1 Scope of regulation.

(a) The policies and procedures in this regulation are applicable to the approval of urban homesteading programs authorized by Section 810 of the Housing and Community Development Act of 1974, as amended.

(b) This part includes the functions and responsibilities of HUD and units of general local government and States or a designated public agency of a State or unit of general local government with regard to program requirements; application requirements; submission of applications; review and approval of applications; transfer of HUD-owned properties; property disposition assistance; HUD program evaluation; performance review; reimbursement by HUD to the Department of Agriculture and to the Veterans Administration for properties used in the urban homesteading program and other applicable Federal laws and regulations.

§ 590.3 Purpose of program.

The purpose of the urban homesteading program is to utilize existing housing stock to provide homeownership, thereby encouraging public and private investment in selected neighborhoods and assisting in their preservation and revitalization. The program will provide for the transfer without payment to States or units of general local government or their designated public agencies Federally-owned, unoccupied one- to four-family residences requested by such unit, State or agency for use in an approved urban homesteading program. Reservations under the Section 312 Rehabilitation Loan Program are available to finance rehabilitation of single family or multifamily homestead properties, as well as other properties, within the urban homesteading neighborhoods.

§ 590.5 Definitions.

(a) "Act" means Title VIII, Section 810 of the Housing and Community Development Act of 1974, as amended.

(b) "Agriculture" means the U.S. Department of Agriculture.

(c) "Agriculture- or VA-owned property" means property to which the Secretary of Agriculture or the Administrator of Veterans Affairs holds title.

(d) "Applicant" means any State or unit of general local government that applies to carry out an urban homesteading program under these regulations.

(e) "Homesteader" means an individual or family who participates in a local urban homesteading program by accepting a property pursuant to the requirements of § 590.7. For locally owned property, it may also mean cooperatives and condominium associations.

(f) "HUD-owned property" means property to which the Secretary of HUD holds title.

(g) "Locally-owned property" means any real property which is improved with a one- to four-family residence or a multifamily residence not obtained from

the Department of Housing and Urban Development or from the Department of Agriculture or the Veterans Administration and to which the local urban homesteading agency holds title.

(h) "Local Urban Homesteading Agency" means a State, a unit of general local government, or a public agency designated by a unit of general local government or a State, which must have the authority to accept the transfer, without payment, of Federally-owned property.

(i) "Local Urban Homesteading Program" means the operating procedures, and requirements developed by a local urban homesteading agency in accordance with the provisions of § 590.7.

(j) "Neighborhood Strategy Area (NSA)" means an area selected by a recipient of Community Development Block Grant (CDBG) entitlement funds and designated in its Community Development and Housing Plan for a program of concentrated community development activities which is defined by the Community Development Block Grant Regulations, Title 24, Chapter V, Part 570, Subpart D, Section 570.301(c).

(k) Private non-profit entity, neighborhood-based nonprofit organization, Small Business Investment Company and local development corporation mean:

(1) A private nonprofit entity which is any organization, corporation, or association, duly organized to promote and undertake community development activities on a not-for-profit basis;

(2) A neighborhood-based nonprofit organization which is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood as defined pursuant to this Part. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted under this Part are to be carried out;

(3) A Small Business Investment Company (SBIC) which is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; and

(4) A local development corporation which is an entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981); an entity eligible for assistance under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696), a State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695), or other similar entity incorporated pursuant to Federal, State, or local law.

(l) "Secretary" means the Secretary of Housing and Urban Development or any person to whom the Secretary has delegated authority for the urban homesteading program.

(m) "Federally-owned property" means any real property:

(1) Which is improved with a one- to four-family residence;

(2) To which the Secretary, the Secretary of Agriculture or the Administrator of Veterans Affairs holds Title;

(3) Which is not occupied.

(n) "Section 312 Rehabilitation Loan Funds" means loan funds authorized by Section 312 of the Housing Act of 1964, as amended to finance the rehabilitation of urban homesteaded property, as well as other property within the designated urban homesteading neighborhood.

(o) "Section 810 Funds" means the funds authorized under Title VIII, Section 810 of the Housing and Community Development Act of 1974, as amended to reimburse the Department of Housing and Urban Development's housing loan and mortgage insurance funds for the fair market value of HUD-owned properties transferred to local urban homesteading agencies, and to reimburse the Department of Agriculture and the Veterans Administration for their properties transferred to the urban homesteading agency in accordance with 590.18.

(p) "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(q) "Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Virgin Islands, and American Samoa, or in a general purpose political subdivision thereof: The District of Columbia; the Trust Territories of the Pacific Islands; and Indian tribes, bands, groups, and nations of the United States, including Alaska Indians, Aleuts, and Eskimos.

(r) "Unoccupied residential property" means either a Federally-owned property or a locally-owned property that is vacant.

(s) "Urban homesteading neighborhood" means a geographic area(s) approved by HUD for conducting a local urban homesteading program that meets the requirements of § 590.7.

(t) "VA" means the Veterans Administration.

§ 590.7 Program requirements.

An applicant shall meet the following requirements to qualify for assistance under this Part:

(a) *Designation of Urban Homesteading Neighborhood.* It shall designate neighborhood(s) for carrying out urban homesteading. An urban homesteading neighborhood shall have available HUD-owned properties; HUD-owned plus locally-owned properties; or pursuant to Section 312(a)(1)(D) of the Housing Act of 1964, as amended, and Title I of the Housing Community Development Act of 1974, as amended, locally-owned properties within designated areas where eligible community development block grant activities are being carried out. An urban homesteading neighborhood shall be in the following areas:

(1) The same as or contained within Neighborhood Strategy Areas designated pursuant to the Community Development Block Grant regulations published March 1, 1978, in the Code of Federal Regulations, Title 24, Chapter V, Part 570, Subpart D—Entitlement Grants, § 570.301(c); or

(2) Another area designated by the applicant, if:

(i) The applicant is not a recipient of community development block grant entitlement funds authorized by Title I of the Housing and Community Development Act of 1974;

(ii) The required public improvements and services will be provided from sources other than community development block grants; or

(iii) The neighborhood selected for urban homesteading requires some improvements but not the concentrated treatment required for a Neighborhood Strategy Area.

(b) *Development of Local Urban Homesteading Program.* It shall develop a program to convey unoccupied residential properties to qualified individuals or families. The program shall provide for the following:

(1) *Homesteader Selection.* It shall provide equitable procedures for homesteader selection giving special consideration to the homesteader's:

(i) Need for housing; and

(ii) Capacity to make or cause to be made necessary repairs and improvements.

(2) *Conditional conveyance.* It shall provide for the conditional conveyance of unoccupied, unrepaired residential property to homesteaders. Property received from the Federally-owned inventory shall be conditionally conveyed without substantial consideration.

(3) *Homesteader Agreement.* It shall provide for execution of a Homesteader

Agreement between the local urban homesteading agency and the homesteader which shall require the homesteader:

(i) To make or cause to be made any repairs required to meet minimum local health and safety housing standards prior to occupying the property;

(ii) To make or cause to be made additional repairs and improvements necessary to meet the applicable local standards for decent, safe, and sanitary housing within 18 months after occupying the property and to comply with any energy conservation measures designated by the local urban homesteading agency as part of the repairs;

(iii) To occupy the property as principal residence for not less than three consecutive years from the initial date of occupancy;

(iv) To permit reasonable inspections at reasonable times by employees or designated agents of the local urban homesteading agency; and

(4) *Revocation Upon Breach of Agreement.* It shall provide for the revocation of the conditional conveyance upon any material breach of the agreement by the homesteader.

(5) *Fee Simple Title.* It shall provide for the conveyance of the property from the local urban homesteading agency to the homesteader in fee simple title upon full compliance with the terms of the agreement between the local urban homesteading agency and the homesteader.

(6) *Coordinated Approach Toward Neighborhood Improvements.* It shall provide a plan for needed public improvements and services, and community facilities in the Urban Homesteading Neighborhoods.

(i) If the Urban Homesteading Neighborhood is a Neighborhood Strategy Area, then the coordinated approach toward neighborhood improvement for the area described in the applicant's Community Development Block Grant entitlement application, pursuant to 24 CFR 570.304(b)(1)(i) (Community Development and Housing Plan) will satisfy this requirement. Such an applicant will cite the appropriate cross reference in its applications.

(ii) For designated urban homesteading neighborhoods that are outside or mostly outside of Community Development Block Grant Neighborhood Strategy Areas of entitlement recipients, the coordinated approach toward neighborhood improvement plan shall include:

(A) A brief description of the area's need for revitalization, community facilities, public services and improvements and housing problems;

(B) A description of the plan that will be implemented to meet the identified needs for upgrading and improving the area; and

(C) A description of the actions to mitigate any adverse effects on low-and moderate-income persons that may result from implementing an urban homesteading program in the designated neighborhood.

§ 590.9 Listing of HUD-owned and VA-owned properties.

In order to facilitate planning for the urban homesteading program, the Secretary of HUD and the Administrator of Veterans Affairs shall, upon request of a local urban homesteading agency, provide a listing of all unoccupied one-to four-family units to which HUD or VA holds title, and which are located within the jurisdiction of the urban homesteading agency, except that properties with executed repair or sale contracts may be excluded from such lists.

§ 590.11 Applications.

(a) *Submission Requirements.* Applications shall be submitted to the HUD Area Office which has jurisdiction over the applicant and shall consist of the following:

(1) Standard Form 424, prescribed by OMB Circular No. A–102;

(2) A description of the coordinated approach toward neighborhood improvement as required by § 590.7(b)(6). An applicant that is applying for Community Development Block Grant (CDBG) entitlement funds may cite the appropriate cross reference in its community development plan pursuant to 24 CFR 570.304(b)(1)(i) (Community Development and Housing Plan) to meet this requirement.

(3) A map of each proposed urban homesteading neighborhood with geographic boundaries indicated and census tracts shown. The map shall include:

(i) An estimate of the number and the location of any locally-owned properties to be coveyed to homesteaders during the program's first year;

(ii) An estimate of the number and the location of any HUD-owned properties requested for use in the proposed urban homesteading program during the program's first year, and may include data on Agriculture- and VA-owned properties;

(4) A description of the rehabilitation financing plan to be used in the urban homesteading neighborhood(s) which shall include:

(i) An estimate and brief description of terms and conditions of the Federal, State and/or local public funds and any private funding sources that are to be made available for interim and permanent financing of rehabilitation;

(ii) The total number of residential properties for rehabilitation (both homestead properties and other properties);

(iii) An outline of the applicant's proposed schedule(s) and time periods for committing rehabilitation loan funds in its urban homesteading program.

(5) An implementation plan which includes:

(i) The description of the public entity that will carry out the program, including any agreements with private non-profit organizations, neighborhood-based nonprofit organizations, small business investment companies and/or local development corporations, as defined in Section 590.5(h) to provide program related services (e.g. "counseling" services to homesteaders, marketing activities, neighborhood improvements, financial assistance, rehabilitation).

(ii) A timetable and methods to accomplish the program which includes:

(A) Transferring properties from HUD, and may include the transfer of Agriculture- and VA-owned properties to the local urban homesteading agency;

(B) Advertising residential properties for homesteading purposes;

(C) Conveying unoccupied, unrepaired residential property to homesteaders; and

(D) A summary of the plan for implementing neighborhood improvements in accordance with 590.7(b)(6)(i)–(ii).

(b) *Certifications.* The applicant shall submit certifications in such form as HUD may prescribe, providing assurances that:

(1) Its governing body has duly adopted or passed as an official act, resolution, motion, or similar action authorizing the filing of the application including all understandings and assurances contained in the application;

(2) It possesses the legal authority to:

(i) Accept the transfer without payment of Federally-owned property;

(ii) Convey residential property received from HUD, Agriculture or VA to homesteaders without any substantial consideration, and

(iii) Assist in or undertake the financing of the rehabilitation for residential property conveyed to homesteaders.

(3) It has:

(i) A form for conditional conveyance as required by § 590.7(b)(2);

(ii) Equitable procedures for selecting homesteaders as required by § 590.7(b)(1); and

(iii) An urban homesteader agreement required by § 590.7(b)(3).

(4) It will convey the residential property received from HUD, Agriculture or VA in fee simple title without consideration to the homesteader upon full compliance with the terms of the agreement required in § 590.7(b)(3).

(5) It has, prior to submission of its application:

(i) Provided citizens an adequate opportunity to express preferences about the proposed location of urban homesteading neighborhoods; and

(iii) Provided citizens with adequate information regarding the amount of rehabilitation loan funds, and the number of any Federally-owned properties and/or locally-owned properties to be homesteaded and the coordinated approach toward neighborhood improvement required by § 590.7(b)(6).

(6) It will submit any environmental information that may be requested by HUD in meeting the Department's environmental responsibilities under the National Environmental Policy Act of 1969.

(7) It will: (i) Not discriminate upon the basis of race, creed, color, handicap, sex, or national origin in the sale, lease, or rental or in the use or occupancy of the property conveyed in accordance with this Part;

(ii) Comply with the requirements of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968; and

(iii) Comply with Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination against the handicapped in any program or activity receiving Federal financial assistance.

(8) It will comply with the lead based paint procedures set forth in 24 CFR Part 35 agreeing to:

(i) Assure the elimination of the lead based paint hazards for which HUD will not expend funds in residential structures transferred under this Part; and

(ii) Make notification to potential homesteaders of the hazards of lead-based paint poisoning in residential units constructed prior to 1950.

(9) It will submit any information that may be requested by HUD meeting the Department's Responsibilities under the National Historic Preservation Act of 1966 (Pub. L. 89–665) and the Preservation of Historic and Archaeological Data Act of 1974 (Pub. L. 93–291), including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800, and Executive Order 11593 on Protection and Enhancement of the Cultural Environment.

(10) It will, upon conveyance of title from HUD, Agriculture or VA assume liability for injury and damage to persons or property by reason of a defect in the dwelling, its equipment, its appurtenances, or any other reason.

(11) It will give HUD, Agriculture, VA and the Comptroller General through any authorized representatives access to and the right to examine all records, books, papers, or documents related to the urban homesteading program.

(12) It will maintain in writing and on file a description of its approved local urban homesteading program for the purposes of public information and review.

(c) OMB Circular A–95, Part II.

(1) The applicant shall submit the completed application to all appropriate State and areawide clearinghouses prior to, or concurrently with, the submission of the application to HUD.

(2) The clearinghouses shall have thirty (30) days to review the completed application and transmit to the applicant and to the appropriate HUD Area Office any comments or recommendations.

(3) Clearinghouses will be of assistance to the applicant and to HUD if their reviews address the impact of the proposal in revitalizing the designated urban homesteading neighborhood, the relationships of the proposal to community and areawide planning and any other considerations not reflected in the application which would bear on the viability of the proposal as well as the "subject matter of comments and recommendations" in Part I. Attachment A of OMB Circular No. A–95, Item 5, with emphasis on consistency among State, areawide, and local plans and compliance with environmental and civil rights laws.

(4) If the A–95 review comments contain any findings of inconsistency with State, areawide, or local plans or noncompliance with environmental or civil rights laws, the applicant must state how it proposes to resolve the finding or state its justification for proposing to proceed with the project despite the findings developed through the A–95 review process.

(5) HUD will not approve an application until all comments have been received and considered from the clearinghouses or until the end of the thirty-day review period, whichever occurs first.

(6) HUD shall notify the clearinghouses of actions taken on all applications reviewed within seven working days by use of Standard Form 424. When HUD makes approval following clearinghouse recommendations against approval or approval only with specific and major substantive changes, the clearinghouse will be provided an explanation for such approval with the HUD submittal of SF 424.

(d) *Application Submission.* Applications shall be submitted, at anytime, to the HUD Area Office which has jurisdiction over the applicant.

§ 590.13 HUD review and approval of application.

The appropriate HUD Area Office will review the application and will approve the proposed local urban homesteading program, unless the HUD Area Office determines that it does not comply with the requirements of this Part and other applicable laws and regulations. Approval of the application does not, however, obligate HUD or Agriculture or VA to transfer a specific number of properties or particular properties identified in the application. If the application is disapproved, the applicant shall be informed in writing of the specific reasons for the disapproval.

§ 590.15 Urban homesteading agreement.

(a) Upon approval of the proposed local urban homesteading program, the appropriate HUD Area Office will sign an Urban Homesteading Agreement with the local urban homesteading agency. The regulations of this part become a part of the agreement.

(b) The agreement is renewable on an annual basis: *Provided,* That:

(1) The local urban homesteading agency has carried out its program substantially as proposed and approved; and

(2) The local urban homesteading agency has a continuing capacity to carry out the approved program in a timely manner including the selection of homesteaders, the conveyance of residential property to homesteaders, the implementation of its interim and permanent financing plan(s), the completion and quality of the housing rehabilitation and the implementation of its coordinated approach toward neighborhood improvements.

§ 590.17 Transfer of HUD-owned property.

(a) *Property Disposition Assistance.* HUD's property disposition activity shall support the Urban Homesteading Program as follows:

(1) Upon the signing of the Urban Homesteading Agreement as required in § 590.15 but prior to the initial selection of any HUD-owned property, a local urban homesteading agency may request HUD to suspend its routine property disposition activity for up to 45 days in the designated urban

V 4 5 / 1 5 4 A G 7 8 0 UMI

homesteading neighborhood(s). Based upon this request, HUD shall state in writing the starting and closing dates of the suspension of property disposition activity for all HUD-owned properties except those for which there are repair or sales contracts.

(2) The HUD Area Offices shall develop and implement a property disposition plan for HUD-owned properties in the designated urban homesteading neighborhood which is consistent with the local urban homesteading program. This plan shall include the following procedure:

(i) As soon as feasible, but in any event not later than ten days, after receipt of notice of property transfer and application for insurance benefits to HUD for an HUD-owned unoccupied, one- to four-family residence in an approved urban homesteading neighborhood, the HUD Area Office shall notify the local urban homesteading agency of the potential availability of the property for homesteading. The notification shall be in writing and shall include the street address and zip code and shall inform the local urban homesteading agency that it has thirty days from the date of the notice to inform the Area Office if it wishes to use the property for homesteading.

(ii) The Area Office shall not approve a property disposition program for that property until the local urban homesteading agency has informed that Area Office, in writing, whether or not it intends to use the property in the urban homesteading program or until 30 days have expired from the date of HUD's notice to such agency, whichever comes first. The Area Office manager may extend the thirty (30) day deadline, if the Area Office Manager makes a determination that notification by the local urban homesteading agency within thirty (30) days is impractical. The title for any property requested in accordance with this procedure shall be transferred to a local urban homesteading agency if such property meets the conditions for transferring HUD-owned properties listed in § 590.17(b).

(b) *Conditions for Transferring HUD-Owned Properties.* Except as provided in § 590.17(c) below, HUD shall transfer the title of HUD-owned properties to a local urban homesteading agency, without receiving payment from such agency, if the following conditions are met:

(1) The local urban homesteading program has been approved by HUD;

(2) The properties requested by the local urban homesteading agency are in a designated urban homesteading neighborhood(s);

(3) The HUD Area Office has reserved the necessary Section 810 funds to reimburse HUD's housing loan and mortgage insurance accounts for the residential property to be transferred;

(4) The requested property is HUD-owned unoccupied, unrepaired and a repair or sale contract has not been signed;

(5) The requested property is determined to be suitable for the approved local urban homesteading program by the Area Office. In making this determination the Area Office will take into account the following factors:

(i) The value of the property. The value of the property shall not exceed $15,000 for a one unit single family residence or an additional $5,000 for each unit of two- to four-family residences. To compute this value, HUD shall estimate and deduct from the appraised as is fair market value of the property the cost of continued care and handling for the average length of time for that area that such property might remain in HUD's inventory if it were not transferred to a local urban homesteading agency;

(ii) The estimated cost of housing repairs required. The cost of required repairs shall not exceed the applicable statutory limit of the Section 312 rehabilitation loan program;

(iii) The Area Office Manager may authorize on a property by property or program by program basis the transfer of HUD-owned property:

(A) Whose value exceeds the limitations, cited in paragraph (b)(5)(i) of this section, if the benefit to the community, expected from the expedited occupancy of the property and the reduction of difficulties and delays (such as vandalism to property) that HUD typically encounters in the disposition and sale of property, warrant the additional cost to the Federal Government;

(B) For which the value of housing repairs exceeds the limitation, cited in paragraph (b)(5)(ii) of this section, when the value of such repairs in excess of the applicable loan limit of the Section 312 loan program will be provided by the homesteader or through other local resources other than Section 312 rehabilitation loan funds.

(c) *Exceptions.* (1) If a local urban homesteading agency fails to accept title within thirty (30) days of the agency's selection of a HUD-owned property made available in accordance with § 590.17(b)(1)–(5), the Area Office may approve an alternative disposition plan for the property. The Area Office Manager may extend, for a reasonable period of time, this thirty (30) day deadline if the Area Office Manager makes a determination that acceptance of title by the local urban homesteading agency within thirty (30) days of property selection is impractical.

(2) A property otherwise eligible for transfer to a local urban homesteading agency may be used to meet higher priority needs if the Area Office Manager makes a determination in writing that such property is essential to meet an existing legal obligation such as the following:

(i) Settlement of Sales Warranty claims;

(ii) Settlement of section 518 claims for critical structural defects in one- to four-family dwellings with certain mortgages insured by HUD;

(iii) Emergency housing needs: (disaster housing and urgent public housing needs);

(iv) Reconveyance for noncompliance with regulation 24 CFR Sec. 203.363;

(v) Reconveyance pursuant to Civil Frauds Act settlement; and

(vi) Reconveyance where the mortgage was never insured.

(3) A property otherwise eligible for transfer to a local urban homesteading agency for use in its HUD approved homesteading program, may instead be made available to private non-profit organization, a local development corporation or a neighborhood nonprofit organization as defined in Section 590.5(h) if the Area Office Management determines in writing that such transfer will serve the community's best interest and is consistent with the goals of the local urban homesteading program. Such transfer does require concurrence of the local urban homesteading agency or the local government.

§ 590.18 Reimbursement to the Department of Agriculture and to the Veterans Administration.

(a) The Secretary of HUD is authorized to reimburse the Secretary of Agriculture and the Administrator of Veterans Affairs in an agreed amount, out of Section 810 funds, for property which

(1) Is improved with a one- to four-family residence;

(2) Is not occupied;

(3) Is located in an urban homesteading area, in a locality which has an approved urban homesteading program;

(4) Has been approved for urban homesteading use by the locality and by the HUD Area Office;

(5) Has a value not in excess of $15,000 for a one-unit single-family residence or an additional $5,000 for each unit of two- to four-family residences;

(6) Is conveyed to a local urban homesteading agency for use in an approved local urban homesteading program.

(b) The reimbursement shall not exceed an amount certified by Agriculture or VA to be a fair value based on the lesser of the market value and the amount of the claim plus the expenses connected with Federal ownership.

§ 590.19 Implementing funds.

HUD will reserve or otherwise provide available Section 810 funds and Section 312 rehabilitation loan funds necessary to assist in implementing an approved local urban homesteading program. The Section 810 funds may not be used to reimburse local homesteading agencies for administrative costs nor may they be used to acquire property other than through reimbursement for property owned by the Secretary of HUD, the Secretary of Agriculture, and the Administrator of Veterans Affairs.

§ 590.21 Reduction of funds.

The Secretary reserves the right to reduce any Section 810 allocation or Section 312 rehabilitation loan funds earmarked, reserved or targeted for a local urban homesteading agency should such agency not meet the schedules for use of such funds required in §§ 590.11(a)(4)(iii) and 590.11(a)(5)(ii)(A) and (C), and does not comply with the statutory and regulatory requirements of this part or fails to carry out its program as approved.

§ 590.23 Program close out [Reserved]

§ 590.25 Retension of records.

Financial records, property disposition documents, supporting documents, statistical records, and all other records pertinent to the urban homesteading program shall be retained by the local urban homesteading agency for a period of three years from the date of the program closeout.

§ 590.27 Audit.

The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of local urban homesteading agencies pertaining to funding assistance related to this part and HUD-owned property transferred under this part for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

§ 590.29 Applicable Federal laws and regulations.

(a) *Nondiscrimination.* Every phase of an approved local urban homesteading program is to be implemented in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. Approved local urban homesteading programs shall also comply with Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination against the handicapped.

(b) *National Environmental Policy Act.* In implementing and administrating the Urban Homesteading Program, HUD shall comply with the National Environmental Policy Act of 1969 and all rules, regulations, and requirements issued pursuant thereto.

(c) *National Historic Preservation Act.* In implementing and administering the Urban Homesteading Program, HUD shall comply with the National Historic Preservation Act (Pub. L. 89–665), the Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93–291), including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800, and Executive Order 11593 on Protection and Enhancement of the Cultural Environment.

(d) *Lead-Based Paint Poisoning Prevention Act.* Local urban homesteading agencies shall comply with the Department's Lead-Based Paint Regulations (24 CFR Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq.) requiring prohibition of the use of lead-based paint; elimination of immediate lead-based paint hazards in any residential structure transferred under this part; and notification of the hazards of lead-based paint poisoning to potential homesteaders in residential units constructed prior to 1950 and assisted under this part.

(e) *Acquisition and Relocation.* If a local urban homesteading agency acquires real property for an urban homesteading program approved under the regulations in this part, it shall comply with HUD relocation and acquisition regulations at 24 CFR Part 42.

§ 590.31 HUD review of local urban homesteading agency's performance.

(a) HUD will review each local urban homesteading agency's performance at least annually to determine whether:

(1) The program complied with the requirements of Title VIII, Section 810, of the 1974 Act, as amended, the implementing regulations, and other applicable laws and regulations;

(2) The local urban homesteading agency has carried out its program substantially as proposed and approved; and

(3) The local urban homesteading agency has a continuing capacity to carry out the approved program in a timely manner.

(b) In reviewing a local urban homesteading agency's performance, HUD will consider all available evidence which may include, but need not be limited to the following:

(1) Records maintained by the local urban homesteading agency;

(2) Results of HUD's monitoring of local urban homesteading agency's performance;

(3) Audit reports whether conducted by the local urban homesteading agency or by HUD auditors; and

(4) Records of comments and complaints by citizens and organizations, or litigation.

§ 590.33 Corrective and remedial action.

When HUD determines on the basis of its review that there is a deficiency in the local urban homesteading agency's performance, the HUD Area office shall take one or more of the following corrective or remedial actions that are appropriate for the circumstances:

(a) Issue a letter of warning that advises the local urban homesteading agency of the deficiency and puts it on notice that more serious corrective and remedial actions will be taken if the deficiency is not corrected or is repeated;

(b) Advise the local urban homesteading agency to suspend, discontinue or not incur costs for the defective aspect(s) of the local program;

(c) Condition the renewal of the Urban Homesteading Agreement if there is substantial evidence of a lack of progress, noncompliance, or a lack of a continuing capacity. In such cases, the reasons for the conditional renewal and the actions necessary to remove the condition shall be specified; or

(d) Cancel the Urban Homesteading Agreement and explain the reasons for such action.

§ 590.35 Evaluation by HUD.

Local urban homesteading agencies shall supply data or make available such records as are necessary for the completion of HUD's annual evaluation of the Urban Homesteading Program.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted

V 45 / 154 AG 7 80 UMI

waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued at Washington, D.C. on July 31, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-23953 Filed 8-6-80; 8:45 am]

BILLING CODE 4210-01-M

V 45 / 154 AUG 7 80 UMI

Reader Aids

Federal Register

Vol. 45, No. 154

Thursday, August 7, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1
51539-51754.....4
51755-52138.....5
52139-52354.....6
52355-52768.....7

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139

Proclamations
4776.....51539

Administrative Orders:

Memorandums:
July 31, 1980.....51169-51174

5 CFR

410.....51755
Ch. XIV.....51541

Proposed Rules:
359.....51214

6 CFR

705.....51175
706.....51541

7 CFR

2.....52355
210.....51175
301.....51176
331.....51755
722.....51755
908.....52356
910.....51177
917.....51179
921.....51180
924.....51180
946.....52141
948.....51182
958.....52141
967.....52143
1137.....51542
1446.....51756
2853.....51757

Proposed Rules:
29.....51572
272.....51216
273.....51216
404.....51573
800.....52339
985.....51818
1464.....51579
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR

264.....52143

Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR

Proposed Rules:
318.....51832

10 CFR

110.....51184
212.....52112
445.....51763

Proposed Rules:
205.....51833
378.....51581

11 CFR

100.....52356
110.....52356

12 CFR

201.....52144

Proposed Rules:
Ch. I.....52166
Ch. II.....51581
525.....52173
541.....52173, 52177
545.....52173, 52177
561.....52177
563.....52173, 52177

13 CFR

101.....51763

14 CFR

39.....51543-51546, 52357
71.....51546
91.....51547
97.....52358
121.....51547
127.....51547
135.....51547
375.....51838

Proposed Rules:
71.....51587-51590, 52396
73.....51591
75.....52396

15 CFR

Proposed Rules:
19.....51592

16 CFR

436.....51763, 51765
455.....52750

Proposed Rules:
13.....51593, 51596
239.....51838
705.....51218

17 CFR

7.....51520

Proposed Rules:
1.....51598
4.....51600

18 CFR

282.....52359

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Proposed Rules:
271 51219
273 51219
274 51219
301 51614

19 CFR
571 52365

Proposed Rules:
Ch. I 51490

20 CFR
404 52078
416 52078

Proposed Rules:
Ch. II 51615

21 CFR
172 51766
175 51184
176 51767
193 51768
884 ..... 51185, 51186

Proposed Rules:
Ch. II 51832, 52397
610 51226
660 51226

23 CFR
657 52365
658 52365

Proposed Rules:
625 51720
652 51720
663 51720

24 CFR
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 51770
279 51510
571 51516
590 52762
869 52371
885 51186
1710 52144

Proposed Rules:
570 51227
865 51228
866 51615
888 51228
888 51228
889 51229

26 CFR
1 52373
26a 51771

Proposed Rules:
1 52399
26 51840

27 CFR

Proposed Rules:
Ch. I 51496
19 52407
70 52407
240 52407
245 52407
250 52407
270 52407
275 52407

28 CFR
0 52145

Proposed Rules:
Ch. I 51506, 51832
16 52183
50 52183

29 CFR
11 51187
40 51192
102 51192
1952 51775
1625 51547
1999 51187
2520 51446
2550 51194

Proposed Rules:
Ch. XIV 51229
2520 51231
2530 51231
2550 ..... 51231, 51840

30 CFR
Ch. VII 51547
762 52375
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306

Proposed Rules:
Ch. VII 52407, 52408
250 52408
700 52410
701 52410
784 51240
817 51240

32 CFR
763 51776
888d 52145

33 CFR
117 51550
207 ..... 51551, 51555
401 52376

Proposed Rules:
117 ..... 51617, 51618

34 CFR

Proposed Rules:
100 52052

36 CFR

Proposed Rules:
7 51618
1202 51843

37 CFR
304 51197

38 CFR
21 51777

39 CFR

Proposed Rules:
111 51846

40 CFR
35 51484
51 52676
52 ..... 51198, 51199, 52148, 52676
122 52149
124 52676
180 ..... 51200, 51781, 51782

Proposed Rules:
52 ..... 51619, 51620, 52184
162 52628
164 52628
167 52184
169 52184
180 51854
408 52411
410 52185
717 51855

41 CFR
Ch. 101 51201

42 CFR
57 ..... 51201, 51205
58 ..... 51209, 51556
405 51783
455 51559

Proposed Rules:
72 51241

43 CFR
8351 51740

Proposed Rules:
2560 52303

Public Land Orders:
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR
64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796

Proposed Rules:
6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427

45 CFR
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
1060 51561

Proposed Rules:
121q 52136
190 51243

46 CFR
30 52386
61 52386
151 52386

47 CFR
Ch. I 52389
13 52154
22 52149
68 52151
73 ..... 51561–51563, 52152
74 51563
76 52153
81 52154
83 52154
87 52154
90 51811
97 51564

Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252
15 51251
21 51252
73 51624
74 51252
94 51252

48 CFR

Proposed Rules:
9 51253

49 CFR
571 51569
941 52389
1002 ..... 51213, 52158
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1309 52161
1310 52161

Proposed Rules:
398 51625
571 ..... 51626, 51628
1102 51858
1116 52186

50 CFR
26 52391
32 ..... 52392, 52393

Proposed Rules:
32 52163
216 51254
265 51858
611 51254
655 51254
661 51861

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT
Office of the Secretary—
45887 7–8–80 / Amendment of certification of essential agricultural uses and requirements; Natural Gas Policy Act

FEDERAL COMMUNICATIONS COMMISSION
46406 7–10–80 / FM broadcast stations in Bonita Springs, Goulds, and Homestead, Fla.; change to table of assignments
45593 7–7–80 / FM broadcast stations in Centralia, Mo.; changes in table of assignments

INTERIOR DEPARTMENT
Indian Affairs Bureau—
45909 7–8–80 / Rights-of-way over Indian lands

List of Public Laws

Last Listing August 6, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2995 / Pub. L. 96–321 To allow the transfer of certain funds to fund the heat crisis program. (Aug. 4, 1980; 94 Stat. 1001) Price $1.

H.R. 6666 / Pub. L. 96–322 To revise the laws relating to the Coast Guard Reserve. (Aug. 4, 1980; 94 Stat. 1002) Price $1.25.

H.R. 5580 / Pub. L. 96–323 North Atlantic Treaty Organization Mutual Support Act of 1979. (Aug. 4, 1980; 94 Stat. 1016) Price $1.

V 45 / 154 AG 7 80 UMI

V
4
5
/
1
5
4
A
G
7
8
0
UMI

V 45/154 AG 7 80 UMI

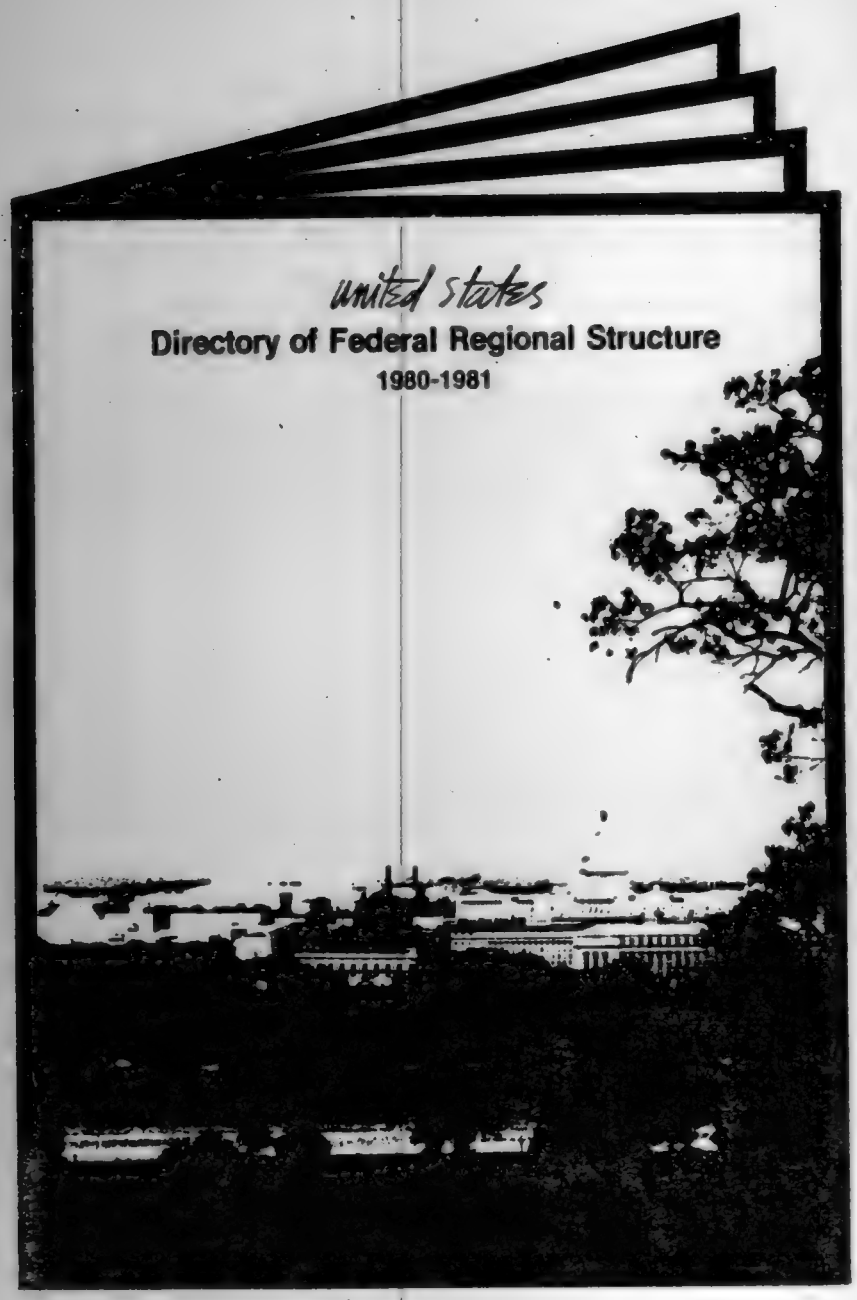

ORDER NOW!

Directory of Federal Regional Structure

Revised as of May 1, 1980

The Directory serves as a guide to the regional administrative structure of the departments and agencies of the Federal Government.

Designed to provide the public with practical information about regional offices, the Directory is particularly useful to citizens residing outside the Nation's Capital.

Included in the Directory is a map showing the 10 Standard Federal Regions followed by tables listing the key personnel, addresses, and telephone numbers for agencies with offices in those regions. In addition, maps and tables are provided for those agencies with regional structures other than that of the standard regional system.

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration.

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Price: $3.75

ORDER FORM Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

VISA and MasterCard Accepted

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me_____copies of the **Directory of Federal Regional Structure**, at $3.75 per copy. Stock No. 022-003-01061-1

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		

8-8-80
Vol. 45 No. 155
Pages 52769-53074

federal register

Friday
August 8, 1980

Highlights

52947 **Grant Programs—Law** Justice/LEAA requests public comment on proposed Continuation Policy for the funding of Juvenile Justice grantees when private or Federal financial resources cease to be available; comments by 10–7–80

52066 **Food Relief Programs** USDA/FNS proposes rules with regard to effective system of placing able-bodied food stamp participants into gainful employment through work registration and job search; comments by 10–7–80 (Part V of this issue)

53034 **Wages** Labor/ESA/W&H issues minimum wage determinations for Federal and Federally assisted construction (Part III of this issue)

52782 **Income Tax** Treasury/IRS provides final regulations concerning individual retirement accounts

52824 **Pensions** Labor/PWBP proposes regulations for reporting and disclosure, and minimum standards for employee pension benefit plans; comments by 10–7–80

52769 **Anti-Inflationary Standards** CWPS issues questions and answers concerning procedures on voluntary pay and price standards; effective 8–8–80; comments by 9–8–80

CONTINUED INSIDE

V 45 / 155
AG 8 80
UMI

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

52971 **Banks and Banking** National Consumer Cooperative Bank provides guidelines to implement assistance programs, including credit and interest rate policies for technical assistance delivery; effective 8-8-80

52821 **Blood** HHS/FDA proposes to amend biologics regulations concerning blood and blood components; comments by 11-6-80

53056 **Exports** CPSC publishes final rule requiring 30-day notification prior to exportation of products failing to comply with CPSC regulations; effective 9-8-80 (Part IV of this issue)

53002, 53023 **Foods** USDA/FSQS, HHS/FDA each issue proposals to amend net weight labeling requirements for certain foods; comments by 11-6-80 (Part II of this issue)

52842 **Federal Buildings and Facilities** GSA/PBS proposes provision of guidelines to Federal agencies for use in improving space utilization; comments by 9-22-80

52773 **Horses** USDA/APHIS provides for the entry into the United States of most horses at any port or airport designated "international" by the U.S. Customs Service, and a quarantine facility has been provided; effective 9-8-80

52936 **Floodplains** Interior/Mines issues flood plains management and wetlands protection procedures; effective 8-8-80

52780 **Antidumping** Commerce/ITA revokes dumping finding on electric golf carts from Poland; effective 6-11-80

52982 **Sunshine Act Meetings**

Separate Parts of This Issue

53002 **Part II, USDA/FSQS, HHS/FDA**
53034 **Part III, Labor/ESA**
53056 **Part IV, CPSC**
53066 **Part V, USDA/FNS**

Contents

Federal Register
Vol. 45, No. 155
Friday, August 8, 1980

Agricultural Marketing Service
RULES
52772 Grapes (Tokay) grown in Calif.
52771 Lemons grown in Ariz. and Calif.

Agricultural Stabilization and Conservation Service
PROPOSED RULES
52817 Cotton, extra long staple; 1981 national program; marketing quota, acreage allotment, etc.
NOTICES
Feed grain donations:
52854 Fort Peck Assiniboine and Sioux Indian Tribes, Mont.

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service; Rural Electrification Administration.
NOTICES
52911 Biomass energy development; energy equivalent quanity of 15 million gallons of ethanol

Air Force Department
RULES
52800 Security qualifications for membership; removal of CFR Part

Alcohol, Tobacco and Firearms Bureau
NOTICES
52976 Explosives, commerce in; list of explosive materials

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
52773 Horses; entry into U.S. at designated international ports or airports with approved quarantine facilities
Livestock and poultry quarantine:
52772 Brucellosis
PROPOSED RULES
Animal and poultry import restrictions:
52818 Poultry, game birds, etc.; free flying quail carcasses from viscerotropic velogenic Newcastle disease; affected countries
Plant quarantine, domestic:
52816 West Indian sugarcane root borer

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
52860 Procurement list, 1980; additions and deletions (2 documents)

Civil Aeronautics Board
PROPOSED RULES
52820 Air carriers; notice to passengers of conditions of carriage; contract terms of travel; extension of time
NOTICES
52854 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
52855 Lone Star Airways, Inc., fitness investigation
52855 Spanish Main International Airlines, fitness investigation
52855 Universal Airlines, Inc., fitness investigation
Senior Executive Service:
52855 Bonus award schedule

Center for Disease Control
NOTICES
Meetings:
52931 Love Canal Epidemiology Work Group; correction

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
52859 International standardization, testing, certification, etc., impact on international trade; conference

Conservation and Solar Energy Office
NOTICES
Biomass energy development:
52911 Energy equivalent quantity of 15 million gallons of ethanol
52900 Municipal waste energy development plan; inquiry and meeting

Consumer Product Safety Commission
RULES
53056 Export of products failing to meet CPSC requirements; notification procedures

Defense Department
See Air Force Department.

Economic Regulatory Administration
NOTICES
Consent orders:
52862 Brown Oil Co.
52863 Da Vinci Co., Inc.
52865 Natomas North America, Inc.
52861 Gasoline Marketing Advisory Committee; change
52860 National Petroleum Council
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
52864 Florida Power Corp.
52861 St. Regis Paper Co.

Employment Standards Administration
NOTICES
53034 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions. (Iowa, Kans., Miss., Mo., Mont., N. Mex., Ohio, Pa., and Wis.)

Energy Department
See Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission; Western Area Power Administration.

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
52841 Connecticut; extension of time
52834 Idaho
Air quality planning purposes; designation of areas:
52841 Indiana
NOTICES
Environmental statements; availability, etc.:
52912 Agency statements; weekly receipts
Toxic and hazardous substances control:
52911 Premanufacture notification requirements; test marketing exemption approvals

Environmental Quality Council
NOTICES
52982 Meetings; Sunshine Act

Equal Employment Opportunity Commission
NOTICES
52982 Meetings; Sunshine Act

Federal Communications Commission
RULES
Radio stations; table of assignments:
52800 California
Television stations; table of assignments:
52801 Texas
PROPOSED RULES
Radio stations; table of assignments:
52848 Illinois
52846 Kansas
52845 Nebraska
52843 Wyoming
NOTICES
Hearings, etc.:
52916 Absolutely Great Radio, Inc., et al.
52918 Academy Radio Corp. et al.
52919 Broadcast West, Inc., et al.
52921 Imperial Valley Magic FM et al.
52920 Lumpkin County Broadcasting Co. et al.
52922 Metropolitan Broadcasting Corp., Inc., et al.
52922 Peoria Community Broadcasters, Inc., et al.
Radio services special:
52916 Land mobile service, public; effect of skip interference on operations at 35 MHz, investigation; technical memorandum availability

Federal Deposit Insurance Corporation
PROPOSED RULES
Practice and procedure rules:
52819 Application files; public access

Federal Energy Regulatory Commission
RULES
Public Utility Regulatory Policies Act of 1978:
52779 Small power production and cogeneration facilities; qualifying status; rehearing
NOTICES
Hearings, etc.:
52871 Briar-Hydro
52872 Calaveras County Water District
52872 Central Maine Power Co.
52872 Central Vermont Public Service Corp.
52873 Copper Valley Electric Association, Inc.
52873 Hartford Electric Light Co.
52874 Mid Louisiana Gas Co.
52876 National Fuel Gas Supply Corp.
52877 Oklahoma Gas & Electric Co.
52866 Phillips Petroleum Co.
52878 Sea Robin Pipeline Co.
52879 Southern Company Services, Inc.
52881 Texas Gas Transmission Corp.
52882 United Gas Pipe Line Co.
Natural Gas Policy Act of 1978:
52884, 52893 Jurisdictional agency determinations (2 documents)

Federal Procurement Policy Office
NOTICES
52976 Procurement; development of uniform system; hearings and inquiry; hearing change

Federal Reserve System
NOTICES
52982 Meetings; Sunshine Act (2 documents)

Federal Trade Commission
RULES
Prohibited trade practices;
52778 C. Itoh & Co. (America), Inc.
52776 Ford Motor Co. et al.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
52978 Unigard Mutual Insurance Co.

Fish and Wildlife Service
RULES
Endangered and threatened species:
52807 Delta green ground beetle
52803 Valley elderberry longhorn beetle
PROPOSED RULES
Endangered and threatened species:
52849 American alligator; special rule

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
52781 Piperazine-carbon disulfide complex boluses and suspension; etc.
PROPOSED RULES
Biological products:
52821 Blood and blood products; errors and accident reports; uniform reporting and records maintenance under good manufacturing practice rules
Food labeling:
53023 Net weight labeling requirements
NOTICES
Human drugs:
52931 Neuroleptic drugs; physician labeling
Medical devices:
52933 Fluorescent Gonorrhea Test-Heated; premarket approval; correction
52933 Orifice aortic bioprosthesis and orifice valved conduit, modified; premarket approval

Food and Nutrition Service
RULES
Child nutrition programs:
52770 Meals and free milk in schools; statistical surveys for special assistance payments; P.R. and V.I.; emergency rule
PROPOSED RULES
Food stamp program:
53066 Work registration and job search procedures

Food Safety and Quality Service
PROPOSED RULES
Meat and poultry inspection, mandatory:
53002 Net weight labeling requirements

General Accounting Office
NOTICES
52930 Regulatory reports review; proposals, approvals, violations, etc. (CAB)

General Services Administration
PROPOSED RULES
Property management:
52842 Space utilization; guidelines for Federal agency programs
NOTICES
Public utilities; hearings, etc.; proposed intervention:
52930 Maryland Public Service Commission

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See Center for Disease Control; Food and Drug Administration;

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Mines Bureau; Surface Mining Office.
NOTICES
Arizona; Central Arizona Project, proposed water allocations to Indian tribes

Internal Revenue Service
RULES
Excise taxes:
52800 Aerial applicators; claims for payment on tax on gasoline and special fuels used for farming purposes; correction
Income and excise taxes:
52782 Individual retirement arrangements, etc.
PROPOSED RULES
Income taxes:
52824 Shareholder requirements relating to electing small business corporations; hearing

International Trade Administration
RULES
Antidumping:
52780 Electric golf carts from Poland
NOTICES
Scientific articles; duty free entry:
52856 Brooke Army Medical Center et al.
52857 U.S. Naval Research Laboratory et al.

International Trade Commission
NOTICES
Import investigations:
52945 Spring assemblies and components, and methods for manufacture

Interstate Commerce Commission
RULES
Motor carriers:
52802 Operating rights applications; affiliate carriers; concurrent submission of control applications
Railroad car service orders; various companies:
52803 Atchison, Topeka & Santa Fe Railway Co.
NOTICES
Motor carriers:
52941 Intercorporate hauling operations; intent to engage in
52941 Temporary authority applications; correction

Justice Department
See also Law Enforcement Assistance Administration.
NOTICES
Authority delegations:
52946 Counsel on Professional Responsibility; "Billy" Carter investigation

Labor Department
See also Employment Standards Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
52969 Central Transport, Inc., et al.
52968 Firestone Tire & Rubber Co.
Committees; establishment, renewals, terminations, etc.:
52968 Employee Welfare and Pension Benefit Plans Advisory Council; request for nomination

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
52935 Kentucky
Exchange of public lands for private land:
52934 Arizona; correction
Meetings:
52934 Richfield District Advisory Council
Withdrawal and reservation of lands, proposed, etc.:
52934 Oregon

Law Enforcement Assistance Administration
NOTICES
Grants solicitation; competitive research:
52947 Juvenile Justice and Delinquency Prevention Act programs; continuation policy; inquiry

Management and Budget Office
See also Federal Procurement Policy Office.
NOTICES
52975 Senior Executive Service Performance Review Board; membership

V 45 / 155
AG 8 80
UMI

Mines Bureau
NOTICES
52936 Floodplain management and wetlands protection; final procedures

National Consumer Cooperative Bank
NOTICES
52971 Credit, interest rate, low income definition, and technical assistance policies

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
52810 Atlantic herring
PROPOSED RULES
Tuna, Atlantic fisheries:
52853 Bluefin tuna; environmental impact statement
NOTICES
52859 Emergency striped bass research study; availability of action plan

National Science Board
52982 Meetings; Sunshine Act

National Science Foundation
NOTICES
52974 Advisory committee reports; availability
52974 Part-time career employment for Federal employees; proposed implementation; inquiry

National Transportation Safety Board
NOTICES
52983 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
52975 Duke Power Co.

Pension and Welfare Benefit Programs Office
PROPOSED RULES
Employee benefit plans, etc.:
52824 Multiple employer plans; individual benefit reporting and recordkeeping
NOTICES
Employee benefit plans:
52949–52967 Prohibition on transactions; exemption proceedings, applications, hearings, etc. (12 documents)
52949 Prohibition on transactions; exemption proceedings, applications, hearings, etc.; correction

Personnel Management Office
RULES
52769 Privacy Act; implementation
Voting rights program:
52800 Georgia

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
52854 Cajun Electric Power Cooperative, Inc., et al.

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States:
52834 Ohio; public disclosure of comments

Trade Representative, Office of the United States
NOTICES
52978 Generalized System of Preferences; articles considered in trade negotiations or eligible for duty-free treatment

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Fiscal Service; Internal Revenue Service.

Wage and Price Stability Council
RULES
52769 Pay and price standards; questions and answers on procedural rules

Western Area Power Administration
NOTICES
Power rate adjustments:
52900 Colorado River Storage Project, proposed interim; inquiry

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
Office of the Secretary—
52859 Conference on U.S. International Standardization, Testing, Certification and Related Matters, and Their Implications Under Trade Agreements Act of 1979, 10–15 and 10–16–80

ENERGY DEPARTMENT
Conservation and Solar Energy Office—
52900 Municipal Waste-to-Energy Development Plan, 8–27–80
Economic Regulatory Administration—
52860 Emergency Preparedness Committee of the National Petroleum Council, 8–22–80

INTERIOR DEPARTMENT
Land Management Bureau—
52934 Richfield District Advisory Council, 9–9 and 9–10–80

RESCHEDULED MEETINGS

ENERGY DEPARTMENT
Economic Regulatory Administration—
52861 Gasoline Marketing Advisory Committee, scheduled for 8–20 and 8–21–80, changed to 8–21 and 8–22–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Disease Control Center—
52931 Love Canal Epidemiology Work Group, scheduled for 8–11–80, changed to 8–20–80

HEARINGS

INTERIOR DEPARTMENT
Land Management Bureau—
52935 Coal Lease Applications, 8–28–80

TREASURY DEPARTMENT
Internal Revenue Service—
52824 Shareholder requirements relating to electing small business corporations, 10–8–80

RESCHEDULED HEARING

MANAGEMENT AND BUDGET OFFICE
52976 Uniform Procurement Policy, Washington, D.C. only, was 9–11 and 9–12–80, rescheduled for 9–9–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

BANKING
Consumer cooperative credit and interest rates policies; National Consumer Cooperative Bank; Notices.

Rules and Regulations

V 45 / 155 AUG 8 80 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
297 52769

6 CFR
706 52769

7 CFR
245 52770
910 52771
926 52772
Proposed Rules:
273 53066
301 52816
722 52817

9 CFR
78 52772
92 52773
Proposed Rules:
94 52818
317 53002
381 53002

12 CFR
Proposed Rules:
303 52819
309 52819

14 CFR
Proposed Rules:
255 52820

16 CFR
13 (2 documents) 52776, 52778
1019 53056

18 CFR
292 52779

19 CFR
353 52780

21 CFR
520 52781
Proposed Rules:
101 53023
600 52821
606 52821

26 CFR
1 52782
48 52800
54 52782
Proposed Rules:
1 52824

29 CFR
Proposed Rules:
2520 52824
2530 52824

30 CFR
Proposed Rules:
Ch. VII 52834

32 CFR
853 52800

40 CFR
Proposed Rules:
52 (2 documents) 52834, 52841
81 (2 documents) 52841

41 CFR
Proposed Rules:
101–17 52842

45 CFR
801 52800

47 CFR
73 (2 documents) 52800, 52801
Proposed Rules:
73 (4 documents) 52843, 52845, 52846, 52848

49 CFR
1002 52802
1033 52803

50 CFR
17 (2 documents) 52803, 52807
653 52810
Proposed Rules:
13 52849
17 52849
285 52853

V 45 / 155 AG 8 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 155
Friday, August 8, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 297

Protection of Privacy in Personnel Records

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document revises the Office of Personnel Management's regulations implementing the Privacy Act. It reflects changes the Office has made to the numerical designations of its Privacy Act systems of records and has no impact on agencies or the public.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Records Management Branch, Agency Compliance and Evaluation. (202) 254–9778.

SUPPLEMENTARY INFORMATION: The Office published revised 5 CFR Part 297 in the **Federal Register** of November 9, 1979, (44 FR 65031). Those regulations contain, at § 297.304, the title of the system of records and a description of the records to be exempt, where the Office is claiming an exemption under the Privacy Act. When the Office adopted its various Privacy Act systems of records there occurred several changes to the numerical designation of the system notices. Therefore, changes to those numerical designation in the Office's regulations are necessary so that the regulations will be fully consistent with the system notices.

The changes to the regulations have no impact on agencies or the public and are considered, under E.O. 12044, "non-significant" in character and scope. Further, under provisions of 5 U.S.C. 553(d)(3), the Director, Office of Personnel Management, finds good cause exists to waive the 30-day notice requirement in rulemaking. Thus, these changes are effective immediately.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

§ 297.304 [Amended]

Accordingly 5 CFR 297.304(b) is amended as follows:

(1) The introductory text of § 297.304(b)(1) is revised to read as follows:

* * * * *

(b) * * *

(1) Administrative Law Judge Applicant Records (OPM/CENTRAL–6).

* * * * *

(2) The introductory text of § 297.304(b)(2) is revised to read as follows:

* * * * *

(b) * * *

(2) Litigation and Claims Records (OPM/CENTRAL–7).

* * * * *

(3) The introductory text of § 297.304(b)(3) is revised to read as follows:

* * * * *

(b) * * *

(3) Privacy Act/Freedom of Information Case Records (OPM/CENTRAL–8).

* * * * *

(4) The introductory text of § 297.304(b)(4) is revised to read as follows:

* * * * *

(b) * * *

(4) Personnel Investigations Records (OPM/CENTRAL–9).

* * * * *

(5) The introductory text of § 297.304(b)(5) is revised to read as follows:

* * * * *

(b) * * *

(5) Presidential Management Intern Program Records (OPM/CENTRAL–11).

(1) The introductory text of § 297.304(b)(1) is revised to read as follows:

* * * * *

(Sec. 3, Pub. L. 98–579, 88 Stat. 1896 (5 U.S.C. 552a))

[FR Doc. 80-23674 Filed 8-7-80; 8:45 am]
BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 706

Anti-Inflationary Pay and Price Standards; Questions and Answers on Procedures

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and Answers on Procedural Rules.

SUMMARY: The third year of the voluntary pay and price standards is scheduled to begin on October 1, 1980. However, the third program year for some compliance units will begin before that date. To assist these units in planning their operations, the Council is publishing a Question and Answer which allows such compliance units to extrapolate the second-year pay and price standards into their third program year.

In addition, the Council is issuing a Question and Answer advising providers of medical and dental insurance receiving between $100 and $250 million in premiums from such insurance to file a report of inflation trend factors with the Council by September 1, 1980.

DATES: These Questions and Answers are effective August 8, 1980. Written comments may be submitted by September 8, 1980.

ADDRESS: Written comments should be submitted to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Office of Price Monitoring

Energy, Chemicals, and Rubber—Larry Forest: (202) 456–7747.
Health, Insurance, Regulated Industries, and Services—Arthur Corazzini: (202) 456–7730.
Construction and Construction Materials—Joseph Lackey: (202) 456–7156.
Food, Agriculture, and Trade—Stephen Hiemstra: (202) 456–7740.
Metals, Machinery, and Equipment—Eugene Roberts: (202) 456–7784.
Exceptions—Walter Leibowitz/David Wagner: (202) 456–7733.

Office of Pay Monitoring

Lucretia Tanner: (202) 456–7103.

Homer Jack: (202) 456–7180.
Richard Mullins: (202) 456–7180.

Office of General Counsel

Price Matters—Renee Fox or Ed Finklea: (202) 456–6286
Pay Matters—Daniel Duff: (202) 456–6210; Jane Campana: (202) 456–6210

SUPPLEMENTARY INFORMATION: On July 11, 1980, the Council published an *Issues Paper* soliciting comments on the design of the third year of the pay and price standards. (45 FR 47052). The third year of the pay and price standards for most compliance units will begin on or after October 1, 1980. However, the Council is aware that the third program year for some compliance units begins before October 1, 1980. In order to assist these compliance units, the Council is allowing them to assume, for compliance purposes, that the second-year standards will be extrapolated into the third program year. This assumption may be used only by compliance units whose third program year begins before October 1, 1980.

The second Question and Answer clarifies that, consistent with the lowering of the general reporting threshold in § 706.22 to cover companies in the $100 million to $250 million annual sales range (45 FR 18365; March 21, 1980), providers of medical and dental insurance having annual premiums from such insurance in that range should file a report of inflation trend factors with the Council by September 1, 1980. Medical and dental insurance providers having $250 million or more in premiums from such insurance were previously requested to file such reports (45 FR 14840; March 7, 1980).

Issued in Washington, D.C., August 5, 1980.

W. Kip Viscusi,
Deputy Director, Council on Wage and Price Stability.

Accordingly, the Council has adopted the following Questions and Answers, which will be added to 6 CFR Part 706 Section III, as A.4, and B.26 respectively:

III. Procedures

A. General Provisions

Q.4 If a compliance unit's third program year begins before October 1, 1980, what should it assume for purposes of complying with the pay and price standards?

A. Such a compliance unit should extrapolate the second-year pay and price standards into its third program year. If differences between the second-year and third-year standards cause such a compliance unit to be out of compliance, it will be given a reasonable period to bring itself into compliance with the third-year standards. If, however, the unit can demonstrate that a good-faith reliance on the continuation of the second-year standards makes a conforming change unduly burdensome, appropriate adjustments to the applicable limitation may be made.

B. Reports and Notifications

Q.26 Should providers of medical and dental insurance that received $100 million or more but less than $250 million in premiums for such insurance during calendar-year 1979 report their inflation trend factors for the 1980 program year to the Council?

A. Yes. This report should be submitted by September 1, 1980.

[FR Doc. 80-23666 Filed 8-7-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

[Amdt. No. 18]

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This emergency final regulation amends Part 245 to allow Puerto Rico and the Virgin Islands to conduct statistical surveys every three years to establish percentages of students eligible for free and reduced price meals and free milk. These percentages will be applied for a period of three years against the total monthly counts of meals/milk served to determine monthly claims for Special Assistance payments.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–9065. A Final Impact Statement has been prepared and is available on request from the address identified above.

SUPPLEMENTARY INFORMATION:

Administrative Procedures

This emergency final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Robert Greenstein, Administrator, Food and Nutrition Service, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action and because it affects only two State agencies and has been developed as a result of their request. It simply revises and extends the time frame of a present procedure that was previously subjected to public comment. In addition, the new provision of Pub. L. 95–166, "Special Assistance", for which this alteration is a basis is currently an interim regulation printed on June 6, 1979 at 44 FR 33048 upon which public comments have been taken. It is expected that any changes which may occur in the Special Assistance interim regulation resulting from comments will not substantially impact on this regulation. Both provisions are designed to reduce paperwork.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments will continue to be invited until October 6, 1980 and this emergency final action will be scheduled for review.

Interim Regulatory Provision

The National School Lunch Act and the Child Nutrition Act of 1966 provide that children in schools participating in the National School Lunch and School Breakfast Programs shall be served meals free or at a reduced price if their family size and income is at or below levels established annually by the Secretary of Agriculture. In addition to the general financial assistance which USDA provides for all meals served to children, schools receive special Federal financial assistance for each meal served free or at a reduced price to eligible children. 7 CFR Part 245 establishes procedures for determining a child's eligibility for free or reduced price meals. The School Food Authority determines eligibility on the basis of an application executed by the child's family, stating family size and income. The School Food Authority may claim special assistance reimbursement only for meals served to children determined to be eligibile for free or reduced price meals on the basis of the application.

In Puerto Rico and the Virgin Islands, all children in schools under the State agencies' jurisdiction are served meals without charge, and the costs of meals/milk served free to children that would not qualify for such benefits because their family size and income data exceeded the Secretary's Income Guidelines would be borne by funds from sources within the State. Therefore, all children receive free benefits and thus are not directly affected by eligibility determinations.

Eligibility must be established only to determine the amount of special assistance (Section 11) reimbursement to be claimed by the School Food Authority.

In 1976, in response to requests by these two State agencies, the Department proposed that annual statistical surveys, rather than individual applications, be permitted in the Virgin Islands and Puerto Rico to determine the numbers of needy children in these States. The State agency would use the percentage of free, reduced price and non-needy children resulting from this survey rather than meal counts by need category, to withdraw special assistance funds from its Letter of Credit.

The Department received only three public comments on the proposed rule, which was published December 14, 1976 (41 FR 54493). Because no significant opposition was voiced in the comments, the rule was published in final form on April 22, 1977 (42 FR 20810) as Amendment 11 to 7 CFR Part 245.

Subsequently, Section 9 of Pub. L. 95–166, enacted on November 10, 1977, provided that schools serving all meals without charge may, at their option, establish a child's eligibility once every three years rather than once a year as required previously. On the basis of this statutory change, Puerto Rico and the Virgin Islands requested permission to conduct their statistical survey once every three years, rather than once a year.

The Department believes that this procedure agrees with the intent of Pub. L. 95–166 to reduce State, Federal and local paperwork and expense, and provides satisfactory accountability for Federal funds. The annual survey conducted over the last three years in Puerto Rico and the Virgin Islands show only minor variations from year to year in eligibility percentages; the percent of children in the paid category has varied only one to two percent. Therefore, the Department believes that use of a triennial survey would not substantially affect Federal expenditures, will not adversely affect operations, and will have the impact of reducing program paperwork.

Accordingly, § 245.4 is revised to read as follows:

§ 245.4 Exceptions for Puerto Rico and the Virgin Islands.

Because the State agencies of Puerto Rico and the Virgin Islands provide free meals and milk to all children in schools under their jurisdiction, regardless of the economic need of the child's family, they are not required to make individual eligibility determinations or publicly announce eligibility criteria. Instead, such State agencies may use a statistical survey to determine the number of children eligible for free or reduced price meals and milk on which a percentage factor for the withdrawal of special cash assistance funds will be developed subject to the following conditions:

(a) State agencies shall conduct a statistical survey once every three years in accordance with the standards provided by FNS;

(b) State agencies shall submit the survey design to FNS for approval before proceeding with the survey;

(c) State agencies shall conduct the survey and develop the factor for withdrawal between July 1 and December 31 of the first school year of the three year period;

(d) State agencies shall submit the results of the survey and the factor for fund withdrawal to FNS for approval before any reimbursement may be received under that factor;

(e) State agencies shall keep all material relating to the conduct of the survey and determination of the factor for fund withdrawal in accordance with the record retention requirements in § 210.8(e)(14) of this chapter;

(f) Until the results of the triennial statistical survey are available, the factor for fund withdrawal will be based on the most recently established percentages. The Department shall make retroactive adjustments to the States' Letter of Credit, if appropriate, for the year of the survey;

(g) If any school in these States wishes to charge a student for meals, the State agency, School Food Authority and school shall comply with all the applicable provisions of this Part and Parts 210, 215 and 220 of this chapter.

(Catalog of Federal Domestic Assistance Number 10.555)

(Sec. 9, Pub. L. 95–166, 91 Stat 1336 (42 U.S.C. 1759a).

Dated: August 1, 1980.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-23745 Filed 8-7-80; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 264]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 10–16, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 10, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 5, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to

give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.564 Lemon Regulation 264.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 10, 1980, through August 16, 1980, is established at 250,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 6, 1980

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24185 Filed 8-7-80; 1:42 pm]

BILLING CODE 3410-02-M

---

7 CFR Part 926

[Tokay Grape Regulation 16]

Tokay Grapes Grown in San Joaquin County, Calif.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh shipments of Tokay grapes grown in San Joaquin County, California, to meet the specification of the U.S. No. 1 Table Grape grade, and the containers to be marked with the Federal-State lot stamp number. These requirements are necessary to assure shipments of satisfactory quality Tokay grapes in the interest of producers and consumers.

EFFECTIVE DATE: August 14, 1980, through September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Industry Committee, established under the order, and upon other available information. It is hereby found that this regulation will tend to effectuate the declared policy of the act.

The committee estimates that 1980 production of Tokay grapes will be about 119,140 tons, and fresh shipments are estimated at 17,250 tons. The grade and container marking requirements are necessary to prevent the shipment of fresh Tokay grapes of a lesser quality than specified and to provide ample supplies of good quality fruit in the interest of producers and consumers. The requirements are that such grapes meet the grade and size specifications of U.S. No. 1 Tables Grapes and that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. The requirement for more even distribution of color is included to assure the availability to consumers of Tokay grapes of satisfactory quality. Each container of such grapes must bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. Compliance with the container marking requirement will verify inspection, thus assuring compliance with the quality requirements specified herein.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemarking, and postpone the effective date until 30 days after publication thereof in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time. A notice will be published as soon as possible in the Federal Register providing further opportunity for public comment on the regulation and a proposal to extend its effective time for the balance of the shipping season.

Therefore, § 926.317 is added to read as follows: (§ 926.317 expires September 30, 1980, and will not be published in the annual Code of Federal Regulations).

§ 926.317 Tokay Grape Regulation 16.

(a) During the period August 14, 1980, through September 30, 1980, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler," "ship," and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Tokay Grapes (7 CFR 2851.880–912).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: August 5, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23986 Filed 8-7-80; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the county of Orange in Florida to the list of Modified Certified Brucellosis Areas and deletes such county from the list of Certified Brucellosis-Free Areas. It has been determined that this county qualifies only to be designated as a Modified Certified Brucellosis Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area. These amendments also add the county of Hernando in Florida to the list of Modified Certified Brucellosis Areas and delete such county from the list of Noncertified Areas because it has been determined that this county now qualifies as a Modified Certified Brucellosis Area. The effect of this action will provide for less restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the Federal Register (45 FR 44253–44256) effective July 1, 1980. These amendments add the county of Orange in Florida to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from the list of Certified Brucellosis Free Areas in § 78.20, because it has been determined that this county now comes within the definition of a Modified Certified Brucellosis Area contained in § 78.1(m) of the regulations. These amendments add the county of Hernando in Florida to the list of Modified Certified Brucellosis Areas in § 78.21 and delete such county from the list of Noncertified Areas in § 78.22 because it has been determined that such county now qualifies as a Modified Certified Brucellosis Area. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by deleting: *Florida.* Orange.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by adding: *Florida.* Hernando, Orange.

§ 78.22 [Amended]

3. In § 78.22, paragraph (b) is amended by deleting: *Florida.* Hernando.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

The amendment designating areas as Modified Certified Brucellosis Areas imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 31st day of July 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-23634 Filed 8-7-80; 8:45 am]

BILLING CODE 3410-34-M

---

9 CFR Part 92

Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations to permit the entry of horses, except horses from or that have transited countries where African horsesickness exists, into the United States at any port designated by the U.S. Customs Service as an international port or airport when a quarantine facility has been provided by the importer or his agent and has been approved in advance by the Deputy Administrator. This action is taken in response to requests made by importers who prefer to have their horses enter the United States as close to their final destination as possible in order to minimize stress and interruption in training schedules. This action provides procedures whereby horses may enter the United States at additional international ports and airports.

EFFECTIVE DATE: September 8, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782 (301) 436–8170. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

There was published in the Federal Register, on August 4, 1978 (43 FR 34490–34493), a proposal to amend the regulations to permit the entry of horses, except horses from or that have transited countries where African horsesickness exists, into the United States at any port designated by the United States Customs Service as an international port or airport when a quarantine facility has been provided by the importer or his agent and has been approved in advance by the Deputy Administrator.

The document provided a comment period to expire August 19, 1978, which comment period was later extended to expire October 10, 1978, (43 FR 40037 dated September 8, 1978).

A total of 45 comments were received, 23 of which opposed the proposal, 20 were favorable, and 2 did not pertain to the proposal. Of the 20 comments generally in favor of the proposal, 2 suggested that the Department clarify the provision that the owner, importer or shipping agent be responsible for the financial requirements. The Department believes that proposed § 92.11(d)(2) clearly states that the cost of the facility and all maintenance and operation costs of the facility shall be borne by the importer. Therefore, these comments are not being adopted.

One comment suggested that the costs be borne by the Federal Government. As stated in the proposal, the Department does not have the funds to operate or maintain such additional quarantine facilities. Therefore, this comment is not being adopted.

Two comments recommended a user fee for the facility. The proposal required that the cost and all maintenance and operation costs of the facility be borne by the importer. The Department believes that this constitutes adequate protection against added costs to the Department created

by additional quarantine facilities which may be approved pursuant to this final rule and serves the purpose of a user fee. Therefore, these comments are not being adopted.

The remaining favorable comments endorsed the proposal without specific suggestions.

Of the 23 comments opposing the proposal, most contained more than one objection. Sixteen comments opposed the proposal on the grounds that the use of additional quarantine facilities would increase the threat of disease and some of these specifically stated that the release of horses during quarantine for exercise or training or any other reason constitutes an unwarranted risk of the spread of disease.

In light of these comments, the Department is amending the proposal to minimize the threat of the introduction of disease which may result from the use of additional quarantine facilities approved pursuant to this final rule. Specifically, proposed § 92.11(d)(3)(iv)(B)(*1*) and (*2*) would have permitted the temporary release of horses for training or exercise from the approved quarantine facility. Because of the additional risk of the spread of disease caused by the release of horses from the facility, this final rule deletes the provisions in proposed § 92.11(d)(3)(iv)(B)(*1*) and (*2*) which would have permitted such release. It should be noted however, that horses may be exercised inside a quarantine facility. Further, this final rule redesignates the paragraphs in proposed § 92.11(d)(3)(iii) and adds a new paragraph, § 92.11(d)(3)(iii)(B) to require that all feed and bedding used for horses in approved quarantine facilities shall originate from an area not under quarantine because of cattle fever ticks. The areas which are under quarantine for cattle fever ticks are set forth in Title 9, Code of Federal Regulations, sections 72.3 and 72.5. This final rule also requires that the feed and bedding be stored in the approved quarantine facility. The Department believes that these requirements will reduce the risk of spread of disease since cattle fever ticks are the vectors of various diseases. The requirement that the feed and bedding be stored in the facility is necessary to ensure that the feed and bedding does not become infested with such ticks prior to being moved into the approved quarantine facility.

Ten comments opposed the proposal because the additional quarantine facilities would require services from the Department and would constitute a strain on the Department's personnel. The Department agrees with these comments and has amended proposed § 92.11(d)(2) to make approval of any additional quarantine facility or use thereof contingent upon a determination by the Deputy Administrator that adequate personnel are available to provide services required by the facility.

Six comments opposed the proposal because of the cost of equipment which would be required to dispose of reactor animals and animal carcasses. Past experience at import facilities indicates that the percentage of animals that react to tests administered by the Department is very low and there are very few animals that die in animal import facilities. Therefore, equipment for disposal of such animals or animal carcasses will not be needed very often. Further, commercial facilities may be used where they are available.

Six comments opposed the proposal because of the additional costs in transporting horses to their destination prior to their being revealed as affected with disease. Although there may be significant additional costs associated with moving horses to additional quarantine facilities located at their destination, the risk that a horse may be found affected with disease is one that an importer must bear. This final rule does not require that an importer move horses to additional quarantine facilities near destination. Such an importer may use available space at quarantine facilities provided by the Department or at the port of entry. In either case, anyone who presents an animal for entry bears the risk that such animal may be affected with disease and denied entry.

Six comments opposed the proposal because of the difficulties in managing such approved quarantine facilities. These comments indicate that it would be difficult to find personnel trained in quarantine procedures to provide adequate security. The Department has had many years of experience managing import quarantine facilities and concludes that such difficulties are not likely to occur. No special detailed training of such personnel will be required. In this regard, it must be noted that the facility will be under the general supervision of a Veterinary Services veterinarian. The Department has found security to present no problems under this arrangement. These comments also indicated that it would be difficult to ensure that persons in contact with horses inside the facility do not come into contact with horses outside the facility. The Department agrees that this requirement may be difficult to enforce. However, this requirement is necessary to minimize the risk of disease spread.

One comment opposed the proposal because it would be more difficult for the Department to keep records regarding the location of imported horses because of the increased number of quarantine stations. The Department disagrees with this comment and does not anticipate any difficulty in this regard based on its experience.

Two comments opposed the proposal because no procedures were provided for denial of approval. The Department disagrees with these comments. Proposed § 92.11(d)(2) provides circumstances under which the approval of a quarantine facility could be refused or withdrawn by the Deputy Administrator. The proposal also requires that an operator of a facility be informed of the reasons for the withdrawal of approval or refusal to grant approval and the proposal further provides an operator with an opportunity to present his view thereon. If there is a conflict as to a material fact a hearing shall be held to resolve such conflict.

One comment opposed the proposal and indicated a need for State approval of a facility. The Department disagrees with this comment. The Secretary of Agriculture is responsible for regulating the movement of animals into the United States in order to protect the livestock and poultry of the United States from communicable diseases. Therefore, the Department believes it should retain control over the approval of facilities for the importation of horses at other than USDA operated facilities.

The last sentence of the summary of the proposed rule stated, "This action would provide procedures whereby horses may be entered into the United States at additional ports and airports where no facilities or quarantine services are currently provided."

This statement may have been interpreted to mean that the provisions of the proposed rule would apply only in locations where no USDA quarantine services or facilities now exist. This interpretation is incorrect in that the proposal was intended to provide for approval of additional quarantine facilities which meet the requirements for special approval at any location. The sentence has been modified to avoid the possibility of this misunderstanding.

Other changes have been made to clarify the standards required for an approved quarantine facility.

Proposed § 92.11(d)(3)(i) would have required importers or their agents to arrange for inspection and quarantine services with Veterinary Services, Import-Export Staff, 6505 Belcrest Road, Hyattsville, Maryland 20782, no less than 7 days before the date of entry of the horses into the quarantine facility. Because inspection and quarantine services at approved quarantine facilities will be provided by personnel assigned in the various States, § 92.11(d)(3)(i) of this final rule has been amended to provide that inspection and quarantine services shall be arranged by the importer or his agent with the Veterinarian in Charge, Animal and Plant Health Inspection Service, USDA, in the State in which the quarantine facility is located. Additionally, a footnote 7a is added to § 92.11(d)(3)(i) to provide importers or their agents with information on how to obtain the name and address of the Veterinarian in Charge for each State.

Proposed § 92.11(d)(3)(ii)(A) would have required that the quarantine facility be sufficiently isolated to prevent quarantined horses from having direct of indirect contact with other animals. The Department has concluded that the proposed language did not clearly describe this isolation requirement. Therefore, this final rule amends that section to require that the facility be located and constructed to prevent quarantined horses from having physical contact with animals outside the facility.

Proposed § 92.11(d)(ii)(B)(*1*) would have required that the facility be constructed so that it provides protection against adverse environmental conditions and can be cleaned and disinfected in a manner satisfactory to the supervising veterinarian. This final rule deletes the requirement that the facility be constructed to provide protection against adverse environmental conditions. The purpose of this rule is to prevent the spread of disease from imported horses. The proposed requirement that the facility protect against adverse environmental conditions would not further the fulfillment of this purpose. This section is further clarified to require that the facility be constructed only with materials that can withstand repeated cleaning and disinfection in accordance with 9 CFR 71.7 and 71.10. All walls, floors and ceilings must be constructed of solid, impervious material or be screened in accordance with § 92.11(d)(3)(ii)(B)(*2*). The Department believes that this more specific requirement will ensure uniformity of interpretation and application in that it indicates the types of materials to be used in the construction of the facility.

Proposed § 92.11(d)(3)(ii)(B)(*3*) which would have required that the facility have adequate means to feed and water horses while in the quarantine facility is deleted. The Department believes this proposed requirement would not significantly enhance the prevention of the spread of disease. Therefore, it has been deleted.

Proposed § 92.11(d)(3)(iii)(A) would have required that the importer arrange for a supply of water adequate to meet all watering and cleaning needs. The reference to watering needs is deleated since it constitutes a humane handling provision and is not related to prevention of the spread of disease. The remainder of this paragraph is amended to require that an importer arrange for a supply of water adequate to clean and disinfect the facility in accordance with 9 CFR 71.7 and 71.10. This amendment was made to give importers more guidance as to the quantity of water which must be made available.

Proposed § 92.11(d)(3)(iii)(B) would have required that the importer arrange for the disposal of animal carcasses, manure, bedding, waste, and other related materials in a manner approved by the supervising veterinarian. This final rule renumbers this standard as § 92.11(d)(3)(iii)(C) and amends this standard for removal of wastes to require that upon death or destruction of any horse, the importer shall arrange for disposal of the animal carcass by incineration. Disposal of all other waste removed from the facility during the time the horses are in quarantine or from horses which are refused entry into the United States shall be either by incineration or in a public sewer system which meets all applicable environmental quality control standards. Following completion of the quarantine period and the release of the horses into the United States, all waste may be removed from the quarantine facility without further restriction because the horses were found free of communicable disease. The Department believes that this amendment provides a more reasonable requirement and will clarify the arrangements which must be made for disposal of animal carcasses and other waste.

Proposed § 92.11(d)(3)(iii)(C) is renumbered § 92.11(d)(3)(iii)(D) and proposed § 92.11(d)(3)(iii)(D) is renumbered § 92.11(d)(3)(iii)(E).

Additionally, certain amendments have been added to the regulations in 9 CFR Part 92 since the proposed rule was published. This necessitates amendments of certain provisions of the proposal.

Section 92.3(a) which, among other things, lists ports through which animals may be entered has been revised. This final rule therefore amends the proposed § 92.3(a) to use the language presently in that section.

When the proposal was published, § 92.3 contained paragraphs (a)–(f). Presently, § 92.3 contains paragraphs (a)–(g). In the proposal, paragraph (f) would have been redesignated paragraph (g) and a new paragraph (f) would have been added. In this final rule, paragraph (g) is redesignated as paragraph (h) and the added paragraph is designated as paragraph (g) rather than (f). Section 92.3(g) refers to countries where African horsesickness is declared to exist. This final rule adds a new footnote 4a after such reference to inform the reader that lists of such countries may be obtained from the Deputy Administrator, Veterinary Services.

Accordingly, Part 92, Title 9, Code of Federal Regulations is amended in the following respects:

1. In § 92.3, paragraph (a) up to the colon is amended to read:

§ 92.3 Ports designated for the importation of animals.

(a) *Air and ocean ports.* The following ports are hereby designated as having inspection and quarantine facilities necessary for quarantine stations and all animals shall be entered through said stations, except as provided in paragraphs (b), (c), (d), (e), and (g) of this section and paragraph (d) of § 92.11 or § 92.24: * * *

* * * * *

2. In § 92.3, paragraph (g) is redesignated paragraph (h) and a new paragraph (g) and a reference to footnote 4a are added to read:

(g) *Additional ports for horses.* In addition to other ports designated for the importation of animals in this section, horses from any part of the world, except horses from or which have transited any country in which African horsesickness is declared to exist,[4a] may be entered into the United States at any port designated as an international port or airport by the U.S. Customs Service provided that applicable provisions of §§ 92.8(a), 92.11(d), 92.17, and 92.2(i) are met.

3. A new footnote 4a referenced in § 92.3(g) is added to read:

[4a] Information as to the countries where African horsesickness is declared to exist may be obtained from the Deputy Administrator, Veterinary Services.

4. In § 92.11(d), the subparagraph following the title is designated subparagraph (1), and new subparagraphs (2) and (3) and a reference to footnote 7a are added to read:

§ 92.11 Quarantine requirements.

* * * * *

(d) *Horses.* (1) * * *

(2) *Special provisions.* Horses presented for entry into the United

States at any additional port for horses as provided in § 92.3(g) of this part shall be quarantined in facilities provided by the importer and approved by the Deputy Administrator, Veterinary Services. Requests for approval and plans for proposed facilities shall be submitted no less than 15 days before the proposed date of entry of horses into the quarantine facility to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782. Before the facility is approved, an inspection of the facility shall be made by a Veterinary Medical Officer of Veterinary Services, to determine whether it complies with the standards set forth in paragraph (d)(3) of this section: *Provided, However,* that approval of any quarantine facility and use of such facility shall be contingent upon a determination made by the Deputy Administrator that adequate personnel are available to provide services required by the facility. Approval of any facility may be refused and approval of any approved quarantine facility may be withdrawn at any time by the Deputy Administrator, Veterinary Services, upon his determination that any requirement of this section is not being met. Before such action is taken, the operator of the facility shall be informed of the reasons for the proposed action by the Deputy Administrator and afforded an opportunity to present his views thereon. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. The cost of the facility and all maintenance and operation costs of such facility shall be borne by the importer.

(3) *Standards and handling procedures for approved quarantine facilities at additional ports for horses.* To qualify for designation as an approved quarantine facility at an additional port for horses, the facility shall be maintained and operated in accordance with the following standards:

(i) *Supervision of the facility.* The facility shall be under the general supervision of a Veterinary Services veterinarian. Inspection and quarantine services shall be arranged by the importer of his agent with the Veterinarian in Charge, Veterinary Services, APHIS, USDA, for the State in which the approved facility is located [2a], no less than 7 days before the proposed date of entry of the horses into the quarantine facility.

(ii) *Physical requirements for facility.*—(A) *Location.* The facility shall be located and constructed to prevent horses from having physical contact with animals outside the facility.

(B) *Construction.*

(*1*) The facility shall be constructed only with materials that can withstand repeated cleaning and disinfection in accordance with §§ 71.7 and 71.10 of Subchapter C of this Title. (All walls, floors and ceilings shall be constructed of solid impervious material or be screened as provided in paragraph (d)(3)(ii)(B)(*2*) of this section.)

(*2*) Doors, windows, and other openings of the facility shall be provided with double screens which will prevent insects from entering the facility.

(iii) *Sanitation and security.*

(A) The importer shall arrange for a supply of water adequate to clean and disinfect the facility in accordance with §§ 71.7 and 71.10 of Subchapter C of this Title.

(B) All feed and bedding used for horses in approved quarantine facilities shall originate from an area not under quarantine because of cattle fever ticks (see §§ 72.3 and 72.5 of Subchapter C of this Title) and shall be stored within the facility.

(C) Upon the death or destruction of any horse, the importer shall arrange for the disposal of the animal carcass by incineration. Disposal of all other waste removed from the facility during the time horses are in quarantine or from horses which are refused entry into the United States shall be either by incineration or in a public sewer system which meets all applicable environmental quality control standards. Following completion of the quarantine period and the release of the horses into the United States all waste may be removed from the quarantine facility without further restriction.

(D) The facility shall be maintained and operated in accordance with any additional requirements the Deputy Administrator, Veterinary Services, deems appropriate to prevent the dissemination of any communicable disease.

(E) The facility shall comply with all applicable local, State and Federal requirements for environmental quality.

(iv) *Operational procedures.*—(A) *Personnel.* (*1*) Access to the facility shall be granted only to persons working at the facility or to persons specifically granted such access by the supervising Veterinary Services veterinarian. (*2*) The importer shall provide attendants for the care and feeding of horses while in the quarantine facility. (*3*) Persons working in the quarantine facility shall not come in contact with any horses outside the quarantine facility during the quarantine period for any horses in such quarantine facility.

(B) *Handling of horses in quarantine.* Horses offered for importation into the United States which are quarantined in an approved quarantine facility at an additional port for horses shall be handled in accordance with the provisions § 92.11(d)(1) while in quarantine.

5. A new footnote 7a referenced in § 92.11(d)(3)(i) is added to read:

[2a] The name and address of the Veterinarian in Charge of any State are available from the Deputy Administrator, Veterinary Services, APHIS, USDA, 6505 Belcrest Road, Hyattsville, Maryland 20782.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 3, and 4, 76 Stat. 130, and sec. 11, 76 Stat. 132 (21 U.S.C. 111, 134a, 134b, 134c, and 134f, respectively) 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 6th day August 1980.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-24002 Filed 8-6-80; 9:46 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9073]

Ford Motor Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has issued a modifying order changing some of the order provisions in an order to cease and desist issued against a Detroit, Mich. manufacturer of motor vehicles March 29, 1979, 93 F.T.C. 402, 44 FR 25630. In an effort to ensure evenhandedness in requirements in similar cases issued against competitors, the Commission is modifying the order provisions to meet those in a provisionally accepted order against General Motors Corporation. The Commission has eliminated the references to the State of Louisiana in paragraphs I.J and II.F; redefined the meaning of "allowable expenses" in paragraph I.L; and removed the requirement that respondent submit summary reports of certain required audits to the agency. The order now requires simply the preparation and maintenance of such audit summary reports.

DATES: Decision issued March 29, 1979. Modifying order issued July 3, 1980.*

FOR FURTHER INFORMATION CONTACT: Bruce D. Carter, Seattle Regional Office, 10R, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: In the Matter of Ford Motor Company, Ford Motor Credit Company, and Francis Ford, Inc., corporations. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, appearing at 44 FR 25630, remain unchanged.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The Order Reopening and Modifying Consent Order, including further order requiring report of compliance therewith, is as follows:

Order Reopening and Modifying Consent Order

On March 29, 1979, the Commission issued a Decision and Order against respondents Ford Motor Company and Ford Motor Credit Company,[1] in connection with the extension and enforcement of motor vehicle retail credit obligations and the disposition of repossessed motor vehicles. There is now before the Commission a Request by the Ford respondents (filed May 30, 1980, and amended June 10, 1980) for reopening and modification of that Order pursuant to § 2.51 of the Commission's rules of practice, 16 CFR 2.51.

The Order required Ford to establish and provide to all dealers, as part of the Ford Manual of Dealer Accounting Procedure (binding on all Ford dealers), a system for determining repossession surpluses and for accounting for such surpluses and for any deficiencies sought on repossessed vehicles. It required also that Ford conduct a series of field audits to verify whether its dealers are in fact adhering to that system.

Order Paragraph I.J defines "disposition" of a repossessed vehicle to include its sale or lease, but not transactions subsequent to judicial sales in Louisiana.[2] In accordance with the latter aspect, Paragraph II.F limits the coverage of the repossession accounting system as follows:

F. The accounting system shall not apply to sales of repossessed vehicles subsequent to judicial sales in Louisiana.

The Order further provides, in Paragraph I.L, that the following expenses, among others, may be deducted as "allowable" in dealers' determination of surpluses and of deficiencies upon which collection is attempted:

* * * * *

7. sales commissions paid for actual participation in the sale of the particular vehicle, computed at a rate no higher than for a similar, nonrepossessed vehicle and excluding portions of commissions attributable to the selling of service contracts, separately priced warranties, financing or insurance;

* * * * *

10. expenses for telephone calls and postage incurred in arranging for the repossession, holding, transportation, reconditioning and resale of the vehicle.

As to the Ford-conducted audits, Paragraph IV.H requires that "[w]ithin sixty days after completion of each audit of a dealership * * * Ford shall:

1. Submit to the Federal Trade Commission a summary report of the audit for that dealership, containing * * * (seven specified categories of information and/or documentation)."

The current Ford Request relies on various manifestations of Commission policy in favor of even-handed treatment of similarly situated business entities. As amended, the Request asks that Paragraphs I.J, II.F, I.L and IV.H.1 of the March 1979 Order be modified to "conform" in certain respects to a consent order agreement with General Motors Corporation, et al., accepted subject to public comment on March 5, 1980 (Docket 9074, 45 FR 14870, March 7, 1980). Specifically, Ford seeks elimination of the "in Louisiana" limitation from Paragraphs I.J and II.F; clarification that expenses incident to any proper disposition (i.e., a sale *or* lease, rather than just a sale) may be deducted as "allowable" in determining the amount of any surplus or deficiency; and provision that these expenses may include costs of certain fringe benefits incurred in connection with payment of sales commissions, certain other necessary photocopying and communication expenses, and amounts paid specifically to insure the repossessed vehicle while in the dealer's possession.

Because the audit process incorporated in the *General Motors* consent order requires preparation and maintenance of a summary report of each dealership audit (*GM* ¶¶ IV.A.3 and IV.B) but not their automatic submittal to the Commission, Ford asks that Paragraph IV.H.1 be modified to require only preparation and not routine submission (to the Commission) of its individual dealership audit reports. Ford notes that such reports would still be available for review by Commission representatives upon request, under the general-recordkeeping provision of the Order (paragraph VIII.A). In addition, Ford undertakes to submit two statistical reports to the Commission during the conduct of each sample audit, to provide Commission staff with interim overviews while the audit process is still ongoing.

The Commission's staff concurs in all of the modifications proposed in Ford's Request, as amended.[3] However, with the exception of the changes to Paragraph I.L the staff does not agree with Ford's contention that the modifications are within the scope of Paragraph VII.B (which confers upon Ford a right to have any provision conformed, as necessary and appropriate, to a corresponding provision of any final order in Docket Nos. 9072-74 which prescribes a less restrictive standard on certain enumerated subjects). Because the Commission has decided to grant all aspects of Ford's amended Request,[4] as an exercise of sound discretion—in the interest of prompt evenhandedness rather than contingent on finality of the *General Motors* order—it is unnecessary to make a determination as to whether the requested modifications of Paragraphs I.J, II.F and IV.H.1 fall within the scope and operation of Paragraph VII.B.

Therefore, the Commission being of the opinion that the public interest will

* Copies of the Order Reopening and Modifying Consent Order filed with the original document.

[1] 93 F.T.C. 402. The Order was modified on February 16, 1980, at the behest of the Ford respondents and without objection by the Commission's staff, in a single subparagraph unaffected by the Request discussed herein.

[2] The full text of Paragraph I.J is as follows: J. "Disposition" or "dispose" refers to a dealership's sale or lease of a repossessed vehicle previously sold by that dealership and returned to it by or for a financing institution pursuant to a repurchase agreement. Such sale or lease includes only transactions with an independent third party; *i.e.*, it does not include a sale or lease to the financing institution, the dealership or their representatives, or to a person or firm liable under a guaranty, endorsement, or repurchase agreement covering the repossessed vehicle. Disposition or dispose shall not refer to the repurchase of a repossessed vehicle by a dealership pursuant to a repurchase agreement, or refer to a sale subsequent to a judicial sale in Louisiana.

[3] The Commission notes that no comments were filed on these aspects of the *General Motors* consent order during its sixty days on the public record, and that none have been filed on Ford's Request.

[4] In implementation of its proposed modifications to Paragraph I.L, Ford has sumitted detailed revisions of certain portions of its Manual of Dealer Accounting Procedure. Pending staff review of these materials, the Commission expresses no view at this time as to their compliance with the modified provisions.

be served by modifying the Order as requested, at this time,

It is ordered, That Docket 9073 be, and it hereby is, reopened for the limited purpose of effecting the following changes.

It is further ordered, That Paragraphs I.J and II.F of the Order be modified by eliminating references to Louisiana, so that the last sentence of Paragraph I.J will read:

Disposition or dispose shall not refer to the repurchase of a repossessed vehicle by a dealership pursuant to a repurchase agreement, or refer to a sale subsequent to a judicial sale.

and Paragraph II.F will read:

F. The accounting system shall not apply to sales of repossessed vehicles subsequent to judicial sales.

It is further ordered, That paragraph I.L of the Order be modified in its preamble and in certain indicated subparagraphs, and by addition of a new subparagraph 11, to read as follows:

L. "Allowable expenses" means only actual out-of-pocket expenses incurred as the result of a repossession. The expenses must be reasonable and directly resulting from the repossessing, holding, preparing for disposition and disposing of the vehicle, and not otherwise reimbursed to the dealership. They are limited to the following charges (if allowable under applicable state law):

* * * * *

5. Labor and associated parts and supplies furnished by the dealership for the repair, reconditioning or maintenance of the vehicle in preparation for disposition, computed at dealer cost (as defined in the Initial Compliance Report) with appropriate adjustments for any insurance or warranty recovery;

6. Amounts paid to others for labor and associated parts and supplies purchased for the repair, reconditioning or maintenance of the vehicle in preparation for disposition;

7. Cost of sales commissions paid for actual participation in the disposition of the particular vehicle, computed at a rate no higher than for the sale or lease, as applicable, of a similar, nonrepossessed vehicle in similar circumstances, but excluding portions of commissions attributable to the selling of service contracts, separately priced warranties, financing, or insurance;

* * * * *

10. Expenses paid to others for communication (including telephone calls, postage, and military locator fees) and photocopying necessary in arranging for the repossession, holding, transportation, reconditioning, or disposition of the vehicle; and

11. Amounts paid to insure the particular vehicle while holding it.

It is further ordered, That Paragraph IV.H.1 of the Order be modified to eliminate the following language:

1. Submit to the Federal Trade Commission a summary report of the audit for that dealership, containing * * *

and substitute therefor the following:

1. Prepare a summary report of the audit for that dealership, containing * * *

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-24011 Filed 8-7-80; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[Docket No. C-2586]

C. Itoh & Co. (America), Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has issued an order modifying a previous order to cease-and-desist issued October 22, 1974 against a New York City importer and distributor of fabrics (84 F.T.C. 1187, 40 FR 6482). The Commission has modified the order by limiting the bond provision to recycled wool products only. The order previously required posting of a bond on all wool products imported.

DATES: Decision issued October 22, 1974. Modifying order issued July 7, 1980.*

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. (202) 523-3727.

SUPPLEMENTARY INFORMATION: In the Matter of C. Itoh & Co. (America), Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, appearing at 40 FR 6482, remain unchanged.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2-5, 54 Stat. 1128-1130; (15 U.S.C. 45, 68))

The Order Modifying Cease and Desist Order is as follows:

Order Modifying Cease and Desist Order

In its request filed on April 30, 1980, the respondent petitioned the Commission, pursuant to § 2.51 of its rules of practice, to reopen the proceedings and modify the order of October 22, 1974, entered in Docket Number C-2586. Respondent asks that the second *"it is further ordered"* paragraph be deleted from the order. The paragraph in question reads as follows:

It is further ordered, That respondent, C. Itoh & Co. (America), Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from importing or participating in the importation of wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939.

In support of its request, the respondent has advanced a number of considerations intended to show changed conditions of fact since the order was issued and to show that the public interest will best be served by granting its request. It states that it has ensured that its imported wool products are correctly labeled by investigating the reputations of its overseas suppliers and purchasing only from those with an established record of exercising proper care and diligence in determining the fiber content of their merchandise and labeling it properly. As the result of its self-policing, it states that there have been no complaints with regard to the labeling of any of its importations of wool products in the five and one-half years that the order has been in effect. The respondent advised Commission staff, by letter dated May 5, 1980, that it is no longer importing the reprocessed or reused wool products which gave rise to the complaint and is now importing wool and wool blend products.[1] It states further, that due to the high costs of the premiums charged by sureties on the bond, it can no longer hope to profitably continue to sell wool products. It cites as a competitive disadvantage the fact that many of its competitors are not subject to the bonding requirement and that bonds have not appeared in recent Commission orders under the Wool Products Labeling Act of 1939.

By letter dated May 28, 1980, the respondent advised staff that it will agree to a modification of the order to limit the bonding requirement to the wool products that gave rise to the complaint, recycled wool products. If the respondent resumes importing such products, the bond will be applicable. It will not, however, be required to continue to bear the financial burden of paying premiums to sureties on the wool and wool blend products that it is now importing.

Having considered the request, the Commission has concluded that the order should be modified to limit the bond provision to recycled wool products and that the modification will safeguard the public interest. Therefore,

It is ordered, That the second *"it is further ordered"* paragraph of the order, set forth above, be replaced by the following new paragraph:

It is further ordered, That respondent, C. Itoh & Co. (America), Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from importing or participating in the importation of recycled wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said recycled wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939.

It is further ordered, That the foregoing modification shall become effective upon service of this order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-24010 Filed 8-7-80; 8:45 am]

BILLING CODE 6750-01-M

* Copies of the Order Modifying Cease and Desist Order filed with the original document.

[1] The Wool Products Labeling Act of 1939 has been amended to substitute the word "recycled" for the words "reprocessed" and "reused" (Pub. Law 96-242, 94 Stat. 344, May 5, 1980, eff. July 4, 1980).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79-54; Order No. 70-B]

Small Power Production and Cogeneration Facilities—Qualifying Status; Order Granting in Part and Denying in Part Rehearing of Order No. 70 and Amending Regulations

August 4, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting in Part and Denying in Part Rehearing of Order No. 70 and Amending Regulations.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby adopts an order granting in part and denying in part rehearing of Order No. 70 and amending regulations. The Order amends two sections of the Commission's rules involving small power production. The order includes a new definition of "electric utility holding company," and amends §§ 292.206 and 292.207 by deleting the word "public" and inserting in lieu thereof the word "electric."

EFFECTIVE DATE: August 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Adam Wenner, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8371, or

Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8364.

On April 14, 1980, Elizabethtown Gas Company (Elizabethtown) and Southern California Gas Company (SCGC) applied for rehearing and clarification of Order No. 70, issued by the Federal Energy Regulatory Commission (Commission) on March 13, 1980.[1] Order No. 70 prescribes rules pursuant to section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) under which small power production and cogeneration facilities can obtain "qualifying" status, and thus become eligible for the rates and exemptions set forth in the Commission's rules implementing section 210 of PURPA.[2]

Elizabethtown and SCGC contend that § 292.206(b) of the Commission's rules erroneously exclude from qualifying status facilities owned by gas public utility holding companies, despite the fact that they are not engaged in the generation or sale of electricity. Elizabethtown stated that PURPA does not prohibit a gas distribution utility from owning a qualifying facility.

Sections 17(C)(ii) and 18(B)(ii) of the Federal Power Act as amended by PURPA require the Commission to limit qualifying status to facilities "owned by persons not primarily engaged in the generation or sale of electric power." Section 292.206(b) of the Commission's rules prohibits public utility holding companies from owning more than 50 percent of the equity interest of a qualifying facility.

On May 15, 1980 the Commission issued an "Order Granting in Part and Denying in Part Rehearing of Order Nos. 69 and 70, and Amending Regulations."[3] The Commission stated in that order that it did not intend to prohibit companies without any electric utility interests from owning qualifying facilities, but believed it appropriate to consult with the Securities and Exchange Commission (SEC) before changing Order No. 70 in this respect.

The Commission's Office of the General Counsel has consulted with the SEC's Division of Corporate Regulation. That Division stated that permitting gas holding companies to own qualifying facilities would be consistent with the SEC's regulation of holding companies.[4] Accordingly, the Commission will amend its rules to permit gas utility holding companies to own qualifying facilities. This change is accomplished by substituting the words "electric utility holding company" for the words "public utility holding company" in §§ 292.206(b) and 292.207(b)(2)(v) of the Commission's rules, and adding a definition of "electric utility holding company" to § 292.202. An electric utility holding company is defined as any holding company which owns one or more electric utilities, as those terms are defined in the Public Utility Holding Company Act of 1935.

The Commission recognizes that certain companies which are not "primarily engaged in the generation or sale of electric power" may nevertheless be classified as "electric utilities" or "electric utility holding companies." The result of such classification is to prevent cogeneration or small power production facilities of which such companies own more than 50 percent of the equity from being qualifying facilities. Included in this category are companies which derive most of their income from non-utility operations, but which, as a result of selling some electric energy, are classified as "electric utilities" under section 3(22) of the Federal Power Act; and public utility holding companies which are exempt by rule or order issued by the Securities and Exchange Commission pursuant to sections 3(a)(3), 3(a)(4), and 3(a)(5) of the Public Utility Holding Company Act of 1935.

The Commission intends to exercise its authority to amend its rules so as to permit, in appropriate circumstances, ownership of qualifying facilities by some or all of these types of companies. Until it completes its analysis of the issues involved in making those changes, the Commission believes it

[1] 45 FR 17959 (March 20, 1980).

[2] Order No. 69, 45 FR 12214 (February 25, 1980).

[3] 45 FR 33958 (May 21, 1980).

[4] Letter of June 6, 1980, from Aaron Levy, Director, Division of Corporate Regulation, SEC, in response to letter of May 14, 1980, from Robert Nordhaus, General Counsel, FERC.

---

circumstances, a U.S. industry would no effective in the National Academy of codification of previously approved

appropriate to amend its rules so as to permit ownership of a qualifying facility by public utility holding companies, such as Elizabethtown and SCGC, which have no electric utility company subsidiaries.

On June 13, the American Paper Institute, Inc. (API) filed a Petition for Rehearing or Modification of the Commission's May 15, 1980, Rehearing order. The petition noted that the Order on Rehearing amended Order No. 70 by amending § 292.204. That section required that the primary energy source of a qualifying small power production facility be biomass, waste, renewable resources, or any combination thereof, and that more than 50 percent of the total energy input must be from these energy sources. Section 292.204(b)(2) limits the use of oil, natural gas and coal to 25 percent of the total energy input of a qualifying facility during any calendar year period.

In the rehearing order, the Commission stated that it was aware of virtually no eligible fuels which are neither oil, natural gas, nor coal, and yet are not biomass, waste or renewable resources. As a result, the Commission changed the requirement that 50 percent of a facility's energy input be from biomass, waste, or renewable resources to 75 percent.

In its petition, API states that use of the 50 percent figure was intended to permit the use of "synfuel, low Btu gas or similar types of emerging energy resources."

The Commission has reviewed the statutory and policy bases involved in this issue, and has determined that it is appropriate to retain the 75 percent requirement adopted in the rehearing order of May 15, 1980.

"Primary energy source" is defined in section 201 of PURPA as fuel or fuels used for the generation of electric energy. The term does not include fuel used for startup, testing, flame stabilization, and control uses, or fuel used during forced outages or emergencies.

The statutory intent is to divide fuel use by small power production facilities into two categories—(1) fuel used as an acceptable primary energy source, and (2) all other fuel. The Statement of Managers indicates a recognition that the second category involves the use of "oil or natural gas *or other nonrenewable fuel*, in combination with eligible primary energy sources." (emphasis supplied) It reflects an intent to include all nonrenewable fuels in the same category as oil and natural gas.[3]

The Commission notes that neither synthetic fuel nor low Btu gas is a renewable fuel. Low Btu gas is not a waste product; it is produced from the incomplete combustion of coal for use as boiler fuel. These fuels are properly included within the 25 percent oil, natural gas and nonrenewable fuels limit set forth in § 292.204(b)(2). Accordingly, the Commission does not accept the contentions of API, and denies the petition.

The Commission notes that on May 19, 1980, Elizabethtown filed a Petition for Review of Order No. 70 and of the Commission's Order on Rehearing of Orders Nos. 69 and 70 in the United States Court of Appeals for the District of Columbia Circuit. On June 30, 1980, the Commission filed with the court the Certificate of Record in Lieu of Record. Under section 313(b) of the Federal Power Act that Court has exclusive jurisdiction to modify those orders. Accordingly, this order is issued subject to the Court's permission.

The Commission orders that: (A) The applications for rehearing and clarification of Order No. 70 filed by Elizabethtown Gas Company and Southern California Gas Company are granted with respect to § 292.206 of the Commission's rules.

(B) Sections 292.202, 292.206(b) and 292.207(b) are amended as set forth below effective August 4, 1980.

(C) The Petition for Rehearing or Modification filed by the American Paper Institute, Inc., on June 13, 1980, is denied.

(Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 *et. seq.;* Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et. seq.;* Federal Power Act, as amended, 16 U.S.C. 792 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101 *et. seq.;* E. O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission amends Part 292 of Chapter I, Title 18, Code of Federal Regulations, as set forth below, effective August 4, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 292.202 is amended by adding a new paragraph (n) to read as follows:

§ 292.202 Definitions.

* * * * *

(n) "Electric utility holding company" means a holding company as defined in section 2(a)(7) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(7) which owns one or more electric utility companies, as defined in section 2(a)(3) of that Act, 15 U.S.C. 79b(a)(3).

§§ 292.206 and 292.207 [Amended]

2. Section 292.206 is amended in paragraph (b), and § 292.207 is amended in paragraph (b)(2)(v), by deleting the word "public" and inserting in lieu thereof the word "electric."

[FR Doc. 80-24105 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[3] Conference Report on H.R. 4018, Public Utility Regulatory Policies Act of 1978, H. Rep. No. 1750, 89, 95th Cong., 2nd Sess. [1978].

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

Electric Golf Cars From Poland Revocation of Dumping Findings; Antidumping Duties

AGENCY: U.S. Department of Commerce.

ACTION: Revocation of Dumping Finding.

SUMMARY: This notice is to inform the public that the U.S. International Trade Commission published in the Federal Register of June 11, 1980 their determination that, due to changed circumstances, an industry in the United States would not be threatened with material injury if the dumping finding concerning electric golf cars from Poland were revoked. As a result, the Department of Commerce is revoking the finding of dumping applicable to electric golf cars from Poland.

The table in Section 353, Annex I of the Commerce Regulations is amended to reflect this revocation.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. William D. Kane, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4273.

SUPPLEMENTARY INFORMATION: On November 18, 1975, a finding of dumping with respect to electric golf cars from Poland was published in the Federal Register (40 Fed. Reg. 53383). On August 6, 1979, the exclusive importer, Melex, USA, petitioned the United States International Trade Commission to investigate whether their injury determination in that case was still valid in light of changed circumstances. Pursuant to Section 751(b) of the Tariff Act of 1930 (the Act), the Commission conducted a review of their determination of injury, and, on May 20, 1980, determined that, due to changed circumstances, a U.S. industry would no longer be threatened with material injury if the finding of dumping regarding electric golf cars from Poland were revoked. The Commission published their determination in the Federal Register on June 11, 1980 (45 Fed. Reg. 39581). Therefore, the Department of Commerce, as administering authority, revokes the antidumping duty finding with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after June 11, 1980. The Department will instruct Customs offices to proceed with liquidation of all such entries of the subject merchandise without regard to antidumping duties. Unappraised entries of electric golf cars from Poland, made prior to June 11, 1980, remain unaffected by this notice, and continue to be subject to appraisement under the antidumping duty finding.

PART 353, ANNEX I [Amended]

Part 353, Annex I, Commerce Regulations (19 C.F.R. 353, Annex I), is amended by deleting from the column headed "Merchandise" the words "Electric Golf Cars", from the column headed "Country" the word "Poland", and from the column headed "T.D." reference to Treasury Decision "75–288".

This revocation is in accordance with section 751(c) of the Act.

(93 Stat. 176, 19 U.S.C. 1675(c))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

August 5, 1980.

[FR Doc. 80-24046 Filed 8-7-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Piperazine-Carbon Disulfide Complex Boluses and Suspension and Piperazine-Carbon Disulfide Complex With Phenothiazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify two previously approved new animal drug applications (NADA's). The NADA's, sponsored by the Upjohn Co., provide for use of an anthelmintic drug in treating horses and ponies. Codification of the previously approved NADA's reflects the conditions of use deemed effective in the National Academy of Sciences/National Research Council (NAS/NRC) evaluation. In addition, the regulations are amended to reflect the approval of a supplemental NADA providing revised directions for use for a similar product.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, is sponsor of a NADA for a bolus (11–590) and a suspension (11–299), containing piperazine-carbon disulfide complex, and a suspension (33–149) containing piperazine-carbon disulfide complex with phenothiazine. The applications were originally approved October 6, 1958, January 22, 1958, and January 13, 1966, respectively.

NADA's 11–299 and 11–590 were subject of an NAS/NRC review published in the Federal Register of December 11, 1968 (33 FR 18408). The NAS/NRC review concluded, and the agency concurred, that piperazine-carbon disulfide complex is an effective anthelmintic, but that more information was needed to provide evidence that the bolus disintegrates readily in the animal's stomach. The NAS/NRC notice required submission of supplemental NADA's revising the labeling by limiting claims and presenting conditions of use substantially as published in the notice.

The Upjohn Co. responded by submitting supplemental NADA's that revised the products' labeling and provided the requested disintegration information. The supplements were approved on May 28, 1970 (bolus) and October 23, 1969 (suspension) bringing the applications into compliance with the NAS/NRC review. At that time, the approved conditions of use of the products were not codified. This document amends the regulations to codify the previously approved conditions of use. The conditions are indicated by footnote in the regulation. Approval of NADA's for similar products bearing the same conditions of use does not require effectiveness data as specified by § 514.1(b)(8) (ii) and (iii) or § 514.111(a)(5)(ii)(*a*)(*4*) of the animal drug regulations (21 CFR 514.1(b)(8) (ii) and (iii) or 514.111(a)(5)(ii)(*a*)(*4*)). Approval of NADA's for similar products may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs, available in the office of the Hearing Clerk (HFA–305), FDA. This action, codification of previously approved NADA's 11–299 and 11–590, does not require reevaluation of the safety or effectiveness data in the parent evaluation.

Amending the regulations to reflect approval of supplemental NADA 33–149 providing revised directions for use (that is, deletion of pinworm claim and use of 1 percent acidic rinse solution) requires a summary of safety and effectiveness data and information concerning this change. Under the Bureau's supplemental approval policy (December 23, 1977; 42 FR 64367), approval of this action does not require reevaluation of the safety and effectiveness data in the parent application. In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2) (21 CFR 514.11(e)(2)), a summary of safety and effectiveness data and information submitted to support approval of supplemental NADA 33–149 may be seen in the office of the Hearing Clerk (HFA–305), Rm. 4–62, FDA, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating existing § 520.1802 as § 520.1802c and revising it, and by adding new §§ 520.1802, 520.1802a, and 520.1802b, to read as follows:

§ 520.1802 Piperazine-carbon disulfide complex oral dosage forms.

§ 520.1802a Piperazine-carbon disulfide complex suspension.

(a) *Specifications.* Each fluid ounce of suspension contains 7.5 grams of piperazine-carbon disulfide complex. The piperazine-carbon disulfide complex contains equimolar parts of piperazine and carbon disulfide (1 gram contains 530 mgs of piperazine and 470 mgs of carbon disulfide).

(b) *Sponsor.* See 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use. Horses and ponies*—(1) *Amount.* One fluid ounce per 100 pounds of body weight.[1]

(2) *Indications for use.* For removing ascarids (large roundworms, *Parascaris equorum*), bots (*Gastrophilus* spp.), small strongyles, large strongyles

[1] These conditions are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

disulfide complex and 0.93 gram of

regulations under Code sections 4973

(*Strongyles* spp.), and pinworms (*Oxyuris equi*).[1]

(3) *Limitations.* Administer by stomach tube or dose syringe after withholding feed overnight or for 8 to 10 hours. Provide water as usual. Resume regular feeding 4 to 6 hours after treatment. Treatment of debilitated or anemic animals is contraindicated. Do not administer to animals that are or were recently affected with colic, diarrhea, or infected with a serious infectious disease. As with most anthelmintics, drastic cathartics and other gastrointestinal irritants should not be administered in conjunction with this drug. Animals in poor condition or heavily parasitized should be given one half the recommended dose and treated again in 2 or 3 weeks. Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

§ 520.1802b Piperazine-carbon disulfide complex boluses.

(a) *Specifications.* Each bolus contains 20 grams of piperazine-carbon disulfide complex.

(b) *Sponsor.* See 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use. Horses and ponies*—(1) *Amount.* For removal of ascarids and small strongyles, 1 bolus (20 grams) per 500 pounds body weight; removal of large strongyles, pinworms, and bots, 1 bolus per 250 pounds body weight.[1]

(2) *Indications for use.* For removing ascarids (large roundworms, *Parascaris equorum*), large strongyles (*Strongylus* spp.) bots (*Gastrophilus* spp.), small strongyles, and pinworms (*Oxyuris equi*).[1]

(3) *Limitations.* Withhold feed overnight or for 8 to 10 hours. Give water just before and/or after treatment. Resume regular feeding 4 to 6 hours after treatment. Treatment of debilitated or anemic animals is contraindicated. Do not administer to animals that are or were recently affected with colic, diarrhea, or infected with a serious infectious disease. As with most anthelmintics, drastic cathartics or other gastrointestinal irritants should not be administered in conjunction with this drug. Animals in poor condition or heavily parasitized should be given one half the recommended dose and treated again in 2 or 3 weeks. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.[1]

§ 520.1802c Piperazine-carbon disulfide complex with phenothiazine suspension.

(a) *Specifications.* Each fluid ounce contains 5 grams of piperazine-carbon disulfide complex and 0.83 gram of phenothiazine.

(b) *Sponsor.* See 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use. Horses and ponies*—(1) *Amount.* One fluid ounce per 100 pounds of body weight.

(2) *Indications for use.* For removing ascarids (large roundworms, *Parascaris equorum*), bots (*Gastrophilus* spp.), small strongyles, and large strongyles (*Strongylus* spp.).

(3) *Limitations.* See § 520.1802a(c)(3).

Effective date. August 8, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 30, 1980.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-23628 Filed 8-7-80; 8:45 am]

BILLING CODE 4110-83-M

[1] See footnote, p. 52781.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[T.D. 7714; EE-18-78]

Income Tax; Individual Retirement Arrangements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations

SUMMARY: This document provides final regulations relating to individual retirement arrangements (IRA's—individual retirement accounts, individual retirement annuities or retirement bonds). Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law, and affect individuals who maintain IRA's and institutions which sponsor IRA's.

DATE: The regulations are generally effective for taxable years beginning after December 31, 1974.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1975, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 219, 402, 403 and 408 of the Internal Revenue Code of 1954 (40 FR 7661). A new part, containing regulations under Code sections 4973 and 4974 (26 CFR Part 54), was also proposed. A correction notice was published in the Federal Register on March 5, 1975 (40 FR 10187). A supplemental notice was published on November 19, 1975 (40 FR 53593). A notice which withdrew and reproposed part of the notice of February 21, 1975 was published in the Federal Register on March 23, 1979 (44 FR 17754). The amendments were proposed to conform the regulations to section 2002 of the Employee Retirement Income Security Act of 1974 (88 Stat. 958). These final regulations, in general, do not reflect changes and additions made to the tax law by the Tax Reform Act of 1976 (90 Stat. 1520), the Revenue Act of 1978 (92 Stat. 2763), and the Act of October 14, 1978 (P.L. 95-458, 92 Stat. 1255). Thus, these final regulations do not deal with the extension of the period for making individual retirement plan contributions under sections 219(c)(3) and 220(c)(4), the deduction of excess contributions in a subsequent year for which there is an unused limitation under sections 219(c)(5) and 220(c)(6), the additional period to rectify certain excess contributions under section 408(d)(5), and the allowance of rollovers on a more frequent basis under section 408(d)(3)(B).

Due to numerous statutory changes made to sections 402 and 4973 since the publication of the first notice, proposed regulations under those sections have been withdrawn and will be reproposed at a later date.

Special Effective Date for Rollovers

If an individual engages in a transaction described in section 408(d)(3)(A)(i) (relating to rollover contributions) on or before April 15, 1976, the first such transaction by the individual on or before April 15, 1976, will not be taken into account for purposes of applying the three year limitation rule of section 408(d)(3)(B) in effect for taxable years beginning before January 1, 1978.

Temporary Regulations Superseded

Section 11.408(a)(2)-1 of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by § 1.408-2(b)(2).

Drafting Information

The principal author of this regulation was William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly—1. The following sections of the proposed regulations are withdrawn: (a) Section 1.219 as set forth in paragraph 3 of the February 21, 1975, notice of proposed rulemaking.

(b) Section 1.402(a)(5) as set forth in paragrph 4 of the February 21, 1975, notice of proposed rulemaking.

(c) Section 1.402(a)-3 as set forth in paragraph 5 of the February 21, 1975, notice of proposed rulemaking.

(d) Section 1.403(a)(4) as set forth in paragraph 6 of the February 21, 1975, notice of proposed rulemaking.

(e) Section 1.403(a)-3 as set forth in paragraph 7 of the February 21, 1975, notice of proposed rulemaking.

(f) Section 1.408 as set forth in paragraph 8 of the February 21, 1975, notice of proposed rulemaking.

(g) Section 1.409 as set forth in paragraph 8 of the February 21, 1975, notice of proposed rulemaking.

(h) Sections 54.4973, 54.4973-1 and 54. 4974 as set forth in paragraph 9 of the February 21, 1975, notice of proposed rulemaking.

2. The amendments to 26 CFR, Parts 1 and 54, are hereby adopted, subject to the changes indicated below.

Income Tax Regulations (26 CFR Part 1)

Paragraph 1. Paragraphs (a) and (b) of § 1.219-1, as set forth in paragraph 3 of the appendix to the February 21, 1975, notice of proposed rulemaking, are revised to read as follows:

§ 1.219-1 Deduction for retirement savings.

(a) *In general.* Subject to the limitations and restrictions of paragraph (b) and the special rules of paragraph (c)(3) of this section, there shall be allowed a deduction under section 62 from gross income of amounts paid for the taxable year of an individual on behalf of such individual to an individual retirement account described in section 408(a), for an individual retirement annuity described in section 408(b), or for a retirement bond described in section 409. The deduction described in the preceding sentence shall be allowed only to the individual on whose behalf such individual retirement account, individual retirement annuity, or retirement bond is maintained. The first sentence of this paragraph shall apply only in the case of a contribution of cash. A contribution of property other than cash is not allowable as a deduction under this section. In the case of a retirement bond, a deduction will not be allowed if the bond is redeemed within 12 months of its issue date.

(b) *Limitations and restrictions*—(1) *Maximum deduction.* The amount allowable as a deduction under section 219(a) to an individual for any taxable year cannot exceed an amount equal to 15 percent of the compensation includible in the gross income of the individual for such taxable year, or $1,500, whichever is less.

(2) *Restrictions*—(i) *Individuals covered by certain other plans.* No deduction is allowable under section 219(a) to an individual for the taxable year if for any part of such year—

(A) He was an active participant in—

(*1*) A plan described in section 401 (a) which includes a trust exempt from tax under section 501 (a),

(*2*) An annuity plan described in section 403 (a),

(*3*) A qualified bond purchase plan described in section 405 (a), or

(*4*) A retirement plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer for an annuity contract described in section 403 (b) (whether or not the individual's rights in such contract are nonforfeitable).

(ii) *Contributions after age 70½.* No deduction is allowable under section 219 (a) to an individual for the taxable year of the individual, if he has attained the age of 70½ before the close of such taxable year.

(iii) *Rollover contributions.* No deduction is allowable under section 219 for any taxable year of an individual with respect to a rollover contribution described in section 402 (a) (5), 402 (a) (7), 403 (a) (4), 403 (b) (8), 408 (d) (3), or 409 (b) (3) (C).

(3) *Amounts contributed under endowment contracts.* (i) For any taxable year, no deduction is allowable under section 219 (a) for amounts paid under an endowment contract described in § 1.408-3 (e) which is allocable under subdivision (ii) of this subparagraph to the cost of life insurance.

(ii) For any taxable year, the cost of current life insurance protection under an endowment contract described in paragraph (b) (3) (i) of this section is the product of the net premium cost, as determined by the Commissioner, and the excess, if any, of the death benefit payable under the contract during the policy year beginning in the taxable year over the cash value of the contract at the end of such policy year.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A, an individual who is otherwise entitled to the maximum deduction allowed under section 219, purchases, at age 20, an endowment contract described in § 1.408-3 (e) which provides for the payment of an annuity of $100 per month, at age 65, with a minimum death benefit of $10,000, and an annual premium of $220. The cash value at the end of the first policy year is 0. The net premium cost, as determined by the Commissioner, for A's age is $1.61 per thousand dollars of life insurance protection. The cost of current life insurance protection is $16.10 ($1.61×10). A's maximum deduction under section 219 with respect to amounts paid under the endowment contract for the taxable year in which the first policy year begins is $203.90 ($220−$16.10).

Example (2). Assume the same facts as in example (1), except that the cash value at the end of the second policy year is $200 and the net premium cost is $1.67 per thousand for A's age. The cost of current life insurance protection is $16.37 ($1.67×9.8). A's maximum deduction under section 219 with respect to amounts paid under the endowment contract for the taxable year in which the second policy year begins is $203.63 ($220−$16.37).

* * * * * *

Par. 2. Paragraph (c)(1) of § 1.219-1, as set forth in paragraph 1 of the March 23, 1979, notice of proposed rulemaking is revised to read as follows:

§ 1.219-1 Deduction for Retirement Savings

* * * * * *

(c) *Definitions and special rules*—(1) *Compensation.* For purposes of this section, the term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses) and includes earned income, as defined in section 401 (c) (2), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income.

* * * * * *

Par. 3. Paragraphs (c) and (f) of § 1.219-2, as set forth in paragraph 2 of the March 23, 1979, notice of proposed rulemaking, are revised to read as follows:

§ 1.219-2 Definition of Active Participant

* * * * * *

(c) *Money purchase plan.* An individual is an active participant in a money purchase plan if under the terms of the plan employer contributions must be allocated to the individual's account with respect to the plan year ending with or within the individual's taxable year. This rule applies even if an individual is not employed at any time during the individual's taxable year.

* * * * * *

(f) *Certain individuals not active participants.* For purposes of this section, an individual is not an active participant under a plan for any taxable year of such individual for which such individual elects, pursuant to the plan, not to participate in such plan.

* * * * * *

Par. 4. Paragraph (d)(4) of § 1.408-1 is redesignated as paragraph (d)(4) of § 1.408-6, which appears below. The remainder of § 1.408-1, as set forth in paragraph 8 in the appendix to the February 21, 1975, notice of proposed rulemaking, is revised to read as follows:

§ 1.408-1 General Rules

(a) *In general.* Section 408 prescribes rules relating to individual retirement accounts and individual retirement annuities. In addition to the rules set forth in §§ 1.408-2 and 1.408-3, relating respectively to individual retirement accounts and individual retirement annuities, the rules set forth in this section shall also apply.

(b) *Exemption from tax.* The individual retirement account or individual retirement annuity is exempt from all taxes under subtitle A of the Code other than the taxes imposed under section 511, relating to tax on unrelated business income of charitable, etc., organizations.

(c) *Sanctions*—(1) *Excess contributions.* If an individual retirement account or individual retirement annuity accepts and retains excess contributions, the individual on whose behalf the account is established or who is the owner of the annuity will be subject to the excise tax imposed by section 4973.

(2) *Prohibited transactions by owner or beneficiary of individual retirement account*—(i) Under section 408(e)(2), if, during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or the individual's beneficiary engages in any transaction prohibited by section 4975 with respect to such account, such account ceases to be an individual retirement account as of the first day of such taxable year. In any case in which any individual retirement account ceases to be an individual retirement account by reason of the preceding sentence as of the first day of any taxable year, section 408(d)(1) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day). The preceding sentence applies even though part of the fair market value of the individual retirement account as of the first day of the taxable year is attributable to excess contributions which may be returned tax-free under section 408(d)(4) or 408(d)(5).

(ii) If the trust with which the individual engages in any transaction described in subdivision (i) of this subparagraph is established by an employer or employee association under section 408(c), only the employee who engages in the prohibited transaction is subject to disqualification of his separate account.

(3) *Prohibited transaction by person other than owner or beneficiary of account.* If any person other than the individual on whose behalf an individual retirement account is established or the individual's beneficiary engages in any transaction prohibited by section 4975 with respect to such account, such person shall be subject to the taxes imposed by section 4975.

(4) *Pledging account as security.* Under section 408(e)(4), if, during any taxable year of the individual for whose benefit an individual retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

(5) *Borrowing on annuity contract.* Under section 408(e)(3), if during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract ceases to be an individual retirement annuity as of the first day of such taxable year. See § 1.408–3(c).

(6) *Premature distributions.* If a distribution (whether a deemed distribution or an actual distribution) is made from an individual retirement account, or individual retirement annuity, to the individual for whose benefit the account was established, or who is the owner of the annuity, before the individual attains age 59½ (unless the individual has become disabled within the meaning of section 72(m)(7)), the tax under Chapter 1 of the Code for the taxable year in which such distribution is received is increased under section 408 (f)(1) or (f)(2). The increase equals 10 percent of the amount of the distribution which is includible in gross income for the taxable year. Except in the case of the credits allowable under section 31, 39, or 42, no credit can be used to offset the increased tax described in this subparagraph. See, however, § 1.408–4(c)(3).

(d) *Limitation on contributions and benefits.* An individual retirement account or individual retirement annuity is subject to the limitation on contributions and benefits imposed by section 415 for years beginning after December 31, 1975.

(e) *Community property laws.* Section 408 shall be applied without regard to any community property laws.

Par. 5. Section 1.408–2, as set forth in paragraph 8 of the appendix to the February 21, 1975, notice of proposed rulemaking and the November 19, 1975, supplemental notice is revised to read as follows:

§ 1.408–2 Individual Retirement Accounts

(a) *In general.* An individual retirement account must be a trust or a custodial account (see paragraph (d) of this section). It must satisfy the requirements of paragraph (b) of this section in order to qualify as an individual retirement account. It may be established and maintained by an individual, by an employer for the benefit of his employees (see paragraph (c) of this section), or by an employee association for the benefit of its members (see paragraph (c) of this section).

(b) *Requirements.* An individual retirement account must be a trust created or organized in the United States (as defined in section 7701(a)(9)) for the exclusive benefit of an individual or his beneficiaries. Such trust must be maintained at all times as a domestic trust in the United States. The instrument creating the trust must be in writing and the following requirements must be satisfied.

(1) *Amount of acceptable contributions.* Except in the case of a contribution to a simplified employee pension described in section 408(k) and a rollover contribution described in section 408(d)(3), 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8) or 409(b)(3)(C), the trust instrument must provide that contributions may not be accepted by the trustee for the taxable year in excess of $1,500 on behalf of any individual for whom the trust is maintained. An individual retirement account maintained as a simplified employee pension may provide for the receipt of up to $7,500 for a calendar year.

(2) *Trustee.* (i) The trustee must be a bank (as defined in section 401(d)(1) and the regulations thereunder) or another person who demonstrates, in the manner described in paragraph (b)(2)(ii) of this section, to the satisfaction of the Commissioner, that the manner in which the trust will be administered will be consistent with the requirements of section 408 and this section.

(ii) A person may demonstrate to the satisfaction of the Commissioner that the manner in which he will administer the trust will be consistent with the requirements of section 408 only upon the filing of a written application to the Commissioner of Internal Revenue, Attention: E:EP, Internal Revenue Service, Washington, D.C. 20224. Such application must meet the applicable requirements of the regulations under section 401(d)(1), relating to nonbank trustees of pension and profit-sharing trusts benefiting owner-employees.

(iii) Section 11.408(a)(2)–1 of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by this subparagraph (2).

(3) *Life insurance contracts.* No part of the trust funds may be invested in life insurance contracts. An individual retirement account may invest in annuity contracts which provide, in the case of death prior to the time distributions commence, for a payment equal to the sum of the premiums paid or, if greater, the cash value of the contract.

(4) *Nonforfeitability.* The interest of any individual on whose behalf the trust is maintained in the balance of his account must be nonforfeitable.

(5) *Prohibition against commingling.* (i) The assets of the trust must not be commingled with other property except in a common trust fund or common investment fund.

(ii) For purposes of this subparagraph, the term "common investment fund" means a group trust created for the purpose of providing a satisfactory diversification of investments or a reduction of administrative expenses for the individual participating trusts, and which group trust satisfies the requirements of section 408(c) (except that it need not be established by an employer or an association of employees) and the requirements of section 401(a) in the case of a group trust in which one of the individual participating trusts is an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

(iii) For purposes of this subparagraph, the term "individual participating trust" means an employees' trust described in section 401(a) which is exempt from tax under section 501(a) or a trust which satisfies the requirements of section 408(a) provided that in the case of such an employees' trust, such trust would be permitted to participate in such a group trust if all of the other individual participating trusts were employees' trusts described in section 401(a) which are exempt from tax under section 501(a).

(6) *Distribution of interest.* (i) The trust instrument must provide that the entire interest of the individual for whose benefit the trust is maintained must be distributed to him in accordance with paragraph (b)(6)(ii) or (iii) of this section.

(ii) Unless the provisions of paragraph (b)(6)(iii) of this section apply, the entire interest of the individual must be actually distributed to him not later than the close of his taxable year in which he attains age 70½.

(iii) In lieu of distributing the individual's entire interest as provided in paragraph (b)(6) (ii) of this section, the interest may be distributed commencing not later than the taxable year described in such paragraph (b)(6) (ii). In such case, the trust must expressly provide that the entire interest of the individual will be distributed to the individual and the individual's beneficiaries, in a manner which satisfies the requirements of paragraph (b) (6) (v) of this section, over any of the following periods (or any combination thereof)—

(A) The life of the individual,

(B) The lives of the individual and spouse,

(C) A period certain not extending beyond the life expectancy of the individual, or

(D) A period certain not extending beyond the joint life and last survivor expectancy of the individual and spouse.

(iv) The life expectancy of the individual or the joint life and last survivor expectancy of the individual and spouse cannot exceed the period computed by use of the expected return multiples in § 1.72–9, or, in the case of payments under a contract issued by an insurance company, the period computed by use of the mortality tables of such company.

(v) If an individual's entire interest is to be distributed over a period described in paragraph (b) (6) (iii) of this section, beginning in the year the individual attains 70½ the amount to be distributed each year must be not less than the lesser of the balance of the individual's entire interest or an amount equal to the quotient obtained by dividing the entire interest of the individual in the trust at the beginning of such year (including amounts not in the individual retirement account at the beginning of the year because they have been withdrawn for the purpose of making a rollover contribution to another individual retirement plan) by the life expectancy of the individual (or the joint life and last survivor expectancy of the individual and spouse (whichever is applicable)), determined in either case as of the date the individual attains age 70 in accordance with paragraph (b) (6) (iv) of this section, reduced by one for each taxable year commencing after the individual's attainment of age 70½. An annuity or endowment contract issued by an insurance company which provides for non-increasing payments over one of the periods described in paragraph (b) (6) (iii) of this section beginning not later than the close of the taxable year in which the individual attains age 70½ satisfies this provision. However, no distribution need be made in any year, or a lesser amount may be distributed, if beginning with the year the individual attains age 70½ the aggregate amounts distributed by the end of any year are at least equal to the aggregate of the minimum amounts required by this subdivision to have been distributed by the end of such year.

(vi) If an individual's entire interest is distributed in the form of an annuity contract, then the requirements of section 408 (a) (6) are satisfied if the distribution of such contract takes place before the close of the taxable year described in subdivision (ii) of this subparagraph, and if the individual's interest will be paid over a period described in subdivision (iii) of this subparagraph and at a rate which satisfies the requirements of subdivision (v) of this subparagraph.

(vii) In determining whether paragraph (b) (6) (v) of this section is satisfied, all individual retirement plans maintained for an individual's benefit (except those under which he is a beneficiary described in section 408 (a) (7)) at the close of the taxable year in which he reaches age 70½ must be aggregated. Thus, the total payments which such individual receives in any taxable year must be at least equal to the amount he would have been required to receive had all the plans been one plan at the close of the taxable year in which he attained age 70½.

(7) *Distribution upon death.* (i) The trust instrument must provide that if the individual for whose benefit the trust is maintained dies before the entire interest in the trust has been distributed to him, or if distribution has been commenced as provided in paragraph (b) (6) of this section to the surviving spouse and such spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) must, within 5 years after the individual's death (or the death of the surviving spouse) be distributed or applied to the purchase of an immediate annuity for this beneficiary or beneficiaries (or the beneficiary or beneficiaries of the surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity contract will be immediately distributed to such beneficiary or beneficiaries. A contract described in the preceding sentence is not includible in gross income upon distribution. Section 1.408–4 (c) provides rules applicable to the taxation of such contracts. The first sentence of this paragrpah (b) (7) shall have no application if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (b) (6) (iii) (C) or (D) of this section.

(ii) Each such beneficiary (or beneficiary of a surviving spouse) may elect to treat the entire interest in the trust (or the remaining part of such interest if distribution thereof has commenced) as an account subject to the distribution requirements of section 408 (a) (6) and paragraph (b) (6) of this section instead of those of section 408 (a) (7) and paragraph (b) (7) of this section. Such an election will be deemed to have been made if such beneficiary treats the account in accordance with the requirements of section 408 (a) (6) and paragraph (b) (6) of this section. An election will be considered to have been made by such beneficiary if either of the following occurs: (A) any amounts in the account (including any amounts that have been rolled over, in accordance with the requirements of section 408 (d) (3) (A) (i), into an individual retirement account, individual retiremenet annuity, or retirmenet bond for the benefit of such individual) have not been distributed within the appropriate time period required by section 408 (a) (7) and paragraph (b) (7) of this section; or (B) any additional amounts are contributed to the account (or to the account, annuity, or bond to which the beneficiary has rolled such amounts over, as described in (1) above) which are subject, or deemed to be subject, to the distribution requirements of section 408 (a) (6) and paragraph (b) (6) of this section.

(8) *Definition of beneficiaries.* The term "beneficiaries" on whose behalf an individual retirement account is established includes (except where the context indicates otherwise) the estate of the individual, dependents of the individual, and any person designated by the individual to share in the benefits of the account after the death of the individual.

(c) *Accounts established by employers and certain association of employees*—(1) *In general.* A trust created or organized in the United States (as defined in section 7701 (a) (9)) by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees for the exclusive benefit of its members or their beneficiaries, is treated as an individual retirement account if the requirements of paragraphs (c) (2) and (c) (3) of this section are satisfied under the written governing instrument creating the trust. A trust described in the preceding sentence is for the exclusive benefit of employees or member even though it may maintain an account for former employees or members and employees who are temporarily on leve.

(2) *General requirements.* The trust must satisfy the requirements of paragraphs (b) (1) through (7) of this section.

(3) *Special requirement.* There must be a separate accounting for the interest of each employee or member.

(4) *Definitions*—(i) *Separate accounting.* For puposes of paragraph (c) (3) of this section, the term "separate accounting" means that separate records must be maintained with respect to the interest of each individual for whose benefit the trust is maintained. The assets of the trust may be held in a common trust fund, common investment fund, or common fund for the account of all individuals who have an interest in the trust.

(ii) *Employee association.* For purposes of this paragraph and section 408 (c), the term "employee association" means any organization composed of two or more employees, including, but not limited to, an employee association described in section 501 (c) (4). Such association may include employees within the meaning of section 401 (c) (1). There must be, however, some nexus between the employees (*e.g.*, employees of same employer, employees in the same industry, etc.) in order to qualify as an employee association described in this subdivision (ii).

(d) *Custodial accounts.* For purposes of this section and section 408(a), a custodial account is treated as a trust described in section 408(a) if such account satisfies the requirements of section 408(a) except that it is not a trust and if the assets of such account are held by a bank (as defined in section 401(d)(1) and the regulations thereunder) or such other person who satisfies the requirements of paragraph (b)(2)(ii) of this section. For purposes of this chapter, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account will be treated as the trustee thereof.

Par. 6. Section 1.408–3, as set forth in paragraph 8 of the appendix to the February 21, 1975, notice of proposed

V 45 / 155 5 AG 8 80 0 UMI

rulemaking, is revised to read as follows:

§ 1.408–3 Individual retirement annuities.

(a) *In general.* An individual retirement annuity is an annuity contract or endowment contract (described in paragraph (e)(1) of this section) issued by an insurance company which is qualified to do business under the law of the jurisdiction in which the contract is sold and which satisfies the requirements of paragraph (b) of this section. A participation certificate is a group contract issued by an insurance company described in this paragraph will be treated as an individual retirement annuity if the contract satisfies the requirement of paragraph (b) of this section; the certificate of participation sets forth the requirements of paragraph (1) through (5) of section 408(b); the contract provides for a separate accounting of the benefit allocable to each participant-owner; and the group contract is for the exclusive benefit of the participant owners and their beneficiaries. For purposes of this title, a participant-owner of a group contract described in this paragraph shall be treated as the owner of an individual retirement annuity. A contract will not be treated as other than an individual retirement annuity merely because it provides for waiver of premium on disability. An individual retirement annuity contract which satisfies the requirements of section 408(b) need not be purchased under a trust if the requirements of paragraph (b) of this section are satisfied. An individual retirement endowment contract may not be held under a trust which satisfies the requirements of section 408(a). Distribution of the contract is not a taxable event. Distributions under the contract are includible in gross income in accordance with the provisions of § 1.408–4 (e).

(b) *Requirements*—(1) *Transferability.* The annuity or the endowment contract must not be transferable by the owner. an annuity or endowment contract is transferable if the owner can transfer any portion of his interest in the contract to any person other than the issuer thereof. Accordingly, such a contract is transferable if the owner can sell, assign discount, or pledge as collateral for a loan or as security for the performance of an obligation or for any other purpose his interest in the contract to any person other than the issuer thereof. On the other hand, a contract is not to be considered transferable merely because the contract contains: a provision permitting the individual to designate a beneficiary to receive the proceeds in the event of his death, a provision permitting the individual to elect a joint and survivior annuity, or other similar provisions.

(2) *Annual premium.* Except in the case of a contribution to a simplified employee pension described in section 408(k), the annual premium on behalf of any individual for the annuity or the endowment contract cannot exceed $1,500. Any refund of premiums must be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

(3) *Distribution.* The entire interest of the owner must be distributed to him in the same manner and over the same period as described in § 1.408–2 (b) (6).

(4) *Distribution upon death.* If the owner dies before the entire interest has been distributed to him, or if distribution has commenced to the surviving spouse, the remaining interest must be distributed in the same manner, over the same period, and to the same beneficiaries as described in § 1.408–2 (b) (7).

(5) *Nonforfeitability.* The entire interest of the owner in the annuity or endowment contract must be nonforfeitable.

(6) *Flexible premium.* (Reserved)

(c) *Disqualification.* If during any taxable year the owner of an annuity borrows any money under the annuity or endowment contract or by use of such contract (including, but not limited to, pledging the contract as security for any loan), such contract will cease to be an individual retirement annuity as of the first day of such taxable year, and will not be an individual retirement annuity at any time thereafter. If an annuity or endowment contract which constitutes an individual retirement annuity is disqualified as a result of the preceding sentence, an amount equal to the fair market value of the contract as of the first day of the taxable year of the owner in which such contract is disqualified is deemed to be distributed to the owner. Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day. The preceding sentence applies even though part of the fair market value of the individual retirement annuity as of the first day of the taxable year is attributable to excess contributions which may be returned tax-free under section 408 (d) (4) or 408 (d) (5).

(d) *Premature distribution tax on deemed distribution.* If the individual has not attained age 59½ before the beginning of the year in which the disqualification described in paragraph (c) of this section occurs, see section 408 (f) (2) for additional tax on premature distributions.

(e) *Endowment contracts*—(1) *Additional requirements for endowment contracts.* No contract providing life insurance protection issued by a company described in paragraph (a) of this section shall be treated as an endowment contract for purposes of this section if—

(i) Such contract matures later than the taxable year in which the individual in whose name the contract is purchased attains the age of 70½;

(ii) Such contract is not for the exclusive benefit of such individual or his beneficiaries;

(iii) Premiums under the contract may increase over the term of the contract;

(iv) When all premiums are paid when due, the cash value of such contract at maturity is less than the death benefit payable under the contract at any time before maturity;

(v) The death benefit does not, at some time before maturity, exceed the greater of the cash value or the sum of premiums paid under the contract;

(vi) Such contract does not provide for a cash value;

(vii) Such contract provides that the life insurance element of such contract may increase over the term of such contract, unless such increase is merely because such contract provides for the purchase of additional benefits;

(viii) Such contract provides insurance other than life insurance and waiver of premiums upon disability; or

(ix) Such contract is issued after November 6, 1978.

(2) *Treatment of proceeds under endowment contract upon death of individual.* In the case of the payment of a death benefit under an endowment contract upon the death of the individual in whose name the contract is purchased, the portion of such payment which is equal to the cash value immediately before the death of such individual is not excludable from gross income under section 101(a) and is treated as a distribution from an individual retirement annuity. The remaining portion, if any, of such payment constitutes current life insurance protection and is excludable under section 101(a). If a death benefit is paid under an endowment contract at a date or dates later than the death of the individual, section 101(d) is applicable only to the portion of the benefit which is attributable to the amount excludable under section 101(a).

Par. 7. There are inserted after § 1.408–3 the following new sections.

§ 1.408–4 Treatment of distributions from individual retirement arrangements.

(a) *General rule*—(1) *Inclusion in income.* Except as otherwise provided in this section, any amount actually paid or distributed or deemed paid or distributed from an individual retirement account or individual retirement annuity shall be included in the gross income of the payee or distributee for the taxable year in which the payment or distribution is received.

(2) *Zero basis.* Notwithstanding section 1015(d) or any other provision of the Code, the basis (or investment in the contract) of any person in such an account or annuity is zero. For purposes of this section, an assignment of an individual's rights under an individual retirement account or an individual retirement annuity shall, except as provided in § 1.408–4(g) (relating to transfer incident to divorce), be deemed a distribution to such individual from such account or annuity of the amount assigned.

(b) *Rollover contribution*—(1) *To individual retirement arrangement.* Paragraph (a)(1) of this section shall not apply to any amount paid or distributed from an individual retirement account or individual retirement annuity to the individual for whose benefit the account was established or who is the owner of the annuity if the entire amount received (including the same amount of money and any other property) is paid into an individual retirement account, annuity (other than an endowment contract), or bond created for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution.

(2) *To qualified plan.* Paragraph (a)(1) of this section does not apply to any amount paid or distributed from an individual retirement account or individual retirement annuity to the individual for whose benefit

the account was established or who is the owner of the annuity if—

(i) No amount in the account or no part of the value of the annuity is attributable to any source other than a rollover contribution from an employees' trust described in section 401(a) which is exempt from tax under section 501(a) or a rollover contribution from an annuity plan described in section 403(a) and the earnings on such sums, and

(ii) The entire amount received (including the same amount of money and any other property) represents the entire amount in the account and is paid into another such trust or plan (for the benefit of such individual) not later than the 60th day after the day on which the payment or distribution is received.

This subparagraph does not apply if any portion of the rollover contribution described in paragraph (b)(2)(i) of this section is attributable to an employees' trust forming part of a plan or an annuity under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan.

(3) *To section 403(b) contract.* [Reserved]

(4) *Frequency limitation.* (i) For taxable years beginning on or before December 31, 1977, paragraph (b)(1) of this section does not apply to any amount received by an individual from an individual retirement account, annuity or bond if at any time during the 3-year period ending on the day of receipt, the individual received any other amount from an individual retirement account, annuity or bond which was not includible in his gross income because of the application of paragraph (b)(1) of this section.

(ii) [Reserved]

(c) *Excess contributions returned before due date of return*—(1) *Excess contribution.* For purposes of this paragraph, excess contributions are the excess of the amounts contributed to an individual retirement account or paid for an individual retirement annuity during the taxable year over the amount allowable as a deduction under section 219 or 220 for the taxable year.

(2) *General rule.* (i) Paragraph (a)(1) of this section does not apply to the distribution of any excess contribution paid during a taxable year to an account or annuity if: the distribution is received on or before the date prescribed by law (including extensions) for filing the individual's return for such taxable year; no deduction is allowed under section 219 or section 220 with respect to the excess contribution; and the distribution is accompanied by the amount of net income attributable to the excess contribution as of the date of the distribution as determined under subdivision (ii).

(ii) The amount of net income attributable to the excess contributions is an amount which bears the same ratio to the net income earned by the account during the computation period as the excess contribution bears to the sum of the balance of the account as of the first day of the taxable year in which the excess contribution is made and the total contribution made for such taxable year. For purposes of this paragraph, the term "computation period" means the period beginning on the first day of the taxable year in which the excess contribution is made and ending on the date of the distribution from the account.

(iii) For purposes of paragraph (c)(2)(ii), the net income earned by the account during the computation period is the fair market value of the balance of the account immediately after the distribution increased by the amount of distributions from the account during the computation period, and reduced (but not below zero) by the sum of: (A) the fair market value of the balance of the account as of the first day of the taxable year in which the excess contribution is made and (B) the contributions to the account made during the computation period.

(3) *Time of inclusion.* (i) For taxable years beginning before January 1, 1977, the amount of net income determined under subparagraph (2) is includible in the gross income of the individual for the taxable year in which it is received. The amount of net income thus distributed is subject to the tax imposed by section 408(f)(1) for the year includible in gross income.

(ii) [Reserved]

(4) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. On January 1, 1975, A, age 55, who is a calendar-year taxpayer, contributes $1,500 to an individual retirement account established for his benefit. For 1975, A is entitled to a deduction of $1,400 under section 219. For 1975, A does not claim as deductions any other items listed in section z62. A's gross income for 1975 is $9,334. On April 1, 1976, $107 is distributed to A from his individual retirement account. As of such date, the balance of the account is $1,498 [$1,605−$107]. There were no other distributions from the account as of such date. The net amount of income earned by the account is $105 [$1,498+$107−(0+$1,500)]. The net income attributable to the excess contribution is $7. [$105×($100/$1,500)]. A's adjusted gross income for 1975 is his gross income for 1975 ($9,334) reduced by the amount allowable to A as a deduction under section 219 ($1,400), or $7,934. A will include the $7 of the $107 distributed on April 1, 1976, in his gross income for 1976. Further, A will pay an additional income tax of $.70 for 1976 under section 408 (f)(1).

(d) *Deemed distribution*—(1) *General rule.* In any case in which an individual retirement account ceases to be an individual retirement account by reason of the application of section 408(e)(2), paragraph (a)(1) of this section shall apply as if there were a distribution on the first day of the taxable year in which such account ceases to be an individual retirement account of an amount equal to the fair market value on such day of all of the assets in the account on such day. In the case of a deemed distribution from an individual retirement annuity, see § 1.408–3 (d).

(2) *Using account as security.* In any case in which an individual for whose benefit an individual retirement account is established uses, directly or indirectly, all or any portion of the account as security for a loan, paragraph (a)(1) of this section shall apply as if there were distributed on the first day of the taxable year in which the loan was made an amount equal to that portion of the account used as security for such loan.

(e) *Distribution of annuity contracts.* Paragraph (a)(1) of this section does not apply to any annuity contract which is distributed from an individual retirement account and which satisfies the requirements of paragraphs (b) (1), (3), (4) and (5) of section 408. Amounts distributed under such contracts will be taxable to the distributee under section 72. For purposes of applying section 72 to a distribution from such a contract, the investment in such contract is zero.

(f) *Treatment of assets distributed from an individual retirement account for the purchase of an endowment contract.* Under section 408(e)(5), if all, or any portion, of the assets of an individual retirement account are used to purchase an endowment contract described in § 1.408–3(e) for the benefit of the individual for whose benefit the account is established—

(1) The excess, if any, of the total amount of assets used to purchase such contract over the portion of the assets attributable to life insurance protection shall be treated as a rollover contribution described in section 408(d)(3), and

(2) The portion of the assets attributable to life insurance protection shall be treated as a distribution described in paragraph (a)(1) of this section, except that the provisions of section 408(f) shall not apply to such amount.

(g) *Transfer incident to divorce*—(1) *General rule.* The transfer of an individual's interest, in whole or in part, in an individual retirement account, individual retirement annuity, or a retirement bond, to his former spouse under a valid divorce decree or a written instrument incident to such divorce shall not be considered to be a distribution from such an account or annuity to such individual or his former spouse; nor shall it be considered a taxable transfer by such individual to his former spouse notwithstanding any other provision of Subtitle A of the Code.

(2) *Spousal account.* The interest described in this paragraph (g) which is transferred to the former spouse shall be treated as an individual retirement account of such spouse if the interest is an individual retirement account; an individual retirement annuity of such spouse if such interest is an individual retirement annuity; and a retirement bond of such spouse if such interest is a retirement bond.

§ 1.408–5 Annual reports by trustees or issuers.

(a) *In general.* The trustee of an individual retirement account or the issuer of an individual retirement annuity shall make annual calendar year reports concerning the status of the account or annuity. The report shall contain the information required in paragraph (b) and be furnished or filed in the manner and time specified in paragraph (c).

(b) *Information required to be included in the annual reports.* The annual calendar year report shall contain the following information for transactions occurring during the calendar year—

(1) The amount of contributions;

(2) The amount of distributions;

(3) In the case of an endowment contract, the amount of the premium paid allocable to the cost of life insurance;

an annual premium of $220. The cash value at

(4) The name and address of the trustee or issuer; and

(5) Such other information as the Commissioner may require.

(c) *Manner and time for filing.* (1) The annual report shall be furnished to the individual on whose behalf the account is established or in whose name the annuity is purchased (or the beneficiary of the individual or owner). The report shall be furnished on or before the 30th day of June following the calendar year for which the report is required.

(2) The Commissioner may require the annual report to be filed with the Service at the time the Commissioner specifies.

(d) *Penalties.* Section 6693 prescribes penalties for failure to file the annual report.

(e) *Effective date.* This section shall apply to reports for calendar years after 1978.

(f) *Reports for years prior to 1979.* For years prior to 1979, a trustee or issuer shall make reports in the time and manner as the Commissioner requires.

Par. 8. There is inserted after § 1.408–5 a new section, and paragraph (d)(4) (x) and (xi) of this new section as redesignated by paragraph 4 of this Treasury decision is revised. The new section reads as follows:

§ 1.408–6 Disclosure statements for individual retirement arrangements.

(a) *In general*—(1) *General rule.* Trustees and issuers of individual retirement accounts and annuities are, under the authority of section 408(i), required to provide disclosure statements. This section sets forth these requirements.

(2) [Reserved]

(b) [Reserved]

(c) [Reserved]

(d) *Requirements.* (1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) *Disclosure statements.* • • •

(x) This section shall be effective for disclosure statements and copies of governing instruments mailed, or delivered without mailing, after February 14, 1977.

(xi) This section does not reflect the amendments made by section 1501 of the Tax Reform Act of 1976 (90 Stat. 1734) relating to retirement savings for certain married individuals.

Par. 9. There is added after § 1.408–6 the following new section:

§ 1.408–7 Reports on distributions from individual retirement plans.

(a) *Requirement of report.* The trustee of an individual retirement account or the issuer of an individual retirement annuity who makes a distribution during any calendar year to an individual from such account or under such annuity shall make a report on Form W–2P (in the case of distributions that are not total distributions) or Form 1099R (in the case of total distributions), and their related transmittal forms, for such year. The return must show the name and address of the person to whom the distribution was made, the aggregate amount of such distribution, and such other information as is required by the forms.

(b) *Amount subject to this section.* The amounts subject to reporting under paragraph (a) include all amounts distributed or made available to which section 408(d) applies.

(c) *Time and place for filing.* The report required under this section for any calendar year shall be filed after the close of that year and on or before February 28 of the following year with the appropriate Internal Revenue Service Center.

(d) *Statement to recipients.* (1) Each trustee or issuer required to file Form 1099R or Form W–2P under this section shall furnish to the person whose identifying number is (or should be) shown on the forms a copy of the form.

(2) Each statement required by this paragraph to be furnished to recipients shall be furnished to such person after November 30 of the year of the distribution and on or before January 31 of the following year.

(e) *Effective date.* This section is effective for calendar years beginning after December 31, 1977.

Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: July 18, 1980.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following new section is added immediately after § 1.218–0:

§ 1.219–1 Deduction for retirement savings.

(a) *In general.* Subject to the limitations and restrictions of paragraph (b) and the special rules of paragraph (c)(3) of this section, there shall be allowed a deduction under section 62 from gross income of amounts paid for the taxable year of an individual on behalf of such individual to an individual retirement account described in section 408(a), for an individual retirement annuity described in section 408(b), or for a retirement bond described in section 409. The deduction described in the preceding sentence shall be allowed only to the individual on whose behalf such individual retirement account, individual retirement annuity, or retirement bond is maintained. The first sentence of this paragraph shall apply only in the case of a contribution of cash. A contribution of property other than cash is not allowable as a deduction under this section. In the case of a retirement bond, a deduction will not be allowed if the bond is redeemed within 12 months of its issue date.

(b) *Limitations and restrictions*—(1) *Maximum deduction.* The amount allowable as a deduction under section 219(a) to an individual for any taxable year cannot exceed an amount equal to 15 percent of the compensation includible in the gross income of the individual for such taxable year, or $1,500, whichever is less.

(2) *Restrictions*—(i) *Individuals covered by certain other plans.* No deduction is allowable under section 219(a) to an individual for the taxable year if for any part of such year—

(A) He was an active participant in—

(*1*) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

(*2*) An annuity plan described in section 403(a),

(*3*) A qualified bond purchase plan described in section 405(a), or

(*4*) A retirement plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer for an annuity contract described in section 403(b) (whether or not the individual's rights in such contract are nonforfeitable).

(ii) *Contributions after age 70½.* No deduction is allowable under section 219 (a) to an individual for the taxable year of the individual, if he has attained the age of 70½ before the close of such taxable year.

(iii) *Rollover contributions.* No deduction is allowable under section 219 for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 408(d)(3), or 409(b)(3)(C).

(3) *Amounts contributed under endowment contracts.* (i) For any taxable year, no deduction is allowable under section 219(a) for amounts paid under an endowment contract described in § 1.408–3(e) which is allocable under subdivision (ii) of this subparagraph to the cost of life insurance.

(ii) For any taxable year, the cost of current life insurance protection under an endowment contract described in paragraph (b)(3)(i) of this section is the product of the net premium cost, as determined by the Commissioner, and the excess, if any, of the death benefit payable under the contract during the policy year beginning in the taxable year over the cash value of the contract at the end of such policy year.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A, an individual who is otherwise entitled to the maximum deduction allowed under section 219, purchases, at age 20, an endowment contract described in § 1.408–3(e) which provides for the payment of an annuity of $100 per month, at age 65, with a minimum death benefit of $10,000, and an annual premium of $220. The cash value at the end of the first policy year is 0. The net premium cost, as determined by the Commissioner, for A's age is $1.61 per thousand dollars of life insurance protection. The cost of current life insurance protection is $16.10 ($1.61 × 10). A's maximum deduction under section 219 with respect to amounts paid under the endowment contract for the taxable year in which the first policy year begins is $203.90 ($220 − $16.10).

Example (2). Assume the same facts as in example (1), except that the cash value at the end of the second policy year is $200 and the net premium cost is $1.67 per thousand for A's age. The cost of current life insurance protection is $16.37 ($1.67 × 9.8). A's maximum deduction under section 219 with respect to amounts paid under the endowment contract for the taxable year in which the second policy year begins is $203.63 ($220 − $16.37).

(c) *Definitions and special rules*— (1) *Compensation.* For purposes of this section, the term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in section 401 (c) (2), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income.

(2) *Active participant.* For the definition of active participant, see § 1.219–2.

(3) *Special rules.* (i) The maximum deduction allowable under section 219(b)(1) is computed separately for each individual. Thus, if a husband and wife each has compensation of $10,000 for the taxable year and they are each otherwise eligible to contribute to an individual retirement account and they file a joint return, then the maximum amount allowable as a deduction under section 219 is $3,000, the sum of the individual maximums of $1,500. However, if, for example, the husband has compensation of $20,000, the wife has no compensation, each is otherwise eligible to contribute to an individual retirement account for the taxable year, and they file a joint return, the maximum amount allowable as a deduction under section 219 is $1,500.

(ii) Section 219 is to be applied without regard to any community property laws. Thus, if, for example, a husband and wife, who are otherwise eligible to contribute to an individual retirement account, live in a community property jurisdiction and the husband alone has compensation of $20,000 for the taxable year, then the maximum amount allowable as a deduction under section 219 is $1,500.

(4) *Employer contributions.* For purposes of this chapter, any amount paid by an employer to an individual retirement account or for an individual retirement annuity or retirement bond constitutes the payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under section 219 to such employee after the application of section 219(b). Thus, an employer will be entitled to a deduction for compensation paid to an employee for amounts the employer contributes on the employee's behalf to an individual retirement account, for an individual retirement annuity, or for a retirement bond if such deduction is otherwise allowable under section 162.

§ 1.2192–2 Definition of active participant.

(a) *In general.* This section defines the term "active participant" for individuals who participate in retirement plans described in section 219(b)(2). Any individual who is an active participant in such a plan is not allowed a deduction under section 219(a) for contributions to an individual retirement account.

(b) *Defined benefit plans*— (1) *In general.* Except as provided in subparagraphs (2), (3) and (4) of this paragraph, an individual is an active participant in a defined benefit plan if for any portion of the plan year ending with or within such individual's taxable year he is not excluded under the eligibility provisions of the plan. An individual is not an active participant in a particular taxable year merely because the individual meets the plan's eligibility requirements during a plan year beginning in that particular taxable year but ending in a later taxable year of the individual. However, for purposes of this section, an individual is deemed not to satisfy the eligibility provisions for a particular plan year if his compensation is less than the minimum amount of compensation needed under the plan to accrue a benefit. For example, assume a plan is integrated with Social Security and only those individuals whose compensation exceeds a certain amount accrue benefits under the plan. An individual whose compensation for the plan year ending with or within his taxable year is less than the amount necessary under the plan to accrue a benefit is not an active participant in such plan.

(2) *Rules for plans maintained by more than one employer.* In the case of a defined benefit plan described in section 413(a) and funded at least in part by service-related contributions, *e.g.*, so many cents-per-hour, an individual is an active participant if an employer is contributing or is required to contribute to the plan an amount based on that individual's service taken into account for the plan year ending with or within the individual's taxable year. The general rule in paragraph (b)(1) of this section applies in the case of plans described in section 413(a) and funded only on some non-service-related unit, *e.g.*, so many cents-per-ton of coal.

(3) *Plans in which accruals for all participants have ceased.* In the case of a defined benefit plan in which accruals for all participants have ceased, an individual in such a plan is not an active participant. However, any benefit that may vary with future compensation of an individual provides additional accruals. For example, a plan in which future benefit accruals have ceased, but the actual benefit depends upon final average compensation will not be considered as one in which accruals have ceased.

(4) *No accruals after specified age.* An individual in a defined benefit plan who accrues no additional benefits in a plan year ending with or within such individual's taxable year by reason of attaining a specified age is not an active participant by reason of his participation in that plan.

(c) *Money purchase plan.* An individual is an active participant in a money purchase plan if under the terms of the plan employer contributions must be allocated to the individual's account with respect to the plan year ending with or within the individual's taxable year. This rule applies even if an individual is not employed at any time during the individual's taxable year.

(d) *Profit-sharing and stock-bonus plans*—(1) *In general.* This paragraph applies to profit-sharing and stock bonus plans. An individual is an active participant in such plans in a taxable year if a forfeiture is allocated to his account as of a date in such taxable year. An individual is also an active participant in a taxable year in such plans if an employer contribution is added to the participant's account in such taxable year. A contribution is added to a participant's account as of the later of the following two dates: the date the contribution is made or the date as of which it is allocated. Thus, if a contribution is made in an individual's taxable year 2 and allocated as of a date in individual's taxable year 1, the later of the relevant dates is the date the

contribution is made. Consequently, the individual is an active participant in year 2 but not in year 1 as a result of that contribution.

(2) *Special rule.* An individual is not an active participant for a particular taxable year by reason of a contribution made in such year allocated to a previous year if such individual was an active participant in such previous year by reason of a prior contribution that was allocated as of a date in such previous year.

(e) *Employee contributions.* If an employee makes a voluntary or mandatory contribution to a plan described in paragraphs (b), (c), or (d) of this section, such employee is an active participant in the plan for the taxable year in which such contribution is made.

(f) *Certain individuals not active participants.* For purposes of this section, an individual is not an active participant under a plan for any taxable year of such individual for which such individual elects, pursuant to the plan, not to participate in such plan.

(g) *Retirement savings for married individuals.* The provisions of this section apply in determining whether an individual or his spouse is an active participant in a plan for purposes of section 220 (relating to retirement savings for certain married individuals).

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). The X Corporation maintains a defined benefit plan which has the following rules on participation and accrual of benefits. Each employee who has attained the age of 25 or has completed one year of service is a participant in the plan. The plan further provides that each participant shall receive upon retirement $12 per month for each year of service in which the employee completes 1,000 hours of service. The plan year is the calendar year. B, a calendar-year taxpayer, enters the plan on January 2, 1980, when he is 27 years of age. Since B has attained the age of 25, he is a participant in the plan. However, B completes less than 1,000 hours of service in 1980 and 1981. Although B is not accruing any benefits under the plan in 1980 and 1981, he is an active participant under section 219(b)(2) because he is a participant in the plan. Thus, B cannot make deductible contributions to an individual retirement arrangement for his taxable years of 1980 and 1981.

Example (2). The Y Corporation maintains a profit-sharing plan for its employees. The plan year of the plan is the calendar year. C is a calendar-year taxpayer and a participant in the plan. On June 30, 1980, the employer makes a contribution for 1980 which is allocated on July 31, 1980. In 1981 the employer makes a second contribution for 1980, allocated as of December 31, 1980. Under the general rule stated in § 1.219–2(d)(1), C is an active participant in 1980. Under the special rule stated in § 1.219–2(d)(2), however, C is not an active participant in 1981 by reason of that contribution made in 1981.

(i) *Effective date.* The provisions set forth in this section are effective for taxable years beginning after December 31, 1978.

Par. 2. The following new section is added immediately after § 1.407–1:

§ 1.408–1 General rules.

(a) *In general.* Section 408 prescribes rules relating to individual retirement accounts and individual retirement annuities. In addition to the rules set forth in §§ 1.408–2 and 1.408–3, relating respectively to individual retirement accounts and individual retirement annuities, the rules set forth in this section shall also apply.

(b) *Exemption from tax.* The individual retirement account or individual retirement annuity is exempt from all taxes under subtitle A of the Code other than the taxes imposed under section 511, relating to tax on unrelated business income of charitable, etc., organizations.

(c) *Sanctions*—(1) *Excess contributions.* If an individual retirement account or individual retirement annuity accepts and retains excess contributions, the individual on whose behalf the account is established or who is the owner of the annuity will be subject to the excise tax imposed by section 4973.

(2) *Prohibited transactions by owner or beneficiary of individual retirement account*—(i) Under section 408(e)(2), if, during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or the individual's beneficiary engages in any transaction prohibited by section 4975 with respect to such account, such account ceases to be an individual retirement account as of the first day of such taxable year. In any case in which any individual retirement account ceases to be an individual retirement account by reason of the preceding sentence as of the first day of any taxable year, section 408(d)(1) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day). The preceding sentence applies even though part of the fair market value of the individual retirement account as of the first day of the taxable year is attributable to excess contributions which may be returned tax-free under section 408(d)(4) or 408(d)(5).

(ii) If the trust with which the individual engages in any transaction described in subdivision (i) of this subparagraph is established by an employer or employee association under section 408(c), only the employee who engages in the prohibited transaction is subject to disqualification of his separate account.

(3) *Prohibited transaction by person other than owner or beneficiary of account.* If any person other than the individual on whose behalf an individual retirement account is established or the individual's beneficiary engages in any transaction prohibited by section 4975 with respect to such account, such person shall be subject to the taxes imposed by section 4975.

(4) *Pledging account as security.* Under section 408(e)(4), if, during any taxable year of the individual for whose benefit an individual retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

(5) *Borrowing on annuity contract.* Under section 408(e)(3), if during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract ceases to be an individual retirement annuity as of the first day of such taxable year. See § 1.408–3(c).

(6) *Premature distributions.* If a distribution (whether a deemed distribution or an actual distribution) is made from an individual retirement account, or individual retirement annuity, to the individual for whose benefit the account was established, or who is the owner of the annuity, before the individual attains age 59½ (unless the individual has become disabled within the meaning of section 72(m)(7)), the tax under Chapter 1 of the Code for the taxable year in which such distribution is received is increased under section 408(f)(1) or (f)(2). The increase equals 10 percent of the amount of the distribution which is includible in gross income for the taxable year. Except in the case of the credits allowable under section 31, 39, or 42, no credit can be used to offset the increased tax described in this subparagraph. See, however, § 1.408–4(c)(3).

(d) *Limitation on contributions and benefits.* An individual retirement account or individual retirement annuity is subject to the limitation on contributions and benefits imposed by section 415 for years beginning after December 31, 1975.

(e) *Community property laws.* Section 408 shall be applied without regard to any community property laws.

§ 1.408–2 Individual retirement accounts.

(a) *In general.* An individual retirement account must be a trust or a custodial account (see paragraph (d) of this section). It must satisfy the requirements of paragraph (b) of this section in order to qualify as an individual retirement account. It may be established and maintained by an individual, by an employer for the benefit of his employees (see paragraph (c) of this section), or by an employee association for the benefit of its members (see paragraph (c) of this section).

(b) *Requirements.* An individual retirement account must be a trust created or organized in the United States (as defined in section 7701(a)(9)) for the exclusive benefit of an individual or his beneficiaries. Such trust must be maintained at all times as a domestic trust in the United States. The instrument creating the trust must be in writing and the following requirements must be satisfied.

(1) *Amount of acceptable contributions.* Except in the case of a contribution to a simplified employee pension described in section 408(k) and a rollover contribution described in section 408(d)(3), 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8) or 409(b)(3)(C), the trust instrument must provide that contributions may not be accepted by the trustee for the taxable year in excess of $1,500 on behalf of any individual for whom the trust is maintained. An individual retirement account maintained as a simplified employee pension may provide for the receipt of up to $7,500 for a calendar year.

(2) *Trustee.* (i) The trustee must be a bank (as defined in section 401(d)(1) and the regulations thereunder) or another person who demonstrates, in the manner described in paragraph (b)(2)(ii) of this section, to the satisfaction of the Commissioner, that the manner in which the trust will be administered will be consistent with the requirements of section 408 and this section.

(ii) A person may demonstrate to the satisfaction of the Commissioner that the manner in which he will administer the trust will be consistent with the requirements of section 408 only upon the filing of a written application to the Commissioner of Internal Revenue, Attention: E:EP, Internal Revenue Service, Washington, D.C. 20224. Such application must meet the applicable requirements of the regulations under section 401(d)(1), relating to nonbank trustees of pension and profit-sharing trusts benefiting owner-employees.

(iii) Section 11.408(a)(2)–1 of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 is superseded by this subparagraph (2).

(3) *Life insurance contracts.* No part of the trust funds may be invested in life insurance contracts. An individual retirement account may invest in annuity contracts which provide, in the case of death prior to the time distributions commence, for a payment equal to the sum of the premiums paid or, if greater, the cash value of the contract.

(4) *Nonforfeitability.* The interest of any individual on whose behalf the trust is maintained in the balance of his account must be nonforfeitable.

(5) *Prohibition against commingling.* (i) The assets of the trust must not be commingled with other property except in a common trust fund or common investment fund.

(ii) For purposes of this subparagraph, the term "common investment fund" means a group trust created for the purpose of providing a satisfactory diversification or investments or a reduction of administrative expenses for the individual participating trusts, and which group trust satisfies the requirements of section 408(c) (except that it need not be established by an employer or an association of employees) and the requirements of section 401(a) in the case of a group trust in which one of the individual participating trusts is an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

(iii) For purposes of this subparagraph, the term "individual participating trust" means an employees' trust described in section 401(a) which is exempt from tax under section 501(a) or a trust which satisfies the requirements of section 408(a) provided that in the case of such an employees' trust, such trust would be permitted to participate in such a group trust if all the other individual participating trusts were employees' trusts described in section 401(a) which are exempt from tax under section 501(a).

(6) *Distribution of interest.* (i) The trust instrument must provide that the entire interest of the individual for whose benefit the trust is maintained must be distributed to him in accordance with paragraph (b)(6)(ii) or (iii) of this section.

(ii) Unless the provisions of paragraph (b)(6)(iii) of this section apply, the entire interest of the individual must be actually distributed to him not later than the close of his taxable year in which he attains age 70½.

(iii) In lieu of distributing the individual's entire interest as provided in paragraph (b)(6)(ii) of this section, the interest may be distributed commencing not later than the taxable year described in such paragraph (b)(6)(ii). In such case, the trust must expressly provide that the entire interest of the individual will be distributed to the individual and the individual's beneficiaries, in a manner which satisfies the requirements of paragraph (b)(6)(v) of this section, over any of the following periods (or any combination thereof)—

(A) The life of the individual,

(B) The lives of the individual and spouse,

(C) A period certain not extending beyond the life expectancy of the individual, or

(D) A period certain not extending beyond the joint life and last survivor expectancy of the individual and spouse.

(iv) The life expectancy of the individual or the joint life and last survivor expectancy of the individual and spouse cannot exceed the period computed by use of the expected return multiples in § 1.72–9, or, in the case of payments under a contract issued by an insurance company, the period computed by use of the mortality tables of such company.

(v) If an individual's entire interest is to be distributed over a period described in paragraph (b)(6)(iii) of this section, beginning in the year the individual attains 70½ the amount to be distributed each year must be not less than the lesser of the balance of the individual's entire interest or an amount equal to the quotient obtained by dividing the entire interest of the individual in the trust at the beginning of such year (including amounts not in the individual retirement account at the beginning of the year because they have been withdrawn for the purpose of making a rollover contribution to another individual retirement plan) by the life expectancy of the individual and last survivor expectancy of the individual and spouse (whichever is applicable)), determined in either case as of the date the individual attains age 70 in accordance with paragraph (b)(6)(iv) of this section, reduced by one for each taxable year commencing after the individual's attainment of age 70½. An annuity or endowment contract issued by an insurance company which provides for non-increasing payments over one of the periods described in paragraph (b)(6)(iii) of this section beginning not later than the close of the taxable year in which the individual attains age 70½ satisfies this provision. However, no distribution need be made in any year, or a lesser amount may be distributed, if beginning with the year

participation certificate in a group

toward the payment of future premiums

in whose name the contract is

the individual attains age 70½ the aggregate amounts distributed by the end of any year are at least equal to the aggregate of the minimum amounts required by this subdivision to have been distributed by the end of such year.

(vi) If an individual's entire interest is distributed in the form of an annuity contract, then the requirements of section 408(a)(6) are satisfied if the distribution of such contract takes place before the close of the taxable year described in subdivision (ii) of this subparagraph, and if the individual's interest will be paid over a period described in subdivision (iii) of this subparagraph and at a rate which satisfies the requirements of subdivision (v) of this subparagraph.

(vii) In determining whether paragraph (b)(6)(v) of this section is satisfied, all individual retirement plans maintained for an individual's benefit (except those under which he is a beneficiary described in section 408(a)(7)) at the close of the taxable year in which he reaches age 70½ must be aggregated. Thus, the total payments which such individual receives in any taxable year must be at least equal to the amount he would have been required to receive had all the plans been one plan at the close of the taxable year in which he attained age 70½.

(7) *Distribution upon death.* (i) The trust instrument must provide that if the individual for whose benefit the trust is maintained dies before the entire interest in the trust has been distributed to him, or if distribution has been commenced as provided in paragraph (b)(6) of this section to the surviving spouse and such spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) must, within 5 years after the individual's death (or the death of the surviving spouse) be distributed or applied to the purchase of an immediate annuity for this beneficiary or beneficiaries (or the beneficiary or beneficiaries of the surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity contract will be immediately distributed to such beneficiary or beneficiaries. A contract described in the preceding sentence is not includible in gross income upon distribution. Section 1.408–4(e) provides rules applicable to the taxation of such contracts. The first sentence of this paragraph (b)(7) shall have no application if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (b)(6)(iii) (C) or (D) of this section.

(ii) Each such beneficiary (or beneficiary of a surviving spouse) may elect to treat the entire interest in the trust (or the remaining part of such interest if distribution thereof has commenced) as an account subject to the distribution requirements of section 408(a)(6) and paragraph (b)(6) of this section instead of those of section 408(a)(7) and paragraph (b)(7) of this section. Such an election will be deemed to have been made if such beneficiary treats the account in accordance with the requirements of section 408(a)(6) and paragraph (b)(6) of this section. An election will be considered to have been made by such beneficiary if either of the following occurs: (A) any amounts in the account (including any amounts that have been rolled over, in accordance with the requirements of section 408(d)(3)(A)(i), into an individual retirement account, individual retirement annuity, or retirement bond for the benefit of such individual) have not been distributed within the appropriate time period required by section 408(a)(7) and paragraph (b)(7) of this section; or (B) any additional amounts are contributed to the account (or to the account, annuity, or bond to which the beneficiary has rolled such amounts over, as described in (1) above) which are subject, or deemed to be subject, to the distribution requirements of section 408(a)(6) and paragraph (b)(6) of this section.

(8) *Definition of beneficiaries.* The term "beneficiaries" on whose behalf an individual retirement account is established includes (except where the context indicates otherwise) the estate of the individual, dependents of the individual, and any person designated by the individual to share in the benefits of the account after the death of the individual.

(c) *Accounts established by employers and certain association of employees.* (1) *In general.* A trust created or organized in the United States (as defined in section 7701(a)(9)) by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees for the exclusive benefit of its members or their beneficiaries, is treated as an individual retirement account if the requirements of paragraphs (c)(2) and (c)(3) of this section are satisfied under the written governing instrument creating the trust. A trust described in the preceding sentence is for the exclusive benefit of employees or members even though it may maintain an account for former employees or members and employees who are temporarily on leave.

(2) *General requirements.* The trust must satisfy the requirements of paragraphs (b) (1) through (7) of this section.

(3) *Special requirement.* There must be a separate accounting for the interest of each employee or member.

(4) *Definitions.* (i) *Separate accounting.* For purposes of paragraph (c)(3) of this section, the term "separate accounting" means that separate records must be maintained with respect to the interest of each individual for whose benefit the trust is maintained. The assets of the trust may be held in a common trust fund, common investment fund, or common fund for the account of all individuals who have an interest in the trust.

(ii) *Employee association.* For purposes of this paragraph and section 408(c), the term "employee association" means any organization composed of two or more employees, including but not limited to, an employee association described in section 501(c)(4). Such association may include employees within the meaning of section 401(c)(1). There must be, however, some nexus between the employees (*e.g.*, employees of same employer, employees in the same industry, etc.) in order to qualify as an employee association described in this subdivision (ii).

(d) *Custodial accounts.* For purposes of this section and section 408(a), a custodial account is treated as a trust described in section 408(a) if such account satisfies the requirements of section 408(a) except that it is not a trust and if the assets of such account are held by a bank (as defined in section 401(d)(1) and the regulations thereunder) or such other person who satisfies the requirements of paragraph (b)(2)(ii) of this section. For purposes of this chapter, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account will be treated as the trustee thereof.

§ 1.408–3 Individual retirement annuities.

(a) *In general.* An individual retirement annuity is an annuity contract or endowment contract (described in paragraph (e) (1) of this section) issued by an insurance company which is qualified to do business under the law of the jurisdiction in which the contract is sold and which satisfies the requirements of paragraph (b) of this section. A

participation certificate in a group contract issued by an insurance company described in this paragraph will be treated as an individual retirement annuity if the contract satisfies the requirements of paragraph (b) of this section; the certificate of participation sets forth the requirements of paragraphs (1) through (5) of section 408 (b); the contract provides for a separate accounting of the benefit allocable to each participant-owner; and the group contract is for the exclusive benefit of the participant owners and their beneficiaries. For purposes of this title, a participant-owner of a group contract described in this paragraph shall be treated as the owner of an individual retirement annuity. A contract will not be treated as other than an individual retirement annuity merely because it provides for waiver of premium on disability. An individual retirement annuity contract which satisfies the requirements of section 408 (b) need not be purchased under a trust if the requirements of paragraph (b) of this section are satisfied. An individual retirement endowment contract may not be held under a trust which satisfies the requirements of section 408 (a). Distribution of the contract is not a taxable event. Distributions under the contract are includible in gross income in accordance with the provisions of § 1.408–4 (e).

(b) *Requirements*—(1) *Transferability.* The annuity or the endowment contract must not be transferable by the owner. An annuity or endowment contract is transferable if the owner can transfer any portion of his interest in the contract to any person other than the issuer thereof. Accordingly, such a contract is transferable if the owner can sell, assign, discount, or pledge as collateral for a loan or as security for the performance of an obligation or for any other purpose his interest in the contract to any person other than the issuer thereof. On the other hand, a contract is not to be considered transferable merely because the contract contains: a provision permitting the individual to designate a beneficiary to receive the proceeds in the event of his death, a provision permitting the individual to elect a joint and survivor annuity, or other similar provisions.

(2) *Annual premium.* Except in the case of a contribution to a simplified employee pension described in section 408 (k), the annual premium on behalf of any individual for the annuity or the endowment contract cannot exceed $1,500. Any refund of premiums must be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

(3) *Distribution.* The entire interest of the owner must be distributed to him in the same manner and over the same period as described in § 1.408–2 (b) (6).

(4) *Distribution upon death.* If the owner dies before the entire interest has been distributed to him, or if distribution has commenced to the surviving spouse, the remaining interest must be distributed in the same manner, over the same period, and to the same beneficiaries as described in § 1.408–2 (b) (7).

(5) *Nonforfeitability.* The entire interest of the owner in the annuity or endowment contract must be nonforfeitable.

(6) *Flexible premium.* (Reserved)

(c) *Disqualification.* If during any taxable year the owner of an annuity borrows any money under the annuity or endowment contract or by use of such contract (including, but not limited to, pledging the contract as security for any loan), such contract will cease to be an individual retirement annuity as of the first day of such taxable year, and will not be an individual retirement annuity at any time thereafter. If an annuity or endowment contract which constitutes an individual retirement annuity is disqualified as a result of the preceding sentence, an amount equal to the fair market value of the contract as of the first day of the taxable year of the owner in which such contract is disqualified is deemed to be distributed to the owner. Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day. The preceding sentence applies even though part of the fair market value of the individual retirement annuity as of the first day of the taxable year is attributable to excess contributions which may be returned tax-free under section 408(d)(4) or 408(d)(5).

(d) *Premature distribution tax on deemed distribution.* If the individual has not attained age 59½ before the beginning of the year in which the disqualification described in paragraph (c) of this section occurs, see section 408(f)(2) for additional tax on premature distributions.

(e) *Endowment contracts*—(1) *Additional requirement for endowment contracts.* No contract providing life insurance protection issued by a company described in paragraph (a) of this section shall be treated as an endowment contract for purposes of this section if—

(i) Such contract matures later than the taxable year in which the individual in whose name the contract is purchased attains the age of 70½;

(ii) Such contract is not for the exclusive benefit of such individual or his beneficiaries;

(iii) Premiums under the contract may increase over the term of the contract;

(iv) When all premiums are paid when due, the case value of such contract at maturity is less than the death benefit payable under the contract at any time before maturity;

(v) The death benefit does not, at some time before maturity, exceed the greater of the cash value or the sum of premiums paid under the contract;

(vi) Such contract does not provide for a cash value;

(vii) Such contract provides that the life insurance element of such contract may increase over the term of such contract, unless such increase is merely because such contract provides for the purchase of additional benefits;

(viii) Such contract provides insurance other than life insurance and waiver of premiums upon disability; or

(ix) Such contract is issued after November 6, 1978.

(2) *Treatment of proceeds under endowment contract upon death of individual.* In the case of the epayment of a death benefit under an endowment contract upon the death of the individual in whose name the contract is purchased, the portion of such payment which is equal to the cash value immediately before the death of such individual is not excludable from gross income under section 101(a) and is treated as a distribution from an individual retirement annuity. The remaining portion, if any, of such payment constitutes current life insurance protection and is excludable under section 101(a). If a death benefit is paid under an endowment contract at a date or dates later than the death of the individual, section 101(d) is applicable only to the portion of the benefit which is attributable to the amount excludable under section 101(a).

§ 1.408–4 Treatment of distributions from individual retirement arrangements.

(a) *General rule*—(1) *Inclusion in income.* Except as otherwise provided in this section, any amount actually paid or distributed or deemed paid or distributed from an individual retirement account or individual retirement annuity shall be included in the gross income of the payee or distributee for the taxable year in which the payment or distribution is received.

(2) *Zero basis.* Notwithstanding section 1015(d) or any other provision of the Code, the basis (or investment in the contract) of any person in such an

account or annuity is zero. For purposes of this section, an assignment of an individual's rights under an individual retirement account or an individual retirement annuity shall, except as provided in § 1.408–4(g) (relating to transfer incident to divorce), be deemed a distribution to such individual from such account or annuity of the amount assigned.

(b) *Rollover contribution*—(1) *To individual retirement arrangement.* Paragraph (a)(1) of this section shall not apply to any amount paid or distributed from an individual retirement account or individual retirement annuity to the individual for whose benefit the account was established or who is the owner of the annuity if the entire amount received (including the same amount of money and any other property) is paid into an individual retirement account, annuity (other than an endowment contract), or bond created for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution.

(2) *To qualified plan.* Paragraph (a)(1) of this section does not apply to any amount paid or distributed from an individual retirement account or individual retirement annuity to the individual for whose benefit the account was established or who is the owner of the annuity if—

(i) No amount in the account or no part of the value of the annuity is attributable to any source other than a rollover contribution from an employees' trust described in section 401(a) which is exempt from tax under section 501(a) or a rollover contribution from an annuity plan described in section 403(a) and the earnings on such sums, and

(ii) The entire amount received (including the same amount of money and any other property) represents the entire amount in the account and is paid into another such trust or plan (for the benefit of such individual) not later than the 60th day after the day on which the payment or distribution is received.

This subparagraph does not apply if any portion of the rollover contribution described in paragraph (b)(2)(i) of this section is attributable to an employees' trust forming part of a plan or an annuity under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan.

(3) *To section 403(b) contract.* [Reserved]

(4) *Frequency limitation.* (i) For taxable years beginning on or before December 31, 1977, paragraph (b)(1) of this section does not apply to any amount received by an individual from an individual retirement account, annuity or bond if at any time during the 3-year period ending on the day of receipt, the individual received any other amount from an individual retirement account, annuity or bond which was not includible in his gross income because of the application of paragraph (b)(1) of this section.

(ii) [Reserved]

(c) *Excess contributions returned before due date of return*—(1) *Excess contribution.* For purposes of this paragraph, excess contributions are the excess of the amounts contributed to an individual retirement account or paid for an individual retirement annuity during the taxable year over the amount allowable as a deduction under section 219 or 220 for the taxable year.

(2) *General rule.* (i) Paragraph (a)(1) of this section does not apply to the distribution of any excess contribution paid during a taxable year to an account or annuity if: the distribution is received on or before the date prescribed by law (including extensions) for filing the individual's return for such taxable year; no deduction is allowed under section 219 or section 220 with respect to the excess contribution; and the distribution is accompanied by the amount of net income attributable to the excess contribution as of the date of the distribution as determined under subdivision (ii).

(ii) The amount of net income attributable to the excess contributions is an amount which bears the same ratio to the net income earned by the account during the computation period as the excess contribution bears to the sum of the balance of the account as of the first day of the taxable year in which the excess contribution is made and the total contribution made for such taxable year. For purposes of this paragraph, the term "computation period" means the period beginning on the first day of the taxable year in which the excess contribution is made and ending on the date of the distribution from the account.

(iii) For purposes of paragraph (c)(2)(ii), the net income earned by the account during the computation period is the fair market value of the balance of the account immediately after the distribution increased by the amount of distributions from the account during the computation period, and reduced (but not below zero) by the sum of: (A) the fair market value of the balance of the account as of the first day of the taxable year in which the excess contribution is made and (B) the contributions to the account made during the computation period.

(3) *Time of inclusion.* (i) For taxable years beginning before January 1, 1977, the amount of net income determined under subparagraph (2) is includible in the gross income of the individual for the taxable year in which it is received. The amount of net income thus distributed is subject to the tax imposed by section 408(f)(1) for the year includible in gross income.

(ii) [Reserved]

(4) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. On January 1, 1975, A, age 55, who is a calendar-year taxpayer, contributes $1,500 to an individual retirement account established for his benefit. For 1975, A is entitled to a deduction of $1,400 under section 219. For 1975, A does not claim as deductions any other items listed in section 62. A's gross income for 1975 is $9,334. On April 1, 1976, $107 is distributed to A from his individual retirement account. As of such date, the balance of the account is $1,498 [$1,605 − $107]. There were no other distributions from the account as of such date. The net amount of income earned by the account is $105 [$1,498 + $107 − (0 + $1,500)]. The net income attributable to the excess contribution is $7. [$105 × ($100/$1,500)]. A's adjusted gross income for 1975 is his gross income for 1975 ($9,334) reduced by the amount allowable to A as a deduction under section 219 ($1,400), or $7,934. A will include the $7 of the $107 distributed on April 1, 1976, in his gross income for 1976. Further, A will pay an additional income tax of $.70 for 1976 under section 408(f)(1).

(d) *Deemed distribution*—(1) *General rule.* In any case in which an individual retirement account ceases to be an individual retirement account by reason of the application of section 408(e)(2), paragraph (a)(1) of this section shall apply as if there were a distribution on the first day of the taxable year in which such account ceases to be an individual retirement account of an amount equal to the fair market value on such day of all of the assets in the account on such day. In the case of a deemed distribution from an individual retirement annuity, see § 1.408–3(d).

(2) *Using account as security.* In any case in which an individual for whose benefit an individual retirement account is established uses, directly or indirectly, all or any portion of the account as security for a loan, paragraph (a)(1) of this section shall apply as if there were distributed on the first day of the taxable year in which the loan was made an amount equal to that portion of the account used as security for such loan.

(e) *Distribution of annuity contracts.* Paragraph (a)(1) of this section does not apply to any annuity contract which is distributed from an individual

retirement account and which satisfies the requirements of paragraphs (b) (1), (3), (4) and (5) of section 408. Amounts distributed under such contracts will be taxable to the distributee under section 72. For purposes of applying section 72 to a distribution from such a contract, the investment in such contract is zero.

(f) *Treatment of assets distributed from an individual retirement account for the purchase of an endowment contract.* Under section 408(e)(5), if all, or any portion, of the assets of an individual retirement account are used to purchase an endowment contract described in § 1.408–3(e) for the benefit of the individual for whose benefit the account is established—

(1) The excess, if any, of the total amount of assets used to purchase such contract over the portion of the assets attributable to life insurance protection shall be treated as a rollover contribution described in section 408(d)(3), and

(2) The portion of the assets attributable to life insurance protection shall be treated as a distribution described in paragraph (a)(91) of this section, except that the provisions of section 408(f) shall not apply to such amount.

(g) *Transfer incident to divorce*—(1) *General rule.* The transfer of an individual's interest, in whole or in part, in an individual retirement account, individual retirement annuity, or a retirement bond, to his former spouse under a valid divorce decree or a written instrument incident to such divorce shall not be considered to be a distribution from such an account or annuity to such individual or his former spouse; nor shall it be considered a taxable transfer by such individual to his former spouse notwithstanding any other provision of Subtitle A of the Code.

(2) *Spousal account.* The interest described in this paragraph (g) which is transferred to the former spouse shall be treated as an individual retirement account of such spouse if the interest is an individual retirement account; an individual retirement annuity of such spouse if such interest is an individual retirement annuity; and a retirement bond of such spouse if such interest is a retirement bond.

§ 1.408–5 Annual reports by trustees or issuers.

(a) *In general.* The trustee of an individual retirement account or the issuer of an individual retirement annuity shall make annual calendar year reports concerning the status of the account or annuity. The report shall contain the information required in paragraph (b) and be furnished or filed in the manner and time specified in paragraph (c).

(b) *Information required to be included in the annual reports.* The annual calendar year report shall contain the following information for transactions occurring during the calendar year—

(1) The amount of contributions;

(2) The amount of distributions;

(3) In the case of an endowment contract, the amount of the premium paid allocable to the cost of life insurance;

(4) The name and address of the trustee or issuer; and

(5) Such other information as the Commissioner may require.

(c) *Manner and time for filing.* (1) The annual report shall be furnished to the individual on whose behalf the account is established or in whose name the annuity is purchased (or the beneficiary of the individual or owner). The report shall be furnished on or before the 30th day of June following the calendar year for which the report is required.

(2) The Commissioner may require the annual report to be filed with the Service at the time the Commissioner specifies.

(d) *Penalties.* Section 6693 prescribes penalties for failure to file the annual report.

(e) *Effective date.* This section shall apply to reports for calendar years after 1978.

(f) *Reports for years prior to 1979.* For years prior to 1979, a trustee or issuer shall make reports in the time and manner as the Commissioner requires.

§ 1.408–6 Disclosure statements for individual retirement arrangements.

(a) *In general*—(1) *General rule.* Trustees and issuers of individual retirement accounts and annuities are, under the authority of section 408 (i), required to provide disclosure statements. This section sets forth these requirements.

(2) [Reserved]

(b) [Reserved]

(c) [Reserved]

(d) *Requirements.* (1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) *Disclosure statements*—(i) Under the authority contained in section 408(i), a disclosure statement shall be furnished in accordance with the provisions of this subparagraph by the trustee of an individual retirement account described in section 408(a) or the issuer of an individual retirement annuity described in section 408(b) or of an endowment contract described in section 408(b) to the individual (hereinafter referred to as the "benefited individual") for whom such an account, annuity, or contract is, or is to be, established.

(ii)(A)*(1)* The trustee or issuer shall furnish, or cause to be furnished, to the benefited individual, a disclosure statement satisfying the requirements of subdivisions (iii) through (viii) of this subparagraph, as applicable, and a copy of the governing instrument to be used in establishing the account, annuity, or endowment contract. The copy of such governing instrument need not be filled in with financial and other data pertaining to the benefited individual; however, such copy must be complete in all other respects. The disclosure statement and copy of the governing instrument must be received by the benefited individual at least seven days preceding the earlier of the date of establishment or purchase of the account, annuity, or endowment contract. A disclosure statement or copy of the governing instrument required by this subparagraph may be received by the benefited individual less than seven days preceding, but no later than, the earlier of the date of establishment or purchase, if the benefited individual is permitted to revoke the account, annuity, or endowment contract pursuant to a procedure which satisfies the requirements of subdivision (ii)(A)*(2)* of this subparagraph.

(2) A procedure for revocation satisfies the requirements of this subdivision (ii)(A)*(2)* of this subparagraph if the benefited individual is permitted to revoke the account, or endowment contract by mailing or delivering, at his option, a notice of revocation on or before a day not less than seven days after the earlier of the date of establishment or purchase and, upon revocation, is entitled to a return of the entire amount of the consideration paid by him for the account, annuity, or endowment contract without adjustment for such items as sales commissions, administrative expenses or fluctuation in market value. The procedure may require that the notice be in writing or that it be oral, or it may require both a written and an oral notice. If an oral notice is required or permitted, the procedure must provide that, if mailed, it shall be deemed mailed on the date of the postmark (or if sent by certified or registered mail, the date of certification or registration) if it is deposited in the mail in the United States in an envelope,

or other appropriate wrapper, first class postage prepaid, properly addressed.

(B) If after a disclosure statement has been furnished, or caused to be furnished, to the benefited individual pursuant to paragraph (d)(4)(ii)(A) of this section and—

(*1*) On or before the earlier of the date of establishment or purchase, or

(*2*) On or before the last day on which the benefited individual is permitted to revoke the account, annuity, or endowment contract (if the benefited individual has a right to revoke the account, annuity, or endowment contract pursuant to the rules of subdivision (ii)(A) of this subparagraph), there becomes effective a material adverse change in the information set forth in such disclosure statement or a material change in the governing instrument to be used in establishing the account, annuity, or contract, the trustee or issuer shall furnish, or cause to be furnished, to the benefited individual such amendments to any previously furnished disclosure statement or governing instrument as may be necessary to adequately inform the benefited individual of such change. The trustee or issuer shall be treated as satisfying this subdivision (ii)(B) of this subparagraph only if material required to be furnished by this subdivision is received by the benefited individual at least seven days preceding the earlier of the date of establishment or purchase of the account, annuity, or endowment contract or if the benefited individual is permitted to revoke the account, annuity, or endowment contract on or before a date not less than seven days after the date on which such material is received, pursuant to a procedure for revocation otherwise satisfying the provisions of subdivision (ii)(A)(*2*) of this subparagraph.

(C) If the governing instrument is amended after the account, annuity, or endowment contract is no longer subject to revocation pursuant to subdivision (ii)(A) or (B) of this subparagraph, the trustee or issuer shall not later than the 30th day after the later of the date on which the amendment is adopted or becomes effective, deliver or mail to the last known address of the benefited individual a copy of such amendment and, if such amendment affects a matter described in subdivisions (iii) through (viii) of this subparagraph, a disclosure statement with respect to such matter meeting the requirements of subdivision (iv) of this subparagraph.

(D) For purposes of subdivision (ii) (A) and (B) of this subparagraph, if a disclosure statement, governing instrument, or an amendment to either, is mailed to the benefited individual, it shall be deemed (in the absence of evidence to the contrary) to be received by the benefited individual seven days after the date of mailing.

(E) In the case of a trust described in section 408(c) (relating to certain retirement savings arrangements for employees or members of associations of employees), the following special rules shall be applied:

(*1*) For purposes of this subparagraph, references to the benefited individual's account, annuity, or endowment contract shall refer to the benefited individual's interest in such trust, and

(*2*) The provisions of subdivision (ii) of this subparagraph shall be applied by substituting "the date on which the benefited individual's interest in such trust commences" for "the earlier of the date of establishment or purchase" wherever it appear therein.

Thus, for example, if an employer establishes a trust described in section 408(c) for the benefit of employees, and the trustee furnishes an employee with a disclosure statement and a copy of the governing instrument (as required by this subparagraph) on the date such employee's interest in the trust commences, such employee must be given a right to revoke such interest within a period of at least seven days. If any contribution has been made within such period (whether by the employee or by the employer), the full amount of such contribution must be paid to such employee pursuant to subdivision (ii)(A)(*2*) of this subparagraph.

(iii) The disclosure statement required by this subparagraph shall set forth in nontechnical language the following matters as such matters relate to the account, annuity, or endowment contract (as the case may be):

(A) Concise explanations of—

(*1*) The statutory requirements prescribed in section 408(a) (relating to an individual retirement account) or section 408(b) (relating to an individual retirement annuity and an endowment contract), and any additional requirements (whether or not required by law) that pertain to the particular retirement savings arrangement.

(*2*) The income tax consequences of establishing an account, annuity, or endowment contract (as the case may be) which meets the requirements of section 408(a) relating to an individual retirement account) or section 408(b) (relating to an individual retirement annuity and an endowment contract), including the deductibility of contributions to, the tax treatment of distributions (other than premature distributions) from, the availability of income tax free rollovers to and from, and the tax status of such account, annuity, or endowment contract.

(*3*) The limitations and restrictions on the deduction for retirement savings under section 219, including the ineligibility of certain individuals who are active participants in a plan described in section 219(b)(2)(A) or for whom amounts are contributed under a contract described in section 219(b)(2)(B) to make deductible contributions to an account or for an annuity or endowment contract.

(*4*) The circumstances under which the benefited individual may revoke the account, annuity, or endowment contract, and the procedure therefor (including the name, address, and telephone number of the person designated to receive notice of such revocation). Such explanation shall be prominently displayed at the beginning of the disclosure statement.

(B) Statements to the effect that—

(*1*) If the benefited individual or his beneficiary engages in a prohibited transaction, described in section 4975(c) with respect to an individual retirement account, the account will lose its exemption from tax by reason of section 408(e)(2)(A), and the benefited individual must include in gross income, for the taxable year during which the benefited individual or his beneficiary engages in the prohibited transaction the fair market value of the account.

(*2*) If the owner of an individual retirement annuity or endowment contract described in section 408(b) borrows any money under, or by use of, such annuity or endowment contract, then, under section 408(e)(3), such annuity or endowment contract loses its section 408(b) classification, and the owner must include in gross income, for the taxable year during which the owner borrows any money under, or by use of, such annuity or endowment contract, the fair market value of the annuity or endowment contract.

(*3*) If a benefited individual uses all or any portion of an individual retirement account as security for a loan, then, under section 408(e)(4), the portion so used is treated as distributed to such individual and the benefited individual must include such distribution in gross income for the taxable year during which he so uses such account.

(*4*) An additional tax of 10 percent is imposed by section 408(f) on distributions (including amounts deemed distributed as the result of a prohibited loan or use as security for a loan) made before the benefited individual has attained age 59½, unless such distribution is made on account of death or disability, or unless a rollover

contribution is made with such distribution.

(*5*) Sections 2039(e) (relating to exemption from estate tax of annuities under certain trusts and plans) and 2517 (relating to exemption from gift tax of specified transfers of certain annuities under qualified plans) apply (including the manner in which such sections apply) to the account, annuity, or endowment contract.

(*6*) Section 402(a)(2) and (e) (relating to tax on lump sum distributions) is not applicable to distributions from an account, annuity, or endowment contract.

(*7*) A minimum distribution is required under section 408(a) (6) or (7) and 408(b) (3) or (4) (including a brief explanation of the amount of minimum distribution) and that if the amount distributed from an account, annuity, or endowment contract during the taxable year of the payee is less than the minimum required during such year, an excise tax, which shall be paid by the payee, is imposed under section 4974, in an amount equal to 50 percent of the excess of the minimum required to be distributed over the amount actually distributed during the year.

(*8*) An excise tax is imposed under section 4973 on excess contributions (including a brief explanation of an excess contribution).

(*9*) The benefited individual must file Form 5329 (Return for Individual Retirement Savings Arrangement) with the Internal Revenue for each taxable year during which the account, annuity, or endowment contract is maintained.

(*10*) The account or contract has or has not (as the case may be) been approved as to form for use as an account, annuity, or endowment contract by the Internal Revenue Service. For purposes of this subdivision, if a favorable opinion or determination letter with respect to the form of a prototype trust, custodial account, annuity, or endowment contract has been issued by the Internal Revenue Service, or the instrument which establishes an individual retirement trust account or an individual retirement custodial account utilizes the precise language of a form currently provided by the Internal Revenue Service (including any additional language permitted by such form), such account or contract may be treated as approved as to form.

(*11*) The Internal Revenue Service approval is a determination only as to the form of the account, annuity, or endowment contract, and does represent a determination of the merits of such account, annuity, or endowment contract.

(*12*) The proceeds from the account, annuity or endowment contract may be used by the benefited individual as a rollover contribution to another account or annuity or retirement bond in accordance with the provisions of section 408(d)(3).

(*13*) In the case of an endowment contract described in section 408(b), no deduction is allowed under section 219 for that portion of the amounts paid under the contract for the taxable year properly allocable to the cost of life insurance.

(*14*) If applicable, in the event that the benefited individual revokes the account, annuity, or endowment contract, pursuant to the procedure described in the disclosure statement (see subdivision (A)(*4*) of this subdivision (iii)), the benefited individual is entitled to a return of the entire amount of the consideration paid by him for the account, annuity, or endowment contract without adjustment for such items as sales commissions, administrative expenses or fluctuation in market value.

(*15*) Further information can be obtained from any district office of the Internal Revenue Service.

To the extent that information on the matters described in subdivisions (iii) (A) and (B) of this subparagraph is provided in a publication of the Internal Revenue Service relating to individual retirement savings arrangements, such publication may be furnished by the trustee or issuer in lieu of providing information relating to such matters in a disclosure statement.

(C) The financial disclosure required by paragraph (d)(4) (v), (vi), and (vii) of this section.

(iv) In the case of an amendment to the terms of an account, annuity, or endowment contract described in paragraph (d)(4)(i) of this section, the disclosure statement required by this subparagraph need not repeat material contained in the statement furnished pursuant to paragraph (d)(4)(iii) of this section, but it must set forth in nontechnical language those matters described in paragraph (d)(4)(iii) of this section which are affected by such amendment.

(v) With respect to an account, annuity, or endowment contract described in paragraph (d)(4)(i) of this section (other than an account or annuity which is to receive only a rollover contribution described in paragraph (d)(4)(vi) of this section and to which no deductible contributions will be made), the disclosure statement must set forth in cases where either an amount is guaranteed over period of time (such as in the case of a nonparticipating endowment or annuity contract), or a projection of growth of the value of the account, annuity, or endowment contract can reasonably be made (such as in the case of a participating endowment or annuity contract (other than a variable annuity) or passbook savings account), the following:

(A) To the extent that an amount is guaranteed,

(*1*) The amount, determined without regard to any portion of a contribution which is not deductible, that would be guaranteed to be available to the benefited individual if (*i*) level annual contributions in the amount of $1,000 were to be made on the first day of each year, and (*ii*) the benefited individual were to withdraw in a single sum the entire amount of such account, annuity, or endowment contract at the end of each of the first five years during which contributions are to be made, at the end of the year in which the benefited individual attains the ages of 60, 65, and 70, and at the end of any other year during which the increase of the guaranteed available amount is less than the increase of the guaranteed available amount during any preceding year for any reason other than decrease of cessation of contributions, and

(*2*) A statement that the amount described in subdivision (v)(A)(*1*) of this subparagraph is guaranteed, and the period for which guaranteed;

(B) To the extent a projection of growth of the value of the account, annuity, or endowment contract can reasonably be made but the amounts are not guaranteed.

(*1*) The amount, determined without regard to any portion of a contribution which is not deductible, and upon the basis of an earnings rate no greater than, and terms no different from, those currently in effect, that would be available to the benefited individual if (*i*) level annual contributions in the amount of $1,000 were to be made on the first day of each year, and (*ii*) the benefited individual were to withdraw in a single sum the entire amount of such account, annuity, or endowment contract at the end of each of the first five years during which contributions are to be made, at the end of each of the years in which the benefited individual attains the ages of 60, 65, and 70, and at the end of any other year during which the increase of the available amount is less than the increase of the available amount during any preceding year for any reason other than decrease or cessation of contributions, and

(*2*) A statement that the amount described in paragraph (d)(4)(v)(B)(*1*) of this section is a projection and is not

guaranteed and a statement of the amount of such account or annuity at

(viii) A disclosure statement, or an

shall furnish to the person whose

(c) *Rollover.* The first sentence of

§ 54.4974-1 Excise tax on accumulations

guaranteed and a statement of the earnings rate and terms on the basis of which the projection is made;

(C) The portion of each $1,000 contribution attributable to the cost of life insurance, which would not be deductible, for each year during which contributions are to be made; and

(D) The sales commission (including any commission attributable to the sale of life insurance), if any, to be charged in each year, expressed as a percentage of gross annual contributions (including any portion attributable to the cost of life insurance) to be made for each year.

(vi) With respect to an account or annuity described in paragraph (d)(4)(i) of this section to which a rollover contribution described in section 402(a)(5)(A), 403(a)(4)(A), 408(d)(3)(A) or 409(b)(3)(C) will be made, the disclosure statement must set forth, in cases where an amount is guaranteed over a period of time (such as in the case of a non-participating annuity contract, or a projection of growth of the value of the account or annuity can reasonably be made (such as in the case of a participating annuity contract (other than a variable annuity) or a passbook savings account), the following:

(A) To the extent guaranteed,

(1) The amount that would be guaranteed to be available to the benefited individual if *(i)* Such a rollover contribution in the amount of $1,000 were to be made on the first day of the year, *(ii)* No other contribution were to be made, and *(iii)* The benefited individual were to withdraw in a single sum the entire amount of such account or annuity at the end of each of the first five years after the contribution is made, at the end of the year in which the benefited individual attains the ages of 60, 65, and 70, and at the end of any other year during which the increase of the guaranteed available amount is less than the increase of the guaranteed available amount during any preceding year, and

(2) A statement that the amount described in paragraph (d)(vi)(A)*(1)* of this section is guaranteed;

(B) To the extent that a projection of growth of the value of the account or annuity can reasonably be made but the amounts are not guaranteed,

(1) The amount, determined upon the basis of an earnings rate no greater than, and terms no different from, those currently in effect, that would be available to the benefited individual if *(i)* such a rollover contribution in the amount of $1,000 were to be made on the first day of the year, *(ii)* no other contribution were to be made, and *(iii)* the benefited individual were to withdraw in a single sum the entire amount of such account or annuity at the end of each of the first five years after the contribution is made, at the end of each of the years in which the benefited individual attains the ages 60, 65, 70, and at the end of any other year during which the increase of the available amount is less than the increase of the available amount during any preceding year, and

(2) A statement that the amount described in paragraph (d)(4)(vi)(B) *(1)* of this section is a projection and is not guaranteed and a statement of the earnings rate and terms on the basis of which the projection is made; and

(C) The sales commission, if any, to be charged in each year, expressed as a percentage of the assumed $1,000 contribution.

(vii) With respect to an account, annuity, or endowment contract described in paragraph (d)(4)(i) of this section, in all cases not subject to paragraph (d)(4) (v) or (vi) of this section (such as in the case of a mutual fund or variable annuity), the disclosure statement must set forth information described in subdivisions (A) through (C) of this subdivisions (vii) based (as applicable with respect to the type or types of contributions to be received by the account, annuity, or endowment contract) upon the assumption of (1) level annual contributions of $1,000 on the first day of each year, (2) a rollover contribution of $1,000 on the first day of the year and no other contributions, or (3) a rollover contribution of $1,000 on the first day of the year plus level annual contributions of $1,000 on the first day of each year.

(A) A description (in nontechnical language) with respect to the benefited individual's interest in the account, annuity, or endowment contract, of:

(1) Each type of charge, and the amount thereof, which may be made against a contribution,

(2) The method for computing and allocating annual earnings, and

(3) Each charge (other than those described in complying with paragraph (d)(4)(vii)(A)*(1)* of this section) which may be applied to such interest in determining the net amount of money available to the benefited individual and the method of computing each such charge;

(B) A statement that growth in value of the account, annuity, or endowment contract is neither guaranteed nor projected; and

(C) The portion of each $1,000 contribution attributable to the cost of life insurance, which would not be deductible, for every year during which contributions are to be made.

(viii) A disclosure statement, or an amendment thereto, furnished pursuant to the provisions of this subparagraph may contain information in addition to that required by paragraph (d)(4)(iii) through (vii) of this section. However, such disclosure statement will not be considered to comply with the provisions of this subparagraph if the substance of such additional material or the form in which it is presented causes such disclosure statement to be false or misleading with respect to the information required to be disclosed by this paragraph.

(ix) The provisions of section 6693, relating to failure to provide reports on individual retirement accounts or annuities, shall apply to any trustee or issuer who fails to furnish, or cause to be furnished, a disclosure statement, a copy of the governing instrument, or an amendment to either, as required by this paragraph.

(x) This section shall be effective for disclosure statements and copies of governing instruments mailed, or delivered without mailing, after February 14, 1977.

(xi) This section does not reflect the amendments made by section 1501 of the Tax Reform Act of 1976 (90 Stat. 1734) relating to retirement savings for certain married individuals.

§ 1.408–7 Reports on distributions from individual retirement plans.

(a) *Requirement of report.* The trustee of an individual retirement account or the issuer of an individual retirement annuity who makes a distribution during any calendar year to an individual from such account or under such annuity shall make a report on Form W–2P (in the case of distributions that are not total distributions) or Form 1099R (in the case of total distributions), and their related transmittal forms, for such year. The return must show the name and address of the person to whom the distribution was made, the aggregate amount of such distribution, and such other information as is required by the forms.

(b) *Amount subject to this section.* The amounts subject to reporting under paragraph (a) include all amounts distributed or made available to which section 408(d) applies.

(c) *Time and place for filing.* The report required under this section for any calendar year shall be filed after the close of that year and on or before February 28 of the following year with the appropriate Internal Revenue Service Center.

(d) *Statement to recipients.* (1) Each trustee or issuer required to file Form 1099R or Form W–2P under this section shall furnish to the person whose identifying number is (or should be) shown on the forms a copy of the form.

(2) Each statement required by this paragraph to be furnished to recipients shall be furnished to such person after November 30 of the year of the distribution and on or before January 31 of the following year.

(e) *Effective date.* This section is effective for calendar years beginning after December 31, 1977.

Par. 3. The following new section is added immediately after § 1.408–7:

§ 1.409–1 Retirement bonds.

(a) *In general.* Section 409 authorizes the issuance of bonds under the Second Liberty Bond Act the purchase price of which would be deductible under section 219. Section 409 also prescribes the tax treatment of such bonds. See paragraph (b) of this section.

(b) *Income tax treatment of bonds—*(1) *General rule.* Except as provided in paragraph (b)(2) of this section, the entire proceeds upon redemption of a retirement bond described in section 409 (a) shall be included in the gross income of the taxpayer entitled to such proceeds. If a bond has not been tendered for redemption by the registered owner before the close of the taxable year in which he attains age 70½, he must include in his gross income for such taxable year the amount of the proceeds he would have received if the bond had been redeemed at age 70½. The provisions of sections 72 and 1232 do not apply to a retirement bond.

(2) *Exceptions.* (i) If a retirement bond is redeemed within 12 months after the issue date, the proceeds are excluded from gross income if no deduction is allowed under section 219 on account of the purchase of such bond. For definition of issue date, see 31 CFR 346.1(c).

(ii) If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½ the proceeds from the redemption of the bond are excludable from the gross income of the registered owner or his beneficiary to the extent that such proceeds were includible in the gross income of the registered owner for such taxable year.

(iii) If a retirement bond is surrendered for reissuance in the same or lesser face amount, the difference between current redemption value of the bond surrendered for reissuance and the current surrender value of the bond reissued is includible in the gross income of the registered owner.

(3) *Basis.* The basis of a retirement bond is zero.

(c) *Rollover.* The first sentence of paragraph (b)(1) of this section shall not apply in any case in which a retirement bond is redeemed by the registered owner before the close of the taxable year in which he attains the age of 70½ if he transfers the entire amount of the proceeds of such redemption to—

(1) An individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b) (other than an endowment contract described in § 1.408–3(e)), or

(2) An employees' trust which is described in section 401(a) which is exempt from tax under section 501(a), or an annuity plan described in section 403(a), for the benefit of the registered owner, on or before the 60th day after the day on which he received the proceeds of such redemption. This subparagraph shall not apply in the case of a transfer to a trust or plan described in (c)(2) of this section unless no part of the purchase price of the retirement bond redeemed is attributable to any source other than a rollover contribution from such an employees' trust or annuity plan (other than an annuity plan or employees' trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan).

(d) *Additional tax.* (1) *Early redemption.* Except as provided in paragraph (d)(2) of this section, under section 409(c) if a retirement bond is redeemed by the registered owner before he attains age 59½, his tax under chapter 1 of the Code is increased by an amount equal to 10 percent of the proceeds of the redemption includible in his gross income for the taxable year. Except in the case of the credits allowable under sections 31, 39, or 42, no credit can be used to offset the tax described in the preceding sentence.

(2) *Limitations.* Paragraph (d)(1) of this section shall not apply if—

(i) During the taxable year of the registered owner in which a retirement bond is redeemed, the registered owner becomes disabled within the meaning of section 72(m)(7), or

(ii) A retirement bond is tendered for redemption in accordance with paragraph (b)(2)(i) of this section.

PART 54—PENSION EXCISE TAXES

Par. 4. The following new section is added immediately after § 53.4952–1:

§ 54.4974–1 Excise tax on accumulations in individual retirement accounts or annuities.

(a) *General rule.* A tax equal to 50 percent of the amount by which the minimum amount required to be distributed from an individual retirement account or annuity described in section 408 during the taxable year of the payee under paragraph (b) of this section exceeds the amount actually distributed during the taxable year is imposed by section 4974 on the payee.

(b) *Minimum amount required to be distributed.* For purposes of this section, the minimum amount required to be distributed is the amount required under § 1.408–2(b)(6)(v) to be distributed in the taxable year described in paragraph (a) of this section.

(c) *Examples.* The application of this section may be illustrated by the following examples.

Example (1). In 1975, the minimum amount required to be distributed under § 1.408–2(b)(6)(v) to A under his individual retirement account is $100. Only $60 is actually distributed to A in 1975. Under section 4974, A would have an excise tax liability of $20 [50% of ($100—$60)].

Example (2). Although no distribution is required under § 1.408–2(b)(6)(v) to be made in 1986, H, a married individual born on February 1, 1921, who has established and maintained an individual retirement account decides to begin receiving distributions from the account beginning in 1986. H's wife, W, was born on March 6, 1921. H and W are calendar year taxpayers. H decides to receive his interest in the account over the joint life and last survivor expectancy of himself and his wife. On January 1, 1986, the balance in H's account is $10,000; H and W, based on their nearest birthdates, are 65; and the joint life and last survivor expectancy of H and his wife is 22.0 years (see Table II of § 1.72–9). His annual payments during the following years (none of which were required) were determined by dividing the balance in the account on the first day of each year by the joint life and last survivor expectancy reduced by the number of whole years elapsed since the distributions were to commence.

Date	Life expectancy minus whole years elapsed	Account balance at beginning of each year	Annual payment
Jan. 1, 1986	22.0	$10,000	$455
Jan. 1, 1987	21.0	10,118	482
Jan. 1, 1988	20.0	10,214	511
Jan. 1, 1989	19.0	10,285	541
Jan. 1, 1990	18.0	10,329	574
Jan. 1, 1991	17.0	10,340	608

For 1986, 1987, 1989, and 1990, the amount required to be distributed under § 1.408–2(b)(6)(v) is zero.

V 45 / 155 5 A G 8 8 0 UMI

Thus, H would have no excise tax liability under section 4974 for these years. In 1991, the year H attains age 70½, the amount required to be distributed from the account under § 1.408–2(b)(6)(v) is $565, determined by dividing $10,340 (the account balance as of January 1, 1991) by 18.8 years (the joint life and last survivor expectancy of H and W, assuming they are both still living, as of January 1, 1991). If W should die after December 31, 1990, the joint life and last survivor expectancy determined on January 1, 1991 (18.3 years) would not be redetermined. Because the amount distributed from the account in 1991 ($608) exceeds the amount required to be distributed from the account in 1991 ($565), H has no excise tax liability under section 4974 for 1991.

Example (3). Assume the same facts as in example (2) except that W dies in 1988. For 1988, 1989, and 1990, the amount required to be distributed under § 1.408–2(b)(6)(v) is zero. Thus, H would have no excise tax liability under section 4974 for these years. In 1991, the amount required to be distributed under § 1.408–2(b)(6)(v) is $855, determined by dividing $10,340 (the account balance as of January 1, 1991) by 12.1 years (the life expectancy of H as of January 1, 1991). Because the amount distributed from the account in 1991 ($608) is less than the amount required to be distributed from the account in 1991 ($855), H has an excise tax liability of $123.50 under section 4974 for 1991 [50% of ($855—$608)].

[FR Doc. 80–24001 Filed 8–7–80; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Part 48

[T.D. 7709]

Excise Taxes; Payments To Be Made To Aerial Applicators in Certain Cases

Corrections

In FR Doc. 80–22380 appearing at page 49544 in the issue for Friday, July 25, 1980, make the following changes:

(1) On page 49546, third column, eleventh line from the bottom, "of" should read "or".

(2) On page 49547, first column, third line of paragraph (f), "tanant" should read "tenant".

BILLING CODE 1505–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 853

Security Qualifications for Membership in the USAF

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Part 853, Security Qualifications for Membership in the USAF. This rule is deleted because the basic document has been rescinded. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330, telephone: (202) 697–1861.

PART 853 [Deleted]

Title 32 of the Code of Federal Regulations is amended by deleting Part 853 in its entirety.

Carol M. Rose,

Air Force Federal Register, Liaison Officer.

[FR Doc. 80–23902 Filed 8–7–80; 8:45 am]

BILLING CODE 3910–01–M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A: Georgia

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This Notice identifies the location of 8 new offices for filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Clogston, Coordinator Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202–632–4540.

SUPPLEMENTARY INFORMATION: The Attorney General has certified that in his judgment the appointment of examiners to serve in the counties of Calhoun, Bulloch, Early, Johnson, Mitchell, Sumter, Telfair and Tift, all in the State of Georgia, is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C 1973d, the U.S. Office of Personnel Management has appointed examiners to serve in those counties. OPM has determined that this is a non-significant regulation for the purpose of E.O. 12044. Office of Personnel Management.

Beverly M. Jones

Issuance System Manager.

Appendix A to 45 CFR Part 801 is amended as set out below to show under the heading "Dates, Times And Places For Filing," additional places for filing in Georgia.

* * * * *

GEORGIA

County; Place for filing; Beginning date

Bulloch; Statesboro—Federal Building, Conference Room 208, 52 North Main Street; August 5, 1980.

Calhoun; Morgan—Soil Conservation Service, Main Street, P.O. Box 113; August 5, 1980.

Early; Blakely—Qual Motel, Room 28, U.S. 27 South; August 5, 1980.

Johnson; Wrightsville—U.S. Post Office, Basement Office 1, 151 South Marcus; August 5, 1980.

Mitchell; Camilla—FHA District Office Conference Room, Building 10A, Broad Street; August 5, 1980.

Sumter; Americus—Federal Building and Court House, Basement Conference Room 128, East Forsyth Street; August 5, 1980.

Telfair; McRae—Postmasters Office, U.S. Post Office, 211 South Second Avenue; August 5, 1980.

Tift; Tifton—FHA, Conference Room 306, Tifton County Administrative Building, 225 Tift Avenue; August 5, 1980.

(5 U.S.C. 1103,; Sec. 7, 9, 79 Stat. 440, 441, (42 U.S.C. 1973e, 1973g))

[FR Doc. 80–23975 Filed 8–7–80; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–39; RM–3231]

FM Broadcast Station in Los Osos-Baywood Park, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action taken herein assigns a first Class B FM channel to Los Osos-Baywood Park, California, as that community's first FM assignment, in response to a petition filed by Thomas B. and Margrethe T. Friedman. The proposed channel could be used to provide a first local aural broadcast service to that community.

EFFECTIVE DATE: September 15, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Los Osos-Baywood Park, California), BC Docket No. 80–39, RM–3231.

Report and Order—Proceeding Terminated

Adopted: July 30, 1980.

Released: August 1, 1980.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, adopted January 29, 1980, 45 FR 9755, in response to a petition filed by Thomas B. and Margrethe T. Friedman ("petitioners"), which proposed the assignment of FM Class B Channel 267 to Los Osos-Baywood Park, California, as that community's first FM assignment. Supporting comments were filed by the petitioners, by Rod B. and Laura Funston and by Morro Bay Investment Corporation, licensee of AM Station KBAI, Morro Bay, California. All three stated they would apply for the channel, if assigned. No oppositions to the proposal were filed.

2. Los Osos-Baywood Park (pop. 3,487),[1] is located in San Luis Obispo County (pop. 105,690), along the California coast. This community is located approximately 345 kilometers (215 miles) north of Los Angeles, and 385 kilometers (239 miles) south of San Francisco. It has no local aural broadcast service.

3. Petitioners have submitted information with respect to Los Osos-Baywood Park, which is persuasive as to its need for a first FM assignment.

4. Although we do not ordinarily assign a higher powered facility to a community the size of Los Osos-Baywood Park, the area for which the proposed channel was requested is a relatively thin strip of coastal land containing few communities. Petitioners, in response to our request, have provided a list of alternate channels available for precluded communities which is sufficient to alleviate our concerns in this regard. Therefore, we believe it would be in the public interest to assign Channel 267 to Los Osos-Baywood Park, California, as its first FM channel assignment.

5. Accordingly, pursuant to authority contained in Section 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective September 15, 1980, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended with regard to the community listed below:

City	Channel No.
Los Osos-Baywood Park, California	267

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

Federal Communications Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–23989 Filed 8–7–80; 8:45 am]

BILLING CODE 6712–01–M

---

47 CFR Part 73

[BC Docket NO. 80–6; RM–3345]

TV Broadcast Stations in Irving and Dallas, Tex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action taken herein assigns UHF television Channel 49 to Irving, Texas, at the request of CELA, Inc. This assignment will enable Irving, Texas to have its first local television broadcast service.

EFFECTIVE DATE: September 15, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ira H. Smart or Mark N. Lipp, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of *assignments*, Television Broadcast Stations (Irving and Dallas, Texas), BC Docket No. 80–6, RM–3345.

Report and Order—Proceeding Terminated

Adopted: July 30, 1980.

Released: August 5, 1980.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*,[1] 45 FR 5358, adopted January 14, 1980, proposing the assignment of UHF–TV Channel 49 to either Irving, or Dallas, Texas, in the alternative. The Dallas assignment would permit the channel to be used at Irving under the "15-mile" rule.[2] Supporting comments were filed by petitioner in which he stated his readiness to apply for the channel, if assigned. An opposition to the proposal was filed by the National Business Network ("NBN") permittee of KNBN-TV, a new UHF station on Channel 33, Dallas, Texas. Petitioner filed a reply.

2. Irving (pop. 97,260) is located in Dallas County (pop. 1,327,695).[3] It is situated approximately 12 kilometers (8 miles) west of Dallas, and 45 kilometers (28 miles) east of Forth Worth, Texas. Irving has no television assignment, although it receives city-grade service from at least one non-commercial educational and five commercial stations in Dallas and Fort Worth.

3. The *Notice*, while acknowledging that Irving was large enough for its own television channel assignment, solicited comments on a possible Dallas assignment as the more appropriate location to determine the need and interest for another channel there.

4. Petitioner states that although Irving is located in the Dallas-Fort Worth metropolitan area, it is an independent city separated from Dallas and Forth Worth, both in its government and its municipal services. Petitioner notes that the proposed assignment to Irving will provide that city with its first local television service and thereby help to fulfill the community's unmet needs for local news, public affairs and entertainment programming.

5. In opposition, NBN contends that an assignment of Channel 49 to Irving, Texas, would be a default assignment to Dallas. NBN argues that it would be premature to add another competitive UHF channel to the Dallas-Fort Worth market until the stations operating on the UHF channels already assigned to Dallas have become economically viable.

6. In reply CELA points out that the focus of NBN's argument is solely on the impact that another UHF station will have on its own proposed operation. CELA notes that such issues are more appropriately considered at the application stage where the Commission's staff can explore the issue more extensively through requests for further information. Finally CELA argues that although an assignment of the channel to Dallas would be beneficial in increasing diversity in the community, the assignment of Channel 49 to Irving would further the Commission's policy of providing a community with over 25,000 in

[1] Population figures are taken from the 1970 U.S. Census.

[1] Public Notice of the petition was given on March 19, 1979, Report No. 13515.

[2] § 73.607(b) of the Commission's rules.

[3] Population figures are taken from the 1970 U.S. Census.

V 45 / 155 AG 8 80 UMI

population a broadcast outlet for local expression of its own special needs, problems and interests.

7. We have carefully considered the record in this proceeding, and conclude that it would be in the public interest to make the requested assignment so as to provide Irving with its first local television service. As between Dallas and Irving, no interest or showing of need for additional service to Dallas has been demonstrated. Although Irving receives the signals of Dallas-Fort Worth stations, it is not clear that they fully cover the separate and distant needs of this fact growing city. On this basis, a local television outlet is warranted. It appears that the opposition comments are really concerned with the competitive impact of another station in the market, but that is not an issue we need to consider here. As noted by petitioner, any such issue can more adequately be resolved within the context of the application processing. and further consideration shall be deferred until that stage.

8. Lastly, it should be noted that in establishing the Television Table of Assignments, we gave high priority to providing communities with a local television service. Even if nearby stations do provide programming coverage to Irving, this is not a basis for refusing to provide a community with a first broadcast outlet for local expression. A local television outlet in Irving would provide a choice of programming and local programs directed to meeting the special needs, interests and problems of Irving. No station, owing its primary obligation to another locality, could be expected to provide the equivalent of such local service.

9. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective September 15, 1980, the Television Table of Assignments (§ 73.606(b) of the rules) is amended with respect to the community listed below:

City and Channel No.
Irving, Texas—49

10. It is further ordered, that this proceeding is terminated.

11. For further information concerning this proceeding, contact Ira H. Smart or Mark N. Lipp, Broadcast Bureau (202) 632–7792.

Federal Communications Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307)

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-24000 Filed 8-7-80; 8:45 a.m.]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 55 (Sub-No. 46)]

Policy on Motor Carrier Control Applications Directly Related To Operating Rights Applications

Decided: July 23, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a rule permitting an affiliate of a carrier to file concurrently, as a directly related matter, a control application under 49 U.S.C. 11343 along with an initial application for motor carrier operating authority under 49 U.S.C. 10922 or 10923. In these circumstances, only one filing fee need be paid. Procedurally, the Commission will handle these cases on a consolidated basis with the operating rights application as the lead proceeding. The Commission, accordingly, modifies the provisions of 49 CFR 1002.2 (c)(1) to reflect this change.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Kelly, (202) 275–7564. William Drew, (202) 275–7947.

SUPPLEMENTARY INFORMATION: The acquisition of control provisions of 49 U.S.C. 11343 apply when an initial grant of motor carrier operating authority is sought by a noncarrier affiliated with an established carrier having gross revenues from interstate operations exceeding $2 million per year. Although continuation of control following issuance of operating authority, rather than acquisition of control, is involved in these circumstances, section 11343 will apply. *Hannon—Control—Hannon Motor Lines, Inc.*, 39 M.C.C. 620 (1944), as affirmed in *Schwerman T. Co.—Control—Schwerman T. Co. of Texas*, 80 M.C.C. 382 (1959). In these circumstances, under prior Commission practice, the operating rights application was decided first. If that application were granted, issuance of a certificate or permit was conditioned upon approval of the control application. See *White Air Freight Service Inc., Com. Car. Applic.*, 95 M.C.C. 616 (1964). At present, the Commission will approve issuance of the authority sought, but caution the applicant regarding the need for approval of common control. The handling of the operating rights and control applications in separate proceedings unnecessarily burdens the Commission in its internal handling of the proceedings, and causes undue delay in applicants' ability to meet legal requirements for obtaining operating authority. Our action under the rule adopted here is consistent with our handling of other related matters, as set forth in 49 CFR 1002.2(c)(1). We interpret the Commission's regulations and rules of practice as permitting the concurrent filing of a control application as a matter directly related to an operating rights application, if approval of control would be necessary as a result of approval of the operating rights application. An applicant may file these applications concurrently and only one filing fee need be paid. 49 CFR 1002.2(c). Procedurally, the Commission will handle these cases on a consolidated basis under the time limits established for processing operating authority applications.

We find that Part 1002 of Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations should be amended by modifying § 1002.2(c)(1) as set forth below. Minor nonsubstantive changes have been made to conform to the revised Interstate Commerce Act.

This statement interprets Commission rules and modifies other rules relating to agency practice and procedure. Therefore, the final rule is being adopted without prior notice or public proceedings, in accordance with the provisions of 5 U.S.C. 553 (b)(A)

This action will not significantly affect either the quality of the human environment of the conservation of energy resources.

§ 1002.2 [Amended]

Accordingly, 49 CFR is revised by the modification of § 1002.2(c)(1) to read as follows:

* * * * *

(c) *Related or consolidated proceedings.* (1) Separate fees need not be paid on related applications filed by the same applicant which would be the subject of one proceeding, such as a single petition for modification of more than one certificate or permit held by the same person; a related plan of track relocation, joint use, purchase of trackage rights, and issuance of securities; a motor carrier acquisition application pursuant to 49 U.S.C. 11343 combined with a related application for a certificate of public convenience and necessity under 49 U.S.C. 10922, an application for an initial grant of motor carrier operating authority by an affiliate of a carrier combined with a related finance application for approval of continuation of control; or the like. In such instances, the only fee to be assessed will be that applicable to the embraced proceeding which carries the highest filing fee as listed in paragraph (d) of this section; except that, directly related applications involving a transfer under 49 U.S.C. 10926 or 10931 and an application on Form OP–1 for gateway elimination and/or a conversion, the sole fee shall be the basic fee for the transfer application.

* * * * *

(49 U.S.C. 10321(a) and 5 U.S.C. 553 and 559)

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24012 Filed 8-7-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1469, Amdt. 1]

The Atchison, Topeka and Santa Fe Railway Co., Authorized To Operate Over Tracks of St. Louis-San Francisco Railway Co., at Winfield, Kans.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1469.

SUMMARY: This order amends Service Order No. 1469 by extending the time period during which the Santa Fe Railway is authorized to operate over tracks of the St. Louis-San Francisco Railway.

EFFECTIVE DATE: 11:59 p.m., August 5, 1980, and continuing in effect until October 31, 1980.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decided: August 4, 1980.

Upon further consideration of Service Order No. 1469, (45 FR 31724), and good cause appearing therefor:

§ 1033.1469 [Amended]

It is ordered, § 1033.1469 *The Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of St. Louis-San Francisco Railway Company at Winfield, Kansas.*

Service Order No. 1469 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1980, unless modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 5, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24014 Filed 8-7-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Listing the Valley Elderberry Longhorn Beetle as a Threatened Species with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) to be a Threatened species. This action is being taken because alteration of this species' riverside habitat has reduced the known populations of the beetle to a few areas in the California central valley. Critical Habitat in California is included with this final rule. The rule will provide protection to wild populations of this species.

DATE: This rule becomes effective on September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

In prior Service correspondence, and in Federal Register documents pertaining to *Desmocerus californicus dimorphus*, this subspecies was referred to as the "California elderberry longhorn beetle." Since this name would more appropriately apply to the nominate coastal subspecies, *Desmocerus californicus californicus*, the Service intends to use the common name "valley elderberry longhorn beetle" for the subspecies *Desmocerus californicus dimorphus*.

On August 10, 1978, the Service published a proposed rulemaking in the Federal Register (43 FR 35636–43) advising that sufficient evidence was on file to support a determination that the valley elderberry longhorn beetle was a Threatened species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). That proposal summarized the factors thought to be contributing to the likelihood that this species could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory within which a resident species of wildlife is known to occur be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to the Governor of California on August 16, 1978, notifying him of the proposed rulemaking for the valley elderberry longhorn beetle. On August 14, 1978, a memorandum was sent to other interested parties notifying them of the proposal and soliciting their comments and suggestions. On May 2, 1980, the Service published a proposed rule in the Federal Register (45 FR 29373–75) reproposing Critical Habitat for the valley elderberry longhorn beetle, to comply with the 1978 Endangered Species Act amendments. A letter notifying the Governor of California of this action, and letters to other interested parties were sent on March 31, 1980. A public meeting and a public hearing on the reproposal of Critical Habitat for the valley elderberry longhorn were held at Davis, California on May 22 and June 12, 1980, respectively.

Official comment was received from the Governor of California, Sacramento County, Solano County, and the U.S. Water and Power Resources Service (formerly the U.S. Bureau of Reclamation).

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

In the August 10, 1978, proposal (43 FR 35636–43) to list the valley elderberry longhorn beetle as a Threatened species, the May 2, 1980, proposal of Critical Habitat (45 FR 29373–75), and the respective press releases, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All comments received from August 10, to November 7, 1978, regarding the proposal to list the valley elderberry longhorn beetle as Threatened were considered. Comments regarding the reproposal of Critical Habitat received from May 2, to June 30, 1980, were considered. Additional opportunity for public comment was provided by the May 22, 1980, public meeting and the June 12, 1980, public hearing.

In response to the August 10, 1978, proposal, four comments were received. The Commissioner of Reclamation stated that the beetle should not be listed because exhaustive distributional data were not available. The Director of the California Department of Fish and Game suggested that additional field data be obtained before listing the beetle. Dr. John Chemsak, an entomologist at the University of California at Berkeley, stated that the valley elderberry longhorn beetle had always been rare and restricted in distribution, and supported Critical Habitat designation. Dr. Robert Pyle, representing the Survival Service Commission of the International Union for Conservation of Nature and Natural Resources, supported the proposal.

In response to the May 2, 1980, reproposal of Critical Habitat for the valley elderberry longhorn beetle, seven comments were received. Mr. Douglas Peterson, Environmental Analyst for the Sacramento County Planning Department, supported the proposal and suggested that the host plant elderberry was *Sambucus mexicana caerulea*, not *Sambucus glauca*. Dr. Arthur Shapiro of the Department of Zoology of the University of California at Davis supported the proposal, pointed out that the taxonomy of *Sambucus* was confused, and suggested that *Desmocerus californicus dimorphus* be called the "Sacramento Valley elderberry longhorn beetle" to distinguish it from the coastal subspecies *Desmocerus californicus californicus*. Mr. Wallace Brazelton objected to Critical Habitat designation for the beetle, because the beetle was not "* * * important to the general welfare of Solano county or the Nation." Mr. Brazelton also objected to the locality of the public meeting and hearing on the beetle, and felt that insufficient time had been allowed for review of the proposal. Mrs. Amza Petersen and Mrs. Claire Davis opposed listing and Critical Habitat designation for the beetle. Mrs. Davis suggested that the beetle be transplanted to the Suisun Game Refuge. Dr. John Chemsak, an entomologist at the University of California at Berkeley, supported the proposal. Mr. Philip A. Stohr, an attorney representing a landowner within the Critical Habitat, objected to Critical Habitat designation on land owned by his client. Mr. Stohr contended that such designation threatened economic damage to the property, and that Critical Habitat designation would be academic, and to no purpose, if Federal activities were not involved in the area. Mr. Stohr also objected to the Critical Habitat designation on the grounds that the beetle occurs in sites other than those proposed as Critical Habitat, and suggested that the beetle was already protected by State law through the California Environmental Quality Act and the California Subdivision Map Act.

At the June 12, 1980, public hearing two statements relating to the beetle were made. Mr. Stohr presented statements similar to those already discussed above under responses to the reproposal. Mr. John Anderson, of the Sacramento Audubon Society, supported the listing proposal and designation of Critical Habitat.

Conclusion

The Services recognizes the fact that additional populations of the valley elderberry longhorn beetle may be located, but does not believe that the beetle will ever be found to occupy all areas where the host plant, *Sambucus*, occurs. Although exhaustive distributional studies would contribute additional data to the knowledge of the beetle, the Endangered Species Act requires that the Service make decisions based on the best available data. There is no evidence that additional studies would yield a different distributional pattern. Regarding Dr. Shapiro's comments, the Service has changed the common name of the beetle to the "valley elderberry longhorn beetle" to better reflect the distribution of this subspecies. Since confusion on the specific and subspecific identity of the *Sambucus* host of the beetle exists, the Service considers that one or more species of the *Sambucus* may be suitable hosts. With respect to Mr. Brazelton's comments, the Endangered Species Act does not require that economic value for a species be established in order for it to be listed. The Service has complied with the regulations concerning location of the public meeting and hearing and provision of comment periods. Regarding Mrs. Davis' comments, the Service has no indication that the Suisan Game Refuge would serve as an appropriate habitat to transfer the beetles to. In response to Mr. Stohr's comments, the definition of Critical Habitat is based primarily on biological information, although economic impacts are considered in its delineation. The Service knows of no specific Federal involvement which would presently affect the landowner's activities in the area. Future Federal involvement will not be prohibited in the Critical Habitat. Federal agencies will be required to consider the impacts of their actions, should such actions appear likely to jeopardize the continued existence of this species, or to destroy or adversely modify the Critical Habitat. If Federal involvement is likely to result in jeopardy to the species, the Secretary would be required to suggest reasonable and prudent alternatives that would avoid the conflict. Critical Habitat need not include all the areas where the species is known to occur. The Service realizes California law requires certain environmental considerations to be taken into account when land use planning occurs, but believes that Federal listing may increase the consideration given the species by the State of California, because attention will be drawn to a little-known, but unique, biological attribute of the environment which might otherwise be overlooked.

After a thorough review and consideration of all the information available, the Director has determined that the valley elderberry longhorn beetle is likely to become endangered throughout all of its range. Two of the five factors described in Section 4(a) of the Act, and affecting the beetle, were outlined in the August 10, 1978, proposal (43 FR 35636–43) to list this beetle as Threatened. The five criteria as described in that proposal are:

1. The present or threatened destruction, modification, or curtailment of its habitat or range. The valley elderberry longhorn beetle originally occurred in elderberry thickets in moist valley oak woodland along the margins of the Sacramento and San Joaquin Rivers in the Central Valley of California. The beetle is presently known from less than 10 localities in Merced, Sacramento, and Yolo Counties. The habitat of this insect has now largely disappeared throughout much of its former range due to agricultural conversion, levee construction, and stream channelization. Today, remnant populations are found in the few remaining natural woodlands and in some State and county parks. However, in parks the clearing of undergrowth (including elderberry) and planting of lawns has resulted in further habitat degradation.

2. Overutilization for commercial, sporting, scientific, or educational purposes. Not applicable to this species.

3. Disease or predation. This factor is not known to affect the present status of this species.

4. The inadequacy of existing regulatory mechanisms. There currently exist no State or Federal laws protecting this species or its habitat.

5. Other natural or manmade factors affecting its continued existence. None.

Critical Habitat

Subsection 4(a)(1) of the Act states in pertinent part:

> At the time any such regulation (to determine a species to be Endangered or Threatened) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be Critical Habitat.

50 CFR Part 424 defines Critical Habitat as:

> (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and
>
> (ii) Specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service has concluded that two areas in Sacramento Country, California should be designated as Critical Habitat for the valley elderberry longhorn beetle. These areas include the densest known populations of the beetle. Due to lack of information on the beetle from one of the areas proposed as Critical Habitat for the beetle in Solano County (Putah Creek Zone), this area has not been designated as Critical Habitat. The designated Critical Habitat areas include the known biological constituent elements essential to the conservation of the valley elderberry longhorn beetle. These elements are described below in the description of Critical Habitat for this species.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis which has been used as the basis for a decision that economic and other impacts of this action are insignificant for the foreseeable future.

Effect of the Rulemaking

All prohibitions of 50 CFR 17.31 pertaining to threatened wildlife will apply to the valley elderberry longhorn beetle. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also will be illegal to possess, sell, deliver, carry, transport or ship any specimens illegally taken. Certain exceptions will apply to agents of the Service and State conservation agencies. Permits for specified purposes will be available in accordance with 50 CFR 17.32.

Section 7(a) of the Act provides:

> Federal Agency Actions and Consultations—(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act.
>
> (2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption of such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.
>
> (3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existance of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).

Provisions for Interagency Cooperation were published in the **Federal Register** on January 4, 1978 (43 FR 870–876), and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. The rule now being issued will require Federal agencies to satisfy these statutory and regulatory obligations with respect to the valley elderberry longhorn beetle. These agencies will be required not only to insure that actions authorized, funded, or carried out by them are not likely to jeopardize the continued existence of this species, but also to insure that their actions do not result in the destruction or adverse modification of the habitat that has been determined by the Secretary to be critical.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any final regulation specifiying Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for the valley elderberry longhorn beetle.

(1) Modification of riparian habitats by river channelization.

(2) Construction of buildings, roads, bridges, or parking lots, directly eliminating the beetle's host plant, elderberry (*Sambucus sp.*).

(3) Human disturbance, such as vandalism or fire, resulting from increased recreational use, which adversely affects the beetle.

No present Federal involvement in the above activities is known. In 1978, an informal consultation between the U.S. Coast Guard and the U.S. Fish and Wildlife Service was carried out; no conflict was found with a proposed plan to build a pedestrian bridge over the American River. Further recreational development in the American Parkway Zone is not expected to involve Federal agencies, and the Sacramento Department of Parks and Recreation intends to protect most of the riparian areas remaining in the Parkway. Future development in the Sacramento Zone of the Critical Habitat could involve Federal funding or permits such as Small Business Administration loans and federally subsidized sewage collection, according to the landowner's attorney. However, no development proposals are available to provide an estimate of future impact.

V 45 / 155 AG 8 80 UMI

Effect Internationally

The Service will review the status of the valley elderberry longhorn beetle to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention and whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, or other appropriate international agreements.

National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The Primary author of this rule is Dr. Michael M. Bentzien, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C., 20240 (703/235–1975).

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations promulgation

Accordingly, Subparts B and I of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

§ 17.11 [Amended]

1. Section 17.11 is amended by adding the valley elderberry longhorn beetle to the list, alphabetically, under "Insects" as indicated below:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Beetle, valley elderberry longhorn	*Desmocerus californicus dimorphus.*	U.S.A. (California)	NA	T	100	§ 17.95(i)	NA

§ 17.95 [Amended]

2. Section 17.95(i) is amended by adding Critical Habitat for the valley elderberry longhorn beetle, alphabetically, as follows:

Valley elderberry longhorn beetle

(Desmocerus californicus dimorphus)

California. Sacramento County.

(1) *Sacramento Zone.* An area in the city of Sacramento enclosed on the north by the Route 160 Freeway, on the west and southwest by the Western Pacific railroad tracks, and on the east by Commerce Circle and its extension southward to the railroad tracks.

California Elderberry Longhorn Beetle (Sacramento Zone) Sacramento County, Calif.

(2) *American River Parkway Zone.* An area of the American River Parkway on the south bank of the American River, bounded on the north by latitude 30°37′30″N, on the west and southwest by Elmanto Drive from its junction with Ambassador Drive to its extension to latitute 38°37′30″N, and on the south and east by Ambassador Drive and its extension north to latitude 38°37′30″N. Goethe Park, and that portion of the American River Parkway northeast of Goethe Park, west of the Jedediah Smith Memorial Bicycle Trail, and north to a line extended eastward from Palm Drive.

California Elderberry Longhorn Beetle (American River and American River Parkway Zones) Sacramento County, Calif.

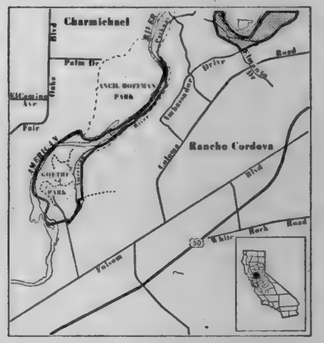

Dated: July 31, 1980.

Robert B. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 80-23899 Filed 8-7-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing the Delta Green Ground Beetle as a Threatened Species With Critical Habitat

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the delta green ground beetle (*elaphrus viridis*) to be a Threatened species. This action is being taken because known populations of the beetle are small, highly restricted in range, and threatened by agricultural practices. The delta green ground beetle is known to occur only at two sites in Solano County, California. Critical Habitat in California is also included with this final rule. The rule will provide to the species the protections provided by the Endangered Species Act.

DATE: This rule becomes effective on September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service Washington, D.C. 20240 (703/235–2771).

Background

SUPPLEMENTARY INFORMATION: The delta green ground beetle is a metallic green and golden predaceous member of the family Carabidae. It is known to occur only near two vernal pools south of Dixon, Solano County, California. The beetle is threatened by agricultural practices in these areas.

On August 10, 1978, the Service published a proposed rulemaking in the **Federal Register** (43 FR 35636–43) advising that sufficient evidence was on file to support a determination that the delta green ground beetle was a Threatened species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*). That proposal summarized the factors thought to be contributing to the likelihood that this species could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. A letter was sent to the Governor of California September 1, 1978, notifying him of the proposed rulemaking for the delta green ground beetle and requesting his views on the proposed action. The Critical Habitat portion of that proposal was withdrawn by the Service on March 6, 1979 (44 FR 12384–84), because of procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. On May 2, 1980, the Service published a rulemaking in the **Federal Register** (45 FR 29371–73) reproposing Critical Habitat for the delta green ground beetle, to comply with the 1978 Endangered Species Act Amendments. A letter to the Governor of California and letters to other interested parties were sent on March 31, 1980. A public meeting and a public hearing on the reproposal of Critical Habitat for the delta green ground beetle were held at Davis, California, on May 22, and June 12, 1980, respectively.

Official comment was received from the Governor of California, the California Department of Parks and Recreation, the California State Water Resources Control Board, the Department of the Army (Corps of Engineers), and the Solano County Board of Supervisors.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

In the August 10, 1978, proposal to list the delta green ground beetle as a Threatened species, the May 2, 1980, reproposal of Critical Habitat and the respective press releases, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All comments received from August 10 to October 8, 1978, regarding the proposal to list the delta green ground beetle as Threatened were considered. Comments regarding the reproposal of Critical Habitat received from May 2 to July 3, 1980, were considered. Additional opportunity for public comment was provided by the May 22, 1980, public meeting and the June 12, 1980, public hearing.

In response to the August 10, 1978, proposal, three comments were received. Dr. Robert Pyle, representing the Survival Service Commission of the International Union for Conservation of Nature and Natural Resources, supported the proposal. Dr. W. James Barry, plant ecologist for the California Department of Parks and Recreation, also supported the proposal, and submitted the preliminary draft of a report, the "Jepson Prairie Project," which provided information about the vernal pool habitats in the area where the delta green ground beetle occurs. The Director of the California Department of Fish and Game, representing the Governor, supported the listing and Critical Habitat designation.

Nine comments were received following the reproposal of Critical Habitat for the delta green ground beetle. The Director of the California Department of Fish and Game, responding for the Governor of California, recommended including an additional area in the Critical Habitat for the beetle. The California Water Resources Control Board indicated that potential effluent discharge through Barker Slough would not be likely to affect the vernal pool habitat of the delta green ground beetle. This agency

V 45 / 155 AG 8 80 UMI

V 45 / 155 AG 8 80 UMI

also suggested alteration of the proposed Critical Habitat area. The Department of the Army (San Francisco District, Corps of Engineers), which is processing a permit application for Phase II of the North Bay Aqueduct in Solano County, stated that a Biological Assessment concerning this project would be submitted to the Fish and Wildlife Service for review. Mr. Wallace L. Brazelton, Chairman of the Solano County Board of Supervisors, objected to the location of the public meeting and hearing concerning the delta green ground beetle, and expressed doubt that the beetle was "critical to the general welfare of Solano County or of the nation." Mr. Brazelton suggested that more effort be given to coordination with local officials, and hoped that no determination would be made without review by County personnel and agencies. Claire P. Davis, an owner of land near the proposed Critical Habitat, objected to possible restrictions on the use of Federal funds in the area, and suggested that the delta green ground beetle be established in the nearby Suisun Game Refuge. Amza Petersen, a private citizen, objected to the proposal, believing that the Federal government would confiscate State land. Dr. Terry L. Erwin, Curator of Coleoptera at the National Museum of Natural History, supported the proposal and indicated that other rare insect species were restricted to vernal pool habitats. Mr. James Day, an attorney representing private landowners in the proposed Critical Habitat area, opposed listing of the beetle and designation of Critical Habitat. Mr. Day feared that listing and Critical Habitat designation could destroy the development potential of the land, particularly with regard to oil and gas exploration and development. Mr. Day stated that the economic value of the delta green ground beetle did not justify the economic effects of listing and Critical Habitat designation on his clients' land, and that insufficient search had been made for the beetle in other areas. He also included a report prepared by Mr. Patrick W. Weddle, a consulting entomologist, who stated that the delta green ground beetle was of no economic value and that little effort had been made to search other areas for the beetle.

At the May 22 public hearing, a Solano County representative questioned the adequacy of the notification procedures regarding the proposal. This comment was identical to that summarized below for the public hearing.

At the June 12 public hearing concerning the delta green ground beetle, one statement relating to this species was made. Mr. Richard Brann, a Solano County Supervisor, objected to the locality of the public meeting and hearing, to the Service's public notification procedures, and to the Service's failures to contact public officials in the listing process and to prepare an economic analysis of the effects of Critical Habitat designation.

Conclusion

The Service has considered changes in Critical Habitat boundaries suggested by the California Department of Fish and Game and State Water Resources Control Board, and has incorporated these changes into its final Critical Habitat designation. These changes involve including a portion of Olcott Lake outside the proposed Critical Habitat boundaries, and elimination of two areas which appear to be unsuitable as habitat for the beetle. Regarding the proposed wastewater project for the city of Vacaville, and Phase II of the North Bay Aqueduct, the Service is in contact with the State and Federal personnel involved with these projects and anticipates little, if any, conflict based on current proposals and planning for the projects. With respect to Mr. Brazelton's and Mr. Brann's comments, the Service has complied with all procedural requirements of the Endangered Species Act. Specifically, in reference to the points raised by the comments, the Service prepared a draft economic analysis at the time of the reproposal of Critical Habitat, and this document was sent to local governments adjacent to the proposed Critical Habitat area. The anticipated economic effects were also summarized in the reproposal of Critical Habitat for the beetle. This document has been made final and concludes that the action taken here will have no significant economic effect in the foreseeable future. Regarding Mrs. Davis' proposal to transplant the beetle to a game refuge, the Service notes that the Endangered Species Act generally intends conservation of the listed species within its ecosystem. As a practical matter, transplantation is usually not biologically feasible. With respect to Mrs. Petersen's comments, the Service has no intent to confiscate State lands and notes that nearly all the land within the designated Critical Habitat is in private ownership. Critical Habitat designation does not involve seizure of land; it is essentially a notification to Federal agencies of the presence of an Endangered or threatened species in the area. In response to the comments and information provided by Mr. Day, the Service notes that the economic value of a species is not a criterion for listing the species as Endangered or Threatened. The Service does not believe that Critical Habitat designation will significantly affect the rights of his clients to exercise the mineral rights which they hold on a quarter-section of land within the Critical Habitat. The Service knows of no Federal authorization or funding involving oil and natural gas exploration in this area. Should Federal involvement arise, the relevant agencies would be required to insure that their actions would not be likely to jeopardize the continued existence of the beetle. Federal agencies already have this responsibility in the areas surrounding Olcott Pond due to the presence of the federally Endangered Orcutt's grass (*Orcuttia mucronata*) which occurs only around the pond. The Service recognizes that the delta green ground beetle may be found at other localities, but the specialized habitat believed necessary for this beetle's survival is highly restricted, and intensive search has been made at many other vernal pools in Solano County without revealing the presence of the beetle.

After a thorough review of all the information available, the Director has determined that the delta green ground beetle is likely to become an Endangered species within the foreseeable future throughout all or a significant portion of its range. Two of the five factors described in section 4(a) of the Act, and affecting the beetle, were outlined in the August 10, 1978, proposal (43 FR 35636–43) to list the beetle as Threatened. The five criteria and their application to this species are described below:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The delta green ground beetle was first collected in 1876 from an unknown locality in California and was not rediscovered until 1974. Its habitat is precariously small, limited to the edges of two vernal pools in Solano County, California. Vernal pools, which are filled by winter rains and dry out by late summer, were once widespread throughout California, but only a few remain. Many vernal pools have been lost to river channelization (loss of overflow), dam construction, and the agricultural conversion of natural habitats. The Service believes that the delta green ground beetle had a more extensive range in historical time. Elimination of the two vernal pools by agricultural conversion or other causes may cause the beetle's extinction. Plowing and land levelling may have already adversely affected the beetle at one of the vernal pools.

2. *Overutilization for commercial sporting, scientific, or educational purposes.* Not applicable to this species.

3. *Disease or predation.* This factor is not known to affect the present status of this species.

4. *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws which insure the conservation of this species and its habitat.

5. *Other natural or manmade factors affecting its continued existence.* None.

Critical Habitat

Subsection 4(a)(1) of the Act states in pertinent part:

> At the time any such regulation (to determine a species to be Endangered or Threatened) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be Critical Habitat.

50 CFR Part 424 defines Critical Habitat as:

> (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and
>
> (ii) Specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service had concluded that two areas in Solano County, California should be designated as Critical Habitat for the delta green ground beetle. These areas include the only two known sites where populations of the beetle occur. The known biological and physical constituent elements in the Critical Habitat which are essential to the conservation of the delta green ground beetle are included below in the description of Critical Habitat for this species. As noted above, the Critical Habitat originally proposed has been modified in the manner suggested by State agencies.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis which has been used as the basis for a decision that economic and other impacts of this action are minor for the foreseeable future.

Effect of the Rulemaking

All prohibitions of 50 CFR 17.31 pertaining to Threatened Wildlife will apply to the delta green ground beetle. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also will be illegal to possess, sell, deliver, carry, transport or ship any specimen illegally taken. Certain exception will apply to agents of the Service and State conservation agencies. Permits for specified purposes will be available in accordance with 50 CFR 17.32.

Section 7(a) of the Act provides:

> Federal Agency Actions and Consultations:
>
> (1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act.
>
> (2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption of such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.
>
> (3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under Section 4 or result in the destruction or adverse modification of Critical Habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in Subsection (a).

Provisions for Interagency Cooperation were published in the **Federal Register** on January 4, 1978 (43 FR 870–876), and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. The rule now being issued will require Federal agencies to satisfy these statutory and regulatory obligations with respect to the delta green ground beetle. These agencies will be required not only to insure that actions authorized, funded, or carried out by them are not likely to jeopardize the continued existence of this species, but also to insure that their actions are not likely to result in the destruction or adverse modification of the habitat that has been determined by the Secretary to be critical.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any final regulation specifying Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for the delta green ground beetle:

1. Agricultural practices threaten this species. Bulldozing and plowing near one of the vernal pools where the beetle has been collected may have eliminated it at this site.

2. Phase II of the North Bay Aqueduct and wastewater disposal for the city of Vacaville could adversely affect the Critical Habitat of the beetle if the needs of this species are not considered. There is Federal involvement with both of these projects. The agencies planning these activities are aware of the presence of the delta green ground beetle and the federally Endangered Orcutt's grass in the area, and are considering possible impacts of their proposed actions on these species. As noted above, the Service anticipates little, if any, conflict based on current proposals and planning for these projects.

3. Oil or natural gas exploration and exploitation, if conducted without regard for the ecosystem represented in the Critical Habitat, could adversely affect the area. The Service has no information indicating that Critical Habitat designation will prevent these activities within or adjacent to the Critical Habitat.

Effect Internationally

The Service will review the status of the delta green ground beetle to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention and whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, or other appropriate international agreements.

National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. Michael M. Bentzien, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Note.—Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, Subparts B and I of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

§ 17.11 [Amended]

1. Section 17.11 is amended by adding the delta green ground beetle to the list alphabetically, under "Insects" as indicated below:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Beetle, delta green ground	*Elaphrus viridis*	U.S.A. (California)	N/A	T	99	§ 17.95(i)	N/A

§ 17.95 [Amended]

2. Section 17.95(i) is amended by adding Critical Habitat for the delta green ground beetle, alphabetically, as follows:

Delta Green Ground Beetle

Elophrus Viridis

California. Solano County. T.5N. R.1E. West ½ Sec. 12, southwest ¼ Sec. 13, southeast ¼ Sec. 14, northeast ¼ Sec. 23, northwest ¼ Sec. 24.

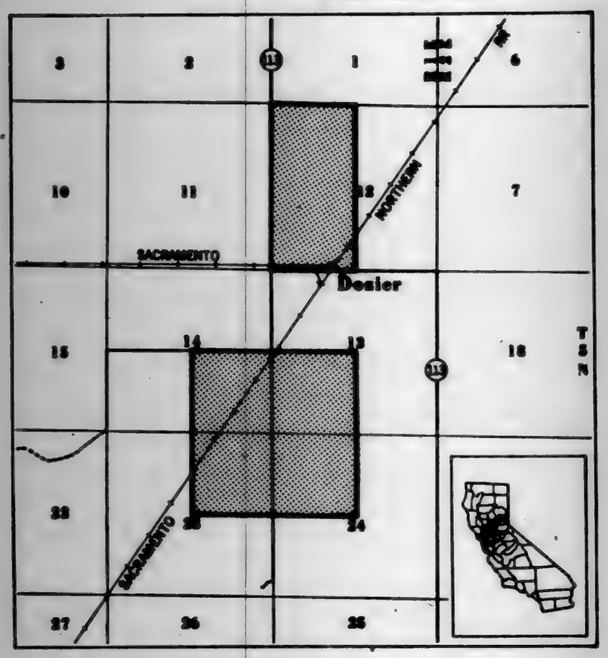

Known constitutent elements essential to the continued existence of the delta green ground beetle are the vernal pools with their surrounding vegetation, and the land areas which surround and drain into these pools.

Dated: August 1, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-23900 Filed 8-7-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

Atlantic Herring Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Promulgation of Final Regulations.

SUMMARY: These final regulations implement Amendment No. 3 (Amendment) to the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP).

The major provisions of the Amendment are as follows:

(1) Redefinition of the fishery management unit;
(2) Establishment of new optimum yields (OYs);
(3) Allocation of the Gulf of Maine OY;
(4) Establishment of new area/period harvest allocations.

Proposed regulations and the Amendment were published March 12, 1980 (45 FR 15955); public comment was invited for a 60-day period.

EFFECTIVE DATE: August 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts, 01930, Telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: The FMP for the Atlantic Herring Fishery was prepared by the New England Fishery Management Council (Council) and approved in December, 1978 by the Assistant Administrator for Fisheries,

NOAA (Assistant Administrator). The FMP was implemented through emergency regulations, which became final on March 19, 1979 (44 FR 17186). Amendment No. 1 to the FMP revised the procedure for determining when a quota is reached; the regulations implementing this amendment became final on June 26, 1979 (44 FR 37616). Amendment No. 2 extended the OY and seasonal allocations for both management areas (Gulf of Maine and Georges Bank) through the 1979–80 fishing year. The regulations implementing Amendment No. 2 became final on September 28, 1979 (44 FR 56700).

Amendment No. 3 to the FMP was approved by the Assistant Administrator on February 13, 1980. The Amendment is the result of an improved analytical framework for assessing the status of the Gulf of Maine, Georges Bank, and Southwest Nova Scotia herring spawning stocks. When the origina! FMP was prepared in 1978, a sophisticated mathematical model was developed to assess the three stocks and to predict yields from the adult herring fisheries on each. However, this methodology contained many unverifiable assumptions concerning geographical and seasonal herring migrations. Aware of these uncertainties, the Council formed a Regional Herring Assessment Working Group to address management of the entire herring resource. As a result, a "pooled" approach to the assessment of the herring stocks was adopted and serves as the basis for the major changes in area/period allocations.

The Amendment changes several major provisions of the FMP, which are summarized as follows:

(1) *Redefinition of the fishery managment unit.*—The fishery managment unit has been redefined to include adult herring fisheries from the shoreline of the New England and Mid-Atlantic States out to the limit of the U.S. fishery conservation zone (FCZ). As a result, adult herring three years of age and older taken from the territorial waters of the New England and Mid-Atlantic States are to be deducted from the appropriate area/period allocation. Previously, adult herring caught in territorial waters of the State of Maine were not considered a part of the fishery management unit.

(2) *Establishment of new optimum yields.*—As a result of the reassessment of the adult herring stocks and the redefinition of the fishery management unit, the Council established new OYs for the Gulf of Maine and the Georges Bank and South stocks. The Amendment provides a harvest level of 30,000 mt for adult herring from the Gulf of Maine, and 15,000 mt (including 2,000 mt for Canadian fishermen) for adult herring from Georges Bank and south.

(3) *Allocation of the Gulf of Maine OY.*—Since adult herring caught in the Maine territorial waters are now counted in the management unit, an allocation system has been implemented within the Gulf of Maine to maintain the historical access between two principal user groups, purse seiners and pair trawlers, within the traditional "juvenile" (north of Cape Elizabeth) and "adult" (south of Cape Elizabeth) fisheries. The allocation of herring, age three years and older, is as follows:

Metric Tons

Gulf of Maine North of Cape Elizabeth (43°34'N.)	10,470
Gulf of Maine South of Cape Elizabeth (43°34'N.)	19,530

(4) *Establishment of new area/period harvest allocations.*—The area/period harvest allocation system set forth in Amendment No. 3 was adopted after extensive public review and comment on the alternatives. This allocation system provides the flexibility necessary to manage the migratory herring resource and to provide for the equitable distribution of the allowable harvest between the two principal user groups.

The following table summarizes the allocations.

Period	Catch allocation (metric tons)
Gulf of Maine—Gulf of Maine North (North of 43°34'N.):	
July 1 to November 30	8,850
December 1 to June 30	1,620
Gulf of Maine South (South of 43°34'N.):	
July 1 to November 30	9,000
April 1 to June 30	1,530
Georges Bank and South:	
July 1–November 30 (all areas)—U.S	10,000
December 1–March 31 (West of 71°50'W.)—Canadian	2,000
April 1–June 30 (all areas)	
Pooled Georges Bank and South (*East of 71°50'W.*) *and Gulf of Maine South:*	
December 1–March 31	*12,000

*Gulf of Maine South receives 2,000 mt and Georges Bank and South receives 1,000 mt as baseline allocations. The remaining 9,000 mt is available anywhere in the two combined areas to provide maximum flexibility.

Public Comment

Comments on the proposed regulations have been received from the Maine Sardine Council and the U.S. Coast Guard. A summary of those comments and NOAA's response, in addition to several changes made in these regulations, are discussed on a section-by-section basis below. Other technical and editorial changes of a minor nature were made in the final regulations.

Section 653.2 Definitions

One commenter recommended that the term "carrier vessel" be defined in the regulations. The final regulations have been revised to define the term "carrier vessel" as "any fishing vessel which only transports Atlantic herring between another fishing vessel and the shore and does not purchase or sell herring." See discussion of § 653.5 below.

The U.S. Coast Guard suggested a new definition for "Vessel of the United States," to include vessels over five net tons which had no U.S. documentation but had a number issued under the National Coordinated Boating Safety Program. NOAA's proposed definition, which is also used in the foreign fishing regulations and in regulations implementing many FMPs, prevents foreign vessels over five net tons from qualifying as a U.S. vessel by obtaining a Boating Safety number from a State. The current definition provides a better expression of the Act's distinction between U.S. and foreign fishing vessels; therefore no change has been made. NOAA is considering other means to deal with the problem of domestic vessels over five net tons which do not have U.S. documentation.

Section 653.5 Recordkeeping and Reporting Requirements

The commenter stated that a "carrier vessel" should be exempt from the recordkeeping requirements of this section. Since carrier vessels do not sell or purchase herring but only transport it, the regulations have been revised. Fish transported by carrier vessels will be reported by the first actual purchaser, since carrier vessels are exempt from the recordkeeping and reporting requirements in § 653.5.

The commenter also stated that § 653.5(b)(1) requiring fish dealer or processor reports presents a "conflict" since these logbooks are not currently available. NOAA has postponed implementation of this regulatory requirement pending recommendations by an industry/government/Council task force on an acceptable recordkeeping and reporting form for fish dealers or processors.

Section 653.5(b)(2) covering inspection of processor reports has been reserved and will be reproposed after NOAA has completed its processor-reporting system and has determined its data needs with greater specificity.

Section 653.7 Prohibitions

Sec.

results in mortality to any herring or in

individual on board and in charge of

§ 653.4 Vessel permits and fees.

(i) *Replacement.* Replacement permits

Section 653.7 Prohibitions

The commenter recommended that Canadian fishing vessels be exempt from § 653.7(i) forbidding transfers of herring from a U.S. fishing vessel to a foreign vessel without a permit. No change has been made in the regulations since the Act clearly prohibits such activity.

FMP Approval

The Assistant Administrator has reviewed the comments received on Amendment No. 3 to the FMP and finds that the FMP, as amended, is consistent with the national standards, other provisions of the Act, and other applicable law.

National Environmental Policy Act of 1969 (NEPA)

Development and implementation of Amendment No. 3 to the FMP have been deemed a major federal action significantly affecting the quality of the human environment. A supplement to the final environmental impact statement (EIS) has been prepared and a notice of availability was published on October 5, 1979 (44 FR 51484).

Executive Order 12044

A draft regulatory analysis (RA) was prepared and made available for comment at the time the proposed rulemaking was published. No comments were received on the draft RA. A final RA has been prepared and is available to the public by contacting the Regional Director (see "address" above).

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 5th day of August, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Part 653 is adopted as final to read as set forth below:

PART 653—ATLANTIC HERRING FISHERY

Subpart A—General Provisions

Sec.
653.1 Purpose and scope.
653.2 Definitions.
653.3 Relation to other laws.
653.4 Vessel permits and fees.
653.5 Recordkeeping and reporting requirements.
653.6 Vessel identification.
653.7 Prohibitions.
653.8 Enforcement.
653.9 Penalties.

Subpart B—Management Measures

653.20 Fishing year.
653.21 Seasonal catch quotas.
653.22 Closures.
653.23 Adjustments to seasonal quotas.
653.24 Notice requirements.
653.25 Discard prohibitions.
653.26 Spawning closures [Reserved].
653.27 Size restrictions [Reserved].

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 653.1 Purpose and scope.

(a) The regulations in this part implement the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic, which was prepared and adopted by the New England Fishery Management Council and approved by the Assistant Administrator. They govern fishing for adult Atlantic herring by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority.

(b) These regulations do not limit harvests of Atlantic herring in the territorial waters of any State. Harvests from State waters, however, are deducted from the seasonal catch quotas provided for in these regulations.

§ 653.2 Definitions.

In addition to the definitions in the Act, the terms used in this part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*

Assistant Administrator means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Atlantic herring or *herring* means *Clupea harengus*, three years of age and older.

Authorized Officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) An certified enforcement officer or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Carrier vessel means any vessel which only transports Atlantic herring between another fishing vessel and the shore and does not purchase or sell herring.

Catch, take, or harvest includes, but is not limited, to, any activity which results in mortality to any herring or in bringing any herring on board a vessel.

Discard means to throw away, cast back, or return to the sea any fish that has been caught. The removal and release of a live fish before that fish is brought on board a vessel is not a discard. Failure to retain any live fish once it is on board a vessel, or failure to retain any dead fish, is a discard.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accomodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing includes any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(1) The catching, taking, or harvesting of herring;

(2) The attempted catching, taking, or harvesting of herring;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of herring; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2), or (3) of this definition.

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) fishing, or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fishing week means the weekly period running from 0001 hours Sunday through 2400 hours Saturday.

Georges Bank and South means that management area consisting of the Northwest Atlantic Ocean excluding the Gulf of Maine.

Gulf of Maine means that management area consisting of a portion of the Northwest Atlantic Ocean north of 42°20′ N. latitude, plus that area south of 42°20′ N. latitude which is west of 70°00′ W. longitude and which is bounded on the south by the northern shore of Cape Cod, including the waters of Cape Cod Bay.

Operator, with respect to any fishing vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any fishing vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, functions, or operation of the vessel; or

(4) Any agent designated as such by a person described in paragraphs (1), (2), or (3) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Person who receives Atlantic herring for commercial purpose means any person (excluding governments and governmental entities) engaged in commerce who is the first purchaser of herring. The term includes, but is not limited to dealers, brokers, porcessors, cooperatives, or fish exchanges. It does not include a person who only transports herring between a fishing vessel and a first purchaser.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street. Gloucester, Massachusetts 01930, or a designee.

Regulated species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

United States harvested herring means caught, taken or harvested by vessels of the United States under this part, whether or not such herring are landed in the United States.

Vessel fishing for mackerel means any fishing vessel whose catch on board at any time is 75 percent mackerel (scomber-scombrus) by weight.

Vessel of the United States means: (a) any vessel documented or numbered by the United States Coast Guard under United States law; or (b) any vessel, under five net tons, which is registered under the laws of any State.

§ 653.3 Relation to other laws.

Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

§ 653.4 Vessel permits and fees.

(a) *General.* Every vessel fishing for Atlantic herring under this part must have a permit issued under this section. Vessels are exempt from this requirement if they catch no more than 100 pounds of herring per trip.

(b) *Eligibility.* [Reserved].

(c) *Application.* (1) An application for a permit under this part must be submitted and signed by the owner or operator of the vessel on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all of the following information:

(i) The name, mailing address including zip code, and telephone number of the owner of the vessel;

(ii) The name of the vessel;

(iii) The vessel's United States Coast Guard documentation number, or the vessel's State registration number for vessels not required to be documented under the provisions of 46 U.S.C.;

(iv) The home port, gross tonnage, radio call sign, and length of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish hold capacity of the vessel;

(vii) The type and quantity of fishing gear used by the vessel;

(viii) The average size of the crew, which may be stated in terms of a normal range; and

(ix) Any other information concerning vessel characteristics requested by the Regional Director.

(3) Any change in the information specified in paragraph (c)(2) of this section shall be submitted by the applicant in writing to the Regional Director within 15 days of any such change.

(d) *Fees.* No fee shall be required for any permit issued under this part.

(e) *Issuance.* The Regional Director shall issue a permit to the applicant no later than 30 days from the receipt of a completed application.

(f) *Expiration.* A permit shall expire upon any change in vessel ownership, registration, name, length, gross tonnage, fish hold capacity, home port, or the regulated fisheries in which the vessel is engaged.

(g) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, suspended or modified pursuant to 50 CFR Part 621.

(h) *Alteration.* No person shall alter, erase, or mutiliate any permit. Any permit which has been intentionally altered, erased, or mutilated is invalid.

(i) *Replacement.* Replacement permits may be issued by the Regional Director. An application for a replacement permit shall not be considered a new application.

(j) *Transfer.* Permits issued under this part are not transferable or assignable. A permit shall be valid only for the fishing vessel for which it is issued.

(k) *Display.* A permit issued under this part must be carried on board the fishing vessel at all times. The operator of a fishing vessel shall present the permit for inspection upon the request of an Authorized Officer.

(l) *Revocation.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of sanctions against a permit issued under this part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permitted fishing vessel is used in the commission of an offense prohibited by the Act of these regulations, or if a civil penalty or criminal fine imposed under the Act is not paid.

§ 653.5 Recordkeeping and reporting requirements.

(a) *Fishing Vessel Records.* (1) The operator of any fishing vessel issued a permit to fish for herring subject to this part shall:

(i) Maintain an accurate and complete fishing vessel record on forms supplied by the Regional Director, according to the requirements of § 653.5(a)(2);

(ii) Make the fishing vessel record available for inspection or reproduction by an authorized officer at any time during or after a fishing trip;

(iii) Keep each fishing vessel record for one year after the date of the last entry in the record; and

(iv) Submit fishing vessel records, as specified in § 653.5(a)(2).

(2) The owner or operator of any fishing vessel conducting any fishing operation subject to this part shall:

(i) Submit a complete fishing vessel record to a location designated by the Regional Director within 48 hours after the end of any fishing week or fishing trip, whichever is the longer time period; or

(ii) Submit a statement to a location designated by the Regional Director within 48 hours after the end of any fishing week within which no fishing for any regulated species occurred.

(3) Fishing vessel records shall contain information on a daily basis for the entirety of any trip during which herring or any other regulated species are caught, and shall contain information for all fish which are caught.

(4) A request for exemption from the provisions of paragraph (a)(ii) of this section shall be submitted in writing to

V 45 / 155
AUG 8 80
UMI

the Regional Director. Such request shall state the reason for the request and the period of time for which the exemption is to apply. The Regional Director may issue an exemption for a period of time greater than two months and less than ten months. If an exemption is issued, the Regional director must be notified in writing of the operator's intent to resume fishing before fishing is resumed.

(5) The authority to sanction permits in accordance with the provisions of 50 CFR Part 621 shall include the power to revoke, modify, or suspend the permit of a fishing vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section.

(b) *Fish Dealer or Processor Reports.* Any person who receives Atlantic herring for a commercial purpose from a fishing vessel subject to this part shall:

(1) File a weekly report (Sunday through Saturday) at a location designated by the Regional Director on forms supplied by the Regional Director within 48 hours of the end of any week in which herring is received. This report shall include information on all first transfers, purchases, or receipts of all adult herring and other fish made during that week.

(2) Inspection of records. [Reserved]

(c) Paragraphs (a) and (b) of this section do not apply to operators of carrier vessels.

§ 653.6 Vessel identification.

(a) *Official Number.* Each fishing vessel subject to this part and over 25 feet in length shall display its Official Number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The Official Number is the documentation number issued by the Coast Guard for documented vessels or the registration number issued by a State or the Coast Guard for undocumented vessels.

(b) *Numerals.* (1) The Official Number shall be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height of all other vessels over 25 feet in length.

(2) The Official Number must be in block Arabic numerals in contrasting color to the background.

(c) *Vessel Length.* The length of a vessel, for purposes of this section, is the length set forth in Coast Guard or State Records.

(d) *Duties of Operator.* The operator of each fishing vessel shall:

(1) Keep the Official Number clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, or its fishing gear obstructs the view of the Official Number from any enforcement vessel or aircraft.

§ 653.7 Prohibitions.

It is unlawful for any person to:

(a) Use any vessel for the taking, catching, harvesting, or landing of any Atlantic herring (except as provided for in § 653.4(a)), unless the vessel has a valid permit issued pursuant to this part on board the vessel;

(b) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application for a vessel;

(c) Falsify or fail to make, keep, maintain, or submit any fishing vessel record or fish dealer/processor report, or other record or report required by this part;

(d) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, landing, purchase, sale, or transfer of any herring;

(e) Fail to affix and maintain markings as required by § 653.6;

(f) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land any Atlantic herring taken in violation of the Act, this part, or any regulation promulgated under the Act;

(g) Fish for, take, catch, or harvest any Atlantic herring from the FCZ after the fishery has been closed pursuant to § 643.22;

(h) Discard Atlantic herring at sea;

(i) Transfer directly or indirectly, or attempt to so transfer, any United States harvested herring to any foreign fishing vessel, while such vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit, under section 204 of the Act, which authorizes the receipt by such vessel of United States harvesting herring;

(j) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this part, or any other regulation promulgated under the Act;

(k) Fail to comply immediately with enforcement and boarding procedures specified in § 653.8;

(l) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any Authorized Officer in the conduct of any search or inspection under the Act;

(m) Resist a lawful arrest for any act prohibited by this part;

(n) Interfere with, obstruct, delay, or prevent by any means the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part;

(o) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process or enforcing this part;

(p) Violate any other provision of this part, the Act, or any regulation promulgated pursuant thereto.

§ 653.8 Enforcement.

(a) *General.* The operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard vessel or aircraft, or other vessel or aircraft authorized to enforce provisions of the Act, the operator of the fishing vessel shall be alert for communications conveying enforcement instructions. VHF–FM radiotelephone communication is the normal method of communicating between vessels. Should radiotelephone communication fail, however, other methods of communication, including visual signals, may be employed. The following signals extracted from the International Code of Signals are among those which maybe used and are included here for the safety and information of fishing vessel operators:

(1) "L" meaning "You should stop your vessel instantly";

(2) "SQ3" means "You should stop or heave to; I am going to board you"; and

(3) "AA AA AA" etc., which is the call to an unknown station to which the signaled vessel shall respond by illuminating the vessel's identification required by § 653.6.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the Authorized Officer and his/her party to come aboard;

(2) Provide a ladder for the Authorized Officer and his/her party;

(3) When necessary to facilitate boarding and/or when requested by an Authorized Officer, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as are necessary to ensure the safety of the Authorized Officer and his/her party to facilitate the boarding.

§ 653.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forefeiture provisions prescribed in the Act, and to 50 CFR Part 620 (Citations) and Part 621 (Civil Procedures) of this chapter.

Subpart B-Management Measures

§ 653.20 Fishing year.

The fishing year for Atlantic herring is the 12–month period beginning on July 1 and ending on June 30 of the following year.

§ 653.21 Seasonal catch quotas.

(a) *Gulf of Maine.* The annual quota of herring is 30,000 mt. It is divided by area and by periods of the year as follows:

(1) For the period July 1 through November 30, 17,850 mt, divided by area as follows:

(i) North of 43°34′ N. latitude (Cape Elizabeth, Maine), 8,850 mt.

(ii) South of 43°34′ N. latitude (Cape Elizabeth, Maine), 9,000 mt.

(2) For the period December 1 to June 30, for the area north of 43°34′ N. latitude, 1,620 mt.

(3) For the period April 1 to June 30, for the area south of 43°34′ N. latitude, 1,530 mt.

(4) For the period December 1 to March 31, a pooled quota for the areas of the Gulf of Maine south of 43°34′ N. latitude and Georges Bank and South, east of 71°50′ W. longitude, 12,000 mt.

(b) *Georges Bank and South.* The annual domestic quota for herring is 13,000 mt. It is divided by area and periods of the year as follows:

(1) For the period July 1 to November 30 and April 1 to June 30, in all areas, and for the period December 1 to March 31, west of 71°50′ W. longtitude, 10,000 mt.

(2) For the period December 1 to March 31, a pooled quota for the areas of Georges Bank and South, east of 71°50′ W. longitude and the Gulf of Maine south of 43°34′ N. latitude, 12,000 mt.

§ 653.22 Closures.

(a) *Closures.* (1) The Assistant Administrator shall project, at least once a month, a date when the quota of herring for each management area, less an anticipated amount to be taken incidentally pursuant to paragraph (b) of this section, will be caught. Except as provided in paragraph (2), if the projected date is earlier than the end of the period, the Assistant Administrator shall, by notice, prohibit fishing for herring in the applicable management area after the projected date.

(2) During the period December 1 through March 31, the Assistant Administrator shall by notice prohibit fishing for herring:

(i) In the Gulf of Maine south of 43°34′ N. latitude, and in Georges Bank and South, east of 71°50′ W. longitude, after the projected date that the combined catch from these areas will be 12,000 metric tons; or

(ii) In the Gulf of Maine south of 43°34′ N. latitude, after the projected date that the catch from this area will be 11,000 metric tons; or

(iii) In Georges Bank and South, east of 71°50′ W. latitude, after the projected date that the catch from this area will be 10,000 metric tons.

(b) *Incidental catch.* (1) Fishing vessels may fish in an area closed pursuant to this section for fish other than herring and be allowed an incidental catch of herring of not more than 5 percent by weight of the total catch on board. It shall be a rebuttable presumption that all herring found on board a vessel fishing in a closed area were taken in the closed area.

(2) Vessels fishing for mackerel in an area closed pursuant to this section shall be allowed an incidental catch of herring of not more than 20 percent by weight of the total catch on board.

§ 653.23 Adjustments to seasonal quotas.

(a) *Adjustments.* Quotas shall be adjusted by the Regional Director only in the following manner:

(1) Unharvested portions of the July 1–November 30 quota for the Gulf of Maine north of 43°34′ N. latitude shall be added to the December 1–June 30 quota for this area;

(2) Unharvested portions of the December 1–March 31 quota for the Gulf of Maine south of 43°34′ N. and Georges Bank east of 71°50′ W. latitude shall be added to the April 1–June 30 quota for the Gulf of Maine south of 43°34′ N. latitude;

(3) Unharvested portions of the July 1–November 30 quota for the Gulf of Maine south of 43°34′ N. latitude and Georges Bank and South, east of 71°50′ W. latitude.

(b) *Notice.* The Regional Director shall publish a notice of adjustment in the **Federal Register.**

§ 653.24 Notice of requirements.

(a) *Contents.* Any notice issued by the Assistant Administrator under this part shall include the following information:

(1) A description of the management area which is the subject of the closure;

(2) The effective date and any termination date of the closure;

(3) The reason for the closure.

(b) *Consultation.* Prior to publication of any notice, the Regional Director shall notify the Executive Directors of the New England and Mid-Atlantic Fishery Management Councils.

(c) *Effective date.* No notice issued under this section shall be effective until it is filed for publication with the **Federal Register** and has been mailed to all persons holding permits issued under § 653.4 at least 48 hours prior to its effective date.

(d) *Termination.* Notices published pursuant to this section shall remain in effect until the earlier of the following dates:

(1) Any expiration date stated in the notice; or

(2) The effective date of any notice which modifies, rescinds, or supercedes the initial notice.

§ 653.25 Discard prohibitions.

There shall be no discarding of herring at sea by fishing vessels.

§ 653.26 Spawning closures. [Reserved]

§ 653.27 Size restrictions. [Reserved]

[FR Doc. 80-24028 Filed 8-7-80; 8:45 am]
BILLING CODE 3510-22-M

V 45 / 155
AUG 8 80
UMI

Proposed Rules

Federal Register
Vol. 45, No. 155
Friday, August 8, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

West Indian Sugarcane Root Borer

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule changes; reopening of comment period; notice of public hearing.

SUMMARY: A document published in the **Federal Register** on February 8, 1980, proposed to quarantine Florida, Puerto Rico, and the Virgin Islands of the United States, and establish regulations for the purpose of restricting the interstate movement of certain articles from Puerto Rico, the Virgin Islands of the United States, and certain areas of Florida because of the West Indian sugarcane root borer. This document changes the proposal by amending the list of proposed regulated areas for Orange County and Seminole County in Florida. Also, this document gives notice of a reopening of the comment period and an additional public hearing to be held in Puerto Rico concerning the proposal. These actions are necessary to correct mistakes in the list of proposed regulated areas and to increase public involvement concerning the proposal.

DATE: Written comments must be received on or before October 7, 1980. A public hearing will be held on September 16, 1980.

ADDRESS: Written comments should be submitted to H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782. A public hearing will be held at the U.S. Department of Agricutlure Experiment Station, Room 8, Rio Piedras, Puerto Rico 00928, (809) 767–9705.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, 301–436–8247. The Draft Impact Analysis describing the options considered in developing the proposed rule (the entire proposed rule, including the amendments thereof set forth in this document) and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION:

Classificaiton

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Background

On February 8, 1980, the Animal and Plant Health Inspection Service (APHIS) published a document in the **Federal Register** (45 FR 8654–8662) which proposed to quarantine Florida, Puerto Rico, and the Virgin Islands of the United States, and establish regulations for the purpose of restricting the interstate movement of certain articles from Puerto Rico, the Virgin Islands of the United States, and regulated areas in Florida, because of the occurence of the West Indian sugarcane root borer. Also, in accordance with the **Federal Register** document of February 8, 1980, a public hearing to consider the proposal was held on March 12, 1980, in Orlando, Florida.

Change in Proposal

Under the proposal, regulated articles would be prohibited from being moved interstate from any regulated area in Florida, Puerto Rico, or the Virgin Islands of the United States unless moved in accordance with specified conditions. Certain areas in Broward County, Orange County, and Seminole County in Florida were proposed to be designated as regulated areas because of the West Indian sugarcane root borer (see proposed § 301.89–2(c)). This included the following areas in Orange County and Seminole County:

Orange County: Secs. 22, 23, 24, 25, 26, 27, 34, 35 and 36, T. 20 S., R. 27 E.; Secs. 1, 2, 3, 10, 11, 12, 13, 14, 23 and 24, T. 21 S., R. 27 E.; W½ and secs. 3, 10, 13, 22, 26, 27, 34 and 35, T. 20 S., R. 28 E.; N½ and secs. 19, 20, 21, 22, 23, and 24, T. 21 S., R. 28 E.

Seminole County: Secs. 7, 10, 22, and 19, T. 21 S., R. 29 E.

Under the provisions of the proposal an area was listed as a proposed regulated area only if it appeared that the West Indian sugarcane root borer occurred in that area. However, as was pointed out at the public hearing held in Orlando, Florida, there were mistakes in the proposal with respect to the listing of areas in Orange County and Seminole County. The reference to "W½ and secs. 3, 10, 13, 22, 26, 27, 34 and 35, T. 20 S., R. 28 E" was intended to read "W½ and secs. 3, 10, 15, 22, 26, 27, 34 and 35, T. 20 S., R. 28 E" and the reference to Secs. 7, 10, 22, and 19, T. 21 S., R. 29 E" with respect to Seminole County was intended to read "Secs. 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21 and 22, T. 21 S., R. 29 E."

Accordingly, the proposal is changed to reflect what was intended. These changes are necessary to accurately reflect the list of areas in Orange County and Seminole County where it appears that the West Indian sugarcane root borer occurs.

Written Comments

The comment period for written comments concerning the proposal as set forth in the document published in the **Federal Register** on February 8, 1980, expired on April 8, 1980. However, the comment period is reopened until October 7, 1980, to afford interested persons the opportunity to comment concerning the changes in the proposed list of regulated areas in Orange County and Seminole County in Florida, and to comment concerning any other portions of the proposal.

Comments should bear a reference to the date and page numbers of this issue of the **Federal Register**. All written comments made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 633, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

Public Hearing

Also, APHIS has received letters requesting that an additional public hearing concerning the entire proposal be held in Puerto Rico, including such a letter from the Secretary of Agriculture of Puerto Rico. In order to provide additional public involvement concerning any aspects of the proposal an additional public hearing will be held at the U.S. Department of Agriculture Experiment Station, Room 8, Rio Piedras, Puerto Rico 00928, (809) 767–9705.

A representative of APHIS will preside at the hearing. Also, at the hearing, a representative of APHIS will present a statement explaining the purpose and basis for the proposal. Any interested person may appear and be heard in person, by attorney, or by other representative. Also, any interested person, his attorney, or other representative will be afforded an opportunity to ask relevant questions concerning the proposal.

The hearing will commence at 10 a.m., and conclude at 5 p.m., local time, unless the presiding official otherwise specifies during the course of the hearing. Persons who wish to be heard are requested to register with the presiding officer prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 9 to 10 a.m. Those registered persons will be heard in the order of their registration. However, any other person who wishes to be heard or ask questions at the hearing will be afforded such opportunity, after the registered persons have presented their views. It is requested that duplicate copies of any written statements that are presented be provided to the presiding officer at the hearing.

If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may, if it becomes necessary, limit the time for each presentation in order to allow everyone wishing to present a statement the opportunity to be heard.

Done at Washington, D.C., this 4th day of August 1980.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 80-24127 Filed 8-7-80; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 722

1981 Extra Long Staple Cotton Program; Proposed Determinations Regarding National Marketing Quota, National Acreage Allotment, and Other Related Operating Provisions for 1981

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1981 crop of extra long staple cotton (referred to as "ELS cotton"):

(1) National marketing quota.
(2) National acreage allotment.
(3) Apportionment of the national acreage allotment to States and counties.
(4) Date or period for conducting the national marketing quota referendum.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Adjustment Act of 1938, as amended.

This notice invites written comments on these proposed determinations.

DATES: Comments must be received on or before October 7, 1980.

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, 202–447–7873.

SUPPLEMENTARY INFORMATION: The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available from the above named individual. This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant".

In compliance with Secretary's Memorandum No. 1955 and "Improving Government Regulations" (43 FR 50988), it is determined after review of these regulations contained in 7 CFR 722 for need, currency, clarity and effectiveness that no additional changes be proposed at this time.

Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in the development of the final rule.

The title and number of the federal assistance programs that this notice applies to are: Title-Cotton Production Stabilization; Number 10.052; as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Proposed Determinations

The following determinations with respect to the 1981 crop of ELS cotton are to be made pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, 7 U.S.C. 1281) (hereinafter referred to as the "Act"):

(a) *National marketing quota.* Section 347(b)(1) of the Act requires the Secretary to proclaim the amount of the national marketing quota for the 1981 crop of ELS cotton by October 15, 1980. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1981–82 marketing year, which begins August 1, 1981, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1981 crop becomes readily available without resort to Commodity Credit Corporation (CCC) stocks. (At present, CCC stocks are insignificant.) The Secretary may reduce the quota so determined for the purpose of reducing surplus stocks, but not below the minimum quota of 82,481 standard bales prescribed under section 347(b)(2) of the Act.

(b) *National acreage allotment.* Pursuant to section 344(a) of the Act, the national acreage allotment for the 1981 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the four calendar years 1976, 1977, 1978, and 1979. The national average yield per planted acre during this four year period was 623 pounds.

If favorable growing conditions exist throughout the 1980–81 season, the carryover of ELS cotton as of August 1, 1981, could be around 45,000 bales. If poor growing conditions should prevail during the 1980–81 season, carryover on August 1, 1981, could be around 30,000 bales. A carryover of about 50,000 to 60,000 bales is generally considered desirable.

Based on these carryover projections, and tentative projections of domestic use, exports and imports for the 1981–82 season, the marketing quota should be between 156,000 and 221,000 bales, and the national acreage allotment should be between 120,000 to 170,000 acres in order to maintain the desirable carryover level at the end of the 1981–82 marketing year.

(c) *Apportionment of the national acreage allotment to States and counties.* Sections 344 (b) and (e) of the Act provide that the national acreage allotment for the 1981 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton (including acreage regarded as having been planted) during the five calendar years 1975, 1976, 1977, 1978, and 1979, adjusted for abnormal weather conditions during such period. Section 344(e) further provides that the State committee may reserve not to exceed 10 percent of its State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship.

(d) *Date or period for conducting the national marketing quota referendum.* Section 343 of the Act requires the Secretary to conduct a referendum by secret ballot of the farmers engaged in the production of ELS cotton during 1980 by December 15, 1980, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become in effective upon proclamation of the results of the referendum. Section 343 further requires the Secretary to proclaim the results of the referendum within 30 days after the date of such referendum.

Pursuant to section 343, the Secretary proposes that said referendum be held during the period December 8–11, 1980, inclusive.

Accordingly, comments are requested with respect to the amounts of the national marketing quota, national acreage allotment, apportionment of the national acreage allotment to States and counties and dates for conducting the national marketing quota referendum, in accordance with the provisions of the Act.

Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington D.C., on August 5, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-24009 Filed 8-7-80; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 94

Importation of Carcasses, Parts or Products of Poultry, Game Birds, and Other Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of the proposed amendment is to provide for the importation of carcasses of quail of free flying origin which have been eviscerated with the heads and feet removed. This action is being proposed to permit the entry of such carcasses from viscerotropic velogenic Newcastle disease (VVND) affected countries in the same manner that other game birds are allowed entry. The intended effect of this action would be to facilitate the importation of such quail carcasses without the risk of the introduction and spread of VVND. This proposed amendment would also change the definition of "game birds" to provide for the importation of migratory fowl other than those species presently listed in the definition of game birds. This action is being taken because the present definition is too limited. The intended effect of this action is to enlarge the definition of game birds to include migratory birds other than just ducks, geese, pigeons and doves.

DATE: Comments on or before September 8, 1980.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 823, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: W. J. Turner, USDA, APHIS, VS, Federal Building, Room 823, Hyattsville, MD 20782, (301) 436–8499. The Draft Impact Analysis describing the options considered in developing this proposed rule, and the impact of implementing each option is available on request from Program Services Staff, Veterinary Services, Animal and Plant Health Inspection Service, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, (301) 436–8695.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants less than a 60-day comment period on this proposed action because quail hunting season begins in Mexico, October 1, 1980. Therefore, if adopted, it is of importance that this proposed amendment be published in the Federal Register and effective no later than that date.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f), the Animal and Plant Health Inspection Service is considering amending Part 94, Title 9, Code of Federal Regulations.

This proposed amendment would provide for the importation into the United States of carcasses of free flying quail when such carcasses have been eviscerated with the head and feet removed. The carcasses of quail must be of a free flying origin as opposed to commercial, domestic or pen raised birds.

Under the present regulations, carcasses of game birds which originate in or transit any country infected with VVND may be imported into the United States pursuant to 9 CFR 94.6(d)(1) if they have been eviscerated and the heads and feet removed. This manner of importation applies only to game birds and is allowed because it has been shown through experience that migrating birds do not constitute a significant risk of introducing VVND into this country if they have been eviscerated with the heads and feet removed. This proposal would add another species of bird to the list of those whose carcasses can be imported into the United States if eviscerated with the heads and feet removed. This species is quail of free flying origin.

Although free-flying quail are non-migratory birds, a review of scientific studies concerning the VVND virus indicates that such birds, when imported under the same conditions as game birds, would not constitute any risk of introduction and spread of VVND.

As with importations of game birds, carcasses of free-flying quail would be inspected at the port of entry by a representative of the United States Department of Agriculture to ensure that a qualified individual has observed such carcasses being imported and has determined that such carcasses of quail are of free flying origin.

Close inspection of free-flying quail carcasses would reveal that these birds do not carry the subcutaneous fat that characterize commercial, domestic, or pen raised quail. Also, the carcasses of free-flying quail would generally be felled by hunters and would usually show evidence of bird shot or other weapon related injuries.

This proposal would amend the definition of the term "game birds" in § 94.6(b)(4). The proposed amendment would delete the word "of" in the first sentence and insert in lieu of the words "such as", so as to provide for the importation of migratory birds other than just ducks, geese, pigeons and doves which may be legally hunted and imported into the United States and which do not fit in the present limited definition of game birds. This amendment is necessary because occasionally a migratory game bird, other than just ducks, geese, pigeons and doves, is offered for entry into the United States pursuant to 9 CFR 94.6(d)(1), but such entry is denied because of the limited definition of game birds. Yet, these other birds would not present any greater risk of introducing VVND than would ducks, geese, pigeons or doves. Therefore, it is felt that the term "game birds" should be redefined to include these other migratory birds.

Accordingly, Part 94, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 94.6(b)(4) the first sentence would be amended to read:

§ 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.

(b) * * *

(4) *Game Birds*—Migratory types of game birds such as ducks, geese, pigeons, and doves. * * *

* * * * *

2. Section 94.6(d)(1) would be revised to read:

(d) * * *

(1) Carcasses of game birds and carcasses of free-flying quail (as opposed to commercial, domestic, or pen raised quail) may be imported if they have been eviscerated and the heads and feet removed.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Done at Washington, D.C., this 31st day of July 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-23748 Filed 8-7-80; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 309

Public Access to Application Files

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed amendments to regulations.

SUMMARY: FDIC regulations provide that with respect to most applications filed by banks a separate public file is to be created and made available for public review. The FDIC has found that, relative to the number of applications filed, very few requests are made to review the public files. As a result, most public files on pending applications are prepared and never used. The FDIC is proposing to amend its regulations to eliminate the separate public file as such. Instead, the information currently kept in a public file will be retained as a part of the application file and will be made available within one day after a request to see the file is made.

DATES: Comments must be received by October 20, 1980.

ADDRESSES: Comments should be mailed to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to and reviewed in Room 6108 at the same address between 8:30 a.m. and 5:00 p.m. during work days.

FOR FURTHER INFORMATION CONTACT: Roger A. Hood, Assistant General Counsel, Legal Division, FDIC, 550 17th Street, NW., Washington, D.C. 20429 (202–389–4628) or James L. Sexton, Deputy Director, Division of Bank Supervision, FDIC, 550 17th Street NW., Washington, D.C. 20429 (202–389–4283).

SUPPLEMENTARY INFORMATION: Section 303.14(c) of FDIC's regulation (12 CFR 303.14(c)) provides that with respect to any application for deposit insurance, to establish a branch, to relocate a main office or a branch, or to merge, a public file is to be maintained and made available for public inspection. This file is to consist of: the application with supporting data and supplementary information; data comments and information submitted by interested persons in favor of or in opposition to the application; and those portions of the investigation report prepared by the FDIC's field examiner in connection with the application which cover the convenience and needs of the community to be served by the applicant and either the future earnings prospect or the future prospects of the applicant or applicants. In addition, although not required by the regulation, a summary assessment of the application, based on the applicant's last Community Reinvestment Act examination [*see* 12 CFR 345.7], is made a part of the public file. The public file does not contain any confidential information that represents: (1) Personal information the release of which could constitute a clearly unwarranted invasion of privacy; (2) commercial financial information the disclosure of which would result in substantial competitive harm to the submitter; or (3) information the disclosure of which could seriouly affect the financial condition of any financial institution.

It has been the experience of the FDIC that in most instances no one ever asks to view the public file on a pending application. As a result, most public files are prepared, copied, filed and eventually shredded without ever being used. The maintenance of separate public files on each application has proven to be a waste of filing space, paper and personnel time.

In order to eliminate the expenses incurred under the current procedures, while meeting the need for public access where it is desired, the FDIC is proposing that § 303.14(c) be revised. This revision provides that specified nonconfidential portions of an application file will be publicly available upon request. The information to be available is the same as is currently contained in the public file. A separate public file will no longer be maintained. In order to ensure quick access to the file, the proposal requires that the nonconfidential portions of the file be made available to a requestor no later than one day after receipt of a request to review the file. (In most instances, it is expected the file could be made available almost immediately upon request.)

Certain technical amendments to other sections of Parts 303 and 309 that refer to the public file also are being proposed in order to conform these sections with the change to § 303.14(c).

As the amendments are internal in nature (i.e., affect the manner in which

applications will be filed) these changes in FDIC procedures will have no effect on any insured bank. In particular, they will not affect the recordkeeping, reporting requirements, or competitive status of banks. In view of this, FDIC has concluded that a cost-benefit analysis (including a small bank impact statement) regarding the change is unnecessary.

Alternatives considered other than the proposal were: (1) Leaving the regulation unchanged; or (2) eliminating the public file and requiring requestors to use the procedures of the Freedom of Information Act (the "FOIA", 5 U.S.C. 552) to obtain information relating to pending applications. As discussed above the FDIC determined retained the public file will result in a large expenditure of resources with little corresponding public benefit. Eliminating the public file with no provisions for expedited access would unreasonably burden any individual who has a need to review a file. Under the FOIA a file need not be made available for ten days after receipt of the request. Also, under FDIC procedures, the request must be made in writing to the Executive Secretary in Wasington, D.C. Where an individual needs to view the application file the FOIA procedures may be inconvenient or too slow. The proposed regulation provides access to more information than required to be released under the FOIA, permits a request for access to be made either in writing or orally and requires the material to be made available *no later* than one working day after receipt of the request. The proposed amendment relieves regional staff of the administrative burdens and costs attendant with the current public file, while not adversely affecting the public's interest.

In consideration of the foregoing, it is proposed to amend 12 CFR Chapter III as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

1. By revising the third sentence of the notice required by § 303.14(b)(3) to read as follows:

§ 303.14 Application procedures.

* * * * *

(b) * * *

(3) * * * The nonconfidential portions of the application file are on file in the Regional Office and available for public inspection upon request during regular business hours. * * *

2. By revising § 303.14(c) to read as follows:

§ 303.14 Applications procedures.

* * * * *

(c) *Public access to application file*—(1) *Inspection of application.* Any person may inspect the nonconfidential portions of an application file. The nonconfidential portions of the file will be available for inspection in the Regional Office of the Federal Deposit Insurance Corporation in which an application has been filed not more than one working day after receipt by the Regional Office of the request (either written or oral) to see the file. Photocopies of the nonconfidential portions of the file will be available, upon request, to any person. The charge for copies will be made in accordance with the fee schedule contained in § 309.5(b) of this chapter.

(2) *Nonconfidential portions of application.* Subject to the provisions of paragraph (c)(3) of this section, the following information in an application file will be available for public inspection:

(i) The application with supporting data and supplementary information.

(ii) Data, comments, and other information submitted by interested persons in favor of or in opposition to such application.

(iii) Those portions of the investigation report prepared by the Corporation's field examiner in connection with the application which cover the convenience and needs of the community to be served by the applicant or applicants and either the future earnings prospects or the future prospects of the applicant or applicants.

(iv) A summary assessment of the applicant or applicants, based on their last Community Reinvestment Act examination.

(v) Where a hearing has been held pursuant to paragraph (e) of this section, any evidence submitted pursuant to paragraph (f)(3) of this section and the hearing transcript described in paragraph (f)(5) of this section.

(3) *Withholding of confidential information.* No material described in paragraph (c)(2) of this section shall be available if it is determined to be confidential under the provisions of 5 U.S.C. 552. The following information generally is considered confidential:

(i) Personal information, the release of which would constitute a clearly unwarranted invasion of privacy.

(ii) Commercial or financial information the disclosure of which would result in substantial competitive harm to the submitter.

(iii) Information the disclosure of which could seriously affect the financial condition of any financial institution.

3. By revising § 303.14(f)(6)(i) and deleting and reserving section 303.14(h) as follows:

§ 303.14 Application procedures.

* * * * *

(f) *Hearing rules.* * * *

(6) *The hearing record*—(i) *Contents. The nonconfidential portions of the application, as described in paragraph (c) of this section, shall automatically be a part of the hearing record.*

(ii) * * *

(iii) * * *

(iv) * * *

(v) * * *

* * * * *

(h) [Reserved].

* * * * *

PART 309—DISCLOSURE OF INFORMATION

4. By revising § 309.4(b)(2) as follows:

§ 309.4 Information made available for public inspection.

* * * * *

(b) *Information made available at the Corporation's discretion.* (1) * * *

(2) Nonconfidential portions of applications filed with the Corporation as provided in § 303.14(c). These files are maintained at the Regional Office of the Corporation where the applicant bank is located and include applications for deposit insurance, to establish branches, to relocate main or branch offices and to merge.

* * * * *

Dated: August 4, 1980.

By order of the Board of Directors.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-23076 Filed 8-7-80; 8:45 am]

BILLING CODE 6714-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 255

[Economic Regulation; Docket 38348; EDR-404A]

Notice to Passengers of Conditions of Carriage

Dated: August 5, 1980.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The CAB is extending the comment period in its rulemaking proceeding to require that airlines give actual notice to passengers about the terms of the contract of carriage. The extension is at the request of the Air Transport Association.

DATES: Comments by: September 3, 1980. Reply comments by: September 23, 1980.

Comments and relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 38348, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia Kennedy, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202–673–5158.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR–404 (45 42629, June 25, 1980), the Board proposed to prevent tariffs from automatically becoming part of the passenger/airline contract. Under the proposal, airlines would be required to give passengers actual notice of the terms of the contract of carriage.

On July 23, 1980, the Air Transport Association of America (ATA) asked for an extension of the comment period for 30 days. ATA argued that the broad scope of the proposal and the issues, both practical and legal, raised by it require extensive, detailed examination. Since only a total of 6 weeks was provided for comments in this proceeding, additional time is needed for study of the complex issues raised by the proposal.

There have been no previous extensions requested in this proceeding, and no specific target date has been set for Board action. The Board recognizes that this proceeding raises issues and practical problems that require the type of study described by ATA. The Board would also like to have as many and as thorough comments as possible.

Accordingly, I find good cause to extend the time for preparation of initial comments for 30 days. The time for the filing of reply comments is being extended accordingly.

Under authority delegated by the Board in 14 CFR 385.20(d), the time for filing initial comments is extended to September 3, 1980, and the time for filing reply comments is extended to September 23, 1980.

(Secs. 204, 403, 411, and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 72 Stat. 758, as amended, 72 Stat. 769, 72 Stat. 788, as amended; 49 U.S.C. 1324, 1373, 1381, 1482)

By the Civil Aeronautics Board.

Richard B. Dyson,

Associate General Counsel, Rules and Legislation.

[FR Doc. 80-23096 Filed 8-7-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 600 and 606

[Docket No. 79N–0094]

Blood and Blood Components; Error and Accident Reports

AGENCY: Food and Drug Administration.

ACTION: Proposed rule

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations concerning blood and blood components to require the submission of certain error and accident reports to the agency by licensed and unlicensed blood establishments. These reports of error and accidents are being limited to those related to the issue of hepatitis-reactive blood and blood components and the accidental infusion of the wrong red blood cells to a donor during plasmapheresis. Certain other reports of error and accidents would no longer be required to be submitted to the Director, Bureau of Biologics, by these blood establishments. The agency is also proposing to amend the current good manufacturing practice (GMP) regulations for blood and blood components to provide a uniform procedure for reporting and maintaining these records.

DATE: Comments by November 6, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul K. Hirananka, Bureau of Biologics (HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Section 351 of the Public Health Service Act (42 U.S.C. 262) requires the licensing of all manufacturers of blood (whole blood collected from a single donor and processed either for transfusion or further manufacturing) and blood components (that part of a single-donor unit of blood separated by physical or chemical means) engaged in interstate commerce. Both blood and blood components are used therapeutically. A license is issued to a blood establishment only after the establishment has demonstrated that it is capable of consistently manufacturing products that are safe, pure, potent, and effective. While blood banks and blood component manufacturers engaged only in intrastate commerce are not required to be licensed under the Public Health Service Act, they are required to comply with the current GMP regulations for blood and blood components (21 CFR Part 606) as are licensed blood establishments. The GMP regulations require both licensed and unlicensed manufacturers to comply with the regulations for additional standards for human blood and blood products (21 CFR Part 640). Both types of establishments are required by the GMP regulations to maintain records of errors and accidents under § 606.160(b)(7)(iii) (21 CFR 606.160(b)(7)(iii)), and adverse reactions under § 606.170(a) (21 CFR 606.170(a)), and to report fatalities to the Director, Bureau of Biologics, under § 606.170 (b) (21 CFR 606.170(b)).

In addition, all licensed establishments are required under § 600.14 (21 CFR 600.14) to promptly notify the Director, Bureau of Biologics, of errors or accidents in the manufacture of products that may affect the safety, purity, or potency of any product. The reporting of errors or accidents occurring in the manufacture of blood and blood components is necessary so that FDA can respond with maximum efficiency in situations where the public health may be endangered. These reports are also useful to the agency in assessing the adequacy of existing regulations to protect the safety of donors, processors, and recipients while ensuring the continued safety, purity, potency, and effectiveness of blood and blood components. Moreover, these reports are necessary in assessing the adequacies of manufacturers' standard operation procedures and compliance with GMP.

The agency has determined that the submission of much of the information that licensed blood and blood components manufacturers are required to submit to the Director, Bureau of Biologics, under § 600.14 is unnecessary because many of the errors and accidents concerning these products are corrected before their administration. Submission of these error and accident reports is time consuming and costly for the manufacturer and requires immediate followup by FDA although in

most cases the manufacturer has corrected the error or accident before transfusion of the product. Aftert review and analysis of the § 600.14 reports, the agency concludes that only two types of errors and accidents need be reported to the Director, Bureau of Biologics, by blood establishments. There are errors and accidents related to the issue of blood or a blood component that is reactive to a test for hepatitis B surface antigen, and the infusion of the wrong red blood cells to a donor during plasmapheresis; each could result in an adverse reaction or a fatality.

Hepatitis reactive blood that is labeled by the processing laboratory as nonreactive may remain undetected because the test for hepatitis is not usually repeated by the receiving blood banks. As a result, such blood may be used for transfusion with the likelihood of transmitting hepatitis to the recipient or to laboratory personnel processing the blood. Another danger could result from the infusion of the wrong red blood cells to a donor during plasmapheresis. Infusion of incompatible red cells causes the destruction of the recipient's red blood cells, and could result in death of the recipient, or it may sensitize the recipient to antigens the recipient does not possess.

Other potentially hazardous errors or accidents that occur in the processing laboratory, such as incorrect ABO and Rh grouping and labeling, should be discovered by the blood bank during the crossmatching or retyping of the blood and corrected before the blood is transfused. Consequently, it is not essential that reports of such errors be submitted to the Director, Bureau of Biologics. Reducing the amount of information required to be submitted to the Bureau of Biologics will lessen the burden for both licensed blood establishments as well as the agency. This proposed change in reporting requirements, moreover, would not lessen the public's protection. Under § 606.160(b), blood establishments are still required to maintain reports of all errors and accidents for review by FDA personnel during routine and other types of establishment inspections.

The reporting of information concerning errors and accidents under § 600.14 does not presently apply to unlicensed blood establishments. Similarly, under § 606.100 *Standard operating procedures* (21 CFR 606.100), unlicensed blood establishments are exempted from the requirements of Parts 640 (21 CFR Part 640) relating to licenses, licensed establishments, and submission of material or data to or approval by the Director, Bureau of Biologics. Because of the inherent danger to the public, and because these establishments represent such a large sector of the blood processing community, the agency believes that unlicensed blood establishments must also be required to submit reports of certain errors or accidents to the Director, Bureau of Biologics. In addition to the substantive changes, the agency is making a grammatical change in the proposed § 600.14 to state the regulatory requirements of the agency in the active rather than the passive voice.

Therefore, the agency is proposing to amend §§ 600.14 and 606.100 to provide that errors and accidents associated with blood and blood components shall be reported as required in Part 606.

The records and reporting requirements under § 606.160 (21 CFR 606.160) provide that records must be maintained for errors and accidents and be as detailed as necessary. The agency believes that detailed records should include corrective actions taken to prevent or reduce the possibility of a recurrence of the error or accident, including any change in the blood establishment's standard operating procedure. Additionally, the agency believes these records should be summarized at least annually for a review by FDA to determine the adequacy of corrective actions taken for the continued protection of patients and donors. However, existing § 606.160 does not specifically identify the information concerning errors and accidents which should be recorded and reported.

Accordingly, FDA is proposing to add new § 606.171 to identify the information to be included in the reporting and recording of errors and accidents and, in accordance with the amendment, FDA is proposing to amend § 606.160(b)(7)(iii) to reference the information required under proposed § 606.171. For uniformity and clarification in preparing error and accident reports, FDA is also proposing to amend § 606.3 (21 CFR 606.3) to include definitions of "error and accident" and "issue."

The recordkeeping and periodic reporting requirements contained in this proposal are subject to clearance by the Office of Management and Budget (OMB) under the Federal Reports Act of 1942 (44 U.S.C. Chapter 35). FDA intends to submit to the Director, OMB copies of this proposed regulation and other related materials during the comment period on the proposal. If OMB approves the proposed requirements, FDA intends to impose the requirements at the time a final regulation based on the proposal is made effective. If OMB does not approve, without change, the recordkeeping and periodic reporting requirements contained in the proposal, FDA will revise the final regulation as necessary to comply with OMB's determination. Any comments received from OMB will become part of the administrative record for this matter and will be placed on file for public review in the office of the Hearing Clerk, FDA, in Docket No. 79N–0094.

The agency has determined under 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 510, and 701, 52 Stat. 1040–1042 as amended, 1049–1051 as amended 1055–1056 as amended), 76 Stat. 794 as amended (21 U.S.C. 321, 351, 352, 360, 371); the Public Health Service Act (secs. 351, 352, 353, and 361), 58 Stat. 702 and 703, as amended, 81 Stat. 536 (42 U.S.C. 262, 263, 263a, and 264), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 600 and 606 be amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. In Part 600, § 600.14 is amended by revising the section heading, and the existing text and designating it as paragraph (a), and by adding new paragraph (b) to read as follows:

§ 600.14 Reporting of errors and accidents.

(a) Except as provided in paragraph (b) of this section, a manufacturer shall notify promptly the Director, Bureau of Biologics, of errors and accidents in the manufacture of products that may affect the safety, purity, or potency of any product.

(b) Notification of errors and accidents associated with blood and blood components is required only for those relating to the issue of blood and blood components that are reactive to a test for hepatitis B surface antigen and the infusion of the wrong red blood cells to a donor during plasmapheresis. The manufacturer shall promptly report such errors and accidents to the Director, Bureau of Biologics, as required in Part 606 of this chapter.

PART 606—CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS

2. In Part 606:

a. Section 606.3 is amended by adding paragraphs (k) and (l) to read as follows:

§ 606.3 Definitions.

* * * * *

(k) "Issue" means the initial distribution of blood or a blood component after completion of processing or compatibility testing.

(l) "Error and accident" means an inadvertent or other diviation from a standard operating procedure or an unexpected event occurring by chance or from unknown causes, that results in the issue of blood or a blood component that fails to meet the appropriate regulations, or the accidental infusion of the wrong red blood cells to a donor during plasmapheriesis.

b. Section 606.100(a) is revised to read as follows:

§ 606.100 Standard operating procedures.

(a) Standard operating procedures, except those for clinical investigations, shall comply with published additional standards for human blood and blood products in Part 640 of this chapter. References in Part 640 relating to licenses, licensed establishments, and submission of material or data to or approval by the Director, Bureau of Biologics, are not applicable to establishments not subject to licensure under section 351 of the Public Health Act; except that unlicensed establishments shall report to the Director, Bureau of Biologics, any errors and accidents relating to the issue of blood or a blood component that is reactive to a test for hepatitis B surface antigen and the infusion of the wrong red blood cells to a donor during plasmapheresis.

* * * * *

c. Section 606.160(b)(7)(iii) is revised to read as follows:

§ 606.160 Records

* * * * *

(b) * * *

(7) * * *

(iii) Errors and accidents as required in § 606.171.

* * * * *

d. New § 606.171 is added to read as follows:

§ 606.171 Reporting and recording of errors and accidents.

(a) *Submission of reports.* Under § 600.14(b) of this chapter, a report of an error or accident relating to the issue of blood and blood components that are reactive to a test for hepatitis B surface antigen and the infusion of the wrong red blood cells to a donor during plasmapheresis shall be made in writing to the Director, Bureau of Biologics, within 7 working days of its discovery by the facility responsibile for the error or accident. Names of donors or patients shall be omitted from the reports.

(b) *Contents of submitted reports.* (1) Reports related to the issue of blood or a blood component that is reactive to a test for hepatitis B surface antigen shall include, but are not to be limited to, the following information:

(i) The name of the product.

(ii) The lot number.

(iii) The date the error or accident was discovered.

(iv) The date the error or accident occurred.

(v) A statement indicating whether or not the product was transfused.

(vi) If the product was transfused, a statement indicating whether or not the patient's physician was aware of the error or accident.

(vii) A statement indicating whether or not the patient subsequently contracted hepatitis.

(viii) A statement indicating the type of person responsible for the error or accident, e.g., a nurse, a technologist, a shipping clerk, etc.

(ix) An explanation of how the error or accident occurred.

(x) The action taken by the manufacturer to prevent a recurrence of the error or accident. If corrective action included a procedural revision, a description of the revised procedure shall be submitted for review and approval by the Director, Bureau of Biologics.

(xi) If defective hepatitis reagents are implicated as the cause of the error or accident, the name of the manufacturer, the lot number, and the expiration date of the reagent. When available, one unopened sample of the suspect reagent lot shall be retained for field collection by FDA field or other personnel and its submission to the Bureau of Biologics along with a copy of any laboratory test results indicating the suspected deficiency.

(2) Reports related to the infusion of the wrong red blood cells to a donor during plasmapheresis shall include, but are not to be limited to, the following information:

(i) The date infusion occurred.

(ii) The approximate volume of red blood cells infused.

(iii) The blood group of the donor.

(iv) The blood group of the infused red blood cells.

(v) A description of the effect on the donor.

(vi) A description of the care given to the donor.

(vii) An explanation of how the incident occurred.

(viii) The corrective actions taken to prevent a recurrence of the error or accident. If this action includes a procedural revision, a description of the revised procedure shall be submitted for review and approval by the Director, Bureau of Biologics.

(c) *Records.*—(1) *General.* Records of reported and unreported errors and accidents shall be maintained by the manufacturers as required in § 606.160(b)(7)(iii), and shall meet the requirements under paragraph (b) (1) and (2) of this section. If a corrective action includes a procedural revision, a description of the revised procedure shall be included in the establishment's standard operating procedure.

(2) *Annual summary.* The records in paragraphs (b) (1) and (2) and (c)(1) of this section shall be summarized by the manufacturer at least annually and shall be available to the Food and Drug Administration at the time of inspection. The annual summary shall be submitted to the Director, Bureau of Biologics, upon request. In preparing the annual summary, the manufacturer shall include at least the errors and accidents concerned with:

(i) ABO group determination.

(ii) Rh group determination.

(iii) Application of incorrect labels to correctly tested products.

(iv) Incorrect identification (or labeling) of a donor or recipient or any mislabeling of blood or a blood component sample.

(v) Clerical errors in recording a summary of automated test results or in the issue of the wrong unit.

(vi) Absence of required labels on products.

(vii) Issue of incorrectly crossmatched blood for transfusion, except as approved in special cases by the blood bank director.

(viii) Antibody screening (detectable by standard operating procedure method).

(ix) Incorrect expiration date.

(x) Leakage of containers; breakage of frozen products during shipment may be excluded.

(xi) Release of product not intended for, or not suitable for, distribution.

(xii) Issue of products having a reactive hepatitis B surface antigen test.

(xiii) Contaminated products issued; specify.

Interested persons may, on or before November 6, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The

comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 31, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-23804 Filed 8-7-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-277-76]

Income Tax; Shareholder Requirements Relating To Electing Small Business Corporations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to certain shareholder requirements, and related matters, for electing small business corporations.

DATES: The public hearing will be held on October 8, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 24, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-277-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 1371 and 1372 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, April 17, 1980, at page 26092 (45 FR 26092).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments by the time prescribed in the notice of proposed rulemaking, and also desire to present oral comments at the hearing on the proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 24, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-23989 Filed 8-7-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2520 and 2530

Rules and Regulations for Reporting and Disclosure and Minimum Standards for Employee Pension Benefit Plans; Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans

AGENCY: Department of Labor.

ACTION: Proposed rulemaking.

SUMMARY: This document contains proposed regulations, applicable to certain multiple employer pension plans, which deal with reports that must be furnished to participants in such plans (and, in some cases, to their beneficiaries) regarding their benefit entitlements, and with records that must be maintained to provide the information necessary for these reports. The Employee Retirement Income Security Act of 1974 (the Act) authorizes the Secretary of Labor to prescribe regulations regarding individual benefit reporting to participants and beneficiaries and individual benefit recordkeeping. The proposed regulations, if adopted, would provide necessary guidance to employers maintaining certain multiple employer pension plans and to plan administrators of such plans, and would enable participants in such plans to receive accurate, timely and useful information.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor (the Department) on or before October 7, 1980. These regulations, if adopted, would generally become effective 120 days after adoption. However, with respect to collectively bargained multiple employer plans, the regulations would not become effective until nine months after the expiration of current collective bargaining agreements (but in no case more than 45 months after adoption).

ADDRESSES: Written comments (preferably three copies) should be submitted to the Division of Reporting and Disclosure, Pension and Welfare Benefit Programs, Room N-4508, U.S. Department of Labor, Washington, D.C. 20216, Attention: Multiple Employer Individual Benefit Reporting and Recordkeeping Regulations. All comments should be clearly referenced to the section of the regulations to which they apply. All written comments will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-9595, or Joseph L. Roberts III, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523-8685. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor has under consideration proposed regulations applicable to multiple employer pension plans [1] dealing with reports that must be furnished to individual participants (and, in some cases, to their beneficiaries) regarding their benfit entitlements under employee pension benefit plans, and with records that must be maintained to provide the information necessary for these reports. These regulations are proposed under the authority contained in sections 105, 209 and 505 of the Act (Pub. L. 93-406, 88 Stat. 849, 865 and 894, 29 U.S.C. 1025, 1059 and 1135). Parallel regulations relative to single employer plans [2] have already been proposed (45 FR 51231, August 1, 1980).

The Department has determined that these proposed regulations are "significant" within the meaning of Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order (44 FR 12661, March 24, 1978).

A. Statutory Provisions

Section 105(a) of the Act generally requires each administrator of an employee pension benefit plan to furnish to any plan participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information, the total benefits accrued and the nonforfeitable pension benefits which have accrued, if any, or the earliest date on which such benefits will become nonforfeitable. Similarly, section 209(a)(1) of the Act generally requires the plan administrator of a plan subject to Part 2 of Title I of the Act to make a report, in accordance with regulations of the Secretary of Labor, to each employee who is a participant under the plan and who requests such report. The report required under section 209(a)(1) must be sufficient to inform the employee of his accrued benefits which are nonforfeitable. Under both sections 105(a) and 209(a)(1), no participant is entitled to more than one report on request during any single 12-month period. Section 209(a) also requires similar reports to be provided to a participant who terminates service with the employer or has a one-year break in service. Sections 105(d) and 209(a)(2) authorize the Secretary of Labor to prescribe regulations specifying the extent to which these reporting requirements apply to plans adopted by more than one employer. In addition, section 105(c) of the Act requires plan administrators to provide to participants with respect to whom registration statements are filed with the Internal Revenue Service under section 6057 of the Internal Revenue Code of 1954 (the Code) individual statements setting forth the information contained in the registration statements.

In order to enable employees' benefits to be determined, so that the reporting requirements of section 209 can be met, section 209(a)(1) generally requires records to be maintained by employers and authorizes the Secretary of Labor to prescribe regulations governing such recordkeeping. The information necessary for individual benefit reporting is to be furnished by the employer to the plan administrator. In the case of a plan adopted by more than one employer, however, section 209(a)(2) requires records to be maintained by the plan administrator, based on information to be provided by each such employer.

B. Background

On February 9, 1979 (44 FR 8294), the Department published proposed regulations with respect to individual benefit statements and recordkeeping (referred to herein as "the 1979 proposal"). These regulations would have applied both to single and multiple employer plans. A large number of public comments on the 1979 proposal were filed. Many of these comments suggested that substantial revisions should be made to the 1979 proposal. Comments filed on behalf of single and multiple employer plans raised distinct issues.

Upon consideration of those comments, the Department decided to withdraw the 1979 proposal and to propose separately regulations pertaining to single employer plans and to multiple employer plans. On August 1, 1980, (45 FR 51231), the Department published a document which withdrew the 1979 proposal and which contained new proposed regulations applicable only to single employer plans. That document also contained general provisions with respect to recordkeeping and individual benefit statement requirements. In addition, the Department announced in that document that proposed regulations dealing with multiple employer plans would be published in the **Federal Register** in the future. Accordingly, the regulations now being proposed contain provisions which pertain only to multiple employer plans. Many of these provisions are similar to the proposed regulations pertaining to single employer plans. As a result, many of the same considerations are applicable to these proposed regulations as were applicable to the single employer plan regulations. Although the discussion of the multiple employer plan regulations in this preamble is to a certain extent duplicative of the discussion in the preamble of the single employer proposal, the multiple employer plan regulations are discussed here in full in order to avoid making it necessary to refer to the single employer document for a discussion of the regulations proposed in this document.

Of the regulations now being proposed, 29 CFR § 2520.105-3 deals with individual benefit reporting to participants and beneficiaries, while 29 CFR § 2530.209-3 deals with the maintenance by plans of records to serve as a basis for individual benefit statements.

In addition to substantive changes from the 1979 proposal, this new proposal contains language changes designed to clarify provisions or to improve readability.

These regulations are proposed under the authority in sections 105, 209, and 505 of the Act (Pub. L. 93-466, 88 Stat. 849, 865, and 894, 29 U.S.C. 1025, 1059, and 1135).

C. Discussion of Proposed Individual Benefit Reporting Regulations

1. *Benefit statement.* Under these proposed regulations, the benefit statement is the basic document to be used for providing individual benefit information to participants upon request, upon termination or upon a one-year break in service. The benefit statement must state the amount of a participant's accrued benefit regardless of the extent to which it is nonforfeitable (i.e., "vested"), the percentage of the accrued benefit which is vested, and the amount of such accrued vested benefit. The regulations specify the form in which accrued benefits and accrued vested benefits must be reported. The new proposal is designed to ensure that the information provided to an individual participant is presented in a meaningful fashion, without imposing excessive administrative costs on plans.

Some of the comments received by the Department on the 1979 proposal raised objections to the degree to which that proposal would have required benefit statements to provide individualized information geared to each participant's particular circumstances. These

[1] The term "multiple employer plan" is defined in the proposed regulation to mean a plan adopted by more than one employer other than a plan maintained by employers under common control. In discussions of the proposal throughout this document, the term "multiple employer plan" generally should be read to be consistent with this definition.

[2] The term "single employer plan" has been defined in such proposal to include plans maintained by a group of employers under common control. Throughout this document the term "single employer plan" generally should be read to be consistent with his definition.

comments suggested that the degree of

the inclusion of such projections, but

benefit, in the same form as that in

the adoption of these regulations. In

The regulations, therefore, apply to

benefit statement. Defined benefit plans

comments suggested that the degree of individualization that would have been required would entail significant additional costs for plans, and that ultimately these costs would be borne to some extent by participants. These commentators pointed out that, in some cases, the individualized information might be misleading or of little value to recipients of benefit statements as a result of changes in participants' circumstances. At the same time, it appears to the Department that some degree of individualization is necessary if individual benefit statements are to serve the purposes which underlie the statutory requirements. In the new proposal the Department has struck what it believes to be a better balance between the need for individualization of benefit statements and the costs that individualization imposes.

In the case of defined benefit plans, the accrued benefit and the amount of the participant's accrued vested benefit may be expressed either in terms of a straight life annuity payable at normal retirement age, or in terms of the normal form of benefits offered by the plan (e.g., annuity for a term of years, lump-sum distribution, etc.). By contrast, the 1979 proposal would have required accrued benefits to be stated either in the form of a straight life annuity payable at normal retirement age or, if the plan did not offer such a benefit, in the form of the primary option offered by the plan. If a participant had made any elections affecting the manner of payment of benefits, the 1979 proposal generally would have required accrued benefits to be stated in the form elected by the participant. The elimination in the new proposal of the requirement to state accrued benefits in the form elected by the participant is in keeping with the goal of reducing costs resulting from excessive individualization. It also reflects comments to the effect that the requirement to state accrued benefits in the form of a straight life annuity payable at normal retirement age might prove misleading to participants when this is not the normal form of benefits payable under the plan. One of the comments on the 1979 proposal suggested that the Department should explicitly prohibit inclusion in the benefit statement of benefit projections predicated on the assumption that a participant will work until retirement. The comment suggested that such projections would not satisfy the requirement that a benefit statement must report accrued benefits, vested percentage and accrued vested benefits as of the date of the statement. The Department has decided not to prohibit the inclusion of such projections, but notes that the benefit statement must be written in a manner calculated to be understood by the average plan participant or beneficiary and its format must not have the effect of misleading or misinforming participants or beneficiaries.

The new proposal would require the benefit statement to indicate that election of options under the plan might affect the participant's accrued benefits, and to refer the participant to the Summary Plan Description for information on available options. In addition, if the accrued benefit and accrued vested benefit are not expressed as amounts payable in the form of a joint and survivor annuity, the benefit statement must explain that the periodic benefit the participant will receive at retirement may be reduced on account of survivor benefits.

"Social Security offset plans" must furnish the net benefit. In the case of benefit statements furnished on request or under the annual benefit statement alternative, the net benefit may be determined on the basis of assumptions about participants' earnings in service not covered by the plan, provided that the benefit statement indicates that the reported amounts are approximate. Benefit statements furnished after a break in service (or after a "severance," as described below) must report the actual amounts of benefits to which the participant is entitled.

In the case of an individual account plan, the regulations make it clear that the participant's account balance is considered to be the accrued benefit.

In accordance with the statutory requirements, the benefit statement would be required to indicate the nonforfeitable (vested) percentage of the participant's accrued benefit. If the participant has no vested accrued benefits, the benefit statement must indicate the earliest date on which any benefits will become vested. Consistent with the goal of avoiding excessive administrative costs, the new proposal eliminates the requirement in the 1979 proposal that plans with "graded" vesting indicate the earliest dates on which a participant may attain each subsequent level of nonforfeitable accrued benefits derived from employer contributions. The new proposal also provides that class year plans would be required to indicate the nonforfeitable percentage of each portion of the participant's account balance to which a separate nonforfeitable percentage applies.

The benefit statement would also be required to indicate the amount of the participant's nonforfeitable accrued benefit, in the same form as that in which the accrued benefit is reported.

The new proposal requires only a general reference to the Summary Plan Description. The 1979 proposal required more detailed information regarding circumstances that might result in the reduction or elimination of accrued or nonforfeitable benefits, including detailed references to the Summary Plan Description. The new proposal also eliminates the requirement contained in the 1979 proposal that the benefit statement include certain information concerning a participant's work history used as a basis for calculation of the participant's benefits. This change was made to reduce the degree to which benefit statements must be individualized. The eliminated information, however, must be available to a participant under the provisions of these regulations regarding inspection of records (§ 2530.209–3(f), and, as under the 1979 proposal, the benefit statement must so indicate. As under the 1979 proposal, the benefit statement would be required to include a statement urging the participant to bring promptly to the attention of the plan administrator anything in the benefit statement that does not appear correct, information regarding the availability of plan records for inspection, the date as of which information is reported, and the participant's social security number (for the purpose of verification by the participant).

Like its predecessor, the new proposal would provide that the benefit statement must be written in a manner calculated to be understood by the average plan participant or beneficiary and that the format of the benefit statement must not have the effect of misleading or misinforming the participant or beneficiary. Under certain circumstances, plans must offer foreign language assistance to participants who are not literate in English to aid them in understanding their benefit statements, as is required under regulations relating to the Summary Plan Description (see 29 CFR § 2520–102.2(c)).

The benefit statement must be based on the latest available information. As under the 1979 proposal, benefit statements based on records that meet the standards of sufficiency set forth in the proposed recordkeeping regulations will be deemed to be based on the latest available information. Although "sufficient", a plan's records may nevertheless be incomplete (i.e., if they do not include all items necessary to determine participants' benefit entitlements) if, for example, a plan did not maintain complete records prior to the adoption of these regulations. In these instances, the benefit statement must indicate that the records on which it is based are incomplete, and the participant or beneficiary must be offered an opportunity to provide other information relating to his benefit entitlements. The plan administrator must prepare a benefit statement based on such information although, to the extent that a benefit statement is based on such information, it may indicate that it is conditioned upon the accuracy of that information.

In the 1979 proposal the Department solicited comments on whether and to what extent it should adopt regulations concerning circumstances under which liability should be imposed for the payment of benefits in accordance with the information provided in the benefit statement. Some comments supported the adoption of regulations imposing liability, while others suggested that liability should be limited, or objected to the imposition of any liability. Upon consideration of the comments, the Department has concluded that a judgment concerning the consequences of an incorrect benefit statement can properly be made only after account has been taken of all of the facts and circumstances. The Department believes, therefore, that it would be more appropriate to leave determinations of this sort to plan fiduciaries, whose actions are subject to review by the judicial process, rather than to attempt to deal with all conceivable factual situations in the context of regulations.

In the 1979 proposal, the Department also solicited comments on whether it should publish model benefit statements. In view of the multiplicity of plan provisions, it would be difficult for the Department to ensure that the format of a model statement would not be misleading under any circumstances. Accordingly, the Department has made a decision at this time not to publish model benefit statements.

2. *Furnishing benefit statements on request.* Both sections 105(a) and 209(a)(1)(A) of the Act require plan administrators of pension plans to furnish individual benefit information on request. The requirements of both statutory provisions are substantially similar in this regard; accordingly, these requirements are dealt with in a single section of the regulations (§ 2520.105–3(a)). The only significant difference between the two statutory provisions is that section 105(a) applies to requests by both participants and their designated beneficiaries, while section 209(a)(1)(A) applies only to requests by participants. The regulations, therefore, apply to requests by both participants and beneficiaries, so as to cover the broadest range of circumstances under which benefit statements must be furnished on request.

In response to suggestions made in comments on the 1979 proposal, the new proposal provides that a plan administrator subject to these regulations need not provide a benefit statement upon request to certain classes of participants and beneficiaries. These include participants and beneficiaries currently receiving benefits; participants and beneficiaries to whom paid up insurance policies representing their full benefit entitlements have been distributed; participants and beneficiaries who have received a full distribution of their benefits; beneficiaries of participants who are entitled to benefit statements; and participants with deferred vested benefits who have received benefit statements upon termination or after having incurred a one-year break in service without returning to service with any employer maintaining the plan, and their beneficiaries. The Department believes that it would be superfluous to require benefit statements to be furnished to these participants and beneficiaries.

The plan administrator may establish a simple and convenient procedure for the submission of requests for benefit statements. If such a procedure is established and communicated to participants and beneficiaries (for example, in the Summary Plan Description), the plan administrator, under certain conditions, need not comply with requests that do not conform to the procedure. If no such procedure is established, however, the plan administrator must comply with any request in writing by a participant or beneficiary. The plan administrator may not require information regarding a participant's employment record as a condition for furnishing the benefit statement (although such information may be requested). The new proposal would, however, allow plan administrators to require the furnishing of certain items of information identifying the participant about whom information is requested.

Many of the comments on the 1979 proposal urged that the Department permit benefit statements to report benefits as of the end of the plan year. The comments suggested that this approach would relieve individual account plans of the expense of conducting a valuation whenever a participant or beneficiary requests a benefit statement. Defined benefit plans might also face lower administrative costs if an end-of-plan-year approach were adopted because it might enable these plans to gear data processing systems to a single date. In light of these comments, the new proposal would require a benefit statement to report benefits as of a date not earlier than the end of the plan year preceding the plan year in which a participant or beneficiary requests the statement.

The end-of-plan-year approach, however, entails changes in the deadlines for furnishing benefit statements on request. The new proposal is designed to permit a reasonable period of time after the end of the plan year for the processing of information. Under the new proposal, a benefit statement must be furnished to a participant or beneficiary on request within the later of 60 days of the date of the request or 120 days after the end of the plan year which immediately precedes the year in which the request was made. The Department recognizes that this scheme would provide participants and beneficiaries who request benefit statements towards the end of the plan year with a statement that contains relatively old information (as much as 14 months old), while participants and beneficiaries who request statements during the earlier part of the plan year may be required to wait a substantial period (up to four months) to receive their statements. Nevertheless, the Department believes that the proposed scheme strikes an appropriate balance between providing participants with timely information and reducing administrative costs.

As under the 1979 proposal, the plan administrator would not be required to furnish more than one benefit statement to a participant or beneficiary on request during any 12-month period.

The original proposal appeared to require plans to furnish a complete benefit statement to a non-vested participant if the annual alternative was used. The new proposal would permit a plan to provide annually, as an alternative to furnishing benefit statements on request, a benefit statement to each vested participant and a statement of non-vested status to each non-vested participant. Permitting the furnishing of a statement of non-vested status under the annual alternative should reduce costs to plans electing the alternative, while providing sufficient disclosure to a non-vested participant. The plan administrator must furnish a complete benefit statement, however, to any non-vested participant who requests

participant should be furnished a benefit

the plan). Section 6057(e) of the Code

reporting period. (As in the 1979

between a covered and a non-covered

for inspection by participants

V 45 / 155 AUG 8 80 UMI

one after receiving the statement of non-vested status.

The annual benefit statement must be furnished within 180 days after the end of the plan year.

Despite comments objecting to the requirement in the 1979 proposal that the plan administrator furnish at least one duplicate of the annual benefit statement to any participant or beneficiary who requests it during the year, the Department has not eliminated this requirement. In some cases a participant or beneficiary may not receive an annual benefit statement mailed to him. Since it would be impracticable and unfair to require a participant or beneficiary to prove that he did not receive an annual statement in order to obtain a duplicate, the regulations allow all participants or beneficiaries entitled to receive a benefit statement on request at least one duplicate if the annual alternative is used.

3. *Furnishing benefit statements after one-year breaks in service.* The benefit statement must report benefits as of the end of the plan year in which a one-year break in service occurs. Consistent with end-of-the-year benefit reporting, the new proposal requires statements to be furnished within 180 days after the end of the plan year in which the break in service occurs. The 180 day period also would allow plans to satisfy the requirement to furnish benefit statements after a one-year break in service through the use of the annual benefit statement alternative, which is required to be furnished in the same time period.

A participant who receives a benefit statement upon incurring a one-year break in service, and thereafter incurs a subsequent one-year break in service, is not entitled to receive an additional benefit statement if the information in the second benefit statement would be the same as that in the first.

As under the 1979 proposal, plan administrators of multiple employer plans are not required to furnish benefit statements upon termination. However, if a multiple employer plan does not provide that a participant may suffer adverse consequences upon incurring a one-year break in service, the plan administrator is required to furnish a benefit statement to a participant if the participant is not listed on any Service Report furnished to the plan administrator by an employer for two consecutive plan years. The fact that the participant has not appeared on a Service Report for an extended period of time suggests that such participant has ceased to participate actively in the plan. In the Department's view, such a participant should be furnished a benefit statement for the same reasons as a participant who incurs a one-year break in service (or a participant in a single employer plan who terminates service with the employer).

In the case of participants who have no vested benefits, the new proposal, like the 1979 proposal, would permit plan administrators of multiple employer plans to satisfy the requirements to furnish individual benefit information after a one-year break in service by furnishing a statement of non-vested status. The statement of non-vested status informs the participant that he has no nonforfeitable benefits. It does not, however, provide information regarding accrued benefits. Thus, the statement of non-vested status does not require extensive calculations and may be presented to all participants entitled to it in a standardized form, with no need for preparation of an individual statement for each. However, the statement of non-vested status must inform the participant that he may request a benefit statement with more detailed information regarding his individual accrued (non-vested) benefits. Such a request must be treated as a request for a benefit statement.

4. *Corrections to the benefit statement.* As under the 1979 proposal, a participant who raises a question with regard to the accuracy of a benefit statement must be given an opportunity to furnish information regarding his benefit entitlements to the plan administrator. Within a reasonable time, the plan administrator must make a decision with regard to the question raised by the participant and notify the participant of the decision, the basis for the decision, and any change in benefit entitlements as a result of the decision. The plan administrator is not required to prepare a benefit statement based on the information furnished by the participant except, as noted above, in situations where the benefit statement is based on incomplete records.

5. *Statement of deferred vested benefits.* Under section 105(c) of the Act, each plan administrator required to register with the Internal Revenue Service under section 6057 of the Code shall furnish a statement of deferred vested benefits to each participant described in section 6057(a)(C) (i.e., to each participant who, during the plan year for which registration is required, is separated from service covered under the plan, is entitled to a deferred vested benefit under the plan as of the end of the plan year, and with respect to whom retirement benefits were not paid under the plan). Section 6057(e) of the Code requires plan administrators to furnish similar individual statements to the same class of participants. The requirements of section 105(c) will be deemed to be satisfied if, in accordance with section 6057(e) of the Code and regulations thereunder, the plan administrator furnishes to the participant the individual statement required under the latter section.

6. *Manner of furnishing individual benefit reporting documents.* Like the 1979 proposal, the new proposal would require a plan to furnish individual benefit documents to a participant or beneficiary either by first class mail to his last known address, or by personal delivery. The new proposal makes it clear that personal delivery may be accomplished by another party under the plan administrator's supervision.

The new recordkeeping proposal would require participants' individual benefit records to include current address information. Although some comments suggested that plans should not be required to maintain current address information on file, and should be permitted to use less reliable modes of delivery than first-class mail and personal delivery, the Department believes that these requirements represent the only means of assuring that individual benefit reporting documents will actually reach participants and beneficiaries in most cases.

D. Proposed Individual Benefit Recordkeeping Regulations

1. *Duty to maintain records.* In the case of a multiple employer plan, the duty to maintain individual benefit records would be imposed on the plan administrator. As under the 1979 proposal, the records are to be based on information in Service Reports furnished to the plan administrator by employers within 45 days (rather than 30, as under the 1979 proposal) after the end of a reporting period. The reporting period may be up to three months in duration. The new proposal makes it clear that a shorter reporting period may be established by agreement. The new proposal, like the 1979 proposal, requires Service Reports to contain information on all employees in service covered under the plan and all employees who have moved from covered to non-covered service after having met the plan's eligibility requirements for participation.

The new proposal imposes the duty to provide Service Reports upon every employer required to make contributions to the plan in respect of work performed by the employer's employees during the reporting period. (As in the 1979 proposal, however, employers are not required to provide Service Reports on employees in non-covered job classfications who have never performed service covered under the plan.) In addition, an employer is generally required to file Service Reports if another party is required to make contributions in respect of work performed by the employer's employees. This requirement is designed to cover a situation brought to the Department's attention in comments on the 1979 proposal in which contributions are made to the plan not by the employers of covered employees, but by firms that contract with these employers for their output, and similar situations if they exist. Further, the language of the new proposal should make it clear that employers will not be required to furnish Service Reports to a plan if their employees accumulate service credits under the plan solely by virtue of a reciprocity agreement with another plan.

If the plan administrator fails to receive an employer's Service Report, or an employer's Service Report does not contain all the necessary information, or the plan administrator has reason to believe that the information in the Service Report is inaccurate, the plan administrator must make reasonable efforts to obtain accurate and complete information. The plan administrator may prescribe reasonable rules and regulations regarding the format, manner of reporting and reportable information, and may prescribe forms and worksheets for reporting.

2. *Sufficiency of records.* Records maintained by the plan administrator of a multiple employer plan will be deemed to be sufficient under the proposed regulations if such records accurately reflect the Service Reports furnished by employers to the plan administrator. In general, Service Reports must contain the same information as the records maintained by an employer in connection with a single employer plan (i.e., they must include all information relating to service with such employer during the reporting period which would be relevant to a determination of the benefit entitlements of each employee covered under the plan). This may include information regarding service in a job classification not covered by the plan during the quarter. Under certain circumstances, section 210 of the Act requires service not performed in job classifications covered by a multiple employer plan to be credited to a participant, particularly for purposes of vesting. These circumstances generally occur when an employee moves between a covered and a non-covered job classification. When an employee moves from a covered to a non-covered job classification, the employee must continue to report information regarding the employee to the plan administrator although the employee no longer performs service in a covered job classification, if this information is relevant to a determination of the employee's individual benefit entitlements. Under the proposal, an employer would not be required to furnish Service Reports on an employee who has not met the Plan's requirements for eligibility for participation in the plan. Since service in a covered job classification is always a requirement for eligibility to participate in a plan, the regulation would not require Service Reports to be furnished with respect to employees in non-covered job classifications merely because they might later move to covered job classifications and thereby become eligible to participate (with the result that their non-covered service would then be required to be credited for vesting or other purposes).

As in the case of single employer plans, there is no requirement to develop records relating to service before the effective date of the regulations, but records in existence on February 9, 1979 must be retained. In the Department's view, the 1979 proposal was sufficient to put plan administrators on notice that existing records would not be permitted to be destroyed.

3. *Retention, preservation and inspection of records:* As under the 1979 proposal, individual benefit records must be retained as long as a possibility exists that they might be relevant to a determination of the benefit entitlements of a participant or beneficiary. However, if they are lost or destroyed due to circumstances beyond the control of the person responsible for their maintenance, they will not be deemed insufficient solely for that reason. They must be maintained in a safe and accessible place at the offices of the plan administrator, or at special recordkeeping offices.

The proposal makes clear that original records may be disposed of at any time if microfilm, microfiche or similarly reproduced records which are clear reproductions of the original documents are retained, and adequate viewing equipment is available for inspecting them. (The 1979 proposal appeared to allow microfilm reproduction only.) The regulations do not preclude electronic data processing of records.

Individual benefit records, including original documents, must be available for inspection by participants, beneficiaries, and their representatives.

The period within which plan records must be made available for inspection after a request to do so has been extended from 72 hours, as under the 1979 proposal, to 10 working days. This change was made in response to comments noting the difficulties which would have been involved under the previous proposal.

In response to some public comments, provisions have been added to this proposal requiring the plan to bear the cost of converting records into a form accessible for inspection, although reasonable charges for copying may be imposed, not exceeding the actual cost. Inspection of records may be made only by those persons entitled to receive a benefit statement, and by their representatives. Representatives of the Department have the authority to inspect plan records under the circumstances specified in section 504(a)(2) of ERISA.

If a plan administrator ceases to be responsible for the maintenance of individual benefit records, they must be transferred to the person who becomes responsible for their maintenance.

4. *Definition of "multiple employer plans".* The Department has decided to limit the term "multiple employer plan", for the purposes of these regulations, to a plan adopted by more than one employer, other than a plan adopted by employers under common control.

5. *Reliance on Social Security records; variances for multiple employer plans.* Comments on the 1979 proposal indicate that a number of multiple employer plans have hitherto relied on records maintained by the Social Security Administration, among other sources of information, as a basis for making benefit determinations. The commentators suggest that these plans should be permitted to continue to rely on Social Security Administration records. The Department believes that adequate pre-retirement individual benefit reporting cannot be provided to participants and beneficiaries unless plans develop and maintain recordkeeping systems of their own. Consequently, the new proposal does not permit reliance on Social Security records as a substitute for recordkeeping by employers or plan administrators.

The comments indicate, however, that there may be a few multiple employer plans that operate under extraordinary circumstances that would make compliance with the multiple employer reporting and recordkeeping requirements in this proposal virtually impossible. The Department solicits detailed comments from these multiple

V 45 / 155 AG 8 80 UMI

employer plans with respect to any such special circumstances. If warranted by the comments, the Department might consider a procedure under which such plans would be granted variances which would permit them to use alternative methods of complying with the individual benefit reporting and recordkeeping requirements of the Act and these regulations.

E. Effective Dates

A number of comments on the 1979 proposal suggested that some multiple employer plans may need additional time to make preparations for compliance. In order to allow for orderly preparations for compliance with the regulations would not become effective with respect to collectively bargained multiple employer plans until nine months after the expiration of the collective bargaining agreement or agreements in effect on the date of adoption of these regulations, but in no case more than 45 months after the date of adoption. For multiple employer plans which are not collectively bargained, the regulations, if adopted, would become effective 120 days after adoption.

F. Drafting Information

The principal author of these proposed regulations is Mary O. Lin of the Plan Benefits Security Division, Office of the Solicitor, Department of Labor. However, other persons in the Department of Labor participated in developing the proposed regulations, both on matters of substance and style.

G. Proposed Regulation

Accordingly, it is proposed to amend Chapter XXV of Title 29 of the Code of Federal Regulations as follows:

1. By adding to Part 2520 new § 2520.105–3 to read as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Subpart G—Individual Benefit Reporting

Sec.

2520.105–3 Individual Benefit Reporting for Multiple Employer Plans.

Authority: Secs. 105, 209 and 505 of the Act, (Pub. L. 93–406; 88 Stat. 849, 865 and 894, 29 U.S.C. 1025, 1059 and 1135).

Subpart G—Individual Benefit Reporting

§ 2520.105–3 Individual benefit reporting for multiple employer plans.

(a) *Furnishing benefit statements on request.*—(1) *General.* The administrator of a multiple employer employee pension benefit plan (as defined in paragraph (k) of this section) subject to Parts 1 or 2 of Title I of the Act shall furnish a benefit statement which satisfies the requirements of this paragraph and paragraphs (c) through (i) of this section to all plan participants or beneficiaries who request in writing information regarding their individual benefit entitlements under the plan, except:

(i) Participants and beneficiaries who are currently receiving benefits under the plan;

(ii) Participants and beneficiaries whose entire benefit entitlements under the plan are fully guaranteed by an insurance company, insurance service or insurance organization qualified to do business in a State, provided that the benefits are paid under an insurance policy or contract on which no further premiums are payable and which has been distributed to the participant or beneficiary;

(iii) Participants and beneficiaries who have received all benefits to which they are entitled under the plan;

(iv) Beneficiaries of a participant who is entitled to a benefit statement on request; and

(v) Participants with deferred vested benefits who have received benefit statements on termination or after incurring a one year break in service and who have not returned to service with any employer maintaining the plan, and beneficiaries of such participants.

(2) *Procedure for submission of requests for benefit statements.* The plan administrator may establish a simple procedure, convenient to participants and beneficiaries, for the submission of requests for benefit statements. The plan administrator will not be required to comply with a request made in a manner which does not conform to such a procedure which has been communicated in writing to participants and beneficiaries, provided that the plan administrator informs the requesting participant or beneficiary that he has failed to comply with the procedure and explains how to comply with the procedure. A procedure shall be deemed to be communicated to participants and beneficiaries if a description of the procedure is included in the Summary Plan Description of the plan or in any other document distributed to all plan participants. If no such procedure is established, any request in writing to the plan administrator or plan office by a participant or beneficiary for information regarding his benefit entitlements under the plan shall be deemed a request to the plan administrator for the purposes of this section.

(3) *Information obtained from participant or beneficiary.* A participant or beneficiary who requests a benefit statement may not be required to furnish information regarding the participant's employment record as a condition to receiving the benefit statement, but may be required to furnish the following information: name, address, date of birth, Social Security account number, and, if relevant to information provided in the benefit statement, marital status and date of birth of spouse.

(4) *Date of furnishing.* A benefit statement shall be furnished to a participant or beneficiary who requests such a statement, no later than (i) 60 days after receipt of the request or (ii) 120 days after the end of the plan year which immediately precedes the plan year in which the request is made, whichever is later.

(5) *Date as of which information is provided.* A benefit statement furnished at the request of a participant or beneficiary shall report benefits as of a date not earlier than the end of the plan year preceding the plan year in which the request is made.

(6) *Annual benefit statement alternative.* (i) the requirement to furnish a benefit statement on request to a participant or beneficiary, as set forth in paragraph (a)(1) of this section, shall not apply if within one year before the request the plan administrator has furnished to such participant or beneficiary an annual benefit statement, or a "statement of non-vested status" described in paragraph (f) of this section, as appropriate, which is based on information as of the end of the plan year preceding the plan year in which it is furnished, and it is furnished within 180 days after the end of that plan year.

(ii) Notwithstanding the provisions of paragraph (a)(6)(i) of this section, the plan administrator shall furnish a complete benefit statement meeting the requirements of paragraph (d) and (e) of this section to a participant who requests information on his accrued benefits after receiving a statement of non-vested status, and shall furnish upon request a duplicate of the most recent annual benefit statement, or statement of nonvested status, as appropriate, to any participant or beneficiary who was entitled to such a statement but claims not to have received one.

(b) *Furnishing statements after one-year breaks in service or severance.*—(1) *General.* Except as provided in paragraph (c) of this section, the plan administrator of a multiple employer pension plan that is subject to Part 2 of Title I of the act shall furnish a benefit statement to a particpant who incurs a one-year break in service as defined in paragraph (b)(5) of this section. If, however, the plan does not provide that participants may suffer adverse consequences on incurring a one-year break in service, such plan adminstrator shall furnish a benefit statement to a participant who incurs a severance as defined in paragraph (b)(6) of this section.

(2) *Date of furnishing.* A benefit statement or statement of non-vested status shall be furnished within 180 days after the end of the plan year in which a participant incurs a one-year break in service or a severance. This requirement may be satisfied by furnishing to the participant an annual benefit statement described in paragraph (a)(6) of this section, which reports the participant's benefits as of the end of the plan year in which the one-year break in service or the severance occurred.

(3) *Non-vested participatants.* In the case of a participant who has no nonforfeitable benefits under the plan and who incurs a one-year break in service or a severance, the plan administrator will comply with the requirements of section 209(a)(1)(B) of the Act and this section if the plan furnishes such participant a "statement of non-vested status" as described in paragraph (f) of this section.

If a participant who incurs a one-year break in service is furnished a statement of non-vested status under this paragraph, and requests information concerning his accrued benefits under the plan, the plan administrator shall furnish a benefit statement meeting the requirements of paragraph (d) and (e) of this section to the participant no later than the later of 60 days after such request or 180 days after the end of the plan year in which he incurs a one year break in service.

(4) *Date as of which information is provided.* A benefit statement furnished after a one-year break in service or a severance shall report benefits as of the end of the plan year in which the one-year break in service or the severance occurs.

(5) *Definition of "one year break in service".* For purposes of this section, the term "one-year break in service" shall mean a one-year break in service for vesting purposes as defined in the plan documents, or in the case of a plan under which service is credited for purposes of vesting according to the elapsed time method permitted under 26 CFR 1.410(a)–7, a one-year period of severance for vesting purposes, as defined in 26 CFR 1.410(a)–7(c)(4).

(6) *Definition of "severance".* For purposes of this section, a participant shall be deemed to incur a "severance" in the second of two consecutive plan years in which the participant is not listed on any Service Report furnished by an employer to the plan administrator in accordance with paragraph (b) of this section.

(c) *Frequency of benefit statements.* (1) A plan administrator is not required to furnish to a participant or beneficiary more than one benefit statement upon request under paragraph (a) of this section in any 12-month period.

(2) Where a participant receives a benefit statement upon incurring a one-year break in service or a severance, the plan administrator is not required to furnish a second benefit statement upon a subsequent one-year break in service or severance, or upon a request by the participant, if the information that would be contained in a second benefit statement would be the same as that contained in the earlier benefit statement.

(d) *Style and format of benefit statements.*—(1) *General.* Individual benefit reporting documents shall be written in a manner calculated to be understood by the average plan participant or beneficiary. The format of these documents must not have the effect of misleading or misinforming the participant or beneficiary.

(2) *Foreign language assistance.* (i) The plan administrator of a plan described in paragraph (d)(2)(ii) of this section shall communicate to plan participants, in the non-English language common to such participants, information relating to any procedure for requesting benefit statements that may have been established by the plan administrator in accordance with paragraph (a)(2) of this section. In addition, the plan administrator shall provide these participants with either a benefit statement in such non-English language, or an English language benefit statement or statement of non-vested status which prominently displays a notice, in the non-English language common to these participants, explaining how they may obtain assistance. The assistance provided need not involve written materials, but shall be given in the non-English language common to these participants.

(ii) The plan administrators of the following plans are subject to the foreign language requirements of paragraph (d)(2)(i) of this section:

(A) A plan that covers fewer than 100 participants at the beginning of the plan year, and in which 25 percent or more of plan participants are not literate in English and are all literate in the same non-English language, or

(B) A plan which covers 100 or more participants at the beginning of the plan year, and in which the lesser of 500 or more participants, or 10% or more of all plan participants, are not literate in English and are all literate in the same non-English language.

(e) *Contents of the benefit statement.*—(1) *General.* In accordance with paragraphs (e)(2), (e)(3), (e)(4) and (e)(5) of this section, each benefit statement shall contain the following information:

(i) The participant's total accrued benefits;

(ii) The nonforfeitable percentage of the participant's accrued benefits;

(iii) The amount of the participant's nonforfeitable accrued benefits; and

(iv) Additional information specified in paragraph (e)(5) of this section.

(2) *Total accrued benefits.*—(i) *Defined benefit plans.*—(A) *General.* In the case of a defined benefit plan, the accrued benefit shall be stated in the form of a straight life annuity payable at normal retirement age or in the normal form of benefit provided by the plan.

(B) *Contributory plans.* If a defined benefit plan requires contributions to be made by employees, the benefit statement shall separately indicate, in addition to the participant's total accrued benefit, either the amount of the participant's accrued benefit derived from employee contributions and the amount of the accrued benefit derived from employer contributions, or the percentages of the participant's total accrued benefit derived from employee contributions and from employer contributions. The portion of the accrued benefit derived from employer contributions and the portion derived from employee contributions shall be determined in accordance with section 204(c) of the Act (section 411(c) of the Internal Revenue Code of 1954 and Treasury Regulations thereunder).

(C) *Social Security offset plans.* If a participant's benefits under the plan are offset by a percentage of the participant's old-age insurance benefit under the Social Security Act, the benefit statement shall state the participant's accrued benefit after reduction by the applicable amount. In the case of a benefit statement furnished upon request or under the annual benefit statement alternative permitted under paragraph (a)(6) of this section, the amount of the offset may be determined on the basis of assumptions about the participant's earnings from service not covered under the plan, provided that the statement indicates that the stated amounts of the accrued and nonforfeitable accrued benefit are approximate. A benefit statement furnished when an employee terminates employment or incurs a break in service

must indicate the actual amounts of the accrued benefit and nonforfeitable accrued benefit to which the participant is entitled.

(ii) *Individual account plans.* In the case of an individual account plan, the participant's accrued benefit shall be the fair market value of the participant's account balance on the date as of which benefits are reported.

(3) *Nonforfeitable percentage.*—(i) *General.* The benefit statement shall indicate the percentage of a participant's accrued benefit which is nonforfeitable within the meaning of section 203 of the Act (and sections 411(a) of the Internal Revenue Code of 1954 and Treasury Regulations thereunder). Except in the case of a plan described in paragraph (e)(3)(ii) of this section, if a participant has no nonforfeitable benefits the benefit statement shall indicate the earliest date on which any benefits may become nonforfeitable; and if less than 100 percent of the participant's benefits are nonforfeitable, the benefit statement shall indicate the earliest date on which 100 percent of the participant's benefits may be nonforfeitable.

(ii) *Class year plans.* In the case of an individual account plan which provides for the separate nonforfeitability of benefits derived from contributions for each plan year, the benefit statement shall state each nonforfeitable percentage applicable to a portion of the participant's account balance and the value of that portion of the account balance.

(iii) *Contributory plans.* In the case of a plan which provides for employee contributions, the benefit statement shall indicate that the portion of the accrued benefits derived from the participant's contribution to the plan is nonforfeitable.

(4) *Nonforfeitable benefits.*—(i) *Defined benefit plans.* The benefit statement shall indicate the amount of the participant's nonforfeitable benefit in the same form as the participant's total accrued benefit is reported under paragraph (e)(2) of this section.

(ii) *Individual account plans.* In the case of an individual account plan, the benefit statement shall indicate the fair market value of the nonforfeitable portion of the participant's account balance on the date as of which benefits are reported.

(5) *Other information.* A benefit statement shall include the following information.

(i) In the case of a defined benefit plan, a statement to the effect that the amount of benefits which may be received under the plan may be affected as a result of electing any option under the plan, and that further information on such options is contained in the Summary Plan Description;

(ii) In the case of a defined benefit plan, if the accrued benefit and nonforfeitable benefit are not stated in the form of an annuity for the joint lives of the participant and his spouse, an explanation to the effect that unless a married participant elects not to receive benefits in that form, the participant's nonforfeitable benefit may be reduced;

(iii) A statement to the effect that further information on the circumstances, if any, which may result in a reduction or elimination of accrued benefits or of nonforfeitable benefits is contained in the Summary Plan Description;

(iv) A statement urging the participant or beneficiary to bring promptly to the attention of the plan administrator anything in the statement that does not appear correct;

(v) A statement informing the participant or beneficiary that plan records upon which information in the benefit statement is based are available for inspection upon request, and the name, address and telephone number of the person or office to whom requests should be directed;

(vi) The date as of which benefit entitlements are reported; and

(vii) The participant's Social Security Account Number.

(f) *Statement of non-vested status.* A statement of non-vested status shall inform the participant that he does not have any nonforfeitable benefits under the plan and that he may obtain upon request a benefit statement indicating his accrued benefits, if any, and the earliest date on which any benefits may become nonforfeitable.

(g) *Basis of benefit statement.* (1) *General.* A benefit statement shall be based on the latest available information. A benefit statement will be deemed to be based on the latest available information if it reports benefit entitlements as of the date benefits must be reported under paragraphs (a) or (b) of this section, as appropriate, or any subsequent date, and if it is based on plan records which comply with the requirements of paragraphs (b) and (c) of this section.

(2) *Benefit statement based on incomplete plan records.* A benefit statement based on incomplete plan records (i.e., records that do not contain all items of information necessary to determine the participant's benefit entitlements) shall so indicate. To the extent that the records of a plan are incomplete, an opportunity to provide information relating to benefit entitlements shall be offered to a participant or beneficiary entitled to a benefit statement, and the benefit statement shall be based on such information. A benefit statement based in whole or in part on information supplied by a participant may state that it is conditioned upon the accuracy of such information.

(h) *Manner of furnishing individual benefit reporting documents.* Individual benefit reporting documents shall be furnished either by first class mail to the participant or beneficiary at his last known address, or by personal delivery to the participant or beneficiary by the plan administrator or an individual under the plan administrator's supervision. In the event that the plan administrator learns that the participant or beneficiary has failed to receive a document by mail or personal delivery, the plan administrator shall employ any menas of delivery reasonably likely to ensure the receipt by such participant or benficiary of the document.

(i) *Corrections to the benefit statement.* A participant or beneficiary who raises questions regarding the accuracy of the benefit statement shall be given a reasonable opportunity to point out information in the benefit statement that he believes inaccurate, and to furnish to the plan administrator information which such participant or beneficiary believes relevant in determining his benefit entitlements. The plan administrator shall make reasonable attempts to determine whether the plan's records or the benefit statement are inaccurate and to verify the information furnished by the participant or beneficiary. Within a reasonable time after the plan administrator receives such a communication from a participant or beneficiary, the plan administrator shall notify him in writing of the plan's decision with respect to such matter, the basis for such decision, and any change in benefit entitlements as a result of the decision.

(j) *Statement of deferred vested benefits.* Section 105(c) of the Act provides that each plan administrator required to file a registration statement under section 6057 of the Internal Revenue Code of 1954 (the Code) shall furnish to each participant described in section 6057(a)(2)(C) of the Code an individual statement setting forth the information with respect to such participant which is contained in the registration statement. The requirements of section 105(c) of the Act will be satisfied if an individual statement is furnished to a participant in accordance with section 6057(e) of the Code and the regulations thereunder.

(k) *Definition of "Multiple Employer Plan".* For purposes of paragraphs (a) through (j) of this section, the term "multiple employer plan" shall mean a plan adopted by more than one employer, other than a plan adopted by employers which are under common control.

Part 2530—Rules and Regulations for Minimum Standards for Employee Pension Benefits Plans

2. By adding to Part 2530 new § 2530.209–3 to read as follows:

Subpart E—Individual Benefit and Recordkeeping

Sec.
2530.209–3 Individual Benefit Recordkeeping.

Authority: Secs. 105, 209 and 505 of the Act (Pub. L. 93–406; 88 Stat. 849, 865 and 894 (29 U.S.C. 1025, 1059 and 1135)).

Subpart E—Individual Benefit and Recordkeeping

§ 2530.209–3 Individual benefit recordkeeping for multiple employer plans.

(a) *Recordkeeping requirement.* For every multiple employer pension plan (as defined in paragraph (h) of this section) subject to Part 2 of Title I of the Act, records shall be maintained with respect to each employee covered under the plan. These records shall be sufficient to determine the benefits which are, or may become, due to such employee and shall include the name and address of each such employee.

(b) *Maintenance of records and furnishing of information.*—(1) *Maintenance of records.* The plan administrator shall maintain the records required to be maintained by a multiple employer plan under paragraph (a) of this section.

(2) *Reporting by Sponsoring Employer.* Each employer who is a sponsoring employer of a multiple employer plan shall furnish written Service Reports to the plan administrator on a regular basis. The Service Reports shall cover a reporting period of no longer than one quarter of a year. A reporting period of less than one quarter of a year may be established by agreement, and different reporting periods may be established for different employers or different classes of employers sponsoring the same plan. A Service Report shall be furnished to the plan administrator no later than 45 days after the end of the reporting period to which it relates. The Service Reports shall be furnished in accordance with any rules prescribed under paragraph (b)(6) of this section and shall be prepared on any forms and worksheets prescribed thereunder.

(3) *Contents of Service Reports.* A Service Report shall contain all information that relates to service for, or other employment relationship with, the employer during the reporting period which it covers and that is relevant to a determination of the benefit entitlements of—

(i) Any of the employer's employees who has met the plan's requirements for eligibility to participate in the plan (including any requirement regarding service in a job classification covered by the plan), whether or not such employee performs service in a job classification covered under the plan during the reporting period; and

(ii) Any of the employer's employees who performs service in a job classification covered under the plan during the reporting period, whether or not such employee has meet the plan's requirements for eligibility to participate during such reporting period.

(4) *Definition of "sponsoring employer".* For purposes of this paragraph, an employer shall be deemed to be a "sponsoring employer" of a plan for any reporting period where during such reporting period the employer or another party (other than another plan pursuant to a reciprocity arrangement) is required to make contributions to the plan in respect of work performed by such employer's employees (whether measured in service time or in output).

(5) *Duty of plan administrator to seek information.* The plan administrator shall make reasonable efforts to obtain complete and accurate information where a sponsoring employer of a multiple employer plan fails to furnish a Service Report to the plan administrator; or such an employer fails to include in a Service Report information required under paragraph (b)(3) of this section; or the plan administrator has reason to believe that the information furnished by such an employer is inaccurate.

(6) *Reasonable rules prescribed by plan administrator.* The plan administrator of a multiple employer plan may prescribe in writing reasonable rules concerning the format of reports, the manner of reporting, and reportable information. The plan administrator also may prescribe forms or worksheets to be used by employers for purposes of reporting under paragraph (b) of this section.

(c) *Sufficiency of records.* Records required to be maintained by a multiple employer plan under paragraph (a) of this section will be deemed to be sufficient if:

(1) They accurately reflect all the information contained in the Service Reports furnished to the plan administrator by participating employers under paragraph (b)(2) of this section, and the plan administrator has made reasonable attempts to obtain accurate and complete information under the circumstances described in paragraph (b)(5) of this section, and

(2) With respect to service before [effective date of regulation], if any, they include all records maintained by the administrator on and after February 9, 1979, for the purpose of determining employees' benefit entitlements under the provisions of the plan.

(3) *Loss or destruction of records.* Notwithstanding the preceding paragraphs, records shall not be deemed to be insufficient solely because they have been lost or destroyed due to circumstances beyond the control of the person responsible for their maintenance under paragraph (b)(1) of this section.

(d) *Period for which records must be retained.* The records which are required to be maintained under paragraph (a) of this section shall be retained in a manner described in paragraph (e) of this section as long as any possibility exists that they might be relevant to a determination of benefit entitlements. When it is no longer possible that records might be relevant to a determination of benefit entitlements, the records may be disposed of, unless they are required to be maintained for a longer period under any other law.

(e) *Preservation of records by plan administrator.*—(1) *General.* The records which are required to be maintained under paragraph (a) of this section shall be maintained in reasonable order in a safe and accessible place at the main offices of the plan administrator, or at recordkeeping offices established by the plan administrator and customarily used for the maintenance of records.

(2) *Reproduction of records; disposal of original documents.* Original documents may be disposed of at any time if microfilm, microfiche, or similarly reproduced records which are clear reproductions of the original documents are retained, and adequate projection or other viewing equipment is available for inspecting such reproductions.

(3) *Electronic data processing.* Nothing in this section precludes the use of punch cards, magnetic tape or other electronic information storage material for processing information.

(f) *Inspection and copying.* The records required to be maintained under paragraph (a) of this section with respect to any participant or beneficiary (including any original documents or

V 45 / 155
AG 8 80
UMI

reproductions thereof maintained under paragraph (e) of this section) shall be made available free of charge to such participant or beneficiary, or his representative, in a reasonably accessible form for inspection and copying. The records shall be made available during normal business hours within 10 working days after receipt of a request. A reasonable charge may be imposed for copying records, not exceeding the actual cost of copying them.

(g) *Transfer of records.* In the event that a plan administrator ceases to be responsible under paragraph (b) of this section for maintaining records, such plan administrator shall transfer any records which continue to be potentially relevant to the determination of benefit entitlements to the appropriate successor plan administrator responsible for their maintenance. The plan administrator transferring such records is not required to retain copies of the records transferred. Nothing in this section, however, shall relieve a plan administrator from any responsibility or liability for violations of the requirements of paragraphs (a) through (h) of this section which occur during the time such plan administrator has control of and is responsible for maintaining, retaining or transferring the records as required by those sections.

(h) *Definition of "Multiple Employer Plan".* For purposes of this section, the term "multiple employer plan" shall mean a plan adopted by more than one employer, other than a plan adopted by employers which are under common control.

Signed at Washington, D.C. this 4th day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23655 Filed 8-6-80; 3:21 pm]

BILLING CODE 4510-29-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Reclamation and Enforcement; Public Disclosure of Comments Received From Federal Agencies on the Ohio State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Ohio Program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region III, 5th Floor, 46 E. Ohio Street, Indianapolis, Indiana 46204.

Office of Surface Mining, Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Division of Reclamation, Ohio Department of Natual Resources, Fountain Square, Building B, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT:

J. M Furman, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, 46 E. Ohio Street, Room 527, Indianapolis, Indiana 46204, Telephone (317) 269–2629,

or

Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Ohio Permanent regulatory program submitted by Ohio for his review on February 29, 1980. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Ohio program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Ohio program:

Department of Agriculture
- USDA State Land Use Committee
- Soil Conservation Service
- Forest Service
- Farmers Home Administration
- Scientific and Educational Administration-Agricultural Research
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation
Council of Environmental Quality
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service (formerly Bureau of Reclamation)
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

Hoosier National Forest
Ohio River Basin Commission
U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Soil Conservation Service
- Forest Service
- Farmers Home Administration

Department of Labor
U.S. Environmental Protection Agency
Department of Energy
Department of the Interior
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

These comments are available for review and copying during business hours, at the locations listed above under "Addresses".

Dated: July 31, 1980.

Edgar A. Imhoff,

Regional Director, Office of Surface Mining.

[FR Doc. 80-23991 Filed 8-7-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1563-7]

State of Idaho; Proposed Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking addresses State Implementation Plan (SIP) revisions submitted by the State of Idaho or called for by the Environmental Protection Agency (EPA) pursuant to the requirements of Part D and Section 110 of the Clean Air Act (hereafter referred to as the Act). EPA is proposing to: (1) Approve the Transportation Control Plan (TCP) portion of the Boise-Ada County area carbon monoxide (CO) attainment plan (under Part D), (2) approve a revision to Idaho's indirect source review program (under Section 110), and (3) call for a SIP revision containing a motor vehicle inspection and maintenance (I/M) program for the Boise-Ada County area. Further, EPA is proposing to take separate action at a later date on Part D new source review procedures and the other geographical area-pollutant specific attainment plans which the State has submitted to EPA. These other area-specific plans address total suspended particulate control for Silver Valley, Pocatello, and Soda Springs.

DATE: Comments are due by September 8, 1980.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

Central Docket Section, (No. 10A–80–2), Environmental Protection Agency, 401 M Street SW., West Tower Lobby, Gallery I, Washington, D.C. 20460.

Environmental Protection Agency, Library, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

Idaho Operations Office, Environmental Protection Agency, 422 W. Washington Street, Boise, Idaho 83702.

FOR FURTHER INFORMATION CONTACT:

Loren C. McPhillips, Coordination & Planning Section, M/S 625, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–1226. FTS: 399–1226.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Background
- A. Designation Process
- B. Revision Process
- C. Review and Approval Process
- D. Review Criteria
- E. Matters Upon Which EPA Action is Proposed
- F. SIP Submittals for Which Separate Action Will Be Taken

III. Plan Review
- A. TCP Portion of the Boise-Ada County CO Attainment Plan
  1. Background
  2. Emission Reduction Required
  3. Extension Request
  4. Control Strategy
  5. Proposed Action
  6. Areas to be Addressed in Future SIP Submissions
- B. Indirect Source Review Variance
  1. Introduction
  2. Background
  3. Description of the BRA Project
  4. Rationale for Action
  5. Proposed Action
- C. Other Action (Boise-Ada County Inspection and Maintenance Program)
  1. General Background
  2. Rationale Calling For an I/M Program in the Boise-Ada County Area
  3. EPA I/M Policy
  4. Proposed Action
  5. Funding and Growth Limitations

I. Introduction

The information in this notice is divided into two sections entitled "Background" and "Plan Review". The first section outlines the background leading to the development of the Idaho Part D SIP revisions in relation to the Clean Air Act Amendments of 1977. The "Plan Review" portion is divided into three major sub-sections. The first sub-section, "Transportation Control Plan (TCP) portion of the Boise-Ada County CO Attainment Plan," discusses the development, pursuant to Part D requirements, and proposed approvability of a strategy for attaining the CO ambient air quality standards for the Boise-Ada County area. The second sub-section, "Indirect Source Review Variance," describes a SIP revision, which while submitted for approval pursuant to Section 110 of the Act, is integral to the TCP portion of the Boise-Ada County CO attainment strategy. The last sub-section under "Plan Review" entitled "Inspection and Maintenance" presents EPA's basis for requiring an I/M program in the Boise-Ada County area and the schedule for developing and implementing an I/M program.

II. Background

A. Designation Process

Pursuant to the requirements of Section 107(d) of the Act, EPA published in the **Federal Register** on March 3, 1978 (43 FR 8962) and on September 11, 1978 (43 FR 40412) a designation of the attainment status of certain areas in the State of Idaho with respect to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates, carbon monoxide, and sulfur dioxide. This designation process triggered required revisions to the SIP as discussed below.

B. Revision Process

The 1977 Amendments to the Act require States to make extensive revisions to their SIPs. These revisions fall into three major areas:

1. Provisions for attainment and maintenance of NAAQS in those areas where air quality standards are being violated (required in Part D of the Act).

2. Plans for Prevention of Significant Deterioration to protect those areas with clean air (required in Part C of the Act).

3. General SIP requirements which have statewide applicability (e.g., Section 128—State Boards).

This notice presents the results of EPA's review of the TCP portion of the Boise-Ada County CO attainment plan, which was developed by Ada Planning Association (APA) and Idaho Department of Health and Welfare (IDHW) pursuant to their responsibilites under Part D of the Act. The TCP portion of the Boise-Ada County area CO attainment plan was submitted to EPA along with certain other Part D plans and revisions in Jaunary 1980. EPA will be taking action on these other Part D submissions at a later date.

This notice also presents the results of EPA's review of the indirect source review variance which was submitted to EPA pursuant to Section 110 of the Act.

Finally, this notice contains EPA's call for a SIP revision which requires an I/M program to be implemented in the Boise area prior to December 31, 1982 for a decentralized approach and no later than December 31, 1983 for a centralized approach, in order to attain the eight hour CO standard prior to December 31, 1987.

C. Review and Approval Process

It is important to understand the overall nature of SIPs and EPA's review and approval role, with special focus on the Part D requirements of the Act. First, nonattainment designations are specific to pollutants and areas. Therefore, it is possible for the Part D SIP revisions to be adequate for one pollutant or geographical area but inadequate for others. It is EPA's policy to treat the separate revisions as severable to the maximum extent possible. Due to circumstances described below, this notice contains a series of proposed actions related only to the attainment of CO standards in the Boise area. The review of this proposal and any comments submitted should be equally specific.

In the case of Part D SIP revisions, EPA's review process can lead to three results:

V 45 / 155
AG 8 80
UMI

1. Approval, outright, where the SIP or the portion under consideration meets all requirements;

2. Disapproval where deficiencies are of such magnitude as to significantly interfere with the basic objective; or

3. Approval with conditions, where deficiencies exist, but where the effect of the deficiency is not judged to be significant and where the State is taking steps to correct the deficiency.

A discussion of conditional approval and its practical effect appears in supplements to the General Preamble published in the April 4, 1979, **Federal Register** (44 FR 20372); supplemented on July 2, 1979 (44 FR 38583), and November 23, 1979 (44 FR 67182). In essence, however, conditional approval is an option where minor deficiencies in a state plan can be remedied by submission of additional materials by a specified deadline. Please see the above **Federal Register** Notices for additional details.

D. Review Criteria

Specific criteria for an approvable Part D SIP are described in a General Preamble published in the April 4, 1979, **Federal Register** (44 FR 20372); supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). Additional criteria were published in the "EPA/DOT Transportation Planning Guidelines" and the "Transportation DIP Checklist." (These documents are available at the address noted above). General requirements for all SIPs are contained in 40 CFR Part 51.

A summary of the criteria used to evaluate the Boise-Ada County TCP are as follows:

1. Definition of nonattainment area and geopgraphic area covered by transportation control measures.

2. Accurate, comprehensive and current emissions inventory.

3. Estimation of emission reductions needed to demonstrate standard attainment by 1982 and 1987.

4. Designation and certification of a lead agency for nonattainment areas.

5. Identification of agency tasks and responsibilities.

6. Schedule for comprehensive analyses of alternatives and demonstration that analysis is underway or completed.

7. Schedule for adoption of reasonably available measures.

8. Commitment to justify decision not to adopt difficult, but reasonably available measures.

9. Process for public, interest group, and elected official consultation and involvement in: defining transportation-air quality issues, establishing the planning process, developing and analyzing alternatives.

10. Identification of estimated financial and manpower resources necessary to carry out the process.

11. Evidence that the SIP was adopted by the State after reasonable notice and public hearing.

12. Provisions for progress reporting throughout the planning and implementation period.

13. Assess the need to implement in I/M program.

14. A commitment to use available and funds to establish, expand or improve transportation measures to meet basic transportation needs as expeditiously as practicable.

15. Emission reduction estimates for adopted measures and/or packages of measures. Rough estimates of annual emission reductions through 1987 for packages of measures currently being developed and analyzed.

16. Commitment to: (1) Accelerate implementation of transportation improvements, (2) incremental phase-in of additional reasonable measures.

E. Matters Upon Which EPA Action is Proposed

1. The first phase of a two-phase CO attainment plan was developed locally by Ada Planning Associaiton with close EPA Region 10 coordination. It was then submitted to the IDHW, combined with other State-developed Part D SIP revisions, and forwarded to EPA under the Governor's signature on January 15, 1980. An advanced notice of proposed rulemaking announcing receipt of the SIP revisions was published in the January 31, 1980 **Federal Register** (45 FR 6959). EPA is today proposing approval of the TCP portion of the Boise-Ada County CO attainment plan submitted by the state pursuant to Part D requirements.

2. In addition, pursuant to Section 110 of the Act, EPA is proposing to approve a variance to the State indirect source review regulation which would allow construction of a large parking garage associated with a Boise downtown redevelopment project.

3. Furthermore, EPA is proposing to grant an extension of the CO attainment date for the Boise-Ada County Area from December 31, 1982 to December 31, 1987.

4. Finally EPA is calling for a SIP revision which includes an I/M program in the Boise-Ade County Area due to projected difficulties in meeting CO standards by the end of 1987.

F. SIP Submittals For Which Separate Action Will Be Taken

In addition to the TCP portion of the Boise-Ada County CO plan, the State of Idaho also submitted the following Part D SIP revisions:

1. Part D new source review procedures,

2. TSP attainment plans for the Silver Valley, Pocatello, and Soda Springs, and

EPA is not taking action on the above-listed revisions at this time due to ongoing negotiations with the State. Proposed rulemaking for these plan revisions will be treated in a separate **Federal Register** notice at a later date.

Until EPA takes final action to approve or conditionally approve the Part D CO attainment plan for the Boise-Ada County area which includes the new source review procedures submitted by the State, the ban on construction of new and modified major stationary sources required by Section 110(a)(2)(I) of the Act, will remain in effect. These restrictions apply only in the designated nonattainment areas and only to new or modified major stationary sources. The restriction does not affect existing sources (unless they are being modified) or sources which applied for permits to construct before July 1, 1979.

III. Plan Review

A. TCP portion of the Boise-Ada County CO Attainment Plan

1. *Background.*

In the fall of 1977, the IDHW proposed a carbon monoxide nonattainment area for Ada County which consisted of that area generally contained within the boundaries of the Boise Metropolitan Planning Area. In early February of 1978 the nonattainment area was expanded to include most of Ada County.

Numerous violations of the 10 milligrams per cubic meter (mg/m^3) eight hour CO standard have been recorded in the Boise-Ada County nonattainment area. CO monitoring data has been collected at the Odd Fellows Building on Ninth Street since July 1975. Data collected at this site from 1975 through 1978 indicate that CO concentrations were over 20.0 mg/m^3 for each year recorded. Based upon that data, the CO eight hour design concentration was determined to be 21.0 mg/m^3. In addition to the Odd Fellows building monitoring data there were other special monitoring studies conducted in the Boise area. During one such study EPA Region 10 collected monitoring data at 40 locations from the period of November 23 through December 22, 1977. The study results indicated that the CO problem is widespread and not restricted to the downtown business district. At approximately 70 percent of the monitors CO standards were exceeded on a regular basis. The study also suggested that the Ninth Street monitor may not represent the worst site in the city.

As required by Section 174(a) of the Act, a lead planning organization consisting of local elected officials was designated by the Governor of the State of Idaho on February 6, 1978. As the designated lead planning organization, Ada Planning Association (APA) is responsible for coordination and preparation of the required CO plan. APA is developing the TCP portion of the Boise-Ada County CO attainment plan in two phases. The first phase of the plan consists of adopting measures to insure reasonable further progress, developing a schedule to study and adopt other necessary reasonably available control measures and to identify target emission reductions. This part of the plan was developed based on the criteria set forth elsewhere in this notice. It is this phase (the 1979 SIP) upon which we are proposing action today. The second phase (the 1982 SIP) will consist of a plan containing necessary commitments and adoptions of measures to insure attainment of the standards prior to December 31, 1987.

2. *Emission Reduction Required.*

With a combination of computer modeling and rollback modeling APA predicted that there will still be violations of the 8-hour CO standard in the Boise area by the end of 1982. It is also estimated that an additional 12 to 15 percent reduction in CO emissions beyond that which would be acheived through implementation of an I/M program and other committed measures, is necessary to meet the 8-hour CO standard by the end of 1987.

3. *Extension Request.*

Since attainment by the statutory December 31, 1982 date is not projected, a formal request for a post-1982 attainment date has been made by IDHW and APA. The Act enables the EPA Administrator to grant up to five year extension (to December 31, 1987) for compliance with the standards as long as the state submits a demonstration that attainment by 1982 cannot be achieved in the Boise area despite implementation of all reasonably available control measures.

EPA has reviewed the State and local demonstration and has determined that an extension of the attainment date from December 31, 1982 to December 31, 1987 is warranted.

4. *Control Strategy.*

The CO problem has been attributed almost entirely to emissions from mobile (transportation) sources. As demonstrated in the emission inventories contained in the Boise-Ada County CO plan, more than 90 percent of the CO problem originates from motor vehicles.

In light of the dominant motor vehicle contribution to the CO nonattainment problem, the APA control strategy focuses on transportation measures. Typical reasonably available control measures are listed in Section 108(f)(1)(A) of the Act. It should be noted that these measures are designed to reduce vehicle emissions in one of three basic ways: (a) by reducing trips and miles traveled; i.e., improved mass transit, carpooling, etc., or (b) by improving traffic speeds; i.e., improved traffic signalization, traffic flow improvements, parking restrictions, etc., or (c) by reducing the emissions from individual vehicles; i.e., an inspection and maintenance program and the Federal Motor Vehicle Emission Control Program.

Measures already implemented in the Boise-Ada county area, and in some cases scheduled for further improvements include:

a. Improved public transit including downtown free shuttle bus.
b. On-street parking controls.
c. Promotion of flexible work hours.
d. Traffic signalization improvements downtown.
e. Park and ride lots.
f. Growth management.
g. Bicycle lanes and storage.
h. Areawide carpool programs.

Measures which APA is now studying and which will be considered for future implementation are listed below:

a. Inspection and maintenance program.
b. Additional public transit improvements including establishment of a downtown bus terminal.
c. Exclusive bus and carpool lanes.
d. Additional traffic flow improvements.
e. Long-range transit improvements.
f. Pedestrian malls including the Boise redevelopment project in the central business district.
g. Additional park and ride lots.
h. Additional employer programs to encourage carpooling and vanpooling.
i. Vehicle idling controls.
j. Additional growth management.

5. *Proposed Action.*

Based on the criteria set forth elsewhere in this Notice, EPA is proposing to approve the 1979 TCP portion or the Boise-Ada County CO attainment plan as submitted without conditions. EPA is satisfied that all currently planned, reasonably available control measures are being implemented, and that, in addition, a commitment to evaluate and adopt control measures, which will result in attainment no later than December 31, 1987 has been made. APA, IDHW, and EPA are working closely together to insure that items contained in the next section will be addressed in the 1982 SIP submittal.

6. *Areas to be Addressed in Future SIP Submissions.*

The following items are problems that will be addressed in the 1982 SIP submission or in other sections of this notice:

a. It is critical for future work (the 1982 SIP) that the emission inventory be detailed, comprehensive and incorporate the use of the latest mobile source emissions factors. A more complete and refined analysis of parking lot activity emissions is necessary. This would include accounting for parking lot emissions from the Boise Redevelopment Agency (BRA) project. Specific projects that are in the adopted transportation plan must also be included in the projected emission inventories.

b. An inspection and maintenance program is discussed in detail later in the notice.

c. The CO plan that is submitted in 1982 must demonstrate reasonable further progress attaining the standards prior to December 31, 1987.

d. Population projections used in the 1982 SIP projections must be consistent with Bureau of Economic Affairs projections. The major intent of this future requirement is to insure that the population projections used in all EPA programs are consistent (CO attainment plans, water quality planning under the 208 program, and construction grants projects for wastewater treatment facilities).

e. Individual highway projects must conform with the SIP at both the system or comprehensive planning level (mesoscale) *and* the project level or EIS level (microscale). In order to construct these projects, the following criteria must be fulfilled:

(1) The project's regional impact must be accounted for in the SIP. For example, the project must be part of the Regional Transportation Plan that was analyzed in the alternative analysis (mesoscale).

(2) The project's impact must be evaluated for the microscale air quality impact. The project must not cause new or exacerbate existing violations of the standards, or delay the attainment of the standards (microscale).

In order to help facilitate project conformity with the SIP, a detailed listing and schedule for construction and opening of various major projects will be required.

B. *Indirect Source Review Variance.*

V45/155 AG 8 80 UMI

1. *Introduction.*

An indirect source review program provides for the pre-construction review of facilities which are likely to induce or attract significant vehicular traffic, thereby increasing the amount of mobile source generated air pollutants.

EPA approved the State of Idaho's indirect source review regulation in the Federal Register on January 30, 1975 (40 FR 4420). The regulation applies to any new parking facility or other indirect source with an associated parking area which has a parking capacity of 1,000 cars or more. Sources subject to this regulation such as the BRA project would have to obtain a "Permit to Construct" or be granted a variance from the regulations prior to commencing construction. Specific procedures for applying for a permit or variance are set forth in Section 1–1004 and Section 1–1007 of the "Rules and Regulations for the Control of Air Pollution in Idaho" and will not be discussed here.

On July 1, 1980 the State of Idaho submitted to EPA as a SIP revision a variance from its indirect source review program. EPA's action on this request for a SIP revision is governed by Sections 110(a)(3)(A) and 110(a)(5)(A)(iii) of the Act and the recent decision of the Second Circuit Court of Appeals in the case of *Manchester Environmental Coalition* v. *EPA*, —— F. 2d ——, (2nd Cir. 1979) (No. 79–4062). In the *Manchester* case the court held that Section 110(a)(5)(A)(iii) required EPA to insure that a state's indirect source SIP revision met both procedural and substantive requirements of Section 110. The court noted that under the Act most states were revising their SIPs to meet Part D and suggested that the appropriate procedure would be to examine a state's indirect source revision submittal along with its Part D SIP submittal, concluding that EPA approval of the state's Part D submission would be sufficient to allow the Agency to approve the state's indirect source revision as well. Therefore if the Idaho Part D SIP revision or the relevant portion thereof is approvable (or conditionally approvable) then EPA can approve the state's request for a SIP revision approving its indirect source variance.

2. *Background.*

The Boise City Comprehensive General Plan in 1964 provided for a major regional shopping center in the downtown area. In pursuit of this goal, the City Council established the Boise Redevelopment Agency in 1965 and in turn incorporated the concept of a regional shopping complex into the current Boise Metro Plan. In April 1979 the BRA and Winmar Corporation presented the current project design proposal intended to optimize the goals of various citizen committees.

An integral part of the project is a 3,060 space underground parking facility. Success of the proposed retail complex is dependent upon occupancy by major department stores which require large, adjacent parking facilities. Construction of the parking garage is subject to the State of Idaho permit procedures for Indirect Sources, Rule 1–1004, Rules and Regulations for the Control of Air Pollution. Pursuant to the Indirect Source Regulations, the BRA submitted an application for an indirect source permit in late 1977 with an addendum submitted in March 1978. On April 5, 1978, the Idaho Department of Health and Welfare issued a preliminary determination to deny the permit based upon a finding by the BRA that its proposed project would further degrade air quality in the Boise area.

In 1978, BRA unsuccessfully challenged, in State Court, the IDHW's finding that the BRA project was subject to indirect source regulation permit requirements.

On December 13, 1979, pursuant to Rule 1–1007, the BRA filed a petition for a variance from the permit requirements set forth in Rule 1–1004. The petition was supplemented on January 2 and January 7, 1980. In its petition the BRA contends that application of the indirect source permit requirements to the redevelopment project would impose an arbitrary or unreasonable hardship upon the Boise community. On March 12, 1980, a public hearing was held on the variance request. Over fifty persons presented oral or written testimony.

On April 24, 1980, IDHW granted the BRA a variance from Rule 1–1004. The Director of IDHW reasoned that rejection of the variance request could result in an expensive design change or project termination without any significant air quality benefit.

The Director further stated that it would then be unreasonable to require compliance with the permit regulation when clean air standards can be met without modifying the project or imposing a severe hardship on the community. The director noted that pursuant to the Act, the Ada Planning Association must adopt and implement whatever measures may be necessary to ensure that national CO standards are achieved by 1987. He concluded that because of the severity of Boise's air quality problem, the APA plan must be both aggressive and innovative. He additionally found that any additional traffic generated by the BRA project must be addressed by the control strategy developed by APA. Because APA was committed to developing such a strategy, the Director found the variance acceptable. The SIP containing the variance was then submitted to EPA on July 1, 1980.

3. *Description of the BRA Project.*

The BRA project is a shopping center and parking garage complex currently being proposed for construction in downtown Boise. It is considered to be an urban revewal project which would help reduce urban sprawl and encourage revitalization of the downtown area.

The BRA project is scheduled for an area bounded on the east by Capitol Boulevard, on the south by Front Street, on the west by Ninth Street, and on the north by Bannock Street. The retail complex will be contained in a two-level structure, designed to provide some vertical urban relief. The retail portion will contain approximately 765,000 square feet.

Parking spaces in the redevelopment project would be limited to new construction of four parking spaces for each 1,000 square feet of gross leasable area of retail space. This would allow construction of 3,060 spaces using the assumption of 765,000 square feet of retail space.

Approximately 650 parking spaces in the project area would be removed during the first phase of construction of the project, including removal of exising parking and on-street facilities. Therefore, the actual net increase in parking in the eight-square block area will be approximatly 2,410 spaces. The planned 3,060 spaces would be places in a manner yet to be determined.

Existing streets to be vacated include Main from Capitol Boulevard to Ninth; Idaho from Capitol Boulevard to Ninth; and Eighth from Main to Bannock. A portion of Idaho from Capitol to Eighth and a portion of Eight from Idaho to Bannock would remain open for vehicular access to project facilities. However, this access is not meant to facilitate through traffic.

4. *Rationale for Action.*

EPA is proposing to approve the SIP revision containing the BRA project variance from the State of Idaho's indirect source regulation. As already discussed, EPA is today proposing approval of the TCP portion of the Boise-Ada County CO attainment plan. Action on the new source review regulations which constitute the remaining portion of the CO attainment plan will take place in a separate **Federal Register** notice at a later date. However, given that there are no present or planned stationary sources emitting CO within the area impacted by the BRA project which will be subject to these new source review regulations, and moreover, since emissions from the BRA project will be accounted for in the updated emission inventory and 1982 SIP revision, EPA is satisfied that approval of the variance from the State of Idahq's indirect source review program will not result in a SIP which is inadequate to attain and maintain NAAQS.

APA and IDAW have provided assurances that the project's impact on air quality will be accounted for in the transportation control plan currently being developed to attain the CO standards. In addition to the submittal of the variance request, EPA has received adequate commitments from APA and IDHW to ensure that the plan currently being developed will demonstrate attainment of the standards prior to December 31, 1987 even with the additional growth-allowance. EPA recognizes that an inspection and maintenance program will be necessary to make an attainment demonstration an is calling for submission of a SIP revision containing an I/M program elsewhere in this notice. Specific rationale for approval of the SIP revision containing the BRA variance for the proposed action is discussed below:

a. Increased emissions generated by this facility will be adequately accounted for in the 1982 SIP revision containng the Boise-Ada County CO attainment plan. In effect, the BRA project indirect source variance is an amendment to the CO emission inventory since emissions from the parking activity associated with the project will be added to the exising emission inventory thus making it current, accurate and comprehensive.

b. The 1982 SIP revision containing the Boise CO attainment plan will only be approved if the emissions from this facility are adequately accounted for and if the plan demonstrates, to EPA's satisfaction, attainment of the standards prior to December 31, 1987.

c. The BRA project is consistent with national goals to promote urban renewal and reduce urban sprawl.

d. IDHW has determined that the project will be designed with air quality considerations as one of the prime design factors. A special parking garage design configuration maximizing internal flow and facilitating ingress and egress will be incorporated to help reduce automobile emissions. The garage will also have an elaborate exhaust fan system.

5. *Proposed Action.*

In order to approve the BRA indirect source variance which has been submitted to EPA, EPA must determine that the variance meets the requirements of Section 110 of the Act. The State is required to demonstate that approval of the SIP revision will result in protection of the NAAQS. Based on the State's demonstration as outlined above, EPA is satisfied that the SIP revision meets the substantive and procedureal requirements of Section 110 and is therefore proposing approval of the BRA indirect source variance.

C. Other Action (Boise-Ada County Inspection and Maintenance Program

1. *General Background.*

"Inspection and Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of no-complying vehicles if prohibited. This is more effectively accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. A windshield sticker system, much like that of many safety inspections programs, can be used if it can be demonstrated that equal effectiveness will be achieved.

Section 172 of the Act requires that State Implementation Plans which include nonattainment areas must meet certain criteria. For areas which demonstate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982 despite the implementation of all reasonably available control measures, an extension to 1987 is granted. The plan provisions shall "establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *."

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372, 20373, n 6). Though the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

• *Legal Authority.* States or local governments must have adopted the the necessary statutes, regulations, ordinances, etc., to estabish the I/M program (Section 172(b)(10)).

• *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10)).

• *Resources.* The necessary finances and resources to carry out the I/M program mut be identified and committed. (Section 172(b)(7)).

• Schedule. A specific schedule to establish the I/M program must be included in the State Implementation Plan (Section 172(b)(11)(B)). Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.15(c).

• Program Effectiveness. As set forth in the July 17, 1978 memo, the I/M program must achieve a 25 percent reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This is not a specific requirement of the Act but is EPA's policy based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *."

2. *Rationale Calling for an I/M Program in the Boise-Ada County Area.*

a. *Boise-Ada County CO Problem.* (1) Boise is a rapidly growing city. The current 1980 estimated population in the Boise nonattainment area is 170,000. By the year 1985 the population is projected to exceed 200,000 and will likely increase to 300,000 by the year 2000.

(2) Over the last few years the Boise/Ada County area has experienced numerouse violations of the CO standards. A summary of the CO violations is as follows:

Year	2d High (mg/m³)	Days of violation
1975	20.4	28
1976	21.0	95
1977	20.7	67
1978	20.2	68

Also, special monitoring studies have revealed that the CO problem is widespread and that there are several locations with violations even higher than those reported in the normal monitoring data.

(3) Boise is an isolated small urban city. The CO problem is caused by its own mobile source emissions. Unlike small cities located close to urban centers, the problem in Boise is not caused by the pollution generated in larger neighboring cities.

(4) The meteorological conditions in the Boise/Ada County area are conducive to causing CO problems. Strong inversions are common during the winter months resulting in poor ventilation. CO emissions are then

V 45 / 155
AG 8 80
UMI

trapped in these stagnant conditions causing violations of the standards.

b. *Justification for I/M in Boise-Ada County.* I/M is necessary in the Boise-Ada County area to insure reasonable further progress and eventual attainment of the CO standard. The following issues demostrate this need:

(1) Initial SIP Air Quality Projections: The initial air quality projections contained in the SIP indicate that Boise will not be able to attain the CO standard by 1987 without an I/M program. This estimate includes emission reduction credits associated with the implementation of improved transit, traffic flow improvements, carpools and idle limitations. Boise may not be able to attain the standards by the statutory date, accordingly, an aggressive CO attainmnet plan, including I/M, is necessary for the Boise area.

(2) Major Urban Renewal: Boise is currently planning a major urban renewal project. The project includes a shopping mall and a large parking garage for approximately 3,000 vehicles. The project would increase vehicular activity in the vicinity where the permanent CO monitor is already recording violations of the standard. The only feasible measure capable of offsetting the project's projected impact on air quality is an effective I/M program.

(3) Major Highway Projects: Currently there are two major projects being considered for construction in the Boise Central Business District. The State Street Connector and the Broadway-Chinden Corridor both would potentially increase vehicular activity in the Boise area. As proposed, the Broadway Chinden Corridor would be the main link between Interstate 80 and the downtown area, thus encouraging new automobile trips downtown. One way to mitigate these projects' air quality impacts would be to implement an I/M program.

(4) Major EPA Construction Grants: Major 201 wastewater treatment projects are underway or starting in the Boise nonattainment area. Certain of these, namely sewage treatment plant expansion and interceptor construction, have some growth-inducing features. Associated with this growth are additional air quality impacts. This is presently being studied by EPA and will be discussed in a Boise Urban Environmental Impact Statement.

In summary, the Boise-Ada County area is a rapidly growing isolated small urban area. Numerous violations of the CO standard have been recorded, and the area will not be able to attain standards by 1987 without an I/M program. Several projects are being contemplated for construction. The combined impact of these projects can only be mitigated through the implementation of an I/M program and other transportation control measures.

3. *EPA I/M Policy.* Current EPA policy is stated in a July 17, 1978 I/M policy memo from David Hawkins, Assistant Administrator for Air, Noise, and Radiation to the Regional Administrators specifies that for areas with populations less than 200,000 "EPA will not at this time automatically require I/M schedules in 1979 as a condition for SIP approval or an extension."

This policy should not be interpreted, however, to prevent the inclusion of an I/M strategy into the SIP for smaller urban areas if I/M can be shown to be reasonable and necessary to attain the standards. "Areas under 200,000 still have to attain and maintain NAAQS as expeditiously as practicable," but no later than December 31, 1987. EPA has indicated that the need for I/M in those small areas would be assessed after the submittal of the 1979 SIP revisions.

APA and IDHW have made a convincing case that Boise has a significant CO problem. Due to the projected dramatic population increase, projected difficulty in attaining the CO standards by December 31, 1987, and resulting increase in CO levels projected due to major projects, EPA agrees with the finding that an I/M program is necessary for the Boise/Ada County area.

4. *Proposed Action.* At this time EPA is proposing to call for a SIP revision including I/M to be submitted by July 1, 1981. The SIP revision must contain at a minimum a commitment from the appropriate jurisdiction to achieve a 25 percent reduction in CO emissions from gasoline fueled light duty vehicles by 1987 from an I/M program, in the other key elements discussed earlier in this section. Program implementation must be by December 31, 1982 for a decentralized approach and no later than December 31, 1983 for a centralized approach.

5. *Funding and Growth Limitations.* Failure to submit the needed legal authority, revised schedule as agreed to by EPA, and commitments as a SIP revision by July 1, 1981, will make the State liable to the funding and growth limitations specified in the Act. In order to avoid these statutorily-imposed limitations, the State must pass the appropriate legislation (I/M Bill) securing the needed legal authority to implement an I/M program in the Boise/Ada County area prior to March 31, 1981. Generally, the area affected will be the air quality control region (AQCR). In this specific case the AQCR includes Ada and Canyon Counties.

If funding limitations are necessary, procedures for applying them would be consistent with those published in the Federal Register on April 10, 1980 (45 FR 24692). These procedures will not be discussed in detail here.

Section 316 of the Act also allows the Administrator of the Environmental Protection Agency to withhold, condition or restrict grants for the construction of sewage treatment works in nonattainment areas where the State is not making reasonable further progress towards attainment of all NAAQS.

Interested parties are invited to comment on all aspects of the approvability of the Idaho SIP. In particular, comments are requested on the appropriateness of the findings on issues discussed above, the suggested corrective actions, and the approvability of the SIP with respect to the applicable requirements.

Comments should be submitted, preferably in triplicate, to the address listed in the front of this notice. Public comments received by (30 days after publication), will be considered in EPA's final decision on the SIP.

All comments received will be available for inspection at the Region 10 Office, 1200 Sixth Avenue, Seattle, Washington 98101.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures; I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended. [Sections 110(a) and 1972 of the Clean Air Act (42 U.S.C. 7410(a) and 7502).]

EPA finds that good cause exists for providing a 30 days comment period for the following reasons.

(1) EPA has a responsibility under the Clean Air Act to take action on the Part D portions of a SIP by July 1, 1979 or as soon thereafter as possible

(2) The public has had an opportunity to review and comment on the Part D and 110 SIP revisions January 31, 1980 and July 1, 1980 respectively.

Dated: July 23, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-23810 Filed 8-7-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 52 and 81

[FRL 1564-6]

Approval and Promulgation of Implementation Plans for Connecticut; Attainment Status Designations; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On July 2, 1980 (45 CFR 45080) the Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking for the State of Connecticut's revisions to its State Implementation Plan (SIP) to meet the Part D requirements of the 1977 Amendments to the Clean Air Act, that Notice indicated that public comments on EPA's proposal would be accepted through August 1. Today's Notice extends the public comment period ten (10) additional days.

DATES: Written comments to EPA's Boston regional office should be postmarked no later than Monday, August 11, 1980 in order to be considered in the final rulemaking.

ADDRESSES: All written comments should be addressed to: Harley F. Laing, Acting Chief, Air Branch, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT:

Harley F. Laing, Acting Chief, Air Branch, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 1903, Boston, Massachusetts 02203. Telephone 617—223-6883.

SUPPLEMENTARY INFORMATION: The deadline for written comments has been extended because of the significant interest the Connecticut revisions and EPA's proposed rulemaking have generated. The extension will give persons who may not have been able to attend the public meeting in Hartford on July 30 (announced in the July 2, 1980 Notice) an additional opportunity to comment on EPA's proposal. In addition, discussion at that meeting may generate issues or concerns not previously addressed on which individuals may wish to submit comments.

Dated: July 31, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-24020 Filed 8-7-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1564-47]

Designation of Areas for Air Quality Planning Purposes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to change the ozone attainment status designation of Vanderburgh County from nonattainment to attainment/unclassifiable. Indiana requested this redesignation on February 11, 1980. The proposed redesignation is based on the previous two years of ambient ozone data.

DATE: Comments on this proposed redesignation are due by October 7, 1980.

ADDRESS: Copies of the technical support document are available for public inspection at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Indiana Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206

Evansville Environmental Protection Agency, Administration Building, Room 207, Civic Center Complex, Evansville, Indiana 47708

Written comments should be sent to: Gary Gulerzian, Chief, Regulatory Analysis Section (5AHMD), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT:

Robert B. Miller, Regulatory Analysis Section (5AHMD), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act, as amended in 1977, required the USEPA to designate those areas of States which were not attaining the National Ambient Air Quality Standards (NAAQS). On the recommendation of the State of Indiana, the USEPA designated Vanderburgh County as "Does not meet the primary standard" for photochemical oxidants on March 3 1978, (43 FR 8962, 40 CFR 81.315). This designation was based on the 0.080 part per million (ppm) oxidant NAAQS in effect at that time.

On February 8, 1779, the USEPA changed the ozone NAAQS from a one hour photochemical oxidant standard of 0.080 ppm, not to be exceeded than once a year, to an hourly ozone standard of 0.120 ppm, not to exceeded on the average of more than one day per year (40 CFR 50.9).

Because of the revision in the NAAQS, on September 5, 1979, the Indiana Air Pollution Control Board voted to change Vanderburgh County's ozone attainment designation in Indiana regulation APC-22 from nonattainment to attainment/unclassifiable. The Indiana Air Pollution Control Board (IAPCB) based its designation change on ozone data from Vanderburgh County showed no violations of the 0.120 standard in 1977 and 1978. At the time the IAPCB acted, the USEPA's criteria for redesignation were stated in a June 12, 1978 memorandum from Richard G. Rhoads, Director of Control Programs Development Division. This memorandum specified that eight quarters of ambient air quality data were generally required showing no violations before an attainment designation could be approved. Although Indiana relied on eight quarters of data showing no violations in Vanderburgh County, data from nearby Henderson County, Kentucky contained recorded violations of the ozone standard in 1977. Because of the proximity of the Henderson County monitoring site (approximately five miles south of Vanderburgh County), the USEPA believes that the Henderson County monitoring data must be considered in any redesignation of Vanderburgh County. In order to obtain the necessary eight quarters of data showing no violations, Indiana deferred submittal of its redesignation request until the close of the 1979 ozone season. During the 1979 ozone season, there were no recorded violations of the standard in either Vanderburgh or Henderson Counties.

On February 11, 1980, the State of Indiana submitted its request for redesignation of Vanderburgh County to the USEPA. Technical support accompanying the submittal demonstrated that there were no violations of the 0.120 ozone standard in Vanderburgh County in the three years from 1977 to 1979. Technical support contained in separate submittal from the

V 45 / 155 AG 8 80 UMI

State of Kentucky requesting redesignation of Henderson County, indicated that there were no violations for 1978 to 1979. Kentucky's redesignation request will be the subject of a separate Federal Register notice. Shortly before the State's submittal, the USEPA issued a memorandum revising the criterial for ozone redesignations. According to the December 7, 1979 memorandum by Richard G. Rhoads, the last three years of ambient data must be used whenever it is available. In addition, the memorandum contained a "grandfather clause" which specifies that these criteria apply prospectively so that States are not required to reconsider their current ozone designations. All further designations, however, would have to be based on the criteria in the "Guideline for the Interpretation of Ozone Air Quality Standards (EPA 450/4–79–003]." Utilizing this guideline, the Henderson County, Kentucky site has an average of 1.5 exceedance per year in the 1977 to 1979 period.

Thus, under the policy stated in the June 12, 1979, Rhoads' memorandum, Vanderburgh County should be reclassified as attainment for ozone, but under the "Guidelines for the Interpretation of Ozone Air Quality Standards" it should remain nonattainment. Because the State redesignated Vanderburgh County prior to the issuance of the Rhoads' December 7, 1979 memorandum and because of the "Grandfather Clause" in the memorandum, the USEPA is proposing today rulemaking based on the June 12, 1979 memorandum. This rulemaking proposes redesignating Vanderburgh County's ozone attainment designation in 40 CFR 81.315 from "Does Not Meet Primary Standards" to "Cannot Be Classified or Better than National Standards." If violations of the ozone standard are monitored in either Henderson or Vanderburgh Counties during the 1980 ozone season, such that the average annual violation for the 1978 through 1980 period exceeds 1.00, then this proposal to redesignate Vanderburgh County will be withdrawn. The USEPA is soliciting public comment as to the appropriate attainment designation for Vanderburgh County and on the USEPA's proposed action.

Under Executive Order 12044 (43 FR 12661), the USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations", signed March 29, 1979 by the Administrator, and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of Proposed Rulemaking is issued under the authority of Sections 107 and 301(a) of the Clean Air Act, as amended.

Dated: July 11, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-23995 Filed 8-7-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

41 CFR Part 101-17

Assignment and Utilization of Space; Improved Use of Federal Facilities and Space

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: GSA proposes to provide Federal agencies with guidelines to use in establishing programs to improve their utilization of space and with criteria for developing and implementing programs to achieve economies in space utilization. This action is being taken at the direction of the Office of Management and Budget in keeping with the President's efforts to significantly reduce the cost of Government operations. The proposed regulation is intended to reduce the total space utilization rate, which will result in significant annual cost savings.

DATE: Comments must be received by: September 22, 1980.

ADDRESSES: Comments should be addressed to: General Services Administration (PRM), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul H. Herndon III, Director, Space Management Division (202–566–1875).

SUPPLEMENTARY INFORMATION: This regulation deletes a reference to the Office of Operating Programs that no longer exists. In addition, the listing of GSA regional offices is amended to indicate the new National Capital Region, which includes the Standard Metropolitan Statistical Area of Washington, and to change the location of GSA Region 3 to Philadelphia, Pennsylvania (serving Delaware, Maryland, Pennsylvania, Virginia, and West Virginia). The proposed regulation updates current organizational alignment to ensure that space requests are routed to the correct office. This proposal also provides for the use of space allocation standards in lieu of occupancy guides and provides procedures for Federal agencies for the development of work station requirements. By policy memorandum of November 14, 1975 (subject: Accelerated Space Utilization Program—Phase II), the Commissioner, Public Buildings Service, rescinded the work station allowances contained in all occupancy guides. Since then the concept of space allocation standards has been developed to replace the occupancy guides. This proposal reflects these changes and formalizes current GSA policy on providing space for work stations. It is further proposed to provide criteria for Federal agencies to use in developing and implementing programs to achieve economies in space utilization. This proposal also outlines the major elements necessary to establish effective and responsible programs by agencies for improving the use of Federal space and, with the active participation and cooperation of Federal agencies, for reducing the total space-utilization rate to realize cost savings and/or cost avoidance.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, GSA proposes to amend 41 CFR Part 101–17 as follows:

1. The table of contents for Part 101–17 is amended by changing the title to § 101–17.302 and adding the followng entries:

Sec.
101–17.202–1 Agency space utilization programs.
101–17.302 Use of space allocation standards.
101–17.302–1 Development of work station requirements.

Subpart 101–17.1—Assignment of Space

2. Section 101–17.101(a) is revised to read as follows:

§ 101–17.101 Requests for space.

(a) Except as provided in § 101–17.101–2, Federal agencies shall satisfy their space needs (additions and deletions as identified in § 101–17.202–1 (d) and (e)) by submitting a Standard Form 81, Request for Space, to the GSA regional office responsible for the geographic area in which the space is

required. A listing of GSA regional offices and the areas they serve is shown in § 101–17.4801.

* * * * *

Subpart 101–17.2—Utilization of Space

3. Section 101–17.202 is revised and 101–17.202–1 is added to read as follows:

§ 101–17.202 Responsibility of agencies.

It is the responsibility of Federal agencies to assist and cooperate with GSA in the assignment and utilization of space, including the furnishing of data relative to the use of space occupied, personnel work stations housed or to be housed, and establishing agency programs to improve space use. It is the further responsibility of Federal agencies to ensure efficient and economical space utilization by continuously studying and surveying space occupied under GSA assignment and other space which is controlled by the agencies. It is the responsibility of agencies to report to GSA any space which is excess to their needs and which might be assigned to other agencies.

§ 101–17.202–1 Agency space utilization programs.

Agencies shall establish internal programs for the improvement of space use. In developing and implementing the programs, the following minimum program elements should be included:

(a) Development of work station and administrative support requirements as described in § 101–17.302–1 shall be undertaken to prescribe efficient overall utilization and to develop space allocation standards in coordination with GSA to replace occupancy guides;

(b) Dissemination of internal guidelines for improving space utilization through space planning and work station design and the establishment of related training programs;

(c) A continuous review of outstanding space requests to ensure that they have been submitted to GSA in accordance with the requirements of §§ 101–17.302–1, 101–17.304, or established space allocation standards;

(d) A continuous survey of existing space to: (1) Determine present utilization practices; (2) identify space that exceeds that needed for efficient performance of program requirements; and (3) determine the economic feasibility of releasing this space to GSA for possible reassignment; and

(e) A continuous review of anticipated personnel and program changes to determine expected space requirements and provide accurate utilization data.

Subpart 101–17.3—Space Standards, Criteria, and Guidelines

4. Section 101–17.302 is revised and 101–17.302–1 is added as follows:

§ 101–17.302 Use of space allocation standards.

Space allocation standards are defined in § 101–17.003–32. The objective is to promote more efficient operation and better utilization through development of work stations and administrative support space standards. These standards may vary to consider layout and circulation as defined in §§ 101–17.003–30 and 101–17.003–31.

§ 101–17.302–1 Development of work station requirements.

Development of work station requirements shall include:

(a) Defining and grouping distinct job categories within the organization;

(b) Determining the function of these job categories and their physical needs;

(c) Translating physical needs of these job categories into compact and efficient individual furniture work station standards and determining the square footage associated with each standard; and

(d) Consolidating the square-footage needs into work station groups. The sum of individual work station square-footage standards or work station groups and support space requirements, plus circulation and layout factors, becomes the basis for the request for space.

5. Section 101–17.303 is amended by revising paragraph (a) to read as follows:

§ 101–17.303 Use of space allocation allowances.

(a) In the absence of either the documented work station analysis described in § 101–17.302–1 or an approved space allocation standard, the space allowances listed in §§ 101–17.304–1 and 101–17.304–2 shall be used in space planning for agencies and components thereof.

* * * * *

Subpart 101–17.48—GSA Regional Offices

6. Section 101–17.4801 is amended by adding the National Capital Region and redefining Region 3 to read as follows:

§ 101–17.4801 GSA regional offices.

GSA Region, Area Served, and Mailing Address

National Capital—Standard Metropolitan Statistical Area of Washington, DC, General Services Administration, National Capital Region, Washington, DC 20407.

1—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, General Services Administration, John W. McCormack, Post Office and Courthouse, Boston, MA 02109.

2—New Jersey, New York, Puerto Rico, and the Virgin Islands. General Services Administration, 26 Federal Plaza, New York, NY 10007.

3—Delaware, Pennsylvania, West Virginia, and Maryland and Virginia (except National Capital Region), General Services Administration, 9th and Market Streets Philadelphia, PA 19106.

4—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, General Services Administration, 75 Spring Street Atlanta, GA 30303.

5—Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin, General Services Administration, 230 South Dearborn Street, Chicago, Il 60604.

6—Iowa, Kansas, Missouri, and Nebraska, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131.

7—Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.

8—Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225.

9—Arizona, California, Hawaii, Nevada, and Guam, General Services Administration, 525 Market Street, San Francisco, CA 94105.

10—Alaska, Idaho, Oregon, and Washington, General Services Administration, GSA Center, Auburn, WA 98002.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Dated: July 29, 1980.

A. R. Marschall,

Acting Commissioner, Public Buildings Service.

[FR Doc. 80-23997 Filed 8-7-80; 8:45 am]

BILLING CODE 6820-23-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[BC Docket No. 80–430; RM–3577]

FM Broadcast Station in Greybull, Wyo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign a Class C or Class A channel to Greybull, Wyoming, as its first FM assignment in response to a petition filed by Robert D. Zellmer.

DATES: Comments must be filed on or before September 29, 1980, and reply comments on or before October 20, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Greybull, Wyoming), BC Docket No. 80–430, RM–3577.

Adopted: July 30, 1980.

Released: August 5, 1980.

1. *Petition, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by Robert D. Zellmer, of AM Station KMMZ in Greybull, Wyoming ("petitioner"), proposing the assignment of Channel 262 to Greybull, Wyoming, as that community's first FM assignment.

(b) Channel 262 could be assigned to Greybull, Wyoming, in compliance with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Greybull is located in Big Horn County approximately 456 kilometers (285 miles) northwest of Cheyenne, Wyoming.

(b) *Population.* Greybull—1,953 [2]; Big Horn County—10,202.

(c) *Local Aural Broadcast Service.* AM Station KMMZ—1140 kHz, daytime-only.

3. *Economic Considerations.* Petitioner has not provided economic data concerning Greybull, Wyoming.

4. *Preclusion.* A preclusion study was done for Channel 262 in Greybull, Wyoming, with the assumption that the transmitter would be located in the center of the city. Proposals concerning Rock Springs, Wyoming (Rm–3117) and Tremonton, Utah (RM–3595) which are now pending, were not taken into consideration. The assignment of Channel 262 to Greybull will cause preclusion on all seven channels to all or parts of the following twenty-eight *counties:*

Wyoming: Sheridan, Big Horn, Park, Hot Springs, Washakie, Johnson, Fremont, Natrona, Sweetwater, Sublette, Teton

Montana: Big Horn, Rosebud, Yellowstone, Stillwater, Carbon, Custer, Treasure, Musselshell, Golden Valley, Fergus, Wheatland, Sweet Grass, Meagher, Park, Gallatin, Madison

Idaho: Fremont

Petitioner should provide information regarding channels available to these precluded areas.

5. Based on the large preclusion caused by a Class C channel assignment for Greybull, Wyoming, and the small population of Greybull, a Class A assignment may be more in order. A staff study has indicated that Channel 261A can be assigned to Greybull. Petitioner has stated that if his request for Channel 262 is denied, then he would apply for Channel 261A if assigned.

6. Generally, in order to justify the assignment of a Class C channel to a small community, a showing of first and second aural broadcast services is needed.[3] Petition has asked that he not be required to submit these showings. However, he has failed to give reasons for not providing the study. He should either provide the necessary showing of the need for a wide coverage channel or give reasons as to his inability to do so.

7. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Greybull, Wyoming, as follows:

City	Channel No.	
	Present	Proposed
Greybull, Wyo		262 or 261A.

8. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before September 29, 1980, and reply comments on or before October 20, 1980.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-23970 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

[3] See *Roanoke Rapids, N.C.*, 9 F.C.C. 672 (1967) and *Anamosa, Iowa*, 46 F.C.C. 2d 520 (1974).

47 CFR Part 73

[BC Docket No. 80–429; RM–3514]

FM Broadcast Station in Ogallala, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking and order to show cause.

SUMMARY: This action proposes to add two Class C FM channels in place of the two existing Class A channels at Ogallala, Nebraska, and modify the licenses of both Class A licensees to specify the class C channels. Significant first and second FM and nighttime aural services could be provided thereby.

DATES: Comments must be filed on or before September 29, 1980, and reply comments on or before October 20, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Molly Pauker or Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Ogallala, Nebraska), BC Docket No. 80–429, RM–3514.

Adopted: July 30, 1980.

Released: August 5, 1980.

1. *Petition, Proposals, Comments.* (a) The Commission has before it a petition filed by Ogallala Broadcasting Co., Inc. ("petitioner"),[1] license of Station KOGA–FM (Channel 224A), Ogalalla, Nebraska. The petition requests the substitution of Channel 259 for Channel 224A at Ogallala.

(b) Channel 259 can be assigned to Ogallala in conformity with the minimum distance separation requirements, and without deletion of any other channels assigned to Ogallala, including Channel 224A.

(c) No pleadings other than the petition have been filed.

2. *Community Data*—(a) *Location:* Ogallala, seat of Keith County, is located in western Nebraska, approximately 483 kilometers (300 miles) west of Omaha, and 322 kilometers (200 miles) northwest of Denver, Colorado.

(b) *Population.* Ogalalla—4,976; [2] Keith County—8,487.

(c) *Present Aural Service.* FM Station KMCX [3] (Channel 228A); Station KOGA—FM (Channel 224A); and fulltime AM Station KOGA.

3. *First and Second Service.* Petitioner submitted a *Roanoke Rapids/Anamosa* [4] study purporting to indicate first and second nighttime and FM service to be derived from a Class C facility operating with 50 kW at an antenna height of 73 meters (240 feet) HAAT.[5] Petitioner tells us that expansion from Class A to Class C facilities would provide first FM service to 3,494 persons in a 2,846 square kilometer (1,099 square miles) area; no additional second FM service; first nighttime aural service to 931 persons in a 1,484 square kilometer (573 square miles) area; and second nighttime aural service to 2,563 persons in a 1,362 square kilometer (526 square miles) area.[6]

4. *Preclusion.* Assignment of Channel 259 to Ogallala would cause preclusion on the co-channel (259) and all adjacent channels (256, 257A, 258, 260, 261A and 262). The following communities of over 1,000 population, having no local aural service, would experience preclusion: *Nebraska:* Crawford (population 1,291), Rushville (population 1,137), Burwell (population 1,341), Gothenburge (population 3,154), Oshkosh (population 1,067), Grand (population 1,099), Curtis (population 1,166), Cambridge (population 1,145), Arapahoe (population 1,147), Benkelman (population 1,349) and Chappell (population 1,204); *South Dakota*: Pine Ridge (population 2,768) and Martin (population 1,248); *Kansas:* Atwood (population 1,658), Hoxie (population 1,419) and Oakley (population 2,327); and *Colorado*: Julesburg (population 1,578) and Holyoke (population 1,640). Petitioner tells us that alternative channels are available for each of these communities.

5. In order to avoid the intermixture which would be created by our assigning a Class C channel in place of Channel 224A and leaving Station KMCX operating on Channel 228A, the Commission will, as petitioner suggests, give Station KMCX the opportunity to modify its operation from Channel 228A to Channel 286. See *Mitchell, South Dakota,* 62 F.C.C. 2d 70 (1976).[7] Channel 286 could be assigned to Ogallala in conformity with the minimum distance separation requirements. Under *Circleville, Ohio* (8 F.C.C. 2d 159 (1967)), petitioner would be required to reimburse Station KMCX for the reasonable expenses incurred in connection with modifying frequencies only. See *Mitchell, supra.* In addition, we would require the proponent of the assignment of Channel 286 to Ogallala to submit a preclusion study, including alternative channels for any precluded communities of over 1,000 population which have no local aural service at present.

6. We believe that it is in the public interest to propose to assign two Class C channels to Ogallala, in light of the significant first and second FM and nighttime aural services such assignments could provide, see *Sault Ste. Marie, Michigan,* 44 F.C.C. 2d 786 (1974). This comports with our policy of assigning Class C channels in sparsely populated rural areas which would otherwise not receive adequate broadcast coverage. In light of the preclusion data before us at present, we do not believe that factor to be an impediment to this assignment. We shall therefore propose the substitution of Channel 259 for Channel 224A at Ogallala, and order Station KMCX to show cause why it should not be required to modify its operation to Channel 286. However, we note that should another interest in the Class C channel assignments proposed herein be expressed at Ogallala, we must consider possible alternatives to the deletion of the Class A channels and proposed modification of these two licenses to Class C channels. See *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976). These could include assignment of a third Class C channel, or assignment of the

[1] Public Notice was given on October 31, 1979, Report No. 1198.

[2] Population figures are based on 1970 U.S. Census data.

[3] Formerly Station KIBC.

[4] *Roanoke Rapids, Goldsboro, North Carolina,* 9 F.C.C. 2d 672 (1967); *Anamosa and Iowa City, Iowa,* 46 F.C.C. 2d 520 (1974).

[5] Petitioner's *Roanoke Rapids/Anamosa* showing was not entirely accurate; however, we deem it to be suitable for approximating the amount of first and second service to be gained from its proposal.

[6] We note that the present Class A facility operating on Channel 224A, Station KOGA–FM, provides second FM service to 7,489 persons but no first FM or first or second nighttime aural services.

[7] Channels 251 and 270 are the subject of Rule Makings 3578 and 3623, respectively, and the assignment of either channel to Ogallala would conflict with those proceedings. This, however, does not entirely preclude us from considering their assignment to Ogallala in connection with the instant proceeding should the need arise. See para. 6, *infra.*

V 45 / 155 AG 8 80 UMI

two Class C channels without deletion of either or both of the Class A assignments.[8]

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is proposed to amend Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Ogallala, Nebr.	224A, 228A	259, 266

8. It is ordered, That, pursuant to Section 316(a) of the Communications Act of 1934, as amended, and with the understanding that it will receive reasonable reimbursement of expenses incurred in changing the channel on which it has a license, Station KMCX shall show cause why its license should not be modified to specify operation on Channel 286 as proposed herein instead of the present Channel 228A.

9. Pursuant to § 1.87 of the Commission's Rules and Regulations, the licensee of Station KMCX, Ogallala, Nebraska, may not later than September 29, 1980, request that a hearing be held on the proposed modification. Pursuant to Section 1.87(f), if the right to request a hearing is waived, KMCX may, not later than September 29, 1980, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. In this case, the Commission may call on KMCX to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, KMCX will be deemed to consent to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the above-mentioned channel modifications are ultimately found to be in the public interest.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before September 29, 1980, and reply comments on or before October 20, 1980.

12. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by certified mail, return receipt requested, to Industrial Business Corp., Box 733, Ogallala, Nebraska 69153, the party to whom the *Order to Show Cause* is directed.

13. For further information concerning this proceeding, contact Molly Pauker or Mark N. Lipp, Broadcast Bureau, (202) 632–6302 or (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reploy comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-23971 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[8] At this point in the proceeding, we make no prediction as to whether this will become necessary or which alternative we would favor, in the event that competition for Class C channels in Ogallala arises.

---

47 CFR Part 73

[BC Docket No. 80-428; RM-3558]

FM Broadcast Station in Hugoton, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class C channel to Hugoton, Kansas, in response to a petition filed by Grant County Broadcasting Co., Inc. The proposed channel could be used to bring a first local aural broadcast service to Hugoton in addition to significant first and second FM and nighttime aural services to the surrounding area.

DATES: Comments must be filed on or before September 29, 1980, and reply comments on or before October 20, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:
In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Hugoton, Kansas), BC Docket No. 80–428, RM–3558.

Adopted: July 30, 1980.

Released: August 5, 1980.

1. *Petitioner, Proposal, Comments.*— (a) a petition for rule making [1] was filed by Grant County Broadcasting Co., Inc. ("petitioner"), licensee of fulltime AM Station KULY, Ulysses, Kansas, proposing the asignment of Class C FM Channel 294 to Hugoton, Kansas.

(b) Channel 294 can be assigned to Hugoton in compliance with the minimum distance separation requirements.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data*—(a) *Location:* Hugoton, seat of Stevens County, is located in the southwest corner of Kansas, approximately 536 kilometers (335 miles) southwest of Topeka, Kansas.

(b) *Population.* Hugoton—2,739; Stevens County—4,198. [2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.*— Petitioner asserts that Hugoton's economy is based on agriculture, primarily wheat and corn. It claims that although the 1970 U.S. Census shows the population of Hugoton to be 2,739, current statistics from the Stevens County Clerk places the community's population at 3,157. Petitioner notes that Hugoton is served by a weekly newspaper. Petitioner has submitted demographic information with respect to Hugoton to demonstrate the need for a first FM assignment there.

4. *Preclusion Study.* Assuming the transmitter is located in the center of Hugoton, preclusion would occur on the co-channel and all six adjacent channels in all or parts of the following *counties:*

Colorado: Los Animas, Bent, Otero, Kiowa, Cheyenne, Kit Carson, Baca, Prowers
Kansas: Stanton, Hamilton, Kearney, Finney, Gray, Haskell, Grant, Morton, Stevens, Seward, Meade, Barton, Greeley, Wichita, Scott, Wallace, Logan, Gove, Lane, Treago, Graham, Sheridan, Thomas, Stafford, Sherman, Cheyenne, Rawlins, Decatur, Norton, Rooks, Ellis, Ness, Rush, Hodgman, Pawnee
Texas: Sherman, Hansford, Ochiltree, Dallam, Roberts, Gray, Wheeler, Hutchinson, Hartley, Moore
Oklahoma: Cimarron, Texas, Beaver
New Mexico: Union, Colfax, Harding, Quay

Petitioner states that towns with populations over 1,000 in the precluded areas have at least one alternate channel for assignment.

5. Generally, a community as small as Hugton Would be assigned a Class A channel. However, an exception is made where the Class C proposal could bring a significant amount of first or second FM service or when a Class C channel represents the best means of serving a sparsely populated area. In its *Roanoke Rapids/Anamosa* study, petitioner indicates that a first FM service would be provided to 12,440 persons in a 5,216 kilometer (2,037 square miles) area, a second FM service to 4,070 persons in a 1,285 square kilomter (502 square miles) area, a first nighttime aural service to 2,646 persons in a 1,514 squre kilometer (591 square miles) area, and a second nighttime aural service to 13,880 persons in a 5,450 square kilometer (2,129 square miles) area. These figures were calculated assuming the Channel 294 transmitter site was located 16 kilometers (10 miles) north of Hugoton, operating parameters of 100 kW at 91 meters (300 feet). In calculating the nighttime aural service figures, petitioner used existing FM station parameters. Since some of the existing stations are operating with less than reasonable facilities, the nighttime aural service figures would be reduced.

6. Accordingly, in view of the first and second FM and nighttime aural service which can be provided, comments are invited on the following proposal to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to the community of Hugoton, Kansas:

Channel No.	City	
	Present	Proposed
Hugoton, Kans.		294

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before September 29, 1980, and reply comments on or before October 20, 1980.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other

[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.
[2] Population figures are taken from the 1970 U.S. Census.

appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-23072 Filed 8-7-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-427; RM-3588]

FM Broadcast Station in Petersburg, Ill.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign Channel 249A to Petersburg, Illinois, as its first FM assignment in response to a petition filed by New Salem Enterprises, Inc.

DATES: Comments must be filed on or before September 29, 1980, and reply comments on or before October 20, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Petersburg, Illinois), BC Docket No. 80-427, RM-3588.

Adopted: July 30, 1980.

Released: August 4, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by New Salem Enterprises, Inc. ("petitioner"), proposing the assignment of FM Channel 249A to Petersburg, Illinois, as the community's first FM assignment.

(b) Channel 249A could be assigned to Petersburg in compliance with the minimum distance separation requirements provided the transmitter site is located approximately 9 kilometers (5.5 miles) northeast of Petersburg.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data.*—Petersburg, Illinois, the seat of Menard County, is located approximately 29 kilometers (18 miles) northwest of Springfield, Illinois.

(b) *Population:* Petersburg—2,632; [2] Menard County—9,685.

(c) *Local Aural Broadcast Service:* None.

3. *Economic Considerations.* Petitioner states that the county is primarily agricultural. Ideal Industries, Inc. (the largest wire nut factory in the world) is located in Petersburg.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Petersburg, the Commission believes it appropriate to propose amending the FM, Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Petersburg, Illinois, as follows:

City	Channel No.	
	Present	Proposed
Petersburg, Ill.		249A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 29, 1980, and reply comments on or before October 20, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments, service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-23073 Filed 8-7-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 17

Revision of the Special Rule on the American Alligator

AGENCY: Fish and Wildlife, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise the special rule on the American alligator, 50 CFR 17.42(a), promulgated under authority of the Endangered Species Act of 1973. Fabricators, who are engaged in the business of manufacturing products from American alligator leather, would no longer be required to obtain a permit issued under the special rule, yet buyers and tanners engaged in trade in American alligators would remain highly regulated to insure that fabricators receive only lawfully taken American alligators. the sale of meat and parts, except hides, from lawfully taken American alligators would no longer be restricted to the State where the taking occurs, but would be allowed nationwide if such sale is in accordance with the laws and regulations of: (1) the State in which the taking occurs and (2) the State in which the sale occurs.

DATES: Comments on the proposed rule are due on or before September 8, 1980.

ADDRESSES: Comments may be mailed to Director (LE), U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, or delivered weekdays to the Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street, NW., Washington, D.C. 20005, between 7:45 a.m. and 4:15 p.m. Comments should bear the identifying notation REG 17-02-100. All materials received may also be inspected at the Service's office in Suite 300, 1375 K Street, NW.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Divison of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street NW., Washington, D.C. 20005, telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 1979 (44 FR 59080), under authority of the Endangered Species Act of 1973 (hereinafter ESA), 16 U.S.C. 1533(d), the Service revised the special rule on the American alligator (*Alligator mississippiensis*), 50 CFR 17.42(a), to allow highly regulated worldwide trade in lawfully taken American alligator hides. Buyers, tanners, and fabricators who handle American alligator hides are required to obtain a permit issued under the special rule. Subsequently, the Service has been requested by the States of Louisiana and Florida to review these permit requirements, and eliminate the need for fabricators to obtain a permit, if possible.

The purpose of the special rule is to eliminate certain restrictions on trade in lawfully taken American alligators which are not necessary for the conservation of either the American alligator or other crocodilians. In the process of becoming manufactured products, American alligator hides, as well as the hides of other crocodilians, are funneled through a limited number of tanners worldwide who are capable of fullly tanning marketable hides. At the end of this bottleneck numerous fabricators exist capable of manufacturing marketable products from those hides. Eliminating the permit requirement for fabricators would enable the Service to concentrate its enforcement efforts where they are likely to be most effective—at the point where American alligator hides are tanned. Each American alligator hide must bear a State tag. whether tanned or untanned. In conjunction with these State tags attached by the state in which the taking occurs, which insure that harvest regulations have been followed and identify legally taken hides, the Service would closely regulate the activities of buyers and tanners of hides, so that only lawfully taken hides are tanned. If only lawfully taken hides are tanned, then presumptively manufactured products of American alligator leather are from those lawfully taken hides.

The Service also have been requested by the State of Louisiana to allow the nationwide sale of meat and parts other than hides from lawfully taken American alligators. In addition to the State laws and regulations controlling the sale of meat or parts other than hides at the State level which would have to be complied with under the special rule, the nationwide sale of meat also would be regulated by the Lacy Act (18 U.S.C. 43-44), and regulations of the Department of Agriculture. The sale of parts other than hides would be regulated similarly, except regulations of the Department of Agriculture would not apply in most cases.

Description of the Proposed Rule

Proposed changes in the special rule are described below generally in the order they appear in the special rule.

1. *Definitions.* The definitions of "captivity" and "fabricator" are deleted. A definition of "captivity" applicable to all of the regulations of Part 17 now appears in 50 CFR 17.3 which is almost identical to the one in the special ruie. Retaining the definition in the special rule is only redundant. The definition of "fabricator" is deleted because only buyers and tanners are required to obtain a permit under the special rule. Fabricators are still an integral part of trade in American alligator hides, but the rule is drafted to eliminate the need for a particular definition of their activities.

Both "buyer" and "tanner" are redefined to depict more accurately their activities, which are subject to the special rule, and to exclude a purchaser of fully tanned hides from either definition.

2. *Prohibitions.* Additional conditions are added to the taking of American alligators from the wild wherever they are listed under 50 CFR 17.11 as threatened—similarity of appearance. These measures, which have been adopted by the State of Louisiana for some time, the only State with an annual harvest, require that: (1) the hides are tagged by the State where the taking occurs with a noncorrodible numbered tag, (2) the tag number, length of skin, type of skin (whether belly or hornback), and date and place of the specimen's taking are recorded by the State, and (3) a tag or label with certain required information is affixed to the outside of any package or container used to ship American alligator hides, meat, or parts. A similar set of conditions is also placed on the sale of American alligators taken by Federal or State officials under paragraphs (a)(2)(i)(A) or (B) of the special rule.

These additional conditions are necessary to insure the imposition of certain controls at the State level, in the State of Louisiana and in any State which may in the future be given authority to harvest American alligators. The State tag attached to each lawfully taken hide by the State in which the taking occurs has proven to be the backbone of the special rule. The State tag, which must remain on all hides until they are removed by fabricators, constantly verifies that the hide has been lawfully taken as it moves through buyers and tanners to fabricators. Hides cannot be exported, imported, or traded without the State tag. Manufactured products of lawfully taken American

alligators would move freely and would not be required to be marked or labeled. However, the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter Convention or CITES) apply to the importation or exportation of American alligator hides or products. Items combining both American alligator and other wildlife products would have to satisfy all applicable laws and regulations regarding their trade.

The meat and parts other than hides from lawfully taken American alligators may be sold or otherwise transferred anywhere in the United States, if such meat and parts other than hides are sold in accordance with the laws and regulations of both: (1) the State in which the taking occur, and (2) the State in which sold or transferred. This provision allows the State where the taking occurs to determine initially whether to allow the sale of meat and part other than hides, and further allows other States to prohibit or restrict such sale, particularly States which have a resident population of American alligators, but do not allow the sale of meat and parts other than hides from their own lawfully taken American Alligators. As noted earlier, a number of controls exist on such sale: State regulatory schemes controlling trade in meat and animal parts, local health laws regarding the handling and sale of meat, Department of Agriculture regulations regarding the handling and sale of meat and certain parts, and the Lacey Act.

Although the Service has not required any particular form of State control over the sale of meat and parts other than hides from lawfully taken American alligators, the Service continues to remain opposed to unregulated sale. The Service will review the measures to allow the sale of meat and parts other than hides adopted by States in which American alligators are taken, and may impose the following conditions: (1) persons buying or reselling meat or parts must have a State license or permit, (2) current records of transactions in meat or parts must be maintained which include information required by 50 CFR 13.46, (3) State officials, upon notice and subject to applicable limitations of law, must have an opportunity to examine a permittee's/licensee's inventory of meat or parts and records, and an opportunity to copy such records, and (4) meat sold or otherwise transferred in interstate commerce must be prepackaged and bear an identifying insignia or notation.

3. *Permits.* Fabricators are not required to obtain a permit under the special rule for the reasons noted above, unless they also are acting as a buyer or tanner, and then only those activities conducted as a buyer or tanner are regulated.

Buyers and tanners remain subject to the permit requirements, which are basically unaltered. The application criteria for buyer or tanner permits issued under the special rule require additional information about an applicant's business which is necessary for the Service to properly monitor a permitted.

The conditions imposed on a buyer or tanner permit also remain nearly identical to those in effect. Recordkeeping for buyers and tanners has been simplified by eliminating the need to record the State tag numbers. Other information must still be kept, including the name and address of the person to whom the hides are transferred, and the number of hides involved. Foreign buyers and tanners are required as a condition of their permit to maintain an agent in the United States upon whom legal process may be served, which complements the application requirement that an agent be identified at the time the application is submitted.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Division of Law Enforcement, 1375 K Street, N.W., Suite 300, Washington, D.C., and may be examined, by appointment, during regular business hours. Single copies also are available upon request. Comments on the draft environmental assessment should be mailed or delivered to the address given at the beginning of this proposal during the comment period on the proposed rule.

Public Comments Invited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Interested persons are inivited to submit written comments regarding the proposed rule or the draft environmental assessment. These comments and any additional information received will be considered by the Director in adopting a final rule. Correspondence should be mailed or delivered to the address given at the beginning of this proposal.

The primary author of this proposed rule is John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service.

Note.—The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 13—GENERAL PERMIT PROCEDURES

§ 13.12 [Amended]

1. Amend § 13.12(b) by amending "American alligator—buyer, tanner, or fabricator * * * 17.42(a)" to read "American alligator—buyer or tanner * * * 17.42(a)."

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

2. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules—reptiles.

(a) *American alligator (Alligator mississippiensis).*—(1) *Definitions.* For the purposes of this paragraph (a):

(i) "American alligator" shall mean any member of the speicies *Alligator mississippienis,* and any part, offspring, dead body, part of a dead body, or product of such species occurring in captivity wherever found or in the wild wherever listed under § 17.11 of this subchapter as threatened—similarity of appearance, or in the wild in Florida and in certain coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundaries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Walterboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico. From the Mississippi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 (including incomplete portions) to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border, thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west shore of Laguana Madre to the Nueces-Kleberg County line; thence east along the Nueces-Kleberg County line of the Gulf of Mexico.

(ii) "Buyer" shall mean a person engaged in buying raw, green, salted, or otherwise untanned hides of American alligators.

(iii) "Tanner" shall mean a person engaged in processing raw, green, salted, or crusted hides of American alligators into leather.

(2) *Prohibitions.* The following prohibitions apply to the American alligator, except as provided by permits available under paragraph (a)(3).

(i) *Taking.* No person may take American alligators, except:

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take American alligators without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen;

(*2*) Dispose of a dead specimen;

(*3*) Salvage a dead specimen which may be useful for scientific study; or

(*4*) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed in a remote area. Any taking pursuant to this paragraph (a)(2)(i)(A) must be reported in writing to the Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, within five (5) days.

(B) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement with the Service which covers American alligators in accordance with section 6(c) of the Act (See 50 CFR Part 81 for rules implementing a cooperative agreement), may, when acting in the course of official duties, take American alligators to carry out scientific research or conservaiton programs.

(C) Any person may take American alligators in the wild wherever listed under § 17.11 of this subchapter as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, subject to the following conditions:

(*1*) The raw, green, salted, or otherwise untanned hides of such alligators are sold or otherwise transferred only to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3):

(*2*) The meat and other parts, except hides, are sold or otherwise transferred in accordance with the State laws and regulations of the State in which the taking occurs and the State in which sold or transferred;

(*3*) The hides are tagged by the State where the taking occurs with a noncorrodible numbered tag;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(*5*) A tag or label is affixed to the outside of any package or container used to ship American alligators which:

(*i*) Identifies its contents as American alligator hides, meat, or parts,

(*ii*) Indicates their quantity, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this subchapter.

(D) When American alligators are taken by Federal or State officials in accordance with paragraphs (a)(2)(i) (A) or (B) the hides, meat, and parts may be sold by their respective agencies, subject to the following conditions:

(*1*) The raw, green, salted, or otherwise untanned hides are sold or otherwise transferred only to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(*2*) The meat and other parts, except hides, are sold or otherwise transferred in accordance with the State laws and regulations of the State in which the taking occurs and the State in which sold or transferred;

(*3*) The hides are tagged by the State where the taking occurs with a noncorrodible numbered tag;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(*5*) A tag or label is affixed to the outside of any package or container used to ship American alligators which:

(*i*) Identifies its contents as American alligator hides, meat, or parts,

(*ii*) Indicates their quantity, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this subchapter.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, American alligators taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that hides which bear the noncorrodible numbered tag attached by the State where the taking occurred and manufactured products of lawfully taken American alligators may be imported or exported in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. No. 8249 (see 50 CFR Part 23 for rules implementing the Convention).

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any American alligator, except that:

(A) Fully tanned hides which bear the noncorrodible numbered tag attached by the State where the taking occurred and manufactured products of lawfully taken American alligators may be delivered, received, carried, transported, or shipped in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(B) Meat and other parts, except hides, from lawfully taken American alligators which are sold or otherwise transferred in accordance with the State laws and regulations of the State in which the taking occurs and the State in which sold or transferred may be delivered, received, carried, transported, or shipped in interstate commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

(3) *Permits.*

(i) *General.* Permits are available under § 17.32 (Permits—general) of this subchapter for all of the prohibited activities referred to in paragraph (a)(2). All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Permits—similarity of appearance) of this subchapter for any of the prohibited activities referred to in paragraph (a)(2).

(iii) *Buyer or tanner.* Upon receipt of a complete application, the Director may

issue a permit in accordance with the issuance criteria of this paragraph (a)(3)(iii) for a buyer or tanner, authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2).

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer or tanner. Each application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, all of the following information:

(*1*) The category or categories (buyer and/or tanner) for which the permit is desired;

(*2*) A description of the applicant's business organization including:

(*i*) The location, mailing address, and description of the physical plant in which the activities under the permit will occur,

(*ii*) Experience with American alligators, if any, over the previous five years,

(*iii*) The names and addresses of all shareholders, partners, directors, officers, or other parties in interest in the business organization,

(*iv*) The name and address of any business organization affiliated with the applicant's business organization;

(*v*) The location where books or records concerning any recordkeeping required by paragraph (a)(3) will be kept.

(*vi*) The location where inventories of American alligator hides and hides of any other species of the Order Crocodilia will be stored, and

(*vii*) The name, address, and telephone number of the person authorized to make books or records, or inventories available for examination by Service officials;

(*3*) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for the following handled by the applicant:

(*i*) All American alligator hides, and

(*ii*) All hides of any other species of the Order Crocodilia;

(*4*) A statement detailing any criminal or civil violations of any State, Federal, or foreign law by the applicant within the previous five years for taking or trafficking in wildlife, and if the applicant is a business organization, by any shareholder, partner, director, officer, principal, employee, agent, or other party in interest in the business organization or any other business organization affiliated with such business organization;

(*5*) A report in English of the applicant's dealings during the preceding five years with those species of the Order Crocodilia which at any time have been listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to the extent records of such dealings are available;

(*6*) Foreign applicants must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(*7*) Foreign applicants must provide the name and address of an agent located in the United States upon whom legal process may be served; each applicant must include a certified copy of the power of attorney appointing such an agent and a certified copy of the written consent of such agent so appointed.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A), the Director will decide whether or not a buyer or tanner permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides, and all hides of any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, permits issued under paragraph (a)(3)(iii) are subject to the following special conditions:

(*1*) Permittees may not buy or tan any American alligator hide except one which was imported, exported, taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2);

(*2*) Permittees may sell, offer for sale, deliver, carry, transport, or ship raw, green, salted, or otherwise untanned American alligator hides only to holders of valid Federal permits issued under paragraph (a)(3)(iii);

(*3*) Permittees may not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia;

(*4*) Permittees must maintain complete and accurate inventory control and bookkeeping records in accordance with the provisions of § 13.46 of this subchapter for all transactions in American alligators and other species of the Order Crocodilia. For all such transactions, permittees also must maintain on file copies of any permits or other documents required by the Convention on International Trade in Endangered Species of Wild Fauna and Flora or any other State, Federal, or foreign law;

(*5*) Permittees must file a written report in English with the Director by March 31 of each year concerning all transactions during the preceding calendar year ending December 31 with American alligators and other species of the Order Crocodilia listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (such report shall include the number of hides, parts, and products by species; the supplier's name and address; and the country where taken from the wild, if known);

(*6*) Permittees may not transport or ship any American alligator hides unless a tag or label is affixed to the outside of any package or container used to transport or ship the hides which:

(*i*) Identifies its contents as American alligator,

(*ii*) Indicates the quantity, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.63 of this subchapter;

(*7*) A buyer and/or tanner must leave all State tags on the hides; and

(*8*) Foreign permittees must maintain an agent in the United States upon whom legal process may be served; in the event of the death or inability to serve, or the resignation or removal of such person, the permittee shall immediately appoint a successor.

(D) *Duration of permits.* The duration of permits issued under this paragraph (a)(3)(iii) shall be designated on the face of the permit.

(iv) *American alligators in captivity.* Upon receipt of a complete application, the Director may issue a permit authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2) with live American alligators which have been born in captivity or lawfully placed in captivity.

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iv) must be submitted to the Director by the person who wishes to engage in the prohibited activity in accordance with the application requirements of § 17.32(a) of this subchapter. In addition, the application must include, as an attachment, documentary evidence or other appropriate information where available, and sworn affidavits to show that the American alligators for which a permit is sought have been held in captivity and that they were either born in captivity or lawfully placed in captivity.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iv)(A), the director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, whether the information submitted by the applicant appears reliable, and the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligators, and any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* All permits issued under this paragraph (a)(3)(iv) shall be subject to the general conditions set forth in Part 13 of this subchapter. In addition, any permit which authorizes the taking of American alligators is subject to the following special conditions:

(*1*) The raw, green, salted, or othewise untanned hides of such alligators are sold or otherwise transferred only to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(*2*) The meat and other parts, except hides, may be sold or otherwise transferred in accordance with the State laws and regulations of the State in which the taking occurs and the State in which sold or transferred;

(*3*) The hides are tagged by the State where held in captivity with a noncorrodible numbered tag;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State;

(*5*) A tag or label is affixed to the outside of any package or container used to ship American alligators which:

(*i*) Identifies its contents as American alligator hides, meat, or parts,

(*ii*) Indicates their quantity, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.63 of this subchapter.

(*6*) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this subchapter concerning any taking or transaction in American alligators; and

(*7*) The permittee must file a written report with the Director by March 31 of each year concerning all activities conducted pursuant to the permit for the preceding calendar year ending December 31.

(D) *Duration of permits.* The duration of permits issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

Dated: August 8, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-24125 Filed 8-7-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna Regulations; Intent To Prepare Environmental Impact Statement

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of intent to prepare environmental impact statement (EIS).

SUMMARY: The National Marine Fisheries Service (NMFS) invites all interested persons to participate in the preparation of an EIS concerning appropriate management measures for the Atlantic bluefin tuna fishery throughout its range. This process is required under Sec. 1501.7 of the regulations [43 FR 55978] implementing the National Environmental Policy Act.

DATES: The public meeting to help determine the scope of the EIS will be held on Wednesday, August 20, 1980, from 10 a.m. to 4 p.m. Written comments on the scope of the EIS must be received no later than August 29, 1980.

ADDRESS: The August 20 scoping meeting will be held at the National Wildlife Federation, 1412 Sixteenth Street, N.W., Washington, D.C. Written comments on the scope of the EIS should be addressed to Mr. Allen Peterson, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Jerome or Mr. Arnet R. Taylor, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Telephone: (617) 281–3600 or FTS 8–837–9325.

SUPPLEMENTARY INFORMATION:

Description of action. The NMFS is considering changes to 50 CFR Part 285, Subpart B, pertaining to the Atlantic Bluefin tuna fishery. The NMFS believes there is a need to develop regulations that address the growing interest by U.S. vessels to longline Atlantic bluefin tuna in the Gulf of Mexico. The NMFS's concern is that the present regulations are directed toward the historic U.S. fishery in the Northwest Atlantic, and there appears to be a need for new incidental catch provisions for the domestic Gulf fishery. Suggestions from the public are requested on this matter.

Public participation in the EIS process. In order to facilitate public participation, the NMFS has tentative plans for four future meetings on the draft EIS in Boston, Massachusetts; Fort Pierce, Florida; New Orleans, Louisiana; and Corpus Christi, Texas. Specific dates for the meetings will be announced following the scoping meeting.

Timing. The NMFS anticipates that the draft EIS will be available to the public by the end of October 1980, which is also when proposed regulations are expected to be published. A final EIS and publication of final regulations is planned for January 1981.

Signed at Washington, D.C. this 5th day of August 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24027 Filed 8-7-80; 8:45 am]

BILLING CODE 3510-22-M

V 45 / 155 5 AG 8 80 0 UMI

Notices

Federal Register
Vol. 45, No. 155
Friday, August 8, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Fort Peck Assiniboine and Sioux Indian Tribes in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Fort Peck Assiniboine and Sioux Indian Tribes in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of Assiniboine and Sioux Indian Tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of these tribes will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through January 31, 1981, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on July 31, 1980.

John W. Goodwin,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-23766 Filed 8-7-80; 8:45 am]
BILLING CODE 3410-05-M

Rural Electrification Administration

Cajun Electric Power Cooperative, Inc. and Sam Rayburn G & T, Inc.

Notice is hereby given that the Rural Electrification Administration (REA) has issued a Final Supplemental Environmental Impact Statement (FSEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance to Cajun Electric Power Cooperative, Inc., (Cajun) P.O. Box 578, New Roads, Louisiana 70760 and to Sam Rayburn G & T, Inc., (Sam Rayburn) c/o Jasper-Newton Electric Cooperative, Inc., 812 South Margaret Avenue, Kirbyville, Texas 75956.

This possible financing assistance would provide for undivided ownership by Cajun of 30 percent (282 MW) and by Sam Rayburn of 7 percent (66 MW) in the 940 MWe (net) River Bend Nuclear Power Station Unit 1, presently under construction in West Feliciana Parish, Louisiana. Cajun also proposes to own a portion of the associated transmission facilities.

The U.S. Atomic Energy Commission (currently the Nuclear Regulatory Commission-NRC) issued a Final Environmental Statement (FES) related to the River Bend Nuclear Power Station Units 1 and 2 in September 1974. It is REA's decision to adopt the previously issued NRC–FES and to issue a Supplemental Environmental Impact Statement to provide information on certain environmental aspects of the project which are normally addressed by REA but were not included in the NRC–FES. REA's FSEIS also provides information related specifically to the proposed financing assistance to Cajun and Sam Rayburn for participation in River Bend Unit 1.

Additional information may be obtained by request submitted to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

The FSEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 5829, or at the headquarters of Cajun, Highway 1, New Roads, Louisiana, or Sam Rayburn at the address given above. Limited supplies of the FSEIS and the NRC–FES are available for mailing, upon request to REA.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 1st day of August 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 80-23060 Filed 8-7-80; 8:45 am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended August 1, 1980, CAB has received the applications listed below, which request the issuance, amendment, or renewel of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answer to conforming applications of those filed in conjunction with a motion to modify scope and due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transporation cases).

Subpart Q Applications

Dated filed	Docket No.	Description
July 28, 1980	38531	Evergreen International Airlines, Inc., 3185 Crestview Drive, Newberg, Oregon 97132. Application of Evergreen International Airlines, Inc. requests the Board pursuant to Subpart Q of the Board's Procedural Regulations for a certificate of public convenience and necessity for an indefinite term to perform scheduled foreign air transportation of persons, property and mail between New York-Newark and Puerto Plata, Dominican Republic. Conforming Applications and Answers are due August 25, 1980.
July 28, 1980	38535	Pan American World Airways, Inc., Pan Am Building, 200 Park Avenue, New York, New York 10766. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations to amend Segment 4 of its certificate of public convenience and necessity for Route 132 to authorize it to engage in foreign air transportation of persons, property, and mail as follow: 4. Between the coterminal points Los Angeles and San Francisco-Oakland-San Jose, CA, Seattle-Tacoma, WA, Portland, OR, Chicago-Rockford, IL, Detroit, MI, Houston, TX, Washington, DC-Baltimore, MD, Philadelphia, PA, New York, NY-Newark, NJ, Boston, MA, Bangor, ME; Dove Air Force Base, DE; and McGuire Air Force Base, NJ; Intermediate points within the following areas: Ireland, including the intermediate point Dublin, United Kingdom, including Northern Ireland, The intermediate point Paris, France, Belgium, The Netherlands, Germany, Poland, The intermediate point Leningrad, U.S.S.R., Czechoslovakia, Austria, Hungry, The intermediate point Rome, Italy, Yugoslavia, Rumania, Bulgaria, Turkey, Lebanon, Syria, Iraq, Iran, *Bahrain*, Afghanistan, Pakistan, and India;[1] and the terminal point Moscow, U.S.S.R. [New language italicized] Conforming Applications and Answers are due August 25, 1980.
July 28, 1980	38441	Air California, 3636 Birch Street, Newport Beach, California 92660. Corrected Application of Air California pursuant to Subpart Q for the issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property, and mail between the terminal point Eugene Oregon, on the one hand, and the alternate terminal points Portland, Oregon; Seattle, Washington; Los Angeles and San Francisco, California, on the other hand. Conforming Applications and Answers are due on August 12, 1980.
July 28, 1980	38539	Nighthawk Flying Club, Inc., Mr. Brian Vacchino, President, Box 595, Municipal Airport, Iroquois Falls "A", Ontario, Canada P0K 1G0. Application of Nighthawk Flying Club, Inc. requests the Board pursuant to Subpart Q of the Board's Procedural Regulations for a foreign air carrier permit authorizing it to engage in small aircraft charter operations between Canada and the United States pursuant to the nonscheduled air service agreement. Answers are due on August 27, 1980.
July 28, 1980	38541	Air Florida, Inc., Mr. Eli Timoner, President Chief Operating Officer, 3900 N.W. 79th Avenue, Miami, Florida 33166. Application of Air Florida, Inc. requests the Board pursuant to Subpart Q of the Board's Procedural Regulations, the provisions of Section 401(b) of the Act, and Parts 201 and 302 of the Board's Regulations, for a certificate of public convenience and necessity for Route 197–F authorizing it to engage in foreign air transportation with respect to passengers, property, and mail, as follows: Between a point or points in the United States (other than Boston, Sarasota/Bradenton, Orange County and West Plam Beach), on the one hand, and Shannon, Ireland, on the other. Conforming Applications and Answers are due on August 27, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-23945 Filed 8-8-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38185]

Lone Star Airways, Inc. Fitness Investigation; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 3, 1980, at 10 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 4, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-23949 Filed 8-7-80; 8:45 am]
BILLING CODE 6320-01-M

Schedule for Awarding SES Bonuses

The Civil Aeronautics Board plans to award bonuses to Senior Executive Service members on or about August 29, 1980.

For further information contact: Michael Sherwin, Director, Office of Human Resources, Civil Aeronautics Board, (202) 673–6140.

Dated: August 5, 1980.

Wilma Kriviski,
Assistant to the Director.

[FR Doc. 80-23946 Filed 8-7-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38534]

Spanish Main International Airlines Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Pope, II. Future communications should be addressed to Judge Pope.

Dated at Washington, D.C., August 4, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-23947 Filed 8-7-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38495]

Universal Airlines, Inc. Fitness Investigations; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argrakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., August 4, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-23948 Filed 8-7-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and

V 45 / 155 AUG 8 80 UMI

Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00127. Applicant: Brooke Army Medical Center, Fort Sam Houston, San Antonio, TX 78234. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for visualizing the fine structure of tissue architecture, cells, and component structures during studies of the following materials: (1) Surgical and autopsy specimens obtained from patients, (2) Clinical microscopy and cytology specimens such as peripheral blood pellets, bone marrow aspirates, and urine sediments, (3) Tissue culture specimens, and (4) Tissue specimens of non-human origin (mouse, rat, dog, etc.). In addition, the article will be used for educational purposes in a Pathology Resident Training program which lasts for four years. Article ordered: December 28, 1978.

Docket No. 80–00129. Applicant: Saint Barnabas Medical Center, Old Short Hills Road, Livingston, New Jersey 07039. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the study of human tissue obtained from the patient's diseased organs in investigations to determine the histologic (pathologic) diagnosis. Article ordered: June 21, 1979.

Docket No. 80–00132. Applicant: The University of Texas Health Science Center, 7703 Floyd Curl Drive, San Antonio, TX 78284. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of biological specimens obtained from laboratory animals at the time of death following various experimental manipulations. Research projects to be conducted will include: (1) Investigation of the precise mechanisms of control of oviduct smooth muscle in three species, including human. Experiments will be correlated with the functional capacity of the oviduct to transport gametes, by studying post-ovulatory animals and those treated with drugs and hormones which modify the rate of ovum transport. The long term objective is to understand the mechanism of control of developing a contraceptive which acts by interfering with this process. (2) Experiments to acquire information concerning the mechanism(s) by which these ovarian steroids exert their influence on ovum transport. This information should be of value in contraception by suggesting techniques to move the fertilized egg into the uterus prematurely and might also be useful in the therapy of some types of infertility. Article ordered: November 20, 1979.

Docket No. 80–00134. Applicant: Veterans Administration Medical Center, 1310 24th Avenue, South, Nashville, TN 37203. Article: Electron Microscope, Model H–600–3 and Accessories. Manufacturer: Hitachi Perkin-Elmer Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological materials in their native state and after suitable incubations with hormones and drugs. Materials also include samples from tissue culture. Among the numerous experiments to be conducted are the effects of growth promoting substances on organ and tissue cultures as well as tissues removed from whole experimental animals injected with various growth-promoting substances. Investigations of the immune nature of cellular reactions utilizing peroxidase labeled antibodies will also be performed. The article will also be used to study preparations of liver melochandria and muscle sarcoplasmic reticularis. In addition, the article will be used for educational purposes by pathology residents, senior medical students and investigators or research technologists. Article ordered: September 10, 1979.

Docket No. 80–00143. Applicant: University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, CA 94720. Article: Electron Microscope, 1.5 MEV. Manufacturer: Kratos Incorporated, United Kingdom. Intended use of article: The article is intended to be used in performing the following experiments: (1) Direct observation of gas-solid interaction in an environmental chamber, e.g., oxidation or corrosion of metals, reduction of oxides, gasification processes in coals, (2) Examination of biological tissues in a hydrated state, (3) Direct observation and simulation of radiation damage in materials for fusion and fission reactor applications, and (4) Studies of thick sections of ceramics used in high temperature or waste-storage applications. Article ordered: August 22, 1977.

Docket No. 80–00144. Applicant: LSU Medical Center-Shreveport, 1501 Kings Highway, Shreveport, LA 71103. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article is intended to be used for studies of human and animal surgical and autopsy tissue with the following objectives: (1) Investigation of the reactions of various tissues to injury. (2) Delineation of normal fine structural appearance. (3) More precise identification of undifferentiated tumors. The article will also be used in the course General Pathology/Systemic Pathology to teach basic pathologic processes to sophomore medical students. Article ordered: November 19, 1979.

Docket No. 80–00147. Applicant: Pennsylvania Hospital, Eighth and Spruce Streets, Philadelphia, PA 19107. Article: Electron Microscope, EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used primarily for study of biological specimens of human origin, i.e. kidney and muscle biopsies for diagnosis, tumor tissue for ultrastructural study to diagnose tumor type in doubtful cases, brain biopsy specimens for identification of virus particles in cases of encephalitis, and identification of some agents that cause occupational disease, such as asbestos fibers. The properties of the biological specimens to be studied are ultrastructural features such as the detailed microanatomy of renal glomerulus cell membranes, and organelles such as mitochondria, lysosomes, ribosomes, specific granules, Golgi apparatus, desmosomes, microfilaments and microtubules. The article will also be used in a training program to provide both theoretical and practical experience in diagnostic pathology. Article ordered: November 29, 1979.

Docket No. 80–00148. Applicant: University of Pennsylvania School of Medicine, 36th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for continued investigation of the mechanism of action of insulin in adipocytes from its initial binding to the hormone receptor on the plasma membrane through and including its alteration of lipolysis, protein synthesis, calcium binding and distribution, plasma membrane ATPase activity and membrane phosphorylation. Article ordered: December 10, 1979.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and-or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–23890 Filed 8–7–80; 8:45 am]

BILLING CODE 3510–25–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00149. applicant: U.S. Naval Research Laboratory, Washington, D.C. 20375. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for simultaneous microstructural, chemical, and crystallographic analyses at resolution in the range of 0.2 to 20 nm. These needs include:

(1) Identifications of chemical distributions and associated microstructures in ion-implanted materials;

(2) Determinations of crystal structures and chemical distribution associated with grain boundaries in ceramic materials;

(3) Structure-chemistry-property relationships in granular superconducting fibers;

(4) Studies of phase instabilities in alloys exposed in harsh service environments; and

(5) Studies of the deformation structures surrounding crack tips in alloys and their relationships to fracture mechanisms.

Article ordered: September 25, 1979.

Docket No. 80–00153. Applicant: University of California, Los Angeles, Molecular Biology Institute, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in collaborative research on the structure, organization, regulation and function of nucleic acids and nucleic acid complexes.

Research projects will include: (1) Genome organization and RNA processing—studies on the arrangement of histone genes in sea urchins, on the arrangement of immunoglobulin genes, the organization of adenovirus genes and their relation to message production and processing, various aspects of gene organization of SV 40 virus genetic organization of Vibrio-cholera, replication of the bacterial virus M–13 and the genetic organization of bacteriophage T–4 and cyanobacterial genes.

(2) Gene expression—involving RNA transcription from Drosophila chromosomes, organization and expression of genes coding for globin and for tumor cell products, the expression of mitochondrial DNA from trypanosomes, the expression of SV40 DNA and related human viruses, and the expression of messenger RNA from the arabinose operon of *E. coli.*

(3) Tertiary structure of nucleic acids and nucleoproteins—involving the comparative structure of ribosomes from different sources, message location on the ribosome particle, the structure and arrangement of DNA in nucleosomes, the maturation of M–13 virus involving coat protein, cell membrane and viral DNA, and the structure of antibodies. In addition, the article will be used in the course Structural Molecular Biology by graduate students to obtain research competence in electron microscopy. Article ordered: December 20, 1979.

Docket No. 80–00154. Applicant: Indiana University School of Medicine, Department of Anatomy, 1100 West Michigan, Indianapolis, Indiana 46223. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used by faculty, post-doctoral fellows, graduate students and trained technicians to study ultrastructural features of human and experimental animal tissues in various research projects.

These research projects include: (1) Mechanisms of myelination and demyelination with respect to the position of PNS myelin proteins.

(2) Ultastructural organization of monoaminergic dendrite bundles in medullary raphe nuclei and locus coeruleus of developing mammalian brains.

(3) Mobility of lecthin receptors and agglutination in developing intestinal absorptive cells.

(4) Cytoskeletal and functional interactions between pulmonary endothelial cells and alveolar macrophages in response to varying states of hyperoxia.

(5) Comparison and correlation of the effect of diabetic neuropathy vs. crush injury on peripheral nerves.

(6) Ultrastructural analysis of the effect of diabetes on microvascular supply to skeletal muscle.

(7) Ultrastructural changes in capillary permeability, correlated with microelectrode studies of K^+ ion exchange.

(8) The regulation of Ca^{2+} in relation to exoplasmic transport.

(9) Ultrastructural studies of normal and otosclerotic middle ear ossicles.

(10) Ultrastructural evaluation of a new water-soluble embedment medium for electron microscopy.

In addition, the article will be used to train graduate students in techniques of electron microscopy sufficient to enable them to understand and to professionally perform all aspects of electron microscopy, including preparation of tissues, operation of the microscope, and interpretation of scientific data revealed by electron micropgraphs. Article ordered: December 3, 1979.

Docket No. 80–00161. Applicant: Sinai Hosptial of Detroit, 6767 W. Outer Drive, Detroit, Michigan 48235. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for expanded studied directed towards investigation of the possible role of lysosomes in steriodogenesis by conducting various cytochemistry experiments. The article will also be used for a threefold educational purpose:

(1) Training of students in electron microscopy and in basic research methodology,

(2) Exposure of students already interested in election microscopy to the practicalities of research in this field, and

(3) Preparation and presentation of material at pathology conferences. Article ordered: December 11, 1979.

Docket No. 80-00164. Application: The University of Michigan, Division of Biological Sciences, 3115 Natural Sciences, Ann Arbor, Michigan 48109. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for research project which utilitizes *Drosophila melanogaster* as a model system to investigate ultrastructural changes in cells and tissues of normal and mutant individuals during aging. The research will involve the study in detail of changes mediated by mutant individuals during aging. The research will involve the study in detail of changes mediated by mutant genes at the chromosomal level and the effects of these changes on cytoplasmic organelles, cell surfaces and membranes. Article ordered: November 13, 1979.

Docket No. 80-00165. Applicant: University of Chicago, Microbiology Department, 920 East 58th Street, Cummings Life Science Center, Chicago, Illinois 60637. Article: Electron Microscope, Model EM and 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for conducting studies of deoxyribose nucleic acid (DNA) molecules, both native duplex and heteroduplex preparations in many diverse experiments of a molecular genetic nature. The article will also be used for research training of graduate students and postdoctoral trainees by means of participation in current actual research programs. Article ordered: December 4, 1979.

Docket No. 80-00167. Applicant: The University of Texas at Austin, Department of Zoology, Austin, Texas 78712. Article: Electron Microscope, Model H-300. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for teaching of Zoology 339 and Zoo 382-L2 (Histological and Cytological Techniques). Both courses cover basic light microscope techniques and slide preparation, histochemical analysis, electron microscopy of thin sections of negatively stained materials, and scanning electron microscopy. Article ordered: June 8, 1979.

Docket No. 80-00168. Applicant: Massachusetts Eye and Ear Infirmary, Department of Otolaryngology, 243 Charles Street, Boston, MA 02114. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used for the study of the normal and pathological anatomy of tissues of the ear, nose, and throat. The experiments to be conducted include the study of the anatomy of the spiral ganglion and organ of Corti of animal and human. Of particular interest are the neural connections and synaptic morphology of these areas. The inner ears of animals with endolymphatic hydrops will be studied after drug application. Other areas of interest include the ultrastructure of abnormalities of nasal and bronchial cilia and neoplasms that occur in the head and neck area. In addition, the article will be used in the training of research and medical students. Article ordered: December 27, 1979.

Docket No. 80-00170. Applicant: Sandia Laboratories, Division 5111, Albuquerque, New Mexico 87185. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used to examine crystalline and non-crystalline solids, including iron and aluminum, which have been ion implanted with a second species. These will be examined (a) just after implantation, (b) after furnace annealing, and (c) after pulsed electron beam or pulsed laser irradiation. Experiments will include transmission electron microscopy to look at lattice defects and second phase particles in thinned sections of material. Electron diffraction will be used to identify precipitated phases. Scanning transmission electron microscopy (STEM) will also be used to image defects and to provide a small diameter electron beam for micro-diffraction of areas as small as 200 A. Secondary electron detection will be used to study changes in the surface of the samples resulting from ion implantation or pulsed irradiation. Article ordered: December 21, 1979.

Docket No. 80-00171. Applicant: Presbyterian Hospital, Inc., N.E. 13th at Lincoln Blvd., Oklahoma City, Oklahoma 73104. Article: Electron Microscope, Model EM 109 and Accessories. Intended use of article: The article is intended to be used in a clinical setting to provide differential diagnosis of tumors and kidney disease, as well as other less common applications. This will allow appropriate therapy to be instituted which will give maximum patient benefit. Article ordered: October 31, 1979.

Docket No. 80-00172. Applicant: Sandia Laboratories, P.O. Box 5800, Albuquerque, New Mexico 87185. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used in materials research projects supporting both nuclear weapons component design and development and energy development programs. These research projects cover a wide range of advanced materials, including high strength metals and alloys, superalloys, complex glass, ceramic, and glass-ceramics, semiconductor materials, and polymer composites. Specific projects conducted will include the following:

(1) Research on high strength uranium alloys for weapons applications—studies to characterize phase transformations and deformation substructures resulting from thermomechanical processing of U-Ti and U-Mo alloys.

(2) Research on Fe- and Ni-based superalloys for weapons applications—time-temperature-transformation studies to characterize the microstructures in these alloys resulting from isothermal heat treatment.

(3) Research on glass ceramics for weapons components—studies to develop optimum glass-ceramic chemistries and heat treatments for glass-to-metal applications.

(4) Research on epoxy encapsulants for weapons components—studies to understand the mechanism for improved toughness in rubber-strength epoxies.

Other research projects will include characterization of thin film deposits on various substrates for photovoltaic applications, investigations of fired, thick-film resistor and conductor inks on alumina substrates for microelectronic applications, and characterization of the microstructures of complex, multicomponent, multi-phase ceramics for simulated radioactive waste forms. Article ordered: December 12, 1979.

Docket No. 80-173. Applicant: Yale University School of Medicine, 330 Cedar Street, New Haven, CT 06510. Article: Electron Microscope, Model H-600-3 with Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for investigations of secretion of the aqueous fluid of the eye and regulation of the introcular pressure in order to obtain knowledge of how the pressure in the normal eye is regulated so that glaucoma can be prevented. Article ordered: January 3, 1980.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR. Doc. 80-23691 Filed 8-7-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Availability of the Action Plan for the Implementation of the Emergency Striped Bass Research Study

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of Availability of the Action Plan for the Implementation of the Emergency Striped Bass Research Study.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service announce the availability of an Action Plan for the Implementation of the Emergency Striped Bass Research Study as authorized under the amended Anadromous Fish Conservation Act (Pub. L. 96-118). Copies of this document will be available August 15, 1980 and can be acquired by writing or calling (1) The Regional Director, U.S. Fish and Wildlife Service, 1 Gateway Center, Newton Corner, Mass. 02158, Telephone: (617) 829-9208; or (2) the Regional Director, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Mass. 01930, Telephone: (617) 281-3600.

Signed this 5th day of August, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23685 Filed 8-7-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Announcement of Conference on U.S. International Standardization, Testing, Certification and Related Matters, and Their Implications Under Trade Agreements Act of 1979

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

The Department of Commerce plans to hold a two-day conference on October 15-16, 1980, to explore major national policy issues and concerns regarding actions by the U.S. Government and U.S. private sector entities in International Standardization (including testing and certification) and their impact on our country's international trade. Conference location will be the auditorium of the U.S. Department of Commerce in Washington, D.C. This conference should be of substantial interest to U.S. trade associations, chief executive officers, international marketing managers, certain federal agencies, and U.S. standards, testing, and certification organizations.

A list of over 40 prospective issues was developed for the Conference with the aid of interested private sector and government representatives and later refined into the following agenda:

Wednesday, Oct. 15, 1980

9:00-9:10 Call to Order and Introductions by Dr. Howard I. Forman, Deputy Assistant Secretary of Commerce for Product Standards Policy.

9:10-9:30 Keynote address by Dr. Jordan J. Baruch, Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

9:30-9:45 Introductory remarks by Moderator, Richard O. Simpson, President, LITEK International, Inc.

9:45-10:15 Comparative analysis of international standards activities, procedures and practices of United States and its leading trading partners.

William A. McAdams, President, International Electrotechnical Commission (formerly Manager, Industry Standards, General Electric Company).

10:15-10:45 Discussion of Mr. McAdams paper.

10:45-11:15 Coffee break.

11:15-11:45 Current major problems in international standardization affairs. L. John Rankine, Director of Standards and Data Security, IBM Corporation (invited).

11:45-12:15 Discussion of Mr. Rankine's paper.

12:15-1:45 Lunch.

1:45-2:15 Proposed restructuring of ANSI International Standards Council to deal with international standardization requirements of United States.

Dr. Leon Podolsky, Formerly President, U.S. National Committee/International Electrotechnical Commission.

2:15-2:45 Discussion of Dr. Podolsky's paper.

2:45-3:15 Proposed optional mechanisms for dealing with international standardization requirements of United States (including treaty and non-treaty organizations).

Dr. Frank LaQue, formerly President of American Society for Testing and Materials, American National Standards Institute, and International Organization for Standardization.

3:15-3:45 Discussion of Dr. LaQue's paper.

3:45-4:15 Coffee break.

4:15-5:00 Specific problems of Department of Agriculture and some Federal Regulatory Agencies.

Eddie F. Kimbrell, Deputy Administrator, Commodity Services, Food Safety and Quality Service, Department of Agriculture.

Henry E. Thomas, Director, Standards and Regulations Division, United States Environmental Protection Agency.

William F. Randolph, Deputy Associate Commissioner for Compliance, Food and Drug Administration.

5:00-5:30 Discussion of papers by Messrs. Kimbrell, Thomas, and Randolph.

Thursday, Oct. 16, 1980

9:00-9:30 Impact of international standardization (including metrication) on U.S. industry and its related costs.

Alexander Buel Trowbridge, Jr., President, National Association of Manufacturers (invited).

9:30-10:00 Discussion of Mr. Trowbridge's paper.

10:00-10:30 International involvement of U.S. standards: The impact upon U.S. standards-writing bodies of the adoption of their standards as de facto international standards.

Dr. William E. Cooper, Consulting Engineer, Teledyne Engineering Services.

10:30-11:00 Discussion of Dr. Cooper's paper.

11:00-11:30 Coffee break.

11:30-12:00 Implications of certification arrangements (including world-wide certification bodies such as IECQ system for electronic components; regional certification bodies; etc.).

Robert W. Peach, Director, Quality Control, Sears, Roebuck and Company.

12:00-12:30 Discussion of Mr. Peach's paper.

12:30-2:00 Lunch.

2:00-3:00 Free and open discussion of papers and preceding dialogues.

3:00-3:30 Proposals for future work, studies, other actions.

V 45 / 155 AUG 8 80 UMI

3:30–4:00 Wrap-up by Moderator.
4:00 Adjournment.

Due to space limitations (about 500 seats), admittance to the Conference will be by invitation only. A concerted effort will be made to invite participation from all major affected interests in an equitable number to assure a fully representative Conference. All organizations and persons wishing to attend the Conference should inform Dr. Howard N. Forman in writing or by telephone (address and telephone number appear at the end of this notice) by September 10, 1980, and should state the number of seats requested. Formal invitations will be sent out in mid-September.

It is planned that a paper will be presented at the Conference for discussion purposes for each topic appearing on the agenda. The papers and comments thereon will be included in the published proceedings. In addition, and in order to encourage the expression of different viewpoints on each agenda topic, other interested persons are strongly encouraged to submit papers for the record on any agenda topic. Further, and in view of the fact that there will be a limit to the number of topics which can be discussed during the two days of the Conference (with the corresponding possibility of excluding some important issues from discussion), all interested persons are encouraged to submit papers on any matter which is relevant to the Conference even though it is not on the agenda.

All acceptable papers, including those not actually selected for presentation at the Conference, will be incorporated in the published proceedings. The "acceptability" of papers for the record refers primarily to their quality, rigor, factual content, and relevancy. Papers so qualifying will not be excluded because of the nautre of the viewpoints presented. Finally, and following the issuance of the report of the Conference, an opportunity will be provided for any person to submit comments on any paper appearing in the record, whether or not the paper was discussed at the Conference. Such comments will also be made part of the final Conference record.

A subsequent **Federal Register** notice will provide further details concerning arrangements for the Conference, including registration.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–3221.

Dated: August 5, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 80-23944 Filed 8-7-80; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 10, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7530

Paper Set, Manifold and Carbon
7530-00-401-6910
7530-01-072-2536
7530-01-072-2537
7530-00-205-0511
7530-01-072-2538
7530-01-072-2539
7530-00-880-9154
(Requirements for GSA Regions 1,2,3,4,5,8,9,10 and National Capitol Region)

C. W. Fletcher,

Executive Director.

[FR Doc. 80-23910 Filed 8-7-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from procurement list.

SUMMARY: This action deletes from Procurement List 1980 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 8, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

On June 20, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 41691) of proposed deletion from Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1980:

Class 7110

Blackboard
7110-00-843-7916

C. W. Fletcher,

Executive Director.

[FR Doc. 80-23911 Filed 8-7-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[6450-01]

Meeting of the Coordinating Subcommittee of the Committee on Emergency Preparedness of the National Petroleum Council

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of meeting.

SUMMARY: The National Petroleum Council (NPC), an advisory committee to the Department of Energy, provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the NPC's Committee on Emergency Preparedness has been requested by the Secretary to undertake an analysis of issues bearing on emergency preparedness planning and the ability of the refining industry to respond to energy emergencies. NPC's Technical Subcommittee will prepare a proposal for the scope, organization, and timetable of the study for review by the Committee on Emergency Preparedness.

DATE AND LOCATION: The Technical Subcommittee of the NPC's Committee on Emergency Preparedness will meet on Friday, August 22, 1980, at 10:00 a.m., in NPC's Conference Room, Suite 601, 1625 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Acting Deputy Assistant Administrator, Office of Energy Contingency Planning, 2000 M Street, N.W., Washington, D.C. 20461, Room 3000, telephone (202) 653–4180.

Ms. Joan Walsh Cassedy, National Petroleum Council, 1625 K Street, N.W., Washington, D.C. 20006, telephone (202) 393–6100.

SUPPLEMENTARY INFORMATION:

Items for consideration at the meeting will include:

1. The scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on emergency preparedness planning.

2. An organizational structure for the study.

3. A timetable for completion of the study.

4. Any other matters pertinent to the overall assignment for the Secretary.

All meetings are open to the public. The Chairman of the Subcommittee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements at the meeting should inform Joan Walsh Cassedy, National Petroleum Council (202) 393–6100, prior to the meeting, and provision will be made for their appearance on the agenda. A transcript of the Technical Subcommittee meeting will be available for public review at the Freedom of Information Public Reading Room, Room 5B180, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:000 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on August 4, 1980.

Barton R. House,

Deputy Administrator for Operations and Emergency Management, Economic Regulatory Administration.

[FR Doc 80-23977 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

Gasoline Marketing Advisory Committee; Change in Meeting Time and Dates

Notice is hereby given of a change in meeting time and dates of the Gasoline Marketing Advisory Committee. The Committee will meet Thursday, August 21, 1980, from 1:00 p.m. to 5:00 p.m., and Friday, August 22, 1980, from 9:00 a.m. to approximately 5:00 p.m., rather than Wednesday, August 20, 1980, and Thursday, August 21, 1980, from 9:00 a.m. to 5:00 p.m., as previously announced. A notice of meeting was published in the issue of July 28, 1980 (45 FR 49972). For further information contact the Advisory Committee Management Office at 202–252–5187.

Issued at Washington, D.C. on August 4, 1980.

Tina Hobson,

Advisory Committee Management Officer.

[FR Doc. 80-23895 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-016; OFC Case No. 55029-9012-04-12]

St. Regis Paper Co.; Order Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Order granting an exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 10, 1980, St. Regis Paper Company (St. Regis) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order which would grant a permanent exemption for a new major fuel burning installation (MFBI) from certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBI's. Interim Rules establishing criteria for petitioning for exemptions from the prohibitions of FUA were published by ERA on May 15 and 17, 1979 (10 CFR, Part 500, *et seq.*) (44 FR 28530 and 44 FR 28950) (Interim Rules).

St. Regis requested a permanent fuel mixture exemption under 10 CFR 505.28 for a field-erected boiler to be constructed at its Pensacola-Kraft Center Mill, Cantonment, Florida in order to use in a mixture with wood waste (an alternate fuel) an amount of natural gas not to exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit. The MFBI, designated as No. 4 Bark/Power Boiler by St. Regis, will have a design heat input rate capability of 690 million Btu's per hour and a steam generating capacity of 420,000 pounds per hour.

Preceding this determination and the issuance of this order, and in accordance with the procedural requirements of FUA and ERA's implementing Interim Rules, ERA accepted St. Regis' petition on May 8, 1980, and published notice of its acceptance in the **Federal Register** on May 15, 1980 (45 FR 32038). The Notice of Acceptance provided a 45-day comment period during which interested persons could submit written comment on the petition for exemption and could request a public hearing. No comments were received. No hearing was requested. On July 18, 1980, ERA published in the **Federal Register** a Notice of Availability of the Tentative Staff Determination made on St. Regis' petition and provided a 14-day period for interested persons to submit written comment (45 FR 48183). No comments were received. No hearings were requested. As required by sections 701 (f) and (g) of the Act, ERA provided a copy of St. Regis' petition, to the Environmental Protection Agency and the Federal Trade Commission for their comment.

Pursuant to section 212(d) of the Act, and subject to specified terms and conditions stated herein, this order grants a permanent fuels mixture exemption to St. Regis to permit the use of natural gas in a mixture with wood waste in the No. 4 Bark/Power Boiler. As specified in the terms ad conditions, the total amount of natural gas used in the exempted unit shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit.

In accordance with section 702(a) of the Act, this order shall not take effect earlier than the 60th calendar day after publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128,

Washington, D.C. 20461, Phone (202) 653–3679.

Robert Goodie, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3119, Washington, D.C. 20461, Phone (202) 653–3675.

Douglas Mitchell, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

The public file containing a copy of all documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m. to 4:30 p.m.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) published Interim Rules on May 15 and 17, 1979 (10 CFR Parts 500 *et seq.*) (44 FR 28530 and 44 FR 28950), to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act). Title II of FUA prohibits the use of natural gas or petroleum in certain new MFBI's unless an exemption for such use has been granted.

Under the provisions of § 505.28 of the Interim Rules, St. Regis Paper Company (St. Regis) filed a petition with ERA on April 10, 1980, requesting a permanent exemption from the prohibitions of Title II of FUA for a field-erected boilder to be constructed at its Pensacola-Kraft Center Mill, Cantonment, Florida. St. Regis requested a permanent fuels mixture exemption for the new MFBI (designated as No. 4 Bark/Power Boiler by St. Regis) in order to burn a fuels mixture of wood waste (an alternate fuel) and natural gas. St. Regis certified in its petition that the total amount of natural gas that is proposed to be used in the No. 4 Bark/Power Boiler will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit.

ERA's staff reviewed the information contained in the record of this proceeding and based on that review made a Tentative Staff Determination on July 2, 1980, which recommended that an order be issued which would grant a permanent fuels mixture exemption to St. Regis which would permit the use of natural gas in a mixture with wood waste in the No. 4 Bark/Power Boiler, provided that the total amount of natural gas used in the unit does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that MFBI. A Notice of Availability of the Tentative Staff Determination was published in the **Federal Register** on July 18, 1980 (45 FR 48183). A 14 day comment period provided in that notice expired on August 1, 1980. No comments were received.

Based upon its analysis of the entire record of this proceeding, ERA has determined that St. Regis has adequately demonstrated, pursuant to section 212(d)(1)(A) of the Act, that it will use a mixture of natural gas and an alternate fuel (wood waste) as the primary energy source in the No. 4 Bark/Power Boiler, and, by its certification that the total amount of natural gas used in the MFBI will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit, has satisfied the evidentiary requirement of subparagraph (B) of that section

Pursuant to section 212(d) of the Act, and subject to the terms and conditions stated below, ERA hereby grants St. Regis a permanent fuels mixture exemption to permit the use of natural gas in a mixture with wood waste in the No. 4 Bark/Power Boiler. As specified in the terms and conditions, the total amount of natural gas used in the exempted unit shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in that unit. In granting this exemption, ERA has taken into account the purposes for which the minimum percentage of natural gas provided by a fuels mixture exemption is to be used, i.e. to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Accordingly, ERA will not exclude from the definition of primary energy source any fuel used in the No. 4 Bark/Power Boiler for the purposes of unit ignition, startup, testing, flame stabilization and control uses.

TERMS AND CONDITIONS: Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon analysis of the information contained in the record of this proceeding, this order is granted subject to the following terms and conditions:

1. No petroleum, as that term is defined in Section 103(a)(4) of the Act, shall be used in the No. 4 Bark/Power Boiler.

2. The amount of natural gas used in the No. 4 Bark/Power Boiler shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in the unit.

3. In accordance with the reporting requirement in § 505.28(d), St. Regis will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, each year on the anniversary of the effective date of the exemption, containing the following:

A certification that the amount of natural gas used in No. 4 Bark/Power Boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of that unit. The certification must be executed by a duly authorized representative of the company. The OFC Case Number assigned this proceeding, 55029–9012–04–12, shall be cited on the annual reports.

The exemption granted by this order shall not become effective earlier than the 60th calendar day after the date of publication of this order in the **Federal Register.**

Pursuant to section 702(c) of the Act, any person aggrieved by this order may at any time before October 7, 1980, petition for judicial review in accordance with the procedures outlined in 10 CFR 501.69.

On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA). Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Issued in Washington, D.C., on August 2, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–23686 Filed 8–7–80; 8:45 am]

BILLING CODE 6450–01–M

Brown Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 22, 1980. Comments by: September 8, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administrations, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80228.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226, (303) 234–3195.

SUPPLEMENTARY INFORMATION: On July 22, 1980, the Office of Enforcement of the ERA executed a Consent Order with Brown Oil Company (BOC) of Dillon, Montana. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

BOC, with its home office located in Dillion, Montana, is a firm engaed in the business of purchasing covered products and reselling them to wholesale purchasers and ultimate consumers, wihtout substantially changing their form, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of BOC, the Office of Enforcement of ERA and BOC entered into a Consent Order, the significant terms of which are as follows:

1. Total overcharge during the audit period (July 1, 1979 through September 30, 1979) on all covered gasoline products was: $9,625.85.

a. Wholesale Reseller Overcharge: $3,205.96

b. Retail End-User Overcharge: $6,419.89.

2. BOC violated the gasoline price regulations contained in 10 CFR 212.93(a)(1) of the Mandatory Petroleum Price Regulations by exceeding its "Maximum legal selling price" for the covered gasoline products sold to BOC's wholesale and retail customers.

3. BOC has agreed to refund the total overcharge on or before July 31, 1980.

4. BOC has agreed to pay a civil penalty of $1,000.00.

5. The provisions of 10 CFR 205.199J, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, BOC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1.a. above, the sum of $3,205.96 plus interest, on or before July 31, 1980. Refund of those overcharges will be in the form of certified check(s) made payable to the United States Department of Energy and will be dlivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

Furthermore, BOC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of transactions specified in I.1.b. above, the sum of $6,419.89, plus interest, on or before July 31, 1980. Refund of those overcharges shall be in the form of individual refund payments equal to the overcharge of each customer, plus applicable interest.

III. Submissions of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount specified in I.1.a. above, should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedureal aspects of this Consent Order.

You should send your comments or written notification of a claim to Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80228. You may obtain a free copy of this Consent Order, with proprietary information deleted, by writing to the same address or by calling (303) 234–3195.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Brown Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 8, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 31st day of July 1980.

Robert Templeton,

Acting District Manager, Economic Regulatory Administration, Rocky Mountain District.

Concurrence by:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80–23080 Filed 8–7–80; 8:45 am]

BILLING CODE 6450–01–M

da Vinci Co., Inc.; Final Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Final Action taken on a Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy announces final action of a Consent Order.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

SUPPLEMENTAL INFORMATION: On March 8, 1980, the ERA of the DOE executed a proposed Consent Order with da Vinci of Shawnee, Oklahoma and a **Federal Register** notice was published on May 21, 1980. Under 10 CFR 205.199I(c), a proposed Consent Order becomes

effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order. At the conclusion of the thirty-day comment period, the ERA had received no notices of claims against the refund amount of the consent Order and there were no objections received to the Consent Order. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and da Vinci is an appropriate resolution of the compliance proceeding which it described and it shall become final and effective as proposed, without modification, upon publication of this Notice. Procedures and requirements for documenting proof of claim are being developed. Refunded overcharges received, if any, will remain in a suitable government escrow account pending the determination of their proper disposition.

Issued in Dallas, Texas on the 31st day of July, 1980.

Wayne I. Tucker,

District Manager, Southwest District, Economic Regulatory Administration.

[FR Doc. 80-23398 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-008; ERA Case No. 51007-0638-21, 22, 23, 24-22]

Florida Power Corp.; Decision and Order Granting Exemption

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order granting four permanent peakload exemptions from the prohibition against the use of petroleum by new powerplants contained in Section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

BACKGROUND: On June 14, 1979, Florida Power Corporation (FPC) filed four petitions with the Economic Regulatory Administration for exemptions to use petroleum as a primary energy source in four planned 63,000 KW oil-fired combustion turbine powerplants at its Suwannee Station (Suwannee CT–1 through CT–4) in Suwannee County, Florida. ERA accepted the petitions on October 12, 1979, and published notice of their acceptance, together with a statement of the reasons set forth in the petitions for requesting the exemptions, in the **Federal Register** on October 22, 1979 (44 FR 60789). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. Interested parties were also afforded an opportunity to request a public hearing. The comment period ended December 6, 1979. No comments were submitted. No hearing was requested.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Determination was prepared which recommended that ERA issue an order which would grant FPC four permanent peakload powerplant exemptions to use petroleum in Suwannee CT–1 through CT–4 subject to certain terms and conditions. A notice of availability of the Tentative Staff Determination was published in the **Federal Register** on June 2, 1980 (45 FR 37257). The publication of the Notice of Availability opened a 14-day public comment period which ended June 16, 1980.

On June 16, 1980, public comments were received from the Garrett Corporation (Garrett). Garrett did not contest the Tentative Staff Determination; however, Garrett submitted comments pertaining to the startup capabilities of regenerators (powerplants which have regenerators, have a higher thermal efficiency than simple cycle combustion turbine units) intending to clarify certain information submitted by FPC.

Garrett asserts that FPC's response dated August 30, 1979, to ERA's request for additional information, is based upon FPC's experience with older regenerative units not designed for peaking operation. FPC had stated that thermal stresses on the associated heat recovery equipment lengthened unit startup time to full load and that such units are not then classed as peaking units. Garrett, a manufacturer of regenerative equipment, provided information based upon its testing program of advanced design equipment asserting that the problems identified by FPC have been overcome for new regenerators. On the basis of our reveiw of the entire record of this proceeding, ERA has determined to grant the four exemptions. This order grants FPC four permanent peakload powerplant exemptions to use petroleum in Suwannee CT–1, CT–2, CT–3 and CT–4 subject to the terms and conditions contained in this order.

DOE's Office of Environment has determined that granting these permanent exemptions is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement or environmental assessment was required prior to issuance of this order.

DATES: This order will not take effect earlier than October 7, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, DC 20461, Phone (202) 653–4055.

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128, Washington, DC 20461, Phone (202) 653–3659.

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, DC 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Florida Power Corporation (FPC) plans to install four 63,000 KW oil-fired combustion turbine units to be called Suwannee River Peaking Units CT–1, CT–2, CT–3, and CT–4 (Suwannee CT–1 through CT–4) at its Suwannee Station site in Suwannee County, Florida.

Based upon estimates by FPC for the 1980–1990 period, the new units are expected to consume approximately 171,000 barrels of low sulfur distillate oil per year (467 bbl/day). Suwannee CT–1, CT–2, and CT–3 are scheduled for commercial operation in October 1980. CT–4 is scheduled for commercial operation in May 1981.

FPC submitted a sworn statement as Exhibit A to each of the four petitions signed by Mr. Ned B. Spake, Vice President, Environment and New Technology of FPC as required by 10 CFR Part 503.41(b)(1). In his statements, Mr. Spake certifies that each of the oil-fired combustion turbines (Suwannee CT–1 through CT–4) will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of each plant. He also certified that the maximum design capacity of each unit is 63,000 KW and that the maximum generation that each unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 94,500,000 KWH.

FPC also furnished the information required by 10 CFR 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis). On January 4, 1980, FPC submitted additional environmental information requested by ERA.

The Garrett Corporation (Garrett) submitted comments which it believes

are necessary to clarify FPC statements submitted on August 30, 1979, in response to an ERA request for additional information. FPC had stated that thermal stresses on the associated heat recovery equipment lengthened startup time to full load and that such units are not then classed as peaking units. Garrett does not question the sincerity of FPC comments, but believes ". . . that they were made on the basis of experience with heat recovery equipment (regenerators) that does not reflect the current state-of-the-art." Garrett asserts that it and other manufacturers of regenerators have developed equipment designed to overcome the problems associated with the units upon which FPC's remarks are based. Garrett provided a technical report on its development and testing program for the record.

ERA, by this order, grants FPC permanent exemptions from the prohibitions of FUA with respect to the use of petroleum in Suwannee CT–1 through CT–4, provided that each powerplant is operated solely as a peakload powerplant subject to the terms and conditions stated below:

Terms and Conditions

§ 214(a) of the Act gives ERA the authority to include in any order granting an exemption, appropriate terms and conditions.

Based upon information submitted by FPC and upon the results of ERA's analysis, this order is granted on the following terms and conditions:

A. FPC shall not produce more than 94,500,000 KWH during any 12-month period with any of the proposed units, Suwannee CT–1 through CT–4. FPC shall limit operation of each of the proposed units to peakload hours which on FPC's system are 7:00 a.m. to 10:00 a.m. and 4:00 p.m. to 8:00 p.m. Monday–Friday, in the winter months December through March, and 10:00 a.m. to 10:00 p.m., Monday–Friday, in the summer months June through September. FPC shall notify ERA of significant changes in its load pattern which require a modification in peakload hours.

B. FPC shall comply with the reporting requirements set forth in 10 CFR Part 503.41(e). In addition, whenever FPC operates any or all of the proposed units, Suwannee CT–1 through CT–4, in non-specified peakload hours (hours not specified in condition A above), FPC shall report annually the reason(s) for such operation.

C. This order shall not take effect earlier than October 7, 1980.

Issued in Washington, D.C. on August 1, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-23394 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

Natomas North America, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: July 29, 1980.

COMMENTS BY: On or before September 8, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager, Southwest District, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767–7745.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, phone 214/767–7745.

SUPPLEMENTARY INFORMATION: On July 29, 1980 the Office of Enforcement of the ERA executed a Consent Order with Natomas North America, Inc. of Houston, Texas. Under 10 CFR 205.199J(b), the Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Natomas North America, Inc., with its office located in Houston, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Natomas North America, Inc., entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was January 1, 1975 through December 31, 1978, and it included all sales of crude oil which were made during that period.

2. Allegedly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Natomas North America, Inc. have agreed to a settlement in the amount of $253,680. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Natomas North America, Inc.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily indentifiable, the refund will be made through the DOE in accordance with CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Natomas North America, Inc. agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I(1) above, the sum of $253,680 on or before August 30, 1980. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

Note.—Of the above amount, $200,680 has been previously refunded and credit allowed leaving a balance of $53,000 to be paid to the Department of Energy.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either

been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager, Southwest District, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Natomas North America Consent Order. We will consider all comments we receive by 4:30 p.m., local time on September 8, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on 31st day of July, 1980.

Wayne I. Tucker,

District Manager, Southwest District, Economic Regulatory Administration.

[FR Doc. 80–23079 Filed 8–7–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CI77–412]

Opinion No. 90: Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part; Phillips Petroleum Co.

Issued July 25, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Opinion and Order Granting Rehearing in Part and Amending Certificate Conditions.

SUMMARY: By Order issued December 9, 1977, in this Docket, the Commission provided that, for certain costs incurred by the purchasing interstate pipeline to be included in its rates, the pipeline would be required to prove that those costs have not been compensated for in the applicable national rate ceiling. A similar condition has been issued in subsequent certificates. By this Opinion, the Commission amends that condition to provide that at such time as the pipeline proposes to recover the costs in its rates, the pipeline may be required to prove that the activity which engendered those costs is prudent. To this end, the provisions of new § 2.102 (issued under Order No. 94, Docket No. RM80–47) may be used. In addition, the Commission grants rehearing in Part for the numerous cases petitioning for same in Docket No. CI77–412 and related dockets.

I. Background

On April 14, 1977, Phillips Petroleum Company (Phillips) requested authorization in Docket No. CI77–412 to initiate sales of gas at the applicable national rate to United Gas Pipe Line Company (United) from the Waveland Field, Hancock County, Mississippi, pursuant to a March 16, 1977, contract. By a separate agreement, also dated March 16, 1977, Phillips agreed to construct and operate, on United's behalf, treating facilities for the Waveland Field gas and United agreed to assume ownership of such facilities upon issuance of appropriate authorization.

By order issued on December 9, 1977, the Commission [1] granted Phillips a permanent certificate in Docket No. CI77–412 and stated in the order (mimeo, page 2)

> * * * issuance of the certificate to Phillips and acceptance of the related rate schedule does not constitute approval of such acquisition. The Commission will not authorize this type of transaction since the national rate ceiling prescribed in Opinion No. 770–A, [sic] as amended, includes compensation for costs related to the processing of gas. If United seeks approval for the inclusion of the cost of these facilities in its rates, it will be required to prove that these costs have not been compensated for in the applicable national rate ceiling.

Additionally, Ordering Paragraph (G) of the December 9, 1977, order stated (mimeo, pages 4 and 6)

> (G) Phillips and United are advised that, insofar as the subject sale involves the subsequent acquisition by United of the Waveland Field Gas Treating Facilities, issuance of the certificate and acceptance of the related rate schedule does not constitute approval of such acquisition. At such time as United seeks to include the costs associated with that acquisition in its rates, it will be required to prove that these costs have not been compensated for in the applicable national ceiling rate.

Phillips filed an application for rehearing and reconsideration of the December 9, 1977, order on January 9, 1978. United filed a petition to intervene out of time in Docket No. CI77–412 on January 4, 1978, and a petition for rehearing on January 9, 1978. On February 9, 1978, the Commission granted rehearing solely for the purposes of further consideration. Applications for rehearing and petitions to intervene were filed by Northwest Pipeline Corporation, Texas Eastern Transmission Corporation, and Transwestern Pipeline Company on May 24, 1978, and by Southern Natural Gas Company on June 6, 1978.[2]

While the Commission is specifically concerned with dehydration costs in this proceeding, the issue of the shifting of costs from producers to pipelines is a generic issue of far greater impact than the narrow issue of dehydration costs with which we are ostensibly concerned here. These other costs include compression, gathering, processing and

[1] This proceeding was commenced before the Federal Power Commission (the FPC). By the joint regulation of October 1, 1977 (10 CFR § 1000.1) and Section 705(b) of the Department of Energy Organization Act, Public Law 95–91, 91 Stat. 565 (August 4, 1977), it was transferred to the FERC. The term "Commission" when used in the context of an action prior to October 1, 1977, refers to the FPC; the term when used otherwise, refers to the FERC.

[2] All petitions to intervene in this docket and in the other dockets which are dependent on the outcome of this docket are granted below.

treating costs. The Commission has been concerned with these other costs in a large number of other producer certificate and rate cases which arise under the Natural Gas Act.[3] The Commission has included the condition which is at issue in this case in the authorizations issued in these other proceedings and has conditioned the outcome of these other proceedings on the outcome of this proceeding. With this as background, we turn to discussion and resolution of the broad issues raised by the applications for rehearing.

II. Position of the Parties

1. The producers argue that the costs of processing, treating, compressing and gathering natural gas are not compensated for in the base national rate.

2. The pipelines argue that the certificate condition is an unlawful attempt to impose indirect regulation of producer rates on them without establishing a standard for determining when they can include such costs in their rates.

3. Both pipelines and producers argue that the certificate condition is contrary to the provisions of the contracts.

III. Discussion

The just and reasonable producer rate structure which was established by the Commission under the Natural Gas Act in the area rate and national rate proceedings essentially consists of two components: a base rate, which was designed to compensate the producer for the costs of producing the gas, and adjustments or add-ons to the base rate, which were designed to compensate the producer for certain other costs which the producer may incur and which were related to production and gathering activities.

With respect to the adjustments or add-ons to the base rate, these adjustments or add-ons are prescribed in Opinion Nos. 749 [4] and 770–A.[5] The adjustment or add-on provisions are codified in our regulations in paragraphs (b) through (e) of § 2.56 (for natural gas subject to the provisions of Opinion No. 770–A), and in paragraphs (c) through (f) of § 2.56b (for natural gas subject to the provisions of Opinion No. 749). These provisions, with nuances not relevant here, are substantially similar. To cite to one is to cite to the other. These provisions allowed recovery of severance taxes and specified a charge for gathering and for delivery of offshore gas to an onshore area. A Btu adjustment was specified; and §§ 2.56a(c)(2) and 2.56b(d)(2) of the regulations state the following with respect to other quality adjustments:

> (2) *Other quality adjustments.* All quality standards and the resulting adjustments to the rates prescribed in paragraph (a) [or, for § 2.56b(d), paragraph (a)(2)] of this section shall be made in accordance with the provisions of the particular gas sales contract except that all Btu adjustments shall be governed by paragraph (a)(1) [sic] [or, for § 2.56b(d) paragraph (d)(1)] of this section.

This structure, inherent in the area and national rate opinions, has been carried forward in the provisions of the Natural Gas Policy Act of 1978 (the NGPA), 15 U.S.C. 3301 *et seq.* As the amendments to the regulations implementing section 110 of the NGPA make clear,[6] the maximum lawful prices in sections 102 through 109 of the NGPA were intended, at a minimum, to compensate producers for costs associated with the production of natural gas. Allowances or add-ons to these maximum lawful prices are governed by the provisions of section 110 of the NGPA and the Commission's rules and regulations thereunder; and, with the exception of the Btu adjustment, the scope of the provisions for adjustments and add-ons for severance taxes and production-related costs, which are covered by section 110 of the NGPA, is similar to the scope of the provisions for adjustments and add-ons which are specified in paragraphs (b) through (e) of § 2.56a and in paragraphs (c) through (f) of § 2.56b for natural gas covered by the Commission's area and national rate opinions. Also, in our regulations implementing sections 104 and 106(a) of the NGPA, (the provisions of the NGPA covering natural gas which is subject to our area and national rate opinions), the Commission indicated that the base area and national rates, not the adjusted area and national rates, were the rates which should be escalated for inflation in accordance with the provisions of section 104 and section 106(a).[7]

The NGPA is also critical to our decision here for other reasons. Section 601(a)(1)(B) of that Act specifies that the first sale of natural gas which is committed or dedicated to interstate commerce on November 8, 1978, and which is finally determined to qualify for section 102(c), section 103(c), or sections 107(c)(1) through (4) of the NGPA, is not subject to the Commission's Natural Gas Act jurisdiction. Many of the producer certificates which were conditioned upon the outcome of this proceeding are no longer in effect as a result of final well determinations, and the underlying producer sales have been removed from the Commission's Natural Gas Act jurisdiction by operation of section 601(a)(1)(B) of the NGPA. Moreover, some natual gas which remains subject to the Commission's Natural Gas Act producer certificate and rate jurisdiction may now qualify for a maximum lawful price which is higher than that specified in sections 104 and 106(a) of the NGPA. For example, natural gas which qualifies for the maximum lawful price in section 102(d) and section 108 of the NGPA falls in this category. Although the pricing of such natural gas is technically not covered by § 2.56a or § 2.56b, such producer sales remain subject to our jurisdiction under the Natural Gas Act.

These considerations require that the Commission tailor its action on rehearing in this proceeding to reflect the policies we have adopted to implement section 110 of the NGPA. Many of the producer certificates subject to the condition imposed in this and other proceedings are no longer in force or may cease to apply at some future date by operation of section 601(a)(1) (A) or (B) of the NGPA. However, to the extent that such producer sales remain subject to the price regulation under Title I of the NGPA, they are subject to the provisions of section 110 of that Act and our regulations implementing that section to determine the treatment of production-related costs.

Turning to the specific issues presented in this proceeding, we conclude that the base national and area rates were intended, at a minimum, to compensate producers for all costs which are associated with the production of natural gas. Natural gas production costs may not be shifted from the producer to the pipeline without circumventing the base area and national rates established by the

[3] *See, e.g.* United Gas Pipeline Company; Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity, Docket No. CP77–558 (issued Dec. 20, 1977); Michigan Wisconsin Pipeline Company, Docket No. CP77–577 (issued Dec. 30, 1977). *See generally* the attached Appendix to this Order.

[4] 54 FPC 3060 (1975). Opinion No. 749 established a national flowing gas rate for wells commenced, and contracts entered into, prior to January 1, 1973. Codified at 18 CFR 2.56b.

[5] 42 FR 2854 (issued Jan. 14, 1973). Opinion No. 770–A established a national flowing gas rate for wells commenced on or after January 1, 1973 and certain other sales. Codified at 18 CFR 2.56a.

[6] Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act", Docket No. RM80–47 (issued July 25, 1980). Order No. 94 is being issued simultaneously with this Opinion.

[7] The one exception was the *Permian* area rate which included severance taxes.

Commission. Pipelines which were willing to incur production costs and pay the base area and national rates would have an advantage over other pipelines in attaching new gas supplies.[9] The shifting of production costs would, in effect, eliminate the ceiling rate and render meaningless the prohibitions of § 2.56a(f) and § 2.56b(g) of our regulations. Moreover, allowing producers to shift costs associated with the production of natural gas limits the investment ordering results and cost minimization incentives inherent in an area or national ceiling rate and, thus, alters the risk-to-reward balance inherent in those rates. These concepts underlie not only the Commission's area and national rate decisions, but also the maximum lawful prices specified in sections 102 through 109 of the NGPA.

The costs with which we are concerned here, however, are generally not costs associated with the production of natural gas. As noted above, these costs were considered as adjustments or add-ons to the base area and national rates. Under section 110 of the NGPA, these costs are defined as "production-related costs" for which the Commission, in its discretion, may authorize an allowance in excess of the statutorily prescribed maximum lawful price.

From what we have said before, it follows that, but for the NGPA, the producer could receive an allowance or add-on to the base area or national rate to the extent that the producer qualifies for an allowance or add-on under the provisions of § 2.56a or § 2.56b of our regulations. A producer was authorized to charge this allowance as a result of a Commission authorization issued in a producer certificate or rate proceeding.

With respect to all allowances, except those governed by the other quality adjustments provisions in §§ 2.56a(c)(2) and 2.56b(d)(2), the process of determining whether a producer would be allowed to add on charges for severance taxes, gathering, or offshore-to-onshore delivery was relatively straight-forward. The important point in this regard, however, is that the Commission did approve and authorize the producer to charge for these additional services, and the propriety of these charges was a matter which the Commission routinely considered in producer certificate and rate proceedings. Indeed, prior to and subsequent to the passage of the NGPA, the Commission has, under the Natural Gas Act, considered the producer's qualification for gathering and severance tax charges and the level or amount of the add-on to the base rate for these services and costs.

The language in §§ 2.56a(c)(2) and 2.56b(d)(2) does not constitute an exception to this policy of authorizing the level of rates and charges for producer sales under the Natural Gas Act nor, in our view, could it. As noted above, the language of these two sections is virtually identical. Section 2.56a(c)(2), for example, reads:

> (2) *Other quality adjustments.* All quality standards and the resulting adjustments to the rates prescribed in paragraph (a) of this section shall be made in accordance with the provisions of the particular gas sales contract except that all Btu adjustments shall be governed by paragraph (a)(1) [sic] of this section.

This passage does not, as the applications for rehearing contend, leave the matter of quality standards, and resulting adjustments to the base area and national ceiling rates, to the unfettered discretion of the producer and pipeline as specified in the contract. The bargain struck between producer and pipeline on this matter is, and was meant to be, subject to the Commission's review in producer certificate and rate proceedings. As the Supreme Court has stated in a related context:

> The Court of Appeals rejected what it apparently understood was "the Commission's basic contention all along * * * that the 'just and reasonable' standard was not mandatory and that the FPC can simply choose not to regulate rates." 154 U.S. App. D.C. at 175, 474 F.2d, at 422. Whatever the position of the Commission heretofore has been, it wisely does not challenge that aspect of the Court of Appeals judgment. Section 4 and 5 of the Act require that all gas rates be just and reasonable; and the Court held in *Phillips* that this very prescription applies to the rates of all gas producers. The Commission may have great discretion as to how to insure just and reasonable rates, but it is plain enough to us that the Act does not empower it to exempt small producer rates from compliance with that standard. *FPC* v. *Texaco, Inc.*, 417 U.S. 380, 394 (1974).

The Commission cannot, consistent with its duties under the Natural Gas Act and the NGPA, leave the matter of quality adjustments (and resulting adjustments to the base area and national rates) to the discretion of the parties as expressed in the contractual provisions governing the sale. The Commission retains authority to proscribe or limit the effect of these contractual arrangements. *Permian Basin Area Rate Cases*, 390 U.S. 747, 784 (1968); *Atlantic Refining Co.* v. *Public Service Commission of New York*, 360 U.S. 378, 391–92 (1959). The fact that §§ 2.56a(c)(2) and 2.56b(d)(2) provide that other quality adjustments will be specified in the sales contract does not constitute a limit on, or a waiver of, the Commission's authority to review and approve these arrangements.

Our interpretation of these sections is not a novel reading of applicable Commission precedent in producer rate matters. In the area rate proceedings the Commission, upon occasion, had specified that certain conditions of gas delivery from producers to pipelines would be left, in the first instance, to contractual negotiation. Opinion No. 546–A is the only previous occasion when the Commission addressed the effect of provisions such as those specified in §§ 2.56a and 2.56b. In that opinion, the first area rate proceeding where these matters were left to contractual negotiation, the Commission stated:

> Accordingly, we shall amend ordering paragraph (A), § 154.105(d)(vii) to read:
>
> (vii) *Deliver Pressure*—The gas shall be delivered at a pressure sufficient to enter the buyer's pipeline, except that when the natural flowing pressure of seller's wells declines to, or below, the level sufficient for such delivery nothing herein shall require seller to deliver gas at a pressure higher than specified by contract.
>
> The foregoing pressure standard will apply as a rule only to third-vintage contracts. *But application and refinement of the general principles enunciated herein may be considered in any certificate proceeding, including proceedings relating to second-vintage contracts. If experience in applying these principles in certificate proceedings indicates a need, the Commission will revise its general rule.* Opinion No. 546–A, *Area Rate Proceeding (Southern Louisiana, et al.)* Docket Nos. AR61–2, *et al.*, 41 F.P.C. 301, 322 (1969) (emphasis added).[9]

This language indicates the Commission's intention to monitor, review, and approve, deny, or modify contractual arrangements. It does not indicate an intention to defer without exception to the bargain struck between producer and pipeline as expresed in the contract.

In this proceeding, and in the majority of proceedings for which application to rehear this issue has been made,[10] the producer is not proposing to charge an allowance or add-on to the base area or national rate for compressing, treating, processing, or gathering natural gas. The producer is proposing to charge the base area or national rate (now the maximum lawful price under the NGPA) with other appropriate allowances. In such cases, the contract either (1) expressly provides that the pipeline will bear certain production-related costs, (2) is silent concerning which party will incur those costs, or (3) specifies that the incurrence of those costs will be subject to future negotiations between the parties to the contract. In some cases, no costs have yet been incurred by the pipeline purchaser under the contract. In other cases, particularly cases involving flowing gas subject to the provisions of purchaser under the contract. In other cases, particularly cases involving flowing gas subject to the provisions of Opinion No. 749, costs may already have been incurred by the producer or pipeline but the parties seek to modify the contract in order to change the pattern of incurrence of these costs or to specify the party who will be responsible for additional costs for which no provision in the contract has been made. The condition at issue here has been imposed in all producer certificate proceedings since December 9, 1977, in related pipeline certificate proceedings, and in producer rate proceedings where modifications to the contracts, on file with the Commission as part of the producers' tariffs, have been proposed which affect the apportionment of these costs between pipeline and producer.

Unlike the costs which are included in the base area and national rates, the Commission has not had a hard and fast policy on pipeline incurrence of the costs of compressing, gathering, processing, and treating natural gas. Pipelines, in some instances, have "gone to the wellhead" and have incurred the gathering and other costs associated with that bargain.

The Commission recognizes that the ability of the producer to shift costs to the pipeline allows the producer to avoid costs for which the Commission would not permit an allowance or for which a Commission-approved allowance would recover less than full costs. The ability of the producer to shift costs to the pipeline in this manner would increase the total price paid by the customers of the interstate pipeline and by the ultimate consumers. The ability of the pipeline to incur these costs, however, could also result in a reduction in prices paid by the customers of the pipelines and by ultimate consumers. This can occur if the pipeline incurs costs which are less than an allowance paid to a producer in the event that the producer incurred the cost, or which are more than matched by other revenues that can be credited against these costs. There are other situations where the allocation of responsibility for costs between pipelines and producers provides mutual benefits to both parties or where the effect of cost shifting is unclear or changes over time.

These results flow from the fact that pipelines have historically been regulated on the basis of individual company costs-of-service while producers have been regulated under the Natual Gas Act on the basis of area and national rates which reflect average costs. This cost/price dichotomy underlies and distinguishes producer and pipeline regulation.

For these reasons, the consequences of a decision by a pipeline to incur costs of compressing, gathering, processing and treating natural gas are of concern to this Commission. Just as producer rates and contractual arrangements are reviewed by the Commission in producer certificate and rate proceedings, the Commission must also assure that only costs prudently incurred by the purchasing pipeline are reflected in the pipeline's rates. This tenet of regulation is fully applicable here, particularly given our concerns with the alchemy which results where a potential allowance or add-on for a producer becomes, instead, a cost to the pipeline.

The pipelines argue nonetheless that the Commission cannot disallow the recovery of costs for compressing, processing, treating, and gathering natural gas which the sales contract with the producer, either explicitly or implicitly, provides that the pipeline should bear. Nowhere in our regulations can support for this proposition be derived, least of all the provisions of §§ 2.56a or 2.56b. These sections speak to producer rates, not to pipeline costs. Moreover, while the "Other Quality Adjustments" subsections of these two sections reference the contractual rights and responsibilities of both parties to the agreement, the exclusive focus in all the other subsections of §§ 2.56a and 2.56b on the producer's rates, and qualifications for these rates, removes whatever shield the pipelines would attempt to derive from our regulations to avoid Commission review and scrutiny of costs incurred for compressing, gathering, processing, or treating natural gas. Finally, and most importantly, the protection which the pipelines would derive from our regulations our regulations for contractual arrangements which are entered into between pipeline and producer does not, as we have noted, provide assurances for producers or affect the Commission responsibilities to insure proper ceiling rates for sales by producers. These responsibilities are, if anything, augmented and not reduced if the pipeline incurs the costs with which we are concerned here.

The pipelines also argue that the Commission may not review the prudency of the pipeline's incurrence of costs of compressing, processing, treating, and gathering natural gas in a rate proceeding brought under section 4 or section 5 of the Natural Gas Act involving that interstate pipeline; but must instead pass on the allocation of these costs between the producer and pipeline when the Commission acts in the related producer certificate or rate proceeding. Under this argument, a failure by the Commission to object to the producer's non-incurrence of costs (and the related rate which is designed to allowed for recovery of these costs), necessarily entails approval of the pipeline's incurrence of these costs which the producer does not incur. This argument attempts to prove too much.

While the contractual arrangements between producer and pipeline often assign responsibilities and costs to the pipeline, the focus in a producer certificate and rate proceeding is on the producer, its service, and its related rates. Given this focus in a producer certificate and rate proceeding, the Commission should, consistent with its responsibilities, consider the pipeline's decision to incur the costs of compressing, treating, processing, and gathering natural gas and in the context of a Section 4 or section 5 pipeline rate proceeding. Moreover, even absent a condition in the producer authorization, the Commission would retain its full authority to allow or disallow recovery of any costs incurred by the pipeline in a pipeline rate case.

Indeed, the focus in a producer certificate or producer rate proceeding on the producer's rate makes it somewhat inappropriate to use that proceeding as the forum for examining pipeline costs. Nothing in the area or national rate opinions alters this conclusion. On the contrary, as we have discussed above, the pipeline's incurrence of costs of compressing, processing, treating, and gathering natural gas is outside the scope of § 2.56a or § 2.56b. A pipeline's decision to incur these costs essentially removes the issues raised by that decision to a forum where these costs and the pipeline's rates, which are predicated on these costs, can be examined.

[9] Our experience in administering the advance payments program supports this conclusion.

[9] Although Opinion Nos. 546 and 546–A were subsequently superseded by Opinion Nos. 598 and 598–A (wherein the Commission approved a contested settlement agreement), this fact does not, in our view, limit the importance of the quoted discussion.

[10] *See* the attached Appendix for a listing of these proceedings.

V 45 / 155 AG 8 80 UMI

Examining the pipeline's incurrence of costs of compressing, processing, treating, and gathering natural gas in a pipeline rate case is proper for other reasons. In a producer certificate or rate proceeding, the extent of the pipeline's commitment in agreeing to incur these costs may be unclear, and the level of expenditures which will be required to fulfill that commitment, now and in the future, may be unknown. Contractual provisions may not precisely address, or may not address at all, the apportionment of certain costs between producer and pipeline. In other cases, a decision by the pipeline to bear certain costs, now or in the future, may not actually require expenditures in the future. In still other cases, circumstances encountered after the contract is entered into may require that the pipeline bear certain costs, the expenditure of which was not contemplated when the contract was entered into. Moreover examination into the particulars of an individual contract between producer and pipeline may fail to disclose area or field practices and considerations which support the pipeline's decision to bear certain costs. Finally, judicious use of resources, and the history of this proceeding, would indicate that the public interest is better served by examining these issues on a pipeline-by-pipeline basis rather than in a myriad of certificate and producer rate proceedings.

For these reasons, the Commission concludes that it is not required to pass on the propriety of a pipeline's decision to incur costs of compressing, treating, processing, and gathering natural gas in the context of a producer certificate or producer rate proceeding. Moreover, a producer certificate or producer rate proceeding is not a particularly appropriate forum for examining issues raised by a pipeline's decision to incur these costs. A pipeline rate proceeding provides a better framework for the examination of costs and the prudency of their incurrence by the pipeline.

While a pipeline rate proceeding is the preferred forum for examining the prudency of a pipeline's incurrence of costs of compressing, processing, treating and gathering natural gas, the pipelines argue nonetheless that the Commission may not defer consideration of these issues to a pipeline rate proceeding. To do so, they argue, would put recovery of these costs at risk and would constitute "indirect regulation" of producer rates which, the pipelines argue, is proscribed by the Natural Gas Act.

On the contrary, it is the pipeline's voluntary decision to incur these costs, rather than requiring the producer to bear these costs or negotiating a rate with the producer which reflects producer incurrence of these costs, which puts these costs at risk and, quite properly, makes recovery of these costs an issue in pipeline rate proceedings. More importantly, since the decision by a pipeline to incur costs often has unknown consequences (both as to the extent and the level of the expenditures which will be required), and since these factors raise issues which could not be examined, in the first instance, in a producer certificate or producer rate proceeding, the pipelines' argument, taken to its logical limit, becomes an argument for no regulation.

While the Commission can defer all review of a pipeline's incurrence of costs for compressing, processing, treating, and gathering natural gas to a pipeline rate proceeding and while the Commission believes that a pipeline rate proceeding provides the most appropriate forum for evaluating these costs, as the condition imposed in these cases specifies, Commission review and analysis of contracts between producers and pipelines at issue here indicates that the certificates should be conditioned so as to provide the pipelines with general guidance concerning which costs of compressing, processing, treating, and gathering natural gas can properly be reflected in the pipeline's rates.

The original certificate condition which we imposed in this and other proceedings was a reflection of our concern with the recent erosion of customary practices in producing areas concerning the apportionment of costs and responsibilities between pipeline and producer in the interstate market. In this case, the erosion manifests itself in the agreement by United to incur the costs of dehydration. These costs would be incurred by United in order to achieve a level of natural gas quality which, our review of contracts on file with the Commission indicates, producers have, virtually without exception, agreed to provide without adjustment or add-on to the base area or national rate. The sale of natural gas which meets minimum quality standards results in a situation where the potential for reestablishing the dual market is minimized and, more importantly, provides appropriate incentives, all other things being equal, for producers to explore and develop natural gas reserves of high quality. As our regulations implementing section 110 of the NGPA make clear[11] the costs which United proposes to incur are costs for which Phillips would not be able to obtain an allowance or add-on for production-related costs under those implementing regulations. The Commission is concerned that when and if a pipeline incurs such costs, the costs incurred are prudent. This concern extends to any costs incurred by interstate pipelines to meet the minimum quality standards specified in § 271.1104(c)(4)(i) of our regulations which implement section 110 of the NGPA. Similar concerns would also be present if the producer and pipeline propose to amend an outstanding contract to shift costs that the producer had agreed to incur or which the producer had actually been incurring for a period of time.

These and other concerns with production-related costs and with cost shifting between producers and pipelines are more fully discussed in the rule issued today to amend the interim regulations implementing section 110.[12] As part of that effort, the Commission has this day promulgated a new § 2.101 of the Statements of General Policy and Interpretations under the Natural Gas Act. That policy statement provides that, if an interstate pipeline purchases natural gas in a first sale then, in any proceeding bought under the Natural Gas Act to determine the lawfulness of the rates and charges of such pipeline, any activity undertaken by, or on behalf of, the pipeline which results in the pipeline incurring production-related costs shall be deemed prudent if the costs so incurred are for certain types of compression or are of the type that, had the seller of the gas borne them, the seller could have made application for their recovery under the provisions of Subpart K of Part 271 (as amended).[13]

This policy statement, and the related discussion of our amendments to the interim regulations implementing section 110, provides the guidance which the pipelines have requested in their applications for rehearing.[14] Accordingly, the Commission will modify the condition issued in this proceeding to read as follows:

(G) At such time as the pipeline proposes to recover in its rates any costs incurred by it to compress, process, treat, or gather natural gas purchased by it, the pipeline will be required to prove that the activity which engendered those costs is prudent. In determining prudence, the Commission will apply the statement of policy set out under § 2.102 of its regulations.

This requirement will be a continuing one in rate proceedings involving a given pipeline brought under Sections 4 and 5 of the Natural Gas Act. In order to facilitate review of costs incurred to compress, process, treat, or gather natural gas, the pipeline may be required to specifically idenfity such costs for each producer contract, grouped by field or area as may be appropriate to aid analysis and to provide a short statement indicating why incurrence of these costs in proper under the standards specified in § 2.101(a).

The policy would apply only to rate proceedings now pending before the Commission for proceedings commenced after the effective date of this order. In those cases where the pipeline has already incurred costs which are governed by the outcome of this proceeding, inquiry into the propriety of the pipeline's incurrence of those costs will be undertaken in the first general section 4 or section 5 rate proceeding involving that pipeline which is filed after this opinion is issued. Since the Commission has indicated its concern with the propriety of cost incurrence by interstate pipelines at the time of issuance of these producer authorizations, and since no specific showing of prudency concerning the incurrence of these costs has been made in a pipeline rate proceeding, all costs which are governed by the outcome of this proceeding will be considered in the respective pipeline's first section 4 or section 5 rate proceeding initiated after the date of this opinion.

Apart from the situation of a pipeline incurring production-related costs, a case may arise in which a seller of natural gas attempts to have a purchasing pipeline pay for the costs to produce the gas to the wellhead. That is, the seller attempts to shift to a purchaser part or all of the costs for which the base rates of the Natural Gas Act or the NGPA were designed to compensate the seller. Under Order No. 94, an add-on to the maximum lawful price, such production costs cannot be applied for. In the same manner, such a shift of costs in sales made under the Natural Gas Act would violate the area or nationwide rate ceilings. For a pipeline to purchase gas in a transaction that violates the applicable ceiling prices of either the NGPA or the Natural Gas Act is *per se* imprudent. To allow a pipeline to reflect such costs in its rates is to condone a circumvention of Title I of the NGPA.

Because the focus of the condition which we have included in these authorizations differs from the condition we originally included, and because the amendments to the interim regulations which implement section 110 are still subject to comment and reconsideration, rehearing applications to this opinion will be considered by the Commission. This course of action will assure consideration of any action which may be appropriate on reconsideration of regulations implementing section 110 of the NGPA.

The Commission finds: (1) Participation by the persons seeking intervention in this proceeding and in the other proceedings which depend on the outcome of this proceeding may be in the public interest.

(2) It is appropriate and in the public interest that the applications for rehearing in this proceeding and in the other proceedings which depend on the outcome of this proceeding be granted in part and denined in part as provided below.

The Commission orders: (A) All persons seeking to intervene in this proceeding and in the proceedings which depend on the outcome of this proceeding are permitted to intervene subject to the rules and regulations of the Commission; *provided, however,* that the participation of these intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene; and *provided further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(B) The orders issued in this proceeding and in the other proceedings which depend on the outcome of this proceeding are amended by adding the following condition:

( ) At such time as the pipeline proposes to recover in its rates any costs incurred by it to compress, process, treat, or gather natural gas purchased by it, the pipeline may be required to prove that the activity which engendered those costs is prudent. In determining prudence, the Commission will apply the statement of policy set out under § 2.102 of its regulations.

(C) The orders issued in this proceeding and in the other proceedings which depend on the outcome of this proceeding are amended to delete the condition which would require the pipeline to show that the costs of compressing, processing, treating, or gathering natural gas have not been compensated for in the applicable national ceiling.

By the Commission.

(Copies of the Appendix referenced in the text of this Opinion are available at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 during regular business hours.)

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-23803 Filed 8-7-80; 8:45 am]
BILLING CODE 6450-85-M

[11] *See* note 6 *supra.*

[12] *Id.*

[13] The policy of § 2.102 defines the terms "prudent compression", "first sale" and "production-related cost"; the latter term having the same meaning as that defined under § 271.102(b)(17) of the regulations.

[14] As we have discussed above, the Commission is under no legal obligation to provide this guidance.

[Project No. 3240]

Briar-Hydro; Application for Preliminary Permit

August 1, 1980

Take notice that Briar-Hydro (Applicant) filed on July 1, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3240 to be known as the Rolfe Canal Project located on the Contoocook River in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. James Steenbeke, Jr., R.F.D. #5, Penacook, New Hampshire 03303.

Project Description—The proposed project would consist of existing project works including: (1) a concrete gravity diversion dam, 300 feet long and 10 feet high; (2) a reservoir of negligible storage capacity behind the diversion dam; (3) a headwall dam, about 30 feet long and 6 feet high, with a fixed crested weir, located at the entrance of (4) the Rolfe Canal; (5) a granite masonry power generation dam, 130 feet long and 17 feet high at the lower end of the canal; and new project works to include (6) a headgate structure and headrace to be constructed adjacent to and immediately upstream of the south (right) abutment of the power generation dam; (7) a powerhouse with an installed capacity of 1400 kW; (8) a tailrace; and (9) other appurtenances. Applicant estimates annual generation would average about 7,500,000 kWh.

Purpose of Project—Project energy would be sold to the Concord Electric Company, the local utility company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform feasibility studies to include field exploration, hydraulic and hydrologic studies, environmental impact studies, and preparation of preliminary engineering plans. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of

an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 13, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 15, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (b), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 13, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-23956 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2409]

Calaveras County Water District; Meeting

August 5, 1980.

The public should take notice that pursuant to a request filed by Calaveras County Water District, a meeting will be held on Friday, August 22, 1980, at 10:00 a.m. at the Federal Energy Regulatory Commission in Room 8402, 825 N. Capitol Street, N.E., Washington, D.C. Calaveras County Water District is the applicant for a major license to construct and operate the proposed North Fork Stanislaus River Project, FERC No. 2409.

The purpose of the meeting will be to discuss the status of the application and any issues that may remain following the issuance of the final environmental impact statement that was prepared by the staff of the Federal Energy Regulatory Commission for Project No. 2409. All parties to the proceeding concerning Project No. 2409 are invited to attend. A transcript of the meeting will be made and copies of that transcript may be viewed at the Commission's San Francisco Regional Office, 333 Market Street, San Francisco, California or at the Commission's Office of Public Information, 825 N. Capitol Street, Washington, D.C.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23952 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2531]

Central Maine Power Co.; Application for Amendment of License

July 25, 1980.

Take notice that on July 1, 1980, Central Maine Power Company (Applicant) filed an application for amendment of its license fot its West Buxton Project, FERC No. 2531, located on the Saco River in West Buxton, York County, Maine. Correspondence with the Applicant should be directed to: Charles E. Monty, Vice President, Central Maine Power Company, Edison Drive, Augusta, Maine 04336.

Applicant requests that its license be amended to permit the installation of two 750-kW generators at the upper project powerhouse. The upper project powerhouse at the West Buxton Project contains two waterwheels that have been inoperable since 1938, when their associated generators were destroyed by fire. Applicant proposes to install two used generators from its Brunswick-Topsham Project, FERC No. 2284, which is currently being redeveloped. Operation of the additional generators at the project would generate up to 4,000,000 kWh annually, saving the equivalent of 6,600 barrels of oil or 1,850 tons of coal.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rule. Any protest or petition to intervene must be filed on or before September 8, 1980. The Commission's address is: 825 N. Capitol Street, NE, Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23957 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-422]

Central Vermont Public Service Corp.; Order Accepting for Filing and Suspending Filed Rates and Granting Motion To Collect Proposed Settlement Rates in Lieu of Filed Rates

Issued July 31, 1980.

On May 30, 1980, Central Vermont Public Service Corporation (Company) filed proposed revisions to its FERC Electric Tariff Original Volume No. 1, R-7 and R-7A. The proposed rates would result in an increase of approximately $883,469 (11.1%) for firm power service to seven of its wholesale customers, proposed to become effective August 1, 1980. Subsequently, on July 8, 1980, the Company submitted proposed interim rates pursuant to a settlement agreement, which would reduce the amount of the original increase request by $152,952 to $685,617 (9.1%).[1] An August 1, 1980 effective date was requested for the proposed interim settlement rates.

Notice of the filing was issued on June 4, 1980, with comments, protests, or petitions to intervene due on or before June 27, 1980. Petitions to intervene were filed on June 27, 1980 by the Town of Springfield, Vermont (Springfield) and the New Hampshire Electric Cooperatives (Coop). In its petition Coop requests the Commission to approve the settlement rates to become effective August 1, 1980, or implement the rates effective August 2, 1980, subject to refund pending Commission review of the rates. On July 28, 1980, Springfield filed a response to the Company's motion for approval of the settlement agreement. Springfield's response supports the settlement rates submitted by the Company and requests that the settlement rates be allowed to become effective as of August 1, 1980.

The Commission finds that the originally filed R-7 and R-7A rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the originally submitted rates for filing and suspend them as ordered below.

We find that special circumstances exist in this case to warrant a nominal one day suspension. The parties, as a part of the settlement agreement, have agreed that the interim rate be collected subject to refund, in lieu of a possible extended suspension, pending final Commission action on the settlement. Accordingly, we shall suspend the originally filed (R-7 and R-7A) rates for one day to become effective, subject to refund, on August 2, 1980. However, pursuant to § 35.1(e) of the regulations, we find that good cause exists to permit the collection of the proposed settlement rates [R-8 and R-8A), subject to refund, in lieu of the originally tendered rates, until such time as we may act on the settlement agreement. If we should disapprove the settlement, the Company may thereafter collect the originally filed R-7 and R-7A rates prospectively only. *See Public Service Company of Oklahoma,* Docket No. ER 78-511, Order of December 27, 1978.

[1] These proposed settlement rates have been designated R-8 and R-8A.

The Commission finds that participation by Springfield and Coop may be in the public interest, and accordingly we shall grant their petitions to intervene.

The Commission orders:

(A) The proposed R-7 and R-7A rates originally filed by Central Vermont Public Service Corporation are hereby accepted for filing and suspended for one day to become effective August 2, 1980, subject to refund.

(B) Central Vermont Public Service Corporation shall collect its proposed R-8 and R-8A settlement rates, subject to refund, in lieu of the rates originally filed, from August 2, 1980, until such time as we act on the proposed settlement agreement.

(C) The Town of Springfield, Vermont and the New Hampshire Electric Cooperatives are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations. *Provided, however,* that participation by these intervenors shall be limited to matters set forth in their respective petitions to intervene; and *Provided, further,* that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23953 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2742]

Copper Valley Electric Association, Inc.; Application for Amendment of License

July 25, 1980.

Take notice that the Copper Valley Electric Association, Inc. (Copper Valley) filed on February 6, 1980, and supplemented on June 17, 1980, an application [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] to revise Article 39 of its license for the Solomon Gulch Project No. 2742 located on Solomon Gulch Creek near Valdez, Alaska. Correspondence with the Applicant should be directed to: Mr. James F. Palin, General Manager, Copper Valley Electric Association, Inc., Glennallen, Alaska 99588.

Description—Article 39 currently requires Copper Valley to provide a continuous minimum flow of 3.5 cfs through releases from the project dam to protect the anadromous fish resource of Solomon Gulch Creek. Licensee requests permission to move the location of discharge for the minimum flow downstream to the crest of the lower Solomon Gulch Creek Falls and to change the minimum flow to 9.0 cfs. Solomon Gulch Creek upstream of the falls is inaccessible to anadromous species. Copper Valley estimates that the change in the location of the discharge would result in an annual increase in generation of 1,030,000 kWh.

Comments, Protests or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 5, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23959 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-538]

Hartford Electric Light Co.; Filing

July 25, 1980.

The filing Company submits the following:

Take Notice that on July 21, 1980. The Hartford Electric Light Company (HELCO) tendered for filing as an initial rate schedule of an exchange agreement (the "Agreement") between HELCO, The Connecticut Light and Power Company (CL&P) and Vermont Electric Cooperative, Inc. (VEC). The Agreement, dated as of December 10, 1979, provides for HELCO and CL&P to exchange capacity and energy in certain gas turbine generating units for capacity and energy from VEC's entitlement in Merrimack Unit #2, a coal-fired base

load type generating unit located at

gas tariff sheets [1] to reflect an increase

believe that the increase may be

15, 1980, Mid Louisiana's present rates

under includes a substantial increase in

such charges paid SLAPCO shall be

load type generating unit located at Merrimack Station in Bow, New Hampshire.

The Agreement provides that the parties will determine prior to 12:01 a.m. on Monday of each week during the term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week.

HELCO and CL&P will pay capacity charges to VEC in an amount equal to $0.006/kilowatthour times the kilowatthours delivered during each week. HELCO and CL&P will pay energy charges to VEC at at cost of $0/016/kilowatthour subject to adjustment to reflect changes in the fuel price at Merrimack. VEC will pay HELCO and CL&P's incremental cost of providing any energy taken by VEC pursuant to the Agreement.

HELCO requests an effective date of December 10, 1979 for the Agreement.

CL&P has filed a certificate of concurrence in this docket.

The Agreement has been executed by HELCO, CL&P and by VEC and copies have been mailed to each of them.

HELCO further states that the filing is in accordance with Section 35 of the Commission's regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington D.C. 20426 in accordance with §§ 1.8., 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 18, 1980. Protests will be considered by the Commission in determining appropriate action be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23660 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-15 (PGA80-3) (IPR80-3) (LFUT80-2) and (TT80-2)]

Mid Louisiana Gas Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Subject to Conditions

July 31, 1980.

On July 1, 1980, Mid Louisiana Gas Company (Mid Louisiana) filed revised gas tariff sheets [1] to reflect an increase in purchase gas costs, and increase in the Louisiana First Use Tax (LFUT) adjustment, and a decrease in the transportation cost tracker authorized pursuant to Article V of the Stipulation and Agreement in Docket No. RP77-58. Mid Louisiana requests an effective date for such revised tariff sheets of August 1, 1980. The July 1, 1980, filing by the company contains rates which will: (1) Increase the cost of purchase gas under Rate Schedules G-1, SG-1, and I-1; (2) increase the surcharge for the Unrecovered Purchase Gas Cost in Account No. 191 under Rate Schedules G-1, SG-1 and I-1; (3) increase the cost of purchase gas under Rate Schedule E-1; (4) increase the Louisiana First Use Tax Surcharge Adjustment under Rate Schedules G-1, SG-1 and I-1; and (5) decrease the transportation costs tracker [2] applicable under Rate Schedules G-1, SG-1 and I-1.

Based upon a review of Mid Louisiana's filing, the Commission finds that the proposed PGA rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Mid Louisiana's revised tariff sheets filed July 1, 1980, and suspend its effectiveness and make them subject to refund and as conditioned.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[3] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interest, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful."[4] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission defines special circumstances to exist when the rate involves merely a rate change filed pursuant to Commission-authorized tracking authority. Accordingly, we believe we should exercise our discretion to suspend the rate permitting the rate to take effect on August 1, 1980.

Mid Louisiana, in its July 1, 1980, PGA filing, provides a Thirty-Seventh Revised Sheet No. 3a and an Alternative Thirty-Seventh Revised Sheet No. 3a. Although both reflect Purchase Gas Cost Adjustments to Rate Schedules G-1, SG-1, I-1, and E-1, the former sheet also reflects the Base Tariff Rate filed by the company on June 13, 1980, in Docket No. RP80-113, instead of the Base Tariff Rate established by settlement in Docket No. RP77-58. Accordingly, Mid Louisiana requests that if the rates requested by the company in Docket No. RP80-113 have not become effective by August 1, 1980, the alternative Thirty-Seventh Revised Sheet No. 3a be accepted by the Commission for filing, in lieu of Thirty-Seventh Revised Sheet No. 3a, and be made effective on August 1, 1980.

On July 9, 1980, the Commission accepted for filing the company's proposed rates in Docket No. RP80-113 and suspended such rates until December 15, 1980.[5] In addition, on July

[1] Thirty-Seventh Revised Sheet No. 3a, Alternate Thirty Seventh Revised Sheet No. 3a, Fourth Revised Sheet No. 3b, and Second Revised Sheet No. 3c, to FERC Gas Tariff, First Revised Volume No. 1.

[2] The transportation costs tracker is calculated pursuant to Article V of Mid Louisiana's Stipulation and Agreement in Docket No. RP77-58.

[3] Connecticut Light and Power Company v. Federal Energy Regulatory Commission, ——— F.2d ——— (D.C. Cir. May 30, 1980).

[4] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[5] Mid Louisiana Gas Company, "Order Accepting for Filing and Suspending Rate Increase Subject to

Footnotes continued on next page

15, 1980, Mid Louisiana's present rates established in Docket No. RP77-58 have been in effect for 36 months. The Commission's regulations in § 154.38(d)(4)(vi)(*a*) require a pipeline to file a restatement of new base tariff rates and cost study in support of such new base tariff rates. Accordingly, Mid Louisiana, to comply with the requirements of 18 CFR 154.38(d)(4)(vi)(*a*), was required by the Commission's order of July 9, 1980, in Docket No. RP80-113, to restate its base tariff rates, effective on July 15, 1980, to include its current purchase gas costs. Such restatement of its base tariff rates must be supported by a cost of revenue study justifying the restated rates and meeting the requirements of § 154.38(d)(4)(vi)(*a*). Therefore, the Commission believes that it is appropriate to require Mid Louisiana to reflect in this PGA proceeding the restated base tariff rates which the pipeline was required to file by the July 9, 1980 order issued in Docket No. RP 80-113.

Accordingly, Alternative Thirty-Seventh Revised Sheet No. 3a will be accepted, as requested by the company in its July 1, 1980, filing, subject to compliance with the above-stated condition that Mid Louisiana shall, within 30 days of this order, file revised sheets reflecting the base tariffs filed in Docket No. RP80-113.

The proposed increases in the cost of purchased gas under Rate Schedules G-1, SG-1 and I-1, includes, *inter alia*, increases pursuant to alleged contractural authority under area rate clauses. The Commission's acceptance of such filing shall not constitute a determination on the merits that any or all of area rate clauses permit the collection of maximum lawful prices established by the Natural Gas Policy Act of 1978 (NGPA).[6] Such determination of contractual authority to collect NGPA maximum lawful prices shall be made in accordance with the procedures prescribed in Order No. 23, as amended. If the Commission utlimately determines that a producer has collected a price for natural gas in excess of the applicable maximum lawful price under the NGPA, the refunds made by such producer to Mid Louisiana shall be flowed through to ratepayers in accordance with the pipeline's PGA clause.

Furthermore, the 82.8 cents per Mcf increase in the cost of purchased gas under includes a substantial increase in prices paid by Mid Louisiana to its affiliated producer, South Louisiana Production Company (SLAPCO), for deregulated high-cost natural under section 107 of the NGPA. Mid Louisiana pipeline projects a $6.55 per Mcf price to be paid the other mineral interest owner for gas produced from SLAPCO's section 107 well.[7]

Seller	Volume in Mcf	Price per Mcf
Border Gas*	100,800	6.55
CRA, Inc.*	402,500	6.55
First Energy Corp.*	536,700	6.55
BTA, et al	1,288,000	5.76

*Border Gas, CRA, Inc., First Energy Corp., are interest owners in the SLAPCO well.

However, subsequent information received from Mid Louisiana indicate that the projection of 369,000 Mcf purchases from such well at the deregulated price of $6.62 per Mcf mistakenly includes a 7 cents per Mcf tax which was applicable in the preceding 6 month period, but will not be applicable in the subsequent 6 month period.

Consequently, the applicable contract price for the gas purchased from SLAPCO under a gas purchase contract with pricing terms identical to those given the other mineral interest owners is $6.55 per Mcf and not the filed for $6.62 per Mcf. Therefore, Mid Louisiana shall be required to refile its proposed sheets reflecting the correct price of $6.55 per Mcf for purchases from SLAPCO.

Furthermore, the Commission is unable to determine from the information provided in the July 1, 1980, PGA filing whether the proposed purchase price satisfies the affiliated entities limitation provided under section 601(b)(1)(E) of the NGPA, 15 U.S.C. 3431(b)(1)(E). Such section provides that in the case of any first sale between any interstate pipeline and any affiliate of such pipe line, any amount paid shall be deemed just and reasonable first sale transactions between persons not affiliated with such pipeline. Accordingly, the Commission's acceptance of such rate filing is conditioned upon the company filing, within thirty days after issuance of this order, data demonstrating through comparable purchases that the SLAPCO purchases meets the affiliated entities test imposed by section 601(b)(1)(E) of the NGPA. In addition, the collection of such charges paid SLAPCO shall be subject to refund pending Commission review of the data submitted and a determination upon what further action is appropriate.

Mid Louisiana purchase gas cost adjustment also includes projected purchases of 184,000 Mcf at NGPA prices of 264.2 cents per Mcf from Locust Ridge Processing Company (Locust Ridge). In the past, Mid Louisiana has made purchases from Locust Ridge at an approved rate of 40.28 cents per Mcf under a contract incorporated in Locust Ridge's FERC Gas Tariff as Rate Schedule X-1. An application for abandonment of this sale filed by Locust Ridge is currently pending in Docket No. CP80-422. It is unclear from the filing and other information available to the Commission whether the 184,000 Mcf of projected purchases of 264.2 cents is the same gas which is the subject of the abandonment application. It is clear, however, from the latest information available to the Commission, that no gas is flowing from Locust Ridge to Mid Louisiana. Accordingly, the Commission accepts the filing effective August 1, 1980, subject to the company's filing within 30 days of the issuance of this order revised rates eliminating costs and volumes associated with the Locust Ridge purchase if as of August 1, 1980, Mid Louisiana is not receiving gas from Locust Ridge as of that date. The issues raised by the cessation of deliveries by Locust Ridge to Mid Louisiana under Rate Schedule X-1 at the 40.28 cents per Mcf rate shall be resolved in Docket No. CP80-422.

Furthermore, Mid Louisiana's filing reflects a .02¢ per Mcf decrease in the transportation costs adjustment tracker which is proposed to be effective August 1, 1980. The company is authorized, pursuant to Article V of its Stipulation and Agreement in Docket No. RP77-58, to file transportation cost adjustments on a semi-annual basis, concurrently with its PGA adjustments, for the life time of the settlement agreement. However, Mid Louisiana's 2.29 cents per Mcf transportation cost tracker includes a 32.35 cents per Mcf charge for gathering, compressor and dehydration of gas provided by Sunbelt Gas Gathering Company, a wholly-owned subsidiary of Mid Louisiana and a $2.75 per Mcf purchase price paid to Louisiana Land and Exploration Company (LL&E). Such gas comes from Lake Washington Field, Plaquenmines Parish, Louisiana and is gathered, compressed and dehydrated by Sunbelt and then delivered to Tennessee Gas Pipeline Company for transportation to

Footnotes continued from last page

Conditions, Granting Waiver and Establishing Procedures", Docket No. RP80-133 (issued July 9, 1980).

[6] Pub. L. No. 95-621, 92 Stat. 3352 (1978), 15 U.S.C. 3301-3432 (Supp. II, 1978).

[7] Mid Louisiana purchases section 107 gas from the following:

Mid Louisiana. Pricedes issued January

Louisiana's filing the date called for

outcome, and determined by, the

The Commission Orders:

earlier of (1) Commission approval of

in accordance with recent Commission

Mid Louisiana. By order issued January 30, 1979, in Docket No. RP73-43 (PGA79-1) (TT79-2), the Commission suspended a previous transportation cost tracker and established hearing procedures relating to the inclusion of costs attributable to the gathering charge of Sunbelt. Since the propriety of Mid Louisiana's passthrough to its natural gas customers of these compression costs is currently under consideration, the July 1, 1980, filing with respect to the transportation cost adjustment is suspended and permitted to become effective August 1, 1980, subject to final disposition in that docket on the propriety of the charges in the proceedings involving Sunbelt.

The Commission Orders:

(A) Mid Louisiana Gas Company's proposed Alternative Thirty-Seventh Revised Sheet No. 3a, Fourth Revised Sheet No. 3b, and Second Revised Sheet No. 3c, to FERC Gas Tariff, First Revised Volume No. 1 are accepted for filing and suspended such that the filing shall become effective August 1, 1980, subject to refund, and subject to the conditions enumerated in the body of this order and the ordering paragraphs below. Consideration of Mid Louisiana's Thirty-Seventh Revised Sheet No. 3a is rendered moot for the reasons stated in the body of this order and that sheet is therefore rejected.

(B) Mid Louisiana, within 30 days of the issuance of this order, shall file, effective August 1, 1980, and subject to refund, a revised Alternate Thirty-Seventh Revised Sheet No. 3a which reflects: (1) The restated base tariff rates that the pipeline was required to file in Docket No. RP80-113, (2) the elimination of the costs associated with the 7¢ per Mcf tax from its purchases from South Louisiana Production Company, and (3) the elimination, if on August 1, 1980, the company is not receiving gas from Locust Ridge or such price charged for gas purchased from Locust Ridge has not been approved by the Commission, such costs and volumes projected from Locust Ridge, provided that the revised sheets will not result in rate levels higher than those contained in the initial July 1, 1980, filing.

(C) The acceptance of Mid Louisiana's filing is conditioned on the pipeline filing within 30 days of issuance of this order, data necessary to show that rate paid for its section 107 purchases from South Louisiana Production Company meets the affiliated entities limitation under section 601(b)(1)(E) of the NGPA. The costs associated with Mid Louisiana's purchases from its producer affiliate shall be collected subject to refund and conditioned on: (1) Mid Louisiana's filing the data called for above within 30 days of issuance of this order and (2) the Commissions review of such data to determine what further action is appropriate.

(D) Mid Louisiana shall collect charges paid to Sunbelt subject to refund and subject to the final outcome of the proceeding in Docket No. RP73-43 (PGA79-1 and TT79-2).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23961 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-16 (PGA80-3 and IPR80-3)]

National Fuel Gas Supply Corp.; Order Accepting for Filing and Suspending Proposed Rate Increase and Granting Waiver of Notice Requirements

July 31, 1980.

On June 30, 1980, National Fuel Gas Supply Corporation (National Fuel) filed revised tariff sheets* to reflect a PGA increase of 14.12¢ per Mcf based on (1) a 15.82¢ per Mcf increase in purchase gas costs and (2) a 1.70¢ per Mcf decrease in the surcharge adjustment. The proposed effective date of the rate increase is August 1, 1980.

Public notice of the filing was issued on July 10, 1980.

National Fuel's filing includes increases pursuant to area rate clauses in contracts with its producers. The Commission's acceptance of this filing shall not constitute a determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order No. 23, as amended by subsequent orders, in Docket No. RM79-22. Should it be ultimately determined that a producer is not entitled to an NGPA price under an area rate clause, the refunds made by the producer to National Fuel shall be flowed through by National Fuel to its ratepayers in accordance with the procedures prescribed in its PGA clause.

In addition, National Fuel's filing reflects a deferred accounting method for pricing storage gas volumes which is at issue in Docket No. TA80-1-16 (PGA80-2) (IPR80-2). As a result, the Commission shall accept the tariff sheets tendered by National Fuel for filing, but suspend the effectiveness, allowing the increase to become effective subject to refund. The proper method used for pricing storage gas in this docket shall be subject to the outcome, and determined by, the proceedings in Docket No. TA80-1-16 (PGA80-2) (IPR80-2).

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful."[2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances were preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission defines special circumstances to extent when the rate involves merely a rate change filed pursuant to Commission-authorized tracking authority. Accordingly, we believe we should exercise our discretion to suspend the rate permitting the rate to take effect on August 1, 1980.

*Substitute Thirty-Second Revised Sheet No. 4 to FERC Gas Tariff, Original Volume No. 1.

[1] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, —— F.2d —— (D.C. Cir. May 30, 1980).

[2] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

The Commission Orders:

Subject to the conditions set forth in the text of this order, National Fuel's proposed revised tariff sheets are accepted for filing, suspended and waiver of the notice requirements is granted such that the sheets may become effective August 1, 1980, subject to refund.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23962 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-421]

Oklahoma Gas & Electric Co.; Order Accepting for Filing and Suspending Proposed Rates, Instituting Investigation, Granting Interventions, Denying Motion for Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

July 31, 1980.

On May 29, 1980, Oklahoma Gas and Electric Company (OGE) proposed a rate increase of $11,935,789 (43.2%) for service to 15 municipal and 3 cooperative wholesale customers[1] served under its FERC Electric Tariff, First Revised Volume No. 1 (the Tariff), Firm Power Schedules WM-1 and WC-1, respectively.[2] OGE's submittal also contained an increase in rates for service to the municipalities of Kingfisher, Mannford and Perry, Oklahoma, which are served under separate contracts at the WM-1 rate.

OGE requests an effective date of August 1, 1980, for the rate changes applicable to the Tariff customers. Kingfisher, Mannford, and Perry, have contracts with OGE which provide for rate changes prospectively upon approval of the rate by the Commission.[3] Since these contracts do not expire until December 31, 1980, September 1, 1985, and April 18, 2000, respectively, OGE requests an effective date which is the earlier of (1) Commission approval of the rate increase or (2) commencement of service to the municipality under the Tariff.

The proposed rates would increase revenues by approximately $11,935,789 (43.2%), for the test period which consists of the 12 months ending October 31, 1980.[4]

Notice of OGE's filing was issued on June 4, 1980, with protests or petitions due on or before June 27, 1980. On June 27, 1980, the Municipal Electric Systems of Oklahoma (MESO)[5] filed a protest and petition to intervene on behalf of the customers who are the subject of the proposed rate increase.[6] MESO states that the customers purchase all, or substantial amounts, of their power and energy requirements from OGE. Moreover, MESO asserts that the municipalities will experience a composite increase of 39.23%, and that the cooperatives will experience a composite increase of 49.38% above the existing rates. Furthermore, MESO claims that the 16.0% rate of return on common equity that OGE seeks is exorbitant when viewed in relation to OGE's equity ratio.

In addition to these issues, MESO contests a number of OGE's cost of service data and requests summary disposition with respect to any issues for which such action is considered appropriate. MESO also alleges in its petition that OGE's proposed rates are discriminatory and would result in a price squeeze. With respect to discrimination, MESO states that OGE's service to Gulf States Utilities Company, another wholesale customer, does not generate rates of return comparable to that sought from the customers in the instant case. MESO also urges the Commission to accord the presiding judge discretion with regard to phasing if the anti-competitive allegations cannot await a cost of service determination. Finally, MESO requests a five month suspension.

On July 14, 1980, OGE filed its answer to MESO's petition to intervene generally refuting MESO's allegations or stating that the questions raised are appropriate issues for a hearing, rather than summary disposition. With respect to the allegation of price squeeze, OGE argues that this issue should be phased in accordance with recent Commission practice.

Discussion

Our analysis reveals that OGE's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, as applied to the customers subject to the Tariff, we shall accept the proposed rates for filing and suspend those rates as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[7] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful."[8] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that the tendered for rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, as applied to the customers subject to the

[1] The municipal customers served under the Tariff are Blackwell, Edmund, Geary, Newkirk, Okeene, Ponca City, Pond Creek, Prague, Stillwater, Stroud, Tecumseh, Tonkawa, Waynoka and Wynnewood, Oklahoma, and Paris, Arkansas. The cooperative customers are Cimarron Electric Cooperative, KAMO Electric Cooperative and Arkansas Valley Electric Cooperative.

[2] The proposed rate schedule designations are *Oklahoma Gas and Electric Company*, First Revised Sheets Nos. 4 through 9, 28 and 29 under FERC Electric Tariff, First Revised Volume No. 1. (Supersedes Original Sheet Nos. 4 through 9, 28, and 29 thereunder).

[3] See *Oklahoma Gas and Electric Company*, Docket No. ER77-127, "Order Accepting for Filing and Suspending Proposed Rate Schedules, Granting Interventions and Establishing Procedures," issued January 26, 1977.

[4] OGE's Statement N for this period indicates that the proposed rate increase will result in an earned return of 10.76%.

[5] MESO is an association of municipal electric systems in Oklahoma, and has been designated by the customers to intervene and coordinate their participation in this proceeding.

[6] The customers are those named in footnote 1, *supra*, as well as the municipalities of Kingfisher, Mannford and Perry.

[7] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, —— F.2d —— (D.C. Cir. May 30, 1980).

[8] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

Tariff, we accept and suspend the rates for a period of five months to take effect subject to refund thereafter on January 1, 1981.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

With respect to Kingfisher, Mannford and Perry, OGE's proposed rate increase will become effective prospectively only upon final approval of the rates by the Commission, or upon termination of the present contracts, whichever occurs first.

Our review of OGE's submittal and of the pleadings before us indicates that the various issues identified by MESO should be considered on the basis of a hearing as ordered below. Consequently, MESO's motion for summary disposition will be denied.

In accordance with Commission policy established in Arkansas Power & Light Company, Docket ER79-339, order issued August 6, 1979, we will phase the price squeeze issue raised by MESO. This will allow a decision first to be reached on the cost of service, capitalization and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

Finally, we have noted that the customers are all purchasers of power and energy from OGE. We find that participation by the customers in this proceeding may be in the public interest and we shall therefore grant them intervenor status.

The Commission Orders:

(A) OGE's proposed rates are hereby accepted for filing and suspended for five months to become effective subject to refund, on January 1, 1981, for those customers served under OGE's Firm Power Schedule WM-1 and WC-1. With respect to Kingfisher, Mannford, and Perry, Oklahoma, OGE's proposed rates will become effective prospectively only upon final approval of the rates by the Commission, or upon termination of the presently effective contracts, whichever occurs first.

(B) MESO's petition to intervene is granted subject to the rules and regulations of the Commission: *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene: *And provided, further,* That the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) MESO's motion for summary disposition of various cost of service issues is hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205 and 206, and by the Commission's rules of practice and procedure and the regulations under the Federal Power Act [18 CFR Ch. I (1979)], a public hearing shall be held concerning the justness and reasonableness of OGE's proposed rates.

(E) Staff shall serve top sheets in this proceeding on October 10, 1980.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(G) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23988 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP80-118 and RP80-55]

Sea Robin Pipeline Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Consolidating Proceedings, Initiating a Hearing, and Granting Waivers

July 31, 1980.

On June 30, 1980, Sea Robin Pipeline Company (Sea Robin) filed revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 and 2 * which would increase annual jurisdictional revenues by $15,424,082. The proposed effective date is August 1, 1980. The proposed increase is based on a cost of service for the twelve months ended March 31, 1980, as adjusted for changes known and measurable through December 31, 1980. Sea Robin states that the cost of service reflects increases in cost of capital, cost of operation and maintenance, and depreciation expenses over those costs included in existing rates. Sea Robin also proposes to change its calculation of sales rates to a combined basis for all of its jurisdictional sales. Sea Robin states that the change would simplify administrative procedures. The proposed rate increase would result in Sea Robin receiving an overall rate of return of 11.68 percent yielding a return of 15.00 percent on common equity which, according to Sea Robin, constitutes 49.06 percent of the total capitalization.

Public notice of the filing was issued on July 10, 1980, providing for filing of protests or interventions by July 25, 1980. Petitions for intervention were filed by the parties listed in Appendix A. For good cause show, they are granted intervention in this proceeding.

Based upon a review of Sea Robin's filing, the Commission finds that the proposed rate increase has not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. The Commission will accept Sea Robin's tariff sheets for filing, subject to certain conditions discussed below, suspend the effective date of the sheets and make them subject to refund. The issues raised by the proposed rate increase will be set for hearing.

A recent decision of the Court of Appeals for the District of Columbia Ciurcuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our action on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful." [2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it, the applied for rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we will suspend the applied for rate change for a period of five months permitting the rates to take effect subject to refund thereafter on January 1, 1980.

Special circumstances will often warrant shorter suspension. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

Sea Robin's filing includes in its rate base approximately $6 million in costs attributable to facilities which have been certificated but which were not in service on the date of its filing. Under § 154.63(e)(2)(ii) of the Commission's regulations (18 CFR 154.63(e)(2)(ii)), only facilities which have been certificated by the filing date and placed in service by the end of the test period can be included in rate base. However, the Commission will waive that regulation and accept Sea Robin's filing including the uncertificated facilities provided that Sea Robin files revised tariff sheets 30 days prior to the end of the test period eliminating all costs associated with any facilities not in service by December 31, 1980. This waiver is granted upon the condition that Sea Robin shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

On July 2, 1980, Sea Robin requested waiver of the Commission's regulations to include as part of its initial filing Schedule F(6), page 2, which Sea Robin states was inadvertently omitted from its application. For good cause shown, the Commission will grant the requested waiver.

Sea Robin has a prior rate increase application in Docket No. RP80-55 which has been set for hearing. A review of the filing in that docket and this proceeding indicates that the base periods and test periods overlap by four months, that a number of common issues must be resolved and that in both dockets the rate increases are based upon changes in the cost of service due to alleged increases in the cost of capital, cost of operation and maintenance and depreciation expenses. Accordingly, the Commission will consolidate Docket Nos. RP80-55 and RP80-118 for purposes of hearing and decision.

The Commission Orders:

(A) Subject to the conditions set forth in paragraph (B) below requiring Sea Robin to revise its tariff filing, the Commission accepts for filing Sea Robin's Twenty-fifth Revised Sheet No. 4 and Sixth Revised Sheet No. 4-A to its FERC Gas Tariff, Originial Volume No. 1, and its Ninth Revised Sheet Nos. 127-D and 135-C to its FERC Gas Tariff, Original Volume No. 2, and suspends for five months the effective date of such tariff sheets to January 1, 1981, when they may become effective subject to refund, in the manner prescribed by Section 4 of the Natural Gas Act.

(B) Thirty days before December 31, 1980, Sea Robin shall file revised tariff sheets to eliminate all costs associated with facilities not in service by December 31, 1980.

(C) The Commission grants waiver of §154.63(e)(2)(ii) of its Regulations to the extent necessary to permit compliance with paragraph (B) above. This waiver is granted upon the condition that Sea Robin shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

(D) Waiver is granted to include as part of Sea Robin's initial filing, Schedule F(6), page 2.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before November 3, 1980.

(F) Docket Nos. RP80-55 and RP80-118 are hereby consolidated for purposes of hearing and decision.

(G) The petitioners listed in Appendix A shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interest specifically set forth in their petition to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(H) The Presiding Administrative Law Judge assigned to Docket No. RP80-55, or such other Administrative Law Judge as the Chief Administrative Law Judge shall designate, shall establish such further procedures in this consolidated proceeding as the Presiding Judge deems appropriate.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A

Petitions for Intervention:

Columbia Gas Transmission Corporation
Southern Natural Gas Company
Public Service Commission of the State of New York
Atlanta Gas Light Company
Northern Natural Gas Company
Natural Gas Pipeline Company of America

[FR Doc. 80-23994 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-415]

Southern Co. Services, Inc.; Order Accepting Rate for Filing, Setting Rate for Investigation, Consolidating Proceedings, Granting Waiver of Notice Requirements and Granting Petition To Intervene

July 25, 1980.

On January 2, 1980, in Docket No. ER80-160, Southern Company Services, Inc. (SCSI) filed on behalf of its affiliates Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (operating companies), an amendment to

---

* Twenty-fifth Revised Sheet No. 4 and Sixth Revised Sheet No. 4-A to FERC Gas Tariff, Original Volume No. 1, and Ninth Revised Sheet Nos. 127-D and 135-C to FERC Gas Tariff, Original Volume No. 2.

[1] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* —— F. 2d —— (D.C. Cir. May 30, 1980).

[2] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

its interchange contract with the Florida Power Corporation (FPC) providing for the long term sale to FPC of 200 MW of capacity and associated energy at an energy charge equal to the operating companies' out-of-pocket costs and a capacity charge calculated annually by use of a cost of service formula. The operating companies requested that the Commission allow periodic recalculations of charges without requiring a filing under Section 205 of the Federal Power Act. By order issued February 29, 1980, the Commission accepted SCSI's submittal for filing, permitted the first year's (calendar 1980) capacity charges under the formula to go into effect without investigation and set the rate formula for investigation.[1] SCSI was informed that subsequent capacity charge revisions in accordance with the formula would constitute changes in rates requiring timely filing. The Commission granted waiver of § 35.13 cost support filing requirements as they would apply to the future capacity charge revisions on the condition that SCSI agree to collect all increases resulting from such revisions subject to refund pending the outcome of the ordered proceedings.

On May 27, 1980, SCSI tendered for filing on behalf of the operating companies a long-term sales contract with Mississippi Power & Light Company (MPL) providing for the sale of 100 MW of capacity and associated energy to MPL for the period July 1, 1980, through December 31, 1986. Energy will be provided at an energy charge equal to the operating companies' out-of-pocket costs and capacity will be provided at a capacity charge calculated by the use of a cost of service formula which is identical to that submitted in Docket No. ER80–160. The capacity charge under the formula rate for calendar 1980 is $4.082/kW/month for service provided July 1, 1980, through December 31, 1980.[2] As with the submittal in Docket No. ER80–160, capacity charges will be recalculated pursuant to the formula each calendar year. SCSI has again requested that this formula rate be approved to allow periodic recalculations of the charges without the necessity for a filing under Section 205 of the Act. SCSI also requests waiver of the Commission's notice requirements to allow for the proposed rates to go into effect as of July 1, 1980.[3]

Notice of the filing was issued on May 30, 1980, with comments, protests, or petitions to intervene due on or before June 25, 1980.

An untimely petition to intervene was filed on June 25, 1980, by Neil Herring and Phillip H. Hoffman (petitioners), each of whom are shareholders in the Southern Company and ratepayers of Georgia Power Company.[4] Petitioners allege that the sale of power outside the Southern Company system at less than long-run incremental cost is injurious to Southern Company shareholders because it commits shareholders' investment to the demand for electricity of another system. Petitioners contend that MPL has not examined alternatives to the purchase from the operating companies, such as conservation. Petitioners also contend that Commission consideration of the sale of power proposed in the instant submittal is a major federal action significantly affecting the human environment, which would necessitate the preparation of a detailed statement pursuant to the National Environmental Policy Act of 1969, section 102, 42 U.S.C. 4332 (1970).[5]

On July 7, 1980, SCSI filed an answer to the petition of Messrs. Herring and Hoffman. SCSI takes issue with the petitioners' contention regarding the sale of power outside the Southern Company system at less than long-run incremental cost. SCSI points out that the contract in question is not firm and does not require the Southern Company system to make capacity available to MPL which would jeopardize deliveries to the firm customers of the Southern Company system. Moreover, the contract does not commit the Southern Company system to build any capacity for MPL, and SCSI contends that the Southern Company system expects to have capacity surplus to the needs of its customers for several years. SCSI also contends that the price of the capacity proposed to be sold to MPL is fair.

SCSI's answer alleges that the petitioners lack standing to raise environmental issues. SCSI further alleges that the Commission's acceptance of the proposed rate schedule would have no impact on the human environment and that the NEPA is inapposite.

Discussion

SCSI states in its filing that since MPL and the operating companies do not have any contractual arrangements for long-term sales of power such as that provided for in the proposed contract the instant submittal is an initial rate schedule filing under § 35.12 of the Commission's rules and regulations. We need not reach this question because we shall accept without suspension the rates calculated under the formula for calendar year 1980. We shall waiver of the Commission's notice requirements to allow the rates proposed for 1980 to go into effect as of July 1, 1980.

Consistent with Commission action in Docket No. ER80–160, we will institute an investigation pursuant to Section 206 of the Federal Power Act to consider the justness and reasonableness of the cost of service formula. Since SCSI's submittal in Docket No. ER80–160 and the instant submittal contain the identical formula, we will consolidate this docket with the identical formula, we will consolidate this docket with the aproceeding in Docket No. ER80–160, *et al.* Any subsequent revision to the capacity charges to MPL in accordance with the formula shall be treated as a change in rates pending the outcome of the investigation. We shall require SCSI to file the rate as changed pursuant to the formula 60 days before its proposed effective date. However, we shall waive the full filing requirements of § 35.13 of the regulations on condition that such revision shall be collected subject to refund pending the outcome of the proceedings ordered herein.

We do not agree with petitioners' argument that Commission consideration of the proposed sale of power is a major Federal action significantly affecting the human environment, which would necessitate the preparation of a detailed statement pursuant to NEPA. The Commission dealt with a similar argument in *Nepool Power Pool Agreement*, 48 F.P.C. 1477 (1972). There the petitioners contended that the Commission erred in accepting a power pooling agreement without preparing an environmental impact statement (EIS). The Commission held that its acceptance of the power pooling agreement did not require an EIS because such acceptance did not constitute the approval of plans for the construction of facilities.[6] This is similar to the instant case where no construction of facilities is contemplated by SCSI and MPL.[7]

In *Sierra Club V. Hodell*, 544 F.2d 1036 (9th Cir. 1976), the Bonneville Power Administration's (BPA) execution of a contract for the long term sale of electricity was challenged on the ground that the BPA failed to prepare an EIS. The court agreed with BPA's contention that as EIS was inappropriate, concluding that "no environmental impact statement was required in order to show the energy effect of the contract * * *." *Id.* at 1041. In the instant case petitioners do not allege that any direct effects upon the human environment would result from Commission approval of the proposed sale, but only state that "no examination of the environmental impact of the proposal has been made, nor any consideration of alternatives * * *." Similar contentions were rejected by the court in *Sierra Club*, where the decision not to prepare an EIS was challenged not on the basis of any direct effect on the environment, but on possible indirect effects, i.e., that by selling BPA power to Alcoa, BPA's ability to send power to other users in the Northwest would be reduced; that public utilities in the Northwest would have to make up the difference by building nuclear or thermal generating plants; that this in turn would cause pollution which would impact upon the environment. The court held that the purpose of an EIS is to examine direct effects upon the environment, not to consider conjectural or remote consequences. *Id.* at 1039. Likewise, we think that the environmental consequences of the Commission's consideration of the contract submitted in this docket are remote and speculative.

The Commission find that the petitioners have demonstrated that their participation as a party in this proceeding may be in the public interest pursuant to § 1.8(b)(2) of the Commission's regulations. Consequently the petitioners shall be permitted to intervene.

The Commission Orders:

(a) Waiver of the notice requirements set out in § 35.3 of the Commission's regulations is hereby granted.

(B) The proposed rates applicable to service during the calendar year 1980 are hereby accepted for filling, to become effective as of July 1, 1980.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the proposed formulary method for determining rate levels in the future.

(D) This proceeding is hereby consolidated with Docket Nos. ER80–58, ER80–65, ER80–160, ER80–243, ER80–262 and ER80–343 for purposes of hearing and decision.

(E) We hereby grant waiver of our § 35.13 filing requirements for future rate changes made in accordance with the formula filed herein on the condition that SCSI agree to collect any increases in the rate under the formula subject to refund pending the outcome of the proceeding ordered herein. SCSI shall file these rate changes with the Commission 60 days before their proposed effective dates.

(F) Petitioners Neil Herring and Phillip H. Hoffman are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations. Participation by the intervenors shall be limited to matters set forth in their petition to intervene. The admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by an order entered in this proceeding.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission, Commissioner Hall voted present.

Kenneth F. Plumb,

Secretary.

Attachment—Rate Schedule Designations

[Docket No. ER80–415]

Other Party: Mississippi Power & Light Co.	
Designation	Description
Southern Co. Services, Inc.:	
(1) Supplement No. 16 to Rate Schedule FPC No. 16.	Service Schedule E Long Term Power Sale.

Attachment—Rate Schedule Designations—Continued

[Docket No. ER80–415]

Other Party: Mississippi Power & Light Co.	
Designation	Description
(2) Supplement No. 1 to Supplement No. 16 to Rate Schedule FPC No. 16.	Manuel E.
(3) Supplement No. 2 to Supplement No. 16 to Rate Schedule FPC No. 16.	Information Schedule E 1980 Calender Year Charges.
Alabama Power Co.:	
(4) Supplement No. 13 to Rate Schedule FPC No. 11 Rate Schedule FPC No. 11 (Concurs in (1)–(3) above).	Certificate of Concurrence.
Georgia Power Co.:	
(5) Supplement No. 13 to Rate Schedule FPC No. 255 (Concurs in (1)–(3) above).	Certificate of Concurrence.
Gulf Power Co.:	
(6) Supplement No. 13 to Rate Schedule FPC No. 14 (Concurs in (1)–(3) above).	Certificate of Concurrence.
Mississippi Power Co.:	
(7) Supplement No. 13 to Rate Schedule FPC No. 47 (Concurs in (1)–(3) above).	Certificate of Concurrence.

[FR Doc. 80–23985 Filed 8–7–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TA80–2–18 (PGA80–3, IPR80–3, DCA80–2, LFUT80–2 and AP80–1)]

Texas Gas Transmission Corp.; Order Accepting for Filing and Suspending PGA Rate Increase

July 31, 1980.

On June 27, 1980 Texas Gas Transmission Corporation (Texas Gas) filed a PGA rate increase proposed to be effective August 1, 1980, reflecting (1) a 31.85¢ per Mcf increase in the cost of purchased gas, (2) a 19.77¢ per Mcf decrease in the deferred account surcharge (from 17.17¢ to negative 2.6¢ per Mcf, (3) a .4¢ per Mcf decrease in the demand charge adjustment, and (4) a .21¢ per Mcf decrease in the LFUT. In addition, the filing reflects base rate changes relating to (1) advance payments adjustment (1.034¢ per Mcf increase), and (2) the cost of transportation of gas by others (1.12¢ per Mcf decrease). The advance payment and transportation cost adjustment were filed pursuant to the provisions of Articles IX and XI of the Stipulation and Agreement in Docket No. RP78–94, as approved by Commission order issued October 11, 1979, which permitted Texas Gas to file such adjustments concurrent with its PGA adjustment.

Public notice of the instant filing was issued on July 9, 1980 providing for

[1] Docket No. ER80–160 was consolidated with two prior SCSI submittals in Docket Nos. ER80–58 and ER80–65. Subsequent filings by SCSI of long-term power sales agreements in Docket No. ER80–243 (Jacksonville Electric Authority), Docket No. 80–262 (Florida Power & Light Company), and Docket No. ER80–343 (Savannah Electric and Power Company) have also been consolidated with these dockets. The instant submittal contains rates and charges and a cost of service formula identical to those filed in Docket Nos. ER80–243, ER80–262 and ER80–343.

[2] The difference in capacity charges during a year is due to operating companies' use of "peak period load ratios" in assigning proportionate fixed costs. Because peak period load ratios are calculated on the basis of an operating year (June 1 through May 31 of the following year), two difference sets of ratios, and two different capacity charge rates, are used in a contract year.

[3] See Attachment for rate schedule designations.

[4] Southern Company is a registered holding company which owns all of the common stock of the operating companies and SCSI.

[5] Section 102(2)(C) of the National Environmental Policy Act (NEPA) provides in pertinent part that "all agencies of the Federal Government shall * * * include in * * * major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official * * *."

[6] The Commission has no jurisdiction to certificate or license electric generating facilities under Part II of the Federal Power Act.

[7] The Commission has recognized that its review of electric rate filings rarely constitutes a major federal action having a significant environmental impact. *Cf. Proposed Regulations Implementing NEPA*, Docket No. RM 79–69, § 3d.11(a)(16), 44 F.R. 50052 (1979). *See also City of Santa Clara v. Kleppe*, 418 F. Supp. 1243 (N.D. Cal. 1976), where the court held that a Bureau of Reclamation allocation of certain low-cost federal hydroelectric power to users other than Santa Clara did not sifnificantly affect the quality of the human environment within the intendment of NEPA. The court reasoned that no construction or physical alteration of facilities was involved and that electric power was simply ordered to be sent over certain existing lines rather than others.

protests or petitions to intervene to be filed on or before July 23, 1980.

Based upon a review of Texas Gas's filing the Commission finds that the proposed advanced payments portion of the June 27, 1980 filing has not been shown to be reasonable and appropriate in that certain advances have been in rate base for over five years and no repayment has been made. Accordingly, will accept for filing the tariff sheets listed in Appendix A, suspend the effective date of the sheets, subject to refund, and set the advance payment portion of the filing for hearing.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing or producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that *"any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful."[2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Special circumstances will often warrant shorter suspension. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission defines special circumstances to exist when the rate involves merely a rate change filed pursuant to Commission-authorized tracking authority. According, we believe we should exercise our discretion to suspend the rate, permitting the rate to take effect on August 1, 1980.

The Commission also notes that Texas Gas's filing includes increases pursuant to area rate clauses in the contracts between Texas Gas and its producers. The Commission's acceptance of this filing shall not constitute a determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order 23, as amended by subsequent orders, in Docket No. RM79–22. Should it be ultimately determined that a producer is not entitled to an NGPA price under an area rate clause, the refunds made by the producer to the pipeline shall be flowed through to ratepayers in accordance with the procedures prescribed in the pipeline's PGA clause.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particulary sections 4, 5, 8 and 15 thereof, the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the advance payment portion of this filing.

(B) Pending hearing and decision, and subject to the conditions enumerated in this order, the tariff sheets listed in Appendix A are suspended until August 1, 1980, when they shall be permitted to become effective, subject to refund.

(C) Texas Gas shall file its direct case on the reserved advance payment issue within 30 days from the date of issuance of this order. Within 60 days thereafter, Staff shall file a statement of position with the Presiding Administrative Law Judge.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall, within 10 days after service of Staff's statement of position, convene a settlement conference in this proceeding in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(E) The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A—Texas Gas Transmission Corporation

[Docket No. TA80–2–18, et al.]

Third Revised Volume No. 1

Second Revised Sheet No. 7–B
Substitute Twenty-eighth Revised Sheet No. 7

[FR Doc. 80–23966 Filed 8–7–80; 8:45 am]
BILLING CODE 6450–85–M

[Docket No. RP80–121]

United Gas Pipe Line Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject To Refund, and Granting Interventions and Waiver

July 31, 1980.

On July 1, 1980, United Gas Pipe Line Company (United) filed revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, reflecting an increase in its annual jurisdictional revenues of $58,516,855 or a 23.9 percent increase exclusive of purchased gas costs. The proposed effective date is August 1, 1980. The proposed annual revenue increase is based upon the twelve month period ending March 31, 1980, as adjusted to reflect known and measurable changes during the nine month period ending December 31, 1980. United claims that the proposed increase is necessitated by increases in its cost of transportation by others, storage charges, and other operating costs. United further claims a need to increase its rate of return and depreciation rate.

Public notice of the instant filing was issued July 10, 1980, providing for protests or petitions to intervene to be filed on or before July 25, 1980. Appendix A lists those who have filed petitions to intervene. The Commission finds that those petitioners have demonstrated interests in this proceeding warranting their intervention. Accordingly, we shall grant these petitions to intervene.

Based upon a review of United's filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept United's filing, suspend the effective date of the proposed tariff, and make them subject to refund and the conditions set forth below, and set the matter for hearing.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that *"any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it, the applied for rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we will suspend the applied for rate change for a period of five months permitting the rates to take effect subject to refund thereafter on January 1, 1981.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

The Commission notes that this filing includes certain costs which may be related to uncertificated facilities. Inclusion of these costs is inconsistent with § 154.63(e)(2)(ii) of the Commission's Regulations. Accordingly, acceptance for filing would require waiver of that rule. We find that good cause exists to accept United's filing so long as the acceptance is appropriately conditioned. The Commission will grant the waiver on condition that on or before December 31, 1980, United file revised tariff sheets to reflect elimination of those costs associated with facilities not in service on or before that date, and which also reflect the actual advance payments balance in Account 166 as of that date. We impose a further condition that United shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission-approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders. In addition, the revision of the balance in Account 166 shall be permitted on condition that it does not increase the level of the original, suspended rates.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the proposed increased rates by United.

(B) Pending hearing and decision, and subject to the conditions in this order, the effectiveness of United's First Revised Volume No. 1 and Original Volume No. 2 is suspended for five months, until January 1, 1981, when they may become effective, subject to refund, in the manner provided by Section 4 of the Natural Gas Act.

(C) Waiver of § 154.63(e)(2)(ii) is granted upon condition that United file substitute revised tariff sheets on or before December 31, 1980, reflecting the elimination of costs associated with facilities not in service and the balance in Account 166 as of that date. This waiver is granted on condition that the inclusion of a higher advance payment balance in Account 166 will not be permitted to increase the level of the original suspended rates, and upon further condition that United shall not be permitted to make offsetting adjustments to the suspended rates except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before November 3, 1980.

(E) The petitioners noted in Appendix A are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A

United Gas Pipe Line Company

[Docket No. RP80–121]

Petitions for Intervention

Consolidated Gas Supply Corporation
Texas Gas Transmission Corporation
Southern Natural Gas Company
Columbia Gas Transmission Corporation
New Orleans Public Service, Inc.
Public Service Commission of New York
Missouri Public Service Commission
Mississippi River Transmission Corporation
Texas Eastern Transmission Corporation
Clarke-Mobile Counties Gas District
Laclede Gas Company
Memphis Light, Gas and Water Division
Mobile Gas Service Corporation
Mississippi Valley Gas Company
Public Service Electric and Gas Company
Willmut Gas and Oil Company
United Municipal Distributors Group

[FR Doc. 80–23967 Filed 8–7–80; 8:45 am]
BILLING CODE 6450–85–M

[1] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* ——— F.2d ——— (D.C. Cir. May 30, 1980).

[2] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[Volume 250]

[Volume 250]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 1, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 25, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

VOLUME 250

NOTICE OF DETERMINATIONS
BY JURISDICTIONAL AGENCIES UNDER
THE NATURAL GAS POLICY ACT OF 1978

JD NO	JA DKT	API NO	SEC & WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION						
*HARPER OIL COMPANY				RECEIVED: 07/11/80 JAI OK		
8045769	04048	3507300000	108	BLAKLEY NO 1	3.0	EASON OIL CO
8045771	04048	3509300000	108	BLANCHARD #1	2.0	ARKANSAS LOUISIANA G
8045772	04049	3509300000	108	PECK A-4 (MISS)	9.0	PHILLIPS PETROLEUM C
8045770	04093	3509300000	108	STATE 36-1	11.0	TRANSOK PIPE LINE CO
*K P EXPLORATION INC				RECEIVED: 07/11/80 JAI OK		
8045774	00941	3511921154	103	BLACKWELDER NO 1-1	%00.0	NATURAL GAS PIPELINE
8045770	00984	3511920987	103	NESBUM NO 1-15	720.0	NATURAL GAS PIPELINE
8045777	00985	3511921004	103	NESBUM NO 2-15	100.0	NATURAL GAS PIPELINE
8045776	00992	3511920970	103	RUDD NO 1-11	25.0	NATURAL GAS PIPELINE
8045778	01000	3511921011	103	RUDD NO 2-11	10.0	NATURAL GAS PIPELINE
*PRODUCTION OIL CORP				RECEIVED: 07/11/80 JAI OK		
8045758	04001	3510521807	105	MALSELL # LM-06-111	10.0	CITIES SERVICE GAS C
8045765	04006	3510521814	105	MALSELL #LM-03-111	10.0	CITIES SERVICE GAS C
8045762	04005	3510521802	103	MALSELL #LM-04-111	10.0	CITIES SERVICE GAS C
8045761	04004	3510521851	105	MALSELL #LM-05-111	10.0	CITIES SERVICE GAS C
8045767	04010	3510521850	105	MALSELL #LM-07-111	10.0	CITIES SERVICE GAS C
8045764	04007	3510521852	105	MALSELL #LM-08-111	10.0	CITIES SERVICE GAS C
8045757	04003	3510521837	103	MALSELL LM-03-V	10.0	CITIES SERVICE GAS C
8045760	04009	3510521839	103	MALSELL LM-04-V	10.0	CITIES SERVICE GAS C
8045763	04008	3510521834	103	MALSELL LM-05-V	10.0	CITIES SERVICE GAS C
8045759	04002	3510521838	105	MALSELL LM-06-V	10.0	CITIES SERVICE GAS C
8045773	04177	3510521810	105	MAC STEWART 5	10.0	CITIES SERVICE GAS C
8045774	04011	3510521849	103	MPF SHARP PLF3-125	10.0	CITIES SERVICE GAS C
8045769	04011	3510521890	103	MPF SHARP LF5-125	10.0	CITIES SERVICE GAS C
8045775	04212	3510521892	105	MPF SHARP LF5-126	10.0	CITIES SERVICE GAS C
TEXAS RAILROAD COMMISSION						
*A R ARCHER JR				RECEIVED: 07/11/80 JAI TX		
8045716	15471	#217130707	108	FOSTER NO 1 53767	10.5	EL PASO NATURAL GAS
8045718	15463	#217130687	108	RYAN NO 1	10.2	EL PASO NATURAL GAS
*ADOBE OIL & GAS CORPORATION				RECEIVED: 07/11/80 JAI TX		
8045699	14960	#247531886	105	HAMMON #14	300.0	TRANSWESTERN PIPELIN
*ALAMO PETROLEUM COMPANY		#207330317	103	RECEIVED: 07/11/80 JAI TX	100.0	DELHI GAS PIPELINE C
8045705	01100			JAMES A PARNELL TRUST #ELL NO 1		
*AMINOIL USA INC		#240131232	103	RECEIVED: 07/11/80 JAI TX	8.0	UNION TEXAS PETROLEU
8045524	07082			UNIVERSITY 15-1		
*AMOCO PRODUCTION CO		#236530657	103	RECEIVED: 07/11/80 JAI TX	830.0	UNITED GAS PIPE LINE
8045691	12478			CANTHAGE GAS UNIT 7 #1		
				CANTHAGE (CUTTON VALLEY)		

V45/155
AG 8 80
UMI

VOLUME 250 PAGE 008

JD NO	JA DKT	API NO	SEC	S =ELL NAME	FIELD NAME	PROD	PURCHASER
8045650	14057	4223500000	108	G L MITCHEM B #2	PANHANDLE	7,5	SHELLY OIL CO
8045659	14058	4223500000	108	G L MITCHEM B #4	PANHANDLE	7,5	SHELLY OIL CO
8045660	14060	4223500000	108	G C MITCHIM B #5	PANHANDLE	7,3	SHELLY OIL CO
8045661	14056	4223500000	108	M B TENNY #24	PANHANDLE	5,4	SHELLY OIL CO
8045662	14059	4223500000	108	M B TENNY #25	PANHANDLE	3,4	SHELLY OIL CO
8045531	U8001	4229730955	103	M U DUTY GAS UNIT NO 2	MAXINE EAST (MASSIVE LOW	529,0	NATURAL GAS PIPELINE
8045652	13674	4232330589	102	J MANNISON C #1	HAMILTON S (COTTON VALLE	300,0	TEXAS EASTERN TRANSM
8045530	U7982	4239131158	103	J M DANIEL A NO 7	GRETA (6400)	25,0	TRANSCONTINENTAL GAS
8045529	U7988	4205331595	103	UNIVERSITY BK NO 11	MCFARLAND (=OLF CAMP)	15,7	PHILLIPS PETROLEUM C
8045708	15036	4219500000	108	B M MILHEIM C #2	MANSFIELD	7,0	NORTHERN NATURAL GAS
•ANCO OIL AND GAS COMPANY				RECEIVED: 07/11/80 JAS TX			
8045708	15019	4210532111	103	HUNT MELHING #7-S	MUNT=HAGGETT (STRAWN)	110,0	NORTHERN NATURAL GAS
8045895	14009	4221510894	103	TEMPLE M WEST #27=U	TABASCO (M)	500,0	TENNESSEE GAS PIPELI
•ANKLA EXPLORATION COMPANY				RECEIVED: 07/11/80 JAS TX			
8045575	U8529	4236530669	102	CITIES SERVICE #1	CANTHAGE (COTTON VALLEY)	345,0	ARKANSAS LOUISIANA G
•BEN J TAYLOR				RECEIVED: 07/11/80 JAS TX			
8045700	14903	4230731546	103	MASHAM #3	BAMON LIME (1230)	0,0	BUCKNER GAS CO
•BRIDWELL OIL CO				RECEIVED: 07/11/80 JAS TX			
8045542	U8040	4223732014	105	DIXON=CARMUN #1	JACK COUNTY REGULAR	50,0	CITIES SERVICE OIL C
8045541	U8043	4223732197	105	C P HAMMAN TRUST #1	NEWPORT S (ATOKA CONGL)	75,0	CITIES SERVICE OIL C
8045540	U8040	4207732960	105	EDWARDS HEIRS C GAS UNIT #1	CLAY COUNTY REGULAR	42,0	CITIES SERVICE OIL C
8045540	U8042	4242931777	105	IMA HIGGINS A #1	STEPHENS COUNTY REGULAR	9,0	LONE STAR GAS CO
8045538	U8035	4219330198	105	J D CLOUDUS #1	HAMILTON (MARBLE FALLS)	1,0	LONE STAR GAS CO
8045538	U8034	4242931865	105	KATIE MUELLER A #1	EUMERA (CADDO)	60,0	LONE STAR GAS CO
8045543	U8045	4242932014	105	KATIE MUELLER A #2	EUMERA (CADDO)	6,0	LONE STAR GAS CO
8045537	U8038	4223732173	105	M L DAVENPORT A #1	JACK COUNTY REGULAR (GAS	42,0	LONE STAR GAS CO
8045539	U8041	4223700000	105	M L PIGG #4	JACK COUNTY REGULAR (GAS	60,0	CITIES SERVICE OIL C
•BUNA ROYALTY CO				RECEIVED: 07/11/80 JAS TX			
8045733	15931	4242900000	108	WHITSON #32520	MOON (MARBLE FALLS)	3,0	LONE STAR GAS CO
8045734	15902	4242900000	108	LONE STAR DAVIS #32529	MOON (MARBLE FALLS)	10,0	LONE STAR GAS CO
•C & K PETROLEUM INC				RECEIVED: 07/11/80 JAS TX			
8045583	11700	4236900000	107	HERMEN #5 NO 1.	WILDCAT	180,0	TRANS=WESTERN PIPELIN
•C L GAGE JR				RECEIVED: 07/11/80 JAS TX			
8045575	11054	4223732527	103	FRANCES IRENE WICKEN NO 1 19105	NEWPORT SOUTH (ATOKA CON	106,0	CITIES SERVICE CO
8045547	U8269	4249700000	103	HAL JACKSON NO 1	BOONSVILLE (BEND CONGL G	150,0	NATURAL GAS PIPELINE
•CENTEX OIL & GAS INC				RECEIVED: 07/11/80 JAS TX			
8045741	17474	4224500000	102	HIGH ISLAND BLOCK 10=L NO 2L	HIGH ISLAND BLOCK 10=L	0,0	TRANSCONTINENTAL GAS
8045741	17474	4224500000	103	HIGH ISLAND BLOCK 10=L NO 2L	HIGH ISLAND BLOCK 10=L	0,0	TRANSCONTINENTAL GAS
•CHAMPLIN PETROLEUM COMPANY				RECEIVED: 07/11/80 JAS TX			
8045527	07052	4242700000	108	A GUERRA A WELL NO 5	LA REFORMA FIELD	7,5	TENNESSEE GAS PIPELI
8045572	11002	4224430479	105	SHAEFFER RANCH E NO 6	MORENO MAP (HUCKLEY GAS	12,0	NATURAL GAS PIPELINE
•CHARLES L WALKER				RECEIVED: 07/11/80 JAS TX			
8045667	10470	4200331794	102	GARDENHOOD C #2	BLOCK A-34 (SAN ANDRES)	11,0	PHILLIPS PETROLEUM C
•CICO OIL & GAS CO				RECEIVED: 07/11/80 JAS TX			
8045574	11054	4212300000	102	JM C FOSTER #2 RRC ID NO 01060	MOONEY NE (VEGUA 5400)	350,0	LOVACA GATHERING CO
•CONOCO,INC				RECEIVED: 07/11/80 JAS TX			
8045558	10093	4227500000	108	A M UNSHUNAE (04527) #14	KATZ	1,0	CITIES SERVICE CO
8045560	10034	4238400000	108	ANNA RUSSELL-10 (14356) #1	GERALDINE FUND	1,1	EL PASO NATURAL GAS
8045522	U8020	4215130772	105	E S TIDWELL (09574) #11	MOUND TOP/CANYON SAND/	15,0	LONE STAR GAS CO
8045553	10043	4238900000	108	FUND=GERALDINE UNIT NO 102 21021	GERALDINE/FUND/	0,5	EL PASO NATURAL GAS
8045555	10041	4238900000	108	FUND=GERALDINE UNIT NO 116 21021	GERALDINE/FUND/	0,5	EL PASO NATURAL GAS
8045554	10057	4238900000	108	FUND=GERALDINE UNIT NO 122 21021	GERALDINE/FUND/	0,5	EL PASO NATURAL GAS
8045557	10044	4238900000	108	FUND=GERALDINE UNIT NO 88 21021	GERALDINE/FUND/	0,5	EL PASO NATURAL GAS

VOLUME 250 PAGE 009

JD NO	JA DKT	API NO	SEC	S =ELL NAME	FIELD NAME	PROD	PURCHASER
8045559	10147	4227700000	108	G U CHALK C NO 16 02847	MURAND=GLASSCOCK	0,0	PHILLIPS PETROLEUM C
8045561	10147	4243300000	108	GUEST (CANYON SD) UNIT NO 37 10855	GUEST (CANYON SAND)	0,0	CITIES SERVICE CO
8045560	10163	4227700000	108	H H CLAY NO 27 02840	MURAND=GLASSCOCK	0,0	PHILLIPS PET CO
8045546	12781	4232330424	108	N J CHITTIM NO 3855 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045590	12783	4232330558	108	N J CHITTIM NO 3854 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045603	12807	4232300000	108	N J CHITTIM NO 4059 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045594	12799	4232300000	108	N J CHITTIM NO 411 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045605	12808	4232300000	108	N J CHITTIM NO 4155 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045597	12788	4232330087	108	N J CHITTIM NO 4257 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045638	12821	4232330332	108	N J CHITTIM NO 430 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045602	12820	4232330030	108	N J CHITTIM NO 432 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045595	12782	4232330323	108	N J CHITTIM NO 4332 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045601	12819	4232330581	108	N J CHITTIM NO 437 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045600	12818	4232330580	108	N J CHITTIM NO 438 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045598	12790	4232300000	108	N J CHITTIM NO 537 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045606	12879	4232330516	108	N J CHITTIM NO 6848 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045607	12880	4232330515	108	N J CHITTIM NO 6845 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045608	12881	4232330514	108	N J CHITTIM NO 6846 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045609	12882	4232330513	108	N J CHITTIM NO 6847 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045610	12883	4232330512	108	N J CHITTIM NO 6848 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045611	12884	4232330511	108	N J CHITTIM NO 6849 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045612	12885	4232330510	108	N J CHITTIM NO 6850 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045613	12886	4232330509	108	N J CHITTIM NO 6851 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045614	12887	4232330508	108	N J CHITTIM NO 6852 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045615	12888	4232330507	108	N J CHITTIM NO 6853 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CUM
8045616	12889	4232330506	108	N J CHITTIM NO 6854 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045617	12890	4232330505	108	N J CHITTIM NO 6855 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045618	12891	4232330504	108	N J CHITTIM NO 6856 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045620	12892	4232330503	108	N J CHITTIM NO 6857 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045619	12893	4232330502	108	N J CHITTIM NO 6858 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045621	12894	4232330501	108	N J CHITTIM NO 6859 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045622	12895	4232330499	108	N J CHITTIM NO 6861 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045625	12896	4232330498	108	N J CHITTIM NO 6862 02082	SALATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045624	12897	4232330557	108	N J CHITTIM NO 6863 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045625	12898	4232330566	108	N J CHITTIM NO 6865 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045626	12899	4232300000	108	N J CHITTIM NO 6905 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045627	12900	4232330468	108	N J CHITTIM NO 6913 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045628	12901	4232330463	108	N J CHITTIM NO 6914 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045629	12902	4232330466	108	N J CHITTIM NO 6916 02082	SACATOSA (SAN MIGUEL #1	0,0	LOVACA GATHERING CO
8045558	10112	4200300000	108	B M HOWEN A #5 01663	PUMPKIN=MASCHO	0,5	PHILLIPS PETROLEUM C
8045585	10176	4203300000	108	WEST FLOWENS UNIT NO 15 11787	FLOWENS W/CANYON SAND/	0,0	CITIES SERVICE CO
8045582	10160	4203300000	108	WEST FLOWENS UNIT NO 21 11787	FLOWENS W/CANYON SAND/	0,0	CITIES SERVICE CO
8045583	10162	4203300000	108	WEST FLOWENS UNIT NO 56 11787	FLOWENS W/CANYON SAND/	0,0	CITIES SERVICE CO
8045586	10169	4213500000	108	NIGHT UNIT NO 17 20681	CORPEN NORTH	0,0	AMOCO PROD CO
8045587	10250	4213500000	108	NIGHT UNIT NO 77 20681	CORPEN NORTH	0,0	AMOCO PROD CO
•CONVEST ENERGY CORP				RECEIVED: 07/11/80 JAS TX			
8045785	17908	4226330648	102	G W CLARK ET AL #1	PULLAN/ELLENBURGER	0,0	EL PASO NATURAL GAS
8045786	17912	4226330619	102	WAYNE WILLIAMS ET AL #2	PULLAN/ELLENBURGER	0,0	EL PASO NATURAL GAS
8045787	17913	4216931058	102	WAYNE WILLIAMS ET AL #2A	PULLAN/ELLENBURGER	0,0	EL PASO NATURAL GAS
•CRYSTAL OIL & LAND CO				RECEIVED: 07/11/80 JAS TX			
8045648	14078	4236530987	103	A JENNIGAN B NO 1	PANOLA	13,0	UNITED GAS PIPELINE
8045647	14075	4236530968	103	A JENNIGAN B NO 2	PANOLA	4,0	UNITED GAS PIPELINE
8045648	14076	4236530950	103	SOL JENNIGAN C NO 1	PANOLA	19,0	UNITED GAS PIPELINE
8045649	14077	4236530968	103	SOL JENNIGAN C NO 2	PANOLA	8,0	UNITED GAS PIPELINE

VOLUME 250 PAGE 004

JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
•DANDEN PETROLEUM INC				RECEIVED: 07/11/80 JAS TX			
8045523	08107	4219500000	108	ALLAN #1 14 MM CUM 865815	TEXAS MUDDUN	5,0	NORTHERN NATURAL GAS
•DENNICK EXPLORATION INC				RECEIVED: 07/11/80 JAS TX			
8045674	10792	4219500000	105	NU 1 LACKEY TEXAS NMC #83273	MANSFUND (MORRUW LOWER)	150,0	NORTHERN NATURAL GAS
•DISCOVERY OPERATING INC				RECEIVED: 07/11/80 JAS TX			
8045551	09305	4241530731	103	BEANLE A #1	CODY BELL (CANYON)	90,0	NORTHERN NATURAL GAS
8045690	10904	4241530783	105	DEAL #1	P M (CANYON)	110,0	NORTHERN NATURAL GAS
•8045715	15467	4241500000	108	M L DELUNG #1	VELMER SW (STRAWN)	4,5	CHA INC
•DIXON-CONNER OIL CO				RECEIVED: 07/11/80 JAS TX			
8045665	10218	4238900000	108	GUY CALDWELL #1 NMC #23969	OLDS (DELAWARE)	4,2	CONOCO INC
•ENNICK OIL CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045755	18724	4242931912	102	GUREE-SKH #1 ID 78849	LUCKY LANE (MANGLE FALLS	285,0	LEA-TEX OIL & GAS CO
8045756	18854	4242931949	102	M L CUNNELL #1 ID 85258	LUCKY LANE (MANGLE FALLS	78,0	LEA-TEX OIL & GAS CO
•EXECUTIVE PROPERTIES INC				RECEIVED: 07/11/80 JAS TX			
8045712	15220	4223500000	108	LATHAM-ISOUM #1 42651	PANHANDLE EAST	7,0	DIAMOND SHAMROCK CUR
•EXXON CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045717	15505	4226100000	108	C M ARMSTRONG 14L #09713	CANDELARIA (C-50)	10,6	NATURAL GAS PIPELINE
8045674	14820	4226130241	103	L M ARMSTRONG #2 #82852	CANDELARIA (I-N3)	185,0	NATURAL GAS PIPELINE
8045668	14582	4242700000	108	LAZARO M GUERRA 2-T 51580	KELSEY SOUTH (10-A SH)	3,0	TRUNKLINE GAS CO
8045718	15507	4204700000	108	MCGILL UNDS #3719 #54011	KELSEY DEEP (ZONE 15-AL)	12,0	TRUNKLINE GAS CO
8045548	09176	4226130483	105	ANS 3 A EAST 96-U 09257	HITA (7-E 11-A)	50,0	NATURAL GAS PIPELINE
8045719	15509	4226100000	108	S MAYFIELD GU #1-#1-J #32800	MAT SOUTH (R-BASAL 2)	4,4	NATURAL GAS PIPELINE
8045593	12633	4204730730	102	SCOTT & MUPPEN 290 #2215	SCOTT & MUPPEN (6875)	620,0	TENNESSEE GAS PIPELI
8045593	12633	4204730734	103	SCOTT & MUPPEN 290 #2215	SCOTT & MUPPEN (6875)	620,0	TENNESSEE GAS PIPELI
8045592	12632	4204730734	102	SCOTT & MUPPEN 29F #2210	SCOTT & MUPPEN (5975)	564,0	TENNESSEE GAS PIPELI
8045592	12632	4204730734	103	SCOTT & MUPPEN 29F #2210	SCOTT & MUPPEN (5975)	564,0	TENNESSEE GAS PIPELI
•GAS PRODUCING ENTERPRISES INC				RECEIVED: 07/11/80 JAS TX			
8045676	14844	4237530665	103	MASTERSON #3-SWD	WEST PANHANDLE (MED CAVE	10,0	COLORADO INTERSTATE
8045677	14849	4237530664	103	MASTERSON #3-SWD	WEST PANHANDLE (MED CAVE	10,0	COLORADO INTERSTATE
8045678	14850	4237530663	103	MASTERSON #3-7 WD	WEST PANHANDLE (MED CAVE	153,0	COLORADO INTERSTATE
8045679	14851	4237530662	105	MASTERSON #3-A WD	WEST PANHANDLE (MED CAVE	119,0	COLORADO INTERSTATE
8045680	14852	4237530666	105	MASTERSON #3-1 WD	WEST PANHANDLE (MED CAVE	13,0	COLORADO INTERSTATE
8045681	14853	4237530667	103	MASTERSON #3-2 WD	WEST PANHANDLE (MED CAVE	18,0	COLORADO INTERSTATE
8045682	14854	4234130536	103	THOMPSON 2-12 WD	WEST PANHANDLE (MED CAVE	10,0	COLORADO INTERSTATE
•GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED: 07/11/80 JAS TX			
8045582	11732	4232930818	105	TAL N #2	AZALEA (ATOKA)	125,0	PHILLIPS PETROLEUM C
•GETTY OIL COMPANY				RECEIVED: 07/11/80 JAS TX			
8045701	14960	4223330682	103	M B ARMSTRONG #20	PANHANDLE HUTCHINSON	9,0	PANHANDLE EASTERN PI
•GHACE PETROLEUM CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045684	15433	4249731210	105	KAREN #1	BOUNSVILLE (BEND CONGL G	300,0	NATURAL GAS PIPELINE
•GULF OIL CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045550	09342	4223500000	108	B B JOHNSON ET AL #20	PANHANDLE HUTCHINSON	8,0	PHILLIPS PETROLEUM C
8045548	09340	4235730298	108	ELEANOR REED #2	MANSFUND	8,0	TRANSWESTERN PIPELIN
8045549	09341	4219500000	108	GERTRUDE OGLE #1	MANSFUND	5,0	NORTHERN NATURAL GAS
8045691	14907	4250530562	103	J G MATHWELL NU 1 NCC #71814	UNWENU (LUBU)	350,0	TENNESSEE GAS PIPELI
8045692	14908	4250530585	105	W M ALEXANDER B 2 NMC #72147	UNWENU (LUBU)	20,0	TENNESSEE GAS PIPELI
•HALVEY ENERGY CO				RECEIVED: 07/11/80 JAS TX			
8045675	14805	4239931263	103	YOUNG NO 1 07/28	WINTERS (GARDNER)	7,0	EL PASO NATURAL GAS
•HAMILTON BROTHERS OIL CO				RECEIVED: 07/11/80 JAS TX			
8045735	10110	4232130891	102	TERRY ESTATE NO 1	UNNAMED	275,0	TENNESSEE GAS PIPELI
•HANLEY COMPANY				RECEIVED: 07/11/80 JAS TX			
8045669	14711	4217530976	103	B A HANNIS #3 (15569)	SPRADBERRY (TREND AREA)	14,0	EL PASO NATURAL GAS
8045670	14712	4217530977	103	A M LANE A #3 (08826)	SPRADBERRY (TREND AREA)	10,0	EL PASO NATURAL GAS

VOLUME 250 PAGE 005

JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
•HANNISON INTERESTS LTD				RECEIVED: 07/11/80 JAS TX			
8045743	17015	4210552459	102	NU 17 UNIVERSITY LAND 30-30	MOWARDS CREEK (CANYON)	110,0	INTRATEX GAS CO
8045743	17015	4210552459	103	NU 17 UNIVERSITY LAND 30-30	MOWARDS CREEK (CANYON)	110,0	INTRATEX GAS CO
•HNG OIL COMPANY				RECEIVED: 07/11/80 JAS TX			
8045720	15550	4217500000	108	ETTA TENNELL A #5 04507	TENNELL POINT (3900)	21,0	TRUNKLINE GAS CO
8045736	15570	4243530048	108	FAWCETT 130 #1 52953	SARYEM (CANYON)	19,0	INTRATEX GAS CO
8045721	15557	4243530070	108	FIELDS 17 #1 52957	SARYEM (CANYON)	21,0	INTRATEX GAS CO
8045709	15570	4243530552	108	FIELDS 21 #2 58136	SARYEM (CANYON)	8,0	INTRATEX GAS CO
8045722	15558	4243530084	108	GALBREATH 79 #1 53071	SARYEM (CANYON)	8,0	INTRATEX GAS CO
8045723	15559	4243530042	106	KELLY 115 #1 52961	SARYEM (CANYON)	17,0	INTRATEX GAS CO
8045724	15560	4243530292	108	KELLY 115 #2 55548	SARYEM (CANYON)	18,0	INTRATEX GAS CO
8045725	15561	4241530411	100	MITTEL 64 #2 72043	SARYEM (CANYON)	20,0	INTRATEX GAS CO
8045731	15569	4243530034	108	SMURLEY 111 #1 52989	SARYEM (CANYON)	17,0	INTRATEX GAS CO
8045726	15563	4243530893	108	SMURLEY 94 #2 00385	SARYEM (CANYON)	8,0	INTRATEX GAS CO
8045727	15564	4243530065	108	SMURLEY 95 #1 52985	SARYEM (CANYON)	2,0	INTRATEX GAS CO
8045728	15565	4243530060	108	SMURLEY 96 #1 52214	SARYEM (CANYON)	7,0	INTRATEX GAS CO
8045729	15566	4243530059	108	SMURLEY 98 #1 52986	SARYEM (CANYON)	1,0	INTRATEX GAS CO
8045730	15567	4243530576	108	SMURLEY 99 #2 01389	SARYEM (CANYON)	2,0	INTRATEX GAS CO
•HUNTZUN OIL & GAS CO OF TEXAS				RECEIVED: 07/11/80 JAS TX			
8045507	01550	4219530205	108	LEE 1-71 02837	MANSFUND (LOWER MORROW)	18,0	DIAMOND SHAMROCK CUR
•HUGHES & HUGHES				RECEIVED: 07/11/80 JAS TX			
8045749	18232	4229732106	102	KATE RENDALL B NU 1	BRASLAU (6800)	40,0	UNITED TEXAS TRANSMI
8045751	18435	4247932358	102	MOSA V DE BENAVIDES NU 3	BRUNI NE (10350)	1,1	HOUSTON PIPE LINE CO
•HUNT OIL COMPANY				RECEIVED: 07/11/80 JAS TX			
8045666	14550	4200130893	103	PINK SMITH NU 1	LONG LANE	22,0	LONE STAR GAS CO
•INDEPENDENT EXPLORATION CO				RECEIVED: 07/11/80 JAS TX			
8045739	16083	4236731480	102	MIND #2 83217	BUCKNER (BEND)	565,0	JAMES P DUNIGAN INC
8045510	03651	4236731203	102	MUFFIUTTLEN #1 78888	BUCKNER (BEND)	590,2	JAMES P DUNIGAN INC
8045512	03650	4236731113	102	J M MANNISUN #1 78650	BUCKNER (BEND)	170,0	JAMES P DUNIGAN INC
8045737	16081	4236731445	102	JOHNSON #1 82251	BUCKNER (BEND)	21,9	JAMES P DUNIGAN INC
8045738	16082	4236731447	102	MASH #1 82702	BUCKNER (BEND)	684,0	JAMES P DUNIGAN INC
8045511	03652	4236731151	102	WHITEHEAD #1 79771	BUCKNER (BEND)	84,2	JAMES P DUNIGAN INC
•INTENCITY MANAGEMENT CORP				RECEIVED: 07/11/80 JAS TX			
8045684	14131	4212300000	108	W M WIEDEL A NU 3 (73588)	SLICK (MERLAN)	0,5	UNITED GAS PIPELINE
•J P GICHUNSKI				RECEIVED: 07/11/80 JAS TX			
8045683	14060	4224930490	108	FITZSIMMONS NU 1 (72732)	BEN BOLDT N (6700)	0,2	LU-VACA GATHERING CO
•J M HUBER CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045520	05591	4223500000	108	BURNETT MF NU 11	PANHANDLE	0,7	GETTY OIL CO
8045510	05279	4223500000	108	BURNETT MF NU 12	PANHANDLE	0,7	GETTY OIL CO
8045519	05574	4223500000	108	BURNETT MF NU 13	PANHANDLE	0,7	GETTY OIL CO
8045517	05290	4223500000	108	BURNETT MF NU 15	PANHANDLE	0,7	GETTY OIL CO
8045518	05548	4223500000	108	MENNING-BURCH MENNING NU 74	PANHANDLE	1,2	COLORADO INTERSTATE
8045515	05278	4223500000	108	MENNING-BURCH MENNING NO 93	PANHANDLE	1,2	COLORADO INTERSTATE
8045514	05100	4223500000	108	SANFORD A NU 1	PANHANDLE WEST	5,1	COLORADO INTERSTATE
•LUGUE AND PATTERSON INC				RECEIVED: 07/11/80 JAS TX			
8045502	00572	4235500000	108	W C NIVENS #1	AQUA DULCE 2200	20,0	UNITED GAS PIPELINE
•MAURICE L BROWN CO				RECEIVED: 07/11/80 JAS TX			
8045501	00475	4236500000	108	TIMMINS GAS UNIT #1	BETHANY	5,0	TENNESSEE GAS PIPELI
•MITCHELL ENERGY CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045515	04110	4249700000	108	A U SCOTT #1 08638	ALVORD (CADDO CONG)	2,2	NATURAL GAS PIPELINE
8045675	14814	4249731424	105	G L HUSEY #A 82925	BOUNSVILLE (BEND CONGL G	150,0	NATURAL GAS PIPELINE
8045589	12295	4236700000	108	M M PRATHER #1 28785	BOUNSVILLE (BEND CONGL)	10,0	LONE STAR GAS CO
8045590	12294	4236700000	108	PEARL DARUND #1 28787	BOUNSVILLE BEND CONGL	4,0	LONE STAR GAS CO

VOLUME 250 PAGE 006

JD NO	JA DKT	API NO	SEC	* WELL NAME	FIELD NAME	PROD	PURCHASER
*MOBIL OIL CORP				RECEIVED: 07/11/80 JAS TX			
8045702	15007	4216531406	103	PATRICK J DUNAHUE #3	HOMANN (SAN ANDRES)	5,8	PHILLIPS PETROLEUM C
*MONSANTO COMPANY				RECEIVED: 07/11/80 JAS TX			
8045508	02150	4207930959	101	STANOLIND #13 #62171	LEVELLAND	18,6	CITIES SERVICE GAS C
*MOORE MCCORMACK OIL & GAS CORP				RECEIVED: 07/11/80 JAS TX			
8045715	15243	4217531036	108	V ALMANCMI NO 24	KAHEN BEAUCHAMP (2600)	12,0	LONE STAR GAS CO
*NABUB PRODUCTION CO				RECEIVED: 07/11/80 JAS TX			
8045544	12159	4217900000	108	CHAPMAN B #2547#	EAST PANHANDLE	2,3	COLTEXO CORP
*NRM PETROLEUM CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045708	17020	4204530786	102	(UNDESIGNATED) NO 3	DECKER (YATES)	250,0	NORTHERN NATURAL GAS
*ORBIT OIL & GAS INC				RECEIVED: 07/11/80 JAS TX			
8045710	15102	4216130484	105	C E TURNER NO 2	SIMSBORO NO (CUTTON VALL	730,0	DELMI GAS PIPELINE C
*PETRO-SEARCH INC				RECEIVED: 07/11/80 JAS TX			
8045586	11995	4223300000	108	COLEMAN #10 (1-117-00969-A)	PANHANDLE	10,6	GETTY OIL CO
8045587	11996	4223300000	108	COLEMAN #11 (1-117-00969-A)	PANHANDLE	10,6	GETTY OIL CO
8045595	11998	4223300000	108	COLEMAN #9 (1-117-00969-A)	PANHANDLE	10,6	GETTY OIL CO
8045605	13626	4223300000	108	NORTH CHRISTIAN #1 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
8045606	13627	4223300000	108	NORTH CHRISTIAN #2 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
8045607	13628	4223300000	108	NORTH CHRISTIAN #3 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
8045608	13630	4223300000	108	NORTH CHRISTIAN #5 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
8045609	13631	4223300000	108	NORTH CHRISTIAN #6 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
8045650	13632	4223300000	108	NORTH CHRISTIAN #7 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
8045651	13633	4223300000	108	NORTH CHRISTIAN #8 (1-117-01253-2)	PANHANDLE	2,2	PHILLIPS PETROLEUM C
*PETROLEUM CORP OF DELAWARE				RECEIVED: 07/11/80 JAS TX			
8045568	10377	4243500000	108	MULL NO 1	BONOMA (UPPER CANYON)	6,6	EL PASO NATURAL GAS
8045569	10378	4241330184	108	WHITTEN NO 1	ELDORADO N (CANYON A)	4,1	NORTHERN NATURAL GAS
8045570	10379	4241300000	108	WHITTEN 51 NO 2	PAGE RANCH (CANYON)	5,6	NORTHERN NATURAL GAS
*PHILLIPS PETROLEUM COMPANY				RECEIVED: 07/11/80 JAS TX			
8045671	14728	4200330659	108	(04041) TEX UNIV-CC NO 20	HAGUTEX (DEVONIAN)	1,0	NORTHERN NATURAL GAS
8045693	14941	4213533179	103	(19297) SOUTH COWDEN UNIT NO 6-17	COWDEN SOUTH	27,0	ODESSA NATURAL GAS C
8045736	14638	4236530943	102	CALLUN 2 UNIT NO 2	CANTHAGE	365,0	UNITED GAS PIPELINE
8045657	13063	4213503045	103	CLAHUIM NO 2 (02124)	GULDSMITH (CLEARFORK)	11,9	EL PASO NATURAL GAS
8045619	13120	4223300000	108	CUCKWELL RANCH NO 46	PANHANDLE HUTCHINSON	4,0	GETTY OIL CO
8045640	13122	4223300000	108	CUCKWELL RANCH NO 49	PANHANDLE HUTCHINSON	5,0	GETTY OIL CO
8045641	13123	4223300000	108	CUCKWELL RANCH NO 51	PANHANDLE HUTCHINSON	1,0	GETTY OIL CO
8045642	13127	4223300000	108	CUCKWELL RANCH NO 56	PANHANDLE HUTCHINSON	7,0	GETTY OIL CO
8045643	13128	4223300000	108	CUCKWELL RANCH NO 58	PANHANDLE HUTCHINSON	4,0	GETTY OIL CO
8045656	13961	4213500286	108	GS ANDERSON UNIT E-02	GULDSMITH (CLEARFORK)	11,9	EL PASO NATURAL GAS
8045653	14729	4241300517	108	HARRIS-C NO 7	CHASCO (CANYON)	0,2	ARCO OIL & GAS CO
8045655	13959	4240100849	108	N PERMANIAN B UNIT #5-02	SPRABERRY (TREND AREA)	1,0	NORTHERN NATURAL GAS
8045637	12928	4217900000	108	PHIL-PAMPA UNIT NO 11-A	PANHANDLE GRAY	4,5	GETTY OIL CO
8045630	12906	4217900000	108	PHIL-PAMPA UNIT NO 5A-01	PANHANDLE GRAY	2,7	GETTY OIL CO
8045631	12907	4217900000	108	PHIL-PAMPA UNIT NO 5A-02	PANHANDLE GRAY	2,5	GETTY OIL CO
8045632	12908	4217900000	108	PHIL-PAMPA UNIT NO 5A-04	PANHANDLE GRAY	0,9	GETTY OIL CO
8045633	12909	4217900000	108	PHIL-PAMPA UNIT NO 5A-05	PANHANDLE GRAY	0,9	GETTY OIL CO
8045634	12910	4217900000	108	PHIL-PAMPA UNIT NO 5A-07	PANHANDLE GRAY	4,5	GETTY OIL CO
8045635	12911	4217900000	108	PHIL-PAMPA UNIT NO 5A-09	PANHANDLE GRAY	1,5	GETTY OIL CO
8045636	12916	4217900000	108	PHIL-PAMPA UNIT 9-01	PANHANDLE GRAY	12,0	GETTY OIL CO
8045634	12952	4223300000	108	WHITTENBURG NO 103	PANHANDLE HUTCHINSON	0,0	GETTY OIL CO
*PYNAMID OIL & GAS COMPANY				RECEIVED: 07/11/80 JAS TX			
8045654	13870	4210300000	108	SAMINE ROYALTY #1 RRC 22365	WHITE HORSE	1,0	PHILLIPS PETROLEUM C
*RAEL GAS CO				RECEIVED: 07/11/80 JAS TX			
*8045521	05783	4240300000	108	EMLEN LEASE	EAST PANHANDLE	2,5	EL PASO NATURAL GAS

VOLUME 250 PAGE 007

JD NO	JA DKT	API NO	SEC	* WELL NAME	FIELD NAME	PROD	PURCHASER
*RIAL OIL COMPANY				RECEIVED: 07/11/80 JAS TX			
8045698	14942	4231732076	103	MAHONEY A NO 1 #02510	ACKERLY (DEAN SAND)	23,7	TEXACO INC
8045695	14744	4210352048	103	STATE 19 NO 1 #25450	DUNE	8,4	
8045696	14945	4238331535	103	TEXON STATE 36 NO 1 #07912	TEXON N (SPRABERRY)	16,4	
*SA-GU CORPORATION				RECEIVED: 07/11/80 JAS TX			
8045703	15010	4217531197	103	MEAGAN ROBERTS #1 ID #83402	CIRCLE A (2600)	109,0	UNITED GAS PIPE LINE
*SHAR-ALAN OIL CO				RECEIVED: 07/11/80 JAS TX			
8045581	11675	4221514031	108	SANTA CRUZ MENDRIX C-1	SAN SALVADOR FIELD (6500	0,0	TENNESSEE GAS PIPELI
8045580	11673	4221513965	108	WEINFIELD NO 1	SAN SALVADOR FIELD (6500	0,0	TENNESSEE GAS PIPELI
*SHELL OIL CO				RECEIVED: 07/11/80 JAS TX			
8045754	18497	4242731321	102	JUDD ESTATE-STATE NO 7	LACOPITA (VICKSBURG X SE	475,0	TENNESSEE GAS PIPELI
8045752	18450	4242731264	102	MANTINEZ-STATE NO 1	LACOPITA (VICKSBURG Z NW	500,0	LONE STAR GAS CO
8045753	18451	4242731303	102	MANTINEZ-STATE NO 2	MINCON N (VICKSBURG Y2)	500,0	LONE STAR GAS CO
8045520	00960	4216500000	103	NEWBERN -A- NO 1	ROBERTSON N (SAN ANDRES)	5,5	PHILLIPS PETROLEUM C
8045500	01439	4216530694	103	NEWBERN 9	ROBERTSON N (SAN ANDRES)	54,0	PHILLIPS PETROLEUM C
8045571	10675	4250131005	103	OWNBY SAN ANDRES UNIT NO 55	OWNBY	6,9	AMOCO PRODUCTION CO
8045505	01435	4216530687	103	T U STARK 21	ROBERTSON N (SAN ANDRES)	8,0	PHILLIPS PETROLEUM C
8045508	01434	4216530681	103	T U STARK 22	ROBERTSON N. (SAN ANDRES)	32,0	PHILLIPS PETROLEUM
*SUN OIL COMPANY (DELAWARE)				RECEIVED: 07/11/80 JAS TX			
8045509	02855	4203930831	103	-MISCH-SAINT UNIT NO 7-L	PLEDGEN (MARKHAM 7700)	403,0	UNITED TEXAS TRANSMI
*TANTAN PRODUCTION CO				RECEIVED: 07/11/80 JAS TX			
8045573	11044	4208900000	103	M WRIGHT NO 1 (80888)	ENGLEHART (WILCOX 8800)	110,0	TEXAS EASTERN TRANSM
*TENNECO OIL COMPANY				RECEIVED: 07/11/80 JAS TX			
8045533	08469	4217900000	108	ALMERT COMBS #1-A	PANHANDLE GRAY CO	1,6	PHILLIPS PETROLEUM C
8045552	09869	4217900000	108	PHENE #2	PANHANDLE	4,6	PHILLIPS PETROLEUM C
*TEXAS AMERICAN OIL CORP				RECEIVED: 07/11/80 JAS TX			
8045545	08619	4248300000	103	J M NEMEAU C NO 1	PANHANDLE EAST	124,0	PERRY HAS TRANSMISSI
*TEXAS OIL & GAS CORP				RECEIVED: 07/11/80 JAS TX			
8045683	14862	4246131499	103	BUETTCHER GAS UNIT #1 WELL #5	BONUS (DY 6700)	150,0	TEXAS EASTERN TRANSM
8045711	15149	4224531408	103	MANCUCK G U M #1	PROVIDENT CITY	400,0	TEXAS EASTERN GAS CO
8045740	18567	4240131830	102	MALEK #1	HOLUB (6250)	110,0	UNITED GAS PIPELINE
*8045708	15010	4216130459	103	STEWARDS MILL G U #5-1	STEWARDS MILL (COTTON VA	350,0	UNITED GAS PIPELINE
*8045705	15015	4216130496	103	STEWARDS MILL GU #7-1	STEWARDS MILL (COTTON VA	500,0	UNITED GAS PIPELINE
8045740	18765	4227531373	102	SULLIVAN D #1	MCGILL (8020)	70,0	TRANSCONTINENTAL GAS
*THOMAS C CANAN				RECEIVED: 07/11/80 JAS TX			
8045584	11923	4242900000	108	J M FARMAR NO 1 NO 57805	MAYLAND	16,0	LONE STAR GAS CO
*THAVELERS OIL CO G-V PROJECT				RECEIVED: 07/11/80 JAS TX			
8045516	08115	4217900000	108	MOGAN #9 03843	PANHANDLE - GRAY COUNTY	3,7	PHILLIPS PETROLEUM C
*TREB PETROLEUM INC				RECEIVED: 07/11/80 JAS TX			
8045535	08816	4210300000	108	VANHOUGH & ALLEN NO 41	ARMER (GLORIETA)	3,6	WARREN PETROLEUM CO
*TURTLE PRODUCTION CO INC				RECEIVED: 07/11/80 JAS TX			
8045697	14951	4208531707	103	JAMES MULLINS NO 1	HUDSON (GRAY SAND LOWER)	80,0	UNION TEXAS PETROLEU
*UNION OIL COMPANY OF CALIF				RECEIVED: 07/11/80 JAS TX			
8045524	08111	4248730402	103	M A MORELL #4 #6	VAN	58,0	UNITED GAS PIPELINE
*VENUS OIL COMPANY				RECEIVED: 07/11/80 JAS TX			
8045707	15025	4248100000	105	ANGELO #1 RRC NO 82989	EAST BERNARD (7900)	0,0	TRUNKLINE GAS CO
*WALNUCU OIL & GAS COMPANY				RECEIVED: 07/11/80 JAS TX			
8045742	17507	4231131316	102	ALAMO NATIONAL BANK TRUSTEE NO 1	FANNIE K (6000 WILCOX)	364,8	TENNESSEE GAS PIPELI
8045742	17507	4231131316	103	ALAMO NATIONAL BANK TRUSTEE NO 1	FANNIE K (6000 WILCOX)	364,8	TENNESSEE GAS PIPELI
*WENNER OIL & INC				RECEIVED: 07/11/80 JAS TX			
8045688	45848	4208500000	103	SEVEN MILES NO 2	PANHANDLE	130,0	PANHANDLE EASTERN PI
*WARREN PETR CU A DIV OF GULF OIL CO				RECEIVED: 07/11/80 JAS TX			
8045579	11110	4210500000	108	-M N WADDELL ET AL TR A 1016	SAND HILLS MCKNIGHT	2,0	EL PASO NATURAL GAS

VOLUME 230 PAGE 006

JD NO	JA UNI	API NO	SEC # WELL NAME	FIELD NAME	PMUD	PURCHASER
0045576	11107	42103300000	108	M M MADDELL ET AL IM A		
0045578	11109	42103300000	104	M M MADDELL ET AL IM A	3.0	EL PASO NATURAL GAS
0045577	11104	42103300000	106	M M MADDELL ET AL IM A	11.0	EL PASO NATURAL GAS
	JAI TX			SAND HILLS MCKNIGHT	3.0	EL PASO NATURAL GAS
WESTLAND OIL DEVELOPMENT CORP		42103300000	102	RECEIVED! 07/11/80		
0045746	10020			DOUGHSTAUT JEANETTE GAS		
WILLARD OIL & GAS INC		42103300000	102	RECEIVED! 07/11/80		
0045558	00047	42235000000	103	RECEIVED! 07/11/80		
WILLIAM K YOUNG						
0045698	14010	42003531039	103	RECEIVED! 07/11/80		
				ARMSTRONG NU 2		
U.S. GEOLOGICAL SURVEY - WASHINGTON,DC						
CITIES SERVICE COMPANY				RECEIVED! 07/08/80		
0045781	4V0007-80	47093000034	102	USA T #1		

JD NO	JA UNI	API NO	SEC # WELL NAME	FIELD NAME	PMUD	PURCHASER
UTAH PURCHASERS						
0045521	HAEL GAS CO					
0045567	EL PASO NATURAL GAS CO					
0045704	UNITED TEXAS TRANSMISSION					
0045705	UELMING PIPELINE CORP					
0045715	NORTHERN NATURAL GAS CO					

[FR Doc. 80-23885 Filed 8-7-80; 8:45 am]
BILLING CODE 6450-85-C

[Volume 249]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 1, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before August 25, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

UMI 8GA 551/54V

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

VOLUME 249

NOTICE OF DETERMINATIONS
BY JURISDICTIONAL AGENCIES UNDER
THE NATURAL GAS POLICY ACT OF 1978

JD NO	JA DKT	API NO	SEC & WELL NAME	FIELD NAME	PRUD	PURCHASER
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
**********						
=A C RADFUND			RECEIVED: 07/08/80 JA: WV			
8045385		4704100676	108 EDWARD MORAN #2	COURTHOUSE DISTRICT	2,6	EQUITABLE GAS CO
=A F MORRIS TRUSTEE			RECEIVED: 07/08/80 JA: WV			
8045404		4708502445	108 J & PRUDEMORE #1 GPA 1051	MUD RIVER	1,1	PENNZOIL CO
=AIGT CORP/RITCHIE MINES P/S			RECEIVED: 07/08/80 JA: WV			
8045469		4708504718	108 A U WILSON #5	GRANT	3,7	CONSOLIDATED GAS SUP
8045333		4708504725	108 C L MAHDEN #2	C L MAHDEN LEASE	0,7	CONSOLIDATED GAS SUP
8045334		4708504722	108 C L MAHDEN #4	C L MAHDEN LEASE	0,4	CONSOLIDATED GAS SUP
8045467		4708504716	108 F P MARSHALL #1	GRANT	7,3	CONSOLIDATED GAS SUP
8045468		4708504717	108 F P MARSHALL #5	GRANT	3,7	CONSOLIDATED GAS SUP
8045341		4708504703	108 H S WILSON #2	H S WILSON LEASE	3,7	CONSOLIDATED GAS SUP
8045342		4708504701	108 J MARSHALL #10	GRANT	11,0	CONSOLIDATED GAS SUP
8045465		4708504718	108 J U LYNCH #1	GRANT	3,7	CONSOLIDATED GAS SUP
8045466		4708504719	108 J U LYNCH #3	GRANT	3,7	CONSOLIDATED GAS SUP
8045480		4708504692	108 J P MARSHALL #11	GRANT	37,0	CONSOLIDATED GAS SUP
8045477		4708504695	108 J W MARSHALL #1	GRANT	7,3	CONSOLIDATED GAS SUP
8045484		4708504699	108 J W MARSHALL #11	GRANT	3,7	CONSOLIDATED GAS SUP
8045483		4708504700	108 J W MARSHALL #13	GRANT	0,7	CONSOLIDATED GAS SUP
8045342		4708504702	108 J W MARSHALL #17	J W MARSHALL LEASE	0,7	CONSOLIDATED GAS SUP
8045478		4708504696	108 J W MARSHALL #8	GRANT	7,3	CONSOLIDATED GAS SUP
8045486		4708504697	108 J W MARSHALL #5	GRANT	0,7	CONSOLIDATED GAS SUP
8045485		4708504698	108 J W MARSHALL #8	GRANT	1,8	CONSOLIDATED GAS SUP
8045488		4708504715	108 L CONELEY #1	GRANT	1,8	CONSOLIDATED GAS SUP
8045478		4708504694	108 L CONNELLEY #3	GRANT	18,3	CONSOLIDATED GAS SUP
8045488		4708504725	108 L MOSS #5	GRANT	5,5	CONSOLIDATED GAS SUP
8045487		4708504724	108 M C SWEENEY #3	GRANT	1,8	CONSOLIDATED GAS SUP
8045470		4708504713	108 RITCHIE MINES #1	MURPHY	11,0	CONSOLIDATED GAS SUP
8045472		4708504711	108 RITCHIE MINES #10	MURPHY	3,7	CONSOLIDATED GAS SUP
8045339		4708504705	108 RITCHIE MINES #85	RITCHIE MINES LEASE	1,1	CONSOLIDATED GAS SUP
8045340		4708504706	108 RITCHIE MINES #86	RITCHIE MINES LEASE	1,1	CONSOLIDATED GAS SUP
8045338		4708504708	108 RITCHIE MINES #88	RITCHIE MINES LEASE	1,1	CONSOLIDATED GAS SUP
8045471		4708504712	108 RITCHIE MINES #57	MURPHY	18,3	CONSOLIDATED GAS SUP
8045475		4708504708	108 RITCHIE MINES #58	MURPHY	18,3	CONSOLIDATED GAS SUP
8045473		4708504710	108 RITCHIE MINES #59	MURPHY	18,3	CONSOLIDATED GAS SUP
8045474		4708504709	108 RITCHIE MINES #60	MURPHY	11,0	CONSOLIDATED GAS SUP
8045337		4708504707	108 RITCHIE MINES #75	RITCHIE MINES LEASE	1,1	CONSOLIDATED GAS SUP
8045336		4708504720	108 S C PARKS #6	S C PARKS LEASE	0,8	CONSOLIDATED GAS SUP
8045335		4708504721	108 S C PARKS #8	S C PARKS LEASE	1,8	CONSOLIDATED GAS SUP
8045483		4708504724	108 W M MOORE #5	W M MOORE LEASE	5,5	CONSOLIDATED GAS SUP
8045500		4708504727	108 W M MOORE #6	GRANT	7,3	CONSOLIDATED GAS SUP
8045292		4708504672	108 W M MOORE #7	W M MOORE LEASE	10,9	CONSOLIDATED GAS SUP

VOLUME 249 PAGE 002

JD NO	JA DKT	API NO	SEC & WELL NAME	FIELD NAME	PRUD	PURCHASER
8045479		4708504693	108 W M MOORE #8	GRANT	0,0	CONSOLIDATED GAS SUP
=ALLEGHENY LAND & MINERAL COMPANY			RECEIVED: 07/08/80 JA: WV			
8045429		4701700259	108 A-5	SOUTHWEST DISTRICT	4,9	CONSOLIDATED GAS SUP
=APPALACHIAN EXPLORATION & DEVEL INC			RECEIVED: 07/08/80 JA: WV			
8045436		4707900910	108 G W SMITH #1	UNION	18,3	CABOT CORP
8045433		4707900871	108 MCLEAN HEIRS A-2	UNION	15,0	CABOT CORP
8045435		4707900921	108 MCLEAN HEIRS A-9	UNION	15,0	CABOT CORP
8045349		4703903506	105 SILEM COAL & LAND CO A-1	WASHINGTON	25,0	
=ASHLAND EXPLORATION INC			RECEIVED: 07/08/80 JA: WV			
8045347		4701900414	105 EASTERN ASSOCIATED COAL #65	PAINT CREEK	64,0	COLUMBIA GAS TRANSMI
8045348		4703903405	105 JAMES F & PEYTON #2	PAINT CREEK	64,0	COLUMBIA GAS TRANSMI
8045350		4700501272	105 SOUTHERN LAND #11	LOGAN = WYOMING	37,0	CONSOLIDATED GAS SUP
=B & G OIL & GAS COMPANY			RECEIVED: 07/08/80 JA: WV			
8045450		4702103610	108 AMES #1	DERALD	4,0	CONSOLIDATED GAS SUP
=C F SHEWEY AGENT			RECEIVED: 07/08/80 JA: WV			
8045427		4705900938	108 BURNING SPRINGS LAND CO 556036615	TUG RIVER	0,2	COLUMBIA GAS TRANSMI
=CABOT CORPORATION			RECEIVED: 07/08/80 JA: WV			
8045431		4701302641	108 ARDELIA GARRETSON 4=509	SHERIDAN	12,5	
8045434		4705902651	108 BONERS 6=629	CABIN CREEK	0,5	
8045428		4703903127	108 M P TOMPKINS 11=623	CEDAR GROVE	2,2	CABOT CORP
8045432		4703902927	108 QUINCY COAL 1=650	CABIN CREEK	2,8	
=CAMENUM OIL & GAS COMPANY			RECEIVED: 07/08/80 JA: WV			
8045453		4700501299	105 GEORGE P ALDERSON #8	SCOTT	1,2	COLUMBIA GAS TRANSMI
8045452		4708502450	108 JOHN A STONE #3	JEFFERSON	45,0	COLUMBIA GAS TRANSMI
8045451		4708502451	108 JOHN A STONE #5	JEFFERSON	0,5	COLUMBIA GAS TRANSMI
=CEDAR RUN OIL & GAS CO			RECEIVED: 07/08/80 JA: WV			
8045289		4708504668	108 CEDAR RUN OIL & GAS CO #469 WELL #1	MURPHY DISTRICE	5,1	CABOT CORP
=CHESTER LEE BACHELOR ET AL			RECEIVED: 07/08/80 JA: WV			
8045290		4708504669	108 D E NUTTER #1	MOUNTAIN	3,7	EQUITABLE GAS CO
=CITIES SERVICE COMPANY			RECEIVED: 07/08/80 JA: WV			
8045350		4701702123	108 JONES R #1	SMITHBURG	4,5	CONSOLIDATED GAS SUP
8045351		4701702125	108 PARRELL AR2	SMITHBURG	3,0	CONSOLIDATED GAS SUP
=D A DONNARD			RECEIVED: 07/08/80 JA: WV			
8045439		4702101606	108 M G COLLINS #2	GLENVILLE	0,0	CONSOLIDATED GAS SUP
8045437		4702101683	108 SPROUSE MCHENRY #2	GLENVILLE	1,5	CONSOLIDATED GAS SUP
8045438		4702101682	108 SPROUSE=MCHENRY #1	GLENVILLE	1,5	CONSOLIDATED GAS SUP
=DEVON CORPORATION			RECEIVED: 07/08/80 JA: WV			
8045340		4705300206	103 #440 PEARLEY SAYNE	PANCHMENT	45,0	KAISER ALUMINUM & CH
=E & C GAS CO			RECEIVED: 07/08/80 JA: WV			
8045481		4705302526	108 GILBERT SNIDER = #1	EAGLE DISTRICT	7,0	EAGLE GAS CO
=E M AND M E SMITH			RECEIVED: 07/08/80 JA: WV			
8045489		4701302910	108 A G MATHENS NO 4	CENTER DISTRICT	5,5	CABOT CORP
8045492		4701302885	108 A M PENNINGER NO 1	SHERMAN DISTRICT	2,0	CABOT CORP
8045491		4701302886	108 A M PENNINGER NO 2	SHERMAN DISTRICT	4,1	CABOT CORP
8045490		4701300125	108 ARMINTA ELSMON NO 2	WASHINGTON DISTRICT	1,1	CABOT CORP
8045493		4701302875	108 O M WHIPKEY #3	LEAPMARK CM CENTER DISTR	1,4	CABOT CORP
8045499		4701300058	108 MATTIE WOLVERTON NO 1	SHERIDAN DISTRICT	0,8	CABOT CORP
8045495		4701300135	108 I A GAINER HEIRS NO 1	LEADING CREEK CENTER DIS	0,4	CABOT CORP
8045497		4701300107	108 J W MAXWELL NO 2	CENTER DISTRICT	0,5	CABOT CORP
8045498		4701300094	108 LUTHER LITTLE NO 1	SYLAMORE CREEK = SHERMAN	2,5	CABOT CORP
8045494		4701300643	108 MINERVA PARSONS NO 2	WASHINGTON DISTRICT	3,0	CABOT CORP
8045490		4701302498	108 MOSS CULLINS NO 1	SHERIDAN DISTRICT	6,0	CABOT CORP
=FIVE STAR GAS CO			RECEIVED: 07/08/80 JA: WV			

VOLUME 249 PAGE 005

JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8045425		4708703261	10A	J - EPLING #7117	LOONEYVILLE GAS		3,1 COLUMBIA GAS TRANSMI
-FOX DRILLING CO INC				RECEIVED: 07/08/80 JAI WV			
8045449		4700101153	10A	H ROBINSON #6(47-001-1153)	BELINGTON		125,0 COLUMBIA GAS TRANSMI
8045470		4700101155	10A	H ROBINSON #5(47 001 1155	BELINGTON		75,0 COLUMBIA GAS TRANSMI
8045468		4700101150	10A	H ROBINSON #4(47 001 1150)	BELINGTON		120,0 COLUMBIA GAS TRANSMI
8045474		4700101196	10A	K CUNNINGHAM #1(47 001 1196)	BELINGTON		55,0 COLUMBIA GAS TRANSMI
8045475		4700101205	10A	D MATHANAY #1(47 001 1205)	BELINGTON		75,0 COLUMBIA GAS TRANSMI
8045476		4700101206	10A	D MATHANAY #2(47 001 1206)	BELINGTON		75,0 COLUMBIA GAS TRANSMI
8045477		4700101207	10A	D MATHANAY #3(47 001 1207)	BELINGTON		60,0 COLUMBIA GAS TRANSMI
8045467		4700101122	10A	H L JONES #1(47-001-1122)	BELINGTON		90,0 COLUMBIA GAS TRANSMI
8045472		4700101189	10A	H L JONES #2(47 001 1189)	BELINGTON		35,0 COLUMBIA GAS TRANSMI
8045471		4700101188	10A	STEWART #2(47-001-1188)	BELINGTON		125,0 COLUMBIA GAS TRANSMI
8045473		4700101193	10A	W BOLTON #1	BELINGTON		25,0 COLUMBIA GAS TRANSMI
				RECEIVED: 07/08/80 JAI WV			
-FRANCIS E CAIN							
8045450		4701303156	10B	A H CHEUVRONT #2	SHERIDAN		0,3 LONG GAS SUPPLY CORP
				RECEIVED: 07/08/80 JAI WV			
-GAS SUPPLY CORP							
8045360		4709900233	10B	D F HELCHER 1-926	BELCHER		8,8 INDUSTRIAL GAS CORP
8045358		4709900265	10A	MIHAM FERGUSON B #1	MIHAM FERGUSON		0,1 INDUSTRIAL GAS CORP
8045357		4709900270	10A	MINNIE EALEMN 666	MINNIE EALEM 666		5,0 INDUSTRIAL GAS CORP
8045359		4709900244	10A	TONEY NO 2	TONEY		4,0 INDUSTRIAL GAS CORP
				RECEIVED: 07/08/80 JAI WV			
-GULF OIL CORPORATION							
8045425		4702103608	10B	FLINT #1	VADIS		3,7 EQUITABLE GAS CO
8045412		4702101150	10A	HANDMAN #1	TANNER		1,8 PENNZOIL CO
8045424		4702103609	10B	-INEMILLEN #1	GLENVILLE WEST		3,7 CONSOLIDATED GAS SUP
				RECEIVED: 07/08/80 JAI WV			
-H M DEEM							
8045291		4708522003	10B	H DEEM #1	H DEEM		10,0 CONSUMERS GAS UTILIT
				RECEIVED: 07/08/80 JAI WV			
-HARRY BUSH AGT							
8045424		4702123611	10A	BUSH #1	DEKALB		0,0 CONSOLIDATED GAS SUP
				RECEIVED: 07/08/80 JAI WV			
-HUNTINGTON OKLA/MIDWAY CITY GAS CO							
8045414		4709901700	10B	FLOYD ANDREW #1	WAYNE CO LINCOLN DIST		5,0 COLUMBIA GAS & ELEC
				RECEIVED: 07/08/80 JAI WV			
-J & J ENTERPRISES INC							
8045390		4700121106	10B	H-181 BAR-1106	PHILIPPI		20,0 CONSOLIDATED GAS SUP
8045385		4703322048	10B	A-226 MAR-2048	UNION		20,0 CONSOLIDATED GAS SUP
8045383		4703322027	10B	A-232 MAR-2027	UNION		20,0 CONSOLIDATED GAS SUP
8045382		4703322015	10B	H-280 MAR-2015	TENMILE		20,0 CONSOLIDATED GAS SUP
8045384		4703302018	10B	B-260 MAR-2018	SANDIS		20,0 CONSOLIDATED GAS SUP
8045378		4703322067	10B	H-270 MAR-2067	EAGLE		20,0 CONSOLIDATED GAS SUP
8045491		4700101246	10B	JJ-5-#1	VALLEY		20,0 CONSOLIDATED GAS SUP
8045488		4701722515	10B	K-19-1	WEST UNION		20,0 COLUMBIA GAS TRANSMI
8045487		4701722510	10B	K-19-2	WEST UNION		20,0 COLUMBIA GAS TRANSMI
8045486		4701722508	10B	K-26-#1	WEST UNION		20,0 COLUMBIA GAS TRANSMI
8045492		4701702471	10B	K-271-#1	GRANT		20,0 CONSOLIDATED GAS SUP
8045489		4701722480	10B	K-512-#1	CUVE		20,0 COLUMBIA GAS TRANSMI
8045480		4703302174	10B	S-551-#1	SANDIS		20,0 CONSOLIDATED GAS SUP
8045481		4703302215	10B	S-555-#1	SANDIS		20,0 CONSOLIDATED GAS SUP
8045479		4703322120	10B	S-554-#1	TENMILE		20,0 CONSOLIDATED GAS SUP
				RECEIVED: 07/08/80 JAI WV			
-JAMES F SCOTT							
8045398		4703302221	10B	C L HOGGESS S-286	EAGLE DISTRICT		12,0 CONSOLIDATED GAS SUP
				RECEIVED: 07/08/80 JAI WV			
-JERRY C OLDS							
8045271		4704120662	10A	DONALDSON #1	COURTHOUSE		10,0 EQUITABLE GAS CO
8045276		4704100649	10A	F HUSH #2	COURT HOUSE DISTRICT		2,0 EQUITABLE GAS CO
8045280		4705501987	10A	MAXWELL #21	MOUNT CLARE		2,0 CONSOLIDATED GAS SUP
8045279		4705501988	10B	MAXWELL #23	MOUNT CLARE		2,0 CONSOLIDATED GAS SUP

VOLUME 249 PAGE 006

JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8045281		4705501986	10A	MAXWELL 19			2,0 CONSOLIDATED GAS SUP
8045278		4704120590	10A	P HUSH #1	COUNTHOUSE		3,0 EQUITABLE GAS CO
8045282		4701721675	10A	R MCCULLOUGH #1	WEST UNION		2,0 CONSOLIDATED GAS SUP
8045284		4704120643	10A	V BRINKLEY #2	CULLINS SETTLEMENT		4,0 CONSOLIDATED GAS SUP
8045285		4704121008	10A	V BRINKLEY #3	CULLINS SETTLEMENT		4,0 CONSOLIDATED GAS SUP
8045287		4704121405	10A	V BRINKLEY #4	CULLINS SETTLEMENT		4,0 CONSOLIDATED GAS SUP
-KRAKRUM CORP				RECEIVED: 07/08/80 JAI WV			
8045419		4708703270	10A	D L & MARY TANNEY #6	GEARY		0,3 COLUMBIA GAS TRANSMI
8045418		4708703269	10A	D L & MARY TANNEY #7	GEARY		0,5 COLUMBIA GAS TRANSMI
8045416		4708703267	10A	FRED & LIZZIE SMITH #20	GEARY		30,0 COLUMBIA GAS TRANSMI
8045422		4708703273	10A	FRED & LIZZIE SMITH #25	GEARY		15,0 COLUMBIA GAS TRANSMI
8045421		4708703272	10A	FRED & LIZZIE SMITH #28	GEARY		4,0 COLUMBIA GAS TRANSMI
8045415		4708703266	10A	G T TANNEY #31	GEARY		0,6 COLUMBIA GAS TRANSMI
8045420		4708703271	10A	JULIA HENT ETAL #15	GEARY		8,0 COLUMBIA GAS TRANSMI
8045417		4708703268	10A	W G & EMMA CARPER #8	GEARY		1,0 COLUMBIA GAS TRANSMI
-LASCO PRODUCTION CO				RECEIVED: 07/08/80 JAI WV			
8045413		4705920837	10A	MINGO #2	MARVEY		0,0 COLUMBIA GAS TRANSMI
-MUD RIVER GAS CO				RECEIVED: 07/08/80 JAI WV			
8045447		4704302417	10B	FLIZ ADKINS 10/52 GPA 1053	MUD RIVER		4,0 PENNZOIL CO
-UKMAR OIL COMPANY				RECEIVED: 07/08/80 JAI WV			
8045275		4701323143	10A	A C FISHER #8	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045265		4701323151	10A	F M DEPUE #2	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045266		4701323152	10A	F M DEPUE #5	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045274		4701323142	10B	F M DEPUE #6	CENTER DISTRICT		0,0 CONSOLIDATED GAS SUP
8045270		4701323146	10A	JAMES METZ #6	CENTER DISTRICT		0,0 CONSOLIDATED GAS SUP
8045269		4701323147	10A	JAMES METZ #7	CENTER DISTRICT		0,0 CONSOLIDATED GAS SUP
8045263		4701323153	10B	JAMES M HUGHES #3 (J M YOAK LEASE)	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045271		4701323145	10A	M COMENLY #1	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045268		4701323150	10A	M COMENLY #5	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045272		4701323144	10A	M J MEEM #5	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045273		4701323UMA	10A	MINNE A FLING #1	SHERIDAN DISTRICT		0,7 CONSOLIDATED GAS SUP
8045408		4704920642	10B	U N KOEN #3	MANNINGTON DISTRICT		0,5 PENNZOIL CO
8045264		4701323148	10B	TASKIL TAYLOR #1	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045409		4701323154	10B	TASKIL TAYLOR #7	SHERIDAN DISTRICT		0,0 CONSOLIDATED GAS SUP
8045267		4701323149	10A	WRIGHT-BUNNUMS #1	CENTER DISTRICT		0,0 CONSOLIDATED GAS SUP
-P L GAINER AGENT				RECEIVED: 07/08/80 JAI WV			
8045327		4701301595	10A	BAILEY NO 1	LEE DISTRICT		3,5 CONSOLIDATED GAS SUP
8045328		4701301566	10A	BENEDUM NO 1	SHERIDAN DISTRICT		1,4 CONSOLIDATED GAS SUP
8045324		4701301701	10A	BENNETT NO 2	LEE DISTRICT		0,4 CONSOLIDATED GAS SUP
8045297		4701301914	10A	BENNETT NO 3	LEE DISTRICT		1,6 CONSOLIDATED GAS SUP
8045298		4701301975	10A	BRYNER NO 1	SHERIDAN DISTRICT		0,9 CONSOLIDATED GAS SUP
8045318		4701301873	10A	DIGMAN NO 1	LEE DISTRICT		1,0 CONSOLIDATED GAS SUP
8045331		4701301971	10A	FERRELL NO 2	SHERIDAN DISTRICT		2,0 CONSOLIDATED GAS SUP
8045332		4701301677	10A	FERRELL NO 3	SHERIDAN DISTRICT		5,0 CONSOLIDATED GAS SUP
8045299		4701301972	10A	FOX NO 1	SHERIDAN DISTRICT		0,1 CONSOLIDATED GAS SUP
8045320		4701301852	10A	GUNN NO 1	LEE DISTRICT		1,0 CONSOLIDATED GAS SUP
8045281		4701319440	10A	GUNN NO 2	LEE DISTRICT		1,0 CONSOLIDATED GAS SUP
8045284		4701301943	10A	HALE NO 1	SHERIDAN		1,0 CONSOLIDATED GAS SUP
8045287		4701302004	10A	HALE NO 2	SHERIDAN DISTRICT		0,6 CONSOLIDATED GAS SUP
8045321		4701301829	10A	HUGHES NO 1	LEE DISTRICT		1,2 CONSOLIDATED GAS SUP
8045319		4701301947	10A	HUGHES NO 2	LEE DISTRICT		0,4 CONSOLIDATED GAS SUP
8045326		4701301899	10A	JARVIS NO 1	WASHINGTON DISTRICT		3,5 CONSOLIDATED GAS SUP
8045325		4701301701	10A	KINNY NO 1	LEE DISTRICT		0,4 CONSOLIDATED GAS SUP
8045286		4701301958	10A	KINNY NO 2	LEE DISTRICT		0,6 CONSOLIDATED GAS SUP

UMI 008 8GA 55 1\54V

VOLUME 249 PAGE 005

JD NO	JA ORI	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8045283		4702101065	108	MARY A STUMP NO 1	CENTEN	25.0	CONSOLIDATED GAS SUP
8045329		4701301591	108	WADEN NO 1	SHERIDAN DISTRICT	1.5	CONSOLIDATED GAS SUP
8045330		4701301611	108	WADEN NO 2	SHERIDAN DISTRICT	1.5	CONSOLIDATED GAS SUP
8045325		4701301679	108	SAMPSON NO 1	LEE DISTRICT	1.0	CONSOLIDATED GAS SUP
8045322		4701301784	108	SAMPSON NO 2	LEE DISTRICT	0.0	CONSOLIDATED GAS SUP
*PALEO INC				RECEIVED: 07/08/80 JAI NV			
8045307		4702102200	108	M S MESSENGER #1	GLENVILLE	3.7	EQUITABLE GAS CO
8045283		4702102242	108	M S MESSENGER #2	GLENVILLE	3.8	EQUITABLE GAS CO
8045458		4702102307	108	F M STEINBECK #2	TROY	13.5	EQUITABLE GAS CO
8045310		4702112154	108	P W BUNN #1	CENTER	2.0	EQUITABLE GAS CO
8045315		4702112413	108	HANDMAN BENNETT I-585	CENTER	9.1	CONSOLIDATED GAS SUP
8045481		4702102299	108	IDA LYNCH	GLENVILLE	10.5	EQUITABLE GAS CO
8045308		4702102207	108	LYON #1	GLENVILLE	6.0	EQUITABLE GAS CO
8045480		4702102241	108	LYON #2	GLENVILLE	5.3	EQUITABLE GAS CO
8045454		4702102497	108	PEARCY I-96	CENTEN	10.7	CONSOLIDATED GAS SUP
8045482		4702102771	108	M E CAMPBELL 88A	GLENVILLE	3.6	EQUITABLE GAS CO
8045306		4702102214	108	M J MESSENGER #1	TROY	7.2	EQUITABLE GAS CO
8045311		4702102102	108	M M SNYDER #1	CENTER	3.8	EQUITABLE GAS CO
8045459		4702102505	108	B E CAMPBELL 75A	GLENVILLE	6.8	EQUITABLE GAS CO
8045313		4700700951	108	SMITH PENNZOIL #1	UTTER	0.1	EQUITABLE GAS CO
8045316		4702102499	108	STALNAKER I-324	CENTEN	8.7	CONSOLIDATED GAS SUP
8045314		4702102491	108	STALNAKER I-586	CENTEN	7.6	CONSOLIDATED GAS SUP
8045480		4702102500	108	STEINBECK #1	TROY	6.3	EQUITABLE GAS CO
8045312		4700700947	108	W A DUNCAN #1	UTTER	5.3	EQUITABLE GAS CO
8045309		4702102191	108	WOLFE DR M T SMITH #1	GLENVILLE	5.9	EQUITABLE GAS CO
*PENNZOIL COMPANY				RECEIVED: 07/08/80 JAI NV			
8045455		4703901066	108	CHALMONG CULLIENT CO #14	CABIN CREEK	0.0	CONSOLIDATED GAS SUP
8045445		4704700545	108	DAVID SIMMONS #3	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045443		4704701445	108	GEORGE MANNIS #1	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045317		4704102217	108	MULLAUT-PANN #2	COUNTMOUSE	0.0	CONSOLIDATED GAS SUP
8045456		4701501768	108	U U STUCKLEY #10	HENRY	0.0	CONSOLIDATED GAS SUP
8045457		4701500105	108	U U STUCKLEY #109	HENRY	0.0	CONSOLIDATED GAS SUP
8045481		4708702098	108	U U STUCKLEY 896	GRANT	0.0	CONSOLIDATED GAS SUP
8045442		4708702979	108	P A TALLMAN 853	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8045446		4704102884	108	REBELLA FLETCHER #2	COUNTMOUSE	0.0	CONSOLIDATED GAS SUP
8045448		4708700995	108	M RAUPMAN 8-14	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
*POND FORK OIL & GAS CO				RECEIVED: 07/08/80 JAI NV			
8045363		4700501308	108	CULE & CHANE NEAL ESTATE TRUST #8	MADISON	1.0	CONSOLIDATED GAS SUP
8045364		4700501309	108	CULE & CHANE NEAL ESTATE TRUST #9	MADISON	1.5	CONSOLIDATED GAS SUP
8045362		4700701505	108	G CHAMBERLIN FARM 1-97	GASSAWAY	8.0	CONSOLIDATED GAS SUP
8045361		4700701504	108	LEWIS DUNN FARM #1-96	GASSAWAY	5.9	CONSOLIDATED GAS SUP
8045365		4700501310	108	POND FORK COAL CO FARM #2-58	MADISON	4.0	CONSOLIDATED GAS SUP
8045400		4700501307	108	POND FORK COAL CO FARM #5-41	MADISON	3.8	CONSOLIDATED GAS SUP
*R M ADKINS TRUSTEE FOR MCCUMAS				RECEIVED: 07/08/80 JAI NV			
8045505		4701100672	108	F M PENNY #1 GPA 1003-1007	TWACE CREEK	4.9	PENNZOIL CO
8045504		4701100675	108	E M MCMILLIAN #2 GPA 1003-1007	TWACE CREEK	4.9	PENNZOIL CO
*R M CANNES				RECEIVED: 07/08/80 JAI NV			
8045420		4703903572	108	MEMELLA J YOUNG NO 2	CLENDENIN	5.6	PENNZOIL CO
*REED-MEELER-YOUNG OIL & GAS CO				RECEIVED: 07/08/80 JAI NV			
8045411		4701501754	108	GOSHORN HEIRS 15	UNION DISTRICT	6.0	CONSOLIDATED GAS SUP
*SOUTHEASTERN GAS COMPANY				RECEIVED: 07/08/80 JAI NV			
*8045395		4701100636	108	A M FLOYD AP-08	GRANT	1.1	COLUMBIA GAS TRANS C
*8045396		4701100637	108	C CUNNEN AP-05	GRANT	1.0	COLUMBIA GAS TRANS C

VOLUME 249 PAGE 006

JD NO	JA ORI	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
8045405		4702103595	108	EMMA DELONG #615	CENTEN	0.9	CONSOLIDATED GAS SUP
*8045399		4701100652	108	M M MORRISON AP-20	GRANT	1.0	COLUMBIA GAS TRANS C
*8045401		4701100640	108	HALL & DAVIDSON AP-48	GRANT	0.8	COLUMBIA GAS TRANS C
*8045398		4701100633	108	MOMENT MAIFIELD AP-44	GRANT	0.8	COLUMBIA GAS TRANS C
*8045397		4701100634	108	MOMENT MAIFIELD AP-45	GRANT	0.8	COLUMBIA GAS TRANS C
*8045402		4701100629	108	J D CHAPMAN AP-36	GRANT	0.8	COLUMBIA GAS TRANS C
*8045393		4701100658	108	J M WILLIAMS AP-18	GRANT	0.8	COLUMBIA GAS TRANS C
*8045390		4701100635	108	J L BRADLEY AP-22	GRANT	0.8	COLUMBIA GAS TRANS C
*8045400		4701100651	108	JOHN DAVIDSON AP-41	GRANT	0.8	COLUMBIA GAS TRANS C
*STERLING DRILLING AND PROD CO INC				RECEIVED: 07/08/80 JAI NV			
8045352		4701501656	103	ALDI #8 BN #138	BUFFALO DISTRICT	91.8	EQUITABLE GAS CO
8045353		4701501672	103	STAHLMAN #190	BUFFALO DISTRICT	49.5	EQUITABLE GAS CO
8045354		4701501675	103	STAHLMAN #198	BUFFALO DISTRICT	28.8	EQUITABLE GAS CO
8045355		4701501691	103	STAHLMAN #200	BUFFALO DISTRICT	28.8	EQUITABLE GAS CO
*SWEETLAND AND BURNS				RECEIVED: 07/08/80 JAI NV			
8045393		4701100671	108	CULLINS #1 GPC A135	MUD RIVER	1.0	COLUMBIA GAS TRANS C
*SWEETLAND LAND AND MINERAL CO				RECEIVED: 07/08/80 JAI NV			
8045407		4704302433	108	HAMMFIELD #1	CANNELL	1.1	PENNZOIL CO
8045370		4704302415	108	MILDMOUR #2 GPA 1061	CANNELL	0.7	PENNZOIL CO
*8045269		4704302416	108	MILDMOUR #55	CANNELL	0.7	PENNZOIL CO
8045408		4704302434	108	JESSIE SMITH #4	CANNELL	0.6	PENNZOIL CO
8045410		4704302422	108	JESSIE SMITH #5	CANNELL	0.7	PENNZOIL CO
8045409		4704302424	108	JESSIE SMITH #6	CANNELL	0.6	PENNZOIL CO
8045405		4704302440	108	MINERVA JOHNSON #1	CANNELL	1.1	PENNZOIL CO
8045408		4704302432	108	SAMP BUNNS #1	CANNELL	0.9	PENNZOIL CO
8045301		4704302414	108	STEWART #3 GPA 1061	CANNELL	0.7	PENNZOIL CO
8045302		4704302413	108	W E WOODALL #3 GPA1061	CANNELL	5.4	PENNZOIL CO
*R A DEEM				RECEIVED: 07/08/80 JAI NV			
8045293		4708520602	108	BEE #2	BEE #2 GAS CO	1.2	CONSOLIDATED GAS SUP
8045295		4708524601	108	CUTRIGHT #1	SYLVIA OSBOURN FARM	3.5	CANNEGIE NATURAL GAS
8045296		4708522159	108	CUTRIGHT #2	SYLVIA OSBOURN FARM	3.5	CANNEGIE NATURAL GAS
8045294		4708522640	108	HALL #1	ELLA HALL FARM	1.2	CONSOLIDATED GAS SUP
*R PAUL MCCUTCHAN				RECEIVED: 07/08/80 JAI NV			
8045285		4701700417	108	BLAKE LEASE	WEST UNION MAGISTERIAL D	1.3	CONSOLIDATED GAS SUP
*WHITE GAS CO				RECEIVED: 07/08/80 JAI NV			
8045297		4708500664	108	L U G 664 U U	TRIADELPHIA	2.7	CONSOLIDATED GAS SUP

OTHER PURCHASERS

8045393	SOUTHERN PUBLIC SERVICE CO
8045398	SOUTHERN PUBLIC SERVICE CO
8045395	SOUTHERN PUBLIC SERVICE CO
8045396	SOUTHERN PUBLIC SERVICE CO
8045397	SOUTHERN PUBLIC SERVICE CO
8045394	SOUTHERN PUBLIC SERVICE CO
8045399	SOUTHERN PUBLIC SERVICE CO
8045400	SOUTHERN PUBLIC SERVICE CO
8045401	SOUTHERN PUBLIC SERVICE CO
8045402	SOUTHERN PUBLIC SERVICE CO

[FR Doc. 80-23894 Filed 8-7-80; 8:45 am]
BILLING CODE 6450-85-C

Office of Conservation and Solar Energy

Inquiry and Public Meeting Concerning Municipal Waste-to-Energy Development Plan

AGENCY: Department of Energy, Office of Conservation and Solar Energy.

ACTION: Notice of inquiry and public meeting concerning Municipal Waste-to-Energy Development Plan.

SUMMARY: The Department of Energy (DOE) is inviting the public to submit suggestions for drafting a comprehensive program plan for municipal waste energy development under Title II, Subtitle B, of the Energy Security Act, Pub. L. 96–294, which is required to be published on September 28, 1980. DOE will accept written comments until September 2, 1980. A public meeting will be held beginning at 4 p.m., August 27, 1980, in Phoenix, Arizona.

DATES: Written comments must be received by September 2, 1980, 4:30 p.m., e.d.t. A public meeting will be held in Phoenix, Arizona beginning at 4 p.m., local time, continuing until all comments are heard, or until 7 p.m. The meeting may be continued if necessary, beginning at 9 a.m. on August 28, 1980.

ADDRESSES: Written comments should be addressed to Carol A. Snipes, U.S. Department of Energy, Hearings Procedures, Office of Conservation and Solar Energy, Mail Stop 6B–025, Docket Number CAS–RM–80–122, Washington, D.C. 20585.

The meeting will begin at 4 p.m., local time, in the Phoenix East Room, Hyatt Regency Hotel, Second Street and Adams, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT:

Donald K. Walter or Charlotte Rines, Office of Conservation and Solar Energy, Room 1–E–276, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9393.

Carol A. Snipes, Hearing Procedures, U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Stop 6B–025, Docket Number CAS–RM–80–122, Washington, D.C. 20585, (202) 252–9319.

SUPPLEMENTARY INFORMATION: Section 231 of the Energy Security Act, Pub. L. 96–294, Title II, Subtitle B—Municipal Waste Biomass Energy, mandates the Secretary of Energy to prepare a comprehensive Municipal Waste-to-Energy Development Plan no later than 90 days after the date of the enactment of Pub. L. 96–294, transmitting the comprehensive plan to the President and the Congress. Section 231 requires that the comprehensive plan cover the following:

- anticipated research, development, demonstration, and commercialization objectives to be achieved;
- management structure and approach to be adopted to carry out such a plan;
- program strategies, including milestone goals to be achieved;
- specific funding requirements for individual program elements and activities, including total estimated construction costs of proposed projects; and
- the estimated relative financial contributions of the federal government and nonfederal participants in the program.

The purpose of this notice is to obtain written and oral suggestions from the public regarding the content of the plan authorized by section 231. These suggestions will be considered by DOE as it formulates and drafts the plan.

WRITTEN COMMENT PROCEDURE: Interested persons are invited to provide comments at the public meeting described below or by submitting written comments to the address indicated at the beginning of the notice by September 2, 1980. Comments should be labeled both on the envelope and the documents, Municipal Waste-to-Energy Development Plan, Docket Number CAS–RM–80–122. Fifteen copies are requested to be submitted, but this is not a requirement for submission.

Any persons submitting information or data which they believe to be confidential and exempt by law from public disclosure, should submit one complete copy, and fifteen copies from which the information believed to be confidential has been deleted. DOE will honor requests for confidential treatment of information to the extent allowed by law.

Any comments received by the close of the comment period, September 2, 1980, will be considered by DOE in developing the Municipal Waste-to-Energy Development Plan.

PUBLIC MEETING PROCEDURE: Because of the importance of the Municipal Waste-to-Energy Development Plan, DOE wishes to achieve the maximum level of public participation possible. The Department encourages attendance and participation by individuals and representatives of organizations, consumer groups, manufacturers and industry, and other government agencies at the meeting.

DOE will make a presentation at the outset including a tentative outline of the plan. DOE will then accept oral comments limited to a time which will be set in light of the number of persons who request to speak. Persons wishing to speak will be asked to so indicate upon registration and after the DOE presentation. The official conducting the meeting will accept comments or questions from those attending.

DOE is presently developing rules for the financial assistance options authorized by the Title II, Subtitle B of the Energy Security Act. DOE will seek comments on those rules probably in September and October. This meeting is not intended to focus on the procedures for applying for financial assistance or other subjects which will be covered in detail by the rules.

TENTATIVE PROGRAM: August 27, 1980:

Welcoming Remarks
Background
Proposed Program Plan
Goals and Objectives
Questions and Answers
Presentations and comments by interested persons.

Issued in Washington, D.C., August 5, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

[FR Doc. 80-24026 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Colorado River Storage Project; Proposed Order Confirming, Approving, and Placing Increased Power Rates in Effect on an Interim Basis

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of a Proposed Rate Order and Opportunity for Public Comment—Colorado River Storage Project.

SUMMARY: Notice is given of a proposed Rate Order No. WAPA–4 of the Assistant Secretary for Resource Applications placing increased power rates into effect on an interim basis for Colorado River Storage Project (CRSP) power marketed by the Western Area Power Administration (Western).

The rate adjustment would increase average annual revenues about $11.5 million to meet cost recovery criteria.

The proposed wholesale firm-power rate consists of a capacity charge of $1.76 per kW-month and an energy charge of 4.1 mills per kWh. At 58.2-percent load factor, the composite rate is 8.24 mills per kWh, a 25.8-percent increase over the existing rate.

This proposed rate order also contains statements and discussion of the principal factors leading to the decision on the proposed rate increase, and

explanations and responses to the comments, criticisms, and alternatives offered during the rate increase proceedings.

An opportunity for an oral presentation of views, data, and arguments will be afforded interested persons upon request.

DATES: Interested persons will be given until September 8, 1980, to submit comments in writing to the Assistant Secretary for Resource Applications on the proposed decision. Requests for an oral presentation must be received on or before August 25, 1980.

EFFECTIVE DATE: The rate adjustments and new rate would be effective the first day of the first full billing period beginning on or after November 25, 1980.

ADDRESSES: All written comments (three copies required) and requests for oral presentation should be submitted to:

Dr. Ruth M. Davis, Assistant Secretary for Resource Applications, Department of Energy, Mail Station 3344, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20461.

Three copies of the written comments should also be sent to:

Mr. Robert L. McPhail, Administrator, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401.

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147.

The oral presentation, if scheduled, would be held in Salt Lake City, Utah, and would be announced in a future Federal Register notice.

FOR FURTHER INFORMATION CONTACT:

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524–5493.

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

Ms. Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, Mail Station 3344, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20461, (202) 633–8338.

SUPPLEMENTARY INFORMATION:

By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis.

Rate adjustments on the CRSP are being conducted consistent with procedural rules applicable to Western. Final procedures for public participation in general adjustments were published the Federal Register on March 23, 1978 (43 FR 12076), April 5, 1978 (43 FR 14359), and February 7, 1979 (44 FR 7796).

Proceedings on the proposed rate were initiated in April 1979, with an announcement published in the Federal Register at 44 FR 19533 (April 3, 1979) stating that a 38-percent power rate increase for the CRSP was proposed beginning with an estimated date of January 1, 1980. This announcement was subsequently amended by Federal Register notices 44 FR 24154 (April 24, 1979) and 44 FR 30759 (May 29, 1979) to add references to Public Utility Regulatory Policies Act standards and written comments.

After consideration of comments received, Western prepared a new power repayment study in August 1979 incorporating reductions in some estimated future costs and delays in some other estimated future costs and correcting the misinterpretation of one of the provisions of Pub. L. 84–485. After proper notification to customers and to others by letter, press releases, and by an August 24, 1979, Federal Register notice (44 FR 49785), a public information forum was held on September 5, 1979, at which a revised proposed power rate increase of 23.8 percent was announced, in lieu of the 38-percent increase announced on April 3, 1979.

Subsequent to the September 5, 1979, forum, Western discovered that the price levels for all CRSP participating projects were at the January 1976 price level except for the Animas-La Plata, San Miguel, and West Divide Projects which were at the October 1967 price level. The costs of the three aforementioned projects were indexed to the January 1976 price level and the FY 1977 CRSP power repayment study was revised to include the revised costs. This revision resulted in a rate decrease of 25.8 percent (2 percent higher than the 23.8 percent advocated in the September 5, 1979, forum). The customers were given proper notification of the aforementioned revision by letter and by a February 15, 1980, Federal Register notice (45 FR 10399), and comments were received for 30 days, and have been considered in preparing the rate order.

Subsequent to the 30-day comment period discussed under "Dates" above, (beginning with the publication date of this notice) and after consideration of comments received, the Assistant Secretary for Resource Applications will issue a Rate Order confirming and approving rates to be placed in effect on an interim basis and promptly submit such rates to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued in Washington, D.C. August 1, 1980.

Ruth M. Davis,

Assistant Secretary for Resource Applications.

Proposed Rate Order; United States of America Department of Energy, Assistant Secretary for Resource Applications

In the Matter of: Western Area Power Administration—Colorado River Storage Project Power Rates, Rate Order No. WAPA–4.

Order Confirming, Approving, and Placing Increased Power Rates in Effect on an Interim Basis

(————, 1980)

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372 *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Colorado River Storage Project (CRSP), for the Water and Power Resources Service (Service) (formerly the Bureau of Reclamation), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary and the rate adjustment procedures at 43 FR 12076 (March 23, 1978), as amended by 44 FR 7796 (February 7, 1979). The major topics included in the rate order are listed below.

Background

Existing Rates.
Public Notice and Comments.
Project History.

Discussion

Power Repayment Studies

General.
The August 1978 Study.
August 1979 Changes from August 1978 Study:

[Effective June 1, 1977]

release was issued on April 3, 1979, to

Future Wheeling Expense,
Application of Central Utah Project (CUP) and Seedskadee Power Revenues,
Unidentified Future Transmission Investments,
Summary of August 1979 Changes.
Costs for the Animas-La Plata, San Miguel, and West Divide Projects.

Repayment Issues

Inclusion of Future Projects in Repayment Study:
LaBarge Project,
Seedskadee Project,
Fruitland Mesa Project,
Savery-Pot Hook Project,
Tables,
Cost Evaluation Period,
Federal Projects Use Repayment Basis to Set Revenue Levels,
Benefits Versus Costs.
Apportionment of Revenues
Energy Losses
Diversity Versus Capacity Losses
Depletions
Replacements
Power Revenue Assistance to Irrigation Projects
M&I Water Rates and Irrigators' Ability to Repay
Reserves
Extraordinary Expense
Present Status of CRSP Repayment
Repayment of Salinity Control Construction Costs
Uprating the Generators at Glen Canyon Powerplant
Revenues from Capacity Above Lower Quartile
Amortization of Parker-Davis Project Facilities
Increase in Investment Versus Increase in Required Irrigation Assistance

Rate Design Issues

Description of the Design of the Rates.
Adjustment Provision for Purchased Energy Costs.
Alternative Power Rates and Conservation.
Charges for Wheeling over Parker-Davis Project System.
Phased Rate Increases.
Applicability of the Public Utility Regulatory Policies Act of 1978 (PURPA).

Other Considerations

Public Comment Procedures.
National Environmental Policy Act (NEPA).
Leavitt Act.
Price Stability.
Availability of Information.
Submission to the FERC.

Order:

Background

Existing Rates

The increased rates which are the subject of this order supersede the following existing CRSP rates:

[Effective June 1, 1977]

	Existing rate	Increased rate
Existing rate schedule UC-F2 for wholesale firm power:		
Demand charge, $/kW-month	$1.34	$1.76
Energy charge, mills/kWh	3.4	4.1
Composite rate at 58.2-percent load factor in mills/kWh	6.55	8.24
Existing rate schedule UC-FP2 for peaking power:		
Peaking capacity without energy in $ per kW-month	1.34	1.76

This rate order does not change the rates for the sale of nonfirm power or for wheeling power over the CRSP transmission system.

Public Notice and Comments

Pub. L. 84-485 authorized the CRSP, including participating projects. This legislation requires that an annual report be made to Congress to show the status of the project including "* * * the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment * * *." To comply with this legislation, a power repayment study is made annually and its results are included in the annual report to Congress.

The FY 1977 power repayment study which was made for the 21st Annual Report showed that the existing power rate would be sufficient to pay annual expenses, but would not repay the power investment cost and the assistance needed to accomplish repayment of the irrigation features within the allowable time frames. A power rate increase of 43 percent (at 58.2-percent load factor) was found to be necessary to provide the required revenue. The result of this power repayment study was announced at a customer meeting on March 5, 1978.

An updated power repayment study was completed in August 1978. This study included some adjustments (primarily wheeling costs) to the 21st Annual Report study and indicated that a 2.49 mill/kWh (38-percent) rate increase (at 58.2-percent load factor) would be necessary to provide the required revenue.

At the request of the Colorado River Energy Distributors Association (CREDA), meetings were held with CREDA representatives on December 19, 1978, January 19, 1979, and March 30, 1979. CREDA represents the majority of CRSP customers; however, all CRSP customers were formally invited to the CREDA meetings. At the first meeting, copies of a draft of the proposed power rate brochure were distributed to those present. At the three meetings, questions were asked by CREDA representatives and written answers were distributed at the meetings or mailed subsequently.

Federal Register notice 44 FR 19533 (April 3, 1979) announced the proposed CRSP rate adjustment and the public information and comment forums for public participation. This notice was subsequently amended by Federal Register notices 44 FR 24154 (April 24, 1979) and 44 FR 30759 (May 29, 1979) to add references to the PURPA standards and references to written comments. A press release was issued on April 3, 1979, to announce the proposed rate adjustment and the forums. On April 5, 1979, letters were sent to customers and other interested parties to announce the proposed rate adjustment and the forums and to transmit copies of the CRSP brochure dated April 1979, entitled "Proposed Power Rate Adjustment." Public information forums were held on the proposed rate increase in Phoenix, Arizona; Salt Lake City, Utah; and Denver, Colorado, on April 24, 25, and 26, 1979, respectively. At those forums numerous customers and other interested persons were in attendance. Procedures were reviewed, a summary of the brochure was presented, and all questions asked were answered at the forums or in writing before June 1, 1979.

In accordance with notices previously given, as referred to above, and reminder notices given by May 10, 1979, letters to customers and the June 6, 1979, press release, a public comment forum was held in Salt Lake City, Utah, on June 26, 1979, with customers and other interested persons in attendance. Written comments were received until the close of the comment period on July 11, 1979.

Several of the customers' comments seemed to merit further consideration, and a revised repayment study was made in August 1979. By means of an August 22, 1979, letter to all customers, an August 24, 1979, Federal Register notice (44 FR 49785), and a press release dated August 24, 1979, announcement was made of another public forum to be held in Salt Lake City, Utah, on September 5, 1979. At this forum, a revised proposed rate increase (1.56 mill/kWh or 23.8 percent) was announced and copies of the August 1979 revised repayment study, the overhead projections used at the forum, and a September 5, 1979, brochure entitled "Revised Proposed Power Rate Adjustment" were distributed. Further comments were received through October 5, 1979.

Subsequent to the September 5, 1979, public forum, the Western Area Power Administration (Western) discovered that, contrary to a statement in the April 1979 rate brochure, the investment costs for all except three participating projects were at the January 1976 level and the costs of the three (Animas-La Plata, San Miguel, and West Divide Projects) were at the October 1987 price level. A second revision of the repayment study, with the three projects' costs indexed to the January 1976 level was made in February 1980. This study showed a need for a 1.69 mill/kWh, or 25.8-percent, rate increase, 2 percent higher than the previously revised proposed rate. A brief report showing the details of the study was sent to all customers by letter on February 12, 1980 (February 15, 1980, for CRSP customers in the Boulder City area) and the second proposed revision was published in the February 15, 1980, Federal Register (45 FR 10399) and was announced in a press release dated February 15, 1980. Customers were given an opportunity to comment until March 17, 1980.

Project History

On April 11, 1956, the CRSP and participating projects were authorized by Pub. L. 84-485. By means of the four storage units authorized, the flow of the Colorado River is regulated in such a way that irrigation, municipal, industrial, and other water use developments in the Upper Colorado River Basin can be made while still maintaining water flows into the lower basin as required by the Colorado River Compact. Facilities have also been provided at the storage units for flood control, for recreation, and for other beneficial purposes. In order to maximize the use of water and to obtain revenues to assist in the repayment of the irrigation developments, power generating plants have been installed at three of the four storage units. A power generating plant has been installed on one of the participating projects and generating plants will be included on other participating projects where such developments are found to be feasible.

The table below lists the powerplants, with their installed capacity and dates of initial service.

CRSP	Installed capacity MW	Inservice date
Glen Canyon	950	Sept. 1964.
Flaming Gorge Powerplant	108	Nov. 1963.
Curecanti Unit—Blue Mesa Powerplant.	60	Sept. 1967.
Curecanti Unit—Morrow Point Powerplant.	120	Dec. 1970.
Curecanti Unit—Crystal Powerplant.	28	Aug. 1978.
Subtotal	1,266	
Participating Projects:		
Seedskadee Project—Fontenelle Powerplant.	10	May 1968
Grand Total	1,276	

Transmission facilities include a high-voltage transmission grid to deliver power to the established delivery points in the market area, to provide interconnections among the plants of the CRSP units and participating projects, and to interconnect with other existing Federal and utility systems within the market area.

Discussion

Power Repayment Studies

General

The power repayment studies for the CRSP are prepared by Western with the cooperation of the Service. Basic river basin hydrology, water depletions, power generation, and project development data are among the many items the Service contributes to the studies.

The power repayment studies are prepared in accordance with CRSP authorizing legislation and with DOE Order No. RA 6120.2 on Power Marketing Administration financial reporting, which basically adopted policy criteria originally established in the Department of the Interior's Manual, parts 730.3 and 730.4. The studies array historic income, expense, and investment allocated to be repaid from power revenues, along with estimates for future years, and portray the annual repayment of power production and transmission costs of a power system through the application of revenues over the repayment period of the power system. The studies show, among other items, estimated revenues and expenses, year by year, over the remainder of a power system's repayment period, the estimated amount of Federal investment amortized during each year, and the total estimated amount of Federal investment remaining to be amortized. The studies do not deal with rate design.

The power repayment studies are also prepared in accordance with the Reclamation Project Act of 1939. As part of its marketing policy, Western strives to transmit and dispose of CRSP power and energy in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business principles. With the rate increase which is the subject of this Order, the power will be sold at the lowest possible rates in accordance with statutory mandate. Without the increase, the statutory requirements will not be met. Insofar as possible, the increase is in keeping with both sound principles and statutory requirements.

The August 1978 Study

A repayment study made in August 1978 for fiscal year 1977 showed that the existing power rate is insufficient to pay within allowable time frames the costs assigned to the power function, mainly because of rapidly escalating construction and operating expenses. The study showed that in the time period between January 1974—the price level date for the present rate—and January 1977, the total costs to be paid by power increased by about $1,228 million. The August 1978 repayment study indicated that a power rate increase of about 38 percent (total cost of 9.04 mills/kWh at 58.2-percent load factor) would be needed to accomplish the repayment required by the project authorizing act.

The August 1979 Changes From August 1978 Study

The August 1978 power repayment study which resulted in the recommendation for a 2.49 mill/kWh (38-percent) rate increase was used in the April 1979 rate adjustment brochure entitled "Proposed Power Rate Adjustment." An analysis of customer comments and recommendations on this brochure resulted in Western adopting some of their recommendations. These changes are reflected in the August 1979 repayment study and are described in the September 5, 1979, brochure. The following is a discussion of the changes from the study in the April 1979 brochure:

Future Wheeling Expense

The repayment study in the April 1979 brochure included the estimated escalation of wheeling rates in future years. At the suggestion of the customers, Western reconsidered the matter and decided that the wheeling rates should not have been escalated. Elimination of the escalation reduced the future average annual wheeling cost for the 1976–2052 period from $4,347,000 to $3,071,000 and reduced the proposed power rate adjustment by 3.5 percent.

Application of Central Utah Project (CUP) and Seedskadee Power Revenues

The repayment study in the April 1979 brochure was based on deferring the application of CUP (Utah) and Seedskadee (Wyoming) power revenues to the repayment of the irrigation costs of participating projects in Utah and Wyoming until 50 years after the CUP and Seedskadee power inservice dates. The customers recommended that CUP and Seedskadee power revenues be applied to repayment of irrigation costs of Utah and Wyoming participating projects, respectively, as soon as the CUP and Seedskadee power costs are repaid. In comparing the early repayment studies with current studies, it was discovered that an unexplained change was made in 1973 and continued in subsequent years so that studies prepared from 1973 through 1976 have not been in compliance with the law on this point. Section 5(e) of Pub. L. 84-485 states that power revenues from a participating project should be applied to repayment of projects within the State and not be used to meet the requirements of participating projects in other States. Due to the express language in Pub. L. 84-485, Western adjusted the August 1979 repayment study to the original method, which retains CUP and Seedskadee power revenues to the credit of the States where the two projects are located. This reversion to the pre-1973 method of handling revenues from the participating projects reduced the proposed power rate adjustment by 7.3 percent.

Unidentified Future Transmission Investments

The repayment study in the April 1979 brochure included an estimated unidentified future transmission investment of about $71 million in the 1981–1984 period. The customers recommended that the $71 million be deleted. Pub. L. 84-485 authorized specific storage units, specific

participating projects, and transmission facilities related to the foregoing, but did not specify any particular transmission facilities. In the 1958 repayment study and in all repayment studies since then, an amount has been included for unidentified transmission facilities.

While the customers' interpretation of Pub. L. 84-485 may have some merit, there is nothing unreasonable about the interpretation of the Secretary of the Interior which was made contemporaneously with the enactment of Pub. L. 84-485. Congress intended a certain repayment policy and the Secretary of the Interior's contemporaneous interpretation of congressional intent in the first repayment study should carry great weight. On this basis, it has been concluded that the historic policy, which was followed by Western in the current rate adjustment proposal, is the most reasonable interpretation of the law.

However, in an effort to reduce the impact on rates, Western restudied the matter and decided that the $71 million of unidentified transmission facilities should be deferred from the 1981-1984 period to the 1990-2020 period, with approximately one-seventh of the cost being placed in service every 5 years. The effect of this change was to reduce the proposed power rate adjustment by about 3.4 percent.

Summary of August 1979 Changes

A summary of the changes made in the August 1979 study as compared to the August 1978 study is tabulated below:

Item	Decrease in proposed rate adjustment (percent)
Eliminate escalation of future wheeling expense	3.5
Apply CUP and Seedskadee power revenues to Utah and Wyoming as in repayment studies prior to 1973	7.3
Defer unidentified future transmission investments from 1981-1984 period until 1990-2020 period	3.4
Total decrease	14.2

The result of the above was to increase the existing rate by 1.56 mills/kWh (23.8 percent) instead of by the 2.49 mills/kWh (38 percent) stated in the April 1979 brochure.

Costs for the Animas-La Plata, San Miguel and West Divide Projects

Subsequent to the September 5, 1979, forum, Western discovered that, contrary to a statement in the April 1979 rate brochure indicating that all costs were at 1977 price levels, the investment costs of all except three of the participating projects were at 1976 price levels. The costs of the three projects (Animas-La Plata, San Miguel, and West Divide) were at 1967 price levels.

The investment costs of these three projects were indexed to January 1976 price levels and another revised repayment study was run in February 1980. This second revision showed that an overall rate increase of 1.69 mills/kwh (from 6.55 mills/kWh to 8.24 mills/kWh) or 25.8 percent was needed, 2 percent higher than the previously revised proposed rate.

Repayment Issues

Other public comments were received which were critical of a number of assumptions made in the repayment study. The areas of comment are discussed below.

Inclusion of Future Projects in Repayment Study

The primary thrust of a number of the public comments relating to the repayment study revolved around whether or not all participating projects which have been authorized by Congress should be included in the repayment study. This concern has apparently emerged due to the amount of time which has elapsed between authorization and construction.

Several customers suggested that the proposed rate increase be based on a repayment study which excludes the costs of participating projects not yet in service or nearing completion, and that future or "stepped" rate increases be made as the projects reach or approach the inservice dates. It is clear, however, from the legislative history of Pub. L. 84-485, which established CRSP, and from the first repayment study—which provides a contemporaneous interpretation and guide for repayment procedures, that it was the intent of Congress that current rates be based on the inclusion of all authorized participating projects in CRSP repayment studies. The inclusion of all authorized participating projects is legislatively and administratively proper.

The appropriateness, within legal restraints, of including each of the participating projects has been considered. Only one authorized participating project has ever been deauthorized. The Pine River Extension was authorized by Congress on April 11, 1956, by Pub. L. 84-485, and was deauthorized by Congress on September 30, 1968, by Pub. L. 90-537. No costs have been included for the Pine River Extension. The status of four other participating projects, although still authorized, is subject to question. The entire LaBarge Project and the irrigation development on the Seedskadee Project have both been indefinitely deferred and Congress has been so informed. Costs included for these two projects are based on their indefinitely deferred status. More recently, President Carter has recommended deauthorization of the Fruitland Mesa and Savery-Pot Hook Projects; however, no legislative action has been taken to deauthorize either of the projects and, although no funds have been expended on them since the President's recommendation, they have not been declared to be indefinitely deferred. Except for the delay, their status remains as it was before the President's recommendation, and their costs have accordingly been included. A more complete summary of the status of these four projects is given below. The continued authorization of the other authorized participating projects is not at this time in doubt.

LaBarge Project

The project was authorized by the Congress on April 11, 1956, by Pub. L. 84-485. On February 2, 1961, the Regional Director, U.S. Bureau of Reclamation, Salt Lake City, Utah, wrote the Commissioner of the Bureau of Reclamation recommending that construction not be undertaken. The Commissioner concurred by letter of February 27, 1961, in the recommendation "* * * that construction of the project not be undertaken at this time * * *.In the CRSP 9th Annual Report to Congress for FY 1965, the Bureau of Reclamation stated that construction had been deferred indefinitely, as suggested in the Senate Subcommittee Appropriation Hearings for FY 1962, page 216. Tables of repayment data for the LaBarge Project follow the discussion of the Savery-Pot Hook Project.

Seedskadee Project

The project was authorized by Congress on April 11, 1956, by Pub. L. 84-485. Congressional hearings on the Riverton and Eden Projects in 1962 brought to light that serious financial and economic problems were encountered by farmers on these high-altitude irrigation projects. As a result of these hearings, the Commissioner of the Bureau of Reclamation issued a stop order on May 21, 1962, suspending construction of irrigation features of the Seedskadee Project until a review of Wyoming reclamation projects could be accomplished. The Secretary of the Interior on August 10, 1962, appointed the Wyoming Reclamation Projects Survey Team to analyze problems on Wyoming projects and recommend possible solutions. One of the recommendations made by the survey team was that a development farm be established on the Seedskadee Project. Data collected from the operation of the development farm resulted in the conclusion that only 34,000 acres of the original 58,000 acres were suitable for irrigation, that even the 34,000 acres would be marginally feasible, and that the developed project water supplies should be made available for municipal and industrial (M&I) and other purposes. As a result of the investigations, and because of the desire of the State of Wyoming to purchase Seedskadee water for M&I purposes, the United States sold the State all the storage space in the Fontenelle Reservoir excluding the last 65,000 acre-feet. The State was given the first right of refusal to the last 65,000 acre-feet upon notice of its availability for M&I purposes. All the foregoing is documented in the October 8, 1973, letter from the Assistant Secretary of the Interior to the President, with copies to the President of the Senate, to the Speaker of the House, and to the Chairman of the Senate and House Committees on Interior and Insular Affairs.

In December 1974, the Bureau of Reclamation in Salt Lake City, Utah, prepared a cost allocation report on the Seedskadee Project. After review by various offices of the Bureau of Reclamation and by the Wyoming reclamation representative, the report was submitted to the Commissioner of the Bureau of Reclamation for use in a report to the Congress as required by section 6 of Pub. L. 84-485. The report stated that "irrigation development has been indefinitely deferred * * *." and established revised repayment schedules. Tables of repayment data for the Seedskadee Project follow the discussion of the Savery-Pot Hook Project.

Fruitland Mesa Project

The project was authorized on September 2, 1964, by Pub. L. 88-568. The Definite Plan Report was approved October 9, 1967, and a repayment contract with Fruitland Mesa Water Conservancy District (District) was validated September 29, 1969. As a result of new water supply studies and changes in plan formulation, the Definite Plan Report and contract with the District were in the process of revision in early 1977. On April 18, 1977, the President recommended deauthorization of the project. No action has been taken to deauthorize the project and no funds have been expended on the project since that time. Tables of repayment data for the Fruitland Mesa Project follow the discussion of the Savery-Pot Hook Project.

Savery-Pot Hook Project

The project was authorized on September 2, 1964, by Pub. L. 88-568. The Definite Plan Report was approved December 2, 1971. As a result of changes in plan formulation, the Definite Plan Report was in the process of revisions in early 1977. Repayment contracts with the Pot Hook and Little Snake Water Conservancy Districts were also being negotiated in early 1977. On April 18, 1977, the President recommended deauthorization of the project. No action has been taken to deauthorize the project and no funds have been expended on the project since that time. Tables of repayment data for the LaBarge, Seedskadee, Fruitland Mesa, and Savery-Pot Hook Projects follow below.

Tables

LaBarge Project

1964—Data before deferment:	
Irrigation repaid by:	
Irrigators	250,000
Apportionment (power)	1,501,000
Others	0
Municipal and industrial	0
Power	0
Nonreimbursable	65,000
Total	1,816,000
1965—Data after deferment:	
Irrigation repaid by:	
Irrigators	0
Apportionment (power)	136,000
Others	0
Municipal and industrial	0
Power	0
Nonreimbursable	86,000
Total	222,000
1977—Repayment study:	
Irrigation repaid by:	
Irrigators	0
Apportionment (power)	136,000
Others	0
Municipal and industrial	0
Power	0
Nonreimbursable	86,000
Total	222,000

Seedskadee Project

1964—Data before deferment:	
Irrigation repaid by:	
Irrigators	7,300,000
Apportionment (power)	39,672,000
Others	402,000
Municipal and industrial	908,000
Power	3,574,000
Nonreimbursable	7,724,000
Total	59,580,000
1965—Data after deferment:	
Irrigation repaid by:	
Irrigators	0
Apportionment (power)	1,426,000
Others	411,000
Municipal and industrial	12,310,000
Power	3,574,000
Nonreimbursable	16,586,000
Total	34,309,000
1977—Repayment study:	
Irrigation repaid by:	
Irrigators	0
Apportionment (power)	1,228,000
Others	411,000
Municipal and industrial	12,310,000
Power	3,574,000
Nonreimbursable	16,984,000
Total	34,507,000

Fruitland Mesa Project

1977—Repayment study:	
Irrigation repaid by:	
Irrigators	3,790,000
Power	80,256,000
Others	181,000
Municipal and industrial	0
Power	0
Nonreimbursable	4,373,000
Total	88,600,000
1978—22nd annual report:	
Irrigation repaid by:	
Irrigators	3,790,000
Power	80,256,000
Others	181,000
Municipal and industrial	0
Power	0
Nonreimbursable	4,163,000
Total	88,390,000

Savery-Pot Hook Project

1977—Repayment study:	
Irrigation repaid by:	
Irrigators	5,066,000
Power	66,630,000
Others	869,000
Municipal and industrial	0
Power	0
Nonreimbursable	2,315,000
Total	74,900,000
1978—22nd annual report:	
Irrigation repaid by:	
Irrigators	5,066,000
Power	66,630,000
Others	869,000
Municipal and industrial	0
Power	0
Nonreimbursable	2,840,000
Total	74,965,000

The total cost of all the participating projects is nearly $2,553 million, and the amount to be prepaid from power revenues is nearly $1,090 million.

Cost Evaluation Period

A number of customers raised the issue of whether section 730 DM 4 of the Department of the Interior Departmental Manual (now also Department of Energy Order RA 6120.2), which was made applicable to Western ratemaking procedures by the DOE, should not limit the period of analysis to a maximum of 5 years. This argument is without merit as 730 DM 4 by its terms makes exceptions for both statutory requirements and for interpretations by the Secretary of the Interior. Both the statute and the interpretation of the Secretary of the Interior made contemporaneously with enactment of the statute fall within this 730 DM 4 exception. In any event, the statute would govern even if 730 DM 4 did not provide such an exception.

V 45 / 155 AUG 8 80 UMI

Federal Projects Use Repayment Basis to Set Revenue Levels

Further comments raised the issue of whether the Federal Energy Regulatory Commission restrictions on the inclusion of the costs of future facilities in ratesetting for private utilities would restrict FERC approval of the CRSP rates.

Federal power rates are required by law to be established on a repayment basis; that is, on a showing generally that annual operating costs will be recovered in the year in which they are incurred and that all investment will be amortized within a reasonable period of years, which has been determined to be 50 years in most cases.

This requires an analysis of future revenues and costs—in this case to the year 2052—as well as historical revenues and costs. The methodology differs substantially from the ratesetting approach based on cost-of-service studies as used in the private utility sector.

Benefits Versus Costs

Some customers questioned whether the benefits of unbuilt projects would exceed the costs and/or outweigh the environmental consequences.

At one time, all authorized unbuilt projects had benefit-cost analyses indicating that the benefits exceeded the costs. Shortly before construction begins, new benefit-cost analyses and environmental impact statements will be made, based on the final plan adopted. It is not possible at this time to accurately predict what the final results will be.

Apportionment of Revenues

In the repayment studies, revenues in the Upper Colorado River Basin (Basin) fund for irrigation assistance to authorized participating projects are apportioned to the States by the percentages specified in section 5(e) of Pub. L. 84–485. This results in a credit to some States in excess of that required for currently authorized participating projects. Power customers refer to this excess as "surplus surplus" and, to prevent it, advocate application of the revenues to repayment of each participating project feature as the feature repayment comes due. The power customers and Western made repayment studies based on the originally proposed rate adjustment, which show that the method advocated by the customers would have reduced the 38-percent rate adjustment to about 19.8 percent. Western made a similar study using the 25.8-percent increase as a base, and it showed that the method advocated by the customers would reduce the rate adjustment from 25.8 percent to about 15.1 percent.

It is clear that this "surplus surplus" will accrue in the future because Pub. L. 84–485 requires that certain revenues in the Basin fund are to be apportioned among the States for repayment of the participating projects.

The law prohibits the use of revenues apportioned to any State from being used in any other State without the consent of the legally constituted authority of the State to which they are apportioned.

Western met with the governors of the four Upper Basin States to inform them of the need for the rate adjustment and the appropriate provisions of the law. Subsequently, on October 2, 1979, the governors of the affected States adopted the recommendation of the September 17, 1979, resolution passed by the Upper Colorado River Commission that they "* * * support the position that the proposed power rate adjustment for the marketing of Colorado River Storage Project power be established in accordance with the requirements of Pub. L. 84–485, as amended, to achieve the purposes of the Act * * *." While the adoption of this resolution does not rule out the possibility of a State with surpluses allowing those surpluses to be used in another State, it does preclude the use of such a possibility in the present rate adjustment.

Energy Losses

Several customers questioned using energy losses of 7 percent of the energy delivered at designated delivery points and suggested that it should be about 3 to 5 percent instead. CRSP's average percent loss of energy delivered to designated delivery points from 1972 through 1978 (excluding the drought year of 1977) is 7.38 percent; therefore, the 7 percent as used in the rate study seems reasonable.

Diversity Versus Capacity Losses

Some customers suggested that diversity may exceed capacity losses and that this should be analyzed. Western looked at the 1972–1978 period (excluding the 1977 drought year) and found that, in some of the years, the diversity exceeded losses and in other years, the diversity was less than losses. On the average for the 6-year period, the diversity exceeded the losses by 22 MW in the summar and 2 MW in the winter. With the exclusion of the summer of 1976 during which there was an extraordinarily high diversity (in addition to excluding the 1977 drought year), the diversity varied between 35 MW higher and 30 MW lower than losses. On the average, the diversity exceeded the losses by 6 MW in the summer and 2 MW in the winter. In view of the foregoing, it appears that the assumption of diversity equaling capacity losses is reasonable.

Depletions

Some customers suggested that the water depletions used in the power repayment study are too high because they include depletions for future participating projects and also for unidentified developments. The customers also commented that all possible M&I revenues from the sale of water (i.e., depletions for M&I use) are not included, and that, if included, the required power rate would decrease.

As stated elsewhere in this order, Pub. L. 84–485 requires that the study must include all authorized projects. The depletions have been developed accordingly, plus incorporating the reasonable assumption that the pressures of a growing population will eventually result in water developments utilizing each State's entitlement of the flow of the Colorado River. These developments may not necessarily be Federal projects, but projected water demands indicate that the water will be used. Because of uncertainties about the outcome of the President's recommendation to deauthorize the Fruitland Mesa and Savery-Pot Hook Projects, depletions for those two projects were omitted from the FY 1977 hydrological study, which later was used as the basis for the CRSP power repayment study. However, the depletions used in the hydrology study included unidentified depletions which, except for the one year 1990, exceeded the magnitude of the depletions for the Fruitland Mesa and Savery-Pot Hook Projects. As discussed above, these projects have not yet been deauthorized, and their costs are included in the power repayment study.

M&I revenues from storage units in excess of costs allocated to M&I are apportioned to the States for irrigation assistance. However, M&I water users of participating projects pay only their allocated costs and do not assist in the repayment of the irrigation allocation; therefore, future depletions caused by M&I water use will not result in extra revenue to reduce the power rate.

Replacements

The customers suggested that, since replacement factors used in the rate study were developed in 1969, replacement cost estimates should be reevaluated. It is true that the factors for replacements were developed in 1969. However, these factors were based on the historical service lives of the equipment; and while updated experience may modify some of the service lives, it is unlikely that there would be a significant change. Western and the Service are currently in the process of updating the replacement factors, and any revisions will be reflected, when available, in future power repayment studies.

Power Revenue Assistance to Irrigation Projects

Pursuant to enabling legislation, CRSP power revenues must provide assistance for irrigation projects whereas enabling legislation for Parker-Davis and Boulder Canyon Projects does not provide for such assistance. The power rates proposed for each project must be adequate to effect repayment as contemplated by its authorizing legislation. Such legislation does not always allow uniformity among the projects as to what costs must be paid from power revenues and in methods for determining power rates. While power revenues from the Parker-Davis Project are not used for irrigation assistance, they are used to repay investment in noninterest-bearing electrical facilities used to support irrigation on several projects, as well as to repay certaini costs associated with the Mexican Water Treaty. Revenues from the Boulder Canyon Project are not used to repay costs of irrigation projects. Repayment on both projects is in accordance with authorizing legislation, and Western has made no changes in either study.

M&I Water Rates and Irrigators' Ability To Repay

Some customers suggested that M&I rates should be raised when power rates are increased and that the irrigators' ability to repay should also be revised at the same time. The M&I rate for water from mainstem CRSP reservoirs was set by Service policy to recover construction costs allocated to M&I water plus contingencies and operation and maintenance (O&M). The rates are fixed for the term of the contracts. Upon the expiration of these contracts, the need for changing the rates will be explored. The M&I rates for water from participating projects are set to repay the costs allocated to M&I plus O&M. All contracts for irrigation water on participating projects require the water users to repay a fixed amount of investment plus operation, maintenance, and replacements (OM&R). The irrigators and participating projects' M&I water users automatically pay any increased costs of OM&R.

Reserves

One of the customers suggested that the amount assumed for reserves is too high. The reserve assumed for the repayment study was 10 percent of the load, a percent factor that has been used in previous repayment and other studies. The Western Systems Coordinating Council (WSCC) power supply design criteria recommend that reserve capacity should meet or exceed at least the sum of the capacity associated with the two largest risks or the largest risk plus 5 percent of load. A comparison between the reserves, as used in the CRSP rate study and the WSCC standard for the year 1990, is as follows:

Rate study reserves—144 MW
WSCC standard—216 MW

From this comparison, it appears that the reserves as used in the repayment study are not too high.

Extraordinary O&M Expenses

One customer suggested that the extraordinary O&M expense in the repayment study in FY 1979 at Glen Canyon and Flaming Gorge should be amortized over a reasonable period instead of in the year it occurs. The extraordinary O&M expenses for spillway tunnel repairs at Flaming Gorge and for road construction at Glen Canyon totaled $800,000 in FY 1979. Amortizing this cost over several years would have no effect on the power rate if the project interest rate is used. If the present-day interest rate were used, the power rate would be increased slightly. Since by law the project interest rate is used, no change appears needed in the study.

Present Status of CRSP Repayment

Some customers stated that the CRSP is $87 million ahead of its required repayment of Federal investment. However, the $87 million is the total amount through FY 1977 that has been applied to repayment of storage units' investment costs which are allocated to power. CRSP generally has 50 years in which to repay each investment, but cannot wait until the last year for each investment and then repay the whole thing. This would cause sudden and severe changes of rates. Instead, CRSP spreads the repayment over the 50 years (paying highest interest-bearing investments first to the extent possible) in such a way as to maintain as level (and low) rates as possible. Based on CRSP repayment criteria and the power repayment study, repayment of Federal investment is behind instead of ahead of schedule.

Repayment of Salinity Control Construction Costs

Some customers recommended that, instead of assuming in the study that the interest-free salinity control construction costs would be repaid in 50 equal annual installments, the study should have been based on deferring such repayment until interest-bearing costs are repaid. This would eliminate about $3 million in interest payments.

Pub. L. 93–320 provides that, among other things, the portion of the salinity control costs allocated to the Basin will be paid by CRSP power revenues, and furthermore that "* * * the Secretary is authorized to make upward adjustments in rates * * * as soon as practicable and to the extent necessary to cover the costs of construction, operation, maintenance, and replacement of units * * * Provided, That revenues derived from said rate adjustments shall be available solely for the construction, operation, maintenance, and replacement of salinity control units in the Colorado River Basin * * *"

In early 1976, the then Bureau of Reclamation sought advice from the Regional Solicitor of the Department of the Interior on this matter. By a memorandum dated April 13, 1976, the Solicitor advised the Regional Director that in view of the provisions of Pub. L. 93–320 quoted above, the repayment of salinity control construction costs could not legally be delayed until after noninterest-bearing costs are repaid. Therefore, CRSP repayment studies made since 1976 have included repayment of salinity control construction costs in 50 equal annual installments.

Uprating the Generators at Glen Canyon Powerplant

Some customers suggested that the additional capacity at Glen Canyon Powerplant due to uprating the generators should have been included in the February 1980 repayment study and that, based on data from power repayment studies for the CRSP 23rd Annual Report (after FY 1979), the sale of such added capacity would have increased the revenues by more than twice those needed to counteract the increased costs of the three participating projects added in the February 1980 revised repayment study.

The power repayment studies for the proposed rate increase have for the most part been based upon conditions that existed as of the end of FY 1977, when the CRSP 21st Annual Report was prepared. At that time, maintenance funds were budgeted for future replacement of Glen Canyon generator

stator windings and rotor pole piece collars because of normal wear and tear. However, the Service had not investigated the matter fully enough to determine whether or not the units could be uprated. When the studies for the CRSP 23rd Annual Report were made, the Service had made further investigations and operational tests, and felt it was reasonable to assume the uprating could be realized.

Therefore, the repayment study for the 23rd Annual Report included increased sales due to uprating. It should be noted that, taking the planned uprating into account as well as other changes between 1977 and 1979, the 23rd Annual Report shows the need for a rate increase greater than the 25.8 percent promulgated by this order.

Revenues From Capacity Above Lower Quartile

One group of customers suggested that capacity during water years above the lower quartile could be sold and that the effect of this should be included in the rate determination.

Power repayment studies prior to the FY 1976 studies included capacity revenues only from the long-term dependable capacity (Capacity available during the most adverse year). The present study is based on sales of capacity up to the lower quartile capability. It is possible that more capacity may be sold in some years than the lower quartile quantities, but it is also possible that in some years, less capacity may be sold then the lower quartile quantities. The lower quartile capacity is a reasonable estimate of future capacity sales for repayment study purposes.

Amortization of Parker-Davis Project Facilities

Some customers suggested that the construction costs of the portion of the Parker-Davis Project facilities paid for by CRSP revenues be repaid in the same manner as the construction costs of CRSP facilities, instead of the CRSP paying Parker-Davis Project a uniform annual amortization amount.

By Contract No. 14–06–304–1548 between the then Regions 3 and 4 of the Bureau of Reclamation (now Water and Resources Service), agreement was made that the CRSP would pay the Parker-Davis Project for contruction repayments in equal annual amortization amounts based on 3-percent interest and a 30-year repayment period. The contract has been transferred to Western, and the contract provisions are used to develop the payment used in the CRSP repayment study. Since the 3-percent interest is higher than the interest rates of CRSP facilities, except central Utah, application of the general rules for CRSP repayment; i.e., repay highest interest-bearing costs first, would probably show a small reduction in the magnitude of the CRSP power rate increase needed. However, the change would be very minor, since the total construction cost involved is less than $3 million and the 3-percent interest rate is only slightly higher than the 2⅞-percent interest rate of the major portion of CRSP investments.

Increase in Investment Versus Increase in Required Irrigation Assistance

One group of customers pointed out that, in the February 1980 power repayment study, the investment costs of the Animas-La Plata, San Miguel, and West Divide participating projects increased by only 61 percent, whereas the required irrigation assistance to the aforementioned projects from power and M&I revenues increased by 80 percent. The customers claimed that the disproportionate increase of irrigation assistance as compared to investment is improper.

The reason why the required irrigation assistance increased by a greater percentage than did the investment costs is that the revised costs shown in the repayment study are based partly on cost indexing and partly on revised plan formulations for the participating projects. The irrigators' ability to repay did not increase in proportion to the cost increases. Thus, these changes result in the irrigation assistance being increased accordingly.

Rate Design Issues

Description of the Design of the Rates

Much of the CRSP cost paid by power revenues, such as aid to irrigation, is not normally considered to be a cost of service in the usual sense. The CRSP power is sold at the rate required to pay operating costs and to recover the costs specified in Pub. L. 84–485 and in Pub. L. 93–320. The rate schedule also has a provision that unauthorized overruns shall be billed at 10 times the base rate. Although this provision is intended as an incentive for the customer to find supplemental power suppliers, it may encourage energy conservation to some minor extent.

The CRSP firm-power rate includes a capacity component and an energy component. A cost classification analysis was made by assigning various costs to the two components. The main costs assigned to the capacity component include: power capital and replacement investments, interest on power investments, irrigation investments of the storage units to be repaid by power revenues, and one-half the irrigation aid to participating projects. The major costs assigned to the energy components include: O&M, firming-energy purchases, power wheeling, salinity construction costs, and one-half the irrigation aid to participating projects. Results of the cost classification analysis indicated that revenues from the sale of capacity and energy should be given approximately equal weight.

A low demand rate would probably benefit those customers who purchase CRSP peaking capacity, but could be detrimental to project irrigation pumpers. In consideration of the cost classification and in order to minimize discrimination among types of power users, it is felt that the new power rate should be based on equal revenues from capacity and energy sales at 58.2-percent load factor. The first rate established in 1962 also was on this basis. The energy component has been rounded off to the nearest 0.1 mill/kWh and the capacity component to the nearest 0.5 cent/kW-month, resulting in a revised proposed CRSP rate of 4.1 mills/kWh and $1.76/kW-month. Because of rounding in this fashion, the revised repayment study of February 1980 indicated a small surplus (approximately $2.1 million) in power revenues above the requirements of the law by the critical year 2046.

Adjustment Provision For Purchased Energy Costs

During the April 1979 public information forums Western announced that it was considering the possibility of including, in the new rate schedules, provision to pass through purchased power costs. Such a provision was under consideration because during periods of adverse hydro conditions large purchases are required, and funds for such purchases can be quickly depleted without some means of quick (i.e., monthly) recovery. However, such a provision has not been included for the following reasons:

1. Purchases are often made in the autumn and winter as a hedge against the possibility of poor water conditions in the following spring and summer. It is often late summer before the extent to which such purchases were necessary for firming is known. Purchases may turn out to have been in excess of firming requirements and, to that extent, are available for other uses, such as oil conservation sales. For this reason the purchased power costs cannot be passed on at the time they are made and at the time when the revenues are needed.

2. When firming purchases are necessary for the CRSP, they are also apt to be necessary for the Boulder Canyon Project and the Parker-Davis Project, which are downstream from the CRSP. These two projects purchase their firming requirements from the CRSP, further complicating the determination on a monthly basis of just how much of the power purchased by the CRSP is for firming the supply to and at the cost of its own firm-power customers.

3. The power repayment studies on which the rate increase is based have been prepared using average hydro conditions for energy production, and assume that revenues from the sales of surplus energy in better-than-average water years will offset the cost of the purchase of firming energy during poorer-than-average years. Implementation of a passthrough provision for purchased power costs would upset this balance.

Alternative Power Rates and Conservation

Some customers stated that the repayment study implies that the rate is being increased because of conservation desires or to bring it closer to alternative rates. As stated in the rate brochures, in presentations at forums, and in all written and verbal answers to questions, the level of the rate increase determination is based on payment of costs and investments and was not influenced by alternative power rates or conservation desires. Rather, any comparison with other power rates in the general area is to demonstrate that the proposed cost-based rates are not in excess of market value. Were project costs such that required rates would be in excess of market value, the rates would be based on the market value and the project would operate at a loss until such time as market value increased sufficiently to allow the rates to be increased to recover costs, including repayment of the deficit with interest.

Charges for Wheeling Over Parker-Davis Project System

Some customers who receive CRSP power over the Parker-Davis Project system contend that the CRSP power rate should include the cost of wheeling over that system so that they would not have to pay for such wheeling (except as a component of the CRSP rate for power). The present CRSP marketing criteria, which were adopted and published in the **Federal Register** on February 9, 1978, after consultation with the customers, include a provision that any wheeling charges over other project systems such as the Parker-Davis Project system are to be paid by the customers receiving the power. The current Parker-Davis Project rate increase proposal includes provisions for such a rate, and, under the criteria, the customers receiving the power over that system must pay the costs.

Phased Rate Increases

Some Customers recommended that the proposed rate increase, if adopted, be phased in over a period of years, citing as justification a case where the Southwestern Power Administration did so. In view of anticipated additional rate increases in future years (indeed, the preliminary 1979 power repayment study shows the need for higher rates) due chiefly to cost escalation, phasing the proposed rate adjustment over a period of years would compound the magnitude of the future rate increases. Even with a more stable economy so that future increases would not be necessary, the final phase of a phased increase would have to be higher than without the phasing because the interim phases would not be developing the required revenues. Therefore, the increase will not be phased.

Applicability of the Public Utility Regulatory Policies Act of 1978 (PURPA)

The standards set forth in the PURPA, 16 U.S.C. 2601 *et seq.* are not currently applicable to CRSP because CRSP has not had sales that were not for resale in excess of 500 million kWh in any year. Nonetheless, each of the 11 standards was considered and briefly discussed in the April 1979 brochure entitled "Colorado River Storage Project and Participating Projects—Proposed Power Rate Adjustment" and interested parties were given opportunity to comment on the discussion in writing and/or orally at the forums which were held. No comments were received. Although not subject to the PURPA standards, CRSP is complying with those standards to the extent that it can reasonably do so as discussed in the referenced brochure. The standards of PURPA have thus been considered and the determinations made.

Other Considerations

Public Comment Procedures

A number of comments reflected concern that the procedures followed by Western in promulgating the proposed rate increase did not conform to basic due-process-of-law requirements. The lack of opportunity for cross examination of witnesses and the absence of other formalities of evidentiary hearings were among the alleged deficiencies cited.

We are satisfied that the opportunities provided by Western for public information and comment were more than adequate. The reasons for the rate increase and the methodology used in developing it were fully explained. Requested information was supplied. The parties were afforded access to Western's computer program. All questions were answered. Because of the two occasions upon which changes were made, the comment period lasted more than 11 months. Formal evidentiary procedures are not required in the development and review of Federal power rates.

National Environmental Policy Act (NEPA)

A number of comments raised the issue of whether the rate adjustment is subject to provisions of the NEPA. Procedures for compliance with NEPA are applicable to CRSP ratemaking. A preliminary environmental evaluation was made for and reported in the April 1979 proposed power rate adjustment brochure. Subsequently, an environmental assessment has been made in accordance with NEPA. The environmental assessment indicates there are no significant environmental impacts expected as a result of the proposed rate adjustment.

Leavitt Act

Comments also questioned whether the Leavitt Act, which is cited in Section 4 of Pub. L. 84–485, authorized reduced rates for Indians. Section 4 of Pub. L. 84–485 provides, in relevant part, that: "(d) as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to the Act of July 1, 1932 [Leavitt Act] (47 Stat. 564)."

The first provision of the Leavitt Act authorizes and directs the Secretary of the Interior "* * * to adjust or eliminate reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made * * *." (Act of July 1, 1932, 47 Stat. 564, 25 U.S.C. 386a). This portion of the Leavitt Act authorized the Secretary of the Interior to grant relief on a project-by-project basis from then existing obligations under the Indian Appropriations Act for Fiscal Year 1915 (Act of August 1, 1914, 38 Stat. 582, 583) to reimburse the Government for expenditures made for Indian irrigation projects. First, neither it

nor the first proviso, which defers construction costs assessed "* * * against Indian-owned lands within any Government irrigation project * * *", applied to reclamation projects. Solicitor Finney Opinion, 54 I.D. 90 (1932). Second, both portions of the act, which derived from separate bills, provide relief only from irrigation costs and do not apply to power costs. Section 4 of Pub. L. 84-485 specifically makes the Leavitt Act applicable to participating projects, which are reclamation projects. However, Pub. L. 84-485 does not extend the relief provided by the Leavitt Act. Consequently, since the Leavitt Act provides relief only from irrigation costs and not from power costs, neither Section 4 of Pub. L. 84-485 nor the Leavitt Act authorize reduced power rates for Indians.

Price Stability

There was a question whether any rate increases which Western might promulgate would be limited to a 7-percent increase by the Council on Wage and Price Stability. On March 19, 1979, the Director of the Council on Wage and Price Stability stated in the preamble to the Interim Final Price Standard that "* * * while the price standard is intended to apply to all 'Government enterprises,' any statute mandating a particular pricing policy will, of course, take precedence." Rates for CRSP power are set in accordance with the authorizing legislation which takes precedence over the wage and price guidelines.

Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts, and other supporting material, is available for public review in the Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84147; in the office of the Administrator, Western Area Power Administration, 1536 Cole Boulevard, Golden, Colorado 80401; and in the office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Submission to the FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective November 25, 1980, Rate Schedules SP-F1 and SP-FP1. These rates shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the FERC confirms and approves these or substitute rates on a final basis, whichever occurs first.

[Rate Schedule SP-F1 Supersedes Schedule UC-F2]

U.S. DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION

Colorado River Storage Project

Schedule of Rates for Wholesale Firm Power Service

Effective: The first day of the first full billing period beginning on or after November 25, 1980.

Available: In the area served by the Colorado River Storage Project.

Applicable: To wholesale power customers for general power service supplied through one meter at one point of delivery.

Character and Conditions of Service: Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthy Rate

Capacity Charge: $1.76/kW of billing demand.

Energy Charge: 4.1 mills/kWh for all energy use up to, but not in excess of, the energy obligation under the power sales contract.

Billing Demand: The billing demand will be the greater of (1) the highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract, or (2) the contract rate of delivery.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at ten (10) times the above rate.

Adjustments

For transformer losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For power factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95-percent lagging and 95-percent leading.

[Rate Schedule SP-FP1 Supersedes Schedule UC-FP2]

U.S. DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION

Colorado River Storage Project

Schedule of Rates for Wholesale Peaking Power Service

Effective: The first full day of the first full billing period beginning on or after November 25, 1980.

Available: Within and adjacent to the marketing area of the Colorado River Storage Project.

Applicable: To wholesale power customers purchasing such service under long-term contracts. Because of the nature of this class of service, it is applicable only to customers with other resources enabling them to utilize it.

Character and Conditions of Service: As specifically established by contract. Delivery will be made from the transmission system of the United States at transmission voltage, and normally only during peak hours of the purchaser's load. Return of all energy furnished shall normally be required.

Monthly Rate

Capacity Charge: $1.76/kW of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

Energy Charge: 4.1 mills/kWh for all energy scheduled for delivery without return.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at ten (10) times the above rate.

Adjustments

For power factor: None. The customer will normally be required to maintain a unity power factor at the point of delivery.

[FR Doc. 80-23983 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Biomass Energy Development; Quantity of Energy Which Is Energy Equivalent of 15 Million Gallons of Ethanol

AGENCY: Department of Energy and Department of Agriculture.

ACTION: Notice.

SUMMARY: The Departments of Agriculture and Energy are prescribing the quantity of biomass energy which is equivalent to the energy contained in 15,000,000 gallons of ethanol. This action is required by Title II of the Energy Security Act.

EFFECTIVE DATE: August 4, 1980.

FOR FURTHER INFORMATION CONTACT:
Marilyn Ripin (Office of Solar Applications for Industry), Department of Energy, Room 413, 600 E Street NW., Washington, D.C. 20585; (202) 376-9707.
Don Fink (Office of the Secretary), Department of Agriculture, Room 5175, 14th and Independence Avenue SW., Washington, D.C. 20250; (202) 447-7195.

SUPPLEMENTARY INFORMATION: Section 212(g) of the Energy Security Act (ESA), Pub. L. 96-294, which was enacted on June 30, 1980, requires that, within 30 days following the date of enactment, the Departments of Agriculture and Energy jointly prescribe, for purposes of Subtitle A of Title II of the ESA, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol. Section 212(a) of the ESA makes an anticipated annual production capacity of this quantity of energy a dividing line for the authorities of the Department of Energy (DOE) and the Department of Agriculture (USDA) in administering the financial assistance provisions of subtitle A.

Section 203 of the ESA defines biomass as "any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, and aquatic plants." As used in the ESA, "biomass energy" means any gaseous, liquid, or solid fuel produced by conversion of biomass, or energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

The Departments have determined that the quantity of biomass energy which is equivalent to 15,000,000 gallons of ethanol is best expressed on the basis of British thermal unit (Btu) equivalency. This approach uses the most fundamental expression of the energy contained in 15,000,000 gallons of ethanol and provides a sound and comprehensive basis for comparing the energy content of ethanol with other forms of biomass energy. The Btu content of various chemical substances, including ethanol, can be found in standard scientific and engineering references. The number of Btu's in a gallon of ethanopl is 84,400. See: *Handbook of Chemistry and Physics*, 60th Ed., Chemical Rubber Publishing Co., Cleveland, 1979-80; *Perry's Engineering Manual*, 3rd Ed., McGraw Hill, New York, 1976. Therefore, the number of Btu's in 15,000,000 gallons of ethanol is 1,266,000,000,000. Accordingly, the Departments of Agriculture and Energy hereby determine that:

For purposes of Subtitle A of Title II of the Energy Security Act (ESA), Pub. L. 96-294, the energy equivalent of fifteen million (15,000,000) gallons of ethanol is the quantity of biomass energy (as defined in Section 203(4) of the ESA) which contains one trillion, two hundred sixty-six billion (1,266,000,000,000) British thermal units of energy.

An applicant for financial assistance will be required to demonstrate, to the satisfaction of the agency administering the financial assistance, the per unit Btu content and quantity of each form of biomass energy which he proposes to produce. The agencies anticipate that the Btu content can normally be obtained by reference to standard scientific tables. In the event that the Btu content of a form of biomass energy cannot be determined from standard reference tables, the burden of demonstrating the Btu content will rest with the applicant.

In determining the equivalent of 15,000,000 gallons of ethanol, the angencies considered various alternatives. Approaches based on the quantity of a feedstock which would produce 15,000,000 gallons of ethanol were rejected as impractical, because a given feedstock, converted to a biomass fuel other than ethanol, or to steam or electricity, might yield a different amount of energy than it would when converted to ethanol. Furthermore, section 212 speaks in terms of fuels produced, rather than feedstocks used. Determinations based on a given weight or volume of particular forms of biomass fuels were also rejected because it would be impossible to anticipate all the types of fuels which may be developed from biomass under this program and to specify appropriate weights or volumes. USDA has decided that it will also use 84,400 Btu's per gallon of ethanol in determining the energy equivalence of one million gallons of ethanol for purposes of Section 203(19) of the Act.

Issued in Washington, D.C.

John C. Sawhill,
Deputy Secretary of Energy.
Alex P. Mercure,
Assistant Secretary for Rural Development, Department of Agriculture.

[FR Doc. 80-23982 Filed 8-7-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59024A; FRL 1564-5]

Office of Pesticides and Toxic Substances; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On May 14, 1980 EPA received an exemption application for test marketing purposes from a manufacturer claiming its identity confidential. The Test Marketing Exemption (TME) number assigned to the application is T-80-24. The manufacturer also claimed the identity of the subject substance confidential and is therefore identified by the generic name alkyl metal ester. EPA has determined that the manufacturer's test marketing of the chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency grants the manufacturer an exemption from the TSCA premanufacture reporting requirements for test marketing in the manner described in the application. The exemption is effective immediately.

FOR FURTHER INFORMATION CONTACT:
Kirk Maconaughey, Notice Review Branch, Premanufacturing Review Division (PTS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (426-3936).

SUPPLEMENTAL INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacure or import begins. A "new" chemical substance is one that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting

V 45 / 155 5 AG 8 80 UMI

requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon appliction, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 14, 1980 EPA received an application for an exemption from the requirements of section 5(a) and 5(b) of TSCA, to manufacture a substance for test marketing purposes. The manufacturer's identity was claimed confidential. The exemption application has been assigned the identification number T-80-24. A Federal Register notice published on May 28, 1980 (45 FR 35895) announced the receipt of the exemption application and requested comment on the appropriateness of granting the exemption. The Agency has received no comments concerning the application. The company claimed the specific identity of the substance and its use confidential. The generic name and usr provided by the manufacturer has been used and appears in the Federal Register. The name is alkyl metal ester and the use has been given as a rearrangement catalyst.

In the test market exemption application, the manufacturer claimed all the information which was submitted as being confidential. During telephone conversations with the manufacturer such topics as manufacturing and processing operations, worker and consumer exposure, and toxicological information were discussed but all information obtained in these areas was claimed confidential. Recognizing that all pertinent information to this application has been claimed confidential, EPA has an extremely difficult task in discussing the specifics of this application in the Federal Register.

The Agency believes that the manufacturer has provided sufficient information for it to make a decision concerning this exemption. Based on toxicity information on structural analogues to the substance supplied by the manufacturer and that obtained by the Agency during its review, the Agency is not concerned about the toxicity of the substance. No toxicity information was provided on the subject substance in the application other than the results of an Ames tests, which was negative. This manufacturer intends to submit a PMN on this same substance later this year. He has indicated that toxicity testing will be conducted on the substance and that the results of that testing will be submitted with the PMN.

The Agency reviewed all information submitted and that which it obtained itself in the categories of manufacturing, processing and use and has determined that the likelihood of any risk occurring from test marketing activities of this substance is minimal. Standard industrial safety practices will be followed when handling the substance during both manufacturing and processing operations. Worker exposure will be quite limited and consumer exposure is non-existent.

Therefore based on its review of available information in the two major areas of toxicity and exposure the Agency has determined that no unreasonable risk of injury to health or the environment will result from the test marketing of this substance. Any concern expressed in either of these areas is minimal considering its limited test market activity. The Agency therefore grants the test marketing exemption.

At least 90 days prior to manufacturing this substance for commercial purposes other than test marketing or research, the manufacturer must submit a premanufacture notice (PMN) as required under section 5(a) of TSCA. This exemption is granted solely to the applicant of TME 80-24 with the following provisions:

1. That the test market period not exceed the time frame specified in the application and

2. The production volume will not significantly exceed the amount specified in the exemption application.

3. That the substance will be manufactured in a closed system as indicated in the application and that worker exposure shall not exceed the levels specified;

4. That proper precautionary data sheets shall accompany the product and should be posted for all employees to read who come into contact with the substance during its manufacture, processing, and use; and

5. That the substance will not be resold by the persons provided the substance for evaluation purposes and that the substance will only be used during test marketing for the purpose described in the exemption application.

6. Each shipment contains a statement informing the recipient that the substance shipped may only be used for the purposes allowed in the exemption.

Dated: August 1, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 23013 Filed 8-7-80; 8:45]

BILLING CODE 6560-01-M

[FRL 1564-7]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104) US Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of July 28, 1980 to August 1, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from August 8, 1980 and will end on September 22, 1980. The 30-day review period for final EIS's as calculated from August 8, 1980 will end on September 8, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction EIS filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE:

On July 30, 1979, the CEQ regulations became effective, pursuant to section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of July 28, 1980 to August 1, 1980 the 30-day review period will be calculated from August 8, 1980. The review period will end on September 8, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of July 28, 1980 to August 1, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, state(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: August 5, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of July 28 Through August 1, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250 (202) 447-3965.

Forest Service

Draft

Salt River Wild and Scenic Study, Tonto National Forest, Gila County, Ariz., July 28: Proposed is inclusion of a segment of the Salt River, located in the Tonto National Forest, Gila County, Arizona in the National Wild and Scenic Rivers System. The segment recommended for inclusion is 22 miles long and would include approximately 7,100 acres of adjacent lands. The alternatives consider continuing present management. (EIS Order No. 800557.)

San Francisco River Wild and Scenic Study, Apache National Forest, Greenlee County, Ariz., July 28: Proposed is inclusion of a segment of the San Francisco River, located within the Apache National Forest, Greenlee County, Arizona. The segment proposed for inclusion is 9 miles in length. Two other segments meet the criteria for a recreational river. The alternatives consider: (1) no designaion, (2) designation of all eligible segments, (3) designation of recreational segments, (4) public recommendation, and (5) designation of one of the recreational segments. (EIS Order No. 800558.)

Rural Electrification Administration

Final Supplement

River Bend Nuclear Power Station Unit 1, Trans., West Feliciana Parish, La., August 1: This document supplements an NRC final EIS, #741491, filed 9-30-74 which has been adopted by the USDA/REA. Proposed is assistance for the purchase of undivided ownership interests in the river bend Nuclear Power Station Unit 1, West Feliciana Parish, Louisiana. Assistance may also be used for construction of related transmission facilities which extend through several Parishes. The unit will consist of a boiling-water reactor, and two steam turbine generators. Exhaust steam would be cooled by mechanical cooling towers using make-up water obtained from and discharged to the Mississippi River (USDA-REA-EIS-(ADM)-80-4-F). Comments made by: EPA, DOI, AHP, COE, FERC, USDA, HEW, State and local agencies. (EIS Order No. 800571.)

Soil Conservation Service

Draft

Jumper Creek Watershed Protection, Sumter County, Fla., July 29: Proposed is a watershed protection, flood prevention, water conservation and agricultural water management plan for the Jumper Creek Watershed in Sumter County, Florida. The plan involves: (1) land treatment, (2) 16.39 miles of channel rehabilitation, and (3) installation of 7 combination water control/grade stabilization strucutres. The channel rehabilitation will involve the enlargements of 11.43 miles of previously enlarged channel and clearing and snagging along 4.96 miles of existing lateral channels (USDA-SCS-EIS-WS-(ADM)-80-1-(D)-FL). (EIS Order No. 800561.)

Civil Aeronautics Board

Contact: Mr. Steve Rothenburg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5205.

Final

Multiple Permissive Entry Policy, Programmatic, July 31: This statement addresses the overall impacts of the deregulation of aviation routes and rates. Proposed is the granting of multiple permissive authority to all fit, willing, and able applicants for passenger air service for particular city-pair markets. The alternatives consider the status quo; a general policy of multiple, permissive entry to all fit, willing and able applicants; licensing by traffic predictions in particular markets; and other criteria. Comments made by: EPA, Local Agencies, Groups, Individuals and Businesses. (EIS Order No. 800569.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Garapan Flood Control, Saipan Island, U.S. Territory, July 31: Proposed is a flood control plan for the Village of Garapan on Saipan Island, part of the Commonwealth of the Northern Mariana Islands. The alternatives are: 1) channelizing the floodflow, 2) permanent evacuation, and 3) relocation. The channel alignments all include a channelized section along the eastern edge of the West Coast Highway, involving one of three different outlet alignments. The relocation plan involves the physical removal of all damageable structures located in the floodplain. Cooperating Agency is DOI. (Honolulu District.) (EIS Order No. 800565.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.

The following is a community development block grant statement prepared and circulated directly by applicant pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

South University Industrial Park, UDAG, Bernalillo County, N. Mex., July 30: Proposed is the awarding of a UDAG for the South University Industrial Park in the City of Albuquerque, Bernalillo County, New Mexico. The grant would be used for the construction of municipal water and sanitary

sewer lines and The Cooperating Agency is DOC. Comments made by: EPA, COE, DOI, Local Agencies. (EIS Order No. 800564.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Draft

Luke Air Force Range, Continued Use, Maricopa, Yuma, and Pima Counties, Ariz., July 31: Proposed is the renewal, for twenty years, of a 502,792 acre withdrawal on the Luke Air Force Range (LAFR) located in Maricopa, Pima and Yuma Counties, Arizona. The LAFR consists of 2,669,225 acres and includes the Cabeza Prieta National Wildlife Refuge. Associated with the withdrawal the USAF would continue operating the range, and with the Marine Corps, would upgrade target facilities and install telemetry equipment to improve aircrew training. The cooperating agency is USAF. (EIS Order No. 800566.)

E. San Diego County Planning Area Management, San Diego County, Calif., July 28: Proposed is a grazing and wilderness management plan for the Eastern San Diego County Planning Unit (McCain Valley) in the El Cento Resource Area of the Riverside District, California. The planning area encompasses 98,902 acres of public land. Grazing management would be implemented on 467,903 acres, and wilderness designation recommended for 40,086 acres. The grazing alternatives include: (1) no grazing, (2) intensive use, (3) limited use, and (4) no action. The wilderness alternatives are: (1) maximize wilderness, (2) no wilderness, and (3) limited wilderness. (EIS Order No. 800556.)

National Park Service

Draft

Voyageurs National Park, Wilderness Recommendation, St. Louis and Koochiching Counties, Minn., July 31: Proposed is a wilderness recommendation for the Voyageurs National Park in St. Louis and Koochiching Counties, Minnesota. The preferred alternative involves: 1) 91,853 acres to be designated for potential wilderness addition, 2) access allowed for floatplanes and skiplanes on all major lakes, and 3) permitting snowmobile use and motorboating on major lakes. The remaining alternatives consider designating varying acreage in the park as wilderness. (DES–80–49.) (EIS Order No. 800567.)

Water and Power Resources Services

Draft

Central Valley Project Reauthorization, several counties in California, July 29: Proposed is the reauthorization of the Central Valley Project (CVP) and the CVP/State Water Project Coordinated Operating Agreement. Considered are: 1) all viable alternative uses of the uncontracted water supplies of the presently authorized CVP, and 2) the construction of certain works related to fish and wildlife and Delta water quality. The Cooperating agencies include the FWS and the State of California. (DES–80–47.) (EIS Order No. 800562.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 4007th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Final

Willamette R. Bridges, OR–22 Willamina-Salem Hwy., Marion and Polk Counties, Oreg., August 1: Proposed is the replacement of the Center Street Bridge and the widening of the Marion Street Bridge both on OR/22, the Willamina-Salem Highway in Marion and Polk Counties, Oregon. The bridges span the Willamette River. Other features of the project will include: 1) two new bridges on the east side; 2) modifications to the existing Front Street ramp; 3) changes in the Center Street, Marion Street, Wallace Road/Edgewater Street, and Wallace Road/OR–22 ramps; and 4) other features. (FHWA–OR–EIS–79–10–F.) Comments made by: DOI, DOT, EPA, USDA, AHP, State and Local Agencies, Businesses. (EIS Order No. 800570.)

Walnut Boulevard, Kings Blvd. to Highland Drive, Benton County, Oreg., July 29: Proposed is completion of development of Walnut Boulevard as a continuous arterial route in the City of Corvallis, Benton County, Oregon. The project begins at Harrison Boulevard and extends to NW 9th Street. The project length is 0.75 miles. The alternatives considered are build and no build. Features of the build alternative include four traffic lanes throughout its length, additional left-turn lanes at intersections with major cross streets, a bike path, and a walkway. The cooperating agency is the State of Oregon. (FHWA–OR–EIS–79–05–F.) Comments made by: USDA, DOE, EPA, DOI, State Agencies. (EIS Order No. 800560.)

Final

Kauai Belt Road, Kalihiwai to Princeton (F–1), Princeton, Hawaii County, July 28: Proposed is the improvement of the Kauai Belt Road from Kalihiwai to Princeton, County and Island of Kauai, Hawaii. Interim maintenance repair for several of the one-lane bridges is also planned. This EIS finalizes a portion of the project addressed in the draft EIS, #770440, filed 4–6–77, which extends from Kalihiwai to Haena. When certain issues are resolved a supplemental EIS will be filed concerning Agency is the State of Hawaii. (FHWA–HI–EIS–79–03–F.) Comments made by: AHP, DOI, HEW, HUD, EPA, DOT, USDA, State and Local Agencies, Groups, Individuals, and Businesses. (EIS Order No. 800559.)

EIS's Filed During the Week of July 28 Through Aug. 1, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Hawaii	Princeton	Final	Kauai Belt Road, Kalihiwai to Princeton (F–1)	800559	July 28, 1980	DOT
Arizona	Several	Draft	Luke Air Force Range, Continued Use	800566	July 31, 1980	DOI
	Gila	Draft	Salt River Wild and Scenic Study Tonto NF	800557	July 28, 1980	USDA
	Greenlee	Draft	San Francisco R. Wild and Scenic Study, Apache NF.	800558	July 28, 1980	USDA
California	Several	Draft	Central Valley Project Reauthorization	800562	July 29, 1980	DOI
	San Diego	Draft	E. San Diego County Planning Area Management	800556	July 28, 1980	DOI
Florida	Sumter	Draft	Jumper Creek Watershed Protection	800561	July 29, 1980	USDA
Louisiana	West Feliciana	Suppl	River Bend Nuclear Power Station Unit 1, Trans. (FS).	800571	Aug. 1, 1980	USDA
Minnesota	Koochiching	Draft	Voyageurs National Park, Wilderness Recommendation.	800567	July 31, 1980	DOI
	St. Louis	Draft	Voyageurs National Park, Wilderness Recommendation.	800567	July 31, 1980	DOI
New Mexico	Bernalillo	Final	South University Industrial Park, UDAG	800564	July 30, 1980	HUD
Oregon	Benton	Final	Walnut Boulevard, Kings Boulevard to Highland Drive.	800560	July 29, 1980	DOT
	Marion	Final	Willamette R. Bridges, OR–22 Willamina-Salem Hwy.	800570	Aug. 1, 1980	DOT
	Polk	Final	Willamette R. Bridges, OR–22 Willamina-Salem Hwy.	800570	Aug. 1, 1980	DOT
Programmatic		Final	Multiple Permissive Entry Policy	800569	July 31, 1980	CAB
U.S. Territory		Draft	Garapan Flood Control, Saipan Island	800565	July 31, 1980	COE

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Waiver/ extension	Date review terminates
Department of Agriculture					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Bldg., Washington, D.C. 20250, (202) 447–3965	Salt River Wild and Scenic River Study, Gila County, Tonto NF, Arizona.	Draft 800557	Aug. 8, 1980	Extension	Oct. 23, 1980.
	San Francisco River, Wild and Scenic Study, Greenlee County, Apache NF, Arizona.	Draft 800558	Aug. 8, 1980	Extension	Oct. 23, 1980.
Department of Interior					
Mr. Bruce Blanchard, Director, Office of Environmental Quality, Room 7274, Department of HUD, 451 7th Street, S.W., Washington, D.C. 20240, (202) 343–3891	CVP and CVP/State Water Project, Coordinated Operating Agreement.	Draft 800562	Aug. 8, 1980	Extension	Sept. 29, 1980.
	Luke Air Force Range, Continued Use of Public Lands, Arizona.	Draft 800566	Aug. 8, 1980	Extension	Oct. 6, 1980.
	Voyageurs National Park Wilderness Recommendation, St. Louis and Koochiching Counties, New Mexico.	Draft 800567	Aug. 8, 1980	Extension	Oct. 1, 1980.
Department of Engineers					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army of Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121	Cane Creek, Orange County, North Carolina.	Draft 800504	July 18, 1980	Extension	Sept. 15, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contract	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Date of withdrawal
Department of Commerce				
Andrew E. Kauders, EIS Coordinator, Room 7217, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–4208.	Riverfront Entertainment Center, Jeffersonville, Indiana.	Draft 790361	Apr. 13, 1979	Aug. 8, 1980.

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in Federal Register	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contract	Title of report	Date made available to EPA	Accession No.
Corps of Engineers			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army of Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.	Grand Isle and Vicinity, Changes in Construction and Maintenance Plan, Louisiana.	July 19, 1980	800554
	Harry S. Truman Dam and Reservoir, Downstream Measures, 404(b)(1) Evaluation.	July 29, 1980	800555

Appendix VI.—*Official Correction*

Federal agency contract	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Correction
None.				

[FR Doc. 80–23987 Filed 8–7–80; 8:45 am]
BILLING CODE 6560–01–M

V 45 / 155 AUG 8 80 UMI

FEDERAL COMMUNICATIONS COMMISSION

Investigation of the Effects of Skip Interference on Operations at 35 MHz in the Domestic Public Land Mobile Radio Services

The Office of Science and Technology announces the limited availability of Technical Memorandum No. 12 "Investigation of the Effects of Skip Interference on Operations at 35 MHz in the Domestic Public Land Mobile Radio Services."

Abstract

In Docket 80–189 it is proposed to adopt rules which would permit one-way signaling (paging) stations to be licensed on certain 35 MHz frequencies. The frequencies involved are allocated exclusively to two-way radio telephone service under the present Rules, and use of these frequencies has heretofore been partitioned in a system of zones designed for protection against skip interference.

It is proposed that the zoning restrictions be removed, and hence there is concern about the possibilities that skip interference may be harmful to paging systems operating under the liberalized rules. In addition since it is proposed to permit two-way operations to continue, there is concern about the possibilities for harmful skip interference to existing systems.

This Memorandum estimates the potential harm of skip to DPLMRS operations by comparison with accepted standards respecting mutual interference in neighboring co-channel systems.

Availability

Technical Memorandum No. 12 is on file at the Commission as part of Docket 80–189 and is available for public inspection. Copies are available in Room 7002, 2025 M Street, N.W., or by sending self-addressed label to "Jack Linthicum, Technical Information Officer, Office of Science and Technology, Washington, D.C. 20554, Attention: OST/TM–12."

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-23923 Filed 8-7-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 80–366 et al.]

Absolutely Great Radio, Inc., et al.; Designating Applications For Consolidated Hearing On Stated Issues

Hearing Designation Order

Adopted: June 26, 1980.
Released: July 31, 1980.

In re Applications of Absolutely Radio, Inc. Ventura, California, Req: 107.1 MHz, Channel 296 0.28 kW (H&V), 870 feet, BC Docket No. 80–366, File No. BPH–11145; Ventura Broadcasting Co. Ventura, California, Req: 107.1 MHz, Channel 296 0.260 kW (H&V), 860 feet, BC Docket No. 80–366, File No. BPH–781129AH; San Buenaventura Wireless Co., Inc. Ventura, California, Req: 107.1 MHz, Channel 296 0.34 kW (H&V), 760 feet, BC Docket No. 80–368, File No. BPH–790212AC; William Shearer and Arike Logan-Shearer, Joint Tenants Ventura, California, Req: 107.1 MHz, Channel 296 0.280 kW (H&V), 840 feet, BC Docket No. 80–369, File No. BPH–790323AC; Latino Broadcasting Corporation Ventura, California, Req: 107.1 MHz, Channel 296 0.250 kW (H&V), 880 feet, BC Docket No. 80–370, File No. BPH–790327AA; Richard H. Albert Ventura, California, Req: 107.1 MHz, Channel 296 0.28 kW (H&V), 730 feet, BC Docket No. 80–371, File No. BPH–790327AF; Ventura Radio, Incorporated Ventura, California, Req: 107.1 MHz, Channel 296 0.375 kW (H&V), 730 feet, BC Docket No. 80–372, File No. BPH–790328AN; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (i) the above-captioned mutually exclusive applications filed by Absolutely Great Radio Inc. (Absolutely), Ventura Broadcasting Co. (Broadcasting), San Buenaventura Wireless Co., Inc. (Wireless), William Shearer and Arike Logan-Shearer, Joint Tenants (Shearer), Latino Broadcasting Corporation (Latino), Richard H. Albert (Alpert), and Ventura Radio Incorporated (Radio) and (ii) a petition to dismiss filed by Wireless against Radio and an opposition to the petition filed by Radio.

2. *Absolutely.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. We have no evidence that Absolutely published the required notice.[1] To remedy this deficiency, Absolutely will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. *Wireless.* We have no evidence that Wireless complied with §§ 73.3580 (f) and (h) of the Commission's Rules relating to local notice of filing of its application. To remedy this deficiency, Wireless will be requested to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

4. Anthony D. Naish, a principal of Wireless, is an alien and has subscribed for a permissible 20% of the applicant's stock. Naish, however, is also an officer and 24% stockholder of RNF Media Corporation (RNF), an entity in which three of the applicant's four principals own 75% of the stock and are its officers and directors. RNF is the sole financier of the applicant's proposal (apart from deferred credit from the equipment supplier) in that it has agreed to lend applicant $90,000. The loan is unsecured and need be repaid only at the demand of RNF. In view of RNF's financial control over the applicant and the substantial identity of RNF and the applicant, we believe that an issue is warranted as to whether Wireless is in violation of Section 310(b)(4) of the Communications Act of 1934, as amended. That section provides that no

[1] Applicant originally filed under the name "James C. Sylvester" and subsequently incorporated under Absolutely Great Radio. No evidence exists that the required notice was published under either name.

entity, of which an alien is an officer, may indirectly control an applicant for a broadcast license. An issue will, therefore, be specified to determine whether RNF indirectly controls Wireless.

5. *Latino.* We have no evidence that Latino complied with §§ 73.3580(f) and (h) of the Commission's Rules relating to local notice of filing of its application. To remedy this deficiency, Latino will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

6. Latino will not be able to provide a 3.16 mV/m signal to the entire city of Ventura, California as required by § 73.315(a) of the Commission's Rules. Latino has requested a waiver of this provision. We will not rule on the request at this juncture. Rather, a city coverage issue will be specified so that the matter may be explored in hearing.

7. *Albert.* We have no evidence that Albert complied with §§ 73.3580(f) and (h) of the Commission's Rules relating to local notice of filing of its application. To remedy this deficiency, Albert will be required to publish local notice of its application and to file a statement of publication with the Administrative Law Judge.

8. Analysis of the financial data submitted by Albert reveals that $38,262.65 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment lease payments	$7,371.00
Land	1,041.65
Building	7,500.00
Miscellaneous	10,500.00
Operating costs (three months)	11,850.00
Total	38,262.65

Costs may be higher as the equipment leasing agreement with Commercial Credit Corporation (CCC) is verbal and applicant has not submitted a copy of a written commitment with CCC. Albert plans to finance construction and operation with $4,000 cash and $50,000 in loan proceeds from a second mortgage on his home. Applicant has failed to submit a commitment from any bank for this loan as required by Section III, Paragraph 4(e) of FCC Form 301, instead relying on verbal agreements with various banks. Since applicant has only shown $4,000 in financing, an amount insufficient to meet proposed costs of $38,262.65, a limited financial issue wil be specified.

9. Albert has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has failed to submit a compositional study of Ventura, California indicating "the minority, racial or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive" as required by Question and Answer 9 of the Primer. Applicant has also failed to name the community leaders it surveyed, their positions and their organizations as required by Question and Answer 20 of the *Primer*, nor has applicant submitted a general public survey as required by Question and Answer 11(b). While applicant intends to serve the area immediately surrounding Ventura, including Oxnard, California, it is impossible to determine whether community leaders were surveyed from this area as required by Question and Answer 7 of the *Primer*. It is also impossible to determine if the consultations were performed within 6 months before the filing of the application as required by Question and Answer 15 of the *Primer*. Applicant has not stated the title, time segment, duration and frequency of broadcast of the programming proposed to meet the problems ascertained as required by Question and Answer 30 of the *Primer*. Accordingly, a general ascertainment issue will be specified.

10. Albert's application states that there will be five station employees whom, absent any indication to the contrary, we assume to be full time. Section 73.2080(c) of the Commission's rules requires all applicants for new facilities to file an Equal Employment Opportunity Program, Section VI of Form 301, unless the applicant proposes less than five full-time employees. Since Albert has not filed an Equal Employment Opportunity Program, he has not complied with requirement of Section VI of FCC Form 301, and an appropriate issue will be specified.

11. *Other Matters.* Wireless filed a petition to dismiss Radio's application on the grounds that Radio's amendment of August 9, 1979 adding new shareholders, constituted a change of control which would be considered a major amendment. Since the alleged major amendment was filed after the March 28, 1979 cut-off date, Wireless argues, it requires the assignment of a new file number and therefore the application must be dismissed. Radio, in opposition, argued that the August 9 amendment consisted of the withdrawal of a 40% stockholder and the subscription of these shares to five individuals, and that since no transfer of ownership occurred (60% of the stock remaining with the same stockholder), the change does not necessitate a new file number. Radio argued that *Barnes Enterprises, Inc.*, 55 FCC 2d 721, 35 RR 2d 174 (1975), stated that less than a 50% transfer of stock is not "substantial."

12. Radio's statement of the facts and the law is correct. The 40% stock transfer is not substantial and is the type which requires filing FCC Form 316. Accordingly, Wireless's petition is denied.

13. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

14. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

15. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Wireless' proposal complies with Section 310(b)(4) of the Communications Act of 1934, as amended.

2. To determine whether the proposal of Latino would provide coverage of the city sought to be served, as required by § 73.315(a) of the Commission's Rules, and if not, whether circumstances exist which warrant a waiver of that Section.

3. To determine with respect to Albert: (a) the source and availability of additional funds over and above the $4,000 indicated; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine the efforts made by Albert to ascertain the community needs and problems of the area to be served and the means by which the applicant

V 45 / 155 AG 8 80 UMI

proposes to meet those needs and problems.

5. To determine whether Albert has complied with the requirements of § 73.2080(c) of the Commission's Rules and Section VI of FCC Form 301.

6. To detemine which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

16. It is further ordered, That, Absolutely, Wireless, Latino, and Albert file a statement of publication of local notice of its application with the presiding Administrative Law Judge, in accordance with § 73.3580(f) of the Commission's Rules.

17. It Is Further Ordered, That, the petition to dismiss filed by Wireless Is Denied.

18. It Is Further Ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

By:

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-23919 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-417, 80-418]

Academy Radio Corp. et al.; Designating Applications For Consolidated Hearing On Stated Issues

Hearing Designation Order

Adopted: July 28, 1980.

Released: August 1, 1980.

In re Applications of Academy Radio Corporation, Rio Piedras, Puerto Rico, Req: 90.5 MHz, Channel 213, 4.427 kW (H & V), minus 104 feet, BC Docket No. 80-417, File No. BPED-2208; Christian Broadcasting Corporation, Carolina, Puerto Rico, Req: 90.5 MHz, Channel 213, 25 kW (H & V), 1869 feet, BC Docket No. 80-418, File No. BPED-2245; for construction permits for a new noncommercial educational FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Academy Radio Corporation (ARC) and Christian Broadcasting Corporation (CBC).[1]

2. *ARC.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. The local notice must contain the names of all corporate officers and directors. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. ARC's certification of local notice does not contain the names of its officers and directors. Accordingly, ARC will be required to republish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. Section II, Paragraph 3 of Form 340 requires that copies of the articles of incorporation and bylaws of the corporation be provided by the applicant. ARC's certificate of incorporation is stamped cancelled. Therefore, ARC will be required to submit a valid certificate of incorporation and certified copy of its articles of incorporation with the presiding Administrative Law Judge.

4. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University,* FCC 67-673, released June 8, 1967, 10 RR2d 215 (1967). Thus the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

5. Neither applicant has indicated whether an attempt has been made to negotiate a share-time arrangement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.,* 43 FR 49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a "share-time issue" is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

6. The respective proposals, although for different communities would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, It Is Ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications Are Designated For Hearing in a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant and the areas and populations to be served thereby.

2. To determine whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

3. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a competitive basis, better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It Is Further Ordered, That Academy Radio Corporation shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580(f) of the Commission's Rules.

10. It Is Further Ordered, That Academy Radio Corporation shall submit a certified copy of valid articles of incorporation with the presiding Administative Law Judge.

11. It Is Further Ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-23917 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-399 et al.]

Broadcast West, Inc., et al.; Designating Applications For Consolidated Hearing On Stated Issues

Hearing Designation Order

Adopted: July 16, 1980.

Released: August 1, 1980.

By the Chief, Broadcast Bureau.

In re Applications of Broadcast West, Inc., Las Vegas, Nevada, BC Docket No. 80-399, File No. BPCT-5130; Alden Communications Corp., Las Vegas, Nevada, BC Docket No. 80-400, File No. BPCT-5238; Channel 21 Corp., Las Vegas, Nevada, BC Docket No. 80-401, File No. BPCT-5239; Dres Media, Inc., Las Vegas, Nevada, BC Docket No. 80-402, File No. BPCT-5240.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 21, Las Vegas, Nevada; a "Request for Waiver of § 73.3572 of the Commission's Rules or, in the Alternative, Request for Acceptance of Corrected Amendment *Nunc Pro Tunc*" filed by Broadcast West, Inc. June 17, 1980; a "Petition for Leave to Amend" filed by Dres Media, Inc. June 18, 1980; and related pleadings.

Broadcast West, Inc.

2. Broadcast West, Inc.'s (BWI) original technical proposal contains the following deficiencies:

(a) The maximum-to-minimum gain ratio of applicant's directional antenna exceeds the 15 dB value allowed in § 73.685(e) of the Rules;

(b) The radiation above the horizon proposed by applicant exceeds the radiation below the horizon in contravention of § 73.614(b)(4) of the Rules;

(c) The proposed facilities will not achieve the minimum allowable effective radiated power over an arc extending from 90 to 225 degrees true north (see § 73.614(a) of the Rules);

(d) The antenna gain specified is not correct; and

(e) The calculation of the proposed station's effective radiated power is incorrect.

In an amendment tendered May 27, 1980, BWI attempted to correct the deficiencies in its application, including those in its technical proposal. The engineering portion of this amendment constitutes a major change to BWI's proposal under § 73.3572 of the Rules, however, and cannot be accepted for filing absent a waiver of that Rule.

3. On June 17, 1980, BWI filed its above-mentioned pleading. In support of its request, BWI submits the following arguments:

(a) Its technical amendment was designed to obviate the need for a television translator to cover the Henderson, Nevada area;

(b) In increasing the predicted coverage of its proposed station to encompass Henderson, BWI inadvertently filed a major change to its application;

(c) BWI will gain no comparative advantage through acceptance of its major change amendment since the extended coverage area is largely uninhabited desert and mountain areas; and

(d) In the event it is determined that waiver of § 73.3572 to accept the major change amendment is not warranted, a minor change amendment curing the engineering deficiencies in BWI's proposal should be accepted *nunc pro tunc.*

4. The facts alleged by BWI in support of its waiver request do not justify grant of the relief applicant seeks. Accordingly the technical portions of BWI's May 27, 1980 amendment will not be accepted for filing. BWI's June 23, 1980 engineering amendment (filed in conjunction with its June 17, 1980 request) will be accepted for filing, however, with the *caveat* that nothing contained in the amendment be considered in evaluating the applicant's comparative qualifications. The June 23 amendment does not constitute a major change and cures the above-mentioned defects which otherwise raise potentially disqualifying questions concerning BWI's technical qualifications.[1]

Dres Media, Inc.

5. Subsequent to the date on which amendments as a matter of right in this proceeding were due, Dres Media, Inc. (DMI) tendered a minor change amendment to its financial proposal accompanied by a petition for leave to amend. The tendered amendment addresses qualifying matters and its acceptance will obviate the need for issues in this proceeding. Further, nothing in the amendment can enhance DMI's comparative posture *vis-a-vis* its opponents. Accordingly, the amendment tendered for filing June 18, 1980 by DMI will be accepted for filing.

Conclusion and Order

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutally exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, It Is Ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications Are Designated For Hearing In a

[1] The June 23 amendment contains one minor flaw which should be corrected. Applicant has failed to calculate its effective radiated power (ERP) properly and, therefore, the contour maps contained in its application are incorrect. To cure this defect, BWI will be ordered to submit corrected values for its proposed station's ERP and new contour maps within 30 days of the mailing of this Order (see para. 10, *infra*).

[1] Inadvertently the staff initially determined the CBC application was not mutually exclusive with any other application and CBC was sent a deficiency letter on May 27, 1980 concerning its failure to ascertain its community. However, CBC is not subject to the Commission's ascertainment requirements because its application was filed in 1976 and the requirements were not effective until 1977. Therefore, the May 27, 1980 letter should be disregarded.

V 45 / 155 5 A G 8 8 0 UMI

Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

8. It Is Further Ordered, That Broadcast West, Inc.'s June 17, 1980, "Request for Waiver of § 73.3572 of the Commission's Rules or, in the Alternative, Request for Acceptance of Corrected Amendment *Nunc Pro Tunc*" Is Denied, and the engineering portion of its May 27, 1980 amendment Is Returned As Unacceptable For Filing.

9. It Is Further Ordered, That Broadcast West, Inc.'s June 23, 1980, amendment Is Accepted For Filing to the limited extent indicated herein.

10. It Is Further Ordered, That, within thirty days of the mailing of this Order, Broadcast West, Inc. shall submit corrected values for its proposed station's effective radiated power and maps depicting the station's predicted Grade A, Grade B and principal community service contours.

11. It Is Further Ordered, That the "Petition for Leave to Amend" filed by Dres Media, Inc. June 18, 1980, Is Granted, and that applicant's amendment tendered June 18, 1980, Is Accepted For Filing.

12. It Is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23920 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-340, 80-341]

George R. Johnson, et al.; Designating Applications For Consolidated Hearing On Stated Issues

Hearing Designation Order

Adopted: July 18, 1980.

Released: July 31, 1980.

In re Applications of George R. Johnson and Millard A. Holcomb dba Lumpkin County Broadcasting Company, Dahlonega, Georgia, Req: 1390 kHz, 1 kW, DA, Day, BC Docket No. 80-340, File No. BP-790122AH; Blue Ridge Radio Company, Dahlonega, Georgia, Req: 1520 kHz, 500 W, Day, BC Docket No. 80-341, File No. BP-790206AE; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications for new AM broadcast stations. They are mutually exclusive in that both proposals would receive co-channel interference within their 0.5 mV/m contours, and thus must satisfy the first-local-station proviso of § 73.37(b)(2) of the Commission's Rules.

2. *Lumpkin County Broadcasting Company.* The financial information Lumpkin County submitted is not sufficient to indicate how much money will be required to construct and operate the proposed station for three months. As filed, the application showed total costs of $45,725; however, a later amendment updating the cost of the proposed directional antenna system does not indicate how the earlier stated costs are revised. Further, the amount allocated for legal expenses (only $1,500) is clearly insufficient for the expense of a comparative hearing. The applicant relies on $40,000 capital contributions and $6,000 loans from the partners to pay construction and operating expenses, but none of these funds have been shown to be available. Neither partner has shown any net liquid assets from which to make the loans, and the bank letters offering to loan them money for their capital contributions fail to state the collateral required for the loans. Because of these serious deficiencies, a general financial issue will be specified.

3. Lumpkin County also failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 650 (1971). First, the compositional study sets out demographic information for Lumpkin County, but does not contain similar information about Dahlonega (especially information about minorities). It also appears the applicant did not interview leaders of the following groups in Dahlonega: business, charities, culture, elderly, labor, military, professions, recreation, and women. Further, the applicant apparently did not interview leaders who would be expected to have a broad overview of the problems of outlying communities the proposed station would serve. Finally, since only a limited number of problems were listed, it does not appear that all significant community problems ascertained were reported. A limited ascertainment issue will be specified.

4. *Blue Ridge Radio Company.* Analysis of the financial data Blue Ridge submitted reveals that $46,463 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$7,897
Equipment payments	2,448
Other construction costs	7,900
Operating expenses	28,218
Total	46,463

The applicant proposes to finance the station with $500 existing capital and two bank loans of $32,500 each. However, there is no balance sheet to show that the existing capital has been paid in. Further, one loan letter does not specify the collateral required, and the availability of the collateral specified in the other loan letter has not been shown. Therefore, a limited financial issue will be specified.

5. Blue Ridge did not comply with the requirements of the ascertainment *Primer*. It does not appear that representative Dahlonega leaders of the following groups were consulted: blacks, charities, consumers, culture, elderly, labor, and professions. Also, the applicant did not interview leaders of outlying communities to be served. A limited issue will be specified.[1]

6. As amended, Table I of Section II of Blue Ridge's application shows that the two stockholders have 100 and 109 shares of stock, but shows their interests as 50 percent each. An amendment will be necessary to correct this inconsistency.

[1] On June 16, 1980, Blue Ridge filed a proposed amendment to its ascertainment showing, along, with a petition for leave to amend. Although Blue Ridge previously indicated, in a timely filed amendment, that its ascertainment efforts were continuing and that it would submit a related amendment as soon as these efforts were completed, no explanation is given why these efforts were not undertaken and completed in a timely manner. Hence, good cause has not been shown, and the June 16 amendment will not be accepted.

7. *Other matters.* Date submitted by the applicants indicate that there will be significant differences in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

8. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, It is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications Are Designated For Hearing In a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Lumpkin County Broadcasting Company is financially qualified to construct and operate the proposed station.

2. To determine with respect to the efforts of Lumpkin County Broadcasting Company to ascertain the needs of its proposed service area:

a. Whether the applicant adeqautely determined the minority, racial, or ethnic breakdown of Dahlonega;

b. Whether the applicant interviewed leaders of business, charities, culture, elderly, labor, military, professions, recreation, and women in Dahlonega;

c. Whether the applicant adequately ascertained community problems outside of Dahlonega; and

d. Whether the applicant listed all ascertained community problems.

3. To determine with respect to Blue Ridge Radio Company:

a. The source and availability of sufficient funds to construct the proposed station and operate it for three months; and

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

4. To determine with respect to the efforts of Blue Ridge Radio Company to ascertain the needs of its proposed service area:

a. Whether the applicant interviewed leaders of blacks, charities, consumers, culture, elderly, labor, and professions in Dahlonega; and

b. Whether the applicant adequately ascertained community problems outside of Dahlonega.

5. To determine which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

10. It is Further Order, That Blue Ridge Radio Company's "Petition for Leave to Amend," filed June 16, 1980 Is Denied.

11. It is Further Ordered, That Blue Ridge Radio Company shall file the amendment specified in paragraph 6, above, within 30 days after this Order is published in the **Federal Register.**

12. It is Further Ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23921 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-394; 80-395]

Imperial Valley Magic FM, et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: July 8, 1980.

Released: July 31, 1980.

In re Applications of Imperial Valley Magic FM, Brawley, California, Req: 96.1 MHz, Channel 241B 50 kW (H&V), 232.3 feet, BC Docket No. 80-394, File No. BPH-790228AE; Robert T. Mindte, Brawley, California, Req: 96.1 MHz, Channel 241B 50 kW (H&V), 337 feet, BC Docket No. 80-395, File No. BPH-790808AC; For a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Imperial Valley Magic FM (Imperial) and Robert T. Mindte (Mindte) for a construction permit for a new FM station.

2. *Imperial.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the Rules. We have no evidence that Imperial published the required notice. To remedy this deficiency, Imperial will be required to publish local notice of its application if it has not already done so and to file a statement of publication with the presiding Administrative Law Judge.

3. *Mindte.* The applicant's main source of funds consists of a loan from the Statewide California Business and Industrial Development Corporation of $260,000. The loan agreement requires a guarantee from the U.S. Small Business Administration. Mindte has failed to indicate that he has obtained this guarantee. A general financial issue will therefore be specified.

4. *Other matters.* Data submitted by the applicants indicate that there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, for the purpose of comparison, the populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accure to either of the applicants.

5. Neither applicant has provided us with a current FAA clearance. Accordingly, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, It Is Ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Mindte is financially qualified to construct and operate the proposed station.

2. To determine whether there is a reasonable possibility that the tower heights and locations proposed by Imperial and Mindte would constitute hazards to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications, if any, should be granted.

8. It Is Further Ordered, That Imperial file a statement of local notice of its application with the presiding Administrative Law Judge, in accordance with § 73.3580(f) of the Commission's Rules.

9. It Is Further Ordered, That the Federal Aviation Administration is made a party to the proceeding.

10. It Is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-23915 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-411; 80-412]

Metropolitan Broadcasting Corp., Inc. et al.; Designating Applications For Consolidated Hearing On Stated Issues

Hearing Designation Order

Adopted: July 2, 1980.

Released: July 31, 1980.

In re Applications of Metropolitan Broadcasting Corporation, Inc. Tallahassee, Florida, Req: 95.9 MHz, Channel 240, 3.0 kW (H&V), 300 feet, BC Docket No. 80-411, File No. BPH-790110AC; Vivian L. French, Frank X. Veihmeyer, Rudy Hubbard, Roy Wood and Joyce Wood d.b.a. Hub Radio. Tallahassee, Florida, Req: 95.9 MHz, Channel 240, 3.0 kW (H&V), 300 feet, BC Docket No. 80-412, File No. BPH-790530AD; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Metropolitan Broadcasting Corporation, Inc. (Metropolitan) and Vivian L. French, Frank X. Veihmeyer, Rudy Hubbard, Roy Wood and Joyce Wood d.b.a. Hub Radio (Hub).

2. *Hub.* Analysis of the financial data submitted by Hub reveals that $91,767.44 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment purchase	$53,077.44
Building	4,000.00
Miscellaneous	7,500.00
Operating Costs (three months)	27,190.00[m,s
Total	91,767.44

Hub plans to finance construction and operation with (i) $5,000 cash; (ii) $30,000 loan from Vivian L. French; (iii) $67,500 loan from Frank X. Veihmeyer; (iv) $7,500 loan from Joyce Wood and (v) $7,500 loan from Roy Wood. The commitment letters of V. French, J. Wood and R. Wood are not signed and there are no supporting balance sheets for either J. Wood or R. Wood. Hub was shown only $72,500 to finance construction and operation, an amount insufficient to meet its proposed expenses of $91,767.44. Accordingly, a limited financial issue will be specified.

3. Except as indicated by the issue specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, It Is Ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are Designated For Hearing In a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Hub:

(a) the source and availability of additional funds over and above the $72,500 indicated; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It Is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants, herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner precribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-23918 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-331; BRSCA-1199; 80-332; FCC 80-373]

Peoria Community Broadcasters, Inc., et al.; Designating Applications For Consolidated Hearing On Stated Issues

Memorandum Opinion and Order

Adopted: June 25, 1980.

Released: July 31, 1980.

In re Applications of Peoria Community Broadcasters, Inc., Debtor in Possession, Station WWCT(FM), Peoria, Illinois, BC Docket No. 80-331, BRH-2634; For Renewal of License and For Renewal of Subsidiary Communications Authority; BRSCA-1199; and Bruce Foster, Charles W. Foster, Belva A. Foster and Norman Ricca, a partnership d.b.a. Central Illinois Broadcasting Company, BC Docket No. 80-332, BPH-10121; Req: 105.7 MHz, Channel 289, 50 kW, 500 feet; for construction permit.

By the Commission: Commissioner Brown absent.

1. The Commission has before it: (i) the above-captioned license renewal application filed August 2, 1976 by Peoria Community Broadcasters, Inc., debtor in possession ("Peoria" or "licensee"); (ii) a petition to deny Peoria's renewal application filed November 1, 1976 by Central Illinois Broadcasting Company ("Central" or "petitioner"); (iii) responsive pleadings thereto filed by Peoria on December 15, 1976, by Central on January 21, 1977; and by Peoria on April 29, 1977; (iv) Central's mutually exclusive application, as amended, filed November 1, 1976, seeking WWCT(FM's) assigned frequency [1] and (v) an amendment to the pending renewal application filed July 31, 1979.

Background

2. On May 14, 1976, Peoria filed for and was granted bankruptcy status by the United States District Court for the Southern District of Illinois ("District Court"), and the licensee was designated debtor in possession "to conduct its business and operate same in the normal course thereof. . . ." (Case No. P BK 76 360). On June 22, 1976, the Commission granted an involuntary assignment of WWCT(FM's) license to Peoria Community Broadcasters, Inc. as debtor in possession. (BALH-2300; BASCA-747). On July 19, 1977, we accepted for filing an application for assignment of license from the debtor in possession to Walter W. Hart and/or Hart Broadcasting, Inc. (BTC 8389). However, before action could be taken on that application, it was withdrawn. Subsequently, on October 20, 1978, the Commission accepted for filing a new application for assignment of the license to Chan Broadcasting Co., Inc. (BALPH 780929-EG). Meanwhile, on November 1, 1976, Central filed a mutually exclusive application for a construction permit for WWCT(FM's) frequency (BPH-10121), and a petition to deny Peoria's renewal application alleging that Peoria had undergone an unauthorized transfer of control and had misrepresented its ownership to the Commission and the District Court. As discussed below, substantial and material questions of fact remain as to whether renewal of Peoria's license would serve the public interest, and an evidentiary hearing is therefore necessary. Further, since the Peoria renewal and the Central construction permit applications are mutually exclusive in that they seek the same facilities, they must be designated for hearing in a consolidated proceeding.

[1] On October 20, 1978, the Commission accepted for filing an application for assignment of license from Peoria to Chan Broadcasting Co., Inc. (Chan). The president and sole stockholder of Chan is Oland J. Chan, a minority. The assignment application will be held in abeyance pending the outcome of this proceeding.

Central's Petition to Deny Peoria's Renewal Application

3. Central contends that, although Peoria represented in its application for construction permit and in every one of its Ownership Reports (FCC Forms 323) that Thomas A. Murphy is the majority stockholder and chairman of the board of directors, both *de jure* and *de facto* control of the station passed to the other stockholders, Paul Carnegie, W. R. Warren and Walter W. Hart, "sometime prior to July of 1976" without the knowledge or approval of the Commission; that Peoria has misrepresented its ownership and corporate officers both to the Commission and to the District Court in the bankruptcy proceeding; and that Peoria may have violated § 73.3613(b) of the Commission's rules, 47 CFR 73.3613(b), which provides that agreements or contracts affecting ownership of a station must be reported to the Commission. Attached to Central's petition are (1) Exhibit A, a copy of Peoria's Ownership Report (FCC Form 323) dated July 23, 1976, which indicates Mr. Murphy owns 60,000 shares of common stock (60 percent) and is chairman of the board of directors; Mr. Carnegie owns 15,000 shares (15 percent) and is president of the corporation and a member of the board of directors; Mr. Warren owns 15,000 shares (15 percent) and is secretary-treasurer of the corporation and a member of the board of directors; and Mr. Hart owns 5,000 shares (24.39 percent) but holds no corporate office; (2) Exhibit B, a copy of a Statement of Affairs for Bankrupt Engaged in Business filed July 3, 1976, by Peoria in the District Court, which indicates the account books and records of Peoria were under the supervision of Mr. Murphy from January 1972 to January 1976, of Mr. Bruce Foster [2] from January 1976 to May 1976, and of Mr. Hart since then; the inventory reports and tax returns of Peoria were in the possession of Mr. Hart; Messrs. Murphy and Carnegie were authorized to make withdrawals from Peoria's account at Herget National Bank, Pekin, Illinois; and Messrs. Hart and Carnegie were authorized to make withdrawals from Peoria's account at First State Bank of Pekin, Illinois; and (3) Exhibit C, a plan of arrangement for the payment of creditors in the bankruptcy proceeding filed in the District Court on July 2, 1976. Exhibit B was signed and verified by Mr. Hart as vice-president of Peoria; Exhibit C was signed and verified by Mr. Hart as vice-president and treasurer of Peoria.

[2] Mr. Foster, one of the principals of Central which is now seeking WWCT's frequency, was employed by Peoria as chief engineer from October, 1973 to May 1976. Throughout its pleadings Peoria refers to Central as "Foster."

4. In opposition, Peoria states that Central's unauthorized transfer of control allegation "is predicated on the erroneous assumption that a debtor-in-possession . . . is the same entity as the original licensee, and that such an entity as originally approved by the Commission remains 'in control' of the licensee" (opp. at 3). Peoria maintains that under the federal bankruptcy statute [3] and case law, upon filing and acceptance of a bankruptcy petition the bankrupt comes under the exclusive control of the court and a debtor in possession becomes "a 'trustee' or 'receiver' [for the court] and [is] a separate entity from its prior being" (opp. at 6). On May 14, 1976, Peoria was designated debtor in possession ("Peoria/DIP") by the Distict Court in the bankruptcy proceeding and the Commission granted an application for involuntary assignement. According to Peoria, control of the licensee had therefore passed from Peoria to the United States District Court with Commission's approval; and Mr. Hart's possession of Peoria's tax returns, authority to write checks and his vertification of Peoria's pleadings in the bankruptcy proceeding is the "normal federal procedure of 'an arrangement' for the resolution of bankruptcy." Peoria quotes from our ruling in *WHDH, Inc.*, 17 FCC 2d 856 (1969) at 863, wherein we stated that "the term control includes any act which vests in a new entity or individual the right to determine the manner or means of operating the licensee and determining the policy that the licensee will pursue" and asserts that it is therefore "clear that the Petition to Deny's view that control rests in mere majority stock ownership is both a simplistic and unrealistic one." Peoria further states that Mr. Murphy was to be an "absentee stockholder and investor"; and although Mr. Murphy did come to work at the station it was as a result of his own "financial necessity" and his role was limited to that of "financial advisor" while Mr. Carnegie remained "in control" of the station. Peoria then asserts that "Thomas Murphy never had legal control of Peoria" (opp. at 7), apparently because he "never paid for his stock and thus it would appear that he did not validly hold it" (opp. at 10); and that the Commission's original grant of WWCT(FM)'s license was based "on

[3] 11 U.S.C. § 742 *et seq.*

that [sic] presentation that Mr. Murphy was to be an investor to supply the majority of necessary capital," and his failure to pay for his stock "was in violation of the promise to the Commission," for which Mr. Hart cannot be "charged." Opp. at 10. With regard to the Ownership Reports, Peoria states that the "confusion" arose because "no one after a while really knew who owned the company" and therefore "reasonable men might differ" as to whether the station was controlled by Mr. Carnegie, minority stockholder and station manager who actually operated the station, or Mr. Hart, who allegedly had nothing to do with the station's operation but upon whose signature the bank advanced operating capital, or Mr. Murphy, the majority stockholder who allegedly never paid for his stock; but regardless of who was actually in charge, the Commission has held that "such questionable situations do not call for severe penalties" where "the situation can only construed as an honest error in judgment and not an attempt to deceive the Commission."

5. Finally, Peoria states that as a result of its financial plight and cross-litigation between the stockholders a "settlement agreement" was reached under which Mr. Murphy, in consideration of a cash settlement, would "waive any interest" in the station and transfer his interest to Mr. Foster, "subject to Commission consent," but that upon receiving his money Mr. Murphy "abandoned the property and disappeared"; and therefore "the stock still is Mr. Murphy's until a transfer of control is authorized." Opp. at 11. Appended to Peoria's opposition as Attachment No. 1 to Attachment E is a copy of its December 30, 1975, settlement agreement which states that Mr. Hart is a director of Peoria; Mr. Murphy would "relinquish any and all rights and interest that he may have in . . . said corporation" in consideration of a cash payment of $22,000, the receipt of which was acknowledged by Mr. Murphy in the agreement; Mr. Murphy would cooperate with the other stockholders in their dealings with this Commission and would not interfere with the operation of the station; if the anticipated sale of the station did not occur prior to November 30, 1976, the transaction covered in the agreement would be "reported" to the Commission as a sale of Murphy's interest; and for the purpose of selling the station Mr. Hart was "vested with an irrevocable Power of Attorney, coupled with an interest to execute and document our file any application on behalf of [Mr. Murphy] which ordinarily and reasonably would. . . have been required. . . by the Federal Communications Commission."

6. In reply, Central states that when the chairman of the board who owns 60% of the stock resigns, sells his stock and leaves the city a transfer of control has occurred regardless of the day-to-day management of the station; and the intent of the December 1975 "Mutual Releases and Agreement" was clearly "to immediately remove Mr. Murphy" from Peoria. In a responsive pleading entitled "Reply to Opposition to Motion to Dismiss or Alternatively Petition to Enlarge Issues," filed April 29, 1977, Peoria characterizes Central's position as arguing that "as a result of the arrangement approved by the United States District Court acting under the authority of the FCC's authorization for transfer of control, Walter Hart has assumed control in that he has paid off the creditors and is advancing funds to operate the station," and asserts there has been no unauthorized transfer of control because "Hart does so pursuant to the Order of the United States District Court and not as a mere volunteer." (April 29, 1977, pleading, p. 3.). Peoria further states that Mr. Murphy's interest in the station "remains on the corporate books, and will remain so unless and until the Commission authorizes a transfer" (April 29 pleading, p. 5); and although its Ownership Reports were "never completely accurate," those reports "were always appropriately correct as to percentages owned and accurately reported that Thomas Murphy had and still has legal control of the corporation" (April 29 pleading, p. 6). Appended to the pleading as Attachment 3 are copies of reports and minutes of Peoria's board meetings which indicate that at a meeting held January 11, 1971, Mr. Hart was issued 10,000 shares of stock and was elected to the board of directors; at a meeting held December 13, 1971, Mr. Hart was present as a director/stockholder of the corporation and holder of 10,000 shares of stock out of 73,000 shares issued (13.7%); and at a meeting held January 30, 1974, Mr. Hart was present as a director/stockholder and holder of 4,875 shares out of 24,375 issued (20%).

Discussion

7. *Unauthorized Transfer of Control.* the Commission has provided both general and specific guidance as to what constitutes "control" of a licensed facility within the meaning of Section 310(d) of the Communications Act, 47 U.S.C. 310(b). In *WWIZ, Inc.*, 36 FCC 561, 579 (1964), we stated:

> . . . in determining control, the Commission looks beyond mere legal title and considers whether other factors may lend dominance to a party nominally having only a minority interest. Thus, we stated in *Town and Country Radio, Inc.*, . . . [28 FCC 129, 151 (1960)] 'The Commission has repeatedly held that passage of control need not be legal control in a formal sense, but may consist of actual control by virtue of the special circumstances presented,' . . . [Citations omitted]. 'Control' as used in Section 310(d) of the Act embraces 'every form of control, actual or legal, direct or indirect, negative or affirmative.' . . . [Citations omitted].

In *Lorain Journal Company* v. *F.C.C., 351 F. 2d 824, 829 (D.C. Cir. 1965), the United States Court of Appeals affirmed WWIZ, Inc.*, and specifically approved the Commission's definition of "control." Further, in *WWIZ, Inc.* we stated that ". . . preparation and processing of corporate minutes; processing and filing of reports and applications with the Commission; review of advertising contracts of the station; payment of salaries to employees of the station; and amortization of debts owed by" the station, *id.* at 573, as well as keeping the station's books, controlling the station's checking accounts and scrutinizing the station's receipts and expenditures, *id.* at 582, constitute manifestations of "control" within the meaning of Section 310(d).

8. The basic facts upon which Central relies in asserting that Peoria has undergone an unauthorized transfer of control are as follows: (1) Peoria's initial application for a construction permit, its renewal applications, and every Ownership Report filed by Peoria from March 10, 1970, to December 20, 1973, indicate that the only shareholders/officers/directors of the licensee were Mr. Murphy, 60% (or 65%) stockholder and chairman of the board; Mr. Carnegie, 15% (or 17.5%) stockholder, president and director; and Mr. Warren, 15% (or 17.5%) [4] stockholder, secretary-treasurer and director; (2) on May 27, 1976 and August 2, 1976, Peoria filed Ownership Reports which added Mr. Hart as a 24.39% owner (5000 shares) of the corporation, but indicated that he was not an officer or director of the corporation; and (3) a Statement of Affairs for a Bankrupt Engaged in Business submitted to the United States District Court in the bankruptcy proceeding on July 2, 1976, was signed by Mr. Hart as vice-president of Peoria and indicated that he had in his possession the books, accounts, records, inventory reports and tax returns of the

[4] An Ownership Report filed on September 11, 1973, indicated that the respective percentages were 65%/17.5%/17.5%, although the actual number of shares held by each stockholder remained the same (60,000/15,000/15,000 respectively) in all the reports.

corporation; that he was authorized to make withdrawals from Peoria's account at the First State Bank of Pekin, Pekin, Illinois; that "[d]during the year immediately proceeding the filing of the original [bankruptcy] petition" the corporation "repurchased Thomas A. Murphy's stock"; and that the only stockholders/officers/directors of the corporation were Messrs. Hart, Carnegie and Warren.

9. Although Peoria does not dispute any of these facts, it maintains that no unauthorized transfer of control has occurred. Peoria quotes from *WHDH, Inc. supra* at 863, wherein we stated that "* * * a realistic definition of the term 'control' includes any act which vests in a new entity or individual the right to determine the manner or means of operating the licensee and determining the policy that the licensee will pursue," and states that therefore Central's "view that control vests in mere majority stock ownership is both a simplistic and unrealistic one" (opp. at 9). In this regard Peoria states that the Commission "was advised from the very first day in a comparative hearing proceeding that Mr. Paul Carnegie * * * would be in control of the facility," and that although Mr. Murphy worked at the station as a "financial advisor," he was intended to be an "absentee stockholder." (*Id.*)

10. The clear implication of Peoria's interpretation of our definition of "control" in *WHDH, Inc., supra*, is that "mere" majority stock ownership may not constitute "control" of the licensee, and that, in spite of Mr. Murphy's ownership of a majority of Peoria's stock, Mr. Carnegie had been in control of the license because the Commission had been so "advised" and because of Mr. Murphy's "absentee stockholder" status. However, the language it cites, even without resort to prior Commission pronouncements, obviously does not support the proposition it urges, for the *"right* to determine the manner or means of operating the licensee," *id.* [emphasis added], by definition goes with "mere" majority stock ownership. This position was taken by the Commission over 28 years ago in *Albert J. Feyl et al.*, 15 FCC 823 (1951), wherein we stated:

> It is, of course, quite true that in our examination into the matter of control of a corporate licensee we do not confine ourselves to a narrow, legalistic approach but rather look beyond stock ownership, in some cases, to determine where actual working control resides * * * This does not mean that we do not attach prime importance to the ownership of majority stock for the reason that such ownership, far from being divorced from the realities of actual control, as petitioner would have us believe, is the very genesis of control. It is the owner of legal control who has the legal *right* to exercises or delegate actual control * * * Certainly the most fundamental right implicit in legal control is the right to determine the repository of actual control—and the passage of this right, alone, to anyone except the person to whom we originally confirmed it must have our prior consent. *Id.* at 828.

Further, as we stated in *Paramount Television Productions, Inc. et al.*, 17 FCC 264, 342 (1953),

> [e]ven a majority stockholder is frequently content to let others take a major role in management, but it would hardly be suggested that a majority stock interest is not a controlling interest merely because it has, as a matter of policy, refrained from exercising this control.

From the initial grant of WWCT's license in 1970 to the August 2, 1976, Ownership Report filed by Peoria, Thomas Murphy was consistently and exclusively represented to the Commission as the majority stockholder of Peoria.

11. Peoria also argues that there has been no unauthorized transfer of control (a) because Mr. Murphy "never had legal control of Peoria" (opp. at 7), apparently because he "never paid for his stock and thus it would appear that he did not validly hold it" (opp. at 10); (b) because "no one after a while really knew who owned the company" and therefore "reasonable men may differ" as to who was in control (opp. at 10); and/or (3) because "the stock still is technically Mr. Murphy's until a transfer of control is authorized" (opp. at 11).

12. With regard to its argument that Mr. Murphy "never had legal control of Peoria" because he "never paid for his stock," Peoria states that the Commission's "authorization for Mr. Murphy to be the majority stockholder of the corporation was on that presentation that [he] was * * * to supply the majority of necessary capital." However, our initial grant of WWCT's license and our subsequent renewals of that license have been based in pertinent part on the representations that Peoria has made concerning its financial status and organizational structure. As Peoria admits, Mr. Murphy was represented to this Commission as the corporation's majority stockholder and was, as such, the only individual authorized by this Commission to hold *de jure* control over the corporation. It appears Mr. Murphy exercised the powers of majority stockholder until December 1975. Thus, Mr. Murphy's alleged failure to pay for his stock fails to support Peoria's position that there has been no unauthorized transfer of control. See para. 20, *infra.*

13. Peoria's assertion that there has been no transfer of control because "no one after a while [sic] really knew who owned the company" is without merit. In *Television Company of America, Inc. et al.*, 1 FCC 2d 91 (1965), we rejected the same argument, stating that the excuse

> That no one really knew who owned the stock, etc., and thus that the Commission was not informed of the transfer is belied . . . by the fact that reports and documents filed with the Securities and Exchange Commission quite clearly stated that the stock in issue was owned by KBLJ, Inc., while reports being filed contemporaneously with this Commission made no mention of this fact. The Commission's rules make ample provision for (indeed require) the reporting of executory contracts, beneficial ownerships, and other interests. Had the reporting officials endeavored to keep the Commission apprised of the true state of the licensee's ownership situation there would have been little difficulty in so doing. In cases of honest confusion a full disclosure of the facts with the statement that the legal consequences were uncertain would have been sufficient. Instead, there was no disclosure and the application for transfer of control now before us . . . represented [individuals] . . . as owners of stocks in which they had long ceased to have any interest, legal or beneficial. *Id.* at 94.

14. In the instant case, rather than making any effort to inform the Commission that some "confusion" might exist as to the company's ownership, Peoria unequivocally represented in every one of its ownership reports and license renewal applications that Mr. Murphy was the majority stockholder. Indeed, in 1973 Peoria represented to the Commission that Mr. Murphy was to provide *additional* funds upon which he was to be paid 8 percent interest. See para. 21 *infra.* Peoria never mentioned the possibility of any question as to its stock ownership until it filed its opposition to the unauthorized transfer of control allegation contained in the petition to deny. Further, Peoria's assertion that no one knew who owned the company is "belied" by the fact that in a document filed in District Court on July 2, 1976, Peoria, through Mr. Hart signing as vice-president and treasurer of the corporation, represented that the corporation had repurchased Mr. Murphy's stock, while in Ownership Reports filed with this Commission on May 27 and August 2, 1976, it represented that Mr. Murphy was still the majority stockholder. This fact situation does not appear to constitute an "honest error in judgment" excusing an unauthorized transfer of control, *Coral Television Corp., (WCIX-TV)*, 6 FCC 2d 749, 756 (1967).

V 45 / 155 AG 80 UMI

15. In support of its argument that "the stock still is technically Mr. Murphy's until a transfer of control is authorized," Peoria states that paragraph 8(a) of the sales agreement executed on December 30, 1975, recognizes the necessity for Commission approval of a transfer of control. However, the mere recognition by Peoria that it is required to seek the Commission's approval for a transfer of control does not excuse its failure to seek such approval before eliminating Mr. Murphy's interest in the corporation and then representing to the District Court that it had, in fact, eliminated his interest.

16. Although the import of Peoria's argument is that there has been no unauthorized transfer of control because the sales agreement was executory, there appears to be no act specified in the agreement which remains to be performed. Mr. Murphy was to receive $22,000;[5] resign as officer/director of the corporation; not interfere in the operation of the station; and cooperate with the remaining stockholders in making applications to the Commission. The first three conditions are satisfied, and the fourth is, under the terms of the agreement itself, irrelevant, inasmuch as paragraph 8(a) specifically provides that Mr. Hart "is vested with an irrevocable Power of Attorney, coupled with an interest to execute any document or file any applications on behalf of [Mr. Murphy] which ordinarily and reasonably would or might have been required of [Mr. Murphy] by the Federal Communications Commission." [6] Further, as stated above, in the documents filed in the bankruptcy proceeding on July 2, 1976, Peoria unequivocally represented that the corporation had repurchased Mr. Murphy's stock in December, 1975. Moreover, in connection with an application for transfer of control of WWCT(FM) from Peoria to Mr. Hart alone [7] Peoria filed on September 29, 1977, a number of documents including an "Option to Purchase Stock Agreement" dated December 10, 1976, under which Mr. Hart obtained an option to purchase Mr. Carnegie's stock in the corporation. That document stated that the December 30, 1975, sales agreement "effected the elimination of any purported Murphy stock interest." Thus, it appears it was the understanding and intention of the remaining Peoria stockholders that execution of the December 30, 1975, sales agreement and the payment to Mr. Murphy terminated his interest in the corporation. Finally, even if the sales agreement was executory, as indicated *supra* at para. 13, the Commission has made clear that our rules "make ample provisions for (indeed require) the reporting of executory contracts . . . [etc.]." *Television Company of America, Inc., et al., supra.* Although Central's petition to deny specifically raises the issue of the failure to report the December 30, 1975, sales agreement as required by Section 73.3613(b) of our rules, Peoria does not even address this point. Thus, Peoria's assertions (1) that Mr. Murphy's stock never belonged to him, (2) that it still belongs to him, and/or (3) that licensee never knew with certainty whether or not it belonged to him, do not, individually or taken together, rebut the questions raised indicating that an unauthorized transfer of control occurred.

17. Peoria also argues that no unauthorized transfer of control occurred because on May 14, 1976, Peoria was designated as debtor in possession in the District Court and the Commission granted an application for involuntary assignment and therefore control of the licensee passed with the Commission's approval from Peoria to the District Court (with Peoria as debtor in possession operating the stations as a "trustee"); and Mr. Hart's possession of Peoria's tax returns, authority to write checks and his verification of Peoria's pleadings in the bankruptcy proceeding is the "normal Federal procedure of 'an arrangement' for the resolution of a bankruptcy." In its April 29, 1977, pleading Peoria characterizes Central's position as arguing that "as a result of the arrangement approved by the United States District Court acting under the authority of the FCC's authorization for transfer of control, Walter Hart has assumed control in that he has paid off creditors and is advancing funds to operate the station," and asserts that "Hart does so pursuant to the Order of the United States District Court and not as a mere volunteer." At the outset we note petitioner does not argue that the unauthorized transfer of control occurred "as a result of the arrangement approved by the . . . District Court . . . ." Both the petition to deny and Peoria's own responses in this proceeding contain undisputed facts which indicate that Mr. Murphy relinquished control and Mr. Hart exercised manifestations of control long before Peoria filed for bankruptcy. The three most obvious of these facts are: (1) paragraph 8(a) of the December 30, 1975, sales agreement purported to terminate Mr. Murphy's interest and vest in Mr. Hart "an irrevocable Power of Attorney, coupled with an interest" to perform all acts which this Commission might have required of Mr. Murphy; (2) Peoria itself, in its July 2, 1976, submission to the District Court, represented in two separate places that the corporation had repurchased Mr. Murphy's stock; and (3) that pleading was signed and verified by Mr. Hart as vice-president of the corporation. Peoria never, in any of its pleadings, addresses the fact that the corporation repurchased Mr. Murphy's stock approximately *five months before* it filed for bankruptcy. Moreover, the bankruptcy order issued on May 14, 1976, did not order Mr. Hart personally to perform any acts. The Order stated that the corporation "shall remain in possession of its assets and property and it is hereby authorized and empowered to conduct its business and operate same in the normal course thereof * * *."

18. Further, the Commission's approval of the application for involuntary assignment would not retroactively authorize Mr. Murphy's relinquishment of control or Mr. Hart's assumption thereof. Although the application for involuntary assignment specifically requires a list of all stockholders and their proportional ownership interests, Peoria failed to complete that part of the application, making no mention of the fact that the actual ownership of the corporation was in any way different from the Ownership Reports that it had been filing for years. Under such circumstances, the Commission assumes that the station will continue to be operated by the corporation's authorized officers as represented in the licensee's Ownership Reports. However, although the record indicates that Mr. Hart had a significant ownership interest in and was a director of the corporation at least since January 1971, the Commission was not informed that Mr. Hart was in any way associated with Peoria until the filing of an allegedly corrected Ownership Report on May 27, 1976.

19. The well documented allegations by Central, and the apparent discrepancies in Peoria's explanations (*e.g.* Mr. Hart's interest in the corporation prior to Peoria's filing for bankruptcy; the conflict between the representations made in Peoria's July 2, 1976, submission to the District Court and its August 2, 1976, Ownership Report) discussed in the above paragraphs raise a substantial and material question of fact as to whether the licensee has undergone an unauthorized transfer of control. Thus, an issue will be specified under which the facts and circumstances relating to such transfer may be explored.

20. *Section 1.65.* As indicated *supra*, at para. 12, Peoria's assertion that Mr. Murphy "never had legal control of Peoria" because he "never paid for his stock and thus it would appear that he did not validly hold it" does not support its position that no unauthorized transfer of control has occurred. Further, this statement raises a question as to whether Peoria complied with § 1.65 of the Commission's rules.

21. Section 1.65 of the Commission's rules provides, in pertinent part:

> Whenever there has been a substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information * * *.

Applicants are required to make a showing that they are financially qualified to operate a station, and such a showing is clearly "of decisional significance." Peoria's initial application for a construction permit (BPH–6551) was filed on December 11, 1968, and granted by the Commission on February 5, 1970, a period of fourteen months. At no time during that fourteen month period, nor in the following six years did Peoria submit a statement as required by § 1.65 of the Commission's rules, that it had failed to receive "the majority of [its] necessary capital." On the contrary, Peoria did not even bring this information to the Commission's attention when responding to a specific Commission inquiry concerning its financial condition in 1973. Peoria's license renewal application for the term from December 1, 1973 to December 1, 1976, filed September 3, 1973 (File No. BRH–2834) revealed that then current liabilities exceeded then current assets by $29,398 and the station had an operating deficit of $60,436. Therefore, Peoria was directed by letter dated November 1, 1973, to inform the Commission how it intended to finance the continued operation of the station. In a response filed December 3, 1973 Peoria indicated that Mr. Murphy was to advance all "funds necessary to cover any operating deficits of the corporation," that he was to receive 8% per annum interest, and that he "expect[ed] repayment of any funds required to be paid as soon as it becomes practical." Thus, Peoria represented in December 1973 that it was going to pay 8% interest on a loan for desperately needed working capital from a stockholder whom it now claims never paid for his stock in the first place. An issue shall be specified as to whether Peoria violated § 1.65 of the rules by failing, for a period of over six years, even after specific inquiry into its financial condition, to notify the Commission that it had not received "the majority of [its] necessary capital."

22. Peoria's pleadings raise additional questions pertaining to the licensee's candor in numerous statements made to the Commission and the District Court. For example, Peoria never informed the Commission that Mr. Hart had any ownership interest in the corporation until its allegedly "corrected" Ownership Report of May 27, 1976. The Commission has held that officers of corporate licensees, such as vice-president and secretary-treasurer, who file reports and applications with the Commission "must be charged with knowledge" of their corporation's stock ownership situation, and that incorrect information in such reports and/or applications are therefore "willfully and knowingly false." *Capital City Communications, Inc.*, 37 FCC 2d 164, 170 (1972); *recon. denied*, 38 FCC 2d 1010 (1972); *reversed on other grounds sub nom. La Rose.* v. *F.C.C.*, 494 F.2d 1145 (D.C. Cir. 1974). As stated previously, *supra* at para. 21, the Commission made a specific inquiry concerning Peoria's financial condition in 1973. Although numerous documents submitted in this proceeding (*e.g.*, Mr. Hart's affidavit submitted with Peoria's opposition to the petition to deny, and Attachments 3 and 4 to Peoria's April 29, 1977, pleading) clearly indicate that Mr. Hart has had an ownership interest in and participated in the corporate affairs of Peoria at least since January 1971, no mention of this interest in or financial contribution to the corporation was made in Peoria's December 3, 1973, response. Further, it appears that even in its "corrected" report in May 1976 Peoria misstated the duration of Mr. Hart's ownership interest in the corporation. According to that report, Mr. Hart had held stock in the corporation only since January 1974. Peoria's corporate minutes and an affidavit by Mr. Hart state that Mr. Hart had an ownership interest in Peoria as early as January 1971. In addition, the percentage stock ownerships represented in *all* of Peoria's Ownership Reports bear no mathematical relationship to the numbers of shares represented in those reports to be held by the various stockholders.[8]

23. In further illustration, a chronological listing of the representations made to this Commission and the District Court by the licensee clearly indicates that Peoria has made numerous other inconsistent statements with regard to Mr. Murphy's and Mr. Hart's stock ownership, *i.e.:*

(a) Peoria's application for construction permit and all Ownership Reports up to that filed May 27, 1976, indicated Mr. Murphy was majority stockholder, and did not reflect any ownership interest by Mr. Hart.

(b) Peoria's December 23, 1973, response to the Commission's inquiry concerning its financial condition made no mention of Mr. Hart's financial contribution or stock ownership.

(c) The allegedly "corrected" Ownership Report filed May 27, 1976, indicates that Mr. Hart held stock in the corporation only since January 1974.

(d) Attachments 3 and 4 to Peoria's April 27, 1977, pleading indicate that Mr. Hart had held stock and a directorship in the corporation at least since January 1971.

(e) The Statement of Affairs for Bankrupt Engaged in Business filed by Peoria in the District Court on July 2, 1976, stated that the corporation had "repurchased Thomas A. Murphy's stock," and that Mr. Hart was vice-president and treasurer of the corporation.

(f) The Ownership Report filed by Peoria on August 2, 1976, again represented that Mr. Murphy was still the majority stockholder, and that Mr. Hart held no corporate office.

(g) The "Option to Purchase Stock Agreement" executed by Messrs. Hart and Carnegie on December 10, 1976, stated that the December 30, 1975, sales

[5] The actual amount Mr. Murphy was to or did receive is not clear. Although the sales agreement calls for a cash payment of $22,000, the documents filed by Peoria in the District Court on July 2, 1976, indicate that Mr. Murphy received a cash settlement of $25,000.

[6] This provision alone conveys to Mr. Hart an essential element of "control" of the licensee, even though the Commission was not informed until five months later that Mr. Hart had any interest whatever in the corporation.

[7] This application was withdrawn by Peoria and dismissed without prejudice on October 23, 1978.

[8] For instance, Peoria filed two Ownership Reports on December 20, 1973. In both Peoria indicated that 90,000 shares of stock had been issued and were held as follows: Mr. Carnegie—15,000 shares; Mr. Murphy—60,000 shares; and Mr. Warren—15,000 shares. However, one of these reports represented the percentage ownership as 15%/60%/15% respectively, and the other represented the percentage ownership as 17.5%/65%/17.5%, respectively. These percentage figures clearly do not reflect the portion of stock represented as being held by each stockholder, and one set does not add up to 100%. Further, the May 27, 1976 "corrected" report, which was apparently intended to correct the December 1973 reports, did not indicate the issuance of any additional shares, but stated that Mr. Hart held 5,000 shares, or 24.39% of the voting stock. Combining all of the information in the May 27, 1976, report, Peoria is describing to the Commission as "appropriately correct" its representations that Messrs. Carnegie, Murphy, Warren and Hart held 114.39% of Peoria's stock, and that Mr. Hart's 5,000 shares of 90,000 (or 95,000) issued constituted 24.39% of the outstanding stock.

V 45 / 155 AG 8 80 0 UMI

agreement "effected the elimination of any purported Murphy stock interest."

(h) The application for transfer of control of the licensee from Peoria to Mr. Hart alone filed on June 22, 1977, again represented that Mr. Murphy was the majority stockholder, while Attachment No. 1B to Exhibit No. 1 of that same application, the "Option to Purchase Stock Agreement" described in item (d) above, represented that Mr. Murphy's stock interest had been elminated.

The above items (a)–(h) are obviously contradictory and raise a substantial and material question as to whether Peoria has exercised candor with the Commission and whether any of the above representations constitute false and misleading statements intended to deceive the Commission. Thus, an appropriate issue will be specified in this regard.

Peoria's Objections to Central's Application for Construction Permit

24. In opposition to Central's petition to deny, Peoria filed a motion to dismiss containing allegations that Central knowingly filed a financially deficient application and specified a transmitter site that was unavailable. Peoria also requested specification of issues as to (i) whether Central has withheld for its personal advantage information which should have been disclosed to the Commission in the public interest; (ii) financial qualifications; (iii) site availability; (iv) failure to amend its application as required by Section 1.65 of the rules; and (v) whether Central has made substantial material misrepresentations to the Commission.

25. Peoria first contends that Central knowingly filed a financially deficient application. According to its application, Central is a general partnership composed of the following interests: Bruce D. Foster—52%, Belva A. Foster—19%, Charles W. Foster—19%, and Norman Ricca—10%. It alleges that "Foster [the Central partnership] knew well that he could not receive a letter of credit from the Peoria banks based on his financial showing of a mere family ownership in one or two farms on which the family raises hogs and cattle, and thus Foster was unable to purchase WWCT from Peoria in January of 1976 when he attempted to do so." However, Central's application as originally tendered did not rely upon loan commitments from any financial institution. Rather, Central stated its intent to rely upon loans totaling $200,000 from Bruce D. Foster, Charles W. Foster and Belva T. Foster. An agreement to this effect, which specifies terms of interest and repayment, accompanied by personal financial statements signed by the three partners, was included in the application.[9]

26. It is well established that an application may be acceptable for filing as substantially complete pursuant to Section 73.3564 of the rules and yet not demonstrate the qualifications required for a grant. *KALE, Inc.*, 56 FCC 2d 1033 (1975); *Trustees of Dartmouth College*, FCC 73–1308, 29 RR 2d 59 (1973); *Central Florida Enterprises, Inc.*, 22 FCC 2d 260 (1970). Although Peoria claims that financial portions of Central's application were not substantially complete at the time of tender, this allegation is based upon a misunderstanding of our requirements for acceptance. The Central application may have been deficient in certain respects (see para. 30, *infra*), but it was substantially complete for the pupose of acceptance for filing. *Cf. Henry M. Lesher*, 67 FCC 2d 278 (1977).

27. Next, Peoria asserts that "Foster knew that he did not have a site available as he was personally aware that Peoria's site lease was terminated effective April 1, 1977." Opp. "motion to dismiss" section, p. 1. The Central application, as tendered for filing on November 1, 1976, specified the existing facilities of Station WWCT(FM), including the transmitter site, which was leased from Mid-America Television Company. Attached to Peoria's opposition is a January 1976 draft agreement of sale of WWCT(FM) (attachment E–2) by Peoria to Bruce Foster which, in paragraph IV–B, provides notice to Foster that the transmitter site lessors "claim that the lease is in default, and that said matter is in litigation, which litigation *may* result in early termination of the site lease." (Emphasis added.) Also attached is a February 1976 draft agreement of sale between the same parties which, at paragraph 5.3, states that:

> As soon as practicable after execution of this Agreement, and after the FCC ascertainment survey is filed with the FCC, Seller and Purchaser shall commence discussions with Mid-America Television Company for the purpose of resolving the differences which presently exist between Seller and Mid-America, for the purpose of obtaining from Mid-America its consent to Seller's assigning its interest under Exhibit D to purchaser, and for the purpose of obtaining from Mid-America an extension of said lease to a date not earlier than 2 years after the Time of Closing.

28. We cannot accept Peoria's argument that the WWCT(FM) transmitter site was unavailable to Central at the time its application was filed. The draft agreements predate the Central application by nearly a year. They do not address the status of the existing lease or Central's likelihood of obtaining a lease at the time the application was filed. The draft agreements merely acknowledge the existence of a controversy between Peoria and the lessor regarding lease terms. In fact, the latter agreement proposed to bind Peoria to cooperate in obtaining an extension or renewal of the lease for Central. Moreover, Peoria's own renewal application specified no change in the existing WWCT(FM) transmitter site. Thus, Peoria's contention is unsupported by the facts presented in its opposition, and must be rejected as purely conjectural. In its opposition, Peoria first stated that it would under no circumstances allow its equipment or facilities to be leased to or obtained by Central (attachment E–5). Accordingly, Central amended its application on April 5, 1977, to specify other facilities, including a new transmitter site. In view of the foregoing, we are not persuaded that Central specified a transmitter site that was unavailable. *See Central Florida Enterprises, Inc., supra.*

29. The gravamen of Peoria's first request for a character issue against Central is that Central's petition to deny Peoria's renewal application is not based upon recently discovered evidence of an alleged unauthorized transfer of control of WWCT(FM), but upon information acquired as early as 1975 by Bruce Foster while chief engineer and operations manager of the station. As viewed by Peoria, Mr. Foster held back this information for personal gain until after he left Peoria's employ in May 1976, was unable to obtain the station's facilities by purchase, and applications mutually exclusive to Central's had been cut off. Although Peoria relies on *Home Service Broadcasting Corp.*, 24 FCC 2d 192 (Rev. Bd. 1970), that case is not applicable. In *Home Service*, petitioner's motion to enlarge issues was untimely filed after hearing, and petitioner failed to meet its burden under *Edgefield-Saluda Radio Company et al.*, 6 FCC 2d 682 (Rev. Bd. 1966), to demonstrate good cause for late filing. Further, Peoria's assertions as to Central's motivations are speculative at best. The petition to deny filed by the applicant raises decisionally significant issues which must be considered irrespective of the timeliness with which

[9] On April 5, 1977, Central amended its financial proposal to rely on $75,000 in new capital from stockholders and a $200,000 loan from a banking institution. Included in the amendment was a letter of commitment from the banking institution. See para. 30, *infra*.

they were brought to the Commission's attention.

30. With respect to its financial qualifications, Central will require $170,240 to construct and operate the proposed station for three months, without reliance on revenues, itemized as follows:

Equipment	$123,996
Buildings and installation	6,500
Legal	15,000
Miscellaneous	3,500
Working capital	21,244
Total	170,240

To meet this requirement, Central's proposal, as amended, relies on $75,000 in new capital from stockholders, and a $200,000 loan from a banking institution. Our review of the Central application satisfies us that Central has demonstrated the availability of the $75,000 in new capital from stockholders. However, the bank's commitment letter expired on June 30, 1978, and has not been extended. Accordingly, a limited financial issue against Central will be specified.

31. Based on the foregoing, the designation of site availability, § 1.65 and misrepresentation issues against Central is not warranted. Accordingly, Peoria's requests for specification of these issues will be denied.

32. Except as indicated by the issues specified below, the applicants are legally, financially and otherwise qualified to operate as proposed. However, in view of the substantial and material questions of fact which remain with regard to whether renewal of Peoria's license would serve the public interest, and the mutual exclusivity of the Peoria renewal and the Central construction permit applications for WWCT(FM)'s frequency, a comparative hearing is required. *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327, 333 (1946).

33. The Commission's basic policy with regard to applications for change in ownership of a license which has been designated for hearing is that "resolution of outstanding questions concerning the qualifications of licensee-transferors . . . [is] a condition precedent to consideration of a transfer application, *"G. A. Richards et al.*, 14 FCC 429, 430 (1950), so that licensees can be "held accountable for their stewardship and will not be allowed to evade the consequences of their misconduct or abuse of a license by selling the station at the end of the license period." *1400 Corp. (KBMI) et al.*, 4 FCC 2d 715, 716 (1966). However, where a licensee which has been designated for hearing declares bankruptcy and is placed in the hands of a receiver or trustee, the Commission has recognized that a trustee generally is not in a position to be familiar with or explain the actions of the bankrupt licensee, and that substantial equities may exist in favor of innocent creditors who would be injured by a denial of renewal and assignment by the trustee. The Commission therefore has created a limited exception to its policy of requiring resolution of outstanding character issues as a condition precedent to approval of assignment. Under this exception, an assignment may be approved without hearing only upon a showing by the trustee/receiver that the individuals charged with misconduct no longer are associated with the station and will have no part in the proposed operations of the station, and that such individuals "will either derive no benefit from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors." *Second Thursday Corp.*, 22 FCC 2d 515, 516 (1970). *See also Arthur A. Cirilli (WIGL) et al.*, 2a FCC 2d 692 (1966).

34. Further, under these circumstances, where a comparative hearing is necessary due to the filing of a mutually exclusive construction permit application for the bankrupt licensee/transferor's facility, the Commission has stated that ". . . the public interest would better be served by comparing the qualifications of the two parties intending to operate the station. . . ." unless the Commission is ". . . presented with a situation in which a renewal applicant, faced with a mutually exclusive proposal, attempts to avoid a comparative hearing by substituting a prospective assignee to compete in his place." *KBMI, supra.* at 716.

35. In this case the District Court appointed Peoria itself to act as debtor in possession rather than appointing a trustee or receiver not associated with the licensee. Thus, the rationale that the trustee/receiver in the ordinary bankruptcy case is in no position to explain or answer for the misdeeds of the licensee is not applicable to this proceeding. Further, the licensee accused of misconduct still is operating the station as debtor in possession, and no showing has been made that individuals charged with misconduct will not benefit from approval of the assignment or that any innocent creditors would be protected thereby. On the contrary, Mr. Hart states that he and Mr. Carnegie, two individuals primarily involved in the alleged wrongdoing, are the "largest creditors" of Peoria (opp., Attachment E (Hart affidavit), p. 8), and they therefore would be the greatest beneficiaries of approval of Peoria's renewal and assignment applications. Finally, the Peoria-Chan assignment application was filed almost two years after the Central construction permit application. See para. 1, *supra.* Thus, a hearing must be held to determine whether Peoria's renewal application or Central's mutually exclusive construction permit application would, on a comparative basis, better serve the public interest. The Chan assignment application will be held in abeyance pending the outcome of the hearing proceeding. See *Moline Television Corp.*, 11 FCC 2d 592 (1968).

36. Accordingly, It Is Ordered: (a) That the petition to deny filed by Central Illinois Broadcasting Co. opposing the renewal application filed by Peoria Community Broadcasters, Inc. for Station WWCT(FM), Peoria, Illinois, is granted only to the limited extent indicated herein and is denied in all other respects; (b) That Peoria's "motion to dismiss" and "petition for enlargement of issues" are granted only to the limited extent indicated herein and are denied in all other respects; (c) That Peoria Community Broadcasters, Inc.; Walter W. Hart; Central Illinois Broadcasting Company; and Bruce G. Foster are made parties to the hearing ordered herein; and (d) That the assignment application from Peoria Community Broadcasters, Inc. to Chan Broadcasting Co., Inc. shall be held in abeyance pending the outcome of the proceeding.

37. It Is Further Ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the renewal application filed by Peoria Community Broadcasters, Inc. and the Construction Permit application filed by Central Illinois Broadcasting Company are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) With respect to the license renewal application for WWCT(FM) filed by Peoria Community Broadcasters, Inc.:

(a) To determine whether Peoria has undergone an unauthorized transfer of control.

(b) To determine whether Peoria's failure to report Mr. Murphy's alleged failure to pay for his stock constituted a violation of § 1.65 of the Commission's rules requiring all applicants to report "substantial change[s]" in pending applications;

(c) To determine whether Peoria's failure to notify the Commission of the

December 1975 sales agreement constituted a violation of § 73.3613(b) (3) and/or (6) of the Commission's rules which requires the reporting of "executory contracts" affecting ownership of licensees and "options to purchase stock" of licensees;

(d) To determine whether Peoria's failure to notify the Commission in its December 1973 response to the Commission's financial inquiry that Mr. Hart had owned stock in the corporation since 1971 constituted a misrepresentation to the Commission;

(e) To determine whether Peoria's failure to include Mr. Hart in its Ownership Reports until May 1976 constituted a violation of § 73.3615(a)(3) of the Commission's rules and/or a misrepresentation to the Commission;

(f) To determine whether Peoria's representation in its allegedly "corrected" May 1976 Ownership Report concerning the duration and extent of Mr. Hart's ownership interest in the corporation involved a misrepresentation to the Commission.

(g) To determine whether Peoria, its stockholders or officers, misrepresented facts concerning its ownership and management to the Commission and to the U.S. District Court for the Southern District of Illinois.

(h) To determine the effects of the evidence adduced pursuant to (a), (b), (c), (d), (e), (f) and (g) above on the basic and/or comparative qualifications of Peoria.

(2) With respect to the application for construction permit filed by Central Illinois Broadcasting Co.:

(a) To determine the source and availability of additional funds to meet total construction and three month operating costs over and above the $75,000 from stockholders indicated; and

(b) Whether, in light of the evidence adduced pursuant to 2(a) above, the applicant is financially qualified to construct and operate as proposed.

(3) In the event that it is determined that Peoria and Central possess the requisite qualifications to be Commission licensees, to determine, in light of the evidence adduced pursuant to the foregoing issues, which on a comparative basis, would better serve the public interest.

38. It Is Further Ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence under issues 1 (a) through (c), (e) and (g), and 2 (a) and (b) shall be upon Central Illinois Broadcasting Co., since issues 1 (a) through (c), (e) and (g) were raised by Central, and the information regarding Central's financial qualifications under issues 2 (a) and (b) is peculiarly within its knowledge; the burden of proceeding with the introduction of evidence under issues 1 (d) and (f) shall be upon Peoria Community Broadcasters, Inc.; and that the burden of proof under issues 1(a) through (h) shall be upon Peoria; and under issues 2 (a) and (b), such burden shall be upon Central.

39. It Is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

40. It Is Further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

41. It Is Further Ordered, That the Secretary of the Commission shall send, by Certified Mail—Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties to this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-23910 Filed 8-7-80; 8:45 am]

BILLING CODE 6712-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on August 4, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 26, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accodunting Office. Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

CIVIL AERONAUTICS BOARD

The CAB requests clearance of a new, single-time questionnaire which will be mailed to all air taxi operators, requesting information regarding whether they perform air ambulance services and, specifically what these services consist of. Collection of this information is authorized under Section 407(a) of the Federal Aviation Act. The information is needed to answer questions raised at a recent House hearing by the Subcommittee on Oversight and Investigation and response is mandatory. The CAB estimates respondents will number approxiamtely 4,000 and that reporting burden will average one hour per response.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-23992 Filed 8-7-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 125; Case No.]

The Chesapeake & Potomac Telephone Co. of Maryland, the Public Service Commission of Maryland; Proposed Intervention in Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Service Commission of Maryland concerning the application of the Chesapeake and Potomac Telephone Company of Maryland for an increase in its annual telephone rates. GSA represents the interest of the executive agencies of the U.S. government as users of telecommunications services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Leonard A. Salters, Acting Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202–566–0750, on or before September 8, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: July 21, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-23938 Filed 8-7-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Love Canal Epidemiology Work Group; Open Meeting; Correction

The date, time, and place for the meeting of the Love Canal Epidemiology Work Group, notice of which was published in the **Federal Register** (45 FR 51921, August 5, 1980) have been changed.

The Work Group has been rescheduled to meet on August 20, 1980, 8:00 a.m., in Auditorium B, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

All other aspects of the notice published on August 5, 1980, remain the same.

Dated: August 5, 1980.

Willaim H. Forge,

Director, Center for Disease Control.

[FR Doc. 80-23941 Filed 8-7-80; 8:45 am]

BILLING CODE 4110-86-M

Food and Drug Administration

[Docket No. 77N-0437; DESI Nos. 9149, 11020, 11127, and 12486]

Revised Physician Labeling for Neuroleptic Drugs

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice requires that a precaution statement be included in physician labeling of neuroleptic drugs (except rauwolfia alkaloids) stating that these drugs elevate serum prolactin levels and may pose a potential risk to patients.

DATES: Supplements to approved NDA's or ANDA's due on or before October 7, 1980. Revised labeling to be used on or before December 8, 1980.

ADDRESSES: Communications in response to this notice should be identified with the Docket number 77N–0437, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full NDA's (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureau of Drugs.

Supplements to abbreviated new drug applications: Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 16, 1978 (43 FR 21051), FDA set forth a precaution statement to be included in the labeling of antipsychotic drugs except lithium carbonate, to inform physicians of recent studies showing a correlation between increased mammary neoplasms and the chronic administration of these drugs in rodents. In addition, it announced a meeting to be held on June 26, 1978, to discuss the design and initiation of epidemiological studies involving the chronic administration of the drugs.

In a notice published in the **Federal Register** of August 18, 1978 (43 FR 36696), FDA proposed a revised precaution statement because of new information presented at the June 26, 1978 meeting. The time limit for submitting supplements to new drug applications (NDA's) or abbreviated new drug applications (ANDA's) was postponed, and 30 days were given for written comments. In a **Federal Register** notice of September 19, 1978 (43 FR 42042), FDA extended the time limit for written comments for an additional 30 days to give all interested persons time to comment.

FDA received 14 comments in response to the proposed precaution statement. Comments came from two officials at State-supported mental health institutions, one mental health association, one professor of psychiatry, and ten manufacturers of neuroleptic drug products. All comments have been reviewed. A discussion of them follows. In the discussion of the comments and in the prevautionary statement the term "neuroleptic drugs" is substituted for "antipsychotic drug" to more accurately describe the type of drug covered. However, the antipsychotic drug terminology has been retained when used by the comment.

1. Seven comments noted that drugs other than antipsychotic drugs and certain conditions such as stress, sleep, and pregnancy also elevate prolactin levels. They suggested that this information be included in the precautionary statement for these other drugs.

The agency believes that information on prolactin elevation resulting from any drug approved for use or employed on a chronic basis should be disclosed as a matter of professional and public interest. FDA recognizes that neuroleptic drugs are not the only drugs capable of producing elevated prolactin levels in humans but believes that the unique pharmacologic activity of this class of drugs serves as a basis for proceeding with these drugs ahead of others. The importance of the neuroleptics in this case rests upon the fact that the neurochemcial, i.e., antidopaminergic, mechanism and prolactin elevation appear to be inseparable. The agency is aware of reports that other psychotropic drugs, such as dextroamphetamine and the tricyclic antidepressants, also induce prolactin elevation. Antihistamines and antihypertensive agents may also raise prolactin levels but there is no data to suggest an obligatory link between therapeutic effects and altered prolactin levels of these drugs. A precaution statement regarding rauwolfia alkoloids will be the subject of a future **Federal Register** notice. Actions covering other types of drugs are under consideration within the agency. No warning statement is required to be included in the labeling of lithium carbonate, because it does not elevate prolactin levels.

2. One comment stated that the precaution should not be required for the drug Navane (thiothixene) because it is chemically distinct from the phenothiazines, although it raises prolactin levels. The comment continued that it is inappropriate to infer from studies of the phenothiazine neuroleptic agents that Navane therapy is also associated with increased mammary tumors.

The precautionary statement should be included in the labeling for navane (thiothixene) and chlorprothixene even though they are chemically distinct from the phenothiazines because of the unique and specific neurochemical effects common to neuroleptics (vide supra). The potential risk, if any, to human subjects is independent of nuances in the chemical formula among the several classes of neuroleptic drugs.

V. 45 / 155 AG 8 80 UMI

3. One comment stated that the precaution should not be required for Phenergan (promethazine) and Sparine (promazine), products chemically similar to Thorazine (chlorpromazine), because they are not effective as antipsychotic drugs and do not raise serum prolactin levels.

It is possible that some analogues of chlorpromazine might not be prescribed in the treatment of psychoses. However, the potential risk depends not upon the disease or condition for which the drug is prescribed but rather on whether or not the drug raises serum prolactin levels. It has not been shown that promazine and promethazine do not affect prolactin levels. Elevated prolactin levels are anticipated with prolonged administration of any of the phenothiazines. The agency finds that the precautionary statement should be included for these drugs because both are likely to raise serum prolactin levels and both may be prescribed for chronic use.

4. Six comments suggested that FDA defer action on the proposed precautionary statement until data are available to thoroughly assess the relationship between administration of antipsychotic agents and human mammary tumors.

The recommendations to defer action are not desirable. A number of neuroleptic agents have been available for prescription use for more than two decades, but conclusive data are not yet available. An appropriate study would require an extended period of time to complete. To defer action until completion of such a study would increase the possibility that prescribing physicians would be unaware of the potential risk during the additional period.

5. One comment stated that adding information to the already lengthy package insert would help neither doctors nor patients. It suggested instead that a review article be published in a medical journal with wide readership.

Under the Federal Food, Drug, and Cosmetic Act a drug is misbranded if its labeling is false or misleading in any particular. 21 U.S.C. 352(a). In determining whether the labeling is misleading, the extent to which it fails to reveal material facts regarding possible consequences of the usual uses of the product are to be considered. 21 U.S.C. 321(n); 21 CFR 1.21. Thus, a statement in the labeling discussing the possible adverse effects of the elevated prolactin levels associated with the administration of neuroleptic drugs is required to ensure that they are not misbranded.

The agency recognizes that transmission of information to the medical profession requires other measures in addition to labeling. The suggestion that the state of present knowledge be given wider attention through a publication is welcome. Such an article may be published in the future.

6. One comment recounted a drug manufacturer's experience with antipsychotic agents used in studies on dogs and rodents. It found that the elevated prolactin levels and mammary gland hyperplasia were transitory effects and returned to normal during about 3 months of continued dosing. The manufacturer saw no increase in benign or malignant neoplasms.

The studies discussed by the comment employed a shorter exposure period than the 18- and 24-month studies in which a tumorigenic effect was observed. The studies with a shorter exposure period do not disprove the possibility that neuroleptic agents would be tumorigenic in rodents upon longer exposure.

7. Two comments noted that physiological differences between rodents and humans raise questions about the relevance of rodent data to risks in human subjects. Another comment suggested placing information on rodent data in a separate section dealing with animal studies.

FDA included information on the development of mammary tumors in rodents exposed for a protracted period to describe the findings which first drew attention to the possible risk in human subjects. However, information on rodent tumors is not essential to an understanding of the risk to humans. The precaution has been revised accordingly.

8. One comment stated that the weight of evidence demonstrates the lack of a relationship between human mammary tumors and prolonged exposure to antipsychotic agents. Another comment discussed the retrospective epidemiological examination of 5,463 patients treated with antipsychotic agents during a 20-year period at the Norristown State Hospital. The comment stated that the study showed no increase in the incidence of mammary cancer in these patients. Other comments questioned the accuracy with which the fraction of prolactin-dependent human mammary tumors can be estimated.

FDA is not aware of evidence disproving the possibility of a relationship between prolonged exposure to antipsychotic agents and human mammary tumors. The results of the Norristown State Hospital study may be interpreted as ruling out with reasonable certainty only the possibility of a twofold increase in mammary tumors. A smaller relative risk was not excluded. It has not been shown that any increase in risk is insignificant or clinically unimportant.

The fraction of human tumors that appear to be prolactin dependent can be reasonably inferred from in vitro data. One report states that prolactin improves maintenance and growth in culture media of 16 (32 percent) of 50 breast cancers studied. It is noteworthy that cell cultures of four of the cancers also showed clear enhancement of growth when prolactin was added at a level about one-tenth that normally found in human serum. Taking into account the limitations of extrapolating in vitro results to clinical situations, it can be inferred that one-third of human mammary carcinomata may be prolactin dependent, and a lesser fraction exquisitely sensitive. (Salih, H., et al., "Prolactin Dependence in Human Breast Cancers," *The Lancet*, November 25, 1972, pp. 1103–1105).

9. Seven comments stated that there is a risk that patients requiring antipsychotic agents would be unnecessarily alarmed and would avoid useful treatment because the precaution implies an increased risk of mammary tumors.

Some patients may be alarmed by the precautionary statement and avoid useful treatment. However, this possibility does not warrant withholding truthful information from the labeling. Patient compliance is often less than satisfactory, but it is not clear that poor patient compliance is a result of labeling statements.

10. Two comments stated that the precautionary statement may be used as a basis for malpractice suits if a patient subsequently develops mammary tumors, even though the tumors may be entirely unrelated to treatment with antipsychotic agents. It was stated that physicians would hesitate to prescribe antipsychotic agents, even when clearly indicated.

One of the functions of FDA is to assure full disclosure of adverse effects in information directed to physicians to promote safe and effective prescribing. The physician is then responsible for making the final judgment abut which, if any, of the available drugs the patient should receive. The current labeling for neuroleptic agents lists the adverse effects of acute and chronic administration. Some adverse effects are permanent or fatal, but the drugs continue to be widely prescribed.

11. The remaining comments are specific suggestions for the wording of the precautionary statement. One comment suggested modification of the specific recommendation of periodic breast examinations because the optimal surveillance approach may vary from patient to patient. Another comment notes that "a fraction of human breast tumors" might be interpreted to mean that a part of a breast tumor in an individual could be prolactin-dependent, while other parts of the tumor were not.

These suggestions, along with others, have been incorporated into the final revised precaution statement.

After considering all comments submitted, the Director of the Bureau of Drugs concludes that the labeling for neuroleptic drugs except the rauwolfia alkaloids should contain a precaution statement on the possible adverse effects of the elevated serum prolactin levels associated with administration of these drugs. Accordingly, the physician labeling for these drug products must be revised to include the following paragraph in the Precautions section:

> Neuroleptic drugs elevate prolactin levels; the elevation persists during chronic administration. Tissue culture experiments indicate that approximately one-third of human breast cancers are prolactin dependent in vitro, a factor of potential importance if the prescription of these drugs is contemplated in a patient with a previously detected breast cancer. Although disturbances such as galactorrhea, amenorrhea, gynecomastia, and impotence have been reported, the clinical significance of elevated serum prolactin levels is unknown for most patients. An increase in mammary neoplasms has been found in rodents after chronic administration of neuroleptic drugs. Neither clinical studies nor epidemiologic studies conducted to date, however, have shown an association between chronic administration of these drugs and mammary tumorigenesis; the available evidence is considered too limited to be conclusive at this time.

The following drug entities, and their salts and esters, are examples of neuroleptic agents which are covered by this notice, although this is not intended to be an exhaustive listing: Acetophenazine, butaperazine, carphenazine, chlorpromazine, chlorprothixene, mesoridazine, fluphenazine, haloperidol, loxapine, molindone, perphenazine, piperacetazine, prochlorperazine, promazine, thiopropazate, thiohtixene, trifluoroperazine, triflupromazine, and thioridazine. In addition, this notice covers any combination product containing a component covered by this notice.

This notice applies not only to the particular neuroleptic drugs subject to the Drug Efficacy Study but to all neuroleptic drug products (except the rauwolfia alkaloids) that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. Any person may request an opinion of the applicability of this notice to a specific drug product the person manufactures or distributes by writing to the Division of Drug Labeling Compliance (address given above). The following drugs were reviewed in the Drug Efficacy Study, and conclusions on them were published in the **Federal Register** notices cited:

1. November 28, 1970 (35 FR 18213; DESI 11020): Acetophenazine maleate; fluphenazine hydrochloride; thipropazate hydrochloride.

2. April 3, 1971 (36 FR 6447; DESI 9149): Chlorpromazine hydrochloride; perpenazine; prochlorperazine edisylate; prochlorperazine maleate; promazine hydrochloride; trifluoperazine hydrochloride; triflupromazine hydrochloride; triflupromazine.

3. July 27, 1972 (37 FR 15038; DESI 11127): Chlorpromazine; prochlorperazine.

4. August 8, 1972 (37 FR 15947; DESI 12486): Chlorprothixene.

Applicants with approved NDA's or ANDA's shall submit supplements providing for appropriate revision of labeling to include the precaution statement on or before October 7, 1980. Applicants shall put the revised labeling into use by December 8, 1980. The revised labeling may be used without advance approval by the Food and Drug Administration.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502, 505, 52 Stat. 1041, 1050–1053, as amended (21 U.S.C. 321(n), 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: August 1, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-23780 Filed 8-7-80; 8:45 am]

BILLING CODE 4110-03-M

Fisher Scientific; Premarket Approval of Fluorescent Gonorrhea Test-Heated (FGT-H)

Correction

In FR Doc. 80-17866 appearing at page 40234 in the issue of Friday, June 13, 1980, on page 40235, insert the following information after "DATES:"

"Petitions for administrative review by July 14, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Fisher Scientific Co., Orangeburg, NY, submitted an application for premarket approval of Fluorescent Gonorrhea Test-Heated (FGT-H) to FDA on June 9, 1977. The application was reviewed by the Microbiology Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended disapproval of the application. The agency has reviewed the Panel's recommendation and notes that a recommendation for disapproval of the application was based primarily on deficient product labeling. Other concerns of the Panel regarding high false-positive rates to be expected from the test are discussed in the Summary of Safety and Effectiveness Data prepared by the Bureau of Medical Devices."

BILLING CODE 1505-01-M

[Docket No. 80 M-0259]

Hancock Laboratories, Inc., Premarket Approval of Hancock Model 250 Modified Orifice Aortic Bioprosthesis and the Hancock Model 150 Modified Orifice Valved Conduit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Orifice Device Amendments of 1976 of the Hancock Model 250 Modified Aortic Bioprosthesis in sizes 19 through 25 millimeters (mm) and the Hancock Model 150 Modified Orifice Valved Conduit in sizes 16 through 22 mm sponsored by Hancock Laboratories, Inc., Anaheim, CA. After reviewing the recommendation of the Circulatory Systems Devices Panel, FDA notified the sponsor that the application was approved because the devices have been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 8, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry A. Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Hancock Laboratories, Inc., Anaheim, CA, submitted an application for permarket approval of the Hancock Model 250 Modified Aortic Orifice Bioprosthesis (a replacement heart valve) in sizes 19 through 25 mm and the Hancock Model 150 Modified Orifice Valved Conduit (a replacement heart valve with a vascular graft prosthesis) in sizes 16 through 22 mm to FDA on February 20, 1979. The application was reviewed by the Circulatory Systems Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 15, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request from that office. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 8, 1980, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 4, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–23071 Filed 8–7–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Richfield District Advisory Council Meeting

July 31, 1980.

Notice is hereby given that a meeting of the Richfield District Advisory Council will be held September 9–10, 1980.

The meeting will begin at 10:00 a.m. on September 9 in the conference room of the Bureau of Land Management Office at 150 East 900 North, Richfield, Utah. The agenda for the meeting will include (1) overview of current Bureau of Land Management programs and policies; (2) update on the Mountain Valley Grazing Environmental Impact Statement; (3) review of Advisory Council Charter and orientation to Council's duties and responsibilities; (4) selection of chairperson and vice-chairperson; (5) scheduling for next meeting and agenda topics.

On September 10, 8:00 a.m., the Council will take a field tour of several critical areas within the Mountain Valley Planning Area.

The meeting is open to the public. Interested persons may make oral statements to the Council between 3 p.m. and 4 p.m. on September 9 or file a written statement for the Council's consideration. Anyone wishing to make oral statements to the Council must notify the District Manager, Bureau of Land Management, 150 East 900 North, Box 768, Richfield, Utah, 84701 by September 2, 1980.

Summary minutes of the Council minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Donald L. Pendleton,

District Manager.

[FR Doc. 80–23014 Filed 8–7–80; 8:45 am]

BILLING CODE 4310–84–M

[A–9603]

Public Lands in Cochise County, Ariz.; Exchange

Correction

In FR Doc. 80–21924, appearing on page 48950, in the issue of Tuesday, July 22, 1980, make the following correction.

On page 48950, second column, the land description for "Section 24" should have read:

"Section 24: S½ Lot 4, Lots 5, 8, S½ Lot 10, S½SW¼NE¼, S½SE¼NW¼, E½E½SW¼W½SE¼.

BILLING CODE 1505–01–M

[OR 3660]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes to continue in their entirety for a 20-year period the existing withdrawals described below, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawals were made by Public Land Order 4537 on November 20, 1968.

Willamette Meridian

Revested Oregon and California Railroad Grant Land

Wildwood Recreation Site

T. 2 S., R. 7 E.,
Sec. 31, Lot 4, S½NE¼, E½SW¼, and SE¼.
Containing 359.97 acres in Clackamas County.

Salmon Falls Recreation Site

T. 8 S., R. 4 E.,
Sec. 31, Lots 3, 4, and 10.
Containing 159.20 acres in Marion County.

Missouri Bend Recreation Site Addition

T. 14 S., R. 9 W.,
Sec. 13, NE¼SE¼SW¼.
Containing 10 acres in Benton County.

The areas described aggregate 529.17 acres.

The purpose of the withdrawals is to protect the recreational values within the described sites. The lands are currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

On or before September 17, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 17, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the Federal Register giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the lands is provided for; and an agreement is reached on the concurrent management of the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 1, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80–23093 Filed 8–7–80; 8:45 am]

BILLING CODE 4310–84–M

[Coal Lease Applications ES 15444 and ES 21181]

Coal Land in Whitley and McCreary Counties, Kentucky; Public Hearing and Availability of Environmental Assessment

The Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304 hereby gives notice that a public hearing will be held on August 28, 1980, at 7:30 P.M., in the Gatliff Auditorium, Cumberland College, Williamsburg, Kentucky 40769. Application has been made to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment prepared and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including but not limited to impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the August 28, 1980 public hearing should be received at the Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, prior to the close of business 4:00 P.M., on August 27, 1980. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the pubic hearings, but speakers will be limited to a maximum of ten minutes each depending on the number of persons disiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Eastern States Office, at the above address, prior to close of business on August 27, 1980. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resources, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximim economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the Eastern States Director, Bureau of Land Management, 350 South Pickett Street, Alexander, Virginia 22304, and to the Regional Conservation Manager, Eastern Region, Geological Survey, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006, to arrive no later than August 27, 1980.

Application ES 21181, 1920 acres

The coal resource to be offered is to be mined underground from the Jellico and Barren Fork seam(s) in the following lands located in the Daniel Boone National Forest, in Whitley County and McCreary County, Kentucky on the waters of Jellico Creek under the supervision of the Whitley, Kentucky District Forest Service Office. The metes and bounds description is available at the Eastern States Office at the address set out above, containing 1920 acres, and;

Application ES 15444, 409 acres

The coal resource to be offered is to be mined underground from the Barren Fork seam(s) in the following lands located in the Daniel Boone National Forest, McCreary County, Kentucky, Tract 54, on the waters of Cane Branch and Pole Road Hollow of Beaver Creek. The metes and bounds description is available at the Eastern States Office set out above.

V 45 / 155 5 AG 8 80 UMI

The draft Environmental Assessment will be available for review in the Eastern States Office, Bureau of Land Management, at the above address. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environmental Assessment, the case file and the comments submitted by the public on fair market value, except those stated in the Freedom of Information Act, will be available for public inspection at the Eastern States Office, Bureau of Land Management, at the address set out above.

Pieter J. VanZanden,
Associate Eastern States Director.

[FR Doc. 80-23894 Filed 8-7-80; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Mines

Floodplain Management and Wetlands Protection Procedures

AGENCY: Bureau of Mines, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice provides Bureau of Mines final procedures for complying with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands). The draft procedures were published in the Federal Register on May 9, 1980, (45 FR 30700).

DATE: These procedures will become effective August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Wilton Johnson, Division of Mineral Land Assessment, Bureau of Mines, 2401 E St., N.W., Washington, D.C. 20241, telephone (202) 634-4743.

SUPPLEMENTARY INFORMATION: These procedures implement Executive Orders 11988 and 11990 and are based on Department of the Interior guidelines (520 DM 1) and the Water Resources Council Guidelines (43 FR 6030). No comments were received during the review period for comments on the draft procedures which are published here unchanged.

Dated: August 1, 1980.

Linsay Norman,
Assistant Director, Bureau of Mines.

1. *Purpose.* The purpose of these procedures is to set forth policy and guidance for carrying out the provisions of Executive Order 11988, Floodplain Management (May 24, 1977), Executive Order 11990, Protection of Wetlands (May 24, 1977), and the Department of the Interior Guidelines on Floodplain Management and Wetland Protection Procedures.

2. *Policy.* It is the policy of the Bureau of Mines to exercise leadership in fulfilling the requirements of Executive Orders 11988 and 11990 by:

A. Avoiding, to the extent practicable, the long- and short-term adverse impacts associated with the occupancy and modification of wetlands and floodplains.

B. Avoiding the direct or indirect support of wetland or floodplain development whenever there is a practicable alternative.

C. Reducing the risk of flood loss and minimizing the impact of floods on human health, safety, and welfare.

D. Assuring that planning programs and budget requests reflect consideration of the natural and beneficial values served by floodplains and wetlands.

E. Developing an integrated process to involve the public in the floodplain management decisionmaking process.

F. Adhering to the objectives of the Unified National Program for Floodplain Management.

G. Consulting with Water Resources Council (WRC), Council on Environmental Quality (CEQ), Federal Emergency Management Agency (FEMA), Fish and Wildlife Service (FWS), Corps of Engineers (CE), and other institutions with expertise in the natural and beneficial values of floodplains and wetlands.

3. *Applicability.* These procedures shall apply to the following Bureau actions which may be located in or affect floodplains or wetlands:

A. Acquiring, managing, and disposing of Federal lands and facilities.

B. Providing federally undertaken, financed, or assisted construction and improvements.

C. Conducting Federal activites and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

4. *Definitions.* A. Agency. An executive department, a government corporation, or an independent establishment, also including the military departments.

B. Base Flood. That flood which has a one percent change of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

C. Facility. Any man-made or man-placed item or structure.

D. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation of runoff or surface waters from any source.

E. Floodplain. The lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands including, at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

F. Minimize. To reduce to the smallest possible amount or degree possible.

G. Practicable. Capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors such as environment, cost, and technology.

H. Preserve. To prevent modification of the natural floodplain or wetland environment or to maintain it as closely as possible in its natural state.

I. Restore. To re-establish a setting or environment in which the natural functions and values of the floodplain or wetland can again be achieved.

J. Wetlands. "Those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds" (as defined in Executive Order 11990, Protection of Wetlands).

5. *Procedures.* The Division, Branch, Section, or organizational unit of the Bureau with responsibility for the proposal must complete the following steps when proposing to take an action that may impact or be located in floodplains or wetlands. All requests for new authorizations or appropriations for actions to be located in floodplains or wetlands must contain a statement of compliance with these procedures.

A. Determine Whether a Proposed Action is Located in or Will Affect a Floodplain or Wetland. The floodplain determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area if available. If further information and assistance are needed, one or more of the following agencies will be consulted: Soil Conservation Service, Corps of Engineers, National Oceanic and Atmospheric Administration, Federal Housing Administration, Federal Insurance Administration, Geological Survey, Bureau of Land Management, Water and Power Resources Service, Fish and Wildlife Service, Tennessee Valley Authority, Delaware River Basin Commission, Susquehanna River Basin Commission, and appropriate State agencies. If a determination regarding wetlands cannot be made on the basis of definition and inspection, assistance will be sought from the Fish and Wildlife Service, the Corps of Engineers, the Environmental Protection Agency, or local planning and zoning agencies.

B. Early Public Review. If it is determined that a proposed action will be located in or impact a floodplain or wetland, the public or persons interested in or affected by the action shall be notified at the earliest possible time of intent to carry out an action in order that they may give their views on the proposal.

C. Identify and Evaluate Practicable Alternatives. If it is determined that a proposed action is located in or affects a floodplain or wetland, alternative sites must be identified and the practicability of such sites avaluated. Alternatives to be evaluated include: (1) carrying out the proposed action at a location outside the base floodplain or at a location that will not result in impacts on wetlands (alternative sites), (2) other means which accomplish the same purpose as the proposed action (alternative actions), and (3) no action.

D. Identify Impacts of the Proposed Action. the full range of impacts of direct Bureau actions and the impacts of actions supported by the Bureau must be evaluated. Since the Executive Order is based primarily on the National Environmental Policy Act (NEPA), the concepts of impact identification and assessment applicable to both NEPA and the Order are identical. The three basic types of impacts to be assessed are:

(1) Positive and negative impacts. Both must be identified so that the practicability of a proposed action can be measured. For example, draining wetlands establishes an environment which is suitable for certain uses, but at the expense of beneficial values of the wetlands.

(2) Concentrated and dispersed impacts. these impacts may result from any action. The impact is concentrated if it occurs at or near the site of an action and is dispersed if at a site remote from the action. For example, a concentrated impact of constructing a building on a wooded area is the loss of vegetation at the site. A dispersed impact of the same action could be sedimentation downstream caused by erosion at the site.

(3) Short- and long-term impacts. Both must be analyzed to evaluate the total impact of an action or alternative. Short-term impacts are temporary changes occurring during or immediately following an activity and usually persist for a short while. Long-term impacts occur during or after an action and may take the form of delayed changes or changes resulting from the cumulative effects of many individual actions. An example of a short-term impact could be sedimentation at or below a construction site. A long-term impact could be the loss of valley floodwater storage resulting from the cumulative effects of floodplain development.

After determining that a proposed action is in a floodplain, the risk to lives and property involved in using the site must be determined. This assessment includes the identification of high hazard areas (riverine and coastal floodplains). These areas are usually those nearest the watercourse and are subject to frequent flooding.

E. Minimize, Restore, Preserve. If it is determined that a proposed action or alternative will result in harm to lives and property or impact the natural and beneficial values of or within a floodplain or wetland, modifications must be planned to reduce harm to the smallest amount possible and to insure preservation and restoration of as much of the natural and beneficial floodplain or wetland values as possible.

F. Reevaluate Alternatives. After the impacts the proposed action would have on the floodplain or wetland (step D) and methods to minimize these impacts and opportunities to restore and preserve floodplain and wetland values (step E) have been identified, the proposed action should now be reevaluated. For proposed actions in the floodplain or in wetlands, the initiating office must determine whether the action is still feasible in terms of: (1) avoiding support of floodplain or wetland development where there is a practicable alternative; (2) reducing risk of flood loss; (3) protecting human safety, health and welfare; and (4) restoring and preserving natural and beneficial floodplain values. the evaluation should lead to a determination of whether there are alternatives to the proposed action.

If there is no practicable alternative to the proposed action, consideration must be given to modifying or limiting the proposed action to minimize potential harm to or within floodplains or wetlands. New alternative actions and sites can then be identified and previously rejected ones reevaluated for practicability based on scaled-down expectations. If neither of the above courses of action is feasible, the no action alternative must be reevaluated.

If the proposed action is outside the floodplain or wetland but has impacts which cannot be minimized, consideration must be given to modifying or relocating the action to eliminate or reduce the identified impacts or to choosing the no action alternative.

The reevaluation must include a comparison of relative adverse impacts associated with the proposed action located in and out of the floodplain or wetland, with emphasis on floodplain or wetland values. However, a site outside of a floodplain should not be chosen if the overall harm is significantly greater than that associated with the floodplain site.

G. Findings and Public Explanation. If the reevaluation results in the determination that there is no practicable alternative to locating in or impacting a floodplain, a statement of findings and public explanation must be provided, indicating how any trade off analysis was conducted in making the findings. OMB Circular A-95 and NEPA review procedures will be used to make findings available for agency and public review.

The statement of findings and public explanation must include:

(1) A description of why the proposed action must be located in the floodplain.

(2) A description of all significant facts considered in making the determination including alternative sites and actions.

(3) A statement indicating whether the actions conform to applicable State, or local floodplain protection standards.

(4) A statement indicating why the National Flood Insurance Program criteria are demonstrably inappropriate for the proposed action.

(5) A provision for publication in the Federal Register and other appropriate vehicle.

(6) A provision for a brief comment period prior to agency action (15 to 30 days).

(7) A description of how the activity will be designed or modified to minimize harm to or within the floodplain.

(8) A statement indicating how the action affects natural or beneficial floodplain values.

(9) A statement listing other involved agencies and individuals.

H. Implementation of Action. With the conclusion of the decisionmaking process described in steps A through G, the proposed action can be

V 45 / 155 5 AG 8 80 0 UMI

implemented. However, it is the continuing responsibility of the initiating office to monitor all aspects of the project activities to insure that all requirements relating to minimization, preservation, and restoration will be observed if the proposed action will result in floodplain or wetland impacts. All proposed actions will be coordinated with the Division of Mineral Land Assessment.

6. *Documentation and Circulation.* Each Division will be responsible for case-by-case documentation of specific analysis of actions covered by EO 11988 and EO 11990 and for maintaining current records for reporting purposes.

For proposed actions having national significance or impact, a notice will be published in the **Federal Register** with sufficient time allowed for public review and comment. For proposed actions affecting areas of lesser geographic coverage, other public information methods such as news releases, newsletters, or public meetings will be used to inform the interested public.

Actions requiring preparation of environmental impact statements or environmental assessments will be coordinated with the Division of Planning, Office of Program Development and Evaluation. To assure interagency coordination, NEPA documents and decision statements concerning floodplains and wetlands will be circulated to the following agencies: EPA, FEMA, USGS, FWS, CE, SCS, WPRS, and State water resources agencies.

[FR 80-23624 Filed 8-7-80; 8:45 am]
BILLING CODE 4310-63-M

Office of the Secretary

Central Arizona Project, Arizona; Proposed Allocations of Project Water to Indian Tribes

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of proposed water allocations.

SUMMARY: The purpose of this action is to propose the allocation of Central Arizona Project (CAP) water to Indian tribes. This notice proposes that 309,810 acre-feet of water be allocated to Indian reservations, with the stipulation that in times of shortages, the Indian supply would be reduced on a proportional basis with the municipal and industrial (M&I) supply. This proportion would be determined according to the amount of water used by each of the two classes in the most recent year in which a full supply was available for both classes. This action proposes to adjust allocations made previously by the Department.

DATES: All comments and material relevant to these proposals received before October 7, 1980 will be considered. Additionally, the Department will conduct public hearings on the proposed allocations in Arizona during the month of September. The dates and places of these hearings, once set, will be published in newspapers of general circulation in Arizona and in the **Federal Register.**

ADDRESSES: Interested persons may submit written comments, suggestions or objections regarding these proposed allocations to the Associate Solicitor for Energy and Resources, Department of the Interior, Washington, D.C. 20240. An administrative record of the data relied upon in making these proposed allocations will be available for inspection at the following locations: Arizona Projects Office, Water and Power Resources Service, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, Arizona 85073, Telephone (602) 261–3106 and Office of the Field Solicitor, U.S. Department of the Interior, Suite 2080, Valley Center, 201 North Central Avenue, Phoenix, Arizona 85073, Telephone (602) 261–4756. This administrative record can be inspected by the public during regular business hours, and arrangements can be made to have specified portions copied upon payment of reasonable charges.

FOR FURTHER INFORMATION CONTACT: Steve Lanich, Office of the Assistant Secretary, Land and Water Resources, Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343–4931.

Authority and Purpose for Allocations

I take this action in recognition of my trust responsibilities to the Indians, and pursuant to the authority vested in the Secretary of the Interior by the Act of June 17, 1902, as amended, (32 Stat. 388, 43 U.S.C. 391) and the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501). In making these tentative decisions, I have carefully considered many interrelated factors. I have met on many occasions both in Washington and in Arizona with representatives of the central Arizona tribes, with other potential users of CAP water, and with Governor Bruce Babbitt and members of the Arizona Congressional delegation. Also, I have reviewed at length the voluminous data which this Department has compiled over many years in regard to the CAP.

In these proposals, I have adjusted the water-use priorities and allocation of water to Indians announced by Acting Secretary of the Interior, Kent Frizzell, on October 12, 1976. 40 FR 45883. I am proposing these adjustments to correct certain omissions in the 1976 notice and to accommodate certain supervening conditions.

Among the factors which have prompted me to propose these adjustments are the following:

(1) The 1976 allocations did not provide project water to all the Indian tribes which could reasonably benefit from the project. For example, the San Carlos Apache Tribe, which was mentioned specifically in the legislative history of the project as an intended recipient of project water, did not receive any allocation.

(2) Subsequent to the 1976 decision, Congress committed the United States Government to provide the Ak-Chin lands with a permanent water supply. Additionally, U.S. Congressman Morris Udall has introduced a bill, H.R. 7640, which would similarly provide permanent water for lands of the Papago Tribe.

(3) President Carter, in his Water Policy Message to Congress of June 6, 1978, recognized that Indian reservations are intended to be maintained as permanent tribal homelands. In an arid region such as central Arizona, a relatively dependable long-term water supply is critical if these homelands are to exist.

(4) Also in his June 6, 1978 message, the President announced his Administration's intent to settle Indian water claims through negotiation, wherever possible. Several water claims are now being litigated in Arizona and others are likely to be filed. On several occasions, I have stated that, pursuant to the President's policy, CAP water will be used in the settlement of outstanding claims, where possible.

Beside the factors listed above, there is another important reason for my proposed adjustment of the 1976 allocations. Under that proposal, Indian irrigation water would have been reduced drastically after the year 2005. From 257,000 acre feet per year in the first 20 years of the project, it would be decreased in the later years of the project to either 10 percent of the project supply or 20 percent of the agricultural supply, whichever was to the tribes' advantage. It is my opinion that this abrupt reduction in Indian supply is unfair to the Indians. Under the post-2005 formula used in the 1976 allocations, the economic growth permitted on the reservations in the early years of CAP operation would be only temporary, and both the Government and the tribes would be faced with the costs of a return to depressed economic conditions. Therefore, I have tried to assure the tribes of a more dependable supply of water throughout the life of the project.

Projected Water Supply

Before describing the procedures used to determine the allocations set forth below, I will point out certain hydrologically related aspects of the CAP. This is arid country with a limited supply of surface and groundwater, and many agricultural and M&I water users rely exclusively on groundwater. This dependence has been so great that the groundwater table has been dropping at an alarming rate. The Arizona Water Commission has estimated that the annual overdraft in the three counties of Maricopa, Pinal and Pima is 1.8 million acre feet. In response to this problem, the Arizona State Legislature, on June 11, 1980, enacted the Ground Water Management Act of 1980. This law is far-reaching and should help alleviate this serious drawdown of groundwater reserves. I commend the Governor, the Legislature, and the Arizona Groundwater Management Study Commission for their serious and sustained efforts to improve the management of Arizona's limited water resources.

Despite the virtues of this new law, however, no one expects it to "solve" Arizona's water problems; nor should anyone expect the CAP to work miracles. What the CAP will do is this: It will alleviate to some extent the agricultural drain on the groundwater supply in the early years of the project, and it will provide a supply of municipal and industrial water on a permanent basis.

In making my proposals, I have studied data prepared by the Arizona Water Commission (AWC) and by the Water and Power Resources Service. Both reports estimate the total CAP supply based on assumptions relating to the hydrology of the Colorado River Basin, local runoff, the way in which the mainstem Colorado River reservoirs are operated, the rate at which the Upper Basin states develop their supplies, and a variety of other factors. But while they are in general agreement as to the various factors involved in these calculations, the two reports make different predictions.

Based on its assumptions, the Water and Power Resources Service (WPRS) has projected that the minimum amount of Colorado River water available for diversion into the CAP during the most critical drought years will be 400,000 acre-feet. Due to losses, less than that, perhaps as little as 300,000 acre-feet, would be *delivered* to users during drought years, according to WPRS.

However, the Executive Director of the Arizona Water Commission (now the Department of Water Resources) has referred to his agency's CAP projection of 550,000 acre-feet of supply for diversion in drought years and 500,000 acre-feet for actual delivery as "quite conservative." The AWC conclusion relies on the assumption that the rate of development in the Upper Colorado River Basin will be slower than that predicted by WPRS, and on different assumptions regarding the operation of Hoover Dam.

From these numbers, the disagreement between the two agencies is obvious. For the purpose of this decision, however, I am accepting neither of these projections as definitive. My proposed allocations do not reduce the tribal amounts after 2005 as did the 1976 allocations. Instead, my proposed allocations rely on the concept of a "shared priority" between Indian users and municipal and industrial users throughout the life of the project. This concept, which is discussed in more detail below, provides that these two classes of users will suffer together and proportionally in shortage years.

Although it is important to all parties involved to have accurate forecasts of Colorado River water supplies, these projections are not as important to my allocation proposals—because of the shared priority concept—as they were to Acting Secretary Frizzell's. At this point, since only time will tell which agency made better predictions about the future, I have found it useful to consider both reports in calculating the possible long-term ramifications of various allocation scenarios.

Indian Allocations

I have considered 14 reservations for allocations of CAP water. (I should explain and emphasize what I mean by an "allocation." It is an offer to contract for CAP water. By no means does the allocation, by itself, commit the Department to deliver water to the various potential users to whom water is allocated. In all cases, contracts or subcontracts must be made and executed with the Secretary of the Interior as a party to them. It is only through the contracting process that water is firmly committed to the users.) I have tried to consider the particular and unique circumstances surrounding each tribe in making my tentative decisions. I have found that there is no single formula to be used in determining the allocations of all the tribes.

I first considered the five reservations allocated water in 1976. These reservations are the Ak-Chin, Gila River, Salt River, Papago (Chuichu) and Fort McDowell. The rationale used in making those allocations is explained in detail in the 1976 **Federal Register** notice. The procedure is this:

(1) The total acreage of presently developed lands on each reservation is determined.

(2) The total water requirement for each reservation is computed on the basis of a water duty of 4.59 acre-feet per acre.

(3) The number of acre-feet of non-project surface and groundwater available to each reservation is estimated.

(4) The number of acre-feet of project water required for each reservation is then obtained by subtracting the available surface and groundwater from the total water requirement.

(5) The number of acre-feet to be delivered to each tribe at the turnout points on the project canals is the amount as determined in #4 multiplied by 1.176 (which is the same as dividing by 0.85) to allow for a 15 percent loss in the distribution systems from the amount delivered canalside.

On the basis of this formula, the following allocations were made: Ak-Chin, 58,300 acre-feet; Gila River, 173,100 acre-feet; Salt River, 13,300 acre-feet; and Papago (Chuichu) 8,000 acre-feet.

In the case of the Fort McDowell tribe, it was found that the tribe had an adequate supply of water to satisfy all of its present farm requirements. However, 4,300 acre-feet were allocated to the tribe to irrigate new in-lieu lands which the tribe may receive pursuant to § 302 of the Colorado River Basin Project Act. This allocation was supported by the four other tribes.

I propose to affirm the 1976 allocations to these reservations with the stipulation, however, that they will not be reduced in the year 2005 as previously proposed.

In 1976, no allocation was made to the Camp Verde Reservation. On the basis of the formula described above, I am proposing to allocate 1,200 acre-feet of water to Camp Verde to be used on its 200 presently developed acres.

The San Carlos Tribe also did not receive an allocation, despite its eligibility for one. San Carlos presently has 1,800 developed acres. Using the above formula, the tribe would receive a gross allocation of 8,700 acre-feet, reduced by 6,000 acre-feet of available surface water, for a net allocation of 2,700 acre-feet. Additionally, I have decided that the San Carlos Reservation, because of its mountainous terrain, is in need of a supplemental

V. 45 / 155 AUG 8 80 UMI

allocation to sustain it as a permanent tribal homeland. I have decided this supplemental allocation should be 10,000 acre-feet, bringing the total net CAP allocation to San Carlos to 12,700 acre-feet.

Four reservations of the Papago Tribe—San Xavier, Schuk Taok, Chuichu, and Gila Bend—have applied for an allocation of water. These reservations are the subject of H.R. 7640, which would direct the Secretary of the Interior to provide 180,000 acre-feet of "firm supplies" of water to them. My tentative allocation to Chuichu is described above. With respect to San Xavier and Schuk Toak, I have tentatively provided them with the minimum water supply needed to create an economic farming unit. For the San Xavier Tribe this is 27,000 acre-feet and for Schuk Toak, it is 10,800 acre-feet. The Gila Bend Reservation poses a different problem. This reservation is upstream of the Painted Rock Dam and virtually all irrigable lands are subject to extensive flooding. At this time, I have decided not to make a proposed allocation of water to Gila Bend; however, I invite the tribe to make its arguments as to the practicability of a CAP allocation during the public comment period.

The White Mountain Apache Tribe has asked that I not allocate any CAP water to it. I have complied with its request.

Finally, there are three small reservations within the project area to which I intend to make allocations. Two of these tribes, the Pascua Yaqui and the Tonto Apache, were recognized subsequent to the passing of the CAP authorizing legislation. The third, the Yavapai, was established prior to 1968, but was not allocated any water in 1976. My allocations to these three tribes will provide them with the minimum supply of water needed to maintain their reservations as tribal homelands. My tentative allocations are: 500 acre-feet to the Pascua Yaqui, 110 acre-feet to the Tonto Apache, and 500 acre-feet to the Yavapai.

As in the 1976 decisions, the allocations to AK-Chin, Gila River, Salt River, Fort McDowell, Chuichu, Camp Verde and 2,700 acre-feet of the San Carlos allocation are limited to irrigation uses on the reservation, except to the extent modified by the *Winters* rights discussion below.

The full allocation to San Xavier, Schuk Toak, Pascua Yaqui, Tonto Apache, and Yavapai and 10,000 acre-feet of the San Carlos allocation may be used for domestic, irrigation and M&I purposes, consistent with the purpose of maintaining tribal homelands. All of these allocations are also limited to uses on the reservations, except to the extent modified below.

Priority of Use in Times of Shortage

While the non-Indian agricultural supply of water will vary from year to year, even under pessimistic projections of water supply, Indian agricultural users and M&I users will receive their full allocations of water in most years. However, it is likely that there will be some years, probably after the turn of the century, in which there will not be enough water to satisfy Indian and M&I users completely.

It is my proposal that in these shortage years, Indian users and M&I users will *share* a first priority on water.

Under this concept, the scheme for reducing water deliveries in times of shortage will work this way: First, miscellaneous uses would be reduced pro rata until exhausted; next, non-Indian agricultural uses would be reduced in the same way until exhausted; thereafter, water for Indian and M&I uses would be reduced on a proportional basis, and within each class on a pro rata basis. The proportional basis between these two classes would be fixed as a ratio of the amount of water used by each class in the most recent year in which a full supply was available for both classes. (A year of "full supply" is one in which the total amounts of water specified in the M&I subcontracts and the Indian contracts are delivered). For instance, if in the last year of full supply preceding a shortage year, 500,000 acre-feet were used by M&I users and 300,000 acre-feet were used by the tribes, the water in the shortage year would be reduced between the two classes on a 5 to 3 basis, i.e., if only 500,000 acre-feet of water can be delivered in the shortage year. M&I users would receive 312,500 acre-feet and Indian users would receive 187,500 acre-feet.

The pro rata diminution within each class will be based on the actual use of water in the most recent year in which a full supply was available to the class.

Under the shared priority, the tribes should receive a relatively dependable supply of water *throughout* the life of the project. In the later years of the project, as non-Indian agricultural water becomes converted to M&I uses, the ratio will change in favor of M&I use. However, I believe that the Indian supply will be more dependable than provided by the 1976 scheme.

Possible Substitution of Non-CAP Water

By improving the Indian supply in the later project years, it is apparent that the position of the M&I users will be less favorable than under the 1976 notice. In an effort to make the M&I supply as dependable as possible, I intend to act upon suggestions by Governor Babbitt and his staff to consider the potential use of effluent water to "firm up" Indian supplies, thereby freeing more water for M&I use in shortage years.

I propose that contracts for tribal allocations and the subcontracts for M&I water contain terms which will allow the substitution of non-CAP water for Indian CAP allocations.

The general criteria for substitution will include:

(1) The suitability of the substitute water will be determined by the Secretary on stated criteria: (a) that the delivery facilities are equivalent to CAP facilities, (b) that the supply is available in comparable quantities at the time and place of need, (c) that the quality of the water meets all regulatory requirements, and (d) that the water is suitable for the beneficial use to which it is to be put;

(2) All costs of substitution will be borne by the Central Arizona Water Conservation District or by the subcontractor securing the benefit of CAP water by substitution (however, this requirement will not preclude the use of Environmental Protection Agency grants, or non-federal financial assistance, to deliver effluent water to the reservations);

(3) Any favorable cost differential for delivered water in any substitution plan must inure to the benefit of the tribes or the U.S. Government; and

(4) Negotiations for the proposed substitution of supply will be between the tribe and the party offering water. Under procedures to be developed by the Department, the Secretary will reserve the authority to approve a substitution if it is determined that tribal agreement is being withheld unreasonably.

It appears to me that there are at least two reservations on which effluent substitution could work—the Gila River and the Salt River, both in the Phoenix metropolitan area. The Phoenix area cities have reported to this Department that they are willing to discuss possible effluent substitution plans with us. They also pointed out that this is a particularly propitious time for such discussions, as they are currently considering where to build proposed waste-water treatment facilities.

No doubt, there are substantial legal, technical, and physical aspects of this concept to be worked out. But there is also no doubt that if appropriate use is made of the effluent, shortages will fall less severely on all users served by the Central Arizona Project.

Also, in an effort to identify more water which could be made available to mitigate the adverse effects of shortage years, I have directed the Assistant Secretary for Land and Water Resources to review whether operating criteria for lower-basin Colorado reservoirs permit, or could be modified to permit, the use of additional water for CAP purposes.

Credits Against Winters Rights

These proposed allocations to the tribes will be credited against the reservations' *Winters* rights, as and when finally adjudicated. This stipulation will be included in the contracts with the tribes for these allocated supplies.

To the extent that a CAP allocation is credited against finally adjudicated *Winters* rights, the reservation being so credited will be able to use such water in any manner and for any uses permitted under its *Winters* rights, as finally adjudicated.

In this context it should be added that the allocation of CAP water to the tribes will not constitute a taking, either directly or by implication, of any water rights of the tribes; nor will it constitute the Department's opinion as to the legal rights of these tribes.

Possible Additional Water for the Tribes

Except as specifically provided in the above proposed allocations, the tribal allocations are limited to irrigation uses on the reservations. The tribes, however, are not precluded from contracting for project M&I water just as any other entity in central Arizona may so contract. As long as such water has not been contracted to other users, such contracts may be made through the Secretary of the Interior. If the tribes do decide to contract for this M&I water, they should be prepared to execute a contract at the same time as other M&I users contract with the CAWCD and the Secretary.

In a related matter, the asserted needs for tribal irrigation water exceed the proposed allocations. It is my view that tribal irrigation requests above and beyond these proposed allocations should be treated in the same way as requests from other seeking irrigation water.

Non-Indian Water Use

In 1976, the Arizona Water Commission, now the Department of Water Resources, recommended water allocations for non-Indian M&I and agricultural users. In the four years since the recommendations various conditions have changed, including the proposed increased tribal allocation contained herein, and increased estimates of the potential cost of CAP water.

In light of these changed circumstances, I have asked the DWR to revise its original recommendations for both M&I and agricultural use. I have requested that these recommendations be made by the close of the comment period on this notice.

Compliance With the National Environmental Policy Act of 1969

The Bureau of Reclamation (now the Water and Power Resources Service) prepared an environmental assessment of the Indian allocations of CAP water as proposed on April 18, 1975. 40 FR 17927. The Bureau concluded in that assessment, dated June 4, 1976, that the proposed allocations did not significantly affect the quality of the human environment. The Solicitor reviewed the assessment and the negative determination and found them to be legally sufficient.

Since the preparation of that assessment, several other reports evaluating the potential environmental effects of CAP allocations have been written. These include:

An environmental assessment of the AWC-recommended M&I allocations (March, 1979);

A two-part conceptual and technical assumptions review of the AWC recommendations (November 9, 1979 and December 31, 1979);

A supplemental environmental assessment analyzing the potential M&I users rejected by the AWC (December, 1979);

A report on potential water use by non-Indian agriculture as recommended by the AWC (December, 1979).

These materials have been reviewed and considered in making the proposals contained herein. During the comment period, these reports will be considered further, as will any comments received from the public in regard to the potential environmental effects of these proposals.

Effect on Previous Decisions

My final decisions on the proposals contained herein will supersede the decisions published by Acting Secretary Frizzell on October 15, 1976 and by Secretary Morton on December 15, 1972, 37 FR 2802; and insofar as those decisions are inconsistent with my final decisions, they will be rescinded.

Dated: August 5, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-23876 Filed 8-7-80; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80-18774, appearing at page 42051 in the issue for Monday, June 23, 1980, make the following correction:

On page 42087, in the first column, in the paragraph beginning "MC 29910 (Sub-5-26TA)" filed by Arkansas-Best Freight System, Inc., in the 18th line, "New Hwy 8" should read "New LA Hwy 8".

BILLING CODE 1505-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524 (b).

1. Parent corporation and address of principal office:

Alma Desk Company, P.O. Box 2250, 1301 Lincoln Drive, High Point, North Carolina 27261.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices.

(a) Custom Face Veneers, Inc., P.O. Box 1107, 2315 E. Kivett Drive, High Point, N.C. 27261.
(b) Dimension & Plywood, Inc., P.O. Box 586, 2315 E. Kivett Drive, High Point, N.C. 27261.
(c) Innerpack of Carolina, Inc., P.O. Box 242, 2315 E. Kivett Drive, High Point, N.C. 27261.
(d) Metal Stamping Works, Inc., P.O. Box 2002, 918 West Kivett Drive, High Point, N.C. 27261.

1. Parent corporation and address of principal office:

Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their principal offices: (See Attachment "A".)

Alcoa Steamship Company, Inc., One World Trade Center, Suite 8151, New York, NY 10048.
REA Magnet Wire Company, Inc., 3600 East Pontiac Street, Fort Wayne, IN 46896.
Tifton Aluminum Company, Inc., P.O. Box 88, Tifton, GA 31794.
H C Products Co., P.O. Box 68, Princeville, IL 61559.
Buckeye Molding Company, 49 Second Street, New Vienna, OH 45159.
Wear-Ever Aluminum, Inc., Box 459, Chillicothe, OH 45601.
Northwest Alloys, Inc., P.O. Box 115, Addy, WA 99101.
Lincoln Manufacturing Company, Inc., P.O. Box 1229, Ft. Wayne, IN 46801.

V 45 / 155 AG 8 80 UMI

Alcoa Inter-America, Inc., 932 Ponce De Leon Boulevard, Coral Gables, FL 33134.
PEP Industries, Inc., 6115 Robertson Avenue, Nashville, TN 37209.
Alcoa Building Products, Inc., Suite 1200, Two Allegheny Center, Pittsburgh, PA 15212.
The Stolle Corporation, 1501 Michigan Street, Sidney, OH 45365.
Alcas Cutlery Corporation, 1116 East State Street, Olean, NY 14760.
American Powdered Metals Company, Powder Road, North Haven, CT 06473.
Adam Metal Supply, Inc., 625 Evans Street, Elizabeth, NJ 07207.
Jonathan's Landing, Inc., 17290 Jonathan Drive, Jupiter, FL 33458.
Alcoa Recycling Company, 1501 Alcoa Building, Pittsburgh, PA 15219.
Nash International, Inc., P.O. Box 151, East Palestine, OH 44413.
Norcold, Inc., 1501 Michigan Street, Sidney, OH 45365.

1. Parent corporation and address of principal office:

Bangor Punta Corporation, One Green Plaza, Greenwich, CT 06830.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Bangor Punta Transportation, Inc. (MC–150281), One Greenwich Plaza, Greenwich, CT 06830.
(b) O & M Manufacturing Company, 8203 Market Street, Houston, TX 77029.
(c) Producers Cotton Oil Company, 2907 South Maple Avenue, Fresno, CA 93717.
(d) Pacific Technica Corporation, 460 Ward Drive, Suite E, Santa Barbara, CA 93111.
(e) Smith & Wesson Chemical Company, Inc., 2399 Forman Road, Rock Creek, OH 44084.
(f) S & W Ammunition Company, 2589 Forman Road, Rock Creek, OH 44084.
(g) Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, PA 17745.
(h) Identi-Kit Company, 17985 Sky Park Circle, Suite C, Irvine, CA 92714.

The parent corporation is the Gilbert and Bennett Manufacturing Company, located on Main Street, Georgetown, Connecticut.

The wholly owned subsidiaries which will participate in this operation are: Coatings Engineering Corporation, 33 Union Street, Sudbury, Massachusetts, and Roman Wire Company, Highway 56 West, Sherman, Texas.

1. Parent corporation and address of principal office:

Chemcentral Corporation, 7050 West 71st Street, Chicago, Illinois 60638.

2. Wholly-owned subsidiaries which will participate in the operations, and the addresses of their respective principal offices:

Chemcentral/Atlanta, 1 Alchemy Pl., Doraville, GA 30340.
Chemcentral/Buffalo, 3709 River Rd., Town of Tonawanda, NY 14150.
Chemcentral/Chicago, 7050 W. 71st St., Chicago, IL 60638.
Chemcentral/Cincinnati, 4619 Reading Rd., Cincinnati 45229.
Chemcentral/Cleveland, 21600 Drake Rd., Strongsville, OH 44136.
Chemcentral/Dallas, 2500 Vinson St., Dallas, TX 75211.
Chemcentral/Detroit, 13895 Huron River Dr., Romulus, MI 48174.
Chemcentral/Grand Rapids, 2940 Stafford Ave., S.W., Wyoming, MI 49509.
Chemcentral/Indianapolis, 1650 Luett Ave., Indianapolis, IN 46222.
Chemcentral/Louisville, 1825 Appleton Lane, Louisville, KY 40216.
Chemcentral/Milwaukee, 2400 S. 170th St., New Berlin, WI 53151.
Chemcentral/New Orleans, 333 River Rd., New Orleans, LA 70161.
Chemcentral/Oklahoma City, 7301 SW 29th St., Oklahoma City, OK 73144.
Chemcentral/Orlando, 8400 S. Orange Ave., Orlando, FL 32809.
Chemcentral/Pittsburgh, Parkway West, Montour Run, Pittsburgh, PA 15244.
Chemcentral/St. Louis, 2646 Metro Blvd., Maryland Heights, MO 63043.
Chemcentral/Toledo, 4061 South Ave., Toledo, OH 43615.

1. Parent corporation and address of principal office:

The Clorox Company, 1221 Broadway, Oakland, California 94612.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) The Kingsford Company, 1221 Broadway, Oakland, California 94612.
(b) Grocery Store Products, Union & Adams Streets, West Chester, Pennsylvania 19380.
(c) Moore's Food Products, Inc., 801 Rockwell Avenue, Box 128, Ft. Atkinson, Wisconsin 53538.
(d) The HVR Company, 1685 Industrial Way, P.O. Box 675, Sparks, Nevada 89431.

The parent corporation is Cold Spring Granite Company, 202 South Third Avenue, Cold Spring, Minnesota 56320.

Wholly owned subsidiaries which will participate in the operation and addresses of their respective principal offices are as follows:

(a) Raymond Granite Company, 36772 Road 606, Raymond, CA 93653.
(b) Texas Granite Corporation, Drawer Q, marble Falls, TX 78654.
(c) Lake Placid Granite Co., Au Sable Forks, NY 12912.
(d) Granit-Bronz, Inc., 202 South Third Avenue, Cold Spring, MN 56320.
(e) General Repair & Maintenance Co., 202 South Third Avenue, Cold Spring, MN 56320.
(f) Cold Spring Equipment Co., 202 South Third Avenue, Cold Spring, MN 56320.
(g) Cold Spring Granite (Canada) Ltd., 202 South Third Avenue, Cold Spring, MN 56320.

1. Parent corporation and address of principal office:

The Commodore Corporation, 400 West Brooklyn, Syracuse, Indiana 46567.

2. Wholly-owned subsidiaries which would participate in the operations and the address of their respective principal office.

(a) The Commodore Corporation Southern, State Road 729, Danville, Virginia 24541.
(b) The Commodore Corporation Southern, Haleyville, Alabama 35565.
(c) Commodore Properties, Inc., 400 West Brooklyn, Syracuse, Indiana 46567.
(d) The Commodore Corporation of Oregon, P.O. Box 578, Lebanon, Oregon 97355.
(e) Commodore Mobile Homes of Florida, 9430 Ulmerton Road, Largo, Florida 33541.
(f) Commodore Contract Carriers, Inc., 400 West Brooklyn, Syracuse, Indiana 46567.
(g) Commodore Home Systems, Inc., P.O. Box 349, Clarion, Pennsylvania 16214.
(h) Commodore Home Systems, Inc., 2245 West Valley Boulevard, Colton, California 92324.
(i) Commodore Home Systems, Inc., 2415 Griffin Road, Leesburg, Florida 32748.
(j) Commodore Home Systems, Inc., 2800 Archad Avenue, McMinnville, Oregon 97128.
(k) Commodore Home Systems, Inc., Route #1, Box 11, Middleburg, Pennsylvania 17842.
(l) Commodore Home Systems, Inc., 1550 Davis Street, Ottawa, Kansas 66067.
(m) Commodore Home Systems, Inc., Excellsior Drive, Santa Fe Springs, California 90670.
(n) Commodore Home Systems, Inc., P.O. Box 176, Syracuse, Indiana 46567.
(o) Commodore Home Systems, Inc., 2nd and Wake Village Road, Texarkana, Texas 75505.
(p) Commodore Home Systems, Inc., 11 North County Road 101, Woodland, California 95695.
(q) Commodore Home Systems, Inc., Northeast Industrial Park, Worthington, Minnesota 56187.

1. Parent corporation and address of principal office:

ConAgra, Inc., 200 Kiewit Plaza, Omaha, Nebraska 68131.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (See Exhibit "A").

Dated this 25th day of July, 1980.

1. Parent corporation and address of principal office:

Conoco, Inc., P.O. Box 2197, Houston, TX 77001.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Coastal Oil Company, 744 Broad Street, Newark, NJ 07102.
Conoco Coal Development Company, High Ridge Park, Stamford, CT 06904.
Conoco Communications, Inc., P.O. Box 1267, Ponca City, OK 74601.
Conoco Fuels, Inc., High Ridge Park, Stamford, CT 06904.
Conoco Minerals, Inc., High Ridge Park, Stamford, CT 06904.

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, PA 15241.
Continental Pipe Line Company, P.O. Box 1267, Ponca City, OK 74601.
Douglas Oil Company of California, 3160 Airway Avenue, Costa Mesa, CA 92626.
General Facilities, Inc., P.O. Box 2197, Houston, TX 77001.
Home Fuel Oil Company, 744 Broad Street, Newark, NJ 07102.
Kayo Oil Company, 1221 East Main Street, Chattanooga, TN 37408.
Onco Oil Company, 744 Broad Street, Newark, N.J. 07102.
Pitt-Consol Chemical Company, 191 Doremus Avenue, Newark, N.J. 07105.
Western Oil and Fuel Company, 1400 Lilac Drive, South, Minneapolis, MN 55416.

1. Parent corporation and address of principal office:

Cranston Print Works Company, 1381 Cranston Street, Cranston, Rhode Island 02920.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Bercen Chemical Company, Inc., 1381 Cranston Street, Cranston, Rhode Island 02920.
(b) Cranston Trucking Company, 1381 Cranston Street, Cranston, Rhode Island 02920.
(c) I affirm that Cranston Print Works Company is a corporation which directly or indirectly owns a 100 percent interest in the subsidiaries participating in compensated intercorporate hauling under 49 U.S.C. 10524(b), listed in the attached notice.

1. Parent corporation and address of principal office:

Deere & Company, John Deere Road, Moline, IL 61265.

2. Wholly-owned subsidiary participating in the operation, and address of their respective principal office:

John Deere, Limited, P.O. Box 1000, Grimsby, Ontario L3M4H5.

1. Parent corporation and address of principal office:

Dillard Paper Company, 3900 Spring Garden Street (27407), P.O. Box 21767, Greensboro, NC 27420.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Dillard Paper Co. (Atlanta), 50 Best Friend Road, Doraville, GA 30340, P.O. Box 1061, Atlanta, GA 30301.
(b) Dillard Paper Company of Augusta, Inc., 1427 Marvin Griffin Road (30906), P.O. Box 1330, Augusta, GA 30903.
(c) Dillard Paper Company (of Birm), 541 Republic Circle (35214), P.O. Box 11367, Birmingham, AL 35202.
(d) Dillard Paper Company of Charlotte, Inc., 3100 Parkside Drive (28208), P.O. Box 668966, Charlotte, NC 28266.
(e) Dillard Paper Company of Greenville, Inc., Whitehorse Road (29605), P.O. Box 2067, Greenville, SC 29602.
(f) Dillard Paper Company of Macon, Inc., 3115 Hillcrest Avenue (31204), P.O. Box 4407, Macon, GA 31208.
(g) Dillard Paper Company of Raleigh, Inc., 3915 Beryl Drive (27607), P.O. Box 33354, Raleigh, NC 27606.
(h) Dillard Paper Company of Richmond, Inc., 2100 Jefferson Davis Highway (23234), P.O. Box 34748, Richmond, VA 23234.
(i) Dillard Paper Company, Inc., 2490 Patterson Avenue, SW. (24016), P.O. Box 13406, Roanoke, VA 24033.
(j) Dillard Paper Company of Rome Georgia, Inc., 305 Forsyth Street (30161), P.O. Box 1197, Rome, GA 30161.
(k) Dillard Paper Company of Wilmington, Inc., 4102 Emerson Street (28401), P.O. Box 1558, Wilmington, NC (28401).
(l) Dillard Paper Company of Winston-Salem, Inc., 3840 Kimwell Drive (27103), P.O. Box 10519, Salem Station, Winston-Salem, NC 27108.
(m) Dillard Paper Company of Bristol, Inc., 1330 Spencer Street Extension (24201), P.O. Box 60, Bristol, VA 24201.
(n) Dillard Paper Company, Inc., 2490 Patterson Avenue, SW. (24016), P.O. Box 13406, Roanoke, VA 24033.
(o) Dillard Paper Company of Knoxville, Inc., 5900 Middlebrook Pike, NW. (37921), P.O. Box 11607, Knoxville, TN 37919.
(p) The Old Dominion Paper Company, 3666 Progress Road (23502), P.O. Box 7254, Norfolk, VA 23509.
(q) The Old Dominion Paper Company, 1513 Edgemore Avenue (21801), P.O. Box 1558, Salisbury, MD 21801.
(r) Dillard Plastics, Inc., Prospect Church Road (27360), P.O. Box G, Thomasville, NC 27360.

1. Parent corporation and address of principal office:

The Dow Chemical Company, 2030 Abbott Road, Midland, Michigan 48640.

2. Wholly owned subsidiary participating in operations, and address of principal office:

Wanda Petroleum Company, P.O. Box 52120, Houston, Texas 77052.

1. Parent corporation and address of principal office:

General Signal Corporation, High Ridge Park, Stamford, Connecticut 06904.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Sola Basic Industries, Inc., P.O. Box 10077, Stamford, Connecticut 06904.
(b) OZ/Gedney Company, Main Street, Terryville, Connecticut 06786.

1. Parent Corporation:

Kirsch Company, Sturgis, Mich. 49091.

2. Wholly Owned Subsidiaries:

(a) Kirsch Window Treatments, 17352 Armstrong, Irvine, Ca. 92664.
(b) Hostess Industries, Inc., 212 Elm St., P.O. Box 276, New Canaan, Conn. 06840.
(c) Ideal Manufacturing Company, Pinesbridge Road, Beacon Falls, Conn. 06403.
(d) Johnson Leasing Company, Sturgis, Mich. 49091.
(e) Kirsch of Canada, Limited, P.O. Box 488, Woodstock, Ontario, Canada.
(f) Kirsch Services, Inc., 800 Center, Tempe, Ariz. 85282.
(g) Kirschrod International Corp., Sturgis, Mich. 49091.
(h) Rockware, Inc., 2124 Harlem Road, Rockford, Ill. 61111.
(i) Scotscraft, Inc., P.O. Box 463, Scottsville, Ky. 42164.
(j) Alex Stuart Designs, 20735 Superior, Chatsworth, Ca. 91311.
(k) The Union Pin Company, Greenwoods Industrial Park, P.O. Box 424, New Hartford, Conn. 06057.
(l) Vanguard Studios, 5775 N. Lindero Canyon Road, Westlake Village, Ca. 91361.
(m) Worldsbest Industries, Inc., 5025 S. Packard Ave., Cudahy, Wisc. 53110.

The parent corporation is:

Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, Ohio 43695.

The wholly owned subsidiaries which will participate in the operations are as follows:

LOF Glass Inc., P.O. Box 830, Laurinburg, North Carolina 28352.
Thermopane LOF Inc., P.O. Box 408, Clinton, North Carolina 28328.
Tuf-flex Glass Inc., 811 Madison Avenue, Toledo, Ohio 43695.
Aeroquip Corporation, 300 South East Avenue, Jackson, Michigan 49203.
LOF Plastics Inc., 7565 East McNichols Road, Detroit, Michigan 48234.
Modern Tools Division, 911 Matzinger Road, Toledo, Ohio 43695.

1. Parent corporation and address of principal office:

Morgan Trailer Mfg. Co., Morgantown, PA 19543.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Trail-R-Van, Inc., Morgantown, PA 19543.
(b) Janesville Truck Equipment Corp., 17 North Franklin Street, Janesville, Wisconsin 53545.

1. Parent corporation and address of principal office:

National Steel Corporation, 2800 Grant Building, Pittsburgh, PA 15219.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) National Aluminum Corporation, Pittsburgh, Pennsylvania.
(b) National Steel Service Center Inc. Parsippany, New Jersey.
(c) Hanna Furnace Corporation, Buffalo, New York.
(d) National Mines Corporation, Lexington, Kentucky.

V 45 / 155 AG 80 UMI

(e) Delray Connecting Railroad Company, Detroit, Michigan.
(f) National Steel Products Company, Houston, Texas.
(g) National Pipe & Tube Company, Liberty, Texas.
(h) Bull Moose Tube Company, Gerald, Missouri.
(i) American Steel Corporation, Detroit, Michigan.
(j) United Financial Corporation of California, San Francisco, California.

1. Parent corporation and address of principal office:

Outboard Marine Corporation, 100 Sea Horse Drive, Waukegan, Illinois 60085.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Cushman Motor Sales, Inc., 14133 Arbor Place, Cerritos, California 90701.
(b) Cushman Sales and Service of Florida, Inc., 2821 Pinewood Avenue, West Palm Beach, Florida 33407.
(c) Cushman Sales and Service of Illinois, Inc., 300 Laura Drive, Addison, Illinois 60101.
(d) Cushman Sales and Service of Nebraska, Inc., 1135 North 22nd Street, Lincoln, Nebraska 68503.
(e) Lawn-Boy Distributors, Inc.—New England, 122 South Street, Hopkinton, Massachusetts 01748.
(f) Lawn-Boy Distributors, Inc.—Indiana, 2725 Tobey Drive, Indianapolis, Indiana 46219.
(g) Lawn-Boy Distributors, Inc.—Michigan, 1365 North Cedar, P.O. Box 83, Holt, Michigan 48842.
(h) Lawn-Boy Distributors, Inc.—Southeast, P.O. Box 43784, Atlanta, Georgia 30336.
(i) OMC Distributors, Inc.—Dallas, 11440 Hillguard Road, Dallas, Texas 75243.
(j) OMC Distributors, Inc.—Kansas City, 6001 Equitable Road, Kansas City, Missouri 64120.
(k) OMC Distributors, Inc.—Minneapolis, 3070 Lunar, Eagan, Minnesota 55121.
(l) OMC Distributors, Inc.—Ft. Wayne, 4515 Merchant Road, P.O. Box 2788, Station D, Ft. Wayne, Indiana 46808.
(m) OMC Distributors, Inc.—San Francisco, 230 East Harris Avenue, South San Francisco, California 94080
(n) OMC Distributors, Inc.—Waukegan, 3504 Sunset Avenue, Waukegan, Illinois 60085.
(o) Outboard Marine Domestic, International Sales Corporation, 37 N.E. 179th Street, P.O. Box 663530, Norland Branch, Miami, Florida 33169.
(p) Outboard Marine International, Inc., 37 N.E. 179th Street, P.O. Box 3530, Norland Branch, Miami, Florida 33169.
(q) Outboard Marine Asia Limited, 2 Ice House Street, St. Georges Building, Hong Kong.
(r) Outboard Marine Belgium N.V., 72 Pathoekeweg, Brugge, Belgium.
(s) Outboard Marine Foreign International Sales Company Limited, Tsing Yi Town Lot No. 54, NT., Hong Kong.
(t) Ryan Equipment Co., 2055 White Bear Avenue, St. Paul, Minnesota 55109.
(u) Trade Winds Company, Inc., 1211 Depot Street, Manawa, Wisconsin 54949.
(v) Outboard Marine Danmark, A/S, Skovlunde Byvaj 94, DK 2740 Skovlunde.
(w) Outboard Marine Motoren Deutschland, G.M.B.H., Varb indungskanal, Linkes Ufer 18, D.6800 Mannheim (Federal Republic of Germany).
(x) Outboard Marine France S.A.R.L., 5–9 rue des Freres-Lumieres, Z.A. du Pont-Yblon, F.93150 Le Blanc Mesnil.
(y) Outboard Marine Nederland B.V., Flevolaan 13, NL-1382 JK Weesp.
(z) Outboard Marine Svenska A/B, Krossgatan 26–28, S–16229 Vallingby.
(aa) Outboard Marine (UK) Limited, 6 Harrowden Road, Brackmills—Northhampton.

1. Parent corporation and address of principal office:

Phillips Petroleum Company, Bartlesville, OK 74004.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Phillips Driscopipe, Inc., 12200 Ford Road, Suite 400, Dallas, TX 75234.
(b) Phillips Products Co., Inc., First National Building, 167 W. Main Street, Lexington, KY 40507.
(c) American Fertilizer & Chemical Co., P.O. Box 98, Highway 85, North of Denver, Henderson, CO 80640.
(d) American Thermoplastics Corp., 1235 Kress, Houston, TX 77020.
(e) Interplastic Corporation, 201 N.E. Broadway, Minneapolis, MN 55418.
(f) Phillips Fibers Corporation, P.O. Box 66, Greenville, S.C. 29602.
(g) Sealright Co., Inc., 605 W. 47th St., Kansas City, MO 64112.
(h) H. P. Smith Paper Co., 5001 W. 66th St., Chicago, IL 60638.
(i) Wall Tube & Metal Products Co., P.O. Box 330, Newport, TN 37821.
(j) Phillips Uranium Corporation, Box "J", Crown Point, NM 87313.
(k) Phillips Coal Company, Park Central 3, Suite 1400, 12700 Park Central Place, Dallas, TX 75251.
(l) Applied Automation, Inc., Pawhuska Road, Bartlesville, OK 74004.
(m) Phillips Pipe Line Co., 370 Adams Building, Bartlesville, OK 74004.

1. Parent corporation and address of principal office:

Ralston Purina Company, 835 South Eighth Street, St. Louis, Missouri 63188.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Foodmaker, Inc., 9330 Balboa Ave., San Diego, California 92112.
(b) Steak Mate Corporation, 835 South Eighth Street, St. Louis, Missouri 63188.

1. Parent corporation and address of principal office:

Reliance Universal Inc., 1930 Bishop Lane, 1600 Waterson Towers, Louisville, Kentucky 40218.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

Asterisk denotes 100% owned by parent

* Reliance Universal Inc., a Kentucky corporation:
4730 Crittenden Drive, Louisville, Kentucky 40209.
1000 Industrial Park Road, Clinton, Mississippi 39056.
* Reliance Universal Inc., a California corporation:
1215 West Lambert Road, Brea, California 92621.
* Reliance Universal Inc., an Illinois corporation:
1915 Industrial Avenue, Zion, Illinois 60099.
* Reliance Universal Inc., a North Carolina corporation:
Progress Street, High Point, North Carolina 27261.
Post Office Box 580, Richmond Hill, Georgia 31324.
Post Office Box 5681, Virginia Beach, Virginia 23455.
* Reliance Universal Inc., an Oregon corporation:
1660 Cross Street, S.W., Salem, Oregon.
* Reliance Universal Inc., a Texas corporation:
6901 Cavalcade, Houston, Texas 77001.
* Reliance Universal Inc., a New Jersey corporation:
Somerset Valley Industrial Campus, 100 Belmont Drive, Somerset, New Jersey 08873.
* Reliance Universal Inc., a Virginia corporation:
2837 Roanoke Avenue Extension, Roanoke, Virginia 24015.
* Reliance Universal Inc., a Canadian corporation:
100 Daniel Johnson Boulevard, St. Jerome, Quebec, Canada.
* Reliance Universal (B.C.) Ltd., a Canadian corporation:
20100 Number 10 Highway, Langley, British Columbia, Canada V3A 5E7.
* Reliance Universal Inc., of Ohio, an Ohio corporation:
500 West Whittier Street, Columbus, Ohio 43215.
620 Liberty Road, Delaware, Ohio 43015.
7200 Grade Lane, Louisville, Kentucky 40213.
Route 8, Reliance Road, Melbourne, Kentucky 41059.
P.O. Box 3288, Knoxville, Tennessee 37917.
P.O. Box 850, Love Street, Johnson City, Tennessee 37601.
3701 North Graham Street, Charlotte, North Carolina 28201.
Shop Road, Columbia, South Carolina 29202.
6209 Old Rutledge Pike, Knoxville, Tennessee 37914.
Steen and Thoms Run Road, Bridgeville, Pennsylvania 15017.
* Leeder Chemicals Inc., a California corporation:
16961 Knott Avenue, La Mirada, California 90638.
* Reliance Brooks Inc., a Kentucky corporation:
3302 East 87th Street, Cleveland, Ohio 44117.
* Reliance Universal of Puerto Rico Inc., a Kentucky corporation:
G.P.O. Box 3126, San Juan, Puerto Rico 00936.
* Reliance International Sales Corporation, a Kentucky corporation:
P.O. Box 4427, Hialeah Lake Station, Hialeah, Florida 33014.
* Reliance Universal, N.V., a Belgium corporation:
Belgradestraat 54, 2800 Mechelen, Belgium.
* Reliance Western Hemisphere Inc., a Kentucky corporation:
1930 Bishop Lane, Louisville, Kentucky 40218.

1. Parent corporation and address of principal office:

Rexnord Inc., 4701 West Greenfield Avenue, Milwaukee, Wisconsin 53201.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Bellofram Corporation, Burlington, Massachusetts.
(b) Envirex Inc., Waukesha, Wisconsin.
(c) Fairfield Manufacturing Company, Inc., Lafayette, Indiana.
(d) Rexnord Exploration Limited, Milwaukee, Wisconsin.
(e) Rexnord International, Inc., Milwaukee, Wisconsin.
(f) Rexnord Puerto Rico, Inc., Coamo, Puerto Rico.
(g) Rockford Products Corporation, Rockford, Illinois.
(h) Rockford Aerospace Products, Inc., Irvine, California.
(i) Rockford Screw Products Co. of California, Montebello, California.
(j) Rockford International, Inc., Elk Grove Village, Illinois.
(k) Tridair Industries, Torrance, California.

1. Parent corporation and address of principal office:

Stonecutter Mills Corporation, Spindale, North Carolina 28160.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Henson Timber Products Corporation, Duke Street, Forest City, North Carolina 28043.
(b) Mitchell Company, Spindale, North Carolina 28160.
(c) Rutherford Warehouse Company, Spindale, North Carolina 28160.

1. Parent corporation and address of principal office:

United States Gypsum Company, 101 South Wacker Drive, Chicago, Illinois 60606.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their principal offices:

[100 percent of stock owned]

Corporation and principal office address	Owner
(a) A. P. Green Refractories Company, Green Boulevard, Mexico, MO 65265.	USG.
(b) The E. J. Bartells Company, 700 Powell S.W., Renton, WA 98055.	APG.
(c) Bigelow-Liptak Corporation, 21201 Civic Center Drive, Southfield, MI 48076.	APG.
(d) Bigelow-Liptak of Canada, Limited, 1831 Matteawa Avenue, Mississauga, Ontario, Canada L4X 1K7.	B–L.
(e) Bigelow-Liptak Export Corporation, 8921 Railwood, Houston, TX 77021.	APG.
(f) A. P. Green Refractories (Canada), Ltd., 234 Rosemont Avenue, Weston, Ontario, Canada M9N 3C4.	APG.
(g) A. Lynn Thomas Company, Incorporated, 10 East Belt Boulevard, P.O. Box 8926, Richmond, VA 23225.	APG.
(h) Canadian Gypsum Company, Limited, 790 Bay Street, Toronto, Ontario, Canada M5W 1K8.	USG.
(i) C.N.G. Distribution, Limited, 790 Bay Street, Toronto, Ontario, Canada M5W 1K8.	CGC.
(j) Fundy Gypsum Company, Limited, Windsor, Nova Scotia, Canada B0N 2T0.	CGC.
(k) Little Narrows Gypsum Company, Limited, 790 Bay Street, Toronto, Ontario, Canada M5W 1K8.	CGC.
(l) Peeters Carpets, Ltd., 790 Bay Street, Toronto, Ontario, Canada M5W 1K8.	CGC.
(m) Durabond Products Company, 7100 North Mannheim Road, Rosemont, IL 60018.	USG.
(n) Permalastics Products, Incorporated, 7100 North Mannheim Road, Rosemont, IL 60018.	DUR.
(o) Kinkead Industries, Incorporated, 2801 Finley Road, Downers Grove, IL 60515.	USG.
(p) L&W Supply Corporation, 101 South Wacker Drive, Chicago, IL 60606.	USG.
(q) Columbia Building Materials Corp., 101 South Wacker Drive, Chicago, IL 60606.	L&W.
(r) C-S-W Drywall Supply Company, 101 South Wacker Drive, Chicago, IL 60606.	L&W.
(s) Gypsum Services Corporation, 101 South Wacker Drive, Chicago, IL 60606.	L&W.
(t) North Bay Building Materials Co., Inc., Napa Jct. Road, Napa Junction, Vallejo, CA 94590.	L&W.
(u) Stocking Specialists, Inc., 101 South Wacker Drive, Chicago, IL 60606.	L&W.
(v) Sequoyah Carpet Corporation, Anaderko, OK 73005.	USG.
(w) Hollytex Carpet Mills, Inc., 300 North Baldwin Park Blvd., City of Industry, CA 91749.	SEQ/USG.
(x) United States Gypsum Export Company, 101 South Wacker Drive, Chicago, IL 60606.	USG.
(y) USG Insulation Company, 101 South Wacker Drive, Chicago, IL 60606.	USG.
(z) Wies, Janney, Elstner and Associates, Incorporated, 330 Pfingsten Road, Northbrook, IL 60062.	USG.

Explanation of Abbreviations Used

(USG)—United States Gypsum Company—Parent Corporation.
(APG)—A. P. Green Refractories Co.—100% USG owned.
(B–L)—Bigelow-Liptak Corporation—100% APG owned.
(CGC)—Canadian Gypsum Company, Limited—100% USG owned.
(DUR)—Durabond Products Company—100% USG owned.
(L&W)—L&W Supply Corporation—100% USG owned.
(SEQ)—Sequoyah Carpet Corporation—100% USG owned.

1. The parent corporation and address of its principal office is:

W. R. Grace & Co., Grace Plaza, 1114 Avenue of the Americas, New York, New York 10036.

2. Wholly owned subsidiaries which are participating in the operations and address of their respective principal offices are:

(a) Grace Distribution Services, Inc., P.O. Box 308, Duncan, SC 29334.
(b) American Breeders Service International, Inc., Route 1, DeForest, WI 53532.
(c) A–1 Bit & Tool Company, P.O. Box 26292, Oklahoma City, OK 73126.
(d) Axial Basin Coal Corporation, Stapleton Plaza, Suite 8800, 3333 Quebec Street, Denver, CO 80207.
(e) Chance Collar Company of Louisiana, P.O. Box 899, Pearland, TX 77581.
(f) Daylin, Inc., 10960 Wilshire Blvd., Suite 2000, Los Angeles, CA 90024.
(g) DeZaan, Incorporated, Grace Plaza, 1114 Avenue of the Americas, New York, NY 10036.
(h) El Torito-La Fiesta Restaurants, Inc., 2450 White Road, Irvine, CA 92714.
(i) Far West Services, Inc., P.O. Box 19561, Irvine, CA 92713.
(j) Gilbert/Robinson, Incorporated, P.O. Box 16000, Kansas City, MO 64112.
(k) Handy Dan Home Improvement Centers, Inc., 10960 Wilshire Blvd., Suite 2420, Los Angeles, CA 90024.
(l) Homco International, Inc., P.O. Box 2442, Houston, TX 77001.
(m) MSP Industries Corporation, 6400 E 11-Mile Road, Center Line, MI 48015.
(n) Rent-It, Inc., 9898 Bissonnet, Suite 450, Houston, TX 77036.
(o) Sheplers, Inc., P.O. Box 9021, Wichita, KS 67277.
(p) TRG Drilling Corp., P.O. Box 20020, Oklahoma City, OK 73156.
(q) W. R. Grace & Co. of Canada Ltd., Grace Plaza, 1114 Avenue of the Americas, New York, NY 10036.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-23912 Filed 8-7-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-88]

Certain Spring Assemblies and Components Thereof, and Methods for Their Manufacture; Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on June 23, 1980, and amended on July 8, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a, on behalf of Kuhlman Corp., 2565 West Maple, Troy, Mich. 48084. The amended complaint (hereinafter referred to as the complaint) alleges unfair methods of competition and unfair acts in the importation into the United States of certain spring assemblies, or in their sale, because such spring assemblies infringe claims 1, 2, and 7–11 of U.S. Letters Patent 3,782,708, and are made in accordance with claims 1–37 of U.S. Letters Patent 3,866,287. Moreover, the

or other court orders necessary in the

DEPARTMENT OF JUSTICE

be available. The OJJDP policy reflects a

V 45 / 155
AG 80
UMI

complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests the Commission, following a full investigation, to order permanent exclusion from entry into the United States of the imports in question, and to provide such other relief as the Commission deems appropriate. Complainant also requests the Commission, during the pendency of the investigation, to order temporary exclusion from entry into the United States of the imports in question.

Having considered the complaint, the Commission, on July 22, 1980, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe that there is a violation and whether there is a violation of subsection (a) of this section in the unauthorized importation of certain spring assemblies and components thereof into the United States, or in their sale, because such spring assemblies are alleged to be covered by claims 1, 2, and 7–11 of U.S. Letters Patent 2,782,708 and to be made in accordance with claims 1–37 of U.S. Letters Patent 3,866,287, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purposes of this investigation, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Kuhlman Corp., 2565 West Maple, Troy, Mich. 48084

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of such spring assemblies into the United States, or in their sale, and are parties upon which the complaint is to be served:

P. J. Wallbank Manufacturing Co., Ltd., P.O. Box 99, Highway 97, Plattsville, Ontario, Canada N0J1S0
Ford Motor Co., Ford World Headquarters, American Road, Dearborn, Mich. 48121
General Motors Corp., 3044 West Grand Boulevard, Detroit, Mich. 48202

(c) John Milo Bryant, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

The phrase "and components thereof" has been added to paragraph (1) above on the basis of informal investigatory activities by the Commission, which revealed that spring assemblies of the type alleged to infringe claims 1, 2, and 7–11 of U.S. Letters Patent 3,782,708 and to be made in accordance with claims 1–37 of U.S. Letters Patent 3,866,287 can be imported in component parts as well as entirely assembled units. In addition, General Motors Corp. and the Ford Motor Co. have been included as respondents in paragraph 2(b) above on the basis of the informal investigatory activities of the Commission.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York office, 6 World Trade Center, Suite 655, New York, N.Y. 10048.

Issued: August 4, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-23889 Filed 8-7-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 907-80]

Direction to the Counsel on Professional Responsibility

Pursuant to the authority vested in me by 28 U.S.C. 509, 510, 515(a), and 5 U.S.C. 301, I direct that the following functions be performed by the Counsel on Professional Responsibility, Office of Professional Responsibility:

(a) The Counsel on Professional Responsibility, hereinafter referred to as the "Counsel", shall have the authority to investigate for criminal, civil and administrative purposes, any offenses arising from the activities of "Billy" Carter in acting as an alleged agent of the Libyan government, including, but not limited to, the conduct of any and all Government employees or appointees, or any other persons, in connection with the investigation of those activities, the activities of Mr. Carter, improper disclosures of information relating to the investigation of Mr. Carter, and possible improper disclosure of confidential information to Mr. Carter, or others, relating to Mr. Carter's activities.

(b) In exercising his authority, the Counsel will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Counsel's decision or actions. The Counsel will determine whether and to what extent he will consult with the Attorney General or any other official about the conduct of his duties and responsibilities.

(c) The Counsel shall have full authority, with respect to these matters, including the power:

(1) To conduct proceedings before grand juries, and to conduct any other investigations he deems necessary.

(2) To obtain and review all documentary evidence from any source, and to have full access to such evidence.

(3) To determine whether any assertion of testimonial privilege should be contested, and to conduct any legal proceedings, including appeals, necessary to contest such privilege.

(4) To receive appropriate national security clearances and, if necessary, contest in court (including, where appropriate, participating in camera proceedings) any claim of privilege, or attempt to withhold evidence, on grounds of national security.

(5) To make application to any Federal court for warrants, subpoenas, or other court orders necessary in the conduct of his investigation, and to conduct any legal proceedings necessary to obtain and enforce such orders, including appeals.

(6) To inspect, obtain, and use the original or a copy of any tax return, in accordance with applicable statutes and regulations.

(7) To determine whether or not application should be made to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, and to exercise the authority vested in the Attorney General for purposes of 18 U.S.C. 6004 and 6005.

(8) To recommend the institution of criminal or civil proceedings against any individual, entity, or group of individuals.

(9) To direct and coordinate the activities of Department of Justice personnel engaged in carrying out the functions of the Counsel.

(10) To make such reports to the Congress as he deems appropriate, including appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to the committees. The Counsel shall submit a final report to the Solicitor General. The Counsel may, to the extent permitted by law and as he deems appropriate, submit a final report to other Department officials and to the Congress.

(11) To require the temporary assignment of any employees within the Department of Justice to the Office of Professional Responsibility for the purposes of providing assistance and support for this investigation.

(d) In the event that the investigation uncovers circumstances which would invoke the provisions of the Ethics in Government Act of 1978, particularly 28 U.S.C. 591–598, the investigation shall thereafter be conducted in accordance with those provisions, and the Attorney General's functions under that Act shall be performed by the Counsel, notwithstanding current procedures applicable to other matters.

Dated: August 1, 1980.

Charles B. Renfrew,

Acting Attorney General.

[FR Doc. 80-23925 Filed 8-7-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Continuation Policy for All Grants Awarded Pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974

AGENCY: Law Enforcement Assistance Administration, Justice.

ACTION: Request for public comment on proposed continuation policy.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, proposes to announce a Continuation Policy for all grants awarded under the authority of the Juvenile Justice and Delinquency Prevention Act.

The Office of Juvenile Justice and Delinquency Prevention invites any interested comments and will consider such comments before the final publication of this policy. This policy is being announced for sixty days. All comments must be received within sixty days after publication.

For any additional information, please contact Mr. Vermont R. McKinney, at 202–724–7755, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531. The proposed text follows:

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Grant Continuation Policy of the Office of Juvenile Justice and Delinquency Prevention (OJJDP)

Section 228(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. Section 5601, *et seq.*, as amended (Pub. L. 93–415, as amended by Pub. L. 94–503 and Pub. L. 95–115) provides the following general policy with respect to the continuation of programs funded under the Act:

> Section 228(a) in accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

The basis for this Congressional policy was a finding that juvenile justice program and project grantees have traditionally had difficulty in achieving continuity of funding, particularly in obtaining state or local government support when private or Federal government fund sources have ceased to be available. The OJJDP policy reflects a Congressional purpose to institutionalize carefully chosen and successful programs and projects, in particular, action programs and projects operated by public agencies and private non-profit organizations that result in an improvement of or the direct delivery of services to juveniles.

Policy

It is the policy of OJJDP that, subject to the limitations and exclusions noted below, action programs and projects funded through grants awarded under the Juvenile Justice Act will be eligible for continuation funding based on the general criteria specified below and any additional criteria for continuation specified in program continuation announcements issued by the Office of Juvenile Justice and Delinquency Prevention and published in the **Federal Register**. Projects that are continued will be funded at a level necessary to sustain essential project activities whether below, at, or above prior funding levels as OJJDP determines to be appropriate and necessary to successful continuation.

OJJDP will announce annually in the **Federal Register** the eligible continuation program areas, the level of funds that will be available, application submission deadlines, and any additional criteria which applicants must meet in order to qualify to receive continuation funding. Where fund limitations and program priorities do not permit the funding of eligible projects within a continuation program, a competitive continuation will be rated and ranked in accordance with both the general criteria and any additional criteria that have been established for the particular program. Only those applicants receiving the highest scores up to the level of funds available for continuation of the particular program would then receive continuation funding.

This policy does not apply to OJJDP contractors or recipients of funds under cooperative agreements because of the nature of activities carried out under those funding instruments. It also does not apply to sub-recipients (sub-grantees or contractors) of OJJDP grantees.

Program Coverage and Exclusions

The Office of Juvenile Justice and Delinquency Prevention administers five programs under the authority of the Juvenile Justice Act:

1. Formula Grant.
2. Concentration of Federal Efforts.
3. Technical Assistance.
4. Special Emphasis Prevention and Treatment.

V 45 / 155 AG 8 80 UMI

5. National Institute for Juvenile Justice and Delinquency Prevention.

Formula Grant Program

Under the formula grant program established in Part B, Subpart I of the Act, sections 221–223, LEAA regulations (28 CFR 31.703(l)) require that the State Council establish a minimum project period for each juvenile justice and delinquency prevention program described in the state plan. Projects funded under the program are then entitled to funding for the established project period unless there is a substantial decrease in formula grant funding to the state, the applicant fails to comply with the terms and conditions of the grant award, or fails to receive a satisfactory annual evaluation.

The criteria established herein for continuation funding are not applicable to the formula grant program. However, State Councils, with the assistance and advice of the State Advisory Group, are strongly encouraged to formulate a specific policy to govern the continuation of action programs and projects funded with formula grant funds beyond the minimum period of funding established in the state plan. State policy should be consistent with the policy established herein as applicable to programs and projects awared and administered directly by OJJDP.

Concentration of Federal Effort

Funds under this program are used primarily for the support of the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

These funds may also be used to assist operating agencies, to support evaluations and studies of Federal programs and activities, to implement coordinated Federal juvenile delinquency programs and support evaluations and studies of Federal programs and activities, to implement coordinated Federal juvenile delinquency programs and activities, to develop reports, to provide technical assistance at the Federal level, and to enter into joint funding agreements with other Federal agencies.

Because of the administrative nature of most of these activities and the demonstration purpose behind the funding of coordinated or jointly funded action programs and projects which might be funded under Concentration of Federal Efforts authority, these funds shall not be subject to the continuation policy and criteria specified herein unless specifically provided in a program annoucement issued by OJJDP.

Technical Assistance

The purpose of the OJJDP technical assistance program is to assist state and local governments, juvenile courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, or evaluation of juvenile delinquency programs. By its nature, technical assistance is a discrete activity to be provided by a technical assistance provider to identifiable recipients over a specific period of time. Therefore, all OJJDP technical assistance grants will be funded only for the period of time specified in the applicable program announcement plus any extensions or refunding necessary to complete the technical assistance activity.

Special Emphasis Prevention and Treatment

Under the Special Emphasis Prevention and Treatment Program established in Part B, Subpart II of the Act, sections 224–225, the LEAA Financial Guideline currently provides that Special Emphasis programs announced in the LEAA Discretionary Grants Guideline shall indicate the number of years for which an applicant may request support for a project (M 7100.1A, CHG–3, Chap. 7, Par. 12, October 29, 1975). This Guideline established a maximum initial project period of support. Projects funded under announced Special Emphasis programs whose project period expires on or after October 1, 1980, shall be eligible to apply for continuation funding under program continuation announcements issued by OJJDP, using the general criteria established under this policy for continuation determinations, provided that the program under which the project was funded is an action program intended to result in an improvement of or the direct delivery of services to juveniles. Action programs are those programs designed to employ specific methods and strategies to achieve identified objectives within a specified time frame.

From time to time, Special Emphasis funds will be used to support research and development programs in conjunction with the National Institute for Juvenile Justice and Delinquency Prevention. Such programs are designed to test methodology and strategy and refine program approaches for the purpose of replication if the program is effective. Projects funded under programs designated in advance as research and development programs are not eligible for continuation based on the criteria established under this policy. They will be funded only for the specific period of time needed to demonstrate the efficacy of a particular program approach, i.e. the project period plus any extensions or refunding necessary to complete the project.

National Institute for Juvenile Justice and Delinquency Prevention

The National Institute for Juvenile Justice and Delinquency Prevention, established under Part C of the Act has statutory authority to perform the following functions:

(1) Information collection and dissemination

(2) Research

(3) Program evaluation

(4) Demonstration of innovative techniques and methods for the prevention and treatment of delinquency

(5) Training

(6) Development of standards for juvenile justice and model state legislation.

The functions designated under (1), (2), (3), and (6) above represent discrete or time-limited activities for which the rationale for continuation funding is inapplicable. Where funds for such activities are awarded by the Institute, funding length shall be in accordance with the applicable program announcement and award document. The length of funding for projects funded under programs designated as demonstrations (4) shall similarly be determined by the program announcement and award document and excluded from the continuation policy. Demonstration programs serve a limited purpose and are intended, by the nature of their design, to be funded only for the period of time needed to demonstrate the efficacy of particular innovative techniques and methods which have been identified as having a potential to contribute to the prevention and treatment of delinquency.

Training programs and project grants (5) that are funded by the Institute shall be subject to the general continuation policy and criteria set forth herein where the objective of the training program or project is to provide ongoing training that will result in an improvement of or the direct delivery of services to youth.

Continuation Criteria

The following general criteria will be utilized by OJJDP in determining eligibility of projects for continuation funding under programs that qualify for continuation consideration under the above OJJDP policy:

(1) There has been a satisfactory evaluation of program or project performance as established by:

(a) project level monitoring of fiscal and program performance; and, if available,

(b) project level evaluation of the success of project implementation (process) and the success of the project in meeting its goals and objectives (impact); and, if available,

(c) program level evaluation of whether the program under which the project was funded has achieved anticipated results;

(2) The project has satisfactorily complied with the terms and conditions of the grant award;

(3) The project has proven to be cost effective in meeting the objectives of the program and has significantly contributed to meeting the goals and objectives of the Act and the program priorities established by OJJDP;

(4) The grantee has documented the need for continuation of project services or activities in order to achieve desired project outcomes and objectives;

(5) The grantee has documented efforts to obtain funding from governmental or private sources and has submitted an acceptable plan to continue such efforts over the project period of the continuation funding;

(6) Availability of appropriated funds for the OJJDP program under which the program and project were funded; and

(7) The rank order of the project where a competitive continuation program is announced by OJJDP.

[FR Doc. 80-23951 Filed 8-7-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80–51]

Class Exemption for Certain Transactions Involving Bank Collective Investment Funds

Correction

In FR Doc. 80–22289, published in the issue of Friday, July 25, 1980, at page 49709, please make the following corrections:

1. On page 49709, second column, the second full paragraph, line 14, the date now reading "September 23, 1980" should read "October 23, 1980".

2. On page 49715, second column, the third full paragraph, now ending with "[date, 90 days after the publication in the **Federal Register** of the grant of this exemption], or" should read "October 23, 1980, or".

3. In the same column, paragraph (iv), the phrase in line 2 beginning with "having a stated maturity date * * *" should begin on a new line since it refers to paragraph (B).

BILLING CODE 1505-01-M

[Application No. D–1097]

Proposed Exemption for a Certain Prohibited Transaction Involving the Wichita Oil Co., Profit-Sharing Plan, Located in Wichita Falls, Tex.

AGENCY: Department of Labor, Pension and Welfare Benefit Programs Office.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of certain real property by the Wichita Oil Company Profit Sharing Plan (the Plan) to the Wichita Oil Company, Inc. (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 23, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1097. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton, of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer and the Plan trustees, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan, which has 10 participants, is a profit sharing plan established in 1973. It had total assets of $145,737 as of October 31, 1977. The two Plan trustees, who make all investment decisions, are Mrs. LaJoyce Foster and Mr. Robert Brown. Mr. Brown is the sole shareholder of the Employer and its President, and Mrs. Foster is the Secretary-Treasurer.

2. The Employer is a closely-held Texas corporation engaged in the retail gasoline business.

3. On July 3, 1975, the Plan purchased a 4.04 acre tract of land (the Property) from unrelated parties for $100,000. This purchase was financed by the Parker Square Savings and Loan Association of Wichita Falls (the Bank), which holds the deed of trust.

4. On July 3, 1975, the Plan entered into a 15-year lease agreement with the Employer for the lease of the Property. The Property is used by the Employer as its business premises. The Employer represents that it will pay the excise taxes which are applicable under the Code by reason of the leasing arrangement within 60 days of the publication in the **Federal Register** of a notice granting the proposed exemption.

5. The Employer now wishes to purchase the Property from the Plan. If an exemption is granted for the sale of the Property, the Plan will execute and deliver a warranty deed with an assumption clause to the Employer. The Employer will give the Plan cash for its equity in the Property and assume the Plan's indebtedness to the Bank. The Employer proposes to pay the fair

market value of the Property. The Property was appraised in April 1978 for $138,000 by J. B. Featherston, M.A.I.

6. The Plan has attempted to sell the Property to an unrelated party. For a 60-day period, from June 15, 1979 through August 15, 1979, the Plan solicited bids for the purchase of the Property by daily advertisement in a local newspaper. No written bids were received pursuant to such advertisement.

7. In summary, the applicants represent that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(a) It would be a one-time transaction for cash which could be easily verified;

(b) The Plan will not pay any form of commission with respect to the proposed transaction;

(c) the Plan now has little or no liquidity inasmuch as the Property represents approximately ⅔ of the total assets of the Plan;

(d) The Plan will receive fair market value for the Property and relief from a long-term liability;

(e) The Plan will be able to dispose of property for which there appears to be no market; and

(f) The Plan trustees are of the opinion that the proposed transaction is in the best interests of the participants and beneficiaries of the Plan.

Notice to Interested Persons

Notice will be provided to present Plan participants by posting this notice, as published in the **Federal Register**, on the employees' bulletin board on the business premises of the Employer along with a statement that interested persons have the right to comment and/or request a hearing. The notice will also be mailed to present Plan participants or hand delivered to them. The notice will be mailed to the last known address of beneficiaries and former participants with deferred vested benefits. Notice will be hand delivered to the trustees. All notices will be provided by August 25, 1980.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interests or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before in exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason ot section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a 4.04 acre tract of land located at Seymour Highway and Beverly Circle, Wichita Falls, Texas, by the Plan to the Employer for the greater of $138,000 or the fair market value at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of August 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Progams, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23038 Filed 8-7-80; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-1780]

Proposed Exemption for Certain Prohibited Transactions Involving the Carpenters Retirement Trust of Western Washington, Located in Seattle, Wash.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt commitments and subsequent purchases, between the Carpenters Retirement Trust of Western Washington (the Plan) and certain financial institutions pursuant to which the Plan is obligated to acquire a given number of first mortgage loans originated by such financial institutions, when the loans are secured by industrial and commercial buildings constructed by persons who are contributing employers with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the financial institutions involved, contributing employers to the Plan, and other persons participating in the proposed transactions.

DATE: Written comments must be received by the Department on or before October 22, 1980.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. D-1780. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Antsen of the Department, telephone (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed by counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a Taft-Hartley multi-employer pension plan which covers approximately 18,000 participants employed by both commercial and residential building contractors in western Washington. Plan assets total approximately $88,000,000.

2. Historically the Joint Board of Trustees of the Plan (the Board) had adopted an investment policy (Investment Policy) which provided the broad investment philosophy under which those Plan Trustees appointed by the Board to the Investment Committee (Investment Committee) were to use as a basis for investment decisions. The Investment Policy provided for the engagement of professional money managers or investment advisors as the Investment Committee should decide. The Investment Policy also permitted the Investment Committee to authorize investment in real estate mortgages subject to specified guidelines (discussed below). In late 1974, the authority to make such mortgage investments was delegated to the Investment Committee's investment managers. The experience of the investment managers has demonstrated to the Board that mortgage investments can be more efficiently and economically made for the Plan if they are handled by the Board and its administrative staff. For this reason, on June 14, 1979, the Board voted to adopt a practice of making mortgage investments through its internal Investment Committee.

3. In order to obtain construction loans, developers or owners of sites upon which buildings are to be constructed must have a commitment from a mortgage banking firm or other financial institution to provide permanent mortgage financing once construction has been completed. Such mortgage banking firms or other financial institutions often do not hold for their own investment those mortgage loans which they have made on such commercial and industrial buildings; but, instead sell the mortgage loans to long-term investors, pursuant to a written commitment made by such an investor. In many instances the mortgage banker or financial institution relies on the commitment of the long-term investor in giving its financial commitment for the original permanent mortgage loan.

4. The Plan has traditionally issued such written commitments to reputable banks, savings and loan institutions and mortgage bankers. Such commitments obligate the Plan to purchase from such mortgage banking firms or other financial institutions a specified amount of mortgage loans made by such firms or institutions and secured by first mortgages, both new and seasoned, which such firms or institutions have taken in exchange for their permanent financing of newly constructed commercial and industrial buildings. Many of the contributing employers to the Plan are potential contractors for the types of construction projects that would qualify within the Plan's guidelines for mortgage investment. The procedure for making such investment requires: that an original commitment to the mortgage investment program be executed; that the firm or institution selling the mortgage program approach the Plan with a specific mortgage to sell; that the mortgagor must be of the highest credit rating with the seller itself; that credit reports on the owner be furnished to the Plan; that upon the Plan's commitment to purchase the mortgage, a commitment fee be paid; that a commitment letter be issued setting forth the significant terms of the purchase agreement and mortgage; and that, in most instances, the seller agrees to service the mortgage for the Plan at a stated fee. At the time of the purchase of the mortgage, the note and deed of trust securing the mortgage are assigned to the Plan. Thereafter, in most instances, the seller will service the mortgage and be responsible for collecting payments, sending late notices and handling foreclosures. It is expected that more than one mortgage would be purchased from the same mortgage banker or other financial institution.

5. The Board has specifically designated the Administrator of the Plan (the Administrator) to act for it in the selection of mortgages for investment. The Administrator will screen all mortgage investments to determine that they satisfy the Investment Policy criteria for approved mortgage investments. Before a final commitment to any mortgage is given, the Investment Committee, acting on behalf of the Board, will give its approval to the mortgage investment. The Investment Policy states that purchases of mortgages for investment shall be limited to the following:

(a) Mortgages must be either a first lien mortgage or Deeds of Trust insured by a standard form ATA policy of mortgage insurance by a recognized title insurance company.

(b) No mortgage shall be authorized on a building constructed by a contributing employer where a principal of the contributing employer is a member of the Board of the Plan.

(c) Mortgages of industrial or commercial property (including multiple unit residential dwellings) must be located within the geographical limits of the Plan. Mortgages explicitly excluded for investment purposes are motels, nursing homes and bowling alleys. These explicit exclusions shall not limit the board from excluding other types of property from mortgage purchases.

(d) No single mortgage shall exceed in amount 5% of the value of the total Plan assets.

(e) No mortgage may be considered for investment by the Plan where the mortgagor (owner) is a contributing employer to the Plan, a union signatory to the collective bargaining agreement, or other party in interest to the Plan under the Act.

(f) Mortgages are restricted to federally insured FHA (Federal Housing

V 45 / 155
AG 8 80
UMI

Administration) or GI (sic VA) mortgages, GNMA (Government National Mortgage Association) packages, FNMA (Federal National Mortgage Association) packages, conventional mortgages either insured by MGIC (Mortgage Guarantee Insurance Corporation) or equivalent, or does not exceed 75% of MAI appraised market value of the mortgaged property.

(g) Procedures—Any mortgage or mortgage commitment proposed for purchase by the Plan shall be submitted to a designee of the Plan for the purpose of verifying that it meets the financial and other criteria, other than legal. It shall be submitted to legal counsel of the Plan for the purpose of passing upon the legal sufficiency of the mortgage and mortgage insurance.

(h) A mortgage servicing company shall be a recognized going concern, of sufficient capital, reputation and expertise to service the mortgage for its lifetime and shall execute with the Plan its Letter of Understanding concerning the above guidelines for mortgage purposes and their adherence thereto.

(i) In accordance with Article IV of the Investment Policy, Diversification, no more than 20% of the Plan assets shall be invested in mortgages at any given time.

(j) No mortgage shall be entered into for a period longer than 30 years.

6. The sale and servicing of mortgages by mortgage bankers is a customary practice in the field of investments. The terms of the commitment are similar to commitments made by other lenders, for example, insurance companies, banks and savings and loan associations. The interest rates on the mortgages and the servicing fee are determined by the rate then prevailing in the market place.

7. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) the exemption provides that the terms of the proposed mortgage investments would be not less favorable to the Plan than the terms generally available in arm's-length transactions between unrelated parties; (2) during the course of the proposed transactions, the Plan will have no dealings with contributing employers or other parties in interest with rsepect to the Plan but will be dealing with commercial lending institutions and owners of property who are not parties in interest or otherwise related to the Plan; (3) the mortgages securing the loans will be either federally insured, insured by private mortgage insurance or not exceed 75% of the MAI appraised market value of the mortgaged property; (4) single mortgages shall be limited to 5% of the current value (as that term is defined in section 3(28) of the Act) of Plan assets with cumulative investment in such mortgages not to exceed 20% of Plan assets (as defined above); and (5) the Board has represented that the proposed investments are in the best interest of the Plan.

Notice to Interested Persons

Within ten days following the publication in the **Federal Register** notice of the proposed exemption will be mailed to all associations which represent employees of covered employers, and all current parties to the collective bargaining agreement creating the Plan; and within forty-five (45) days following publication in the **Federal Register**, notice of the proposed exemption will be summarized and printed in the "Carpenters Family Health" a quarterly publication which is mailed to all participants and beneficiaries. Such summary shall include notice of participants and beneficiaries right to comment within the period set forth in the notice.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interested or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the issuance by the Plan through its Investment Committee of commitments to certain financial institutions, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans originated by such financial institutions, when the loans are secured by industrial and commercial buildings constructed by persons who, as contributing employers, are parties in interest or disqualified persons with respect to the Plan; and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan.

The foregoing exemption will be applicable only if the following conditions are met:

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arm's-length transactions between unrelated parties;

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan, records are lost or destroyed prior to the end of the 6-year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained, or not available for examination as required by paragraph (c) below;

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any Trustee of the Plan or any duly authorized employee or representative of such Trustee;

(3) The Plan's investment manager(s) or any duly authorized employee or representative of such investment manager(s);

(4) Any employer of Plan participants;

(5) Any employee organization or duly authorized representative of such organization, whose members are covered by the Plan; and

(6) Any participant or beneficiary of the Plan or any duly authorized employee or representative of such participants or beneficiary.

In addition, the proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately described all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23837 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-900]

Proposed Exemption for Certain Transactions Involving the Building Trades United Pension Trust Fund; Milwaukee and Vicinity, Located in Milwaukee, Wis.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the making of long-term mortgage loans by the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Plan) in situations where the loans would be arranged by and purchased from mortgage bankers which are service providers to the Plan and, therefore, parties in interest. The proposed exemption, if granted, would affect the Plan, participants and beneficiaries of the Plan, the mortgage banking institutions involved, contributing employers to the Plan, and any other persons participating in transactions to which the exemption might be applicable.

DATES: Written comments must be received by the Department of Labor on or before September 29, 1980. If granted, the exemption will be effective from the date of grant.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-900. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for examption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a multi-employer, multi-trades plan, participants in which are employed in the construction industry. There are approximately 23,000 Plan participants. Plan assets total approximately $142,000,000.

2. The board of trustees of the Plan is composed of 45 members, 23 appointed by employers and 22 union-appointed, with power to cast an equal number of aggregate votes. Because of the size of the full board of trustees, standing committees have been established to perform on-going administrative and management functions for the Plan.

Fiduciary duties expressly are delegated to standing committees. Of such standing committees, the Plan Investment Committee and the Plan Mortgage Committee are charged with decisions regarding management of Plan assets. Moreover, investment managers may be appointed for the Plan.

3. Four employer-appointed and four union-appointed trustees comprise the Investment Committee. The primary duties of the Investment Committee are to oversee the activities of investment managers, who are responsible for approximately two-thirds of Plan assets. Additionally, the Investment Committee oversees management of Plan assets, the responsibility for which does not fall upon either the investment managers or the Mortgage Committee.

4. Three employer-appointed and three union-appointed trustees comprise the Mortgage Committee. The Mortgage Committee acts on all applications for permanent mortgage financing. Such financing is provided only after completion of the construction project

involved, replacing the short-term construction loan. Exemption for construction financing is not sought.

No application for mortgage financing is considered by the Mortgage Committee unless the loan meets published criteria promulgated by that Committee. Mere satisfaction of the published criteria does not result in automatic Mortgage Committee approval of a particular loan, inasmuch as all loan applications are considered on an individual basis, the published criteria serving only as minimum requirements which must be met before a loan application will be considered at all. Also, the Plan will not extend permanent mortgage financing to any persons who are parties in interest or disqualified persons with respect to the Plan.

5. The Plan makes mortgage loans secured by commercial real property. Construction of such commercial properties may be performed by persons who are parties in interest or disqualified persons with respect to the Plan. Specifically, the transactions for which exemption is sought are commitments on the part of the Plan both to provide a borrower with long-term mortgage financing and to purchase the construction mortgage loan held by the short-term lender. Such purchase is upon completion of the construction project involved.

At the closing of the permanent mortgage loan commitment, the Plan is assigned the first mortgage held by the short-term lender. Such assignment includes the outstanding note, as well as the mortgage, upon receipt of which the plan advances funds to the short-term lender in satisfaction of the assignment.

6. The Plan regards investments in permanent mortgage loans on commercial real property as being particularly attractive. According to the application, such investments in the past have proved to be an excellent medium for meeting the Plan's long-term investment objectives of principal preservation, investment return, stability of return, and diversification. In addition, the application states that the Plan's investment experience with mortgage loans has been more favorable than with investments managed by outside investment managers. Further, the Plan would be unable to continue its policy of making investments in permanent mortgage loans on commercial real property if the proposed exemption were not granted.

In the past, the Plan has invested slightly less than one-third of its total assets in mortgage loans. If the proposed exemption is granted, the Plan would not invest more than 30 percent of its assets in mortgage loans to which the exemption would be applicable, such percentage to be determined as of the time the commitment for a particular mortgage loan is closed by assignment of the loan from a mortgage banker, as the process more fully is described below. Moreover, if the proposed exemption is granted, the Plan would not invest more than five percent of its assets in any one mortgage loan, such percentage also to be determined as of the time the commitment is closed.

7. The process through which the Plan issues a commitment to make permanent mortgage financing in a particular instance can be summarized as follows.

A prospective borrower approaches a mortgage banker to discuss financing of an anticipated construction project. If the banker reacts favorably to the proposed project, it enters into an arrangement with the borrower, pursuant to which the banker agrees to act as agent for the borrower in attempting to obtain long-term financing. Typically, the agreement provides that the banker will receive an origination fee from the borrower if it is successful in obtaining long-term financing.

The banker prepares a loan offering for submission to potential lenders. The offering typically is upon the terms and conditions then prevailing for such financing, as being carried out by a variety of lenders, including the Plan. The Plan Mortgage Committee may receive such an offering from a banker, and will review it accordingly. The Mortgage Committee may accept the terms of the offering as presented, or it may present a counter-proposal. Upon the Mortgage Committee's being satisfied with a particular offering, or upon acceptance by the potential borrower of the Plan's counter-proposal, the Plan issues its commitment to provide permanent financing for the project involved.

The Plan's commitment imposes certain conditions, in non-satisfaction of which the Plan will not accept the mortgage loan upon completion of the construction project. The conditions include issuance of an appraisal of the completed building, showing that the loan will not exceed 75 percent of the appraised value; issuance of a title policy insuring the Plan's first mortgage status in an amount at least equal to the amount of the loan; receipt of an architect's certificate that construction conforms to requisite plans and specifications and meets applicable zoning and ordinance restrictions; issuance of a certificate from the appropriate building inspector that the building is ready for occupancy; and presentation of a hazard insurance policy in an amount at least equal to the loan, naming the Plan as payee.

The borrower obtains construction financing, normally through the banker which he approached initially. The borrower, the banker and the Plan become parties to an agreement which confirms the understanding of the parties that upon completion of the project the Plan will provide permanent financing.

Throughout construction, the banker monitors the project. Upon completion of the project, the banker makes the necessary inspections and then schedules the loan closing, at which time the mortgage and note are assigned to the Plan as discussed above.

The Plan considers only those loan offerings presented by corporate mortgage bankers which the Mortgage Committee considers experienced and responsible. The application states that an exemption is sought for entering into loan commitments with none other than those mortgage bankers who are parties in interest with respect to the Plan solely as a consequence of servicing other mortgage loans.

According to the application, the use of mortgage bankers for servicing of such loans is of benefit to the Plan by assuring availability of loan servicing at lesser expense than would be required if the Plan were to service such loans itself.

8. Determinations to make commitments with respect to particular mortgage loans result from exclusive decisions of the Mortgage Committee. Such decisions are not subject to review or conformation by the trustees as a whole.

9. In summary, the applicant represents that the statutory criteria contained in Section 408(a) of the Act have been satisfied because:

(a) the process by which the Plan makes mortgage loans is well established and subject to review, with a history of successful long-term mortgage investments;

(b) the applicant represents that long-term mortgage loans provide stable investment returns at attractive yields;

(c) the Plan has rigorous standards for acceptance of any loan; and

(d) The trustees have determined that the transactions are appropriate for the Plan and in the best interests of the participants and beneficiaries of the Plan.

Notice to Interested Persons

Within twenty days of publication in the **Ferderal Register**, notice of the proposed exemption will be sent by bulk mailing to all contributing employers to the Plan, and to each union, members of which are participants in the Plan, for conspicuous posting by such union. Notice of the proposed exemption also will be published in the "Milwaukee Labor Press" in the first issue in which such publication is possible.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act. Among other things, section 404 requires that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B). Moreover, an exemption does not affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption in administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the proposed exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to issuance by the Plan of commitments, in accordance with the limitations and procedures discussed above, obligating the Plan to purchase mortgage loans on commercial real estate, where such commitments are made to financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgage loans for the Plan. Moreover, the foregoing exemption shall apply only if the following conditions are met:

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arms-length transactions between unrelated parties.

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan, records are lost or destroyed prior to the end of the six-year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service;

(ii) Any employer, or duly authorized representative of such employer, of employees who are covered by the Plan;

(iii) Any employee organization, or duly authorized representative of such organization, members of whom are covered by the Plan;

(iv) Any participant or beneficiary of the Plan or any duly authorized representative of such participant or beneficiary.

The proposed exemption, if granted, will be subject to the express conditions that the materials facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administation, U.S. Department of Labor.

[FR Doc. 80-23934 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1227]

Proposed Exemption for Certain Transactions Involving Drs. Batten & Chicurel, Inc. Profit-Sharing Plan and Trust Located in Charlottesville, Va.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of certain real property by the Drs. Batten & Chicurel, Inc. Profit Sharing Trust (the Trust) to C & B Associates Limited Partnership (the Partnership), a party in interest to the Trust. The proposed exemption, if granted, would affect the Trust, its participants and beneficiaries, the Partnership, and its partners who are fiduciaries of the Trust, and other persons who would be parties to the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 10, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and

will be paid to the Internal Revenue

pendency of the exemption as published

whether the transaction is in fact a

Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D–1227. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

C. E. Beaver, of the Department of Labor, telephone (202) 523–7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Dr. James R. Batten and Dr. Joseph Chicurel, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Partnership was established on February 3, 1978, in accordance with the Virginia Uniform Limited Partnership Act to acquire, improve, lease, operate, and hold for investment real properties, including property located in Augusta County, Virginia, as professional office complexes. Its general and limited partners are Dr. James R. Batten and Dr. Joseph Chicurel. Both of these individuals are dentists who are highly compensated employees, officers, directors, and the sole shareholders of Drs. Batten & Chicurel, Inc. (the Employer) which is the sponsor of the Drs. Batten & Chicurel Profit Sharing Plan (the Plan).

2. The funding instrument for the Plan is the Trust for which the sole trustee is Dr. Batten (the Trustee). Alice Batten, Dr. Batten, and Dr. Chicurel are the members of the administrative committee which is the Administrator for the Plan. As of December 31, 1978, the Plan had 15 participants, including Dr. Batten and Dr. Chicurel, and total assets of $185,282.01 of which the subject land was included at a value of $47,461.27.

3. On December 23, 1977, Dr. Batten and Dr. Chicurel entered into a contract with the Red Carpet Inns-Waynesboro, Inc. and the Sproul Real Estate Corporation to purchase for $45,400 an undeveloped tract of land described as having 4.45 acres but actually consisting of 4.54 acres.

4. However, regardless of the above contract, on or about May 9, 1978, the Trust purchased the above mentioned 4.54 acres of undeveloped land (Tract A), located in Augusta County, Virginia from the Red Carpet Inns-Waynesboro, Inc., an unrelated party, for the sum of $47,461.27. This sum included a purchase price of $45,400 plus $2,061.27 for title insurance, legal fees, closing costs, and interest.

5. Although the deed conveying Tract A to the Trust provided a 100 foot wide easement over adjacent land to a service Road (the Service Road), Tract A did not front on a public street as required by the local zoning law. In order to bring Tract A into conformity, unrelated owners of land adjacent to Tract A, conveyed to the Trust a strip of land (Tract B), 59 feet wide by 208.7 feet or 0.24 acres in exchange for the reconveyance by the Trust of the 100 foot easement previously conveyed by the unrelated owners. No additional monetary consideration was paid by the Trust to acquire Tract B. This conveyance provided Tract A with a 50 foot frontage on and an access to the Service Road, which terminates after approximately 500 feet with a Federal highway. The Service Road was conveyed to Augusta County, Virginia by deed of dedication, dated June 14, 1978, and recorded, July 28, 1978. This conveyance and dedication of the Service Road permitted Tracts A and B, collectively, to conform with the local zoning law which requires all lots to front on a public street.

6. In addition to the above conveyances, improvements to these properties were contracted for by the Partnership and completed during 1978. the Partnership paid Farrier Paving Company a total of $22,403 for constructing the Service Road, constructing a roadway over Tract B from the Service Road to Tract A, grading part of Tract A, and constructing a parking lot on Tract A. the Partnership paid Continental Homes $38,799.03 for the delivery and erection of 3 module commercial buildings on Tract A. Also, the Partnership paid the Home Center $22,274.20 for the preparation and completion of the erection of the 3 module commercial buildings on Tract A. The Partnership paid others a total of $3,749.30 for utilities, plumbing, landscaping, sidewalks, cabinets, and building permits.

7. The applicants regard all the above mentioned improvements as the property of the Partnership and not that of the Employer or the Trust. Dr. Batten and Dr. Chicurel originally planned for the Partnership to own a one-acre portion of Tract A (the Office Lot) and for the Trust to own the remainder of Tract A. When Dr. Batten and Dr. Chicurel became aware that the Trust owned all of tract A, including the Office Lot, they believed it was a simple matter for the Trust to convey the Office Lot to the Partnership. In addition to being unaware of the prohibited transaction provisions of the Act with respect to the proposed coneyance, they were unaware of the local zoning law which precluded the splitting of Tract A between the Trust and the Partnership. It was only upon the advice of the present legal counsel that the sale and conveyance of Tracts A and B from the Trust to the Partnership were not carried out in August 1978. Instead, a timely application for exemption was prepared and filed on December 5, 1978, with the Department and the Internal Revenue Service.

8. An independent appraisal by Barnwell & Jones, Inc. of Waynesboro, Virginia, an unrelated party, dated October 20, 1978, and amended in October 1979, has determined that the fair market value of Tracts A and B is $57,000. the applicants desire the Trust to sell Tracts A and B for cash to the Partnership for the higher of either $57,000 or the current fair market value at time of conveyance. All expenses of the sale will be paid by the Partnership. In addition, the Partnership will pay to the Trust a fair market ground rent (which was appraised at $350 per month as of August 13, 1979) for use of the property from May 8, 1978, until the date of the conveyance of the Tracts A and B from the Trust to the Partnership.

9. Any tax imposed by section 4975 of the Code upon any prior prohibited transaction with respect to the Plan or Trust for which no exemption is granted

will be paid to the Internal Renvenue Service by Dr. Batten and Dr. Chicurel.

10. The applicants believe that the sale of Tracts A and B by the Trust to the Partnership would be in the best interest of the Trust because it will minimize the risk of the Trust receiving less consideration for the sale of the tracts to an unrelated party. If the Trust were not permitted to sell the Tracts to the Partnership, the applicants believe that a sale to an unrelated party would be impossible because of the Partnership's claim to the improvements made on the Tracts. The appliants doubt that the sales price paid by an unrelated party, if located, would be sufficient to recover the expenditures already made by the Trust and the Partnership. The buildings on Tract A are custom designed to meet the specifications of a dental office specializing in periodontics. The Tracts are located behind and below the Red Carpet Inns and are not visually accessible to the public from the Federal highway on which the Service Road terminates. Businesses dependent upon being visually identifiable to the public would have little interst in the site. Part of Tract A may be unusable because of its rolling to steep terrain lying mostly in its low rear area. If Tract a were fully developed, extensive grading and fill dirt would have to be added along with expensive sewage pumping facilities, plus another street across Tract B from the Service Road.

11. In summary, the appliants represent that the proposed sale of the Tracts A and B by the Trust to the Partnership meets the statutory criteria for an exemption under section 408(a) of the Act because (1) it is a one time transaction for cash, (2) the selling price for the Tracts would be determined by an independent appraiser, (3) it would extract all involved parties from an otherwise inextricable situation at the best possible return to the Trust and at no expense to the Trust, and (4) the Partnership is the most likely purchaser when considering the location and nature of the property involved herein.

The Department notes that the proposed exemption, if granted, would not extend to the use of Tracts A and B (i.e., under an unwritten lease) by the Partnership, nor to any other transaction in connection with the acquisition, holding, and use of the Trust's property. Such transactions, if prohibited, must be "corrected" within the meaning of section 4975(f)(5) of the Code.

Notice to Interested Persons

Notice of the proposed exemption, including a copy of the notice of pendency of the exemption as published in the **Federal Register**, will be given to the participants and beneficiaries of the Plan and other interested persons. The notice will be in writing, giving a brief description of the transaction and informing the interested persons of their right to comment or request a hearing, and informing interested persons of the period for comments to be received as published in the **Federal Register**. This notice will be hand delivered or sent by registered mail within 10 days after the notife of pendency of the exemption is published in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirment of section 401(a) of the Code that the plan must operate for the exclusive benefit of the emloyees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Trust selling for cash to the Partnership, within 30 days of the published grant of this proposed exemption, certain real property, consisting of 4.78 acres located in the Wayne District of Augusta County, Virginia, for the higher of either the then current fair market value of the subject real property or the sum of $57,000. The proposed exemption is subject to the conditions (1) that any prohibited transactions committed in connection with the Trust's acquisition, and Partnership's use, of the real property is "corrected" within the meaning of section 4975(f)(5) of the Code, and (2) that the excise taxes imposed by section 4975 of the Code by reason of such prohibited transactions are paid within 90 days of the published grant of this proposed exemption.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 31st day

Department of applications for

to the building. The Union lease terms

negotiations by the Plans'

by first class mail. The notice will

applications, the Department to

Signed at Washington, D.C., this 31st day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23933 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. L-1737 and L-1738]

Proposed Exemption for Certain Transactions Involving Food Store Employees Union and Employers Pension Plan and Food Store Employees Union and Employers Health and Welfare Plan Located in Charleston, W. Va.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would permit the leasing of office space by Food Store Employees Union Local 347 (the Union) to Food Store Employees Union and Employers Pension Plan (Pension Plan) and Food Store Employees Union and Employers Health and Welfare Plans (Welfare Plan, collectively the Plans). The proposed exemption, if granted, would affect the trustees, participants and beneficiaries of the Plans, the Union and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 29, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application Nos. L-1737 and L-1738. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department of Labor, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of applications for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in applications filed on behalf of the Plans, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. The Plans are jointly administered Taft-Hartley plans which provide benefits to employees covered by collective bargaining agreements between participating employers and the Union. As of April 30, 1978, there were six employers, including the Union, contributing to the Pension Plan and 17 employers, including the Union, contributing to the Welfare Plan. While the Plans are entirely separate entities, the membership on the Plans' Board of Trustees (Trustees) is exactly the same. There are three employer Trustees and three Union Trustees. The three Union Trustees are officers of the Union.

2. Until 1969, the Plans' offices were located within the same office space as the Union, and the lessor was an unrelated third party. Subsequently, because of the need for additional office space, the Plans moved to the Bank of Commerce building, nearby. In 1979, the Union, through a subsidiary title-holding organization, constructed its own office building, (the Building). In the design of the Building, the Union included office and parking space that could accommodate the Plans' needs. On August 1, 1979, the Union and the Plans entered into a lease of a portion of the Building.

3. Prior to the location of the Plans' offices in the Building, the Plans' offices, as well as the Union offices, were located in the central downtown business area of Charleston, West Virginia. Neither the Union nor the Plans could find office space in downtown Charleston to suit its expanded needs. The unavailability of suitable office space in downtown Charleston is documented in an appraisal of the fair rental value of office space in the Building dated August 1, 1979, performed by John W. Campbell, Jr., of Campbell Realty Company, an independent realtor in Charleston, West Virginia.

4. The applicants state that there were a number of reasons for the Plans' move to the building. The Union lease terms are more favorable to the Plans than the Plans' prior lease terms. The Plans will save approximately $.50 to $.60 per square foot for the period August 1, 1979 through July 31, 1980 and approximately $1 per square foot for the period August 1, 1980 through July 31, 1981. The Bank of Commerce lease provided only one parking space to the Plans, whereas the Building provides 18 parking spaces at no charge. Also, there is additional on-street parking in close proximity to the Building, which was not generally available in the area of the Bank of Commerce building. Additionally, the location of the Plans' administrative office in close proximity to the Union office facilitates processing applications for benefits in a much more timely manner and minimizes the inconvenience to personnel and participants.

5. The Building is a two-story structure. The first floor is occupied entirely by the Union. The second floor of the Building contains office space for rental to the general public. The tenants occupying the office space on the second floor are a marriage counseling service, a law office and the Plans' office. The offices of the Union and of the Plans are clearly identified and differentiated. The Plans' office space comprises approximately 20 percent of the net rentable area and the remaining 80 percent is rented to the other parties mentioned above. The terms of the rental arrangement between the Plan and the Union building are as favorable to the Plan as the rental arrangement with any of the other lessees, and the Plans pay the same rental ($8 per square foot per year) that the other tenants pay. Mr. Campbell stated in his appraisal that as of August 1, 1979, the Plans' office space would bring $8 per square foot per year if rented on the open market. The initial lease term is for fourteen months and provides for renewals on a year-to-year basis. All terms and conditions of the lease, including renewals, will at all times be as favorable to the Plans as those with an unrelated third party would be.

6. Although the Trustees entered into the lease with the Union prior to obtaining an exemption, they had submitted an advisory opinion request to the Department on March 7, 1979, approximately five months before entering into the lease with the Union. The Trustees entered into the lease because the Bank of Commerce building lease was to expire on March 31, 1979, and the Plans were provided the alternatives of renewing for a five year term or vacating the premises. Based on negotiations by the Plans' Administrative Manager, Tolley International Corporation (Tolley), and the representation to the Bank of Commerce building managers that the Plans' offices would move to the Building within a few months, the lessor agreed to permit the Plans' offices to remain at the Bank of Commerce building on a month-to-month basis until construction of the Building was completed. This was projected to be a three or four month period. The Plans would not have been allowed to stay in the Bank of Commerce building for an indefinite period without being required to sign the five-year renewal. Therefore, if the Plans' office was to remain in the Bank of Commerce building until the exemption was granted, the Plans would have been required to renew the lease for the five-year term.

7. Tolley, which has no relationship to the parties involved other than as administrative manager, or its successor, would monitor the terms and conditions of the lease to ensure the parties' continued compliance therewith.

8. In summary, it is represented that the statutory criteria have been satisfied due to the following:

a. the Union lease terms were more advantageous to the Plan than the Bank of Commerce lease terms;

b. the Union Building presented unique advantages to the Plans that the Plans could not have secured elsewhere, as documented by an independent realtor;

c. the Union Building lease terms, including the rental, have been and will continue to be the same as those negotiated with unrelated tenants;

d. the Trustees entered into the lease prior to securing an exemption because the Bank of Commerce lease was expiring and the Trustees' alternative was to sign a five-year renewal of the Bank of Commerce lease. Also, the Trustees submitted an advisory opinion request approximately five months before they entered into the lease; and

e. the terms and conditions of the lease have been and will continue to be monitored by the Plans' independent Administrative Manager, currently Tolley.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons within 20 days of the date of publication in the **Federal Register.** Notice will be given to all active participants by posting the notice at all places of business where participants work on the bulletin boards normally used for labor relations notices. Notice will be given to all inactive participants and beneficiaries by first class mail. The notice will contain a copy of the proposed exemption and will inform each recipient of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a) and 406(b)(1) and (b)(3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comment will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the applications for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the applications, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the above-described lease between the Plans and the Union. The effective date of the exemption shall be August 1, 1979.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in these applications are true and complete, and that the applications accurately describe all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 1st day of August 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23932 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. L-1600]

Proposed Exemption for Certain Transactions Involving the 1978 Retired Construction Workers Benefit Plan and Trust of Rockville, Md.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt an arrangement whereby the trustees of the 1978 Retired Construction Workers Benefit Plan and Trust (the Trust) would offer their opinion so as to assist in resolution of certain questions arising in connection with the provision of health and welfare benefits through the Coal Mine Construction Workers Benefit Plan (the Plan). The proposed exemption, if granted, would affect the trustees of the Trust, the participants and beneficiaries of the Trust, the administrators, participants and beneficiaries of the Plan, the United Mine Workers of America (UMWA), the members of the Association of Bituminous Contractors (the Employers), and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by

V 45 / 155 AUG 8 80 UMI

the Department on or before October 22, 1980.

EFFECTIVE DATE: If granted, the proposed exemption will be effective from April 6, 1978 through the duration of the National Coal Mine Construction Agreement of 1978 (the Agreement).

ADDRESS: All written comments and requests for a public hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20016, Attention: Application No. L–1600. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) and 406(b)(1) of the Act. The proposed exemption was filed by the trustees of the Trust, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The UMWA and the Employers are parties to the Agreement, which became effective April 6, 1978. The Agreement covers all work related to the development, expansion, or alteration of coal mines and all other such related work which is performed at or on coal lands by Employers for coal mine operators, when such operators require construction work to be performed under the jurisdiction of the UMWA.

2. The Trust was established pursuant to Article XIX of the Agreement. It provides health and welfare benefits, but no pension benefits. The persons covered by the Trust include retired construction workers, certain disabled coal mine construction workers, and eligible dependents of such pensioners nd disabled workers. The Trust does not cover active coal mine construction workers. Such active workers and their dependents receive health and welfare benefits from the Plan.

3. The Plan also was established pursuant to Article XIX of the Agreement. It provides for benefits which are to be identical to those provided by the Trust. Prior to the Agreement, both active and retired coal mine construction workers received health care benefits from the UMWA 1950 Benefit Plan and Trust.

4. Article XIX of the Agreement further provides that the trustee of the Trust will resolve any disputes so as to assure consistent application of the provisions of the Plan, such provisions being identical to the benefit provisions of the UMWA 1974 Benefit Plan and Trust (the 1974 Plan), as successor to the UMWA 1950 Benefit Plan and Trust. Article XVI of the Trust specifically authorizes the trustees to act as final arbiter of any dispute arising as a result of a denied benefit claim under the Plan. Thus, in accordance with Article XIX of the Agreement, the trustees of the Trust are to serve the collective bargaining parties by interpreting the extent of benefits and coverage provided by the Plan.

To the extent that the trustees of the Trust, in performing advisory functions in connection with the Plan, would be causing the Trust to render services to the UMWA, the Employers, or both, the rendering of such services is a prohibited transaction pursuant to sections 406(a) and possibly 406(b)(1) of the Act.

The trustees propose to participate in the resolution of three types of disputes: (1) generic disputes relating to the nature of benefits to be provided under identical provisions of the Trust and the Plan; (2) generic disputes involving the eligibility criteria of the Plan; and (3) eligibility disputes involving individual participants of the Plan.

5. The applicants represent that the role of the trustees of the Trust in settlement of disputes arising under the Plan was provided so as to assure a consistent level of benefits to those covered by the Plan. It is anticipated by the applicants that very few disputes would arise requiring settlement by the trustees of the Trust. As of the time of the applications, two disputes had been brought to the trustees for resolution.

The applicants anticipate that most of the questions brought to the trustees for resolution will involve disputes as to eligibility, as opposed to generic questions relating to the nature of benefits or the specific amount of health benefit coverage. According to the applicants, the trustees of the Trust are uniquely well-qualified to resolve such disputes, inasmuch as determinations of eligibility are one of the principal functions with which they are concerned in performing their duties with respect to the Trust.

6. The trustees of the Trust have determined that the transactions for which the exemption is requested are appropriate and in the interests of the participants and beneficiaries of the Trust.

7. In summary, the applicants represent that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act for the following reasons:

(a) It is anticipated that the activities involving the trustees' determinations with respect to the Plan would be minimal, with such determinations being made efficiently, and without hardship to the Trust;

(b) The parties to the Agreement negotiated the applicable provisions thereof in anticipation of the trustees of the Trust filling the role of arbitrator of disputes as discussed herein, so that the benefits provided under both the Plan and the Trust would remain consistent with those provided under the 1974 Plan;

(c) The proposed exemption would apply only for the period in which the Agreement is in effect; and

(d) The trustees of the Trust would remain subject to the general fiduciary obligations of section 404 of the Act, regardless of their activities on behalf of the Plan.

Notice to Interested Persons

The participants and beneficiaries of the Trust, the UMWA, and the Association of Bituminous Contractors will be notified by letters containing copies of the notice of pendency of the proposed exemption as published in the **Federal Register.** The letters also will advise these persons of their rights to comment on and request that a hearing be held with respect to the proposed exemption within the time period set forth above. Notification will be provided by September 22, 1980.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(2) and (b)(3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments on the proposed exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective April 6, 1978 and throughout the duration of the Coal Mine Construction Agreement of 1978, the restrictions of section 406(a) and 406(b)(1) of the Act shall not apply to resolution by the trustees of the 1978 Retired Construction Workers Benefit Plan and Trust of disputes involving the nature of benefits to be provided through the Plan established pursuant to Article XIX of such Agreement, to generic questions of eligibility under such Plan, and to individual questions of eligibility under such Plan, provided that the trustees maintain and make available to the Department of Labor upon request those records adequate to ascertain both the cost of rendering such services and the portion of such costs which may be attributed to the resolution of each of the types of disputes which the trustees may consider.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 31st day of July, 1980

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–23935 Filed 8–7–80; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 80–60; Exemption Application No. L–378 and L–474]

Exemption From the Prohibitions for Certain Transactions Involving the Carpenters Pension Trust for Southern California and Carpenters Apprenticeship and Training Committee Fund for Southern California Located in Los Angeles, California

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the leasing of certain real property by the Carpenters Pension Trust for Southern California (the Pension Plan) to the Carpenters Joint Apprenticeship and Training Committee Fund for Southern California (the Training Plan, collectively the Plans).

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 27, 1980, notice was published in the **Federal Register** (45 FR 43504) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for the leasing of certain real property by the Pension Plan to the Training Plan, the notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have complied with the notification requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(a), 406(b)(1) and 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans. Accordingly, the restrictions of section 406(b)(2) of the Act shall not apply to the leasing by the Pension Plan to the Training Plan of certain real property which is adjacent to real property located at 1750 West San Bernadino Ave., Colton, California which is presently leased by the Pension Plan to the Training Plan.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 31st day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23626 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-59; Exemption Application No. D-1858]

Exemption From the Prohibitions for Certain Transactions Involving the First Pennsylvania Savings Plan Located in Philadelphia, Pa.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the cash sale of certain mortgages (the Mortgages) by the First Pennsylvania Savings Plan (the Plan) to PENNAMCO, Inc., a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 24, 1980, notice was published in the **Federal Register** (45 FR 42428) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the sale of the Mortgages by the Plan to PENNAMCO, Inc. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the Mortgages by the Plan to PENNAMCO, Inc. at their outstanding balance plus accrued interest to the date of the sale provided that the price paid for the mortgages is not less than fair market value of the Mortgages at the time of the sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor

[FR Doc. 80-23627 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1401]

Proposed Exemption for Certain Transactions Involving Guaranty State Bank of St. Paul Profit-Sharing Plan and Trust Located in St. Paul, Mo

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department)

of a proposed temporary exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt transactions involving the purchase, holding and repurchase (if necessary) of Participation Certificates in certain Small Business Administration (SBA) guaranteed loans between the Guaranty State Bank of Saint Paul Profit Sharing Plan and Trust (the Plan) and the Guaranty State Bank of Saint Paul (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 17, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1401. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Department, telephone (202) 523-8915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407 (a) and (b) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Harry J. Jensen and Elsie C. Dokmo, trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Temporary Nature of the Exemption

Because the Department is in the process of developing experience in dealing with transactions involving Participation Certificates secured by SBA quaranted loans, the proposed exemption is temporary and will expire five years after the date of such exemption. However, the Department expects that its determination of whether the exemption should be made permanent, modified or extended will be made and published in the **Federal Register** sufficiently in advance of the expiration date so as to avoid any undue disruption of Plan investment activities.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for complete representations of the applicants.

1. The Plan is a profit sharing plan. As of February 2, 1979 the Plan had 17 participants. The Plan trustees are Harold Rutchick, Chairman of the Board of the Employer, Harry Jensen, President of the Employer and majority shareholder and Elsie Dokmo, Vice President and an employee of the Employer. As of December 31, 1979, the Plan had total assets of $142,610.

2. The Employer is a state bank holding a charter to operate within the State of Minnesota. Prior to the effective date of the Act, the Employer, in the normal course of business, has granted loans protected by SBA guaranty agreements (the SBA Loan(s)). The SBA Loans are secured by individual assets of the borrowers, both real and personal, and business assets, both real and personal, including accounts receiveable. The SBA Loans may be for a definite period of time or demand notes depending on the amount of the loan.

3. In December of 1975 a decision was made that the return of Plan investments could be substantially increased if Plan investments were made in SBA guaranteed loans originally executed by the Employer.

4. The application requested retroactive relief for transactions previously entered into; however, the Department is unable to make a finding that such transactions satisfy the statutory requirements upon which administrative relief is granted.

5. The Plan contemplates entering into prospective transactions involving the purchase of Participation Certificates which assign to the Plan an undivided interest in the SBA Loans and represents that the following conditions will apply with respect to all prospective transactions: (a) none of the loan customers would have either an interest in the Employer or in an ownership or vested interest in the Plan; (b) all purchases of Participation Certificates would be for cash; (c) no sales commission will be charged to the Plan in connection with the acquisition; (d) the interest rate and duration of the Participation Certificate would be identical to the terms of the SBA Loan; (e) the purchase price of the Participation Certificate would be determined by comparing the market interest rate at the time the participation interest would be purchased with the interest rates of the SBA Loan; however, in no event would the purchase price to the Plan be less favorable than a similar transaction would be with an unrelated third party; (f) the Employer would service the entire SBA Loan at no fee to the Plan; (g) the Participation Certificate would contain a provision requiring repurchase by the Employer (at a purchase price equal to the unpaid principal balance plus accrued interest), such requirement for repurchase to be at the absolute discretion of the Plan, upon fifteen (15) days written notice by the Plan; (h) the Plan would purchase only that portion of the loan which is guaranteed by the SBA; (i) the Employer would continue to hold at least a fifty (50) percent interest in that portion of the SBA Loan not transferred to the Plan by a Participation Certificate; and (j) the Plan would limit combined acquisitions of such Participation Certificates to fifty (50) percent of Plan assets with not more than ten (10) percent of Plan assets committed in any single transaction or involve the same borrower.

6. Since only that portion of the SBA Loan originated by the Employer which is subject to the SBA guarantee is sold to the Plan, the conditions of the guarantee governing default are critical to this exemption. Should there be a default (based on the SBA provisions governing the guaranty) the SBA would honor the guaranteed portion of the loan by paying the Employer based on the amount in default. The SBA may then independently, or acting through the Employer as its agent, initiate whatever legal processes are needed against the borrower and the collateral that had been pledged as security to obtain satisfaction for amounts paid pursuant to the guaranty. In the event of a default the Plan must make a demand on the Employer pursuant to the repurchase provision.

service the entire SBA Loan at no fee to

of the Code, if such records are not

pendency before the Department of

7. The Plan will receive its proportionate share of payments of principal and interest which the Employer receives on the SBA Loan; the Employer is to retain custody of such loan with full authority to conduct or control, in his own name, the collection, utilization and enforcement of such loan and collateral by suit, foreclosure, or otherwise.

8. The Federal Deposit Insurance Corporation (the FDIC) and the State of Minnesota Banking Department audit the Employer annually. These audits entail confirming the outstanding loan balances and cross checking all collateral. It is alleged that such actions encompass more than an audit by an outside accounting firm. The SBA also maintains internal audit procedures to ensure the continuing payment on loans which it has guaranteed. It is further alleged that the acquisition of Participation Certificates which include a repurchase provision does not violate any State of Minnesota or FDIC banking law.

9. In summary, the applicant represents that any Participation Certificate to be purchased meets the criteria of section 408(a) of the Act because: (a) the Plan would purchase only that portion of the SBA Loan that is protected by the SBA guaranty; (b) the Participation Certificate is sold to the Plan with no sales commission; (c) the Employer agrees to service the entire SBA Loan at no fee to the Plan; (d) all loans by the Employer are subject to annual audit by the FDIC, the Minnesota State Banking Authority and the oversight of SBA examiners; (e) the Participation Certificate provides a net return to the Plan which reflects market conditions at the time of purchase; (f) the Participation Certificate contains a written guaranty of repurchase by the Employer upon a fifteen (15) days written notice from the Plan; (g) the Employer will continue to have an interest in the timely repayment of the SBA Loan because he will retain at least a fifty (50) percent interest in that portion of the SBA Loan not subject to the Participation Certificate; and (h) no more than fifty (50) percent of Plan assets would be involved in the combined acquitions of such Participation Certificates with not more than ten (10) percent of Plan assets in any single transaction or involve the same borrower. With respect to all transactions covered by this exemption the trustees represent that the subject transactions are appropriate for and in the best interests of the Plan.

Notice to Interested Persons

Within ten (10) days of publication of the proposed exemption in the **Federal Register**, all participants and beneficiaries of the Plan will receive by personal delivery or first class mail a copy of the notice of pendency and a statement to the effect that interested persons have the right to comment on the proposed exemption, and the right to request that a hearing be held. Prior to publication of the final exemption, the applicants must document that they have fully complied with this notice provision.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in acordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transition is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply:

1. from the date of this exemption until five years thereafter to the purchase, holding and repurchase; and

2. subsequent to the expiration date of this exemption to the holding and repurchase (provided such interest was acquired during the period such exemption was in effect)[1] of Participation Certificates in the SBA Loans from the Employer, provided that the following conditions are met:

A. Only that portion of the SBA Loan that is actually covered by the guaranty shall be the subject of a Participation Certificate acquisition by the Plan.

B. The Participation Certificates are sold to the Plan with no sales commission and the Employer agrees to service the entire SBA Loan at no fee to the Plan.

C. The purchase price of the Participation Certificate would be determined by comparing the market interest rate at the time the participation interest would be purchased with the interest rates of the SBA Loan; however, in no event would the purchase price to the Plan be less favorable than a similar transaction would be with an unrelated third party.

D. Any Participation Certificate acquisition by the Plan shall include a written repurchase provision by the Employer at the demand of the Plan upon fifteen (15) days written notice, such requirement for repurchase to be at the absolute discretion of the Plan. Should the repurchase provision be exercised, the purchase price shall be the unpaid principal balance, provided this amount is not less than fair market value at the time of sale, plus any accrued interest payments.

E. In the event of a default by the borrower on any payment due under the terms of the SBA Loan, the Employer will be called upon to honor his obligation under condition D of this exemption. A loan shall be considered to be in default for purposes of this exemption when it would be considered in default under the SBA provisions governing a guaranty for such loans.

F. The Employer shall continue to hold at least a fifty (50) percent interest in that portion of the SBA Loan not transferred to the Plan by a Participation Certificate.

G. The acquisition of a Participation Certificate from the Employer involving an SBA Loan shall not cause the Plan to hold:

(1) more than fifty (50) percent of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in such participation interests; and

(2) more than ten (10) percent of Plan assets (as defined above) in any single transaction or involve the same borrower.

H. The Plan shall maintain or cause to be maintained for a period of six years from the date of each transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

(1) A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the trustees or other Plan fiduciaries, such records are lost or destroyed prior to the end or such six year period; and

(2) The Employer shall not be subject to civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph I below.

I. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph H are unconditionally available at their customary location for examination during normal business hours by:

(1) The Internal Revenue Service;

(2) The Department of Labor;

(3) Plan participants and beneficiaries;

(4) Any employer of Plan participants;

(5) Any employee organization any of whose members are covered by the Plan; or

(6) Any duly authorized employee or representative of a person described in subparagraph (1) through (5) of this paragraph.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are tree and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23928 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[1]The Department has traditionally viewed a guarantee to repurchase from the plan by a party in interest as a prohibited transaction under ERISA. Because the terms of the Participation Certificate provide for a guaranteed repurchase on demand during the entire term of such Participation Certificate, the terms of the exemption must necessarily extend to provide relief for the operation of the safeguards incorporated in the conditions. Therefore, the relief provided includes the "holding and repurchase" of the Participation Certificates. Additionally, in order that the Plan not be required to dispose of its holdings in Participation Certificates issued by the Employer during the period such exemption was in effect the Department intends tht the language of the exemption also be construed to provide continuing relief for the "holding" after the expiration of the exemption for those Participation Certificates purchased before such date in accordance with the terms of the exemption.

[Prohibited Transaction Exemption 80–58; Exemption Application No. D–1309]

Exemption From the Prohibitions for Certain Transactions Involving the R. H. Grover, Inc., Profit-Sharing Plan and Trust Located in Missoula, Mont.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of real property by the R. H. Grover, Inc., Profit Sharing Plan and Trust (the Plan) to R. H. Grover, Inc. (the Employer), a party interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Charles Humphrey of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8973. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 2, 1980, notice was published in the **Federal Register** (45 FR 29431) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A), (D) and (E) of the Code, for the transaction described in an application filed by the administrator of the Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments of the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

After the notice of pendency was published, however, a question arose as to whether, under the terms of the lease described in the notice, the building was not to have become the property of the plan until termination of the first 10 year lease period, or whether it was a plan asset immediately upon commencement of the lease. In order to resolve this question, the Employer has now represented that it will purchase the building for $25,600 (its appraised value) rather than for $13,137 (the present value of the plan's right to receive the building upon expiration of the first 10 year lease term) as represented in the notice. The exemption granted herein reflects the revised offer.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the

V 45 / 155 AG 8 80 UMI

Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a)(1)(B) and (C), 406(b)(3), and 407 of the Act and section 4975(c)(1)(B), (C) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a)(1)(A) and (D), and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A), (D), and (E) of the Code shall not apply to (1) the sale of real property by the R. H. Grover, Inc. Profit Sharing Plan and Trust to R. H. Grover, Inc. for the greater of $128,777 or the fair market value of the real property; and (2) to the sale by the Plan to the Employer of the building for the greater of $25,600 or the fair market value of the building at time of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23929 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–57; Exemption Application No. D–1234]

Exemption from the Prohibitions for Certain Transactions Involving the Textile Workers Pension Fund, Greater New York Joint Board Textile Workers Welfare Fund, and the TWUA Health Plan, All Located in New York, N.Y.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the purchase by the Textile Workers Pension Fund, Greater New York Joint Board Textile Workers Welfare Fund, TWUA Health Plan, and the Greater New York Joint Board, Textile Division, of the Amalgamated Clothing and Textile Workers Union of all the shares of stock in the TWUA Realty Corporation from the Amalgamated Clothing and Textile Workers Union and the joint operation and occupany of a building at 99 University Place, New York, New York. The TWUA Realty Corporation holds as its sole asset a building located at 99 University Place, New York, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Edelstein of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 25, 1980, notice was published in the **Federal Register** (45 FR 28024) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the Textile Workers Pension Fund, Greater New York Joint Board Textile Workers Welfare Fund, TWUA Health Plan, Greater New York Joint Board, TWUA Pension Fund, Greater New York Joint Board, Textile Division of the Amalgamated Clothing and Textile Workers Union, and the Amalgamated Clothing and Textile Workers Union. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that the notice to interested persons requirement contained in the notice of pendency has been complied with. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plans and their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plans.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase by the Textile Workers Welfare Fund, Pension Fund, Greater New York Joint Board Textile Workers TWUA Health Plan, and the Greater New York Joint Board, Textile Division, of the Amalgamated Clothing and Textile Workers Union of all the shares of stock in the TWUA Realty Corporation from the Amalgamated Clothing and Textile Workers Union, and the joint operation and occupancy of a building at 99 University Place, New York, New York, provided that the sum paid for the stock is the lesser of $485,000 or the fair market value of the stock at the date of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 1st day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23930 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–61; Exemption Application No. D–996]

Exemption from the Prohibitions for Certain Transactions Involving Leep Homes Profit Sharing Plan and Leep Homes Pension Plan Located in San Francisco, California

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This temporary exemption permits the sale of model homes by Leep Homes (Leep) to the Leep Homes Profit Sharing Plan and the Leep Homes Pension Plan (the Plans), the leasing of those homes by the Plans to Leep and the personal guarantee of Leep's obligations by Elwood J. Leep, sole shareholder of Leep.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 28, 1979 and May 9, 1980, notices were published in the **Federal Register** (44 FR 76878 and 45 FR 30739 respectively) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above transactions. The second notice (the Notice) added additional safeguards for the protection of the Plans and their participants and beneficiaries. The Notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The Notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the Notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the Notice was provided to interested persons in accordance with the requirements set forth in the Notice. One comment was received from a person who professed no knowledge of any of the persons or facts involved in the proposed transaction, beyond those stated in the Notice. The commentator generally objected to the proposed exemption for several reasons relating to: (1) whether the transaction would be for the exclusive benefit of the participants and beneficiaries of the Plans; (2) whether the transaction was prudent; (3) whether the assets of the Plans would be adequately diversified; and (4) whether there were objective criteria relative to the proposed transaction. The Department has carefully considered each of the commentator's objections and has determined that the facts and representations developed during the course of the proceeding present sufficient benefits and protections to the Plans to warrant the granting of the requested exemption as proposed in the Notice. No requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the Notices of pendency were issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is

applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by resson of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash of model homes by Leep to the Plans, and the leasing of such model homes back to Leep, as long as the Plans' investment in the model homes does not exceed 25% of each Plan's assets, or to Elwood Leep's personal guarantee of Leep's obligations to the Plans. The exemption is a temporary exemption, expiring five years from the date it is published in the **Federal Register.**

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 31st day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23931 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Announcement of Vacancies; Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under ERISA, and to submit to the Secretary recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 1980. The groups or fields represented are as follows: employee organizations, employers, insurance, accounting, and the general public.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph may submit recommendations to the Secretary of Labor, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Recommendations must be delivered or mailed by October 1, 1980.

Recommendations may be in the form of a letter, resolution, or petition, signed by the person making the recommendation, or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation shall identify the candidate by name, occupation or position, and address. It shall include a brief description of the candidate's qualifications and shall specify the group or field which the candidate would represent for the purposes of section 512 of ERISA, the candidate's political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, D.C. this 1st day of August 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 80-23870 Filed 8-5-80; 8:45 am]

BILLING CODE 4510-29-M

[TA-W-7444]

Firestone Tire & Rubber Co., Decatur, Ill.; Affirmative Determination Regarding Application for Reconsideration

On June 23, 1980, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Firestone Tire and Rubber Company's Decatur, Illinois, plant.

The application for reconsideration claimed that the Department place excessive reliance on the customer survey and made no mention in its negative determination about increased

U.S. imports of passenger car and truck tires in 1979. The union further claimed that other URW-represented plants, including a Firestone plant in Salinas, California, have been certified within the last two years.

Conclusion

After review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 30th day of July 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-23942 Filed 8-7-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period July 28th–August 1, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7632; Central Transport, Inc., Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7642; Trucker Freight Lines, Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7899; C & J Commercial Driveway, Inc., Lansing, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7904; Interstate United Food Service, New Castle, Indiana

Investigation revealed that the workers do not produce an article as required for certification under section 223 of the Act.

TA–W–8123; Pittsburg Tube Company, Jake Lew Division, Jake Lew, West Virginia

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Steel Tubing did not increase as required for certification.

TA–W–7637; Interstate Freight System, Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7691; Don Smith Pontiac Cadillac, Inc., Fremont, Ohio

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7628; Associated Truck Lines, Inc., Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8023; Hunt-Wilde Corporation, Dayton, Ohio

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA–W–7918; Gladieux Corporation, Toledo, Ohio

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7742, 7742A; Viscose Employee Federal Credit Union, Nitro, West Virginia

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7445; Tarra Hall Clothier, Inc., New York, New York

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8033; Chrysler Corporation, St. Louis Zone Service Office, Hazlewood, Montanna

TA–W–8265; Chrysler Corporation Service & Parts Division, Center Line, Michigan

Investigation revealed that criterion (3) has not been met. The Zone Service Offices and Service and Parts headquarters are not substantially integrated into the production of import impacted automobiles produced by Chrysler Corporation.

TA–W–7844; Somerset Shirt & Pajama Company, Somerset, PA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of boy's pajamas are negligible.

TA–W–8645; Trevor Steel Co., Roseville, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8709; Arvin Industries, Inc., Dexter, Misssouri

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7758; Wilwin Cedar Products, Inc., Port Angeles, Washington

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7724; Prophet Food Co., St. Louis, Missouri

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7697; R & R Mfg., Hoquiam, Washington

Investigation revealed that criterio (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7785; IPM Development Engineering Gr., Coloma, Michigan

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7723; Detroit Tap & Tool Company, Cheboygan, Michigan

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7767; Avis, Ford, Inc., Southfield, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7801, 7802; Stauffer Chemical Company, Yardville, New Jersey, Roebling, New Jersey

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA–W–7715; Sevaque Company, Inc., Port Angeles, Washington

A certification was issued covering all workers of the firm engaged in employment related to the assembly of turntable motors who were separated on or after December 1, 1979 and before January 26, 1980.

With respect to workers engaged in employment related to the production of injection molded plastic parts for turntables and trophies, investigation revealed that criterion (3) has not been met. Production and sales of such parts did not decline.

TA–W–8042; Paragon Mike of the Amherst Coal Company, Lundale, West, Virginia

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Coal & Coke did not increase as required for certification.

TA–W–7515; Duraloy Blaw—Knox, Division of White Consolidated Industries, Scottsdale, Pennsylvania

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8670; Owens—Illinois, Inc. Bridgeton, New Jersey

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of glass containers are negligible.

TA–W–7743; Charles J. Merlo, Inc., Johnstown, Pennsylvania

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7766; Reedman Corporation, Longhorne, Pennsylvania

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7894; Par Company, Forks, Washington

Investigation revealed that criterion (3) has not been met. Sales declines at the firm resulted from a decline in demand for shakes and shingles resulting from declines in new housing starts.

TA–W–7895; DeWitt Motor Company, Inc., Akron, Ohio

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7768; Prophet Foods Division, Greyhound Food Management Inc., Baltimore, Maryland

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8615; Eastern Associated Coal Corp., Keystone No. 4 Mine, Sophia, West Virginia

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal & coke did not increase as required for certification.

TA–W–7635; Genessee Cartage Company, Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8020; Walco Enterprises, Inc., Warren, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8194; Robert R. Campbell, Inc., Lansing, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8622; Megacity Warehousing Center, Inc., Dayton, Ohio

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7687; Tajon Warehouse Corporation, Mercer, Pennsylvania

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7640; Roadway Express, Inc., Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7705; International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Flint, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7871; Brace, Mueller, Huntley, Inc., Tonawanda, New York

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7774; Motor Convoy, Inc., Winston-Salem, North Carolina

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7900; Seymour Ford Mercury, Inc., Lakeview, Michigan

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7901; Claremont Ford Sales, Inc., Claremont, New Hampshire

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8826; Mead Corp., Flint, Michigan

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Corrigated boxes are negligible.

TA–W–8076; Mida Mfg., Inc., Philadelphia, Pennsylvania

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to the worker separations at the firm.

TA–W–7897; T–R Automobile handling Corp., Mahwah, New Jersey

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

Affirmative Determinations

In each of the following cases, it has been concluded that of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA–W–8201; Caprice Footwear, Inc., Bridgeport, Connecticut

A certification was issued covering all workers of the firm separated on or after May 1, 1979.

TA–W–7819; Garden City Pottery Co., Ltd.

A certification was issued covering all workers of the firm separated on or after March 21 and before June 13, 1980.

TA–W–7916; Columbian Rope Co., Auburn, New York

A certification was issued covering all workers of the firm separated on or after December 24, 1979.

TA–W–7843; Pierce Shoe Co., Inc., Blackshear, Georgia

A certification was issued covering all workers of the firm separated on or after August 7, 1979.

TA–W–8418–20, 8420A; Bank Village Sportswear, New Ipwich, New Hampshire, Keene, New Hampshire, New York, New York

A certification was issued covering all workers of the firm separated on or after May 16, 1979.

TA–W–7790; Charming Miss, Hoboken, New Jersey

A Certification was issued covering all workers of the firm separated on or after March 9, and before January 4, 1980.

TA–W–7956; The Moore Co., Inc., Springfield, Massachusetts

A certification was issued covering all workers of the firm separated on or after April 23, 1979.

TA–W–7718, 7718A, 7725; Allied Chemical Corp., Spivey Mine

A certification was issued covering all workers of the firm separated on or after March 25, 1979.

TA–W–7400; Westinghouse Electric Corp., Richmond, Kentucky

A certification was issued covering all workers of the firm separated on or after January 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period July 28th–August 1, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons to write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–23943 Filed 8–7–80; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL CONSUMER COOPERATIVE BANK

Credit, Interest Rate, Low Income Definition, and Technical Assistance Policies

AGENCY: National Consumer Cooperative Bank.

ACTION: Final policies.

SUMMARY: These policies provide guidelines for the implementation by the National Consumer Cooperative Bank of its assistance programs. Specifically, they include the credit and interest rate policies for technical assistance delivery. These policies describe assistance available to the public from the Bank, and the general terms and conditions which apply to such assistance.

EFFECTIVE DATE: August 8, 1980.

ADDRESS: National Consumer Cooperative Bank, 2001 S St., N.W., Washington, D.C. 20009. Copies of complete NCCB policies are available from this address also.

FOR FURTHER INFORMATION CONTACT: Mitchell A. Rofsky, Secretary to the Board of Directors, (202) 376–0957.

SUPPLEMENTARY INFORMATION: These policies are published in the **Federal Register** in compliance with National Consumer Cooperative Bank Act, P. Law 95–351, as amended. They were originally issued by the Bank's Board of Directors for a 60 day comment period, ending February 25, 1980. The proposed policies were available from the Bank in printed form during the comment period. Public hearings were held in 13 cities with over 1,500 people in attendance. Over 400 oral and written comments were received by the Bank. Consideration was given to all comments prior to the adoption of these final policies by the Board of Directors.

These policies explain the capital investment and interest supplement advances available to eligible cooperatives. In addition, they explain how the interest rate on these advances will be determined. The scope of technical assistance which is available from the Bank, and the means by which such assistance will be delivered are also described. The low income definition and policies provide the income limits which must be met by eligible cooperatives and/or their members, in order to receive assistance as low income cooperatives from the Bank.

(National Consumer Cooperative Bank Act, as amended 92 Stat. 499 (12 U.S.C. 3001–3150)

Dated: August 4, 1980.

Stanley Straughter,

Coordinator of Low Income Programs.

At the Direction of the Board of Directors,

Michell A. Rofsky,

Secretary.

Credit Policies for the Bank's Self-Help Fund

I. General

The Bank's Office of Self-Help Development and Technical Assistance provides financial assistance to organizations that cannot obtain adequate assistance from the Bank's operations under Title I or from other commercial lenders.

The Office intends to provide capital investment advances to: eligible cooperatives, as defined in the Bank's eligibility policy, which cannot obtain sufficient funds from the Bank or other lenders and (1) do not meet the statutory requirement of creditworthiness which the Act imposes upon the Bank's loans under Title I or (2) satisfy the Bank's definition of a cooperative substantially comprised of low-income persons or of a cooperative serving low-income persons. An eligible cooperative must have sufficient business prospects to satisfy the Office; it must also present a plan which the Office determines will permit replacing the capital investment advance out of member equities within a period not to exceed 30 years.

These funds will be used to assist new and existing cooperatives and will provide special assistance, as the statute makes clear, to low-income

cooperatives. The Bank recognizes its

structure stemming from members'

The applicant's initial or supplemental

rate policy set by the Board of Directors

more than fifty percent of its members

Policy Guidelines for Technical

cooperatives. The Bank recognizes its responsibilities to organize an aggressive outreach program to provide assistance to low-income groups.

Interest supplement advances are available to eligible cooperatives which the Office determines cannot pay a market rate of interest because they satisfy the Bank's definition of selling goods or services to, or providing facilities for the use of, persons of low-income. The capital investment advances and interest supplement advances will be structured to maximize the long term operational and financial health of the cooperatives being served.

Every effort will be made to leverage the Office's resources by initiating participations with the Bank's Title I program, other financial institutions, cooperative organizations, foundations, government agencies, and any other interested organizations in loans, guarantees, insurance and subsidies.

The Director of the Office may, with approval of the Board, allocate percentages and priorities to balance the spread of Office resources among various types of cooperative enterprises, geographic areas and urban/rural settings, and to ensure that low-income persons receive the benefit of cooperation.

II. Authority for Making Advances

Authority for making capital investment advances and interest supplement advances is vested in the Office Advance Committee. This committee will be comprised of no less than five individuals, including the Director of the Office, the President of the Bank or his/her designee, the chief credit officer, and two or more members appointed by the Director. The Director will designate alternates and otherwise define procedures for conducting business when one or more members is absent. Authority for making advances may be delegated by the Office Advance Committee to the regional field officers.

III. Advance Purposes

Advances by the Office shall be for those purposes needed to facilitate the development and growth of cooperatives, consistent with the goals and priorities of the Office. This will include, but not be limited to, advances for start-up costs, the acquisition of assets, the expansion of working capital, the refinancing of loans made by other institutions, and special needs in support of the above purposes.

The Office will seek to help remedy the four principal and recurring problems facing low-income cooperatives in the early stages of their operation: an inadequate capital structure stemming from members' inability to make substantial equity contributions; the resulting lack of access to working capital; inadequate organization and project definition growing out of an inability to afford appropriate front-end planning; and a need for especially intensive on-going management assistance.

IV. Terms and Conditions

The terms, conditions, and schedules of repayment of Office advances will take into consideration the abilities of cooperatives to generate revenues, meet operational expenses, and maintain viability, while minimizing the impact of inflation and economic depression.

In accordance with Section 203(b)(2) of the Act, Office Advances will carry a repayment schedule not to exceed thirty (30) years. Individual schedules will be based upon a cooperative's plan to replace the Office advance with member equities, the time period projected for the cooperative to be financially viable, and the debt carrying capacity of the cooperative. Office policies may provide for deferring principal payments or subordinating to debt, when necessary, in order to enhance the operational and financial viability of the cooperative.

The Office will assist cooperatives to obtain supplemental equity resources which might otherwise be subordinated to Section 108 loans or funds from other lending institutions. The Office will generally take a security interest in cooperative assets when giving an advance. The security interest taken may be renegotiated if a cooperative has a chance to obtain outside financing. At the discretion of the Director, the Office may periodically review advances to determine the effectiveness of existing and continuing Office assistance to a cooperative.

The Director will conduct a regular review also, to determine which advances should be considered for the portfilio of the Bank's Title I program. Prior to the full amortization of an advance, some cooperatives may achieve sufficient viability to obtain a Section 108 loan to replace an Office advance.

Advance agreements may include limitations on the ability of a cooperative to accept additional financing, make unbudgeted capital expenditures or dividend payments, or retire member equity. Interest rates will be set by the Bank's Board of Directors, and may be lower than market rates.

V. Guidelines for Advances

Before a cooperative receives an advance, the Office must first determine that:

The applicant's initial or supplemental capital requirements exceed its ability to obtain such capital through a Section 108 loan or from other sources; or

The membership of the applicant is or will consist substantially of low-income perons; or

The applicant proposes to serve the needs of low-income persons, and

The applicant cannot obtain sufficient funds through a Section 108 loan or otherwise, and presents a plan to repay to the Office the capital investment advance from member equities within thirty (30) years.

Cooperatives which demonstrate a need for supplemental assistance in order to receive funding from other sources or from the Bank under section 108, will be eligible for Office technical assistance. This link with the Bank's Title I program and other lending sources is designed to benefit the cooperatives involved and to spread Office benefits to a broader range of cooperatives whose formation and growth have been hampered by lack of access to adequate cooperative credit facilities and technical assistance.

The process of making advances will require a thorough analysis of the operational and financial prospects of a cooperative. This analysis will include an assessment of a cooperative's potential to maintain organizational stability, achieve sufficient market potential, and maintain technical and operational management capacity and financial strength sufficient to achieve long term viability. The analysis should permit the analyst to understand conditions a cooperative will have to meet in order to achieve economic stability and repay the advance. Analysis of the cooperative will consider factors unique to the types of cooperatives that the Office is committed to assist. All advances to cooperative ventures through the Office will be closely coordinated with the technical assistance program of the Office and lending program of the Bank.

Interest Rate Policies for the Bank's Self-Help Fund

The Bank's Office of Self-Help Development and Technical Assistance may make capital investment advances and interest supplement advances to eligible cooperatives as defined in the Eligibilities and Priorities Policy Statement. The Board of Directors will determine the interest rates on capital investment advances and interest supplement advances made by the Office. The rate may be lower than the rate applicable to loans made by the Bank under Section 108. The Director of the Office shall administer the interest rate policy set by the Board of Directors and the limitations set forth in this policy. Advances shall carry a redemption or repayment schedule not to exceed thirty years and will be based on a cooperative's ability to meet such schedule as determined by the Office.

The Office will consider the following factors in making such a determination:

1. The effectiveness of a cooperative's plan to replace Office advances with member equity.

2. The time period projected for a cooperative to be financially viable; and

3. The debt carrying capacity of a cooperative.

The Office may reduce the interest paid to the Bank's Title I program (or another lender) through an interest supplement advance. The Act prohibits an interest supplement advance from exceeding four percent of the principal of the loan. These interest supplement advances must be repaid, and could theoretically increase the cost of borrowing over the term of the loan. The Office will be careful when using this tool to ensure that supplements do provide help and that borrowers are not overburdened with additional payments.

When the Office determines that a cooperative is sufficiently creditworthy, its advance may be "sold" to the Bank's Title I program at a higher interest rate, subject to changes in terms and conditions which would enable a cooperative to meet the requirements of Section 108 funding. Any such change will be preceded by a six-month notice to a cooperative. A cooperative shall have the right to appeal such a change through procedures established by the Board. The conditions for Title I purchase of Title II advance shall be described in the original agreement between a cooperative and the Office.

Low Income Definition and Policies

Except as otherwise stipulated in the low-income definition for housing, a low-income person is an individual whose family's income is equal to or less than the cost of the lower family budget adjusted for family size, composition, and residence in a metropolitan area, as established by the Bureau of Labor Statistics of the U.S. Department of Labor, for that region of the country in which she/he resides. If the person resides in one of the Standard Metropolitan Statistical Areas for which the Bureau publishes urban family budget costs, then the lower budget cost for that SMSA shall apply.

A cooperative will be presumed to be a "low-income cooperative," or to have a "membership consisting substantially of low-income persons," or to have "a majority of low-income persons," if more than fifty percent of its members are low-income persons and it affirmatively encourages the effective participation of low-income persons.

A cooperative will be presumed to be "using the loan to finance a facility, activity, or service used predominantly by low-income persons," or to "provide specialized goods, services, or facilities to serve the needs of low-income persons", or "to sell goods or services to, or provide facilities for the use of, persons of low-income", if it is either:

a. located in a census tract, county, on apportionment district, or other statistical subsection where the median income satisfies the above definition of a low-income individual, is designed to serve low-income persons, and affirmatively encourages the membership and effective participation of low-income persons, or

b. more than fifty percent of the patrons of the cooperative facility are low-income persons, as defined above. The cooperative must also take affirmative steps to encourage the membership and effective participation of low-income persons.

The low income definition for housing will use the same individual income standards as used in any other housing program used by the applicant to leverage Bank assistance. If the housing assistance is not going to be leveraged with any other Federal, state, or local program, the income definitions of HUD's rent subsidy program (Section 8) will be used. If the loan is being made in conjunction with more than one housing program, the Bank will use the income definition which it determines to be most appropriate.

The Bank expects the full cooperation of any applicant which claims low-income status in verifying that claim. The Bank reserves the right to audit an applicant asserting low-income status under any of the definition described above. As part of the loan application, the Bank may require the governing body of an applicant to certify income status in an official resolution. A cooperative which knowingly makes false representations in the course of the Bank's effort to establish low-income status may have any or all of its assistance terminated, and may be declared ineligible for future assistance. A cooperative which does not fulfill its commitment to ensure the membership and participation of low-income persons may be declared in technical default, face termination of current financial and technical assistance and/or denial of future assistance.

Policy Guidelines for Technical Assistance Delivery

The National Consumer Cooperative Bank Act authorizes the Bank to provide technical assistance to eligible cooperatives.

To best achieve the purposes of the Act, the Bank will provide:

- organizational and developmental assistance,
- financial and management assistance to emerging and existing cooperatives;
- special assistance in exploring innovative and locally initiated services to consumers which can most effectively be provided through self-help, not-for-profit cooperative organizations;
- educational services that will work with existing institutions to develop a comprehensive cooperative educational program aimed at training directors, staff and members of eligible cooperatives, as well as informing consumers and the general public of the advantages of cooperative action; and
- information on all Federal agencies and programs available to eligible cooperatives.

Depending on the volume of the services made available, the Bank will establish a scale of fees for technical assistance based on the applicant's ability to pay. Any fees collected shall be accounted for separately and be available for technical assistance. The Bank will also explore options of in-kind assistance repayment.

The Bank will provide for the delivery of technical assistance on a contractual basis. The Bank may contract for the delivery of technical assistance through third party agreements with appropriate and qualified individuals, cooperatives, and organizations.

The Bank will, on an on-going basis, seek outside assistance from resource people and organizations with cooperative experience to provide information and guidance on technical assistance delivery and program development. In addition, the Bank may enter into agreements with agencies of Federal, state, and local governments, colleges and universities, foundations, and other organizations to develop and disseminate information and services described in the Act.

The Bank will develop regions and establish NCCB Regional Offices and field representatives to assist in delivering, monitoring, and evaluating technical assistance at the local level. Further, field offices and staff will facilitate communications from local to regional to national levels, and advise the Bank in program development and modification.

V 45 / 155 AG 8 80 UMI

The Bank will make a concerted effort to ensure that regional technical assistance workshops are encouraged and conducted whenever feasible, in close association with cooperative organizations, community-based organizations, and economic development institutions where they exists. This will provide maximum delivery capacity at minimum expense.

The Bank will implement a plan for aggressive outreach and follow-up activities, including orientation to the Cooperative Principles, to inform consumers and the general public about the benefits of cooperative action and involvement.

The Bank will play a lead role in developing and coordinating information and educational materials, resources, and programs on cooperatives in general and on specific areas of self-help cooperative activities. The Bank will assist existing support systems within the cooperative movement in developing new educational activities, as well as expanding and improving on-going efforts.

In this way, the Bank will increase citizen access to information, tools, skills, and resources aiding cooperative and overall community-based economic development. Special attention will be paid to providing skills in managerial and technical areas.

One of the major tenets of cooperative development is that people learn best through their own personal experience and interaction with others. A major objective of technical assistance delivery is to help cooperatives to learn and grow through the personal experience of carrying out the responsibilities of organization, decision-making, policy setting, and enhancing the process of community development. The Bank will seek to strengthen all eligible cooperative organizations by assisting them to become self-reliant and self-sufficient.

The Bank will also coordinate its activities with Federal agencies and provide leadership in working with cooperative and other organizations to leverage additional technical and financial assistance.

[FR Doc. 80-23898 Filed 8-7-80; 8:45 am]
BILLING CODE 4810-25-M

NATIONAL SCIENCE FOUNDATION

Availability of Advisory Committee Reports

The National Science Foundation has filed with the Library of Congress reports of two NSF advisory committees.

The reports were filed as required by the Federal Advisory Committee Act and are available for public inspection and use at the Library of Congress, Room 1032, Thomas Jefferson Building, Washington, D.C. 20540 and at the Committee Management Office, National Science Foundation, Room 248, Washington, D.C.

The names and titles of the committees submitting reports are:

(1) Advisory Committee for Behavioral and Neural Science Oversight Report March 20–21, 1980.

(2) Advisory Committee for Materials Research Report of Oversight Review Team for the Metallurgy Program December 18–19, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

August 5, 1980.

[FR Doc. 80-23899 Filed 8-7-80; 8:45 am]
BILLING CODE 7555-01-M

Federal Employees Part-time Career Employment Act of 1978; Proposed Implementation

AGENCY: National Science Foundation.

ACTION: Proposed Implementation of the Federal Employees Part-time Career Employment Act of 1978.

SUMMARY: The National Science Foundation (NSF) is proposing to issue personnel instructions to implement the Federal Employees Part-time Career Employment Act of 1978, 5 U.S.C. 3401 et seq. by establishing a continuing program which provides career part-time employment opportunities within the Foundation. In accordance with 5 U.S.C. 3401, agencies are required to publish their instructions in proposed form and provide an opportunity for interested parties to comment. After comments have been received and reviewed, final instructions will be issued as an NSF Circular.

DATES: Written comments will be considered if recevied by the official named below on or before November 8, 1980. The final instructions will be effective on the date issued.

ADDRESS: Fred K. Murakami, Director, Division of Personnel and Management, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Bransford, Phone: 202–357–9680.

Personnel

SUBJECT: Part-Time Career Employment Program.

1. Purpose. This Circular establishes a continuing program in the National Science Foundation to provide career part-time employment opportunities in implementation of Pub. L. 95–437, the Federal Employees Part-Time Employment Act of 1978. The purpose is to provide an opportunity to match well qualified people who need to work on a part-time basis with National Science Foundation work situations where part-time work is more appropriate or full-time employees cannot be obtained. Appropriate situations for part-time employment may be to (a) provide parents with opportunities to balance family responsibilities with the need for additional income, (b) provide employment opportunities to handicapped individuals or others who require a reduced workweek, (c) allow employees a gradual transition into retirement, and (d) assist students who generally finance their own education and training.

2. Policy. It is the policy of the National Science Foundation to provide career part-time employment opportunities to the maximum extent consistent with resources and mission requirements. Managers are encouraged to use part-time employment as an alternative to full-time employment.

3. Scope. This Circular covers all competitive and excepted positions in the National Science Foundation at the GS–1 through GS–15 level and equivalent and hourly paid blue collar positions. Positions covered must have a prearranged tour of duty from 16 to 32 hours per week and be any position currently appropriate for full-time employment.

4. Exemptions. The Director or his designee may exempt positions from inclusion in this program as necessary to carry out the mission of the Foundation. However, an exemption may not be made to employ part-time workers under a 33 to 39 hours per week tour duty unless the employee was on such a work schedule prior to April 8, 1978.

5. Definitions.

a. Part-time career employment means regularly scheduled work of 16 to 32 hours a week, performed by an employee who has an appointment in Tenure Group I or II and who becomes employed on such part-time basis on or after April 8, 1979.

b. Tenure Group I applies to employees in the competitive service under career appointments who are not serving in a probationary period and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

c. Tenure Group II applies to employees in the competitive service in a probationary period and career-conditional employees.

6. Responsibilities.

a. The Deputy Director is responsible for control of the Foundation's personnel ceiling and for allocating part-time employment ceilings. Part-time ceiling allocations will be assigned by the Deputy Director to directorates and staff offices at the beginning of each fiscal year.

b. The Director, Division of Personnel and Management (DPM), is responsible for developing and administering a Foundation-wide plan for promoting part-time employment opportunities. This plan will be developed in conjunction with directorates and staff offices and will establish goals, and set target dates for achieving these goals, taking into consideration such things as:

(1) agency mission and occupational mix;

(2) workload fluctuations;

(3) size of work force, turnover rate and employment trends;

(4) potential for improving service to the public;

(5) affirmative action;

(6) patterns of overtime utilization; and

(7) current employee interest in part-time employment.

c. DPM will inform managers, supervisors and employees of the basic rules and regulations applicable to part-time employment, and position management and work assignment techniques which can lead to the most productive use of part-time workers.

7. Reporting and Program Evaluation. The Part-Time Career Employment Program will be reviewed through continuous standard reporting procedures to determine the increase in part-time career employment. Various types of additional reports will be requested of the directorates and staff offices, as necessary, to review and evaluate the program. Evaluation of the program may also be accomplished through personnel management reviews.

8. Part-Time Employment Practices.

a. DPM, in conjunction with the employing office, will review positions as they become vacant to determine the feasibility of using a part-time career employee. Criteria to be used in this process include: mission requirements, budget and ceiling limitations, and applicant availability.

b. Employees will be afforded the opportunity to request and receive consideration to convert from full-time to part-time work schedules. An employee desiring a change in employment from full-time to part-time should consult with the immediate supervisor who should evaluate the request in terms of the criteria specified in paragraph 8.a. above. Requests for conversion recommended by the immediate supervisor should be submitted in the form of a Standard Form 52 through normal reporting channels to DPM. DPM will be responsible for advising the employee of the effects the change will have on his/her rights and benefits.

9. Notifying the Public of Part-Time Vacancies, DPM will notify the public of vacant part-time positions through appropriate advertising mechanisms. This may be accomplished by publicizing part-time vacancies through Merit Promotion Announcements, Excepted Vacancy Announcements, Federal Job Information Announcements, newspapers and professional journals, State Job Service Offices, etc.

10. Limitations. The National Science Foundation shall not abolish any position occupied by an employee in order to make the duties of such a position available to be performed on a part-time career employment basis. Neither shall it require any person who is employed on a full-time basis to accept part-time employment as a condition of continued employment.

Thomas Ubois,

Assistant Director for Administration.

August 5, 1980.

[FR Doc. 80-23898 Filed 8-7-80; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 413A]

Duke Power Co.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Duke Power Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. for the Catawba Nuclear Station, Unit 1. The current holder of the construction permit is Duke Power Company.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in Mecklenburg County, North Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 1.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the **Federal Register** on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before October 7, 1980.

Dated at Bethesda, Maryland, this 30th day of July, 1980.

For the Nuclear Regulatory Commission,

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-24004 Filed 8-7-80; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Senior Executive Service Performance Review Board; Membership

July 21, 1980.

Pursuant to the Civil Service Reform Act, Section 4314(c)(4) requires the appointment of Performance Review Board members be published in the Federal Register.

The following persons will serve on the Performance Review Board for the coming year. This Board oversees the utilization and evaluation of the Office of Management and Budget's Senior Executive Service:

Performance Review Board—

James M. Frey, Chair (term expires July 1981).

Harrison Wellford.

V 45 / 155 AUG 8 80 UMI

Donald E. Crabill (term extended to September 30, 1980).
Nathaniel Scurry (term expires July 1981).
John Merck (term extended to September 30, 1980).

The Assistant to the Director for Administration will serve as Executive Secretary for the Board.

This notice is a revision to the notice published in 45 23558 April 7, 1980.

Linda L. Smith,
Assistant to the Director for Administration.

[FR Doc. 80-23668 Filed 8-7-80; 8:45 am]
BILLING CODE 3110-01-M

Uniform Procurement System; Public Hearings and Request for Public Review and Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget

ACTION: Rescheduling of Public Hearing.

SUMMARY: On July 31, 1980, the Office of Federal Procurement Policy published a notice in the **FEDERAL REGISTER** (45 FR 51016) which established a schedule of public hearings on the Uniform Procurement System proposal. Inadvertently, hearings in Washington, D.C. were scheduled for September 11 and 12 which coincide with the high holy days of the Jewish faith. The purpose of this notice is to change those hearing dates.

DATES, TIMES, AND LOCATIONS OF HEARINGS: Hearings will remain as scheduled and as announced for all cities except Washington, D.C. Public hearings in Washington will commence at 9:30 a.m. and will continue until 4:30 p.m. (with a one hour adjournment at 12:00 noon) on September 9, 1980. The hearings will be conducted in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. A second day of hearings will be held on September 10 if the first day does not provide sufficient time to hear all who wish to present views.

PRESENTATION OF VIEWS AT HEARINGS: Persons may appear on their own behalf or as representatives of any entity or of any interested group whether public or private to make oral presentations. Persons who wish to provide oral testimony should notify the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., Room 9013 New Executive Office Building, Washington, D.C. 20503 (Telephone: 202/395-7207) at least one week in advance of the scheduled hearing at which they wish to speak. (Such notification may be made by telephone.) Oral presentation at the hearings shall be limited to approximately 15 minutes and a written summary of the oral presentation should be provided to the hearing officer on the day of the hearing.

PRESENTATION OF WRITTEN VIEWS: In lieu of, or in addition to, the presentation of oral views, written comments may be submitted on the task group reports no later than September 17, 1980. Such comments should be addressed to the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., Room 9013 New Executive Office Building, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: Mr. David F. Baker, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., 9013 New Executive Office Building, Washington, D.C. 20503 (Telephone: 202/395-7207).

Karen Hastie Williams,
Administrator.

[FR Doc. 80-24067 Filed 8-7-80; 8:45 am]
BILLING CODE 3110-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 80-10]

Commerce in Explosives; List of Explosive Materials

Pursuant to the provisions of section 841(d) of Title 18, United States Code, and 27 CFR 181.23, the Director, Bureau of Alcohol, Tobacco, and Firearms, must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This Chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code.

Accordingly, the following is the 1980 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the **Federal Register** and blasting agents.

The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is *not* all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in Section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated August 28, 1979 (44 FR 50422; 51695).

List of Explosive Materials

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].

Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM.
Dipicryl sulfone.
Dipicrylamine.
DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate].
Dynamite.

E

EDNA.
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitro form).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tretrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol (ethylene glycol dinitrate, EGDN).
Nitroguanidine explosives.
Nitroparaffins and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [RDX and plasticizer].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (explosive grade).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5,-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a-tetraxapentalene].
TATB [triaminotrinitrobenzene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbazole.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN (trimethylolethane trinitrate).
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethyl orthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).

X

Xanthamonas hydrophilic colloid explosive mixture.

FOR FURTHER INFORMATION CONTACT:

Explosives Technology Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7087).

Signed: August 4, 1980.

Stephen E. Higgins,

Acting Director.

[FR Doc. 80-23887 Filed 8-7-80; 8:45 am]

BILLING CODE 4810-31-M

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 2]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $5,030,000 has been established for the company.

Name of Company: Unigard Mutual Insurance Company.

Business Address: 1215 Fourth Avenue, Seattle, Washington 98161.

State of Incorporation: Washington.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44513 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: August 4, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-23884 Filed 8-7-80; 8:45 am]

BILLING CODE 4810-35-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Articles Being Considered for Possible Duty Modification

Summary: This publication gives notice of (I) International Trade Negotiations and of Articles Which May be Considered in Such Negotiations, and (II) Articles Which May be Considered for Designation as Eligible Articles for Purposes of the Generalized System of Preferences.

I. Articles Which May be Considered in Trade Negotiations

In conformity with section 131(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2151(a)), notice is hereby given of the intention of the United States to participate in international trade negotiations, and of articles which may, during such negotiations, be considered for reduction or continuance of United States duty-free treatment under the authority contained in section 124 of the Trade Act (19 U.S.C. 2134 and 2119).

A. *Trade Negotiations.* It is intended that the authority conferred by section 124 of the Trade Act will be employed to conclude bilateral trade agreements with developed and/or developing countries.

B. *Lists of Articles Which May be Considered in Trade Negotiations.* The articles listed in Annex I to this notice will be considered for reduction or continuance of the existing duty-free treatment, as appropriate, to the extent permitted by section 124 of the Trade Act. The term "existing" as used in this notice is defined in section 601(7) of the Trade Act (19 U.S.C. 2481(7)). The articles are identified by reference to five-digit item numbers of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) and consist of all articles in such listed item numbers except as limited by footnote descriptions. The Tariff Schedules of the United States Annotated (1980) is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 and is also available for inspection at any field office of the U.S. Customs Service or the Department of Commerce. A list giving informal abbreviated descriptions of the articles contained in the TSUS items identified in this notice is available upon written request from the Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Executive Office of the President, 1800 G Street, N.W., Room 735, Washington, D.C. 20506.

Articles included in this notice may be reserved from negotiations or may be subject to smaller tariff reductions than those authorized by section 124 of the Trade Act.

II. Articles Which May be Considered for Designation as Eligible Articles for Purposes of the Generalized System of Preferences

In conformity with sections 503(a) and 131(a) of the Trade Act (19 U.S.C. 2463(a) and 2151(a)), notice is hereby given of articles which may be considered for designation as eligible articles for purposes of the Generalized System of Preferences (GSP). The articles listed in Annex II to this notice will be considered for designation as eligible articles for purposes of the GSP. The listed articles are identified by reference to five-digit item numbers. An article which is determined to be import sensitive in the context of the GSP cannot be designated as a eligible article. It is anticipated that decisions with respect to the import sensitivity of any of the listed articles will be made after public hearings have been held and advice has been received from the International Trade Commission on the probable economic effect of GSP designation on industries producing like or directly competitive products, and on consumers.

III. Supplemental Notices

From time to time as may be appropriate, other notices may be published for the purpose of informing the public of proposed actions under the Trade Act not announced in this notice.

IV. Public Hearings

Section 133 of the Trade Act (19 U.S.C. 2153) requires that the President afford an opportunity for any interested person to present his or her views concerning any United States or foreign tariff concession, modification or continuance which should be offered or sought by the United States, any nontariff barrier to trade or any other matter relevant to proposed trade agreements. Sections 503(a) and 133 of the Trade Act require that the President afford an opportunity for any interested person to present his or her views concerning the possible designation of any article listed in paragraph II of this notice as an eligible article for purposes of the GSP. The time and place of these hearings, to be held by the Office of the United States Trade Representative through the Trade Policy Staff Committee, in accordance with sections 133 and 503(a) of the Trade Act, will be announced in the near future.

V. Advice of the International Trade Commission

On behalf of the President and in accordance with sections 131(a) and 503(a) of the Trade Act the International Trade Commission is being furnished with the lists of articles published in this notice for the purpose of securing from the Commission its advice on the probable economic effect on United States industries producing like or directly competitive articles and on consumers, (a) with respect to the articles listed in paragraph I:B above, of the reduction of United States duties by the maximum amount permissible under section 124 of the Trade Act, or continuance of United States duty-free or excise treatment, and (b) with respect to articles listed in paragraph II, above, of the designation of such articles as eligible articles for purposes of the GSP.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

Annex I

Articles Which May Be Considered In Trade Negotiations

TSUS item	*TSUS item*	*TSUS item*	*TSUS item*	*TSUS item*	*TSUS item*	*TSUS item*	*TSUS item*
100.20	112.90	126.77	141.45	154.15	177.22	222.20	305.08
100.25	112.94	126.79	141.77	154.20	177.24	222.30	305.09
100.30	113.11	126.91	141.78	154.25	177.26	222.32	305.12
100.31	113.20	126.93	141.87	154.30	177.30	222.34	305.14
100.35	113.25	130.37	141.88	154.35	177.40	222.36	305.16
100.45	113.30	130.50	145.02	154.50	177.52	222.41	305.18
100.60	113.60	130.63	145.22	154.60	177.56	222.44	305.50
100.63	114.01	131.12	145.54	155.10	177.58	222.60	307.50
100.77	114.06	131.25	145.58	155.40	177.62	222.62	307.52
100.79	114.15	131.38	145.65	155.60	177.67	222.64	307.62
105.84	114.20	131.40	145.70	155.65	177.69	240.16	309.28
106.55	114.25	131.45	146.14	160.35	177.72	240.32	309.29
106.70	114.36	131.50	146.69	161.05	178.05	240.36	316.10
106.75	114.50	131.70	146.77	161.07	178.30	240.52	408.08
107.20	115.00	131.75	146.79	161.41	182.05	240.56	408.12
107.25	115.05	131.80	146.82	161.53	182.10	245.45	409.22
107.65	115.10	131.85	146.86	161.57	182.11	245.80	409.26
107.78	115.25	132.25	147.02	161.60	182.15	251.10	409.30
110.45	117.67	132.55	147.26	161.71	182.32	251.15	410.52
110.50	118.00	135.30	147.50	161.80	182.33	251.20	410.60
111.44	118.10	135.50	147.75	161.83	182.40	251.25	410.64
111.60	118.15	135.70	147.80	161.88	182.45	252.13	410.68
111.88	118.30	135.75	148.32	161.92	182.46[3]	252.15	410.76
112.05	121.10	135.94	148.40	162.03	182.50	252.30	410.80
112.08	121.15	136.30	148.46	162.07	182.52	252.35	410.88
112.14	121.25	136.40	148.48	165.70	182.53	252.40	410.92
112.22	121.30	136.61	148.52	167.05	182.60	252.50	410.96
112.30	121.35	136.80	148.54	167.20	182.90	252.59	411.00
112.34	121.40	136.97	149.28	167.25	183.01	252.61	411.04
112.36	121.45	137.04	150.05	167.34	183.05	252.73	411.12
112.40	121.50	137.40	150.50	167.40	184.53	253.10	411.16
112.48	121.55	137.75	152.05	167.42	184.54	253.15	411.20
112.50	121.64	137.79	152.26	167.50	186.10	253.40	411.24
112.52	123.50	137.80	152.34	167.90	186.15	253.45	411.32
112.58	124.20	137.87	152.38	168.04	186.50	254.25	411.36
112.62	124.60	140.20	152.60	168.06	186.60	254.30	411.44
112.66	124.65	140.56	152.62	168.09	188.50	254.35	411.52
112.71	124.70	140.60	152.72	168.11	190.25	254.40	411.60
112.73	125.25	140.65	152.76[2]	168.14	190.87	254.42	411.64
112.74	125.34	140.75	153.04	168.16	192.07	254.54	411.68
112.79	125.67	141.05	153.16	168.42	192.30	254.56	411.72
112.80	125.84	141.15	153.20	168.54	192.35	254.63	411.76
112.82	126.07	141.20	153.28	168.59	192.45	256.10	411.90
112.86	126.63	141.25	153.32	168.74	192.55	256.15	411.98
				168.76	192.66	256.35	412.14
				168.80	192.85	256.40	412.22
				168.96	192.90	256.60	412.28
				168.98	200.08	256.65	412.30
				169.04	200.25	256.67	412.38
				169.07	200.95	256.75	412.42
				169.08	202.66	256.80	412.52
				169.31	203.10	256.84	412.60
				169.32	203.30	256.87	412.64
				169.37	204.05	256.90	412.68
				169.39	204.10	273.30	412.76
				169.46	204.20	273.65	415.10
				169.47	204.50	273.70	415.27
				169.48	206.45	273.75	415.30
				169.49	206.53	273.90	415.40
				169.58	206.54	273.95	415.50
				169.59	206.60	274.00	416.40
				170.25	206.85	274.05	416.45
				170.55	206.95	274.23	417.14
				170.64	206.96	274.33	417.20
				170.76	206.98	274.35	417.26
				175.33	207.00	274.70	417.28
				176.14	220.10	274.90	417.32
				176.18	220.15	300.45	417.36
				176.22	220.20	300.50	417.38
				176.52	220.25	304.08	417.40
				176.54	220.35	304.18	417.42
				176.55	220.36	304.26	417.44
				176.70	220.39	304.48	417.52
				177.12	220.41	304.52	417.54
				177.16	220.48	305.04	417.64
				177.20	222.10	305.06	417.70
							422.58
							460.10
							513.94
							605.27

TSUS item	TSUS item	TSUS item
605.46	628.17	644.95
605.48	628.20	646.17
605.60	628.25	646.34
605.65	628.30	646.36
610.74	628.57	646.41
610.80	628.59	646.42
612.05	628.70	646.51
612.17	628.72	646.53
612.20	628.74	646.57
612.30	628.90	646.60
612.34	628.95	646.65
612.36	629.05	646.72
612.38	629.07	646.75
612.40	629.10	646.76
612.41	629.14	646.77
612.43	629.20	646.78
612.45	629.25	646.81
612.50	629.29	646.82
612.52	629.30	646.83
612.55	629.32	646.84
612.56	629.33	646.85
612.61	629.35	646.86
612.63	629.60	646.87
612.70	629.62	646.89
612.71	629.65	646.90
612.72	632.12	646.92
612.73	632.18	646.95
612.80	632.24	646.97
612.81	632.34	646.98
612.82	632.38	647.01
613.06	632.46	647.03
613.08	632.52	647.05
613.11	632.58	648.53
613.12	632.62	648.61
613.15	632.66	648.67
618.17	632.88	648.71
618.20	633.00	648.73
618.22	640.10	648.75
618.25	640.25	648.85
618.29	642.27	648.89
618.42	642.45	649.14
618.47	642.47	649.17
620.08	642.50	649.19
620.10	642.52	649.23
620.12	642.56	649.24
620.16	642.58	649.26
620.20	642.60	649.27
620.22	642.62	649.29
620.26	642.64	649.31
620.42	642.66	649.32
620.50	642.68	649.35
622.22	642.70	649.43
622.25	642.72	649.46
622.35	642.74	649.47
624.02	642.76	649.48
624.03	642.78	649.49
624.14	642.80	649.53
624.16	642.85	649.57
624.18	642.87	649.67
624.20	642.91	649.91
624.24	644.06	650.01
624.32	644.09	650.03
624.34	644.11	650.05
624.40	644.12	650.07
624.42	644.17	650.13
624.52	644.18	650.15
624.54	644.24	650.17
626.15	644.26	650.19
626.18	644.30	650.31
626.20	644.32	650.35
626.22	644.36	650.37
626.24	644.38	650.43
626.30	644.46	650.45
626.31	644.66	650.47
626.35	644.80	650.49
626.15	644.84	650.51
650.53	660.71	676.10	687.10	710.67
650.56	660.74	676.15	687.20	710.68
650.61	660.76	676.20	687.43	710.70
650.63	660.85	676.23	688.04	710.72
650.65	660.97	676.25	688.06	710.76
650.73	661.06	676.30	688.15	710.78
650.75	661.12	676.52	688.20	710.80
650.77	661.15	676.20	688.25	711.04
650.81	661.25	678.30	688.30	711.06
650.85	661.30	678.32	688.35	711.25
651.03	661.35	678.35	688.44	711.38
651.04	661.50	678.40	688.45	711.42
651.09	661.56	678.45	690.05	711.47
651.21	661.68	678.50	690.10	711.49
651.27	661.85	680.05	690.20	711.55
651.29	661.90	680.07	690.35	711.60
651.31	661.95	680.12	690.40	711.67
651.33	662.10	680.13	692.02	711.75
651.37	662.15	680.14	692.04	711.78
651.47	662.20	680.25	692.14	711.88
651.49	662.26	680.27	692.16	712.10
651.51	662.30	680.30	692.32	712.15
651.53	662.35	680.33	692.50	712.20
651.55	662.50	680.37	692.55	712.25
651.60	666.25	680.39	694.50	712.47
652.09	668.04	680.59	696.15	712.49
652.13	668.07	680.92	696.50	715.20
652.15	668.10	680.95	700.58	720.42
652.18	668.15	681.07	702.45	722.04
652.35	668.23	681.13	702.47	722.18
652.36	668.36	681.27	703.60	722.32
652.38	670.00	681.36	703.65	722.34
652.42	670.02	681.39	706.04	722.52
652.60	670.04	682.05	706.06	722.56
652.65	670.06	682.25	706.16	722.60
652.70	670.12	682.30	706.18	722.64
652.84	670.14	682.41	706.22	722.72
652.86	670.16	682.50	706.30	722.75
652.88	670.17	682.52	706.45	722.80
653.20	670.18	682.80	706.47	722.83
653.25	670.19	682.90	706.55	722.85
653.30	670.20	682.95	708.01	722.88
653.35	670.22	683.10	708.23	722.94
653.37	670.23	683.15	708.43	722.96
653.45	670.25	683.30	708.45	723.05
653.52	670.27	683.32	708.47	723.15
653.60	670.29	683.50	708.76	723.25
653.62	670.33	683.60	708.80	723.30
653.70	670.35	683.80	708.82	723.32
653.80	670.41	684.20	708.85	723.35
653.90	670.42	684.40	708.87	724.25
654.03	670.43	684.50	709.03	724.45
654.05	670.50	684.62	709.06	725.01
654.15	670.52	684.64	709.07	725.03
656.15	670.54	684.70	709.09	725.04
656.20	670.56	685.10	709.10	725.12
656.35	670.60	685.13	709.11	725.14
657.25	670.64	685.16	709.15	725.16
657.30	670.66	685.18	709.17	725.18
657.35	670.70	685.19	709.19	725.22
657.40	670.90	685.24	709.21	725.24
657.50	672.16	685.33	709.25	725.32
657.60	672.20	685.34	709.27	725.34
657.75	672.22	685.36	709.40	725.40
657.80	674.20	685.40	709.45	725.52
658.00	674.30	685.42	709.50	726.05
660.10	674.32	685.50	709.57	726.10
660.15	674.35	685.60	709.66	726.15
660.20	674.40	685.90	710.14	726.25
660.25	674.42	686.18	710.16	726.40
660.30	674.50	686.24	710.30	726.45
660.35	674.52	686.30	710.40	726.50
660.42	674.53	686.40	710.60	726.52
660.48	674.55	686.50	710.61	726.60
660.62	674.60	686.60	710.63	726.62
660.67	674.80	688.70	710.65	726.63
726.65	732.60	741.35	760.40
726.70	734.10	741.50	760.48
726.85	734.15	745.08	760.56
726.90	734.20	745.25	760.58
727.02	734.30	745.28	766.30
727.04	734.32	745.30	770.40
727.06	734.34	745.34	771.55
727.11	734.40	745.45	772.35
727.12	734.71	745.54	772.40
727.15	734.72	745.60	772.42
727.29	734.77	745.65	772.60
727.40	734.85	745.66	772.80
727.52	734.86	745.68	772.85
728.10	734.87	748.25	772.97
728.15	734.88	748.32	773.10
728.25	734.91	748.34	773.25
730.05	735.02	748.36	773.30
730.19	735.06	748.40	774.35
730.31	735.07	750.15	790.03
730.45	735.09	750.20	790.30
730.51	735.10	750.47	790.47
730.53	735.11	750.50	790.50
730.55	735.12	750.55	790.55
730.63	735.20	750.60	791.20
730.81	737.07	750.80	791.27
730.85	737.09	751.11	791.28
730.86	737.15	751.25	791.30
730.88	737.30	755.20	791.35
730.91	737.45	755.25	791.48
731.15	737.55	755.30	791.57
731.22	737.65	755.35	791.60
731.24	737.85	756.02	791.65
732.04	740.05	756.30	791.70
732.16	740.10	756.35	792.10
732.21	740.50	756.50	792.22
732.30	740.55	756.60	792.60
732.32	740.60	760.20	792.70
732.34	741.25	760.30	792.75
732.43	741.30		799.00

Annex II

Articles Which May Be Considered For Designation As Eligible Articles For Purposes Of The Generalized System Of Preferences

TSUS item	TSUS item	TSUS item	TSUS item
100.20	112.86	126.91	146.77
100.30	112.90	126.93	146.79
100.35	113.11	130.50	146.86
100.45	113.20	131.12	147.02
100.60	113.25	131.25	147.26
100.63	114.01	131.38	147.50
100.77	114.06	131.40	147.75
100.79	114.15	131.45	148.32
106.55	114.20	131.50	148.40
110.50	114.36	131.70	148.46
111.44	114.50	131.75	148.48
111.88	115.00	131.85	148.52
112.05	115.05	132.25	148.54
112.08	115.10	135.75	149.28
112.14	115.25	136.61	150.05
112.22	118.00	137.80	150.50
112.30	118.10	137.87	152.26
112.34	118.15	140.60	152.34
112.48	118.30 [1]	140.65	152.38
112.50	121.40	140.75	152.62
112.52	121.45	141.15	152.76 [2]
112.56	121.50	141.25	153.04
112.62	125.25	141.78	153.20
112.66	125.67	141.87	154.15
112.71	126.07	141.88	154.20
112.73	126.63	145.22	154.25
112.74	126.77	145.58	154.30
112.80	126.79	146.14	154.35
112.82			

TSUS item	TSUS item	TSUS item	TSUS item
154.50	192.90	415.30	632.46
155.10	200.25	415.40	632.52
155.65	200.95	416.40	632.58
160.35	204.50	417.40	632.88
161.05	206.85	418.30	642.91
161.07	206.96	420.92	646.60
161.41	222.20	421.56	646.81
161.57	300.45	422.40	646.83
161.60	300.50	422.42	646.84
161.80	304.08	423.92	650.03
161.88	304.18	427.88	650.47
165.70	304.26	430.20	650.49
167.20	304.52	432.10	670.60
167.42	305.04	432.25	680.30
167.90	305.06	435.45	680.33
168.04	305.08	436.00	680.37
168.06	305.09	437.47	680.39
168.09	305.12	450.30	680.95
168.11	305.14	450.40	681.07
168.74	305.16	450.50	685.13
168.76	305.18	452.28	685.16
168.80	307.50	455.40	685.18
169.04	307.52	455.42	685.19
169.31	307.62	460.20	685.33
170.25	309.28	490.14	685.36
170.55	309.29	490.20	685.50
170.64	316.10	490.22	687.43
170.78	411.12	490.26	692.02
175.33	411.16	490.65	700.58
176.18	411.24	490.73	706.06
176.22	411.32	490.75	706.16
176.52	411.36	491.00	706.18
176.54	411.44	493.42	706.22
176.55	411.52	493.65	706.30
177.20	411.60	493.66	706.55
177.30	411.64	522.24	720.42
177.52	411.68	546.35	726.85
177.56	411.72	605.46	727.11
177.67	411.76	624.03	730.19
178.05	411.90	628.17	731.15
182.33	411.98	628.57	731.22
182.50	412.14	628.72	732.04
182.53	412.22	629.07	732.16
182.60	412.26	629.14	732.21
183.01	412.30	629.29	732.30
184.53	412.38	629.30	732.32
184.54	412.42	629.32	732.34
186.60	412.52	629.33	737.85
190.87	412.60	629.35	755.35
192.07	412.64	629.62	760.48
192.30	412.68	632.24	766.30
192.35	415.10	632.38	

[1] Only goat's milk products not containing any other type of milk.

[2] Only pineapple and quince pastes and pulps.

[FR Doc. 80-23950 Filed 8-7-80; 8:45 am]

BILLING CODE 3190-01-M

CONTACT PERSON FOR MORE

Sunshine Act Meetings

Federal Register
Vol. 45, No. 155
Friday, August 8, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Council on Environmental Quality	1
Equal Employment Opportunity Commission	2
Federal Reserve System	3, 4
National Science Board	5
National Transportation Safety Board	6

1

COUNCIL ON ENVIRONMENTAL QUALITY.

August 6, 1980.

TIME AND DATE: 11:30 a.m., August 18, 1980.

PLACE: Conference room, 722, Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Briefing on the Bureau of Land Management's California Desert EIS.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III, (202) 395-4616.

[S-1500-80 Filed 8-6-80; 10:56 am]
BILLING CODE 3125-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, August 12, 1980.

PLACE: Commission conference room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public.

1. State and Local Program: Modification of the fiscal year 1979 Backlog and fiscal year 1980 New Charge Resolution Contracts of the Washington State Human Rights Commission.
2. Report on Commission Operations by the Executive Director.

Closed to the public:

1. Litigation Authorization; General Counsel Recommendations.
2. Budget for fiscal year 1982.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Office Executive Secretariat, at (202) 634-6748.

[S-1502 Filed 8-6-80; 3:12 pm]
BILLING CODE 6570-06-M

3

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 13, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposal under the Monetary Control Act to establish guidelines to be followed by nonmember depositary institutions if their required reserves are passed through another depositary institution to the Federal Reserve. (Proposed earlier for public comment; docket No. R-0309).
2. Proposal for annual Board financial support of the University of Michigan's Survey Research Center.
3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 6, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-1498-80 Filed 8-6-80; 9:58 am]
BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM.

(Committee on Employee Benefits of the Board of Governors).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR, 51041, July 31, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, August 5, 1980.

CHANGE IN THE MEETING: Addition of the following closed item(s) to the meeting: Designation of new officers for the Committee on Employee Benefits.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 5, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-1499-80 Filed 8-6-80; 9:59 am]
BILLING CODE 6210-01-M

5

NATIONAL SCIENCE BOARD.

DATE AND TIME: August 21, 1980 1 p.m., open session; August 22, 1980 9 a.m., closed session.

PLACE: 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Open session:

1. Minutes—Open Session—217th Meeting.
2. Chairman's Report.
3. Director's Report.
a. Report on Grant and Contract Activity—6/17/-8/20/80.
b. Organizational and Staff Changes.
c. Congressional and Legislative Matters.
d. NSF Budget for Fiscal Year 1981.
e. Science and Engineering Education Report to the President.
f. Proposed Ocean Margin Drilling Program.
g. Other Items.
4. Board Committees—Reports on Meetings.
5. Reports on Advisory Group Meetings, Site Visits, and Other Events.
6. Representation at Future Site Visits to Materials Research Laboratories.
7. Continued Consideration of Reports of Discussion Groups 80-A, B, and C.
8. Presentation by the Acting Director of the Proposed Reorganization of NSF.
9. Program Review—Environmental Biology.
10. Grants, Contracts, and Programs.
11. Other Business.
12. Next Meeting National Science Board, September 18-19, 1980.

Closed session:

A. Minutes-Closed Session—217th Meeting.
B. Grants and Contracts.
C. NSB and NSF Staff Nominees.
D. NSB Annual Reports.
E. NSF Budgets for Fiscal Year 1982 and Subsequent Years.
F. Science and Engineering Education Report to the President.

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 357-9582.

[S-1501-80 Filed 8-6-80; 1:40 pm]
BILLING CODE 7550-01-M

6

[NM-80-29]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 51987, August 5, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, August 12, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

1. *Railroad Accident Report*—Derailment of Amtrak Train No. 7 the Empire Builder, on Burlington Northern Track, Glacier Park, Montana, March 14, 1980, and *Recommendations* to the Federal Railroad Administration, the National Railroad Passenger Corporation, and the Burlington Northern.
2. *Special Investigation Report*—Increased Shipper Involvement in Hazardous Materials Transportation and *Recommendations* to the U.S. Department of Transportation.
3. *Safety Effectiveness Evaluation* of the Materials Transportation Bureau's Pipeline Data System, and *Recommendations* to the Research and Special Programs Administration of the U.S. Department of Transportation.
4. *Railroad Accident Report*—Head-end Collision of Nine Burlington Northern Locomotive Units with the Standing Freight Train, Angora, Nebraska, February 16, 1980, and *Recommendations* to Burlington Northern.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

August 6, 1980.

[S-1503-80 Filed 8-6-80; 3:27 pm]
BILLING CODE 4910-58-M

V
4
5
/
1
5
5
A
G
8
0
UMI

federal register

Friday
August 8, 1980

Part II

Department of Agriculture

Food Safety and Quality Service

Department of Health and Human Services

Food and Drug Administration

Net Weight Labeling

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

9 CFR Parts 317 and 381

Net Weight Labeling

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal meat and poultry products inspection regulations to provide more uniform labeling requirements and to prescribe uniform procedures for determining compliance with label statements of net contents of containers of meat and poultry products. The proposal would establish objective, numerical variations from the labeled net weight which are to be determined by prescribed procedures. This proposal is designed to enhance the ability of Federal, State and local agencies to enforce strict net weight standards at the retail level and would establish greater uniformity with regulations for net weight compliance used by the Food and Drug Administration for other types of foods.

DATE: Comments must be received on or before November 6, 1980.

ADDRESSES: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments on the poultry products inspection regulations to: Mr. Bill F. Dennis, (202) 447–3840.

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3840. the Draft Impact Analysis detailing the options considered in developing this proposed rule and the impact of implementing each option is published in its entirety below as an appendix to this proposal.

SUPPLEMENTARY INFORMATION:

Significance

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to Implement Executive Order 12044, and has been classified "significant."

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Coordination Division and should bear a reference to the date and page number of this issue of the **Federal Register**. Any person desiring opportunity for oral presentation of views on the poultry product inspection regulations must make such request to Mr. Dennis so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented on the poultry product inspection regulations. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Regulations Coordination Division during regular hours of business. For more information about how to participate in this proceeding, contact the FSQS Public Participation Office at (202) 447–7804.

The Proposal

The Department of Agriculture (USDA) is proposing regulations setting forth more uniform net weight labeling requirements for federally inspected meat and poultry products and prescribing procedures for determining compliance with these requirements. These proposed regulations would establish objective, numerical standards for determining compliance to insure that consumers receive valid information regarding the actual weight of meat and poultry products and to provide for increased uniformity of regulation at the Federal, State and local levels.

Under the Federal Meat Inspection Act (21 U.S.C 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), the Department must assure that meat and poultry products sold and distributed in commerce are properly labeled and are not misbranded in any way. The Acts require an accurate statement of net quantity of contents, but allow the Secretary to establish reasonable variations by regulation (21 U.S.C. 451(h)(5), 601(n)(5)).

The Department's current net weight regulations for meat products (9 CFR 317.2(h)) and poultry products (9 CFR 381.121) state that the labeled net weight shall not be false or misleading and shall express an accurate statement of the quantity of contents, exclusive of wrapping and packing substances. The regulations allow for reasonable variation from the labeled net weight caused by (1) moisture loss or gain during the course of good distribution practices or (2) unavoidable deviations during good manufacturing practices.

While Department studies show substantial compliance with these regulations, consumers and State law enforcement officials have voiced concerns with their application. Some consumers say that product labels may not be supplying accurate information about the product being purchased. The permitted variations attributable to moisture loss cause some consumers to believe that they may be paying too much for a meat or poultry product. State enforcement personnel indicate that they believe they are unable to protect consumers adequately because of the lack of objective, numerical procedures and standards for determining the allowable variations. As one commenter suggested on behalf of a State Department of Agriculture regarding a recent Department study of the net weight issue, the permitted variations in the present USDA regulations ". . . confound the attempts of any inspection agency to determine if quantity labeling is correct when inspection takes place at any point in the distribution chain. Further, such condition leads to the inability of a prospective purchaser to successfully accomplish value comparison, based on quantity and between commodities." [1]

The Department proposes to amend its current net weight regulations by:

1. Replacing the currently permitted "reasonable variations" due to loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practices with allowable numerical variations which appear to be reasonable when determined by specified procedures. The allowable variations are based on recognized, unavoidable deviations which occur during the manufacturing process. Allowance for moisture loss was not made in development of these variations. Proposed allowable variations were determined after extensive consultation with the National Bureau of Standards. These variations would be used and enforced at the time of production, during distribution, and at retail sale by Federal, State, and local regulatory officials within their respective regulatory authorities.

2. Establishing a definition of "tare" [2] in which the net weight of a product

[1] Comments submitted by the Maryland Department of Agriculture in a letter dated October 26, 1979, in response to a request for comments on the results of the ESCS study published in the **Federal Register** on August 31, 1979 (44 FR 51275–51277).

[2] "Tare" is the term used to refer to the weight of those parts of the gross weight of a packaged product not included in the labeled net weight. Typically, tare includes the weight of packaging materials or container of a product.

equals the package and contents minus the weight of the packaging materials. With regard to liquids absorbed by the packaging material, the Department has developed two alternatives as to whether or not such liquids should be included in net weight. Under the proposed regulations, too, free liquid (liquid which has separated itself from the product but which has not been absorbed by the packaging material) is included in the net weight of the product, except for those few products which are packed in substances which are normally discarded before consumer preparation and/or serving.

3. Establishing specific sampling procedures to assure consistent weight measurements and compliance determinations by Federal, State and local regulatory personnel. Under the procedures, while an allowable variation may be permitted for individual packages, the net weight of all the sample packages must meet or exceed the stated net weight.

4. Establishing consistent limited labeling exemptions for meat and poultry products which meet criteria for "small packages" and "multi-unit packages."

This proposed regulation would have an impact upon the Department and any federally inspected meat and poultry establishment packaging products affected by the proposed changes. State and local agencies responsible for enforcement of net weight labeling rules, any wholesale and retail establishments subject to the rules applying to meat and poultry products, and consumers.

Purpose and Need for Action: A revised regulation would serve several purposes. It would:

1. Create standards that will be easily enforceable so that the net weight statement is as accurate as can reasonably be required at the time meat and poultry products are purchased by consumers.

2. Enable State and local regulatory agencies to enforce strict net weight standards at retail and other locations within their jurisdictions where meat and poultry products are sold.

3. Establish net weight regulations that are generally uniform with those used by the Food and Drug Administration (FDA) for other food products.

Background

The need for this proposal is based on three developments, the first of which occurred in 1972.

1. *Rath v. Becker.* In the course of developing weights and measures regulations over the years, some State and local governments did not provide for any "reasonable variation" in net weight caused by moisture loss or gain during the course of good distribution practices, as is provided under the Department's regulations pursuant to Federal law. California was one of these States. In 1972, a local official in California ordered "off-sale" a federally inspected meat product with a net weight below the declared net weight as determined by the State procedure. The food product's manufacturer sought relief in Federal district court.

The manufacturer alleged that its product was in compliance with the Federal requirements at the time of Federal Inspection and that California could not impose additional or different State requirements. In this case, *Rath Packing Company v. Becker,* 357 F. Supp. 529 (C.D. Cal. 1973), the United States District Court for the Central District of California in 1973 held that the Federal Meat Inspection Act (FMIA) pre-empts State and local governments from imposing net weight labeling requirements on federally inspected meat products that are in addition to or different from the Federal requirements. Furthermore, the misbranding and mislabeling provisions of the FMIA were held to apply not only at the official establishment packing the product, but at all levels in the distribution chain including retail. The court held, however, that the Federal regulation allowing "reasonable variations" with respect to net weight (9 CFR 317.2(h)(2)) was void to vagueness.

This decision was appealed to the United States Court of Appeals for the Ninth Circuit. In October 1975, this Court affirmed the decision on pre-emption, but reversed the decision that the "reasonable variations" regulation (9 CFR 317.2(h)(2)) was void due to vagueness (530 F.2d 1295 (9th Cir. 1975)).

The decision on the pre-emption issue was further appealed to the U.S. Supreme Court, where it was affirmed in March of 1977. (*Jones* v. *Rath Packing Company,* 430 U.S. 519 (1977)).

2. *The 1973 Proposal.* The Department believed it was a practical necessity to allow reasonable variations from the declared net weight. Therefore, after the District Court voided the existing "reasonable variations" regulation, the Department proposed a new regulation on December 3, 1973 (38 FR 33308–33313). Procedures were proposed for determining allowable net weight variations at the producing plant and during distribution. With explicit numerical allowed net weight variations, packers would have needed to target the fill weight above the stated contents to assure compliance. Recoverable liquids that drained from the product would have been considered as part of the net weight. For compliance purposes, each federally inspected establishment packing containers for sale to household consumers would have had to implement an approved quality control program, in accordance with specific recommendations contained in the proposal.[3] In addition, existing provisions exempting shingle packed sliced bacon from various general net weight labeling requirements would have been eliminated.

Public hearings held during 1974 in five locations (New York City, Washington, D.C., Atlanta, Dallas, and San Francisco) to explain this proposal revealed widespread dissatisfaction on the part of consumers, industry representatives, and State and local weights and measures officials. Over 1,600 comments on the proposal were recorded. Twenty-one consumer groups responded. Eight of these groups objected to paying for water, blood, and packing media, and wanted the label to bear the actual net weight of the product. Six expressed the opinion that there is no effective way to prevent the sale of short weight products. A total of 69 industry groups responded, 33 of which wanted controls directed only to the marked consumer-size packages. Twenty others believed the limits to be "too tight," and 16 believed the industry would have to resort to vacuum packaging to comply. Over 1,300 individuals submitted comments of which 70 percent wanted labels to contain an accurate net weight statement, 25 percent objected to paying for fluid and packing media as part of the net weight, and the remainder objected to Federal pre-emption of State and local rules. In essence, no group expressed unqualified support for the proposal.

3. *The 1977 Proposal.* The third development occurred following the U.S. Supreme Court decision in 1977 which upheld Federal pre-emption. California and 47 other States, the District of Columbia and American Samoa acting as cosigners petitioned the Department, the Food and Drug Administration (FDA) and the Federal Trade Commission to amend the existing Federal regulations (9 CFR 317.2(h)(2), 9 CFR 381.121(c)(6), 21 CFR 101.105(q), 21 CFR 501.105(q) and 16 CFR 500.22) to create a more enforceable net weight regulation.

The petitioners and supporters claimed that the Federal net weight

[3] Currently and at the time of the 1973 proposal, at official establishments where retail products bearing net weight labels are packaged, USDA inspectors periodically weigh lots of product for net weight compliance.

labeling regulations are unfair to

products that are fluid when filled

correct throughout the rest of the

labeling regulations are unfair to consumers who do not receive the full measure as represented on the package and that these regulations create a situation that precludes enforcement by State and local officials at the retail level because the phrase "reasonable variations" is undefined and vague. The petitioners proposed to require a minimum declared weight, suggesting either overfilling to compensate for moisture loss or improving the food packaging to impede moisture loss to insure the minimum weight of food at any point during distribution. The petitioners contended that industry has the capability to evaluate all the variables affecting moisture loss for their products and can, therefore, adjust the processing and target weights accordingly to minimize excessive overfilling.

In response to the petitions, consumer complaints, and comments received concerning the 1973 proposal, the Department published a new net weight labeling proposal in the **Federal Register** on December 2, 1977 (42 FR 61279–61284). The intent of the proposal was to provide consumers with labeling information based upon the *usable* weight of the meat and poultry contents of the package at the time of purchase. To accomplish this, it proposed several changes:

a. *Adopt weight definitions.* The 1977 proposal would have defined the new weight as the gross weight of the unopened container minus the tare weight. The tare weight was to be the gross weight of the unopened container minus the drained weight of the product therein. To determine the drained weight, the package would be opened and the contents allowed to drain for 2 minutes on a specified size mesh screen. By the use of these definitions and procedures, the new weight statement on the container would not include all of the drainable liquids in the container.

b. *Adopt a new definition of reasonable variation.* Currently, reasonable variations are allowed for unavoidable deviations in good manufacturing practice and for loss or gain of moisture during the course of good distribution practices. The proposal would have eliminated this allowance. In its place, the proposed rule would have established numerical variations to be determined by prescribed procedures, including defined sampling plans. The average net weight of the samples was required to equal or exceed the stated net weight. An individual sample was to be allowed a specified numercial deviation below the stated net weight. Homogeneous products that are fluid when filled would have been allowed less variation than heterogenous products which are not as easily packaged.

C. *Adopt a mandatory net weight quality control program.* A net weight quality control program, approved and monitored by USDA, would have been required for establishments under Federal inspection for immediate containers bearing net weight labels (see footnote 3).

d. *Adopt a tightened inspection sampling procedure.* Under current in-plant practices, if 40 or more sample packages are taken from a lot, one of those packages can have an unreasonably large deviation from the labeled weight, as long as the average net weight of all of the sample packages equals or exceeds the labeled net weight. Under the 1977 proposal, the entire lot would be out of compliance if any sample package had a deviation from its labeled net weight larger than the numercial amount specified in the proposal.

e. *Bulk shipments would continue to be covered by the regulation.* The proposal would have required a net weight statement on the labels on the immediate (shipping) containers of bulk shipments, and shipping containers of small packages after the product is shipped from the plant. The 1973 proposal had proposed to provide manufacturers and packers broad leeway in the bulk package net contents statement.

Comments on the 1977 Proposal

Over 3,000 comments were received on this proposal, many questioning its need and contending that it would raise prices. It had been recognized that the proposal would be controversial for several reasons. First, since the net weight would not include all of the drainable liquids, the compliance procedures would require the opening and repackaging of contents and a possible loss of product during distribution and before final sale—a far more expensive technique for industry and more time consuming for Federal and State regulators than checking for compliance by weighing the entire package and subtracting the weight of the dry packaging material before the product is packaged (the "dry tare"). Second, in order to achieve compliance, product packagers would have to develop estimates of possible shrink and liquid loss in net weight between the times of packaging and final sale to consumers and compensate accordingly or otherwise provide assurance that the declared net weight on the package is correct throughout the rest of the distribution system by overpacking.

Over 2,700 comments came from individuals, with 71 percent of them opposed, contending it would over-regular the industry and increase foods costs. Twenty-six percent of consumers commenting supported the proposal, and the balance objected specifically to the provision to exclude the free liquid in the container from the net weight. State and local weights and measures officials were almost unanimous in supporting the proposal, with only four out of 114 objecting. The 31 industry groups were all opposed because they believed that there were no sufficient variations for bulk packed items and that it was unclear who would be responsible for short weights at retail. University groups were almost evenly split with 15 supporting the proposal, and 12 against because it would raise consumer costs. All but one of the 21 consumer groups supported the proposal. Of all the respondents, slightly over two-thirds opposed the proposal.

Events following the 1977 Proposal. As a result of the strong negative response to the 1977 proposal, the Department sought additional data on which to reconsider its proposal. These documents helped shape the present proposal:

1. *The GMA Petition.* In 1978, USDA and FDA received a petition submitted by the Grocery Manufacturers of America (GMA) on behalf of those favoring an allowance for "reasonable variations" due to moisture loss. GMA claimed that the continuation of the existing nonqualified allowances is essential. GMA maintained that no chronic short-weight problems have existed for well over a decade, thereby illustrating the enforcement effectiveness of the present regulations. In the cases where moisture loss can affect weight, GMA contended that the consumer is getting full value based on the nutritional food "solids." Industry representatives stated that moisture loss occurring during distribution and storage is beyond the control of the manufacturer. GMA maintained that the modifications proposed in the State of California petition calling for overfilling and improved food packaging would provide no consumer advantage and could result in higher food costs. Instead, GMA recommended the creation of a National Net Weight Assurance Program to (a) establish a list of foods subject to moisture loss or gain, together with a normal moisture range at time of packaging, (b) foster the determination of net weight compliance of products through periodic inspections at the time of packaging, and (c) develop procedures for establishing a cooperative inspection program and for the exchange of enforcement data between States and the Federal Government. GMA further encouraged conducting net weight labeling inspections in accordance with statistical sampling procedures described in a draft of the revision of the National Bureau of Standards Handbook 67, dated December 1977. This petition has received widespread support from the food industry.

2. *The Consumer Federation of America Study.* In order to obtain information on the economic benefits and cost of the proposal and to resolve other allegations presented by industry and consumer groups, the Department awarded a study contract to the Consumer Federation of America. The study was completed in October 1978, but failed to reach any conclusions. It did observe that: "Consumers cannot be expected to have different interpretations of labeled net weight depending on the particular food product being sold" and that "Consumers are more hurt by shortweighing than they are benefited by overpack because of the declining marginal utility of the product."[4]

3. *The GAO Study.* In the meantime, the House Committee on Agriculture requested the General Accounting Office (GAO) to evaluate the proposed net weight regulation and consider the feasibility of alternative systems. The GAO report, issued on December 20, 1978, observed that:

"Agriculture has not gathered adequate data to determine whether the current system needs to be changed or whether the proposed system or other possible alternative systems would be more economical and practical than the current system. Various Executive orders and GAO reports stress the importance of collecting and analyzing economic and other data to help choose the least burdensome and most feasible regulatory method of achieving an objective."

The report later concluded:

"We recommend that the Secretary of Agriculture direct the Service (FSQS) to expand and extend its search for information concerning the best way to monitor net weight labeling activities for meat and poultry products. Such a search should include:

—a reevaluation of the need for change;

—a comparison of available viable alternatives, including those discussed in this report;

—a comprehensive economic impact statement for each system considered;

—a thorough and objective analysis of comments from major groups including State and local government regulatory organizations, industry, and consumers affected by such activities; and

—research to resolve the packaged meat and poultry moisture loss controversy."

USDA officials agreed to the GAO recommendation to expand and extend the search for information on the best way to regulate net weight labeling.

4. *The ESCS Study.* In January 1979, the Economics, Statistics and Cooperatives Service (ESCS), an agency of the USDA, was asked to conduct a study on behalf of USDA to evaluate the accumulated evidence and reassess the economic costs and benefits for the purpose of determining the need for, and the economic impact of, the 1977 proposal.

Generally, the ESCS study found that the economic benefits from using a drained weight requirement (i.e., excluding free liquids from the net weight) were substantially less than many consumer groups had contended, but the costs of such a requirement were also substantially less than the producer groups had suggested. More specifically, the study identified benefits accruing from a drained weight approach to determining net weight. The ESCS study concluded in this issue that a drained weight labeling regulation:

—Can guarantee that most consumers receive at least the stated weight in "consumable" product. However, drained weight labeling cannot insure accuracy of the labeled weight or the labeled price per pound in terms of what is actually in a specified package.

—Is less susceptible to abuse than a dry tare inspection.

—Provides incentives for industry to reduce the amount and variability of moisture loss of products.

—Improves the ability of consumers to make value comparisons between meat and poultry products which differ widely in moisture loss.

—Facilitates on-site enforcement by State and local weights and measures officials.

On the other hand, ESCS found that the adoption of a drained weight requirement could have the effect of increasing costs to the regulated industry, State enforcement officials, and to consumers through increased costs per pound.

ESCS observed that the information presented about the 1977 proposal had resulted in considerable misunderstanding by both consumers and producers and that, in fact, there was no economic advantage to consumers from a drained weight system. The study states:

"Consumers cannot expect the reported price per pound of a product to remain unchanged if free liquids are excluded from labeled product weights. The price per pound can be expected to increase—and to increase most for those products with relatively more free liquid. However, the cost to consumers for *usable* product would remain unchanged. Actual costs to producers would not increase because of the change in definition of tare (that is, those parts of a product whose weight is not included in the labeled net weight). The amount of drained weight meat would not be affected by a labeling rule, and processing costs per drained weight pound would be unaffected."

The ESCS study also reported the following possible cost increases resulting from the adoption of the 1977 proposal:

"Mandatory quality control would increase industry costs by $59 million to $116 million. The impact on the smaller firms would be greater than on the larger firms, many of which already have quality control systems."

"Products with the highest moisture loss would likely have larger increases in their labeled price per pound relative to products with a lower moisture loss. Consumer expenditures could shift to products with relatively lower prices following the change in regulation. The full effect of these relative price shifts on expenditures, however, would depend on consumers' preceptions and knowledge about net weight labeling, as there would be no change in the real price per drained weight pound."[5]

"Retailers not located in jurisdictions currently using some form of drained weight inspection would likely have modest additional costs from more frequent rewrapping of in-store packaged product. Retailers would also absorb the cost of opened prepack packages not purchased by inspectors or returned to the processor."

[4] Analysis of Proposed Regulations on Net Weight Labeling submitted by the Consumer Federation of America to the U.S. Department of Agriculture in accordance with Contract 53–3A94–A–01.

[5] The study also observed that consumer misunderstanding could have some long term market effects if consumers believe that the real price per pound of the products with considerable quantities of free liquid actually increased. They might shift purchases to products that have a lower per pound price. ESCS did suggest, however, the problem could be largely corrected by a nationwide education program to explain the reason for the unit price change.

"The cost of sieve and receiving pans to weights and measures officials is estimated at $421,000."

5. *Comments to the ESCS study.* The ESCS study was submitted for public comment during a 60-day period ending on October 30, 1979 (44 FR 51275-51277). In addition, FSQS mailed out approximately 300 copies of the ESCS study to the organizations and individuals who had commented on the 1977 proposal in order to solicit their response on the results of the study. Copies were also distributed to individuals and others who requested the study.

A total of 101 comments were submitted to FSQS. Again, opposition was expressed to the 1977 proposal. Of the 50 industry and trade associations responding, 48 preferred the present net weight policy. However, 15 of the 18 State and local weights and measures regulatory groups expressed support for the 1977 proposal. Only 21 individuals responded, and all but two opposed the proposal. Only one of 51 consumer groups responded. The poor response is attributed to the reported desire of some to await the comment period on a new proposal before drafting a response.

Issues

As the discussion above indicates, the development of a workable, enforceable net weight standard has proven to be a difficult and controversial task. On the basis of the information generated by the various proposals and studies, in addition to the Department's own expertise and information gathered through consultation with other Federal and State agencies, the Department now believes it is appropriate and in the public interest to publish this new proposal. The 1977 proposal is accordingly withdrawn. The following discussion is provided to clarify the Department's position on a number of issues which had to be considered in the development of the present proposal.

1. *Need for a new regulation.* State officials have urged the Department to adopt a new standard despite the lack of any recent history of poor compliance with net weight requirements. The Michigan State Department of Agriculture has indicated that perhaps the past good compliance record "is an indication of the industry's desire to comply with the requirements that cause equality in the marketplace, both for the consumer and in vying with competitors. Through the pre-emption of state regulations by the Federal Wholesome Meat Act [sic], industry has lost the effect of verifiable inspections, which was the basis of equality. There will be an erosion of equality, however, since the existing federal regulations are unenforceable without this proposed regulation." the California State Department of Agriculture has also stated that "challenges to State enforcement are increasing and its is becoming increasingly difficult to obtain successful prosecution of offenders. This deterioration cannot be allowed to continue, and it surely must under the present regulation."

On the other hand, in comments received on the 1977 proposal and on the ESCS study, the Department has been advised by various representatives of the food industry that the present regulations are fully protective of the consumer. They indicate that there has been no showing of short-weighting or of economic adulteration. Therefore, they conclude there would appear to be no benefit derived from further regulation of net weight.

The Department agrees that the current system does create enforcement problems for State and local agencies. As a result of the Supreme Court decision in *Jones v. Rath Packing Company*, holding that the Federal Meat Inspection Act prevents States from issuing net weight regulations in addition to or different from the Federal standard, many State statutes and regulations, which created numerical deviation weight testing standards, became unenforceable.

Under the Federal meat and Poultry Products Inspection Acts (21 U.S.C. 467e and 678), there is concurrent jurisdiciton for enforcement between USDA and its State and local counterparts and is essential to the functioning of the regulatory system. As a practical matter, State and local officials are usually the primary compliance force at the retail level.

However, if Federal rules are difficult to enforce at retail, the system does not function as effectively as it should. Therefore, USDA has a responsibility to provide suitable standards and procedures. Accordingly, the Department proposes the revised regulation.

2. *Type of Tare.* The choice of the proper tare[6] has proven to be one of the most difficult issues faced by the Department in the formulation of this proposal. Under this proposal, net weight would be based upon a definition of tare which includes the packaging materials. With regard to liquids absorbed by the packaging materials, the Department is making alternative proposals on whether or not to include such liquids in the tare. The proposal would, in most cases, exclude free liquids from the tare weight. Thus, such free liquids would usually be included in the labeled net weight. However, for those few products which are packed in substances that are normally discarded before consumer preparation and/or serving (such as water, curing solution, brine and vinegar), a drained weight standard would be applied. Thus, for these few products, the free liquids would be included in the tare weight and not in the labeled net weight.

In selecting this approach, the Department has rejected the general drained weight approach taken in the 1977 proposal. Under that system, free liquid was to be excluded from the product's net weight. However, following further study and evaluation, particularly with regard to findings and conclusions of the ESCS study previously discussed, the Department has determined that such a system is the more expensive system to enforce and the more difficult with which to comply, while providing no additional assurance of correct information to consumers than is available under other systems.

(a) Consumer Concerns

Some consumers have objected to a dry tare system because they believe under such a system they are paying meat and chicken prices for free liquid. However, the ESCS study points out that this consumer perception may not be accurate.

Under a drained weight system, producers would likely understate the amount of net weight on the meat or poultry package to assure compliance at all locations in the distribution chain. Consumers might perceive such understatement as a reduction in the quantity contained in the package and conclude that the price of the product per pound had increased, even though they would be getting the same usable product for the price. The ESCS study stated: "What adjustments, if any, consumers would make in their expenditures for meat and poultry would depend on their perception and understanding of the real price per pound before and after the rule change."

In addition, for products with a wide variability in moisture loss, the determination of how much to understate the weight and how much to revise the price per pound would be less exact. Therefore, the ESCS study noted that for such products it is unlikely that drained weight labeling would better enable consumers to use net weight statements to make comparisons among different packages of a particular product.

The ESCS study provides the following explanation of the practical effects of using the drained weight system instead of the dry tare system:

"Under dry tare regulations, a package of chicken breasts selling for $1.20 per pound with a labeled weight of 3.0 lb. costs the consumer $3.60. Assuming the package suffers the average moisture loss of 4 percent, the consumer actually receives 2.88 lb. of drained weight chicken. The real price per pound of drained chicken is *$1.25* ($3.60÷ 2.88 lb.).

"With drained weight regulations, the processor will increase the tare enough to allow for a 6 percent moisture loss (2 percent above the average to assure compliance). The labeled net weight would be 2.82 lbs. To compensate, the *labeled* price will be increased from $1.20/lb. to $1.28/lb. The cost of the package will remain $3.60 (2.82/lb. X $1.28/lb.). Assuming the package suffers the average 4-percent moisture loss as above, the drained weight will be 2.88 lb. Just as before, the real price per pound of drained weight chicken is *$1.25* ($3.60÷ 2.88 lb.).

"In summary, drained weight labeling regulations can alter the information a consumer receives, but not the real cost of the product.

"Whether consumers pay chicken prices for water is not clear simply because a dry tare labeling weight is allowed. If $3.60 is the competitive cost for a 3-lb. package of chicken breasts, then the consumer is not paying $1.20/lb. for 0.12 lb. of water and juices. The consumer is simply not being informed that the true price of chicken at the retail level on a drained weight basis is $1.25/lb., not $1.20."

Thus, the Department has determined that a general drained weight system does not provide an important economic benefit to consumers.

(b) Industry Concerns

Industry also advised the Department of its problems with the drained weight system as specified in the 1977 proposal. Under that proposal, industry would have had to substantially increase the amount of overfilling, or understating of weight, on many meat and poultry products to comply with drained weight labeling. Although some industry commenters suggested it might be expensive to shift its processing to adjust to drained weight, there is evidence that industry could comply quickly and without significant costs. For example, shippers of prepackaged poultry calculate different tares for batches of their products sent to different States. For those States that have had a drained weight regulation, such as Michigan, product has been sufficiently underlabeled to insure a high level of compliance. Some State inspectors even claim that shippers of prepackaged products calculate different tares on their products on a State-by-State and even a county-by-county basis. For example, Chicago has used a drained weight system, while the State of Illinois has followed a dry tare procedure.

Thus, manufactures could comply with drained weight regulations. However, moving to drained weight would probably increase costs to retailers due to additional reweighing and rewrapping of packages that routinely would have to be opened during inspection and due to more frequent monitoring of the meat counter by the retailer to find and rewrap packages with excessive drainage.

The additional costs to retailers nationally would be fairly small in view of the fact that a number of jurisdictions are already opening packages for at least some meat and poultry products to determine a wiped dry tare.[6]

(c) Concerns of State and Local Enforcement Agencies

The results of a survey by ESCS during its study indicate that State and local enforcement officials now vary in their preference for a definition of "tare" in a net weight regulation. Most non-Federal enforcement agencies opposed the 1973 proposal because it was believed that free liquid should not be included in net weight. Then in 1977, after the Supreme Court decision in *Jones* v. *Rath Packing Company*, the State of California petitioned FSQS to change its regulations to adopt a more enforceable standard at the State and local level. Officials from 47 other States, Washington, D.C., and American Somoa cosigned the petition. In December 1977, the Department proposed what was in essence a drained weight based standard.

The ESCS survey found that many States oppose adoption of the drained weight system because of the time it takes to complete the inspection. For example, in one test, the drained weight inspection of 10 packages of whole and cut-up chicken required over 2 hours. In contrast, the dry tare inspection of 10 similar packages would probably take only 10 to 20 minutes. This is a significant problem considering size of the staffs and budgets of such agencies.

The number of inspectors in most States is fairly low. Twenty-two States and four local jurisdictions reported to ESCS that they had 14 or fewer inspectors; 11 States had between 15 and 20 inspectors; and eight States reported more than 50. Budgets for State weights and measures inspection are also modest: 20 States estimated that less than $100,000 was spent on the activity; 14 States budgeted between $100,000 and $999,999; and only one State reported more than $1 million. These figures may be under-stated since many local government inspectors and budgets were not included.

The Department also takes special cognizance that most State and local agencies responding to the ESCS survey did not believe their budgets would be increased if drained weight regulations were adopted. Of the 45 agencies responding, 31 reported their State would not appropriate more money for net weight inspection, while only five felt their budgets would be increased, and nine gave no opinion or were unsure. Thus, the Department concluded that adoption of a drained weight system would be likely to result in decreased inspection capabilities at the State and local levels.

An additional cost to State and local weights and measures agencies would be the cost of sieves and receiving pans in order to carry out drained weighed procedures. Each inspector would need a 12" diameter and a 8" diameter #8 stainless steel sieve and two receiving pans. The total cost per inspector would be about $263. Assuming the number of State and local inspectors to be about 1,600, the total cost to the various State programs would be about $420,800.

Under the proposed regulations, these utensils would still be required to test products packed in non-usable media. The Department recognizes this cost, but it appears that a drained weight system is appropriate for such products. The total cost is expected to be somewhat less, as some State agencies already use sieves and pans. Additionally, not every inspector would need a set, as only a very small percentage of meat and poultry food products are packed in non-usable media.

(d) Concerns of the Department

A major USDA concern in considering the drained weight approach is centered around the economic effect of the regulation. As was discussed earlier, a general drained weight system would cause the cost per pound of all meat and poultry food items to increase a few cents. Even though there may be no increase in the real price per drained weight pound, any increase in the

[6] "Dry tare" is the weight of the dry packaging material before the product is packaged. The ESCS study also identified three other types of tare. "Wiped dry tare" is the weight of the used packaging material that has been opened and wiped clean so that is approximates the weight of the unused material. "Wet tare" includes used packaging material plus any liquid absorbed by the material. "Drained weight tare" includes the used packaging material plus all absorbed, as well as free, liquid.

V. 45 / 155 AUG 8 80 UMI

labeled price per pound would be picked up and incorporated in the Consumer Price Index (CPI) (for those meat and poultry items that are priced). Moreover, a general drained weight system might increase the real cost slightly because of increased retailer repackaging.

The Department sees no justification in now proposing to approve a general drained weight regulation which would lessen the number of weight inspections by State and Federal inspection personnel and cause an increase in the Consumer Price Index.

(e) Whether or Not to Include Absorbed Liquid as Part of the Tare Weight

Having decided to propose to include free liquid as part of net weight for products packaged in usable liquid, the Department has considered whether the liquid absorbed by the packaging material should be included as part of the tare weight or as part of the net weight. In deciding to make alternative proposals on this question, the Department observes that either option is considered relatively easy to enforce at retail, and State officials and industry have had experience in operating under both systems.

By excluding liquid absorbed by the packaging materials from net weight, the Department believes there would be less chance of consumer deception, as well as incentive to industry to reduce added liquids during processing. In addition, the consumer cannot judge how much liquid is absorbed into the packaging, while the amount of free liquid is readily apparent. By including the liquid absorbed by the packaging material as part of the net weight, the use of absorbent packaging materials by producers would be encouraged. This appears to be desired by some consumers because it reduces the amount of liquid that may be free in the package. In view of these conflicting consumer interests, public comment is especially welcomed to assist in determining which of these two options should be adopted in a final regulation.

3. *Moisture Loss.* Present regulations allow for "reasonable variations" caused by loss or gain of moisture during good distribution practices or by unavoidable deviations in good manufacturing practices. Like the 1977 proposal, this proposal would eliminate any allowance for moisture loss, but allow specified numerical variations which are based upon unavoidable deviations during manufacture.[7] The lack of specificity of the term "reasonable variations" has hampered some States' net weight enforcement efforts. The ESCS study observed that for most meat and poultry products there is far more moisture loss due to seepage into the package, than due to evaporation. This is attributable to strong industry compliance with good distribution practices.

Industry comments on the ESCS study vary on this issue. Most agree with the study. However, they indicate a problem does exist with some nonhermetically sealed consumer packaged meat and poultry products and with bulk shipments of meat and poultry products where moisture loss can range from 1.6 percent to 3.6 percent.

USDA agrees that some products may exhibit particular problems with moisture loss due to evaporation. However, no allowance is specifically being made for such products in this proposal. The Department will consider proposing, however, at a later date, a weight allowance for a moisture loss for a particular product class upon a sufficient showing of the need for such an allowance. The Department, therefore, requests data on affected products to determine if regulations providing for a moisture loss allowance for a particular product class should be proposed.

Other industry representatives argued in comments following the ESCS study that the Agency is required by the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide in its regulations allowances for reasonable variations caused by the loss or gain of moisture (21 U.S.C. 453(h)(5) and 21 U.S.C. 601(n)(5)). The Department has determined that these provisions are permissive and neither require the allowance of any variations, nor specify the basis for any reasonable variations the Department determines to prescribe. The Department also reiterates that the reasonable variations that are being proposed are based on the variations in processing, and that reasonable variations for moisture loss may be proposed to be allowed for specific product classes dependent upon submissions following this proposal. The proposed allowable variations range from about 1 percent for larger containers to about 11 percent for smaller containers.

4. *Quality Control.* Unlike the 1977 proposal, the current proposal does not impose any specific quality control requirements to assure compliance with the net weight regulations. The Department has addressed the issue of quality control on a more general basis through its voluntary quality control regulations, which were proposed on September 13, 1979 (44 FR 53526–34).

5. *Sampling Procedures.* This proposal would provide sampling procedures for enforcement purposes which are not included in the Department's current regulations, and which differ from those proposed in 1977. The sampling plan reflects FSQS' consultation with the National Bureau of Standards concerning the development of appropriate statistically sound sampling procedures. The current proposal would determine sample sizes to be examined based on lot size, generally proposing sample sizes of 10 containers for a lot size of 250 containers or less, 30 containers for a lot size of 251 through 150,000 containers, and 50 containers for a lot size of more than 150,000 containers. A lot is defined as one type and style of product produced by one official establishment and bearing identical labeling (including the same net weight statement) and available for inspection at one place at one time, except that random weight packages may have differing statements of net weight. The size of the lot may be determined by the official establishment for product on the premises, but shall not exceed the production of one shift. For the lot to be in compliance, the weight of all of the samples must equal or exceed the declared net weight. In addition, each of the individual sample packages must be within the appropriate allowable variation, with one exception. For lots where 50 samples are required, one of the individual sample packages may be outside of the appropriate allowable variation.

It is the policy of the Department and FDA to adopt uniform net weight proposals where possible. In the instance of lot sampling, the proposals differ. FDA is also proposing sample sizes of 10, 30, and 50 depending on the number of packages in the lot, but is proposing a sample size of 30 containers for a lot of 251 to 3,200 containers, and a sample size of 50 containers when lot sizes exceed 3,200 units.

While these sample sizes differ in terms of the lot sizes, the statistical reliability of the two procedures is similar. This difference is due to the differing types of inspection performed by the two agencies. The Department, using a continuous inspection procedure, has ready access to meat and poultry food products during processing and packaging and to related records in order to assure correct labeling. FDA inspectors, on the other hand, do not have such access to product or records and generally must draw samples from a lot or lots stored in warehouses.

6. *Bulk Packages.* As in the 1977 proposal, this proposal would continue to require net weight labels on immediate containers of bulk shipments at the producing establishment and after the product is shipped from that establishment. However, allowable variations for bulk packages are provided in the current proposal. This provision is in response to the comments received on the 1977 proposal which did not provide for such variations.

7. *Out of Compliance Product.* The proposed departmental regulations contain provisions for relabeling or reprocessing lots that fail to meet the net weight labeling requirements.

8. *Other Considerations.* The proposed regulation would eliminate the existing exemptions for placement and declaration of the net weight statement on shingle-packed bacon. The elimination of these exemptions was also proposed in 1977. As we stated in that proposal, the reason for such exemptions is that bacon has historically been labeled in such a manner. However, it appears that the consumers' interest in meaningful labeling would be served better if such packages were to conform to the net weight labeling requirements applicable to the vast majority of meat food products. Therefore, it is proposed that these exemptions be terminated.

Under the proposal, small packages (less than ½ ounce net weight) would be exempt from bearing statements of net weight or measure, provided that their shipping containers bore net weight statements that were in accord with the regulations. Such exemption is permitted under the Acts and is currently in the meat inspection regulations. However, changes have been made in the proposed regulations to clarify this exemption. For consistency, this exemption has also been extended to poultry products. Additionally, it is proposed that if an establishment wishes to place a net weight statement on a small package, such statement would be exempt from the normal type size, dual declaration, and placement requirements. This exemption is based upon the lack of labeling space inherent on such small packages.

The definitions for "random weight packages" and for "standard weight packages" would be clarified. Under the proposal, a "random weight package" would be defined as one of a lot, shipment or delivery which contains varying net weights and no fixed weight pattern. A "standard weight package" would be defined as one of a lot, shipment or delivery which contains a fixed weight pattern or the same preprinted weight statement on the labeling.

An optional provision to allow the tare weight to be printed on the labeling is being proposed for products packaged totally with impervious packaging materials and not packed with a non-usable medium.

Consultations

For several years, the Department and FDA have been attempting to develop jointly regulations on a net weight standard to assure uniformity in enforcement at the Federal, State and local levels. Joint discussions with the National Bureau of Standards were held, both in 1978, and prior to the development of this proposal. There has been a concerted effort to develop consistent regulations to the fullest extent possible within the authorities and enforcement capacity of the two agencies.

Also, in the development of this proposal, the Department has consulted with the Meat and Poultry Inspection Advisory Committee. During those consultations, the Committee recommended that the Department offer the alternative of a drained weight tare in the proposal. While a specific alternative has not been cited, the Department will carefully consider any comments which are received on this matter in determining a final rule. While the Committee's views have been taken into consideration during the development of this proposal, it has been agreed that this proposal will be presented to them for fuller comment.

Options Considered

In the development of this proposal, the Department has considered a number of alternative approaches, each of which is discussed more fully in the Draft Impact Analysis published as an appendix at the end of this proposal. These include, in addition to the current proposal, (1) a continuation of the present system, (2) the 1973 proposal, (3) the 1977 proposal, (4) the Grocery Manufacturers proposal, (5) a proposal currently being drafted by a committee of the Codex Alimentarius, and (6) the "Swedish" method for declaring "Net Weight at Time of Pack." The decision to publish the current proposal was based upon the Department's overall assessment of the compliance, enforcement, and economic factors previously discussed.

In the text of the proposal below, italics have been used to indicate those portions which relate to the alternatives for the inclusion or exclusion of liquid absorbed by the packaging materials as part of the net weight.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

Accordingly, Part 317 of the Federal meat inspection regulations (9 CFR Part 317) would be amended as set forth below:

1. Section 317.2(h) (9 CFR 317.2(h)) would be amended by revising subparagraphs (1) and (2), adding a new sentence to the end of subparagraph (5), revising subparagraph (9)(ii), deleting subparagraph (9)(iv), and revising subparagraphs (11) and (13) to read as follows:

§ 317.2 Labels: definition; required features.

* * * * *

(h) (1) The statement of net quantity of contents shall appear, except as otherwise permitted under this paragraph (h), on the principal display panel of all containers to be sold at retail intact, in conspicuous and easily legible boldface print or type in distinct contrast to other matter on the container, and shall be declared in accordance with the provisions of this paragraph (h). A tare weight, as defined in § 317.20(g), may be printed adjacent to the statement of net quantity of contents when the product is packaged totally with impervious packaging material and is not packed with a non-usable medium.

(2) The statement as it is shown on a label shall not be false or misleading and shall express an accurate statement of the quantity of contents of the containers, exclusive of tare weight as defined in § 317.20(g); and variations from the net weight stated on the label, as described in § 317.19, are found to be reasonable and are allowable.

* * * * * *

(5) * * * Subparagraph (9) of this paragraph (h) permits certain exceptions from the provisions of this subparagraph for margarine packages, and subparagraph (12) of this paragraph (h) permits certain exceptions from the provision of this subparagraph for multi-unit packages.

* * * * * *

(9) * * *

(ii) Labels for small packages exempt from the requirements for a net weight statement under subparagraph (9)(i) of this paragraph (h) shall also be exempt from any type size, dual declaration, and placement requirements of this paragraph (h).

* * * * * *

(iv) [Deleted]

* * * * * *

[7] The 1977 proposal contained variations providing for larger deviations for heterogenously manufactured product than for homogeneous product. This policy is not continued in the present proposal. The Department has determined that the system created unnecessary enforcement problems.

V 45 / 155 5 AG 8 80 UMI

(11) For the purpose of this section, a "random weight package" is a package which is one of a lot, shipment, or delivery of packages of the same product with varying net weights and with no fixed weight pattern.

* * * * *

(13) Shingle-packed sliced bacon cartons containing product weighing other than 8 ounces, 1 pound, or 2 pounds shall have the statement of the net weight shown with the same prominence as the most conspicuous feature.

* * * * *

2. Section 317.19 (9 CFR 317.19) would be redesignated as § 317.23 (9 CFR 317.23).

3. New §§ 317.18–317.22 (9 CFR 317.18–317.22) would be added to Part 317, and the Table of Contents would be amended accordingy, to read as follows:

Sec.
317.18 Quantity of contents labeling.
317.19 Reasonableness of net weight variations.
317.20 Definitions.
317.21 Procedure for determining net weight compliance.
317.22 Handling of failed product.

§ 317.18 Quantity of contents labeling.

Sections 317.18 through 317.22 of this Part prescribe the procedures to be followed for determining net weight compliance and prescribe the allowable variations from the declared net weight on the labels of immediate containers of products in accordance with § 317.2(h) of this Part.

§ 317.19 Reasonableness of net weight variations.

The net weight variations from the net weight stated on the label, which are set forth in Table 3 of § 317.21 of this Part, are found to be reasonable when determined in accord with the definitions and procedures prescribed in § 317.20 and 317.21 of this Part for products located in the producing establishment or anywhere else in the course of distribution.

§ 317.20 Definitions.

For the purpose of §§ 317.18 through 317.22 of this Part, the following terms and definitions shall apply:

(a) "Sample." A set of randomly selected packages, packaging material or containers, from a lot of product.

(b) "Lot." One type and style of product produced by one official establishment and bearing identical labeling (including the same net weight statement) and available for inspection at one place at one time; except that random weight packages may have differing statements of net weight. The size of the lot may be determined by the official establishment for product on the premise, but shall not exceed the production of one shift.

(c) "Packaging material and container." The immediate container and any other inedible material used to close, enclose, label, or mark the product. Impervious packaging material is material which does not absorb liquids such as water and oil; otherwise, it is pervious.

(d) "Usable medium." Any packing substance added to the package, including but not limited to broth, stock, agar, and gelatin, that is commonly used in preparing the product for consumption or that is an integral part of the finished product.

(e) "Non-usable medium." Any liquid packing substance added to the package, including but not limited to water, curing solutions, brine and vinegar, commonly discarded before consumer preparation and/or serving.

(f) "Gross weight." The total weight of the unopened package, that is, the container and all its contents.

(g) "Tare weight." The weight of the packaging materials and container, *and any liquids absorbed by the packaging material,* and any non-usable media that was added at the time of packaging.

(h) "Net weight." The gross weight minus the tare weight.

(i) "Standard weight package." A package which is one of a lot, shipment, or delivery of package of the same product with a fixed weight pattern or the same preprinted net weight statement on the labeling of each package.

(j) "Random weight package." A package which is one of a lot, shipment, or delivery of packages of the same product with varying net weights and with no fixed weight pattern.

§ 317.21 Procedure for determining net weight compliance.

The following procedure is for determining net weight compliance:

(a) Select the proper size sample for determining the net weight as follows:

(1) Randomly select 10 packages as a sample from:

(i) Any lot of product containing 250 packages or less for sale at retail, or

(ii) Any lot of product containing 250 packages or less not for sale at retail and each package weighing 30 pounds or less, or

(iii) Any size lot of product in packages not for sale at retail and each package weighing more than 30 pounds.

(2) Randomly select 30 packages as a sample from:

(i) Any lot of product containing more than 250 packages but not more than 150,000 packages for sale at retail, or

(ii) Any lot of product containing more than 250 packages not for sale at retail and each package weighing 30 pounds or less.

(3) Ramdomly select 50 packages as a sample from any lot containing more than 150,000 packages of product for sale at retail.

(b) Determine the gross weight as follows:

Weight each package in the net weight sample while filled and unopened to determine its gross weight.

(c) Determine the tare weight as follows:

(1) For standard weight packages of products, packaged totally with impervious packaging material and packed with usable media, or no packing medium except products packaged in glass containers.

(i) Outside the official establishment: Tare weight printed on the labeling may be used at the option of the compliance personnel. Otherwise, the tare weight shall be the average weight of the packaging material and containers in the tare weight sample, with the total number of packages in the tare weight sample determined by randomly selecting three packages from the net weight sample and then using Table 1 below. The tare weight of each package in the tare weight sample is calculated by emptying the contents of the filled container, rinsing and wiping the packaging material and container clean and dry, and weighing the empty container and packaging material.

(ii) In the official establishment: The tare weight shall be the average weight of the packaging material and container in the tare weight sample, with the total number of containers and packaging materials in the tare weight sample determined by randomly selecting three containers and packaging materials and then using Table 1 below. The tare weight may be determined by weighing unfilled containers and packaging material. Otherwise, the tare weight shall be determined by emptying the contents of filled containers, rinsing and wiping the packaging material and container clean and dry, and weighing the empty packaging material and container. For packages bearing a pre-printed tare weight statement, the tare weight shall be determined upon receipt of labeling into the official establishment by weighing a randomly selected sample of 30 unfilled packaging materials and containers. The average weight of the sample packaging materials and containers shall be the tare weight.

(2) For standard weight packages of products, packaged totally or partially with pervious packaging material, or totally with impervious packaging material and packed with any non-usable medium, except products packaged in glass containers: The tare weight shall be the average weight of the packaging material and container *and any absorbed liquids,* and the weight of non-usable media in the tare weight sample, with the total number of packages in the tare weight sample determined by randomly selecting three packages and then using Table 1 below. The weight of non-usable media is determined as follows: Place the product on a U.S. Standard Number 8 mesh screen, 8 inches in diameter for product less than 3 pounds, and 12 inches in diameter for product 3 pounds and over, and allow it to drain 2 minutes. Then remove the solid portion of the product from the screen, weigh the screen and the drained liquid, and subtract the weight of the dry screen.

Table 1.—*Tare Weight—Standard Weight Packages*

If the difference in the weight of the container and packaging material between the heaviest and lighest of the initial 3 packages is—	Then the total number of containers and packaging materials to be in the sample for each lot is—
0 to 1/8 oz. (0 to 3.54 gms)	3
5/16 oz. (5.32 gms)	6
1/4 oz. (7.09 gms)	9
5/16 oz. (8.86 gms)	[1]12
3/8 oz. or more (10.63 gms) or more	[1]15

[1]Only 10 packages are needed if a sample of 10 packages is required for net weight purposes under § 317.21(a)(1).

(3) For random weight packages of products packaged totally with impervious packaging material and packed with usable media or no packing medium, except products packaged in glass containers:

(i) Outside the official establishment: A tare weight printed on the labeling may be used at the option of the compliance personnel. Otherwise, the tare weight for each package in the net weight sample shall be the weight of the packaging material and container of that individual package. The tare weight of each package is calculated by emptying the contents of the filled container, rinsing and wiping the packaging material and container clean and dry, and weighing the empty container and packaging material.

(ii) In the official establishment: In circumstances where identical containers and packaging material is to be used for the entire lot, the tare weight may be the average weight of a number of the unfilled packaging materials and containers equal to the number of packages in the net weight sample. Otherwise, the tare weight for each package in the net weight sample shall be the weight of the packaging material and container of that individual package. The tare weight of each package is calculated by emptying the contents of filled container, rinsing and wiping the packaging material and container clean and dry, and weighing the empty packaging material and container. For packages bearing a pre-printed tare weight statement, the tare weight shall be verified upon receipt of labeling into the official establishment by weighing a randomly selected sample of 30 unfilled packaging materials and containers. The average weight of the sample packaging materials and containers shall be the tare weight.

(4) For random weight packages of products, packaged totally or partially with pervious packaging material, or totally with impervious packaging material and packed with an non-usable medium, except products in glass containers: The tare weight of each package in the net weight sample shall be the weight of the packaging material and container *and any absorbed liquids,* and the weight of non-usable media of that individual package. The weight of non-usable liquid media is determined as follows: place the product on a U.S. Standard Number 8 mesh screen, 8 inches in diameter for product less than 3 pounds, and 12 inches in diameter for product 3 pounds and over, and allow it to drain 2 minutes. Then remove the solid portion of the product from the screen, weigh the screen and drained liquid, and subtract the weigh of the dry screen.

(5) For glass containers packed with usable media or no packing medium:

(i) Outside the official establishment: The tare weight shall be the average weight of the containers in the tare weight sample. The total number of containers in the tare weight sample is initially determined by selecting six containers from a lot whose net weight sample size is 10 containers; selecting 12 containers from a lot whose net weight sample size is 30 containers; and selecting 18 containers from a lot whose net weight sample size is 50 containers. The tare weight of each initial sample container is calculated by emptying the contents of the filled container, rinsing and wiping the container clean and dry, and weighing the empty container. Then the io of the range between the lowest and highest gross weights of the filled initial samples (RG) and the range between the lowest and highest tare weights of the initial sample (RT) is calculated. Based on the RG/RT io, the total number of containers in the tare weight sample shall be in accordance with Table 2 below. The tare weights of the additional sample containers, if any, are then calculated in the same manner used for the initial sample containers.

(ii) In the official establishment: The tare weight shall be the average weight of the containers in the tare weight sample. The total number of containers in the tare weight sample is determined by the procedure detailed in paragraph (c)(5)(i) of this section, except that, in calculating tare weight, identical as-yet unfilled containers from the same lot may be used in lieu of emptying filled sample containers.

(6) For glass containers packed with non-usable media: The tare weight shall be the average weight of the containers and the weight of non-usable media in the tare weight sample. The total number of containers in the tare weight sample is determined by the procedure detailed in paragraph (c)(5)(i) of this section. The weight of non-usable media is determined as follows: Place the product on a U.S. Standard Number 8 mesh screen, 8 inches in diameter for product less than 3 pounds, and 12 inches in diameter for product 3 pounds and over, and allow it to drain 2 minutes. Then remove the solid portion of the product from the screen, weigh the screen and the drained liquid, and subtract the weight of the dry screen.

Table 2.—*Tare Weight—Glass Containers*

If the RG/RT io is—	And the Net Weight Sample Size is—		
	10	30	50
	then, the total number of containers to be in the tare weight sample for each lot is—		
0.2 or less	10	30	50
0.21 to 0.40	10	29	49
0.41 to 0.60	10	28	46
0.61 to 0.80	9	26	44
0.81 to 1.00	8	24	40
1.01 to 1.20	8	23	37
1.21 to 1.40	8	21	34
1.41 to 1.60	7	19	31
1.61 to 1.80	6	17	28
1.81 to 2.00	6	15	25
2.01 to 2.20	6	14	23
2.21 to 2.40	6	13	21
2.41 to 2.60	6	12	19
2.61 or more	6	12	18

(d) Determine the net weight. Subtract the tare weight determined in paragraph (c) from the gross weight of each package in the net weight sample as determined in paragraph (b). The result

is the net weight of each package in the

weight statement, if the average weight

passes. If the average weight of the

or destroy any other marking or labeling

(ii) Labels for small packages exempt

premises, but shall not exceed the

is the net weight of each package in the net weight samples.

(e) Determine compliance.

(1) For standard weight packages, average the net weight of all of the packages in the net weight sample. If the average net weight of a sample consisting of:

(i) 10, 30, or 50 packages is less than the labeled weight, the lot fails.

(ii) 10 or 30 packages is at least the labeled net weight, determine the package which has the lowest net weight and calculate the amount by which that package varies from the labeled net weight. Compare that variation with the allowed variation defined for the applicable weight group in Table 3 of this paragraph. If the variation is equal to or less than that in Table 3, the lot passes; if the variation is greater than that in Table 3, the lot fails.

(iii) 50 packages is at least the labeled net weight, determine the two packages which have the lowest net weights, and calculate the amounts by which those packages vary from the labeled net weight. Compare those variations with the allowed variation defined for the applicable weight group in Table 3 of this paragraph. If the variations of both packages are greater than that in Table 3, the lot fails.

(2) For all random weight packages, determine the difference between the total actual net weight of all of the packages in the net weight sample and the total labeled net weight of all of the packages in the net weight sample. For a net weight sample consisting of:

(i) 10, 30, or 50 packages, if the total actual weight is less than the total declared weight, the lot fails.

(ii) 10 or 30 packages, if the total actual weight equals or exceeds the total labeled net weight, determine the package which has the greatest variation below its labeled net weight. Compare that variation with the allowed variation defined in Table 3 of this paragraph for the lowest weight group represented in the sample. If the variation is equal to or less than that in Table 3, the lot passes; if the variation is greater than that in Table 3, the lot fails.

(iii) 50 packages, if the total actual weight equals or exceeds the total labeled net weight, determine the two packages which have the greatest variations below their labeled net weight. Compare those variations with the allowed variation defined in Table 3 of this paragraph for the lowest weight group represented in the sample. If the variations of both packages are greater than that in Table 3, the lot fails.

(3) In the official establishment, for packages bearing a pre-printed tare weight statement, if the average weight of the sample packaging materials and containers is equal to or less than the printed tare weight statement, the lot passes. If the average weight of the sample packaging materials and containers is greater than the printed tare weight, the lot fails.

Table 3.—*Allowable Variations for Immediate Containers*

Avoirdupois units			Metric units	
Labeled weight	Allowed variation		Labeled weight	Allowed variation
Pounds or ounces	Decimal pounds	Fractional ounces	Grams	Grams
0 to [1] 0.026 lb	0.001		0 to 11.6	0.5
0 to 0.41 oz				
0.026[2]+ to 0.04 lb	0.002	1/32	11.6+ to 18	1
0.041+ to 0.64 oz				
0.04+ to 0.08 lb	0.004	1/16	18+ to 36	2
0.64+ to 1.28 oz				
0.08+ to 0.12 lb	0.008	1/8	36+ to 54	4
1.28+ to 1.92 oz				
0.12+ to 0.16 lb	0.012	5/16	54+ to 82	5
1.92+ to 2.88 oz				
0.16+ to 0.26 lb	0.016	1/4	82+ to 118	7
2.88+ to 4.16 oz				
0.26+ to 0.34 lb	0.020	5/16	118+ to 154	9
4.16+ to 5.44 oz				
0.34+ to 0.46 lb	0.024	3/8	154+ to 209	11
5.44+ to 7.36 oz				
0.46+ to 0.58 lb	0.028	7/16	209+ to 263	13
7.36+ to 9.28 oz				
0.58+ to 0.70 lb	0.032	1/2	263+ to 318	15
9.28+ to 11.20 oz				
0.70+ to 0.84 lb	0.036	9/16	318+ to 381	16
11.20+ to 13.44 oz				
0.84+ to 0.94 lb	0.040	5/8	381+ to 426	18
13.44+ to 15.04 oz				
0.94+ to 1.06 lb	0.044	11/16	426+ to 490	20
15.04+ to 17.28 oz				
1.06+ to 1.26 lb	0.048	3/4	490+ to 572	22
1.26+ to 1.40 lb	0.052	13/16	572+ to 635	24
1.40+ to 1.54 lb	0.056	7/8	635+ to 698	25
1.54+ to 1.70 lb	0.060	15/16	698+ to 771	27
1.70+ to 1.88	0.064	1	771+ to 852	29
1.88+ to 2.14	0.070	1 1/8	852+ to 971	32
2.14+ to 2.48	0.078	1 1/4	971+ to 1.125	35
2.48+ to 2.76	0.086	1 3/8	1.125+ to 1.350	40
2.76+ to 3.20	0.094	1 1/2	1.350+ to 1.600	45
3.20+ to 3.90	0.11	1 3/4	1.600+ to 1.800	50
3.90+ to 4.70	0.12	2	1.800+ to 2.100	55
4.70+ to 5.80	0.14	2 1/4	2.100+ to 2.640	65
5.80+ to 6.80	0.15	2 1/2	2.640+ to 3.080	70
6.80+ to 7.90	0.17	2 3/4	3.080+ to 3.800	80
7.90+ to 9.40	0.19	3	3.800+ to 4.400	85
9.40+ to 11.70	0.22	3 1/2	4.400+ to 5.200	100
11.70+ to 14.30	0.25	4	5.200+ to 6.800	115
14.30+ to 17.70	0.28	4 1/2	6.800+ to 8.20	130
17.70+ to 23.20	0.31	5	8.20+ to 10.60	145
23.20+ to 31.60	0.37	6	10.60+ to 14.30	170
31.60+ to 42.40	0.44	7	14.30+ to 19.25	200
42.40+ to 54.40	0.50	8	19.25+ to 24.70	230
54.40+	1%		24.70+	1%

[1] "To" means "to and including."
[2] 0.026+ means "greater than 0.026."

§ 317.22 Handling of failed product.

Any lot of product which fails the requirements of § 317.21 shall be handled by one of the following:

(a) A lot located in an official establishment may be relabeled with a proper net weight statement and be reinspected, in accordance with the requirements of this Part.

(b) A lot located in an official establishment may be reprocessed provided such use does not cause the finished meat food product to be adulterated or misbranded.

(c) Product outside of an official establishment may be reweighed and remarked with proper net weight statement under the supervision of Federal, State or local inspection officials, provided that such reweighing and remarking shall not deface, cover, or destroy any other marking or labeling requirements of this Subchapter.

§ [Redesignated from § 317.19]

(Secs. 1, 21, 34 Stat. 1260, as amended; 21 U.S.C. 601, 621, as amended; 42 FR 35625, 35628)

PART 381—POULTRY PRODUCTS INSPECTION REGULATION

Further, the poultry products inspection regulations (9 CFR Part 381) would be amended as set forth below.

1. Section 381.121 (9 CFR 381.121) would be amended by revising the first sentence of paragraph (a), deleting the first sentence of paragraph (b), adding a new sentence to the end of paragraph (c)(1), adding a new sentence to the end of paragraph (c)(5), revising paragraphs (c) (6) and (9), and adding a new paragraph (c)(10) to read as follows:

§ 381.121 Quantity of contents.

(a) The label shall bear a statement of the quantity of contents in terms of net weight or measure as provided in paragraph (c)(5) of this section. * * *

* * * * *

(c)(1) * * * A tare weight, as defined in § 381.121c(g), may be printed adjacent to the statement of net quantity of contents when the product is packaged totally with impervious packaging material and is not packed with a non-usable medium.

* * * * *

(5) * * * Subparagraph (8) of this paragraph (c) permits certain exceptions from the provisions of this subparagraph for multi-unit packages.

(6) The statement as it is shown on a label shall not be false or misleading and shall express an accurate statement of the quantity of contents of the container exclusive of tare weight as defined in § 381.121c; and variations from the net weight stated on the label, as defined in § 381.121b, are found to be reasonable and are allowable. The statement shall not include any term qualifying a unit of weight, measure, or count such as "jumbo quart," "full gallon," "giant quart," "when packed," "minimum" or words of similar import, except as provided in paragraph (b) of this section.

* * * * *

(9) The following exemption from the requirements contained in this section is hereby established:

(i) Individually wrapped and labeled packages of less than ½ ounce net weight which are in a shipping container, need not bear a statement of net quantity of contents as specified in this section when the statement of net quantity of contents on the shipping container meets the requirements of this section.

(ii) Labels for small packages exempt from the requirements for a net weight statement under subparagraph (9)(i) of this paragraph (c) shall also be exempt from any type size, dual declaration, and placement requirements of this section.

(10) For the purpose of this section, a "Random weight package" is a package which is one of a lot, shipment, or delivery of packages of the same product with varying net weights and with no fixed weight pattern.

2. New §§ 381.121a–381.121e (9 CFR 381.121a–381.121e) would be added to Part 381, and the Table of Contents would be amended accordingly, to read as follows:

Sec.
381.121a Quantity of contents labeling.
381.121b Reasonableness of net weight variations.
381.121c Definitions.
381.121d Procedure for determining net weight compliance.
381.121e Handling of failed product.

§ 381.121a Quantity of contents labeling.

Sections 381.121a through 381.121e prescribe the procedures to be followed for determining net weight compliance and prescribe the allowable variations from the declared net weight on the labels of immediate containers of products in accordance with § 381.121 of this Subpart.

§ 381.121b Reasonableness of net weight variations.

The net weight variations from the net weight declared on the label statement, which are set forth in Table 3 of § 381.121d of this Subpart, are found to be reasonable when determined in accord with the definitions and procedures prescribed in §§ 381.121c and 381.121d of this Subpart for products located in the producing establishment or anywhere else in the course of distribution.

§ 381.121c Definitions.

For the purpose of sections 381.121a through 381.121e of this Subpart, the following terms and definitions shall apply:

(a) "Sample." A set of randomly selected packages, packaging material or containers, from a lot of product.

(b) "Lot." One type and style of product produced by one official establishment and bearing identical labeling (including the same net weight statement) and available for inspection at one place at one time; except that random weight packages may have differing statements of net weight. The size of the lot may be determined by the official establishment for product on the premises, but shall not exceed the production of one shift.

(c) "Packaging material and container." The immediate container and any other inedible material used to close, enclose, label, or mark the product. Impervious packaging material is material which does not absorb liquids such as water and oil, otherwise, it is pervious.

(d) "Usable medium." Any packing substance added to the package, including but not limited to broth, stock, agar, and gelatin, that is commonly used in preparing the product for consumption or that is an integral part of the finished product.

(e) "Non-usable medium." Any liquid packing substance added to the package, including but not limited to water, curing solutions, brine and vinegar, commonly discarded before consumer preparation and/or serving.

(f) "Gross weight." The total weight of the unopened package, that is, the container and all its contents.

(g) "Tare weight." The weight of the packaging materials and container, *and any liquids absorbed by the packaging material,* and any non-usable media that was added at the time of packaging.

(h) "Net weight." The gross weight minus the tare weight.

(i) "Standard weight package." A package which is one of a lot, shipment, or delivery of packages of the same product with a fixed weight pattern or the same preprinted net weight statement on the labeling of each package.

(j) "Random weight package." A package which is one of a lot, shipment, or delivery of packages of the same product with varying net weights and with no fixed weight pattern.

§ 381.121d Procedure for determining net weight compliance.

The following procedure is for determining net weight compliance:

(a) Select the proper size sample for determining the net weight as follows:

(1) Randomly select 10 packages as a sample from:

(i) Any lot of product containing 250 packages or less for sale at retail, or

(ii) Any lot of product containing 250 packages or less not for sale at retail and each package weighing 30 pounds or less, or

(iii) Any size lot of product in packages not for sale at retail and each package weighing more than 30 pounds.

(2) Randomly select 30 packages as a sample from:

(i) Any lot of product containing more than 250 packages but not more than 150,000 packages for sale at retail, or

(ii) Any lot of product containing more than 250 packages not for sale at retail and each package weighing 30 pounds of less.

(3) Randomly select 50 packages as a sample from any lot containing more than 150,000 packages of product for sale at retail.

(b) Determine the gross weight as follows:

Weigh each package in the net weight sample while filled and unopened to determine its gross weight.

(c) Determine the tare weight as follows:

(1) For standard weight packages of products, packaged totally with impervious packaging material and packed with usable media, or no packing medium except products packaged in glass containers.

(i) Outside the official establishment: Tare weight printed on the labeling may be used at the option of the compliance personnel. Otherwise, the tare weight shall be the average weight of the packaging material and containers in the tare weight sample, with the total number of packages in the tare weight sample determined by randomly selecting three packages from the new weight sample and then using Table 1 below. The tare weight of each package in the tare weight sample is calculated by emptying the contents of the filled container, rinsing and wiping the packaging material and container clean and dry, and weighing the empty container and packaging material.

(ii) In the official establishment: The tare weight shall be the average weight of the packaging material and container in the tare weight sample, with the total number of containers and packaging materials in the tare weight sample determined by randomly selecting three containers and packaging materials and then using Table 1 below. The tare weight may be determined by weighing unfilled containers and packaging material. Otherwise, the tare weight shall be determined by emptying the contents of filled containers, rinsing and wiping the packaging material and container clean and dry, and weighing the empty packaging material and container. For packages bearing a pre-printed tare weight statement, the tare weight shall be determined upon receipt of labeling into the official establishment by weighing a randomly selected sample of 30 unfilled packaging materials and containers. The average weight of the sample packaging materials and containers shall be the tare weight.

(2) For standard weight packages of products, packaged totally or partially with pervious packaging material, or totally with impervious packaging material and packed with any non-usable medium, except products packaged in glass containers: The tare weight shall be the average weight of the packaging material and container *and any absorbed liquids*, and the weight of non-usable media in the tare weight sample, with the total number of packages in the tare weight sample determined by randomly selecting three packages and then using Table 1 below. The weight of non-usable media is determined as follows: Place the product on a U.S. Standard Number 8 mesh screen, 8 inches in diameter for product less than 3 pounds, and 12 inches in diameter for product 3 pounds and over, and allow it to drain 2 minutes. Then remove the solid portion of the product from the screen, weigh the screen and the drained liquid, and substract the weight of the dry screen.

Table 1.—*Tare Weight—Standard Weight Packages*

If the difference in the weight of the container and packaging material between the heaviest and lightest of the initial 3 packages is—	Then the total number of containers and packaging materials to be in the sample for each lot is—
0 to ⅛ oz. (0 to 3.54 gms)	3
3/16 oz. (5.32 gms)	6
¼ oz. (7.09 gms)	9
5/16 oz. (8.86 gms)	[1]12
⅜ oz. or more (10.63 gms) or more	[1]15

[1] Only 10 packages are needed if a sample of 10 packages is required for net weight purposes under § 361.121d(a)(1).

(3) For random weight packages of products packaged totally with impervious packaging material and packed with usable media or no packing medium, except products packaged in glass containers:

(i) Outside the official establishment: A tare weight printed on the labeling may be used at the option of the compliance personnel. Otherwise, the tare weight for each package in the net weight sample shall be the weight of the packaging material and container of that individual package. The tare weight of each package is calculated by emptying the contents of the filled container, rinsing and wiping the packaging material and container clean and dry, and weighing the empty container and packaging material.

(ii) In the official establishment: In circumstances where identical containers and packaging material is to be used for the entire lot, the tare weight may be the average weight of a number of the unfilled packaging materials and containers equal to the number of packages in the net weight sample. Otherwise, the tare weight for each package in the net weight sample shall be the weight of the packaging material and container of that individual package. The tare weight of each package is calculated by emptying the contents of filled container, rinsing and wiping the packaging material and container clean and dry, and weighing the empty packaging material and container. For packages bearing a pre-printed tare weight statement, the tare weight shall be verified upon receipt of labeling into the official establishment by weighing a radomly selected sample of 30 unfilled packaging materials and containers. The average weight of the sample packaging materials and containers shall be the tare weight.

(4) For random weight packages of products, packaged totally or partially with pervious packaging material, or totally with impervious packaging material and packed with any non-usable medium, except products in glass containers: The tare weight of each package in the net weight sample shall be the weight of the packaging material and container *and any absorbed liquids*, and the weight of non-usable media of that individual package. The weight of non-usable liquid media is determined as follows: Place the product on a U.S. Standard Number 8 mesh screen, 8 inches in diameter for product less than 3 pounds, and 12 inches in diameter for product 3 pounds and over, and allow it to drain 2 minutes. Then remove the solid portion of the product from the screen, weigh the screen and the drained liquid, and substract the weight of the dry screen.

(5) For glass containers packed with usable media or no packing medium:

(i) Outside the official establishment: The tare weight shall be the average weight of the containers in the tare weight sample. The total number of containers in the tare weight sample is initially determined by selecting six containers from a lot whose net weight sample size is 10 containers; selecting 12 containers from a lot whose net weight sample size is 30 containers; and selecting 18 containers from a lot whose net weight sample size is 50 containers. The tare weight of each initial sample container is calculated by emptying the contents of the filled container, rinsing and wiping the container clean and dry, and weighing the empty container. Then the ratio of the range between the lowest and highest gross weights of the filled initial samples (RG) and the range between the lowest and highest tare weights of the initial sample (RT) is calculated. Based on the RG/RT ratio, the total number of containers in the tare weight sample shall be in accordance with Table 2 below. The tare weights of the additional sample containers, if any, are then calculated in the same manner used for the initial sample containers.

(ii) In the official establishment: The tare weight shall be the average weight of the containers in the tare weight sample. The total number of containers in the tare weight sample is determined by the procedure detailed in paragraph (c)(5)(i) of this section, except that, in calculating tare weight, identical as-yet unfilled containers from the same lot may be used in lieu of emptying filled sample containers.

(6) For glass containers packed with non-usable media: The tare weight shall be the average weight of the containers and the weight of non-usable media in the tare weight sample. The total number of containers in the tare weight sample is determined by the procedure detailed in paragraph (c)(5)(i) of this section. The weight of non-usable media is determined as follows: Place the product on a U.S. Standard Number 8 mesh screen, 8 inches in diameter for product less than 3 pounds, and 12 inches in diameter for product 3 pounds and over, and allow it to drain 2 minutes. Then remove the solid portion of the product from the screen, weigh the screen and the drained liquid, and subtract the weight of the dry screen.

Table 2.—*Tare Weight—Glass Containers*

If the RG/RT ratio is—	And the net weight sample size is—		
	10	30	50
	then the total number of containers to be in the tare weight sample for each lot is—		
0.2 or less	10	30	50
0.21 to 0.40	10	29	48
0.41 to 0.60	10	28	46
0.61 to 0.80	9	26	44
0.81 to 1.00	8	24	40
1.01 to 1.20	8	23	37
1.21 to 1.40	8	21	34
1.41 to 1.60	7	19	31
1.61 to 1.80	6	17	28
1.81 to 2.00	6	15	25
2.01 to 2.20	6	14	23
2.21 to 2.40	6	13	21
2.41 to 2.60	6	12	19
2.61 or more	6	12	18

(d) Determine the net weight. Subtract the tare weight determined in paragraph (c) from the gross weight of each package in the net weight sample as determined in paragraph (b). The result is the net weight of each package in the net weight samples.

(e) Determine compliance.

(1) For standard weight packages, average the net weight of all of the packages in the net weight sample. If the average net weight of a sample consisting of:

(i) 10, 30, or 50 packages is less than the labeled weight, the lot fails.

(ii) 10 or 30 packages is at least the labeled net weight, determine the package which has the lowest net weight and calculate the amount by which that package varies from the labeled net weight. Compare that variation with the allowed variation defined for the applicable weight group in Table 3 of this paragraph. If the variation is equal to or less than that in Table 3, the lot passes; if the variation is greater than that in Table 3, the lot fails.

(iii) 50 packages is at least the labeled net weight, determine the two packages which have the lowest net weights, and calculate the amounts by which those packages vary from the labeled net weight. Compare those variations with the allowed variation defined for the applicable weight group in Table 3 of this paragraph. If the variations of both packages are greater than that in Table 3, the lot fails.

(2) For all random weight packages, determine the difference between the total actual net weight of all of the packages in the net weight sample and the total labeled net weight of all of the packages in the net weight sample. For a net weight sample consisting of:

(i) 10, 30, or 50 packages, if the total actual weight is less than the total declared weight, the lot fails.

(ii) 10 or 30 packages, if the total actual weight equals or exceeds the total labeled net weight, determine the package which has the greatest variation below its labeled net weight. Compare that variation with the allowed variation defined in Table 3 of this paragraph for the lowest weight group represented in the sample. If the variation is equal to or less than that in Table 3, the lot passes; if the variation is greater than that in Table 3, the lot fails.

(iii) 50 packages, if the total actual weight equals or exceeds the total labeled net weight, determine the two packages which have the greatest variations below their labeled net weight. Compare those variations with the allowed variation defined in Table 3 of this paragraph for the lowest weight group represented in the sample. If the variations of both packages are greater than that in Table 3, the lot fails.

(3) In the official establishment, for packages bearing a preprinted tare weight statement, if the average weight of the sample packaging materials and containers is equal to or less than the printed tare weight statement, the lot passes. If the average weight of the sample packaging materials and containers is greater than the printed tare weight, the lot fails.

Table 3.—*Allowable Variations for Immediate Containers*

Avoirdupois units			Metric units	
Labeled weight	Allowed variation		Labeled weight	Allowed variation
Pounds or ounces	Decimal pounds	Fractional ounces	Grams	Grams
0 to [1] 0.026 lb	0.001		0 to 11.6	0.5
0 to 0.41 oz				
0.026+ [2] to 0.04 lb	0.002	1/32	11.6+ to 18	1
0.41+ to 0.64 oz				
0.04+ to 0.08 lb	0.004	1/16	18+ to 36	2
0.64+ to 1.28 oz				
0.08+ to 0.12 lb	0.008	⅛	36+ to 54	4
1.28+ to 1.92 oz				
0.12+ to 0.18 lb	0.012	3/16	54+ to 82	5
1.92+ to 2.88 oz				
0.18+ to 0.26 lb	0.016	¼	82+ to 118	7
2.88+ to 4.16 oz				
0.26+ to 0.34 lb	0.020	5/16	118+ to 154	9
4.16+ to 5.44 oz				
0.34+ to 0.46 lb	0.024	⅜	154+ to 209	11
5.44+ to 7.36 oz				
0.46+ to 0.58 lb	0.028	7/16	209+ to 263	13
7.36+ to 9.28 oz				
0.58+ to 0.70 lb	0.032	½	263+ to 318	15
9.28+ to 11.20 oz				
0.70+ to 0.84 lb	0.036	9/16	318+ to 381	16
11.20+ to 13.44 oz				
0.84+ to 0.94 lb	0.040	⅝	381+ to 426	18
13.44+ to 15.04 oz				
0.94+ to 1.06 lb	0.044	11/16	426 to 490	20
15.04+ to 17.26 oz				

V 45 / 155
AG 80
UMI

Table 2.—*Allowable Variations for Immediate Containers*—Continued

Avoirdupois units			Metric units	
Labeled weight	Allowed variation		Labeled weight	Allowed variation
Pounds or ounces	Decimal pounds	Fractional ounces	Grams	Grams
1.08+ to 1.26 lb	0.048	3/4	490+ to 572	22
1.26+ to 1.40 lb	0.052	1 3/16	572+ to 635	24
1.40+ to 1.54 lb	0.056	1/8	635+ to 698	25
1.54+ to 1.70 lb	0.060	1 1/16	698+ to 771	27
1.70+ to 1.88	0.064	1	771+ to 852	29
1.88+ to 2.15	0.070	1 1/8	852+ to 971	32
2.14+ to 2.48	0.078	1 1/4	971+ to 1.125	35
2.48+ to 2.76	0.086	1 3/8	1.125+ to 1.350	40
2.76+ to 3.20	0.094	1 1/2	1.350+ to 1.600	45
3.20+ to 3.90	0.11	1 3/4	1.600+ to 1.800	50
3.90+ to 4.70	0.12	2	1.800+ to 2.100	55
4.70+ to 5.80	0.14	2 1/4	2.100+ to 2.640	65
5.80+ to 6.80	0.15	2 1/2	2.640+ to 3.080	70
6.80+ to 7.90	0.17	2 3/4	3.080+ to 3.800	80
7.90+ to 9.40	0.19	3	3.800+ to 4.400	85
9.40+ to 11.70	0.22	3 1/2	4.400+ to 5.200	100
11.70+ to 14.30	0.25	4	5.200+ to 6.800	115
14.30+ to 17.70	0.28	4 1/2	6.800+ to 8.20	130
17.70+ to 23.20	0.31	5	8.20+ to 10.60	145
23.20+ to 31.60	0.37	6	10.60+ to 14.30	170
31.60+ to 42.40	0.44	7	14.30+ to 19.25	200
42.40+ to 54.40	0.50	8	19.25+ to 24.70	230
54.40+	1%		24.70+	1%

[1] "To" means "to and including."
[2] 0.026+ means "greater than 0.026."

§ 381.121e Handling of failed product.

Any lot of product which fails the requirements of § 381.121d shall be handled by one of the following:

(a) A lot located in an official establishment may be relabeled with a proper net weight statement and be reinspected, in accordance with the requirements of this Subpart.

(b) A lot located in an official establishment may be reprocessed provided such use does not cause the finished poultry product to be adulterated or misbranded.

(c) Product outside of an official establishment may be reweighed and remarked with a proper net weight statement under the supervision of Federal, State, or local inspection officials, provided that such reweighing and remarking shall not deface, cover, or destroy any other marking or labeling requirements of this Subchapter.

(Secs. 4 and 14, 71 Stat. 441, as amended; 21 U.S.C. 453 and 463; 42 FR 35625, 35628)

Done at Washington, D.C., on: August 1, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

Appendix—Draft Impact Analysis

Date: July 15, 1980
Agency: USDA–FSQS
Contact: John McCutcheon
Phone: 202–447–6525
Decision Calendar: FSQS #10845

1. *Title:* Net Weight Labeling.

2. *Nature of Proposed Action:* The Food Safety and Quality Service (FSQS) proposes to amend the net weight labeling regulations for meat and poultry products (9 CFR 317.2(h) and 381.121). The current regulations require that:

The statement as it is shown on a label shall not be false or misleading and shall express an accurate statement of the quantity of contents of the container exclusive of the wrapper and packing substances. Reasonable variations caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity or contents shall not be unreasonably large.

The proposed regulation addresses the following specific issues:

(1) Free liquid (liquid which has separated itself from the product but which has not been absorbed by the packing material) would be included in a determination of the net weight of product except for those few products which are packed in substances which are normally discarded before consumer preparation and/or serving. With regard to including the liquid absorbed by the packaging material in the net weight, the proposal offers two alternatives. One alternative would exclude the weight of both packaging materials and liquid absorbed by packaging materials from the product's net weight. The other would exclude only the weight of packaging materials. FSQS is unable to choose between these two alternatives on the basis of the analysis presented in this impact statement. The agency will base its decision on information garnered from public comments on the proposal.

(2) Numerical allowable variations will replace the undefined "reasonable variations" allowed under current regulations for checking declared net weight accuracy. Adoption of numerical allowable variations would enable more effective enforcement of net weight regulations by State and local agencies.

(3) The proposed net weight rules and regulations for meat and poultry products set forth specific procedures for enforcement. Federally inspected plants would continue to have the option of using voluntary quality control programs to supplement inspection by Federal inspectors.

(4) Current exemptions for placement and declaration of the declared net weight on shingle packed bacon packages would be eliminated.

3. *Purpose and Need for Action:* This action will seve several purposes. First, by providing numerical allowable variations, it will insure that the net weight statement is as accurate as can be reasonably expected at the time meat and poultry products are purchased by consumers. Second, it will provide a standard procedure for State and local regulatory agencies to enforce strict net weight standards. Last, it will minimize substantive differences in net weight compliance procedures between the Food and Drug Administration and the Meat and Poultry Inspection Program of the Food Safety and Quality Service.

The need for this proposal is based on three developments, the first of which occurred in 1972 (Table 1). In the course of developing weights and measures regulations over the years, some state and local governments did not provide for any reasonable variation in net weight caused by moisture loss or gain during the course of good distribution practices, as is provided under Federal law. This difference did not become an issue until 1972 when local officials in California ordered "off sale" a federally inspected meat product with a net weight, as determined by the State procedure, below the declared net weight.

The food manufacturer of that product filed suit in the U.S. District Court for the Central District of California. A central issue was a State's authority over a product that met Federal requirements. In that case, *Rath Packing Company* v. *M. H. Becker*, 357 F. Supp. 529 (C. D. Cal. 1973), the District Court, in 1973, held that the Federal Meat Inspection Act preempts California and its political subdivisions from imposing net weight labeling requirements on federally inspected meat products that are in addition to or different from the Federal rules. Furthermore, the misbranding and mislabeling provisions of the Act were held to apply not only at the official establishment packing the product, but at all levels in the distribution chain, including the retail level. But, it was also held that the Federal regulation allowing "reasonable variations" with respect to net weight (9 CFR 317.2(h)(2)) was void due to vagueness.

This decision was appealed to the Ninth Circuit Court of Appeals. In October 1975, this Court affirmed the decision on preemption, but reversed the decision that the "reasonable variations" provision (9 CFR 317.2(h)(2)) was void due to vagueness (530 F.2d 1295 (9th Cir. 1975)).

The preemption issue was appealed by the State of California to the U.S. Supreme Court, which affirmed the Court of Appeals in March, 1977 (*Jones* v. *Rath Packing Company*, 430 U.S. 519 (1977)).

Table 1.—*Sequence of Events in the Regulation of Net Weight*

Year	Month	Event
1972		U.S. District Court action initiated—*Rath* v. *Becker et. al.*
1973		U.S. District Court rules that the Federal Meat Inspection Act preempts California from imposing net weight labeling requirements different from the Federal requirements and the "reasonable variations" regulation is void due to vagueness.
1973	December.	USDA publishes the first net weight regulation proposal in response to court decision.
1974		USDA participates in a series of public meetings on the proposal.
1974		USDA began official dialogue with FDA, FTC and NBS concerning net weight issues.
1975	October	U.S. Court of Appeals upholds the decision on preemption, but overturns the decision on vagueness of the "reasonable variations" regulation.
1977	March	U.S. Supreme Court supports the concept of "Concurrent Jurisdiction," but affirms the decision on the Federal authority to preempt in *Jones* v. *Rath Packing*.
1977		States petition for revised Federal regulations on net weight.
1977	December.	Second net weight proposal is published.
1978	February	Public hearings are held on the proposal.
1978	June	Comment period on the proposal closes.
1978	October	Consumer Federation of America study on net weight is completed for FSQS.
1978	December.	GAO Report on net weight is released.
1979	January	FSQS asks ESCS to analyze the 1977 proposal.
1979	August	ESCS report completed and released for comment.
1979	October	Comment period study closes.

The second development occurred in December 1973 when the Department published a proposed regulation in response to the District Court's decision on vagueness of the "reasonable variations" allowed for net weight labeling (38 FR 33308–33313). Procedures were proposed for determining allowable net weight variation at the producing plant and during distribution. With numerical net weight variations, packers would have needed to target the fill-weight above the stated net weight to assure compliance at the processing plant and at retail outlets. Recoverable liquids that drained from the product would have been considered as part of the net weight. For compliance purposes, each federally inspected establishment packing immediate containers bearing net weight statements would have had to implement an FSQS-approved mandatory quality control program in accordance with specific recommendations contained in the proposal. The compliance test required that the average weight of the samples of a lot equal or exceed the declared weight. Appropriate sample allowances would have been permitted for products stamped at retail. In addition, the proposal would have eliminated the net weight labeling provisions (9 CFR 317.2 (h)) that exempt shingle packed bacon from the requirement of placing the net quantity of contents statement in pounds and ounces within the lower 30 percent of the principal display panel. The labeling requirement for bulk shipments was revised by requiring, at a minimum, a quantity count of the container contents.

Public hearings held during 1974 to explain this proposal revealed widespread dissatisfaction on the part of consumers, industry representatives and State and local weights and measures officials. Over 1,600 written comments on the proposal—from 21 consumer groups, 69 industry groups, and over 1,300 individuals, among others—expressed essentially the same dissatisfaction. Consumers generally objected to paying for water, blood and packing media; they wanted labels to state net weight of product contents, excluding these substances. There was also some objection to Federal preemption of State and local rules. Industry expressed three major complaints. First, the controls should be directed only to marked consumer-size packages, not bulk shipments. Second, the allowable variation was too "tight," and third, elimination of allowances for moisture lost through evaporation would require a shift to vacuum packaging.

The third development occurred following the U.S. Supreme Court decision in *Jones* v. *Rath Packing* in 1977 which upheld Federal preemption. California and 47 other States and territories petitioned the Department for a more enforceable net weight regulation. The petition argued that State inspectors could not determine whether the difference between the weight of the net contents and declared label weight on the package is reasonable without a definition of reasonable variation.

In response to the petition, consumer complaints, and comments about the 1973 proposal, FSQS published a new proposed net weight label regulation in the **Federal Register** on December 2, 1977 (Vol. 342, 61279–61284). Under this proposal, the declared net weight would be equal to or less than the actual weight of the *usable* meat and poultry contents of the package at the time of purchase. Also, new allowable variation standards that could be enforced by State and local agencies would be provided. This meant that the free liquid in a package and substances absorbed by packaging materials would no longer be considered as part of the net contents. The agency proposed a set of specific allowable weight variations in place of the "reasonable variations" rule. For compliance purposes, all federally inspected meat and poultry establishments packing immediate containers bearing net weight statements would have to adopt a mandatory net weight quality control program. The proposal would also eliminate the exemptions for net weight label declaration and placement on shingle packed bacon (9 CFR 317.2 (h)).

The proposal was controversial for several reasons. One, the compliance procedures would require the opening and repackaging of contents and possible loss of product during distribution and before final sale—a far more expensive technique than checking for compliance by the earlier definition. Two, product packagers would either have to develop and adopt estimates of possible shrinkage and liquid loss in net weight between the times of packaging and final sale, or overpack to assure that the declared net weight was met throughout the rest of the distribution system.

Over 3,000 comments were received on this proposal, with slightly over two-thirds of the respondents opposing it. Seventy-one percent of more than 2,700 comments from individuals objected because they believed that the proposal would over-regulate the industry and increase food costs. Twenty-six percent of the individuals and all but one of the 21 consumer groups supported the proposal. All 31 industry groups which responded opposed the proposal because they believed that there were not sufficient variations for bulk packed items and that it was unclear "who is responsible for short weights at retail."

In order to obtain information on the economic benefits and costs of the proposal not previously determined, and to resolve allegations presented by industry and consumer groups, FSQS awarded a contract for a study to the Consumer Federation of America. The study was completed in October 1978, but failed to reach any conclusive results about the economic benefits and costs.

In the meantime, the House Committee on Agriculture requested the General Accounting Office (GAO) to evaluate the proposed net weight regulation and consider the feasibility of alternative systems. The GAO report, issued on December 20, 1978, concluded that: "Agriculture has not gathered adequate data to determine whether the current system needs to be changed or whether the proposed system or other possible alternative systems would be more economical and practical than the current system." The report also recommended that:

The Secretary of Agriculture direct the Service (FSQS) to expand and extend its search for information concerning the best way to monitor net weight labeling activities for meat and poultry products. Such a search should include:

—a reevaluation of the need for change;

—a comparison of available viable alternatives, including those discussed in this report, the Grocery Manufacturers of America proposal, codex system being developed by the United Nations Codex Committee on Methods of Analysis and Sampling and the so-called "Swedish" method of a declaration on the label of net weight accuracy at the time of packaging;

—a comprehensive economic impact statement for each system considered;

—a thorough and objective analysis of comments from major groups including State and local government regulatory organizations, industry, and consumers affected by such activities; and

—research to resolve the packaged meat and poultry moisture loss controversy.

USDA officials agreed to the GAO recommendation to expand and extend the search for information on the best way to regulate net weight labeling. In January 1979, the Economics, Statistics and Cooperatives Service (ESCS) was asked by FSQS to conduct a study to evaluate the accumulated evidence, reassess the economic costs and benefits, and determine the need for and the economic impact of the 1977 proposal.

V 45 / 155 5 AG 8 80 UMI

The ESCS study concluded that "The proposal would achieve the two objectives defined by FSQS: (1) consumers could be assured that the weight of usable meat and poultry is equal to its labeled weight, and (2) States would be able to enforce strict net weight standards at retail."

However, the ESCS study found that the economic benefits would be much smaller than some consumers had anticipated. A more standardized method of presenting net weight information would be the main benefit to come from adoption of a drained weight system. "Consumers would be better able to make per pound price comparisons."

According to evidence submitted to the USDA hearing clerk, there is already a very high level of compliance—95 to 99 percent—in both dry tare and wet tare States.

The study also found that the information presented about the 1977 proposal had resulted in considerable misunderstanding by both consumers and producers. The study states:

Consumers cannot expect the reported price per pound of a product to remain unchanged if free liquids are excluded from labeled product weights. The price per pound can be expected to increase—and to increase most for those products with relatively more free liquid. However, the cost to consumers for *usable* product would remain unchanged. Actual costs to producers would not increase because of the change in definition of tare (that is, those parts of a product whose weight is not included in the labeled net weight). The amount of drained weight meat would not be affected by a labeling rule, and processing costs per drained weight pound would be unaffected.

Although real costs would not change, consumer misunderstanding could have some long term market effects if they believed that the real price per pound of the products with considerable quantities of free liquid actually increased. They might shift purchases to products that have a lower per pound price. But the problem could be largely corrected by a nationwide education program to explain the reason for the unit price change.

The ESCS study found that application of standards for bulk packed products would be helpful to buyers (other processors or retailers) of these products, especially the small volume ones.

The cost for mandatory quality control was estimated to be between $59 and $116 million, primarily for additional personnel. No cost estimate was provided for an education program to prevent consumer misconceptions about the cause of the unit price changes of affected products. Some retailers might also have experienced added costs to cover the expense of rewrapping products opened for compliance testing.

The ESCS study was submitted for public comment during a 60 day period ending on October 30, 1979. In addition, FSQS mailed out approximately 300 copies to the organizations that had commented on the 1977 proposal. Copies were also distributed to individuals and others who requested the study.

In response to the ESCS study, a total of 101 comments were submitted to FSQS. Again, opposition was expressed to the 1977 proposal. Industry and trade associations almost unanimously preferred the present net weight policy to a drained weight system. Individuals also strongly opposed the net weight proposal, but 14 of the 18 State and local weights and measures regulatory groups expressed support for the proposal. Only one of 51 consumer groups responded.

On the basis of these reviews and studies and the need to resolve the major issues, FSQS has decided to propose a new net weight regulation.

4. *Selection of Proposed Option—*

Objectives: These proposed amendments by FSQS to the net weight labeling regulations are designed to: (1) insure that the net weight statement is as accurate as can be expected, on the average, at retail; (2) provide regulatory agencies a standard procedure to enforce net weight standards; and (3) make compliance procedures compatible with those of the Food and Drug Administration to the maximum extent possible.

One might expect that the desirability of a particular net weight regulation would be evaluated in terms of its usefulness to the consumer as a generator of information, its ease of enforcement, and the extent to which it can be used by industry. Unfortunately, evidence concerning the utility to consumers provides little basis for choosing between possible net weight regulations. Likewise, it is not possible to predict industry's responses to various regulations.

Some of the options discussed below eliminate or reduce free liquid from calculation of a product's net weight; however, as the ESCS study shows, the consumer will probably pay the same price for the same amount of usable product under any net weight definition. If revised regulations require producers to alter the labeled net weight on a package, they can be expected to alter correspondingly the price per pound so that they receive the same price for the package as under existing regulations. (If producers incur additional costs to comply with new net weight regulations, the consumer may pay more per pound.)

The ability to compare the cost of different products does not fare much better as a basis for distinguishing between options. Although some options appear to promote packaging that would be more revealing, it is not possible to predict the actual packaging that will result from any option, as the producer's decision involves trade-offs between the cost of packaging materials, the price he is willing to charge for his product, and the appearance he wants to give his packaged product. Under different circumstances, this may produce different combinations of packaging, labeling and price.

The development of a satisfactory net weight regulation which couples ease of compliance, ease of enforcement and compatibility with FDA is reflected in Option B. That option, therefore, is proposed. A summary of the Department's analysis on that basis follows.

5. *The Regulatory Options:* A description of each of the seven options and their impacts upon the main purpose of the regulation are presented below. An assessment of the impacts of each option is also presented.

Option A: Continuation of the present system.

Description: Continuation of the present system would maintain all existing net weight and compliance rules as they are presently interpreted. The net weight label statements on packages of meat and poultry products for household use would be considered in compliance at the time the packages are shipped from the producing establishment and at retail when "reasonable variations" for loss or gain are present. Net weight would, in the majority of cases, continue to be determined by the dry tare definition (total package weight minus the dry weight of all the packaging and labeling materials).

In those instances when the contents have been packaged for a period of time and the packaging material has absorbed considerable moisture, the wet tare definition (total weight of package and contents minus the weight of the packaging materials and absorbed moisture) may be used to check compliance with the stated net weight. Any free liquid in the package would be considered part of the net contents. A reasonable but undefined allowance for variation in net weight would be permitted for moisture gained or lost during good distribution practices or from unavoidable deviations during good manufacturing practice.

Drained weight (total package weight minus the weight of the packaging materials and all free and absorbed liquid) would be used for some products packed in nonusable liquid media. These products, such as Vienna Sausage packed in water, would continue to be checked for compliance by the drained weight method.

For compliance purposes, FSQS inspectors and plant personnel operating a voluntary net weight quality control program under FSQS approval and supervision would continue to verify the stated net weight on packages. In their respective jurisdictions, State and local weight officials would be able to determine compliance of federally inspected packages.

In conducting compliance activities, lots are sampled for net weight determinations. For samples of less than 40 packages per lot, the lot is considered to be in compliance if the average net weight of the sample packages is equal to or greater than the declared net weight and none of the samples are unreasonably below the declared net weight. This means that the net weight of some packages may be less than the stated weight on the label. Also, reasonable allowances for moisture loss or gain can be applied to the measurement if net weight is determined at locations other than the producing plants. In those instances where the sample consists of 40 or more packages per lot, one package with a weight that differs considerably from the label net weight can be excluded from consideration in evaluating the individual container, but is not excluded from the sample average.

Impact of Objectives

Ease of Enforcement: Present FSQS regulations do not include standardized procedures that allow State and local officials to determine compliance of federally inspected meat and poultry products. Also, because the present regulations lack explicit allowances for "reasonable variations," they restrict the actions of State and local officials in determining whether the net weight of federally inspected meat and poultry products is in compliance.

Net weight quality control programs would remain voluntary. Firms would be allowed to adopt net weight quality control programs to ensure compliance with the regulations.

Accuracy: The total net weight of packages sampled must equal or exceed their labeled net weight and, with the exception noted above for samples of 40 or more packages, none of the packages may be unreasonably below the declared net weight. Present regulations do not, however, specify maximum allowable variation.

Compatibility with FDA: This option does not provide explicit allowable variation for net weight labeling, nor do current sampling procedures conform to those in the new FDA proposal.

Economic Impacts

Consumers: All free liquids (except nonusable liquids) and some liquids absorbed by packaging materials are included in a product's net weight. Consumers may have difficulty comparing values of various packages of product because of the variability in free liquid content.

Industry: Retailers will have to continue to check the weights of bulk shipments of wholesale-size packages for accuracy, because present procedures are not adequate for verifying the accuracy of the net weight declarations.

Regulatory Agencies: FSQS's net weight regulatory and compliance costs currently equal approximately $5.75 million a year. Costs for State and local agencies are not known. Future costs will be affected by increases in hourly wage rates and other cost items.

Distribution of Effects

Conditions will not change.

Option B: The Proposed FSQS Regulation.

Description: This proposal is based on the studies, comments, reviews, analyses and efforts by FSQS and FDA to develop more uniform net weight labeling proposals following publication of the 1973 and 1977 proposals. (See Options C and D.)

The proposed regulation provides that the net weight would equal the gross weight of the package minus the weight of packaging materials. Free liquids that drain from the product would be considered part of the net contents except for the few meat and poultry products to which a non-usable medium is added at the time of packaging. Such medium would not be included in the net weight.

The proposal also sets out two alternatives concerning the treatment of liquid which has separated from the product and is absorbed by the packaging material. The first alternative would exclude the weight of both the packaging materials and liquid absorbed by packaging materials from the product's net weight. The other would exclude only the weight of packaging materials. FSQS has not yet determined which alternative is preferable.

Regardless of the alternative chosen, the proposal would replace the present reasonable variations allowance with numerical allowable variations developed by the National Bureau of Standards which appear to be reasonable when determined by prescribed procedures. The proposal would also give State and local officials specific procedures for determining compliance with net weight requirements. This option, as the 1973 and 1977 proposals, would resolve the enforcement problem encountered by State and local weight officials. However, allowances for moisture evaporation losses would not be developed and adopted since this does not appear to be a serious problem affecting the net weight of meat and poultry products at retail. The Agency could consider this, however, if data to the contrary were submitted by interested parties.

Definitions and sampling procedures adopted by FDA and FSQS in their respective proposals have been made uniform to the maximum extent possible.

The exemption currently allowed for the placement and declaration of the net weight statement for shingle packed bacon would be terminated. Also, more reasonable allowances for the net weight labeling of bulk shipments would be adopted.

Impact on Objectives

Ease of Enforcement: The new proposal would remove the enforcement problems encountered under the existing system (Option A). Establishment of explicit allowable variations and adoption of standardized net weight regulations and sampling procedures would facilitate net weight enforcement by State and local agencies.

Net weight quality control programs would remain voluntary, as at present. This will prevent any disruptions at establishments.

Accuracy: Because of the establishment of explicit allowable variations and sampling procedures, the proposal could insure slightly greater accuracy of net weight labeling than currently exists. The net weight of sampled packages must equal or exceed the labeled net weight. Further, for each package sampled, the proposal stipulates maximum negative deviations from the labeled net weight. For samples of 50 or more packages, if the net weight is in compliance, one package can be excluded from consideration in evaluating the maximum negative deviation.

According to the ESCS study on the 1977 proposal, however, there is already a 95 to 99 percent rate of compliance and therefore only limited improvement in the accuracy of net weight labeling can be expected.

Compatibility with FDA: This option is the only one developed in tandem with FDA to assure the maximum possible compatibility with FDA's recent net weight proposal. Sampling procedures under the FDA and USDA proposals differ because USDA samples continuously and FDA does not, but the procedures offer the same statistical validity.

Economic Impacts

Consumers: As discussed above, the proposal will not significantly improve the accuracy of net weight labels for consumer purchases.

However, adoption of the alternative which excludes liquids absorbed by packaging materials may produce a variety of responses from producers. (Possible producer responses are discussed in the next subsection.) If producers opt to continue using current processing methods and absorbent packaging materials under this alternative, they will have to state a lower net weight because the absorbed liquid will no longer be included in the net weight. The producer can be expected to increase the labeled price per pound accordingly. The end result would be a package with a lower stated net weight, a higher price per pound, but no change in either the total price on the package or the quantity of usable product. This same result would be expected if a drained weight system for net weight compliance (Option D) were instituted.

Increases in labeled prices per pound to account for absorbed liquids would not be great. The ESCS study compared the mean drain, as a percent of labeled weight, among products such as chicken breasts, beef roasts, pork chops, bologna, and ham, among others. Only beef livers had a greater percentage of drain than chicken breasts. (Beef livers are generally packaged in non-absorbent materials—as explained later, products packaged in non-absorbent materials will not be affected by this proposal.) The average drain from chicken breasts equalled 3.95 percent of labeled weight. Assuming that the packaging materials absorbed all liquids from chicken breasts, and assuming an average price of $1 per pound, the labeled price would rise only four cents per pound, and the labeled net weight would decline four percent. All non-poultry products other than beef livers had an average drain of less than one percent of labeled weight.

Although neither the total price of the package nor the quantity of usable product would be affected, the consumer might believe the price had been raised, since the stated price per pound would be higher. The amount of increase, however, would probably be too small to affect consumer demand or the choice between products. Further, consumers could be educated to understand that the real price of the product had not increased.

The ability to compare products is affected by the way in which liquid is controlled in the package. Under the alternative which includes absorbed liquids in net weight, producers have an incentive to use absorbent packaging materials because they improve product appearance, but do not reduce the package's net weight. Producers might choose to eliminate the use of absorbent packaging materials under a net weight system which did not consider absorbed liquids as part of the net contents. This would make is more apparent to the consumer that he/she is paying for some liquid.

Industry: The alternative which includes absorbed liquid in the net weight is similar to the way in which net weight is currently determined and should have little or no impact on producers.

V 45 / 155 AG 8 80 UMI

The alternative which excludes liquids absorbed by packaging materials from net weight could have various impacts on the packaging and labeling practices of producers, depending on the quantity of free liquid in their products and whether the products' packaging contains absorbent materials. Producers would be unlikely to change their packaging or labeling practices for products packaged in impervious materials. For such products, the only change in net weight regulations would be elimination of allowances for evaporation and creation of a set of allowable variations to replace the existing reasonable variations allowance.

Under the net weight alternative which excludes absorbed liquids, the main impact will fall on producers of products whose packaging contains absorbent material practicularly products with large quantities of free liquid. (This same line of reasoning would hold if a drained weight definition, in Option D, were implemented.) Poultry products comprise the majority of this class.

It is not possible to predict whether producers will opt to continue using absorbent packaging materials and adjust the labeled price per pound, or if they will alter processing methods to reduce the quantity of free liquids in packages. The producer's behavior under the proposed option depends on his desire to maintain the appearance of the package, the cost of absorbent materials, and his feelings about how real or apparent changes in the price of his product will be accepted by the consumer.

Some States have employed net weight regulation systems which exclude absorbed liquid from net weight. We have only sketchy indications of how producers have reacted in those States. We would like to know if producers in those States have altered their processing methods, eliminated absorbent packaging materials, or adjusted prices. If they have altered processing methods, we would like to know the cost of doing so.

The ultimate impact on producers will depend on consumer behavior. This cannot be predicted with precision, because consumer behavior depends on what kind of adjustments producers make in the packaging price; what these adjustments will be is unknown at the present time. In any case, it appears from the available empirical data that any price changes will be so small as to make significant changes in consumer behavior unlikely.

If the net weight excludes liquids absorbed by packaging materials, processors or distributors who continue to use absorbent materials may experience a minor cost increase for product loss or repackaging as a result of net weight testing for compliance. Some of these packages may need to be opened, which will result in some losses.

Regulatory Agencies: Annual FSQS, State and local operating costs for net weight information will remain the same as as present, except for increases from inflation of wage rates and the cost of other items.

Distribution of Effects

This option would tend to have a greater impact on processors and packagers of products that have a high proportion of free liquid. All state and local agencies would be affected by the adoption of the allowable variation process. Wholesale and retail buyers of bulk shipments would receive improve regulatory support in their ability to receive full net weight on those shipments.

Option C: The 1973 USDA Proposal.

Description: This was the first net weight labeling proposal presented following the District Court decision in *Rath Packing* v. *Becker* in California. The purpose was to bring the rules in conformance with the decision of the court.

As a result of the decision regarding vagueness of the rule on "reasonable variations," explicit allowable variations for packages that could be applied by State and local officials were proposed. Products would be assigned to one of six groups depending upon the product's characteristics and the declared net weight of the contents. As long as the average weight of the samples equaled or exceeded the declared net weight and the difference between the declared net weight and the smaller net weight of the contents of the sample item was less than the allowable variation, the lot would be considered in compliance.

The practice of using voluntary net weight quality control programs and Federal inspectors to check for compliance would be replaced by a mandatory quality control program, monitored by Federal inspectors. Any federally inspected establishment producing immediate containers bearing net weight statements would have to obtain approval for and implement a net weight quality control program.

Sampling procedures were proposed for checking the net weight compliance of lots. These procedures do not conform with the procedures and sampling rates devised by FDA—sample sizes vary; tolerances for allowable variations differ; and the 1973 proposal did not permit one package from a large sample to exceed the maximum deviation from labeled net weight.

Exemptions for net weight label placement and declarations on shingle packed bacon packages were proposed to be terminated. Instead of declared net weight for bulk shipments of product, a count of the number of items in the container could be substituted.

Impact on Objectives

Ease of Enforcement: By providing explicit variations and standard procedures for determining net weight compliance, this option would yield the same ease of enforcement as the proposed option.

Instituting mandatory net weight quality control programs would ease the enforcement burden on Federal meat and poultry product inspectors. This burden would be shifted to processors.

Accuracy: This option would require that no packages are less than the allowable variation. Option B permits one deviantly marked package in a large sample; this option requires all packages in a sample to be within the allowable variation before the sample is judged in compliance. However, there is little room for improvement since compliance rates presently exceed 95 percent.

Compatibility with FDA: This option is not compatible with FDA's proposal—sample sizes vary; tolerances for allowable variations differ; and this option does not permit any packages from a large sample to exceed the maximum negative deviation from net weight.

Economic Impacts

Consumers: Because of the already high level of compliance with net weight labeling regulations, consumers could not expect significantly improved labeling accuracy under this proposal. The marginal improvement in accuracy may provide consumers greater assurance that their purchases are properly labeled.

The net weight system is similar to that under the existing regulations. Therefore, producers are unlikely to alter their production or labeling practices, and consumers should see no noticeable impacts as a result of this definition. Product prices for consumers could rise by as much as one-quarter of a cent per pound as a result of increased producer costs from mandatory quality control programs. This increase would be reflected in the Consumer Price Index. (These costs are discussed below.)

Industry: The net weight system contained in this proposal would not cause producers to alter their production or labeling practices. However, the requirement of a mandatory, plant-operated, quality control program to monitor net weight compliance is likely to increase industry costs. The additional annual cost to the 5,680 plants having to adopt a voluntary quality control program is estimated to be between $56 million and $114 million for personnel, according to the ESCS study. The basis for the cost range is whether small plants hire full or part time quality control personnel.

The mandatory quality control program could increase industry employment between 3,500 and 5,700 persons. This would be true only if plants do not already have personnel conducting net weight checks. The number of quality control technicians hired would depend upon whether the smaller plants hire full or part time personnel.

Regulatory Agencies: Implementation of this option would require FSQS to review and approve mandatory quality control net weight compliance programs for approximately 500 plants currently with voluntary programs and another 5,660 without any programs. One time revisions in rules, and instruction of affected officials and plant personnel would be necessary. No increase in FSQS personnel requirements for program development, approval and instruction of personnel is considered necessary. Approximately 157 FSQS inspector years could be displaced by plant operated quality control programs and would be available for use in other FSQS functions. Cost savings from this program, which could be as much as $3.1 million a year, should more than equal the FSQS implementation and monitoring costs.

This proposal would promote more vigorous enforcement by State and local weights and measures officials.

Distribution of Effects

The impacts of this option should be greater for those establishments packaging a high proportion of consumer-size packages of meat and poultry products characterized by having large amounts of free liquid. All but 500 of 6,180 federally inspected plants would need to develop and implement approved net weight quality control programs. Wholesalers and retailers dealing in bulk shipments of products would be provided either net weight statements or quantity counts of products in such shipments.

Option D: The 1977 FSQS Proposal.

Description: Under this proposal, net weight compliance would be determined by a drained weight system. In addition to the packaging material, all free and absorbed liquids would be excluded from the net contents. Net contents would be only the weight of the usable product. Net content would continue to be the entire contents for those products where the entire contents are to be consumed. In the case of frozen products, net contents would be the total package weight minus the weight of the packaging materials and adhering ice crystals.

Stated allowances for "reasonable variations" would be permitted. Furthermore, the net weight statement would have to be accurate on the average not only at the packaging establishment but at any point in the distribution system, including the point of final sale.

In order to comply, processors would first have to develop estimates of free liquid build-up and possible unavoidable gains or losses resulting from processing and distribution. They would then have to target fill-weight above declared weight or understate net weight accordingly. Estimates of moisture gain or loss require a one-time expense.

Each federally inspected plant packing consumer size packages would have to establish and gain approval of a mandatory, FSQS-supervised, net weight quality control program.

A lot of prepackaged meat or poultry would be in compliance when the average net weight of the samples drawn from the lot equals or exceeds the labeled net weight at any point in the distribution channel and at final sale. In addition, to be in compliance, the actual net weight of each package sampled would have to be within an explicitly defined allowance of labeled net weight.

The exemption for placement and declaration of the net weight statement on single packed bacon would be eliminated. An exemption for small packages (less than one half ounce) from having a net weight label statement would be extended to poultry products.

Impact on Objectives

Ease of Enforcement: As with the two previous options, this proposal would replace the "reasonable variations" provision with explicit allowable variations for individual packages, and provide standardized procedures for enforcement. This would facilitate enforcement by State and local agencies.

Mandatory net weight quality control programs would ease the enforcement burden on Federal meat and poultry product inspectors. This burden would be shifted to processors.

A drained weight system requires more inspector time to check for compliance. (Some States objected to the proposal because of this.)

Accuracy: Like the two previous options, establishment of explicit allowable variations would insure greater accuracy of net weight labeling than currently exists. But the already high compliance rate leaves little room for significant improvement. This proposal with its drained weight provision would assure consumers that the declared net weight on a label is, on the average, the weight of *usable* product in the package. This would improve consumers' ability to compare products.

Compatibility with FDA: This rule would not conform with the new FDA proposal in terms of the net weight definition or allowable variations.

Economic Impacts

Consumers: Consumers would be assured of net weight statements at the time of purchase which would make comparison of product prices on the basis of *usable* product extremely easy. However, as the ESCS study indicated, the perceived benefits are not as great as the real benefits since the real cost of usable product probably would not change. The unit price and the weight may change, but the total cost for the package probably would not change. Consumers probably anticipate, however, that the total price for the product would be reduced by the current unit price times the weight of the liquid. A major educational effort would possibly be essential to promote the concept and prevent widespread misconceptions about the cause of any unit price changes. A transition period between approval and implementation would appear necessary for the educational effort.

This proposal would alter the traditional price relationships between products that do and do not contain large amounts of liquid. The unit price for tray pack chicken, liver and corned beef products, which customarily contain large amounts of free liquid, would increase relative to the prices for other meat and poultry products. (Relative prices would shift less than four percent. See the section on Economic Impacts: Consumers for Option B).

The mandatory quality control program could increase average meat prices by as much as 0.3 cents a pound, or less than 0.3 percent at retail.

Likewise, the costs for processors to estimate free liquid build-up and possible gains or losses during processing and distribution would likely be passed on to consumers in the form of higher prices. Any additional increase in the stated unit price resulting from the shift to drained weight would be reflected in the Consumer Price Index even though there is not any increase in the "real" or *usable* unit price.

Industry: As discussed under Option B, it is unknown what action processors might take in response to a new net weight system. It is clear that a drained weight system for determining net weight compliance would increase processors' costs. These increased costs would come from the one-time expense of estimating moisture gains or losses. The estimates would be used to adjust fill-weights or labeled net weights.

Processors might also consider freezing products as a means to comply with a drained weight definition of net weight. However, freezing costs an estimated five to six cents per pound. For the proposed option, an estimate was that the shift in relative prices per pound would be less than four cents, and would not require a major capital investment like that needed for freezing equipment. A pronounced consumer preference for fresh meat and poultry products over frozen products also reduces the attractiveness of freezing as an adjustment to this option.

A mandatory quality control program would engender the same costs as in Option C, $59 to $116 million, and increases industry employment between 3,500 and 5,700 people.

Processors, wholesalers and retailers would experience minor losses from routine inspections for net weight compliance, which require opening, weighing, and repackaging products.

Wholesale and retail buyers of bulk package shipments would receive more regulatory support for assuring net weight statements on those bulk shipments.

Regulatory Agencies: Again, the impacts of a mandatory quality control program would equal those under Option C. Approximately 157 FSQS inspector years could be made available for use in FSQS functions other than net weight monitoring. Federal cost savings could run as high as $3.1 million per year, and should at least equal all of FSQS's implementation and monitoring costs.

A drained weight system would require State and local agencies to make a one-time expenditure of $420,000 for testing equipment. Some agencies have expressed concern that a drained weight system would take more of their inspectors' time and sap their enforcement capabilities.

Distribution of Effects

All meat and poultry establishments, distributors and retailers, State and local net weight enforcement agencies, and any importers of prepackaged consumer products would be affected by this option.

Option E: Grocery Manufacturer's of America (GMA) Proposal.

Description: In February of 1976, GMA petitioned FDA and FSQS to establish a nationwide program to assure consumers of the accuracy of net weight labels on prepackaged foods. The program, the National Net Weight Assurance Program (NNWAP), would be comprised of government, industry and general public representatives.

The petition further requested retention of the present Federal net weight regulations with several modifications. These are "particularizing" the presently undefined allowances for reasonable variation and adoption of the revised National Bureau of Standards (NBS) Handbook 67, *Checking Prepackaged Commodities* (draft dated December 1977 and modified by memos dated August 1978) for establishing uniform sampling techniques and methods of calculating net weight.

Lastly, the petition requested establishment of a National Net Weight Assurance

V. 45 / 155 AUG 8 80 UMI

Conference. The Conference would oversee the NNWAP, foster net weight compliance through periodic inspection at the time of packaging, and develop procedures for a cooperative inspection program which includes exchange of enforcement data between Federal and State agencies. The Conference would also identify food products subject to moisture gain or loss, estimate their typical moisture content at the time of packaging, and estimate moisture losses through evaporation or moisture gains through absorption while the product is in the food distribution channel prior to purchase by the consumer. These data would be published and used as norms for testing net weight compliance.

Packages of a product would be weighed at retail, or elsewhere, to check the net weight for compliance. If the sample is not in compliance, packages would be collected and sent to designated laboratories to determine the cause of the non-compliance. In the meantime, a hold would be placed on further distribution and sale of the lot or lots sampled. If the tests revealed that the non-compliance is a result of a change in moisture content, and this change were within the established limits of variation, the hold order would be lifted and the lot could be sold.

Determination of tare would vary depending on the product. The petition did not address quality control programs or the disposition of existing exemptions for bacon and bulk shipments.

The enforcement agencies would have concurrent responsibility for determining net weight compliance at the several levels of the food distribution system, in accordance with the draft NBS handbook.

Impact on Objectives

Ease of Enforcement: Maximum allowable variations would be determined on a product-by-product basis. Improved coordination and exchange of data among enforcement agencies could improve the level of net weight compliance.

This option might prove difficult to adopt for checking compliance of highly perishable products—most fresh meat and poultry products fall in this category—because of the potential for large product losses through spoilage. (See below, "Economic Impacts.")

No mention is made of quality control programs, which presumably would remain voluntary.

Accuracy: Within the narrow range available for improving compliance with net weight regulations, more easily enforceable standards should improve the accuracy of net weight labeling.

Compatibility with FDA: This rule would not conform to the FDA proposal.

Economic Impacts

Consumers: The proposal has not been developed to the point where it can be evaluated in great detail. The initial investment for this option could be quite large, resulting in higher product prices. Since it would require 2 to 4 years to implement, consumers would not see any costs or benefits for some time.

Industry: If establishments are responsible for identifying and estimating the moisture losses or gains from their products, the one-time laboratory cost for developing the maximum allowable variations could be significant. Organizational and operating costs of the conference are likely to be insignificant to the individual firms.

The proposal is intended to resolve net weight problems common to dry foods such as flour. The net weight of these products is likely to change considerably because of changes in humidity. Furthermore, the products are not likely to deteriorate into an inedible state while the testing for compliance takes place. Compliance testing could take days for shipping samples to a lab, testing and returning results to the proper authorities.

Packaged meat and poultry products which are generally highly perishable do not usually experience significant changes in weight from loss or gain of moisture. Other meat and poultry products may be canned or packed in impervious type materials that prevent loss or gain of moisture. The type of processing or packaging used on some products might extend the shelf life considerably. But, for the majority of the meat and poultry products, lots subject to compliance testing would spoil, causing large economic losses before test results could be obtained and products released for sale.

Regulatory Agencies: There are no data available on the specific allocation of resources needed for the operation of the GMA proposal. Consequently, it is premature to estimate how many USDA and other Federal resources might be needed. The cost impact might be minor if FSQS and other Federal involvement is limited to conference participation, assisting in coordination of data collection, and review and revision of rules. Operation of labs for enforcement purposes might increase costs considerably.

State and local agencies' responsibilities and procedures for implementing the GMA proposal have not been completely defined. The program could provide cost savings to State and local enforcement agencies once explicit allowances for variation are adopted. They would expedite the compliance testing process, thus increasing efficiency and reducing costs.

Distribution of Effects

No real impacts are likely to occur for 2 to 4 years while implementation plans are being developed.

Option F: Codex System.

Description: The Codex Alimentarius Commission of the United Nations has been in the process of developing procedures for enforcing net weights in prepackaged foods on an international basis. The working committee has proposed that net weight compliance be based on the average net weight of packages at the time of packaging with reasonable tolerances allowed for difficulty in filling containers or maintaining net weight while in distribution.

Sampling for net weight compliance would be modeled on a statistical limits of variance technique developed by Switzerland for application to imported, prepackaged foods. Inspectors would make limited inspections for compliance at retail. If the sampling technique indicates a noncompliance problem, additional inspection of the same product would be made at retail and further back in the marketing chain, including at processing plants. If the problem continues following notification of the producers, a more precise enforcement test would be applied.

This building-block approach would assure a high probability of net weight compliance, but not necessarily as high as the current level found in the United States. It would require application of a relatively sophisticated sampling technique and a well coordinated Federal, State and local enforcement effort. This coordination effort would be essentially the same as the one contained in the GMA proposal.

To date, the Codex Committee, which is made up of representatives from many countries including the United States, has not formally voted to accept recommendations on any of the standards and procedures. At the most recent Committee meeting, it was voted to have the proposal referred back to the working group for further study. The United States is on record as opposing the building block concept because it would require at least two-thirds of all the sample packages drawn from a lot to have a net weight of contents equal to or in excess of the amount stated on the label. This would require processors to either overfill containers or reduce the net weight stated on the label. In either case, the labeled unit price for the contents would have to be increased. As previously discussed, this would not change the price per usable pound of product.

The United States position is to continue generally the present practice of having the average net weight of the samples drawn from a lot equal to or exceeding the labeled net weight. This proposal does not stipulate what proportion of a lot should exceed the weight requirement. But, on average, about half of the items in the sample would have net weights equal to or exceeding that stated on the label.

Impact on Objectives

Ease of Enforcement: This option could reduce the effectiveness of enforcement at retail and other points in the distribution channel beyond the processor. It concentrates on net weight compliance at the time of packaging and is supplemented by limited inspections for compliance at retail. Determination of compliance is based on the average net weight of packages, allowing reasonable tolerances for individual packages, but in this case it does not imply increased accuracy for the consumer.

Weight: Because the system emphasizes compliance at the time of packaging, it could reduce accuracy at retail. On the other hand, the option requires at least two-thirds of all sample packages to have a net weight at least equal to the labeled net weight at the time of packaging. This second requirement would tend to support the already high level of compliance, especially for meat and poultry products, which have little problem with moisture loss through evaporation.

Compatibility with FDA: This option represents a major departure from both the current method of enforcing net weight regulations and the FDA proposal.

Economic Impacts

Consumers: The proposal is not expected to create many changes for consumers. According to the ESCS study, if producers must overpack to comply with the regulations, consumers might see shifts in relative prices, but no change in the price of usable product.

Industry: Producers might have to overpack, or change the labeled price per pound and the stated net weight on their products. This should not result in any significant costs. Lack of any specific information on what standards and procedures might be recommended prevents an assessment of other economic impacts.

Regulatory Agencies: Lack of any approved recommendations on how the standards, procedures, and the Codex proposal might be organized and operated make it premature to estimate the cost impact. Adoption of new rules and a different sampling technique should result in an unknown cost increase for FSQS. Implementation of the building-block concept and use of a more sophisticated statistical verification technique would tend to increase enforcement training and operating costs.

Distribution of Effects

No impacts would occur until the Codex Committee agrees on recommendations and they are adopted by the United States. It is unlikely that this will occur for several years or more.

Option G: Declaration of New Weight at Time of Pack—"Swedish" Method

Description: This option is used in a number of countries including Canada and Sweden. It requires a qualifying phrase on packages that states that the net weight was accurate at the time the food was packaged at an establishment.

Impact on Objectives

Ease of Enforcement: This option would not facilitate State and local net weight enforcement unless the rule allowing for reasonable variation is eliminated.

Accuracy: Since meat and poultry products could be packaged some time before and some distance from the point of purchase by a consumer, the net weight of the contents at the time of final purchase might differ from the declared weight at the time of pack. However, this has not been a significant problem under the present system and would not be expected to become a problem under this option.

Compatibility with FDA: This option adopts none of the sampling procedures or enforcement standards contained in the new FDA proposal.

Economic Impacts

Consumers: There would be no impact on consumers.

Industry: Establishments would incur a one-time cost to have packaging material manufacturers add the appropriate qualifying statement.

Distribution of Effects

The impact should be limited to establishments packing consumer size packages of food.

Summary

This section summarizes the extent to which each of the proposed options meets the objectives outlined in Section 4 above.

Accuracy: Options B, C, D, E, and F make explicit the amount by which individual packages can deviate from the stated net weight when they are checked for net weight compliance. These explicit allowances are an improvement over Option A, the current system, which allows "reasonable variations." Option C, the 1973 proposal, contains the most strict standard for enforcement; it does not permit any deviantly labeled packages in large samples, as do Options B and D. Options E and F, the GMA and Codex proposals, do not contain standardized net weight regulations and sampling procedures, and therefore do not improve the enforceability of the net weight label requirements.

Standardized Enforcement Procedures: The explicit allowances discussed above and the provision of specific sampling procedures on Options B, C, and D, increase the ability of State and local agencies to enforce net weight regulations and should help raise the already high level of compliance. Options E and F do not meet this objective since they do not contain standardized net weight regulations and sampling procedures.

Compatibility with FDA: Option B is the only option compatible with FDA's net weight proposal.

Thus, on the basis of the three objectives we have in proposing new net weight regulations, Option B would be most effective. It is essential, however, to review more closely the impacts of Option B to assure that its benefits are not vitiated by relatively less desirable impacts *vis a vis* the other options.

As we mentioned in Section 4, improved net weight regulations can benefit consumers in two ways; first, they should reflect the cost of a unit of usable product; second, they should help the consumer compare the cost of different products.

The analysis of the seven options indicates that none of the options would greatly increase the benefits of the first kind to the consumer. Over 95 percent of meat and poultry packages are currently in compliance with net weight labeling regulations. Explicit allowances and standardized enforcement procedures can improve upon this slightly. On this basis we can choose Options B, C, or D over A, E, F, or G.

As this analysis has stressed, it is likely that no system of net weight regulation represented by Options B, C, or D would change the *real* price per pound of usable product. Thus, Option B is at least as good as C or D with respect to the value the consumer gets for his/her money.

Option B, the 1977 proposal with its drained weight system, would make it easiest for consumers to compare the price per pound of usable product. The proposed option, Option B, using the alternative which excludes liquids absorbed by packaging materials from net contents, would also facilitate comparison of products. Consumers would be able to observe the amount of free liquid for which they are paying. It is difficult to support any particular net weight system on the basis of the information it provides to the consumer, since for practical purposes, comparisons across products would still be very difficult to make under any definition. However, package-by-package comparisons within products would be made easier. The issue in choosing between the alternatives under Option B is whether this increased ease of comparison within products is worth the chance of confusion from changes in labeled prices. Although education could help eliminate this confusion, it has a cost.

As far as raising producer costs are concerned, Option B should not increase producers' costs under either alternative. No options will decrease processors' costs. Options D could raise processors' costs not only because of the mandatory net weight quality control program, but also because a drained weight system would require processors to change processing methods and/or incur added costs to adopt procedures for correct labeling under this system.

Option D also has the disadvantage of increasing enforcement costs because of a one-time expenditure of $420,000 for test equipment and because of a requirement for more inspectors' time in the enforcement procedure.

Thus, considering both its effectiveness in meeting the stated objectives and the avoidance of undesirable impacts, Option B was selected over the other options because:

—It promotes easy enforcement of net weight regulations by state and local agencies.

—It would generate net weight statement at least comparably accurate to all other options, and would establish numerically allowable variations which are not present in existing regulations.

—It would not force processors to increase expenses to comply.

—It is the only option compatible with FDA's net weight proposal.

—It would not increase the costs for regulatory agencies.

6. *Public Comment:* Interested persons will be invited to submit comments concerning the proposed action. All submitted comments will be available for public inspection. A 90 day comment period will be provided.

Dated: August 1, 1980.

Approval:

Susan Sechler,

Deputy Director, Economics, Policy Analysis and Budget.

[FR Doc. 80-23662 Filed 8-4-80; 8:45 am]

BILLING CODE 3410-OM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 79N-0292]

Food Labeling; Net Weight Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing amendments to the net weight labeling regulations. These amendments would quantitatively define permissible "reasonable variations" from stated net weights for several food categories, including foods subject to moisture loss. This proposal is prompted by petitions and requests and public hearings conducted by FDA and the U.S. Department of Agriculture (USDA) and would provide a basis for more effective enforcement of the net weight labeling regulations.

DATES: Written comments by November 6, 1980. The agency proposes that the final regulation based on this proposal be made effective 90 days after date of publication of the final regulation in the Federal Register.

ADDRESS: Written comments (preferably four copies) to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION:

Legislative History and Judicial Background of Net Weight Regulations

Section 403(e)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 343(e)(2)) states that a food shall be deemed to be misbranded if the package does not bear a label containing "an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, * * *." The existing regulation concerning net weight labeling of human foods (21 CFR 101.105(q)) states: "The declaration of net quantity of contents shall express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large."

Many foods contain appreciable amounts of water and thus are subject to weight loss due to water evaporation after packaging. The extent of evaporation depends on the inherent characteristics of the food, the packaging materials, and the conditions of food storage, including such factors as humidity, temperature, and duration of storage. Concern for this water loss, coupled with the practically impossible task of packaging to exact weights, prompted Congress to address the issue of net weight labeling of food products at least as early as March 3, 1913, when an amendment to the Pure Food and Drugs Act of 1906 was enacted. The amendment allowed for slight changes in exact quantity of contents due to natural causes. It provided "that reasonable variations shall be permitted, * * * by rules and regulations." Federal regulations adopted in 1914 further addressed the question of net weight labeling and variations due to moisture loss:

(i) The following tolerances and variances from the quantity of the contents marked on the package shall be allowed:

(1) Discrepancies due exclusively to errors in weighing, measuring, or counting which occur in packing conducted in compliance with good commercial practice.

* * * * *

(3) Discrepancies in weight or measure, due exclusively to differences in atmospheric conditions in various places, and which unavoidably result from the ordinary and customary exposure of the packages to evaporation or to the absorption of water.

Discrepancies under classes (1) * * * of this paragraph shall be as often above as below the marked quantity. The reasonableness of discrepancies under class (3) of this paragraph will be determined on the facts in each case.

The concept of "reasonable variations" in net weight labeling was thus recognized by statute as early as 1913 and by regulations as early as 1914. These regulations were sustained by the courts in 1932 (*United States* v. *Shreveport Grain and E. Co.*, 287 U.S. 77(1932)).

When it passed the Federal Food, Drug, and Cosmetic Act in 1938, Congress retained much of the earlier language concerning reasonable variations from the declared label weight, measure, or numerical count (21 U.S.C 343(e)).

The Fair Packaging and Labeling Act (FPLA) of 1966 also addressed the concept of an allowance for reasonable variations from the declared net quantities of food. In Congressional consideration of the FPLA, the question of unavoidable variations due to moisture loss or mechanical deviations was specifically raised. During the hearings conducted by the House of Representatives Committee on Interstate and Foreign Commerce before drafting the FPLA, no change from the earlier position of reasonable variations was recommended. The FPLA states that "The net quantity of contents (in terms of weight * * *) shall be separately and accurately stated in a uniform location upon the principal display panel of the label" (15 U.S.C. 1453(a)(2)). It further states: "Nothing contained in this chapter shall be construed to repeal, invalidate or supersede * * * the Federal Food, Drug, and Cosmetic Act" (15 U.S.C. 1460). Congress again had the opportunity to modify or eliminate the allowance for reasonable variations due to moisture loss that is permitted by the Federal Food, Drug, and Cosmetic Act, but chose instead to retain it unchanged.

In the Supreme Court case of *Jones* v. *The Rath Packing Co.*, 430 U.S. 519 (1977), the situation addressed by the Court was that the Federal regulations on net weight lableing allowed for reasonable variations due to moisture loss, while California law made no allowance for loss of weight (moisture) during good distribution practice and required instead a minimum weight at the retail store. The Court held that State regulations, when in conflict with or substantially different from Federal regulations, were preempted by Federal law.

In summary, the intent of Congress to allow "reasonable variations" in the net weight labeling of foods due to unavoidable moisture loss is apparent from the amended version of the Federal Food and Drugs Act of 1906, in the reenactment of the Federal Food, Drug, and Cosmetic Act in 1938, and in the FPLA of 1966. Because Congress passed the newer statutes in substantially the same form as the earlier version, it is presumed to have adopted the prior judicial construction of the language.

Petitions Proposing Modifications in Existing Regulations

The California Department of Food and Agriculture, initially with support from officials of 46 States (the number is now fewer than 48), numerous farm and consumer organizations, and many weights and measures officials, petitioned the FDA, USDA, and Federal Trade Commission to amend the existing Federal regulations (21 CFR 101.105(q), 21 CFR 501.105(q), 9 CFR 317.2(h)(2) and 16 CFR 500.22) concerning net weight labeling of packaged foods. The petitioner and supporters assert that the Federal net weight labeling regulations are unfair to consumers because they do not receive full measure as represented on the package. It is also asserted that these regulations preclude enforcement by State and local officials at the retail level because the phrase "reasonable variations" is undefined and vague. The petitioners propose to require a minimum declared weight, suggesting either overfilling to compensate for moisture loss or improving the food

packaging to impede moisture loss to ensure a minimum weight of food at any point during distribution, that is, at the retail level. The petitioners contend that industry has the capability to evaluate all the variables affecting moisture loss for their products and industry can, therefore, adjust the processing and target weights accordingly to minimize excessive overfilling. On several occasions, supporters of the California petition indicated that the Federal regulations should be amended by defining the phrase "reasonable variations" to facilitate enforcement.

Those who favor retaining an allowance for "reasonable variations" due to moisture loss support the petition submitted subsequently by the Grocery Manufacturers of America, Inc. (GMA) to FDA (Docket No. 78P–0040) and USDA. GMA asserts that the existing Federal regulations are not only reasonable, but essential. GMA maintains that no chronic short-weight problems have existed for approximately a decade, thereby illustrating the enforcement effectiveness of the present regulations. Where moisture loss can affect weight, GMA contends that the consumer is getting full value based on the nutritional food "solids." Industry representatives state that moisture loss occurring during distribution and storage is beyond the manufacturer's control. GMA maintains that the modifications proposed in the California petition—overfilling and improved food packaging—would provide no consumer advantage and would cause higher food costs. Instead, GMA recommends creating a National Net Weight Assurance Program to (1) establish a list of foods subject to moisture gain or loss, together with a normal moisture range at time of packaging; (2) foster the determination of net weight compliance of products through periodic inspections at the time of packaging; and (3) develop procedures for establishing a cooperative inspection program and for exchanging enforcement data between States and the Federal Government. GMA further encourages conducting net weight labeling inspections in accordance with the statistical sampling procedures described in the final draft of the revision of the National Bureau of Standards Handbook 67, "Checking Prepackaged Commodities" dated December 1977. The GMA proposal has received widespread support from the food industry.

Coordination of FDA and USDA Proposals

Following the 1977 Supreme Court decision in the *Rath* case, the merits of a parallel FDA/USDA net weight proposal were considered. In the Federal Register of October 14, 1977 (42 FR 55227), a notice was published announcing public hearings to be held jointly by FDA and USDA regarding possible modifications of the current regulations on net weight labeling of products. Legislative-type public hearings were held in San Francisco, CA, on December 8, 1977, and in Atlanta, GA, on December 15, 1977. Interested persons were invited to present their views orally or in writing. Representatives from numerous State and local governments, weights and measures associations, consumer groups, and various industries responded by providing information and views. These submissions from various sources were thoroughly reviewed, and the germane information obtained from the comments and testimony has been incorporated throughout this preamble. Transcripts of the hearings and all written comments and communications concerning the net weight regulations have been placed on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

At the same time, to fill the void left in State compliance programs by the Supreme Court decision, USDA published its net weight labeling proposal in December 1977. During the past several months there have been continued efforts between FDA and USDA to coordinate the net weight proposals. Concerted efforts were made to develop respective documents that were identical, when possible, or at least were mutually compatible. Because of basic differences in the characteristics of the food products regulated by the respective agencies, however, some differences in the proposals remain.

Net Weight Labeling Issues

The issues regarding the net weight labeling regulations can be grouped into two categories: (1) consumer protection from short-weight practices and (2) enforcement of the regulations.

Analysis of Consumer Claims of Short-Weight Practices

Examination of State and nationwide surveys on actual versus declared net weight from 1959 through mid-1977 indicates that no chronic short-weight problem for food commodities has existed for approximately a decade. On the average, consumers receive more than the labeled weight of foods.

In 1959, FDA conducted a nationwide check on the net weights of 36 different packaged foods and determined that 6 percent were short-weight in excess of 1 percent. In 1971, FDA again initiated a survey to establish the level of compliance with the Fair Packaging and Labeling Act and contracted with 11 States to conduct such a study. The findings revealed that approximately 7 percent of the products were apparently 1 percent or more short-weight. The reliability of these results was questioned because of the small data base considered. A followup nationwide net weight survey of dry packaged foods was conducted in 1973, using a larger data base. Only 0.7 percent of the dry-packaged food sampled were found to be short-weight by more than 1 percent. Various retail sampling programs were conducted from 1973 through 1975 to obtain a statistical profile of several product characteristics, including net weights. Overall the average net weight to declared label weight ratio exceeded 1.00 for all products considered. The ratios ranged from 1.02 to 1.08, with the average value of 1.04, signifying that packages, on the average, were overfilled by 4 percent.

The California Department of Food and Agriculture reported that its inspections during 1976 showed that over 97 percent of all food products were full-weight at the time of local inspections, and that milled products were 96 percent accurate. In checking over 40,000 lots of packaged commodities every year, Pennsylvania officials reported that 95 percent of all standard-packed commodities met or exceeded the net weight requirement under the lot averaging concept. Of the remaining 5 percent, 10 percent (that is, 0.5 percent of all products inspected) were short-weight by more than 1 percent of the labeled weight. Of the packages checked by Virginia officials during the year ending June 30, 1977, 7 percent were ordered off-sale because they did not contain the full stated weight. The Maryland Department of Agriculture reported that its compliance level was 89 percent. Although the Virginia and Maryland figures indicate slightly lower levels of compliance with their respective net weight regulations, no further breakdown was provided that might reveal the extent to which packaged foods were short-weight or the prevailing conditions of the packaged foods. Consequently, it is difficult to interpret further the significance of the Virginia and Maryland surveys.

The evidence gathered at both State and national levels fails to substantiate the claim that consumers have been subjected to sustained or intentional short-weighting. On the contrary, the most recent nationwide survey reveals

that consumers routinely receive a 4 percent overfill for the average of all packaged foods purchased.

Two factors, technological developments and government enforcement practices, are primarily responsible for the observed high levels of compliance with the net weight regulations.

Most large industries use sophisticated automatic filling machinery capable of packaging large volumes of foods quickly and within fairly narrow tolerances of the desired target weights. High-speed check-weighing equipment is also available to serve as a safeguard against overfilling and underfilling packages outside of the preselected weight range. When a sufficiently large volume of packages is considered, actual package weights normally cluster closely about the target weight. This fact viewed statistically further aids industry in selecting target values that result in the high compliance rates observed.

It should be noted that bulk-packed foods, whether packaged for wholesale or consumer distribution, are also subject to the net weight labeling regulations.

The FDA and State and local agencies have long worked together to enforce the accuracy of quantity of contents declarations that appear on packaged food labels. FDA has generally focused its efforts of enforcement of the Federal Food, Drug, and Cosmetic Act (the act) and FPLA on plants where foods are packaged. FDA has taken the position that packaged foods entering interstate commerce must contain quantities of food equal to or greater than the weights declared on the labels. State and local agencies traditionally enforce quantity of contents requirements in food establishments where food is offered for retail sale. Enforcement of the net weight regulations is more comprehensive at the State and local levels because of the continual policing of retail establishments by State and local agencies. It is the combined ongoing surveillance by Federal, State, and local agencies that encourages businesses to comply with the regulations.

Enforcement of the Regulations

The *Jones* v. *The Rath Packing Co.* Supreme Court decision brought into focus a very real problem for State and local officials who attempt to enforce net weight labeling regulations at the retail level. The inspector must address the question of whether or not moisture loss may be the basis for the weight shortages detected and, if so, whether the extent of mositure loss is "reasonable." Even though FDA has available some information that could provide guidance concerning selected foods under limited conditions, the inspector must resort to making judgments as to what is "reasonable." Because the regulations have not quantitatively defined "reasonable variations," a difficult burden is placed on inspectors who further recognize that their judgments may very well be challenged and overturned in court.

The actual means of inspecting packages for compliance also presents a problem for inspectors. One accurate method that has been applied to flour involves performing laboratory analysis of the retail product for water content and calculating the hypothetical weight of the product at a designated moisture content. This approach is, however, very cumbersome, time consuming, and costly. Most State and local enforcement officials prefer the convenience and uniformity of accurate scales that they can use in the retail stores to determine product weights without having to rely on laboratory analyses for theoretical weights.

Adopting amendments to the Federal net weight labeling regulations that minimize inspectors' subjective and speculative judgment clearly would be the approach preferred by State and local enforcement officials.

Economic Aspects of California Proposal

If a minimum weight standard at the retail level were established as requested by the California petitioners, industry asserts that it would have to implement modifications in the food-packaging operations that would be inflationary because the associated costs of these modifications would ultimately be passed on to consumers in the form of higher food costs. Industry maintains that these increased costs may negate the consumer benefits to be derived from the assurance of a minimum weight.

To ensure a minimum weight in the packaged foods, industry could, as the California petitioners request, increase target weights, thereby overfilling most packages. Options that do not provide additional weight are available as well. Food producers could alter food-packaging materials to prevent or retard moisture loss, or they could incorporate more sophisticated machinery to deliver more exact weights with reduced deviations.

Overfilling Packages

Based on a University of California study on 689 lots of food, target weights must be adjusted to 109 percent of the declared label weight (that is, a 9 percent overfill) to reduce the probability of underweight packages to 0.1 percent. Considering the $93.8 billion spent in 1976 on foods subject to moisture loss, assuming a 4 percent overfill to allow for moisture loss, and further assuming that a 4 percent overfill translates into a 4 percent cost increase, GMA estimated that consumers would have to bear the burden of $4 billion in addeds cost. If the overfill were to stimulate only a 2 percent cost increase, the added cost to consumers would be about $2 billion.

The Millers' National Federation estimates that the level of overpack required to accommodate the position advocated by the California petitioners lies in the 5 to 6 percent range. Congressman Don Edwards from the 10th District of California indicated that an error level of 5 percent on each packaged food would result in an extra charge to consumers totaling $1 billion annually.

The economic consequences of overfilling food packages have been addressed during the deliberations with USDA. The costs associated with industry operations and passed on to consumers were considered, as was the consumer perception of the costs as a consequence of the proposed regulation.

Some argue that overfilling a food package while increasing the package cost to compensate does not increase industry's costs, nor would consumers' "real" costs on a per-weight basis increase. In effect, consumers gain additional food for the additional expense.

Nevertheless, increasing the package price while providing an increased quantity of food and leaving the declared label weight on the package unchanged may result in the consumer perception of an apparent increase in the cost of their food. This may generate some confusion in the marketplace. While overfilling would eliminate underweight packages, this practice, in turn, would impede the consumers' ability to make value comparisons among different brands of a given food item. Although identical products packaged by different firms would, in all likelihood, contain the required minimum content of food, the amount of overfill may vary markedly. Thus, a consumer would be unable to make a value comparison based solely on examination of labels.

The claim made that overfilling of packages would be inflationary has been carefully evaluated. FDA and USDA concur that the projected inflation resulting from overfilling as described by industry has been overstated. Nonetheless, a slight but real additional cost could result from the overfilling approach for some products requiring machinery modifications (see below).

Equipment Modifications

Buying new equipment that can provide greater assurance of compliance with the regulations is another option available to industry. More sophisticated filling machinery that delivers food with increased accuracy, or check-weighing equipment, which automatically weights each package after filling to ensure a minimum content, is available. In either case the expense of purchasing new equipment would be passed to the consumer. The consumer does not necessarily receive additional product, but rather pays for the added assurance that the product is probably not short-weight.

Modification of Packaging Materials

Packaging foods in hermetically sealed containers may be an effective approach in reducing moisture loss for many foods, but several large-volume commodities develop less desirable characteristics when not allowed to "breathe." Flour and rice deteriorate more quickly when stored in air-tight containers. Certain cheeses must be packaged to minimize moisture loss while allowing continued aerobic curing. Moisture must be allowed to escape from baked goods such as bread, pies, and glazed doughnuts to prevent these foods from becoming soggy.

Paper or cardboard packaging now constitutes about 5 to 10 percent of a dry product's retail cost. Depending on the product, GMA stated that introducing a moisture barrier would increase packaging costs by 80 to 90 percent. The Millers' National Federation noted that the packaging for a 5-pound bag of flour costs 2.75 cents. By including a moisture barrier, each package would cost 4.85 cents. However, the lack of porosity in these moisture-proof bags and the resultant air entrapment reduces the packing-line efficiency now available with high-speed machinery. Were a can to be used to package flour, the Millers' National Federation said the package cost would escalate to between 36 and 50 cents a can. GMA reported comparable figures for packaged flour. The American Frozen Food Institute estimated that adding moistureproof barriers would stimulate a 3 to 4 percent cost increase per package, and the Dried Fruit Association of California said there are no economical dried fruit packaging materials that can prevent moisture loss or gain.

The proposed widespread use of moisture barriers presents additional problems of national concern. A heavier reliance on moisture barriers would result in the expanded use of nonrenewable fossil-derived energy sources, and since the moisture barriers are generally not biodegradable, the disposal of spent packages would create an additional environmental burden.

Each of the options discussed above introduces additional cost that must be borne by the consumer. However, certain industries have pointed out that the consequences of increased food costs may be selectively detrimental to firms such as those dealing with seafood and other frozen foods. Because seafood products are more expensive than many other foods, further price increases may drive consumers to seek less expensive alternatives. Similarly they contend that consumers may switch away from frozen foods to other packages not susceptible to moisture loss, for example, canned goods, rather than absorb a price increase.

Uniform Net Weight Standards

Current Federal net weight labeling standards, which allow for "reasonable variations," are less stringent than some State net weight regulations. Since the Supreme Court decision in *Jones* v. *Rath* affirmed the preemptive status of the Federal regulations, packaged foods entering into interstate commerce that are subject to inspection must be examined in accordance with Federal regulations.

Were the Federal regulations amended to require a minimum declared weight as suggested in the California proposal, intrastate businesses could have an economic advantage over interstate firms. Those industries engaged in interstate commerce must pack for more diverse conditions and, consequently, would have to either overpack (assuming extreme conditions of moisture loss) or custom pack (for different geographic regions). Industries serving less diverse climates would have more controlled environmental conditions to contend with and would be able to project moisture losses more accurately, thereby incurring less expense.

Regardless of whether current or amended Federal net weight regulations prevail, those manufactured and packagers involved in intrastate distribution of packaged foods are not subject to Federal regulations, but they must comply with the State regulations. Where the State net weight regulations are more stringent than the Federal regulations, intrastate businesses may be at an economic disadvantage. However, this potential inequity must be resolved by the individual States because no authority exists for FDA intervention in intrastate activities of this type.

Compliance with net weight labeling regulations by most manufacturers and packagers, regardless of ultimate location of the market, can be better achieved by amending the Federal regulations. This conclusion is discussed below.

Proposal

None of the alternatives advocated by the California petition would provide any consumer benefit without introducing disadvantages such as inflation or reduction in the consumers' ability to make value comparisons. The proposal submitted by GMA to establish a National Net Weight Assurance Program and to further develop a cooperative inspection program is not without merit but the mechanism GMA proposes is a cumbersome way of achieving what FDA believes can be accomplished very simply.

Therefore, FDA concludes that the deficiencies in the net weight labeling regulations, as delineated in the foregoing discussion, can be resolved by amending the regulations: (1) to adopt standardized methods and uniform procedures for assessing compliance of packaged foods with the net weight labeling regulations, and (2) to identify those foods subject to moisture loss, classifying them by food category and quantitatively specifying the maximum acceptable levels of moisture loss for each of the food categories.

Procedures

Because State and local inspection procedures can vary appreciably from one location to another during the evaluation of packaged foods for adherence to 21 CFR 101.105(q), there is a need to standardize techniques and methods of sampling and measuring to be employed during the sample examinations. Consequently, FDA, in collaboration with USDA and after technical consultation with the National Bureau of Standards (NBS), proposes to adopt with some modifications the sampling methodology identified as Sampling Category B in the final draft of the revision of National Bureau of Standards Handbook 67, "Checking Prepackaged Commodities," dated December 1977 and modified by memorandum in August 1978. This working draft will soon be superseded by new NBS Handbook 133, "Checking the Net Contents of Packaged Goods," which is not yet published. Numerous comments were received from weights and measures officials and industry

V 45 / 155 AG 8 80 UMI

representatives alike in support of the use of NBS Handbook 67.

Identifying the types of tare weights and explicitly defining what is meant by the terms are fundamental aspects of this net weight labeling proposal.

The tare weight has been defined for nonfrozen food products as the weight of the package materials, including adhesives, labels, ties, etc., and the weight of any adhering or absorbed juices, fats, or solids that would normally not be consumed. Any large portions of food adhering to the package materials during the tare weight assessment are to be removed from the package in a manner consistent with usual consumer practices.

The tare weight for frozen food products includes both the weight of the container and any adhering ice crystals.

Certain frozen foods, such as shrimp, are coated by the addition of water or other externally applied solutions just after freezing in order to form a glaze. During frozen storage, this added glaze serves to protect the product from storage-related deterioration. The tare weight for these frozen food products includes the weight of the container and any water or solution added as a glaze. It should be emphasized that the glaze added to these products is not intended for consumption; it serves a specific technological effect in the food.

As previously described in the November 7, 1975 **Federal Register** proposal pertaining to drained weight (40 FR 52172), "* * * it has been the policy of the FDA to regard the packing medium as properly part of the declared net weight, if the packing medium is generally consumed as part of the food. Where solid foods are packed in a salt brine or other medium which is considered inedible and almost always discarded before serving, declaration of drained weight of the food, instead of the net weight, has been recommended * * *" (Also see the December 9, 1977 **Federal Register**, 42 FR 62282, pertaining to drained and filled weight.)

FDA has adopted a tare weight sampling plan for standard-weight nonglass and nonaerosol containers, that is, those individual food packages whose net weights exist in one or more designated sizes, such as 8 oz, 18 oz, 2 lb, etc. The total number of tares for any lot sample size (10, 30, or 50 units) is determined by considering the range of three randomly selected package tares. The broader the tare weight range, which indicates increased tare weight variability, the greater the number of tare weight determinations that would be required. Should a given lot appear to be violative, FDA will determine tare weights for at least 6, 12, or 18 tares from samples numbering 10, 30, or 50 units, respectively.

FDA also proposes to adopt the approach for tare determinations for glass and aerosol packages presented in the draft of the revision of NBS Handbook 67, dated December 1977 and modified by memorandum in August 1978. This revised draft will soon be replaced by new NBS Handbook 133.

Because FDA inspections are usually performed in the plant or warehouse, FDA supports a production lot definition and therefore proposes to define a lot as a collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

As stated earlier, the proposed regulation provides for sample sizes of 10, 30, or 50 units, depending on the number of packages in the lot. As a practical matter, however, the FDA sampling practices will rarely result in a sample size of less than 50 because FDA ordinarily will weigh at production or storage sites where larger lot sizes are available. The proposal provides for small lot samplings in those instances where retail lots will be weighed, a relatively rare procedure for FDA but more common for State and local regulatory officials.

The sample size of 10 has been incorporated into the proposed regulation for lots containing 250 or fewer units as described in the National Bureau of Standards revised draft of Handbook 67. FDA is proposing to add the sample size of 50 for lots containing above 3,200 units to provide a sufficiently high sampling density for FDA compliance purposes.

For individual units within a sample, this proposal prescribes maximum allowable short weight variations (MAV) for specified ranges of labeled net weights. The MAV's range from 1 percent for labeled weights exceeding 54.40 pounds to 10 percent for some of the lower weight food packages. FDA has incorporated the proposed MAV's from the NBS revised draft of Handbook 67.

Two criteria must be met when assessing samples for compliance with respect to the net weight labeling regulations: unit net weight requirement and the sample average net weight requirement. The unit net weight requirement specifies that, when considering samples of 10 or 30 units, each unit must meet or exceed the labeled net weight less the combination of the MAV and, where appropriate, the specified moisture allowance (to be discussed shortly). When considering a sample of 50 units, no more than one unit may fail to meet or fail to exceed the labeled net weight less the combination of the MAV and, when appropriate, the specified moisture loss. The sample average net weight requirement establishes that the average net weight of the sample must meet or exceed the labeled net weight, allowing only for moisture loss when appropriate.

Because random weight food packages such as cheeses are often weighed and labeled individually in retail stores and because random-weight packages are stored and handled under more carefully controlled conditions, such packages are less likely to suffer weight deviations from either mechanical filling operations or moisture loss to the same extent as standard-weight packages containing the same product. Consequently, random-weight packages, that is, those individual food packages whose weights are not designated and may be highly variable, should be permitted less weight variation than the standard-weight counterparts. The modifications detailed below reflect these alterations.

Like standard weight packages, random-weight packages must satisfy two criteria, a sample average net weight requirement and a unit net weight requirement, for compliance with the net weight labeling regulations. In addition, tare weights must be determined individually for each random-weight package.

The sample average net weight requirement for random-weight packages establishes that the lot represented by the sample fails if the average net weight of the sample is less than the average of the declared net weights of the individual units in the sample after allowing for designated moisture losses that are specific for random-weight packages. The acceptable designated moisture losses for random-weight packages are established by considering specific moisture loss studies under comparable packaging, handling, and storage conditions. If the sample average net weight is equal to or greater than the average of the declared net weights of the units constituting the sample, that lot represented by the sample is in compliance with the net weight labeling regulations, provided that the following conditions are met. When considering samples of 10 or 30 units, each unit must meet or exceed the labeled net weight less the combination of the MAV as determined by the smallest-weight package contained in the sample and, when appropriate, a designated percentage of the moisture loss explicitly identified by FDA regulations for those random-weight foods. To remain in compliance with the net weight labeling regulations when considering samples with 50 units, no more than one unit may fall outside the range as described above.

Categories of Foods Subject to Moisture Loss

This document proposes to provide maximum permitted levels of moisture loss for various food categories. In the process of establishing maximum permitted levels of moisture loss for these food classes, FDA considered studies on moisture content and moisture loss available in the literature, and pertinent written information provided to FDA during and shortly after the public hearings on net weight labeling. Consideration was also given to the moisture loss characteristics imparted by the specific packaging materials employed and the effects of average anticipated storage time for each food. FDA proposes to establish moisture loss allowances for certain foods on the basis of similarity with those foods for which data are available. While a variety of sources for moisture loss data were consulted, it should be emphasized that the moisture loss allowances actually proposed are based only on FDA studies.

Standard-weight packaged foods subject to moisture loss have been placed into one of three food categories identified by maximum allowable moisture loss: one category of not more than 1 percent, a second category of not more than 3 percent, and a third category of not more than 4 percent. Foods permitted up to 1 percent moisture loss include frozen fruits and frozen vegetables packaged in cartons. Soft-ripened cheese packaged in loose wrappers are permitted up to 3 percent moisture loss, and flour packaged in kraft paper bags in permitted up to 4 percent moisture loss. Random-weight packaged soft-ripened cheeses are permitted a maximum of 1 percent moisture loss. No moisture loss allowance is proposed for foods other than those foods identified above or those that may be identified by well-defined studies (see below) as legitimately exhibiting moisture loss when properly packaged, handled, and stored.

As noted previously, proposed moisture allowances were designated for certain foods by analogy to similar foods (similar under comparable conditions of processing, packaging, and storage) for which moisture loss data exist. Thus, for example, all frozen fruits and vegetables packaged in cartons would be allowed a 1 percent moisture loss, although data are available only for frozen vegetables.

The Food and Drug Administration has available a limited amount of moisture loss data that were developed under well-defined conditions (Ref. 1). The agency acknowledges that deficiences may exist and that refinements, revisions, and additions of foods to the proposed moisture loss categories may be in order. Additional moisture loss categories may be proposed if justified by submitted data. Other standard-weight and random-weight packaged foods susceptible to moisture loss but not identified in this document may be eligible for moisture loss allowances. Moisture loss studies of appropriate quantity and quality must be submitted to FDA for review before additional moisture loss allowances will be proposed. While other packaged foods such as dried fruits and macaroni and noodle products have been reported to lost moisture during storage, a reasonable judgment regarding an acceptable level of moisture loss could not be made for one of the following reasons: adequate data quantifying moisture loss were not provided to FDA, conditions for data acquisition were improper or ill-defined, or reported ranges of observed moisture loss were too broad to support a recommendation for a proposed level of moisture loss. Providing a sufficiently narrow range of moisture loss for a food under well-defined conditions enables a critical evaluation of the data to be made. This, in turn, enables a tolerance to be proposed that is intended to protect consumer interests while not creating undue hardships for manufacturers and packagers.

Neither consumer nor industry representatives identified unreasonably large deviations due to moisture gain as a problem. In addition, overfilling during packaging is self-limiting from an economic standpoint. Consequently, establishing maximum permitted deviations above the declared weight was not considered further.

During the comment period or thereafter, interested persons having pertinent data on moisture loss characteristics are encouraged to provide the information to FDA. Data describing moisture loss (or gain) under well-defined conditions (temperature, humidity, duration of storage, packaging materials, etc.), as well as a comparison with the most commonly encountered conditions in the retail stores, are specifically solicited. These submissions should be addressed to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

References

A copy of each of the following reference documents has been placed on file with the Hearing Clerk, Food and Drug Administration.

1. Internal FDA Memorandum entitled "Data for Proposed Net Weight Tolerances," February 13, 1979.

2. Internal FDA Memorandum entitled "Net Weight Sampling Plans," October 23, 1978.

3. Internal FDA Memorandum entitled "Net Weight Labeling—Proposed Regulation—Shrinkage Allowance for Random Weight Units of Soft-Ripened Cheese," August 21, 1979.

4. Draft of revised National Bureau of Standards Handbook 67, "Checking Prepackaged Commodities," December 1977 and memoranda updating the draft, August 1978.

The potential environmental effects of this action have been carefully considered, and the FDA has concluded that the action will not significantly affect the quality of the human environment. This action is one of a type for which the agency has determined that the preparation of an environmental impact statement is not required, except in rare and unusual circumstances (21 CFR 25.1(f)(12)). Accordingly, the preparation of an environmental impact analysis report for this action is not required pursuant to 21 CFR 25.1(g).

The agency proposes that the final regulation based on this proposal be made effective 90 days after the date the final regulation is published in the **Federal Register**.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701, 52 Stat. 1041 as amended, 1046–1048 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(n), 343, and 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 101, as follows:

1. In § 101.105 by revising paragraph (q), to read as follows:

§ 101.105 Declaration of net quantity of contents when exempt.

* * * * *

(q) The declaration of net quantity of contents shall express an accurate statement of the quantity of contents in the package. The quantity of contents shall not be less than the statement of the quantity of contents on the package, except as permitted by § 101.106.

* * * * *

2. By adding new § 101.106 to Subpart F, to read as follows:

§ 101.106 Net weight; compliance

net weight appears in Table 4 of this

(ii) The food is packaged in a

§ 101.106 Net weight: compliance determinations and reasonable variations from the labeled quantity.

(a) Compliance with the net weight requirements of § 101.105(q) shall be determined in accordance with the provisions of this paragraph.

(1) *Net weight requirements for standard-weight food packages.* The sample fails if it does not meet both the unit and the average net weight requirements of this paragraph.

(i) *Unit net weight requirement.* (*a*) When considering a sample consisting of 50 units, no more than one unit may weigh less than either the weight obtained by subtracting from the labeled net weight the applicable maximum allowable variation in paragraph (b) (Table 4) of this section, or, when a moisture allowance is permitted, the weight obtained by subtracting from the labeled net weight the combined total of the applicable allowable variation in paragraph (b) of this section and the allowance for moisture loss in paragraph (c) (2), (3), or (4) of this section, as appropriate.

(*b*) When considering a sample consisting of 10 or 30 units, no unit shall weigh less than the appropriate weight obtained in accordance with paragraph (a)(1)(i)(*a*) of this section.

(ii) *Sample average net weight requirement.* The sample average net weight (the average net weight of the units in the sample), analyzed according to the sampling plan in paragraph (a)(3) of this section, is equal to or greater than the labeled net weight. Except for foods listed in paragraph (c) (2), (3), and (4) of this section the average net weight of the units in the sample is equal to or greater than the labeled weight minus the allowance for moisture loss for that food as specified in paragraph (c) (2), (3), or (4) of this section, as appropriate.

(2) *Net weight requirements for random-weight food packages.* The sample fails if it does not meet both the unit and the average net weight requirements of this paragraph.

(i) *Unit net weight requirement.* (*a*) When considering a sample consisting of 50 units, no more than 1 unit may weigh less than either the weight obtained by subtracting from the labeled net weight the maximum allowable variation from paragraph (b) (Table 4) of this section as determined by the smallest weight package contained in the sample, or, when a moisture allowance is permitted, the weight obtained by subtracting from the labeled net weight the combined total of the applicable allowable variation in paragraph (b) (Table 4) of this section as determined by the smallest weight package contained in the sample and the allowance for moisture loss in paragraph (d) of this section.

(*b*) When considering a sample consisting of 10 or 30 units, no unit shall weigh less than the appropriate weight obtained in accordance with paragraph (a)(2)(i)(*a*) of this section.

(ii) *Sample average net weight requirement.* The sample average net weight (the average net weight of the units in the sample), analyzed according to the sampling plan in paragraph (a)(3) of this section, is equal to or greater than the average of the labeled net weights. Except for foods listed in paragraph (d) of this section, the average net weight of the units in the sample is equal to or greater than the labeled weight minus the allowance for moisture loss for that food as specified in paragraph (d) of this section.

(3) *Sampling plan.* (i) A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade constitutes a lot.

(ii) (*a*) The tare weight for nonfrozen food products shall be the weight of the package materials, including adhesives, labels, ties, etc., and the weight of any adhering or absorbed juices, fats, or solids that would normally not be consumed. Any large portions of food adhering to the package materials during the tare weight assessment are to be removed from the package in a manner consistent with usual consumer practices.

(*b*) The tare weight for frozen products shall be the weight of the container and any ice crystals adhering to the surface of the package materials.

(iii) The sample for determining the quantity of contents shall consist of 10, 30, or 50 units (primary containers of food) chosen at random from the lot. The number of units to be chosen depends on lot size and shall be determined in accordance with Table 1 of this paragraph.

Table 1.—*Sample Sizes for Determination of Compliance With Net Weight Declaration*

Lot size (primary containers)	Sample size (number of units or primary containers of food)
250 or less	10
251 to 3,200	30
3,201 or above	50

(iv) (*a*) The total number of tare weights for any standard weight lot sample described in this section is determined by considering the range of three randomly selected package tares in accordance with Table 2 of this paragraph.

Table 2.—*Number of Tare Weight Determinations Required for Assessment of Compliance With Net Weight Declaration*

Range of three tares (ounces or grams)	Minimum number of tares required
⅛ oz (3.54 g) or less	3
More than ⅛ oz (3.54 g) to and including $^{9}/_{16}$ oz (5.32 g)	6
More than $^{9}/_{16}$ oz (5.32 g) to and including ¼ oz (7.09 g)	9
More than ¼ oz (7.095 g) to and including $^{11}/_{16}$ oz (8.86 g)	[1] 12
More than $^{11}/_{16}$ oz (8.86 g)	[1] 15

[1] If only 10 units are to be sampled because the lot size was 250 units or less, all 10 tares shall be measured.

(*b*) If the lot appears to be violative, at least 6, 12, or 18 tare-weight determinations shall be required for samples numbering 10, 30, or 50 units, respectively.

(*c*) For glass or aerosol containers, the total number of tare weights to be obtained for lot samples of 10, 30, or 50 units shall be based on an initial tare sample of 6, 12, or 18 randomly chosen units, respectively; the numbers of tares shall be increased where necessary to reach the total number, as determined by the ratio of the range between the lowest and highest unit net weights (RC) and the range between the lowest and highest tare weights (RT). Based on the RC/RT ratio the total number of empty aerosol or glass containers to be used in determining the tare weight shall be in accordance with the sampling schedule in Table 3 of this paragraph.

Table 3.—*Total Number of Empty Aerosol or Glass Containers To Be Used In Determining the Tare Weight*

RC/RT ratio	Total number of empty aerosol or glass containers		
	Sample size: 10	Sample size: 30	Sample size: 50
0.2 or less	10	30	50
0.21 to 0.40	10	29	49
0.41 to 0.60	10	28	46
0.61 to 0.80	9	26	44
0.81 to 1.00	8	24	40
1.01 to 1.20	8	23	37
1.21 to 1.40	8	21	34
1.41 to 1.60	7	19	31
1.61 to 1.80	6	17	28
1.81 to 2.00	6	15	25
2.01 to 2.20	6	14	23
2.21 to 2.40	6	13	21
2.41 to 2.60	6	12	19
2.61 to 2.80	6	12	18

(*d*) Tare weights for each random weight package must be determined individually.

(b) *Maximum allowable variation applicable to units.* The maximum allowable variation below the labeled net weight appears in Table 4 of this paragraph.

Table 4.—*Maximum Allowable Variation Below the Net Weight* [1]

Labeled net weight, pounds or ounces	Maximum allowable variation of the net weight	
	Decimal lb.	Fractional oz.
0.026 lb or less	0.001	
0.41 oz or less		
More than 0.026 lb to and including 0.04 lb	0.002	$^{1}/_{32}$
More than 0.41 oz to and including 0.64 oz		
More than 0.04 lb to and including 0.08 lb	0.004	$^{1}/_{16}$
More than 0.64 oz to and including 1.28 oz		
More than 0.08 lb to and including 0.12 lb	0.008	⅛
More than 1.28 oz to and including 1.92 oz		
More than 0.12 lb to and including 0.18 lb	0.012	$^{3}/_{16}$
More than 1.92 oz to and including 2.88 oz		
More than 0.18 lb to and including 0.26 lb	0.016	¼
More than 2.88 oz to and including 4.16 oz		
More than 0.26 lb to and including 0.34 lb	0.020	$^{5}/_{16}$
More than 4.16 oz to and including 5.44 oz		
More than 0.34 lb to and including 0.46 lb	0.024	⅜
More than 5.44 oz to and including 7.36 oz		
More than 0.46 lb to and including 0.58 lb	0.028	$^{7}/_{16}$
More than 7.36 oz to and including 9.28 oz		
More than 0.58 lb to and including 0.70 lb	0.032	½
More than 9.28 oz to and including 11.20 oz		
More than 0.70 lb to and including 0.84 lb	0.036	$^{9}/_{16}$
More than 11.20 oz to and including 13.44 oz		
More than 0.84 lb to and including 0.94 lb	0.40	⅝
More than 13.44 oz to and including 15.04 oz		
More than 0.94 lb to and including 1.06 lb	0.044	[2] $^{11}/_{16}$
More than 15.04 oz to and including 17.28 oz		
More than 1.06 lb to and including 1.26 lb	0.048	¾
More than 1.26 lb to and including 1.40 lb	0.052	[2] $^{13}/_{16}$
More than 1.40 lb to and including 1.54 lb	0.056	⅞
More than 1.54 lb to and including 1.70 lb	0.060	[2] $^{15}/_{16}$
More than 1.70 lb to and including 1.88 lb	0.064	1
More than 1.88 lb to and including 2.14 lb	0.070	1⅛
More than 2.14 lb to and including 2.48 lb	0.078	1¼
More than 2.48 lb to and including 2.76 lb	0.086	1⅜
More than 2.76 lb to and including 3.20 lb	0.094	1½
More than 3.20 lb to and including 3.90 lb	0.11	1¾
More than 3.90 lb to and including 4.70 lb	0.12	2
More than 4.70 lb to and including 5.80 lb	0.14	2¼
More than 5.80 lb to and including 6.80 lb	0.15	2½
More than 6.80 lb to and including 7.90 lb	0.17	2¾
More than 7.90 lb to and including 9.40 lb	0.19	3
More than 9.40 lb to and including 11.70 lb	0.22	3½
More than 11.70 lb to and including 14.30 lb	0.25	4
More than 14.30 lb to and including 17.70 lb	0.28	4½
More than 17.70 lb to and including 23.20 lb	0.31	5
More than 23.20 lb to and including 31.60 lb	0.37	6
More than 31.60 lb to and including 42.40 lb	0.44	7
More than 42.40 lb to and including 54.40 lb	0.50	8
More than 54.40 lb		[2] 1

[1] For conversion into metric units the following conversion factors are provided:
1 lb equals 0.4536 kilogram.
1 ounce equals 28.35 grams.
[2] Percent.

(c) *Maximum allowances for moisture loss for standard-weight food packages.* Maximum allowances for moisture loss, expressed as a percentage of the labeled net weight, for specified foods with packaging materials identified are as follows:

(1) No allowance for moisture loss is permitted if:

(i) The food is not subject to moisture loss, or

(ii) The food is packaged in a hermetically sealed container, or

(iii) The average net weight of all of the Units of the sample, at the time of initial shipment in interstate commerce, is less than the declared weight.

(2) One percent for the following foods: Frozen fruits and frozen vegetables packaged in cartons.

(3) Three percent for the following foods: Cheeses, natural, soft-ripened (e.g., camembert and leiderkranz) packaged in loose wrappers.

(4) Four percent for the following foods: Flours packaged in kraft paper bags.

(d) *Maximum allowances for moisture loss for random-weight food packages.* Maximum allowances for moisture loss, expressed as a percentage of the labeled net weight, for specified foods are as follows: One percent for the Following foods; Cheeses, natural, soft-ripened, (e.g., Camembert and liederkranz).

Interested persons may, on or before November 6, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 16, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–23686 Filed 8–4–80; 8:45 am]

BILLING CODE 4110–03–M

V 45 / 155 AG 8 80 UMI

V
4
5
/
1
5
5

A
G
8

8
0
UMI

federal register

Friday
August 8, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Mississippi:	
MS80–1079	June 27, 1980.
MS80–1084	July 25, 1980.
Missouri: MO79–4094	Nov. 9, 1979.
Montana: MT80–5120; MT80–5121; MT80–5122.	June 27, 1980.
New Mexico: NM80–4057	July 18, 1980.
Pennsylvania:	
PA79–3005	Mar. 16, 1979.
PA80–3025	Apr. 11, 1980.
PA80–3032	May 31, 1980.
PA80–3043	July 7, 1980.
Wisconsin: WI80–2037	May 23,1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Iowa:	
IA78–4102(IA80–4043); IA78–4103(IA80–4044); IA78–4104(IA80–4045); IA78–4105(IA80–4046); IA78–4109(IA80–4050).	Nov. 24, 1978.
IA78–4111(IA80–4052)	Nov. 11, 1978.
Kansas: KS79–4090(KS80–4069)	Oct. 5, 1979.
Ohio:	
OH77–2057 (OH80–2051); OH77–2058 (OH80–2060).	Apr. 15, 1977.
OH77–2086 (OH80–2071)	May 20, 1977.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 1st day of August 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 2

DECISION NO. MS80-1079 (Cont'd)

ADD: (continued)
Warren County
POWER EQUIPMENT OPERATORS (cont'd)

Booms, including jib:
50¢ per hour above regular rate - 100 feet to and including 200 feet.

75¢ per hour above regular rate - 201 feet to and including 300 feet.

$1.00 per hour above regular rate - 301 feet and above.

Operators servicing other crafts shall draw rate of pay not less than journeyman rate of craft being serviced.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Warren County:					
Glaziers	$9.60				
Laborers	3.10				.02
Plumbers; Pipefitters	12.24	.55	.67	c	
Sprinkler fitters	12.80	.85	1.20		.08
Hancock, Harrison, Jackson, and Pearl River Counties:					
Electricians:					
Electricians	12.60	5%	3%+2%		1/8%
Cable Splicers	12.85	5%	3%+2%		1/8%
Line Construction:					
Linemen	12.60	5%	3%+2%		1/8%
Cable Splicers	12.85	5%	3%+2%		1/8%
Plumbers and Steamfitters	11.43	.56	.75	.05	
Sprinkler Fitters	12.80	.85	1.20		.08

MODIFICATIONS P.1

DECISION NO. MS80-1079 - MOD. #2
(45 FR 43594 - June 27, 1980)
Bolivar, Forrest, Jones, Hancock, Harrison, Jackson, Pearl River, Issaquena, Sharkey, Sunflower, Washington, Le Flore, Lowndes, Yalobusha, and Warren Counties, Mississippi.

Omit all Power Equipment Operator and Truck Driver classifications and wage rates for Warren County.

ADD:
Warren County
POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.53	.50	.30		.05
GROUP II	9.73	.50	.30		.05
GROUP III	9.48	.50	.30		.05
GROUP IV	8.88	.50	.30		.05
GROUP V	7.23				

GROUP I: Engineer, operating under air pressure.

GROUP II: Mechanic

GROUP III: Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, cement mixing plant, cherry picker, clamshell, crane, derrick, dragline, dredge, elevating grader, excavator (power), fork lift (5 tons & over), hoist (one drum), locomotive engineer, marine engineer, motor patrol and similar (chief), master pilot, mixermobile (21 c.f. & over), pile driver, recharger, equipment, paver (21 c.f. & over), reaching machine (over 18' bucket line width), scraper, self-propelled (DW-10 and similar pull type scoop (skimmer), tamper, trenching machine (over 18" bucket line width), transpalletor, tractor (5 tons), truck crane oiler, Transcavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps.

GROUP IV: Asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift (over 2 tons and less than 5 tons), heating plant, hoist (one drum), mixer (concrete), mixer payloader and similar endloader, motorman, oiler, operating plant, pump (concrete), reaching machine (over 18" bucket line width), tamper, trenching machines (18" or smaller bucket line width), tugboat, winch truck and tractor, small rubber tire backhoe attachment.

GROUP V: Air compressor, batch scale, deckhand, forklift (2 tons & under), form grader, locomotive hostler, motorboat (in or out-board), oiler, pump, roughneck, scowman, tractor (with attachments), welding machine.

V45/155/AUG 8 80 UMI A

UMI 008 8GA 55154V

MODIFICATIONS P. 3

DECISION NO. MS80-1084 - MOD. #1
(45 FR 49815 - July 25, 1980)
Hinds County, Mississippi

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Carpenters:					
Soft Floor Layers	$ 9.20	.45	.35		.10
CHANGE:					
Carpenters:					
Carpenters	9.65	.45	.35		.10
Power saw operator (1 hp. or over	9.90	.45	.35		.10
Fiber glass insulation application	9.80	.45	.35		.10
Millwrights	10.25	.45	.35		.10
Piledrivermen	10.00	.45	.35		.10
Glaziers	9.60				.02
Sprinkler Fitters	12.80	.85	1.20		.08

DECISION #MO79-4094 - Mod. #3
(44 FR 65310 - November 9, 1979)
Franklin, Jefferson, Lincoln, St. Charles, Warren Counties & City & County of St. Louis, Missouri

Omit:					
Glaziers (St. Louis County): Glaziers(installing of art glass; repairing, cleaning, cementing & waterproofing in connection with the restoration of stained and leaded glass windows)					
Inside	$8.17	50% of premium	1.00	a+b	
Outside	8.86	50% of premium	1.00	a+b	
Add:					
Glaziers (St. Louis County): Glaziers(installing of art glass; repairing, cleaning, cementing & waterproofing in connection with the restoration of stained and leaded glass windows)	8.86	50% of premium	1.00	a+b	

DECISION #MT80-5120 Mod. #3
45 FR 43598 June 27, 1980

MODIFICATIONS P. 4

STATEWIDE, MONTANA

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS					
Group 1	$ 9.80	.70	.60	.20	.05
PAINTERS					
Area 1					
Brush or roller, pot tender, preparatory work, paper or vinyl hanger	11.44	.51	.35		.03
Wet sandblasting, brush or roller apllication of cold tar epoxies and acid resistant materials	13.44	.51	.35		.03
Spray application of cold tar, epoxies and acid resistant materials	16.27	.51	.35		.03
Structural steel: Brush or roller	12.94	.51	.35		.03
Perfa-taping	11.94	.51	.35		.03
POWER EQUIPMENT OPERATORS					
Hot plant oiler, 100 ton per hour	11.68	.87	.75	.50	.07
Hydralift & similar type	12.09	.87	.75	.50	.07
Rubber tired front end loader, over 3cy. to and including 5cy.	12.31	.87	.75	.50	.07
Washing and screening plant oiler	11.68	.87	.75	.50	.07
Chip or gravel spreader, self propelled	11.91	.87	.75	.50	.07
Grade setter	11.65	.87	.75	.50	.07
ADD:					
POWER EQUIPMENT OPERATORS					
Hoist Operator, Single drum	11.96	.87	.75	.50	.07
Mechanic shop (Dec. 1 to April 1)	11.89	.87	.75	.50	.07
Omit:					
Line Construction: Phrase stating: "on jobs over 69 K.V. and all work on highway lifhting and traffic control systems" - is not applicable to Line Construction.					

MODIFICATIONS P. 5

DECISION #MT80-5121 Mod. #3
45 FR 43608-June 27, 1980

STATEWIDE, MONTANA

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$13.87	1.375	1.10		.05
BRICKLAYERS					
Area 4	12.15	.70	.50		
Area 5	14.15		.55		
Area 7	12.75	.75	.75		
CARPENTERS					
Area 8					
Carpenters	11.28	.85	1.00		.06
Millwrights	12.28	.85	1.00		.06
Piledrivermen, Sawmen	11.43	.85	1.00		.06
LABORERS					
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure, and Yellowstone Cos.					
Group 1	9.60	.70	.60		.05
Group 2	9.82	.70	.60		.05
Group 3	9.85	.70	.60		.05
Carter, Custer, Dawson, Fallon, Powder River, Prairie, and Wibaux Counties.					
Group 1	9.45	.70	.60		.05
Group 2	9.67	.70	.60		.05
Group 3	9.70	.70	.60		.05
MARBLE MASONS					
Area 5	12.15	.70	.50		
PAINTERS					
Area 4					
Brush, roller, paper or vinyl hanger, preparatory work, pot tender	11.44	.51	.35		.03
Wet sandblasting, brush or roller application of cold tar epoxies and acid resistant materials	13.44	.51	.35		.03

MODIFICATIONS P. 6

DECISION #MT80-5121 Mod.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Spray application of cold tar epoxies and acid resistant materials	16.27	.51	.35		.03
Structural steel: brush or roller	12.94	.51	.35		.03
Perfa-taping	11.94	.51	.35		.03
ADD:					
LINE CONSTRUCTION					
Statewide, except for Flathead, Lake, and Lincoln Counties.					
Lineman, Pole Sprayer	12.90	.45	3%+.50		4%
Cable Splicer	13.80	.45	3%+.50		4%
Line Equipment Operator and Powderman	11.40	.45	3%+.50		4%
Groundman	9.23	.45	3%+.50		4%
Flathead, Lake, and Lincoln Counties.					
Lineman	12.32	.45	3%+.50		4%
Cable Splicer	13.71	.45	3%+.50		4%
Pole Sprayer	10.95	.45	3%+.50		4%
Line Equipment Operator	10.50	.45	3%+.50		4%
Powderman, Jackhammerman, and Compressorman	9.11	.45	3%+.50		4%
Groundman	8.54	.45	3%+.50		4%
Tree Trimmer	11.35	.45	3%+.50		4%
OMIT:					
Lewis & Clark County from Area 5 in the Roofer's classification.					

UMI 8GA 551\54V

MODIFICATIONS P. 7

DECISION #MT80-5122 - Mod. #3
(45 FR 43624-June 27, 1980)
Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow, and Valley Counties:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$13.87	$1.375	$1.10		.05
Bricklayers:					
Area 5	12.75	.75	.75		
Carpenters:					
Area 8:					
Millwrights	11.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04
Marble Masons:					
Area 3	12.75	.75	.75		
Painters:					
Areas 2 and 3:					
Brush or roller, pmt tender, paper or vinly hanger, and preparatory work	11.44	.51	.35		.03
Wet sandblasting, brush or riller application of cold tar epoxies and acid resistant materials	13.44	.51	.35		.03
Spray application of cold tar epoxies and acid resistnat materials	16.27	.51	.35		.03
Perfa-taping	11.94	.51	.35		.03

MODIFICATIONS P. 8

DECISION NO. NM80-4057 - MOD. #1
(45 FR 48426 - July 18, 1980
Statewide, New Mexico

OMIT:
UNDER DESCRIPTION OF WORK: BUT DOES NOT INCLUDE HEAVY CONSTRUCTION ON THE NAVAJO INDIAN RESERVATION.

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS-STONEMASONS					
Zone I-A	$11.31	.77	.50		.10
Zone I-B	12.56	.77	.50		.10
Zone I-C	13.56	.77	.50		.10
Zone II	11.41	.77	.50		.10
Zone III	12.41	.77	.50		.10
Zone IV	11.51	.77	.40		.10
Zone V	12.51	.77	.40		.10
Zone VI	10.81	.77	.40		.10
Zone VII	11.61	.77	.40		.10
Zone VIII	12.24	.77	.30		.10
Zone IX	10.99	.77	.30		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI - Lee and Eddy Counties
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; HIdalgo and Sierra Counties
ZONE IX - Dona Ana County

MODIFICATIONS P. 9

DECISION NO. NM80-4057 - MOD. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT: (Cont'd)					
LATHERS:					
Zone I	$11.64	.77			.06
Zone II	12.56	.77			.01
Zone III	8.98	.77			.01

LATHERS ZONE DEFINITIONS

ZONE I - Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties
ZONE II - Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties
ZONE III - Dona Ana and Otero Counties

ADD: BUILDING & HEAVY CONSTRUCTION					
BRICKLAYERS-STONEMASONS:					
Zone I-A	12.11	.77	.40		.10
Zone I-B	13.61	.77	.40		.10
Zone I-C	14.36	.77	.40		.10
Zone II	12.20	.77	.50		.10
Zone III	13.45	.77	.50		.10
Zone IV	12.31	.77	.40		.10
Zone V	13.56	.77	.40		.10
Zone VI-A	11.41	.77	.40		.10
Zone VI-B	12.66	.77	.40		.10
Zone VII	12.01	.77	.40		.10
Zone VIII	12.89	.77	.40		.10
Zone IX	11.39	.77	.30		.10

MODIFICATIONS P. 10

DECISION NO. NM80-4057 - MOD. #1

BRICKLAYERS' ZONE DEFINITIONS

ADD:
ZONE I - Union, Harding, Santa Fe, Valencia, Torrance, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo, and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe, and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI-A - Lee and Eddy Counties (except at mine and refinery sites outside municipal limits)
ZONE VI-B - Lee and Eddy Counties (employees at mine and refinery sites outside municipal limits)
ZONE VII - Otero County
ZONE VIII - Luna and Grant Counties, Communities of Silver City, Bayard, Central, Hurley, and new town site of Tyrone; Hidalgo and Sierra Counties
ZONE IX - Dona Ana County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Zone I	$11.40	1.10	1.30		.20
Zone II	12.90	1.10	1.30		.20
Zone III	13.65	1.10	1.30		.20

LATHERS BASING POINT & AREA DEFINITIONS

Alamogordo, Albuquerque, Antesia, Bayard, Belen, Carlbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari.

ZONE I - Jobs within 15 miles of base points
ZONE II - Jobs 15 to 35 miles
ZINE III - Jobs 35 miles and more

UMI 008 8GA 551\54V

MODIFICATIONS P. 11

DECISION NO. NM80-4057 - MOD. #1

CHANGE: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	$ 8.15	1.10	1.30	(.65)	.20
Zone I-B	9.65	1.10	1.30	(.65)	.20
Zone I-C	10.40	1.10	1.30	(.65)	.20
CEMENT MASON:					
Area I	10.07	.77	.70		.20
Area II:					
Zone 1	10.07	.77	.70		.20
Zone 2	11.32	.77	.70		.20
Zone 3	11.57	.77	.70		.20
Cement Masons (Residential	8.67	.77	.70		.20
Cement Masons (Heavy)	10.07	.77	.70		.20
CEMENT MASONS:					
Composition & Machine Oprs.					
Area I	10.32	.77	.70		.20
Area II:					
Zone 1	10.32	.77	.70		.20
Zone 2	11.57	.77	.70		.20
Zone 3	11.82	.77	.70		.20
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Cos.:					
Elevator Constructors	12.98	.895	.69	4%+b+c	.035
Elevator Constructors' Helpers	70+JR	.895	.69	4%+b+c	.035

MODIFICATIONS P. 12

DECISION NO. NM80-4057 (Cont'd)

CHANGE: (Cont'd) COMMERCIAL LINE WORK	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ZONE I					
Linemen - technicians	$13.45	.60	3%+.70		1/2%
Cable splicers	14.80	.60	3%+.70		1/2%
Equipment Operator (includes helicopter op.)	12.78	.60	3%+.70		1/2%
Equipment Mechanic (includes helicopter mechanic)	11.70	.60	3%+.70		1/2%
Powderman	11.70	.60	3%+.70		1/2%
Groundman & Jackhammer Oprs.	9.55	.60	3%+.70		1/2%
ZONE II					
Linemen - technicians	14.53	.60	3%+.70		1/2%
Cable splicers	15.88	.60	3%+.70		1/2%
Equipment Operator (includes helicopter op.)	13.86	.60	3%+.70		1/2%
Equipment Mechanic (includes helicopter mechanic)	12.78	.60	3%+.70		1/2%
Powderman	12.78	.60	3%+.70		1/2%
Groundman & Jackhammer Oprs.	10.63	.60	3%+.70		1/2%
ZONE III					
Linemen - technicians	15.33	.60	3%+.70		1/2%
Cable splicers	16.68	.60	3%+.70		1/2%
Equipment Operator (includes helicopter op.)	14.66	.60	3%+.70		1/2%
Equipment Mechanic (includes helicopter mechanic)	13.58	.60	3%+.70		1/2%
Powderman	13.58	.60	3%+.70		1/2%
Groundman & Jackhammer Oprs.	11.43	.60	3%+.70		1/2%
ZONE IV					
Linemen - technicians	16.81	.60	3%+.70		1/2%
Cable splicers	18.16	.60	3%+.70		1/2%
Equipment Operator (includes helicopter op.)	16.14	.60	3%+.70		1/2%
Equipment Mechanic (includes helicopter mechanic)	15.06	.60	3%+.70		1/2%
Powderman	15.06	.60	3%+.70		1/2%
Groundman & Jackhammer Oprs.	12.91	.60	3%+.70		1/2%

MODIFICATIONS P. 13

DECISION NO. NM80-4057 (Cont'd)

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

CHANGE: (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CABLE SPLICERS:					
Zone I					
1-A	$14.80	.60	3%+.70		3/4%
1-B	15.88	.60	3%+.70		3/4%
1-C	16.68	.60	3%+.70		3/4%
1-D	18.16	.60	3%+.70		3/4%
Zone II	16.68	.60	3%+.70		3/4%
ELECTRICIANS:					
Zone I					
1-A	13.45	.60	3%+.70		3/4%
1-B	14.53	.60	3%+.70		3/4%
1-C	15.33	.60	3%+.70		3/4%
1-D	16.81	.60	3%+.70		3/4%
Zone II	15.33	.60	3%+.70		3/4%

MODIFICATIONS P. 14

DECISION NO. PA79-3005 - MOD. #7

(44 FR 16320 - March 16, 1979 Lycoming County, Pennsylvania CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Carpenters	$11.86	.60	.70		.05

DECISION #PA80-3025-Mod. #4
(45 FR 25015 - April 11, 1980)
Adams and York Counties, Pennsylvania

Change:					
Carpenters (Adams County)	11.86	.60	.70		.05

DECISION #PA80-3032-Mod. #3
(45 FR 36767 - May 31, 1980)
Columbia, Montour, and Snyder Counties, Pennsylvania

Change:					
Carpenters	11.86	.60	.70		.05

DECISION #PA80-3043-Mod. #2
(45 FR 45849 - July 7, 1980)
Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania

Change:					
Carpenters	11.86	.60	.70		.05

UMI 008 8GA 55-154V

MODIFICATIONS P. 15

DECISION NO. WI80-2037 - MOD. #3
(45 FR 35150 - May 23, 1980)
Columbia, Dane, Iowa, and Sauk Counties, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Laborers, Building General laborer, building wreckers	$10.32	.55	.50		.03
Vibrator, Air tamper, Mortar Mixer, Sand Blast mixer, Hod Carrier	10.47	.55	.50		.03
Pneumatic Tool Operator, Air Hammer, Jack Hammer, Air Spade Operators	10.57	.55	.50		.03

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Clinton
DECISION NO.: IA80-4043 DATE: Date of Publication
Supersedes Decision No.: IA78-4102, dated November 24, 1978 in 43 FR 55164
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	11.25		.75		
CARPENTERS:					
Carpenters	11.00	.60	.90		.04
Piledrivermen	11.50	.60	.90		.04
Millwrights	15.00	.65	1.30		.25
CEMENT MASONS	12.02	.70	.60		
ELECTRICIANS:					
Electricians	13.29	.70	7.5%		.03
Cable splicers	14.29	.70	7.5%		.03
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS	13.87	.75	.375		.07
LABORERS:					
GROUP 1 - Common laborers	10.83	.40	.60		.05
GROUP 2 - Operator on air or power tools; mortar mixer man; any work 35 ft. high or over; cement dumper, puddlers or vibrator man and men working with concrete pump hose; ditch work 8 ft. below ground level; any man working with creosote materials	11.08	.40	.60		.05
GROUP 3 - Cutting torch burner; caisson & coffer-dam workers	11.13	.40	.60		.05
MARBLE SETTERS	11.50	.50	1.30		
PAINTERS:					
Brush	12.37	.60	1.25		.22
Spray; Structural steel	12.87	.60	1.25		.22
PLASTERERS	11.25		.75		
PLUMBERS & STEAMFITTERS	13.70	.61	1.09		.15
ROOFERS	12.65		.80		
SHEET METAL WORKERS	12.92	.75	1.25		.14
SOFT FLOOR LAYERS	11.00	.60	.90		.04
SPRINKLER FITTERS	14.10	.85	1.20		.08
TERRAZZO WORKERS	11.50	.50	1.30		
TILE SETTERS	11.50	.50	1.30		

DECISION NO. IA80-4043 Page 2

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					
POWER EQUIPMENT OPERATORS:					
GROUP 1	13.80	1.00	.80		.08
GROUP 2	12.40	1.00	.80		.08
GROUP 3	11.35	1.00	.80		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment: Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Cranoman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, HW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seamas Pulvi-Mixer or similar machines, Blastholer Self-Propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at heights above 28 ft.), Concrete Conveyors.

DECISION NO. IA80-4043 Page 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP 2 - Asphalt Booster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader With Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 008 8GA 55-154V

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Des Moines
DECISION NO. IA80-4044 DATE: Date of Publication
Supersedes Decision No. IA78-4103, dated November 24, 1978 in 43 FR 55165
DESCRIPTION OF WORK: Building Construction(does not include single family homes and apartments up to and including 4 stories)

page 1 of 4

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	13.00		.20		
CARPENTERS:					
Carpenters	12.85	1.00	1.00		.04
Millwrights & Piledrivers	13.55	1.00	1.00		.04
CEMENT MASONS	11.15				
ELECTRICIANS	14.40	.60	.50		3/4%
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS	13.80	.55	1.05		.06
LABORERS:					
Group 1 - common laborers, signal men, wrecking deck hand	8.77	.30			
Group 2 - plaster tender, mortar mixer, mason tender, stone & marble setter tender, drill operator, jackhammer men, air tamper, air spade(electric or pneumatic), spraying equipment & all mechanically operated tools, excavation work over 6 ft. deep below ground level or basement level	8.93	.30			
Group 3 - tile layers (sewers)	9.03	.30			
Group 4 - gunniting & sandblasting	9.14	.30			
Group 5 - tunnel & sewer mucker & miner over 6 ft. deep, Caisson worker & drill operator in tunnel & caisson, powdermen	9.24	.30			

DECISION NO. IA80-4044

page 2 of 4

BUILDING, WATER TREATMENT & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Group 1 - cable splicers, linemen, welder, technicians, all rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	a	1/2%
Group 2 - groundmen, truck driver(without winch), experienced(not less than 6 months)	7.77	.45	7%	a	1/2%
Group 3 - groundmen, truck driver(with winch)	7.89	.45	7%	a	1/2%
Group 4 - blaster, special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	9.57	.45	7%	a	1/2%
Group 5 - groundmen(1st 6 months)	6.58	.45	7%	a	1/2%
PAINTERS:					
Group 1 - brush	11.75		.50		
Group 2 - rollers	11.85		.50		
Group 3 - sign	12.25		.50		
Group 4 - structural steel over 25 ft. from the ground or floor, bridges, water towers & stage work	12.45		.50		
Group 5 - spray gun & sandblasting	12.75		.50		
PLASTERERS	10.78				
PLUMBERS & PIPEFITTERS	14.20	.65	1.55		.05
ROOFERS	11.13				
SHEET METAL WORKERS	12.92	.75	1.25		.14

DECISION NO. IA80-4044

page 3 of 4

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS	12.85	1.00	1.00		.04
SPRINKLER FITTERS	14.10	.85	1.20		.08
TRUCK DRIVERS:					
Group 1 - warehousemen, helpers, teamsters, mechanic helpers, greasers, single axle flat beds & dump trucks, pulling air compressors & welding machines, batch trucks 2-34E batches or less, chip spreader	8.02	13.50 p/w			
Group 2 - cheater axle, tandems, 6 wheel trucks, semi-trailers, carryall, winch, mixers, batch over 2-34E	8.23	13.50 p/w			
Group 3 - track trucks, Euclid type truck, oil distributors, front & rear, all types of dumpsters, pavement breakers	8.33	13.50. p/w			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTE:

a - seven paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving and Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. IA80-4044

Page 4 of 4

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	13.80	1.00	.80		.08
Group 2	12.40	1.00	.80		.08
Group 3	11.35	1.00	.80		.08

Power Equipment Operators Classification Definitions:

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator, Dipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required), Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists: Athey, Barber-Green, Euclid or Hoiss Loader, Asphalt Pug Mill, Fireman and Drier, Concrete Pump, Concrete Spreader (servicing 1 paver), Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull and similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement and Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-propelled Sheepsfoot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screen Operator, Apsco Spreader or similar machine Slusher, Forklift (over 6000 lbs. capacity or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (agitating Motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 29 HP, Fuller Kenyon Cement Pump or similar machines: Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Roller (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

SUPERSEDEAS DECISION

STATE: IOWA
DECISION NO: IA80-4045
COUNTY: Dubuque
DATE: Date of Publication

Supersedes Decision No. IA78-4104, dated November 24, 1978 in 43 FR 55166
DESCRIPTION OF WORK: Building construction (Does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	10.84	.45	.50		.02
CARPENTERS:					
Carpenters	12.10		.60		
Piledrivermen	12.50		.60		
Millwrights	12.60		.60		
CEMENT MASONS	11.63				
ELECTRICIANS	12.25	.75	3%+.50		.09
ELEVATOR CONSTRUCTORS	12.065	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.045	.82	a	.035
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS:					
Southeast portion	13.87	.75	.375		.07
Remainder of County	13.50	.58	.75		.06
LABORERS:					
GROUP 1 - Common Laborers	9.88	.40	.30		.05
GROUP 2 - All air operated tools; Bricklayers' helpers & tenders; Caisson workers; Carpenters' helpers; handling & cleaning of all steel floor pans & wall forms; Mortar mixers; Plasterers' helpers & tenders; Tile setters (4"-6"-8")	9.98	.40	.30		.05
GROUP 3 - Tile setters (10" and up)	10.13	.40	.30		.05
LATHERS	10.00				
MARBLE SETTERS	10.59	.45	.25		
PAINTERS:					
Brush or roller epoxy; paper hanging; Tapers	10.50	.80	.50		
High work and steel; spraying	11.10	.80	.50		
PLASTERERS	11.40				
PLUMBERS & STEAMFITTERS	13.42	.85	.80		.08

DECISION NO. IA-4045 Page 2

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ROOFERS	$ 9.55		.20		
SHEET METAL WORKERS	12.92	.75	1.25		.14
SPRINKLER FITTERS	14.10	.85	1.20		.08
TERRAZZO WORKERS	10.59	.45	.25		
TILE SETTERS	10.59	.45	.25		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributed 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays.

PAID HOLIDAYS
New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Day After Thanksgiving

DECISION NO. IA80-4045 Page 3

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATOR CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (leverman)
GROUP 2 - 1 and 2 drum hoist; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck Cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard and over); Ditching machines (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractor (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO.: IA80-4046
COUNTY: Johnson
DATE: Date of Publication
Supersedes Decision No.: IA78-4105, dated November 24, 1978 in 43 FR 55168
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	13.81		.55		.02
CARPENTERS:					
Carpenters; Soft floor layers	11.26	.55	.55		.08
Piledrivermen	11.61	.55	.55		.08
Millwrights	14.00	.65	1.30		.08
CEMENT MASONS	11.84	.45			
ELECTRICIANS	14.07	.65	3%+1.00	a	3/4%
ELEVATOR CONSTRUCTORS	12.065	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.045	.82		.035
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS	13.50	.58	.75		.06
LABORERS:					
GROUP 1 - Common laborers	10.45	.40	.80		.05
GROUP 2 - Mason mortar mixers	10.80	.40	.80		.05
GROUP 3 - All jack & chipping hammers; All water & sewer tile layers; Chain saw; Cutting torches; Power buggies; Rock drills; Tampers; Vibrators; Well point work	10.80	.40	.80		.05
LATHERS	12.57				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	7.77	.45	7%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	7.89	.45	7%	b	1/2%

UMI 0 8 8 G A 5 5 1 5 4 V

DECISION NO. IA80-4046 Page 2

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D)					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 9.57	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	6.58	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	10.50				.03
Paperhangers	10.75				.03
Sandblasting; Spray painting	11.15				.03
PLASTERERS	13.77				
PLUMBERS & STEAMFITTERS	13.25	.60	.70		.13
ROOFERS	10.30				
SHEET METAL WORKERS	13.65		.88		.06
SPRINKLER FITTERS	14.10	.85	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
TILE SETTER	12.98		.55		

FOOTNOTES
a - Employer contributed 8% of the basic hourly rate for over 5 years' service and 6% of the basic hourly rate for 6 months to 5 years' of service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Seven Paid Holidays A thru G

DECISION NO. IA80-4046 Page 3

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"
GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Scott
DECISION NO : IA80-4050 DATE: Date of Publication
Supersedes Decision No.: IA78-4109, dated November 24,1978 in 43 FR 55174
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	11.90	.65	1.30		.04
CARPENTERS	12.01	.60	.90		.06
CEMENT MASONS	12.02	.70	.60		
ELECTRICIANS	13.29	.70	7.5%		.03
Cable Splicer	14.29	.70	7.5%		.03
ELEVATOR CONSTRUCTORS	11.57	.495	.32	a	.02
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS	13.87	.75	.375		.07
LABORERS:					
GROUP 1	11.27	.50	1.00		.035
GROUP 2	11.52	.50	1.00		.035
GROUP 3	11.77	.50	1.00		.035
MARBLE SETTERS	11.50	.50	1.30		
MILLWRIGHTS	15.00	.65	1.30		.25
PAINTERS:					
Brush, roller	12.37	.60	1.00		.22
Spray, Struc. steel	12.87	.60	1.25		.22
PILEDRIVERMEN	12.11	.65	1.00		.06
PLASTERERS	10.90				
PLUMBERS & STEAMFITTERS	13.70	.61	1.09		.15
POWER EQUIPMENT OPERATORS					
GROUP 1	13.80	1.00	.80		.08
GROUP 2	12.40	1.00	.80		.08
GROUP 3	11.35	1.00	.80		.08
ROOFERS	12.65		.80		
SHEET METAL WORKERS	12.92	.75	1.25		.14
SOFT FLOOR LAYERS	12.01	.60	.90		.06
SPRINKLER FITTERS	14.10	.85	1.20		.08
TERRAZZO WORKERS	11.50	.50	1.30		
TILE SETTERS	11.50	.50	1.30		

WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.
FOOTNOTE:
a-Employer contributes 8% of basic hourly rate for over 5 years service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also, 7 paid holidays - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Day after Thanksgiving.

DECISION NO. IA80-4050 Page 2

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Carpenter tenders, common laborers, mason tenders
GROUP 2 - Concrete saw, pipesetters, plumber laborer, power tools (barco-vibrator-mortar mixers-dynamite handlers-burner on dismantling work to be junked), prime movers, sand points
GROUP 3 - Caissons after 6' depth, dynamite men, tunnel miners

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment: Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Craneman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTournemupull & similar machines, DW-10, Hyster Winch & similar machimes, Motor Patrol, Power Blade, Push Cat, Tractur Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-Propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at Heights above 28 ft.), Concrete Conveyors.

UMI 008 8GA 55-154V

DECISION NO. IA80-4050 Page 3.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D):

GROUP 2 - Asphalt Booster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader With Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Webster
DECISION NO.: IA80-4052 DATE: Date of Publication
Supersedes Decision No. IA78-4111 dated November 11, 1978 in 45 FR 55177
DESCRIPTION OF WORK: Building construction(does not include single family homes and apartments up to and including 4 stories).

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Asbestos workers	$13.75	1.04	1.125		.10
Boilermakers	13.87	1.375	1.10		.05
Bricklayers & Stonemasons	12.70		.40		.02
Carpenters:					
Carpenters & piledrivermen	11.46				
Millwrights	11.71				
Electricians	12.75	.45	3%+.50		3/4%
Elevator constructors	12.33	1.045	.69	a	.03
Elevator constructors' helper	70%Jr	1.045	.69	a	.03
Ironworkers	12.27	.87	1.12		.05
Laborers:					
Group 1 - common laborers	8.225	.30	.135		.05
Group 2 - mortar, plaster and grout mixers; jackhammer; paving breaker; rock drill; vibrator operator; motor buggy operator while pouring concrete	8.375	.30	.135		.05
Group 3 - plasterers' tender	8.425	.30	.135		.05
Group 4 - concrete saw man	8.475	.30	.135		.05
Group 5 - sandblaster	8.575	.30	.135		.05
Group 6 - digging of or work within a shaft entering into natural underground cavities or caverns and work within the said shaft or cavern	8.725	.30	.135		.05
Lathers	10.24				
Line Construction:					
Group 1 - cable splicers; linemen; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	b	1%
Group 2 - groundmen; truck driver(without winch); experienced(not less than 6 months)	7.77	.45	7%	b	1%

DECISION NO.: IA80-4052

page 2

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Line Construction:(con't)					
Group 3 - groundmen; truck driver(with winch)	7.89	.45	7%	b	1%
Group 4 - blaster; special equipment operator(hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	9.57	.45	7%	b	1%
Group 5 - groundmen-1st 6 months	6.58	.45	7%	b	1%
Painters:					
Group 1 - brush, drywall finishers; rollers	12.57		.80		.05
Group 2 - paperhangers	12.82		.80		.05
Group 3 - spray	13.07		.80		.05
Group 4 - stack, tower work over 100ft.	13.67		.80		.05
Plumbers & Pipefitters	14.30	.60	1.00		.15
Roofers	7.75				
Sheet metal workers	12.12	1.00	.99		.14
Sprinkler fitters	14.10	.85	1.20		.08
Welders - receive rate prescribed for craft to which welding is incidental.					
Footnotes:					
a - employer contributes 8% of basic hourly rate for over 5 years service and 6% for 6 months to 5 years service as vacation pay credit, also seven paid holidays					
b - seven paid holidays					
Power Equipment Operators:					
Group 1	12.32	.90	.90		.10
Group 2	12.08%	.90	.90		.10
Group 3	10.78	.90	.90		.10
Group 4	10.01%	.90	.90		.10

DECISION NO. IA80-4052 Page 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs ;side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); Economobiles; plant mixer; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; Motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ ton); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 CFM or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers, mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 0 8 8GA 5 5 1 5 4 V

SUPERSEDEAS DECISION

STATE: KANSAS
DECISION NO: KS80-4069
COUNTIES: RILEY & GEARY
DATE:
Supersedes Decision No. KS79-4090 dated October 5, 1979, 44 FR 57628
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden-type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$10.00				
Carpenters	6.88				
Electricians	7.16				
Laborers:					
common	4.72				
form setter	4.50				
mason tender	4.50				
Painters	7.63				
Plumbers	13.51	.92	.60		.05
Roofers	6.00				
Sheet metal workers	5.00				
Truck drivers	4.50				
Power Equipment Operators:					
air compressor	4.00				
backhoe	6.00				
bulldozer	6.00				
concrete saw	4.30				
grader	6.00				
loader	5.50				
scraper	6.00				
shovel	5.38				
tractor	6.00				
trenching machine	4.50				

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO.: OH80-2051
COUNTIES: Champaign, Logan & Union
DATE: Date of Publication
Supersedes Decision No.: OH77-2057 dated April 15, 1977 in 42 FR 20045
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 6.65				
BRICKLAYERS	8.50				
CARPENTERS	6.66				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	6.35				
LABORERS:					
Common	4.92				
Mason Tenders	5.48				
PAINTERS	6.00				
PLUMBERS	7.00				
ROOFERS	6.00				
SHEET METAL WORKERS	6.38				
SOFT FLOOR LAYERS	6.80				
TILE SETTERS	6.80				
TRUCK DRIVERS	5.52				
POWER EQUIPMENT OPERATORS:					
Backhoes	7.50				
Bulldozers	7.50				
Front End Loaders	7.50				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NO.: OH80-2060
COUNTY: CLINTON
DATE: Date of Publication
Supersedes Decision No. OH77-2058, dated April 15, 1977 in 42 FR 20045
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 7.55				
BRICKLAYERS	7.00				
CARPENTERS	6.00				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	7.00				
LABORERS	4.57				
PAINTERS	6.00				
PLUMBERS	6.95				
ROOFERS	6.00				
SHEET METAL WORKERS	6.18				
SOFT FLOOR LAYERS	5.97				
TILE SETTERS	6.25				
TRUCK DRIVERS	5.53				
POWER EQUIPMENT OPERATORS:					
Backhoes	7.50				
Bulldozers	7.50				
Front End Loaders	7.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 80-23685 Filed 8-7-80; 8:45 am]
BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO.: OH80-2071
COUNTIES: Belmont, Monroe, & Noble
DATE: Date of Publication
Supersedes Decision No.: OH77-2086, dated May 20, 1977 in 42 FR 26095
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 8.45				
CARPENTERS	6.77				
CEMENT MASONS	7.00				
DRYWALL FINISHERS	7.50				
DRYWALL HANGERS	6.46				
ELECTRICIANS	6.74				
LABORERS	5.13				
PAINTERS	6.05				
PLUMBERS	7.06				
ROOFERS	6.55				
SHEET METAL WORKERS	6.37				
SOFT FLOOR LAYERS	5.82				
TRUCK DRIVERS	6.35				
POWER EQUIPMENT OPERATORS:					
Backhoes	6.77				
Bulldozers	7.39				
Front End Loaders	6.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

V
4
5
/
1
5
5

A
G
8

8
0
UMI

federal register

Friday
August 8, 1980

Part IV

Consumer Product Safety Commission

Exportation of Noncomplying Products; Notification Requirements and Procedures

possible hazards presented by the entry ... and misbranded hazardous substances ... thorough assessment of ...

V 45 / 155

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1019

Exportation of Noncomplying Products; Notification Requirements and Procedures

AGENCY: Consumer Product Safety Commission (CPSC).

ACTION: Final rule.

SUMMARY: The Commission is issuing a final rule to implement legislation concerning the exportation of products that fail to comply with an applicable CPSC regulation. Under the legislation and regulation, exporters must notify the Commission at least 30 days before the scheduled exportation and must provide related information. The Commission must then notify the foreign government that is scheduled to receive the products so that that government would be able to make an informed choice about the entry of products.

EFFECTIVE DATE: The notification regulation becomes effective on September 8, 1980.

FOR FURTHER INFORMATION CONTACT: Marc Yaffee, Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207: telephone (301) 492–6629.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 1978, the Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95–631) became law. This legislation (referred to below as the export amendments) amends the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051, 2067), the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261, 1273), and the Flammable Fabrics Act (FFA, 15 U.S.C. 1191, 1202) by imposing notification requirements on all people and firms intending to export from the United States any product that fails to comply with an applicable regulation issued under one of these acts. The person or firm must notify the Commission at least 30 days before the scheduled exportation, and the Commission must then notify the government of the country that is to receive the products. The Congressional intent of the export amendments was to assure that foreign countries would be able to make informed choices about whether to permit the entry into their territories of products that are prohibited from commerce in this country (House Report No. 95–1164, 95th Cong., 2d Sess. at 7).

The Commission's authority over exports is not limited to these notification provisions. The Commission has authority to prohibit exportation in a number of situations that are discussed in section I below.

Proposed Notification Regulation

On May 11, 1979, the Commission proposed for public comment a regulation to implement the statutory export notification requirements (44 FR 27685). It clarified and expanded these requirements, and prescribed notification procedures.

Like the export amendment legislation, the proposed regulation applied to the following products (referred to below as noncomplying products):

1. Any consumer product that does not comply with an applicable consumer product safety standard issued under the CPSA, or that has been declared to be a banned hazardous product under the CPSA;

2. Any product that is a misbranded hazardous substance because it fails to comply with an applicable labeling requirement under the FHSA, or that has been declared to be a banned hazardous substance under the provisions of the FHSA; and

3. Any fabric or related material, or any item of wearing apparel or interior furnishing made of fabric or related material, that fails to comply with any flammability standard issued under the FFA.

The proposed regulation made three exceptions. Exporters of the following products were not required to notify the CPSC about:

1. Any sample that is conspicuously and legibly labeled in English with the statement: "Sample only. Not for resale.";

2. Any product that is noncomplying solely because it lacks English labeling, as long as it is labeled with the required information in the language of the country of destination; and

3. Any product that is a misbranded hazardous substance solely because of its failure to comply with a child-resistant packaging standard under the Poison Prevention Packaging Act of 1970.

The export amendments require that the exporter's notice contain the anticipated date of shipment, the country and port of destination, and the quantity of goods to be shipped. Under the statutory authorization to the CPSC to require additional information by regulation, the proposed regulation added:

(a) Name, address and telephone number of the exporter;

(b) Name and address of the consignee ("consignee" was defined as "the person, partnership, corporation, or entity in a foreign country to whom noncomplying goods are sent");

(c) Description of the goods, including brand or trade names and model number or other identifying numbers;

(d) Identification of the applicable statutory and regulatory provisions, and a description of the manner in which the goods fail to comply;

(e) Location of the goods (if other than at the exporter's address);

(f) Port of lading; and

(g) Any correspondence from the country of destination indicating whether the goods may enter its customs territory.

The proposed regulation also contained notification procedures for exporters. Notifications were required to be sent, at least 30 days prior to intended shipment, to the CPSC's Associate Executive Director for Compliance and Enforcement. This official could reduce the 30-day requirement for good cause. In an effort to reduce the paperwork burden of notification, the proposal permitted a single notification for a series of shipments of different kinds of goods to one country for a year. In addition, the proposal required that any changes in information already provided must be reported to the Commission within two working days. The Commission would, once it received a notification, transmit the information as quickly as possible to the government of the country of destination. The proposal also required the CPSC to seek an acknowledgment of the notification from that country.

Finally, the proposed regulation addressed the possible confidentiality of any information contained in a notification. The Commission's existing Freedom of Information Act regulations were cited as applying to this situation (16 CFR Part 1015).

Comments on Proposal

The Commission received 22 comments on the May 1979 proposed notification regulation. The commenters included foreign governments; national trade associations (representing retail merchants and the producers of outdoor power equipment, toys, carpets and rugs); a merchandising company; a bicycle manufacturer; a legal foundation; and an environmental protection organization. Eleven of the comments, all from foreign governments, expressed general support for the notification procedures. As one government wrote, "This Embassy certainly appreciates the concern shown to alert importing countries to the possible hazards presented by the entry of noncomplying consumer products." The specific issues raised by the comments, and the Commission's responses, are discussed below:

A. *Applicability.* Two commenters, trade associations for toy and power equipment manufacturers, expressed their view that the proposed applicability of the notification regulation (§ 1019.1(b)) went beyond the Congressional intent. Both have argued that the notification requirements apply only to products that have been distributed in domestic commerce, and not to those that have been held for export.

The commenters argued that sections 18(a) and 18(b) of the CPSA (15 U.S.C. 2067(a) and 2067(b)) are independent of each other. According to this interpretation, section 18(a) provides a blanket exception from the CPSA for products that are held for export, and section 18(b) imposes notification requirements on products that are subject to the CPSA.

The Commission has two responses:

1. According to the suggested interpretation, the only products subject to notification requirements—those that have been distributed in domestic commerce—are products that are prohibited from exportation. If notification prior to exportation applies only to products that cannot legally be exported, the requirements are without any meaning or effect. Congress could surely not have intended to create such an anomalous situation because it violates the basic axiom of statutory construction that no part of a statute will be construed so as to render it inoperative or superfluous. See *United States* v. *Menasche*, 75 S. Ct. 513, 520 (1955) and Sutherland, *Statutory Construction*, § 46.06 (1973). The comments of the power equipment trade association support the Commission's position by stating: "The 1978 amendments to section 18 of the CPSA leave little doubt that the Commission now has the power . . . to halt the export of products which fail to comply with a standard or which are subject to a ban *and* which have been introduced into U.S. commerce."

2. There is no hint in the legislative history of the export amendments that Congress intended to apply different notification requirements under any of the CPSC's statutes. The wording of the amendments to the CPSA, FHSA, and FFA is virtually identical. Therefore, it is useful to consider the FHSA's statutory language. Specifically, the new provision, section 14(d) of the FHSA (15 U.S.C. 1273(d)), requires notification prior to the exportation of all banned and misbranded hazardous substances. Although section 5(b) of the FHSA (15 U.S.C. 1264(b)) provides an exception from penalties for certain products intended for export, this provision clearly does not undermine the broad applicability of section 14(d).

The Commission continues to believe that the export notification requirements apply to all noncomplying products under the CPSA, FHSA, and FFA, whether or not they have ever been introduced into domestic commerce.

B. *Exemptions.* The same two commenters that argued for a narrower applicability also suggested the addition of two broad exemptions. They supported an exemption for noncomplying products that meet all requirements of the country of destination. They also supported an exemption for noncomplying products that meet International Standards Organization (ISO) standards.

These suggestions are not without logic. If an exported product complies with an applicable non-CPSC standard, the foreign country might not be interested in the information required by the notification regulation. However, there is no legal support for the suggested changes in the text of the export amendments or in their legislative history. Further, it would be burdensome for the Commission to determine in each case whether the export products do comply with the foreign country or ISO standards. In any case, the foreign countries receiving export notifications under this legislation and regulation are free to ignore them. Presumably, products that comply with the importing country's requirements will be permitted to be imported into that country. The commenters have submitted no data to support a finding that the mere need to notify would result in economic injury.

The rest of the comments on exemptions concern the three contained in the proposed regulation:

1. *Samples* (§ 1019.1(d)). The proposed regulation sought comment specifically on an exemption for samples, including its scope. The Commission justified its proposal by citing the reduced burden on companies seeking to solicit business abroad, and the fact that samples would not be expected to be used by residents of foreign countries. To assure that this would be the case, the proposal required labels stating "Sample only. Not for resale."

Five commenters addressed themselves to the samples issue. An environmental protection organization opposed the exemption because it would unnecessarily limit the ability of a foreign government to undertake a thorough assessment of a noncomplying product. The other four commenters supported the exemption. Of these, a legal foundation stated that no labels are necessary for samples that obviously cannot be used by consumers. A trade association expressed the opinion that no labeling at all should be required for samples, as long as the exemption will not become a way for U.S. firms to avoid the notification requirement systematically. Two foreign governments, both major trading partners with the U.S., supported the exemption.

The Commission still believes that an exemption for samples is appropriate and that labeling is necessary to discourage any abuse. Properly-labeled samples are not likely either to hamper a foreign country from protecting its residents or to restrict international trade unnecessarily. With one minor change, the proposed exemption has been incorporated into the regulation below.

The proposed exemption defined a sample shipment as "the minimum [quantity of goods] consistent with prevalent trade practices with respect to the specific product" (§ 1019.1(d)). The trade association objected to the inclusion of the word "minimum" as "needlessly litigious" and suggested that any dispute over the application of this exemption would come in the context of shipments made. In such litigation, according to the association, the Commission would be required to establish that the violation of the notification obligation took place with respect to the shipment.

The Commission agrees with the trade association and has revised the exemption language to state that the quantity of exempted samples must be "consistent with prevalent trade practices with respect to the specific product."

2. *English labeling* (§ 1019.1(c)). The proposed regulation exempted from notification products that are noncomplying only because their warning labels are not in English. To be eligible for this exemption, all labeling required for U.S. distribution must be in the language of the country of destination. Under this approach, foreign residents will receive the same protection for cautionary labeling as U.S. residents receive.

Two commenters addressed this provision. One, the Government of Canada, pointed out that its law requires bilingual labeling for a product to be eligible for importation. In this situation, the Commission believes that both English and French labeling would be necessary for a product to be exempt.

AG 8 80 UMI

The other commenter, a trade association, discussed the possible confusion presented by an example in the preamble. The example concerned small carpets and rugs, and pointed out that a label in Spanish would provide an exemption if the products were being shipped to Mexico, but not if they were being shipped to an English-speaking country such as Australia. The Commission agrees that the example is needlessly confusing, primarily because a carpet or rug is not a noncomplying product if it is properly labeled in English. Therefore, the shipment to Mexico or Australia would be permitted without notification as long as the proper English labeling were present. Although Spanish labeling might be preferable for Mexico-bound carpeting, the export amendments only cover noncomplying products. The Commission, of course, encourages foreign language labeling as being within the spirit of the export amendments.

The proposed exemption concerning warning labels has been retained in the final regulation below, without any change.

3. *Child-resistant packaging* (proposed § 1019.1(b)(2)). The proposal contained an exemption from the notification requirements for any product which is a "misbranded hazardous substance" solely because it fails to comply with an applicable requirement for child-resistant packaging issued under the Poison Prevention Packaging Act of 1970 (PPPA, 15 U.S.C. 1471, *et seq.*).

The Embassy of Australia agreed with the proposed exemption for products which fail to comply with requirements for child-resistant packaging issued under the PPPA. The Embassy of Canada requested a more complete explanation of the reason for the proposed exemption. The Natural Resources Defense Council objected to it because the literal terms of the export amendments require notification for all products which are "misbranded hazardous substances."

The PPPA authorizes the Commission to issue regulations requiring child-resistant packaging for two types of products. One category consists of household products which are "hazardous substances" as that term is defined in section 2(f) of the FHSA (15 U.S.C. 1261(f)). An example of such a product is liquid furniture polish containing ten percent or more mineral seal oil (See 16 CFR 1700.14(a)(2)). A second category of products for which child-resistant packaging may be required consists of "foods," "drugs," and "cosmetics," as those terms are defined in sections 201 (f), (g), and (i) of the Federal Food, Drug and Cosmetic Act (FFDCA, 21 U.S.C. 321 (f), (g), an (i)). For example, aspirin intended for oral administration is required to be in child-resistant packaging (See 16 CFR 1700.14(a)(1)).

The PPPA does not contain specific penalties or other provisions addressing failure to comply with an applicable PPPA regulation. Instead, the Commission enforces PPPA requirements through the FHSA and the FFDCA. Section 2(p) of the FHSA (15 U.S.C. 1261(p)) defines the term "misbranded hazardous substance" to include any product which is a "hazardous substance" and which fails to comply with an applicable requirement or child-resistant packaging issued under the PPPA. Similarly, sections 403(n), 502(p), and 602(f) of the FFDCA (21 U.S.C. 343(n), 352(p) and 362(f)) define as a "misbranded food," "misbranded drug," or "misbranded cosmetic" any product which is a "food," "drug," or "cosmetic" and which fails to comply with an applicable requirement for child-resistant packaging issued under the PPPA.

As stated earlier, Congress amended the CPSA, the FHSA, and the FFA in 1978 to require notification of the Commission before the exportation of any product which fails to comply with an applicable ban, standard, or regulation issued under those Acts. However, as noted in the preamble to the May 1979 proposal (44 FR 27686), when the Congress enacted the export amendments, it did not similarly amend the FFDCA to require notification prior to the proposed export of products which failed to comply with all applicable requirements issued under provisions of that Act. Consequently, notification is not required prior to the proposed exportation of products which are misbranded foods, drugs, or cosmetics because they fail to comply with applicable requirements for child-resistant packaging issued under the PPPA.

Despite the comment from the Natural Resources Defense Council on this issue, the Commission continues to believe that Congress did not intend to require pre-exportation notification for some products failing to comply with PPPA regulations and not for other products which fail to comply with other PPPA regulations.

The Commission also believes that it would present practical problems for products in child-resistant packaging to be distributed for use by persons outside the United States. Almost all child-resistant containers distributed in this country are labeled in the English language with instructions for opening, such as "Push down while turning." Unless residents of a foreign country could read and understand these directions for opening, the child-resistant packaging would be an unreasonable hindrance to their use of the product.

Therefore, after consideration of all of the comments addressed to the PPPA exemption issue, the Commission has retained this exemption in the regulation issued below. As an editorial change, however, the exemption now appears at § 1019.1(e) as a specific exemption, rather than as a qualifying phrase in § 1019.1(b)(2).

C. *Definitions.* The proposed regulation defined the term "exporter" as the "person, partnership, corporation or entity that initiates the export of noncomplying goods" (proposed § 1019.2). As examples, this definition added that "[t]he exporter could be the manufacturer of the goods or a broker."

A commenter acknowledged the example of a broker, but stated that the Commission has a proclivity to view export transactions as involving only manufacturers of goods. This comment suggested that retailers and distributors could also be exporters, and that the regulation should clarify their obligations.

The Commission agrees that various types of firms could be exporters. The purpose of the definition of "exporter" was to impose the notification obligations on all exporters without regard for any other roles they might have. Since the examples have proved confusing to at least one member of the public, the Commission has removed them from the definition of exporter in the final regulation issued below.

D. *Procedure.* The proposed regulation permitted export notifications to be filed once a year for all goods shipped to the same country by the same exporter during that year (§ 1019.4(b)). Three commenters addressed this provision. One opposed this approach because different products may be under the jurisdiction of different agencies within the same foreign government. However, the Commission finds that this is generally not the case. In recent contracts with more than 50 foreign governments, the Commission found that in only one instance were different products subject to this regulation handled by different agencies of the same government (and in that particular case, the foreign government's diplomatic mission in this country has been designated as the Commission's only point of contact).

Another commenter agreed with the single notification per year provision, but suggested that it be extended so that a single notification would suffice for an extended course of business. While the Commission believes that it should make every reasonable effort to reduce the paperwork burden of notification, such an extension would run counter to the spirit and intent of the export amendments. The basic purpose is to share our experience and technology with the importing country and technologies can change, as well as policies and the people who administer them. In these circumstances, notifications should be made annually, at least.

The third commenter supported the concept of a single annual notification, but suggested that it not be permitted unless all items of information are known at the time of the notification. Since most exporters will not know the total amount of merchandise to be shipped during an entire year, as one example, this suggested restriction would defeat the intent of this provision. Any disadvantage that a single notification might involve would be offset by its providing information to foreign governments sooner than 30 days before exportation, in most cases. Based on the Commission's reaction to all three comments, it has incorporated the proposed single-notification provision into the final regulation without change.

E. *Content of notifications.* Thirteen comments, the largest number for any portion of the proposal, addressed the content of the information that exporters must provide to the Commission. Some of these comments urged that proposed categories of information, those not required by the export amendments, be dropped from the final regulation. Other comments suggested that new categories of information be added.

1. *Name of consignee.* Five commenters urged that identification of the name of the consignee (proposed § 1019.4(d)(2)) be deleted because it is extremely confidential and would be of great benefit to an exporter's competitors. As an alternative, two of these commenters suggested that the Commission revise the provisions on confidentiality of information (proposed § 1019.8) to state that the Commission will not as a general rule disclose the name of any consignee to outside parties. This commenter cited as a model for this approach regulations issued by the Customs Service.

The statutory export notification requirements have been in effect since November 1978, and the Commission has now had more than a year's experience with them. While the volume of notifications has not been large, the Commission has nevertheless been able to assess the need for the additional information that it sought in the proposed rule. For example, a notification last year involved some children's lamps that failed to comply with the Commission's regulations on lead in paint and were scheduled for exportation to Canada. The exporter notified the CPSC, and the CPSC notified the Canadian government. Based on its determination that the lamps should not enter its country, Canada contacted both the U.S. exporter and Canadian importer (the consignee), and successfully prevented the scheduled shipment from taking place. Had the exporter already shipped or had the exporter not been relatively close to Canada in New York, the contact with the consignee might have been the only way to prevent entry of the goods into Canada. In many cases, knowledge of the U.S. exporter, the quantity and nature of the products, the date of shipment, and the scheduled port of arrival will not be sufficient for locating the products and barring their entry. The Commission believes that the name of the consignee is important information, and the provision requiring it (along with the consignee's address) has been retained in the regulation issued below.

The Commission recognizes that many exporters would regard the identity of their consignees as a trade secret. Under current judicial interpretations of the Freedom of Information Act (FOIA, 5 U.S.C. 552(b)), the Commission agrees that these identities would be exempt from disclosure to the public on this basis. Therefore, the Commission will protect the confidentiality of any trade secret information, including the identity of consignees, by disclosing it only to the foreign government scheduled to receive the noncomplying products. Customs officials of these governments already have access to this information when goods enter their countries, since bills of lading contain the name of the consignee. The foreign governments will be strictly instructed that trade secret information must not be disclosed to private parties.

The Commission's FOIA regulations (16 CFR 1015) will continue to apply to requests from the public for disclosures of information, and they are referenced in § 1019.8 of the regulation below. The wording of § 1019.8 has been modified, however, to clarify that exporters must request confidentiality of any submitted information at the time of its submission or must indicate that a request will be made within 10 working days of the submission. This is consistent with the FOIA regulations.

2. *Correspondence from country of destination* (proposed § 1019.4(d)(7)). Two commenters strongly objected to the proposed requirement that notifications include correspondence from the government of the country of destination indicating whether the noncomplying goods may be imported into that country. As one commenter stated, such information "cannot be of any use to the Commission."

The Commission agrees with these comments and has now concluded that the regulation issued below need not require the exporter to include copies of correspondence from the government of the country of intended destination. This information is not necessary for the Commission to carry out the notification procedures. Instead, the Commission has added a new § 1019.4(e) to the final regulation which allows the exporter to include copies of that correspondence if the exporter elects to do so. When the exporter includes copies of such correspondence, the Commission will include them with its transmittal of information concerning the proposed exportation to the foreign government. Section 1019.7 has also been revised to reflect this change.

3. *Additional information from exporter.* A number of commenters suggested that various provisions be added to the content of notification provisions (proposed § 1019.4(d)). One trade association believes that, since a description of how a product is noncomplying must be provided to the foreign government, an exporter should have the option of submitting any further information it deems relevant. As an example of such additional information, this association mentioned a discussion of why the product's noncompliance should not influence the foreign government's decision on permitting or denying entry.

The Commission has tried to keep to a minimum the amount of information that exporters will be required to submit. However, as noted above, the Commission has added a new § 1019.4(e) to the final regulation. It provides that the exporter may include in the export notification any other safety-related information that the exporter believes to be relevant to the goods which are the subject of the notification and useful to the Commission or to the government of the country of intended destination. Section 1019.7, as revised, states that the Commission will send the additional information to the foreign government in its transmittal of the notification. In addition, the Commission notes that exporters have every right to

V 45 / 155 AG 8 80 UMI

communicate directly with foreign governments.

The Commission's notification to the foreign government will focus on the CPSC requirement with which the product fails to comply. The Commission's notification will enclose a copy of the exporter's notification, but may state that the Commission disagrees with or takes no position on its content, including the relevance or accuracy of any optional information provided by the exporter. Section 1019.7 has been revised to clarify that this will be the Commission's approach.

Another commenter recommended that the Commission describe such positive aspects of American products as price, reliability and advanced design and engineering. The mission of the Consumer Product Safety Commission is safety. Except to the extent that price, reliability, design, and engineering are weighed in regulatory decisions, the Commission is not in a position to describe such information. It is also irrelevant to the purpose to export notification. Therefore, the Commission will not describe the suggested information and will not forward it to foreign governments, even if exporters supply it voluntarily.

One foreign government noted that the proposed regulation did not require information as to the value of the goods being shipped, and asked that inclusion of this information might be considered so that they would have more of a basis on which to make an assessment of economic impact. The Commission presumes that the impact to which the government refers is that which would be felt on its own economy, and not that of the United States. It is suggested, therefore that foreign governments seek this information from their own importers, whose names are provided in the export notification.

Another foreign government urged the addition of a requirement that U.S. exporters submit to the Commission written proof (copies of letters, contracts, telexes, etc.) indicating that they have informed the foreign buyers during purchase negotiations that the goods do not comply with applicable U.S. Safety Standards. The foreign government feels that this is part of a commercial company's primary responsibility to its customers, and would expedite processing at a subsequent stage of the export-import process.

A public interest environmental protection group expressed its related desire to have the exporter include in the notification a statement certifying the foreign importer has been informed that the goods must not be re-exported to the United States. The commenter believes that this requirement would help to assure that return shipments to the United States of banned products would not occur.

The Commission agrees that exporters would be well advised to make the disclosures suggested by these two comments as a matter of good business practice. However, the Commission has decided not to change the regulation as requested by these comments, because such changes would require exporters to take actions other than submitting information to the Commission. The suggested changes would extend beyond the scope of the export notification provisions.

4. *Other.* Aside from the specific comments discussed above, a number of commenters expressed the general view that more information was being sought than is necessary. The Commission agrees with some of these comments and has decided not to require the precise location of the goods to be shipped, if other than at the address of the exporter (proposed § 1019.4(d)(5)), or the port of lading (proposed § 1019.4(d)(6)).

Additionally, the Commission finds that the wording of proposed § 1019.4(d)(4), which requires a "comprehensive description" of the goods to be exported, gives the impression that a lengthy response is required. The Commission only wants an accurate description of the noncomplying nature of the goods to be exported, and it can be brief. The Commission has revised this provision accordingly in the regulation issued below.

One commenter has asked "what happens if the importing country, affronted by CPSC's transmittal of notification, refuses to respond to the exporter, or to the Commission?" First, the large percentage of countries responding to the Commission's request to learn the branches of their governments that should receive notification of the export of noncomplying goods indicates a high degree of interest in the notification process. In any case, the export notification procedures do not require a response to the Commission's notification of the government of the country of intended destination before the noncomplying goods may be shipped. Timely notification by the exporter and the Commission is all that the regulation requires. However, the Commission expects that exporters will protect themselves from the possibility that a country will unexpectedly deny entry to products when a notification has been made but no acknowledgment from the country has been received. The exporter can do this by checking directly with the foreign country or having the consignee do so, before shipping.

Finally, one commenter sought a better definition of the phrase "each type of goods," which is found in the opening paragraph of proposed § 1019.4(d). That commenter suggested that the wording should be changed to "class of goods." The Commission has incorporated this suggestion in § 1019.4(d) issued below.

F. *Change to notification* (proposed § 1019.6). The proposal provided that if any information required to be furnished in the notification changes before the noncomplying goods leave the United States, the exporter must notify the Commission of the change within two working days and state the reasons for the change (proposed § 1019.6(a)). It also provided that if any of the information required in the notification changes after the goods leave the United States, the exporter must notify the Commission within two working days and state the reasons for the change (proposed § 1019.6(b)).

These provisions elicited several comments. Two commenters expressed the view that the two-day period to report changes is insufficient. One of these recommended that the period be extended to ten days. A third commenter noted that the proposal would require the exporter to report changes of information regardless of whether the exporter can control or even know the reasons why the changes occurred. This commenter stated that a freight carrier might change the port of destination for any number of reasons which could be unknown to the exporter.

Addressing the latter point first, the Commission acknowledges that the entire process of placing goods into the hands of a foreign importer is not under the control of the U.S. exporter. The Commission has, therefore, revised § 1019.6 to state that the exporter must notify the Commission of any change in the information required to be furnished only when the exporter causes the change, or learns of such a change, before the goods reach the country of destination. The Commission has also combined proposed §§ 1019.6 (a) and (b) into a single section in the regulation issued below.

With respect to the two-day reporting period, the Commission points out that it will transmit all notifications of changed information to the country of intended destination. As with the original notifications, these should be transmitted on a priority basis if they are to be useful. Since the Commission has revised the provision to require information only of those changes brought about by the exporter or known to the exporter, exporters should have no difficulty in complying with the two-day deadline.

G. *Commission notification to foreign governments.* As proposed, the regulation required the Commission to inform foreign government of the basis on which the products are noncomplying (proposed § 1019.7). A trade association expressed its view that this prejudges the product being exported. The Commission disagrees because the exporter, by notifying the Commission of an intended exportation of noncomplying goods, has already made a determination that the goods in question do not comply with an applicable requirement issued by the Commission. In any event, the export amendments affirmatively require the Commission to advise the country of destination of the intended exportation of goods which fail to comply with applicable standards and regulations.

The proposed regulation also required the Commission's Associate Executive Director for Compliance and Enforcement to seek acknowledgment from the foreign government of receipt of the notification of intended exportation of noncomplying goods. Commenting on this provision, the Natural Resources Defense Council requested the Commission to require that the foreign country acknowledge receipt of the notification before shipment of the goods will be allowed. However, noting that Congress rejected the notion that approval of export transactions by the government of the country of destination should be a prerequisite for the exportation of noncomplying goods, a trade association urged the Commission to delete the proposed provision on acknowledgment. A foreign government commented on the proposed provision, and expressed agreement with it.

The Commission believes that seeking acknowledgment of receipt of notification is fundamentally different than requiring the consent of the country of destination as a condition for approval of the proposed exportation. While consent is beyond the intent of the export amendments, acknowledgment is an important aspect of notification. The Commission is seeking the voluntary acknowledgment of foreign countries so that it can evaluate the effectiveness of the notification requirements. The House Committee on Government Operations considered export notification in depth, and stressed the importance of foreign countries actually receiving the notifications (H.R. Rep. No. 95–1686, Oct. 4, 1978). Section 1019.7 of the regulation issued below provides that the Commission will seek acknowledgment of notification from the government of the country of intended destination. It does not contain a requirement that the notification be actually acknowledged, as a prerequisite to exportation of the goods involved.

The Natural Resources Defense Council also suggested that the regulation should require the Commission to send all notifications by telex or cable. While Congress has insisted on prompt notification of foreign governments, the Commission does not believe that it is necessary to describe the specific means to be used. However, § 1019.7 has been revised to require that the Commission inform the government of the country of destination on "a priority basis," which may include the use of telex or cable, when justified by circumstances.

Proposed § 1019.7 also contained language to the effect that the Commission would transmit to international organizations, in addition to the government of the country of intended destination and the U.S. State Department, information about proposed exportation of noncomplying products. One commenter objected to the inclusion of international organizations in the Commission's notification effort on the basis that such a procedure would involve foreign countries other than the country of destination of the noncomplying articles, and that would be in excess of this agency's statutory authority.

Certain international organizations have in recent years expanded their programs in the area of product safety. The Commission is participating in this important area of international cooperation and continues to believe that international organizations should be notified, where appropriate. In many cases, this notification may be an effective means of identifying and communicating with the public health and safety official in the importing country. The Commission believes that the sharing of safety information with the international community is well within its export notification and overall statutory authority, and the reference to international organizations in the proposal has therefore been retained in the regulation below.

H. *Other issues.* 1. In the preamble to the proposed regulation, the Commission observed that the export amendments do not impose any notification requirement for products which have been determined to present a "substantial product hazard" under section 15 of the CPSA (15 U.S.C. 2064). The Commission added, however, that as a matter of policy it intends to require notification of intent to export such products in any order it approves under section 15, and to seek this notification in any voluntary corrective action plan concerning distribution of products presenting a substantial product hazard which it accepts instead under section 15. Any notification to the Commission under such orders would of course be transmitted to the government of the country of intended destination.

Several commenters objected to this statement of policy for section 15 matters. Three stated that the Commission is attempting to go beyond the Congressional intent of the export amendments. One of these added that any such policy must be included in the text of the regulation.

The export amendments require notification to the Commission before the exportation of products which fail to comply with an applicable ban, standard, or regulation issued under the CPSA. They do not require such notification in the case of a product which is determined to present a substantial product hazard under section 15 of the Act. Nevertheless, the Commission finds that the provisions of section 15 of the CPSA contain adequate authority for the Commission to require notification prior to the exportation of any such product.

Section 15(d) of the CPSA authorizes the Commission to order corrective action to be taken with respect to any product which has been determined to present a "substantial product hazard." Section 15(d) further provides that the order for corrective action issued under that section may also require the party subject to the order "to submit a plan, satisfactory to the Commission" for carrying out the corrective action required by the order. Additionally, section 15(d) provides that an order issued under the authority of that section may prevent the sale or distribution in commerce, including export of the product which gave rise to the order.

The Commission does not agree that its procedural approach has been faulty or that the section 15 policy should be contained in the regulation below. The Commission's policy concerning exportation of products affected by section 15 of the CPSA is outside the scope of the export amendments and of the regulation issued below. However, because it involves the same notification issue as the regulation, it was included

V 45 / 155
AG 8 80
UMI

in the preamble to the proposal for information purposes.

Another commenter stated that products which give rise to substantial product hazard cases are different from those which fail to comply with an applicable ban, standard or regulation. According to this commenter, the former are the result of a "one-time situation involving specific lots of products," while the latter involve "long-term relationships that need not be renegotiated for every shipment or even each year." In response to this comment, the Commission observes that products which present a substantial product hazard may in some cases present a more serious risk of injury than products which fail to comply with requirements of an applicable ban or standard.

2. The proposal contained provisions allowing exporters to request reduction of the 30-day period for advance notification of intent to export noncomplying products. It required that the application for a reduction in the 30-day advance notification period must contain all of the information required to be furnished by § 1019.4 (proposed § 1019.5(c)(5)). Although no comments were addressed to this provision, the Commission has now decided that exporters should not be required to furnish all information concerning the proposed exportation in order to apply for a reduction in the 30-day period for advance notification. Therefore, the Commission has removed this requirement from the regulation issued below.

3. Comments from National Retail Merchants Association and Associated Merchandising Corporation urged the Commission to reconsider its previously stated policy that products which fail to comply with FFA standards or regulations may not be exported if they have at any time been distributed in domestic commerce. This policy statement appears at 16 CFR 1602.2 (see also section I below). Because these comments are not addressed to any provision of the proposed regulation, but instead request reconsideration of a previously-published statement of Commission policy, the Commission has not responded to them in this document.

4. The Commission received no comments on the proposed 30-day effective date, and has therefore made this the effective date for the final regulation. Since the export amendments were enacted in November 1978, the export notification requirements have been in effect under the various statutes. This will continue until the implementing regulation below becomes effective.

I. *Prohibition on exportation of certain noncomplying products.* Before exporting a noncomplying product, a person or firm must notify the Commission, according to the requirements and procedures in the regulation below. However, certain noncomplying products are prohibited from exportation and compliance with the notification requirements does not exempt them from the prohibition. In general, these products are:

(1) any that are covered by the Commission's FFA Policy on Exportation of Noncomplying Goods;

(2) any that are covered by the Commission's policy on exportation of TRIS products;

(3) any that are covered by the enforcement policy that the Commission's Directorate for Compliance and Enforcement applies to the exportation of products in violation of the FHSA and CPSA; and

(4) any that the Commission has determined present an unreasonable risk of injury to persons residing within the United States and fail to comply with a standard, ban, or regulation issued under the CPSA, FHSA, or FFA.

These four categories of products are, for the most part, fully described in existing documents. This Federal Register document will cite and briefly describe those documents, along with some discussion of related issues (the numbering corresponds to the above list):

(1) The Commission issued an FFA export policy in 1975 and amended it in 1976. This policy, set forth at 16 CFR 1602.2, provides generally that noncomplying products cannot be exported if the manufacturer does not intend to export them at the time of original manufacture.

(2) In April 1977, the Commission acted under the FHSA to prevent the sale of TRIS-treated children's wearing apparel and other TRIS products, including retail and component products. This action created an unprecedented situation involving the possible exportation of TRIS products. In June 1978, the Commission issued a special statement of policy to clarify its belief that TRIS products which are "banned hazardous substances" under the FHSA cannot be exported if they have ever been sold or offered for sale in domestic commerce. This policy is set forth at 43 FR 25711 (June 14, 1978).

(3) In a July 19, 1978 memorandum, the Commission's Associate Executive Directive Director for Compliance and Enforcement describes the enforcement policy that applies to the export of products in violation of FHSA or CPSA regulations, bans or standards. In general, such products are prohibited from export if they have ever been sold or offered for sale in domestic commerce. Copies of this policy are available from the Commission's Directorate for Compliance and Enforcement and the Office of the Secretary.

(4) The legislative amendments concerning export notification also contain provisions to prohibit the export of certain products. These provisions are virtually identical for the CPSA, FHSA and FFA. They prohibit the exportation of products that do not comply with a regulation, standard or ban under one of these acts whenever the Commission determines that such exportation "presents an unreasonable risk of injury to persons residing within the United States" (in the CPSA, "to consumers within the United States").

To implement these provisions, the Commission will evaluate all scheduled exportations that its staff believes could present an unreasonable risk to United States residents. As examples, hazardous products might be reimported into the United States or might have a negative impact on worldwide health or safety (such as chlorofluorocarbons destroying atmospheric ozone). The Commission's determination will be based on the information available to it at the time. After products are exported, it would be too late for the Commission to act effectively. In addition, the unreasonable risk finding will be based on relevant factors such as the nature and degree of the risk to consumers, the economic effects on business people, and the attitude of the foreign country scheduled to receive the products. If the Commission, by majority vote, determines that the exportation of noncomplying products would present an unreasonable risk of injury to United States residents, it will initiate any enforcement action that is necessary to prevent the exportation. Any affected parties will be able to contest this determination in the context of that enforcement proceeding.

Therefore, under sections 5, 6, and 7 of the Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95–631), sections 18 and 19 of the Consumer Product Safety Act, as amended (15 U.S.C. 2067, 2068), sections 4 and 14 of the Federal Hazardous Substances Act, as amended (15 U.S.C. 1263, 1273), and sections 7 and 15 of the Flammable Fabrics Act, as amended (15 U.S.C. 1196, 1202), the Commission amends Title 16, Chapter II, of the Code of Federal Regulations by adding to subchapter A a new Part 1019, as follows:

PART 1019—PROCEDURES FOR EXPORT OF NONCOMPLYING PRODUCTS

Sec.

1019.1 Purpose, applicability, and exemptions.
1019.2 Definitions.
1019.3 General requirements for notifying the Commission.
1019.4 Procedures for notifying the Commission; content of notification.
1019.5 Time notification must be made to Commission; reductions of time.
1019.6 Changes to notification.
1019.7 Commission notification of foreign governments.
1019.8 Confidentiality.

Authority. Secs. 5, 6, 7, Pub. L. 95–631; 15 U.S.C. 1196, 1202, 1263, 1273, 2067 and 2068.

§ 1019.1 Purpose, applicability, and exemptions.

(a) *Purpose.* The regulations in this Part 1019 establish the procedures exporters must use to notify the Consumer Product Safety Commission of their intent to export from the United States products which are banned or fail to comply with an applicable safety standard, regulation or statute. These regulations also set forth the procedures the Commission uses in transmitting the notification of export of noncomplying products to the government of the country to which those products will be sent. The Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95–631), which became effective November 10, 1978, established these notification requirements and authorizes the Commission to issue regulations to implement them.

(b) *Applicability.* These regulations apply to any person or firm which exports from the United States any item which is:

(1) A consumer product that does not conform to an applicable consumer product safety rule issued under sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C 2056, 2058), or which has been declared to be a banned hazardous product under provisions of sections 8 and 9 of that Act (15 U.S.C. 2057, 2058); or

(2) A misbranded hazardous substance or a banned hazardous substance within the meaning of sections 2(p) and 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261); or

(3) A fabric or related material or an item of wearing apparel or interior furnishing made of fabric or related material which fails to conform with an applicable flammability standard or regulation issued under section 4 of the Flammable Fabrics Act (15 U.S.C. 1191, 1193).

(c) *Exemption for Certain Items with Noncomplying Labeling.* The exporter of an item that fails to comply with a standard or regulation only because it is labeled in a language other than English need not notify the Commission prior to export if the product is labeled with the required information in the language of the country to which the product will be sent.

(d) *Exemption for Samples.* The exporter of an item that fails to comply with a standard or regulation, but which is intended for use only as a sample and not for resale, need not notify the Commission prior to export, if the item is conspicuously and legibly labeled in English with the statement: "Sample only. Not for resale." (The Commission encourages exporters to provide this label, in addition, in the language of the importing country, but does not require the foreign language labeling.) To qualify as a sample shipment under this exemption, the quantity of goods involved must be consistent with prevalent trade practices with respect to the specific product.

(e) *Exemption for items not in child-resistant packaging.* The exporter of an item which is a "misbranded hazardous substance" within the meaning of section 2(p) of the Federal Hazardous Substances Act (15 U.S.C. 1261(p)) only because it fails to comply with an applicable requirement for child-resistant packaging under the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*) need not notify the Commission prior to export.

§ 1019.2 Definitions.

As used in this Part 1019:

(a) "consignee" means the person, partnership, corporation or entity in a foreign country to whom noncomplying goods are sent;

(b) "export" means to send goods outside the United States or United States possessions for purposes of trade, except the term does not apply to sending goods to United States installations located outside the United States or its possessions;

(c) "exporter" means the person, partnership, corporation or entity that initiates the export of noncomplying goods;

(d) "noncomplying goods" means any item described in § 1019.1(b), except for items excluded from the requirements of these regulations by §§ 1019.1 (c), (d), and (e).

§ 1019.3 General requirements for notifying the Commission.

Not less than 30 days before exporting any noncomplying goods described in § 1019.1(b), the exporter must file a statement with the Consumer Product Safety Commission, as described in §§ 1019.4 and 1019.5 of this Part. The exporter need not notify the Commission about the export of items described in §§ 1019.1 (c), (d), and (e). As described in § 1019.5, the exporter may request the Commission to allow the statement to be filed between 10 and 29 days before the intended export, and the request may be granted for good cause.

§ 1019.4 Procedures for notifying the Commission; content of the notification.

(a) *Where notification must be filed.* The notification of intent to export shall be addressed to the Associate Executive Director for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207.

(b) *Coverage of notification.* An exporter must file a separate notification for each country to which noncomplying goods are to be exported. Each notification may include a variety of noncomplying goods being shipped to one country. The notification may include goods intended to be shipped to one country in any one year, unless the Associate Executive Director for Compliance and Enforcement directs otherwise in writing.

(c) *Form of notification.* The notification of intent to export must be in writing and must be entitled "Notification of Intent to Export Noncomplying Goods to [indicate name of country]." The Commission has no notification forms, but encourages exporters to provide the required information in the order listed in paragraphs (d) and (e) of this section.

(d) *Content of notification; required information.* The notification of intent to export shall contain the information required by this subsection. If the notification covers a variety of noncomplying goods the exporter intends to export to one country, the information required below must be clearly provided for each class of goods, and may include an estimate of the information required in paragraphs (d) (3) and (5) of this subsection.

(1) Name, address and telephone number of the exporter;

(2) Name and address of each consignee;

(3) Quantity and description of the goods to be exported to each consignee, including brand or trade names or model or other identifying numbers;

(4) Identification of the standards, bans, regulations and statutory provisions applicable to the goods being exported, and an accurate description of the manner in which the goods fail to comply with applicable requirements; and

V 45 / 155 5 AG 8 80 UMI

(5) Anticipated date of shipment and port of destination.

(e) *Optional information.* In addition to the information required by § 1019.4(d), above, the notification intent to export may contain, at the exporter's option, the following information:

(1) Copies of any correspondence from the government of the country of destination of the goods indicating whether the noncomplying goods may be imported into that country.

(2) Any other safety-related information that the exporter believes is relevant or useful to the Commission or to the government of the country of intended destination.

(f) *Signature.* The notification of intent to export shall be signed by the owner of the exporting firm if the exporter is a sole proprietorship, by a partner if the exporter is a partnership, or by a corporate officer if the exporter is a corporation.

§ 1019.5 Time notification must be made to Commission; reductions of time.

(a) *Time of notification.* The notification of intent to export must be received by the Commission's Associate Executive Director for Compliance and Enforcement at least 30 days before the noncomplying goods are to leave the customs territory of the United States. If the notification of intent to export includes more than one shipment of noncomplying goods to a foreign country, the Associate Executive Director for Compliance and Enforcement must receive the notification at least 30 days before the first shipment of noncomplying goods is to leave the customs territory of the United States.

(b) *Incomplete notification.* Promptly after receiving notification of intent to export, the Associate Executive Director will inform the exporter if the notification of intent to export is incomplete and will describe which requirements of § 1019.4 are not satisfied. The Associate Executive Director may inform the exporter that the 30-day advance notification period will not begin until the Associate Executive Director receives all the required information.

(c) *Requests for reduction in 30-day notification requirement.* Any exporter may request an exemption from the requirement of 30-day advance notification of intent to export by filing with the Commission's Associate Executive Director for Compliance and Enforcement (Washington, D.C. 20207) a written request that the time be reduced to a time between 10 and 30 days before the intended export. The request for reduction in time must be received by the Associate Executive Director for Compliance and Enforcement at least 3 working days before the exporter wishes the reduced time period to begin.

The request must:

(1) Be in writing;

(2) Be entitled "Request for Reduction of Time to File Notification of Intent to Export Noncomplying Goods to [indicate name of country]";

(3) Contain a specific request for the time reduction requested (the notification must be made at least 10 days before the intended export, so the request must be for a reduction of the notification period to a time between 10 and 30 days before the intended export); and

(4) Provide reasons for the request for reduction of time.

(d) *Response to requests for reduction of time.* The Associate Executive Director for Compliance and Enforcement has the authority to approve or disapprove requests for reduction of time. The Associate Executive Director will promptly inform the exporter who has requested the reduction of time whether there is good cause to grant the request. If the request is granted, the Associate Executive Director shall indicate the amount of time before export that the exporter must provide the notification. If the request is not granted, the Associate Executive Director shall explain the reasons, in writing.

§ 1019.6 Changes to notification.

If the exporter causes any change to any of the information required by § 1019.4, or learns of any change to any of that information, at any time before the noncomplying goods reach the country of destination, the exporter must notify the Associate Executive Director for Compliance and Enforcement within two working days after causing or learning of such change, and must state the reason for any such change. The Associate Executive Director will promptly inform the exporter whether the 30-day advance notification period will be discontinued, and whether the exporter must take any other steps to comply with the advance notification requirement.

§ 1019.7 Commission notification of foreign governments.

After receiving notification from the exporter, or any changes in notification, the Associate Executive Director for Compliance and Enforcement shall inform on a priority basis the appropriate government agency of the country to which the noncomplying goods are to be sent of the exportation and the basis on which the goods are banned or fail to comply with Commission standards, regulations, or statutes, and shall send all information supplied by the exporter in accordance with § 1019.4(d). The Associate Executive Director shall also enclose any information supplied in accordance with § 1019.4(e), but he or she may also state that the Commission disagrees with or takes no position on its content, including its relevance or accuracy. The Associate Executive Director shall take whatever other action is necessary to provide full information to foreign countries and shall also work with and inform the U.S. State Department and foreign embassies and international organizations, as appropriate. The Associate Executive Director shall also seek acknowledgment of the notification from the foreign government. Foreign governments intending to prohibit entry of goods that are the subject of a notification from the Commission should initiate action to prevent such entry and should notify the exporter directly of that intent.

§ 1019.8 Confidentiality.

If the exporter believes any of the information submitted should be considered trade secret or privileged or confidential commercial or financial information, the exporter must request confidential treatment, in writing, at the time the information is submitted or must indicate that a request will be made within 10 working days. The Commission's regulations under the Freedom of Information Act, 16 CFR 1015, govern confidential treatment of information submitted to the Commission.

Effective date: The regulation in the Part 1019 shall become effective on September 8, 1980.

Note.—The reporting requirements contained in § 1019.3, 1019.4, 1019.5 1019.6 and 1019.8 have been approved by the U.S. General Accounting Office under number B-180232 (R0682).

Dated: July 31, 1980.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-23993 Filed 8-7-80; 8:45 am]

BILLING CODE 6355-01-M

federal register

Friday
August 8, 1980

Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Work Registration and Job Search Requirements

V 45 / 155
AG 8 80
UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 165]

Food Stamp Program; Work Registration and Job Search

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking amends the regulations, published October 17, 1978 (43 FR 47846), which implemented the work registration provisions of the Food Stamp Act of 1977. These amendments provide proposed procedures for the implementation of the job search provisions contained in the Act and clarify operational procedures related to existing work registration requirements.

DATES: Comments must be received on or before October 7, 1980, to be assured of consideration.

ADDRESS: Comments should be submitted to: Alberta C. Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. all written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at room 678, 500 12th Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sue McAndrew, Chief, Program Standards Branch, Program Development Division, Food and Nutrition Service, USDA, Washington, D.C. 20250; phone (202) 447–6535; or Michele Casey, Chief, Food Stamp Unit, Office of Work Incentive Programs, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213; phone (202) 376–7589.

SUPPLEMENTARY INFORMATION

Introduction

On October 17, 1978, the Department of Agriculture published final rules in the **Federal Register** implementing certain work registration provisions contained within the Food Stamp Act of 1977 (Public Law 95–113). Since that time, the Departments of Agriculture and Labor have been working together to develop an improved administrative procedure for implementing the entire work registration system including the requirement that work registrants actively seek employment. These proposed regulations are the result of that joint effort. They reflect the concerns of Congress and both Departments with regard to the need for an effective system to place able-bodied food stamp participants into gainful employment. Increased funding of the work registration process requested in the Department of Agriculture's Fiscal Year 1981 budget likewise indicates the desire of the Administration to ensure that an effective system is developed.

Each year, the Employment and Training Administration (ETA) and the Food and Nutrition Service (FNS) will negotiate funding levels based on agreed upon projections of workload levels, and the types of services to be provided. These funding levels will be included in the Interagency Agreement between the U.S. Department of Agriculture and the U.S. Department of Labor regarding the administration and operation of the work registration provisions of the Food Stamp Act of 1977. Each State Employment Security Agency shall participate in the work registration and job search activities for food stamp registrants to the extent that the funds necessary for proper and efficient administration are made available to ETA, Department of Labor by FNS, Department of Agriculture and are allocated to each State Employment Security Agency.

These proposed regulations somewhat restructure those regulations published October 17, 1978, in response to operational problems which have arisen at the local level. Responsibilities of the State agency and the State Employment Security Agency (SESA) are specifically defined to better delineate the adminstrative roles assigned each agency. Responsibilities assigned work registrants, both under work registration and job search, have been clearly stated.

Persons required to register. Wording from current regulations regarding who is required to register and the necessity of work registration as a condition of initial and continuing eligibility has been retained. The proposed language additionally specifies that subsequent to registration, disqualification would be based on the registrant's failure, without good cause, to comply with the additional work registration and job search requirements.

Exemptions from work registration. Two clarifications are proposed to the current regulatory language regarding persons exempt from the work registration requirements and a new section has been added. The clarifications are made in response to questions regarding procedures to be used by the State agency in those instances where a person's claim to an exemption, based on participation in the Work Incentive (WIN) Program or registration through the unemployment compensation process, is questionable.

The proposed regulations provide a methodology to verify such questionable exemptions by directing the State agency to contact the appropriate office of the SESA. Since the SESA is usually involved in both WIN and unemployment insurance (UI) activities, records will normally be on file in those offices to support such claims.

The new section discusses procedures to be followed when persons lose their exemption from work registration during the certification period. As in current rules, persons becoming non-exempt due to a change in either their age or the age of a dependent would not have to register for work until the next scheduled recertification However, for those persons losing their exemption due to an occurrence such as the loss of a job or deregistration from WIN, immediate registration for work would become a condition of continuing eligibility. This provision has been added to ensure that such persons receive job market exposure as soon as possible to improve the likelihood of their securing employment. persons losing their exemption who report the change in person would be required to complete the work registration form at the time the change is reported. If the change was reported in another manner, such as in writing, over the phone or by another household member, the State agency would provide a work registration form to the participant either through the mail or via the household member reporting the change. For household eligibility to continue, the work registration form would have to be completed and returned to the State agency within 10 calendar days.

State agency responsibilities. This section of the proposed regulations is basically a reiteration of parts of the current regulations. The first responsibility, which is new, directs the State agency to work with the participating SESA in developng a set of operating guidelines which will reflect the actual procedures used to implement the work registration requirements at the State and local level.

The 'Work Registration Plan' would detail such things as the work registration forms to be used and procedures to be followed in setting up the initial assessment interview, which is discussed below. It is expected that, in developing these procedures, the State agency and the SESA will also develop a continuing working relationship for the resolution of any

current or future problems related to system operations.

As a second responsibility, the State agency would continue the current practices of providing work registration forms to persons required to register and of informing those persons of their rights and responsibilities under the work registration system. Persons submitting an identifiable work registration form to the State agency, i.e., one which accurately identifies the individual by name, address and other readily known information, shall be considered registered. The form will be completed in its entirety when the work registrant is interviewed by the SESA. Both to ensure the timely transmittal of work registration forms to the SESA and to avoid unnecessary action with respect to persons not certified, the proposed regulations further provide that such forms be transmitted to the appropriate SESA no later than five working days after the date of household certification.

The third responsibility involves communication between the State agency and the SESA. When work registrants become exempt from the work registration requirement or when persons registered for work are no longer food stamp participants, the State agency would be responsible for informing the SESA of the change within five working days of the date the change becomes known. This action by the State agency would eliminate a number of unnecessary activities undertaken by the SESA in attempting to contact persons no longer subject to the food stamp work registration requirements.

State Employment Security Agency (SESA) responsibilities. This section of the proposed regulations explicitly states the work registration responsibilities assigned to the participating SESA. Current regulations, while alluding to these responsibilities, provide no direct guidance. The first responsibility assigned is similar to that assigned the State agency: the coordinated development with the State agency of operational guidelines. As stated earlier, this requirement is perceived as being the first step in establishing a continuing working relationship between the two agencies.

The second responsibility details the activities the SESA is expected to undertake following receipt of a work registration form from the State agency. The first activity is the entry of the information from the work registration form into the Employment Service Automated Reporting System (ESARS). ESARS basically maintains information on the demographic characteristics of and services provided to persons seeking employment aid through the SESA. It is currently used by the SESA in providing information to the Department of Agriculture (USDA) on the number of food stamp work registrants and the services (such as referrals and job placements) provided to food stamp work registrants. As stated in the Act and noted in current regulations, the registration would remain active for food stamp purposes for a period of six months. However, as discussed above, if the State agency notifies the SESA that the person is no longer a food stamp work registrant, he or she would be deactivated for purposes of complying with the additional work and job search requirements. Following entry into ESARS, the SESA would generally be responsible for contacting all work registrants to schedule an initial interview appointment. (This requirement would however be waived in those instances where the work registrant would be exempt from taking part in an active job search based on certain criteria discussed under 'Job Search' below.) To ensure that the work registrant was exposed to the job market as quickly as possible, the interview appointment would be scheduled to occur no later than two weeks after the date the work registration form reaches the SESA office. If the work registrant is unable to keep the first interview appointment for any reason, the SESA would automatically send the registrant a letter scheduling another interview to occur within the next weeks. The letter would inform the registrant of the date of the rescheduled interview, the penalty for failure to report to the interview without good cause, and provide information on how to contact the SESA to reschedule the interview date if the registrant has good cause reasons for being unable to appear on the date. The third activity would be the interview of work registrants for potential job placement. At the time of the interview the SESA would complete any missing entries on the work registration form, review the work registrant's past experience, skills and abilities, and attempt to match the work registrant to an available job opening. If during the course of the interview it becomes apparent that the work registrant has specific counselling or testing needs, the services would be provided in the same manner in which they are provided to all persons seeking employment assistance through the SESA. If the SESA counselor finds that the work registrant has training needs and knows of services, such as CETA or the Job Corps, which could meet these needs, the work registrant would be directed to those services.

The fourth activity establishes procedures which would be followed in those instances when the SESA is in disagreement with a State agency determination regarding a work registrant's nonexemption. This procedure parallels one established in regulations for the Work Incentive Program and has been added in recognition of the fact that perspectives may differ as to a person's physical or mental fitness for employment. If the State agency determines that a person is required to register for work and the SESA finds that person should be exempt due to a physical or mental disability, the SESA would inform the State agency of its finding and the rationale supporting the finding. The State agency would be expected to review its determination in light of the SESA's reasoning. While the State agency's determination would be accepted as final by the SESA, the State agency would be expected to reply to the SESA within 30 days of the date the SESA first contacted the State agency regarding the work registrant. If the State agency either reversed its decision or failed to recontact the SESA within 30 days, the person would be deactivated for purposes of complying with the additional food stamp work and job search requirements.

The fifth activity assigned to the SESA relates to the administration of the job search requirements which are discussed in the following section. During the initial interview, the SESA would determine the applicability of the job search requirements to each full-time work registrant, explain to the work registrant his or her rights and responsibilities, and give the work registrant direction in how to go about looking for a job. Given the SESA's knowledge of local job market conditions, the last function is viewed as having paramount importance in aiding the work registrant in securing employment. The sixth activity is a follow-on to the SESA's basic responsibility of attempting to match work registrants with available employment. At the time of the initial interview and during all subsequent work registrant visits to the SESA, an attempt would be made to match work registrants to available job openings. This job match process would continue during the period of time that the work registrant remains active in the system.

The seventh and final activity relates to communication between the SESA and the State agency. Within five working days of the date the occurrence

V 45 / 155 AUG 8 80 UMI

becomes known to the SESA, the SESA would be expected to inform the State agency either of the registrant's failure to comply, without good cause, with the additional work requirements or the job search requirements, or of the registrant's securing employment. The establishment of the five day timeframe would ensure that the State agency promptly recieves information on participants, thus allowing the State agency to take prompt appropriate action.

Job Search. One of the major additions to the work registration procedures made by the 1977 Food Stamp Act was the provision that full-time work registrants fulfill reasonable reporting and inquiry requirements. The House Committee on Agriculture's *Report on H.R. 7940* provides the legislative history regarding the job search provision. Congress' intent in establishing the job search requirement was to encourage full-time work registrants to actively seek employment on their own. Recognition was given to the fact that conditions varied both from place to place and individual to individual. Thus, the Secretary of Agriculture was directed to develop regulations which took into consideration "the nature of the job market in the particular political subdivision * * * the capabilities and characteristics of the individual work registrants, including their age, physical condition and recent employment history" rather than developing one uniform set of requirements that would be nationally applied. (See Report on H.R. 7940.)

In developing the proposed regulation on job search, the results of numerous studies related to job seeking have been reviewed and consideration has been given to the Administration's Welfare Reform Proposal (H.R. 4425 and S. 1312) as it relates to job search. These studies are available for public inspection along with the public comments on this proposal. With these findings and considerations in mind, the following proposals regarding food stamp job search are made.

Job Search Categorization. Under the proposed regulations, persons subject to the full-time work registration requirement would be required to participate in an initial assessment interview at the appropriate SESA office. This requirement would be waived in those instances where it was determined that the work registrant would be exempt form taking part in an active job search based on the criteria discussed below. This assessment interview would be conducted in conjunction with the intial SESA interview previously discussed. During the assessment interview, the SESA would determine the appropriate job search category for each work registrant. In making the decision as to which job search category the work registrant belongs, the SESA would consider the individual's capabilities and existent labor market conditions. Three job search categories have been proposed. Category I would be composed of those persons considered 'Job Ready'. To be placed in this category, the work registrant would have to have no substantial barriers to employment, i.e. specific problems which would prevent him or her from accepting or continuing employment.

Category II work registrants would be of two types. The first would be those persons who face substantial barriers to employment which make the application of the job search requirements impractical. Such barriers could include intermittently recurring medical problems (either their own or those of another household member to whom they give care) or transportation problems, such as living a long distance from public transportation and no private transportation being available or not having sufficient funds to use public transportation if it is available. Such persons, while subject to the normal work registration requirements, would be those who would be generally perceived as not benefiting from the imposition of a job search. The second type of persons assigned to Category II would be those persons, temporarily displaced from their jobs (for reasons such as a layoff), who expect to return to a specific job shortly. Work registrants placed in Category II for this reason would be recategorized, as appropriate, at the end of sixty days if they were still unemployed. It is proposed that job attached work registrants be treated in this fashion to avoid the cost inefficiences resulting from involving such persons in an intensive job search procedure.

Category III work registrants would be exempt from the job search requirements. Individual exemptions would be established for those work registrants residing an unreasonable distance (i.e., more than a two hour round trip) from the SESA office by reasonably available public or private transportation. This exemption, which is in line with the exemption established in the Work Incentive Program regulations, recognizes both the burden which would be placed on work registrants by requiring them to travel long distances to contact the SESA office and, most likely, potential employers and the national mandate to conserve energy wherever possible. It should be noted that such persons would continue to be actively registered with SESA and would be referred to suitable job openings should they become available. General exemptions may also be established jointly by FNS and DOL for residents of certain areas or certain groups, such as migrants, if FNS and DOL determine that job search would provide such persons no practical service. For example, FNS and DOL may determine that work registrants residing in certain areas of rural Alaska or certain Indian reservations would be exempted from job search due to the complete lack of employment opportunities. Requests for such general exemptions may be brought to FNS and DOL attention by SESA's and State agencies or other groups, such as Indian Tribal Organizations, knowledgeable of economic conditions which might lead to such determination.

As proposed, the job search categorization of each full-time work registrant is the direct responsibility of the SESA, since the SESA possesses in-depth knowledge regarding the job market and the work registrant's ability to obtain employment. If the work registrant feels that he or she has been incorrectly categorized, the work registrant obtain review by a designated SESA official. If the determination arrived at through the SESA procedure does not satisfy the work registrant, the determinaiton may be appealed through the State agency fair hearing process. As discussed in greater detail later, the SESA has final responsibility for determining compliance with the job search requirements. The State agency would not have the authority to overrule the SESA and would, upon receipt of the SESA's determination of noncompliance, take action to disqualify the household. The work registrant would, however, also have the right to appeal the State agency's disqualification action through the State agency fair hearing system.

Requirements. The proposed regulations establish an eight-week job search requirement for persons classified as Category I. This period may, however, be shortened, if the SESA determines that it is impractical. For example, the SESA may find an eight-week period impractical if the number of potential employers in an area is small. Alterantively, the period may be suspended by the SESA, if job market or personal conditions warrant. Such flexibility has been specifically provided to enable the SESA to establish the greatest potentially effective job search requirement. If, for example, a general slow-down existed in the local economy, the work registrant's job search period could be suspended until the job market was better able to absorb new entrants. Thus, both the registrant's energies and the costs associated with job search could be expended at the most opportune time. The general eight-week time frame is equal to that established in the Administration's Welfare Reform Bill and is generally considered an acceptable period of time in which to require persons to actively seek their own source of employment. For Category I registrants, the job search requirements would generally be initiated at the time of initial registration for work and at each six-month reregistration thereafter, although the SESA could postpone the commencement of the job search activity period if conditions warranted. Thus, an effective 16-week job search requirement, over the course of the year, would be established.

Persons becoming exempt from the work registration requirement, who subsequently lose that exemption during the course of the six-month registration period, would be required to complete the remaining amount of the eight-week requirement if they were placed in Category I at the time of subsequent registration.

The specific job search requirements assigned by the SESA would reflect the potential employability of each work registrant. Prescribed visits with the SESA office have been established to ensure both that contact is maintained with a primary source of job listings and that work registrants continue to receive guidance from skilled personnel counselors. Persons placed in Category I would be required to make contact with eight to twenty-four prospective employers during the eight-week period. If the job search period was shortened below eight weeks, the number of job contacts would be reduced on a pro-rate basis. The exact number of job contacts to be made would be dependent upon the SESA's evaluation of the work registrant and the job market's demand for abilities possessed by the work registrant.

Twice during the eight-week period, the Category I work registrant would be required to report to the SESA office and provide written documentation of his or her activity. (The first follow-up interview would have been scheduled at the time of the initial assessment interview.) In addition to reviewing previous job contacts during the first follow-up interview, the SESA would be responsible for reviewing existing job openings, providing the work registrant with guidance in future job search plans and establishing the final follow-up interview to occur at the end of the job search period. During the final job search interview, the SESA would repeat the above activities with the exception that another follow-up interview would not be scheduled. The work registrant may, at his or her option, choose to continue maintaining contact with the SESA for job assistance. Since the work registrant would still be actively registered with the SESA, the additional work requirements, including referral to suitable employment, would continue in effect over the entire six-month period.

The SESA would additionally be responsible for ensuring that such persons were referred to public jobs or training programs, given their availability and suitability to the needs of the persons.

Category II work registrants would not be assigned any specific job search requirements at the time of the initial assessment interview. The SESA may, however, depending on its perception of the duration of the problem barring the participant from participating in an active job search, recontact such persons for another assessment interview during the six-month registration period. At the second assessment interview the job search categorization would be reviewed for potential referrals. Persons reclassified as Category I would be subject to the requirements specified above. Persons placed in Category II due to a job attachment would be contacted for a subsequent interview 60 days from the date of the initial interview if such persons continued to be subject to the work registration requirement. At the time of the subsequent interview, available job openings would be reviewed and the participant's job search categorization would be reconsidered.

Persons exempted from the job search requirements would generally not be required to make any visits with the SESA. If, however, the exemption becomes inapplicable during the 6-month interval, due to an occurrence such as a planned move by the household to a location closer to the SESA, the SESA may interview the household to reclassify the work registrant appropriately.

Follow-up Activities. This section details the responsibilities assigned to the SESA in administering the job search requirement once the initial decision on categorization is made. During the initial assessment interview, the SESA would provide direction to Category I work registrants on how do conduct their job search, i.e., how to locate prospective employers, how to arrange interviews, and how to conduct themselves in interviews. At this time, the SESA would also provide the work registrant with confirmation of the date and time of the next follow-up interview. Category II work registrants would be informed that such recontact, as appropriate, would be made by letter. As discussed above, during the follow-up interviews, the SESA would be responsible for reviewing the previous job contacts, discussing upcoming job search plans, and reviewing available job openings for potential referrals.

Persons failing to appear for the scheduled interview, for whatever reason, would be contracted by the SESA by letter and another interview arranged to take place within two weeks of the missed interview. The letter would contain information on the data of the rescheduled interview, the penalty for failing to report for the rescheduled interview without good cause and procedures to be followed in contacting the SESA should good cause conditions prevent him or her from attending the rescheduled interview. If the work registrant failed to report to the rescheduled interview, without good cause, the SESA would be responsible for informing the State agency of the failure within five working days so that appropriate action could be taken.

Job Contact. This section of the proposed regulations defines a job contact. The goal of requiring a job search is for the work registrant to find suitable, gainful employment. As a first condition, the work registrant would have to present himself or herself to a prospective employer as available to accept employment. The SESA, during the initial assessment interview and at the time of subsequent interviews, would advise the work registrant on how to be successful in this area—discussing such things as interview techniques. The second criteria involves the prospective employers from whom one would seek employment. To qualify as a job contact, prospective employers must have job positions for which the work registrant is reasonably qualified. For example, it would not be reasonable for a person with no clerical skills to apply for a position as a typist. Nor would it be reasonable for someone without a driver's license to apply for a position as a taxi driver. It would be reasonable, on the other hand, for a college graduate with a teaching certificate who has been unable to secure a teaching position to apply for a

V. 45 / 155 AUG 80 UMI

sales job. Thus, in conducting a job search, work registrants would have to seek employment in areas where their skills matched, or exceeded, the requirements of the job.

It should be noted that the manner in which a job contact would be made has not been specifically addressed. This decision would depend on the normally accepted method of job application for the type of job being sought. This area of the job search process is one which would be discussed by the SESA with the work registrant in structuring the person's job search.

Generally, it would not be acceptable to contact the same employer more than one time. However, if during the initial employer contact it was indicated that job openings may soon exist and that the registrant could reapply at that time, such recontact would be acceptable and would count as a required job contact.

If the SESA refers a work registrant to a prospective employer as part of the additional work requirements, this would count as a job contact made in satisfaction of the job requirements.

Reporting Job Contacts. During the initial assessment interview, the SESA would discuss with the work registrant the manner in which job contacts would be reported. Generally, the SESA would supply the work registrant with a form to be completed and signed by the work registrant. The work registrant would not be required to obtain the signature of the prospective employers contacted. However, the work registrant's signature on the form would attest to the truthfulness statements made on the form.

This documentation would be provided by the work registrant to the SESA at each of the follow-up visits. If the SESA has questions regarding the job contacts reported by a work registrant, the registrant would be responsible for providing such information. At the initial follow-up visit, the SESA would review contacts already made by the work registrant and discuss future job search plans. No decision on compliance would be made at this time since the work registrant would have the entire eight-week period to fulfill the required number of job contacts. At the final follow-up visit, the SESA would make a determination as to whether the registrant had completed the assigned number of job contacts. If the work registrant had not completed the required number of job contacts, but such failure was due to good cause, the work registrant would be excused from completing the missed contacts. If the registrant had not completed the required job contacts, no good cause conditions existed, and the assigned job search period was less than eight weeks, the registrant would have until the end of the eight-week period to complete the missed contacts. If the assigned job search period was eight weeks no additional time would be provided, with one exception. If the SESA disallows a reported job contact(s), for reasons such as suitability or manner of contact, the registrant would be allowed two weeks to make up the disallowed contact(s). Once a final determinaton of failure to comply has been made by the SESA, the SESA would notify the State agency of its decision within five working days of the date of the determination.

Failure to comply. The first part of the *Failure to comply* section in the current regulations has been rewritten to include action which would be taken by the State agency in those instances where the SESA has informed the State agency that the work registrant has failed to comply with the additional work registration or job search requirements. The proposed regulations establish a somewhat different structure for decision-making than exists in current work registration regulations. Due to the specialized knowledge of the SESA in the area of employment, the SESA has been assigned final responsibility for determining compliance with the additional work registration and job search requirements. Within the job search process, work registrants are given a second chance to make up missed interviews. The SESA, in addition, is required to contact the work registrant to determine if good cause conditions existed for failure to comply with any additional work registration or job search requirements prior to notifying the State agency of the registrant's noncompliance. Once the determination is made by the SESA that the work registrant has failed to comply without good cause and the State agency is notified of such noncompliance, the State agency would have to take action on the SESA determination. If, on receipt of a notice of adverse action, the work registrant disagrees with the action, the participant would have the opportunity to contest the action through the State agency fair hearing system. The fair hearing could decide in the participant's favor. However, prior to a fair hearing, the State agency could not unilaterally decide that the notice of noncompliance received from the SESA would not be acted upon.

The regulations further provide that the notice of adverse action, for all actions based on the work registration requirements, would contain the dates of the proposed disqualification period and a statement that the household may reapply to receive benefits at the end of the period. The letter sent to the household containing the adverse action notice would also be required to contain information on the provisions related to ending disqualification.

Determining good cause. This section of the regulations has been rewritten to clarify the responsibilities of the SESA in determining good cause. Due to the responsibilities assigned to the SESA in administering the additional work registration and job search provisions, the SESA would also have responsibility for determining if good cause conditions existed for a work registrant's failure to comply with these provisions. For the SESA, the circumstances set forth in current regulations would be used in making such determinations.

Ending disqualifications. This section of the regulations has been rewritten to distinguish between job search and other work registration activities and to clarify the responsibility of the work registrant who wishes to cure previous acts which have resulted in his or her household's disqualification. The previous cure provision related to reporting for an interview with the SESA has been deleted, since a second opportunity to make up a missed appointment is provided by the SESA prior to making a determination of non-compliance. Thus, while a disqualification for certain acts relating to work registration, e.g. refusal to report to an employer to whom referred by the SESA, could be cured by the registrant, disqualification for failure to comply with certain job search requirements could not be cured. As with the existing regulations, the proposed regulations would specify those grounds for disqualification which can be cured.

The proposed regulations would also clarify that if the work registrant has refused to accept an offer of suitable employment to which he or she has been referred by the SESA, it is the responsibility of the work registrant to secure comparable suitable employment. It has been brought to the Department of Agriculture's attention that current regulations have been construed to mean that the work registrant would be reinstated simply by offering to accept such comparable employment. This is not a correct interpretation. Once suitable employment has been offered and it is refused by the participant, he or she would have to find and accept comparable employment if reinstatement is to take place within the two-month disqualification period.

These regulations would not mean that the SESA could not assist the person in finding such employment; however, the primary responsibility would rest with the disqualified work registrant. In those instances where a person has refused to continue suitable employment to which referred by the SESA, the principle discussed above would also be applied. While the SESA could continue to assist the person in securing employment, it would be the primary responsibility of the disqualified person to find such comparable employment in order to end the disqualification.

The proposed regulations also add a new part to the section on *Ending disqualification.* This part clarifies that a SESA determination, regarding a person's failure without good cause to comply with the requirements as to the assessment interview, follow-up interviews, or job contacts, or the additional work requirement of an interview with the SESA, is final and must be acted on by the State agency. There are no cure provisions for failing to comply with these requirements since a second opportunity for compliance is built into the requirements themselves. The resulting disqualification can only be ended if it is overturned by a decision made through the State agency fair hearing process, or if the member becomes exempt from the work registration requirement, or if the two-month disqualification period runs its course. However, as noted above, the proposed regulations specify that disqualification based on certain other grounds can be cured by the registrant.

To implement these changes, the Departments propose that Part 273 be amended as follows:

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.7 Work registration requirements [Amended]

1. Paragraph (a) would be amended to read as follows:

(a) *Persons required to register.* The State agency shall determine which household members are required to register for employment. Each household member who is not exempted by paragraph (b) of this section shall register for employment as a condition of eligibility at the time of application and once every six months after initial registration. Failure to comply with the work registration requirements thereafter, without good cause, will result in household disqualification as established in § 273.7(g).

* * * * *

2. In paragraph (b), the number "(1)" would be added after the word *"registration"* and before the word "The". Paragraphs (b)(1) through (b)(9) would be redesignated as paragraphs (b)(1)(i) through (b)(1)(ix), respectively. Newly redesignated paragraphs (b)(1)(iii) and (b)(1)(vi) would be amended and a new paragraph (b)(2) would be added. The amended paragraphs and the new paragraph would read as follows:

* * * * *

(b) *Exemptions from work registration.*

(1) * * *

(iii) A household member subject to and participating in the work incentive program (WIN) under Title IV of the Social Security Act. If the exemption claimed is questionable, the State agency shall be responsible for verifying the exemption with the appropriate office of the State Employment Security Agency (SESA).

* * * * *

(vi) A person is in receipt of unemployment compensation. A person who has applied for, but has not yet begun to receive, unemployment compensation shall also be exempt if that person was required to register for work with the SESA as part of the unemployment compensation application process. If the exemption claimed is questionable, the State agency shall be responsible for verifying the exemption with the appropriate office of the SESA.

* * * * *

(2) Persons losing their work registration exemption, except as specified in paragraphs (b)(1)(i), (iv), and (v), of this section, shall be required to fulfill the work registration requirement as a condition of continuing eligibility. If the change is reported in person by the household member required to register, the State agency shall ensure that the work registration form is completed at the time the change is reported. If the change is reported by phone, through the mail, or by another household member, the State agency shall be responsible for providing the participant with a work registration form. The participant shall be responsible for returning the form to the State agency within 10 calendar days from either the date of the mailing or the date the form was given to the household member reporting the change.

* * * * *

3. The current paragraph (c) would be redesignated as (m) and a new paragraph (c), which reads as follows, would be added:

* * * * *

(c) *State agency responsibilities.* (1) The State agency shall be responsible for jointly developing with the participating SESA a Work Registration Plan. The Plan shall set forth the specific operational procedures to be followed by the SESA, or its designee, and the State agency in meeting the requirements of this section. Such Plan shall be annually reviewed by the State agency and the SESA and updated as appropriate.

(2) Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the State agency shall explain to the applicant the work registration and job search requirements, his or her rights and responsibilities, and the consequences of failure to comply. The State agency shall provide work registration forms to the applicant for each household member who is required to register for employment. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency. No later than five working days after the date of household certification, the State agency shall forward the completed work registration form to the SESA having jurisdiction over the area where the registrant resides.

(3) The State agency shall be responsible for notifying the appropriate SESA of those work registrants who either become exempt from the work registration requirement subsequent to registration or are no longer certified for participation in the Program. Such notification shall be provided to the SESA no later than five working days from the date the change becomes known to the State agency.

* * * * *

4. Paragraph (d), which was previously reserved for *Job Search,* is used for a new paragraph, *State Employment Security Agency (SESA) responsibilities,* which would read as follows:

* * * * *

(d) *State Employment Security Agency (SESA) responsibilities.* (1) Each SESA shall participate in the work registration and job search activities for food stanp registrants to the extent that the funds necessary for proper and efficient administration are made available. The SESA shall be responsible for jointly developing with the State agency a Work Registration Plan. The Plan shall set forth the specific operational procedures to be followed by the State agency and the SESA, or its designee, in meeting the requirements of this section. Such Plan shall be annually reviewed by the State agency and the SESA and updated as appropriate.

V 45 / 155 5 AG 8 80 UMI

(2) Following receipt of the work registration form from the State agency, the SESA shall be responsible for taking the following actions: (i) Entering the information from the work registration form into the Employment Service Automated Reporting System (ESARS). Such registration shall remain active for six months unless the participant is subsequently deregistered for food stamp purposes;

(ii) Contacting work registrants to schedule interview appointments, in accordance with § 273.3(f)(1), with the exception that those persons who would be exempt from job search, as discussed in § 273.7(e)(1)(ii), shall not be required to report for such an interview. Such interview shall be scheduled to occur within two weeks of the date the work registration form reaches the SESA. If the work registrant fails to appear for the first interview, the SESA shall send a letter scheduling another interview to occur within the next two weeks. The letter shall inform the registrant of the date of the rescheduled interview, explain to the registrant the consequences of failing to appear for the rescheduled interview appointment without good cause, and provide procedures for contacting the SESA if the rescheduled interview cannot be attended by the work registrant for good cause.

(iii) Interviewing work registrants for potential job placement. The SESA shall provide the work registrant with job market information, referral to available employment, and all other counseling, testing, and training services, as appropriate, wich are normally available to persons seeking employment throught the SESA. Job market information, including a listing of available job opportunities, shall be used to provide this information and facilitate such referrals;

(iv) If the State agency has required an individual to register for work and the SESA disagrees, the SESA shall request the State agency to reconsider its determination. The State agency's response will be accepted by the SESA as final. If the State agency reverses its decision or does not respond to the request within 30 days, the SESA shall remove the registrant from ESARS as exempt;

(v) Establishing and maintaining job search procedures, determining the applicability of the job search requirements established in § 273.7(e) to each full-time work registrant, administering the job search requirement, and assisting the work registrant in conducting his or her job search;

(vi) Attempting to match work registrants with available job openings at the time of the work registrant's initial and subsequent visits to the SESA and on a continuing basis; and

(vii) Reporting to the State agency both on work registants who fail to comply, without good cause, with either the job search requirements established in § 273.7 or the additional work requirements established in § 273.7(f), and on those registrants who obtain employment. The SESA shall notify the State agency within five working days of the date such information becomes known to the SESA.

* * * * *

5. Paragraph (e), *Additional work requirements,* would be redesignated as paragraph (f). A new paragraph (e), *Job Search,* would be added and would be read as follows:

* * * * *

(e) *Job Search.* All persons required to register for full-time work shall be subject to the appropriate job search requirements discussed below. The appropriate requirement shall be established at the time of the initial registration interview with SESA and at each subsequent registration interview. If it is known, or the SESA determines from available information, that the work registrant would be exempt from actively engaging in a job search based on the criteria established in (e)(1)(ii)(c), of this section no assessment interview will be required. Failure to comply with the job search requirements, without good cause, shall result in household disqualification as established in § 273.7(g).

(1) *Job Search Assignment.* (i) During the initial assessment interview, the SESA shall determine the job search category of each full-time work registrant. The SESA shall provide to each full-time work registrant written notification regarding his or her job search requirements, procedures to be followed, and the consequences of failure to comply. If the work registrant believes he or she has been improperly assigned, review of the classification may be obtained from a designated SESA official. The results of the SESA procedure shall be binding and shall not be reversed by the State agency. The work registrant may, however, appeal either the SESA determination or action taken by the State agency (such as disqualification resulting from failure to comply with the SESA determination) through the State agency fair hearing system.

(ii) Based on the capabilities and characteristics of the participant, including his or her age, physical condition, and recent employment history, and the job market situation in the area, the SESA shall categorize each full-time work registrant into one of the following categories.

(A) Category I—*Job ready.* Those work registrants having no apparent substantial barriers to employment.

(B) Category II—*Non-job ready.* Those work registrants with substantial barriers to employment, e.g., medical, transportation, or family problems, which would make them difficult to place. Transportation problems shall include the unavailability on a regular basis of either private or public transportation or of the minimum financial resources necessary to obtain available public transportation. Job attached persons, e.g., those on temporary layoff or those expecting to return to work within 30 days, shall be placed in this category for 60 days from the date of initial registration. At the end of the sixty-day period, job attached persons, if still unemployed, may be recategorized as appropriate.

(C) Category III—*Exempt.* Those individuals residing an unreasonable distance from the appropriate SESA office or determined exempt by FNS and the Department of Labor. A distance shall be considered unreasonable if the round trip exceeds 2 hours by reasonably available public or private transportation. FNS and the Department of Labor may also jointly establish general exemptions for residents of certain areas or certain groups if, due to locational or economic characteristics or similar reasons, application of the job search requirements is determined impracticable. Requests for such general exemptions may originate with the local or State level SESA and State agency, or from other knowledge sources. Whenever practical, the SESA determination of exempt status shall be made at the time the work registration form is recieved from the State agency to preclude the need of such persons travel to the SESA for an assessment interview.

(2) *Requirements.* (i) Persons classified as Category I shall fulfill the job search requirements discussed below for a period of eight weeks or until the work registrant becomes exempt from the job search requirements, whichever occurs sooner. SESA may however shorten or suspend the job search activity period if personal or economic conditions warrant. If the job search period is shortened, the number of required job contacts shall be reduced on a pro-rata basis. Such requirements shall be effective at the time of initial registration for work and at each subsequent six-month

reregistration unless the SESA determines that the job search would be more effective if postponed to a later date. Persons becoming exempt during the six-month work registration period, who subsequently lose their exemption, and are reassigned to Category I, shall complete whatever portion of the eight-week job search activity remains for the six-month period.

(ii) Persons classified as Category I shall, for a period of up to eight weeks, fulfill the following requirements in addition to those outlined in § 273.7(f). Where appropriate, such persons shall also be referred to the CETA or other jobs or training programs.

(A) Contact, as specified by the SESA, eight (8) to twenty-four (24) prospective employers during the eight-week period; and

(B) Twice during the job search period, report at a prescehduled time to the SESA on the result of all job contacts. Job contacts shall be reported in written form as discussed in § 273.7(e)(5) below. At the time of each subsequent interview, as discussed in § 273.7(e)(5), the SESA will be reponsible for reviewing its files to determine if current referral possibilities exist.

(iii) Work registrants classified as Category II will not be assigned any specific job search activity. Job attached persons who have not returned to their jobs or otherwise become exempt from the work registration requirement will be called in for reassessment at the end of sixty days. Other persons may be called in by the SESA during the six-month registration period. During subsequent interviews, job files will be reviewed for potential referrals, and the job search categorization of such individuals will be reassessed.

(iv) Work registrants classified as Category III will not be required to fulfill any job search requirements until such time as the exemption is no longer applicable and the work registrant is reclassified into an active job search category.

(3) *Follow-up activities.* (i) At the time of the initial assessment interview with the work registrant, the SESA will establish a schedule for two follow-up visits over the job search period for Category I registrants. Such schedule shall be documented and provided in written form to the work registrant. Category II registrants will be informed that they may be contacted either within the six-month registration period or within sixty days if they are job attached. If the work registrant fails to report for the follow-up interview for any reason, the SESA shall contact the work registrant by letter to schedule another interview within the next two weeks. The letter shall inform the registrant of the date of the rescheduled interview, explain to the registrant the consequences of failing to appear for the rescheduled interview without good cause, and provide procedures for contacting the SESA if the rescheduled interview cannot be attended by the work registrant for good cause. If the work registrant fails to report to the rescheduled interview, without good cause, the State agency shall be notified of the failure within five working days of the date of the failure.

(ii) At the time of each follow-up interview, the SESA shall review the job contacts made by the work registrant, review job listings for potential referrals, and assist the work registrant in establishing his or her future plans for seeking employment.

(4) *Job contact.* A job contact made in response to a referral by the SESA will be considered a job contact for job search purposes. To qualify as a job contact, two conditions must be met. First, the work registrant must present himself or herself to a prospective employer as available for work. Second, the prospective employer must ordinarily employ persons in areas of work meeting the suitability requirements discussed in § 273.7(j) for which the work registrant is reasonably qualified by means of experience, training, or ability. Depending upon the position being sought, the job contact requirement may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the SESA to be generally accepted practice for that occupation. The work registrant cannot contact the same employer in subsequent weeks unless the initial contact indicated that vacancies in suitable job positions may soon exist.

(5) *Reporting Job Contacts.* (i) Job contacts shall be reported in writing in a manner prescribed by the SESA. At the time of the initial interview with the SESA, the work registrant shall be told about the manner of reporting. While such reporting will not require the employer's written confirmation of the job contact, the work registrant shall be required to sign the written documentation to attest to its validity. The written report shall be submitted to the SESA at the time of the work registrant's follow-up visits to that office.

(ii) The work registrant shall be responsible for providing the SESA, upon reasonable request, any additional information regarding job contacts.

(iii) At the end of the job search period, the SESA shall determine if the work registrant has completed the assigned number of job contacts. If the work registrant was assigned a job search period of less than eight weeks, the registrant shall have the remainder of the eight-week period to complete any missed contacts. If the work registrant was assigned an eight-week job search period, no additional time shall be allowed unless the SESA fails to accept, for reasons such as suitability or manner of contact, a job contact(s) reported by the registrant. In such instances, the work registrant shall be allowed an additional two weeks to make-up the disallowed contact(s). If the SESA determines that the work registrant has failed to comply with the job search requirements, without good cause, the SESA shall inform the State agency within five working days of the date the determination is made. Persons failing to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements.

* * * * *

6. Paragraph (f), *Failure to comply,* would be redesignated as paragraph (g). Paragraph (g), *Determining good cause,* would be redesignated as paragraph (h). The newly redesignated paragraph (g)(1), would be reworded as follows:

* * * * *

(g) *Failure to comply.* (1) If the State agency is informed by the SESA that a household member, except a student as defined in paragraph (b)(1)(ix) of this section, has refused or failed without good cause to comply with the requirements of this section, the entire household shall be ineligible to participate as provided in this paragraph. Such ineligibility shall continue until either the member complies with the requirements in paragraph (i) of this section, or the member becomes exempt, or for 2 months, whichever occurs earlier. Prior to informing the State agency of the registrant's noncompliance, the SESA shall be responsible for contacting the work registrant to determine if good cause, as discussed in (g) of section, existed. Within 10 days after the SESA provides notification of the work registrant's failure to comply with the requirements of this section, the State agency shall provide the household with a notice of adverse action, as specified in § 273.13. Such notification shall contain the proposed period of disqualification and shall specify that the household may reapply at the end of the disqualification period. Information shall also be included with the notification on the procedures and requirements contained in paragraph (i)

Reader Aids

of this section. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested. Each household has a right to a fair hearing to contest a denial, reduction or termination of benefits due to a determination of nonexempt status, job search categorization or failure to comply with the work registration requirements of this section. If a fair hearing is scheduled, the State agency shall provide the SESA sufficient advanced notice to permit the attendance of a SESA representative.

* * * * *

7. The newly redesignated paragraph (h), *Determining good cause* would be reworded as follows:

* * * * *

(h) *Determining good cause.* The SESA shall be responsible for determining good cause in those instances where work registrant has failed to comply with the additional work registration and job search requirements of this section. The SESA shall consider the facts and circumstances, including information submitted by the household member involved and the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

* * * * *

8. Paragraph (h), *Ending disqualification,* would be redesignated as paragraph (i). The newly redesignated paragraph (i), *Ending disqualification,* would be amended by numbering the existing paragraph as (1), deleting the existing subparagraph (2) and redesignating subparagraph (1), (3)–(6) as (i)(1)(i) through (i)(1)(v) respectively.

Newly redesignated subparagraphs (i)(1)(iv) and (i)(1)(v) would be amended and a new subparagraph (i)(2) would be added. The amended subparagraphs and the new subparagraph would read as follows:

* * * * *

(i) *Ending disqualification.* (1) * * *

(iv) *Refusal to accept a bona fide offer of suitable employment to which referred by the SESA*—Acceptance of this employment, if still available to the participant, or securing other employment which yields earnings per week equivalent to the refused job, or securing employment of at least 30 hours per week, or securing employment of less than 30 hours per week with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(v) *Refusal to continue suitable employment to which referred by the SESA*—Returning to this employment, if still available to the participant, or securing any other employment which yields earnings per week equivalent to the refused job, or securing any other employment of at least 30 hours per week or securing employment of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(2) Persons failing to comply initially with the job search requirements, i.e., the assessment interview, follow-up interviews, and job contacts, or the additional work requirement of reporting for an interview with the SESA are provided with a second opportunity to comply by the procedures established in § 273.7(e). If the work registrant fails to comply on the second opportunity, without good cause, and such failure results in disqualification, the disqualification, may be ended only if the person becomes exempt from the work registration requirement or at the end of two months, whichever occurs earlier.

* * * * *

9. Paragraph (i), *Suitable employment,* would be redesignated as paragraph (j); paragraph (j), *Participation of strikers,* would be redesignated as paragraph (k); paragraph (k), *Registration of PA and GA households,* would be redesignated as paragraph (l).

(91 Stat. 958, as amended (7 U.S.C. 2011–2027))

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Draft Impact Analysis is available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated August 4, 1980.

Ernest Green,

Assistant Secretary, Department of Labor.

Dated: May 19, 1980.

Carol Tucker Foreman,

Assistant Secretary, USDA Department of Agriculture.

[FR Doc. 80-24015 Filed 8-7-80; 8:45 am]

BILLING CODE 3410-30-M

Reader Aids

Federal Register

Vol. 45, No. 155

Friday, August 8, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202–523–5240.

Federal Register, Daily Issue:

202–783–3238	Subscription orders and problems (GPO) "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202–523–5022	Washington, D.C.
312–663–0884	Chicago, Ill.
213–688–6694	Los Angeles, Calif.
202–523–3187	Scheduling of documents for publication
523–5240	Photo copies of documents appearing in the Federal Register
523–5237	Corrections
633–6930	Public Inspection Desk
523–5227	Index and Finding Aids
523–5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523–3419	
523–3517	
523–5227	Index and Finding Aids

Presidential Documents:

523–5233	Executive Orders and Proclamations
523–5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523–5266 –5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275–3030	Slip Law Orders (GPO)

Other Publications and Services:

523–5239	TTY for the Deaf
523–5230	U.S. Government Manual
523–3408	Automation
523–4534	Special Projects
523–3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167–51538.....1
51539–51754.....4
51755–52138.....5
52139–52354.....6
52355–52768.....7
52769–53074.....8

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139
Proclamations
4776.....51539
Administrative Orders:
Memorandums:
July 31, 1980.....51169–51174

5 CFR

297.....52769
410.....51755
Ch. XIV.....51541
Proposed Rules:
359.....51214

6 CFR

705.....51175
706.....51541, 52769

7 CFR

2.....52355
210.....51175
245.....52770
301.....51176
331.....51755
722.....51755
908.....52356
910.....51177, 52771
917.....51179
921.....51180
924.....51180
926.....52772
946.....52141
948.....51182
958.....52141
967.....52143
1137.....51542
1446.....51756
2853.....51757
Proposed Rules:
29.....51572
272.....51216
273.....51216, 53066
301.....52816
404.....51573
722.....52817
800.....52339
985.....51818
1464.....51579
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR

264.....52143
Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR

78.....52772
92.....52773
Proposed Rules:
94.....52818
317.....53002
318.....51832
381.....53002

10 CFR

110.....51184
212.....52112
445.....51763
Proposed Rules:
205.....51833
378.....51581

11 CFR

100.....52356
110.....52356

12 CFR

201.....52144
Proposed Rules:
Ch. I.....52166
Ch. II.....51581
303.....52819
309.....52819
525.....52173
541.....52173, 52177
545.....52173, 52177
561.....52177
563.....52173, 52177

13 CFR

101.....51763

14 CFR

39.....51543–51546, 52357
71.....51546
91.....51547
97.....52358
121.....51547
127.....51547
135.....51547
375.....51838
Proposed Rules:
71.....51587–51590, 52396
73.....51591
75.....52396
255.....52820

15 CFR

Proposed Rules:
19.....51592

16 CFR

13.....52776, 52778
438.....51763, 51765

455.....52750
1019.....53036
Proposed Rules:
13.....51593, 51596
239.....51838
705.....51218

17 CFR
7.....51520
Proposed Rules:
1.....51598
4.....51600

18 CFR
282.....52359
292.....52779
Proposed Rules:
271.....51219
273.....51219
274.....51219
301.....51614

19 CFR
353.....52780
571.....52365
Proposed Rules:
Ch. I.....51490

20 CFR
404.....52078
416.....52078
Proposed Rules:
Ch. II.....51615

21 CFR
172.....51766
175.....51184
176.....51767
193.....51768
520.....52781
884.....51185, 51186
Proposed Rules:
Ch. II.....51832, 52397
101.....53023
600.....52821
606.....52821
610.....51226
660.....51226

23 CFR
657.....52365
658.....52365
Proposed Rules:
625.....51720
652.....51720
663.....51720

24 CFR
203.....51769, 51770
207.....51769, 51771
213.....51771
220.....51769, 51770
221.....51770, 51771
222.....51770
226.....51770
235.....51770
279.....51510
571.....51516
590.....52762
869.....52371
885.....51186
1710.....52144

Proposed Rules:
570.....51227
865.....51228
866.....51615
886.....51228
888.....51228
889.....51229

26 CFR
1.....52373, 52782
26a.....51771
48.....52800
54.....52782
Proposed Rules:
1.....52399, 52824
26.....51840

27 CFR
Proposed Rules:
Ch. I.....51496
19.....52407
70.....52407
240.....52407
245.....52407
250.....52407
270.....52407
275.....52407

28 CFR
0.....52145
Proposed Rules:
Ch. I.....51506, 51832
16.....52183
50.....52183

29 CFR
11.....51187
40.....51192
102.....51192
1952.....51775
1625.....51547
1999.....51187
2520.....51446
2550.....51194
Proposed Rules:
Ch. XIV.....51229
2520.....51231, 52824
2530.....51231, 52824
2550.....51231, 51840

30 CFR
Ch. VII.....51547, 52834
762.....52375
800.....52306
801.....52306
805.....52306
806.....52306
807.....52306
808.....52306
Proposed Rules:
Ch. VII.....52407, 52408
250.....52408
700.....52410
701.....52410
784.....51240
817.....51240

32 CFR
763.....51776
853.....52800
888d.....52145

33 CFR
117.....51550
207.....51551, 51555
401.....52376
Proposed Rules:
117.....51617, 51618

34 CFR
Proposed Rules:
100.....52052

36 CFR
Proposed Rules:
7.....51618
1202.....51843

37 CFR
304.....51197

38 CFR
21.....51777

39 CFR
Proposed Rules:
111.....51846

40 CFR
35.....51484
51.....52676
52.....51198, 51199, 52148, 52676
122.....52149
124.....52676
180.....51200, 51781, 51782
Proposed Rules:
52.....51619, 51620, 52184, 52834, 52841
81.....52841
162.....52628
164.....52628
167.....52184
169.....52184
180.....51854
408.....52411
410.....52185
717.....51855

41 CFR
Ch. 101.....51201
Proposed Rules:
101-17.....52842

42 CFR
57.....51201, 51205
58.....51209, 51556
405.....51783
455.....51559
Proposed Rules:
72.....51241

43 CFR
8351.....51740
Proposed Rules:
2560.....52303
Public Land Orders:
5742.....51787
5743.....51787
5744.....51788
5745.....52382
5746.....52382

44 CFR
64.....52383
65.....51212, 51788, 52384
67.....51213, 51559, 51789, 51796
Proposed Rules:
6.....51426
67.....51855-51858, 52416, 52417, 52422, 52427

45 CFR
121l.....52130
121o.....52130
121p.....52130
121q.....52130
121r.....52130
801.....52800
1060.....51561
Proposed Rules:
121q.....52136
190.....51243

46 CFR
30.....52386
61.....52386
151.....52386

47 CFR
Ch. I.....52389
13.....52154
22.....52149
68.....52151
73.....51561-51563, 52152, 52800, 52801
74.....51563
76.....52153
81.....52154
83.....52154
87.....52154
90.....51811
97.....51564
Proposed Rules:
Ch. I.....51251
2.....51251, 51252
15.....51251
21.....51252
73.....51624, 52843, 52845, 52846, 52848
74.....51252
94.....51252

48 CFR
Proposed Rules:
9.....51253

49 CFR
571.....51569
941.....52389
1002.....51213, 52158, 52802
1003.....51213, 52158
1033.....51812-51815, 52158, 52160, 52161, 52803
1045A.....51213, 52158
1056.....51213, 52158
1062.....51213, 52158
1100.....51213, 52158
1130.....51213, 52158
1150.....51213, 52158
1309.....52161
1310.....52161

Proposed Rules:
398.....51625
571.....51626, 51628
1102.....51858
1116.....52186

50 CFR
17.....52803, 52807
26.....52391
32.....52392, 52393
653.....52810
Proposed Rules:
13.....52849
17.....52849
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254
655.....51254
661.....51861

V 45 / 155 AG 8 80 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

National Park Service—

46071 7–9–80 / Big Thicket National Preserve, Tex.; special regulations

Rules Going Into Effect Sunday, August 10, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

45858 7–7–80 / Adjustment of fees for Federal rice inspection services.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 7, 1980

V 45 / 155 AG 8 80 UMI

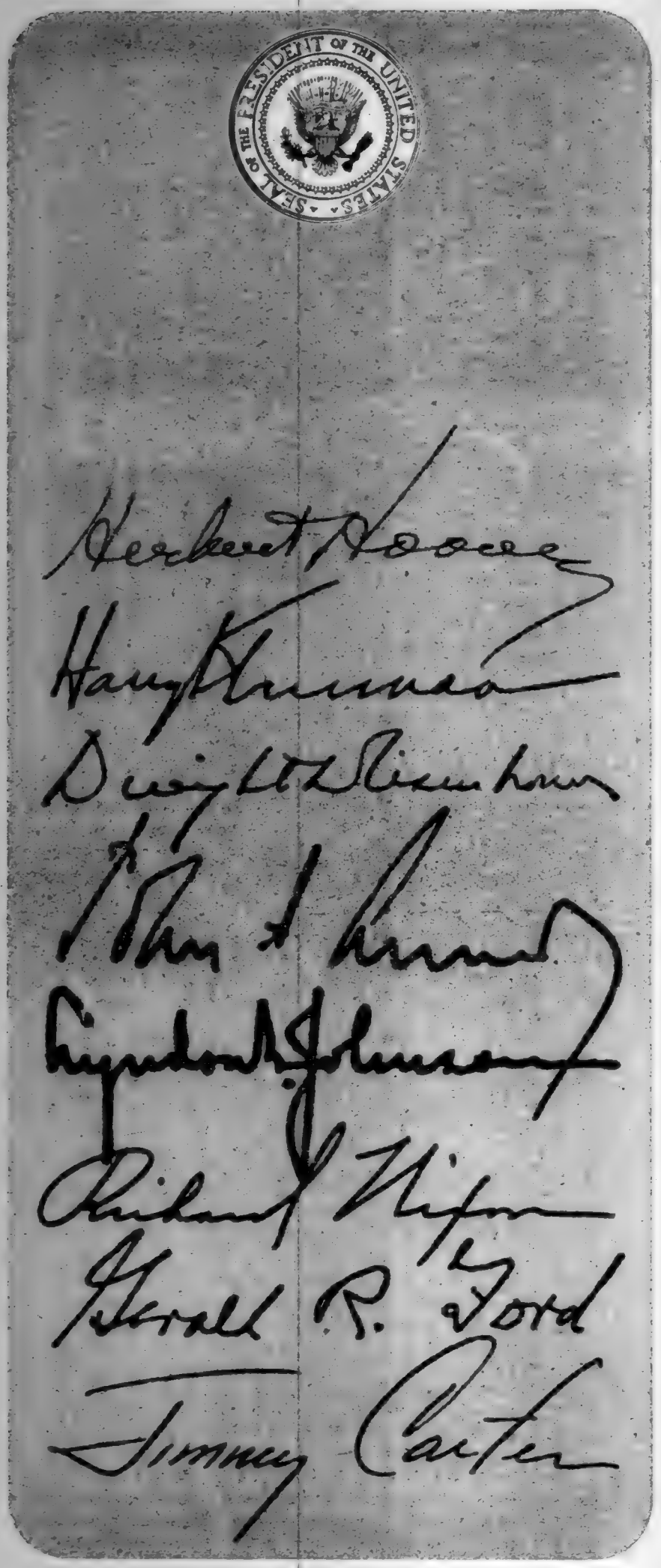

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

Herbert Hoover

1929	$13.30
1930	$16.00
1931	$14.00
1932-33	$17.25
Proclamations & Executive Orders - March 4, 1929 to March 4, 1933 2 Volume set	$24.55

Harry S. Truman

1945	$11.75
1946	$10.80
1947	$11.15
1948	$15.95
1949	$11.80
1950	$13.85
1951	$12.65
1952-53	$18.45

Dwight D. Eisenhower

1953	$14.60
1954	$17.20
1955	$14.50
1956	$17.30
1957	$14.50
1958	$14.70
1959	$14.95
1960-61	$16.85

John F. Kennedy

1961	$17.00
1962	$15.55
1963	$15.35

Lyndon B. Johnson

1963-64 (Book I)	$15.00
1963-64 (Book II)	$15.25
1965 (Book I)	$12.25
1965 (Book II)	$12.35
1966 (Book I)	$13.30
1966 (Book II)	$14.35
1967 (Book I)	$12.85
1967 (Book II)	$11.60
1968-69 (Book I)	$14.05
1968-69 (Book II)	$12.80

Richard Nixon

1969	$17.15
1970	$18.30
1971	$18.85
1972	$18.55
1973	$16.50
1974	$12.30

Gerald R. Ford

1974	$16.00
1975 (Book I)	$13.50
1975 (Book II)	$13.75
1976-77 (Book I)	$18.00
1976-77 (Book II)	$18.00
1976-77 (Book III)	$18.00

Jimmy Carter

1977 (Book I)	$16.00
1977 (Book II)	$15.25
1978 (Book I)	$18.00
1978 (Book II)	$23.00
1979 (Book I)	$22.00

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

V 45 / 155 AG 80 UMI

8-11-80
Vol. 45 No. 156
Pages 53075-53436

federal register

Monday
August 11, 1980

Highlights

53075 **Leif Erikson Day** Presidential proclamation

53195 **Grant Programs—Community Action Agencies** CSA is considering funding 15 grants to Community Action Agencies and invites eligible applicants to submit proposals which focus on energy planning activities recently begun or about to start in their communities; effective 8-11-80

53187 **Grant Programs—Environmental Protection** EPA invites public participation in revising regulations implementing municipal wastewater treatment works construction grants program; comments by 10-10-80

53382 **Grant Programs—Environmental Protection** EPA sets forth policy and procedures for implementing municipal wastewater treatment works construction grants limitations; effective 8-11-80 (Part VII of this issue)

53412 **Museum Services** ED/MSI issues final regulations implementing Government in the Sunshine Act and establishes rules for the award of grants to museums; effective 8-11-80 (2 documents) (Part XI of this issue)

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

53422, 53434 **Energy Conservation** DOE proposes changes to correct clerical errors and issues rules with respect to Residential Conservation Service Program affecting warranties, utility costs and financing of residential measures; (comments by 9–10–80 and effective 8–11–80 (2 documents) (Part XII of this issue)

53099 **Energy** DOE/FERC amends interim regulations implementing production—related costs for sales of natural gas and seeks further comment on its policy; effective 7–25–80; comments by 9–22–80

53077 **Loan Programs—Agriculture** USDA/CCC announces availability of price support loans to eligible producers of 1980-crop cotton; effective 8–11–80

53091 **Natural Gas** DOE/FERC publishes final rule governing pricing of pipeline production; effective 9–3–80

53116 **Natural Gas** DOE/FERC publishes regulations regarding bona fide offer to purchase natural gas; effective 9–1–80

53393, 53397 **Bonds** Treasury/FS issues rules amending regulations governing Retirement Bonds to provide for an interest rate of 6.5 percent per annum; effective 8–1–79 (2 documents) (Parts VIII and IX of this issue)

53358–53365 **Charter Flights** CAB removes all limitations on cargo charters and eliminates Schedule T–41 in reporting off-route charter operations; effective 9–6 and 10–2–80 (Part V of this issue) (5 documents)

53316 **Aviation Safety** DOT/FAA proposes revision of flight and duty time limitations and rest requirements for flight crew members; comments by 12–8–80 (Part II of this issue)

53220 **Privacy Act Documents** HHS/PHS

53311 President's Commission on White House Fellowships

53312 **Sunshine Act Meetings**

Separate Parts of this Issue

53316 **Part II, DOT/FAA**
53334 **Part III, FEMA**
53340 **Part IV, FTC**
53358 **Part V, CAB**
53368 **Part VI, DOE/ERA**
53382 **Part VII, EPA**
53393 **Part VIII, Treasury/FS**
53397 **Part IX, Treasury/FS**
53400 **Part X, EPA**
53412 **Part XI, ED/MSI**
53422 **Part XII, DOE**

Contents

Federal Register
Vol. 45, No. 156
Monday, August 11, 1980

The President
PROCLAMATIONS
53075 Leif Erikson Day, 1980 (Proc. 4777)

Executive Agencies

Agency for International Development
PROPOSED RULES
Improving Government regulations:
53164 Regulatory agenda

Agriculture Department
See Commodity Credit Corporation; Foreign Agricultural Service.

Civil Aeronautics Board
RULES
Accounts and reports for certificated air carriers; uniform system:
53366 Off-route charter operations; Schedule T–41 elimination
Charters:
53363 Air transportation certificates; cargo charter limitations removal
53358 Cargo charter and off-route flight limitations removal
53364 Foreign air carriers; cargo charter limitations removal
53365 Foreign charter-only air carriers; cargo charter limitations removal
NOTICES
53314 Meetings; Sunshine Act:

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
53192 California (2 documents)
53192 Nebraska
53192 South Dakota

Coast Guard
RULES
Safety zones:
53158 Columbia River, Longview, Wash.
Vessel traffic management:
53135 Puget Sound; small passenger vessels; vessel traffic service (VTS) regulations; correction and deferral of effective date
NOTICES
Committees; establishment, renewals, terminations, etc.:
53306 Ship Structure Committee

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
53077 Cotton

Community Services Administration
RULES
53155 Property management, uniform Federal standard; implementation; correction
NOTICES
Grants; availability, etc.:
53195 Emergency energy conservation services; seasonal farmworkers, Native Americans, etc., comprehensive community energy planning activities

Comptroller of Currency
RULES
53080 Loans originating at other than banking offices; reinstatement of interpretive ruling

Conservation and Solar Energy Office
RULES
Residential conservation service program:
53434 Energy Security Act amendments on warranty requirements, utility cost treatment, and prohibitions of utility supplying, installing, and financing; interpretive rule
PROPOSED RULES
Residential conservation service program:
53422 Cost-effective methods; amendments and corrections

Consumer Product Safety Commission
NOTICES
53312 Meetings; Sunshine Act (2 documents)

Defense Department
NOTICES
53196 Part-time career employment for Federal employees; inquiry

Economic Regulatory Administration
PROPOSED RULES
Powerplant and industrial fuel use:
53368 Cogeneration exemption; powerplants and major fuel burning facilities; statewide energy limit, and definitions
NOTICES
Consent orders:
53204 Champlain Oil Co., Inc.
53205 Howell Drilling, Inc.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
53202 Minnegasco Energy Center, Inc.
53201 Republic Steel Corp.

Education Department
See Museum Services Institute.

Energy Department
See also Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

NOTICES
53162 Aircraft identification and registration marking

NOTICES
Meetings:
53198 National Petroleum Council
53199 National Environmental Policy Act; amendment to guidelines
53212 Uranium hexafluoride; charges, enriching services, specifications, and packaging revision; correction

Environmental Protection Agency
RULES
Air pollution control, new motor vehicles and engines:
53400 Carbon monoxide emission standards; light-duty vehicles, 1981 model year
Air quality implementation plans; approval and promulgation; various States, etc.:
53136 Alabama
53145 Arizona
53136, 53145 California (2 documents)
53147 Colorado
53138 New York
53137 Michigan
Air quality planning purposes; designation of areas:
53147 California
Grants, State and local assistance:
53382 Municipal wastewater treatment works construction grants limitations; policy and procedures
PROPOSED RULES
53187 Grant requirements for municipal wastewater treatment works construction and National Environmental Policy Act; advance notice
NOTICES
Air pollution control, new motor vehicles and engines:
53401 Carbon monoxide emission standards, light duty vehicles; 1981 model year; applications for effective date waiver
Environmental statements; availability, etc.:
53213 Little Kanawha River Basin in Upshur, Lewis, and Braxton Counties, W. Va.; new source coal mining; inquiry
Toxic and hazardous substances control:
53212 Premanufacture notification requirements; data transfer to contractors

Equal Employment Opportunity Commission
NOTICES
53312 Meetings; Sunshine Act

Federal Aviation Administration
RULES
Airworthiness directives:
53086 Boeing; correction
53081 Mooney
53084 Piper (2 documents)
53087, 53089, 53090 Control zones (4 documents)
53086–53089 Transition areas (5 documents)
PROPOSED RULES
Air carriers certification and operations:
53316 Air taxi and commercial operators; flight crewmember flight and duty time limitations and rest requirements
53161 Petition for rulemaking; flight attendant seats; extension of time
53163 Aircraft identification and registration marking, size requirements; correction
Airworthiness directives:
53162 DeHavilland
53163 Transition areas (2 documents)
53162 Terminal control areas; informal airspace meeting
NOTICES
53307 Exemption petitions; summary and disposition

Federal Communications Commission
RULES
Radio stations; table of assignments:
53156 Ohio
Hearings, etc.:
53214 APW Enterprises, Inc., et al., correction
53214 Car-Mel Broadcasting et al.
53215 Tampa Broadcasting Corp. et al.
53217 Zia Broadcasting Co. et al.
53213 Television broadcast applications accepted for filing and notification of cut-off date

Federal Election Commission
NOTICES
53312 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Disaster assistance:
53334 Reorganization and revision

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
53116 Bona fide offers and first refusal rights to purchaser
53099 Ceiling prices; adjustments for State severance taxes, allowances, and production related costs; interim with request for comments
53091 Pipeline production, interstate; pricing
NOTICES
53312 Meetings; Sunshine Act

Federal Home Loan Bank Board
NOTICES
Senior Executive Service:
53217 Bonus award schedule

Federal Maritime Commission
NOTICES
Energy and environmental statements; availability, etc.:
53217 Port Authority of New York and New Jersey; and Associated Container Transportation Ltd. et al.; building and parking area; construction and leasing
53218 Port of Oakland and Sea-Land Service, Inc.; terminal facilities and three cranes

Federal Reserve System
NOTICES
Applications, etc.:
53219 Bottom Interests of Nevada, Inc., et al.
53219 Bridger Co.
53219 Burchard Bankshares, Inc.
53219 Liberty Bancorporation
53218 Mellon National Corp. et al.
53220 Wyandotte Ban Corp.
53313 Meetings; Sunshine Act

Federal Trade Commission
PROPOSED RULES
Appliances, consumer; energy cost and consumption information in labeling and advertising:
53340 Central air conditioners and heat pumps

Fiscal Service
RULES
53393 Bonds, U.S. individual retirement; interest rates
53397 Bonds, U.S. retirement plan; interest rates

Fish and Wildlife Service
NOTICES
Meetings:
53238 Endangered Species of Wild Fauna and Flora International Trade Convention Conference

General Services Administration
RULES
Property management:
53149 ADP and telecommunications management; security provisions

Geological Survey
RULES
Coal mining; Federal/State cooperative agreements:
53128 New Mexico
NOTICES
Environmental statements; availability, etc.:
53241 Green River-Hams Fork regional coal area, Colo. and Wyo.; maximum recovery and fair market value; inquiry

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department.
See Health Care Financing Administration; Public Health Service.

Health Care Financing Administration
PROPOSED RULES
Professional standards review:
53189 Area designation guidelines for nonprofit physician review organizations

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
53206, 53207 Cases filed (2 documents)
53209 Decisions and orders

Indian Affairs Bureau
PROPOSED RULES
53164 Indian mineral development regulations; intent to repropose revision

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office; Water and Power Resources Service.

Internal Revenue Service
RULES
Estate and gift taxes:
53123 Generation-skipping transfer tax; effective date provisions

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
RULES
Export licensing:
53090 Commodity control list; conforming amendments for; interim rule with request for comments; correction
NOTICES
Scientific articles; duty free entry:
53192 National Aeronautics and Space Administration et al.

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
53157 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
PROPOSED RULES
Freight forwarders:
53190 Rates, contract; freight forwarders, and rail and water carriers
NOTICES
Motor carriers:
53245 Finance applications
53251, 53252 Permanent authority applications (2 documents)
53256 Temporary authority applications
Organization, functions, and authority delegations:
53256 Motor Carrier Boards, Regional; membership; Commission issuance amendments
Railroad operation, acquisition, construction, etc.:
53254 Mississippian Railway, Inc.
53253 St. Maries River Railroad Co.

Land Management Bureau
RULES
Grazing administration:
53154 Livestock grazing and trespass on lands administered by BLM; preference suspension
Public Land Orders:
53155 Arizona; correction
NOTICES
Alaska native claims selections; applications, etc.:
53242 Pitka's Point Native Corp.
Jurisdictional transfer:
53244 L'Anse Indian Reservation, Mich.; correction

Management and Budget Office
NOTICES
53292 Agency forms under review
Improving Government regulations:
53288 Semiannual agenda for directives
Meetings:
53291, 53292 National Agenda for the Eighties, President's Commission (3 documents)

Museum Services Institute
RULES
53414 Museum services program
53412 Sunshine Act; implementation

National Bureau of Standards
NOTICES
Information processing standards, Federal:
53194 Advanced data communications control procedures, verification service
53193 I/O channel level interface; exclusion list; proposed changes; inquiry

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
53157 Lamps, reflective devices, etc.; maximum permissible candlepower increase and contrast requirements; correction

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
53194 Deep Seabed Mining

National Park Service
NOTICES
Wild and scenic rivers system:
53244 Upper Mississippi River, Minn.; conceptual master plan; hearings

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
53285 Arkansas Power & Light Co.
53285 Florida Power & Light Co. et al.
53286 Indiana & Michigan Electric Co.
53286 Portland General Electric Co. et al. (2 documents)
53287 Public Service Co. of Indiana, Inc., et al.
53288 Texas Utilities Generating Co. et al.
53287 Western Nuclear, Inc.
53314 Meetings; Sunshine Act

Public Health Service
NOTICES
53220 Privacy Act; systems of records

Securities and Exchange Commission
NOTICES
Hearings, etc.:
53293 American General Total Return Fund, Inc.
53294 Connecticut Light & Power Co.
53305 Western Massachusetts Electric Co.
Self-regulatory organizations; proposed rule changes:
53294 Boston Stock Exchange Clearing Corp.
53295 National Association of Securities Dealers, Inc.
53302 National Securities Clearing Corp.
53303, 53304 New York Stock Exchange, Inc. (2 documents)
53305 Pacific Stock Exchange, Inc.

Small Business Administration
RULES
Administration:
53081 Authority delegations to conduct program activities in field offices
NOTICES
Meetings; advisory councils:
53306 Georgia
53306 Hawaii
53306 Oregon

Surface Mining Office
RULES
Coal mining; Federal/State cooperative agreements:
53128 New Mexico
PROPOSED RULES
Permanent program submission; various States:
53182 Maryland
53182 Pennsylvania
53180 Virginia
53181 West Virginia
Surface coal mining and reclamation enforcement operations:
53183 Initial regulatory program and permanent program standards; surface and underground mining activities; excess spoil on benches; interim and request for comments

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
See also Comptroller of Currency; Fiscal Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
53308 L–1983 series

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
53311 Denver, Colo.; 60-bed nursing home care unit
53311 Fargo, N. Dak.; two-story and basement addition; north court of building No. 9
53308 Fresno, Calif.; 60-bed nursing home care unit
53308 Springfield, Mo.; National Cemetery; additional gravesites
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
53309 New Orleans, La.; clinical addition to medical center; inquiry
Meetings:
53308 Structural Safety of Veterans Administration Facilities Advisory Committee

Water and Power Resources Service
NOTICES
Contract negotiations:
53245 Columbia Basin Project, Wash.; short-term water service contracts

White House Fellowships, President's Commission
NOTICES
53311 Privacy Act; systems of records; annual publication

MEETINGS ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
53192 California Advisory Committee, 9–12 and 9–13–80
53192 Nebraska Advisory Committee, 9–15–80
53192 South Dakota Advisory Committee, 9–27–80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
53194 Deep seabed mining, programmatic environmental impact statement scoping meeting, 9–4–80

ENERGY DEPARTMENT
National Petroleum Council—
53198 Refinery Capability Task Group and the Coordinating Subcommittee of the Committee on Refinery Flexibility, 8–19, 9–5 and 9–12–80

MANAGEMENT AND BUDGET OFFICE
President's Commission for a National Agenda for the Eighties—
53292 Executive Committee, 8–18 and 8–19–80
53291 Panel V (Policies for Metropolitan and Non-Metropolitan Areas)

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
53162 Informal Airspace Meeting No. 1, proposed alteration of Terminal Control Area, Kansas City, Missouri, 10–14–80

VETERANS ADMINISTRATION
53308 Structural Safety of Veterans Administration Facilities Advisory Committee, 10–17–80

CHANGED MEETING

INTERIOR DEPARTMENT
Fish and Wildlife Service—
53238 Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 2–2 through 2–13–81; agenda addition

HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
53368 Cogeneration exemption, 9–25, 10–6, and 10–9–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

APPLIANCE LABELING
Energy efficiency information for air conditioners and heat pumps; Federal Trade Commission; Proposed Rules.

MARINE NAVIGATION
Safety zone in the Columbia River, Wash.; Coast Guard; Rule

Presidential Documents

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
4777 53075

7 CFR
1427 53077

10 CFR
456 53433
Proposed Rules:
456 53422
500 53368
503 53368
504 53368
505 53368
506 53368

12 CFR
7 53080

13 CFR
101 53081

14 CFR
39 (4 documents) 53081, 53084, 53086
71 (4 documents) 53086–53090
207 53358
208 53363
212 53364
214 53365
241 53366
Proposed Rules:
Ch. I (2 documents) 53161, 53162
39 53162
45 53163
71 (2 documents) 53163
121 53316
135 53316

15 CFR
378 53090

16 CFR
Proposed Rules:
305 53340

18 CFR
2 (2 documents) 53091, 53099
154 53091
270 (2 documents) 53091, 53099
271 53099
277 53116

22 CFR
Proposed Rules:
Ch. II (4 documents) 53164–53182

25 CFR
Proposed Rules:
171 53164
172 53164
173 53164
177 53164
182 53164

26 CFR
26 53123

30 CFR
211 53128
Proposed Rules:
Ch. VII 53180
715 53183
816 53183
817 53183

31 CFR
341 53393
346 53397

33 CFR
161 53135
165 53158

34 CFR
64 (2 documents) 53412, 53414

40 CFR
35 53382
52 (7 documents) 53136–53138, 53145, 53147
81 53147
86 53400
Proposed Rules:
6 53187
35 53187

41 CFR
101 53149

42 CFR
Proposed Rules:
460 53189
461 53189

43 CFR
4100 53154
Public Land Orders:
5741 53155

44 CFR
205 53334

45 CFR
1050 53155

47 CFR
73 53156

49 CFR
571 53157
1033 53157
Proposed Rules:
1080 53190

Federal Register
Vol. 45, No. 156
Monday, August 11, 1980

Presidential Documents

Title 3—

The President

Proclamation 4777 of August 7, 1980

Leif Erikson Day, 1980

By the President of the United States of America

A Proclamation

The name of Leif Erikson symbolizes the triumph of the human spirit. A thousand years ago, he and his crew of Norsemen conquered the North Atlantic in an open boat and set a permanent standard of fearlessness, fortitude and endurance. His example will always be an example to men and women of daring and imagination.

In commemorating his life, we also salute the achievements of the Scandinavian people, whose voyages at the dawn of the Middle Ages pushed back the frontiers of human geographical knowledge in many parts of the world, and whose accomplishments have enriched Western man from that era to our own.

As a mark of respect to the courage of Leif Erikson and his Norse followers, the Congress of the United States, by joint resolution approved September 2, 1964 (78 Stat. 849, 36 U.S.C. 169c), authorized the President to proclaim October 9 in each year as Leif Erikson Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Thursday, October 9, 1980 as Leif Erikson Day and I direct the appropriate Government officials to display the flag of the United States on all Government buildings that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate exercises and ceremonies in suitable places throughout the land.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-24213
Filed 8-7-80; 2:35 pm]
Billing code 3195-01-M

Rules and Regulations

V 45 A G 1 11 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 156
Monday, August 11, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This supplement contains the base loan rates by warehouse location for upland cotton, loan rates by location for extra long staple cotton, premiums and discounts for upland cotton, and micronaire differences applicable for all 1980-crop cotton. Price support loans will be available to eligible producers on 1980-crop cotton under such rates.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Eloise V. Mauck, Program Specialist, Price Support and Loan Division, ASCS, Room 3748 South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–7923. This regulation contains necessary operating provisions needed to implement the national average loan rates for upland cotton announced October 31, 1979, and extra long staple cotton announced March 18, 1980, for which Final Impact Statements have been prepared and are available on request from Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, ASCS, Room 3629 South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–7873.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under the USDA procedures established to implement Executive Order 12044 and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of the regulations contained in 7 CFR 1427.100–.105 for need, currency, clarity, and effectiveness, will be made within the next five years.

On August 14, 1979, a notice was published in the **Federal Register** (44 FR 47544) regarding certain determinations CCC was to make with respect to the loan program for the 1980 crops of upland and extra long staple cotton. Included in these determinations were quality and location differentials for upland and extra long staple cotton. Interested persons were given until October 15, 1979, to respond. Six comments were received concerning quality differentials, three from general farm organizations, two from producer groups, and one from a shipper organization. All six of the respondents recommended that at least equal weight be given to market differences in computing upland loan premiums and discounts. One respondent also recommended that more weight be given market price differences in the computation of upland micronaire differences. After considering all responses, it is determined that the loan rates, premiums, discounts, and micronaire differences proposed by CCC are fair and equitable and will be applicable to the 1980 crop of cotton. The upland micronaire schedule issued on May 15, 1980, was revised on June 13. This action was taken to assist with the unusual problem which the Southwest farmers experienced in 1979 resulting in low micronaire cotton. The abnormally large amount of low micronaire cotton produced in 1979 weighed heavily on the market, resulting in wider than normal market discounts. Thus, the weighting used initially in determining 1980 crop micronaire discounts resulted in too large an increase in the loan discounts. Accordingly, the micronaire differences for 1980-crop upland cotton have been revised. Minor revisions were made in the 1980 location differentials because of changes in transportation costs. The 1980 location differentials maintain a reasonable relationship between production areas and assure fair loan values for cotton as to location.

In accordance with the provisions of section 103(f) of the Agricultural Act of 1949, as amended by section 602 of the Food and Agriculture Act of 1977, and section 102 of the Act of May 15, 1978, it has been determined that 85 percent of the average spot market price for the average of the 5 years (excluding the highest and lowest years) ending July 31, 1979, was 47.58 cents per pound, an amount less than the statutory minimum of 48.00 cents per pound. Therefore, the Northern Europe calculation is not necessary. The base loan rate for 1980-crop upland cotton was announced at 48.00 cents per pound on October 31, 1979, the statutory minimum. The cotton loan program regulations, issued by CCC, containing loan operating provisions, are supplemented as shown below for the 1980 crops of cotton.

Section 1427.101 contains the schedule of base loan rates by warehouse location for upland cotton based on the 48.00-cent rate. Sections 1427.102 and 1427.103 contain the schedule of premiums and discounts for grade and staple length announced May 15, 1980, and the revised micronaire differences announced June 13, 1980, for upland cotton, basis Strict Low Middling 1 1/16 inches, micronaire 3.5 through 4.9, net weight, at average location. Sections 1427.104 and 1427.105 contain the base loan rates by location and micronaire differences for eligible qualities of extra long staple cotton which were also announced on May 15, 1980, and are based on the national average loan rate of 93.50 cents per pound, net weight, announced on March 18, 1980.

The title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the Catalog of the Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, the regulations at 7 CFR 1427.100 through 1427.105 and the title of the subpart are revised to read as follows, effective as to the 1980 crops of upland and extra long staple cotton. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

PART 1427—COTTON

PART 1427—COTTON

Subpart—1980 Crop Supplement to Cotton Loan Program Regulations

Sec.

1427.100 Purpose.
1427.101 Schedule of base loan rate for eligible 1980 crop upland cotton by warehouse location.
1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1980 crop upland cotton.
1427.103 Revised schedule of micronaire differences for 1980 crop upland cotton.
1427.104 Schedule of loan rates for eligible qualities of 1980-crop extra long staple cotton by location.
1427.105 Schedule of micronaire differences for 1980-crop extra long staple cotton.

Authority: Secs. 4, 5, 62 Stat. 1070 (15 U.S.C. 714b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); Sec. 602, 91 Stat. 934, as amended (7 U.S.C. 1444); and sec. 102, 92 Stat. 240 (7 U.S.C. 1444).

§ 1427.100 Purpose.

This subpart is for the purpose of announcing that loans will be available on upland and extra long staple cotton of the 1980 crop under the terms and conditions stated in the cotton loan program regulations issued by CCC and contained in this Part 1427. This subpart also contains schedules to be used in determining loan rates on 1980-crop cotton.

§ 1427.101 Schedule of base loan rates for eligible 1980 crop upland cotton by warehouse location.

[In cents per pound, net weight; basis SLM white 1 1/16 "4134"]

City	County	Loan rate
ALABAMA		
Albertville	Marshall	49.25
Alicaville	Pickens	48.95
Atmore	Escambia	49.95
Attalla	Etowah	49.60
Belle Mina	Limestone	49.25
Birmingham	Jefferson	49.25
Centre	Cherokee	49.60
Collinsville	De Kalb	49.25
Cullman	Cullman	49.25
Decatur	Morgan	49.25
Eclectic	Elmore	49.25
Ellumont	Limestone	49.25
Eutaw	Greene	48.95
Fayette	Fayette	49.25
Frisco City	Monroe	48.95
Geraldine	De Kalb	49.25
Greenbrier	Limestone	49.25
Greensboro	Hale	48.95
Hamilton	Marion	48.95
Hartselle	Morgan	49.25
Huntsville	Madison	49.25
Hurtsboro	Russell	49.60
McCullough	Escambia	48.95
Madison	Madison	49.25
Moundville	Hale	48.95
Northport	Tuscaloosa	48.95
Opelika	Lee	49.60
Panola	Sumter	48.95
Red Bay	Franklin	48.95
Selma	Dallas	49.25
Sulligent	Lamar	48.95
SweetWater	Marengu	48.95
Talladega	Talladega	49.60
Tallassee	Elmore	49.25
Tuscumbia	Colbert	48.95
Union Springs	Bullock	49.25
Wetumpka	Elmore	49.25
ARIZONA		
Eloy	Pinal	46.50
Phoenix	Maricopa	46.50
Picacho	Pinal	46.50
Yuma	Yuma	46.50
ARKANSAS		
Blytheville	Mississippi	48.80
Bradley	Lafayette	48.80
Brinkley	Monroe	48.80
Clarendon	Monroe	48.80
CottonPlant	Woodruff	48.80
Dell	Mississippi	48.80
Dumas	Desha	48.80
England	Lonoke	48.80
Eudora	Chicot	48.80
Evadale	Mississippi	48.80
Forrest City	St. Francis	48.80
Helena	Phillips	48.80
Hughes	St. Francis	48.80
Jonesboro	Craighead	48.80
Leachville	Mississippi	48.80
McCrory	Woodruff	48.80
McGehee	Desha	48.80
Marianna	Lee	48.80
Marked Tree	Poinsett	48.80
Marvell	Phillips	48.80
Newport	Jackson	48.80
North Little Rock	Pulaski	48.80
Osceola	Mississippi	48.80
Pine Bluff	Jefferson	48.80
Portland	Ashley	48.80
Trumann	Poinsett	48.80
Walnut Ridge	Lawrence	48.80
West Memphis	Crittenden	48.80
CALIFORNIA		
Bakersfield	Kern	46.50
Calico	Kern	46.50
El Centro	Imperial	46.50
Fresno	Fresno	46.50
Hanford	Kings	46.50
Imperial	Imperial	46.50
Kerman	Fresno	46.50
Pinedale	Fresno	46.50
Tulare	Tulare	46.50
FLORIDA		
Jay	Santa Rosa	49.25
GEORGIA		
Allentown	Wilkinson	49.90
Arabi	Crisp	49.60
Arlington	Calhoun	49.25
Atlanta	Fulton	49.90
Augusta	Richmond	50.20
Barlow	Jefferson	49.90
Blakely	Early	49.25
Byrumville	Dooly	49.60
Cadwell	Laurens	49.90
Cochran	Bleckley	49.90
Columbus	Muscogee	49.90
Comer	Madison	50.20
Cordele	Crisp	49.60
Dawson	Terrell	49.60
Desoto	Sumter	49.60
Dexter	Laurens	49.90
Doerun	Colquitt	49.25
Dublin	Laurens	49.90
Eastman	Dodge	49.90
Edison	Calhoun	49.25
Elko	Houston	49.90
Fitzgerald	Ben Hill	49.60
Funston	Colquitt	49.25
Hawkinsville	Pulaski	49.90
Jeffersonville	Twiggs	49.90
McDonough	Henry	49.90
Madison	Morgan	49.90
Marshallville	Macon	49.90
Metter	Candler	49.90
Midville	Burke	49.90
Monroe	Walton	49.90
Montezuma	Macon	49.90
Moultrie	Colquitt	49.25
Norman Park	Colquitt	49.25
Omega	Tift	49.60
Pinehurst	Dooly	49.60
Pitts	Wilcox	49.60
Rebecca	Turner	49.60
Reynolds	Taylor	49.90
Rochelle	Wilcox	49.60
Rome	Floyd	49.90
Rutledge	Morgan	49.90
Sendia	Coweta	49.90
Shellman	Randolph	49.25
Social Circle	Walton	49.90
Sycamore	Turner	49.60
Trion	Chattooga	49.90
Unadilla	Dooly	49.60
Vienna	Dooly	49.60
Wadley	Jefferson	49.90
Watkinsville	Oconee	50.20
Waynesboro	Burke	49.90
Winder	Barrow	50.20
Wrightsville	Johnson	49.90
Yatesville	Upson	49.90
LOUISIANA		
Bernice	Union	48.60
Chenneyville	Rapides	48.60
Columbia	Caldwell	48.80
Delhi	Richland	48.80
Ferriday	Concordia	48.80
Lake Providence	East Carroll	48.80
Mansfield	De Soto	48.60
Mer Rouge	Morehouse	48.80
Monroe	Ouachita	48.80
Natchitoches	Natchitoches	48.60
Newellton	Tensas	48.80
New Orleans	Orleans	48.80
Oak Grove	West Carroll	48.80
Plain Dealing	Bossier	48.60
Rayville	Richland	48.80
St. Joseph	Tensas	48.80
Tallulah	Madison	48.80
Winnsboro	Franklin	48.80
MISSISSIPPI		
Aberdeen	Monroe	48.85
Batesville	Panola	48.85
Belzoni	Humphreys	48.80
Canton	Madison	48.85
Carthage	Leake	48.85
Clarksdale	Coahoma	48.80
Cleveland	Bolivar	48.80
Como	Panola	48.85
Corinth	Alcorn	48.85
Drew	Sunflower	48.80
Flora	Madison	48.80
Greenville	Washington	48.80
Greenwood	Leflore	48.80
Grenada	Grenada	48.85
Gulfport	Harrison	48.80
Hollandale	Washington	48.80
Holly Springs	Marshall	48.85
Houston	Chickasaw	48.85
Indianola	Sunflower	48.80
Inverness	Sunflower	48.80
Itta Bena	Leflore	48.80
Kosciusko	Attala	48.85
Leland	Washington	48.80
Marks	Quitman	48.80
New Albany	Union	48.85
Paynes	Tallahatchie	48.80
Pontotoc	Pontotoc	48.85
Quitman	Clarke	48.80
Ripley	Tippah	48.85
Rolling Fork	Sharkey	48.80
Rosedale	Bolivar	48.80
Ruleville	Sunflower	48.80
Shaw	Bolivar	48.80
Shelby	Bolivar	48.80
Sledge	Quitman	48.80
Tunica	Tunica	48.80
Tutwiler	Tallahatchie	48.80
Vicksburg	Warren	48.80
Yazoo City	Yazoo	48.80
MISSOURI		
Arbyrd	Dunklin	48.80
Caruthersville	Pemiscot	48.80
Gideon	New Madrid	48.80
Hayti	Pemiscot	48.80
Kennett	Dunklin	48.80
Lilbourn	New Madrid	48.80
Malden	Dunklin	48.80
Portageville	New Madrid	48.80
Sikeston	Scott	48.80

[In cents per pound, net weight; basis SLM white 1 1/16 "4134"]

City	County	Loan rate
NEW MEXICO		
Artesia	Eddy	48.05
Deming	Luna	47.70
Las Cruces	Dona Ana	48.05
Lovington	Lea	48.25
Roswell	Chaves	48.05
NORTH CAROLINA		
Charlotte	Mecklenburg	50.35
Cherryville	Gaston	50.35
Conway	Northampton	50.20
Dunn	Harnett	50.20
Edenton	Chowan	50.20
Enfield	Halifax	50.20
Fayetteville	Cumberland	50.20
Jackson	Northampton	50.20
Laurenburg	Scotland	50.20
Lincolnton	Lincoln	50.35
Lumberton	Robeson	50.20
Morven	Anson	50.35
Nashville	Nash	50.20
Parkton	Robeson	50.20
Pembroke	Robeson	50.20
Raeford	Hoke	50.20
Red Springs	Robeson	50.20
Roanoke Rapids	Halifax	50.20
Salisbury	Rowan	50.35
Scotland Neck	Halifax	50.20
Shelby	Cleveland	50.35
Smithfield	Johnston	50.20
Tarboro	Edgecombe	50.20
Wagram	Scotland	50.20
Weldon	Halifax	50.20
Wilson	Wilson	50.20
OKLAHOMA		
Altus	Jackson	48.40
Chickasha	Grady	48.40
Frederick	Tillman	48.40
Mt. View	Kiowa	48.40
SOUTH CAROLINA		
Abbeville	Abbeville	50.35
Allendale	Allendale	50.20
Anderson	Anderson	50.35
Bamberg	Bamberg	50.20
Bennettsville	Marlboro	50.20
Bishopville	Lee	50.20
Calhoun Falls	Abbeville	50.35
Cameron	Calhoun	50.20
Chester	Chester	50.35
Chesterfield	Chesterfield	50.35
Clio	Marlboro	50.20
Columbia	Richland	50.35
Dalzell	Sumter	50.20
Darlington	Darlington	50.20
Dillon	Dillon	50.20
Edgefield	Edgefield	50.35
Ellloree	Orangeburg	50.20
Gaffney	Cherokee	50.35
Greenville	Greenville	50.35
Hartsville	Darlington	50.20
Lake City	Florence	50.20
Lamar	Darlington	50.20
Manning	Clarendon	50.20
Marion	Marion	50.20
Newberry	Newberry	50.35
Norway	Orangeburg	50.20
Orangeburg	Orangeburg	50.20
Pinewood	Sumter	50.20
Spartanburg	Spartanburg	50.35
St. Matthews	Calhoun	50.20
Summerton	Clarendon	50.20
Sumter	Sumter	50.20
Timmonsville	Florence	50.20
Williston	Barnwell	50.20
TENNESSEE		
Brownsville	Haywood	48.85
Covington	Tipton	48.85
Dyersburg	Dyer	48.85
Jackson	Madison	48.85
Memphis	Shelby	48.85
Milan	Gibson	48.85
Ripley	Lauderdale	48.85
TEXAS		
Abernathy	Hale	48.25
Ballinger	Runnels	48.40
Big Spring	Howard	48.25
Bovina	Parmer	48.25
Brownfield	Terry	48.25
Brownsville	Cameron	48.25
Bryan	Brazos	48.40
Cameron	Miam	48.40
Childress	Childress	48.40
Colorado City	Mitchell	48.40
Cooper	Delta	48.60
Corpus Christi	Nueces	48.40
Corsicana	Navarro	48.40
Crockett	Houston	48.40
Dimmitt	Castro	48.25
Enloe	Delta	48.60
Ennis	Ellis	48.40
Fabens	El Paso	48.05
Floydada	Floyd	48.25
Gainesville	Cooke	48.60
Galveston	Galveston	48.60
Greenville	Hunt	48.60
Hamlin	Jones	48.40
Harlingen	Cameron	48.25
Haskell	Haskell	48.40
Hearne	Robertson	48.40
Hillsboro	Hill	48.40
Houston	Harris	48.60
Hubbard	Hill	48.40
Kenedy	Karnes	48.40
Lamesa	Dawson	48.25
Levelland	Hockley	48.25
Littlefield	Lamb	48.25
Lockhart	Caldwell	48.40
Lockney	Floyd	48.25
Lubbock	Lubbock	48.25
McKinney	Collin	48.60
Memphis	Hall	48.40
Morton	Cochran	48.25
Muleshoe	Bailey	48.25
Navasota	Grimes	48.40
Needville	Fort Bend	48.60
O'Donnell	Lynn	48.25
Paducah	Cottle	48.40
Pecos	Reeves	48.25
Plainview	Hale	48.25
Quanah	Hardeman	48.40
Quitaque	Briscoe	48.25
Ralls	Crosby	48.25
Raymondville	Willacy	48.25
Roaring Springs	Motley	48.40
Rochester	Haskell	48.40
Rule	Haskell	48.40
San Angelo	Tom Green	48.40
Seagraves	Gaines	48.25
Seymour	Baylor	48.40
Siston	Lubbock	48.25
Snyder	Scurry	48.40
Stamford	Jones	48.40
Stanton	Martin	48.25
Sudan	Lamb	48.25
Sweetwater	Nolan	48.40
Tahoka	Lynn	48.25
Taylor	Williamson	48.40
Temple	Bell	48.40
Texarkana	Bowie	48.60
Tulia	Swisher	48.25
Turkey	Hall	48.25
Vernon	Wilbarger	48.40
Waco	McLennan	48.40
Waxahachie	Ellis	48.40

§ 1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1980 crop upland cotton.

Basis Strict Low Middling 1 1/16 Inches, Net Weight

Grade	Code	Staple length (inches): 1 5/16 through 2 5/32 (26–29)	1 5/16 (30)	1 3/32 (31)	1 (32)	1 1/32 (33)	1 1/16 (34)	1 2/32 (35)	1 1/8 (36)	1 2/32 and longer (37 and longer)
		Points per pound								
White:										
SM and better	(11 and 21)	−600	−505	−400	−280	+20	+195	+225	+280	+365
MID plus	(30)	−615	−520	−420	−280	0	+170	+205	+245	+345
MID	(31)	−625	−535	−430	−290	−15	+150	+185	+230	+325
SLM plus	(40)	−670	−570	−480	−360	−105	+65	+95	+130	+230
SLM	(41)	−695	−600	−510	−405	−165	B	+35	+75	+165
LM plus	(50)	−780	−695	−610	−510	−325	−190	−165	−125	−55
LM	(51)	−830	−745	−655	−565	−405	−280	−255	−220	−190
SGO plus	(60)	−1,045	−975	−905	−850	−735	−670	−660	−635	−635
SGO	(61)	−1,090	−1,030	−955	−900	−805	−750	−745	−720	−720
GO plus	(70)	−1,280	−1,225	−1,170	−1,125	−1,045	1,000	−990	−970	−970
GO	(71)	−1,325	−1,270	−1,215	−1,170	−1,100	−1,065	−1,055	−1,035	−1,035
Light spotted:										
SM and better	(12 and 22)	−650	−560	−465	−350	−75	+75	+110	+145	+240
MID	(32)	−690	−605	−505	−400	−165	−10	+20	+65	+160
SLM	(42)	−785	−720	−630	−535	−390	−275	−255	−210	−180
LM	(52)	−990	−915	−855	−800	−750	−700	−690	−670	−670
Spotted:										
SM and better	(13 and 23)	−840	−780	−725	−655	−495	−410	−405	−375	−375
MID	(33)	−920	−865	−810	−735	−635	−565	−560	−540	−540
SLM	(43)	−1,035	−990	−940	−895	−850	−820	−815	−800	−800
LM	(53)	−1,190	−1,140	−1,100	−1,060	−1,030	−1,020	−1,015	−1,000	−1,000

V 45 AG 1 1 80 UMI

§ 1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1980 crop upland cotton.

Basis Strict Low Middling 1 1/16 Inches, Net Weight—Continued

Grade	Code	Staple length (inches)								
		29/32 through 33/32 (26–29)	15/16 (30)	31/32 (31)	1 (32)	1 1/32 (33)	1 1/16 (34)	1 3/32 (35)	1 1/8 (36)	1 5/32 and longer (37 and longer)
		Points per pound								
Tinged:[1]										
SM	(24)	−1,085	−1,040	−1,005	−975	−950	−935	−935	−935	−935
MID	(34)	−1,135	−1,085	−1,050	−1,020	−995	−985	−965	−965	−965
SLM	(44)	−1,210	−1,175	−1,150	−1,135	−1,110	−1,105	−1,100	−1,075	−1,075
LM	(54)	−1,335	−1,295	−1,270	−1,250	−1,225	−1,215	−1,210	−1,190	−1,190
Light gray:										
SM and better	(16 and 26)	−790	−695	−605	−475	−200	−20	+25	+75	+170
MID	(36)	−940	−840	−760	−659	−470	−295	−270	−215	−190
SLM	(46)	−1,205	−1,105	−1,035	−979	−850	−770	−740	−695	−695
Gray:										
SM and better	(17 and 27)	−945	−845	−775	−670	−510	−365	−340	−290	−260
MID	(37)	−1,215	−1,115	−1,045	−970	−900	−825	−800	−770	−770
SLM	(47)	−1,495	−1,400	−1,325	−1,275	−1,225	−1,160	−1,140	−1,110	−1,110

[1] Cotton classed as "Yellow Stained" (Middling and better grades) will be eligible for loan, if otherwise eligible, at a discount 200 points greater than the discount applicable to the comparable quality in the color group "Tinged".

Grade symbol: SM—Strict Middling; MID—Middling; SLM—Strict Low Middling; LM—Low Middling; SGO—Strict Good Ordinary; GO—Good Ordinary.

§ 1427.103 Revised schedule of micronaire differences for 1980 crop upland cotton.

Micronaire reading	Points per pound
5.3 and above	−145
5.0 through 5.2	−70
3.5 through 4.9	0
3.3 through 3.4	−95
3.0 through 3.2	−285
2.7 through 2.9	−490
2.6 and below	−720

§ 1427.104 Schedule of loan rates for eligible qualities of 1980 crop extra long staple cotton by location.

[In cents per pound, net weight—Micronaire 3.5 and above][1]

Grade	Staple length (inches)			
	1 3/8 Cotton stored in approved warehouses in		1 3/16 and longer Cotton stored in approved warehouses in	
	Arizona and California	New Mexico, Texas, and other States	Arizona and California	New Mexico, Texas, and other States
1	97.75	98.65	98.25	99.15
2	97.30	98.20	97.75	98.65
3	96.80	97.70	97.30	98.20
4	95.70	96.60	96.10	97.00
5	91.60	92.50	91.85	92.75
6	78.85	79.75	79.10	80.00
7	64.95	65.85	65.15	66.05
8	57.35	58.25	57.60	58.50
9	55.25	56.15	55.50	56.40

[1] A micronaire premium of 75 points (0.75 cent) per pound is included in the loan rate for each eligible quality; thus, the national average loan rate reflected in the above schedule is 94.25 cents per pound. Cotton with micronaire readings below the micronaire range "3.5 and above" will be subject to the discounts in the schedule of micronaire differences for ELS cotton which follows:

§ 1427.105 Schedule of micronaire differences for 1980 crop extra long staple cotton.

Micronaire reading	Points per pound
3.5 and above	0
3.3 through 3.4	−160
3.0 through 3.2	−305
2.7 through 2.9	−570

Signed at Washington, D.C. on August 1, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-24098 Filed 8-8-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 80-8]

Loans Originating at Other Than Banking Offices

AGENCY: Office of the Comptroller of the Currency.

ACTION: Reinstatement of Interpretive Ruling.

SUMMARY: The U.S. Court of Appeals for the District of Columbia issued an opinion on June 11, 1980 which reversed a district court judgment that had resulted in rescission of the Office of the Comptroller of the Currency's Interpretive Ruling 7.7380, relating to loans which are originated at other than banking offices. The Office of the Comptroller of the Currency ("Office") is revoking the rescission of Interpretive Ruling 7.7380, effective immediately.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: David Ansell, Attorney, Legal Advisory Services, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. Telephone: (202) 447-1880.

SUPPLEMENTARY INFORMATION: On March 29, 1979, the Office was ordered by the District Court for the District of Columbia to rescind Interpretive Ruling 7.7380, and on May 15, 1979, the Office did so. 44 Fed. Reg. 29038 (May 18, 1979). Because the District Court's Order has now been vacated by the Court of Appeals, and in accordance with existing procedures, the Office has determined that the rescission of the Interpretive Ruling should be revoked and that public procedures and delayed effectiveness are neither required nor appropriate.

Applications for incorporation of national bank subsidiaries for the purpose of engaging in activities which come within the terms of the Interpretive Ruling will be accepted for filing and processed by the Office pursuant to policies and procedures in effect prior to the rescission.

PRINCIPAL DRAFTER: Shela Turpin, Regulations Analysis Division.

Reinstatement of Interpretive Ruling

Accordingly, § 7.7380 of 12 CFR Part 7 is reinstated, to read as follows:

§ 7.7380 Loans originating at other than banking offices.

(a) A national bank may utilize the services of and compensate persons not employed by the bank for originating loans.

(b) Origination of loans by employees or agents of a national bank or of a subsidiary corporation at locations other than the main office or a branch office of the bank does not violate 12 U.S.C. 36 and 81: *Provided*, That the loans are approved and made at the main office or a branch office of the bank or at an office of the subsidiary located on the premises of, or contiguous to, the main office or branch office of the bank.

Dated: July 30, 1980.

Lewis G. Odom, Jr.,

Acting Comptroller of the Currency.

[FR Doc. 80-24184 Filed 8-8-80; 8:45 am]

BILLING CODE 4810-33-M

SMALL BUSINESS ADMINISTRATION

[Revision 2, Amendment 12]

13 CFR Part 101

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: SBA is delegating increased guaranty loan authority to the Milwaukee, Wisconsin and Springfield, Illinois, Branch Offices. This is intended to speed up the loan approval process.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416. Telephone 202-653-6399.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

Accordingly, pursuant to authority in Section 5(b) (6) of the Small Business Act, 15 U.S.C. 634, Part 101 Chapter I, Title 13 of the Code of Federal Regulations is amended as follows:

The table in Part I, section A, 1, b of § 101.3-2 is amended as follows:

1. Item 7 is redesignated as item 8 and revised.

2. Item 8 is redesignated as item 9 and revised.

3. Item 9 is redesignated as item 12 and revised.

4. Item 10 is revised.

5. Items 7 and 11 are added.

As redesignated, revised and added, items 7 through 12 read as follows:

§ 101.3-2 Delegations of authority to conduct program activities in field offices.

* * * * *

Part I—Financing Program

Section A—Loan Approval Authority

1. Business and Handicapped Assistance Loans (Small Business Act) (SB Act).

* * * * *

b. Guaranty Loans. 7(a) business loans and 7(l) energy loans only.

* * * * *

	Approve	Decline
(7) Branch Manager, Milwaukee, WI and Springfield, IL	$500,000	$500,000
(8) Branch Manager, Buffalo and Elmira, NY	350,000	500,000
(9) Branch Manager, Except Fairbanks, AK, Buffalo, Elmira, NY, Milwaukee, WI and Springfield,IL B/O	250,000	500,000
(10) Branch Manager, Fairbanks, AK B/O only	150,000	150,000
(11) Assistant Branch Manager for F&I, Milwaukee, WI and Springfield, IL B/O	350,000	500,000
(12) Assistant Branch Manager for F&I, Biloxi, MS B/O	250,000	500,000

* * * * *

Dated: July 28, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23850 Filed 8-8-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 80-ASW-3; Amdt. 39-3868]

Airworthiness Directives; Mooney Aircraft Corp. Model M20J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that was applicable to Mooney Model M20J airplanes equipped with a Rochester Model 3060-18 oil pressure transducer. The new AD requires modification of the oil pressure sensing system to provide for sufficient clearance between the oil pressure transducer and the engine mount. This modification will eliminate the potential for contact between the oil pressure transducer fitting and the engine mount and resultant oil leaks.

DATES: Effective August 18, 1980. Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Martin J. Saunders, Propulsion Section (ASW-214), Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Adminstration, Post Office Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 525.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3725 (45 FR 20780), AD 80-07-12, which currently requires a one-time clearance inspection between the oil pressure transducer with its 45-degree fittings and the engine mount. Subsequent to the issuance of that AD, Mooney Aircraft Corporation developed an alternate mounting arrangement which eliminates one of the 45-degree elbow fittings and mounts the oil pressure transducer directly to the engine mount thereby providing ample clearance with all surrounding engine components. Since it is possible for the oil pressure transducer misalignment situation to occur unless the installation is modified, the FAA is superseding Amendment 39-3725 (AD 80-07-12) to require modification of the oil pressure sensing system.

Since a situation exists which requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations (41 CFR 39.13) is amended by adding a new airworthiness directive to read as follows:

Mooney: Applies to Model M20J airplanes Serial Numbers 24-0084, 24-0378 through 24-0906, 24-0908 through 24-0925, 24-0927 through 24-0942, and 24-0946 (Airworthiness Directive Docket No. 80-ASW-3).

Compliance: Required as indicated unless already accomplished. To prevent total loss of engine oil, accomplish the following:

(a) Before further flight, unless already accomplished, remove the top cowl and inspect the positioning of the Rochester Model 3060-18 oil pressure transducer and the condition of the two 45-degree elbows as follows:

(1) Clean the oil pressure transducer fitting and the two 45-degree fittings with an oil soluble solvent.

(2) Inspect the Rochester Model 3060-18 oil pressure transducer for any evidence of contact with the engine mount. If damage is present, remove and replace it before verifying the clearance outlined in paragraph (a)(3).

(3) Verify a minimum of 0.40 inch clearance between the Rochester Model 3060-18 oil pressure transducer body and the upper right hand engine mount ring and between the Rochester Model 3060-18 oil pressure transducer and the two 45-degree elbow fittings and the engine mount tube. If any clearance is less than 0.40 inch, rotate the oil pressure transducer and its fittings to obtain this minimum clearance.

Note.—Measure the 0.40 inch in an arc perpendicular to the crankshaft centerline. When this clearance exists the oil pressure transducer is almost contacting the vacuum pump body.

(4) Start and operate the engine until it is warm enough to respond smoothly to throttle changes (monitor oil temperature and cylinder head temperature gauges to maintain temperatures within limits), then stop the engine.

(5) Inspect the oil pressure transducer and its fittings for any signs of oil leakage.

(6) If any signs of oil leakage are detected, comply with paragraph (b) of this AD before further flight.

(b) Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished, modify the mounting provisions of the oil pressure transducer as follows:

(1) Remove the top cowl.

(2) Disconnect the wire from the oil pressure transducer, P/N 3060–18, and remove the transducer from the 45-degree fitting; retain for reinstallation.

(3) Remove the 45-degree fitting which was attached to the transducer. Leave the 45-degree fitting installed in the engine case port.

(4) Connect an AN 816–3 adapter to this 45-degree fitting.

(5) Connect the flex hose, P/N S94B90145, to this adapter and the other end, ⅛ inch pipe thread, to the transducer; use Tite Seal on all pipe threads. Position hose and fittings to obtain a clearance of .20 inch between hose socket and vacuum pump housing.

(6) Route the transducer and hose under the upper right hand engine mount tubes and secure the upper outboard tube with an AN742D25 and an MS21919DG8 clamp and an AN3–5A bolt, two AN960–10 washers and an AN363–1032 nut; the smaller clamp, MS21919DG8, clamps around the engine mount tube and the larger clamp, AN742D25, clamps around the transducer body as shown in Figure 1.

(7) Connect the ground wire, Wire No. 21DH04C20, under the bolt head holding the clamps together and to the landing light ground located on the firewall.

(8) Secure the hose to the engine mount with TY–RAP, MS3367–1, ensuring clearance between adjacent components.

(9) Reconnect the oil pressure gauge wire to the transducer connection post.

(10) Run the engine and check for oil leaks at the fittings connecting the flex hose and the engine and the flex hose and the oil pressure transducer. If leaks are noted, correct this situation before proceeding. Check the operation of the oil pressure gauge.

Note.—Secure bottom cowling or remove prior to engine run.

(11) Replace cowling and secure all connections.

Note.—Mooney Service Bulletin No. M20–221, "Oil Pressure Transducer Installation Modification," pertains to this same subject.

(c) Special flight permits may be issued in accordance with FAR 21.197 and FAR 21.199 to fly airplanes to a base where this AD can be accomplished.

(d) Any alternate equivalent method of compliance with this airworthiness directive must be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration.

This amendment supersedes Amendment 39–3725 (45 FR 20780) AD 80–07–12.

This amendment becomes effective August 18, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979).

Issued in Forth Worth, Texas on July 28, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

BILLING CODE 4910–13–M

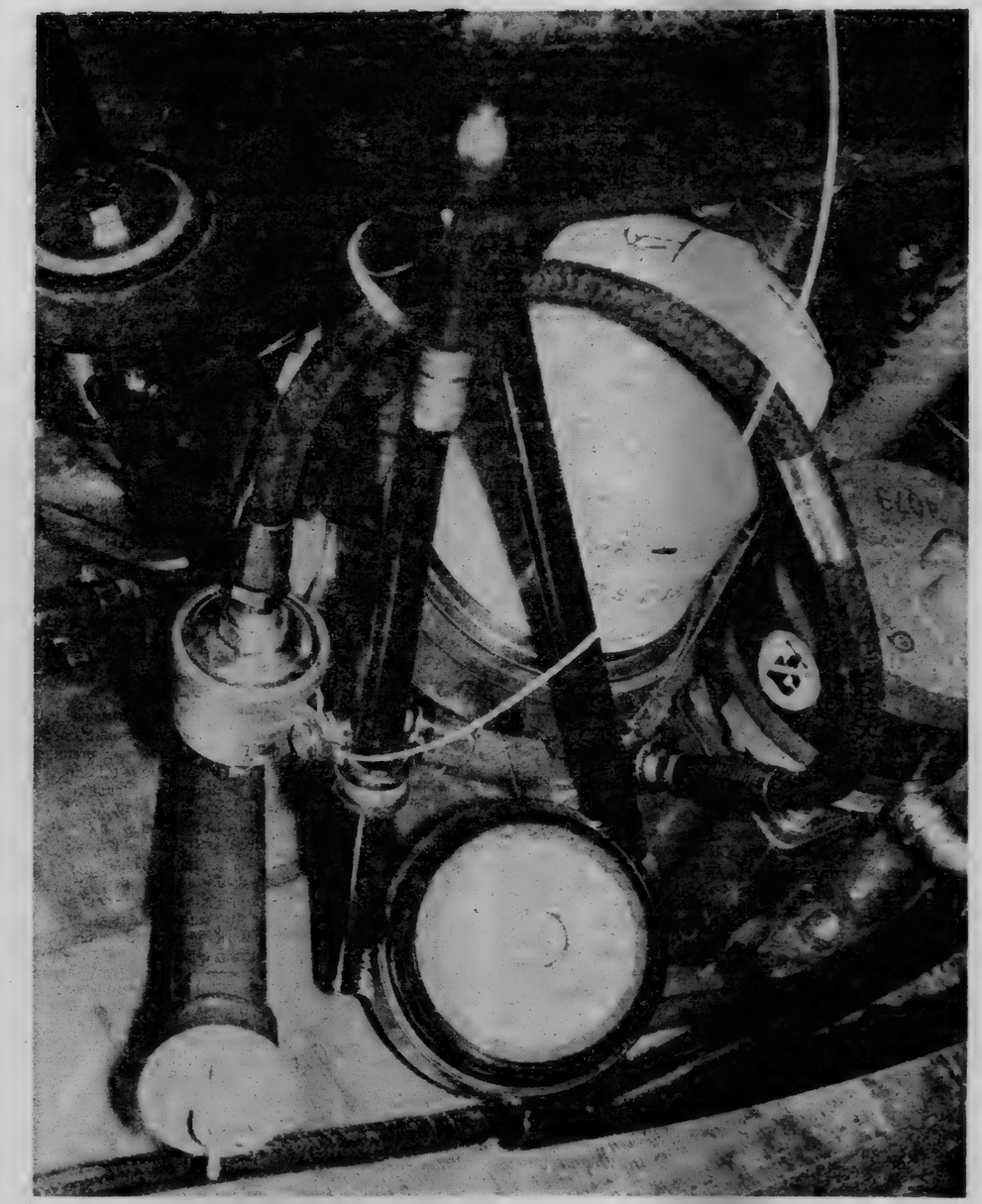

FIGURE 1

[FR Doc. 80–24065 Filed 8–8–80; 8:45 am]

BILLING CODE 4910–13–C

V 45 AG 11 80 UMI

14 CFR Part 39

[Docket No. 80-SO-43; Amdt. No. 39-3872]

Airworthiness Directives; Piper PA-31, PA-31-325 and PA-31-350 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the inspection and, if necessary, replacement of the elevator balance weights, and the reidentification of both elevators on certain Piper PA-31, PA-31-325 and PA-31-350 series airplanes. The AD is prompted by a report of an incorrect elevator balance weight installation which could result in elevator flutter.

DATES: Effective August 11, 1980. Compliance required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (707) 748-6771.

A copy of the service bulletin is also contained in The Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30320

FOR FURTHER INFORMATION CONTACT:
Tom Rice, ASO-212, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There has been a report of an incorrect balance weight installation on a Piper PA-31-325 airplane, which could result in elevator flutter. Since this condition is likely to exist on other airplanes of the same type design, an Airworthiness Directive is being issued which requires the inspection of the elevator balance weights, the reidentification of both elevators, and if necessary, replacement of the elevator balance weights on certain Piper PA-31, PA-31-325 and PA-31-350 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation: Applies to the following Piper models of airplanes certificated in all categories: PA-31 and PA-31-325, S/N 31-7401201 through 31-8012078, 31-8012078, and 31-8012079; and PA-31-350, S/N 31-7405401 through 31-8052169 and 31-8052172.

Compliance is required within the next 50 hours time in service after the effective date of this AD unless already accomplished. To ensure flutter integrity of the elevator system, accomplish the following:

(a) Inspect the elevator balance weights for correct dimensions, and, if necessary, install correct elevator balance weights in accordance with Piper Aircraft Corporation Service Bulletin No. 690, dated July 7, 1980, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

(b) Revise the part numbers on both elevators in accordance with Piper Aircraft Corporation Service Bulletin No. 690, dated July 7, 1980, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

(c) Make appropriate maintenance record entry.

This amendment becomes effective August 11, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, on July 29, 1980.

Louis J. Cardinali,
Director, Southern Region.

[FR Doc. 80-24084 Filed 8-8-80; 8:45 am]
BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-SO-41; Amdt. No. 39-3874]

Airworthiness Directives; Piper PA-31, PA-31-325 and PA-31-350 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires a one-time check to insure that placards located on the instrument panel and cockpit floor area are correct and readable on certain Piper Model PA-31, PA-31-325 and PA-31-350 series airplanes. The AD is prompted by a discovery during an FAA inspection that certain installed instrument panel placards were in error which could result in the pilot using incorrect airspeeds during normal and emergency procedures. Also, some floor area placards and emergency landing gear extension equipment were covered with floor runners making them inaccessible to the pilot.

DATE: Effective August 13, 1980. Compliance within the next 50 hours time in service unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from Piper Aircraft Corporation, 820 E. Bald Eagle Street, Lock Haven, Pennsylvania 17745.

A copy of the service bulletin is also contained in the Rules Docket, Room 275, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT:
R. J. Sample, Flight Test Section, ASO-216, Flight Standards Division, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone (404) 763-7446.

SUPPLEMENTARY INFORMATION: The FAA has determined that certain instrument panel placards may have been installed with incorrect information and that emergency landing gear extension placards and operating equipment may be covered by floor runners on certain Piper Model PA-31, PA-31-325 and PA-31-350 series airplanes. These conditions could result in the pilot using incorrect airspeeds during normal or emergency procedures and make the emergency landing gear extension procedures and equipment inaccessible to the pilot.

Since this condition is likely to exist in other airplanes of the same type design produced at the Piper Lakeland facility, an Airworthiness Directive is being issued which requires a one-time check of cockpit placards to insure correct instrument panel placards are installed and that cockpit floor area placards and equipment are not made inaccessible by floor runners on certain Piper PA-31, PA-31-325 and PA-31-350 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Piper Aircraft Corporation: Applies to Model PA-31 and PA-31-325 airplanes, Serial Numbers 31-7401201 through 31-8012072; and PA-31-350 airplanes, Serial Numbers 31-7405401 through 31-8052162 certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent the possible use of incorrect airspeed information during normal and emergency operations and to insure accessibility to emergency landing gear extension placards and operating equipment, accomplish the following within the next 50 hours time in service after the effective date of this AD:

(a) Check for the following placards on these airplanes to insure they are correct and accessible:

(1) Piper PA-31 Serial Numbers 31-7401201 through 31-8012072.

On top right side of instrument panel:

THIS AIRCRAFT MUST BE OPERATED AS A NORMAL CATEGORY AIRPLANE IN COMPLIANCE WITH THE OPERATING LIMITATIONS STATED IN THE FORM OF PLACARDS, MARKINGS AND MANUALS. NO ACROBATIC MANEUVERS (INCLUDING SPINS) APPROVED.

For Serial Numbers 31-7401201 through 31-7612110: FOR TYPES OF OPERATION SEE AIRPLANE FLIGHT MANUAL.

For Serial Numbers 31-7712001 through 31-8012072: FOR TYPES OF OPERATION SEE PILOT'S OPERATING HANDBOOK.

On top left side of instrument panel:

For Serial Numbers 31-7401201 through 31-7612110:

MINIMUM CONTROL SPEED.....85 MPH
MAXIMUM SPEED LANDING GEAR OPERATION.....150 MPH
DESIGN MANEUVERING SPEED.....183 MPH

SEE AIRPLANE FLIGHT MANUAL FOR ADDITIONAL SPEEDS.

For Serial Numbers 31-7712001 through 31-7712103:

MINIMUM CONTROL SPEED.....76 KIAS
MAXIMUM SPEED LANDING GEAR OPERATION.....129 KIAS
DESIGN MANEUVERING SPEED.....159 KIAS

SEE PILOT'S OPERATING HANDBOOK FOR ADDITIONAL SPEEDS.

For Serial Numbers 31-7812001 through 31-8012072:

MINIMUM CONTROL SPEED.....76 KIAS
MAXIMUM SP. LG—RET. 129 KIAS.....EXTEND 156 KIAS
DESIGN MANEUVERING SPEED.....159 KIAS

SEE PILOT'S OPERATING HANDBOOK FOR ADDITIONAL SPEEDS.

On floor between pilot and copilot seats, check the following two placards for accessibility:

EMERGENCY GEAR EXTENSION

REMOVE COVER—EXTENSION INSTRUCTIONS ON REVERSE SIDE

On underside of emergency gear extension door:

EMERGENCY GEAR EXTENSION

1. PLACE GEAR SELECTOR HANDLE IN DOWN POSITION.
2. PULL EMERGENCY PUMP HANDLE OUT AS FAR AS POSSIBLE.
3. PUMP HANDLE UP AND DOWN UNTIL ALL 3 GREEN LIGHTS COME ON. CONTINUE PUMPING UNTIL PRESSURE BUILDS UP AND SELECTOR HANDLE RETURNS TO NEUTRAL.

(2) Piper PA-31-325, Serial Numbers 31-7512001 through 31-8012072.

On top right side of instrument panel:

THIS AIRCRAFT MUST BE OPERATED AS A NORMAL CATEGORY AIRPLANE IN COMPLIANCE WITH THE OPERATING LIMITATIONS STATED IN THE FORM OF PLACARDS, MARKINGS AND MANUALS. NO ACROBATIC MANEUVERS (INCLUDING SPINS) APPROVED.

For Serial Numbers 31-7512001 through 31-7612110: FOR TYPES OF OPERATION SEE AIRPLANE FLIGHT MANUAL.

For Serial Numbers 31-7712001 and Up: FOR TYPES OF OPERATION SEE PILOT'S OPERATING HANDBOOK.

On left side, center of pilot's panel:

For Serial Numbers 31-7512001 through 31-7612110:

MINIMUM CONTROL SPEED.....85 MPH
MAXIMUM SPEED LANDING GEAR OPERATION.....150 MPH
DESIGN MANEUVERING SPEED.....183 MPH

SEE AIRPLANE FLIGHT MANUAL FOR ADDITIONAL SPEEDS.

For Serial Numbers 31-7712001 through 31-7712103:

MINIMUM CONTROL SPEED.....71 KIAS
MAXIMUM SPEED LANDING GEAR OPERATION.....127 KIAS
DESIGN MANEUVERING SPEED.....155 KIAS

SEE PILOT'S OPERATING HANDBOOK FOR ADDITIONAL SPEEDS.

For Serial Numbers 31-7812001 through 31-8012072:

MINIMUM CONTROL SPEED.....71 KIAS
MAXIMUM SP. LG—RET. 127 KIAS.....EXTEND 152 KIAS
DESIGN MANEUVERING SPEED.....155 KIAS

SEE PILOT'S OPERATING HANDBOOK FOR ADDITIONAL SPEEDS.

On floor between pilot and copilot seats, check the following two placards for accessibility:

EMERGENCY GEAR EXTENSION

REMOVE COVER—EXTENSION INSTRUCTIONS ON REVERSE SIDE

On underside of emergency gear extension door:

EMERGENCY GEAR EXTENSION

1. PLACE GEAR SELECTOR HANDLE IN DOWN POSITION.
2. PULL EMERGENCY PUMP HANDLE OUT AS FAR AS POSSIBLE.
3. PUMP HANDLE UP AND DOWN UNTIL ALL 3 GREEN LIGHTS COME ON. CONTINUE PUMPING UNTIL PRESSURE BUILDS UP AND SELECTOR HANDLE RETURNS TO NEUTRAL.

On pedestal adjacent engine controls (when air conditioning is installed):

AIR CONDITIONING OFF FOR SINGLE ENGINE OPERATION

Above airspeed indicator:

For Serial Numbers 31-7512001 through 31-7612110: ABOVE 12,000 FEET REDUCE V_{NE} SPEED 3 MPH PER 1,000 FEET.

For Serial Numbers 31-7712001 through 31-8012072: ABOVE 12,000 FEET REDUCE V_{NE} SPEED 2.6 KTS PER 1,000 FEET.

Adjacent to airspeed indicator:

For Serial Numbers 31-7512001 through 31-7612110: ABOVE 21,000 FEET REDUCE V_{NO} SPEED 3 MPH PER 1,000 FEET.

For Serial Numbers 31-7712001 through 31-8012072: ABOVE 21,000 FEET REDUCE V_{NO} SPEED 2.6 KTS PER 1,000 FEET.

(3) Piper PA-31-350, Serial Numbers 31-7405401 through 31-8052162.

On top right side of instrument panel:

THIS AIRCRAFT MUST BE OPERATED AS A NORMAL CATEGORY AIRPLANE IN COMPLIANCE WITH THE OPERATING LIMITATIONS STATED IN THE FORM OF PLACARDS, MARKINGS AND MANUALS. NO ACROBATIC MANEUVERS (INCLUDING SPINS) APPROVED.

For Serial Numbers 31-7405401 through 31-7652176: FOR TYPES OF OPERATION SEE AIRPLANE FLIGHT MANUAL.

For Serial Numbers 31-7752001 and Up: FOR TYPES OF OPERATION SEE PILOT'S OPERATING HANDBOOK.

On top left side of instrument panel:

For Serial Numbers 31-7405401 through 31-7652176:

MINIMUM CONTROL SPEED.....90 MPH
MAXIMUM SPEED LANDING GEAR OPERATION.....150 MPH
DESIGN MANEUVERING SPEED.....186 MPH

SEE AIRPLANE FLIGHT MANUAL FOR ADDITIONAL SPEEDS.

For Serial Numbers 31-7752001 through 31-7752201:

MINIMUM CONTROL SPEED.....76 KIAS
MAXIMUM SPEED LANDING GEAR OPERATION.....128 KIAS
DESIGN MANEUVERING SPEED.....160 KIAS

SEE PILOT'S OPERATING HANDBOOK FOR ADDITIONAL SPEEDS.

For Serial Numbers 31-7852001 through 31-8052162:

MINIMUM CONTROL SPEED.....76 KIAS
MAXIMUM SP. LG—RET. 128 KIAS EXTEND.....153 KIAS
DESIGN MANEUVERING SPEED.....160 KIAS

SEE PILOT'S OPERATING HANDBOOK FOR ADDITIONAL SPEEDS.

On floor between pilot and copilot seats, check the following two placards for accessibility:

EMERGENCY GEAR EXTENSION

REMOVE COVER—EXTENSION INSTRUCTIONS ON REVERSE SIDE

On underside of emergency gear extension door:

EMERGENCY GEAR EXTENSION

1. PLACE GEAR SELECTOR HANDLE IN DOWN POSITION.
2. PULL EMERGENCY PUMP HANDLE OUT AS FAR AS POSSIBLE.
3. PUMP HANDLE UP AND DOWN UNTIL ALL 3 GREEN LIGHTS COME ON. CONTINUE PUMPING UNTIL PRESSURE BUILDS UP AND SELECTOR HANDLE RETURNS TO NEUTRAL.

On pedestal adjacent engine controls (when air conditioning is installed):

AIR CONDITIONING OFF FOR SINGLE ENGINE OPERATION

(b) If aircraft is equipped with floor runners to protect carpeting, an opening must be cut in the runner to match opening in carpet in order to provide access to Emergency Gear Extension Cover.

(c) Replace incorrect or missing placards with correct placards.

Note.—Placards may be obtained from Piper Aircraft Corporation, Lakeland Division, 3000 Medula Road, Lakeland, Florida 33803, telephone (813) 646–2911.

(d) When (a) through (c) above are accomplished, make an appropriate maintenance record entry. These actions may be accomplished by a pilot as provided in FAR 43.3(h).

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Note.—Piper Service Bulletin 688 pertains to this subject.

This amendment becomes effective August 13, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on July 30, 1980

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-24080 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-NW-5-AD; Amdt. 39-3823]

Airworthiness Directives; Boeing Model 727-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule; correction.

SUMMARY: This document corrects a final rule published at 45 FR 43696, June 30, 1980 concerning an airworthiness directive on Boeing Model 727-200 Series airplanes.

This amendment corrects a reference to an airplane line number, adds a provision crediting previous accomplishment of the required one-time inspection within a specified time, and further extends the effective date.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Lium, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION: In the amendment published herein on June 30, 1980 (45 FR 43696), an error was made in the informational note which appears in the lead-in paragraph. The note identified airplanes which are not affected by the amendment as beginning with line number 1364 when it should have read line number 1512. Further, no provision was made in the final rule crediting accomplishment of the one-time inspection made prior to the effective date of the AD. Many operators made an inspection upon publication of the NPRM, and it was not FAA's intent to have this inspection repeated. Finally, the effective date of the amendment, as corrected, is corrected further and extended to September 10, 1980, to afford affected parties ample notice of these changes.

Since these changes are either clarifying or relieving in nature, notice and public procedure thereon are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80-19557, appearing at page 43697 in the issue of Monday, June 30, 1980, as corrected in the issue of Thursday, July 17, 1980, page 47838, is amended as follows:

1. The effective date is changed to September 10, 1980.
2. The words "line number 1364" appearing in the note in the lead-in paragraph of the amendment are changed to read "line number 1512".
3. The words "Unless already accomplished on or after March 3, 1980" are added to the beginning of paragraph A of the amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 1, 1980.

E. O. Conner,

Acting Director, Northwest Region.

[FR Doc. 80-24178 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 79-EA-49]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area; Durhamville, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a Durhamville, N.Y., Transition Area over Kamp Airport, Durhamville, N.Y. This designation will provide protection to aircraft executing the new VOR RWY 28 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 3921 of the **Federal Register** for January 21, 1980, the F.A.A. published an NPRM proposing to designate the Durhamville, N.Y., Transition Area. The rule amends Subparts F & G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Kamp Airport. The airport will be overlaid by a 700-foot area and controlled in an area generally northeast out to 13 miles, to the east out to 32 miles and around to the south, and southwest out to 24 miles of the airport. There had been several objections to the proposed rule from the users of Kamp Airport which suggest that the rule will overly complicate the use of Kamp Airport, particularly by student pilots. However, the proposed transition area is required to protect the instrument approaches to the airport. Interested parties were given an opportunity to submit comments. No other objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts F & G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective 0901 GMT September 4, 1980, as published.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(c)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulatons by designating a 700-foot floor transition area at Durhamville, N.Y. as follows:

Durhamville, N.Y.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 43°08'07"N., 75°36'54"W. of Kamp Airport within 2.5 miles each side of 059° bearing of Kamp Airport, extending from the 6.5-mile radius area to 7 miles northeast of the airport; within 5 miles each side of the 107° bearing of Kamp Airport extending from the 6.5-mile radius area to 26 miles east of the airport; within an 18.5-mile radius of the center of the Airport extending from the 6.5-mile radius area extending clockwise from a 122° bearing from the center of the airport to a 235° bearing from the center of the airport.

[FR Doc. 80-24057 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-WE-7]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points

Designation of Control Zone; Mesa, Ariz.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a new control zone for Falcon Field Airport, Mesa, Arizona. This action will provide controlled airspace for aircraft conducting instrument operations at the Falcon Field Airport.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

On June 23, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a new control zone for Falcon Field Airport, Mesa, Arizona. This action will provide controlled airspace for aircraft conducting instrument operations at Falcon Field Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No objections were received. This action is the same as that proposed in the notice. Section 71.171 was republished in the **Federal Register** on January 2, 1980, (45 FR 356).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 30, 1980, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations to read:

Falcon Field, Mesa, Ariz.

Within a three mile radius of Falcon Field Airport (latitude 33°27'35" N., longitude 111°43'39" W.) excluding the portion within the Chandler, Arizona (Williams Air Force Base) control zone and control zone extension. This control zone is effective from 0600 to 2100 hours, local time, daily or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on July 29, 1980.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 80-26058 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71

[Airspace Docket No. 80-EA-7]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; Beaver Falls, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Beaver Falls, Pa., Transition Area over Beaver County Airport, Beaver Falls, Pa. This alteration will provide protection to aircraft executing the proposed new Instrument Landing System (ILS) Runway 10 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 26079 of the **Federal Register** for April 17, 1980, the FAA published an NPRM proposing the subject rule. The rule will amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Beaver Falls, Pa., Transition Area. The airport is presently overlaid by a 700-foot transition area which will be expanded in all directions by approximately 2 miles. Interested parties were given an opportunity to submit comments. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 4, 1980, as published.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(c)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 28, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

1. Amend § 71.181 of the Federal Aviation Regulations so as to amend the description of the Beaver Falls, Pennsylvania 700-foot floor transition area as follows:

Delete the text in its entirety and substitute the following: "That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 40°46'21" N., 80°23'37" W. of Beaver County Airport, Beaver Falls, Pa., and within 2 miles of each side of the Elwood City, Pa. VORTAC 248° radial extending easterly from the 6.5-mile radius area to the VORTAC, excluding that portion which overlies the East Liverpool, Ohio transition area."

[FR Doc. 80-24091 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 77-SO-51]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates additional airspace in the Atlanta, Georgia, Transition Area. This action provides controlled airspace required to protect instrument flight operations at the McCollum Airport.

EFFECTIVE DATE: 0901 GMT, September 4, 1980.

ADDRESS: Federal Aviation Administration Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, November 10, 1977 (42 FR 58539), which proposed to designate additional controlled airspace to protect aircraft performing IFR operations at McCollum Airport, Marietta, Georgia.

The Departments of the Air Force and the Navy have sustained objections since 1977 to the instrumentation of McCollum Airport. The contention is that IFR operations at McCollum will cause delays to military aircraft operations at Dobbins Air Force Base.

Air traffic control radar coverage is adequate for transponder equipped aircraft executing the proposed VOR/DME RWY 11 standard instrument approach procedure at McCollum. Air traffic control service can be safely provided at McCollum Airport with minimal impact upon operations at Dobbins AFB. The McCollum Airport operating status is hereby changed from VFR to IFR.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, September 4, 1980, by adding the following:

Atlanta, Ga.

. . . within a 10.5-mile radius of McCollum Airport, Marietta, Georgia (Lat. 34°00'47"N., Long. 84°35'55"W.), excluding the portion within the Carterville, Georgia, transition area . . .

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on July 30, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-24063 Filed 8-8-80; 8:45 a.m.]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-WE-8]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters a portion of the Placerville, California 700-foot transition area. This action redescribes the controlled airspace required to protect instrument flight operations at the Placerville Airport.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

On July 3, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area for Placerville, California (45 FR 45306). Redesignation of this transition area will provide controlled airspace for protection of instrument operations at the Placerville Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1980, (45 FR 445).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the transition area at Placerville, California. This transition area provides protection for instrument operations authorized for the Placerville Airport. This amendment increases air traffic safety and improves flow control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT, October 30, 1980, as follows:

71.181 Placerville, Calif.

Delete all following . . . "within four miles each side of the . . ." and substitute therein; . . . "Hangtown, California VOR (latitude 38°43'31"N., longitude 120°44'52"W.) 242° radial extending from four mile radius area to eleven miles southwest of the VOR."

(Secs. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California, on July 29, 1980.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 80-24086 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 79-EA-67]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Binghamton, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Binghamton, N.Y., Transition Area over Broome County Airport, Binghamton, N.Y. This alteration will provide protection to aircraft executing an amended VOR/DME Runway 28 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas N. Ambrose, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

SUPPLEMENTARY INFORMATION: On page 28080 of the **Federal Register** for April 17, 1980, the FAA published an NPRM proposing the subject rule. The airport is presently overlaid by a 700-foot area to which will be added a portion of controlled airspace approximately five miles long and nine miles wide to the northeast side of the transition area. Interested parties were given an opportunity to submit comments. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 4, 1980, as published.

Section 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(c)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69.

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 22, 1980.

Murray E. Smith,

Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Binghamton, N.Y., 700-foot floor transition area as follows:

In the text delete, "within 2 miles each side of the airport ILS localizer SE course extending from the 7-mile radius area to the Nimmons RBN;" and substitute therefor, "within 2 miles each side of the airport ILS localizer SE course extending from the 7-mile radius area to the Nimmons RBN; within 4.5 miles each side of the Binghamton VORTAC 068°–248° radial extending NE from the 7-mile radius area to 21.5 miles northeast of the VORTAC;"

[FR Doc. 80-24022 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-EA-28]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone: Hampton Roads, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: final rule.

SUMMARY: This rule will alter the Hampton Roads, Va., Control Zone by changing the description so as to delete the two control zone extensions. This change results from a re-evaluation of the controlled airspace needed for the Langley Air Force Base terminal area.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

SUPPLEMENTARY INFORMATION: This amendment relaxes the rule by reducing the amount of controlled airspace. Thus, the amendment does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon publication in the **Federal Register**, as follows:

Amend Section 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Langley AFB, Hampton Roads, Virginia, Control Zone by deleting the description and substituting therefor, "Within a 5-mile radius of Langley AFB, Hampton Roads, VA., (37°05'05"N., 76°21'25"W.)."

Section 307(a), and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(c)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69.

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this

V 45 A G 1 1 1 8 0 UMI

action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 22, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-24023 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-41]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone: State College, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate a State College, Pa. Control Zone over University Park Airport, State College, Pa. This designation will provide protection to aircraft executing instrument approaches which have been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Dvision, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York, 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 3329 of the **FEDERAL REGISTER** for January 17, 1980, the F.A.A. published an NPRM to designate a State College, Pa. Control Zone. The rule will amend Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a State College, Pa. Control Zone. The zone will control a portion of airspace approximately five miles in radius around the airport and an additional 5.5 miles within a 2 mile wide extension to the northeast. Interested parties were given time in which to submit comments. No objections had been received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 4, 1980, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 21, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

State College, Pa.

Within a 5-mile radius of University Park Airport (40°50'57" N., 77°50'54" W.), within 1 mile each side of University Park Airport Runway 24 centerline, extending from the 5-mile radius zone to 5.5-miles northeast of the Runway 24 approach end. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport-Facility Directory.

[FR Doc. 80-24021 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-31]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone: Elmira, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Elmira, N.Y., Control Zone by deleting the control zone extension based on Runway 1. The change is required by the closing of Runway 1 at Chemung County Airport. This change is editorial and results from a local change to the name of the airport.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The amendment relaxes the rule by reducing the amount of controlled airspace. Thus, the amendment does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon publication in the **Federal Register**, as follows:

Amend Section 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Elmira, New York Control Zone by deleting: "within 2 miles each side of the centerline of Runway 1 extended northerly from the 5-mile radius zone for 3 miles;"

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 22, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-24016 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 378

Amendment to Export Administration Regulations To Conform to Commodity Control List

Correction

In FR Doc. 80-18860 appearing on page 43139 in the issue of Wednesday, June 25, 1980, make the following correction:

On page 43143, first column, insert the following footnote for § 378.3(b):

BILLING CODE 1505-01-M

[2]Such activities may also require a specific authorization from the Secretary of Energy pursuant to § 57.b(2) of the Atomic Energy Act of 1954, as amended, as implemented by the Department of Energy's regulations published in 10 CFR Part 810.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, and 270

[Docket No. RM80-6; Order No. 98]

Pricing of Pipeline Production Under the Natural Gas Act

Issued: August 4, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Under section 2(21)(B) of the Natural Gas Policy Act of 1978 (NGPA) and § 270.203 of the Commission's regulations, sales of natural gas by pipelines or distributors are not first sales, and thus not subject to NGPA prices, unless the gas is comprised exclusively of production volumes of natural gas from identifiable wells, properties or reservoirs that are owned by the pipeline of distributor. Therefore, sales of volumes of interstate pipeline production that are commingled with purchased gas prior to sale remain subject to the Commission's pricing authority under the Natural Gas Act (NGA).

The Commission is adopting regulations under the NGA governing the pricing of interstate pipeline production sold in mixed volume sales. These regulations continue the Commission's policy of parity of treatment by permitting pipeline production that is now priced by reference to independent producer area or nationwide rates to be priced by reference to the maximum lawful price that would have been applicable under Title I of the NGPA if the gas had been sold in a first sale. Natural gas that is now priced on a cost-of-service basis will continue to be subject to the cost-of-service pricing treatment.

EFFECTIVE DATE: The final rule is effective September 3, 1980.

FOR FURTHER INFORMATION CONTACT:

Suan Tomasky, Office of the General Counsel, 825 North Capitol Street, NE., Room 8111, Washington, D.C. 20426. (202) 357-8461.

or

Ray Beirne, Office of Pipeline and Producer Regulation, 825 North Capitol Street, NE., Room 5100C, (202) 357-9371.

I. Introduction.

A. *Statutory Framework*

Interstate pipelines, in addition to transporting gas owned by others, acquire gas and sell it to their customers, either by purchasing it or by producing it themselves. Under the Natural Gas Policy Act of 1978 (NGPA), if gas is sold to an interstate pipeline in a first sale,[1] the producer (or other seller) may sell it to the pipeline at the NGPA ceiling price.[2] When the interstate pipeline sells gas acquired in a first sale, the NGPA's "guaranteed passthrough" provision precludes the Commission from denying passthrough of the acquisition cost of the gas (if below the applicable NGPA ceiling) unless the amount paid was excessive due to fraud, abuse or similar grounds.[3] On the other hand, if the pipeline does not acquire the gas in a first sale, neither the NGPA ceiling prices nor the "guaranteed passthrough" provision applies.

Section 2(21) of the NGPA and Order No. 58[4] define the circumstances under which a pipeline's acquisition of natural gas would be treated as a first sale. As a general matter, if the gas is acquired from another pipeline or from a distributor it is not a first sale.[5] If the gas is acquired from a person (other than a pipeline or distributor), whether affiliated or unaffiliated with the interstate pipeline, the gas is acquired in a first sale and both the NGPA ceiling prices and the "guaranteed passthrough" provision apply.[6] Thus, as more fully described below, if a pipeline's producing affiliate sells to the pipeline, that sale is a first sale; on the other hand, if gas acquired by a pipeline is produced from wells owned directly by the pipeline, there is neither a first sale to the pipeline under Order No. 58 nor a guaranteed passthrough. In the case of an interstate pipeline acquiring gas other than in a first sale, both the acquisition and sale are governed by the Natural Gas Act (NGA).

This rulemaking, commenced contemporaneously with the issuance of Order No. 58, addresses the Commission's policy under the NGA respecting gas acquired (other than in a first sale) by an interstate pipeline from its own production.

B. *Pipeline and Affiliate Production*

In addition to determining the circumstances under which a pipeline's acquisition of natural gas is a first sale, Section 2(21) of the NGPA also determines which sales by pipelines or distributors are first sales under the NGPA. Subparagraph (B) of Section 2(21) provides that first sales "shall not include the sale of any volume of natural gas by an interstate pipeline, intrastate pipeline, or local distribution company, or an affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or affiliate thereof." The Commission in Order No. 58 interpreted the word "attributable" to mean "comprised exclusively of production volumes of natural gas from identifiable wells, properties, or reservoirs which are owned by such pipeline or distributor." [7]

However, only a limited amount of pipeline or distributor owned production is committed from an identifiable source or is otherwise sold in a sale comprised exclusively of pipeline or distributor owned production. More typically, a pipeline will commingle its own production volumes with purchased gas and make mixed volume sales from its general system supply. Because such mixed volume sales generally would not be first sales,[8] they are not subject to the

[1] First sale is defined in section 2(21) of the NGPA as follows:

(21) First Sale.—

(A) General Rule.—The term "first sale" means any sale of any volume of natural gas—

(i) to any interstate pipeline or intrastate pipeline;

(ii) to any local distribution company;

(iii) to any person for use by such person;

(iv) which precedes any sale described in clauses (i), (ii), or (iii); and

(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

(B) Certain Sales Not Included.—Clauses (i), (ii), (iii), or (iv) of subparagraph (A) shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

[2] The NGPA ceiling prices are deemed just and reasonable for purposes of the NGA (Section 601(b) of the NGPA). However, a buyer may insist on his contractual rights to purchase at a lower price (Section 101(b)(9) of the NGPA), and contractual authorization may be required in the case of first sales that remain subject to the NGA. *See* Order No. 23 (Docket No. RM79-22, issued March 13, 1979), 44 FR 16895 (March 20, 1979); Order No. 23-A (issued June 12, 1979), 44 FR 34472 (June 15, 1979); Order No. 23-B (issued June 21, 1979), 44 FR 38834 (July 3, 1979).

[3] NGPA Section 601(c). In addition, the affiliated entities limitations may limit the extent of passthrough. *See* NGPA section 601(b)(1)(E).

[4] Order No. 58 (Docket No. RM80-7, issued November 14, 1979). 43 FR 56577 (Nov. 20, 1979). § 270.203.

[5] NGPA Section 2(21)(B). Sales by pipelines or distributors of volumes comprised in whole or in part of their own production are first sales under certain circumstances. *See* § 270.203(a) and (b); *see also, infra* note 7-9 and accompanying text.

[6] Sales by unaffiliated sellers (other than pipelines, distributors or their affiliates) are not barred from first sale treatment under section 2(21)(B). Sales by affiliates (other than pipelines or distributors) are first sales unless the Commission determines otherwise. *See* § 270.203(c).

[7] *See* § 270.203(a).

[8] A mixed volume sale by an intrastate pipeline that is not regulated by a state agency empowered by State statute to establish, modify or set aside the rate for such a sale is denominated by the

Footnotes continued on next page

NGPA and Title I maximum lawful prices. Therefore, most sales of pipeline production remain subject to rate regualtion under otherwise applicable Federal and state law: intrastate pipelines and local distribution companies are subject to existing state and local regulatory authority,[9] and interstate pipelines continue to be subject to price regulation under the NGA.

In conjunction with Order No. 58, the Commission issued Notice of Proposed Rulemaking in exercise of its continuing authority under the NGA to establish rates for mixed volume sales of natural gas by interstate pipelines.[10] In order to achieve parity of pricing treatment among independent producers subject to Title I maximum prices and pipeline producers subject to NGA pricing authority, the proposed rule permitted a pipeline, in determining its NGA cost-of-service for mixed volume sales, to value its own production by reference to the Title I maximum lawful prices that would have been applicable to the gas had it been sold in a first sale. After review of public comments,[11] the Commission is adopting as final regulations the proposed amendments to the Commission's regulations under the NGA, to provide for parity of price treatment among independent and pipeline producers.[12]

II. Background: Pricing Parity for Pipeline Producers Prior to the NGPA

The pricing of pipeline production under the NGA is a question of policy that was originally addressed in the context of the Federal Power Commission's (FPC's) efforts to establish just and reasonable rates for producer sales of natural gas to the interstate market. Initially, the FPC determined producer rates by use of the cost-of-service methodology traditionally employed in determining rates for interstate pipelines. Subsequently, the FPC rejected that ratemaking method for sales by independent producers and off-system sales by pipeline producers and instead adopted a series of average cost-based rates which were applicable to such sales of gas produced in specified geographic areas. However, the area rates were not made applicable to pipeline production sold in mixed volume sales, so that the value of production transmitted from a pipeline's own producing operation continued to be included as a cost component in the pipeline's overall cost-of-service and was computed generally on the same test year basis as other elements of the cost-of-service. Test year projections were made for lease acquisition, exploration, development, and production.[13]

Subsequently, in Opinion No. 568,[14] the FPC rejected the cost-of-service ratemaking methodology for determining rates for pipeline production, finding that the economic and administrative considerations which had urged the abandonment of cost-of-service ratemaking for independent producers were equally as compelling in the case of pipeline producers. In the face of dwindling gas supplies, the FPC indicated that its primary concern was to spur the development of new production. The FPC reasoned that the stimulus to additional production implicit in the area rates for producers should be directed toward increasing production by pipeline producers as well.[15] In its view, parity was essential to the creation of a "regulatory climate conducive to an aggressive pipeline exploration program."[16] Further, the FPC concluded that the use of the average ratemaking methodology could stimulate gas production by pipelines while protecting consumers from bearing the full cost of unsuccessful or inefficient ventures.[17]

Therefore, in Opinion No. 568, the FPC initiated a policy of parity of pricing treatment, under which gas produced by a pipeline or its affiliates from leases acquired after October 7, 1969, and taken into the pipeline's own system would be valued by reference to the just and reasonable area rates established for sales by independent producers in the same area. Those area rates would then be passed through the pipeline's purchased gas adjustment (PGA) clause.[18] Pipeline producers would be permitted to recover their production costs on a cost-of-service basis only upon showing that special circumstances existed which warranted such treatment.[19]

The FPC continued this policy of parity in the nationwide rate proceedings, extending the nationwide rates to various vintages of pipeline production.[20] In Opinion No. 699–H, the FPC reaffirmed its decision that pipeline production flowing from pre-October 8, 1969, leases should continue to be priced on a cost-of-service basis, but concluded that pipeline production from wells drilled on or after January 1, 1973, should be valued at nationwide rates regardless of the date the lease was acquired.[21] Therefore, on the date of enactment of the NGPA, area or nationwide rates were applicable to all but two categories of pipeline produced gas: most production from pre-1973 wells on pre-October 8, 1969 leases, and production from other leases which had been granted cost-of-services treatment upon a showing of special circumstances or pursuant to a settlement in lieu of a finding of special circumstances.

III. Discussion: Parity of Pricing for Pipeline Production in the Context of the NGPA

The enactment of Title I of the NGPA ended the prevailing system of domestic wellhead price regulation under which the Commission set rates for producer sales of natural gas to the interstate market, and the states regulated producer sales to intrastate markets. In its stead, Congress established a unified pricing scheme imposing maximum lawful prices for first sales by producers of domestically produced natural gas. The elimination of the dual market and the statutorily embraced commitment to price incentives are the cornerstones of the Congressional plan to encourage maximum production of natural gas.

However, the NGPA left substantially intact the Commission's authority under the NGA to regulate the rates and services of pipelines delivering gas in interstate commerce. The Congress left to the Commission the task of harmonizing its statutory mandate to implement the NGPA pricing scheme with its continuing authority under the NGA to determine the price treatment of natural gas produced by interstate pipelines and sold in mixed volume sales. Therefore, our goal in establishing a pricing scheme for pipeline production is to properly employ our regulatory tools under the NGA to coordinate the purposes of that Act with the policies established by the NGPA.

As we stated in the Notice of Proposed Rulemaking, the objectives which prompted the FPC to extend pricing parity to pipeline producers, to provide for equitable treatment among producers and to encourage additional exploration for and production of natural gas, remain desirable in the face of a transcendent public need for additional domestically produced energy supplies. In reliance on the FPC's policy, pipelines have competed for leases with independent producers and have undertaken substantial drilling programs which have produced increased gas supplies. As commenters point out, the aims of equity and regulatory stability are well served by a continuation of this parity policy.[22]

However, the role of parity pricing has been enlarged by the passage of NPGA and, in the context of our efforts to coordinate the NGA with the regulatory scheme of the NGPA, the arguments for parity treatment emerge as even more compelling. Prior to the NGPA, the FPC and the Commission recognized the need to offer price incentives to producers to encourage exploration and development of additional natural gas supplies.[23] Thus, the area and nationwide rates were designed to provide for recovery of the average costs of finding, developing and producing natural gas plus an incentive to compensate for the risks associated with lease acquisition, exploration and development. The Congressional decision to reorder the economic regulation of natural gas prices to provide a uniform system of statutorily prescribed price incentives was based on a similar belief that such incentives are necessary to secure continued development and additional production of natural gas.

Having embarked under the NGA upon a course which would provide price incentives for both pipeline and independent producer production to encourage production of additional gas supplies, and having been reaffirmed in this course by evidence of a similar purpose in Congress' enactment of a pricing scheme in the NGPA designed to encourage additional production, we believe that our mandate of coordinating the NGPA and the NGA would best be accomplished through a policy of pricing parity among independent and pipeline producers. First, as many commenters point out, pipeline producers undertaking new exploration efforts must compete with independent producers for the acquisition of leases. The prices independent producers may be willing to pay for leases will be influenced by the expected revenues for gas from the project, which will be priced at applicable Title I prices. If pipeline producers were held to pre-NGPA prices, or were subject to a newly established cost-based nationwide rate, they would in many instances be unable to compete with independent producers in acquiring new leases. The resulting disincentive to pipeline production would deny the pipeline customers a more certain stream of additional supplies.

Further, the institution of a nationwide rate proceeding in order to account for changes in costs or market conditions since 1975 might not cure the distortions created by disparate pricing treatment. If the cost-related incentive prices established in a nationwide ratemaking were less than the NGPA prices, pipelines would still be at a competitive disadvantage in acquiring new leases. To the extent that the resulting nationwide rates varied in any respect from the NGPA rates, we would have established inconsistent schemes of wellhead price regulation, reincarnating the regulatory anomaly which Congress sought to eliminate in its enactment of Title I. Such an undertaking would effectively ignore the Congressional evaluation of price incentives, and would be, in our view, an insular and administratively wasteful endeavor. For these reasons we believe that the existing policy of parity of treatment for pipeline producers should be continued in the context of the NGPA.

The foregoing analysis demonstrating our reasons for extending pricing parity to pipeline producers previously subject to area or nationwide rates does not apply in the case of pipelines receiving cost-of-service treatment for production. In the case of gas yet to be produced from pre-1973 wells on pre-October 8, 1969 leases, we find little to persuade us that costs of production will not be recouped by the pipeline on a cost-of-service basis. As one commenter articulates the pertinent consideration:

> The pipeline's customers have paid [through the pipeline's rates] for the development and production costs, including components for return, income taxes, and depreciation. As a result, the equity and incentive reasons for granting parity do not apply to such gas.[24]

As several commenters argue, the same consideration persuades us that parity should not be extended to pipeline producers subject to cost-of-services treatment under the special circumstances provisions of § 2.66(a)(4).[25] Pipelines receiving such treatment have enjoyed the advantage of passing on to their customers the risks of the pipeline's production ventures. Pipelines have passed on the costs of acquiring leases and the costs of exploration and development, including dry hole costs and other costs associated with unsuccessful and marginally successful ventures, in

---

Footnotes continued from last page

Commission as a first sale unless the Commission, on application, has determined not to treat such a sale as a first sale. § 270.203(b). Such a sale is a first sale by exercise of the Commission's authority under section 2(21)(A)(v). *See infra* note 9 and accompanying text.

[9] Section 2(21)(A) of the NGPA, which expressly denominates certain sales as first sales, also empowers the Commission to extend the first sale definition to embrace any other sale in order to avoid circumvention of the NGPA maximum lawful prices. In Order No. 58, the Commission asserted this authority to include as first sales, sales by intrastate pipelines and local distributors that are not subject to state or NGA regulatory authority. *Mimeo* at 8–9; *see* § 270.203(b). Also pursuant to section 2(21)(A)(v) the Commission will treat as first sales, sales by non-producing affiliates of pipelines or distributors, such as brokers or gatherers, which are not subject to Commission jurisdiction and are largely unregulated by the states. *Mimeo* at 12–13; § 270.203(c). This limited exercise of the Commission's circumvention authority under Section 2(21)(A)(v) reflects our view that the NGPA Pricing policies can be effectuated without disrupting any existing regulation of intrastate pipeline and distributor rates for mixed volume sales.

[10] Notice of Proposed Rulemaking (issued November 14, 1979); 44 FR 66612 (Nov. 20, 1979).

[11] Comments were timely filed by American Gas Association (AGA), Natural Gas Pipeline Company of America (Natural), Consolidated Gas Supply Corporation (Consolidated), Northwest Pipeline Corporation (Northwest), El Paso Natural Gas Company (El Paso), Northern Natural Gas Company (Northern), United Gas Pipe Line Company (United), Colorado Interstate Gas Company (CIG), Kentucky-West Virginia Gas Company (Kentucky-West Virginia), and the Kansas State Corporation Commission (Kansas). Comments were received after the close of the comment period from the Public Service Commission of the State of New York (New York), Southern Natural Gas Company (Southern), Sonat Exploration Company (Sonat) and Columbia Gas Transmission Company (Columbia). These comments are considered as if timely filed. However, we have not considered late comments received June 23, 1980, after the Commission meeting in which this final rule was considered, from Arizona Power Cooperative and the City of Wilcox, Arizona.

[12] The Commission is presently reviewing applications for rehearing of Order No. 58 and is further considering the policy underlying that Order. The issuance of this rule, which is predicated on the interpretation of section 2(21)(B) reflected in Order No. 58, does not dispose of those petitions for rehearing. Because the policies set out in both these dockets are firmly interlaced, we prefer to consider the legal and policy issues raised on rehearing of Order No. 58 in connection with consideration of any arguments raised in petitions for rehearing of these final regulations. *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

[13] *City of Chicago v. FPC*, 458 F.2d 731, 734–37 (D.C. Cir. 1971) *cert. denied*, 405 U.S. 1074 (1972). *See generally Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

[14] *Pipeline Production Area Rate Proceeding (Phase I)*, 42 F.P.C. 738, *modified* 42 F.P.C. 1089 (1969), *aff'd, City of Chicago* v. *FPC*, 458 F.2d 731 (D.C. Cir. 1971), *cert. denied*, 405 U.S.1074 (1972).

[15] *Pipeline Production Area Rate Proceeding, supra* note 14, at 747.

[16] *Id.* at 745.

[17] *See City of Chicago v. FPC, supra* note 13, 458 F.2d at 738.

[18] 18 C.F.R. 2.66 (1979).

[19] 18 C.F.R. 2.66(a)(4). The FPC expressly stated that a pipeline's inability to recover its expenditures and earn the allowed return on production would not constitute special circumstances. *Pipeline Production Area Rate Proceeding*, Opinion No. 568–A, *supra* note 14, 42 F.P.C. at 1091; *See Kansas-Nebraska Natural Gas Company*, 53 F.P.C. 1691, 1696–1699 (1975).

[20] *See* Opinion No. 770–A, *mimeo* at 147 (issued November 5, 1976) 56 F.P.C. 2886 (1976); Opinion No. 749–C, *mimeo* at 29 (issued July 19, 1976), *to be published at* 56 F.P.C. 303 (1976); Opinion No. 699–H, *mimeo* at 47 (issued December 4, 1974), *to be published at* 52 F.P.C. 1604, 1634–35 (1974).

[21] Opinion No. 699–H, *mimeo* at 47–50.

[22] *See* comments of El Paso and Northern.

[23] *See Mobile Oil Corp. v. FPC*, 417 U.S. 283, 316–317 (1973); *Permian Basin Area Rate Cases*, 390 U.S. 747, 796–798 (1973).

[24] Comments of El Paso. *See* discussion *infra*.

[25] *See* comments of El Paso, Northern and New York.

exchange for assuring their customers

govern investment decisions concerning

on the provisions of the final rules

§ 154.38 which require a pipeline to file

exchange for assuring their customers the opportunity to enjoy the additional volumes resulting from successful ventures at a price determined on a cost-of-service basis. The Commission therefore will not extend pricing parity to pipeline production which prior to the enactment of the NGPA was valued on a cost-of-service basis rather than by reference to area or nationwide rates.

For the foregoing reasons, we are promulgating a final substantive rule [36] which continues the policy of parity of pricing treatment for pipeline production now subject to area or nationwide rates.

IV. Summary of Comments and Analysis of the Final Rule.

A. *Parity of Price Treatment*

In response to the Notice of Proposed Rulemaking, the American Gas Association (AGA), Natural Gas Pipeline Company of America (Natural), Consolidated Gas Supply Corporation (Consolidated), Northwest Pipeline Corporation (Northwest), Public Service Commission of the State of New York (New York), El Paso Natural Gas Company (El Paso), Southern Natural Gas Company (Southern), Northern Natural Gas Company (Northern), and United Gas Pipeline Company (United) have submitted comments expressing support for the parity policy. They commend the proposed rule as a logical extension of past Commission policy favoring parity of pricing treatment between pipelines and other producers in order to promote equity and fundamental fairness, and to encourage natural gas production. These commenters emphasize that absent parity of treatment, pipeline producers will be unable to compete for leases and develop new gas supplies for their customers.

Two comments raise various legal and policy objections to the concept of pricing parity. Kentucky-West Virginia Gas Company (Kentucky-West Virginia) argues that the establishment of pricing parity under the NGA is outside the scope of the Commission's authority, because it rests upon an improper interpretation of the NGPA's definition of first sale. It contends that any sale that includes volumes of pipeline production including a mixed volume sale, is statutorily entitled to NGPA first sale treatment for any portion of the sale that is attributable to the pipeline's own production. Therefore, Kentucky-West Virginia argues, all pipeline production should be priced under the NGPA regardless of its prior treatment under the NGA.

Questions concerning the Commission's interpretation of the NGPA's first sale definition as it applies to pipeline production pertain directly to Order No. 58, and not to this rulemaking.[37] Therefore, we will deal with these comments when we consider applications for rehearing of Order No. 58.

The Kansas Corporation Commission (Kansas) objects to the policy underlying this rulemaking on wholly different grounds. In its view, the Commission has correctly interpreted section 2(21)(B) of the NGPA to exclude a pipeline's mixed volume sales from first sale treatment. However, it contends that the fact that such sales have been statutorily excluded from first sale treatment is evidence of Congressional intent to prevent pipeline producers from collecting NGPA rates.

Kansas further argues that the Commission lacks authority to provide for the collection of NGPA rates under the NGA. It contends that a just and reasonable rate within the meaning of the NGA must be cost-based. In Kansas' view, the NGPA rates were established primarily to escape the bounds of the NGA's restrictive standards, necessarily implying that the NGPA rates are not just and reasonable. Finally, Kansas also contends that even if the Title I[1] prices were just and reasonable, the Commission should not permit such rates to be collected for flowing gas and gas produced from properties acquired before enactment of the NGPA. Kansas argues that the allowance of an incentive price for such gas will not result in increased exploration and development activities, and therefore, urges the Commission to offer NGPA incentive prices only for gas produced from leases acquired by a pipeline on or after November 9, 1978, where qualification for sections 102, 103, 107 or 108 has been obtained.

We cannot agree that our action is impermissible under the NGPA or the NGA. Our interpretation of the NGPA's first sale definition does not reflect the view that Congress intended to insure that pipeline production would be valued at a rate lower than that applicable to sales by independent producers. Rather, our interpretation of section 2(21)(B) is premised on the view that Congress chose to maintain NGA price regulation of mixed volume sales to facilitate the coordination of our on-going authority over pipeline services with our duties to implement the wellhead pricing scheme of Title I.[38] We find no evidence either in the legislative history or implicit in the language of section 2(21)(B) that Congress intended us to take no cognizance of the NGPA prices in exercising our pricing authority under the NGA.

The Commission is aware, of course, that rates granted under the NGA generally must be just and reasonable. We do not believe, however, that our decision to permit pipelines to collect incentive rates commensurate with the NGPA prices works an unjust and unreasonable result.[39]

While it is true that the Commission's historical reliance on cost-based ratemaking methodology has nurtured the growth of an intricate regulatory scheme which has been, to a large extent, analytically dependent upon cost concepts, we have also consistently recognized that the rigors of a wholly cost-based methodology cannot accommodate the need for price incentives to induce the exploration for and development of additional gas supplies. In reviewing our policies in this regard the courts have indicated that although the Commission must consider cost factors in order to protect consumers from excessive rates, it may also include price incentive factors in the rate in order to assure consumers an adequate supply of gas.[40]

Although the Commision has employed several methodologies for pricing pipeline production, it has expressed a preference for valuing pipeline production by reference to producer rates, because that method achieves parity of treatment and results in the least potential for distortion of the incentives and disincentives which govern investment decisions concerning natural gas production. Comments received in this docket and in the course of our consideration of Order No. 58 persuade us that failure to continue parity of treatment would introduce distortions into natural gas production investment decisions in derogation of the substantial public need for stable, domestically produced energy supplies.

Continuing this policy of pricing parity requires that we now price pipeline production by reference to NGPA prices. In doing so without instituting another nationwide ratemaking proceeding we have relied on Congress' conclusion that the NGPA prices reflect the composite of cost-based and non-cost-based factors necessary to encourage production of additional gas supplies. Based on this premise, we believe that the valuation of pipeline production by reference to NGPA rates represents the most reasonable reconciliation of consumer and producer interests, and therefore achieves a just and reasonable result.[41]

B. *Applicability of § 154.42* [42]

The final rule in § 154.42 implements the Commission's decisions in this regard and, although it is being promulgated as a substantive rule rather than a statement of policy, is essentially the same as the rule set forth in the Notice of Proposed Rulemaking. It applies NGPA pricing to all non-first sale natural gas produced by an interstate pipeline or its affiliate on or after November 15, 1979 (the day after issuance of the Notice of Proposed Rulemaking) unless such production is from a lease acquired before November 15, 1979, that has ever been granted cost-of-service treatment. However, under new § 154.42(a)(2), a pipeline would be able to obtain NGPA pricing for gas produced as early as December 1, 1978, provided it had either made a filing under section 4 of the NGA to collect the rate and the Commission's suspension of the rate was conditioned on the provisions of the final rules promulgated in this order, or it had filed for cost-of-service treatment under § 2.66(a)(4) and such treatment was denied by the Commission after December 1, 1978.[43]

In commenting on the proposed rule, Columbia and Northern maintain that the Commission should allow pipelines to collect NGPA prices for all production after December 1, 1978, unless the Commission has provided otherwise by order. Northern argues that the Commission should not rely on the "procedural happenstance of whether the pipeline, either by suspension of a portion of its PGA adjustment filing or otherwise, has had its entitlement to rates conditioned on the provisions of the rule issued in this docket."

We do not agree that the effect of this provision is to condition a pipeline's rights upon "procedural happenstance." Pipelines who filed to collect Title I prices upon enactment of the NGPA were subject to the Commission's PGA regulations. At that time, § 154.38 authorized the passthrough of area or nationwide rates for pipeline production "that qualifies for and is being afforded area or nationwide rate treatment or is otherwise being afforded area or nationwide rate treatment as though the gas were being produced by an independent producer." [44] This limitation on a pipeline's ability to reflect its own production in a PGA filing was imposed in recognition of the fact that pipeline production priced on a cost-of-service basis was already being reflected in the pipeline's section 4 rates on a test period basis. In accordance with this provision, the Commission rejected any rate filing to collect NGPA prices for pipeline production subject to cost-of-service treatment as inconsistent with the provisions of the Commission's PGA regulations. The Commission suspended other filings where the pipeline had valued its own production, which was eligible for inclusion in its PGA, at NGPA rates and conditioned these filings on the outcome of this rulemaking. In this respect, the provisions of new § 154.42(a)(2) are consistent with the policy reflected in § 154.38 and affirmed in this rulemaking to exclude from parity pricing all pipeline production now subject to cost-of-service treatment.

With regard to pipeline production for which NGPA rate treatment is available, this provision is also consistent with the provisions of section 4 of the NGA and § 154.38 which require a pipeline to file for rate increases before passing through the costs of purchased gas and its own production. Compliance with the filed rate requirement assures the Commission the opportunity to review the rates to determine whether they are eligible to be passed through to the pipeline's customers. The requirement to which Columbia and Northern object implements the Commission's intent, consistent with prior practice, to permit pipeline producers eligible for NGPA rates under the provisions of this rule to receive those rates from the effective date of the NGPA, if they have properly filed to collect them. For these reasons the requirement will be retained.

C. *Termination of Special Circumstances*

Because new § 154.42 by its terms applies to all gas produced from leases acquired on or after November 15, 1979, that section would terminate prospectively relief based on special circumstances, since § 154.42 does not contain a special circumstances provision similar to that in § 2.66(a)(4).[45] One commenter urges the Commission to use its authority under section 502(c) of the NGPA to permit a pipeline to seek cost-of-service pricing treatment for its own production based upon a showing that collection of the applicable NGPA ceiling price works a special hardship upon the pipeline producer. Presumably such a provision would serve the same function as § 2.66(a)(4).

First, the Commission emphasizes that, while section 502(c) empowers the Commission to make adjustments of its rules under the NGPA, the rules governing interstate pipeline production are promulgated under the NGA, and thus technically are not subject to adjustment under section 502(c). Furthermore, the Commission has determined that the NGPA prices provide a system of incentives which adequately compensates a pipeline producer for the risks associated with exploration and development. We therefore decline to extend cost-of-service treatment to pipeline producers not currently on cost-of-service. However, in the Notice of Proposed Rulemaking, the Commission indicated that special relief would be available to pipeline producers to the same extent that it is available to independent producers to encourage investment in new production projects and production enhancement work, and to cover operating and maintenance expenses

---

[36] The Notice of Proposed Rulemaking set out proposed § 2.66a as a statement of policy, but indicated that the Commission might choose to issue these provisions as substantive regulations. Proposed § 2.66a has been modified to reflect our decision that this policy should take effect as a substantive rule, which is promulgated at 18 CFR § 154.42.

[37] Kentucky-West Virginia has articulated the same arguments in its application for rehearing of Order No. 58.

[38] *See* Order No. 58, *mimeo* at 5–7.

[39] The Commission has broad authority in selecting methods for determining individual components of a pipeline's cost of service, so long as the resulting pipeline rate is just and reasonable under sections 4 and 5 of the NGA. In *Hope Natural Gas Co.* v. *FPC*, 320 U.S. 591 (1943), the Supreme Court stated that a challenge to a Commission ratemaking decision involves the question "whether that order, 'viewed in its entirety' meets the requirement of the Act * * *. It is the result reached not the method employed which is controlling." *Id.* at 602. We believe, however, that the Commission exercises its discretion in a manner most consistent with the provisions of sections 4 and 5 of the NGA when it values the pipeline production component of the pipeline's cost-of-service as well as the entire rate at levels which are just and reasonable within the meaning of the NGA.

[40] *See, e.g., American Public Gas Ass'n* v. *FERC*, 567 F. 2d 1016, 1059 (1977), *cert. denied* 435 U.S. 907 (1978); *City of Chicago* v. *FPC*, *supra note* 13, 458 F. 2d at 750–51 (D.C. Cir. 1971); *See also* note 23 *supra*, and accompanying text.

[41] Similarly, we believe that it is necessary under the NGA to require customers of interstate pipelines to bear the burden of certain non-cost incentives in order to assure that their needs for additional gas supplies are satisfied. The Commission has in the past granted higher prices for flowing gas, reasoning that a pipeline's customers should be required to share with future customers the higher costs of developing the natural gas supplies to replace the supplies they consume. Opinion No. 749, 54 F.P.C. 3090 (1975) *aff'd, Tenneco Oil Co.* v. *FERC*, 571 F.2d 834 (1976), *cert. dismissed*, 439 U.S. 801 (1978).

[42] The rule in this docket was originally proposed as a statement of policy and thus was drafted to amend Part 2 of the Commission's regulations, "General Policy and Interpretation" by creating a new § 2.66a. Because we have decided to issue a substantive rule in this docket, we will amend Part 154, "Regulations Under the Natural Gas Act" to create a new § 154.42, "Pricing of Certain Gas Produced on or after December 1, 1978, by Pipelines and Pipeline Affiliates."

[43] The provision for gas denied cost-of-service treatment is an addition to the rule as originally proposed. *See infra* note 44, and accompanying text.

[44] 18 CFR 154.38, n. 1 (1979).

[45] The termination of the special circumstances provision has no retroactive effect. Pipeline production from leases which have ever been subject of cost-of-service treatment will continue to be subject to such treatment. *See* discussion *infra*.

that cannot be recouped under the applicable NGPA rates.

The Commission is presently considering regulations governing applications for special relief applicable to independent producers and pipeline producers whose sales qualify as first sales under § 270.203 [36] and has specifically solicited comments discussing whether the proposed provisions for special relief should be made available to pipeline producers for gas not sold in first sales. That issue will be resolved within the context of the special relief rulemaking.

D. *Requirements to Collect NGPA Rates*

Section 2.66a(b)(1)(i) [37] of the proposed rule set out the general policy permitting pipelines to value their production that is subject to § 2.66a by reference to Title I prices prescribed under Subparts B, C, D, G, H or J, and under Subpart K of the Commission's regulations, if certain conditions are met.

In the Notice of Proposed Rulemaking we did not raise directly the question whether pipeline producers should be permitted to collect deregulated prices if the sale is not a first sale. However, in the interim rulemaking deregulating the price of natural gas subject to section 107(c)(1)–(4), the Commission requested comments on whether production by interstate pipelines should be valued by reference to the price of natural gas deregulated under the NGPA. All of the comments addressing this issue urge the Commission to extend such rates to eligible pipeline producers.

We recognize that in deregulating high-cost gas, Congress determined that the production of such gas should be encouraged at whatever price the market will bear. We believe that the same incentive price should be available to interstate pipelines and have therefore modified the proposed rule to permit interstate pipelines to value their production of such high cost gas by reference to our rules in Part 272 concerning deregulation.

The Commission is concerned, however, that reference to a market price imposes no meaningful limitation on the pipeline's valuation of its own production, which is not determined by contract negotiation. [38] Section 601(b)(1)(E) of the NGPA addresses the problem created by the absence of a true bargaining relationship when a first sale contract price is established by an interstate pipeline and its producing affiliate regarding regulated as well as deregulated gas. That section provides that the price paid in the first sale by a pipeline to its affiliated producer will not be deemed just and reasonable (and therefore will not be subject to PGA passthrough) unless the price does not exceed the amount paid in comparable first sales between persons not affiliated with such interstate pipeline.

In order to accomplish a similar purpose for pipeline producers, § 2.66a(b)(1)(ii)(A) [39] of the proposed rule conditioned the availability of price parity treatment on compliance with the affiliated entities rule in section 601(b)(1)(E). Such a requirement would impose a market based limitation on the valuation of all pipeline production, including deregulated gas, comparable to contract price limitations borne by independent producers.

The Commission remains persuaded that pipeline producers who receive parity of pricing treatment should be subject to a market based limitation on the valuation of their own production. However, the proposed regulation's reference to the affiliated entities rule of section 601(b)(1)(E) may be inadequate because the language of section 601(b)(1)(E) is, on its face, applicable only to first sales between interstate pipelines and their affiliates. For this reason, we have modified the language of the proposed rule to make it clear that pipeline production may not be valued at a rate in excess of the amount paid in comparable sales between persons not affiliated with the interstate pipeline or with each other. The modification has been incorporated into the general rule regarding NGPA pricing treatment in new § 154.42(b)(1). Under that provision qualifying production as defined in paragraph (b)(2) is priced at the lower of the applicable NGPA referenced rate or the amount paid in comparable sales between persons not affiliated with the pipeline or with each other.

Section 2.66a(b)(1)(ii) of the proposed rule contained two other conditions with which a pipeline was required to comply before receiving NGPA rates for its production. The pipeline was required to comply with all of the requirements in Subchapter H, including those relating to filing requirements for jurisdictional agency determinations, provisions for interim and retroactive collection, and Part 276 reporting requirements. The requirement that a pipeline or affiliate comply with the requirements of Subchapter H, except the requirement of § 270.101(d)(1), has been retained in § 154.42(b)(3) of the final rule. We are aware, however, that pipelines may have been uncertain as to their filing obligations with regard to production not sold in a first sale, and may have failed to make timely filings as required under Subchapter H. We have therefore provided in new § 154.42(b)(3)(i) that a pipeline may be granted a waiver of any time of filing requirement upon showing that a timely filing was not made because the pipeline had no notice that it was subject to such requirement. [40]

In addition, the proposed rule conditioned a pipeline's authority to collect the applicable NGPA rates upon compliance with the rate change filing requirements applicable to independent producers under § 154.94 of the Commission's regulations. Section 154.94 establishes blanket affidavit filing requirements which permit a qualifying producer who filed a blanket affidavit prior to December 30, 1978, to collect NGPA prices retroactively to December 1, 1978, the effective date of the NGPA. Under § 154.94 producers who file on or after December 30 may only collect NGPA prices prospectively. Southern and Sonat request that the Commission modify this restriction, pointing out that pipeline producers had no notice that such requirements could be applicable to them and therefore complied only with the PGA rate change requirements in § 154.38.

After reviewing the requirements of § 154.94, we have concluded that they impose unwarranted burdens on pipeline producers. We now believe that it is adequate for pipeline producers to report the value of their own production through their PGA filings, which in the past have provided the Commission with adequate information regarding the validity of such charges. Therefore, the Commission has provided in § 154.42(b)(3) that a pipeline need not comply with § 270.101(d)(1) of Subchapter H which require compliance with the filing requirements set out in §§ 154.92 and 154.94.

[36] Notice of Proposed Rulemaking, Procedures Governing Applications for Special Relief under sections 104, 108 and 109 of the NGPA, Docket No. RM79–67 (issued June 9, 1980).

[37] *See* § 154.42(b)(1) of the final rule.

[38] Kansas claims that proposed § 2.66a created "super parity" because it allows pipelines NGPA prices while NGPA prices available to producers are limited by contract. Kansas states that this will be used to the advantage of producers in Order No. 23–B protest proceedings. Acknowledging, as Kansas does, that all producers contracts after December 1, 1978, will have rate clauses referencing congressionally set rates, so in that regard there is no "super parity" as to pre-December 1, 1978 contracts, the "affiliated entities limitation" in proposed § 2.66a(b)(1)(ii)(A) and in new § 154.42(b)(1) prevents pipelines from costing their own production on the basis of NGPA rates where that pipeline or other pipelines are paying less than NGPA rates to other producers.

[39] *See* § 154.42(b)(1) of the final rule.

[40] This provision for waiver of filing requirements does not extend to waiver of applicable PGA filing requirements under 18 C.F.R. § 154.38.

E. *Exception for Natural Gas Subject to Cost-of-Service Treatment*

As noted above, the proposed rule excluded from eligibility for NGPA referenced rates any pipeline production which has ever been subject to cost-of-service treatment. Under proposed § 2.66a(b)(1)(i), [41] production from pre-1973 wells on pre-October 8, 1969 leases remained subject to cost-of-service rate treatment. Also, under § 2.66a(b)(1)(iii) and (b)(2), the Commission proposed to continue cost-of-service treatment for any gas granted such treatment under the special circumstances provisions of § 2.66(a)(4).

El Paso, New York, and Northern strongly support the exclusion of cost-of-service gas from parity treatment, arguing that in these cases the pipeline's stockholders have not borne the risk of exploration and production (as in the case of production valued at area or nationwide rates), and thus the pipelines do not need the price incentives for such gas.

Although CIG and Columbia also agree with the Commission's proposal to extend NGPA prices to pipeline production which is not subject to first sale treatment, they argue that the Commission should provide complete parity for pipeline production by allowing all pipeline production to be valued by reference to NGPA prices. They maintain that such a rule furthers the purposes of the NGPA to provide capital and other inducements to explore for and develop additional gas, and "to promote conservation of a finite and strategic substance by causing the consumers to pay a price more representative of its replacement cost."

CIG also argues that whether pipeline production gets cost-of-service treatment or the section 104 rate, those prices should be escalated monthly by the statutorily prescribed inflation factor, because Congress intended the rate for all production under the NGPA to escalate for inflation. Finally, CIG argues that pipelines need the same incentives provided under section 108 for stripper wells as other producers will receive. CIG maintains that cost-of-service treatment does not provide sufficient incentives since old wells have already been depreciated and thus, the rate of return allowed under cost-of-service treatment would produce a rate lower than the section 108 maximum lawful price.

As discussed above, the Commission believes that there are compelling reasons for not allowing cost-of-service production to receive NGPA pricing treatment. The purchasers of cost-of-service gas have provided the pipeline with significant cost guarantees and other benefits not available to independent producers. The Commission agrees with El Paso, Northern, and New York that retaining cost-of-service treatment for production granted cost-of-service treatment under special circumstances provides all parties concerned with what they bargained for. We also note that cost-of-service treatment, in permitting the recovery of test period costs, provides for recovery of increased costs due to inflation. Therefore, the NGPA inflation adjustment is not necessary to assure these pipelines the full recovery of their costs. For these reasons, the Commission declines to modify new § 154.42 to extend NGPA rates to all pipeline production.

Several comments request that the Commission clarify the effect on certain particular cases of the language of the exclusion in what is now § 154.42(b)(2)(ii) concerning leases acquired before November 15, 1979 which have ever been granted cost-of-service treatment upon a showing of special circumstances. New York argues that by limiting the scope of the exclusion to gas produced from leases *granted* cost-of-service treatment, the Commission has failed to make clear the treatment to be accorded pipeline production valued on a cost-of-service basis as a result of a settlement, or pending final disposition of a special circumstances application. New York urges the Commission to require, in both types of cases, that such production continue to be valued on a cost-of-service basis, arguing that pipelines that have enjoyed the benefits of cost-of-service treatment should not now be permitted to collect the higher NGPA rates.

New York correctly notes that in many cases pipeline production has been subject to cost-of-service treatment pursuant to a settlement agreement adopted in lieu of a Commission finding of special circumstances. It was our intent in § 2.66a(b)(1)(iii) of the proposed rule that such treatment continue in effect. We have therefore provided more clearly for that result in new § 154.42(b)(2)(ii) by expressly excepting from NGPA treatment natural gas from leases which have ever been granted cost-of-service treatment pursuant to a settlement approved in lieu of a finding of special circumstances.

The Commission addressed the issue of pending proceedings in the Notice of Proposed Rulemaking, indicating that we would not use this rulemaking to dispose of the matters pending before the Commission in Docket No. RP75–106. [42] In that docket, Columbia Gas Transmission Company sought to show that special circumstances existed which warranted cost-of-service treatment for certain of Columbia's Appalachian production. Since the issuance of the Notice of Proposed Rulemaking, the Commission in Opinion No. 74 has determined that special circumstances do not exist and has therefore denied Columbia's request for cost-of-service treatment. [43] Therefore, because Columbia has not been granted cost-of-service Treatment under the special circumstances provisions of § 2.66(a)(4), Columbia may value its production that is otherwise eligible under this rule by reference to NGPA maximum lawful prices. [44]

Northern has requested that the Commission modify the cost-of-service exemption with regard to production of gas from leases now subject to modified cost-of-service rate treatment. Under Northern's modified cost-of-service rate treatment, the pipeline values a portion of its production on a cost-of-service basis and the remaining portion by reference to area rates. Northern notes that in its case, the percentages are computed as an undivided rate and are not allocated among the pipeline's producing leases. Thus, it is concerned that all production from any lease subject to 75 percent cost-of-service treatment would be subject to cost-of-service treatment rather than NGPA referenced rates. They urge the Commission to amend § 2.66a(b)(1)(iii) of the proposed rule [45] to exclude from parity of price treatment "production from leases acquired before November 15, 1979, to the extent such *production* has ever been granted cost-of-service treatment pursuant to § 2.66(a)(4)

[41] *See* § 154.42(b)(2)(i)(A)–(D) of the final rule.

[42] Notice of Proposed Rulemaking, *supra* note 19, at 11 n. 7. Also in the Notice, the Commission noted that Michigan-Wisconsin Pipeline Company received cost-of-service treatment under § 2.66(a)(4) for the period November 1, 1973 through October 31, 1977, but that the Commission in approving settlements covering rates for subsequent periods "has expressly disavowed any policy decision regarding the pricing approach incorporated in the settlements." *Id.*

[43] On June 27, 1980, the Commission voted to deny rehearing of Opinion No. 74.

[44] Section 154.42(a)(2)(ii) makes clear that pricing parity is applicable to all of Columbia's production since December 1, 1978, that has been denied cost-of-service treatment in Docket No. RP75–106. Columbia is nevertheless subject to other requirements of this rule and the Commission's regulations under the NGA. These include, but are not limited to, the filed rate doctrine of section 4 of the NGA and §§ 154.38 and 154.63 of the Commission's regulations, and the requirement under § 154.42(b)(3)(i) that a pipeline comply with the provisions of subchapter H, absent a waiver.

[45] *See* § 154.42(b)(2)(ii) of the final rule.

(relating the special circumstances.)" (emphasis added.)

It was the Commission's intent in establishing this rule to leave intact existing pricing schemes which were designed to encourage the drilling programs of individual pipelines. Because we agree that pipelines subject to modified cost-of-service treatment should continue to value the designated percentage of their production by reference to prices applicable to sales by independent producers (NGPA rates), we have expressly provided for that result in new § 154.42(b)(2)(ii).

El Paso urges the Commission to adopt a similar amendment to § 2.66a(b)(1)(iii) of the proposed rule for somewhat different reasons. In El Paso's view, the Commission erred in applying the exclusion to natural gas from leases acquired before November 15, 1979, if any production from such leases was ever accorded cost-of-service treatment. El Paso contends that new production from such leases should receive parity treatment, and therefore urges the Commission to limit the language of new § 154.42(b)(2)(ii) to exclude only that "production" which has ever been granted cost-of-service treatment under special circumstances.

El Paso appears to have misconstrued the Commission's purpose in excluding cost-of-service gas from NGPA rate treatment. It was our design to enforce the perimeters which the pipelines themselves drew around their drilling programs. In determining the applicable cost-of-service allowance, the Commission included the pipeline's costs of lease acquisition, exploration and development. The risks associated with these expenditures have already been passed on to the pipeline's customers. We therefore will continue to treat on a cost-of-service basis any gas produced from developed or undeveloped leases, if such leases were acquired before November 15, 1979, and were ever subject to cost-of-service treatment.

F. Abandonment of Leases Now Subject to Cost-of-Service Treatment

In the Notice of Proposed Rulemaking, the Commission expressed its concern that pipelines may seek to circumvent the exclusion of cost-of-service gas from NGPA price treatment by spinning-off to affiliates their properties which are now valued on a cost-of-service basis. Under § 270.203(c), the affiliate's sale back to the pipeline of gas from those properties would be a first sale. We emphasized that any such transfer would require the Commission's authorization of abandonment. Also, because the gas is committed or dedicated to interstate commerce within the meaning of section 2(18) of the NGPA, we took the position that the affiliate would be required to file a certificate application in order to make the sale of the transferred gas to the interstate pipeline. We cautioned pipelines that the Commission would closely scrutinize abandonment and certificate applications to assure that the transaction is not merely an attempt by the pipeline to avoid continued cost-of-service pricing treatment.

Kentucky-West Virginia objects to our statements in the Notice of Proposed Rulemaking that we would carefully scrutinize any attempt by a pipeline to transfer its leases to an affiliate in order to circumvent our decision to deny parity of pricing treatment to pipelines now subject to cost-of-service treatment. It maintains that any attempt by the Commission to deny a certificate to an affiliate of a pipeline in order to prevent the affiliate from selling production from leases transferred from the pipeline and then sold back to the pipeline at NGPA prices would be contrary to section 601(c) of the NGPA. Section 601(c) provides that the Commission cannot deny or condition the grant of any certificate under section 7 of the NGA based upon the amount paid in any sale if such amount is deemed "just and reasonable" under section 601(b) deems NGPA prices to be just and reasonable if paid in a first sale, subject to certain conditions.

The Commission does not believe that its authority under the NGA to scrutinize such a transaction has been significantly limited by the NGPA. Assuming that the interpretation of 601(c) proffered by Kentucky-West Virginia is correct, the pipeline is nevertheless required to obtain the Commission's authorization before it may transfer its production properties.[46] The Commission reiterates that we will closely scrutinize any attempt to spin-off developed and undeveloped leases and will exercise our full authority to prevent spin-offs undertaken in order to circumvent the policies established in this rule.

EFFECTIVE DATE: This final rule is effective September 3, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12,009, 42 FR 46267)

In consideration of the foregoing, the Commission amends Part 2 of Subchapter A, Part 154 of Subchapter E, and Part 270 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, effective September 3, 1980.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.66 [Amended]

1. Part 2 is amended in the table of contents and in the text of the regulations by inserting in the title of § 2.66 the word "certain" between "of" and "new" and is further revised by adding at the end of the text of § 2.66 the following new paragraph:

* * * * *

(e) *Inapplicability to certain gas produced on or after December 1, 1978.* This section does not apply to natural gas produced on or after December 1, 1978:

(1) If such gas sold in a first sale, as determined under § 270.203 of this chapter; or

(2) If § 154.42 is applicable to such gas.

PART 154—RATE SCHEDULES AND TARIFFS

2. Part 154 is amended in the table of contents and in the text of the regulations by adding after § 154.41 the following new § 154.42:

§ 154.42 Pricing of certain gas produced on or after December 1, 1978, by pipelines and pipeline affiliates.

(a) *Applicability.* This section applies to natural gas that is produced by an interstate pipeline or an affiliate thereof and that is delivered to such pipeline, other than in a first sale, if:

(1) Such gas is produced on or after November 15, 1979; or

(2) Such gas is produced on or after December 1, 1978, and before November 15, 1979, and

(i) Is specifically made subject by Commission order to the outcome of the proceeding in which this section has been promulgated; or

(ii) Such pipeline's or affiliate's filing for cost-of-service treatment for such gas was denied by the Commission under § 2.66(a)(4) of this chapter after December 1, 1978, for failure to show special circumstances justifying such treatment.

(b) *NGPA rate treatment.* (1) *General rule.* Natural gas to which this section applies and for which NGPA rate treatment is available under paragraph (b)(2) of this section shall be priced for ratemaking purposes in any pipeline rate proceeding at the lower of:

[46] *See,* Opinion No. 628, *Panhandle Eastern Pipe Line Co.*, 48 F.P.C. 518 (1972).

(i) The rate that would have been applicable under Part 271 or under Part 272 of Subchapter H had the gas been delivered to the pipeline in a first sale; or

(ii) The amount paid in comparable sales (which may also be first sales) between persons not affiliated with such interstate pipeline or with each other.

(2) *Gas for which NGPA rate treatment is available.* (i) For purposes of this section, NGPA rate treatment is available (except as provided in paragraph (b)(2)(ii) of this section) for natural gas if the production is from a lease owned by a pipeline or affiliate thereof and if:

(A) The lease was acquired after October 7, 1969; or

(B) The natural gas is produced from a well commenced on or after January 1, 1973; or

(C) The natural gas is produced through a well commenced prior to January 1, 1973, as a result of a completion operation commenced on or after such date into a different, formerly nonproductive reservoir; or

(D) The Commission, prior to December 1, 1978, had granted area or nationwide rate treatment for such gas in lieu of otherwise applicable cost-of-service treatment; except that NGPA rate treatment shall be available only for natural gas produced during the period for which area or nationwide rate treatment was provided in applicable Commission orders and shall also be subject to the conditions specified in such orders.

(ii) *Exclusion from NGPA rate treatment.* NGA rate treatment is not available for natural gas produced from leases acquired before November 15, 1979, which have ever been granted cost-of-service treatment pursuant to § 2.66(a)(4) of this chapter or pursuant to a settlement approved by the Commission in lieu of a finding of special circumstances under that section; except that, in the case of natural gas from leases which have been granted area or nationwide rates for some specified percentage, NGPA rate treatment is available for that specified percentage.

(3) *Subchapter H requirements.* A pipeline or affiliate that produced natural gas for which NGPA rate treatment is available under paragraph (b)(2) of this section shall be subject to all the requirements of Subchapter H that would have been applicable had the natural gas been delivered pursuant to a first sale other than the requirement of § 270.101(d)(1) regarding applicable filing requirements under § 154.92 and § 154.94. Such pipeline or affiliate may apply for a waiver of any time-of-filing requirement in Subchapter H based on a showing that a timely filing was not made because such pipeline or affiliate had no notice that it was subject to such requirement under this subparagraph.

(c) *Cost-of-service treatment.* In any pipeline rate proceeding, natural gas to which this section applies and for which NGPA rate treatment is not available shall be priced for ratemaking purposes on a cost-of-service basis.

(d) *Definitions.* For purposes of this section:

(1) *NGPA definitions.* The terms "interstate pipeline," "affiliate," and "first sale" have the same meaning as they have for purposes of Subchapter H.

(2) *Lease.* The term "lease" includes any fee interest in producing property or any working interest in production.

(3) *Pipeline rate proceeding.* The term "pipeline rate proceeding" includes a proceeding under § 154.38(d)(4).

§ 154.38 [Amended]

3. Part 154 is further amended by deleting the first sentence in footnote 1 to § 154.38(d)(4) and substituting the following sentence in lieu thereof:

[1] For the purpose of this paragraph, purchased gas costs represent the cost of wellhead purchases, field line purchases, plant outlet purchases, transmission line purchases, and pipeline or affiliate production that qualifies for and is being afforded an area of nationwide rate under § 2.66 of this chapter, a maximum lawful price under § 270.203 of this chapter, or a rate specified under § 154.42(b)(1).

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

§ 270.203 [Amended]

4. Part 270 is amended in § 270.203 by adding a new paragraph (f) to read as follows:

* * * * *

(f) *Cross reference.* For treatment of interstate pipeline and affiliate production delivered to a pipeline other than in a first sale, see § 2.66 and § 154.42 of this chapter.

[FR Doc. 80-24130 Filed 8-8-80; 8:45 am]
BILLING CODE 6450-85-M

18 CFR Parts 2, 270, and 271

[Docket No. RM80-47]

Order No. 94: Order Amending Interim Regulations Under the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act

Issued July 25, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Amending Interim Regulations, Establishing Policy and Seeking Further Comment.

SUMMARY: By this Order, the Commission, after prior notice and comment, amends those sections of Subpart K, Part 271, of its regulations implementing the production-related costs portion of section 110 of the Natural Gas Policy Act (NGPA); issues a policy statement respecting certain production-related costs incurred by interstate pipeline purchasers under the Natural Gas Act; and seeks further comment on its rules and comment on its policy. The important changes to the interim regulations of Subpart K include, *inter alia*, (1) permitting sellers of committed or dedicated gas under the NGPA to apply for production-related costs in excess of Natural Gas Act allowances; (2) permitting certain sellers of natural gas to collect Natural Gas Act allowances without application; and (3) providing for a new category of production-related costs ("other costs"). In addition, the interim regulations of Subpart K are amended to suspend, during the pendency of new, yet to be announced rulemakings, applications for production-related costs to gather or compress natural gas. Accompanying these changes are changes to Subpart A of Part 270 of the Commission's regulations to define the terms "production-related", "production" and "non-allocable" costs. The policy accompanying these rules provides that certain activities which are production-related will be deemed prudent if undertaken by an interstate pipeline.

DATES: Amendments to Parts 2, 270, and 271 to be effective July 25, 1980; comments on Order No. 94 to be received by September 22, 1980.

ADDRESS: Send comments to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Room 8100-K, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8150.

United States of America

Federal Energy Regulatory Commission

[18 C.F.R. Parts 2, 270 and 271]

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr. and George R. Hall.

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978

and Establishing Policy Under the

proceedings brought under the Natural

allowance can be granted, the words of

lift" operations or other artificial liquid

gas means that those who purchase

and Establishing Policy Under the Natural Gas Act, Docket No. RM80–47.

Order No. 94

Rule

Issued July 25, 1980

Amending Interim Regulations Under the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act.

By this rule, the Federal Energy Regulatory Commission (the Commission) amends certain portions of Subpart K, Part 271 of its regulations implementing section 110 of the Natural Gas Policy Act of 1978 (the NGPA). The parts of Subpart K treated under this Rule are those interim regulations addressing allowances for production-related costs for sales of natural gas produced in the lower-48 states.[1] The rule defines the types of production-related costs which may be applied for, permits automatic add-on of certain costs without application and expands the scope of persons who may apply for production-related costs to include sellers of committed or dedicated gas. The amendments also provide that costs of compression and gathering cannot be applied for until the conclusion of generic rulemaking proceedings to establish appropriate allowances for these activities.[2]

This Rule also establishes a policy in Part 2 of the Commission's regulations that addresses interstate pipeline purchasers subject to the Natural Gas Act jurisdiction of the Commission. The policy provides that certain types of production-related costs incurred by an interstate pipeline purchaser will be deemed prudently incurred in proceedings brought under the Natural Gas Act.

These actions, in conjunction with the proceedings to determine appropriate allowances to gather and compress gas, will, we believe, establish a coherent mechanism for implementing section 110 of the NGPA.[3]

A. Background

The NGPA was signed into law on November 9, 1978.[4] Among the most important of its provisions are those of Title I dealing with "first sales" of natural gas made in interstate or intrastate commerce on or after December 1, 1978.[5] Under these provisions, the price at which natural gas may be sold in a first sale cannot exceed an applicable maximum lawful (ceiling) price established by Congress or the Commission.

Section 110 of the NGPA, entitled "Treatment of State Severance Taxes and Certain Production-Related Costs", provides in part that:

> . . . a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas . . . if such first sale price exceeds the maximum lawful price to the extent necessary to recover . . . any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

Under these terms, the Commission is given authority to permit sellers of natural gas to charge prices in excess of established ceiling prices in order to allow them to recoup certain "production-related" costs borne by them.

The words of section 110 ("allowed . . . by the Commission"), and its legislative history, show that the Commission's authority to grant an allowance for production-related costs is discretionary.

The joint statement of managers which accompanied the NGPA to the floor of Congress makes clear the authority under section 110 is discretionary and that this discretion extends to all ceiling prices.[6] In addition, the floor debates which attended passage of the NGPA spoke of the authority as being discretionary.[7]

Yet this discretion is not without some limits. On the one hand, the legislative history shows that the refusal to grant an appropriate allowance under section 110 may be an abuse of discretion and that, in determining an allowance consistent with the purposes of the NGPA, "prevailing industry practice" may be the guide.[8] On the other, by referencing the activities for which an

[1] In order No. 45 we established final regulations respecting allowances for production-related costs borne by sellers of natural gas produced at Prudhoe Bay, Alaska for transport though the Alaska Natural Gas Transportation System. *See* Order No. 45, "Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported through the Alaska Natural Gas Transportation System: Regulations and Statement of Policy", Docket No. RM79–19 (issued Aug. 24, 1979), 44 *Fed. Reg.* 51554 (Sept. 4, 1979), *as clarified*, Order 45–A, "Order Clarifying Certain Provisions of Order No. 45", Docket No. RM79–19 (issued Sept. 21, 1979), 44 *Fed. Reg.* 56926 (Oct. 3, 1979), *as corrected*, Erratum Notice, Docket No. RM79–19 (issued Oct. 10, 1979), 44 *Fed. Reg.* 61940 (Oct. 29, 1979), *stayed until further notice*, "Order Granting Rehearing for the Purpose of Further Consideration and Further Staying of Order No. 45 and Order No. 31–A", Docket Nos. RM79–19 and RM78–12 (issued Dec. 20, 1979), 44 *Fed. Reg.* 76482 (Dec. 23, 1979). Nothing we do today in the present Order substantively affects or amends Order No. 45.

[2] Today's amendments to the interim regulations do not inaugurate these proceedings. However, any add-ons permitted as a result of the new proceedings will be permitted retroactively to the date today's amendments take effect. *See* text accompanying note 76 *infra*.

[3] In addition to this Rule and Policy, and the two generic rulemaking proceedings for compression and gathering costs just alluded to, there will also be a proposed amendment to bar sellers from selling gas so that a purchaser incurs costs to produce the gas in addition to the first sale price. And there will be a proposed amendment to pipeline filing requirements to implement the policy statement. These proposals are described more fully below.

[4] Pub. L. No. 95–621, 92 Stat. 3353 (1978), 15 U.S.C. §§ 3301 *et seq.* (Supp. II, 1978).

[5] Under Section 2(21)(A) of the NGPA a "first sale" is defined as: any sale of any volume of natural gas—

(i) to any interstate pipeline or intrastate pipeline;
(ii) to any local distribution company;
(iii) to any person for use by such person;
(iv) which precedes any sale described in clauses (i), (ii), or (iii) and
(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

Certain sales, such as those of volumes of natural gas from pipelines or local distribution companies, are not included in the definition of "first sale" unless they are sales of volumes of natural gas attributable to the production of these sellers; *see* section 2(21)(B) of the NGPA.

[6] All ceiling prices under this Act are exclusive of State severance taxes borne by the seller and any adjustment which may be allowed by the Commission for specified production related costs. . . .

The conference agreement provides authority for the Commission, by rule or order, to make adjustments in ceiling prices for production-related costs which include the costs of compressing, gathering, processing, treating, liquefying, or transporting natural gas. The authority is available for making adjustments to all ceiling prices.

The conferees recognize that, in certain cases, the just and reasonable rates under the Natural Gas Act include an allowance for production-related costs. The conference agreement is not intended to alter or change that practice.

Sen. Rep. No. 95–1126, 95th Cong., 2d Sess. at 90 (1978).

[7] *See generally* 124 Cong. Rec. at H13118 (daily ed. Oct. 11, 1978) (statement of Congressman Dingell); 124 Cong. Rec. at S16257 (daily ed. Sept. 27, 1978) (colloquies of Senators Gravel and Jackson and Senators Stevens and Jackson).

[8] With respect to section 110, it has been correctly observed that the authority to permit adjustments is discretionary. However, by authorizing discretionary adjustments the conferees did not intend to authorize a refusal to grant an appropriate allowance where such refusal would be an abuse of discretion. Thus, if the function performed is not usually performed by the producer without provision being made for compensation over and above the amounts paid for the gas, prevailing industry practice may guide FERC to approve ceiling price adjustments which the Commission determines appropriate and consistent with the purposes of the legislation. For example, if the producer undertakes to compress the gas to pipeline pressure, and if an allowance is customarily made by the pipeline for such compression, the conferees anticipated that FERC would consider approval of an appropriate allowance under section 110. However, administrative flexibility was deemed important. Therefore, it was also intended that FERC could selectively focus on the areas which appear appropriate for approval of adjustments under section 110 in such a manner that the implementation of the section would not become administratively burdensome.

124 Cong. Rec. at H13118 (daily ed. Oct. 11, 1978) (statement of Congressman Dingell).

allowance can be granted, the words of section 110 make it clear that there are certain costs which cannot be allowed.

In implementing section 110 we must then steer a middle course; to permit an allowance for activities falling outside the scope of section 110 would be as much as abuse of our discretion as would a refusal to grant an appropriate allowance for activities within its scope. To implement section 110, we must therefore determine first, the costs for which we may grant an allowance (the allowable costs); and then which, if any, of those costs should be allowed as an appropriate exercise of our discretion.

1. *Production and production-related costs.* To say that we have the discretion to allow "production-related" costs does not take us very far in determining what costs are within our discretion to allow under section 110.[9] And the list of activities provided under section 110, while giving some insight to the limits of that section, does not suffice in and of itself to define those limits.

The production and sale of natural gas involves a myriad of costs. In the simplest situation there are costs for seismic and other geophysical surveys, geological activities, lease acquisition, drilling and equipping the well and production of natural gas and liquids. In addition, costs can be incurred for processing, treating, dehydrating, storing and transporting any natural gas that is produced. In more complex situations, as for example when natural gas is produced as oil-well gas, or when it is otherwise produced as a stream bearing liquid hydrocarbons, or liquefiable hydrocarbons or both, costs will be incurred for separation and extraction facilities for the liquids and liquefiables and their transportation and storage. Costs may also be incurred for building and operating facilities to enhance the recovery of oil or natural gas liquids from a reservoir. Included under this heading are facilities to reinject gas into an oil reservoir or recycle the gas in a gas-condensate reservoir stream or facilities to use natural gas to lift liquids in the well to the surface (such as, "gas-lift" operations or other artificial liquid lifting operations).

In one sense all of these costs are "production-related" although not all are related to bringing forth natural gas. Moreover, a particular activity can be involved in more than one aspect of this process. The best example is compression which can, among other things, be used to recycle or reinject natural gas into a gas condensate or oil reservoir to enhance recovery or production of liquid hydrocarbons, to drive gas to and through a separator or plant to strip out liquids, transport liquids through a dual-phase transportation system (one carrying both natural gas vapor and liquids), or to raise the pressure of a natural gas stream to permit its entry into a transportation system).

All of this suggests that costs which attend the production of natural gas can be broken down into three categories: costs necessary to bring the gas out of the ground and to the wellhead (the costs of finding and acquiring the gas, of drilling and providing facilities and the costs of maintaining production); costs which go to the production and handling (including separation, storage and transportation) of nongas commodities like oil and natural gas liquids; and costs which, apart from those allocable to nongas production and handling, are incurred to ready the gas for pipeline transportation. Our problem is to determine whether, under section 110, any of these costs are, or should be, allowable add-ons for pricing purposes.

2. *Allowable costs.* We believe that there are two types of costs outside the scope of section 110 and therefore not allowable under its provisions. These are costs incurred in the production and sale of nonnatural gas commodities (as, for example, costs allocable to oil and natural gas liquid production), and costs which are incurred for production of natural gas to the wellhead. To grant an allowance under section 110 for either of these two types of activities would be a circumvention of the NGPA pricing provisions. With respect to costs for the production and sale of nonnatural gas commodities, these should be borne by the consumers of oil and liquids; and with respect to costs incurred for the wellhead production of natural gas, the costs should properly be borne by producers under NGPA ceiling prices.

a. *Allocation of costs between natural gas and liquids.* It should be evident that only costs allocable to the sale of natural gas should be allowed under section 110. That section goes only to first sales of "natural gas". To permit allowances under its provisions for costs which are not allocable to natural gas means that those who purchase under the NGPA, and the ultimate gas consumer, would pay for a benefit not received. Congress could not have intended that we use our discretion in such a manner.

This common-sense approach is supported by other sections of the NGPA and its legislative history. Although the Act itself does not provide a detailed definition of the term "natural gas",[10] the joint statement of managers, in observing that the definition given in the Act "is identical to the definition of natural gas provided in the Natural Gas Act" evinces an intent to limit that term.[11] In implementing the Natural Gas Act, we find that oil and liquids are not included in the definition of "natural gas". This was true in pipeline rate cases where the issue was one of jurisdiction;[12] and it was true after the inauguration of producer rate regulation.[13] Given this history, and given the view that, whatever else our jurisdiction under the NGPA may go to, it does not go to setting prices for oil or natural gas liquid production, we find that the problem of cost allocation remains a stubborn fact of life under section 110 of the NGPA.

The problem of allocating costs between gas production and oil production and between gas production and other liquid production was faced by this Commission's predecessor, the Federal Power Commission (the FPC) in fixing individual producer rates under the Natural Gas Act.[14] Cost allocation

[9] The Congress used the term "production-related" in the title of section 110 and in the joint statement of managers and floor debates to describe the activities for which an allowance could be given under section 110. *See* H.R. Rep No. 95–1752, 95th Cong., 2d Sess. at 90–91 (1978), quoted above at note 6 *supra; see also* 124 Cong. Rec. at H13118 (daily ed. Oct. 11, 1978) (statement of Congressman Dingell) (quoted above at note 8 *supra*), and at S16257 (daily ed. Sept. 27, 1978) (colloquys of Senators Jackson and Stevens and Senators Jackson and Gravel). In the accepted common usage, the suffix "-related" means no more than to have a relation to. *See* Websters Third New International Dictionary 1916 (unabridged ed. 1961).

[10] Section 2(1) of the NGPA states only that, "[t]he term "natural gas" means either natural gas unmixed or any mixture of natural and artificial gas."

[11] H.R. Rep. No. 95–1752, 95th Cong., 2d Sess. at 69 (1978). The joint statement goes on to state that the NGPA is not intended to include facilities for producing synthetic gas or for producing methane gas generated by the decomposition of organic waste. *Id.* Hence our view that these costs are also excluded from section 110.

[12] *See, e.g.*, City of Detroit v. FPC, 230 F.2d 810 (D.C. Cir. 1955), *cert. denied*, 352 U.S. 829 (1956) (in proceeding to determine rate increase for interstate pipeline, pipeline's gasoline plant facilities deemed jurisdictional); *see also* Mobil Oil Corp. v. FPC, 483 F.2d 1238 (D.C. Cir. 1973) (Commission lacks authority under Natural Gas Act to establish mandatory rates for pipeline transportation of liquid hydrocarbons).

[13] The regulation of producer sales of natural gas in interstate commerce for resale dates from June 7, 1954 and the Supreme Court's decision in Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672 (1954) (*Phillips I*).

[14] *See, e.g.*, Davidor & Davidor, 15 FPC 1236 (1956); Union Oil Co. of California *et al.* 16 FPC 100 (1956); *but see* Pan American Corp. *et al.*, 19 FPC 463 (1958) (rate increase not based on production cost evidence). This approach, of requiring production costs to fix just and reasonable rates, was upheld by the courts. Forrest Oil Corp. v. FPC, 263 F. 2d 622 (5th Cir. 1959); Bel Oil Corp. v. FPC, 255 F. 2d 548 (5th Cir. 1958). The premier case in which this was done for an individual producer was that of Phillips

Footnotes continued on next page

took up a considerable portion of the record in area-wide ratemaking proceedings,[15] and in the nationwide ratemaking opinions.[16]

While the concept of cost allocation is simple, this prior history of rate regulation under the Natural Gas Act shows that its practice is exceedingly complex and requires considerable judgment.[17] Yet, given the fact that section 110 goes only to production-related costs of sales of natural gas, we must still insure that natural gas consumers incur only those costs attributable to the natural gas service. Whether a given cost is allocable to natural gas will be determined under the procedures and practices already developed under the Natural Gas Act. We make no changes in these practices by this Rule. The rules implementing section 110 apply then only to those costs which are properly allocable to natural gas production-related activities.

b. *Costs incurred after gas production.* Of the costs allocable to natural gas production and production-related activities, only costs incurred after the natural gas flows from the wellhead should be considered under section 110. We arrive at this conclusion by looking at the list of activities for which a cost allowance can be granted under that section—"any costs of compressing, gathering, processing, treating, liquifying, or transporting such natural gas, or other similar costs." This is a classification by enumeration, and our problem is to define the limits of the class. In doing so, we note that all of the specified activities excepting compression are activities which occur only after the natural gas is produced from the ground and leaves the wellhead; and compression frequently occurs after this point. No mention is made of costs incurred in exploring for and finding natural gas reserves or for equipping wells to produce natural gas. Nor, with the single exception of compression, is there any reference to costs or activities to enhance productivity or to operate or maintain production facilities. (As noted above, compression can be used to enhance gas and oil recovery and to recover and transport liquids.[18]) Finally, we have a general reference ("other similar costs") supplementing the enumeration. All of this leads us to the conclusion that what is meant by a "production-related" cost under section 110 is a cost incurred only after the natural gas leaves the wellhead (*i.e.*, is produced) and that "compression" must be read in the context of such costs.[19]

This result can be tested against other provisions of the NGPA. First, the add-ons of section 110 apply to a ceiling price. Second, under the dictates of Title I, the ceiling prices apply to all "first sales" which are, in turn, defined in terms of to whom the gas is sold.[20] Thus, the Congress provided that first sale ceiling prices may aply downstream form the wellhead, and that they would apply "at the wellhead."[21] The ceiling prices then represent ceilings for gas production. Third, if Congress had intended that the section 110 discretion be used to permit a higher ceiling price for production activities, then particular provisions of the NGPA which permit this Commission to set higher ceiling prices for certain types of gas would be mere surplusage.[22] Finally, in considering the NGPA, and its predecessor bills (specifically the proposed National Energy Act) the Congress was concerned with providing prices for the production of natural gas.[23] All of this leads to the conclusion that to permit a first seller to pass through, under section 110, as an addition to a ceiling price, costs borne by him in producing the gas to the wellhead would be a circumvention of the ceiling prices set by the Congress.

B. Summary of Changes

In implementing section 110 of the NGPA we must exercise our discretion in a manner consistent with the purposes of the Act. This means that allowances cannot be given for costs not allocable to the natural gas nor for costs incurred to produce the gas. It also means that, to the extent costs are allowed, they should be allowed in a manner consistent with the pricing mechanisms established by the Congress; each pricing provision of Title I of the NGPA must be given full effect. Finally, we must further the policies inherent in the pricing provisions of the NGPA without permitting a shift of costs to purchasers as would constitute a circumvention of those policies.

In implementing section 110 defining terms is essential. Using the distinctions described earlier in our discussion of costs,[24] all costs incurred to explore for and develop gas reserves, to drill and equip wells, to enhance natural gas liquid production (as for example recycling gas) and to operate and maintain production of natural gas through the wellhead and similar costs will be termed "production" costs; [25] costs which cannot be allocated to the natural gas sale (as, for example, costs associated with the separation, extraction, storage or transportion of the natural gas liquids or hydrocarbons that are liquefied for separation from the gas stream which are owned by the seller) will be termed "non-allocable" costs; all other costs will be termed "production-related" costs.[26]

In the interim regulations implementing section 110,[27] we described two types of allowable costs: "Natural Gas Act allowances" and "production-related costs".[28] The Natural Gas Act allowances applied to sales of natural gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate was in effect on that date (*i.e.*, committed or dedicated gas).[29] They were defined as the area gathering and offshore-to-onshore delivery allowances provided for under the nationwide rate opinions.[30]

"Production-related" costs were defined as costs for compression; off-lease gathering, liquefication, and transportation; and processing and treating costs necessary to exceed certain specified quality standards ("other" production-related costs).[31] The interim rules barred the sellers of committed or dedicated gas from applying for the "production-related" costs; [32] and sellers of natural gas under existing (as of the date of passage of the NGPA) intrastate contracts, intrastate rollover contracts and successors to existing intrastate contracts were barred from both "Natural Gas Act allowances" and "production-related" costs.[33]

The decision to exclude sellers of committed or dedicated gas from the application provisions for "production-related" costs was based on the fact that the issue of cost shifting under rates set under the Natural Gas Act remained, at that time, pending before the Commission.[34] To have permitted sellers of this gas production-related costs in excess of the "Natural Gas Act allowances" would have been to decide the issue; for such sales, although controlled by the pricing provisions of the NGPA, were still subject to the Natural Gas Act.[35]

The decision to exclude sales of natural gas subject to an existing intrastate contract, intrastate rollover contract or successer to an existing intrastate contract from the application procedure for production-related costs was based on the view that Congress intended to preserve pre-NGPA contractual relationships.

As we expressed it then, "the existing contract provisions reflect the allocation of costs of production as they were contemplated by the parties at the time the contract was negotiated," to permit an increase for production-related costs, "would have the effect of increasing the total costs borne by the purchaser for acquiring the very same commodity as he was acquiring for a lower price before [the] date of enactment." [36] Our view was that to permit an increase would be contrary to the Congressional intent to establish maximum lawful prices under sections 105 and 106(b) of the NGPA by reference to the terms and conditions of the contract.[37]

Taken together, the purpose of the exclusions for committed or dedicated gas and intrastate contract gas was to preserve that aspect of NGPA Title I pricing which was based upon pre-NGPA prices. In addition, it was to prevent a shift to the buyers of what we now term "production" costs (which should be borne by the seller within prescribed ceiling prices) and non-allocable costs.

The same considerations respecting the shifting of costs which should, in the first instance, be borne by sellers, was the basis of defining standards for "production-related" costs under the interim regulations:

> Standards for determining when the Commission will entertain applications for a determination that the maximum lawful price has not been exceeded as a result of the addition of certain production-related costs are require in order to assure that natural gas for which the maximum lawful prices set by the NGPA are paid is that commodity which is of relatively uniform value to the purchased. When a price is charged and collected for a specific commodity, such a product is normally deemed to have certain basic qualities which define the item being purchases. The Commission does not believe that Congress, when setting the maximum lawful prices for natural gas, did not anticipate that the seller would bear normal costs of production in making this commodity useful to the purchaser. The maximum lawful prices were designed to permit the seller to recoup such costs. Section 110 recognizes that some sellers may incur abnormally high costs of production and permits recovery of those costs in circumstances where the Commission finds such recovery to be warranted.[38]

In implementing those standards in the interim regulations, we did not define "compression", nor did we characterize costs for "gathering, liquefaction or transportation" beyond the extent of requiring that they be for activities conducted "off the lease from which the natural gas was produced."[39] The interim regulations did, however, define the costs allowable for processing or treating the natural gas and did so by referencing minimum quality standards that generally prevail in the industry.[40]

In preparing the amendments issued under this Rule, we have had the benefit of the comments and oral presentations submitted specifically in response to

---

Footnotes continued from last page
Petroleum Co., 24 FPC 537, 533–565 (1960), *affirmed*, Wisconsin v. FPC, 373 U.S. 294 (1963) (*Phillips II*).

[15] Opinion No. 468, "Area Rate Processing," Docket Nos. AR61–1 *et al.* (issued Aug. 5, 1965), at 83–89, 34 FPC 159 at 214–216, *affirmed*, Permian Basin Area Rate Cases, 390 U.S. 747 (1978); Opinion No. 546, "Area Rate Proceeding (Southern Louisiana I)", Docket Nos. AR61–2 *et al.* at 73 (issued Sept. 25, 1968), 40 FPC 530, *affirmed*, Austral Oil Co. v. FPC, 428 F.2d 407 (5th Cir. 1970), *cert. denied*, 400 U.S. 950 (1970); Opinion No. 586, "Area Rate Proceeding (Hugoton-Anadarko Area)", Docket Nos. AR64–1 *et al.* at 8 (issued Sept. 18, 1970), 44 FPC 761 at 772; Order No. 411, "Area Rates for the Appalachian and Illinois Basin Areas," Docket Nos. R–371 *et al.* at 3–4 (issued Oct. 2, 1970), 44 FPC 1112 at 1115–1116; Opinion No. 595, "Opinion and Order Determining Just and Reasonable Rates for Natural Gas Produced in the Texas Gulf Coast Area", Docket Nos. AR64–2 *et al.* at 4–5 (issued May 6, 1971); Order No. 435, "Opinion and Order Establishing Initial Rates in the Rocky Mountain Area," Docket Nos. R–389 *et al.* at 18–19 (issued July 15, 1971); Opinion No. 598, "Area Rate Proceeding (Southern Louisiana II)", Docket Nos. AR61–2 *et al.* at 12–13, 50 (issued July 16, 1971) 46 FPC 86 (1971); Opinion No. 607, "Opinion and Order Determining Just and Reasonable Rates for Natural Gas Produced in the Other Southwest Area", Docket Nos. AR67–1 *et al.* (issued Oct. 29, 1971); Opinion No. 658 "Opinion and Order Establishing Just and Reasonable Rates and Initial Rates in the Rocky Mountain Area", Docket No. R–425 (issued Apr. 11, 1973); Opinion No. 662, "Opinion and Order Determining Just and Reasonable Rates for Natural Gas Producers in the Permian Basin Area (Permian II)", Docket No. AR70–1 (Phase 1) (issued Aug. 7, 1973).

[16] *See e.g.*, Opinion 699–H at 31; Opinion 749 at 5–16, 54 FPC 3080 (1975) (establishing a national flowing gas rate for wells commenced, and contracts entered into, prior to January 1, 1975); Opinion 770–A at 58–60, 42 *Fed. Reg.* 2954 (issued Jan. 14, 1973) (establishing a national flowing gas rate for wells commenced on or after January 1, 1973 and certain other sales). Obviously, with the possible exception of some early producer rate cases, rates were set on the basis of more than mere cost allocation. For example, "noncost" elements were introduced to arrive at a just and reasonable rate. *See generally* Opinion No. 595, note 15 *supra* at 8; Opinion No. 749, at 5–6. However, cost allocation was certainly one of the major factors. Opinion No. 749 at 6.

[17] For a brief summary of the problems involved, see Opinion No. 595, note 15 *supra* at 10–11 (cost allocations requiring "substantial amount of judgment").

[18] *See* text following note 9 *supra*.

[19] We apply the twin tools of statutory construction, *ejusdem generis* and *expressio unius est exclusio alterius* to arrive at this result. *See generally* 2A Sutherland: Statutory Construction §§ 47.18 to 47.23 (4th Ed. 1973). The fact that the title to section 110 used the term "production related" to describe the activities for which an allowance can be granted under section 110 cannot, in and of itself, mean that production costs are to be included. *See, e.g.*, United States v. Minker, 350 U.S. 179 (1956) (title of statute not controlling).

[20] *See* note 5 *supra*.

[21] In support of the view that the first sale price can apply at the wellhead, we have the title of the pricing provisions of the NGPA, "Wellhead Pricing: Wellhead Price Controls"; *see also* 124 Cong. Rec. at H13115 (daily ed. Oct. 14, 1978) (statement of Congressman Dingell regarding ceiling prices generally applicable to "field sales"; 124 Cong. Rec. at S 16257 (daily ed. Sept. 27, 1978) (Colloquy of Senator Jackson, Senate floor Manager of the NGPA and Senator Gravel to the point that Commission's discretion under section 110 does not preclude purchase at the wellhead at a maximum lawful price). *Cf.* H.R. Rept. No. 95–496 (Part 4), 95th Cong., 1st Sess. at 103 (July 19, 1977) (report accompanying House-passed version of the President's National Energy Act) (first sale prices restricted to wellhead sales).

[22] *See* sections 104 (b)(2) (increasing ceiling rates for natural gas priced as committed or dedicated gas); 106(c) (increasing ceilings for gas priced under rollover contracts); 107(b) (higher incentive prices for "high-cost" natural gas); 109(b)(2) (increasing ceiling prices for certain other categories of natural gas); *see also* Notice of Proposed Rulemaking, "Procedures Governing Applications for Special Relief Under Sections 104, 106 and 109 of the Natural Gas Policy Act of 1978," Docket No. RM79–67 (issued Aug. 14, 1979), 44 *Fed. Reg.* 49468 (Aug. 23, 1979).

[23] *See, e.g.*, 124 Cong. Rec. at S15020 (daily ed. Sept. 13, 1978) (statements of Senators McIntyre and Jackson on introducing the NGPA); 124 Cong. Rec. at H13129 (daily ed. Oct. 14, 1978) (statement of Congressman Stockman); *see also* H.R. Rept. No. 95–496 (Part 4), 95th Cong., 1st Sess. at 5–14 (July 19, 1977) (major purpose of National Energy Act to provide price incentives to encourage production of hard-to-produce natural gas).

[24] *See* text following note 9 *supra*.

[25] This categorization was developed under the Commission's rate setting procedures for individual producers, area-wide rates and nationwide rates. *See e.g.*, Opinion 699 at 77–94.

[26] This term, "production-related," is neither elegant nor accurate. However, since the term "production-related" has entered the lexicon of the NGPA as a description of section 110 costs we see no point in creating yet another new word.

[27] "Natural Gas Policy Act of 1978: Interim Regulations, Docket No. RM79–3 at 247–253 (issued Dec. 1, 1978), 43 *Fed. Reg.* 56448, 56574–56577 (Dec. 1, 1978). These provisions are codified at 18 C.F.R. §§ 271.1100 *et seq.* (1979).

[28] *Id.* at 247, 43 *Fed. Reg.* at 56574 (§ 271.1100).

[29] *Id.* at 250, 43 *Fed. Reg.* 56575 (§ 271.1104(a)).

[30] *Id.*

[31] *Id.* at 251, 43 *Fed. Reg.* at 56576; §§ 271.1105(c) and (d).

[32] *Id.* at 250–251, 43 *Fed. Reg.* at 56575–76; § 271.1105(b)(1).

[33] *Id.* § 271.1105(b)(2). Sellers of gas under these conditions are those who sell gas subject to sections 105 and 106(b) of the NGPA.

[34] *Id.* at 76–77, 43 *Fed. Reg.* at 56488–56489 (Preamble to the regulations). Resolution of the issue was pending before the Commission in rehearing of the *Phillips* case, Docket Nos. CI77–412 *et al.*

[35] Section 601(a) of the NGPA defines those first sales for which the provision of the Natural Gas Act and the jurisdiction of the Commission under that Act shall not apply solely by reason of the first sale. Among those first sales are those of natural gas which was not committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA. In addition, certain sales of committed or dedicated gas are also among first sales to which the Natural Gas Act will not apply. Among those are sales made under sections 107(c) (1), (2), (3) or (4); section 102(c) and section 103(c) of the NGPA.

[36] Interim Regulations, note 27 *supra*, at 77–78, 43 *Fed. Reg.* at 56489 (Preamble to the regulations).

[37] *Id.* at 78, 43 *Fed. Reg.* at 56489 (Preamble to the regulations).

[38] *Id.* at 82–83, 43 *Fed. Reg.* 56491–92 (Preamble to the regulations).

[39] *Id.* at 251, 43 *Fed. Reg.* at 56576 (§ 271.1105(c)).

[40] *Id.* at 251–252, 43 *Fed. Reg.* at 56576 (§ 271.1105(d)).

Subpart K of the interim regulations.[41] In addition, and as one would expect given the pervasive nature of the issues raised in implementing section 110, we have had comments and oral presentations on related areas including the reseller rule of § 270.202 and cost shifting under the Natural Gas Act.[42] Finally, we have had comments on, and petitions to rehear, regulations implementing the pricing provisions of sections 105 and 106(b) of the NGPA.[43] All of this leads us to conclude that important revisions to the regulations are necessary.

The major points of the amendments issued herein can be briefly summarized. Among other things, the new interim regulations under Subpart K of Part 271 erase the distinction between "Natural Gas Act allowances" and "production-related costs". Both are now considered as "production-related" costs and that term, as described above,[44] is defined to exclude production and non-allocable costs from the application provisions for allowances. The regulations permit sellers of committed or dedicated gas to apply for, and receive, production-related costs in addition to the Natural Gas Act allowances. The changes made by this Order do not address the interim regulations that bar sellers of gas under intrastate contracts from applying for (and receiving) allowances for production-related costs absent special hardship, inequity or an unfair distribution of burdens.[45]

The costs for which an application can be made are changed in four important respects. First, the rules are amended to bar applications for costs to compress and gather natural gas. The bar will be temporary, to extend only to the conclusion of proceedings to determine the appropriate allowance for these two activities. At such time as the Commission sets those allowances, applications, retroactive to the time the bar was instituted, will be accepted. Second, the "off-lease" requirement for transportation is removed. Third, the Natural Gas Act (NGA) allowances for gathering and transportation may be added to a first sale price by any seller (other than sellers of intrastate gas or gas produced at the Prudhoe Bay Unit of Alaska for transport through the ANGTS) without prior application if the seller performs the particular types of activities described in the applicable area or national rate opinion. Finally, the NGA allowances are particularly described.

In implementing these changes we define "production", "nonallocable" and "production-related" costs. The definitions track our discussion of these three types of costs given above and are placed in the general regulations section of Part 270.

Finally, a policy statement is issued. The statement applies to pipelines within the Commission's Natural Gas Act jurisdiction that purchase natural gas in a first sale. If such a pipeline incurs production-related costs because of activities performed by it after the first sale, such activities will be deemed prudent in any proceeding brought under the Natural Gas Act to determine the lawfulness of the rates and charges of the pipeline if the costs could have been applied for by the seller under the regulations of Subpart K implementing section 110 or if the costs involve certain types of compression. The policy addresses the problems of shifting costs to purchasers. The policy is reflected in the Commission's decision in the *Phillips* case (Docket Nos. CI77–412 *et al.*) issued today.

C. Section-by-Section Analysis of the Amendments

1. *Allowances for Production-Related Costs (Part 271).*

Before we begin our discussion of the regulations and comments, an important caveat is in order. The amendments made today to the interim regulations issued under Part 271 extend only to Subpart K of Part 271 and only to the extent that subpart regulates add-ons for allowances of production-related costs for natural gas produced in the lower-48 states. We do not, under this Rule, address the regulations for (and issues raised by) allowances for State severance taxes. Those particular regulations (§§ 271.1102 and 271.1103 and part of § 271.1101) will be discussed under a separate but related docket.[46] Nor do we address the regulations which make special provision for add-ons in the unique case of a first sale of natural gas produced at the Prudhoe Bay Unit of Alaska, for transport through the Alaska Natural Gas Transportation System.[47] That particular situation and the issues which surround it, are discussed elsewhere.[48] And we do not specifically address the regulations that prohibit sellers of intrastate gas (those who sell under sections 105 and 106(b) of the NGPA) from applying for production-related costs.

a. *Applicability.* As originally issued, § 271.1100 of the interim regulations provided that the regulations of Subpart K would apply to permit add-ons to first sale prices for State severance taxes, Natural Gas Act allowances, and production-related costs.[49] As discussed more fully below, the regulations are amended to remove the distinction between "production-related costs" and "Natural Gas Act allowances"; therefore, § 271.1100 is amended by deleting the reference to the latter "allowance". In addition, the title to Subpart K is also amended in order to make it more accurately reflect the scope of the subpart.

b. *Definitions.* As originally defined under § 271.1101(b), the term "production-related costs" meant those costs (including "other similar costs") enumerated under section 110 and incurred by the seller.[50] This paragraph has been amended and placed under the general definitions of § 270.102(b). A discussion of the amendments to this definition is given below under our consideration of Part 270.[51] For purposes of the present discussion, we need only point out that the term "production-related" is defined to exclude "production" and "non-allocable" costs. "Production" costs and "non-allocable" costs are, in turn, defined under two new paragraphs, §§ 270.102(b)(15) and 270.102(b)(16).[52] Given our view that section 110 cannot be used to permit an add-on for costs to produce the gas to the wellhead or for costs allocable to non-gas commodities,[53] the definitional exclusions are necessary. However, the exclusion of production costs from the provisions of Subpart K does not mean that such costs would never be considered; it only means that they will not be considered under our section 110 discretion.[54]

c. *Natural Gas Act allowances.* Section 271.1104 of the interim regulations did two things. First, it prescribed a general rule that the area-wide gathering and offshore-to-onshore delivery allowances found just and reasonable under the nationwide rate opinions would be permitted as add-ons for sales of natural gas committed or dedicated to interstate commerce on November 8, 1978 for which a just and reasonable rate was in effect on that date.[55] Second, and in conjunction with the exception provisions of § 271.1105 (now § 271.1104) of the interim regulations,[56] it provided that these would be the only add-ons permitted to sales of committed or dedicated gas.

The regulations implemented by this Rule delete § 271.1104 of the interim regulations issued in December 1978. The effect of this deletion, coupled with other amendments, is to permit sellers of committed or dedicated gas to apply under section 110 of the NGPA for more than Natural Gas Act allowances and to specifically permit sellers of other types of natural gas the addition of Natural Gas Act allowances to their first sale prices if they incur the types of costs described under those allowances.[57] These two changes are products of the Commission's final decision in the case of *Phillips Petroleum Co.*, Docket Nos. CI77–412 *et al.* and comments received to the interim regulations.

As we explained above,[58] the purpose of limiting sales of committed or dedicated gas to "Natural Gas Act allowances" was to prevent the premature decision of the issues then before us on application for rehearing of our decision under *Phillips*. To have allowed first sale prices of committed or dedicated gas to be increased for "production-related costs" (as that term was used under the interim regulations of December 1978) would have been to decide that the base rates set under the nation-wide opinions did not include such cost. In that the Natural Gas Act allowances were, prior to the NGPA, allowed as add-ons to sales of committed or dedicated gas, permitting the same allowances under section 110 of the NGPA would only perpetuate an established practice without broadening its application.

Since publication of the interim regulations, the rationale for so limiting these sales—the then pending decision on *Phillips*—no longer exists.[59] Given that contracts entered into prior to November 9, 1978 for sales of committed or dedicated gas may, consistent with a concept of prudently incurred costs, shift certain costs to the purchaser, restricting first sellers of the gas who sell under such contracts to add-ons only for "Natural Gas Act allowances" makes little sense. If a cost can be legitimately borne by a purchaser, then, barring other considerations,[60] it should be legitimately allowed to the seller.

Two comments to § 271.1104 of the interim regulations recommended that, because the gathering and delivery allowances of that section had been determined to be just and reasonable under the Natural Gas Act, the same allowances should be permitted for sales of natural gas not priced as committed or dedicated gas under the NGPA. We agree. As discussed more fully in the next section, the allowances are expressly permitted to those who sell natural gas under other sections of the NGPA.

Comments, noting that the Natural Gas Act allowances were based on old data, expressed the view that the allowances could not be considered adequate for current needs. This was particularly argued for situations involving resellers who, because of being limited to the allowances, would be placed at a disadvantage when competing with pipelines for the gas sales. Under the amendments of this rule, a seller who was restricted to the Natural Gas Act allowances may now apply for costs in excess of the Natural Gas Act allowances to the exent those costs are incurred by the seller. Moreover, to the extent the reseller incurs compression and gathering costs, the rules that pertain to a producer-seller would apply. That is, compression and gathering costs may be applied for after the costs of those activities are established by the nationwide proceedings, and in the interim, these costs can be applied for under the adjustment provisions of section 502(c) of the NGPA.

d. *Production-related costs.* Section 271.1105 of the interim regulations of December 1978 set out the rules under which one could apply for production-related costs.[61] That section set forth the sales excepted from the application procedure, the costs for which an application could be made, filing requirements for applications and a provision that more information could be requested of the seller beyond that supplied in the filing. The amended rule renumbers § 271.1105 as § 271.1104 and limits the scope of that section to rules describing who may apply for production-related costs, the types of costs which can be applied for and what costs can be automatically added to sale prices without prior application (Natural Gas Act allowances). (Filing requirements are set forth in a new § 271.1105.) In issuing these amendments important changes were made to the exclusion provisions and to the description of the costs for which applications could be made. In addition, the Natural Gas Act allowances are specifically described (rather than being merely referenced by citation to existing regulations as was done in the interim regulations) and permitted as automatic add-ons provided that the activities for which those allowances are made are being performed.

(i) *The general rule.* The general rule, that an applicable ceiling price will not be considered to be exceeded because of the addition to that price for production-related costs only under what is now § 271.1104 remains substantially unchanged. The words "first sale price" are substituted for the words "such price" to make it clear that the add-ons described in § 271.1104 may be considered for all legal first sale prices and not just ceiling prices. This is necessary because the first sale price to

---

[41] Some 36 separate comments were received from 32 individuals, groups and state or Federal agencies. Those submitting comments represented all parts of the industry including sellers, purchasers, resellers, and consumers. Late filed comments, of which there were a few, were treated as being timely filed.

[42] With respect to this latter point, *see* Opinion No. 90 Phillips Petroleum Company: Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part, Docket Nos. CI77–412 *et al.* (issued July 25, 1980).

[43] Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978", Docket No. RM80–14 (issued Jan. 16, 1980) 45 *Fed. Reg.* 5678 (Jan. 24, 1980), *rehearing granted*, "Order Granting Rehearing for the Purpose of Further Consideration", Docket No. RM80–14 (issued Mar. 17, 1980), 45 *Fed. Reg.*——(Mar. —, 1980).

[44] *See* text accompanying note 26 *supra*.

[45] Also, the special provisions limiting allowances for sales of natural gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System would remain. *See* note 1 *supra*.

[46] *See* Notice of Proposed Rulemaking, "Proposed Regulations Under Sections [sic] 110 of the Natural Gas Policy Act of 1978", Docket No. RM80–21 (issued Jan. 18, 1980) 45 *Fed. Reg.* 5785 (Jan. 24, 1980).

[47] As originally issued, the interim regulations excluded first sales of this gas from the operation of all of Subpart K save those regulations dealing with State severance taxes. Section 271.1100(b), Interim Regulations, note 27 *supra*, at 247, 43 *Fed. Reg.* at 56574. This exclusion was subsequently deleted and special regulations were implemented for first sales of Prudhoe Bay gas under section 110; *see* Order 45, note 1 *supra*.

[48] *See* note 1 *supra*. However, as explained below, certain conforming changes to the particular section that addresses this type of sale are necessary. *See* note 72 *infra*.

[49] Section 271.1100(a), Interim Regulations, note 27 *supra*, at 247, 43 *Fed. Reg.* at 56574.

[50] Section 271.1101(b), Interim Regulations, note 27 *supra*, at 248, 43 *Fed. Reg.* at 56574.

[51] *See* text accompanying note 82 *infra*.

[52] *Id.*

[53] *See*, text accompanying notes 10–23 *supra*.

[54] *See, e.g.* Notice of Proposed Rulemaking, "Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978", Docket No. RM79–67 (issued Aug. 14, 1979), 44 *Fed. Reg.* 49468 (Aug. 23, 1979) (proposed rulemaking to establish mechanism for higher ceiling prices for certain categories of natural gas on basis of prudent investments).

[55] Section 271.1104, Interim Regulations, note 27 *supra*, at 250, 43 *Fed. Reg.* at 56575. The allowances were those specified in § 2.56a(d), § 2.56a(e), § 2.56b(e), § 2.56b(f) of the Commission's regulations.

[56] Section 271.1105(b)(1), Interim Regulations, note 27 *supra* at 250–251, 43 *Fed. Reg.* at 56576.

[57] The other amendments are to what was § 271.1105 of the interim regulations and include deleting the exception respecting sales of committed or dedicated gas, enumerating the areawide gathering and onshore delivery allowances, and providing for the automatic add-on of these allowances for qualified sales. These changes are discussed in detail under section C(1)(d) of this Preamble.

[58] *See* text accompanying notes 34–35 *supra*.

[59] *See* note 42 *supra*.

[60] As explained below, there will be occasion when purchasers may bear certain costs that the seller could not bear. This particularly involves costs of compression, gathering, and certain treatment and processing costs. With respect to compression and gathering, the prohibition will be short lived and subject to retroactive procedures.

[61] Section 271.1105, Interim Regulations, note 27 *supra* at 250–253, 43 *Fed. Reg.* at 56575–56576.

which an add-on is made may be less than the applicable ceiling price; and yet, with the add-on, that first sale price may exceed the applicable ceiling price.

In addition, the rule has been rephrased for clarity and the term "borne by the seller" in a first sale has been added. This last was in response to a comment which suggested that, absent some qualifying language, there was a potential for ambiguity respecting whether the cost would be one actually incurred by a seller. The production-related costs must be actually incurred.

Comments were received on the general rules of this section that raised questions as to the flow-through of production-related costs incurred by purchasers, the use of an inflation adjustment to escalate add-ons permitted under the section, and the relative merits of case-by-case determinations of allowed costs as opposed to generic standards. These comments can be properly considered here under the discussion of § 271.1104(a).

Three comments suggested that the regulations should explicitly provide that if a purchaser bears production-related costs then, on his sale of the gas, he can pass those costs through dollar-for-dollar.

Passthrough depends on who the purchaser is and the nature of the costs incurred by that purchaser. For example, a purchaser may be one who, while buying gas in a first sale, sells that gas in a subsequent first sale (a reseller); or the purchaser may be one who, though buying in a first sale, sells the gas outside of the first sale provisions of the NGPA. If the production-related costs are incurred by the buyer as a result of an add-on permitted the seller, the buyer can, if regulated by this Commission under the Natural Gas Act, pass the add-on through, dollar-for-dollar, to its customer.[62] For the reseller, this passthrough is expressly permitted under § 270.202 of the Commission's regulations implementing the NGPA. To the extent sales are regulated under the Natural Gas Act (as, for example, a sale by an interstate pipeline) the NGA specifically requires the passthrough of any price paid not in excess of the ceiling price; and we read this requirement to include a ceiling price augmented by a production related cost add-on.[63] To the extent such sales are not so regulated (*e.g.* sales made by intrastate pipelines) then the question of flow-through is one which must be resolved in other forums.[64]

A related situation occurs if a purchaser incurs production-related costs other than as a part of the first sale price. That is, after the purchase in a first sale, the buyer could perform production-related activities (or have them performed by others) and thereby incur costs. If the purchaser is a reseller and wishes to recoup the incurred production-related costs, he must make application under Subpart K.[65] If the purchaser is not a reseller and is subject to this Commission's Natural Gas Act jurisdiction then the question of passing on the costs is one of prudence. As explained more fully below in Section D of this Preamble, this would be an issue in a pipeline rate proceeding. If the purchaser is not subject to this Commission's jurisdiction, then, as before, the question of the propriety of passing these costs on is left to others.

One comment expressed the view that the regulations should expressly state that no inflation adjustment should be permitted to a maximum lawful price adjusted under section 110. To the extent this suggestion would mean that once an add-on had been approved and was being collected under a contract then the entire maximum lawful price would not be subject to inflation adjustment, we disagree. The add-ons of section 110 are distinct from the NGPA ceiling prices of sections 102 through 109, and such inflation adjustments as may attend those ceiling prices. Whether the add-on itself would be adjusted for inflation is a different question. The answer would depend in large degree upon the methodology used to derive the add-on.

While some comments appeared to favor the case-by-case approach, two, criticizing it as being ad hoc, cumbersome and confusing, recommended that a rulemaking should be used to establish general guidelines for add-ons. One of these comments went on to suggest a two-step approach: establishing guidelines setting reasonable levels of production-related costs allowable to all first sellers without application proceedings; and an application procedure only for costs in excess of the established guidelines expended and sought by the seller. The suggested generic approach has merit in terms of administrative expedience and business certainty, and we have decided to adopt it for costs of compressing and gathering the gas. To this end we will inaugurate procedures to determine the appropriate allowances of compressing and gathering and to define the types of compression for which an add-on under Subpart K should be permitted.

(ii) *The exceptions.* As originally issued, the interim regulations excepted two classes of first sales from the application provisions for production-related costs: sales of committed or dedicated gas; and gas sold under existing intrastate contracts, intrastate rollover contracts, and successors to existing intrastate contracts.[66] (An exception was also provided for first sales of natural gas produced at the Prudhoe Bay Unit of Alaska for transport through the Alaska Natural Gas Transportation System.[67]) The amendments remove the sale of committed or dedicated gas from the exceptions. This means that those who sell committed or dedicated gas may apply for and receive the full spectrum of production-related costs described under what is now § 271.1104. The arguments which persuaded us to make this change stem in large part from our decision in the *Phillips* case (Docket No. CI77–412).

Several comments spoke specifically to the exclusion of the committed or dedicated gas. One, for example, argued that a decision in *Phillips* would not speak to either "new" (*i.e.* post-NGPA) gas sales contracts or to fact situations outside the ambit of the case. We disagree. Among the issues in *Phillips* was the extent that production-related costs were included in the nation-wide rates and the ability of purchasers and sellers to contract, as between themselves, responsibility for quality standards and concomitant price adjustments to those base rates.[68] Because the rates at issue in the *Phillips* case were the base rates for pricing

---

[62] The passthrough is subject to the affiliated entities limitation; *see* section 601(b)(1)(c) of the NGPA; and to Commission scrutiny under section 601(c) of the NGPA respecting fraud abuse or other similar grounds.

[63] *See* section 601 of the NGPA respecting coordination of the NGPA and the Natural Gas Act, especially at section 601(b)(1)(A) which provides that, for purposes of sections 4 and 5 of the Natural Gas Act, "any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if such amount does not exceed the applicable maximum lawful prices established under title I of this Act . . ." and at section 601(c) which speaks to guaranteed passthrough. In that section 110 provides that a first sale price "shall not be considered to exceed the maximum lawful price applicable" to that sale because of add-ons permitted under that section, then the provisions of section 601 just cited must apply for production-related costs as well as ceiling prices.

[64] In that those who sell gas under the provisions of sections 105 and 106(b) of the NGPA, which govern sales under certain intrastate contracts, intrastate rollover contracts and successors to existing intrastate contracts, are excluded from applying for add-ons under section 110 (*see* text accompanying notes 70–72 *infra*), the situation described in the text is limited to cases where an adjustment is granted to permit an allowance.

[65] *See* § 271.202 of the Commission's regulations. The application would be either to add-on an allowed production-related cost or for an adjustment from any regulatory proscription against adding-on production-related costs.

[66] Section 271.1105(b), Interim Regulations, note 27 *supra*, at 250–251, 43 *Fed. Reg.* at 56576.

[67] In Order No. 45 (note 1 *supra*) the exception was modified to permit collection of certain production-related costs.

[68] Opinion No. 90, note 42 *supra* at 3–4.

natural gas under sections 104 and 106(a) of the NGPA, the *Phillips* decision as to the scope of the rates established under the Natural Gas Act determines the scope of section 104 and section 106(a) ceiling rates.

One comment regarding the exclusion of committed or dedicated gas, presaging a different outcome to the *Phillips* case, argued that, because the ceiling rates for this type of gas included production-related costs, no change should be made to the interim regulations. Another took somewhat the opposite view and suggested that the exclusion should be modified at least to the extent of permitting applications for add-ons for costs already contracted for as of the date of the enactment of the NGPA. Under our decision in *Phillips*, it is through the contract that responsibility for bearing production-related costs is set. To the extent the seller bears those costs, it should be (and now is) permitted to make application under section 110.[69]

The amendments made by this rule do not address the exclusion provisions for sales of intrastate gas. Several comments to the interim regulations of December 1978 argued that the exclusion, together with regulations under Subparts E and F that generally prohibit contract modifications that shift production-related costs to purchasers of intrastate gas,[70] was discriminatory and would provide disincentives for sellers to incur costs to upgrade services.[71] According to these comments, the consequences of the rules would be either degradation in services or early abandonment of wells. To prevent these results, the comments suggested that we permit sellers to apply for section 110 add-ons to recoup production-related costs borne by them or permit contract amendments so that production-related costs could be borne by purchasers.
Fed. Reg. ——; *see* also 18 C.F.R. §§ 271.505(b) and 271.604(b).

In addition to the comments to the interim regulations of December 1978, some of the petitions to rehear Order No. 68 (establishing final regulations for Subparts E and F) raised issues concerning section 110. Because of this, and because of the relationship between the exercise of Commission discretion under section 110 for intrastate sales and the pricing of those sales, the proper place to consider the prohibition against intrastate sales add-ons is in a Commission Order granting or denying rehearing of Order No. 68.

The exclusion for intrastate sales has been amended in two, non-substantive respects. First, the section has been conformed to other changes in Subpart K that permit the automatic add-on of Natural Gas Act allowances. The conforming change prohibits intrastate sellers from adding on these allowances.[72] This continues the effect of the December 1978 interim regulations which operated to bar intrastate sellers from the Natural Gas Act allowances. Second, the description of the sales has been amended to make it clear that the proscription pertains only to sales made under sections 105 and 106(b) of the NPGA. If a seller of such gas receives an alternative price determination and sells the gas under that alternative, the exclusion no longer applies. While this was implicit in the interim regulations, it is made explicit here.

Finally, several comments charged that the exclusion of any type of first sale, those for committed or dedicated gas or those for intrastate gas sales, from the section 110 provisions was arbitrary and, in light of existing contracts or allowances, prejudicial. These comments claimed that exclusions violated the intent of section 110 because that section was to apply to all ceiling prices and did not expressly exclude any type of first sale from its provisions. These arguments misapprehend the scope and purpose of section 110. That section 110 can apply to all ceiling prices, a precept to which we readily agree,[73] does not mean that production-related costs allowed under its provisions *must* apply to all ceiling prices.

(iii) *The production-related costs.* The provisions of the interim regulations which defined the production-related costs for which an application could be made divided those costs into three groups: costs incurred for compression; costs incurred for gathering, liquefaction and transportation to the extent those activities took place "off the lease from which the natural gas was produced"; and "other production-related costs" incurred to raise gas to quality levels above specified standards.[74]

The amendments under what is now § 271.1104 work a considerable change upon the interim regulations of December 1978.

Under the amended regulations, compression and gathering costs may not be applied for until the Commission completes generic proceedings to determine appropriate allowances for these two activities.

Compression is perhaps the single most complex cost category which we must consider for a production-related add-on. First, of the activities specifically listed under section 110, compression, more than any other, can be undertaken as a production or non-allocable activity.[75] Second, no standard or prevailing industry practice now exists for determining the costs of compression. This means that a seller seeking to add-on compression costs must make a showing as to the costs incurred and the type of compression undertaken. If this must be done case-by-case for each seller there is a potential for long delay and inconclusive results. Rather than this approach (which was the approach of the interim regulations issued in December of 1978), we believe that an appropriate allowance for compression can be determined which would apply for specific kinds of compression. To this end we will inaugurate a generic proceeding to determine the appropriate allowance for compression and the types of compression which should be considered under section 110. During the pendency of the proceeding, in our exercise of discretion, we will accept no applications for compression costs.

The sellers will not be prejudiced by the amendments to the regulations which removes compression from the costs which may be applied for. First, a retroactive collection procedure will be provided under which the allowance for compression costs determined under the generic rulemaking will be applied to costs incurred with respect to gas delivered on or after the effective date of this Rule if collection of such costs is contractually authorized.[76] Second, during the time the proceeding is underway, sellers have recourse under the provisions of section 502(c) of the

---

[69] Excepted from this general rule are cost to compress and gather the gas and costs to process, treat or condition the gas to minimum quality standards absent a showing of hardship, inequity or unfair distribution of burdens.

[70] *See* Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80–14 (issued Jan. 18, 1980), 45 *Fed. Reg.* 5678 (Jan. 24, 1980), *rehearing granted*, "Order Granting Rehearing for the Purpose of Further Consideration," Docket No. RM80–14 (issued Mar. 17, 1980) 45 *Fed. Reg.* —— (Mar. —, 1980).

[71] The regulations barring contract amendments for sellers of intrastate gas contain an exception for the situation of a new purchaser to agree to pay for increased production-related costs to take delivery of the gas. *See* Order No. 68 at 12–13, 45

[72] This same conforming change was made to the provisions of Subpart K that speak to add-ons under section 110 of the NGPA for natural gas produced in the Prudhoe Bay Unit of Alaska for transport through the ANGTS.

[73] *See* note 6 *supra* and accompaning text.

[74] Sections 271.1105 (c) and (d), Interim Regulations, note 27 *supra* at 251–252, 43 *Fed. Reg.* at 56578.

[75] *See* text accompanying notes 10–18 *supra*.

[76] If an application was filed under the original interim regulations, any allowance for compression (or gathering) costs will be retroactive to the date the application was filed.

NGPA for consideration of compression costs. The alternative, to continue to accept applications for all costs of compression, is not viable. First, the process to consider the applications may well take as long as the generic proceeding. Second, any determination made would, in our view, have to be reconsidered in light of the results of the generic proceeding.

What we have just said for compression applies equally to costs to gather the gas. For this reason we will also begin a generic proceeding to establish an appropriate gathering allowance. As with compression, we will not accept applications for the case-by-case determination of gathering costs save only those that are made pursuant to section 502(c) of the NGPA, and a retroactive collection procedure will be provided.

Costs incurred for transporting the natural gas can still be applied for. Section 271.1104(c)(2) permits application for transportation costs and the "off lease" requirement for these costs has been dropped. Originally intended to restrict the add-ons to extraordinary costs, the "off lease" criteria was, as comments pointed out, inexact and did not lead to equal treatment between applicants. The requirement that costs for this activity will be considered only to the extent it is in excess of the Natural Gas Act allowances is not so much a limitation as a recognition that these latter costs may be added-on without prior application. No limit is placed upon the costs of transportation (other than gathering) which can be applied for.

Under § 271.1104(c)(3), application can be made for costs of liquefaction; that is, costs that are incurred to liquefy the gas stream. As with transportation costs, there is no requirement that the costs of liquefaction must be incurred "off lease"; nor is there any limit to the amount of the cost which can be applied for.

Section 271.1104(c)(4) permits applications for costs of processing, treating or conditioning gas to raise it above certain quality levels. Beyond detailing the production-related activities involved, no change has been made to the provisions of the interim regulations of December 1978 which provided that, for sales made to persons other than end-users, application may be made for costs incurred to bring natural gas to quality standards greater than those listed in the regulations. The provision respecting sales of natural gas made to any person for use by that person has also been retained but with a drafting change to more clearly reflect the Commission's intent. As worded under the interim regulations, applications for an add-on could be made for costs to meet or exceed the listed quality standards. The intent was that the provision would permit an application for any cost to process, condition, or treat the gas, and not just costs to meet or exceed the established quality standards. The regulation has been reworded to reflect that intent.

Several comments were received on the use of minimum quality standards and the requirement that those standards must be exceeded before an add-on will be permitted for costs incurred in processing or treating the gas. Some, voicing the opinion that section 110 was intended to allow the recovery of all costs to treat and process gas, argued that no threshold limit should apply. To the extent sellers must operate below the limit, these comments argued, then the costs of processing and treatment borne by them without an add-on work to reduce the ceiling price revenues attributable to finding and producing the gas and, as a result, the standards work an unlawful reduction in ceiling prices. To substantiate this view, these comments observed that no such standards were set out in the NGPA and that ceiling prices must apply only for finding and producing the gas.

These arguments bring into sharp focus what we believe are major misconceptions of section 110 and Title I of the NGPA. To say that the Congress intended that section 110 be used to reimburse sellers for all production-related costs and that therefore the Commission must permit such costs ignores the plain words of the statute and its legislative history. The grant of production-related add-ons lies within the discretion of the Commission. The allowance for production-related costs is not mandatory.

Our adoption of minimum standards is based on what we perceive to be prevailing industry practices as to who bears the costs of processing and treating natural gas for pipeline transportation and for what the costs are incurred. They are drawn from our review of contracts now on file with the Commission. As such they can be taken as minimum standards. More to the point, while comments were received that argued against using minimum quality standards or against the quality standard approach to implementing section 110, no comment questioned the specific standards themselves. This supports our view that these are appropriate standards. However, because we will accept comments on all aspects of these amendments, we request further comment on the level of the standards.

One comment raised the question of permitting applications for the extraordinary costs incurred by a seller to meet the minimal quality standards set out in the regulations. First, because the standards were selected on the basis of what we believe to be prevailing industry practices, the costs to meet the standards should not normally be considered as extraordinary. Second, to the extent that such a situation actually arises, recourse may be had to the adjustment provisions of § 271.1106.

One comment argued that to permit the supplier of an end-user to apply for all costs of processing and treating the gas, while barring other sellers from such liberal treatment, was arbitrary and without legal foundation. We disagree. First, we do not have the factual basis on which to find that there is a prevailing practice with respect to sales made to end users. Therefore, it makes good sense to proceed in this area case-by-case without general precepts. Second, our discretion under section 110 is, we believe, broad enough to permit us to differentiate between types of sales if there is good reason to do so. Here, the lack of the factual basis or experience provides this reason. However, we specifically seek further comment as to whether it would be appropriate to apply the minimum standards to sales made to end users.

A new provision (§ 271.1104(c)(5)) provides that application may be made for production-related costs other than costs for compression, gathering, transportation, liquefaction, processing, treating or conditioning the gas. This provision speaks to the "other similar costs" of section 110. The amendment was suggested by a comment that requested that the Commission make it clear whether storage costs would be a permissible add-on under section 110(a)(2). This amendment permits a mechanism by which such questions can be dealt with.

Finally, we have amended the regulations under § 271.1104(d) to provide that Natural Gas Act allowances may be added to a first sale price by any seller (other than one selling under sections 105 or 106(b) of the NGPA or one selling gas produced at the Prudhoe Bay Unit of in Alaska for transport through the ANGTS) who conducts the gathering or other described activity that attends those allowances. This addition may be made without prior application to, or approval by, the Commission. In making this change, we have enumerated the allowances as they appear under §§ 2.56a and 2.56b of our regulations—

area by area—making only such amendments to the language as would comport with clarity and the concept of a first sale. We have also inserted a "savings" provision respecting other allowances which may have been permitted by Commission order prior to passage of the NGPA. This provision recognizes that such allowances can continue to be collected as part of the prescribed ceiling rates without prior application.

Section 2.56b(b) of the Commission's regulations provides that the adjustments for allowances for gathering and offshore-to-onshore delivery under §§ 2.56b (e) and (f) do not apply to "minimum rate gas." We make no such provision in the amendments to Subpart K. First, as with the other production-related costs provided for under Subpart K, the Natural Gas Act allowances can only be collected if such collection is authorized by contract or if there has been a specific finding under the *Mobile-Sierra* doctrine that the contract rates are so low as to be not in the public interest."[77] Second, we make no such finding under this Rule with respect to minimum rates and Natural Gas Act allowances. Therefore, a special exception for minimum rate gas is unnecessary.

In providing for the continued receipt of Natural Gas Act allowances we do not adopt the suggestions made by some of the comments that the allowances be deleted because they are outdated and inadequate for proper compensation. First, although we may recognize the toll taken by time, specific evidence to warrant this conclusion has not been presented. Second, these comments were received to interim regulations which provided that the allowances would be the *only* allowances permitted some sellers. This is no longer the case. To the extent a seller incurs costs to transport the gas, and these costs exceed the Natural Gas Act allowances, the seller may apply under § 271.1104 of the amended regulations for the additional costs.

Nor do we adopt the suggestion of some comments that the Natural Gas Act allowances should be on a MMBtu basis rather than on an Mcf basis. While the mere fact that something has always been done a certain way is little reason to continue the practice, in this instance the practice makes sense. Under the Natural Gas Act allowances provisions, the prevailing practice has been to measure on an Mcf rather than a MMBtu basis. Those who receive the allowances and those who pay them have already developed the necessary measuring and accounting system. Additionally, the allowances were developed and stated on an Mcf basis and are not viewed as lending themselves to the degree of adjustment precision suggested by stating the allowances on the basis of the exact heat content of a particular gas stream. Furthermore, the level of the allowances as now stated would likely have been less if they originally had been stated on a MMBtu basis rather than on a Mcf basis. This follows because the heating value of most of the gas was, and is, greater than 1 MMBtu per Mcf. Therefore, we do not adopt the suggestions made respecting a change in the unit of measurement for the NGA allowances. However, subject to comments and the generic gathering allowance proceeding, it may well develop that gathering allowances should more properly be stated on a MMBtu basis (or some other heat energy basis) rather than on an Mcf basis. Although the Commission will not permit a change *per se* in the level of the NGA allowances at this time, this action does not prohibit a producer-pipeline transaction in which the billed and paid for gathering charges are referenced to MMBtu rather than Mcf measurements as long as the dollar amount of the charge to be borne by the gas customers is not increased as a result of utilizing the MMBtu unit of measurement.

(iv) *The application procedure.* Sections 271.1105 (e) and (f) of the interim regulations provided a minimum of procedural detail for applications for production-related costs.[78] Those seeking Commission approval for an add-on filed a statement under oath that contained relevant information on which the Commission could make its decision. The information was geared to determining the activity for which the add-on was sought, the amount sought, and the reason why the amount (or some part of it) should be allowed. To the extent more information was required, the interim regulations provided that the Commission could request the additional information and hold or cause to be held such other proceedings as considered necessary. These two elements of the interim regulations—the submission of basic information and the flexibility of Commission response—are preserved without change under a new § 271.1105.

Some comments questioned the case-by-case approval process set out in the December 1978 interim regulations. Among the criticisms voiced by these comments was that the process would take too long to execute. We are keeping the case-by-case approach for those types of costs that we consider amenable to such treatment. Gas conditioning and processing, for example, is gas-specific and reservoir-specific. Gas conditioning and processing, therefore, do not lend themselves to generic methods. For the situations which lend themselves to generic treatment (for example, compression and gathering) we will implement a generic approach as explained above.

Two comments were received which specifically addressed the provisions of § 271.1105(e)(4) (now § 271.1105(a)(4)) which require that, "if the applicant purchased the natural gas which is the subject of an application under this paragraph, documentation of the price paid by the applicant for such gas [must be provided]." The comments queried whether purchaser *and* seller can or must make application for a section 110 add-on or only the seller.

The provisions of § 271.1105(a)(4) which speak to a "purchaser" making an application under section 110 refer to resellers who, while they purchase natural gas in a first sale, also make first sales of the gas they purchase. As sellers, they are within the scope of section 110. These are the only "purchasers" contemplated as falling within the scope of this subsection. As we pointed out in the interim regulations of December 1978, the provisions of section 110 apply only to *sellers* of natural gas who must sell under the ceiling price requirements of Title I of the NGPA.[79] Thus, questions on the shifting of costs between "seller" and "purchaser", and the potential for a double recovery of these costs under section 110, do not occur. The very information solicited by the subsection in question (at least with regards to sellers) is to prevent double recovery.

Several comments were received which requested that, with respect to the application procedure itself, the form of application as well as the general criteria which would be used to pass on an application be clearly set out in the regulations. We do not adopt this suggestion under the present rule. As a practical matter, however, the proceedings to determine costs for gathering and compressing the gas which would be added to a first sale price under section 110 of the NGPA will result in such action.

With respect to criteria, several comments requested that the

[77] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332, 345 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348, 355 (1956).

[78] Interim Regulations, note 27 *supra* at 252–253, 43 *Fed. Reg.* at 56576–56577.

[79] *Id.* at 73, 43 *Fed. Reg.* at 56487.

V 45 A G 1 1 1 8 0 UMI

Commission explicitly provide for not only out-of-pocket costs but return on investment as well, or a reasonable profit for the production-related activities. We read these comments and others which speak to uniform allowances, simple procedures, and less emphasis on case-by-case applications, as suggesting that a formula by which the amount of permitted add-on is determined be developed. Such a formula would ensure uniform treatment of applications and would go a long way toward speeding up the administrative process which attends case-by-case determinations. The problem, of course, is to determine the proper variables for such a formula and their interrelationships. This will be done for gathering and compression.

Finally, one comment recommended that, in determining the amounts involved, meter readings to measure activities for production-related costs be permitted to be "split" between months. The rationale offered for this method of measuring was that, because meter readings are usually taken in mid-month, then, for ease of measuring, we should allow the last week of the one month's readings to be considered on the next month's billing cycle for purposes of production-related costs and ceiling price inflation adjustment(s). We fail to see the reason for this splitting of costs.

For ceiling prices, the alternative offered by the comment is clearly inappropriate; for these prices change monthly. To permit any part of a month's volume to be considered with a subsequent month's volume would have the effect of permitting a higher price for the prior month's volume than would be permitted by law. Given this state of affairs, it seems appropriate to have production-related costs measured, just as the ceiling prices they are added-on to, by the month.

(v) *The adjustment provisions.* Section 271.1106 of the interim regulations of December 1978 provided that, under section 502(c) of the NGPA, any person may apply for an adjustment on the grounds that the regulations governing applications for production-related costs (§ 271.1105 of the regulations) resulted in special hardship, inequity or an unfair distribution of burdens to such person.[80] The amended regulations make it clear (by referencing the Commission's adjustment procedures) that a person may apply for an adjustment on the grounds that a regulation under the NGPA results in special hardship, inequity or an unfair distribution of burdens to such person. This would include those regulations under Subpart K that restrict who may apply for production-related costs as well as those that restrict what types of costs can be applied for.

Several comments, attacking the restrictions of the interim regulations against sellers of committed or dedicated gas receiving more than the Natural Gas Act allowances and restrictions against sellers of intrastate gas from receiving any add-on, spoke to what they perceived as the "inadequacies" of section 502(c) (NGPA) proceedings. Most argued that section 502(c), rather than setting a procedure by which one could receive an adjustment was, in and of itself, a substantive standard by which our exercise of discretion under section 110 could be measured. Others suggested that in view of the fact that proceedings under section 502(c) and its stricter standard may not be adequate to provide a suitable compensation to those who bear production-related costs, this fact should be taken into account when production-related costs are considered.

While the "equity" or harm standard is expressly provided for under section 502(c), and while a broader standard is arguably applicable to section 110 considerations, it does not follow that the strictures of the former require a more liberal implementation of the latter. The logic of the comments which advocate this position appear to rest upon the two-fold premise that section 110 requires adequate compensation for all production-related costs and that "adequate" must include (or may include) more than what is allowable under section 502(c). We do not believe that this comparison of section 110 and section 502(c) is correct.

This might be better explained by example. The regulations under section 110 preclude sellers from applying for costs to be added-on to the ceiling price for treating gas to meet minimum quality standards. A seller who would fall under this proscription applies under section 502(c) for an "adjustment" that, with respect to a particular sale, the prohibition of the substantive rule should not apply. In doing this the seller shows that, as applied to his situation, the limit is unfair or inequitable. The relief sought is to remove the limit. If this is done, that is an end to the matter addressed under section 502(c). The actual consideration of the amount of production-related costs to his situation can then proceed under our section 110 provisions. The "test" of section 502(c) is not used to determine whether the activity for which an add-on is sought is production-related or the amount of an add-on.

One comment questioned whether, because section 502(c) provides a more stringent standard for consideration of applications for production-related costs than does section 110, then the highest ceiling price provision of section 101(b)(5) of the NGPA should require that the more liberal standards of section 110 always be applied.[81] To accept this argument is to reduce section 502(c) of the NGPA to a nullity for consideration of production-related costs.

2. Definitions (Part 270): We have amended § 270.102 by adding definitions of "production costs" (§ 270.102(b)(15)), "non-allocable costs" (§ 270.102(b)(16)) and "production-related costs" (§ 270.102(b)(17)). Production costs and non-allocable costs are defined by describing the types of activities involved. Thus, "production costs" include costs incurred for exploration, development, production and abandonment activities. They also include costs incurred for enhanced recovery techniques (including compression which attends stripper-well production) and liquid-lift or pumping operations. Non-allocable costs are those incurred as necessary to recover, separate, extract, process, treat, dehydrate, store or transport oil or natural gas liquids.

The basis for these two definitions has already been presented.[82] They are based upon our view of how the industry operates and the limits of the NGPA. Because the definitions given here comport with practices well known to the industry and developed under area and nation-wide ratemaking proceedings, we do not expect much difficulty in their implementation. In providing this treatment we do nothing new, nor do we depart from established practices or definitions.

The specific inclusion of compression costs incurred in the production of "stripper well" natural gas priced under the provisions of section 108 of the NGPA [83] was suggested by a comment. Describing this cost as a production cost works to exclude the cost from the ambit of production-related costs. We believe that this exclusion is necessary because of special provisions of the Commission's regulations that provide that one who sells "stripper well" gas will not be excluded from the higher ceiling prices of section 108 solely because enhanced recovery techniques are used to permit higher production rates than those permitted for qualification under section 108.[84] Compression is such an enhanced recovery technique.[85] While a seller is not penalized for using compression to increase production, the cost of the compression is compensated for under the section 108 price and is clearly a production rather than a production-related cost.

The definition of "production-related costs" which now appears in § 270.102(b) is identical to that which was contained in Subpart K of the regulations issued in December 1978 with one important exception. The term is defined by excepting production and non-allocable costs. The effect of this is to bar any applications under section 110 for production or non-allocable costs.

D. Analysis of the Policy Statement

1. Need for a Policy Statement

When natural gas is sold in a first sale, production-related, production and non-allocable costs may be borne by the seller because of activities performed by the seller or they may be borne by the purchaser because of activities not performed by the seller. So far in this discussion we have dealt with the case of production-related costs borne by the seller (provided for under Subpart K) and the case of production or non-allocable costs being borne by the purchaser (barred under Subparts A and K). We now turn to the situation of a purchaser buying gas in a first sale and assuming responsibility for the production-related activities which are not performed by the seller.

That this situation can occur at all is because of the definition of a "first sale." Under the NGPA, one can make a first sale of gas at a point anywhere in the delivery and processing system from the wellhead on. This is true because the definition of "first sale" is, generally, in terms of to whom the gas is sold rather than where the sale takes place.[86] Therefore, one can sell natural gas at the wellhead and escape responsibility for such production-related activities as gathering, extraction, processing, treating or compressing the gas for delivery.

Section 601 of the NGPA speaks to the coordination of that Act to the Natural Gas Act. With respect to "natural gas companies" (as that term is used in the Natural Gas Act) section 601(b)(1) of the NGPA states that amounts paid in any first sale shall, for purposes of sections 4 and 5 of the Natural Gas Act, be deemed to be just and reasonable if the amount paid does not exceed the applicable ceiling price.[87] Section 601(c)(1) of the NGPA states that a certificate under section 7 of the Natural Gas Act cannot be denied or conditioned because of an amount paid in a first sale if that amount is "just and reasonable" as that term is used under section 601(b)(1). Finally, section 601(c)(2) provides that the Commission may not (absent fraud, abuse or similar grounds), under section 4 or section 5 of the Natural Gas Act, deny any interstate pipeline recovery of an amount paid to purchase gas if that amount is deemed "just and reasonable" under section 601(b)(1).[88] What we have here is a set of rules which go to the price paid by an interstate pipeline for gas in a first sale. What we do not have under the NGPA are provisions respecting costs incurred by that pipeline *after* the first sale.

If a pipeline purchases gas in a first sale and then incurs costs for performing activities which could be labelled as "production-related" (as we now define that term under Subpart A of Part 270 of our regulations), then the question of whether it may recoup the costs of those activities in its sale of the gas is a question to be settled under the Natural Gas Act and not the NGPA. For example, an interstate pipeline company purchases gas in a first sale and then gathers the gas, conditions it and compresses it to a pressure to enter its mainline transporting system and then sells the gas. This second sale is not a first sale.[89] Therefore, the rate which the company can charge is determined under the provisions of the Natural Gas Act. With respect to the price paid by the pipeline for the gas (a first sale price), section 601 of the NGPA requires that this price be deemed just and reasonable. However, we are still left with determining the reasonableness of the costs incurred by the pipeline after the first sale.

In determining the reasonableness of costs incurred by a pipeline the issue is one of prudence: whether the activity which engendered the cost was of the sort which is prudent for the pipeline to incur and pass on to its customers and, if so, whether the level of the sums expended on the activity were reasonable. We must consider this issue in any proceeding brought under the Natural Gas Act to determine the lawfulness of rates and charges of an interstate pipeline company. In doing so we should consider the fact that, had production-related costs been allowed a first-seller under section 110 of the NGPA, those costs would have been automatically deemed prudent when paid by a pipeline as part of a first sale price.

2. Analysis of the policy statement.

In purchasing natural gas in a first sale, an interstate pipeline will incur costs subsequent to that purchase and before its sale of the gas. Frequently, the pipeline will be required to justify these costs as to whether they were prudently incurred and whether the level of the costs were proper. Among the costs for which a pipeline may have to show prudence are those which, had they been borne by the first seller of the gas, would have been "production-related" as that term is defined in the Commission's NGPA regulations. These latter costs may be either costs which, had the seller borne them, the seller could have made application for under Subpart K of Part 271; or they could be costs for which no application could be made by the seller absent a showing of special hardship, inequity, or unfair distribution of burdens.

The policy statement of new § 2.102 recognizes the fact that interstate pipelines will incur costs that, if borne by the producer or reseller of the gas, would be considered as production-related. The policy speaks to two types of these costs: costs which, had they been borne by a first seller, application for their recovery could be made under

[80] *Id.* at 253, 43 *Fed. Reg.* at 56577.

[81] Section 101(b)(5) of the NGPA requires that: If any natural gas qualifies under more than one provision of this title [Title I] providing for any maximum lawful price or for any exemption from such a price with respect to any first sale of such natural gas, the provision which could result in the highest price shall be applicable.

[82] *See* text accompanying notes 10–23 *supra.*

[83] Subpart H of Part 271 of the Commission's regulations defines a "stripper well" and prescribes necessary regulations for qualifying for section 108 (NGPA) ceiling prices. Subpart H is therefore used as the reference in the definition of production costs.

[84] *See* §§ 271.805(e) and 271.806 of Subpart H of the Commission's regulations; *see also* Order No. 44, "Final Rule Amending Subpart H of Part 271 on Stripper Well Natural Gas and Amendments to § 274.206 of the Interim Regulations," Docket No. RM79–73 at 21–24 (issued Aug. 22, 1979), 44 *Fed. Reg.* 49656, 49660 (Aug. 24, 1979).

[85] *See* Order No. 44, note 84 *supra*, at 4–5, 44 *Fed. Reg.* at 49657.

[86] *See* note 5 *supra* (this generalization is limited by the pipeline or distribution-production rules of section 2(21)(B)). This is in contradistinction to such pre-NGPA rate setting methods which, by use of quality standards, dictated where a sale should occur (*i.e.*, who should bear what costs after production). *See* notes 14 and 15 *supra.*

[87] That section also provides that, if there is no applicable ceiling price solely because of deregulation, the price paid in a first sale will still be deemed to be just and reasonable.

[88] That section also provides that recovery will not be denied if the purshase price is also consistent with certain provisions of Title II of the NGPA.

[89] The sale is not a first sale because it is a sale made by a pipeline of natural gas not attributable to its own production. *See* section 2(21)(B) of the NGPA.

Subpart K (or they could be automatically added on as NGA allowances) and certain compression costs. The policy statement expresses the Commission's view that, as a general proposition, these types of costs should be deemed prudent and, consequently, not subject to challenge (except with respect to the level of the expenditures).

The costs that a seller can now apply for under the amended interim rule include costs to transport or liquefy the gas; costs to process, treat or condition the gas above certain minimum quality levels; and other costs (excluding gathering and compression). These types of costs, as well as the NGA allowances that can automatically be added to a first sale price, are the types of costs which could be incurred by either the seller or purchaser. In that we have identified these types of costs as proper for a section 110 add-on (and therefore, through operation of section 601 of the NGPA, proper costs for utility rate payers to bear), we believe that, as a general matter, these types of costs should be considered as prudent costs if incurred by the purchasing pipeline.

The decision to include compression costs in the policy statement, even though such costs cannot now be applied for by sellers, rests on similar grounds. As we have already discussed, the bar to applications by a seller for compression is temporary. At the time the Commission completes its proceedings to determine the appropriate allowance for compression, applications by sellers will be entertained. Moreover, the applications can be made retroactive to the date the regulations were amended to bar the applications.[80] Thus, our decision to suspend the application process for costs to compress gas is not a decision that all such costs should not be allowed. However, in the interim, we must recognize that pipelines incur compression costs and it is important that pipelines have some guidance now as to what costs may be deemed prudent.

In determining what types of compression costs will be deemed prudent, we begin with the concept developed above in our consideration of what types of costs are allowable under section 110, the concept that "production costs" should not be permitted as an add-on. Certain types of compression, as for example compression to cycle natural gas in gas condensate reservoirs or to pressurize oil reservoirs, gas used in gas-lift operations for lifting liquids from wells, or compression which attends such production enhancement pricing as that for stripper wells or special relief,[81] should properly be considered as production costs. Because of this, we do not believe that such compression costs should be incurred by a pipeline purchaser, much less borne by the consumer as a cost above the maximum lawful price. Therefore, such costs are not considered as prudent compression costs for pipeline companies to bear.

Yet the distinction between a production cost and a production-related cost can not be the sole criteria for considering the prudence of compression costs incurred by a pipeline. The physics of natural gas production are such that gas is produced only when there is a pressure difference between two points and, in that compression makes possible greater pressure difference, compression, as a general matter, results in a higher flow rate of production. Thus, to look only to the production/nonproduction cost distinction could result in no compression costs being deemed prudent. To adopt such a test would be to ignore past Commission practice and the practicalities of natural gas operations. Instead, we must recognize other important attributes of compression.

The first thing we should recognize is that compression necessary to move volumes of gas from the wellhead will also increase the rate of flow of the gas through the pipeline system and thereby make additional gas available in the market place; and it will do so at a lower per-unit cost than other methods used to increase gas supply. Additionally, it will defer abandonment of gas reserves which are uneconomical to produce without the aid of compression. Such uses of compression should be encouraged, for they promote conservation of energy resources. Moreover, as a general proposition, centralized compression facilities will be more cost efficient than compression facilities installed to service individual wells or production platforms. Cost efficiencies of this nature should also be encouraged. Finally compression is a necessary element in moving the gas stream and in treating, processing or conditioning the gas stream. Therefore, compression benefits not only customers who purchase the gas vapor stream but also customers who purchase any liquids or liquefiable hydrocarbons that form a part of that stream. Gas customers should be required to bear only those costs of compression properly allocable to the benefits they receive.

The definition of "prudent compression cost" that accompanies the policy statement reflects these four facets of compression and the "production cost" exception. The definition is divided into three general parts, all of which may operate to have a compression cost be considered prudent.

The first part of the definition is that the cost cannot be a "production cost" as that term is defined under § 270.102(b)(15). This removes from the scope of compression costs deemed prudent any costs that attend compression necessary for production operations. This includes compression for gaslift, cycling gas in a gas-condensate reservoir, pressurizing an oil reservoir, or compression considered as a production enhancement technique.

The second part considers as prudent only those compression costs properly allocable to the pipeline's gas customers. Thus, compression for the benefit of producing or separating liquids and liquifiable hydrocarbons or for transporting these components in a gas stream are excluded. This applies for the case of a pipeline that purchases only the gas vapors and returns to the seller liquids stripped from the stream; and it applies in the case of a pipeline that, while taking title to liquids or liquifiable hydrocarbons, does not include these in the gas stream sold to its gas consumers.

The third part of the definition describes those conditions in which compression operates to conserve energy resources in a cost effective manner or enures to the benefit of the transportation system or both. The first subclause of this part describes the situation where a compressor or compression facility serves two or more onshore producing wells or more than one offshore production platform and is necessary to pressurize the gas for pipeline entry. The intent here is to consider prudent that compression undertaken by a pipeline that is cost effective. The subclause recognizes that, as a general proposition, one compressor serving more than one well is more cost effective than a series of smaller compressors serving individual wells and that a centralized compression facility, as a general proposition, is more cost effective than a series of individual compressors. Accordingly, the subclause expresses a strong preference by the Commission for centralized compression facilities. The provision that the cost must be the "least cost of compression practicable" is to address the situation where a single facility may be more beneficial than a series of facilities placed upstream from that single facility even though each of those facilities service a number of wells. In such a situation it would be the single facility that would be deemed prudent rather than the separate upstream facilities.

There may be situations in which compression for a single well will result in the conservation of energy resources. However, as a general matter, we do not believe that such compression should be deemed prudent. Comments on this general view and how to otherwise treat single-well compression are specifically solicited.

The fourth subclause, that compression which operates on a transportation system to decrease upstream line pressure and thereby increase the throughput of the system, will be deemed prudent, recognizes the important role played by compression in moving the gas stream. Such compression can mean that less field compression will be necessary. It can also mean that the entire system can operate at more efficient levels and provide a greater volume of gas at a lower per-unit-cost. We have intentionally not defined "transportation system" in this context. We intend for the term to be applied broadly to any situation in which the pipeline incurs costs to move the gas stream.

Both the first and fourth subclauses except any compression necessary to treat, process or condition the gas or compression necessary becasue of such activities. The special role played by compression in these activities is exclusively treated in the second and third subclauses. In doing so, we recognize that not all costs of treating, processing or conditioning the gas may be applied for by a seller under our rules implementing section 110 of the NGPA. Because that costs necessary to attain minimum pipeline quality standards should be borne by the seller, these activities if undertaken by the pipeline will not be among those deemed prudent under the policy statement. Compression needed during, or resulting from, operations necessary to meet minimum quality standards is viewed as an adjunct of those operations and, accordingly, should not be deemed prudent under the policy statement. Therefore, to the extent a pipeline incurs compression costs because it treats, processes or conditions the gas it purchases, no presumption of prudence will attend such cost.[92] However, should it be necessary to have the gas exceed the minimum quality standards of § 271.1104(c)(4), the compression properly allocable to these processes will be deemed prudent.

An example should help to explain this distinction. Assume that a pipeline purchases natural gas at a field pressure of 200 pounds per square inch (psi) and must treat the gas for pipeline entry. Also assume that after treatment, the gas is at 100 psi pressure and must be compressed to 800 psi to enter the pipeline. If the treatment is only to meet the minimum quality standards, then the compression cost that would be deemed prudent would be only that cost allocable to the increase from 200 to 800 psi. The 100 psi pressure loss due to treatment would not be presumed prudent. However, if the sole purpose of the treatment was to exceed the minimum quality levels, and such treatment was necessary (and produced benefits only for the gas customers), then the full cost of compressing the gas from 100 psi to 800 psi would be deemed prudent.[93]

The policy statement goes only to certain types of costs; it does not go to the level of expenditures made by a pipeline in doing the activities that engender these types of costs. Moreover, the policy does not go to those types of production-related costs (except compression) which the seller could not apply for under Subpart K absent a showing of hardship, inequity or an unfair distribution of burdens. Those types of costs include costs necessary to raise the quality of the gas stream to a level up to the minimum quality levels of § 271.104(c)(4). They also include gathering costs. For these types of costs, we believe that some showing should be made before they may be considered prudent.

The Commission stated in Opinion No. 86 (*Minnesota Power and Light*) that it has the option of requiring that a utility demonstrate the prudence of particular expenditures in an order setting the increase for hearing or by later order, and generally, that the party seeking to call the prudence of an expenditure into question must do so by adducing evidence or citing to material of which the Commission may take offical notice.[94] Moreover:

> As a matter of practice, utilities seeking a rate increases are not required to demonstrate in their cases-in-chief that all expenditures were prudent unless the Commission's filing requirements, policy or precedent otherwise require. However, where some other participant in the proceeding creates a serious doubt as to the pr[u]d[e]nce of an expenditure, then the applicant has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent.[95]

The Commission will apply the *Minnesota Power and Light* precedent in determining the prudence of "production-related" costs which are incurred by an interstate pipeline but which are not addressed in the policy statement. That is, for such costs, a pipeline may be required to provide information which, at a minimum, explains the nature of the costs and whether it is reasonable for the customers of the pipeline to bear the particular cost.[96]

When a pipeline files its case-in-chief in a rate proceeding the information it files may be considered by the Commission and participants in determining whether the costs described in that filing are of the kind described in the policy statement. If they are, those costs should not be subject to challenge (except with respect to the level of the claimed cost).

Finally, section 2.102(c) sets out the definitions necessary to relate the policy statement to the NGPA and the regulations of Subpart K. The term "production-related costs" is given the same meaning for purposes of the policy statement as it has under Subpart A of Part 270. The terms "first sale" and "interstate pipeline" are given the same meanings as those terms have under the NGPA. The reference in the policy statement to "prudent compression costs" is, as already described, defined in terms of the types of compression that will be considered prudent.[97]

---

[80] Of course, no application for a cost already incurred by the pipeline would be permitted.

[81] *See, e.g.*, Order No. 44, "Final Rule Amending Subpart H of Part 271 on Stripper Well Natural Gas and Amendments to § 274.206 of the Interim Regulations", note 84 *supra*; *see also* "Notice of Proposed Rulemaking, Procedures Governing Applications for Special Relief Under Sections 104, 108, and 109 of the Natural Gas Policy Act of 1978", note 22 *supra*.

[92] As explained below, such costs would not be deemed imprudent; rather, the pipeline would be permitted to enter evidence that such costs were or are prudently incurred.

[93] Of course this is a simple example and complicating factors such as allocating the cost of the compression among the beneficiaries of the compression may be present.

[94] *See* Opinion No. 86, Minnesota Power and Light Co., Docket No. ER76-827, at 16, nn. 44 and 45 (issued June 24, 1980).

[95] Id. at 17-18 (footnotes omitted).

[96] In a later Notice of Proposed Rulemaking we will propose amendments to the filing requirements of § 154.93 which specify what information will be required under the policy. In the interim, pipelines should be on notice that the Commission will exercise its authority to require the filing of additional evidence as warranted.

[97] *See* the attached Appendix for a discussion of various examples of compression in the context of the definition of "prudent compression cost". The Appendix—"Examples of Various Compression Activities" is filed with the Office of the Federal Register as part of the original document. Copies may be secured by writing to the Federal Energy Regulatory Commission, Office of Public Information, Washington, D.C. 20426.

E. Effective Dates and Further Proceedings.

The interim regulations of Subpart K of Part 271 and Subpart A of Part 270, are amended as set forth below and are being made effective immediately in order to properly implement the NGPA. Good cause to do so exists because most of the changes made to the interim regulations either remove restrictions or clarify the existing regulations. With respect to amendments that suspend the application procedure of § 271.1104 for gathering and compression allowances, these amendments are being made effective immediately because such applications would not be acted upon during the pendency of generic proceedings to determine the appropriate level for these allowances. To permit further application would serve no purpose or administrative practicality. In that these allowances will, for potential applicants, be considered retroactively to the date of this suspension, and in that application may still be made under the provisions of section 502(c) of the NGPA for these allowances, potential applicants should not be adversely affected by the suspension.

Because it is a policy statement, and necessary for the proper implementation of the NGPA and the NGA, the amendment to Part 2 of the Commission's regulations is made effective immediately.

Because the amendments to Parts 270 and 271 made by this Rule are interim, comments will be considered before they are made final. Interested persons may submit comments on the amendments made under this Rule and the policy statement by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 22, 1980. Each person submitting a comment should include his name and address, identify Docket No. RM80-47, and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the amendments may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

The Commission intends to hold a public hearing on the amendments made to Subpart A of Part 270 and Subpart K of Part 271, as required by section 502 of the NGPA. The date and location of such hearing will be announced in the future. The amendments shall not become final until the Commission has had an opportunity to receive oral presentation of relevant data, views and arguments.

(Natural Gas Act, as amended, 15 U.S.C. § 717, *et seq.*; Department of Energy Organization Act, 47 U.S.C. §§ 7101–7352; E.O. 12009, 42 F.R. 46267; Natural Gas Policy Act of 1978; 15 U.S.C. §§ 3301–3432)

In consideration of the foregoing, Parts 2, 270 and 271 of Title 18, Code of Federal Regulations, are amended as set forth below; to become effective on the date the Rule is issued. (July 25, 1980)

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. Part 2 is amended by creating a new section to follow § 2.101 to read as follows:

§ 2.102 Policy respecting production-related costs borne by interstate pipelines (Lower-48 States).

(a) *Policy.* If an interstate pipeline purchases natural gas in a first sale, then, in any proceeding brought under the Natural Gas Act to determine the lawfulness of the rates and charges of such pipeline, any activity that results in the pipeline incurring a production-related cost with respect to such gas (whether or not the activity for which the cost is incurred is conducted by the pipeline) shall be deemed prudent if:

(1) The activity is one the cost of which could have been applied for under Subpart K of Part 271 had it been undertaken by the seller; or

(2) The cost incurred is a prudent compression cost.

(b) *Definitions.* For purposes of this section:

(1) The terms "first sale" and "interstate pipeline" have the same meanings as such terms have under the NGPA.

(2) The term "prudent compression cost" means any compression that:

(i) is not a production cost;

(ii) is properly allocable to the gas stream purchased by the pipeline for the benefit of its gas consumers; and

(iii) is in one of the following categories:

(A) a compressor or compression facility serving two or more onshore producing wells, leases or fields or more than one offshore producing platform and necessary to pressurize the gas for pipeline entry absent any treatment, processing, or conditioning but only to the extent the cost so incurred is the least cost of compression practicable;

(B) compression necessary to treat, process, or condition the gas but only to the extent such treatment, processing, or conditioning is necessary to exceed the minimum quality standards set forth under § 271.1104(c)(4);

(C) compression necessary because of pressure loss attributable to treating, processing, or conditioning the gas stream but only to the extent that such treatment, processing, or conditioning was necessary to exceed the minimum quality standards set forth under § 271.1104(c)(4); or

(D) a compressor or compression facility that is not necessary for or because of any treatment, processing, or conditioning but operates on a transporting system to decrease upstream line pressure.

(3) The terms "production cost" and "production-related cost" have the same meanings as such terms have under §§ 270.102(b) (15) and (17) of Part 270.

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

2. Section 270.102 of Part 270 is amended in paragraph (b) by adding new paragraphs (15), (16) and (17) to read as follows:

* * * * *

(b) *Subchapter H definitions.* For purposes of this subchapter:

* * * * *

(15) "Production costs" means all costs incurred for exploration, development, production and abandonment operations, enhanced recovery techniques (including costs of compression incurred in the production of stripper well natural gas to which the pricing provisions of Subpart H of Part 271 apply), gas-lift pumping or other liquid lifting equipment located on or in the vicinity of the wellhead or the point of commingling gas on the offshore platform from which the gas is produced, and costs that attend compression necessary for lifting liquids, cycling gas in a gas-condensate reservoir or pressurizing an oil reservoir.

(16) "Non-allocable costs" means all costs incurred for the construction or operation of facilities to recover, separate, extract, process, treat, dehydrate, store, or transport crude oil or natural gas liquids or both.

(17) "production-related costs" means costs (excluding production costs and non-allocable costs) of compressing, gathering, processing, treating, liquefaction, conditioning, or transporting natural gas, or other similar costs.

PART 271—CEILING PRICES

3. The title to Subpart K, Part 271 and § § 271.1100, 271.1101, 271.1104, 271.1105, and 271.1106 are amended to read as follows:

Subpart K—Allowances for State Severance Taxes and Certain Production-Related Costs

§ 271.1100 Applicability.

(a) *General.* This subpart prescribes regulations under which a price for a first sale of natural gas shall not be considered to exceed the applicable maximum lawful prices set forth in this Part if such first sale price exceeds the maximum lawful price determined under Subparts B through J of this Part to the extent necessary to recover:

(1) State severance taxes under § 271.1102; and

(2) Production-related costs allowed by rule or order of the Commission under § 271.1104.

§ 271.1101 Definitions.

(a) Except as provided in paragraph (b), the term "State severance tax" as used in this subpart means any severance, production, or similar tax, fee, or other levy imposed on the production of natural gas:

(1) By any State;

(2) By any Indian tribe recognized as eligible for services provided by the Secretary of the Interior to Indians; or

(3) By any political subdivision of a State if the authority to impose such tax, fee, or other levey is granted to such political subdivision under State law.

(b) The term "State severance tax" does not include any amount of tax which results from a provision of State law enacted on or after December 1, 1977, unless such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

* * * * *

§ 271.1104 Production-related costs.

(a) *General rule.* To the extent provided in this section, the maximum lawful price applicable to a first sale of natural gas shall not be considered to be exceeded as a result of the addition to a first sale price of an amount necessary to recover production-related costs borne by the seller in a first sale and approved by the Commission.

(b) *Exclusion of certain natural gas.*

(1) *Certain intrastate contract and intrastate rollover gas.* Applications under this section will not be considered, and the Natural Gas Act allowances described under paragraph (d) of this section will not be allowed, for natural gas the only maximum lawful price applicable to which is determined under Subpart E or F of this part (relating to sales made under an existing intrastate contract, an intrastate rollover contract or a successor to an existing intrastate contract).

(2) *Certain Alaskan gas.* Applications under this section for natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976 will be considered only for production-related costs described in paragraph (c)(4)(ii) of this section.

(c) *Costs for which applications may be submitted.* Except as provided in paragraph (b) of this section, applications will be considered by the Commission for an amount necessary to recover the following costs:

(1) [Reserved]

(2) Transportation (other than gathering) costs may be applied for.

(3) Liquefaction costs to convert an entire natural gas stream to a liquid form for the purpose of allowing cryogenic transport of the natural gas stream may be applied for; however, costs incurred to extract from the gas stream hydrocarbon constituents such as ethane, propane, butane, and natural gasolines may not be applied for.

(4)(i) Except as provided under clauses (ii) and (iii) of this subparagraph, costs of processing, treating or conditioning may be applied for to the extent they exceed the amount attributable to meeting the following standards:

(A) Total sulphur (grains per 100 cf.)—20.

(B) Hydrogen sulphide (grains per 100 cf.)—1.

(C) Water (pounds per MMcf)—7.

(D) Carbon dioxide (percent by volume)—3.

(E) Oxygen, nitrogen, dust, dirt, gum, or other impurities.

in amounts in excess of which the buyer would be required to incur costs to meet pipeline requirements.

(ii) With respect to first sales of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976, the Commission will entertain applications for costs necessary to lower the carbon dioxide content from a level of A percent by volume to a level of less than A percent by volume.

(iii) Subject to paragraph (b) of this section, the Commission will entertain applications for costs of processing, treating or conditioning natural gas with respect to first sales of natural gas to any person for use by such person.

(5) *Other costs.* Production-related costs, other than costs for compression, gathering, transportation, liquefaction, processing, treating or conditioning may be applied for.

(d) *Certain costs not requiring application.* Except as provided in paragraph (b), an application under this section need not be made for a first sale price to exceed the applicable maximum lawful price by an amount necessary to recover costs incurred for the following activities:

(1) *Appalachian-Illinois Basin Areas.* A gathering allowance of 1.0 cent per Mcf for all sales of natural gas made from wells located in the Appalachian-Illinois Basin Areas.

(2) *Hugoton-Anadarko Area.* A gathering allowance in the amounts prescribed below if delivery of the natural gas is made after substantial off-lease gathering by the producer, whether at a plant tailgate or at a central point in the field:

(i) For natural gas produced in the Panhandle and Hugoton Fields the allowance shall be 2.5 cents per Mcf; and

(ii) For gas produced from fields or reservoirs other than the Panhandle or Hugoton Fields (the "Other Fields") the allowance shall be 1.0 cent per Mcf;

(3) *Other Southwest Area.* A gathering allowance in the amounts listed below if the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an off-shore platform on the buyer's pipeline:

(i) For gas produced in the Other Oklahoma Area, Texas Railroad District No. 9, and Northern Arkansas the allowance shall be 1.5 cents Mcf;

(ii) For gas produced in Texas Railroad District Nos. 5 and 6, Northern Louisiana, and Southern Arkansas the allowance shall be 1.0 cent per Mcf; and

(iii) For gas produced in Mississippi and Alabama the allowance shall be 1.25 cents per Mcf.

(4) *Permian Basin Area.* For gas produced in the Permian Basin Area, a gathering allowance of 1.5 cents per Mcf if delivery is made after substantial off-lease gathering by the producer, whether

at a plant tailgate or a central point in the field.

(5) *Rocky Mountain Area.* For gas produced in the Rocky Mountain Area, a gathering allowance of 1.0 cent per Mcf if delivery is made to the buyer at a central point in the field, the tailgate of a processing plant, or a point on the buyer's pipeline.

(6) *Southern Louisiana Area.* For gas produced in the Southern Louisiana Area, a gathering allowance of 0.5 cent per Mcf if the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(7) *Texas Gulf Coast Area.* For gas produced in the Texas Gulf Coast Area, a gathering allowance of 0.4 cent per Mcf if the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(8) *Delivery of offshore gas by the producer to an onshore area.* If natural gas produced offshore is delivered onshore, at the sole cost to the producer, the allowance shall be 1.0 cent per Mcf for such offshore gas.

(9) *Other allowances.* In the event that a seller was authorized prior to November 9, 1978 to collect an allowance in excess of an allowance determined under clauses (1) through (8) of this paragraph, the seller may collect the allowance so authorized.

§ 271.1105 Procedures for determination and collection.

(a) *Applications.* Applications made to the Commission under § 271.1104 shall be under oath and shall include the following information:

(1) Identification of the maximum lawful price applicable to the first sale of the natural gas under Part 271;

(2) Documents supporting the identification of the applicable maximum lawful price, including copies of any determinations by a jurisdictional agency or the Commission or copies of applications made for such determinations;

(3) A summary of the contract provisions which contain the obligations of the parties with respect to production-related costs;

(4) If the applicant has purchased the natural gas which is the subject of an application under this paragraph, documentation of the price paid by the applicant for such gas;

(5) The specific costs sought to be recovered by the applicant and a description of the method used to compute such costs; and

(6) The circumstances which make it necessary for the applicant to collect any amount in excess of the maximum lawful price provided for under Part 271.

(b) *Additional information.* The Commission may, upon receipt of an application made under this section, require the submission of additional information and hold, or cause to be held, such other proceedings as it deems necessary or appropriate.

§ 271.1106 Adjustments.

For procedures to obtain an adjustment on the grounds of special hardship, inequity, or unfair distribution of burdens, see § 1.41 of this chapter.

[FR Doc. 80-24113 Filed 8-8-80; 8:45 am]
BILLING CODE 6450-85-M

---

18 CFR Part 277

[Docket No. RM80-8; Order No. 95]

Bona Fide Offers; Right of First Refusal

Issued July 28, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This order implements sections 315(b) and (c) of the Natural Gas Policy Act of 1978 (NGPA). Section 315(b) establishes that the purchaser of natural gas which is removed from Natural Gas Act jurisdiction under section 601(a)(1)(B) of the NGPA has the right to a bona fide offer to purchase such natural gas and the right of first refusal which permits the purchaser to buy such natural gas under the terms of an offer made by a third party purchaser. The order establishes procedures by which the requirements of bona fide offer and the right of first refusal shall be satisfied. Under the authority granted in section 315(c), the Commission has prescribed recordkeeping requirements pertaining to sales occurring under section 315(b).

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Leslie J. Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., N.E, Washington, D.C. 20426, (202) 357-8027.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

I. Background

On November 14, 1979, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking in Docket No. RM80-8, (44 FR 66208, November 19, 1979). The proposed rule would implement section 315(b) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. § 3375(b), concerning bona fide offers and the right of first refusal. Section 315(b) imposes a duty on the seller of certain categories of natural gas to make a bona fide offer for the continued sale of such gas upon the expiration of the contract for sale covering such gas. If the bona fide offer is rejected, and the seller attempts to sell the gas to a person other than the original purchaser, section 315(b)(3) grants a right of first refusal to the original purchaser of such natural gas, which right permits the original purchaser to match the terms of a third party offer to purchase the natural gas.

In summary, the notice proposed to impose requirements involving bona fide offers and the right of first refusal on certain sales of gas which gas (1) was committed or dedicated to interstate commerce on November 8, 1978, and (2) has been determined to be high-cost gas described in section 107(c)(1) through (4) of the NGPA, new natural gas under section 102(c), or gas produced from a new onshore production well under section 103. The proposed provisions involving bona fide offers required that a bona fide offer to sell the gas to the original purchaser be made, in those cases where the original contract had not yet expired, 20 days prior to expiration of the contract. The original purchaser was given 20 days to accept the offer in writing. If the offer was rejected, the seller could sell the gas to other purchasers only if the original purchaser rejected his right of first refusal, that is, refused to purchase the gas under terms substantially accepted in principle by a third party in an arms-length transaction. The third party could not be an affiliate of the seller. If the purchaser accepted such an offer, he had the right to change the delivery point and physical conditions of delivery specified in the offer to those found in the subject contract.

A seller of gas subject to these provisions was free to sell the gas to third person only if (1) the bona fide offer was rejected, (2) the offer submitted pursuant to the right of first refusal was rejected, and (3) the gas was, or is, sold under the terms of the offer subject to the right of first refusal, which the original purchaser rejected. Other provisions required that the gas must continue to be sold to the original purchaser, where the contract expired, until the bona fide offer requirements were met. Relief was extended to original purchasers as the Commission determined to be appropriate, for sales

which took place prior to the promulgation of this rule. The proposal also required the retention of certain records.

Interested persons were invited to submit written comments on the proposed rule on or before December 19, 1979. A public hearing concerning the proposed rule was scheduled to be held on December 14, 1979. The hearing was cancelled due to lack of interest in participation by the public. All written comments received in this docket are in the Commission's public files and are available for public inspection in the Commission's Division of Public Information.

II. Summary of Comments

Written comments concerning the proposed rule were submitted by interested persons and were reviewed by the Commission. The comments which were received raised numerous issues which will be discussed in turn.

A. Bona Fide Offers

1. *Form of Bona Fide Offers.*—Section 277.203(b) of the proposed rule defined the term "bona fide offer" as:

> A written offer by the seller to the original purchaser which would be legal for such purchaser to accept under the Natural Gas Act and which is sufficiently firm that if accepted by the original purchaser would result in a binding contract enforceable by the seller and the purchaser.

Numerous persons commented that the requirement that such offer must be legal for the purchaser to accept under the Natural Gas Act (NGA) (15 U.S.C. §§ 717-717w) was not clear. One commenter indicated that what was probably intended by this requirement, as it appeared in the Conference Report of the NGPA, was compliance with the legal requirements pursuant to the regulation of interstate pipelines under the transportation sections of the NGA.

Under the Natural Gas Act, the Commission has ruled that various types of contractual clauses are impermissible. For example, certain types of indefinite rate escalation provisions were prohibited by the Commissions in Order No. 174-B, 13 F.P.C. 1576, Order No. 232, 25 F.P.C. 379, and Order No. 242, 27 F.P.C. 339. Permissible contractual clauses concerning pricing provisions are set forth in § 154.93 of the Commission's regulations. "Most favored nation" clauses have similarly been abrogated by the Commission (See, § 154.93 of the Commission's regulations and Order No. 174-B, 13 F.P.C. 1576). The Commission contemplated legal strictures of this nature when defining the term "bona fide offer" and views such strictures as intended by the Conferees when they stated that the offer should include terms which are legal to accept under the Natural Gas Act (Joint Explanatory Statement of the Committee on Conference Natural Gas Policy Act of 1978, P.L. 95-621, H. Report No. 95-1126, August 16, 1978, at page 111).

Other comments were made concerning the form of the bona fide offer and the degree of specificity of the offer required by the proposed rule. Several commenters noted that it is the common practice to have the purchaser submit the proposed contract to the producer. Both the proposed rule and § 277.205 of the final rule would require that the producer submit the offer to the purchaser. Because the rule does not reflect business practice, the commenters suggested that the producer need not be required to submit an actual and detailed contract to the purchaser. Rather, it was suggested the producer could simply be required to make an offer or specify terms which will enable the parties to reach an agreement in principle without compelling the producer to draft a legally sufficient and binding contract.

The Commission is not convinced that the proposed regulations should be changed in this regard. The regulations do not require that the seller submit an "actual and detailed contract" to the seller. They merely require that the offer be "sufficiently firm that, if accepted by the original purchaser, [it will] result in a binding contract enforceable by the seller and the purchaser." (*See*, § 277.203(c)). Thus, all that needs be submitted to comply with the bona fide offer requirement is an offer which, if accepted, is legally sufficient to bind the parties. Detailed contractual provisions can be added at a later stage in the negotiation if desired by the parties.

2. *Definitions.*—In § 277.203(f) of the proposed rule, the term "original purchaser" was defined to include any successor in interest to such original purchaser. One commenter suggested that a definition of "seller" should also be included in the rule, and that it should be defined to include successors to sellers who are subject to the section 315(b) obligations. The Commission believes that such a definition would carry out the purposes of section 315(b) by ensuring that no purchaser of natural gas eligible for the protection afforded by section 315(b) is denied its rights because of a change in the identity of the seller of such natural gas. Accordingly, the term "seller" will be defined in the regulation to include successors to sellers for the purposes of this rule.

3. *Scope of Bona Fide Offer.*—A general rule is established in § 277.205(a) governing bona fide offers. The proposal provided that deliveries of gas under a subject contract may not be discontinued until a bona fide offer has been rejected by the original purchaser. Two commenters felt that this section should be clarified to state that sales may not be discontinued before the contract expires. The general rule has been amended to clarify the fact that it is the Commission's intent that sales not be discontinued prematurely.

With respect to the scope of the bona fide offer rule, one commenter stated that the offer is statutorily required under section 315(b) of the NGPA only where the contract expired before December 1, 1978. Pursuant to this interpretation, natural gas which was sold under a contract which had not expired as of November 8, 1978, would be subject only to the right of first refusal. To support this interpretation, the commenter cites the use of the word "or" in section 315(b)(3) (which provides when the right of first refusal arises), as indicating that *either* the contract has expired, presumably after November 9, 1978, *or* the bona fide offer has been rejected. The pertinent language in section 315(b)(3) reads:

> The Commission shall require that following—(A) the expiration or termination of any contract . . ., *or* (B) any rejection of any bona fide offer . . ., such person who would have been entitled to receive such natural gas shall be granted a right of first refusal . . . . (emphasis added).

This position is untenable for several reasons. First, nothing in section 315(b)(3)(A) indicates that the reference to "expiration or termination of any contract" was limited to those contracts which expire after November 9, 1978. Second, in section 315(b)(2), which provides for the bona fide offer, no distinction is made between natural gas sold under a subject contract which expired prior to the enactment of the NGPA, and natural gas sold under a subject contract which expired after the enactment of the NGPA. The language of section 315(b)(2) provides that if natural gas which was committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA, has been removed from Natural Gas Act jurisdiction, and was produced on or after December 1, 1978, a bona fide offer must be made to the original purchaser to continue to sell the gas after termination of the contract. The

language of section 315(b)(2) regarding its applicability is clear on its face.

Other factors also point against this commenter's reading of the statute. The Commission interprets the use of the word "or," emphasized by the commenter, to indicate that the right of first refusal vests in all cases at the earlier of the expiration of the contract or the rejection of the bona fide offer. The two clauses, when read together, ensure that the original purchaser is not denied the protection of section 315 where the contract expires before the requirements of the bona fide offer provision have been met.

The Commission's view is supported by the Conference Report, *supra*, which states that:

Following the expiration of any contract covering such natural gas, *and* any rejection of a bona fide offer by the purchaser who would have been entitled to receive the gas under the Natrual Gas Act, such purchaser is granted a right of first refusal . . . (p. 111) [emphasis added]

Here, the use of "and" clearly implies that Congress intended to have a bona fide offer for all gas described in this section, at some point in time after the contract expires, regardless of when the contract expired. The Commission's interpretation of section 315(b)(2) and (3), as requiring a bona fide offer for all gas to which this subsection applies, operates to give effect to both the language of the statute as written, and the intent of Congress as gleaned from the Conference Report.

4. *Timing of Bona Fide Offer.*—Section 277.205(b) of the proposed rule provided:

(1) *Determination more than 45 days before contract expiration.* With respect to the natural gas subject to this subpart and for which the final determination that the natural gas qualifies as high-cost natural gas, new natural gas or gas from a new, onshore production well was made 45 days or more before the expiration date of the subject contract (other than a contract implied in law) the bona fide offer shall be made no later than 20 days prior to the expiration date of the subject contract.

(2) *Determination less than 45 days before contract expiration.* In all other cases, the offer shall be made no later than 20 days after a final determination is made that the natural gas qualifies as high-cost natural gas, new natural gas or natural gas produced from any new, onshore production well.

Several persons commented that the bona fide offer should not be permitted to be made more than 18 months prior to the expiration of the contract. The commenters raising this point felt that without such a provision, the purchaser might find itself in the position of having to consider a bona fide offer years before the contract expires. Furthermore, years may elapse between the time the bona fide offer is made and the expiration of the right of first refusal. Such occurrences would circumvent meaningful compliance with the bona fide offer rule. Accordingly, the Commission has modified the proposal to provide that bona fide offers may not be made more than 18 months prior to expiration of the contract.

The commenters made several arguments that the 20-day time frame was unduly restrictive. One reason given was that negotiations between the parties often exceed 20 days, which, they suggested, is all the rule allows. The Commission believes that the 20 days provided for both the making and acceptance of the offer (§ 277.205(b)) is sufficient. While negotiations may or may not take longer than 20 days, that fact is immaterial here. Nothing in this rule limits the amount of time parties may carry on negotiations other than those required by the provisions regarding bona fide offers. The parties are free to enter into a contract for the sale of such gas where the contract was not the result of the procedures required regarding bona fide offers. In addition, the parties are also free to agree to modifications of the time requirements established in this rule. (*See*, § 277.209.)

The comments seem to imply that the time restrictions on making and accepting the bona fide offer work a hardship on small producers who may be unaware of the bona fide offer provisions, as well as a hardship on large producers who will find it difficult to monitor their contracts on a daily basis. One commenter noted that small producers may not be aware of these provisions, and that it would be preferable simply to require that the offer be made before the sale of gas under the subject contract is discontinued, or after a specified period of time following a request by the purchaser for a bona fide offer. The Commission does not accept these suggestions. Requiring that the bone fide offer provisions be complied with not later than 20 days before expiration of the contract is not significantly more burdensome to the small producer than simply requiring compliance before deliveries are terminated. Moreover, the 20 day notice provides protection to the purchaser which the Commission believes was intended in section 315(b)(2) since deliveries may not stop until the purchaser has had a reasonable opportunity to reject the bona fide offer.

Large producers were concerned that no provisions are made for the cases where the producer fails to comply with the time requirements of this section. Another commenter noted that in actual practice, contracts expire with no replacement contracts yet made. It was argued that it is not possible for purchasers with many contracts to monitor them on a daily basis. Such monitoring is not required by the rule. Sellers are free to make the bona fide offer at any time up to 18 months before the expiration of the contract. The flexibility afforded by the 18 month rule should result in no significant recordkeeping or monitoring burden on sellers. For instance, a seller could make an annual survey of interstate contracts, identify those expiring in the next 12 months for which well determinations have been made or applied for, and make bona fide offers to purchasers who are or may be entitled thereto.

The proposals to liberalize the time limits are not adopted.

5. *Acceptance or Rejection of the Bona Fide Offer.*—Section 277.205(c) stipulates the manner of making the bona fide offer and the acceptance thereof. This section provides that any counteroffer to the bona fide offer will constitute a rejection of the bona fide offer. One commenter suggested that for a counteroffer to act as rejection of the offer, it should be required to be in writing to avoid confusing counteroffers with requests for clarification of the bona fide offer itself. It was the intent of the Commission to treat only written counteroffers submitted in the manner of the required acceptance to be treated as the rejection of the offer. The text of the regulation has been so conformed. Requiring written counteroffers is consistent with the Commission's position that nothing in this rule is intended to prevent the parties from negotiating for the continued sale of subject gas outside of the realm of the bona fide offer and right of first refusal rules.

Another commenter suggested that the Commission can establish that rejection of an offer will be implied after a certain time has elapsed. Section 277.205(c) of this rule, as well as the proposed rule, provides that if a bona fide offer is not accepted or rejected in the prescribed manner provided for therein, it will be deemed rejected.

B. Right of First Refusal

1. *General.*—Proposed § 277.206(a) contained the general rule governing the right of first refusal. The general rule provides:

The seller shall present any offer substantially accepted in principle by a third person in an armslength transaction to the original purchaser for exercise of its right of first refusal. The offer shall be presented in accordance with the provisions of this section.

This provision engendered numerous comments. First, one commenter suggested that the contract which is submitted to the original purchaser should not be party-specific, that is, the name of the third-party purchaser should be omitted. The proposed rule did not require that the name of the third-party purchaser be disclosed.

One commenter suggested that the rule should specify that only sections 102, 103, and 107 gas is subject to the rule, and that the seller is still required to sell to the original purchaser all other gas previously committed or dedicated to it. The comment accurately reflects the provisions of section 601 of the NGPA and these regulations, however, we feel the applicability and definitions provisions in the rule (in § 277.202 and § 272.203(a)) adequately describe the scope of this rule. It was also suggested that the rule state that once the original purchaser refuses to accept the first offer substantially accepted in prinicple by a third-party, the provisions of section 315 will cease to apply to the subject natural gas. This suggestion is not accepted. The rule provides, in § 277.204, that the provisions cease to apply only if a sale is subsequently made under the terms rejected by the original purchaser. The rule is necessary in order to avoid the presentation to the original purchaser of offers which, while "substantially accepted in principle by a third party," were never intended to apply to an actual sale of the subject natural gas.

One commenter stated that it is not necessary to have fixed every detail of the "offer substantially accepted" by a third party. The offer should be flexible enough to enable negotiations to take place between the seller and original purchaser. The Commission believes that the offer must be sufficiently firm that when accepted by either the third-party purchaser, or the original purchaser, a binding contract would result. However, as noted above, the seller and original purchaser may agree to modify or supplement the terms found in this offer; indeed, the seller may be required to modify certain terms, such as delivery point and delivery pressure, where necessary to enable the original purchaser to accept delivery of the subject gas (see § 277.206(d)).

The final comment concerned the provision which prevents transactions between affiliates from being able to satisfy the right of first refusal obligations. The point made by the commenters here is that adequate safeguards exist to ensure that these transactions are fair, and section 601 of the NGPA allows the Commission to oversee such transactions. The commenters argued that because these safeguards exist, the affiliate transactions need not be prohibited, but can be permitted and reviewed by the Commission using a third-party standard. Inasmuch as the language of section 315 explicity requires that transactions be at arms-length, the Commission finds that affiliate transactions were not intended to be included in the scheme of the right of first refusal. The suggestions made by the commenters will not be adopted. However, the final rule has been amended at § 277.209(a), to permit the original purchaser to waive the exclusion respecting affiliate transactions.

2. *Time Frame Proposed.*—The time frame for making and accepting the offer pursuant to the right of first refusal was set out in § 277.207(b) and (c). With respect to this provision, one commenter indicated that it felt insufficient time was provided for the transmittal of the offer to the original purchaser. Proposed § 277.206(b) provided that the seller must present the offer at the later of (1) the time when the offer substantially accepted in principle by the third-party purchaser, or (2) the time when the bona fide offer is rejected. The Commission has amended this provision to permit the seller to present the offer within 10 days of its acceptance, or rejection of the bona fide offer, whichever is later.

One commenter stated that the use of certified mail for sending the offer to the original purchaser should not be required. Use of certified mail enables the parties to know with more certainty when the time periods for offer and response expire. Accordingly, disputes over the timeliness of actions are less likely to result. Telegrams with confirming copy sent by certified mail will be acceptable as they also tend to restrict disputes over timeliness.

3. *Delivery Point and Physical Conditions of Delivery.*—Section 277.206(d) of the proposed rule provided:

Delivery point under an accepted offer. Notwithstanding any contrary provision of an offer substantially accepted in principle, the original purchaser that accepts the offer shall (at its option) have the right to receive the natural gas at the delivery point and under the physical conditions of delivery specified in the subject contract.

Three commenters took issue with the provisions of this section, based on the argument that the Commission is not authorized to prescribe the terms of delivery, and that the right to alter delivery point is outside of the realm of the right of first refusal. The parties stated that delivery point and other conditions of delivery have substantial economic impact and can thus affect the price agreed upon in the agreement between the seller and a third party purchaser. To enable the original purchaser to avoid these terms, they argued, subverts the negotiation process. Commenters insisted that the original purchaser should be required to accept *all* the terms of the offer substantially accepted by the third party.

The Commission fully recognizes that terms concerning delivery point and pressure affect the sale price for natural gas established in a contract. However, the Commission believes that in order to give the original purchaser a meaningful right of first refusal under section 315(b)(3), the original purchaser must be given the opportunity to purchase the gas on terms which will physically allow delivery. To simply grant the original purchaser the first chance to accept an offer, under which it would be physically impossible for him to accept delivery, affords the original purchaser no substantial protection at all. For example, the terms of the offer substantially accepted may provide for delivery of the gas at some location to which the original purchaser has no access. Unless the purchaser could obtain delivery at some acceptable location, his right of first refusal would serve no purpose.

If the original purchaser does accept an offer to sell natural gas made pursuant to section 315(b)(3), and makes changes in delivery conditions which place the seller in an economically disadvantageous position, the seller may petition the Commission for an allowance to compensate the seller for additional expenses incurred as a result of the original purchaser exercising the right to take delivery under the conditions in the subject contract.

C. Interim Protective Sales

Under the time provisions established in this rule, there is a potential gap between the subject contract's expiration and the original purchaser's acting on the bona fide offer. To provide for an orderly operation of section 315(b) as well as an orderly transition to non-price deregulation of natural gas subject to this rule, the Commission

proposed provisions for interim protective sales. These provisions read:

§ 277.207 *Interim protective sales.*

(a) *General rule.* Except as provided in § 277.208, after the expiration date of a subject contract, any natural gas subject to the provisions of this subpart shall continue to be sold to the original purchaser until the requirements of § 277.205 (concerning bona fide offers) have been met.

(b) *Conditions of sale.* Natural gas sold to the original purchaser under paragraph (a) of this section shall be sold under the terms and conditions prevailing in the subject contract on the last day the contract was in effect, except that the seller may charge no more than the price paid by the original purchaser on the day before the final determination was made.

One commenter argued that interim sales are outside the scope of the Commission's jurisdiction, and so this provision should be deleted. This commenter further asserted that the price limit in paragraph (b) is unlawful, as the Commission cannot impose as a ceiling price the lower of two applicable maximum lawful prices, by operation of section 101(b)(5) of the NGPA. The Commission disagrees. It is within the scope of the Commission's rulemaking authority in implementing section 315(b) of the NGPA to impose on the seller an obligation to continue sales to the original purchaser (on terms prevailing under the expired contract), where the seller fails to comply with his duty to make a bona fide offer.

Another commenter suggested that instead of retaining the *price* in effect on a certain date, the *pricing terms* should be retained, in order to permit escalation. We agree. Section 277.207(b) is modified to provide that the seller will continue to sell the subject gas to the original purchaser in accordance with the pricing terms which were in effect on the last day the contract was effective, rather than limiting the price to the price paid by the original purchaser on the day before the final determination was made.

D. Intervening Third-Party Sales

The proposal contained provisions in § 277.208, regarding sales made to third parties prior to the issuance of the proposal. The proposal would have permitted the original purchaser to apply to the Commission for relief. One commenter recommended that the Commission clarify what terms would be available to the original purchaser seeking relief in the case in which the subject contract has expired and the seller has entered into a contract for the first sale of the subject gas after the gas received a final determination and before this rule was issued. Section 277.208(b) in the proposed rule provided that the original purchaser could apply for relief as the Commission would deem appropriate, and such application be made not later than January 15, 1980. The Commission does not believe it could fairly decide issues which will be raised in applications for relief except upon review and examination on a case-by-case basis. This provision is retained in the final rule. The date for such applications will be moved forward, and the new deadline for applications for relief will be September 1, 1980.

5. *Waivers.*—The proposed rule, at § 277.209, allowed the original purchaser to voluntarily waive its right to a bona fide offer or the right to first refusal and provided the manner in which to effect such a waiver. Several persons recommended deletion of this section. One argument made which favored deletion was that waiver is not warranted by section 315, and is contrary to the public interest. The obligations found in section 315 are statutory in nature and a seller cannot be relieved of these obligations. Another commenter stated that the Commission is nowhere empowered to authorize anticipatory waiver. A waiver by one purchaser could unfairly result in a waiver for all successor purchasers. A right cannot be waived, it is argued, until it may be exercised.

The Commission does not agree that waiver is either unwarranted or unauthorized. The Commission believes that the parties have the right to bargain for the waiver of section 315(b) rights irrespective of whether or not the rule contains the provisions concerning waiver. Moreover, if a purchaser is satisfied that his rights under section 315(b) are adequately protected through his own negotiations with the seller, the Commission perceives no reason to insist the seller should be required to execute the intricate procedures required under section 315(b). However, in response to the concerns raised, a new provision has been added in the final rule which requires that any waiver must be made no more than one year prior to the expiration of the subject contract.

A question was raised whether the waiver is intended to be a blanket waiver of all section 315(b) rights, or a contract-by-contract waiver. This commenter considered a blanket waiver to be unacceptable, because to make a knowing and voluntary waiver, the original purchaser must consider proposed terms and conditions for a specific contract for the purchase of a certain type of natural gas, in certain quantities, and at a given price. This commenter further asserted that any written waiver should be preceded by notice to the ultimate customers and the state regulatory agency. The customers and state agencies should have an opportunity to review and oppose such waivers.

Once again, it is the Commission's position that the scope of the waiver, whether blanket or contract-specific, is a matter to be agreed upon by the seller and original purchaser in arms-length transactions. A purchaser's agreement to a waiver of its rights to a bona fide offer or right of first refusal should not be subject to any different scrutiny than the failure to exercise those rights would be.

III. Summary of the Rule

The rule implementing the bona fide offer and right of first refusal provisions of section 315(b) of the NGPA are found in Subpart B of Part 277 of the Commission's regulations. Sections 277.201 through 277.204 are general in nature, setting forth the applicability, purpose and scope of the rule promulgated under section 315(b). The rule applies to natural gas which has been removed from Natural Gas Act jurisdiction by virtue of its being the subject of a final determination that it qualifies as deregulated high-cost gas under section 107(c)(1) through (4), new natural gas under section 102(c), or natural gas produced from any new, onshore production well under section 103(c) of the NGPA. The general rule requires that before a seller of the natural gas described above (hereinafter "subject gas") enters into a sale of the subject gas to a purchaser other than the purchaser who received the gas under the Natural Gas Act (the original purchaser), the seller must first make a bona fide offer of sale of the subject gas to the original purchaser. If the original purchaser rejects this bona fide offer, the seller may seek a third-party purchaser, but before any sale of the subject gas can be made to a third party, the seller must give the original purchaser the opportunity to purchase the subject gas at the terms and conditions substantially accepted in principle by the third-party purchaser. This describes the right of first refusal vested in the original purchaser by section 315(b)(3).

Section 277.205 establishes procedures and the time frame pursuant to which the bona fide offer required by section 315(b)(2) is to be made and accepted or rejected. In the case where the subject gas has received an appropriate final determination (that it qualifies under section 107(c)(1) through (4), section 102(c), or section 103(c)) 45 days or more before the subject contract expires, the seller must make the bona fide offer no later than 20 days before the contract expires. When the appropriate final determination is made less than 45 days before contract expiration, the bona fide offer is required to be made no later than 20 days after the subject gas is removed from the jurisdiction of the Natural Gas Act, that is, the date of the final determination. A bona fide offer cannot be made more than 18 months prior to the expiration of the contract covering subject gas, if it is to satisfy the requirements set out in the NGPA and the implementing regulations. The bona fide offer must be transmitted to the original purchaser in writing, and sent by U.S. mail, certified, return receipt requested. The original purchaser must respond to the offer within 20 days; any acceptance must be in writing and is deemed operative when signed and placed in the U.S. mail, certified, return receipt requested. Counteroffers and failure to respond are deemed to be rejections.

If the original purchaser rejects the bona fide offer, and the seller seeks to sell the gas after expiration of the subject contract, the right of first refusal comes into play. The procedures and time requirements for the implementation of the right of first refusal provisions are set forth in § 277.206. The seller is required to submit to the original purchaser the offer substantially accepted in principle by a third party in an arms-length transaction not later than 10 days from the later of the time when the offer was substantially accepted in principle, or the time when the bona fide offer was rejected. The offer must be sent by U.S. mail, certified, return receipt requested, and, if accepted, must be accepted by the original purchaser within 20 days of its receipt. Counteroffers or acceptances after 20 days have passed are deemed to be rejections. An acceptance is operative if it is in writing, when placed in the U.S. mail, certified, return receipt requested.

A significant provision is incorporated in the rule where it concerns the right of first refusal and is found in § 277.206(d). This provision enables the original purchaser, in the exercise of its right of first refusal, to accept the offer substantially accepted in principle and to modify the delivery point and physical conditions of delivery stated in this offer to match those in the subject contract between the seller and the original purchaser. The seller in this case may request that the price be increased to offset any additional cost incurred by the seller related to the original purchaser's decision to modify terms of delivery. The price may be increased by action of the Commission, but will not be raised above the applicable maximum lawful price.

First sales of natural gas subject to the section 315(b) requirements cease to be subject to these requirements when the original purchaser has both rejected the bona fide offer and the offer substantially accepted in principle by a third-party purchaser and the subject gas has been sold to a third-party purchaser pursuant to the terms of that offer rejected by the original purchaser.

Section 277.207(a) provides for interim protective sales to be carried out in the period after the subject contract has expired and until the seller has satisfied its obligation to make to a bona fide offer. Section 277.207 provides that such sales will be under the terms and conditions prevailing in the subject contract on the last day the contract was in effect. The rule also makes provisions, at § 277.208, for natural gas which has been removed from the Natural Gas Act jurisdiction before September 1, 1980. Original purchasers of this gas may apply for relief with the Commission not later than September 1, 1980. In general, requirements of bona fide offer and right of first refusal found in §§ 277.204 through 277.206 will not apply to this gas.

Original purchasers may waive the rights granted to them under section 315(b), pursuant to § 277.209 of the rule. In order to be effective, the waiver must be made no more than one year prior to the expiration of the subject contract, it must be in writing and signed by the original purchaser. The original purchaser is also specifically permitted to waive the prohibition which prevents affiliate transactions from being qualifying transactions for the purposes of obtaining an offer substantially accepted in principle by a third party, subject to the original purchaser's right of first refusal.

Section 277.210 requires that sellers subject to this subpart retain copies of all bona fide offers made under § 277.205, and offers made to original purchasers in compliance with such purchasers' right of first refusal under § 277.206. Sellers and purchasers are also required to retain all other documents related to this subpart which are created in the ordinary course of business.

IV. Effective Date

This rule shall become effective as a final rule on September 1, 1980.

(Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432; Natural Gas Act, as amended 15 U.S.C. §§ 717–717w)

In consideration of the foregoing, Subpart B of Part 277, Chapter I, Title 18, Code of Federal Regulations is added, as set forth below, effective as a final rule on September 1, 1980. By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 277 is amended by adding a Table of Contents to read as follows:

PART 277—OTHER PROVISIONS

Subpart A—Contract Duration

Sec.
277.101 Duration of new contracts for first sale of certain OCS gas.

Subpart B—Bona Fide Offers; Right of First Refusal

Sec.
277.201 Purpose.
277.202 Applicability.
277.203 Definitions.
277.204 General rule.
277.205 Bona fide offers.
277.206 Right of first refusal.
277.207 Interim protective sales.
277.208 Gas removed from Natural Gas Act jurisdiction before September 1, 1980.
277.209 Waiver of rights under this subpart.
277.210 Recordkeeping requirements.

Authority: Natural Gas Policy Act of 1978; 15 U.S.C. §§ 3301—3432.

2. Part 277 is further amended in the text of the regulations by adding the title "SUBPART A—CONTRACT DURATION" immediately preceding § 277.101.

3. Part 277 is further amended by adding a new Subpart B to read as follows:

Subpart B—Bona Fide Offers; Right of First Refusal

§ 277.201 Purpose.

This subpart implements section 315(b) of the NGPA. Under section 601(a)(1)(B) of the NGPA, any service obligation which a first seller may have under the Natural Gas Act continues until the gas is removed from Natural Gas Act jurisdiction. This subpart specifies the circumstances under which a seller, prior to making a first sale of gas removed from Natural Gas Act jurisdiction to a third party purchaser, must make a bona fide offer to sell such gas to such original purchaser and give such original purchaser a right of first

refusal of offers to sell such gas which have been substantially accepted in principle by a third party purchaser in an arms-length transaction.

§ 277.202

Applicability.

This subpart applies to natural gas removed from Natural Gas Act jurisdiction.

§ 277.203

Definitions.

For purposes of this subpart:

(a) Natural gas is "removed from Natural Gas Act jurisdiction" if it is natural gas which:

(1) Was committed or dedicated to interstate commerce on November 8, 1978 (other than natural gas committed or dedicated to interstate commerce solely by reason of its being natural gas from the OCS under section 2(18)(A)(i) of the NGPA);

(2) Has been finally determined to be:

(i) Deregulated high-cost gas (as defined in § 272.103),

(ii) New natural gas (as defined in § 271.203(a)), or

(iii) Natural gas produced from any new, onshore production well (as defined in § 271.303); and

(3) Would be subject to the provisions of the Natural Gas Act and the jurisdiction of the Commission thereunder but for the provisions of section 601(a)(1)(B) of the NGPA.

(b) "Arms-length transaction" means a transaction between parties with adverse economic interests. Arms-length transactions exclude transactions between affiliates or family members.

(c) "Bona fide offer" means a written offer by the seller to the original purchaser which would be legal for such purchaser to accept under the Natural Gas Act and which is sufficiently firm that if accepted by the original purchaser would result in a binding contract enforceable by the seller and the purchaser.

(d) "Final determination" means an eligibility determination which has become final within the meaning of § 273.102(b) of this chapter.

(e) "Offer substantially accepted in principle" means a written acceptance by a purchaser (other than the original purchaser) of a written offer to sell the natural gas. The written offer and acceptance must be sufficiently firm such that if the original purchaser rejects the written offer, the written offer and acceptance by the third party purchaser would result in a contract which is binding on the seller.

(f) "Subject contract" means a contract (including an implied contract):

(1) For the sale of natural gas which is removed from Natural Gas Act jurisdiction; and

(2) Which was in effect on or after November 9, 1978.

(g) "Implied contract" means a contract implied by reason of the seller's service obligation under the Natural Gas Act (excluding any interim service obligation arising from this subpart or section 315 of the NGPA).

(h) "Expiration date of a subject contract" means:

(1) In the case of natural gas subject to an implied contract, the date the natural gas is removed from Natural Gas Act jurisdiction

(2) In all other cases, the expiration or termination date of the subject contract.

(i) "Original purchaser" means a person who would be entitled to receive natural gas under the Natural Gas Act but for the provisions of section 601(a)(1)(B) of the NGPA. (The original purchaser may be any successor in interest to the person which had the right to receive the natural gas on November 8, 1978).

(j) "Third party purchaser" means a person, other than the original purchaser, that purchases the natural gas subject to this subpart from the seller.

(k) "Seller" means that person who would be required to sell natural gas under the Natural Gas Act, but for the provisions of section 601(a)(1)(B) of the NGPA. (The Seller may be any successor in interest to the person who had the obligation to sell the natural gas on November 8, 1978).

§ 277.204 General rule.

(a) Except as provided in §§ 277.208 and 277.209, no seller may make a first sale of natural gas which is removed from Natural Gas Act jurisdiction to any third party purchaser until the original purchaser has both rejected a bona fide offer in accordance with § 277.205 and has rejected an offer substantially accepted in principle by a third party purchaser in an arms-length transaction, in accordance with § 277.206.

(b) The requirements of this subpart cease to apply to the first sale of natural gas when;

(1) The original purchaser has rejected a bona fide offer with respect to the natural gas in accordance with § 277.205;

(2) The original purchaser has rejected an offer substantially accepted in principle with respect to the natural gas in accordance with § 277.206; and

(3) The seller has sold the natural gas to a third party purchaser in an arms-length transaction under the terms of the offer substantially accepted in principle (which was rejected by the original purchaser).

§ 277.205 Bona fide offers.

(a) *General rule.* Except as provided in §§ 277.208 and 277.209, deliveries of natural gas removed from Natural Gas Act jurisdiction to an original purchaser under a subject contract may not be discontinued until the later of:

(1) The expiration date of the subject contract, or

(2) Rejection of a bona fide offer as provided for under paragraph (c) of this section.

(b) *Time for making the bona fide offer.*

(1) *Determination 45 days or more before contract expiration.* With respect to the gas removed from Natural Gas Act jurisdiction 45 days or more before the expiration date of the subject contract (other than an implied contract) the bona fide offer shall be made no later than 20 days prior to the expiration date of the subject contract.

(2) *Determination less than 45 days before contract expiration.* In all other cases, the offer shall be made no later than 20 days after the gas is removed from Natural Gas Act jurisdiction.

(3) *18 month rule.* A bona fide offer made more than 18 months prior to the expiration of the subject contract will not be deemed to satisfy the requirements of this subpart or section 315(b)(2) of the NGPA.

(c) *Offer; acceptance; rejection.*

(1) The written bona fide offer shall be made by sending it to the original purchaser by U.S. mail, certified, and return receipt requested.

(2) The original purchaser shall have 20 days from receipt to accept the bona fide offer. The bona fide offer, if accepted, shall be accepted in writing. It shall be deemed accepted when signed and placed in the U.S. mail, certified, return receipt requested.

(3) The bona fide offer may be rejected by a written refusal to accept it. Any written counteroffer to the bona fide offer made by the original purchaser shall constitute a rejection of the bona fide offer. If the bona fide offer is not accepted or rejected within 20 days, it shall be deemed rejected.

§ 277.206 Right of the first refusal.

(a) *General rule.* The seller shall present any offer substantially accepted in principle by a third party purchaser in an arms-length transaction to the original purchaser for exercise of its right of first refusal. The offer shall be presented in accordance with the provisions of this section.

(b) *Time for making the offer.* Except as provided in § 277.208, the seller shall present the offer described in paragraph (a) of this section to the original purchaser for the exercise of its right of first refusal not later than 10 days after the later of:

(1) The time when the offer is substantially accepted in principle; or

(2) The time when the bona fide offer is rejected.

(c) *Offer; acceptance; rejection.*

(1) The offer described in paragraph (b) of this section shall be made by sending it to the original purchaser by U.S. mail, certified, return receipt requested.

(2) The original purchaser shall have 20 days from receipt to accept the offer. The offer, if accepted, shall be accepted in writing. It shall be deemed accepted when it is signed and placed in the U.S. mail, certified, return receipt requested.

(3) The offer may be rejected by a written refusal to accept it. Any written counteroffer to the offer made by the original purchaser, except as provided in paragraph (d) of this section, shall constitute a rejection. If the offer is not accepted or rejected within 20 days, it shall be deemed rejected.

(d) *Delivery point under an accepted offer.* Notwithstanding any contrary provision of an offer substantially accepted in principle, the original purchaser that accepts the offer shall (at its option) have the right to receive the natural gas at the delivery point and under the physical conditions of delivery specified in the subject contract. On application of the seller, the Commission may permit the price under the offer substantially accepted in principal to be increased (but not above the applicable maximum lawful price) in order to compensate the seller for any cost incurred by the seller by reason of the original purchaser's exercise of its rights under this paragraph.

§ 277.207 Interim protective sales.

When deliveries of gas are required to be continued after the expiration of the subject contract under § 277.205(a), such gas shall be sold under the terms and conditions prevailing in the subject contract on the last day the contract was in effect. Nothing in this subpart prohibits a seller from interrupting deliveries of gas in accordance with the provisions of a contract or any certificate of public convenience and necessity which would have been applicable but for the removal of the gas from NGA jurisdiction.

§ 277.208 Gas removed from Natural Gas Act jurisdiction before September 1, 1980.

(a) *Applicability.* This section applies to natural gas if such gas was removed from Natural Gas Act jurisdiction prior to September 1, 1980, and if the subject contract expired before such date.

(b) *Relief.* The original purchaser of gas to which this section applies may apply not later than October 1, 1980, to the Commission for such relief as the Commission may by order determine appropriate. Unless such order otherwise provides, § 277.204 through § 277.207 shall not apply to any gas to which this section applies.

§ 277.209 Waiver of rights under this subpart.

(a) *General rule.* The original purchaser may voluntarily waive any requirement imposed on the seller under this Subpart (including the purchaser's right to a bona fide offer under § 277.205, its rights of first refusal under § 277.206, and the limitation in § 277.203(b) that arms-length transactions under § 277.206 do not include transactions between affiliates). No such waiver may be made more than one year prior to the expiration of the subject contract.

(b) *Method of waiver.* Waiver under paragraph (a) of this section must be in writing and signed by the original purchaser.

§ 277.210 Recordkeeping requirements.

All sellers of natural gas which is subject to this subpart must retain copies of all bona fide offers made under § 277.205 and offers to the original purchasers to satisfy the original purchaser's right of first refusal under § 277.206. The sellers and purchasers of natural gas which is subject to this subpart must also retain all other documents created in the ordinary course of business which relate to this subpart.

[FR Doc. 80-23254 Filed 8-8-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[T.D. 7713; LR 2-77]

Generation-Skipping Transfer Tax Regulations; Effective Date Provisions for Generation-Skipping Transfer Tax

AGENCY: Internal Revenue Service. Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations implementing the effective date provisions of the new tax on generation-skipping transfers that was added by the Tax Reform Act of 1976. The regulations reflect changes made to the effective date provisions by the Revenue Act of 1978, and affect all persons creating, or increasing the amount of, a generation-skipping transfer after June 11, 1976.

DATES: The regulations are effective for certain generation-skipping transfers (as defined in section 2611 (e)) made after June 11, 1976.

FOR FURTHER INFORMATION CONTACT: Fred E. Grundeman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20024. Attention CC:LR:T 202-566-3287, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 1978, the **Federal Register** published proposed regulations implementing the new generation-skipping transfer tax (26 CFR Part 26) under Chapter 13 of the Internal Revenue Code of 1954 (43 FR 59849). A public hearing was held on April 10, 1979. After consideration of all written and oral comments regarding the proposed regulations, final regulations are adopted by this Treasury decision.

Provisions of this Regulation

Under Chapter 13, a tax is imposed on every generation-skipping transfer occurring after June 11, 1976. However, section 2006(c) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1879) provides that certain trusts in existence on that date (or created under wills in existence on that date) are excluded by effective date and transition rules from the application of the generation-skipping transfer tax provisions. The Code further provides that a trust, which is otherwise excluded from the new tax, may become subject to the tax if additions to corpus are made after June 11, 1976.

The regulations provide guidelines for determining which trusts in existence on June 11, 1976, are excluded from Chapter 13 under the effective date rule; which trusts in existence on June 11, 1976, are excluded from Chapter 13 by the transition rule; and what effect additions or amendments to trusts occurring after June 11, 1976, will have.

Additional Considerations

These regulations are needed in order to provide guidance to the public as well as to government employees responsible for the implementation of Chapter 13 of the Code. Considering both the direct and indirect effects of these regulations, it is believed that they satisfactorily implement section 2006(c) of the Tax

Reform Act of 1976, as amended by section 702(n)(1) of the Revenue Act of 1978. Evaluation of the effectiveness of the regulations after issuance will be based upon comments received from offices within the Internal Revenue Service and the Treasury Department, other government agencies, and the public.

Public Comments

Fifty-four comments were received in response to the proposed regulations. The comments focused principally on three areas of the proposal; the definition of the term "revocable", the characterization of accumulated income as an addition to the corpus of a trust, and the characterization of a codicil as an amendment to a will at the time of execution even though ambulatory until death. The Treasury Department agrees that in these areas, as well as others, modification of the proposed regulations is appropriate.

The regulation has been revised to follow the structure of the statute more closely. It now provides an effective date rule applicable to irrevocable trusts and a transition rule applicable to wills and revocable trusts where the testator/creator dies before January 1, 1982. Under the regulation a trust will be treated as a revocable trust only if the trust would have been included in a decedent's estate under section 2038 (without regard to powers relinquished during the prior 3-year period) if the decedent had died on June 11, 1976. Furthermore, the regulation provides that accumulated income will not be an addition to the corpus of a trust. Finally, a post June 11, 1976, codicil will not be considered a disqualifying amendment to a will if it does not ultimately result in a change to the will which creates or increases the amount of a generation-skipping transfer.

Five comments were received on the transition rule treatment of mental incompetence. The Department agrees that the proposal provided results not contemplated by the statute. Accordingly, it has been revised to provide that the transition rule will apply to individuals who were mentally incompetent on June 11, 1976, for a minimum of two years after competency has been regained.

The Department believes Congress intended transitional relief be denied where individuals, after consideration of the generation-skipping aspects of their existing estate plans, alter those plans in a manner that creates or increases the amount of a generation-skipping transfer. Several commentors stated, however, that the proposed transition rule treatment of amendments to wills and revocable trusts left a number of questions unanswered and did not grant sufficient relief. In response to these comments, the proposal has been clarified in several respects. First, the regulation makes it clear that amendments to any instrument falling within the transition rule (including trust equivalents) will result in loss of "grandfathering" for all generation-skipping transfers under that instrument. Second, the word "technical" has been deleted from subsection (e)(1)(ii) because it was confusing and redundant. Third, several examples have been added. Fourth, the "independent effect" concept (under which each amendment would be tested against the facts as they exist on the date of death) has been replaced by a "cumulative effect" rule. The regulation now provides that in testing whether an amendment results in the creation or increase in the amount of a generation-skippping transfer, the instruments that exist on the date of death (or any prior taxable distribution or termination) will be compared to the instruments that existed on June 11, 1976.

Several commentors felt that a republication of a will that was in existence on June 11, 1976, should be treated as a will in existence on that date, arguing that the "revival" concept recognized in the proposal is a technicality. After reconsideration, the Department believes it would be unwise to modify the proposed rule. The apparent intent of Congress was to provide transitional relief for those wills that would be effective were the testator to die on June 11, 1976. The rule as proposed requires that any instrument "in place" on that date, be probated, and, therefore, open to challenge. Treating a republication as the original instrument, would place the Internal Revenue Service in the impractical position of "proving" that the instrument being republished not only was a valid will but that it was the instrument that would have controlled the devolution of the testator's property had the testator died on June 11, 1976.

The proposed regulation provided that post June 11, 1976, additions to both irrevocable and revocable trusts would subject a proportionate amount of transfers from the trust to Chapter 13. Upon reconsideration the Treasury Department believes that the statute distinguishes between additions to trusts subject to the effective date rule and those subject to the transition rule. Thus, under the final regulation, an addition to the corpus of an irrevocable trust will result in a proportionate part of future distributions being subject to tax, while an addition to a revocable trust will result in future distributions being fully subject to tax. However, to alleviate potentially harsh results, the regulation provides that if all post June 11, 1976, additions to a revocable trust are set aside as a separate fund prior to January 1, 1982, only the separate fund will be subject to Chapter 13.

Other comments suggested that either tracing or segregation of assets should be allowed as an alternative to the proposed rule that generation-skipping transfers occurring subsequent to an addition to corpus of an irrevocable trust are proportionately "tainted"; *i.e.*, subject to tax under Chapter 13, to the same extent that the value of the corpus represented added assets immediately after the additions. The Treasury Department continues to believe that a single approach provides the more equitable result in terms of both trust and tax administration.

A number of commentors stated that "additions" to the corpus of a trust should only occur where property is conveyed to the trust from an outside source. They argued that the "constructive addition" concept adopted in the proposal was not intended by Congress. After reconsideration, the Department feels the legislative history does not support the position of the commentors. The structure of the statute (including both an effective date rule and a transition rule) and the language in the Conference Committee Report (expressly providing that "grandfather" protection will not in all cases be applicable to an irrevocable trust subject to a "limited" power of appointment) clearly indicate a congressional intent to provide relief from the provisions of Chapter 13 only in those cases where the generation-skipping transfer could not be avoided. Thus, subject to the application of the transition rule, it is appropriate to subject property to the generation-skipping tax where an individual is, for gift and estate tax purposes, treated as owning the property. This result is accomplished by the "constructive addition" concept.

As a number of commentors noted, the generation-skipping tax is essentially complementary to the estate and gift taxes and burdensome legal and administrative questions may arise if traditional transfer tax concepts are not followed. The Department recognizes the validity of these concerns and has revised the regulation to provide that a constructive addition will be deemed to occur in those cases where the exercise, release or lapse of a power of appointment is subject to either the

Federal estate or gift tax, with the further provision that if a nongeneral power is exercised in a manner that may result in an extension of the term of the trust more than 21 years beyond a life or lives in being at the original creation of the trust, there will be a constructive addition to the corpus of the trust. However, principally for purposes of administrative convenience, where a constructive addition occurs by reason of the exercise, release or lapse of a power which is in any part taxable under Chapter 11 or Chapter 12 the amount of the addition will be equal to the entire portion of the trust subject to the power. Rules to determine the grantor of such construction additions will be set forth in definitional regulations to be published shortly in proposed form.

Six commentors felt that the "pour-over" exception to the addition to corpus rule should be expanded beyond a "grandfathered" will or revocable trust. The regulation now provides that any "pour-over" involving two "grandfathered" instruments will not result in loss of relief under either the effective date or the transition rule.

The regulation also contains an example stating that the transition rule is inapplicable where the holder of a general power of appointment dies before January 1, 1982 but had no will in existence on June 11, 1976. The Department believes this rule is necessary to relieve the Internal Revenue Service from having to inquire whether a will was destroyed after June 11, 1976, to avoid adverse generation-skipping tax consequences.

Finally, several grammatical changes suggested by commentors were adopted.

Drafting Information

The principal author of these regulations is Fred E. Grundeman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Regulations

Accordingly, a new part 26, Generation-Skipping Transfer Tax Regulations, is added to Title 26 of the Code of Federal Regulations, and the first regulations adopted thereunder are as follows:

§ 26.2601-1 Effective Date.

(a) *In general.* Except as provided in paragraphs (b)(1) and (b)(2) of this section, the provisions of Chapter 13 of the Code apply to any generation-skipping transfer, as defined in section 2611(a), made after June 11, 1976. For purposes of this section, any reference to a trust includes a "trust equivalent" within the meaning of section 2611(d).

(b) *Exceptions*—(1) *General rule.* The provisions of Chapter 13 of the Code will not apply to any generation-skipping transfer—

(i) under a trust which was irrevocable on June 11, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after that date (the effective date rule); or

(ii) under any other trust created before June 12, 1976, or established under a will executed before June 12, 1976, which becomes irrevocable by reason of the death of a decedent before January 1, 1982, provided that the document in existence on June 11, 1976, was not amended at any time after June 11, 1976, in any respect which results in the creation of, or an increase in the amount of, a generation-skipping transfer (the transition rule).

(2) *Mental disability.* If an individual on June 11, 1976, was under a mental disability to change the disposition of his or her property, the date in the transition rule of this section (and in every reference to the transition rule) by which a document must become irrevocable shall be the later of January 1, 1982, or the date which is two years after the date on which the individual first regains his or her competence to dispose of his or her property. For purposes of this provision, the term "mental disability" means mental incompetence, in fact, to execute the instrument governing the disposition of his property, whether or not there was an adjudication of incompetence.

(3) *Examples.* The provisions of paragraphs (b)(1) and (b)(2) may be illustrated by the following examples:

Example (1). *A*, a resident of State *X*, had executed an irrevocable generation-skipping trust, but had not funded the trust as of June 11, 1976. On that date the trust was named irrevocable beneficiary of certain paid up life insurance policies on the life of *A*. Under the law of State *X* a trust is not considered a separate entity until it is funded. However, under the law of State *X* the combination of documents in existence on June 11, 1976, is considered as irrevocably disposing of the insurance proceeds, and is, therefore, an irrevocable trust equivalent for purposes of Chapter 13. Assuming that the trust is not funded (and that no further arrangements are made to add corpus to the trust or enhance the benefit payable under the policies) future generation-skipping transfers pursuant to the trust will not be subject to Chapter 13 by reason of the effective date rule.

Example (2). Assume the same facts as in example (1) except that under the law of State *X* the documents did not irrevocably determine the disposition of the insurance proceeds. Under these circumstances the combination of documents in existence on June 11, 1976, is a revocable trust equivalent. Assume further that after executing the documents but before June 12, 1976, *A* became mentally disabled and was incompetent to dispose of his property by will until his death on August 15, 1985, at which time the trust was funded with the insurance proceeds. Since the revocable trust equivalent was in existence on June 11, 1976, and the decedent was at that time mentally disabled, no generation-skipping transfers pursuant to the trust will be subject to tax under Chapter 13.

Example (3). Assume the same facts as in example (2) except that the decedent became mentally disabled after June 11, 1976. In this case, since *A* became mentally disabled after June 11, 1976, and survived beyond December 31, 1981, the transition rule is not applicable and all generation-skipping transfers pursuant to the trust will be subject to the provisions of Chapter 13.

(c) *Irrevocable trusts*—(1) *In General.* For purposes of this section, any trust in existence on June 11, 1976, will be considered an irrevocable trust except to the extent that on that date it was subject to a power that would have caused the value of the trust to be included in a decedent's gross estate for Federal estate tax purposes by reason of section 2038 (without regard to those powers relinquished during the prior 3-year period) if the decedent had died on that date. Thus, a trust will be considered subject to a power on June 11, 1976, even through the exercise of the power was subject to the precedent giving of notice, or even though the exercise could take effect only on the expiration of a stated period, whether or not on or before June 11, 1976, notice had been given or the power had been exercised. Moreover, a trust will not be considered subject to a power if the power is, by its terms, exercisable only on the occurrence of an event or contingency not subject to the possessor's control (other than the death of the possessor) and if the event or contingency had not in fact taken place on June 11, 1976.

(2) *Examples.* The provisions of paragraph (c)(1) of this section may be illustrated by the following examples:

Example (1). On June 11, 1976, *Y*, the settlor of a trust that was otherwise irrevocable on June 11, 1976, had a testamentary power to add new beneficiaries to the trust. The testamentary power held by *Y* would have caused the trust to be included in *Y's* gross estate under section 2036 if *Y* had died on June 11, 1976. Therefore the trust is not an irrevocable trust for purposes of this section.

Example (2). On June 11, 1976, *A*, the wife of the settlor of a trust in existence on that date, had the right to withdraw 15% of the corpus in each calendar year. The trust had a

V 45 A G 1 1 1 8 0 UMI

value of $100,000 on June 11, 1976, and was otherwise irrevocable on that date. Because the power was not held by the settlor of the trust it is not a power described in section 2038 of the Code and the trust is considered irrevocable on June 11, 1976.

Example (3). In 1972, *A* created a trust retaining the right to expand the class of remaindermen to include any of *A's* afterborn grandchildren. On June 11, 1976, there were no grandchildren who were not named remaindermen of the trust. Since *A's* power on June 11, 1976, was dependent on afterborn grandchildren being in existence, a contingency that had not occurred, the trust is not considered subject to the power on June 11, 1976, and is an irrevocable trust for purposes of this section.

(d) *Amendments to wills or revocable trusts.*—(1) *In general.* For purposes of this section, an amendment to a will or revocable trust in existence on June 11, 1976, will not be considered to result in the creation of, or an increase in the amount of, a generation-skipping transfer, where the amendment is—

(i) Basically administrative or clarifying in nature and only incidentally increases the amount transferred, or

(ii) Designed to ensure that an existing bequest or transfer qualifies for the applicable marital, charitable or minor child (orphans) deduction for estate, gift, or generation-skipping tax purposes and only incidentally increases the amount transferred. For purposes of determining whether a particular amendment to a will (or revocable trust) creates, or increases the amount of, a generation-skipping transfer, the effect of the instrument(s) in existence on June 11, 1976, will be measured against the effect of the instrument(s) in existence on the date of death of the decedent or on the date of any prior generation-skipping transfer. If the effect of an amendment cannot be immediately determined, it will be deemed to create, or increase the amount of, a generation-skipping transfer until a determination can be made.

(2) *Wills and trusts in existence on June 11, 1976.* For purposes of this section, a will or revocable trust will be considered in existence on June 11, 1976, if (i) the will or revocable trust was in existence on June 11, 1976, (ii) the will or revocable trust was revoked in its entirety by a new will or revocable trust and (iii) prior to the death of the testator or creator the new will or revocable trust is revoked in such a manner that, under local law, the document(s) in existence on June 11, 1976, (or a conformed copy thereof) again controls the passing of property at death.

(3) *Examples.* The provisions of paragraph (d) (1) and (2) of this section may be illustrated by the following examples:

Example (1). An amendment changes the trustees of a revocable trust in existence on June 11, 1976. Although the amendment may have the effect of lowering administrative costs and thus increasing the corpus of the trust, it will be considered administrative in nature. Therefore, assuming that the generations to which the new trustees belong do not result in the creation of, or an increase in the amount of, a generation-skipping transfer, the amendment will not prevent transfers pursuant to the trust from qualifying under the transition rule.

Example (2). On September 1, 1976, *A* executes a codicil to a will in existence on June 11, 1976, removing one of the co-executors named in the will. Although the codicil may have the effect of lowering administrative costs and thus increasing the corpus of a residuary trust, it will be considered administrative in nature and will not prevent generation-skipping transfers under the will from qualifying under the transition rule.

Example (3). A will, in existence on June 11, 1976, containing a formula marital deduction provision coming within the transition rule of section 2002(d)(1) of the Tax Reform Act of 1976, is amended to allow the estate to continue to obtain the maximum allowable estate tax marital deduction. Such an amendment does not prevent transfers under the will from qualifying under the transition rule even if the amendment incidentially produces an estate tax savings that increases the amount passing to a residuary generation-skipping trust.

Example (4). On September 1, 1976, *A* executes a codicil to his will that was in existence on June 11, 1976, revoking a bequest of $10,000 to *B* and causing that amount to be added to a residuary trust containing generation-skipping provisions. Such an amendment will be deemed to increase a generation-skipping transfer and will prevent transfers under the will from qualifying under the transition rule. If, however, *B* dies before *A* and the bequest would have lapsed under local law, the codicil will not be considered an amendment that increases a generation-skipping transfer.

Example (5). On June 11, 1976, a will provided that an amount equal to the maximum allowable marital deduction would pass to the testator's spouse. After June 11, 1976, the will is amended by codicil to provide that the amount passing to the surviving spouse will not exceed one-half of the adjusted gross estate, even though a larger deduction may be allowable by reason of certain generation-skipping transfers or the application of section 2056(c)(1)(A)(i). As the amendment merely removes a potential ambiguity created by changes in the law subsequent to execution of the will (and does not change the original distribution of the estate), it will be considered clarifying in nature and will not prevent transfers under the will from qualifying under the transition rule.

Example (6). On June 11, 1976, *D's* will provided that an amount equal to the maximum allowable marital deduction would pass to *D's* spouse with the residue of the estate passing to a testamentary generation-skipping trust. After June 11, 1976, the will is amended to provide that the marital share passing to *D's* spouse shall be the lesser of the maximum allowable marital deduction or that amount which will result in no estate tax liability for *D's* estate. The amendment is not considered clarifying in nature and may, therefore, prevent any generation-skipping transfers under the will from qualifying under the transition rule.

Example (7). On June 11, 1976, *C's* will provided for the creation of two generation-skipping trusts. On September 1, 1976, *C* executed a codicil to the will specifically increasing the amount to be used to fund one of the trusts. Since the codicil is an amendment to a will in existence on June 11, 1976 which, if effective, will increase the amount of a generation-skipping transfer, all transfers made pursuant to the will or either of the trusts created thereunder are precluded from qualifying under the transition rule.

Example (8). Assume that *C* in example (7) executed a second codicil deleting the increase to the fund. Because the provision increasing a generation-skipping transfer did not become effective it will not be considered an amendment to a will in existence on June 11, 1976.

Example (9). On June 11, 1976, *C's* revocable trust provided for certain generation-skipping transfers. Prior to his death on August 7, 1980, *C* amended his trust to provide that an amount, previously payable to *C's* child, be paid instead to charity upon *C's* death. *C's* trust provided that any estate tax attributable to the trust should be paid by the trust. The effect of the charitable amendment was to decrease the estate tax attributable to the trust thereby increasing the corpus for subsequent generation-skipping transfers. Because the amendment does more than perfect an existing deductible transfer, the amendment is considered as increasing the amount of a generation-skipping transfer, and all transfers made pursuant to the trust are precluded from qualifying under the transition rule.

Example (10). Prior to June 11, 1976, *S* created a revocable trust providing that upon the death of *S* the income was to be paid to *S's* nephews *A, B* and *C* in equal shares for life, with one-third of the corpus to be distributed per stirpes of each nephew's surviving issue upon the death of the nephew. *A* becomes disabled and *S* modifies the trust in 1978 to increase *A's* share of the income. Since the amendment cannot result in the creation of, or increase in the amount of, a generation-skipping transfer, transfers pursuant to the trust will not be subject to taxation under Chapter 13.

Example (11). Assume the same facts as in example (10) except that the amendment adds a fourth nephew, *D*, as an income beneficiary. Since the amendment does not create or increase the amount of, a generation-skipping transfer, transfers pursuant to the trust will not be subject to Chapter 13.

Example (12). Assume the same facts as in example (11) except that *D's* issue are to take a one-fourth share of the corpus per stirpes upon *D's* death. Because the distribution to

be made upon D's death may involve a younger generation than would be involved if one-third shares were distributed under the original trust, the amendment will be considered an amendment that creates or increases a generation-skipping transfer until a determination can be made. Accordingly, any generation-skipping distribution of the trust corpus will be considered a taxable generation-skipping transfer until it is apparent that a younger generation has not been added to the trust. At that time a claim for refund may be filed with respect to any generation-skipping transfer tax that was paid within the period set out in section 6511.

Example (13). On June 15, 1976, *C* executed a new will revoking entirely a will in existence on June 11, 1976. The second will is considered a new will which was not in existence on June 11, 1976, and will not qualify under the transition rule even though each generation-skipping transfer under the new will is no greater than the transfer that would have occurred under the will in existence on June 11, 1976. If prior to *C's* death, *C* revokes the new will in such a manner that the document in existence on June 11, 1976, becomes subject to probate, the intervening instrument will not disqualify the original instrument for purposes of the transition rule. If *C* revokes the new will by a later will republishing the original will in its entirety the republication would not qualify transfers under the will under the transition rule unless local law would require the proof of the original document as *C's* will.

(e) *Additions to corpus*—(1) *Irrevocable trusts.* An addition made after June 11, 1976, to the corpus of a trust that was irrevocable on June 11, 1976, will subject a proportionate amount of the transfers from such a trust to the provisions of Chapter 13 of the Code. In such a case, the portion subject to Chapter 13 is a fraction of the trust's total value. The numerator of this fraction is the amount of the addition (valued as of the date the addition was made) and the denominator is the total value of the trust immediately after the addition. Where there is more than one addition to corpus after June 11, 1976, the portion of the trust attributable to all such additions will be a similar fraction. The numerator of this fraction is the sum of:

(i) The total value of the trust immediately before the latest addition, which, because of the prior additions, is subject to Chapter 13, and

(ii) The amount of the latest addition. The denominator of the fraction is the total value of the trust immediately after the latest addition.

(2) *Revocable trusts.* Except as provided in paragraph (e)(4) of this section, an addition made after June 11, 1976, but before the death of the settlor, to the corpus of a trust described in the transition rule will subject all subsequent generation-skipping transfers involving the trust to the provisions of Chapter 13 of the Code unless the corpus of the trust as it existed on June 11, 1976, is severed from the additions thereto. The corpus will be considered severed if, before January 1, 1982, the assets transferred to the trust after June 11, 1976 (together with all income and capital gains derived therefrom and after all losses, expenses, and distributions chargeable thereto) are permanently set aside as a separate fund so that the trust will be treated as two separate trusts under local law. Under these circumstances, all distributions from the separate fund will be subject to the provisions of Chapter 13. Additions made to the corpus of a trust described in the transition rule after it becomes irrevocable by reason of the death of the settlor will be treated as additions to an irrevocable trust.

(3) *Constructive addition.* Where any portion of the corpus of an irrevocable trust remains in the trust after the post June 11, 1976, release, exercise or lapse of a power of appointment over that portion of the corpus and the release, exercise or lapse is treated to any extent as a taxable transfer under either Chapter 11 (estate tax) or Chapter 12 (gift tax) of the Code, the value of the entire portion of the corpus involved in the release, exercise or lapse of the power (and not merely the taxable portion) will be treated as an addition to the trust for purposes of this chapter. Further, where any portion of the corpus of a trust is subject to a power of appointment, that portion will be considered an addition to the corpus of the trust, if, and to the extent that, after June 11, 1976, the power is exercised in a manner that may postpone or suspend the vesting, absolute ownership or power of alienation of an interest in property for a period, measured from the date of creation of the trust, extending beyond any life in being at the date of creation of the trust plus a period of 21 years. If a power is exercised by creating another power it will be deemed to be exercised to whatever extent the second power may be exercised. In the case of a decedent dying before January 1, 1982, the provisions of this paragraph (e)(3) will not be applicable to the exercise of a power pursuant to an instrument described in the transition rule.

(4) *Exceptions.* Any addition to a trust made pursuant to a trust meeting the requirements of the effective date rule or, in the case of a decedent dying before January 1, 1982, pursuant to an instrument described in the transition rule, will not be treated as an addition to corpus for purposes of this section. Where a decedent fails to exercise a general power of appointment in a will described in the transition rule, the corpus passing in default of the exercise will be considered as passing pursuant to the will. In addition, in the case of a decedent dying before January 1, 1982, any property transferred inter vivos to a trust will not be treated as an addition to corpus if the same property or money would have been added to the trust pursuant to a will or trust described in the transition rule, or passed in the same way, but for the inter vivos transfer. However, in any case where it cannot be determined at the time of an addition to corpus if the transition rule will apply, the property transferred will be deemed to be an addition to corpus until such time as a determination can be made.

(5) *Appreciation and income.* Except to the extent that the provisions of paragraph (e)(1) of this section allocate subsequent appreciation and accumulated income between original corpus and additions thereto, appreciation in the value of the corpus of a trust and undistributed income added thereto will not be considered an addition to the corpus of a trust.

(6) *Relation to other sections.* No provision of this section is to be construed as in any way modifying the rules to be applied in determining the identity of the grantor of a generation-skipping trust. For example, an addition to corpus occurring by reason of an exercise of a power of appointment will not cause the individual exercising the power to be considered a grantor of the trust unless the exercise is treated as a taxable transfer under Chapter 11 or Chapter 12 of the Code.

(7) *Examples.* The provisions of paragraphs (e)(1), (e)(2), (e)(3), and (e)(4) of this section may be illustrated by the following examples:

Example (1). *A*, the settlor of a generation-skipping trust that was irrevocable on June 11, 1976, added $100,000 to the trust corpus on July 30, 1976. Immediately before the addition, the corpus of the trust had a value of $900,000. Transfers pursuant to the trust after the addition on July 30, 1976, will be subject to the generation-skipping transfer provisions to the extent of 10 percent (that is, $100,000/($900,000+$100,000)).

Example (2). Assume the same facts as in example (1) except that on August 30, 1977, when the value of the trust corpus was $2,000,000, a constructive addition of one half the corpus is made. Since 10% of the corpus is subject to Chapter 13 by reason of the first addition, then 10% of the constructive addition is attributable to corpus already subject to Chapter 13. Therefore, the new portion of the trust subject to Chapter 13 is 55%. The numerator of the fraction set out in paragraph (e)(1) of this section is $200,000 (10% of $2,000,000) plus $900,000 (90% of ½ of

$2,000,000) or $1,100,000. The denominator is $2,000,000.

Example (3). Assume the same facts as in example (1) except that the trust was revocable rather than irrevocable on June 11, 1976, and the $100,000 addition would not have passed to the trust but for the inter vivos transfer. Transfers pursuant to the trust after the addition to corpus on June 30, 1976, will be fully subject to the generation-skipping transfer provisions unless, before January 1, 1982, the additional assets (together with all increments and after all distributions) are permanently set aside in such a manner that under local law the fund traceable to the "grandfathered" corpus will be treated as a separate trust.

Example (4). Assume the same facts as in example (1) except that *A* was also the settlor of a revocable trust in existence on June 11, 1976, and that *A* died on September 30, 1979, without amending, or adding corpus to, the revocable trust. Upon the death of A, the trustee of the revocable trust was directed to terminate the trust, distributing the assets to the trustee of the irrevocable trust. At the time of the "pour-over" on September 30, 1979, the corpus of each trust equaled $1,500,000. To determine the percentage of each generation-skipping transfer after September 30, 1979, that is subject to tax under Chapter 13, $150,000 (10% of $1,500,000, the value of the corpus of the irrevocable trust immediately before the "pour-over") is the numerator of the fraction described in paragraph (e)(1) of this section. No other amount is treated as an addition on that date under the transition rule. Therefore, assuming no other corpus is added to the trust, 5% (that is $150,000/($1,500,000+$1,500,000)) of any generation-skipping transfer pursuant to the trust after September 30, 1979, will be subject to Chapter 13.

Example (5). Assume the same facts as in example (4) except that the $1,500,000 added to the irrevocable trust did not come within the transition rule. In that case, to determine the percentage of subsequent distributions subject to tax, $1,650,000 (10% of the corpus plus the $1,500,000 addition) is the numerator of the fraction described in paragraph (e)(1) of this section. Thereafter, assuming no other corpus is added to the trust, 55% (that is $1,650,000/($1,500,000+$1,500,000)) of future generation-skipping transfers will be subject to Chapter 13.

Example (6). On June 11, 1976, *B*, the surviving child of the settlor of a trust that was irrevocable on that date, possessed a general power of appointment over the corpus. Under the terms of the trust (created in 1970) *B's* power lapsed upon attaining age 21, an event that occurred on September 23, 1979. Under section 2514, ninety-five percent (100%—5%) of the value of the corpus was treated as a gift by *B* for Federal gift tax purposes. However, because the entire trust was subject to the power of appointment, 100% (that portion of the trust subject to the power) of all generation-skipping transfers pursuant to the trust occurring after September 23, 1979, will be subject to Chapter 13.

Example (7). *H* is the grantor of an irrevocable generation-skipping trust which was in existence on June 11, 1976. *H's* will, which was executed before June 11, 1976, and not amended thereafter, provides that upon his death the entire estate will pour-over into his trust. In 1980, *H* transfers $10,000 to the trust. If *H* dies after 1981, the transfer will be treated as an addition to corpus for purposes of any distribution made after the transfer to the trust in 1980. If *H* dies before 1982, the entire trust (as well as any distribution made by the trust prior to his death) will be excluded under paragraphs (b)(1)(i) and (e)(2) of this section from the generation-skipping transfer tax provisions, because the $10,000 would have been added to the trust under a will which would have qualified under paragraph (b)(1)(iii) of this section. In either case, for any generation-skipping transfers made after the transfer to the trust in 1980 but before *H's* death the $10,000 will be treated as an addition to corpus and a proportionate amount of such transfer will be subject to the generation-skipping transfer tax provisions. If *H* dies before January 1, 1982, the person liable for any previously paid generation-skipping transfer tax may file a claim for refund of such tax within the time limit set out in section 6511.

Example (8). *A* is the settlor of a generation-skipping trust which was in existence on June 11, 1976. Under the terms of the trust, *A*, on June 11, 1976, possessed the power to withdraw one-half of the corpus for *A's* personal use. The trust was irrevocable in all other respects. If *A* dies before January 1, 1982, the entire trust will be excluded from the generation-skipping transfer tax provisions. If *A* dies after December 31, 1981, one-half of all generation-skipping transfers pursuant to the trust will be subject to Chapter 13.

Example (9). Assume the same facts as in example (8) except that on July 30, 1980 while *A* is alive, a generation-skipping distribution is made from the trust. Because, on that date, it cannot be determined whether the transition rule will be applicable, the revocable portion of the trust must be treated as a constructive addition to the irrevocable portion of the trust occurring on June 11, 1976. If *A* dies before January 1, 1982, the person liable for any previously paid generation-skipping transfer tax may file a claim for refund of such tax within the time limit set out in section 6511.

Example (10). *H* and *W* are the settlors of separate revocable generation-skipping trusts which were in existence on June 11, 1976, and not amended after that date. *W* dies in 1980 and under the provisions of her trust the corpus pours over into *H's* trust. If *H* dies before January 1, 1982, the entire trust is excluded under paragraph (b)(1) of this section from the operation of Chapter 13. If *H* dies after 1981, the entire trust is subject to the generation-skipping transfer tax provisions because *H's* trust did not qualify under the transition rule. The fact that *W* died before 1982 is irrelevant, because the corpus of her trust was added to a trust that never qualified under the transition rule.

Example (11). Assume the same facts as in example (10) except that upon the death of *W* in 1980 her trust continues as an irrevocable trust and that the corpus of *H's* trust is to be paid over upon his death to *W's* trust should he survive her. Again, if *H* dies before 1982, the entire trust falls within the provisions of paragraph (b)(1) of this section. However, if *H* dies after 1981, the "pour-over" is considered an addition to the corpus of a trust which falls within the transition rule, and a proportionate part of subsequent distributions and terminations will be subject to tax under Chapter 13.

Example (12). *A*, the spouse of the settlor of an irrevocable trust that was created in 1973, had, on June 11, 1976, a general power of appointment over the trust assets. The trust provides that should *A* fail to exercise the power the trustee is to continue the trust as a generation-skipping trust. On June 11, 1976, *A* had a will in existence under which *A* failed to exercise the power to appointment. If *A* dies before January 1, 1982, without having exercised the power in a manner which results in the creation of, or increase in the amount of, a generation-skipping transfer (or amended the will in a manner that results in the creation of, or increase in the amount of, a generation-skipping transfer) transfer pursuant to the trust will not be subject to Chapter 13 because the trust qualifies under the effective date rule, the will qualifies under the transition rule, and there is no constructive addition by reason of paragraph (e)(4) of this section.

Example (13). Assume the same facts as in example (12) except that on June 11, 1976, *A* did not have a will. Upon *A's* death, or upon the prior exercise or release of the power, the value of the entire trust will be treated as a constructive addition to the corpus and all subsequent distributions or terminations pursuant to the trust will be subject to Chapter 13. It is immaterial whether *A's* death occurs before January 1, 1982, since the transition rule is only applicable where a will was in existence on June 11, 1976.

This Treasury decision is issued under the authority contained in sections 2621 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1887, 68A Stat. 917, 26 U.S.C. 2621, 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: July 31, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-24134 Filed 8-8-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Geological Survey

30 CFR Part 211

Regulation of Coal Mining on Federal Lands in New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) and Geological Survey (GS), Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rule completes the amendment to 30 CFR 211.75(c)(3) to permit those States with terminated cooperative agreements to request the Secretary of the Interior to reinstate the terminated agreements. This final rule also modifies and reinstates a Federal/State cooperative agreement between the Department of the Interior and the State of New Mexico (30 CFR 211.77(c)) in accordance with the requirements of section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87), hereinafter referred to as the "Surface Mining Act."

FOR FURTHER INFORMATION CONTACT: Donald Crane, Regional Director, Region V, Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado, 80201, (303) 837–5421.

SUPPLEMENTARY INFORMATION: This final rule amends 30 CFR 211.75(c)(3) to permit States having terminated cooperative agreements to request the Secretary to reinstate those agreements. In addition, the rule modifies and reinstates the cooperative agreement published at 30 CFR 211.77(c) between the State of New Mexico and the Secretary, in accordance with the requirements of Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87). That Section of the Act provides that States with cooperative agreements pre-dating August 3, 1977 may elect to continue regulation of Federal lands within the State providing that the pre-existing cooperative agreement is modified to fully comply with the initial regulatory program set forth in Section 502 of the Surface Mining Act.

The bases and purposes of the amendment to 30 CFR 211.75(c)(3) appear in the preamble to the proposed rule published on April 21, 1980 (44 FR 26924–32). The full text of the proposed cooperative agreement and supplementary information on the terms of the agreement and New Mexico's request to reinstate also appear in the April 21, 1980 notice. The content of that notice is hereby incorporated by reference and will not be repeated here except as necessary to discuss comments.

The cooperative agreement establishes conditions for State regulation of surface coal mining and reclamation operations on Federal lands, and requirements for such operations on Federal lands, including but not limited to (1) the adoption of State statutes and amended regulations containing new environmental protection standards and reclamation requirements applicable to surface coal mining and reclamation operations as substantive Federal law enforceable by the State and the United States; (2) the requirement that the State Regulatory authority exercise State enforcement powers on Federal lands so as to achieve results consistent with those which would be achieved by Federal enforcement pursuant to Section 521 of the Surface Mining Act; (3) the creation of procedures for the cooperative review and approval of integrated mining and reclamation plans for surface coal mining and reclamation operations on Federal lands or on commingled State and/or private lands and Federal lands; (4) the termination of such agreement; and (5) the creation of requirements for joint Federal and State approval and release of performance bonds for surface coal mining and reclamation operations which include Federal lands.

The Office of Surface Mining received comments from one individual on the proposed cooperative agreement with the State of New Mexico. These comments were apparently based on this individual's review of the New Mexico proposed permanent regulatory program which was submitted to the Office of Surface Mining on February 28, 1980. OSM published a Notice of Receipt of New Mexico's State program submission on March 5, 1980 (45 FR 14230–31). His comments consist of a copy of a letter written to the State of New Mexico's Energy and Minerals Department on April 30, 1980, commenting on the State's proposed program submitted to the Department pursuant to Section 503 of the Act. The comments, therefore, are addressed to various provisions of New Mexico's laws and regulations intended to be applicable to the permanent program. Since this rulemaking is concerned with regulation of surface coal mining on Federal lands under the initial regulatory program (Sections 502 and 523(c) of the Surface Mining Act), the comments are not relevant to this rulemaking. Consequently, no changes in the agreement were made in response to these comments. There will be a separate rulemaking to receive comments on a permanent program cooperative agreement between the State of New Mexico and the Department if New Mexico elects to enter into such an agreement. See Sections 523(c) of the Act (first sentence) and 30 CFR Part 745.

In the April 21, 1980 notice of proposed rulemaking, OSM identified a revegetation regulation of the State of New Mexico which was in compliance with the corresponding provision of the permanent program (30 CFR 816.114 and 817.114) but technically not in compliance with the initial program regulation (30 CFR 715.20). See discussion of rulemaking regulation at 45 FR 28925, April 21, 1980. The Secretary proposed to require the State to develop specific criteria for elimination of the mulching requirement under the State's regulation, and requested public comment on whether the criteria should be made a condition of the cooperative agreement. (*Id.*) No comments were received on this issue.

OSM and the State of New Mexico have had preliminary discussions with respect to the development of specific criteria for omitting mulching. Development of these criteria by the State of New Mexico will constitute an "assurance given by the State upon which this Cooperative Agreement is based" pursuant to Article IX (B)(2) of the Cooperative Agreement.

As noted above, no changes in the Cooperative Agreement previously signed by the Governor, the Secretary of the Interior, and the Secretary, Energy and Minerals Department on April 15, 1980 were made as a result of public comment. In addition, no other changes based on the Department's internal review are necessary. Accordingly, there is no need for the parties to execute another version of the Cooperative Agreement.

EFFECTIVE DATES:

a. *Effective date of the amendment to the Regulations* (30 CFR 211.75(c)(3)). The Department has determined that good cause exists to make the amendment to 30 CFR 211.75(c)(3) effective upon the date of publication in the **Federal Register** (August 11, 1980). The reasons for an immediate effective date are as follows. The amendment to 30 CFR 211.75(c)(3) enables the Governor of the State of New Mexico and the Secretary of the Interior to reinstate and modify a cooperative agreement which had terminated. Reinstatement of the cooperative agreement and making the cooperative agreement also effective immediately are necessary to aid in preventing duality of administration and enforcement, to permit a more uniform application of reclamation requirements on Federal lands, to reduce the administrative costs of implementing the program, and to reduce possible operator confusion by having a single set of standards for all lands within the State.

b. *Effective date of the Cooperative Agreement.* The Department has determined that good cause exists to make the cooperative agreement effective immediately for the reasons given in paragraph (a) above.

Accordingly, although originally signed by the parties on April 15, 1980, this final cooperative agreement becomes effective on the date of publication in the **Federal Register** (August 11, 1980). See Article II of the cooperative agreement.

Other Information:

1. *Significance.* The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. This "Determination of Significance" document prepared by the Office of Surface Mining concludes that because a State/Federal cooperative agreement between the State of New Mexico and the Department has been in effect for quite some time, the modified agreement in question does not incorporate any changes or revisions which would impose a major social, economic, or recordkeeping burden on any level of Federal, State, or local government or upon industry. This document is available for public inspection in the Director's Office, Office of Surface Mining, Room 233, South Interior Building, 1951 Constitution Ave., N.W., Washington, D.C. 20240.

2. Pursuant to Section 702(d) of the Surface Mining Act, adoption of this rule is part of the Secretary's implementation of the Federal Lands Program and is therefore exempt from the requirement to prepare a detailed statement pursuant to Section 102(2)[C] of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)].

Dated: August 4, 1980.

Cecil D. Andrus,

Secretary.

1. Title 30 CFR 211.10(e)(3) is revised as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(c) agreements.*

* * * * *

(3) *New Mexico.* A Federal coal lessee in the State of New Mexico who must submit a mining plan or permit application under both State and Federal law shall submit to the State Regulatory Authority and the Denver Regional Office, Office of Surface Mining, in lieu of the submission required in this section, a mining plan or revision or modification to an approved plan containing the information required by or necessary for the State Regulatory Authority and the Secretary to determine compliance with the statutory, regulatory and other requirements identified in paragraph B1 of Article IV of the modified Cooperative Agreement, and the statement required by paragraph B2 of Article IV of the modified cooperative agreement and the requirements of 30 CFR 211.10(c).

* * * * *

2. Title 30 CFR 211.75(c)(3) is revised as follows:

§ 211.75 Applicability of State law.

* * * * *

(c) * * *

(3) The governor of any State that wishes to modify a cooperative agreement existing on August 3, 1977, shall notify the Secretary in writing of the State's intent to modify the cooperative agreement. The notice of intent to modify the cooperative agreement must have been received by the Secretary prior to December 31, 1977, and the modification to the existing cooperative agreement agreed to by November 20, 1978 (90 days from the publication of the August 22, 1978, amended 30 CFR Part 211 regulations). Failure to give notice or to timely complete the modification shall result in termination of any cooperative agreement executed prior to August 3, 1977. On and after December 31, 1979, the governor of any State whose pre-Act existing cooperative agreement is terminated as a result of inability of the parties to complete a modified cooperative agreement may request reinstatement of the terminated cooperative agreement. Such request shall be in writing, must be received by April 3, 1980, and the modification agreed to by May 3, 1980.

3. Title 30 CFR 211.77(c) is revised as follows:

§ 211.77 States with cooperative agreements.

* * * * *

(c) *New Mexico.* The administration and enforcement of reclamation requirements of Federal coal leases in New Mexico, subject to this part, shall be done according to the modified cooperative agreement between the State of New Mexico and the Department of the Interior, published on August 11, 1980. The State of New Mexico and the Department enter into a modified cooperative agreement to designate the State of New Mexico as the principal party to administer surface coal mine reclamation operations on Federal land in New Mexico to read as follows:

Cooperative Agreement

Cooperative Agreement between the United States Department of the Interior, and the State of New Mexico under Section 523(c) of the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87 (hereinafter referred to as the "Act"), 30 U.S.C. 1273(c), between the State of New Mexico (hereinafter referred to as the State), acting by and through Bruce King, Governor (hereinafter referred to as the Governor), and the United States Department of the Interior acting by and through the Secretary of the Interior (hereinafter referred to as the Secretary).

Article I. Purpose

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of New Mexico with respect to regulation of surface coal mining and reclamation operations on Federal lands within the State of New Mexico. The basic purpose of this Agreement is to reduce duality of administration and enforcement of surface reclamation requirements by providing for State review and approval of mining and reclamation plans for operations on Federal lands, subject to the Secretary's authority to approve mine and reclamation plans on Federal lands and State regulation of surface coal mining and reclamation operations on Federal lands within the State.

Article II. Effective Date

This Cooperative Agreement is effective upon signing by the Secretary and the Governor, approval by the New Mexico Energy and Minerals Department, and upon publication as rulemaking in the **Federal Register** (August 11, 1980).

Article III. Requirements for Cooperative Agreement

The Governor and the Secretary affirm that they will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Responsible Administrative Agency.* The Energy and Minerals Department of the State of New Mexico (hereinafter referred to as the "State Regulatory Authority") is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the Governor on Federal lands throughout the State.

B. *Authority of State Agency.* The State Regulatory Authority designated in paragraph A of this Article has, and shall continue to have, authority under State law to carry out this Cooperative Agreement.

C. *State Reclamation Law.* Enforcement of the environmental performance standards and reclamation requirements of the New Mexico Surface Mining Act and the regulations promulgated pursuant thereto as set forth in Appendix A of this Cooperative Agreement will provide protection of the environment at least as stringent as would occur under the exclusive application of the standards and procedures set forth in the Act, and the regulations promulgated thereunder.

D. *Effectiveness of State Procedures.* The procedures of the State for enforcing the requirements contained in Appendix A are and shall continue to be as effective as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State will inspect all surface coal mining operations on Federal lands located in the State, in accordance with the minimum schedules in Article V.

F. *Enforcement.* The State affirms that it will enforce the requirements contained in Appendix A in a manner that ensures effective protection of the environment and public health and safety consistent with the requirements of Article VI of this Agreement.

G. *Funds.* The State has devoted, and will continue to devote, adequate funds to the administration and enforcement of the requirements contained in Appendix A of this Cooperative Agreement. If the State Regulatory Authority complies with the terms of this Agreement and if necessary funds have been appropriated, the Secretary shall reimburse the State as provided in Section 502(e)(4) of the Act, for costs associated with carrying out responsibilities under this Cooperative Agreement. Reimbursement grants shall be made at least on an annual basis. The Secretary shall advise the State Regulatory Authority within a reasonable period of time after the effective date of this modification of the amount the Federal Government would have expended if the State had not entered into this Cooperative Agreement.

H. *Reports and Records.* The State Regulatory Authority shall make reports to the Secretary containing information respecting its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Regulatory Authority and the Secretary shall exchange, upon request, information developed under the Cooperative Agreement.

I. *Personnel.* The State Regulatory Authority shall have the necessary personnel to fully implement this Cooperative Agreement in accordance with the provisions of the Act.

J. *Equipment and Laboratories.* The State Regulatory Authority shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses, can be performed or determined, and which are necessary to carry out the requirements of the Cooperative Agreement, or have access to such facilities and personnel.

Article IV. Mining and Reclamation Plans

A. State and Federal laws and regulations require the operator on Federal lands leased, permitted, or licensed for surface coal mining operations to receive approval from the State Regulatory Authority and the Secretary of a mining plan and permit prior to conducting operations.

B. *Contents of Mining Plans and Permits.* The Governor and the Secretary agree, and hereby require that an operator on Federal lands shall submit an identical mining and reclamation plan and state permit application to the State and the Secretary which plan and permit application shall be in the form required by the State Regulatory Authority and include any supplemental data or information required by the Secretary. Such plan and application shall include the following information:

1. The information required by, or necessary for the State Regulatory Authority and the Secretary to make a determination of compliance with:

a. Section 69-25A-10 and 14 N.M.S.A., 1978 (1979 Replacement Pamphlet).

b. The Energy and Minerals Department - Rule 79-1, Section I.

c. The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*; 91 Stat. 445) and the regulations promulgated pursuant thereto, to the extent not otherwise required by 1(a) and (b) above.

d. The Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 *et seq.*

e. The requirements of 30 CFR 211.10.

f. Applicable terms and conditions of the lease unless such conditions would be contrary to the requirements of the Act.

g. Applicable requirements of other Federal laws.

2. A statement certifying that identical copies of the mining and reclamation plan and permit application have been given to both the State Regulatory Authority and the Secretary.

C. The State Regulatory Authority and the Office of Surface Mining on behalf of the Secretary shall review and act upon each mining and reclamation plan and permit application, or modifications or revisions thereto, in accordance with the Protocol for Cooperative Review of Mining and Reclamation Plans, attached hereto and incorporated as a part of this Cooperative Agreement. The parties may review and mutually revise said Protocol, as deemed necessary, in accordance with the terms of Article XI of this Agreement. Any revisions to the Protocol shall become effective upon notice published in the **Federal Register.**

D. When acting upon mining and reclamation plans and permits, or modifications or revisions thereto, the State Regulatory Authority and the Secretary agree that neither of them will approve any plan and permit, or modification or revision thereto, which fails to comply with the requirements of the laws and regulations listed in paragraph B.1 of this Article. The State Regulatory Authority shall promptly notify the Secretary and the applicant of its action on the application. If the application is disapproved, a notice shall be sent to the applicant along with a statement of findings and conclusions in support of the action. The State Regulatory Authority shall in any approved plan, permit, or amendment, reserve the right to amend or rescind its action to conform with action taken or with terms or conditions imposed by the Secretary, and agreed to by the State Regulatory Authority, as a basis of his approval. The Secretary shall not delete any requirements included in the State Regulatory Authority's approval without the consent of the State. Prior to the Secretary disapproving the mining and reclamation plan, permit or request for amendment, in whole or in part, the Secretary shall consult with the State Regulatory Authority for the purpose of reaching agreement on revisions to the plan, permit, or amendment, to the extent allowable under State and Federal law.

When acting on a mine plan, the Secretary reserves the right to impose such additional conditions or requirements not required by the Act or Appendix A of this Cooperative Agreement which are authorized or required by law or by his general authority to supervise the activities of persons on Federal lands.

Article V. Inspections

A. The State Regulatory Authority shall inspect without prior notice to the operator, as authorized by New Mexico State law as frequently as necessary, but at least quarterly, the area of operations as defined by the approved mining and reclamation plan, the permit area of the applicable State permit, and any other areas outside the area of operations which are or may be affected by the surface coal mining and reclamation operations on Federal lands. Such inspections shall be conducted for the purpose of determining whether the operator has complied with all applicable requirements of the Act and Appendix A hereof, and all environmental and reclamation requirements of approved mining and reclamation plans or permits, but not to determine compliance with development or diligent production requirements established under the Mineral Leasing Act, as amended, or to regulate other activities on Federal lands not subject to the Act.

B. The State Regulatory Authority will, subsequent to conducting any inspection, prepare a report adequately describing (1) the general conditions of the lands under lease, permit or license, (2) the manner in which the operations are being conducted, and (3) whether the operator is complying with applicable performance and reclamation requirements. A copy of this inspection report shall be furnished to the Secretary in accordance with regulations adopted pursuant to the Surface Mining Control and Reclamation Act. A copy of this report shall be furnished to the operator and shall be made available for public inspection during normal business hours at the office of the State Regulatory Authority and the Office of Surface Mining.

C. For the purpose of evaluating the manner in which this Cooperative Agreement is being carried out and to insure that performance and reclamation standards are being met, the Secretary may conduct inspections of surface coal mining and reclamation operations on Federal lands, and shall promptly provide the State Regulatory Authority with a copy of the Federal inspection report. Inspections by the Secretary may be made in association with regular inspections by the State.

D. The Secretary may also conduct inspections to determine whether the operator is complying with requirements that are unrelated to environmental protection and reclamation.

E. Personnel of the State and representatives of the Secretary shall be available to serve as witnesses in enforcement actions taken by either party.

Article VI. Enforcement

A. If the State Regulatory Authority finds any conditions or practices, or violations of the Act, the requirements of Appendix A hereof, or of an approved mining and reclamation plan or permit, which would authorize the issuance of an order of

cessation under Section 521(a)(2) of the Act, the State Regulatory Authority shall immediately exercise the discretion authorized by Section 69–25A–25A N.M.S.A. 1978 to issue a cessation order halting mining and reclamation operations or the portion thereof relevent to the condition, practices or violation.

B. 1. When, during any inspection, any representative of the State Regulatory Authority determines that any operator is in violation of the Act, any requirement of Appendix A, or any requirement of an approved mining and reclamation plan or permit, but such violation would not require an action in accordance with paragraph A of this Article, the representative shall issue a notice and abatement schedule to the operator pursuant to section 69–25A–25B N.M.S.A. 1978 which shall be consistent with the requirements of section 521(a)(3) of the Act.

2. When a notice of violation has been issued under B(1) of this Article and a representative of the State Regulatory Authority determines that the operator has failed to abate the violation within the time fixed or subsequently extended consistent with section 521(a)(3) of the Act, the representative shall immediately exercise the discretion authorized by section 69–25A–25A N.M.S.A. 1978 to order a cessation of mining and reclamation operations or the portion thereof relevant to the violation, until the violation has been abated.

C. The State shall promptly notify the Secretary of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

D. This Agreement does not limit the secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate legal or other actions to correct conditions or practices that violate any requirement under Federal law or Appendix A incorporated into Federal law as a part of this Cooperative Agreement, or to suspend or revoke the right to mine in accordance with 30 CFR 211.72 or assess civil penalties in accordance with 30 CFR 211.78.

E. Failure of the State Regulatory Authority to enforce approved mining and reclamation plans, permits and applicable laws and standards and regulations in accordance with this Agreement, shall be grounds for termination of this Cooperative Agreement.

Article VII. Bonds

A. *Amount and Responsiblity.* The State Regulatory Authority and the Secretary shall require all operators on Federal lands to submit a single bond payable to both the United States and the State Regulatory Authority. Such bond shall be of sufficient amount to comply with the requirements of both State and Federal law and shall be conditional upon compliance with all applicable requirements of Federal law and Appendix A hereof.

B. *Notification.* Prior to releasing the operator from his obligations under the bond required by State law for Federal lands, the State Regulatory Authority shall consult with and obtain the advice and consent of the Secretary.

C. *Release of Bond.* The State Regulatory Authority shall hold the operator responsible and liable for successful reclamation as required by State law.

D. *Forfeiture.* Either the State Regulatory Authority or the Secretary may forfeit the bond under State or Federal law.

Article VIII. Opportunity to Comply With Cooperative Agreement

The Secretary may, in his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State has failed to comply and shall specify the period of time within which the defects in administration shall be remedied and statisfactory evidence presented to him that the State remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. The period of time specified shall not be less than 30 days. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

Article IX. Termination of Cooperative Agreement

This Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the State upon written notice from the Governor, to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 90 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary pursuant to paragraphs D, E, and F of this Article whenever the Secretary finds, after giving due notice to the Governor and the State Regulatory Authority and affording the State Regulatory Authority an opportunity for a hearing:

1. That the State Regulatory Authority has failed to comply substantially with a provision of this Cooperative Agreement, or

2. That the State Regulatory Authority has failed to comply with any assurance given by the State upon which this Cooperative Agreement is based, or any condition or requirement which is specified in Article III.

3. Following promulgation of a Federal lands program pursuant to Section 523(a) of the Act in the event the Secretary determines in writing that New Mexico lacks the necessary personnel, legal authority, or funding to fully implement the Federal lands program in accordance with the provisions of the Act.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law under any of the following circumstances:

1. When no longer authorized by Federal laws and regulations or New Mexico laws and regulations;

2. When a permanent State program is disapproved and the State has failed to remedy the deficiencies within the time allowed by Section 503(c) of the Act, or where a Federal program for the State is promulgated and implemented pursuant to Sec. 504 of the Act.

3. Within 120 days of the approval of a permanent State program pursuant to Section 503 of the Act.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Regulatory Authority specified in Article III.

2. Specify and set out in the written notice the grounds upon which he proposes to terminate this Cooperative Agreement.

3. The Secretary shall also publish a notice in the **Federal Register** containing items 1 and 2 of this paragraph, and specifying a minimum of 30 days for comment by interested persons.

E. *Opportunity for Hearing.* Whenever the Secretary proposes to terminate this Cooperative Agreement pursuant to paragraph B hereof, in addition to the notice required by paragraph D, he shall:

1. Specify in the notices required by paragraph D the date and place where the State will be afforded an opportunity for hearing and to show cause why this Cooperative Agreement should not be terminated by the Secretary. The date of such hearing shall be not less than 30 days from the date of the publication in the **Federal Register**, and the place shall be in the State.

2. Within thirty (30) days of the written notice specifying the date of the hearing, the State shall file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within thirty (30) days shall constitute a waiver of the opportunity for hearing, but the State may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements and other documents relative to the proposed termination.

3. The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records, and materials as may be relevant and material to the issues involved.

F. Notice of Withdrawal of Approval of Cooperative Agreement.—1. After a hearing has been held with respect to a proposed termination of this Agreement under paragraph B of this Article, or the right to a hearing has been waived or forfeited by the State, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State of his decision. If the Secretary determines to withdraw approval of this Cooperative Agreement, he shall notify the State Regulatory Authority of his intended withdrawal of approval of the Cooperative Agreement, and afford the State an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of this Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

2. After the close of the comment period required by paragraph D. 3. of this Article with respect to a proposal to terminate this Cooperative Agreement pursuant to paragraph C. of this Article, the Secretary shall consider the comments received and after a review of the questions of law presented, shall publish notice of final action, either terminating the Cooperative Agreement or withdrawing the proposed termination, and stating the reasons therefor.

G. Nothing in this Article shall be construed as a waiver of any right the State Regulatory Authority may have to seek judicial review of any decision by the Secretary to terminate this Cooperative Agreement.

Article X. Reinstatement of Cooperative Agreement

If this Cooperative Agreement has been terminated, for cause, pursuant to paragraph B of Article IX, it may be reinstated upon application by the State and upon giving evidence satisfactory to the Secretary that the State can and will comply with all the provisions of the Cooperative Agreement, and has remedied all defects in administration for which this Cooperative Agreement was terminated.

Article XI. Amendments of Cooperative Agreement

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. An amendment proposed by one shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after rulemaking and the party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

Article XII. Changes in State or Federal Standards

The Secretary of the Interior and/or the State Regulatory Authority may from time to time revise and promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. The Secretary and the Governor shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months to make such changes. For changes which may require legislative authorization, the State has until the close of its next legislative session at which such legislation can be considered in which to make changes. If changes which are necessary for the State to have authority to administer and enforce Federal requirements are not made, then the termination provision of Article IX, paragraph C., may be invoked, provided, however, that the State shall be given reasonable and necessary time to make the required changes as set forth in this paragraph.

Article XIII. Conflict of Interest

The State Regulatory Authority shall require its employees to comply with the requirements of 30 CFR 705.

Article XIV. Exchange of Information

A. *Organizational and Functional Statement.* The State Regulatory Authority and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall promptly advise the other in writing of changes in key personnel, officials, heads of a department or division, or a change in the functions or duties of persons occupying the principal offices within the organization. The State Regulatory Authority and the Secretary shall advise each other in writing of the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and of any changes in such.

B. *Laws, Rules and Regulations.* The State Regulatory Authority and the Secretary shall provide each other with copies of their respective laws, rules and regulations and standards pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations and standards when the revision becomes effective.

Article XV. Reservation of Rights

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act, as amended, the Mineral Leasing Act for Acquired Lands, the Federal Land Policy and Management Act of 1976, the Surface Mining Control and Reclamation Act of 1977, the Constitution of the United States, the Constitution of the State or State laws, nor shall this Agreement be construed so as to result in the transfer of the Secretary's duties under sections 2(a), 2(b), and 2(a)(3) of the Mineral Leasing Act, as amended, or his duty to approve mine plans or his responsibilities with respect to the designation of Federal lands as unsuitable for mining in accordance with Section 522 of the Act, or to regulate other activities taking place on Federal lands.

Article XVI. Definition

Terms and phrases used in this Agreement which are defined in 30 CFR Part 700 or Part 710 shall be given the meanings set forth in said definitions.

Dated: February 13, 1980.

Bruce King,
Governor of New Mexico.

Dated: February 13, 1980.

Larry Kehoe,
Secretary, Energy and Minerals Department.

Dated: April 15, 1980.

Cecil D. Andrus,
Secretary of the Interior.

Protocol for Cooperative Review of Mining and Reclamation Plans for Surface Coal Mining and Reclamation Operations on Federal Lands

I. Purpose

This Protocol is intended by the New Mexico Energy and Minerals Department (hereinafter the "State Regulatory Authority") and the Secretary to establish procedures governing the conduct of the respective Interior agencies and the State Regulatory Authority regarding the coordinated review of mining and reclamation plans, or modifications or revisions thereto for surface coal mining and reclamation operations on Federal lands pursuant to the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (hereinafter referred to as the "Act"). These procedures are intended to implement the requirements of Article IV of the State/Federal Cooperative Agreement (hereinafter referred to as "Cooperative Agreement") between the Governor and the Secretary dated August 11, 1980 and are incorporated therein and made a part thereof.

II. Procedures

1. Operators shall be required to submit identical copies of mining and reclamation plans and permit applications, or modifications or revisions thereto, to both the State Regulatory Authority and the Regional Director, Denver Region, Office of Surface Mining. The number of copies submitted to the State Regulatory Authority and the Regional Director shall be specified by regulation by each agency and may be changed according to need.

2. The State Regulatory Authority will be the point of contact for operators regarding matters subject to the requirements of the Act and Appendix A of the Cooperative Agreement. Following the initial submission of the mining plan and permit application, all correspondence from the State Regulatory Authority and the Secretary regarding matters subject to the requirements of the Act and Appendix A of the Cooperative Agreement will be coordinated and sent from the State Regulatory Authority on behalf of both. Interior agencies will not independently initiate contacts with operators regarding completeness or deficiencies of plans and

applications with respect to matters which are properly within the jurisdiction of a State Regulatory Authority under the Act, provided that any matters of concern raised on behalf of the Secretary are adequately addressed by the State Regulatory Authority in accordance with the provisions of this Protocol.

3. The Office of Surface Mining will coordinate all activities including coal conservation and postmining land use, relative to the review of mining plans and permit applications for all concerned Interior agencies and will act as the point of contact for communications between the State Regulatory Authority and the Department of the Interior.

4. Review and evaluation of each mining plan and permit application, or modifications or revisions thereto, and the data or documentation submitted in support thereof, will be conducted jointly by the State Regulatory Authority and the respective Interior agencies having responsibility for review of mine plans. During such review and evaluation, the staffs of the State Regulatory Authority and each Interior agency will coordinate their respective activities through the Office of Surface Mining by informal contacts as appropriate. When detailed review is deemed to be necessary, Interior agencies may conduct a detailed review of all aspects of the plan and application, or modifications or revisions thereof, but as the program develops, Interior's review will be concentrated on major functions such as hydrology and revegetation, or where special attention is deemed to be necessary.

5. Based upon the coordinated review, the State Regulatory Authority will draft a response letter to the operator outlining the status of the completeness and deficiencies of the plan and application with respect to the requirements of the Act and Appendix A to the Cooperative Agreement. Such draft letter will be sent to the Denver Regional Office, Office of Surface Mining. It will be the goal of the State Regulatory Authority to send such letter within 60 days of receipt of the plan and application. The Office of Surface Mining will, whenever possible, coordinate review of the draft letter on behalf of Interior agencies. It will be the goal of the Office of Surface Mining to communicate to the State Regulatory Authority within 30 days any proposed additions or modifications to the letter. If any such proposed additions or modifications are objected to by the State Regulatory Authority, a meeting will be held between the Regional Director, Office of Surface Mining, and the State Regulatory Authority to resolve the specified objections. If the Regional Director and the State Regulatory Authority cannot resolve such objections, the State Regulatory Authority and the Regional Director shall summarize their disagreement in writing and request a meeting with the Director, Office of Surface Mining, and such other representative of the Secretary as may be appropriate, to discuss a resolution of such objections. Following the resolution of such objections or in the absence of any such objections, the draft letter will be revised to incorporate the language proposed by the Office of Surface Mining and sent to the operator by the State Regulatory Authority, with a copy to the Regional Director, Office of Surface Mining.

6. The Secretary may at his discretion incorporate into the draft letter any matters related to mining plan review and approval which are not within the jurisdiction of the State Regulatory Authority and which the Secretary is required to address under any Federal statute or regulation other than the Act. The State Regulatory Authority agrees to incorporate such matters into the draft at the Secretary's request. Failure to incorporate such matters into the draft letter shall not deprive the Secretary of the right to contact an operator directly regarding such matters. Whenever written communications regarding such matters are made directly between an Interior agency and an operator, the State Regulatory Authority shall be supplied with a copy.

7. The Secretary, acting by and through the Office of Surface Mining, will be given an opportunity to review and propose additions or modifications to all substantive written correspondence regarding an operator's mining and reclamation plan from the State Regulatory Authority in accordance with paragraph 5 hereof.

8. Copies of all written communications, data, documents, or other information pertinent to a mining permit or permit application will be forwarded to the Office of Surface Mining by the State Regulatory Authority or sent directly to the Office of Surface Mining by the operator when requested to do so by the State Regulatory Authority.

9. The Secretary and the State Regulatory Authority agree to inform each other of any communications received from the operator regarding any matter subject to this Protocol.

10. Either the Secretary or the State Regulatory Authority may request and schedule meetings or site inspections with the operator. No meeting with the operator or site inspection will be scheduled by either the Secretary or the State Regulatory Authority without adequate advance notice to each other.

11. Upon receipt of a mining and reclamation plan and permit application, or major modification or revision thereto, the State Regulatory Authority and the Office of Surface Mining will, when appropriate, cooperate so that one Environmental Assessment and Environmental Review will be produced. When an Environmental Impact Statement is necessary, the State Regulatory Authority and the Office of Surface Mining will designate, when appropriate, one Environmental Impact Statement team to produce an EIS which will comply with the National Environmental Policy Act.

12. Upon completion of review and evaluation of the plan and application, or modifications or revisions thereto, by the State Regulatory Authority, the State Regulatory Authority shall notify the Regional Director, Office of Surface Mining, of any proposed action to be taken regarding approval or disapproval, including any proposed special conditions or stipulations.

Following notification of the Regional Director of the proposed action, the Regional Director will inform the State Regulatory Authority of concurrence or disagreement with the proposed action. If the Regional Director and the State Regulatory Authority cannot agree upon the proposed action, the State Regulatory Authority and the Regional Director shall summarize their disagreement in writing and request a meeting with the Director, Office of Surface Mining, and such other representative of the Secretary as may be appropriate, to discuss what final action may be appropriate under the circumstances of the case. The parties shall make reasonable efforts to resolve the differences and to reach a mutually agreeable decision on the proposed action.

III. Interpretation.

1. This Protocol shall be construed so as to give effect to the intent of the parties as set out in the Cooperative Agreement of which this is a part. Any words or phrases used in this protocol shall be defined in accordance with Article XVI of said Agreement.

2. If any question of legal interpretation is raised by either party with respect to any matter subject to this Protocol, both the State Regulatory Authority and the Secretary shall defer to the opinion of the State Attorney General where interpretations of State law or regulations are involved, and to opinions of the Solicitor of the Department of the Interior where interpretations of Federal law or regulations are involved. This provision shall not be interpreted to prevent either party from challenging in court any opinion or interpretation of the State Attorney General with regard to State law or regulation or Solicitor with regard to Federal law or regulations.

IV. Revisions to Protocol.

As a part of the Cooperative Agreement referenced in Part I hereof, this Protocol may be revised at any time during the duration of said Cooperative Agreement with the consent of the appropriate officer of the State Regulatory Authority and the Regional Director. Such revision shall become effective upon publication in the **Federal Register.**

Dated: April 15, 1980.

Bruce King,

Governor of New Mexico.

Larry H. Kehoe,

Secretary, Energy and Minerals Department.

Cecil D. Andrus,

Secretary of the Interior.

Appendix A

This Appendix A identifies the laws of the State of New Mexico and the regulations of the State Regulatory Authority which are incorporated into the Federal-State Cooperative Agreement between the State of New Mexico and the Secretary of the Interior pursuant to Article III.C. of said Cooperative Agreement. This Appendix is approved as part of the Cooperative Agreement. The requirements contained in the laws and regulations identified in this Appendix shall be applicable to surface coal mining and reclamation operations on Federal lands in accordance with the terms of the Cooperative Agreement. Included in this Appendix are:

1. Laws of the State of New Mexico:

(a) The provisions of the New Mexico Surface Mining Act, Sections 69–25A–1, *et seq.* being laws of New Mexico 1979 Chapter 291 which are specifically identified in (i)–(xxxiii) hereof:

(i) 69–25A–1 NMSA.
(ii) 69–25A–2 NMSA 1978.
(iii) 69–25A–3 NMSA 1978, provided, however, that the term "prime farmland" shall have the same meaning as that in 30 USC 1291(20) for purposes of this Cooperative Agreement.
(iv) 69–25A–4 NMSA 1978.
(v) 69–25A–5.
(vi) 69–25A–6.
(vii) 69–25A–7.
(viii) 69–25A–8.
(ix) 69–25A–9 .
(x) 60–25A–10, provided, however, that the term "prime farmland" shall have the same meaning as that in 30 USC 1291(20) for purposes of this Cooperative Agreement.
(xi) 69–25A–11, provided that no waiver or reduction of the requirements of § 69–25A–11(a) shall be permitted without the express concurrence of the Secretary.
(xii) 69–25A–12.
(xiii) 69–25A–13, provided, however, that any bond or any cash or securities posted in lieu of bond under this section applicable to the performance of duties on or affecting Federal lands shall conform to the requirements of Article VII of this Cooperative Agreement in addition to the requirements of State law, and provided further that the bond may also be forfeited by the Secretary under Federal law pursuant to Article VII of this Cooperative Agreement.
(xiv) 69–25A–14.
(xv) 69–25A–15.
(xvi) 69–25A–16.
(xvii) 69–25A–17.
(xviii) 69–25A–18.
(xix) 69–25A–19, provided, however, that the term "prime farmland" shall have the same meaning as that in 30 USC 1291(20) for purposes of this Cooperative Agreement.
(xx) 69–25A–20.
(xxi) 69–25A–21.
(xxii) 69–25A–22, provided, however, that the imposition of a civil or criminal penalty by the State pursuant to this section shall not be construed as barring the Secretary from assessing a civil penalty pursuant to 30 CFR 211.78 or from requesting criminal prosecutions under applicable Federal law.
(xxiii) 69–25A–23, provided, however, that any bond applicable to the performance of duties on Federal lands may be released only on consent of the Secretary in accordance with Article VII of this Cooperative Agreement.
(xxiv) 69–25A–24, provided, however, that this section shall be limited to actions taken by the State under State law in accordance with this Cooperative Agreement, and nothing in this section or this Cooperative Agreement shall be construed so as to create jurisdiction in a state court over actions taken by the Secretary.
(xxv) 69–25A–25.
(xxvi) 69–25A–27.
(xxvii) 69–25A–28.
(xxviii) 69–25A–29, provided, however, that actions of the Secretary are not reviewable by the Director of the Mining and Minerals Division or the Coal Surface Mining Commission pursuant thereto.
(xxix) 69–25A–30, provided, however, that this section shall be limited to actions taken by the State under state law in accordance with this Cooperative Agreement, and nothing in this section or this Cooperative Agreement shall be construed so as to create jurisdiction in a state court over actions taken by the Secretary.
(xxx) 69–25A–31.
(xxxi) 69–25A–32.
(xxxii) 69–25A–33, provided, however, that nothing in this section or this Cooperative Agreement shall be construed to delegate the Secretary's responsibility for approving experimental practices.
(xxxiii) 69–25A–35.

2. Regulations of the New Mexico Energy and Minerals Department adopted by the Coal Surface Mining Commission as Rule 79–1.

[FR Doc. 80–24158 Filed 8–8–80; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 78–041b]

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Deferral of effective date and correction to final Rule.

SUMMARY: On July 21, 1980, the Coast Guard published a final rule at 44 FR 48822 which amended the vessel traffic service (VTS) regulations in Puget Sound. In that document, August 20, 1980, was established as the effective date of the rule. Section 161.183 of the rule amended the configuration of the "separation zones" of the VTS. This action will necessitate the relocation of six buoys and the removal of one buoy. Because the equipment required to move these buoys will not be available until September 29, 1980, the effective date of the entire final rule has been changed to October 1, 1980.

EFFECTIVE DATE: This rule is effective on October 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel W. Ziegfeld, Office of Marine Environment and Systems (G-WWM/11), Room 1104, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–1934. Normal office hours are 7 a.m. to 5 p.m., Monday through Thursday.

DRAFTING INFORMATION: The principal persons involved in drafting this document are Mr. Daniel W. Ziegfeld, Project Manager, Office of Marine Environment and Systems, and LCDR Jack Orchard, Project Counsel, Office of the Chief Counsel.

Supplementary Information

The amendment to section 161.183 which was contained in the final rule published on July 21, 1980, at 44 FR 48822, altered the configuration of the Puget Sound VTS traffic separation zones. In order to carry out this action, six buoys must be moved to new locations and one buoy must be completely removed. The buoys are held in place by nylon mooring lines which must be handled with special equipment. This equipment will not be available until September 29, 1980. Therefore the effective date of the final rule is changed to October 1, 1980.

In addition, a printing error exists in subparagraph (c)(8)(ii) of § 161.183: the entry of 47°48′31″ N., 122°26′23″ W. is corrected to read 47°46′31″ N., 122°26′23″ W.

Finally, the separation zones of § 161.183 and the precautionary areas of § 161.187, are described in reference to consecutively lettered buoys. The buoy desigated "SF" was removed in the final rule and the remaining buoys should have been redesignated in alphabetical order. The Coast Guard intends to continue its practice of consecutively designating buoys so as to avoid a possible source of confusion to the mariner.

In consideration of the foregoing, the effective date of the final rule issued as CGD 78–041b on July 21, 1980, is changed from August 20, 1980 to October 1, 1980. In addition the following corrections amend Part 161 to Title 33, CFR:

1. By revising § 161.183 (c)(8)(ii) and the introductory text of (c)(9) and (c)(10) to read as follows:

§ 161.183 Separation zones.

* * * * *

(c) * * *

(8) Between precautionary area "SE" and "SG".

(i) * * *

(ii) 47°46′31″ N., 122°26′23″ W.

(9) Between precautionary area "SC" and "SG".

(i) * * *

(ii) * * *

(10) Between precautionary area "SG" and "T".

(i) * * *

(ii) * * *

* * * * *

2. By revising § 161.187 (i) and (j) to read as follows:

§ 161.187 Precautionary areas.

* * * * *

(i) Precautionary area "SF". A circular area of 1,250 yards radius centered at latitude 47°45′55″ N., longitude 122°26′11″ W.;

(j) Precautionary area "SC". A circular area of 1,250 yards radius centered at latitude 47°39'42" N., longitude 122°27'48" W.;

* * * * *

(Sec. 2, Pub. L. 96-474, 92 Stat. 1471, (33 U.S.C. 1221 et seq.); 49 CFR 1.46(n)(4))

Dated: August 6, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-24182 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1558-7]

Approval and Promulgation of Implementation Plans, Alabama: Revision of Emergency Episode Plan and Oxidant Alert Level

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today is approving the changes in the Alabama State Implementation Plan (SIP) which (1) updates the emergency episode procedures, and (2) raises the level of the Alert Stage in the emergency episode procedures to 0.15 ppm for ozone, which will be consistent with the revised National Ambient Air Quality Standard of 0.12 ppm.

DATES: This action is effective September 10, 1980.

ADDRESSES: Copies of the submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

In addition, the Alabama revisions may be examined at the offices of the Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Preston, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On August 23, 1979, EPA asked the State of Alabama to update its emergency episode procedures to reflect changes in monitoring methods, persons to be contacted, likely episode locations, and accidental spill guidelines. On January 11, 1980, the State submitted the final version of the plan revision complying with EPA's request. In addition, the State raised the alert level of ozone from 0.10 ppm to 0.15 ppm, a fifty percent increase, to be consistent with a corresponding increase in the National Ambient Air Quality Standard promulgated by EPA on February 8, 1979 (44 FR 8202). EPA published in the **Federal Register** on March 25, 1980, a proposal to approve the revision and solicited public comment on it. No comments were received.

Final Action

Based on the above information, EPA is approving the changes to the Alabama plan as being consistent with requirements of the Clean Air Act and Federal regulations promulgated thereunder.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart B—Alabama

In § 52.50, paragraph (c) is amended by adding subparagraph (25) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(25) Revised emergency episode control plan, updating procedures and raising the alert level for ozone from 0.10 ppm to 0.15 ppm, submitted by the Alabama Air Pollution Control Commission on January 11, 1980.

[FR Doc. 80-24155 Filed 8-8-80; 8:45 a.m.]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1558-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: Six Administrative Chapters

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve six administrative chapters of the California State Implementation Plan (SIP) submitted by the Governor's designee. These chapters address the legal authorities of the State and the local Air Pollution Control Districts, present an overall statewide perspective on air quality, and outline specific State programs dealing with emission source compliance procedures, surveillance of emission sources, resources to implement the SIP, and intergovernmental relations. The intended effect of this action is to update the SIP.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION: On May 21, 1979 (44 FR 29497) and July 3, 1979 (44 FR 38912), EPA published Notices of Proposed Rulemaking for six Administrative Chapters submitted on December 29, 1978 and March 16 and 29, 1979 by the California Air Resources Board for inclusion in the California SIP. The Chapters are entitled as follows:

Chapter 2—Statewide Perspective
Chapter 3—Legal Authority
Chapter 20—Compliance
Chapter 23—Source Surveillance
Chapter 24—Resources
Chapter 25—Intergovernmental Relations

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. All six chapters were evaluated in accordance with 40 CFR Part 51 and found to be consistent with EPA requirements. The Notices of Proposed Rulemaking proposed to approve these six chapters and provided 30-day public comment periods. No comments were received. Therefore, this notice takes final action to approve the revisions contained in the December 29, 1978, and March 16 and 29, 1979 submittals, and incorporate them into the California SIP.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)))

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(46), (48), and (49) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(46) The following Administrative Chapters of the California SIP, submitted on December 29, 1978, by the Governor's designee.

(i) Chapter 2—Statewide Perspective.
(ii) Chapter 20—Compliance.
(iii) Chapter 23—Source Surveillance.
(iv) Chapter 24—Resources.
(v) Chapter 25—Intergovernmental Relations.

* * * * *

(48) Chapter 3—Legal Authority of the California SIP, submitted on March 16, 1979, by the Governor's designee.

(49) Addendum to Chapter 23 of the California SIP submitted on March 29, 1979, by the Governor's designee.

* * * * *

[FR Doc. 80-24153 Filed 8-8-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1554-6]

State and Federal Administration Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: U.S. Environmental Protection Agency (USEPA) approves the Michigan Air Pollution Control Commission's (Commission's) request for a revision to the Michigan State Implementation Plan (SIP). The revision is a Final Order issued by the Commission. The Final Order was the result of the Stipulation and Consent Order entered into by the Dundee Cement Company and the Air Quality Division of the Michigan Department of Natural Resources. The order provides for a final compliance date of December 31, 1983 for reducing the particulate matter emissions to 0.20 pounds per 1,000 pounds of exhaust gases at the Dundee Cement Company located near Dundee in Monroe County, Michigan.

Any Order which has been issued to a major source and extends the SIP compliance date for meeting the particulate emission limitations must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act (CAA). 42 U.S.C. Section 7410.

EFFECTIVE DATE: This final rulemaking becomes effective on August 11, 1980.

ADDRESSES: Copies of the SIP revision and USEPA's evaluation of the revision are available for inspection at the following addresses:

United States Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Dundee Cement plant is located in a particulate attainment area, as designated by USEPA in the October 5, 1978 **Federal Register** (45 FR 45993). The nearest primary particulate nonattainment areas are approximately 35 km northeast and south of the plant, and the closest secondary particulate nonattainment area is approximately 6 km east.

The Dundee Cement Company operates two 1,600 ton per day (each) wet process rotary cement kilns and related cement manufacturing process equipment. From the time the plant was built in 1959, the particulate emissions from the rotary kilns have been controlled by an electrostatic precipitator. The original precipitator unit operated at approximately 97.5 percent efficiency. Particulate emissions were about seven times greater than the Commission's limit. Despite various changes and upgrading efforts, the precipitators have not attained consistent satisfactory performance.

On October 26, 1979 the State of Michigan formally submitted a State Implementation Plan revision for particulate matter and visible emissions for the Dundee Cement Company in Monroe County, Michigan. The Order extends the compliance date until December 31, 1983 for the Dundee Cement Company to meet the particulate and visible emission limitations in the Michigan SIP.

The Commission's rules, R336.41 and 336.44 (Rules 336.1301 and R 336.1331 as of January 18, 1980), set forth the visible emission and particulate matter emission limitations for cement kilns in the State of Michigan. Presently, particulate matter emissions from the Dundee Cement Company's cement kiln stack are in excess of the allowable limit of 0.2 lb. total suspended particulates (TSP) per/1000 lbs. of exhaust gases set by the Commission.

The SIP revision provides for final compliance with the allowable limit of 0.2 lb. of particulate per 1,000 pounds of exhaust gases by December 31, 1983 and establishes an interim emission limitation of 0.65 lb. TSP/1000 lb. of exhaust gases.

An air quality analysis was performed to assess the contribution of particulate emissions from the Dundee Cement plant to measured exceedences of the 24-hour particulate standard. The analysis was based on maximum plant operating conditions for both the interim and final particulate emission limitation conditions. From the results of the air quality analyses, it was concluded that the operation of the Dundee Cement Plant under either the interim (0.65 lb. TSP/1000 lb. exhaust gas) or the final (0.2 lb. TSP/1000 exhaust gas) emission limitations will not threaten or prevent the attainment and maintenance of the TSP National Ambient Air Quality Standards (NAAQS) in the plant vicinity, nor contribute significantly to existing violations at nearby primary and secondary particulate nonattainment areas.

USEPA reviewed the Order and the technical support material, and proposed approval of the Order and compliance schedule as a SIP revision on May 7, 1980 (45 FR 30090). In that notice, USEPA proposed approval of the extension of the compliance date to December 31, 1983. In addition, USEPA proposed to approve the schedule for compliance. Interested parties were given until June 6, 1980 to submit written comments. No comments were received. Therefore, USEPA takes final action today to approve this revision to the Michigan SIP.

Final approval of the Order as a SIP revision is effective upon publication (date of publication). The Administrator finds good cause for making this revision effective immediately as the Order is already effective in the State of Michigan and federal approval imposes no additional requirement on the affected source.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of

publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." The Administrator has reviewed this regulation and determined that it is a specialized regulation.

After review of all relevant materials, the Administrator has determined that the revision meets the requirements of section 110(a)(3) of the Clean Air Act and USEPA regulations in 40 CFR Part 51.6. The revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing. Accordingly, the revision is approved.

This Final Rulemaking is issued under the authority of section 110 of the Clean Air Act as amended.

Dated: August 5, 1980.

Douglas Costle,

Administrator.

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170(c) is amended by adding paragraph 29 as follows:

§ 52.1170 Identification of Plan

* * * * *

(c) * * *

* * * * *

(29) Compliance schedules were submitted by the State of Michigan, Department of Natural Resources to USEPA on October 26, 1979, for the Dundee Cement Company, Monroe County (Michigan Final Order, APC No. 08–1979, adopted October 17, 1979).

2. Section 52.1175(e) is amended by deleting the existing entry for Dundee Cement Co. under Monroe County, Michigan and inserting the following in lieu:

§ 52.1175 Compliance Schedules

* * * * *

(e) * * *

* * * * *

Michigan

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
		Monroe County		
Dundee Cement Company	Dundee	336.41, 44 (336.1301, 336.1331)	Oct. 17, 1979	Dec. 31, 1983.

[FR Doc. 80-24154 Filed 8-8-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1567-6]

40 CFR Part 52

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan. This action has the effect of approving the State's issuance of a "special limitation" to allow the Consolidated Edison Company of New York, Inc. to use fuel oil with a maximum sulfur content of 1.5 percent, by weight, in units 2 and 3 of its Arthur Kill generating facility on Staten Island, New York and in unit 3 of its Ravenswood generating facility in Queens, New York. These units are currently limited by State regulation to the use of fuel oil with a maximum sulfur content of 0.30 percent, by weight. The use of the higher sulfur content fuel oil would be permitted for a maximum period of one year from when such use begins.

DATE: This action becomes effective on August 11, 1980.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

On November 29, 1979 New York State submitted to the Environmental Protection Agency (EPA) a proposed revision to its State Implementation Plan (SIP). The State's revision request was submitted in accordance with all EPA requirements under 40 CFR Part 51, including a public hearing which was held by the State on October 17, 1979. The request was for EPA approval of a "special limitation," issued by the State under the provisions of Part 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The effect of this "special limitation" is to allow the Consolidated Edison Company of New York, Inc. (Con Edison) to use fuel oil with a maximum sulfur content of 1.5 percent, by weight, in units 2 and 3 of its Arthur Kill generating facility on Staten Island, New York and in unit 3 of its Ravenswood generating station in Queens, New York. These units are currently limited by State regulation to the use of 0.30 percent, by weight, sulfur content fuel oil The use of the higher sulfur content fuel oil would be permitted for a mazimum period of one year from when it begins.

A notice of proposed rulemaking on the State's SIP revision request was published in the **Federal Register** on January 17, 1980 (45 FR 3331). The reader is referred to this January 17 notice where a detailed description of the revision request is provided. The comment period established by this notice ended on February 19, 1980 and was subsequently extended to March 5, 1980 by another **Federal Register** notice (45 FR 12266, February 25, 1980). In these notices EPA advised the public that comments would be accepted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. During the comment period EPA received 217 comments. Based on the significant public comment received regarding the implications of the State's proposed action upon regional growth potential and based on the acquisition of new air quality data which indicated a violation in lower Manhattan of the national annual ambient air quality standard for sulfur oxides, on April 17, 1980 (45 FR 26101) EPA reopened its comment period. As a result of this extension, which ended on May 19, 1980, EPA received an additional 143 comments on the proposed SIP revision.

Based on its review of all available information, including the numerous public comments received, EPA has found the State's SIP revision request to be approvable. Action to promulgate

this determination is being taken today. However, it should be noted that today's approval is only for the one-year period requested by the State. Any request by the State to extend the term of its "special limitation" would have to be resubmitted to EPA for approval through the SIP revision process. Because, as will be discussed in more detail later in this notice, EPA's current action is based in part on the limited duriation of the State's request and on the current air quality and emission picture, an identical future request by the State may not be able to be approved. Similarly, any application for coal burning must be subject to the SIP revision process and possibly to the prevention of Significant Deterioration permitting process and would be evaluated independent of EPA's current action.

II. Discussion of Comments Received

As indicated, EPA received over 350 comments on its January 17, 1980 notice of proposed rulemaking. These are discussed in this section of today's notice according to the general subject of the issue raised. They are also treated in greater detail in a document entitled, "Technical Support Document: Response to Comments on Con Edison Proposed Test Burn of 1.5% Sulfur Content Oil at the Arthur Kill and Ravenswood Power Plants," July 1980, prepared by EPA, Region II. EPA has considered all comments it received in making its final determination on the approvability of the State's SIP revision request.

1. Human Health Impacts

Potential adverse effects on human health was cited as a reason for EPA disapproval of the State's request in 132 separate letters received and in a petition containing 2,293 signatures. Several commentors indicated that health effects resulting from the synergistic interaction of sulfur dioxide with other pollutants and those resulting from the emission of fine particulates had not been determined.

For purposes of evaluating SIP revisions under the Clean Air Act EPA must rely on national ambient air quality standards in assuring adequate protection of human health. Under the provisions of the Clean Air Act these standards have been promulgated for seen pollutants. The level of such primary standards must be "requisite to protect the public health" and include an "adequate margin of safety" (Section 109(b)(1) of the Clean Air Act).

While the synergestic effect between sulfur oxides and particulate matter was assessed in establishing the present sulfur oxide ambient standard, this was not the case with the other pollutants. Though under evaluation, there currently in no national ambient air quality standard for fine particulates. Thus, under these circumstances and in this case, EPA could only judge whether or not the use of high sulfur content fuel oil by Con Edison would cause or contribute to a violation of any currently promulgated ambient standard. If no such violation is predicted to occur, there is currently no basis under the Clean Air Act to find any adverse effects on human health.

2. Violation of Air Quality Standards

At the time of EPA's January 17, 1980 notice of proposed rulemaking, the available sulfur dioxide concentration measurements from the Mabel Dean Bacon High School Annex monitor, located on the lower east side of Manhattan, indicated that this area was marginally attaining national ambient air quality standards. Continued attainment of standards was predicted even when accounting for the impact of the proposed use of high sulfur content fuel oil by Con Edison. However, later data from this monitor indicated an annual average sulfur dioxide concentration of 81 $\mu g/m^3$ for the 12-month period ending December 31, 1979. This concentration exceeds the national primary ambient air quality standard, which is 80 $\mu g/m^3$. This potential for violation was discussed by the Natural Resources Defense Council, Inc. in comments submitted to EPA.

EPA, in reopening its comment period on April 17, 1980, solicited public comment on the issue of the observed violation of the annual national ambient air quality standard for sulfur oxides at the Mabel Dean Bacon monitor. Comments were particularly solicited with regard to the following specific issues:

- The degree to which this violation should be considered in EPA's decision to approve or disapprove Con Edison's "special limitation" in light of air quality trends at this site,
- The degree to which short term variances to State sulfur-in-fuel-oil limitations issued during the 1978–1979 heating season may have affected observed sulfur oxide concentrations at this site, and the extent to which the effect of such variances should be considered, and • The need for offsetting measures (such as additional conversions to natural gas burning) so as to accommodate the impact of the proposed "special limitation" at this site.

EPA received six comments in response to these issues. Several commentors, including the New York State Coal Conversion Expediting Group and the Consolidated Edison Company, all indicated that, for reasons discussed below, the violation of the national ambient air quality standard should not be considered by EPA in deciding to approve or disapprove the "special limitation." Specifically, the commentors noted that the violation of the standard was directly attributable to the State issuance of emergency variances to permit the temporary use of high sulfur content fuel oil during the 1978–1979 heating season. These variances were due to disruptions in the availability of low sulfur content fuel oil. Commentors estimate that these variances resulted in the burning of 700,000 barrels of high sulfur content fuel oil, primarily from low-level emitting stacks.

The commentors further noted that the January to December 1979 data cited by EPA in its January 17, 1980 **Federal Register** notice had not been accepted as valid by the State and included only four daily observations for the month of April. Recent unedited data for the 12-month period ending April 30, 1980 show an annual average sulfur dioxide concentration of 73 $\mu g/m^3$ at the Mabel Dean Bacon site. This value indicates that, even with the additional expected impact of 2 $\mu g/m^3$ resulting from the one-year "special limitation," attainment of the annual average national ambient air quality standard for sulfur oxides of 80 $\mu g/m^3$ will not be jeopardized. As a result of this fact, all three commentors do not believe that offsets are necessary to accommodate the impact of the proposed "special limitation" at this site.

In comments submitted by the New York State Coal Conversion Expediting Group it was indicated that, if actual ambient air quality standards are violated, mitigating measures can be employed, including the halting of the test burn. The New York State Department of Environmental Conservation stated that a program of on-site gas conversions and conversion to Con Edison supplied steam should be considered as providing an offset for any increase in emissions from Con Edison. Con Edison indicated that, as a precautionary measure, the Company will commit to implementation of a gas conversion program in the Mabel Dean Bacon High School Annex areas to assure compliance with air quality standards, even during the period of the "special limitation."

EPA also received several comments indicating that the observed violation of the national ambient air quality standard should be considered by EPA regardless of whether or not the elevated concentrations resulted from

short term variances which allowed the use of high sulfur content fuel oil.

EPA has reviewed the air quality data at the Mabel Dean Bacon monitor and has determined that the elevated concentrations of sulfur dioxide can in part be attributed to the short term fuel oil sulfur content variances issued by the State during the 1978–1979 heating season. Further, the data cited by EPA was unedited, which may have overstated the actual ambient concentrations due to the limited amount of data from the month of April. As noted earlier, in comments submitted by the New York State Department of Environmental Conservation, the latest unedited air quality data from the Mabel Dean Bacon monitor indicates clear attainment of the standard. Nevertheless, EPA believes reductions of sulfur oxide emissions will insure the long term attainment of standards at the Mabel Dean Bacon monitor. Therefore, EPA is requiring the Consolidated Edison Company to undertake specific gas conversion actions. This requirement is discussed in this section under the heading of "Natural Gas Conversions," and is promulgated at § 52.1675 of 40 CFR appearing at the end of today's notice.

3. Regional Growth Impacts

In its January 17, 1980 notice of proposed rulemaking, EPA briefly discussed in the context of the Clean Air Act's Prevention of Significant Deterioration (PSD) provisions, the issue of the potential impact of the State's SIP revision request upon future new source development and regional economic growth. Specifically, commentors on this issue objected to the use of a large portion of the available PSD increment to accommodate Con Edison's "special limitation." They did not believe that the available PSD increment should be allocated on a "first come-first served" basis without carefully considering the implications of growth needs in the States of New Jersey and Connecticut. They pointed out that there is a likelihood that many power plants in the New York City metropolitan area may be required by the U.S. Department of Energy to convert to coal, and recommended that the cumulative impact of all such conversions should be analyzed before proceeding with approval of any individual application. They believe that such conversions should be based on a comprehensive areawide strategy. Commentors also made reference to the provisions of Sections 126 and 110(a)(2)(E) of the Clean Air Act, under which EPA assumes a role in resolving interstate air quality impact issues. EPA, in reopening its comment period on April 17, 1980, requested further comments on whether this situation warrants EPA involvement consistent with the above referenced sections of the Clean Air Act.

The States of Connecticut and New Jersey have responded to this issue by filing petitions pursuant to Section 126 of the Clean Air Act. These petitions request the Administrator of EPA to initiate proceedings to determine whether the use of 1.5 percent sulfur content fuel oil by Con Edison would prevent the attainment or maintenance of any national primary or secondary ambient air quality standard or interfere with programs designed to prevent significant deterioration of air quality and protect visibility in New Jersey and Connecticut. Both States have indicated that the "special limitation" would use up a large portion of the available sulfur dioxide 24-hour PSD increment in areas of these states and thereby would limit future economic growth. The petitions also identify other issues, such as the adverse air quality impact of increased particulate matter emissions, inaccurate PSD baseline determinations and inappropriate modeling procedures, as additional reasons why EPA should deny the "special limitation." These issues are discussed elsewhere in today's notice.

EPA also received numerous letters from units of government and elected officials, most notably from New Jersey, and from environmental groups voicing strong opposition to the effect PSD increment consumption would have on local economic growth.

Comments received from the New York State Department of Environmental Conservation and the New York State Coal Conversion Expediting Group discussed the concept of apportioning available PSD increments in the region so as to accommodate regional growth and development as fairly as possible. However, these groups believe that the "special limiation," which authorizes a test burn for a maximum period of one year, would not have any lasting impact on regional growth and development. Further, the commentors noted that, if under Section 126 EPA undertakes a comprehensive review of the regional impact of increased air pollution emissions resulting from the burning of high sulfur fuels, including coal, it should do so in a manner which analyzes the long term and permanent use of these fuels, rather than singling out the temporary Con Edison "special limitation." They also stated that any EPA proceedings under Section 126 should not delay its decision on the "special limitation."

Con Edison commented that the amount of PSD increment consumption cited by EPA is based on the highest 24-hour sulfur dioxide concentration which could be projected using five years of meteorological data rather than on the second-highest measurement in any one year. In the latter case, the maximum consumption of the 24-hour PSD increment would be 43 percent rather than 78 percent as cited by EPA in its January 17, 1980 notice of proposed rulemaking. The Company has also submitted a technical document which, it claims, indicates that increased sulfur dioxide emissions will not interfere with industrial development in the neighboring States of New Jersey and Connecticut. Con Edison contends that the PSD increment is not consumed due the temporary nature of the "special limitation," but, if it were, EPA has no choice but to approve the "special limitation" on a "first come-first served" basis.

EPA has reviewed these various comments and concludes that there are substantial reasons for concern with respect to interstate air quality impacts, assuming long term high sulfur content fuel use by Con Edison and other utilities in the metropolitan area. It is EPA's intention to convene in the future a hearing under Section 126 of the Clean Air Act for the purpose of deciding whether and under what circumstances the long term use of high sulfur content fuels by utilities in the metropolitan region has an acceptable interstate air quality impact. Notice of this hearing will be announced in the **Federal Register.**

With regard to the issue before it, EPA has determined that the proposed use of high sulfur content oil by the two Con Edison generating stations for a one-year period will not cause any primary or secondary ambient air quality standard to be exceeded. In addition, this use of high sulfur content fuel oil does not violate any PSD increment and, since its use has only been approved for one year, will not preclude regional growth. Any extension of EPA approval of this action or any proposal to use coal will have to be initiated by a new SIP revision request from New York State. EPA would be required to evaluate this new request on the basis of the amounts of PSD increment which remain available at the time of the request, considering the emissions growth which had occurred on a "first come-first served" basis in the intervening period. Presumably, any source which wishes to locate within the impact area of this action could fulfill all PSD requirements and receive a PSD permit during this intervening period of time. In this event, the amount of PSD increment used by the source would not be available to accommodate a permanent relaxation of the fuel sulfur requirements for oil and coal contained in the New York SIP.

4. Particulate Matter Impacts.

The Natural Resources Defense Council, Inc. (NRDC), the New York City Clean Air Campaign, Inc. and others pointed out that the use of high sulfur content fuel oil will increase particulate matter emissions and impact on an area currently designated (under the provisions of Section 107(d) of the Clean Air Act) as not attaining the national secondary ambient air quality standard for this pollutant. Since, as noted by NRDC, there is no *de minimis* level of impact in an area not attaining standards, the commentors recommend that the State's SIP revision request be disapproved on the basis of an assumed exacerbation of an existing violation.

In its comments the New Jersey Department of Environmental Protection questioned the emission factors used by Con Edison to estimate particulate emissions. Alternate factors were suggested which if used would result in slightly greater emissions. Another commentor claimed that EPA did not evaluate the impact of increased particulate emissions upon PSD increment consumption.

As noted in the May 21, 1980 Federal Register (45 FR 33981), New York State is currently revising its SIP for the New York City metropolitan area to provide for attainment of the secondary national ambient air quality standard for particulate matter. The particulate matter emission limitations in the currently approved SIP are being met by Con Edison and must continue to be met with the use of high sulfur content fuel oil. EPA intends to assure that these limitations continue to be met by requiring under Section 114 of the Clean Air Act in-stack sampling of the affected sources. Until such time as it is found necessary to make existing emission limitations applicable to Con Edison more stringent, the acceptable level of particulate matter emissions from Con Edison must be that defined in the existing approved SIP.

EPA has reviewed the particulate matter emission factors used by Con Edison in its air quality impact analysis and finds them acceptable. EPA also has projected the amount of particulate matter PSD increment consumed as a result of the use of high sulfur content fuel oil and found it to be a maximum of approximately 0.2 $\mu g/m^3$ on an annual basis and 2.1 μ/m^3 on a 24 hour basis. Even if the emission factors suggested by New Jersey were used, these impacts would not change significantly. Nevertheless, regarding both these issues, it must be emphasized that Con Edison will not be permitted to volate any particulate matter emission limitation while using high sulfur content fuel oil.

Finally, it should be noted that particulate matter emissions from the combustion of natural gas are approximately 25 percent of those emitted from fuel oil combustion. This fact combined with the relatively low stacks of sources converting to natural gas should offset in the areas where conversions are taking place any increased particulate matter air quality impact from Con Edison.

5. Natural Gas Conversions

In its January 17, 1980 **Federal Register** notice EPA proposed to promulgate a schedule for the conversion to natural gas use of fourteen oil burning facilities in northern Manhattan. The reduced emissions resulting from these conversions are intended to offset the air quality impact of the use of high sulfur content fuel oil by Con Edison. Five commentors responded to EPA's proposed conversion schedule.

The New York State Department of Environmental Conservation indicated that EPA's proposed schedule and its proposed provision for suspending EPA approval of the State's "special limitation" if the schedule is not met are unnecessarily rigid requirements which may be counterproductive. The State recommends that EPA withdraw these requirements proposed for inclusion at 40 CFR 52.1675 and accept Condition 9 of the State's order implementing the "special limitation." Condition 9 requires that Con Edison provide to the State approved applications for natural gas conversions and an acceptable schedule for such conversions.

In comments submitted by Con Edison, the Company agrees that the gas conversion program is an integral part of the one year test burn and that the establishment of a conversion schedule is reasonable and necessary. However, it believes that, because of the large number of independent contractors retained by the source owners to do the conversion work, the possibility for some minor delays in completing the work is always present. For this reason, Con Edison believes that the gas conversion schedule should be established by EPA as a target rather than as a condition for continued EPA approval of the "special limitation." Under Con Edison's recommended approach, if a gas conversion were not completed on schedule, the Company would immediately notify EPA and, based on the air quality impact of the delay, EPA could determine whether or not it should allow the test to continue.

Comments received from the Natural Resources Defense Council, Inc. (NRDC) noted that the proposed conversion schedule establishes a conversion date of October 1, 1980 for ten of the fourteen sources. NRDC asserts that, if EPA approves the "special limitation," Con Edison could begin burning higher sulfur content fuel oil before all the gas conversions take place and, since the air quality analysis shows that offsets are necessary to maintain the national ambient air quality standards for sulfur oxides, the timetable is unacceptable.

Finally, a civic association questioned why natual gas conversions were not required on Staten Island and a private citizen did not believe the proposed conversion schedule was legally binding.

EPA disagrees with the New York State Department of Environmental Conservation's contention that the proposed natural gas conversion schedule represents an unnecessarily rigid requirement. Because they are central to the State's air quality impact demonstration, in order to approve the State's SIP revision request, EPA must be assured that the proposed conversions are sufficient both in scope and timing to provide for continue attainment of the national ambient air quality standards for sulfur oxides. Furthermore, the requirement for these conversions must be capable of being enforced by EPA as a part of the SIP. Because it is not specific, Condition 9 of the State's order is not adequate to provide these assurances. Therefore, EPA is promulgating, with certain modifications to be discussed at the end of this discussion, the gas conversion schedule and provisions proposed in its January 17, 1980 **Federal Register** notice.

For the reasons just discussed, EPA must also reject Con Edison's recommendation to establish the gas conversion program schedule as a "target" as opposed to a legally enforceable regulation. EPA believes the gas conversion schedule, established in consultation with the Company, depicts a reasonable and realistic set of conversion dates for the fourteen sources. Nevertheless, as noted, modifications to the proposed revision are discussed at the end of this subsection.

With regard to NRDC's comment, the fact that higher sulfur content fuel oil could be used by Con Edison prior to completion of all of the gas conversions

V 45 A G 1 1 1 8 0 UMI

was factored into the air quality impact demonstration used to support the State's SIP revision request. In other words, in demonstrating continued attainment of ambient standards, with Con Edison burning higher sulfur content fuel oil, this and subsequent analyses assumed that emissions from the converted sources would not decrease (and consequently offset Con Edison's impact) until the actual conversions took place. In this way a judgment could be made by EPA on the adequacy of the conversion schedule.

Because EPA is promulgating a conversion requirement as a part of the SIP, it is legally binding on Con Edison.

In response to the absence of requirements for conversions to natural gas by sources on Staten Island, EPA emphasizes that the basis for requiring sulfur dioxide emission "offsets" is to provide for continued attainment of the air quality standards. A review of the impact of the "special limitation," taking into account the latest sulfur dioxide ambient monitoring data from Staten Island, indicates no potential for a violation. Therefore, EPA has no reason at this time to require Con Edison to obtain emission "offsets" on Staten Island.

Based on the reasons cited above, EPA is today promulgating in a modified form its proposed conversion schedule and associated provisions. Further, EPA is also promulgating today new requirements for conversion to natural gas of sources located in the vicinity of the Mabel Dean Bacon High School Annex monitor, discussed in this section under the heading of "Violation of Air Quality Standards." These promulgations are provided in the regulatory section of this notice at § 52.1675 and are discussed, in part, as follows.

On July 3, 1980 the New York State Department of Environmental Conservation submitted to EPA additional information regarding Con Edison's plan to satisfy Condition 9 of the State's order. The State's submittal included copies of documents supplied by Con Edison indicating that the conversion or shut down of the four sources identified for conversion prior to October 1, 1980 has occurred. Moreover, Con Edison has notified the State that they believe that nine of the remaining ten sources will be converted by October 1, 1980. However, conversion of the Harlem Hospital source, originally proposed for October 1, 1980, has been delayed until April 1, 1981. To assess the impact of this delay, Con Edison has submitted to the State an air quality impact analysis.

The State and EPA have reviewed this analysis and have determined that it will produce no adverse air quality impact and will still provide for continued attainment of national ambient air quality standards. This results from the fact that the original air quality impact analysis assumed that high sulfur content fuel oil use at the two Con Edison facilities would begin on March 1, 1980. In contrast, the later analysis projects the use of high sulfur content fuel oil at the Con Edison facilities beginning on July 16, 1980. (The actual date will be the date of publication of this **Federal Register** notice or later.) Therefore, because the gas conversion schedule with the exception of Harlem Hospital has not effectively changed, offsets from thirteen of the fourteen converting sources will be in effect for a greater period of time than originally assumed. This has the effect of providing a greater air quality benefit than would have been provided had the original schedule been met even when the six month delay in converting Harlem Hospital is considered. This new schedule is promulgated at the end of this notice.

As noted earlier, an additional issue concerns natural gas conversions in the vicinity of the Mabel Dean Bacon monitor. As indicated under the discussion of "Violations of Air Quality Standards," in a comment to EPA, Con Edison has agreed to implement a gas conversion program in this area as a precautionary measure. In a July 8, 1980 letter to the New York State Department of Environmental Conservation, Con Edison further agreed to displace the annual use of approximately 7.1 million gallons of residual oil through a gas conversion program at eight sources within a two-mile radius of the Mabel Dean Bacon High School Annex monitor. Con Edison anticipates that several sources (displacing 2.3 million gallons of residual oil annually) will be burning gas by the beginning of the upcoming heating season. The Company claims that if any of the eight sources cannot, for any reason, commence using gas by July 1, 1981, it will substitute other gas conversions in the vicinity of this monitoring station to achieve the goal of eliminating 7.1 million gallons of oil burning in that area by July 1, 1981. Requirements to implement this commitment by Con Edison are promulgated by EPA at the end of today's notice.

6. Sulfates and Acid Rain

EPA received numerous comments, mostly from environmental groups, voicing strong concern over the effect of increasing sulfur dioxixe and particulate matter emission on ambient sulfate concentrations and acid precipitation.

EPA recognizes that approval of the State's "special limitation" may aggravate these problems and is deeply concerned about this fact. However, at the present time, EPA has not adopted standards or regulations specifically governing sulfactes and acid precipitation. Conseuently, EPA has no legal basis with regard to these issues, on which to judge the SIP revision. The major avenue for dealing with acid precipitation, through prohibiting increased sulfur emissions, rest at present with the State and the City of New York.

7. Air Quality Data

EPA received several commets questioning the analysis of the air quality data utilized by the New York State Department of Environmental Conservation in issuing its approval of the "Special limitation." The New York City Clean Air Campaign, Inc. expressed concern that only one to two years worth of air quality data were analyzed by the State and that this time frame would not include date collected during periods when the previously mentioned sulfur-in-fuel-oil variances were in effect. They also pointed out that data from certain monitoring stations were omitted from the analysis. Other commentors argued that additional air pollution monitors are needed to adequately assess the impact of emissions from the Con Edison plants, particularly since the current New York City run network does not meet EPA siting criteria.

EPA has conducted an independent review and analysis of several years of sulfur dioxide data measured at all impacted sites in New York City. EPA's review has included air pollution data collected during the period when variances were in effect. On this basis, EPA concludes that the data base is adequate for determining that sulfur oxide national ambient air quality standards are being attained throughout New York City. It should also be noted that, under Condition 1 of the New York State Department of Environmental Conservation's "special limitation" order, Con Edison is required to establish two additional sulfur dioxide monitoring stations.

EPA has evaluated the New York City air monitoring network and believes that, although some sulfur dioxide monitors do not meet EPA siting criteria, they do provide representative air quality data. This fact is sufficient to justify a waiver of EPA's siting criteria, a process which is provided for in EPA's

monitoring regulations (40 CFR Part 58) and which had already been initiated.

8. Air Quality Modeling and Impact Analysis

Several commentors questioned the adequacy of the air quality impact analysis submitted by Con Edison. Specifically, the Connecticut Department of Environmental Protection questioned whether EPA considered the following:

- Evaluating the air pollution impact of Con Edison on the State of Connecticut, considering all established ambient air quality standards for sulfur dioxide and particulate matter including Connecticut's secondary 24-hour sulfur dioxide standard,
- Evaluating the aggregate air quality impact on Connecticut of all sulfur dioxide sources which overlap the impact of Con Edison, and
- Assessing the competency of the air quality data utilized in establishing the air quality baseline, for purposes of PSD increment analysis within the Connecticut portion of New Jersey-New York-Connecticut Air Quality Control Region in light of the decision in *Alabama Power Company, et. al.* v. *Costle et. al.* (USCA D.C. No. 78–106, decided December 14, 1979).

EPA also received detailed comments on the modeling issue from the Environmental Defense Fund (EDF). EDF commented that, during low wind speeds and stable atmospheric conditions, and in the morning hours when a plume from a stack may become "entrapped" near the ground, the EPA models understimate actual concentrations. It also questioned whether appropriate "background" concentrations were used in the modeling procedures and whether EPA considered impacts from sources subject to PSD increment consumption in determining the remaining available PSD increments. One commentor criticized EPA's air quality impact analysis claiming that it represents a large scale regional assessment as opposed to an analysis of impact on a local scale.

The evaluations and assessment suggested by the State of Connecticut have been considered by EPA. Even accounting for the air quality impact from the Con Edison plants and new major sources of sulfur dioxide, including those located in Connecticut, EPA has determined that no PSD increment will be violated within the impact area. In this determination EPA has utilized data generated by the Connecticut Department of Environmental Protection. Though this PSD determination did not make use of the recent "Alabama Power Company" decision in defining "baseline," if it had, the conclusion reached by EPA would not change.

In reply to the EDF comments, the air quality modeling utilized by EPA represents the current scientific "state-of-the art" and does not underestimate emissions under the two scenarios described by the commentor. For example, due to the tall stacks at the Con Edison plants, the ground level contribution to air quality concentrations from Con Edison during light winds and stable atmospheric conditions are, as predicted by the air quality models, very low. EPA has also determined that the "background" concentrations used by Con Edison are appropriate. EPA's assessment of avialable PSD increments has included the impact form all other sources subject to PSD increment consumption.

The comment that the air quality impact analysis was performed on a regional scale as opposed to a local scale is not valid. In addition to modeling on a regional scale, EPA required modeling for those geographic areas adjacent to the power plants in order to predict maximum concentrations during unusual meteorological conditions.

9. Use of Intermittent Controls

The Natural Resources Defense Council, Inc. (NRDC) noted in its comments that the "special limitation" is conditioned by the State on Con Edison maintaining a reserve supply of low sulfur content fuel oil and developing fuel switching procedures for use in the event that national ambient air quality standards are jeopardized. The NRDC contends that this fuel switch capability conditions is an intermittent control technique whichis prohibited by the Clean Air Act.

Because fuel switching is not necessary to demonstrate attainment of ambient standards, it is not a part of EPA' approval of the State's "special limitaition" and was not considered by EPA. Therefore, EPA is not approving a SIP which depends on an intermittent control technique for maintaining ambient air quality standards.

10. Executive Order 12044, Improving Government Regulations

EPA received comments form the State of Connecticut Department of Environmental Protection, the City of New York Community Board No. 1, and a research scientist at New York Univeristy all objecting to EPA's determination in its January 17, 1980 **Federal Register** notice of proposed rulemaking that the "special limitation" is not "significant" as defined under Executive Order 12044 and, therefore, is not subject to the procedural requirements of the Order.

EPA uses the label "significant" (as recommended in the Executive Order) for those regulations that are subject to the formal EPA procedures outlined in May 29, 1979 **Federal Register** notice (44 FR 30988). In its definition of "significant" actions EPA has excluded regulations developed by state and local governments, such as approval or disapproval of State Implementation Plan revisions under Seciton 110 of the Clean Air Act. Therefore, EPA reaffirms its earlier determination that the "special limitation" is not subject to the procedural requirements of Executive Order 12044.

11. Comments in Support of Approval

EPA received a large number of comments, primarily from private businesses, requesting the EPA approve the "special limitation." The commentors noted that approval of the "special limitation" would hopefuly lead to coal burning and a subsequent reduction of oil consumption and dependency on foreign oil. It was also indicated that the use of a high sulfur content oil would reduce the current cost of electricity.

EPA supports the need to reduce our country's dependence on foreign oil and the need to reduce energy costs. These goals are not inconsistent with the air quality goals contained in the Clean Air Act. However, the Clean Air Act does not authorize EPA to apply such considerations in evaluating SIP revision requests.

12. Coal Burning and Alternate Energy Sources

Although EPA's proposed action only addresses the use of a high sulfur content fuel oil for a one-year period, fifteen commentors addressed the environmental and health impacts of coal burning (e.g., the noise pollution associated with coal transport, delivery and storage, and the health effects of inhalable particulate emissions). Several related comments dealt with the application of pollution control technology, including scrubbers, to the Con Edison plants.

It must be emphasized again, that any request to burn coal would be a separate and distinct revision to the New York SIP and, as such, would require a new public hearing, a demonstration that public health and welfare would be protected and a separate EPA review and approval. In addition, New York State law requires that an environmental impact

V 45 AG 1 1 80 UMI

assessment be prepared prior to any coal burning which would have to deal with all environmental aspects of the action including, but not limited to, air, water, noise, and solid waste impacts. The public would also have the opportunity to review and comment upon this assessment.

Another series of comments were concerned with alternative energy sources, such as solar energy, wind energy, hydro-electric power, cogeneration, and conservation. In a similar vein, other commentors purport that there is an abundance of clean-burning natural gas and urged its use.

These comments raise valid and important issues, but do not directly address today's action. Although alternate energy sources and environmental impacts are connected, EPA's only legal basis for determining the approvability of the Con Edison "special limitation" revolves around the air quality impact of burning higher sulfur content fuel oil on national ambient air quality standards and PSD increments.

III. Final Determination

Provided that the required sources convert from fuel oil to natural gas combustion, EPA's analysis indicates no violation of any national ambient air quality standard or PSD increment as a result of its approval of New York's SIP revision request. Therefore, EPA finds that this revision to New York SIP is consistent with the requirements of Section 110(a) of the Clean Air Act and EPA regulations found at 40 CFR Part 51. Accordingly, EPA approves this revision contingent upon the timely conversion from oil to natural gas at those sources identified in the State submitted air quality analysis.

As noted earlier, under Executive Order 12044, EPA is required to judge whether a regulation is "significant," and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: August 6, 1980.
(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601))

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670, paragraph (c) is amended by adding a new paragraph (c)(53) as follows:

§ 52.1670 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(53) Revision submitted on November 29, 1980 by the New York State Department of Environmental Conservation which grants a "special limitation" under 6 NYCRR Part 225. This "special limitation" relaxes, until one year from [the date of publication], the sulfur-in-fuel-oil limitation to 1.5 percent, by weight, for the Consolidated Edison Company of New York, Inc. Arthur Kill generating facility, units 2 and 3, Staten Island, New York and Ravenswood generating facility, unit 3, Queens, New York.

2. Section 52.1675 is amended by adding a new paragraph (g) as follows:

§ 52.1675 Control strategy and regulations: Sulfur oxides.

* * * * *

(g) The following applies to the Environmental Protection Agency's approval as a SIP revision of the "special limitation" promulgated by the Commissioner of the New York State Department of Environmental Conservation on November 20, 1979 permitting the purchase and use by the Consolidated Edison Company of New York, Inc. of fuel oil with a maximum sulfur content of 1.5 percent, by weight, at units 2 and 3 of its Arthur Kill generating facility on Staten Island, New York and unit 3 of its Ravenswood generating station in Queens, New York:

(1) On or before the "Date of Conversion" indicated below, each "Facility" indicated below shall combust only natural gas for the duration of the special limitation.

1. City College of New York, Amsterdam Ave. Between W. 135th St. and W. 138th St., Manhattan—
   North Campus Academic Center:
   Converted North Campus Main Boiler (Compton Hall): Two boilers shut-down; One boiler converted;
   South Campus—Boiler Plant: Converted;
   North Campus Science and Physical Education Building: October 1, 1980.
2. Harlem Hospital, 135th St. and Lenox Ave., Manhattan: April 1, 1981;
3. Columbia University, 116th St. and Broadway, Manhattan: Converted;
4. New York City Housing Auth., Senator Robert F. Wagner Houses, 23–96 First Ave.: October 1, 1980;
5. New York City Housing Auth., Frederick Douglass Houses, 880 Columbus Ave., Manhattan: October 1, 1980;
6. New York City Housing Auth., Manhattanville Houses, 549 W. 126th St., Manhattan: October 1, 1980;
7. New York City Housing Auth., St. Nicholas Houses, 215 W. 127th St.: October 1, 1980;
8. New York City Housing Auth., General Grant Houses, 1320 Amsterdam Ave., Manhattan: October 1, 1980;
9. New York City Housing Auth., Harlem River Houses, 211–0–1 W. 151st Street, Manhattan: October 1, 1980;
10. New York City Housing Auth., Martin Luther King Towers, 90 Lenox Ave., Manhattan: October 1, 1980;
11. New York City Housing Auth., Drew Hamilton Houses, 210 W. 142nd Street, Manhattan: October 1, 1980.

(2) If any of the facilities identified in paragraph (1) fail to meet the requirements of that paragraph, the Consolidated Edison Company shall not burn fuel oil with a sulfur content in excess of 0.30 percent, by weight. For this purpose, Consolidated Edison shall maintain a reserve supply of fuel oil with a maximum sulfur content of 0.30 percent, by weight, and shall have a mechanism to switch promptly to the use of such fuel oil.

(3) EPA's approval of this revision to the New York SIP will extend for a period of twelve months from [the date of the publication] or such longer period limited to twelve months from the date on which fuel oil with a sulfur content exceeding 0.30 percent, by weight, is first burned at any of the affected Consolidated Edison facilities. However, once the use of high sulfur fuel oil has commenced, failure to meet any of the conversion dates specified in paragraph (g)(1) of this section shall not extend the period of EPA approval.

(4) On or before July 1, 1981 the Consolidated Edison Company of New York, Inc. shall displace the use of approximately 7.1 million gallons of residual oil, as projected on an annual basis, through a gas conversion program to be implemented within a two-mile radius of the Mabel Dean Bacon High School Annex monitor. Beginning on the first day of the month in which fuel oil with a sulfur content exceeding 0.30 percent, by weight, is first burned at any of the affected Consolidated Edison facilities and continuing for twelve months thereafter, the Consolidated Edison Company of New York, Inc. shall submit a report to the EPA, on a monthly basis, which includes, but is not limited to, the following information regarding this program:

(i) The total gallonage of fuel oil capacity converted (projected to an annual amount) as of that date,

(ii) The potential gallonage from sources at which conversion work has begun, and

(iii) The projected gallonage from sources expected to be converted by July 1, 1981.

[FR Doc. 80-24227 Filed 8-8-80; 8:45 am]
BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1562-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve changes to the Kern County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 556–2938.

SUPPLEMENTARY INFORMATION: On February 14, 1980 (45 FR 9953) EPA published a notice of proposed rulemaking for revisions to the Kern County APCD's rules and regulations submitted on May 23 and October 15, 1979 by the California Air Resources Board for inclusion in the SIP.

The changes contained in the above mentioned submittals that are being acted upon by this notice include the following:

(a) Several administrative changes concerning procedures before the hearing board; and

(b) Minor wording and renumbering changes.

A list of the affected rules was published as part of the February 14, 1980 Notice of Proposed Rulemaking. As described in that notice, all the rules were evaluated, found to be in conformance with the requirements of 40 CFR Part 51, and proposed to be approved, with the exception of Rule 407.3 for which no action was proposed. The Notice of Proposed Rulemaking provided for a 60 day public comment period. No comments were received.

Thus, it is the purpose of this notice to approve the revisions contained in the May 23 and October 15, 1979 submittals and to incorporate them into the California SIP, with the exception of the Rule 407.3 as discussed below.

No action is being taken on the proposed deletion of Rule 407.3, *Scavenger Plants*, because the Rule is not currently part of the applicable SIP. The Rule was previously submitted on July 19, 1974 and was disapproved on August 22, 1977 (42 FR 42219). Thus no further action is required.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. § 7410 and § 7601(a)))

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Subpart F of Part 51 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding sub-paragraphs (51)(i) and (52)(i) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(51) Revised regulations for the following APCD's submitted May 23, 1979, by the Governor's designee.

(i) Kern County APCD.

(A) Amended Rules 305 and 503.

* * * * *

(52) Revised regulations for the following APCD's submitted October 15, 1979, by the Governor's designee.

(i) Kern County APCD.

(A) Amended Rule 302

* * * * *

[FR Doc. 80-24161 Filed 8-8-80; 8:45 am]
BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1565-5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision: Inspection/Maintenance Program

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve revisions to the motor vehicle emission control inspection and maintenance (I/M) program submitted by the Governor's designee on March 21, 1979 as a revision to the Arizona State Implementation Plan (SIP). The intended effect of this action is to update the rules and regulations and to correct certain deficiencies in the SIP. In addition, this approval satisfies certain requirements under Part D of the Clean Air Act concerning I/M in Maricopa and Pima Counties.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emissions control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of noncomplying vehicles is prohibited. This is more effectively accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. A windshield sticker system, much like that of many safety inspection programs, can be used if it can be demonstrated that equal effectiveness will be achieved.

Section 172 of the Clean Air Act requires that SIPs for States which include nonattainment areas must meet certain criteria. For areas which demonstate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by 1982, despite the implementation of all reasonably available control measures, an extension to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program. * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372). Though the July 17, 1978 guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

(1) *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the I/M program. (Section 172(b)(10))

(2) *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10))

(3) *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7))

(4) *Schedule.* A specific schedule to establish the I/M program must be included in the SIP. (Section 172(b)(11)(B)). Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.15(c).

(5) *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emissions projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * * *."

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislature can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revisions which require I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a state legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan" (Section 172(b)(10)). Under section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an I/M program is required (Section 172(b)(11)(B)). The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expeditiously as practicable" (Section 172(b)(2)). At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating, including mandatory programs in New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on the implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reduction of both CO and HC exhaust emissions by 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion of the nonattainment area plan with Section 172(b)(2).

Arizona's I/M Program

On August 4, 1978 (43 FR 34470) EPA approved the State of Arizona's I/M program and regulations. On July 5, 1979 EPA published a Notice of Proposed Rulemaking in the **FEDERAL REGISTER** (44 FR 39234) proposing to approve revisions to the regulations submitted to EPA on March 21, 1979. In addition, Notices of Proposed Rulemaking were published on June 11, and July 6, 1979 (44 FR 33433 and 39480) for the Maricopa and Pima counties nonattainment area plans. Please refer to those notices for further information.

Arizona's I/M program covers all vehicles registered or reregistered in Maricopa and Pima Counties for highway use, and provides for inspections each year. Inspections are carried out by a contractor working for the State. An idle mode inspection test is used. Vehicles failing inspection must be repaired and reinspected. The operation of noncomplying vehicles is prevented by requiring proof of compliance to register a vehicle.

Vehicles older than 13 years are excluded. Also, a vehicle exceeding the standards after its second inspection could be granted a waiver, if the cost of repairs exceed 75 dollars or 10 percent of the vehicle's value for post 1967 models and 25 dollars for pre-1968 models.

As decribed below, Arizona's I/M program satisfies the key requirements for approval previously described.

(1) *Legal Authority.* The basis for the State's legal authority (R9–3–1001, Policy and Legal Authority) is contained in the Arizona Revised Statutes 36–1707, 36–1717, and 36–1772. Under these State statutes the Director of Department of Health Services has the authority to adopt rules and regulations controlling the release into the atmosphere of air contaminants from motor vehicles and combustion engines in a manner which ensures the health, safety, and general welfare of the citizens of Arizona.

(2) *Commitment.* The State has identified its commitments to the implementation and enforcement of the Arizona I/M program submitted as part of the Maricopa and Pima Counties nonattainment area plans (NAPs).

(3) *Resources.* The State has identified its commitments for resources submitted as part of the Maricopa and Pima Counties NAPs.

(4) *Schedule.* EPA's requirement for a specific schedule to establish an I/M program is not applicable to Arizona since the program is currently being implemented and enforced.

(5) *Program Effectiveness.* Based on information in the revision and the SIP, the program will achieve a 27% reduction in HC and a 25% reduction in CO by December 31, 1987, thus complying with EPA's requirement for minimum emission reductions.

The I/M program requires a motor vehicle owner to obtain a certificate of compliance issued by an official emissions inspection station once a year prior to registration. In order to assure public awareness of the I/M program, an insert is sent with individual registration notices listing the hours and locations of inspection stations.

Certificates of waiver, exemption, and a Director's certificate can also be accepted as evidence that a vehicle is in compliance with the requirements of the program. Inspections are made at State owned, operated, or contracted emissions inspection facilities. The State regulations also provide for permit procedures for fleet stations, licensing of inspectors, inspection of government vehicles, reinspection of vehicles, and inspection of State and fleet stations.

The exhaust emissions inspection consists of sampling the exhaust emissions in the idle mode and in loaded modes, and measuring the concentrations of hydrocarbons (oxidant/ozone precursor) and carbon monoxide. Data from the loaded mode test is for diagnostic purposes only and is not the basis for passing or failing the test. Idle emissions are the basis for passing or failing. Each vehicle that is inspected by a State station must be accompanied by a document such as registration, certificate of title, or bill of sale which identifies the vehicle by make, model year, identification number, and license plate. The fee for an emissions inspection is $5.00.

Mechanics training is included as a part of the I/M program. Monthly training clinics are scheduled in Phoenix and Tucson for both mechanics and the general public to improve tune-ups and to show the cause for and the correction of emissions failures.

The State makes periodic inspections of emissions analyzers. Analyzers not meeting the specified accuracy requirements are retired for use until they are repaired.

The program also provides for certain exceptions including electric powered vehicles, light duty motor vehicles more than 13 years old, and vehicles with engine displacement less than 90 cubic centimeters. Any vehicle not complying with the requirements of Arizona's I/M program may not be registered and is prohibited from operating on public roads.

As discussed above, and in the July 5, 1979 notice, Arizona's I/M program meets all of EPA's criteria. No comments were received during the public comment period. Therefore, EPA approves the I/M program with respect to Part D of the Act and incorporates it into the SIP.

The State of Arizona has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)).)

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Subpart D of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120 is amended by adding paragraphs (c)(27)–(31) as follows:

§ 52.120 Identification of plan.

* * * * *

(C) * * *

(27)–(30) [Reserved]

(31) Revisions to the Arizona Air Pollution Control Regulations submitted on March 21, 1979: R9–3–1002 (22,34); R9–3–1003 [A(A8–11),B,C]; R9–3–1005 [A, (A3)]; R9–3–1006 [A,(A1,2),B,(B2,3,4,5),D,E,(E1(c),2(c)),F,G,(G1,2), Table II]; R9–3–1008 [B,(B1,2,6,7)]; R9–3–1010 [A,(A3),C,D,F]; R9–3–1011 [A,B,(B1,2,3)]; R9–3–1012(b); R9–3–1014; R9–3–1017 [B,(B4), C, E]; R9–3–1019 [A,B,D, D(1)(a)(i), D(1)(a)(ii)(6), D(1)(a)(iii), D(1)(c), D(1)(f)(11), H, (H1,2), I(18,9,10,11,12,13), J, (J10), L, M, N, (N1,2)]; R9–3–1020(C,E); R9–3–1022(B); R9–3–1023(A,B); R9–3–1027(F).

* * * * * *

[FR Doc. 80–24162 Filed 8–8–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1555–5]

Approval and Promulgation of State Implementation Plans; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today is approving a revision to Colorado's State Implementation Plan to meet the data reporting requirements of Section 127 of the Clean Air Act.

EFFECTIVE DATE: August 11,1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Progams Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3711.

SUPPLEMENTARY INFORMATION: On June 4, 1980, EPA proposed for comment in the **Federal Register** this revision to the Colorado State Implementation Plan. No comments were received. Therefore, based on the rationale explained in the proposed rulemaking, EPA is approving this SIP revision.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this rule is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication in the **Federal Register**). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of todays notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart G—Colorado

1. Section 52.320(c)(19) is added as follows:

§ 52.320 Identification of plan.

* * * * * *

(c) * * *

(19) On April 21, 1980, the Governor submitted a plan revision to meet the data reporting requirements of Section 127 of the Clean Air Act.

[FR Doc. 80–24160 Filed 8–8–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 81

[FRL 1565–3]

Designation of Areas for Air Quality Planning Purposes: Attainment Status Designations; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice revises the attainment status designations of all or portions of 12 counties in California for ozone (O_3), total suspended particulates (TSP), and/or carbon monoxide (CO).

These revisions are the result of (a) a request from the State Air Resources Board (ARB) to redesignate the areas, (b) the revision of the oxidant (Ox) standard of 0.08 parts per million (ppm) to an O_3 standard of 0.12 ppm, (c) the availability of more recent monitoring data, and (d) application of the EPA's Fugitive Dust Policy. The 12 counties or portions thereof are redesignated from nonattainment to either attainment or unclassifiable as specified below.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT:
Louise P. Giersch, Director, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, Attn: Morris I. Goldberg, (415) 556–8065.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act (CAA) Amendments of 1977, Public Law No. 95–95, added to the CAA section 107(d), which directed each state to submit to the Administrator a list of the National Ambient Air Quality Standards (NAAQS) attainment status of all areas within the state. The Administrator was required under section 107(d)(2) to promulgate the state lists, with any necessary modifications.

For each NAAQS, areas are classified as either (1) not attaining the standard (nonattainment areas), (2) meeting the standard (attainment areas), or (3) lacking sufficient data to be classified (unclassifiable areas). The EPA published these lists on March 3, 1978 (43 FR 8962).

On February 8, 1979 (44 FR 8202), the EPA revised the Ox standard of 0.08 ppm to an O_3 standard of 0.12 ppm. In addition, the EPA established a statistical method of determining whether the standard has been exceeded. The national standards for O_3 are published as a revision to 40 CFR 50.9 and the statistical method as the new Appendix H, 40 CFR Part 50.

On March 19, 1979 (44 FR 16388), the EPA redesignated Yolo County from nonattainment (primary and secondary) to nonattainment (secondary) for TSP, as recommended by the State of California, because air quality data indicated violations of secondary, but not primary, TSP standards.

The Redesignations

The ARB, in a letter dated September 24, 1979, submitted to the EPA a list of proposed redesignations "necessitated by (1) the change in the .08 ppm oxidant standard to .12 ppm ozone, (2) availability of more recent monitoring data, and (3) agreements between our agencies relative to the applicability of the TSP standard in some rural areas."

The redesignations proposed by the ARB are as follows:

(1) From nonattainment for Ox to attainment for O_3: Mariposa, San Luis Obispo, and Tehama Counties.

(2) From nonattainment for Ox to unclassifiable for O_3: Colusa and Glenn Counties and the Sacramento Valley Air Basin (SVAB) portion of Shasta County.

(3) From nonattainment (primary and secondary) to unclassifiable for TSP: Butte and Sutter Counties.

(4) From nonattainment (secondary) to unclassifiable for TSP: Tehama, Yolo, and Yuba Counties and the SVAB portions of Shasta and Solano Counties.

(5) From nonattainment to attainment for CO: Fresno County, outside of the Fresno-Clovis Metropolitan Area.

(6) From nonattainment to attainment for sulfur dioxide (SO_2): San Joaquin Valley Air Basin portion of Kern County, outside of the Oildale area.

Under section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for promulgation.

On April 10, 1980 (45 FR 24510) the EPA published a Notice of Proposed Rulemaking, proposing to approve these redesignations, except for the Kern County SO_2 redesignation, which will be addressed in a separate **Federal Register** notice. The redesignations were proposed to be approved because, as a result of the revised oxidant/ozone standard, more recent monitoring data, and the application of the EPA's Fugitive Dust Policy, the redesignated areas are now considered by the EPA to be either attainment or unclassifiable for certain pollutants.

The April 10 notice invited public comments on the proposal. No comments were received. Therefore, the EPA is now approving the proposed redesignations.

As a result of these redesignations, the requirements of Title I, Part D (Plan Requirements for Nonattainment Areas) of the CAA, as amended, no longer apply in the 12 counties or portions thereof for the pollutants for which those counties are being redesignated attainment or unclassifiable.

Correction of Errors

On September 12, 1979 (44 FR 53081), the EPA published a Final Rulemaking Notice concerning attainment status designations for Arizona, California, and Hawaii.

That notice inadvertantly indicated that the attainment status of two areas in the Southeast Desert Air Basin of California had been changed. Specifically, the non-AQMA portions of Riverside and San Bernardino Counties were shown as not meeting the secondary standards for TSP, when they should have been shown as unclassifiable for TSP, as in their original designation of March 3, 1978 (43 FR 8971). These and other errors are corrected in this notice.

The EPA finds that good cause exists for making this action effective immediately. The EPA has a responsibility to take final action on these provisions as soon as possible in order to lift the construction moratorium.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sec. 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7801(a)))

Dated: August 1, 1980.

Douglas Costle,
Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.305 [Amended]

1. In § *81.305 California*, the attainment status designation tables are amended as follows:

A. The California—TSP table is amended as follows:

(1) In the Sacramento Valley Air Basin, the designations of Solano, Yolo, Butte, Shasta, Sutter, Tehama, and Yuba Counties are revised.

(2) In the Southeast Desert Air Basin, the designations of the non-AQMA portions of Riverside and San Bernardino Counties are corrected.

B. The California—Ox table is amended as follows:

(1) The name of the table is revised from "Ox" to "Ozone".

(2) In the South Central Coast Air Basin, the designation of San Luis Obispo County is revised.

(3) In the Sacramento Valley Air Basin, the status of each county is specified, and the designations of Colusa, Glenn, Shasta, and Tehama Counties are revised.

(4) In the Mountain Counties Air Basin, the designation of Mariposa County is revised.

(5) Various typographical errors are corrected.

C. The California—CO table is amended as follows:

(1) In the San Joaquin Valley Air Basin, Fresno County is divided into two areas, and the designation of Fresno County, outside of the Fresno-Clovis Metropolitan Area, is revised.

(2) Various typographical errors are corrected.

The amended portions of the tables for § *81.305 California* read as set forth below:

California—*TSP*

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Sacramento Valley Air Basin (SVAB):				
Sacramento County		X		
Solano County (SVAB Portion)			X	
Yolo County			X	
Butte County			X	
Colusa County			X	
Glenn County			X	
Shasta County (SVAB Portion)			X	
Sutter County			X	
Tehama County			X	
Yuba County			X	
Great Basin Valleys Air Basin			X	
Northeast Plateau Air Basin			X	
Southeast Desert Air Basin:				
Kern County (S.E. Desert Air Basin Portion)			X	
Imperial County			X	
Los Angeles County (S.E. Desert Air Basin Portion)	X			
Riverside County (S.E. Desert AQMA Portion)	X			
San Bernardino County (S.E. Desert AQMA Portion)	X			
Riverside County (non-AQMA Portion)			X	
San Bernardino County (non-AQMA Portion)			X	

California—Ozone

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin	X	
Lake County Air Basin		X
North Central Coast Air Basin	X	
South Central Coast Air Basin:		
Ventura County	X	
San Luis Obispo County		X
Santa Barbara County AQMA	X	
Santa Barbara County non-AQMA	X	
Channel Islands		X
San Diego Air Basin:		
San Diego Intrastate AQCR Portion	X	
Southeast Desert Intrastate AQCR Portion	X	
South Coast Air Basin	X	
San Joaquin Valley Air Basin	X	
Sacramento Valley Air Basin (SVAB):		
Sacramento Valley Area AQMA (SVAB Portion)	X	
Butte County	X	
Colusa County		X
Glenn County		X
Shasta County (SVAB Portion)		X
Sutter County	X	
Tehama County		X
Yuba County	X	
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X

California—Ozone—Continued

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Mountain Counties Air Basin (MCAB):		
Amador County		X
Calaveras County		X
El Dorado County (MCAB Portion)	X	
Mariposa County		X
Nevada County		X
Placer County (AQMA Portion)	X	
Placer County (MCAB non-AQMA Portion)	X	
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin (SEDAB):		
Imperial County	X	
Kern County (SEDAB Portion)		X
Los Angeles County (SEDAB Portion)	X	
Riverside County (S.E. Desert AQMA Portion)	X	
Riverside County (SEDAB non-AQMA Portion)		X
San Bernardino County (S.E. Desert AQMA Portion)	X	
San Bernardino County (SEDAB non-AQMA Portion)		X
Lake Tahoe Air Basin	X	

California—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
San Joaquin Valley Air Basin (SJVAB):		
Fresno County (within Fresno-Clovis Metropolitan Area*)	X	
Fresno County (outside Fresno-Clovis Metropolitan Area*)		X
Kern County (SJVAB Portion)	X	
Kings County		X
Madera County		X
Merced County		X
San Joaquin County	X	
Stanislaus County	X	
Tulare County		X
Sacramento Valley Air Basin (SVAB):		
Butte County	X	
Colusa County		X
Glenn County		X
Sacramento County	X	
Shasta County (SVAB Portion)		X
Solano County (SVAB Portion)		X
Sutter County		X
Tehama County		X
Yolo County		X
Yuba County		X
Southeast Desert Air Basin (SEDAB):		
Imperial County		X
Kern County (SEDAB Portion)		X
Los Angeles County (SEDAB Portion)		X
Riverside County (S.E. Desert AQMA Portion)		X
Riverside County (SEDAB non-AQMA Portion)		X
San Bernardino County (S.E. Desert AQMA Portion)		X
San Bernardino County (SEDAB non-AQMA Portion)		X
Lake Tahoe Air Basin	X	

*As shown on page 4 of the *1974 General Plan Report for the FCMA*, City of Fresno Department of Planning and Inspection.

[FR Doc. 80-24181 Filed 8-8-80; 8:45 am]
BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Amendment F-42]

Federal Property Management Regulations; Security of Federal ADP and Telecommunication Systems

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation adds a new subpart to FPMR 101–35 and revises Subpart 101–36.7 to set forth Government-wide security management provisions for the protection of ADP and telecommunication systems and facilities. The intended effect is to ensure that adequate security is

considered and present in all ADP and telecommunication systems.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. Johnson, Policy and Evaluation Division (202–566–0634).

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) issued Circular No. A–71, Transmittal Memorandum No. 1, on July 27, 1978. This OMB issuance requires that: (1) GSA issue regulations for the physical security of computer rooms consistent with standards and guidelines issued by the Department of Commerce; (2) ensure that agency procurement requests for automated data processing equipment, software, and related services include security requirements; and (3) ensure that all procurements made by GSA meet the security requirements established by the user agency. To meet GSA's responsibility for Government-wide management as well as comply with OMB direction, Subpart 1–4.11 of this title is being amended also.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 101–35—ADP AND TELECOMMUNICATIONS MANAGEMENT POLICY

1. The table of contents for Part 101–35 is amended by adding 14 entries and revising 1 entry as follows:

Subpart 101–35.3—Security of Federal ADP and Telecommunication Systems

Sec.

101–35.300 Scope of subpart.
101–35.301 Policy.
101–35.302 Definitions.
101–35.303 Agency security responsibilities.
101–35.304 Security program elements.
101–35.304–1 Identification of sensitive systems and facilities.
101–35.304–2 Risk analysis.
101–35.304–3 Administrative, physical, and technical controls.
101–35.304–4 Privacy considerations.
101–35.305 Security program
101–35.306 Security specifications.
101–35.307 Certification of conformance to security specifications.
101–35.308 Security audit or evaluation.

Subparts 101–35.4—101–35.16 [Reserved]

2. Subpart 101–35.3 is added to read as follows:

Subpart 101–35.3—Security of Federal ADP and Telecommunication Systems

§ 101–35.300 Scope of subpart.

This subpart provides Government-wide security management guidance for the protection of ADP and telecommunication systems and facilities. Other subparts of the FPMR cover specific aspects of security. (See Subparts 101–35.17 for Privacy Act application and 101–36.7 for environment and physical security considerations.)

§ 101–35.301 Policy.

Federal agencies shall ensure that an adequate level of security is provided for all ADP and telecommunication systems and services, including those provided by contractors. An adequate security program shall be established to ensure automated information system integrity; i.e., a security program that (a) ensures that under all conditions sensitive data is safeguarded from disclosure and protected from unauthorized modification and destruction, (b) provides for operational reliability of the ADP and telecommunication systems, and (c) provides asset integrity for prevention of loss from natural hazards, fire, etc.

§ 101–35.302 Definitions.

(a) "Sensitive application systems" means those ADP and telecommunication systems that require a degree of protection. The protection is required because these systems process sensitive data; or the risk of loss or harm that could result from data disclosure, modification, or destruction is substantial; or the improper operation of the software or equipment related to the application system would have a serious effect on the ability of the agency to function. Examples of sensitive application systems are: (1) Automated systems with little or no human intervention; e.g., check issuing systems; (2) systems that process privileged information; e.g., proprietary data and economic forecasting; (3) systems that process personal information subject to the Privacy Act of 1974; and (4) systems where the loss or harm would be such that the organization could not effectively perform its mission and would have a substantial adverse effect on the Nation.

(b) "Sensitive data" means data that require a degree of protection due to the risk and magnitude of loss or harm which could result from inadvertent or deliberate disclosure, alteration, or destruction of the data.

(c) "Security specifications" means a detailed description of the safeguards required to protect a sensitive computer application or telecommunication system.

(d) "ADP system security" means the degree of protection of ADP equipment and data that is established through the application of technological safeguards, physical security measures, and administrative procedures applied to a sensitive application system, its component facilities and equipment, its software, its data to ensure protection of a computer system, and its telecommunications.

(e) "Physical security" means the sum of construction features and the use of locks, guards, badges, and similar measures to control access to a facility (location) as well as the measures required to protect personnel and property, including the structures housing the computer, their contents, and related equipment, from but not limited to damage by accident, fire, loss of utilities, environmental hazards, and unauthorized access.

(f) "Agency controls" means those administrative and personnel measures used in conjunction with ADP administrative, technical, and physical security measures to achieve adequate comprehensive security.

§ 101–35.303 Agency security responsibilities.

Each agency head shall establish an agency security program that clearly delineates the responsibility for security agencywide. The agency head shall establish policies and procedures and assign responsibility for development, implementation, and operation of the agency's ADP and telecommunication security program. This responsibility applies to work performed internally or by contract.

(a) *Personnel.* The agency security program shall include policies and procedures for the screening and clearance of all persons involved in the design, operation, or maintenance of ADP or telecommunication systems. The level of screening required will vary from minimial checks to full background investigations commensurate with the sensitivity of the data handled and the risk and magnitude of loss or harm that could be caused by the individual. Policies shall be consistent with the policies issued by the Office of Personnel Management. (See Federal Personnel Manual, FPM 732–4.01.)

(b) *Facility security officer.* Each ADP/telecommunication system location shall have a designated security person responsible for the implementation, operation, and testing of the agency security program for that installation, including the adequacy of the security training of personnel involved.

(c) *Security evaluations.* The agency security program shall include procedures for conducting periodic (at least once every 3 years) audits or evaluations of the adequacy of the security safeguards of each sensitive application. Audits or evaluations shall be conducted on applications which process personal, proprietary, or other sensitive data, or which have a high potential for financial loss, such as automated decisionmaking application. They shall be conducted by persons independent of the facility users and facility management.

§ 101–35.304 Security program elements.

The agency computer security program shall contain all of the elements necessary to ensure an adequate level of security for all agency data whether processed by the agency, by other Government agencies, or commercially. The program shall be consistent with all Federal policies, procedures, and standards issued by OMB, GSA, the Department of Commerce, and the Office of Personnel Management. Where national security systems are involved, the policies issued by the National Security Agency shall apply.

§ 101–35.304–1 Identification of sensitive systems and facilities.

A review of ADP and telecommunication facilities and systems is necessary to identify sensitive applications. The risks (threats and hazards) shall be identified for each facility to determine the level of security required.

§ 101–35.304–2 Risk analysis.

(a) A risk analysis shall be performed for each ADP and telecommunications facility to provide a measure of the relative vulnerabilities. The analysis shall be performed before the approval of design specifications for new computer installations or whenever there is a significant change to the physical facility or to the hardware or software. The analysis shall be reviewed and updated when changes concerning the degree of protection occur or at least every 3 years. This risk analysis should provide an understanding of the probable loss and establish how the loss will affect the system; for example, what is the probability of loss of a tape or micro film library and what is the economic or other consequence of that loss? Expected losses should be estimated in dollars or other meaningful indicators such as delayed processing or loss of data. A copy of each risk analysis shall be maintained for evaluation and audit purposes. These should be protected to the maximum within the limits of the law. These risk analyses form the basis for preparation of the security specifications and for determining the type and scope of security measures required at each location.

(b) The analyses should include but not necessarily be limited to the following factors:

(1) Physical destruction or loss of data and program files;

(2) Impact loss, destruction, or alteration of data on systems or programs;

(3) Theft or disclosure of information;

(4) Misuse of ADP systems (fraud, vandalism, etc.);

(5) Delay or prevention of ADP operation; and

(6) Reliability of ADPE and utilities.

(c) An annual loss expectancy for each facility shall be developed from a matrix of threats and frequency of losses as a result of the analysis. The NBS publication FIPS PUB 65, Guideline for Automatic Data Processing Risk Analysis, provides guidance on risk analysis.

§ 101–35.304–3 Administrative, physical, and technical controls.

Administrative, physical, and technical controls shall be developed to ensure attainment of security objectives. These controls encompass a continuous program of systems and application security. They should be compatible with other practices; e.g., cost accounting and management oversight. Included are:

(a) Organizational controls; e.g., those that have the potential to reduce damage or loss to the agency through concentration or distribution of functions;

(b) Media and logistic controls; e.g., those used in ADP operations to protect data during physical handling; and

(c) Accountability controls; e.g., those that identify specific individuals at any time an action is taken that may have an effect on the data, application, or physical installation.

§ 101–35.304–4 Privacy considerations.

Subpart 101–35.17, Privacy and Data Security for ADP and Telecommunication Systems, contains ADP system security considerations to assist in the implementation of the Privacy Act of 1974 (5 U.S.C. 552a). See Department of Commerce publication FIPS PUB 41 for further guidance.

§ 101–35.305 Security program.

The security program requires continuing day-to-day attention. The following program objectives need to be considered:

(a) *Reduction of sensitive facilities.* All locations need to be designed to safeguard the equipment and data against varying degrees of projected threats and hazards. Although all facilities must provide protection under varying circumstances, it may be prudent to move a senstive data application to a system that provides adequate protection rather than spend enormous sums to upgrade security.

(b) *Improvement of security at existing facilities.* Security may be improved at existing facilities by either upgrading the physical security at the facility and/or by strengthening the administrative security practices. Strengthening administrative security, by applying sound management practices, can often be effective in minimizing losses and limiting alteration costs. Actions such as closing and locking doors, maintaining logs, verifying signatures, inspecting fire equipment, replacing air filters, and verifying emergency procedures are important continuing considerations. Security must be a daily concern that is given priority attention.

(c) *Contingency plans.* Plans should be developed to provide continuity of data processing support should normal operations be interrupted. Alternate facilities are essential for systems that process sensitive data applications. The alternate facility should have sufficient capacity to run its own sensitive data applications plus the sensitive application(s) from the downed system. The backup capability may reside in one or more systems or facilities but should be located so that operating personnel, programs, data, paper, forms, etc., can be made available on short notice. Agreements for use of the backup (alternate) facility should be made in advance so that sensitive data applications are operated with minimum interruption. Plans should be reviewed and tested at periodic intervals.

§ 101–35.306 Security specifications.

(a) The agency security program shall include a managemenmt control process to develop security specifications for new sensitive applications or modifications of sensitive applications. The development of a security specification consists of the identification of the sensitive application, a list of potential threats and hazards, and a description of the measures needed to protect the application.

(b) The security program should include procedures that ensure that security specifications are developed to

meet the requirements of those responsible for the security of the various application systems.

(c) The security program must include procedures requiring the certification of each system after completion of the system acceptance tests and before operational use of that system. This action certifies that the system meets the documented and approved system security specifications, that the results of the system tests demonstrate adequacy of application security provisions, and that all applicable Federal policies, regulations, and standards are met.

(d) The security program shall establish requirements and responsibilities for the design, system test, certification of system test, and certification of security specifications.

§ 101-35.307 Certification of conformance to security specifications.

(a) New or modified sensitive application systems shall be certified in accordance with agency procedures to ensure conformance with the security specifications before operation. Contractor- or other-agency-operated systems or services shall also be certified.

(b) The security of existing sensitive systems shall be modified as appropriate to the level of security as specified in the agency security program for new or revised systems.

Note.—The agency security program shall establish policies, criteria, and timetables for periodic recertification of all sensitive application systems, including those operated at contractor locations. The recertification timetable shall be based on the sensitivity of the information processed and risk involved, but shall be conducted at least every 3 years.

§ 101-35.308 Security audit or evaluation.

(a) Agencies shall establish a program for conducting periodic audits or evaluations for evaluating and recertifying the adequacy of the security safeguards of each operational sensitive application.

(b) Audits shall be conducted by personnel other than those responsible for the operation and development of the sensitive application systems.

(c) The audit or evaluation function shall include an examination of the data sensitivity; a verification and validation of the adequacy of physical, administrative, financial, and technical controls; and the adequacy of security administration. Time intervals for audits or evaluations will be determined by the agency, based on the sensitivity of the operation but at least every 3 years. All ADP and telecommunication facilities shall be included in this audit and evaluation.

Subparts 101-35.4—101-35.16 [Reserved]

3. Subparts 101-35.4 through 101-35.16 are reserved.

PART 101-36—ADP MANAGEMENT

4. The table of contents for Part 101-36 is amended by revising, adding, or deleting the following entries:

Subpart 101-36.7—Environmental and Physical Security

Sec.

101-36.700 Scope of subpart.
101-36.701 Definitions.
101-36.702 ADP facility environment.
101-36.702-1 Temperature and humidity.
101-36.702-2 Lighting and electrical service.
101-36.702-3 Cleanliness.
101-36.702-4 Personnel.
101-36.702-5 Precautionary measures.
101-36.703 Fire safety.
101-36.703-1 Fire prevention—master control switches.
101-36.703-2 Portable firefighting equipment.
101-36.703-3 Smoke detection.
101-36.704 Contingency planning.
101-36.704-1 [Deleted]
101-36.704-2 [Deleted]
101-36.704-3 [Deleted]
101-36.704-4 [Deleted]
101-36.704-5 [Deleted]
101-36.704-6 [Deleted]
101-36.704-7 [Deleted]
101-36.704-8 [Deleted]
101-36.704-9 [Deleted]
101-36.705 Security of ADP facilities.
101-36.705-1 [Deleted]
101-36.705-2 [Deleted]
101-36.705-3 [Deleted]
101-36.705-4 [Deleted]
101-36.705-5 [Deleted]
101-36.706 Physical security for ADP facilities.

Subpart 101-36.7—Environmental and Physical Security

5. Subpart 101-36.7 is reception and revised.

§ 101-36.700 Scope of subpart.

This subpart provides guidelines applicable to Federal agencies concerning environmental and physical security of ADP facilities. Security management provisions are in Subpart 101-35.3.

§ 101-36.701 Definitions.

Terms as used in the subpart are defined as follows:

(a) "ADP facility" means an area, usually enclosed, containing a computer, other operational ADPE, and related supporting ADP resources that are essential to the operation of an ADP system. This definition generally excludes areas containing only ADP peripheral devices that cannot use, alter, access, or affect sensitive data. The area needing a degree of protection includes areas where there are terminals capable of displaying sensitive data or that can alter, change, or affect data.

(b) "ADP facility environment" means the aggregate of conditions that influence the performance of the ADP facility, personnel, and equipment.

(c) "ADP facility security" means those technological safeguards, physical security measures, and administrative procedures applied to an ADP facility and its equipment, software, data, and operational and user personnel, in order to ensure the protection of organizational assets, proprietary data, market information, individual privacy, etc.

(d) "Physical security" means the sum of construction features and the use of locks, safeguards, badges, and similar measures to control access to an ADP facility (location) as well as the measures required to protect personnel and property, including the structures housing the computer, their contents, and related equipment, from but not limited to damage by accident, fire, loss of utilities, environmental hazards, and unauthorized access.

§ 101-36.702 ADP facility environment.

An ADP facility environment conducive to both the protection of the Government's investment in ADP resources and the effective performance of the ADP function is essential. Care should be exercised in the selection of the ADP facility location to ensure the protection of supporting utilities and the minimization of natural disaster probabilities.

§ 101-36.702-1 Temperature and humidity.

(a) Wherever possible, manufacturers' specifications for data processing equipment and Federal energy conservation considerations shall be used to determine the optimum temperature and humidity ranges for the computer room. The ADPE should be operated within those limits. To prevent excessive temperature and humidity fluctuation, all doors to the computer room shall be kept closed as appropriate.

(b) An adequate warning system should be installed and maintained to warn of near-limit conditions so that prompt action can be taken to prevent equipment damage. Recording instruments (24-hour or 7-day) should also be located and installed to provide a true record of temperature and humidity. The recorders should be located where they will monitor the air leaving the ADPE area. The recorders should be checked frequently for accuracy. Only the building manager, the ADP facility manager, or another official controlling or operating the building should be permitted to regulate the computer room environmental controls.

§ 101-36.702-2 Lighting and electrical service.

Adequate lighting of the computer room should be provided and maintained, taking into account Federal energy conservation considerations. An uninterruptible power source may be needed to support the system. Voltage regulators or other electronic means may be necessary to prevent serious fluctuations in current. Emergency lighting shall be provided as necessary to ensure safe exit. Periodic checks should be made of the emergency lighting and the auxiliary power to ensure performance operability. The minimum acceptable level of illumination is 40 foot-candles as measured 40 inches above the floor at any point in the room.

§ 101-36.702-3 Cleanliness.

(a) A routine cleaning schedule should be established and followed. Personnel assigned to clean the computer room should be permitted to do so only after receiving proper training in the cleaning of these areas. An authorized representative of the ADP facility shall be present during the cleaning operations.

(b) Noncombustible wastebaskets with self-closing or tight-fitting covers should be provided in the computer room. Burn bags required for security purposes should be enclosed in metal bulk-refuse containers with self-closing tops if the room is sufficiently secure; otherwise, the burn bags should be kept in safes.

(c) Contributors to dust or lint conditions such as outer coats and coat racks should not be permitted in the computer room. Venetian blinds, throw rugs, etc., that accumulate dust and static electricity should not be used in computer rooms.

(d) Air-conditioning filters should be checked and cleaned or replaced frequently.

(e) Floors should be kept polished and, if necessary, buffed to a hard finish. Waxes which powder or flake and steel wool buffing pads should not be used. Care should be exercised when damp-mopping or waxing to avoid seepage of liquids through the joints of raised floors.

(f) Carpeted areas should be vacuumed frequently to prevent accumulation of dust. Antistatic carpeting or spray should be used to prevent the buildup and discharge of static electricity.

§ 101-36.702-4 Personnel.

(a) Only those authorized persons as defined by the agency security program are permitted in the ADP facility. Notice of this restriction should be posted at each entrance. Authorized Personnel shall be positively identified through the use of local access control procedures. Personnel should be well trained in these facility, environment, and security regulations and procedures.

(b) Smoking, eating, and drinking shall not be permitted in the computer room. Signs stating these restrictions should be posted at each entrance.

(c) Appliances and equipment not essential to the functioning of the system are prohibited in the ADP facility. Examples of these items are electric razors, coffee pots, hot water pots, and hotplates.

§ 101-36.702-5 Precautionary measures.

False ceilings that conceal steam and water pipes shall be checked regularly for discoloration or other indication of a leak in the pipes. Any irregularities should be reported immediately to the building manager or other official controlling or operating the building so that prompt remedial action may be taken. Work scheduled for the ceiling area, whether from above or below; shall be a coordinated effort to provide maximum safety for personnel and equipment and to minimize interruption of operations. All other situations that are suspect as being potentially damaging to life or property shall be reported to the appropriate authority and liaison maintained until corrective action has been taken. Plastic sheets should be readily available to cover at least the CPU and those peripheral units susceptible to water damage. Equipment that has been exposed to water should not be activated until completely dry.

§ 101-36.703 Firesafety.

Guidelines concerning firesafety practices are provided in § 101-20.109 and in the National Fire Prevention and Control Administration's Handbook RP-1, Standard Practice for the Fire Protection of Essential Electronic Equipment Operations. Employees should receive periodic training regarding emergency actions. Training should include power shutdown and startup procedures, use of emergency power, the fire detection system, use of fire extinguishers, building evacuation, use of alarms, etc.

§ 101-36.703-1 Fire prevention—master control switches.

Master control switches that shut off all power to the computers and peripheral equipment should be so installed as to override all other electrical controls used during normal computer operations. Facilities with air-conditioning systems not designed for smoke removal may include their air-conditioning system on the same master switches. These switches should be located near each normally used entrance to the computer room and should be conspicuously labeled and adequately protected to prevent accidental shutoff. Master control switches for systems that process sensitive applications should be equipped to require a sequential shutdown routine.

§ 101-36.703-2 Portable firefighting equipment.

Agencies shall ensure that a sufficient number of fire extinguishers are available in the ADP facility. Each fire extinguisher shall be prominently displayed in an unblocked, easily accessible area, so that no person in the area will have to travel more than 50 feet to obtain a fire extinguisher. Only carbon dioxide fire extinguishers shall be used on electrical fires; no other Class C (electrical nonconducting) extinguishing agents should be used. Fire extinguishers using water should be used on fires involving ordinary combustible materials, such as wood, paper, cloth, and plastics. Extinguishers containing water shall not be used on fires involving electrical equipment because this use can result in injury or death. All fire extinguishers shall be regularly inspected and properly maintained to ensure that they are in good working order. The number of types of fire extinguishers available in the ADP facility will be in accordance with section 704 of the National Fire Prevention and Control Administration's Handbook RP-1.

§ 101-36.703-3 Smoke detection.

Automatic smoke detection equipment capable of early warning detection shall be installed in all areas as required in RP-1 and NFPA No. 72 E, Automatic Fire Detectors.

§ 101-36.704 Contingency planning.

Contingency plans should be developed to deal with events that could prevent normal ADP operations and interfere with the accomplishment of an agency's mission. The contingency plan should, at a minimum, address the following elements:

(a) The appropriate response to a fire, flood, civil disorder, natural disaster, or bomb threat, to protect lives, limit damage, and minimize the impact on ADP operations.

(b) The development of backup procedures to ensure that essential ADP operational tasks can be conducted after disruption to the primary ADP facility. Arrangements should be made for a backup facility, including the needed files, programs, paper stocks and preprinted forms, etc., to operate the essential systems in the event of a total failure.

(c) Recovery procedures to permit rapid restoration of an ADP facility following physical destruction, major damage, or loss of data. To the extent possible, contingency plans should be tested on a recurring basis and modified as changes in the ADP facility workload dictate. Critical applications should be operated on the backup system to ensure that it can properly process this workload. Additional information on contingency planning is contained in FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management.

§ 101-36.705 Security of ADP facilities.

Agencies are required to organize and maintain an ADP system security program to ensure the protection, confidentiality, and integrity of the Government's investment in the ADP system, including associated ADPE, data, computer media, and software. (See Subpart 101-35.3 of this title for security management provisions.) Agencies' internal directives and procedures for the physical security of computer facilities should consider the standards and guidelines that appear in the following Department of Commerce publications:

(a) FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management;

(b) FIPS PUB 39, Glossary for Computers Systems Security;

(c) FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974;

(d) FIPS PUB 46, Data Encryption Standard;

(e) FIPS PUB 48, Guidelines on Evaluation of Techniques for Automated Personnel Identification; and

(f) FIPS PUB 65, Guideline for Automatic Data Processing Risk Analyses.

Note.—NBS Publications List 91 outlines a number of NBS computer security publications.

§ 101-36.706 Physical security for ADP facilities.

Agencies shall provide physical security for their ADP facilities at levels consistent with the agency security program. Emergency requirements and operating procedures shall be considered when planning physical protective measures. The Office of Federal Protective Service Management (mailing address: General Services Administration (PSO), Washington, DC 20405) can furnish assistance regarding the availability and use of security hardware and alarm systems.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: July 31, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-24087 Filed 8-8-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[Circular No. 2474]

Grazing Administration and Trespass; Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the regulations on grazing administration and trespass to provide that suspensions of preference for grazing livestock on public lands administered by the Bureau of Land Management may be phased in over a period not to exceed 3 years. This rulemaking is needed to bring the revised paragraph into agreement with changes made to the grazing administration and trespass regulations by an earlier final rulemaking.

EFFECTIVE DATE: August 11, 1980.

ADDRESS: Any suggestions or inquiries should be addressed to: Director, Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: R. Keith Miller, (202) 343-5841.

SUPPLEMENTAL INFORMATION: The principal author of this final rulemaking is David Little of the Division of Rangeland Management, Bureau of Land Management, assisted by the Office of Legislation and Regulatory Management.

The paragraph amended by this final rulemaking was included in the proposed rulemaking which was published in the **Federal Register** of July 30, 1979 (44 FR 44702). A final rulemaking incorporating most of the provisions of the July 30, 1979, proposed rulemaking was published in the **Federal Register** of July 11, 1980 (45 FR 47104). Section 4110.3-2(c), Decrease in Forage, was not included in the final rulemaking of July 11, 1980, because the policy relating to the phasing in of reductions in grazing use was still under review. As effective August 11, 1980, the revised regulations in § 4110.3-2(b) provide only for suspension of grazing preference (the cancellation language having been deleted), but § 4110.3-2(c) in the existing regulations still provides for cancellation and suspension of grazing preferences.

Therefore, to provide for consistency, § 4110.3-2(c) is being revised to provide for suspensions, but not for cancellations. This change is consistent with the comments which were received on the amendments in the proposed rulemaking published July 30, 1979.

The language of the paragraph, revised in this final rulemaking, is the same as that published in the proposed rulemaking of July 30, 1979, except the word "reduction" has been eliminated in one place because it is redundant, and in two places has been replaced by the word "suspension".

The policy on the manner and timing in which adjustments are made in livestock grazing use of the public lands is still under review. Therefore, a further change in the wording of § 4110.3-2(c) may be necessary. Any further changes will first be published as proposed rulemaking with an opportunity for public review and comment.

This revision is being made effective August 11, 1980, to assure consistency with the amendments published on July 11, 1980, which become effective on August 11, 1980.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r), Section 4 of the Act of August 28, 1937 (43 U.S.C. 1181(d), and the Federal Land Policy and Management Act of 1976, as amended by the Public Rangelands Improvement Act of 1978, (43 U.S.C. 1701 et seq.), Part 4100, Group 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

August 6, 1980.

1. Section 4110.3-2 is amended by revising paragraph (c) to read as follows:

§ 4110.3-2 Decrease in forage.

* * * * *

(c) Suspensions under paragraphs (a) or (b) of this section shall be equitably apportioned by the authorized officer or as agreed to among permittees or lessees and the authorized officer. If consistent with resource management needs, the authorized officer may provide that the suspensions under paragraph (b) of this section be scheduled over a period not to exceed 3 years with the full suspension coming in the last year.

[FR Doc. 80-24103 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-84-M

---

43 CFR Public Land Order 5741

[AR-04855]

Arizona; Transfer of Jurisdiction: Withdrawal of Lands for the Painted Rock Dam Project

Correction

In FR Doc. 80-23016 appearing on page 50753 in the issue of Thursday, July 31, 1980 make the following correction:

In the first column of page 50754, in the land description, under Sec. 32, third line, "N½SE¼ . . ." should have read "N½SE¼ . . .".

BILLING CODE 1505-01-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1050

Uniform Federal Standards

Property Management Standards

AGENCY: Community Services Administration.

ACTION: Correction to final rule.

SUMMARY: The Community Services Administration is publishing a correction to the final rule on the Uniform Federal Standards, Part 1050. Subpart O—Property Management Standards published in the **Federal Register** on Thursday, February 7, 1980 (Vol. 45 page 8299). Subpart O sets forth the standards governing management of property acquired with funds awarded by the CSA or cost of which was charged to a project supported by CSA grant or other agreement. This action clarifies and redesignates paragraphs in the original document.

FOR FURTHER INFORMATION CONTACT: Mr. E. W. Covington, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506. Telephone (202) 632-6520, Teletypewriter (202) 254-6218.

EFFECTIVE DATE: August 11, 1980.

(Sec. 602, 78 Stat. 530, 42 U.S.C. 2942)

Michael T. Blouin,

Assistant Director for Community Action.

Part 1050 Subpart O—Property Management Standards is amended to read as follows:

1. On page 8300, column 3, paragraph (a) and (b) of § 1050.130-7 are revised to read as follows:

§ 1050.130-7 Standard—exempt property.

(a) When statutory authority exists, (e.g. Pub. L. 95-224, 41 U.S.C. 506b) title to nonexpendable personal property acquired with project funds, shall be vested in the grantee upon acquisition unless it is determined that to do so is not in compliance with the objectives of the Community Services Administration.

(b) When title is vested in the grantee, the grantee shall have no other obligation or accountability to the Federal Government for its use or disposition. The provisions of § 1050.130-8(a)(1) apply.

§ 1050.130-8 [Amended]

2. On page 8301, column 1, § 1050.130-8(a)(1)(iii) is revised to read as follows:

(a) * * *

(i) * * *

(iii) When CSA exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in § 1050.130-6.

* * * * *

3. On page 8301, § 1050.130-8(c)(3) is redesignated as paragraph (d) and the remainder of paragraph (c) is revised to read as follows:

§ 1050.130-8 Standard—other expendable property.

* * * * *

(c) *Disposition of other nonexpendable property.* When a grantee no longer needs the property as provided in § 1060.130-8(b), the property may be used for other activities in accordance with the following conditions:

(1) *Nonexpendable property with a unit acquisition cost of less than $1.000.00.* The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) *Nonexpendable personal property with a unit acquisition cost of $1.000.00 or more.* (i) The grantee may retain the property for other uses provided that compensation is made to the Community Services Administration. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from the appropriate CSA Property Administrator.

(ii) The Community Services Administration shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within the agency, the availability of the property shall be reported to the General Services Administration by CSA to determine whether a requirement for the property exists in other Federal agencies. The Community Services Administration shall issue instructions to the grantee no later than 120 days after the grantee's request. The following procedures shall govern disposition under this paragraph (c)(2)(ii) and the preceding paragraph (c)(2)(i):

(A) If instructed, or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse the Community Services Administration in an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. The grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater for the grantee's selling and handling expenses.

(B) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the Federal agency which receives the property an amount which is computed by applying the percentage of the grantee's participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(C) If the grantee is instructed to otherwise dispose of the property, the grantee shall be reimbursed by the Community Services Administration for such costs incurred in its disposition.

(d) *Property management standards for nonexpendable property.* The grantee's property management standards for nonexpendable personal

property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(i) A description of the property.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the property, including grant or other agreement number.

(iv) Whether title vests in the grantee or the Federal Government.

(v) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(vi) Percentage of CSA participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(vii) Location, use and condition of the property and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a grantee compensates CSA for its share.

(2) Property owned by CSA must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. If the property was owned by the Federal Government, the grantee shall promptly notify the appropriate CSA Property Administrator.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

§ 1050.130–11 [Amended]

4. On page 8302, column 3, the introductory text of paragraph (b) of § 1050.130–11 should be revised to read as follows:

* * * * *

(b) *Surplus Government Property.* 40 U.S.C. 484 also provides for donation of surplus property within the State.

* * * * *

[FR Doc. 80–24025 Filed 8–8–80; 8:45 am]

BILLING CODE 6315–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–22; RM–3286]

Radio Broadcast Services, FM Broadcast Station in Mount Vernon, Ohio; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: In response to a petition for rule making filed by Bellevue Community Broadcasting, the FCC has assigned FM Channel 252A to Mt. Vernon, Ohio, as its second FM assignment.

EFFECTIVE DATE: September 15, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 30, 1980.

Released: August 4, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted January 22, 1980, 45 Fed. Reg. 6968, in response to a petition filed by Bellevue Community Broadcasting ("petitioner"), proposing the assignment of FM Channel 252A to Mt. Vernon, Ohio, as its second FM assignment. Comments were filed by petitioner, Triplett Broadcasting Co., Inc., and Mt. Vernon Broadcasting Company.

2. Mt. Vernon (pop. 13,373),[1] the seat of Knox County (pop. 41,795), is located in the center of the State of Ohio. It is approximately 65 kilometers (40 miles) northeast of Columbus. Mt. Vernon is presently served by the co-owned Stations WMVO(AM) and WMVO–FM (Channel 229).

3. Petitioner states that the public interest will be served by a diversity of media ownership within the Mt. Vernon area. According to petitioner, the proposed Class A FM station operating with maximum power and antenna height would serve, in addition to Mt. Vernon, several nearby communities without local aural service. Although intermixture will occur as the result of an already assigned Class B channel, the Commission finds this permissible because the petitioner is interested in applying for the Class A channel, despite the competitive disadvantage.

4. Mt. Vernon Broadcasting Company ("Mt. Vernon"), licensee of Station WMVO and WMVO–FM, Mt. Vernon, Ohio, opposes the request, challenging the preclusion study. Mt. Vernon states that two communities of over 1,000 population (Bellville and Lexington, Ohio) will be precluded in the co-channel if Channel 252A is assigned to Mt. Vernon. Petitioner responds that no interest has been shown by these communities and that those communities receive adequate service from nearby stations. Further, a staff study indicates that these communities are already precluded by existing stations.

5. Triplett Broadcasting Co., Inc., proposes an additional site restriction to permit a transmitter move by its station, WTOO–FM, Bellefontaine, Ohio. This is acceptable to the petitioner and appears in line with spacing requirements.

6. We have carefully considered the proposal herein and believe that it would be in the public interest to assign Channel 252A to Mt. Vernon, Ohio. The proposed assignment would provide a divesity of views and programming being presented to listeners of the community as well as serving several nearby communities without local aural service.

7. Accordingly, pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS ORDERED, That effective September 15, 1980, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended for the city listed below, to read as follows:

City: Mt. Vernon, Ohio
Channel No.: 229, 252A.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[1] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–24159 Filed 8–8–80; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 78–6; Notice 3]

Motor Vehicle Safety Standard No. 108

Correction

In FR Doc. 80–22444, appearing at page 49941 in the issue for Monday, July 28, 1980, make the following corrections:

(1) On page 49941, in the third column, in the second complete paragraph, in the fifth line, "§ 5.1.1.28" should read "§ 4.1.1.28".

(2) On page 49941, in the third column, following the table "Group Totals, CP", in amendatory paragraph number "2.", in the first line, "§ 5.1.1.28" should read "§ 4.1.1.28".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fourth Rev. S.O. 1474]

Various Railroads Authorized To Use Tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fourth Revised Service Order No. 1474.

SUMMARY: Fourth Revised Service Order No. 1474, is revised by granting additional authority to the Burlington Northern Inc., item 15, permitting an interim operation over lines in the states of North and South Dakota, and Montana.

From Linton, North Dakota (milepost 74.41) to Eureka, South Dakota (milepost 25.67), a distance of approximately 48.74 miles.

From Sappington, Montana (milepost 1464) to Three Forks, Montana (milepost 1450), a distance of approximately 14 miles.

EFFECTIVE DATE: 12:01 a.m., August 7, 1980, and continuing in effect until 11:59 p.m., September 30, 1980, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decided: August 5, 1980.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over MILW's lines pending the implementation of long-range solutions, this order permits carriers, previously providing service under various individual service orders to operate under authority of a single order which appendix describes their operations, and to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Fourth Revised Service Order No. 1474, is revised by granting additional authority to the Burlington Northern Inc., item 15, permitting an interim operation over lines in the states of North and South Dakota, and Montana.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1474 Fourth Revised Service Order No. 1474.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, in order to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced on the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with

pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., August 7, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—MILW Lines Authorized To Be Operated by Interim Operators

1. Chicago and North Western Transportation Company (CNW):
   - A. At DeKalb, Illinois.
   - B. At Appleton, Wisconsin.
   - C. At Lake Preston, Mitchell, and Sioux Falls, South Dakota, and from Wolsey to but not including Aberdeen, South Dakota.
   - D. At Miloma and Montgomery, Minnesota.
   - E. Between Jefferson and Marathon, Jefferson and Waukee, and Manning and Huxley, Iowa.
   - F. Between Merriam Park and Norwood, Minnesota.
2. Illinois Central Gulf Railroad Company (ICG):
   - A. Between Cedar Rapids and Louisa, Iowa, including Marion, Iowa.
   - B. In Sioux City, Iowa, from Pearl Street west approximately 1.5 miles to Tri-View Industrial area, and from Court Street to Virginia Street.
3. Seattle and North Coast Railroad Company (SNC):
   - A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington.
4. Cedar Rapids and Iowa City Railway Company (CIC):
   - A. Between Middle Amana and Cedar Rapids, Iowa.
   - B. Over the Chicago, Rock Island and Pacific Railroad Company trackage—4th Street Corridor—in Cedar Rapids, Iowa, originally operated by MILW under trackage rights.
   - C. Over certain terminal and industry tracks in Cedar Rapids, Iowa, between milepost 86 and milepost 87 in order to serve the 6th Street Power Station.
5. Escanaba and Lake Superior Railroad Company (ELS):
   - A. Between Iron Mountain, Michigan, and Green Bay, Wisconsin.
6. Consolidated Rail Corporation (CR):
   - A. At Momence, Illinois.
7. Des Moines Union Railway Company (DMU):
   - A. Between Des Moines (milepost 0) and Clive (milepost 8.5), Iowa; and between Clive (milepost 0) and Grimes, Iowa, (milepost 7), a total of 15.5 miles.
8. The La Salle and Bureau County Railroad Company (LSBC):
   - A. From Mendota, Illinois, (milepost 69.5) to Ladd, Illinois, (milepost 82.1), a total of 12.6 miles.
9. Chicago, Madison and Northern Railway Company (CMN):
   - A. Between Sparta, Wisconsin, (milepost 2.5) and Viroqua, Wisconsin, (milepost 34.7), a distance of approximately 32.2 miles.
   - B. Between Janesville, Wisconsin, (milepost 10.0) and Mineral Point, Wisconsin, (milepost 90.7), a distance of approximately 80.7 miles.
10. Wisconsin Central Railroad Company (WCRC):
    - A. Between Waukesha, Wisconsin, (milepost 20.5) and Milton Junction, Wisconsin, (milepost 61.5), a distance of approximately 41.0 miles.
11. Pend Oreille Valley Railroad, Inc., (POV):
    - A. Between Newport, Washington, (milepost 43.6) and Metaline Falls, Washington, (milepost 104.7), a distance of approximately 61.1 miles.
12. St. Maries River Railroad Company (SMRR):
    - A. Between St. Maries and Bovill, Idaho, the Bovill Branch, a distance of approximately 52 miles; and between St. Maries and Plummer, Idaho, a distance of approximately 19 miles.
13. Chippewa River Railroad Company (CRRC):
    - A. Between Eau Claire, Wisconsin, and Durand, Wisconsin, a distance of approximately 33 miles.
14. Wisconsin and Southern Railroad Company (WSR):
    - A. The following lines in the state of Wisconsin:
    - (1) North Milwaukee (milepost 93.72) to Oshkosh (milepost 187.64).
    - (2) Horicon (milepost 140.27) to Cambia (milepost 165.7).
    - (3) Granville (milepost 100.5) to Menomonee Falls (milepost 104).
    - (4) Iron Ridge (milepost 133) to Mayville (milepost 140).
    - (5) Beaver Dam Junction (milepost 148.5) to Beaver Dam (milepost 150.5).
    - (6) Fox Lake Junction (milepost 154.5) to Fox Lake (milepost 156.7).
    - (7) Brandon (milepost 161.15) to Markesan (milepost 172.7).
15. Burlington Northern Inc. (BN)
    - A. In Sioux City, Iowa, between milepost 509.77 and milepost 512.62, a distance of approximately 2.85 miles.
    - * B. From Linton, North Dakota (milepost 74.41) to Eureka, South Dakota (milepost 25.67), a distance of approximately 48.74 miles.
    - * C. From Sappington, Montana (milepost 1464) to Three Forks, Montana (milepost 1450), a distance of approximately 14 miles.

[FR Doc. 80-24051 Filed 8-8-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CCGD13-80-07]

Safety Zone—Columbia River Mile 63 to 75, Longview, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations makes changes to the Safety Zone established in the Columbia River, Mile 67–70 on May 22, 1980 (45 FR 37187, June 2, 1980) and amended on June 19, 1980 (45 FR 46382, July 10, 1980).

EFFECTIVE DATE: This amendment is effective at 2500 PDT on July 29, 1980 and remains in effect until cancelled by the Captain of the Port, Portland, Oregon.

ADDRESSES: Comments should be mailed to: USCG Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

FOR FURTHER INFORMATION CONTACT: LCDR Harry Dudley, Chief, Port Operations Department, Telephone Number (503) 221–6328, FTS 423–6328, Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

SUPPLEMENTARY INFORMATION: This amendment to the Coast Guard's Safety Zone Regulations makes the following changes to the Safety Zone established in the Columbia River, Mile 67–70 on May 22, 1980 (CCGD13–80–04) and amended on June 19, 1980 (CCGD13–80–05):

a. Expands the Safety Zone to include Columbia River miles 63 through 75.

b. Provides that deep draft vessels proceeding with the current have the right of way.

c. Allows for transit through the dredged channel from one hour before sunrise to one hour after sunset (except in reduced visibility).

d. Prohibits entering the zone when visibility anywhere in the zone is less than one statute mile.

e. Eliminates the requirement that deep draft vessels provide 24 hour advance notice to transit the zone.

f. Adds the requirement that all vessels using the dredged channel take a state or federally licensed pilot (except dredges, dredge support craft and crossing vessels).

These changes are a result of: (a) an increase in the portion of the river in which extensive dredging operations are being conducted to remove deposits left after the eruption of Mount Saint Helens; (b) the fact that tide and river flow conditions now make a reversal of the current flow in the area of the Safety Zone possible; (c) the increase in dredged depths make the use of special "windows" at high water unnecessary; (d) the season when fog is likely approaching; (e) the generally improved conditions in the area make the need for strict control of vessel movements unnecessary; and (f) the increased length of the portion of the channel which has a reduced width makes it imperitive that all vessels using the dredged channel including public vessels, be piloted by a person familiar with the area and the existing conditions.

This amendment is issued without publication of a notice of proposed rule making, and this amendment is effective less than 30 days from the date of publication because public procedures on this amendment are impractical due to the nature of the situation and there is not sufficient time to allow for public comment. Although this amendment is published as a final rule, public comment is nevertheless desirable to ensure that the requirements concerning this amendment are workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the address stated above. Commentors should include their names and addresses, identify the docket number for this amendment (CCGD13–80–07), and give their reasons for the comments. Based upon comments received, this regulation may be revised.

DRAFTING INFORMATION: The principal person involved in the drafting of this document is LCDR Harry H. Dudley, Chief, Port Operations Department, Marine Safety Office, Portland, Oregon.

In consideration of the above, Part 165 of Title 33, Code of Federal Regulations, is amended by changing section 165.1303 to read as follows: Section 165.1303 Columbia River, Mile 63 through Mile 75, Longview, Washington.

(a) The following area is a safety zone—the Columbia River Mile 63 through Mile 75, including the original channel and the waters on either side of the channel to shoreline. This zone is effective 24 hours per day beginning at 2400 PDT on July 29, 1980 and will continue in effect until cancelled.

(b) The following Special Regulations apply to DEEP DRAFT VESSELS (i.e., those vessels which must remain in the navigable channel because of their draft) entering the safety zone.

(1) TRANSIT within the above safety zone is limited to the period from one hour before sunrise to one hour after sunset.

(2) Upbound and downbound vessels will not be allowed to transit through the zone at the same time.

(3) Vessels approaching the zone shall communicate directly with the dredging vessels on scene via channel 13 as far in advance as possible in order that arrangements may be made for a safe passage.

(4) When an upcurrent (traveling in the opposite direction from the current) vessel is approaching the safety zone it shall determine both visually and by radio what downcurrent (traveling in the same direction as the current) vessels are approaching the safety zone. The upcurrent vessel shall not enter the safety zone unless it can complete the transit and clear the zone without hindering the passage of the downcurrent vessel, the downcurrent vessel being entitled to the right-of-way. During slack water the downbound vessel is deemed to be the downcurrent vessel.

(5) Vessels approaching the zone shall determine both visually and by radio communications with other vessels in the area the visibility conditions throughout the safety zone and shall not enter the zone if the visability anywhere in the zone is less than one statute mile.

(6) All vessels transiting the dredged channel in the safety zone, except those vessels owned or contracted by the U.S. Army Corps of Engineers and involved in the dredging operations in the safety zone, shall take on a state or federally licensed pilot authorized to operate on the portion of the Columbia River within the zone.

(c) The following special regulations apply to SHALLOW DRAFT VESSELS (i.e., those vessels which because of their draft need not remain in the dredged channel in order to make a safe transit through this zone) entering the zone—

(1) Transit through the safety zone is not limited to particular hours, however, transit shall be made utilizing that area of the Columbia River which is to the *South* (i.e. Oregon side) of the original 40 foot channel except as provided in paragraphs (2), (3), and (4).

(2) Shallow draft vessels which desire to use the dredged portion of the original channel shall comply with all regulations that apply to deep draft vessels including the requirement to take on a state or federally licensed pilot except as provided in paragraph (4).

(3) Vessels entering or departing the zone from the Cowlitz River or Carrolls Channel shall remain to the north (i.e. Washington side) of the original 40 foot channel and shall not proceed east of the western tip of Cottonwood Island while north of the dredged channel except as provided in paragraph (4).

(4) If it is necessary for a vessel to cross the dredged channel, that vessel shall insure that no deep draft vessels or dredges will be hampered by its passage and shall then proceed across the dredged channel as quickly as safely possible. Vessels crossing the dredged channel are not required to take on a pilot.

(5) Vessels required to have bridge to bridge radio telephone approaching the zone shall communicate directly with the dredging vessels on scene via channel 13 as far in advance as possible in order that arrangements may be made for a safe passage through the safety zone.

(d) The following Special Regulations apply to ALL VESSELS entering the safety zone regardless of their draft—

(1) No vessel may anchor within the safety zone without the permission of the Captain of the Port, Portland, Oregon unless, in the opinion of the Master or Pilot, further transit is considered unsafe. In that event the Captain of the Port, Portland, Oregon shall be notified immediately.

* Added

Proposed Rules

(2) Recreational vessels may not use the zone except to transit. This provision does not apply to the waters to the south (Oregon side) of Lord Island, Slaughters Dike, Dibble Dike, and Sandy Island.

(92 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4))

Dated: July 29, 1980.

G. K. Greiner, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, USCG Marine Safety Office, 6767 N. Basin Avenue, Portland, OR 97217.

[FR Doc. 80-24373 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register

Vol. 45, No. 156

Monday, August 11, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. 1

[Docket No. 20289; Petition Notice No. PR 80-8A]

Petition for Rulemaking of Air Transport Association of America; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the period for submission of public comments on Petition Notice 80-8 relating to flight attendant seats until October 15, 1980. This action is in response to a petition indicating that the Boeing Company, who is affected by the proposed regulations, needs additional time in which to prepare and submit its comments.

DATES: Comments on Petition Notice 80-8 must be received on or before October 15, 1980.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 20289; 800 Independence Avenue, SW., Washington, D.C. 20591; or be delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 20289. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Norman C. Miller, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: In Petition Notice 80-8, published in the federal Register on May 19, 1980, the FAA published the Air Transport Association of America (ATA) petition to amend § 121.311(j) of the Federal Aviation Regulations (FAR) to allow an extension, not to exceed March 6, 1982, of the compliance time for § 121.311(f) concerning flight attendant seats, provided the Part 121 certificate holder submits an acceptable schedule of compliance. The original comment period closed on July 14, 1980.

On July 3, 1980, the FAA issued General Notice N8000.200, Subject: Guidance to Assist Compliance with FAR Amendments 25-51 and 121-155 effective March 6, 1980, regarding flight attendant seats. On July 15, 1980, that general notice was revised by General Notice N8000.201.

On July 14, 1980, the Boeing Company petitioned for an extension of the time for comments on Petition Notice 80-8. The petition states, in pertinent part, that the general notices did not allow enough time to permit development of definitive cost and schedule impact assessment by the July 14, 1980, closing date for comments on the ATA petition. To provide adequate time for the development of necessary data, the petitioner requested that the comment period be extended to October 15, 1980.

The FAA has reviewed this request and has determined that a limited extension of the comment period would afford the public an additional opportunity to furnish comments that should be considered in the development of the disposition of the ATA petition. In view of this, and consistent with the FAA's desire to ensure full public participation in its regulatory actions, it is concluded that it is in the public interest to extend the comment period to October 15, 1980.

Accordingly, the comment period for Petition Notice 80-8 is extended to October 15, 1980.

(Secs. 305, 306, 307, 313(a), 601, and 1110, Federal Aviation Act of 1958, as amended (49 U.S.C. 1346, 1347, 1348, 1354(a), 1421 and 1522); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.45 and 1165))

Issued in Washington, D.C., on August 5, 1980.

John H. Cassady III,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Federal Aviation Administration,
Office of the Chief Counsel,
Attention: Rules Docket (AGC-204),
Room 916, Docket No. 20289,
800 Independence Avenue SW,
Washington, D.C.

Subject: Petition for Rule Making of Air Transport Association of America, Request for Additional Information.

Reference: FAA General Notice N8000.200, dated July 3, 1980—Subject: Guidance to Assist Compliance with FAR Amendments 25-51 and 121-155 Effective March 6, 1980, Regarding Flight Attendant Seats.

Gentlemen: The referenced General Notice was issued too recently to permit definitive cost and schedule impact assessment by the July 14, 1980 deadline for comments on the subject petition.

Our preliminary evaluation of the referenced Notice leads us to the following conclusions:

1. The wording of the referenced Notice is ambiguous and subject to varying interpretations. Significant areas of ambiguity include definition of "passenger aisles and aisle extensions . . . through galley/stowage areas", the extent of the requirement for "multiple latch devices" in "all other galley/stowage areas or serving carts", the precise definition of seat dimensional criteria, and the wide range of possible decisions with regard to the "direct view" criteria.

2. The impact of the attendant seat rules as defined by the referenced Notice is significantly more severe than we had assumed to date. Literal interpretation of the referenced guidance material will impose a severe economic and financial penalty on our present programs. Hardware redesign will encompass not only seats and galleys, but aircraft structure as well.

3. The retrofit hardware requirements, by the previous interpretation of the rules, consisted essentially of the backrests, headrests and shoulder harnesses required to configure forward facing seats to the aft facing seat criteria of TSO-C39A. Accordingly, we advised our customers and the FAA that the first of such kits would be available in 60 to 80 weeks.

4. The compliance status of this hardware is now in question. Therefore, we are suspending, effective immediately, all design, fabrication and procurement activities relative to the new attendant seat rules pending clarification and resolution by the FAA of the specific requirements for compliance. The hardware availability dates can be exepcted to slide accordingly.

Pursuant to the above, we request an extension of the comment period to October 15, 1980. This will allow time for preparation

of detailed cost and schedule impact data, provided that we have clarification of the rules by August 15, 1980.

Very truly yours,
the Boeing Co.
H. J. Badger,
Manager, Airworthiness and Safety, Boeing Commercial Airplane Company.

[FR Doc. 80-24062 Filed 8-8-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Ch. I

Proposed Alteration of Terminal Control Area, Kansas City, Mo.; Informal Airspace Meeting No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meeting.

SUMMARY: The purpose of this meeting is to discuss a proposed alteration of the Kansas City, Missouri, Terminal Control Area (TCA), Docket 18605/80-WA-6. The proposal, if adopted, would reduce the size of the TCA by eliminating a substantial portion of it between 10 miles and 20 miles. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the chairman, members of the public may present statements at the meeting. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the chairman or as directed at the meeting.

DATE: 7:00 p.m., Tuesday, October 14, 1980.

ADDRESS: Penn Valley Community College Auditorium, 3201 Southwest Trafficway, Kansas City, Missouri.

FOR FURTHER INFORMATION CONTACT:
Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 E. 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

Issued in Kansas City, Missouri, on July 22, 1980.

William H. Pollard,
Chief, Air Traffic Division, FAA, Central Region.

[FR Doc. 34129 Filed 8-8-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-EA-36]

Airworthiness Directive; DeHavilland DHC-4 and 4A

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive applicable to DHC-4 and 4A type airplanes equipped with Pratt & Whitney Aircraft (PWA) Twin Wasp D-5 and R-2000-7M2 engines using left-hand rotation magneto drives. The proposal requires the replacement of the drives with right-hand drives. This proposal results from reports of power losses due to failures of the left-hand drives.

DATE: Comments must be received on or before October 9, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Engineering and Manufacturing Branch, AEA-210, Eastern Region, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:
J. Kiselica, Propulsion Section, AEA-214, Flight Standards Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. (212) 995-2894.

SUPPLEMENTARY INFORMATION:
Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before October 9, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substances of the proposed AD will be filed in the docket.

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Engineering and Manufacturing Branch, AEA-210, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-2842.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 39.13 of Part 13 of the Federal Aviation Regulations (14 CFR Part 39) as follows:

Applies to all DeHavilland DHC-4 and DHC-4A aircraft equipped with Pratt & Whitney Aircraft Twin Wasp D-5 and R-2000-7M2 engines incorporating left-hand magneto drive arrangement.

Compliance required within the next 1400 hours in service after the effective date of this AD unless already accomplished.

To preclude failure of the left hand magneto drive mechanism, incorporate the right-hand magneto drive and associated parts as described in Pratt & Whitney Aircraft Service Bulletin No. 1756 dated September 13, 1963, or approved equivalent instructions and parts.

The Twin Wasp D-5 and R-2000-7M2 engines so modified must be redesignated as noted in Section C of the Pratt & Whitney Aircraft Service Bulletin No. 1756, or an approved equivalent instruction.

All equipment instructions and parts must be approved by the Chief, Engineering & Manufacturing Branch, FAA Eastern Region.

(Pratt & Whitney Aircraft Service Bulletin No. 1756 pertains to this subject.)

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on July 29, 1980.

Lonnie D. Parrish,
Acting Director, Eastern Region.

[FR Doc. 80-24059 Filed 8-8-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 45

[Docket No. 20424; Notice No. 80-11]

Size of Registration Marks

Correction

IN FR Doc. 80-22843, appearing at page 50810 in the issue for Thursday, July 31, 1980, make the following corrections on page 50813:

(1) In § 45.22(b), in the fifth line, "21.19(g)" should read "21.191(g)";

(2) In § 45.29(b)(1)(iii), in the fourth line, "2.191(d)" should read "21.191(d)";

(3) In § 45.29(b)(2), in the second line, the word "lest" should read "least".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 80-CE-19]

Transition Area—Joplin, Mo.; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the transition area at Joplin, Missouri, by amending the NDB approach to the Joplin, Missouri Municipal Airport, utilizing the Lunns NDB (Non-Directional Radio Beacon) as a navigational aid.

DATES: Comments must be received on or before September 18, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before September 18, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR Section 71.181) by altering the transition area at Joplin, Missouri. To enhance airport usage, the Federal Aviation Administration proposes to amend the NDB approach to the Joplin, Missouri Municipal Airport, utilizing the Lunns NDB as a navigational aid. The amendment of the instrument approach procedure based on this navigational aid entails alteration of the transition area at Joplin, Missouri, at and above 700 feet above ground level (AGL) to accommodate aircraft executing this amended instrument approach procedure. The intended effect of this action is to ensure segregation of aircraft the approach procedures at Joplin under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445) by altering the following transition area:

Joplin, Mo.

That airspace extending upward from 700' above the surface within an 8-mile radius of Joplin Municipal Airport (Latitude 37°09'05" N; Longitude 94°29'55" W), within 3 miles each side of the Joplin NDB (LUNNS LOM, Latitude 37°12'11" N, Longitude 94°33'30" W) 306° bearing, extending from the 8-mile radius area to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on July 31, 1980.

Paul J. Baker,
Director, Central Region.

[FR Doc. 80-24060 Filed 8-8-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-41]

Proposed Designation of Transition Area; Broadway, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Broadway, N.J., Transition Area over the Broadway VORTAC, Broadway, N.J. This proposal will lower the controlled airspace over the VORTAC to 700 feet NSL. This designation will permit the use of a lower minimum enroute altitude (MEA) on airway Victor 232, east of the VORTAC.

DATES: Comments must be received on or before August 14, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:
Morris Rosen, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International

Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before August 14, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995–3392.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Broadway, N.J., Transition Area. The VORTAC is at present overlaid by a 1200-foot area which will be lowered to 700 feet.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend Section 71.181 of Part 71, Federal Aviation Regulations by designating a 700-floor transition area at Broadway, New Jersey as follows:

"Broadway, N.J.

"That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Broadway, New Jersey VORTAC".

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)]) and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 22, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80–24024 Filed 8–8–80; 8:45 am]

BILLING CODE 4910–13–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Agency for International Development.

ACTION: Publication of semiannual agenda of regulations under review.

SUMMARY: This notice contains the 1980 second half semiannual schedule of existing AID regulations to be reviewed by the Agency. The list is published pursuant to Section 2(a) of Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: Joseph R. Ellis, Room 113, SA–8, Office of Management Planning, Agency for International Development, Washington, D.C. Telephone (202) 235–2386.

SEMIANNUAL AGENDA OF REGULATIONS:

This agenda of regulations under review by AID is published semiannually pursuant to Section 2(a) of Executive Order 12044. The following regulations are under review:

1. The Regulations governing the registration of agencies for voluntary foreign aid (22 CFR Part 203) are being revised, specifically the definition of Private Voluntary Organizations (PVOs) and the conditions for their registration. A notice will be published in the **Federal Register** for public comment. Inquiry regarding the regulations on PVO registration may be directed to: Robert S. McClusky, Chief, Public Liaison Division, Bureau for Private and Development Cooperation, Agency for International Development, Washington, D.C. 20523, Telephone (202) 235–1844.

2. Regulations governing nondiscrimination in Federally-assisted programs of A.I.D. (22 CFR Part 209) are being revised. It was so announced in the February semiannual agenda. The review period is being extended into the second half of 1980. Inquiries regarding these Regulations may be directed to: Kenneth E. Fries, Office of the General Counsel, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632–8218.

3. Regulations governing the collection of civil claims by the Agency for International Development (22 CFR Part 213) are being reviewed. Inquiry regarding these Regulations may be directed to: Bruce K. Birnberg, Chief, Accounting Systems, Office of Financial Management, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632–0162.

4. Regulations covering the implementation of the Privacy Act of 1974 (22 CFR Part 215) are being reviewed. Inquiry regarding these Regulations may be directed to: Arnold H. Dadian, Public Inquiry Staff, Office of Public Affairs, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632–1850.

In accordance with the procedural steps outlined in Section 2(c) of Executive Order 12044, A.I.D. will give the public full opportunity to comment on the review and any proposed revisions to the Regulations listed above.

Dated: July 31, 1980.

D. G. MacDonald,

Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 80–24112 Filed 8–8–80; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 171, 172, 173, 177, and 182

Indian Mineral Development Regulations

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rulemaking.

SUMMARY: Following is a new revision of proposed rules published on April 5, 1977, in 42 FR 18083, governing mineral development on Indian lands. With the exception of rules governing coal operations, 25 CFR Part 177 Subpart B, 42 FR 63395 (December 16, 1977), and revisions of rules governing oil and gas leasing of Osage reservation lands, 25 CFR Part 183, 43 FR 8135 (February 28, 1978), the proposed rules were never promulgated as final rulemaking. There is, nevertheless, a continuing need for updated rules to govern increasing Indian mineral development. Because of the three-year interval since the last published comprehensive proposal, those proposed rules, with some substantive revisions, are being republished for further public comment.

DATE: Comments must be received on or before October 10, 1980.

ADDRESS: Send comments to Director, Office of Trust Responsibilities, Attn: Code 241, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Tim Vollmann or David E. Jones, Office of the Solicitor (202) 343–9331; or Tom Riggs, Bureau of Indian Affairs, (202) 343–3722.

SUPPLEMENTARY INFORMATION: The general outline of this proposal follows that of the proposed rules published in 1977. Numerous public comments were received and many changes have been made in response to those comments.

Like the 1977 proposal, these proposed rules would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands in Part 171. Part 172 would be revoked. Oil and gas development is again proposed to be set out in a separate Part 182. As was provided in the 1977 proposal, Part 173 would be revoked. This is in acknowledgement of the fact that the Crow Tribe is now effectively subject to the same statutory authorities affecting Indian mineral development which apply to most other tribes, as a result of the Act of May 17, 1968 (82 Stat. 123).

Proposed Part 177 provides for mining and exploration plans, performance bonds, conservation, and other operational aspects of mining on Indian lands, including provisions for compliance with the National Environmental Policy Act. Subpart B will continue to deal with performance standards for coal operations subject to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. § 1201 *et seq.*, until they are superseded by permanent program regualtions promulgated by the Office of Surface Mining. The permanent rules will be designed to implement those provisions of SMCRA which began to apply to Indian lands as of February 3, 1980, as required by SMCRA Section 710(d), 30 U.S.C. § 1300(d). Coal is excluded from Part 171 on entering into contracts as well. The permanent program regulations will cover coal contracting.

The principal authors of this proposal are Richard N. Wilson, formerly of the Bureau of Indian Affairs and now Special Assistant to the Assistant Secretary—Energy and Minerals; Tim Vollmann and David E. Jones, Office of the Solicitor; and David Baldwin, Osage Agency, Bureau of Indian Affairs, and now Chief of the Division of Energy and Minerals, BIA Office of Trust Responsibilities, in Lakewood, Colorado.

It has been determined that these proposed rules are not "significant" within the meaning of 43 CFR Part 14 because they are designed primarily to clarify existing policies and procedures governing the development of Indian-owned minerals, to eliminate out-dated regulatory requirements, and to insure compliance with current law. While some new recordkeeping and reporting requirements would be imposed by these proposed rules on mineral developers and lessees, these requirements are viewed as essentially equivalent to the level of recordkeeping which would be expected in most any mineral development venture. It has also been determined that no regulatory analysis is required in connection with this proposal.

Pursuant to the authority of section 4 of the Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d); the Act of March 3, 1909 (Stat. 783, 25 U.S.C. 396); the Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415); and the Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380), it is proposed that:

Parts 172 and 173 [Revoked]

1. Parts 172 and 173 of 25 CFR be revoked;

2. Part 171 of 25 CFR be revised as follows:

PART 171—CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Sec.

171.1 Purpose and scope.
171.2 Definitions.
171.3 Authority to contract.
171.4 Procedures for awarding contracts and types of contracts authorized.
171.5 Duration of contracts.
171.6 Approval of contracts.
171.7 Economic considerations.
171.8 Performance bonds.
171.9 Approval of amendments to contracts.
171.10 Responsibilities.
171.11 Recordkeeping and inspection.
171.12 Assignments; overriding royalties.
171.13 Unitization.
171.14 Enforcement of orders.
171.15 Penalties.
171.16 Appeals.

Authority. Sec. 4, Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396); sec. 1, Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415); Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380); secs. 16 and 17, Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476 and 477).

§ 171.1 Purpose and scope.

(a) The regulations in this part govern contracts for the prospecting for and mining of Indian-owned minerals, other than oil, gas and coal. These regulations are intended to ensure that Indians desiring to have their mineral reserves developed receive, at least, fair market value for their ownership rights; to ensure at the same time that any adverse environmental or cultural impact on Indians, resulting from such development, is thoroughly considered and possibly minimized; and to allow Indian mineral owners to enter into contracts which reserve to them the responsibility for overseeing the development of their mineral reserves.

(b) The regulations of the United States Geological Survey published in 30 CFR Part 231, are applicable to contracts governed by this part, except for coal, where not inconsistent with the regulations in this part.

(c) The regulations in this part do not apply to leasing and mining governed by the regulations in 25 CFR Parts 174, 175, and 176.

(d) The regulations in this part shall become effective and in full force 30 days after the date of their publication in the **Federal Register**, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided*, that no regulations which become effective after the approval of any contract shall operate to affect the term of the contract, rate of royalty, rental, or acreage unless agreed to by all parties to the contract. All former regulations governing the leasing of tribal and allotted lands for mining purposes are superseded by the regulations in this part.

§ 171.2 Definitions.

As used in the regulations in this part:

(a) "Bureau" means the Bureau of Indian Affairs.

(b) "Commissioner" means the Commissioner of Indian Affairs, or his/her authorized representative.

(c) "Contract" means any written contract or legally-binding agreement, and is not limited in its meaning to leases, permits, or licenses.

(d) "Gas" means any fluid, either combustible or noncombustible, which is produced from a natural state from the earth and which maintains a

gaseous or rarefied state at ordinary temperature and pressure conditions.

(e) "Indian mineral owner" means:

(1) An Indian tribe, band, nation, community, group, colony, or pueblo with an organization recognized by the Secretary, or an agency or subdivision thereof; or

(2) an individual Indian; who owns trust or restricted minerals or mineral rights, or is entitled to the proceeds or benefits or the mining or development of minerals, title to which is held by the United States

(f) "Indian-owned minerals" means:

(1) Minerals, title to which is held by the United States in trust for the benefit of an Indian mineral owner; or

(2) Minerals in which an interest is held by an Indian mineral owner subject to federal restrictions against alienation or encumbrance.

(g) "Individual Indian mineral owner" means an Indian mineral owner as defined in paragraph (e)(2) of this section.

(h) "Minerals" includes both metalliferous and nonmetalliferous minerals, except oil, gas and coal, and also includes but is not limited to, sand, gravel, pumice, cinders, granite, building stone, limestone, clay, and silt.

(i) "Mining" means the science, technique and business of mineral development, including opencast, underground work, and in situ leaching, directed to severance and treatment of minerals. However, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay, or silt is the subject mineral, an enterprise is mining only if the sale and removal of such mineral exceeds 250 cubic yards.

(j) "Mining Supervisor" means the Area Mining Supervisor, United States Geological Survey, having responsibility for the area in which the property covered by a contract under this part is located.

(k) "Oil" means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing process.

(l) "Operator" means a person, proprietorship, partnership, corporation, or other business association which has made application for, is negotiating with an Indian mineral owner with respect to, or has entered into a contract to mine for Indian-owned minerals.

(m) "Prospector" means a person, proprietorship, partnership, corporation, or other business association which has made application for, is negotiating with an Indian mineral owner with respect to, or has entered into a contract to prospect or explore for Indian-owned minerals.

(n) "Secretary" means the Secretary of the Interior or his/her authorized representative.

(o) "Superintendent" means the Bureau Agency Superintendent or his/her authorized representative having immediate jurisdiction over the minerals covered by a contract under this part, except at the Navajo Area Office, where it shall mean the Bureau Area Director or his/her authorized representative.

(p) "Tribal mineral owner" means an Indian mineral owner as defined in paragraph (e) (1) of this section.

§ 171.3 Authority to contract.

(a) Contracts authorizing prospecting for or mining of Indian-owned minerals may be entered into by a trial mineral owner through its governing body, by an individual Indian mineral owner, or by a group of Indian mineral owners acting jointly through an association or entity in which they all participate. All such contracts, as well as amendments thereto, shall be subject to the approval authority described in §171.6 of this part, and shall not be valid until such approval has been secured. Indian mineral owners are encouraged to consult with the Superintendent and the Mining Supervisor during the negotiation of a mineral contract.

(b) An Indian mineral owner may at any time seek technical or other advice or assistance regarding development of Indian-owned minerals from the Superintendent, Mining Supervisor, or the representatives of other appropriate federal agencies such as the Bureau of Mines, who shall provide such advice or assistance upon request, where available resources permit.

(c) The Superintendent may himself/herself execute contracts authorizing prospecting for or mining of Indian-owned minerals on behalf of an individual Indian mineral owner only under the following circumstances:

(1) Where the individual Indian mineral owner of record is deceased and the heirs to or devisees of any interest in the minerals have not been determined;

(2) Where there are multiple individual Indian mineral owners in an undivided tract which is sought for mining or prospecting, and

(i) One or more owners desires to enter into a contract pursuant to this part but the remainder of the owners cannot be located, or

(ii) None of the owners can be located;

(3) Where there are multiple individual Indian mineral owners in an undivided tract sought for mining or prospecting, and

(i) The tract is not in use by any of the owners, and

(ii) A majority of the ownership interests in that tract has expressed in writing a desire for development of the minerals, and

(iii) The owners, after due deliberation, are unable to reach unanimous agreement on a contract within three months after a potential operator or prospector has filed with the Superintendent an offer to contract, and the Superintendent has taken all reasonable steps to notify the owners of that offer; or

(4) Where the individual Indian mineral owner of a majority ownership interest in an Indian mineral tract is incapacitated by reason of minority, or has been determined to be mentally incompetent; *Provided,* that in all such circumstances the procedures in § 171.4(c) of this part must be followed.

(d) The Superintendent may not otherwise award any contracts affecting rights in Indian-owned minerals unless he/she has been requested in writing to do so by the Indian mineral owner.

§ 171.4 Procedures for awarding contracts and types of contracts authorized.

(a) An Indian mineral owner may utilize the following procedures, among others, in entering into a mining or prospecting contract. A contract may be entered into through competitive bidding, negotiation, or a combination of both, and may relate to prospecting, mining, or both, subject to the restrictions of § 171.7(c) of this part.

(b) The Indian mineral owner may also request the Superintendent to undertaken the preparation, advertisement, negotiation, and/or award of such a contract on his/her behalf. If so requested, the Superintendent shall undertake such a responsibility in accordance with the procedure hereinafter described in this section. If application is made to the Superintendent by a potential prospector or operator for a contract to prospect or mine Indian-owned minerals, the Superintendent shall promptly notify the Indian mineral owner thereof, and advise the owner in writing of the alternative open to him/her, and that he/she may decline to permit any prospecting for or mining of his/her minerals.

(c) When the Superintendent exercises his/her authority to enter into contracts of behalf of individual Indian mineral owners pursuant to § 171.3(c) of this part, or when he/she has been requested by the Indian mineral owner under paragraph (b) of this section to assume the responsibility of awarding the contract, he/she shall offer contracts to the highest responsible qualified bidder at a public sale subject to the following procedures, unless he/she determines in accordance with § 171.7(a)(4) of this part that the highest return can be obtained on the minerals by other methods of contracting (such as negotiation):

(1) Contracts shall be advertised for a bonus consideration under sealed bids or oral auction, or a combination of both, and a notice of such advertisements shall be published at least 60 days in advance of such sale or such longer time as is necessary to achieve optimum competition;

(2) The advertisement shall specify any terms requested by the Indian mineral owner and may, where sufficient information exists, and after consultation with the Mining Supervisor, permit bidders to compete on such terms as rental and royalty rates as well as upon bonus payment; and it shall provide that the Superintendent reserves the right to reject any or all bids, and that acceptance of the contract bid by or on behalf of the Indian mineral owner is required;

(3) Each bid must be accompanied by a cashier's check, certified check, or postal money order or any combination thereof, payable to the payee designated in the advertisement, in an amount of not less than 25 percent of the bonus bid, which will be returned if that bid is unsuccessful;

(4) If no bid is received which meets the criteria of § 171.6 of this part or if the successful bidder fails to complete the contract, or if the Indian mineral owner refuses the highest bid, the Superintendent may readvertise the contract, or if deemed advisable, he/she may attempt to award the contract by private negotiations, provided that he/she shall not award a contract by private negotiations without the written concurrence of the Indian mineral owner unless he/she is exercising his/her authority under § 171.3(c) of this part;

(5) A successful bidder must, within 30 days after notification of the bid award, remit to the Superintendent the balance of the bonus, the first year's rental, a $25 filing fee, his/her share of the advertising costs, and file with the Superintendent all required bonds. The successful bidder shall also file the contract in completed form at that time. However, for good and explicit reasons the Superintendent may grant an extension of time of up to 30 days for filing of the contract. Failure on the part of the bidder to comply with the foregoing will result either in forfeiture of the required initial payment of 25 percent of any bonus bid for the use and benefit of the Indian mineral owner, or, at the Indian mineral owner's option, readvertisement of the forfeited lease with the defaulting bidder required to pay any difference between his/her bid and the high bid received at the subsequent sale, plus the cost of the advertising for such subsequent sale. The readvertisement option must be reflected in the original advertisement to be effective.

(d) When the Indian mineral owner has requested the Superintendent to offer a contract to the highest responsible qualified bidder in accordance with subsection (c) of this section, the Superintendent shall advise the Indian mineral owner of the results of the bidding, and shall not award the contract to the successful bidder until the consent of the Indian mineral owner has been obtained.

(e) When a contract has been entered into by methods other than the competitive bid procedure (whether by the Superintendent or by the Indian mineral owner), or when a contract contains provisions not appearing in an approved Bureau contract form, the contract shall be submitted to the local Field or Regional Solicitor's Office for review for legal sufficiency, prior to approval pursuant to § 171.6 of this part.

§ 171.5 Duration of contracts.

(a) No mining contract with an Indian mineral owner shall exceed a term of ten years and as long thereafter as minerals are produced in paying quantities. All provisions in contracts governing their duration shall be measured from the date of approval pursuant to § 171.6 of this part, unless otherwise provided in the contract.

(b) Where a mining contract specifies a term of years and "as long thereafter as minerals are produced in paying quantities" or equivalent phrase, the term "paying quantities" shall mean: That quantity of recovered minerals which produces during the fiscal year of the contract a profit to the operator over and above the total cost of: Extraction (exclusive of exploration), processing (including beneficiation), and handling to the point of sale; all salaries and employee expenses incident to such extraction, processing, and handling; and business licenses, repairs of equipment, and transportation.

(c) In order to continue production in paying quantities the operator must not suspend mining operations at any time for a period of 30 days or more without the prior express written approval of the Superintendent unless production is impossible as a result of an act of God or some other cause clearly beyond the operator's control.

(d) At the expiration of the primary term of the mining contract and at the end of each fiscal year thereafter until expiration of the contract, the operator shall present sufficiently detailed written evidence to the Indian mineral owner and to the Superintendent to demonstrate that minerals are being produced in paying quantities.

§ 171.6 Approval of contracts.

(a) A prospecting contract or a mining contract shall be approved by the Superintendent if he/she determines in writing that the following conditions are met:

(1) The contract provides a fair and reasonable remuneration to the Indian mineral owner;

(2) The contract does not have adverse cultural or environmental consequences to the Indian lands and community affected sufficient to outweigh its benefits to the Indian mineral owner; and

(3) The contract complies with the requirements of this part, Part 177 of this title, all other applicable regulations, the provisions of applicable federal law, and applicable tribal law where not inconsistent with federal law.

Such determinations must also be made prior to the award of any contract pursuant to § 171.4(c) of this part.

(b) The determination required by subsection (a) of this section shall be based on the written findings required by § 171.7(a) of this part and § 177.4 of Part 177 of this title.

(c) "Fair and reasonable remuneration" within the meaning of paragraph (a)(1) of this section means a return on the Indian-owned minerals:

(1) not less than that received by non-Indian mineral owners in comparable contemporary contractual arrangements for the development of similar minerals,

(2) not less than that received by the Federal Government in comparable contemporary contractual arrangements for the development of similar federally-owned minerals, and

(3) not less than the minimum rental and royalty payments which would be applicable to those minerals were they federally-owned.

A determination of what constitutes a comparable contemporary contractual arrangement is within the sound discretion of the Commissioner.

§ 171.7 Economic considerations.

(a) To aid in the Superintendent's consideration of the criteria in § 171.6 of this part, he/she shall prepare a written economic assessment of the contract with the assistance of the Mining Supervisor. Such assessment shall

include the following findings to the extent of their applicability to mining or prospecting:

(1) Assurances in mining contracts that minerals will be mined with appropriate diligence;

(2) The availability of water in the amount needed for purposes of operations under the contract;

(3) The adequacy of production royalties or other form of return on the minerals considering the history and the economics of the mineral industry;

(4) If a method of contracting is used other than the competitive bid procedure of § 171.4(c) of this part, whether that method clearly provides the Indian mineral owner with a greater share of the return on the development of his/her minerals than he/she might otherwise obtain through competitive bidding;

(5) The adequacy of payment and enforcement provisions in the contract;

(6) Provisions for the training and preferential employment of the local Indian labor force;

(7) The size and shape of the area to be mined (the mineral tract shall be contained in a reasonable compact body and the acreage leased must not exceed that necessary to promote the orderly development of mineral resources); and

(8) the reputation of the prospector or operator for responsible and diligent development of mineral resources. Contracts shall not be entered into primarily for purposes of speculation.

Information required to be incuded in such an assessment may be incorporated therein by reference to attached documentation. Such an assessment shall be regarded as an intra-agency memorandum, but shall be made available to the Indian mineral owner in all cases.

(b) In all cases where the mineral estate has been severed from the surface estate, the Superintendent shall seek the counsel of the Solicitor's Office and shall then advise the Indian mineral owner in writing of any potentially adverse legal and economic consequences of such severance. At his/her discretion, the Superintendent may postpone approval of a contract until problems of severed ownership have been resolved. Prior to approval, the Superintendent shall insure that attempts have been made to provide all users and owners of the surface estate with the best practicable notice of the impending operation.

(c) No prospecting contract which also confers mining rights or includes an exclusive option on such rights shall be approved. A prospecting permit containing a right of first refusal shall be subject to special scrutiny prior to exercise of the approval power. If it appears that the Indian mineral owner will be able to obtain a measurably more favorable return on his/her minerals by means of a contract or contracts not containing provisions for such a right, then a prospecting contract granting such a right shall not be approved.

(d) In aid of his/her consideration of whether approval should be given to a contract, the Superintendent may request that any party thereto submit additional information regarding his/her financial structure or experience in mining or any other relevant matter. Failure to supply such information may be regarded as a ground for declining to grant approval.

§ 171.8 Performance bonds.

The prospector or operator shall furnish a bond to secure performance on each contract in accordance with § 177.6 of Part 177 of this title.

§ 171.9 Approval of amendments to contracts.

(a) Amendments to or modification of contracts approved pursuant to § 171.6 of this part shall be approved by the Superintendent if the entire contract after amendment or modification meets the conditions of that section. The Superintendent shall review assessments compiled pursuant to subsection (a) of § 171.7 of this part and § 177.4 of Part 177 of this title in light of the amendment or modification, and shall revise such assessments, when appropriate.

(b) An amendment to or modification of a contract for the prospecting for or mining of Indian-owned minerals, which was approved prior to the effective date of these regulations, shall be approved by the Superintendent if the entire contract meets the conditions of § 171.6 of this part. When appropriate, the Superintendent shall prepare a written economic assessment of the amendment or modification pursuant to subsection (a) of § 171.7 of this part, and an environmental assessment pursuant to § 177.4 of Part 177 of this title. Whenever an amendment or modification of a contract increases the acreage covered by the contract, a written economic assessment of the amendment or modification shall be required.

(c) The exercise of preference rights or options to contract for the mining of Indian-owned minerals, which options or rights were conferred but not exercised prior to the effective date of these regulations, shall be approved by the Superintendent pursuant to § 171.6 of this part if the contract meets the conditions of that section.

(d) Amendments and modifications to contracts for the prospecting or the mining of Indian-owned minerals shall not be approved by the Superintendent without the consent of the Indian mineral owner, except in the circumstances prescribed by § 171.3(c) of this part.

§ 171.10 Responsibilities.

(a) The Mining Supervisor shall be responsible for advising the Superindentent, the tribal mineral owner, and, upon request, individual Indian mineral owners regarding development and conservation of Indian mineral resources. He/she is also responsible for all geologic, engineering, and economic value determinations incident to contracts for the development of Indian-owned minerals, including ascertaining and recording the amount and value of production, and determining and recording rental, royalties, or other economic returns due and paid.

(b) The Mining Supervisor shall investigate all claims of the Indian mineral owner regarding the failure of a prospector or an operator to comply with the provisions of this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or mining plan, or the orders of the Mining Supervisor.

(c) In addition to the other responsibilities under this part and Part 177 of this title, the Superintendent is responsible for promptly transmitting to a tribal mineral owner, and upon request, to an individual Indian mineral owner, all information found and determinations made by the Mining Supervisor regarding the subject minerals or contracts for the development thereof.

(d) In addition to their other responsibilities under this part and Part 177 of this title, the Superintendent and Mining Supervisor shall be responsible for consulting with a tribal mineral owner, and upon request, with an individual Indian mineral owner, before acting on the approval of a contract or any amendment or modification thereto, a complete or partial mining plan or any amendment or modification thereto, a variance from applicable reclamation or performance standards, the release of any portion of any bond, or before taking any other action which substantially affects the rights of such Indian mineral owner.

(e) When an approved contract provides for authority on the part of the Indian mineral owner for overseeing the development of mineral reserves or other natural resources, the Superintendent and the Mining Supervisor shall take all steps necessary to insure that the Indian mineral owner is involved in such development in accordance witht the terms of the contract.

§ 171.11 Recordkeeping and inspection.

(a) The operator shall maintain records of all mining operations done under contract, including information on the type, grade, or quality, and weight of all minerals mined, sold, used on the premises, or otherwise disposed of, and all minerals in storage (remaining in inventory), and all information on the sale or disposition of the minerals. Such records shall be kept available for examination and reproduction by the Superintendent and the Mining Supervisor. Requests for inspection of such records by Indian mineral owners shall be approved by the Superintendent at his/her discretion.

(b) All records maintained under subsection (a), all records regarding the financial structure of the operator, and any other records which are pertinent or related to operations done under contract shall at all times be available for audit purposes upon the request of the Superintendent. When an independent audit is requested by the Superintendent, he/she may require that the cost thereof be borne by the operator.

(c) This section shall not be construed to restrict an Indian mineral owner's right under contract to examine or reproduce any records relating to development under the contract.

(d) The Indian mineral owner, the Supintendent, and the Mining Supervisor shall at any reasonable time have the right to enter upon all parts of the premises of the operations under the contract for the purpose of inspection.

§ 171.12 Assignments; overriding royalties.

(a) No assignment or sublease of any interest in a contract under this part shall be effective without the approval of the Indian mineral owner and the Superintendent pursuant to and subject to the criteria of § 171.6 of this part. Such approval shall not relieve the assignor of his/her obligations under the original contract. However, the Superintendent, with the consent of the Indian mineral owner, may release the assignor of his/her obligations under the contract, or may permit the release of any bonds executed by the assignor upon execution of satisfactory bonds by the assignee. A merger by operation of law or a corporate name change shall not be considered an assignment requiring approval.

(b) Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Superintendent shall not be required with respect thereto, but such an agreement shall not be construed as modifying any of the obligations of the prospector or operator under his/her contract and the regulations in this part and Part 177 of this title, including the requirement of Department approval prior to abandonment.

§ 171.13 Unitization.

(a) If the Indian mineral contract provides for unitization, the development and production requirements of the contract may be modified upon application of the operator to the Superintendent, so that production from a part of the lands within a logical mining unit satisfies the development and production requirements of all Indian mineral contracts within the unit. The Mining Supervisor must first determine that the reserves sought to be included constitute a logical mining unit. Upon designation of the logical mining unit, the Superintendent may modify the requirements governing diligent development, continued operation, and production in paying quantities as to any of the Indian mineral contracts within the unit. The rental and royalty payments obligations of all Indian mineral contracts within a unit may also be combined, and advance royalties paid on any Indian mineral contract in that unit may be credited against those combined royalties.

(b) If the Indian contract has no provision for unitization, then the Superintendent may approve an application by the operator or lessee as under paragraph (a).

(c) If the Indian mineral contracts provides for unitization but only with the consent or agreement of the Indian owners, then the consent or the agreement of the Indian owners must first be obtained by the operator before the application in paragraph (a) may be made. If there are multiple Indian mineral owners for any one contract covering lands sought to be included within a logical mining unit, the consent of agreement of a majority of owners in each contract shall be sufficient to pool those interests in the unit. The minority interests will not be included in the unit. However, if, with the respect to multiple individual Indian-owned lands within a proposed unit, any of the circumstances provided for the Superintendent executing contracts in § 171.3(c) are present, then the Superintendent may commit those interests to the unit. The minority interests not included in a unit will be entitled to a proportion of the royalty during the term of the lease covering those lands when mining occurs thereon.

§ 171.14 Enforcement of orders.

(a) If the Superintendent determines—

(1) That a prospector or operator has failed to comply with the regulations in this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or mining plan, his/her orders, or the orders of the Mining Supervisor, and

(2) That such noncompliance does not threaten immediate and serious damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, he/she shall serve a notice of noncompliance upon the prospector or operator by delivery in person or mailed to him/her at his/her last known address. Copies of said notice shall be sent to the Indian mineral owner and the Mining Supervisor. Failure of the prosecutor or operator to take action in accordance with the notice of noncompliance within the time limits specified by the Superintendent, unless he/she has initiated a timely appeal pursuant to § 171.15 of this part, shall be grounds for suspension of operations by the Superintendent, or grounds for the initiation of action for cancellation of the contract and forfeiture of any compliance bonds.

(b) The notice of noncompliance shall specify in what respect the operator has failed to comply with the provisions of applicable regulations, laws, terms of the mining plan or contract, or the orders of the Superintendent of the Mining Supervisor, and shall specify the action which must be taken to correct such noncompliance and the time limits within which such action shall be taken. A written report shall be submitted by the prospector or operator to the Superintendent when such noncompliance has been corrected.

(c) If, in the judgment of the Superintendent, a prospector or operator is conducting activities on lands subject to the provisions of this part:

(1) Which fail to comply with the provisions of this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or mining plan, his/her orders, or the orders of the Mining Supervisor, and

(2) Which threaten immediate and serious damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources,

the Superintendent shall order the immediate cessation of such activities, without prior notice of noncompliance. The Superintendent shall, however, as soon after issuance of the cessation order as possible, serve on the prospector or operator a statement of the reasons for the cessation order and the actions needed to be taken before the order will be lifted. Both the cessation order and the statement of the reasons for the order shall be delivered to the Indian mineral owner.

(d) If a prospector or operator fails to take action in accordance with the notice of noncompliance served upon him/her pursuant to subsection (a), or if a prospector or operator fails to take action in accordance with the cessation order statement served upon him/her pursuant to subsection (c), the Superintendent may issue a notice of cancellation of the contract, specifying the basis for cancellation. The prospector or operator may, within 30 days of issuance of the notice, request a hearing at which he/she, the Indian mineral owner, the Superintendent, and the Mining Supervisor shall be entitled to present evidence. After such hearing, or after 30 days if no hearing has been requested, the Superintendent may order cancellation of the contract.

(e) No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian mineral owner or other means for the resolution of disputes as set forth in the contract or otherwise available at law.

(f) Nothing in this section is intended to supersede the independent authority of the Mining Supervisor under 30 CFR § 231.73. However, another, when feasible, before taking any enforcement actions. Nor is any provision in this part intended to supersede the Secretary's enforcement authority under Subpart B of Part 177 of this title, relating to Indian coal development.

§ 171.15 Penalties.

Violation of any of the terms or conditions of any contract or of the regulations under this part shall subject the prospector or operator to a fine of not more than $1,000 per day for each day of such violation or noncompliance with the orders of either the Superintendent or the Mining Supervisor: *Provided,* that prior to the determination that a fine will be imposed as provided for in this section, the prospector or operator shall receive a 30-day notice with respect to the terms of the contract or of the regulations violated and, if he/she so requests, may receive a hearing before the Superintendent. Payment of penalties not received within 10 days after notice of final decision is given shall be subject to late charges at the rate of not less thn 1¼ percent per month for each month or fraction thereof until paid.

3. Part 177 of 25 CFR is proposed to be revised as follows:

PART 177—OPERATION, RECLAMATION, AND CONSERVATION OF INDIAN MINERAL LANDS

Subpart A—General Provisions

Sec.

177.1 Purpose.
177.2 Scope.
177.3 Definitions.
177.4 Environmental assessment; cultural resources compliance.
177.5 Approval of exploration and mining plans.
177.6 Performance bonds.
177.7 Responsibilities.
177.8 Reports; cessation of operations.
177.9 Enforcement; appeals.
177.10 Waiver.

Authority: Sec. 4, Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396); sec. 1, Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415), Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380); secs. 16 and 17, Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476 and 477); sec. 102, Act of January 1, 1970 (83 Stat. 853; 42 U.S.C. 4332).

Subpart A—General Provisions

§ 177.1 Purpose.

(a) It is the policy of this Department to encourage the development of Indian-owned minerals when the Indian mineral owner desires such development, however, the Federal Government's trust responsibilities to Indian tribes and their members require that adequate measures be taken to avoid, minimize, or remedy damage to the environment—land, water, and air—as a result of such development, and to avoid, minimize, or remedy hazards to the public health and safety. The regulations in this part prescribe procedures to that end.

§ 177.2 Scope.

(a) The regulations in this subpart are applicable to contracts governing operations for the discovery, development, mining, and onsite processing of Indian-owned minerals except for oil, gas and coal.

(b) The regulations of the United States Geological Survey published in 30 CFR Part 231, are applicable to contracts governed by this subpart where not inconsistent with the regulations in this subpart.

(c) Contracts approved prior to the effective date of the regulations in this subpart shall not be subject to the requirements of this subpart, unless a contract provides otherwise, except that:

(i) Such contracts shall continue to be subject to all regulations in effect on the date of approval of those contracts;

(ii) The requirements of § 177.5 shall apply to exploration and mining plans which had not been approved before the effective date of these regulations.

§ 177.3 Definitions.

The definitions in § 171.2 of Part 171 of this title are applicable to the regulations in this subpart. In addition, as used in the regulations in this subpart:

(a) "Affected area" or "area to be affected" means any lands or structures affected or to be affected by exploration, development, mining operations, or the construction of any facilities necessary or related to such operations.

(b) "Casual use" means activites which do not cause significant surface disturbance or damage to lands, resources, or improvements, such as activities which do not include heavy equipment, explosives, or heavy vehicular movement off established roads or trails which cause such disturbance.

(c) "Operation" or "operations" means all of the activites related to mineral exploration or development on or within close proximity to the land identified in a prospecting or mining contract as being subject to the terms of the contract.

(d) "Pollution" means man-made or man-induced adverse alteration of the chemical, physical, biological, or radiological integrity of land, water, or air, which does or has the potential of reducing the beneficial uses of these resources.

(e) "Reclamation" means the processes of land, air, vegetation, and water treatment that restrict and control harmful effects on the environment resulting from mining operations and restore the affected area to a stable condition capable of supporting the uses established prior to commencement of such operations, or an equal or better use which has been identified in an approved exploration or mining plan under this part.

(f) "Refuse" means solid or liquid waste material produced by an operation and any other waste having no further use on the affected area.

(g) "Revegetation" means planting and other measures taken to support stable vegetative growth suitable to the approved post disturbance land use for the surface of the affected area.

§ 177.4 Environmental assessment; cultural resources compliance.

(a) To aid in the Superintendent's consideration of the environmental consequences of a contract, pursuant to § 171.6(a)(2) of Part 171 of this title or other provision governing approval of contracts for the mining of or prospecting for minerals other than oil and gas, and to determine whether preparation of an environmental impact statement is required by section 102(2)(C) of the National Environmental Policy Act of 1969, the Superintendent shall prepare a written environmental assessment of the contract.

(b) Such assessment shall examine the prospective effects of the proposed operation upon the environment and the local Indian culture, and shall specifically consider:

(1) The prevention and control of flooding, erosion, and earth slides;

(2) The effect of the operation on the quality and flow of water and watercourses in the affected area;

(3) The effect on air quality;

(4) The need for reclamation of the affected area by revegetation, replacement of soil, or other means;

(5) Land uses both before and after operations;

(6) The protection of fish and wildlife and their habitat;

(7) Measures designed to guarantee health and safety;

(8) The effect on resources of historical, scenic, archeological, and ethnological value;

(9) The impact on the local Indian population, with particular reference to:

(i) The possible dislocation of people from their homes or occupations;

(ii) The influx of non-Indians into the Indian community, and its effect on the local cost of living, tribal government, housing, educational services, police protection, transportation and communication facilities, health care, and intercultural relationships;

(iii) Noise and esthetics; and

(iv) Threats to vegetation, wildlife, and natural or other monuments which play an important role in local Indian culture or religion; and

(10) Any other potentially adverse effects on the environment.

Such an assessment shall be prepared in accordance with regulations promulgated by the Council on Environmental Quality, 40 CFR 1508.9, and the Environmental Quality Handbook, 30 BIAM Supplement 1. When it is recognized prior to the preparation of the assessment that a complete environmental impact statement needs to be prepared prior to approval of the contract, preparation of that environmental impact statement may be regarded as satisfying the requirements of this section. Prior to contract approval, the environmental assessment shall be made specifically available to the Indian mineral owner and to the governing body of the local Indian tribe, and shall also be made available for public review at the Bureau office having jurisdiction over the proposed contract.

(c) In order to make a determination of the effect of the contract on prehistoric, historic, architectural, archeological, cultural, and scientific resources, in compliance with the National Historic Preservation Act, 16 U.S.C. § 470 *et. seq.*, Executive Order 11593 (May 1971), and regulations promulgated thereunder, 36 CFR Parts 60, 63, and 800, and the Archeological and Historic Preservation Act, 16 U.S.C. 469a–1 *et. seq.*, the Superintendent shall, prior to approval of a contract, perform surveys of the cultural resources so as to evaluate and make a determination of the effect of the exploration and mining activities on properties which are listed in the National Register of Historic Places, 16 U.S.C. § 470a, or are eligible for listing in the National Register. If the surveys indicate that properties listed in or eligible for listing in the National Register will be affected, the Superintendent shall seek the comment of the Advisory Council on Historic Preservation pursuant to 36 CFR Part 800. If the mineral development will have an adverse effect on such properties, the Superintendent shall ensure that the properties will either be avoided, the effects mitigated or the data preserved.

§ 177.5 Approval of exploration and mining plans.

(a) Before conducting any operation other than casual use, the prospector or operator shall submit to the Superintendent for his/her approval an exploration or mining plan. Upon receipt of such a plan, the Superintendent shall immediately transmit the plan to the Mining Supervisor. Prior to any such approval the Superintendent shall consult with, and obtain the concurrence of the Mining Supervisor. With respect to plans for the exploration or mining of tribally-owned minerals, the concurrence of the tribal mineral owner must also be obtained prior to approval. Such plans shall be consistent with and responsive to the requirements of the underlying contract, and shall demonstrate that reclamation of the affected area is an integral part of the planned operations and that it will progress in accordance with all applicable performance standards. The details of the reclamation aspects of the plan shall be based upon the advice of technically trained personnel experienced in the type of reclamation to be undertaken. The Superintendent shall at all times be available to consult with individual Indian mineral owners before acting to approve any plan concerning their minerals.

(b) Prior to approval of a plan pursuant to this section, the Superintendent shall prepare an environmental assessment in accordance with § 177.4 of this part, and also comply with § 177.4(c) concerning cultural resources.

(c) When a contract involves both prospecting and mining operations in an affected area, or when a prospecting permit conveys a right of first refusal with regard to contracting for mining operations, prospecting operations may commence after approval of an exploration plan but prior to submission and approval of mining plan.

(d) The plan required by subsection (a) of this section shall include:

(1) Accurate and up-to-date maps of the area to be affected by the operation, drawn to a scale acceptable to the Mining Supervisor, and showing roads, dwellings, utilities, fences, and the topographic, cultural and drainage features of the area;

(2) A detailed description of the prospecting, mining, processing, and transporting methods to be used in any given portion of the affected area, including, but not necessarily limited to, descriptions of equipment, locations of vehicular trails, roads, railroads, drilling, trenching, and blasting requirements, size and location of support facilities, and a designation of those portions of the affected area which will be specifically disturbed or damaged by these methods and a description of the anticipated disturbance or damage to each such portion;

(3) Identification of all known items of significant archeological, historical, ethnological, or cultural value in the affected area, and a description of the specific measures to be taken to identify and protect any such items during the course of the operation;

(4) A list of the anticipated number of persons to be employed in each occupation at an operation at any given time, and plans for the training and utilization of the local Indian labor force, both skilled and unskilled;

(5) A description of the condition and uses of the area to be affected at the time the plan is prepared, and a statement of the capability of the area to support its existing use or any equal or better use, giving consideration to

topography, vegetative cover, soil, foundation and water characteristics;

(6) A projection of the quantity of water to be used during an operation, the source of such water, a description of any pollutants which are expected to enter any receiving waters, and a detailed plan for the control and treatment of all water and watercourses (both surface and subsurface) connected with or to be affected by the operation;

(7) A planting and revegetation program calculated to restore the native vegetation to the affected area, where possible, or in the alternative to provide a nonnative vegetative cover consistent with approved post-operation land uses; such a program shall provide for soil stabilization and preservation prior to revegetation and shall show proposed methods of preparation and fertilization of the soil and proposed methods of planting;

(8) A description of all measures to be taken to prevent, control, and correct possible damage caused by fire, soil erosion, air pollution, damage to fish and wildlife (key wildlife habitats in the affected area shall be identified), and hazards to public health and safety both during and upon cessation of the operation;

(9) A list of the names and addresses of supervisory personnel employed by the prospector or operator and responsible for the planned activities under the contract; this list shall be kept up-to-date during the life of the operation;

(10) With regard to coal mining operations, any other information which is deemed necessary for compliance with applicable provisions of the Surface Mining Control and Reclamation Act and Indian lands regulations promulgated pursuant thereto;

(11) A detailed description of the methods to be used to grade, backfill, and contour, if necessary, the affected area, and to isolate and dispose of acid and toxic materials and other spoils; and

(12) An integrated timetable for the planned commencement and completion of prospecting, mining, and reclamation operations.

(e) After the plan is approved, it shall be attached to the contract, and shall be made a part thereof. The prospector or operator, and all subcontractors shall conform all their operations to the terms of the plan.

(f) Upon a request of the Indian mineral owner or the prospector or operator, or on his/her own initiative, the Superintendent may at any time direct that a plan be reasonably revised or supplemented to adjust to changed conditions or to correct oversights. If the prospector or operator seeks to change an approved plan, he/she shall submit the proposed revision and the justification therefore in writing to the Superintendent and to the Mining Supervisor. Before acting to approve any revised plan, the Superintendent shall obtain the concurrence of the Mining Supervisor. The Superintendent shall at all times during the consideration of a revised plan be available to consult with the Indian mineral owner.

(g) If development of an exploration or mining plan for the entire operation is dependent upon unknown factors which cannot be determined except during the progress of the operations, the Superintendent may, with the concurrence of the Mining Supervisor, approve a partial plan and permit commencement of the operation under such partial plan. A partial plan shall include all information required by subsection (c) of this section and other applicable regulations to the extent that such information is available. Before approval of a partial plan may be secured, the prospector or operator must demonstrate to the Superintendent that the data or information necessary to complete the plan could not reasonably be obtained, and provide the Superintendent with adequate assurances that such data or information will be collected with due diligence during the progress of the operation, and that when sufficient data or information has been obtained, a complete plan will be promptly submitted for approval. If it appears to the Superintendent that a prospector or operator has failed to abide by such assurances, he/she shall inform the Mining Supervisor and the Indian mineral owner. The Superintendent may then order operations suspended in accordance with enforcement procedures provided by § 171.13 or the terms of the contract.

§ 177.6 Performance bonds.

(a) Upon approval of an exploration or mining plan, and before conducting any operation other than casual use, the prospector or operator shall be required to furnish a bond, payable to the Secretary, with surety satisfactory to the Superintendent and the Mining Supervisor, conditioned on the faithful performance of the requirements of the prospecting or mining contract, the approved exploration or mining plan, the regulations of this part, and all other applicable regulations. The bond shall be in an amount sufficient to secure diligent performance of the terms of the contract and approved plan, and to satisfy the reclamation requirements of these and other applicable regulations. In determining the amount of the bond, consideration shall be given to the required rental and royalty payments under the contract, and to the chararacter and nature of the reclamation requirements and the estimated cost of reclamation in the event that the prospector or operator forfeits his/her performance bond.

(b) Liability under the bond shall be for the duration of the prospecting or mining operations and for the period of five years thereafter. The Superientendent and the Mining Supervisor may, after consultation with the Indian mineral owner, permit complete or partial release of the bond prior to the expiration of five years after the cessation of operations, in accordance with § 177.8 of this subpart.

(c) The right is specifically reserved to the Superintendent to increase the amount of the bond during the term of the contract if changed economic conditions make such an increase necessary to secure performance under the contract or to satisfy the reclamation requirements of all applicable regulations.

(d) In lieu of a bond, a bank letter of credit may be submitted for the same amount as a bond.

§ 177.7 Responsibilities.

The responsibilities stated in § 171.10 of Part 171 of this title are applicable to the provisions of this subpart.

§ 177.8 Reports, cessation of operations.

(a) Upon completion or suspension of prospecting operations, and as provided in the prospecting contract, a prospector shall submit to the Superintendent and to the Mining Supervisor, signed copies of all records, and geologic data of all prospecting operations conducted on the subject lands, including all calculations of recoverable mineral reserves, maps showing all prospecting activities, and any other data or maps revealing the mineral composition of the subject lands and the accessibility of the minerals.

(b) Within 60 days after the end of each calendar year, and within 90 days after the cessation of operations, the prospector or operator shall submit a report to the Superintendent and the Mining Supervisor containing the following information:

(1) Identification of the contract and the location of the operation;

(2) A description of the operations performed during the period of time for which the report is filed;

(3) Identification of the area of land affected by the operations during the report period and a description of the manner in which the land has been affected;

(4) The latest statistics on the employment of the local Indian labor force on the operation, including data on hiring, firing, and resignations in each job classification;

(5) A statement of the number of acres disturbed by the operations and the number of acres which were reclaimed during the report period;

(6) A description of the methods utilized for reclamation, and data showing the success of such reclamation; and

(7) A statement and description of the reclamation work remaining to be done and a time schedule.

Such reports shall be sent to a tribal mineral owner, and shall be provided to individual Indian mineral owners upon request. Such reports shall be regarded as privileged and confidential trade secrets or commercial or finanical information within the meaning of section 552(b)(4) of Title 5 of the U.S. Code.

(c) Upon completion of such grading and backfilling as may be required by an approved exploration or mining plan and applicable regulations, the prospector or operator shall make a report thereon to the Mining Supervisor and the Superintendent, who shall advise the Indian mineral owner, and request their inspection for approval. Whenever it is determined by such inspection that backfilling and grading have been carried out in accordance with the established requirements and approved exploration or mining plan, the Superintendent and the Mining Supervisor may issue a release of an appropriate amount of the performance bond for the area graded and backfilled. Appropriate amounts of the bond shall be retained to assure that the required revegetation program is carried out.

(d) Upon completion of such revegetation as may be required by an approved contract or exploration or mining plan and applicable regulations, the prospector or operator shall make a report thereon to the Mining Supervisor and the Superintendent, who shall advise the Indian mineral owner. Such report shall—

(1) Identify the contract;

(2) Show the type of planting or seeding, including mixtures and amounts, and equipment used;

(3) Show the date(s) of planting or seeding;

(4) Identify or describe the areas of the lands which have been planted or seeded;

(5) Describe any mulching, surface manipulation, fertilization, and irrigation procedures;

(6) Describe the weather conditions (precipitation, temperature, wind) preceding, during, and following vegetation, as these may have affected revegetation;

(7) Describe plant nutrient fertilizers incorporated into the soils of the revegetated lands; and

(8) Contain such other information as may be relevant.

As soon as possible after the completion of the first full growing season, the Superintendent and the Mining Supervisor shall make an inspection and evaluation of the vegetative cover to determine if a satisfactory growth has been established. If it is determined that a satisfactory vegetative cover has been established in accordance with the approved contract or exploration or mining plan and applicable regulations, and that it is likely to continue to grow, any remaining portion of the performance bond may be released if all other requirements have been met by the prospector or operator.

(e) Not less than 60 days prior to cessation or abandonment of operations, the prospector or operator shall report to the Mining Supervisor and the Superintendent, who shall advise the Indian mineral owner, of his/her intention to cease or abandon operations, together with a statement of the exact number of acres of land affected by his/her operations, the extent and kind of reclamation accomplished, a statement and description of the structures and other facilities that remain in the affected area, and any other relevant information. Upon receipt of such a report, the Mining Supervisor shall inspect the affected area and consult with the Superintendent and, where applicable, the tribal mineral owner, to determine whether operations have been carried out in accordance with the terms of the contract. Individual Indian mineral owners shall also be consulted, where practicable. Operations may not be abandoned without the approval of the Mining Supervisor.

§ 177.9 Enforcement; appeals.

(a) The provisions of this subpart may be enforced as provided by § 171.13 of Part 171 of this title, or 30 CFR Part 231. The Mining Supervisor shall promptly notify the Superintendent of violations or impending violations of the provisions of this part so that he/she may in turn notify the Indian mineral owner, and take appropriate action.

(b) Appeals shall be governed by § 171.15 of Part 171 of this title, except that appeals from decisions of the Mining Supervisor may be made pursuant to 30 CFR Part 290.

§ 177.10 Waiver.

The Indian mineral owner may seek a waiver from any of the provisions of this part by making a written request to the Commissioner, detailing the provisions sought to be waived and the reasons therefor. The Commissioner may grant such a waiver in accordance with § 1.2 of Part 1 of this title, but the authority to waive these regulations shall not be delegated outside the immediate office of the Commissioner. Waivers may not be made by the inclusion of a waiver provision in a Federal government contract form.

4. A new Part 182 of 25 CFR is proposed to be created to read as follows:

PART 182—OIL AND GAS CONTRACTS

Sec.

182.1 Purpose and scope.
182.2 Definitions.
182.3 Applicability of U.S. Geological Survey regulations.
182.4 Authrity and responsibility of Oil and Gas Supervisor.
182.5 Removal of restrictions.
182.6 Geological and geophysical permits.
182.7 Application for geological or geophysical permits.
182.8 Authority to contract.
182.9 Procedures for awarding contracts and types of contracts authorized.
182.10 Duration of contracts.
182.11 Approval of contracts.
182.12 Economic considerations.
182.13 Environmental assessment.
182.14 Persons signing in representative capacity; furnishing of corporate and other information.
182.15 Bonds.
182.16 Rentals; minimum royalty; production royalty.
182.17 Manner of payments
182.18 Inspection of premises; books and accounts.
182.19 Assignments; operating and development agreements; overriding royalties.
182.20 Restrictions on operations; work-over and shut-in applications.
182.21 Unitization, communitization and well spacing.
182.22 Contracts for subsurface storage for oil and gas.
182.23 Termination and cancellation; enforcement of orders
182.24 Penalties.
182.25 Appeals.
182.26 Fees.

Authority: Sec. 4, Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396); sec. 1, Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415); secs. 16 and 17, Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 8a-c and 477); sec 102, Act of January 1, 1970 (83 Stat. 42 U.S.C. § 4332).

§ 182.1 Purpose and scope.

(a) The regulations in this part govern contracts for the development of Indian

owned oil and gas reserves. These regulations are intended to insure that Indians desiring to have their oil and gas reserves developed receive, at least, fair market value for their ownership rights; to ensure at the same time that any adverse environmental or cultural impact on Indians, resulting from such development, is minimized; and to allow Indian oil and gas owners to enter into contracts which reserve to them the responsibility for overseeing the development of their oil and gas reserves.

(b) The regulations in this part do not apply to leasing and development governed by the regulations in 25 CFR Parts 174, 183, and 184.

(c) The regulations in this part shall become effective and in full force 30 days after the date of their publication in the **Federal Register**, and shal be subject to change or alteration at any time by the Secretary of the Interior: *Provided,* that no regulations which become effective after the approval of any contract shall operate to affect the term of the contract, rate of royalty, rental, or acreage unless agreed to by all parties to the contract. All former regulations governing the leasing of tribal and alloted lands for oil and gas development purposes are superseded by the regulations in this part.

§ 182.2 Defintions.

As used in the regulations in this part:

(a) "Bureau" means the Bureau of Indian Affairs.

(b) "Commissioner" means the Commissioner of Indian Affairs, United States Department of the Interior, or his/her authorized representative.

(c) "Contract" means any written contract or legally-binding agreement, and is not limited in its meaning to leases, licenses, or geological and geophysical permits.

(d) "Gas" means any fluid, either combustible or non-combustible, which is produced from a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

(e) "Indian oil and gas owner" means—

(1) An Indian tribe, band, nation, community, group, colony, or pueblo with an organization recognized by the Secretary, or an agency or subdivision thereof; or

(2) An individual Indian; who owns trust or restricted oil and gas or rights to oil and gas, or is entitled to the proceeds or benefits of the development of oil and gas, title to which is held by the United States.

(f) "Indian-owned oil and gas" means—

(1) Oil and/or gas, title to which is held by the United States in trust for the benefit of an Indian oil and gas owner, or

(2) Oil and/or gas in which an interest is held by an Indian oil and gas owner subject to federal restrictions against alienation or encumbrance.

(g) "individual Indian oil and gas owner" means an Indian oil and gas owner as defined in paragraph (e)(2) of this ection.

(h) "Oil and Gas Supervisor" means the Area Oil and Gas supervisor, United States Geological Survey, having responsibility for the area in which the property covered by a contract under this part is located.

(i) "Oil" means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing process.

(j) "Operator" means a person, proprietorship, partnership, coporation, or other business asssociation which has made application for, is negotiating with an Indian oil and gas owner with respect to, or has entered into an oil and gas development contract.

(k) "Secretary" means the secretary of the Interior or his/her authorized representative.

(l) "Superintendent" means the Bureau Agency Superintendent or his/her authorized representative having immediate jurisdiction over the oil and gas reserves covered by a contract under this part, except at the Navajo Area Office where it shall mean the Bureau Area Director or his/her authorized representative.

(m) "Tribal oil and gas owner" means an Indian oil and gas owner as defined in paragraph (e)(1) of this section.

§ 182.3 Applicability of Geological Survey regulations.

The regulations of the United States Geological Survey published in 30 CFR Part 221, as amended, are applicable to contracts governed by this part where not inconsistent with the regulations of this part.

§ 182.4 Authority and responsibility of Oil and Gas Supervisor.

The Oil and Gas Supervisor is authorized and empowered to approve, supervise, and direct operations under oil and gas contracts governed by the regulations of this part; to furnish to the Superintendent and the Indian oil and gas owner scientific and technical information and advice; to ascertain and record the amount and value of production; to determine and record rentals and royalties due and paid. He/she shall also be responsible for reviewing and reporting to the Superintendent his/her recommendations concerning any proposed oil and gas contract.

§ 182.5 Removal of restrictions.

(a) Notwithstanding the provisions of any oil and gas contract to the contrary, the removal of all restrictions against alienation shall operate to divest the Department of all supervisory authority and responsibility with respect to the contract. Thereafter, all payments required to be made under the contract shall be made directly to the oil and gas owner(s).

(b) In the event restrictions are removed from a part of the land included in any contract to which this part applies, the entire contract shall continue subject to the supervision of the Superintendent until such time as the holder of the contract and the unrestricted oil and gas owner shall furnish to him/her satisfactory evidence that adequate arrangements have been made to account for the oil and gas upon the restricted land separately from that upon the unrestricted. Thereafter, the unrestricted portion shall be relieved from supervision of the Superintendent, and the restricted portion shall continue subject to such supervision as is provided by the contract, the regulations of this part, and all other applicable laws and regulations.

(c) Should restrictions be removed from only part of the acreage covered by a contract which provides that payments to the oil and gas owners shall thereafter be paid to each owner in the proportion which his/her acreage bears to the entire acreage covered by the contract, the operator on any unrestricted portion shall continue to be required to make the reports required by the regulations in this part with respect to the beginning of drilling operations, completion of wells, and production, the same as if no restrictions had been removed. In the event the unrestricted portion of the contracted premises is producing, the operator will also be required to pay the portion of the royalties or other revenue due the Indian oil and gas owner at the time and in the manner specified by the regulations in this part.

§ 182.6 Geological and geophysical permits.

Geological and geophysical permits may be granted by the Superintendent to search for evidence of oil and gas. Prior consent of the tribe must be obtained for geological or geophysical permits on tribal land. The consent of a majority of the ownership interests, if known, must be obtained for individually owned land. Such permits must describe the area to be explored, and definitely state the term and the consideration to be paid. A geological or geophysical permit will not give the permittee any option or preference right to a lease or other development contract nor authorize the production or removal of oil and gas.

§ 182.7 Application for geological or geophysical permits.

Applications for geological or geophysical permits accompanied by a plan of the work which the applicant intends to perform may be made to the Superintendent, or to the Indian mineral owner. The Superintendent shall immediately notify the Indian mineral owner of the receipt of any such application or request.

§ 182.8 Authority to contract.

(a) Contracts authorizing exploration or prospecting for, or development and production of, Indian-owned oil and gas may be entered into by a tribal oil and gas owner through its governing body, by an individual Indian oil and gas owner, or by a group of Indian oil and gas owners acting jointly or through an association or entity in which they all participate. Such contracts, as well as amendments thereto, shall be subject to the approval authority described in § 182.11 of this part, and shall not be valid until such approval has been secured. Indian oil and gas owners are encouraged to consult with the Superintendent and the Oil and Gas Supervisor during the negotiation of an oil and gas contract.

(b) An Indian oil and gas owner may at any time seek technical or other advice or assistance regarding development of Indian-owned oil and gas from the Oil and Gas Supervisor, who shall provide such advice or assistance upon request consistent with his/her authority.

(c) The Superintendent may enter into contracts authorizing exploration for or development of Indian-owned oil and gas on behalf of individual Indian oil and gas owners only under the following circumstances:

(1) Where the individual Indian oil and gas owner of record is deceased and the heirs to or devisees of any oil and gas interest have not been determined; or

(2) Where there are multiple individual Indian oil and gas owners in an individed tract which is sought for exploration or development, and

(i) One or more owners desires to enter into a contract pursuant to this part but the remainder of the owners cannot be located, or

(ii) None of the owners can be located; or

(3) Where the individual oil and gas owner or a majority ownership interest in the tract is incapacitated by reason of minority, or has been determined to be mentally incompetent; *Provided,* that the procedures in § 182.9(d) of this part must be followed.

(d) The Superintendent may not otherwise award any contracts affecting rights in Indian-owned oil and gas unless he/she has been requested in writing to do so by the Indian oil and gas owner.

§ 182.9 Procedures for awarding contracts and types of contracts authorized.

(a) Tribal oil and gas owners organized under section 16 of the Act of June 18, 1934 (25 U.S.C. § 476), or incorporated under section 17 of that Act (25 U.S.C. § 477), and individual Indian oil and gas owners may utilize the following procedures, among others, in entering into an oil and gas contract. A contract may be entered into through competitive bidding, negotiation, or a combination of both, and may relate to exploration or production.

(b) Oil and gas leases by tribal oil and gas owners who are not organized under section 16 of the Act of June 18, 1934 (25 U.S.C. § 476), or incorporated under section 17 of that Act (25 U.S.C. § 477), shall be entered into in accordance with the procedures of subsection (d) of this section. However, if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Superintendent determines that it is unwise in the interest of the tribal oil and gas owner to accept the highest bid, the Superintendent may readvertise the lease for sale, subject to the consent of the tribal oil and gas owner and approval in accordance with § 182.11 of this part, or the lease may be let through private negotiations. This provision does not apply to oil and gas contracts which are not leases.

(c) Indian oil and gas owners may also request the Superintendent to undertake the preparation, advertisement, negotiation, and/or award of an oil and gas contract on his/her behalf. If so requested, the Superintendent shall undertake such responsibility in accordance with the procedures of paragraph (d) of this section and, where applicable, the provisions of subsection (b). If application is made to the Superintendent by a potential prospector or operator for a contract to develop Indian-owned oil and gas, the Superintendent shall promptly notify the Indian oil and gas owner thereof, and advise the owner in writing of the alternatives open to him/her, and that he/she may decline to permit any oil and gas exploration or production.

(d) When the Superintendent exercises his/her authority to enter into contracts on behalf of individual Indian oil and gas owners pursuant to § 182.8(c) of this part, or where he/she has been requested by the Indian oil and gas owner under subsection (a) of this section to assume the responsibility of awarding the contract, he/she shall offer contracts to the highest responsible qualified bidder subject to the following procedures, unless he/she determines in accordance with subsection (e) of this section that the highest return can be obtained on the oil and gas by other methods of contracting (such as negotiation):

(1) Contracts shall be advertised for a bonus consideration under sealed bid, oral auction, or a combination of both, and a notice of such advertisement shall be published at least 60 days in advance of sale or such longer time as is necessary to achieve optimum competition.

(2) The advertisement shall specify any terms requested by the Indian oil and gas owner and may, where sufficient information exists, and after consultation with the Oil and Gas Supervisor, permit bidders to compete on such terms as rental and royalty rates as well as upon bonus payment; and it shall provide that the Superintendent reserves the right to reject any or all bids, and that acceptance of the contract bid by or on behalf of the Indian oil and gas owner is required.

(3) Each bid must be accompanied by a cashier's check, certified check, or postal money order or any combination thereof, payable to the payee designated in the advertisement, in an amount not less than 25 percent of the bonus bid, which will be returned if that bid is unsuccessful;

(4) If no bid is received which meets the criteria of § 182.11, or if the successful bidder fails to complete the contract, or if the Indian oil and gas owner refuses to accept the highest bid, the Superintendent may readvertise the contract, or if deemed advisable, and in accordance with subsection (f) of this section, he/she may attempt to award a contract by private negotiations, provided that he/she shall not award a contract by private negotiations without the written concurrence of the oil and gas owner unless he/she is exercising his authority under § 182.8(c) of this part.

(5) A successful bidder must, within 30 days after notification of the bid

V 45 A G 1 1 8 0 UMI

award, remit to the Superintendent the balance of the bonus, the first year's rental, a $25 filing fee, his/her share of the advertising costs, and file with the Superintendent all required bonds. The successful bidder shall also file the contract in completed form at that time. However, for good and explicit reasons the Superintendent may grant an extension of time of up to 30 days for filing of the contract. Failure on the part of the bidder to comply with the foregoing will result either in forfeiture of the required payment of 25 percent of any bonus bid for the use and benefit of the Indian oil and gas owner, or, at the Indian oil and gas owner's option, readvertisement of the forfeited lease with the defaulting bidder required to pay any difference between his/her bid and the high bid received at the subsequent sale, plus the cost of the advertising for such subsequent sale. The readvertisement option must be reflected in the original advertisement to be effective.

(e) When the Indian oil and gas owner has requested the Superintendent to offer a contract to the highest responsible qualified bidder in accordance with subsection (d) of this section, the Superintendent shall advise the Indian oil and gas owner of the results of the bidding, and shall not award the contract to the successful bidder until the consent of the Indian oil and gas owner has been obtained.

(f) When a contract has been entered into by methods other than the competitive bid procedure (whether by the Superintendent or by the Indian oil and gas owner), or when a contract contains provisions not appearing in an approved Bureau contract form, the contract shall be submitted to the local Field or Regional Solicitor's Office for review for legal sufficiency, prior to approval pursuant to § 182.11 of this part.

§ 182.10 Duration of contracts.

(a) No oil and gas contract with an Indian oil and gas owner shall exceed a term of ten years and as long thereafter as oil and gas are produced in paying quantities.

(b) Where an oil and gas contract specifies a term of years and "as long thereafter as oil and gas are produced in paying quantities" or similar phrase, the term "paying quantities" shall mean: That quantity of recovered oil and gas which produces during the fiscal year of the contract, a profit to the operator, over and above the total cost of: extraction (exclusive of exploration), processing, and handling to the point of sale; all rents and royalties (exclusive of overriding royalties and production payments) paid under the contract; all salaries and expenses incident to such extraction, processing, and handling; all taxes incident thereto, except tribal severance taxes; all depreciation on salvageable production equipment; all administrative expenses attributable to the operation; any other expenses attributable to the operation; and any other expenses so attributable, such as business licenses, repair of equipment, and transportation.

(c) In order to continue production in paying quantities the operator must not suspend oil and gas operations at any time for a period of 30 days or more without the prior express written approval of the Superintendent unless production is impossible as a result of an act of God or some other cause clearly beyond the operator's control.

(d) At the expiration of the primary term of the oil and gas contract and at the end of each fiscal year thereafter until expiration of the contract, the operator shall present sufficiently detailed written evidence to the Indian oil and gas owner and to the Superintendent to demonstrate that oil and gas are being produced in paying quantities.

(e) Where development or production contracts are for a primary term of five years or less, it may be provided in the contract that if actual drilling operations have commenced prior to the end of the primary term, and are being diligently prosecuted at the expiration of the primary term, the operator shall have the right to drill such well or wells to completion with reasonable diligence, and, if oil or gas as covered by the contract is found in paying quantities, the contract shall continue in force and effect as if such well or wells had been completed within the primary term.

§ 182.11 Approval of contracts.

(a) An oil and gas contract shall be approved by the Superintendent if he/she determines in writing that the following conditions are met:

(1) The contract provides a fair and reasonable remuneration to the Indian oil and gas owner;

(2) The contract does not have adverse cultural or environmental consequences to the Indian lands and community affected sufficient to outweigh its benefits to the Indian oil and gas owner;

(3) The contract complies with the requirements of this part, all other applicable regulations, the provisions of applicable federal law, and applicable tribal law where not inconsistent with federal law.

Such determinations must also be made prior to the award of any contract pursuant to § 182.9(d) of this part.

(b) The determination required by subsection (a) of this section shall be based on the written findings required by § 182.12(a) and § 182.13 of this part.

(c) "Fair and reasonable remuneration" within the meaning of paragraph (a)(1) of this section means a return on the Indian-owned oil and gas:

(1) not less than that received by non-Indian oil and gas owners in comparable contemporary contractual arrangements for the development of oil and gas,

(2) not less than that received by Federal Government in comparable contractual arrangements for the development of oil and gas, and

(3) not less than the minimum rental and royalty payments which would be applicable to oil and gas were they federally-owned.

A determination of what constitutes a comparable contemporary contractual arrangement is within the sound discretion of the Commissioner.

§ 182.12 Economic considerations.

(a) To aid in the Superintendent's consideration of the criteria in § 182.11 of this part, he/she shall prepare a written economic assessment of the contract with the assistance of the Oil and Gas Supervisor. Such assessment shall include the following findings to the extent of their applicability to oil and gas exploration or production:

(1) Assurances in oil and gas contracts that oil and gas operations will be conducted with appropriate diligence;

(2) The availability of water in the amount needed for purposes of operations under the contract;

(3) The adequacy of production royalties or other form of return on oil and gas;

(4) If a method of contracting other than the competitive bid procedure is used, whether that method clearly provides the Indian oil and gas owner with a greater share of the return on the production of his/her oil and gas than he/she might otherwise obtain through competitive hidding;

(5) The adequacy of payment and enforcement provisions in the contract;

(6) Provisions for the training and preferential employment of the local Indian labor force;

(7) The size and shape of the area to be developed (the oil and gas tract shall be contained in a reasonable compact body and the acreage leased must not exceed that necessary to promote the orderly development of oil and gas resources); and

(8) The reputation of the prospector or operator for responsible and diligent development of oil and gas resources. Contracts shall not be entered into primarily for purposes of speculation.

Information required to be included in such an assessment may be incorporated therein by reference to attached documentation. Such an assessment shall be regarded as an intra-agency memorandum, but shall be made available to the Indian oil and gas owner in all cases.

(b) In all cases where the mineral estate has been severed from the surface estate, the Superintendent shall seek the counsel of the Solicitor's Office and shall then advise the Indian oil and gas owner in writing of any potentially adverse legal and economic consequences of such severance. At his/her discretion, the Superintendent may postpone approval of a contract until problems of severed ownership have been resolved. Prior to approval, the Superintendent shall insure that attempts have been made to provide all users and owners of the surface estate with the best practicable notice of the impending operation.

(c) In aid of his/her consideration of whether approval should be given to a contract, the Superintendent may request that any party thereto submit additional information regarding his/her financial structure or experience in oil and gas development or any other relevant matter. Failure to supply such information may be regarded as a ground for declining to grant approval.

§ 182.13 Environmental assessment.

(a) To aid in the Superintendent's consideration of the environmental consequences of a contract or contracts, pursuant to § 182.11(a)(2) of this part or other provision governing approval of contracts for exploration or production of oil and gas, and to determine whether preparation of an environmental impact statement is required by § 102(2)(C) of the National Environmental Policy Act of 1969, and the Council on Environmental Quality regulations, 40 CFR Parts 1500–1508, he/she shall prepare a written environmental assessment of the contract(s). When the contract(s) is to be awarded by competitive bidding, the assessment shall be prepared prior to the advertisement.

(b) Such assessment shall examine the prospective effects of the proposed operation upon the environment and the local Indian culture, and shall specifically consider:

(1) The prevention and control of flooding, erosion, and earth slides;

(2) The effect of the operation on the quality and flow of water and watercourses in the affected area;

(3) The effect on air quality;

(4) The need for reclamation of the affected area by revegetation, replacement of soil, or other means;

(5) Land uses both before and after operations;

(6) The protection of fish and wildlife and their habitat;

(7) Measures designed to guarantee health and safety;

(8) The effect on items of historical, scenic, archeological, and ethnological value;

(9) The impact on the local Indian population, with particular reference to:

(i) The possible dislocation of people from their homes or occupations;

(ii) The influx of non-Indians into the Indian community, and its effect on the local cost of living, tribal government, housing, educational services, police protection, transportation and communication facilities, health care, and intercultural relationships;

(iii) Noise and esthetics; and

(iv) Threats to vegetation, wildlife, and natural or other monuments which play an important role in local Indian culture or religion; and

(10) Any other potentially adverse effects on the environment. Such an assessment shall be prepared in accordance with regulations promulgated by the Council of Environmental Quality, 40 CFR § 1508.9, and the Environmental Quality Handbook, 30 BIAM Supplement 1. When it is recognized prior to the preparation of the assessment that a complete environmental impact statement needs to be prepared prior to approval of the contract, preparation of that environmental impact statement may be regarded as satisfying the requirements of this section. Prior to contract approval, the environmental assessment shall be made specifically available to the Indian oil and gas owner and to the governing body of the local Indian tribe, and shall also be made available for public review at the Bureau office having jurisdiction over the proposed contract.

(c) In order to make a determination of the effect of the contract on prehistoric, historic, architectural, archeological, cultural, and scientific resources, in compliance with the National Historic Preservation Act, 16 U.S.C. § 470 *et seq.*, Executive Order 11593 (May 1971), and regulations promulgated thereunder, 36 CFR Parts 60, 63 and 800, and the Archeological and Historic Preservation Act, 16 U.S.C. § 469a–1 *et seq.*, the Superintendent shall, prior to approval of a contract, perform surveys of the cultural resources so as to evaluate and make a determination of the effect of the exploration and mining activities on properties which are listed in the National Register of Historic Places, 16 U.S.C § 470a, or are eligible for listing in the National Register. If the surveys indicate that properties listed in or eligible for listing in The National Register will be affected, the Superintendent shall seek the comments of the Advisory Council on Historic Preservation pursuant to 36 CFR Part 800. If the mineral development will have an adverse effect on such properties, the Superintendent shall ensure that the properties will either be avoided, the effects mitigated or the data preserved.

§ 182.14 Persons signing in a representative capacity; furnishing of corporate and other information.

(a) The signing in a representative capacity and delivery of bids, geological and geophysical permits, contracts or assignments, bonds, or their instruments required by these regulations constitute certification that the individual signing, except a surety agent, is authorized to act in such capacity. An agent for a surety shall furnish a satisfactory power of attorney.

(b) A corporation proposing to acquire an interest in a permit or a contracted real property interest in Indian-owned oil and gas shall file with the instrument a statement showing:

(1) The state in which the corporation is incorporated, and that the corporation is authorized to hold such interests in the state where the land described in the instrument is situated; and

(2) That it has power to conduct all business and operations as described in the instrument; and

(3) Such other information as the Superintendent may require in the exercise of his/her trust responsibility to the Indian oil and gas owner.

(c) The Superintendent may, either before or after the approval of a permit, contract, assignment, or bond, call for any additional information necessary to carry out the regulations in this part, other applicable laws and regulations and his/her trust responsibility to the Indian oil and gas owner. Failure to furnish the requested information will be deemed sufficient cause for disapproval or cancellation of the instrument, whichever is appropriate.

§ 182.15 Bonds.

(a) The Secretary may require a geological or geophysical permittee to furnish a surety bond in such amount as he/she deems advisable.

(b) Before beginning drilling operations, the operator shall furnish a bond in an amount to be determined by the Oil and Gas Supervisor and the approving official, but in no event less than $10,000.

(c) In lieu of the drilling bond required under paragraph (b) of this section, the operator may file one bond for $50,000 for all oil and gas contracts in any one state, or such lesser jurisdiction, as determined by the Secretary, including contracts on that part of an Indian reservation extending into states contiguous thereto, to which the operator may become a party. The total acreage covered by such bond shall not exceed 10,240 acres.

(d) In lieu of the bonds required under subsections (a), (b), and (c) of this section, an operator or permittee may file with the Commissioner, a bond in the sum of $150,000 for full nationwide coverage for all contracts and permits without geographic or acreage limitations.

(e) Bonds shall be by corporate surety bonds.

(f) The right is specifically reserved to the Secretary to increase the amount of bonds in his/her discretion.

(g) In lieu of a bond, a bank letter of credit may be submitted for the same amount as a bond.

§ 182.16 Rentals; minimum royalty; production royalty.

(a) An oil or gas lessee shall pay, in advance, beginning with the effective date of the lease, an annual rental of not less than $2 per acre or such other rate authorized by the Secretary. This rental shall not be credited on production royalty or prorated or refunded because of surrender or cancellation or for any other reason.

(b) If the royalty of production paid during any year aggregates less than $2.50 per acre, the lessee must pay the difference at the end of the lease year. On communitized and unitized leases, the minimum royalty shall be payable only on the participating acreage.

(c) Unless otherwise provided by the Secretary (or his/her authorized representative prior to the offering of land for oil and gas leases), a royalty of not less than 25 percent shall be paid on the value of all oil and gas, and products extracted therefrom from the land leased.

(d) During the period of supervision, "value" for the purpose of the lease may, in the discretion of the Secretary, be calculated on the basis of the highest price paid or offered at the time of production for a significant portion of the oil of the same gravity, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less than the content of foreign substances as determined by the Oil and Gas Supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary, be deemed mere evidence of or conclusive evidence of such value.

(e) If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, and the lessor is an Indian mineral owner, gas shall, if requested by the lessor, be furnished by the lessee to the Indian mineral owner. Such gas furnished shall be received by the Indian mineral owner and title shall pass at the wellhead or at the alternate point of transfer designated by the lessee and the Indian mineral owner shall pay a price therefore equal to the current wellhead price, less royalty, or if gas is not being sold, the price to paid by the Indian mineral owner shall equal the highest price that could be obtained from another gas purchaser, less royalty. In addition to the above payments, the Indian mineral owner shall pay for the gas transfer installation and a reasonable fee to the lessee for meter maintenance, gas volume determination, accounting and other operational costs incurred as a result of any such purchase by the Indian mineral owner. The acquisition and use of any such gas purchased by the Indian mineral owner shall be at the Indian mineral owner's sole risk at all times. *Provided,* that this requirement shall be subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that waste would not result. Gas furnished to the Indian mineral owner under this section may be terminated only with the approval of the Superintendent.

§ 182.17 Manner of payments.

(a) All payments shall be paid to the Secretary or such party as he/she may designate and shall be made at such time as provided in the advertisement, permit, or contract. When there is production, each payment shall be remitted through the Supervisor, with a statement by the operator in duplicate, showing the specific contract payment that remittance is intended to cover, identified by both Departmental contract and other lease or contract number. Such statement shall identify each remittance by number, date, amount, name of each payee, and shall be supported by a copy of the purchaser's settlement or pipeline statement for each lease under which royalties are paid.

(b) Operators may make arrangements with the purchasers of oil and gas for the payment of the royalties as provided in the lease and regulations, but such arrangement, if made, shall not relieve the operator from responsibility should the purchaser fail or refuse to pay the royalties when due.

§ 182.18 Inspection of premises; books and accounts.

Operators shall agree to allow Indian mineral owners, their representatives or any authorized representatives of the Secretary to enter all parts of the contracted premises for the purpose of inspection only at their own risk, and that books and records shall be available only during business hours, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the contracts and regulations.

§ 182.19 Assignments; operating and development agreements; overriding royalties.

(a) *Assignments.* Contracts hereafter approved, or any interest therein, may be assigned or transferred only with the approval of the Secretary. The assignee must be qualified to hold such contract under existing rules and regulations and shall furnish a satisfactory bond conditioned on the faithful performance of the covenants and conditions thereof. An operator must assign either his/her entire interest in a contracted area or a legal subdivision (which may be a separate horizon) thereof, or an undivided interest in the whole lease or contracted area; *Provided,* that when an assignment covers only a legal subdivision of a contract area or covers interests in separate horizons such assignment shall be subject to both the consent of the Secretary and the Indian oil and gas owner. If a contract area is divided by the assignment of an entire interest in any part, each part shall be considered a separate contract, and the assignee shall be bound to comply with all terms and conditions of the original contract. A fully executed copy of the assignment shall be filed with the Superintendent within 30 days after the date of the execution by all parties.

(b) *Overriding royalty.* Agreements creating overriding royalties or payments out of production shall not be considered as an assignment. Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Department of the Interior or any agency thereof shall not be required with respect thereto, but such agreements shall be subject to the condition that nothing in any such agreement shall be construed as modifying any of the obligations of the operator with the Indian oil and gas owner under his/her contract and the regulations in this part, including requirements for Departmental approval before abandonment. All such obligations are to remain in full force and effect, the same as if free of any such royalties or payments. The existence of agreements creating overriding royalties or payments out of production need not be filed with the Superintendent unless incorporated in assignments or instruments required to be filed pursuant to subsection (a) of this section. An agreement creating overriding royalties or payments out of production shall be suspended when the working interest income per active producing well is equal to or less than the operational cost of the well, as determined by the Superintendent.

§ 182.20 Restrictions on operations, workover and shut-in applications.

(a) The Secretary may impose such restrictions as in his/her judgment are necessary for the protection of Indian-owned natural resources.

(b) The Secretary may, under such terms and conditions as he/she may prescribe and after obtaining the consent of any Indian mineral owner affected, authorize suspension of operating and producing requirements whenever it is considered that marketing facilities are inadequate or economic conditions unsatisfactory or transportation facilities unavailable. Such suspensions shall not extend beyond the ten-year primary term of tribal leases approved pursuant to the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a-g). Applications by operators for relief from operating and producing requirements shall be filed in triplicate in the office of the Supervisor and a copy thereof filed with the Superintendent. Complete information must be furnished showing the necessity for such relief. Suspension of operations and production shall not relieve the operator from the obligations of continued payment of annual rental or minimum royalty. The operator shall pay as shut-in royalty an additional $2.50 per acre in advance for each annual period of suspension, provided that if the period of suspension is less than 12 months, the rate will be prorated. Said shut-in royalty shall not be recoverable out of royalties or otherwise from subsequent production; *Provided,* that concurrent with initial execution of the contract, the Indian oil and gas owner may, in his/her discretion, waive his/her right of consent to an approval of any subsequent suspension of operations heretofore mentioned.

(c) The Secretary may, after obtaining the consent of any Indian mineral owner affected, and under such terms and conditions as he/she may prescribe, authorize suspension of operating and producing requirements whenever it is determined that reworking or drilling operations is in the best interest of the Indian mineral owner, *provided,* that such reworking or drilling operations are commenced within 60 days and thereafter conducted with reasonable diligence during the period of nonproduction. Any suspension under this subsection shall not relieve the operator from liability for the payment of rental and minimum royalty or other contract payments due under the terms of the contract.

§ 182.21 Unitization, communitization and well-spacing.

(a) For the conservation and proper utilization of natural resources, the Superintendent, subject to obtaining the prior consent of the tribe where the tribe is the mineral owner, may approve, recognize and require that contracted areas shall be subject to cooperative or unitization agreements, or communitization agreements and well-spacing or development programs. All applications and documents incident to such agreements shall be filed with the Oil and Gas Supervisor and a copy of the application fully describing the lands and listing the contracted areas shall be filed with the Superintendent.

(b) Any acreage not participating in a communitized or unitized area shall be released to the Indian mineral owner(s) at the end of the primary term of the lease.

§ 182.22 Contracts for subsurface storage of oil or gas.

(a) The Superintendent may approve, subject to obtaining the prior consent of the Indian mineral owners, storage contracts or modifications, amendments or extensions of oil and gas leases or other contracts, on tribal lands subject to lease or contract under the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a), and on allotted lands subject to lease or contract under the Act of March 3, 1909 (35 Stat. 783; 25 U.S.C. 396), to provide for subsurface storage of oil or gas, irrespective of the lands from which production is initially obtained. The storage contract or modification, amendment, or extension, shall provide for the payment of such storage fee or rental, or in lieu thereof, for a royalty or percentage payment other than that prescribed in the oil and gas production contract when such stored oil and gas is produced in conjunction with oil or gas not previously produced.

(b) The Secretary may approve, subject to obtaining the prior consent of the Indian mineral owners, a provision in an oil and gas contract, under which storage of oil and gas is authorized for continuance of the contract at least for the period of such storage use and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(c) Applications for subsurface storage of oil or gas shall be filed in triplicate with the Oil and Gas Supervisor and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage, and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the Indian mineral owners and other parties in interest shall be submitted for approval of the Secretary to permit retention of five copies by the Department after approval.

§ 182.23 Termination and cancellation, enforcement of orders.

(a) Any lease or contract area on which there has been no drilling, exploration or surface disturbance activity shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the due date. If the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next office working day shall be deemed timely.

(b) If the Superintendent determines—

(1) that a permittee or operator has failed to comply with the regulations in this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or drilling plan, his/her orders or the orders of the Oil and Gas Supervisor, and

(2) such noncompliance does not threaten immediate and serious damage to the environment, the resource or the deposit being developed, or other valuable mineral deposits or other resources; he/she shall serve a notice of noncompliance upon the permittee or operator by delivery in person or mailed to him/her at his/her last known address. Copies of said notice shall be sent to the Indian oil and gas owner and the Oil and Gas Supervisor. Failure of the permittee or operator to take action in accordance with the notice of noncompliance within the time limits specified by the Superintendent, or to

initiate an appeal pursuant to § 182.25 of ... has been requested, the Superintendent ... assignment or surrender thereof, shall

hours at the locations listed above under ... SUPPLEMENTARY INFORMATION: The

initiate an appeal pursuant to § 182.25 of this part, shall be grounds for suspension of operations by the Superintendent, or grounds for the initiation of action for cancellation of the contract and forfeiture of any compliance bonds.

(c) The notice of noncompliance shall specify in what respect the operator has failed to comply with the provisions of applicable regulations, laws, terms of the drilling plan or contract, or the orders of the Superintendent or the Oil and Gas Supervisor, and shall specify the action which must be taken to correct such noncompliance and the time limits within which such action shall be taken. A written report shall be submitted by the permittee or operator to the Superintendent when such noncompliance has been corrected.

(d) If, in the judgment of the Superintendent, a permittee or operator is conducting activities on lands subject to the provisions of this part

(1) which fail to comply with the provisions of this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or drilling plan, his/her orders or the orders of the Oil and Gas Supervisor, and

(2) which threaten immediate and serious damage to the environment, the resource or the deposit being developed, or other valuable mineral deposits or other resources;

the Superintendent shall order the immediate cessation of such activities, without prior notice of noncompliance. The Superintendent shall, however, as soon after issuance of the cessation order as possible, serve on the permittee or operator a statement of the reasons for the cessation order and the actions needed to be taken before the order will be lifted. Both the cessation order and the statement of the reasons for the order shall be delivered to the Indian oil and gas owner.

(e) If a permittee or operator fails to take action in accordance with the notice of noncompliance served upon him/her pursuant to subsection (b), or if a permittee or operator fails to take action in accordance with the cessation order statement served upon him/her pursuant to subsection (d), the Superintendent may issue a notice of cancellation of the contract, specifying the basis for the cancellation. The permittee or operator may, within 30 days of issuance of the notice, request a hearing at which he/she, the Indian oil and gas owner, the Superintendent, and the Oil and Gas Supervisor shall be entitled to present evidence. After such hearing, or after 30 days if no hearing has been requested, the Superintendent may order cancellation of the contract.

(f) No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian oil and gas owner as set forth in the contract or otherwise available at law.

(g) Nothing in this section is intended to supersede the independent authority of the Oil and Gas Supervisor under 30 CFR Part 221. However, the Oil and Gas Supervisor and the Superintendent should consult with one another, when feasible, before taking any enforcement actions.

§ 182.24 Penalties.

Violation of any of the terms or conditions of any contract or of the regulations under this part shall subject the permittee or operator to a fine of not more than $1,000 per day for each day of such violation or noncompliance with the orders of either the Superintendent or the Oil and Gas Supervisor: *Provided,* that prior to the determination that a fine will be imposed as provided for in this section, the permittee or operator shall receive a 30-day notice with respect to the terms of the contract or of the regulations violated and, if he/she so requests, may receive a hearing before the Superintendent. Payment of penalties more than 10 days after notice of final decision is given shall be subject to late charges at the rate of not less than 1½ percent per month for each month or fraction thereof until paid.

§ 182.25 Appeals.

(a) Appeals from decisions of the Superintendent under this part may be taken pursuant to Part 2 of this title.

(b) Cessation orders issued pursuant to Section 182.23(d) of this part shall not be suspended as a result of the taking of an appeal, unless such suspension is ordered in writing by the official before whom such an appeal is pending, and then only upon a written determination by such official that such suspension will not be detrimental to the Indian oil and gas owner or upon submission of a bond deemed adequate by both the Indian oil and gas owner and the Superintendent to indemnify the Indian oil and gas owner from any resulting loss or damage.

§ 182.26 Fees.

Unless otherwise authorized by the Superintendent, each permit, lease, sublease, or other contract, or assignment or surrender thereof, shall be accompanied by a filing fee of $25.

Thomas W. Fredericks,

Assistant Secretary—Indian Affairs.

August 6, 1980.

[FR Doc. 80-24137 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Comments Received From Federal Agencies on the Virginia State Permanent Program Submitted Under Pub. L. 95-87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Virginia program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA) and other federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Virginia Department of Conservation and Economic Development, Division of Mined Land Reclamation, Drawer U. Big Stone Gap, Virginia 24219, Telephone: (703) 523-2925.

Office of Surface Mining Reclamation and Enforcement, 950 Kanawha Blvd., East Charleston, WV 25301, Telephone: (304) 344-2331.

Office of Surface Mining, Department of the Interior, Room No. 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT:

Mr. Dick Leonard, Office of Surface Mining Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 342-8127.

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue N.W., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Virginia permanent regulatory program submitted by Virginia for his review on March 3, 1980. See 45 FR 15576 (March 11, 1980), 45 FR 28167-28168 (April 28, 1980), 45 FR 41973-41976 (June 23, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Virginia program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Virginia program:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Council on Environmental Quality
Department of Agriculture:
- Agriculture Stabilization and Conservation Service
- Farmers Home Administration
- Forest Service
- Science and Education Administration
- Soil Conservation Service
- Farmers Home Administration

Department of Energy
Department of the Interior:
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Fish and Wildlife Service
- Geological Survey
- Heritage Conservation and Recreation Service
- National Park Service

Department of Labor:
- Mine Safety and Health Administration

Environmental Protection Agency
Ohio River Basin Commission
Tennessee Valley Authority
U.S. Army Corps of Engineers
Water Resources Council

Of those agencies invited to comment, OSM received comments from the following offices:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Department of Agriculture:
- Forest Service
- Science and Education Administration
- Soil Conservation Service

Department of Energy
Department of the Interior:
- Bureau of Land Management
- Bureau of Mines
- Fish and Wildlife Service
- National Park Service

Department of Labor: Mine Safety and Health Administration
Environmental Protection Agency
Tennessee Valley Authority
U.S. Army Corps of Engineers

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: August 5, 1980.

R. Bruce Carroll,

Acting Assistant Director, State and Federal Programs.

[FR Doc. 80-24114 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Ch. VII

Comments Received From Federal Agencies on the West Virginia State Permanent Program Submitted Under Pub. L. 95-87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the West Virginia program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA) and other federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

West Virginia Department of Natural Resources, Division of Reclamation, 1800 Washington Street, East, Charleston, WV 25305, Telephone: (304) 348-3267.

Office of Surface Mining, Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 344-2331.

Office of Surface Mining, Department of the Interior, Room No. 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT:

Mr. Dick Leonard, Office of Surface Mining, Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 342-8127.

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the West Virginia permanent regulatory program submitted by West Virginia for his review on March 10, 1980. See 45 FR 15190 (March 10, 1980), 45 FR 28164-28165 (April 28, 1980), 45 FR 41654-41656 (June 20, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the West Virginia Program may not be approved until the Secretary has solicited and publicly disclosed the views of the Adminstrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the West Virginia Program:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Council on Environmental Quality
Department of Agriculture:
- Agriculture Stabilization and Conservation Service
- Extension Service
- Farmers Home Administration
- Forest Service
- Science and Education Administration
- Soil Conservation Service

Department of Energy
Department of the Interior:
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of of Mines
- Bureau of Reclamation
- Fish and Wildlife Service
- Geological Survey
- Heritage Conservation and Recreation Service
- National Park Service

Department of Labor: Mine Safety and Health Administration
Environmental Protection Agency
Ohio River Basin Commission
U.S. Army Corps of Engineers
Water Resources Council

Of those agencies invited to comment, OSM received comments from the following offices:

Appalachian Regional Commission
Department of Agriculture:
- Forest Service
- Soil Conservation Service

Department of Energy
Department of the Interior:
- Bureau of Land Management
- Bureau of of Mines
- Fish and Wildlife Service
- National Park Service

Department of Labor: Mine Safety and Health Administration
Environmental Protection Agency
U.S. Army Corps of Engineers

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: August 5, 1980.
R. Bruce Carroll,
Acting Assistant Director, State and Federal Programs.
[FR Doc. 24115 Filed 8-8-80; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Ch. VII

Comments Received From Federal Agencies on the Maryland State Permanent Program Submitted Under Pub. L. 95-87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Maryland program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA) and other federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:
Maryland Department of Natural Resources, Tawes State Office Bldg., Annapolis, MD 21401, Telephone: (301) 269-3041.
Office of Surface Mining Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 344-2331.
Office of Surface Mining, Department of the Interior, Room No. 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT:
Mr. Dick Leonard, Office of Surface Mining Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 342-8127.
Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343—4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Maryland permanent regulatory program submitted by Maryland for his review on March 3, 1980. See 45 FR 15189 (March 10, 1980), 45 FR 28169-28170 (April 28, 1980), 45 FR 41976-41977 (June 23, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Maryland Program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of the Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Maryland Program:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Council on Environmental Quality
Department of Agriculture:
- Agriculture Stabilization and Conservation Service
- Farmers Home Administration
- Forest Service
- Science and Education Administration
- Soil Conservation Service

Department of Energy
Department of the Interior:
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Bureau of Reclamation
- Fish and Wildlife Service
- Geological Survey
- Heritage Conservation and Recreation Service
- National Park Service

Department of Labor:
- Mine Safety and Health Administration

Environmental Protection Agency
Ohio River Basin Commission
U.S. Army Corps of Engineers
Water Resources Council

Of these agencies invited to comment, OSM received comments from the following offices:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Department of Agriculture:
- Forest Service
- Science and Education Administration
- Soil Conservation Service

Department of Energy
Department of the Interior:
- Bureau of Land Management
- Fish and Wildlife Service
- National Park Service

Department of Labor: Mine Safety and Health Administration
Environmental Protection Agency
U.S. Army Corps of Engineers

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: August 5, 1980.
R. Bruce Carroll,
Acting Assistance Director, State and Federal Programs.
[FR Doc. 80-24116 Filed 8-8-80; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Ch. VII

Comments Received From Federal Agencies on the Pennsylvania State Permanent Program Submitted Under P.L. 95-87.

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Pennsylvania program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA) and other federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:
Pennsylvania Department of Environmental Resources, Fulton Bank Bldg., 10th Floor, Third and Locust Streets, Harrisburg, PA 17120, Telephone: (717) 787-4686.
Office of Surface Mining, Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 344-2331.
Office of Surface Mining, Department of the Interior, Room No. 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT:
Mr. Dick Leonard, Office of Surface Mining, Reclamation and Enforcement, 950 Kanawha Blvd., East, Charleston, WV 25301, Telephone: (304) 342-8127.
Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating

the Pennsylvania permanent regulatory program submitted by Pennsylvania for his review on February 29, 1980. See 45 FR 15575-15576 (March 11, 1980), 45 FR 28165-28167 (April 28, 1980), 45 FR 41656-41659 (June 20, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Pennsylvania Program may not be approved until the Secretary has solicited and publicly disclosed the views of the administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Pennsylvania Program:

Advisory Council on Historic Preservation
Appalachian Regional Commission
Council on Environmental Quality
Delaware River Basin Commission
Department of Agriculture:
- Agriculture Stabilization and Conservation Service
- Farmers Home Administration
- Forest Service
- Science and Education Administration
- Soil Conservation Service

Department of Energy
Department of the Interior:
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Bureau of Reclamation
- Fish and Wildlife Service
- Geological Survey
- Heritage Conservation and Recreation Service
- National Park Service

Department of Labor:
- Mine Safety and Health Administration

Environmental Protection Agency
Great Lakes Basin Commission
Ohio River Basin Commission
U.S. Army Corps of Engineers
Water Resources Council

Of those agencies invited to comment, OSM received comments from the following offices:

Appalachian Regional Commission
Department of Agriculture:
- Forest Service
- Science and Education Administration
- Soil Conservation Service

Department of Energy
Department of Interior:
- Bureau of Land Management
- Bureau of Mines
- Fish and Wildlife Service
- National Park Service

Department of Labor:
- Mine Safety and Health Administration

Environmental Protection Agency
Great Lakes Basin Commission
U.S. Army Corps of Engineers

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: August 5, 1980.
Carl C. Close,
Assistant Director, State and Federal Programs
R. Bruce Carroll,
Acting Assistant Director, State and Federal Programs.
[FR Doc. 80-24122 Filed 8-8-80; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Parts 715, 816 and 817

Performance Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining is proposing amendments to its general performance standards, its performance standards for surface mining activites, and its performance standards for underground activities. The changes are made to the portion of the regulations that relate to the disposal of excess spoil on benches existing prior to August 3, 1977. The proposed rule would amend the current regulations by allowing controlled gravity transport of excess spoil from an upper bench to a lower bench where the lower highwall meets the upper bench, provided spoil is not placed on the downslope of the lower bench.

DATES: Comments are due on or before September 10, 1980. A public hearing will be held beginning at 9:00 a.m. local time on August 29, 1980.

ADDRESSES: Written comments must be mailed on hand delivered to the Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Interior South, Room 153, Washington, D.C. 20240. The public hearing will be held at the Department of the Interior Main Auditorium, 18th and C Street, N.W., Washington, D.C. 20240. Additional comment and hearing information is located below in Supplementary Information.

FOR FURTHER INFORMATION CONTACT:
Raymond F. Aufmuth, Physical Scientist, Technical Services Division, Telephone: (202) 343-4264.

SUPPLEMENTARY INFORMATION: Section 501 of the Surface Mining Control and Reclamation Act ("Act") requires the Secretary to promulgate regulations establishing a regulatory program for surface coal mining operations. Regulations concerning disposal of excess spoil were promulgated on March 13, 1979, 44 FR 15311, (permanent program) and May 25, 1979, 44 FR 30610 (interim program).

This proposed rulemaking addresses questions raised by the Virginia Surface Mining Reclamation Association (VSMRA) concerning the disposal of excess spoil. Specifically, the questions relate to the disposal of excess spoil on pre-existing benches in previously mined steep slope areas.

Prior to passage of the Surface Mining Control and Reclamation Act surface coal mine operators commonly disposed of spoil by pushing it downslope of the bench. In steep slope areas with multiple coal seams, this often resulted in spoil being end-dumped from an active mining bench to a lower pre-existing bench. However, the Act (30 U.S.C. 1265(b)(22)(A)), the interim program regulations (30 CFR 715.15) and the permanent program regulations (30 CFR 816.71(a) and 817.71(a) (1979)) prohibit uncontrolled disposal of excess spoil, in particular disposal of spoil downslope of the active mining bench (30 U.S.C. 1265(d)(1)). The primary reason for the prohibition of uncontrolled end-dumping and disposal of spoil on the downslope is that rock and soil dumped downslope destroy existing vegetation and cause erosion, slides and increased sedimentation of streams. Therefore, the regulations currently allow end-dumping only in limited situations (durable rockfills) under specific environmental constraints (30 CFR 715.15(d), 816.74 and 817.74 and (1979)).

The general questions raised by VSMRA concern the disposal of excess spoil material on lower, pre-existing benches on previously mined steep slopes. VSMRA raises several issues that are discussed below:

a. The Disposal of Excess Spoil on Pre-existing Benches:

This practice is addressed in both the interim and final regulations (30 CFR 715.15, 816.71, 817.71 and 826.16) and is permitted, provided the operator adheres to certain requirements. A legislative rule to allow disposal of excess spoil on natural benches provided backfilling and grading requirements are met has been proposed. 45 FR 32331 (May 16, 1980).

b. Downslope Transport of Excess Spoil:

Two situations have been considered here. The first is gravity-induced downslope movement ("gravity transport") of excess spoil where there is a distinct natural slope between the two benches in question. This practice was discussed at length during the drafting of both the Act and regulations and is prohibited by both, which require that excess spoil be "placed in a controlled manner" (30 U.S.C. 1265(b)(22)(A) and 30 CFR 715.15, 816.71 and 817.71) and which prohibit disposal of spoil on the downslope. For this reason, the OSM has decided not to

allow gravity transport of excess spoil where there is a distinct natural slope between an actively mined upper bench and existing lower bench. OSM, however, has recognized the potential utility of gravity transport systems under certain conditions (see below) and has authorized an experimental practice utilizing "spoil lanes" where there is a distinct natural slope between the two.

The second situation is gravity transport of excess spoil where the highwall of the lower bench meets the upper bench such that there is no natural slope between the two. It is the prohibition of this practice that VSMRA is specifically questioning.

The preamble to the final permanent program regulations, at 44 FR 15203, 3rd column, March 13, 1979, cites legislative history indicating that excess spoil must be transported by vehicle, not be end-dumping or gravity transport, to its ultimate storing place. However, in that context the legislative history (123 Cong. Rec. H–7584, July 21, 1977) shows that Congress was primarily concerned with uncontrolled disposal of spoil on the downslope and approved of disposal of excess spoil on pre-exisiting benches:

> The surplus spoil disposal standards do not allow the dumping or pushing of spoil downslope of the bench. These standards require controlled placement of the spoil. Spoil must be transported—hauled by truck or other vehicle—placed and compacted at the exact location of its permanent disposal. This controlled placement concept is essential to the long term stability of spoil. . . . Suitable disposal areas must be found. It would seem that solid portions of old mine benches would be most suitable since they would offer the best foundation for stability.

OSM recognized in the preamble to the final permanent program regulations, at 44 FR 15203, 2nd column, March 13, 1979, "the constructive and beneficial results for disposal of excess spoil in such workings and excavations [as pre-existing benches], and strongly encourages this practice." In addition, one of the main purpose of the Act is to "promote the reclamation of mined areas left without adequate reclamation." 30 U.S.C. 1202(h). Therefore, OSM believes that Congress intended to prohibit uncontrolled gravity transport of spoil, especially where it resulted in placement of spoil on down slopes. Controlled gravity transport of excess spoil that protects against disposal of spoil on the downslope and leads to reclamation of preexisting benches would be consistent with Congressional intent.

After review and investigation of this method of excess spoil disposal and discussion with industry and State regulatory authorities, OSM is proposing a rule that will permit the gravity transport of excess spoil from an active upper bench to the pre-existing solid portion of a lower bench where the highwall of the lower bench meets the upper bench. The allowance of this practice should benefit operators by saving fuel, labor and capital costs involved in vehicular transport of excess spoil to disposal sites. At the same time, it should promote reclamation of pre-existing mined benches that otherwise would not be reclaimed. This practice will only be permitted on a site specific basis and must meet certain environmental standards in addition to those already in the regulations. Since the practice will be permitted only where no natural slope exists between the two benches and only upon the condition, among others, that no spoil moves to the downslope of the lower bench, the proposed rule does not authorize disposal of spoil on downslopes.

The proposed legislative rule would function as follows with respect to surface coal mining operations:

Gravity transport of excess spoil from an upper actively mined bench to a lower pre-existing bench will be permitted on a site specific basis provided:

(1) The highwall of the lower bench intersects (meets) the upper actively mined bench with no natural slope between them.

(2) Only spoil in excess of that necessary to eliminate the highwall and return the upper actively mined bench to the approximate original contour may be placed on the solid portion of the lower bench.

(3) Gravity transport points are determined on a site specific basis. It is anticipated that there will be specific points along the upper bench at which gravity transport will occur. Although uncommon, continuous gravity transport could occur along extended lengths of the upper bench where there is a short highwall on the lower bench. The limiting of gravity transport points will provide for equipment operator safety on the lower bench, ensure, environmental protection of the downslope below the lower bench and provide ease in rehandling of the excess spoil.

(4) The excess spoil is placed only on solid portions of the lower pre-existing bench.

(5) The excess spoil on the solid portion of the lower bench is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing of the excess spoil on the solid portion of the lower bench is necessary to provide for revegatation and long-term stability, and should consist of placing the excess spoil in horizontal lifts in a controlled manner, concurrent, compacting as necessary to ensure mass stability and prevent mass movement, and covering and grading to allow surface and subsurface drainage to be compatible with the natural surroundings and ensure a long term static safety factor of 1.3.

(6) A safety berm is constructed on the lower bench of sufficient height and width and length to prevent any spoil from moving over the bench to the downslope following end-dumping. Movement of excess spoil over the immediate lower bench either downslope or to another bench would be a violation of 30 CFR 826.12(a)(i).

The safety berm must be removed by the operator during final grading operations.

(7) The area of the lower bench used to facilitate the disposal of excess spoil shall be considered an affected area and as such is subject to all requirements of the regulations, including, but not limited to, topsoil handling, hydrologic, revegetation and coal processing wastes requirements.

The proposed legislative rule would function as above with respect to surface activities resulting from underground coal mining operations with the following exceptions:

(1) Consistent with the distinct differences between surface and underground coal mining operations, underground development waste as well as spoil not required to achieve approximate original contour may be placed on the lower solid bench;

(2) The gravity transport method may be conducted from a bench from which a portal is constructed for underground mining operations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Department of the Interior has also determined that the adoption of this rule does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. These determinations are available in the Administrative Record. The Act provides that issuance of regulations as part of the interim regulatory process shall not constitute a major Federal action within the meaning of the Section 102(2)(c) of the National Environmental Policy Act, 30 USC

§ 1251(a). Therefore only the impacts of amendments to the permanent regulatory program were analyzed.

Summary

Part 715—30 CFR 715.15(a) is proposed to be amended by adding a paragraph at the conclusion of the section permitting gravity transport of excess spoil in certain situations.

Part 816—30 CFR 816.71 is proposed to ba amended by adding a paragraph at the conclusion of the section permitting gravity transport of excess spoil in certain situations.

Part 817—30 CFR 817.71 is proposed to be amended by adding a paragraph at the conclusion of the section permitting gravity transport of underground development waste and excess spoil in certain situations.

Proposed Amendment

Part 715—30 CFR 715.15(a) is proposed to be amended as follows:

Part 715—General Performance Standards

§ 715.15(a)—Disposal of Excess Spoil: General Requirements

(1)–(14) * * *

(15) Disposal of excess spoil from an upper actively mined bench to a lower pre-existing bench by means of gravity transport is permitted provided that:

(A) The operator receives the prior written approval of the regulatory authority; and

(B) The following conditions and performance standards in addition to the Environmental Performance Standards of this part are met:

(i) The highwall of the lower bench intersects (meets) the upper actively mined bench with no natural slope between them;

(ii) Only spoil in excess of that necessary to eliminate the highwall and return the upper actively mined bench to the approximate original contour may be placed on the lower solid bench;

(iii) The gravity transport points are determined on a site specific basis by the regulatory authority; to minimize hazards to health and safety and to ensure that damage will be minimized should spoil accidently move downslope of the lower bench;

(iv) The excess spoil is placed only on solid portions of the lower pre-existing bench;

(v) All excess spoil on the lower solid bench, including that spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess spoil on the lower solid bench shall consist of placing the excess spoil in horizontal lifts in a controlled manner, concurrently compacting as necessary to ensure mass stability and prevent mass movement and covering and grading to allow surface and subsurface drainage to be compatible with the natural surroundings and ensure a long term static safety factor of 1.3.

(vi) A safety berm is constructed on the lower bench of sufficient height, width and length to prevent any spoil from moving over the lower bench to the downslope following end-dumping (movement of excess spoil over the immediate lower bench either downslope or to another bench would be a violation of 30 CFR 716.2(a)(1)) and the safety berm is removed by the operator during final grading operations;

(vii) The area of the lower bench used to facilitate the disposal of excess spoil is considered an affected area and, as such, is subject to all requirements of the regulations, including, but not limited to, topsoil handling, hydrologic, revegetation and coal processing wastes requirements.

Part 816—30 CFR 816.71 is proposed to be amended as follows:

Part 816: Permanent Program Performance Standards: Surface Mining Activities

§ 816.71—Disposal of Excess Spoil: General Requirements

(a)–(n) * * *

(o) Disposal of excess spoil from an upper actively mined bench to a lower pre-existing bench by means of gravity transport is permitted provided that:

(1) the operator receives the approval of the regulatory authority; and

(2) the following conditions and performance standards in addition to the Environmental Performance Standards of this part are met:

(A) the highwall of the lower bench intersects (meets) the upper actively mined bench with no natural slope between them;

(B) only spoil in excess of that necessary to eliminate the highwall and return the upper actively mined bench to the approximate original contour may be placed on the lower solid bench;

(C) the gravity transport points are determined on a site specific basis by the regulatory authority to minimize hazards to health and safety and ensure that damage will be minimized should spoil accidently move downslope of the lower bench.

(D) the excess spoil is placed only on the solid portions of the lower pre-existing bench;

(E) all excess spoil on the lower solid bench, including that spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess spoil on the lower solid bench shall consist of placing the excess spoil in horizontal lifts in a controlled manner, concurrently compacting as necessary to ensure mass stability and prevent mass movement and covering and grading to allow surface and subsurface drainage to be compatible with the natural surroundings and ensure a long term static safety factor of 1.3.

(F) a safety berm is constructed on the lower bench of sufficient height, width and length to prevent spoil from moving over the lower bench to the downslope following end-dumping (movement of excess spoil over the immediate lower bench either downslope or to another bench would be a violation of 30 CFR 826.12(a)(i)) and the safety berm is removed by the operator during final grading operations;

(G) the area of the lower bench used to facilitate the disposal of excess spoil is considered an affected area and, as such, to be is subject to all requirements of the regulations, including, but not limited to, topsoil handling, hydrologic, revegetation and coal processing wastes requirements.

Part 817—30 CFR 817.71 is proposed to be amended as follows:

Part 817: Permanent Program Performance Standards: Surface Mining Activities

§ 817.71—Disposal of Underground Development Waste and Excess Spoil: General Requirements

(a)–(n) * * *

(o) Disposal of underground development waste and excess spoil from a bench from which a portal has been constructed to a lower pre-existing bench by means of gravity transport is permitted provided that:

(1) The operator receives the approval of the regulatory authority; and

(2) The following conditions and performance standards in addition to the Enivronmental Performance Standards of this part are met:

(A) The highwall of the lower bench intersects (meets) the upper bench from which a portal has been constructed with no natural slope between them;

(B) Only underground development waste and spoil in excess of that necessary to eliminate the highwall and return the upper bench to the approximate original contour may be placed on the lower solid bench;

(C) The gravity transport points are determined on a site specific basis by the regulatory authority to minimize hazards to health and safety and insure that damage will be minimized should spoil accidentally move downslope of the lower solid bench.

as a result of a proposed rule amending of the regulations will result operation may only occur in remining of

(D) The underground development waste and excess spoil is placed only on solid portions of the lower pre-existing bench;

(E) All underground development waste and excess spoil on the lower solid bench, including that spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess material on the lower solid bench shall consist of placing the excess material in horizontal lifts in a controlled manner, concurrently compacting as necessary to ensure mass stability and prevent mass movement and covering and grading to allow surface and subsurface drainage to be compatible with the natural surroundings and ensure a long term static safety factor of 1.3.

(F) A safety berm is constructed on the lower bench of sufficient height, width and length to prevent any material from moving over the lower bench to the downslope following end-dumping (movement of spoil over the immediate lower bench either downslope or to another bench would be a violation of 30 CFR 826.12(a)(i)) and the safety berm is removed by the operator during final grading operations;

(G) The area of the lower bench used to facilitate the disposal of underground development waste and excess spoil is considered an affected area and, as such, to be is subject to all requirements of the regulations, including, but not limited to, topsoil handling, hydrologic, revegetation and coal processing waste requirements.

Hearing and Comment Procedures

The hearing site was selected on the basis of its proximity to the mining area most likely to be impacted by the proposed rule change.

Individual testimony at this hearing will be limited to 15 minutes. The hearing will be transcribed. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions that could be asked to clarify the statement of, or to request more specific information from, the person testifying. Persons seeking further information or wishing to speak at the hearing should contact Raymond E. Aufmuth at (202) 343-4022. Persons wishing to speak who have not contacted Mr. Aufmuth will be heard following the scheduled speakers. Written and oral comments should be as specific as possible. OSM will appreciate any and all comments. The most useful comments, however, are those that are supported by discussion of the Act, the legislative history and pertinent technical literature.

Dated: August 1, 1980.

Charles P. Eddy,

Acting Assistant Secretary, Energy and Minerals.

Environmental Assessment

The proposed action would amend the interim and permanent regulatory program of the Surface Mining Control and Reclamation Act of 1977 ("Act"). The Act provides that issuance of regulations as part of the interim regulatory program shall not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act. 30 USC § 1251(a). Therefore, only the impacts of amendments to the permanent regulatory program will be analyzed. The proposed regulations would apply to remining operations and would permit gravity transport of material from one bench to another, provided the highwall of the lower bench intersects the upper bench. The permanent program regulations were published at 44 FR 15312 *et seq.* (March 13, 1979). A programmatic environmental impact statement (OSM-EIS-1) was prepared which addressed the environmental impact of the permanent regulatory program.

This EA analyzes the proposed regulations to determine if any significant effects on the human environment result. The environmental impacts of an alternative is also analyzed.

Proposed Action

OSM proposes to amend the permanent regulatory program to include regulations applicable to remining operations permitting gravity transport of material from an upper bench to an existing lower bench. Use of this method would be restricted to situations where the highwall of the existing lower bench intersects the upper bench. The proposed regulations would include provisions requiring construction of a berm on the lower bench to prevent spoil movement off the bench and rehandling of the material on the lower bench to assure stability.

Gravity transport methods are not directly analyzed in the programmatic EIS, but the general subject of spoil disposal, of which gravity transport is one method, is analyzed at BIII-11-14. The existing regulations require backfilling and grading mined land to restore the approximate original contour (AOC), including the elimination of highwalls, and prohibit disposal of spoil on the downslope. The present regulations apply to mining operations after passage of the Act. The proposed regulations would apply to remining operations where an operator makes a new bench cut above benches existing prior to the date of the Act. The operator is not required to reclaim those existing benches. The proposed rules would encourage reclamation of existing benches by allowing the operator to gravity dump the excess spoil from an upper bench on to a lower existing bench under certain circumstances.

Alternatives

1. No action.
2. Amend the regulations to allow gravity transport of material from an upper bench to a lower existing bench.

Discussion of Alternatives

1. No action. The alternative of taking no action will result in application of the regulations as they are now promulgated. The environmental impacts of this alternative have been adequately addressed in the Environmental Impact Statement developed for the permanent program regulations, primarily at B-III-11-12, 39-41 and 60-61 (Final Environmental Impact Statement, OSM-EIS-1).

As analyzed in the programmatic EIS, the impacts of the current regulations are primarily beneficial, consisting of improved postmining productive capacity and soil quality, reduction in disturbed area for fills and minimization of contributions of sediment and dissolved solids to the prevailing hydrologic system.

2. Amend the regulations to allow controlled gravity transport of material from an upper actively mined bench to an existing lower bench. This alternative would preserve the beneficial impacts of the present regulations, since the requirement to build a berm would prevent soil movement off the bench and prevent contributions of sediment to the hydrologic system, while spoil rehandling requirements, including compaction and regrading, would assure stability of the bench and decrease the erosivity of the material to prevent additional contributions of sediment and dissolved solids to the hydrologic system. Additional significant benefits are the elimination of orphaned highwalls and benches in areas of remining.

Finding of No Significant Impact

The environmental assessment prepared by OSM identifies environmental impacts that would occur as a result of a proposed rule modification to the permanent regulatory program. A previous environmental impact statement (OSM-EIS-1) was prepared which identified and discussed the impact of that program. In particular, the impacts of the proposed regulations and alternatives within the scope of the programmatic EIS.

The environmental impacts of the proposed rule modification are minimal in degree and their individual and cumulative impacts would not be significant.

Based on the discussion of impacts in the environmental assessment, I have concluded that the proposed rulemaking will result in no significant impact on the human environment not already identified and discussed in the programmatic environmental impact statement and that another environmental impact statement is therefore not required.

Dated: July 29, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

Approved: August 1, 1980.

Charles P. Eddy,

Acting Assistant Secretary, Energy and Minerals.

Determination of Significance for Proposed Rule on Gravity Transport Method

The Office of Surface Mining (OSM) proposes to amend the internal and permanent regulatory program to include a regulation to permit gravity transport of material from an upper bench to an existing lower bench. Use of this method would be limited to situations where the highwall of the lower existing bench and the upper bench intersect. Use of this method would not be allowed on the downslope.

I have concluded, based on a review of the criteria for determining significance, that the proposed rule will not be significant and does not require the preparation of a regulatory analysis.

Criteria for Significance

1. *The proposed rule will not have a major and national or regionwide impact on State or local governments.* 43 CFR 14.3(c)(1).

The proposed rule will have no effect on interstate relations, relations between State and local governments, internal organizations of State and local governments, personnel practices of State and local governments, the role and functions of heads of State and local governments, or eligibility criteria for Federal financial assistance. The amending of the regulations will result in additional work for the operator and the regulatory authority in terms of the permit application and reclamation plan. The operator will have to identify the disposal method, berm construction, etc. which will have to be reviewed by the RA. However, this will be generally offset because the operator will not have to permit additional area for a fill, nor will he have to have this fill structure designed and certified. The RA will not have to review the fill design which generally will be more complex than disposal on a bench. For these reasons, this proposed amendment will not have a major impact on State or local governments.

2. *The proposed rule will impose no major new recordkeeping or reporting requirements on individuals, businesses, organizations or State or local governments.* 43 CFR 14.4(c)(2).

The proposed rule does not impose any new recordkeeping or reporting requirements because it does not impact the recordkeeping portions of the regulatory program.

3. *The proposed rule does not constitute a major Federal action for which an environmental impact statement is required.* 43 CFR 14.3(c)(3).

An environmental assessment has been prepared which found that the proposed rule will not have a significant effect on the quality of the human environment so as to require the preparation of an environmental impact statement. The environmental assessment is on file in the administrative record for this rulemaking.

4. *The proposed rule would not have a major impact on other programs of the Department, other Federal agencies or the allocation of Federal funds.* 45 CFR 14.3(c)(4). The proposed rulemaking does not involve allocation of Federal funds by the Office of Surface Mining.

The proposed rule affects only the programs of the Office of Surface Mining and does not affect other Federal agencies or impact on the allocation of Federal funds.

5. *The proposed rule is not likely to have a substantial economic effect on the entire economy or on an individual region, industry or level of government.* 43 CFR 14.3(c)(5).

The proposed rule does not make any substantial change in the present regulatory program. The economic impact on coal operators would be reduced as the rule may provide a cheaper method of moving excess spoil material from one bench to another. However, the number of operations impacted is small since this type of operation may only occur in remining of areas mined prior to August 3, 1977.

Dated: July 29, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

Approved: August 1, 1980.

Charles P. Eddy,

Acting Assistant Secretary, Energy and Minerals.

[FR Doc. 80-24128 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 6 and 35

[FRL 1557-5]

Municipal Wastewater Treatment Works; Construction Grant Requirements Provided by Section 316 of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance of proposed rulemaking invites public participation in the revision of Environmental Protection Agency (EPA) regulations implementing the municipal wastewater treatment works construction grants program and/or the National Environmental Policy Act (NEPA) to include additional provisions clarifying the requirements under section 316 of the Clean Air Act, as amended (Pub. L. No. 95-95). The Clean Air Act requires each state to develop a state implementation plan (SIP) to attain and maintain each national ambient air quality standard (NAAQS) and to prevent significant deterioration of air quality. Section 316 allows the Administrator of EPA to withhold, condition or restrict municipal wastewater treatment works construction grants funded under section 201 of the Clean Water Act (Pub. L. No. 95-217) in areas where the SIP has not been approved or conditionally approved, is not being implemented, or does not provide for the increased air pollution emissions resulting directly or indirectly from the proposed treatment works. EPA requests, by this notice, recommendations of any revisions to its regulations that are needed to better cary out the requirements of section 316.

DATE: .Comments on this advance notice of proposed rulemaking must be received on or before October 10, 1980.

ADDRESS: Comments should be sent to: Roger Rihm, Office of Water Program Operations (WH–595), Environmental Protection Agency, 401 M Street, S.W., Room 1139, East Tower, Washington, D.C. 20260.

All comments received will be available for examination by any interested person at the above address.

FOR FURTHER INFORMATION CONTACT: Cary B. Hinton, Office of Transportation and Land Use Policy (ANR–445), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755–0570; or Roger Rihm, Office of Water Program Operations (WH–595), , Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755–8056.

SUPPLEMENTARY INFORMATION:

I. Background

EPA announces elsewhere in today's **Federal Register** the final policy and procedures for determining whether any limitations on federal assistance for the construction of sewage treatment works under the Clean Water Act (33 U.S.C. 1251 et seq.) are necessary to implement section 316 of the Clean Air Act (42 U.S.C. 7616).

The basic elements of the section 316 policy include:

A. Assuring compliance of new sewage treatment works with the new source performance standards and the national emission standards for hazardous air pollutants.

B. Withholding construction grants in areas where states have not made good faith efforts to submit or carry out a SIP revision.

C. Reconciling population projections used for air and water quality planning to ensure that SIPs provide an accurate accounting of the increased indirect emissions associated with new sewage treatment capacity

D. Withholding portions of construction grants for major growth-related projects in attainment areas, based upon case-by-case determinations by the EPA Regional Administrators in the following situations:

—Where the emissions associated with the project will contribute to the violation of any NAAQS.

—Where the SIP and water quality planning population projections are inconsistent.

Portions of the grants that fund increased capacity will be withheld until the governor is notified of the need to accommodate any unaccounted emissions in a SIP revision or the grant applicant adopts a mitigation program.

E. Consulting with adjacent states to prevent the increased emissions associated with new sewage treatment capacity from interfering or being inconsistent with any other SIP.

II. Request for Comments

EPA solicits comments on whether the municipal wastewater treatment works construction grants regulations (40 CFR 35 et seq.) and/or the regulations to implement NEPA (40 CFR 6 et seq.) should be revised to better inform grant applicants of their responsibilities and facilitate EPA's implementation of the section 316 policy.

The municipal wastewater treatment works construction grants regulations (40 CFR 35.925–14) stipulate that sewage treatment works must "comply with all pertinent requirements of applicable federal, state and local environmental laws and regulations (. . . and the Clean Air Act)." The municipal wastwater treatment works construction grants program's cost-effectiveness analysis guidelines (40 CFR 35 App. A) require that the new treatment works' "potential secondary environmental effects" should be assessed to ensure "that air quality standards will not be violated." Both the cost-effectiveness guidelines and the construction grants regulations (40 CFR 30.405–1 and 35.925–8) require a grantee to prepare an adequate environmental assessment, in compliance with EPA's NEPA regulations (44 FR 64174–64193), before any award of step 2 (facility design) or step 3 (facility construction) grant assistance.

The EPA regulations implementing NEPA (40 CFR 6.506, 6.507, and 6.203) require that the environmental assessment prepared during the step 1 (facility planning) phase, and any subsequent environmental impact statement (EIS), will document the treatment works' effect upon local ambient air quality caused by direct emissions from the treatment works or indirect emissions from induced development. These regulations (40 CFR 6.507) also provide that the environmental assessment and the EIS will describe the steps that have been taken to mitigate or eliminate any significant adverse air quality effects from the constuction and operation of the treatment works. The NEPA regulations (40 CFR 6.509) provide that a step 2 or step 3 grant shall not be awarded, if the grant applicant has not made, or agreed to make, pertinent changes in the project to mitigate or eliminate the significant adverse air quality effects. Moreover, the step 2 or step 3 grant award may be conditioned to ensure that the grantee will comply, or seek to obtain compliance, with the mitigation requirements.

The NEPA regulations (40 CFR 6.505 and 6.303) also establish procedures to ensure that sewage treatment works, that may significantly affect air quality, will conform to the requirements of an approved or promulgated SIP. These procedures provide an opportunity for state and local air quality agencies to concur or nonconcur with a grantee's demonstration of conformity with the SIP. In addition, they provide that EPA will ensure the conformity of the treatment works with the SIP in the finding of no significant impact or the final EIS.

Recommendations are requested by EPA on what revisions are needed to its regulations to include provision for the section 316 requirements. This may include clarification of grant applicants' responsibilities to:

A. Assess the sewage treatment works' impact on air quality;

B. Mitigate increased direct and indirect emissions; and

C. Ensure conformity with the SIP.

III. Public Participation in Rulemaking

Extensive public participation is planned thoughout the rulemaking process. Public participation activities will be undertaken in accordance with the requirements pursuant to the Clear Water Act (40 CFR 25 et seq.) and the municipal wastewater treatment works construction grants program (40 CFR 35.917–5). In addition to publication, this notice will be distributed to national interest groups and state and local government. Comments on the section 316 requirements are invited throughout the rulemaking process.

Two public hearings are planned after the proposed regulation(s) is published in the **Federal Register.** These will be held in San Francisco, CA, and Washington, D.C. Notice of the hearings will be widely distributed, along with background on the proposals. Upon request, EPA staff will be available to consult with interested parties on this rulemaking.

IV. Authority

This advance notice of proposed rulemaking is issued under the authority of section 301(a)(1) and section 316(b) of the Clean Air Act, as amended [42 U.S.C. 7601(a)(1) and 7616(b)]; section 201(g)(1) of the Clean Water Act [33 U.S.C. 1251(g)(1)]; the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); and the Council on Environmental Quality regulations to

implement the procedural requirements of NEPA (40 CFR 1500–1508).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations as "specialized." I have reviewed this rulemaking and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

August 4, 1980.

[FR Doc. 80–24006 Filed 8–8–80; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 460 and 461

PSRO Area Designations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed regulation.

SUMMARY: HCFA proposes to amend the regulations establishing guidelines for the designation of Professional Standards Review Organization (PSRO) areas. PSRO's are non-profit physician review organizations funded, for a particular geographic area, to review the medical necessity, appropriateness, and quality of health care services provided to Medicare, Medicaid, and Maternal and Child Health patients. The proposed changes will allow the Administrator to redesignate PSRO areas for the purpose of increased efficiency in PSRO operations. In addition, HCFA proposes to remove from the regulations the State and County specific PSRO area descriptions and to publish these in the future by notice in the **Federal Register.** Finally, obsolete sections of the Professional Standards Review regulations will be deleted.

DATE: Consideration will be given to comments or suggestions received on or before October 10, 1980.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17082, Baltimore, MD 21235.

In commenting, please refer to HSQ–71P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G Humbert H. Humphrey Bldg., 200 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to the rule.

FOR FURTHER INFORMATION CONTACT: Marjorie Geller, 301/594–5033.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services has broad discretion to establish the boundaries of PSRO area under the Social Security Act. Section 1152(a) of the Social Security Act provides that the Secretary shall establish "appropriate areas with respect to which Professional Standards Review Organizations may be designated." Under this authority the Secretary has published regulations incorporating the criteria to be considered in developing areas (42 CFR 460.2).

The legislative history of the PSRO program exhibits a marked congressional preference for local sponsorship and operation of PSROs. In recognition of this preference, the Department developed area designation criteria designed to encourage the development of independent, local review organizations. Although this policy permitted such development, it also resulted in numerous small PSROs, some of which have lacked sufficient volume of review in order to operate in an efficient, cost effective manner. In many States, local peer review responsibility and active physician participation could be maintained with fewer PSRO areas. The consolidation of some smaller PSRO areas offers the potential for substantial administrative cost savings and improvements in the overall operational efficiency and economy of the PSRO program.

According to the statute, a PSRO must be "capable of performing, in an effective * * * manner and at reasonable cost" its "duties, functions, and activities." We believe this provision permits the designation or redesignation at a reasonable cost not merely with respect to an individual PSRO area but also considering national program effectiveness and costs.

HCFA also proposes to remove from the regulations the area specific State and County designation descriptions and to publish future changes in notice form. This will administratively simplify the redesignation process by eliminating the need for formal rule changes to alter the area designation descriptions. Although area designations will no longer appear in the *Code of Federal Regulations,* they will be maintained on file at HCFA and be available for public inspection. Notice procedures will also provide for a public comment period before any final changes in area designations are made.

Finally, HCFA is making changes to increase the clarity of these regulations and eliminate obsolete provisions. The obsolete provisions include all of Part 461—Notification and Polling of Physicians, which applies only in the case of agreements entered into prior to January 1, 1978. Since compliance with these provisions is now complete, Part 461 is no longer of general applicability and future effect and should be deleted from the *Code of Federal Regulations.*

42 CFR Chapter IV is amended as set forth below:

1. Part 460 is amended by revising the table of contents, revising §§ 460.1 and 460.2, to read as set forth below and deleting §§ 460.2a thru 460.56:

PART 460—PSRO AREA DESIGNATIONS

Sec.

460.1 Definitions.
460.2 Guidelines for designation of areas.

§ 460.1 Definitions.

As used in this part:

(a) "Act" means the Social Security Act, as amended, (42 U.S.C. Chapter 7).

(b) "Administrator" means the Administrator of the Health Care Financing Administration and any other officer or employee of the Health Care Financing Administration to whom the authority involved may be delegated.

(c) "Physician" means a licensed doctor of medicine or osteopathy.

(d) "PSRO" means Professional Standards Review Organization.

(e) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(f) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands.

§ 460.2 Guidelines for designation of areas.

(a) *General requirements.* The Administrator will:

(1) Designate appropriate areas for which Professional Standards Review Organizations may be designated; and

(2) From time to time, review the area designations and revise those that, in his judgment, need revision.

(b) *Specific guidelines.* In designating areas or revising the designations, the Administrator will take into consideration the following factors:

(1) Political boundaries;

(2) Existing medical review organizations and health planning organization;

(3) Medical service patterns as exemplified by the location of existing medical centers and natural geographic barriers;

(4) Representation and distribution of medical specialties;

(5) Coordination with Medicare and Medicaid fiscal agents;

(6) Operational efficiency and cost-effectiveness.

(c) *Application of guidelines.* If more than one possible designation in a particular geographic area is equally consistent with the guidelines, the Administrator will determine the designations most likely to result in effective review at reasonable cost.

2. Part 461 is vacated and reserved.

(Sections 1102 and 1152 of the Social Security Act 42 U.S.C. 1302 and 1320c-1)

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program;
No. 13.773—Medicare-Hospital Assurance;
No. 13.774—Medicare-Supplementary Medical Assurance)

Dated: June 6, 1980.

Earl M. Collier Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: July 28, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-24132 Filed 8-8-80; 8:45 am]

BILLING CODE 4110-36-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1080

[Ex Parte No. 364 (Sub-1)]

Freight Forwarder Contract Rates—Implementation of Pub. L. 96-296

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to modify existing rules to allow the filing of contract rates between freight forwarders and rail and water carriers. Other editorial changes to the rules are proposed both to comport with other legislated changes and to eliminate obsolete provisions.

DATE: An original and 15 copies of comments are due September 10, 1980.

ADDRESS: Send comments to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall, (202) 275-7693

SUPPLEMENTARY INFORMATION:

Background

In our Notice of Proposed Change of Policy served June 7, 1979, in the lead proceeding, Ex Parte No. 364, *Railroad Freight Forwarder Contract Rates,* we proposed to issue a general policy statement permitting railroads to file, in tariff form, contract rates with freight forwarders. In Ex Parte No. 358-F, Change of Policy—Railroad Contract Rates, we had announced that railroad contract rates with shippers would be examined on an individual basis and, where lawful, be permitted to become effective. Our Ex Parte No. 358 policy statement deferred a decision on whether to permit railroads to publish contract rates with freight forwarders. The Commission had in the past found that these rates were prohibited by the Interstate Commerce Act and we were not prepared to re-examine that holding in Ex Parte No. 358.

In the lead proceeding, an amendment to 49 CFR 1039.1 was proposed to make our railroad-shipper contract rate rules applicable to these contracts.

The major issue raised in our Notice was our jurisdiction to permit these rail freight forwarder contract rates. This issue has been mooted by enactment, in Pub. L. 96-296, of new section 10703(a)(4)(E). That section specifically authorizes freight forwarder contracts with rail and water carriers.

Section 22 of Pub. L. 96-296 and the pertinent legislative history make it clear that, for the purposes of contract rates, freight forwarders are to be treated as common carriers. The legislative history states:

> This provision would enable freight forwarders to enter into contracts with other common carriers, including rail carriers for transportation services. The contracts contemplated by this section would be negotiated arrangements between common carriers relative to a mutual understanding. The contracts would be subject to rules promulgated by the Commission. Such rules should take into consideration that freight forwarders are common carriers. This provision is meant to foster intermodal transportation [1] * * *.

Our prior notice is the lead proceeding approached the issue differently. Basically, it treated freight forwarders as shippers. The Ex Parte No. 358 standards proposed to be applicable concern carrier-shipper relationships and related statutory requirements (e.g., common carrier obligation, discrimination among shippers). Thus, our prior approach was inconsistent with the new statute's direction and the comments, as well, reflected issues of carrier-shipper instead of carrier-carrier relationships.

[1] H.R. Rep. No. 96-1069, 96th Congress, 2d Session, p. 35 (1980).

Explanation of Proposed Rule Changes

A. Rail and Water Contracts

49 CFR 1080 contains rules for the filing of freight forwarder contracts with motor carriers under Section 10766 (b) (former section 409). We propose to implement new Section 10703(a)(4)(E) by extending these rules to freight forwarder contracts with rail and water carriers. These rules govern the filing of these contracts. Contracts with rail and water carriers will be subject to the same standards of lawfulness as are now used to judge motor carrier Section 10766(b) contracts.

We recognize that certain aspects of the current rules (e.g., public inspection of contracts under § 1080.6) may be objectionable to freight forwarders. The changes proposed in this notice should not be interpreted as a barrier to a future reassessment of these provisions. However, Pub. L. 96-296 provides a 180-day timetable for implementing new Section 10703(a)(4)(E). We believe it appropriate to separate these technical amendments necessary to implement the new legislation from consideration of substantive amendments of a much more controversial nature. Accordingly, following completion of this proceeding, we will, if asked, undertake further review of the impact of these rules.

B. Motor Contracts

Section 10(d) of Pub. L. 96-296 also makes a change in the standards for contracts with motor carriers. The prior requirement that contracts for truckload line haul transportation of more than 450 miles may not be at rates less than the underlying motor carrier rates is deleted. (See new Section 10766(b) of the Act). Accordingly, 49 CFR 1080.2(c) will be amended to delete reference to this prior restriction.

Section 10(d) (new Section 10766(b) of the Act) also permits freight forwarders to contract with motor contract carriers. We will amend the rules to include this added option.

C. Elimination of Other Obsolete Provisions

49 CFR 1080.5 was adopted to legitimize contracts entered into prior to September 20, 1951. We see no present need to maintain this rule. We also propose to eliminate unnecessary, legalistic language from all of Part 1080.

Proposed Rules

In addition to amending the title of Part 1080 to read: "Contracts, Forwarders—Motor Common and Contract Carriers, Rail and Water Common Carriers," 49 CFR Part 1080 is proposed to be revised as follows:

PART 1080—CONTRACTS, FORWARDERS—MOTOR COMMON AND CONTRACT CARRIERS, RAIL AND WATER COMMON CARRIERS

Sec.

1080.1 Filing.
1080.2 Specifications.
1080.3 Amendments.
1080.4 Timing of filing and notice of termination.
1080.5 Public inspection.

Authority: 49 U.S.C. 10321, 10703(a)(4)(E), 10749, and 10766(b), 5 U.S.C. 553.

§ 1080.1 Filing.

All contracts and amendments between freight forwarders and motor, rail, and water common carriers and motor contract carriers entered into under 49 U.S.C. 10766(b) or 49 U.S.C. 10703(a)(4)(E) shall be in writing. The freight forwarder must file 2 copies of all these contracts with the Interstate Commerce Commission.

§ 1080.2 Specifications.

Contracts shall show:

(a) In the upper right-hand corner, a number in the consecutive series of the forwarder;

(b) The full name and address of each party to the contract, and the ICC number, omitting subnumbers, identifying the operating authority of each;

(c) A description of the transportation and any other services to be performed by the motor, rail, or water carrier; the points or area where the service will be performed; the compensation (set forth in dollars or cents per unit of weight or other measure, or as a specific percentage of the otherwise applicable motor, rail, water, or freight forwarder charge. If the latter method is used, the contract must cite the governing tariff either by ICC number or by ICC Alpha Code designation);

(d) The effective date of the contract; and

(e) All other terms and conditions agreed upon between the parties to the contract.

§ 1080.3 Amendments.

Amendments to contracts shall show their effective dates, and indicate all superseded provisions. They shall reflect the same series number as the original contract and be consecutively numbered.

§ 1080.4 Timing of filing and notice of termination.

Contracts, amendments, and termination notices shall be filed within 10 days after their effective dates. If a new contract, rather than an amendment, is filed, it shall specifically cancel the old contract. If names of parties are changed but the contract is to be continued, a new contract showing the names of the new parties or a document adopting the old contract and reflecting the new names shall be filed within 30 days.

§ 1080.5 Public inspection.

All contracts and amendments filed with the Commission under the rules and regulations of this part shall be open to public inspection.

Conclusion

Comments, limited to the rule changes proposed in this notice and their environmental and energy impact, if any, are invited.

Authority: 49 U.S.C. 10321, 10703(a)(4)(E), 10749, and 10766(b), 5 U.S.C. 553.

Decided: July 31, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24132 Filed 8-8-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

extension of time is granted by the Deputy

Space Flight Center, Marshall Space

National Bureau of Standards

Notices

Federal Register
Vol. 45, No. 156
Monday, August 11, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Cummission will convene at 7:30 p.m. and will end at 9:30 p.m., on September 12, 1980, at the Holiday Inn at the Wharf, 1355 North Harbor Drive, San Diego, California, 92101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 3660 Willshire Blvd., Suite 810, Los Angeles, California 90010.

The purpose of this meeting is to finalize the Communications Subcommittee project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 5, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24108 Filed 8-8-80; 8:45 am]

BILLING CODE 6335-01-M

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 3:30 p.m., on September 13, 1980, at the Holiday Inn at the Wharf, 1355 North Harbor Drive, San Diego, California, 92101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 3660 Wilshire Blvd., Suite 810, Los Angeles, California, 90010.

The purpose of this meeting is to review subcommittee reports of their respective projects and preparation for SAC Chairpersons Conference in Washington, D.C.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 5, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24109 Filed 8-8-80; 8:45 am]

BILLING CODE 6335-01-M

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 1:30 p.m. and will end at 5:00 p.m., on September 15, 1980, at the First National Bank Building, 1620 Dodge, Suite 2100, Omaha, Nebraska.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Rm. 3103, 911 Walnut Street, Kansas City, Missouri, 64106.

The purpose of this meeting is to discuss program planning for FY 1981.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 4, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24110 Filed 8-8-80; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m., on September 27, 1980, at the Imperial, 400 Motel, 125 Main Street, Rapid City, South Dakota, 57701.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado, 80202.

The purpose of this meeting is to review the subcommittee's project on political participation.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 4, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24111 Filed 8-8-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

"The applicant shall *on or before the 20th* day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.

* * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11." (Emphasis added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates *within the 20-day* period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above; therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

"* * * the Deputy Assistant secretary shall transmit a summary of the prior denial without prejudice to resubmission to the **Federal Register** for publication, to the Commissioner of Customs, and to the applicant."

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No.: 79-00094. Applicant: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812. Article: Data Display System and Accessories. Date of denial without prejudice to resubmission: June 1, 1979.

Docket No.: 79-00095. Applicant: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812. Article: High Rate Multiplexer Interface Simulator. Date of denial without prejudice to resubmission: August 3, 1979.

Docket No.: 79-00096. Applicant: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812. Article: SDF and Level IV CDMS Simulator and Accessories. Date of denial without prejudice to resubmission: August 3, 1979.

Docket No.: 79-00098. Applicant: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812. Article: Mitra 125 S Computer and Accessories. Date of denial without prejudice to resubmission: August 28, 1979.

Docket No.: 79-00367. Applicant: U.S. Department of the Interior—U.S. Geologial Survey, Topographic Division, 12201 Sunrise Valley Drive, Mail Stop 526, Reston, Virginia 22092. Article: Accessories to the Kern PG-2 Stereoplotter consisting of (7) each Earth Curvature Correction Devices and L-type Pantographs. Date of denial without prejudice to resubmission: January 11, 1980.

Docket No.: 79-00393. Applicant: University of California at Los Angeles, Purchasing Department, Los Angeles, California 90024. Article: Scanning Tandem Fabry-Perot Interferometer. Date of denial without prejudice to resubmission: January 29, 1980.

Docket No.: 79-00419. Applicant: The Pennsylvania State University, Department of Chemistry, Whitmore Laboratory, University Park, PA 16802. Article: NMR Spectrometer System, Model WP-200 with Aspect 2000-i Data System and Accessories. Date of denial without prejudice to resubmission: January 18, 1980.

Docket No.: 79-00439. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. Article: LKB ultrotome IV 2128-010 Ultramicrotome and Accessories. Date of denial without prejudice to resubmission: March 3, 1980.

Docket No.: 79-00062. Applicant: NOAA—National Ocean Survey, Engineering Development Lab., 6501 Lafayette Avenue, Riverdale, MD 20840. Article: Current/Depth Measurement System. Date of denial without prejudice to resubmission: January 16, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer, Ph.D.,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-24104 Filed 8-8-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Changes Pertaining to the Interface Standards Exclusion List

In a notice published in the **Federal Register** on March 19, 1979 (44 FR 16466), the National Bureau of Standards announced the exclusion criteria and procedures for maintaining an exclusion list pertaining to Federal Information Processing Standards Publication 60, I/O Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; and Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems. The exclusion list also pertains to Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems, approval of which by the Secretary of Commerce was announced in the **Federal Register** on August 27, 1979 (44 FR 50078). The March 19, 1979, notice stated that once the exclusion list was established, interested parties would be invited to submit to the Director, Institute for Computer Sciences and Technology (ICST), comments or recommendations regarding that list, and that notice of any proposed changes in the exclusion list would be published in the **Federal Register.** Comments specifically identifying candidate systems which should be added to or removed from the exclusion list are especially encouraged.

By notice published in the **Federal Register** on July 29, 1980 (45 FR 50377), NBS announced the latest changes to the exclusion list.

As a result of a review and analysis of comments and recommendations received recently, NBS is proposing the following additions to and removals from the exclusion list:

Manufacturer and Model	
Additions:	
CDC	Cyber 18 System
Honeywell	Series 60 Level 64 DPS 330
ICL, Inc.	ME29/35
Sperry Univac	System 80 Model 3
Sperry Univac	System 80 Model 5
Removals:	
CDC	Cyber 18-10 (now included in Cyber 18 system being added)
CDC	Cyber 18-20 (now included in Cyber 18 system being added)
CDC	Cyber 18-30 (now included in Cyber 18 system being added)
CDC	1700
CDC	1700-SC
Honeywell	Series 60 Level 64 DPS 320

Interested parties will be allowed until September 25, 1980 to submit written comments regarding the proposed changes. Such written comments should be submitted to the

Director, ICST, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Following review of comments received in response to this notice, NBS will make a determination on the proposed changes and will announce that determination in a subsequent notice published in the **Federal Register**.

NBS is maintaining a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments in response to this notice.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: August 5, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-24088 Filed 8-8-80; 8:45 am]

BILLING CODE 3510-13-M

Verification Procedures for Advanced Data Communications Control Procedures Federal Information Processing Standard

On May 14, 1980, notice was given in the **Federal Register** [45 FR 31769–31770) that the Secretary of Commerce had approved the standard for Advanced Data Communications Control Procedures as a Federal Information Processing Standard (FIPS) and that the standard would be published as FIPS Publication 71. This standard includes provision for vertification of conformance to be made by demonstration or other means acceptable to the Government prior to acceptance of equipment or services that are required to conform.

The National Bureau of Standards (NBS) intends to provide a verification service for this standard that is expected to result in conforming equipment and services being placed on a list to be maintained and distributed by NBS for use in Federal Automatic Data Processing procurement.

The verfication service will provide for review of documentation which has been provided to NBS for its permanent retention along with a suitable statement from the supplier that it has evaluated its equipment or service and believes it to be in conformance with FIPS 71, against which the documentation is to be reviewed. Any supplier desiring to initiate such a review must make a request indentifying the equipment or service and providing the documentation. The Government will provide, within 30 days, as estimate of the costs which will be incurred to perform the review. If the costs are subsequently authorized by the supplier, the review will be performed on a fully reimbursable basis.

For each review requested, a determination in one of the following categories will result:

I. The documentation provided has been compared to the standard and no significant deviations have been identified. The equipment or service described will be included on the verification list maintained by NBS. Any subsequent indication, based on attempts to use equipment or service actually delivered or to test that equipment or service with suitable instrumentation, that the equipment or service does not conform to the standard will result in removal from the verification list.

II. Review of the documentation provided shows significant deviations from the standard. In this case, the nature of such deviations will be summarized with specific details provided.

III. Inadequate documentation has been provided to complete the review.

The result of each review will be reported to the supplier submitting the documentation and to appropriate Federal agencies, and will be publicly available.

The general policy for test procedures is specified in Part 200 of Title 15, Code of Federal Regulations, and in the publication "Calibration and Test Services of the National Bureau of Standards" (NBS Special Publication 250). Procedures for formally requesting services, and use of a certificate are included. Specific instructions for a manufacturer desiring a formal review are provided below.

NBS does not approve, recommend, or endorse any commercial product. NBS in no way guarantees that equipment or services for which documentation has been reviewed conforms to the standard. However, a manufacturer may certify that equipment or services bearing the same identification as that reviewed by NBS, for which no significant deviations were identified, does conform to the standard. Such a claim will make the equipment or service eligible for procurement and use by Government agencies. However, no express or implied agreement for such procurement can be made by NBS.

In accordance with Federal law (15 U.S.C. 275a), fees are chargeable for services performed by the National Bureau of Standards. Fees will include the cost of labor, materials, and contractor support (if needed) used in performing the review and in issuing a validation certificate. NBS labor costs will include administrative and engineering personnel participating in the review; labor rates will be determined by the cost of the personnel, including applicable overhead. Material costs will be actual costs to NBS. Travel costs, when necessary, will be actual costs to NBS. Bills will be issued upon completion or termination of the review. A verification certificate will be issued upon receipt of payment.

Persons requesting this service or desiring any further information about this announcement may contact S. A. Recicar, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3723.

Dated: August 5, 1980.

Ernest Ambler,

Director.

[FR doc. 80-24088 Filed 8-8-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining Programmatic Environmental Impact Statement Scoping and Notice of Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Programmatic Environmental Impact Statement Scoping and Notice of Public Meeting.

SUMMARY: Pursuant to Section 109(c)(2) of Public Law 96–283, the Deep Seabed Hard Mineral Resources Act (the "Act"), the National Oceanic and Atmospheric Administration (NOAA) is preparing a programmatic environmental impact statement (PEIS) on deep seabed mining for the area of the oceans in which exploration and commercial recovery by any United States citizen will likely first occur under the authority of the Act.

Requirements of Section 109(c) of the Act and requirements of 40 CFR Parts 1500–1508 [Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act (NEPA)] apply to the preparation of the PEIS. 40 CFR 1501.7 specifically requires an early and open "scoping" process.

This notice and the public meeting of which the public is informed by this notice are part of NOAA's actions to comply with the scoping requirement.

DATE: A public scoping meeting will be held from 9:00 a.m. to 12:00 noon on September 4, 1980, in Room B841 of the Department of Commerce Building, located on 14th Street, between E Street and Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information regarding the PEIS development effort and/or the public meeting contact: Amor L. Lane or John W. Padan, Marine Minerals Division (PP/MM), National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, Telephone (301) 443–8323.

SUPPLEMENTARY INFORMATION: During early 1979, NOAA formed a Deep Seabed Mining Environmental Assessment Report (EAR) Task Force to begin the assembling and interpretation of the results of environmental research pertaining to deep seabed mining. In NOAA's view this effort was needed to accelerate the process of synthesizing information from five years of NOAA sponsored research on deep seabed mining environmental effects. In addition, however, NOAA recognized it would have the further benefit of generating information suitable for ready inclusion in a PEIS, should then-pending domestic legislation be enacted. In order to assure this further benefit, the format of the EAR had to resemble closely what was anticipated to be the format of the PEIS. Hence, a considerable amount of attention was devoted to identifying the purposes and scope of a PEIS, so that the EAR could be appropriately structured.

The purposes of the PEIS were identified, in a preliminary sense, to be as follows: (a) assess the environmental impacts of exploration for and commercial recovery of deep seabed hard minerals; (b) describe and compare alternative strategies for the development of regulations; and (c) identify areas where more information is needed or desirable.

The Federal actions were identified, again in a preliminary sense, to be as follows: (a) the development and consideration of alternative regulatory concepts pertaining to exploration for and commercial recovery of seabed minerals; and (b) ultimate adoption of certain of these concepts.

These purposes and Federal actions were reviewed with EPA during April 1980 and again before the publication of this notice. Based upon further interaction with EPA and other agencies and upon responses to this notice and comments received in the public meeting, NOAA will develop a statement of purposes and of Federal actions to be used in the PEIS.

A draft PEIS is to be published by March 25, 1981, under provisions of the Act. Comments on this draft PEIS will be solicited and evaluated in accordance with provisions of 40 CFR Part 1503.

The following is a preliminary table of contents for the PEIS which has been developed for discussion purposes:

1. Cover sheet/abstract
2. Summary
3. Table of Contents
4. Purpose of and need for action
4.1 The law and need for regulations
4.2 Purposes and scope of document
4.3 The resource and potential future development
4.4 First generation technology
4.5 Environmental concerns and NOAA response
5. Alternatives, including proposed action
5.1 Provisions in the legislation over which broad latitude is provided to regulators
For each provision discuss:
brief description and detail
comparison of reasonable alternative regulatory options
alternative regulatory options eliminated from further consideration
5.2 Provisions in the legislation over which little or no latitude is provided to regulators by legislation. For each provision, describe the action required by the legislation
6. Affected Environment
6.1 Deep ocean
6.2 Relevant coastal areas
6.2.1 U.S. coastal areas
6.2.2 Foreign coastal areas
7. Environmental Consequences
7.1 Scientific Research Findings—Anticipated environmental effects of Deep Seabed Mining
7.1.1 Marine environment
7.1.2 Coastal environment
7.2 Environmental effects of provisions in the legislation which confer discretionary authority in rule-making.
For each provision describe all reasonable alternative regulatory options
For each regulatory option, consider:
the affected physical environment (both marine & coastal)
the affected human environment and describe; where appropriate:
beneficial effects
potential adverse impacts which can be mitigated and the methods for mitigating them
adverse impacts that can't be avoided
local short term uses vs. long term productivity
irreversible or irretrievable commitments of resources
7.3 Listing of provisions in legislation which confer little or no discretionary authority in rule making, and the environmental effect of such provisions.
7.4 Other Consequences
7.4.1 Energy Supplies
7.4.2 Global environment which may be affected by deep seabed mining
7.4.3 Impact on other governmental agencies
7.4.4 Effects if deep seabed mining does not occur or if initiation of Deep Seabed Mining is greatly delayed
8. List of Preparers and their Qualifications
9. List of agencies (etc.) to whom sent
10. Index
11. Appendices

The initial version of the EAR was designed to provide text for Sections 4—Purpose and Need, 6—Affected Environment, 7—Environmental Consequences, and 8—List of Preparers. A subsequent version would have added text for several additional sections. Further action on the subsequent version will now be superseded by the PEIS development effort.

The initial version of the EAR was completed on June 30, 1980. Copies may be requested from NOAA's Marine Minerals Division at the address given above. Anyone wishing to submit comments to NOAA on this segment of the EAR should do so, in writing, to the same address. Comments received will be evaluated and used on an informal basis to assist in the PEIS development process.

NOAA has separately initiated contact with affected and concerned interests on the PEIS and other aspects of implementation of the Act. Thus, there may be some overlaps in contacts from NOAA. While this may lead to some inconveniences, it is believed to be preferable to risking a failure to contact interested parties.

Dated: August 4, 1980.

M. P. Snidero,

Deputy Assistant Administrator for Management and Budget.

[FR Doc. 80-24106 Filed 8-8-80; 8:45 am]

BILLING CODE 3510-11-M

COMMUNITY SERVICES ADMINISTRATION

Proposed Community Energy Planning Initiative

AGENCY: Community Services Administration.

ACTION: Notice of a proposed

resources that will support the project in

SUMMARY: The Office of the Secretary of

includes employees serving on career

c. Provide an additional management

employee to comply with this

ACTION: Notice of a proposed community energy planning initiative.

SUMMARY: CSA is proposing to fund approximately 15 grants to Community Action Agencies or to FY–80 CSA-funded limited purpose agencies serving seasonal farmworkers; Native Americans; and non-CAA areas for activities related to comprehensive community energy planning. (See Catalogue of Federal Domestic Assistance; 49.014, "Emergency Energy Conservation Services.") This notice describes the type of proposals which will be considered by CSA. Proposals must be submitted to CSA by October 31, 1980.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Kate Jackson, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, Telephone (202) 632–6503, Teletypewriter (202) 254–6218.

SUPPLEMENTARY INFORMATION: As part of its on-going support for Community Action Agency efforts addressing the energy-related needs of the poor in a comprehensive way, CSA will consider funding projects that focus on comprehensive community energy planning, a process that 1) assesses current energy use patterns in the community; 2) projects local energy need over a given period, and 3) plans better ways to meet those needs through conservation or alternative, renewable energy supply. Approximately 15 grants of $30,000 to operate no longer than for a maximum of 18 months may be funded.

CAA GRANTS: CSA is inviting interested CAAs and other eligible applicants to submit proposals. Proposals should focus on the local energy planning activities recently begun or about to start in their communities. The proposal should describe the role the CAA or other applicant will play in ensuring that the locally developed plans will reflect the energy-related problems of the poor and solutions to these problems. For example, needs that may be addressed include, but are not limited to, energy source and supply; employment potential of renewable energy supply alternatives; and community priorities in conservation measures for residential retrofits, building code amendments, and the like.

Given the nature of the program, CSA suggests that applicants discuss the following elements in their proposals:

1. Public commitments already secured for comprehensive community energy planning efforts, including, where appropriate, letters of commitment and amount and nature of non-CSA resources that will support the project in the community.

2. Description of the on-going or projected comprehensive planning efforts including a listing of participating groups and organizations, both public and private, with preliminary ideas of how critical energy problems of the community and of the poor could be alleviated or lessened over time and through what technologies or methods.

3. Description of the specific objectives, goals, and activities that the CAA or other applicant will undertake to ensure that the needs of the poor will be incorporated in the adopted plans and policies, and explanation of why the chosen activities and strategies are the most suitable for the applicant organization in the comprehensive community energy planning effort.

4. Description of the applicant's experience in energy programming for the poor, or in local planning and policy formulation, or of ways the applicant's activities have led to a change in a law, regulation, policy, procedure, or institutional behavior affecting the low-income population.

APPLICATION PROCESS: This comprehensive community energy planning initiative will be administered by the national office of the Community Services Administration, Office of Community Action.

Applicants should use the application process found at 45 CFR 1067.40, applying for a grant under Title II, Sections 221, 222(a) and 231 of the Economic Opportunity Act of 1964 as amended. All interested applicants must follow the Project Notification and Review System Procedures (A–95) as outlined in 45 CFR 1067.10. Applications should be forwarded to: Kate Jackson, Energy Programs, Office of Community Action, Community Services Administration, 1200—19th Street, N.W., Room 334, Washington, D.C. 20506.

Authority: Sec. 602, 78 Stat 530; 42 U.S.C. 2942.

Richard J. Rios,
Director.

[FR Doc. 80-24013 Filed 8-8-80; 8:45 am]
BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Administrative Instruction No. 51]

Part-Time Career Employment Program

AGENCY: Office of the Secretary of Defense.

ACTION: Notice.

SUMMARY: The Office of the Secretary of Defense (OSD) is establishing a program to provide civilian career part-time employment opportunities. A draft outline of the program is being submitted for public comments.

DATES: Comments received by October 10, 1980 will be considered.

ADDRESS: Written comments should be addressed to the Director of Personnel and Security, WHS, Room 3B347, ATTN: RA, Washington, D.C. 20301.

FOR FURTHER INFORMATION: Mr. Robert Arnold, 202–697–5171.

SUPPLEMENTARY INFORMATION: Pub. L. 95–437, The Federal Employees' Part-Time Career Employment Act of 1978, requires federal agencies to publish their proposed program on this subject in the **Federal Register** for public comment. After comments are received, considered, and necessary changes are made, the OSD will adopt the proposed program as Administrative Instruction No. 51.

OSD Part-Time Career Employment Program

References: (a) Pub. L. 95–437.
(b) Title 5, U.S.C.

A. Purpose

This Instruction implements references (a) and (b) by establishing a continuing program to provide civilian career part-time employment opportunities.

B. Applicability and Scope

1. The provisions of this Instruction apply to all civilian employees in all organizational entities of the OSD, Organization and the Joint Chiefs of Staff, and other activities deriving administrative support from the Washington Headquarters Services (WHS).

2. The provisions of this Instruction apply to all civilian occupations and authorized positions in Grade GS–15 or below and equivalent grades in other pay systems, and to part-time career employees, as defined in section C., unless excluded under one of the following categories:

a. Positions requiring a mixed tour of duty.

b. Temporary or intermittent employees. Exclusion of these employees does not prohibit their employment on an intermittent or temporary part-time basis.

C. Definitions

1. *Career employment. Permanent employment in either the competitive or excepted service, in which the employee serves in tenure group I or II. This includes employees serving on career, career-conditional, excepted, or excepted-conditional appointment.*

2. *Permanent part-time employee.* An employee serving on a permanent appointment who works a regularly scheduled tour of duty from 16 to 32 hours per work week.

3. *Temporary employment.* Employment under any appointment during which the employee serves in other than tenure groups I and II, including temporary NTE, indefinite, term, TAPER, status quo, overseas limited, or any other non-permanent appointment.

4. *Intermittent employment.* Employment on an irregular basis without a prescheduled tour of duty.

5. *Mixed Tour of Duty.* Consists of annually recurring periods of full-time, part-time, or intermittent service.

D. Background

1. In the legislative action cited in P.L. 95–437 and 5 U.S.C., references (a) and (b), Congress found that:

a. Many individuals possess productive potential that goes unused because they cannot meet the requirements of a standard workweek; and

b. Part-time permanent employment:

(1)Provides older individuals with a gradual transition into retirement;

(2) Provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(3) Provides parents opportunities to balance family responsibilities with the need for additional income;

(4) Benefits students who must finance their own education or vocational training;

(5) Benefits the government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling occupational shortages; and

(6) Benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), increasing jobs available to reduce unemployment, and retaining the skills of individuals who have training and experience.

2. Consistent with these findings, the part-time program objectives are to:

a. Increase productivity and demonstrate the OSD commitment as a concerned employer;

b. Expand the number and scope of permanent part-time employment opportunities, to include professional, administrative, technical, clerical, trades, and other occupations.

c. Provide an additional management device to support the achievement of equal employment objectives.

d. Encourage managers at all levels to eliminate any artificial constraints that inhibit expansion of part-time employment.

E. Policy

1. It is the policy of the Office of the Secretary of Defense to provide career part-time employment opportunities in positions through GS–15, or their equivalent, subject to availability of resources and mission priorities.

2. Part-time positions are subject to the same position classification standards and merit promotion procedures as full-time positions. Authorized positions need no other special designation, upon approval by the Director, Organization and Management Planning (O&MP), Office of the Assistant Secretary of Defense (Administration) (ODASD(A)), to be considered for filling on a part-time basis.

3. Part-time employment is not intended to be a feeder system for staffing full-time positions. However, part-time employees may apply and be considered for full-time positions. Any procedures developed for conversion of part-time employees to full-time positions shall be designed to prevent the use of the part-time program to circumvent merit principles. Job Opportunity Announcements for part-time positions may not be used for the purpose of discouraging potential applicants and returning the selectee within a short period of time to a full-time tour of duty.

4. Permanent part-time employees have the same appeal rights and protections in adverse actions and reduction-in-force proceedings as comparable full-time employees. Specifically included in the list of appealable adverse actions is the involuntary reduction in the scheduled number of hours of duty for a part-time employee. In a reduction-in-force, part-time employees can compete only for other part-time jobs and are not entitled to a full-time job if there is no part-time job available. Similarly, full-time employees do not have assignment rights to part-time jobs.

5. It is the prerogative of management to make a decision to meet the needs of the organization to: (a) increase the hours of work of part-time employees to the maximum prescribed; or (b) reassign part-time employees back to their former full-time positions. When such a decision is made, the affected employee must be given at least 2 calendar weeks' advance notice. Failure of the part-time employee to comply with this management decision can result in management's taking adverse action against the employee.

6. No permanent part-time positions may be established with a scheduled tour of duty of less than 16 nor more than 32 hours per week. This does not preclude a temporary increase of hours worked above 32 hours for a limited time to meet workload or training needs; however, the employee's schedule must remain at 16 to 32 hours per week. Permanent part-time employees who have continuous service on a schedule other than as described, beginning before April 6, 1979, are not affected by this restriction so long as they continue to work part-time.

7. No position occupied by a full-time emplyee may be abolished to make the duties of such positions available on a part-time basis. Nor will any full-time employee be required to accept part-time employment as a condition of continued employment. This provision does not preclude changing a full-time employee to a part-time schedule at the voluntary request of the employee; nor does it preclude the offer of a vacant part-time position to a full-time employee who has been reached for release in a reduction in force.

F. Responsibilities

1. The *Director, Personnel and Security (P&S), WHS,* has overall responsibility for the administration of the part-time program, and shall:

a. Establish and publish annual goals for expansion of permanent part-time opportunities, in coordination with the Director, OM&P, DASD(A), and in consideration of Under Secretary of Defense, Assistant Secretary of Defense, and Assistant to the Secretary of Defense, or their equivalents, management official projections.

b. Maintain required statistics and provide semiannual reports to the Office of Personnel Management (OPM).

c. Review activity programs during regular civilian personnel management evaluation surveys.

d. Provide advice and assistance, as necessary or requested, on program development.

e. Designate an OSD Part-Time Employment Program Coordinator to serve as point of contact for the program.

2. The *Director, Organizational and Management Planning, DASD(A),* shall:

a. Request, as part of each budget cycle, that all activities serviced by WHS include in their budget submission the number of part-time person-years they wish to use.

b. Keep the Director, P&S, WHS, advised of the number of part-time person-years available for use by each activity.

c. Approve any changes in the number of authorized part-time person-years for each activity.

3. The *Under Secretaries of Defense, Assistant Secretaries of Defense, and Assistant to the Secretary of Defense, their equivalents or designees,* shall:

a. Identify, during each budget cycle, the number of part-time person-years that can be used effectively within their organizations.

b. Increase hours of work of part-time employees to the maximum prescribed to meet the needs of the organization or reassign part-time employees to former full-time positions.

c. Review all positions, GS–15 and below or their equivalent, as they become vacant, and identify those that may be filled on a part-time career-appointment basis.

C. Procedures

1. Employees desiring a change in employment from full- to part-time in their current position shall:

a. Consult with their immediate supervisor to determine the effects such a change shall have on their rights and benefits.

b. Make a formal request, in writing, to their immediate supervisor.

2. Upon receipt of the formal request, the supervisor shall:

a. Evaluate the request against the following criteria:

(1) Regular and peak workloads that might lend themselves to part-time schedules.

(2) Additional space and equipment requirements.

(3) Benefits to employees.

(4) Retention of valuable employees.

b. Attach their recommendation to the request and forward it to the second-level supervisor or other official as designated by the employing organization.

3. The second-level supervisor or other designated official shall:

a. Review the request and recommendation and approve or disapprove after evaluating it in terms of this Instruction and consulting with the organizational administrative officer as to the availability of part-time person-years.

b. Make a decision within 5 workdays from receipt of the request by the immediate supervisor.

c. If the request is approved, the employee's request, and SF–52, "Request for Personnel Action," and any other documents arising from the request, shall be forwarded to the Part-Time Employment Coordinator, Directorate for P&S, WHS, through the Director, O&MP, DASD(A). If approved, the SF–50, "Notification of Personnel Action," shall be prepared from these forms.

d. If the request is disapproved, a copy of all documents shall be forwarded to the Part-Time Employment Coordinator.

4. A copy of all requests shall be maintained by the Part-Time Employment Coordinator for statistical purposes.

5. An employee desiring a change in employment from full to part-Time in another position or organization shall:

a. Consult with the immediate supervisor to determine the effects such a change has on rights and benefits.

b. submit a request to the Part-Time Employment Program Coordinator, Directorate for P&S, WHS, for positions at or below the current grade of the employee or at a higher grade previously held under a permanent competitive appointment. Positions that represent a promotion or have promotion potential to a grade higher than those previoulsy held under a permanent competitive appointment must be filled by competitive procedures.

6. Part-time career opportunities shall be announced by Job Opportunity Announcements to provide notice to the public of vacant part-time positions.

7. Managment officials shall review all positions, GS–15 and below or equivalent, as they become vacant to determine if the position could be filled on a part-time career employment basis.

8. A semiannual report covering the 6 months ending March 31 and September 30 shall be provided by the Director, P&S, WHS, to OPM on May 15 and November 15.

9. Permanent part-time employees have the following rights and benefits:

a. *Retirement.* Retirement benefits are computed in the same way for all career employees, both full and part-time. Annunities are based on an employee's length of service and the highest average annual pay received for any 3 consecutive years.

b. *Life Insurance.* Permanent part-time employees are eligible for coverage under the Federal Employees Group Life Insurance Program. the amount of insurance for which an employee is eligible is based on annual salary, but cannot be less than $10,000. A part-time employee's annual salary is the amount of hour scheduled to work times pay rate.

c. *Health Benefits.* Permanent part-time employees are eligible to participate in the Federal Employees Health Benefits Program. The coverage is the same as that provided for full-time employees, but the employee cost for the premiums is greater for people who become part-time employees on or after April 8, 1979. For these employees, the government contribution is prorated according to the number of hours the part-timer is scheduled to work. For example, a part-time employee scheduled for 20 hours of work a week will pay the employee's share of the premium plus one half the government's share. Part-time employees on board before April 8, 1979, continue to receive the same government contributions as full-time employees for as long as they remain part-time without a break in service.

d. *Leave.* (1) Annual leave is earned on a prorated basis depending upon the leave category the employee is in:

(a) *Leave Category 4.* One hour for each 20 hours of work.

(b) *Leave Category 6.* One hour for each 13 hours of work.

(c) *Leave Category 8.* One hour for each 10 hours of work.

(2) Part-time employment status does not affect the amount of annual leave that may be carried over into the next leave year.

(3) Sick leave is earned at the rate of 1 hour for every 20 hours in pay status.

(4) Leave-without-pay is credited in the same way as for full-time employees.

(5) Court leave is credited in the same way as for full-time employees.

(6) A part-time employee is not eligible for military leave.

e. *Holidays.* Part-time employees are eligible for pay for the number of hours regularly scheduled to be worked on the day the holiday is legally observed.

M. S. Healy,

OSD Federal Register Liaison Officer. Washington Headquarters Services, Department of Defense.

August 5, 1980.

[FR Doc. 80-24078 Filed 8-8-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

National Petroleum Council; Refinery Capability Task Group and the Coordinating Subcommittee of the Committee on Refinery Flexibility; Meetings

Notice is hereby given that the Refinery Capability Task Group and the Coordinating Subcommittee of the National Petroleum Council's (NPC) Committee on Refinery Flexibility will meet on Tuesday, August 19; and Friday, September 5, 1980, respectively in Suite 601 of the National Petroleum Council

Headquarters, 1625 K Street N.W., Washington, D.C. An additional Coordinating Subcommittee meeting has also been tentatively scheduled for Friday, September 12, 1980, also at the NPC Headquarters.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agendas of the meetings are as follows:

Agenda for the Refinery Capability Task Group meeting, Tuesday, August 19, 1980, beginning at 9:00 a.m.:

1. Review and approve summary minutes of the July 1, 1980 meeting of the Task Group.
2. Review and discuss progress of study groups A, B, and C.
3. Discuss plans for the final phase of the Refinery Flexibility report.
4. Discuss any other matters pertinent to the overall assignment of the Task Group.

Agenda for the Coordinating Subcommittee Meeting, to be conducted on either September 5 or September 12, 1980, beginning at 10:00 a.m.: [1]

1. Review and discuss the progress of the Refinery Capability Task Group.
2. Review and discuss the progress of the Oil Supply, Demand and Logistics Task Group.
3. Review and discuss introductory materials for the overall report on refinery flexibility.
4. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

All meetings are open to the public. The Chairmen of the Task Group and the Subcommittee are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with either the Task Group or the Subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements at any of the meetings should inform Joan Walsh Cassedy, National Petroleum Council, (202) 393–6100, prior to the meeting, and provision will be made for their appearance on the respective agendas. Transcripts of the Coordinating Subcommittee meeting will be available for public review at the Freedom of Information Public Reading Room, Room 5B180, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 6, 1980.

Robert H. Lawton,

Acting Deputy Assistant Secretary for Resource Development and Operations.

[FR Doc. 80-24118 Filed 8-8-80; 8:45 am]

BILLING CODE 6450-01-M

[1] **Note.**—Interested parties should contact NPC Headquarters prior to September 5 to confirm which meeting date(s) are confirmed.

Compliance With the National Environmental Policy Act; Amendment to Guidelines

AGENCY: Department of Energy.

ACTION: Notice of proposed amendments to guidelines to provide for a categorical exclusion for certain exemptions under the Fuel Use Act.

SUMMARY: Section D of the Department of Energy guidelines for compliance with the National Environmental Policy Act (NEPA) identifies classes of DOE action which normally do not require either an environmental impact statement or an environmental assessment. These are termed "categorical exclusions." Classification of an action as a categorical exclusion raises a rebuttable presumption that any such actions will not significantly affect the quality of the human environment. In the NEPA guidelines, it was specified that DOE might add or remove, after an opportunity for public review, actions identified as categorical exclusions based on experience gained during implementation of the guidelines.

On the basis of recent experience, DOE has determined that certain exemptions authorized under the Fuel Use Act normally are not major Federal actions significantly affecting the quality of the human environment with respect to the provisions of NEPA and therefore are eligible for categorical exclusion status. The actions considered eligible for a categorical exclusion are the grant or denial of a permanent exemption to any electric powerplant or major burning installation for limited use, i.e., fuels mixture of 25 percent or less petroleum or natural gas; peakload powerplants; certain scheduled equipment outages; emergency purposes, and automatic exemptions based on cost for units operated no more than 600 hours per year. DOE proposes to add these exemptions to its list of categorical exclusions in Subpart D of its NEPA guidelines. Public comment is invited on this proposal. Pending final adoption or rejection of this proposal DOE will utilize the categorical exclusion process for these actions on an interim basis.

COMMENTS BY: September 15, 1980.

ADDRESS COMMENTS TO: Dr. Robert J. Stern, at the address listed below.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Forrestal Building, Room 4G–064, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–4600.

Stephen H. Greenleigh, Esq., Assistant General Counsel for Environment, Forrestal Building, Room 6D–033, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTARY INFORMATION:

A. Background

On March 28, 1980 (45 FR 20695), the Department of Energy (DOE) published in the **Federal Register** final guidelines for implementing the procedural provisions of the National Environmental Policy Act (NEPA) as required by the Council on Environmental Quality (CEQ) regulations (40 CFR 1500–1508). The guidelines are applicable to all organizational units of DOE, except the Federal Energy Regulatory Commission which is not subject to the supervision or direction of the other parts of DOE.

Section D of the DOE NEPA guidelines identified typical classes of DOE action which normally do not require either an environmental impact statement or an environmental assessment. These classes of action were identified pursuant to Section 1507.3(b)(2)(ii) of the CEQ regulations referenced above and are termed "categorical exclusions." Section 1508.4 of the CEQ regulations defines a categorical exclusion as a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise to prepare environmental assessments even though it is not required to do so. Further, allowance must be provided by an agency for extraordinary circumstances in which a

normally excluded action may have a

presumption that any such actions will

result in impacts slightly below the

a small addition to the existing

Water Quality

FRA accepted the petition February

normally excluded action may have a significant environmental effect.

The DOE NEPA guidelines state that DOE may add to or remove actions from the categories in Section D based on experience gained during the implementation of the CEQ regulations and the guidelines. Pursuant to the guidelines, substantive revisions are to be published in the Federal Register and adopted only after opportunity for public review.

This notice proposes to revise the guidelines by adding certain classes of actions to the list of categorical exclusions in Section D of the guidelines. Those actions are as follows:

1. The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (Act) (Pub. L. 95–620) for any new electric powerplant or major fuel burning installation to permit the use of certain fuel mixtures containing natural gas or petroleum. This exemption is authorized by Section 212(d) of the Act.

2. The grant or denial of a permanent exemption from the prohibitions of Title II of the Act for any new peakload powerplant. This exemption is authorized by Section 212(g) of the Act.

3. The grant or denial of a permanent exemption from the prohibitions of Title II of the Act for any new electric powerplant or major fuel burning installation to permit operation for emergency purposes only. This exemption is authorized by Section 212(e) of the Act.

4. The grant or denial of a permanent exemption from the prohibitions of Titles II and III of the Act for any new or existing major fuel burning installation for purposes of meeting scheduled equipment outages not to exceed an average of 28 days per year over a three-year period. These exemptions are authorized by Section 212(j) and 312(l) of the Act.

5. The grant or denial of a permanent exemption from the prohibitions of Title II of the Act for any new major fuel burning installation which, in petitioning for an exemption due to lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, certifies that it will be operated less than 600 hours per year. This exemption is authorized by Section 212(a)(1)(A)(ii) of the Act, and DOE by regulation has refined this section to provide for an automatic exemption for facilities which are operated only for the stated amount of time.

The listing of certain classes of actions which are categorically excluded from NEPA only raises a presumption that any such actions will not significantly affect the quality of the human environment. For those circumstances where DOE has reason to believe that a significant impact could arise from the grant or denial of one of the above exemptions, DOE's NEPA guidelines provide that individual proposed actions will be reviewed to ascertain whether an environmental assessment or environmental impact statement would be required for any individual action which is listed in Subpart D of the guidelines as categorically excluded from NEPA. To assist DOE in making this determination, DOE has required in the regulations covering applications for permanent exemptions that: (1) a petitioner for any of these exemptions certify that he will comply with all applicable environmental permits and approvals prior to operating the facility; and (2) he complete an environmental checklist designed to determine whether the facility in question will have an impact in certain areas regulated by specified laws which impose consultation requirements on DOE (10 CFR 403.15). This will allow DOE to verify that no significant impact will result, or that the categorical exclusion does not apply. The typical environmental impacts of each of the proposed categorical exclusion exemptions are discussed below.

B. Mixtures Exemptions

To date, peitions for fuels mixture exemptions from 10 companies have been accepted or are in the process of being reviewed. In all cases reviewed thus far, it has been determined that neither an environmental assessment nor an environmental impact statement was required in order to satisfy NEPA requirements.

Key to all cases has been the fact that the Federal action in question (proposal to grant the exemption) results in an insignificant impact as *compared to a baseline*. In the replacement boiler situation, for example, the baseline is formed by the existing conditions, such as air and water emissions, surrounding the facility as it currently operates. In this situation, the resulting environmental impact either above or below the baseline is very small.

In the case of a totally new facility, the baseline becomes that action which the petitioner could take and not be subject to the Fuel Use Act prohibitions. This action would involve constructing the facility with units which use ony alternate fuel. Since petroleum and natural gas are ordinarily cleaner-burning than other fuels, use of up to 25 percent of those regulated fuels will result in impacts slightly below the baseline level.

Based on DOE's experience to date with mixture exemption petitions, the following generalities can be drawn in each of four main categories of impact.

Air Quality

In all cases, the proposed action (granting the mixtures exemption) has resulted in air quality that is improved over baseline levels. This is because replacement boilers are generally more efficient than existing boilers and must meet New Source Performance Standards (NSPS) if they are large enough to come within NSPS jurisdiction. New facilities burning a fuel mixture also will result in cleaner emission than would result from combustion of an alternate fuel (coal in most cases). In the majority of mixtures cases to date, the petitioners have already received the appropriate air quality permits, thus indicating that the responsible state and Federal agencies consider the potential effects of the new units to be acceptable.

Water Quality

In the case of a replacement boiler, the existing water treatment system and the plant's National Pollutant Discharge Elimination (NPDES) permit usually is sufficient so that no new permit or treatment is necessary. In the case of a new facility, there is little difference from the baseline if coal is part of the mixture exemption, and there is a net benefit if the petitioner's non-option would have involved coal and the mixture in question does not (due to coal pile runoff related impacts).

Land Use

Little additional land has been required in the case of replacement units, because the area already is industrialized and owned by the company. In the case of a new facility, the difference in impact is dependent upon whether coal would have been used with the base case, the same as with water quality.

Other Areas

Other potential impact categories (e.g., socioeconomic, sociocultural) have never been a significant issue in any case to date.

C. Peakload Exemptions

Petitions for peakload powerplant exemptions from eight utilities have been accepted by DOE; of that number, four have been reviewed for NEPA requirements. Each case has involved some added impact; however, key in all cases is the fact that the new unit is only a small addition to the existing environmental baseline, both in size (peakload units normally are about 75 megawatt units and are often located at the larger existing baseload powerplants, e.g., 500 to 1000 megawatts) and in extent of usage (peakload units can operate no more than 1500 hours per year, which equates to a capacity factor of only 17.1 percent). Impact categories for peakload powerplants can be described as follows:

Air Quality

In general, oil or gas firing has resulted in only minor increases in ambient concentrations of air pollutants (less than 15 percent). Often the increases are below the "levels of significance" established by the Environmental Protection Agency. In each case, the petitioners either have already secured or are in the process of securing the required air permits.

Water Quality

As in the case of mixtures exemptions, the existing systems and NPDES permits usually are sufficient to cover any increase in effluents from the new unit. In some other cases, whatever controls have been required by new permits make the resultant impacts insignificant.

Land Use

The area to be used in building a new peakload unit usually has already been industrialized. Normally a peakload unit requires only two to three acres of additional land.

D. Scheduled Equipment Outages, Emergencies, and Automatic Cost Exemptions

To date, no petitions for scheduled equipment outages exemptions or automatic cost exemptions have been filed with DOE. One emergency exemption petition has been accepted and a memorandum for the file demonstrating the insignificance of the action has been prepared. Common to these exemptions, however, is the fact that the new unit only will be operating when a larger existing unit or units are shut down—either in the case of a true emergency or a scheduled shutdown for maintenance, or other reasons.

The impact categories for these exemptions are characterized as follows:

Air Quality

In every case there will be a positive impact, as compared with existing emissions, because of the shutdown situation mentioned above.

Water Quality

Normally the existing system and permit will be sufficient to cover the new unit.

Land Use

Normally the area will already by industrialized and the new unit will usually be constructed within existing plant boundaries. If the unit is not to be built within existing boundaries, little extra land will be needed, probably less than one acre.

Other Areas

There is no reason to believe that any significant impacts will occur in other areas.

Proposals to deny an exemption would result in no net change to the environmental baseline.

Issued in Washington, D.C., August 5, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-24091 Filed 8-8-80; 8:45 am]

BILLING CODE 6450-01-M

[OFC Case No. 55381-2900-01-12; Docket No. ERA-FC-80-020]

Economic Regulatory Administration

Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On January 16, 1980, Republic Steel Corporation (Republic) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting one major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.),* which prohibit the use of petroleum and natural gas as a primary energy source in new MFBIs. Republic requested a permanent fuel mixtures exemption for the MFBI in order to use a fuel mixture of blast furnace gas, natural gas and/or oil. The natural gas or oil is to be used as a supplemental fuel for pilot, flame stabilization and process requirements.

The MFBI for which the petition is filed is a field-erected boiler (identified as unit No. 3 high pressure (HP) boiler) to be installed at Republic's Mohoning Valley District, Warrne, Ohio facility. The proposed boiler will have a design heat input rate of 467 million Btu's per hour with a steam generating capacity of 300,000 pounds per hour and will be capable of burning blast furnace gas, coke oven gas, natural gas and residual fuel oil.

ERA accepted the petition February 15, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the Federal Register on February 26, 1980 (45 FR 12478). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. During this period, interested persons were afforded an opportunity to request a public hearing. The period expired April 11, 1980. No comments were submitted. No hearing was requested.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Determination has been made recommending that ERA issue an order which would grant the requested permanent exemption to use a mixture of blast furnace gas, with natural gas and/or residual fuel oil in which the amount of natural gas and/or oil would not exceed 25 percent of the total annual Btu heat input in the MFBI.

The public file containing a copy of the Tentative Staff Determination and other documents and supporting materials on this proceeding is available upon request at: ERA, 2000 M Street, NW, Room B-110, Washington, DC, Monday through Friday, 8:00 AM–4:30 PM.

ERA will issue a final order granting or denying the petition for permanent exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the Federal Register.

DATES: Written comments on the Tentative Staff Determination are due on or before August 25, 1980.

ADDRESSES: Fifteen copies of written comments shall be submitted to the Department of Energy, DOE Case Control Unit, Box 4629, Room 3214, 2000 M Street, NW, Washington, DC 20461. Docket Number ERA–FC–80–020 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B–110, Washington, DC 20461, (202) 653–4055.

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration,

Department of Energy, 2000 M Street, NW, Room 3128, Washington, DC 20461, (202) 653–3679.
Edward Jiran, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, DC 20585, (202) 252–2967.
William H. Freeman, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3207, Washington, DC 20461, (202) 653–4228.

SUPPLEMENTARY INFORMATION: Republic Steel Corporation (Republic) proposes to install a field-erected boiler at its Warren, Ohio facility. The proposed unit has a design heat input rate of 467 million Btu's per hour with a steam generating capacity of 300,000 pounds per hour and will be capable of burning blast furnace gas, coke oven gas, natural gas and petroleum.

ERA published Interim Rules on May 15 and 17, 1979 (44 FR 28530 and 44 FR 28950) to implement provisions of Title II of FUA. Title II prohibits the use of natural gas or petroleum in certain new MFBIs unless an exemption for such use has been granted.

On January 16, 1980, in accordance with Section 505.28 of the Interim Rules, Republic filed a petition with ERA requesting a permanent fuel mixtures exemption for the subject boiler in order to use a fuel mixture of blast furnace gas and natural gas and/or residual fuel oil, with natural gas and/or oil being used as a supplemental fuel for pilot, flame stabilization and process requirements. Republic certified that the total amount of natural gas and/or oil proposed to be used in the unit will not exceed 25 percent of the total annual Btu heat input of the boiler.

ERA's staff has reviewed the information contained in the record of this proceeding to date and made a Tentative Staff Determination recommending that an order be issued granting a permanent fuel mixtures exemption for boiler No. 3 to use a mixture of blast furnace gas with natural gas and/or residual fuel oil, provided that the amount of natural gas and/or oil to be used in the unit does not exceed 25 percent of the total annual Btu heat input of the unit. This determination also takes into account the purposes for which the minimum percentage of natural gas provided by a fuels mixtures exemption is to be used, i.e. to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Therefore, should these exemptions be granted, ERA will not exclude any fuel from the definition of primary energy source for the purposes of unit ignition, start-up, testing, flame stabilization, and control uses for Boiler Numbers 1, 2, and 3.

On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

TERMS AND CONDITIONS: ERA staff also has tentatively determined and recommends that any order granting the exemption described above should, pursuant to Section 214 of the Act, be on certain terms and conditions including:

1. The total combined use of petroleum and/or natural gas may not exceed 25 percent of the total annual Btu heat input for No. 3HP boiler.

2. All steam pipes must be insulated and all steam traps properly maintained and:

3. The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

4. In accordance with the reporting requirement in Section 503.38(g), Republic shall submit an annual report to the Economic Regulatory Administration, DOE Case Control Unit Box 4629, Room 2313, 2000 M Street, NW, Washington, DC 20461, on the anniversary of the effective date of the exemption containing the following:

a. A certification that the amount of natural gas and/or residual fuel oil used in the unit did not exceed 25 percent of the total annual Btu heat input of the unit for the year. The certification must be executed by Republic's duly authorized representative;

b. Identification of the actual quantities of blast furnace gas, coke oven gas, natural gas (in MCF), and petroleum (in barrels) used in the unit during the year, as well as the heating value (in Btu's) of each of those fuels. The following format for quantities shall be used:

Fuel Type, Amount Used (MCF or Bbl), Btu Equivalent, Percent of Annual Fuel Consumption

5. If any exemption is granted, the petitioner must submit a duly executed annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order.

The Tentative Staff Determination does not constitute a decision by ERA to grant the exemption requested. Such a decision will be made in accordance with Section 501.66 of the Interim Rules on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, DC on August 1, 1980.

Robert L. Davies,
Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24050 Filed 8-8-80; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA–FC–80–015; OFC Case No. 65012–9122–03–15]

Minnegasco Energy Center, Inc., Petition for Exemption

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of acceptance of petition for exemption pursuant to the interim rule implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 8, 1980, Minnegasco Energy Center, Inc. (MEC) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) under Section 505.22 of the Interim Rule for an order permanently exempting a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrail Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibits the use of petroleum and natural gas as a primary energy source in certain new MFBIs. The basis for the Section 505.22 exemption is the applicant's lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum in the unit for which the exemption is requested.

The MFBI for which the petition is filed is an oil or natural gas-fired packaged boiler (identified hereafter as Unit 3) to be installed at MEC's heating plant located in Minneapolis, Minnesota. Unit 3's design heat input rate would be 242 million Btus per hour for natural gas and 233 million Btus per hour for residual fuel oil.

MEC evaluated the following energy sources that it might use in supplying steam heat to the downtown Minneapolis buildings which MEC serves: residual fuel oil, natural gas, coal, petroleum coke, coal-oil mixture, steam, and refuse derived fuel (RDF). MEC's petition for exemption includes evidence of its inability to use any of

these energy sources other than petroleum and natural gas, at a cost which does not substantially exceed the cost of using imported oil.

Section 202(a) of FUA imposes a prohibition against the use of natural gas and petroleum as a primary energy source by new MFBIs which consist of a boiler. ERA's decision in this matter will, therefore, determine whether MEC will be granted a permanent exemption from this prohibition, permitting it to use petroleum and/or natural gas as the primary energy source for Unit 3.

ERA determined that MEC's petition is complete in accordance with Section 501.3(c) of the Interim Rule and on May 8, 1980, notified MEC of acceptance of its petition for filing.

On June 6, 1980, ERA published its Final Rule on Criteria for Petitions for Exemptions from the Prohibitions of the Act for New Facilities (45 FR 38302), which revoked, upon publication, Sections 503.5 and 505.5 of the Interim Rule (10 CFR 503.5 and 505.5), which prescribed the cost calculation methodology that was to be used in connection with certain provisions of FUA. By Notice of Proposed Rulemaking (NOPR) published on June 23, 1980 (45 FR 42190), ERA proposed a new cost calculation methodology for use with such provisions, including the Section 505.22 exemption for lack of a fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, and called for public comment. A Final Rule on the cost calculation methodology is anticipated to be issued as 10 CFR 503.6 shortly after the close of the public comment period on August 20, 1980, and to become effective 60 days after **Federal Register** publication. Accordingly, at this time, there is no effective methodology for performing the cost calculation required by Section 505.22. Nevertheless, as this petition was filed with ERA prior to the revocation of Section 505.5, the pertinent interim rule cost calculation, MEC was given the option, as provided in the NOPR (45 FR 42190) of having ERA (1) analyze the petition using the NOPR as guidance, or (2) hold the petitioin in abeyance pending finalization of the cost calculation methodology. By letter of July 14, 1980, MEC requested that its petition be processed as expeditiously as possible using the NOPR as guidance. ERA is proceeding with its analysis accordingly. However, ERA will take no final administrative action with respect to the petition until it adopts a final rule for the cost calculation methodology.

Although ERA has found MEC's petition acceptable for filing, ERA retains the right to request additional relevant information from MEC at any time during the pendency of these proceedings where circumstances or procedural requirements may so require.

A review of the petition is provided in the Supplementary Information section below.

As provided for in Section 701(c) and (d) of FUA and Section 501.31 and 501.33 of the Interim Rule, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATE: Written comments are due on or before September 25, 1980. A request for public hearing must also be made within the same 45-day public comment period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW, Washington, DC 20461.

Docket No. ERA–FC–80–015 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:
Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW, Room 3128, Washington, DC 20461, Phone (202) 653–3679.
Marya A. Rowan, Office of the General Counsel, Department of Energy, 1000 independence Avenue, SW, Room 6G–087, Washington, DC 20585, Phone (202) 252–2967.
William H. Freeman, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW, Room 3207, Washington, DC 20461, Phone (202) 653–3675.
William L. Webb, Office of Public Information, Economic Regulatory Administration, 2000 M Street, NW, Room B–110, Washington, DC 20461, Phone (202) 653–4055.

SUPPLEMENTARY INFORMATION: ERA published its Interim Rule implementing the provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) in the **Federal Register** on May 17, 1979 (44 FR 28950). The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new units unless an exemption for such use has been granted by ERA.

On June 6, 1980, ERA published in the **Federal Register** its Final Rule on Criteria for Petitions for Exemption from the Prohibitions of the Act for New Facilities, implementing the new facilities provisions of FUA (45 FR 38302). The Final Rule revoked Sections 503.5 and 505.5 of the Interim Rule on the Cost Calculation methodology (10 CFR 503.5 and 505.5), effective June 6, 1980. The cost calculation methodology must be used in connection with those provisions of FUA that require a determination of whether the cost of certain alternate fuel operations substantially exceed the cost of a counter-part operation using imported petroleum as a primary energy source. A Notice of Proposed Rulemaking and Public Hearing on the Calculation for the Cost of Using Alternate Fuels Under the Powerplant and Industrial Fuel Use Act of 1978 (NOPR) was issued by ERA on June 13, 1980, and was published on June 23, 1980 (45 FR 42190). The NOPR states ERA's intention to treat petitions which require the use of a cost calculation and which were submitted prior to the revocation of the pertinent interim rule cost calculation as follows, at the option of the petitioner: (1) To analyze such petitions using the proposed rule as guidance, or (2) to hold such petitions in abeyance pending ERA's adoption of a final cost calculation methodology. ERA will issue a final rule on the cost calculation methodology shortly after the close of the public comment period on August 20, 1980, and the final rule will become effective 60 days following **Federal Register** publication. ERA cannot take final administrative action with respect to a petition which requires the use of a cost calculation until a final rule has been adopted and becomes final.

The new MFBI for which the permanent exemption based upon the lack of an alternate fuel supply at a cost that does not substantially exceed the cost of using imported petroleum is requested under Section 505.22 of the Interim Rule is an oil and natural gas-fired packaged boiler (hereafter referred to as Unit 3) owned and operated by the Minnegasco Energy Center, Inc. (MEC). This unit, with a steam generating capacity of 200,000 pounds per hour, would provide district heating to a number of buildings in downtown Minneapolis, Minnesota.

MEC filed its petition for exemption under Sec 505.22 of the Interim Rule. On August 5, 1980, Section 505.22 will be superseded by Section 503.32. To qualify for this exemption under Section 503.32 of the Final Rule, which will be applicable to the consideration of and determination on MEC's petition, the petitioner must demonstrate to the satisfaction of ERA that:

(1) The petitioner has made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the

quality and quantity necessary to conform with the design and operational requirements of the proposed unit; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as will be defined in Section 503.6 (Cost Calculation Methodology) when that section of the regulations is adopted in final form by ERA.

In addressing the eligibility requirements in Section 505.22 of the Interim Rule, MEC states that the cost of using coal, petroleum coke, coal-oil mixtures, steam and refuse derived fuel (RDF) will substantially exceed the cost of using imported petroleum. MEC's exemption petition contains the evidence which it believes supports this contention and the evidence required under Section 505.22(b) which it believes demonstrates its eligibility to receive the exemption requested.

ERA accepted MEC's petition as adequate for filing on May 8, 1980, and so notified MEC of the acceptance in accordance with Section 501.3(c) of the Interim Rule. As the petition was filed with ERA prior to the revocation of Section 505.5, the pertinent interim rule cost calculation, MEC was given the option provided in the NOPR (45 FR 42190) of having ERA (1) analyze the petition using the NOPR as guidance or (2) hold the petition in abeyance pending finalization of the cost calculation provisions of FUA, including the provision applicable to Section 503.22 of the final rule for new facilities, which will supersede Section 505.22 of the interim rule on August 5, 1980.) In accordance with MEC's letter of July 14, 1980, asking that the petition be processed as expeditiously as possible using the NOPR as guidance, ERA is proceeding with its analysis. ERA will not, however, take any final action on this exemption request until the final rule on the cost calculation methodology (Section 503.6) is promulgated and made effective.

Although ERA has found the MEC petition acceptable for filing, ERA retains the right to request additional relevant information from MEC at any time during the pendency of these proceedings where circumstances or requirements may so require.

As set forth in Section 501.3(g) of the Interim Rule, the acceptance of the petition and supporting documentation by ERA does not constitute a determination that MEC is entitled to the exemption requested.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, NW, Washington, DC, Monday–Friday, 8:00 am–4:30 pm. Issued in Washington, DC, on August 1, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24089 Filed 8-8-80; 8:45 am]

BILLING CODE 6450-01-M

Champlain Oil Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: July 7, 1980; Comments by: September 10, 1980.

ADDRESS: Send comments to Edward F. Momorella, District Manager of Enforcement, Northeast District, Economic Regulatory Administration, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102

FOR FURTHER INFORMATION CONTACT: Edward F. Momorella, District Manager of Enforcement, Northeast District, Economic Regulatory Administration, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. 215–597–2833.

SUPPLEMENTARY INFORMATION: "On July 7, 1980, the Office of Enforcement of the ERA executed a Consent Order with Champlain Oil Company, Inc. (Champlain) of South Burlington, Vermont. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution."

I. The Consent Order

Champlain, with its home office located in South Burlington, Vermont, is a firm engaged in the sale and allocation of Motor Gasoline and is subject to the Mandatory Petroleum Price and Allication Regulations at 10 CFR, Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Champlain, the Office of Enforcement, ERA and Champlain entered into a Consent Order, the significant terms of which are as follows:

1. Champlain was a supplier of motor gasoline as defined in 10 CFR 211, 51 during the period November 1, 1973 to June 30, 1974 and its sales of motor gasoline are subject to the Mandatory Petroleum Allocation Regulations at 10 CFR 211, and the Price Regulations at 10 CFR 212.

2. During the period November 1, 1973 through June 30, 1974 Champlain recovered in its sales of regular and premium gasoline $40,754 more in revenues than allowed if selling prices were calculated in accordance with the applicable price rule 10 CFR 212.93 (as preceded by 6 CFR 150.359).

3. The amount that Champlain overcharged and the applicable interest is as follows:

Class	Amount	Interest (through 4/30/80)	Total
Wholesale	$38,877	$15,466	$54,343
Retail	1,877	777	2,654
Total	40,754	16,243	56,997

In addition, interest for the period May 1, 1980 to the date of restitution shall be computed and added at the rate of 12 percent per annum.

4. Champlain, without admitting that it has violated any DOE regulation, is willing to enter into a Consent Order as a means of settling all of its outstanding disputes with DOE concerning the subject matter of this Consent Order, and thus avoiding further disruption of its orderly business functions and the expense of protracted, complex litigation.

II. Disposition of Matters Covered By This Consent Order

In consideration of DOE and Champlain entering into this agreement, Champlain agrees to do the following:

All amounts, including interest shall be paid by certified check made payable to the United States Department of Energy. Delivery shall be made to the Assistant Administrator of Enforcement, Economic Regulatory Administration, Room 5302, 2000 "M" Street, N.W., Washington, D.C. 20461. The refund shall be made in monthly payments of $10,000 or the total unpaid balance, including interest, whichever is less, until all amounts have been paid. The first payment shall be made within thirty (30) days after the effective date of this Consent Order. The Assistant Administrator for Enforcement, ERA, shall direct that these monies be deposited in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Edward Momorella, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. You may obtain a free copy of this Consent Order by writing to the same address or by calling 215–597–4356.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Champlain Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 10, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Philadelphia on the 15th day of July 1980.

Edward F. Momorella,

District Manager of Enforcement.

[FR Doc. 80-24117 Filed 8-8-80; 8:45 am]

BILLING CODE 6450-01-M

Howell Drilling, Inc.; Action Taken on consent order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to executive a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 17, 1980.

COMMENTS BY: September 10, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager, Southwest District, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone: 214/767–7745.

SUPPLEMENTARY INFORMATION: On July 17, 1980, the Office of Enforcement of the ERA executed a Consent Order with Howell Drilling, Inc. of San Antonio, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Howell Drilling, Inc., with its office located in San Antonio, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA and Howell Drilling, Inc., entered into a Consent Order, the significant terms of which are as follows:

1. The initial audit period was from September 1, 1973, through September 30, 1976. This period was extended through May 31, 1980 in order to resolve any additional overcharges that might have occurred subsequent to the original audit period.

2. Due to an alleged misapplication of the ceiling price definition, Howell Drilling, Inc. made sales from the Chappell, Gabrysch and Hillyer properties located in the Gabrysch field, and the Jolly property located in the Hornbuckle field, Jackson County, Texas, at prices which were in excess of the maximum lawful selling prices permitted under 6 CFR 150.354 and 10 CFR 212.73. Howell Drilling, Inc. leased their prices upon a posted price which was determined by the Department of Energy to be inapplicable to production from the Gabrysch and Hornbuckle fields.

II. Disposition of Refunded Overcharges

In this Consent Order, Howell Drilling, Inc. agrees to refund, in all settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $28,500.00 on or before August 30, 1980. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund

amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification of the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Howell Drilling Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 10, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 31st day of July, 1980.

Wayne I. Tucker,

District Manager, Southwest District, Economic Regulatory Administration.

[FR Doc. 80-24040 Filed 8-8-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of July 11 Through July 18, 1980

During the week of July 11 through July 18, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 4, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 11 through July 18, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 11, 1980	Coastal States Gas Corp., et al., Houston, Texas	BRJ-0103	Motion for Protective Order. If granted: Coastal States Gas Corp. would enter into a Protective Order with the Office of Special Counsel, New England Power Co., Southern California Edison Company, and the City of Los Angeles Department of Water and Power regarding the release of proprietary information in connection with the Proposed Remedial Order issued to Coastal States Gas Corporation (Case No. DRO-0113).
July 14, 1980	Marine Trades Assoc. of New Jersey, Rumson, New Jersey.	BEE-1283	Price Exception. If granted: Marine Trades Assoc. of New Jersey would receive an exception from the provisions of 10 CFR 212 which would permit the firms to sell motor gasoline at a price above the applicable maximum lawful selling price.
July 14, 1980	Mars Oil Company, Washington, D.C	BEA-0425	Appeal of an Assignment Order. If granted: The May 14, 1980, Assignment Order issued to Amoco Oil Company by the Economic Regulatory Administration, Region VII, regarding Amoco Oil Company's supply obligations to Charles W. Wacker would be rescinded.
July 14, 1980	Office of Special Counsel (Marathon), Washington, D.C.	BRD-0064	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel (Marathon) in connection with the Statement of Objections submitted in response to the January 9, 1980, Proposed Order of Disallowance (Case No. BRO-0983) issued to Marathon by the Office of Special Counsel.
July 14, 1980	Pester Refining Company, Washington, D.C	BEE-1285	Exception from the Entitlements Program. If granted: Pester Refining Company would receive an exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
July 14, 1980	Winston Refining Company, Washington, D.C	BEE-1284 and BEL-1284.	Exception from the Entitlements Program. If granted: Winston Refining Company would receive an exception and a temporary exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
July 15, 1980	Atlantic Richfield Company, Los Angeles, California	BEE-1294 and BEL-1294.	Exception and Temporary Exception from the Entitlements Program. If granted: Atlantic Richfield Company would receive an exception and a temporary exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
July 15, 1980	Clarks Petroleum Service, Inc., New York, New York	BEE-1291	Allocation Exception. If granted: Clarks Petroleum Service, Inc., would receive an exception from the provisions of 10 CFR 211 which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
July 15, 1980	Deuterium Corporation, New Rochelle, New York	BFA-0419	Appeal of an Information Request Denial. If granted: The June 16, 1980, Information Request Denial issued by the San Francisco Operation Office would be rescinded, and Deuterium Corporation would receive access to materials deleted from a proposal submitted by the EIC Corporation.
July 15, 1980	Environmental Protection Corporation, Bakersfield, California.	BEE-1290	Exception from the Reporting Requirement. If granted: Environmental Protection Corporation would not be required to file Form ERA-69.
July 15, 1980	Grace Petroleum Corporation, Oklahoma City, Oklahoma.	BXE-1287	Extension of Relief granted in Grace Petroleum Corporation, 5 DOE Par. (May 8, 1980). If granted: Grace Petroleum Corporation would be permitted to continue to sell the crude oil produce from the Star Misener Hunton Unit located in Blaine and Kingfisher Counties, Oklahoma, at upper tier ceiling prices.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 11 through July 18, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 15, 1980	Powerine Oil Company, Sante Fe Springs, California.	BEE-1289	Exception from the Entitlements Program. If granted: Powerine would be issued additional entitlements to sell on a future entitlement notice to offset entitlements which Sector Refining, Inc., has failed to purchase pursuant to the entitlements notice issued for February 1980.
July 15, 1980	Ramona Public Works Authority, Ramona, Oklahoma.	BEE-1288	Exception from the Reporting Requirements. If granted: Ramona Public Works Authority not be required to file Form EIA-50.
July 15, 1980	San-Ann Service, Inc., Boaz, Alabama	BEX-0079	Supplemental Order. If granted: The July 3, 1980, Decision and Order (Case No. DXE-5354) issued to San-Ann Service, Inc., would be modified.
July 15, 1980	Young Refining Corp., Washington, D.C	BEX-0081	Supplemental Order. If granted: Young Refining Corp. would receive a revised stay of a portion of its entitlements purchase obligations during the period from June 1980 through November 1980.
July 16, 1980	Aminoil USA, Inc. (California State Lease 392), Washington, D.C.	BXE-1295	Extension of relief granted in Aminoil USA, Inc. (California State Lease 392, DOE Par. (October 24, 1978). If granted: Aminoil USA, Inc., would be permitted to continue to sell the crude oil produced from the California State Lease 392 at upper tier ceiling prices.
July 16, 1980	Geiger Enterprises, Inc., Tonawanda, New York	BEE-1299	Price Exception. If granted: Geiger Enterprises, Inc., would receive an exception of that portion of the gasoline reseller pricing regulations which specifies that an election as to which pricing rule to apply must be made by July 1, 1980, for each reseller subject to the rules.
July 16, 1980	Koch Exploration Co., Wichita, Kansas	BXE-1297	Extension of relief granted in Koch Exploration Co., 6 DOE Par. , (June 24, 1980). If granted: Koch Exploration Co. would be permitted to sell the crude oil produced from the Sink Draw #1 Lease located in Altamont-Bluebell Field, Ducheane County, Utah, at upper tier ceiling prices.
July 16, 1980	Skyline Radio Taxi, et al., New York, New York	BEA-0421	Appeal of an Assignment Order. If granted: The June 17, 1980, Assignment Order issued to Skyline Radio Taxi, *et al.*, by the Economic Regulatory Administration, Region II, regarding the increased assignment of motor gasoline would be rescinded.
July 17, 1980	Giant Industries, Inc., Washington, D.C	BEA-0423	Appeal of the Entitlements Notice. If granted: The January 1980 Entitlements Notice would be modified with respect to Giant Industries, Inc.'s entitlements purchase obligations.
July 17, 1980	Wind Energy Report, Rockville Centre, New York	BFA-0420	Appeal of an Information Request Denial. If granted: Wind Energy Report would receive access to materials relating to a report entitled "Design, Fabrication, Installation, and Testing of a Darrieus Vertical Axis Wind Turbine."
July 18, 1980	Special Counsel (Standard Oil Company of Indiana), Washington, D.C.	BFF-0007	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, in connection with the February 14, 1980, Consent Order between the Office of Special Counsel and Standard Oil Company of Indiana.

List of Cases Involving the Standby Petroleum Product Allocation Regulation for Motor Gasoline.

[Week of July 11 through July 19, 1980]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No.	Date	State
Union Oil Co. of California (Downers).	BEE-1282	7/14/80	Illinois.
Alger Oil	BEN-0920	7/15/80	Maryland.
Colstrip Town Pump, Inc.	BEN-1158	7/15/80	Montana.
Covered Bridge Texaco.	BEE-1292	7/15/80	Florida.
Ft. Oglethorpe Tire & Service.	BEN-0044	7/16/80	Georgia.
City of Philadelphia.	BEN-1080	7/17/80	Pennsylvania.
Melvine Sunoco	BEN-0045	7/17/80	Maryland.

Notices of Objection Received

[Week of 7/11/80 through 7/18/80]

Date	Name and location of applicant	Case No.
7/11/80	Metro Oil Co., Inc., Oklahoma City, Okla.	DEE-3257

Notices of Objection Received—Continued

[Week of 7/11/80 through 7/18/80]

Date	Name and location of applicant	Case No.
7/14/80	Walley's Texaco Service, Dayton, Wash.	BEO-1269
7/14/80	Young Refining Corp., Washington, D.C.	BEE-1038
7/15/80	Mintzer Petroleum Corp., New York, N.Y.	BEE-0840
7/15/80	Seaview Petroleum Co., Chicago, Ill.	DEE-6942
7/17/80	Sage Creek Refining Co., Inc., Tulsa, Okla.	BEE-0604

[FR Doc. 80-24039 Filed 8-8-80; 9:10 am]

BILLING CODE 6450-01-M

Cases Filed; Week of July 18 Through July 25, 1980

During the week of July 18 through July 25, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Thomas L. Wieker,

Deputy Director, Office of Hearings and Appeals.

August 4, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 18 through July 25, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 18, 1980	"Chevron USA, Inc./Little America Refining Co., Washington, D.C.	BEJ-0106 and BED-0106.	Motion for Protective Order and Discovery. If granted: Discovery would be granted to Chevron USA, Inc., in connection with Little America Refining Co.'s Applications for Exception, Temporary Exception and Stay. Chevron USA, Inc., would also enter into a Protective Order with Little America Refining Co. regarding the release of proprietary information to Chevron USA, Inc., in connection with Little America Refining Co.'s Applications for Exception, Temporary Exception and Stay. (Case Nos. BEE, BEL, BES-1064).

List of Cases Received by the Office of Hearings and Appeals—Continued

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 18 through July 25, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 18, 1980	Energy Cooperative, Inc., Washington, D.C	BEE, BEL, BES–1298.	Exception, Temporary Exception, and Stay of the Buy/Sell Program and Entitlements Notice. If granted: Energy Cooperative, Inc., would receive an exception, temporary exception and a stay of the provisions of 10 CFR 211.65 regarding the firm's participation in the crude oil Buy/Sell Program. The firm would also receive an exception, temporary exception, and a stay of the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
July 18, 1980	Energy Cooperative, Inc., Washington, D.C	BEA–0424	Appeal of an Order relating to the Crude Oil Buy/Sell Program. If granted: The June 18, 1980, Decision and Order issued by the Economic Regulatory Administration would be modified with respect to Energy Cooperative, Inc.'s participation in the Crude Oil Buy/Sell Program.
July 18, 1980	Little America Refining Co., Washington, D.C	BEL–0065 and BES–0065.	Temporary Exception and Stay from the Entitlements Program. If granted: Little America Refining Co. would receive a temporary exception and a stay from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.
July 18, 1980	Powder River Basin Resource Council, Sheridan, Wyoming.	BFA–0422	Appeal of an Information Request Denial. If granted: The June 11, 1980, Information Request Denial issued by the Office of Procurement Operations would be rescinded, and Powder River Basin Resource Council would receive access to the EHSS information for the following proposals submitted under the DOE Alternative Fuel Program: (a) Feasibilities Studies: AM Methyl Fuel Corp., Hampshire Energy, Jacobs Engineering, Mountain Fuel Supply, Ranchester Packing, Northwestern Pipeline Corp., Transwestern Coal Gas Corp. and Gulf R & D; (b) Cooperative Agreements: Mobil R & D and Panhandle Eastern Pipeline Co.
July 21, 1980	Wagoner Gas and Oil, Inc., West Newton, Pennsylvania.	BMR–0053	Request for Modification. If granted: The June 25, 1980, Decision and Order (Case No. DEE–4837) issued to Wagoner Gas and Oil, Inc., by the Office of Hearings and Appeals would be modified.
July 21, 1980	Atlantic Richfield Company, Washington, D.C	BEE–1301	Price Exception. If granted: Atlantic Richfield Company would be granted an exception from the provisions of 10 CFR 212, subpart E which would permit the firm to pass through the Connecticut gross receipts tax solely in the prices it charges for covered products sold in Connecticut.
July 21, 1980	Brock Exploration Corp., Washington, D.C	BEN–0066	Interim Decision and Order. If granted: Brock Exploration Company would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE–0066).
July 21, 1980	Chevron USA, Inc./Crown, Central Petroleum, Washington, D.C.	BEJ–0108	Motion for Protective Order. If granted: Chevron USA, Inc., would enter into a Protective Order with Crown Central Petroleum regarding the release of proprietary information to Chevron USA in connection with Crown Central Petroleum's Appeal (Case No. BEA–0332).
July 21, 1980	Chevron USA, Inc./International, Processors, Washington, D.C.	BEJ–0107	Motion for Protective Order. If granted: Chevron USA, Inc., would enter into a Protective Order with International Processors regarding the release of proprietary information to Chevron in connection with International Processor's Appeal (Case No. BEA–0333).
July 21, 1980	Chevron USA, Inc./Little America Refining Co., Washington, D.C.	BES–0066 and BED–0066.	Request for Stay and Motion for Discovery. If granted: Discovery and a stay would be granted to Chevron USA in connection with Little America Refining Co.'s Application for Temporary Exception and Application for Stay (Case Nos. BEL–0065 and BES–0065).
July 21, 1980	Chevron USA, Inc./Seaview Petroleum, Washington, D.C.	BEJ–0105	Motion for Protective Order. If granted: Chevron USA, Inc., would enter into a Protective Order with Seaview Petroleum regarding the release of proprietary information to Chevron in connection with Seaview Petroleum's Appeal (Case No. BEA–0348).
July 21, 1980	Crown Central Petroleum, Baltimore, Maryland	BEA–0428	Appeal of an Assignment Order. If granted: The May 2, 1980, Assignment Order issued to Crown Central Petroleum by the Economic Regulatory Administration, Region II, would be rescinded.
July 21, 1980	Crown Central Petroleum, Baltimore, Maryland	BEA–0429	Appeal of an Assignment Order. If granted: The May 2, 1980, Assignment Order issued to Crown Central Petroleum by the Economic Regulatory Administration, Region II, would be rescinded.
July 21, 1980	Exxon Company USA, Washington, D.C	BSG–0029	Request for Special Redress. If granted: The Office of Hearings and Appeals would review the proceedings regarding the compliance of the April 23, 1980, Decision and Order (Case No. BFA–0295).
July 21, 1980	Kentel Realty Corp., Levittown, New York	BEA–0430	Appeal of an Assignment Order. If granted: The May 5, 1980, Assignment Order issued to Kentel Realty Corp. by the Economic Regulatory Administration, Region II, regarding Bell Petroleum, Inc.'s supply obligations to Kentel Realty Corp. would be modified.
July 21, 1980	Maureen Holcher, Oakland, California	BFA–0426	Appeal of an Information Request Denial. If granted: The July 12, 1980, Information Request Denial issued by the Office of Classification would be rescinded and Maureen Holcher would receive access to the name of the nuclear component in a letter from R. M. Anderson, Acting Secretary of Defense to President Eisenhower dated December 8, 1954.
July 21, 1980	Tom Brown, Inc., Midland, Texas	BEE–1300	Price Exception. If granted: Tom Brown, Inc., would be permitted to sell the crude oil produced from the Neta Crawford Lease No. 10169 at stripper well prices.
July 21, 1980	Trends Publishing, Inc., Washington, D.C	BFA–4032	Appeal of an Information Request Denial. If granted: Trends Publishing, Inc., would receive access to certain DOE data.
July 22, 1980	Bell Fuels, Inc./R. W. Trock Oil Co., Washington, D.C.	BSG–0028	Request for Special Redress. If granted: The Office of Hearings and Appeals would review the Decision denying the Application to Quash Subpoenas submitted by Bell Fuels, Inc., and R. W. Trock Oil Co.
July 22, 1980	Commonwealth Oil Refining Company/Charter Company, Washington, D.C.	BEE–1302	Request for an Exception. If Granted: Commonwealth Oil Refining Company and the Charter Company would be granted an exception permitting the two firms to operate as seperate entities.
July 22, 1980	Oleum Corporation, Washington, D.C	BFA–0431	Appeal of an Information Request Denial. If granted: The June 16, 1980, Information Request Denial issued by the District Manager of the ERA Southeast District Office of Enforcement would be rescinded, and Oleum Corporation would receive access to copies of all documents in possession in the Region IV Office of the DOE concerning Oleum Corporation.
July 22, 1980	Standard Oil Company (Indiana), Chicago, Illinois	BEE–1303	Price Exception. If granted: Standard Oil Company (Indiana) would be allowed to exclude marketing costs of propane outlets from its May 15, 1973, base non-product costs.
July 23, 1980	Bracewell and Patterson, Washington, D.C	BFA–0433	Appeal of an Information Request Denial. If granted: Bracewell and Patterson would receive access to documents relating to the proposed crude oil reseller regulations.
July 23, 1980	Gulf Oil Corporation, Houston, Texas	BEE–1304 and BEL–1304.	Request for Temporary Exception and Exception. If granted: Gulf Oil Corporation would be granted an exception and a temporary exception from the provisions of 10 CFR 212, subpart E which would permit the firm to pass through the Connecticut gross receipts tax solely in the prices it charges for covered products sold in Connecticut.
July 23, 1980	Office of Special Counsel, Washington, D.C	BRD–0067	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with a Statement of Objections submitted in response to the April 27, 1977, Notice of Proposed Disallowance (Case No. BRO–0984) issued to Murphy Oil Corporation.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 18 through July 25, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 23, 1980	Office of Special Counsel, Washington, D.C	BRD–0068	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with a Statement of Objections submitted in response to the April 27, 1977, Notice of Proposed Disallowance (Case No. BRO–0985) issued to Amerada Hess Corporation.
July 24, 1980	Blum & Nash, Washington, D.C	BFA–0434	Appeal of an Information Request Denial. If granted: The June 13, 1980, Information Request Denial issued by the Office of Regulations and Emergency Planning would be rescinded, and Blum and Nash would receive access to documents regarding the Mandatory Petroleum Price Regulations.
July 24, 1980	Caribou Four Corners, Inc., Afton, Wyoming	BEX–0082	Supplemental Order. If granted: The Office of Hearings and Appeals would review the entitlements exception relief granted to Caribou Four Corners, Inc., during its 1979 fiscal year in order to determine whether the level of exception relief accorded the firm was appropriate.
June 24, 1980	Texas Gas Exploration Corporation, Washington, D.C.	BEN–0047	Request for Interim Order. If granted: The April 28, 1980, Proposed Decision and Order issued to Texas Gas Exploration Corporation would be implemented on an interim basis pending a final determination on the firm's Application for Exception (Case No. DEE–2118).
July 24, 1980	Witco Chemical Corporation, Arlington, Virginia	BEE–1306	Exception from the Entitlements Program. If granted: Witco Chemical Corporation would receive an exception from the provisions of 10 CFR 211.67 which would modify its entitlements purchase obligations.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of July 18 through July 25, 1980]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No.	Date	State
The Oasis	BEN–0046	7/21/80	California.
Hershey Entertainment and Resort Co.	BEE–1305	7/24/80	Pennsylvania.
Parker Energy & Petroleum Co.	BEN–1234	7/24/80	Virginia.

Notices of Objection Received

[Week of 7/18/80–7/25/80]

Date	Name and location of applicant	Case No.
7/21/80	United Engineers and Constructors, Inc., Philadelphia, Pa.	BEO–1279
7/23/80	Lou Nargiso, Danbury, Conn	DEE–7095
7/22/80	Spring Creek Store, Globe, Ariz	DEE–7533
7/23/80	South Florida Gasohol, Inc., Wash., D.C.	BEE–0932

[FR Doc. 80–24037 Filed 8–8–80; 9:10 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of June 2 through June 6, 1980

During the week of June 2 through June 6, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Crown Central Petroleum Corp., Baltimore, Md., BEA–0096, motor gasoline

Crown Central Petroleum Corporation filed an Appeal of an Assignment Order issued to the firm by ERA Region II. In considering the Appeal, the DOE determined that the ERA had failed to provide Crown with a statement of the factors which caused it to select Crown as a substitute supplier for J & B Automotive. Accordingly, Crown's Appeal was granted in part, and ERA Region II was ordered to provide Crown with such a statement.

Total Petroleum, Inc., Alma, Mich., DEA–0538, motor gasoline

Total Petroleum, Inc. filed an Appeal of an Assignment Order which was issued to the firm on July 9, 1979 by ERA Region V. In considering the Appeal, the DOE determined that the Assignment Order contained an inadequate explanation as to why Total was chosen to supply the U.S. Oil Company with 350,000 gallons of motor gasoline. Accordingly, Total's Appeal was granted in part, and the matter was remanded to ERA Region V for the issuance of an amended Assignment Order.

Requests for Exception

Alpha Fitness Center, Omaha, Nebr., DEE–7779, temperature restrictions

Alpha Fitness Center filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm sought permission to raise its maximum heating temperature above 65°F and to lower its minimum cooling temperature below 78°F. In considering the request, the DOE found that the firm had not demonstrated that persons using its facilities were facing a health risk as a result of the prescribed temperature levels. Accordingly, exception relief was denied.

Lonnie Bailey, St. Louis, Mo., BEO–0664, motor gasoline

Lonnie Bailey filed an Application for Exception from the provisions of 10 CFR Part 211 in which it sought an increase in its base period allocation of motor gasoline. On December 20, 1979, the DOE issued a Proposed Decision and Order in which it tentatively determined that Bailey's Application should be denied. In considering Bailey's Statement of Objections to the Proposed Decision and Order, the DOE determined that: (1) Bailey had not entered into a binding contract for the conversion of its outlet into a self-service facility prior to the updating of the allocation base period; (2) the firm had not suffered a drop in its sales volume during the base period as a result of nearby highway construction; and (3) since there were a large number of other service stations in Bailey's immediate vicinity, the community was not suffering a gross inequity. The firm's Application for Exception was therefore denied.

Bert's Exxon, Potomac, Md., DEE–2496, motor gasoline

Bert's Exxon filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that there are a large number of motor gasoline retail outlets in Bert's area and that consequently, the residents of the community are not experiencing an unfair distribution of burdens. Accordingly, exception relief was denied.

Buchanan Shell, Inc., Pittsburgh, Calif., BEO–0223, motor gasoline

Buchanan Shell, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the DOE allocation regulations placed an unfair burden on the citizens of Buchanan's market area or that the area was receiving substantially less gasoline per capita than other communities of a similar size. Accordingly, exception relief was denied.

Central Mobil of Sunnyvale, Sunnyvale, Calif., BEO–0393, motor gasoline

Central Mobil of Sunnyvale filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that there was no indication

that motorists in the Sunnyvale area were experiencing significantly greater difficulty in obtaining gasoline than those in other areas of the country. Accordingly, exception relief was denied.

Continental Oil Co., Houston, Tex., DEE–1889, petroleum products

Continental Oil Company (Conoco) filed an Application for Exception from the provisions of 10 CFR § 212.83 in which the firm sought to adjust its May 1973 marketing costs for purposes of determining the amount of increased non-product cost which it may reflect in its current sales prices for petroleum products. In considering the request, the DOE found that exception relief was necessary to eliminate an impediment to Conoco's divestiture program. Accordingly, exception relief was granted in part.

Craft's Superette, Chandler, Tex., BEO–0600, motor gasoline

On June 6, 1979, Craft's Superette filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing financial difficulties serious enough to warrant exception relief. Accordingly, exception relief was denied.

D & D Gulf Service, Fitchburg, Mass., DEE–7179, motor gasoline

D & D Gulf Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not satisfied the criteria set forth in *Leo Anger, Inc.*, 4 DOE ¶ 81,037 (1979) and had failed to demonstrate that it was experiencing a serious financial hardship as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Dow Jones & Co., Princeton, N.J., BEE–0506, motor gasoline

Dow Jones & Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an allocation of motor gasoline. In considering the request, the DOE found that Dow Jones does not qualify as a wholesale purchaser-consumer of gasoline and that the burdens which the firm is encountering as a result of the current gasoline shortage are like those facing many similar firms. Accordingly, exception relief was denied.

Dwyer Motors, Inc., New Orleans, La., DEE–7617, motor gasoline

Dwyer Motors, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a gross inequity, serious hardship, or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Faith Oil Co., Oxnard, Calif., BEO–0016, motor gasoline

Faith Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which it sought an increase in the base period allocation of motor gasoline of a retail outlet located in Oak View, California. In a Proposed Decision and Order, the DOE tentatively determined that exception relief should be denied. In considering Faith's Statement of Objections to the Proposed Decision and Order, the DOE found that Faith's station was operating profitably and that the firm had failed to demonstrate that it had been adversely affected by the grant of an allocation of motor gasoline to a new retail outlet which had opened near the Oak View station. Accordingly, exception relief was denied.

Favre's Standard, Staunton, Ill., BEO–0108, motor gasoline

Favre's Standard filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not made a large enough capital investment to qualify for exception relief under the criteria set forth in *Leo Anger, Inc.*, 4 DOE ¶ 81,037 (1979). Accordingly, exception relief was denied.

Glenn's Freeway Service, Winslow, Ariz., BEO–0691, motor gasoline

Glenn's Freeway Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to show that citizens in its market area were experiencing difficulty in obtaining adequate supplies of motor gasoline. Accordingly, exception relief was denied.

Kennedy Variety Store, Maysville, N.C. BEO–0576, motor gasoline

Kennedy Variety Store filed an Application for Exception from the provisions of 10 CFR Part 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that although Kennedy had filed a Statement of Objections to the Proposed Decision and Order which had been issued to the firm, it no longer had any objections to the issuance of the Proposed Decision and Order in final form. Accordingly, exception relief was denied.

Morgan Oil Co., Bloomfield, Iowa, BEO–0034, motor gasoline

Morgan Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that although Morgan had made a substantial capital investment in its retail outlet, road construction had prevented the firm from realizing the intended benefits of that investment during the new base period for motor gasoline allocation. Accordingly, exception relief was denied.

Prudential Overall Supply, Santa Ana, Calif., BEO–1134, motor gasoline

Prudential Overall Supply filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that is was unable to satisfy its current needs by purchasing motor gasoline at retail outlets or that it was experiencing financial difficulties as a result of the DOE regulations. Accordingly, exception relief was denied.

Snow Stumph Shell, Parma, Ohio, BEO–1125, motor gasoline

Snow and Stumph Shell filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious hardship or gross inequity as a result of DOE regulations or that insufficient supplies of motor gasoline were available to purchasers in its community. Accordingly, exception relief was denied.

Town and Country Food Markets, Inc., Wichita, Kans., DEE–2863; Champlin Petroleum Co., Tulsa, Okla., DEA–0598, motor gasoline.

Town and Country Food Markets, Inc., filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought a change of supplier of its base period entitlement of motor gasoline. In considering the request, the DOE determined that exception relief was necessary to alleviate a serious hardship which Town and Country was experiencing as a result of the high prices for motor gasoline which were charged by the firm's primary supplier during certain base period months. Town and Country's request was therefore granted. The DOE also considered an Appeal, filed by Champlin Petroleum Company, of a Temporary Assignment Order issued to the firm incidental to the exception relief granted to Town and Country. In considering the Appeal, the DOE rejected Champlin's claim that the Temporary Assignment Order was procedurally defective. Accordingly, Champlin's Appeal was denied.

Requests for Modification and/or Rescission

Atlantic Richfield Co., Washington, D.C., BRR–0036; Gulf Oil Corp., Washington, D.C., DRR–0037; Marathon Oil Co., Washington, D.C., BRR–0038; Standard Oil Co., of Calif., Washington, D.C., BRR–0039; Standard Oil Co. (Ohio), Cleveland, Ohio, BRR–0040; Texaco Inc., Washington, D.C., BRR–0041; Louisiana Land & Exploration Co., Washington, D.C., BRR– crude oil.

The petitioners in this proceeding filed a Motion for Reconsideration or Clarification of a discovery order issued by the Office of Hearings and Appeals of the Department of Energy in connection with enforcement proceedings brought by the DOE's Office of Special Counsel. In the contested order, the DOE set forth its views with respect to the discovery of contemporaneous constructions of the agency's interpretations of various regulatory terms at tissue in the enforcement proceedings. In considering the Motion, the DOE determined that its order should be modified in one respect to extend the time period for which discovery would be allowed. The DOE also clarified certain aspects of the discovery order, including the definition of a "reasonible agency officer" whose contemporaneous regulatory constructions would be subject to discovery.

Kimberly Gas Mart, Kimberly, Idaho, BMR–0035, motor gasoline.

Kimberly Gas Mart filed an Application for Modification or rescission of a Decision and Order in which the DOE had determined that an application for exception filed by Kimberly should be granted only in part. In considering the request, the DOE concluded that Kimberly's new Application did not raise any arguments or furnish any factual information that had not already been considered in the previous exception proceeding. Accordingly, the Application for Modification or Rescission was denied.

Office of Enforcement, Washington, D.C. BRR–0030, Crude Oil

The ERA Office of Enforcement filed a Motion for Reconsideration of a Decision and Order issued to the William Herbert Hunt Trust Estate. In that decision, the DOE had remanded a Proposed Remedial Order which had been issued to Hunt, directing the Office of Enforcement to allocate condensate recovered from dehydration and compression stations operated by Hunt to the crude oil producing properties from which the condensate had originated. In its Motion, the Office of Enforcement argued that Hunt did not maintain sufficient records to permit such an allocation to be made an that there was no practicable procedure for making such an allocation. In considering the Motion, the DOE determined that the condensate recovered at Hunt's facilities could not be allocated in the manner directed. Since Hunt's objections to the Proposed Remedial Order had been rejected in the earlier determination, the Office of Hearings and Appeals concluded that Hunt's unallocated condensate should be sold at lower tier prices. Accordingly, the Proposed Remedial Order was issued in final form.

Request for Stay

Ashland Oil, Inc., Ashland, Ky., BRS–0373, crude oil,

Ashland Oil, Inc., filed an Application for Stay form an Ancillary order which was issued to the firm by the ERA Southwest District of Enforcement. Under the terms of that Order, Ashland was required to collect refunds of overcharges from a firm that had entered into a consent order with the DOE. In considering the Application, the DOE noted that Ashland's request was identical to a previous stay request which had been granted to the firm in connection with another Ancillary Order. Accordingly, the Application for Stay was granted.

Supplemental Orders

Fields Field Co., Washington, D.C., BEX–0060, crude oil

On Janaury 5, 1979, the DOE issued a Decision and Order that permitted the working interest owners of the Wilcox Unit, located in Beauregard Parish, Louisiana, to sell a portion of their crude oil production at market prices not to exceed $15.21 per barrel. This determination was intended to provide the working interest owners with an economic incentive to continue a natural gas cycling project at the property. On its own motion, the DOE determined that the market price limitation in the January 5, 1979 Decision and Order was enabling the purchaser of the crude oil to receive certain unintended benefits. Accordingly, the level of exception relief was adjusted, and the market ceiling price limitation was removed.

Weber's Chevron, Service, et al., San Francisco, Calif., BRX–0058, motor gasoline

The law firm of Hawkins, Sauvage and Donahue filed Notices of Objection to Proposed Remedial Orders on behalf of several retailers of motor gasoline. Because the firm stated that the legal arguments to be made on behalf of the Proposed Remedial Order recipients were substantially identical, the DOE ordered the proceedings consolidated for argument and determined that certain procedural requirements pertaining to the proceedings should be modified.

Interim Orders

Southern Bell Telephone & Telegraph Co., Fort Lauderdale, Fla., BEN–0036, motor gasoline

Southern Bell Telephone & Telegraph Company filed a Motion for Interim Order in connection with its Application for Exception from the provisions of 10 CFR Part 211. In its Motion, Southern Bell requested that the exception relief tentatively granted to the firm in a Proposed Decision and Order be provided on an interim basis pending the issuance of a final Decision and Order. In considering the request, the DOE determined that the Motion should be granted, notwithstanding the fact that it had denied Southern Bell's Application for Temporary Exception when it had issued the Proposed Decision and Order. The DOE stated that the criteria for the granting of an Interim Order are somewhat less stringent than those for a Temporary Exception. Moreover, the DOE determined that the grounds for denying the Temporary Exception were no longer present.

The following firms were granted Interim exception relief which implemented the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Location, Case No.

J & B Automotive, Patchogue, NY., BEN–0628.
Schneider's Automotive Repair, Simi Valley, CA., BEN–0038.

Remedial Order

In the following case involving a Proposed Remedial Order, no Statement of Objections was filed. The DOE therefore issued the order in final form:

Company Name, Location, and Case No.

Phil Caputo d.b.a. Phil's Clark, Chicago, IL, BRW–0051.

Protective Orders

The following firms filed Applications for Protective Orders. The Applications, if granted, would result in the issuance by the DOE of the proposed Protective Orders submitted by the firms. The DOE granted the following applications and issued the requested Protective Orders as Orders of the Department of Energy:

Company Name, Location, and Case No.

Automatic Comfort/Sun Oil of PA: Mobil Oil Corp., Washington, D.C., BEJ–0089; BEJ–0090.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, and Case No.

Larry Mills Exxon, Olancha, CA, DEE–7105.
Upson's Trading Post, Oregon, IL, BEO–1146.

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company Name, Location, and Case No.

Ben Page, San Francisco, CA, DEE–4180.
Bill's Pershing Mobil, Ansonia, CA, DEE–3349.
Copsey, Inc., Scottsbluff, NE, DEE–4038.
FS Services, Inc., Bloomington, IL, DEE–7938.
Wauseon Wash n' Fill, Wauseon, OH, BEO–0115.

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued a Decision and Order which finalized the Proposed Decision and Order issued to each firm:

Company Name and Case No.

A. C. Fernald Sons, Inc., DEE–5353.
Aire Sheet Metal, Inc., DEE–5794.
All South Rentals Inc., DEE–7064.
Amos Post, Inc., DEE–8062.
Anaheim Car Wash, DEE–6363.
Anthony Alfana Service Station, DEE–5228.
Auburn Mini-Market Jr., DEE–6021.
Ball Oil Company, DEE–7102.
Barnacle Store, The, DEE–5365.
Benson General Store, BEE–0645.
Besto Gulf, DEE–6998.
Bob & Al Service Center, Inc., DEE–6623.
Bob's Standard Service, DEE–7136.
Bob's Texaco, DEE–4582.
Bonnett, W. R., DEE–6792.
Bosar Enterprises, Inc., DEE–7870.
Bowers & Burrows, Inc., BEE–1013.
Broad & Parham Exxon, DEE–7742.
Brown's Gas Station, DEE–5813.
Bubber's Exxon, DEE–7241.
Budget Rent-A-Car, DEE–7033.

Burke Auto Service, Inc., DEE–7419.
Burnett Oil Co., Inc., DEE–7420.
Cabot Corp., DEE–7421.
Cal-Ore Power Co., DEE–7422.
Carl's Texaco, DEE–7423.
Carlton Oil Co., DEE–7424.
Carter Oil Co., DEE–7425.
Cedar Rapids Community School District, DEE–7426.
Chapman Oil Co., DEE–7427.
Chevron U.S.A. Inc., DEE–7428.
Chevron U.S.A. Inc., DEE–7429.
Chevron U.S.A. Inc., DEE–7430.
Chevron U.S.A. Inc., DEE–7431.
Chevron U.S.A. Inc., DEE–7432.
Chevron U.S.A. Inc., DEE–7433.
Chevron U.S.A. Inc., DEE–7434.
Chevron U.S.A. Inc., DEE–7435.
Chevron U.S.A. Inc., DEE–7436.
Chevron U.S.A. Inc.,

Burke Auto Service, Inc., DEE–7419.
Burnsed Petroleum Corp., DEE–6074.
C. B. Shell, DEE–4254.
Castle Hills Texaco, DEE–6699.
Center 66 Service, DEE–7588.
Charles F. Argon & Co., DEE–6139.
Christensen, E. D., DEE–2525.
Chuck's Exxon, DEE–7362.
Cliff's Sunoco, DEE–4129.
Collins Texaco, DEE–4285.
Crossroads Gulf Service Station, DEE–7619.
D. Hubbard & Son, DEE–6509.
Daniel Turco, DEE–3929.
Dematteo's Gulf Services, DEE–4685.
Denny's Exxon, DEE–6857.
Dick's Hilltop Arco, DEE–7069.
Earl's Service Station, DEE–3355.
Expressway Arco, DEE–6826.
"F" Street Mobil, DEE–6668.
F. S. Williams Country Store, DEE–3469.
Fasgo, Inc., DXE–6697.
Fast Stop Marts, DEE–4995.
Fischer's Service Station Inc., DEE–7418.
Frazier Oil Company, DEE–3838.
Gardner, Kirk, Cowden, Inc., DEE–5468.
Geiger's Sunoco, DEE–7258.
General Dynamics Corp., DEE–7152.
General Services Administration, DEE–7664.
Globe-Wallys Fork Lift Company, DEE–5753.
Gloenco Newport, Inc., DEE–7722.
Graybill & Weigold, DEE–7159.
Great Lakes Development Company, DEE–6465.
Haywood Oil Company, DEE–6842.
Henderson Oil Company, DEE–4967.
Henkels Arco, DEE–4203.
Herbst Supply Company, DEE–2740.
Jake's Service Station, DEE–3394.
Jerry Menefee Shell Station, DEE–6977.
Johnson, Rory, DEE–6607.
Jones 66 Service Station, DEE–6864.
Ken's Soc Station, DEE–6182.
Kenny's Pioneer Trading Post, DEE–7046.
Lander's Chevron, DEE–6432.
Laroche Chevron, DEE–6940.
Linn Co-Operative Oil Company, DEE–6369.
Lowe, Wayne, DEE–4274.
Malache, Ramon, DEE–3533.
Malellan's Garage, DEE–7720.
Malibu Petroleum, BEE–1020.
Marlboro Sunoco, DEE–7035.
Marshfield Auto Body, DEE–7019.
Mason Oil Company, Inc., DEE–5746.
McCracken Texaco, DEE–6637.
Mildred Strickland Service Station, DEE–6856.
Mim's Oil Company, DEE–6259.
Myers Oil Company, DEE–2285.
New Interama Service Center, DEE–5869.
Norwalk Currie Tire Company, Inc., DEE–7714.
Omega Oil Company, DEE–3586.
Ormond Mall 66 Service, DEE–4812.
Palos Verdes Standard, DEE–6653.
Paquin's Garage, DEE–7692.
Patriot Petroleum, Inc., BEE–0222.
Pee Dee Oil Company, DEE–8259.
Pismo Chevron, DEE–2639.
Plaza Car Wash, DEE–6095.
Plaza Exxon, DEE–7614.
Pomperaug Shell, DEE–7402.
Pride Oil Company, Inc., DEE–4102.
Ravensworth Texaco, DEE–6274.
Richard R. Wheeler, Inc., DEE–5364.
River Oaks Amoco, DEE–7400.
Service Oil of Monroe, Inc., DEE–5865.
Ski's Shell Self Serve, DEE–3777.
Smith's Shell Service, DEE–4082.
Steve Lane Sunoco, DEE–7243.
Stevens Oil Company, DEE–5785.
Surry Lane Service Station, DEE–6566.
Telum, Inc., DEE–3869.
Tommy's Standard, DEE–7459.
Treadwell's Exxon DEE–6434.
Tripp Street Chevron, DEE–7199.
Tuscaloosa City Schools, BEE–0246.
Valley Exxon, DEE–7158.
Vish Chevron Service, DXE–6114.
Warner Hot Springs Resort, DEE–8016.
Watson Chevron, DEE–3529.
Whitehorse Soc Station, DEE–8331.
Wilkins, Earl, DEE–6041.
Winver's Lug-A-Jug, DEE–7010.
Yarber's Marathon Service DEE–7405.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Avery's Service Station, DEE–6815.
Crown Central Petroleum Corp., BEA–0184; BES–0184; BST–0184.
Edward Applegate, DEE–3526.
Hartsville Oil Co., DEE–6178.
I.T.S., Inc., BEE–1177.
Jack Ritter Oil Distributing Co., BEE–0868.
M & J Chevron, DEE–4550.
Office of Special Counsel, BRD–0008.
Belcher Oil Company, BRD–0029.
Pensacola Petroleum Company, Inc., DES–3030; DST–3030.
Rogers Oil Company, BEE–0358.
Ron Clancy's Inc., BEE–1059.
Shackelford Bros., Inc., DEE–4985.
Texaco Inc., DEA–0608.
Town & Country Food Markets, Inc., DEE–2863; DEA–0598; DES–0598.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, betweetn the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 4, 1980.

[FR Doc. 80–24038 Filed 8–8–80; 8:45 am]

BILLING CODE 6450–01–M

Office of the Secretary

Uranium Hexafluoride; Charges, Enriching Services, Specifications, and Packaging Revision

Correction

In FR Doc. 80–22722, in the issue of Thursday, July 31, 1980, appearing on page 50928, please make the following correction:

In the third column, in the last chart appearing on this page, the first number under the heading "Special variation" reads "$41,915." This is incorrect and should read "$1,915."

BILLING CODE 1505–01

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–50016; FRL 1565–2]

Premanufacture Information; Access by Subcontractor and Consultants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with the Small Business Administration which has subcontracted with the Triton Corp., 910 17th St. NW., Washington, DC 20006, to supply trained chemical consultants to assist small chemical manufacturers, processors, and importers in the preparation of Premanufacture Notices (PMN's) submitted under Section 5 of the Toxic Substances Control Act (TSCA). During the training program at EPA for these consultants, Triton personnel and their field consultants may have access to PMN's containing confidential business information (CBI).

DATE: Access to information submitted in PMN's and claimed to be confidential will occur no sooner than Monday, August 25, 1980.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC, 202/544–1404, or Toll Free 800/424–9065.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, manufacturers and importers of chemical substances are required to submit PMN's for new chemical substances that they intend to manufacture or import and which are not included in EPA's Initial Inventory of Chemical Substances.

EPA has been concerned with helping small manufacturers, processors and importers of chemical substances with preparation of PMN's. Therefore, it has arranged with Triton Corp. to work with the Industry Assistance Office (IAO) of EPA to establish a field consultancy service that will provide broad technical assistance on an advisory basis to these companies. This service will initially deal with Premanufacture Notification Regulations but may later encompass other reporting requirements. It will complement the existing informational services available to industry through IAO by offering, upon request, the personal, on-site technical help of qualified visiting consultants.

To prepare them for work in the field, two field consultants for Triton, serving the New Jersey and the Chicago, Illinois areas, respectively, and other selected Triton employees, will be trained by the Office of Pesticides and Toxic Substances in the techniques of preparing PMN forms. To provide them with the most useful and complete training, these consultants and personnel will work with actual PMN's filed with the Agency. This practical experience will offer them the opportunity to see actual cases and to observe how information submitted by chemical companies meets the regulatory needs of the agency. This training program will probably extend over a one-month period and will be conducted from August through September, 1980. Subsequent training may be needed at a later time if this pilot program proves successful.

During training, Triton and its consultants will need to work with complete PMN's and it is anticipated that they will be exposed to CBI. pursuant to 40 CFR 2.306(j), it has been determined that such disclosure of CBI to Triton and its consultants is necessary for the satisfactory performance of this contract.

At no time during training will Triton Corp., or its consultants, have any CBI in their files. They may have access to CBI during training sessions, but all files containing CBI will remain with EPA. At nok time will they be permitted to take any notes containing CBI.

Triton personnel and consultants will be required to sign a nondisclosure agreement before they are permitted access to TSCA CBI. They will be briefed on appropriate security procedures and be informed of the criminal penalties of TSCA section 14(d) for unlawful disclosure.

Details on the availability of these consultants to assist chemical companies, as well as information on procedures they will follow, may be obtained by contacting the Industry Assistance Office at the above address/telephone numbers.

Dated: August 4, 1980.

John B. Ritch, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

[FR Doc. 80–24140 Filed 8–8–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1565–1]

Intent to Prepare an Environmental Impact Statement

AGENCY: Environmental Impact Statement Preparation Section, Region III, Environmental Protection Agency.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (EIS).

SUMMARY: To fulfill the requirements of the National Environmental Policy Act and the Clean Water Act, EPA has identified a need to prepare an EIS and, therefore, issues this Notice of Intent pursuant to 40 CFR 6.605.

FOR FURTHER INFORMATION CONTACT: Mr. Richard V. Pepino, Environmental Impact Statement Preparation Section (3IR61), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (Commercial) 215–597–8337, (FTS) 8–597–8337.

SUPPLEMENTAL INFORMATION:

1. Description of proposed action: An EIS will be prepared to address the impact of new source coal mining in the Little Kanawha River Basin between the Little Kanawha headquarters and the Burnsville Dam in Upshur, Lewis, and Braxton Counties, West Virginia.

2. Public and Private Participation in the EIS Process: Full participation by interested Federal, State and local agencies, as well as, other interested private organizations and parties is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

3. Issues: Strong public controversy over the proposed Holly Grove Surface Mine, particularly concerning potential impacts on the Little Kanawha caused by acid mine drainage, triggered this decision to prepare the EIS.

The EIS will evaluate the following specific issues of concern: (1) overburden analysis of the area; (2) overburden handling and replacement techniques; (3) synergistic effects of close or contiguous mining operations; (4) wetlands impacts; (5) effects of coal mining on aquatic biota; (6) effects of coal mining on the Burnsville Dam Reservoir, and (7) other issues specified to EPA by cooperating government agencies and citizens.

4. Scoping: A State and Federal scoping meeting was held on June 23 in Charleston with representatives of the West Virginia Department of Natural Resources, the U.S. Fish and Wildlife Service, the Corps of Engineers, the Office of Surface Mining, and other interested agencies. A public scoping meeting to present EPA's proposed format for the EIS was held July 24 in West Virginia. For additional information, contact the person indicated above. Public notice will be given prior to all subsequent meetings.

5. Timing: EPA estimates the draft EIS will be available for public review and comment 10 months after initiation of the project.

6. Requests for Copies of Draft EIS: All interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: August 5, 1980.

Thomas R. Sheckells,

Acting Director, Office of Environmental Review (A–104).

[FR Doc. 80–24141 Filed 8–8–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B–11]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: August 8, 1980.

Cut-Off Date: September 22, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with any application listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission no later than the close of business on September 22, 1980. Any application previously accepted for filing and in conflict with any application listed in the attached appendix may also be amended as a matter of right not later than the close of business on September 22, 1980. Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's Rules.

Federal Communications Commission

Michigan TIG Docket No. 80–309, File

[BC Docket Nos. 80–308 and 80–309, File

Federal Communications Commission.
William J. Tricarico,
Secretary.

BPCT–791028LA (New), Nashville, Tennessee, Television Corporation of Tennessee. Channel 30, ERP: Vis. 3258 kW; HAAT: 1,075 feet.
BPCT–790703KG (New), Des Moines, Iowa, 220 Television, Inc. Channel 17. ERP: Vis. 3715 kW; HAAT: 1,769 feet.
BPCT–790507KI (New), Stockton California, Sterling Recreation Organization Co. Channel 64. ERP: Vis. 961 kW; HAAT: 1,017 feet.
BPCT–790910KF (New), Nashville Tennessee, American TV and Communications Corp. Channel 30 ERP: Vis. 3240 kW; HAAT: 1,248 feet.
BPCT–791019KG (New), Nashville, Tennessee, T.S.T.V., Inc. Channel 30. ERP: Vis. 2530 kW; HAAT: 1,454 feet.
BPCT–791025KF (New), Nashville, Tennessee, Domedia of Tennessee, Inc. Channel 30 ERP: Vis. 1440 kW; HAAT: 415 feet.
BPCT–791028KO (New), Nashville, Tennessee, Choice of Tennessee, Inc. Channel 30. ERP: Vis. 5000 kW; HAAT: 1,414 feet.
BPCT–791026KQ (New), Nashville, Tennessee, Consolidated Broadcasting Corp. Channel 30. ERP: Vis. 1617 kW; HAAT: 1,138 feet.
BPCT–791026KT (New), Nashville, Tennessee, Golden West Broadcasters. Channel 30. ERP: Vis. 2618 kW; HAAT: 1,389 feet.
BPCT–791026KV (New), Nashville, Tennessee, Music City Thirty, Inc. Channel 30. ERP: Vis. 712 kW; HAAT: 1,007 feet.
BPCT–791026KW (New), Nashville, Tennessee, Nash Broadcasting, Inc. Channel 30. ERP: Vis. 5000 kW; HAAT: 1,136 feet.
BPCT–791026KX (New), Nashville, Tennessee, Page Broadcasting Corporation. Channel 30. ERP: Vis. 1247 kW; HAAT: 1,141 feet.
BPCT–791026KY (New), Nashville, Tennessee, Satellite Broadcasting Systems, Inc. Channel 30. ERP: Vis. 1710 kW; HAAT: 422 feet.
BPCT–791026KZ (New), Nashville, Tennessee, Tillis Nashville Television, Inc. Channel 30. ERP: Vis. 5000 kW; HAAT: 1,412 feet.

[FR Doc. 80-24071 Filed 8-8-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 80–298, File No. BPCT–5237, et al.]

APW Enterprises, Inc. et al.; Hearing Consolidation Order

Released: August 1, 1980.

By the Chief, Broadcast Bureau:

In the matter of applications of APW Enterprises, Inc., Grand Rapids, Michigan (BC Docket No. 80–298, File No. BPCT–5237); Channel 17 Unlimited, Grand Rapids, Michigan (BC Docket No. 80–299, File No. BPCT–5166); and Good News Broadcasting, Inc., Grand Rapids, Michigan (BC Docket No. 80–300, File No. BPCT–5206).

1. On June 12, 1980, the Commission adopted, and on June 24, 1980, released, a hearing designation order (Mimeo 32824) for the above mentioned cases.

2. Due to an administrative oversight, a paragraph was omitted from the hearing designation order. It should appear as a footnote to paragraph two.

3. Paragraph six of the hearing designation order incorrectly conditioned a possible grant of APW Enterprises, Inc.'s application on all of its principals divesting themselves of their interest in WYGR, Wyoming, Michigan, WSHN and WSHN(FM), Freemont, Michigan. APW Enterprises, Inc., has no interest in those stations. The condition should have applied to Good News Broadcasting, Inc.

4. Accordingly, *it is ordered,* That the above-captioned hearing designation order be revised to add the following footnote to paragraph two.

The application of APW Enterprises, Inc., contemplates operating subscription television (STV) over its proposed facility. This party has an application for STV authorization pending before the Commission. The STV application will not be consolidated for hearing in this proceeding, however. STV is essentially an entertainment format undistinguishable from other entertainment packages except that it is supported directly by viewers' subscriptions rather than by advertising revenues. Accordingly the Commission's reluctance to compare applicants on the basis of entertainment formats expressed in *George E. Cameron, Jr. Communications,* 71 FCC 2d 460 (1979) provides ample precedent for precluding consideration of STV proposals in otherwise routine hearings on applications for television construction permits.

5. *It is further ordered,* That the above-captioned hearing designation order is revised to read as follows:

6. *It is further ordered,* That in the event Good News Broadcasting, Inc.'s application is granted, operation of the station shall not be commenced until all of its principals have divested all of their interest in and connection with WYGR, WSHN and WSHN(FM).

Federal Communications Commission.
Jerold L. Jacobs,
Chief, Broadcast Facilities Division.

[FR Doc. 80-24075 Filed 8-8-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 80–308 and 80–309, File Nos. BP–20,577 and BP–780728AK]

Car-Mel Broadcasting and Erin Broadcasting Co.; Hearing Designation Order (Modification)

Adopted: July 31, 1980.
Released: August 1, 1980.

In the matter of applications of Carl Gomo Tutera, Janice Redeagle Cummings and Ruben Guzman d/b/a Car-Mel Broadcasting, Sun Prairie, Wisconsin (BC Docket No. 80–308, File No. BP–20,577) Req: 1190 kHz, 500 W, DA, Day; and Erin Broadcasting Co., Inc., Sun Prairie, Wisconsin (BC Docket No. 80–309, File No. BP–780728AK) Req: 1190 kHz, 1 kW, DA, Day: for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Carl Como Tutera, Janice Redeagle Cummings and Ruben Guzman d/b/a Car-Mel Broadcasting (Car-Mel) and Erin Broadcasting Co., Inc. This Order modifies an earlier Hearing Designation Order, released July 11, 1980, which is hereby set aside pursuant to Section 1.113(a) of the Commission's Rules.

2. *Car-Mel Broadcasting.* Analysis of the financial data Car-Mel submitted reveals that at least $39,778 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment:	
Cash	$4,250
Down payment	9,198
Principal and interest	3,089
Land	1,000
Building	1,200
Legal expenses	600
Other construction costs	4,500
Operating costs	15,741
Total	39,778

Car-Mel plans to finance construction and operation with $1,000 existing capital, $2,000 new capital, and a $110,000 loan from Mr. Tutera.

3. However, this applicant has not established the availability of these funds. First, Car-Mel's balance sheet does not segregate current and long-term liabilities, so the availability of the claimed existing capital cannot be verified. Second, since neither of the partners contributing new capital has submitted a balance sheet in accordance with the requirements of paragraph 4b, Section III, FCC Form 301, no funds have been shown available from them. Third, Tutera's balance sheet does not identify his stock holdings or show all his liabilities, contrary to the instructions of paragraph 4b of Section III, so his capacity to make the proposed loan cannot be determined. Finally, the basis of the projected equipment costs is not satisfactorily explained. In light of the several deficiencies cited, a general financial issue will be specified.

4. Car-Mel has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650 (1971), in that its study of the composition of Sun Prairie does not indicate the minority, racial, or ethnic breakdown of the community, as required by Question and Answer 9 of the *Primer.* A limited ascertainment issue will be specified.

5. Car-Mel also failed to comply satisfactorily with paragraph 16 of Section IV–A of Form 301, which requires the applicant to state its policy with respect to making time available for the discussion of public issues. This paragraph essentially requires an applicant to indicate that it will comply with the Fairness Doctrine, *i.e.,* that a reasonable opportunity will be afforded for the presentation of contrasting viewpoints on controversial issues of public importance. Car-Mel's response is not appropriately responsive. Accordingly, an issue will be specified.

6. *Erin Broadcasting Co., Inc.* Erin has failed to comply with the requirements of the ascertainment *Primer,* by failing to survey leaders of all significant population groups in Sun Prairie. From the information before us, it appears Erin failed to interview leaders representing consumer services and labor. Accordingly, a limited ascertainment issue will be specified.

7. Erin's corporate by-laws authorize two directors and no vice presidents. However, Table I of Section II of its application reports three directors and one vice president. Erin should file an amendment to clarify this apparent discrepancy.

8. *Other matters.* Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

10. Accordingly, *it is ordered,* That the Hearing Designation Order released July 11, 1980 in this matter is set aside.

11. *It is further ordered,* That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Car-Mel Broadcasting is financially qualified to construct and operate the proposed station.

2. To determine with respect to the efforts of Car-Mel Broadcasting to ascertain the needs of its proposed service area, whether the applicant adequately determined the minority, racial, and ethnic composition of Sun Prairie.

3. To determine whether Car-Mel Broadcasting has proposed a policy with respect to making time available for the discussion of public issues which complies with the Fairness Doctrine.

4. To determine whether Erin Broadcasting Co., Inc. interviewed leaders of consumer services and labor in connection with its ascertainment effort.

5. To determine which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

12. *It is further ordered,* That Erin Broadcasting Co., Inc. shall file the amendment specified in paragraph 7 above within 30 days after this Order is published in the **Federal Register.**

13. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.
Jerold L. Jacobs,
Chief, Broadcast Facilities Division.

[FR Doc. 80-24074 Filed 8-8-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 80–385, File No. BPCT–5101 et al.]

Tampa Broadcasting Corp et al.; Hearing Designation Order

Adopted: June 27, 1980.
Released: August 1, 1980.

In the matter of applications of Tampa Broadcasting Corporation, Tampa, Florida (BC Docket No. 80–385, File No BPCT–5101), Family Television Corporation, Inc., Tampa, Florida (BC Docket No. 80–386, File No. BPCT–5102) and Suncoast Telechoice, Inc., Tampa, Florida (BC Docket No. 80–387, File No. BPCT–5103) for construction permit for a new commercial television broadcast station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by Tampa Broadcasting Corporation (Tampa), Family Television Corporation, Inc. (Family), and Suncoast Telechoice, Inc. (Suncoast) for a new commercial television station on Channel 28, Tampa, Florida.

2. On August 3, 1979 Tampa and Suncoast filed a joint petition for approval of agreement under which Tampa would withdraw from the proceeding and receive approximately $20,000 in reimbursements from Suncoast. On September 5, 1979, the Commission responded to this filing, rejecting the proposed reimbursement without additional documentation as to the details of the expenses claimed by Tampa. It appears that Tampa failed to respond to this letter, so we must presume Tampa remains and applicant in this proceeding.

3. The application of Suncoast Telechoice, Inc. contemplates operating subscription television (STV) over its proposed facilities. This party has an application for STV authorization pending before the Commission. However, the STV application will not be consolidated for hearing in this proceeding. STV is essentially an entertainment format indistinguishable from other entertainment packages except that it is supported directly by viewers' subscriptions rather than by advertising revenues. Accordingly, the Commission's reluctance to compare

applicants on the basis of entertainment formats expressed in *George E. Cameron, Jr. Communications*, 71 FCC 2d 460 (1979), provides ample precedent for precluding consideration of STV proposals in otherwise routine hearing on applications for television construction permits.

4. Analysis of the financial data submitted by Tampa reveals that $591,106 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$325,106
Land	85,000
Buildings	100,000
Miscellaneous	21,000
Operating costs (three months)	60,000

To meet this requirement Tampa relies on:

Existing Capital	$8,000
New Capital	$675,000

The applicant's balance sheet shows $3,000 in cash, $5,000 on deposit for land purchase, and prepaid expenses of $7,075. No credit has been allowed for prepaid expenses since the application does not show these are the same expenses as proposed. Further, no credit is allowed for letters of intent to purchase broadcast time unless monies are prepaid. The balance sheet further shows a loan of $14,800 and sale of capital stock of $275 which is the source of cash, prepaid expenses and land purchase deposit. Five persons have subscribed for stock and submitted their stock subscriptions and their financial statements. Only one of these has established that he has net liquid assets available, and this amount is only $8,800. Reasons for failure to show sufficient liquid assets are: 1) balance sheet not dated within 90 days of application date (2 instances); 2) no balance sheet filed (1 instance); and 3) assets and liabilities not segregated into current/long term items (2 instances). In no instances have the subscribers supplied a statement of how they intend to rely upon non-liquid assets. Accordingly, a financial issue will be specified against Tampa.

5. Tampa has not responded to an October 28, 1977 letter from the Federal Aviation Administration rejecting its proposed tower as constituting a hazard to air navigation (Aeronautical Study Number 79–ASO–1711–OE). Consequently, an appropriate air hazard issue will be specified.

6. Tampa's calculation of its aural power appears to be incorrect and we are thus unable to determine whether it can meet its aural/visual ratio as proposed (Section 73.682(a)(15) of the Rules). Further, the applicant has apparently miscalculated its visual effective radiated power as required by Section 73.684(a) of the Rules. Tampa's participation in the hearing will be conditioned on its supplying corrected values in these areas, and any resultant changes necessary. Failure to cure these deficiencies by amendment within 30 days of the release of this Order will subject Tampa to dismissal for failure to prosecute its application. No comparative advantage will be permitted to be derived from these corrections, and no major changes to the application will be permitted.

7. Tampa proposes use of a transmitter which is not type-accepted by the Commission. Thus, any grant to Tampa will be conditioned on receipt of transmitter type-acceptance.

8. Tampa proposes a main studio location outside of its community of license which is not in accordance with Section 72.613 of the Rules. No justification for this location has been provided, and therefore a studio location issue will be specified.

9. Analysis of the financial data submitted by Suncoast reveals that $502,616 will be required to construct the proposed station and operate it for three months, itemized as follows:

Equipment	$357,116
Land	10,000
Miscellaneous	35,000
Operating Expenses (three months)	$100,500

To meet this requirement, Suncoast plans to rely on loans from its stockholders of $1,487,500. No stock subscription agreements, loan agreements or financial statements from proposed subscribers or lenders have been submitted. Consequently, a financial issue will be specified.

10. Suncoast has failed to adequately disclose the methodology used in its community leader ascertainment survey: namely, who conducted the survey and whether interviews were face-to-face. Consequently, an issue will be specified.

11. Except as indicated in the issues specified below, the Commission finds Tampa Broadcasting Corporation, Family Television Corporation, Inc., and Suncoast Telechoice, Inc. legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issue set out below.

12. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Tampa:

(a) whether Tampa has liquid assets in excess of current liabilities of at least $591,106;

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified;

(c) whether the tower height and location proposed would constitute a hazard to air navigation;

(d) whether the proposed studio location will violate Rule 73.613, and, if so, if the proposed location is in the public interest; and

(e) whether, in light of the evidence adduced pursuant to (c) through (d) above, the applicant is qualified to operate as proposed.

2. To determine with respect to Suncoast:

(a) whether Suncoast has liquid assets in excess of current liabilities of at leas $502,616;

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified;

(c) whether its community leader ascertainment survey was conducted by a principal, employee or proposed employee of the proposed station;

(d) whether community leader ascertainment interviews were conducted face-to-face; and

(e) whether, in light of the evidence adduced pursuant to (c) and (d) above, the applicant possesses the basic qualifications to be a Commission licensee.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the Fedederal Aviation Administration is MADE A PARTY RESPONDENT in respect to Issue 1 (c), above.

14. It is further ordered, that within 30 days of the release of this Order, Tampa Broadcasting Corporation shall provide:

(a) corrected values for its aural power and aural/visual ratio as required by Section 73.681(a)(15);

(b) corrected values for its visual effective radiated power as required by Section 73.684(a); and

(c) any other corrected or additional values or information that may be necessitated by (a) and (b) above.

15. It is further ordered, that none of the information required in paragraph 14 above shall be permitted to be considered for purposes of giving comparative advantage to Tampa Broadcasting Corporation in the proceeding.

16. It is further ordered, that none of the information required in paragraph 14 above shall be acceptable if it would constitute a major change as defined in Section 73.3572 of the Rules.

17. It is further ordered, that failure to provide the information required in paragraph 14 above shall be considered as failure to prosecute the application and shall subject the application to dismissal.

18. It is further ordered, that in the event of a grant to Tampa Broadcasting Corporation, the construction permit shall contain the following:

Before program tests commence, the transmitter specified herein must be type-accepted in accordance with Section 73.1660 of the Commission's Rules.

19. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

20. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission,

Jerold L. Jacobs,

Chief, Broadcast Failities Division.

[FR Doc. 80-24073 Filed 8-8-80; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-781215AG and BPH-790328AO, BC Docket Nos. 80-342 and 80-343]

Zia Broadcasting Co. and KICA, Inc.; Hearing Designation Order

Adopted: July 2, 1980.

Released: August 1, 1980.

In the matter of applications of Zia Broadcasting Company, Clovis, New Mexico Req: 107.5 MHz, Channel 298 100 kW (H & V), 568 feet (BC Docket No. 80-342, File No. BPH-781215AG) and KICA, Inc., Clovis, New Mexico Req: 107.5 MHz, Channel 298 100 kW (H & V), 538 feet (BC Docket No. 80-343, File No. BPH-790328AO) for a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Zía Broadcasting Company and KICA, Inc. for a construction permit for a new FM station.

2. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

3. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

4. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

5. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission,

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-24072 Filed 8-8-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service—Performance Awards; Schedule for Awarding Bonuses

In accordance with Office of Personnel Management directive dated July 21, 1980, the Federal Home Loan Bank Board hereby gives notice that SES bonuses will be awarded on or after August 25, 1980.

FOR FURTHER INFORMATION CONTACT: Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377–6050.

Robert D. Linder,

Acting Secretary to the Board.

[FR Doc. 80-24082 Filed 8-8-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. T-3912 and T3913]

Port Authority of New York and New Jersey, et al.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's (FMC) Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreements do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreements Nos. T–3912 and T–3913 deal with two leases:

(1) A lease between the Port Authority of New York and New Jersey (the "Port Authority") and Associated Container Transportation (Australia) Ltd., ("ACT"); and

(2) A sublease between ACT and International Terminal Operating Co., Inc. ("ITO").

Both the lease and the sublease involve construction of a building and a parking area by the Port Authority at its Port Newark facility. The Port Authority will lease the premises to ACT under the lease, and ACT in turn will lease the premises to ITO under the sublease. The leased premises will be used primarily as an off-pier receiving and temporary refrigerated storage area for meat carried by ACT and the Australian National Line (ANL), the two members of the PACE service (FMC Agreement No. 9925). The ITO terminal in Port Elizabeth, at which the ships of both

ACT and ANL dock, is located approximately two miles from the premises covered by the lease.

The Office of Environmental Analysis' (OEA) major concern is whether the improvements made to the property in question will have a significant effect upon energy use and/or the quality of the air, water, noise or biological environment. The OEA has determined that the Commission's final resolution of Agreements Nos. T–3912 and T–3913 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725. Interested parties may comment on the environmental assessment on or before September 2, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-24120 Filed 8-8-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-3914]

Port of Oakland and Sea-Land Service, Inc.; Availability of Finding of No Significant Impact

Agreement No. T–3914 was filed with the Commission for approval, disapproval or modification under section 15 of the Shipping Act, 1916. Under this agreement, the Port of Oakland will lease to Sea-Land Service, Inc., terminal facilities and three cranes to be used on a non-exclusive preferential basis.

The Federal maritime Commission's Office of Environmental Analysis prepared an environmental assessment on this agreement. It found that this Commission action will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) and that the preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725. Interested parties may comment on the environmental assessment on or before September 2, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-24121 Filed 8-8-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 3, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (mortgage banking, Virginia): to engage through a subsidiary, Mellon Mortgage Inc., in mortgage banking activities, including acting as insurance agent with respect to the sale of credit life insurance and/or mortgage redemption insurance. Such activities will be conducted at a *de novo* office to be located at 6600 Louisdale Road, Springfield, Virginia and will serve the Washington, D.C. metropolitan area including nearby areas of Virginia and Maryland. Comments on this application must be received by August 28, 1980.

B. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

First Railroad & Banking Company of Georgia, Augusta, Georgia (finance activities; Louisiana and Tennessee): to engage, through a subsidiary known as CMC Group, Inc., and its subsidiary, Capitol Premium Plan, Inc., Charlotte, North Carolina, in the following activities: In the making or acquiring for its own account or for the account of others, loans and other extensions of credit principally consisting of insurance premium financing. Such business will be solicited in the states of Louisiana and Tennessee and processed at an office in Charlotte, North Carolina.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Orbanco Financial Services Corporation, Portland, Oregon (mortgage banking and insurance activities; Florida): to engage, through its subsidiary, Fort Wayne Mortgage Co., in making or acquiring, for its own account or for the account of others, mortgage loans or other extensions of credit, servicing loans and other extensions of credit for any person and acting as insurance agent or broker for any credit life insurance that is directly related to an extension of credit by it, originating conventional mobile home loans and mobile home loans insured by the Federal Housing Administration (FHA) or guaranteed by the Veterans Administration (VA) for sale to financial institutions, the Federal National Mortgage Association, or in mortgage-backed securities guaranteed by the Government National Mortgage Association (GNMA), which loans will be secured by installment sales contracts on mobile homes; servicing such mobile home loans for its investors by collecting payments, periodically inspecting collateral, and supervising repossessions in the event of unremedied defaults; related wholesale financing of mobile homes, to permit them to carry inventories. The proposed activities would be conducted from an office in Orlando, Florida, serving the State of Florida:

2. Bankamerica Corporation, San Francisco, California (mortgage banking, servicing; Colorado, New Mexico, Arizona, Utah, Wyoming, Nebraska, and Kansas): to engage through its subsidiary, BA Mortgage and International Realty Corporation, in making or acquiring, for its own account or for the account of others, loans or other extensions of credit as would be made or acquired by a mortgage company and servicing such loans and other extensions of credit for itself and others. This activity would include making residential mortgage loans secured by residential real estate.

The proposed activity will be conducted at a *de novo* office in Denver, Colorado, serving the States of Colorado, New Mexico, Arizona, Utah, Wyoming, Nebraska, and Kansas.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24082 Filed 8-8-80; 8:45 am]

BILLING CODE 6210-01-M

Bottom Interests of Nevada, Inc. and Bottom Interests, Inc.; Formation of Bank Holding Company

August 5, 1980.

Bottom Interests of Nevada, Inc., Carson City, Nevada, a has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 52.5 percent of the voting shares of The Border Bank, Hidalgo, Texas. In addition, Bottom Interests, Inc., Hidalgo, Texas, has applied for the Board's approval to become a bank holding company by acquiring 100 percent of Bottom Interests of Nevada, Inc., Carson City, Nevada. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the applications should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24080 Filed 8-8-80; 8:45 am]

BILLING CODE 6210-01-M

The Bridger Co.; Proposed Retention of General Insurance Agency

The Bridger Company, Wayzata, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to operate a general insurance agency.

Applicant proposes that it would continue to engage in the sale of general insurance in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Wayzata, Minnesota, and the geographic areas to be served are Carbon County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 4, 1980.

Board of Governors of the Federal Reserve System, August 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24081 Filed 8-8-80; 8:45 am]

BILLING CODE 6210-01-M

Burchard Bankshares, Inc.; Formation of Bank Holding Company

Burchard Bankshares, Inc., Tecumseh, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.1 per cent or more of the voting shares of State Bank of Burchard, Burchard, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24083 Filed 8-8-80; 8:45 am]

BILLING CODE 6210-01-M

Liberty Bancorporation; Formation of Bank Holding Compnay

Liberty Bancorporation, Durant, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Liberty Trust & Savings Bank, Durant, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24085 Filed 8-8-80; 8:45 am]

BILLING CODE 6210-01-M

Wyandotte Ban Corp.; Formation of Bank Holding Company

Wyandotte Ban Corporation, Kansas City, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Wyandotte Bank, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 4, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24084 Filed 8-8-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Privacy Act of 1974; Proposed New Routine Use in Systems of Records

AGENCY: Department of Health and Human Services (DHHS), Public Health Service (PHS).

ACTION: Notification of a proposal to add two routine uses to seventeen (17) systems of records which are maintained by the Center for Disease Control (CDC), and National Institute for Occupational Safety and Health (NIOSH).

SUMMARY: In accordance with the requirements of the Privacy Act, PHS is publishing notice of a proposal to add two routine uses to seventeen (17) systems of records maintained by CDC/NIOSH. The texts of the proposed routine uses are listed in the supplementary information section along with a list of the system notices affected. PHS invites interested persons to submit comments on the proposed routine uses on or before September 10, 1980.

DATES: CDC will adopt the proposed routine uses without further notice on September 10, 1980, unless CDC receives comments which will result in a contrary determination.

ADDRESS: Comments should be addressed to: Director, National Institute for Occupational Safety and Health, Center for Disease Control, Public Health Service, Department of Health and Human Services, Room 8-05, 5600 Fishers Lane, Rockville, Md. 20857.

Comments received will be available for inspection from 8:00 a.m. to 4:30 p.m., Monday through Friday in Room 8-30, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Darlene Christian, Privacy Act Coordinator, NIOSH, Room 8-48, 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-4220.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services, Public Health Service, Center for Disease Control, National Institute for Occupational Safety and Health, proposes to add two routine uses to seventeen (17) Privacy Act system notices, listed below.

09-20-0001 Certified Interpreting Physician File HHS/CDC/NIOSH
09-20-0027 Radiation Exposure Records for NIOSH Employees HHS/CDC/NIOSH
09-20-0055 Research/Demonstration, and Training Grants, Application Files HHS/CDC/NIOSH
09-20-0059 Division of Training Mailing List HHS/CDC/NIOSH
09-20-0082 Diagnosis of Occupational Disease by Analysis of Body Fluids or Tissues through Biochemical or Clinical Chemical Analysis HHS/CDC/NIOSH
09-20-0083 Diagnostic Methods for Identification of Occupational Diseases through Biopsy and or Autopsy Specimens HHS/CDC/NIOSH
09-20-0117 Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies HHS/CDC/NIOSH
09-20-0118 Study at Work-sites where Agents Suspected of being Occupational Hazards Exist HHS/CDC/NIOSH
09-20-0147 DSHEFS Occupational Health Epidemiological Studies HHS-CDC/NIOSH
09-20-0148 Results of DBBS Hearing Studies HHS/CDC/NIOSH
09-20-0149 DRDS General Industry Morbidity Studies HHS/CDC/ NIOSH
09-20-0150 DRDS Morbidity Studies in Coal Mining Activities HHS/CDC/NIOSH
09-20-0151 DRDS Mortality Studies in Coal Mining Activities HHS/CDC/NIOSH
09-20-0152 DRDS Morality Studies in Non-Coal Mining Activities HHS/CDC/NIOSH
09-20-0153 DRDS General Industry Mortality Studies HHS/CDC/NIOSH
09-20-0154 DRDS Medical and Studies HHS/CDC/NIOSH
09-20-0155 DRDS Morbidity Studies in Metal and Non-Metal Mining ActivitiesHHS/CDC/NIOSH

The texts of the proposed routine uses are as follows:

"Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards".

"In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected".

The reason for adding the first routine use is to allow NIOSH to utilize more effectively contractor personnel for data entry, programming, and systems analysis services. The Institute's workload has grown significantly without a matching growth in the personnel ceiling. This has forced NIOSH to look for alternative methods for accomplishing the assigned work. The contractors selected will be required to comply with the same security standards as NIOSH personnel are, so data subject to the Privacy Act will receive an equivalent degree of protection. The contractor will assure that each contractor employee knows the prescribed rules of conduct and is aware that he or she can be subject to criminal penalties for violations of the Privacy Act.

The reason for adding the second routine use is that in conducting investigations of places of employment under authority of 42 CFR Parts 85 and 85a, it may become necessary for NIOSH to subpoena a company's medical records or obtain a warrant to enter a place of employment to carry out its research function. In obtaining subpoenas and warrants, NIOSH enlists the aid of the Department of Justice, and needs to be able to disclose information in individually identifiable form to that Department to enable it to present the NIOSH case in court.

The proposed routine uses are fully compatible with the purpose of each system affected. The proposed change does not affect the purpose of the system or the reason for the data collection. NIOSH is only changing the source of data entry, programming, and systems analysis from NIOSH personnel to contractor personnel, and allowing NIOSH to enable the Department of Justice to effectively represent the Institute in court.

The seventeen (17) system notices to which these proposed routine uses would apply are republished in their entirety below to include both the routine uses and a statement under "System Location" to provide for the location of records at contractor sites. These notices will be further updated to reflect the Department's new name, and to incorporate other minor changes, at the time of the 1980 annual publication of all of the Department's Privacy Act system notices.

Dated: August 5, 1980.

Jack N. Markowitz,

Acting Director, Office of Management.

09-20-0001

SYSTEM NAME:

Certified Interpreting Physician File—HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Physicians who have been certified to interpret x-rays under the Federal Coal Mine Health and Safety Act of 1969.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physician's qualifications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act Section 203 (30 U.S.C. 843).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Name and address supplied to coal operators and x-ray facilities so that they may contact physician to do work for them.

2. Name, address and social security number supplied to Department of Labor to be used in approving Title IV Benefits under the Act.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer printouts, microfilm, computer tape, computer disk.

RETRIEVABILITY:

The main purpose is to provide certified physicians to read x-rays. Data is provided to the Social Security Administration to be used in approving Title IV Benefits under the Act. Name or social security number is the index used to retrieve records. Social security numbers which are supplied on a voluntary basis are used for retrieval.

SAFEGUARDS:

24-hour guard service in building
Locked building; locked rooms
Personnel screening
Locked computer room and computer tape vaults
Locked file cabinets
Computer tapes are password protected
For computerized records, safeguards are in accordance with Part 6, ADP Systems Security of the HEW/ADP Systems Manual.

RETENTION AND DISPOSAL

Records are retained indefinitely unless disposal of a record is requested by the individual physician. Disposal methods include erasing computer tapes and burning or shredding printouts.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b, 5(a)).above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0027

SYSTEM NAME:

Radiation exposure records for NIOSH Employees HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Safety Research (DSR), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Division of Technical Services (DTS), NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past NIOSH employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, X-Ray exposure levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 19 (29 U.S.C. 668).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Departmnent employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

The purpose of this system is to maintain X-Ray exposure records to prevent toxic exposure to harmful rays. Name is the index used to retrieve records from this system.

SAFEGUARDS:

24-hour guard service in building
Locked building; locked rooms
Personnel screening
Locked file cabinets

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Physicist, Testing and Certification Branch, DSR, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Industrial Hygenist, DTS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

Director, DSR, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)].

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)],

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0055

SYSTEM NAME:

Research/Demonstration, and Training Grants. Application Files—HEW/CDC/NIOSH

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the addresses below.

Division of Research Grants, NIH, Westbard Bldg., Westbard Ave., Bethesda, Maryland, 20014.

Grants Administration and Review Branch, National Institute for Occupational Safety and Health (NIOSH), Parklawn Bldg., Rm. 8-63, 5600 Fishers Lane, Rockville, Maryland 20857.

Division of Training and Manpower Development, NIOSH, 4676 Columbia Pkwy., Cincinnati, Ohio 45226.

Grants Management Officer, NIOSH, Parklawn Bldg., Rm. 8-35, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for occupational safety and health research and demonstration grants, and training grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Draft and final Grant application and review history, awards, financial records and progress resports and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, Sections 20 and 21 (29 U.S.C. 669, 670).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referrals may be made of assignments of research investigations and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc. (42 CFR part 5b, Appendix B, item (2)).

(2) To the cognizant audit agency for auditing.

(3) In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(5) To qualified experts not within the definition of Department employees as prescribed in Department regulations (45 CFR, Part 5b.2) for opinions as a part of the application review process.

(6) To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(7) To individuals and organizations deemed qualified by PHS to carry out specific research related to the review and award processes of PHS.

(8) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain privacy Act safeguards with respect to such records (42 CFR Part 5b, Appendix B, item (9)).

(9) To the grantee institution relative to performance or administration under the terms and conditions of the award.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

5X8 cards, computer tapes and discs, notebooks and file folders.

RETRIEVABILITY:

The purpose of this system is to review grant applications for research and training and to administer funded grants. This information is provided to NIH and to other components of NIOSH for review. Name is the index used to retrieve information.

SAFEGUARDS:

The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator assigned to the project, project officer). For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HEW/ADP Systems Manual.

RETENTION AND DISPOSAL:

Information is kept for one year beyond termination and then sent to the Federal Records Center for five years, after which it is destroyed. Unfunded applications are treated in the same manner. Draft applications are kept for one year or until an official application is received and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Grants Section, Procurement and Grants Management Branch, (PGMP), Office of Administrative and Management Services, (OAMS), National Institute for Occupational Safety and Health, (NIOSH), Room 8-35, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Chief, PGMB, OAMS, NIOSH, Room 8-29, 5600 Fishers Lane, Rockville, Maryland 20857.

RECORD ACCESS PROCEDURES:

Contact the System Manager. Requesters should also reasonably specify the record contents being sought (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0059

SYSTEM NAME:

Division of Training Mailing List—HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Training and Manpower Development (DTMD), National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have taken a NIOSH Training Course or who ask to be placed on the list.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, Section 21 (29 U.S.C. 670).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programing services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes, addressograph plates.

RETRIEVABILITY:

The purpose of this system is to advise prospective students of upcoming NIOSH training courses. Name and Student Number are the indexes used to retrieve records from this system.

SAFEGUARDS:

24-hour guard service in building.
Locked building; locked rooms.
Personnel screening.
Locked file cabinets.
Locked computer room and computer tape vaults.

For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HEW ADP Systems Manual.

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Audio Visual Production Officer, DTMD, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Director DTMD, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2))).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0062

SYSTEM NAME:

Diagnosis of occupational disease by analysis of body fluids or tissues through biochemical or clinical chemical analysis—HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH).

Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical Records, information necessary to interpret the medical records, and results of clinical laboratory tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Test results furnished to physician who requests analysis.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, 45 CFR Part 5b, item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will

be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

The main purpose is to identify occupational diseases. Name or code is used to retrieve records from this system.

SAFEGUARDS:

Building guards.
Personnel screening.

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Clinical and Biochemical Support Section, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Private and Industrial physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0083

SYSTEM NAME:

Diagnostic methods for identification of occupational diseases through biopsy and/or autopsy specimens—HEW/CDC/NIOSH

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Biomedical and Behavioral Science, DBBS, National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, and information necessary to interpret the medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Test results are furnished to the physician who requests analysis.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims againt the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individaul has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

The main purpose is to identify occupational diseases. Name or code is used to retrieve records from this system.

SAFEGUARDS:

Building guards.
Personnel screening.

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Pathology Section, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations 45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Private and Industrial physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I Potential Sources for Determination of Vital Status

Military Records.
Appropriate State Motor Vehicle Registration Departments.
Appropriate State Drivers License Departments.
Appropriate State Government Divisions of: Assistance Payments (Welfare), Social Services, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workman's Compensation, Disability Insurance.
Retail Credit Association Follow up.
Veteran's Administration Files.
Appropriate employee union or association records.
Appropriate company pension or employment records.
Company group insurance records.
Appropriate State Vital Statistics Offices.
Life Insurance Companies.
Railroad Retirement Board.
Area Nursing Homes.
Area Indian Trading Posts.
Mailing List correction cards (U.S. Postal Service).
Letters and telephone conversations with relatives.
Letters and telephone conversations with former employees of the same establishment as cohort member.
Appropriate local newspaper (obituaries).

09-20-0117

SYSTEM NAME:

Medical and test record results of individuals involved in NIOSH laboratory studies—HEW/CDC/NIOSH.

SECURITY CLASSIFICATION.

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Biomedical and Behavioral Sciences (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer subjects from the general population.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational history, medical history, results of medical tests, demographic data, results of psychological and psychometric tests, and data necessary to interpret the medical results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer cards, computer tapes, computer listings, microfilm.

RETRIEVABILITY:

The purpose of this system is to develop composite data summaries to support the development of criteria for occupational safety and health standards, and to provide other recommendations for improving worker safety and health. Name and case number are the indexes used to retrieve records from this system.

SAFEGUARDS:

Evening guard service in building.
Locked building; locked rooms.
Personnel screening.
Locked computer room and computer type vaults.
Locked file cabinets.
For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HEW/ADP Systems Manual.

RETENTION AND DISPOSAL:

Personal identifiers are destroyed as soon as they are no longer necessary for the protection of the individuals involved. Computer tapes are erased; paper records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant, DBBS NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (these access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2))).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0118

SYSTEM NAME:

Study at work-sites where agents suspected of being occupational hazards exist—HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Biomedical and Behavorial Science, (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects employed at specific sites under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational history, medical history, results of medical tests, demographic data, employee records. Psychological and psychometric tests, and data necessary to interpret the medical results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other approriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer cards, computer tapes, computer listings, microfilm.

RETRIEVABILITY:

The purpose of this system is to determine the relationship between worker exposure to hazardous agents or stressors, and occupational disease. This information will be used to recommend procedures to reduce the incidence of occupational disease. Name and case number are the indexes used to retrieve records from this system.

SAFEGUARDS:

Evening guard service in building.
Locked building locked rooms.
Personnel screening.
Locked computer room and computer tape vaults.
Locked file cabinets.
For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HEW/ADP Systems manual.

RETENTION AND DISPOSAL:

Personal identifiers are destroyed as soon as the system has stabilized, and statistical summaries can be run. Computer tapes are erased; paper records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0147

SYSTEM NAME:

DSHEFS Occupational Health Epidemiological Studies, HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Surveillance, Hazard Evaluation, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Federal Records Center, Dayton, Ohio.

Southwest Ohio Regional Computer Center, Medical Sciences Building, University of Cincinnati, Cincinnati, Ohio 45202.

In addition, data is occasionally at field work sites and contractor sites as studies are developed, data collected and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers exposed to physical and/or chemical agents that may damage the human body in any way. Some examples are: 1) organic carcinogens, 2) inorganic carcinogens, 3) mucosal or dermal irritants, 4) fibrogenic materials, 5) acute toxic agents including sensitizing agents, 6) neurotoxic agents, 7) mutogenic (male and female) and teratogenic agents, 8) bio-accumulating noncarcinogen agents, and 9) chronic vascular disease causing agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical exams, sputum cytology results, questionnaires, demographic information, smoking history, occupational histories, previous and current employment records, urine test records, X-rays, medical history, pulmonary function test records, medical disability forms, blood test records, drivers license data, hearing test results, spirometry results. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 301 (42 U.S.C. 241); Occupational Safety and Health Act, Section 20 (29 U.S.C. 669); Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer files, card files, microfilm, microfiche, and other files as appropriate.

RETRIEVABILITY:

The purpose of these studies is to evaluate mortality and morbidity of occupationally-related diseases: to determine the cause and prevention of diseases of industrial origin, and lead toward future prevention of occupationally-related diseases. Name, assigned number, plant name, year tested are some of the indices used to

retrieve records from these systems. Other retrieval methods are utilized as individual research dictates.

SAFEGUARDS:

Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24 hour guard service, password protection of computerized records, limited access to only authorized personnel. For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HEW/ADP Systems Manual. Two or more of the safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. Departmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Records will be maintained from three to twenty years in accordance with retention schedules. Every attempt will be made to strip personal identifiers from records and destroy the records when they are no longer needed. Any paper records which are disposed of will be shredded or burned and computer tapes will be erased.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DSHEFS, F-1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists write to:

Director, DSHEFS, F-1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, State and local Governments and other available sources selected from those listed in Appendix I. Information is obtained directly from the individual and employer records, whenever possible.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I Potential Sources for Determination of Vital Status

Military Records.

Appropriate State Motor Vehicle Registration Departments.

Appropriate State Drivers License Departments.

Appropriate State Government Divisions of: Assistance Payments (Welfare), Social Services, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workman's Compensation, Disability Insurance.

Retail Credit Association Follow up.

Veteran's Administration Files.

Appropriate employee union or association records.

Appropriate company pension of employment records.

Company group insurance records.

Appropriate State Vital Statistics Offices.

Life Insurance Companies.

Railroad Retirement Board.

Area Nursing Homes.

Area Indian Trading Posts.

Mailing List Correction Cards (U.S. Postal Service).

Letters and telephone conversations with relatives.

Letters and telephone conversations with former employees of the same establishment as cohort member.

Appropriate local newspaper (obituaries).

Social Security Administration.

Internal Revenue Service.

09-20-0148

SYSTEM SAME:

Results of DBBS Hearing Studies, HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

In addition, data is occasionally at field work sites and contractor sites as studies are developed, data collected and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request from the Systems Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Workers exposed to noise at a harmful or potentially hazardous level and individuals selected as control groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical examinations, results of laboratory tests (physiological, acceleration measures, performance tests); results of hearing tests, hearing acuity tests, occupational histories, medical history, demographic data, related anamnestic information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, Section 20 (29 U.S.C. 669); Federal Coal Mine Safety and Health Act (30 U.S.C. 669 Section 20)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendi B, Department Regulations, 45 CFR Part 5b, Item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its component; or (c) any Department Employee in his or her individual capacity where the Justice Department has agreed to

represent such employee, the

SYSTEM MANAGER(S) AND ADDRESS:

In addition, data is occasionally at

employee of the Department in his or

Departmental security guidelines will be

SECURITY CLASSIFICATION:

represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manuel files, computer tape, mcirofilm, computer cards, index audiogram files, audiogram questionnaire forms.

RETRIEVABILITY:

The purpose of this system is to assist in the development of standards for occupational exposure to hazards. Name, case number and study number are the indices used to retrieve records from this system.

SAFEGUARDS:

24 hour guard service in buildings, locked buildings, personnel screening, access limited to authorized personnel. In most instances information is related to individual identifiers by case numbers. The file of individual case number relationships is available to a limited group of people. Departmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding printouts.

SYSTEM MANAGER(S) AND ADDRESS:

Industrial Hygiene Engineer, Noise Section, Physical Agents Effects Branch, DBBS, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists write to:

Director, DBBS, NIOSH, 4676 Columbia Parkway, Robert A. Taft Laboraories, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. (These notification and access procedures are in accordance with Department Regulations 45 CFR, Section 5b.6).

RECORD ACCESS PROCEDURES:

(These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above. (These procedures are in accordance with Department Regulations 45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual, and employee records. Many of the hearing test results were obtained from Doctors Memorial Hospital Hearing and Speech Center, Atlanta, Ga.

SYSTEMS EXMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0149

SYSTEM NAME

DRDS Genereal industry Morbidity Studies, HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), Morgantown, West Virginia 26505.

In addition, data is occasionally at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratdory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM.

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data nd spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Federal Coal, Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtrain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any

employee of the Department in his or her official capacity: (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a volutary basis may occuasionally be used for data retrieval.

SAFEGUARDS:

24 hour guard service in building, locked buildings, locked rooms, personnel screening, locked computer rooms, and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records coverd by each individual study. Separtmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia, 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists write to:

Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the sutdy if known, (3) provide the approximate date and place of treatment or questionnaire administration. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6)).

RECORD ACCESS PROCEDURES: SAME AS NOTIFICATION PROCEDURES. THESE ACCESS PROCEDURES ARE IN ACCORDANCE WITH DEPARTMENT REGULATIONS (45 CFR, SECTION 5B.5(A)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonable identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR. Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0150

SYSTEM NAME:

DRDS Morbidity Studies in Coal Mining Activities, HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individuallly identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUAL'S COVERED BY THE SYSTEM:

Persons working or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act Section 501 (30 U.S.C. 9511); Section 203 (30 U.S.C. 843); Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individuals mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Location Agencies to find those

(Appendix B Department Regulations, 45 CFR Part 5b, item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department of any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Some data is sent to the Mining Enforcement and Safety Administration, Department of the Interior to report incidence of pneumoconiosis.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X rays, and manual files.

RETRIEVABILITY:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system Social security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

SAFEGUARDS:

24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists write–to:

Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification or access to a medical record shall, at the time the request is made, (1) designate in writing a responsible representative who will be willing to review the records and inform the subject individual of its contents at the representative's discretion, (2) name the study, if known, (3) name the industrial plants, location of the plant, and approximate date of treatment or questionnaire administration, if known. Notification procedures for medical records are in accordance with Department Regulations (45 CFR, Section 5b.6).

RECORD ACCESS PROCEDURES:

Same as notification procedures. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–20–0151

SYSTEM NAME:

DRDS Mortality Studies in Coal Mining Activities, HEW/CDC/NIOSH

SECURITY CLASSIFICATION: NONE

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at coal mining operations and exposed or potentially exposed to substances which are know or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaries. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 301 (42 U.S.C. 241) Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physcial condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, 45 CFR Part 5b, item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee is his or her individual capacity were the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

SAFEGUARDS:

Locked buildings, locked rooms, 24 hour guard service, locked file cabinets, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. Departmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists write to:

Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, (1) designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. (These notification and access procedures are in accordance with Department Regulations 45 CFR, Section 5b.6).

RECORD ACCESS PROCEDURES:

Same as notification procedures. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations 45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from death certificates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I Potential Sources for Determination of Vital Status

Military Records.
Appropriate State Motor Vehicle Registration Departments.
Appropriate State Drivers License Departments.
Appropriate State Government Divisions of: Assistance Payments (Welfare), Social Services, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workman's Compensation, Disability Insurance.
Retail Credit Association Follow up.
Veteran's Administration Files.
Appropriate employee union or association records.
Appropriate company pension or employment records.
Company group insurance records.
Appropriate State Vital Statistics Offices.
Life Insurance Companies.
Railroad Retirement Board.
Area Nursing Homes.
Area Indian Trading Posts.
Mailing List Correction Cards (U.S. Postal Service).
Letters and telephone conversations with relatives.
Letters and telephone conversations with former employees of the same establishment as cohort member.
Appropriate local newspaper (obituaries).

Social Security Administration.
Internal Revenue Service.

09-20-0152

SYSTEM NAME:

DRDS Mortality Studies in Non-Coal Mining Activities; HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at mining operations other than coal operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUITHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act Section 301 (42 U.S.C. 241); Federal Metal and Nonmetalic Mine Safety Act Section 4 (30 U.S.C. 723); Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, 45 CFR Part 5b, item 100).

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards and printouts, microfiche; X-rays; and manual files.

RETRIEVABILITY:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occassionally be used for data retrieval.

SAFEGUARDS:

24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists write to Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations 45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained from the individual, company personnel records, from death certificates, and from industry and union records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I Potential Sources for Determination of Vital Status

Military Records.
Appropriate State Motor Vehicle Registration Departments.
Appropriate State Government Divisions of: Assistance Payments (Welfare), Social Services, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workman's Compensation, Disability Insurance.
Retail Credit Association Follow up.
Veteran's Administration Files.
Appropriate employee union or association records.
Appropriate company pension or employment records.
Company group insurance records.
Appropriate State Vital Statistics Offices.
Life Insurance Companies.
Railroad Retirement Board.
Area Nursing Homes.
Area Indian Trading Posts.
Mailing List Correction Cards (U.S. Postal Service).
Letters and telephone conversations with relatives.
Letters and telephone conversations with former employees of the same establishment as cohort member.
Appropriate local newspaper (obituaries).
Social Security Administration.
Internal Revenue Service.
Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

09-20-0153

SYSTEM NAME:

DRDSA General Industry Mortality Studies, HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently iocated is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and manintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Public Health Service Act; Section 301 (42 U.S.C. 141).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Division to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

Portions of records (name, social security number if knwon, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provide such disclosure is

compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

SAFEGUARDS:

24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

RETENTION AND DISPOSED:

Records copy maintained in accordance with retention schedules. Source documents for computer disposal of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Notification procedures:

To determine if a record exists write to:

Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of the treatment or questionnaire administration. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).

RECORD ACCESS PROCEDURES:

Same as notification procedures. (These access procedures are in accordance with Department Regulations 45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual, from employee records, from death certificates, and from industry and trade union records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Division of: Assistance Payments (Welfare), Social Services, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workman's Compensation, Disability Insurance.
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records.
Appropriate company pension or employment records.
Company group insurance records.
Appropriate State Vital Statistics Offices.
Life Insurance Companies.
Railroad Retirement Board.
Area Nursing Homes.
Area Indian Trading Posts.
Mailing List Corrections Cards (U.S. Postal Service).
Letters and telephone conversations with relatives.
Letters and telephone conversations with former employees of the same establishment as cohort member.
Appropriate local newspaper (obituaries).
Social Security Administration.
Internal Revenue Service.

09-20-0154

SYSTEM NAME:

DRDS Medical and Laboratory Studies, HEW/CDC/NIOSH

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractor sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have had physical examinations at DRDS or who have had biochemical tests done on various samples submitted to DRDS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Analysis of biochemical data, occupational and medical histories, and results of medical tests. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act Section 501 (30 U.S.C. 951), Occupational Safety and Health Act Section 20 (29 U.S.C. 669). Occupational Safety and Health Act Section 22(d) (29 U.S.C. 671(d)); Federal Coal Mine Health and Safety Act Section 427(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purposes for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

The purpose of this system is to perform medical and epidemiological research, statistical analyses, and to identify early indicators of occupationally-related diseases (biochemical indices). Data is given to other NIOSH units for biochemical and epidemiological studies. Name and case number are the indices used to retrieve words from this system.

SAFEGUARDS:

24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Project Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

'An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 56.6).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Information is obtained directly form the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

09-20-0155

SYSTEM NAME:

DRDS Morbidity Studies in Metal and Non-Metal Mining Activities, HEW/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A current list of contractors sites will be available by writing to the System Manager at the address below.

Division of Respiratory Disease Studies (DRDS).

National Institute For Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Data is also occasionally located at field collection site and contractors sites as studies are developed, data collected,and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Person working, or having worked at mining operations other than coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary functions data and spirometry test results, permission forms, industrial environmental data, and questionnaries. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Public Health Service Act Section 301 (42 U.S.C. 241).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of

an individual in response to an injury from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal Agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B. Department Regulations, (45 CFR, Part 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her offical capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employeee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatiable with the purpose for which the records were collected.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

SAFEGUARDS.

24 hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Department security guidelines will be followed.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, and as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper material.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designated in writing a responsbile representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. [These notification and access procdures are in accordance with Department Regulations.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, Section 5b, 5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the offical at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, State and local Governments and other available sources. Information is obtained from the individual and from employer records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-24156 Filed 8-8-80; 8:45 am]
BILLING CODE 4110-87-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service accepts some suggestions for the addition of serveral items to the provisional agenda for the third regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and invites the public to provide information and comments on these additional items. A public meeting to receive information and comments on these additional items was announced in the **Federal Register** on August 1, 1980 (45 FR 51289).

ADDRESS: Information and comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information and comments received will be open to public inspection during normal business hours at the Federal Wildlife Permit Office, room 616, 1000 N. Glebe Road, Arlington, Virginia.

DATES: The Service will consider information and comments concerning these additional items by September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–2418.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international agreement designed to control international trade in certain animal and plant species which are or may become threatened with extinction. Currently 59 countries, including the United States, are CITES Parties. CITES provides for biennial (regular) meetings of the Conference of the Parties to review its implementation, make provisions enabling the Secretariat of CITES to carry out its duties, consider adopting amendments to the lists of

controlled species, consider any reports presented by the Secretariat or any Party, and make recommendations for improving the effectiveness of CITES.

In a notice of meeting of the Conference of the Parties to the Convention published in the **Federal Register** of May 9, 1980 (45 FR 3100), the Service announced that it had received the provisional agenda for the third regular meeting of the Conference of the Parties to be held in New Delhi, India on February 2–13, 1981. The notice set forth the provisional agenda, provided explanations of the agenda items of substance, requested information and comments on those items, including suggestions for additional agenda items, and announced a public meeting, one of the purpose of which was to receive information and comments on the provisional agenda and to receive suggestions for additional agenda items.

The purpose of this notice is to set forth the items suggested for addition to the provisional agenda and to give the bases for either their acceptance by the Service for transmission to the Secretariat for possible inclusion in the provisional agenda or for their non-acceptance. In addition, this notice calls for information and comments on the accepted items.

Fundamental Principles

The Service has developed a number of principles to assist it in developing and presenting the United States position for the New Delhi meeting and are here set forth in full.

Fundamental Principles for the Development and Presentation of the United States Position for the Third Regular Meeting of the Conference of the Parties.

1. Promote and support the conservation goals of CITES, especially (a) the effectiveness of Scientific Authorities in controlling import and export of protected species, and (b) taking into account the wise use of resources.

2. Support and encourage full and effective implementation and enforcement of CITES in each Party, including the development and implementation of practical tools and systems.

3. Encourage and assist nonparties, especially major wildlife and plant traders, to become parties.

4. Encourage development of sound financial and administrative structures to enhance the capabilities of the Secretariat.

5. Encourage broad public participation and cooperation in the process of developing a cohert, integrated and achievable U.S. position.

6. Propose and support amendments to the species appendices which satisfy the Fundamental Principles of Article II, the Berne Criteria and the Format for Proposals.

7. Select a delegation based on the following points:

a. small enough to avoid negative impression on other delegations and to enhance coordination and control of delegation activities;

b. broadly representative of the American people;

c. composed of essential negotiators, from key agencies or fields of expertise.

8. Prepare the delegation through the development of a position paper covering all anticipated points, developed with thorough public and agency input.

These principles will serve to guide the Service in its preparations for the New Delhi meeting. Experience may show that they need to be added to or changed. The Service has already adopted several recommendations of sister agencies in the formulation of these principles. The Service will consider public comment on these principles received within the time period established for information and comments on additional provisional agenda items (see "Date" above).

Commenters

The following organizations provided information and comments on the provisional agenda for the third regular meeting of the Conference of the Parties:

American Ivory Association
Defenders of Wildlife
Fur Conservation Institute of America
International Convention Advisory Commission
Natural Resources Defense Council, Inc.
Society for Animal Protective Legislation
Southeastern Association of Fish and Wildlife Agencies
State of Montana Department of Fish and Game

Information and comments which were directed at existing provisional agenda items will not be discussed here but will be considered in the development of proposed negotiating positions which will be the subject of a separate **Federal Register** notice. What follows is a consideration of suggestions for additional provisional agenda items, some of which have been accepted and others have not for the reasons stated. Even though suggestions for such agenda items have not been accepted, they may be discussed informally by the Parties at New Delhi during plenary sessions. These informal discussions sometimes result in items on agendas of subsequent meetings. The Service wishes to acknowledge the information and comments submitted and expresses its appreciation of the effort which goes into this development and presentation either in writing or at the public meeting of June 2, 1980.

Suggested Provisional Agenda Items—Accepted

The following suggested provisional agenda items will be transmitted to the Secretariat together with a justification for their inclusion in the provisional agenda for the third regular meeting of the Conference of the Parties:

1. Listings to Control Trade in other Species: This item was suggested by the International Convention Advisory Commission. Unless exempted under Articles VII or XIV, findings of nondetriment are required for export of all Appendix I and II specimens and import of all Appendix I specimens, whatever the purpose of listing. However, if a species C is listed in Appendix I or II solely in order to control trade in some other species P, then trade in C could be controlled so that it is not detrimental to the survival of species P as it is in the United States, or it could be controlled so that it is not detrimental to the survival of species C. The Service believes that findings made by scientific authorities of other CITES parties do not take into consideration impacts on species P, and that the conservation goals and implementation of CITES would be enhanced by consideration of this matter.

2. Appendix I Imports: This item was suggested by the International Convention Advisory Commission. Article III of CITES requires the issuance of an import permit for specimens of Appendix I species. As a precondition to the issuance of permits the scientific authority must advise the management authority that the import will be for the purposes which are not detrimental to the survival of the species. As with findings of nondetriment concerning "control species," the Service believes that findings of scientific authorities of other CITES parties on imports of Appendix I species may vary from Party to Party and that consideration of this matter would enhance the conservation goals and implementation of CITES. The Service intends to transmit to the Secretariat a request that it include an agenda item entitled "Scientific Authority Findings on Nondetriment to the Survival of the Species". This will enable the United States to raise the issues addressed in this and the preceding item and provide for discussion of other issues in this area.

3. Trade with Nonparty Countries: Article X of CITES provides Party countries with the option to trade with nonparty countries provided comparable documentation issued by competent authorities is presented. Currently 59 countries are party to CITES. That

means that there are approximately 110 countries that are not CITES Parties, 31 of which have significant wildlife trade potential. CITES entered into force in July of 1975. The recently published report to the President, Global 2000, reportedly states that within the next 20–40 years there will be a 15 to 20 percent loss of all species on earth. Although much of this loss will likely be caused by actions not attributable to trade, CITES membership can influence attitudes towards wildlife and plant resources regarding all aspects of their use. The Standing Committee has encouraged its area members to urge countries within their respective areas to become parties. As an outgrowth of its deliberations with its management authority contacts group on the provisional agenda items concerning reservations, the Service believes consideration of this matter by the third regular meeting could serve the conservation goals of CITES and encourage nonparties to become parties. Such consideration would include possible limitations on trade with reserving and nonparty countries.

Suggested Provisional Agenda Items—Not Accepted

1. Review of Species Listed at or before First Regular Meeting of the Conference of the Parties: The Parties attending the first regular meeting (Berne 1976) expressed the need to review the species listed on Appendices I and II using the addition and deletion criteria they had adopted at that meeting. These so-called Berne Criteria were adopted as a response to a concern about certain wholesale listing proposals made at Berne. They provide separate criteria for adding species to or deleting species from Appendices I and II. The deletion criteria recognize that an error in deleting a species could have more serious consequences for the species than an error in listing it by requiring a stricter standard of information.

The United States in its preparations for this review, which culminated at the second regular meeting (San Jose 1979), developed a proposal that for a limited time would suspend the more stringent deletion criteria. This proposal, it was thought, would maintain the integrity of the Berne Criteria while providing a method whereby some species for which the then current data appeared to indicate no need for CITES protection could be deleted. This proposal met with considerable opposition at the second regular meeting. The proposal was modified and passed in a form that indicates that the Parties intended to uphold use of the deletion criteria.

Fur Conservation Institute of America and the International Association of Fish and Wildlife Agencies have suggested that the United States re-introduce its original proposal at New Delhi. To do this, an item would have to be added to the current provisional agenda. In light of the decision of the Parties taken at the second regular meeting, the Service will not recommend the addition of this item to the provisional agenda of the third regular meeting.

2. Control of Imports of Appendix II Species: A suggeestion was made by the Defenders of Wildlife that a resolution which was being drafted by the Standing Committee that would allow nations to monitor and potentially limit imports of Appendix II species should be brought out of committee and be addressed by the Parties at New Delhi. The Service is not aware of any such action being considerded by the Standing Committee which it chairs. Similarly, Natural Resources Defense Council wishes to have the so-called Swedish proposal reconsidered by the third regular meeting. The subject of control of Appendix II species was addressed by the Conference of the Parties at the second regular meeting which basically recommended that if a party believes species are being traded in a manner detrimental to their survival, the management authority of that country should consult directly with the management authority of the exporting country and, if this is not feasible or successful, make use of the Article XIII procedures which would invoke an inquiry by the Secretariat and the review of the Conference of the Parties. Alternatively the party could apply stricter domestic measures recognized in Article XIV and further limit or ban trade in the species in question. No mention was made of the standard for such a limitation or the procedures for its implementation, thus leaving it up to the country concerned to develop a standard appropriate to the particular situation and its own domestic requirements. The resolution also authorized the Technical Expert Committee on the Harmonization of Permits and Procedures to deal with control over trade in Appendix II and III species. The committee has produced five draft resolutions (reprinted in the Service's notice of May 9, 1980, 45 FR 3100) which, if adopted, would impose stricter requirements for findings underlying exports of CITES species from nonparty countries, standardize the forms for permits and certificates, provide for periodic review of annual reports of trade statistics, and require that all permits and certificates for unworked or simply worked ivory mention the actual country of origin. The Service believes that the Parties at the second regular meeting have, for the present; adequately addressed this issue and that the Technical Expert Committee is the appropriate organ for addressing this situation.

3. Extension of Duration of the CITES Export Permit: Article VI, para. 2 limits the duration of export permits to six months. The Southeastern Association of Fish and Wildlife Agencies has requested that the duration of export permits for bobcat, river otter and American alligator be increased from six months to a minimum of one year in order to enhance business continuity. The Service is developing a letter of authorization system which would enable an exporter of such species to obtain a permit from a U.S. Fish and Wildlife Service officer at one of the designated ports or at an office of a Special Agent in Charge. The duration of the validity of the letter of authorization would be two years while export permits issued under it would continue to comply with the six month limitation of CITES.

4. Prompt Reporting of Appendix II Violations: The Defenders of Wildlife has suggested that the Parties should be required to report promptly to the Secretariat all violations with regard to Appendix II species. The Service believes that each case should be treated separately so that responses can be tailored to meet particular facts and circumstances. Wholesale reporting of violations by all countries would tax the already limited staff of the Secretariat, could result in premature disclosure of investigations and run contrary to criminal and administrative procedures in Party countries.

5. Development by the Parties of the appendices to the Convention on Conservation of Migratory Wild Animals.

Monitor International has suggested that a new agenda item be added to the provisional agenda which would result in the development by the Parties of lists of CITES migratory endangered and threatened species of fauna that would benefit from being listed in the appendices of the Convention on the Conservation of Migratory Species of Wild Animals (CCMSWA) signed by 22 nations in Bonn, Federal Republic of Germany in 1979. This convention is not yet in force.

The United States had major difficulties with respect to the inclusion of marine species under the CCMSWA's controls, and felt that a number of species in the list of several thousand

adopted were not truly migratory. The Service believes that any initiative for developing lists of species to be protected by the CCMSWA should derive from the parties in accordance with the procedures of CCMSWA. In this regard, Article VIII, paragraph 5(c) authorizes the CCMSWA's Scientific Council to make recommendations to the Conference of the Parties as to the migratory species to be included in the appendices to CCMSWA.

Comments Received Regarding Items Already Included in the Provisional Agenda.

The Service, in response to its May 9, 1980 notice, received information and comments regarding items already included in the provisional agenda. These will be addressed in a notice of proposed negotiating positions tentatively scheduled for publication in the latter part of November 1980. The following is a list of the types of information and comments received in response to the May 9 notice and the agenda item to which they pertain:

Amendments to proposed resolutions of the committee of technical experts on the harmonization of permit forms and procedures (XIII, para. 1);
Definition of "transit" and "trans-shipment" as used in CITES Article VII, para. 1 (XIV, para. 4);
Clarification of when the provisions of the Convention apply to a specimen for purposes of Article VII, para. 2 (XIV, para. 4);
Comments on the IUCN Environmental Law Center's draft guideline for CITES implementing legislation (XIV, para. 7);
Timely submission of annual reports (IX, 1);
Ranching study should consider impact on wild specimens (XIII, para. 4);
Publication of the names, addresses and telephone numbers of management authorities by all parties (IX, para. 1);
Secretariat's report should emphasize parties' lag in plant enforcement (IX, para. 1).

U.S. Delegate Selection

Selection of members of the U.S. Delegation to the New Delhi meeting has begun. Organizations and persons interested in nominating delegation members should submit in writing the names of such nominees with supporting information. Nominees should have the background which would enable them to perform delegate functions as they relate to one or more provisional agenda items. The size of the delegation will be limited by the selection of a number of persons whose presence on the delegation is essential to the accomplishment of the business of the meeting. It would also be appropriate to have representatives of minorities or women on the delegation. Submissions should be addressed to the Federal Wildlife Permit Office (see Addresses, above).

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: August 6, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-23993 Filed 8-8-80; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Colorado and Wyoming; Request for Public Comment on Maximum Economic Recovery and Fair Market Value

AGENCY: U.S. Geological Survey, Interior.

The U.S. Geological Survey has identified 16 tracts as candidates for possible lease sale in the Green River-Hams Fork regional coal area of Colorado and Wyoming. The 16 tracts are those currently under consideration by the Green River-Hams Fork Regional Coal Team and are the subject of ongoing environmental analysis. A description of these tracts is contained in the table. More complete geologic data on these tracts are available in the economic recovery potential analysis reports prepared for each tract. These reports are available for public inspection at the Office of the Central Region Conservation Manager, Conservation Division, U.S. Geological Survey, Denver Federal Center, Denver, Colorado. additional data on these tracts are available from the Draft Environmental Impact Statement (DEIS). Copies of the DEIS are available from Dan Martin, EIS Teams Leader, Craig District Office, Bureau of Land Management, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625.

The U.S. Geological Survey will accept public comment on the maximum economic recovery attainable for each of the tracts listed in the table. The comments should focus on the following considerations:

1. The mining method which should be employed on each of the tracts;
2. The number of coal seams that can be mined consistent with maximization of net return on investment;
3. The total recoverable reserves on each of the tracts taking into account items (1) and (2) above; and,
4. Alternative mining methods on each of the tracts.

In addition, the public is invited to submit to the U.S. Geological Survey written comments that will be used in estimating fair market value for coal resources in the listed tracts. Comments should address specific factors related to fair market value, including, but not limited, to the following:

1. The quality and quantity of the coal resources;
2. Which of the tracts, if any, should be evaluated as part of a larger minimg unit (those tracts which do not in themselves form a logical mining unit);
3. The configuration of the larger mining unit of which the tract may be a part;
4. The price that the mined coal would bring in the marketplace;
5. The cost of producing the coal;
6. The most desirable timing and rate of production;
7. Depreciation and other accounting considerations;
8. The minimum rate of return that would be desired by a coal company in the absence of inflation (real rate of return);
9. The value of the surface estate if privately held.

Documented information on recent lease transactions for coal properties in the area should also be submitted at this time. This information should include location of the property, terms of the transactions, and any major conditions specified in the contract. The data should not be limited to transactions involving private property; assignments of Federal leases should also be included. Information submitted will be evaluated on its own merits. Commenters are encouraged, however, to supply technical justification to support their assertions.

If information submitted is considered to be proprietary, the information should be so labeled as such in the first page of the written comment. The U.S. Geological Survey will treat this information as confidential if authorized by the exemption provisions of the Freedom of Information Act. Comments should be sent to Central Region Conservation Manager, Conservation Division, U.S. Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80223. Comments should be received no later than 30 days after publication of this notice.

This request for comment should not be interpreted as a firm commitment by the Federal Government to lease any of the tracts listed in the Table. A decision to lease any or all tracts will be made not less than 30 days following publication of a final environmental impact statement (EIS) for the Green River-Hams Fork region. This sequence of steps is in accordance with the procedures specified in the 43 CFR 3400 series Federal coal management, regulations. This final EIS is now under preparation by the Bureau of Land Management, Colorado State Office. The final EIS is scheduled to be published August 29, 1980.

Departmental policy calls for release of all nonproprietary data which is used as input in the discounted cash flow evaluation model. Under this policy, this economic and geologic information would be released for public comment and review several months prior to the lease sale. However, because of the accelerated time schedule for the first sales in the Green River-Hams Fork region, these data will be released with the notices of the lease sale. The sale notices will therefore include these data as well as the minimum acceptable bid.

Dated: August 4, 1980.

Don E. Kash,

Chief, Conservation Division.

Tract name and State	County, township, and range (6th P.M.)	Acreage	Preliminary coal reserve estimate (millions of tons)	Probable type of mine	As received Btu per pound	Sulfur content (percent)	Ash content (percent)
Bell Rock Gulch, Colorado	Moffat, T. 6 N., Rs. 91, 92 W	434	11.5	Underground	10,800	0.54	9.02
China Buttes, Wyoming	Carbon, Ts. 17, 18, 19 N., Rs. 90, 91 W	5,560	62.8	Surface	8,800	0.56	7.35
Danforth Hills No. 1, Wyoming	Moffat, T. 3 N., R. 93 W	876	34.2	Surface	10,785	0.41	4.88
Danforth Hills No. 2, Colorado	Moffat, T. 3 N., R. 93 W	2,605	91.0	Surface	10,785	0.41	4.88
Danforth Hills No. 3, Colorado	Rio Blanco, T. 3 N., R. 93 W	1,769	89.6	Surface	10,785	0.41	4.88
Empire, Colorado	Moffat, T. 5 N., R. 91 W	691	12.9	Underground	10,450	0.52	7.50
Grassy Creek, Colorado	Routt, T. 5 N., R. 87 W	480	1.8	Surface	11,400	0.90	8.00
Hayden Gulch, Colorado	Routt, T. 5 N., Rs. 86, 89 W	5,567	80.1	Surface	10,030	0.71	8.21
Ilse Mountain, Colorado	Moffat, T. 5 N., R. 92 W	4,200	32.8	Surface	10,432	0.40	4.10
Lay, Colorado	Moffat, Ts. 7, 8 N., Rs. 92, 93, 94 W	11,563	69.4	Surface	10,300	0.49	8.00
Medicine Bow, Wyoming	Carbon, Ts. 23, 24 N., Rs. 83, 84 W	4,680	15.2	Surface	10,268	0.60	10.02
Pinnacle, Colorado	Routt, Ts. 4, 5 N., Rs. 86, 87 W	271	0.7	Surface	11,000	0.55	5.00
Red Rim, Wyoming	Carbon and Sweetwater, Ts. 19, 20, 21 N., Rs. 89, 90, 91 W.	10,320	34.5	Surface	8,560	0.45	9.30
Rosebud, Wyoming	Carbon, T. 23 N., Rs. 80, 81 W	3,520	14.4	Surface	10,500	0.80	10.00
Seminoe II, Wyoming	Carbon, Ts. 22, 23 N., Rs. 81, 82 W	1,440	7.8	Surface	10,600	0.90	10.30
Williams Fork Mountains, Colorado	Routt and Moffat, T. 5 N., Rs. 89, 90 W	10,560	34.8	Surface	10,097	0.63	7.47

[FR Doc. 80-24107 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[F-14919-A (Anchorage)]

Alaska Native Claims Selection

This decision rejects in part State Selection application and approves lands in the vicinity of Pitka's Point for conveyance to Pitka's Point Native Corporation.

I. State Selection Rejected in Part

On September 18, 1967, the State of Alaska filed community purposes grant selection application F-592, as amended, pursuant to Sec. 6(a) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(a) (1976)). This selection describes lands near the Native village of Pitka's Point, including portions of Tps. 22 and 23 N., R. 76 W., and T. 23 N., R. 77 W., Seward Meridian.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(a)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected have been properly selected under village selection application F-14919-A. Accordingly, State selection application F-592 is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

T. 22 N., R. 76 W.
Sec. 4, all.
Containing approximately 560 acres.

T. 23 N., R. 76 W.
Sec. 7, excluding U.S. Survey No. 4101;
Secs. 8 and 17, all;
Secs. 18 and 19, excluding U.S. Survey No. 4101;
Secs. 20 and 29, all;
Sec. 30, excluding U.S. Survey No. 4101;
Sec. 31, excluding U.S. Survey No. 4101 and Native allotment F-18299;
Sec. 32, NE¼.
Containing approximately 3,909 acres.

T. 23 N., R. 77 W.
Secs. 9, 10 and 11, all;
Secs. 12 and 13, excluding U.S. Survey No. 4101;
Sec. 14, all;
Sec. 15, excluding Native allotment F-16554;
Sec. 16, excluding Native allotments F-16554 and F-18392 Parcel D;
Sec. 21, excluding Native allotments F-16554, F-18392 Parcel D, F-027925 and F-18385 Parcel A;
Sec. 22, excluding U.S. Survey No. 2272, Native allotments F-16555 Parcel B, F-16554 and F-027925;
Sec. 23, all;
Secs. 24 and 25, excluding U.S. Survey No. 4101;
Sec. 26, excluding U.S. Survey No. 4101 and Native allotment F-18532 Parcel B;
Sec. 28, NE¼;
Sec. 35, N½, excluding U.S. Survey No. 4101; and SE¼;
Sec. 36, excluding U.S. Survey No. 4101.
Containing approximately 7,726 acres.
Aggregating approximately 12,195 acres.

The total amount of State selected lands rejected to permit conveyance to Pitka's Point Native Corporation is approximately 12,195 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA. Further action on the subject State selection application as to those lands not rejected herein, will be taken at a later date.

II. Lands Proper For Village Selection, Approved For Interim Conveyance

On November 8, 1974, Pitka's Point Native Corporation, for the Native village of Pitka's Point filed selection application F-14919-A, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Pitka's Point.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 64,023 acres, is considered proper for acquisition by Pitka's Point Native Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 22 N., R. 75 W.
Secs. 4, 5 and 6, excluding the East Fork of the Andreafsky River;
Sec. 7, all;
Secs. 8 and 9, excluding the East Fork of the Andreafsky River;
Secs. 16 and 21, inclusive all;
Secs. 28 to 31, inclusive all;
Sec. 32, excluding Native allotment F-18406 Parcel A;
Sec. 33, all.
Containing approximately 10,933 acres.

T. 22 N., R. 76 W.
Secs. 1, 2 and 3, inclusive all;
Secs. 4 and 5, excluding the Yukon River and the Andreafsky River;
Sec. 6, excluding Native allotments F-18116 Parcel B, F-18502 Parcel A and the Yukon River;
Sec. 7, excluding Native allotments F-18502 Parcel A, F-18740 Parcel A, Driftwood Slough and the Yukon River;
Sec. 8, excluding Native allotments F-18740 Parcel A, F-18404 Parcel A and the Yukon River;
Secs. 9 and 10, excluding the Yukon River;
Secs. 11 to 14, inclusive all;
Sec. 15, excluding the Yukon River and its interconnecting slough;
Sec. 16, excluding the Yukon River;
Sec. 17, excluding Driftwood Slough, the Yukon River and its interconnecting slough;
Sec. 18, excluding Driftwood Slough;
Sec. 19, all;
Sec. 20, excluding Native allotment F-16903 Parcel B, Driftwood Slough, the Yukon River and its interconnecting sloughs;
Sec. 21, excluding Native allotment F-16903 Parcel B and the Yukon River;
Sec. 22, excluding the interconnecting slough of the Yukon River;
Secs. 23, 24 and 25, all;
Sec. 26, excluding the interconnecting slough of the Yukon River;
Sec. 27, excluding Native allotments F-18403 Parcel A, F-17687 Parcel A, the Yukon River and its interconnecting sloughs;
Sec. 28, excluding Native allotment F-18403 Parcel A and the Yukon River;
Sec. 29, excluding Driftwood Slough;
Secs. 30 and 31, all;
Sec. 32, excluding Driftwood Slough;
Sec. 33, excluding the Yukon River;
Sec. 34, excluding the Yukon River and its interconnecting slough;
Sec. 35, excluding an interconnecting slough of the Yukon River;
Sec. 36, all.
Containing approximately 16,338 acres.

T. 23 N., R. 76 W.
Secs. 5 and 6, all;
Sec. 7, excluding U.S. Survey No. 4101;
Secs. 8 and 17, all;
Secs. 18 and 19, excluding U.S. Suryvey No. 4101;
Secs. 20 and 29, all;
Sec. 30, excluding U.S. Survey No. 4101;
Sec. 31, excluding U.S. Survey No. 4101, Native allotment F-18299 and the Yukon River;
Sec. 32, all.
Containing approximately 5,637 acres.

T. 22 N., R. 77 W.
Sec. 1, excluding Native allotment F-18403 Parcel B, the Yukon River and Driftwood Slough;
Secs. 2 and 12, excluding Driftwood Slough;
Sec. 13, all.
Containing approximately 1,965 acres.

T. 23 N., R. 77 W.
Secs. 1 to 5, inclusive, all;
Sec. 8, excluding Native allotment F-16922 Parcel D;
Secs. 9, 10 and 11, all;
Secs. 12 and 13, excluding U.S. Survey No. 4101;
Sec. 14, all;
Sec. 15, excluding Native allotment F-16554;
Sec. 16, excluding Native allotments F-16554 and F-18392 Parcel D;
Sec. 17, excluding Native allotment F-16922 Parcel D;
Sec. 20, excluding the Yukon River;
Sec. 21, excluding Native allotments F-18385 Parcel A, F-027925, F-16554, F-18392 Parcel D and the Yukon River;
Sec. 22, excluding U.S. Survey No. 2272, Native allotments F-16555 Parcel B, F-16554, F-027925 and the Yukon River;
Sec. 23, all;
Secs. 24 and 25, excluding U.S. Survey No. 4101;
Sec. 26, excluding U.S. Survey No. 4101, Native allotment F-18532 Parcel B and the Yukon River;
Sec. 28, exluding the Yukon River;
Sec. 34, excluding Native allotment F-18673 Parcel A, the Yukon River and Driftwood Slough;
Secs. 35 and 36, excluding U.S. Survey No. 4101 and the Yukon River.
Containing approximately 11,341 acreas.

T. 24 N., R. 77 W.
Secs. 8 to 30, inclusive, all;
Secs. 32 to 36, inclusive, all.
Containing approximately 17,809 acres.
Aggregating approximately 64, 023 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement At of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14919-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 2 C3, D1, D9) An easement for an existingf access trail twenty-five (25) feet in width from the southernmost part of Steamboat Slough in Sec. 36, T. 23 N., R. 76 W., Seward Meridian, southeasterly to Pilot Station village. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

b. (EIN 4 C3, D1) An easement sixty (60) feet in width for an existing road from St. Mary's village in Sec. 26, T. 23 N., R. 76 W., Seward Meridian westerly to an existing road on State land in Sec. 30, T. 23 N., R. 76 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 4b, C3, D1) An easement sixty (60) feet in width for an existing road from Pitka's Point village in Sec. 6, T. 22 N., R. 76 W., Seward Meridian, northeasterly to road EIN 4 C3, D1 in Sec. 32, T. 23 N., R. 76 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 10 C5, D1) An easement for a proposed access trail twenty-five (25) feet in width from the end of the State airport land in Sec. 7, T. 23 N., R. 76 W., Seward Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 14 C5) An easement twenty (20) feet in width, ten (10) feet on each side of the center line, for an existing buried powerline from road EIN 4 C3, D1 in Sec. 33, T. 23 N., R. 76 W., Seward Meridian, southwesterly to the village of Pitka's Point. The uses allowed are those activities associated with the construction, operation, and maintenance of the powerline facility.

The grant of the above described lands shall be subject to:

within the proposed boundary, to

in the sale of M&I water from Columbia

Applicants must comply with any

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid exiting rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, AA–12922, two hundred (200) feet in width, located in Secs. 5, 8, 9, 10, 13, 14 and 15, T. 23 N., R. 77 W., Seward Meridian and Secs. 18, 19, 20 and 29, T. 23 N., R. 76 W., Seward Meridian, for a Federal Aid Highway, issued to the State of Alaska, Department of Transportation and Public Facilities. Act of August 27, 1958, as amended, 23 U.S.C. 317;

4. A right-of-way, AA–12952, located in Sec. 29, T. 23 N., R. 76 W., Seward Meridian, Alaska, for a Federal Aid Material Site, issued to the State of Alaska, Department of Transportation and Public Facilities. Act of August 27, 1958, as amended, 23 U.S.C. 317;

5. A right-of-way, AA–9236, located in Sec. 6, T. 22 N., R. 76 W., Seward Meridian, for a water plant and related pipeline, issued to Pitka's Point Safewater Corporation. Act of March 4, 1911 (36 Stat. 1253), as amended, 43 U.S.C. 961; and

6. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Pitka's Point Native Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved the total acreage conveyed or approved for conveyance is approximately 64,023 acres. The remaining entitlement of approximately 5,097 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Pitka's Point Native Corporation and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

Yukon River and its unnamed interconnecting sloughs;

Driftwood Slough;

Andreafsky River and the East Fork of the Andreafsky River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation any appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 710 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until September 10, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Pitka's Point Native Corporation, Pitka's Point, Alaska 99658.

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-24119 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-84-M

Eastern States; Transfer of Submarginal Lands, L'Anse Indian Reservation

Correction

In FR Doc. 80–22927, in the issue of Thursday, July 31, 1980, on page 50938, in the first column, the tenth line from the bottom, is corrected to read as follows:

"Sec. 2, SE¼NW¼, SE¼SW¼, E½SE¼"

BILLING CODE 1505-01-M

National Park Service

Availability and of Public Meetings; Upper Mississippi River Conceptual Master Plan

Notice is hereby given of the availability of a conceptual master plan for the management of segments of the Upper Mississippi River as a component of the National Wild and Scenic Rivers System under the provisons of Public Law 90–542, 82 Stat. 906, October 2, 1968, the Wild and Scenic Rivers Act.

Notice is further given of public meetings to be conducted on the conceptual master plan, as follows:

September 8, 1980, 7 p.m.—Landowners Workshop, Rooms 1 and 2, Social Service Center, adjoining Crow Wing County Courthouse, Brainerd, Minnesota.

September 9, 1980, 7 p.m.—General public meeting, Rooms 1 and 2, Social Service Center, adjoining Crow Wing County Courthouse, Brainerd, Minnesota.

September 10, 1980, 7 p.m.—Landowners Workshop, Blandin Room, Holiday Inn, Grand Rapids, Minnesota.

September 11, 1980, 7 p.m.—General public meeting, Blandin Room, Holiday Inn, Grand Rapids, Minnesota.

September 12, 1980, 7 p.m.—Landowners Workshop, Courtroom, Clearwater County Courthouse, Bagley, Minnesota.

September 13, 1980, 2 p.m.—General public meeting, University Room Holiday Inn, Bemidji, Minnesota.

Copies of the conceptual master plan will be mailed to landowners of record within the proposed boundary, to interested persons who have requested copies, and to appropriate agencies of Federal, state, and local government.

An environmental assessment of the conceptual master plan has been prepared. Copies of the environmental assessment and of the conceptual master plan are available at the Office of the Regional Director, Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

Anyone wishing to provide written comments may do so by mailing them to the Regional Director at the above address by October 1, 1980.

Dated: August 1, 1980.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 80-24139 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Short-Term Municipal and Industrial Water Service Contracts, Columbia Basin Project, Washington; Intent to Enter Into Short-Term Water Service Contracts

The Regional Director of the Pacific Northwest Region, Water and Power Resources Service (Service), Department of the Interior, may enter into short-term water service contracts with individuals, corporations, districts, or municipalities for small quantities of municipal and industrial (M&I) water from the Columbia Basin Project, Washington. Contracts of this type can be entered into by the Regional Director upon short notice to meet emergency or temporary demands, in accordance with section 9(c)(2) of the Reclamation Project Act of 1939, pursuant to Departmental Manual paragraph 255.1.4B(1)(b) and Water and Power Instructions chapter 053.2.

The Service intends to offer 2-year contracts with an annual water charge of $10.00 per acre-foot. All contracts will specify quantities, rates, and other terms and conditions in compliance with Reclamation law and Service policy.

Presently, Northwest Land and Investment, Inc., of Bellingham, Washington, has requested a contract for 15 acre-feet of water per year from Banks Lake for a mobile home park. The total M&I demand within the project service area is expected to be less than 300 acre-feet for 1980.

Applications for this water should be submitted in writing to the Project Manager, Columbia Basin Project, P.O. Box 815, Ephrata, WA 98823. A draft contract form is available for public review. Unless significant public interest in the sale of M&I water from Columbia Basin Project works is demonstrated in response to this notice, announcement of proposed contractual actions will be limited to those parties involved in specific actions. All written correspondence concerning any specific contract proposal will be made available upon written request pursuant to the Freedom of Information Act (80 Stat. 383). Further information may be obtained from Mr. William H. Hewitt, Chief of the Water and Land Operations Division at the address above; telephone (509) 754–4611.

Dated: August 1, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-23906 Filed 8-8-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication (August 28, 1980). Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication (September 8, 1980), or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5. Members Krock, Taylor, and Williams.

MC–FC–78563 (Republication). By decision of July, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved to transfer to KANSAS CARTAGE CO., a corporation, of Kansas City, KS, a corporation, of Certificate of Registration No. MC–120770 (Sub-No. 1) issued 6/17/64, to Robert J. Creason, d.b.a. KANSAS CARTAGE CO., at Kansas City, KS, evidencing a right to engage in transportation in interstate comerce corresponding in scope to certificate of Convenience and Necessity No. 17376–M, dated 10/6/37, amended 6/2/43 and 10/22/52, transferred to transferor by order dated 12/24/57, and issued by the State Corporation Commission of the State of Kansas, subject to the following conditions: Transferee must furnish the commission proof that the underlying intrastate rights supporting the Certificate of Registration have been transferred by the appropriate state commission before this transaction can be consummated. The operating rights approved for transfer and described at the end of this notice. Applicant's representative is: John E. Jandera, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Transferee holds no authority. A TA lease application has not been filed. This application is directly related to No. MC–120770 (Sub-No. 2 F) publish in another section of this **Federal Register** issue. The rights being Transferred in No. MC–FC–78563 are: * * * Property between points wholly within Kansas, intrastate, and between points in Kansas and points in Oklahoma, interstate, with the privilege of and restricted to hauling oil field machinery, supplies and materials and heavy machinery, buildings and box cars within and between oil fields and between supply points and oil fields. * * * Applicant may also engage in the transportation of the following commodities pursuant to Route 807: Bridge Builders' contractors', graders', house movers', outfits and supplies;

Grading or roadmaking implements and equipment: Shovels, power; Drag lines, power; Cranes, power; Pile drivers, power; Engines, steam or combustion, traction or tractors, other than farm and not including tractors with vehicle beds or fifth wheels; Poles, telephone, telegraph or electric, wood or iron and steel, including pole line fixtures and materials; Cable or wire on spools or reels; Dehydrators and parts; Generators, Motors, Condensers, transformers, electric and other machinery, machinery parts and equipment used in power stations or electric generating plants; Pumping station machinery, equipment and supplies, water and other than water pumping; Pipe, iron or steel; Pipe, concrete, or concrete reinforced machinery and equipment, heavy or bulky, used in or incidental to mining, manufacturing, industrial or machine shop use; Boilers and parts, iron or steel; Iron or steel, structural or reinforcing fabricated or unfabricated; Refinery machinery and equipment, oil or other than oil; Tanks; Filling station equipment; Safes & Vaults; Scales, platform, factory or warehouse; Bakery ovens and equipment; Houses; set up or fabricated; Factory tools and equipment; Lumber; railroad equipment; box cars; rails; trucks; bridge timbers, piling and girders; Farm machinery; Airplanes, wrecked, set up, motors, wings, fuselage and parts; And all other articles, the movement of which require special motor vehicle equipment such as that used in oil field hauling, Wrecked and disabled motor vehicle equipment of all types, including automobiles, trucks, tractors and trailers: Between points and places within a 50-mile radius, of Wichita, Kansas; Also: Between points and places within said 50-mile radius of Wichita, Kansas, on the one hand, and on the other, points and places in the State of Kansas.

Note.—The prior publication of this proceeding on May 15, 1980, was in error and should be disregarded.

MC 120770 (Sub-2 F), filed March 28, 1980. Applicant: KANSAS CARTAGE CO., a Kansas corporation, 712 Sunshine Road, Kansas City, KS 66115. Representative: John E. Jandera, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. (1) *Oil Field Machinery, supplies and materials and heavy machinery; buildings and box cars; Bridge Builders' contractors' graders' house movers' outfits and supplies; grading or roadmaking implements and equipment; shovels, power; drag lines, power; cranes, power; pile drivers, power; engines, steam or combustion, traction or tractors,* other than farm and not including tractors with vehicle beds or fifth wheels; *poles, telephone, telegraph or electric, wood or iron and steel,* including pole line fixtures and materials; cable or wire on spools or reels, *dehydrators and parts; generators, motors, condensers, transformers, electric and other machinery, machinery parts and equipment* used in power stations or electric generating plants; *pumping station machinery, equipment and supplies, water and other than water pumping' pipe, iron . and steel; pipe, concrete or concrete reinforced machinery and equipment, heavy or bulky,* used in or incidental to mining, manufacturing, industrial or machine shop use; *boilers and parts, iron and steel; iron or steel,* structural or reinforcing fabricated or unfabricated; *refinery machinery and equipment, oil* or other than oil; *tanks; filling station equipment; safes & vaults; scales, platform, factory or warehouse; bakery ovens* and equipment; *houses;* set up or fabricated; *factory tools and equipment; lumber; railroad equipment; box cars; rails; truck; bridge timbers, piling and girders; farm machinery; airplanes; wrecked, set up, motor, wings, fuselage and parts, articles,* which because of their size or weight, require the use of special equipment, between points in Kansas (2) *Wrecked and disabled motor vehicle equipment* of all types, including automobiles, trucks, tractors and trailers, between points in Harper, Sumner, Cowley, Kingman, Sedgwick, Butler, Reno, Harvey, McPherson, and Marion Counties, Kansas, on the one hand, and on the other, points in Kansas. (Hearing site: Kansas City, MO.)

Note.—The above authority represents conversion of Certificate of Registration No. MC–120770 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. This application is directly related to No. MC–FC–78563, published in another section at this **Federal Register** issue.

MC–FC–78600. By decision of June 3, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. The Motor Carrier Board approved the transfer to DAWN ENTERPRISES, INC., d.b.a. DAWN TRUCKING CO., of Farmington, NM, of Certificates No. MC–117169 (Subs 1 and 4) issued 5/8/67 and 1/29/75 to Beasley Trucking Inc., of Denver, Co., authorizing the transportation of *Oilfield tools, equipment, and supplies,* with each individual shipment restricted to not more than 5,500 pounds, between points in San Juan County, NM, on the one hand, and, on the other, points in San Juan and Grand Counties, Utah, and Montezuma, La Plata, Archulleta, Dolores, San Miguel, Montrose, and Mesa Counties, CO. *Oilfield tools, equipment, and supplies,* used in replacing, servicing or repairing machinery and equipment, and *sucker rods* used in connection with the discovery, development and production of natural gas and petroleum and their products and by-products, between points in San Juan County, NM, on the one hand, and, on the other, points in Arizona, Colorado, Nevada, Utah, and that part of Wyoming on and south of U.S. Highway 26. (1) *Machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and (2) *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing maintenance, and dismantling of pipelines (except the stringing of picking up of pipe in connection with main or trunk pipelines), between points in Apache, Navajo, Coconino, and Mohave Counties AZ, that part of Colorado on and south of U.S. Highway 50 (except Pueblo), New Mexico, and Utah (except Provo, Orem, and Geneva). Applicant's representative: Richard S. Mandelson, Suite, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

MC–FC–78623. By decision of June 17, 1980, issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR Part 1133 Review Board Number 5 approved the control by OHIO MOTORISTS ASSOCIATION OF CLEVELAND, OH of License No. MC–130350 issued 6/29/76 to Huron County Automobile Club, Inc. of Norwalk, OH, authorizing a broker service at Norwalk, OH, as follows: passengers and their baggage, in round-trip special and charter operations, beginning and ending at points in Huron County, OH, and extending to points in the United States, including Alaska and Hawaii. Applicant's representative is: Gerald P. Wadkowski, 85 East Gay St., Columbus, OH 43215. Transferee hold authority as a broker in No. MC–130501F.

MC–FC–78624. On July 16, 1980, under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132 Review Board Number 5 approved the transfer to THOMAS EXPRESS CO., INC. of Highstown, NJ, of Certificate No. MC–31023 issued 3/8/68 to Moon Carrier of New York, NY authorizing the transportation of *general commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, Between New York, N.Y., and Philadelphia, Pa., serving the intermediate and off-route points of Newark, New Brunswick, Princeton, Highstown, Burlington, Camden, and Trenton, N.J., and those in Pennsylvania within 25 miles of Philadelphia, as follows: From New York over U.S. Highway 1 to Philadelphia, and return over same route. From New York over U.S. Highway 1, to Morrisville, N.J., thence over U.S. Highway 13 to Philadelphia, and return over the same route. From New York over U.S. Highway 1 to Newark, N.J., thence over New Jersey Highway 27 to New Brunswick, N.J., thence over U.S. Highway 130 (formerly New Jersey 25) to Camden, N.J., and thence across the Delaware River to Philadelphia, and return over the same route. Between Clifton, N.J., and Philadelphia, Pa., serving all intermediate points; and the off-route points in Pennsylvania within 25 miles of Philadelphia, as follows: From Clifton over New Jersey Highway 7 to Newark, N.J., thence over U.S. Highway 1 to Philadelphia, and return over the same route. From Clifton to Newark as specified above, thence over U.S. Highway 130 (formerly New Jersey Highway 25) to Camden, N.J., thence across the Delaware River to Philadelphia, and return over the same route, Between Clifton, N.J., and points in Union, Bergen, Essex, Hudson, Passaic, Morris, Middlesex, and Somerset Counties, N.J. Between Clifton, N.J., and points in Union, Bergen Essex, Hudson, Passaic, Morris, Middlesex, and Somerset Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester, Rockland, and Nassau Counties, N.Y. Between New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Passaic, Union, Middlesex, Morris, Somerset, Sussex, Warren, Mercer, Monmouth, Burlington, Camden, and Gloucester Counties, N.J. Applicant representative is: Michael R. Werner, P.O. Box 1409, Fairfield, NJ 07006 TA appln. has been filed.

MC–FC–78626. By decision of July 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Review Board Number 5 approved the transfer to ROSS TRANSFER & STORAGE, INC., of Hagerstown, MD, of Certificate No. MC–134639 issued November 13, 1970, to ZIMMERMAN MOVING & STORAGE CO., of Chambersburg, PA authorizing the transportation of *Household goods* as defined by the Commission, Between points in Franklin County, Pa., on the one hand, and on the other, points in New York, New Jersey, Maryland, Ohio, Virginia, West Virginia, Delaware, and the District of Columbia. *Such commodities* as are dealt in by mail order houses which operate retail stores, from Chambersburg, Pa., to points in Maryland and West Virginia within 40 miles of Chambersburg; and *damaged, defective, and traded-in shipments of general merchandise,* from the next above-specified points of destination, to Chambersburg. Applicant's Representative is: Transferee: Mr. Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transferor: Lee & Kaye, 37 West Queen Street, Chambersburg, PA 17201. Application has been filed for TA. Transferee presently holds no authority from the Commission.

MC–FC–78627. On July 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to MABEY'S MOVING & STORAGE, INC., of Chatham, NY, of Certificate No. MC–2221 issued September 2, 1970, to Mabey's Leasing, Inc., of Chatham, NY, authorizing the transportation of *Household goods,* between Hudson, NY, on the one hand, and, on the other, points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Between Hudson, NY, on the one hand, and, on the other, points in Indiana and Ohio. *Household goods,* as defined by the Commission, between points in Columbia County, NY, within 20 miles of Hudson, NY, on the one hand, and, on the other, points in Connecticut, Indiana, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. Between Hudson, NY, and points in Columbia County, NY, within 20 miles of Hudson, on the one hand, and, on the other, points in Delaware, Maryland, and the District of Columbia. *Bakery products,* from Hudson, NY, to Pittsfield, Mass.; and *empty containers* used in transporting bakery products, from Pittsfield, Mass., to Hudson, NY. Applicant's representative is: Mr. Neil D. Breslin, Attorney, 600 Broadway, Albany, NY 12207. Application for TA has not yet been filed. Transferee presently holds no authority from the Commission.

MC–FC–78628. On July 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Tom O'Connor, an individual, d.b.a. KERRY MOTOR SERVICE of Chicago, IL, of Certificate No. MC–115092 (Sub-No. 43) issued April 12, 1977, to TOMAHAWK TRUCKING, INC., of Vernal, UT, authorizing the transportation of *expanded plastic foam,* with or without backing (1) from La Mirada, CA, to points in CO, ID, and UT, restricted to the transportation of shipments originating at the above-named origin point; and (2) from the facilities of Apache Foam Products Company at or near Belvidere, IL, to points in that part of the United States in and east of AZ, ID, and NE, restricted to the transportation of shipments originating at the above-named facilities in (2). Applicant's representative is: Mr. Dennis W. Thorn, Attorney, 100 North LaSalle St.—Suite 2510, Chicago, IL 60602, (312) 726–7023. TA application has been filed. Transferee presently holds no authority from the Commission.

MC–FC–78637. By decision of July 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to TRANSPORT BRUNO BOULIANNE Ltee., Beauce, Quebec, Canada, of Permit No. MC–141697 (Sub-1), issued June 28, 1978, to Hygin Veilleux, Beauce, Quebec, Canada, authorizing the transportation of *Wood chips,* from ports of entry on the United States-Canada Boundary line located at or near Jackman, ME, to Jay, ME, under continuing contract(s) with Guimont & Freres Ltee., of Montmagny, Canada. Applicants representative: Wesley S. Chused, 45 Court Square, Boston, MA 02108.

Note.—Transferee presently holds no authority from this Commission.

MC–FC–78638. By decision of July 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to STEWART INTERMODAL TRANSPORT, INC., Cincinnati, OH, of Certificates MC–107906, and MC–107906 (Sub–Nos. 27, 28, 29, 30, 31, 32, and 34), issued March 19 1970, March 2, 1972, October 3, 1975, August 8, 1975, August 1, 1974, July 28, 1975, February 6, 1975, and May 20, 1977, respectively, to Transport Motor Express, Inc., Fort Wayne, IN, authorizing the transportation of *General commodities,* with exceptions, over specified regular routes, between named points in IN, IL, KY, and PA; and, over irregular routes, of *Iron and steel articles,* from the plant site of Jones & Laughlin Steel Corp., in Putnam County, IL, to points in IN and OH, *material, equipment, and supplies* used in the manufacture and processing of iron and steel articles, from points in IN and OH, to the plant site of Jones &

Laughlin Steel Corp., in Putnam County, IL, subject to restrictions: *general commodities*, between points in IL within the Chicago, IL Commercial Zone as defined by the Commission; *General commodities*, with exceptions, between points in the Chicago, IL Commercial Zone as defined by the Commission, and between Pittsburgh, PA, on the one hand, and, on the other, points in a described part of PA; *Salt*, from Rittman, OH, to Peru, Decatur, Fort Wayne, Columbia City, and Plymouth, IN; *Fish*, from Cleveland, OH, to Fort Wayne, IN; *Better and cheese*, from Decatur and Huntington, IN, to Freeport, IL, and from Freeport, IL to Pittsburgh, PA; *motor oil and grease* (in containers), from Petrolia, Emlenton, Coraopolis, Oil City, McClintock, Rouseville, East Butler, Freedom, and Pittsburgh, PA, to Fort Wayne, IN; *Refrigerators*, from Mansfield, OH, to Fort Wayne, IN; *Kraut and oleomargarine*, from Norwalk, OH, to Fort Wayne, IN; *Commodities* classified as dairy products, *frozen eggs, and canned condensed milk*, from Fort Wayne, IN, to Akron and Lima, OH, Sharon, Farrell, Philadelphia, Harrisburg, and Pittsburgh, PA, and Wilmington, DE; *cream*, in cans, *canned condensed milk, butter, and cheese*, from Peru, IN, to Bucyrus, Canton, Cleveland, Columbus, Kenton, Lima, Mansfield, Marion, Toledo, Upper Sandusky, Wooster, and Youngstown, OH, Braddock, Butler, Erie, East Pittsburgh, Indiana, Jeannette, New Castle, Oil City, Pittsburgh, Uniontown, and West Pittsburgh, PA and Wheeling and Wierton, WV; *Dairy products*, from Fort Wayne, IN, to Buffalo, Syracuse, and New York, NY, Camden, NJ, Baltimore, MD Washington, DC, Norfolk, VA, Boston, MA, Altoona, Shippensburg, and Lebanon, PA, Bridgeport, CT, Providence, RI and Fairmount, WV; *empty containers*, for cream, canned condensed milk, butter, cheese, and dairy products, designated immediately above, in the reverse direction; *butter, cheese, cream, and butter tubs*, between Decatur, IN, on the one hand, and, on the other, Chicago, IL, Cleveland and Youngstown, OH and Pittsburgh, PA; *butter, cheese, cream, frozen poultry and frozen eggs*, between Fort Wayne, Decatur and Huntington, IN, on the one hand, and, on the other, Cleveland, and Youngstown, OH and Pittsburgh, PA; *synthetic resin lacquer*, and *thinner* used in connection therewith, both in bulk in tank vehicles, from Pittsburgh and Rochester, PA, to Chicago, IL, Milwaukee, WI, and St. Louis MO, and *empty tank trailer equipment* used in connection with the operation described next above, from Chicago, IL, Milwaukee, WI, and St. Louis, MO, to Pittsburgh and Rochester, PA; *general commodities*, with the usual exceptions, between points in IL in Lake, Cook, Du Page, Kane, Kendall and Will Counties, that part of McHenry County on and south of IL Hwy 120 and on and east of IL Hwy 47, and that part of Kankakee County on and north of IL Hwy 114 and 17, excluding Kankakee; and *General commodities* with the usual exceptions, between points in Marion County, IN, between Fort Wayne, IN, on the one hand, and, on the other, Ferguson, Baer Field, and points within 5 miles of Fort Wayne, IN, subject to a restriction.

"Federal Register" Summary for Certificate or Permit

MC–FC–78652. By decision of July 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Motor Carrier Board approved the transfer to TRUBIAN CORPORATION, Four Star Lines Division of Siren, WS of Certificate No. MC–44770 (Sub-No. 15) in part issued August 3, 1978 to Midland Lines, Inc., Zephyr Division of Minneapolis, MN, authorizing the transportation of passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, between Minneapolis, Minn., and Ashland, Wis., serving all intermediate points except New Richmond, Wis., and points east thereof to junction Wis. Hwys 64 and 46, and Turtle Lake, Wis., on traffic originating at or destined to St. Paul, and Minneapolis, Minn.: From Minneapolis over Minn. Hwy 212 to the St. Croix River, thence across the St. Croix River to junction Wis. Hwy 64, thence over Wis. Hwy 64 to junction U.S. Hwy 63, and thence over U.S. Hwy 63 to Ashland, and return over the same route. Between Ashland, Wis., and Ironwood, Mich., serving all intermediate points: From Ashland over U.S. Hwy 2 to Ironwood, and return over the same route. Between St. Paul, Minn., and junction U.S. Hwy 12 and Wis. Hwy 35, serving all intermediate points: From St. Paul over U.S. Hwy 12 to junction Wis. Hwy 35 (also from St. Paul over Inter. Hwy 94 to junction Wis. Hwy 35), and return over the same route. Between St. Paul, Minn., and Webster, Wis., serving all intermediate points: From St. Paul over U.S. Hwy 61 to Forest Lake, Minn., thence over U.S. Hwy 8 to junction Wis. Hwy 35, thence over Wis. Hwy 35 to Webster, Wis., and return over the same route. Between St. Paul, Minn., and Rice Lake, Wis., serving all intermediate points: From St. Paul over Inter. Hwy 94 to junction Wis. Hwy 65, thence over Wisconsin Highway 65 to New Richmond, Wis., thence over Wis. Hwy 64 to junction Wis. Hwy 46, thence over Wis. Hwy 46 to junction U.S. Hwy 8, thence over U.S. Hwy 8 to Cameron, Wis., thence over U.S. Hwy 53 to Rice Lake (also from junction U.S. Hwy 8 and Wis. Hwy 35 over U.S. Hwy 8 to junction U.S. Hwy 8 and Wis. Hwy 46), and return over the same route. Between Deer Park, Wis., and junction U.S. Hwy 8 and Wis. Hwy 46, serving all intermediate points: From Deer Park over Wis. Hwy 46 to junction U.S. Hwy 8 and return over the same route. Between junction U.S. Hwy 8 and Wis. Hwy 35, and Cameron, Wis., serving all intermediate points: From junction U.S. Hwy 8 and Wis. Hwy 35, over U.S. Hwy 8 to Cameron, and return over the same route. Between Cameron, Wis., and Rice Lake, Wis., serving all intermediate points: From Cameron over Wis. Hwy 53 to Rice Lake, and return over the same route. Applicant's representative is Elvin S. Douglas, Jr., P.O. Box 280, Harrisonville, MO 64701. TA appln. has not been filed. Transferor holds no authority.

MC–FC–78653. By decision of July 18, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 5 approved the transfer to R.J.R. MOVING & STORAGE CORP., d.b.a. R.J.R. MOVING & STORAGE CORP., and Broser Bros., New York, NY, of Certificate No. MC–30718, issued October 13, 1958, to Broser Bros., Inc., New York, NY, authorizing the transportation of *machinery and equipment*, when moving to or from factories or printing establishments, and in connection therewith, *such raw materials* as are intended for manufacture and *such finished products* as are manufactured therein when a part of the stock or supply of such factories or establishments, between New York, NY, on the one hand, and, on the other, points in CT and RI, those in NY north of and including Mercer and Monmouth Counties, those in PA east of a line beginning at the PA-NY State line and extending along U.S. Hwy 220 to Muncy, PA, then along U.S. Hwy 15 to Harrisburg, PA, and then along the Susquehanna River to the PA-MD State Line, those in NY, through NJ, south and southeast of a line beginning at the NY-VT State line and extending along NY Hwy 347 to Ticonderoga, NY, then along NY Hwy 8 to Deposit, NY, and then along the east side of Broome County, NY, those in MA east of U.S. Hwy 5 including points on the indicated portions of the highways specified; *household goods*, as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in CT, and those in the above-specified territory in MA, NY, NJ, and PA; *electric motors, steam boilers, garment* pressing machines, and printing machines, between New York, NY, on the one hand, and, on the other, points in CT and those in the above-specified territory in NJ and NY; *advertising displays*, between New York, NY and Newark, NJ; *partitions, shelving, window guards and shutters, and steel lockers and radiator guards*, between New York, NY, on the one hand, and, on the other, points in the above-specified territory in NJ, NY, and PA; *empty paper boxes and cartons*, between New York, NY, on the one hand, and, on the other, points in the above-specified territory in NY and NJ. Applicants representative: Leon Baer Borstein, 350 Madison Ave., New York, NY 10017.

MC–FC–78655. By decision of July 21, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 5, approved the transfer to CHANDALAR TRANSPORTATION, INC., Canton, IL, of Certificate No. MC–138792 (Sub-No. 2F), issued June 29, 1979, to D. J. VISKOE TRUCKING, INC., Big Falls, MT, authorizing the transporation of *foodstuffs* (except in bulk), from the facilities of Anderson Clayton Foods, Inc., at or near Jacksonville, IL, to Baltimore, Landover, and Jessup, MD, Secaucus, NJ, Philadelphia and Pittsburgh, PA, Boston, MA, Syracuse and Rochester, NY, and points in CT and VA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. Applicants' representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701.

MC–FC–78659. By decision of July 23, 1980 issued under 49 U.C.S. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to TOWNS TRANSFER, INC., Cordova, AL, of Certificate of Registration No. MC–96819 (Sub-No. 1), issued October 22, 1963, to TOWNS EXPRESS, INC., Birmingham, AL, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Motor Carrier Certificate of Public Convenience and Necessity No. 633, dated September 10, 1957, issued by the Alabama Public Service Commission, subject to the condition that applicants supply evidence of the State Commission's approval of the transfer of the underlying instrastate operating rights, prior to or concurrently with consummation of this transfer. Applicants representative: John W. Cooper, 200 Woodward Bldg., 1927 First Ave., N., Birmingham, AL 35230.

MC–FC–78660. By decision of July 17, 1980 issued under 49 U.S.C. 10924, The Review Board No. 5, approved the transfer to The OHIO AUTOMOBILE CLUB (a Corporation), Columbus, OH, of the brokers' licenses of CANTON AUTOMOBILE CLUB, INC., Canton, OH, The COLUMBUS AUTOMOBILE CLUB, Columbus, OH, and NORTH CENTRAL OHIO AAA, Wooster, OH, authorizing operations as a broker, as follows: MC–12830 (Sub-No. 1), issued March 24, 1975, at Canton and Plain Township (Stark County), OH, *Passengers and* their baggage, in special and charter operations, beginning and ending at points in Stark County, OH, and extending to points in the United States (including AK but excluding HI); MC–12830 (Sub-No. 2), issued March 24, 1975, at Canton, Akron, Wooster, and Plain Township (Stark County), OH, *passengers and their baggage*, in special and charter operations, beginning and ending at points in Summit and Wayne Counties, OH, and extending to points in the United States (excluding HI); MC–130027, issued April 17, 1978, at Upper Arlington, Delaware, Mt. Vernon, Lancaster, and Circleville, and Columbus, OH, passengers and their baggage in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Franklin, Champaign, Delaware, Fairfield, Fayette, Knox, Licking, Logan, Madison, Ross, Perry, Pickaway, and Union Counties, OH, and extending to points in the United States (excluding HI), subject to a restriction; MC–130306, issued October 17, 1975, at Orrville and Wooster, OH, passengers and their baggage, in special and charter operations, in all-expense tours, beginning and ending at points in Wayne and Holmes Counties, OH, and extending to points in the United States (including AK and HI); and MC–130306 (Sub-No. 1), issued April 27, 1977, at Wooster, Orrville, Lodi, and Medina, OH, passengers and their baggage, in the same vehicle with passengers, in special and charter operations, in all-expense tours, beginning and ending at points in Medina County, OH, and extending to points in the United States (including AK and HI). Transferee presently holds Broker's License No. MC–130311. Representative: Gerald P. Wadkowski, 85 E. Gay St., Columbus, OH 43215.

MC–FC–78667. By decision of July 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, The Review Board No. 5 approved the transfer to Bert Pettigrew, Ellensburg, WA, of Certificate No. MC–134375 (Sub-No. 13), issued January 26, 1978, to Eldon Graves, d.b.a. ELDON GRAVES TRUCKING, YAKIMA, WA, authorizing the transportation of *paper packing partitions and wood pulp packing partitions*, from Sacramento, CA, to points in WA in and east of Okanogan, Chelan, Kittitas, Yakima, and Klickitat Counties. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210.

Note.—No application for temporary authority has been filed. Transferee holds no authority from this Commission.

MC–FC–78669. By decision of July 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1133, The Review Board No. 5 approved the transfer to YOUNG'S TRAVEL SERVICE, INCORPORATED, Worcester, MA, of the following portion of License No. MC–121365 (Sub-No. 6), issued December 17, 1977, to COLLETTE TRAVEL SERVICE, INC., Pawtucket, RI, authorizing operation as a broker at Framingham, MA, in connection with transportation by motor vehicle of Passengers and their baggage, in special and charter operations, Between points in the United States, including AK and HI. Applicants' representative: Gerald A. Joseloff, 80 State St., Hartford, CT 06103.

MC–FC–78674. By decision of July 14, 1980 issued under 49 U.S.C 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to SPECIAL SERVICE DELIVERY COMPANY, INC., of Cleveland, OH, of Certificate of Registration No. MC–121205 (Sub-No. 1) issued 7/8/65, to WHK INVESTMENT CORPORATION, INC., a.k.a. SPECIAL SERVICE DELIVERY COMPANY, INC. (same address), evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate No. 9064–I dated 12/28/61 issued by the Public Utilities Commission of Ohio, authorizing property from and to Cleveland, OH, and its Commercial Zone, restricted to a small package (75 lbs. or less) delivery service. Applicant's representative is: David A. Turano, 100 E. Broad St., Columbus, OH 43215. TA lease is not sought. transferee holds ETA in MC–150407.

MC–FC 78675. By decision of July 18, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 conditionally approved the transfer to BLUE RIBBON TRUCKING, INC. of Fairfield, NJ of the following certificates issued to STANDARD TRANSPORTATION CO., INC. of Lincoln, Rhode Island; MC 2642,

authorizing the transportation of regular routes: *general commodities,* between Providence, R.I. and Boston, Mass., from Providence, R.I. over U.S. 1 to North Attleboro, Mass., from Providence, R.I. over U.S. 1 via North Attleboro, Mass., thence Mass. 1A., from Providence, R.I. over U.S. 44 to Taunton, Mass., thence Mass. 138, return over these routes to Providence, R.I., service is authorized to and from all intermediate points on the above-specified routes, and the off-route points of Brockton, Mansfield, Needham, and Norton, Mass., those within 12 miles of Boston, and those within 12 miles of Providence, between Pawtucket, R.I. and New Bedford, Mass., from Pawtucket, R.I. over city streets and connecting highways to East Providence, R.I., thence U.S. 6 via Fall River, Mass., from Pawtucket, R.I. over city streets and connecting highways to East Providence, R.I., thence U.S. 44 to Taunton, Mass., thence Mass. 138 to Fall River, Mass., thence U.S. 6, from Pawtucket, R.I. over city streets and connecting highways to East Providence, R.I., thence U.S. 44 to Taunton, Mass., thence Mass. 140. Return over these routes to Pawtucket, R.I., service is authorized to and from the intermediate and off-route points of Fall River, Seekonk, Fairhaven, and Taunton, Mass. Irregular routes: *heating equipment, accessories and parts,* from Boston, Mass., and points and places within 12 miles thereof, to points and places in Kent, Providence, and Washington Counties, R.I., *paper,* from Pawtucket, R.I., to Holyoke, Lowell, Salem, Springfield and Whitman, Mass., return, with no transportation for compensation except as otherwise authorized. *Textile machinery and mill equipment,* from Fall River and New Bedford, Mass., to Northbridge and North Adams, Mass., from Fall River and New Bedford, Mass., to Moosup, Conn., from Fall River and New Bedford, Mass., to points and places in that part of Maine south of U.S. 2 and west of U.S. 201 and Maine 123, including points and places on the indicated portions of the highways specified with no transportation for compensation on return, except as otherwise authorized, between Central Falls and Pawtucket, R.I., on the one hand, and, on the other, Franklin and Millbury, Mass. *Clothes cleaning and pressing machinery, accessories and parts,* between Pawtucket, R.I., on the one hand, and, on the other, points and places in Mass., R.I., Conn., that part of New Hampshire on and south of a line beginning at the New Hampshire-Maine State Line near East Rochester, N.H., and extending along New Hampshire Highway 11 to Claremont, N.H., thence along N.H. 103 to the New Hampshire-Vermont State Line, those in Essex, Hudson, Union, and Cape May Counties, N.J., and those in the New York, N.Y., Commercial Zone (Note 10). Irregular routes: *cotton and cotton yarn,* between Fall River, Mass., on the one hand, and, on the other, Plainfield, Conn., and Manchester, N.H., and Holyoke and Northbridge, Mass., between Pawtucket and Providence, R.I., on the one hand, and, on the other, Lowell and Northbridge, Mass., and New London, Conn. *Filler used in the manufacture of paper and empty containers therefor,* between Pawtucket, R.I., and Lawrence, Mass. *Rags, burlap bags, shoddy and textile waste,* between Pawtucket, and Providence, R.I., on the one hand, and, on the other, Norwich and Taftville, Conn., Dracut, Franklin, Lowell, Methuen, Webster and Worcester, Mass. *Scrap metal,* between Pawtucket and Providence, R.I., on the one hand, and, on the other, Chicopee Falls, Mass., Torrington, Conn., New York, N.Y., and Jersey City, N.J. *Wool,* between Pawtucket and Providence, R.I., on the one hand, and, on the other, Douglas, Franklin, and Metuen, Mass. Regular routes: *general commodities,* between Providence, R.I., and Boston, Mass., serving the intermediate points of Pawtucket, R.I. and North Attleboro, Mass., from Providence, over U.S. Highway 1 to Boston and return over the same route, between Providence, R.I., and Boston, Mass., serving the intermediate points of Plainville, Wrentham, Walpole, Norwood and Dedham, Mass., and the off-route points of Attleboro, Norton, Mansfield, Sharon, and Medfield, Mass., from Providence over Rhode Island Highway 1A to junction Massachusetts Highway 1A, thence over Massachusetts Highway 1A to Boston, and return over the same route. Irregular routes: *general commodities,* between Providence, R.I., on the one hand, and, on the other, points in Rhode Island, Massachusetts and Connecticut. (ICC MC 2642, Sub 4) such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses (except in bulk), from the facilities Saylesville Warehouse, Inc., located in Saylesville, Ashton and Pawtucket, R.I., to points in New Hampshire. Applicant's representative is: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, New Jersey 07006. TA lease authority is sought. Transferee holds no authority from the Commission. An application, directly related in part, has been filed in No. MC–151089 (Sub–No. 5F), published in another section of this **Federal Register** issue.

MC 151089 (Sub-5F), filed June 25, 1980. Applicant: BLUE RIBBON TRUCKING, INC., 167 Fairfield Road, Fairfield, New Jersey 07006. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, New Jersey 07006. Authority to operate as a motor common carrier, over regular routes, in the transportation of: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) serving all intermediate and off-route points in Connecticut, Massachusetts and Rhode Island, (1) between Greenwich, CT and Williamstown, MA, from Greenwich over Int. Hwy. 95 to junction US Hwy. 7 then over US Hwy. 7 to Williamstown, and return over the same route. (2) Between Greenwich, CT and Metheun, MA, (A) from Greenwich over Int. Hwy. 95 to junction Int. Hwy. 91, then over Int. Hwy. 91 to junction Int. Hwy. 86, then over Int. Hwy. 86 to junction Int. Hwy. 90, then over Int. Hwy. 90 to junction Int. Hwy. 93, then over Int. Hwy. 93 to Metheun, and return over the same route, (B) from Greenwich to Int. Hwy. 90 as in 2 (A) above, then over Int. Hwy. 90 to junction Int. Hwy. 495, then over Int. Hwy. 495 to junction Int. Hwy. 93, then over Int. Hwy. 93 to Methuen, and return over the same route, (C) from Greenwich over Int. Hwy. 95 to junction Int. Hwy. 93, then over Int. Hwy. 93 to Methuen, and return over the same route. (3) Between Greenwich, CT and N. Bernardston, MA, from Greenwich over Int. 95 to junction Int. Hwy. 91, then over Int. Hwy. 91 to N. Bernardstown, and return over the same route. (4) between Greenwich, CT and N. Adams, MA, from Greenwich over Int. Hwy. 95 to junction CT Hwy. 8, then over CT Hwy. 8 and MA Hwy 8 to N. Adams, and return over the same route. (5) Between Greenwich, CT and Salisbury, MA, from Greenwich over US Hwy. 1 to Salisbury, and return over the same route. (6) Between Lakeville, CT and Provincetown, MA, from Lakeville over US Hwy. 44 to junction Int. Hwy. 84, then over Int. Hwy. 84 to US Hwy. 6, then over US Hwy. 6 to Provincetown, and return over the same route. (**Hearing site:** New York, N.Y) This application is directly related in part to an application filed by application under 49 U.S.C. 10926 wherein Blue Ribbon Trucking, Inc., seeks to purchase the operating authority of Standard Transportation Co., Inc. That application is docketed as No. MC–FC–78675 and is published in another section of this **Federal Register** issue. As the above converted authority is broader than that sought to be purchased in No. MC–FC–78675, no certificate will be issued until applicant remits the filing fee of $350 to the Commission.

MC–FC–78676. By decision of July 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 5, approved the transfer to Robert Joseph Arrington, Sr., d.b.a. R. J. ARRINGTON & SONS TRUCKING, Agawam, MA, of Certificate No. MC–56324, issued January 25, 1974, to Henry S. Stefanik, d.b.a. NORTHSIDE TRUCKING CO., Westfield, MA, authorizing the transportation of *Road building materials,* from Springfield, MA, and points in MA within 10 miles of Springfield, to points in Hartford, Tolland, Litchfield, and Windham Counties, CT, subject to the condition that, prior to or concurrently with consummation, transferor shall settle its debts with owner-operators and confirm this in writing to the Commission. Applicants representative: Patrick A. Doyle, 60 Robbins Rd., Springfield, MA 01104.

MC–FC–78677. By decision of July 17, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 5, approved the transfer to McPHERSON TRUCKING, INC., Cairo, MO, of Certificate No. MC–144283 (Sub-No. 2F), issued August 23, 1979, to Eugene (Gene) McPherson, Cairo, MO, authorizing the transportation of *coal,* in bulk, in dump vehicles, from points in Howard and Randolph Counties, MO, to points in IL. Applicant's representative: Roselee A. Maier, 202 Guitar Bldg., Columbia, MO 65201.

MC–FC–78678. By decision of July 15, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board No. 5 approved the transfer to WORLD SALES, INC., Bell, CA, of Certificate of Registration No. MC–121213 (Sub-No. 1), issued October 9, 1964 to REDWAY TRUCK & WAREHOUSE COMPANY, a corporation, Long Beach, CA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Public Convenience and Necessity granted in Decision No. 61816, dated April 11, 1961, and transferred to transferor in Decision No. 85620, dated July 2, 1963, by the Public Utilities Commission of the State of California, subject to the condition that prior to or concurrently with the consummation of this transfer, applicants file a certified copy of the State certificates as reissued to transferee, or—if the State Commission does not reissue the certificate—a certified copy to the State order approving the transfer of the underlying intrastate rights. Applicant's Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212.

MC–FC–78682. By decision of July 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 5 approved the transfer to LIEN TRANSPORTATION INC., of Aberdeen, SD, of Certificate No. MC–142687 issued 11/22/77 to E. L. Lien & Sons, Inc., of Aberdeen, SD, authorizing the transportation of: *Aggregates, gravel, rock, sand, clay, dirt, hot mix, mineral filler, fly ash,* and *boiler slag,* between points in Wilkin, Traverse, Big Stone and Lac Qui Parle Counties, MN; Richland, Sargent, Dickey, McIntosh, and Emmons Counties, ND; and Campbell, Walworth, McPherson, Edmunds, Brown, Spink, Marshall, Roberts, Day, Clark, Codington, and Grand Counties, SD. Applicant's representative is: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transferee holds no authority. TA lease not filed.

MC–FC–78641. By decision of July 19, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 5 approved the transfer to BOB STEWART TRUCKING, INC., of Klamath Falls, OR, of a portion of Permit/Certificate No. MC–98327 (Sub-No.) issued 11/29/74 to System 99, of Oakland, CA, authorizing the transportation of: *Construction, drainage, mining, and logging equipment,* which because of size or weight requires the use of special equipment, between points in Klamath County, OR, on the one hand, and, on the other, points in Modoc and Siskiyou Counties, CA, and *iron and steel* articles, from Klamath Falls, OR, to points in Modoc and Siskiyou Counties, CA. Applicant's representative is: John G. McLaughlin, Suite 1440—200 S.W. Market St., Portland, OR 97201. Transferee is not a carrier. An application seeking TA lease has been filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–24052 Filed 8–8–80; 8:45 am]
BILLING CODE 7035–01–M

Permanent Authority Decisions; Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the trasportation service and to comply with the appropriate statutes and Commission regulations. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrents a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (September 22, 1980) (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verfied statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications

for motor contract carrier authority are those where service is for a named shipper "under contract."

Agatha L. Mergenovich,
Secretary.

MC 96769 (Sub-9F), filed July 28, 1980. Applicant: LIBERTY TEX-PACK EXPRESS, INC., Suite 508, Regal Plaza Building, Dallas, TX 75247. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting shipments weighing 100 lbs. or less, if transported in a motor vehicle in which no one package exceeds 100 lbs., between points in the U.S.

MC 107839 (Sub-191F), filed July 21, 1980. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Ave., Denver, CO 80216. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *General commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 115669 (Sub-200F), filed July 23, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 134838 (Sub-28F), filed July 23, 1980. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39238, Atlanta, GA 30318. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 140389 (Sub-86F), filed July 24, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 142909 (Sub-9F), filed July 23, 1980. Applicant: TIMBER TRUCKING, INC., 35 South 600 West, Salt Lake City, UT 84101. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 150339 (Sub-2F), filed July 23, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Vol. No. OP4-004

Decided: July 27, 1980.

By the Commission, Review Board No. 1, members Carleton, Joyce, and Jones.

MC 59117 (Sub-75F), filed July 23, 1980. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 108587 (Sub-31F), filed July 17, 1980. Applicant: SCHUSTER EXPRESS, INC., 48 Norwich Ave., Colchester, CT 06415. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, DC 20005. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 150367 (Sub-1F), filed July 17, 1980. Applicant: GLENDELL L. HARPER, d.b.a. G & G TRUCKING, 766 E. Rosedale, E. Alton, IL 62024. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners,* and *agricultural fertilizers,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 151337F, filed July 18, 1980. Applicant: PROFIT BY AIR, INC., P.O. Box 388, Valley Stream, NY 11582. Representative: Edward D. Greenberg, 1054 31 St., N.W., Washington, DC 20007. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Vol. No. OP2-008

Decided: August 1, 1980.

By the Commission, Review Board No. 1, Carleton, Joyce, and Jones.

MC 109462 (Sub-30F), filed July 24, 1980. Applicant: LUMBER TRANSPORT, INC., Highway 85—East, Madisonville, KY, 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY, 42431. Transporting: *General commodities* (except household goods as defined by the Commission, hazardous or secret material, and sensitive weapons and munitions) for the US Government, between points in the US.

[FR Doc. 80-24040 Filed 8-8-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantlay affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (September 22, 1980) (or, if the application later become unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 148769 (Sub-3F), filed July 21, 1980. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 50 Freeport Blvd., Unit No. 17, Sparks, NV 89431. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S. under a continuing contract(s) with Morton Chemicals Company, a Division of Morton Norwich Products, Inc., of Woodstock, IL.

Vol. No. OP4005

Decided: July 28, 1980.

By the Commission, Review Board No. 1, members Carleton, Joyce, and Jones.

MC 13547 (Sub-10F), filed July 23, 1980. Applicant: LEONARD BROS. TRANSPORT CO., INC., 1528 West 9th St., Kansas City, MO 64101. Representative: Joe M. Lock (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Kansas City, MO and Wichita, KS: (a) From Kansas City over U.S. Hwy 40 and Interstate Hwy 70 to Topeka, KS, then over the KS Turnpike to the junction of Interstate Hwy 35, then over Interstate Hwy 35 to Wichita, and return over the same route, and (b) over Interstate Hwy 35, (2) Between Wichita and Hutchinson, KS, over U.S. Hwy 96, (3) Between Topeka and Hutchinson, KS: From Topeka over U.S. Hwy 40 and Interstate Hwy 70 to Salina, KS, then over U.S. Hwy 81 and Interstate Hwy 135 to Newton, KS, then over U.S. Hwy 50 to Hutchinson, and return over the same route; and (4) Between Kansas City, MO and Omaha, NE over Interstate Hwy 29; serving no intermediate points in (1), (2), (3) and (4) above.

MC 46797 (Sub-6F), filed July 16, 1980. Applicant: PHILLIPS TRUCK LINE, INC., 785 East St., Memphis, TN 38126. Representative: Edward G. Grogan, Suite 2020, First Tennessee Bldg., Memphis, TN 38103. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, households goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Jackson, MS and Memphis, TN, over Interstate Hwy 55, serving no intermediate points; (2) between Jackson and Eupora, MS, from Jackson over U.S. Hwy 51 to Durant, MS, then over MS Hwy 12 to Ackerman, MS, then over MS Hwy 9 to Eupora, and return over the same route, serving all intermediate points; (3) between Eupora and Bruce, MS, over MS Hwy 9, serving all intermediate points; (4) between Calhoun City and Houlka, MS, from Calhoun City over MS Hwy 8 to Houston, MS, then over MS Hwy 15 to Old Houlka, MS, then over MS Hwy 32 to Houlka, and return over the same route, serving all intermediate points; (5) between Eupora and Houston, MS, from Eupora over U.S. Hwy 82 to Mathison, MS, then over MS Hwy 15 to Houston, and return over the same route, serving all intermediate points, and serving Pheba, MS as an off-route point; (6) between Bruce and Houlka, MS, over MS Hwy 32, as an alternate route for operating convenience only; and (7) between Jackson and Calhoun City, MS, from Jackson over Interstate Hwy 55 to Grenada, MS, then over MS Hwy 8 to Calhoun City, and return over the same route, as an alternate route for operating convenience only.

MC 65897 (Sub-58F), filed July 17, 1980. Applicant: THEATRES SERVICE CO., INC., P.O. Box 1695, Atlanta, GA 30301. Representative: Paul W. Smith (same address as applicant). Transporting, *such commodities* as are dealt in by retail department stores, between the facilities of Rich's at or near Stone Mountain, GA on the one hand, and, on the other, points in AL, KY, MS, SC and TN.

MC 148737 (Sub-4F), filed July 17, 1980. Applicant: SUNSET EXPRESS CORP., 3665 West 1987 South, Salt Lake City, UT 84104. Representative: Carl L. Sundeaus (same address as applicant). Transporting, *such commodities* as are dealt in or used by discount department stores, (except commodities in bulk), from points in the U.S. (except AK, HI, ID, MT, ND, NM, OR, and WY), to the facilities of Gibson Discount Center, at or near Salt Lake City, UT, restricted to traffic destined to the named facilities.

MC 151026 (Sub-1F), filed July 21, 1980. Applicant: LEONARD THOMAS MILLER, d.b.a. MILLCO, Route 7, Box 49, Mankato, MN 56001. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. *Contract carrier,* transporting, *such commodities* as are dealt in by hardware stores, between points in the U.S. (except AK and HI), under continuing contracts(s) with Cotter and Company, of Mankato, MN.

Vol. No. OP2-007

Decided: August 1, 1980.

By the Commission, Review Board No. 3 members Parker, Fortier, and Hill.

MC 144303 (Sub-20F), filed July 22, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Building, 918 16th Street, N.W., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the US, under a continuing contracts(s) with Ecusta Paper and Film Group, Olin Corporation, of Pisgah Forest, NC, and its subsidiaries and affiliates.

[FR Doc. 80-24048 Filed 8-8-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29428]

St. Maries River Railroad Co.—Operation of Lines of Railroad From Bovill to St. Maries, ID and From St. Maries to Plummer, ID

St. Maries River Railroad Company (SMRR), represented by Fritz R. Kahn, Esquire, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036, hereby gives notice that on the 24th day of July, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing it to operate over tracks conveyed by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) from Bovill to St. Maries, ID, the Bovill

Branch (a distance of approximately 52

[Finance Docket No. 29279]

Our previous notice set forth the facts

will be able to utilize the empty boxcars.

Ogdensburg Bridge and Port Authority

Burden. As noted above, to acquire

Branch (a distance of approximately 52 miles) and the line segment from St. Maries to Plummer, ID (a distance of approximately 19 miles) for a total of 71 miles. This section of tracks was the subject of Commission proceeding AB-7 (Sub-No. 66F) in which the Commission approved its abandonment. Final approval of the abandonment was entered by order on April 2, 1980, by the U.S. District Court for the Northern District of Illinois.

SMRR is a newly formed corporation, organized under the laws of the State of Idaho, established for the purpose of acquiring and operating certain segments of railroad lines conveyed by the Trustee of the property of the MILW and by the Washington, Idaho and Montana Railway Company. SMRR is a wholly-owned subsidiary of the Potlach Corporation, a Delaware corporation. It is operating pursuant to the Commission's Service Order No. 1472, served May 23, 1980, as extended by Service Order 1474, served June 11, 1980.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24060 Filed 8-8-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29279]

The Mississippian Railway, Inc.—Acquisition and Operation Between Amory and Fulton, Miss.; National Railway Utilization Corp.—Control—The Mississippian Railway, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition of the properties of the Mississippian Railway (Mississippian) by the Mississippian Railway, Inc., (MR-SC) and the acquisition of control of MR-SC by the National Railway Utilization Corporation (NRUC), from the requirements of 49 U.S.C. 10901 and 49 U.S.C. 11343-11347, which require prior consideration and approval of the transaction by the Commission.

DATE: This decision is effective on August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly (202) 275-7584.

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 7, 1980, MR-SC and NRUC filed a joint petition for exemption under 49 U.S.C. 10505 requesting that the proposed acquisition of the properties of the Mississipian by MR-SC and the proposed acquisition of control of MR-SC by NRUC be exempted from the requirements of obtaining prior Commission approval under 49 U.S.C. 10901 and 11343-11347. In response to the petition, we published a notice in the **Federal Register** on May 7, 1980, 45 FR 30175 (1980), requesting comments on the proposed exemption. We also noted that concern had been expressed regarding the financial condition of the NRUC, and that interested parties might wish to address this issue in their comments. NRUC filed the only comment. NRUC also filed a petition for leave to amend its previously filed comment. This additional pleading consists of a press release issued by NRUC subsequent to the date the comments in this proceeding were due, June 6, 1980, and related directly to the Commission's concern about NRUC's financial condition. Inclusion of this document will supplement the evidence in this proceeding, and will not prejudice any party, since no other comments either in favor or in oppostion to the proposed exemption have been received. Accordingly, NRUC's petition is granted, and the additional evidence is received into the record.

Our previous notice set forth the facts in this proceeding. As noted, no comments have been filed controverting or otherwise questioning the facts presented in our notice. We will adopt the facts presented and refer to them as needed in our discussion.

NRUC's Financial Status

NRUC's comments address our concern regarding NRUC's financial condition. NRUC states that it incurred a loss of $5.9 million in the first quarter of 1980, compared with an operating profit of $1.6 million in the first quarter of 1979. This result was attributable, in part, to the recent general downturn in the economy, petitioner claims, and the proposed acquisition by MR-SC of the Mississippian will help alleviate considerably NRUC's financial dilemma.

A substantial portion of petitioner's revenues are derived from per diem car-hire rentals on its fleet of over 7,000 50-foot general purpose boxcars. NRUC experienced a significant reduction in the level of boxcar utilization during the first quarter of 1980. NRUC operates the St. Lawrence Railroad, a shortline railroad in northern New York State. Many of the boxcars owned by NRUC, and bearing the markings of the St. Lawrence Railroad have been idled because the railroad's sole connection is with Consolidated Rail Corporation (Conrail) at Norwood, NY. In the past, a substantial number of St. Lawrence boxcars were utilized by Conrail. In recent months, however, Conrail has failed to utilize St. Lawrence boxcars, and, instead, has been directing them "home" empty. Since Conrail has the only connection with St. Lawrence, St. Lawrence cars returning empty from Conrail do not pass over the lines of any other railroad and, thus, there is no opportunity for another carrier to utilize the cars. Further, there is no way for NRUC to make these cars available to other carriers except for Conrail to transport the cars to a junction with the carrier needing them. The cost of such moves is prohibitive. The acquisition of the rail properties of the Mississippian by MR-SC is expected to ameliorate the situation. A number of boxcars bearing the St. Lawrence Railroad markings will be transferred to MR-SC upon consummation of the proposed transaction and the "home road" for cars bearing the markings of MR-SC will be in Mississippi rather than New York State. MR-SC will connect with the St. Louis-San Francisco Railway Company. Positioning these boxcars in Mississippi will make them available to other railroads whom NRUC believes will be able to utilize the empty boxcars. This will result in greater financial revenues for NRUC.

NRUC's press released dated June 10, 1980, admitted into the record, states that NRUC has obtained concurrence from a committee of its major secured lenders of a proposed plan of debt restructure and modification. NRUC believes that the plan, if accepted, will aid in its efforts to increase utilization of its boxcar fleet and help its financial posture.

We believe that NRUC has satisfactorily shown that while its financial status is less than desirable, the proposed transaction will greatly aid in its efforts to achieve a more balanced and sound financial condition.

Rail Exemption Authority

The acquisition and operation of a line of railroad requires the approval of the Commission under 49 U.S.C. 10901. To obtain such an approval, an application must be filed in compliance with the procedures established in the ICC *Construction, Extension, Acquisition, or Operation of Railroad Lines*, 49 CFR Part 1120 (1978). MR-SC and NRUC have requested an exemption from 49 U.S.C. 10901 so that they will not have to file under Part 1120, *supra*. Similarly, petitioners request exemption from 49 U.S.C. 11343-11347. Those sections require that a carrier must file an application in accordance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1978). *(Consolidation Procedures)*.

We are authorized by 49 U.S.C. 10505 to exempt from our regulation a transaction because of its limited scope. This exemption is available when we find that continued regulation:

(1) Is not necessary to carry out the transportation policy of 49 U.S.C. § 10101;

(2) Would be an unreasonable burden on a person, class of persons, or interstate or foreign commerce; and

(3) would serve little or no useful public purpose. We may act under 49 U.S.C. 10505 only after an opportunity for a proceeding. The notice and request for comments on the petition for exemption provided that opportunity. We must now determine whether the proposed exemption meets the statutory requirements.

Scope of the transaction. The threshold inquiry is whether the transaction is limited in scope. We believe it is.

NRUC is a Class III common carrier by railroad. It presently leases and operates the rail properties of Ogdensburg Bridge and Port Authority under the name of St. Lawrence Railroad and service is provided over two lines: (1) Between Ogdensburg and Norwood, NY, a distance of 25.2 miles; and (2) between Waddington and Norwood, a distance of 18.0 miles. NRUC also controls two Class III railroads, Pickens Railroad Company and the Peninsula Terminal Company.

MR-SC is a non-carrier corporation organized to acquire the assets of the Mississippian and to operate it. The Mississippian is a Class III common carrier by railroad and operates 24.62 miles of line between Fulton and Amory Counties, MS. The line to be acquired by this transaction is less than 25 miles long and is not connected to any other rail properties owned or controlled by NRUC.

The record demonstrates that the proposal would be without operational import, competitive effect, or employee impact. MR-SC intends to invest funds to upgrade the line over the next several years and believes that car volumes (presently eleven shippers utilize the line) will increase when service on the line improves. In view of the record, we conclude that the acquisition of control of MR-SC by NRUC is a transaction of limited scope within the statutory intent.

National Transportation Policy. To insure the development, coordination and preservation of a transportation system that meets the transportation needs of the United States, Congress has declared that it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to Subtitle IV of Title 49, *United States Code*. 49 U.S.C. 10101. In regulating those modes, the transportation policy is to (1) recognize and preserve the inherent advantage of each mode; (2) promote safe, adequate, economic, and efficient transportation; (3) encourage sound economic conditions in transportation, including conditions among carriers; (4) encourage reasonable rates without unreasonable discrimination or unfair or destructive competitive practices; (5) cooperate with each State and its officials on transportation matters; and (6) encourage fair wages and working conditions in the transportation industry.

We believe that advance scrutiny of this transaction is not necessary to carry out the national transportation policy. The proposed transaction should have no effect on any of the policy considerations listed above since the only change involves the acquisition of the properties of the Mississippian by MR-SC and the acquisition and control of MR-SC by NRUC.

Burden. As noted above, to acquire and operate a line of railroad, the applicant must pursuant to 49 U.S.C. 10901 file an application in compliance with 49 CFR Part 1120. Similarly, for NRUC to obtain control of MR-SC pursuant to 49 U.S.C. 11343-11347 it must file a complete application under our *Consolidation Procedures*. Compilation of the necessary material under these sections is a time-consuming task since much of the material must be presented in great detail to be meaningful. In reviewing the record here, we believe that requiring the parties to prosecute applications under 49 U.S.C. 10901 and 11343-11347 would place an unreasonable burden on them and on interstate and foreign commerce.

Public Purpose. Our function under 49 U.S.C. 10901 and 11343-11347 is to determine whether a proposed transaction is required by the public convenience and necessity and is consistent with the public interest. Having found that the instant proposal is of limited scope, that no adverse comments were filed concerning the proposal, and that our regulation of it would be both unnecessary and unreasonably burdensome, we conclude that our review of the matter would serve little or no useful public purpose.

We find:

The application of the requirements of 49 U.S.C. 10901 and 11343-11347 to the proposed acquisition of the properties of the Mississippian Railway by the Mississippian Railway, Inc., and the acquisition of control of the Mississippian Railway, Inc., by the National Railway Utilization Corporation is of a limited scope and (a) is not necessary to carry out the transportation policy of section 10101, (b) would be an unreasonable burden on petitioners and (c) would serve little or no useful public purpose. This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

(1) The Mississippian Railway, Inc. and the National Railway Utilization Corporation are exempted under section 10505 from the requirements of 49 U.S.C. 10901 and 11343-11347 for the limited purpose of the transaction described in this decision.

(2) If the authority is exercised, the Mississippian Railway, Inc., and the National Railway Utilization Corporation shall within 60 days submit three copies of a sworn statement showing all general entries required to record the transaction.

(3) This decision shall be effective on the date of publication in the **Federal Register.**

(4) This decision is issued under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553 and 559.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Dated: July 29, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24053 Filed 8-8-80; 8:45 am]

BILLING CODE 7035-01-M

Commission Issuance Regarding Regional Motor Carrier Boards

AGENCY: Interstate Commerce Commission.

ACTION: Notice of amendment.

SUMMARY: The following is an amendment to the Commission Issuance of December 19, 1978 (43 FR 57211, December 6, 1978; amended at 45 FR 31508, May 13, 1980). The purpose of the amendment is to reflect changes in the composition, and titles of members, of the six Regional Motor Carrier Boards. The amendment to Section 41, *Employee Boards Under Section 10304,* does not involve any change in the responsibility of the Boards. Because this document concerns only the internal operations and procedures of the Commission, it is being issued in final form, and comments are not requested.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Kathleen King (202) 275-0956.

Boards

41. Employee Boards under Section 10304.

The last part of paragraph (d), *Current listing of employee board members,* is amended to read as follows:

Regional Motor Carrier Boards

(Regions 1-6)

Assistant Regional Director for Consumer Assistance (Chairman).

Branch Chief, Compliance Branch.

Branch Chief, Complaint and Authority Branch.

This action is taken under the authority of 49 U.S.C. § 10301 and 10321(a).

Decided: August 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24129 Filed 8-8-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I. Send protests to Regional Authority Center, Interstate Commerce Commission, 150 Causway St., Rm. 501, Boston, MA 02114.

MC 148596 (Sub-1-1TA), filed July 31, 1980. Applicant: RONALD LAZARO, d.b.a. J. LAZARO TRUCKING, 24 Freeman Street, Newton, MA 02166. Representative: George C. O'Brien, 12 Vernon Street, Norwood, MA 02062. *Clay products, viz; face brick and fire brick,* from Somerville and Boston, MA, to points in Cheshire, Hillsboro, Merrimack, Rockingham and Strafford Counties, New Hampshire. Supporting shipper: Spaulding Brick Company, Somerville, MA.

MC 136393 (Sub-1-1TA), filed July 31, 1980. Applicant: NY, NJ, CT, FREIGHT & MESSENGER CORP., 351 West 38th Street, New York, NY 10018. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Such merchandise as is dealt in by retail department stores* between San Francisco, CA, on the one hand, and, on the other, the commercial zones of New York, NY, Baltimore, MD, Chicago, IL, Boston, MA, and Philadelphia, PA. Supporting shipper: Montgomery Ward, Oakland, CA.

MC 113843 (Sub-1-11TA), filed July 31, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. *Such items as are dealt in by discount and department stores* between points in MA and TX and points in Continental United States. Supporting shippers: Foxmoor Casuals, Bridgewater, MA, Chess King, Worcester, MA.

MC 134401 (Sub-1-1TA), filed July 31, 1980. Applicant: SHERWOOD HUME TRANSPORTATION LTD., 734 Main Street East, R.R. 1, Milton, Ontario, Canada L9T 2X5. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, New York 14202. *Common carrier,* irregular routes *such commodities as are dealt in or used by agricultural equipment dealers (except commodities in bulk),* from Albany, GA; Stratton, NE; Fulton, MO; Dewey, OK; Athens, TN; and Lockney, TX, to ports of entry on the United States-Canada Boundary line located in MI and NY, restricted to the transportation of traffic in foreign commerce destined to the facilities and/or dealers of Allied Farm Equipment (Canada), Ltd. in CN. Supporting shipper: Allied Farm Equipment Canada Ltd., Box 910, St. Marys, Ontario, Canada NOM 2VO.

MC 148387 (Sub-1-3TA), filed July 1, 1980. Applicant: S.M.P. INC., 166 Sitgreaves St., Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Refractory Products; and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above (except commodities in bulk),* Between points in CT, MD, PA, NY, NJ, VA, and DC. Supporting shipper: John Konopka &

Sons, P.O. Box 5923, Tacony & Sanger Sts., Philadelphia, PA 19137.

MC 151392 (Sub-1-1TA), filed July 29, 1980. Applicant: ALPHA MOTOR WAYS, INC., 25 County Ave., Secaucus, NJ 07094. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410. *General commodities,* with the usual exceptions, between Chicago, IL, and points in its commercial zone, on the one hand, and, on the other, Concord, NH, Baltimore and Hagerstown, MD, and points in their respective commercial zones, and points in CT, MA, RI, NY, NJ, PA, DE and DC, restricted to traffic with a prior or subsequent movement by rail. Supporting shippers: There are six certificates of support appended to the application.

MC 8713 (Sub-1-3TA), filed July 30, 1980. Applicant: BRAUN'S EXPRESS, INC., 1494 Main Street (Rear), Millis, MA 02054. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. *Computers, computer parts, and materials and supplies used in the manufacture and distribution of computers,* between Northborough, Westminster and Westfield, MA, on the one hand, and, on the other, Contoocook, NH. Supporting shipper:. Digital Equipment Corp., 444 Whitney Street, Northborough, MA 01532.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St. Room 620, Philadelphia, PA 19106.

MC 145221 (Sub-II-2TA), filed July 28, 1980. Applicant: P.D.F TRUCKING CO., Rt. 250 N.—P.O. Box 398, Milan, OH 44846. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Cabinets and vanities and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above* between pts. in Holmes County, OH, on the one hand, and, on the other, pts. in IL, IN, KY, MD, MI, NY, NC, PA, SC, TN, VA, WV, and WI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Wilson Cabinet Co., Inc., 160 Jones St., Millersburg, OH 44654.

MC 107012 (Sub-II-69TA), filed July 29, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Such commodities as are used by laboratories,* (1) from Oxnard, CA to points in CO, IL, IN, MO, NJ, OR, PA, TX, UT and WA and (2) from Shipshewana, IN to points in AL, CT, DE, DC, FL, GA, IL, KY, ME, MD, MA, MI, MS, NJ, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV and WI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Becton Dickinson Labware, Division, of Becton Dickinson Corp., 1950 Williams Dr., Oxnard, CA 93030.

Note.—Common control may be involved.

MC 107012 (Sub-II-68TA), filed July 28, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Store fixtures,* from the facilities of Crown Store Co., Inc. at or near New Castle, VA to points in AL, CT, DE, FL, GA, IA, KY, LA, MA, MD, ME, MN, MS, NC, ND, NH, NJ, NY, PA, RI, SC, SD, TN, VT, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crown Store Co., 1302 Kittle Rd., Holland, OH 43528.

Note.—Common control may be involved.

MC 52932 (Sub-II-1TA), filed July 28, 1980. Applicant: NORTH PENN TRANSFER, INC., Box 230, Lansdale, PA 19446. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Plastic materials and plastic granules,* from Nesquehoning, PA, to the facilities of Rancocas Valley Warehouse and Storage Co., at Mt. Holly, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Rancocas Valley Warehouse & Storage Co., P.O. Box 1112, Mt. Holly, NJ 08060.

MC 144184 (Sub-II-1TA), filed July 28, 1980. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 233 Whiley Ave., Lancaster, OH 43130. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Glass cullet, in bulk, in dump vehicles,* from Marion, OH, to Dunkirk, Lawrenceburg and Marion, IN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Anchor Hocking Corp., 109 N. Broad St., Lancaster, OH 43130.

MC 136343 (Sub-II-11TA), filed July 28, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Vinyl siding* from Hillsboro County, NH to pts. in the U.S. in and east of WI, IL, KY, TN, MS and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gold Bond Building Products, Division of National Gypsum Co., 2001 Rexford Rd., Charlotte, NC 28211.

MC 150339 (Sub-2-7TA), filed July 28, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: General commodities, except household goods as defined by the Commission and classes A and B explosives,* between points in the U.S., for 270 days, under a continuing contract with Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Heights, OH 44137. An underlying ETA seeks 120 days authority. Supporting shipper(s): Aluminum Smelting & Refining Co., Inc., 5463 Dunham Rd., Maple Heights, OH 44137.

MC 107012 (Sub-II-67TA), filed July 25, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Books, toys, games, paper products, telescopes, microscopes and microscope slides* from the facilities of Western Publishing Co., Inc. at Fayetteville, NC to points in AR, IL, IN, MI, MO and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Western Publishing Co., Inc., 1220 Mound Ave., Racine, WI 53404.

Note.—Common control may be involved.

MC 119821 (Sub-II-3TA), filed July 30, 1980. Applicant: OCHROCH TRANSPORTATION CO., INC., Second St. & Erie Ave., Philadelphia, PA 19140. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *Paper products,* from the facilities of Sterling Paper Co., Philadelphia, PA to Hartford, CT, and the Baltimore, MD and Washington, DC commercial zones, for 270 days. Supporting shipper(s): Sterling Paper Co., Castor & Tremont Ave., Philadelphia, PA 19137.

MC 119821 (Sub-II-4TA), filed July 29, 1980. Applicant: OCHROCH TRANSPORTATION CO., INC., Second St. and Erie Ave., Philadelphia, PA 19140. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. (1) *Unfinished piece goods,* from Philadelphia, PA to Del Mar, MD and Long Branch, NJ; and, (2) *Finished apparel, on hangers,* from Del Mar, MD and Long Branch, NJ to Philadelphia, PA for 270 days. Supporting shipper: Devon Apparel, Inc., 3300 Frankford Ave., Philadelphia, PA 19134.

MC 2202 (Sub-II-12TA), filed July 25, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Common, regular: *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and*

those requiring special equipment), serving points in Chattooga County, GA as off-route points in connection with applicant's regular routes to and from Rome, GA for 270 days. Applicant proposes to tack the authority sought herein with its regular routes at Rome, GA. Applicant proposes to interline at existing gateways throughout its system. Supporting shipper: Best Manufacturing Co., Menlo, GA.

MC 109124 (Sub-II–8TA), filed July 24, 1980. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. (1) *Refractory products and materials, clay, and bricks* from Negley, OH to Niagara Falls, NY, and (2) *refractory products and materials* from Mexico, MO to Huron, OH, for 270 days. Supporting shippers: Erie Furnance Supply, Inc., 309 Cleveland Rd., W., Box 360, Huron, OH 44839; Lakeway Manufacturing, Inc., 309 Cleveland Rd., W., Box 486, Huron, OH 44839.

MC 106920 (Sub-II–7TA), filed July 24, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. *Foodstuffs, in vehicles equipped with mechanical refrigeration,* from the facilities of Marzetti Foods, Division of Lancaster Colony at or near Columbus, OH to Baltimore, MD, Minneapolis, MN, St. Louis, MO, Detroit, MI, Worcester, MA, Northlake, IL, Falmouth, VA, Philadelphia and Pittsburgh, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Marzetti Foods, Division of Lancaster Colony, 3838 Indianola Ave., Columbus, OH 43214.

MC 50069 (Sub-II–5TA), filed July 24, 1980. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: William P. Fromm (address same as applicant). *Roofing asphalt, in packages on flat bed trailers,* from Louisville, KY to points in TN and IN for 270 days. Supporting shipper: Ashland Oil, Inc., P.O. Box 391, Ashland, KY, 41101.

MC 151346 (Sub-II–1TA), filed July 28, 1980. Applicant: ZEE CORPORATION, P.O. Box 693, Langhorne, PA 19047. Representative: Robert W. Flowers, P.O. Box 248, Langhorne, PA 19047. *Contract, irregular:* (a) iron and steel articles, (b) building materials, (c) metal floor and roof decking, (d) supplies used in the installation, manufacture, sale, or production of the above specified commodities between points in the United States (except Alaska and Hawaii) under continuing contracts with United Steel Deck, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Steel Deck, Inc., 14 Harmich Rd., S. Plainfield, NJ.

MC 57591 (Sub-II–3TA), filed July 28, 1980. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA. 17901. Representative: Albert L. Evans, Jr. (same address as above). *Malt Beverages, Ale, Beer, Beer Tonic, Porter, Stoudt, non-intoxicating Cereal Beverages, Advertising Material, and Empty Malt Beverage Containers,* from the plant site of The F. & M. Schaefer Brewing Co. at Fogelsville, PA, to pts. in CT, DE, KY, ME, MD, MA, NH, NJ, NY, OH, RI, TN, VT, VA and DC, with the right to return Empty Malt Beverage Containers, for 270 days, an underlying ETA seeks 120 day authority. Supporting shipper: The F. & M. Schaefer Brewing Co., P.O. Box 2568, Allentown, PA. 18001.

Note.—Common control may be involved.

MC 125687 (Sub-II–2TA), filed July 28, 1980. Applicant: EASTERN STATES TRANSPORTATION PA., INC., 1060 Lafayette St., York, PA 17405. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW, Washington, DC 20005. *Paper and paper products* from Erie and Lock Haven, PA. and Oswego, NY to pts. in CT, ME, MA, NH, NJ, NY, RI, and VT for 270 days. An underlying ETA seeks 120 days authority. Restriction: The transportation authorized herein is restricted to the transportation of traffic originating at the facilities of Hammermill Paper Co. Supporting shipper: Hammermill Paper Co., P.O. Box 1440, 1540 E. Lake Rd., Erie, PA 16533.

MC 2605 (Sub-II–4TA), filed July 29, 1980. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 E. Adams Ave., Phila., PA 19124. Representative: Donald Campanile (same as applicant). *(1) Carbonated and non-carbonated beverages, except in bulk, and (2) empty containers,* between Baltimore, MD, Phila., Concordville, Lancaster, Reading, Pottsville, Allentown, Harrisburg and Shiremanstown, PA for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack. Supporting shipper: Beverage Capital Corp., 1620 Whitehead Ct., Baltimore, MD 21207.

MC 110525 (Sub-II–14TA), filed July 29, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Paint and varnish, in bulk, in tank vehicles,* from Fort Wayne, IN to MO, NY and OH for 270 days. Supporting shipper: The Valspar Corp., 1101 3rd St. S., Minneapolis, MN 55415.

MC 488 (Sub-II–2TA), filed July 28, 1980. Applicant: BREMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same as applicant). *(1) Refractory products (except in bulk) and (2) materials and supplies used in the manufacture and installation of refractories,* between the facilities of Crescent Brick Co., Inc. at E. Canton, OH, on the one hand, and, on the other, pts. in PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crescent Brick Co., Inc., Box 1110, Clearfield, PA 16830.

MC 488 (Sub-II–1TA), filed July 28, 1980. Applicant: BREMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same as applicant). *Metals, metal products, and materials and supplies used in the production or distribution of metals and metal products (except commodities in bulk),* between the facilities of Cerro Metal Products, in Centre County, PA, on the one hand, and, on the other, pts. in OH, NJ, and NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cerro Metal Products, P.O. Box 388, Bellefonte, PA 16823.

MC 148522 (Sub-II–5TA), filed July 28, 1980. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Malt beverages, in containers,* from Newark, NJ to Shamokin, Milton, Montrose, Williamsport and Burnham, PA and Geneva, NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 6 supporting shippers. Their statements may be viewed at the ICC Phila. Regional Office, Phila., PA.

MC 107012 (Sub-II–28TA), filed May 7, 1980. First published in the **Federal Register** on May 29, 1980 and again on July 14, 1980.* Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities (except commodities in bulk, those of unusual value, class A & B explosives, household goods as defined by the Commission,*

* The purpose of republication is to change destination state of NM back to MN as it was originally published on May 29, 1980.

and those requiring special equipment), from the facilities of Black & Decker (U.S.), Inc. at or near Raleigh, NC to points in AZ, AR, CA, CO, DC, FL, GA, IL, IN, IA, KS, MN, LA, MD, MI, MS, MO, NE, NV, NY, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Black & Decker (U.S.), Inc., 701 East Joppa Rd., Towson, MD 21204.

Note.—Common control may be involved.

MC 151002 (Sub-II–1TA), filed June 6, 1980. Originally published in F.R. dated 6/23/80. Applicant: C & H TRUCK BROKERS, P.O. Box 236, Harrington, DE 19952. Representative: John A. Guernsey, 2001 The Fidelity Bldg., Phila., PA 19109. Contract, irregular: *Canned clam products,* from the plant facility of American Original Clam Co. in Cannon, DE to pts. in AL, AR, AZ, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, NE, NH, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, and WI, for 180 days. Supporting shipper: American Original Clam Co., 215 High St., Seaford, DE. Republished to show VT which was omitted from first publication.

The following applications were filed in Region 3. Send protests to: ICC, P.O. Box 7520, Atlanta, GA 30309.

MC 129537 (Sub-3–3TA), filed July 25, 1980. Applicant: REEVES TRANSPORTATION COMPANY, Route 5, Dews Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *General commodities, in truckload quantities (except those of unusual value, class A & B explosives, hazardous materials or waste, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* from KY to the states of GA and TX. Supporting shipper: Curtis Industries, Industrial Park Road, Shelbyville, KY 40065.

MC 151385 (Sub-3–1TA), filed July 29, 1980. Applicant: CENTRAL LINES, INC. OF FLORIDA, 2006 N.W. 100th St., Miami, FL 33167. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328. *Coffee beans, in bags, and coffee, roasted in packages* between the Ports of Miami, FL, Jacksonville, FL on the one hand and points in Jacksonville and Miami, FL on the other. Supporting shipper: General Coffee, Inc., 16000 N.W. 49th Ave., Miami, FL.

MC 136123 (Sub-3–7TA), filed July 29, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: William L. Beasley (same address as above). *(1) Air conditioning equipment, furnaces, stoves and parts and accessories thereto;* and (2) *materials, supplies and equipment used in the manufacture, thereof* in (1) above between the facilities of Carrier Corporation in Marion County, IN and points in AL, AR, CO, CT, DC, FL, GA, IL, IO, LA, KA, MI, MN, MS, MO, NJ, NY, NC, OH, PA, SC, TN, TX, and VA. Supporting shipper: Carrier Corporation, P.O. Box 4800, Syracuse, NY 13221.

MC 128095 (Sub-3–2TA), filed July 28, 1980. Applicant: IBCO TRUCK LINE, INC., Senter Drive (P.O. Box 1402), Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. (1) *Furniture and furniture parts* from Atlanta, GA to points in the states of AL, AR, LA, MS and TN; and, (2) *Equipment, material and supplies* used in the manufacture distribution, and sale of the commodities named in (1) above in the reverse direction (except commodities in bulk, in tank vehicles). Supporting shipper: Simmons U.S.A., 6 Executive Park, Atlanta, GA 30329.

MC 115162 (Sub-3–10TA), filed July 28, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen, AL 36401. *Metal Can Ends* from Oil City, PA to New Orleans, LA. Supporting shipper: Continental Can Company, U.S.A.; 22 Executive Part West, NE; Atlanta, GA 30329.

MC 141326 (Sub-3–5TA), filed July 29, 1980. Applicant: C. C. SALTER d.b.a., SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Metals, metal articles, fabrications, grain bends, augers, fans, heaters, parts and accessories* between the facilities of or used by Conrad-American, Inc. at or near Eufaula, AL, Grand Island, NE, and Houghton, IA, on the one hand, and, on the other, all points in AL, GA, SC, NC, VA, FL, LA, MS, TN, KY, and AR; (2) *materials, equipment and supplies* used in the manufacture of commodities in (1) above between the destination states in (1), on the one hand, and, on the other, facilities of Conrad-American, Inc. at or near Eufaula, AL, Grand Island, NE, and Houghton, IA. Supporting shipper: Conrad-American, Inc. P.O. Box 2, Eufaula, AL 36027.

MC 143921 (Sub-3–3TA), filed July 29, 1980. Applicant: BAMA EXPRESS, INC., P.O. Box 222, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Building materials, equipment and supplies;* (2) *forest products;* (3) *metal articles;* (4) *nonmetallic minerals;* (5) *lumber or wood products;* (6) *furniture and fixtures;* (7) *rubber or miscellaneous plastic products;* (8) *clay, concrete, glass or stone products;* (9) *primary metal products;* (10) *fabricated metal products; and* (11) *machinery and supplies* between points in AL, AR, FL, GA, IN, KY, LA, MS, NC, SC, TN, and VA. Supporting shipper: Moore-Handley, Inc., P.O. Box 2607, Birmingham, AL (35202).

MC 146281 (Sub-3–11TA), filed July 29, 1980. Applicant: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, P.O. Box 6089, Knoxville, TN, 37194. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *New Furniture and material, supplies and equipment used in the manufacture of same (except commodities in bulk),* between the facilities of James David, Inc., at or near Clinton, TN, on the one hand, and, on the other, New Orleans, LA. Supporting shipper(s): James David Incorporated, P.O. Box 7240, St. Louis, MO 63177.

MC 124887 (Sub-3–6TA), filed July 29, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1. Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Machinery and supplies used in the manufacture of machinery including metal articles primary and fabricated,* between points in Coweta County, GA, on the one hand, and, on the other, points in the United States. Supporting shipper: Humbolt Wedag USA, 50 Amberjack Blvd., Shenandoah, GA 30263.

MC 107515 (Sub-42TA), filed July 25, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. (1) *Such commodities as are dealt in by wholesale and retail food chain and grocery business,* and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above* from facilities of The Clorox Company at or near Houston, TX to points in AR and NM. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, CA 94612.

MC 128720 (Sub-3–8TA), filed July 25, 1980. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Drive, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Appliances and*

hand tools and parts and (3) materials, supplies and equipment used in the manufacture, sale and distribution of same (except commodities in bulk), between the facilities of Oster, division of Sunbeam Corp. located in TN, on the one hand, and, on the other, points in IL, IN, OH, NJ, PA, and WI. Supporting shipper(s): Oster, Division of Sunbeam Corp., 5055 North Lydell Ave., Milwaukee, WI 53217.

MC 121664 (Sub-3–23TA), filed July 29, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st Ave. S., Birmingham, AL 35233. *Lumber, Forest products, and Wood products.* Between AL on the one hand, and on the other IN, OH, and MI. Supporting shipper: Timber Sales, P.O. Box 35124.

MC 143540 (Sub-3–6TA), filed July 29, 1980. Applicant: MARINE TRANSPORT COMPANY, Post Office Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, Attorney at Law, Post Office Box 2246, Raleigh, NC 27602. *Contract* carrier: Irregular: *Plastic and plastic articles* from points in Posey and Vanderburgh Counties, IN to Port Elizabeth, NJ, Baltimore, MD, Newport News, Norfolk and Portsmouth, VA, Morehead City and Wilmington, NC, Charleston, SC, Savannah, GA, Jacksonville and Pensacola, FL, and New Orleans, LA. Supporting shipper(s): General Electric Company, Lexan Lane, Mount Vernon, IN 47620.

MC 151407 (Sub-3–1TA), filed July 31, 1980. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., P.O. Box 370762, Miami, FL 33137. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, Texas 75245. *Recreational equipment* from Dade Co., FL to points in the states of AZ, AR, CA, CO, ID, IA, KS, MN, TM, NV, NE, MO, NM, OK, LA, ND, SD, OR, TX, UT, WA and WY. Supporting shipper(s): Ebonite Corporation, 14000 Northwest 57th Court, Miami Lakes, FL 33014.

MC 115654 (Sub-317TA), filed July 29, 1980. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings (same address as above). *Frozen foods,* from the facilities of Eggo & Mrs. Smiths Pie Co., Div. of Kellogg, Inc., in Atlanta, GA to Niles IL. Supporting shipper: Eggo & Mrs. Smiths Pies, Div. of Kellogg, Inc., 5601 Bucknell Dr., Atlanta, GA 30336.

MC 107515 (Sub-3–43TA), filed July 29, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Hospital Supplies* from the facilities of Johnson & Johnson at North Brunswick, NJ to facilities of Johnson & Johnson at or near Menlo Park, CA. Supporting shipper: Johnson & Johnson, 501 George Street, New Brunswick, NJ 08903.

MC 146293 (Sub-3–22TA), filed July 30, 1980. Applicant: REGAL TRUCKING CO., INC., 95 Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Packaging Materials and Cabinetry* (1) from Columbus, GA and Cleveland, TN to Beaver Dam, WI; and (2) from Beaver Dam, WI to facilities of Yamaha Music Manufacturing, Inc. at or near Thomaston, GA. Supporting shipper: Yamaha Music Manufacturing, Inc., 100 Yamaha Park, Thomaston, GA 30286.

MC 146490 (Sub-3–5TA), filed July 29, 1980. Applicant: C. & N. EVANS TRUCKING COMPANY, INC., RFD 2, Box 39–E, Stoneville, NC 27048. Representative: Clarence B. Evans, President (same address as applicant). *Containers and packing materials,* between points in NC, GA, NY, TX and WI. Supporting shipper: Miller Brewing Co., 3939 West Highland Blvd., Milwaukee, WI. 53201.

MC 138308 (Sub-3–11TA), filed July 29, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Electrical and non-electrical portable household appliances* between Canton and Jackson, MS on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: National Presto Industries, Inc., 3925 North Hastings Way, Eau Claire, Wisconsin 54701.

MC 107515 (Sub-3–44TA), filed July 29, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *(1) Air conditioning equipment, furnaces and component parts and accessories therefor; and (2) materials, equipment and supplies used in the manufacture, distribution and sale of the commodities in (1) above* between the facilities of Carrier Corp. in the states of NY, TN, TX and AR. Supporting shipper: Carrier Air Conditioning Group, Divisions of Carrier Corporation, Carrier Parkway, DeWitt, NY 13221.

MC 140484 (Sub-3–10TA), filed July 29, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as above). *Commodities dealt in or used in the manufacture and distribution of chemicals (except in bulk),* between points in Cook and McHenry Counties, IL, on the one hand, and, on the other points in the states of AL, FL, GA, KY, LA, MS, NC, SC, TN, TX, and WV. Supporting shipper: Morton Chemical, 2 North Riverside Plaza, Chicago, IL 60606.

MC 121222 (Sub-3–1TA), filed July 29, 1980. Applicant: KING MOTOR LINE, INC., 1607 North Ripley Street, Montgomery, AL 36104. Representative: R. S. Richard, 57 Adams Avenue, Montgomery, AL 36197. *Common carrier:* regular route: *General commodities (except those of unusual value, Classes A and B explosives, household goods as by the Interstate Commerce Commission, commodities in bulk in tank vehicles, and those requiring special equipment):* I. (1) between Mobile and Greenville, AL, over U.S. Hwy No. 31, serving all intermediate points and serving all points in Mobile and Baldwin Counties, AL, as off-route points; (2) from Greenville, AL, over AL Hwy 10 to Camden, AL, then over AL Hwy 28 to its intersection with AL Hwy 21, then over AL Hwy 21 to its intersection with U.S. Hwy 80, then over Hwy 80 to Montgomery, AL, and return over the same route, serving all intermediate points and the off-route points of Forest Home, Allenton and Letohatchee, AL; (3) from Atmore, AL, over AL Hwys 21 and 41 to Camden, AL; then from Camden, AL, via AL Hwy 41 to Selma, AL; then from Selma, AL, via U.S. Hwy 80 to Montgomery, AL, and return over the same route, serving all intermediate points and serving all points in Dallas, Montgomery and Baldwin Counties, AL, as off-route points; and from Montgomery, AL, via U.S. Hwy 31 to Greenville, AL, and return over the same route, serving all intermediate points. II. (a) between Mobile, AL, and Pensacola FL: from Mobile over U.S. Hwy 90 to Pensacola, and return over the same route, serving all intermediate points; (b) between Mobile, AL, and Pensacola, FL: from Mobile to Pensacola over Interstate Hwy 10, and return over the same route, serving all intermediate points; (c) between Mobile, AL and Pensacola, FL: from Mobile over U.S. Hwy 31 to Atmore, AL, then over AL Hwy 21 to the AL–FL state line, then over FL Hwy 97 to its intersection with U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola, FL and return over the same route, serving all intermediate points; (d) between Mobile, AL, and Pensacola, FL: from Mobile over U.S. Hwy 98 to Pensacola, FL, and return over the same route, serving all intermediate points; (e) between Selma, AL, and Pensacola, FL: from Selma over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 31 to Flomaton, AL, then over U.S. Hwy 29 from Flomaton, AL to Pensacola, FL and return over the same route, serving Forest Home, Allenton, and Letohatchee, AL; (f) between Montgomery, AL and Pensacola, FL: from Montgomery over U.S. Hwy 80 to its intersection with AL Hwy 21, then over Hwy 21 to Camden, AL, then over AL Hwys 21 and 47 to Monroeville, AL, then over AL Hwy 41 to its intersection with U.S. Hwy 31 at or near Brewton, AL, then over U.S. Hwy 31 to Flomaton, AL, then over U.S. Hwy 29 to Pensacola, FL and return over the same route, serving all intermediate points; (g) between Montgomery, AL and Mobile, AL: from Montgomery over Interstate Hwy 65 to Mobile and return over the same route, serving all intermediate points; (h) between Monroeville, AL and Pensacola, FL: from Monroeville over AL Hwy 21 to Atmore, AL, then over AL Hwy 21 to the AL–FL state line, then over FL Hwy 97 to its intersection with U.S. Hwy 29, then over U.S. Hwy 29 to Pensacola and return over the same route, serving all intermediate points; (i) between Selma, AL and Pensacola, FL: from Selma, AL, over AL Hwy 41 to Camden, AL, then over AL Hwy 10 to its intersection with U.S. Hwy 31, then over U.S. Hwy 31 to Flomaton, AL, then over U.S. Hwy 29 to Pensacola and return over the same route, serving all intermediate points; (j) In connection with the routes described in (a) through (i) above, authority is sought to serve all points in Dallas, Montgomery, Mobile and Baldwin Counties, AL, and Escambia and Santa Rosa Counties, FL, as off-route points. Supporting shipper: There are 69 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA. Note: Applicant intends to interline at Montgomery, Selma, Monroeville and Mobile, AL, and at Pensacola, FL.

Note.—Applicant seeks authority to serve the commercial zones of all points on the routes described above.

MC 123872 (Sub-3–4TA), filed July 30, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (address same as applicant). *(1) Cotton; synthetic fibre; yarn, rope and twine; tape, and (2) materials and supplies used in the manufacture of items listed in Item (1) above (except commodities in bulk),* Between the plantsites and facilities of Shuford Mills, Inc. at Alexander, Burke, Caldwell and Catawba Counties, NC and DeKalb County, GA, on the one hand, and, on the other points in AZ, CA, CO, GA, IA, ID, IL, KS, MN, MO, MT, NC, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, WI and WY. Supporting shipper: Shuford Mills, Inc., Highland Ave & 15th St NE, Hickory, NC 28601.

MC 115841 (Sub-3–16TA), filed July 30, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (same address as applicant). *Drugs, medicines, solutions, distilled water, syringes, rubber articles, plastic articles, gloves, in-patient treatment kits, and expandable administration sets,* from North Chicago, IL to points in AR, CA, CO, GA, KS, LA, MO, MS, OK, NC, TN, TX, and VA. Supporting shipper: Abbott Laboratories, 14th & Sheridan Road, North Chicago, IL 60064.

MC 151410 (Sub-3–1TA), filed July 30, 1980. Applicant: DAVID OSMENT d.b.a. DAVID OSMENT COMPANY, Route 3, Old Hickory Boulevard, Nashville, Tennessee 37218. Representative: Michael E. Moore, Esq., Waller Lansden Dortch & Davis, 2100 One Commerce Place, Nashville, Tennessee 37239. *Contract carrier:* Irregular routes: *brick and related masonry accessories* from Nashville, Tennessee to KY, OH, IN, IL, MO, AR, AL, MS and GA. Supporting shipper: Herbert Materials Incorporated, 1136 Second Avenue, North, Nashville, Tennessee 37208.

MC 115840, (Sub-3–3TA), filed July 31, 1980. Applicant: COLONIAL FAST FREIGHT LINES, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Michelene Good (Same address as applicant). *Iron or steel articles,* from Ashville, AL to points in FL, GA, LA, MS, and TN. Supporting shipper: Dietrich Industries, P.O. Box 400, Ashville, AL 35953.

MC 143059 (Sub-3–14TA), filed July 30, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40232. *Non-ferrous metals (except in bulk),* from the facilities of ASARCO Incorporated or Federated Metals Corp., subsidiary of ASARCO Incorporated, at or near El Paso, TX, Hayden, AZ, East Helena, MT, Denver, CO, and Tacoma, WA to points in the U.S. (except AK and HI). Supporting shipper: ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, MO 63101.

MC 150576 (Sub-3–2TA), filed July 29, 1980. Applicant: COASTAL TRANSPORT, INC., P.O. Box 1277, Goldsboro, NC 27530. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Petroleum and petroleum products* from Chesapeake, VA to points in NC on and east of U.S. Highway #1. Supporting shipper(s): Harrison Oil Co., Inc., P.O. Box 466, Williamston, NC 27892; Jordan Oil Co., Inc., P.O. Box 176, Pangego, NC 27810; and Bellamy Oil Co., Inc., P.O. Box 7, Scotland Neck, NC 27874.

MC 106644 (Sub-3–2TA), filed July 29, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (Same as applicant). *(1) Commodities, the transportation of which because of size or weight require the use of special equipment, and (2) Self-propelled articles, each weighing 15,000 pounds or more* between points in GA, FL, AL, SC, on the one hand, and, on the other, points in ME, NH, VT, KS and MN. Supporting shipper: There are 20 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 111545 (Sub-3–7TA), filed July 31, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, SE., Marietta, GA 30067. Representative: J. Michael May (same address as applicant). *Iron and steel articles,* from Oakland and Richmond, CA, to Carrollton, TX. Supporting shipper: Eagle Steel Corporation, Suite 150, 123 Northpoint Blvd., Houston, TX 77060.

MC 138882 (Sub-3–23TA), filed July 24, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). (1) *Beverages (except in bulk, in tank vehicles) and* (2) *Materials, equipment and supplies used in the manufacturing and distribution of commodities in (1) above (except in bulk, in tank vehicles)* (1) Between St. Louis, MO on the one hand, and, on the other, points in AL, GA, and TN and (2) Between points in GA on the one hand, and, on the other, points in AL and TN. Restricted to traffic between King Cola Southeast, LTD, its suppliers and customers. Supporting shipper: King Cola Southeast, LTD., 2810 New Spring Road, Suite 112, Atlanta, Georgia 30339.

MC 105120 (Sub-3–3TA), filed July 10, 1980. Republication—Originally Published in **Federal Register** of 7–21–80, Page 48727 Volume 45, No. 141. Applicant: FREIGHTWAYS EXPRESS, INC., 2700 Sterick Rd., Memphis, TN 38103. Representative: James N. Clay, III (same as above). *General commodities, usual exceptions,* between the facilities

of American Greeting Corp. at McCrory, AR and Little Rock, AR and its commercial zone. Supporting shipper: American Greetings Corp., 10500 American Rd., Cleveland, OH 41444.

Note.—Applicant proposes to tack with existing authority and to interline with other carriers at Little Rock, AR

MC 136315 (Sub-3-3TA), filed July 8, 1980. Republication—Originally Published in Federal Register of 7-21-80, Page 48728, Volume 45, No. 141. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 236 East Capital St., P.O. Box 22807, Jackson, MS 39205. (1) *Treated and untreated forest products, lumber, posts, poles, piling, timber, cross-ties, particle board, insulation board, insulation sheets, gypsum wallboard, plywood, laminated wood products, veneer,* and (2) *material, equipment and supplies (except commodities in bulk, in tank vehicles)* used in the production and distribution of those products listed in (1) above. Between points in the United States lying in and east of ND, SD, NE, KS, OK, and TX. *Restriction:* restricted to transportation of shipments originating at or destined to facilities of Weyerhaeuser Company, and suppliers of Weyerhaeuser Company, when making shipments for Weyerhaeuser Company and its subsidiaries. Supporting shippers: Weyerhaeuser Company, P.O. Box 2288, Columbus, MS 39701.

MC 112520 (Sub-3-7TA), filed July 31, 1980. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Black Liquor, in bulk, in tank vehicles,* from Prattville, AL, to Cantonment, FL. Supporting shipper: Union Camp Corporation, P.O. Box 326, Montgomery, AL 36101.

MC 148183 (Sub-3-9TA), filed August 1, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. *Meat and meat products and meat by-products in mechanically refrigerated vehicles, in cans, containers, cartons or packages,* from Gainesville, GA to points in CA or OR. Supporting shipper: Dutch Quality House, P.O. Box 239, Old Oakwood Rd., Gainesville, GA 30503.

MC 147113 (Sub-3-1TA), filed August 1, 1980. Applicant: TEPPCO TRANSPORT, INC., 1111 E. 39th Street, Chattanooga, TN 37409. Representative: Jon G. Soderlund (same address as above). *Molded polystyrene foam egg cartons,* (a) between Lawrenceville, GA, on the one hand, and, on the other, all points in SC, NC, VA, WV, FL, AL, MS, LA, AR and TN; (b) between Decatur, IL, on the one hand, and, on the other, all points in VA, WV, OH, KY and TN. Supporting shipper: Dodlco Packaging Corp., 13400 Riverside Dr., Sherman Oaks, CA.

MC 124896 (Sub-3-4TA), filed August 1, 1980. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Streets, P.O. Box 3469, Wilson, NC 27893. Representative: Peter A. Greene, 404 Farragut Building, 900 Seventeenth St. NW., Washington, DC 20006. *Bananas, agricultural commodities and foodstuffs,* (1) From MD to AL, DE, FL, GA, IL, IN, IA, KY, MI, MO, NJ, NC, OH, PA, SC, TN, WV, WV, and WI; (2) From VA to AL, DE, FL, GA, IL, IN, IA, KY, MD, MI, MO, NJ, NC, OH, PA, SC, TN, WV, WI; (3) From NJ to AL, DE, FL, GA, IL, IN, IA, KY, MD, MI, MO, NC, OH, PA, SC, TN, VA, WV and WI. Supporting shipper: Williamson Distributors, Inc., Florida, Homestead, FL 33030.

MC 120727 (Sub-3-1TA), filed July 29, 1980. Applicant: GALLATIN-PORTLAND FREIGHT LINES, INC., P.O. Box 888, Gallatin, TN 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Common carrier,* regular: *General Commodities, with the usual exceptions,* between Memphis, TN and Paragould, AR, from Memphis, TN over Interstate Hwy 55 to its intersection with U.S. Hwy 63, then over U.S. Hwy 63 to Jonesboro, AR, then over Arkansas Hwy 1 to Paragould, AR and return over the same route, serving the intermediate points of Marked Tree, Truman and Jonesboro, AR. Supporting shipper(s): There are 27 statements of support attached to this application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

Note.—Applicant proposes to tack with existing authority in MC-120727 and subs thereunder and interline at Memphis, Nashville and Gallatin, TN and Jonesboro, AR.

MC 127634 (Sub-3-1TA), filed July 2, 1980. Republication—Originally Published in Federal Register of 07-21-80 Page 48727, Volume 45, No. 141. Applicant: GAMBRELL TRANSMOBILE, INC., 1820 Fairview Ave., Augusta, GA 20904. Representative: Nathan I. Finkelstein, 1619 New Hampshire Ave. NW., Washington, DC 20009. *Mobile homes,* from all points in GA to all points in SC, FL and AL. Supporting shipper(s): Harrison Mobile Homes Sales, 2049 Gordon Hwy, August, GA 30309 and Colonial Mobile Homes, 1851 Gordon Hwy, Augusta, GA 30909.

MC 150211 (Sub-3-4TA), filed August 1, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3520, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Sheet steel lamination,* from the facilities of Tempel Steel Company located at or near Niles, IL to points in TN, AL, MS and AR. Supporting shipper(s): Tabuchi Electric Co., 99 Whalley Drive, Jackson, TN 38301 and Tempel Steel Company, 5990 Touhy Ave., Niles, IL 60648.

MC 151375 (Sub-3-2TA), filed August 1, 1980. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 3914 Shirley Dr., SW., Atlanta, GA 30336. Representative: John C. Fudesco, 1333 New Hampshire Ave., NW., Suite 960, Washington, DC 20036. *Duplicating and reproducing machines, computers, receivers, transmitters, printers, collaters, typerwriters, x-ray equipment, and parts and supplies used in connection with the foregoing commodities,* between Allegheny County, PA, on the one hand, and, on the other, points in OH and WV; and between points in Cumberland County, PA, on the one hand, and, on the other, points in NJ. Supporting shipper: Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018.

MC 103051 (Sub-3-4TA), filed July 9, 1980. Republication—Originally Published in Federal Register of 7/21/80, page 48727 Volume 45, No. 141. Applicant: FLEET TRANSPORT CO., INC., 934-44th. Ave., No., P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Alcohol, in bulk, in tank vehicles* from Savannah, GA and Mobile, AL to points in AL, FL, GA, MS, NC, SC, and TN. Supporting shipper: Scientific South of Alabama, Inc., 2513 31st. Street, SW, Birmingham, AL 35228.

MC 149498 (Sub-3-10TA), filed June 30, 1980. Republication—Originally Published in Federal Register of 7/21/80, page 48733 Volume 45, No. 141. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl, MS 39208. Representative: Dale Yeager, Sr. (same address as applicant). *General commodities (except those of unusual value, Classes A & B explosives, HHG's as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading issued by ABC-TNT and Acme Fast Freight, a freight forwarder as defined in Section 10102(8) of the Interstate Commerce Act,* between points in AL, AR, AZ, CA, CO, CT, FL, GA, ID, IL, IN, KY, LA, MI, MO, MS, NC, NJ, NM, NY, OH, OR, PA, SC, TN, TX, UT, VA, WA, WI, WV, and WY. Supporting shipper: ABC-TNT and Acme Fast Freight, 2000 Santa Cruze, Anaheim, CA 92804.

MC 111485 (Sub-3-3TA), filed May 30, 1980. Republication—Originally Published in Federal Register of 06-18-80, page 41234 Volume 45, No. 119. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. *General commodities, usual exceptions,* serving Union City, TN and its commercial zone as off-route points in connection with applicant's existing regular route authority. Supporting shipper: There are 60 statements of support attached to this application which may be examined at the I.C.C. regional office, Atlanta, GA.

Note.—Applicant intends to tack with existing authority in MC-111485, Subs 7, 10 and 19. Also applicant intends to interline with other carriers at Memphis, Nashville and Paris, TN; St. Louis, MO and Louisville and Paducah, KY.

MC 144827 (Sub-3-7TA), Republication—Originally Published in Federal Register of 06-30-80, page 43890 Volume 45, No. 127. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38116. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *General commodities* with the usual exceptions from facilities of Acme Fast Freight, Inc. at Norfolk, VA to facilities of Acme Fast Freight, Inc. at Memphis, TN and at points in CA and from facilities of Acme Fast Freight, Inc. at Memphis, TN to facilities of Acme Fast Freight, Inc. at points in CA. Supporting shipper: Acme Fast Freight, Inc., 1289 Pennsylvania St., Memphis, TN 38106.

MC 139797 (Sub-3-2TA), filed June 9, 1980. Republication—Originally Published in Federal Register of 6-23-80, page 42060 Volume 45 No. 122. Applicant: AUGUSTA AIR CARGO, INC., Route 3, Box 60, Augusta, GA 30906. Representative: R. G. Tolar (same as above). *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk),* between Richmond County, GA, on the one hand, and, on the other, points in Columbia, McDuffie, Lincoln, Wilkes, Green, Taliaferro, Hancock, Warren, Clascock, Washington, Jefferson, Burke, Jenkins, Emanuel, Candler, Screven, and Bullock Counties, GA and points in Aiken, Barnwell, Allendale, Hampton, Edgefield and Saluda Counties, SC. Supporting shipper: There are 11 statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA. Applicant intends to tack with its existing authority in MC-139797. Also, applicant intends to interline with other carriers in Richmond County, GA.

MC 144503 (Sub-3-1TA), filed June 6, 1980. Republication—Originally Published in Federal Register of 6-23-80 page 42059 Volume 45, No. 122. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *(1) Yarn, (2) Thread, sewing, cotton, yarn, fasteners, slide (zippers), dry goods, books, cloth plastic articles, needles, notions, display cases, racks, sheet steel articles and friction fabric,* and *(3) Thread, sewing, cotton, yarn, fasteners, slide (zippers), dry goods, books, cloth, plastic articles, needles, notions, display cases, racks, sheet steel articles and friction fabric.* (1) From the plantsite of Coats & Clark Sales Corp. located at or near Albany, GA to the states of MO, KS, NB, IA, IL, IN, OH, MI, WI, MN, SD, KY, AL, MS, SC, NC, TN, & LA. (2) From the plantsite of Coats & Clark Sales Corp. located at or near Doraville, GA to the state of MO, (3) From the plantsite of Coats & Clark Sales Corp. located at or near St. Louis, MO to the state of MN. Supporting shipper: Coats & Clark Sales Corp., 2915 N.E. Parkway, Doraville, GA 30340.

The following protests were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 36556 (Sub-4-1TA), filed July 28, 1980. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon, P.O. Box 186, Somers, WI 53171. *Canned goods, and such commodities as or dealt in, or used by manufacturers of canned goods,* (except in bulk, in tank vehicles) between the plantsites and/or facilities utilized by the Friday Canning Corporation, at or near (a) Antigo, Cambria, Clintonville, Galesville, Markesan, and Theresa, WI; (b) Louisville, KY; and (c) St. Louis, MO; and points in IL, IN, MI, and OH. Supporting shipper: Friday Canning Corp., 660 North Second Street, New Richmond, WI 54017.

MC 123294 (Sub-4-6TA), filed July 28, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H.E. Miller, Jr. (same address as applicant). *Scrap or waste paper* from the plantsite of Diamond International Corp. at Morris, IL, to the plantsite of Diamond International Corp. at Lockland, OH, and Middletown, OH. Supporting shipper: Diamond International Corporation, 407 Charles Street, Middletown, OH 45042. An underlying ETA seeks 120 days authority.

MC 123294 (Sub-4-9TA), filed July 28, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (Same address as applicant). *Brattice cloth, mine vents, and ridged pipe* from Warsaw, IN, to points in MN, IA, MO, AR, ND, SD, NE, KS, OK, NM, UT, CO, and WY. Supporting shipper: Peabody-ABC, Warsaw, IN 46580. An underlying ETA seeks 120 days authority.

MC 134477 (Sub-4-39TA), filed July 28, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., West St. Paul, MN 55118. Representative: Thomas Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Such commodities as dealt in by retail department and variety stores (except commodities in bulk),* between the facilities of Ben Franklin, Division of City Products Corp. at or near Baltimore, MD; Chicago, IL, Memphis, TN; Minneapolis, MN; Dallas, TX; Seymour, IN; North Bergan, NJ; Kansas City, MO; and Los Angeles, CA and points in their commercial zones. Supporting shipper: Ben Franklin, 1700 S. Wolf Rd., Des Plaines, IL 60018.

MC 138896 (Sub-4-5TA), filed July 28, 1980. Applicant: AJAX TRANSFER COMPANY, 550 East 5th Street So., So. St. Paul, Minnesota 55075. Representative: Randy Busse, Traffic Manager, 550 East 5th Street So., So. St. Paul, Minnesota 55075. *Such commodities as are handled by retail grocery stores, drug stores, hardware stores, also Chemicals (except in bulk),* from Minneapolis-St. Paul, MN to points in MT. Supporting shipper: Central Warehouse Company, 739 Vandalia, St. Paul, MN 55114.

MC 145437 (Sub-4-3TA), filed July 28, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Avenue, Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Contract;* irregular; *Wearing apparel and materials, equipment and supplies used or useful in the manufacture, sale or distribution of wearing apparel* between Minneapolis, MN and Memphis, TN, on the one hand, and, on the other, points in the United States (except AK and HI). Restricted to service to be performed under a continuing contract(s) with Munsingwear, Inc. and Vassarette, a

V 45 A G 1 1 8 0 UMI

division of Munsingwear, Inc. An underlying ETA seeks 120 day authority. Supporting shipper: Munsingwear, Inc. and Vassarette, a division of Munsingwear, Inc., 718 Glenwood Av. Minneapolis, MN.

MC 146314 (Sub-4-4TA), filed July 25, 1980. Applicant: G & T TRUCKING CO., Route #1, County RD 2 & I-35 South, Elko, MN 55020. Representative: Thomas Zwiers (same as above). *Construction equipment* between points in LA, MI, MN, NY, TX and WY. Restricted to the transportation of traffic originating at and destined to points in the named states. An underlying ETA application seeks corresponding authority for 120 days. Supporting shipper: General Tractor & Equipment, Shakopee, MN.

MC 146438 (Sub-4-2TA), filed July 28, 1980. Applicant: ETV INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Commodities* dealt in by retail grocery and department stores and *materials and supplies* used in the operation of such stores from all points in the US (except AK, HI and MI) to the facilities of Meijer, Inc. and its subsidiaries in MI. Shipper: Meijer, Inc., 2727 Walker Road, NW., Grand Rapids, MI 49501.

MC 147943 (Sub-4-1TA), filed July 29, 1980. Applicant: E.W.K. CARTAGE, INC., 4855 South Leamington, Chicago, IL 60638. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *General commodities* (with the usual exceptions) between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in WI and IA. Restricted to the transportation of traffic having a prior or subsequent movement by rail. Supporting Shippers: Cornell Shipping Terminal Services, 3301 S. Ridgeland Av. Berwyn, IL. 60402, Earl's Agency, 430 Maple Av., Aurora, IL. 60505

MC 150103 (Sub-4-7TA), filed July 29, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington Street, Jefferson, Wisconsin 53549. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, Wisconsin 53703. *Contract;* irregular; *Synthetic stable fiber and synthetic yarn* from Arcadia, Spartanburg and Johnsonville, SC and Charlotte and Kinston, NC to Jefferson, WI. Restricted to service to be performed under a continuing contract(s) with Borg Textile Corporation, a division of Bunker Ramo. An underlying ETA seeks 120 days authority. Supporting Shipper: Borg Textile Corporation, a division of Bunker Ramo, Suite 101, Branklin Building, Eastgate Center, Chattanooga, TN.

MC 150247 (Sub-4-2TA), filed July 29, 1980. Applicant: VANEERDEN TRUCKING COMPANY, INC., 1150 Freeman Ave., SW., Grand Rapids, MI 49503. Representative: J. Michael Smith, 465 Old Kent Bldg., Grand Rapids, MI 49503. *Fresh and frozen meat, meat products and meat byproducts* Between the facilities of Murco, Inc. at or near Plainwell, MI, to Norfolk, Portsmouth, and Williamsburg, VA; Jacksonville, Miami, and Tampa, FL; Nashville, Knoxville, and Memphis, TN; Charleston and Columbia, SC; Bayonne and Camden, NJ; Alameda and Los Angeles, CA; Fort Worth and Houston, TX; Seattle, WA; New Orleans, LA; Chicago, IL; Denver, CO; Atlanta, GA; Watertown, MA; Landover, MD; Birmingham, AL, and all their commercial zones. An underlying ETA seeks 120 days authority. Supporting Shipper: Murco, Inc., P.O. Box 247, Plainwell, MI 49080.

MC 151365 (Sub-4-1TA), filed July 25, 1980. Applicant: MAC OF WISCONSIN, INC., 26 Lake View Dr., Sullivan, WI 53178. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Microwave oven cavities, phone booths and equipment, materials and supplies used in their production,* between Osceola and Watertown, WI, on the one hand, and, on the other, Memphis, TN, Columbia, MD, Minneapolis, MN and Northbrook, IL and points in their commercial zones. Supporting Shipper: Watertown Metal Products Company, Inc., 1141 S. 10th St., Watertown, WI 53094.

MC 151376 (Sub-4-1TA), filed: July 28, 1980. Applicant: MORELLI'S DISTRIBUTING, INC., Highway 2 East, Minot, ND 58701. Representative: David C. Britton, 1425 Cottonwood Street, Grand Forks, ND 58201. *Commodities dealt in or used by wholesale distributors of alcoholic beverages, except in bulk,* from LaCrosse and Milwaukee, WI, Peoria, IL, St. Paul, MN, and St. Louis, MO to Bismarck, ND. Supporting shipper: McQuade Distributing Co., Inc., 3433 East Rosser Avenue, Bismarck, ND 58501.

MC 60430 (Sub-4-6TA), filed: July 28, 1980. Applicant: GATEWAY TRANSPORTATION, CO., INC., 455 Park Plaza Drive, La Crosse, 54601. Representative: Lem Smith, 455 Park Plaza Drive, La Crosse, WI 54601. Common regular *General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) Between Des Moines, IA and Albert Lea, MN over U.S. Highway 65, and return over the same route, serving all intermediate points; (2) Between Des Moines, IA and Albert Lea, MN over U.S. Highway 69, and return over the same route, serving all intermediate points; (3) Between the junction of U.S. Highway 65 and IA Highway 330 and Tama, IA over IA Highway 330 to the junction of U.S. Highway 30, then over U.S. Highway 30 to Tama, and return over the same route, serving all intermediate points; (4) Between Mason City, IA and Decorah, IA over U.S. Highway 18 to the junction of IA Highway 24, then over IA Highway 24 to the junction of U.S. Highway 52, then over U.S. Highway 52 to Decorah, and return over the same route, serving no intermediate points; (5) Between Mason City, IA and Waterloo, IA over U.S. Highway 18 to the junction of U.S. Highway 218, then over U.S. Highway 218 to Waterloo, and return over the same route, serving no intermediate points; (6) Serving as off route points, all points in the counties of: Cerro Gordo, Franklin, Hamilton, Hancock, Hardin, Marshall, Polk, Story, Tama, Winnebago, Worth, and Wright, IA and Freeborn, MN. There are 13 supporting shippers.

MC 80430 (Sub-4-9TA), filed: July 29, 1980. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, 54601. Representative: Lem Smith, 455 Park Plaza Drive, La Crosse, WI 54601. *Common* regular *General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* to serve West Concord, MN as an off-route point in connection with carrier's present operations to and from Owatonna, MN. Supporting shipper: Radial Retreads, Inc., West Concord, MN 55985.

MC 107162 (Sub-4-7TA), filed: July 28, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. *Lumber,* from points in CT, MA, ME, NC, NH, NJ, OH, PA, RI, VT, VA and WV to points in the Lower Peninsula of MI and points in WI south Wisconsin Hwy 64. Supporting shipper: GMC Hardwoods, Inc., P.O. Box 218, Dover, MA 02030.

MC 143002 (Sub-4-5), filed July 28, 1980. Applicant: C.D.B. INCORPORATED, 155 Spaulding, SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing

Building, Lansing, MI 48933. Contract irregular *household and personal care products and materials and supplies used in the manufacture and distribution thereof* between Santa Ana, Los Angeles, Buena Park, Torrance, and La Mirada, CA; Kent, WA; Arlington, TX; Atlanta, GA; Aurora, CO; Des Moines, IA; Dayton, Jamesburg, Secaucus, Metuchen and New Brunswick, NJ, and their respective commercial zones, and the port of entry on the International Boundary Line between the U.S. and Canada at Sweetgrass, MT, on the one hand, and, on the other, various points in the Continental United States under continuing contract(s) with the Amway Corporation. Supporting shipper: Amway Corp., 7575 E. Fulton Rd., Ada, MI 49355.

MC 119750 (Sub-4-2), filed July 29, 1980. Applicant: PERKINS MOTOR TRANSPORT, INC., P.O. Box 218, Savage, MN 55378. Representative: Jack L. McGraw (same address as applicant). *Large off-the-road rubber tires and tubes, (except those used in connection with motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act) the transportation of which because of size or weight requires the use of special equipment,* from the facilities of UniRoyal, Inc., at Eau Claire, WI on the one hand, and, on the other, points in the U.S. (Except AK and HI). Restricted to the transportation of traffic originating at or destined to the above named facilities. Supporting shipper: UniRoyal, Inc. Middlebury, CT 06749.

MC 144630 (Sub-4-12TA), filed July 28, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Steel shelving and bins, unassembled pallet racks, storage racks, screws, and storage cabinets and accessories for such commodities,* from the facilities of Frick-Gallagher Mfg. Co. at Wellston, OH to points in NV. Supporting shipper: Frick-Gallagher Mfg. Co., 201 S. Michigan, Wellston, OH 45692.

MC 128860 (Sub-4-6TA), filed July 25, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Esq., 6425 Odana Road, Madison, WI 53719. *Contract;* Irregular; *Malt beverages and related advertising materials, premiums, and malt beverage dispensing equipment, in mixed loads with malt beverages,* from La Crosse, WI, to Carlyle, East St. Louis, and Nashville, IL. Restricted to transportation to be performed under continuing contracts with James Frerker and Gilbert Kueper, d.b.a. Carlyle Distributing Co., Cripe Distributing, Inc., and East Side Importing, Inc. An underlying ETA seeks 120 days authority. Supporting shippers: James Frerker and Gilbert Kueper, d.b.a. Carlyle Distributing Co., 1611 Fairfax Street, Carlyle, IL 62231; Cripe Distributing, Inc., 705 North Kaskaskia Street, Nashville, IL 62263; and East Side Importing, Inc., 2030 State, East St. Louis, IL 62205.

MC 93186 (Sub-4-4TA), filed July 29, 1980. Applicant: EUDELL WATTS, III d.b.a., WATTS TRANSFER CO., 625 First Avenue, Rock Island, IL 61201. Representative: Daniel C. Sullivan, 10 S. LaSalle, Suite 1600, Chicago, IL 60603. *Motorcyle and automobile parts* between Chicago and Rock Island, IL on the one hand, and, on the other, Davenport, Clinton, Waterloo, Iowa City and Des Moines, IA. An underlying ETA seeks 270 days authority. Supporting shipper: American Motor Honda Co., Inc., 811 2nd Avenue, Rock Island, IL, 61201.

MC 123048 (Sub-4-2TA), filed July 29, 1980. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. (1) *Farm, dairy and water treatment equipment, materials and supplies and cleaning products and pesticides,* and (2) *Cleaning products, paint, pesticides and materials, equipment and supplies used in the manufacture, sale or distribution* of the commodities named in (1) above. Restricted against the transportation of commodities in bulk and those which because of size or weight require the use of special equipment. Supporting shipper: Babson Bros. Co., 2100 S. York Rd., Oak Brook, IL 60521.

MC 908 (Sub-4-5TA), filed July 29, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene L. Cohn, Rm. 2255, One North La Salle Street, Chicago, IL 60602. *Televisions, electronic equipment, materials, equipment and supplies used in the manufacture and distribution of electronic and television equipment,* between Chicago, IL, commercial zone, on the one hand, and, on the other Aurora, MO, Bryan, OH, Beaver Dam, WI, and their commercial zones. Supporting shipper: Matsushita Industrial Company, 9401 West Grand Ave., Franklin Park, IL 60131.

MC 106674 (Sub-4-30TA), filed August 1, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). (1) *Printed matter,* and (2) *materials and supplies used in the manufacture or distribution of printed matter except commodities in bulk* between the plant sites and storage facilities of R. R. Donnelley & Sons located at Harrisonburg, VA on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA. Restricted to shipments originating or terminating at the facilities of R. R. Donnelley at or near Harrisonburg, VA. Supporting shipper: R. R. Donnelley & Sons Company.

MC 108937 (Sub-4-4TA), filed July 31, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. Common carrier, regular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cincinnati, OH and Atlanta, GA, over Interstate Hwy 75, serving all intermediate points; (2) between Cincinnati, OH and Winston-Salem, NC, over U.S. Hwy 52, serving all intermediate points in Ohio and North Carolina; (3) between Canton, OH and Charlotte, NC, over Interstate Hwy 77, serving all intermediate points in Ohio and North Carolina; (4) between Louisville, KY and junction Interstate Hwy 24 and Interstate Hwy 75; from Louisville over Interstate Hwy 65 to junction Interstate Hwy 24, thence over Interstate Hwy 24 to junction Interstate Hwy 75, and return over the same route, serving all intermediate points in Tennessee; (5) between Atlanta, GA and Greensboro, NC, over Interstate Hwy 85, serving all intermediate points; (6) between Raleigh, NC and Winston-Salem, NC, over Interstate Hwy 40, serving all intermediate points and the off-route points of Apex, Chapel Hill, Farmville, Greenville, Research Triangle Park, Rocky Mount, Tarboro, Washington and Wilson, NC; (7) between junction Interstate Hwys 85 and 28 and junction Interstate Hwys 75 and 40; from junction Interstate Hwys 85 and 28 over Interstate Hwy 26 to junction Interstate Hwys 26 and 40, thence over Interstate Hwy 40 to junction Interstate Hwy 75, and return over the same route; (8) between Louisville, KY and junction Interstate Hwys 64 and 77, over Interstate Hwy 64; (9) between Buffalo, NY and Albany, NY, over Interstate Hwy 90, serving all intermediate points and the off-route points of Rochester, Rome and Troy, NY.

There are 72 shippers certifications of support filed with this application.

MC 109154 (Sub-4–2TA), filed July 31, 1980. Applicant: BAYLOR TRUCKING, INC., R.R. 1, Milan, Indiana 47031. Representative: Robert W. Loser III, 1101 Chamber of Commerce Bldg., Indianapolis, Indiana 46204. (1) *Such commodities* as are dealt in by manufacturers and distributors of paper, and (2) *Printed matter,* and (3) *Materials, equipment and supplies* used in the manufacture and distribution of paper and printed matter, between Kalamzoo County, MI, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, NJ, NY, OH, PA, VT, VA and DC. Supporting shipper: Printing Service, Inc., 1451 E. Lincoln, Madison Heights, MI 48071. An underlying ETA seeks 120 days authority.

MC 111310 (Sub-4–5TA), filed July 31, 1980. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Carbonated beverages* from (a) Granite City, IL and Columbus, OH to points in MI; and (b) from Lenexa, KS to points in MN, ND, SD, and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Shasta Beverage, Inc., 55 Corporate Woods, 9300 W. 110th St., Overland Park, KS 66210.

MC 112801 (Sub-4–1TA), filed July 30, 1980. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same as applicant). *Liquid chemicals,* in bulk, in tank vehicles, from the facilities of Jefferson Chemical Co. at or near Austin, Conroe, and Port Neches, TX to points in OH. An underlying ETA seeks 120 days authority. Supporting shipper: Tag Chemical Co., 1033 South Avenue, Toledo, OH 43609.

MC 124078 (Sub-4–32TA), filed July 31, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Flour and grain products* in bulk, from Hillsdale, MI to St. Charles, Melrose Park, Chicago, and Millstadt, IL, Boston, MA, New York, NY, Waverly, NJ & Canton, OH. Supporting shipper: DCA Food Industries, Inc., 919 Third Avenue, New York, NY 10022.

MC 124078 (Sub-4–33TA), filed July 31, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Chemicals,* in bulk, in tank vehicles, from Augusta, GA to points in the U.S. in, south and east of MN, NE, KS, OK & TX. Supporting shipper: Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63166

MC 128205 (Sub-4–8TA), filed July 28, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 S. Doty Ave., Chicago, IL 60623. Representative: Arnold L. Burke, 180 N. LaSalle St., Chicago, IL 60601. *Foundry facings, sand additives and core compounds,* from Burbank and Cincinnati, OH; Chicago, IL; and Birmingham, AL, to points in the U.S. in and east of WI, IL, KY, TN, and MS. Supporting shipper: Hill & Griffith, 1262 State Avenue, Cincinnati, OH.

MC 128205 (Sub-4–9TA), filed July 28, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 S. Doty Ave., Chicago, IL 60623. Representative: Arnold L. Burke, 180 N. LaSalle St., Chicago, IL 60601. *Sulfuric acid and sulfur dioxide* in bulk in tank vehicles, having a prior movement by rail, from the facilities used by C-I-L Chemicals, Inc. at Chicago, IL to points in IL, IN, IA, OH, MI, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: C-I-L Chemicals, Inc., 800 Marion Avenue, River Rouge, MI 48218.

MC 129974 (Sub-4–1TA), filed July 30, 1980. Applicant: THOMPSON BROS., INC., P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract carrier:* Irregular route: *meats, meat products and meat by-products and articles distributed by meat packinghouses,* from West Fargo, ND, to points in the U.S. (except AK and HI) under contract with Held Beef Industries, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Held Beef Industries, Inc., Stockyard Road, West Fargo, ND 58078.

MC 143436 (Sub-4–5TA), filed July 29, 1980. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 8328 Hill Gail Road, P.O. Box 41228, Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main Street, Speedway, IN 46224. *Confectionery items* in vehicles equipped with mechanical refrigeration from the facilities of M & M Mars, a division of Mars, Incorporated, at or near Cincinnati, OH to points in IN and KY. An underlying ETA seeks 270 days authority. Supporting shipper: M & M Mars, a division of Mars, Incorporated, High Street, Hackettsville, NJ 07840.

MC 145664 (Sub-4–6TA), filed July 30, 1980. Applicant: STALBERGER, INC., 223 S. 50th Ave., W. Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Particle board or composition board,* from the port of entry on the Itnl. Boundary Line between the U.S. and Canada located at or near Grand Portage, MN to points in AZ, CO, NM, OK, TX, and UT restricted to the traffic originating at the facilities of MacMillan Bloedel Building Materials. An underlying ETA seeks 120 days authority. Supporting shipper: MacMillan Bloedel Building Materials, P.O. Box 608, Thunder Bay, Ontario, Canada P7C4W6.

MC 147499 (Sub-4–3TA), filed July 28, 1980. Applicant: D. H. TRANSFER INC., 671 M–73, Iron River, MI 49935. Representative: Donald Hooper (Same as above). Common; irregular; *(1) Hardwood systems, synthetic flooring systems, hardwood and synthetic flooring. (2) Materials and supplies used in the installation of the commodities in (1) above, and (3) lumber, wood products and millwork. From:* The facilities of Abendroth-Gamble-Ahonen at or near Amasa, MI *TO* points in the U.S. in and East of the States of IN, KY, TN, and MS. Supporting shipper: AGA, Inc., P.O. Box 25, Amasa, MI 49903.

MC 148064 (Sub-4–1TA), filed August 1, 1980. Applicant: M. T. TRUCKING, INC., Route 2, Zimmerman, MN 55398. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. Contract, Irregular; *Cabinets and materials, equipment and supplies used in the manufacture thereof,* between points in the U.S. under continuing contracts with Crystal Cabinet Works, Inc. of Princeton, MN. Supporting shipper: Crystal Cabinet Works, Inc., P.O. Box 206, Rt. 2, Princeton, MN 55371.

MC 150103 (Sub-4–8TA), filed July 31, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Contract;* irregular; *Fabric* from points in GA, NC, SC, and TN to Booneville, MS. Restricted to a service to be performed under a continuing contract(s) with Curly's Fabric Company. An underlying ETA seeks 120 days authority. Supporting shipper: Curly's Fabric Company, 2076 Tennyson Lane, Highland Park, IL 60035.

MC 15033 (Sub-4–2TA), filed July 31, 1980. Applicant: DDI TRANSPORT, INC., 1010 Jorie Blvd., Oak Brook, IL 60521. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. *Intravenous solutions, drugs and health-care products, hospital supplies, (except in bulk),* from the facilities of Abbott Laboratories located at or near North Chicago, IL to Los Angeles, San Francisco and Santa Fe Springs, CA; Atlanta, GA; Des Moines, IA; Louisville, KY; Boston, MA; Rocky Montain, NC;

Buffalo, NY; Cincinnati, OH; Cleveland, OH; Philadelphia, PA; Pittsburgh, PA; Seattle, WA. Supporting shipper: Abbott Laboratories, 14th and Sheridan Rds., N. Chicago, IL 60064.

MC 151397 (Sub-4–1TA), filed July 30, 1980. Applicant: FLEET ROAD SERVICE, INC., 558 W. 20th Place, Chicago, IL 60616. Representative: James E. O'Grady, 1338 N. Jackson Street, Waukegan, IL 60085. *Contract* carrier *automotive parts, materials, and supplies; steel tubing, mufflers, and necessary parts for installation; hand tools, and grinding wheels; and raw materials and supplies, containers; and shipping materials used in the manufacture of gaskets and seals, and packing devices,* between the County of Cook, IL on the one hand and the State of IL, IN, MI, OH, SD, OK, KS, TN, MO, TX, KY, GA, NC and NY on the other hand. Supporting shippers: 1. Midas International Corporation, 4101 W. 42nd Place, Chicago, IL 600632. 2. Dresser Industries, Hand Tool Division, 11100 West Belmont, Franklin Park, IL 60131. 3. C. R. Industries, 900 N. State Street, Elgin, IL 60120.

MC 151403 (Sub-4–1TA), filed July 31, 1980. Applicant: WM. L. AMMANN, 49 Cardinal Lane, Highland, IL 62249. Representative: (Same as above). Contract: Irregular. *Food and kindred products (except commodities in bulk, in tank vehicles),* between St. Louis, MO and its commercial zone and the States of IL and WI. Supporting shipper: Sunmark Companies, 10795 Watson Rd., St. Louis, MO 63127.

MC 151404 (Sub-4–1TA), filed July 31, 1980. Applicant: NORTHLAND PRODUCE, INC., 4350 Lincoln Rd., Holland, MI 49423. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Contract; irregular; *Sausage,* from Grand Rapids, MI, and its commercial zone to Jackson, MS, and its commercial zone, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kent Provisions, Inc., 703 Leonard, NW., Grand Rapids, MI 49504.

MC 151415 (Sub-4–1TA), filed August 1, 1980. Applicant: HORIZON CHARTER COACHES, INC., 10542 W. Donges Court, Milwaukee, WI 53224. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Passengers and their baggage,* in the same vehicle, in charter operations beginning and ending at points in WI and extending to points in IA, IN, IL, MI, and MN, for 270 days. An underlying ETA seeks 120 days authority. 9 supporting shippers.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, Tx. 76102.

MC 13547 (Sub-5–4TA), filed July 23, 1980. Applicant: LEONARD BROTHERS TRANSPORT COMPANY, INC., 1528 West 9th Street, Kansas City, MO 64101. Representative: Joe M. Lock, 1528 West 9th Street, Kansas City, MO 64101. *General Commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* between the Kansas City, Missouri-Kansas Commercial Zone on the one hand and the facilities of Our Own Hardware Company at or near Ottawa, KS on the other. Supporting shipper: Our Own Hardware Company, 2300 West Highway Thirteen, Burnsville, MN 55337.

MC 29910 (Sub-5–41TA), filed July 23, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). Common, Regular. Regular Routes. *General commodities, except those of unusual value, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,* Between Denver, Colorado, and Fort Garland, Colorado: From Denver over U.S. Highway 85 to Walsenburg, Colorado, and then over U.S. Highway 160 to Fort Garland, and return over the same route. Service is authorized to and from the intermediate points of Pueblo and Walsenburg, Colarado, and those between Walsenburg and Fort Garland, except for livestock, coal, and commodities requiring special equipment originating at or destined to points in Colorado; those between Denver and Walsenburg other than Pueblo except for traffic moving in interstate or foreign commerce between points in Colorado where transportation by said carrier is wholly within Colorado; and the off-route point of LaVeta, Colorado, except for livestock, coal, and commodities requiring special equipment. Service at Fort Garland is restricted against commodities requiring special equipment originating at or destined to points in Colorado. Between junction U.S. Highway 85 and Colorado Highway 393, and junction U.S. Highway 85 and Colorado Highway 105, as an alternate route for operating convenience only: From junction U.S. Highway 85 and Colorado Highway 393 over relocated U.S. Highway 85 to junction U.S. Highway 85 over Colorado Highway 105, and return over the same route. Service is not authorized to or from intermediate points. Between Pueblo, Colorado, and Leadville, Colorado: From Pueblo over U.S. Highway 50 to Salida, Colorado, then over Colorado Highway 291 to junction U.S. Highway 285, then over U.S. Highway 24, and then over U.S. Highway 24 to Leadville, and return over the same route. Service is authorized to and from all intermediate points between Salida and Leadville, including Salida, unrestricted; those between Pueblo and Salida, restricted to traffic moving to or from points beyond Salida. Between South Fork, Colorado, and Durango, Colorado: From South Fork over U.S. Highway 160 to Durango, and return over the same route. Service is authorized to and from all intermediate points, and the off-route point of Ignacio, Colorado. Between Wheeler, Colorado, and Dowd, Colorado: From Wheeler over U.S. Highway 6 to Dowd, and return over the same route. Between junction Colorado Highway 115 and U.S. Highway 85, near Colorado Springs, Colorado, and junction Colorado Highway 115 and U.S. Highway 50, near Florence, Colorado: From junction Colorado Highway 115 and U.S. Highway 85 over Colorado Highway 115 to junction U.S. Highway 50, and return over the same route. Between junction Colorado Highway 120 and 115, near Penrose, Colorado, and junction Colorado Highway 120 and U.S. Highway 50, near Canon City, Colorado: From junction Colorado Highways 120 and 115 over Colorado Highway 120 to junction U.S. Highway 50, and return over the same route. Service is not authorized to or from intermediate points on the above-specified routes. Between Denver, Colorado, and Farmington, New Mexico, as follows: From Denver over U.S. Highway 6 to Wheeler, Colorado, then over Colorado Highway 91 to Leadville, Colorado, then over U.S. Highway 24 to Grand Junction, Colorado, then over U.S. Highway 50 to Montrose, Colorado, and then over U.S. Highway 550 to Farmington. From Denver over U.S. Highway 85 to Colorado Springs, Colorado, then over U.S. Highway 24 via Leadville to Grand Junction, and then as specified above to Farmington; and return over these routes to Denver. Service is authorized to and from the intermediate points of Leadville, Colorado, and those between Leadville and Farmington. Between Denver, Colorado, and Creede, Colorado, as follows: From Denver over U.S. Highway 285 to junction Colorado Highway 291, then over Colorado Highway 291 to Salida, Colorado, then over U.S. Highway 50 to junction U.S. Highway 285, then over U.S. Highway

value, household goods defined by the ... by the Commission, and commodities ... transportation of ...

285 via junction U.S. Highway 285 and Colorado Highway 17 to Monte Vista, Colorado, (also from junction U.S. Highway 285 and Colorado Highway 17 over Colorado Highway 17 to Alamosa, Colorado, then over U.S. Highway 160 to Monte Vista), then over U.S. Highway 160 via South Fork, Colorado, to junction Colorado Highway 149, and then over Colorado Highway 149 to Creede, and return over the same route.

Service is authorized to and from intermediate points of Salida, Colorado, and those between Salida and Creede; and off-route points on Colorado Highway 112 between Hooper and Del Norte, Colorado. Between Colorado Springs, Colorado, and Montrose, Colorado: From Colorado Springs over U.S. Highway 85 to Pueblo, Colorado, then over U.S. Highway 50 to Montrose, and return over the same route. Service is authorized to and from the intermediate poins of Salida, Colorado, and those between Salida and Montrose. Between Delta, Colorado, and Somerset, Colorado: From Delta over Colorado Highway 92 to Hotchkiss, Colorado, then over Colorado Highway 135 to Somerset, and return over the same route. Service is authorized to and from all intermediate points. Between Pueblo, Colorado, and Canon City, Colorado: From Pueblo over U.S. Highway 50 to Canon City, and return over the same route. Service is not authorized to or from intermediate points. Between Cortez, Colorado, and Durango, Colorado: From Cortez over U.S. Highway 160 to Durango, and return over the same route. Service is authorized to and from the intermediate points of Mancos and Hesperus, Colorado. Between Denver, Colorado, and Salida, Colorado: From Denver over U.S. Highway 85 to Pueblo, Colorado, then over U.S. Highway 50 to Salida, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Fort Logan, Louviers, Camp Carson, and Minnequa, Colorado. Between Fort Garland, Colorado, and Del Norte, Colorado: From Fort Garland over U.S. Highway 160 to Del Norte, and return over the same route. Service is authorized to and from all intermediate points, and the off-route point of Center, Colorado. Between Alamosa, Colorado, and Antonito, Colorado: From Alamosa over U.S. Highway 285 to Antonito, and return over the same route. Service is authorized to and from all intermediate points; and the off-route points of Capulin, Sanford, and Manassa, Colorado. *Ore and ore concentrates, in bulk, in special equipment.* From Red Mountain Pass, Colorado, to Montrose, Colorado. From Red Mountain Pass over U.S. Highway 550 to Montrose, with no transportation for compensation on return, except as otherwise authorized. Service is not authorized to or from intermediate points. Any repetition in the statement of the authority granted herein shall be construed as conferring only a single operating right. Regular routes. *General Commodities, except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* Service is authorized to and from the site of the United States Atomic Energy Plant at or near Marshall, Colorado, as an off-route point in connection with regular route operations held by carrier to and from Denver, Colorado. Between Denver, Colorado, and Canon City, Colorado: From Denver over U.S. Highway 85 to Pueblo, Colorado, then over U.S. Highway 50 to Canon City. Service is authorized between Denver and the intermediate points of Colorado Springs and Pueblo, on the one hand, and, on the other, all intermediate points between Pueblo and Canon City. Between junction Colorado Highway 120 and U.S. Highway 50, at or near Hobson, Colorado, and Canon City, Colorado: From junction Colorado Highway 120 and U.S. Highway 50, over Colorado Highway 120 to Canon City. Service is authorized to and from the intermediate points of Concrete, Portland and Florence, Colorado, and the off-route points of Wetmore, Coal Creek, Rockvale and Chandler, Colorado. Between junction Colorado Highways 267 and 120, and junction Colorado Highway 267 and U.S. Highway 50, serving no intermediate points: From junction Colorado Highways 267 and 120 over Colorado Highway 267 to junction U.S. Highway 50. Service at junction Colorado Highways 267 and 120 is authorized for the purpose of joinder only. Between Colorado Springs over Colorado Highway 115 to junction U.S. Highway 50 approximately one mile south of Penrose, Colorado, then over U.S. Highway 50 to Canon City. Service is authorized to and from the intermediate point of Penrose, Colorado. Between Colorado Springs, Colorado, and Canon City, Colorado: From Colorado Springs over Colorado Highway 115 to junction U.S. Highway 50, approximately one mile south of Penrose, Colorado, then over U.S. Highway 50 to Canon City. Service is authorized to and from the intermediate point of Penrose, Colorado. Between junction Colorado Highway 115 and U.S. Highway 50, and junction Colorado Highways 115 and 120, two miles east of Florence, Colorado:

From junction Colorado Highway 115 and U.S. Highway 50 over Colorado Highway 115 to junction Colorado Highway 120. Service is not authorized to or from intermediate points. Service at junction Colorado Highways 115 and 120 is authorized for the purpose of joinder only and return over these routes. Alternate route for operating convenience only. *General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* over an alternate route for operating convenience only in connection with regular route operations between Denver, Colorado, and Farmington, New Mexico: Between Denver, Colorado, on the one hand, and, on the other, junction U.S. Highway 6 and U.S. Highway 40 about five miles east of Idaho Springs, Colorado, with service at junction U.S. Highways 6 and 40 for the purpose of joinder only: From Denver over U.S. Highway 6 to junction U.S. Highway 40, and return over the same route. Between Denver, Colorado, on the one hand, and, on the other, junction Colorado Highway 185 and U.S. Highway 85 near Castle Rock, Colorado, with service at junction Colorado Highway 185 and U.S. Highway 85 for the purpose of joinder only with carrier's authorized route between Denver and Fort Garland over U.S. Highways 85 and 160: From Denver over Colorado Highway 185 to junction U.S. Highway 85, and return over the same route. Regular route. *General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* Between Cortez, Colorado, and McElmo Canyon, Colorado, serving all intermediate points: From Cortez over U.S. Highway 666 to junction unnumbered county road, then over unnumbered county road to McElmo Canyon, and return over the same route. Regular route. *Ore and ore concentrates, in bulk.* Between Pandora, Colorado, and junction Colorado Highway 62 and U.S. Highway 550 at or near Ridgeway, Colorado, serving no intermediate points and serving junction Colorado Highway 62 and U.S. Highway 550 for the purpose of joinder only: From Pandora over Colorado Highway 108 to junction Colorado Highway 145, then over Colorado Highway 145 to Placerville, Colorado, then over Colorado Highway 62 to junction U.S. Highway 550 at or near Ridgeway and return over the same route. Regular route. *General commodities, except those of unusual value, household goods defined by the Commission, commodities requiring special equipment, and commodities in bulk.* Serving the site of the Glen L. Martin plant, near Waterton, Colorado, as an off-route point in connection with carrier's regular route operations to and from Denver, Colorado. Restriction: The service authorized herein is subject to the following conditions The authority granted herein is restricted against the transportation of Classes A and B explosives, between the site of the Glen L. Martin plant, near Waterton, Colorado, on the one hand, and, on the other, points in Utah. Between Grand Valley, Colorado, and the Union Oil Company's shale oil plant at Parachute Creek, Colorado, serving all intermediate points: From Grand Valley over unnumbered county highway extending in a northwesterly direction for approximately 15 miles to the Union Oil Company's plant at Parachute Creek, and return over the same route. Serving the Navajo Dam Site near Blanco, New Mexico, and points in Rio Arriba County, New Mexico, within 10 miles of the site as off-route points in connection with carrier's regular route operations between Durango, Colorado, and Farmington, New Mexico. Between Somerset, Colorado, and the site of the Paonia Dam (located approximately 5 miles north and east of junction Colorado Highways 133 and 135), serving no intermediate points: From Somerset over Colorado Highway 135 to junction unnumbered highway to the site of the Paonia Dam, and return over the same route. Serving missile launching sites located at or near Lowry Bombing and Gunnery Range and Elizabeth, Colorado, as off-route points in connection with carrier's regular route operations to and from Denver, Colorado. Irregular routes. *General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* between Aztec and Farmington, New Mexico, and Blanco, New Mexico. Regular route. *Ore and ore concentrates,* between the mill site of the Standard Metal Corporation, located approximately 2 miles east of Silverton, Colorado, and Montrose, Colorado, serving no intermediate points: From the mill site of the Standard Metals Corporation, approximately 2 miles east of Silverton, Colorado, over Colorado Highway 110 to Silverton, then over U.S. Highway 550 to Montrose and return over the same route. Regular route. *General commodities, except those of unusual value, commodities in bulk, livestock, household goods as defined by the Commission, and commodities requiring special equipment.*

Serving the Four Corners Electric Generating Plant and Dam near Fruitland, New Mexico, as an off-route point in connection with carrier's regular route operations. Serving the site of the Lemon Dam, located on the Florida River approximately 16 miles northeast of Durango, Colorado, as an off-route point in connection with carrier's regular route operations. Between Provo, Utah, and Park City, Utah: From Provo over U.S. Highway 189 to Heber, Utah, then over U.S. Highway 40 to junction unnumbered highway to Park City and return over the same route. Between Orem, Utah, and junction Utah Highway 52 and U.S. Highway 189: From Orem over Utah Highway 52 to junction U.S. Highway 189 and return over the same route. Serving all intermediate points on the above specified routes and the off-route points of Midway, Hot Pots and Center Creek, Utah. Between Salt Lake City, Utah, and junction U.S. Highway 40 and unnumbered highway (formerly Utah Highway 6), approximately one mile north of Park City, Utah, serving all intermediate points: From Salt Lake City over U.S. Highway 40 to junction unnumbered highway (formerly Utah Highway 6), and return over the same route. Between Salt Lake City, Utah and Price, Utah, serving all intermediate points and the off-route points of Kenilworth, Peerless, Spring Canyon, Standardville, Rains, Latuda, and Mutual, Utah: serving the off-route point of the Provo Airport (located above two miles west of Provo, Utah) in the transportation of GENERAL COMMODITIES, except Classes A and B explosives, livestock, household goods as defined by the Commission, and commodities requiring special equipment; and serving the off-route point of Storrs, Utah, and the Carbon Dioxide Plant near Wellington, Utah (serving the Carbon Dioxide Plant from Price, Utah, over U.S. Highway 50 to Wellington, Utah, and then over unnumbered highway and return) in the transportation of GENERAL COMMODITIES, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: From Salt Lake City over U.S. Highway 91 via Springville, Utah, to Spanish Fork, Utah, and then over U.S. Highway 6 to Price, and return over the same route. Between Springville, Utah, and junction alternate U.S. Highway 50 (formerly U.S. Highway 50) and U.S. Highway 6, approximately four miles east of Spanish Fork, Utah, serving all intermediate points in the transportation of general commodities, except Classes A and B explosives, livestock, household goods as defined by the Commission and commodities requiring special equipment: From Springville over Alternate U.S. Highway 50 (formerly U.S. Highway 50) to junction U.S. Highway 6 and return over the same route. Between Spanish Fork, Utah, and Marysvale, Utah, serving all intermediate points and off-route points of Spring City, Glenwood, Monroe, Mayfield, Austin, Wales, Venice, Annabella, Fairview, and Mt. Pleasant, Utah (serving Fairview and Mt. Pleasant from Moroni, Utah, over Utah Highway 116 to Mt. Pleasant, then over U.S. Highway 89 to Fairview and return): From Spanish Fork over U.S. Highway 91 to Nephi, Utah, then over Utah Highway 11 to junction U.S. Highway 89, and then over U.S. Highway 89 to Marysvale, and return over the same route. Between Pleasant Grove, Utah, and Provo, Utah, serving all intermediate points, and the off-route of the Provo Airport (located about two miles west of Provo): From Pleasant Grove over Utah Highway 114 to Provo and return over the same route. Between Nephi, Utah, and Gunnison, Utah, serving all intermediate points: From Nephi over U.S. Highway 91 to junction Utah Highway 28 and then over Utah Highway 28 to Gunnison, and return over the same route. Between Price, Utah, and Grand Junction, Colorado, serving all intermediate points and all off-route points within ten miles of the indicated portion of the specified highway, except Sunnyside, Sunnydale, Columbia, Dragerton, and Horse Canyon, Utah: From Price over U.S. Highway 50 to Grand Junction and return over the same route. Between Springville, Utah, and Emery, Utah, serving all intermediate points between Springville and Price, Utah, including Price, restricted to traffic moving to or from points south of Price; all other intermediate points without restriction; and the off-route points within five miles of the portion of Utah Highway 10 specified immediately below: From Springville over alternate U.S. Highway 50 (formerly U.S. Highway 50) to junction U.S. Highway 50 (approximately four miles east of Spanish Fork, Utah), then over U.S. Highway 50 to Price, and then over Utah Highway 10 to Emery, and return over the same route. Between Glenwood Springs, Colorado, and Aspen, Colorado, with service to and from Aspen and all intermediate points restricted to traffic moving to or from Glenwood Springs or points beyond Aspen or Glenwood Springs: From Glenwood Springs over

Colorado Highway 82 to junction Colorado Highway 133, then over Colorado Highway 133 to Carbondale, Colorado, then over unnumbered highway to junction Colorado Highway 82, then over Colorado Highway 82 to Aspen, and return over the same route. Serving Joe's Valley Dam Site near Orangeville, Utah as an off-route point in connection with carrier's authorized regular route operations between Springville and Emery, Utah. Between Pagosa Springs, Colorado, and Blanco, New Mexico, serving all intermediate points and the off-route points in Archuleta County, Colorado, located south and east of U.S. Highway 160 and those in that part of Rio Arriba County, New Mexico, located north of an imaginary line running 10 miles south and parallel to New Mexico Highway 17. From Pagosa Springs over U.S. Highway 84 to junction New Mexico Highway 17, then over New Mexico Highway 17 to Blanco and return over the same route. Between Basalt, Colorado, and Meridith, Colorado, serving all intermediate points and the off-route points of the Ruedi Dam and Reservoir Site:

From Basalt over unnumbered highway to Meredith and return over the same route. Between Fort Garland, Colorado, and the mine and mill site of the Molydenum Corporation of America located on New Mexico Highway 38 approximately four miles west of Red River, New Mexico, serving the intermediate point of San Luis, Colorado, for the purposes of joinder with the route described immediately below only: From Fort Garland over Colorado Highway 159 to the Colorado-New Mexico State line, then over New Mexico Highway 3 to Questa, New Mexico, then east over New Mexico Highway 38 approximately seven miles to the said mine and mill site, and return over the same route. Between Alamosa, Colorado, and San Luis, Colorado, serving no intermediate points and serving San Luis for purposes of joinder with the route described immediately above only: From Alamosa over U.S. Highway 285 to junction Colorado Highway 142, then over Colorado Highway 142 to San Luis, and return over the same route. Between Alamosa, Colorado, and Fort Garland, Colorado, serving no intermediate points and serving Fort Garland for purposes of joinder with the route described in the first paragraph above only: From Alamosa over U.S. Highway 160 to Fort Garland and return over the same route. Between Leadville, Colorado, and Dowd, Colorado, serving all intermediate points on U.S. Highway 6 except Wheeler Junction, Colorado: From Leadville over Colorado Highway 91 to junction U.S. Highway 6, then over U.S. Highway 6 to Dowd, and return over the same route. Serving the plant site of Montezuma Plywood Company, near Colorado Highway 145 about seven miles north of Cortez, Colorado, as an off-route point in connection with carrier's presently authorized regular route operation to and from Cortez, Colorado. Serving points in San Juan County, New Mexico, located within 20 miles of U.S. Highway 550 and New Mexico Highway 17, (except points located on U.S. Highway 550 west of Farmington, New Mexico) as off-route points in connection with carrier's presently authorized regular route operations to and from Farmington, New Mexico. *Irregular routes: Molybdenum concentrates, in bulk,* from the mine and mill site of the Molybdenum Corporation of America, located on New Mexico Highway 38, approximately four miles west of Red River, New Mexico, to Alamosa, Colorado with no transportation for compensation on return except as otherwise authorized. *Regular routes: Classes A and B explosives,* between Grand Junction, Colorado, and Price, Utah, serving all intermediate points: From Grand Junction over U.S. Highway 6 to Price, and return over the same route. *Regular routes: General commodities, except those of unusual value, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment,* serving points in Pitkin County, Colorado, and points in Lake County, Colorado, which are within 10 miles of Leadville, Colorado, except Climax, Colorado, and points in its Commercial Zone, as defined by the Commission, as off-route points in connection with carrier's presently authorized regular-route operations. Between Antonito, Colorado, and Tres Piedras, New Mexico, serving all intermediate points and serving the off-route points of No Agua, New Mexico, the plant site of Johns-Manville Corp., approximately 1.5 miles east of No Agua, and the plant site of the United Perlite Corp., approximately 16 miles east of No Agua: From Antonio over U.S. Highway 285 to Tres Piedras, and return over the same route. Serving Climax, Colorado, located on Colorado Highway 91 between Wheeler Junction, Colorado, and Leadville, Colorado, as an off-route point in connection with carrier's regular-route operations. Restriction: The service authorized herein is subject to the following conditions: Service at Climax is restricted to the transportation of shipments originating at, or destined to, points west of the Colorado-Utah State line. Between Alamosa, Colorado, and Cortez, Colorado, serving the intermediate points of Hesperus and Mancos, Colorado, and the off-route point of Montezuma Plywood Company, at or near Cortez, Colorado: From Alamosa over U.S. Highway 160 to Cortez, and return over the same route. Between Huntington and Fairview, Utah, over U.S. Highway 31, serving all intermediate points, and serving the plant-site and dam-site of the Utah Power & Light Company, located near Huntington, Utah, as off-route points in connection with carrier's authorized regular-route operations at Huntington and Fairview, Utah. Serving the site of the Twin Lakes Power Plant, located near Twin Lakes, Colorado, as an off-route point in connection with carrier's authorized regular-route authority. Between Salt Lake City, Utah, and Oregon, Utah, serving no intermediate points: From Salt Lake City over U.S. Highway 91 to Ogden, and return over the same route. Between Denver, Colorado, and Craig, Colorado, serving the intermediate points of Steamboat Springs, Minger, McGregor, Tow Creek, Bear River Mount Harris, Hayden, Kremmling, Hot Sulphur Springs, Granby, Fraser, West Portal, and Idaho Springs, Colorado; and the off-route points of Haybro, Oak Creek, Phippsburg, Yampa, and Toponas, Colorado: From Denver over U.S. Highway 40 to Craig and return over the same route. Serving the site of the Yampa Project located near Craig, Colorado, as an off-route point in connection with carrier's authorized regular-route operations. Serving the facilities used by Valley Camp of Utah, Inc., at or near Scofield, Utah, as off-route points in connection with carrier's otherwise authorized regular-route operations. Between Price, Utah, and Sunnyside, Utah: From Price over U.S. Highway 50 to junction Utah Highway 123, then over Utah Highway 123 to Sunnyside, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Columbia and Horse Canyon, Utah. Between Price, Utah, and Mohrland, Utah, serving all intermediate points: From Price over Utah Highway 10 to junction Utah Highway 122, then over Utah Highway 122 to Mohrland, and return over the same route. Description of the transportation service authorized to be conducted solely within the State of Colorado, in intrastate commerce, as a common carrier by motor vehicle. Transportation of general freight, between Pueblo and Boone, and

intermediate points Pueblo and Coal Creek, and intermediate points; and Pueblo and Beulah, and intermediate points as follows: (a) Commencing at Pueblo, then on the state highway leading through Vineland and Avondale to Boone: (b) Commencing at Pueblo, then on the public highway to Rock Creek and Beulah. Conduct of a transfer, moving and general cartage business from and to Pueblo and to and from all other points in the State of Colorado, subject to the following conditions: (a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers the carrier shall charge rates which in all cases shall be at least twenty percent in excess of those charged by the scheduled carriers; (b) The carrier shall not operate on schedule between any points. (c) The carrier shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Pueblo, for the purpose of developing business. Between Farmington, and Albuquerque, NM: Over New Mexico Highway 17 to junction New Mexico Highway 44 near Bloomfield, NM, then over New Mexico Highway 44 to junction Interstate Highway 25, then over Interstate Highway 25 to Albuquerque, NM, and return over the same route, serving no intermediate points. The sole purpose of this application is to substitute single-line for joint-line operations in which applicant has been participating. Applicant intends to tack this authority with its existing authority and interline with other carriers

MC 41116 (Sub-5-19TA), filed July 21, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. Contract, Irregular: *Commodities used by, manufactured by or distributed by International Paper Company and its subsidiaries (except in bulk),* between the facilities utilized by International Paper Company on the one hand and all points in the U.S. on the other. Supporting shipper: International Paper Company, 220 E. 42d St., New York, NY 10017.

MC 96769 (Sub-5-17TA), filed July 22, 1980. Applicant: LIBERTY TEX-PACK EXPRESS, INC., Suite 508, Regal Plaza Building, 1499 Regal Row, Dallas, TX 75247. Representative: Thomas F. Sedberry, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *General commodities moving in express service (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Dallas, TX, and Oklahoma City, OK, via Interstate Hwy. 35 and U.S. Hwy. 77, serving Ardmore, OK, as an intermediate point. Restriction: (1) No service shall be rendered in transportation of any package or article weighing more than 100 pounds. (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 500 pounds, from one consignor at one location to one consignee at one location on any one day. Supporting shippers: 39.

MC 96992 (Sub-5-4TA), filed July 22, 1980. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *Foodstuffs and materials and supplies used in the sale and distribution thereof (except commodities in bulk)* from the facilities of Globe Products Company, Inc., in Clifton, NJ to points in AL, AR, GA, LA, KY, MS, NY, TN, TX and OK. Supporting shipper: Globe Products Company, Inc., P.O. Box 1927, 55 Webro Rd., Clifton, NJ 07015.

MC 10556 (Sub-5-10TA), filed July 18, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Baby food,* between facilities of Ross Laboratories at Sturgis and Battle Creek, MI, on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper: Ross Laboratories, 625 Cleveland Avenue, Columbus, OH 43216.

MC 110817 (Sub-5-1TA), filed July 22, 1980. Applicant: E. L. FARMER & COMPANY, P.O. Box 3512, Odessa, TX 79760. Representative: Mike Cotten, P.O. Box 1148 Austin, TX 78767. *(1) Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof. (2) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes and wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes and wells,* between points in AR, AZ, CO, KS, LA, MO, MT, NV, NM, OK, TX, UT, and WY, on the one hand, and, on the other, points in CA, IA, ID, NM, ND, NE, OR, SD, and WA. Supporting shipper: 6.

MC 111401 (Sub-5-11TA), filed July 22, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic, (same as applicant). *Crude oil, in bulk, in tank vehicles,* from points in Dundy, Hitchock and Red Willow Counties, NE to Shallow Water, KS. Supporting shipper: Central Crude Corporation, 930 Fourth Financial Center, Wichita, KS 67202.

MC 112713 (Sub-5-8TA), filed July 21, 1980. Applicant: YELLOW FREIGTH SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. Common; Regular. *General Commodities (except household goods as defined by the Commission and classes A and B explosives), which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8),* between San Antonio, TX and Brownsville, TX, serving no intermediate points: From San Antonio over U.S. Hwy 181 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Brownsville and return over the same route. Supporting shipper: Yellow Fowarding Co., 10990 Roe Avenue, Overland Park, KS 66207.

MC 112713 (Sub-5-10TA), filed July 21, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270 Shawnee Mission, KS 66207. *General Commodities (except household goods as defined by the Commission and classes A and B explosives),* between points in Berkeley County, SC, on the one hand, and, on the other, points in the United States. Supporting shipper: Alumax of S.C., Inc., P.O. Box 1000, Goose Creek, SC 29445.

MC 113651 (Sub-5-20TA), filed July 23, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Omaha, NE 68154. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA

50309. *Malt beverages* from the facilities of The F. M. Shaefer Brewing Co., Allentown, PA, commercial zone, to points in FL. Supporting shipper the F. M. Shaefer Brewing Co., Box 2568, Allentown, PA 18001.

MC 114273 (Sub-5-24TA), filed July 22, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Corporate Counsel (same as above). *Televisions and radios*, from Springfield, MO to Fargo, ND and points in the states of CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MN, NE, NJ, NY, NC, OH, PA, RI, SC, SD, IN, VA, WV, and Washington D.C. Supporting shipper(s): Zenith Radio Corp., 1900 N. Austin Avenue, Chicago, IL 60639.

MC 118468 (Sub-5-13TA), filed June 27, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract irregular (1) *Refractory products and insulating materials and (2) materials and supplies used in the manufacture and distribution of the commodities in* (1), between the facilities of A. P. Green Refractories Company located at or near Climax, Leetsdale, Philadelphia and Tarentum, PA; East Greenville, Oak Hill, and Jackson in Jackson County, OH; Goose Lake, IL; Mexico and Fulton, MO; Woodridge, NJ; Pueblo, CO; Kimberly and Bessemer, AL; Macon, GA; Thermo, (Hopkins County), TX; Pryor, OK and Troy, ID, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: A. P. Green Refractories Company, Mexico, MO 65285.

MC 125951 (Sub-5-3TA), filed July 21, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same as applicant). *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the the Report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk).* From the facilities of Iowa Beef Processors, Inc. at or near Dakota City, NE and Sioux City, IA to points in the states of AZ, NV, and CA. Supporting shipper: Iowa Beef Proceesors, Inc., Dakota City, NE 68731.

MC 129328 (Sub-5-4TA), filed July 22, 1980. Applicant: PALTEX TRANSPORT CO., P.O. Box 296, Palestine, TX 75801. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. Contract irregular *paper and paper products; supplies and materials used in the manufacture and distribution thereof* between the facilities of Sonoco Products Company at or near Tulsa, OK and points in AR, KS, CO, MO, MS, NM, TX, and LA. Supporting shipper: Sonoco Products Company, North Second Street, Hartsville, SC 29550.

MC 133805 (Sub-5-17TA), filed July 22, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1-Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayehreville, AR 72701. *Chemicals NOI*-from the facilities of Triangle Chemicals, Inc., at or near Bridge City and Houston, TX on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Triangle Chemicals, Inc., Post Office Box 668, Bridge City, TX 77611.

MC 135033 (Sub-5-4TA), filed July 21, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road-Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same as applicant). Contract, Irreg, *commodities as are dealt in by retail department stores.* From points east of the SD, ND, NE, KS, OK, and TX state lines to the facilities of Bomgaars Supply Company, Inc. located at or near Sioux City, Iowa under a continuing contract or contracts with Bomgaars Supply Company, Inc. Supporting shipper: Bomgaars Supply Company, Inc., P.O. Box 3408, Sioux City, IA 51103.

MC 135678 (Sub-9TA), filed July 23, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. (1) *Air cleaners, coolers other than watervaporative type, dehumidifiers, heaters other than portable, humidifiers or washers with blowers or fans, electric motors,* (2) *Lathes, metal working; machinery or machines, or parts thereof, NOI; presses, as described in NMFC Item 127000 to 127180; tools, power, other than hand tools, separate or combined, with or without stands (as described NMFC Item 131670 to 131674); well boring or drilling machines, portable or self-propelled,* between points in OK, CO, UT, WA, OR, NV, CA, AZ and TX. Supporting shipper: International Environmental Corp., 518 N. Indiana St., Oklahoma City, OK 73108.

MC 136786 (Sub-5-26TA), filed July 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *1) such commodities as are dealt in or used by manufacturers and distributors of fire safety equipment and related products; and 2) materials, equipment and supplies used in the manufacture of product listed in 1) above,* between points in Providence County, RI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Trilling Resources, Ltd., 105 Mason Street, Woonsocket, RI 02895.

MC 136786 (Sub-5-27TA), filed July 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Such commodities as are dealt in or used by manufacturers and distributors of bakery products and packaging supplies* between Minneapolis, MN, on the one hand, and, on the other, Milwaukee, WI, and points in their respective commercial zones. Supporting shipper: McGlynn Bakeries, Inc., 7752 Mitchell Road, Eden Prairie, MN 55344.

MC 136786 (Sub-5-28TA), filed July 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Confectionary (except commodities in bulk),* from the facilities of Fine Candy Company at Oklahoma City, OK, to points in the U.S. (except AK and HI). Supporting shipper: Fine Candy Company, 2700 South May Avenue, P.O. Box 82817, Oklahoma City, OK 73168.

MC 138328 (Sub-5-9TA), filed July 22, 1980. Applicant: CLARENCE L. WERNER, d/b/a WERNER ENTERPRISES, I-80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). *Silicon carbide and silicon carbide briquettes,* from Milwaukee, WI; Saginaw, MI; and points in Jefferson County, AL, to points in and east of ND, SD, NE, CO and NM, restricted to traffic originating at the facilities of Miller & Company. Supporting shipper: Miller & Company, 55 E. Monroe St., Chicago, IL 60603.

MC 138328 (Sub-5-10TA), filed July 23, 1980. Applicant: CLARENCE L. WERNER, d/b/a WERNER ENTERPRISES, I-80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). *General commodities (except commodities in bulk, those requiring special equipment, commodities of unusual value, classes A and B explosives, and household goods as*

defined by the Commission), between points in the U.S., restricted to traffic originating at or destined to the facilities of or used by Ardan, Inc. Supporting shipper: Ardan, Inc., 2320 Euclid Ave., Des Moines, IA 50310.

MC 140364 (Sub-5-4TA), filed July 21, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 2785, Amarillo, TX 79105. Representative: R. L. Gordon, Manager-Transportation, 111 West Clarendon, Phoenix, AZ 85013. Contract, irregular; (a) *Meats, meat products, meat by-products, dairy products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, B, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk)* and (b) *Foodstuffs and such commodities as are dealt in by grocery and food business houses, and such commodities used in the manufacturing thereof;* between points in AZ, CA, ID, MT, OR, WA, and WY on the one hand, and, on the other, points in IL, IA, MN, MO, NE, SD, and WI. Restricted to the transportation of traffic originating at, for the account of, or destined to the facilities of Armour and Company, and Armour-Dial Inc. Supporting shipper: Armour and Company, Greyhound Tower, Phoenix, AZ 85077.

MC 140665 (Sub-5-24TA), filed July 21, 1980. Applicant: PRIME, INC., P.O. Box 4208 G. S., Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. *Plastic boxes, Cosmetics, and Toilet Preparations,* from the Eli Lilly and Company facilities in Roanoke, VA to the Eli Lilly and Company facilities in Fresno, CA. Supporting shipper: Eli Lilly and Company, 307 E. McCarty St., Indianapolis, IN 46285.

MC 140755 (Sub-5-2TA), filed July 21, 1980. Applicant: BRAY TRANSPORTS, INC., P.O. Box 270, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Zinc ammonium carbonate, in bulk, in tank vehicles,* from Coffeyville, KS to Odessa, TX. Supporting shipper: Sherwin Williams Company, Box 855, Coffeyville, KS 67337.

MC 141865 (Sub-5-7TA), filed July 23, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Such commodities as are dealt in or used by rental stores (except commodities in bulk)* between points in the United States. Supporting shipper: Ardan, Inc., 2320 Euclid Avenue, Des Moines, IA.

MC 141885 (Sub-5-8TA), filed July 23, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Foundry core compounds* between points in the United States. Supporting shipper: Foundry Specialists, Inc., 1213 Harrison Ave., Arlington, TX 76011.

MC 141914 (Sub-5-8TA), filed July 22, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same as applicant). *Foodstuffs* between Franklin County, OH and points in the US except NY, MD, IL, PA, GA, TX, LA, FL, KS, MA and CA. Supporting shipper: T. Marzetti Company, 3838 Indianola Avenue, Columbus, OH 43214.

MC 142508 (Sub-5-32TA), filed July 23, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Cheese and cheese products and materials, equipment, and supplies used in the manufacture and/or distribution thereof* between Hartington, NE, and points in the United States. Supporting shipper: Neu Cheese Company, Box 577, Hartington, NE 68739.

MC 144622 (Sub-5-44TA), filed July 23, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Power pumps, working heads, or power pump or working head parts, and measuring power pumps, and the materials and supplies used in the manufacture and distribution thereof* between Ft. Wayne, IN and Jasper and Newbern, TN, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Tokheim Corporation, 1602 Wabash Ave., Ft. Wayne, IN 46801.

MC 134501 (Sub-5-9TA), filed July 21, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Furniture,* from the facilities of Spec-Pak, Inc. at or near Columbus, OH, to points in the U.S. (except AK, AR, AZ, CA, HI, LA, MS, TX, and Shelby County, TN) and; *fixtures,* from the facilities of Spec-Pak, Inc. at or near Columbus, OH, to points in the U.S. (except AK and HI). Supporting shipper: Spec-Pak, Inc., 987 Freeway Drive No., Columbus, OH 43299.

MC 145319 (Sub-5-1TA), filed July 21, 1980. Applicant: DALE BRADBURY, d.b.a. BRADBURY COAL COMPANY, P.O. Box 145, Welch, OK 74369. Representative: Fred Rahal, Jr., Esq., Rahal & Anderson, Suite 305 Reunion Center, 9 East Fourth St., Tulsa, OK 74103. *Coal,* from Craig County, OK to points in Labette, Cherokee, Montgomery, Crawford, Neosho and Allen Counties, KS. Supporting shipper: Patch Coal Co., P.O. Box 95, Welch, OK 74369.

MC 145441 (Sub-5-22TA), filed July 23, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, P.O. Box 5130, North Little Rock, AR 72119. *Rubber scrap in bags; flammable solid, NOS. Item 3171800,* between all points in the United States. Supporting shipper: Baker Rubber, Inc., P.O. Box 2551, South Bend, IN 46680.

MC 145715 (Sub-5-7TA), filed July 22, 1980. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Rd., Van Buren, AR 72965. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. *Plastic film,* from Cleveland and Akron, OH to the facilities of Land O'Frost, Inc. at Hammond and Lansing, IL. Supporting shipper: Land O'Frost, Inc., 16850 Chicago Ave., Chicago, IL 60438.

MC 145802 (Sub-5-1TA), filed July 21, 1980. Applicant: RONALD E. REED, d.b.a. TRIPLE R TRUCKING, RFD, Laurens, IA 50554. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Frozen bakery products,* from the facilities of Tennessee Doughnut Corporation at Nashville, TN to points in AL, CA, CO, CT, DE, FL, GA, IN, KY, LA, ME, MD, MA, MS, NC, NH, NJ, NY, OH, PA, RI, SC, VT, VA, WV and DC. Supporting shipper(s): Tennessee Doughnut Corporation, 2975 Armory Drive, Nashville, TN 37204.

MC 146898 (Sub-5-2TA), filed July 21, 1980. Applicant: MICKS SERVICE, INC., 2146 Camanche Avenue, Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Contract,* Irregular, *casein and sodium caseinate, dry, in packages,* from Erie, IL, to points in IN, IA, KS, MI, MN, MO, OH and WI, under continuing contracts with the Erie Casein Company, Inc., Erie, IL. Supporting shipper: Erie Casein Co., Inc., P.O. Box 648, Erie, IL 61250.

MC 148444 (Sub-5-2TA), filed July 23, 1980. Applicant: RAHMEIER

TRUCKING, INC., P.O. Box 283, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Contract,* irregular, (1) *Frozen foods, frozen products and ingredients thereof, except in bulk, in tank vehicles.* (2) *Ingredients, materials, supplies and equipment used in the manufacture and/or distribution of frozen foods and frozen products or ingredients thereof,* (1) From the facilities of Tony's Pizza—a Division of Schwans Sales Enterprises, Inc., at or near Salina, KS to points and places in the United States. (2) From points in the United States (except AK and HI) to the facilities of Tony's Pizza, a Division of Schwans Sales Enterprises, Inc. at or near Salina, KS. Supporting shipper: Schwans Sales Enterprises, Inc., 115 W. College Dr., Marshall, MN 56258.

MC 151209 (Sub-5–1TA), filed July 22, 1980. Applicant: GULF WESTERN EXPRESS, INCORPORATED, P.O. Box 2653, Natchitoches, LA 71457. Representative: John Williams, P.O. Box 2653, Natchitoches, LA 71457. *Contract,* irregular, *floor tile and related accessories,* from the plant site of Uvalde Rock Asphalt Company in Houston, TX to points in AZ and CA. Supporting shipper(s): Uvalde Rock Asphalt Company, P.O. Box 34030, San Antonio, TX 78233.

MC 151238 (Sub-4–1TA), filed July 22, 1980. Applicant: ZERO TANK & TRUCK LINES, INC., P.O. Box 551, Channelview, TX 77530. Representative: Billy R. Reid, 1721 Carl St., Ft. Worth, TX 76103. (1) *Irrigation systems,* (2) *parts for irrigation systems,* (3) *solar energy systems, fuel heating appliances, parts and accessories used in the installation, operation and maintenance of such systems or appliances,* (4) *pipe, tubing, poles and such materials, equipment and supplies as are used in the installation and maintenance thereof,* (5) *iron and steel articles,* (6) *accessories, parts, equipment, materials and supplies used in the manufacture or assembly of the commodities described in (1) through (5) above; and ocean carrier owned or leased equipment looded or empty,* between the facilities of Valmont Industries, Inc., at or near, Valley, NE, on the one hand, and, on the other, the ports of Houston and Galveston, TX, and New Orleans, LA. Supporting shipper: Valmont Industries, Inc., Hwy 275 West, Valley, NE 68064.

MC 151342 (Sub-5–1TA), filed July 23, 1980. Applicant: CITY–WIDE CONTRACT CARRIER, INC., P.O. Box 65231, West Des Moines, IA 50265. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Candy, confectionery, and display and advertising materials relating thereto,* from Des Moines, IA to all points in IA, traffic will be interlined at Applicant's terminal in Des Moines, IA. Supporting shippers: Tootsie Roll Industries, 7400 S.W. Cicero, Chicago, IL 60629. Leaf Confectionary, Inc., 1155 North Cicero Avenue, Chicago, IL 60651.

MC 2392 (Sub 5–5TA), filed July 28, 1980. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Keith D. Wheeler, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. *Denatured alcohol in bulk in tank vehicles* from Council Bluffs, IA, Grand Island, NE, and Lincoln, NE to points in the states of IA, KS, NE, and SD. Supporting shipper: Farmers Union Co-op Elevator Association, P.O. Box 400, Grand Island, NE, 68801; Jones Oil Company, 2930 N. 33rd, Lincoln, NE, 68504; Ecological Energy, 3150 S. 58th St., Lincoln, NE, 68506; Land O'Lakes Agricultural Services, 2827 8th Ave. S., Fort Dodge, IA, 50501; Oil Products, Inc., P.O. Box 521, Council Bluffs, IA, 51502.

MC 29910 (Sub-5–20TA), filed June 9, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR. 72902. As published in the **Federal Register** of June 23, 1980, the following application for regular TA appeared in error. Corrections are as follows: 1. Page 42069, Column 2, Paragraph 1, Line 33, should read, "to junction WI"; 2. Page 42070, Column 3, Para. 1, Line 12, should read, "authorized to be served by it in regular route"; 3. Page 42070, Column 3, Para. 2, Line 15, should read, "route operations. Between Madison, WI., on"; 4. Page 42071, Column 2, Para. 1, Line 2, should read, "Hwy 53 and Interstate Hwy 94"; 5. Page 42071, Column 2, Para. 1, Lines 3, and 4 should be omitted in full; 6. Page 42071, Column 2, Para. 1, Line 5, should read, "over Interstate Hwy"; 7. Page 42071, Column 2, Para. 1, Line 8, should read, "junction with WI Hwy 15"; 8. Page 42071, Column 2, Para. 1, Line 9, should read, "located near Beloit"; 9. Page 42071, Column 2, Para. 1, Line 10, should read, "WI thence over WI Hwy 15 to its junction with US Hwy 51"; 10. Page 42071, Column 2, Para. 1, Line 18, 19, and 20 should be omitted in full; 11. Page 42071, Column 3, Para. 1, Line 32, should read, "points: From Hamilton over OH Hwy 129"; 12. Page 42071, Column 3, Para. 1, Line 56, should read, "over US Hwy 27 to Richmond, and"; 13. Page 42073, Column 1, Para. 1, Line 34, should read, "over SD Hwy 37 to Mitchell; between"; 14. Page 42073, Column 1, Para. 1, Line 52, should read, "US Hwy 16, approximately 12 miles east of".

MC 29910 (Sub-5–23TA), filed June 12, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. As published in the **Federal Register** of June 23, 1980, the following application for regular TA appeared in error. Corrections are as follows: 1. Page 42078, Column 1, Para. 1, Line 38, should read, "IN and Lafayette, IN serving all intermediate points"; 2. Page 42079, Column 2, Para. 2, Line 22, should read, "Highway 114 to Junction Indiana"; 3. Page 42083, Column 2, Para. 1, Line 24, should read, "Highway 64 and US Highway 460, located at Edwardsville"; 4. Page 42084, Column 1, Para. 1, Line 1, should read, "value, Classes A and B"; 5. Page 42084, Column 1, Para. 1, Line 10, should read, "unusual value, livestock, Classes A and B".

MC 29910 (Sub-5–26TA), filed June 13, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as above). As published in the **Federal Register** of June 23, 1980, the following application for regular TA appeared in error. The correction is as follows: Page 42087, Column 1, Paragraph 1, Line 18, should read, "over New LA Hwy 6 to Vivian, and return".

MC 30844 (Sub-5–17TA), filed July 24, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2424 West Skelly Drive, Tulsa, OK 74107. Representative: Thomas J. Beener, 67 Wall Street, New York, NY 10005. *Ladies sportswear, and such articles, and supplies as used in the manufacture and distribution of ladies sportswear* from Bolivar, MO to Banning, CA: Supporting shipper: Pantsmaker Manufacturing Corporation, 1407 Broadway, New York, NY.

MC 109397 (Sub-5–14TA), filed July 24, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). (1) *Heat exchangers and equalizers for air, gas, or liquids;* (2) *machinery and equipment for heating, cooling, conditioning, humidifying, dehumidifying and moving of air, gas, or liquids;* (3) *parts, attachments and accessories used in the installation and operation of commodities in (1) and (2);* (4) *metal and metal articles;* between the facilities of Struthers Wells-Gulfport, Inc. located at or near Gulfport, MS, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Struthers Wells-Gulfport, Inc., 1500 34th St., Gulfport, MS.

MC 109397 (Sub-5–15TA), filed July 24, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). *Metal and metal articles,* between Harrison County, MS, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Southern Metal Service, Inc., P.O. Box 7097, Gulfport, MS 39501.

MC 110098 (Sub-5–6TA), filed July 24, 1980. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road (Box 20380), San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). *Foodstuffs (except in bulk),* from the facilities of Alex Foods, Inc. at Vernon, CA, to points in OK, AR, KS, MO, and LA. Supporting shipper: Alex Foods, Inc., 2750 E. 50th Street, Vernon, CA 90058.

MC 113651 (Sub-5–21TA), filed July 25, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Building, Suite 210B, 7363 Pacific St., Omaha, NE 68114. *(1) Wood burning stoves, and (2) parts, equipment materials, and supplies used in the manufacture, sale, and distribution of wood burning stoves,* from Bloomsburg, PA to points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Alaska Company, Inc.; Magee Industrial Complex; 480 W. 5th Street; Bloomsburg, PA 17815.

MC 114284 (Sub-5–4TA), filed July 25, 1980. Applicant: FOX-SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Meat, meat products, meat by-products, and articles distributed by Meat Packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from points in Hughes County, OK to points in CO and TX. Supporting shipper: County Custom Packers, Route 4, Box 1, Holdenville OK 74848.

MC 119399 (Sub-21TA), filed July 25, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (same address as applicant). *Silica Sand (except in bulk)* from the facilities of Axtell Mining Corporation near Gate, OK to points in Los Angeles, County, CA and Muscatine County, IA. Supporting shipper: Axtell Mining Corporation, Gate, OK 73844.

MC 119399 (Sub-5–22TA), filed July 24, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (same address as applicant). (1) *Paper and paper products and products produced or distributed by manufacturers and converters of paper and paper products; (2) materials and supplies used in the manufacture and distribution of commodities in (1) above (except commodities in bulk and commodities which because of size or weight require the use of special equipment)* between the plant sites of St. Regis Paper Company, Southland Division, at or near Herty (Angeline County) and Sheldon (Harris County) TX on the one hand, and, on the other points in AR, IL, IA, KS, KS, KY, MO, OK and TN. Supporting shipper: St. Regis Paper Company, 150 East 42nd St., New York, NY 10017.

MC 125254 (Sub-5–5TA), filed July 25, 1980. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50319. *(1) expanded plastic articles,* and *(2) fiberboard containers,* (1) From the facilities of Southwest Forest Industries at or near Elk Grove Village, IL to points in IN and WI, and (2) from the facilities of Southwest Forest Industries at or near Bloomington and Bridgeview, IL to points in IN and WI. Supporting shipper: Southwest Forest Industries, P.O. Box 7548, Phoenix, AZ 85011.

MC 128273 (Sub-5–15TA), filed July 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Beer,* from the facilities of Anheuser Busch, Inc. at or near Houston, TX, to points in the state of LA. Supporting shipper: Anheuser Busch, Inc., 775 Gellhorn Drive, Houston, TX

MC 134405 (Sub-5–7TA), filed July 24, 1980. Applicant: BACON TRANSPORT COMPANY P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Coal tar pitch solution, in bulk, in tank vehicles,* from Channelview, TX to Andover, KS. Supporting shipper: Vickers Industrial Coating, Inc., P.O. Box 506, Channelview, TX 77532.

MC 136786 (Sub-29TA), filed July 25, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Fireplace logs,* from Akron, OH, to points in IN, IL MI, NY, PA, ME, MA, VT, NH, CT, RI, and KY. Supporting shipper: Concept One Marketing, Inc., 8440 Market Street, Youngstown, OH 44512.

MC 138469 (Sub-5–17TA), filed July 25, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Such commodities as are dealt in by hardware stores and hardware dealers (except in bulk),* from Farmingdale, NY to points in the states of GA, FL, TN, AR, MO, KS, TX, CA. Supporting shipper: Duro Dyne Corp., Route 110, Farmingdale, NY 11735.

MC 139206 (Sub-5–10TA), filed July 24, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura Berry (same address as applicant). Contract, Irregular. *General Commodities* between points in the United States. Supporting shipper: Marketing Associates of America, Inc., 2345 Millpark Drive, St. Louis, MO 63043.

MC 142672 (Sub-5–12TA), filed July 24, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Rebonded polyurethane carpet padding* (1) from Dallas, TX, to points in AR, CO, KS, LA, NE and OK; and, (2) from Shelbyville, TN, to points in AL, AR, GA, IA, IL, IN, KS, KY, LA, MN, MO, MS, NC, OH, SC, WI and WV. Supporting shipper: General Felt Industries, Inc., 90 Plaza West-One, Saddlebrook, NY 07662.

MC 144603 (Sub-5–9TA), filed July 24, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Primary metal products, including galvanized; except coating or other allied processing; Fabricated metal products; except ordnance; chemicals or allied products; lumber or wood products, except furniture (except commodities in bulk, in tank vehicles)* between St. Louis, MO and its commercial zone (restricted to facilities of Precoat Metals Co.) and states of AL; AR; CO; GA; IA; IL; IN; KS; LA; MI; MO; MN; MS; NC; NE; OH; OK; PA; TN; TX; UT, and WI. Supporting shipper: Precoat Metals Co., 4301 S. Spring, St. Louis, MO 63116.

MC 146360 (Sub-5-7TA), filed July 24, 1980. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 4415 Highline Blvd., Suite 107, Oklahoma City, OK 73148. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Such commodities as are dealt in by grocery and food business houses and equipment, materials and supplies used in the conduct of such business,* from points in the U.S. (except AK and HI) to Clearfield, UT and points in its commercial zone. Restricted to shipments originating at or destined to the facilities utilized by Sysco Corporation and its subsidiary and affiliated companies. Supporting shipper: Sysco Corporation, 1177 West Loop South, Houston, TX 77027.

MC 147321 (Sub-5-2TA), filed July 24, 1980. Applicant: BILL STARR TRUCKING, INC., 1716 Berry Road, Independence, MO 64057. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. *Malt beverages and related advertising materials,* from Tarrant County, TX, to points in Clay, Jackson and Platte Counties, MO, and Johnson and Wyandotte Counties, KS. Supporting shippers: Orin T. Miller Distributing Co., Inc., R.R. 1, Hwy 92, Excelsior Springs, MO 64024, and High Life Sales Company, 1325 N. Topping, Kansas City, MO 64120.

MC 150783 (Sub-5-5TA), filed July 24, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, AR 72756. *Chewing gum, confectionery, dessert preparations, gum ball machines and stands (except in bulk),* from the facilities of Leaf Confectionery, Inc. at or near Chicago, IL to points in AL, AZ, AR, CA, CO, GA, KS, LA, MS, MO, NM, OK, TN, TX and UT. Supporting shipper: Leaf Confectionery, Inc., 1155 North Cicero Avenue, Chicago, IL 60551.

MC 151162 (Sub-5-3TA), filed July 25, 1980. Applicant: LOWELL E. CAWOOD, d.b.a. CAWOOD PRODUCE, Post Office Box 83, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Metal shelving, assembled and unassembled members, component parts and accessories used in the manufacture thereof,* from points in OH to points in TX, restricted to the transportation of traffic originating at or destined to the facilities of or used by Austin Material Handling Company. Supporting shipper: Metal Products, Inc., d.b.a. Austin Material Handling, 2307 Kramer Lane, Austin, TX 78758.

MC 151244 (Sub-5-1TA), filed July 25, 1980. Applicant: EDWARD YELLI d.b.a. E & E TRUCKING, Ewing, NE 68735. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Building, Suite 210B, 7363 Pacific St., Omaha, NE 68114. *Disposable syringes, and needles,* from the facilities of Sherwood Medical Supply Co. at/or near Norfolk, NE to Anaheim and Hayward, CA. Supporting shipper: Sherwood Medical Supply Company, 1831 Olive Street, St. Louis, MO 63103.

MC 151302 (Sub-5-1TA), filed July 24, 1980. Applicant: DONALD E. REYNOLDS, d.b.a. BAR-TRAN. CO., 506 Manor Circle, Rock Port, MO 64482. Representative: Donald E. Reynolds, d.b.a. Bar Tran. Co., 506 Manor Circle, Rock Port, MO 64482. *Crude Petroleum, Natural Gas, or Gasoline, (Revised STCC Major Industry Grouping 13), Chemicals or Allied Products (but not alcoholic beverages) (Revised STCC Major Industry Grouping 28) and Petroleum or Coal Products (Revised STCC Major Industry Grouping 29)* between Wyandotte County, KS on the one hand and DeKalb County, MO, Clay County, MO, Holt County, MO, and Atchison County, MO on the other. Supporting shipper: Rock Port Oil Co., Inc., 517 South Main Street, Rock Port, MO 64482; C.S.D., Inc. d.b.a. Casey's General Store, 5224 North Lydia, Kansas City, MO 64118; Schoonover Oil Company, Main Street, Mound City, MO 64470; Farmer's Oil Company, Mound City, MO 64470; Amthor's Skelly Service, 315 North Main, Rock Port, MO 64482; True Agricultural Products, Inc., Hwy. 136 E., Rock Port, MO 64482.

MC 151339 (Sub-5-1TA), filed July 25, 1980. Applicant: LOCK TRUCK LEASING, INC., 122 Penn Street, P.O. Box 274, Irving, TX 75060. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Merchandise as dealt in by wholesale and retail chain and grocery and food business houses* from Dallas, Denton, Ft. Worth, Grand Prairie and Houston, TX, to the facilities of United Food Service, Inc., located at or near Denver, CO. Supporting shipper(s): United Food Service, 3770 E. 40th Avenue, Denver, CO 80216.

MC 151360 (Sub-5-1TA), filed July 24, 1980. Applicant: MARK MILLER TRUCKING, INC., Cottonwood Falls KS 66845. Representative: Erle W. Francis, Esq., 719 Capitol Federal Bldg., Topeka, KS 66603. *Beer in bottles, cans and containers, except in bulk,* from the facilities of Adolp Coors Co., Jefferson County, Colorado to Emporia, KS. Supporting shipper: DeBauge Bros., Inc., 2915 West 15th Street, Emporia, KS 66801.

MC 151364 (Sub-5-1TA), filed July 24, 1980. Applicant: SOUTHERN EXPRESS, INC., 1238 Meadowbrook Lane, Cape Girardeau, MO 63701. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Contract, irregular, *Tires, tubes, and batteries,* between Waco, TX; Huntsville, AL; Buffalo, NY; St. Louis, MO; Greenville, SC; Franklin, IN; Mt. Vernon, IL; Kansas City, KS; and Kansas City, MO, on the one hand, and, on the other, points in KY, IN, TN and OH. Supporting shipper: Disney Tire Company, Louisville, KY.

MC 151368 (Sub-5-1), filed July 25, 1980. Applicant: KOCH TRUCK LINE, INC., 619 Iowa, Sabetha, KS 66534. Representative: Eugene W. Hiatt, Hiatt, Crockett, Hiatt & Carpenter, Chartered, 207 Casson Building, 603 Topeka Boulevard, Topeka, KS 66603, Phone (913) 232-7263. *Dry fertilizer.* From the facilities of Farmland Industries, Inc., at Lawrence, KS to points in the states of MO, CO, NE, OK, IA, AR and TX. Supporting shipper: Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116.

MC 151178 (Sub-5-1TA), republication filed June 30, 1980. Applicant: KENNETH DIXON, DIXON FARM SUPPLY, 101 S.W. A St., Stigler, OK 74462. Representative: Louis E. Striegel, 6110 S. 221 East Avenue, Broken Arrow, OK 74012. Contract, Irregular *agricultural machiner and equipment including parts except commodities in bulk* from Canton, East Moline, Moline, and Rock Island, IL; Mountville and Belleville, PA; Grand Island and Lexington, NE; Fowler, CA, Houston, TX and New Orleans, LA to Stigler, OK and points in OK within a 200 mile radius of Stigler, OK. Supporting shippers: Stewart Martin Inc., 333 N. Central, Okmulgee, OK 74447; Tulsa Tractor Company, Inc., 1026 N. Mingo Road, Tulsa, OK 74115; Busby White, Inc., 2815 N. Main, McAlester, OK 74501.

MC 23618 (Sub-5-4TA), filed August 1, 1980. Applicant: McALISTER TRUCKING COMPANY, d.b.a. MATCO, 2014 S. Treadaway Blvd., Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125, Exchange Park, Dallas, TX 75235. (a) *Machinery, equipment, materials and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* and *Machinery, materials, equipment and supplies used in, or in connection with the*

construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; (b) *Machinery, equipment, materials and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewage, restricted to the transportation of shipment moving to or from pipeline rights of way;* (c) *Earth drilling machinery and equipment, and machinery, equipment, materials and supplies and pipe incidental to, used in, or in connection with, (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injection or removal of commodities into or from holes or wells;* (d) *Machinery, equipment, materials and supplies used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewage, including the stringing and picking up of pipe;* (e) *Machinery, equipment, materials and supplies, used in, or in connection with, the drilling of water wells* between points in AZ, NM, TX, OK, KS and LA, on the one hand, and, on the other, points in CA. Supporting shipper(s): 7.

MC 61396 (Sub-5-5TA), filed July 31, 1980. Applicant: HERMAN BROS., INC., 2565 St. Mary's Avenue, Omaha, NE 68105. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Kiln dust, in bulk,* from Artesia, MS, Hunter and Midlothian, TX to Westlake, LA. Supporting shipper(s): Solididust, Inc., 8114 Misty Vale, Houston, TX 77075.

MC 61396 (Sub-5-7TA), filed July 31, 1980. Applicant: HERMAN BROS., INC., 2565 St. Mary's Avenue, Omaha, NE 68105. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Cement, in bulk,* from the facilities of Missouri Portland Cement Company located at Decatur, AL to points in TN, GA, MS, NC and SC. Supporting shipper(s): Missouri Portland Cement Company, 7711 Carondelet, St. Louis, MO 63105.

MC 87511 (Sub-5-4TA), filed July 31, 1980. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Station One, Houma, LA 70360. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* serving all points in the parishes of Webster, Claiborne, Franklin, Caldwell, Winn, Jackson, Bienville, Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Quachita, Lincoln, Tensas, Lasalle, Catahoula, Concordia and Grant in the state of LA as off-route points in connection with carrier's authorized regular-route operations. Supporting shippers: 47.

Note.—Applicant intends to tack or join this authority with its authority in MC 87511.

MC 113908 (Sub-5-17TA), filed July 31, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same address as applicant). *Fruit juice and fruit juice concentrates, in bulk,* between points in NY and PA, on the one hand, and, on the other, points in AR, CO, KS, KY, LA, MS, MO, OK, OR, TN, TX, and WA. Supporting shippers: Canandiagua Wine Company, Inc., 116 Buffalo Street, Canandigua, NY 14424; Keystone Foods, Inc., North East, PA 16428.

MC 114273 (Sub-5-25TA), filed August 1, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Corporate Counsel (same as above). *Plastic articles and commodities used in the manufacturing and distribution of same* between Indianapolis, IN and Reading, PA, on the one hand, and on the other, points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: W. R. Grace & Co., P.O. Box 295, Reading, PA 19603.

MC 117119 (Sub-5-18TA), filed July 31, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Chemicals (except in bulk),* from Moss Point, MS to St. Louis, Mo and Kansas City, KS and their respective commercial zones. Supporting shipper: Thiokol Corporation/Specialty Chemicals Div., P.O. Box 8296, Trenton, NJ 08650.

MC 117119 (Sub-5-19TA), filed August 1, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Lawn mowers, snow blowers, and lawn tractors and parts and accessories used in the maintenance and sale of such equipment* from the facilities of Jacobsen Textron at Brookhaven, MS to points in AZ, CA, CO, IL, IN, KS, MA, MI, MN, MO, MT, NE, NC, NH, NY, OH, OK, OR, PA, UT, VA, WV, and WI. Supporting shipper: Jacobsen Textron, P.O. Box 568, Brookhaven, MS 39601.

MC 118468 (Sub-5-15TA), filed August 1, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: Williams L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Contract,* irregular *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK and TX, restricted to traffic originating at the facilities of United States Gypsum Company, under contract with United States Gypsum Company for 180 days. Supporting shipper: United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606.

MC 118959 (Sub-5-8TA), filed August 1, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *General Commodities* Between Cape Girardeau, MO and points in MO, IL, KY, TN, AR and IN. Restricted to traffic having a prior or subsequent movement by rail or water. Supporting shippers: 13 Supporting Shippers.

MC 118959 (Sub-5-9TA), filed August 1, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle Street, Chicago, IL 60603. *Vinyl and Vinyl Products, Chipboard and Chipboard Products, Polyethylene and Polyethylene Products, Labels, and Packaging Supplies and Materials, Equipment and Supplies used in the manufacture, distribution or sale of Vinyl and Vinyl Products, Chipboard and Chipboard Products, Polyethylene and Polyethylene Products, Labels and Packaging Supplies (Except Commodities in Bulk)* Between the facilities of Service Packaging Corporation located at or near Cape Girardeau, MO and Blair Industries, Inc. located at or near Scott City, MO on the one hand, and on the other AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, OH, OK, TN, TX and WI. Supporting shippers are: Service Packaging Corporation, Route 1, Cape Girardeau, MO 63701; and Blair Industries, Inc., Madison & Berkley Streets, Scott City, MO 63780.

MC 120080 (Sub-5–1TA), filed July 31, 1980. Applicant: MORGAN EXPRESS, INC., 10130 Monroe Drive, Dallas, TX 75229. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. *General commodities (except Classes A and B explosives) moving in express service* between Junction City, LA and El Dorado, AR; from Junction City over U.S. Hwy 167 to El Dorado, and return over the same route, serving El Dorado for purposes of interchange. Supporting shippers: 8. Applicant intends to tack and interline.

MC 121741 (Sub-5–2TA), filed July 31, 1980. Applicant: WESTERN TEX–PACK, INC., 3200 Bolt St., Fort Worth, TX 76110. Representative: Austin L. Hatchell, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *Common;* regular. *General commodities* (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), moving in express service, to, from or between all points along the routes shown below: (1) Between Dallas, TX and Fort Worth, TX as follows: From Dallas, TX over State Hwy. 114 and 121 to Fort Worth, TX and return over the same route. (2) Between Fort Worth, TX and Jacksboro, TX as follows: From Fort Worth, TX over State Hwy. 199 to Jacksboro, TX and return over the same route. (3) Between Jacksboro, TX and Rule, TX as follows: From Jacksboro, TX over U.S. Hwy. 380 to Rule, TX and return over the same route. (4) Between Wichita Falls, TX and Abilene, TX as follows: From Wichita Falls, TX over U.S. Hwys. 277, 83, and 82 to Abilene, TX and return over the same routes. (5) Between Munday, TX and Knox City, TX as follows: From Munday, TX over State Hwy. 222 to Knox City, TX and return over the same route. (6) Between Benjamin, TX and Rule, TX as follows: From Benjamin, TX over State Hwy. 283 to Rule, TX and return over the same route. (7) Between Anson, TX and Aspermont, TX as follows: From Anson, TX over U.S. Hwy. 83 to Aspermont, TX and return over the same route. (8) Between Anson, TX and Roby, TX as follows: From Anson, TX over U.S. Hwy. 180 to Roby, TX and return over the same route. (9) Between Roby, TX and Rotan, TX as follows: From Roby, TX over State Hwy. 70 to Rotan, TX and return over the same route. (10) Between Rotan, TX and its intersection with U.S. Hwy. 277 near Stamford, TX as follows: From Rotan, TX over State Hwy. 92 and its intersection with U.S. Hwy. 277 near Stamford, TX and return over the same route. (11) Between Aspermont, TX and Girard, TX as follows: From Aspermont, TX over U.S. Hwys. 380 and 70 to Girard, TX and return over the same route. (12) Between Aspermont, TX and Albany, TX as follows: From Aspermont, TX over State Hwy. 6, U.S. Hwy. 183 and U.S. Hwy. 180 to Albany, TX and return over the same route. (13) Between Dallas, TX and Fort Worth, TX as follows: From Dallas, TX over U.S. Hwy. 80, State Hwy. 183 and I.H. 20 to Fort Worth and return over the same route. (14) Between Fort Worth, TX and Itasca, TX as follows: From Fort Worth, TX over I.H. 35W and U.S. 81 to Itasca, TX and return over the same route. (15) Between Itasca, TX and Osceola, TX as follows: From Itasca, TX over F.M. Road 66 and 934 to Osceola, TX and return over the same route. (16) Between Osceola, TX and Cleburne, TX as follows: From Osceola, TX over State Hwy. 171 to Cleburne, TX and return over the same route. (17) Between Burleson, TX and Cleburne, TX as follows: From Burleson, TX over State Hwy. 174 to Cleburne, TX and return over the same route.

(18) Between Cleburne, TX and its intersection with State Hwy. 220; thence over State Hwy. 220 to Hico, TX as follows: From Cleburne, TX over U.S. Hwy 67 and its intersection with State Hwy. 220; thence over State Hwy. 220 to Hico, TX and return over the same route. (19) Between Hico, TX and Hamilton, TX as follows: From Hico, TX over U.S. Hwy. 281 to Hamilton, TX and return over the same route. (20) Between Hamilton, TX and Gatesville, TX as follows: From Hamilton, TX over State Hwy. 36 to Gatesville, TX and return over the same route. (21) Between Gatesville, TX and McGregor, TX as follows: From Gatesville, TX over U.S. Hwy 84 to McGregor, TX and return over the same route. (22) Between McGregor, TX and Valley Mills, TX as follows: From McGregor, TX over State Hwy. 317 to Valley Mills, TX and return over the same route. (23) Between Valley Mills, TX and Meridian, TX as follows: From Valley Mills, TX over State Hwy. 6 to Meridian, TX and return over the same route. (24) Between Meridian, TX and Glen Rose, TX as follows: From Meridian, TX over State Hwy. 144 to Glen Rose, TX and return over the same route. Restrictions: (1) The holder of this authority is prohibited from (a) transporting any shipments originating at and destined to Wichita Falls, Fort Worth, Dallas, Albany and Abilene; (b) performing any service to any intermediate point between Fort Worth and Dallas; (c) serving any intermediate point between Fort Worth and Throckmorton on State Hwy. 199 except Lake Worth, Azle, and Springtown. (25) Between Middlothian, TX and Cleburne, TX as follows: From Midlothian, TX over U.S. Hwy. 67 to Cleburne, TX serving Keene, TX and return over the same route. (26) Between Cleburne, TX and Meridian, TX as follows: From Cleburne, TX over State Hwy. 174 to Meridian, TX, and return over the same route. (27) Between Whitney, TX and Hamilton, TX as follows: From Whitney, TX over State Hwy. 22 to Hamilton, TX and return over the same route. (28) Between Jonesboro, TX and Turnersville, TX as follows: From Jonesboro, TX over F.M. Road 217 to Turnersville, TX and return over the same route. (29) Between Turnersville and its intersection with State Hwy. 36 as follows: From Turnersville over F.M. Road 182 to its intersection with State Hwy. 36 and return over the same route. (30) Between U.S. Hwy. 84 and Oglesby, TX as follows: From U.S. Hwy. 84 over R.M. Road 1996 to Oglesby, TX and return over the same route. (31) Between State Hwy. 174 and State Hwy. 22 as follows: From State Hwy. 174 over F.M. Road 56 and its intersection with State Hwy. 22 and return over the same route. (32) Between Morgan, TX and Lakesde Village, TX as follows: From Morgan, TX over F.M. Road 927 to Lakeside Village, TX and return over the same route. (33) Between Seymour, TX and Benjamin, TX as follows: From Seymour, TX over U.S. Hwy. 82 to Benjamin, TX and return over the same route. (34) Between U.S. Hwy. 82 and its intersection with State Hwy. 222 as follows: From the intersection with F.M. Road 267 and U.S. Hwy. 82 and its intersection with State Hwy. 222 and return over the same route. (35) Between U.S. Hwy. 380 and Peacock, TX as follows: From the intersection of F.M. Road 2211 and U.S. Hwy. 380 and Peacock, TX and return over the same route. (36) Between (a) Hamilton, TX and Evant, TX and (b) Evant, TX and Gatesville, TX as follows: From Hamilton, TX over U.S. Hwy 281 to Evant, TX and from Evant, TX over U.S. Hwy. 84 to Gatesville, TX and return over the same routes. (37) Between Mansfield, TX and Joshua, TX as follows: From Mansfield, TX over F.M. Road 917 to Joshua, TX and return over the same route. (38) Between Clifton, TX and Cranfills Gap, TX as follows: From Clifton, TX over F.M. Road 219 to Cransfills Gap, TX and return over the same route. Restriction: Restricted to the transportation of shipments having no single article, piece or package weighing in excess of 100 pounds and which have a total weight of 500 pounds or less per

shipment. 7 Suppor … shippers. Applicant intends t … rline.

MC 121742 (Sub-5 … 1, filed July 31, 1980. Applicant: MI… TOE TEX-PACK EXPRESS, IN… 2 E. 40th St., Lubbock, TX 79404 … sentative: Austin L. Hatchell, Sedberry & Hoffma… m, Hatchell, Austin, TX 78768. *C… General commodit… and B explosives. … defined by the Com… commodities in bul… special equipment… service, to, from or … along the routes sh…* Between Dallas an… U.S. Hwy. 82 with … Guthrie, without se… intermediate point… Dallas over U.S. Hw… State Hwys. 144, 1… Dallas and Fort W… State Hwy. 99 and … above named inter… over the same rout… TX and Spur, TX w… intermediate point… purpose of interlin… carriers, as follows … over U.S. Hwy. 80, … 180, State Hwy. 6, … and return over the … Between Quanah, T… as follows: From O… Hwy. 283 to Crowel… the same route. (4) … and Turkey, TX as … TX over State Hwy … and return over the … Between Vernon, T… follows: From Vern… Hwys. 70 and 62 to … over the same rout… (6) Between Dicken… TX as follows: Fron… U.S. Hwys. 82 and … and return over the … Between Turkey, T… follows: From Turk… Hwy. 86 to Tulia, T… same route. (8) Bet… and Amarillo, TX … Lubbock, TX over … Amarillo, TX and … route. (9) Between … Hereford, TX as fo… Springlake, TX ove… Hereford, TX and … route. (10) Between … Ralls, TX as follows … over U.S. Hwy. 62 … return over the sam… the intersection of F… U.S. Hwy. 62 and its … U.S. Highway 87 as … intersection with U.S. … Road 54 to the inter…

Hwy. 87 and return over the same route. (12) Between Childress, TX and Paducah, TX as follows: From Childress, TX over U.S. Hwys. 62 and 83 to Paducah, TX, serving all intermediate points along said routes, except as hereinafter restricted, and coordinating this service with service presently being rendered under existing authority and interlining with other carriers at appropriate points. RESTRICTED to the holder of this authority from (1) transporting any shipments originating at and destined to Amarillo, Childress, Vernon, Quanah, Forth Worth and Dallas; and (2) performing any service to any intermediate point between Fort Worth and Dallas, TX. (13) Between the intersection of State Hwy. 222, east of Guthrie, TX to Dickens, TX as follows: From the intersection of U.S. Hwy. 82 with State Hwy. 222, east of Guthrie, TX to Dickens, TX and return over the same route. (14) Between Silverton, TX and Floydada, TX as follows: From Silverton, TX over State Hwy. 207 to Floydada, TX and return over the same route. (15) Between the intersection with State Hwy. 70 east of Olton, TX to its intersection with F.M. Road 37 in Cotton Center, TX, and then, F.M. Road 37 to its intersection with U.S. Hwy. 87 south of Hale Center, TX, as follows: From the intersection with State Hwy. 70 east of Olton over F.M. Road 179 to its intersection with F.M. Road 37 in Cotton Center, TX, and thence, F.M. Road 37 to its intersection with U.S. Hwy. 87 south of Hale Center, TX, and return over the same route. (16) Between the intersection with State Hwy. 70 south of Turkey, TX to the intersection with F.M. Road 599 at Flomot, TX as follows: From the intersection with State Hwy. 70 over F.M. Road 97 south of Turkey, TX, to intersection with F.M. Road 599 at Flomot, TX, and return over the same route. (17) Between the intersection with U.S. Hwy. 82 south of Crosbyton, TX to its intersection with F.M. Road 261 west of Kalgary, TX; and, thence, F.M. Road 261 to its intersection with State Hwy. 70 at Spur, TX, as follows: From the intersection of F.M. Road 651 and U.S. Hwy. 82 south of Crosbyton to its intersection with F.M. Road 261 west to Kalagary, TX, and; thence, F.M. Road 261 to its intersection with State Hwy. 70 at Spur, TX, and return over the same route. (18) Between Spade, TX and Olton, TX, as follows: From Spade, TX over F.M. Road 168 to Olton, TX and return over the same route. (19) Between its intersection with U.S. Hwy. 87 and Spade, TX as follows: From the intersection of U.S. Hwy. 87 and F.M. Road 54 and Spade, TX, and return over the same route. (20) Between the intersection of F.M. Road 166 and Fieldton, TX, as follows: From the intersection of F.M. Road 168 and F.M. Road 37 and Fieldton, TX, and return over the same route. (21) Between the intersection with U.S. Hwy. 82 and its intersection with F.M. Road 28, then over F.M. Road 28 to its intersection with U.S. Hwy. 70 as follows: From R.M. Road 264 to the intersection with U.S. Hwy. 82 and its intersection with F.M. Road 28, then over F.M. Road 28 to its intersection with U.S. Hwy. 70 and return over the same route. Restriction: Restricted to the transportation of shipments having no single article, piece or package weighing in excess of 100 pounds and which have a total weight of 500 pounds or less per shipment. Supporting shippers: 18. Applicant plans to interline.

MC 124236 (Sub-5–32TA), filed July 31, 1980. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Rodney D. Cokendolpher (same as above). *Potash* from or near Carlsbad and Hobbs, NM to Teague, Bryan, Carthage, and Kilgore, TX and Elk City, OK. Supporting shipper: Mobley Company, Inc., Post Office Box 1640, Kilgore, TX 75662.

MC 124711 (Sub-5–4TA), filed August 1, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker (same as applicant). *Dry Urea and Urea Liquor,* from the facilities of Cominco American, Inc., at or near Borger, TX to points in CO, KS, OK, NE and NM. Supporting shipper: Cominco American, Inc., Route 3, Beatrice, NE 68310.

MC 125535 (Sub-5–3TA), filed August 1, 1980. Applicant: NATIONAL SERVICE LINES, INC. of New Jersey, 12015 Manchester Road, Suite 118, St. Louis, MO 63131. Representative: (same as applicant). Contract; Irregular. *(1) Copper, copper products, insulated tubing and (2) commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk in tank vehicles),* between the facilities of Cerro Copper Products Company at or near East St. Louis, IL on the one hand, and on the other, points on the U.S. in and west of CO, MT, NM, WY; between Shelbina, MO on the one hand, and on the other, points in the U.S. Supporting shipper: Cerro Copper Products Company, P.O. Box 681, East St. Louis, IL 62202

MC 126822 (Sub-5–22TA), filed August 1, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, 66061. Representative: John T. Pruitt (same as

applicant). *(1) Telephone and electrical equipment and (2) materials and supplies used in the installation and maintenance of (1) above* between points in the United States, except AK and HI, restricted to the transportation of shipments from, to, or between the facilities of GTE Automatic Electric, Incorporated. Supporting shipper: GTE Automatic Electric, Incorporated, Northlake, IL 60164.

MC 133805 (Sub-5–18TA), filed July 31, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1-Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Frozen fruits and vegetables and canned fruits and vegetables*— between points in the United States restricted to the traffic of San Antonio Foreign Trading Company. Supporting shipper: San Antonio Foreign Trading Company, 306 West Rhapsody, San Antonio, TX 78216.

MC 133805 (Sub-5–19TA), filed July 31, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1 Box 48, Tolar, TX 76476. Representative: Don Garrison, Post Office Box 1065, Fayetteville, AR 72701. *Confectionery (except in bulk), dessert preparations, gum ball machines and stands*—from the facilities of Leaf Confectionary, Inc., at or near Chicago, IL to points in the United States (except AK and HI). Supporting shipper: Leaf Confectionery, Inc., 1155 North Cicero Avenue, Chicago, IL 60651.

MC 133805 (Sub-5–20TA), filed July 31, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1–Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Frozen and dry canned goods*— from Laredo, TX—to points in the United States (except AK and HI)— restricted to the traffic of United States Custom Brokers. Supporting shipper: United States Custom Brokers, 1400 Santa Rita Avenue, Laredo, TX 78040.

MC 133959 (Sub-5–5TA), filed August 1, 1980. Applicant: ALBAUGH TRUCK LINE, INC., 123 Main Street, Elkhart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Contract irregular, *such merchandise as is dealt in by wholesale and retail department stores* between the facilities of Ardan Wholesale, Inc. in Des Moines, IA, on the one hand, and, on the other, points in TN, NC and IN. Supporting shipper: Ardans Wholesale, Inc. 2323 Euclid Avenue, Des Moines, IA 50309.

MC 135797 (Sub-5–57TA), filed August 1, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 73745. Representative: Paul R. Bergant, Esq. (address same as applicant). (1) *Spring and air powered guns, shot, pellets, and cylinders,* and (2) *materials, equipment and supplies used in the manufacture of the commodities named in (1) above,* between Rogers, AR and points in the United States (except AK and HI). Supporting shipper: Daisy Manufacturing Company, 2111 So. 8th St., Rogers, AR 72756.

MC 135797 (Sub-5–58TA), filed August 1, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 73745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Paint (except in bulk),* from the facilities of Dominion Paint Company at Virginia Beach, VA to points in the United States (except AK and HI). Supporting shipper: Dominion Paint Company, 5808 Ward Court, Virginia Beach, VA 23455.

MC 135797 (Sub-5–59TA), filed August 1, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 73745. Representative: Paul R. Bergant, Esq. (same as above). *Such commodities as are manufactured and dealt in by distributors of lawn and garden products,* between points in and west of MT, WY, CO and NM on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to the facilities of Lakeshore Equipment and Supply Company. Supporting shipper: Lakeshore Equipment and Supply Co., 300 S. Abbe Road, Elyria, OH 44035.

MC 135936 (Sub-5–3TA), filed August 1, 1980. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Equipment, materials and supplies used in the manufacture of washing machines* from points in MN, WI, IL, MO, OH, IN, MI, and KY to the facilities of Webster City Products, Inc. at Webster City and Jefferson, IA. Supporting shipper: Webster City Products, Webster City, IA 50595.

MC 140665 (Sub-5–26TA), filed August 1, 1980. Applicant: PRIME, INC. P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Inedible fatty acid of animals; fatty acid of vegetable oil; stearic acid; azelaic acid; pelargonic acid; chemicals; organic ammonia compounds; esters; glycerines; lubricating oils; petroleum oils; plastic pellets or flakes; liquid plastic; candle tar; resin plasticizer and cleaning compounds (except in bulk),* between the facilities of Emery Industries, Inc., at or near Mauldin SC, Linden, NJ, Lock Haven, PA, Cincinnati, OH Los Angeles and Santa Fe Springs, CA, on the one hand, and on the other, points in the United States (except AK and HI). Supporting shipper: Emery Industries, Inc., 1300 Carew Tower, Cincinnati, OH 45202.

MC 142508 (Sub-5–34TA), filed July 31, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Foodstuffs (except in bulk)* between points in the contiguous United States restricted to traffic originating at or destined to the facilities utilized by Niagara Trading. Supporting shipper: Niagara Trading Company, Inc., 690 Delaware Ave., Buffalo, NY 14209.

MC 143701 (Sub-5–3TA), filed July 31, 1980. Applicant: HODGES FREIGHT LINES, IND., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Foodstuffs,* between points and places in the United States. Restricted to traffic originating at or destined to points of supplies and/or shippers that are customers of Winton Sales Company. Supporting shipper: Winton Sales Company, 3379 Peachtree Road, N.E., Atlanta, GA 30326.

MC 145119 (Sub-5–4TA), filed August 1, 1980. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract irregular *Tires, tire parts and inner tubes,* from Des Moines, IA, to Lenexa, KS, and (2) from Lenexa, KS, to points in IL, IA and NE, under contract with The Firestone Tire & Rubber Company. Supporting shipper: The Firestone Tire & Rubber Company, 2nd and Hoffman, P.O. Box 1295, Des Moines, IA 50305.

MC 145955 (Sub-5–9TA), filed August 1, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between Peoria and Tazewell Counties, IL, on the one hand, and, on the other, points in IA, KS, MN, MO, NE, and SD, restricted to traffic originating at or destined to the facilities of Federal Warehouse Company. Supporting shipper: Federal Warehouse Company, 200 National Road, East Peoria, IL 61611.

MC 147046 (Sub-5–2TA), filed August 1, 1980. Applicant: SUNRISE DAIRY, INC., 1440 S.E. Cortina Dr., Ankeny, IA 50021. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Materials and supplies used in the manufacture and distribution of ice cream and dairy products, except liquids in bulk,* from Kansas City, MO, and Kansas City, KS, to Rochester and Minneapolis, MN, and Des Moines and Perry, IA.. Supporting shippers: Merigold Foods, Inc., 2929 University, Minneapolis, MN, and Beatrice Foods, Inc., 1900 Grand, Des Moines, IA.

MC 148819 (Sub-5–4TA), filed August 1, 1980. Applicant: G AND J TRUCKING, INC., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *Carbonated beverages, in containers,* from the facilities of Mid-America Container Corp. in Lenexa, KS to Ft. Smith, AR. Supporting shippers: Mid-America Container Corp., 10001 Industrial Blvd., Lenexa, KS 66215 and The Coca-Cola Bottling Co. of Ft. Smith, 122 Rogers Ave., Ft. Smith, AR 72901.

MC 149026 (Sub-5–7TA), filed July 31, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main St., P.O. Box 1485, Van Buren, AR 72956. Representative: Larry C. Price (address same as above). *Chemicals or allied products and rubber or miscellaneous plastic products and materials, equipment, and supplies used in the manufacture and distribution of the commodities named above (except in bulk),* between Fort Smith, AR; Chicago, IL; Newnan, GA, on the one hand, and, on the other, to points in the U.S. (except AK and HI). Supporting shipper: Crain Industries, 5401 S. Zero St., Ft. Smith, AR 72901.

MC 150102 (Sub-5–4TA), filed July 31, 1980. Applicant: MUSTANG TRANSPORTATION, INC., 1101 Rue Corton, Slidell, LA 70458. Representative: Albert T. Riddle, 1101 Rue Corton, Slidell, LA 70458. Contract, irregular *Tires, tubes, wheels, wheel nuts, wheel weights tire valves, and hub wheel clips* between Dallas, TX and B.F. Goodrich facilities located in Natchez, MS. Supporting shipper: B.F Goodrich, 44 E. Franklin St., Natchez, MS.

MC 150311 (Sub-5–13TA), filed July 31, 1980. Applicant: P & L MOTOR LINES, INC., P.O. box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Alcoholic beverages,* from points in CT, DE, KY, MA, MD, NJ & NY.

MC 150578 (Sub-5–8TA), filed August 1, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Meat, meat products and articles distributed by meat packing houses as described in Sections A & C to Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 & 766 (except commodities in bulk), frozen or unfrozen,* from Seward County, KS to Philadelphia, PA, New York, NY, Baltimore, MD, Indianapolis, IN, Cincinnati, OH, Chicago, IL, Louisville, KY, Washington, DC, Newark, NJ, Boston, MA, Hartford and New Haven, CT. Supporting shipper: National Beef Incorporated, 1501 East 8th Street, Liberal KS 67901.

MC 150626 (Sub-5–2TA), filed July 31, 1980. Applicant: HAROLD IVES TRUCKING CO., P.O. Box 885, Highway 79 East, Stuttgart, AR 72160. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Foodstuffs.* Between Hudson County, NJ, on the one hand, and, on the other, points and places in the states of TX, LA and FL. Supporting shipper: Goya Foods, Inc., 100 Seaview, Secaucus, NJ.

MC 151378 (Sub-5–2TA), filed July 31, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John Clark (same address as applicant). *Milking machines, dairy farm equipment, peening machines, tanks, and industrial cleaning equipment, and material and supplies used in the manufacture and distribution of such commodities,* between the facilities of Zero Manufacturing Company at or near Washington and Berger, MO, on the one hand, and, on the other, points in the St. Louis, MO, E. St. Louis, IL and Kansas City, MO, Kansas City, KS commercial zones. Supporting shipper: Zero Manufacturing Company, 811 Duncan Ave., Washington, MO 63090.

MC 151378 (Sub-5–3TA), filed July 31, 1980. Applicant: BIG B TRUCK LINES, INC., P.O. Box 67, Jonesburg, MO 63351. Representative: John F. Clark (same address as applicant). *Vinyl and leather manufactured goods, and materials, equipment and supplies used in their manufacture and distribution,* between Washington, MO, on the one hand, and, on the other, points in the commercial zones of St. Louis, MO, E. St. Louis, IL, Kansas City, MO and Kansas City, KS. Supporting shipper: Hazel Company, 1200 S. Stafford St., Washington, MO 63090.

MC 151379 (Sub-5-2TA) filed July 1, 1980. Applicant: T. J. KERVIN TRUCKING COMPANY, P.O. Box 48, Winnfiled, LA 71483. Representative: Fletcher W. Cochran, 1338 Gause Blvd., Suite 245, P.O. Box 741, Slidell, LA 70459. Contract; Irregular: *Lumber, lumber products and forest products* between Washington Parish, LA and Lamar County, MS on the one hand and on the other the forty-eight states under a continuing contract with Crown Zellerbach Corporation. Supporting shipper: CROWN ZELLERBACH CORPORATION, P.O. Box 1060, Bogalusa, LA 70427.

MC 151338 (Sub-6–1TA), filed July 22, 1980. Applicant: COLORADO SPECIALTY FOODS TRANSPORTATION COMPANY, 4750 Nome, Denver, CO 80239. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th Street, Denver, CO 80202. *Contract Carrier,* Irregular routes: *Foodstuffs, health care products, and cosmetics,* from points in CA to Denver, CO, for the account of Colorado Specialty Foods Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Colorado Specialty Foods Corporation, 4750 Nome, Denver, CO 80239.

MC 151345 (Sub-6–1TA), filed July 23, 1980. Applicant: ROBERT ALLEN HARTER d.b.a. HARTER TRUCKING, 307 McCampbell St., Fillmore, CA 93105. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract carrier,* Irregular routes: *Beer,* from Golden, CO to Santa Maria, CA, for the account of Larrabee Brothers Distributors, for 270 days. Supporting shipper: Larrabee Brothers, Distributors, 815 South Blosser Rd., Santa Maria, CA 93454.

MC 151137 (Sub-6–1TA), filed July 21, 1980. Applicant: RAPIDO FREIGHT LINES, INC., 1744 Hacienda Place, El Cajon, CA 92020. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Bananas,* From Wilmington, CA, to points in AZ, AK, CA, CO, ID, IL, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI and WY, for 270 days. Supporting shipper: Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 07645.

MC 54567 (Sub 6–2TA), filed July 23, 1980. Applicant: RELLIANCE TRUCK CO, 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *(1) Fabricated steel and steel plate, and (2) materials, machinery, equipment and supplies moving in connection with the above,* from the facilities of Cyprus Specialty Steel Co. in Phoenix, AZ to the mine site of Anaconda Copper Co. located approximately 35 miles Northwest of Tonopah, NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cyprus Specialty Steel Co., 1500 S. 7th St., Phoenix, AZ 85001.

MC 52709 (Sub-6–17TA), filed July 22, 1980. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barber

(same as applicant). *Common carrier:* regular routes: *General commodities* (except commodities in bulk and commodities requiring special equipment), serving Phoenix, AZ, as an off-route point in connection with carrier's presently authorized regular routes, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: None.

MC 151344 (Sub-6-1TA), filed July 22, 1980. Applicant: MICHAEL T. SPENCER, d.b.a., MIKE SPENCER TRUCKING, P.O. Box 996, Yuba City, CA 95991. Representative: Ronald C. Chauvel, 100 Pine Street, Ste. 2550, San Francisco, CA 94111. *Contract Carrier,* irregular routes: *salt and salt products,* between Newark, CA, on the one hand, and, on the other, OR, WA and NV, under continuing contract with Leslie Salt Company, for 270 days. Supporting shipper: Leslie Salt Company, P.O. Box 364, Newark, CA 94560.

MC 151169 (Sub-6-1TA), filed July 22, 1980. Applicant: TRANS WORLD OIL CORPORATION, 1833 26th St., Santa Monica, CA 90404. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. *Gasoline and diesel fuel,* between points in NC, SC, GA, and FL. Restricted to traffic originating at or destined to the facilities of USA Petroleum Corporation, USA Gasoline Corporation, Supersave Petroleum Corporation, Colonial Oil Company, Colonial Service Stations, Inc., Houston Oil Company, and Oasis Petroleum Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 7 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 149344 (Sub-6-2TA), filed July 23, 1980. Applicant: JERRY R. WHITE, WILLIAM (NMI) CROSS AND KENNETH J. STOTTS a partnership d.b.a. WHITE, CROSS AND STOTTS REFRIGERATED FREIGHT LINES, 329 E. 157th St., Gardena, CA 90247. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90659. *Contract carrier,* irregular routes: *Bakery goods,* from points in CA to points in TX, MO, LA, FL, GA, TN, IL, MI, VA, PA, NY, MN, OH, for the account of S & G Food Co., for 270 days. Supporting shipper: S & G Food Co., 4613 Alameda St., Los Angeles, CA 90058.

MC 121626 (Sub-6-3TA), filed July 25, 1980. Applicant: BAYVIEW TRUCKING, INC., 7060 Florin Perkins Rd., Sacramento, CA 95828. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Foodstuffs, pet foods, and materials, equipment, and supplies used in the manufacture, sale, and distribution of foodstuffs and pet foods (except commodities in bulk)* between points in the United States (except AK and HI) on and west of an imaginary North-South line which begins at Sault Ste. Marie, MI, on the north and ends at Mobile, AL, on the south; restricted to traffic originating at or destined to Campbell Soup Company and its subsidiaries, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Campbell Soup Company, Inc., Campbell Place, Camden, NJ 08101.

MC 11722 (Sub-6-5TA), filed July 25, 1980. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, 1525 NE Weidler Street, Portland, OR 97232. *Liquid sugar in bulk in tank vehicles,* from Harrah, WA, to the U.S./Canada boundary line at or near Sweet Grass, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Liquid Sugar, Inc., 1299 NE Front Street, Salem, OR 97310.

MC 151318 (Sub-6-2TA), filed July 24, 1980. Applicant: CALIFORNIA CONTRACT CARRIERS, 8543-B Unsworth Ave., Sacramento, CA 95828. Representative: J.R. Fallabel (same as applicant). *Contract Carrier:* Irregular Routes: *Paper Printing, other than newsprint,* from the plant site of Simpson Paper Company, Ripon, CA to points in AZ for 270 days. Supporting shipper; Simpson Paper Company, P.O. Box 757, Ripon, CA.

MC 128635 (Sub-6-1TA), filed July 25, 1980. Applicant: CHRISTIE-LAMBERT VAN & STOARAGE CO., INC., 1010 6th Avenue North, Kent, WA 98031. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. *Household goods and personal effects,* between points in WA, OR, CA, AZ, NM, TX, NV, UT, CO, WY, ID and MT, for 270 days. There are five (5) shippers. Their statements may be examined at the Regional Office listed.

MC 148158 (Sub-6-6TA), filed July 28, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91479. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, DC 20036. *General Commodities* (except Classes A and B explosives, and household goods as defined by the Commission), between the facilities of East-West Shippers Association, Inc., located at or near Chicago, IL, and the facilities of West Coast Shippers Association, Inc., at or near Hoboken, NJ, and Philadelphia, PA, on the one hand, and, on the other, points in PA, IL, NJ, FL, TX, UT, AZ, CO, NV, GA, MO, LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: East-West Shippers Association, Inc., Chicago, IL, and West Coast Shippers Association, Inc., 2000 South 71st Street, Philadadephia, PA 19142.

MC 136208 (Sub-6-8TA), filed July 24, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, CA 96097. Representative: Donald L. Smith, (same as applicant). *Steel, and steel rebar, pipe, beams, plates, rod and sheet* from CA to Medford, OR, restricted to shipments destined to Far West Steel Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Far West Steel Corp., 741 So. Grape St., Medford, OR 97501.

MC 136208 (Sub-6-10TA), filed July 28, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, CA 96097. Representative: Donald L. Smith (same as applicant). *K.D. Metal buildings, parts and accessories* (1) from Spanish Forks, UT to CA, OR, WA and NV, and (2) from Medford, OR to CA, OR, WA, NV, and ports of entry on the U.S.-Canada International Boundry Line in WA, ID and MT, for 270 days. Supporting shipper: Fabrite Building Systems, 688 Rosshanley Dr., Medford, OR.

MC 123157 (Sub-6-1TA), filed July 28, 1980. Applicant: CTI, P.O. Box 397, Rillito, AZ 85246. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Sulfuric acid,* in bulk in tank vehicles, from Hidalgo, NM to points in AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western States Chemical Supply Corporation, 2602 Halladay St., Santa Ana, CA 92705.

MC 151374 (Sub-6-1TA), filed July 25, 1980. Applicant: D. B. WATSON, d.b.a. DOT-LINE TRANSPORTATION, 18903 Anelo St., Gardena, CA 90248. Representative: Richard C. Celio, 2300 Camino del Sol, Fullerton, CA 92633. *Such commodities as are dealt in or used by retail stores and wholesale distributors (except alcoholic beverages and commodities in bulk)* between points in CA on the one hand, and, on the other, points in CO, IL, IN, IA, KS, MI, MO, NJ, OH, OK, OR, PA, TX, UT, WA, and WI, for 270 days. Supporting shipper(s): There are 6 shippers. Their statements may be examined at the Regional office listed.

MC 145915 (Sub-6-1TA), filed July 25, 1979. Applicant: EAGLE TRANSPORT, INC., P.O. Box 189, Montpelier, ID 83254. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Oil drilling mud compounds,* from Evanston, WY,

and its commercial zone, to Montpelier, ID and points in the UT counties of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Weber and Wasatch, for 270 days, an underlying ETA seeks 120 days authority. Supporting shippers: IMCO Services, Rock Springs, WY 82901.

MC 148602 (Sub-6-1TA), filed July 23, 1980. Applicant: ECKDAHL WAREHOUSE CO., 501 South Anderson Street, Los Angeles, CA 90033. Representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. *Contract Carrier,* Irregular routes: *Such merchandise as is dealt in by wholesale and retail chain department and food stores and equipment; materials and supplies used in conducting such business,* from the K mart Corporation distribution center at Ontario, CA to points in CA, AZ and NV under a continuing contract with K mart Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: K mart Corporation, 5600 E. Airport Drive, Ontario, CA 91761.

MC 124679 (Sub-6-20TA), filed July 28, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon, (same as applicant). *Sporting goods, sporting goods apparel,* and materials and supplies used in the manufacture and distribution and sale of such commodities between the facilities of Atomic Ski and Salt Lake City, UT and Manchester, NH and points in the US for 270 days. Supporting shipper: Atomic Ski, 516 Mondale, Salt Lake City, UT 84115

Note.—Applicant holds motor contract carrier authority in number MC-128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 120 days authority.

MC 124679 (Sub-6-21TA), filed July 28, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon, (same as applicant). *Woodwaste products* from (1) Los Angeles, CA to points in WA, OR, AZ, UT, ID, MT, WY, CO, NM, and IL and (2) from Salt Lake City, UT to points in IL for 270 days. Supporting shipper: Forest Products, 621 Fulton, Salt Lake City, UT 84104.

Note.—Applicant holds motor contract carrier authority in number MC 128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 120 days authority.

MC 124679 (Sub-6-22TA), filed July 28, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon, (same as applicant). *Commodities dealt in by wholesale and retail appliance business* from Los Angeles, CA and its commercial zone to the facilities of Ryan Distributing at Salt Lake City, UT for 270 days. Supporting shipper: Ryan Distributing, 990 South 770 West, Salt Lake City, UT 84104.

Note.—Applicant holds motor contract carrier authority in number MC 128813 and sub numbers thereunder, therefore dual operations may be involved. An underlying ETA seeks 120 days authority.

MC 125433 (Sub-6-30TA), filed July 28, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt lake City, UT 84104. Representative: John B. Anderson, (same address as applicant). (1) *Paper and paper products,* (2) *wood and wood products and equipment,* and (3) *equipment materials and supplies* used in the manufacturing and distribution of (1) and (2) above, between the facilities of the Manville Forest Products Corporation at or near West Monroe, LA, Lillie, LA; Winnfield, LA, Shreveport, LA; Huttig, AR; Cincinnati, OH; Kankakee, IL on the one hand, and on the other, points in the United States (except AK), for 270 days. Supporting shipper: Manville Forest Products Corporation (a Johns Manville Company), P.O. Box 488, West Monroe, LA 71291.

MC 107151 (Sub-6-1TA), filed July 25, 1980. Applicant: H. F. JOHNSON, INC., P.O. Box 1435, Billings, MT 59103. Representative: Donald L. Sand, (same as applicant). *Residual oil,* in bulk, in tank vehicles, from Williams County, ND to Richland County, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Western Crude Oil Inc., Denver, CO 80217.

MC 119636 (Sub-6-2TA), filed July 28, 1980. Applicant: INCO EXPRESS, INC., 3600 South 124th Street, Seattle, WA 98168. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. *Frozen foods* from Walla Walla, Pasco and Othello, WA to Seattle, WA for 270 days. Supporting shipper: D S Food Sales Co., Inc., 105 Cascade Key, Bellevue, WA 98006.

MC 146561 (Sub-6-1TA), filed July 28, 1980. Applicant: L.M.T., INC., 15005 Faulkner Rd., Santa Paula, CA 93060. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Foodstuffs* (except in bulk), from Chatsworth, CA, to points in OR and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Serv-A-Portion, Inc., 9140 Lurline, Chatsworth, CA 91311.

MC 151388 (Sub-6-1TA), filed July 28, 1980. Applicant: JOHN D. LITTLE, 2422 South Peck Road, Whittier, CA 90601. Representative: John D. Little (same as applicant). *Contract carrier,* Irregular Routes: *Commodities sold or distributed by retail department stores,* between the facilities of Fed Mart Corporation located in the CA counties of Los Angeles, Orange and San Diego and points in the States of AZ, LA, NM, OK and TX, for 270 days. Supporting shipper: Fed Mart Corporation, 7130 Miramar Road, San Diego, CA 92121.

MC 138089 (Sub-6-1TA), filed July 25, 1980. Applicant: LUCIUS, INC., 6075 E. 60th Ave., Commerce City, CO 80022. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Animal food, in bags;* between Denver, CO on the one hand, and, on the other, Houston, TX, Galveston, TX and New Orleans, LA for 270 days. Supporting shipper: Ralston Purina, One Checker Board Square, St. Louis, MO.

MC 148351 (Sub-6-2TA), filed July 24, 1980. Applicant: MANKE TRUCK LINE, INC., 2550 Boynton Lane, Reno, NV 89502. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Beer, wine, fruit juices and canned soft drinks,* (except commodities in bulk in tank vehicles), between points in OR, WA and CA on the one hand, and points in Washoe County and Carson City, NV on the other hand, for 270 days. Supporting shippers: Morrey Distribution Co., 1250 Terminal Way, Reno, NV 89502, and Crown Beverages, 1440 Hymer, Sparks, NV 89431.

MC 44605 (Sub-6-3TA), filed July 28, 1980. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Small household appliances, radios and tape recorders,* from the facilities of General Electric Company at Seattle, WA to Garden Grove and San Leandro, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: General Electric Company, 1285 Boston Ave., Bridgeport, CT 06602.

MC 32882 (Sub-6-4TA), filed July 28, 1980. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Blvd., Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. *Metal Tubing* from the facilities of Torrance Tubing at or near Torrance, CA to points in AZ, NM, TX, OK, and LA, for 270 days. Supporting shipper: Torrance Tubing, 1729 W. 213th Street, Torrance, CA.

MC 730 (Sub-6-9TA), filed July 24, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs

(same address as applicant). *Common Carrier:* Regular Routes: *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* Serving Farmington, NM as an off-route point in connection with carrier's authorized regular-route operations, for 270 days. There are 7 supporting shippers. Their statements may be examined at the Regional offices listed.

Note.—Applicant proposes to serve the commercial zone of the above-named point, and it also intends to tack and interline. Common control may be involved.

MC 149100 (Sub-6-4TA), filed July 28, 1980. Applicant: JIM PALMER TRUCKING, 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Paper drying and processing equipment and the parts and components used in the manufacture, installation and maintenance thereof* (except commodities in bulk), between the facilities utilized by Tec Systems, a Division of W. R. Grace and Co., in Brown and Outagamie Counties, WI on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 270 days. Supporting shipper: Tec Systems, Division of W. R. Grace Company, 830 Prosper Road., Depere, WI 54115.

MC 144957 (Sub-6-4TA), filed July 28, 1980. Applicant: PETERCLIFFE, LTD., 12823 E. Imperial Hwy., Santa Fe Springs, CA 90670. Representative: Les Peters (same address as applicant), *General Commodities* (except commodities in bulk, A and B explosives and commodities requiring special equipment) between points in AZ, CA, NV, UT, and DE, IN, KY, ME, MI, NH, OH, VT, and RI. Restricted to traffic moving on bills of lading of freight forwarders, for 270 days. Supporting shipper(s): There are six (6) supporting shippers. Their statements may be examined at the regional office listed.

MC 151386 (Sub-6-1TA), filed July 28, 1980. Applicant: COLDRITE CORPORATION d.b.a. S & J TRUCKING AND LEASING CO., P.O. Box 58502, Vernon, CA 90058. Representative: Harold David Samson (same as applicant). (1) *Foodstuffs, chilled or frozen* and (2) *exempt agricultural commodities in mixed shipments with (1) above*, between the facilities of Johnston Pie Co., and the facilities of Andy's Seafood Inc., located in the CA counties of Los Angeles and Orange to points in AZ, for 270 days. Supporting shipper(s): Johnston Pie Co., Box 2931, Torrance, CA 90509; Andy's Seafood, Inc., 2196 Signal Place, San Pedro, CA 90731.

MC 124692 (Sub-6-13TA), filed July 24, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same as applicant). *Modular Panels for earth covered structures* from Centralia, IL to Salem, OR, Seattle and Tacoma, WA: Clay County, IN; Indianapolis, IN; Powder River County, MT; and points in ND and SD, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Solartron Corp., RR 5, Box 170, Centralia, IL. 62801.

MC 95920 (Sub-6-3TA), filed July 24, 1980. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: George R. LaBissonier, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier: general commodities except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* between Portland, OR, and its commercial zone, on the one hand, and points in the United States, on the other hand, excluding AK and HI, for 270 days. Supporting shipper: Western States Shippers Association, Inc., 5964 N.E. 87th, Portland, OR 97220.

MC 138875 (Sub-6-18TA), filed July 28, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Frankline Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). *Plumbing fixtures (except commodities in bulk)*, from Aurora, IL to Nampa, ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): James M. Miller, Traffic, Robertson Supply, Inc., 318 6 St. N., Nampa, ID 83651.

MC 145474 (Sub-6-1TA), filed July 28, 1980. Applicant: STAR SYSTEMS, INC., 12302 East Wardman, Whittier, CA 90602. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212, (213) 277–2323. *Contract Carrier,* Irregular routes: *Material and supplies used in manufacture of trunks and traveling bags,* from Nogales, AZ to El Paso, TX, for the account of Samsonite Corporation, Luggage Division, for 270 days. Support shipper: Samsonite Corporation, Luggage Division, 6855 Old Nogales Highway, Tucson, AZ 85706.

MC 147012 (Sub-6-2TA), filed July 24, 1980. Applicant: T. B. T., INC., P.O. Box 8472, Stockton, CA 95208. Representative: Mark J. Hannon, 1884 W. Willow Street, Stockton, CA 95203. *Contract Carrier:* Irregular routes: *Paper, in rolls,* from points in OR, WA and AR, to Bell, CA and Santa Fe Springs, CA, for the account of Inland Container Corporation; for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Inland Container Corporation, P.O. Box 925, Indianapolis, IN 46206.

MC 140053 (Sub-6-1TA), filed July 24, 1980. Applicant: TRK TRANS INC., 3200 Bandini Blvd., Vernon, CA 90023. Representative: Richard C. Eidson (same as applicant). *Contract Carrier,* Irregular routes: *General commodities* (except class A and B explosives, household goods, those requiring the use of special equipment, commodities in bulk and those of unusual value), between the facilities of MSA-Lamda Inc., located at or near Los Angeles, CA and points within the U.S. (except AK and HI) for 270 days. Supporting shipper: MSA-Lamda, Inc., 4430 E. Sheila St., Los Angeles, CA 90023.

MC 136478 (Sub-6-2TA), filed July 24, 1980. Applicant: TRANSPORT WEST, Inc., P.O. Box 2015, Eugene, OR 97402. Representative: Gene E. Cook (same as applicant). *Contract Carrier:* irregular routes: *Scaffolds, Shoring, Foundation Forms, Scissor Lifts, Scissor Lift Booms, and Related Materials and Supplies used in Construction Erection,* from Los Angeles, Long Beach, Compton, San Leandro, Sacramento, and San Francisco, CA to points in OR, and return, for 270 days. Supporting shipper: Ivy Rents, 195 Madison Eugene, OR 97402.

MC 26396 (Sub-6-38TA), filed July 28, 1980. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same as applicant). *General Commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Olin Corporation, for 270 days. Supporting shipper: Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904.

MC 141804 (Sub-6-67TA), filed July 24, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Titanium Dioxide* in packages, from the DuPont facility at DeLise, MS to points in AZ, CA, CO, ID, OR and WA, for 270 days. Supporting shipper: E. I. DuPont De Nemours & Co., 1007 Market Street, Wilmington, DE 19898.

MC 141804 (Sub-6-68TA), filed July 28, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Insulation Materials, mineral wool* and materials and equipment used in the production thereof, between all points in the U.S. (except AK & HI). Restricted to traffic orginating at or destined to the facilities of Rockwool Industries, Inc., for 270 days. Supporting shipper: Roy H. Whitman, National Traffic Manager, Rockwood Industries, Inc. 7400 South Alton Court, Englewood, CO 80112.

MC 150485 (Sub-6-5TA), filed July 28, 1980. Applicant: WESTSPAN HAULING, INC., 9122 South Tacoma Way, Tacoma, WA 98499. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Contract Carrier,* irregular routes: *Mobile homes and portable buildings* and *equipment, materials and supplies* used in the distribution and installation of mobile homes and portable buildings, from points in the commercial zone of Boise, ID to points in the commercial zone of Tacoma, WA, for the account of Happy Homes, Inc., of Tacoma, WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Happy Homes, Inc., 10418 Pacific Highway S.W., Tacoma, WA 98499.

MC 123329 (Sub-6-3TA), filed July 28, 1980. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: D. S. Vincent (same as applicant). *Asphalt Emulsion,* in bulk, in tank vehicles, from ports of entry on the International Boundary Line betwen the United States and Canada located in WA to points in Whatcom County, WA for 270 days. Restricted to traffic in foreign commerce. An underlying ETA seeks 120 days authority. Supporting shipper(s): Chevron Asphalt Ltd. 19770—101st Ave. Langley, B.C.

MC 151191 (Sub-6-1TA), filed July 28, 1980. Applicant: ESPENSCHIED TRANSPORATION CORPORATION, 322 South 600 East, Centerville, UT 84014. Representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. *Contract Carrier,* Irregular routes: (1) *Such commodities as are dealt in or used by retail department stores and* (2) *materials, supplies and equipment used in the manufacture, distribution, warehousing and sale of the commodities named in (1) above,* between points in ID, MT, NV, UT, WA and WY under continuing contract(s) with J.C. Penney Co., Inc. for 270 days. Applicant intends to interline with other carriers at Butte, MT, and Spokane, WA. An underlying ETA seeks 120 days authority. Supporting shipper: J.C. Penney Co., Inc., 1301 Avenue of the Americas, Floor Number 37, New York, NY 10009.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24034 Filed 8-8-80; 8:45 am]
BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Arkansas Power & Light Co., Arkansas Nuclear One, Unit 2; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-6 issued to Arkansas Power and Light Company for Operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amended license is effective as of its date of issuance.

The amendment changes the required date for the implementation of further containment radiation monitoring instrumentation to be consistent with the staff's requirements as set forth in NUREG–0578, "TMI–2 Lessons Learned Task Force Status Report and Short Term Recommendations", and the letter of Mr. H. Denton, Director, NRR, dated October 30, 1979 to all power reactor licensees.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 21, 1980, (2) Amendment No. 13 to Facility Operating License No. NPF–6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Arkansas 72801. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 31st day of July, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,
Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-24032 Filed 8-8-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-389A]

Florida Power & Light Co., the City of Orlando, Florida, Orlando Utilities Commission; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated July 28, 1980, with respect to St. Lucie Nuclear Generating Station, Unit No. 2.

"You have requested our advice pursuant to Section 105(c) of the Atomic Energy Act as amended, regarding a proposed amendment to the construction permit of the above referenced nuclear unit to allow the City of Orlando, Florida and Orlando Utilities Commission (collectively referred to as "Orlando") to become a co-owner of that unit. You have informed us that the Orlando Utilities Commission is part of the government of the City of Orlando but title to real estate is normally taken in the name of both the City of Orlando and the Orlando Utilities Commission. Orlando will acquire a 6.08951 percent ownership share of the St. Lucie Unit No. 2 which will be operated by Florida Power & Light Co.

"Our review of the information submitted for antitrust review purposes, as well as other information available to the Department, provides no basis at this time to conclude that the participation in St. Lucie Unit No. 2 by Orlando would create or maintain a situation inconsistent with the antitrust laws. Accordingly, it is the Department's view that no antitrust hearing is

necessary with respect to the proposed amendment to the construction permit."

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by September 10, 1980, either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW, Washington, DC, or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, MD, this first day of August, 1980.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 80-24029 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-74, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment revises: (1) the surveillance and monitoring requirements for the degraded voltage function; and (2) the surveillance requirements for onsite power source testing.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 22, 1980 and March 28, 1980, (2) Amendment No. 22 DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of July, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-24033 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment approves the use of the Westinghouse Improved Thermal Design Procedure and the WRB-1 Critical Heat Flux Correlation for the Trojan Facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 5, 1979, as supplemented February 22 and November 5, 1979, (2) Amendment No. 46 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-24034 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Initial Decision of its Atomic Safety and Licensing Board (ASLB) dated July 11, 1980, issued Amendment No. 47 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensee), which revised the license and appended Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

The amendment authorizes modifications to the Control Building in order to substantially restore the originally intended seismic design margins and requires that the modification program be completed by not later than 12 months from the date of this amendment. In addition, the amendment adds 22 license conditions related to the conduct of the modification program, and two new Technical Specifications applicable to the modified Control-Auxiliary-Fuel Building Complex. The Technical Specifications add operability and surveillance requirements for the new through-wall bolts used to tie reinforced concrete and the steel plate to the Control Building west and east walls, and add restrictions on any future modifications which may be made to the Control-Auxiliary-Fuel Building Complex.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

On May 26, 1978, the NRC's Director of Nuclear Reactor Regulation issued an Order for Modification of License that set forth findings that design errors in the Control Building shear walls had reduced the seismic capability of the Control Building; that the originally intended seismic capability should be substantially restored by modifications to that structure; and that operation of the facility with the Control Building in its as-built condition would violate the existing facility license. Based on the related safety evaluation by the NRC staff, however, the Order stated that the Control Building nevertheless had adequate structural capacity to resist the licensed Safe Shutdown Earthquake and that the facility operating license should be modified to permit operation, with conditions, in the interim period prior to approval and completion of modifications required by the Order.

The Order also provided opportunity for hearing and was published in the Federal Register on June 1, 1978 (43 FR 23768). Requests for hearing were to be filed by June 26, 1978, and, in the event that a hearing was ordered, the terms of the Order would not become effective until a further order issued pursuant to such hearing.

Numerous requests for a hearing were received. The requests filed by: Columbia Environmental Council; Eugene Rosolie, acting on his own behalf and as representative of the Coalition for Safe Power; Stephen M. Willingham; David B. McCoy; C. Gail Parson; Nina Bell; and the Bonneville Power Administration were granted. In addition, the State of Oregon was granted leave to participate as an interested State.

The hearing was subsequently divided into two phases. The first phase considered the safety of interim operation pending completion of modifications to restore the originally intended seismic design margins. This portion of the hearing was held October 23 through November 3, and December 11–14, 1978 in Salem and Portland, Oregon. A Partial Initial Decision allowing interim operation, subject to certain conditions, was issued by the ASLB on December 21, 1978, and a conforming license amendment was issued on December 22, 1978.

Phase II of the hearing involved consideration of the structural adequacy of the proposed Control Building modifications and the safety aspects of their implementation. This portion of the hearing was held in Portland, Oregon on March 31–April 3 and April 16–17, 1980. The above-referenced Initial Decision was subsequently issued on July 11, 1980.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Initial Decision of the Atomic Safety and Licensing Board dated July 11, 1980; (2) Amendment No. 47 to License No. NPF-1; (3) Order for Modification of License dated May 26, 1978 and related Safety Evaluation; and (4) the Partial Initial Decision of the Atomic Safety and Licensing Board dated December 21, 1978.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. Single copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-24035 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-546 and 50-547]

Public Service Co. of Indiana, Inc., et al. (Marble Hill Nuclear Generating Station, Units 1 & 2); Request for Action Under 10 CFR 2.206

The Commission has referred a document docketed on May 14, 1980, to the NRC Staff for consideration under 10 CFR 2.206 of the Commission's regulations. The document, which was filed by Thomas Dattilo on behalf of Save the Valley, is entitled "Save the Valley Additional Comments to Commissioners Concerning Resumption of Work at Marble Hill". Another document, docketed on May 7, 1980, is incorporated by reference. Save the Valley requests that certain information and affidavits be reviewed to assure the NRC has confidence that Public Service Company of Indiana's quality assurance and control program is properly rehabilitated. Save the Valley also asks that the Commission consider whether further study of seismic information should be made for the Marble Hill site.

Appropriate action will be taken on Save the Valley's submittals within a reasonable time as provided under 10 CFR 2.206. Copies of the submittals are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana 47250.

Dated at Bethesda, Maryland this 26th day of June, 1980.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Deputy Director, Office of Inspection and Enforcement.

[FR Doc. 80-24036 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-1162]

Western Nuclear, Inc.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to Commission order, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on a request for hearing and to preside over the proceeding in the event that a hearing is ordered.

Western Nuclear, Inc.

[Split Rock Uranium Mill]

Source Material License SUA–56

This action is in reference to an order of the Commission dated July 28, 1980, concerning an application filed by Western Nuclear, Inc. under 10 CFR Part 40 to renew license No. SUA–56 to operate its Split Rock Uranium Mill in Jefferson City, Wyoming.

The Chairman of this Board and his address is as follows: Sheldon J. Wolfe, Esq., U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Jerry R. Kline, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Dr. Quentin J. Stober, Fisheries Research Institute, University of Washington, Seattle, Washington 98195.

Dated at Bethesda, Maryland, this 1st day of August, 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-24030 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–445 and 50–446]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Reconstitution of Board

Elizabeth S. Bowers, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Mrs. Bowers is unable to continue her service on this Board.

Accordingly, Valentine B. Deale, Esq., whose address is 1001 Connecticut Avenue, N.W., Washington, D.C. 20036, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 1st day of August, 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-24031 Filed 8-8-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Improving Government Regulations; OMB Directive Covered by Executive Order 12044; Semi-Annual Agenda of Upcoming Action

August 4, 1980.

AGENCY: Office of Management and Budget.

ACTION: Publication of semi-annual agenda of regulations.

SUMMARY: The Office of Management and Budget is publishing the semi-annual agenda of upcoming action on OMB directives covered by Executive Order 12044, Improving Government Regulations. This action is in accordance with OMB's internal guidelines for implementing Executive Order 12044, as published in the Federal Register on June 15, 1979.

FOR FURTHER INFORMATION CONTACT: See agency contract person listed for entry in the agenda, c/o Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503. On background section, contact Linda Smith at the above address.

SUMMARY INFORMATION:

Background

OMB Circulars are directives that communicate significant government-wide policy of a continuing nature. A Circular falling within the requirements of Executive Order 12044 is one that is likely to affect:

(1) The existing procedures by which State or local governments contribute to or participate in the development of Federal policy;

(2) The nature and scope of information collected by Federal agencies from non-Federal respondents;

(3) The nature and scope of information provided by agencies of the Federal Government under the Privacy Act;

(4) The standards by which agencies establish requirements associated with grants, contracts, or other forms of financial assistance.

These Circulars that outline procedures to be followed by departments and agencies for the President's budget and legislative programs are not covered by the provisions of Executive Order 12044.

Summary of action under Executive Order 12044. A preliminary review of OMB Circulars indicates that twenty-seven are subject to Executive Order 12044 guidelines. These include:

A–21 Cost principles for educational institutions
A–25 User charges
A–40 Managing of Federal reporting requirements
A–63 Advisory committee management
A–73 Audit of Federal operations and programs
A–76 Policies for acquiring commercial or industrial products and services for Government use
A–84 Reporting of Federal outlays by geographic region
A–89 Catalog of Federal Domestic Assistance
A–90 Cooperating with State and local governments to coordinate and improve information systems
A–94 Discount rates to be used in time-distributed costs and benefits
A–95 Evaluation, review, and coordination of Federal and federally assisted programs and projects
A–97 Rules and regulations permitting Federal agencies to provide specialized or technical services to State and local units of government under Title III of the Intergovernmental Cooperative Act of 1968
A–102 Uniform administrative requirements for grants-in-aid to State and local governments
A–104 Comparative cost analysis for decisions to lease or purchase general purpose real property
A–106 Reporting requirements in connection with the prevention, control, and abatement of environmental pollution at existing Federal facilities
A–108 Responsibilities for the maintenance of records about individuals by Federal agencies
A–109 Mayor system acquisitions
A–110 Uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations
A–111 Jointly funded assistance to State and local governments and nonprofit organizations
A–116 Agency preparations of urban community impact analyses
A–119 Federal participation in the development and use of voluntary standards
*FMC 73–3 Cost sharing on Federal research
FMC 73–6 Coordinating indirect cost rates and audit at educational institutions
FMC 73–7 Administration of college and university research grants
FMC 74–3 Government-wide procedures for processing preaward protests against contract award
FMC 74–4 Cost principles applicable to grants and contracts with State and local governments
FMC 75–1 Ensuring consideration of users' experience with Federal agency supply support systems

*Circulars designated by "FMC" are those for which responsibility was transferred from GSA to OMB by Executive Order 11883, dated December 31, 1975.

Current internal guidelines require a sunset review of each Circular at least once every three years. Of the twenty-seven covered Circulars listed above, reviews have been initiated and/or completed on thirteen (A–25, 40, 63, 73, 89, 94, 95, 106, 108, and 110, and FMC 73–6, 73–8, and 74–4). During the next six months, reviews will be initiated on ten more Circulars (A–84, 90, 97, 104, 109, and 111, and FMC 73–3, 73–7, 74–3, and 75–1). The remaining four Circulars (A–21, 76, 116 and 119) have been newly issued or reissued during the past three years and do not warrant a review at this time.

Specific actions on covered directives. Actions on covered directives during the past six months are described in the attachment.

James T. McIntyre, Jr.,

Director.

Directive under development	Opportunity for public participation	Completion date	Reasons for review and major issues
Revision of Circular A–106, Procedural Requirements in Connection with Federal Facility Compliance with Pollution Control Standards. This Circular sets forth the procedures to be followed by Federal agencies in carrying out the provisions of Executive Order 12088.	1. Comments may be received at any time.	August 15, 1981 rather than Sept. 1979, as previously reported.	Circular A–106 is being reviewed to clarify the procedures that must be followed by Federal agencies in controlling pollution at Federal facilities pursuant to Executive Order 12088. 1. Are the requirements for agency information on pollution control clear? 2. Does the schedule for agency reporting allow sufficient time for project review? 3. Does the schedule for reporting ensure that all projects that are needed will be included? 4. Are the information requirements for EPA's evaluation of agency proposals clear and adequate? Contact Person: Kathleen O'Helloran, Natural Resources, 395–6827.
Circular requiring states to prepare a substate distribution of population projections.	The public comments phase has been completed. 1. The draft circular was published in the Federal Register for comment in December 1979. 2. A series of public hearings was held in different cities.	November 1980 rather than July 1980, as previously reported.	OMB and the Department of Commerce are undertaking an effort to develop a standardized series of Federal, State and substate population projections for use by Federal agencies in funding capital facilities. This effort is expected to greatly reduce the often conflicting and duplicative projections now prepared by State and local governments, and to avoid the expenditure of Federal funds for facility capacities that will never be utilized. *Major issues:* The following issues have been referenced in the proposed circular: 1. Should the Federal Government finance the costs of preparing the substate projection? 2. Should the Federal Government establish an appeals process in the event of disputes between States and substate governments? 3. What sanction should the Federal Government apply if substate projections are not prepared? Contact person: Thomas Hadd, Assistance Policy Branch/IGA, 395–5156.
Policy guidance on standardizing citizen participation requirements applied to State and local governments by Federal agencies.	OMB has deferred publication of a paper summarizing the major options, pending the resolution of certain issues and the outcome of related legislative actions. Before the end of July, an announcement will be published indicating what will be done on the project.	Not determined	Studies have indicated that existing citizen participation requirements are often ineffective. In some instances, requirements should exist but do not. This effort is expected to review the present set of requirements and develop recommendations on how a more uniform, effective system of requirements could be established. *Major issues:* Two alternative proposals are likely to be reviewed. The first would substitute standards of performance for the present set of requirements. A citizen participation program would be developed on a case-by-case (project-by-project)/locality-by-locality basis as a result of negotiations between the Federal funding agency and the State and local government. Most of the existing nonstatutory requirements would be eliminated. The second alternative would establish a core set of requirements applicable nationally to all Federal agencies. It would likely increase and elaborate on the existing set of requirements specified by many Federal programs. Contact person: Thomas Hadd, Assistance Policy Branch-IGA, 395–5156.
Revision of Circular A–21, "Cost principles for educational institutions".	Study by interagency task force and affected groups. Further public involvement will depend on results of the study.	Sept. 1980 rather than July 1980, as previously reported.	1. Review is being done at the urging of university representatives as a result of comments received during the last revision of A–21. 2. *Major issue:* ● Recognition of independent research and development as an allowable cost. Contact person: John J. Lorden, Financial Management Branch/BRD, 395–6823.

Directive under development	Opportunity for public participation	Completion date	Reasons for review and major issues
Revision of property requirements in Circular A–110, "Uniform requirements for grants and agreements with universities, hospitals, and other nonprofit organizations".	Publication for comment in the **Federal Register** expected in August 1980 rather than Jan. 1980 as previously reported.	Sept. 1980 rather than March 1980, as previously reported.	Property management attachment is being revised to make it consistent with Circular A–21 and to further the goal of simplification of grant requirements and reduced paperwork. Contact person: John J. Lordan, Financial Management Branch/BRD, 395–6823.
Revision of closeout requirements in Circulars A–102 and A–110.	Publication for comment in the **Federal Register** expected in Sept. 1980, rather than Jan. 1980, as previously reported.	Dec. 1980 rather than May 1980, as previously reported.	1. Closeout attachment being revised as the result of reports that substantial amounts of funds advanced to grantees but not spent for program purposes are being held by grantees. *Major issues:* ● Prompt refund of unspent cash advances. ● Greater specificity of closeout requirements. Contact person: John J. Lordan, Financial Management Branch/BRD, 395–6823.
A new OMB circular covering "Cost principles for nonprofit organizations".	1. Proposed circular was published for comment in the **Federal Register**, April 1977. 2. Recirculated to Federal agencies and interested parties in April 1979.	Issued June 27, 1980, as Circular A–122.	1. Circular was developed to assist nonprofit agencies by providing single set of cost principles as part of Federal effort to standardize and simplify grant procedures. 2. *Major issues:* ● Methods of allocating indirect costs. ● Uniform set of allowable costs. Contact person: John J. Lordan, Financial Management Branch/BRD, 395–6823.
Revision of OMB Circular A–102 and A–110 to include a set of standard legal assurances for grants to State and local governments, universities, hospitals, and other nonprofit organizations.	Publication for comment in the **Federal Register** expected in August 1980, rather than Jan. 1980, as previously reported.	Sept. 1980 rather than March 1980 as previously reported.	1. Update of assurances in OMB Circular A–102 is needed because of the changes that have taken place in Executive Orders and Acts of Congress. Inclusion of standard assurances in OMB Circular A–110 will further the goal of standardization and simplification for grantees. 2. *Major issue:* ● Standardization of assurance language, assurance formats and forms. Contact person: John J. Lordan, Financial Management Branch/BRD, 395–6823.
Revision of Federal Management Circular 74–4, "Cost principles applicable to grants and contracts with State and local governments".	1. Proposing revision concerning expenses of officials has been circulated for comment to all the major public interest groups. 2. Extensive discussions on the interest issue have taken place with State and local officials and representatives of public interest groups. 3. Proposed revision was published for comment in the **Federal Register**, June 1979. Publication of the interest issue is dependent upon comments received from Federal agencies.	Final rule published in the **Federal Register**, April 22, 1980.	The circular was revised at the request of State, local and Federal officials. *Major issues:* 1. Whether to recognize travel cost of local legislators and chief executives as an expense when their work directly benefits grant programs. 2. Whether to recognize interest incurred in borrowing to construct building site as a reimbursable cost.

Directive under development	Opportunity for public participation	Completion date
Contact person: John J. Lordan, Financial Management		Branch/BRD, 395–6823.

Directive under development	Opportunity for public participation	Completion date
Revision of OMB Circular A–95, "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects".	1. Extensive discussions on A–95 improvements are taking place with State and local governments, representatives of public interest groups, and Federal agencies. 2. Draft of proposed revision to A–95 will be circulated to above groups prior to formal publication. 3. Proposed revision is expected to be published for comment in the **Federal Register** in late 1980.	Spring 1981.

Reasons for review and major issues

1. In follow-up to a national conference on A–95 in November 1979 which high-lighted the need for a major effort to improve implementation of the Circular, OMB has begun an A–95 improvement program in which revision of the Circular is an important item.
2. *Major issues:*
—Emphasis on encouraging greater involvement of clearinghouses in reviewing projects in relation to functional and comprehensive planning.
—Improved clearinghouse and Federal agency procedures for implementing the Circular.
—Improved Federal compliance.
—Funding alternatives.
Contact Person: Dick Hite, Intergovernmental Affairs Division, 395–3774.

Directive under development	Opportunity for public participation	Completion date	Reasons for review and major issues
Regulation designed to improve the management of reporting and recordkeeping the Federal Government imposes on the public, to replace OMB Circular A–40, "Management of Federal Reporting Requirements," and to implement Executive Order 12172, "Paperwork".	1. Proposed rules published in the **Federal Register** on January 11, 1980. 2. Public comment period closed March 11, 1980.	Approximately 120 comments have been received. A final rule should be issued in August, 1980.	Issuance of a new Executive Order on "Paperwork" and a need to clarify and update related OMB issuances have resulted in the development of consolidated OMB requirements. These are designed to increase effectiveness of the Government's paperwork control program and implementation of the Federal Reports Act of 1942.

Directive under development	Opportunity for public participation	Completion date	Reasons for review and major issues
Guidance establishing policies, process, and agency performance standards for managing generally applicable requirements for domestic assistance programs, including competition, the handling of for-profit organizations, and dispute resolution. In addition, improvements in the Federal Grant and Cooperative Agreement Act will be examined.	1. OMB Study of Federal Assistance solicited and received extensive public comment on basic alternatives. 2. Proposed policies to be published in the **Federal Register** in Sept. and Oct. 1980 for public comment.	1980 Fall-Winter	The Federal Grant and Cooperative Agreement Act, (Pub. L. 95–224) required OMB to study the feasibility of a comprehensive system of guidance for Federal assistance activities, and report to Congress its recommendations for implementing the system. The study found major problems in the application of general Federal policies (e.g. protecting the environment, preventing discrimination, and conserving energy) and administrative requirements to assistance programs. The study report to Congress indicated the system of guidance should initially concentrate on these problems. *Major issues:* Each assistance program affected by these generally applicable requirements must serve multiple Federal objectives. There need to be policies and a process for the development, implementation, and evaluation of these requirements. Major issues include: 1. To what degree should these requirements be standardized for all programs and applicants? If they need to be kept flexible, how can recipients be assured of consistent instructions from different Federal agencies. 2. By what methods can the necessary interagency coordination and cooperation be achieved without inordinate time delays or increased costs? 3. How can the performance of agencies in complying with the new policies and process be measured and assured? 4. What policies and procedures will assure compliance with generally applicable requirements without detracting from assistance agencies' primary program objectives. 5. How should competition involving both for-profit and non-profit organizations be handled? 6. To what extent should Government-wide policies on treatment of commercial and industrial organizations be adopted. 7. What minimum standards for dispute resolution should apply to all assistance agencies? Contact person: Dick Hite, Intergovernmental Affairs Div. 395–3774.

[FR Doc. 80-23846 Filed 8-8-80; 8:45 am]
BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

August 5, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given for a meeting of the Executive Committee of the President's Commission for a National Agenda for the Eighties, scheduled August 18, 1980 from 2:00 p.m. to 5:00 p.m. in the Boettcher West Seminar Room, The Aspen Institute, Aspen, Colorado.

The purpose of the meeting is to discuss The United States and International Competitiveness: The Japanese Model.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20036, (202) 275–0616.

Brenda Mayberry,
Acting, Budget and Management Officer.

[FR Doc. 80-24093 Filed 8-8-80; 8:45 am]
BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

August 5, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given for a meeting of the staff of Panel V (Policies for Metropolitan and Non-Metropolitan Areas) of the President's Commission for a National Agenda for the Eighties, scheduled August 19, 1980 from 9:00 a.m. to 5:00 p.m. in the Boettcher West

Seminar Room, The Aspen Institute, Aspen, Colorado.

Panel members will meet with members of the State and Local Government Advisory Group.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:
President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20036, (202) 275–0616.

Brenda Mayberry,
Acting, Budget and Management Officer.

[FR Doc. 80-24094 Filed 8-8-80; 8:45 am]
BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

August 5, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given for a meeting of the Executive Committee of the President's Commission for a National Agenda for the Eighties, scheduled August 19, 1980 from 8:30 p.m. to 10:00 p.m. in the Paepke Auditorium, The Aspen Institute, Aspen, Colorado.

The purpose of the meeting will be to present a town meeting in order to discuss the Commission's activities.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:
President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington D.C. 20036, (202) 275–0616.

Brenda Mayberry,
Acting, Budget and Management Officer.

[FR Doc. 80-24095 Filed 8-8-80; 8:45 am]
BILLING CODE 3110-01-M

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

the office of the agency issuing this form;

the title of the form;

the agency form number, if applicable;

how often the form must be filled out;

who will be required or asked to report;

an estimate of the number of forms that will be filled out;

an estimate of the total number of hours needed to fill out the form; and

the name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Richard J. Schrimper—447–6201)

Revisions

Economics, Statistics, and Cooperatives Service
Brewers and Dealers Hop Stocks Survey
Semi-annually
Hop Brewers and Dealers, 102 responses; 8 hours
Charles A. Ellett, 395–7340

Reinstatements

Rural Electrification Administration
Prospective Large Power Service (REA Borrowers)
REA Form 170
On occasion
REA electric borrowers, 75 responses: 300 hours**Federal Register**
Charles A. Ellett, 395–7340

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michals, 377–3627)

New Forms

Economic Development Administration
Business Loan Project Inspection and Certification of Acceptability
ED–269
On Occasion
Business Firms Expanding or Building New Facilities, 900 Responses; 2,700 Hours
William T. Adams, 395–4814
Economic Development Administration
Status of Payments on Project Accounts
ED–268
On Occasion
Business Entities Constructing New or Expanded Facil., 1,800 Responses; 1,800 Hours
William T. Adams, 395–4814

Revisions

Economic Development Administration
Employment Data of Recipient or Other Party Connected With EDA Assistance
ED–525
On Occasion
Usually Organizations With at Least 50 Employees, 288 Responses; 2,304 Hours
William T. Adams, 395–4814
Maritime Administration
Ship Characteristic Card, Dry and Tanker
MA–91, MA–92
On Occasion
U.S. Merchant Ship Owners, 15 Responses; 75 Hours
William T. Adams, 395–4814

Reinstatements

Economic Development Administration
Borrower's Certification of Current Status and Request for EDA Action
ED 270
On Occasion
Business Entities and Local Development Corp., 600 Responses; 1,800 Hours
William T. Adams, 395–4814
Economic Development Administration
Borrower's Request for Equity Credit
ED 266
On Occasion
Business Entities Expanding or Building New Facilities, 15 Responses; 45 Hours
William T. Adams, 395–4814

DEPARTMENT OF DEFENSE

(Agency Clearance Officer—John V. Wenderoth, 697–1195

Revisions

Departmental and Other Request for Report From (Employer)—(School)—(Personal Reference)
DD370
Annually
Employers and Schools, 900,000 Responses; 180,000 Hours
Edward C. Springer, 395–4814

EDUCATION DEPARTMENT

(Agency Clearance Officer—William A. Wooten, 376,0436)

New Forms

National Center for Education Statistics
High School & Beyond—Parent Questionnaire
NCES 2408–25
Single Time
Sample of Parents, 6,500 Responses; 4,875 Hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Diane W. Lique, 633–8526)

New Forms

Weatherization Assistance Progress Report
CS–434
Monthly
State Grantees in Weatherization Program, 888 Reponses; 3,552 Hours
Jefferson B. Hill, 395–7340

Revisions

Energy Savings Report
CS–462
Annually
State Energy Offices, 56 Responses; 16,128 Hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Agency Clearance Officer—Joseph H. Strnad, 245–7488)

New Forms

Public Health Service
Health Action Survey
Single Time
Employees of One Workplace—Machinists, 230 Responses; 96 Hours
Maria Gonzales, 395–6132

Revisions

Social Security Administration
Statement of Employer
SSA–7011
On Occasion
Any Employer Who Has Wages To Report for an Employee, 850,000 Responses; 283,333 Hours
Barbara F. Young, 395–6880

ENVIRONMENTAL PROTECTION AGENCY

(Agency Clearance Officer—Mr. Mel Kollander, 287–0747)

New Forms

Notice of Intent To Certify
On Occasion
Automotive Part Manufacturers of Various Sizes, 305 Responses; 610 Hours
Edward H. Clarke, 395–7340

Reinstatements

Inquiry for Information Exchange—Public Health Aspects of Viruses in Water
EPA–CIN–10
Semi-Annually
Research Scientists World-Wide, 180 Responses; 180 Hours
Edward H. Clarke, 395–7340

TENNESSEE VALLEY AUTHORITY

(Agency Clearance Officer—Eugene E. Mynatt, 857–2596)

Extensions

Tennessee Valley Annual Commercial Fish and Mussel Dealers Survey
TVA 5596
Annually
Commercial Fish and Mussel Dealers, 72 Responses; 144 Hours
Charles A. Ellett, 395–7340

C. Louis Kincannon,
Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80-24123 Filed 8-8-80; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11285 (811–1569)]

American General Total Return Fund, Inc.; Filing of Application Pursuant to Section 3(f) of the Investment Company Act of 1940 for an Order Declaring That Company Has Ceased to be an Investment Company

August 4, 1980.

Notice is hereby given that American General Total Return Fund, Inc., 2777 Allen Parkway, Houston, Texas 77019 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 10, 1980, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company, as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant, a Maryland corporation, registered under the Act on December 4, 1967; and on the same date it filed a registration statement (File No. 2–27779) under the Securities Act of 1933 covering 15,000,000 shares of its capital stock in connection with a proposed public offering of its shares. This registration statement was declared effective by the Commission on March 15, 1968, on which date the public offering commenced. At the close of business on November 30, 1979, Applicant had outstanding 4,024,356 shares with a net asset value of $8.00 per share for a total net asset value of $32,196,037.

At the annual meeting of shareholders held on November 28, 1979, holders of a

majority of Applicant's outstanding shares of capital stock approved an Agreement and Plan of Reorganization which provided for the transfer of all of Applicant's portfolio securities and substantially all of its other assets to the Fund of America, Inc. ("FOA"), in exchange for shares of capital stock of FOA, and for the dissolution of Applicant. Applicant's board of directors approved the transfer of assets to FOA on September 7, 1979. The application states that the transfer of assets was effected on November 30, 1979, and that Applicant distributed to its shareholders all of the FOA shares it acquired by establishing for each shareholder an FOA account and transferring to such account the shareholder's pro-rata portion of the FOA shares. The transfer of assets was based on the relative net asset value of the shares of the two companies, which was determined by Applicant and FOA on the same basis. Each shareholder of Applicant received approximately 0.96365 FOA shares for each share of Applicant then owned by the shareholder.

Applicant states that it currently has no debts or other liaballities outstanding because all of its debts and liabilities were either assumed by FOA or paid by Applicant; it has no assets; it has no securityholders; it is not a party to any litigation or administrative proceedings; and within the last 18 months Applicant has not for any reason transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. Applicant also states that both FOA and it bore their own expenses in connection with the transfer of its assets to FOA. Finally, Applicant states that it was dissolved as a corporation under the laws of the State of Maryland by the filing of Articles of Dissolution on December 3, 1979, and that it is not now engaged, and does not propose to engage, in any business activities since it has completed the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the rergistration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 29, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24144 Filed 8-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17045; SR-BSECC-80-1]

Boston Stock Exchange Clearing Corp. ("BSECC"); Order Approving Proposed Rule Change

August 4, 1980.

On January 8, 1980, BSECC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change establishing procedures whereby book-entry transfers within New England Securities Depository Trust Company may be used for settlement of trades clearing and settling through BSECC.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16494, January 15, 1980) and by publication in the **Federal Register** (45 FR 5425, January 15, 1980). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24146 Filed 8-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21670, 70-6483]

The Connecticut Light & Power Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

August 4, 1980.

Notice is hereby given that The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

CL&P proposes to issue and sell, at competitive bidding, up to $75,000,000 principal amount of its First and Refunding Mortgage ——% Bonds, Series FF, due October 1, 2010. The interest rate, which shall be a multiple of ⅛ of 1%, and the price, exclusive of accrued interest, to be paid to CL&P, which will not be less than 98% nor more than 102% of the principal amount thereof, will be determined by competitive bidding. The bonds will be issued under the Indenture of Mortgage and Deed of Trust dated as of May 1, 1921, between CL&P and Bankers Trust Company, Trustee, as heretofore supplemented by a supplemental indenture to be dated as of October 1, 1980. The supplemental indenture provides, among other things, that the bonds shall not be redeemed at the applicable general redemption price prior to October 1, 1985, if such redemption is for the purpose of or in anticipation of refunding such bonds through the use, directly or indirectly, of funds borrowed by CL&P at an effective cost of less than the effective interest cost of the bonds.

The coverage ratio of net earnings to total annual interest charges is 2.35 on an actual basis and 2.01 on a *pro forma* basis.

The net proceeds from the sale of the bonds will be used by CL&P to repay a portion of the company's short-term borrowings estimaed to total $155,000,000 at the time of such sale, including $15,000,000 to be borrowed on a temporary basis, to refund a bond issue maturing on October 1, 1980. Except for said $15,000,000 of temporary borrowings, such short-term borrowings were or will be applied to finance CL&P's 1979–1980 construction program. The company's 1980–1981 construction program expenditures, including allowance for funds used during construction and nuclear fuel, are expected to total about $317,043,000 ($154,150,000 in 1980 and $162,893,000 in 1981) of which $61,377,000 had been expended as of June 30, 1980. In addition to the sale of the Bonds, the Company estimates that in 1980 it will require an additional $199,600,000 of funds from external sources to complete its 1980 construction program, to repay at maturity $15,000,000 of 3% Bonds on October 1, 1980, and to refinance approximately $88,200,000 of short-term debt that had been incurred before 1980. Of the required amount, approximately $75,000,000 is expected to be realized from the sale of the bonds, $18,000,000 is expected to be realized from the sale of a 1.5% interest (out of CL&P's remaining 4.5% interest) in the Seabrook, New Hampshire, nuclear unit, $40,000,000 is expected to be realized from capital contributions, and the balance is expected to be financed through short-term borrowings.

A statement of the fees and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. The approval of the Connecticut Department of Public Utilities is required for the issuance of the bonds. It is represented that no other state commission, and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 28, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Corporate Regulation Division, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24145 Filed 8-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34–16979; File No. SR–NASD–80–10]

National Association of Securities Dealers, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94–29, 16 (June 4, 1975) notice is hereby given that on June 12, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following are the texts of proposed amendments to Appendix E to Article III, Section 33 of the Association's Rules of Fair Practice and proposed new Part IV to Schedule D or Article XVI, Section 3 of the Association's By-Laws. With respect to the amendments to Appendix E, additional material is italicized and deleted material is indicated by brackets. The entire text of proposed Part IV to Schedule D is new.

Article III, Section 33, Appendix E

Sec. 1 General.

(a) Applicability—The Rules in this Appendix E shall be applicable: (1) *to the trading of option contracts issued by the Options Clearing Corporation and displayed on the NASDAQ System and to the terms and conditions of such contracts; (2)* to the extent appropriate unless otherwise stated herein, to the conduct of accounts, the execution of transactions, and the handling of orders in exchange listed options by members who are not members of an exchange on which the option executed is listed; [(2)] *(3)* to the extent appropriate unless otherwise stated herein, to the conduct of accounts, the execution of transactions, and the handling of orders in conventional options; and [(3)] *(4)* other matters related to options trading.

Without limiting the generality of the foregoing, Sections 3 through 12 of this Appendix E shall apply only to transactions in options on common stock, and Sections 13 through 24 of this Appendix E shall apply to transactions in options on any security, including common stock.

(b) No change.

(c) No change.

Sec. 2 Definitions.

(A) Options Clearing Corporation—The term "Options Clearing Corporation" means The Options Clearing Corporation, the issuer of exchange listed options *and options displayed on NASDAQ.*

(b) No change.

(c) No change.

(d) Participant [Exchange] *Organization*—The term "participant [exchange] *organization*" means a national securities exchange *or association* which has qualified for participation in the Options Clearing Corporation pursuant to the provisions of Article VII of the By-Laws of the Options Clearing Corporation.

(e) No change.

(f) No change.

(g) NASDAQ Option Transaction—The term "NASDAQ option transaction" means a transaction effected by a member for the purchase or sale of an option contract which is displayed on the NASDAQ System or for the closing out of a long or short position in such option contract.

Existing subsections (g) through (k) are relettered (h) through (l) but are otherwise unchanged.

(m) Group of Options—The term "group of options" means all option contracts of the same class of options having the same exercise price and unit of trading but separate expiration dates.

Existing subsections (l) through (ll) are relettered (n) through (nn) but are otherwise unchanged.

(Additional relevant definitions pertaining to options trading are

contained in Section 1 of Part IV to Schedule D of the By-Laws of the Corporation.)

Sec. 3 Position Limits—No change.

Sec. 4 Exercise Limits—No change.

Sec. 5 Reporting of Options Positions.

(a) No change.

(b) No change.

(c) No change.

(d) In addition to the reporting provisions set forth in subsections (a) through (c) hereof, a member who is a registered NASDAQ options market maker shall be required to file information with the Corporation in respect to transactions and positions relative to conventional options on underlying securities subject to options displayed on NASDAQ. Such information shall be filed at a time and in a manner prescribed by the Corporation.

Sec. 6 Liquidation of Postions and Restrictions on Access—No change.

Sec. 7 Limit on Uncovered Short Positions.

Whenever the Corporation shall determine in light of current conditions in the markets for options or in the markets for underlying securities, that there are outstanding a number of uncovered short positions in options of a given class in excess of the limits established by the Corporation for purposes of this Section, or that a percentage of outstanding short positions in option contracts of a given class are uncovered, in excess of the limits established by the Corporation for purposes of this Section; the Corporation, upon its determination that such action is in the public interest and necessary for the protection of investors and the maintenance of a fair and orderly market in the option contracts or underlying securities, may prohibit any further opening writing transaction in option contracts of that class unless the resulting short position will be covered, and it may prohibit the uncovering of any existing covered short position in option contracts of one or more series of options of that class. The Corporation *may exempt transactions in NASDAQ options by registered NASDAQ options market makers from restrictions imposed under this Section and it* shall rescind such restrictions upon its determination that they are no longer appropriate.

Sec. 8 Restrictions on Out-of-the-Money Options Transactions.

(a) Subject to the provisions of subsections (b) and (c) hereof, no member or person associated with a member shall enter on behalf of a customer, on behalf of any officer, director, partner, employee or affiliate of the member, or on behalf of the investment account of the member, any order for an opening transaction in any [exchange listed] call option contract if: (1) The exercise price is more than $5.00 above the closing *best bid or* market price of the underlying security for such call option on the last previous day in which such underlying security was traded; and, (2) the closing *best bid or* market price of such call option, in all markets in which such call option was traded on the last previous day on which there was a trade of the call option [on any exchange], was less than $.50 per share at option; and no member or person associated with a member shall enter on behalf of a customer, on behalf of any officer, director, partner, employee or affiliate of the member, or on behalf of the investment account of the member any order for an opening transaction in any [exchange listed] put option contract if: The exercise price is more than $5.00 below the closing *best bid or* market price of the underlying security for such put option on the last previous day in which such underlying security was traded; and, (2) the closing *best bid or* market price of such put option, in all markets in which such put option was traded, on the last previous day on which day there was a trade of the put option on any exchange, was less than $.50 per unit at option.

Subsections (b)(1) through (b)(4)—No change.

(5) Any transaction of a registered NASDAQ options market maker while acting as a registered NASDAQ options market maker.

(c) No change.

(d) No change.

Sec. 9 Other Restrictions on Options Transactions and Exercise—No change.

Sec. 10 Rights and Obligations of Holders and Writers—No change.

Sec. 11 Open Orders on "Ex-Date"—No change.

Sec. 12 Delivery of Current Prospectus—No change.

Sec. 13 Confirmations.

Every member shall promptly furnish to each customer a written confirmation of each transaction in option contracts for such customer's account. Each such confirmation shall show the type of option, the underlying security, the expiration month, the exercise price, the number of option contracts, the premium, the commission, the trade and settlement dates, whether the transaction was a purchase or a sale (writing) transaction, whether the transaction was an opening or a closing transaction, whether the transaction was effected on a principal or agency basis and for other than [exchange listed] options *issued by the Options Clearing Corporation* the date of expiration. The confirmation shall by appropriate symbols distinguish between [exchange listed] *NASDAQ* option transactions and other transactions in option contracts. *A member effecting a transaction in option contracts for a customer's account while acting as a market maker in both the option and its underlying security, shall also disclose such information on the customer on the confirmation.*

Sections 14 through 24—No change.

* * * * *

Schedule D of the Association's By-Laws would be amended by adding a new Part IV. Existing Parts I through III would remain unchanged while existing Parts IV through XI would be renumbered V through XII. The entire text of Part IV is new.

Article XVI, Sec. 3, Schedule D, Part IV—NASDAQ Options

Sec. 1. Definitions.

(a) Authorized Underlying Security—The term "authorized underlying security" means a security which is eligible to be subject to NASDAQ options subject to the provisions of Section 6 hereof and which has been designated by the Corporation to be an authorized underlying security.

(b) NASDAQ Option Contract—The term "NASDAQ Option contract" means an option contract which is eligible for quotation display on the NASDAQ System.

(c) Unit of Trading—The term "unit of trading" means the number of units of the underlying security designated by the Options Clearing Corporation as the subject of a single option contract. In the absence of any other designation, the unit of trading for a common stock is 100 shares.

(d) Best Bid and Asked—The term "best bid" means the best or highest price of all of the open active bids. The term "best asked" means the best or lowest (but greater than zero) price of all the open active askeds.

(e) Registered NASDAQ Options Market Maker—The term "registered NASDAQ Options market maker" means a member who meets the qualification for such as set forth in Section 3 hereof, is willing and able to serve as such in connection with NASDAQ Option contracts and who is authorized by the Corporation to do so.

(f) Dual Market Maker—The term "dual market maker" means a registered NASDAQ Options market maker who makes a market in the underlying security of an option class displayed on the NASDAQ System while simultaneously making a market in one or more options series thereof; provided, however, that the provisons of Section 3(d) hereof have been satisfied.

(g) Unless the context otherwise requires, or unless otherwise defined herein, the terms used in this Part IV of Schedule D shall have the meanings as defined in Section 2 of Appendix E to Section 33 of the Association's Rules of Fair Practice.

Sec. 2 NASDAQ Options Services Available.

(a) Level 1 NASDAQ Options Service.

(1) Nature of Service—This service will provide the subscriber with data in the form of the best bid and asked quotations for each NASDAQ Option on which a minimum of two registered NASDAQ options market makers are entering quotes during the day.

(2) Availability—This service is available only through independent distributors authorized by the Corporation to obtain access to the data from the NASDAQ System for distribution to others. The subscriber must agree with the Corporation that the quotation data received through such service will not be used for illegal purposes nor will access thereto be granted on a continuous basis to any person not approved by the Corporation, and the independent distributor must obtain authorization in writing from the Corporation to serve the subscriber.

(b) Level 2 NASDAQ Options Service.

(1) Nature of Service—This service will provide the subscriber with access to the quotations of all of the registered NASDAQ options market makers entering quotes on each of the NASDAQ options.

(2) Availability—Level 2 NASDAQ options service is available only to a person approved and authorized by the Corporation fpr retrieval of NASDAQ options quotation data.

(c) Level 3 NASDAQ Options Service.

(1) Nature of Service—This service enable the registered NASDAQ options market maker to enter quotations into the system only on the NASDAQ options as to which the Corporation has authorized it to enter quotes pursuant to the procedures set forth in Section 3 hereof. A subscriber to Level 3 NASDAQ options service shall also receive Level 2 NASDAQ options service.

(2) Availability—Level 3 NASDAQ options service is available to any member which, upon application, is approved and authorized by the Corporation to participate in the NASDAQ System as a registered NASDAQ options market maker.

Sec. 3 Registration, Qualification and Other Requirements of Market Makers and Others.

(a) Registration of Market Makers—Prior to acting as a market maker in NASDAQ options, a member must make application to the Corporation on a form prescribed by the Corporation and become registered as such with it. In connection with such application, a member must submit to the Corporation such financial and other information as required by the Corporation to determine if such member meets the qualifications of a registered NASDAQ options market maker specified herein. Such other information will include those classes and series of NASDAQ options in which such member desires to be registered as an options market maker.

(b) Market Maker Financial Requirements—A registered NASDAQ option market maker shall continually maintain a net capital of at least $50,000 computed in accordance with the provisions of paragraph (c)(2) of Rule 15c3–1 under the Securities Exchange Act of 1934, as amended, plus $5,000 per options series up to a maximum requirement of $150,000.

(c) Clearing Arrangements—A registered NASDAQ options market marker shall either be a member of the Options Clearing Corporation or shall have established a clearing arrangement with a member thereof.

(d) Dual Market Making.

(1) A member shall not become a dual market maker unless at, or prior to, the time such dual market making activity is to commence:

a. There are a minimum of ten registered NASDAQ market makers displaying quotations on the NASDAQ System in the underyling security; and,

b. There are a minimum of five NASDAQ options market makers registered in the NASDAQ options group in respect to which a dual market is intended to be made.

(2) Once dual market making has commenced in any NASDAQ options group, the occurrence of either of the following shall cause the Corporation to withdraw approval of further dual market making activity with respect to any succeeding options series to be opened in that NASDAQ options group:

a. There are fewer than seven registered NASDAQ market makers displaying quotations on the NASDAQ System in the underlying security; or,

b. There are fewer than three registered NASDAQ options market makers displaying quotations on the NASDAQ System in the NASDAQ options group.

(3) Whenever the Corporation shall withdraw its approval for dual market making activity in a particular NASDAQ options group, it shall not reinstate dual market making in that NASDAQ options group until the provisions of paragraph (d)(1) above have been satisfied.

(e) Character of Quotations Entered Into the System.

(1) All bids or offers for NASDAQ options shall be for at least one option contract for the minimum unit of trading.

(2) All bids or offers for NASDAQ options shall be expressed in terms of dollars per share of the underlying security (e.g., a bid of five shall represent a bid to pay a premium of $500 for an options contract having a unit of trading consisting of 100 shares of an underlying security, or a bid to pay a premium of $550 for an option contract having a unit of trading consisting of 110 shares of an underlying security).

(3) All bids or offers for a NASDAQ option contract for which the Options Clearing Corporation has established an adjusted unit of trading in accordance with paragraphs (c) and (d) of Section 11 of Article VI of the OCC's By-Laws shall be expressed in terms of dollars per the appropriate fractional part of the total securities and/or other property constituting such adjusted unit of trading (e.g., where the adjusted unit of trading of an option contract consists of 110 shares of an underlying security plus 15 rights, a bid of five shall represent a bid to pay a premium of $550 for each option contract covering both the shares of the underlying security and the rights).

(4) A registered NASDAQ options market maker will be permitted to enter a nominal quotations (0–⅛s) with respect to those options which have no present market value.

(f) Transaction Reporting.

(1) NASDAQ Options.

a. Every member shall transmit to the Corporation reports of sale transactions in NASDAQ options executed during the operating hours of the Options Price Reporting Authority (OPRA), within one and one-half minutes after execution of the transaction. If such report is not transmitted within one and one-half minutes after execution, such report shall be designated as late. All reports of NASDAQ option transactions executed during the operating hours of OPRA shall be transmitted through the NASDAQ System or, if the system is unavailable, via Telex, TWX or telephone to the NASDAQ supervisory office in New York City. Last sale reports of NASDAQ option transactions executed outside of OPRA's operating

hours shall be reported weekly in writing to the NASDAQ supervisory office in New York City.

b. A member shall transmit a report for NASDAQ options for sale transactions in such options at the price recorded on the trade ticket exclusive of commission, taxes or other charges.

c. For purposes of this Section, a member shall not transmit to NASDAQ a report for option transactions executed on an exchange.

(2) Authorized Underlying Securities.

Every member shall transmit to the Corporation, in accordance with rules and procedures adopted by the Board of Governors, reports of sale transactions in authorized underlying securities executed during the operating hours of the Consolidated Tape, within one and one-half minutes after execution of the transaction. If the last sale report is not transmitted within one and one-half minutes after execution, such report shall be designated as late. All last sale reports of transactions in authorized underlying securities executed during the operating hours of the Consolidated Tape shall be transmitted through the NASDAQ System or if the system is unavailable, via Telex, TWX or telephone to NASDAQ supervisory office in New York City. Last sale reports of transactions in authorized underlying securities executed outside the operating hours of the Consolidated Tape shall be reported weekly in writing to the NASDAQ supervisory office in New York City.

(3) Weekly and/or Monthly—A member shall report weekly and/or monthly to the Corporation such data on NASDAQ options quoted in the system as the Board of Governors shall require. Such report shall be on a form prescribed by the Corporation.

(4) All trade tickets on transactions in NASDAQ options and authorized underlying securities must indicate the time the order was received and the time the order was executed or cancelled.

(g) Normal Business Hours—A registered NASDAQ options market maker shall keep the Corporation advised as to the normal business hours during which it shall enter quotations. All firms should be open and active as of 10:00 a.m. (Eastern Time) and no registered NASDAQ options market maker shall close sooner than 4:00 p.m. (Eastern Time). The system shall publish a "closed symbol" for a registered NASDAQ options market maker on Level 2 and 3 terminals at the close of such firm's normal business hours. However, a registered NASDAQ options market maker will be able to enter quotes outside such normal business hours, provided the system is operating, by appropriate notification to the operator of the NASDAQ System of the desire to enter quotes.

(h) Initiation of Service—Upon initial application, the registration of a NASDAQ options market maker in a NASDAQ options series shall be effective at the start of business on the second business day following receipt of his registration application by the Corporation; provided however, said registration is accepted by the Corporation. If said initial registration is received for a NASDAQ option series which has not previously been authorized by the Corporation, the registered NASDAQ options market maker's registration shall be effective at the start of business on the first day that the NASDAQ option series is authorized for quotation by the Corporation; provided, however, said registration is accepted by the Corporation.

(i) Withdrawal Procedure.

(1) With the approval of the Corporation, upon showing that it is seriously impaired in its ability to enter quotations, a registered NASDAQ options market maker may suspend its quotations in a NASDAQ option series for a specified period of time in the case of contemplated financing in the underlying security, the presence of statutory prohibitions or restrictions, or such other reason acceptable to the Corporation.

(2) A registered NASDAQ options market maker who withdraws quotations in a NASDAQ option series may not re-enter quotations in such series during the same trading day without the prior approval of the Corporation.

(3) A registered NASDAQ options market maker whose quotation in any NASDAQ option series is withdrawn, without the approval of the Corporation shall at or before the daily close of the system, have its registration in that NASDAQ option series terminated subject, however, to the re-registration procedure set forth in paragraph (4) below.

(4) A registered NASDAQ options market maker may, by making application to the Corporation under the procedures and requirements set forth in Sections 3(a) through 3(c) of Part IV of Schedule D, re-register as a registered NASDAQ options market maker in a NASDAQ option series in which his registration is terminated pursuant to paragraph (3) above.

(j) Voluntary Termination—A registered NASDAQ options market maker may voluntarily terminate its registration as to any NASDAQ option series by withdrawing its quotations from the system without prior approval of the Corporation.

(k) Suspension and Termination of a Registered NASDAQ Options Market Marker's Authority to Enter Quotations by Action of the Corporation—The Corporation may, pursuant to provisions specified in the Code of Procedures for Handling Trade Practice Complaints, suspend, condition or terminate a registered options market marker's authority to enter quotations on one or more series of NASDAQ options for violations of the applicable rules of this Schedule D.

(l) Termination of Service on Failure to Promtly Pay Fines and Assessments.

(1) The Corporation, upon notice, may terminate service on any level of NASDAQ options service for failure of a subscriber to maintain the standards of availability specified in Section 2 of this Part IV for such service or to pay the system operator for services rendered.

(2) Any member which is a respondent in a complaint pursuant to this Schedule D is required promptly to pay any fine or costs imposed to the Treasurer of the Corporation. In the event that the respondent fails to do so, the Corporation may, after ten business days' notice in writing to such respondent, suspend his authority to enter options quotations into or receive options quotations from levels 2 and 3 of the NASDAQ System.

Sec. 4 Option Contracts Authorized for Trading.

The Corporation may from time to time approve for display on NASDAQ put option contracts and call option contracts in respect of underlying securities which have been selected in accordance with and which meet the criteria of Section 6 hereof. All such option contracts shall be designated as to the type of option, the underlying security, the expiration month and the exercise price. Only quotations in respect to option contracts in a class or series of options approved by the Corporation and currently open for display on NASDAQ may be quoted by a registered NASDAQ options market maker on the NASDAQ System.

Sec. 5 Series of Options Open for Trading.

(a) After a class of options has been approved for display on NASDAQ and quotation thereon by registered NASDAQ options market makers, the Corporation may from time to time open for display series of options in such class. Prior to the opening of trading in any series of options, the Corporation shall fix the expiration month and exercise price of option contracts included in each such series. At the commencement of display on NASDAQ of a particular class of options, series of options therein having three different expiration months will normally be opened. The first such expiration month shall be within approximately three months after such series is initially opened for display. The second such month shall be approximately three months after the first and the third such month shall be approximately three months after the second. Additional series of options of the same class may be opened for display on NASDAQ and quotation by registered NASDAQ options market makers at or about the time a prior series expires. The expiration month of each such series shall normally be approximately nine months following the opening of such series. The exercise price of each series of options opened for display on NASDAQ and quoted by registered NASDAQ options market makers shall be fixed at a price per share which is reasonably close to the best bid in the underlying security at the time such series of options is first opened for display on NASDAQ. Additional series of options of the same class may be opened for display on NASDAQ as the best bid of the underlying security moves substantially from the initial exercise or prices but in no event shall the exercise price be less than $10.

(b) No transaction in NASDAQ option contracts of a particular series of NASDAQ options shall be effected after 3:00 p.m. Eastern time on the business day prior to the expiration date of that series.

(c) The unit of trading and the exercise price initially established for option contracts of a particular series are subject to adjustment by the Options Clearing Corporation in accordance with the rules of the Options Clearing Corporation. When such adjustment or adjustments have been determined, announcement thereof shall be made by the Corporation and shall be effective as of the time specified in such announcement, the adjusted unit of trading and the adjusted exercise price shall be applicable with respect to all subsequent transactions in such series of options.

(d) NASDAQ option contracts shall be subject to adjustments in accordance with the rules of the Options Clearing Corporation.

Sec. 6 Qualifications for Authorized Underlying Securities.

(a) Approval of Underlying Securities—Authorized underlying securities shall be determined solely by the Corporation. Said determination shall be made in accordance with the criteria established pursuant to the Participant Agreement entered into by the Corporation with the Options Clearing Corporation and this Section. The criteria specified in the Participant Agreement are as follows:

(1) Such security is registered under Section 12(g)(1) of the Securities Exchange Act of 1934, as amended, and display on the NASDAQ System; is registered on a national securities exchange in accordance with the requirements of Section 12(b) of the Securities Exchange Act of 1934, as amended; or is issued by an insurance company meeting the conditions of Section 12(g)(2)(G) of the Securities Exchange Act of 1934, as amended;

(2) The issuer thereof has complied in all respects including timeliness with the reporting and disclosure requirements of Sections 13 and 14 of the Securities Exchange Act of 1934, as amended, unless exempted therefrom, for a period of at least the last three fiscal years;

(3) The issuer and its consolidated subsidiaries have had not more than one annual deficit, before extraordinary items, during the last four fiscal years, and have had no such deficit in the most recent fiscal year;

(4) The issuer thereof and its significant subsidiaries have not during the past three years defaulted in the payment of any dividend or sinking fund installment on any preferred stock or in the payment of any principal interest or sinking fund installment on any indebteness for borrowed money, or in the payment of rentals under long-term leases; and,

(5) The issuer thereof and its consolidated subsidiaries had an aggregate net income, after taxes, but before extraordinary items net of tax effect, of at least $1,000,000 in each fiscal year in three out of the last four fiscal years including the most recent fiscal year.

(b) The following additional criteria must be met in order for a security to qualify to be an authorized underlying security:

(1) The issuer thereof has a minimum of eight million shares which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Securities Exchange Act of 1934, as amended;

(2) There are a minimum of 10,000 shareholders of such security;

(3) There was aggregate trading volume reported to the NASDAQ System of at least two million shares per year in each of the two previous calendar years; and,

(4) There was a best bid of at least $10 per share each business day of the six calendar months preceding the date of selection.

(c) In exceptional circumstances an underlying security may be approved by the Corporation even though it does not meet all of the criteria set forth in subsection (b) above. The Corporation will notify the Securities and Exchange Commission of any instance in which it approves an underlying security which does not satisfy all of the aforementioned selection criteria.

(d) The list of approved underlying securities shall be representative of issuers engaged in a wide variety of business activities.

(e) Withdrawal of Approval of Underlying Securities—Once qualified, the occurrence of any one of the following shall, in the absence of exceptional circumstances, cause the Corporation to withdraw its approval of a security to continue as an authorized underlying security. The Corporation will notify the Securities and Exchange Commission of any instance in which it allows a security which meets any of the following criteria to continue to serve as an authorized underlying security:

(1) The issuer and its consolidated subsidiaries have incurred a net deficit after taxes, but before extraordinary items net of tax effect, in more than one of the preceding four fiscal years;

(2) The issuer and its consolidated subsidiaries have a net income after taxes, but before extraordinary items net of tax effect, of less than $250,000 in more than one of the preceding four fiscal years;

(3) The issuer and its significant subsidiaries have defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rental under long-term leases, and such default has not been incurred within six months of the date on which the default occurred;

(4) The issuer has failed to make timely reports as required by Sections 13 and 14 of the Securities Exchange Act of 1934, unless exempted therefrom, and such failure has not been corrected within 30 days after the date the report was due to be filed;

(5) There is a failure to have a minimum of 7,200,000 shares of the underlying security held by persons other than those who are subject to the requirements of Section 16(a) of the Securities Exchange Act of 1934 as amended;

(6) There is a failure to have a minimum of 9,000 shareholders of such security;

(7) The volume of trading in the underlying security is less than 1,800,000 shares in the preceding calendar year; and

(8) The best bid of an underlying security closes below $10 on a majority of the business days in any six month period.

(f) In the event the Corporation withdraws approval of an underlying security, no additional series of option contracts of the class covering that underlying security shall be opened. In addition, no additional series of option contracts of the class covering an underlying security shall be opened at any time when the price per share of the underlying security, as measured by the best bid recorded on the NASDAQ System is less than $7.50.

(g) Whenever the Corporation shall announce that approval of an underlying security has been withdrawn for any reason, each member shall, prior to effecting any transaction in option contracts in respect of such underlying security for a customer, inform such customer of such fact.

(h) Whenever the Corporation withdraws the approval of an underlying security, it shall not open a class of option contracts covering that underlying security until such security is able to comply with the provisions of subsections (a) and (b) of this Section.

Sec. 7 Unit of Trading.

The unit of trading in each series of options displayed on NASDAQ shall be the unit of trading established by the Options Clearing Corporation pursuant to the rules of the Options Clearing Corporation.

Sec. 8 Suspension of Authorization of an Underlying Security and/or a NASDAQ Option.

(a) In particular instances, where the Corporation deems it necessary and appropriate in order to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to protect investors or the public interest in fair and orderly markets, to assure adequate trading interest and the likelihood of a competitive market, or if one or more of the events set forth in subsection (b) hereof occur, it may suspend the authorization of an underlying security and/or a NASDAQ option.

(b) An authorized underlying security and/or a NASDAQ option shall be subject to suspension if:

(1) It has been and is currently suspended from being traded by the Securities and Exchange Commission pursuant to Section 12(k) of the Securities Exchange Act of 1934, as amended;

(2) The Corporation has been advised that the issuer is about to make an important announcement affecting such issuer;

(3) There has been and is currently a failure by the issuer promptly to disclose to the public through the press any material information which may affect the value of its securities or influence investors' decisions;

(4) There has been and is currently a failure to file with the Corporation, the issuer's annual and quarterly reports required to be filed with the Securities and Exchange Commission. Issuers which are not required by law to file an annual or quarterly report with the Securities and Exchange Commission must file with the Corporation their annual and quarterly reports required to be filed with the appropriate regulatory authority; or

(5) There has been and is currently a failure to comply with any obligation of any person regarding filing or disclosure of information material to the issuer, whether the obligation arises under a federal or state statute or rule and the Corporation shall determine that the public interest requires suspension.

(c) Trading in an underlying security and/or a NASDAQ option that has been the subject of a suspension of authorization by the Corporation may be renewed upon a determination by the Corporation that the conditions which led to the suspension are no longer present and that the interests of a fair and orderly market are best served by a resumption of trading.

Sec. 9 Trade Comparison Procedures for NASDAQ Options.

(a) Scope and Applicability—All transactions in NASDAQ options shall be reported for comparison to the Corporation pursuant to procedures for such established by the Corporation. The Corporation shall report all compared transactions to the Options Clearing Corporation for clearance and settlement. All compared transactions in NASDAQ options which are cleared and settled through the facilities of the Options Clearing Corporation shall be subject to the rules of the Options Clearing Corporation.

(b) Responsibility of Clearing Members—Every member which is a member of the Options Clearing Corporation (a "clearing member") shall be responsible for the clearance and settlement of every NASDAQ option transaction to which it is a party and for each NASDAQ option transaction of a member for which it acts as correspondent and/or clearing agent pursuant to a written agreement. Unless specifically authorized by the Corporation, no member shall be permitted to have more than one such agreement with a clearing member in effect at any time.

(c) Trade Comparison.

(1) Filing of Trade Information—A clearing member shall individually report each transaction in a NASDAQ option, for which it has a responsibility to report, each business day to the Corporation at a location, time and in the manner specified by the Corporation. A clearing member shall also report each NASDAQ option transaction in which it participates to the member for whom such NASDAQ option transaction was made.

(2) Contract Lists and Uncompared Trade Lists—Each business day the Corporation shall perform a comparison and matching of each item of information reported to the Corporation by clearing members and shall issue to each such clearing member a contract list for each account maintained by such clearing member with the Options Clearing Corporation which will show such clearing member's compared trades in such account on such day, and an uncompared trade list, which will contain a list of:

a. Such clearing member's trades on such day for which the Corporation did not receive from another clearing member trade information which compares with the trade information filed by such clearing member (called "uncompared trades"); and,

b. All trades reported by other clearing members for which such clearing member submitted no trade information which compares with the trade information filed by such other clearing members (called "advisory trades").

Compared trades shall include only trades where the trade information agrees as to the identify of the other party to the transaction, the type of option contract, the underlying stock, the exercise price, the expiration month, the number of option contracts, the amount of the premium, the designation of the parties as purchaser and writer respectively, and the trade date, if other than date of submission.

(3) Verification of Contact List and Reconciliation of Uncompared Trades—Each clearing member shall promptly review each report received, reconcile all uncompared and advisory trades and report corrected trade information to the Corporation as soon as possible, but in any event not later than the hour which shall be from time to time prescribed by the Corporation. It shall be the sole responsibility of the clearing member to review the accuracy of all reports promptly upon receipt, and the

Corporation shall not assume any responsibility for reviewing such reports for accuracy or for making any corrections not reported by a clearing member.

(4) Unreconciled Trade Report—Upon receipt of the clearing member's corrected report, the Corporation shall make available to the clearing member a final unreconciled trade report which will contain a list of any new or remaining uncompared and advisory trades of such clearing member. Any trades contained on this report which are then reconciled by the clearing member shall be submitted to the Corporation on the next business day in accordance with the provisions set forth in paragraph (1) of this subsection (c). Trades which are not so reconciled by the clearing member shall be closed out in the manner prescribed in paragraph (5) below.

(5) Resolution of Uncompared Trades—When a disagreement between members arising from an uncompared NASDAQ option transaction cannot be resolved by mutual agreement prior to 10:00 a.m. Eastern Time on the first business day following the trade date, the parties shall promptly, but not later than 3:30 p.m. Eastern Time on such day, take the following action. The member representing the purchaser in the uncompared NASDAQ option transaction shall promptly enter into a new NASDAQ option transaction to purchase the option contract that was the subject of the uncompared NASDAQ option transaction. The member representing the writer in the uncompared NASDAQ option transaction shall promptly enter into a new NASDAQ option transaction to sell (write)the option can tract that was the subject of the uncompared NASDAQ option transaction. The purchase and sale (writing) of new option contracts in such a manner shall serve to nullify an uncompared NASDAQ option transaction; provided, however, that the appropriate reversing notations closing out the original uncompared NASDAQ option transaction are also recorded by the clearing members. All such new purchase and writing (sale) NASDAQ option transactions shall then be submitted to the Corporation in accordance with the provisions set forth in paragraph (1) of this Section. All claims for damages resulting from uncompared NASDAQ option transactions must be made promptly for the accounts of the members involved and not for the accounts of their respective customers. Notwithstanding the foregoing, if either member is acting for a firm account in an uncompared NASDAQ option transaction and not for the account of a customer, such member need not enter into a new transaction, in which event money differences will be based solely on the closing transaction of the other party to the uncompared transaction.

In the event an uncompared transaction involves an option contract of a series in which trading has been terminated or suspended before a new NASDAQ option transaction can be effected to establish the amount of any loss, the member not at fault may claim damages against the other member involved in the transaction based on the terms of such transaction. All such claims for damages shall be made promptly.

(6) Reporting of Compared Trades to the Options Clearing Corporation—On each business day at or prior to such time as may be prescribed by the by the Options Clearing Corporation, the Corporation shall furnish the Options Clearing Corporation a report of each clearing member's compared trades based on the comparison service performed by the Corporation on that day. Only trades which have been compared in accordance with the provisions of paragraph (2) of this subsection shall be furnished by the Corporation to the Options Clearing Corporation, and the Corporation shall assume no responsibility with respect to any uncompared trade nor for any delays or errors in the reporting of trades for comparison.

(7) Maintaining Office and Filing Signatures—Every member which is a member of the Options Clearing Corporation shall maintain an office at a location approved by the Corporation for the purpose of comparing NASDAQ option transactions. Any clearing member may use for the purposes of this paragraph the office of another member which is a member of the Options Clearing Corporation. There shall be present at such office, between such hours as the Corporation shall from time to time fix, on every business day a representative of the member authorized to sign in the name of the member all instruments and transact all business requisite in connection with the comparison of NASDAQ option transactions. Each such member shall file with the Corporation, in such form as the Corporation shall prescribe, a certified list of signatures of its representatives who are authorized to sign instruments and transact all business necessary for conducting comparison of NASDAQ option transactions.

Sec. 10 Clearance and Settlement Procedures for NASDAQ Options.

(a) Failure to Pay Premium—Whenever the Options Clearing Corporation shall reject a NASDAQ option transaction because of the failure of a clearing member acting on behalf of the purchaser to pay the premium due thereon as required by the rules of the Options Clearinghouse Corporation, the member acting as or on behalf of the seller (writer) shall have the right either to cancel the transaction by giving notice thereof to the defaulting clearing member or to enter into either a new opening writing transaction or closing sale transaction, as the case may be, in respect of the same NASDAQ option contract that was the subject of the rejected NASDAQ option transaction, charging any loss resulting therefrom (including any commissions paid or payable in connection with such new transaction) to the defaulting clearing member. Such action shall be taken as soon as possible but in any event not later than the close of trading on the day the NASDAQ option transaction was rejected by the Options Clearing Corporation, unless the Corporation shall extend such time.

In the event the rejected transaction involves a NASDAQ option contract of a series in which trading has been terminated or suspended before a new NASDAQ option transaction can be effected to establish the amount of any loss, the member acting as or on behalf of the seller shall have a claim against the defaulting clearing member for the amount of the premium due thereon.

(b) Option Contracts of Suspended Members—When announcement is made of the suspension from membership in the Corporation of a member, other than a clearing member of the Options Clearing Corporation (a "non-clearing member"), pursuant to the By-Laws of the Corporation, all open short positions in option contracts of such member and all open positions resulting from the exercise of option contracts, other than positions that are secured in full by a specific deposit or evidenced by an escrow receipt in accordance with the rules of the Options Clearing Corporation, shall be closed out without unnecessary delay by all members carrying such positions for the account of the suspended non-clearing member; provided, however, that upon any such suspension, the Corporation may, in its descretion and where it determines that such is necessary for the protection of investors, suspend the mandatdory close-out provisions hereof and may, in its discretion and where it determines that such is necessary for

the protection of investors, reinstate such provisions at such time as it may determine. No temporary suspension of the mandatory close-out provisions hereof shall relieve any suspensed non-clearing member of its obligations or of any damages incurred by members carrying positions for the account of such suspended non-clearing member. Should an open short position or an open position resulting from an exercise of an option contract not be closed when required by this Section, the price for the purpose of determining claims shall be fixed by the price current at the time when such position should have been closed under this Section. When a member of the Options Clearing Corporation is suspended pursuant to the provisions of the By-Laws, the positions of such clearing member shall be closed out in accordance with the rules of the Options Clearing Corporation.

Sec. 11 Rules of General Applicability.

The provisions of Part X of Schedule D to Article XVI of the By-Laws shall, to the extent not inconsistent with the provisions hereof, apply to NASDAQ options.

The NASD's Statement of Purpose of Proposed Rule Change

The purpose of these proposed rules is to provide the necessary regulatory framework to govern the display of quotations in standardized options on the NASDAQ System and to govern member trading in connection therewith. The Association's plan would permit the display of quotations in standarized options on the NASDAQ System. These options will be issued, or subject to issuance, by the Options Clearing Corporation (the "Clearing Corporation"). Accordingly, the options to be displayed on the NASDAQ System, on which quotations may be entered by registered NASDAQ options market makers, will be limited to options authorized by the Association on underlying securities selected in accordance with criteria and guidelines established by the Associaiton and the Clearing Corporation.

The terms of the options to be listed on the NASDAQ System will be standardized as to exercise price and expiration date in accordance with rules of the Association and the by-laws and rules of the Clearing Corporation. Comparison of trade information will be accomplished by a processor under contract to the Association. Matched trades will be forwarded on a daily basis to the Clearing Corporation for clearance and settlement in accordance with its by-laws and rules.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

Section 15A of the Securities Exchange Act of 1934 provides, pursuant to subsection (b)(2), that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that its rules provide it with the capacity to carry out the purposes of the Act, to enforce compliance with the Act by its members and persons associated with its members, and the rules and regulations thereunder, and to protect investors and the public interest. Further, the Commission must determine pursuant to subsection (b)(6) that the Rules of the Association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. Finally, the Rules of the Association are required by subsection (b)(7) to provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provisions of the Act or the rules and regulations thereunder, or the Rules of the Association and under subsection (h)(1), by adjudication and the subsequent imposition of appropriate penalties. The provisions of Article III, Section 33 prohibit a member or a person associated with a member from effecting transactions in options if such were inconsistent with the rules, regulations and procedures adopted by the Board of Governors. Under the authority granted pursuant to Section 33, the Board has developed a regulatory program of rules, regulations and procedures consistent with existing standardized options trading plans and SEC requirements.

Comments Received From Members, Participants and Others on Proposed Rule Change

No comments were solicited or received in connection with this particular rule change filing. Comments on the NASDAQ options plan submitted in January 1977 were solicited in Notices to Members Nos. 76–8 and 76–31. As indicated previously, this filing is similar in most respects to the 1977 submission.

The NASD's Statement on Burden on Competition

The Association believes the proposed rule changes impose no burden on competition. Rather, by introducing standardized options trading to the over-the-counter market, the Association believes that it is enhancing competition among members in a manner entirely consistent with the purposes of the Securities Exchange Act of 1934.

On or before September 15, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 2, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 15, 1980.

[FR Doc. 80-24147 Filed 8-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17046; File No. SR-NSCC-80-24]

National Securities Clearing Corporation; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Amend, effective with transactions includable in the September 1980 billing cycle and thereafter, Section II.A.2 of National Securities Clearing Corporation's SCC Division Consolidated Rate Structure as follows: Section II.A.

2. For each side of each bond trade submitted, [$.01] *$.40* per [$1,000 calculated on total face value of items submitted per month.] *side.*

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

NSCC's bond comparison fee, which is currently based on the par value of trades, results in more costly clearance fees as the trade size increases. The proposed rule change should encourage the submission of large bond transactions by either existing or new members. The forty cent fee per side was derived from the Price Waterhouse audited cost study, upon which NSCC's existing fees are based. The proposed rule change is in keeping with the comments made in a letter to Mr. Jack Nelson, President of NSCC, from Bradford Securities Processing Services, Inc., dated July 19, 1977.

The proposed rule change in NSCC's rate structure relates to NSCC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating among its participants the fees for bond transactions submitted based on sides submitted rather than on the par value of the bond. The proposed fee will encourage the submission of large bond transactions, and therefore increase NSCC's ability to facilitate the prompt and accurate clearance and settlement of securities transactions.

Comments on the proposed rule change have been solicited. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested parties are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 2, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-24140 Filed 8-8-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17047, File No. SR-NYSE-77-14]

New York Stock Exchange, Inc.; Proposed rule change

Pursuant to Section 19(b) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on July 28, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Constitutional and Rule Changes

The proposed changes reinstate amendments originally contained in Exchange filing SR-NYSE-77-14 dealing with domicile requirements for member organizations. The text of the proposed amendments is contained in Exhibit I-A.

Purpose of the Proposed Constitutional and Rule Changes

This Section of original File No. SR-NYSE-77-14 is amended by adding the following paragraphs:

SR-NYSE-77-14 originally contained proposed Rule 311(f) which required each member organization to be created or organized under the laws of, and maintain its principal place of business in, the United States or any State thereof. Amendment No. 1 to the filing deleted the proposed Rule pending further study by the Exchange and discussion with The Securities Investor Protection Corporation (SIPC).

Proposed Rule 311(f) is hereby reinstated as originally filed and the corresponding Article IX, Section 7(j) is hereby proposed for deletion from the Constitution. The new Rule represents a repositioning of Article IX, Section 7(j) with an amendment to remove Canada as a qualifying domicile for member organizations. The purpose of this change is to ensure equal treatment of organizations domiciled in foreign countries by removing the advantage heretofore accorded solely to Canadian domiciliaries.

The basis for the U.S. domicile requirement is to maintain the degree of regulatory control necessary for the effective protection of investors. Fundamental considerations in requiring a member organization to maintain its principal place of business in the U.S. are to assure that in the event of liquidation: assets will be available to satisfy customer claims; books and records will be available to substantiate customer claims; and that the ability exists to secure such assets and books and records through service of legal process. In this connection, in a letter to Chairman Hills dated January 24, 1977, Chairman Hugh Owens of SIPC expressed concern over potential problems which may arise were foreign broker-dealers to become members of a national securities exchange and thereby become members of SIPC by operation of Section 3(a)(2)(B) of the securities Investors Protection Act of 1970 (SIPA). SIPC indicated that it would probably be impossible to carry out the purposes of SIPA with respect to customers of foreign broker-dealers if these foreign members have no place of business in the United States and do not maintain substantial assets in this country. The Exchange believes that the amendments contained herein would serve to continue to provide SIPC with the ability to administer SIPA effectively.

One existing Canadian domiciled Exchange member organization—Transatlantic Securities Company—would be affected by the proposed amendments. Compliance with the new provisions would require Transatlantic to substantially alter the manner in which their business is conducted. The Exchange would grant Transatlantic a "grandfather" exemption to allow them to retain Canada as their place of domicile.

Basis Under the Act

This section of original File No. SR-NYSE-77-14 is amended to add the following paragraph:

(v) The provisions of Section 6(b)(5) are served in that the amendment relating to a U.S. domicile requirement protects investors and the public interest by establishing an equal legal basis under which the purposes of the Securities Investor Protection Act may be carried out.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 2, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

The new language *italicized* and deleted language in [brackets] reinstates the original language contained in File No. SR-NYSE-77-14 which was withdrawn in Amendment No. 1 thereto.

Article IX

Membership—Allied Membership—Member Firms—Member Corporations

• • • • •

[Sec. 7(j) Every member firm shall be a partnership and every member corporation shall be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States or Canada or any State or Province thereof.]

• • • • •

Rule 311

Formation and Approval of Member Organizations

• • • • •

(f) Every member firm shall be a partnership and every member corporation shall be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States or any State thereof.

[FR Doc. 80-24146 Filed 8-8-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17044; File No. SR-NYSE-80-27]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on July 24, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will implement, on a pilot basis, trade comparison procedures using universal contra-party names for post-opening trades involving orders received by the Exchange through its Designated Order Turnaround System. The pilot will hereinafter be referred to as the "DOT/TOD" pilot.

DOT and TOD are universal contra names that will be used to report executions involving DOT market orders in pilot stocks. Comparison procedures for DOT/TOD pilot stocks will be as follows:

(1) Specialists will represent DOT market orders as they do today and will continue to indicate the actual names of trade participants on mark sense cards.

(2) Specialists will give up the contra *DOT* to the sides trading against DOT orders in pilot stocks.

(3) DOT subscribers will receive system reports of executions against *TOD* in pilot stocks.

(4) Member firms will submit trades for comparison on trade date +1 (T+1) as they do today, using the universal contras supplied by the system or specialist.

(5) If a clearing firm that is a DOT subscriber fails to submit a trade for comparison on T+1 or submits it incorrectly, the information on the DOT system log will be relied on to prepare an *add or correction on T+2* after research by the SIAC purchase and sale group.

(6) If a clearing firm that the specialist indicated as the side opposite the DOT order fails to submit the trade on T+1 or submits it incorrectly, the name of the specialist will be *substituted on T+2* as the contra side of the trade after research by SIAC.

DOT/TOD universal contras were initiated on a pilot basis on July 31, 1980. Stocks in the pilot use universal contras for market orders as outlined above; all other order types and stocks will use conventional names and procedures. Following an evaluation period, usage of the universal contras may be expanded.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to facilitate the implementation and operation of the DOT/TOD pilot.

The pilot program, using universal contra-party names to report and compare executions of DOT market orders, will reduce reporting errors, isolate each side from comparison problems caused by the other side to a trade and help make comparison of DOT trades more reliable.

DOT/TOD promises to benefit the member firm community and the NYSE Floor in the following ways:

• Each side will be isolated from errors made by the other side in reporting or submitting trades for comparison. Member firms will be assured of compared trades, even if the other side fails to submit correctly.

• Use of a universal contra for DOT executions on the Floor should help in exchanging names.

• Trades involving DOT orders will be uniquely identified during the comparison process, helping to pinpoint patterns or sources of errors and facilities corrective procedures.

• The Securities Industry Automation Corporation ("SIAC") will monitor DOT/TOD daily operations, in addition to OARS. This group will be the single point of contact for member firms in resolving uncompared DOT trades, resulting in efficiencies and cost savings to member firms.

Exchange's Statement of Basis Under the Act for the Proposed Rule Change

The pilot program proposed herein is expect to lead to fewer "questioned trades" and more efficient and accurate comparison and settlement procedures. The pilot program should better enable the Exchange to carry out the purposes of the Securities Exchange Act of 1934 (the "Act") in general, and Sections 6(b)(5) and 11A(a) in particular, which include the maintenance of fair and orderly markets, the fostering of cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to transactions in securities and facilitating transactions in securities.

Finally, the proposed pilot program is consistent with and should advance the purpose of the Act set forth in Section 17A(a)(1), including the prompt and accurate clearance and settlement of

securities transactions and the introduction of more efficient procedures for the clearance and settlement operation.

Comments Received From Members, Participants or Others in Proposed Rule Change

The Exchange has not solicited comment on this proposed change and it has not received any.

Burden on Competition

The Exchange does not perceive any burden on competition that will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 2, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.
August 4, 1980.
[FR Doc. 80-24142 Filed 8-8-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 17048; SR-PSE-80-12]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 5, 1980.

On June 9, 1980, the Pacific Stock Exchange, Incorporated, 301 Pine Street, San Francisco, California 94104 ("PSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which defines combination orders and extends to such orders a limited exception to book priority and clarifies the definitions of spread orders and straddle orders.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-16916, June 21, 1980) and by publication in the **Federal Register** (45 FR 43918, June 30, 1980). No written statements with respect to the proposed rule change were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.
[FR Doc. 80-24150 Filed 8-8-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 21669 (70-6482)]

Western Massachusetts Electric Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

August 4, 1980.

Notice is hereby given that Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

WMECO proposes to issue and sell, at competitive bidding, up to $30,000,000 principal amount of its First Mortgage Bonds, Series N, ——% due October 1, 2010. The interest rate, which shall be a multiple of ⅛ of 1%, and the price, exclusive of accrued interest, to be paid to WMECO, which will be not less than 100% nor more than 103% of the principal amount thereof, will be determined by competitive bidding. The bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of August 1, 1954, between WMECO and The First National Bank of Boston, Successor Trustee, as supplemented and amended from time to time, and as to be further supplemented by a supplemental indenture to be dated as of October 1, 1980. The supplemental indenture provides, among other things, that the bonds shall not be redeemed at the applicable general redemption price prior to October 1, 1985, if such redemption is for the purpose of or in anticipation of refunding such bonds through the use, directly or indirectly, of funds borrowed by WMECO at an effective interest cost of less than the effective interest cost of the bonds.

The coverage ratio of net earnings to total annual interest charges is 2.51 on an actual basis and 2.02 on a *pro forma* basis.

The net proceeds from the sale of the bonds together with capital contributions totaling $15,000,000 scheduled to be made by Northeast Utilities to WMECO prior to the sale of the bonds, will be used by WMECO to repay a portion of the company's short-term borrowings estimated to total $37,000,000 at the time of such sale. Such short-term borrowings have been or will be applied to finance WMECO's 1979-1980 construction program. The company's 1980-1981 construction program expenditures, including allowance for funds used during construction and nuclear fuel, are expected to total about $86,122,000 ($42,082,000 in 1980 and $44,040,000 in 1981) of which $16,027,000 had been expended as of June 30, 1980. In addition to the sale of the Bonds, the Company estimates that in 1980 it will require an additional $70,700,000 of funds from external sources to complete its 1980 construction program and to refinance approximately $41,000,000 of short-term debt that had been incurred before 1980. Of the required amount, approximately $30,000,000 is expected to be realized from the sale of the bonds, $15,000,000 is expected to be realized from capital contributions, and the balance of $25,700,000 is expected to be financed through short-term borrowings.

A statement of the fees and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. The approval

of the Connecticut Department of Public Utilities is required for the issuance of the bonds. It is represented that no other state commission, and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 28, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Corporate Regulation Division, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24143 Filed 8-8-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Atlanta, Georgia, will hold a public meeting from 2:00 p.m., Thursday, September 4, 1980 to 12:00 noon, Friday, September 5, 1980, at the Holiday Inn, 200 Beach View Drive South, Jekyll Island, Georgia, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Clarence B. Barnes, District Director, U.S. Small Business Administration, 1720 Peachtree Road, N.W., 6th Floor, Atlanta, Georgia 30309, 404/881-4749.

Dated: August 1, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-24017 Filed 8-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 10:00 a.m., Friday, September 12, 1980, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room C-270 (2nd Floor), Honolulu, Hawaii, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David K. Nakagawa, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850, (808) 546-8950.

Dated: August 4, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-24018 Filed 8-8-80; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council Executive Board Meeting

The Small Business Administration Region X Advisory Council Executive Board will hold a public meeting at 9:00 a.m., Wednesday, August 27, 1980, at the Federal Building, Rooms 223 through 229, 1220 SW 3rd Avenue, Portland, Oregon, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Larry C. Gourlie, Regional Administrator, Region X, U.S. Small Business Administration, 710 Second Avenue, Seattle, Washington 98104, (206) 442-5676.

Dated: August 4, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-24019 Filed 8-8-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-100]

Ship Structure Committee; Renewal

The Charter for the Ship Structure Committee has been renewed by the Secretary of Transportation for a two year period commencing July 1, 1980, through June 30, 1982. The Secretary has determined that this renewal is in the public interest.

The purpose of the Committee is to conduct an aggressive research program which will, in the light of changing technology in marine transportation, improve the design, materials, and construction of the hull structure of ships and marine platforms by an extension of knowledge in these fields for the ultimate purpose of increasing the safe and efficient operation of all marine structures.

The Committee is composed of the following ex-officio members:

Commandant, U.S. Coast Guard, Department of Transportation;
Commander, Naval Sea Systems Command, Department of the Navy;
Commander, Military Sealift Command, Department of the Navy;
Assistant Secretary for Maritime Affairs, Department of Commerce;
Director, U.S. Geological Survey, Department of the Interior;
President, American Bureau of Shipping.

The above members have designated the following ex-officio members as their representatives:

Chief, Office of Merchant Marine Safety, U.S. Coast Guard;
Deputy Director, Hull Group, Naval Sea Systems Command;
Chief Engineer, Military Sealift Command;
Assistant Administrator for Commercial Development, Maritime Administration;
Chief, Branch of Marine Oil and Gas Operations, U.S. Geological Survey;
Vice President, American Bureau of Shipping.

Interested persons may seek additional information by writing CDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters (G-MMT-4/13), Washington, D.C. 20593.

This notice is issued under the authority of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) of October 6, 1972.

Dated: July 1, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-24151 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-80-21]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 1, 1980.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 1, 1980.

John H. Cassady III,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20474	Coral Air, Inc	14 CFR 135.243(a)	To allow Mr. Frank McGill to serve as pilot-in-command without holding an airline transport pilot certificate until Feb. 16, 1981, his 23rd birthday.
20517	William R. Wallace	14 CFR 65.91(c) (1) and (2)	To allow Mr. Wallace to become eligible for an Inspection Authorization without meeting the time limit requirements.
12468	Petroleum Helicopters, Inc	14 CFR 43.3(h)	To renew Exemption No. 1821F which permits trained pilots to remove, inspect, and reinstall magnetic chip detector plugs in Allison 250 C series engines.
20524	Pipe Fabricators, Inc	14 CFR 43.3(h)	To permit its trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on Allison 250 C series engines.
20508	Falcon Jet	14 CFR 21.195	Issuance of experimental Certificates for Market Survey to other than a U.S. Manufacturer.
20470	Mayo Aviation, Inc	14 CFR 135.89(b)(3)	To permit operation of Learjet Models 24 and 25 aircraft above FL 350 up to and including FL 410 under the provisions of Section 121.333 of the FAR.
19475	Flight Safety Int'l	14 CFR various sections	To extend the expiration date past October 31, 1980 of Exemption No. 2854 which permits FSI trainees to complete a practical test for a type rating in a flight simulator.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20242	Dorado Wings, Inc	14 CFR 135.243(a)	To allow petitioner to use pilots on commuter air carrier routes who do not possess an airline transport pilot certificate. *Granted 7/29/80.*
20035	Energy Helicopters Inc	14 CFR 43.3(h)	To allow pilots to remove, check and reinstall magnetic chip detector plugs on Allison 250 C series engines, main transmission, and tail rotor gear boxes on Hughes Model 369 helicopters. *Granted 7/29/80.*
20376	Hessenatie-Sotramat Aviation	14 CFR 91.27(a)(1)	To allow petitioner to operate a U.S. registered Mitsubishi MU-2B-60 airplane, using a master minimum equipment list. *Granted 7/29/80.*
19645	Thermonetics, Inc	14 CFR Parts 135 and 91, Subpart D.	To allow the petitioner to operate a Super King 200 Beechcraft small aircraft (less than 12,500 pounds) in accordance with Subpart D of Part 91. The petitioner intends to dry-lease the aircraft for use in transporting its own employees and guests as well as those associated with its subsidiaries, which are separate corporate entities, and charging those subsidiaries for their use of the aircraft. *Denied 7/29/80.*

[FR Doc. 80-23904 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 23–80]

Supplement to Department Circular

August 6, 1980.

The Secretary announced on August 5, 1980, that the interest rate on the notes designated Series L–1983, described in Department Circular—Public Debt Series–23–80, dated July 31, 1980, will be 9⅞ percent. Interest on the notes will be payable at the rate of 9⅞ percent per annum.

Gerald Murphy,
Acting Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-24124 Filed 8-8-80; 8:45 am]
BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Addition and Renovation for Clinical Functions, Veterans Administration Medical and Regional Office Center Fargo, N.D.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential impacts that may occur as a result of a Clinical Improvement Project at the VA Medical and Regional Office Center (VAMROC) Fargo, North Dakota.

The project consists of a two-story and basement addition in the north court of building No. 9.

Findings conclude that the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 1, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-24101 Filed 8-8-80; 8:45 am]
BILLING CODE 8320-01-M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 of the Lafayette Building, 811 Vermont Avenue, NW, Washington, DC on October 17, 1980, at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202–389–2864), prior to October 13, 1980.

Dated: July 31, 1980.

By direction of the Administration.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-24099 Filed 8-8-80; 8:45 am]
BILLING CODE 8320-01-M

60–Bed Nursing Home Care Unit; Veterans Administration Medical Center, Fresno, Calif.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of the 60-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC), Fresno, California.

The project calls for construction of a one or two story building containing approximately 17,000 net square feet. In addition, 40 to 50 parking spaces associated with the nursing home, plus any spaces possibly displaced by the NHCU construction, will be provided.

There are five sites being considered for the NHCU, all within the VAMC station property. Site A is located in the northeast corner of the station and sites B and C are located south of the main hospital building along Clinton Avenue. Site D is east of building no. 1 and site E would replace buildings nos. 12, 13, 14 and 16.

Development of the project will have minimal impacts on the human and natural environment as it affects topography, surface runoff, floodplains, traffic and parking as well as aesthetic and cultural elements. In addition, construction noise, dust, fumes and visual impacts will exist during construction of the project. Long term open space and visual impacts will result from the project developments.

Findings conclude the proposed actions will not cause a significant effect on the physical and human environment and therefore, the project does not require preparation of an Environment Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: July 31, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-24102 Filed 8-8-80; 8:45 am]
BILLING CODE 8320-01-M

Development of 3.7 Acres, Veterans Administration National Cemetery, Springfield, Mo.; Findings of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the acquisition and development of an additional 3.7 acres of land adjacent to the existing VA National Cemetery at Springfield, Missouri.

The proposed project action will provide approximately 2,000–2,500 gravesites and will insure that sufficient gravesites are available for the

continuation of interments. The development will be staged to provide sufficient time for turf and landscape planting to become established.

The expansion project will not involve construction of any buildings, but will include clearing, grading, construction of roads and curbs, drainage facilities, water distribution lines and gravesite control monumentation. Total estimated project construction cost is approximately $300,000.

Development of the proposed project will have impacts on the environment affecting soil stability relative to erosion and minor aspects of air quality.

The mitigation of project impacts on the environment include: implementation of erosion and sedimentation controls; onsite noise abatement measures; and air quality controls related to construction.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: July 31, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-24097 Filed 8-8-80; 8:45 am]
BILLING CODE 8320-01-M

Expansion of Clinical, Outpatient and Education Space Veterans Administration Medical Center, New Orleans, LA.; Proposed Action

The Veterans Administration proposes the construction of a clinical addition, service core, and renovations to building no. 1 for the expansion of clinical, outpatient and education space. The clinical addition will be an eight-story structure (plus basement and mechanical penthouse) of approximately 200,000 gross square feet and will be located on a 1.1 acre site adjacent to the Veterans Administration Medical Center (VAMC), New Orleans, Louisiana.

The Veterans Administration (VA) has determined that the project is a "Critical Action" as defined by Executive Order 11988 and as such should avoid being sited within the 500 year floodplain. The Dallas Regional Office of the Federal Emergency Management Agency (FEMA) indicated that the New Orleans VAMC and the project site is within Zone B or the 500 year floodplain boundary. The floodplain is defined as having a 0.2 percent chance of flooding as a result of unusual and rapid accumulation of runoff of surface waters from any source. However, a determination has been made by the VA that the proposed project will not adversely affect the floodplain. The potential for flooding will be considered in the design of the building.

Accepted floodproofing and other flood protection measures shall be applied for the new construction. Development will be in total conformance with existing floodplain management objectives. Project alternatives have been considered in the planning process. Due to the location of the existing hospital within the 500 year floodplain and the necessity of accessibility to the existing hospital, no sites outside of the floodplain were considered.

In view of the proposed design incorporating flood protection measures, it is the determination of the VA that there will be no significant increase in the elevation of flood waters due to this project.

The VA is soliciting comments from State and local levels. The comment period will be open until September 10, 1980. This Notice of Proposed Action is in compliance with the announcement requirements of Executive Order 11988, Floodplain Management Guidelines (February 1978). Comments on this action should be addressed to:

Mr. Willian A. Salmond, Acting Assistant Administrator for Construction (08), Veterans Administration, 810 Vermont Ave, NW., Washington, D.C. 20420.

Dated: July 31, 1980.

By direction of the Administrator:

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

BILLING CODE 8320-01-M

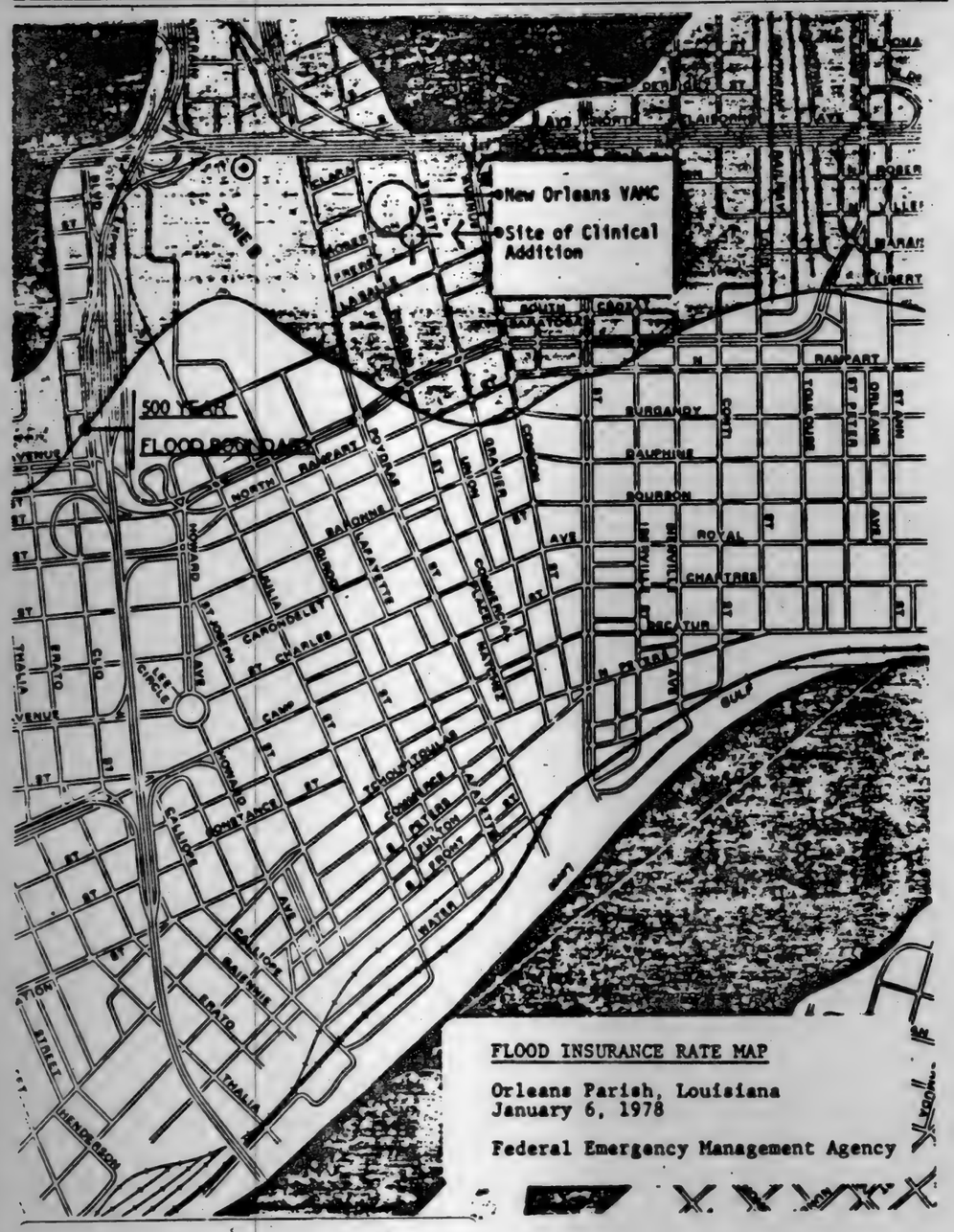

[FR Doc. 80-36100 Filed 8-8-80; 8:45 am]
BILLING CODE 6320-01-C

Land Use and Development Master Plan Veterans Administration Medical Center, Denver, Colo.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the implementation and development of a land use master plan at the Veterans Administration Medical Center (VAMC), Denver, Colorado.

The proposed development would include a 60-bed nursing home care unit (NHCU), new access roadway and parking, and possible boiler plant expansion. Estimated construction costs have not been generated.

Development of the plan will have possible impacts on the human and natural environment affecting open space, soil stability, air quality related to construction, and noise levels.

The mitigation of the project impacts on the environment include: implementation of erosion and sedimentation controls; onsite noise abatement measures; and air quality controls. Short term impacts of dust and fumes associated with the project construction will be minimized.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

This assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 1, 1980.

By direction of the Administrator:

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80-24099 Filed 8-8-80; 8:45 am]
BILLING CODE 6320-01-M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

President's Commission on White House Fellowships Privacy Act of 1974; Notice of Systems of Records

In accordance with the requirements of 5 U.S.C. 552a(e) (4) and (11), Section 3 of the Privacy Act of 1974 (Public Law 93-579), the Commission hereby publishes its annual notice of the system of records it maintains which is subject to the Act. With one revision, this notice continues in effect the notice published in the **Federal Register** at 40 FR 39225 and 41 FR 44029. The revision to the previously published notice is as follows.

Records on spouses of White House Fellows will not be maintained. It has been determined that information on spouses is no longer necessary since the spouse program is arranged by the spouses themselves. The information on previous spouses has been destroyed.

W. Landis Jones,

Director, President's Commission on White House Fellowships.

PCWHF—1

SYSTEM NAME:

White House Fellowships—PCWHF

SYSTEM LOCATION:

President's Commission on White House Fellowships, Room 1308, 1900 E Street, N.W., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for White House Fellowships, speakers for the White House Fellows' education program, and commission and regional panel members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, index cards and supplemental material on individuals applying for White House Fellowships; biographical and other material regarding speakers for the White House Fellows' seminars, and index cards on prospective and current regional panel members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11183, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Applications are used to select candidates for White House Fellows; biographical and other material regarding speakers are distributed to White House Fellows before they meet with them; and cards on commission and regional panel members are a source file for memberships.

b. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in filing cabinets in a secured room. Records are available only to personnel authorized by the President's Commission on White House Fellowships.

RETENTION AND DISPOSAL:

The applications for White House Fellows are selected are maintained indefinitely. Applications for those not selected are destroyed 60 days after non-selection notice has been mailed. Biographical and other material regarding speakers for White House Fellows' seminars are destroyed when they become obsolete. The index cards of applicants are maintained indefinitely. The index cards on prospective and current commission and regional panel members are destroyed when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Administration, President's Commission on White House Fellowships, Room 1308, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Contact the system manager listed above. It is necessary to furnish the following information in order to identify the individual whose records are requested.

a. Full name

b. Date of birth.

c. Year of application (if applicable).

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to the records through: Assistant Director for Administration, President's Commission on White House Fellowships, Room 1308, 1900 E Street, NW., Washington, D.C. 20415.

CONTESTING RECORD PROCEDURES:

An individual can obtain information on the procedures for contesting the records through: President's Commission on White House Fellowships, Room 1308, 1900 E Street, N.W., Washington, D.C. 20415.

RECORD SOURCE CATEGORIES:

White House Fellows and their evaluators, applicants for White House Fellowships, speakers, and commission and regional panel members.

[FR Doc. 80-36157 Filed 8-8-80; 8:45 am]
BILLING CODE 6325-01-M

Sunshine Act Meetings

Federal Register

Sunshine Act Meetings

Federal Register
Vol. 45, No. 156
Monday, August 11, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1, 2
Equal Employment Opportunity Commission	3
Federal Election Commission	4
Federal Energy Regulatory Commission	5
Federal Reserve System	6
Nuclear Regulatory Commission	7
Civil Aeronautics Board	8

1

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: Room 456 Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

TIME AND DATE: Commission Meeting, Thursday, August 14, 1980, 10 a.m.

STATUS: Part Open to the Public, Part Closed.

MATTERS TO BE CONSIDERED:

Open to the Public.

1. *Briefing on Gas-Fired Space Heaters.*

The staff will brief the Commission on issues related to a draft final safety standard for unvented gas-fired space heaters. The Commission proposed the rule in December 1979.

2. *Briefing on Electric Blankets: Emerging Hazard.*

The staff will brief the Commission on possible regulatory actions CPSC could take with regard to possible fire hazards associated with electric blankets.

Closed to the Public

3. *Section 15 Matters (OS #810 and OS #823)*

The Commission and staff will discuss issues related to two matters under section 15 of the Consumer Product Safety Act. (Closed under exemption 10: civil action.)

Contact Person: Richard A. Danca, Office of the Secretary, suite 300, 1111 18th St. NW., Washington, DC 20207, (202) 634-7700.

Agenda approved August 5, 1980.

[S-1506-80 Filed 8-7-80; 12:10 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

(Revised Agenda) [1]

TIME AND DATE: 9:30 a.m., Commission meeting, Wednesday, August 13, 1980.

LOCATON: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Chain Saws:* The Commission will consider a draft **Federal Register** document announcing its intention to develop a safety standard for chain saws to address the hazard of kickback. The Commission and staff discussed chain saws at the July 16 meeting.

2. *Architectural Glazing Standard, Partial Revocation: Glazed Panels:* The Commission will consider a partial revocation of the glazed panel requirements of the Safety Standard for Architectural Glazing. The Commission proposed the revocation in May 1979; the staff briefed the Commission on the matter at the July 24 meeting.

3. Cribs: *Regulatory Options:* The Commission will provide guidance to the staff on regulatory options concerning entrapment and entanglement hazards associated with crib headboards. The staff briefed the Commission on this matter at the July 16 meeting.

4. *Fiscal year 1982 Budget:* The Commission and staff will discuss issues related to CPSC's budget for fiscal year 1982.

CONTACT PERSON: Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, (202) 634-7700.

[S-1505-80 Filed 8-7-80; 12:10 pm]

BILLING CODE 6355-01-M

[1] Agenda revised August 7, 1980, with the addition of current item 1, Chain Saws. Agenda originally approved August 5, 1980.

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1473-80.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Friday, August 8, 1980.

CHANGE IN THE MEETING: The following matter was added to the agenda for the open portion of the meeting:

Office of Special Projects and Programs—Transfer of Functions and Responsibilities.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change:

Eleanor Holmes Norton, Chair.
Ethel Bent Walsh, Commissioner.
Armando M. Rodriguez, Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued August 5, 1980.

[S-1504-80 Filed 8-7-80; 11:03 am]

BILLING CODE 6570-06-M

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: 10:00 a.m., Monday, August 18, 1980.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1507-80 Filed 8-7-80; 12:26 pm]

BILLING CODE 6715-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., August 13, 1980.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—456th Meeting, August 13, 1980, Regular Meeting (10 a.m.)

CAP-1. Docket No. EL78-43, City of Bountiful, Utah, Utah Power & Light Co., City of Santa Clara, Calif., and Pacific Gas & Electric Co.
CAP-2. Project No. 768, City of Colorado Springs, Colo.
CAP-3. Project No. 2905, Vermont Public Power Supply Authority.

CAP-4. Project No. 3101, City of Winooski, Vt.
CAP-5. Project No. 3055, Merced Irrigation District.
CAP-6. Project No. 3056, South San Joaquin Irrigation District.
CAP-7. Project Nos. 3105 and 3106, Power Authority of the State of New York.
CAP-8. Project No. 2197, Yadkin, Inc.
CAP-9. Docket No. ER80-329, Central Power & Light Co.
CAP-10. Docket No. ER80-108, Missouri Public Service Co.
CAP-11. Docket No. ER80-113, Central Telephone & Utilities Corp.
CAP-12. Docket No. ER80-222, Georgia Power Co.
CAP-13. Docket Nos. ER80-215 and ER80-214, Pacific Gas & Electric Co.
CAP-14. Docket Nos. ER76-827 and ER77-427, Minnesota Power & Light Co.
CAP-15. Docket Nos. ER77-75, ER77-97, ER78-78 and ER78-79, New England Power Co.
CAP-16. Docket No. ER79-217, Boston Edison Co.

Miscellaneous Agenda—458th Meeting, August 13, 1980, Regular Meeting

CAM-1. Docket No. RM80- , Discontinuance of FPC Form Nos. 12-A and 12-B.
CAM-2. Docket No. RM79-47, Statewide exemptions from incremental pricing.
CAM-3. Docket No. RA80-10, Pinecrest Texaco.
CAM-4. Docket No. RA80-47, Brock Exploration Corp.

Gas Agenda—458th Meeting, August 13, 1980, Regular Meeting

CAG-1. Docket No. RP78-58, Valero Interstate Transmission Co.
CAG-2. Docket No. RP80-106, Trunkline Gas Co.
CAG-3. Docket No, RP80-114, Inter-City Minnesota Pipelines Ltd., Inc.
CAG-4. Docket No. TA80-1-25 (AP80-1), Mississippi River Transmission Corp.
CAG-5. Docket No. TA80-2-33 (PGA80-2) (IPR80-2) (AP80-1) [TT80-1) and (LFUT80-1), El Paso Natural Gas Co.
CAG-6. Docket Nos. RI74-188 and RI75-21, Independent Oil & Gas Association of West Virginia.
CAG-7. Docket No. CI80-332, Texaco, Inc.; Docket No. CI80-298, Exxon Corp.
CAG-8. Docket Nos. CS67-95, et al., Estate of Fred Turner, Jr. (Fred Turner, Jr.) et al.; Docket No. CS79-87, Ambra Oil & Gas; Docket No. CI80-285, Northwestern Mutual Life Insurance Co.; Docket No. CI80-304, Amoco Production Co.; Docket Nos. CI75-346, et al., Conoco, Inc. et al.; Docket No. CI 80-3091, Mesa Petroleum Co.; Docket Nos. CI70-635, et al., Arco Oil & Gas Co., et al.; Docket No. CI79-611, Union Oil Co. of California; Docket Nos. G-8920, G-10338, G-14164, G-14242 and G-17563, The Superior Oil Co., et al.; Docket Nos. CI77-345, et al., Amoco Production Co., et al.; Docket No. CI78-616, Hondo Oil & Gas Co.; Docket No. CI65-849, The Superior Oil Co.
CAG-9. Docket No. TC80-89, El Paso Natural Gas Co.
CAG-10. Docket Nos. ST79-8, ST79-9, ST79-10, ST79-11, ST79-12, ST80-6, ST80-102, ST80-150 and ST80-193, Producer Gas Co.
CAG-11. Docket No. CP80-58, Panhandle Eastern Pipe Line Co.
CAG-12. Docket No. CP80-310, Tennessee Gas Pipeline Co.
CAG-13. Docket No. CP80-67, Lone Star Gas Co.
CAG-14. Docket No. CP80-158, Texas Gas Transmission Corp.; Docket No. CP80-212, Michigan Wisconsin Pipe Line Co.
CAG-15. Docket No. CP80-344, Northwest Pipeline Corp.
CAG-16. Docket Nos. CP79-352 and RP80-97, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-17. Docket No. CP80-251, Michigan Wisconsin Pipe Line Co.
CAG-18. Docket No. CP80-389, Western Gas Interstate Co.
CAG-19. Docket No. CP80-280, Tennessee Gas Pipe Line Co., a division of Tenneco Inc.
CAG-20. Docket No. CP80-378, Columbia Gas Transmission Corp.
CAG-21. Docket No. CP80-386, Buckeye-Tennessee Gas Gathering Co.
CAG-22. Docket No. CP79-416, ANR Storage Co.; Docket No. CP79-374, Southern Natural Gas Co.; Docket No. CP79-382, South Georgia Natural Gas Co.; Docket No. CP79-478, Great Lakes Gas Transmission Co.; Docket No. CP79-498, Michigan Wisconsin Pipe Line Co.

Power Agenda—458th Meeting, August 13, 1980, Regular Meeting

I. Licensed Project Matters

P-1(A). Project No. 405, Susquehanna Power Co. and Philadelphia Electric Power Co.
P-1(B). Project No. 1888, York Haven Power Co.
P-1(C). Project No. 1025, Safe Harbor Water Power Corp.
P-1(D). Project No. 1881, Pennsylvania Power & Light Co.
P-1(E). Docket No. , Philadelphia Electric Power Co. & Susquehanna Power Co., Safe Harbor Water Power Co., Pennsylvania Power & Light Co. and York Haven Power Co.
P-2. Project Nos. 176, et al., Vista irrigation district.

II. Electric Rate Matters

ER-1. Docket No. ER80-473, Duke Power Co.
ER-2. Docket Nos. ER80-308 and ER80-466, Georgia Power Co.
ER-3. Docket No. ER80-490, Lockhart Power Co.
ER-4. Docket Nos. ER80-484 and ER80-485, Pennsylvania-New Jersey-Maryland Interconnection and Virginia Electric & Power Co.
ER-5. Docket No. ER80-488, Cleveland Electric Illuminating Co. and the City of Cleveland.
ER-6. Docket Nos. E-7631 and E-7633, City of Cleveland, Ohio v. Cleveland Electric Illuminating Co.; Docket No. E-7713, City of Cleveland, Ohio.
ER-7. Docket Nos. E-9329, ER76-792 and ER76-716, Indiana & Michigan Electric Co.
ER-8. Docket No. ER77-614, Union Electric Co.
ER-9. Docket No. ID-1839, H. Russell Smith.
ER-10. Docket No. ID-1860, Robert L. Loughead.

Miscellaneous Agenda—458th Meeting, August 13, 1980, Regular Meeting

M-1. Docket No. QF80-4, Consolidated Water Power Co.—Small power production and cogeneration facilities—qualifying status.
M-2. Docket No. RM79-79, Price squeeze—procedural rules; Docket No. RM79-80, Price squeeze—substantive rules.
M-3. Reserved.
M-4. Reserved.
M-5. Docket No. RM79-76, High-cost natural gas produced from tight formations.
M-6. Docket No. RM79-34, Transportation certificates for natural gas for the displacement of fuel oil.
M-7. Docket No. RM80-34, Nondiscriminatory access to the Outer Continental Shelf.
M-8. Docket No. GP80- , USGS New Mexico section 108 NGPA determination; Depco, Inc., Hancock well No. 6; USGS Docket No. NM 2732-79 FERC No. JD80-415.
M-9. Docket Nos. RA80-5 and RA80-82, San Ann Service, Inc.

Gas Agenda—458th Meeting, August 13, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Reserved.

II. Producer Matters

CI-1. Reserved.

III. Pipeline Certificate Matters

CP-1. Docket No. TC80-7, Michigan Wisconsin Pipe Line Co.
CP-2. Docket No. CP78-161, Consolidated Gas Supply Corp.
CP-3. Docket No. CP80-51, Northern Natural Gas Co., division of Internorth, Inc.

Kenneth F. Plumb,
Secretary.

[S-1510-80 Filed 8-7-80; 3:53 pm]

BILLING CODE 6450-85-M

6

FEDERAL RESERVE SYSTEM.

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR, 51332, August 1, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, August 6, 1980.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such open item(s) was added:

1. Proposed amendments to Regulation D (Reserves of Member Banks) to implement the Monetary Control Act by applying new reserve requirements to member and nonmember depository institutions. (Proposed earlier for public comment; Docket No. R-0306.)

2. Proposed amendment to Regulation A (Extensions of Credit by Federal Reserve Banks) to implement the Monetary Control Act by providing access to Federal Reserve credit through the discount window for depository institutions subject to reserve requirements. (Proposed earlier for public comment; Docket No. R-0307.)

Both items were previously announced for the open meeting on Tuesday, August 5, 1980.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated; August 6, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-1508-80 Filed 8-7-80; 1:21 pm]

BILLING CODE 6210-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, August 13, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Wednesday, August 13:

2 p.m.

Briefing on Upgrade of Material Accounting and Control (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

August 6, 1980.

[S-1509-80 Filed 8-7-80; 3:10 pm]

BILLING CODE 7590-01-M

8

CIVIL AERONAUTICS BOARD.

Notice of Deletion of Item From the August 7, 1980, Board Meeting

TIME AND DATE: 9:30 a.m., August 7, 1980.

PLACE: Room 1027, 1825 Connecticut Aveune, N.W., Washington, D.C. 20428.

SUBJECT: 12. Docket EAS-645, EAS-646, EAS-647 and 37703; Appeal of Essential Air Service Determination for Aguadilla, Mayaguez and Ponce, Puerto Rico; Sun International's notice of intent to suspend service at Aguadilla, Puerto Rico. (Memo #9828, BDA, OCCR, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-1513-80 Filed 8-8-80; 8:45 am]

BILLING CODE 6320-01-M

V 45 A G 1 1 8 0 UMI

federal register

Monday
August 11, 1980

Part II

Department of Transportation

Federal Aviation Administration

Domestic, Flag, and Supplemental Air Carriers and Commercial Operators and Air Taxi Operators; Flight Crewmember Flight and Duty Time Limitations and Rest Requirements

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 17669; Notice No. 78-3B Operations Review Program Notice No. 7]

Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft: Air Taxi Operators and Commercial Operators; Flight Crewmember Flight and Duty Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice proposes to revise the flight and duty time limitations and rest requirements for flight crewmembers utilized by domestic, flag, and supplemental air carriers, commercial operators and air taxi operators. These proposed amendments are part of the operations review program that provided a comprehensive review of the Federal Aviation Regulations (FAR), taking into account the significant changes in the environment in which airmen and aircraft operators function by updating the regulations which apply to them.

DATES: Initial comments on the proposals contained in this supplemental notice must be received on or before October 10, 1980. Reply comments on these initial comments must be received on or before November 10, 1980.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 17669, 800 Independence Avenue, S.W., Washington, D.C. 20591 or deliver in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 17669. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Norman C. Miller, Safety Regulations Staff, Regulatory Review Branch (AVS-22), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Comments are also invited regarding the implementation date of the final rule. The FAA proposes to establish an effective date of 180 days after the issue of the final rule. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All initial comments received on or before October 10, 1980, and all reply comments received on or before November 10, 1981, will be considered by the Administrator before taking action on the proposed rule.

The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this supplemental notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

This supplemental notice is based upon two notices of proposed rulemaking issued in 1977 and 1978 as part of the FAA's Regulatory Review Program. Notice 78-3 (43 FR 8070; February 27, 1978) proposed to amend Part 121 and Part 123 provisions pertaining to flight and duty time limitations and rest requirements for flight crewmembers serving with domestic, flag and supplemental air carriers, commercial operators and air travel clubs using large aircraft. Notice 77-17 (42 FR 43490; August 29, 1977) proposed substantially revised requirements in Part 135 for air taxi operators and commuter air carriers. Although Notice 77-17 was issued prior to Notice 78-3, the flight and duty time provisions in it contained concepts which were similar in many respects to the concepts which were proposed later in Notice 78-3.

Both notices developed a wealth of helpful information in the public comments which were submitted by a broad spectrum of interested persons. The Part 135 notice generated more than 1,600 comments. Comments on the Parts 121 and 123 flight and duty time limitations notice were also extensive and comprise 16 volumes in the FAA's public regulatory docket.

Preliminary FAA analysis of the comments received in response to Notice 78-3 indicated the need for extensive research and additional conceptual development before that rulemaking action could proceed. Consequently, in view of the conceptual similarity between the flight and duty time limitations proposal in Part 135 and the proposal in Notice 78-3, when the FAA issued the amendments to Part 135, the FAA decided to defer changing the flight and duty time limitations in Part 135 until they could be given further consideration. Accordingly, this supplemental notice proposes changes to both Part 121 and Part 135 and includes a discussion of comments received in response to Notices 78-3 and 77-17 pertaining to flight and duty time limitations. The changes proposed to Parts 121 and 135 differ in certain respects from the proposals in those notices as fully explained in the discussions pertaining to each part. These revised proposals carry out the goal of regulatory simplification which was discussed in Notice 78-3.

Preliminary to a discussion of specific proposals and comments, there are two areas which merit separate treatment. The first is the matter of the safety justification for the proposals and the second concerns economic impact.

Safety

Various commenters, including a large industry association, objected to the proposals in Notice 78-3 contending that the FAA did not explain why the proposed changes were required by safety considerations. In contrast, a large professional organization commenting on this issue, and specifically on the contention of the industry association, took the position that the proposals have adequate safety justification as a general proposition because the FAA is attempting to prevent fatigue in flight crews.

Arguments on the safety issue were discussed in the preamble to Notice 78-3 in response to a contention made at the Operations Review Conference that flight and duty time limitations should be left to the labor contracts negotiated between air carriers and unions. The FAA pointed out that the Administrator has an explicit statutory duty under Section 601(a)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1421(a)(5)) to promote safety of flight in air commerce by prescribing reasonable rules and regulations governing, in the interests of safety, the maximum hours or periods of service of airmen and other employees of air carriers. In addition, the agency made it clear that, even if there were no statutory obligation, it does not agree that regulation of this subject should be left to negotiated labor agreements.

Although a connection between flight crewmember fatigue and the likelihood of crewmember error clearly exists (ref: NASA, TND-8365, Pilot Workload and Fatigue, 11/76; CAMI, AM 65-13, Fatigue In Aviation Activities, 3/65; ICAO, Circular 52-AN/47/5, Flight Crew Fatigue and Flight Time Limitations, 1975) the FAA believes it is impossible to precisely quantify and directly measure the safety benefits associated with different hours of flight and duty time limitations. Therefore, the FAA is unable to estimate the number of accidents or injuries that might be avoided by the implementation of the limitations proposed in this notice. However, the proposals in this notice have been developed based on the extensive technical expertise of agency personnel. This expertise has been used to make qualitative judgments on various proposals and to analyze and weigh the opinions expressed by knowledgeable commenters. These proposals are a product of these experts' deliberations and fully comply with the Congressional mandate to develop reasonable flight time limitations for flight crewmembers.

With respect to flight time limitations for flight crewmembers serving with commuter air carriers, on October 17, 1979, the National Transportation Safety Board (NTSB) recommended to the FAA that the agency "expedite rulemaking which would make the flight time and duty time limitations and rest requirements for commuter air carriers the same as those specified for domestic air carrier crewmembers." This recommendation resulted from the NTSB's investigation of a June 17, 1979, accident involving the crash of an Air New England de Havilland DHC-6 airplane during a nighttime instrument landing approach. This recommendation lends added emphasis to the need for flight and duty time limitations for commuter air carrier flight crewmembers.

In the preamble to Notice 78-3, the FAA also pointed out that the flight time limitations which apply to air carriers and commercial operators have remained essentially unchanged for over 30 years and that it was timely for those rules to be re-examined. This is especially true in view of the enactment of the Airline Deregulation Act of 1978 (Pub. L. 95-504) on October 24, 1978 (the "Act"). Under the Act, many aspects of economic regulation by the Civil Aeronautics Board (CAB) have either disappeared or have been substantially reduced. Thus, the factors which traditionally have distinguished the operations of various classes of air carriers are fading in importance. For example, air carriers once recognized as essentially local service in their operations are conducting operations similar in many respects to domestic air carriers. As another example, some supplemental air carriers have received CAB authority to provide scheduled domestic or flag service, or both. The proposals in this supplemental notice are responsive to today's circumstances arising under the climate created by airline deregulation and are intended to prevent any derogation in safety.

Economic Impact—Analysis

A considerable amount of industry data was submitted in response to Notice 78-3 on the cost of implementing the flight time limitations proposed in that NPRM. In addition, cost data for commuter air carrier implementation of the Notice 77-17 proposals were included in a report titled "Cost Impacts of FAR Part 135 Changes on the Commuter and Air Taxi Industries," dated May 1978. Based on an analysis of this data, the FAA estimates that the first year industry costs of implementing the provisions of this supplemental notice would be $107 million. However, as discussed more fully below, this cost figure is based on incomplete data. Much of this data was derived from industry sources and could not be fully substantiated by the FAA. The FAA believes that with more complete data, which are requested below, the estimated implementation costs of the proposals would likely be significantly reduced. The FAA does not intend to issue a costly regulation unless clearly justified by the benefits that would be accrued. In view of this and the great difficulty in quantifying the safety benefits associated with the proposal, the proposal will be reconsidered if the FAA estimate of implementation costs is not substantially reduced or unless greater safety benefits are quantified.

Although estimates have not been made of non-safety related economic benefits associated with the proposals, the FAA believes they will be substantial. Government costs involved in responding to the numerous requests for interpretation of the existing flight time limitations would be significantly reduced if the proposal is adopted. The FAA believes that those subject to the proposed requirements would experience important savings associated with the implementation of a simplified rule. Comments are invited on the savings that would result.

The major cost impact from this supplemental notice will be incurred by trunk, charter and air taxi operators, respectively (See Table A). Airlines included within each of the carrier groups are listed in Table B.

- Truck Carriers—First year costs for this group have been estimated at $41.4 million which is approximately 40 percent of the total industry cost. The inclusion of new flight and duty time considerations, such as a regulatory definition of duty time and daily duty time limitations, account for the major cost impacts. The change from 24 hours duty free in 168 hours to 30 hours duty free in seven days is also more restrictive, as is the change from eight to 10 hours in minimum rest required after a duty period.
- Charter Carriers—It is estimated that charter (supplemental) carriers would incur first year costs of $17.5 million. Although labor contracts for charter carriers were not available, the public comments and the inclusion of such items as monthly limits and deadhead time as duty time provided a sufficient basis for estimation. It should be noted, however, that the impacts may be somewhat overstated due to the data limitations discussed under the paragraph entitled, "Limitations of Estimates."
- Air Taxi operators—Since air taxi Operators were not included in Notice No. 78-3, there are no industry cost estimates available in the public docket. Accordingly, the $19 million first year costs shown for air taxi operators were taken from the referenced Part 135 study which had a population size of approximately 2,200 operators. Although the magnitude of the cost impact of Part 135 operators is significant, it should be noted that the average first year cost per operator would be less than $9,000. Specific areas of change include: 40 hours flight time in seven days in

addition to a daily limit; a new rest requirement; and inclusion of duty time and landing provisions.

Comparative Costs

This supplemental notice contains changed proposals which are responsive to comments received in response to Notice 78–3. Further, it contains proposed revisions to Part 135 flight and duty regulations for commuter air carriers and air taxi operators. Finally, the supplemental notice is not applicable to Travel Clubs (Part 123 operators) while Notice 78–3 included this operator group. Table A compares the total first year carrier costs from Notice 78–3 to supplemental Notice 78–3B. The subtotal for Part 121 operators indicates that the changes made by the FAA in response to public comments accomplished a sixty-one percent (61%) cost reduction, with estimates from Notice 78–3 at nearly $197 million reduced to $80 million by supplemental Notice 78–3B. The major factors accounting for this cost reduction include:

- The definition of duty time was amended by adding "at a location specified by the certificate holder." Thus, this provision is less costly than Notice 78–3.
- Daily flight and duty time limits are less restrictive than the proposals in Notice 78–3. For example, that notice limited a two-pilot crew to 8 hours of flight time and 12 hours of duty time. This supplemental notice proposes limits of 10 hours of flight time and 14 hours of duty time.
- This supplemental notice proposes that the definition of flight time will revert to current practices, that is "total block-to-block time" instead of "time spent at a crewmember station."
- Deletion of yearly flight time limits.
- Travel clubs have been deleted as an operator group subject to Part 121 flight and duty time regulations. As shown in Table A this eliminated a potential four ($4) million dollars in industry costs.

Limitations of Estimates

Sufficient data were not available to independently estimate the cost impacts from this supplemental notice. Thus, the Part 121 estimates were derived from the public comment record for Notice 78–3. The primary data were the Air Transport Association (ATA) and National Air Carrier Association (NACA) comments and exhibits. The reported cost impacts were adjusted to reflect the differences between the Supplemental Notice and Notice 78–3. In addition, data for commuters and air taxis were obtained from the referenced Part 135 study. The absence of complete data required that hypothesized relationships be used to estimate incremental changes in cost impacts for Alaskan, Hawaiian, All Cargo, Commercial Operators and other carriers. Individual cost estimates for each carrier group and specific assumptions used to derive cost estimates for these groups are contained in the report "Economic Impact Assessment of Proposed Flight and Duty Time Rules," Docket No. 17669.

Table A.—*Flight and Duty Time Analysis Total First Year Costs ($000's) and Relative Share by Type of Carrier*

Carrier type	Estimate of industry costs from NPRM 78–3		Supplemental notice initial estimate	
	Dollars	Percent	Dollars*	Percent
Part 121 Operators:				
Trunk	113,628	57.7	41,401	38.8
Local Service	20,324	10.3	9,163	8.6
Alaskan	2,073	1.0	2,010	1.9
Hawaiian	312	0.1	0	0.0
Other Carriers	131	0.1	131	.1
Charter (Supplemental)	34,465	17.5	17,487	16.3
All Cargo	18,466	9.4	7,712	7.2
Commercial Operators	3,513	1.8	2,401	2.2
Travel Clubs	4,080	2.1	Not affected	0
Subtotal for 121 Operators	196,991	100.0	80,305	74.9
Part 135 Operator:**				
Commuter Air Carriers			7,557	7.1
Air Taxi Operators	19,267			18.0
Subtotal for 135 Operators			26,844	25.1
Total			107,149	100.0

*These amounts are a combination of initial "start-up" costs and first year costs.
**Source: Analysis of NPRM 77–17, "Costs Impacts" of FAR 135 Changes in the Commuter and Air Taxi Industries, May 1978 (Docket No. 16097).

Table B.—*Population for the Estimates*

Trunk

American Airlines*
Braniff Airways*
Continental Air Lines*
Delta Air Lines*
Eastern Air Lines*
National Airlines*
Northwest Airlines*
Pan American World Airways*
Trans World Airlines*
United Air Lines*
Western Air Lines*

Local Service

Allegheny Airlines*
Frontier Airlines*
Hughes Airwest*
North Central Airlines*
Ozark Air Lines*
Piedmont Airlines*
Southern Airways*
Texas International Airlines*

Alaskan

Alaska Airlines*
Kodiak-Western Alaska Airlines
Munz Northern Airlines
Reeve Aleutian Airways
Wien Air Alaska*

Hawaiian

Aloha Airlines
Hawaiian Airlines*

Other

Air Midwest
Air New England
Aspen Airways
Wright Air Lines

Air Taxi Operators

From Part 135 study

All Cargo

Airlift International
The Flying Tiger Line
Seaboard World Airlines

Charter (Supplemental)

Capitol International Airways*
Evergreen International*
McCulloch International
Modern Air Transport
Overseas National Airways
Rich International
Trans International Airlines*
World Airways*
Zantop International

Commercial Operators

(Intrastate scheduled carriers)
Air California
Pacific Southwest Airlines
Southwest Airlines

Travel Clubs

Ambassadair
Atlanta Skylarks
Bird of the Sun
Club Alaska
Club U.S.A. Inc.
Emerald Shillelagh, etc.
Fiesta
Florida Air Travel Assoc.
Four Winds
Great Valley
Jet Set
Nomads

Commuter Air Carriers

From Part 135 study

Request for Economic Data

The models developed in the report "Economic Impact Assessment of Proposed Flight and Duty Times Rules," Docket No. 17669, are based on data supplied as comment to NPRM 78–3. As such, the models are sensitive only to the requirements of NPRM 78–3 and cannot be employed to evaluate the economic impact of SNPRM 78–3B. The following data are requested from the industry so that a cost impact assessment of the provisions of SNPRM 78–3B can be prepared.

*Denotes Public Comment Submission.

Data are being sought from both Part 121 and Part 135 operators. Questions have been prepared and are included in this NPRM for each operator group. In addition to providing the information delineated below, each Part 121 and Part 135 operator should furnish two (2) copies of the most recent crew-carrier labor contract. Further, Part 135 operators should submit two copies of their timetable for scheduled operations (if applicable). Each Part 121 and Part 135 operator should list a contact person for FAA and FAA consultant inquiries.

Please note that data are requested for October 1979. If for some reason the Part 121 or Part 135 operator believes that data for October 1979 are not representative, information for another month may be substituted. However, an explanation of the rationale for substituting data for a month other than October 1979 should be provided.

Part 121 Operators

It is anticipated that all carriers cannot provide the same level and depth of data requested. As such, the carriers may pursue any one of the following options:

1. Complete Part I of the questions *and* provide a listing of October 1979 trip pairings and crew bid lines; or,

2. Complete Part I of the questions *and* estimate the likely costs due to NPRM 78–3B by reallocating flights to crew pairings and constructing new bid lines which conform to the proposed regulation and are consistent with current contracts; the estimated cost of the revised crew schedules can be compared to the cost of the crew schedules constructed previously to conform to the current requlations and restrictions; or

3. Complete Part I and II of the questions.

Part 135 Operators

Existing data sources do not provide sufficient information concerning Part 135 operators to allow a complete cost impact assessment of SNPRM 78–3B to be completed. A set of questions has been prepared designed to obtain demographic and operating data concerning Part 135 operations necessary for an analysis of the likely cost impacts of SNPRM 78–3B. All Part 135 operators should answer all questions that are relevant to their operation.

Part 121

The following questions are designed for response from trunk carriers, flag carriers, supplemental/charter carriers, all cargo carriers, other Part 121 operators and section 408 carriers. It is recognized that each question may not be relevant to each certificate holder. Therefore, each operator should respond to those questions relevant to their operations. Please list and explain any assumptions employed in preparing responses to the questions. Further, all responses should be based on the October 1979 level of activity.

Part I

1. Based on October 1979, or the latest annual utilization statistics, please provide the following:

Aircraft type	Average utilization (hrs./mo.) per crewmember (total time = flight + credit hours)	Credits [1] as a percent of total time	Duty period: Trip	Duty period: Deadhead

[1] When a pairing involves both duty period credits and trip (time away from base) credits only the more restrictive credit should be listed to avoid double counting.

2. a. Please estimate the additional costs, if any, incurred by the inclusion of *all* commercial flying in Part 121 flight and duty time limitations:

Aircraft type	Training flights	Ferry flights	Other flying (specify type)

b. Please estimate the additional costs, if any, incurred by the inclusion of other, non-flying company assignments as Part 121 duty time for purposes of calculating duty period limitations and intervening rest requirements:

Activity	Hours per month	Additional cost

3. Please advise if relief officers were used to augment normal crew complements in order to extend flight and duty time limits in any of the October 1979 pairings. YES/NO. (circle one) Would the proposed two hour extension of both flight and duty time limits per relief officer make the use of augmented crews any more or less expensive? MORE/LESS. (circle one) If MORE, how much additional cost would have been incurred in the October 1979 pairings? ————. If LESS, how much could have been saved?
————.

4. Separately identify and quantify any other costs (e.g. Administrative, Computer Programming, etc.) associated with the proposed changes in flight and duty time rules.

Item	Cost

5. Please provide the following crew staffing data:

Aircraft type	Number of regular line holding crewmembers	Number of reserve or standby crewmembers

Is the ratio of reserve crews to regular line holders specified by the crew labor agreement? YES/NO. (circle one) If YES, are the above levels of reserve crews at contractual minimum? YES/NO (circle one).

6. Please provide the training and/or new hire costs (includes salary while in training, simulator time, instructors, etc.) to qualify flight crewmembers into each of the following categories:

V 45 AG 1180 UMI

Aircraft type	Captain	First officer	Second officer or flight engineer

7. Please furnish the annual average cost (salary and benefits) per crewmember for each flight crew category:

Aircraft type	Captain	First officer	Second officer or flight engineer

Part II

Provide a listing of October 1979 trip pairings and crew bid lines, *or* provide the following (show the basis for all calculations and list any assumptions employed) for each aircraft type.

A(1) Percentage of trip pairings impacted by 10 hour minimum rest.

A(2) Any additional costs to comply with 10 hour minimum rest.

B(1) Percentage of trip pairings impacted by 11 hour minimum rest.

B(2) Any additional costs to comply with 11 hour minimum rest.

C(1) Percentage of trip pairings impacted by off-duty rest requirements as a function of previous duty period. (1 hour of rest for 1 hour of scheduled duty).

C(2) Any additional costs to comply with off-duty rest requirement as a function of previous duty period.

D(1) Percentage of trip pairings impacted by duty period time limitations (separate the trip pairings affected by duty time reductions due to landings).

D(2) Any additional costs to comply with duty period time limitations (separate costs associated with duty reductions due to landings).

E(1) Percentage of bid lines impacted by increasing the minimum rest period required every seven days from 24 to 30 hours.

E(2) Any additional costs associated with increasing the rest period required every seven days from 24 to 30 hours.

F(1) Percentag of trip pairings affected by the change in maximum flight time in a duty period.

F(2) Any costs associated with the change in maximum flight time in a duty period.

G(1) Percentage of bid lines affected by the change in seven day flight time limits.

G(2) Any costs associated with the change in seven day flight time limits.

H(1) Percentage of bid lines affected by the change in 30 day flight time limitations.

H(2) Any costs associated with the change in 30 day flight time limitations.

I(1) Contractual minimum number of days off (i.e., completely free of duty) required in the current flight crew labor agreement.

I(2) Average number of days off in October 1979 bid lines for regular line holders (i.e., not reserve or standby crews).

Part II Data Sheet

Aircraft type
A. 10-hour min. rest:
(1) Percent of Pairings
(2) Estimated Cost
B. 11-hour min. rest:
(1) Percent of Pairings
(2) Estimated Cost
C. Off-duty Rest Period (1 Hr. Per Scheduled Duty Hour):
(1) Percent of Pairings
(2) Estimated Cost
D. Duty period time limits:
(1) Percent of Pairings (14 hr.)
Percent of pairings (due to landings)
(2) Estimated Cost (14 hr.)
Estimated cost (due to landings)
E. Rest Period Every 7 Days:
(1) Percent of Bid lines
(2) Estimated Cost
F. Maximum Flight time in a Duty Period:
(1) Percent of Pairings
(2) Estimated Cost
G. 7 day Flight time Limits:
(1) Percent of Bid Lines
(2) Estimated Cost
H. 30-day Flight Time Limits:
(1) Percent of Bid Lines
(2) Estimated Cost
I. Days Off:
(1) Contractual Minimum
(2) Current Average

Part 135 Operators

The following questions are designed for responses from both commuter airlines and air taxis. It is recognized that all questions may not be relevant to each certificate holder. Therefore, each operator should respond to those questions relevent to their operation. Answers should be provided by significant aircraft type. In addition, answers may be aggregated when crew compliment (1 or 2 pilots) and the number of seats (0–9, 10–19, 10–30) are the same. Please list and explain any assumptions employed in preparing responses to the questions. Further, all responses should be based on the October 1979 level of activity.

1. Fleet Statistics:

Aircraft type	Utilization per day (hours: minutes)	Number of aircraft in service as: Commuter	Air taxi

2. Crew Statistics:

Aircraft type	Number of pilots per crew	Total number of pilots	Average monthly cost for pilot (salary and benefits)

3. Scheduling Data:

Aircraft type	Average duty period per pilot: Flight time (hrs)	Duty time (hrs)	Number of landings	Monthly average per pilot: Days off	Flight time (hrs)
a. Commuter:					
b. Air taxi:					

4. Cost Impact of Proposed Rules:

a. Please estimate the additional number of pilots, if any, required to perform the October 1979 level of operations under the proposed flight and duty time rules ————.

b. If additional pilots would be required, please estimate the percentage increase attributable to each of the following proposed changes:

	Percent
Duty Period Rest Requirements of 1 hour rest for each hour on duty with a minimum of 10 hours	
Duty Period Time Limitations (14 hr. maximum)	
Duty Period Reductions Due to Landings	
30 hour rest period every 7 consecutive days	
40 hour flight time maximum every 7 consecutive days	
30 day flight time limitations (110 hours)	
Other (Explain)	
Total	100

c. If any other additional costs such as pilot benefits, administrative, or others would be incurred to comply with the new rules, please itemize and estimate one-time and/or recurring cost(s):

Item	Additional cost [1] Initial	Recurring

[1] NOTE.—Initial costs are those that are incurred only once. Examples include: equipment costs and hiring costs. Recurring costs are those incurred repeatedly in the future. Examples include: salary and benefit expenses, meals, lodgings, recurrent training, etc.

Discussion of Proposals and Comments

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

The following discussions are keyed to like proposals in Notice 78–3 and the comments received relating to this notice. For the most part, the proposals contained in this supplemental notice are the same as those contained in Notice 78–3. The justification and explanation for sections that were not revised remain the same as was stated in Notice 78–3.

§ 121.13 Rules applicable to helicopter operations: deviation authority.

It is proposed to amend § 121.13 by deleting the reference to § 121.501 which is contained in revoked Subpart R, and by referring to § 127.191. This latter section is referenced in § 121.501. The amendment is being proposed in place of § 121.483(d) which was proposed in Notice 78–3 so that all the references to Part 127 requirements are in one section of Part 121.

§ 121.471 Applicability.

The many comments received on this section supported the combining of current Subparts Q, R and S into one subpart. Due to the issuance of Special Federal Aviation Regulation No. 38 (43 FR 58366; December 14, 1978), there is no need to retain the names of the different types of certificates in this section. Therefore, this section is amended by deleting "domestic, flag, and supplemental air carriers, and commercial operators".

One commenter was opposed to the proposal to put international operations under the domestic limitations stating that the proposed 30-hour weekly flight limit would create problems. These problems are mitigated by the raising of the weekly flight time limit to 40 hours, as discussed in detail under § 121.475.

§ 121.473 Definition of terms.

"Additional flight crewmember"—Commenters stated that this definition created a problem due in part to the lack of required qualification or duty assignments for this crewmember. The definition of "additional flight crewmember" is dropped from the proposal.

"Augmented flight crew"—All commenters supported this definition, however, one commenter stated that bunks should be provided for relief officers and another stated that there should be takeoff or landing limits. The proposals have been revised in response to these comments. a requirement for bunks or seats to provide adequate in-flight rest facilities is included in proposed § 121.485(c) while a scale for reducing duty time based on the number of landings is included in § 121.483(d) to avoid excessive fatigue resulting from large numbers of landings and takeoffs in one duty perod. In addition, the word "basic" has been deleted and the word "Minimum" inserted in its place for consistency with § 121.385 which requires the use of the minimum flight crew stipuated in the airworthiness certificate but not less than two pilots.

"Basic flight crew"—This definition is deleted because it is covered by § 121.385.

"Boarding gate"—No changes. All commenters supported this definition.

"Deadhead Transportation"—No changes. One commenter suggested that "deadhead transportation" should be associated with air transportation only, and not with ground transportation. The explanation given in Notice 78–3 is still valid. Deadhead transportation should include all modes of transportation that a certificate holder requires or provides to transport crewmembers between airports. This is also discussed in § 121.477.

"Duty period"—No changes. All commenters supported this definition.

"Duty time"—Various commenters objected to the definition of duty time stating that it would be impossible for a certificate holder to control when an individual crewmember goes on duty if crewmembers perform required

assignments (such as home study courses, revision to manuals, etc.) at their convenience. The proposal as written would be very difficult to administer, thus this definition has been amended by adding "at a location specified by the certificate holder". This will define the duration of the crewmember's duty time for the purposes of this regulation since the duty period will commence at the time the crewmember is required by the certificate holder to report for duty and end when the crewmember is released from duty at that location.

One commenter complained that ferry flights were not considered as duty time. As proposed in Notice 78–3, "duty time" would include any operation for a certificate holder, including time spent in ferrying and positioning aircraft, receiving and conducting proficiency checks and other training flights. One commenter requested that the phrase "or in other commercial operations" be deleted on the theory that it should be the responsibility of the crewmember to be rested prior to a flight. Other commercial flight time should be counted as duty time because of its potential for causing fatique. This would preclude a flight crewmember from engaging in other commercial flying and then reporting for flight duty with a certificated operator without a rest period. However, a crewmember should be responsible to refrain from reporting for duty in an impaired state. The proposal has been modified to include this requirement by the addition of proposed § 121.487. In addition, any time spent on the ground between flights for a certificate holder in the same duty period would also constitute duty time.

However, the FAA is not irrevocably committed to the concept that flight or ground training should be included in the definition of duty time and is expressly requesting comments on an alternate definition of duty time. In this definition, duty time means "any time required by, or in connection with, a flight assignment, beginning at the commencement of preflight duties and terminating at the conclusion of post flight duties." This definition would not require assignments such as ground or flight training to be considered as duty time. If this definition were adopted, it would also require a revision of the proposed rule to ensure that a crewmember has been provided a rest period prior to being assigned flight duties by stating that the required rest period must be provided immediately preceding duty time. All comments received will be carefully considered before a final decision is made.

"Flight time"—Several commenters stated that flight time should be "block to block" regardless of the size of the crew since all assigned flight crewmembers on the same flight accumulate flight and duty time at the same rate without regard to whether some time is spent in a crewbunk. According to these commenters, this concept will promote efficiency in scheduling. In response to these comments, the proposal has been revised by deleting the words "at a flight crewmember's station" from the definition of "flight time." One commenter requested that the phrase "or in other commercial operations" be deleted, as it was the crewmember's responsibility to be adequately rested prior to a flight. The FAA's response to this comment is contained in the discussion under "duty time." The last sentence affecting flight navigators flight time has been deleted. Navigators should be allowed to log flight time from block to block as provided for the other flight crewmembers since it would be administratively difficult to ascertain when a navigator "serves as the primary means of navigation" and scheduling problems could result if one flight crewmember's flight time differed from other flight crewmember's flight time.

The FAA has been asked to further explain the definition of "flight time" for flight time limitation purposes. The main factor is whether the aircraft has departed the boarding gate "for the purpose of flight." If the aircraft is directed, for example, to go to the hangar for de-icing, its departure from the boarding gate would not be "for the purpose of flight" and would not be considered as "flight time." On the other hand, if an aircraft left the boarding gate for the purpose of flight but had to return because of mechanical difficulties, this taxi time under this definition would be considered as "flight time" even though the aircraft never left the ground.

Many persons commented on whether military flight time should be included in the flight time limitations. Many reserve organizations stated that the inclusion of military flying time in a flight crewmember's total flying time would severely impact the ready reserve capability of the United States. The Department of Defense submitted similar comments. Based on these comments, this supplemental notice does not propose to require military flight time to be included in a crewmember's total flight time accumulated in operations for a certificate holder.

"Relief officer"—Various commenters objected to the proposal because it did not specify what qualification would be required for a "relief officer." They stated that there is no justifiable basis for an increase in the flight time and duty time limitations based on the addition of a relief officer if that officer is not fully qualified for each position at which the officer is assigned to serve. In light of these comments, the proposal has been revised to require that a relief officer must be fully qualified and current except as provided in § 121.543. This has been accomplished by revising the definition of "relief officer" and adding a new paragraph (d) to § 121.485.

"Rest period"—Several commenters stated that the rest period should start when the crewmember arrives at the rest facility and end on departing the facility, in order to provide at least an eight hour period at the rest facility and that the time spent in debriefing, clearing customs or immigration, and the ride to and from the rest facility must be excluded from rest time. The comments present a difficult regulatory problem; to resolve this issue in an administratively simple manner while recognizing the legitimacy of the argument, the proposal has been revised to increase the required rest period from eight hours to ten hours, and to 11 hours if crewmembers must clear customs or immigration. These extended rest periods will provide the crewmembers with a reasonable opportunity to obtain nearly eight hours at a rest facility.

§ 121.475 Flight time and duty time limitations: weekly and monthly.

One commenter suggested inserting the phrase "be required to" between "no flight crewmember may" and "accumulate flight time." This suggestion would allow the flight crew to decide whether or not the flight and duty time limitations should be observed. This has not been included because it would not be in the best interests of aviation safety to allow the flight crew, either on its volition, or upon request by the certificate holder, to elect to disregard the flight and duty time limitations.

Some commenters questioned the use of the 168 consecutive hour period for the weekly limit, stating it is confusing and is inconsistent with proposed paragraphs (3) and (4) which use calendar month and year respectively. The 168-hour period was proposed to allow greater flexibility in scheduling flight time and rest periods. According to the comments, this is not the case. Consequently, the weekly flight time limitation is revised to apply to a period of seven consecutive days.

Although several commenters supported the 30-hour weekly flight time limitation, most of the commenters stated it was unrealistically low. Weekly limitations ranging from 35 to 50 hours were suggested as alternatives, but no explicit reasons were given to support the suggested limitations. In view of the comments, the proposal has been revised to increase the weekly flight time limitation to 40 hours. Commenters are urged to furnish precise reasons if they advocate that the 40-hour limit should be increased or decreased. Depending upon the comments received, it is possible that the FAA could adopt a weekly flight time limit differing by several hours from that proposed.

A few commenters suggested that the weekly flight time limit is unnecessary because the daily flight time limitation provides sufficient protection. The weekly limit serves to prevent excessive accumulations of flight time which could arise if flight crewmembers accumulated the maximum allowed flight time on each day of the week.

Many commenters opposed the monthly limit of 120 hours and suggested limits ranging from 80 to 100 hours. Some suggested it be entirely deleted. Current flight time rules allow from 100 to 120 hours of flight time to be accumulated per month. A monthly limit of 110 hours will provide sufficient flexibility to the operator yet not derogate safety due to the cumulative effects of fatigue. For consistency with § 121.475(a)(b), § 121.475(a)(3) is changed to read "any 30 consecutive days".

Various commenters vigorously opposed yearly flight time limits on the basis that a flight crewmember does not become fatigued by the year. These comments have merit; the proposal has been revised to delete yearly flight time limits.

Several commenters stated that the phrase "flight or duty" in § 121.475(b) should read "flight *and* duty" or "flight *and/or* duty". This change is not appropriate because flight time and duty time are factors which must be given equal consideration in the preparation of schedules. One commenter suggested adding the words "or rescheduling". Scheduling in the context of this subpart includes rescheduling.

One commenter proposed that the language in current § 121.471(g) be retained in place of § 121.475(b). Service in excess of flight time limitations is covered in § 121.475(c). It includes a prohibition on a crewmember departing the boarding gate if the elapsed flight time plus the flight time scheduled for the next flight will exceed any applicable flight or duty time limitation by more than two hours. Consequently, it would not be appropriate to include present § 121.471(g).

One commenter stated that more definitive language be used in § 121.475(b) and that the word "routinely", which is used in the preamble of Notice 78–3, should be defined. It is not possible in a regulation to specifically describe every situation which could arise. The word "routinely" in the preamble to Notice 78–3 was used in the usual dictionary sense. If a particular flight exceeds the time alloted to it so frequently that it becomes commonplace, then the scheduling of the flight should be reviewed.

Most commenters on § 121.475(c) said that the words "be required to" should be inserted between the phrase "a flight crewmember may not" and the phrase "depart the boarding gate". This would not be acceptable for the reasons previously explained.

Several commenters agreed with the allowable extension of a flight or duty time limitation by two hours. One crewmember opposed the two hour extension since it takes the flight crewmember at the most vulnerable state in regard to fatigue and allows the flight crewmember to fly beyound safe limits. Current Subpart Q allows a flight crewmember to exceed the applicable flight and duty time limitations if delays occur due to circumstances beyond the control of the air carrier but contains no explicit limit on the number of additional hours. An additional two hours provides a degree of flexibility to the certificate holder without imposing a significant burden on the individual crewmember. In addition, under proposed § 121.487, which is introduced in this supplemental notice, a flight crewmember is responsible to refrain from flight crew duty if fatigue will endanger the safety of the aircraft or of its occupants.

§ 121.477 Deadhead transportation.

Several commenters agreed with this section as proposed. Many commenters on this section stated that an eight hour minimum rest period was insufficient. This has been changed to 10 hours or to 11 hours if the flight crewmember must clear customs or immigration, or both, to be consistent with revised § 121.481. The reasons for the change are discussed under that section.

Several commenters wanted deadhead time to be counted as duty time under all circumstances. They stated that deadheading after a duty period is fatiguing and adds to chronic fatigue and that under the proposed rule a flight crewmember may be deadheaded without limitation at the end of the maximum on-duty period. Under the revised proposal, the minimum rest period must be provided immediately following deadheading if deadheading is not to be part of duty time. This rest period should be sufficient to overcome the effects of fatigue generated by the last duty assignment. In addition, a deadheading flight crewmember is not performing any work for the certificate holder and can rest or sleep. The contention that the deadheading could be without limitation is only theoretical because operational experience shows that deadheading usually has a specific limit based upon the destination to which the crew is being deadheaded. Other commenters suggested that the definition of deadhead should include all transportation required and provided by the employer without being limited to between airports. This has not been proposed because it would be overly broad by including ground transportation between the rest facility and the airport. While it is true that some rides between the airport and the rest factility may, on occasion, exceed one hour, it does not appear practicable to have the crew rest period commence upon arrival at the rest facility because of scheduling difficulties.

Another commenter contended that the definition should be limited to air transportation. This does not appear to be consistent with the goal of guarding against fatigue because there are some ground transportation trips between airports which require several hours of travel.

One commenter recommended that ground transportation should be duty time only when required and provided by the certificate holder between airports not in the same metropolitan area. Alternatively, the commenter suggested that ground transportation between two airports in the same duty period should be duty time without regard to whether it is followed be a rest period. The first suggestion is not being proposed because it would not protect against lengthy ground trips between airports in the same metropolitan area. The second suggestion is not being proposed because a flight crewmember is protected from the fatiguing effects of travel between airports when the travel is followed by a rest period.

A few commenters proposed that deadhead time should be among the factors which determine the length of the rest period. This would not be practical because deadhead time, a variable factor, would cause the rest period to vary, which, in turn, would result in scheduling difficulties.

Several commenters suggested that a combination of duty time followed by deadhead time should not exceed 16 hours. This is not practical because it would not allow augmented crews to be used if they were to be deadheaded after their duty period since the maximum duty period for augmented crews is 18 hours.

§ 121.479 Determination of applicable flight time and duty time limitations: flight crewmembers.

Most commenters supported the provisions of this section. Some commenters stated that ferry flights should be considered line operations, while others recommended the elimination of the words "in line operations". Based on these comments, the words "line operations" are changed to read "any operation". This would mean, for example, that a flight crewmember who served with an augmented crew in a line operation subject to limitations of 12 hours flight time and 16 hours duty time, and then served with a two person crew on a ferry flight, would be subject to a flight time limitation of 10 hours and a duty time limitation of 14 hours, provided both flights were made in the same duty period. Thus, if that flight crewmember had seven hours flight time with the augmented crew, only three hours could be flown with the two person crew on the ferry flight.

One commenter suggested that the phrase "as prescribed in § 121.483" be inserted between the phrases "duty time limitations" and "applicable to those flight crews." This phrase has been inserted.

In addition, since under the revised § 121.483 proposal, flight navigators are governed by the flight and duty time limitations of the crew with which they serve, the clause "other than flight navigators" is deleted from the title and "other than a flight navigator" is removed from the text.

§ 121.481 Rest period requirements.

The majority of the commenters concurred with § 121.481(a). One stated that it should not apply to Part 123 operators. As discussed above, proposed Subpart Q does not apply to those persons who are required to operate under Part 123. Two commenters stated that the rest period should be 36 hours instead of 24 hours and another stated that at least one calendar day off should be provided. Reasons given were the need to base rest requirements on the normal 24-hour clock and the diurnal cycle. This period of time would provide the flight crewmember with one full day free of duty, with at least one normal sleep cycle, to perform normal functions related to family, hobbies, and leisure time activities. This time period would avoid a 24-hour period off that might begin and end at 3:00 a.m., or some other time equally inappropriate in providing for normal diurnal considerations.

While in most cases, a flight crewmember would receive more than 24 hours off because the weekly flight time limitations would be exceeded first, it is proposed that the weekly rest period shall not be less than 30 hours. However, it has not appeared that the 24-hour rest period has created any problems. The Agency expressly solicits comments on whether the weekly rest period should be 24 or 30 hours.

Due to the many adverse comments received regarding the 168-hour period, which was proposed to provide more flexibility, the rest period is required every seven consecutive days.

Comments received in response to § 121.481(b) were mixed. Some commenters stated it should not be counted as rest period or should include a provision requiring "at least 8 hours of uninterrupted rest". They cited that receiving one or more calls in the middle of a rest period could interrupt a sleep cycle and be fatigue-causing. Other commenters concurred with or strongly supported the proposal.

As stated in the preamble to Notice 78–3, a flight crewmember's freedom may in some way be restricted by a requirement that the crewmember be available to receive a duty assignment. However, such a restriction does not have an adverse effect on safety, provided the flight crewmember is not otherwise performing any required assignment for the certificate holder. In addition, it is important to note that the minimum rest period required by proposed § 121.481(c) is increased to 10 hours or to 11 hours if the flight crewmember must clear customs or immigration, or both.

The vast majority of the commenters objected to the proposals that: (1) set the rest period at twice the number of hours of flight time accumulated, (2) provided a minimum of eight hours rest, or (3) both. Most commenters objected to the "two for one" proposal on the basis that it is excessive, too rigid, or inadequate. Commenters felt that it should be based on other factors, such as scheduled rather than actual flight time, duty time, twice duty time, or time zones, departure times and night time schedules. Others stated that rest based on twice the hours of flight time would be too long in some cases and proposed an upper limit of 16 hours. Based upon an analysis of the comments received and further review, the proposal is revised to base the rest required on the duty time scheduled to be served prior to the rest period. This has the advantage of providing increased flexibility in scheduling rest, and will, in most cases, reduce the costs due to the reduced rest requirements and yet not compromise safety since each flight crewmember will get no less than that proposed in § 121.481(c).

Many commenters objected to the minimum rest requirement of eight hours saying that it did not provide sufficient time for sleeping at the rest facility due to delays in clearing customs, the trip to and from the place of rest, check in and check out if required, time to eat or relax or do other necessary functions. Figures for minimum rest requirements ranged from nine to 14 hours or a "net time" at the rest facility of eight hours.

Due to the diverse factors involved, it would not be practical to regulate "net" hours of rest. However, a minimum rest period of eight hours appears to be insufficient to perform all necessary functions and yet obtain a sufficient number of hours of sleep. For this reason, and based on the comments received, the proposed minimum rest period is increased to 10 hours. In addition, it is proposed to increase the minimum rest period to 11 hours when it is necessary for the flight crewmember to clear customs or immigration, or both. The FAA expressly solicits comments on this latter proposal.

§ 121.483 Flight time and duty time limitations: duty periods.

One commenter supported § 121.483(a). Other comments were received which were not germane to the proposed text. Based on a comment received, the word "either" is inserted to clarify that a rest period is required if either flight time or duty time is exceeded.

Two changes made elsewhere in the proposed rule dictated a rethinking of this entire section. The definition of flight time, which now encompasses all time in the aircraft "block to block", rather than just the time spent at a flight crewmember station, necessitates an increase in allowable flight time limitations. The reduction in allowable duty hours based on the number of landings made in the duty period, as proposed in § 121.483(d), affects the allowable limits. The provision relating to an additional flight crewmember, on which several negative comments were received, is deleted for the reasons discussed under § 121.473. Since a new landing table is proposed in § 121.483(d), proposed §§ 121.483(b)(2) and (b)(3) are combined and the higher limits are

proposed. The flight and duty time limitations for a two pilot crew are the same as provided for a three member flight crew (pilot in command, second in command, flight engineer). The duty time limit for a two pilot crew is increased from 12 to 14 hours, and the flight time limit has been increased from eight to 10 hours. Flight time for a two pilot crew and a relief officer is increased from 10 to 12 hours. The allowable duty time for a three person crew with two or more relief officers is reduced from 20 to 18 hours.

The proposed changes to this section were based in part on the "Summary Report of 1977–1978 Task Force on Crew Workload" (Report No. FAA–EM–78–15; December 1978), a copy of which has been included in Docket No. 17669. The report discusses the airworthiness certification process, cockpit workload, and accident rates for two and three member crew aircraft. The report stated that there is no evidence that a flight-deck crew of two in an appropriately designed aircraft is less safe than a crew of three pilots. The report therefore implies that there should be no duty or flight time distinction between a two member crew and a three member crew aircraft. Commenters objecting to this provision are encouraged to provide empirical evidence to support their position. Comments are likewise solicited on the referenced study.

One commenter stated that a flight crew should be allowed to make a maximum of 10 landings in a duty period. Other commenters stated that the number of landings made during a duty period should reduce duty time because the takeoff and landing phases are more demanding, and thus more fatiguing than enroute flight, plus the fact that, in the case of augmented crews, less time is available for the pilot in command to rest.

One commenter stated, "I believe that the number of landings, particularly involving instrument approaches in instrument conditions, is a vital factor in fatigue induction, and should properly be considered in terms of flight and duty time". As fatigue is undoubtedly related to safety, although difficult to establish, and even more difficult to quantify, it is almost impossible to formulate rules to completely prevent fatigue. In an effort to combat fatigue, § 121.483(d), which reduces duty time based on the number of landings within the same duty period, has been developed based on the comments received and service experience.

Commenters are specifically invited to provide alternative reduction factors supported by any underlying analysis. Comments are invited on the proposed flight time and duty time limits in light of the changes made by the deletion of the additional flight crewmember, and the redefinition of flight time. Comments are also invited on the necessity for an absolute limit on the number of landings which can be made during one duty period.

Commenters did not object to proposed § 121.483(c) although one commenter did suggest that flight time be reduced to eight hours and duty time to 14 hours, but no justification was presented. However, after further analysis, and due to the change in the definition of flight time, it is proposed that flight navigators be subject to the same flight and duty time limitations as the crew with which they serve. In this context, they would also be subject to the provisions of proposed § 121.479. Even though flight navigators are not provided with relief when serving with augmented crews, it appears they would not be the primary means of navigation during the entire flight and, thus, would have opportunities to rest during the flight.

Proposed § 121.483(d) is not included in this supplemental notice. Instead, it is proposed to amend § 121.13 (discussed above) which will have the same effect. Only one comment was received on this paragraph and the commenter concurred.

Consideration has been given to the possible effects of circadian/diurnal rhythm and related factors upon the performance of flight crewmembers. While scientific study over many years has brought attention to some physiological parameters that may change with long travel across time zones, it has not clearly and objectively identified consistent decrements in pilot performance. Furthermore, the conclusions of some studies are in opposition to others done by equally qualified persons. The variation among individual test subjects and among pilots in observed study groups is great, making it most difficult for the data obtained to be used in a general rule. While some formulas for calculating the rest periods following pilot duties across multiple time zones have been proposed in the scientific literature, they are not practical for incorporation into this proposal.

§ 121.485 Augmented flight crews.

The commenters supported § 121.485(a) and it is unchanged. However, one commenter recommended that "when two pilots in command are scheduled to operate on a crew which is scheduled to exceed 12 hours flight time in a 24-hour period, they will both be designated in the dispatch or flight release, and the pilot in command of the flight at a specific time shall be the one who is operating the aircraft at that time." This suggestion has not been included because it would conflict with § 121.385(c) which states that one pilot shall be designated as the pilot in command. The commenter did not show why the present regulations should be changed and the FAA does not perceive any necessity for changing it.

The majority of the commenters supported § 121.485(b). One commenter stated that the pilot relieving the captain should be captain qualified and another commenter stated that the relief officer(s) should be properly licensed and qualified. Section 121.485(d) is added in response to these comments and § 121.485(b) is unchanged.

Many comments were received on § 121.485(c). Some commenters stated that the rules should define what constitutes a crew bunk while others recommended that specific requirements be established for these bunks. Several commenters objected to the cost of installing crew bunks and the corresponding reduction in the aircraft's passenger payload.

In certain type aircraft it may not be economically feasible to install crew bunks, thus it is proposed to allow the substitution of seats. However, since it may be difficult to rest in full view of the passengers with other ongoing distractions, the bunks or seats must be separated and screened from the flight deck and passengers. No specific requirements are proposed in the rules for the bunks or seats in order to allow the operator maximum flexibility.

Several commenters disagreed with the proposed requirement for bunks on flights in excess of 12 hours, stating crew bunks should be required for flights in excess of eight or nine or 11 hours, or whenever relief officers are assigned to a flight. Other commenters stated that time zone differences or the time of day a duty period commences should also be considered in determining the need for crew bunks. One commenter said that to require bunks to be installed which are equal to the number of relief officers is not feasible and is indefinite. Another commenter questioned the meaning of the word "flights" in proposed § 121.485(c). This section has been revised to delete this word.

Based on these comments and further review, the proposal has been revised to require approved crew bunks or approved seats whenever relief officers are used, regardless of the number of hours of the flight. This will ensure that the relieved crewmember will be able to rest in an area screened and separated

V 45 A G 11 80 UMI

from the flight deck and passengers. This allows the flight time and duty time limits of augmented crews to be increased. However, to avoid excessive cost whenever bunks or seats would be required but not fully utilized, a maximum of two bunks or two seats would be required irrespective of the number of relief officers. This number should provide enough capability to ensure that all flight crewmembers are able to rest.

Several commenters requested that a new paragraph be added to ensure that relief officers are fully qualified for the position in which they are to relieve. In response to these comments, § 121.485(d) has been added which provides that any relief officer serving at a flight crewmember station must be qualified for the station (except as provided in 121.543) and that relief must be provided to each flight crewmember, except the flight navigator. This will ensure that each flight crewmember will have some time during the flight in which to rest.

§ 121.467 Fatigue or illness: responsibility of flight crewmember.

This new section is proposed based on comments received. It would prohibit a person from serving as a flight crewmember if that person is suffering from, or likely to suffer from, fatigue or illness which could endanger the safety of the aircraft or its occupants. This section is needed to ensure that each flight crewmember is sufficiently rested before each flight, even when provided the minimum rest period. There may be times when due to unusual circumstances a flight crewmember is ill or does not obtain sufficient rest to overcome the cumulative effects of fatigue.

Subparts R and S.

No comments were received on revoking Subparts R and S. This proposal is unchanged.

PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES

§ 123.27 Applicable regulations of Part 121 and § 123.47: duty time limitations.

Many comments were received which opposed the inclusion of proposed Subpart Q in Part 123. The reasons cited were schedule difficulties and economics. Since the FAA is proposing to include Air Travel Clubs under proposed new Part 125, the proposal to make Subpart Q applicable to Part 123 certificate holders is withdrawn.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Subpart F—Flight Crewmember Flight Time and Duty Time Limitations and Rest Requirements

The following discussion is keyed to the comments received in response to Notice 77–17 (42 FR 43490; August 29, 1977). The reasons for the proposals are the same as those contained in Notice 77–17 with changes discussed below based on the comments received.

§ 135.261 Applicability.

Many commenters objected to proposed Subpart F on the grounds of increased costs due to the necessity to hire more personnel and maintain additional records. They also stated that the proposed rules were too restrictive and would place an unreasonable burden on their operations.

Accordingly, the following major changes in Subpart F have been made from what was proposed in Notice 77–17. They are discussed in detail in the discussion of comments.

(1) The definitions for additional flight crewmember, augmented flight crew, basic flight crew, and relief officer have been deleted.

(2) Duty time is redefined as any required assignment for a certificate holder at a location specified by the certificate holder.

(3) Flight time is redefined as beginning when the aircraft departs the boarding gate for the purpose of flight and ending when the aircraft arrives at a boarding gate.

(4) The yearly flight time limitations have been deleted.

(5) The daily rest period, rather than being equal to twice the number of hours of flight time accumulated in a duty period (but not less than eight hours) as proposed, must be a minimum of 10 hours, or 11 hours if the crewmember must clear customs or immigration, or both.

(6) The duty time limitation for one and two pilot crews is 14 hours rather than 12 hours as proposed in Notice 77–17.

(7) Provisions for augmented flight crews have been deleted.

(8) A "seven consecutive day" period replaces the "168-consecutive hour" period proposed in §§ 135.203 and 135.209 of Notice 77–17.

(9) A provision has been added which reduces the daily duty time limits based on the number of landings made within the duty period.

Changes (1), (4), (5), (6) and (7), while representing departures from what was proposed in Notice 77–17, reflect the substance of current provisions contained in § 135.261 (old § 135.136), except for the monthly flight time limitation of 110 hours. Change (8), although seemingly only a change in form, is highlighted because applying a seven consecutive day period, rather than a 168-hour period, should not significantly increase record-keeping requirements for affected certificate holders.

Some commenters stated that the proposals contained in Notice 77–17 should be adopted for commuter air carriers only and that current flight time and duty time limitations should be retained for on demand air taxi operators. These proposals are consistent with the FAA's goal of achieving a general upgrade of Part 135. They also contain many of the same concepts used in Part 121 rulemaking and use the knowledge gained from an analysis of the comments received in response to Notice 78–3.

§ 135.263 Definitions.

One comment was received on the definition of "basic flight crew". However, with the modification of the proposal, this defintion is not needed and has been deleted.

Although no comments were received on the definitions for "Augmented flight crew" and "Relief officer", these definitions are not included in this proposal. At the present time, augmented flight crews are not utilized by Part 135 operators and it does not appear such crews will be utilized in the near future. Moreover, the circumstances which justify the use of augmented flight crews in Part 121 operations, such as larger equipment, extended overwater operations and longer duty periods, do not warrant their use in Part 135 operations. Accordingly, the definitions of "Augmented flight crew" and "Relief officer", in addition to §§ 135.215 and 135.217 proposed in Notice 77–17, dealing with augmented flight crews, have been deleted.

One commenter suggested deleting the phrase "not local in character" from the definition of "deadhead transportation" because at some locations, transportation to and from a hotel can be quite long and, therefore, should be classified as deadhead transportation rather than as part of a rest period. Prior Agency interpretations recognize that the phrase "not local in character" does not include transportation between one's residence and an airport or between a hotel and an airport. This type of transportation is merely normal commuting, and as such, a certificate holder should not be required to treat this as deadhead transportation. However, because the Agency has

received numerous requests for interpretation of the phrase "not local in character," the definition of "deadhead transportation has been revised to mean "transportation that a certificate holder requires and provides to transport a crewmember between airports."

Various comments were received on the inclusion of military flight time in the computation of total flight and duty time. These comments were identical in many instances to those received in response to Notice 78–3. In view of these comments and after futher review, military flight time is not proposed to be included in the definition of flight time or duty time.

Two commenters noted that flight time is defined in Part 1 of the FAR and stated that the definition in § 135.201 as proposed in Notice 77–17, was unnecessary. The proposed definition of flight time, for purposes of Subpart F, more accurately describes the relationship between crewmember responsibilities and aircraft movement necessary to accumulate flight time. In addition, the proposed definition includes other commercial operations and a separate definition of flight time for rotorcraft operations. Accordingly, the definition of flight time is retained with modifications as discussed in this preamble.

One commenter suggested eliminating the definition of "boarding point or location" since it is only used in the definition of "flight time" and adds noting to the subpart. This definition should be retained since it specifies when the computation of flight time must begin and end for airplanes, and since it is also used in § 135.265(c) dealing with the accumulation of excess flight or duty time. Minor editorial changes have been made in the definition proposed in Notice 77–17.

Another commenter opposed the proposed definition of flight time contained in Notice 77–17 as it relates to rotorcraft and stated that flight time should be based upon airborne time, rather than rotor time. This commenter stated that some government agencies using helicopters require that flight time be logged in this manner and retaining the proposed definition would add additional pilot duties. The commente also stated that airframe and engine overhauls are based on airborne time rather than rotor time.

The definition of flight time as used in this subpart is designed to prevent flight crewmember fatigue from adversely affecting the safety of flight. Accordingly, it is necessary to define flight time for purposes of Subpart F in a manner different from how it is defined for purposes of computing airframe or engine overhaul time. Since a flight crewmember would monitor the performance of a rotorcraft at all times from engine start-up to engine shut-down, this part of the definition will be retained except for minor editorial changes.

One commenter asked whether the phrase "performs any required assignment" in the definition of duty time would cause flight crewmembers on layover or overnight assignment to exceed applicable duty time limitations. Flight crewmembers on layover or overnight assignment would either be on duty, or in a rest period if not performing any required assignment for a certificate holder. Time spent in a hotel, therefore, ordinarily would be considered part of a rest period. In order to avoid the inclusion in duty time of such assignments as home study courses, updating charts or manuals at home, etc., the proposal is revised by adding the words ". . . at a location specified by the certificate holder . . ." to the definition.

One commenter stated that the proposed rules should consider the time between flights in the same duty period as rest, rather than duty time. Time on the ground between flights in the same duty period contributes to flight crewmember fatigue and should be considered duty time, notwithstanding the fact that a flight crewmember may be provided with accomodations during this time. Although a rest period must be provided prior to exceeding either the appropriate flight or duty time limitation, this does not mean a flight crewmember must reach the maximum limitation before a rest period is provided. Because of scheduling requirements, for example, a flight crewmember may be provided a rest period after accumulating only five hours of flight time and eight hours of duty time. If the minimum rest period of 10 hours were provided, the slate would be wiped clean and the flight crewmember could begin a new duty period. If less than the minimum rest were provided, then when the flight crewmember reported for duty, five hours of flight time, and eight hours duty time would have already been accumulated.

One commenter suggested a new sentence be added to the proposed definition of duty time to read as follows: "If an operator provides for rest between flights, en route delays do not count as duty time". Delays do occur which are due to circumstances beyond the control of the certificate holder and, therefore, § 135.265(c) will, as proposed in this notice, allow a flight crewmember to exceed any flight or duty time limitation. However, a flight crewmember may not depart the boarding gate if the crewmember's actual elapsed flight time, plus the flight time scheduled for the next flight, will cause the crewmember to exceed any applicable flight or duty time limitation by more than two hours. As this additional time does contribute to flight crewmember fatigue, a two-hour extension is the maximum permissible.

The definition of duty time in Notice 77–17 is proposed in this notice with the change discussed. Since the Agency received no comments concerning the definitions of duty period and rest period, they are retained in this proposal.

In addition to the changes in definitions previously discussed in this notice, the Agency is substituting the phrase "board gate" for "boarding point or location" proposed in Notice 77–17, because the words ". . . or location" are not necessary. This change is also being made to the definition of flight time which also refers to the board point.

The first sentence of the definition of flight time is being revised to read "the time during which a flight crewmember serves as either a pilot or flight engineer in any operation for a certificate holder or in other commercial operations". It is not necessary to differentiate between the pilot in command and the second in command and thus the definition simply used the term pilot. While there are no flight crewmembers serving as flight engineers in Part 135 operations, they could serve as flight engineers in Part 121 operations. Flight time accumulated in this capacity must also be included in total flight time because it contributes to fatigue.

One commenter recommended that the term "flight crewmember" be deleted in favor of more specific terms such as pilot and navigator. Since "Flight crewmember", as defined in Part 1 of the FAR, means a pilot, flight engineer or flight navigator assigned to duty in an aircraft during flight time and since this term is used in the flight time limitations for Part 121 operators, Part 135 should be consistent and use the same terminology.

In addition, the phrase "means a period of time which" in the rotorcraft section of the flight time definition has been deleted to make it consistent with the preceding clause pertaining to airplanes.

§ 135.265 Flight and duty time limitations: weekly.

Some commenters questioned the use of the 168 consecutive hour period and suggested the 40-hour flight time

limitation relate to seven consecutive days. The 168-hour period was proposed to give operators more flexibility in scheduling flight time and rest periods. Based on the comments received, it appears that adoption of the 168-hour base period would increase record-keeping burdens for certificate holders. Thus, the 40-hour flight time limitation in § 135.265(a)(2) is changed to apply to a period of seven consecutive days.

Another commenter proposed deleting the 40-hour weekly flight time limitation on the basis that it is contrary to the daily flight time limitations authorizing the accumulation of eight or 10 hours of flight time during a duty period. A crew consisting of a pilot in command and a second in command may accumulate 10 hours of flight time before receiving a rest period. However, 10 hours of flight time each duty period may only be accumulated up to the maximum weekly limitation of 40 hours. If this were done for four consecutive days, then these flight crewmembers would be required to receive three consecutive days off before they could be scheduled to fly again. However, this 40-hour weekly limit can be met in any combinations of days on and off provided the daily and weekly flight time limits and rest period requirements are met.

Various commenters objected to the monthly and yearly flight time limitations in proposed § 135.203(a) in Notice 77–17. The mainpoints raised were: (1) pilots would not be able to accumulate a sufficient amount of flight time to earn a decent living; (2) monthly and yearly limitations were not related to fatigue and thus were not related to safety; (3) additional crews would be required to meet peak demand, thereby increasing costs; and (4) the issue of monthly and yearly limitations should be resolved during labor negotiations rather than be included in a safety regulation.

Some commenters stated that if monthly and yearly limitations were retained, they should be increased to 140 hours per month and between 1,200 and 1,500 hours per year. However, even most of these commenters objected to monthly and yearly limitations for the same reasons stated above. One commenter, although favoring this proposal in principle, stated Part 135 operations should be governed by the same weekly, monthly and yearly flight time limitations as domestic air carrier operations under Part 121.

Other commenters suggested that only flight crewmembers employed by commuter air carriers and those operating turbojet powered aircraft or aircraft having a passenger seating capacity of 10 or more should be governed by Part 121 standards. These commenters stated that crewmembers employed by commuter air carriers make more takeoffs and landings in a duty period than crewmembers employed by domestic air carriers and that commuters operate in a higher density environment below 10,000 feet with less sophisticated landing aids than those availability of fewer support personnel, such as dispatchers, baggage handlers, and flight attendants was also cited as justification for increasing standards for commuter air carriers.

Current § 135.261 (old § 135.136) authorizes flight crewmembers to accumulate as much as 56–70 hours per week of flight time and up to 98 hours per week of duty time. This is because flight crewmembers may accumulate 14 hours of duty time every day for seven consecutive days including from eight to 10 hours of flight time (dependent on crew composition) without more than a 10-hour daily rest period. This appears to be excessive and can lead to flight crewmember fatigue during the latter portion of the week. Although many certificate holders have provided longer rest periods than those currently required by § 135.261, the potential would remain for pilots to accumulate excessive amounts of flight and duty time in a week if these provisions remain unchanged. Thus, the Agency is proposing a flight time limitation of 40 hours during any seven consecutive days. In addition, while recognizing the arguments advanced against a monthly flight time limitation for Part 135 operations, the Agency is concerned that excessive fatigue could result from situations in which pilots fly the 40-hour weekly maximum repetitively. In order to preclude fatigue which adversely affects safety, a monthly flight time limitation of 110 hours is proposed. However, yearly flight time limitations do not appear to be necessary for Part 135 operators at this time. The 40-hour weekly flight time limitation, in addition to a new requirement in § 135.271(a) that flight crewmembers receive 30 consecutive hours of rest at least once every seven consecutive days, and the proposed requirement for a monthly flight time limitation of 110 hours, will ensure that flight crewmembers are adequately rested while engaging in operations governed by Subpart F.

One commenter stated that the rules should require pilots to refuse any assignment of flight time if other commercial flyingwould cause them to exceed applicable flight and duty time limitations. Both § 135.265(a) and § 135.273(a) state that both pilots and certificate holders are responsible for complying with the appropriate flight and duty time limitations. Since other commercial flying (which is any other non-military flying for which the pilot is paid) is specifically included in the definitions of flight time and duty time, the rules impose responsibility for compliance on both parties.

Several commenters stated that it was not clear whether the proposed rules applied only to flight time accumulated in Part 135 operations. If a pilot accumulates flight time in Part 135 operations, all other flight time accumulated in any operation for the certificate holder, including ferrying, positioning aircraft, receiving and conducting proficiency checks, other training flights, and any other non-military flying for which the pilot is paid, must be considered when computing the pilot's total flight and duty time limitations.

Other than the changes to § 135.265 from the substance of the proposal in § 135.203 of Notice 77–17 previously discussed, the following editorial changes are also made: (1) Paragraph (a)(1) is revised to read "The flight or duty time limitations prescribed in § 135.273(b)" since certain limitations also will be contained in that section; and (2) The second clause of § 135.265(b) is being revised to read "a certificate holder shall base its computation on the time normally necessary for the performance of the flight or duty time involved." These changes are being made for clarity.

§ 135.267 Deadhead transportation.

All commenters responding to § 135.205 proposed in Notice 77–17 were in favor of its adoption. However, because the minimum required rest period in § 135.271(c) in this notice has been changed to 10 hours, the rest period option in this section has also been changed to 10 hours.

§ 135.269 Determination of applicable flight time and duty time limitations: flight crewmembers.

One commenter asked whether an operator may designate a second in command on any flight to take advantage of the 10-hour flight time limitation applicable to flight crews consisting of two pilots. If an operator elects to use a second pilot when a single pilot operation is allowed by this part, and the crew composition does not change during the duty period, the flight crewmembers are governed by the flight and duty time limitations of § 135.273(b)(2) and may accumulate 10 hours of flight time.

The phrase "during that duty period" has been added to the last sentence to clarify that this section is applicable only when determining the appropriate flight and duty time limitations for a duty period. Because of confusion existing as to what consitutues a "line" operation, this word is changed to "any".

§ 135.271 Rest period requirements.

Many commenters objected to the use of the 168-hour period proposed in § 135.209(a) in Notice 77–17 for the same administrative reasons as previously discussed under § 135.265 dealing with the 40-hour weekly flight time limitation. These commenters stated that the 168-hour period would increase record-keeping requirements and lead to problems in scheduling. Consequently, this 168-hour period has been revised to a seven consecutive day period.

Several commenters objected to a weekly rest period because they felt it was a labor-management problem and not related to safety. The Agency disagrees. Other commenters supported a weekly rest period. A weekly rest period allows the flight crewmember to recuperate from short-term cumulative effects of fatigue. It is necessary in the interest of safety.

Notice 77–17 proposed a weekly rest period of 24 hours. As noted in the discussion of comment under § 121.481, several commenters advocated more than 24 hours in order to provide the crewmember with a weekly rest period which would relate to a normal calendar day cycle for sleep, family functions, and leisure time. In light of these comments, a weekly rest period of 30 hours is proposed. However, as in the case of the Part 121 proposal, the Agency expressly solicits comments on whether the weekly rest should 24 hours or 30 hours.

Another commenter recommended that § 135.209(a) should apply only to commuter air carriers and believed this proposal was unrealistic for remote helicopter operations where there are no nearby living quarters available for rest requirements. Remoteness of operation does not negate the need for a weekly rest period of 30 consecutive hours. In addition, while the kind of rest facilites provided will, of course, vary with the particular type and location of the operation, the rest facilities available at these remote locations to comply with the daily rest requirement, could be used to provide the 30-hour rest period.

While some commenters endorsed § 135.209(b) in Notice 77–17, others objected on the basis that a requirement for a flight crewmember to be available to receive a schedule of duty precludes the flight crewmember from adequately resting and should not be considered part of a rest period. While a flight crewmember's freedom may in some way be restricted by being on standby or reserve status, such a restriction does not have an adverse effect on safety, provided the flight crewmember is not otherwise performing any required assignment for a certificate holder. Since the operator would, of course, always choose to treat this time as part of a rest period the word "is" is substituted for the words "may be" for reasons of clarity.

Several commenters objected to paragraph (c) as proposed, urging that the daily rest requirement be based on duty time, rather than flight time. These commenters also stated that computing the rest period by doubling the amount of accumulated flight time is too restrictive and poses additional scheduling and record-keeping problems. Several other commenters also criticized the proposal since they believed its net effect would be to force a pilot into reporting for work progressively later on each successive day. This, in turn, would interfere with the crewmember's normal 24-hour cycle and result in a decrease in safety. Many of these commenters suggested either retaining the substance of rest period provisions contained in current § 135.261 (old § 135.136) or basing the daily rest on the amount of duty time.

Based upon an analysis of the comments received and further review, the proposal is revised to base the rest required on the duty time scheduled to be served prior to the rest period. This has the advantages of providing increased flexibilty in scheduling rest, and will, in most cases, reduce the costs due to the reduced rest requirements and yet not compromise safety since each flight crewmember will get no less than that proposed in § 135.271(c).

Since some commenters objected to the minimum rest period of eight hours, and in view of the fact that present Part 135 provides for a daily rest period of 10 consecutive hours, the proposal has been revised to a minimum daily rest period of 10 consecutive hours. In addition, drawing upon the informative comments received in response to Notice 78–3 concerning customs and immigration delays, it is proposed to increase the minimum rest period to 11 hours when it is necessary for the flight crewmember to clear customs or immigration, or both.

§ 135.273 Flight time and duty time limitations: duty periods.

Sections 135.211 and 135.213 proposed in Notice 77–17 have been combined into one section in order to streamline the regulation. Section 135.273(a) of this section places the responsibility for compliance on both the flight crewmember and the certificate holder and contains the general prohibition against exceeding either the flight time or duty time limitations set forth in § 135.273(b) without a rest period.

Most of the commenters objected to the 12-hour duty time limitation for both one and two pilot crews as proposed in §§ 135.211(b) and 135.213(b) in Notice 77–17, stating it was too short in relation to the operational requirements of Part 135 certificate holders and did not provide adequate flexibility in scheduling. The vast majority of commenters recommended that the current duty time requirement of 14 hours in § 135.261(b) (old § 135.136(b)) be retained. Although current § 135.261(b) does not specifically provide for a 14-hour duty time limitation, this provision does require a rest period of 10 consecutive hours during the 24-hour preceding the planned completion of an assignment. Thus, this section effectively serves to provide a 14-hour duty time limitation as well as a 10-hour rest requirement. The proposed duty time limitation of 12 hours was not sufficient to provide certificate holders the necessary flexibility to schedule a flight crewmember for the full eight or 10 hours of flight time authorized by § 135.273(b). Accordingly, a duty time limitation of 14 hours is proposed for both one and two pilot crews.

While other commenters suggested changes in the proposed flight time limitations (such as increasing the eight hours flight time limitation for one pilot crews to 10 hours or decreasing the 10-hour flight time limitation for two pilot crews to eight hours), these commenters presented insufficient justification for revising these proposals. The flight time limitations contained in § 135.136(a) have proven successful in preventing excessive flight crewmember fatigue while providing certificate holders adequate flexibility in conducting their operations.

A new § 135.273(c) has been added which reduces the duty time limitations if a certain number of landings is made within the same duty period. It has been recognized that multiple landings within the same period of time contribute more to fatigue than en route flight within the same time period. This is due to increased traffic and ground communications, greater monitoring of the cockpit environment, need for precision approaches, traffic avoidance, weather and wind shear considerations, and other factors. comments are specifically requested on this proposal.

V 45 A G 1 1 1 8 0 UMI

§ 135.275 *Fatigue or illness.*

This is a proposed new section which requires the flight crewmember to refrain from flight crew duty if an impairment exists due to fatigue or illness. This section is needed to ensure that each flight crewmember is sufficiently rested before each flight even when provided the minimum rest period. There may be times that, due to unusual circumstances, a flight crewmember is ill or does not obtain sufficient rest to overcome the cumulative effects of fatigue.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 121 and 135 of the Federal Aviation Regulations (14 CFR Parts 121 and 135) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

§ 121.13 [Amended]

1. By amending § 121.13(a) by deleting "121.501", and by adding "127.191," between "127.177" and "127.231" in § 121.13(b).

2. By revising the table of contents of Subparts Q, R, and S of Part 121 to read as follows:

Subpart Q—Flight Crewmember Flight Time and Duty Time Limitations and Rest Requirements

Sec.
121.471 Applicability.
121.473 Definition of terms.
121.475 Flight time and duty time limitations: weekly and monthly.
121.477 Deadhead transportation.
121.479 Determination of applicable flight time and duty time limitations: flight crewmembers.
121.481 Rest period requirements.
121.483 Flight time and duty time limitations: duty periods.
121.485 Augmented flight crews.
121.487 Fatigue or illness: responsibility of flight crewmember.

Subpart R—[Reserved]

Subpart S—[Reserved]

3. By revising Subpart Q of Part 121 to read as follows:

Subpart Q—Flight Crewmember Flight Time and Duty Time Limitations and Rest Requirements

§ 121.471 Applicability.

This subpart prescribes flight time and duty time limitations and rest requirements for certificate holders and flight crewmembers operating under this part.

§ 121.473 Definition of terms.

For the purposes of this subpart—

"Augmented flight crew" means a flight crew which includes one or more relief officers in addition to the minimum flight crew.

"Boarding gate" means the place at which passengers, cargo or flight crewmembers are enplaned for the purpose of flight, or are deplaned after a flight.

"Deadhead transportation" means transportation that a certificate holder requires or provides to transport a crewmember between airports.

"Duty period" means the time between successive required rest periods during which a crewmember accumulates duty time.

"Duty time" means the time during which a crewmember performs any required assignment for a certificate holder at a location specified by the certificate holder or accumulates flight time in other commercial operations. Duty time also includes time spent on the ground between flights in the same duty period.

"Flight time" means the time during which a flight crewmember serves as either a pilot, flight engineer, flight navigator, or relief officer in any operation for a cerrtificate holder, or in other commercial operations. Flight time begins when the aircraft departs the boarding gate for the purpose of flight and ends when the aircraft arrives at a boarding gate.

"Relief officer" means a flight crewmember who is scheduled and qualified to serve with an augmented flight crew in relief of one or more flight crewmembers.

"Rest period" means a continuous period of time required by this subpart during which a crewmember does not accumulate any duty time. A rest period does not include time spent in deadhead transportation.

§ 121.475 Flight time and duty time limitations: weekly and monthly.

(a) No certificate holder may schedule a flight crewmember and, except as provided in paragraph (c) of this section, no flight crewmember may accumulate flight time in excess of:

(1) The flight time or duty time limitations prescribed in § 121.483;

(2) 40 hours in any seven consecutive days; and

(3) 110 hours in any 30 consecutive days.

(b) In scheduling a flight crewmember for flight time and duty time under this subpart, a certificate holder shall base its computation on the time normally necessary for the performance of the flight time or duty time involved.

(c) A flight crewmember may serve in excess of any flight time or duty time limitation of this subpart only if the excess time is due to reasons beyond the control of the certificate holder; however, a flight crewmember may not depart the boarding gate for the purpose of flight if the crewmember's actual elapsed flight time, plus the flight time scheduled for the next flight, will cause the crewmember to exceed any applicable flight or duty time limitation by more than two hours.

§ 121.477 Deadhead transportation.

Deadhead transportation shall be considered duty time unless the deadhead transportation is followed immediately by a rest period. If a rest period is provided, it must be at least 10 hours and may be provided concurrently with any other rest period required by this subpart. If the flight crewmember must clear customs or immigration, or both, the minimum rest period must be at least 11 hours.

§ 121.479 Determination of applicable flight time and duty time limitations: flight crewmembers.

A flight crewmember who accumulates flight time with more than one flight crew during a duty period shall be governed by the lowest flight and duty time limitations as prescribed in § 121.483 applicable to those flight crews with which the crewmember serves in any operation for a certificate holder during that duty period.

§ 121.481 Rest period requirements.

(a) A certificate holder shall provide each flight crewmember with a rest period of not less than 30 consecutive hours at least once during any seven consecutive days. This 30-hour rest period may be provided concurrently with any other rest period required by this subpart.

(b) That period of time during which a flight crewmember, who is otherwise in a rest period, is required by the certificate holder to be available to receive a schedule of duty time is considered part of a rest period.

(c) The rest period required by § 121.483(a) must be at least the number of hours of duty time scheduled since the last rest period, but not less than 10 hours. If the flight crewmember must clear customs or immigration, or both, the minimum rest period must be not less than 11 hours.

§ 121.483 Flight time and duty time limitations: duty periods.

(a) No certificate holder may schedule a flight crewmember, and no flight crewmember may serve, in excess of either the flight time or duty time limitations set forth in paragraphs (b), (c) and (d) without a rest period.

(b) The limitations for flight crewmembers serving with flight crews consisting of—

(1) A pilot in command and a second in command are 10 hours of flight time and 14 hours of duty time.

(2) A pilot in command, a second in command, and a flight engineer are 10 hours of flight time and 14 hours of duty time.

(3) A pilot in command, a second in command, and a relief officer are 12 hours of flight time and 16 hours of duty time.

(4) A pilot in command, a second in command, a flight engineer, and a relief officer are 12 hours of flight time and 16 hours of duty time.

(5) A pilot in command, a second in command, a flight engineer, and two or more relief officers are 16 hours of flight time and 18 hours of duty time.

(c) Whenever a flight navigator is assigned to a flight crew as specified in paragraph (b) of this section, the limitations for that flight navigator are the same as the flight crew in which that navigator serves.

(d) The duty time limitations set forth in paragraphs (b) and (c) of this section are reduced if the following numbers of landings occur within the same duty period.

(1) Three or less landings—no reduction.

(2) Four or five landings—duty time is reduced one hour.

(3) Six or seven landings—duty time is reduced two hours.

(4) Eight or nine landings—duty time is reduced three hours.

(5) Ten or more landings—duty time is reduced four hours.

§ 121.485 Augmented flight crews.

(a) The pilot in command, as designated in the dispatch or flight release, shall remain the pilot in command at all times during the flight.

(b) During operations involving one or more relief officers, either the pilot in command or the second in command, as designated in the dispatch or flight release, shall be at a pilot station at all times.

(c) Each certificate holder shall provide approved crew bunks or seats on the airplane equal to the number of relief officers, but no more than two, whenever an augmented flight crew is scheduled. The bunk or seat must be separated and screened from the flight deck and passengers.

(d) No certificate holder may schedule a relief officer, nor may any relief officer serve, at a required flight station, unless the relief officer is qualified and current for that flight station, except as provided in § 121.543. Whenever one or more relief officers are used to extend the flight time or duty time limitations under § 121.483(b)(3)(4) and (5), relief must be provided to each flight crewmember, except the flight navigator.

§ 121.487 Fatigue or illness: responsibility of flight crewmember.

No person may serve as a flight crewmember if that person is suffering from, or, considering the circumstances of the flight to be undertaken, is likely to suffer from, such fatigue or illness which impairs or will impair judgment or performance.

Subparts R and S—[Reserved]

4. By revoking Subparts R and S of Part 121 of the Federal Aviation Regulations and marking them reserved.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

5. By revising the table of contents of Subpart F of Part 135 to read as follows:

Subpart F—Flight Crewmember Flight Time and Duty Time Limitations and Rest Requirements.

Sec.
135.261 Applicability.
135.263 Definition of terms.
135.265 Flight time and duty time limitations: weekly and monthly.
135.267 Deadhead transportation.
135.269 Determination of applicable flight time and duty time limitations: flight crewmembers.
135.271 Rest period requirements.
135.273 Flight time and duty time limitations: duty periods.
135.275 Fatigue or illness: responsibility of flight crewmember.

6. By revising Subpart F of Part 135 to read as follows:

Subpart F—Flight Crewmember Flight Time and Duty Time Limitations and Rest Requirements

§ 135.261 Applicability.

This subpart prescribes flight time and duty time limitations and rest requirements for certificate holders and flight crewmembers operating under this part.

§ 135.263 Definition of terms.

For the purposes of this subpart—

"Boarding gate" means the place at which passengers, cargo or flight crewmembers are enplaned for the purpose of flight, or are deplaned after a flight.

"Deadhead transportation" means transportation that a certificate holder requires or provides to transport a crewmember between airports.

"Duty period" means the time between successive required rest periods during which a crewmember accumulates duty time.

"Duty time" means the time during which a crewmember performs any required assignment for a certificate holder at a location specified by the certificate holder or accumulates flight time in other commercial operations. Duty time also includes time spent on the ground between flights in the same duty period.

"Flight time" means the time during which a flight crewmember serves as either a pilot or flight engineer in any operation for a certificate holder, or in other commercial operations. Flight time begins when the aircraft departs the boarding gate for the purpose of flight and ends when the aircraft arrives at a boarding gate except that, in the case of rotorcraft, flight time begins when the rotor starts turning under engine power for the purpose of flight and ends when the engine and rotor are shut down at the end of the flight.

"Rest period" means a continuous period of time required by this subpart during which a crewmember does not accumulate any duty time. A rest period does not include time spent in deadhead transportation.

§ 135.265 Flight time and duty time limitations: weekly and monthly.

(a) No certificate holder may schedule a flight crewmember and, except as provide in paragraph (c) of this section, no flight crewmember may accumulate flight time in excess of:

(1) The flight or duty time limitations prescribed in § 135.273;

(2) 40 hours in any seven consecutive days; and

(3) 110 hours in any 30 consecutive days.

(b) In scheduling a flight crewmember for flight time and duty time under this subpart, a certificate holder shall base its computation on the time normally necessary for the performance of the flight time or duty time involved.

(c) A flight crewmember may serve in excess of any flight time or duty time limitation of this subpart only if the excess time is due to reasons beyond the control of the certificate holder; however, a flight crewmember may not depart the boarding gate for the purpose of flight if the crewmember's actual elapsed flight time, plus the flight time scheduled for the next flight, will cause the crewmember to exceed any applicable flight or duty time limitation by more than two hours.

§ 135.267 Deadhead transportation.

Deadhead transportation shall be considered duty time unless the deadhead transportation is followed immediately by a rest period. If a rest period is provided, it must be at least 10 hours and may be provided concurrently with any other rest period required by this subpart. If the flight crewmember must clear customs or immigration, or both, the minimum rest period must be at least 11 hours.

§ 135.269 Determination of applicable flight time and duty time limitations: flight crewmembers.

A flight crewmember who accumulates flight time with more than one flight crew during a duty period shall be governed by the lowest flight time and duty time limitations as prescribed in § 135.273 applicable to those flight crews with which the crewmember serves in any operation for a certificate holder during that duty period.

§ 135.271 Rest period requirements.

(a) A certificate holder shall provide each flight crewmember with a rest period of not less than 30 consecutivbe hours at least once during any seven consecutive days. This 30-hour rest period may be provided concurrently with any other rest period required by this subpart.

(b) That period of time during which a flight crewmember, who is otherwise in a rest period, is required by the certificate holder to be available to receive a schedule of duty time is considered part of a rest period.

(c) The rest period required by § 135.273 must be at least the number of hours of duty time scheduled since the last rest period, but not less than 10 hours. If the flight crewmember must clear customs or immigration, or both, the minimum rest period must not be less than 11 hours.

§ 135.273 Flight time and duty time limitations: duty periods.

(a) No certificate holder may schedule a flight crewmember, and no flight crewmember may serve, in exess of either the flight time or duty time limitation set forth in paragraphs (b) and (c) without a rest period.

(b) The limitations for flight crewmembers serving with flight crews consisting of—

(1) A pilot in command are eight hours of flight time and 14 hours of duty time.

(2) A pilot in command and a second in command are 10 hours of flight time and 14 hours of duty time.

(c) The duty time limitations set forth in paragraph (b) of this section are reduced if the following number of landings occur within the same duty period.

(1) Three or less landings—no reduction.

(2) Four or five landings—duty time is reduced one hour.

(3) Six or seven landings—duty time is reduced two hours.

(4) Eight or nine landings—duty time is reduced three hours.

(5) Ten or more landings—duty time is reduced four hours.

§ 135.275 Fatigue or illness: responsibility of flight crewmember.

No person may serve as a flight crewmember if that person is suffering from, or, considering the circumstances of the flight to be undertaken, is likely suffer from, such fatigue or illness which impairs or will impair judgment or performance.

Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 6, 1979). A copy of the draft analysis prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT:".

Issued in Washington, D.C., on August 4, 1980.

Kenneth S. Hunt,

Director, Office of Flight Operations.

[FR Doc. 80-23856 Filed 8-8-80; 8:45 am]

BILLING CODE 4910-13-M

federal register

Monday
August 11, 1980

Part III

Federal Emergency Management Agency

Disaster Response and Recovery

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-DR 205]

Disaster Assistance: General (Subpart A)

AGENCY: Disaster Response and Recovery (FEMA).
ACTION: Final rule.

SUMMARY: By this rule the Federal Emergency Management Agency establishes the general provisions for implementing those sections of The Disaster Relief Act of 1974 assigned to the Director, Federal Emergency Management Agency (FEMA) by Executive Order 12148 and delegated to the Associate Director for Disaster Response and Recovery, FEMA. These general provisions prescribe standards which the Agency intends to apply in all aspects of the disaster assistance program.

EFFECTIVE DATE: September 10, 1980.

FOR FURTHER INFORMATION CONTACT: James Makris, Office of Program Support, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, DC 20472, Telephone: (202) 634-7845.

SUPPLEMENTARY INFORMATION: The notice issued in the **Federal Register** on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Chapter I, Federal Emergency Management Agency, with Subchapters A–E) indicated that Disaster Assistance would be Subchapter D, Parts 200–299.

FEMA published a Notice of Transfer and Redesignation, effective September 28, 1979, that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200–2205 to 44 CFR Part 200 *et seq.* The regulations implementing the Disaster Relief Act of 1974, Pub. L. 93–288 (44 CFR Part 205) are in the process of reorganization and revision. The final rule reflects the reorganization and revision of Subpart A. The material in several existing sections has been or is being transferred to more appropriate subparts as discussed hereafter. The existing "Nondiscrimination in Disaster Assistance" regulations are reserved. Agency-wide amendments to the nondiscrimination regulations are being drafted for comment at a later time. Pending completion of the amendments to the nondiscrimination regulations, old section 205.13 is renumbered as 205.16 of this Subpart and will remain in effect.

On November 1, 1979, the Associate Director for Disaster Response and Recovery published in the **Federal Register** (44 FR 63058) a proposed reorganization and revision of Subpart A-General, of the Federal Disaster Assistance Regulations (44 CFR Part 205). Comments were invited to December 31, 1979. In addition, copies were sent to each State official responsible for disaster operations.

The Agency received eighteen written comments on the proposed Subpart A. All comments were carefully considered in developing the final rule. A discussion of the major comments follows:

While the majority of the comments dealt with specific aspects of the program, many comments were of a general nature. Comments not relevant to Subpart A but which could be considered as other subparts of 44 CFR 205, such as the suggestion that "grants to eligible applicants should be recognized as mandatory, not discretionary," are considered in the appropriate rulemaking.

Three respondents commented on the Associate Director vs. Director authority and the Associate Director vs. Regional Director authority. Subpart A reflects the already established delegations of authority as published in the **Federal Register** on June 19, 1980 (45 FR 41421). In some instances the Associate Director and the Regional Director have approval authority delegated directly from the Director; in some instances approval authority is delegated to the Associate Director only. The references to the "Associate Director or the Regional Director" in each instance are used intentionally for clarification purposes. The recommendations requiring changes in the delegations of authority are rejected.

Editorial comments were reviewed and incorporated in those instances which resulted in improvments when compared to the proposed rule.

Specific Comments

1. As a result of comments received, the following changes are made in Section 205.2 Definitions:

a. The definition of "Applicant" is more precisely defined to include applicants for Individual Assistance as well as Public Assistance.

b. The reference to "Canal Zone" is eliminated. The area formerly known as the Canal Zone is no longer eligible for disaster assistance under Pub. L. 93–288 (see 44 FR 66062).

c. The definitions for "Categorical grants" and "Flexible funding" which appeared in Sec. 2205.2 are excluded from 205.2. These definitions apply to new Subpart H.

d. The definition of "Disaster Recovery Manager" is included, and the definition for "Regional Director" is expanded to include the "Disaster Recovery Manager" when one is designated to exercise the authority of a Regional Director.

e. It was recommended that the definition of "Private non-profit organization" be expanded to include clear and comprehensive definitions of these facilities. Such expansion is considered unnecessary in view of 205.71 which defines "Private non-profit facility" under Subpart E.

f. The recommendation to consolidate all definitions into one section was considered and rejected because the regulation is not being published in its entirety at one time. Also, it is better to define terms appearing only once at the point of use rather than in the "General" section.

2. It was suggested that new Sections 205.5 and 205.6 be modified to include qualifying language to allow other Federal agencies to weigh internal competing requirements for requested resources and other forms of assistance within the context of their primary mission responsibilities. Responsibility rests with Federal Agencies to determine whether the requested assistance can be provided without detriment to their primary mission and is not a burden to be assumed by FEMA. As the urgency of the need could only be determined at the time the request is made the suggestion is not adopted.

3. It was recommended that new Section 205.7 be revised to include National Guard units of the States, and the Navajo Nation be expressly stated in an additional subsection. While the National Guard may provide indispensable services in times of emergency or disaster, the request for National Guard activation is made direct from the Governor to the National Guard with no FEMA involvement. The recommendation that the Navajo Nation be expressly stated in this section is rejected in that the policy issue involved has no direct bearing on statements in this subpart.

4. It was recommended that new Section 205.13 be rewritten and/or expanded, as this section is the only section which addresses reporting, or even indirectly addresses level of performance or evaluation of public service. The Reviews and Reports section as written gives FEMA the necessary flexibility it needs to ensure that assistance is provided in a timely and cost-effective manner without being burdened with paperwork unnecessarily. Therefore the recommendation is rejected.

5. Four respondents commented on the Appeals section (205.14). The appeal procedure is spelled out under Subpart H for Public Assistance and under Subpart D for Individual Assistance to clarify existing administrative policy and procedures. Therefore, the suggestion that the appeals procedure be articulated in detail in the "General" section is not adopted. The submission of an appeal at the Region level assures the applicant ample time for filing such additional information as is appropriate for justification to support claims, therefore, the suggestion that applicants have the right to waive the first appeal at the Regional level is rejected. One respondent recommended the appeals process be a review and re-evaluation process by a composite board or commission. This recommendation is rejected on the grounds that present practice has been viable.

Several sections in former Part A have been moved as follows:

Former sections 205.5 and 205.6 are renumbered as sections 205.601 and 205.602.

Former section 205.7 has been transferred to subpart H as new section 205.114.

Former section 205.11 has been transferred to new section 205.112(d)(6).

Former section 205.14 has been included in subpart J as new section 205.200(b).

Former section 205.19 relating to audit is dealt with in new section 205.112(e) and new 205.118.

Former sections 205.10 and 205.17 dealing with inspections and with financial management are dealt with in other sections of new subpart H.

The matter in section 205.75 to section 205.79 is now covered in 44 CFR Part 300. Hence, we need to delete these sections as redundant.

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with 44 CFR Part 10. Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, DC 20472.

The regulation is in consonance with the provision of Executive Order 12044 dated November 16, 1979, and does not impose an unnecessary burden on the small business sector of the economy.

This regulation essentially is administrative in nature and does not influence project eligibility or program funding. Consequently, it does not impact, adversely, on the central cities, suburban communities, nor non-metropolitan communities. As provided in Executive Order 12044, March 23, 1978, this regulation does not have any significant economic consequence on the general economy, individual industries, geographic regions or levels of government.

The program number in the Catalog of Domestic Assistance is 83.300 "Disaster Relief".

Accordingly, (1) sections 205.5 and 205.6 are renumbered 205.601 and 205.602, respectively; (2) section 205.58 and section 205.59 are deleted; and (3) subpart A of Part 205 (sections 205.1–205.22) is revised and adopted as follows:

Subpart A—General

Sec.

205.1 Purpose.
205.2 Definitions.
205.3 Policy.
205.4 State emergency plans.
205.5 Assistance by Federal agencies.
205.6 Federal equipment and supplies.
205.7 Use and coordination of relief organizations.
205.8 [Reserved]
205.9 [Reserved]
205.10 Duplication of benefits.
205.11 Nonliability of the Federal Government.
205.12 Criminal and civil penalties.
205.13 Reviews and reports.
205.14 Appeals.
205.15 Effective date.
205.16 Nondiscrimination in disaster assistance.

Authority: Sec. 601, Disaster Relief Act of 1974, Pub. L. 93–288, 88 Stat. 163 (42 USC 5201); Executive Order 12148; and Delegation of Authority, 44 FR 44792.

§ 205.1 Purpose.

The purpose of this part is to prescribe the standards and procedures to be followed in implementing those sections of Pub. L. 93–288 assigned to the Director, Federal Emergency Management Agency (FEMA) by Executive Order 12148 and delegated to the Associate Director for Disaster Response and Recovery, FEMA.

§ 205.2 Definitions.

(a) General. The following definitions have general applicability throughout this part:

(1) "The Act" means the Disaster Relief Act of 1974 Pub. L. 93–288, as amended: 42 USC 5121 *et seq.*

(2) "Applicant" (a) for public assistance (Subpart E) means the State, local government, or eligible private nonprofit facility submitting a project application or request for direct Federal assistance under the Act or on whose behalf the Governor's Authorized Representative takes such action, and (b) for individual assistance (Subpart D) means an individual or family who submits an application or request for assistance under the Act.

(3) "Associate Director" means the Associate Director for Disaster Response and Recovery, FEMA, or his/her designated representative.

(4) "Contractor" means any individual, partnership, corporation, agency, or other entity (other than an organization engaged in the business of insurance) performing work by contract for the Federal Government or a State or local agency.

(5) "Designated area" means any emergency or disaster-affected portion of a State which the Associate Director has determined is eligible for Federal assistance.

(6) "Director" means the Director, FEMA.

(7) "Disaster Recovery Manager" means the person appointed to exercise the authority of a Regional Director for a particular emergency or major disaster.

(8) "Emergency" means any hurricane, tornado, storm, flood, high water, winddrive water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a major disaster. For the purpose of these regulations, an emergency exists when the President so determines.

(9) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(10) "Federal Coordinating Officer (FCO)" means the person appointed by the Associate Director to coordinate Federal assistance in an emergency or a major disaster.

(11) "Governor" means the chief executive of any State or the Acting Governor.

(12) "Governor's Authorized Representative" means the person named by the Governor in the Federal-State Agreement to execute on behalf of the State all necessary documents for disaster assistance and evaluate and to transmit local government, eligible private non-private facility, and State agency requests for assistance to the Regional Director following a major disaster or emergency declaration.

(13) "Local government" means (i) any county, city, village, town, district, or other political subdivision of any State; any Indian tribe or authorized tribal organization; or Alaska Native village or

organization, and (ii) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by State or political subdivision thereof.

(14) "Major disaster" means any hurricane, tornado, storm, flood, highwater, wind-driven water, tidal wave tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(15) "Private nonprofit organization" means any nongovernmental agency or entity that currently has (i) an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under Section 501 (c), (d), or (e) of the Internal Revenue Code of 1954 or (ii) satisfactory evidence from the State that the organization or entity is a nonprofit one organized or doing business under State law.

(16) "Public facility" means any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any non-Federal-aid street, road, or highway; and any other public building, structure, or system, including those used for educational or recreational purposes, or any park.

(17) "Regional Director" means a director of a regional office of the Federal Emergency Management Agency (FEMA), of his/her designated representative. As used in these regulations Regional Director also means the Disaster Recovery Manager who has been appointed to exercise the authority of Regional Director for a particular emergency or major disaster.

(18) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands.

(19) "State Coordinating Officer (SCO)" means the person appointed by the Governor to act in cooperation with the Federal Coordinating Officer.

(20) "State emergency plan" as used in Section 301(b) of the Act means that State plan which is designated specifically for State-level response to emergencies or major disasters and which sets forth actions to be taken by the State and local governments, including those for implementing Federal disaster assistance.

(21) "Temporary housing" means emergency or temporary accommodations provided by the Federal Government to individuals or families made homeless by an emergency or a major disaster (see 205.52).

(22) "United States" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(23) "Voluntary organization" means any chartered or otherwise duly recognized tax-exempt local, State, or national organization or group which has provided or may provide needed services to the States, local governments, or individuals in coping with a disaster.

(b) Definitions which apply to individual subparts are found in those subparts.

§ 205.3 Policy.

(a) It is the policy of the Federal Emergency Management Agency (FEMA) to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage that result from major disasters and emergencies by:

(1) Providing Federal assistance for public and private losses and needs sustained from disasters;

(2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and local governments;

(3) Achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) Encouraging individuals, States, and local governments to obtain insurance coverage and thereby reduce their dependence on governmental assistance;

(5) Encouraging hazard mitigation measures, such as development of land-use and construction regulations, floodplain management, protection of wetlands, and environmental planning, to reduce losses from disasters.

(b) It is also the policy of FEMA to foster the development of State and local government organizations and plans for coping with disasters, and to provide advice and guidance to Federal agencies and States and local governments on organization and preparedness to meet the effects of disasters.

(c) It is further a policy of FEMA to ensure that the individual disaster victims are informed of available Federal assistance and to assist individual victims in obtaining the Federal assistance to which they are entitled. Through coordination of all Federal programs and procedures, FEMA shall facilitate, wherever possible, the victims' understanding of these programs and simplify any actions required on the part of those victims who apply for assistance.

§ 205.4 State emergency plans.

The State shall set forth in the State's emergency plan all responsibilities and actions specified in the Act and these regulations that are required of the State and its political subdivisions to prepare for and respond to disasters and to facilitate the delivery of Federal disaster assistance.

§ 205.5 Assistance by Federal agencies.

(a) Upon the declaration of a major disaster or an emergency by the President, the Associate Director or the Regional Director may direct any Federal agency to provide assistance to State and local governments by:

(1) Utilizing or lending their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any act;

(2) Distributing medicine, food, and other consumable supplies; and

(3) Rendering assistance under the authority of the Act. Such assistance is provided with or without compensation as considered appropriate by the Associate Director or Regional Director under the provisions of "Subpart I—Reimbursement of Other Federal Agencies" of these regulations.

(b) Federal agencies shall provide any reports or information about disaster assistance rendered under provisions of these regulations, that the FCO or Regional Director considers necessary and requests from the agencies.

(c) Assistance furnished by any Federal agency under paragraph (a) of this section is subject to the eligibility criteria provided by the Associate Director under these regulations and other instructions as the Associate Director or Regional Director may issue.

(d) Assistance under paragraph (a) of this section, when directed by the Associate Director or the Regional Director, shall not affect the authority of any Federal agency to provide disaster assistance independent of the Act.

However, disaster assistance by other Federal agencies is subject to the coordination of the Federal Coordinating Officer.

(e) In carrying out the purposes of the Act, any Federal agency may accept and utilize, with the consent of the State or local government, the services, personnel, materials, and facilities of any State or local government, agency, office, or employee. Such utilization shall not make such services, materials, or facilities Federal in nature nor make the State or local government or agency an arm or agent of the Federal Government.

(f) Eligible work under the provisions of the Act is not performed by or under the direct supervision of a Federal agency except when the State or local government lacks the capability to perform or contract for the approved work or the Regional Director determines that direct assistance is necessary to meet an immediate threat to life, health, or safety. (See 205.121, Direct Federal Assistance.)

§ 205.6 Federal equipment and supplies.

(a) In any major disaster or emergency, the Associate Director or the Regional Director may direct Federal agencies to donate or loan their equipment and supplies to State and local governments for use and distribution by them for the purposes of the Act.

(b) A donation or loan may include equipment and supplies determined under applicable laws and regulations to be surplus to the needs and responsibilities of the Federal Government. The State shall certify that the surplus property is usable and necessary for current disaster purposes in order to receive a donation or loan. Such a donation or loan is made in accordance with procedures prescribed by the General Services Administration.

(c) In providing assistance under the Act, the Federal Government shall use surplus Federal property to the fullest extent feasible.

§ 205.7 Use and coordination of relief organizations.

(a) In providing relief and assistance under the Act, the Associate Director or the Federal Coordinating Officer may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary organizations in the distribution of medicine, food, supplies, or other items and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Associate Director or the Federal Coordinating Officer finds that such utilization is necessary.

(b) In any major disaster or emergency, the Regional Director may provide assistance by distributing or rendering through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary organizations medicine, food, and other consumable supplies or emergency services.

(c) The Associate Director may enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary organizations under which the Federal Coordinating Officer may coordinate the disaster relief activities of such organizations whenever the organizations are engaged in providing relief during and after a major disaster or emergency. Any agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with 205.16 (non-discrimination) and 205.10 (Duplication of Benefits) of these regulations and such other regulations as the Associate Director may issue.

(d) Nothing contained in this section shall be construed to limit or in any way affect the responsibilities of the American National Red Cross as stated in Pub. L. 58–4, approved January 5, 1905 (33 Stat. 599).

§ 205.8 [Reserved]

§ 205.9 [Reserved]

§ 205.10 Duplication of benefits.

(a) The Associate Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster or emergency, shall establish policies to assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster or emergency, if such person, business concern, or other entity received compensation from insurance or any other source for that part of the loss. Partial compensation for a loss or a part of a loss suffered as the result of a major disaster or emergency shall not preclude additional Federal assistance for any part of the loss not compensated otherwise.

(c) The Regional Director and the Federal Coordinating Officer shall assure that no Federal assistance is provided under the Act for any part of a loss for which the applicant has been compensated from another source, as imposed by the duplication of benefits policies established by the Associate Director.

(d) Whenever the Associate Director, Regional Director or Federal Coordinating Officer determines (1) that a person, business concern, or other entity has received assistance both under this Act and from another source for the same loss and (2) that the amount received from all sources exceeded the amount of the loss, the Associate Director, Regional Director or Federal Coordinating Officer shall direct the person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which exceeds the loss.

§ 205.11 Nonliability.

The Federal Government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

§ 205.12 Criminal and civil penalties.

(a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under the Act shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

(b) Any individual who knowingly violates any order or regulation under the Act shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Whoever knowingly missapplies the proceeds of a loan or other cash benefit obtained under any section of the Act shall be subject to a fine in an amount equal to one and one-half the times the original principal amount of the loan or cash benefit.

§ 205.13 Reviews and reports.

(a) The Associate Director shall review the activities of Federal agencies and State and local governments providing disaster assistance, in order to assure maximum coordination and effectiveness of such programs, and shall report to Congress from time to time on these activities.

(b) In carrying out this provision, the Associate Director may direct Federal agencies to submit reports relating to their disaster assistance activities. The Associate Director or the Regional Director may request similar reports from the States relating to these activities on the part of State and local

governments. Additionally, the Associate Director may conduct independent investigations, studies, and evaluations as necessary to complete the reviews.

§ 205.14 Appeals.

Any appeal is a request for reconsideration of a determination on any action related to Federal assistance under the Act and these regulations. Specific procedures for appeals are contained in the relevant subparts of these regulations.

§ 205.15 Effective date.

(a) These regulations are effective and supersede existing regulations as of September 10, 1980.

(b) Any action taken in accordance with previous regulations remains valid.

§ 205.16 Nondiscrimination in disaster assistance.

(a) Federal financial assistance to the States or their political subdivisions is conditioned on full compliance with Regulation 44 CFR Part 7.

(b) All personnel carrying out Federal major disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of race, religion, sex, color, age, economic status, or national origin.

(c) As a condition of participation in the distribution of assistance or supplies under the Act or of receiving assistance under the Act, government bodies, and other organizations shall provide a written assurance of their intent to comply with regulations relating to non-discrimination promulgated by the President or the Associate Director and shall comply with such other regulations applicable to activities within an area affected by major disaster or emergency as the Associate Director deems necessary for the effective coordination of relief efforts. The provisions to be included in every Federal-State Agreement shall be the provisions provided by Executive Order 11246 as amended by Executive Orders 11375, 11478 and 12086.

Issued at Washington, D.C., July 17, 1980.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-23829 Filed 8-8-80; 8:45 am]

BILLING CODE 6718-01-M

V 45 A G 1 1 8 0 UMI

federal register

Monday
August 11, 1980

Part IV

Federal Trade Commission

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Applicances under the Energy Policy and Conservation Act

interested persons who desire to testify

purchasing decisions (44 FR 66466,

V. 45 A G 11 80 UMI

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used In Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Notice of Rulemaking on Proposed Amendments of the Final Rule Concerning Central Air Conditioners and Heat Pumps.

SUMMARY: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule that requires the disclosure of energy efficiency or cost information in labeling and retail sales catalogs for seven categories of appliances; mandates that the energy costs or energy efficiency ratings be based on standardized test procedures; requires a general disclosure on certain point-of-sale promotional materials of the availability of energy cost or energy efficiency rating information; and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on results of the standardized test procedures.

The Federal Trade Commission now proposes to amend the rule to include central air conditioners and heat pumps. The proposed amendments, which the Commission is required to consider under §§ 324(b)(1) and 336 of the Energy Policy and Conservation Act of 1975 (EPCA), as amended by the National Energy Conservation Policy Act of 1978, prescribe disclosure requirements and methods for determining energy efficiency information for central air conditioner and heat pump applicances. The proposed amendments are intended to insure that consumers will have pre-purchase information necessary to compare the energy efficiencies of these and other competing climate control products covered by the regulation.

Notwithstanding this notice of further rulemaking, the previously-promulgated Appliance Labeling Rule, which covers refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners and furnaces, remains in effect.

This notice sets out the text of the proposed amendments, the procedures to be followed, a list of general questions and issues upon which the Commission particularly desires comment, an invitation for written comments, and instructions for prospective witnesses and other interested persons who desire to testify or otherwise participate in the proceedings.

DATES: Notification of intention to present views orally and copies of proposed testimony on or before September 10, 1980; written comments, on or before September 25, 1980. Public hearings commence September 25, 1980, in Washington, D.C.

ADDRESS: Submit written comments an exhibits in quintuplicate to "Raymond L. Rhine, Presiding Officer for Central Air Conditioner Rulemaking," Federal Trade Commission, Washington, D.C. 20480.

FOR FURTHER INFORMATION CONTACT:

James Mills, 202–724–1491 or Lucerne D. Winfrey, 202–724–1453, Attorneys, Bureau of Consumer Protection, Division of Energy and Product Information, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act requires the Federal Trade Commission to consider labeling rules for disclosure of annualized energy cost and alternate measures of energy consumption information for at least thirteen categories of appliances: (1) refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Under Section 323 of EPCA, the Department of Energy (DOE) was given the responsibility for developing test procedures that measure how much energy the appliances use. In addition, DOE was required to determine how much a consumer is likely to use each appliance on the average during a year, and the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezers; freezers; dishwashers; water heaters; clothes washers; room air conditioners; and furnaces. The Commission determined that clothes dryers, home heating equipment other than furnaces, television sets, kitchen ranges and ovens, and humidifiers and dehumidifiers should be exempted from the labeling requirements of the rule. Evidence received during the rulemaking indicated that labeling of these products would not be economically feasible or likely to assist consumers in making purchasing decisions (44 FR 66466, 66467–69).

Labels for central air conditioners were originally contemplated in the Commission's proposed rule (43 FR 31806, July 21, 1978), based on DOE's publication of a final test procedure for central air conditioners at that time (42 FR 60150, November 25, 1977). On April 19, 1979, however, DOE withdrew this test procedure, proposing that it be amended (44 FR 23468) also to include test procedures for heat pumps and a statistical sampling plan for ensuring reliability of test results. Since there was no longer an applicable DOE test procedure in effect for labeling purposes, the final rule could not cover the central air conditioner category. On December 27, 1979, DOE published a final test procedure, including a statistical sampling plan, for central air conditioners, including heat pumps, thereby requiring the Commission again to consider labeling requirements for these appliances. (44 FR 76700). The amendment proceeding announced here will consider the appropriateness of labeling requirements, including the issue of whether labeling of central air conditioners and heat pumps would be economically feasible or likely to assist consumers in making purchasing decisions.

The proposed amendments require central air conditioners and heat pumps to carry energy labels. The labels direct consumers to energy fact sheets for these appliances which disclose their energy efficiency rating, a range of ratings of comparable models, and regional annual cost figures for various cooling system combinations. The proposed amendments describe how the label and fact sheet information is to be derived from DOE's final test procedure for these appliances. Finally, the proposed amendments contain illustrations of sample labels for central air conditioners and heat pumps.

Section 324 of EPCA directs the Commission to prescribe that energy consumption information be disclosed in terms of an estimated annual energy cost unless the Commission determines that labeling is not technologically or economically feasible or that labels are not likely to assist consumers in making purchasing decisions. In the original rulemaking, the Commission determined that a disclosure of the estimated annual energy cost for climate-sensitive products would not be feasible. The Commission found that the energy use and efficiency of climate-sensitive products vary considerably according to geography and climate, making it very difficult to quantify an average annual energy cost for such products. Accordingly, the final rule prescribed an alternative measure of energy consumption—an energy efficiency rating—for climate-control equipment, which would be independent of usage variables such as geography and climate. Since central air conditioners and heat pumps fall into the category of climate-sensitive equipment, the proposed amendments, like the labeling provisions for furnaces and room air conditioners in the final rule, require the use of an energy efficiency rating rather than an estimated annual energy cost for these products. However, the proposed amendments still require disclosure of regional cost figures to help consumers estimate their individual energy costs for each system they consider.

Interested persons are invited to comment on any of the proposed amendments, any of the issues listed after the proposed amendments in Section C, and on any other issue of fact, law, or policy which may have some bearing on the proposed amendments.

Section A. Proposed Amendments

In consideration of the foregoing, the Commission proposes the following amendments to the Applicance Labeling Rule, pursuant to § 324 (42 U.S.C. 6294) of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619), and to § 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure). The proposed amendments appear in the following provisions of the rule:

Sec.
305.2(i)
305.3(h)–(i)
305.4(e)(2) & (3)
305.5(h)
305.7(h)–(i)
305.8(a) & (b)
305.11(a)(3)
305.11(a)(5)(ii)
305.11(b)(1)(i) & (ii)
305.11(b)(3)(viii)
305.14(a)(3)
Appendices H–J

This would amend Title 16, Chapter 1, by adding to Subchapter C, Part 305—Rules For Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act—provisions covering central air conditioners and heat pumps. The final rule, including the proposed amendments (*highlighted in boldface) and relevant appendices and illustrations, would be as follows:*

PART 305—RULES FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

Scope

Sec.
305.1 Scope of the regulations in this part.
305.2 Definitions.
305.3 Description of covered products to which this part applies.

General

305.4 Prohibited acts.

Testing

305.5 Determinations of estimated annual energy cost and efficiency rating.
305.6 Sampling.
305.7 Determinations of capacity.
305.8 Submission of data.

Representative Average Unit Energy Costs

305.9 Representative average unit energy costs.
305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

Required Disclosures

305.11 Labeling for covered products.
305.12 Additional information relating to energy consumption.
305.13 Promotional material displayed or distributed at point of sale.
305.14 Catalogs.

Additional Requirements

305.15 Test Data records.
305.16 Required testing by designated laboratory.

Effect of This Part

305.17 Effect of other law.
305.18 When the rules take effect.
305.19 Stayed or invalid parts.

Appendix A1—Refrigerators.
Appendix A2—Refrigerator-Freezers.
Appendix B—Freezers.
Appendix C—Dishwashers.
Appendix D1—Water Heater-Gas.
Appendix D2—Water Heaters-Electric.
Appendix D3—Water Heaters-Oil.
Appendix E—Room Air Conditioners.
Appendix F—Clothes Washers.
Appendix G—Furnaces.
Appendix H—Central Air Conditioners, Cooling
Appendix I—Central Air Conditioners, Heating
Appendix J—Suggested Data Reporting Format.

Authority: Sec. 324, Energy Policy and Conservation Act, (Pub. L. 94–163, [42 U.S.C. 6294]); as amended by the National Energy Conservation Policy Act (Pub. L. 95–619).

PART 305—RULE FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

Scope

§ 305.1 Scope of the regulations in this part.

The rule in this part establishes requirements for consumer appliance products, as hereinafter described, in commerce, as "commerce" is defined in the Energy Policy and Conservation Act, 42 U.S.C. 6291, with respect to:

(a) Labeling the products with information indicating their estimated annual energy costs or energy efficiency ratings, and related information;

(b) Including in printed matter displayed or distributed at the point of sale of such products, or including in any catalog from which the products may be purchased, information concerning their energy consumption;

(c) Including on the labels, separately attaching to the products, or shipping with the products, additional information relating to energy consumption, energy efficiency, or energy cost; and

(d) Making representations, in writing or in broadcast advertising, respecting the energy consumption, energy efficiency, or the cost of energy consumed by consumer appliance products.

Definitions

§ 305.2 Definitions

(a) "Act" means the Energy Policy and Conservation Act (Pub. L. 94–163), and amendments thereto.

(b) "Commission" means the Federal Trade Commission.

(c) "Manufacturer" means any person who manufactures, produces, assembles, or imports a consumer appliance product. Assembly operations which are solely decorative are not included.

(d) "Retailer" means a person to whom a consumer appliance product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale. The term "retailer" includes purchasers of appliances who install such appliances in newly constructed or newly rehabilitated housing, or mobile homes, with the intent to sell the covered appliances as part of the sale of such housing or mobile homes.

(e) "Distributor" means a person (other than a manufacturer or retailer) to whom a consumer appliance product is

delivered or sold for purposes of distribution in commerce.

(f) "Private labeler" means an owner of a brand or trademark on the label of a consumer appliance product which bears a private label.

(g) "Range of comparability" means a group of models within a class of covered products, each model of which satisfies approximately the same consumer needs.

(h) "Estimated annual operating cost" or "estimated annual energy cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with tests prescribed under Section 323 of the Act (42 U.S.C. 6293).

(i) "Energy efficiency rating" means the "annual fuel utilization efficiency" for furnaces, "energy efficiency ratio" for room air conditioners, *seasonal energy efficiency ratio for the cooling function of central air conditioners, and the heating seasonal performance factor for the heating function of central air conditioners* determined in accordance with tests prescribed under Section 323 of the Act (42 U.S.C. 6293).

(j) "Range of estimated annual operating costs" or "range of estimated annual energy costs" means the range of estimated annual operating costs of all models within a designated range of comparability.

(k) "Range of energy efficiency ratings" means the range of energy efficiency ratings for all models within a designated range of comparability.

(l) "New covered product," as used in § 305.4, means a covered product the title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

(m) "Catalog" means printed material which contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order a covered product.

(n) "Consumer appliance product" means any appliance product for which the Secretary of the Department of Energy has prescribed final test procedures pursuant to Section 323 of the Act (42 U.S.C. 6293).

(o) "Covered Product" means any consumer appliance product defined in § 305.3 of the rule which is, or may be, used for personal use or consumption by individuals.

§ 305.3 Description of covered products to which this part applies.

(a) Refrigerators and refrigerator-freezers.

(1) "Electric refrigerator" means a cabinet designed for refrigerated storage of food at temperatures above 32° F and having a source of refrigeration requiring an electric energy input only. It may include a compartment for the freezing and storage of food at temperatures below 32° F but does not provide a separate low-temperature compartment designed for the freezing of and long-term storage of food at temperatures below 8° F. It has only one exterior door, but may have interior doors or compartments.

(2) "Electric refrigerator-freezer" means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32° F and with at least one of the compartments designed for the freezing of and the storage of frozens foods at temperatures of 8° F or below and which may be capable of adjustment by the user to a temperature of 0° F or below. The source of refrigeration requires an electrical energy input only.

(b) "Freezer" means a cabinet designed as a unit for the storage of food at temperatures of 0° F or below and which has the ability to freeze food. The source of refrigeration requires an electric energy input only.

(c) "Dishwasher" means a cabinetlike appliance which, with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils and most cooking utensils by chemical, mechanical, and/or electrical means and discharges to the plumbing drainage system.

(d) "Water heater" means an automatically controlled, thermally insulated vessel designed for heating water and storing heated water. It is designed to produce hot water at a temperature of less than 180° F.

(1) "Electric water heater" means a water heater which utilizes electricity as the energy source for heating the water, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage of no greater than 250 volts, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 120 gallons.

(2) "Gas water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btu's per hour or less, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 100 gallons.

(3) "Oil water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 103,875 Btu's per hour or less and which has a manufacturer's specified storage capacity of 50 gallons or less.

(e) "Room air conditioner" means an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and/or heating.

(f) "Clothes washer" means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement.

(1) "Automatic clothes washer" means a class of clothes washer which has a control system capable of scheduling a preselected combination of operations, such as regulation of water fill level, and performance of wash, rinse, drain and spin functions, without the need for the user to intervene subsequent to the initiation of machine operation. Some models require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

(2) "Semi-automatic clothes washer" means a class of clothes washer that is the same as an automatic clothes washer except that the user must intervene to regulate the water temperature by adjusting the external water faucet valves.

(3) "Other clothes washer" means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

(g) "Furnace" means a device designed to be the principal heating source for the living space of a residence and having a heat input rate of less than 300,000 Btu's per hour for boilers and less than 225,000 Btu's per hour for furnaces.

(1) "Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas of oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

(2) "Gravity central furnace" means a gas-fueled furnace which depends primarily upon natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

(3) "Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, and in which heat is generated by one or more electric resistance heating elements, and the heated air is circulated by means of a fan or blower.

(4) "Direct vent system" means a system supplied by a manufacturer which provides outdoor air directly to a furnace for combustion and draft relief if the unit is so equipped.

(5) "Electric boiler" means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

(6) "Low pressure steam or hot water boiler" means a gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

(h) "Central air conditioner" means a consumer product which is powered by single phase electric current, which is rated below 65,000 Btu's per hour, which is not contained within the same cabinet as a furnace whose rated capacity is above 225,000 Btu per hour, and which is either a "heat pump" or a "cooling only unit."

(1) "Condenser-evaporator coil combination" means a condensing unit made by one manufacturer and one of several evaporator coils, either manufactured by the same manufacturer or another manufacturer, intended to be combined with that particular condensing unit.

(2) "Condensing unit" means a component of a central air conditioner which is designed to remove heat absorbed by the refrigerant and to transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

(3) "Cooling only unit" means a "central air conditioner" which consists of an air cooled condensing unit and an evaporator coil, and which is designed to provide air cooling, dehumidifying, circulating, and air cleaning.

(i) "Heat pump" means a "central air conditioner" which is either an "air-source heat pump" or a "water-source heat pump."

(1) "Air-source heat pump" means a "heat pump" which consists of one or more assemblies, which utilizes an indoor conditioning coil, compressor(s), and refrigerant-to-outdoor air heat exchanger to provide air heating, and which may also provide air cooling, dehumidifying, circulating, and air cleaning.

(2) "Water-source heat pump" means a "heat pump" which consists of one assembly which utilizes and indoor conditioning coil with air moving means, compressor(s), and refrigerant-to-water heat exchanger(s) to provide both air heating and cooling, dehumidifying, circulating, and air cleaning.

General

§ 305.4 Prohibited acts.

(a) It shall be unlawful and subject to the enforcement penalties of Section 333 of the Act of a maximum civil penalty of $100 for each unit of any new covered product to which this part applies:

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is labeled in accordance with Section 305.11 with a label, flap tag, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

(2) For any manufacturer, distributor, retailer, or private labeler knowing to remove or render illegible any label required to be provided with such product by this part.

(3) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product, if there is not included (i) on the label, (ii) separately attached to the product, or (iii) shipped with the product, additional information relating to energy consumption or energy efficiency which conforms to the requirements in this part.

(b) It shall be unlawful and subject to the enforcement penalties of section 333 of the Act of a maximum civil penalty of $100 per day for any manufacturer or private labeler knowingly to:

(1) Refuse a request by the Commission or its designated representative for access to, or copying of, records required to be supplied under this part.

(2) Refuse to make reports or provide upon [request] by the Commission or its designated representative any information required to be supplied under this part.

(3) Refuse upon request by the Commission or its designated representative to permit a representative designated by the Commission to observe any testing required by this part while such testing is being conducted or to inspect the results of such testing. This section shall not limit the Commission from requiring additional testing under this part.

(4) Refuse, when requested by the Commission or its designated representative, to supply at the manufacturer's expense, no more than two of each model of each covered product to any laboratory designated by the Commission for the purpose of ascertaining whether the information in catalogs or set out on the label as required by this part is accurate. This action will be taken only after review of a manufacturer's testing records and an opportunity to revalidate test data has been extended to the manufacturer.

(5) Distribute in commerce any catalog containing a listing for a covered product without the information required by section 305.14 of this Part. This subsection shall also apply to distributors and retailers.

(c) Pursuant to section 333(c) of the Act, it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer or private labeler in or affecting commerce to display or distribute at point of sale any printed material applicable to a covered product under this rule if such printed material does not contain the information required by § 305.13. This requirement does not apply to any broadcast advertisement or to any advertisement in a newspaper, magazine, or other periodical.

(d) Effective 180 days after a test procedure applicable to a consumer appliance product is prescribed by the Secretary of the Department of Energy, pursuant to section 323 of the Act (42 U.S.C. 6293), it shall be an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer, or private labeler to make any representation in or affecting commerce—

(1) In writing (including a representation on a label), or

(2) In any broadcast advertisement, respecting the energy consumption of the product or cost of energy consumed by the product, unless the product has been tested in accordance with the test procedure and the representation fairly discloses the results of the testing. This requirement is not limited to consumer appliance products covered by the labeling requirements of this part.

Any manufacturer, distributor, retailer, or private labeler may file a petition with the Commission not later than sixty (60) days before the expiration of the period involved for an extension of the 180-day period. If the

V 45 A G 1 1 80 UMI

Commission finds that the requirements would impose an undue hardship on the petitioner, the Commission may extend the 180-day period with respect to the petitioner up to an additional 180 days.

(e) This part shall not apply to:

(1) Any covered product if it is manufactured, imported, sold, or held for sale for export from the United States, so long as such product is not in fact distributed in commerce for use in the United States, and such covered product or the container thereof bears a stamp or label stating that such covered product is intended for export.

(2) Any covered product if the manufacture of the product was completed prior to May 19, 1980. *Any central air conditioner if its manufacturer was completed prior to* [the effective date of this amendment].

(3) Any catalog or point of sale printed matter pertaining to covered products other than air conditioners and heat pumps and distributed prior to *May 19, 1980, and any catalog or point of sale printed matter pertaining to central air conditioners and heat pumps and distributed prior to* [the effective date of this amendment] except that if representations respecting the energy consumption or energy efficiency of any covered product or other consumer appliance product or cost of energy consumed by such product are included, they are subject to the requirements of paragraph (d) of this section.

(f) As used in paragraphs (a) and (b) of this section, the term "knowingly" means:

(1) The having of actual knowledge, or

(2) The presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

Testing

§ 305.5 Determinations of estimated annual energy cost and energy efficiency rating.

Procedures for determining the estimated annual energy costs and energy efficiency ratings of covered products are those found in 10 CFR Part 430, Subpart B, in the following sections:

(a) Refrigerators and refrigerator-freezers—§ 430.22(a).

(b) Freezers—§ 430.22(b).

(c) Dishwashers—§ 430.22(c).

(d) Water heaters—§ 430.22(e)

(e) Room air conditioners—§ 430.22(f).

(f) Clothes washers—§ 430.22(j).

(g) Furnaces—§ 430.22(n).

(h) Central air conditioners and heat pumps—§ 430.22(m).

§ 305.6 Sampling.

Any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.23 of 10 CFR Part 430, Subpart B.

§ 305.7 Determinations of capacity.

The capacity of covered products shall be determined as follows:

(a) Refrigerators and refrigerator-freezers—The capacity shall be the net refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix A1 to 10 CFR Part 430, Subpart B.

(b) Freezers—the capacity shall be the net freezer refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix B to 10 CFR Part 430, Subpart B.

(c) Dishwashers—The capacity shall be the place-setting capacity, calculated in conformance with AHAM Specification DW 1.

(d) Water heaters—The capacity shall be the first hour rating, determined according to 4.8 of Appendix E to 10 CFR Part 430, Subpart B.

(e) Room air conditioners—The capacity shall be the cooling capacity in Btu's per hour, determined according to 4.1 of Appendix F to 10 CFR Part 430, Subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

(f) Clothes washers—The size shall be the tub capacity, rounded to the nearest gallon, determined according to 3.1 of Appendix J to 10 CFR Part 430, Subpart B, in the terms standard or compact as defined in Appendix J of this rule.

(g) Furnaces—The capacity shall be the heating capacity in Btu's per hours, rounded to the nearest 1,000 Btu's per hour, determined according to 4.7 or 4.10 of Appendix N to 10 CFR Part 430, Subpart B.

(h) Central air conditioners, cooling—The capacity shall be the cooling capacity in Btu's per hour, determined according to 3.1 of Appendix M to 10 CFR Part 430, Subpart B, rounded to the nearest 1,000 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 2,000 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 5,000 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

(i) Central air conditioners, heating—The capacity shall be the heating capacity in Btu's per hour, determined according to 3.2 of Appendix M to 10 CFR Part 430, Subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 2,000 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 5,000 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

§ 305.8 Submission of data.

(a) Each manufacturer of a covered product shall submit to the Commission not later than January 21, 1980 (two months after publication of a final, amended rule for central air conditioners), a report listing the estimated annual energy cost (for refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, and clothes washers) or the energy efficiency rating (for room air conditioners, centeral air conditioners and furnances) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report must also list, for each basic model in current production: the model numbers for each basic model; the total energy consumption, determined in accordance with § 305.5, used to calculate the estimated annual energy cost or the energy efficiency rating; the number of tests performed; and its capacity, determined in accordance with § 305.7. For those models which use more than one energy source or more than one cycle, each separate amount of energy consumption, or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix *[illegible]* illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted by July 21, 1980 (eight months after publication of a final, amended rule for central air conditioners).

(b) Thereafter, all data required by § 305.8(a) except serial numbers, shall be submitted to the Commission annually, on or before the following dates:

Products	Deadline for data submission	Effective mandatory labeling date
Refrigerators, refrigerator-freezers and freezers.	Aug. 1	Dec. 1
Dishwashers	June 1	Oct. 1
Water heaters	May 1	Sept. 1
Room air-conditioners	May 1	Sept. 1
Clothes washers	Mar. 1	July 1
Furnaces	May 1	Sept. 1
Central Air-conditioners	May 1	Sept. 1

All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report. Serial number reports for new covered products are due sixty days after the annual effective mandatory labeling data for each product.

(c) All information required by paragraph (a) of this section must be submitted for new models prior to any distribution of such model. Models subject to design or retrofit alterations which change the date contained in any annual report shall be reported in the manner required for new models. Models which are discontinued shall be reported in the next annual report.

Representative Average Unit Energy Costs

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this Part.

Table 1[1]

Line:	Electricity	Oil	Natural gas	Propane gas
1	$0.0497 per kWh	$6.09×10⁻⁴ per Btu	$3.67×10⁻³ per Btu	$5.99×10⁻⁴ per Btu.
2	4.97¢ per kWh	84.1¢ per gal	36.7¢ per therm (100 ft³)	54.5¢ per gal.

[1] These figures are based on 1979 DOE calculations and are subject to change.

(b) Table 1, above will be revised on the basis of future information provided by the Secretary of the Department of Energy, but not more often than annually. Manufacturers shall use the revised information when submission of the annual data is made in accordance with § 305.8.

§ 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

(a) The range of estimated annual energy costs or range of energy efficiency ratings for each covered product shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the products. The Commission shall publish revised ranges annually in the **Federal Register** if appropriate, or a statement that specific prior ranges are still applicable for the new year. Ranges will be changed if the estimated annual energy cost or the energy efficiency rating of the products within the range changes in a way that would alter the upper or lower cost or efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of any revision shall conform to the revised range. Products which have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) When the estimated annual energy cost or energy efficiency rating of a given model of a covered product falls outside the limits of the range found in the current appendix for that product, which could result from the introduction of a new or changed model, the manufacturer shall (1) omit placement of such product on the scale, and (2) add a sentence in the space just below the scale as follows:

The energy cost of this model was not available at the time the range was published; or

The energy efficiency rating of this model was not available at the time the range was published.

Required Disclosures

§ 305.11 Labeling for covered products.

(a) *Labels*—(1) *Layout.* All energy labels for each category of covered products use one size, similar colors and typefaces with consistent positioning of headline, copy and charts to maintain uniformity for immediate consumer recognition and readability. Trim size for all labels is 5⁹⁄₁₆" × 7⅜". Copy is to be set ×27 picas or ×29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely Figure 1, the prototype label appearing at the end of this part illustrating the basic layout. All positioning, spacing, type sizes and line widths should be similar to and consistent with the prototype label.

(2) *Type size and setting.* The Helvetica series typeface or equivalent shall be used exclusively on the label. Specific type sizes and faces to be used are indicated on the prototype labels (Figures 1, 2 and 3). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototype closely. Generally, text may be set flush left or right, line for line, or justified with one point leading except where otherwise indicated. Helvetica medium shall be used for all copy with the following exceptions only: (i) Numerals indicating "highest" and "lowest" energy cost or efficiency rating; (ii) chart headings and, if applicable, energy cost graph headings; (iii) the line "How much will this model cost you to run yearly?"

(3) *Colors.* The basic colors of all labels shall be process yellow or equivalent and process black. The label shall printed full bleed process yellow with a window dropped out (showing as white) over the table(s) displaying yearly cost. For labels to be used on furnaces and central air conditioners, the white window shall be over the text of the three energy-saving steps enumerated on the label. The window shall flush left right, top and bottom with the table rules. All type including chart or table rules shall be print process black.

(4) *Paper stock*—(i) *Adhesive labels.* All adhesive labels should be applied so they can easily be removed without use of tools or liquids, other than water. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25" × 38") or equivalent, exclusive of the release liner and adhesive. The adhesive shall have a minimum peel adhesion capacity of 24 ounces per inch width. The pressure-sensitive adhesive shall be applied in not less than two strips not less than 0.05 inches wide. The strips shall be within 0.5 inches of the opposite edges of the label. For a "flap tag" label, the pressure-sensitive adhesive shall be applie in one strip not less than 0.5 inches wide. The strip shall be within 0.25 inches of the top edge of the label.

(ii) *Hang tags.* The paper stock for hang tags shall have a basic weight of not less than 110 pounds per 500 sheets (25½" x 30½" index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(5) *Contents*—(i) Labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters and room air conditioners.

(A) Headlines and texts, as illustrated in Figures 1 and 2, are standard for all labels. At the option of the manufacturer or private labeler, the appropriate year may be inserted in that portion of the label which discloses the national average unit utility rate upon which the cost estimates are based.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(A) The headline, as illustrated in Figure 3, is standard for all labels.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) Model number(s) will be the designation given by the manufacturer or private labeler.

(D) Capacity or size is that determined in accordance with § 305.7.

(E) Estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothers washers and water heaters is that determined in accordance with § 305.5. Energy efficiency rating for room air conditioners is that determined in accordance with § 305.5.

(F) Ranges of comparability and of estimated annual energy costs or energy efficiency ratings, as applicable, are found in Section 1 of the appropriate appendices accompanying this part.

(G) Placement of the labeled product on the scale shall be proportionate to the costs of the lowest and highest costs or efficiency ratings forming the scale.

(H) Yearly Cost text and tables are found in Section 2 of the appropriate appendices accompanying this part. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in Section 2 of the appropriate appendices. Revised appendices will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published appendices to determine the cost figures to be used for a particular covered product.

(I) The following statement shall appear at the bottom of the label:

IMPORTANT

REMOVAL OF THIS LABEL BEFORE CONSUMER PURCHASE IS A VIOLATION OF FEDERAL LAW (42 U.S.C. 6302).

"Important

Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)."

(J) A statement that the energy costs or energy efficiency ratings, as applicable, are based on U.S. Government standard tests is required on all labels, as indicated in Figures 1 and 2.

(K) No marks or information other than that specified in this Part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(ii) *Labels for furnaces, and central air conditioners.*

(A) The headline, as illustrated in Figure 3, is standard for all labels.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) The following statements shall appear on the label, as indicated in Figure 3:

You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house.
2. Assure energy efficient heating and cooling equipment selection and installation.
3. Operate and maintain your system to conserve energy.

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy. Your contractor has the energy fact sheets. Ask for them.

(D) The following statement shall appear at the bottom of the label:

IMPORTANT

REMOVAL OF THIS LABEL BEFORE CONSUMER PURCHASE IS A VIOLATION OF FEDERAL LAW (42 U.S.C. 6302).

(E) No marks or information other than specified in this part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(6) *Placement.* Manufacturers shall affix a label to the exterior surface on covered products in such a position that it can easily by read while standing in front of the product as it is displayed for sale. The label should be generally located on the upper-right-front corner of the product, except that for low-standing products or products with configurations that make application in that location impractical, some other prominent location may be used. The top of the label should not exceed 74 inches from the base of taller products. The label in the form of a "flap tag" shall be adhered to the top of the appliance and bent (folded at 90°) to hang over the front, if this can be done with assurance that it will be readily visible.

(7) *Use of hang tags.* Information prescribed above for labels may be displayed in the form of a hang tag, which may be used in place of an affixed label. If a hang tag is used, it shall be affixed in such a position that it will be prominent to a consumer examining the product.

(b) *Fact sheets*—(1) *Distribution.* (i) Manufacturers and private labelers must give distributors and retailers, including assemblers, fact sheets for the furnaces *and central air conditioners* they sell to them. Distributors must give the fact sheets to the retailers, including assemblers, they supply. Each fact sheet must contain the information listed in § 305.11(b)(3).

(ii) Retailers, including assemblers, who sell furnaces *and central air conditioners* to consumers must have fact sheets for the furnaces *and central air conditioners* they sell. They must make the fact sheets available to their customers. The fact sheets may be made available to customers in any manner, as long as customers are likely to notice them. For example, they can be available in a display, where customers can take copies of them. They can be kept in a binder at a counter or service desk, with a sign telling customers where the fact sheets are. Retailers, including assemblers, who negotiate or make sales at a place other than their regular place of business must show the fact sheets to their customers and let them read the fact sheets before they agree to purchase the product.

(2) *Format.* All information required to be contained in fact sheets must be disclosed clearly and conspicuously.

(3) *Contents.* (i) "Energy Guide" headline is standard for all fact sheets, as for labels.

(ii) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(iii) Model number(s) will be the designation given by the manufacturer or private labeler.

(iv) Capacity or size is that determined in accordance with § 305.7.

(v) Energy efficiency rating is that determined in accordance with § 305.5.

(vi) Ranges of comparability and of energy efficiency ratings are found in Section 1 of the appropriate appendices accompanying this part.

(vii) Placement of the labeled product on the scale shall be proportionate to energy efficiency ratings of the lowest and highest efficiency ratings forming the scale.

(viii) Yearly cost information text and tables are found in Section 2 of Appendices G, *H and I* accompanying this part. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in Section 2 of Appendices G, *H and I.* A revised appendix will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published Appendices G, *H and I* to determine the cost figures to be used for furnaces *and central air conditioners respectively.*

(ix) A statement that the energy costs and energy efficiency ratings are based on U.S. Government standard tests is required in all fact sheets.

§ 305.12 Additional information relating to energy consumption.

Additional information relating to energy consumption which must be included on labels, separately attached to the product, or shipped with the product will be published as a separate section 3 of the appendices accompanying this part. No additional information will be required without public notice and an opportunity for written comments.

§ 305.13 Promotional material displayed or distributed at point of sale.

(a) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product shall clearly and conspicuously include in such printed material the following required disclosure:

"Before purchasing this appliance, read important energy cost and efficiency information available from your retailer."

(b) This section shall not apply to:

(1) Written warranties.

(2) Use and care manuals, installation instructions, or other printed material containing primarily post-purchase information for the purchaser.

(3) Printed material containing only the identification of a covered product, pricing information and/or non-energy related representations concerning that product.

(4) Any printed material distributed prior to the effective date listed in § 305.18(f).

§ 305.14 Catalogs.

(a) Any manufacturer, distributor, retailer or private labeler who advertises a covered product in a catalog, from which it may be purchased by cash, charge account or credit terms, shall include in such catalog, on each page which lists a covered product, the following information required to be disclosed on the label:

(1) The capacity of the model.

(2) The estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters. The representative average unit costs for electricity, natural gas, oil and propane gas, published in § 305.9, which are current at the closing date for printing or the printing deadline date of the catalog, shall be used to compute the estimated annual energy cost.

(3) The energy efficiency ratings for room air conditioners, *central air conditioners and furnaces.*

(4) The range of estimated annual energy costs or energy efficiency ratings, which shall be those which are current at the closing date for printing or the printing deadline of the catalog.

(5) The following disclosure, appearing clearly and conspicuously:

IMPORTANT ENERGY INFORMATION IS AVAILABLE. TURN TO PAGE(S) [INSERT DESIGNATED PAGE NUMBER(S)].

(b) On the page(s) designated, as referred to in § 305.14(a)(5), the manufacturer, distributor, retailer or private labeler must disclose either instructions on how cost grid information, described in §§ 305.11(a)(5)(i)(H) and 305.11(b)(3)(viii), may be obtained from the cataloger, or the cost grid information itself, so long as all information thereon is clearly legible. Information contained in a catalog for a covered product shall be changed or modified in accordance with § 305.10.

Additional Requirements

§ 305.15 Test data records.

(a) Test data shall be kept on file by the manufacturer of a covered product for a period of two years after production of that model has been terminated.

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the estimated annual energy cost or energy efficiency rating for each basic model was derived.

§ 305.16 Required testing by designated laboratory.

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the estimated annual energy cost or energy efficiency rating disclosed on the label or fact sheet, or as required by § 305.14, is accurate. Such a procedure will only be followed after the Commission or its staff has examined the underlying test data provided by the manufacturer as required by § 305.15(b) and after the manufacturer has been afforded the opportunity to reverify test results from which the estimated annual energy cost of energy efficiency rating for each basic model was derived. A representative designated by the Commission shall be permitted to observe any reverification procedures required by this Part, and to inspect the results of such reverification. Charges for testing by designated laboratories will be paid by the Commission.

Effect of This Part

§ 305.17 Effect on other law.

This regulation supersedes any State regulation to the extent required by Section 327 of the Act. Pursuant to the Act, all State regulations that require the

disclosure for any covered product of information with respect to energy consumption, other than the information required to be disclosed in accordance with this Part, are superseded.

§ 305.18 When the rules take effect.

(Subsections (a) through (h), which do not apply directly to central air conditioning and heat pumps, are not reprinted today in order to avoid confusion.) *(i) All requirements pertaining to central air conditioners take effect not later than three months after publication of the amended rule in final form.*

§ 305.19 Stayed or invalid parts.

If any section or portion of a section of this part is stayed or held invalid, the remainder of the part will not be affected.

1. Range Information:

Appendix H.—*Central Air-Conditioners Cooling Performance and Cost*

Manufacturer's rated cooling (Btu per hour)	Ranges of energy efficiency ratings	
	Low	High
Up to 10,000		
10,001 to 16,000		
16,001 to 22,000		
22,001 to 28,000		
28,001 to 34,000		
34,001 to 40,000		
40,001 to 46,000		
46,001 to 52,000		
52,001 to 58,000		
58,001 to 64,000		
64,001 and over		

2. Yearly Cooling Cost Information: Check this table to estimate your yearly cooling cost. To determine the hours of use for each region, consult the map relating to hours of use for cooling. The illustrative table below was calculated using an average EER of 7.5.

Region	Hours of use	Cost per kilowatt hour					
		.02	.04	.06	.08	.10	.12
I	2,400	$230.40	$460.80	$691.20	$921.60	$1,152.00	$1,382.40
II	1,800	172.80	354.60	518.40	691.20	864.00	1,036.80
III	1,200	115.20	230.40	354.60	460.80	576.00	691.20
IV	800	76.80	153.60	230.40	307.20	384.00	460.80
V	400	38.40	76.80	115.20	153.60	192.00	230.40
VI	200	19.20	38.40	57.60	76.80	96.00	115.20

Below each kilowatt-per-hour cost in the table and beside the appropriate region, place the dollar cost estimate of the model being labeled.

3. Additional Information: [Reserved].

This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions particularly in the Rockies

Regional Cooling Hours of Use

Region	Hours
I	2,400
II	1,800
III	1,200
IV	800
V	400
VI	200

Alaska	- 0	Cooling Load Hours
Canal Zone	- 6,000	" " "
Guam	- 6,600	" " "
Hawaii	- 2,300	" " "
Puerto Rico	- 6,000	" " "
Samoa	- 6,600	" " "
Virgin Island	- 6,000	" " "

BILLING CODE 3510-19-C

1. Range Information:

Appendix L—Central Air Conditioners (Heat Pumps) Heating Performance and Cost

Manufacturer's rated heating capacity in Btu's/hr.	Ranges of energy efficiency ratings *	
	Low	High
Up to 10,000		
11,000 to15,000		
16,000 to20,000		
21,000 to25,000		
26,000 to30,000		
31,000 to35,000		
36,000 to40,000		
41,000 to45,000		
46,000 to50,000		
51,000 to55,000		
56,000 to60,000		
61,000 to65,000		
66,000 and over		

*The EER shall be a Region IV value based on the appropriate average design heat loss from the table below. To determine the hours of use for each region, consult the map relating to hours of use for heating.

2. Yearly Heating Cost Information (by Regions):

Region I Btu Heat Loss of Home [1]

Cost per kilowatt hour:
2¢
4¢
6¢
8¢
10¢
12¢

[1] See table below.

The following table shows the heat loss values in Region I (in thousand Btu/hr.) to be used in the grid above:

Manufacturer's rated heating capacity of model to be labeled (BTU/hr.)	Average design heat loss of model to be labeled (KBTU/hr.)	Heat loss values to be used on the grid (KBTU/hr.)
Up to 10,000	10	5, 10
11,000 to 15,000	10	5, 10, 15
16,000 to 20,000	15	10, 15, 20
21,000 to 25,000	15	10, 15, 20, 25
26,000 to 30,000	20	15, 20, 25, 30
31,000 to 35,000	25	15, 20, 25, 30, 35
36,000 to 40,000	25	15, 20, 25, 30, 35, 40
41,000 to 45,000	30	20, 25, 30, 35, 40
46,000 to 50,000	35	20, 25, 30, 35, 40
51,000 to 55,000	35	25, 30, 35, 40, 50
56,000 to 60,000	40	25, 30, 35, 40, 50
61,000 to 65,000	40	30, 35, 40, 50, 60
66,000 and over	50	35, 40, 50, 60, 70

Beside each cost in the grid above, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being labeled using the table costs per kilowatt-hour and the appropriate EER for the given heat loss value.

Region II Btu Heat Loss of Home [1]

Cost per kilowatt hour:
2¢
4¢
6¢
8¢
10¢
12¢

[1] See table below.

Region VI Btu Heat Loss of Home [1]

Cost per kilowatt hour:
2¢
4¢
6¢
8¢
10¢
12¢

[1] See table below.

The following table shows the heat loss values in Regions II and VI to be used in the grids above:

Manufacturer's rated heating capacity of model to be labeled (BTU/hr.)	Average design heat loss of model to be labeled (KBTU/hr.)	Heat loss values to be used on the grid (KBTU/hr.)
Up to 10,000	10	5, 10, 15
11,000 to 15,000	10	5, 10, 15, 20
16,000 to 20,000	15	10, 15, 20, 25
21,000 to 25,000	20	15, 20, 25, 30
26,000 to 30,000	25	20, 25, 30, 35, 40
31,000 to 35,000	30	20, 25, 30, 35, 40, 50
36,000 to 40,000	35	25, 30, 35, 40, 50, 60
41,000 to 45,000	35	25, 30, 35, 40, 50, 60
46,000 to 50,000	40	30, 35, 40, 50, 60
51,000 to 55,000	50	35, 40, 50, 60, 70
56,000 to 60,000	50	35, 40, 50, 60, 70
61,000 to 65,000	60	40, 50, 60, 70, 80
66,000 and over	70	50, 60, 70, 80, 90

Beside each cost in the grid above, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being labeled using the table costs per kilowatt-hour and the appropriate EER for the given heat loss value.

Region III Btu Heat Loss of Home [1]

Cost per kilowatt hour:
2¢
4¢
6¢
8¢
10¢
12¢

[1] See table below.

The following table shows the heat loss values in Region III to be used in the grid above:

Manufacturer's rated heating capacity of model to be labeled (BTU/hr.)	Average design heat loss of model to be labeled (KBTU/hr.)	Heat loss values to be used on the grid (KBTU/hr.)
Up to 10,000	10	5, 10, 15
11,000 to 15,000	15	10, 15, 20, 25
16,000 to 20,000	20	15, 20, 25, 30
21,000 to 25,000	25	15, 20, 25, 30, 35, 40
26,000 to 30,000	30	20, 25, 30, 35, 40, 50
31,000 to 35,000	35	25, 30, 35, 40, 50
36,000 to 40,000	40	30, 35, 40, 50, 60
41,000 to 45,000	50	35, 40, 50, 60, 70
46,000 to 50,000	60	35, 40, 50, 60, 70, 80
51,000 to 55,000	70	40, 50, 60, 70, 80, 90
56,000 to 60,000	70	50, 60, 70, 80, 90, 100
61,000 to 65,000	80	50, 60, 70, 80, 90, 100
66,000 and over	90	60, 70, 80, 90, 110, 130

Besides each cost in the grid above, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being labeled using the table costs per kilowatt-hour and the appropriate EER for the given heat loss value.

Region IV Btu Heat Loss of Home [1]

Cost per kilowatt hour:
2¢
4¢
6¢
8¢
10¢
12¢

[1] See table below.

Region V Btu Heat Loss of Home [1]

Cost per kilowatt hour:
2¢
4¢
6¢
8¢
10¢
12¢

[1] See table below.

The following table shows the heat loss values in Regions IV and V to be used in the grids above:

Manufacturer's rated heating capacity of model to be labeled (BTU/hr.)	Average design heat loss of model to be labeled (KBTU/hr.)	Heat loss values to be used on the grid (KBTU/hr.)
Up to 10,000	10	10, 15, 20
11,000 to 15,000	20	10, 15, 20, 25, 30
16,000 to 20,000	25	15, 20, 25, 30, 35, 40
21,000 to 25,000	30	20, 25, 30, 35, 40, 50
26,000 to 30,000	35	25, 30, 35, 40, 50, 60
31,000 to 35,000	40	30, 35, 40, 50, 60, 70, 80
36,000 to 40,000	50	35, 40, 50, 60, 70, 80, 90
41,000 to 45,000	60	40, 50, 60, 70, 80, 90, 100
46,000 to 50,000	70	50, 60, 70, 80, 90, 100, 110
51,000 to 55,000	70	50, 60, 70, 80, 90, 100, 110
56,000 to 60,000	80	60, 70, 80, 90, 100, 110
61,000 to 65,000	90	70, 80, 90, 100, 110, 130
66,000 and over	90	70, 80, 90, 100, 110, 130

Besides each cost in the grid above, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being laveled using the table costs per kilowatt-hour and the appropriate EER for the given heat loss value.

3. Additional Information (Reserved).

HOURS OF USE FOR HEATING

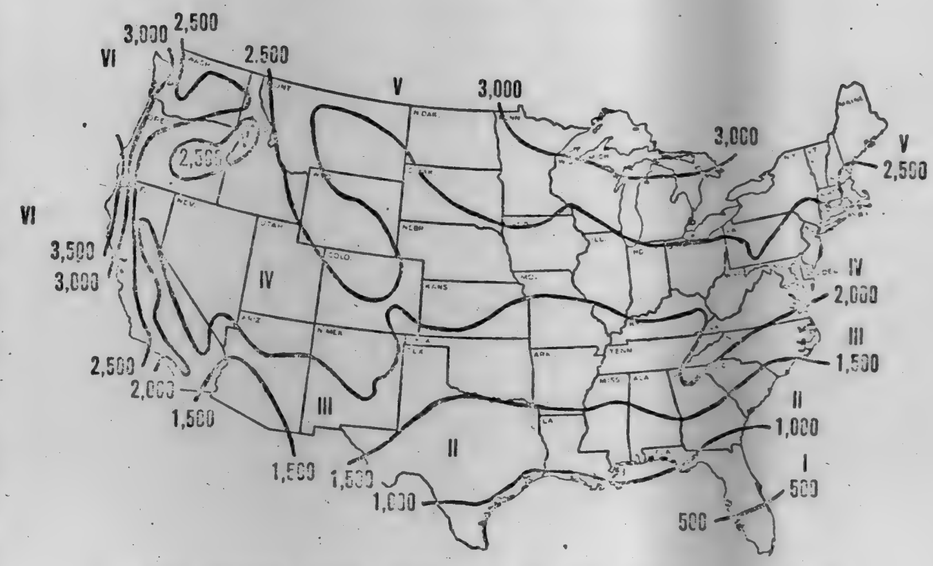

This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions particularly in the Rockies

Regional Heating Hours of Use	
Region	HLH
I	750
II	1,250
III	1,750
IV	2,250
V	2,750
VI	3,250

Alaska - 3,500 HLH
Hawaii and Territories - 0 HLH

BILLING CODE 3510-18-C

Appendix J—Suggested Data Reporting Format

1. Date of Report ——————
2. Company Name ——————
3. City ——————
4. State ——————
5. Product ——————
6. Energy Type (gas, oil, etc.) ——————
7. Model Number ——————
8. Estimated Annual Energy Cost or Energy Efficiency Rating ——————
9. Capacity ——————
10. Number of Tests Performed ——————

All copy Helvetica medium or bold

All Copy x 27 picas

10/12 Helv → (For Furnaces and Central Air Conditioners)

ENERGYGUIDE

12/13 Helv → You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

10/11 Helv with 18' numerals →

1. Weatherproof your house
2. Assure energy efficient heating and cooling equipment selection and installation
3. Operate and maintain your system to conserve energy.

12/13 Helv → Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

12 Helv Bold → **Your contractor has the energy fact sheets. Ask for them.**

14/15 Helv → Important Removal of this label before consumer purchase is a violation of
8/9 Helv → federal law (42 U.S.C. 6302)

SAMPLE LABEL

BILLING CODE 3510-18-C

Section B. Invitation to Comment

All interested persons are hereby notified that they may submit to Raymond L. Rhine, Presiding Officer for Central Air Conditioner Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views, or arguments on any issue of facts, law, or policy which may have some bearing upon the proposed amendment to the rule. Such written comments will be accepted until no later than September 25, 1980. To assure prompt consideration, each comment should be identified both on the document and on the envelop as "Central Air Conditioner Rulemaking Comment" and furnished, when possible, in five copies.

Section C. General Questions and Issues

While interested persons are invited to address any questions of fact, law, or policy which they feel may have bearing upon the proposed amendments, listed below are several general questions and issues of fact bearing upon certain aspects of the proposed amendments concerning which the Commission particularly desires comments, orally or in writing, by persons concerned with and participating in this proceeding:

1. Are the requirements for additional information prescribed in the final rule applicable to and appropriate for central air conditioners and heat pumps? Is there a need for additional point-of-sale information for central air conditioners and heat pumps, beyond that already required by the final rule, which would provide suggestions for energy-efficient use of these products? If so, what information should be included?

During the development of the original labeling proposal, the Commssion investigated the current availability of energy saving suggestions. With respect to central air conditioners and heat pumps, the Commission is interested in the following:

a. What energy saving suggestions, if any, are currently supplied by manufacturers?

b. Are any energy saving suggestions being made which are misleading, incomplete, or otherwise inappropriate?

c. Do consumers understand and use the suggestions currently available?

2. The Appliance Labeling Rule requires a uniform label on furnaces directing consumers to a manufacturer's energy fact sheet which contains information for recommended combinations of systems components. The same format is proposed for central air conditioners. Like furnaces, these products vary in use according to climate, geography, insulation quality of the dwelling, and lifestyle of the purchaser's family. The Commission is interested in receiving any comments on the proposed labels and fact sheets for these products, primarily with regard to the following:

(a) Is the labeling/energy fact sheet format informative or should it be modified? If so, how?

(b) Is all the information included on the label and the fact sheets necessary?

(c) What, if any, additional information should be required on the label or fact sheet?

3. The Commission is interested in receiving comments on both the proposed measure of consumption (energy efficiency rating) and the proposed ranges of comparability for central air conditioners.

4. The Commission is interested in receiving comments concerning whether this rule is likely to have a significant adverse economic impact on small businesses. If so, how can the proposed rule be modified to minimize its economic impact, while still meeting the purposes outlined by Congress in EPCA?

5. Section 324(a)(2)(B) of the EPCA states that the Commission need not prescribe a labeling rule if the labeling "is not technologically or economically feasible or is not likely to assist consumers in making purchase decisions."

Do air central conditioners fall within these exceptions? If so, why?

6. The cooling and heating performance cost charts (Appendices H and I), prepared for the Commission by the Department of Energy, represent an effort to present a method for figuring an extremely complex problem.

a. Is either of these charts too complicated for manufacturers, contractors, or consumers to understand and use? If so, how could the charts be simplified without sacrificing reasonable accuracy?

b. If the charts are too complicated and cannot be effectively simplified, is there an alternate method for helping manufacturers, contractors and consumers figure the heating and cooling performance and cost for the central air conditioners (including heat pumps) they sell or buy?

Section D. Public Hearings

Public hearings on the proposed rule will be held commencing on [September 25], 1980, at 10 a.m. in Room 332 of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street, N.W., Washington, D.C. Persons desiring to present their views orally at these hearings should so advise Raymond L. Rhine, Presiding Officer for Central Air Conditioner Rulemaking, Federal Trade Commission, Washington, D.C. 20580 no later than September 10, 1980, and comply with the instructions in Section F of this notice.

Section E. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with Raymond L. Rhine, Presiding Officer for Central Air Conditioner Rulemaking, who is responsible for the orderly conduct of the proceeding and who shall have all powers necessary to that end, including the authority to rule on all motions or petitions filed. Applications for review of a ruling will not be entertained by the Commission prior to its review of the record unless the Presiding Officer certifies in writing to the Commission that a ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an intermediate review of the ruling may materially advance the ultimate termination of the proceeding or that subsequent review will be an inadequate remedy.

Section F. Instruction to Witnesses

1. *Advance notice.* The Commission invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make an oral presentation. Such a request should be directed to the Presiding Officer identified above an must be received no later than September 10, 1980. Witnesses are required to submit a written statement that can be entered into the record as submitted no later than September 10, 1980.

It will not be necessary to repeat this statement at the hearing. Submission of a written statement enables the witness to appear at the hearing, to answer questions posed by only the staff with regard to the written statement, and to deliver a short summary of the most important aspects of that statement within time limits that are established by the Presiding Officer. As a general rule, oral summaries should not exceed ten minutes. There will be no opportunity for interested persons to cross-examine witnesses.

2. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period, but no later than [30 days from publication date], 1980. Mark each of the documents with your name, and number them in sequence, *e.g.*, Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

3. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement your *curriculum vitate*, biographical sketch, resume or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

4. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present, as an exhibit or exhibits in compliance with paragraph 2 above, the following:

a. A complete report of the survey or other research study and the information and documents listed in (b) through (e) below if they are not included in that report.

b. A description of the sampling procedures and selection process, including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

c. Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

d. A description of the methodology used in conducting the survey or other research study including the selection of instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

e. A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested persons or their counsel.

5. *Identification, number of copies and inspection.* To assure prompt consideration, all materials, including written statements, filed by prospective witnesses pursuant to the instructions contained in paragraphs 1–4 of this section should be identified both on the document and on the envelope as "Central Air Conditioner Statement" ("and Exhibits," if appropriate), and submitted in five copies when feasible and not burdensome not later than [30 days from publication date], 1980.

Copies of all materials filed by witnesses will be made available for examination in Room 130, Public Reference Room Federal Trade Commission, Pennsylvania Avenue at Sixth Street, N.W., Washington, D.C. Binder number 209–18–13 should be requested to examine all materials submitted in this rulemaking.

6. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearances and that of other witnesses in an orderly manner. The Commission staff must have your expected testimony and supporting documents available for study before the hearing to prepare appropriate questions. Also, such data should be of assistance to interested persons in the preparation of the filing of contradictory statements (rebuttal).

The deadlines established by this notice will not be extended and hearing dates will not be postponed unless hardship to participate can be demonstrated.

Section G. Post-Hearing Procedures

Interested persons will be afforded 20 days after the close of the hearings to file rebuttal submissions, which must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions that are essentially additional written comments, rather than rebuttal. The 20-day rebuttal period will commence when the final transcript of the hearings is placed on the public record by the Presiding Officer.

After the close of the rebuttal period, staff shall analyze the evidence on the record and shall prepare and submit a recommendation for the final rule which will be placed on the public record for 30 days, during which time interested persons will be afforded the opportunity to submit comments for consideration by the Commission in reaching a decision on this rule. Comments will be submitted to James Mills, or Lucerne D. Winfrey, Attorneys, Federal Trade Commission, 414 11th Street NW., Washington, D.C. 20580. To assure prompt consideration, each comment should be identified both on the document and the envelope as "Central Air Conditioner Rulemaking Comment" and furnished when possible, in five copies.

Section H. Compensation for Representation in Rulemaking Proceedings

Funds may be available for reimbursement of public participation costs incurred in this proceeding to those who satisfy the requirements of § 1.17 of the Commission's rules. For further information, contact Bonnie Naradzay, Special Assistant for Public Participation Office of the General Counsel, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C. 20580, 202–357–0258.

Issued: By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-23901 Filed 8-8-80; 8:45 am]

BILLING CODE 3510-16-M

V
4
5

A
G

1
1

8
0
UMI

federal register

Monday
August 11, 1980

Part V

Civil Aeronautics Board

Removal of Limitations on Off-Route and Cargo Charters and Elimination of Schedule T-41

V 45 A G 1 11 80 UMI

CIVIL AERONAUTICS BOARD

14 CFR Part 207

[Economic Regulations Dockets 31788 and 36113; Amdt. No. 26 of Part 207; Regulation ER-1190]

Charter Trips and Special Services; Removal of Limitations on Off-Route and Cargo Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB removes all limitations on cargo charters, and permitting charters of cargo on scheduled flights. It also removes restrictions on off-route flights, which were the subject of a separate notice of proposed rulemaking. The Board makes these amendments under its procompetitive policy to permit maximum competition in charter services.

DATES: Adopted: August 1, 1980. Effective: September 6, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Special Authorities Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5088.

SUPPLEMENTARY INFORMATION: In EDR-351B/SPDR-73, 44 FR 50607, August 29, 1979, and in EDR-383, 44 FR 41828, July 18, 1979, the Board proposed to eliminate a variety of restrictions on air carriers providing charter transportation. The proposals involved both certificated route carriers and charter-only carriers, since both may provide charter service. EDR-351B proposed to eliminate virtually all remaining restrictions on cargo charters for both U.S. and foreign carriers. It proposed to: (1) allow cargo to be carried on the main deck along with passengers on charter flights, (2) eliminate the requirement that all the available cargo space be engaged before a charter flight is operated, (3) allow scheduled route carriers to carry charter cargo on scheduled flights ("part charters" of cargo) and (4) permit foreign charter-only carriers to operate split charters (flights shared by more than one charterer) to the same extent as other carriers. In addition, it proposed a consumer protection provision for passenger charter participants, under which baggage limitations and excess baggage charges would be printed in boldface type in the operator-participant contract.

EDR-383 proposed to eliminate the few remaining volume and frequency limitations on charters by scheduled route carriers. Under current regulations, passenger charters by all-cargo carriers with § 401(d)(1) certificates (Airlift, Seaboard, Flying Tiger, Federal Express, and Rich) are limited to 10 percent of the carrier's scheduled route operations for the preceding year; total passenger and cargo off-route charters by combination carriers are limited to 10 percent of the preceding year's scheduled operations; and all charters to countries to which the carrier has no scheduled route authority are limited to roughly eight flights per month. EDR-383 proposed to allow all carriers certificated under section 401 to operate charters without limit as to number or frequency.

As discussed in the notices of proposed rulemaking, these changes were suggested to permit maximum competition in charter services. Restrictions on charter operations were initially designed to protect two more or less separate classes of carriers—those that operated only charter flights and those that concentrated on scheduled service—from diverting traffic from each other's operations. Now, under the Board's procompetitive policies, carriers have been permitted to engage in both types of operations and to vie with each other for whatever mix of services the public desires. We no longer consider it necessary to protect either type of operation, or to assure the economic viability of any carrier.

Nine persons filed comments on EDR-351B/SPDR-73.[1] No one opposed the proposal to permit operation of less-than-fully-engaged charter aircraft, and this change was specifically supported by Polaroid and IAS. The proposal to allow cargo to be carried on the main deck along with charter passengers was supported by Polaroid and TIA/World, and the proposal to grant foreign charter-only carriers the same flexibility as other carriers was supported by IAS and Wardair. The Department of State argued that foreign air carriers should be required to apply for permission to operate each "combination charter" flight (presumably, a charter flight carrying both passengers and cargo) that they seek to offer in foreign air transportation, and that the Board should not grant such permission unless it finds that a foreign carrier's home government provides substantially equivalent authority to U.S. air carriers. Thus, State did not oppose in substance the latter two changes mentioned above, but suggested requiring prior Board approval for flights by foreign carriers whose governments do not grant reciprocal privileges to U.S. carriers. There were no objections in principle to a requirement that some notice as to baggage limitation be provided in charter contracts, although Sunflight argued against the boldface type requirement and warned against requiring overly-detailed baggage limitation information. Seaboard and IAAA supported the idea to allow charter cargo on scheduled flights, while TIA/World opposed it.

Four persons filed comments on EDR-383.[2] All suppported eliminating the off-route restrictions. AFFA asked the Board to go further and amend its regulations to allow section 418 all-cargo carriers to perform passenger charters.

We are adopting the proposals in EDR-383 to eliminate restrictions on off-route charters by scheduled air carriers. These proposals were unopposed and, as discussed in the notice of proposed rulemaking, the restrictions serve no purpose in the present regulatory scheme. The restrictions are therefore being eliminated as unnecessary restraints on carrier operations.

The removal of limits on off-route authority creates the potential for many carriers to substantially change the nature of their operations. We have no objection in principle to such developments, but we note that all carriers are subject to a continuing fitness requirement under section 401(r) of the Act. Any carrier planning to use off-route charter authority to substantially change its operations should comply with recently-adopted 14 CFR Part 204 (Data to Support Fitness Determinations)[3] and consult the Board to be sure that it meets appropriate fitness standards for continued operations.

We cannot, however, extend passenger charter authority to section 418 carriers as AFFA suggested, since section 418 certificates are restricted by statute to all-cargo operations. Also, the fitness evaluation leading to a section 418 certificate is limited to cargo operations, and any passenger authority sought by section 418 carriers would require a new and more extensive finding of fitness.

We are adopting the proposals in EDR-351B to permit cargo on the main deck of passenger charters, to permit

[1] International Airforwarder and Agents Assocation (IAAA), International Aviation Services (U.K.) (IAS), Polaroid, Seaboard World Airlines, Sunflight Holidays, Transamerica Airlines (TIA) and World Airways (jointly), United States Department of State (State) and Wardair Ltd.

[2] Air Freight Forwarders Association of America (AFFA), Flying Tiger Line, Hughes Airwest, and United Air Lines.

[3] ER-1160, 45 FR 42593, June 25, 1980.

operation of less-than-fully-engaged aircraft, and to allow foreign charter-only carriers the same flexibility as other carriers, on the grounds that these changes would enhance competition and reduce government interference in business decisions. We have found that competition in air transportation brings about more efficient and better service, often at lower prices, than government regulation. And these changes received no opposition in the comments, except to the extent that U.S. carriers might not receive equal treatment at the hands of foreign governments.

We will use existing charter flight prior approval procedures to assure that foreign carriers do not employ these changes to gain undue competitive advantage over U.S. carriers. The Board now requires most foreign route carriers to obtain prior authorization for each of their off-route charter flights. 14 CFR 212.4(a). Blanket prior approval of off-route charter flights has been granted to some carriers whose countries grant substantially reciprocal rights to U.S. carriers; however, the blanket approval is subject to withdrawal at the Board's discretion if circumstances change. Order 79-12-205, p. 4, ¶ 5. The Board also has power to require approval for on-route charters on an *ad hoc* basis. 14 CFR 212.4(b). Thus, any charter flight by a foreign route carrier is now or can quickly be made subject to the Board's prior approval review procedures. For any flight subject to prior approval, the Board may deny operating authority if the carrier's home government does not grant a similar privilege to U.S. carriers. 14 CFR 212.6. So if a country did not grant U.S. carriers authority to operate combination passenger/cargo charters, the Board could require prior approval for and deny authority to operate similar flights by that country's route carriers.

For foreign carriers with authority to operate only charter flights, the prior approval situation is somewhat different. Most of these carriers have a provision in their section 402 permits allowing the Board to impose prior approval requirements. Part 214, which governs operations by these carriers, contains no prior approval requirement. We are amending Part 214 in this proceeding to allow the Board to require prior approval for all flights newly permitted by this rule. Thus, Part 214 will permit the Board to require prior approval for such operations by those carriers whose permits do not now contain prior approval provisions.

The Board has issued a proposal to amend some of its prior approval regulations in another proceeding (EDR-394, 45 FR 2331, January 11, 1980), but those amendments, if adopted, will not prevent use of prior approval powers for the purposes discussed here. Also, the changes made here can easily be incorporated into EDR-394 if that proposal is adopted.

We conclude that existing Board procedures are adequate to handle problems of unequal treatment of U.S. carriers that State is concerned about. Existing prior approval procedures can be tailored to fit the needs of particular situations. They are therefore a more flexible and less burdensome means of assuring equal treatment of U.S. carriers than the routine approval requirement suggested by State, as they will be invoked only in those situations where U.S. carriers are denied commensurate authority by foreign governments. We see no reason at present to impose a blanket prior approval requirement for combination passenger/cargo charters by foreign carriers, but we will not hesitate to impose one in the future if circumstances require it.

We are not adopting the proposal to require notice of baggage limitations in charter operator-participant contracts, because it does not seem necessary at present, and might serve only to clutter the documents and inconvenience charter operators in conforming their contracts. The proposal was made out of a concern the passenger charter participants might have their baggage limitations constricted by air carriers who hoped to charter other cargo in the belly of the plane. However, the regulations permitting such belly cargo charters have been in effect since September 1979, and we have encountered no serious problems with baggage allowances. Some charter operators already include a baggage limitation notice in their charter materials, and most restrictions fall within a standard range, and have not caused undue inconvenience. It is likely that many charter passengers are already attentive to the possibility of baggage restrictions, and do not need a mandatory notice to protect their interests. In some cases, too, the charter operator may not know at the time of contracting for a flight the exact baggage limits that the air carrier will allow, so a uniform baggage notice may not be feasible. Thus, a required notice may create more problems than it would solve. Unreasonable or unexpected baggage limitations without adequate notice to participants may, of course, be considered unfair or deceptive practices by the Board, but we see no need at this time for the mandatory notice proposed in SPDR-73.

The most controversial issue in EDR-351B was whether cargo should be permitted to be chartered on scheduled flights. TIA and World strenuously opposed the idea with several arguments. They alleged that the Board did not state its reasons for proposing the change clearly enough to permit the public to file meaningful comments, especially since it did not cross-reference a pending hearing case in which a legal issue relevant to such charters had been argued. They claimed that the pendency of that case, the *Cargo Charter Transfer Rate Investigation*, Docket 27557, precluded rulemaking on the instant proposal until the hearing case was finally decided. They also asserted that such charters would allow carriers to charge different rates for like goods receiving the same service, resulting in unfair discrimination against some shippers. TIA and World said that chartering cargo on scheduled service should not be allowed without express Congressional approval, and that it would be wiser to grant such authority, if at all, in exchange for liberalized charter rights for U.S. carriers in international negotiations. If such charters were permitted, they saw charter carriers being put at an unfair competitive disadvantage by not being able to compete with scheduled service while the scheduled carriers drew away charter traffic.

Seaboard supported the concept, saying that it would increase operating efficiency by allowing increased load factors on scheduled flights. IAAA, an association of air freight forwarders and air cargo agents, welcomed the change as a new source of competitive pressure on air carriers, which it expected to result in lower rates. Also, IAAA saw the proposal as consistent with deregulation policy to leave business decisions to the discretion of management as much as possible.

We have decided to adopt the proposal to allow charter cargo to travel on scheduled flights. We are convinced that it would allow more efficient aircraft operations and induce more competition in the charter market. These results are consistent with our procompetitive policies and would benefit consumers of cargo services.

We first note that varying prices for shipment of like goods is not necessarily undesirable. Shippers have long taken advantage of charter arrangements to ship relatively large amounts of cargo at prices below scheduled rates. Charters allow a shipper and a carrier to form an individualized contract for carriage, without pre-existing requirements as to

price, obligation to serve, or other typical scheduled service requirements. By this means, shippers can negotiate lower prices and specially-tailored service, while carriers can attract and plan for efficient large-volume freight movements. To date, charter arrangements have been restricted to unscheduled charter-only flights, not held out to the public as available without special arrangements. Some carriers, however, have expressed a desire to offer charter capacity on their regularly scheduled flights, which may also be held out for routine service to the general public. Permission to charter cargo on scheduled flights will allow carriers to make arrangements to fill scheduled capacity that would otherwise fly empty. By making more charter capacity available, it will increase rivalry for charter traffic. By permitting more efficient operations, it will save fuel. Thus, such arrangments will promote energy efficiency and stimulate competition.

We reject TIA/World's allegation that the discussion in the proposal was inadequate to provide a basis for meaningful comments. They complained that the Board did not provide "the underlying data and legal and policy considerations that motivated the change." We disagree. The type of change contemplated, and the type of operations it would permit, were stated clearly, along with the Board's expectation that it "would allow even greater flexibility in offering reduced rates and service alternatives in international cargo transportation." The notice also discussed the similarities and differences between part charter service and high-weightbreak scheduled service. The change proposed was not a complicated or technical one, requiring a detailed explication to make the reader aware of the issues involved. The Administrative Procedure Act, 5 U.S.C. 553(b)(3), requires that notices of proposed rulemaking "shall include . . . either the terms or substance of the proposed rule or a description of the subjects and issues involved." This standard has been interpreted to require notice that is "sufficiently descriptive of the 'subjects and issues involved' so that interested parties may offer informed criticism and comments." *Ethyl Corp. v. EPA*, 541 F.2d 1, 48 (D.C. Cir. 1976), cited in *National Small Shipments Traffic Conference, Inc. v. CAB*, No. 78–2163 (D.C. Cir., Feb. 11, 1980), p. 29. This proposal stated the terms and substance of the proposed change, and its purpose was clear, especially when read in the context of other cargo charter changes proposed and adopted in the same docket. We conclude that our notice fully satisfied APA requirements.

We also conclude that it was proper for the Board to have initiated this proceeding before the *Cargo Charter Transfer Rate Investigation* was finally decided, and that it is proper, and desirable, to adopt a final rule now. In the hearing case, the administrative law judge found that the cargo charter transfer concept—a concept similar to unrestricted charter carriage on scheduled flights—was inherently discriminatory under section 404 of the Act. But there is nothing improper about deciding in this legislative-type proceeding the legal question of whether charters on scheduled service are inherently discriminatory, even if that issue is also involved in the pending proceeding on cargo charter transfers. Just as Congress may change the law in the midst of court litigation, so the Board may separately decide a legal issue that may be applicable to a parallel proceeding. This is in no sense a "prejudgment," because prejudgment occurs only when the decisionmaker "has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it." *Gilligan, Will & Co. v. SEC*, 267 F. 2d 461, 469 (2d Cir.), *cert. denied*, 361 U.S 896 (1959). Accord, *Association of National Advertisers, Inc. v. FTC*, No. 79–1117 (D.C. Cir. Dec. 29, 1979).

There are no longer any facts at issue in the *Cargo Charter Transfer* proceeding. The case began in 1975 with an investigation of the lawfulness of high-weightbreak scheduled tariffs. It was expanded to include the issue of whether the carriage of charter cargo on scheduled service was lawful, in response to a petition for rulemaking to allow such service. Later, Seaboard filed a tariff to allow charter shipments that had already been contracted for to be transferred to scheduled flights on a space-available basis. This was the charter transfer concept. The investigation into high-weightbreak scheduled tariffs was mooted and removed from the case as a result of subsequent agreements between the carriers. Also, Seaboard's charter transfer tariff was found unlawful and rejected by Order 78–6–165 as a violation of Board regulations. Thus, the only issue still alive in the case at the time of the ALJ's initial decision was the lawfulness of cargo charters on scheduled service. The ALJ found such operations to be unjustly discriminatory under section 404 of the Act, and the Board took discretionary review of that issue in Order 79–4–33. In taking review, the Board stated:

> We note that finding of the ALJ that the cargo charter transfer concept does, in theory, have merit, "in that it would reduce direct operating expenses for chartered services, improved scheduled service load factors, result in substantial fuel savings, and provide benefits with respect to the quality of the environment and airport congestion." [Initial Decision at p. 11] Because of these potential benefits we are not disposed to equate the discrimination which the judge found inherent in this concept with the "unjust discrimination" prohibited by Section 404(b) without some reason to believe that the discrimination may result in harm to a protected interest which requires our intervention.
>
> We are, however, concerned about the lack of attention paid to demonstrating the nature and extent of harm which would flow from the discrimination found to inhere in this concept and on whom the harm would fall. As the air transportation industry becomes more competitive we are rethinking our traditional approach to the question of what makes discrimination "unjust" under Section 404(b) of the Act. (Order 79–4–33, p. 2).

The Board later proposed in EDR–351B to amend its regulations to permit such operations. We see no reason why we should not dispose of the discrimination question in this proceeding. The issue is purely legal, since no tariff proposals or other adjudicatory matters remain to be decided in the hearing case. In their comments on EDR–351B, TIA and World incorporated by reference their brief to the Board on discretionary review in the hearing case, and we have considered that brief, Trans World Airlines' brief, and the ALJ's initial decision in reaching our decision here. No other parties opposed the cargo charter transfer concept on discretionary review.

TIA and World alleged that charters of cargo on scheduled flights were contrary to Congressional intent. However, they cite no statutory authority or legislative history to support this claim. The language of the statute is quite plain: "[N]o air carrier * * * shall commingle, on the same flight, *passengers* being transported in interstate, overseas, or foreign charter air transportation with *passengers* being transported in scheduled interstate, overseas, or foreign air transportation. * * *" [emphasis added]. Section 401(n)(1). That provision has been limited to passenger charters since its adoption in Pub. L. 95–504 (the Airline Deregulation Act of 1978). The recent International Air Transportation Competition Act of 1979, Pub. L. 96–192, enacted after this rule was proposed, left the passenger limitation intact, even though Congress specifically amended section 401(n)(1) to apply to foreign air transportation. However, Congress did not take that opportunity to expand the prohibition to include cargo charters. The fact that Congress effectively permitted any combination of charter and scheduled cargo service in the United States by deregulating domestic cargo transportation in Pub. L. 95–163 further convinces us that its attitude with respect to cargo charters on scheduled flights is different from that with respect to passenger charters on scheduled flights.

We also reject TIA/World's suggestion that we should hold authority to carry charter cargo on scheduled flights in reserve, to trade for more liberal charter operating rights. We will continue to press for liberalized charter flights with other countries, but in our view, the shipping public and the industry would be better served by permitting the additional operating efficiencies of allowing cargo charters on scheduled service than by using them exclusively as a bargaining tool. The Board can still control authority to operate cargo charters on scheduled flights by the prior approval mechanism, should it become necessary to do so from a foreign aviation relations point of view.

TIA and World complained that "for the time being [they] must depend on charter capacity as the primary means of providing cargo services in international markets," and that "access of Transamerica and World to the transoceanic cargo markets as scheduled all-cargo carriers will be strictly circumscribed by foreign policy constraints." We are not convinced that cargo charters on scheduled service would be as devastating to TIA and World's business as they imply, even under the worst circumstances. In 1979, international civilian cargo charters accounted for less than 10 percent of TIA's total operating revenues, and World did not operate even a single civilian cargo charter flight. Clearly, cargo traffic is not the lifeblood of these two carriers. Nevertheless, we recognize that various foreign governments impose restrictions on TIA and World that would limit their opportunities to compete with cargo charters on scheduled flights. But those disadvantages are not so substantial as to outweigh the significant cost savings and competitive benefits that cargo charters on scheduled flights would make possible. In a number of important markets, TIA and World have substantial competitive opportunities. For example, Belgium, the Netherlands, Finland, Israel, Jordan, Syria, Korea, and Singapore have been liberal in issuing scheduled authority, which would enable TIA and World to offer cargo charters on scheduled service of their own in direct competition with other scheduled carriers. In other markets where scheduled authority is not so easily obtainable, TIA and World can compete using the extremely flexible passenger-cargo charter operations permitted by this rule. To be sure, in Japan TIA and World have disadvantages in competing for cargo traffic. We have decided, however, that it is more consistent with the public interest to permit the substantial consumer benefits of cargo charters on scheduled service now than to defer those benefits until foreign governments adopt more procompetitive policies.

TIA and World argued that allowing cargo charters on scheduled flights would effectively destroy the statutory system of regulated international cargo rates by allowing carriers to deviate from tariff rates by merely calling a shipment "chartered." We are not persuaded that charters on scheduled service present any threat to the tariff system. The likelihood that in the future more traffic will travel as chartered rather than as individually-waybilled shipments does not undermine the tariff system. If the public prefers charter service, we will not preclude that choice simply because tariffs do not govern that service. We believe that the public should be allowed to choose whatever mix of charter and scheduled service it desires. Tariffs are designed to enable the Board to regulate the prices that carriers hold out to the general public for routine, scheduled service, and there is no indication that they will cease to serve that function.

TIA and World's remaining argument, which relies in part on the analysis of the judge in the *Cargo Charter Transfer* case, hinges on the alleged discriminatory consequences of allowing charter cargo to be carried on scheduled service. TIA and World assert that such operations could permit scheduled carriers to give preference to some customers, who would get charter space at low rates, at the expense of other shippers, who would have to pay higher scheduled rates and would not receive any loading priority over charter shipments. They said that these practices violate the "rule of equality"—that like shipments receiving the same service may not be charged different rates—and that such practices cannot be adequately policed by the Board without a flat prohibition against charters on scheduled service. They also contended that charters on scheduled flights could be discriminatory if they resulted in shipments tendered under scheduled rates being refused for lack of space.

We have recently been reviewing our traditional restrictive attitude toward carriers that appear to offer like service for similar traffic at different rates.[4] It has become apparent that in some cases we have unnecessarily restricted practices that may have a sound economic basis and do not have significant destructive potential. We have also found that apparently similar services may in fact differ significantly as to the costs they impose on the aviation system, and particular, the carriers that offer the services.

In PS–93 the Board adopted a policy for domestic air transportation of not considering a rate to constitute unjust discrimination or unreasonable preference or prejudice (referred to there and hereafter as "unreasonable discrimination") unless several factors can be shown. Not only must the rate be out of proportion to the cost of service, when compared to other rates (the traditional definition of economic discrimination), but it must involve a reasonable probability of significant long-run economic injury to consumers that cannot be eliminated by competitive forces within a reasonable time. Even then, it will be held unjustly dicriminatory only if it lacks compensating benefits. Thus the "rule of equality" is not a decisive test of unjust discrimination.

We now decide that these criteria are appropriate for evaluating whether cargo charter shipments on international scheduled service are unreasonably discriminatory. As we said in issuing the domestic policy statement, many of these fundamental policy considerations are applicable to foreign air transportation. And the International Air Transportation Competition Act of 1979, P.L. 96–192, is a mandate from Congress to extend procompetitive policies to the international scene. TIA and World commented that the lack of open entry in international cargo markets will prevent competition from policing discrimination. We disagree. Under current conditions, we are confident that market forces will continue to restrain carriers' pricing policies. There are many carriers already authorized to offer cargo service in international markets, and the United States has established liberal cargo entry arrangements with a number of important countries, including Belgium, the Netherlands, Finland, Israel, Jordan, Syria, Korea, and Singapore. All-cargo flights by more than one carrier are now offered in most major international

[4] PS–93, 45 36059, May 29, 1980.

cargo markets. Further, directly-competitive cargo capacity is available on main deck "combi" aircraft and in the bellies of passenger aircraft, which are operated by a large number of carriers. Thus, competing carriers will be available to move in on profitable business opportunities. And at points where direct air service is not available, opportunities for intermodal (air/land) transportation provide a competitive stimulus.

TIA and World have not made a convincing showing of any of the factors that would lead us to find unreasonable discrimination. First, we disagree with their claim that charter rates will be out of proportion to the cost of service, exemplified by their statement that charter shipments would receive the same service as scheduled shipments at lower prices. Charter shipments do not receive the same service as scheduled shipments, because the acceptance of a charter shipment is discretionary with the carrier, while the scheduled shipment cannot be unreasonably refused. Therefore, higher capacity costs are incurred for scheduled shipments, because the volume of cargo cannot be as closely regulated to suit available capacity. Also, the carrier has far less control over the type of cargo it must carry on scheduled service, since it has a duty to carry whatever is tendered to it. On charter service the carrier can limit its costs by giving preference to those shipments that it can most efficiently handle. Thus, charter rates are not necessarily disproportionate to costs. Furthermore, shippers can opt for whichever form of service—charter or waybilled—meets their cargo needs.

Second, TIA and World have not made the necessary showing of likelihood of long-run economic injury to consumers that cannot be eliminated by competitive forces. They claimed that carriers would discriminate between charter shippers by preferring their most important customers first if charter space were limited. But the fact that carriers have some discretion in accepting charter shipments does not mean that they will act unfairly. The existence of competing carriers is a strong incentive to allocate cargo space fairly. Commercial shippers tend to be well informed about market conditions and alternatives and able to protect their own interests. Notably, no shippers or consumers opposed our proposal, and the IAAA, an association of air freight forwarders and cargo agents, supported it. We are not ready to assume that carriers will discriminate unjustly in allocating scarce space, and the energy and competitive benefits of cargo charters on scheduled flights are too important to be prohibited without much more persuasive evidence of harm to shippers.

TIA and World also warned that shippers wishing to use regular scheduled rates might not be able to obtain space on a flight if capacity had already been engaged for charter shipments. They argue that it would be discrimination to refuse service to shippers under scheduled tariffs if space would have been available but for prior charter contracts. We disagree. It is not in the business interest of a carrier to provide inadequate capacity for any of its customers, especially when it would mean losing a higher-rated shipment than what otherwise is carried. Carrier managements are clearly in the best position to allocate space in the most efficient manner, and we will leave them free to do so. If charter shipments might sometimes take up space that could have been used for scheduled shipments tendered later, that is not on its face a matter of discrimination. Even under the existing system, there is no guarantee that there will always be available space for every shipment tendered before flight time. We see no evidence that consumers will suffer serious long-run injury.

Neither the ALJ nor TWA raised any points in Docket 27557 that were not presented by TIA/World. We conclude that there is no basis for finding that cargo charters on scheduled service will lead to unreasonable discrimination. We will reverse the ALJ's holding on discrimination in Docket 27557 and terminate that proceeding.

Technical Changes

We take this opportunity to simplify and make technical changes to affected portions of our regulations. The language of the final rule will therefore differ from that of the proposal, although the substance of the changes is the same. The sections governing charter flight limitations, § 207.11, 208.6, 212.8, and 214.7, are being revised to deal separately with passenger and cargo charters. Thus, paragraphs (a) and (b) will govern passenger charters, following the language and restrictions that have heretofore applied to both passengers and cargo. Split and planeload passenger charters are dealt with in a single paragraph, instead of separately as under the existing regulations. A new paragraph (c) is being added to each of the sections. It applies to cargo charters, making clear that there are no limitations on cargo charters, and that part charters of cargo are permitted. Cross-references to § 207.11, 208.6, 212.8, and 214.7 in § 207.10, 208.5, 212.14, and 214.5, respectively, have been changed to conform to the new amendments.

U.S. carriers have been required in the past to file reports on their off-route charter operations, primarily to enable the Board to police off-route charter restrictions. This information is contained in Schedule T–41, described in Section 25 of 14 CFR Part 241. Since we are removing all restrictions on off-route charter operations, Schedule T–41 is no longer necessary, and we are eliminating it. The revocation of this provision is a technical change that flows from the decision to remove off-route charter restrictions. We therefore find for good cause that noticed and public procedure on this change are unnecessary.

We note that the permits of some foreign charter-only carriers do not specifically incorporate the provisions of Part 214 by reference. However, all such permits are by their terms subject to such reasonable terms, conditions, and limitations as the Board may impose. Since the provisions of Part 214 are terms, conditions, and limitations, these amendments apply to all foreign charter-only carriers regardless of whether their permits are specifically conditioned on compliance with Part 214.

In voluntary compliance with Executive Order 12044 on improving government regulations, the Board has adopted a policy of stating its plans for evaluating all final rules that it issues.[5] The Board will evaluate this rule if complaints from U.S. and foreign air carriers, air freight forwarders, shippers, and other persons affected by it indicate need to do so.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 207, *Charter Trips and Special Services*, as follows:

1. The table of contents is amended to read:

Sec.

* * * * *

207.5 [Reserved]
207.6 [Reserved]

* * * * *

§ 207.1 [Amended]

2. The definitions of "Off-route" and "On-route" in § 207.1 are revoked.

3. Section 207.3 is amended by eliminating the references to off-route and on-route charters, so that it reads:

§ 207.3 Scope of authorization.

Charter trips and other special services may be performed by air carriers, subject to the limitations and regulations set forth in this part. The

[5] PS–80, 44 FR 65052, November 9, 1979.

limitations and regulations herein specified as applicable to charter trips shall be applicable to all charter trips regardless of whether the authority to conduct such trips derives from section 401(e)(6) of the Act or the carrier's certificate of public convenience and necessity or from a special or general exemption issued by the Board.

4. Sections 207.5, 207.6, and 207.7a are revoked and reserved.

5. The introductory paragraph in § 207.10 is revised to read:

§ 207.10 Reports of emergency commercial charters for other direct carriers.

Each air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Domestic Aviation within 30 days following each charter trip, containing the following information:

* * * * *

6. Section 207.11 is amended by revising paragraphs (a) and (b)(1), revoking and reserving paragraph (b)(2), amending paragraph (b)(3), and adding new paragraphs (b)(4) and (c), to read:

§ 207.11 Charter flight limitations.

(a) Passenger charter flights (trips) in air transportation shall be limited to the following:

(1) Air transportation pursuant to contracts with the Department of Defense where all of that portion of the capacity configured for passengers of an aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage, or trip basis where all or part of the capacity of an aircraft has been engaged by any of the following persons, except that the passenger charterers must together engage all of that portion of the capacity of the aircraft configured for passengers other than any portion intended by the carrier for direct sales to the general public under paragraph (a)(3) of this section;

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter.

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(3) Air transportation performed on a time, mileage, or trip basis by a direct air carrier in accordance with Subpart E. Any person may engage all or any portion of an aircraft from a direct carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft configured for passengers, the remaining seats must be engaged as provided in paragraph (a)(2) of this section.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2) of this section shall contract and pay for 20 or more seats.

(2) [Reserved]

(3) This section permits the carriage of charter cargo on the main deck or in the belly of a passenger charter flight.

(4) Charter passengers shall not be transported on flights carrying individually-waybilled or individually-ticketed traffic.

(c) Cargo charter flights in air transportation are permitted without limitation, except that emergency charters of commercial traffic by a direct air carrier or a direct foreign air carrier shall be reported in accordance with § 207.10. Charter cargo may be transported both on schedule flights carrying individually-ticketed and/or individually-waybilled traffic and on flights carrying charter traffic only.

7. Section 207.20 is amended by deleting the phrase "both on-route and off-route," to read:

§ 207.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters.

(Sec. 102, 204, 401 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 92 Stat. 1710, 49 U.S.C. 1302, 1324, 1371)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24041 Filed 8-8-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 208

[Economic Regulations Dockets 31788 and 36113; Amdt. No. 26 of Part 208; Regulation ER–1191]

Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation; Removal of Limitations on Cargo Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is removing all limitations on cargo charters, includng the requirements that the entire capacity of the aircraft be engaged and that cargo not be carried on the main deck with passengers. The Board makes these amendments under it procompetitive policy to permit maximum competition in charter services. The reasons for the changes are explained in ER–1190 (FR Doc. 80–24041), dated August 1, 1980, issued simultaneously in Part V of this issue of the Federal Register.

DATES: Adopted: August 1, 1980. Effective: September 6, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Special Authorities Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5088.

The Civil Aeronautics Board amends 14 CFR Part 208, *Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation*, as follows:

1. The introductory paragraph in § 208.5 is revised as follows:

§ 208.5 Reports of emergency commercial charters for other direct carriers.

Each charter air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Domestic Aviation within 30 days following each charter flight, containing the following information:

* * * * *

2. Section 208.6 is amended by revising paragraphs (a) and (b)(1), revoking and reserving paragraph (b)(2), amending paragraph (b)(3), and adding a new paragraph (c), to read:

§ 208.6 Charter flight limitations.

(a) Passenger charter flights in air transportation performed by charter air carriers shall be limited to the following:

(1) Air transportation pursuant to contracts with the Department of Defense where all of that portion of the capacity configured for passengers of an aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage, or trip basis where all or

part of the capacity of an aircraft has been engaged by any of the following persons, except that the passenger charterers must together engage all of that portion of the capacity of the aircraft configured for passengers other than any portion intended by the carrier for direct sales to the general public under paragraph (a)(3) of this section.

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic: *Provided,* That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(3) Air transportation performed on a time, mileage or trip basis by a direct air carrier in accordance with Subpart F. Any person may engage all or any portion of an aircraft from a direct carrier. However, the direct carrier must specifiy in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft configured for passengers, the remaining seats must be engaged as provided in paragraph (a)(2) of this section.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2) of this section shall contract and pay for 20 or more seats.

(2) [Reserved]

(3) This section permits the carriage of charter cargo on the main desk or in the belly of a passenger charter flight.

(c) Cargo charter flights in air transportation are permitted without limitation, except that emergency charters of commercial traffic by a direct air carrier or a direct foreign air carrier shall be reported in accordance with § 208.5.

(Sec. 102, 204, 401 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 92 Stat. 1710, 49 U.S.C. 1302, 1324, 1371)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24042 Filed 8-8-80; 8:45 am]

BILLING CODE 6320-01-M

---

14 CFR Part 212

[Economic Regulations Dockets 31788 and 36113; Amdt. No. 36 of Part 212; Regulation ER-1192]

Charter Trips by Foreign Air Carriers; Removal of Limitations on Cargo Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is removing all limitations on cargo charters, including the requirements that the entire capacity of the aircraft be engaged and that cargo not be carried on the main deck with passengers. Transportation of charter cargo on scheduled flights is also permitted. The Board makes these amendments under its procompetitive policy to permit maximum competition in charter services. The reasons for these changes are explained in ER-1190 (FR Doc. 80-24041), dated August 1, 1980, issued simultaneously in Part V of this issue of the **Federal Register.**

DATES: Adopted: August 1, 1980. Effective: September 6, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Lofts DePuy, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5878.

The Civil Aeronautics Board amends 14 CFR Part 212, *Charter Trips by Foreign Air Carriers,* as follows:

1. Section 212.8 is amended by revising paragraph (a) and (b)(1), revoking and reserving paragraph (b)(2), amending paragraph (b)(3), and adding new paragraphs (b)(4) and (c) to read:

§ 212.8 Charter flights limitations.

(a) Passenger charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually-ticketed or individually-waybilled basis—

(1) Where all or part of the capacity of an aircraft has been engaged on a time, mileage, or trip basis by any of the following persons, except that the passenger charterers must together engage all of that portion of the capacity of the aircraft configured for passengers other than any portion intended by the carrier for direct sales to the general public under paragraph (a)(2) of this section:

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or for the transportation of commercial traffic, except that emergency charters of commercial traffic shall be reported in accordance with § 212.14.);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an oversea military personnel charter operator as defined in Part 372 of this chapter.

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(2) Where transportation is performed on a time, mileage, or trip basis in accordance with Subpart E. Any person may engage all or any portion of an aircraft from a direct foreign air carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft configured for passengers, the remaining seats must be engaged as provided in paragraph (a)(1) of this section.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(1) of this section shall contract and pay for 20 or more seats.

(2) [Reserved]

(3) This section permits the carriage of charter cargo on the main deck or in the belly of a passenger charter flight.

(4) Charter passengers shall not be transported on flights carrying individually-waybilled or individually-ticketed traffic.

(c) Cargo charter flights in foreign air transportation by a foreign air carrier holding a permit issued under section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually-ticketed or individually-waybilled basis are permitted without limitation, except that emergency charters of commercial traffic by a direct air carrier or a direct foreign air carrier shall be reported in accordance with § 212.14. Charter cargo may be transported both on scheduled flights carrying individually-ticketed and/or individually-waybilled traffic and on flights carrying charter traffic only.

2. The introductory paragraph in § 212.14 is revised to read:

§ 212.14 Reports of emergency charters for other carriers.

Each foreign air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of International Aviation within 30 days following each charter flight, containing the following information:

* * * * *

(Sec. 102, 204, 402 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 757, 49 U.S.C. 1302, 1324, 1372)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24043 Filed 8-8-80; 8:45 am]

BILLING CODE 6320-01-M

---

14 CFR Part 214

[Economic Regulations Dockets 31788 and 36113; Amdt. No. 32 to Part 214; Regulation ER-1193]

Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only; Removal of Limitations on Cargo Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is permitting foreign charter-only carriers to operate cargo charter flights without restriction within the scope of their permits, except that the Board is retaining the right to require prior approval for such flights where a carrier's home government does not provide similar opportunities to U.S. air carriers. The Board makes these amendments under its procompetitive policy to permit maximum competition in charter services. The reasons for the changes are explained in ER-1190, (FR Doc. 80-24041) dated August 1, 1980, issued simultaneously in Part V of this issue of the **Federal Register.**

DATES: Adopted: August 1, 1980. Effective: September 6, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Lofts DePuy, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5878.

The Civil Aeronautics Board amends 14 CFR Part 214, *Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only,* as follows:

1. Section 214.1 is amended to encompass both passenger and cargo transportation, to read:

§ 214.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter foreign air transportation pursuant to foreign air carrier permits authorizing the holder to engage in charter transportation only.

2. The definition in § 212.2(a) is amended to eliminate the limitation to passengers, as follows:

§ 214.2 Definitions.

(a) "Charter foreign air transportation" means charter flights of persons and/or property in air transportation * * *

3. The introductory paragraph in § 214.5 and paragraph (d) are revised to read:

§ 214.5 Reports of emergency commercial charters for other direct carriers.

Each foreign charter air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of International Aviation within 30 days following each charter flight, containing the following information:

* * * * *

(4) Number of passengers and/or tons of cargo transported;

* * * * *

4. Section 214.7 is revised to read:

§ 214.7 Charter flight limitations.

(a) Passenger charter flights shall be limited to foreign air transportation performed by a direct foreign air carrier—

(1) Where all or part of the capacity of an aircraft has been engaged on a time, mileage, or trip basis by any of the following persons, except that the passenger charterers must together engage all of that portion of the capacity of the aircraft configured for passengers other than any portion intended by the carrier for direct sales to the general public under paragraph (a)(2) of this section:

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or for the transportation of commercial traffic; except that emergency charters of commercial traffic shall be reported in accordance with § 214.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter;

(2) Where transportation is performed on a time, mileage, or trip basis in accordance with Subpart D. Any person may engage all or any portion of an aircraft from a direct foreign carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft configured for passengers, the remaining seats must be engaged as provided in paragraph (a)(1) of this section.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(1) of this section shall contract and pay for 20 or more seats.

(2) This section permits the carriage of charter cargo on the main deck and in the belly of a passenger charter flight.

(c) Cargo charter flights in foreign air transportation by foreign air carriers holding permits to engage in charter transportation only are permitted without limitation, except that emergency charters of commercial traffic by a direct air carrier or a direct foreign air carrier shall be reported in accordance with § 214.5.

5. Paragraph (a), (b) and (c) of § 214.9a are revised to delete the word "passenger" wherever it appears and to add further provisions for prior approval, to read:

§ 214.9a Statement of Authorization; application.

(a)(1) A foreign air carrier shall not perform any charter for the transportation of commercial traffic for another direct air carrier or direct foreign air carrier (as provided in § 214.7(a)(1)) unless specific authority in the form of a Statement of Authorization to conduct such charter flights has been granted by the Board, except that no Statement of Authorization shall be required for the performance of such charter flights in cases of emergency. Emergency charters shall be reported in accordance with § 214.5. An emergency charter within the meaning of this section shall not include such circumstances as cancellation of flights due to periodic overhaul of aircraft or delay in the delivery of newly acquired

aircraft, and a foreign air carrier may not provide emergency charter trips on any day in each of three or more successive calendar weeks for any single direct carrier without a Statement of Authorization.

(2) The Board, if it finds that the public interest so requires, may at any time, with or without hearing, notify a foreign air carrier subject to this part that it shall not perform charter trips transporting cargo traffic (which may include trips that also transport passengers) in the absence of prior Board authorization. The Board's notification shall be effective for such periods and with respect to such operations as the Board may specify in the notice. Beginning not earlier than 30 days after the date of the notice, the foreign air carrier shall obtain prior authorization as provided in paragraph (b) of this section before operating flights described in the notice. Whenever the Board fails to approve the whole or part of an application for prior approval required under this paragraph, and the application was timely and properly filed, it will notify the President of the United States of its decision at least 10 days before the date of the proposed flight, and the decision shall be subject to stay or disapproval by the President within 10 days after the date of the notification.

(b) Application for a Statement of Authorization shall be submitted on CAB Form 433 to the Civil Aeronautics Board, addressed to the attention of the Director, Bureau of International Aviation. Upon a showing of good cause, such application may be transmitted by cablegram or telegram or may be made by telephone; *Provided, however,* That an application for the performance of a charter transporting commercial traffic for another direct air carrier or direct foreign air carrier, as provided in § 214.7(a)(1), must be submitted on CAB Form 433 and a copy thereof shall be served upon the Federal Aviation Administration, marked for the attention of Director, Flight Standards Service, and each U.S. certificated air carrier which is authorized to serve the same general area in which the proposed charter trips are to be performed. Each applicant shall keep on file with the Director, Bureau of International Aviation, a copy of its current standard form of charter agreement. Each application shall contain an abstract of the charter agreement setting forth the names and addresses of the operator, the charterer, and their agents, if any; a description of the proposed operations; type aircraft to be flown; and, if reciprocity has not previously been established or if any changes have occurred since the previous Board finding thereon, documentation to establish the extent to which the nation which is the domicile of the applicant grants a similar privilege with respect to U.S. air carriers. A true copy of the charter agreement actually consummated shall be transmitted to the Director, Bureau of International Aviation, as soon as practicable but in no event later than 15 days after consummation.

(c)(1) Applications pertaining to charters of commercial traffic for another direct air carrier or direct foreign air carrier shall be filed with the Board at least 45 days in advance of the date of the commencement of the proposed flights.

(2) Applications under paragraph (a)(2) of this section shall be filed with the Board at least 30 days in advance of the date of the commencement of the proposed flights.

(3) Upon a showing that good cause exists for failure to adhere to the requirements of this paragraph and that waiver of these requriements is in the public interest, applications later submitted may be considered by the Board.

* * * * *

(Sec. 102, 204, 402 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 757, 49 U.S.C. 1302, 1324, 1372)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24044 Filed 8-8-80; 8:45 am]

BILLING CODE 6320-01-M

---

14 CFR Part 241

[Economic Regulations Dockets 31788 and 36113; Amendment No. 40 to Part 241; Regulation ER-1194]

Uniform System of Accounts and Reports for Certificated Air Carriers; Elimination of Schedule T-41

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is eliminating Schedule T-41, in which certificated carriers reported their off-route charter operations. This report is no longer necessary, because it was designed mainly to allow the Board to police limitations on off-route charter operations, and those limitations are being removed. The reasons for this change are discussed in ER-1190 (FR Doc. 80-24041), dated August 1, 1980, issued simultaneously in Part V of this issue of the **Federal Register.**

DATES: Adopted: August 1, 1980. Effective: October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Bernard Davis, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-6042.

The Civil Aeronautics Board amends 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers,* as follows:

1. Section 22(a) is amended by (A) Removing the entry for Schedule No. T-41 from the table entitled "List of Schedules in CAB Form 41 Report" and by (B) revising the entries for due dates January 30 and October 30 in the table entitled "Due Dates of Schedules in CAB Form 41 Report" to read as follows:

Section 22—General Reporting Instructions

(a) * * *

Due Dates of Schedules in CAB Form 41 Report

Due date	Schedule No.
* * *	
Jan. 30.....	P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-9.
* * *	
Oct. 30.....	P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-9.
* * *	

2. Section 25 is amended by revoking the *Charter and Special Service Revenue Aircraft Miles Flown; Calculation of Limitation of Charter Trips* title and reporting instructions for Schedule T-41.

(Sec. 204, 401, 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1710, 72 Stat. 766, 49 U.S.C. 1324, 1371, 1377)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24045 Filed 8-8-80; 8:45 am]

BILLING CODE 6320-01-M

federal register

Monday
August 11, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption

V 45 A G 1 1 1 8 0 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 503, 504, 505 and 506

[Docket No. ERA–R–80–24]

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is proposing this rule to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C.A. 8301 *et seq.* (FUA or the Act) regarding cogeneration. FUA establishes certain prohibitions on the use of petroleum and natural gs by powerplants and major fuel burning installations (MFBI's). This proposed rule would amend the interim rule published at 10 CFR 503.37, 504.35, 505.27 and 506.35 which implements FUA Sections 212(c) and 312(c) of the Act authorizing permanent exemptions from the prohibitions of FUA for eligible cogeneration facilities. The proposed amendment would establish a statewide energy limit as a means of encouraging cogeneration in those regions of the country where there is a potential for oil and gas savings while insuring that new alternate fuel-fired capacity would not be deferred. This notice also seeks comments on a proposed amendment to the definitions of "electric generating unit" and "cogeneration facility" now contained in ERA regulations (10 CFR 500.2).

Dates: Written comments are due by November 7, 1980.

Hearing dates:

1. September 25, 1980 (and, if required, September 26, 1980), San Francisco, California, 9:30 a.m.
2. October 6, 1980 (and, if required, October 7, 1980), Boston, Massachusetts,9:30 a.m.
3. October 9, 1980 (and, if required, October 10, 1980), Houston, Texas, 9:30 a.m.

Requests to speak are due by:

1. September 18, 1980, 4:30 p.m., San Francisco.
2. September 29, 1980, 4:30 p.m., Boston.
3. October 2, 1980, 4:30 p.m., Houston.

Hearing locations will be published in the **Federal Register.**

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA–R–80–24, Department of Energy, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONATACT:
William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–4055
Dorothy M. Hamid (Public Hearings Division), Economic Regulatory Administration, Department of Energy, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–3974.
Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 7002, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–3217.
Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–3649.
Alan W. Starr (Office of Utility Systems), Economic Regulatory Administration, Department of Energy, Room 4103D, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–3903.
G. Randolph Comstock (Office of General Counsel), Department of Energy, Room 6–G–087, 1000 Independence Avenue, S.W., Washington, D.C. 20461, 202–252–2967.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments on Interim Rule
III. Discussion of Proposed Rule
A. Electrical Generating Unit
B. Cogeneration Exemption
1. Statewide Energy Limit
2. Individual Exemptions Based on Oil/Gas Savings
3. Public Interest Cogeneration Exemptions
IV. Specific Comments Requested
V. Comment Procedures
VI. Proposed Rule

I. Background

FUA prohibits the use of oil and natural gas in certain new and existing major fuel burning installations consisting of a boiler (MFBI's) and powerplants including cogenerators unless ERA grants an exemption for such use. Sections 212(c) and 312(c) of the Act specifically provide for exemptions for oil and natural gas use in eligible new and existing cogenerators.

ERA has published final rules which (1) define MFBI, electric powerplant, and cogeneration facility; (2) describe the prohibitions applicable to new powerplants and MFBI's as well as exemptions available; and (3) provide administrative procedures for applying for exemptions at 45 FR 38276, *et seq.* (June 6, 1980). ERA has also published interim rules relating to the prohibitions against oil and gas use in existing facilities and exemptions available at 44 FR 43190 (July 23, 1979) and 44 FR 28594 (May 15, 1979).

Interim rules relating to exemptions for cogeneration facilities were published at 44 FR 28950, 28994, 29014 (May 17, 1979), and 44 FR 43176, 43204, 43219 (July 23, 1979).

After reviewing the comments on the interim rules, ERA determined that before final rule on cogeneration was adopted, it would be appropriate to propose and solicit public comment on other methods of implementing the cogeneration exemption sections of FUA. These proposed rules contain new provisions which may replace or be added to pertinent parts of the interim rule when the final rule is published. Pending the issuance of a final rule, ERA will continue to function under the interim regulations §§ 503.37 (new powerplants), 504.35 (existing powerplants), 505.27 (new MFBI's), and 506.35 (existing MFBI's).

We propose in this rule to combine § 505.27 with § 503.37 so that one section covers both new MFBI and powerplant cogeneration facilities. We also propose combining § 506.35 with § 504.35 so that both existing MFBI and powerplant cogeneration facilities are treated in one section of the regulation.

II. Comments on Interim Rule

Under the interim rule, a petitioner could qualify for a cogeneration exemption by demonstrating that the oil or gas to be consumed by the cogeneration facility would be less than that which would otherwise be consumed in the absence of the cogeneration facility. Generally, the petitioner would have to demonstrate that the industrial facilities which the proposed cogenerators would replace would be eligible for another exemption under FUA. In addition, the interim rules provided for a cogeneration exemption where the petitioner could demonstrate that granting the exemption would be in the public interest because of special circumstances, such as technical innovation or maintaining industry in urban areas.

A number of commenters said that ERA incorrectly interpreted the cogeneration exemption by basing it on a test of oil or gas savings rather than on overall fuel efficiency. ERA disagrees and believes its interpretation is correct. FUA permits the granting of a permanent exemption for cogeneration if the petitioner demonstrates that the economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in the facility. Under these proposed rules, as in the interim rules, ERA interprets the phrase "economic and other benefits" in the Act to mean that in granting an exemption, oil or gas will be saved without deferring the development of alternate fuel-fired capacity or that the exemption would be in the public interest.

ERA received many comments regarding the 10-year forecast pertaining to the calculation of oil and gas savings. Some commenters suggested that the 10-year forecast was too far into the future and that five to seven years would be more appropriate. Other commenters suggested that the 10-year forecast was inadequate and that the life of the plant should be used as a basis for this calculation. Further, with regard to the 10-year forecast, some commenters pointed out that the regulations failed to state whether the savings were to be calculated and displayed for the full 10-year period or only for the final year. Finally, commenters noted that the regulation did not indicate the point at which the forecast was to begin. The 10-year calculation has been removed from this proposal.

In place of the 10-year calculation in the interim rules, ERA is proposing regional utility oil/gas consumption estimates based on projections for the year 1988 to aid petitioners in calculating potential oil/gas savings. The year 1988 was chosen as it is the last year for which fuel consumption projections are available from the National Electric Reliability Council (NERC). These estimates based on NERC data reflect ERA's judgment of the additional amount of oil/gas required to generate a kilowatt hour of electricity in each geographic region. They will be updated as new data become available. ERA proposes to use these estimates for purposes of the cogeneration oil/gas savings calculation. However, the petitioner may propose other estimates which may better reflect a specific situation.

One commenter pointed out that in calculating oil savings accruing from cogeneration, ERA should give additional consideration to the types of oil to be saved and recognize the differences between No. 2 oil (middle distillates) and No. 6 oil (residual fuel).

While ERA distinguishes between distillate and residual fuel oil use in the special rule for temporary public interest exemptions to burn natural gas (10 CFR Part 508), the duration of those exemption does not exceed 5 years. Permanent cogeneration exemptions are for the life of the facility. Because ERA does not have the data to predict supplies of various types of petroleum fuels over the long term, the proposed rule does not differentiate between distillate and residual fuel oil savings. However, petitioners who have data or evidence which differentiate among petroleum products may submit such evidence to support their petition for an exemption.

Another commenter suggested that the calculation of oil or gas savings could be simplified by assuming that the purchased power displaced by the addition of a new cogeneration unit to an exisiting facility would displace oil consumption at the rate of 10,000 Btu/kWh of purchased power. ERA has rejected this approach as it does not account for whether alternate fuels or oil and gas were used to generate the displaced electricity.

ERA received one comment seeking clarification of the evidentiary requirement contained in §§ 503.37(d)(5), 504.35(d)(5), 505.27(d)(5), and 506.35(d)(5) of the interim rules (concerning new and existing MFBI and powerplant cogenerators) that a petitioner submit all evidence required by the regulations with respect to any applicable exemptions to which the units would be entitled. The units referred to in these sections of the interim rules, and in the corresponding section of the proposed rule, are the units which will be replaced by the cogeneration facility, and not the cogeneration unit itself. ERA has also revised this part of the proposed regulation to clarify this point. (See Section III of this preamble.)

One commenter questioned the necessity for the evidentiary requirement that petitioners submit information identifying all persons and their roles in the proposed cogeneration facility. ERA has reviewed this requirement and agrees that such detailed identification is not necessary. Accordingly, the proposed regulation only requires information identifying owners and operators of the project.

III. Proposed Rule.

ERA is proposing a new approach that encourages cogeneration in those regions of the country where there is a potential for oil and gas savings while insuring that new alternate fuel fired capacity would not be deferred. This approach proposes three methods for qualifying for a cogeneration exemption. Two of these three methods, one of which is based on a showing of oil/gas savings and the other in the public interest, are contained in similar form in the interim rule. The third method is for use by petitioners in states in which oil and gas are likely to be used for the foreseeable future. It is explained in detail below.

In addition, ERA is seeking public comments on a proposal to amend the current definition of electric generating unit to avoid the unintended treatment of certain cogenerating MFBI's as powerplants and, thus, perhaps inhibit cogeneration which would otherwise be economically efficient.

A. Electric generating unit (Section 500.2).

Section 103(a)(7)(A) of FUA defines "powerplant" to mean "any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which produces electric power for purposes of sale or exchange * * *." One of the exceptions from the definition of electric generating unit is for any cogeneration facility, less than half of the annual electric power of which is sold or exchanged for resale.

A case may arise where a cogenerator is defined as a powerplant on the basis of the amount of its electrical output which is sold or exchanged. For example, under the current definition contained in the Interim Rule, a cogenerator performing an industrial function would be designated as a powerplant if more than 50% of the electrical output were sold or exchanged, even though the electricity produced constituted a small fraction of the total energy output of the cogenerator.

A new cogeneration facility which is a "powerplant", would be subject to the statutory provisions applicable to new powerplants. These provisions prohibit the use of oil and gas in new boilers, gas turbines, and combined cycle units as well as the construction of a powerplant without the capability of using an alernate fuel as its primary energy source. There is no corresponding statutory prohibition on construction applicable to new MFBI's and the statutory prohibition on oil and gas use by new MFBI's applies only to boilers. While prohibitions by rule on the use of oil and gas in MFBI's which consist of combustion turbines, combined cycle units and internal combustion engines may be issued by ERA, such rules have not been promulgated.

An existing cogenerating facility which is classified as a "powerplant" would be subject to several statutory prohibitions on the use of natural gas. There is no such prohibition applicable to existing MFBI's. The possibility that an existing MFBI might be reclassified as a powerplant should it be used to cogenerate electricity may discourage such cogeneration.

ERA believes that the current definition of "electric generating unit" in the rule may be overly conservative and might result in the designation of most new industrial cogenerators as powerplants and discourage persons planning new facilities from including cogeneration capacity due to the regulatory requirements of obtaining an exemption.

ERA seeks common on whether a more liberal definition of "electric generating unit" which would treat most

cogenerators as MFBI's is appropriate. However, we realize that such a definition might encourage the use of oil/gas fired cogeneration in cases where oil/gas use might otherwise have been prohibited. The definition proposed below would remove certain restrictions on the development of cogeneration in the industrial sector and could allow use of cogeneration based on economic considerations. Furthermore, combined cycle, gas turbine and diesel cogenerators which would be classified as MFBI's are not presently covered under FUA prohibitions and would not need to petition ERA for an exemption under these proposed rules.

In consideration of these factors, ERA is seeking public comment on a more liberal definition of the term "electric generating unit" to mean "a facility, over half the useful energy output of which is in the form of electricity."

In addition, the following exclusions to the definition of "electric generating unit," specified by the statute, would be retained in this amended definition:

(1) Any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(2) Any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale.

ERA seeks comment on this proposal and on whether the dividing line between MFBI and powerplant cogenerators should be "half the useful energy output" or some other percentage.

ERA is also proposing an alternative definition of an electric generating unit:

"Electric generating unit" does not include: (1) Any "electric generating unit" subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and (2) Any cogeneration facility, less than half of the annual electric power generation of which is sold to or exchanged with an electric utility for resale by the utility to consumers other than the cogenerating supplier.

This definition would only refer to *net* electrical power sold or exchanged for resale, and does not include amounts sold to the grid but repurchased by the cogenerator firm for its own use. This concept could also be adopted in the primary proposal by adding the word "net" before "annual electrical power generation" in the second exception.

ERA has reservations about whether this definition is permitted under FUA and, as noted above, we are not yet persuaded that it is appropriate, since it could result in a large increase in oil and gas prices which are currently held below market clearing prices. Moreover, it could result in the deferment of baseload alternate fuel-fired electrical generating capacity. We solicit comments whether either of the alternative definitions are appropriate, as well as the impact they may have with respect to the development of energy efficient cogeneration and on future alternate fuel use for electrical generation.

ERA also solicits other appropriate methods of distinguishing MFBI and powerplant cogenerators and their impact on cogeneration and future oil and gas use.

B. Cogeneration Exemption [Sections 503.37 (new MFBI and powerplant cogenerators) and 504.35 (existing MFBI and powerplant cogenerators)]

FUA provides exemptions from its prohibitions on oil and gas use upon a finding that a petifioner has demonstrated that "economic and other benefits of cogeneration" are unobtainable unless petroleum or natural gas are used in the facility.

A congeneration facility may be either a new or existing electric powerplant, or an MFBI which produces electric power and any other form of useful energy. Exemption provisions for new and existing MFBI's and powerplants are alike under the proposed rule.

In this proposed rule ERA sets forth eligibility requirements for the cogeneration exemption. ERA proposes to interpret the statutory phrase "economic and other benefits of cogeneration," to mean that oil/gas savings will be achieved by the petitioner without deterring the development of alternate fuel-fired capacity. However, if it can be shown that the exemption would be in the public interest, ERA will not require the above oil/gas savings demonstration.

The oil/gas savings would generally result from the displacement of oil/gas-fired powerplants and industrial boilers by more efficient cogeneration units. Such industrial and powerplant cogeneration units could supply electric power to the grid and produce steam using less oil or gas than would be needed for an ordinary powerplant or industrial boiler to supply the same amounts of electricity and steam.

ERA is proposing this rule based on three primary considerations:

(1) Inherent efficiency of congeneration;

(2) Simplification of the cogeneration exemption petition where oil and gas savings are likely; and

(3) Avoidance of the deferral of alternate fuel fired electrical generating capacity.

In recognition of the above, ERA has proposed three methods of qualifying for a cogeneration exemption. They are:

(1) Statewide Energy Limit;

(2) Individual oil/gas savings; and

(3) Public interest provisions.

The statewide energy limit is the mechanism by which ERA proposes to recognize the potential for cogeneration to realize oil and gas savings in those geographic areas where oil and gas are now, and will continue to be, the primary fuel in the industrial and utility sectors. The exemption provisions based on a showing of either individual oil/gas savings or public interest considerations are similar to provisions of the interim rules.

1. *Statewide Energy Limit*

This rule proposes to identify those geographic regions in which oil/gas savings would be achieved by cogeneration, insure that new alternate fuel fired capacity would not be deferred and provide an expeditious process to grant exemptions.

A. The Process

Under the proposed rule, ERA would establish an initial "Statewide Energy Limit" in certain states for use by oil/gas fired cogenerators covered by the FUA prohibitions.

This energy limit would be the annual energy input allotted among all of those cogenerators in that state which are seeking exemptions under this provision of the proposed rule. Thus, for example, the energy input to a new oil or gas burning combined cycle cogenerating MFBI would not be counted against this limit because in the absence of a rule or order for such purpose, no prohibitions on oil and gas use under FUA are applicable, and therefore no exemptions necessary. This limit, which is discussed below, would be based upon the amount of oil/gas electric generating capacity which could be displaced in a state before there was a risk of displacing new alternate fuel-fired powerplants.

ERA is proposing a certification process whereby cogeneration capacity is allocated to qualified facilities up to the established statewide limit. ERA is also proposing that in those oil/gas dependent states, where capacity limits have been set, the governor of those states, or the governor's designee, certify to ERA whether petitioners are eligible cogenerators. This certification takes the place of demonstrating oil/gas savings.

ERA is proposing that the states provide this certification in the belief that states are better able than ERA to determine which cogeneration projects would best meet the long term energy needs of the jurisdiction. ERA solicits comments on standards, if any, which a state could use in certifying eligible cogenerators.

ERA proposes that any state could negotiate with ERA to raise the "Statewide Energy Limit." This negotiation would result in an agreement that ERA would grant additional specified increments to the "Statewide Energy Limit" on a quid-pro-quo basis as certain agreed upon milestones were achieved. These milestones could, for example, be in the form of specified reductions in oil and gas use and/or bringing into service certain specified new alternate fuel-fired electrical generating facilities.

B. Specification of "Statewide Energy Limit"

ERA believes that the greatest potential for oil and gas savings from cogeneration exists in those states where oil and gas currently is and is expected to continue to be a primary energy source for baseload electrical generation. In such States oil and gas savings could be realized by new energy efficient cogenerators displacing the electrical production from existing, less efficient oil and gas fired powerplants.

ERA has identified states in which oil and gas are currently used as a primary energy source in baseload powerplants and will continue to be needed in large amounts for baseloading in the immediate future. Those states initially identified by ERA are California, Florida, Louisiana, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Texas and New York.

[1] For a full description of the analysis see the *Draft Regulatory Analysis* on file in Room B-110, 2000 M St., N.W., Washington, D.C. 20461.

[2] For a full description of the analysis of oil/gas displacement by oil/gas-fired cogeneration, see the following document *Potential in States and Regions for Displacing Oil or Gas via Oil- or Gas-Fired Cogeneration*, May 1980, on file in Room B-110, 2000 M St., N.W., Washington, D.C. 20461.

The process used to identify these states and establish an initial "Statewide Energy Limit" is summarized below: [1]

1. ERA has estimated for each state the potential oil/gas that can be "backed-out" of electrical generation by the use of oil/gas fired cogeneration. These estimates [2] provide a potential market for cogeneration based solely on backing out oil/gas fired baseload powerplants in 1988, the last year in which NERC projections are available. These state estimates are shown in Table 1.

Additionally, estimates were made of the potential market development for oil- and gas-fired cogeneration in those oil/gas dependent states. The estimates of the market for oil- and gas-fired cogeneration were prepared by DOE based upon a number of cogeneration studies and included, to the extent feasible, consideration of various technical, economic and institutional constraints, many of which are difficult to assess accurately. The projections assume no FUA restrictions on cogeneration development.[3] These two sets of estimated data provide a basis for setting the initial "Cogeneration Electrical Capacity Limit."

[3] For a full description of the cogeneration market development estimates see the document *Market Development of Oil- and Gas-Fired Cogeneration Installations in Selected States Between 1980 and 1990*, May 1980, on file in Room B-110, 2000 M St., N.W., Washington, D.C. 20461.

Table 1.—Proposed Statwide Energy Limit

State	(1) Maximum oil/gas electrical capacity potentially displaced by cogeneration (MW)[5]	(2) Cogeneration capacity likely to be developed in this decade if unrestricted by FUA (MW)	(3) Initial cogeneration electrical capacity (MW) (⅓ of the lesser of column (1) or (2))	(4) Initial statewide energy limit[7] 10^{13} Btu per year
Alaska	462	[6]	[6]	[6]
Texas	15,903	1,115	372	55.8
Florida	7,143	140	47	7.1
Louisiana	4,072	660	220	33
California	9,223	1,435	478	71.7
New England[1]	3,126	220	78	11.7
Maine			15	2.3
New Hampshire			5	0.8
Vermont			5	0.8
Massachusetts			26	4.2
Connecticut			19	2.9
Rhode Island			6	0.9
New York	5,723	350	117	17.6
Kansas	223	[6]	[6]	[6]
Oklahoma	191	[6]	[6]	[6]
All others	0	[6]	0	0

[1] Cogeneration potential for New England was apportioned to states based on population and on population density with a minimum of 5 MW for each state.

[5] One-third of (1) or (2), whichever is lower.

[6] Not estimated.

[4] Due to non-interconnected operation of utilities in Alaska, case-by-case treatment is required.

[5] Due to the small ultimate potential, case-by-case treatment is proposed.

[6] These projections make no assumptions on the development of cogeneration project themselves.

[7] Based upon 1 MW of electric cogeneration capacity equivalent to 1.5×10^{11} Btu/yr.

2. ERA proposes to set the initial "Cogeneration Electrical Capacity Limit" for each state at ⅓ of the lesser of the two estimates described in (1) above: (i) the current oil- gas-fired electric generating capacity that cogeneration could ultimately displace, or (ii) the amount of oil- gas-fired cogeneration electric generating capacity that would be expected to be developed in the state during the 1980's if such development were unrestricted by FUA.

The initial limit of ⅓ of the lesser of the two estimates was used because it appears large enough to accommodate exemption petitions likely to be received in the immediate future but should not provide an incentive for the states to defer alternate fuel-fired capacity. We solicit comment on the appropriate level to be set in the final rule.

3. ERA then proposes that this "Cogeneration Electrical Capacity Limit" be converted to total energy input on the basis that the "typical" cogenerator is a topping-cycle cogenerator, meeting the efficiency standards promulgated by the Federal Energy Regulatory Commission (FERC) under the Public Utility Regulatory Policies Act (see 18 CFR 292.205). ERA believes that the topping-cycle cogenerator would be the most prevalent cogenerator and that the FERC efficiency standard provides a reasonably conservative estimate of the relationship of energy input to cogenerator electrical capacity. On this basis every megawatt of cogeneration electrical capacity would be equivalent to 1.5×10^{11} BTU/yr (or 24,700 BBL of oil equivalent per year) of fuel input to cogenerators in that state. ERA requests comment on this proposed procedure for establishing initial Statewide Energy Limits for cogenerators.

Alternative Proposal for States Using Oil and Gas for Baseload Electrical Generation

ERA seeks comment on an alternative proposal for determining eligibility for cogeneration exemptions in those states in which there are a significant number of existing oil/gas fired baseload powerplants.

In this proposal ERA has assigned to each of the oil/gas dependent states an initial "Cogeneration Electric Capacity Limit" [4] consisting of a total megawatt *output* instead of a total energy input as described in the primary proposal. Under this approach, the limit is focused solely on the electrical generation by the cogenerator and does not include the nonelectrical output (e.g., industrial steam, heat, etc.).

[4] Derivation of Cogeneration Electrical Capacity Limit was discussed previously as part of the primary proposal.

Under this alternative, the process would be similar to the primary proposal, but the petitioner would be required to submit additional data as part of a petition for an exemption.

The proposed process would be as follows:

- ERA assigns an initial "Cogeneration Electrical Capacity Limit" for all states consisting of a total number of megawatts;
- The governor or the governor's designee would certify to ERA that a proposed cogenerator was within the "Cogeneration Electrical Capacity Limit" for the state;
- Once so certified, a petitioner would be required to submit evidence on additional qualifications for an FUA exemption (discussed below);
- As with the primary approach, ERA and the state could negotiate a higher "Cogeneration Electrical Capacity Limit" (the process for this would be identical to that discussed in the primary proposal).

The state certification in this alternate proposal attests that the electrical output of the cogenerator is within limits established by ERA to preclude displacement of new alternate fuel-fired capacity. However, under this proposal, oil and gas savings would only be demonstrated if the petitioner shows that the industrial unit replaced by the cogenerator would have used oil or gas.

Thus, cogeneration facilities which would qualify under this alternate proposal are those which are certified by the state and will generate steam in place of either (a) a nonjurisdictional unit; (b) an existing unit which is not capable of using an alternate fuel; or (c) a new jurisdictional unit or an existing unit capable of using an alternate fuel for which a reasonable demonstration is made that the facility would be eligible for an exemption.

The primary proposal—State Energy Limit—has three distinct advantages over this alternate proposal.

- Once certified by the state, the petitioner has met the requirement to demonstrate an oil or gas savings with minimal regulatory burden.
- A state may allocate the energy limit according to its needs.
- The State Energy Limit correctly focuses on a primary concern—the total oil/gas energy used by cogenerators.

The alternate proposal, Cogeneration Electrical Capacity Limit, has the advantage of focusing on the capacity of electrical generation which could be displaced by cogeneration.

ERA seeks comment on this alternate proposal and the comparative merits of the primary and alternate proposal.

B. Individual Exemptions Based on Oil/Gas Savings.

There are likely to be situations where a petitioner who intends to build an oil- or gas-fired cogenerator can demonstrate oil/gas savings but where the State Energy Limit option is not available, such as when:

(1) The petitioner's unit is located in a state with a zero State Limit, or

(2) The petitioner's unit is located in a state where a state certification cannot be obtained because the State Limit has been met, or

(3) The petitioner does not opt to use the State certification process.

In these situations, ERA will accept petitions for exemptions based on a demonstration of oil/gas savings.

The oil or gas savings assessment will generally consist of two parts: a calculation of oil/gas savings and an assessment of the likely impact on the relevant electric utilities' schedules for adding alternate fuel-fired generating facilities. The petitioner would calculate the difference between the amount of oil or gas to be used with and without the exemptions. If the amount of oil or gas used would be less if the cogeneration facility were built and it would not result in deferment of alternate fuel-fired electrical generation capacity, the petitioner would be granted an exemption.

A petitioner would make two sets of computations:

(1) The amount of oil or gas used if petitioner did *not* build the cogenerator, including energy used for industrial purposes and energy used in providing the amount of electricity which would have been generated by the cogenerator; and

(2) The amount of oil and gas used by the proposed cogenerator to produce both energy for industrial purposes and electricity.

If (2) is less than (1), a petitioner could be granted an exemption if it could also be demonstrated that the cogenerator would not result in utilities deferring schedules for adding alternate fuel-fired generating facilities.

ERA has proposed estimates to aid petitioners in computing the amount of existing oil/gas use for production of electricity which would be displaced by electricity generated by the proposed cogeneration. The estimates are calculated for all regions of the United States (see § 503.37(e) and 504.35(e)). These estimates are based on projected regional fuel use for electric generation and are based upon National Electric Reliability Council (NERC) regions, except where lack of system interties justified further regional subdivision.[5]

In determining the amount of oil or gas used to produce energy for industrial purposes in the absence of a cogeneration exemption, ERA proposes that oil use be assumed if the industrial unit replaced by the cogenerator would have been:

1. Non-jurisdictional to FUA;
2. An existing facility to be retired early which is not alternate fuel capable;
3. A new facility or an existing alternate fuel capable facility which would reasonably qualify for a permanent exemption under FUA.

ERA will evaluate petitions on a case by case basis. In certain instances ERA recognizes that it would be difficult for a petitioner to demonstrate that the proposed cogenerator would not result in deferral of alternate fuel-fired powerplant capacity expansion plans. However, in such cases, ERA may still grant the exemption if the petitioner agrees to undertake conservation measures, replacement of other existing oil/gas fired units, or other measures designed to reduce oil/gas use which would result in long-term oil/gas savings.

Since exemptions under the proposed approach would be granted on a case by case basis and petitioners would be permitted to provide any additional information to ERA in support of its request, we solicit comments on the methodology proposed in this section and any other criteria which should be included in the rule.

We note that other avenues may be available other than the cogeneration exemption proposed in this Notice. For example, a temporary exemption based on a commitment to the future use of synthetic fuels (see § 503.24) may be utilized. Many cogeneration projects will employ as part of the system combustion turbines that can operate on synthetic liquid and gaseous fuels in addition to petroleum or natural gas. Under the synthetic fuels temporary exemption, a petitioner certifies that it will be able to comply with the applicable prohibition imposed by the Act through use of a synthetic fuel derived from coal or another alternate fuel, but not until the end of the proposed period. Information required in support of such a petition is limited to a description of the synthetic fuel proposed to be used; such synthetic fuel temporary exemptions may be granted on the basis of a certification.

3. *Public Interest Cogeneration Exemptions.*

Finally, as in the interim rules, a cogeneration exemption is available regardless of cogeneration capacity limits or oil/gas savings if it can be

[5] A full description of the regions and the projects are documented in *Potential in States and Regions for Displacing Oil or Gas via Oil-or-Gas Fired Cogeneration*, May, 1980, on file in Room B–110, 2000 M Street, N.W., Washington, D.C.

demonstrated that such an exemption would be in the public interest. Such a demonstration of special circumstances might, for example, include a showing that the facility would be technically innovative, or that it would help to maintain employment in an urban area. We solicit comments on specific criteria which might be included in the final rule.

IV. Other Comments Requested.

A. One commenter suggested that ERA should accept certification issued by the Federal Energy Regulatory Commission (FERC), of a "qualified cogenerator" pursuant to rules promulgated under the Public Utility Regulatory Policies Act of 1978 (PURPA) [see 18 CFR 292.203] as adequate qualification for a cogeneration exemption.

The FERC rules set certain operating and efficiency standards and ownership criteria for qualifying cogeneration facilities. ERA has in this rulemaking requested comment on whether FERC operating and efficiency standards should be adopted as terms and conditions of an exemption.

ERA realizes that there are several definitions of cogeneration under various statutes serving various purposes. While ERA does not believe the ownership criteria for qulaifying cogeneration facilities under PURPA is applicable to the determination of eligibility for an exemption under FUA, comments are requested on the applicability of the PURPA definition of cogeneration exeption under FUA.

B. In ERA's final FUA rules published June 6, 1980, at 45 FR 38276, "cogeneration facility" was defined as "an electric powerplant" or a major fuel burning installation that produces:

(1) Electric power; and
(2) any other form of useful energy * * * electricity generated by the cogeneration facility must constitute more than ten (10) percent and less than ninety (90) percent of the useful energy output of the facility.

ERA seeks comment on this definition and in particular whether the ten (10) percent figure should be increased (perhaps to 20%) to reflect a more realistic commitment to cogeneration. Further, ERA seeks comment on whether it would be more appropriate to make this an eligibility requirement for the cogeneration exemption rather than a part of the definition of "cogeneration facility."

C. ERA is concerned that the regulatory burden imposed by the requirement under FUA to demonstrate the infeasibility of using mixtures and by the data required on the environmental impacts of the facility may disxourage cogeneration. In particular, the burden may ber excessive for small users who lack the technical expertise to make these findings. ERA requests comments on mechanisms for alleviating these burdens.

D. Terms and conditions may be imposed upon the receipient of a cogeration exemption. ERA seeks comment on whether it should delete the general reporting requirement contained in the interim rule relating to conservation and to oil and gas use and impose the following standard terms and conditions on recipients of a cogeneration exemption under the aproposals pertaining to the State Energy Limit:

Standard terms and conditions. By petitioning for an exemption under the subsection dealing with states using oil and gas for baseload electrical generation, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(i) The quality of any petroleum to be burned in the unit will be the lowest grade available, technically feasible, and capable of being burned consistent with applicable environmental requirements;

(ii) Petitioner shall report annually the hours of use and the fuel consumption in the previous calendar year for the unit;

(iii) The petitioner, after due public notice from DOE and an opportunity to comment, agrees to terminate the use of oil and natural gas in the unit receiving the exemption when DOE finds that there is an available supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source.

(iv) Operating and efficiency standards developed under PURPA by FERC (see 18 CFR 292.205).

(A) *Topping-cycle facilities.* For any new topping-cycle cogeneration facility for which any of the energy input is natural gas or oil, the useful power output of the facility plus one-half the useful thermal energy output, during any calendar year period, must:

(1) Subject to subparagraph (2) of this paragraph be no less than 42.5 percent of the total energy input of natural gas and oil to the facility; or

(2) If the useful thermal energy output is less than 15 percent of the total energy output of the facility, be no less than 45 percent of the total energy input of natural gas and oil to the facility.

For any other topping-cycle cogeneration facility no efficiency standard will be applied as a standard term or condition.

(B) *Bottoming-cycle facilities.* For any new bottoming-cycle facility for which any of the energy input is supplementary firing using natural gas or oil, the useful power output of the facility must, during any calendar year period, be no less than 45 percent of the energy input of natural gas and oil used for supplementary firing.

For any other bottoming-cycle cogeneration facility no efficiency standard will be applied as a standard term or condition.

Note: ERA recognizes that term and condition (iii) would promote the manufacture and use of synthetic fuel by providing a readily available market. However, cogenerators are likely to use synthetic fuels when economic, regardless of the term and condition, and in cases where synthetic fuel use is not economic, its required use could impair the financial viability of cogeneration. ERA invites comment on this matter.

V. Comments and Public Hearing Procedures

A. *Written comments. ERA invites praticipation in this rulemaking by the submission of data, views or arguments with respect to the issues set forth above and otherwise concerning this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation, Docket No. ERA–R–80–24. Submit fifteen copies. All comments received will be available for public inspection in the DOE Reading Room 5B–180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. ERA will consider all comments received by November 7, 1980.*

Identify separately any information or data considered to be confidential and submit them in writing, one copy only. ERA reserves the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public hearings: (1) Request procedure. The time and place for the hearings is indicated in the "DATES" section of this preamble.

You may make a written request for an opportunity to speak at the hearings, providing a phone number where you may be contacted through the day before the hearing.

ERA will notify each person selected to be heard before 4:30 p.m. on the last working day before each hearing date.

In the event that a hearing is cancelled, every effort will be made to publish advance notice in the Federal Register. Moreover, actual notice will be given to all persons scheduled to testify

at the hearing. As it is not possible to give actual notice of cancellation or changes in the date or time of a hearing, persons planning to attend any hearing are advised to contact the public hearings division of the DOE office on the working day immediately preceding the date of the hearing to confirm that it will be held as scheduled.

(2) Conduct of the hearings. ERA reserves the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. We may limit the time alloted each speaker, based on the number of persons who ask to be heard.

A DOE official will preside at the hearings, which will not be judicial or evidentiary in nature. Only those conducting the hearings may ask questions. At the conclusion of all initial oral statements, each speaker will be given an opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. Questions may be submitted to be asked of any speaker. Such questions should be submitted three days before the hearing or, if necessary, submitted in writing to the presiding officer. We will determine whether the question is relevant, and whether the time limitations permit it to be presented for asnwer. The presiding officer will announce any further proceudral rules needed for the proper conduct of the hearing. We will have a transcript of the hearing made and will retain the entire record of the hearing, including the transcript, and make it available for inspection at the DOE Freedom of Information Office, Room 5B-180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

The draft regulatory analysis of the proposed regulations, as contemplated by Executive Order No. 12044, is appended to this Notice. DOE is currently reviewing its responsibilites under the National Environmental Policy Act of 1969 for this rulemaking. At this time it is not anticipated that an environemtnal assessment or impact statement will be required.

(Department of Energy Organization Act, 42 U.S.C.A. 7101 *et seq.*; Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C.A. 8301 *et seq.*; E. O. 12009, 42 FR 42 4267).

In consideration of the foregoing, § 500.2 of ERA final regulations and §§ 503.37, 504.35, 505.27 and 506.35 of ERA Interim Regulations, implementing the Powerplant and Industrial Fuel Use Act of 1978, are proposed to be amended as set forth below.

Issued in Washington, D.C., on August 1, 1980.

Hazel R. Rollins,

Economic Regulatory Administration.

PART 500—DEFINITIONS

Section 500.2 is amended by revising the definitions of "cogeneration facility" and "election generating unit" as follows:

§ 500.2 Definitions.

* * * * *

"Cogeneration facility" means an electric powerplant or a major fuel burning installation which producres:

(1) Electric power; and

(2) Any other form of useful energy (such as steam, gas or heat) which is, or will be, used for industrial, commercial or space heating purposes.

* * * * * * *

"Electric generating unit" means a facility, over half the useful energy output of which is in the form of electircitiy. The term "electric generating unit" does not include—

(1) Ahy electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(2) Any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale. [See Appendix A for alternative language defining "electric generating unit"].

PART 503—NEW FACILITIES

PART 504—EXISTING ELECTRIC POWERPLANTS

Sections 503.37 and 504.35, *Cogeneration*, are revised to read as follows:

§§ 503.37 and 504.35 Cogeneration.

(a) *Eligibility.* ERA may grant permanent exemption for cogeneration if the petitioner demonstrates that the economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used, by demonstrating to the satisfaction of ERA at least the following criteria:

(1) The State limit on the total amount of energy to be consumed by cogenerators receiving exemptions under this paragraph, (as listed in paragraph (f) of this section) will not be exceeded by the addition of the facility; or

(2) The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with paragraph (c) of this section; or

(3) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas.

[See Appendix A for alternative eligibility criteria]

(b) *Specifications of the cogeneration facility.* (1) The equipment to produce electric energy and another form of useful energy, which is or will be used for industrial, commercial, or space heating purposes, does so through the sequential use of energy.

(2) Electricity generated by the proposed cogeneration facility must constitute more than 10 [20] percent of the useful energy output of the facility and less than 90 [80] percent of the useful energy output.

(c) *Calculation of oil and gas savings.* There is an oil and gas savings if the oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility. The calculation of the oil and gas which would otherwise be consumed must be in accordance with paragraphs (c) (1) and (2) of this section.

(1) Except for the case described in paragraph (c)(2) of this section, the oil or gas which would otherwise be consumed must be calculated as follows:

(i) Include the oil or gas that would be consumed by facilities that are or would be too small to be covered by the FUA regulations. In the case of new small industrial units, demonstrate that it would be reasonable to construct units of that size.

(ii) Include the oil or gas that would be consumed by units in place (existing or exempt) and covered by FUA, if they are less than 40 years old in the case of a field-erected unit or less than 20 years old in the case of a package unit. In the case of existing units, do not include units that have burned an alternate fuel or which are capable of burning an alternate fuel, and, only include units described in this subparagraph if they will be retired or shut down if this exemption is granted.

(iii) Include the oil or gas that would be consumed by units not yet constructed that would be covered by the FUA regulations only if the petition includes a demonstration that each unit would be entitled to an exemption.

(iv) Include the oil or gas that would be consumed by powerplants to generate electricity supplied to the grid to the extent that such electricity will not longer be supplied by the grid. This figure may be based on the guidelines provided in paragraph (g) of this section.

(2) In the case of a cogeneration facility that would consist of an existing unit or an exempted unit and a new unit, calculate the amount of oil or gas that would otherwise be consumed as the sum of:

(i) The five-year annual average oil or gas consumption of the existing or exempted unit; and

(ii) The amount that would be consumed in units described in paragraph (c)(1)(i)–(iv) of this section that would now be satisfied by the new cogeneration facility.

(d) *Evidence required in support of a petition.* You must include at least the following evidence in order to make the demonstration required by this section:

(1) In the case of paragraph (a)(1) of this section, a certification from the appropriate State agency, as designated by the State Governor, that the State limit on the total amount of energy to be consumed by cogenerators receiving exemptions under this paragraph will not be exceeded by the operation of the facility.

(2) In the case of paragraph (a)(2) of this section:

(i) An engineering description of the cogeneration system, including proposed output and uses thereof, with sufficient detail to ensure that the facility meets the specifications for cogeneration facilities in paragraph (b) of this section.

(ii) A detailed oil and natural gas savings calculation identifying the projected oil or natual gas consumption of the cogeneration facility and the oil or natural gas that would otherwise be used;

(iii) Where a demonstration is required that the units would be entitled to an exemption, submission of reasonable evidence with respect to the applicable exemptions; and

(3) In the case of paragraph (a)(3) of this section an explanation of the public interest factors you believe should be considered by ERA.

(e) *General requirements.* (1) The following must be included, as applicable:

(i) Use of mixtures is infeasible as required under § 503.9;

(ii) Use of fluidized bed combustion is not feasible as required under § 503.10;

(iii) Conservation measures as required under § 503.13;

(iv) Petroleum and natural gas consumption as required under § 503.14; and

(v) Environmental impact analysis as required under § 503.15.

(f) *Designated capacity limits.* (1) Subject to the provisions of paragraph (f)(2) of this section, the following initial limits of energy to be consumed by cogenerators for the granting of exemptions for cogeneration units within each of the designated jurisdictions have been established.

Jurisdiction	Initial statewide energy limit (10^{12}Btu's/yr.)
Texas	55.8
Florida	7.1
Louisiana	33.0
California	71.7
New York	17.6
Maine	2.3
New Hampshire	0.8
Vermont	0.8
Massachusetts	4.2
Connecticut	2.9
Rhode Island	0.9
All Others	0

(2) The limits established under paragraph (f)(1) of this section may be increased upon petition by States or by ERA on its own motion. In such cases, a plan may be negotiated by ERA and the States with the aim of reducing oil and gas use as well as minimizing the displacement of alternate-fuel capacity with oil or gas fired cogeneration.

(g) *Incremental Utility Oil/Gas Consumption Estimates.* The following table provides regional estimates of the number of Btu's of oil/gas which may be expected to be saved per kilowatt hour (kWh) of electricity displaced by cognerated electricity. These estimates may be used by a petitioner in calculating oil/gas savings.

Table—*Regional Estimates of Oil Gas Savings Attributable to Electricity Backed Off the Grid by Cogeneration

Region name		Oil/gas savings Btu/kWh
NPCC	New England, New York	7200
MAAC	Pennsylvania, New Jersey, Maryland, Delaware, D.C.	4700
SERC (except Florida).	Virginia, N. Carolina, S. Carolina, Georgia, Alabama, Tennessee, Eastern Mississippi, Florida panhandle.	300
Florida	Florida (except panhandle)	8900
ECAR	Ohio, W. Virginia, Kentucky, Indiana, Southern Michigan.	100
MAIN	Illinois, Eastern Wisconsin, Eastern Missouri, Northern Michigan.	200
SPP	Western Mississippi, Arkansas, Northern Louisiana, Southern and Western Missouri, Kansas, Northern and Eastern Texas, Oklahoma, Eastern New Mexico.	7000
ERCOT	Texas (except SPP areas)	9900
MARCA	Eastern Montana, N. Dakota, S. Dakota, Minnesota, Iowa, Nebraska, Western Wisconsin.	800
WSCC/East	Southern Idaho, Central Montana, Utah, Wyoming, Colorado, Western New Mexico, Arizona.	1000
WSCC/West	California, Oregon, Washington, Nevada, Areas served by Bonneville Power Administration.	7000

* Data are based upon expected utility capacity and oil/gas use in 1988, see the document *Preliminary Data on Incremental Utility Oil and Gas Consumption*; May, 1980; on file in Room B-110; 2000 M St., N.W., Washington, D.C.

Example: The proposed cogeneration project is located in Eastern Mississippi, and would displace one million kilowatt hours (kWh) from the grid each year. To determine oil/gas savings associated with electricity backed off the grid:

1. The above table identifies your region as "SERC (except Florida)."
2. The oil/gas savings for your region according to the table are 300 Btu/kWh.
3. The annual oil/gas savings attributable to electricity backed off the grid by your cogenerator is:
   1,000,000 kWh × 300 Btu/kWh = 300,000,000 Btu.

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

PART 506—EXISTING MAJOR FUEL BURNING INSTALLATIONS

§§ 505.27 and 506.35 Cogeneration [Deleted]

§ 505.27 and § 506.35 are deleted, effective 60 days from the date of publication of this rule.

Appendix A—Alternative Regulatory Language

ERA requests comments on the following alternative regulatory language.

1. *Electric Generating Unit (§ 500.2).* "Electric generating unit" does not include: (1) Any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and (2) Any cogeneration facility, less than half of the annual electric power generation of which is sold to or exchanged with an electric utility for

resale by the utility to consumers other than the cogenerating supplier.

2. *Eligibility criteria for cogeneration exemption (§§ 503.37 and 504.35(a)(2)).* (a)(2) The cogeneration capacity limit for the state listed in paragraph (f) of this section, will not be exceeded by the addition of the facility and the facility will be generating steam in place of

(i) A non-jurisdictional unit. In the case of proposed units which would be non-jurisdictional because of size, it must be demonstrated that it is reasonable to construct units of the size proposed; or

(ii) An existing or an exempted unit which is less than 40 years old in the case of a field erected unit or less than 20 years old in the case of a package unit, which will be shut down if this exemption is granted. Units deemed by ERA to be capable of burning alternate fuels may not be included for purposes of this subparagraph; or

(iii) The facility is generating steam which would otherwise require the construction of a new jurisdictional unit or an existing unit capable of burning alternate fuels if a reasonable demonstration is made that the facility would be eligible for a permanent exemption * * *

Draft Regulatory Analysis for Powerplant and Industrial Fuel Use Act Cogeneration Exemption

August 1980.

Table of Contents

I. Introduction
II. Fuel Use Act Cogeneration Alternatives
A. No Specific Cogeneration Exemption
B. Public Interest
C. Energy Efficiency
D. Inability to Use Alternate Fuel
E. Oil and Gas Savings
F. Statewide Cogeneration Capacity Limit
G. Proposed Approach
H. Electric Generating Unit
III. Impact of Statewide Cogeneration Capacity Limit Alternative
A. National and Regional Impact
1. Potential for Displacing Oil or Gas in States
2. Estimated Market Development for Cogeneration
3. Initial Cogeneration Electric Capacity Limits
4. State Energy Limits
B. Impact on Individual Industries and Competition
C. Impact on Levels of Government
D. Impact on Demographic Groups
E. Other Costs and Benefits

I. Introduction

ERA believes that cogeneration must be examined in light of the following attributes.

- Cogeneration performs both the functions of an industrial facility and a powerplant.
- Cogeneration offers the potential for efficient energy use.
- Many institutional barriers currently exist to widespread use of cogeneration.

To take advantage of the attributes of cogeration and to address the concern that cogeration development might deter the planning and development of new alternate fuel-fired baseload electrical generating capacity, ERA is propsing an approach under the Fuel Use Act (FUA) that encourages cogeneration in a context of oil and gas savings without deferring new alternate fuel fired capacity.

The more efficient use of oil and gas through cogeneration is consistent with a goal of FUA "to * * * minimize the use of natural gas and petroleum as a pimary energy source * * *"

In addition this rule proposes to clarify an ambiguity in the definition of electric generating unit which may present a bar to development of cogeneration.

As discussed below, ERA has several broad generic options for treating the permanent exemption for oil and natural gas use by cogenerators.

II. Fuel Use Act Cogeneration Alternatives

A. No Specific Cogeneration Exemption

ERA could conceivably not implement the discretionary cogeneration exemption, arguing that other remedies are available under FUA. ERA rejects this approach as the Act specifically provides an exemption based on the "economic and other benefits" of cogeneration. ERA believes that such an exemption must be provided.

B. Public Interest

Cogeneration is subject to many institutional barriers. ERA believes that demonstrations of oil/gas cogeneration that would eventually lead to widespread efficient use of alternate fuels to satisfy energy needs would be in the public interest. ERA believes other examples of public interest would be restoration of inner cities and other key national goals.

C. Energy Efficiency

One possible of cogeneration could be granting exemptions solely on the basis of efficient energy use. Thus the regulation would set some threshold, say "sixty percent Btu efficiency"—granting cogeneration solely on those grounds.

ERA believes that energy efficiency is only one aspect that should be considered in granting exemptions. Other aspects include the type of fuel which is being consumed and whether the fuel is oil and natural gas, coal and other renewable and non-renewable fuels.

D. Inability To Use Alternative Fuel

Two possible criteria for granting cogeneration exemptions are demonstrations that:

- Alternate fuel cannot be used in a candidate cogenerator.
- Alternate fuel cannot be used to replace the industrial and powerplant fuctions of the candidate cogenerator.

ERA believes that FUA specifically provides for a cogeneration exemption and that this approach could negate an independent meaning for the cogeneration exemption since applicants would first be required to demonstrate the non-applicability of alternate fuels for the cogenerator on the basis of cost, environment, lack of alternate site, etc.

E. Oil and Gas Savings

A possible criterion for granting the cogeneration exemption is a demonstration that oil and gas would be saved by the proposed cogenerator. This efficient use of oil and gas is constrained by the requirement that it not displace alternate fuel use.

Determination of net oil and gas savings requires examination of both the industrial and powerplant function of the cogenerator. The industrial examination can be comparatively straightforward. If the proposed oil/gas fired cogenerator replaces units not subject to FUA—such as a small industrial unit or an existing unit not capable of using an available alternate fuel—oil/gas savings can be directly attributable to the cogenerator. However, if the proposed cogenerator would replace a new jurisdictional unit or alternate fuel capable existing unit, qualification for another exemption for the industrial unit which would be replaced by the cogenerator would be required in order for any oil/gas savings to be attributed to the industrial side.

Oil/gas savings from the powerplant function of the cogenerator would be very unlikely in areas where oil/gas provide only peaking electrical generation. In certain geographic regions using oil/gas for baseload electrical generation, the oil/gas savings impact of cogenerators is far more complex and involves the impact of the cogenerators themselves on long term capacity development plans by utilities. In addition, cogeneration may achieve oil/gas savings as part of an integrated system which are not readily apparent on a unit by unit basis.

ERA has two serious problems with the oil/gas displacement approach: (1) As discussed above it fails to provide an easily administered mechanism adapted to all georgraphic regions and (2) it fails to recognize adeuately that often oil/gas savings must be examined in terms of system-wide use of facilities and not simply on a unit by unit basis.

F. Regional Specific Treatment

Another approach can be constructed which accounts for specific regional differences in energy use yet maintains the overall framework of oil/gas savings. This approach involves the following steps:

(1) A specific oil/gas cogeneration limit is established within each state using oil/gas intensively for electrical generation.

(2) State officials designate qualified cogeneration units within the limit;

(3) Individual firms outside the state limit could apply if they demonstrate net oil savings.

ERA believes that allocating quantities of cogeneration exemption as part of a pragmatic, workable oil/gas reduction plan would be workable and effective. To this end this mechanism allows the state and its industries flexibility as part of an achievable oil/gas reduction effort. This approach recognizes regional differences by setting cogeneration limits subject to adjustment. In addition, the approach is flexible. It allows an individual firm to apply for an exemption if the cogeneration limit has been reached and negotiations have not sufficiently progressed to expand that limit.

G. Proposed Approach

ERA proposes in this rule to grant cogeneration exemptions on either a public interest grounds as discussed in section B above or as part of the Regional Specific Treatment discussed in section F.

H. Electric Generating Unit

ERA is concerned that an ambiguity in the definition of cogenerating unit may impede the development of cogeneration for both new units and as an energy efficient modification to existing industrial units.

Under the FUA rules currently in effect, an existing gas-fired industrial unit which elects to cogenerate could be classified as a powerplant. Since existing powerplants are subject to prohibition on increased gas use and must be off gas by 1990, this ambiguity could effectively discourage an energy efficient investment in cogeneration.

Furthermore, under the present rules new industrial facilities may be classified as powerplants if they happen to sell or exchange more than 50% of their electrical output—irrespective of whether the electrical output, itself, is a large or small fraction of the units total useful energy output.

To remedy this situation, ERA is proposing alternatives to clarify the definition of electric generating unit.

If ERA adopts a standard which classifies additional cogenerators as MFBIs, those new units which are combined cycle, turbine or internal combustion engines are not presently subject to prohibitions by rule. ERA believes the economics of cogeneration will then determine whether these cogenerators would be built, although ERA could prohibit individual cogenerators from using oil or gas on a case-by-case basis or by future rulemaking.

III. Impact of Statewide Cogeneration Capacity Limit

A. National and Regional Impact

In order to determine what initial limits should be placed on the development of cogeneration capacity in states consider two factors:

- The amount of oil/gas that can be displaced by the cogeneration.
- The amount of cogeneration that might potentially be put in operation.

One these figures are established by the state, it is possible to establish an initial limit that will allow gas/oil saving cogeneration to proceed while minimizing the risk that alternate fuel-fired electrical generating capacity will be deferred because of the availability of the cogeneration capacity. These initial limits will define the initial geographic impact of the oil/gas savings.

Below is a brief description of the analysis and results of oil/gas savings potential of oil- and gas-fired cogeneration. Following that is the estimate of the potential market for cogeneration in the states using oil/gas intensively for baseload generation.

1. *Potential in States and Regions for Displacing Oil or Gas via Oil- or Gas-Fired Cogeneration.* ERA has performed calculations to estimate the maximum number of megawatts of oil- or gas-fired cogeneration that could be added in each state (or interconnected region) subject to the requirement that each additional megawatt result in a net lifetime savings of oil and gas. The analysis is based on the following key assumptions:

1. Adequate measures have been taken to assure that the addition of cogeneration does not cause new utility powerplants burning alternate fuels to be delayed or cancelled.

2. A typical cogenerator operates at full capacity during all hours of the year, except for occasional outages.

3. A typical cogenerator's incremental heat rate (i.e., the additional fuel used to produce electricity, beyond the amount that would have been required to meet the non-electric energy requirement) is about half the heat rate of an oil- gas-fired powerplant (that is, 5,000 to 5,500 Btu/kWh as compared to 10,000 to 11,000 Btu/kWh). Therefore, there is a net annual savings of oil or gas if the utility system's marginal (or incremental) fuel is oil or gas at least half the time.

Generally, as more cogeneration is added, the fraction of the hours when a utility's incremental generating unit will be oil- or gas-fired will decrease. The number of megawatts of cogeneration that could be added before oil/gas savings disappear was estimated for each state based on projected 1988 utility capacity and oil/gas use (using National Electric Reliability Council (NERC) projections).

In effect, the analysis simply estimated the amount of utility oil- or gas-fired capacity that would still be operating more than 50 percent of the time in 1988. Only by replacing this oil or gas fired capacity can the typical baseload cogenerator, with twice the incremental efficiency of a conventional powerplant, produce a net savings of oil or gas.

Based on the analysis, only six states and the New England states are expected to still have enough oil/gas generating capacity by 1988 so that oil/gas savings can be achieved by adding oil/gas cogeneration. In order of megawatts of displacement oil/gas capacity, the states are Texas, Florida, California, Louisiana, New York, New England states and Alaska. A few other states are borderline cases (Kansas, Oklahoma, Arkansas, Mississippi and the PJM pool (Pennsylvania, New Jersey, Maryland, Delaware and Washington, D.C.)) and all other states have oil/gas capacity so low that there will be little likelihood that a baseload oil/gas cogenerator could cause net savings of oil and gas (See Table 1, Statewide Energy Limit, for the cogeneration capacity displacement figures).[1]

2. *Estimated Market Development for Cogeneration.* The second factor needed to determine an appropriate initial limit for cogeneration development was the estimate of total cogeneration capacity that might be developed. Estimates were made (see Table 1, Column 2) for each of the states mentioned above where potential existed for oil/gas savings through displacement of oil/gas generated electricity. The estimates of potential cogeneration development take into account the various technical, economic and institutional constraints on cogeneration development. Three steps were taken to derive the estimates:

(a) The technically suitable market was determined,

(b) The economically attractive market was determined, i.e., where return-on-investment is high enough to warrant investment, and

(c) The fraction of economically attractive market for oil- and gas-fired cogeneration was determined.[2]

3. *Initial Cogeneration Electric Capacity Limits.* ERA proposes to establish the initial pre-negotiation Congeneration Electric Capacity Limits to be one-third of the lesser of (i) the oil- or gas-fired electric generating capacity which cogeneration could ultimately displace (Table 1, Column 1), or (ii) the amount of oil- or gas-fired congeneration electric generating capacity that would be expected to be developed in the states during the 1980's, if such development were unrestricted by FUA (Table 1, Column 2). One third (Table 1, Column 3) appears large enough to accommodate exemption petitions likely to be received in the immediate future, but would not provide an incentive for the states to defer alternate fuel-fired capacity.

4. *State Energy Limits.* The Cogeneration Electric Capacity Limit described above (and given in Table 1, Column 3) presents the existing oil/gas electric utility system capacity which could be replaced by oil- or gas-fired cogeneration without displacing new alternate fuel-fired electric generating capacity.

An overall State Energy Limit for cogenerators can be developed based upon the Cogeneration Electric Capacity Limit (see Table 1, Column 4). Assuming the typical cogenerator is 42.5% efficient (FERC efficiency standard for topping cycle) and the cogenerator produces 45% electric output compared with useful thermal output, one megawatt of cogeneration electrical capacity is equivalent to 16.9 million Btu/hr. of energy input. On a full year this is equivalent to 1.48×10^{11} Btu/yr. or about 24,700 barrels of oil equivalent to 1 year.

[1] For a full description of the analysis of oil/gas displacement by oil/gas-fired cogeneration, see the following document *Potential in States and Regions for Displacing Oil or Gas via Oil- or Gas-Fired Cogeneration* May, 1980, on file in Room B-110, 2000 M Street, N.W., Washington, D.C.

[2] For a full description of the cogeneration market development estimates see the document *Market Development of Oil- and Gas-Fired Cogeneration Installations in Selected States Between 1980 and 1990* May, 1980, on file in Room B-110, 2000 M Street, N.W., Washington, D.C.

B. Impact on Individual Industries and Competition

The impact upon individual industries will depend to an extent on the method of allocation of cogeneration capacity by the states. There is no basis at this point to assume that any particular industry will be favored or disadvantaged by the granting of cogeneration exemptions.

With the allocation of any scarce resource (in this case limited cogeneration capacity) it is possible that the recipients may receive some marginal competitive advantage. For example, if a state were to favor new or expanding industry versus replacement investment in its allocation of cogeneration capacity, it is possible that some marginal cost advantage could be obtained by the new facilities.

C. Impact on Levels of Government

There should be no particular impact on any level of government beyond the administrative effort required of states that receive a cogeneration capacity allocation.

D. Impact on Demographic Groups

There should be no particular impact on any demographic group. As described previously, the impact of cogeneration will be geographic because of the potential to save oil and gas in states with substantial oil- and gas-fired baseload electrical generation.

E. Other Costs and Benefits

The primary benefit achieved through cogeneration is the increased efficiency in oil use, i.e., the same amount of electricity and steam generation is obtained with less oil use. Below is an estimate of initial oil savings if cogeneration systems were installed in those states and regions specified as heavy oil and gas users. The following is assumed:

- Cogeneration accounts for the equivalent of 1312 Megawatts (the initial cogeneration allocated to the states).
- Baseload oil- and gas- burning powerplants have a heat input rate of about 10,500 Btu's/kWh and cogeneration systems a marginal heat rate of 5,250 Btu's/kWh; this yields an efficiency factor of 5,250 Btu/kWh for cogeneration.
- The baseload system capacity factor is assumed to be .7 and operation occurs 8760 hours/year.
- 6.5 million Btu's in a barrel of oil.

Estimated Oil Savings in Btu's = (MW Capacity × Capacity factor × Hours/Year) × 5250 Btu's/kWh × 1000 = (1312 × .7 × 8760) × 5250 × 10^3 = 42,237 × 10^9 Btu's/year

Estimated barrels/year saved = 6,500,000 bbls

Estimated barrels/day saved = 17,800 bbls

To the extent that inefficient oil use can be displaced, there will be a lessening of demand for oil although not as great as if the inefficient oil use were displaced by alternate fuel use other than oil or gas.

Another benefit of the cogeneration strategy described in the Notice of Proposed Rulemaking is that states that receive a cogeneration capacity limit will have some control over implementation of their state policy on cogeneration.

Another benefit is the reduced administrative burden on facilities. Facilities that seek an exemption to use cogeneration in those states with a cogeneration capacity limit will not be required to submit a demonstration of oil and gas savings.

A cost incurred if the cogeneration strategy is implemented is the additional administrative effort required by states with cogeneration capacity limits.

[FR Doc. 80-24007 Filed 8-8-80; 8:45 am]
BILLING CODE 6450-01-M

V 45 AG 11 80 UMI

federal register

Monday
August 11, 1980

Part VII

Environmental Protection Agency

Municipal Wastewater Treatment Works; Construction Grants Limitations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 1524-7]

Municipal Wastewater Treatment Works; Construction Grants Limitations Provided by Section 316 of the Clean Air Act; Policy and Procedures

AGENCY: Environmental Protection Agency.

ACTION: Notice of policy and procedures memorandum.

SUMMARY: The purpose of the following memorandum is to set forth policy and procedures for implementing the municipal wastewater treatment works construction grants limitations provided in section 316 of the Clean Air Act, as amended (Pub. L. No. 95–95). Section 316 of the Clean Air Act allows the Administrator of the Environmental Protection Agency (EPA) to withhold, condition or restrict municipal wastewater treatment works construction grants funded under section 201 of the Clean Water Act (Pub. L. No. 95–217) in areas where the state implementation plan (SIP) has not been approved or conditionally approved, is not being implemented, or does not provide for the increased air pollution emissions resulting directly or indirectly from the proposed treatment works.

DATE: The section 316 policy is effective August 11, 1980.

FOR FURTHER INFORMATION CONTACT:

Cary B. Hinton, Office of Transportation and Land Use Policy (ANR–445) Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755–0570; or

Roger Rihm, Office of Water Program Operations (WH–595), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755–8056.

SUPPLEMENTARY INFORMATION:

Background

This notice announces final EPA policy and procedures for determining whether any limitations on federal assistance for the construction of sewage treatment works under the Clean Water Act [33 U.S.C. et seq.] are necessary to implement section 316 of the Clean Air Act [42 U.S.C. 7616].

EPA published its intent to develop policy and procedures under section 316 in the **Federal Register** on July 2, 1979 (44 FR 38575). Public comments were requested within 30 days of this notice. All comments that were received, including those received after this deadline, have been reviewed and considered in the development of the final policy and procedures.

The basic elements of the section 316 policy include:

- Assuring compliance of new sewage treatment works with the new source performance standards (NSPS) and the national emission standards for hazardous air pollutants (NESHAPS).
- Withholding construction grants in areas where states have not made good faith efforts to submit or carry out a SIP revision.
- Reconciling population projections used for air and water quality planning to ensure that SIPs provide an accurate accounting of the increased indirect emissions associated with new sewage treatment capacity.
- Withholding portions of construction grants for major growth-related projects in attainment areas, based upon case-by-case determinations by the EPA Regional Administrators in the following situations:

—Where the emissions associated with the project will contribute to the violation of any national ambient air quality standard (NAAQS).

—Where the SIP and water quality planning population projections are inconsistent.

Portions of the grants that fund increased capacity will be withheld until the governor is notified of the need to accommodate any unaccounted emissions in a SIP revision or the grant applicant adopts a mitigation program.

- Consulting with adjacent states to prevent the increased emissions associated with new sewage treatment capacity from interfering or being inconsistent with any other SIP.

The policy and procedures will provide EPA and the states with a mechanism for insuring that the provisions of section 316 are applied consistently nationwide in areas that are not attaining all NAAQSs or that are subject to the requirements for the prevention of significant deterioration (PSD) of air quality. EPA announces elsewhere in this **Federal Register** that it is considering revising the municipal wastewater treatment works construction grants regulations and/or the regulations to implement the National Environmental Policy Act (NEPA) to include provision for the requirements of section 316.

Response to Comments on Proposed Policy

On July 2, 1979 EPA published in the **Federal Register** and advance notice of interim policy and procedures to implement section 316. The notice included a copy of the June 8, 1979 memorandum to the Regional Administrators from David G. Hawkins, EPA Assistant Administrator for Air, Noise, and Radiation and Thomas C. Jorling, former Assistant Administrator for Water and Waste Management. The memorandum announced EPA's intent to implement section 316 by developing policy and procedures and initiating revisions to the construction grants regulations. The notice requested public comment on a recommended approach that would serve as a basis for both of these actions. EPA received 23 comment letters and 30 comments from the toll free telephone "hotline" in response to this notice. As a result of the comments, numerous changes were made to improve the section 316 policy and procedures. The following is the response to the substantive comments made on the recommended approach for implementing section 316:

1. Request for expanded comment procedures.

Several commenters requested an extension of the comment period beyond the August 1, 1979 (or 30-day) limit. No formal extension of the comment period was made, but because the final policy did take several additional months to complete, comments that were received as late as May 7, 1980 were considered. One commenter recommended that EPA establish a national advisory task force to assist in the development of the section 316 policy. Although EPA did not establish such a task force, at the request of several private and public interest groups EPA did provide briefing meetings during the course of the development of this policy.

2. Revised regulations needed before issuance of section 316 policy.

The advance notice indicated that EPA was considering the development of both regulatory revisions and policy and procedures to implement section 316. One commenter questioned why EPA would issue policy and procedures before it had promulgated regulations. EPA believes that it has already promulgated the necessary regulatory framework for the review of the air quality impact of sewage treatment works. Existing requirements in both EPA's municipal wastewater treatment works construction grants regulations (40 CFR 35.925–14) and EPA's regulations to implement NEPA (40 CFR 6.506)require a review of the air quality impact of proposed sewage treatment works. This policy provides guidance to implement these existing regulatory requirements. In addition, as indicated elsewhere in this **Federal Register**, EPA is initiating rulemaking to revise its construction grants regulations and/or its regulations implementing NEPA. Such revisions would both better inform grant applicants of their responsibilities and facilitate EPA's implementation of this policy.

3. Allow state policy to supersede EPA section 316 policy.

One respondent requested EPA to allow a functionally equivalent (but different) state policy on section 316 to supersede EPA's policy. Although EPA believes that the cooperation of the states is essential to the effective long-term implementation of section 316, it finds that the delegation of its authority to individual states is inadvisable. Implementation of section 316 is a part of the Administrator's responsibilities to approve, conditionally approve, disapprove and promulgate SIPs. The revised policy notes that there are significant state responsibilities to ensure the effective implementation of section 316 requirements.

4. Provide general exemptions to the policy and procedures.

A few commenters requested that EPA provide more general exemptions for construction grant applicants to the section 316 policy and procedures. Two commenters suggested that applicants for facility design (step 2) and facility construction (step 3) grants should be exempted to avoid seriously impeding the water pollution clean-up efforts of the construction grants program. Although some construction grants in a limited number of areas may be delayed, EPA believes that the efforts to clean the nation's waters will not be imperiled. The clear intent of Congress through the enactment of section 316 is that EPA should not fund the construction of sewage treatment works that will induce increased air pollution until the new emissions are provided for in an adequate SIP or are otherwise mitigated. One commenter requested that since facility planning (step 1) grants were for planning purposes and would not contribute to increased air pollution they should be exempted from the provisions of this policy. EPA believes that it is most appropriate for grantees to consider the provisions of the section 316 policy during the facility planning phase, rather than increasing the potential for step 2 or step 3 grant approval delays. In addition, EPA finds that the section 316 compliance requirements for step 1 grantees are consistent with the existing air pollution assessment and mitigation requirements of the construction grants program. (The basic elements of these requirements are outlined in Attachment A to the section 316 policy.)

To avoid conflict with the purposes of the construction grants program, some commenters suggested that EPA exempt proposed sewage treatment works from the provisions of the section 316 policy in areas where water pollution problems are more serious than air pollution problems. Although it is unnecessary to provide this exemption in all areas, EPA does believe that a case-by-case exemption should be allowed in certain nonattainment areas even if the 1979 SIP revisions required by Part D of the Clean Air Act have not been approved or conditionally approved and the state is not making reasonable efforts to submit the SIP. Therefore, the section 316 policy has been revised to allow the Regional Administrator to exempt municipal wastewater treatment works construction grants from the grant withholding provisions of this policy when the project is needed for immediate public health needs and would not expand capacity by more than one million gallons per day (mgd). Another revision to the section 316 policy provides that construction grants will not be withheld for those projects which are designed to improve treatment capability without expanding treatment capacity to provide for future growth.

5. Section 316 policy and procedures should not apply to attainment areas.

One commenter believed that in attainment areas section 316 only requires the control of increased emissions resulting directly from sewage treatment works which are classified as major pollution sources. According to the commenter, the policy should not require the control of increased indirect emissions in attainment areas. EPA finds that this is an incorrect reading and interpretation of section 316(b). States are explicitly required by section 316(b)(2) to have and carry out an EPA approved SIP that provides for the increased emissions of each air pollutant from stationary and mobile sources which may be reasonably anticipated to increase because of new sewage treatment capacity in both attainment or nonattainment areas.

6. Demonstration of facility compliance with NSPS and NESHAPS requirements.

One commenter noted that it is not possible for a construction grant applicant to demonstrate compliance with all federal (NSPS and NESHAPS) and state emissions standards prior to the award of a step 2 grant. The demonstration of standards compliance requires facility design work which must be done in the step 2 design phase. EPA has modified this requirement in the revised policy to clarify that EPA's intent is that the step 2 grantee will include appropriate design criteria to comply with NESHAPS, PSD and state emission requirements before the step 3 grant award and the NSPS requirements prior to facility operation. Another commenter suggested that EPA should require the states to define an allowable amount of direct emissions from new sewage treatment works as a percentage of the SIP's total areawide stationary source emissions projection. EPA currently requires all SIPs for nonattainment areas to either accommodate or offset the increased emissions from all new or modified major and nonmajor stationary sources. However, EPA believes that the allocation of the growth of emissions within a nonattainment areas is clearly a state responsibility and is not a matter to be prescribed by EPA.

It was suggested by one respondent that EPA should mention in the policy that sludge incinerators which are designed to recover energy are exempted from the nonattainment requirements under EPA's emission offset interpretive ruling (44 FR 3276). EPA has not highlighted this exemption in the section 316 policy because the offset ruling applies in only limited circumstances after July 1, 1979. Some states have adopted that provision of EPA's offset ruling in their SIPs and in these instances there is a narrow exemption provided for resource recovery facilities which burn municipal sludge. New resource recovery facilities that burn sludge are exempted from EPA's offset policy only under the following conditions: (1) the applicant makes the best efforts to obtain sufficient offsets to comply with the conditions of the policy and is unsuccessful, (2) the applicant has secured all available emissions offsets, and (3) the applicant will continue to seek the necessary emission offsets and apply them when they become available. This exemption does not affect the requirements for compliance with NSPS or NESHAPS.

7. Revise threshold criteria for determining section 316 policy compliance of construction grant applications.

Several commenters found that the total flow capacity threshold of one mgd was too low. Others said it was too high. Several claimed that the use of an interceptor diameter threshold was irrelevant. Other commenters found the population growth ratio to be either too low or too high. To provide greater administrative flexibility EPA has modified these threshold criteria for the section 316 policy to allow for greater

The policy has been revised to

provisions in section 316, or anywhere

12. Emissions mitigation program

discretion by the Regional Administrators in the review of new construction grant applications. In areas with approved, conditionally approved or promulgated SIPs the Regional Administrator will conduct a mandatory review of all grant applications for the construction of sewage treatment works which will increase capacity in excess of ten mgd. At the discretion of the Regional Administrator, any grant application for a facility that will increase capacity in excess of one mgd may also be reviewed, if there is a possibilty that the increased indirect emissions associated with the facility may not conform to the SIP's provision for demonstrating reasonable further progress (RFP) towards attainment of all NAAOSs by the required date.

8. Oppose withholding construction grants under any circumstances.

There were six comments that opposed the withholding of construction grants under any circumstances. A few commenters believed that the withholding of construction grants would unfairly emphasize air pollution considerations over water pollution problems. Others simply believed that the withholding of grants would seriously imperil the national housing industry. As previously noted, EPA has revised the section 316 policy to allow some exemptions to the provisions for withholding grants when the sewage treatment works are needed to take care of an existing water pollution problem which endangers public health and would not expand capacity by more than one mgd. In addition, the policy would exempt from the grant withholding provisions those projects which improve treatment capability but would not expand treatment capacity for future growth. EPA recognizes that, as a by-product of this policy, in a limited number of nonattainment areas there may be a delay of some new housing construction due to the lack of sufficient excess sewage treatment capacity. Based upon the progress that the States are making to submit and implement approvable SIPs, EPA does not believe that the grant withholding provisions of this policy will seriously impact the national housing industry.

A few commenters believed that EPA misinterpreted the basic intent of Congress in section 316. They believed that section 316 created a mechanism to impose a sanction against states to assure the submittal and implementation of adequate SIPs. Because it is the responsibility of the states to develop, submit and implement the SIPs, these commenters believed that Congress did not intend that individual construction grant applicants should be penalized by the withholding of funds or the imposition of new review and mitigation requirements. The simple construction of section 316 only allows the Administrator to withhold, condition or restrict construction grants for sewage treatment works "which the Administrator is authorized to make to any applicant." Section 316 specifically refers to "any applicant" and "any grant." Therefore, the provisions apply to all eligible grant applicants under the construction grants program including municipal, intermunicipal, state, and interstate agencies (40 CFR 35.920–1). EPA does not believe that the intent of Congress was to limit the application of the section 316 provisions only to those construction grant applications submitted by state agencies. To the contrary, EPA believes Congress intended that the increased emissions resulting directly or indirectly from all EPA funded sewage treatment works would be mitigated and provided for in an EPA approved, conditionally approved or promulgated SIP.

EPA also believes that the provisions of section 316 apply to all steps of the construction grants program, established pursuant to section 201 of the Clean Water Act. Section 212(1) of the Clean Water Act defines the construction process, as used in Title II of the Clean Water Act, Grants for Construction of Treatment Works, in a manner which clearly includes activities which are funded by step 1, and step 2, as well as step 3 grants. EPA's construction grants regulations (40 CFR 35.900 et. seq.) also refer to construction as all three steps of the sewage treatment works development process.

9. Request for public hearings when construction grants withheld.

One commenter requested that EPA hold public hearings whenever it decides to withhold a construction grant award pursuant to the provisions of the section 316 policy. Although public comments on construction grant withholding actions may be useful, EPA believes that individual public hearings would be an excessive administrative requirement. EPA has decided that the best opportunity for public comment would be provided in conjunction with the public notification and review procedures, established pursuant to section 176(a) of the Clean Air Act, for limiting federal assistance for air quality and transportation related activities. The section 176(a) procedures (45 FR 24692) provide a 30-day public comment period after EPA has published in the **Federal Register** its finding that a state has failed to submit, or is not making reasonable efforts toward submitting, a revised SIP as required by Part D of the Clean Air Act. After considering the public comments, EPA will publish the final section 176(a) finding in the **Federal Register**. In accordance with the provisions of the Section 316 policy, EPA will begin withholding the approval of construction grant applications for those areas included in the proposed notice when the final section 176(a) finding is published. Removal of this limitation from an area will be after EPA proposes the action in a **Federal Register** notice, provides a 30-day public comment period and publishes final action. Normally, this can be done at the same time EPA proposes and finalizes approval of the SIP revision. Although it can also be done when reasonable efforts have been demonstrated, absent an approvable SIP, removal of funding limitations on this basis will be done only in rare cases.

10. Construction grant reviews to determine if increased indirect emissions provided for in the SIP are unreasonable.

Three commenters believed that assessment of the amount of increased emissions that are indirectly induced by new sewage treatment capacity is not technically feasible. The air pollution impact of new growth has routinely been assessed by state, regional and local air quality management agencies for several years. The assessments of increased indirect emissions from new sewage treatment works which have occurred in recent years demonstrate that there are existing techniques that are feasible for undertaking this task. In 1978, EPA's Office of Air Quality Planning and Standards published two reports: *Growth Effects of Major Land Use Projects (Wastewater Facilities) Volume I: Model Specification and Causal Analysis* (EPA Report No. 450/3–78–014a, March 1978) and *Volume II: Summary, Predictive Equations and Worksheets* (EPA Report No. 450/3–78–014b, May 1978) which document a modeling technique for conducting this assessment. In addition, EPA's Office of Transportation and Land Use Policy will soon publish "Air Quality Reviews for Wastewater Management Facilities: A Guidebook on Procedures and Methods." This publication will present a review of alternative modeling and impact assessment techniques and alternative mitigation measures.

Another respondent believed that the air pollution impact review at each step of the construction grant process would duplicate the step 1 environmental assessment requirements included in EPA's regulations to implement NEPA. The policy has been revised to emphasize that the assessment of increased indirect emissions should occur during the step 1 facility planning phase. EPA believes that a step 1 grantee should be able to complete this assessment as a part of the environmental information document, prepared pursuant to EPA's NEPA regulations, which must be submitted along with the facility plan.

One commenter felt that it is not the responsibility of a grant applicant to assure that the increased indirect emissions associated with a facility are included in a SIP. Four others believed that the grantee does not have the responsibility to offset or mitigate the increased indirect emissions associated with a sewage treatment works. Section 316 is clear in its requirement that the increased indirect emissions from a new sewage treatment works must not be greater than those provided for in the SIP. EPA concurs with the commenters that believe it would be unreasonable to delay the approval of a construction grant until a SIP revision has been approved which accommodates the increased emissions. Therefore, EPA has revised the policy to provide an opportunity to approve construction grants when either the governor is notified by EPA to revise the SIP to accommodate the increased emissions, or the grantee commits to implement an adequate emissions mitigation program.

EPA believes that the increased indirect emissions will usually be accommodated in a SIP revision. The notification to the governor that a SIP revision is necessary to accommodate the increased indirect emissions should generally ensure that corrective actions will be taken. EPA may invoke the funding limitations pursuant to section 176(a) and section 316 if the SIP revision is not submitted or is found inadequate. In a limited number of cases, however, it may be preferable to require the grant applicant to submit an emissions mitigation program. The use of a mitigation program will effectively mean that the increased indirect emissions should be reduced to the point where they will not endanger the SIP's provisions for demonstrating RFP towards attainment of all NAAQSs by the required date.

Another commenter suggested that EPA should require the states to include project lists in the SIP to indicate that the increased indirect emissions have been provided for in the SIP. Although the states may include lists of planned sewage treatment works, which have increased indirect emissions that are provided for in the SIP, there are no provisions in section 316, or anywhere else in the Clean Air Act, which authorize EPA to make this a mandatory SIP requirement. In those cases when a state includes a project list in the SIP, EPA will still have to verify that the projected increased indirect emissions associated with the facility at the time of grant application are consistent with the amount of emissions that were assumed to be provided for in the SIP.

11. Use of consistent population projections places an unfair burden on the grantee.

One commenter questioned the significance of the relationship between population projections and increased air pollution induced by new sewage treatment capacity. EPA believes that there is an implicit accommodation of new growth, and mitigation of increased emissions, when the population projections on which the SIP, 208 state and areawide water quality management plans and 201 facility plans are based can be determined to be consistent. This consistency implies that the air pollution associated with the residential, commercial and minor industrial growth resulting from the new treatment capacity will not exceed the SIP's projection of areawide stationary and mobile source emissions which must be reduced to attain the NAAQS.

Several commenters found that if the population projections are inconsistent then it would be in appropriate for the grant applicant to seek their reconciliation. EPA has concurred with this viewpoint, and on January 15, 1980 directed the Regional Administrators to carry out this responsibility. Several commenters also believed that when the population projections are inconsistent EPA should not place a hook-up restriction in the grant award and the national pollutant discharge elimination system permit. One commenter suggested that use of a mitigation program would be fairer and more effective. The section 316 policy has been revised to provide the opportunity for this recommended approach. Three commenters recommended that when EPA finds the population projections to be consistent grantees should not have to commit to support the implementation of all SIP measures because this may exceed their authority. EPA concurs with this recommendation and has deleted this requirement from the section 316 policy. However, EPA cautions those grantees that also have specific SIP implementation responsibilities to carry them out in order to avoid any future withholding or delays in the award of construction grants in their area.

12. Emissions mitigation program requirements are excessive.

Four commenters believed that the emissions mitigation program requirements outlined in the recommended approach were excessive because many grant applicants lack the authority to implement the mitigation measures. EPA has modified the mitigation program requirements in the section 316 policy to respond to these concerns. The mitigation measures may now be adopted through an intra-municipal or inter-municipal agreement. This allows single purpose wastewater management agencies to work with multi-purpose units of government that service the same areas to develop and implement the mitigation program.

EPA also modified the emissions mitigation program requirement that the appropriate mitigation measures would have to be incorporated within the SIP. The program requirements now provide that the grantee will request a SIP revision to incorporate the adopted mitigation program. And, as previously noted, EPA has deleted the requirement for a commitment to implement the SIP measures over which the grant applicant has no control.

One commenter requested that EPA delete the required commitment to monitor and report on the implementation of all mitigation measures because this is actually the reponsibility of the state and EPA, and not the grantee. EPA has not deleted this requirement because we believe it to be consistent with a provision of our NEPA regulations (40 CFR 6.509(a)) and necessary to judge the eligibility of the grantee for future construction grant awards.

13. Provide guidance on cost-eligible items.

Two commenters requested that EPA provide guidance in the policy on whether the correction of SIP deficiencies or the development and implementation of the emissions mitigation program are cost-eligible items. Section IV of the policy provides a description of the allowable project costs associated with the implementation of the section 316 policy. This description is consistent with the existing construction grants program regulations (40 CFR 35.940).

The Administrator has determined that the section 316 policy is nationally applicable and is based on determinations of nationwide scope and effect. EPA intends that, for purposes of judicial review, the interpretations made by this notice be treated as severable.

V 45 A G 1 1 1980 UMI

Issued on: July 23, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

On July 23, 1980, the EPA Administrator sent the following memorandum:

Memorandum

To: Regional Administrators, Regions I–X.
Subject: Policy and Procedures to Implement Section 316 of the Clean Air Act, as Amended.

I. Purpose

This memorandum establishes policy and procedures for the implementation of the sewage treatment works construction grants limitations provided under section 316 of the Clean Air Act, as amended (Pub. L. No. 95–95).[1] To further ensure the consistent nationwide implementation of the section 316 provisions, EPA has also initiated the development of revisions to the construction grants regulations. Section 316 allows the Administrator of the Environmental Protection Agency (EPA) to withhold, condition or restrict grants for the construction of sewage treatment works under the following situations:

- Where the treatment works will not comply with new source performance standards (NSPS) established under section 111 of the Clean Air Act or with national emission standards for hazardous air pollutants (NESHAPS) established under section 112 of the Act [316(b)(1)].
- Where, in a nonattainment area or an area subject to the requirements for the prevention of significant deterioration (PSD) of air quality, the state is not carrying out the state implementation plan (SIP) or there is not an EPA approved SIP that provides for the increase of each air pollutant that is reasonably anticipated to result either directly or indirectly from proposed new sewage treatment capacity [316(b)(2)].
- Where construction of the proposed treatment works will create new sewage treatment capacity that may reasonably be anticipated to cause or contribute to, directly or indirectly, an increase in emissions of any pollutant in excess of the increase provided for under the SIP [316(b)(3)(A)].
- Where the proposed new sewage treatment capacity will otherwise not be in conformity with the SIP [316(b)(3)(B)].
- Where the increased emissions associated with the proposed new sewage treatment capacity will interfere with, or be inconsistent with, the applicable implementation plan for any other state [316(b)(4)].

The implementation of this policy continues many existing efforts to reduce the direct and indirect air quality impacts of new sewage treatment works. The policy supplements existing guidance and provides procedures for the implementation of new EPA regulations. It provides guidance in fulfilling EPA's sewage treatment works construction grants regulatory requirement (40 CFR 35.925–14) that "the treatment works will comply with all pertinent requirements of the Clean Air Act." Background on other existing requirements of the construction grants program related to air quality impacts is included in Attachment A.

On November 6, 1979 EPA published in the **Federal Register** (44 FR 64174), the final rule to implement the procedural provisions of the National Environmental Policy Act (NEPA). Section 6.303 of these regulations establishes new procedures by which the Agency will incorporate into the environmental review process the determination of conformity of certain types of EPA actions with a SIP. This policy is designed to ensure that the emissions quantification, control and mitigation requirements for step 1 construction grants are implemented in consonance with EPA's procedures to implement NEPA.

II. General Provisions

Each Regional Administrator shall administer the construction grants program to ensure that the emissions that result directly or indirectly from the construction of new sewage treatment capacity conform to the requirements of the applicable SIP.[2] These requirements include the attainment and maintenance of the national primary and secondary ambient air quality standards (NAAQS) established for each air pollutant pursuant to section 109 of the Clean Air Act. The requirements also include those for the protection of air quality cleaner than the NAAQS. In addition, sewage treatment works must meet the emission limitations established under section 111 and section 112 of the Act.

The increased emissions associated with the location of a sewage treatment works or the expansion of treatment service in an attainment area must be provided for in the SIP as a component of the areawide and minor source growth rates that are applied to the annual increment for the pollutants (sulfur dioxide and particulates) regulated under current PSD regulations, pursuant to Part C of the Clean Air Act. The increased emissions associated with the expanded treatment capacity for an attainment area will also be subject to any future limitations established for PSD Set II pollutants (hydrocarbons, carbon monoxide, nitrogen oxides and lead). Development of regulations dealing with these pollutants has been initiated by EPA.

When the administration of the construction grants program has been delegated to the state, it will continue to be the responsibility of the Regional Administrator to ensure compliance with the provisions of this policy prior to the final EPA approval of any grant award.[3] To the greatest extent practicable, the Regional Administrator shall utilize EPA's environmental review procedures for the construction grants program to carry out the provisions of this policy. Nothing in these procedures amends or alters EPA's regulations (40 CFR 6.500) to implement the procedural requirements of NEPA as they apply to the sewage treatment works construction grants program. Any additional joint review procedures should be included as a component of the annual State-EPA Agreement. The responsibilities of EPA regional offices, states and construction grants applicants are summarized in Attachment B.

III. Construction Grants Award Limitations

A. Control of Direct Emissions

The Regional Administrator shall condition step 1 and step 2 grants for the construction of sewage treatment works that will have direct emissions (e.g., sludge incineration) to incorporate into the facility plan and design sufficient control techniques to meet the federal NSPS, NESHAPS and PSD requirements and other state emission standards contained in the SIP. Failure to comply with this condition will result in the grantee being ineligible for subsequent construction grant awards for these sewage treatment works.

The applicant for a step 3 grant for the construction of a sewage treatment works that will be a direct source of emissions shall obtain, prior to grant approval, all air pollution control permits from the EPA and state or local air pollution control agencies with regulatory jurisdiction over NESHAPS, PSD and the SIP. Failure to obtain permits will result in the withholding of the award of grant funds until the applicant can demonstrate or assure compliance.

B. Control of Indirect Emissions

1. In Areas Without Approved or Conditionally Approved SIPs

The Regional Administrator shall withhold all sewage treatment works construction grants in nonattainment areas where the 1979 SIP revision is not approved or conditionally approved *and* the state is not making reasonable efforts to submit the SIP.

In addition, if the Regional Administrator finds in the annual determination of reasonable further progress (RFP) that implementation of the SIP in a nonattainment area where the sewage treatment works would be located is not proceeding towards the attainment of all NAAQS, then all step 2 and step 3 construction grant awards in that nonattainment area will be withheld.[4]

The public notification and review for the withholding of any construction grants will be done using the procedures for making determinations pursuant to section 176(a) of the Clean Air Act, for withholding transportation and air quality funding.[5] Any determination made pursuant to these procedures is binding in EPA Board of Assistance Appeals dispute proceedings under 40 CFR Part 30, Subpart J.

Those grants for sewage treatment works which the Regional Administrator finds are needed for immediate public health needs and will not expand usable capacity by more than one million gallons per day (mgd) will not be withheld. In addition, construction grants will not be withheld for those projects which improve treatment capability, but would not expand treatment capacity for future growth.

2. In Areas With Approved, Conditionally Approved or Promulgated SIP's

The Regional Administrator shall condition step 1 construction grants in nonattainment, attainment, or unclassified areas to quantify the increase of indirect emissions associated with the proposed facility in the environmental information document and

include provisions for the control and mitigation of impacts in conformity with the requirements of the SIP. Failure of the grantee to comply with this condition will result in the grantee being ineligible for subsequent grant awards for that sewage treatment works.

The population projections for nonattainment areas on which the 1979 SIP revision is based are required to be consistent with those submitted by the state and approved by EPA in accordance with EPA's cost-effectiveness guidelines.[6] When the population projections from the 201/208 plan exceed the state or areawide projections in the SIP by more than five percent, the Regional Administrator shall choose one of the following actions when considering step 2 and step 3 construction grant awards for increased capacity where the increases will exceed ten mgd:

a. Notify the governor to revise the SIP to include reconciled population projections and adequate control measures to attain the NAAQS by the projected deadline and define the specific steps needed to be accomplished and the time by which they shall be completed; or

b. Withhold those portions of step 2 and step 3 construction grant awards for increased capacity until the grant applicant has adopted an adequate emissions mitigation program, as outlined in section 3.

When the state or areawide population projections are inconsistent by more than five percent and it is determined that the increased indirect emissions associated with the facility will not conform to the SIP's provisions for demonstrating RFP towards attainment of all NAAQS by the required date, the Regional Administrator may withhold step 2 and step 3 construction grant awards for increased capacity in excess of one mgd until the governor is notified to revise the SIP or the grant applicant adopts an adequate mitigation program.[7]

Prior to the award of the aforementioned step 2 and step 3 construction awards, the Regional Administrator shall verify through consultation with the appropriate state air pollution control or designated local lead agency or agencies for nonattainment planning that the increased indirect emissions will not interfere with, or be inconsistent with, the applicable SIP for any other state. When the Regional Administrator finds that the increased indirect emissions associated with the construction of a sewage treatment works will interfere with, or be inconsistent with, the applicable SIP for any other state, those portions of the grant award for increased capacity will be withheld until the governor of the state in which the facility will be located is notified to revise the SIP or the applicant adopts an adequate mitigation program.

Using data from the environmental information document, environmental impact statement or supplementary information provided by the grant applicant, the Regional Administrator shall determine whether the increased emissions associated with a sewage treatment works that will increase capacity in excess of ten mgd in an attainment or unclassified area will cause a violation of any NAAQS. When the Regional Administrator finds that the increased emissions will cause a standard violation, those portions of the grant award for increased capacity shall be withheld until:

a. The area that will be adversely impacted by the increased indirect emissions has been redesignated as a nonattainment area, pursuant to section 107(d)(1) of the Clean Air Act, and the Regional Administrator has notified the governor to revise the SIP for that area, in accordance with the requirements of Part D of the Clean Air Act; or

b. The grant applicant has adopted an adequate emissions mitigation program, as outlined in section 3.

3. Emissions Mitigation Program Requirements

As provided by this policy, the award of step 2 and step 3 construction grants may be conditioned on the implementation of an adequate emissions mitigation program. The demonstration by the grant applicant that it has adopted an adequate emissions mitigation program shall be based upon the following requirements:

a. Grantee commits to locally adopted measures for emissions reduction through an intra-municipal or inter-municipal agreement. These emissions mitigation measures may previously have been included in the facility plan's environmental assessment or environmental impact statement.

b. Agreement identifies agencies responsible for implementation of the emissions mitigation program.

c. Agreement provides performance time schedule for adopted mitigation measures

d. Agreement provides for continued reporting by the grantee to EPA or the state on the implementation of the adopted mitigation measures.

e. Grantee has submitted the adopted mitigation program to the state air pollution control agency or designated local lead agency and has requested revisions to the SIP to incorporate the mitigation program.[8]

IV. Allowable Construction Grants Program Costs

Costs incurred by the grantee to perform air quality analyses, facility planning and design changes, and the planning for mitigation measures, as required by the provisions of this policy, are allowable project costs and are reimbursable pursuant to the regulations of the EPA construction grants program. The control of direct emissions from a sewage treatment works will be an allowable cost provided it is within the scope of the project. Implementation costs for a program to mitigate the increased indirect emissions associated with the facility will not be allowable costs.

V. Effective Date

In areas without approved or conditionally approved SIPs all step 1, step 2 and step 3 construction grant awards issued after the date of publication of this memorandum in the **Federal Register** shall be subject to the provisions of this policy.

In areas with approved, conditionally approved or promulgated SIPs all step 1 construction grant awards issued after the date of publication of this memorandum in the **Federal Register** shall be subject to the provisions of this policy. All step 2 and step 3 construction grant awards that are issued for those areas shall be subject to the provisions of this policy September 10, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Memorandum Footnotes

[1] Sewage treatment works include treatment plants, interceptor sewers, collection systems and other devices and systems as defined in section 212 of the Clean Water Act, as amended (Pub. L. 95–217).

[2] Indirect emissions result from areawide mobile and minor stationary source growth that will potentially be induced by the expanded sewage treatment capacity.

[3] Grants for the construction of sewage treatment works are authorized in section 201 of the Clean Water Act. Under section 205(g) of the Clean Water Act the EPA Administrator may delegate to each state the administration of the sewage treatment works construction grants program.

[4] The requirements for the annual demonstration of RFP are pursuant to section 171 of the Clean Air Act. The February 24, 1978 policy memorandum on the criteria for approval of the 1979 SIP revisions (43 FR 21675) provides guidance on the RFP requirement. In addition, the general preamble for proposed rulemaking on approval of SIP revisions for nonattainment areas (44 FR 20375) provides further guidance on the use of schedules for the demonstration of RFP.

[5] The policy and procedures for applying federal assistance limitations in section 176(a) of the Clean Air Act appear in a March 19, 1980 memorandum from the EPA Assistant Administrator for Air, Noise, and Radiation and the Deputy Federal Highway Administrator to the EPA Regional Administrators and the Federal Highway Regional Administrators (45 FR 24692). The imposition of any funding limitations, pursuant to the provisions of this policy, will not require coordination with the Federal Highway Administration.

[6] Earlier guidance on the use of uniform population projections was provided in the February 24, 1978 policy memorandum on the criteria for approval of the 1979 SIP revisions (43 FR 21674), the October 18, 1978 and January 10, 1980 memorandums from the Assistant Administrators for Air, Noise, and Radiation and for Water and Waste Management and the January 15, 1980 memorandum from the Assistant Administrator for Air, Noise, and Radiation.

[7] Modeling studies indicate that treatment and/or collection capacity greater than one mgd is the approximate minimum for creation of significantly increased direct and indirect emissions of critical air pollutants associated with induced growth. This criteria is equivalent to the preconstruction review threshold for any facility which emits or has the potential to emit 100 tons per year or more of any pollutent (44 FR 21624).

[8] Local lead agencies are certified by the governor pursuant to section 174 of the Clean Air Act and are reponsible for air quality planning in areas where ozone and carbon monoxide standards have not been attained.

Attachment A

years.[3] Future industrial flows are to be

B. Withhold step 3 grants for facilities with

K. In attainment or unclassified areas,

Attachment A

Section 316 Policy Background

On June 6, 1975 former EPA Administrator Russell E. Train issued a policy statement requiring the consideration of secondary environmental effects in the construction grants process.[1] This policy requires that the environmental review process for sewage treatment works include analyses of secondary as well as primary environmental effects and indicate whether such effects may contravene any federal, state, or local environmental laws, regulations, plans, or standards. Where contravention can reasonably be anticipated, the policy provides that the Regional Administrator shall withhold approval of a step 2 or step 3 construction grant until the applicant revises the facility plan, initiates steps to mitigate the adverse effects, or agrees to conditions in the grant document requiring actions to minimize the effects.

EPA policy established in 1978 provides that new sewage collection systems are eligible for federal financial assistance only in a community with substantial human habitation on October 18, 1972.[2] The bulk of the flow design capacity (generally two-thirds) through the collection system is to be for wastewaters originating from that eligible community. This policy places further restriction on funding the construction of collection systems that would induce new population growth and indirect growth of emissions by requiring that the grant should only be approved when the systems currently in use for disposal of wastes from the existing population are creating a public health problem, contaminating groundwater, or violating the point source discharge standards.

In September 1978 EPA established guidelines (43 FR 44087) for determining the most cost-effective waste treatment management systems or component parts. The cost-effectiveness analysis guidelines require each state, working with 208 water quality planning agencies, local lead air quality planning agencies, and other regional planning agencies to disaggregate the state-Bureau of Economic Analysis (BEA) population projections among its designated 208 areas, Standard Metropolitan Statistical Areas (SMSAs) not included in the 208 area, and non-SMSA counties. Each state was required to submit its projection total and disaggregations for the Regional Administrator's approval before October 1, 1979. After the state disaggregations are approved, 208 areawide agencies, in consultation with the state, are required to disaggregate the 208 area projections among the SMSA and non-SMSA areas. The 208 areawide agencies must then disaggregate these SMSA and non-SMSA projections among facility areas and remaining areas. These disaggregations must be used in the individual facility plans.

The cost-effectiveness guidelines discourage the over-sizing of treatment facilities by lowering the planning estimate for per capita flow by 20–30 percent. A grantee with a high flow growth factor in exccess of 1.8:1 for the 20-year planning period must stage the construction for 10 years.[3] Future industrial flows are to be accommodated only if the industry is included in the land use element of the 208 plan and may not exceed five percent of the total design flow or 25 percent of the total industrial flow. Grant applicants that propose to include additional treatment capacity beyond that amount determined to be cost-effective in accordance with these guidelines may receive federal financial assistance if, among other requirements, the project can ensure that air quality standards will not be violated.

Interceptors are now limited by the cost-effectiveness guidelines to a construction staging period of 20 years. A larger pipe size corresponding to a longer staging period, not to exceed 40 years, may be allowed if the grantee can demonstrate compliance with all pertinent requirements of the Clean Air Act. The grantee must also demonstrate that the larger pipe size will reduce overall environmental impacts, including the secondary effects on air quality. Interceptors may not be extended into undeveloped areas unless there are exceptional circumstances.

The EPA regulations implementing the NEPA procedures require that the environmental information document prepared during the facility planning phase (step 1), and any subsequent environmental impact statement (EIS), will document the treatment works' effect upon local ambient air quality caused by direct emissions or induced development.[4] These regulations also provide that the environmental information document and the EIS will describe the steps that have been taken to mitigate or eliminate any significant adverse air quality effects from the construction and operation of the treatment works. Section 6.509(a) of the revised regulations provides that a facility design (step 2) or a facility construction (step 3) grant shall not be awarded if the grantee has not made, or agreed to make, pertinent changes in the project to mitigate or eliminate the significant adverse air quality effects. Moreover, this regulation provides that step 2 or 3 grants will be conditioned to ensure that the grantee will comply, or seek to obtain compliance with the mitigation requirements.

Attachment A Foonotes

[1] EPA Construction Grants Program Requirements Memorandum 75–26.

[2] EPA Construction Grants Program Requirements Memorandum 78–9.

[3] The growth factor is defined as the ratio of wastewater flow expected at the end of the 20-year planning period to the initial flow at the time the treatment works is expected to become operational.

[4] Originally promulgated as 40 CFR 6.510(f) on April 14, 1975; revised as 40 CFR 6.506(a)(6) on November 6, 1979.

Attachment B

Section 316 Policy Implementation Responsibilities

I. EPA Regional Administrators' Responsibilities:

A. Condition step 1 and step 2 grant awards to ensure the use of sufficient air pollution emissions control techniques.

B. Withhold step 3 grants for facilities with incinerators until NESHAPS, PSD and state air pollution permits are obtained.

C. Withhold all construction grants in nonattainment areas where:

1. The SIP is not approved or conditionally approved *and* the state is not making a good faith effort to submit the SIP, or

2. The state is not making reasonable further progress (RFP) towards attainment of all NAAQS.

The withholding of any construction grants would be done consistent with the Clean Air Act (CAA) § 176(a) procedures for withholding transportation and air quality funding. Those grants for projects which the Regional Administrator (RA) finds are needed for immediate public health needs and would not expand capacity by more than one mgd will not be withheld. Grants will not be withheld for projects which improve treatment capability without expanding capacity for future growth.

D. Condition the step 1 grant award to include provisions in the facility plan that quantify the increase of indirect emissions associated with the proposed facility and approaches to control and mitigate their impacts. Withhold approval of the step 2 grant award until this condition has been met.

E. Review SIPs and 201/208 plans to determine the consistency of population projections.

F. Notify states that the 1982 SIP revision is to be based upon population projections consistent with those prepared for 201/208 plans, in accordance with the cost-effectiveness guidelines.

G. Use CAA § 105 and § 175 grants and state-EPA agreements to assure revised SIP and 201/208 population projections are consistent within five percent by January 15, 1981.

H. Notify the governor to revise the SIP when the RA finds that the emissions control measures in the 1979 SIP revision are inadequate to attain the NAAQS in 1982, due to SIP population projections which have been reconciled upward.

I. In nonattainment areas, when SIP and 201/208 population projections are inconsistent, withhold portions of step 2 and step 3 grant awards for increased capacity where the increase would exceed 10 mgd, or 1 mgd when the RA also finds that the increased emissions may endanger RFP, until:

1. The governor is notified to revise the SIP; or

2. The grant applicant adopts an adequate mitigation program.

J. Prior to the approval of step 2 and step 3 grant awards identified pursuant to the preceding requirement, consult with appropriates tate and local air pollution control agencies to verify that the increased emissions associated with the facility will not interfere with, or be inconsistent with, the applicable SIP for any other state. Where the increased emissions will violate the SIP of another state withhold portions of the grant award for increased capacity until:

1. The governor is notified to revise the SIP; or

2. The applicant adopts an adequate mitigation program.

K. In attainment or unclassified areas, determine whether the increased indirect emissions associated with a facility that would expand capacity in excess of 10 mgd will cause a violation of the NAAQS. Where the increased emissions will cause a violation of the NAAQS, withhold portions of the grant award for increased capacity until:

1. EPA completes rulemaking to redesignate the area as nonattainment and notifies the governor to submit a Part D SIP revision; or

2. The applicant adopts an adequate mitigation program.

II. States' Responsibilities:

A. Submit approval SIP and 208 plans.

B. Submit disaggregated population projections in accordance with the cost-effectiveness guidelines.

C. Reconcile SIP and 201/208 population projections by January 15, 1981.

D. Use population projections approved in accordance with the cost-effectiveness guidelines as the basis for 1982 SIP revision.

E. When reconciliation of SIP and 201/208 population projections invalidates projected attainment of a NAAQS in 1982, revise SIP to provide additional emissions control measures.

F. Within nine months of a request by the RA to accommodate the increased indirect emissions associated with new sewage treatment capacity, submit a SIP revision to the Administrator.

G. When grantee submits adopted project mitigation program, revise the SIP to incorporate additional emissions control measures.

H. Administer EPA delegated construction grant program, consistent with the requirements of the policy.

III. Grant Applicants' Responsibilities:

A. During step 1, quantify the increase of direct and indirect emissions associated with the proposed facility and include approaches to control their impacts in the environmental information document and facility plan.

B. When the 208 plan's population projections have been revised downward to reconcile with lower SIP population projections, make subsequent changes to the facility plan's population projections and to the facility design.

C. During step 2, incorporate in the design of a facility with an incinerator sufficient control techniques to meet the federal NSPS, NESHAPS, and PSD requirements, and state emission standards contained in the SIP.

D. Prior to step 2 and step 3, if required by the RA or the state, adopt a program to mitigate the increased emissions from the proposed facility.

E. Submit the project mitigation program to the state air pollution control agency or the designated local lead agency for inclusion in a SIP revision.

F. Prior to step 3, obtain NESHAPS, PSD and state air pollution permits, for facilities with incinerators.

G. Provide continued reporting to EPA or the state on the implementation of the adopted project mitigation program.

[FR Doc. 80-24005 Filed 8-8-80; 8:45 am]

BILLING CODE 6560-01-M

V
4
5

A
G
1
1
8
0
UMI

federal register

Monday
August 11, 1980

Part VIII

Department of the Treasury

Fiscal Service, Bureau of the Public Debt

U.S. Retirement Plan Bonds

Department Circular, Public Debt Series No. 1-63, 5th Amendment

V 45 AG 1 1 80 UMI

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 341

Regulations Governing U.S. Retirement Plan Bonds

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The purpose of this fifth amendment to the Regulations Governing United States Retirement Plan Bonds is to provide for an interest rate of 6.5 percent per annum, compounded semiannually, on bonds issued on or after August 1, 1979.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. A. E. Martin, Office of the Chief Counsel, Bureau of the Public Debt (202) 376–0636.

SUPPLEMENTARY INFORMATION: United States Retirement Plan Bonds have been issued since 1963 as an investment option for self-employed individuals eligible to contribute to a "Keogh" (H.R. 10) retirement plan. This amendment to the offering of these bonds implements an earlier announcement made by the Secretary of the Treasury that bonds issued on or after August 1, 1979, will accrue interest at the rate of 6.5 percent per annum, compounded semiannually. Section 341.1 of the offering is being amended accordingly, and a new table of redemption values, based on the 6.5 percent rate, is being added to the Appendix.

Since this amendment involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures are unnecessary. Accordingly, under authority of Sections 1 and 20 of the Second Liberty Bond Act, as amended (40 Stat. 288, 48 Stat 343, both as amended; 31 U.S.C. 752, 754b), and 5 U.S.C. 301, Department of the Treasury Circular, Public Debt Series No. 1–63, as amended, is hereby further amended as follows, effective August 1, 1979.

Dated: July 8, 1980.

Paul H. Taylor,

Fiscal Assistant Secretary.

1. In § 341.1(a), paragraph (4) is revised and paragraph (5) is added, to read as follows:

§ 341.1 [Amended]

* * * * *

(a) * * *

(4) Bonds with the issue dates of February 1, 1974, through July 1, 1979—6 percent per annum compounded semiannually. (See Table C, appended to the third amendment of this Circular).

(5) Bonds with the issue date of August 1, 1979, or thereafter—6.5 percent per annum, compounded semiannually. (See Table D, appended to this amendment).

* * * * *

2. In the Appendix, Table D is added as follows:

Table D.—*Table of Redemption Values Providing an Investment Yield of 6.50 Percent Per Annum for Bonds Bearing Issue Dates Beginning Aug. 1, 1979*

Table shows the increase in redemption value for each successive half-year term of holding following the date of issue on Retirement Plan Bonds bearing issue dates beginning August 1, 1979. The redemption values have been determined to provide an investment yield of approximately 6.50 percent [1] per annum, compounded semi-annually, on the purchase price from issue date to the beginning of each half-year period. The period to maturity is indeterminate in accordance with the provisions of Sec. 341.1(b) of this circular.[2]

Issue price	$50	$100	$500	$1,000
Period after issue date	Redemption values during each half-year period (values increase on first day till period shown)			
First ½ year	$50.00	$100.00	$500.00	$1,000.00
½ to 1 year	51.62	103.24	516.20	1,032.40
1 to 1½ years	53.30	106.60	533.00	1,066.00
1½ to 2 years	55.04	110.08	550.40	1,100.80
2 to 2½ years	56.82	113.64	568.20	1,136.40
2½ to 3 years	58.68	117.36	586.80	1,173.60
3 to 3½ years	60.58	121.16	605.80	1,211.60
3½ to 4 years	62.54	125.08	625.40	1,250.80
4 to 4½ years	64.58	129.16	645.80	1,291.60
4½ to 5 years	66.68	133.36	666.80	1,333.60
5 to 5½ years	68.84	137.68	688.40	1,376.80
5½ to 6 years	71.08	142.16	710.80	1,421.60
6 to 6½ years	73.40	146.80	734.00	1,468.00
6½ to 7 years	75.78	151.56	757.80	1,515.60
7 to 7½ years	78.24	156.48	782.40	1,564.80
7½ to 8 years	80.78	161.56	807.80	1,615.60
8 to 8½ years	83.40	166.80	834.00	1,668.00
8½ to 9 years	86.12	172.24	861.20	1,722.40
9 to 9½ years	88.92	177.84	889.20	1,778.40
9½ to 10 years	91.80	183.60	918.00	1,836.00
10 to 10½ years	94.80	189.60	948.00	1,896.00
10½ to 11 years	97.88	195.76	978.80	1,957.60
11 to 11½ years	101.06	202.12	1,010.60	2,021.20
11½ to 12 years	104.34	208.68	1,043.40	2,086.80
12 to 12½ years	107.72	215.44	1,077.20	2,154.40
12½ to 13 years	111.22	222.44	1,112.20	2,224.40
13 to 13½ years	114.84	229.68	1,148.40	2,296.80
13½ to 14 years	118.56	237.16	1,185.60	2,371.60
14 to 14½ years	122.44	244.88	1,224.40	2,448.80
14½ to 15 years	126.42	252.84	1,264.20	2,528.40
15 to 15½ years	130.52	261.04	1,305.20	2,610.40
15½ to 16 years	134.76	269.52	1,347.60	2,695.20
16 to 16½ years	139.14	278.28	1,391.40	2,782.80
16½ to 17 years	143.66	287.32	1,436.60	2,873.20
17 to 17½ years	148.34	296.68	1,483.40	2,966.80
17½ to 18 years	153.16	306.32	1,531.60	3,063.20
18 to 18½ years	158.12	316.24	1,581.20	3,162.40
18½ to 19 years	163.26	326.52	1,632.60	3,265.20
19 to 19½ years	168.58	337.16	1,685.80	3,371.60
19½ to 20 years	174.06	348.12	1,740.60	3,481.20
20 to 20½ years	179.72	359.44	1,797.20	3,594.40

[1] Based on redemption values of $1,000 bond.

[2] At a future date prior to Aug. 1, 1999 (20 years after issue date of the first bonds) this table will be extended to show redemption values for periods of holding of 20½ years and beyond.

[FR Doc. 80-24089 Filed 8-8-80; 8:45 am]

BILLING CODE 4810-40-M

V
4
5

A
G

1
1

8
0
UMI

federal register

Monday
August 11, 1980

Part IX

Department of the Treasury

Fiscal Service, Bureau of the Public Debt

U.S. Individual Retirement Bonds

Department Circular, Public Debt Series No. 1-75, 2d Amendment

V 4 5 A G 1 1 1 8 0 UMI

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 346

Regulations Governing U.S. Individual Retirement Bonds

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The purpose of this second amendment to the Regulations Governing United States Individual Retirement Bonds is to provide for an interest rate of 6.5 percent per annum, compounded semiannually, to be paid on bonds issued on or after August 1, 1979.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. A. E. Martin, Office of the Chief Counsel, Bureau of the Public Debt (202) 376–0636.

SUPPLEMENTARY INFORMATION: United States Individual Retirement Bonds have been issued since 1975 as an investment option for individuals eligible to contribute to an Individual Retirement Account ("IRA"). This amendment to the offering of these bonds implements an earlier announcement made by the Secretary of the Treasury that bonds issued on or after August 1, 1979, will accrue interest at the rate of 6.5 percent per annum, compounded semiannually. Section 346.1 of the offering is being amended accordingly, and a new table of redemption values, based on the 6.5 percent rate, is being added to the Appendix.

Since this amendment involves the fiscal policy of the United States and does not meet the Department's criteria for significant regulations, it has been determined that notice and public procedures are unnecessary. Accordingly, under authority of Sections 1 and 20 of the Second Liberty Bond Act, as amended (40 Stat. 288, 48 Stat 343, both as amended; 31 U.S.C. 752, 754b), and 5 U.S.C. 301, Department of the Treasury Circular, Public Debt Series No. 1–75, as amended, is hereby further amended as follows, effective August 1, 1979.

Dated: July 8, 1980.

Paul H. Taylor,

Fiscal Assistant Secretary.

1. In § 346.1, paragraph (a) is revised to read as follows:

§ 346.1 [Amended]

* * * * *

(a) *Investment yield (interest).* United States Individual Retirement Bonds, hereinafter sometimes referred to as Individual Retirement Bonds, will be issued at par. The investment yields (interest) are as follows:

(1) Bonds with the issue dates of January 1, 1975, through July 1, 1979—6 percent per annum compounded semiannually. (See Table of Redemption Values appended to the Circular.)

(2) Bonds with the issue date of August 1, 1979, or thereafter—6.5 percent per annum, compounded semiannually. (See Table A appended to this amendment.)

Interest will be paid only upon redemption of the bonds. The accrual of interest will continue until the bonds have been redeemed or have reached maturity, whichever is earlier, in accordance with these regulations.

* * * * *

2. In the Appendix, Table A is added as follows:

Table A.—*Table of Redemption Values Providing an Investment Yield of 6.50 Percent Per Annum for Bonds Bearing Issue Dates Beginning Aug. 1, 1979*

Note.—This table shows how Individual Retirement Bonds bearing issue dates on or after August 1, 1979, by denomination, increase in redemption value during the successive half-year periods following issue. The redemption values provide an investment yield of approximately 6.50 percent per annum, compounded semiannually, on the purchase price from issue date to the beginning of each half-year period. No increase in redemption value is shown, however, until 1 year after issue date since no interest may be paid on bonds redeemed before that time. The period to maturity is fixed in accordance with the provisions of Sec. 346.1(b) of this circular.

Issue price	$50	$100	$500	$1,000
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			
1st year	$50.00	$75.00	$100.00	$500.00
1 to 1½ years	53.30	79.95	106.60	533.00
1½ to 2 years	55.04	82.56	110.08	550.40
2 to 2½ years	56.82	85.23	113.64	568.20
2½ to 3 years	58.68	88.02	117.36	586.80
3 to 3½ years	60.58	90.87	121.16	605.80
3½ to 4 years	62.54	93.81	125.08	625.40
4 to 4½ years	64.58	96.87	129.16	645.80
4½ to 5 years	66.68	100.02	133.36	666.80
5 to 5½ years	68.84	103.26	137.68	688.40
5½ to 6 years	71.08	106.62	142.16	710.80
6 to 6½ years	73.40	110.10	146.80	734.00
6½ to 7 years	75.78	113.67	151.56	757.80
7 to 7½ years	78.24	117.36	156.48	782.40
7½ to 8 years	80.78	121.17	161.56	807.80
8 to 8½ years	83.40	125.10	166.80	834.00
8½ to 9 years	86.12	129.18	172.24	861.20
9 to 9½ years	88.92	133.38	177.84	889.20
9½ to 10 years	91.80	137.70	183.60	918.00
10 to 10½ years	94.80	142.20	189.60	948.00
10½ to 11 years	97.88	146.82	195.76	978.80
11 to 11½ years	101.06	151.59	202.12	1,010.60
11½ to 12 years	104.34	156.51	208.68	1,043.40
12 to 12½ years	107.72	161.58	215.44	1,077.20
12½ to 13 years	111.22	166.83	222.44	1,112.20
13 to 13½ years	114.84	172.26	229.68	1,148.40
13½ to 14 years	118.58	177.87	237.16	1,185.80
14 to 14½ years	122.44	183.66	244.88	1,224.40
14½ to 15 years	126.42	189.63	252.84	1,264.20
15 to 15½ years	130.52	195.78	261.04	1,305.20
15½ to 16 years	134.76	202.14	269.52	1,347.60
16 to 16½ years	139.14	208.71	278.28	1,391.40
16½ to 17 years	143.66	215.49	287.32	1,436.60
17 to 17½ years	148.34	222.51	296.68	1,483.40
17½ to 18 years	153.18	229.74	306.32	1,531.60
18 to 18½ years	158.12	237.18	316.24	1,581.20
18½ to 19 years	163.26	244.89	326.52	1,632.60
19 to 19½ years	168.58	252.87	337.16	1,685.80
19½ to 20 years	174.06	261.09	348.12	1,740.60
20 to 20½ years	179.72	269.58	359.44	1,797.20

[FR Doc. 80-24070 Filed 8-8-80; 8:45 am]

BILLING CODE 4810-40-M

V
4
5

A
G
1
1
8
0
UMI

federal register

Monday
August 11, 1980

Part X

Environmental Protection Agency

1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles and Applications for Waiver of Effective Date

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 1557-7]

Revised Motor Vehicle Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation establishes CO emission standards for 1981 model year light-duty vehicles belonging to certain engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. § 7521(b)(5).

EFFECTIVE DATE: August 11, 1980.

ADDRESS: Information relevant to this rule is contained in Public Docket EN–80–9 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, S.W., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Alex Varela, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain, unless waived pursuant to section 202(b)(5), 42 U.S.C. 7521(b)(5), standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standards. Regulations implementing this requirement have established a CO standard, often referred to as the statutory standard for CO, of 3.4 grams per vehicle mile (gpm).

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model for which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles as discussed below. The application for a waiver considered here was submitted by Ford Motor Company (Ford). The statutory criteria for the granting of such waivers, my determinations regarding the criteria with respect to the vehicle models covered by Ford's waiver application, and my decision to grant the waiver applications, appear in the consolidated decision issued along with this rule and published elsewhere in this issue of the Federal Register. In that consolidated decision, I granted a waiver covering the following vehicle model (engine family for purposes of that decision) for the 1981 model year only:

Manufacturer	Engine family
Ford Motor Company	2.3 liter turbocharged.

Once I have decided to grant a waiver application for any 1981 model year vehicle model, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from 1981 model year vehicles of this Ford model to exceed 7.0 gpm. Moreover, the Act further requires that I promulgate regulations establishing these standards not later than 60 days after I receive the waiver application in question. This rule becomes effective immediately upon publication to avoid the possibility of forcing Ford to delay introducing this 1981 model year vehicle model into commerce because it must wait to receive certification of this model until this rule becomes effective.

The public has been afforded an opportunity to comment on the waiver applications at issue, and I have considered those comments in making the consolidated decision which requires the promulgation of this amended rule. For these reasons, I find that providing further notice and opportunity to comment before final promulgation of any of the amendments contained in this rulemaking would be impracticable and unnecessary.

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Orders 11821 and 12044 and OMB Circular A–107.

In addition, because the decision accompanying this rulemaking already is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking as well.

Dated: July 31, 1980

Douglas M. Costle,

Administrator.

40 CFR 86.081–8(a)(1)(ii) is revised to read as follows:

§ 86.081–8 Emissions standards for 1981 light-duty vehicles.

(a)(1) * * *

(ii) Carbon monoxide—3.4 grams per vehicle mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer	Engine family
American Motors Corporation	151 CID.
	258 CID.
	215 CID.
	326 CID.
Chrysler Corporation	1.7 liter
	2.2 liter
	2.6 liter
	3.7 liter
	5.2 liter/2–V.
	5.2 liter/4–V.
Ford Motor Company	1.8 liter.
	1.6 liter/2V overhead camshaft.
	2.3 liter turbocharged
General Motors Corporation	1.6 liter
	2.8 liter/173 CID–2V.
	3.8 liter/231 CID–2V.
	3.8 liter/231 CID–4V. turbocharged
Lotus Cars, Ltd.	2.0 liter.
Toyo Kogyo Co., Ltd.	91 CID.
	120 CID.
Toyota Motor Company, Ltd.	88.6 CID.

(Section 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7501(a))

[FR Doc. 80–24077 Filed 8–8–80; 8:45 am]

BILLING CODE 6560–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1557-8]

Applications for Waiver of Effective Date of the 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Eighth Consolidated Decision of the Administrator.

I. Introduction

This is the eighth consolidated decision I have issued under Section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b)(5), regarding applications from automobile manufacturers for waiver of the 3.4 grams per vehicle mile (gpm) carbon monoxide (CO) emission standard scheduled to apply to 1981 and 1982 model year light-duty motor vehicles and engines.[1]

As the introductions to the previous consolidated decisions explain, section 202(b)(1)(A) of the amended Act establishes a schedule for implementing standards applicable to CO emissions for 1977 and later model year light-duty motor vehicles and engines.[2] The 1977 amendments to the Act, however, included a new provision allowing the Administrator of the Environmental Protection Agency (EPA), under certain limited conditions, to delay for up to two model years implementation of the statutory 3.4 gpm CO standard scheduled to take effect for the 1981 model year.[3] However, these amendments require the Administrator to promulgate interim standards in such cases which do not permit CO emissions over 7.0 gpm.[4]

In response to waiver applications received prior to the one under consideration, EPA held five sets of public hearings and issued seven consolidated decisions pursuant to section 202(b)(5)(A).[5] In those decisions, I denied waivers for certain engine families either because I determined that effective control technology[6] was available contrary to the requirement of section 202(b)(5)(C)(iii) of the Act or because the applicants failed to provide sufficient information to establish that effective control technology was not available. Furthermore, the applicants failed to establish that considerations of costs, driveability, or fuel economy gave me a basis for reaching a different conclusion. I granted the waiver applications covering the remaining engine families after determining for each of those families that the requisite technology was not available, considering costs, driveability, and fuel economy, and that each application met all of the remaining statutory criteria for receiving a waiver.

On May 5, 1980, EPA received a waiver application from Ford.[7] EPA held a hearing on this application on May 8, 1980.[8]

This decision will address the waiver request from Ford on the basis of information from Ford and from other sources.[9]

II. Summary of Decision

I am granting Ford's waiver request for its 2.3 liter (L) turbocharged engine family for the 1981 model year. I am denying the waiver request by Ford covering its 2.3L turbocharged engine family for the 1982 model year. I have based my determinations for each of those model years primarily upon whether Ford established that effective emissions control technology, considering costs, driveability, and fuel economy, is not available to enable the engine family in question to meet the 3.4 gpm statutory CO standard in those model years. In reaching those determinations, I have balanced the risks that Ford and the public would face of incurring adverse consequences if I were to deny Ford's waiver request, based on an incorrect projection that effective emissions control technology is available for Ford's engine family, against the benefits achieved from denying the waiver request, on the basis of a correct conclusion that such technology is available.[10]

I have concluded that the waiver application covering the Ford 2.3L turbocharged engine family meets each of the statutory criteria for receiving a waiver for the 1981 model year. I am therefore prescribing an interim CO emission standard of 7.0 gpm for the 1981 model year for this engine family.

Ford failed to establish that effective emissions control technology is unavailable to enable vehicles scheduled to employ this engine family to meet the statutory CO standard by the 1982 model year. Instead, the information in the record at this time indicates that technology capable of meeting the 3.4 gpm CO emission standard may be available for Ford's 2.3L turbocharged engine family for the 1982 model year.

Considerations of costs, driveability, or fuel economy, whether viewed separately or cumulatively, do not give me a basis for altering my determinations regarding the availability of technology for this engine family for the 1982 model year.

While this engine family may meet some, or all, of the remaining statutory criteria for receiving a waiver for the 1982 model year, my determinations regarding available technology, considering costs, driveability, and fuel economy, preclude me from granting

[1] The preceding decisions were published as follows: 44 FR 53376 (September 13, 1979); 44 FR 69417 (December 3, 1979); 45 FR 7122 (January 31, 1980); 45 FR 17914 (March 19, 1980); 45 FR 37360 (June 2, 1980); 45 FR 40030 (June 12, 1980); — FR —— (signed July 15, 1980).

[2] Regulations were promulgated on August 24, 1978, setting a CO standard of 3.4 gpm for 1981 and later model year vehicles. 40 CFR 86.081–8(a)(1)(ii). This standard represents at least a 90 percent reduction in CO emissions from the CO standard applicable to 1970 model year vehicles.

[3] Section 202(b)(5)(C) of the Act provides, in part:

The Administrator may grant such waiver if he finds that protection of the public health does not require attainment of such 90 percent reduction for carbon monoxide for the model years to which such waiver applies in the case of such vehicles and engines and if he determines that—

(i) such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) all good faith efforts have been made to meet the standards established by this subsection;

(iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy; and

(iv) studies and investigations of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

[4] As noted in previous decisions, Section 202(b)(5) of the Act requires that I make a separate assessment for each vehicle model covered by a waiver request. See, e.g., 44 FR 53376 (September 13, 1979), 44 FR 69416 (December 3, 1979), 45 FR 7122 (January 31, 1980). Thus, these earlier consolidated decisions generally have included separate decisions for individual engine families. As in the previous decisions, I have distinguished among engine families primarily on the basis of engine displacement. See note 17, second consolidated decision, 44 FR 69418 (December 3, 1979).

[5] EPA has included testimony received at these five hearings, as well as all other information considered in deciding these five groups of waiver applications, in EPA Public Dockets EN–79–4, EN–79–17, EN–79–19 (for the first through fourth decisions) and EN–80–1 (for the fifth and sixth decisions).

[6] As was the case in the earlier consolidated decisions, I am using the term "technology" in this decision to encompass the statutory language "technology, processes, operating methods, or other alternatives" included as part of section 202(b)(5)(C)(iii) of the Act.

[7] Ford Motor Company.

[8] The transcript from this hearing is located in EPA Public Docket EN–80–9. This decision uses the following abbreviations:

F. App.—Ford Application for CO Waiver, dated May 5, 1980, for its 2.3L turbocharged engine family.

[9] See the discussion on my considerations of other sources of information in the previous waiver decisions, e.g., section III(B)(1)(C), 44 FR 69416, 69422 (December 3, 1979).

[10] See, e.g., 45 FR 17914 (March 19, 1980).

waivers covering this engine family for the 1982 model year. The 3.4 gmp CO statutory standard will therefore remain in effect for the Ford 2.3L turbocharged engine family for the 1982 model year.

III. Discussion

A. Availability of Technology

The decision I have made here on whether to grant or deny a requested waiver turn primarily on whether technology is available to enable an engine family covered by one of these waiver applications to meet the 3.4 gpm CO standard in the 1981 and 1982 model years. Section 202(b)(5)(C)(iii) of the Act expressly assigns an applicant the task of establishing that effective CO control technology is not available, taking into consideration costs, driveability, and fuel economy. Even if the Administrator determines that an applicant has met this burden, section 202(b)(5)(C)(iv) requires the Administrator to consider whether National Academy of Sciences (NAS) studies or other information indicate that technology is available considering costs, driveability, and fuel economy, before granting a waiver request.

As part of my assessment of available technology here, I have considered the results of NAS studies and investigations [11] conducted under section 202(c) of the Act regarding available technology, processes, or other alternatives. The findings of the available NAS studies do not contradict my assessment regarding the availability of technology for Ford's 2.3L turbocharged engine family discussed below.[12]

To support contentions that effective control technology is not available, Ford has provided both descriptions of the systems it has been considering in trying to attain the 3.4 gpm CO emission standard and the results of emission tests performed on vehicles for the purpose of receiving certification for the 1980 and 1981 model years. I have reviewed this information, as well as other information available to me, in reaching my decisions regarding availability of the requisite technology, considering cost, driveability and fuel economy.[13]

Ford applied for a waiver for its 2.3L turbocharged engine family for the 1981 and 1982 model years. In support of this application, Ford provided some emission test data and other information regarding alternative emissions control systems. Ford contended that (1) effective emission control technology was not available to enable this engine family to meet a 3.4 gpm CO standard for the 1981 and 1982 model year; (2) lead-time problems prevented the introduction of alternative emissions control systems or components until the 1983 model year; [14] and (3) Ford and the public would suffer adverse economic consequences if Ford were unable to market this model.[15] Specifically, Ford claims that unanticipated problems primarily caused by catalyst degradation associated with the higher exhaust gas temperature typical of turbocharged engines [16] prevent this engine family from certifying under the 1981 statutory emission standards for the 50,000-mile statutory period.[17]

1. Emission Control Capability of Ford's Turbocharger Technology

My evaluation of the technological capability of the 2.3L turbocharged Ford engine family used the same modified Monte Carlo statistical simulation employed in evaluating the engine families in my fifth, sixth, and seventh consolidated decisions [18] to project, on the basis of data from partially completed prototype vehicle emission testing over extended mileage for the purpose of receiving a Federal certificate of conformity, the likelihood that this engine family will be capable of meeting Federal emission standards when fully tested. In addition, my evaluation included consideration of certification data from vehicles which employ both the turbocharged and naturally aspirated version of this engine and which entered into the mandatory 50,000-mile certification testing procedure. On the basis of my evaluation of those available emission data, I have concluded that this engine family using the turbocharger technology does not demonstrate the capability of meeting the 3.4 gpm CO emission standard for the 1981 model year.[19]

2. Availability of Alternative Technology

The record indicated that Ford's 2.3L, 3.3L, and 4.2L naturally-aspirated engines can meet the 3.4 CO emission standard and would be available for use in the same vehicle models scheduled to employ Ford's 2.3L turbocharged engine.[20] Ford projected, however, that only about 75 percent of prospective purchasers of its turbocharger vehicles would be likely to switch to purchasing one of these naturally-aspirated alternatives were Ford not able to market the turbocharged family engine.[21] Ford contended that the turbocharged engine achieved the better fuel economy values of a smaller displacement engine while still retaining the better performance capabilities of a larger displacement engine.[22]

In *International Harvester Co. v. Ruckelshaus* [23] the United States Court of Appeals for the District of Columbia Circuit reviewed the decision of EPA's Administrator to deny a set of applications for a one-year suspension of the statutory 1975 model year light-duty motor vehicle emission standards, which included the 3.4 gpm CO standards. The statutory criteria for the decision at that time were substantially similar to the criteria now provided in section 202(b)(5)(C) of the Act.[24]

---

[11] Report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences, dated November 1974. See also discussions of the applicability of NAS studies in previous CO waiver decisions, e.g., 44 FR at 53378, 53386 (September 13, 1979) and 44 FR at 69416, 69423, 69428 (December 3, 1979). See also, Report of Motor Vehicles Committee, National Academy of Sciences, June 1980.

[12] See, e.g., 44 FR 53376, 53386 (September 13, 1979), 44 FR 69416, 69423 (December 3, 1979). I have had a limited opportunity to study the latest NAS report issued in June 1980. However, I find that the conclusions reached in this report give me no reason to alter my findings regarding the availability of technology as required under sections 202(b)(5)(C)(iii) and 202(b)(5)(C)(iv) of the Act. The report states that the requisite technology is available for much of the industry's planned production for the 1981 model year, but confirms that this might not be the case for all engine families. This conclusion is consistent with my present and previous waiver determinations regarding available technology and is consistent with the previous NAS report.

[13] Much of this information was gathered for and included in the docket for the previous consolidated CO waiver decisions. See EPA Public Dockets EN-79-4, EN-79-17, EN-79-9 and EN-80-1. Those dockets have been incorporated by reference into the docket for this eighth consolidated decision, EPA Public Docket EN-80-9.

[14] May 8, 1980 Transcript, pp. 128-129. Ford app., section V.

[15] Ford supplemental submission, May 16, 1980, p. 2.

[16] May 8, 1980 Transcript, pp. 127-128, 160. Ford supplemental submission May 16, 1980, p. 2.

[17] 42 U.S.C. § 7521(d)(1)(1975).

[18] 45 FR 37360 (June 2, 1980). 45 FR 40030 (June 13, 1980). —FR— (announced on July 15, 1980).

[19] Ford criticized the use of the modified Monte Carlo technique in this decision. Ford supplemental submission, June 13, 1980. However, even under the modified Monte Carlo analysis the 2.3L turbocharged engine family does not demonstrate the capacity of meeting the 3.4 gpm CO standard. App. A, section V. See also 45 FR 40030, 40033 (June 12, 1980).

[20] May 8, 1980 Transcript, pp. 121-122, 124.

[21] Ford supplemental submission, May 16, 1980, p. 2.

[22] Ford supplemental submission, May 16, 1980, pp. 2-3.

[23] 487 F.2d 615 (D.C. Cir. 1973).

[24] The version of the act in effect at that time did not explicitly require the Administrator to assess the effect of the suspension on public health or to take into consideration costs, driveability and fuel economy in evaluating available technology. Moreover, that version required the Administrator to make a separate suspension decision for each applicant manufacturer, rather than to make decisions on a model-by-model basis as the current section 202(b)(5) requires. See Clean Air Amendments of 1970, Pub. L. 91-604, section 6, 81 Stat. 499 (1970) (42 U.S.C. 7521).

Among other things, the Court stated that in deciding on a suspension request the administrator should balance the risks associated with erroneously granting a suspension request against the risks of erroneously denying a suspension request based on an erroneous conclusion that effective control technology is available. The Court indicated that the risk balance should take into account the economic costs (such as the impacts on jobs and the economy) possibly associated with an erroneous denial [25] versus the possible environmental benefits lost through an erroneous grant.

In addition, the Court indicated that the costs of an erroneous denial which the Administrator should consider should include the costs from a denial which is only partially accurate.[26] Under the current section 202(b)(5) of the Act, the gravity of the economic and other risks which both a waiver applicant and the public face from the possibility of an erroneous denial depends on the following two factors: (1) The likelihood that the denial, in fact, will turn out to be either erroneous or only partially accurate and (2) the severity of the adverse economic consequences which could occur as the result of an erroneous partially accurate or denial.[27]

If I were to determine that the Ford 2.3L, 3.3L, and 4.3L naturally aspirated engines constituted available alternative technology, my decision denying a waiver for the 2.3L turbocharged model might be only partially accurate. Ford has indicated that it would expect to be able to market vehicles with these alternative engines (without the turbocharger model's combined characteristics) to only about 75 percent of its prospective customers.[28]

Moreover there is also a risk that a significant number of potential 2.3L turbocharged engine customers who still purchase Ford vehicles will purchase models using larger displacement engines with significantly lower relative fuel economy levels in order to obtain the other characteristics which the 2.3L turbocharged model exhibits.[29] Section 202(b)(5)(C)(iii) of the Act requires that I take into consideration fuel economy in determining the availability of alternative technology.

I have considered information provided by Ford and other information included in the public record in determining the possible risks to Ford and the public in denying a waiver for the 2.3 turbocharged engine family.

I have determined that the lost sales potentially resulting from denying Ford's waiver request would likely result in additional layoffs and unemployment for Ford employees and others. At this time Ford already has serious unemployment problems [30] and any sales lost as a result of the denial of a waiver for this model would only increase the burdens on Ford, its employees, and on the public, that such unemployment creates.

Ford has now suffered such serious economic problems that the economic situation of its North American operations is approaching a dangerous state.[31] The additional lost sales and profits from even a small volume model under current market conditions would only contribute further to deteriorafion in Ford's potential ability to market vehicles using the engines in question and, in conjunction with other circumstances, could set in motion a series of adverse events which might affect Ford's viability as a manufacturer.[32] If Ford's viability is ultimately threatened, even greater adverse impacts on employment, Ford's suppliers, and the national economy could result.[33]

Aside from those adverse economic consequences which Ford and the public may experience if Ford has to substitute vehicles with other engines for the 2.3L turbocharged model, there is a risk of some adverse consequences for the public in the area of fuel economy. Specifically, sales of alternative Ford engine models would likely include a substantial number of the larger, less fuel-efficient alternative engines [34] at a time when energy conservation is an important national concern recognized by Congress.[35]

3. Balancing the Risks of Erroneous or Partially Accurate Denial Against the Benefits of a Correct Denial

The *International Harvester* decision requires that I balance the risk of adverse consequences posed by an erroneous waiver denial against the potential benefits lost by an erroneous grant.

The adverse effect on air quality from granting a waiver for Ford's 2.3L turbocharged model is insignificant. Ford's projected 1981 sales for this model account for less than 0.3% of total 1981 U.S. automobile sales. [36] In addition, the air quality effect of granting waivers to other engine families, if any, which may incur adverse risks and potential benefits comparable to those of the Ford 2.3L turbocharged model from a waiver denial also are quite likely to be insignificant.

Neither (1) the likelihood of sales losses and sales of less fuel-efficient cars, nor (2) the potentially significant impact of these kinds of sales results on employment, suppliers, or fuel economy, under currently prevailing economic and market conditions, would be sufficient by themselves to justify my granting this Ford waiver request. The presence of both of these factors, however, relative to the limited environmental benefits which a waiver denial under these circumstances [37] would achieve, compels me to determine that Ford has met its burden in establishing that alternative technology is not adequately available for its 2.3L turbocharged model for the 1981 model year, considering costs, driveability, and fuel economy.

---

[25] These impacts could arise under a denial based on an erroneous conclusion that effective control technology is available, because a manufacturer in fact would not be able to produce a certain vehicle model to meet Federal emission requirements and therefore could lose a substantial portion of its sales.

[26] 478 F.2d at 641

[27] *Cf. Ethyl Corp. v. Environmental Protection Agency*, 541 F.2d 1, 18 (D.C. Cir. 1976) (stating that the administrator's finding under section 211 of the Act that lead particulates "will endanger the public health and welfare" is composed of reciprocal elements of probability and severity).

[28] Ford supplemental submission, May 16, 1980, p. 2.

[29] Although official EPA fuel economy data are not yet available for the 2.3L turbocharged model and potential substitute engine models, Ford claimed a possible 4% fuel economy benefit for the 2.3L turbocharged engine over the 2.3L naturally-aspirated engine. Ford supplemental submission, May 16, 1980, attachment V. In addition, preliminary EPA certification test data support the presence of a 10% fuel economy improvement that a smaller displacement turbocharged engine would be expected to achieve with respect to a similar performance (larger displacement) naturally-aspirated engine. App. A, section VIII, table VIII-1.

[30] May 8, 1980 Transcript, p. 121. See also "Ford Plans White Collar Layoffs Again," *Washington Post*, June 19, 1980, p. D-10.

[31] See, .eg., "Ford Had Deficit of $163.6 Million For First Quarter," *Wall Street Journal*, April 29, 1980, p. 2. See also Ford Motor Company, First Quarter Report, Spring, 1980.

[32] See "U.S. Study Sees Hard Times for Ford," Jake Kelderman, *Automotive News*, July 14, 1980, pp. 2, 6 (citing unpublished Economic Policy Group paper).

[33] Id.

[34] May 8, 1980 Transcript, pp. 121-122, 124.

[35] Congress directed EPA to take fuel economy into consideration in evaluating the availability of technology. Section 202(b)(5)(B)(iii). See also, e.g., section 502 of the Energy Policy Conservation Act, Pub. L. No. 94-163, 89 Stat. 871 (1975).

[36] Ford, opening statement, May 8, 1980 public hearing, p. 1.

[37] I need not determine at this time whether continuing to grant waivers covering any further engine families which have a comparable balance between adverse risks and potential benefits associated with them would or would not eventually result in a significant impact on air quality. Granting a waiver for this Ford model would increase the coverage of waivers granted to less than 30% of all scheduled 1981 U.S. automobile sales.

Ford did not provide sufficient information to establish that effective emissions control technology would not be available for the 1982 model year, considering cost, driveability, and fuel economy, to enable its 2.3L turbocharged engine family to meet the 3.4 gpm CO emission standard. Additional technological features for solving Ford's CO control problems are still available for Ford to evaluate and implement for Ford's turbocharged engine family in the 1982 model year.[39] Ford has not supplied sufficient information on these features to demonstrate their effect on emissions, costs, driveability or fuel economy with respect to the 2.3L turbocharged engine family.

B. Protection of Public Health

Section 202(b)(5)(C) of the Act requires that before I grant a waiver covering a given engine family, I must find that protection of the public health does not require attainment of a 3.4 gpm CO standard by the vehicles of the engine family receiving the waiver. Thus, I have examined this issue with respect to Ford's 2.3L turbocharged engine family for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available in model year 1981.

I have found as a result of this examination that any adverse health effects resulting from waiving the 3.4 standard for these 1981 model year engine families would be insignificant. The same statement is true regarding the combined health effects resulting from waiving the 3.4 standard for the 1981 model year for these engine families and for all the 1981 and 1982 model year engine families receiving waivers under the previous consolidated CO waiver decisions. As a result, protection of the public health does not require attainment of the 3.4 gpm CO standard by the Ford 2.3L turbocharged engine family, for which I have determined that effective control technology is not available for the 1981 model year.[40]

According to the express terms of the statute, there is no need for me to determine whether waiver applications covering engine families for which the applicant failed to establish the unavailability of effective control technology (considering cost, driveability, and fuel economy) meet any of the remaining statutory criteria in order for me to deny an application.[41] The Act requires me to deny waiver applications where an applicant has failed to meet any one of the criteria regardless of whether such applicant could meet the remaining criteria. Nevertheless, I will address these issues briefly in the course of discussing the remaining criteria regarding this engine family in the 1982 model year as I did in the six previous waiver decisions.

While waiving the 1981 and 1982 statutory CO standards for the engine family here would not significantly affect the public health, noticeable increases in ambient CO levels could result from granting waivers industry-wide.[42] In light of the fact that industry-wide waivers would not be protective of the public health, it is reasonable to grant waivers covering only that portion of the industry consisting of those model year engine families for which I have determined that effective control technology, considering costs, driveability, and fuel economy, is not available (presuming these families also meet the remaining statutory criteria).[43]

C. Essential to the Public Interest or to the Public Health and Welfare

Before I may grant a waiver request, section 202(b)(5)(C)(i) of the Act requires that I determine that granting the waiver is essential to the public interest or the public health and welfare.[44]

My assessment of the risks associated with an erroneous or partially-accurate waiver denial indicates the public interest considerations at stake in this waiver decision. I have determined that the adverse economic consequences that could occur due to the real possibility that denying the waiver request for Ford's 2.3L turbocharged engine family might be only partially accurate, in light of the insignificant environmental impact involved, make it essential to the public interest that I grant this waiver request.[44]

I have determined that it is not essential to the public interest or to the public health and welfare to grant a waiver to the Ford 2.3L turbocharged engine family for the 1982 model year, because the applicant has failed to establish that the vehicles in question, using this engine family, are incapable of meeting a 3.4 gpm CO standard or are likely to incur significant costs (or driveability or fuel economy penalties) in meeting that standard for the model year in question. The public's interest in continuously maintaining a diversified and competitive automotive industry for the United States market is not adversely affected by my decision to deny waivers for engine families for which manufacturers have failed to establish the unavailability of adequate lead time to employ effective emissions control technology.[45]

D. Good Faith

In order for me to grant a waiver to any applicant, section 202(b)(5)(C)(ii) of the Act requires that I determine that the applicant in question has made all good faith efforts to meet the established emission standards. As a result, I have examined information regarding Ford's previous and projected efforts toward meeting a 3.4 gpm CO emission standard for the engine family in question.

Ford has provided engineering and technical information to support the contention that it has acted in good faith in trying to meet the 3.4 gpm CO standard. In general, information in the record provides support for determining that Ford has met the Act's good faith criterion in developing emission control technology to enable its 2.3L turbocharged engine family to meet the 3.4 gpm CO standard.[46]

[39] Appendix A, section IX. Some of the vehicles on which Ford most recently has begun certification testing also may indicate a capability of meeting the 3.4 gpm CO standard. Ford may also reapply for a waiver for the 1982 model year if it is unable to develop effective technology to meet the 3.4 gpm standard for that model year.

[40] See, e.g., discussion of ambient air quality effects, App. B, 44 FR 53370, 53402, 53407 (September 13, 1979) and 44 FR 69416, 69458–69462 (December 3, 1979). The engine families receiving waivers under my previous CO waiver decisions constitute less than 30% of the total projected 1981 model year light-duty vehicle sales in the United States. Ford projected sales of only about 30,000 units of this model in the 1981 model year. May 8, 1980 Transcript, p. 119.

[41] These remaining criteria are found in section 202(b)(5)(C) of the Act. For discussion regarding these criteria in earlier waiver decisions, see e.g., 44 FR 53378 (September 13, 1979); 44 FR 69416, 69420 (December 3, 1979); and 45 FR 7122, 7126 (January 31, 1980).

[42] See the first decision, 44 FR 53378, 53381 and Appendix B at 44 FR 53402–53407 (September 13, 1979).

[43] See, e.g. 44 FR 53376, 53382, 53386–53387 (September 13, 1980).

[44] See sections in previous decisions discussing public health and welfare effects of engine families denied waivers, 44 FR 53387, 44 FR 69429 (Sept. 13, 1979 and December 3, 1979, respectively).

[45] Although Ford has not completed certification durability testing for the 2.3L turbocharged at either a 3.4 gpm or 7.0 gpm CO emission standard, granting this waiver request will significantly increase the likelihood that Ford will be able to successfully certify and produce this engine family under a 7.0 gpm standard. App. A, section V. May 8, 1980 Transcript, pp. 123, 125–127.

[46] Appendix A, sections V, IX. Ford stated that granting this waiver request would permit the additional accumulation of field experience and continuous market experience with this technology because Ford plans to employ it in vehicles produced in 1983 and following model years. Ford has already gained some field experience with turbocharger technology in previous model years.

[47] Although Ford did not provide information regarding preproduction development vehicles, it did provide information which established that Ford had developed and employed relatively sophisticated emission control technology on certification durability test vehicles of this engine family. App. A, section V. May 8, 1980 Transcript, p. 124.

In the absence of any evidence supporting a contrary conclusion, I am unable to determine other than that Ford has met the good faith criterion with respect to the engine family under consideration in this decision.

IV. Conclusion

The Ford engine family for which I determined that effective CO control technology is not available for the 1981 model year is covered by a waiver application which meets each of the remaining criteria under section 202(b)(5)(C) of the Act. As a result, I am granting a waiver of the effective date of the statutory CO emission standard for the Ford 2.3L turbocharged engine family for the 1981 model year.

I have determined that for Ford's 2.3L turbocharged engine family Ford has failed to establish that effective control technology indeed is available to meet a 3.4 gpm CO standard by the 1982 model year, even after considering costs, driveability and fuel economy. Thus, even though Ford's waiver application may meet one or more of the remaining criteria for receiving waivers, I nevertheless must deny the waiver applications covering the Ford 2.3L turbocharged engine family for the 1982 model year.

V. Interim CO Exhaust Emission Standards

As required by section 202(b)(5)(A) of the Act, I am simultaneously promulgating regulations elsewhere in this issue of the **Federal Register** prescribing an interim CO emission standard of 7.0 gpm for 1981 model year vehicles for the engine family receiving a waiver. For this engine family, this action continues in effect for one additional year the CO emission standard applicable to all 1980 model year light-duty vehicles.

Dated: July 31, 1980.

Douglas M. Costle,

Administrator.

Appendix A.—Summary of Technological Capability

Contents

I. Introduction.
II. Summary of Technological Capability.
III. Statistical Treatment of the Data.
IV. Factors.
V. Discussion of Individual Manufacturer's Technical Capability.
VI. Cost Analysis.
VII. Driveability.
VIII. Fuel Economy.
IX. Lead Time Considerations.
X. References.

I. Introduction

The exhaust emission standards for 1981 and later model year light-duty vehicles are currently 0.41 gram per mile HC, 3.4 grams per mile CO, and 1.0 gram per mile NO_x. Section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) provides the opportunity for manufacturers to request a waiver of the 3.4 grams per mile CO standard to 7.0 grams per mile during model years 1981 and 1982.

The applicant being considered in this document is Ford. This is the fifth group of CO waiver applications that have been considered by EPA, and the second time a request has been considered from Ford.

This appendix deals with the technological capability of Ford to meet the 1981 and 1982 CO standard of 3.4 grams per mile. This appendix relies on three previous technical appendixes, particularly for explanation of the basic concepts of the standard Monte Carlo simulation utilized in this analysis. These appendixes are:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.

2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.

3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

This appendix relies on reference 11 for discussion of the Modified Monte Carlo simulation used in this appendix. As indicated in Section 202(b)(5)(C)(iii) of the Clean Air Act, the technological feasibility determination is based on the consideration of technological capability, cost, driveability, and fuel economy. This appendix contains discussion of each of the above topics.

II. Summary of Technological Capability

Table II–1 summarizes the capability of the applicant manufacturer to meet the 1981 and 1982 emission standards. The standards considered in these tables are 0.41 HC, 3.4 CO, 1.0 NO_x.

A guide to the summary tables is as follows. The first column lists engine displacement. The "as received" column refers to the emission data submitted by the manufacturer. "Improvements" refer to the projected technological improvements (factors) applied to the data submitted by the manufacturer.

The "no data" category is an abbreviated notation for the lack of acceptable data to perform EPA's established technological analysis as referred to in EPA's published CO waiver guidelines. The applicants have known for about six years what sort of data is necessary for EPA to make a determination under its established methodology whether or not a given vehicle would be projected to pass or fail a set of standards. Unfortunately, in some cases there was a lack of useable data for vehicles using specific engines. This effectively precluded EPA from making a pass/fail determination for those vehicles through the established methodology. In these cases the vehicles using these engines are called "no data" and no pass/fail determination was made.

Table II–1.—*Applicant: Ford*

Engine	Pass as received	Pass with improvement
2.3L–TC–2V	No for Model Year 1981. No data for Model Year 1982.	N/A.*

* N/A means not applicable or that no hardware improvement factors were applied to these vehicles.

III. Statistical Treatment of the Data

The standard Monte Carlo methodology has been used for the analysis of prototype durability vehicles in this appendix. No changes have been made in the standard Monte Carlo methodology since its last use in a technical appendix. This methodology, which is the foundation for the Modified Monte Carlo methodology for certification vehicles has been discussed in three previous technical appendixes:

1. Appendix B, Technical Appendix, to the Decision of the Administrator on Remand for the United States Court of Appeals for the District of Columbia Circuit, April 11, 1973.

2. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1976 Motor Vehicle Exhaust Emission Standards, July 30, 1973.

3. Appendix A, Technical Appendix, to the Decision of the Administrator In re: Applications for Suspension of 1977 Motor Vehicle Exhaust Emission Standards, March 5, 1975.

A Modified Monte Carlo simulation has been developed and also utilized in this appendix for actual 1981 model year certification durability vehicles which have accumulated less than 50,000 miles of durability. The Modified Monte Carlo has been discussed in reference 11 as found in Section X of this document.

IV. Factors

With respect to the vehicle emission data submitted by the manufacturers for EPA analysis, vehicles are often run and tested over durability mileage

accumulation schedules without using the best technology that is available to the manufacturer for certification in the 1981 or 1982 model years. There are many reasons why this occurs. First, such technology may have simply not been available in quantity when fleets of vehicles began mileage accumulation.

Second, all vehicles submitted for EPA staff analysis may not have been specifically designed for the 1981 and 1982 Federal emission standards. Also, the manufacturer may wish to maintain some technologies (with known durability) in reserve if their low mileage testing indicates that such technology may not be needed for compliance with the target emission standards. In addition, technology may not appear on durability vehicles because the manufacturer has made a decision that the technology would be too costly for production vehicles.

Factors which have previously been developed, but generally not used in the following analysis include factors for:

- Warm up catalysts for 3W catalyst or 3W+OC systems
- Deletion of power enrichment
- Use of insulated or dual-walled exhaust pipes
- Use of exhaust port liners
- Use of throttle body fuel injection
- Use of multiple point fuel injection

Although the deletion of power enrichment was considered feasible for 1981, factors for this improvement were not used. Use of the other items was not considered possible for most manufacturers for most engine families before the 1982 model year. Therefore, through these additional techniques, the manufacturers may have some additional cushion for certification.

No factors were used for emission control system improvements for vehicles in this analysis. Developmental data were not provided by Ford; therefore, no data was available for developing hardware improvement factors for 1982.

V. Discussion of Individual Manufacturer's Technical Capability

This section will discuss all vehicles which (1) were submitted by the applicant and (2) also are acceptable for input into either the standard Monte Carlo simulation or the Modified Monte Carlo analysis for certification vehicles.

Details of the pass/fail determinations in section II are presented here. To pass the 1981 and 1982 emission standard of 0.41 HC, 3.4 CO, 1.0 NOx, the probabilities of passing each individual pollutant must be greater than or equal to 80% in either the standard or Modified Monte Carlo. If the probability of passing only HC, for example, is less than or equal to 79%, the vehicle is projected to fail—even if the probabilities of passing the CO and NOx standards greatly exceed the 80% cut point.

Ford Motor Company (Ford)

This is the second group of CO waiver applications received from Ford. In their current application Ford has requested a CO waiver from 3.4 to 7.0 grams/mile for their vehicles using 2.3 liter turbocharged (TC) engines with two barrel (2V) carburetors for 1981 and 1982. In their previous application, they requested waivers for vehicles using their new 1.3 liter and 1.6 liter engines for 1981 and 1982. They were granted CO waivers to 7.0 CO for vehicles using the 1.3 liter and 1.6 liter engines for 1981.

No prototype 1981 durability vehicles using 2.3 liter-TC engines were durability tested by Ford prior to their waiver application. Six vehicles have been run to date in the 1981 certification process by Ford. Five of the vehicles are shown in Table V–1. The sixth vehicle (VIN 1B1–2.3–013) was mentioned by Ford at the CO waiver hearing; however, no emission data were presented for it [1 at 133]*. The vehicle results would not change the pass/fail determination anyway since it was terminated with less than 15,000 miles [3].

Two of the certification vehicles (1B1–2.3–098 and 1B1–2.3–104) were not analyzed in the Modified Monte Carlo because they had not accumulated sufficient mileage.

Three vehicles were analyzed in the Modified Monte Carlo analysis for 1981 model year certification vehicles. As shown in table V–2, all three vehicles failed. Not a single vehicle is projected to pass even an individual pollutant.

In summary, vehicles using the 2.3 liter turbocharged–2V engine are projected to fail in the 1981 model year. All vehicles which have gone into the certification process have been terminated with less than 50,000 miles of durability. So Ford must start some new durability vehicles to certify in 1981, regardless of the outcome of their waiver application. Ford has indicated that the major changes which will be made to their eight future durability vehicles to reduce deterioration of exhaust emissions are reductions in the amount of injected air and reductions in catalyst loading [2 at 3] [3]. The technical staff believes that reductions in catalyst loading may result in cost benefits for Ford with potential increases in emissions deterioration. Data have shown an emissions benefit and improved catalyst efficiency associated with increased precious metals loading [7 at 53391].

BILLING CODE 6560-01-M

* The Abbreviated notation [W at Y] means reference number W from Section X of this document at page number Y.

Table V-1

Vehicles in the Ford Waiver Application for the 2.3 Liter Turbocharged Engine

Engine	VIN	Emission Control System*	Entered in Modified Monte Carlo?	If Not Entered in Modified Monte Carlo -Why?	Comment	Reference
2.3L-TC-2V	1B1-2.3-096	FBC/AIR/ECR/3W/OC	Yes	—	1981 50-States certification vehicle – now terminated	7 & at Attachment 2
2.3L-TC-2V	1B1-2.3-097	FBC/AIR/ECR/3W/OC	Yes	—	1981 50-States certification vehicle-now terminated	7 & at Attachment 2
2.3L-TC-2V	1B1-2.3-098	FBC/AIR/ECR/3W/OC	No	Less than 20,000 miles of durability	1981 50-States certification vehicle-now terminated	7 & at Attachment 2
2.3-TC-2V	1B1-2.3-104	FBC/AIR/ECR/3W/OC	No	Less than 20,000 miles of durability	1981 50-States certification vehicle-now terminated	7 & at Attachment 2
2.3-TC-2V	1B1-2.3-105	FBC/AIR/ECR/3W/OC	Yes	—	1981 50-States certification vehicle-now terminated	7 & at Attachment 2

* THC means feedback carburator.
AIR means switched air injection using an air pump.
ECR means ported exhaust gas recirculation.
3W means 3-way catalyst.
OC means oxidation catalyst.

Table V-2

Modified Monte Carlo Results of 1981 Ford Certification Durability Vehicles Using 2.3 Liter Turbocharged Engines

VIN	1W/ETW	Certification Engine Family	Probability of Pass HC	CO	NOx	Comment
1B1-2.3-096	3000/3250	2.3BC	14	0	0	Terminated
1B1-2.3-097	3000/3250	2.3BD	0	0	63	Terminated
1B1-2.3-105	3000/3250	2.3BC	0	0	63	Terminated

BILLING CODE 6560-01-C

The 2.3 liter, naturally aspirated engine is a potential replacement engine for the 2.3 liter turbocharged engine. Other engines, such as six cylinder or eight cylinder engines, could also be used. The naturally aspirated version of the 2.3 liter engine was certified at levels below the 1981 emission standards as long ago as model year 1978. The emission results of the 1978 California certification durability vehicle are shown in table V–3.

Table V–3.—*Final Certification Results of a 1978 Model Year Ford Vehicle Using a 2.3 Liter Naturally Aspirated Engine*

[VIN 8E22.3114B0080AXR; Family F2.3B1TR80XR80]

Miles	HC	CO	NOX
4917	0.38	2.5	0.70
9840	0.20	1.2	0.95
14954	0.31	1.4	0.81
19794	0.40	2.0	0.62
24802	0.39	2.3	0.69
29803	0.39	2.3	0.68
29823	0.40	1.9	0.75
34809	0.25	2.9	0.48
39804	0.36	2.1	0.66
44809	0.30	1.8	0.82
49887	0.39	2.0	1.00
4k (calc)	0.34	1.97	0.73
50k (calc)	0.36	2.19	0.82
df	1.05	1.17	1.13

VI. Cost Analysis

The costing methodology used here is essentially the same as that used in the six previous CO waiver decisions [5], [6 at 40030], [7 at 53400], [8 at 69450], [9 at 7133], [10 at 17915]. Responses to the EPA subpoena of August 8, 1979 enabled EPA to revise cost estimates of certain emission control devices, notably monolithic three-way and oxidation catalysts. The subpoena requested prices that suppliers charge the automobile manufacturers for emission control devices or systems.

Described below are estimates of cost to the consumer for compliance with 3.4 vs 7.0 CO (due to lead time problems for certain emission control devices, separate estimates are often necessary for 1981 and 1982). The changes in cost were calculated by individual engine size. These changes are based on the differences in emission control hardware between systems targeted to meet 7.0 CO, as described by each manufacturer in their applications and systems judged capable by EPA of meeting 3.4 CO, based on the Monte Carlo analysis results or successful certification of similar vehicles.

Ford 2.3 Liter Turbocharged Engine

Ford described the 2.3 liter turbocharged engine emission control system as "* * * Ford's best effort system available for the 1981–82 time frame" [2 at 2]. Ford will attempt to certify the same or similar system regardless of whether a waiver is granted and thus no cost differential will exist between the 3.4 and 7.0 g/mi CO standards [2 at 2, 3]. Additionally, at the public hearing Ford stated that the cost of emission control hardware is not an issue in this waiver application [1 at 142].

The vehicle types which Ford is planning to equip with turbocharged 2.3 liter engines are also available with naturally aspirated engines. Four, six or eight cylinder naturally aspirated engines could be substituted for the turbocharged 2.3 liter engine. As previously mentioned in this appendix, the 2.3 liter naturally aspirated engine is certified at the 3.4 g/mi CO standard.

Additionally, the EPA technical staff believes that a turbocharging system may significantly increase the cost of an engine. Therefore, a naturally aspirated engine would probably reduce vehicle costs compared to the turbocharged 2.3 liter engine.

Ford stated at the public hearing, "* * * being able to offer the 2.3 liter turbocharged engine gives us an increment of sales that we otherwise wouldn't have for those vehicles" [1 at 120]. Sales of 2.3 liter turbocharged vehicles was projected to be no more than 30,000 vehicles per model year in model years 1981 and 1982 [1 at 119]. If the turbocharged 2.3 liter engine were unavailable, Ford estimated "* * * that no more than 75% of the projected 2.3 L(T) sales volume could be compensated by sale of vehicles equipped with other engines" [3 at 2]. Based on these Ford estimates, a sales loss of about 15,000 vehicles may be incurred if the turbocharged 2.3 liter engine is unavailable in both model years 1981 and 1982.

The EPA concludes the emission control system cost is not a determining issue in the assessment of this engine's ability to meet a 3.4 g/mi CO standard. However, the unavailability of the turbocharged 2.3 liter engine may reduce vehicle sales.

VII. Driveability

The technological feasibility of meeting the 1981–1982 emission standards is, in part, determined by the applicant's ability to maintain acceptable driveability while attaining these standards.

Ford—Ford maintains that the 2.3 liter turbocharged engine is incapable of meeting the 1981–1982 emission standards. Neither Ford's CO waiver application [2] nor Ford's testimony at the CO Waiver Hearing [1] indicated that a waiver would be necessary to maintain acceptable driveability. No driveability data were submitted for this engine. Presently, driveability is not one of the determining factors in assessing the ability of Ford's 2.3 liter turbocharged engine to comply with a 3.4 g/mi CO standard.

VIII. Fuel Economy

Ford 2.3 Liter Turbocharged Engine

Ford's CO waiver request did not address the fuel economy effect of a 3.4 versus a 7.0 g/mi CO standard on the 2.3 liter turbocharged engine. However, Ford's waiver request stated the following about fuel economy:

"There is general agreement that a fuel economy benefit could be obtained by turbocharging for high specific power output while allowing reductions in engine size which in turn permits reduction in engine friction (e.g., pumping losses) and weight for the given power output." [2 at 2]

Society of Automotive Engineers paper number 790312 was written about Ford's 2.3 liter turbocharged engine. Tables VIII–1, 2 and 3 presented in this appendix are from this SAE report [12 at 23, 24]. These tables compare various aspects of the turbocharged 2.3 liter engine to a naturally aspirated 2.3 liter engine and a naturally aspirated 5.0 liter engine. Although the SAE report did not detail the testing techniques or vehicle configurations which were used to generate the data presented in these tables, the data do appear to be appropriate for comparison purposes. Table VIII–2 indicates that the acceleration performance of the turbocharged 2.3 liter engine is much greater than the naturally aspirated 2.3 liter engine and is nearly equal to the 5.0 liter V–8 engine. Table VIII–3 shows the turbocharged 2.3 liter engine fuel economy to be both approximately 8 percent less than the naturally aspirated 2.3 liter engine economy and nearly 16 percent greater than the 5.0 liter engine fuel economy. Since none of these three vehicles represents a 1981 calibration, these data are presented only for the purpose of a rough comparison.

Ford predicted, at the public hearing, that the turbocharged 2.3 liter engine will have better fuel economy than the naturally aspirated 2.3 liter engine [1 at 122]. This fuel economy differential was projected to be approximately one mile per gallon based on the combined city/highway MPG values [1 at 125].

Ford supplied fuel economy data for several 1979 and 1980 model year vehicles equipped with both turbocharged and naturally aspirated 2.3 liter engines. These data indicate a minimum of one mile per gallon fuel economy penalty for turbocharged vehicles compared to similar naturally aspirated vehicles [3 at Attachment V].

The EPA technical staff includes that for the 2.3 liter turbocharged engine, compliance with a 3.4 CO standard would have not a deleterious effect on fuel economy in comparison to compliance with a 7.0 standard. Fuel economy is not a critical issue in the determination of the technical feasibility for compliance with the statutory emission standards by the 2.3 liter turbocharged engine, . If the turbocharged engine were unavailable, a naturally aspirated 2.3 liter engine could be substituted and provide approximately equal or greater fuel economy; however, maximum acceleration performance would be decreased. Larger displacement six or eight cylinder engines are also possible substitutes for the turbocharged 2.3 liter engine. These larger engines may have comparable acceleration performance; however, a fuel economy penalty may be incurred.

Table VIII–1.—*Engine Performance*

Engine	Peak power (HP at RPM)	Specific power (HP/Cu. In.)	Peak torque (Lb-Ft at RPM)	Weight (Lb)	Peak HP/Lb
Naturally Aspirated 2.3L I–4	101 @ 4800	.72	124 @ 3500	418	.24
Turbocharged 2.3L I–4	138 @ 5500	.98	148 @ 3500	450	.31
Naturally Aspirated 5.0L V–8	155 @ 3800	.51	256 @ 2500	565	.27

Table VIII–2.—*Vehicle Performance*

Mode	Base 2.3L	Turbo 2.3L	5.0L V–8
0–60 mph	13.7 sec.	9.4 sec.	8.9 sec.
25–60 mph	10.3 sec.	6.7 sec.	6.3 sec.
50–80 mph	16.9 sec.	9.8 sec.	9.0 sec.
0–10 sec.	435 ft.	543 ft.	544 ft.

Table VIII–3.—*Fuel Economy*

	Base 2.3L	Turbo 2.3L	5.0L V–8
Combined mpg avg.	24.0 mpg	22.0 mpg	19.0 mpg

IX. Lead Time Considerations

Ford 2.3 Liter Turbocharged Engine

Ford has not yet successfully completed certification durability testing for a CO standard of either 3.4 CO or 7.0 CO. Regardless of whether the CO standard is waived or not, Ford is planning to start eight additional durability vehicles because all their earlier vehicles have been terminated prior to completion of 50,000 miles [1 at 123].

At the public hearing Ford stated that the lead time implication was the same for either a 3.4 o4 7.0 g/mi CO standard [1 at 124]. However, Ford would have greater confidence of successfully certifying at a 7.0 g/mi CO standard [1 at 123].

The eight additional certification durability vehicles which Ford is in the process of starting will complete testing not earlier than late August or early September 1980 [3 at 4]. These vehicles represent Ford's earliest opportunity to certify a durability vehicle for either a 7.0 CO or 3.4 CO standard. No emissions data are available on this group of vehicles. The durability vehicles Ford is starting are similar to previous durability vehicles with the following differences [1 at 125]:

(i) Reduced loading of the light-off catalyst,

(ii) Revised air management strategy with less air,

(iii) Four vehicles will have non-feedback fuel systems.

Naturally aspirated 2.3 liter engines could be substituted for turbocharged 2.3 liter engines [1 at 120]. The naturally aspirated 2.3 liter engine has completed certification at the 1981–1982 emission standards. According to Ford, deletion of the turbocharging system would significantly reduce engine performance [2 at 4]. Ford estimates that no more than 75 per cent of the potential turbocharged 2.3 liter sales volume could be retained by offering vehicles equipped with other engines [3 at 2].

The present first choice emission control system for the turbocharged 2.3 liter engine is described by Ford as the most sophisticated and costly system available to them [4 at 11]. However, Ford stated that the addition of electronic fuel injection (EFI) is required to insure a high confidence of meeting the 1981–1982 standards [1 at 134]. EFI is planned for production in model year 1983, which was reported as the earliest possible introduction time [1 at 143, 146].

The EPA technical staff concurs with Ford that EFI could improve this engine's ability to meet a 3.4 g/mi CO standard. However, insufficient lead time is available for model year 1981 to incorporate major changes, such as EFI, to the 2.3 liter turbocharged engine.

Several possibilities exist to improve the emissions performance in the 1982 model year. The feedback carburetor which Ford is using, a Holley model 6500, allows the primary main metering circuit to be modulated by an external vacuum control signal. The magnitude of this vacuum control signal is a function of the electronic control unit (ECU) input to the vacuum solenoid regulator. Ford stated the poor emission performance of two 1981 durability 2.3 liter turbocharged engines, "* * * is believed to be the result of feedback open loop calibration drift resulting from a shift in vacuum solenoid regulator output with mileage accumulation" [2 at 9]. Additionally, the Holley model 6500 carburetor which Ford is using on the 2.3 liter turbocharged engine does not operate closed-loop at idle [1 at 125].

Holley manufactures another carburetor, model 6510, which could be used on the 2.3 liter turbocharged engine. The model 6510 is similar to the model 6500; however, it incorporates an internal solenoid which modulates both the primary main circuit air/fuel ratio and the idle circuit air/fuel ratio as a function of an electrical signal. Elimination of the vacuum interface between the ECU and the carburetor is a possible advantage of the model 510 compared to the model 6500. Ford stated that the solenoid equipped Holley carburetor (model 6510) was considered; however, it was never tested [1 at 131 to 132].

A turbocharger increases the thermal inertia of both the induction and exhaust systems compared to a similar naturally aspirated engine. Heating the air-fuel mixture promotes vaporization of the fuel and is especially beneficial during the cold start portion of vehicle operation. Ford has incorporated an engine coolant passage in the intake manifold for this purpose. A possible emission benefit could be obtained in the 1982 model year by the addition of an electric resistance heating element to heat the intake air-fuel mixture.

Other possible system improvements which could be incorporated by the 1982 model year include a change from ported to backpressure or sonic EGR, increased rhodium content in the 3-way catalyst, and changes in catalyst location.

In summary, present lead time constraints for the turbocharged 2.3 liter engine are equal for either a 3.4 CO or 7.0 CO standard. All data for model year 1981 indicate the 2.3 liter turbocharged engine is incapable of meeting the statutory standards. However, sufficient lead time is available to incorporate changes which may permit compliance to a 3.4 g/mi CO standard in the 1982 model year.

X. References

1. *Transcript of Proceedings, United States Environmental Protection Agency, Public Hearing: CO Emission Standards Waiver Application,* Washington, DC, May 8, 1980, Acme Reporting Company.
2. *Application for Waiver of 1981 and 1982 Carbon Monoxide Emission Standard for the 2.3L Turbocharged Engine,* Ford Motor Company, May, 1980.
3. Letter and attachments to Mr. Charles N. Freed (EPA) from Ms. Helen G. Petrauskas (Ford) dated May 16, 1980.
4. Opening statement of Ms. Helen Petrauskas (Ford), May 8, 1980.
5. Leroy H. Lindgren, *Cost Estimations for Emission Control Related Component-Systems and Cost Methodology Description,* EPA Pub. #460/3-78-002, March 1978.
6. *Federal Register,* Vol. 45, No. 115, June 12, 1980.
7. *Federal Register,* Vol. 44, No. 179, September 13, 1979.
8. *Federal Register,* Vol. 44, No. 223, December 3, 1979.
9. *Federal Register,* Vol. 45, No. 22, January 31, 1980.
10. *Federal Register,* Vol. 45, No. 55, March 19, 1980.
11. *Federal Register,* Vol. 45, No. 107, June 2, 1980.
12. SAE Paper No. 790312, *"Turbocharging Ford's 2.3 Liter Spark Ignition Engine"* by H. H. Dertian, G. W. Holiday & G. W. Sanburn (Ford Motor Company), February 26–March 2, 1979.

[FR Doc. 80-24978 Filed 8-8-80; 8:45 am]
BILLING CODE 6560-01-M

federal register

Monday
August 11, 1980

Part XI

Department of Education

Institute of Museum Services

Museum Services

DEPARTMENT OF EDUCATION

Institute of Museum Services

34 CFR Part 64

Museum Services Board

AGENCY: Institute of Museum Services, ED.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations to implement the Government in the Sunshine Act as it applies to the Institute of Museum Services. These regulations govern meetings of the National Museum Services Board under the Government in the Sunshine Act. They include provisions regarding public announcements of Board meetings, standards for closing meetings and requirements applicable when meetings are closed.

EFFECTIVE DATE: These regulations take effect August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Lee Kimche, Department of Education, Institute of Museum Services, 330 C Street, S.W. (Room 4008), Switzer Building, Washington, D.C. 20201. Telephone: (202) 245–8817.

SUPPLEMENTARY INFORMATION:

Structure of Institute of Museum Services

The Museum Services Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The National Museum Services Board consists of 15 members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums and curatorial, educational and cultural resources of the United States.

In addition to the members appointed by the President, the following serve as members of the Board: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Secretary of Education.

The Board has responsibility for establishing the general policies of the Institute.

The Director of the Institute is appointed by the President with the advice and consent of the Senate. The Director has responsibility for the general administration of the Institute and is authorized, subject to the policy direction of the Board, to make grants to museums under the Act.

The Department of Education Organization Act (Pub. L. 96–88), transferred IMS to the Department of Education, effective May 4, 1980.

Applicability of the Government in the Sunshine Act

The Government in the Sunshine Act, Pub. L. 94–409 (1976), amended Title 5 of the United States Code by adding a new Section 552b. Section 552b of Title 5 U.S.C. provides in general that collegial bodies which head Federal agencies must, subject to specified exceptions, hold their meetings open to public observation. The Institute of Museum Services is subject to Section 552b.

Section 552b requires that each agency subject to its provisions issue implementing regulations, 5 U.S.C. § 552b(g). These regulations are designed to fulfill this requirement for the Institute of Museum Services.

Regulatory History

Proposed regulations appeared on page 45973 of the **Federal Register** of August 6, 1979. These regulations proposed to amend Part 64 of Title 45 of the Code of Federal Regulations by adding a new subpart. They were to govern meetings of the national Museum Services Board under the Government in the Sunshine Act. They included provisions regarding public announcements of Board meetings, standards for closing meetings and requirements applicable when meetings are closed.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No written objections were received. The following technical changes have been made to the regulations: This subpart will be Subpart G instead of Subpart B. Sections 64.21–64.39 will not be reserved, but will be used for other additions to IMS regulations. Former references to the Department of Health, Education, and Welfare are changed to the Department of Education. The reference in § 64.78 to internal review procedures is deleted. These regulations are codified in Title 34, which contains Education Department regulations.

Summary of Regulations

These regulations do not repeat or paraphrase all the provisions of Section 552b. (These provisions are fully applicable to the meetings of the National Museum Services Board and need not be repeated in regulations in order to be made operational with respect to the Board.) Instead, these regulations are designed to highlight major provisions of Section 552b as they affect the public and to provide guidance to the public as to how the Board proposes to operate in accordance with the provisions of Section 552b. These regulations add a new Subpart G to Part 64 of Title 34 CFR, which contains the regulations of the Institute. The new subpart relates to meetings of the National Museum Services Board.

Provisions of the regulations—General

Section 64.70 of the regulations indicates that the provisions of 5 U.S.C. Section 552b apply to meetings of the National Museum Services Board. Section 64.71 of the regulations states the general rule that, unless properly closed, every portion of every meeting of the Board is open to public observation. Section 64.72 states the applicability of the regulations to meetings of committees of the Board. Since certain decisions under the regulations must be taken by record vote of the National Museum Services Board, § 64.73 describes the nature of a record vote. A majority vote of the entire membership of the Board is required to constitute a record vote.

Announcement of meetings

Sections 64.74–64.77 of the regulations relate to announcement of meetings. Section 64.74 requires a meeting to be publicly announced at least one week before the meeting takes place and specifies the matters which the announcement must cover. Paragraphs (b) and (c) of § 64.74 contain exceptions to this requirement.

Sections 64.75 and 64.76 state procedures to be followed when it is necessary to change the time, place or subject matter of a meeting. Under § 64.77 any public announcement required by the regulations must be published in the **Federal Register**.

Closing meetings

Sections 64.78–64–81 govern the closing of meetings. Section 64.78 provides that the National Museum Services Board may by record vote close a meeting if the Board determines that the meeting falls within one of the exceptions stated in Section 552b.

Exceptions, as set forth in Section 552b, are listed in Appendix A to the regulations. Under § 64.78(b), the Board must consider whether the public interest merits keeping a meeting open although an exception applies. Section 64.79 deals with requests to close meetings submitted by persons who

believe that their interests may be directly affected by a meeting or a portion of a meeting. Section 64.80 describes the material which must be retained by the Board if it determines to close a meeting or a portion of a meeting. In general a transcript or recording of the meeting must be kept. Where meetings are closed pursuant to exceptions (8), (9)(i), or (10) (as listed in Appendix A), minutes of the meeting are adequate. Section 64.81 deals with the disposition of such recordings, transcripts or minutes and the circumstances under which they may or may not be made available to the public.

The National Museum Services Board and the Director of the Institute of Museum Services have approved these regulations.

(Catalog of Federal Domestic Assistance No. 13.923, Museum Services Program. Part I of OMB Circular A–95 does not apply.)

Dated: August 6, 1980.

Steven A. Minter,

Acting Secretary of Education.

Part 64 of Title 45 of the Code of Federal Regulations is transferred to Title 34 and amended as follows:

1. The table of contents for Part 64 is amended by adding the following:

Subpart A—Program Regulations

Sec.

64.1 Purpose of museum services program.

* * * * *

Subpart G—Meetings of the National Museum Services Board

General

64.70 Scope.
64.71 General rule.
64.72 Application to NMSB committees.
64.73 Record vote.

Announcement of Meetings

64.74 Public announcement of meetings.
64.75 Changes in time or place of meeting.
64.76 Changes in subject matter of meeting.
64.77 Publication of announcements.

Closing Meetings

64.78 Reasons and procedures for closing meetings.
64.79 Requests to close meetings.
64.80 Materials related to closed portions of meetings.
64.81 Opening of transcript or recording of closed meeting.

Authority: Pub. L. 94–462, Sections 201–210, 90 Stat. 1975, (20 U.S.C. 961–68); 5 U.S.C. 552b.

2. A new Subpart heading is added before § 64.1 to read as follows:

Subpart A—Program Regulations

* * * * *

Subpart G—Meetings of the National Museum Services Board

General

§ 64.70 Scope.

5 U.S.C. Section 552b, added to the United States Code by the Government in the Sunshine Act, Pub. L. 94–409 (1976), provides that collegial bodies which head Federal agencies must, with certain exceptions, hold their meetings in public. Section 552b applies to meetings of the National Museum Services Board ("NMSB"). The regulations in this document (Subpart G of Part 64, Title 34 CFR) set forth procedures for the conduct of meetings of the NMSB in accordance with Section 552b.

§ 64.71 General rule.

Unless properly closed under § 64.78, every portion of every meeting of the NMSB is open to public observation. For the purposes of this document a "meeting" means the deliberations of at least the number of members of the NMSB required to take action on behalf of the NMSB, where these deliberations determine, or result in the joint conduct or disposition of, official IMS business. (A "meeting" does not include deliberations required or permitted by subsections (d) or (e) of Section 552b.)

§ 64.72 Application to NMSB committees.

This document applies to committees of the NMSB when they are authorized to make final policy decisions on the NMSB's behalf. This document does not apply to committees or informal working groups of the NMSB which are authorized to make recommendations or reports to the NMSB or to perform technical or ministerial functions on its behalf.

§ 64.73 Record vote.

(a) Certain action of the NMSB with regard to meetings under these regulations may be taken only by "record vote." For purposes of this document, a vote of the NMSB is a "record vote" if—

(1) It carries by a majority of all those holding office as NMSB members at the time of the vote;

(2) No proxies are counted toward the necessary majority; and

(3) The individual vote of each member voting is recorded.

(b) Within one day of a record vote to close, or withhold information about, a meeting, or any record vote for this purpose that does not achieve the necessary majority, the NMSB makes available to the public a written record showing the vote of each member.

(c) The NMSB may take a vote with respect to matters governed by this part (without convening) by means of circulation of a written ballot, tally sheet, or other notation procedures.

Announcement of Meetings

§ 64.74 Public announcement of meetings.

(a) Except as stated in paragraphs (b) and (c) of this section, the NMSB makes a public announcement of each meeting at least one week before the meeting. The announcement covers:

(1) The time, place, and subject matter of the meeting;

(2) What portions of the meeting, if any, are to be closed to the public; and

(3) The name and phone number of the official designated to respond to requests for information on the meeting.

(b) The announcement may be made less than a week before the meeting it announces or after the meeting only if (1) the NMSB by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a public announcement is made at the earliest practicable time.

(c) All or any portion of the announcement of any meeting may be omitted if the NMSB by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 64.78.

§ 64.75 Changes in time or place of meeting.

The time or place of a meeting of the NMSB that has been publicly announced as provided in § 64.74 may subsequently be changed. However, the change must be publicly announced at the earliest practicable time.

§ 64.76 Changes in subject matter of meeting.

The subject matter of any portion of any meeting of the NMSB that has been publicly announced as provided in § 64.74 (or the determination whether any portion of any meeting so publicly announced will be open or closed) may subsequently be changed if—

(a) The NMSB determines by record vote that agency business so requires and that no earlier announcement of change was possible; and

(b) The NMSB publicly announces the change and the vote of each member on the change at the earliest practicable time. (Deletion or postponement of agenda items are not subject to the requirements of this section.)

§ 64.77 Publication of announcements.

Promptly following a public announcement required by these regulations, the NMSB submits, for publication in the Federal Register, a notice containing information regarding the announcement as required by Section 552b.

Closed Meetings

§ 64.78 Reasons and procedures for closing meetings.

(a) The NMSB may, by record vote in accordance with Section 552b, close any portion of a meeting if it determines that the portion falls within one of the exceptions stated in 5 U.S.C. Section 552(c). (These exceptions are listed in Appendix A.)

(b) In making a determination under paragraph (a) of this section, the NMSB considers whether the public interest merits keeping the meeting open although an exception applies.

(c) The Board addresses requests for the certification required by Section 552b to the General Counsel of the Department of Education.

(d) Within one day of a record vote closing a portion of a NMSB meeting, the NMSB makes available a full written explanation of the NMSB's action and a list of all persons it expects to attend the meeting and their affiliations.

§ 64.79 Requests to close meetings.

A person who believes his or her interests may be directly affected by a meeting or a portion of a meeting may request the NMSB to close it to the public for a reason cited in paragraphs (5), (6), or (7) of Appendix A. Such requests are handled under procedures established by the NMSB in accordance with Section 552b.

§ 64.80 Materials related to closed portions of meetings.

If a portion or portions of any meeting of the NMSB are closed to the public—

(a) The presiding officer of the meeting (usually the Chairman of the NMSB) furnishes a statement setting forth the time and place of the meeting and the persons present (including staff).

(b) Except where the Act authorizes minutes to be kept, the NMSB makes a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(c) The NMSB maintains the presiding officer's statement, the General Counsel's certificate as required by Section 552b, and the transcript, recording, or minutes of the meeting for at least two years after the meeting and at least one year after the NMSB completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 64.81 Opening of transcript or recording of closed meeting.

(a) Except as stated in paragraph (b) of this section, the NMSB makes available for inspection the transcript, electronic recording or minutes of every portion of every closed meeting on request to any member of the public. The transcript or recording is made available in an easily accessible place. The NMSB furnishes to any member of the public on request copies of the transcript (or of a transcription of the recording) disclosing the identity of each speaker. The NMSB charges for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The NMSB withholds the transcripts or recording of the discussion of any agenda item if the Chairman of the NMSB (or a NMSB member designated by the Chairman) determines that the discussion contains information which should be withheld under the same standards which apply for closing meetings under § 64.78. The NMSB releases the transcript or recording so withheld when the Chairman (or the Chairman's designee) determines that the grounds for withholding no longer apply.

Appendix A

A meeting may be closed if:

(1) It is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) It is likely to relate solely to the internal personnel rules and practices of the IMS or another Federal agency;

(3) It is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That the statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) It is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) It is likely to involve accusing any person of a crime, or formally censuring any person;

(6) It is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) It is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(7);

(8) It is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) It is likely to disclose information, the premature disclosure of which (i) in the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution: or (ii) be likely to significantly frustrate implementation of a proposed IMS action unless the IMS has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the IMS participation in a civil action or proceeding, or action in a foreign court or international tribunal, or an arbitration.

[FR Doc. 80-24135 Filed 8-8-80; 8:45 am]
BILLING CODE 4000-02-M

---

34 CFR Part 64

Museum Services Program

AGENCY: Institute of Museum Services, ED.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues regulations governing grants under the Museum Services Program as authorized by the Museum Services Act, which is Title II of the Arts, Humanities, and Cultural Affairs Act of 1976. These regulations state eligibility conditions, application requirements and funding criteria and other rules for the administration of the program.

EFFECTIVE DATE: These regulations take effect August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Lee Kimche, Department of Education, Institute of Museum Services 330 C. Street, SW., (Room 4008), Switzer Building, Washington, D.C. 20201. Telephone: (202) 245-8817.

SUPPLEMENTARY INFORMATION: *Nature of program.* The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, was enacted on October 8, 1976.

The purpose of the Act is stated in section 202 as follows:

"It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific

heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public."

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director. IMS is an agency within the Department of Education. A more detailed description of the structure of the Institute and the provisions of the Act may be found in 43 FR 45166 (September 29, 1978).

Current program regulations. Following discussions of the National Museum Services Board meeting in public sessions and a subsequent opportunity for public participation, IMS issued regulations on September 29, 1978, governing the administration of the Museum Services Program under the Act. These regulations for the Museum Services Program were published at 43 FR 45166 and are now codified as part 64 of Title 34 Code of Federal Regulations. The program regulations provide rules regarding the definition of the term "museum" for purposes of the program; the eligibility of museums for assistance; the types of assistance available; the requirements which applicants must meet; and the criteria used to judge applications. The program regulations provide for assistance to museums for general operational support and for project support.

Need for changes. IMS has now applied the program regulations during two funding cycles. While the basic policy decisions reflected in the program regulations remain sound, experience with the regulations has indicated the need for certain substantive, clarifying and technical changes. These changes were made with the advice and consent of the National Museum Services Board meeting in public sessions. A number of these changes respond to specific problems or issues which IMS staff has faced in the administration of the program or to comments or concerns expressed by applicants. Other changes enable the program to be more responsive to the current needs of museums.

A number of conforming changes are necessitated by the development of a set of general administrative regulations for the Department of Education, of which IMS is a part. The administrative regulations are known as the Education Division General Administrative Regulations (EDGAR). They are published in final form at 45 FR 22494, April 3, 1980. The regulations published below invite further attention to EDGAR, make amendments to the museum services program regulations that would conform them to EDGAR, and exclude the Museum Services Program from certain provisions of EDGAR.

Major changes made. On January 23, 1980, IMS published a proposed rule at 45 FR 5648 which proposed changes in the program regulations published on September 29, 1978. These final regulations reflect those changes.

The major changes in the program regulations are summarized in the following paragraphs of this preamble. These changes are applicable to the FY 1980 competition under the Museum Services Program.

1. Related institutions. A provision designed to state factors IMS uses in deciding whether two or more "related institutions" are separate museums is added as a new § 64.6. IMS has frequently confronted this problem in connection with eligibility for funding determinations and believes that the clarifying language will help to inform museums of the factors IMS will use in dealing with this problem.

2. Cooperative education projects. Funding of projects involving cooperation between museums and local educational agencies (school districts) to develop and carry out model museum education programs is given greater emphasis through an addition to § 64.8(a), which is the list of activities eligible for special project assistance (§ 64.8(a)(7)).

3. Planning projects. Museums may seek project assistance to develop in-depth, long range institutional plans as a result of language which is added as § 64.8(a)(9). Priority is given to such project applications in the fiscal year 1980 competition by language in § 64.12(b)(2).

4. Higher ceiling. The current program regulations inform applicants that individual museums should not expect an award in excess of $25,000. IMS increases this ceiling from $25,000 to $35,000. This change reflects higher operating costs which museums face and makes the program more responsive to the current needs of museums.

5. IMS assistance in relation to total museum budget. Section 64.16 of the program regulations, which deals with the IMS share of the cost of a proposal, is revised to provide that IMS *normally* does not make general operational support grants for more than 30 percent of a museum's operating budget. It has been the experience of IMS, given current and anticipated funding levels, that awards in excess of this amount are unlikely and, in any event, would involve a degree of potential dependence on Federal funding which would run counter to the purposes of the Act.

6. Conforming regulations to EDGAR. Various amendments are made to conform these regulations to the Education Division General Administrative Regulations published in final form at 45 FR 22494 on April 3, 1980. In particular, § 100a.500 of EDGAR informs applicants that assistance under the program is subject to the following civil rights requirements—Title VI of the Civil Rights Act of 1964, (prohibiting discrimination on the basis of race, color, or national origin); Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of handicap); and the Age Discrimination Act (prohibiting discrimination on the basis of age). A summary and explanation of EDGAR is contained in that document.

Public Participation. Interested persons were given sixty days to comment on the notice of proposed rulemaking containing the above changes. During this period, several comments were received. The paragraphs below summarize these comments and the responses to them.

Comment. A commenter noted that Section 202 of the Museum Services Act provides that one of the Act's purposes is to assist museums in their educational role, in conjunction with formal systems of postsecondary education. This commenter felt that the priority in § 64.12(b)(2) of the proposed regulations on coordination with local school systems ignored a mandated responsibility for postsecondary education involvement.

Response. No change is made in the regulations. Section 202 of the Museum Services Act states in part that "[i]t is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education. . . ." Coordination with systems of postsecondary education is thus one of several stated purposes of the Act. Section 64.12(b)(2) of the regulations states only that coordination with local school systems is a *priority* for project support funds; it does not in any way preclude consideration of applications involving cooperation with other levels of education, including postsecondary. IMS has not ignored postsecondary institutions in providing assistance. In 1979, of a total of 403 institutions given IMS assistance, 70 were university museums. There were none funded which were affiliated with local educational agencies. The priority is necessary to enable IMS to carry out its

role of encouraging cooperation between museums and local school systems.

Comment. One commenter suggested that § 64.12(b)(2) of the proposed regulation be changed to read: ". . . in-depth long range institutional planning and cooperative education projects between museums and local education agencies, *or other appropriate non-profit groups"* (emphasis supplied). The commenter felt that non-profit research and advocacy groups were a "neglected museum resource."

Response. No change is made in the regulations. Section 202 of the Museum Services Act provides for assistance to museums in their educational activities in conjunction with a number of organizations. Priority for cooperative projects between museums and local educational agencies is consistent with the purposes of the Act and the particular focus on these activities in the regulations is warranted by the experience of IMS in seeking to encourage such activities. Nothing in the regulations precludes a museum from engaging in a cooperative project with other non-profit groups.

Comment. A commenter felt that it appeared to be easier to get funding for new displays and exhibits than to upgrade old ones. This commenter wanted funding specifically enlarged so as to include improvement of old exhibits.

Response. No change is made in the regulations. The term "museum services" is defined in § 64.4 of the regulations as services provided by a museum including but not limited to preserving and maintaining its collections, exhibiting its collections to the public, and providing educational and other programs through the use of its collections and other resources. Sections 64.7 and 64.8 of the proposed regulations outline the types of programs presently provided by IMS. Such assistance is provided to " . . . maintain, increase, or improve museum services. . . ." and is intended to help museums upgrade their existing services.

It should also be noted that § 64.10(b) specifically states that the costs of purchasing objects for a museum's collection are not allowed, except for library, literary, or archival material under either project support or general operating support grants.

Comment. A commenter wanted to know whether service organizations are eligible for IMS funding.

Response. Presently, service organizations are not eligible for funding under the Museum Services Act, which provides only for grants to "museums" as defined in that Act.

Comment. A commenter wanted to know whether a museum can apply for and receive funds in more than one category.

Response. An applicant may apply for one or more types of assistance under § 64.7, relating to general operational support, and § 64.8, relating to project support. For fiscal year 1980, a museum may normally receive no more than $35,000.

Comment. A commenter wanted to know why specific reference was not made in the proposed regulations to compliance with the requirements of § 106 of the National Historic Preservation Act.

Response. Section 64.17(a) of the regulations state that Parts 100a and 100c of the Education Division General Administrative Regulations (EDGAR) apply to the award and administration of grants under the Museum Services Act. Section 100a.602 of EDGAR requires an applicant to describe the relationship of a project to, or its probable effect on, structures, objects, or sites which are included in the National Register of Historic Places. Applicants should consult EDGAR itself for the specific language of the section.

A more specific reference to the National Historic Preservation Act in the regulations is not needed in view of the above provision.

These regulations have been approved by the National Museum Services Board and the Director of the Institute of Museum Services.

(Catalog of Federal Domestic Assistance No. 13.923, Museum Services Program. Part I of OMB Circular A-95 does not apply.)

Dated: August 6, 1980.

Steven A. Minter,

Acting Secretary of Education.

Part 64 Subpart A of Title 34 of the Code of Federal Regulations is revised as to read as follows:

PART 64—INSTITUTE OF MUSEUM SERVICES

Subpart A—General

Sec.

64.1 Purpose of museum services program.
64.2 Scope of this document.
64.3 Definition of museum.
64.4 Other definitions.
64.5 Eligibility—Who may apply.
64.6 Related institutions.
64.7 General operational support.
64.8 Other types of assistance—project support.
64.9 Likely size of grants and allocation of funds among activities.
64.10 Allowable costs.
64.11 Basic requirements which a museum must meet to be considered for funding.
64.12 How applications are judged; priorities.
64.13 Criteria for evaluation of applications for general operational support.
64.14 Criteria for evaluation of applications for project support.
64.15 Duration of grant.
64.16 IMS share of the cost of a proposal.
64.17 Applicable grant administration provisions.
64.18 Reports.

Authority: Secs. 201–210, Pub. L. 94–462, 90 Stat. 1975, (20 U.S.C. 961–968); (5 U.S.C. 552b).

Subpart A—General

§ 64.1 Purpose of museum services program.

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 64.2 Scope of this document.

This document establishes rules for the award of grants to museums from funds appropriated under the Museum Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in judging applications.

§ 64.3 Definition of museum.

For the purpose of this part:

(a) "Museum" means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff—

(1) Owns or uses tangible objects, whether animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the public on a regular basis.

(b) "Museum" includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(1) Aquariums and zoological parks;

(2) Botanical gardens and arboretums;

(3) Museums relating to art, history (including historic building museums), natural history, science and technology; and

(4) Planetariums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid, primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution. The Institute encourages museums to use paid professional staff.

(d) An institution does not exhibit objects to the public for the purposes of this section if the display or use of the objects is secondary to its overall purpose.

(e) For the purposes of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

§ 64.4 Other definitions.

The following other definitions apply in this document:

"Act" means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Pub. L. 94–462. (20 U.S.C. 961–968).

"Applicant" means an institution which is eligible and applies for assistance under the Act and this document.

"Board" means the National Museum Services Board established under Section 204 of the Act.

"Collection" includes objects owned, used or loaned by a museum as well as literary, archival and documentary resources required for the study and interpretation of these objects.

"Conservation" includes, but is not limited to, the following functions, as applied to animate as well as inanimate objects: Technical examination of materials, techniques, and conditions; provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, nurturing and transportation of objects; the physical treatment of objects for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and compensation for losses; the systematizing of collections and development of effective data retrieval processes; research and training in conservation; and establishment of the facilities to do research in or practice conservation.

"Department" means the Department of Education.

"Director" means the Director of the Institute of Museum Services.

"Grantee" means the recipient of a grant under the Act.

"Institute" means the Institute of Museum Services ("IMS") established under Section 203 of the Act.

"Museum services" means services provided by a museum including but not limited to preserving and maintaining its collections, exhibiting its collections to the public, and providing educational and other programs to the public through the use of its collections and other resources.

§ 64.5 Eligibility—Who may apply.

(a)(1) A museum located in the fifty States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may apply for a grant under the Act. (2) A public or private nonprofit agency, such as a State or municipal agency or an institution of higher education, which is responsible for the operation of a museum may apply on behalf of the museum. (3) A museum operated by a department or agency of the Federal Government may apply only to the extent authorized by general priniciples of law applicable to the receipt of Federal assistance by these departments or agencies.

(b) An applicant has the burden of establishing that it is eligible for assistance under this part.

§ 64.6 Related institutions.

(a) If two or more institutions under the common control of one agency or institution or otherwise organizationally related apply for assistance under the Act, the Secretary determines, under all the relevant circumstances, whether they are separate museums for the purposes of establishing eligibility for assistance under this document. See §§ 64.5; 64.9.

(b) IMS regards the following factors as showing that a related institution is a separate museum:

(1) The institution has its own governing body;

(2) The institution has budgetary autonomy; and

(3) The institution has administrative autonomy.

§ 64.7 General operational support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet its administrative, staff and operating costs.

§ 64.8 Other types of assistance—project support.

(a) In order to increase or improve museum services through exemplary projects which are additional to its operating program, a museum may apply for a grant to:

(1) Develop training programs for its staff;

(2) Obtain technical assistance to carry out its functions or provide technical assistance to other museums;

(3) Develop or demonstrate methods of conservation;

(4) Develop and carry out museum programs for specific segments of the public, such as persons in urban neighborhoods, rural areas, Indian reservations, penal and other State institutions, senior citizens, handicapped persons and educationally deprived or economically disadvantaged persons;

(5) Develop and carry out educational programs;

(6) Cooperate with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan;

(7) Cooperate with local educational agencies to develop and carry out model museum education programs;

(8) Modernize or preserve its facilities or structures (except in fiscal years 1978, 1979, and 1980); and

(9) Develop in-depth, long range institutional plans.

(b) By notice published in the **Federal Register** and applicable to a particular fiscal year, IMS may limit the types of activities to be funded under this section.

(c) An applicant may apply for one or more types of assistance under § 64.7 and this section.

§ 64.9 Likely size of grants and allocation of funds among activities.

(a) In view of limited funds, it is anticipated that no museum will receive more than $35,000 under the Act for fiscal year 1980 and that most museums which are funded will receive a smaller amount. For future fiscal years, similar limitations may be specified by notice published in the **Federal Register.**

(b) Not less than 75 percent of the funds available under the Act for grants in a fiscal year will be reserved for grants under § 64.7 (general operational support).

§ 64.10 Allowable costs.

(a) Determination of costs allowable under a grant are made in accordance with government wide cost principles in Appendix C to 34 CFR Part 74, 45 FR 30876 (May 9, 1980), (in the case of applicants which are State or local government agencies), Appendix D (in the case of applicants which are institutions of postsecondary education), and Appendix F (in the case of applicants which are other nonprofit institutions).

(b) Costs of purchasing objects to be included in the collection of a museum are not allowable (except library, literary, or archival material incident to an activity under §§ 64.7 or 64.8).

§ 64.11 Basic requirements which a museum must meet to be considered for funding.

(a) *Application.* To apply for a grant, a museum must submit the designated

application form containing the information requested in the form. Instructions as to application contents are generally contained in the application notice published in the Federal Register when applications are invited. An application generally requires a museum to demonstrate that it meets the requirements described in this section and other applicable application requirements in the Education Division General Administrative Regulations (EDGAR).

(b) *IRS letter.* A museum applying as a private, nonprofit institution must supply a letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the Internal Revenue Code of 1954.

(c) *Financial statements.* Each applicant museum must supply its financial statement for its most recent completed fiscal year for which information is available. IMS prefers an audited statement. If the applicant has previously received an IMS award, IMS requires that the statement be audited. If the Director finds that a museum cannot meet this requirement because it customarily does not receive audited financial statements separate from those of its parent organization, and if the applicant is periodically audited, the Director may waive or modify the requirement with respect to that museum.

(d) *Long-range plan.* Each applicant museum must include long-range plans for program and financial development.

(e) *Maintenance of effort.* Each applicant museum must assure that it will maintain its fiscal effort for museum services. An applicant complies with this assurance if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those expenditures for the equivalent preceding period.

§ 64.12 How applications are judged; priorities.

(a) To select grantees and determine the amount of their awards, IMS rates competitive applications under the applicable criteria stated in §§ 64.13 and 64.14. Normally, these applications are first evaluated by readers, panels of experts, or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b)(1) Priority is given to museums which have been providing museum services for at least 2 years prior to applying to IMS.

(2) In the case of applications under § 64.8 for fiscal year 1980, priority is given to applications for in-depth long range institutional planning and cooperative education projects between museums and local educational agencies.

(c) To achieve diversity in the distribution of assistance, the Institute considers the location, size, and discipline of the applicant in addition to the criteria in §§ 64.13 and 64.14.

(d)(1) When the Director finds the circumstances described in 45 CFR 100a. 219(a) of the Education Division General Administrative Regulations (relating to emergencies and other special circumstances), the Director may make a grant to a museum under the procedures described in 45 CFR 100a.220. The Director intends to invoke this authority only in emergency situations. The selection procedures in paragraph (a) of this section do not apply to the making of such a grant.

(2) A grant to a museum under this paragraph may not exceed $10,000 in a fiscal year.

(3) Grants under this paragraph may not exceed (in the aggregate) $300,000 in a fiscal year.

(4) The Director may not make a grant under this paragraph unless the Board (or a subcommittee of the Board) approves it.

§ 64.13 Criteria for evaluation of applications for general operational support.

The following criteria apply to the evaluation of all applications for general operational support submitted in fiscal year 1979 and succeeding fiscal years. In applying these criteria, the total operation of the applicant museum is assessed, especially the museum's operation as it would be if the general operational support is granted. This assessment is based primarily on the information supplied in the museum's application. A positive answer to the questions below favors the applicant.

(a) *Museum services.* Are the applicant's museum services of high quality? How will their quality be improved or maintained by the general operational support requested?

(b) *Collection and exhibits.* Are the museum's collections and exhibits of high quality and importance? How will the conservation of the collections be enhanced or maintained if the general operational support is granted?

(c) *Accessibility.* How accessible to the public are the museum's services, collections, and exhibits? How accessible will they be if the general operational support is granted?

(d) *Population served.* To what extent does the museum serve persons who otherwise have limited access to the type of services which it provides?

(e) *Financial management.* What is the quality of the financial management of the museum?

(f) *Long range plans.* What is the quality of the museum's long range plans for financial and program development?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support?

(h) *Use of IMS funds (when applicable).* Has the museum used effectively its IMS funds, if it has received any?

§ 64.14 Criteria for evaluation of applications for project support.

The following criteria apply to the evaluation of all applications for project support. Criteria (a)–(e) of this section are based on EDGAR 45 CFR 100a.202–100a.206.

(a) *Plan of operation.* (Based on EDGAR 45 CFR 100a.202). What is the quality of the plan of operation for the project? In applying this criterion, IMS looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Quality of key personnel.* (Based on EDGAR 45 CFR 100a.203). What is the quality of the key personnel the applicant plans to use on the project? In applying this criterion, IMS looks for information that shows:

(1) The qualifications of the project director (if any);

(2) The qualifications of each of the other key personnel used in the project;

(3) The time that each person referred to in paragraphs (b)(1)(2) of this section plans to commit to the project; and

(4) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) *Budget and cost effectiveness.* (Based on EDGAR 45 CFR 100a.204). Does the project have an adequate budget and is the project cost effective? In applying this criterion, IMS looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (Based on EDGAR 45 CFR 100a.205). What is the quality of the evaluation plan for the project? In applying this criterion IMS looks for information that shows an objective, quantifiable method of evaluation under 45 CFR 100a.590.

(e) *Adequacy of resources.* (Based on EDGAR 45 CFR 100a.206). Does the applicant plan to devote adequate resources to the project?

In applying this criterion, IMS looks for information that show:

(1) The facilities that the applicant plans to use are adequate; and

(2) The equipment and supplies that the applicant plans to use are adequate.

(f) *General applicability.* To what extent does the application address a problem which is general to a number of museums but has not been adequately addressed?

(g) *Model or exemplary project.* To what extent does the project represent a model or exemplary approach to the problem addressed? To what extent may this approach, if successful, be replicated?

(h) *Other Federal support.* Does the applicant lack alternative sources of Federal support for the project?

(i) *Dissemination.* Has the applicant made satisfactory provision for disseminating the results of the project to other interested persons?

§ 64.15 Duration of grant.

Grants under the Act normally permit the grantee to use the funds for a period of up to 12 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If, in the case of a grant under § 64.8, the grantee needs additional time to complete the grant project, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

§ 64.16 IMS share of the cost of a proposal.

(a) Subject to § 64.9(a) and the applicable requirements in 34 CFR Part 74 relating to allowable costs, a museum may receive a grant for up to 50 percent of its proposed operating or activity budget for museum services in the case of a grant under § 64.7, or up to 50 percent of its approved project costs, in the case of a grant under § 64.8. However, IMS normally does not make grants for more than 30 percent of a museum's operating or activity budget in the case of a grant under § 64.7.

(b) An applicant requesting general operational support under § 64.7 may submit a total operating budget, including volunteer and other contributed services, which shows that the applicant will satisfy the requirements of paragraph (a) of this section, (relating to cost sharing) but which need not identify the particular operating costs for which IMS funds will be used. An applicant which receives general operational support on this basis must be prepared to show that its actual operation conformed to the operating proposal on which its application was judged.

§ 64.17 Applicable grant administration provisions.

(a) Except as stated in paragraph (b) of this section, the provisions of the Education Division General Administrative Regulations (EDGAR), 45 CFR Parts 100a and 100c, apply to the award and administration of grants under the Act. EDGAR contains general administrative and fiscal requirements related to grant programs administered by the Department of Education of which IMS is a part. Part 45 CFR 100a contains regulations covering how to apply for a grant, information that must be included in applications, general criteria for the selection of applications, grant conditions, administrative responsibilities of those who receive a grant, and compliance procedures. Part 45 CFR 100c contains general definitions which apply to all Education Division programs. EDGAR also makes applicable to the Museum Services Program certain other general regulations including 34 CFR Part 74 (Departmental grant administration provisions) and provisions prohibiting discrimination on the basis of race, sex, handicap or age. Applicants should consult EDGAR and other applicable regulations which EDGAR cross references.

(b) The following provisions of EDGAR 45 CFR Part 100a do not apply to general operational support grants under this document:

(1) Sections 100a.201–100a.206 (selection criteria);

(2) Sections 100a.111–100a.116 (application contents); and

(3) Sections 100a.560–100a.568 (indirect cost rates).

§ 64.18 Reports.

In its final report a grantee shall briefly describe how the performance of the grant has satisfied the objectives of the recipient museum as stated in its application and how assistance under the Act has served the purpose of the Act as reflected in the applicable evaluation criteria.

[FR Doc. 80-24126 Filed 8-8-80; 8:45 am]
BILLING CODE 4000-02-M

V 45 AG 11 80 UMI

federal register

Monday
August 11, 1980

Part XII

Department of Energy

Residential Conservation Service Program and Interpretation of Title V, Subpart B of the Energy Security Act

DEPARTMENT OF ENERGY

V. Contractor Contributions to the costs within its useful life in this

in directions other than South ±45°. In contractors and lenders apply only to

V 45 AG 1 11 80 0 UMI

DEPARTMENT OF ENERGY

10 CFR Part 456

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program Notice of Proposed Rulemaking and Correction to Final Rule

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed rulemaking.

SUMMARY: The following notice proposes changes to the final rule issued as CAS-RM-79-101 in the Wednesday, November 7, 1979 issue of the Federal Register, Vol. 44, No. 217, Part II, pp. 64602-64727. This notice is issued to correct clerical, grammatical and typographical errors in the Final Rule which do not reflect policy changes of the Department, as well as a small number of changes which reflect proposed substantive changes to the Final Rule.

DATE: Written comments on proposed rulemaking must be received by September 10, 1980, 4:30 p.m., e.s.t., in order to ensure their consideration.

ADDRESSES: Comments should be addressed to: Joanne Bakos, Office of Conservation and Solar Energy, Department of Energy, Mail Stop 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585. See "Comment Procedures" under Supplementary Information below. Copies of all reports and analyses referred to in this notice are available for review in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:
James R. Tanck, Director,
Residential Conservation Service Program,
Office of Conservation and Solar Energy,
Department of Energy,
Room GH068,
1000 Independence Avenue, SW.,
Washington, D.C. 20585,
(202) 252-9161.
Susan Caplan,
Office of General Counsel,
Department of Energy,
Room 1E256,
1000 Independence Avenue, SW.,
Washington, D.C. 20585,
(202) 252-9513.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Regulatory Analysis and Urban Impact Assessment.
III. Environmental Impact Statement.
IV. Consultation with Other Federal Agencies.
V. Contractor Contributions to the Rulemaking.
VI. Executive Order 12044.
VII. Comment Procedures.
VIII. Amendments.

I. Introduction

On November 7, 1979, the Department of Energy (DOE) published a final rule (44 FR 64602) to establish the Residential Conservation Service (RCS) Program to encourage and facilitate the installation of energy conservation measures and renewable resource measures. Subsequent to that publication, DOE became aware of a number of amendments to the final rule which needed to be made to clarify DOE's position on several matters and to correct clerical errors. These amendments are being proposed by this publication. Written comments will be accepted until September 10, 1980, and will be considered by DOE before issuance of amendments in final form.

Of the changes proposed below, most are either typographical or grammatical. A number of non-clerical amendments are also proposed which would affect no substantive change in the rule, but consist of clarifications or equivalents. However, DOE is proposing a small number of changes which might substantively effect some portions of the final rule or a significant number of people.

As the reasons for most of the proposed changes are self-evident, no accompanying explanation is given. However, for those cases in which the reasons for certain amendments are not readily apparent and where a substantive change is being proposed, explanations are set forth below in the first part of this Introduction. The proposed amendment to the applicability criteria for wind energy devices is set forth in a separate part of the Introduction due to the extensive nature of the discussion.

A. Discussion of Proposed Amendments

2. and 4. These changes are to the preamble of the final rule rather than to the regulatory language itself. Although the preamble is not legally binding, we wish to clarify our intent in these two areas. Amendment No. 2 would amend the preamble to the final rule to clarify DOE's position with respect to redress procedures. No State is *required* by the RCS rule to pass new legislation affecting the State's sovereign immunity. Amendment No. 4 would make the preamble consistent with the final rule.

8. and 16. Ceiling insulation for mobile homes was excluded from the Final Rule because DOE did not believe that any product existed which might pay for its costs within its useful life in this application. Since the publication of the Final Rule, we have learned of at least one product, a flexible insulated roof blanket installed on the exterior of a mobile home, which has the potential for reducing mobile home energy use (particularly for air conditioning) in a cost-effective manner. Because of the limited number of retrofit conservation measures which apply to mobile homes, and because of the severe effects of energy costs on low-income mobile home occupants, we propose to amend section 456.307(b) to require that ceiling insulation be audited in mobile homes. We also propose to amend the definition of ceiling insulation to make it clear that many insulation materials have exterior applications. Section 456.907 contains an installation standard for exterior installation of some insulation products. We seek comment on these changes, particularly with regard to the following questions:

(1) Should DOE prescribe additional standards for either the materials or the installation of products which can be used in mobile home ceiling insulation?

(2) Which products or types of products can be used cost-effectively to insulate mobile home ceilings?

(3) Are these products durable?

(4) Is there adequate manufacturing capacity to handle increases in demand which might result from the inclusion of this application of ceiling insulation?

(5) Some exterior insulations may affect surface temperatures as well as R-values of the roof assembly. Are any special calculation procedures needed to estimate savings of exterior insulations?

10. and 19. Amendment No. 10 would change the measure now listed in § 456.105(v) as "Window Heat Gain Retardants", to "Window Heat Gain and/or Loss Retardant." DOE referenced the full range of benefits associated with several of the individual devices (including those related to heat loss as well as those related to heat gain) in the audit portion of the rule, but inadvertently described the measure in the definitions sections as only those that retard heat gain in the summertime. However, these devices may also save substantial energy by minimizing loss of wintertime heating through windows.

Although the maximum heat gain retardance would occur through southerly windows, substantial sunlight heating could and would normally occur through windows facing other directions. Reduction in wintertime heat loss is relatively insensitive to directional considerations except that maximum loss generally occurs in the direction of prevailing winter winds. In most cases, winter winds are prevalent in directions other than South ±45°. In such circumstances, where a house is equipped with insulated shades, the owner would achieve maximum savings by lowering shades on all windows other than southerly (i.e., reduce heat loss, maximize southern heat gain). Therefore, DOE is proposing to modify the identification of the measure to reflect the additional savings achievable.

Because one or more of the devices incorporated within this measure should produce energy savings for virtually any home as a heat gain (summer) retardant and/or a heat loss retardant (winter), DOE is further proposing to remove the present applicability criterion. See Amendment No. 17.

Because various other window heat gain/loss measures (such as storm windows) are already required as basic components of the home audit, and because these devices were to have been addressed in nearly all homes under the present definition, DOE concludes that these proposals would have an insignificant effect on aggregate audit time and costs.

12. Reference to the treatment of requests for information submitted to DOE under the RCS program was inadvertently omitted from the final rule. Therefore, DOE is proposing procedures that are consistent with DOE's Freedom of Information Act regulations, 10 CFR Part 1004 (44 FR 1908, January 8, 1979). Although DOE believes that there will be little information of a proprietary nature submitted to DOE under the RCS program, the Department believes that the procedures by which an individual may make a claim of confidentiality should be specifically included in the RCS rule.

13. Under the current § 456.205(e)(2), a State wishing to amend a previously approved State plan would be required to comply with all of the requirements for submission of a State plan (except the time limit) regardless of the nature of the amendment. DOE believes that exceptions to these requirements should be available if the State is able to make a good cause showing that some or any of the submission requirements should be waived (e.g.: where the amendment is not significant and the burden of requiring full-scale State hearings would be substantial).

14. This amendment would correct the regulatory requirements for utilities exempt from the prohibition against supply, installation and financing of energy conservation and renewable resource measures. The statutory requirements in NECPA regarding unfair discrimination among customers, among measures, and among suppliers, contractors and lenders apply only to those activities that are mandated under the RCS State Plan and not to voluntary activities such as the supplying, installing, or financing of measures. Such voluntary activities come under the preview of State and local utility regulations and, unless DOE is given specific authority by Federal legislation to monitor or regulate such utility activities, DOE believes that such regulation is best left with State and local authorities. Therefore, DOE proposes to correct the regulation to conform to the statutory requirement.

15, 24-26. These amendments clarify DOE's intent that only those entities which supply, install or finance in accordance with the RCS listing requirements should be entitled to the benefits of publicizing their services in connection with the RCS program.

17. See discussion in Part B below.

23. Uncertainties have been expressed regarding the definition and use of the term "Nearest Measuring Station" contained in section 456.307(c)(10)(iii). DOE is concerned with the effect of such uncertainties on the usefulness of the procedures described in this section, on the proposed change in the applicability criterion discussed below.

In order to clarify the term "Nearest Measuring Station", DOE proposes to substitute the term "Nearest Qualified "Measuring Station" and to define the requirements for qualification. DOE believes there is a sufficient technical basis at this time to propose minimum data-collection requirements for measured wind data used by utilities or fuel suppliers in the RCS wind energy audit.

The proposed change would provide assurance that wind data used in the audit procedure and, if finalized, in the proposed applicability ciriterion, would be credible and uniform nationwide. The proposed requirements reflect the minimum procedures for data collection necessary for the purposes of the RCS program. DOE concludes that the wind resource data base, as well as the resultant wind atlases (discussed below under "B. Applicability Criterion"), are acceptable as "qualified" within the requirements of the proposal. The proposal amendment would have the additional benefit of providing the basis for States to employ other resource data without sacrificing uniformity or credibility. DOE does not intend that these requirements necessarily be applicable beyond the RCS program.

27. This amendment would prohibit utilities from arranging financing for consumers' do-it-yourself installations of furnace efficiency modifications, devices associated with load management techniques, and wind energy devices. DOE has determined that do-it-yourself installations for these measures should not be encouraged under the RCS program because of their complexity and the potential for safety risks. the installation of these measures should be carried out only by individuals specially trained for such installation.

29. The amendment to § 456.311(a)(1) is proposed to clarify DOE's intent that § 456.311(a)(1) applies only to those charges made by utilities and participating home heating suppliers, and was not meant to apply to bills by other entities engaged in RCS activities.

31. Section 456.312(b)(1)(iv) would be amended to acccommodate any changes which may result from the December 21, 1979 proposal of several new subsections of § 456.314.

32. DOE's intent in including bonding as a listing requirement was to protect consumers from contractors' failure to complete work contracted for. The word "liability" in the Final Rule was intended to refer to liability for nonperformance, not for negligence. Therefore, this change is proposed to more precisely articulate the requirement of a performance bond.

34. The proposed § 456.312(b)(4) would require installers of vent dampers, IIDS, and if DOE issues UF foam insulation standards, of UF foam, to carry liability insurance in order to be included on the RCS lists. DOE believes that improper installation of these measures is most likely to result in some personal injury or property damage. As most installers of these measures already carry liability insurance, DOE believes that it is not unduly burdensome to require that these installers carry liability insurance.

37. DOE proposes to change § 456.314 to prevent the States from shifting to other entities the ultimate responsibility for the training and certification of those individuals required to be trained and certified under RCS. DOE believe that the training and certification requirements are essential to an effective RCS program and therefore wants the State to closely oversee this part of the program.

44. Section 456.507(b) requires a utility which submits a request for determination or waiver to inform certain entities that those entities have ten days within which to submit comments on such request to DOE. The change made here is to clarify at what point those ten days begin to run: from the date the request is filed with the Assistant Secretary.

45. This new § 456.509, inadvertently omitted from the Final Rule, tracks the

language in section 216(f) of NECPA. This does not change any existing legal requirements since the statutory requirement of section 216(f) of NECPA has been effective since the November 9, 1978 enactment date. This amendment merely includes the statutory requirements in the regulation so that all RCS requirements may be found in one document.

53. Section 456.804(b)(6) is amended for consistency with the installation standard § 456.905(c)(1)(v).

55. and 59. These sections are amended to make clear that DOE would accept the CPSC approved label in lieu of the DOE label since the labels are equivalent. This is consistent with DOE's attempt to coordinate RCS standards with pre-existing standards, regulations, or labelling requirements imposed by other Federal agencies.

58. Section 456.805(b)(7) is amended for consistency with the installation standard § 456.906(d)(1)(ix).

66. The new § 456.813(b)(8) is inserted to coordinate the DOE rule with substantially similar regulations by the Department of Housing and Urban Development (HUD).

74., 76–80. These sections are amended with language which is intended to be clearer to installers, but is equivalent to that used in the final rule.

75. Section 456.907(d)(1) is amended to delete the reference to "Type III" since that reference is not commonly used nor is it defined in either the material or the installation standards. It is replaced with an equivalent phrase, so there is no substantive change in this section.

84. The installation standard for storm windows, thermal windows, multi-glazing units, storm doors, and thermal doors is being replaced by an identical ASTM standard. The DOE standard was introduced to ASTM over 2 years ago and was adopted in March 1980. This practice is consistent with DOE's intent to rely upon industry and concensus standards when such standards exist.

B. Applicability Criterion for Wind Energy Devices

1. Public Comment.

Section 456.705(g)(1)(i) of the Proposed Rule issued on December 21, 1979 (44 FR 75956), included proposed standards for wind energy devices, which are also referred to as Small Wind Energy Conversion Systems (SWECS). Several persons and organizations commented on the setback provisions for wind energy devices. Most of these comments also referenced the applicability criterion for wind energy devices contained in § 456.307(b)(2)(iv) of the Final Rule of November 7, 1979.

The commentors argued that the ¾ acre minimum lot size and 50 foot setback components of the applicability criterion would too severely limit the audience for audits. One commentor argued that these requirements lack substantial basis and that they would seriously and unjustifiably limit an emerging market for residential wind energy devices. Another commentor observed that the applicability criterion for wind energy devices is based on safety considerations, while the other applicability criteria of the final rule reflect concerns not related to safety, such as solar resource availability or the feasibility of installation of insulation materials. Other commentors argued that DOE had not given proper notice and opportunity to comment on the criterion which was contained in the Final Rule of November 7, 1979.

In response to these comments, and others to be identified subsequently, DOE is proposing to modify the applicability criterion for wind energy devices, § 456.307(b)(2)(iv).

2. Discussion of Comments.

In response to comments on the proposed RCS rulemaking of March 19, 1979 (44 FR 75956), DOE established an applicability criterion for each of the designated program measures. As a policy, this action was taken to reduce the number of audits for each program measure which would yield negative cost and savings estimates due to unfavorable local economics, unfavorable local environmental resources, or physical or technical limitations at the site.

In establishing these criteria, DOE also attempted to be responsive to other comments regarding the significant financial burden upon participating utilities and home heating suppliers of training every auditor to audit for each of the somewhat diverse inventory of program measures. To this end, DOE attempted to select criteria which a utility could conceivably utilize prior to a site visit in order to assign a selectively trained auditor to a residence. Although that is not possible for all measures in all situations, the criteria at a minimum should enable an auditor to terminate at an early stage the portion of an audit for measures that are economically or technically inapplicable to the specific residence, thereby reducing (at least in some cases) the amount of time spent at an individual residence. This shortening of average audit length would serve to increase the number of possible audits per auditor per day, and would tend to decrease the manpower associated costs (on the average) to the utility.

With respect to the applicability criterion for wind energy devices, DOE attempted to develop a simple mechanism to enable utilities to perform RCS wind audits only at those residences, within designated climatic zones, for which a wind application would be technically feasible and economically attractive. Because of this need for simplicity, because wind machine perfomance is dependent upon specific site characteristics, and because of the limited amount of specific site resource data available at that time, DOE established a criterion comprised of three components: a minimum setback, a minimum lot size, and access to the wind resource.

The component of the existing criterion related to access to the wind resource was intended to serve as an indicator of the potential for a wind machine to function properly at the site. Within the context of the DOE model audit procedure, a determination could be made at an early stage of the process as to the specific wind resource availability as correlated to data from the nearest wind measuring station.

The remaining components of the existing criterion (i.e., setback, and lot size) were in large measure drawn from the proposed siting criterion expressed in section 456.706 of the proposed rule of March 1979, and were meant to be indirect indicators of possible physical limitations of a SWECS installation.

In order to make the siting related components uniform and simple to apply, DOE applied the original siting requirement (i.e., 1½ tower heights separation from property lines or rights of way) to nominally sized SWECS to derive the specific 50 foot setback. Although this type of machine could be located on many lots smaller than .75 acre (in light of the 50 foot setback), DOE concluded that .75 acre would nearly always accommodate a SWECS sited according to the minimum requirement for machine setback.

Several commentors stated that DOE established a criterion having societal bias since only homes on lots of .75 acre or larger could be audited for wind energy devices. DOE reiterates that the only intent was to develop criteria indicating technical, economic, or physical limitations to a successful application of a wind device within the RCS program.

With respect to the concern expressed by industry members regarding the likelihood of an adverse impact on their ability to compete in general commerce (i.e., outside of the RCS program), DOE wishes to restate that RCS applicability criteria are meant to be utilized only within RCS as a simple tool in

determining the advisability of conducting or completing an audit. DOE recognizes that there will be many occasions in general commerce when an installation outside these generalized estimating techniques will be technically and economically feasible.

With respect to the commentors' argument that siting and/or safety requirements should be a function of program standards and not applicability criteria, DOE agrees that a separation is desirable, but not absolutely necessary where siting provisions could be employed as indicators of potential physical or technical limitations on equipment installation.

With respect to comments regarding the over restrictive nature of the original criterion, further analysis has indicated that the original criterion may eliminate more audits than contemplated at the time of criterion development. This conclusion is based upon an examination of census and FHA/HUD data which suggests that fewer than 5 percent of single family homes nationwide could qualify for a wind audit under the .75 acre component of the criterion. DOE is concerned that many audits that might result in positive indications would be excluded.

In response to arguments that the original requirement for machine setback had been premised upon unlikely problems (i.e., catastrophic tower failure), and in response to new evidence received through the comments on the proposed wind energy device standards, DOE has examined all available evidence, and now concludes that earlier presumptions regarding tower failure reflect an unlikely occurrence in the case of properly strengthened or guyed towers. DOE believes that it now has the capability to propose a significantly improved criterion which is more consistent with those developed for other program measures.

In developing this proposal, DOE considered a number of options concentrating on the six discussed below.

3. Options Considered.

a. *No or Minor Modification to the Existing Criterion.*

The present criterion consists of three requirements: (1) minimum setback, (2) minimum lot size, and (3) access to wind resource. DOE believes that (1) the setback requirement is most properly treated within the context of program standards; (2) that the lot size requirement could remain in an effective applicability criterion but the minimum size requirement would have to be reduced in order to alleviate the problem of excluding wind energy audits where wind energy devices may be cost effective; and (3) that wind access should be included in the criterion but a more effective method of determining wind access is now available. (See discussion below on access to wind resources.) DOE has not selected this alternative for proposal since the capability exists to develop a revised criterion which more fully considers the availability and suitability of the wind resource. In the unlikely event that a substantial number of commentors disagree with this position, DOE does not foreclose the possibility of making minor modifications to the existing criterion or to using one of the other alternatives discussed below. Accordingly, commentors are urged to consider this and the other alternatives.

b. Availability of Sufficient Wind Resource As the Criterion.

Sufficient wind resource must be available for effective operation of commercially available residential wind energy devices. Therefore, the availability of sufficient wind resource would be a reasonable applicability criterion. This option, as a resources related indicator of economic feasibility, is more directly in keeping with the criteria for other program measures. A minimum wind speed criterion would tend to curtail the number of audits for those sites where wind devices would be uneconomical. Moreover, this criterion could be applied early in the audit process to curtail the number of wind audits required.

Over the past few years, a substantial effort to characterize the domestic wind resource has been undertaken by a number of parties, including DOE and its field organizations. DOE now believes that sufficient credible data exists, principally through the DOE wind mapping effort, to support a criterion of this nature. The basic data are now available for general use and can be provided to RCS lead agencies upon request. Wind atlases, which characterize this basic data down to grids of approximately 15 miles, will be available in early 1981. It should be noted, however, that these data sources do not represent the only references acceptable to DOE. As elsewhere discussed, DOE is also proposing a clarification of its intent regarding the wind data requirement of § 456.307(c)(10)(iii). If finalized, this clarification would provide the basis whereby a participating utility or State not desiring to utilize the DOE sources could utilize credible data from the nearest qualified wind measuring station.

Credible wind resource data, could be utilized to determine whether the level of wind energy at the site exceeds the required 10 miles per hour without requiring an actual visit to the residence. (The selection of 10 mph is discussed under "4. Proposed Applicability Criterion"). The chief advantages of this option are the ability to gauge economic feasibility and the ease of application, as compared to the proposed applicability criterion.

Due to physical limitations at an audit site (e.g., obstructions to the wind or insufficient space to locate the wind device), use of this applicability criterion alone would likely result in at least some audits being performed where operation of a wind energy device would not be feasible.

c. Wind Access As The Criterion.

Even if sufficient wind resources are available, an important factor in the effective operation of a wind device is unobstructed access to the wind resource. Upwind physical obstructions reduce the resources reaching the wind device, and obstructions in other directions cause turbulence that reduces efficiency.

A procedure has been developed as part of the RCS Model Audit for the assessment of significant obstructions. This procedure reduces substantially the training and judgment which might be required on the part of the auditor to determine applicability under this criterion. Under this procedure (which can be readily specialized to conform to local land properties) an auditor would be required to look for obstructions over 55 feet high and greater than 30 feet wide within 100 feet of the possible wind energy device location. An obstruction of these dimensions would be considered significant and no further wind audit would be required.

Use of this option would eliminate the time and expense of performing wind audits in areas where, due to obstructions, a wind device would not be feasible. This determination could be made onsite in the early stages of the wind audit but would be difficult to assess prior to a site visit. The primary disadvantage of sole use of this applicability criterion is that audits would be performed in areas that lack an adequate wind resource.

d. Minimum Wind Machine Area as the Criterion.

This criterion would require that an area exist in which a wind machine can be located free of other structures or trees which allows sufficient space to install, operate and maintain the unit. This minimum wind machine area would be a circle, 15 feet in diameter. Applicability could be determined onsite at an early stage of the audit, or through

a pre-audit telephone interview from the utility or fuel supplier's office.

Currently available residential sized wind energy devices normally range in rotor diameter size from 14 to 24 feet. Clear area alternatives considered for this criterion ranged from a minimum of 15 feet (7 foot radius wind energy device) to a maximum of 30 feet (15 foot radius) with provisions for heavy equipment access to the proposed location. While installation and servicing of many residential sized wind devices does not require the use of heavy equipment such as a crane, the installation, operation, and maintenance requirements are clearly machine dependent. DOE believes that an applicability criterion should reflect the minimum requirements for the use of a measure. Therefore, the area called for by this option (15 foot diameter circle) reflects the minimum radius needed around the tower for installation, operation and maintenance of a small residential sized wind energy device.

The advantage of this criterion is its recognition of a possible physical constraint to installation of a wind device. A major disadvantage of this criterion is that it does not address the limitations implied by consideration of specific machines. For example, installation of a 30 foot diameter SWECS within the 15 foot space may not provide an adequate area for installation and maintenance in all cases. Also, it does not by itself address other relevant issues such as the availability and/or suitability of the wind resource.

DOE believes that consideration of physical onsite constraints is most appropriately reflected in the audit itself or in the siting portion of a purchase decision which follows an audit of the RCS type, rather than as a component of a general applicability criterion.

e. Analysis of Prior Data Gathered at the Site as the Criterion.

This option would require the wind resource to have been measured for a minimum of 12 months at the site where the audit has been requested. Due to variations in wind resources from one site to another, the most accurate method to determine economic viability of a wind device is to perform onsite measurements. One year's data would provide an estimate of annual average wind speed, an indication of the seasonal variations in the wind resource at the site, and an indication of the prevailing wind direction which would allow better assessment of the impacts of existing obstructions.

This option would reduce the need for the auditor to correlate the site resource to that existing at the nearest measuring station, could improve the accuracy of the cost and savings estimates, and could support a purchase decision immediately following the audit with little further investigation. Some correlation would still be required in order to properly relate the one year's data to historical data recorded at the nearest measuring station(s).

There are several disadvantages to this option. First, large numbers of resource measuring and recording equipment would be required. Second, States or utilities would need to establish additional administrative networks to assure the commonality and credibility of recorded data. Third, to fully characterize the site specific resource, measurements at multiple heights would be required. Fourth, selection of this alternative would necessitate a one to two year delay in wind audits. In light of the time penalties and administrative difficulties presented by this option, DOE considers it inappropriate for the RCS at this time.

f. No Applicability Criterion.

This option would require that wind audits be performed for all households within categories and climate zones designated by DOE in Appendix I to the Final Rule. Use of this option would be inconsistent with the requirements for other measures and could imply that wind energy devices are universally applicable and can be employed without any limitations.

DOE believes that if no criteria were developed, a significant increase in the number of wind audits would increase program costs without providing assurance of a commensurate increase in program benefits.

A variation of this option would be to require States to develop their own applicability criterion, subject to DOE approval. Such a requirement would be inconsistent with the treatment of other program measures and would tend to promote nonuniform treatment for SWECS throughout the country. The result would be delegation of a tough decision to a different level of Government, and could require an additional administrative system for monitoring and enforcing. It should be noted that States currently have the opportunuity to adjust the Federal applicability criteria, subject to DOE approval.

4. Proposed Applicability Criterion.

Based on its assessment of the several options considered, DOE is proposing a modified wind energy device applicability criterion that combines two of the previously discussed options—wind resource and wind access. The proposed applicability criterion requires that a site have (1) an estimated wind resource greater than 10 miles per hour at 10 meters above ground level, on an annual average basis, and (2) sufficient unrestricted access to the wind. This approach combines the strengths of two of the previously discussed options. Wind resource data are now available to allow for an estimate of a particular area's wind resource without the need for an onsite inspection. Once on site, an auditor could readily determine whether there are local wind obstructions that would reduce the resource to a level where small wind energy conversion systems would not operate satisfactorily.

DOE does not mean to imply that a wind energy device will not be economically viable in all cases where the annual average wind speed is less than 10 mph. Nor does DOE intend for this 10 mph criterion to necessarily have application beyond the RCS Program. There are many situations where a high-wind resource during certain times of year will be offset by a very low wind resource the rest of the year, producing an annual average lower than 10 mph. In such a case, where the competing fuel is particularly expensive or its use is high during a high wind resource period of the year, a wind device could still produce substantial energy and cost savings. This is not, however, the general situation. For the purpose of reducing the number of wind audits that would result in a negative recommendation, DOE believes that a national index of 10 mph is a reasonable minimum for use within the RCS Program. Until the small scale wind atlases are available, this means that in order for any residence to receive a wind audit, the average annual wind speed at the qualified measuring station nearest that site must be at least 10 mph at 10 meters above ground level. It is noted that the DOE Model Audit procedure will provide for a site-specific approximation of wind resource, based on the wind resource at the nearest qualified measuring station and the general topography in the immediate vicinity of the site.

This criterion was developed through application of a generalized (Rayleigh) wind speed distribution and nominal performance characteristics of currently available wind energy systems in the size range appropriate for residential applications. The Rayleigh distribution provides a specific statistical distribution that makes it possible to use the annual average wind speed to estimate the energy potential of wind resources at a site.

Current state of the art wind energy systems for residential applications have minimum cut-in speeds of 7 mph with most machines having 8 mph or greater cut-in speeds. Rated wind speeds for currently available wind systems are a minimum of 20 mph, with most systems being rated at higher wind speeds.

A combination of a Rayleigh distribution and generalized wind system characteristics was used to obtain the following information for a group of annual average wind speeds of 8 mph to 11 mph:

- Proportion of time that no power could be obtained from the wind energy system (i.e., wind below machine cut-in speed),
- Proportion of time that rated power is obtained from the wind system (i.e., wind speed is at least equal to rated speed), and
- Estimated overall capacity factor (i.e., ratio of annual energy produced by wind system to the energy that would be produced if the wind system operated continously at rated power).

The results are shown below:

Annual average wind speed	Percentage of time that—		Overall capacity factor
	No power is produced	Rated power is produced	
8	55	0	0.12
9	49	1	0.16
10	37	4	0.25
11	30	9	0.32

For average annual wind speeds of 8 and 9 mph, the wind system will produce no power for about half the time (or more). In addition, the system rated power will essentially never be obtained. Overall capacity factors are thus quite low (0.12 to 0.16) indicating that the likelihood of attaining a cost-effective wind system installation is very low.

At the 10 mph average annual wind speed, the proportion of time that no power is produced drops to slightly more than ⅓ and rated power is produced 4 percent of the time, leading to an estimated overall capacity factor of 0.25. This performance level could offer the prospect of a cost effective installation, depending on competing fuel price costs and other factors. In terms of selecting a minimum wind speed value to obtain a wind energy audit under RCS, DOE believes that annual average wind speeds below 10 mph are not attractive enough to routinely warrant the conduct of an RCS audit.

From an operational standpoint, the choice of 10 mph as the threshold value is workable since the DOE wind data base currently has such resource data for 1,200 data points. The detailed wind atlases being prepared by DOE, and soon to be available for general use, will explicitly indicate geographic areas with potential wind resource levels below 10 mph.

5. Impact of Proposed Applicability Criterion.

The proposed modification in wind applicability criterion has implications for RCS program effectiveness, the cumulative amount of auditor time spent on wind audits, and the resources required of States, utilities, and home heating suppliers for program implementation. These, in turn, effect the costs and benefits of the program as a whole. DOE believes that the proposed change will result in a more effective targeting of program resources to those residences likely to act positively on information provided through the audit without imposing unreasonable burdens on participating States, utilities, and fuel suppliers.

The proposed change would eliminate the need for wind audits in specific areas that have marginal or insufficient wind resources but are part of a larger area that has been designated for wind energy audits. The proposal would increase the number of wind audits offered to residences within those general areas which do have sufficient wind resource. Utilities and fuel suppliers in areas with adequate wind resource would be required to perform more wind audits under the proposed change, while utilities in areas having an inadequate resource, and currently required to perform audits, would not have to do so.

To assess the potential impact of the proposed applicability criterion, DOE examined sample wind resource and housing data at the county and State level. Population and single family residence distributions were examined for the areas where wind is a program measure. This data suggests that the 10 mph criterion alone would eliminate approximately one-half of the residences in the designated areas.

Although it is difficult to quantify the number of residences that will have a significant obstruction to the available wind resource, this criterion will considerably reduce the number of residences eligible for a complete wind audit. This reduction will occur primarily in the core portion of urban areas, thereby tending to focus wind audits in more suburban or rural areas.

An analysis of the proposed criterion at the State level indicates that the requirement for wind audits will be reduced substantially in thirteen States and be increased substantially in twelve States. The remaining States will experience some increase in audit activity. In the composite, it appears that the proposed change in applicability criterion for wind energy devices would increase the number of residences that would be eligible for a wind audit nationwide as compared to the current criterion, but not to an unreasonable degree in light of program objectives.

DOE believes the level of audit requirements would more closely approximate those contemplated at the time of development of the existing criterion and will certainly fall within the boundaries discussed in the final Regulatory Analysis.

DOE recognizes that the proposed change would place an increased burden on RCS planning resources, especially in those States where planning activities are already well underway based on existing applicability criteria. The direction and magnitude of the impact would vary among States depending on the nature of existing wind audit requirements. DOE believes the introduction of the proposed applicability criterion would favorably effect the planning process for many States by providing a more definitive representation of where wind auditors would be required in that State.

In those States where the number of wind audits would increase or decrease as a result of the proposed change, the requirement for training activities would be affected. However, the proposed applicability criterion would enable States to better determine the areas of the State where wind related training will be required, whereas the current applicability criteria would require training for wind audits in all areas where wind is a program measure. This targeting of training activities should result in a reduction of training costs.

As a result of recent field trials of the Model Audit, DOE estimates that training for the wind audit would represent approximately 10–15 percent of the auditor training for all renewable resource measures. This is significantly less than original estimates and would result in a reduction in program costs. Additionally, as a result of development of the Model Audit, DOE is now convinced that the skills required to perform a wind audit are consistent with the skills required to perform audits for other RCS measures, and DOE believes that one individual can be trained to perform audits of all RCS measures, including wind. DOE concludes that the increase in the number of wind audits should be offset, on the average, by a decrease in the amount of time required for auditor training and qualification.

V 45 AG 11 80 UMI

DOE does not anticipate any other significant impacts on costs to States.

DOE Model Audit field trials indicate that it takes ten to fifteen minutes on site to perform a wind audit. This is substantially less time than earlier estimates used to assess the program cost. Thus, any increase in the number of audits will be substantially offset by the reduced average time on site. On balance, DOE expects a moderate increase in RCS costs to utilities and home heating suppliers corresponding to an increase in the number of wind audits offered.

II. Regulatory Analysis and Urban Impact Assessment

The President, by Executive Order 12044, has directed agencies of the Executive Branch to conduct a Regulatory Analysis of regulations that they prepare that are likely to have a major economic impact. In accordance with OMB Circular A–116, an Urban and Community Impact Assessment should be prepared when the proposed rule is a major policy and program initiative. This assessment should be incorporated into the Regulatory Analysis.

DOE determined that the Residential Conservation Service Program, authorized under Title II, Part 1 of the National Energy Conservation Policy Act, was a major action and required preparation of a Regulatory Analysis and an Urban and Community Impact Assessment. Consequently, the Department prepared the two analyses in draft in conjunction with the publication of the Proposed Rule for the RCS Program on March 19, 1979 (44 FR 16546). These analyses were finalized for publication in conjunction with the Final Rule which was published November 7, 1979 (44 FR 64602). This proposed rule does not constitute a major action since it does not significantly impact the November 7, 1979 regulation. DOE has analyzed the potential impact of the proposed applicability criteria for wind energy devices and concluded that it would not have a substantial effect on the RCS program. See discussion in I.B of this section.

III. Environmental Impact Statement

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, DOE prepared an Environmental Impact Statement for the entire Residential Conservation Service Program. The subject matter of this rulemaking was evaluated in the programmatic Environmental Impact Statement. A notice of availability of the Final Environmental Impact Statement was published in the **Federal Register** on November 7, 1979 (44 FR 64602). A copy of the final Environmental Impact Statement may be obtained by writing: Mr. James R. Tanck, Director, Residential Conservation Service Program, Office of the Assistant Secretary for Conservation and Solar Energy, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585.

IV. Consultation With Other Federal Agencies

In preparing this Proposed Rule, DOE consulted with representatives of the National Bureau of Standards and the Consumer Product Safety Commission.

V. Contractor Contributions to the Rulemaking

The following entities have made contributions to this proposed rulemaking:

The Solar Energy Research Institute (SERI); Rocky Flats Plant of North American Rockwell; and Science Applications, Inc. (SAI) assisted in the development of the proposed standard for wind energy systems.

VI. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) generally requires agencies to provide the public at least 60 days to comment on proposed significant regulations. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). DOE feels that for the reasons listed below it is necessary and reasonable to reduce the comment period to 30 days.

First, most of the amendments proposed in this rule are not "significant" inasmuch as they are not expected to effect important policy concerns or to engage public interest.

Secondly, the November 9, 1979 Final Rule required lead agencies to submit State Plans for approval by June 4, 1980. The plans must be approved or disapproved by DOE within 90 days from submission. Utilities must begin the program within 6 months of DOE's approval. Therefore, it is imperative that DOE implement these provisions as expeditiously as possible to provide adequate notice for implementation of the plans.

VII. Comment Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed procedures, requirements, and criteria. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the envelope and on the documents submitted to DOE with the designation "Residential Conservation Service Program [Docket No. CAS–RM–101]." Fifteen copies should be submitted. All written comments must be received by September 10, 1980, 4:30 p.m., e.s.t., to ensure consideration.

All written comments received on this Proposed Rule will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Any information or data considered by the person furnishing it to be confidential must be so identified and one copy submitted in writing. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 of Part 456 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., on August 4, 1980.

Thomas G. Stelson,

Assistant Secretary, Conservation and Solar Energy.

VIII. Amendments

1. On page 64626, third column, fourth full paragraph, delete the word "lender" and insert in lieu thereof the word "biller".

2. On page 64631, first column, at the end of the third full paragraph, add the following sentences:

DOE's intent in including this section was to insure an adequate procedure by which a customer may have recourse against a contractor. DOE believes that new legislation would not be necessary in most jurisdictions where an injured party may rely on pre-existing negligence or contract laws. This section was not intended to require initiation of new laws affecting States' sovereign immunity.

3. On page 64636, third column, amend the sixth full paragraph to read as follows:

Federal Specification HH–I–1030A is referenced for its requirement and test for corrosiveness. Federal Specification HH–I–515D is referenced for its requirements and tests for odor emission and fungi resistance. As with mineral fiber loose fill, requirements for moisture adsorption were deleted from the final rule.

4. On page 64639, amend the last paragraph, second sentence, by adding a period after the word "requirements". Delete the remainder of that sentence and insert a new sentence which reads as follows: "Only core materials, however, need be tested."

5. On page 64641, first full paragraph, amend the second sentence to read as follows: "The purpose of exterior storm windows is primarily to provide an insulating air space and not to reduce infiltration."

§ 456.105 [Amended]

6. On page 64662, third column, § 456.105(f)(3)(iii), insert following the words "Modification" and "modification" the phrases "(Vent Damper)" and "(vent damper)", respectively.

7. On page 64662, third column, § 456.105(f)(3)(iv), delete the phrases "Electrical or Mechanical Ignition System" and "electrical or mechanical ignition system" and insert in lieu thereof the phrases "Intermittent Pilot Ignition Device (IID)" and "intermittent pilot ignition device (IID)".

8. On page 64663, first column, § 456.105(f)(5), add the following sentence at the end thereof: "The term 'ceiling insulation' also includes such material installed on the exterior of the roof."

9. On page 64663, third column, § 465.105(g)(3), delete the temperature "68°F" and insert in lieu thereof "65°F".

10. On page 64664, third column, § 456.105(v)(4)(iv), delete the phrase "South-facing (+ or 45° of True South)" and wherever the phrase "window heat gain retardant" appears insert the phrase "and/or loss" after the phrase "window heat gain". Following the word "through" insert the phrase "or wintertime heat loss".

§ 456.106 [Amended]

11. On page 64665, first column, § 456.106, line 4, change the phrase "and eligible customer" to read "an eligible customer".

12. On page 64665, first column, insert a new § 456.107 as follows:

§ 456.107 Request for confidential treatment.

(a) *Request.* If you wish to file a document with DOE claiming some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552, or is otherwise exempt by law from public disclosure, and if you wish to request that DOE not disclose information, you must comply with the DOE FOIA regulations set forth in 10 CFR 1004 (44 FR 1908, Jan. 8, 1979).

(b) *Disposition of request.* DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by DOE to deny such claim, in whole or in part, and an opportunity to respond thereto, will be given to the person claiming confidentiality of the information no less than seven days prior to the public disclosure of such information.

(c) *Document by document identification.* Each request for confidential treatment must be made with respect to each separately identified document and must be made at the time that document is first submitted to DOE.

§ 456.205 [Amended]

13. On page 64666, first column, § 456.205(e)(2), add the following sentence at the end: "Exception: The Assistant Secretary may, for good cause shown, waive any of the submission requirements for proposed amendments."

§ 456.304 [Amended]

14. On page 64667, second column, delete § 456.304 (d)(2) and (d)(3), and insert in lieu thereof: "(2) not have an adverse effect on competition."

§ 456.306 [Amended]

15. On page 64668, first column, § 456.306(a)(10), delete the phrase "finances the sale or installation of such measures" and insert in lieu thereof the phrase "is a lender listed in accordance with § 456.312(b)(3)".

§ 456.307 [Amended]

16. On page 64668, third column, § 456.307(b)(2)(iii), delete the phrase "and the building is not a mobile home;" and change the coma to a semi-colon.

17. On page 64669, first column, § 456.307(b)(2)(iv), delete the existing paragraph (iv) and insert in lieu thereof the following paragraph:

* * * * *

(iv) With respect to wind energy devices: (A) the estimated average annual wind resource in the vicinity of the site is 10 miles per hour, or greater, at 10 meters (33 feet) above ground level; and (B) there are no major wind obstructions over 55 feet high, greater than 30 feet wide, within 100 feet of a potential location for the wind energy device.

* * * * *

18. On page 64669, first column, § 456.307(b)(2)(xii), delete the word "part" and insert in lieu thereof the word "pool".

19. On page 64669, first column, delete § 456.307(b)(2)(xvii).

20. On page 64669, second column, § 456.307(b)(6)(i), delete the phrase "has been" and insert in lieu thereof the phrase "will be".

21. On page 64669, second column, § 456.307(b)(6)(iii), delete the phrase "and received".

22. On page 64669, third column, § 456.307(c)(2), following the word "insulation" insert the phrase "and active solar space heating systems and combined active solar space heating and solar domestic hot water systems".

23. On page 64670, second column, § 456.307(c)(10)(iii), delete the existing paragraph (iii) and insert in lieu thereof, the following paragraph (iii):

* * * * *

(iii) The average yearly wind speed at the nearest qualified wind measurement station and the relationship between that data and the likely wind speeds at the residence. A qualified wind measuring station is one which meets the following minimum requirements:

(A) The anemometer is located no less than 10 meters (33 feet) above ground level;

(B) Data used to determine the annual average wind speed has been collected for one year or more and contains at least one month's continuous hourly reading for every four-month period of time; and

(C) Calibration of the data collection and recording instrument(s) had been certified by the instrument manufacturer(s) at the time of purchase; and

* * * * *

24. On page 64670, third column, § 456.307(e)(2), second sentence, delete the phrase "supplies, installs or finances and sale or installation of program or State measures" and insert in lieu thereof the phrase "is a supplier, installer or lender listed in accordance with § 456.312(b),".

§ 456.308 [Amended]

25. On page 64671, second column, § 456.308(d), second sentence, delete the phrase "supply or install program measures" and insert in lieu thereof the phrase "are listed in accordance with § 456.312(b) (1) or (2)".

§ 456.309 [Amended]

26. On page 64671, third column, § 456.309(d), second sentence, delete the phrase "finance program measures" and insert in lieu thereof the phrase "are listed in accordance with § 456.312(b)(3)".

27. On page 64671, third column, § 456.309, insert a new paragraph (h) as follows:

* * * * *

(h) Prohibit each covered utility and participating home heating supplier from arranging financing for the purchase or installation of furnace efficiency modifications, devices associated with load management techniques, and wind energy devices for installation by the eligible customer unless such customer is qualified to perform such installation pursuant to § 456.314.

* * * * *

§ 456.310 [Amended]

28. On page 64672, second column, § 456.310(b)(3)(i), delete the word "random".

§ 456.311 [Amended]

29. On page 64672, second column, § 456.311(a)(1), following the word "charge" insert the phrase "by a covered utility or a participating home heating supplier".

30. On page 64672, third column, § 456.311(b)(1), second sentence, delete the word "monthly" and insert in lieu thereof the word "periodic".

§ 456.312 [Amended]

31. On page 64673, third column, § 456.312(b)(1)(iv), delete the existing paragraph (iv) and insert in lieu thereof the following paragraph:

(iv) Comply with any applicable qualification requirements set forth in the State Plan pursuant to § 456.314.

32. On page 64673, third column, § 456.312(b)(1)(vii), delete the entire sentence and insert in lieu thereof the following sentence: "Have a performance bond sufficient in the judgment of the lead agency to aid in protecting eligible customers."

33. On page 64673, third column, § 456.312(b)(2)(ii), following the word "applicable" insert the word "material".

34. On page 64674, first column, renumber existing § 456.312(b)(4) as § 456.312(b)(5) and insert a new § 456.312(b)(4) as follows:

* * * * *

(4) The State Plan shall require that all installers of vent dampers and IID's included in the Master Record have liability insurance sufficient in the judgment of the Governor to indemnify themselves against possible liability arising from installation when installing such measures under the circumstances described in the State Plan pursuant to § 456.305.

* * * * *

§ 456.313 [Amended]

35. On page 64674, third column, § 456.313(b)(1)(i), insert at the end therof: "(F) Combined active solar space heating and solar domestic hot water systems."

§ 456.314 [Amended]

36. On page 64675, first column, § 456.314(a)(6), delete the phrase "steady state" and insert in lieu thereof the word "seasonal".

37. On page 64675, second column, § 456.314(f), insert the following sentences after the first sentence:

* * * * *

* * * This description shall identify the State entity(ies) responsible for conducting training, testing or any other qualification methods. The State entity(ies) may assign duties to another person for the purpose of aiding in the performance of such duties, but the lead agency or another State entity and no other persons, shall be ultimately responsible for developing the qualification methods and for designating individuals as qualified.

* * * * *

§ 456.503 [Amended]

38. On page 64679, second column, § 456.503, delete the word "Exception" in the title and insert in lieu thereof the word "Exemption".

§ 456.504 [Amended]

39. On page 64679, second column, § 456.504, delete the word "Exception" in the title and insert in lieu therof the word "Exemption".

§ 456.505 [Amended]

40. On page 64679, third column, § 456.505(a)(1), delete the word "covered" and insert in lieu thereof the word "regulated".

41. On page 64679, third column, § 456.505(b), amend the referenced to "paragraph (a)(2)(i)" to read "paragraph (a)(2)(ii)".

§ 456.506 [Amended]

42. On page 64679, third column, § 456.506, delete the word "Exception" in the title and insert in lieu thereof the word "Exemption".

43. On page 64679, third column, § 456.506(a)(1), insert after the word "regulation" the phrase "in effect on November 9, 1978,".

§ 456.507 [Amended]

44. On page 64680, first column, § 456.507(b), delete the first sentence and insert in lieu thereof following sentence:

* * * * *

* * * In addition to any other requirement that may be applicable, any utility making an application or petition under this section shall give direct notice to the Governor, State Energy Office, and State Regulatory Authority of any State in which such exemption or waiver would be applicable, informing them that they have ten days from the date the application or petition is filed with the Assistant Secretary to submit comments to the Assistant Secretary on the application or petition.

* * * * *

45. On page 64680, first column, insert a new § 456.509 that reads as follows:

§ 456.509 Certain exempt activities and compliance with accounting, costing, billing, and repayment provisions.

Any covered utility conducting activities pursuant to the exemptions provided for in § 456.503 or § 456.504(b) or the waiver provisions of § 456.505 shall comply with the requirements of §§ 456.310(a), (b) (2), (3), and (5), and § 456.311 with respect to those activities. Any covered utility carrying out activities pursuant to the exemptions provided for in § 456.504(a) shall, within such reasonable time as the Secretary prescribes, comply with the requirements of §§ 457.310(a), (b)(2), (3), and (5) and § 456.311 with respect to such activities.

§ 456.602 [Amended]

46. On page 64680, second column, § 456.602(a), amend the reference to "§ 456.206" to read "§ 456.205".

§ 456.802 [Amended]

47. On page 64681, third column § 456.802(a)(1), delete the phrase "marked, 'Conforms to DOE Standards,' " and insert in lieu thereof the phrase "identified as conforming to DOE standards."

48. On page 64682, first column, § 456.802(b)(6), amend the reference to "ASTM 576–76" to read "ASTM E 576–76".

49. On page 64682, second column, § 456.802(b)(25), amend the references to "HH–I–0125B" to read "HH–I–1252B".

50. On page 64682, second column, § 456.802(b)(29), correct the word "preassemebled" to read "preassembled".

Table I [Amended]

51. On page 64683, second and third columns, amend the Table I title to read as follows "Coverage Chart for Cellulosic Loose Fill Insulation", and amend Table II title to read "Coverage Chart for Loose-Fill Insulation (other than Cellulosic)".

52. On page 64683, second and third columns, footnote to Table I, delete the phrase "recommended installed" and insert in lieu thereof the word "settled".

§ 456.804 [Amended]

53. On page 64683, first column, § 456.804(b)(6), delete the phrase ", and shall include the following information:" and insert in lieu thereof the following:

If a product is tested and meets the requirements of ASTM E–136 and is labeled as such, it need not be labeled with the specific requirements of CPSC Part 1404 relating to vents and chimneys. Each bag shall also be marked with the following information:

* * *

54. On page 64683, first column, § 456.804(b)(6)(iv), insert the following sentence after the word "different": "Products not intended for sidewall applications shall be labeled with a statement to that effect and need not carry the sidewall portion of the coverage chart."

55. On page 64683, second column, § 456.804(b)(6)(v), insert the phrase "or a CPSC approved label" following the word "statements".

§ 456.805 [Amended]

56. On page 64683, second column, § 456.805(b)(l)(i), delete the phrase "(known as Type I)".

57. On page 64683, third column, § 456.805(b)(l)(i), delete the phrase "(known as Type III)".

58. On page 64684, first column, § 456.805(b)(7), delete the phrase ", and shall include the following information:" and insert in lieu thereof the following:

If a product is tested and meets the requirements of ASTM E–136 and is labeled or marked as such, it need not be labeled with the specific requirements of CPSC Part 104 relating to vents and chimneys. Each bag shall also be marked the following information: * * *

59. On page 64684, first column, § 456.805(b)(7)(ii), insert the phrase "or a CPSC approved label" following the word "statements".

§ 456.806 [Amended]

60. On page 64684, second column, § 456.806(b)(5)(v), amend the fifth line to read "of application if the coverage is".

§ 456.808 [Amended]

61. On page 64684, third column, § 456.808(b)(4), delete the word "and" and capitalize the word "the" in paragraph (iii), and insert thereafter the following new paragraph (iv):

* * * * *

(iv) "Products not intended for interior application shall contain the following statement instead: 'Intended for exterior application only.' "

* * * * *

§ 456.809 [Amended]

62. On page 64684, third column, § 456.809(b)(3)(ii), insert a new paragraph (A) heading as follows: "(A) For products intended for interior application:" before the phrase "Interior Applications * * *". At the end of paragraph (ii), insert the following new paragraph (B):

* * * * *

(B) Products not intended for interior applications shall contain the following statement instead: "Intended for exterior application only "

* * * * *

§ 456.811 [Amended]

63. On page 64684, third column, § 456.811(a), insert the word "foil" following the word "aluminum".

§ 456.812 [Amended]

64. On page 64685, first column, § 456.812(a), delete the word "of" and insert in lieu thereof the word "or".

§ 456.813 [Amended]

65. On page 64685, third column, § 456.813(b)(6), delete the notation "/c" following the number "0.00075 m^3".

66. On page 64685, third column, § 456.813(b), insert the following new paragraph (8):

* * * * *

(8) As an alternative to meeting provisions (b)(1) through (b)(7), HUD Use of Materials Bulletin #39 may be substituted for use with aluminum windows, and HUD Use of Materials Bulletin #59 may be substituted for use with wood windows.

* * * * *

§ 456.814 [Amended]

67. On page 64686, first column, § 456.814(e), amend the reference to "UL 599" to read "UL 559".

68. On page 64686, first column, § 456.814(g)(1)(ii), amend the reference to "ANSI XZ 21.67–978" to read "ANSI Z21.67–1978".

§ 456.903 [Amended]

69. On page 64687, third column, § 456.903(b)(26), Note 1, amend the word "draft" to read "kraft".

70. On page 64687, third column, § 456.903(b)(28), amend the phrase "frame spread" to read "flame spread".

§ 456.905 [Amended]

71. On page 64688, third column, § 456.905(c)(3)(A), amend the reference to "1 ft 2" to read "1 ft^2".

72. On page 64689, first column, § 456.905(c)(3)(B), amend the references to "1 ft 2" and "300 ft" to read "1 ft^2" and "300 ft^2", respectively.

§ 456.906 [Amended]

73. On page 64690, third column, § 456.906(c)(2)(i)(C), amend the reference to "(90 ^{2} mm)" to read "(900 mm)".

§ 456.907 [Amended]

74. On page 64692, first column, § 456.907(c)(2), delete the existing sentence and insert in lieu thereof the following sentence: "For interior applications of rigid board insulation on walls and ceilings, install, on all exposed faces and edges of the insulation material, a cover of gypsum board 12.5 mm (0.5 inches) thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

75. On page 64692, second column, § 456.907(d)(1), delete the last sentence and insert in lieu thereof the following sentence: "Insulation board must be covered on all sides with 6-mil polyethlene or equivalent."

76. On page 64694, second column, § 456.907(f)(3)(v), delete the first sentence and insert in lieu thereof the following sentence: "After all insulation board is applied, install a cover of gypsum board 12.5 mm (0.5 inches) thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

77. On page 64695, first column, § 456.907(i)(3)(iv), delete the existing sentence and insert in lieu thereof the following sentence: "Install a cover of gypsum board 12.5 mm (0.5 inches) thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

78. On page 64694, third column, § 456.907(h)(4)(i), delete the sentence and insert in lieu thereof the following sentence: "Ensure that all surfaces and edges of insulation board are covered with gypsum board 12.5 mm (0.5 inches) thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

79. On page 64695, second column, § 456.907(j)(3)(iv), delete the existing sentence and insert in lieu thereof the following sentence: "Install a cover of gypsum board 12.5 mm (0.5 inches) thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

80. On page 64695, second column, § 456.907(j)(4)(i), delete the existing sentence and insert in lieu thereof the following sentence: "Ensure that all surfaces and edges of insulation board are covered with gypsum board 12.5 mm (0.5 inches) thick, or an equivalent fire barrier when tested in accordance with ASTM E–119–76."

§ 456.908 [Amended]

81. On page 64696, third column, § 456.908(b)(1)(iii), Note 2, delete the word "approximate" and insert in lieu thereof the word "appropriate".

§ 456.910 [Amended]

82. On page 64697, third column, § 456.910(a), amend the reference to "Figure 1" to read "Figure 4".

83. On page 64698, the sample

to "Figure 8" to read "Figure 9".

fuel oil or from Figure 12 for furnaces

"X" in all columns labeled "Solar

83. On page 64698, the sample "Certification of Insulation" is "Figure 4", not "Figure 1".

§ 456.911 [Amended]

84. On page 64699, § 456.911, delete (a) through the end of (g), column 2 on page 64703. Replace with the following:

The installation of storm windows, thermal windows, multi-glazing units, and storm doors and thermal doors shall be done in accordance with ASTM E–737–80 "Standard Practice for the Installation of Storm Windows, Replacement Windows, Multi-glazing, Storm Doors, and Replacement Doors." For purposes of this installation practice thermal windows and doors shall meet the definition contained in § 456.105(f)(11) and be treated as replacement windows and doors.

§ 456.912 [Amended]

85. On page 64703, third column, § 456.912(b)(2), amend the reference to "Figure 7" to read "Figure 6".

86. On page 64703, third column, § 456.912(b)(3)(ii), amend the reference to "Figure 8" to read "Figure 9".

87. On page 64703, third column, § 456.912(b)(3)(iii), amend the reference to "Figure 8" to read "Figure 9".

88. On page 64703, third column, § 456.912(b)(4)(i), amend the reference to "Figure 9" to read "Figure 10".

89. On page 64704, amend the references to "Figures 7", "8", and "9" to read "8", "9", and "10" respectively.

90. On page 64705, first column, § 456.912(b)(4)(ii), amend the reference to "Figure 9" to read "Figure 10".

§ 456.913 [Amended]

91. On page 64705, third column, § 456.913(b)(1)(xviii), amend the reference to "Figures 10 or 11" to read "Figures 11 or 12".

92. On page 64706, amend the reference to "Figure 10" to read "Figure 11".

93. On page 64707, amend the reference to "Figure 11" to read "Figure 12".

94. On page 64708, first column, § 456.913(d)(1), amend the word "handkbook" to read "handbook".

§ 456.914 [Amended]

95. On page 64709, first and second columns, § 456.914, amend Appendix A to Subpart I, which reads as follows:

$$"N_{SS} = 100 - L_{L,A} - L_{S,SS,A}$$

$$R_{T,F} = A + \frac{B}{X_{CO_2,S}}$$

$$L_{S,SS,A} = \frac{100}{HHV_A} \sum_{i=1}^{5} [(1 = A/F\ (CF(i) + (A/F)\ (R_{T,F_i} - 1)(CAc(i))] x$$
$$[(TF, SS + 460)^i - (TRA + 460)^i]"$$

to correctly read as follows:

$$"N_{SS} = 1000 - L_{L,A} - L_{S,SS,A}$$

$$R_{T,F} = A + \frac{B}{X_{CO_2,S}}$$

$$L_{S,SS,A} = \frac{100}{HHV_A} \sum_{i=1}^{5} [(1 + A/F)(CF(i) + (A/F)(R_{T,F} - 1)\ (CA(i))] x$$
$$[(T_{F,SS} + 460)^i - (T_{RA} + 460)^i]"$$

96. On page 64709, second column, § 456.914, Appendix A to Subpart I, amend the first sentence to read as follows: "The steady state efficiency of the furnace may be determined directly from Figure 11 for furnaces using No. 1 fuel oil or from Figure 12 for furnaces using No. 2 fuel oil."

Appendix I—[Amended]

97. On page 64710, first column, Appendix I, section (d), following the word "displayed" insert the phrase "by inclusion of an 'X'."

98. On pages 64711 to 64725, Appendix I, move all numbers listed next to the "X" in all columns labeled "Solar Domestic Hot Water Systems" to the columns labeled "Active Solar Space Heating Systems".

99. On page 64720, Appendix I, after the first row, which begins "New York (continued)", insert a new row (the same notation as for "South Carolina 2" on page 64722) as follows:

"North Carolina	2	Electricity	22	X		X	X	X"
		Gas	19	X				
		Oil	19	X			X	
		Electric Heat Pump	19	X				

100. On page 64720, Appendix I, after the fifth row, which begins "North Dakota", insert a new row for Ohio (indicating the same program measures as for "Oregon 5" on page 64721) as follows:

"Ohio	5	Electricity	30	X	19	X	X	"
		Gas	30	X	11	X		
		Oil	30	X	11	X		
		Electric Heat Pump	30	X	11	X		

101. On page 64726, second column, amend the address of BOCA to read as follows: "179265 Halsted Street, Chicago, Illinois 60430".

[FR Doc. 80-24179 Filed 8-8-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

10 CFR Part 456

Interpretation of Title V, Subtitle B of the Energy Security Act (S. 932)

AGENCY: Department of Energy.

ACTION: Interpretative rule.

SUMMARY: The General Counsel of the Department of Energy (DOE) hereby interprets Title V, Subtitle B, of the Energy Security Act (ESA), June 30, 1980, which amends the National Energy Conservation Policy Act (NECPA), with respect to the Residential Conservation Service (RCS) Program (10 CFR Part 456). The major amendments to NECPA affect (1) the warranty requirements, (2) treatment of utility costs, and (3) the prohibition against utility supplying, installing and financing of residential energy conservation measures. Pursuant to NECPA, DOE is required to review and approve or disapprove RCS plans in accordance with the RCS regulations, within 90 days of submission. In most cases, the approval/disapproval date is September 2, 1980. Since the ESA amendments were made effective upon enactment (June 30, 1980), the NECPA authority for the RCS regulations has been repealed by the ESA in certain areas and new requirements have been mandated. DOE intends to issue regulations within 120 days which will amend the existing regulations to comport with the ESA amendments.

In the meantime, however, the plan review process must continue without delay. Therefore, this notice sets forth DOE's interpretation of the immediate effect of the ESA on the plan review process.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Laura Rockwood, U.S. Department of Energy, Office of General Counsel, 1000 Independence Avenue, S.W., Room 1E-258, Washington, D.C. 20585, (202) 252-9519.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1980, the Energy Security Act (ESA), Pub. L. 96-294, 94 Stat. 611, was signed into law. Subtitle B of Title V of ESA (reproduced in Appendix I) amends Part I of Title II of the National Energy Conservation Policy Act (NECPA), 42 U.S.C. 8211 *et seq.*, 92 Stat. 3206 *et seq.*, which established the Residential Conservation Service (RCS) Program. DOE issued final RCS regulations on November 7, 1979.

The ESA provides for the following major amendments, among others, to the RCS program: (1) a revised warranty provision for manufacturers of conservation and renewable resource measures which amends the scope of the warranty and reduces the warranty period from 3 years to 1 year; (2) a new one-year contractor's warranty; (3) deletions and additions to the utility cost and accounting provisions; (4) elimination of the prohibition against utility financing of measures; (5) and relaxation of the prohibitions against utilities supplying and installing measures. Pursuant to section 549(a) of ESA, the amendments made by Title V, Subtitle B of ESA were made effective on the date of enactment (June 30, 1980). Section 549(d) states, however, that these amendments shall not cause any delay in the deadlines for submission and approval or disapproval of the RCS plans submitted under NECPA. Because State and nonregulated utility RCS plans were due on June 4, 1980, the plans do not reflect the changes mandated by ESA. Since the amendments are effective immediately, DOE cannot approve an RCS plan which does not meet the minimum requirements of NECPA as amended by ESA. Therefore, DOE issues this interpretive rule to set forth DOE's interpretation of the immediate effect of the ESA on the RCS plan review process. Although DOE will issue proposed rules implementing the ESA amendments to the RCS program within the next few months, and final rules to follow, all RCS plans must comply with existing law as soon as possible in order to begin the RCS program on time.

DOE will therefore require that each State and non-regulated utility agree to incorporate the new requirements of ESA into their plans before DOE approves them. DOE will issue guidance to each State or utility regarding the particular amendments which their plan would require, although information provided in this notice, especially in the two appendices, should enable the States to begin amending their plans at once.

Discussion

I. State and Nonregulated Utility Plans.

The ESA amendments can be divided into three groups. The first group includes those amendments which reduce the requirements for plan approval, and which a State or nonregulated utility has discretion to change or not to change. For example, plans no longer need to include the requirements that utility costs for materials and installation of measures be charged to the customer for whom these costs are incurred, 10 CFR 456.310(b)(2). Plans may either retain or eliminate this requirement. However, as with all plan provisions, this requirement would have to be enforceable under State law or regulation (in the case of a State plan), 10 CFR 456.303(a)(3). The second group includes those amendments which increase the requirements for plan approval. For example, due to the ESA relaxation of the prohibition against utility supply and installation of energy conservation and renewable resource measures, all plans must now include specific requirements to be applied to utilities who supply or install such measures. The third group of ESA amendments includes those which have no effect on plans. For example, the additional requirements for DOE to report to the Congress need not appear in RCS plans.

Appendix II to this notice identifies the effects of the ESA amendments on the State and non-regulated utility plans currently being reviewed by DOE. The appendix lists the required and permissible plan amendments by subject matter, ESA section, NECPA section amended, and RCS regulations affected. The required amendments to RCS plans reflect the premise that each RCS plan satisfied, at the time of submission, the then-existing RCS regulatory requirements. This notice in no way implies approval of a particular plan and is not exclusive of any other changes which may have to be made for approval of any particular plan. At such time that DOE issues regulations amending the existing RCS rules to comply with the requirements of ESA, further amendments to State and nonregulated utility plans may be necessary.

Additionally, as a point of clarification, there is no Federal RCS requirement for an additional comment period and hearing prior to amending an unapproved RCS plan in order to bring it into compliance with ESA requirements.

II. Utility Supply, Installation, and Financing.

Section 546(a)(2) of the ESA amends NECPA to eliminate the general prohibition against a utility offering loans for energy conservation and renewable resource measures. In addition, section 546(a)(4) of ESA provides an exemption from the prohibition against a utility supplying or installing such measures if done through an independent contractor and in a fair and competitive manner. Since these amendments are effective immediately, section 549(a) of ESA, utilities may now finance energy conservation measures and may, subject to the criteria of section 546, supply and install such measures.

However, utilities should be aware as they undertake such activities that, as required by ESA, DOE will soon issue proposed regulations which, when finalized, may require additional procedures or standards to be followed in order to assure that the provisions of section 546 of the ESA are met. Also, section 547 of the ESA requires DOE to monitor these utility activities in consultation with the Federal Trade Commission, and allows DOE to stop any such activities which are determined to be unfair or anticompetitive.

Accordingly, the following interpretation is issued.

Issued in Washington, D.C., on July 28, 1980.

(Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, Subtitle B of Title V of the Energy Security Act, Pub. L. 96-294, 94 Stat. 611 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 *et seq.*)

Theordore Wilson,

Acting Assistant General Counsel for Conservation and Solar Energy.

Subject	ESA section	NECPA section amended	RCS regulations affected	Amendments to RCS plans
1. Definition of "Residential Building".	§ 541	§ 210(9)	§ 456.105(w)	Amendment advisable to incorporate changes in definition. (Amendment will be required in further rules.)
2. State List of Suppliers and Contractors—warranty.	§ 542(a)	§ 210(11)	§ 456.105(j) § 456.105(ee) § 456.312(b)	Amendment required to change manufacturer's warranty from a useful life warranty to, at a minimum, a 1-year replacement of parts and materials warranty.
3. Warranty Provisions	§ 542(b)	§ 212(b)	§ 456.105(j) § 456.105(ee)	Amendment required to include requirements of a 1-year warranty to be offered by manufacturer, suppliers, and installers. The particular requirements for each differ.
4. Warranty Provisions Listing Requirement.	§ 542(c)	§ 213(a)(2)(B)	§ 456.312(b)	Amendment required to require compliance by suppliers and installers with the warranty provisions in order to be listed.
5. Warranties—Other Laws	§ 542(d)	§ 220(d)		No plan amendments required by ESA. Addresses the relation between the ESA warranty provisions and existing State and Federal warranty laws.
6. State List of Financial Institutions.	§ 543	§ 213(a)	§ 456.312(b)(3)	Amendment required to require that lists of lenders contain certain information about Solar Energy and Energy Conservation Bank Act.
7. Treatment of Utility Costs	§ 544(1)	§ 215(c)(1)(C)	§ 456.306(a)(5)(iii) § 456.310(b)(3) § 456.310(c)	Amendment required if direct charge for program costs exceed $15. Amendment permissible to reflect the manner of cost recovery. This amendment (1) eliminates the requirement in NECPA that utility costs be recovered either from all ratepayers or from individual customers receiving service, and (2) allows State regulatory authorities to set any cost-recovery scheme for the utility as long as the customer pays no more than $15 in total direct charges for the program manager activities.
8. ....do	§ 544(2)	§ 215(c)(1)(D)	§ 456.310(b)(2)	No plan amendments required by ESA. Eliminates the requirement that individual customer pay for purchase and installation of measures by the utility. This amendment thus removes the constraint in NECPA on rate-base treatment on installation costs.
9. ....do	§ 544(3)	§ 215(c)(c)(2)(A)	§ 456.310(b)(3) § 456.310(b)(5)	No plan amendments required by ESA. Deletes the requirement that State regulatory authority make certain findings with respect to interest costs on utility loans.
10. ....do	§ 544(4)	§ 215(c)(2)(B)	None	No plan amendments required by ESA. Renumbers certain NECPA sections.
11. ....do	§ 544(5)	§ 215(c)(2)(C)	None	No plan amendments required. Renumbers certain NECPA sections.
12. ....do	§ 544(6)	§ 215(f)	§ 456.311(b)(2)	Amendment required to require utilities to allow repayment of loans through utility bills upon request by lender. Amendment permissible to eliminate the 3-year repayment requirement for utility loans.
13. ....do	§ 545	§ 216(i)		No plan amendments required by ESA. Addresses the Federal tax treatment of any subsidies paid by utilities to customers.
14. Supply Installation, and Financing by Utilities.	§ 546(a)(2)	§ 216(a)	§ 456.501-508.	Amendment permissible to eliminate the prohibition against utility financing of measures.

Subject	ESA section	NECPA section amended	RCS regulations affected	Amendments to RCS plans
15. Exemption from Prohibition on Supply and Installation.	§ 545(a)(4)	§ 216(c)	§ 456.501–508.	Amendment permissible to exempt utilities from the prohibition against supply and installation if the utility meets certain conditions.
16. Plan requirements concerning Supply, Installation, and Financing.	§ 546(b)	§ 213(b)(2) (C) and (D).	§ 456.304 § 456.312(b) § 456.501–508	Amendment required to include provisions to assure that utilities making loans use local financial institutions as the source of funds under certain conditions. Amendment also required to assure compliance with § 216(c) of NECPA, as amended (see above) by utilities which supply or install measures.
17. ....do	§ 546(c)	§ 213(a)(9)	§ 456.318 § 456.501–508	Amendment required to require utilities engaged in supply, installation, or financing to notify DOE when program becomes effective.
18. DOE Authority to Monitor and Terminate Supply, Installation and Financing.	§ 547	§ 216(g)	§ 456.502(b)	No plan amendments required by ESA at the present time. Addresses DOE monitoring and enforcement of utility supply, installation, and financing activities.
19. Unfair Competitive Practices	§ 548	[not a NECPA amendment]		No plan amendments required by ESA. Clarifies Congressional intent that the ESA amendments not preclude antitrust actions under other laws.
20. Effective Temporary Programs.	§ 549(c)	§ 218	§ 456.208	No plan amendment required by ESA. Addresses the time period within which temporary program requests may be submitted.
21. Relationship to Other Laws	§ 550	§ 220		No plan amendment required by ESA. Addresses relationship between NECPA and the Public Utility Holding Company Act.

[FR Doc. 80-24180 Filed 8-8-80; 8:45 am]

BILLING CODE 6450-01-M

V 45 AG 11 80 UMI

Reader Aids

Federal Register

Vol. 45, No. 156

Monday, August 11, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202–523–5240.

Federal Register, Daily Issue:

202–783–3238	Subscription orders and problems (GPO) "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202–523–5022	Washington, D.C.
312–663–0884	Chicago, Ill.
213–688–6694	Los Angeles, Calif.
202–523–3187	Scheduling of documents for publication
523–5240	Photo copies of documents appearing in the Federal Register
523–5237	Corrections
633–6930	Public Inspection Desk
523–5227	Index and Finding Aids
523–5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523–3419	
523–3517	
523–5227	Index and Finding Aids

Presidential Documents:

523–5233	Executive Orders and Proclamations
523–5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523–5266 –5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275–3030	Slip Law Orders (GPO)

Other Publications and Services:

523–5239	TTY for the Deaf
523–5230	U.S. Government Manual
523–3408	Automation
523–4534	Special Projects
523–3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167–51538	1
51539–51754	4
51755–52138	5
52139–52354	6
52355–52768	7
52769–53074	8
53074–53436	11

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231) 52139
12230 51167
12231 52139

Proclamations
4776 51539
4777 53075

Administrative Orders:

Memorandums:
July 31, 1980 51169–51174

5 CFR
297 52769
410 51755
Ch. XIV 51541

Proposed Rules:
359 51214

6 CFR
705 51175
706 ..... 51541, 52769

7 CFR
2 52355
210 51175
245 52770
301 51176
331 51755
722 51755
908 52356
910 ..... 51177, 52771
917 51179
921 51180
924 51180
926 52772
946 52141
948 51182
958 52141
967 52143
1137 51542
1427 53077
1446 51756
2853 51757

Proposed Rules:
29 51572
272 51216
273 ..... 51216, 53066
301 52816
404 51573
722 52817
800 52339
985 51818
1464 51579
1492 52342
1990 51818
2858 51217
2871 51217

8 CFR
264 52143

Proposed Rules:
Ch. I 51832
214 51580

9 CFR
78 52772
92 52773

Proposed Rules:
94 52818
317 53002
318 51832
381 53002

10 CFR
110 51184
212 52112
445 51763
456 53433

Proposed Rules:
205 51833
378 51581
456 53422
500 53368
503 53368
504 53368
505 53368
506 53368

11 CFR
100 52356
110 52356

12 CFR
7 53080
201 52144

Proposed Rules:
Ch. I 52166
Ch. II 51581
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR
101 ..... 51763, 53081

14 CFR
39 ..... 51543–51546, 52357, 53081, 53084, 53086
71 ..... 51546, 53086–53090
91 51547
97 52358
121 51547
127 51547
135 51547
207 53358
208 53363

212 53364
214 53365
241 53366
375 51838

Proposed Rules:
Ch. I 53161, 53162
39 53162
45 53163
71 ..... 51587–51590, 52396, 53163
73 51591
75 52396
121 53316
135 53316
255 52820

15 CFR
378 53090

Proposed Rules:
19 51592

16 CFR
13 ..... 52776, 52778
305 53340
436 ..... 51763, 51765
455 52750
1019 53036

Proposed Rules:
13 ..... 51593, 51596
239 51838
705 51218

17 CFR
7 51520

Proposed Rules:
1 51598
4 51600

18 CFR
2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
282 52359
292 52779

Proposed Rules:
271 51219
273 51219
274 51219
301 51614

19 CFR
353 52780
571 52365

Proposed Rules:
Ch. I 51490

20 CFR
404 52078
416 52078

Proposed Rules:
Ch. II 51615

21 CFR
172 51766
175 51184
176 51767
193 51768
520 52781
884 ..... 51185, 51186

Proposed Rules:
Ch. II 51832, 52397
101 53023
600 52821
606 52821
610 51226
660 51226

22 CFR

Proposed Rules:
Ch. II 53164–53182

23 CFR
657 52365
658 52365

Proposed Rules:
625 51720
652 51720
663 51720

24 CFR
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 51770
279 51510
571 51516
590 52762
869 52371
885 51186
1710 52144

Proposed Rules:
570 51227
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:
171 53164
172 53164
173 53164
177 53164
182 53164

26 CFR
1 ..... 52373, 52782
26 53123

26a 51771
48 52800
54 52782

Proposed Rules:
1 ..... 52399, 52824
26 51840

27 CFR

Proposed Rules:
Ch. I 51496
19 52407
70 52407
240 52407
245 52407
250 52407
270 52407
275 52407

28 CFR
0 52145

Proposed Rules:
Ch. I 51506, 51832
16 52183
50 52183

29 CFR
11 51187
40 51192
102 51192
1952 51775
1625 51547
1999 51187
2520 51446
2550 51194

Proposed Rules:
Ch. XIV 51229
2520 ..... 51231, 52824
2530 ..... 51231, 52824
2550 ..... 51231, 51840

30 CFR
Ch. VII 51547, 52834
211 53128
762 52375
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306

Proposed Rules:
Ch. VII 52407, 52408, 53180
250 52408
700 52410
701 52410
715 53183
784 51240
816 53183
817 ..... 51240, 53183

31 CFR
341 53393
346 53393

32 CFR
763 51776
853 52800
888d 52145

33 CFR
117 51550
161 53135
165 53158
207 ..... 51551, 51555
401 52376

Proposed Rules:
117 ..... 51617, 51618

34 CFR
64 ..... 53412, 53414

Proposed Rules:
100 52052

36 CFR

Proposed Rules:
7 51618
1202 51843

37 CFR
304 51197

38 CFR
21 51777

39 CFR

Proposed Rules:
111 51846

40 CFR
35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53136–53138, 53145, 53147
81 53147
86 53400
122 52149
124 52676
180 ..... 51200, 51781, 51782

Proposed Rules:
6 53187
35 53187
52 ..... 51619, 51620, 52184, 52834, 52841
81 52841
162 52628
164 52628
167 52184
169 52184
180 51854
408 52411
410 52185
717 51855

41 CFR
Ch. 101 ..... 51201, 53149

Proposed Rules:
101–17 52842

42 CFR
57 ..... 51201, 51205
58 ..... 51209, 51556
405 51783
455 51559

Proposed Rules:
72 51241
460 53189
461 53189

43 CFR
4100 53154
8351 51740

Proposed Rules:
2560 52303

Public Land Orders:
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382
5791 53155

44 CFR
64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796
205 53334

Proposed Rules:
6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427

45 CFR
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
801 52800
1050 53155
1060 51561

Proposed Rules:
121q 52136

190 51243

46 CFR
30 52386
61 52386
151 52386

47 CFR
Ch. I 52389
13 52154
22 52149
68 52151
73 ..... 51561–51563, 52152, 52800, 52801, 53156
74 51563
76 52153
81 52154
83 52154
87 52154
90 51811
97 51564

Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252
15 51251
21 51252
73 ..... 51624, 52843, 52845, 52846, 52848
74 51252
94 51252

48 CFR

Proposed Rules:
9 51253

49 CFR
571 ..... 51569, 53157
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1309 52161
1310 52161

Proposed Rules:
398 51625
571 ..... 51626, 51628
1080 53190
1102 51858
1116 52186

50 CFR
17 ..... 52803, 52807
26 52391
32 ..... 52392, 52393
653 52810

Proposed Rules:
13 52849
17 52849
32 52163
216 51254
265 51858
285 52853
611 51254
655 51254
661 51861

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

46783 7–11–80 / Cotton classing, testing, and standards; revisions in sampling regulations

ENVIRONMENTAL PROTECTION AGENCY

46383 7–10–80 / Approval and promulgation of implementation plans; Mississippi; sour gas flares

46382 7–10–80 / Missouri Air Conservation Commission; disapproval of variance

46384 7–10–80 / Nevada State implementation plan; revised statutes and emergency episode plan

FEDERAL COMMUNICATIONS COMMISSION

46404 7–10–80 / Domestic public land mobile radio service; Tallahassee, Fla. included in table of assignments for air-ground stations

46405 7–10–80 / TV broadcast station assigned to Portland, Oreg.

FEDERAL RESERVE SYSTEM

40967 6–17–80 / Credit by brokers and dealers; credit extended to exchange specialists

46337 7–10–80 / Credit restraint; short term financial intermediaries

40968 6–17–80 / Termination of suspension of uniform margin requirements for options specialists

INTERIOR DEPARTMENT

Land Management Bureau—

47104 7–11–80 / Grazing administration and trespass on public lands; amendments to regulations

LABOR DEPARTMENT

Employment and Training Administration—

47108 7–14–80 / Federal-State Unemployment Compensation Program; interstate arrangement for combining employment and wages

NATIONAL CREDIT UNION ADMINISTRATION

47120 7–14–80 / Federal Credit Unions; special share accounts; definitions of gross income; risk assets, and liquid assets

47119 7–14–80 / Return of capital upon withdrawal from membership in Central Liquidity Facility (CLF); interpretative ruling and policy statement

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 7, 1980

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**

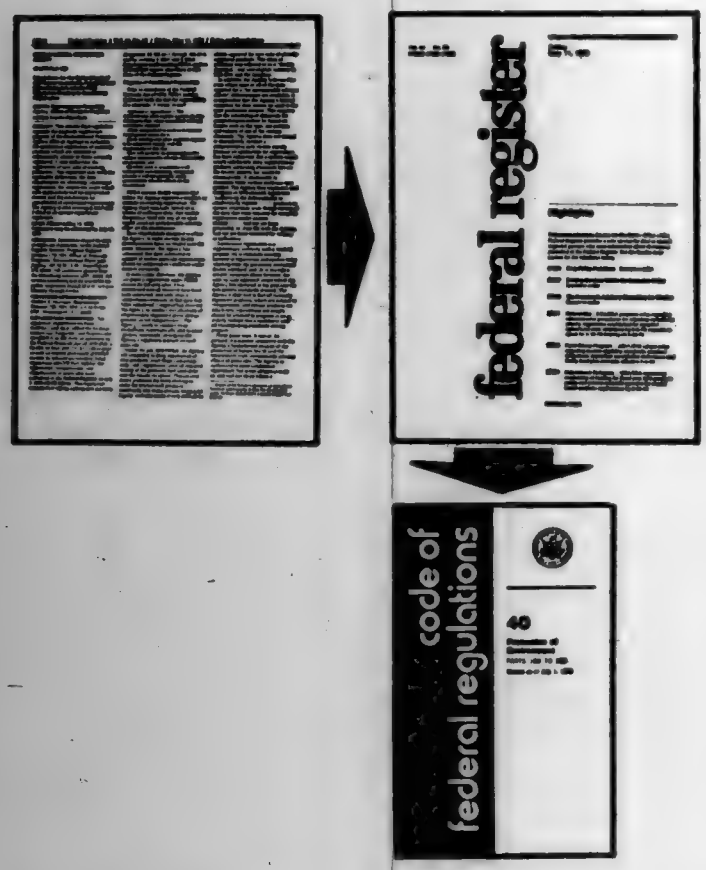

The **Federal Register**, published daily, is the official publication for notifying the public of proposed and final regulations. It is the tool to use to participate in the rulemaking process by commenting on the proposed regulations. And it keeps people up to date on the Federal regulations currently in effect.

The **Federal Register** contains many reader's aids—Highlights, Grant information, list of hearings and Sunshine meetings—which simplify the user's job.

The **Code of Federal Regulations** (CFR) contains the annual codification of the final regulations printed in the **Federal Register**. Each of the 50 titles is updated annually.

Subscription Prices:

Federal Register
One year: $75 domestic; $145 foreign
Six months: $45 domestic; $90 foreign

Code of Federal Regulations
One year: $450 domestic; $565 foreign
Single volumes: Individually priced.

ORDER FORM Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐–☐

Order No. _____

VISA

master charge

Credit Card Orders Only

Total charges $ _____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month / Year ☐☐☐☐

Please send me

. . . . . **Federal Register:** $75 per year domestic; $145 foreign
$45 per six-month domestic; $90 foreign

. . . . . **Code of Federal Regulations:** $450 per year domestic; $565 foreign

Name—First, Last

Company name or additional address line

Street address or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY	
Quantity	Charges
..... Enclosed	
..... To be mailed	
..... Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
..... UPNS	
..... Discount	
..... Refund	

V 45 A G 1 1 8 0 0 UMI

8-12-80
Vol. 45 No. 157
Pages 53437-53800

register federal

Tuesday
August 12, 1980

Highlights

53437 **Historically Black colleges and universities** Executive order

53439 **American Enterprise Day** Presidential proclamation

53443 **Child Health Day** Presidential proclamation

53441 **National Diabetes Week** Presidential proclamation

53445 **National Farm-City Week** Presidential proclamation

53492 **Grant Programs—Health** HHS/PHS proposes implementing project grants to states for hypertension control; comments by 10-14-80

53782 **Grant Programs—Education** ED adds institutions of postsecondary education to range of organizations that are eligible for study under the Research Grants on Organizational Processes in Education (Part VIII of this issue)

53788 **Grant Programs—Education** Ed issues regulations governing grants for Research on Knowledge Use and School Improvement (Part IX of this issue)

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

53772 **Grant Program—Juvenile Delinquency** Justice/LEAA publishes regulations regarding formula grant program; effective 8–12–80 (Part VII of this issue)

53792 **Food Stamps** USDA/FNS proposes amendments to regulations concerning requirements for verifying information in determining household's eligibility for food stamp benefits; comments by 10–14–80 (Part X of this issue)

53481 **Federal Employees** OPM proposes changes in the medical aspects of the Federal personnel management program; comments by 10–14–80

53448 **Food Stamps** USDA/FNS issues a change in effective date and correction to an emergency final rule relating to Food Stamp Program and handling of payments from Federal energy assistance programs

53506 **Minority Businesses** Commerce/MBDA solicits applicants for one project which will serve Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, and the Pacific Trust Territories; apply by 9–4–80

53730 **Air Pollution Control** EPA gives notice regarding air quality assessment of hydrocarbon and carbon monoxide emission standards for 1984 and later model year heavy-duty engines (Part V of this issue)

53672 **Substances for Scientific Review** Labor/OSHA publishes a list of candidates for possible identification, classification, and regulation as potential occupational carcinogens; comments by 10–14–80 (Part II of this issue)

53575 **Securities** HUD/GNMA has established forms of letters of credit to be used in mortgage-backed securities program

Privacy Act Documents

53508 DOD/Navy
53569 FEMA

53631 **Sunshine Act Meetings**

Separate Parts of This Issue

53672 **Part II, Labor/OSHA**
53682 **Part III, DOE/ERA**
53714 **Part IV, DOE/SOLAR**
53730 **Part V, EPA**
53754 **Part VI, Interagency Working Group on a Hazardous Substances Export Policy**
53772 **Part VII, Justice/LEAA**
53782 **Part VIII, ED**
53788 **Part IX, ED**
53792 **Part X, USDA/FNS**

Contents

Federal Register
Vol. 45, No. 157
Tuesday, August 12, 1980

The President
EXECUTIVE ORDERS
53437 Black colleges and universities, historically (EO 12232)
PROCLAMATIONS
53443 Child Health Day, 1980 (Proc. 4780)
53441 Diabetes Week, National, 1980 (Proc. 4779)
53439 Enterprise Day, American, 1980 (Proc. 4778)
53445 Farm-City Week, National, 1980 (Proc. 4781)

Executive Agencies

Agricultural Marketing Service
RULES
53451 Apricots grown in Wash.
53450 Nectarines and pears, plums, and peaches grown in Calif.
PROPOSED RULES
53487 Lemons grown in Ariz. and Calif.

Agricultural Stabilization and Conservation Service
NOTICES
53501 Feed grains, etc.; 1980 program determinations and target prices

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Food and Nutrition Service; Forest Service; Science and Education Administration.
NOTICES
Committees; establishment, renewals, terminations, etc.:
53503 Trade Agricultural Advisory Committee

Animal and Plant Health Inspection Service
RULES
Plant pest regulations:
53450 Mediterranean fruit fly; correction
Plant quarantine, foreign:
53449 Maypan coconut from Jamaica

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgements:
53606 Lauhoff Grain Co. and Krause Milling Co.

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
53511 Ashe-Slatt (Pebble Springs), Oreg., transmission line

Civil Aeronautics Board
RULES
53453 Air carriers; certificates of public convenience and necessity and foreign air carrier permit applications; elimination of environmental evaluations filing requirements
53453 Air carriers; extension of credit to political candidates
53453 Air carriers, foreign; application for permits, elimination of environmental evaluations filing requirements
Organization, functions, and authority delegations:
53454 Domestic Aviation Bureau, Domestic Fares and Rates Division, Chief; authority delegation to issue letters on uncontested air mail contracts
PROPOSED RULES
Charters:
53488 Return obligation for stranded passengers; extension of time
NOTICES
Hearings, etc.:
53503 Air Florida Dallas/Ft. Worth-Houston Subpart Q proceeding
53631 Meetings; Sunshine Act
53504 Part-time career employment for Federal employees; proposed internal rules; inquiry

Commerce Department
See also Economic Development Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.
NOTICES
Laboratory Accreditation Program; National Voluntary:
53506 Electromagnetic calibration services; correction

Commodity Futures Trading Commission
NOTICES
53632 Meetings; Sunshine Act

Conservation and Solar Energy Office
RULES
Appliances and consumer products:
53714 Furnaces; test procedures
PROPOSED RULES
Appliances and consumer products:
53488 Efficiency standards; extension of time

Defense Department
See Engineers Corps; Navy Department

Economic Development Administration
NOTICES
Environmental statements; availability, etc.:
53505 Almonaster-Michoud Industrial District, La.

Economic Regulatory Administration
RULES
Powerplant and industrial fuel use:
53682 Existing facilities; definitions, administrative procedures, and criteria

NOTICES
Natural gas exportation and importation petitions:
53512 Midwestern Gas Transmission Co.

Education Department
RULES
53788 Knowledge use and school improvement research grants program
53782 Organizational processes in education research grants program

Employment and Training Administration
NOTICES
53610 Employment transfer and business competition determinations; financial assistance applications

Energy Department
See also Bonneville Power Administration; Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
Meetings:
53511 National Petroleum Council

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
53507 Battle Creek, Mich.; safe collection, transportation, and disposal of DDT; hearings

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
53460 Maryland
53476 Massachusetts
53475 North Dakota
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
53478 Copper Monoethanolamine
53477 Mesurol
Pesticides; tolerances in food:
53458 Copper Monoethanolamine
53457 +Cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
53491 Illinois
53490 Maryland
NOTICES
Air pollution control, new motor vehicles and engines:
53730 Hydrocarbon and carbon monoxide emission standards, heavy-duty engines; 1984 and later model years; assessment study
Air programs; fuel and fuel additives:
53568 Hudson Stations, Inc.; civil penalty assessment
Health assessments; external review drafts:
53567 Arsenic; correction
Pesticide registration, cancellation, etc.:
53567 Heliothis nuclear virus
Pesticides; experimental use permit applications:
53567 FMC Corp. et al.
53566 Stauffer Chemical Co. et al.
Pesticides; temporary tolerances:
53568 American Cyanamid Co.
53568 Pennwalt Corp.
Toxic and hazardous substances control:
53562, 53564 Premanufacture notification requirements; test marketing exemption approvals (2 documents)

Federal Communications Commission
NOTICES
Meetings:
53569 Marine Services Radio Technical Commission

Federal Corp Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
53486 Soybeans

Federal Emergency Management Agency
RULES
Authority delegations:
53479 Transportation Department Secretary; civil transportation services priorities and allocations
NOTICES
53569 Privacy Act; systems of records

Federal Energy Regulatory Commission
RULES
Organization, operation, information, etc.:
53456 Pipeline and Producer Regulation Office, Director; authority delegation to recommend for tight formation designations
NOTICES
Hearings, etc.:
53513 Alameda Texaco
53513 Arkansas Power & Light Co.
53513 Bien, Frank N.
53513 Bill's Pershing Mobil
53513 Boland Oil Co.
53514 Central Hudson Gas & Electric Corp.
53514 Commonwealth Oil Refining, Co., Inc.
53514 Consumers Power Co.
53514 Copper Valley Electric Association, Inc.
53543 Disbrow, R. E.
53543 Dolan, John E.
53543 Duke Power Co.
53543, 53544 El Paso Natural Gas Co. (2 documents)
53544, 53545 Empire District Electric Co. (2 documents)
53545 Graniteville. Co.
53545 Gulf States Utilities Co.
53546 Idaho Power Co. (2 Documents)
53546 Illinois Power Co.
53547 Kanawha Valley Power Co.
53560 Lyndonville, Vt.
53547, 53548 Merced Irrigation District (3 documents)
53548 Michigan Wisconsin Pipe Line Co.
53549 Midwestern Gas Transmission Co.
53549 Mississippi Power & Light Co.,
53550 Monongahela Power Co. et al.
53550 Nantahala Power & Light Co.
53550 New Hampshire Water Resources Board
53551, 53554 Northern Natural Gas Co. (2 documents)
53554 Pacific Gas & Electric Co.
53554 Pennsylvania-New Jersey-Maryland Interconnection

53554, 53555 Philiadelphia Electric Co. (2 documents)
53555 Public Service Co. of Colorado (2 documents)
53555 Public Service Co. of Indiana, Inc.
53556 Public Service Co. of New Hampshire
53556 Public Service Co. of New Mexico
53557 Southern Indiana Gas & Electric Co.
53558 Southern Natural Gas Co.
53556 South San Joaquin Irrigation District
53557 Southwestern Public Service Co.
53558 Texaco, Inc., et al.
53558 Toledo Edison Co.
53559 Transwestern Pipeline Co.
53559 Tucson Electric Power Co.
53559 United Gas Pipeline Co.
53559 Utah Power & Light Co.
53559 Vermont Electric Power Co., Inc.
53560, 53561 Virginia Electric & Power Co. (2 documents)
53561 Wabash Valley Power Association, Inc., et al.
53561 Washington Water Power Co.
53562 Westlake Union Service, Inc.
53562 Wisconsin Electric Power Co.
53562 Yankee Atomic Electric Co.
Natural Gas Policy Act of 1978:
53515, 53522, 53528, 53533 Jurisdictional agency determinations (4 documents)

Federal Home Loan Bank Board
NOTICES
53632 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
53571 Agreements filed, etc.
Freight forwarder licenses:
53570 C. E. Tolonen Co., Inc.
53570 Eastern International Forwarder, Inc., et al.
53571 World Trade Transport Corp.

Federal Reserve System
RULES
Credit by brokers and dealers (Regulation T):
53452 Mutual fund shares; loan value
NOTICES
Applications, etc.:
53572 Adams Bankcorp, Inc.
53572 Farmers Bancshares of Cordell, Inc.
53572 Guardian Bancshares, Inc.
53572 Kandi Bancshares, Inc.
53573 Republic Bancshares
53573 Riverton State Bank Holding Co.
53573 Shelard Bancshares, Inc.

Federal Trade Commission
RULES
Prohibited trade practices:
53455 Clinique Laboratories, Inc.
53455 National Tea Co. et al.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
53495 Manatee refuge and protection area, Kings Bay, Crystal River, Fla.; permanent sanctuaries establishment

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
53457 Lincomycin premix
NOTICES
Human drugs:
53575 Anoretic drugs; international restrictions under Psychotropic Substances Convention; inquiry; correction
Meetings:
53575 Consumer participation; information exchange

Food and Nutrition Service
RULES
Food stamp program:
53448 Energy assistance programs; payment exclusions; effective date changes and correction
PROPOSED RULES
Food Stamp program:
53792 Eligible household certification; verification requirements

Forest Service
NOTICES
Environmental statements; availability, etc.:
53502 Ochoco National Forest and Crooked River National Grassland, land and resource management plan, Oreg.
Meetings:
53502 Coconino National Forest Grazing Advisory Board

General Accounting Office
NOTICES
53573 Regulatory reports review; proposals, approvals, violations, etc. (CPSC, FCC)

General Services Administration
NOTICES
Authority delegations:
53574 Defense Department Secretary

Government National Mortgage Association
NOTICES
53575 Mortgage-backed securities program; letters of credit form

Hazardous Substances Export Policy, Interagency Working Group
NOTICES
53754 Fifth report, draft; inquiry

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department

Health and Huamn Services Department
See Food and Drug Administration; Public Health Service.

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
53576 Alabama et al.

Housing and Urban Development Department
See Government National Mortgage Association.

Interior Department
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau; National Park Service; Surface Mining Office.

International Labor Organization, President's Committee
NOTICES
53626 Meetings

International Trade Commission
NOTICES
Import investigations:
53604 Slide fastener stringers, etc.; hearing
53632 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
53578 Fuel costs recovery, expedited procedures
53578 Permanent authority applications
53578 Permanent authority applications; correction
53578 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways, and pack and crate

Justice Department
See also Antitrust Division; Law Enforcement Assistance Administration; Parole Commission.
NOTICES
Pollution control; consent judgments:
53605 Automated Industrial Disposal & Salvage Co., Inc., and Tipton Investment Service Co.
53606 North Eastern Pharmaceutical & Chemical Co., Inc., et al.

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration.
NOTICES
Adjustment assistance:
53620 Applied Industries Inc. et al.
53614 Bethlehem Mines Corp.
53615 3M et al.

Land Management Bureau
NOTICES
Withdrawal and reservation of lands, proposed, etc.:
53576 Montana

Law Enforcement Assistance Administration
RULES
53772 Formula grants for juvenile justice

Management and Budget Office
NOTICES
Meetings:
53626 National Agenda for the Eighties, President's Commission

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
53610–53612 Domtar Industries, Inc. (5 documents)
53612 Eastern Associated Coal Corp.
53613 Zephyr Mining Co.

Minority Business Development Agency
NOTICES
53506 Financial assistance application announcements

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
53480 Atlantic surf clams and ocean quahog; adjustment in surf clam fishing time; correction
Tuna, Atlantic fisheries:
53479 Bluefin tuna; catch rate
PROPOSED RULES
Fishery conservation and management:
53500 Bearing Sea and Aleutian Islands groundfish
NOTICES
Meetings:
53505 Mid-Atlantic Fishery Management Council
53506 North Pacific Fishery Management Council

National Park Service
NOTICES
Concession permits, etc.:
53577 Wind Cave National Park
Environmental statements; availability, etc.:
53577 Lake Mead National Recreation Area, Ariz. and Nev.; flood hazard mitigation plan for Willow Beach

Navy Department
NOTICES
53508 Privacy Act; systems of records

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
53623 Baltimore Gas & Electric Co.
53624 Iowa Electric Light & Power Co. et al.
53624, 53625 Southern California Edison Co. et al. (4 documents)
53626 Virginia Electric & Power Co. (2 documents)
Meetings:
53623 Reactor Safeguards Advisory Committee
53624 Screening Committee for Technical Vacancies on Licensing Board Panel
53632 Meetings; Sunshine Act (2 documents)

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
53459 Washington
NOTICES
53672 Carcinogens, potential occupational; identification, classification, and regulation; list of substances which may be candidates for further scientific review; inquiry
State plans; development, enforcement, etc.:
53613 Maryland
53614 Wyoming

Parole Commission
NOTICES
53633 Meetings; Sunshine Act (3 documents)

Personnel Management Office
RULES
53447 Child support or alimony payment, garnishment orders issued against the U.S.; uniform procedures for processing; correction
PROPOSED RULES
Civil Service Reform Act:
53485 Administrative law judges (ALJs), reinstatement
53481 Disability retirement program and fitness for duty examination procedures

Postal Service
NOTICES
53633 Meetings; Sunshine Act

Public Health Service
PROPOSED RULES
Grants:
53492 Hypertension control services project grants; States
NOTICES
53575 Cataract surgery; bilateral lens calculating using A-scan ultrasound clinical effectiveness; scientific evaluation

Railroad Retirement Board
NOTICES
53633 Meetings; Sunshine Act

Science and Education Administration
NOTICES
Meetings:
53503 Committee of Nine

Securities and Exchange Commission
NOTICES
Hearings, etc.:
53627 First National Securities Corp.
53627 44 Wall Street Equity Fund, Inc., et al.
53628 Panacolor Inc.

Small Business Administration
NOTICES
Applications, etc.:
53629 Solid Capital Corp.
53629 Zenith Capital Corp.
Meetings:
53628 Small and Minority Business Ownership Advisory Committee

State Department
NOTICES
Environmental statements; availability, etc.:
53629 Palu, Marshall Islands, and Micronesia, compact of free association with U.S.

Surface Mining Office
PROPOSED RULES
Abandoned mine lands reclamation program; plan submissions:
53489 Montana; extension of agency review
Permanent program submission; various States:
53489 Indiana; public disclosure of comments

Textile Agreements Implementations Committee
NOTICES
Cotton textiles:
53507 Mexico
53506 Textile and apparel categories; correlation with Tariff Schedules of U.S.

Treasury Department
NOTICES
Notes, Treasury:
53630 A–1990 series

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
53502 Coconino National Forest Grazing Advisory Board, 9–5–80

AGRICULTURE DEPARTMENT
Science and Education Administration—
53503 Cooperative Research, 9–9 and 9–10–80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
53505 Mid-Atlantic Fishery Management Council, Scientific and Statistical Committee, 9–3–80
53506 North Pacific Fishery Management Council, Scientific and Statistical Committee, 9–3 and 9–4–80

ENERGY DEPARTMENT
53511 National Petroleum Council, Committee on Arctic Oil and Gas Resources, Coordinating Subcommittee, 8–19–80
53569 Federal Communications Commission Radio Technical Commission on Marine Services, 8–20–80

HEALTH AND HUMAN SERVICES
Food and Drug Administration—
53575 Consumer Participation, 8–19–80

MANAGEMENT AND BUDGET
53626 Panel IV (Government and Social Justice) of the President's Commission for a National Agenda for the Eighties, 8–22–80

NUCLEAR REGULATORY COMMISSION
53623 Reactor Safeguards Advisory Committee Consideration of Class 9 Accidents Subcommittee, 8–28–80
53624 Screening Committee for Technical Vacancies on the Licensing Board Panel, 8–26–80

PRESIDENT'S COMMITTEE ON THE INTERNATIONAL LABOR ORGANIZATION
53626 Meeting, 9–17–80

SMALL BUSINESS ADMINISTRATION
53628 Presidential Advisory Committee on Small and Minority Business Ownership, 9–15–80

HEARINGS

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service—
53449 Importation of Maypan variety of *Cocos nucifera* (coconut) from Jamaica, 8–27–80

DEFENSE DEPARTMENT
Army Department—
53507 Draft Environmental Impact Statement to dispose of DOD stocks of DDT, August and September dates

INTERNATIONAL TRADE COMMISSION
53604 Certain slide fastener stringers, and machines and components thereof for producing such slide fastener stringers, 8–15–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12232 53437
Proclamations:
4778 53439
4779 53441
4780 53443
4781 53445

5 CFR
581 53447
Proposed Rules:
339 53481
432 53481
752 53481
831 53481
930 53485

7 CFR
272 53448
273 53448
319 53449
331 53450
916 53450
917 53450
922 53451
Proposed Rules:
272 53792
273 53792
431 53486
910 53487

10 CFR
430 53488
500 53682
501 53682
504 53682
Proposed Rules:
430 53714

12 CFR
220 53452

14 CFR
201 53453
211 53453
374a 53453
385 53454
Proposed Rules:
207 53488
208 53488
212 53488
214 53488

16 CFR
13 (2 documents) 53455

18 CFR
375 53456

21 CFR
193 (2 documents) 53457, 53458
558 53457

28 CFR
31 53772

29 CFR
1952 53459

30 CFR
Proposed Rules:
732 53489
884 53489
926 53489

34 CFR
709 53788

40 CFR
52 (3 documents) 53460, 53475, 53476
180 (2 documents) 53477, 53478
Proposed Rules:
52 (2 documents) 53490, 53491

42 CFR
Proposed Rules:
51 53492

44 CFR
322 53479

45 CFR
1480 52782

50 CFR
285 53479
652 53480
Proposed Rules:
17 53495
611 53500

Federal Register
Vol. 45, No. 157
Tuesday, August 12, 1980

Presidential Documents

Title 3—
The President

Executive Order 12232 of August 8, 1980

Historically Black Colleges and Universities

By the authority vested in me as President by the Constitution of the United States of America, and in order to overcome the effects of discriminatory treatment and to strengthen and expand the capacity of historically Black colleges and universities to provide quality education, it is hereby ordered as follows:

1–101. The Secretary of Education shall implement a Federal initiative designed to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs. This initiative shall seek to identify, reduce, and eliminate barriers which may have unfairly resulted in reduced participation in, and reduced benefits from, Federally sponsored programs.

1–102. The Secretary of Education shall, in consultation with the Director of the Office of Management and Budget and the heads of the other Executive agencies, establish annual goals for each agency. The purpose of these goals shall be to increase the ability of historically Black colleges and universities to participate in Federally sponsored programs.

1–103. Executive agencies shall review their programs to determine the extent to which historically Black colleges and universities are unfairly precluded from participation in Federally sponsored programs.

1–104. Executive agencies shall identify the statutory authorities under which they can provide relief from specific inequities and disadvantages identified and documented in the agency programs.

1–105. Each Executive agency shall review its current programs and practices and initiate new efforts to increase the participation of historically Black colleges and universities in the programs of the agency. Particular attention should be given to identifying and eliminating unintended regulatory barriers. Procedural barriers, including those which result in such colleges and universities not receiving notice of the availability of Federally sponsored programs, should also be eliminated.

1–106. The head of each Executive agency shall designate an immediate subordinate who will be responsible for implementing the agency responsibilities set forth in this Order. In each Executive agency there shall be an agency liaison to the Secretary of Education for implementing this Order.

1–107. (a) The Secretary of Education shall ensure that an immediate subordinate is responsible for implementing the provisions of this Order.

(b) The Secretary shall ensure that each president of a historically Black college or university is given the opportunity to comment on the implementation of the initiative established by this Order.

V 45 A G 12 80 UMI

1–108. The Secretary of Education shall submit an annual report to the President. The report shall include the levels of participation by historically Black colleges and universities in the programs of each Executive agency. The report will also include any appropriate recommendations for improving the Federal response directed by this Order.

Jimmy Carter

THE WHITE HOUSE,
August 8, 1980.

[FR Doc. 80-24418
Filed 8-8-80; 2:14 pm]
Billing code 3195-01-M

Editorial Note: The President's remarks of Aug. 8, 1980, on signing Executive Order 12232, are printed in the Weekly Compilation of Presidential Documents (vol. 16, no. 32).

Presidential Documents

Proclamation 4779 of August 8, 1980

National Diabetes Week, 1980

By the President of the United States of America

A Proclamation

Diabetes, a disorder in which the body is unable properly to convert nutrients into energy, affects approximately 10 million Americans. As the fifth leading cause of death by disease, it has become a serious and widespread public health problem. Diabetes is a major contributing factor to heart attacks, stroke, kidney failure and blood vessel disease, and the number of diabetics is increasing in all age groups. The medical cost of diabetes is also on the rise, approaching $7 billion annually—and that does not even take into account the complications of the disease. But the highest price of all is paid in terms of the quality of its victims' lives.

Not since the discovery of insulin over half a century ago, however, has the outlook for advances in the treatment, cure and ultimate prevention of diabetes been as promising as it is today. In recent years, research has yielded new and exciting information about the causes and treatment of diabetes and its complications.

The National Diabetes Mellitus Research and Education Act of 1974 provided the impetus for the intensified research effort now under way in hospitals and medical centers around the country. The Federal Government, in cooperation with private voluntary organizations, is leading the research challenge with a multiagency attack on the disease. This continuing coordinated approach is expected to lead not only to more effective methods of diabetes control but eventually to a reduction in the impact of this disease on the people and economy of this Nation.

By Joint Resolution enacted April 2, 1980 (Public Law 96–224), the Congress has designated the week beginning October 5, 1980, as National Diabetes Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning October 5 through October 11, 1980 as National Diabetes Week and I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-24474
Filed 8-11-80; 8:56 am]
Billing code 3195-01-M

V 45 AG 12 80 UMI

V 45 AG 12 80 UMI

Presidential Documents

Proclamation 4780 of August 8, 1980

Child Health Day, 1980

By the President of the United States of America

A Proclamation

All the wealth in the world, in its various forms, and all the progress that man has ever achieved would be meaningless were it not for the children who will some day receive it as a legacy. Our children give our lives continuity and meaning, and it is imperative that we do our utmost to give them, in return, the chance to live rich, vigorous and rewarding lives.

The infant mortality rate in the United States has steadily decreased during this century and is now the lowest in our history—but it is not low enough. Statistically, a child born in this country today can expect 73.2 years of healthy and productive living, but many of our children still die in childhood or infancy.

The health of our children and our posterity requires unfailing vigilance and dedication. Accordingly, I have proposed to the Congress this year a Child Health Assurance Plan to help ensure adequate health care for all American children.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Monday, October 6, 1980, as Child Health Day.

I urge all Americans to join me in the task of planning, promoting and providing for the physical, environmental and mental health needs of our children.

IN WITNESS WHEREOF, I have hereunto set may hand this eighth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-24475
Filed 8-11-80; 8:57 am]
Billing code 3195-01-M

Presidential Documents

V
4
5

A
G

1
2

8
0
UMI

Presidential Documents

Proclamation 4781 of August 8, 1980

National Farm-City Week, 1980

By the President of the United States of America

A Proclamation

The Nation's most basic resources are the food and fiber produced on American farms. As these supplies are used, they are renewed each growing season. Without food and fiber, all else would cease.

The production of our food and fiber is the most common example of the use of solar energy. Plants, through interaction with the sun's rays, capture solar energy and package it in the usable form of food and fiber.

These actions are so taken for granted that we may overlook the phenomena of interdependence between sun and plants that is so basic to our well-being. Without plants, the earth would be a barren planet, incapable of sustaining life; and without energy from the sun, the earth would be an uninhabitable globe whirling in space.

We may also take our national food and fiber abundance so much for granted that we overlook the interdependence of farms, which produce our food and fiber, and cities, which process the food and fiber and distribute it within easy reach of each of us. Without farms, cities would be barren monuments of concrete, and without cities, farms would be primitive forms of economic life.

To achieve a better appreciation of the contributions and cooperation of farms and cities, the Nation has set aside a week in November as National Farm-City Week. The theme is "Farm and City, Partners in Progress—Key to the Future."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the period November 21 through November 27, 1980, as National Farm-City Week.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-24476
Filed 8-11-80; 8:58 am]
Billing code 3195-01-M

V
4
5

A
G

1
2

8
0

UMI

Presidential Documents

Proclamation 4778 of August 8, 1980

American Enterprise Day, 1980

By the President of the United States of America

A Proclamation

The American free enterprise system, the cornerstone of our Nation's economy, has endured and flourished for more than 200 years. It provides us with one of the highest standards of living in the world, and guarantees freedom of choice in a way that sets us apart among nations.

It is a system that depends upon and rewards initiative and innovation, a system that offers opportunities to Americans from all walks of life, a system whose benefits accrue to each of us.

Today, our free enterprise system is buffeted by changes both at home and abroad. Inflation, the energy crisis, growing competition in world markets—all challenge our resourcefulness. To preserve the health of our system and our position in the international economy, we must work together to increase productivity by developing and implementing new techniques for the more effective use of raw materials, energy, machines, and our own labor. In the process, we will reaffirm our confidence in the American future.

In recognition of the importance of our enterprise system, the Congress in Senate Joint Resolution 109 has requested the proclamation of October 3, 1980, as American Enterprise Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 3, 1980, as American Enterprise Day, and I urge business, labor, agricultural, educational, professional, consumer and civic groups, as well as the people of the United States generally, to observe American Enterprise Day with appropriate activities that promote appreciation of the American free enterprise system and its benefits.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-24473
Filed 8-11-80; 8:55 am]
Billing code 3195-01-M

V 45 A G 12 1980 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 157
Tuesday, August 12, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: On July 22, 1980 at 45 FR 48847, the Office of Personnel Management (OPM) published a final rule on Processing Garnishment Orders for Child Support and/or Alimony (FR Doc. 80–21632). This document makes corrections and editorial changes to that rule.

The correction includes the addition of instructions on serving legal process for the garnishment of benefits under Title II of the Social Security Act.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Murray Meeker, Attorney, Office of the General Counsel, 202–632–5524.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is amending 5 CFR Part 581 as follows:

(1) Sections 581.102(f)(1)(ii) and (f)(2) are revised to read as follows:

§ 581.102 Definitions.

* * * * * *

(f) * * *

(i) * * *

(ii) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process; or

* * * * * *

(2) Is directed to, and the purpose of which is to compel, a governmental entity to make a payment from moneys otherwise payable to an individual, to another party to satisfy a legal obligation of the individual to provide child support and/or make alimony payments.

* * * * * *

(2) The introductory text of § 581.103(c)(1) is revised to read as follows:

§ 581.103 Moneys which are subject to garnishment.

* * * * * *

(c) * * *

(1) Periodic benefits, including a periodic benefit as defined in section 428(h)(3) of title 42 of the United States Code (title II of the Social Security Act) to include a benefit payable in a lump sum if it is commutation of, or a substitute for, periodic payments; or other payments to these individuals under the programs established by subchapter II of chapter 7 of title 42 of the United States Code (Social Security Act) and by chapter 9 of title 45 of the United States Code (Railroad Retirement Act) or any other system or fund established by the United States (as defined in section 662(a) of title 42 of the United States Code) which provides for the payment of:

* * * * * *

(3) Section 581.104(h)(1)(i) is revised to read as follows:

§ 581.104 Moneys which are not subject to garnishment.

* * * * * *

(h) * * *

(1) In the case of civilian employees:

(i) Uniform allowances;

* * * * * *

(4) Section 581.105(f) is revised to read as follows:

§ 581.105 Exclusions.

* * * * * *

(f) Are deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemen's Group Life Insurance and "regular" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; "optional" Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary.

* * * * * *

(5) Section 581.203(b) is revised to read as follows:

§ 581.203 Information minimally required to accompany legal process.

* * * * * *

(b) If the information submitted is not sufficient to identify the obligor, the legal process shall be returned directly to the court, or other authority, with an explanation of the deficiency. However, prior to returning the legal process, if there is sufficient time, an attempt should be made to inform the party who caused the process to be served, or the party's representative, that it will not be honored unless adequate identifying information is supplied.

* * * * * *

(6) Section 581.301 is revised to read as follows:

§ 581.301 Suspension of payment.

Upon proper service of legal process, together with all supplementary documents and information as required by §§ 581.202 and 581.203, the head of the governmental entity, or his/her designee, shall identify the obligor to whom that governmental entity holds moneys due and payable as remuneration for employment and shall suspend, i.e., withhold payment of such moneys for the amount necessary to permit compliance with the legal process in accordance with this part.

* * * * * *

(7) Section 581.304(a) is revised to read as follows:

§ 581.304 Nonliability for disclosure.

(a) No Federal employee whose duties include responding to interrogatories pursuant to § 581.303(b) shall be subject to any disciplinary action or civil or criminal liability or penalty for any disclosure of information made by him/her in connection with the carrying out of any duties pertaining directly or indirectly to answering these interrogatories.

* * * * * *

(8) Section 581.306(a) is revised to read as follows:

§ 581.306 Lack of moneys due from, or payable by, a governmental entity served with legal process.

(a) When legal process is served on a governmental entity, and the individual

identified in the legal process as the obligor is found not to be entitled to moneys, the entitlement to which is based upon remuneration for employment, due from or payable by, the governmental entity, the entity shall follow the procedures set forth in the legal process for that contingency or, if no procedures are set forth therein, shall return the legal process to the court, or other authority from which it was issued, and advise the court, or other authority, that no moneys, the entitlement to which is based upon remuneration for employment, are due from, or payable by, the governmental entity to the named individual.

* * * * *

(9) Section 581.402 (a) and (b) are revised to read as follows:

§ 581.402 Maximum garnishment limitations.

* * * * *

(a) Fifty (50) percent of the obligor's aggregate disposable earnings for any workweek, where the obligor asserts by affidavit, or by other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than the former spouse and/or child for whose support such order is issued, except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with § 581.202(d), that such earnings are to enforce a support order for a period which is twelve (12) weeks prior to that workweek. An obligor shall be considered to be supporting a spouse and/or dependent child only if the obligor provides over half of the spouse's and/or dependent child's support.

(b) Sixty (60) percent of the obligor's aggregate disposable earnings for any workweek, where the obligor fails to assert by affidavit, or establishes by other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than a former spouse and/or child with respect to whose support such order is issued, except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with § 581.202(d), that such earnings are to enforce a support order for a period which is twelve (12) weeks prior to that workweek.

* * * * *

(10) In Appendix A, under the heading "Department of Energy", subheading "Field Offices," paragraph 3 (45 FR 48854) is revised to read as follows:

Grand Junction Office, Nevada Operations Office and San Francisco Operations Office: Chief, Collection, Disbursement and Funds Branch, Nevada Operations Office, Department of Energy, P.O. Box 14100, Las Vegas, NV 89114, (702) 734–3166.

* * * * *

(11) In Appendix A, the section headed "Department of Health and Human Services" (45 FR 48854) is revised to read as follows:

Department of Health and Human Services

1. For the garnishment of the remuneration of employees of the Department of Health and Human Services: Garnishment Agent, Office of General Counsel, Room 5362—North Building, 330 Independence Ave., S.W., Washington, D.C. 20201, (202) 472–3109.

2. For the garnishment of benefits under Title II of the Social Security Act, legal process may be served on the office manager at any Social Security District or Branch Office. The addresses and telephone numbers of the Social Security District or Branch Offices may be found in the local telephone directory.

* * * * *

(12) In appendix A, under the heading "National Aeronautics and Space Administration" (45 FR 48856), the heading *NASA Field Installations*— is revoked the second time it appears.

(42 U.S.C. 659, 661–662; 15 U.S.C. 1673; E.O. 12105)

[FR Doc. 80-24349 Filed 8-11-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

Food Stamp Program: Handling of Federal Energy Assistance Payments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule—Change of Effective Date and Correction.

SUMMARY: This document corrects an emergency final rule relating to the Food Stamp Program (FSP) and the handling of payments from Federal energy assistance programs published at 45 FR 12766, February 26, 1980 by changing the effective date provisions from January 20, 1980 to January 7, 1980 for certain provisions. The correction is necessary to ensure that provisions for issuing retroactive food stamp benefits to households containing Supplemental Security Income (SSI) recipients, as outlined in the emergency rule, are applied correctly. This document also changes a regulation citation that had been incorrectly cited.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202–447–9075.

SUPPLEMENTARY INFORMATION: On February 26, 1980 the Department issued emergency final rules to amend FSP Regulations to provide for the exclusion of certain Federal energy assistance payments from consideration as income or resources for FSP purposes. The income/resource disregard provisions of that emergency rule applied only to those Federal energy assistance payments that were to be issued in accordance with Public Law 96–126.

The emergency rule further specified that the effective date for the disregard for those FSP households containing Supplemental Security Income (SSI) recipients who received a Federal energy assistance payment was January 20, 1980 and that these households were entitled to retroactive FSP benefits if their energy payment had been counted as income or resources. We learned later that the Department of Health, Education and Welfare (now known as the Department of Health and Human Services—DHHS) began to issue direct energy assistance payments to some SSI households on January 7, 1980. Thus the effective date for the income/resource disregard provisions outlined in the emergency rule should have been January 7, 1980, not January 20, for those FSP households containing SSI recipients who received the Federal energy payments from DHHS.

State agencies were immediately notified of this correction when it became known to us to ensure that necessary retroactive benefits, as outlined in the emergency rule, were provided to these households back to January 7, 1980, in lieu of January 20, 1980.

This correction document officially changes the Code of Federal Regulations to reflect the January 7, 1980 date appearing throughout the February 26, 1980 emergency rule. This document also corrects the reference to a regulation section under the heading "*Deductions*" appearing on page 12766, from § 273.9(d)(4)(iii) to § 273.9(d)(5)(iii).

Accordingly, in FR Doc 80–6074 published at 45 FR 12766, February 26, 1980, the following corrections are made:

1. On page 12766, change "January 20, 1980" to "January 7, 1980"—

(a) In the first column under "Effective Dates" in line 8.

(b) In the third column, first full paragraph, line 7.

(c) In the third column, under the heading "Restoration of Lost Benefits," in line 12.

2. On page 12767, first column under "Deductions", in the second paragraph, the last line should read: "§ 273.9(d)(5)(iii)".

3. On page 12767, in the second column, in § 272.1(g)(14), line 12 should read: "DHEW's EAP; and to January 7, 1980."

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: August 7, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-24360 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 319

Foreign Quarantine Notices; Importation of Maypan Variety of Cocos Nucifera (Coconut) From Jamaica

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule and notice of public hearing.

SUMMARY: This document amends regulations captioned "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" in Chapter III, Title 7 of the Code of Federal Regulations to allow seeds of the Maypan variety (= F_1 hybrid, Malayan Dwarf × Panama Tall) of *Cocos nucifera* (coconut) to be imported into the United States from Jamaica if, among other things, they are accompanied by a phytosanitary certificate of inspection containing an accurate declaration that the seeds were found by the plant protection service of Jamaica to be of the Maypan variety (= F_1 hybrid, Malayan Dwarf × Panama Tall) based on visual examination of the parent stock. This is necessary as an emergency measure in order to delete unnecessary requirements concerning the importation of such seeds of *Cocos nucifera*.

This document also gives notice of a request for public comments and notice of a public hearing concerning this final rule.

DATES: Effective date of this document August 12, 1980. Written comments concerning this final rule must be received on or before October 14, 1980. A public hearing concerning this final rule will be held on August 27, 1980.

ADDRESSES: Written comments concerning this final rule should be submitted to: H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782.

Public hearing location: Room 643–A (APHIS Conference Room), Federal Building, 6505 Belcrest Road, Hyattsville, Maryland.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782. Telephone 301–436–8247.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the finding that unnecessary requirements are imposed concerning the importation of seeds of the Maypan variety (= F_1 hybrid, Malayan Dwarf × Panama Tall) of *Cocos nucifera* (coconut) a situation exists requiring immediate action to change such requirements.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Written Comments and Public Hearing

Interested persons are invited to submit written comments concerning this final rule. Comments should bear a reference to the date and page numbers of this issue of the **Federal Register.** All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

The public hearing to consider this final rule will be held at 1:30 p.m., in Room 643–A (APHIS Conference Room), Federal Building, 6505 Belcrest Road, Hyattsville, Maryland.

A representative of the Animal and Plant Health Inspection Service will preside at the hearing. Also, at the hearing, a representative of the Animal and Plant Health Inspection Service will present a statement explaining the purpose and basis of the final rule. Any interested person may appear and be heard in person, by attorney, or by other representative. Also, any interested person, his attorney, or other representative will be afforded an opportunity to ask relevant questions concerning the final rule.

The hearing will commence at 1:30 p.m., and end at 4:30 p.m., local time, unless the presiding official otherwise specifies during the course of the hearing. Persons who wish to be heard are requested to register with the presiding officer prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 1:00 to 1:30 p.m. Those registered persons will be heard in the order of their registration. However, any other person who wishes to be heard or ask questions at the hearing will be afforded such opportunity, after the registered persons have presented their views. It is requested that duplicate copies of any written statements that are presented be provided to the presiding officer at the hearing.

If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may, if it becomes necessary, limit the time for each presentation in order to alow everyone wishing to present a statement the opportunity to be heard.

Background

The regulations in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" in Title 7, Code of Federal Regulations (7 CFR 319.37

through 319.37–14) published in the Federal Register on May 13, 1980 (45 FR 31572–31597), contain prohibitions and restrictions on the importation of certain classes of nursery stock, and certain other classes of plants, roots, bulbs, seeds, and other plant products. These regulations became effective June 15, 1980.

These regulations, among other things, provide in § 319.37–2(a) that seeds of *Cocos nucifera* (coconut) are prohibited from being imported into the United States from all foreign countries and localities unless imported without husks or without milk in accordance with specified provisions or unless imported from Jamaica under conditions set forth in § 319.37–5(g) of the regulations. Prior to the effective date of this document these regulations prohibited the importation from Jamacia into the United States of seeds of *Cocos nucifera* of the Maypan variety (= F_1 hybrid, Malayan Dwarf x Panama Tall) solely because of the occurrence of lethal yellowing disease in Jamaica. Lethal yellowing disease could destroy coconut palms and other palms if introduced into areas of the United States where it does not occur.

Section 319.37–5(g) of the regulations provides a mechanism for allowing the importation of seeds of *Cocos nucifera* of the Malayan dwarf variety based on the finding that such seeds are resistant to lethal yellowing disease. Prior to its amendment by this document the provisions in § 319.37–5(g) of the regulations provided that: "Any seed of *Cocos nucifera* (coconut) at the time of importation or offer for importation into the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such seed was found by the plant protection service of Jamaica to be of Malayan dwarf variety (which is resistant to lethal yellowing disease) based on visual examination of the parent stock." Jamaica is the only country or locality known to provide such certification for seeds of *Cocos nucifera*.

The Department of Agriculture and Consumer Services of the State of Florida requested that the provisions in § 319.37–5(g) of the regulations be amended to allow the importation of seeds of *Cocos nucifera* of the Maypan variety (=F_1 hybrid, Malayan Dwarf x Panama Tall) under conditions similar to those allowed for the Malayan dwarf variety. This request was based on the assertion that such seeds are resistant to lethal yellowing disease.

Pursuant to this request Plant Protection and Quarantine conducted a search of the scientific literature and contacted the Government of Jamaica concerning this matter. Based on a report in the scientific literature, *The Farmer:* Vol. 79, No. 3, pp. 57–60 (1974), and information supplied by the Government of Jamaica it has been determined that the Maypan variety (=F_1 hybrid, Malayan Dwarf x Panama Tall) is also resistant to lethal yellowing disease. Further, there are no reasons to prohibit the importation of seeds of such Maypan variety if imported pursuant to similar procedures allowed for seeds of the Malayan dwarf variety. As with the seeds of the Malayan dwarf variety a determination as to whether seeds are of such Maypan variety cannot be made upon inspection at the time of importation. However, as with the case of the Malayan dwarf variety a determination as to whether seeds are of such Maypan variety can be made based on visual examination of parent stock because of the physical characteristics of the parent stock.

We have been advised by the Government of Jamaica that Jamaica will provide a certification program for seeds of *Cocos nucifera* of the Maypan variety (=F_1 hybrid, Malayan Dwarf x Panama Tall) similar to the current certification program for seeds of the Malayan dwarf variety. Therefore, the provisions in § 319.37–5(g) of the regulations are amended by this document to allow the importation of seeds of *Cocos nucifera* of such Maypan variety if at the time of importation they are accompanied by a phytosanitary certificate of inspection containing an accurate declaration that the seeds were found by the plant protection service of Jamaica to be of such Maypan variety based on visual examination of the parent stock. It should also be noted that the seeds of such Maypan variety for importation from Jamaica are subject to additional general requirements, in the regulations, i.e., requirements concerning permits, inspection, phytosanitary certificates of inspection, growing media, approved packing material, marking and identity, arrival notification, prohibited articles accompanying restricted articles, treatment and costs and charges for inspection and treatment, and ports of entry (see 7 CFR 319.37 through 319.37–14).

For informational purposes it should further be noted that plants, other than seeds, of *Cocos nucifera* of the Malayan dwarf variety and the Maypan variety (=F_1 hybrid, Malayan Dwarf x Panama Tall) are not allowed to be imported from Jamaica under the specified conditions because plants of these varieties could be carriers of lethal yellowing disease even though they are resistant to lethal yellowing disease. Seeds are not carriers of this disease.

§ 319.37–5 [Amended]

Accordingly, § 319.37–5(g) of the regulations in "Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," Chapter III, Title 7 of the Code of Federal Regulations (7 CFR 319.37–5(g)) is amended by adding "or Maypan variety (=F_1 hybrid, Malayan Dwarf x Panama Tall)" immediately after the words "Malayan dwarf variety" and by inserting the word "is" in lieu of the word "are."

(Section 106; 71 Stat. 33 (7 U.S.C. 150ee); sections 5, 7, and 9; 37 Stat. 316, 317, and 318 (7 U.S.C. 159, 160, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 6th day of August 1980.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 80-24136 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-34-M

---

7 CFR Part 331

Mediterranean Fruit Fly

Correction

In FR Doc. 80–22792 appearing on page 50318 in the issue of Tuesday, July 29, 1980, make the following corrections:

(1) On page 50320, third column, in the first line of the first complete paragraph, "Sections 331.1–4(d) and 331–5(b) . . ." should have read "Sections 331.1–4(d) and 331.1–5(b) . . .".

(2) On page 50321, third column, in the fifth line of paragraph (j) of § 331.1–1, ". . . in accordance with § 331.1–1(b) of . . ." should have read ". . . in accordance with § 331.1–2(b) of . . .".

(3) On page 50323, third column, the bold face section heading designated "§ 311.1–7" should have been designated "§ 331.1–7".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines and Fresh Pears, Plums, and Peaches Grown in California; Expenses and Rates of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These actions authorize expenses and rates of assessment for the 1980–81 fiscal period, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering nectarines and fresh pears, plums, and peaches grown in California.

DATES: Effective March 1, 1980, through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: These final actions have been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and have been classified "not significant." This final rule is issued under Marketing Order Nos. 916 and 917 (7 CFR Parts 916 and 917 respectively), regulating the handling of nectarines grown in California (M.O. 916), and fresh pears, plums, and peaches grown in California (M.O. 917). These programs are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the respective committees, established under these marketing orders, and upon other information. It is found that the respective expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

These actions were recommended at public meetings at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). These orders require that the rates of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which began March 1, 1980. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, new §§ 916.219 (M.O. 916) and 917.226; 917.227; 917.228 (M.O. 917) are added to read as follows (§§ 916.219, 917.226, 917.227, and 917.228 expire February 28, 1981, and will not be published in the annual Code of Federal Regulations):

PART 916—NECTARINES GROWN IN CALIFORNIA

Marketing Order 916

§ 916.219 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,824,434.

(b) The rate of assessment for said year payable by each handler in accordance with § 916.41 is fixed at $0.11 per No. 22D standard lug box of nectarines, or its equivalent in other containers or in bulk.

(c) Unexpended funds in excess of expenses incurred during fiscal year ended February 29, 1980, shall be carried over as a reserve in accordance with § 916.42.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Marketing Order 917

§ 917.226 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Pear Commodity Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $501,170.

(b) The rate of assessment for said year payable by each handler in accordance with § 917.37 is fixed at $0.135 per No. 29B special lug box of pears, or its equivalent in other containers or in bulk.

(c) Unexpended funds in excess of expenses incurred during fiscal year ended February 29, 1980, shall be carried over as a reserve in accordance with § 917.38.

§ 917.227 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Plum Commodity Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,773,718.

(b) The rate of assessment for said year payable by each handler in accordance with § 917.37 is fixed at $0.13 per No. 22D standard lug box of plums, or its equivalent in other containers or in bulk.

§ 917.228 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Peach Commodity Committee during fiscal year March 1, 1980, through February 28, 1981, will amount to $1,370,348.

(b) The rate of assessment for said year payable by each handler in accordance with § 917.37 is fixed at $0.10 per No. 22D standard lug box of peaches, or its equivalent in other containers or in bulk.

(c) Unexpended funds in excess of expenses incurred during fiscal year ended February 29, 1980, shall be carried over as a reserve in accordance with § 917.38.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: August 7, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24347 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 922

[Apricot Regulation 20, Amdt. 1]

Apricots Grown in Designated Counties in Washington; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues minimum grade and size requirements for shipments of fresh Washington apricots for the period August 16, 1980, through July 31, 1981. Such action is necessary to promote the orderly marketing of suitable quality and sizes of fresh Washington apricots in the interest of producers and consumers.

EFFECTIVE DATES: August 16, 1980, through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Notice of rulemaking was published in the Federal Register on July 18, 1980 (45 FR 48152)

that the Secretary was considering continuance of a handling regulation designed to promote orderly marketing of apricots grown in the production area. The notice allowed interested persons to submit written comments pertaining to the proposals through August 1, 1980. None were received.

This amendment is issued under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Washington Apricot Marketing Committee, and upon other available information. It is hereby found that this amendment will tend to effectuate the declared policy of the act.

This amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Washington apricots. Fresh shipments of Washington apricots in 1980 are estimated at 2,000 tons, compared with shipments of 2,012 tons last season. The grade and size requirements are necessary to prevent the shipment of Washington apricots of a lower grade and smaller size than specified and are necessary to provide ample supplies of good quality apricots in the interest of producers and consumers consistent with the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this amendment, with an effective date as herein specified, was published in the **Federal Register**, and no objection to this regulation or such effective date was received: (2) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of apricots are in progress and this amendment should be applicable, insofar as practicable, to all shipments of such apricots in order to effectuate the declared policy of the act.

The provisions of § 922.320 Apricot Regulation 20 (45 FR 42589) are hereby amended to read as follows: (§ 922.320 expires July 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 922.320 Apricot regulation 20.

(a) During the period August 16, 1980, through July 31, 1981, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) *Minimum size requirements.* Such apricots measure not less than 1⅝ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties may measure not less than 1¼ inches: *Provided,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; as amended July 1, 1980, through September 27, 1980, "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on U.S. Department of Agriculture Standard Ground Color Chart of Apples and Pears in the Western States.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 7, 1980, to become effective August 16, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24346 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. R-0158]

Loan Value for Mutual Fund Shares

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment will permit brokers and dealers to extend credit on fully paid for mutual fund shares deposited in a general account. The present rule permits broker-dealers to extend and maintain credit only on securities registered on a national securities exchange, or included on the Board's List of OTC Margin Stock and on certain non-convertible debt securities which are traded in the over-the-counter market.

The Board intends the proposed rule to reduce significantly the inequity which exists between broker-dealers and banks, which are currently permitted to extend credit on mutual fund shares under Regulation U, and lenders registered with the Board under Regulation G, who have the same authority. The amendment was published for comment on August 9, 1979 (44 FR 47776).

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Patsy Abelle, Senior Attorney, or Michael J. Schoenfeld, Senior Securities Regulations Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2781.

SUPPLEMENTARY INFORMATION: All of the comments received on the Board's proposal to permit brokers and dealers to extend and maintain credit on mutual fund shares were favorable. The rule has been adopted as proposed.

One commenter recommended that the composition of a fund's underlying portfolio be the basis for determining the margin requirement. This suggestion has not been adopted because the Board believes such a basis would be unworkable in view of the varying composition of some mutual fund portfolios.

One commenter requested that unit investment trusts be given good faith loan value since they invest almost exclusively in tax-exempt bonds. This issue was addressed previously by the Board in 1972 (12 CFR 220.125) when it was decided that shares in registered open-end investment companies are not themselves exempt securities, even if the portfolio consists entirely of exempt securities.

Another commenter felt that money market funds which permit investors to write drafts against them should be excluded since a broker-dealer would never know that money had been borrowed against the shares in this fashion. The Board understands that would not happen. Once the shares are pledged, it is understood the broker would request the fund to issue a certificate in "street name". Thus if a draft were subsequently drawn, it would not be honored by the fund since the shares technically would no longer be in the investor's name. Therefore, the Board believes that there is no problem in this regard.

It was also suggested that variable annuity contracts which meet the definition of a mutual fund be excluded, presumably because they are essentially retirement vehicles. Since this could be said for a number of securities, the Board believes there is no reason to make such a distinction.

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78 g and w), the Board revises section 220.2(f) of Regulation T (12 CFR 220.2(f)) to read as follows:

§ 220.2—Definitions.

* * * * *

(f) The term "margin security" means any registered security, OTC margin stock, OTC margin bond, or any security issued by an open-end investment company or unit investment trust registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

By order of the Board of Governors of the Federal Reserve System August 6, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-24370 Filed 8-11-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 201

[Reg. ER-1195; Amdt. No. 6]

Applications for Certificates of Public Convenience and Necessity; Elimination of Requirement To File Environmental Evaluations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB, to conform certificate and foreign air carrier permit application procedures with its envrionmental rules, is eliminating the requirement to file an environmental evaluation with an application. This change is at the Board's own initiative.

DATES: Effective: August 12, 1980; Adopted: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: By PR–218, 45 FR 16132, March 12, 1980, the Board reissued its procedural regulations in 14 CFR Part 312 for the handling of environmental concerns in Board proceedings. That rulemaking eliminated the requirement that each applicant for Board authority file an environmental evaluation or assessment in accordance with Part 312 with the application. This rule conforms 14 CFR Part 201 and 14 CFR Part 211 with these revised environmental rules by eliminating the requirement of filing environmental evaluations with applications for certificates of public convenience and necessity and with applications for permits to foreign air carriers, respectively. Environmental issues are now handled on case-by-case basis under Part 312, as explained in PR–218.

Since this amendment merely conforms its procedures with substantive changes already made in a prior proceedings, the Board finds that notice and public comment are not necessary, and that there is good cause to make this rule effective immediately.

An amendment to 14 CFR Part 211, *Applications for Permits to Foreign Air Carriers,* is being issued contemporaneously.

§ 201.4 [Reserved]

The Board therefore amends 14 CFR Part 201, *Applications for Certificates of Public Convenience and Necessity,* by revoking and reserving § 201.4(d).

(Secs. 204, 401, 402, of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 757, as amended; 49 U.S.C. 1324, 1371 and 1372)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24355 Filed 8-11-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 211

[Reg. ER-1196; Amdt. No. 9]

Application for Permits to Foreign Air Carriers, Elimination of Requirement To File Environmental Evaluations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is amending its application procedures for foreign air carrier permits to eliminate the requirement to file an environmental evaluation.

DATES: Effective: August 12, 1980. Adopted: August 7, 1980;

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: As explained in ER–1195, issued contemporaneously, this rule conforms 14 CFR Part 211, *Applications for Permits to Foreign Air Carriers,* with the Board's revised environmental procedures.

The Board therefore amends 14 CFR Part 211, *Applications for Permits to Foreign Air Carriers,* by revoking paragraph 10(i) of the Appendix.

(Secs. 204, 401, 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 757, as amended; 49 U.S.C. 1324, 1371 and 1372)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24356 Filed 8-11-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 374a

[Reg. SPR-172; Docket 35042; Amdt. No. 2]

Regulations Pursuant to Section 401 of the Federal Election Campaign Act of 1971; Extension of Credit by Air Carriers to Political Candidates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is allowing airlines to bill political candidates for Federal office monthly, rather than semi-monthly, during the last two months of

the campaign. This change is in response to a comment submitted by United Air Lines.

DATES: Effective: August 12, 1980; Adopted: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: 14 CFR Part 374a of the Board's regulations implement the Federal Election Campaign Act of 1971 (FECA) (Pub. L. 92–225; 2 U.S.C. 451), which Congress enacted to prevent rapid accumulation of debts owed by political candidates to Federally regulated industries. On April 10, 1980, the Board, in response to a United Air Lines petition, issued a final rule (SPR–169, 45 FR 25795, April 16, 1980) allowing a political candidate, and those persons who work for the candidate, 25 days, instead of 14 days, to pay debts owned to an air carrier. This change was intended to simplify accounting procedures and to reduce the administrative burden on the airlines.

On April 10, 1980, the Board also issued a notice of proposed rulemaking, SPDR–76, 45 FR 25825, April 16, 1980 to amend 14 CFR 374a.4(a)(1) to allow airlines to bill political candidates on a monthly basis. This proposal was in response to a comment by United Air Lines in the earlier proceeding concerning lack of coordination between the amended § 374a.4(a)(3) and § 374a.4(a)(1). Section 374.a.4(a)(1) currently requires airlines to bill political candidates for Federal office on a semi-monthly basis during the last two months of the campaign. United argued that a problem could occur when a candidate is billed every 15 days for debts payable within 25 days. For example, a candidate could be billed on September 15 for payment due October 10, and then receive a second statement on September 30, with payment due October 25. The second statement would include new charges accrued before October 10 even though the first statement would not yet be due. This discrepancy could cause confusion and accounting problems for the candidate, and administrative problems for the carrier. No comments were received on the Board's proposal.

This amendment will conform the candidates' billing cycle to the normal customer billing cycle and to the new 25-day payment period, resulting in less confusion, and simplified accounting and administrative procedures for both candidates and airlines. The Federal Election Campaign Act protections will not be diluted by a 10-day extension of the billing cycle. The rules still require that if the debt is unpaid at the end of the payment period, further credit must be refused by the airline. Also, air carriers still must file a list with the Board of all candidates with unpaid balances of over $5,000 on the last day of each month, and a separate statement for aggregate staff debts of over $5,000. These requirements satisfy the public disclosure intent of FECA and help to obtain prompt payment. The Board is, therefore, amending 14 CFR 374a.4(a)(1) to allow airlines to bill political candidates monthly, instead of semi-monthly, during the last two months of the campaign.

Accordingly, the Civil Aeronautics Board is amending paragraph (a)(1) of § 374a.4 to read:

§ 374a.4 Conditions governing extension of unsecured credit.

(a) * * *

(1) At least once a month the air carrier shall submit to each such candidate or person a statement covering all unsecured credit extended to such candidate or person, as the case may be (whether in connection with the campaign of such candidate or otherwise.)

* * * * *

(Secs. 204, 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377, Sec. 401 of the Federal Election Campaign Act of 1971, 86 Stat. 19, 2 U.S.C. 451)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24354 Filed 8-11-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 385

[Reg. OR–171; Organization Regulations Amendment No. 103 to Part 385]

Delegation for Uncontested Air Mail Contracts

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB delegates to its Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation, the authority to issue letters notifying the U.S. Postal Service and air carriers that the Board will not disapprove uncontested air mail contracts. This rulemaking is at the CAB's own initiative.

DATES: Effective: August 12, 1980; Adopted: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Chief, Domestic Fares and Rates Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5298.

SUPPLEMENTARY INFORMATION: Air carriers are required by the Postal Reorganization Act (39 U.S.C. 5402(a)) to file at the Board for approval copies of air mail contracts negotiated with the U.S. Postal Service (USPS). There is a statutory 90-day waiting period before the contracts may become effective, so that the Board can review and take action on them. The Board's regulations (14 CFR 302.1505) provide for a period of 15 days after filing of the contract for interested persons to file a complaint against the contract. Neither the statute nor the Board's regulations prescribes a specific method for the Board to permit the contracts to become effective before the end of the 90-day period, even if they are uncontested.

In May of this year, the Board used an *ad hoc* procedure in the case of air mail contracts negotiated between the USPS and Pan American and TWA, respectively, to notify the parties that the contracts were uncontested and could become effective before the 90-day period ended. The USPS had asked the Board for quick action. The notification was by letter, stating that no complaints had been filed and that the Board had no intention of disapproving the contracts, and had no objection to them becoming effective immediately.

It is likely that there will be more contracts requiring quick action and effectiveness before the end of the 90-day period. For that reason, we are delegating to the Chief, Domestic Fares and Rates Division, the authority to issue such a letter where there has been no complaint filed against the contract. The letter will state that it is being sent under delegated authority, and may be appealed to the Board.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that public comment and notice are not required. Also, because of the need to implement this new procedure as soon as possible so that new uncontested contracts may go into effect without delay, the Board finds good cause to make the rule effective immediately.

The Board therefore amends Subpart B of 14 CFR Part 385 as follows:

1. A new § 385.15a is added to read:

Subpart B—Delegation of Functions to Staff Members

* * * * *

§ 385.15a Delegation to Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation.

The Board delegates to the Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation, in the case of air mail contracts filed with the Board under 14 CFR Subpart O against which no complaints have been filed, the authority to issue a letter stating that the contract will not be disapproved by the Board and may become effective immediately. The letter will state that it is issued under delegated authority and may be appealed to the Board by any person.

* * * * *

2. The Table of Contents is amended accordingly.

(Secs. 204, 405 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 49 U.S.C. 1324, 1375. Section 2 of the Postal Reorganization Act, 84 Stat. 772, 39 U.S.C. 5402(a). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24352 Filed 8-11-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3027]

Clinique Laboratories, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New York City manufacturer and distributor of cosmetics and related products to cease establishing, fixing or maintaining resale prices for its products and compelling adherence to suggested resale prices through coercion or otherwise. The firm is prohibited from seeking the identity of dealers who fail to conform to established prices and taking adverse action against them. The order further bars the company from restricting the lawful use of brand names and trademarks in the advertising and sale of its products, and withholding earned cooperative advertising credits or allowances from recalcitrant dealers. Additionally, the firm is prohibited from suggesting retail prices for its products for a specified period.

DATES: Complaint and order issued July 23, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Robert B. Greenbaum, Acting Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556–1270.

SUPPLEMENTARY INFORMATION: On Friday, April 25, 1980, there was published in the **Federal Register**, 45 FR 27949, a proposed consent agreement with the analysis in The Matter of Clinique Laboratories, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures. Subpart—Cutting Off Supplies Or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart-Delaying Or Withholding Corrections, Adjustments Or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Maintaining Resale Prices: § 13.1145 Discrimination; 13.1145–5 Against price cutters; 13.1145–45 In favor of price maintainers; § 13.1150 Penalties; § 13.1165 Systems of espionage; 13.1165–80 Requiring information of price cutting.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

James A. Tobin,

Acting Secretary.

[FR Doc. 80-24351 Filed 8-11-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket 9126]

National Tea Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, dismisses the complaint against Applebaums' Food Markets, Inc., and requires a Rosemont, Ill. operator of a retail grocery store chain to divest itself, within six months from the effective date of the order, of all its right, title and interest in seven specified retail grocery stores in the Minneapolis-St. Paul area, to a Commission-approved acquirer. Further, for a ten-year period, the company (with certain minor exceptions) is prohibited from acquiring any retail grocery store business located in designated geographic areas without prior Commission approval.

DATES: Complaint issued April 17, 1979. Decision issued July 23, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. (202) 523–3601.

SUPPLEMENTARY INFORMATION: On Tuesday, April 29, 1980, there was published in the **Federal Register**, 45 FR 28342, a proposed consent agreement with analysis In the Matter of National Tea Company, a corporation, and Applebaums' Food Markets, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16

[1] Copies of the Complaint and the Decision and Order filed with the original document.

CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5–20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

James A. Tobin,

Acting Secretary.

[FR Doc. 80-24350 Filed 8-11-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM80-68; Order No. 97]

Amendment to Rules Relating to Delegation of the Commission's Authority of the Director of the Office of Pipeline and Producer Regulation

Issued August 1, 1980

AGENCY: Federal Energy Regulatory Commission.

ACTION: Amendment to regulations of delegation of authority.

SUMMARY: This order grants authority to the Director of the Office of Pipeline & Producer Regulation to issue as notices of proposed rulemaking, recommendations for designations of tight formations submitted to the Commission by jurisdictional agencies under § 271.705 of the Commission's rules.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Leslie J. Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, D.C. 20426. (202) 357–8027.

SUPPLEMENTARY INFORMATION:

A. Background

On August 4, 1978, the Commission approved a rulemaking, Delegations of Authority (Phase I) (August 17, 1978), Docket No. RM78–19 (43 FR 36433), which served to transfer decision-making authority over matters of a largely routine and ministerial nature to the Commission's various Office Directors, so that the Commission could concentrate its major efforts on matters where direction of policy was required. Subsequently, on July 23, 1979, the Commission added new delegations to the original ones, in the Phase II Delegation, Docket No. RM79–59 (44 FR 46449, August 8, 1979).

As a continuation of the process of delegating ministerial tasks to Office Directors, the Commission has decided to delegate further authority to the Director of the Office of Pipeline and Producer Regulation (OPPR).

The authority to be delegated to the Director of OPPR arises under section 107(c)(5) and section 501(a) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. § 3317(c)(5) and § 3351(a)). Section 107(c)(5) authorizes the Commission to designate certain types of natural gas as high-cost gas, where the Commission has determined that such gas is produced under conditions which present extraordinary risks or costs. Pursuant to section 107(c)(5) and its general rulemaking authority under section 501(a), the Commission issued an Interim Rule in Docket No. RM79–76, High-Cost Gas Produced From Tight Formations.[1] In this rule, the Commission found that production of natural gas from tight formations presents extraordinary risks and costs and that such gas should be eligible for an incentive price. The Interim Rule prescribed guidelines to aid in the identification of those formations which are tight and from which production should receive the incentive price. It was also established in the Interim Rule that jurisdictional agencies, named in § 274.501 of the Commission's regulations (18 CFR 274.501), would be responsible for applying these guidelines to prospective tight formations and for forwarding their recommendations for tight formations to the Commission.

The Interim Rule established procedures pursuant to which jurisdictional agencies will submit to the Commission recommendations of areas for designation as tight formations. The procedures concerning these recommendations are found in § 271.705 of the Commission's regulations. Section 271.705(d) provides that upon receipt of a recommendation, the Commission shall publish in the **Federal Register** a notice of proposed rulemaking containing the recommendation. After reviewing the comments received in response to the proposed rule, the Commission will prescribe a rule approving or disapproving the recommendation. If the recommendation is approved, the Commission's regulations will be amended to add the newly designated formation to the list of other approved formations, which will appear in the regulations.

The Commission expects to receive approximately 150 such recommendations over the next three years, each recommendation necessitating a notice of proposed rulemaking and appropriate Commission action. Due to the large number of recommendations anticipated, the Commission believes that if it delegated to Staff, specifically the Director of OPPR, the authority to issue recommendations received as notices of proposed rulemaking, the process of designating formations would be expedited. It is hoped that this would result in a more rapid development of tight gas reserves.

B. Summary

Under new 18 CFR 375.307(m), there is delegated to the Director of the Office of Pipeline and Producer Regulation the authority to issue Notices of Proposed Rulemaking pursuant to § 271.705(d) containing recommendations, submitted by jurisdictional agencies, of formations to be designated as tight formations.

C. Effective Date

The Commission hereby makes this regulations effective upon the date of issuance of this order. The regulation concerns agency practice and procedure and internal agency management, accordingly, pursuant to the Administrative Procedure Act (5 U.S.C. § 553(b) and (d)), public notice and comment are not required, and the regulation may be made effective immediately upon issuance.

(Department of Energy Organization Act 42 U.S.C. 7107 *et seq.*, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432))

For the reasons stated herein, Part 375 of Subchapter W of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 375, Subpart C, is amended by adding a new paragraph (m) to § 375.307 to read:

§ 375.307 [Amended]

* * * * *

(m) Issue as a Notice of Proposed Rulemaking in the **Federal Register**, any recommendation received from a jurisdictional agency pursuant to Subpart G of Part 271, seeking designation of a formation as a tight formation.

[FR Doc. 80-24177 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[1] Interim Rule in Docket No. RM79–76 issued February 20, 1980 (45 FR 13414, February 28, 1980.)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

Lincomycin; New Animal Drugs for Use in Animal Feeds

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co., providing that certain requirements be waived for use of a currently approved 20-gram-per-pound lincomycin premix for manufacture of a complete swine feed.

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. 301–443–4317.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental NADA (97–505) providing for waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)) for use of a 20-gram-per-pound lincomycin premix for the manufacture of complete swine feeds.

Lincomycin as the sole drug premix meets the uniform criteria set forth in 1971 Bureau of Veterinary Medicine memoranda for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memoranda indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The 1971 memoranda explain that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy that is currently under review. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

The Director, Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.325 by adding paragraph (e)(3) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(e) * * *

(3) Complete swine feeds which contain lincomycin as the sole drug, which are processed from the 20-gram-per-pound premix, and which conform to the requirements of paragraph (f)(2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. This regulation shall be effective on August 12, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 4, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-24058 Filed 8-11-80; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1566-2; FAP OH5262/T58]

±Cyano (3-Phenoxyphenyl) Methyl (+)-4-(Difluoromethoxy)-Alpha-(1-Methylethyl) Benzeneacetate; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has established a temporary food additive tolerance for the insecticide ±cyano(3-phenoxyphenyl)methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on cottonseed oil at 0.2 ppm. American Cyanamid Company submitted a food additive petition to the EPA.

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–341, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202/426–0417).

SUPPLEMENTARY INFORMATION: American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, submitted a food additive petition (FAP OH5262) to the EPA. This petition requested that a temporary food additive tolerance be established for the insecticide (±cyano(3-phenoxyphenyl)methyl (+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on cottonseed oil at 0.2 ppm.

This temporary tolerance would permit the marketing of food commodities affected by the application of the insecticide to cottonseed oil.

The scientific data reported and other material have been evaluated, and it has been determined that the pesticide may be used in accordance with the provisions of an experimental use permit concurrently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act. A related document concerning the establishment of a temporary tolerance for residues of the

subject insecticide in or on the raw agricultural commodity cottonseed appears elsewhere in this issue of the Federal Register. Accordingly, a food additive regulation is established as set forth below.

Any person adversely affected by this temporary regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 12, 1980.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1))

Dated: August 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, 21 CFR Part 193 is amended by adding § 193.99 to read as follows:

§ 193.99 ±Cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate.

Tolerances are established for the insecticide ± cyano (3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity cottonseed oil at 0.02 part per million. Such residues may be present therein only as a result of the application of the insecticide in accordance with the provisions of an experimental use permit that expires May 30, 1981.

[FR Doc. 80-24364 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

21 CFR Part 193

[FRL 1567-1; FAP 7H5170/R65]

Copper Monoethanolamine; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the food additive regulation for copper in potable water to establish a tolerance of 1 part per million (ppm) for residues of copper resulting from the use of copper monoethanolamine as an algicide or aquatic herbicide to control aquatic plants in reservoirs, lakes, ponds, and irrigation ditches and other potential sources of potable water. The regulation was requested by Applied Biochemists, Inc.

EFFECTIVE DATE: Effective on August 12, 1980.

ADDRESS: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort (202-758-1397).

SUPPLEMENTARY INFORMATION: A notice was published in the Federal Register on December 6, 1977 (42 FR 61626) that Applied Biochemists, Inc., P.O. Box 25, Mequon, WI 53092, had filed a food additive petition (FAP 7H5170) which proposed that 21 CFR 193.90 be amended to establish a tolerance of 1 ppm for residues of copper in potable water resulting from the use of copper monoethanolamine as an algicide or aquatic herbicide to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water. No comments were received by the Agency in response to this notice of filing.

A tolerance of 1 ppm is currently provided in potable water (21 CFR 193.90) for residues of copper resulting from the use of the algicides or herbicides basic copper carbonate (malachite), copper sulfate, and copper triethanolamine to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

The data submitted in the petition and relevant material have been evaluated. Copper monoethanolamine is expected to dissociate in water into copper ion and the free amine, monoethanolamine; both copper and monoethanolamine are naturally occuring compounds. Levels of copper range from 0.3 ppm in milk to 100 ppm in calves livers. A tolerance level of 1 ppm was previously established for residues of copper in potable water resulting from the use of copper containing algicides and herbicides. Residues of copper in potable water resulting from the use of copper monoethanolamine will not exceed the established tolerance level of 1 ppm. Monoethanolamine, which is a constitutent of human phospholipid cell membranes, is expected to degrade to ammonia, simple organic acids and aldehydes. The highest calculated initial concentration of monoethanolamine from the use of copper monoethanolamine is 2.83 ppm. Due to the low level of exposure and the natural occurrence of copper monoethanolamine and its expected metabolites, no overt hazard is envisioned due to this regulation.

Currently, only one formulated product containing copper monoethanolamine (in combination with triethanolamine) is proposed for use as an algicide or aquatic herbicide. The Agency previously had concerns regarding the level of nitrosamine in this product in view of the presence of 2.1 ppm of *N*-nitrosodiethanolamine in the formulation. The presence of the *N*-nitrosoamine at this level is of concern since 80 percent of known *N*-nitrosoamine compounds have been shown to be carcinogenic in a variety of species. However, the petitioner has since resolved this concern by submitting a revised formulation which contains less than 1 ppm of the *N*-nitrosodiethanolamine. This quantity of the *N*-nitrosoamine is at the level of method sensitivity for *N*-nitrosoamine analysis and represents a risk level which is acceptable to the Agency, in accordance with the Agency's proposed policy on Pesticides Contaminated with *N*-nitroso compounds, published in the Federal Register on June 25, 1980 (45 FR 42854).

There are no regulatory actions pending against this chemical. Analytical methods are available for the determination of residues of copper monoethanolamine/triethanolamine complexes and ionic copper.

A related document (PP 7F1977/R265) establishing an exemption from the requirement of tolerances for copper monoethanolamine in eggs, fish, meat, milk, irrigated crops, and shellfish also appears elsewhere in this issue of the Federal Register.

The pesticide is considered useful for the purpose for which the tolerance is sought. No other considerations are involved in the establishment of this tolerance, and it is concluded that the tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, EPA, Rm. M-3708, (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 12, 1980.

(Sec. 409(c), 72 Stat. 1786, (21 U.S.C. 348(c)(1))

Dated: August 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator, Office of Pesticide Programs.

Therefore, 21 CFR 193.90 is revised to read as follows:

§ 193.90 Copper.

A tolerance of 1 part per million is established in potable water for residues of copper resulting from the use of the algicides or herbicides basic copper carbonate (malachite), copper sulfate, copper monoethanolamine, and copper triethanolamine to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

[FR Doc. 80-24374 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Washington State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; Approval of Washington supplements; Revisions of Recordkeeping and Reporting Regulations.

SUMMARY: The State of Washington has submitted three plan supplements describing changes in its occupational safety and health regulations in response to Federal regulation changes. These are (1) the exemption of employers with ten or fewer employees from the requirements to routinely maintain a log, summary and supplementary record of injuries and illnesses unless specifically selected for statistical survey, (2) the revised OSHA Form 200 which replaced OSHA Forms 100, 102, and 103 for employer recordkeeping and the occupational safety and health survey and (3) the provision for employee access to the required employer records. This document announces that the plan supplements are substantially identical to the comparable Federal provisions and are therefore approved.

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, OSHA, 200 Constitution Ave., N.W., Washington, D.C. 20210 (202) 523-8045.

SUPPLEMENTARY INFORMATION:

Background

The Washington Occupational Safety and Health plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this chapter on January 26, 1973 (38 FR 2421). Part 1953 of the chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary).

Description of the Supplements

A. *Small Employers.* The requirements under 29 CFR Part 1904 were changed to exempt employers of ten or fewer employees from maintaining a log, summary and supplementary record of occupational injuries and illnesses unless selected for participation in a statistical survey. The State revised its regulations accordingly, effective July 28, 1978.

B. *OSHA Form No. 200.* The requirements under 29 CFR Part 1904 were changed to provide a revised form for employers to use when recording injuries and illnesses or participating in an occupational safety and health survey. The State revised its regulations accordingly, effective May 1, 1978.

C. *Access to Records.* Requirements under 29 CFR Part 1904 were changed to provide access to required records to current and former employees. The State revised its regulations accordingly, effective July 1, 1979.

Location of the Plan Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room N-3613, 200 Constitution Ave., N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Washington plan supplements described above are substantially identical to the comparable Federal provisions. Good cause is therefore found for the approval of the supplement without public comment and notice.

Decision

After careful consideration, the Washington plan supplements described above are hereby approved under subpart C of Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, Subpart F of Part 1952 of this chapter is amended by adding a new section outlining these and other changes as follows:

§ 1952.125 Changes to approved plans.

(a) In accordance with Subpart C of Part 1953 of this Chapter, the following Washington plan changes were approved by the Assistant Secretary on August 5, 1980.

(1) The State changed its recordkeeping and reporting requirements to provide for use of an OSHA Form 200 or its equivalent.

(2) The State changed its recordkeeping and reporting regulations to provide access to records maintained under these regulations to present and former employees.

V 45 AG 12 80 UMI

(3) The State changed its recordkeeping and reporting regulations to exempt employers of ten or fewer employees from maintaining a log, summary, and supplementary record of occupational injuries and illnesses unless selected for participation in a statistical survey.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 5th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-24348 Filed 8-11-80; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1565–7]

Approval of Revision of Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve, in part, the State Implementation Plan (SIP) revision submitted by the State of Maryland on January 19, 1979. Those portions upon which no conditions are placed are fully approved unless indicated otherwise. This revised SIP was for those areas in the State of Maryland designated as not attaining the National Ambient Air Quality Standards for Total Suspended Particulate (TSP), Ozone, and Carbon Monoxide. The plan revision was prepared by the State to meet the requirements of Part D of the Clean Air Act as amended.

Elsewhere in today's **Federal Register**, EPA is inviting public comment on proposed conditional approval of portions of the plan as discussed in this notice, as well as the acceptability of the deadlines proposed for complying with the conditions for approval. In this notice, the Maryland plan is summarized, the issues related to conditional approval are discussed, and EPA's response to relevant comments received on the proposal of August 1, 1979 are included. It should be noted that only the requirements with respect to Part D of the Act are discussed.

EFFECTIVE DATE: Effective August 12, 1980.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth restrictions in those areas for which the State of Maryland has submitted plans in accordance with Part D requirements.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Patricia Sheridan.

Maryland Department of Health & Mental Hygiene, Environmental Health Administration, Air Quality Programs, 201 W. Preston Street, Baltimore, Maryland 21201. ATTN: George P. Ferreri.

Public Information Reference unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

For transportation portions of the plans:

Public Information Center, Metropolitan Washington Council of Governments, 1875 Eye Street NW., Washington, D.C. 20006.

Regional Planning Council, 2225 North Charles Street, Baltimore, Maryland 21218.

FOR FURTHER INFORMATION CONTACT:
Mr. Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone (215) 597–8990.

SUPPLEMENTARY INFORMATION:

Preface

The information in this notice is divided into five sections entitled "INTRODUCTION," "BACKGROUND," "DEFICIENCIES AND REMEDIES," "PUBLIC COMMENTS ON PROPOSAL," and "EPA ACTIONS." The INTRODUCTION outlines the development of the Maryland Implementation Plan revision. The SIP revision submittals for each nonattainment area are described in the "BACKGROUND" section. The "DEFICIENCIES AND REMEDIES" section describes where the SIP revision is inadequate because it did not accomplish everything that was required by Part D, and presents the schedules and deadlines necessary to correct these deficiencies and how some deficiencies cited in the notice of proposed rulemaking August 1, 1979, 44 FR 45194, have been satisfied by the State of Maryland's submittals. The section entitled "PUBLIC COMMENT ON PROPOSAL" summarizes relevant comments received on the proposal and EPA's response to them. The "EPA ACTIONS" section explains EPA's proposal to approve conditionally or take no action on the SIP based on considerations discussed in the two preceding sections.

Introduction

The January 19, 1979 submittal was comprised of revised Maryland regulations 10.18.01.01, 10.18.01.07, 10.18.01.11, and 10.18.04 and 10.18.05 Sections .03, .04, and .06. Today's action as reflected in the "EPA ACTIONS" section approves the revised portions of 10.18.01.01, 10.18.01.07, and 10.18.01.11. Partial approval is granted to 10.18.04 and 10.18.05 Section .03, .04 and .06. As discussed in this notice and elsewhere in today's **Federal Register**, EPA proposes to conditionally approve the noted parts 10.18.04 and 10.18.05 Sections .02, .03, .04(K), and .06. No final action will be taken on 10.18.04 and 10.18.05 Section .04J and .06G as noted above in the SUMMARY, and the Section 110(a)(2)(I) restrictions on growth will remain in effect until EPA takes final action.

The Maryland SIP revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act (the Act). In general, the SIP is required to provide for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for all areas which have been designated "nonattainment" under Section 107 of the Act. Specific requirements for an approvable SIP are discussed in detail in the April 4, 1979 **Federal Register**, 44 FR 20372, and in the following Supplements:

July 2, 1979, 44 FR 38583.
August 28, 1979, 44 FR 50371.
September 17, 1979, 44 FR 53761.
November 23, 1979, 44 FR 67182.

The following list summarizes the basic requirements for nonattainment plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards by 1982 and meeting the criteria necessary for approval of any extension beyond that date.
4. An accurate inventory of existing emissions.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emission growth.

7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M) if necessary, as expeditiously as practicable.
10. Necessary transportation control measures, as expeditiously as practicable.
11. Enforceability of the regulations.
12. An identification of and commitment to the resources necessary to carry out the plan.
13. State commitments to comply with schedules.
14. Evidence of public, local government, and State involvement and consultation.

A discussion of the conditional approval of certain elements in State Implementation Plans and its practical effect appears in a supplement to the General Preamble, 44 FR 38583, July 2, 1979, and in 44 Fed. Reg. 67182, November 23, 1979. The conditional approval requires the State to submit additional materials by deadlines identified in this notice and proposed elsewhere in today's **Federal Register**. There will not be extensions of conditional approval deadlines when they are made final. EPA will follow the procedures described below when determining if the State has satisfied the conditions:

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.
2. EPA will evaluate the State's submittal to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on growth will be in effect.
3. If the State fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the limit for submittal. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

If a State has failed to submit the required data to meet any condition identified in this notice that may subsequently be imposed following public comment on proposed conditions, as published elsewhere in today's **Federal Register**, EPA will at that time consider whether the funding restrictions contained in Sections 176(a) and 316 are also appropriate (see 40 FR 33473, June 11, 1979).

Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed.

The 1978 edition of 40 CFR, Part 52 lists in the subpart for Maryland the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Maryland's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) are referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with new applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadline more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but no later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of Clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment. *See* General Preamble for Proposed Rulemaking, 44 FR 20373–74 (April 4, 1979).)

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with control required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

In the following sections of this notice, there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below.

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

The term "Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Compliance with the I/M program can be accomplished by requiring proof of compliance to emission standards in order to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that State Implementation Plans for States which include nonattainment areas must meet certain criteria. For areas which demonstrates that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension up to 1987 may be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provision shall establish a specific

Table 1

identified several items which required

schedule for implementation of a vehicle emission control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking, 44 FR 20372, (1979). Though July 17, 1978 guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

Legal Authority. States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10).)

Commitment. The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)

Resources. The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)

Schedule. A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(b).) Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.15(c).

Program Effectiveness. As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emission of both hydrocarbon and carbon monoxide. These reductions are measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and enforce effectively the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a State department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172(b)(10).) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).) The July 17, 1978 guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirements for compliance modified at 40 CFR 51.15(c). This Section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reduction in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "implementation of all resonably available control as expeditiously as practicable." (Section 172(b)(2).) At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs of New Jersey and Arizona operating at about 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program standards if the affected fleet had not previously undergone I/M. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

In its State Implementation Plan, Maryland included provisions for an I/M program which would cover cars and light duty trucks, and provide for inspection each year. Inspections would be carried out by an independent contractor, franchised by the State. Operation of non-complying vehicles will be prohibited through the use of a windshield sticker with on-highway observation by law enforcement personnel and suspension or denial of registration of non-complying vehicles.

Vehicles built prior to model year 1963 will be excluded. Provisions for a waiver of eligible vehicles is included in the enabling legislation, although specific conditions for the waiver have not yet been established. The standards in the proposed Maryland Regulation for 1982 are equal to New Jersey's Phase II standards, and New Jersey's Phase III standards are proposed for 1983. These standards are essentially equivalent to stringency factors of 20 percent and 30 percent respectively. As a response to the EPA comments noted in the August 1, 1979 proposal, 44 FR 45194, the State has submitted a schedule including the key milestones as required in the July 17, 1978 guidance. The State plan includes provisions for mechanics' training and public awareness programs.

Based on assumed 30 percent stringency factor, which is equivalent to New Jersey's Phase III standards proposed for 1983, the proposed regulations achieve a 28 percent reduction in HC and a 34 percent reduction in CO by December 31, 1987, this complying with EPA's minimum requirement for emission reductions. The State of Maryland has submitted a commitment to design the final regulations to achieve at least a 25% emission reduction.

On March 3, 1978, 44 FR 8962, and on September 11, 1978, 43 FR 40419, as required by Section 107 of the Act, EPA designated certain areas as nonattainment based on existing violations of the NAAQS. The designated areas in Maryland are displayed in Table 1.

Table 1

Air quality region	Carbon monoxide (CO)	Ozone (O_3)	Total suspended particulates (TSP)
Metropolitan Baltimore, intrastate	[1]	X	X
National Capital, interstate	[1]	X	
Cumberland Keyser, Interstate	[1]	X	X

[1] Specific portions of the AQCR.

The plan revisions were submitted by the State of Maryland on January 19, 1979. On April 19, 1979, 44 FR 23263, EPA published a Notice of Availability of the Maryland SIP revision and invited the public to inspect the plan; no public comments were received in response to that notice.

In accordance with Section 174 of the Act, designated local and regional agencies prepared portions of the SIP. The Metropolitan Washington Council of Governments (COG) was responsible for the transportation element of the SIP and the stationary source control development for the Washington area, while the Regional Planning Council (RPC) was responsible for the transportation elements of the Baltimore plan. The Maryland Department of Transportation (MDOT) assisted the Section 174 agencies in preparing the transportation portions of the SIP, and in developing a motor vehicle inspection and maintenance (I/M) program. The Maryland Department of Health and Mental Hygiene developed the stationary source controls for the Baltimore area and coordinated the entire plan development.

Public hearings on the Maryland plan were held on November 9, 21, and 27, 1978, prior to the submittal of the plan by the Governor on January 19, 1979. In the Governor's letter, which transmitted the SIP revision, it was stated that the ozone and carbon monoxide standards could not be attained in the Metropolitan Baltimore and National Capital regions by 1982. The Governor therefore requested an extension of the attainment dates for those areas to December 31, 1987, and committed the State to submit by July 1, 1982 an amendment to the SIP that will contain all the measures needed to attain the NAAQS. The Governor, in his letter, also recommended that EPA work closely with the Maryland Environmental Health Administration, Air Quality Programs staff in resolving any problems.

EPA, in its letter of May 2, 1979, to Mr. George P. Ferreri, the Administrator of the Maryland Air Quality Program, identified several items which required clarification and other items which were omitted.

In a meeting between EPA and State of Maryland representatives on May 7, 1979, EPA's comments were discussed. On May 25, 1979, Mr. George P. Ferreri sent a letter to EPA addressing the comments and clarifying several of the items. EPA proposed the SIP revision and invited public comment in the **Federal Register** on August 1, 1979, 44 FR 45194.

That proposed rulemaking described the nature of the SIP revision, discussed certain provisions which in EPA's judgement needed to be co addressed further by the State, and requested public comments. Serveral comments were received.

The Environmental Protection Agency (EPA) has reviewed the comments received on the August 1, 1979 proposal and has concluded that the State of Maryland's revised Implementation Plan for those areas are not attaining the National Ambient Air Quality Standards should be approved on a conditional basis and such approval be contingent upon the satisfactory accomplishment of the conditions and deadlines contained herein.

On September 21, 1979, the State of Maryland submitted its final response to the proposed rulemaking notice.

On April 18, 1980, 45 FR 26368 EPA published a notice to clarify the status of the Maryland urban hydrocarbon and volatile organic compound regulations with respect to the Maryland State Implementation Plan. Therefore, EPA will not take final action, with respect to Section .04J and .06G of Maryland regulations 10.18.04 (Metropolitan Balitmore Intrastate AQCR) and 10.18.05 (National Capital Interstate AQCR) as submitted on January 19, 1979, until after the close of the public comment period on the clarifying notice.

Background

The following discussion describes the nature of the air quality problems, the SIP revision for each nonattainment area, and related regulations.

For the areas of the Cumberland-Keyser Interstate AQCR where the State of Maryland has requested redesignation (ozone, particulates, and carbon monoxide), EPA redesignated the AQCR to "unclassified" for particulates on April 10, 1980, 45 FR 24469. Garrett and Allegheny Counties have been redesignated to "attainment" on April 1, 1980, 45 FR 21244.

Ozone

As noted above, EPA had designated three nonattainment areas for ozone in Maryland. These areas are the Maryland portion of the National Capital Interstate AQCR, the Metropolitan Baltimore Intrastate AQCR, and the Cumberland-Keyser Interstate AQCR.

Plans were submitted for the two metropolitan nonattainment areas. For the Cumberland-Keyser Interstate AQCR, a rural nonattainment area, Maryland included a statement in its submittal that there were no major (100 Ton) sources, within the eleven applicable VOC source categories for which Control Technique Guidelines (CTG) have been issued in the AQCR. Maryland has committed to review future CTG's as they are issued to determine if regulations are needed for applicable sources in the Cumberland-Keyser Interstate AQCR. EPA policy in rural nonattainment areas, as published on April 4, 1979, 44 FR 20372, requires the adoption of RACT for 100 Ton sources covered by the CTG's. Maryland has satisfied this requirement.

The SIP for the two metropolitan areas contains provisions for controlling volative organic compound (VOC) emissions from stationary and mobile sources. For ozone nonattainment areas, EPA requires the adoption of Reasonably Available Control Technology (RACT) for eleven VOC source categories for which there are Control Technique Guideline documents. Maryland regulates nine of these categories in the SIP. The Maryland SIP does not include regulations for surface coating of insulation of magnet wire and for petroleum refineries, because no major sources within these categories are located in the nonattainment areas.

The two metropolitan nonattainment plans contain transportation elements developed by the agencies designated by the Governor of Maryland on March 23, 1978 according to Section 174 of the Act, as discussed above, to improve ambient air quality levels for ozone and carbon monoxide.

As stated in the INTRODUCTION section of this notice, the Metropolitan Washington Council of Governments (COG) prepared the transportation portions of the ozone and carbon monoxide implementation plan for the Maryland portion of the National Capital Interstate AQCR. After extensive involvement of public and elected officials, COG prepared the "Washington Metropolitan Air Quality Plan for Control of Photochemical Oxidants and Carbon Monoxide." This plan and its appendices were incorporated by reference into the Maryland State Implementation Plan. The Baltimore Regional Planning

Council in response to its Section 174 responsibilities prepared the "Transportation Control Plan for the Baltimore Region." After notice and a public hearing this plan was incorporated into the Maryland SIP. The success of the Maryland plan is contingent on the implementation of five basic strategies. These include:

(1) The continued construction of the transit systems in the two metropolitan areas.

(2) A continued reduction of emissions as a result of the Federal Motor Vehicle Control Program.

(3) The implementation of the inspection and maintenance of motor vehicles in the Maryland portion of the National Capital Interstate AQCR and Metropolitan Baltimore Intrastate AQCR.

(4) Enforcement of existing and new regulations for the control of volatile organic substances from stationary sources.

(5) The further analysis and implementation of alternative transportation control measures to reduce pollution from the overall regional transportation system.

The plan describes the planning process, the specific transportation programs and the stationary source controls for achieving the needed emissions reductions. As stated above, an extension of the attainment dates for ozone and carbon monoxide has been requested. Such an extension requires the implementation of RACT on stationary sources, the commitment and schedule to implement an I/M program as well as further analysis and subsequent adoption of necessary transportation measures.

In reviewing the transportation portion of the Maryland SIP, EPA solicited comments from the U.S. Department of Housing and Urban Development and the U.S. Department of Transportation. The comments received have been evaluated along with the others and have been considered in taking final action on the SIP. EPA's initial comments on the transportation measures of the Maryland plan transmitted by letter of May 2, 1979 was responded to by the submittal of supplemental information. EPA evaluated the supplemental information on the transportation measures for adequacy in relation to the approval criteria and has reflected the results of this analysis in the formulation of this final rule.

As noted in the INTRODUCTION, the Governor has committed the State to submit and amendment to the SIP by July 1, 1982 providing all measures needed to attain the NAAQS for ozone.

Carbon Monoxide

Specific portions of the Metropolitan Baltimore Intrastate, the National Capital Interstate, and the Cumberland-Keyser Interstate AQCR's were designated as nonattainment for carbon monoxide (CO). Initially, areas of high traffic density without specific boundaries were designated as the nonattainment areas. On September 25, 1978, the State of Maryland submitted specific boundaries of the nonattainment areas for CO in the Metropolitan Baltimore Intrastate AQCR and the Maryland portion of the National Capital Interstate AQCR. These areas, consisting of downtown Baltimore City, six census tracts in Prince Georges County, and three census tracks in Montgomery County, represent areas of high traffic density. EPA proposed these specific nonattainment areas on April 23, 1979, 44 FR 23885. There were no comments received on the proposal during the comment period, therefore, final action redesignating the areas was taken on April 10, 1980, 45 FR 24469.

The plan for these areas will be composed of the Federal Motor Vehicle Control Program and transportation measures, including an Inspection and Maintenance program discussed in the Introduction section of this notice, which have been identified above as a part of the ozone plan.

In the Cumberland-Keyser Interstate AQCR, the nonattainment areas are the high traffic density areas of Hagerstown and Cumberland. Based upon the 1976 emission inventory, the plan for the municipalities estimates a 9% reduction of emissions is needed to attain the CO standard. The plan is based solely upon the Federal Motor Vehicle Control Program which is anticipated to reduce the CO emissions in 1982 by 20% in Cumberland and 27% in Hagerstown. Maryland has requested a change in designation for these two cities to attainment. As noted above, EPA will take no action on these plans until final rulemaking on the redesignations appear in the **Federal Register.**

Total Suspended Particulates

As discussed previously, two areas in Maryland have been designated as nonattainment for Total Suspended Particulates (TSP). These are Election District No. 8 in the Cumberland-Keyser Interstate AQCR and portions of the Metropolitan Baltimore Intrastate AQCR.

A plan was not prepared for the Cumberland-Keyser region because Maryland requested redesignation of the area. EPA proposed designating Election District No. 8 as "cannot be classified" on April 23, 1979, 44 FR 23885. Final rulemaking changing the area attainment status was published on April 10, 1980, 45 FR 24469.

Maryland is not required to revise its TSP regulations for the Cumberland-Keyser region at the present. Should valid data be collected which shows nonattainment, then the SIP must be revised.

The nonattainment area in the Metropolitan Baltimore region consists of portions of Baltimore City, Baltimore County, and Ann Arundel County. The plan for this area indicated attainment of the primary TSP standard by December 31, 1982. This is to be done through the application of reasonably available control technology, continued enforcement of existing regulations, and the development and enforcement of compliance plans negotiated as a result of new regulations. The latter includes those regulations requiring good engineering design and operational practices to control fugitive particulate emissions from grain handling and unconfined sources. A part of the TSP plan consists of the iron and steel regulations (10.18.04 and 10.18.05 Section .03G) which were submitted as a SIP revision on January 5, 1978. At that time, EPA notified the State of its concerns with the regulations. Maryland chose to remedy the concerns by amending the revision through the compliance plan for the Bethlehem Steel Corporation, Sparrows Point Plant. EPA is waiting until Maryland submits the final compliance plan before taking full final action on the regulation as discussed in subsequent section of this notice.

The State requested a delay until July 1, 1980, to prepare a plan for the attainment of the secondary National Ambient Air Quality Standards.

Deficiencies and Remedies

This section discusses the deficiencies identified by EPA in the August 1, 1979 notice of proposed rulemaking, 44 FR 45194, and during the public comment period. Furthermore, the deadlines and schedules to remedy them are included.

These are summarized by pollutant, progressing from the statewide measures to area specific measures. Since the Inspection/Maintenance program and the New Source Review regulations are common to more than one pollutant, they will be discussed first.

I. *Inspection and Maintenance*

Maryland's I/M plan was deficient since it did not contain commitments to a specific schedule of interim milestones nor to a 25 percent reduction in

hydrocarbon and carbon monoxide emissions by December 31, 1987. Although the Maryland proposed regulations and supporting documents propose a stringency factor which should result in emission reductions greater than the required 25 percent by December 31, 1987, it was required that the State submit a commitment to achieve the required emission reductions. The State has responded to this deficiency by submitting the schedule and commitment to achieve a 25 percent reduction. Further, the August 1, 1979 notice of proposed rulemaking noted that the Maryland program lacked a commitment to retest failed vehicles and prohibit registration, or provide an equally effective means preventing the operation of non-complying vehicles on public roads. In a letter of May 15, 1980, the State of Maryland committed to adopt final regulations which include provisions remedying these deficiencies.

II. *New Source Review*

Section 172(b)(6), Section 172(b)(11)(A), and Section 173 of the Clean Air Act require that a preconstruction review procedure be incorporated into the Part D plans. These requirements for major new or modified sources are defined in Section 173. The Maryland regulation satisfies the requirements of Section 172(b)(6) and 172(b)(11)(A). While it generally satisfies requirements of Section 173, EPA in the August 1, 1979 notice of proposed rulemaking, 44 FR 45194, identified several deficiencies with the Maryland preconstruction review regulations. These were:

(1) The regulations did not provide for a review of sources undergoing modification. The State of Maryland has agreed that this was an omission and has developed proposed regulations to remedy the problem. Public hearings on the proposed regulations were held in August 1979. Maryland submitted these as a formal revision to the SIP on December 10, 1979. Regulation 10.18.01.01(y), 10.18.04, and 10.18.05, Section .06, now include modification meeting the requirement of Section 173. This aspect of the new source regulation is approvable as reflected in the EPA ACTION section of this notice, and proposed elsewhere in today's **Federal Register.**

(2) The method of enforcing the emission reductions used as offsets for new major sources is vague. Maryland informed EPA that the operating permit conditions would be the enforcement tool used by the State. Furthermore, the December 10, 1979 SIP submittal revises regulations 10.18.04 and 10.18.05, Section .05(B), to require that sources adhere to offset agreements. However, to insure enforceability of all external offsets Maryland must submit them as individual SIP revisions. As proposed elsewhere in this **Federal Register,** EPA's intent is to grant conditional approval, upon the State of Maryland submitting a commitment to submit SIP revisions for external offsets by September 1, 1980.

(3) The Maryland regulations require that actual future emissions are to be offset against present allowable emissions. EPA initially stated that this differed from the Section 173 requirement that allowable future emissions be offset against allowable present emissions. EPA has reviewed Maryland's position that its regulatory language better ensures an air quality benefit. EPA now believes that the regulation is consistent with the Clean Air Act requirements and provides at least an equivalent offset.

(4) EPA noted in the notice of proposed rulemaking that the Maryland offset provision required continued further progress on an annual basis. The question arose as to the review of the impact of sources which would operate on a seasonal basis. Maryland stated that in the permit application review, the short-term emission rates and impacts would apply in the permit. A conditional approval of this provision of the regulation, proposed elsewhere in today's **Federal Register,** may be granted, provided Maryland submits by September 1, 1980 a written commitment to examine and use the most restricting emission rate.

(5) Regulatory provisions for pre-construction review for new or modified major sources of carbon monoxide were omitted from the Maryland Plan. EPA is taking no action on this part of the plan. Therefore until the regulations are amended to incorporate pre-construction review in accordance with Section 173 and included in the SIP, no major sources of carbon monoxide may locate in the nonattainment areas for CO. Maryland has stated that such revisions will be made; it is EPA's recommendation that the State of Maryland accomplish this as soon as possible.

Additionally, during the comment period on the proposed rulemaking, a national environmental group pointed out that the Maryland regulations require a permit applicant to demonstrate that all major sources owned or operated by the applicant are in compliance or on a schedule for compliance with applicable emission standards. However, the regulations do not require the same showing of sources owned or operated by any entity controlling, controlled by, or under common control with the applicant as required by Section 173(3) of the Clean Air Act. As a condition of the Part D approval, proposed elsewhere in today's **Federal Register,** Maryland must take action to amend the new source regulations language to correct the noted omission. This amendment must be submitted as a formal SIP revision by December 31, 1980.

In conclusion, until the pre-construction review regulations are approved with the above conditions, and by the dates which are proposed for public comment elsewhere in today's **Federal Register,** no new sources to which Section 173 of the Act applies may be permitted for construction in the designated nonattainment areas. For those areas where Maryland has requested a change in the nonattainment designation, EPA is taking no action on the pre-construction regulations and Section 173 requirements. Therefore, as noted previously, until EPA's "Final Rulemaking" on the redesignation appears in the **Federal Register,** these provisions of the plan for those areas will not be finally acted upon.

III. *Ozone*

1. *Adoption After Reasonable Notice and Hearing*

Maryland adopted the regulations in its plan after public hearings on November 9, 21, and 27, 1978, conducted in accordance with Section 110 of the Clean Air Act and 40 CFR 51.4. Therefore this requirement is satisfied.

2. *Attainment Date*

Maryland does not anticipate achieving the ozone standard by the end of 1982 for either of the metropolitan nonattainment areas for ozone and has requested an extension of the deadline for achieving this standard until the end of 1987. EPA's review of Maryland's submittal with respect to the 0.12 ppm ozone standard supports the request for an extension. Section 172(a)(2) and Section 172(b)(11) of the Act allow for such an extension. Despite the implementation of RACT for the VOC stationary source categories and the implementation of transportation control measures, including a motor vehicle inspection and maintenance program (I/M), the State of Maryland has demonstrated that attainment of the standard by 1982 is impossible. Further, the State has shown that attainment by 1987 will be difficult requiring additional planning efforts and measures yet to be investigated. EPA approves the extension to December 31, 1987 as discussed in the EPA actions section of this notice.

2. *Emission Inventory*

materials, photochemical reactive

The Metropolitan Washington Council

The plan was developed using the 0.08

3. *Emission Inventory*

Maryland has submitted a 1977 emission inventory for the Metropolitan Baltimore region. The emission inventory used for the National Capital region was for 1976. This has been found to be acceptable. EPA has made this decision based upon (1) that the State of Maryland through its participation in the Northeast Corridor Regional Oxidant Study will be developing an accurate and current VOC emissions inventory, and (2) it will be required that the State submit adequate source-specific emission inventory updates in the annual reports associated with the Reasonable Further Progress (RFP) requirements. Maryland should use updated emissions inventories in any future revisions of the SIP.

4. *Reasonable Further Progress (RFP)*

The RFP presentation in the originally-submitted plan used 6 a.m.–9 a.m. hydrocarbon emissions instead of daily (24 hour) values in determining the required ozone reductions. This was deficient because the percent contribution of mobile and stationary sources is different between daily and 6 a.m.–9 a.m. calculations. Background data, including all calculations performed in developing the RFP, were not submitted with the plan. Also, Maryland assumed the future emissions from gasoline marketing facilities to be constant in the Baltimore area. The emissions in this category should increase with growth.

EPA asked Maryland to recalculate emissions using daily values, to reassess the gasoline marketing growth assumptions, and to submit these with the relevant background data. Maryland has submitted the information requested and adequately addressed the above concerns. Therefore the RFP schedule is approved.

5. *Margin for Growth*

Maryland has adequately addressed growth factors and estimates. The growth estimates used in the development of the RFP schedules will be tracked through the required annual reports.

6. *Preconstruction Review*

This aspect of the ozone plan is discussed above in the New Source Review Section with the noted deficiencies and remedies.

7. *RACT as Expeditiously as Practicable*

The Control Techniques Guidelines (CTG) documents provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTG's EPA believes that the regulations submitted by Maryland can be generally accepted as RACT; however, the following portions of the regulations requiring the use of RACT for stationary sources of VOC emissions should be improved:

(1) The vapor recovery provisions in Section J(2) of the Maryland regulations do not represent application of RACT. However, EPA had previously promulgated regulations, 38 FR 34252, 1973, and as subsequently amended, which in conjunction with Maryland's rules, are considered RACT. In EPA's opinion, it would be preferable for the State to adopt regulation in accordance with the EPA promulgation.

(2) Maryland Regulation section K(10)(C) includes a temperature exemption for use of cutback asphalt. A seasonal exemption was recommended by EPA, for ease of enforcement. In discussion with Maryland, the State indicated that it intends to use the temperature exemption and will enforce the regulation by means of the Maryland Highway Administration's responsibility to enforce the materials specification for highway use. Additionally, the State of Maryland has informed us that the regulation will allow for some solvent to be present in the emulsified asphalts as represented by the specifications of the State Highway Administration. This intent will be clarified in a regulation amendment. As proposed elsewhere in today's **Federal Register**, EPA intends to conditionally approve this regulation based upon the State submitting by December 31, 1980, documentation of the operation procedure or the policy which will form the basis of the enforcement of the regulation, and an acceptable regulatory limit upon the solvent content in emulsified asphalts.

(3) In the notice of proposed rulemaking on August 1, 1979, 44 FR 45194, EPA noted that in the Gasoline Bulk Terminal regulation (Section J(2)(c)), the cutoff size for terminals built before January 1, 1974 is 40,000 gallons per day instead of 20,000 gallons per day, the figure recommended by EPA; Maryland's cutoff size for fixed-roof storage tanks built before January 1, 1973 is 65,000 gallons capacity whereas EPA's cutoff figure is 40,000 gallons. Maryland informed EPA that there are no sources which fall between the cutoff limits and has adequately addressed EPA's concern and therefore these regulations are found acceptable.

Maryland's SIP exempts methyl chloroform (1,1,1, trichloroethane) from its definition of "organic material." On May 16, 1980, EPA published a clarification of agency policy concerning the control of methyl chloroform and methylene chloride in ozone SIPs. (45 FR 32424). EPA explained that it cannot approve or enforce controls on either of these two compounds as part of a federally enforceable ozone SIP because current information indicates that neither compound is an ozone precursor. Consequently, EPA is not disapproving Maryland's exemption of methyl chloroform from the definition of "organic material."

This policy is in no way an expression of EPA's view on the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in section 116 of the Clean Air Act. In addition, state officials and sources should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds. (See, *e.g.*, Proposed New Source Performance Standards for Organic Solvent Cleaners, 45 FR 39766, June 11, 1980.)

8. *I/M, If Necessary, As Expeditiously As Practicable*

I/M programs are required in the two metropolitan ozone nonattainment areas. Maryland has proposed a conditionally approvable plan to implement I/M in these areas; authorizing legislation was signed by the Governor on May 30, 1979. A discussion of Maryland's I/M program is presented in the INTRODUCTION section.

9. *Transportation Controls, If Necessary, As Expeditiously As Practicable*

This topic is covered in the Transportation Measures section below.

10. *Enforceability*

EPA has the following concerns: (1) Section J(2) should include a definition for "household reactive solvent." EPA recommends that this definition be added when Maryland submits a SIP revision in the near future. (2) The following sections of Maryland's VOC regulations should include a test method for determining compliance with the requirement for 90 percent collection efficiency: K(2)(b)(iii)(bb), K(3)(b)(ii)(bb), K(4)(b)(ii)(bb), K(5)(b)(ii)(bb), K(6)(b)(ii)(bb), and K(7)(b)(ii)(bb). An EPA memorandum dated November 15, 1979 outlining the VOC Test Methods for Procedures has been transmitted to the State of Maryland and should be used in the development of the State regulations to be incorporated into the SIP. As published elsewhere in today's **Federal Register**, EPA is proposing conditional approval of these regulations, and to allow Maryland until December 31, 1980 to adopt appropriate test procedures.

Public comments made have reflected confusion over definitions in the Maryland VOC regulations in section .04j, for example, the definitions of photochemical reactive organic materials, photochemical reactive organic solvents and organic materials. EPA will reserve action on this portion of the plan, as noted above, until after the public comment period on the notice clarifying the status of the Maryland urban hydrocarbon and volatile organic compound regulations, 45 FR 26368, published on April 18, 1980.

11. *State Commitments and Resources to Implement and Enforce Adopted Measures*

The State of Maryland has made an adequate commitment to implement the Maryland regulations in the SIP. However, since the control strategy demonstration depends in part upon EPA-promulgated regulations, EPA recommends that Maryland commit to adopt equivalent State regulations.

12. *State Commitments to Comply With Schedules*

EPA has published additional Control Techniques Guideline (CTG) documents for the control of stationary source categories of VOC's. The State of Maryland has made an acceptable commitment to develop and adopt legally enforceable regulations for all appropriate stationary source categories of VOC's subsequent to EPA's issuance of these guideline documents. As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 and schedules to adopt and submit by each future January additional RACT requirements for sources covered CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by **Federal Register** notice of August 28, 1979, 44 FR 50371. Today's approval of the ozone portion of the Maryland plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. The source requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

13. *Public Involvement and Analysis of Effects*

The Metropolitan Washington Council of Governments and the Regional Planning Council, both regional planning agencies, assisted Maryland in developing the SIP. These agencies and the State of Maryland provided an acceptable public involvement program. Notwithstanding the actions being taken today, the State of Maryland must still submit a SIP revision for public consultation to EPA to meet the requirements of Section 121 of the Act.

14. *Transportation Measures* (for Ozone and Carbon Monoxide)

As a result of the ozone and carbon monoxide nonattainment designations described in the INTRODUCTION of the notice, a process of consultation among affected local governments led the then Acting Governor to designate, on March 23, 1978, the Section 174 agencies. These are the Metropolitan Washington Council of Governments (COG) for the Maryland portion of the National Capital Interstate AQCR and the Regional Planning Council for the Metropolitan Baltimore Intrastate AQCR.

National Capital Area

In fulfillment of its Section 174 responsibilities, COG produced a document, dated November 29, 1978 entitled "Washington Metropolitan Air Quality Plan for the Control of Photochemical Oxidants and Carbon Monoxide." After notice and public hearing, a final draft of this document was incorporated into the National Capital portion of the Maryland SIP.

COG, using the 1976 emissions inventory and an ozone design value of 0.225 ppm, calculated 64% to be the amount of the emission reduction of volatile organic compound needed to meet the former 0.08 ppm photochemical oxidant standard in the National Capital area. Despite the application of reasonably available control measures, including the Federal Motor Vehicle Control Program, RACT on the applicable stationary sources, and transportation control measures, the plan estimates that by the end of 1982, there will be at 24% reduction of emissions instead of the needed 64%.

For carbon monoxide, using its emission inventory, COG conducted an analysis of "hot spots" as well as an analysis of total regionwide CO emissions, COG concluded from the analysis that the eight-hour CO standard could not be met in 1982.

Thus, for both carbon monoxide and ozone, Maryland requested an extension of the 1982 attainment deadline. Approval of this extension is discussed in the EPA Actions Section of this notice.

The plan was developed using the 0.08 ppm oxidant standard and is subject to revision using the new 0.12 ppm statistical ozone standard promulgated on February 8, 1979. This reassessment may alter the amount of emission reduction needed for attainment of the ozone standard, and the length of the attainment date extension.

In preparing the plan, COG recommended 28 transportation measures to the local governments as appropriate for consideration in the 1979 SIP submittal. These measures were selected from an initial list of 70 measures identified as having potential for reducing transportation-related emissions.

COG is conducting an analysis of alternatives (of transportation measures), for which it has been funded by the Urban Mass Transportation Administration under Section 175 of the Clean Air Act, to reassess all 70 of the transportation measures for consideration for possible inclusion in the SIP in accordance with Section 172(c) of the Act.

Commitments made by local governments in Montgomery and Prince Georges Counties toward implementing the 28 measures recommended are detailed in Appendix "E" of the COG plan. Notable among the commitments are the endorsements for affirmative actions toward the implementation of transportation measures made by the jurisdictions in the below-listed seventeen categories of transportation measures: (COG recommendations are shown in parentheses.)

1. Continue construction of Metrorail (completion of the presently committed 60 miles) (COG #1), Endorsed by Montgomery County, Prince Georges County and City of Rockville.

2. Eliminate all day on-street, non-residential parking where appropriate (COG #3), Endorsed by Montgomery County and Prince Georges County.

3. Provide fringe parking lots at selected locations (COG #4A), Endorsed by Montgomery County, the City of Gaithersburg, the City of Bowie and Prince Georges County.

4. Provide fringe parking to accommodate deficiencies at Metro stations (COG #4B), Endorsed by Montgomery and Prince Georges Counties.

5. Implement carpools and Vanpools in both the public and private sectors (COG #5), Endorsed by Montgomery County and the city of Bowie.

6. Reserve convenient parking spaces for carpools/vanpools (COG #7), Endorsed by Montgomery County and Prince Georges County.

V 45 A G 1 2 8 0 UMI

7. Build additional bicycle lanes and bikeways (COG #8), Endorsed by Montgomery County, the City of Gaithersburg, the City of Bowie, the City of Greenbelt, the City of Rockville and Prince Georges County.

8. Provide and improve regional and local ride-sharing activities (COG #9), Endorsed by Montgomery County and the City of Bowie.

9. Implement fixed route minibus or semi-demand-responsive transit (COG #10), Endorsed by Montgomery County, the City of Gaithersburg and the City of Greenbelt.

10. Install additional bicycle storage facilities (COG #12), Endorsed by Montgomery County.

11. Encourage specialized bus service (COG #15), Endorsed by Montgomery County and Prince Georges County.

12. Include Metrobus information with carpool/vanpool information (COG #16), Endorsed by Montgomery County.

13. Develop a coordinated private and public sector parking management policy (COG #18), Endorsed by Montgomery and Prince Georges Counties.

14. Provide additional pedestrian facilities and eliminate barriers to pedestrians (COG #19), Endorsed by Montgomery County, the City of Gaithersburg, the City of Rockville, Prince Georges County and the City of Greenbelt.

15. Improve signalization in the region (COG #23), Endorsed by Montgomery County, the City of Gaithersburg and Prince Georges County.

16. Encourage staggered or flexible work hours for the public and private sectors (COG #24), Endorsed by Prince Georges County.

17. Encourage additional corridor studies implementing Transportation System Management elements (COG #28), Endorsed by Montgomery County.

In the August 1, 1979 notice of proposed rulemaking, EPA requested more clarification and justification of the process of selecting and rejecting transportation control measures. EPA believes that as a minimum, Maryland must include a commitment to, or detailed descriptions of the rationale for not considering, the following COG measures:

(COG #2) Institute Commercial Rates for Government Employees.

(COG #6) Build/Designate Exclusive Lanes for High Occupance Vehicles.

(COG #11) Freeway Ramp Metering with Preference for High Occupancy Vehicles.

(COG #13) Develop a Regional Coordinated Effort to Increase the Fuel Tax.

(COG #14) Increase Washington Metropolitan Area Transportation Authority Express But Frequency.

(COG #17) Develop a Program for Regional Tax to Support Transit.

(COG #20) Encourage Employers to Subsidize Employee Transit Fares.

(COG #21) Add Signal Preemption Devices for Transit Vehicles.

(COG #22) Provide Free or Discounted Transit Fares in the Offpeak hours.

(COG #25) Shift Airline Flights from National to Dulles and Baltimore/Washington International Airports.

(COG #26) Encourage Payroll Deduction Plans for Transit Rides.

(COG #27) Develop a Program to Transfer Interstate Funds to transit.

Metropolitan Baltimore Area

As a result of the work program negotiated by the appropriated State agencies, the Regional Planning Council produced a four-volume document entitled "Transportation Control Plan for the Baltimore Region." This plan was transmitted to the then Acting Governor on September 29, 1978 and after notice and public hearing, was incorporated into the Maryland SIP.

Based upon a 1977 emissions inventory provided by Maryland Air Quality Programs and an ozone design value of 0.24 ppm, the Baltimore plan indicated a 67% reduction in volatile organic compound emissions is necessary to meet the former 0.08 ppm oxidant standard. Despite the application of the Federal Motor Vehicle Control Program, RACT on applicable stationary sources, and committed transportation measures, the plan states that the oxidant standard would not be attained by 1982.

For carbon monoxide, using a 1977 emissions inventory provided by Maryland Air Quality Programs and rollback techniques, the plan shows a 29% reduction is necessary to achieve the NAAQS for CO in the Baltimore Central Business District. The plan anticipates that attainment of the CO standard will not occur until 1983.

Since extension of the 1982 attainment deadline is needed for both ozone and carbon monoxide in the Metropolitan Baltimore Intrastate AQCR, Maryland has committed to undertake an I/M program for motor vehicles and the program for further analysis and implementation of the transportation control measures. The first phase of the analysis work of transportation measures under the Urban Air Quality Planning Program has been funded by UMTA.

The plan prepared by RPC contained a candidate list of twenty eight transportation measures, developed through public and intergovernmental consultation. These measures are described in Volume Four of the Metropolitan Baltimore Transportation Plan. Twelve of the transportation measures are those to be implemented in the near term, and are as follows:

1. *Park-and-Ride Lots*

To the extent funding sources allow, construct 21 part-and-ride lots included in the Transportation Improvement Program for 1978–1981. Maryland Department of Transportation (MDOT) is committed to construct 300 new park-and-ride spaces per year through 1982.

2. *Improved Rail Transit*

MDOT will construct an eight-mile rapid-transit line from the Baltimore Central Business District out to Reisterstown Road.

MDOT will rehabilitate stations, locomotives and coaches to improve rail service to Washington, D.C. along with Baltimore & Ohio Railroad Lines through Baltimore and Howard Counties.

3. *Carpooling*

COMPUTERIDE, the Baltimore's region's carpool program, will attempt to form 1500 new carpools annually through increased public awareness, employer incentives, and carpool matching programs.

4. *Vanpooling*

VANGO Inc., the corporation responsible for implementing the vanpool program in Baltimore, will attempt to form at least 50 new vanpools annually.

5. *Preferential Parking for Ridesharing*

The City of Baltimore has agreed to commit 35% of the available off-street parking spaces for carpools with no fewer than 300 spaces available at any time.

6. *Bus Service Improvements*

MDOT will purchase new buses, and will provide additional maintenance and new bus shelters.

7. *Inspection and Maintenance*

Implement and I/M program, as described in the Introduction Section of this notice.

8. *Traffic Flow Improvements*

Improve signalization in Anne Arundel County, Baltimore City, and Baltimore County, and implement other traffic flow improvements to reduce extended idling, including the Maryland right-turn-on-red law.

9. *Bicycle Right of Way*

Construct bikeway safety projects.

10. *Residential Permit Parking Program*

Establish a pilot residential permit parking program in the Oakenshawe neighborhood of Baltimore City.

11. *Land Use Management*

The following measures are incorporated into the plan:

A. Maryland Agricultural Land Preservation Program

B. Anne Arundel County Growth Management Ordinance, Title 13 of Anne Arundel County Code

C. Baltimore County Bill, No. 12–77

D. Carroll County Zoning Ordinance Text, Amendment T–43

12. *Public Education Campaign*

An information program for the widespread dissemination of information promoting air quality control measures has been proposed for funding as authorized by Section 175 of the Clean Air Act.

The only measure of the 28 not included in the submittal was fuel rationing, which the Maryland plan states would be considered only in the regional context of a national program. EPA believes this is an adequate justification for not analyzing the measure at this time. RPC is committed to examining and reassessing the remaining transportation measures listed in Section 108(f) of the Clean Air Act, during the alternatives analysis, funded by Section 175 of the Act.

All County jurisdictions in the region ratified the transportation portion of the plan for the Metropolitan Baltimore area. However, two jurisdictions had qualifying statements on their endorsement. The Baltimore City Council endorsed the plan and proposed control measures except for the on-street parking restrictions as they apply to Baltimore City. The Harford County Council did not endorse the proposed Motor Vehicle Inspection and Maintenance Program.

In reviewing the transportation control components of the Maryland SIP, EPA solicited comments for the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT).

Comments from HUD to EPA pertained only to the Maryland portion of the National Capital region. In general these comments supported the transportation control measures as consistent with the objectives of the National Urban Policy.

DOT submitted comments concerning the substance of the plans and the compatibility of scheduling, funding, and implementation of proposed transportation control measures with other ongoing transportation programs. EPA has evaluated these comments along with others before taking this final action on the SIP revision.

Presented in the following paragraphs is a summarized evaluation of both the COG and RPC plans discussed in the August 1, 1979 proposal, 44 FR 45194.

1. The designation of the nonattainment areas for ozone is adequate.

2. The hydrocarbon and carbon monoxide emission inventories used for the Baltimore and Maryland National Capital submittals are adequate.

3. The estimates of emission reduction necessary for attainment of the carbon monoxide and ozone standards described in the plan profiles are adequate in the documentation of assumptions. Growth and modeling procedures demonstrate that the NAAQS cannot be attained by 1982.

4. The documentation of the designation process for the certification of COG and RPC as lead planning agencies under Section 174 is adequate.

5. The identification of tasks and responsibilities for agencies participating in the development of these nonattainment plans is generally adequate. However, the submittals lack a clear description of the project programming process in Maryland and the criteria used for determining conformity of transportation plans and projects with air quality requirements. On May 14, 1979, RPC submitted to EPA an outline of a technical report to be written describing the Maryland project programming process. On November 16, 1979 this was forwarded to EPA as supplemental information and is now acceptable. Criteria for determining conformity between transportation plans and programs should be developed in accordance with the Section 121 Consultation SIP revision which was due to EPA on December 16, 1979. In the absence of specific federal guidance, EPA encourages each designated lead agency and appropriate metropolitan planning organization (MPO) where different from the lead agency, to develop and adopt such criteria and procedures. At a minimum, however, each lead agency (and MPO) in response to Section 176(c) of the Act must affirm its (their) commitment not to approve any project, program, or plan which does not conform to the plan being approved (or conditionally approved) today. Maryland should submit this revision as soon as possible.

6. Subsequent to the August 1, 1979 notice of proposed rulemaking, both COG and RPC have completed detailed work programs consistent with their FY 1980 Unified Planning Work Programs and the requirements of the EPA/DOT Federal Register Notice on Urban Air Quality Planning Grants, 43 FR 60215, 1978, and have thus received awards by UMTA for Section 175 grants.

7. A synopsis of the reasonable available transportation measures slated for adoption were portrayed in the Maryland National Capital and Baltimore Area Profiles, above. The details are presented in Appendix "E" of the COG Air Quality Plan and Volume 4 of the Metropolitan Baltimore transportation portion of the plan. These are adequate as the initial steps in the implementation of the transportation measures in the Part D plan. The measures of the plan must include schedules, including interim milestones and commitments by responsible agencies to implement needed measures.

8. Commitments to justify decisions for the non-adoption of measures including difficult-to-implement, but reasonable available, measures have been incorporated as a task item in both the COG and RPC Work Programs for the transportation alternatives analysis. The justifications are to be scrutinized by DOT and EPA prior to the rejection of a measure.

9. Notwithstanding the fact that EPA described in the notice of proposed rulemaking the exemplary process of consultation between public interest groups and elected officials covered in the COG and RPC plans, and notwithstanding that since that time these agencies have further instituted a public information program for I/M, they still must address the requirements of the June 18, 1979 call for SIP revisions on public consultation to meet the requirements of Section 121.

10. A full identification of financial and other resources necessary to carry out the analysis of transportation alternatives has been made by COG and RPC in their work programs. While EPA and UMTA have some reservations about the current overall work programs for the transportation planning work, it is recognized that more detailed descriptions will be made a part of future work programs. As such UMTA has funded the Phase I work of COG and RPC.

11. Public hearings were conducted in accordance with Section 110 of the Clean Air Act and 40 CFR 51.4 in the Maryland portion of the National Capital Interstate AQCR on October 26, 1978 and November 27, 1978, and in the Metropolitan Baltimore Intrastate AQCR on November 21, 1978. EPA finds that the requirements for public hearing have been adequately met.

12. Provisions for reporting progress of implemented measures have been included in the RPC and COG program for the alternatives analysis that is currently underway. COG and RPC, the grantees, will be required to file quarterly reports with UMTA on the progress of the analyses. In addition, these planning agencies are required to provide input to Maryland Air Quality

Programs; that agency is responsible for submitting annual reports documenting the incremental emission reductions to demonstrate Reasonable Further Progress.

13. Enabling legislation for a program of motor vehicle inspection and maintenance (Senate Bill 751) passed the Maryland Legislature on April 9, 1979. This Bill was signed into law on May 30, 1979, and provides for the commencement of a voluntary I/M program in January 1981, and a mandatory program by January 1, 1982. This will be implemented by regulations and procedures to be established by the State, as discussed above in the section on I/M. EPA has found the enabling legislation to be generally adequate.

14. The required commitment to use available grants and funds which will improve public transportation for basic transportation needs appears to be met through the administration of grants by the operating transit agencies in the Baltimore and National Capital metropolitan areas. Notably, the approval of the amended capital assistance grant by DOT on September 29, 1978, for the Washington Metropolitan Area Transit Authority and the commitments made by Maryland in the Interim Capital Contribution Agreement will facilitate the completion of the 60-mile portion of the Metrorail transportation system called for in the plan.

Commitments are also made to transportation needs by the Secretary of the Maryland Department of Transportation on behalf of the Mass Transit Administration, the operating agency for the Metropolitan Baltimore area. These commitments appear adequate for the 1979 plan submission. However, a requirement of the determination of conformity in accordance with Section 176(C) of the Act will require MDOT to reaffirm annually the commitments of the transportation measures in the SIP.

15. As previously stated, the Unified Planning Work Programs for COG and RPC have subsequently been modified to include air quality planning activities. The COG plan contained a schedule for this modification. RPC submitted a schedule to EPA as supplementary information to its plan on January 30, 1979. As these planning agencies develop criteria in accordance with Section 176(c) of the Act, they must demonstrate how their plans and programs conform with the plan being approved in part today.

16. The emission reduction estimates are reasonable for the adopted transportation measures.

17. The analysis of economic, environmental, energy, social and welfare effects of the COG and RPC plans is adequate, although cursory, and the opportunity for public comment was provided. However, in the notice of proposed rulemaking, 44 FR 45194, 1979, EPA requested that COG and RPC develop an analytical method for assessing these impacts in the alternatives analysis. COG and RPC have been addressing these impacts in the alternatives analysis. COG and RPC have been addressing this both independently in their Urban Air Quality Planning Grant and jointly as members of a Section 174 Agency Workgroup (comprised of 174 planning agencies from Pittsburgh, Pa., Philadelphia, Pa., and the New Jersey, New York Metropolitan areas).

18. The determination of conformity should require a prioritization of projects in the Transportation Improvement Program to be made annually by MDOT. Assuring timely implementation of the needed transportation measures.

19. No specific transportation measures in the current federally approved SIP were proposed for deletion by Maryland in the 1979 submittal. Maryland has not requested deletion of the obsolete transportation measures promulgated in 40 CFR 52.1079 et seq.—Approval and Promulgation of State Implementation Plans—Subpart V, for the Metropolitan Baltimore Intrastate AQCR and the Maryland portion of the National Capital Interstate AQCR. As a result of legislative, administrative, and judicial actions, the original SIP containing these transportation measures has been significantly altered. This does not substantially affect the plan being acted upon today and a request for deletion of the obsolete sections of 40 CFR Part 52 can be submitted at some future time.

IV. *Total Suspended Particulates*

As discussed above in the INTRODUCTION and BACKGROUND sections, in response to the nonattainment area designations and the requirements of the Clean Air Act as amended, the State of Maryland submitted a revised implementation plan for total suspended particulates (TSP) on January 19, 1979. The plan submitted was designed to attain the primary TSP standard by December 31, 1982, the required attainment date. The State of Maryland has requested an eighteen-month extension to develop a plan to attain the secondary standard for TSP. The State believes that the extension is necessary to study the fugitive particulate emissions prior to development of appropriate regulations to control these emissions.

The TSP Plan submitted by the State of Maryland on January 19, 1979, included an emission inventory, a commitment of an annual incremental reduction in particulate emissions, as well as a commitment and proposal for further study and subsequent adoption of fugitive particulate regulations.

The EPA in its review of the TSP implementation plan identified several deficiencies in the notice of proposed rulemaking on August 1, 1979, 44 FR 45194. These are noted and discussed in the following paragraphs.

1. *Adoption After Reasonable Notice and Hearing*

The State of Maryland held public hearings on the provisions of the SIP on November 21, 1978. The regulations have been adopted by Maryland in accordance with Section 110 of the Clean Air Act and 40 CFR 51.4. Therefore, this requirement is adequately satisfied.

2. *Control Strategy and Demonstration of Attainment*

The State submittal contained a diffusion modeling analysis as the basis for demonstrating attainment of the primary TSP standard. Further, the State clearly demonstrated that a significant contributor to the TSP secondary standard nonattainment is non-traditional particulate matter. EPA noted in the proposed rulemaking that the model overpredicted pollutant concentrations. Therefore, EPA requested that appropriate corrections to the emission inventories be made along with subsequent correction of the predicted pollutant concentrations. Maryland reviewed the emission inventory and performed a sensitivity analysis of the changed emissions. Additionally, Maryland amended the dispersion model results. EPA has reviewed the amended work and finds the demonstration of primary attainment acceptable. The State has committed to submit a more detailed description and a schedule of the work to study and define controls for non-traditional particulate matter. Based upon a review of the State's proposal, EPA is granting an extension until July 1, 1980 for submission of a plan to attain secondary standards.

3. *Emission Inventory*

The plan submittal presented emission inventories for 1977 and 1982. EPA, as a result of a limited review of the inventory, identified in the proposed rulemaking notice discrepancies between EPA-estimated emissions and those values submitted by Maryland in the revised SIP. The State reassessed the inventory for accuracy and made some corrections. EPA is approving the inventory for the primary plan.

4. *Reasonable Further Progress*

An adequate presentation of Reasonable Further Progress was included in the revised SIP. EPA indicated that the RFP was acceptable in the August 1, 1979 Notice of Proposed Rulemaking, 44 FR 45194. Therefore, this is approved.

5. *Margin for Growth*

The State has accommodated area source growth by incorporating growth factors in the emission projections used in the attainment demonstration. Growth of major point sources will be accommodated by a case-by-case emission offset provision discussed previously in this notice. EPA in its review found some inconsistencies in the narrative and charts reflecting the development of the growth factors used by the State of Maryland. The State has made the appropriate corrections, and therefore this is acceptable, aside from the pre-construction review deficiencies and conditions noted previously.

6. *Reasonable Available Control Technology (RACT)*

The plan requires the application of RACT in the primary standard nonattainment area of the Metropolitan Baltimore region. The State has shown that attainment of the secondary standard will require application of RACT and non-traditional TSP emission control. Therefore, as noted above, Maryland has requested an extension to prepare the secondary plan while they study and identify the additional control measures. As stated in the BACKGROUND section, the plan includes the January 5, 1978 submittal of the iron and steel regulations. Since Maryland has chosen to remedy EPA's noted deficiencies on these regulations through the plan for compliance for steel facilities, EPA's evaluation of the primary plan is based upon the emission limits represented in the regulations and the Bethlehem Steel Sparrows Point Plan for Compliance submitted by Maryland on July 24, 1979. Therefore, Maryland must submit as a part of the Plan a final Plan for Compliance for the Bethlehem Steel Plant by October 1, 1980, as condition of approval of Maryland Regulation 10.18.04.02(E) and 10.18.04.03(G) as proposed elsewhere in today's **Federal Register**. It should be noted that while the Plan for Compliance for the Bethlehem Steel facility addresses EPA's concerns with the enforceability of the iron and steel regulations for attainment of the primary TSP standard, the enforceability deficiencies for other steel facilities in Maryland must be remedied by the State submitting a Plan for Compliance for each such facility.

7. *Enforceability*

EPA in the notice of proposed rulemaking of August 1, 1979, 44 FR 45194, had recommended several changes in the regulation language which will enhance the enforceability of the TSP regulations. These related to the definition of "Total Operating Capacity" for grain drying equipment; the timetable for installing control technology per Regulation 10.18.05.03(D)(5); and the control technology and testing procedures required by the iron and steel industry regulations. The "Total Operating Capacity" definition comment related to the exemption for certain grain drying equipment in Regulation 10.18.05.03(d)(2)(b). EPA's concern was whether the exemption applied to a single piece of equipment or an entire installation. The State in discussions with EPA, and by letter of September 21, 1979, has stated that the regulation applies to a single piece of equipment and has so interpreted the regulation since its adoption in 1975. This satisfies EPA's concern.

The timetable for installing conventional control technology per Regulation 10.18.05.03(d)(5) is 18 months longer for sources than that for applying alternative technologies. EPA requested a rationale for this. The State responded stating that the timetable for conventional techniques is based upon the fact that installation requires major modification. Therefore, if a source chooses to attempt an alternative technology, it must be installed such that the eighteen month period is available to apply conventional controls, should the alternate fail to achieve compliance. EPA finds this explanation acceptable.

With respect to the iron and steel regulations, the State of Maryland is addressing EPA's concerns through the development of a Plan for Compliance for steel facilities as discussed in the preceding section.

8. *Preconstruction Review*

This is addressed in detail previously in the DEFICIENCIES AND REMEDIES section of this notice.

9. *Identification and Analysis of Air Quality, Health, Welfare, Economic, Energy, and Social Effects*

Section 172(b)(9) of the Act requires an identification and analysis of air quality, health, welfare, economic, energy and social effects of the plan provisions required by Section 172 and a summary of the public comment on such analysis. EPA stated in the notice of proposed rulemaking, 44 FR 45194, that this analysis was omitted in the plan submission. On September 21, 1979 Maryland submitted this analysis. In reviewing this analysis, which included VOC regulations as well as TSP regulations, EPA finds it sufficient at this time, satisfying the requirement of Section 172(b)(9).

V. *Carbon Monoxide.*

For the Metropolitan areas of Baltimore and Washington, D.C. the plans for ozone related to transportation or mobile sources which are discussed above. These will concurrently form the plan for attainment of the carbon monoxide standard. Of major importance of these plans are the continued implementation of the Inspection and Maintenance program to assure the continued emissions reductions of the FMVCP.

For discussion of the transportation plan elements refer to the ozone plan section above.

For the Metropolitan Baltimore Intrastate AQCR and the Maryland portion of the National Capital Interstate AQCR the standards will not be achieved by 1982. Therefore, the State of Maryland has requested an extension of the attainment date until 1987. EPA has reviewed the support material for the request; the material indicates attainment will be achieved in the Baltimore region prior to 1987. As such, since the Clean Air Act requires attainment as expeditiously as possible, EPA is approving the CO plan with an extended attainment date to January 1, 1984. If in preparing the SIP amendment to be submitted on July 1, 1982 for attainment of the CO and ozone standards, the State of Maryland finds and demonstrates that attainment will be achieved by a date different from January 1, 1984, then the Administrator will consider an appropriate change of the extension request.

As noted in the BACKGROUND section, Maryland has requested a redesignation of the attainment status for the Hagerstown and Cumberland areas. Therefore, EPA will not take any action on the plans for these areas at this time.

Public Comments on Proposal

(1) *National Comments*

Comment and Responses: Two commenters submitted extensive comments which they requested by considered part of the record for each State plan. Each of the points raised by the commenter and EPA's responses appear in the notice of final rulemaking for the State of Delaware, 45 Fed. Reg. 14551, 1980. Although some of the issues raised are not relevant to provisions in Maryland's submittal, EPA is notifying

the pubic of its response to these comments at this time.

Comments were also received from the Asphalt Emulsion Manufacturers Association (AEMA) concerning the availability of emulsified asphalts with low solvent content for all applications in all regions of the country. Although some of the issues raised are not relevant to the Maryland plan, EPA is notifying the public of its response to these comments at this time. AEMA's main point is that no general rule regarding solvent content of emulsified asphalt for the nation is possible because of varying conditions. AEMA urges that EPA accept each State's emulsion specifications as RACT. AEMA also incorrectly concludes that EPA has been using a figure of five percent as nationwide RACT for maximum solvent content is emulsified asphalt.

EPA recognizes that varying conditions may require different solvent content asphalts. RACT for asphalt should be determined on a case-by-case basis in order to take varying conditions into account. Therefore, EPA has not set a nationwide standard for the solvent content of emulsified asphalt. However, EPA has accepted a five percent maximum solvent content regulation where a State has chosen to submit an across-the-board regulation for emulsified asphalt, rather than develop case-by-case RACT. The intent of EPA guidance has been for States to specify in the regulations, and justify, those emulsions and/or applications where addition of solvent is necessary. Since RACT can be determined on a case-by-case basis, States are free to specify necessary solvent contents on the basis of application of asphalt grade. Where a State demonstrates that these are RACT, EPA will approve the regulations. The following maximum solvent contents for specific emulsified asphalt applications have appeared in EPA guidance and are based on American Society of Testing Materials (ASTM), American Association of State Highway and Transportation Officials (AASHTO), and State specifications and on information recently received from the Asphalt Institute.

Use	Maximum solvent content (percent)
Seal coats in early spring or late fall	3
Chip seals when dusty or dirty aggregate is used	3
Mixing w/open graded aggregate that is not well washed	8
Mixing w/dense graded aggregate	12

(2) *Comments Specific to the Maryland SIP Revision*

This sub-section will summarize the issues raised by commenters during the public comment period following the August 1, 1979 notice of proposed rulemaking on the Maryland plans. Also presented are the EPA responses.

(a) One commenter questioned the attainment of the carbon monoxide standard in the Cumberland-Keyser Interstate AQCR solely through the implementation of the Federal Motor Vehicle Emission Control Program (FMVCP). The commenter pointed out that no provision existed for review of new sources in the AQCR. EPA in its notice of proposed rulemaking likewise indicated the omission of the New Source Review (NSR) provisions. However, EPA is presently considering a request for redesignation of the area to attainment. Until EPA takes final action on the request, no action will be taken on this portion of the plan. Should attainment of standards be demonstrated in accordance with Section 107 of the Act, then the question of attainment solely through the implementation of the FMVCP is moot.

(b) Only one comment was received on the I/M program. The commenter noted that Maryland's SIP did not require the implementation of I/M; the commenter also stressed the need for requiring I/M in rural nonattainment areas. Since the original submission of the State Implementation Plan, the Maryland legislature has committed the State to an I/M program by passage of enabling legislation. Although EPA recognizes that mobile source emissions from rural areas may well impact downwind ozone concentrations, recent studies indicated that the additivity factor for transport precursors is approximately 50 percent. Since rural hydrocarbon emissions from mobile sources are typically less than 15 percent of the hydrocarbon emissions in downwind urban areas, it is evident that implementation of I/M in rural areas (at 25 percent effectiveness will have a negligible (i.e., less than 2 percent) impact on downwind ozone concentrations.

(c) Another commenter, a national environmental group, questioned the validity of the design value chosen for the Metropolitan Baltimore Intrastate AQCR, and the application of the proportional rollback model without allowance for transport or background concentrations.

Although Maryland's original submission designated the second highest 1977 ozone concentration as the design value, a subsequent statistical analysis of valid data from properly located downwind monitors indicated an "expected" second highest ozone concentration of 0.19 ppm, which was determined by the procedure designated in Appendix H of Part 51, 44 Fed. Reg. 8202, 1979. EPA's evaluation of the statistical analysis finds that the chosen design value of 0.19 ppm is correct.

The commenter maintained that Maryland incorrectly applied the rollback method of analysis to determine the amount of emission reduction necessary to attain NAAQS, since Maryland's formulation, shown as follows, failed to include background or transport concentrations:

$$R = \frac{a-b}{a} \times 100 \quad (1)$$

Where R=required emissions reductions, a=design value, and b=NAAQS. The commenter proposed that the following equation is a more correct formulation:

$$R = \frac{a-b}{a-c} \times 100 \quad (2)$$

Where R, a, and b are as stated above and where c=background oxidant levels. EPA has determined that Maryland's formulation represented by Equation (1) is the more accurate representation, since it provides for the effects of both transport and background concentrations. For a more detailed analysis, see the Rationale Document prepared in support of this rulemaking notice and EPA document entitled "Uses, Limitations, and Technical Basis for Procedures for Quantifying Relationships between Photochemical Oxidants and Precursors," EPA 450/2-77-021a (November, 1977).

(d) The State of New Jersey submitted comments on the proposed Part D ozone revisions for several States. New Jersey contends that SIPs which do not include uniform Statewide controls for existing and new sources which meet the requirements of Part D will not attain the ozone standard. New Jersey urges the Administrator to disapprove the ozone SIPs which do not include such Statewide measures. In addition, New Jersey argues as it did in objecting to the Administrator's ozone nonattainment area designations that entire states

should be designated nonattainment, thereby requiring Part D SIP revisions Statewide.

The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassified, and Nonattainment Areas for Ozone" January 1979. Availability of this document was announced in the February 1, 1979 **Federal Register** (44 FR 6395). This document and the Administrator's response to New Jersey's comments are incorporated herein by reference. Since Maryland has applied RACT to the CTG sources in the urban nonattainment areas and certified that there are no 100 ton sources to which the CTG's apply are in the rural nonattainment areas, Maryland has satisfied the requirement for an approvable Part D ozone SIP and there is no basis for disapproval.

(e) Another commenter, a national environmental organization, made the following comments each of which is responded to in turn:

(1) *Oxidants* (Ozone)

The commenter noted that the State failed to submit a plan for the Cumberland-Keyser area and due to the significant influence of pollutant transport, challenged the State's position that no further control was necessary in the AQCR. Furthermore, the commenter questioned the EPA position stated in the notice of proposed rulemaking, 44 FR 45194, 1979, which the commenter felt implied agreement with the State. EPA's position was that the State had certified that no sources of VOC covered by a CTG existed in the Cumberland-Keyser area; however, the State was obligated to commit to examine future CTG's and apply controls where applicable. As discussed in the BACKGROUND section of this notice, Maryland has since requested a redesignation of the attainment status for the Cumberland-Keyser area. EPA policy on rural ozone nonattainment areas, as explained in the General Preamble, 44 FR 20372, requires the adoption of RACT for 100 ton sources covered by CTG's. Maryland has satisfied the requirement by certifying that no such sources are located in the AQCR. On April 1, 1980, 45 FR 21244, EPA redesignated two of the three counties, Garrett and Allegany, to attainment. No action was taken concerning Washington County, the third county in the AQCR, pending the State's further review of the monitoring data. Therefore, EPA reserves action on the lack of a plan until review of the State's supplemental submission and final rulemaking upon the redesignation request for Washington County.

(2) *Monitoring*

The commenter stated that there was no support of the State's conclusion that monitoring stations were improperly located in the Luke, Maryland area. He also noted that prior to redesignation, the support for that conclusion must be available for public review and comment. EPA on April 23, 1979 proposed the redesignation to an unclassified area, for public review and comment, 44 FR 23885, with the rationale and support material available for review. The comment period for the redesignation proposal ran from April 23, 1979 to June 23, 1979; representatives of the above mentioned commenter requested and obtained information about the redesignation during the comment period, however no comments were received on the proposal. EPA's review of the monitor site, as presented in the support material, agreed with the Maryland conclusion that the site was improperly placed. Final rulemaking redesignating the Luke Election District No. 8 as unclassified was published in the **Federal Register** on April 10, 1980, 45 FR 24469.

(3) *Particulates*

The commenter raised several points concerning the emissions reductions anticipated from the Bethlehem Steel Corporation, Sparrows Point Plant. Items questioned were the enforceability of the iron and steel regulations due to the nature of the language in the regulations, the compliance plan for the facility, the non-application of all reasonably available control measures, and the 1985 date for attainment of the secondary standard.

EPA has previously notified the State of Maryland of its concerns that the vagueness of some of the iron and steel regulations inhibits their enforceability and therefore the creditable emissions reductions. However, EPA has reviewed the impact upon the primary nonattainment area from the emission levels represented by the enforceable levels of the iron and steel regulations and the final draft version (July 24, 1979) of the Bethlehem Steel Plan for Compliance. This review indicates that the level of control is sufficient for primary attainment. As proposed elsewhere in today's **Federal Register**, the following conditions are placed upon the plan approval:

(a) The State of Maryland must finalize the Plan for Compliance, submitting it as a part of the plan to complement the iron and steel regulation by October 1, 1980.

The primary plan does represent application of RACT to sources located in the primary nonattainment area, with additional controls applied to sources located outside, but impacting the area in order to achieve attainment.

As for the secondary attainment date, the State as a part of the secondary plan to be submitted July 1, 1980 must demonstrate attainment. The demonstration must meet the requirements of the Act, and, therefore, whatever attainment date is demonstrated must be supported as being as expeditious as practicable. EPA is not taking any action upon Maryland's initial estimate of secondary attainment and will review the attainment date specified in the secondary plan to be submitted by July 1, 1980.

(4) *New Source Review*

Numerous comments were made by the environmental group on the new source review regulations. The commenter correctly noted that there were no provisions for new major stationary sources of carbon monoxide and that the Maryland regulations do not contain provisions for reviewing major modifications. EPA had noted both of these in its proposed rulemaking. In this notice, EPA states that Maryland has remedied the deficiency of omitting major modifications, and published elsewhere in today's **Federal Register** is proposing to condition this SIP approval upon Maryland remedying the other deficiencies.

The commenter also stated "The Maryland regulations require a permit applicant to demonstrate that all major sources *owned or operated by the applicant* are in compliance or on a schedule for compliance with applicable emission standards. They do not require the same showing of sources owned or operated *by any entity controlling, controlled by, or under common control with the applicant* as required by Section 173(3) of the Clean Air Act." EPA has noted this comment and has proposed conditional approval of Maryland's Part D plan upon Maryland amending its regulation by December 31, 1980, as published elsewhere in today's **Federal Register**.

Another comment of the national environmental group was that the Maryland regulations do not require offsets to be legally binding prior to operation of the new source. A condition, proposed today elsewhere in this **Federal Register**, is that Maryland must commit to formally submit each offset as a SIP revision, assuring enforceability under the SIP.

An additional comment made was that the regulation permits offsets against actual as opposed to allowable emissions from existing sources. EPA, in

the discussion of the New Source regulations, has noted that the Maryland regulation requires that *actual* future emissions are offset against present *allowable* emissions. While this differs from the language of Section 173 which requires that *allowable* future emissions are to be offset against allowable present emissions, EPA in reviewing the Maryland definition, believes that it is consistent with the Clean Air Act requirement and will provide at least an equivalent offset.

Finally, the commenter stated that in order to determine whether enough offsets have been achieved for reasonable further progress toward attainment, the State must consider not only the emissions from the new or modified major stationary sources, but also from new or modified sources, which are not major emitting facilities. Maryland, in constructing the SIP demonstration and the RFP lines and schedules, considered growth of minor sources; furthermore, the new source regulation also requires an assurance of RFP prior to permit approval. EPA therefore believes that the commenter's concerns are adequately addressed.

(5) *State Boards*

The commenter noted that neither the State plan nor the State regulations provide for the requirements of Section 128 of the Act governing State boards. EPA agrees with the comment and in its proposed rulemaking noted the omission. Maryland holds the position that it does not have a board covered by Section 128. EPA intends to discuss this requirement of Section 128 in a separate rulemaking action.

EPA Actions

This section summarizes the various remedies and approvals noted throughout this notice. Unless otherwise stated, those portions of the plan for which no conditions have been identified are granted final approval and are effective immediately. The remainder of the plan, where deficiencies are noted, are proposed to be conditionally approved, elsewhere in today's **Federal Register.**

The January 19, 1979 submittal was comprised of revised Maryland regulations 10.18.01.01, 10.18.01.07, 10.18.01.11, 10.18.04 and 10.18.05 Sections .03, .04 and .06. Today's action approves the revised portions of 10.18.01.01, 10.18.01.07, and 10.18.01.11 as submitted on January 19, 1979. Partial approval is granted to 10.18.04 and 10.18.05 Sections .03, .04 and .06. As discussed in this notice and elsewhere in today's **Federal Register,** EPA proposes to conditionally approve the noted parts of 10.18.04 and 10.18.05 Sections .02, .03, .04(K), and .06. No final action will be taken on 10.18.04 and 10.18.05 Section .04J and .06G as noted above in the SUMMARY.

1. EPA approves the request for extension of the attainment dates submitted by Maryland. Attainment of the ozone standard must be achieved by December 31, 1987. For carbon monoxide, the standard must be achieved by January 1, 1984.

2. EPA approves the extension to July 1, 1980 for the submission of a plan to attain the secondary standard for TSP.

3. EPA approves the I/M schedule and the commitment to 25% emission reduction.

4. EPA will follow the procedures described in the INTRODUCTION section of this notice with respect to conditional approvals. A notice soliciting comments on items proposed for conditional approval and the acceptability of the deadlines to fulfill these conditions appear elsewhere in today's **Federal Register.** These items, on which EPA takes no action in this notice, are the following:

(a) EPA proposes conditional approval of the Part D Maryland Plan on the condition that the New Source regulations are amended in accordance with the discussion above, which summarized is:

(1) Each offset must be submitted as a formal SIP revision. Maryland must commit to do this by September 1, 1980.

(2) Maryland must commit, in writing, to examine and use the most restrictive short-term emission rates in permitting new sources. This must be received by September 1, 1980.

(3) Amendment of the language to ensure that all major sources owned or operated by an entity controlling, controlled by, or under common control with the applicant are in compliance or on a schedule for compliance with the applicable emission standards must be submitted as a formal SIP revision by December 31, 1980.

EPA is reserving action upon the lack of provisions for new major sources of carbon monoxide. Therefore, until the regulations are submitted and approved as formal SIP revisions, no major carbon monoxide sources to which Section 173 applies may construct in the nonattainment areas.

(b) Approval of the VOC regulations 10.18.04.04(K) and 10.18.05.04(K) is proposed on the condition that Maryland adopt test procedures by revising its regulations appropriately and submitting them as formal SIP revisions by December 31, 1980.

(c) Approval of the Asphalt regulation (Section .04K(10) of 10.18.04 and 10.18.05) is proposed on the condition that Maryland submit an acceptable limit on solvent content in emulsions and document the enforcement policy and mechanism by December 31, 1980.

(d) Approval of the TSP plan submitted for the Metropolitan Baltimore area is proposed on the condition:

(1) Maryland finalize the Bethlehem Steel Plan for Compliance and submit it as a part of the iron and steel regulation by October 1, 1980.

Finally, as noted in the Background section, EPA will not take any action on the plans in those areas where the State has requested redesignation of the attainment status, where final action remains to be taken, until such time the growth restrictions remain.

Maryland has not as yet submitted the information required by Section 128 (Composition of State Boards). While this is not a Part D requirement, EPA is reminding the State of the requirement and will address it in a separate rulemaking action.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth sanctions in those areas for which the State of Maryland has submitted adequate plans in accordance with Part D requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determine that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–842)

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.1070 paragraphs (c) (27) and (28) are added as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(27) Amendments to Sections .01, .07, and .11 of Maryland Regulation 10.18.01 as submitted on January 19, 1979 by the Governor.

(28) Amendments to Sections .03D, .03F, .03H, .06I of Maryland Regulation 10.18.04 and 10.18.05 as submitted on January 19, 1979 by the Governor.

2. Section 52.1071 is amended by changing the heading "photochemical oxidants (hydrocarbons)" to "ozone".

3. Section 52.1072 is amended by adding paragraph (c), (d) and (e) to read as follows:

§ 52.1072 Extensions.

* * * * *

(c) The Administrator hereby extends until December 31, 1987 the attainment date for the national standard for O_3 in the Metropolitan Baltimore and the Maryland portion of the National capital nonattainment areas.

(d) The Administrator hereby extends the attainment date for the national standard for CO in the Metropolitan Baltimore and the Maryland portion of the National Capital nonattainment areas to January 1, 1984.

(e) The Administrator hereby extends for 18 months (until July 1, 1980) the statutory timetable for submission of Maryland's plan for the attainment and maintenance of the secondary standards for particulate matter in the Baltimore nonattainment area.

4. Section 52.1073(f) is revised as follows:

§ 52.1073 Approval status.

* * * * *

(f) With the exceptions set forth in this subpart, the Administrator approves the amendment to Regulation 10.18.01 Sections .01, .07, and .11, Regulation 10.18.04 and 10.18.05 Section .03D, .03F, .03H, .06I of Maryland's plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that portions of the plan, as submitted January 19, 1979, satisfy the requirements of Part D, Title 1, of the Clean Air Act as amended in 1977.

In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January, 1978 and January, 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

5. Section 52.1078 is revised as follows:

§ 52.1078 Attainment dates for national standards.

* * * * *

Pollutant

Air quality control region	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone (hydrocarbons)
	Primary	Secondary	Primary	Secondary			
Cumberland-Keyser Interstate	a	a	a	a	d	d	d
(a) Election District No. Blake, Md.	d	d	a	a	d	d	d
(b) City of Cumberland	a	a	a	a	d	a	d
(c) City of Hagerstown	a	a	a	a	d	a	d
(d) Washington County	a	a	a	a	d	d	a
(e) Remainder of AQCR	a	a	a	a	d	d	d
Central Maryland Interstate	a	a	c	a	d	d	d
Metropolitan Baltimore Intrastate			a	d	a	f	g
(a) Portions as defined in 40 CFR 81.321	a	b	a	d	a	f	g
(b) Remainder of AQCR	a	a	a	b	a	5/31/77	5/31/77
National Capital Interstate	a	a	a	a	d	f	g
Southern Maryland Intrastate	d	d	d	d	d	d	d
Eastern Shore Intrastate	c	a	d	d	d	d	d

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

a. July 1975.
b. 18-month extension granted.
c. Air quality levels presently below primary standards.
d. Air quality levels presently below secondary standards or area is unclassified.
e. December 31, 1982.
f. January 1, 1984.
g. December 31, 1987.

[FR Doc. 80-24230 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1555-6]

Approval and Promulgation of Implementation Plans; North Dakota

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve revisions and amendments to the North Dakota State Implementation Plan (SIP) submitted by the Governor of North Dakota on January 25, 1980. The revisions are concerned with Section 110(A)(2)(k) of the Clean Air Act (CAA) regarding collection fees for permit review, Section 127 CAA regarding public notification, Part 58 of Title 40, *Code of Federal Regulations* addressing monitoring requirements, and Section 109 CAA which will add an ambient standard for lead. An amendment will change the title of photochemical oxidants to ozone and raise the ambient standard to .12 parts per million (ppm). On May 5, 1980 (45 FR 29595) EPA published a proposed **Federal Register** notice which discussed the results of EPA's review and requested public comments. No comments were received.

DATE: Effective August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

SUPPLEMENTARY INFORMATION: On January 17, 1980, pursuant to Part 51.285, Part 58, Part 50.12 of Title 40, *Code of Federal Regulations,* the State of North Dakota submitted proposed State Implementation Plan revisions for public notification, monitoring requirements, and an ambient standard for lead respectively. Also submitted was a permit processing fee and a change to the ozone standard. The following is a discussion of these provisions and the issues involved.

Public Notification

Since the State of North Dakota has no cities larger than 200,000 people they are only required to present an annual report. North Dakota plans to announce violations on a regular basis to the appropriate news media when an Ambient Air Quality Standard has been exceeded. The notices will include any potential health hazard associated with the exceedance and measures the public can take to prevent future exceedances.

Monitoring Requirements

This SIP revision establishes the State and local air monitoring stations (SLAMS), special purpose monitoring stations (SPMS), and their maintenance plus the method of data reporting and annual reviews which pertain to the above stations. The SLAMS stations will monitor ambient levels of "criteria pollutants" or pollutants which have an established national ambient air quality standard (NAAQS). Once obtained, this data will be used mostly for determining

compliance with the NAAQS, determining if a source which emits criteria pollutants requires controls, tracking air pollution episodes and determining the impact of certain sources. The process of network design was carried out as required by Appendix D of 40 CFR Part 58. A network description will be available for review at the Missouri Office Building, 1200 Missouri Avenue, Bismark, North Dakota, which will include the following: (a) SAROAD site identification form for existing stations, (b) analyzer description, (c) sample of analysis procedure, (d) operating schedule, (e) monitoring objective, and (f) spatial scale of representativeness. All SLAMS stations will be operated in accordance with the criteria established in Subpart B to 40 CFR Part 58, sited according to Appendix E to 40 CFR Part 58. Reference or equivalent monitors will be used as defined in 40 CFR 50.1 and the quality assurance procedures will be followed as outlined in Appendix A to 40 CFR Part 58.

Beginning January 1, 1980, the State will annually review their SLAMS network to insure that the monitors are located where needed. A report shall be submitted to EPA Region VIII by April 1 of each year, which will include a schedule to add, relocate, or eliminate stations. These needs will be determined based on the requirements in Appendix D to 40 CFR Part 58 or references therein.

The State of North Dakota will establish and operate a network of National Air Monitoring Stations (NAMS) as required in Subpart D of 40 CFR Part 58. The NAMS stations will also be SLAMS stations and the design procedure for NAMS will be identical to that for SLAMS.

Lead Standard

The State of North Dakota has adopted an ambient lead standard of 1.5 ug/m³ set forth by the U.S. E.P.A. At the present time, the State feels a lead control strategy is not warranted since measured lead levels at seven sites in rural and urban areas are much below the ambient standard. However, the adoption of a standard and the inclusion of its consideration in the existing new source review program should provide for maintenance of the national standard for lead.

Permit Fees

In accordance with Section 110(A)(2)(k) for Implementation Plans of the Clean Air Act, North Dakota requires a permit or registration processing and inspection fee. A section of the North Dakota Century Code has been amended to provide for registration of certain air contaminant sources.

The new requirement provides for collection of reasonable fees for the issuance of permit or registration certificates and for an inspection program to determine the compliance status of sources with the permits or registration certificates. The amendment allows certain air contaminant sources to be registered in lieu of being issued a permit. A construction permit fee also has been implemented.

Ozone Standard

The Photochemical Oxidant Category has been renamed to read Ozone and the Ambient Standard has been raised to .12 ppm to coincide with the Federal standard.

Final Action

On May 5, 1980 (44 FR 29595), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received and no new issues were raised. The Administrator believes the North Dakota SIP revisions received on January 24, 1980, satisfy the requirements of Section 127, Section 110(A)(2)(k), and Section 109 of the Clean Air Act, and 40 CFR Part 58. Therefore, EPA is approving these revisions.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rule is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

EPA finds good cause for making the action taken in this notice immediately effective since the implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden.

(Secs. 127, 110(A)(2)(k), and 109 of the Clean Air Act)

Dated August 5, 1980.

Douglas M. Costle,
Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.1820 paragraph (c)(11) is revised to read as follows:

§ 52.1820 Identification of plans.

* * * * *

(c) * * *

(11) On January 25, 1980, the Governor submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, subpart C, Paragraph 58.20, and Public Notification required under Section 127 of the Clean Air Act.

[FR Doc. 80-24254 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1538-1]

Approval and Promulgation of Implementation Plans; Revision of Massachusetts State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve an extension of a temporary revision to Massachusetts Regulation 310 CMR 7.06 *Visible Emissions* to allow the burning of a 30% coal/70% oil mixture in the New England Power Company's (NEPCo), Unit No. 1, Salem Harbor Station, Salem, Massachusetts until December 31, 1980 as a research project funded by the U.S. Department of Energy (DOE).

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5809.

SUPPLEMENTARY INFORMATION: On March 7, 1980, the Regional Administrator published in the **Federal Register** (45 FR 14885) a notice proposing approval of an extension of a temporary revision to the Massachusetts SIP. The SIP revision, submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) on December 28, 1979, is a temporary variance to Massachusetts Regulation 310 CMR 7.06 *Visible Emissions* (formerly Regulation 6).

The variance to regulation 310 CMR 7.06 *Visible Emissions* relaxes from six minutes per hour to fifteen minutes per hour the allowed exceedances of the 20 percent opacity limit (No. 1 on the Ringlemann Chart). The plume opacity shall at no time be greater than 40 percent (No. 2 on the Ringlemann Chart). This approval will allow NEPCo's Salem Harbor Station, Unit No. 1, Salem Massachusetts to burn 30% coal/70% oil mixture until December 31, 1980 as a research and development project funded by the DOE.

On February 7, 1979 (44 FR 7712) the Regional Administrator approved a temporary revision to the Massachusetts SIP which included variances to Massachusetts Regulations 310 CMR 7.05 *Sulfur-in-Fuel* and 310 CMR 7.06 *Visible Emissions* (formerly regulations 5 and 6). On May 21, 1979, EPA approved a permanent revision to Massachusetts Regulation 310 CMR 7.05 *Sulfur-in-Fuel* which allowed the Salem Harbor Station to burn fossil fuel with a maximum sulfur content of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil by weight). Therefore, it is not necessary to vary the provisions of 310 CMR 7.05. The variance to regulation 310 CMR 7.06 *Visible Emissions* which was approved on February 7, 1979 expired on December 31, 1979.

To prevent any nuisance condition, the terms of extension of the variance require that:

(1) The project shall commence using a 10 percent/90 percent coal/oil mixture, progress gradually to a 20 percent/80 percent coal/oil ratio, and then go to a maximum of 30 percent/70 percent coal/oil, if feasible.

(2) Stack testing shall take place after each incremental increase in coal percentage and compliance with the particulate emissions limitation (0.12 pounds per million Btu) and all other applicable regulations shall be demonstrated prior to any further increase in coal/oil slurry ratio.

(3) If nuisance conditions occur as a result of any coal handling or burning operations, then the variance shall be subject to immediate termination.

(4) The extension of the variance shall expire on December 31, 1980.

No comments were received during the 30 day comment period.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts State Implementation Plan. The Agency finds that good cause exists for making this action immediately effective for the following reasons:

Implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.)

Dated: August 6, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as folows:

Subpart W—Massachusetts

§ 52.1120 [Amended]

1. Section 52.1120(c)(17) is amended by adding the phrase "and an extension to 310 CMR 7.06, *Visible Emissions*, submitted on December 28, 1979."

[FR Doc. 80-24228 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 180

[FRL 1566-8; PP 7F1879/R266]

Mesurol; Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerance for residues of the insecticide mesurol (3,5,-dimethyl-4-(methylthio), phenol methylcarbamate) and its cholinesterase-inhibiting metabolites in or on citrus fruits at 0.02 part per million (ppm). This regulation was requested by Mobay Chemical Corp. The regulation will establish the maximum permissible levels of the residues of mesurol in or on citrus fruits.

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-343, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202/426-9458).

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the **Federal Register** of November 18, 1976 (41 FR 50854) that Mobay Chemical Corp., P.O. Box 4913, Hawthorne Road, Kansas City, MO 64120 had filed a pesticide petition (PP 7F1879). This petition proposed that 40 CFR 180.320 be amended by establishing a tolerance for residues of the insecticide, mesurol (3,5-dimethyl-4-(methylthio)phenol methylcarbamate) and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity group citrus fruits at 0.02 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the tolerance will protect the public health.

The toxicological data considered in support of the proposed tolerance included two-year rat and dog feeding studies with no-observed-effect-levels (NOEL's) of 100 ppm and 250 ppm, respectively; a 3 generation rat reproduction study with a NOEL of 300 ppm; a rat teratology study which was negative at 10 milligrams (mg)/kilogram (kg); a rat oncogenic study which was negative; a delayed neurotoxicity study in hens which was negative up to 800 ppm; and a dominant lethal assay test in mice which was negative at 10mg/kg. Based on the two-year rat feeding study with a NOEL of 100 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for humans is 0.05 milligram (mg) of body weight (bw)/day and the maximum permissible intake (MPI) is 3.0 mg/day for a 60 kg human.

The theoretical maximum residue contribution (TMRC) in the human diet from permanent tolerance for combined residues of the pesticide and its cholinesterase-inhibiting metabolites now in effect in or on corn at 0.03 ppm, cherries at 25 ppm, peaches at 15 ppm, and blueberries at 25 ppm utilize 8.44 percent of the ADI.

The theoretical maximum residue (TMRC) in the human diet from the permanent tolerances and the temporary tolerances now in effect in or on grapes at 15 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; the eggs, meat, fat, and meat byproducts of poultry at 0.02 ppm; in milk at 0.01 ppm; and raisins at 25 ppm utilize 12.79 percent of the ADI. The permanent, temporary, and proposed tolerances on citrus fruits result in a TMRC of 0.03849 mg/day and utilize 12.83 percent of the ADI. The increase due to citrus fruits is 0.04 percent.

The incremental dietary exposure from food uses has been assessed for the new use of citrus fruits and is considered insignificant. The percentage increase in the TMRC due to the new use is less than 0.1 percent. The presently available data base for this chemical does not give the cause for toxicological concern. Since no detectable (<0.01 ppm) residues of the pesticide on citrus were found to result from the proposed use, no residues are expected in dried citrus pulp and molasses; and there is no reasonable expectation of finite residues occurring in meat, milk, poultry, or eggs.

An adequate analytical method for determining residues of the insecticide is available for enforcement purposes. The nature of the residues are adequately understood. No actions are pending against registration of the insecticide, and no other considerations are involved in establishing the tolerance.

The pesticide is considered useful for the purpose for which the tolerance is sought. Establishment of the tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before September 11, 1980, file written objections with the Hearing Clerk, EPA, Room M–3708 (A–110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 12, 1980.

(Sec. 408(d)(2), 68 Stat. 514 (21 U.S.C. 349a(e))

Dated: July 30, 1980.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting "citrus fruits" in the table in § 180.320 to read as follows:

§ 180.320 3,5-Dimethyl-4-(methylthio)phenyl methylcarbamate; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Citrus fruits	0.02
* * * * *	

[FR Doc. 80-24363 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1567-2; PP 7F1977/R265]

Copper Monoethanolamine; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for copper in eggs, fish, meat, milk, irrigated crops, and shellfish resulting from the use of copper monoethanolamine as an algicide or herbicide in fish hatcheries, lakes, ponds, and reservoirs. The regulation was requested by Applied Biochemists, Inc.

EFFECTIVE DATE: Effective on August 12, 1980.

ADDRESS: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort (202–755–1397).

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of December 6, 1977 (42 FR 61626) that Applied Biochemists, Inc. P.O. Box 25, Mequon, WI 53092, had filed a petition (PP 7F1977) with the EPA. This petition proposed that 40 CFR 180.1021 be amended by establishing an exemption from the requirement of a tolerance for copper from the use of copper monoethanolamine complex as an algicide or herbicide in fish hatcheries, lakes, ponds, and reservoirs. No comments were received in response to this notice of filing.

Copper is presently exempted from the requirement of a tolerance in eggs, fish, meat, milk, irrigated crops, and shellfish when it results from the use of: (a) copper sulfate as an algicide or herbicide in irrigation conveyance systems and lakes, ponds, reservoirs, and bodies of water in which fish or shellfish are cultivated; (b) basic copper carbonate (malachite) as an algicide or herbicide in impounded or stagnant bodies of water; or (c) copper triethanolamine as an algicide or herbicide in fish hatcheries, lakes, ponds, and reservoirs.

The data submitted in this petition and relevant material have been evaluated. Copper monoethanolamine is expected to dissociate in water into copper ion and the free amine, monoethanolamine; both copper and monoethanolamine are naturally occurring compounds. Levels of copper range from 0.3 part per million (ppm) in milk to 100 ppm in calves livers. A tolerance level of 1 ppm was previously established for residues of copper in potable water resulting from the use of copper containing algicides and herbicides. A related document in this issue of the **Federal Register**, establishes a tolerance of 1 ppm in potable water for residues of copper resulting from the use of copper monoethanolamine as an algicide or aquatic herbicide to control aquatic plants in reservoirs, lakes, ponds, and irrigation ditches and other potential sources of potable water. Monoethanolamine, which is a constituent of human phospholipid cell membranes, is expected to degrade to ammonia, simple organic acids, and aldehydes. The highest calculated initial concentration of monoethanolamine from the use of copper monoethanolamine as an algicide or aquatic herbicide is 2.83 ppm. Due to the low level of exposure and the natural occurence of copper monoethanolamine and its expected metabolites, no overt hazard is envisioned due to this regulation.

Currently, only one formulated product containing copper monoethanolamine (in combination with triethanolamine) is proposed for use as an algicide or aquatic herbicide. The Agency previously had concerns regarding the level of nitrosamine in this product in view of the presence of 2.1 ppm of *N*-nitrosodiethanolamine in the formulation. The presence of the *N*-nitrosoamine at this level is of concern since 80 percent of known *N*-nitrosoamine compounds have been shown to be carcinogenic in a variety of species. However, the petitioner has since resolved this concern by submitting a revised formulation which contains less than 1 ppm of the *N*-nitrosodiethanolamine. This quantity of the *N*-nitrosoamine is at the level of method sensitivity for *N*-nitrosoamine analysis and represents a risk level which is acceptable to the Agency, in accordance with the Agency's proposed policy on Pesticides Contaminated with *N*-nitroso compounds, published in the **Federal Register** on June 25, 1980 (45 FR 42854).

There are no regulatory actions pending against copper monoethanolamine. Analytical methods are available for the determination of residues of copper monoethanolamine/triethanolamine complexes and ionic copper.

The pesticide is considered useful for the purpose for which an exemption from the requirement of a tolerance is being sought. It has been concluded that the exemption will protect the public health and that the proposed amendment should be adopted as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Room M–3708 (A–110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. The regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on August 12, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: August 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by revising paragraph (c) in § 180.1021 to read as follows:

§ 180.1021 Copper; exemption from the requirement of a tolerance.

* * * * *

(c) Copper triethanolamine and copper monoethanolamine as an algicide or herbicide in fish hatcheries, lakes, ponds, and reservoirs.

[FR Doc. 80-24375 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 322

Delegation of Certain Defense Production Act; Priorities and Allocation Authorities

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This amendment to 44 CFR Part 322 delegates Defense Production Act Title 1, priorities and allocations authority to the Secretary of Transportation in the area of civil transportation services.

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Clair K. Blong or Charles McIntosh, Resources Management Division (FEMA). Telephone: (202) 566–1324.

SUPPLEMENTARY INFORMATION: This delegation helps the Department of Defense meet its motor carrier services requirements in defense contingencies by providing the Secretary of Transportation with authority to expeditiously carry out his leadership and coordinating roles in the area of civil transportation services. This amendment to 44 CFR Part 322 is not subject to the provisions for notice and public comment in 5 U.S.C. 553 because it involves the military function of the United States.

§ 322.3 [Amended]

Accordingly, 44 CFR, Chapter 1, § 322.3 is amended by renumbering paragraphs (b) through (e) as (c) through (f) and adding a new paragraph (b) as follows:

* * * * *

(b) The functions conferred upon the Director of the Federal Emergency Management Agency under Title 1 of the Defense Production Act of 1950, as amended, with respect to priorities and allocations for civil transportation services are hereby delegated to the Secretary of Transportation, subject to the limitations prescribed in this regulation.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

August 6, 1980.

[FR Doc. 80-24186 Filed 8-11-80; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Notice of change in catch rate.

SUMMARY: On June 13, 1980, final regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. Sections 971–971h), and implementing the provisions thereof, were filed with the Office of the Federal Register. Section 285.32(b)(1) of those final regulations provides that in the Northern Area, as defined in § 285.30(b)(2), "Vessels fishing for, catching or taking giant Atlantic bluefin tuna, which are registered in the General Category under § 285.21(b)(1), may catch only one giant Atlantic bluefin tuna per day per vessel. On or about August 7, the Assistant Administrator shall review dealer and buy-boat reports to determine the total catch of giant bluefin tuna. If the Assistant Administrator determines that 30 percent or more of the quota of giant bluefin tuna is caught, the allowable catch shall be continued at one giant bluefin tuna per day per vessel; if the Assistant Administrator determines that 17 or more percent and less than 30 percent of the quota has been caught, the allowable catch shall be increased to two giant bluefin tuna per day per vessel; if less than 17 percent has been caught the allowable catch shall be increased to three giant tuna per day per vessel."

This notice changes the allowable catch rate of giant Atlantic bluefin tuna in the General Category, Northern Area, from one (1) per day per vessel to two (2) per day per vessel.

EFFECTIVE DATE: 0001 hours e.d.t. August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930; telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Assistant Administrator has determined, based upon dealer and buy-boat landing reports, that the catch of giant Atlantic bluefin tuna in the General Category, Northern Area, is approximately 420 fish. As this number is 17 or more percent and less than 30 percent of the total quota, the daily catch rate of giant Atlantic bluefin tuna shall be increased from one (1) to two (2) fish per day per vessel at 0001 e.d.t. on August 11, 1980. This catch rate will remain in effect at least until September 7, 1980, when the Assistant Administrator shall reevaluate the catch rate, as prescribed by regulation. The change in the daily catch for giant Atlantic bluefin tuna does not apply to those vessels registered in the Charter or Harpoon Boat Categories in the Northern Area, or those vessels permitted to take giant Atlantic bluefin tuna in the Southern Area with gear other than purse seines.

Actual notice of this change in catch rate has been given to all vessel owners holding a valid vessel permit for this fishery.

(16 U.S.C. 971–971h)

Signed at Washington, D.C. this 7th day of August 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24342 Filed 8-7-80; 4:26 pm]

BILLING CODE 3510-22-M

---

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Correction of notice.

SUMMARY: On July 23, 1980, National Oceanic and Atmospheric Administration published a document entitled "Adjustment in Allowable Atlantic Surf Clam Fishing Time" in the Federal Register (45 FR 49084). That document erroneously carried the CFR notation of 50 CFR 651. This correction changes that notation to 50 CFR 652.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Denton R. Moore, Chief, Permits and Regulations Division, National Marine Fisheries Service, 3300 Whitehave Street, N.W., Washington, D.C. 20235, Telephone: (202) 634–7432.

Signed at Washington, D.C. this 7th day of August, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24344 Filed 8-11-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 45, No. 157

Tuesday, August 12, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 339, 432, 752, and 831

Qualification Requirements (Medical); Reduction in Grade and Removal Based on Unacceptable Performance; Adverse Actions; Retirement

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These regulations would implement recommendations resulting from the Office of Personnel Management's study of the disability retirement program and its study of the fitness-for-duty examination procedures.

DATE: Comments must be received by October 14, 1980.

ADDRESS: Send written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

—Part 339—Gay Gardner or Eugene Littleford, (202) 632–4634.
—Parts 432 and 752—Wilma L. Lehman or Cynthia Field, (202) 632–7778.
—Part 831—John Ray, (202) 632–4684 or Eugene Littleford, (202) 632–4634.
—Parts 339 and 831 (Medical Questions)—Dr. George Smith, (202) 632–5510.

SUPPLEMENTAL INFORMATION: Recent research and analysis by OPM has revealed a need for major changes in the medical aspects of the Federal personnel management program. Particular problems have resulted from agencies' authority to order medical examinations of employees and from the definition of "disability" as applied in awarding disability retirement or otherwise separating the employee for medical reasons. Copies of the Office's recent staff papers on fitness-for-duty and disability retirement were forwarded to personnel directors of Federal agencies for comment. The proposed regulations incorporate comments we received from these agencies. Copies of the staff papers are available from the Office of Pay and Benefits Policy, Office of Personnel Management, 1900 E. Street, N.W., Room 4351, Washington, D.C. 20415.

Extensive criticism has been levied at present policy regarding fitness-for-duty examinations. Currently, an agency may direct an employee to undergo a medical examination when the employee has a performance or conduct deficiency that *may* be health-related, as well as when the agency has information that the employee has a health problem. The agency may remove the employee for refusing to participate in the examination. Current regulations do not identify circumstances in which a mandatory medical examination is appropriate, and they inadequately protect employees' rights when an examination is ordered.

Weaknesses of present provisions identified by OPM research and analysis when a fitness-for-duty examination is ordered because of *possible* health problems include the following:

—Absence of review by a third party of the need for an examination when the employee believes the examination is unnecessary;
—Performance of psychiatric examinations in an adversarial setting and psychiatric evaluation based on only one interview with the employee;
—Translation of personaltiy clashes between employees and supervisors into ostensible mental health problems on the part of the employees;
—Indecision of agencies as to whether they should file a disability retirement application on the employee's behalf. Policy derived from court decisions and GAO opinions requires agencies to file a disability retirement application for an employee whose deficiency is believed to be related to a mental condition and who otherwise would qualify for disability retirement.

These problems are discussed more fully in OPM's staff paper on fitness-for-duty. Comments received from agencies in response to our staff paper have led us to propose an additional subpart in Part 339, Qualification Requirements (Medical), to set forth instances in which agencies will retain authority to order mandatory medical examinations. Except for those situations specified in the proposed regulations, medical examinations will be voluntary.

Although our staff paper emphasized that agencies would continue to be able to order medical exams for positions that have preestablished medical retention standards, some agencies were confused on this point. Concerns were also expressed about employees whose presence on the job, because of a possible health problem, poses an immediate danger to themselves, other employees, and/or the public, such as an employee who may be a carrier of a contagious disease. Agencies also expressed a strong interest in retaining authority to order medical exams where an employee is suspected of abusing sick leave. We are sympathetic to these concerns and agree that agencies should be able to order medical examinations where problems are based on an apparent health condition, rather than on a performance or conduct deficiency that may or may not be health-related. The proposed regulations provide for mandatory medical exams in the former kinds of situations.

The preferred option in the staff paper mentioned counselling of the employee who displayed a performance or conduct deficiency as an activity preliminary to a voluntary medical examination. It was the intention of OMP to thus offer agencies an additional tool to gather information needed to determine the prospective value of a medical examination in resolving the employee relations problem. It was not our intention to create an employee right to counselling when the agency did not anticipate that a medical examination would be of value. However, on reconsideration, OPM staff determined that the suggested counselling provision might well be interpreted in that manner. Therefore, it was determined to delete any reference to counselling from these regulations, and to approach the problem of how an agency may best collect information later in FPM guidance. On the other hand, Public Laws 91–616 and 92–255 have been interpreted to require agencies to offer counselling in cases of alcoholism or drug abuse. Information about these services may be obtained from Art Purvis, Employee Health Services Branch, Room 233K, Office of

Personnel Management, Washington, D.C. 20415, phone (202) 254–5720.

The OPM study of the disability retirement program also revealed the need for several reforms most of which were connected with the definition of disability. 5 U.S.C. 8331(6) defines "disabled" and "disability", as "totally disabled or total disability, respectively, for useful and efficient service in the grade or class of position last occupied by the employee or Member because of disease or injury not due to vicious habits, intemperance, or willful misconduct on his[her] part within 5 years before becoming so disabled." While OPM has in the past allowed disability retirement in cases where the applicant has been unable to perform only one of the several functions of his/her position, this interpretation is no longer considered appropriate under the statutory rule. Many employees, although by current definition disabled for their particular positions, could continue to be productively employed if certain accommodations could be made in their assigned duties or in the work environment, or if they could be reassigned to different positions. The Federal Government should not be deprived of the services of qualified, experienced employees simply because of a narrow interpretation of the term "disabled"; neither should employees be denied an opportunity to continue to function as productive members of society.

The statutory definition of "disability" refers to "disability . . . in the grade or class of position last occupied . . ." In the past, the OPM has interpreted this phrase to apply only to the position the employee actually occupies. A broader, more appropriate interpretation of this phrase would require the employee to be medically unqualified to fill all vacant positions for which he/she is otherwise qualified at the same pay and grade. We believe that the agency, in its attempt to reassign the employee, should avail itself of all the resources and alternatives that would be appropriate in the placement of a handicapped individual under the selective placement program. This would support Federal policies that require reasonable accommodation of a handicapped individual and encourage the retention of a partially disabled employee in a productive capacity. A disservice is done both to the employee and the Government when such an individual is not given the full opportunity to continue to use his or her skills in another position. There would be necessary exceptions where the employee's condition causes conduct deficiencies which are not directly related to performance but are otherwise unacceptable at the worksite, and where there are medical conditions that, because of health and safety factors, restrict the employee from the work-site or from performing critical elements of his/her position.

A demonstrated disability must begin with evidence that the employee's service (performance, conduct, or attendance) in his/her position is inadequate to merit his/her retention at that particular position or grade level. An inability to perform several minor functions of the position does not necessarily render the employee's service less than useful and efficient.

Once a qualifying service deficiency has been established, OPM must determine if this deficiency can be attributed to a medical condition from which the employee suffers. A direct relationship between the deficiency and the medical condition such that the medical condition has caused the deficiency is essential to a determination of disability. It is insufficient for the applicant to merely demonstrate that a medical condition exists. If the condition has not caused the service deficiency, then there is no "disability".

Also, in a recent court decision, *Moysey* v. *Andrus*, the Court found that there is nothing in the civil service retirement provisions of title 5, United States Code, that prohibits the reexamination of disability retirees age 60 and over, and that such reexaminations should be conducted upon the annuitants' requests so that the disability retirement provisions will be consistent with the Age Discrimination in Employment Act (Public Law 95–256, approved April 6, 1978). Therefore, the Office of Personnel Management will, upon request of a disability retiree who is at least 60 years old, reevaluate the retiree to determine if he or she is recovered from his or her disability or is restored to earning capacity. If a finding of recovery or restoration is made, the annuity of the retiree will terminate upon his or her reemployment in the Federal service or one year from the date of the finding of recovery or restoration, whichever occurs first.

Finally, we are also proposing supplemental changes to make Part 432, Reduction in Grade and Removal Based on Unacceptable Performance, and Part 752, Adverse Actions, compatible with the changes in Parts 339 and 831.

Office of Personnel Management
Beverly M. Jones,
Issuance System Manager.

Accordingly, OPM proposes to amend Title 5, Code of Federal Regulations, as follows:

(1) 5 CFR 339 is revised to read as follows:

Subpart A—Definitions and Medical Disqualifications

Sec.
339.101 Definitions.
339.102 Medical disqualifications.

Subpart B—[Reserved]

Subpart C—Mandatory Medical Examinations

339.301 Agency authority.
339.302 Examinations.
339.303 Records.

Subpart D—Fitness-for-Duty Examinations

339.401 Agency action.
339.402 Records.

Authority: 5 U.S.C. 3301; E.O. 9830, Feb. 24, 1947.

Subpart A—Definitions and Medical Disqualifications

§ 339.101 Definitions.

For the purposes of this part:

"Deficient service" and "service deficiency" means that which would, if continued, meet the standards for possible action under Parts 432 or 752 of this chapter.

"Examining physician" means a licensed Doctor of Medicine or Doctor of Osteopathy.

"Fitness-for-duty examination" means a voluntary medical examination which an agency may offer to an employee whose service is deficient when a question about the employee's health is raised either by the agency or by the employee as a possible cause of the deficiency.

"Mandatory medical examination" means an examination that an agency may order an employee to take, solely as provided by § 339.301 of this chapter.

"Medical condition" means health impairment which results from injury or disease, including psychiatric disease, but not including personality, character, or behavior disorders, which may affect an employee's ability to function on the job.

"Medical qualification requirement" is a state of health which is sufficient for selection for or retention in a position. Entrance requirements are the medical qualifications for selection or appointment. Retention requirements are the medical qualifications for retention in a position.

"Medically qualified" means that the individual has no medical or health

conditions which preclude satisfactory service in a position. When there are published medical standards for a position, the individual meets the standards either for selection or retention.

§339.102 Medical disqualifications.

Subject to Subpart C of Part 731 of this chapter, OPM may deny an applicant examination, deny an eligible appointment, and instruct an agency to remove an appointee by reason of physical or mental unfitness for the position for which he or she has applied or to which he or she has been appointed.

Subpart B—[Reserved]

Subpart C—Mandatory Medical Examinations

§ 339.301 Agency authority.

(a) An agency may order an employee to report for a mandatory medical examination

(1) Periodically when there are medical retention standards for the position in order to determine whether or not the individual is medically qualified for retention, and

(2) Whether or not there are published medical standards for the position, when the agency has no evidence that a service deficiency exists, but

(i) The employee furnishes evidence that he or she has a health impairment that will affect the employe's performance on the job, or

(ii) The agency has reason to believe that, because of a health impairment, the employee's presence on the job poses a clear and immediate danger to the employee, other employees, the public, or Government property.

(b) An agency may order an employee who has used extensive leave for health reasons, including an employee who is on leave-without-pay while receiving injury compensation payments under 5 U.S.C. chapter 81, to report for a mandatory medical examination in order to determine whether continuation on leave or return to limited or full duty is warranted.

§339.302 Examinations.

(a) When an agency orders a mandatory medical examination under § 339.301, it shall inform the employee in writing, or orally in the event of an emergency, of its reasons for ordering the examination and the consequences of his or her refusal to report for the examination. Refusal may be cause for removal under Part 752 of this chapter. To support such an action an agency must show that it had good cause to order the employee to take the mandatory medical examination and that the employee refused to do so.

(b) The agency shall designate the examining physician, but shall offer the employee an opportunity to submit medical information from his or her personal physician, which shall be considered by the agency.

(c) An agency shall not order an employee to undergo a psychiatric evaluation unless it has first ordered a non-psychiatric medical examination as provided in § 339.301 of this chapter and unless the examining physician, an agency managerial or supervisory official, and an agency personnel official agree, in the light of all available facts of the case, that a psychiatric evaluation appears necessary. Any psychiatric evaluation under this section must consist of more than one interview with the employee by a board-certified psychiatrist and must include psychological testing.

§ 339.303 Records.

Agencies shall maintain records of all actions taken under § 339.302 in accord with instructions provided in FPM Chapter 339.

Subpart D—Fitness-for-Duty Examinations

§ 339.401 Agency action.

(a)(1) When an employee has a service deficiency and when the employee submits or the agency otherwise obtains information regarding a health impairment which may be causing the service deficiency, the agency must offer the employee a fitness-for-duty examination if it believes that medical information would help identify alternatives to correct the service deficiency.

(2) An agency's offer of a fitness-for-duty examination does not free the agency from any obligation under Pub. L. 91–616 and Pub. L. 92–255 to provide counselling to employees with alcohol and drug abuse problems. When an agency offers a fitness-for-duty examination to an employee who may be eligible for disability retirement, it shall inform the employee of the requirements and his or her possible eligibility for disability retirement.

(b)(1) If the employee accepts the offer of a fitness-for-duty examination, the agency shall designate three to five possible examining physicians from which the employee shall choose one to conduct the examination.

(2) If the examining physician recommends, and the agency agrees, that examination by a specialist would be helpful, the agency shall offer the opportunity for further examination. The agency shall again designate a list of board-certified physicians from which the employee shall choose.

(3) No psychiatric evaluation shall be offered under this section unless the agency has first offered and the employee has taken a non-psychiatric medical examination under this subpart and unless the examining physician and the agency agree that a psychiatric evaluation would be helpful. Any psychiatric evaluation under this section must consist of more than one interview with the employee by a board-certified psychiatrist and must include psychological testing.

(4) Examinations under this section shall be conducted at the agency's expense.

§ 339.402 Records.

(a) Agencies shall maintain records of employees' medical examinations in accord with instructions of the Office of Personnel Management in FPM Chapter 339.

(b) Medical information gathered under the procedure set forth in § 339.401 may be used to identify possible alternatives to involuntary reduction in grade or removal based on performance or misconduct. This information shall not be used as a reason for any involuntary action against the employee under Parts 432, 752, or 831 of this chapter.

(2) § 831.502 is revised to read as follows:

§ 831.502 Disability retirement.

(a) *Definitions.* For the purposes of this part:

"Disabled" and "disability" means "totally disabled or total disability, respectively, for useful and efficient service in the grade or class of position last occupied . . . because of disease or injury not due to vicious habits, intemperance, or willful misconduct . . . within 5 years before becoming so disabled." (5 U.S.C. 8331(6)).

"In the grade or class of position last occupied" means the actual position last held by the employee or any other position in the same grade level or its equivalent under a different pay system within the same agency and competitive area where last employed for which the employee is qualified and to which a reassignment can be effected.

"Medical examination" means a medical examination that was made not more than 90 days before its receipt in the Office of Personnel Management.

"Useful and efficient service" means actual satisfactory service with respect to performance, conduct, and attendance, or the potential to perform

satisfactorily without detriment to the employee, his or her fellow workers, the public, or Government property, of as many of the essential functions of a position as would normally merit retention of the employee in his or her pay level or grade.

(b) *Prima facie case of disability.* A prima facie case of disability is agency documentation that specifically demonstrates the employee's failure to provide useful and efficient service in his or her current position, documentation of a medical condition which has caused the deficiency in service, and documentation of the agency's actions to place the employee in other positions at his or her grade or equivalent positions under a different pay system. While the application for disability retirement may be accompanied by a report of examination already made by a medical officer of the United States, or by other good and sufficient medical evidence, the Office of Personnel Management (OPM) may, at its sole discretion and expense, require further examination.

(c) *Reevaluation and reemployment.* (1) Each disability annuitant who is under 60 years of age shall be reevaluated annually under direction of OPM. A disability annuitant age 60 or over shall be reevaluated only on his or her own request. When OPM determines that the disability is likely to continue for a definite period of time, OPM may order a medical or other evaluation in any case at any time to determine the facts relative to the nature and degree of disability of a disability annuitant. When OPM determines that the disability is likely to be permanent, OPM will order further evaluation only when warranted and shall notify the annuitant accordingly.

(2) When an evaluation made in compliance with the direction of OPM shows that a disability annuitant has recovered, OPM shall discontinue the annuity at the expiration of 1 year from the date of the evaluation. When the disability annuitant is reemployed under a career, career conditional, SES career, or equivalent appointment by a department or agency within the 1 year, OPM shall discontinue the annuity from the date of reemployment.

(3) When a recovered disability annuitant is not reemployed in a position in which he/she is subject to Civil Service Retirement coverage, and based on current medical examination or other evaluation, OPM finds that he/she has again become disabled before becoming 62 years of age because the medical condition that occasioned the disability retirement has recurred, OPM shall reinstate his or her disability annuity, of the same type and at the rate last payable, from the date of the determination.

(4)(i) If otherwise qualified, a disability annuitant may be reemployed in any position for which he/she is medically qualified. Generally, these annuitants will be employed under conditions whereby their salaries and annuities will be governed by Subpart H of this part and 5 U.S.C. 8344. However, when the annuitant is reemployed in a permanent position covered by the Civil Service Retirement law, in the same grade or class of position or its equivalent under a different pay system from which he/she retired, the employing agency shall notify OPM of such reemployment, submitting with the notification evidence of the basis on which it found him or her qualified, along with supporting medical evidence. On the basis of this evidence, OPM may find the annuitant recovered from his or her disability as of the date of reemployment. The employing agency shall withhold civil service retirement deductions from the date of employment, and OPM shall suspend payment of annuity pending determination of recovery status.

(ii) If the annuitant is found recovered, his or her reconsideration right, as described in § 831.108 of this chapter, shall begin on the date of that finding or from the date he/she is once again, voluntarily or involuntarily, separated for disability, provided the separation occurs within one year of the date of reemployment.

(iii) If the annuitant is not found recovered, OPM shall notify the agency of that finding, and the annuitant's reemployment shall be considered subject to the provisions of Subpart H of this part. The retirement deductions withheld under the provisions of this paragraph will be refunded to the annuitant by OPM, and his or her annuity shall be reinstated.

(d) *Income limitation.* (1) Each disability annuitant who is under 60 years of age shall report to OPM, in a format acceptable to OPM, his or her annual income from wages or self-employment or both, for any period after retirement. If an annuitant fails to submit a report, OPM may suspend annuity payments until entitlement to continued annuity is satisfactorily established.

(2) When, in each of two succeeding calendar years, a disability annuitant has received income from wages or self-employment or both, equaling at least 80 percent of the current rate of pay of the position from which he/she retired, the annuitant's earning capacity is deemed restored and OPM shall continue the annuity at the expiration of 1 year from the end of the two-year period. When the disability annuitant is reemployed by a department or agency within the 1 year, OPM shall discontinue the annuity from the date of reemployment. OPM presumes receipt of income equaling at least 80 percent of the current rate of pay of the position from which the disability annuitant retired for any calendar year for which the disability annuitant fails to report his or her income.

(3) When a disability annuitant whose earning capacity has been restored,

(i) Is not reemployed in a position in which he/she is subject to Civil Service Retirement coverage;

(ii) Has not recovered from the disability for which retired; and

(iii) Has again lost his or her earning capacity, as determined by OPM, before becoming 62 years of age,

OPM shall reinstate his or her disabiliity annuity, of the same type and at the rate last payable, from the first of the year following the calendar year in which the earning capacity was lost. Earning capacity is deemed lost if during any complete calendar year the individual's income from wages or self-employment, or both, is less than 80 percent of the current rate of pay of the position from which he/she retired.

(e) *Effect of reinstatment of disability annuity.* Reinstatement of a disability annuity terminates, from reinstatement date, the right to any nondisability annuity which the annuitant may be receiving or entitled to receive, based on the same service, unless the annuitant elects in writing to retain instead the nondisability annuity. When the annuitant is employed in a department or ageny in a position not subject to Civil Service Retirement coverage, on the date of reinstatment of his or her disability annuity, OPM shall suspend payment of the annuity until he/she is separated from the service.

Authority: 5 U.S.C. 8347.

(3) Section 831.1203(a) is revised to read as follows:

§ 831.1203 Agency action.

(a) *Application.* When the agency has reason to believe an employee may be totally disabled within the meaning of paragraph (c)(1) of this section and satisfactory medical evidence is available, it may file an application for disability retirement on the employee's behalf, but it is not required to do so.

* * * * *

(5 U.S.C. 8347)

(4) Section 831.1206 is revised to read as follows:

§ 831.1206 Duty status.

An agency shall retain an employee in an active duty status until it receives the initial decision of the Associate Director for Compensation on an agency application for disability retirement, except that:

(a) The agency need not delay any personnel action which is otherwise appropriate under Part 432 or Part 752 of this chapter while the disability retirement application is pending before the Office of Personnel Management, and

(b) In accord with Part 630 of this chapter the agency, on the basis of a service deficiency and documented medical cause for the deficiency, may place an employee on leave with his or her consent, or without his or her consent. If the leave account of the employee is or becomes exhausted, any suspension or involuntary nonduty-nonpay status shall be effected in accord with applicable laws, Executive orders, and regulations. After receiving the decision of the Associate Director for Compensation, the agency shall not retain the employee solely for the purpose of exhausting unused sick leave.

* * * * *

(5 U.S.C. 8347)

(5) § 432.204(d) is added to read as follows:

§ 432.204 Procedures.

(d) *Health consideration.* (1) When the employee, or his or her representative, submits, or the agency otherwise obtains, information regarding a health impairment which may be causing the employee's unacceptable performance, the agency must offer a fitness-for-duty examination under § 339.401 of this chapter at or before the time it informs the employee that he or she is being given an opportunity to demonstrate acceptable performance under § 432.203(b) of this part.

(2) The agency may not require a fitness-for-duty examination under § 339.401 of this chapter.

(3) An agency will have fulfilled its obligation under this part to determine whether or not unacceptable performance is caused by a health impairment when it documents, as part of the record of the action, that the employee was given an opportunity to raise a possible health impairment which explains the unacceptable performance, and that the agency has complied with paragraph (d)(1) of this section.

(5 U.S.C. 4305)

(6) § 752.403(c) and § 752.403(d) are added, and § 752.404(f) is revised to read as follows:

§ 752.403 Standard for action.

* * * * *

(c) When an employee, or his or her representative, submits, or an agency otherwise obtains, information regarding a health impairment which may be causing a service deficiency, the agency may not take an adverse action against the employee unless it has offered a fitness-for-duty examination under § 339.401 of this chapter. If the employee refuses a fitness-for-duty examination, the agency shall base its action on the deficient service. An agency will have fulfilled its obligation under this part to determine whether a service deficiency is caused by a health impairment when it documents, as part of the record of the action, that the employee was given the opportunity to raise a possible health impairment which explains the service deficiency and that the agency complied with the requirements of this paragraph. This paragraph does not apply to:

(1) Actions based on refusal to participate in a mandatory medical examination required under § 339.301; or

(2) Actions taken under § 752.404(d).

(d) An agency may not take an adverse action based on an employee's refusal of a fitness-for-duty examination under § 339.401 of this chapter.

* * * * *

§ 752.404 Procedures.

* * * * *

(f) *Agency decisions.* (1) in arriving at its written decision, the agency shall consider only the reasons specified in the notice of propoise action and shall consider any answer of the employee and/or his or her representative made to a designated official, including any medical information, prior to the agency's decision.

(2) The agency shall deliver the notice of decision to the employee at or before the time the action will be effective. The notice shall tell the employee of his or her appeal rights.

(5 U.S.C. 7504, 7514)

[FR Doc. 80-24368 Filed 8-11-80; 8:45 am]

BILLING CODE 6325-01-M

---

5 CFR Part 930

Programs for Specific Positions and Examinations (Miscellaneous); Reinstatement of Administrative Law Judges (ALJ's)

AGENCY: Office of Personnel Management (OPM).

ACTION: Proposed rulemaking.

SUMMARY: OPM is proposing to revise the regulation on ALJs. This change would assure greater personnel mobility consistent with the objectives of the Civil Service Reform Act, and more easily attract and retain well-qualified ALJs.

COMMENT DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before October 14, 1980.

ADDRESS: Send or deliver written comments to the Director, Office of Administrative Law Judges, Office of Personnel Management, 1900 E Street, N.W., Room 2470, Washington, D.C., 20415. Comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judge Marvin H. Morse, 202-632-4604.

SUPPLEMENTARY INFORMATION: There have been a number of recent studies conducted of various phases of the ALJ program. On the basis of these studies we propose modifying and clarifying certain portions of the regulations pertaining to the ALJ program. The changes are also intended to make the program's regulations more equitable.

It is OPM's judgment that the ALJ program may often be best administered by having the Director, Office of Administrative Law Judges position encumbered by an ALJ. In order to attract and retain well-qualifed ALJs for this position, we feel it is essential that such persons be granted the opportunity to return without any restrictions to an ALJ position. OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM proposes to revise 5 CFR 930.207 to read as follows:

§ 930.207 Reinstatement.

(a) Except as provided in paragraph (b) of this section, an agency may reinstate a person who has served with absolute status as an administrative law judge under section 3105 of title 5, United States Code, only after:

(1) He/she has established his/her eligibility at the grade to which he/she is to be reinstated in accordance with requirements of Office of Personnel Management Announcement No. 318, or any revision or successor thereto, and

(2) He/she demonstrates that his/her experience satisfies all current qualifications requirements. Reinstatement is subject to investigation

by, and the prior approval of, the Office of Personnel Management.

(b) Any person who is or has been appointed directly from an administrative law judge position to the position of Director, Office of Administrative Law Judges, may at any time be reinstated to an administrative law judge position without regard to requirements set out in paragraph (a) of this section.

(5 U.S.C. 3105)

[FR Doc. 80-24397 Filed 8-11-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 431

[Amdt. No. 2]

Soybean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend two sections of the Soybean Crop Insurance Policy to prescribe procedures for allowing soybean crop insurance policyholders to replant acreage to soybeans under certain conditions and to become eligible for a replanting payment under certain conditions. This rule is promulgated under the authority of the Federal Crop Insurance Act, as amended, and is intended to provide a benefit to those insured producers who are faced with replanting acreage to soybeans.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1980, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978) to implement Executive Order No. 12044 (March 23, 1978) and has been classified as "not significant".

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Soybean Crop Insurance Regulations (7 CFR Part 431) as published in the **Federal Register** on Thursday, November 8, 1979 (44 FR 64786) and December 20, 1979 (44 FR 75374), effective with the 1981 crop year.

The purpose of the amendment is to allow growers of soybeans whose crops are insured by the Federal Crop Insurance Corporation to replant acreage with soybeans in the event that their original soybean crop is destroyed and be eligible for a replanting payment under certain conditions.

The replanting payment will indemnify growers who are faced with increased costs of production and possible lower yield due to the replanting.

The proposed amendment to the Soybean Crop Insurance Policy involves subsection (7), "Notice of Damage or Loss", and subsection (8) of the 7 CFR 431(d), and the Appendix (Additional Terms and Conditions).

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend 7 CFR 431(d) of the Soybean Crop Insurance Regulations and the Appendix at the end of such regulations, effective with the 1981 and succeeding crop years, as follows:

1. Sections 7 and 8 of the terms and conditions of the Soybean Crop Insurance Policy (7 CFR 431.7(d)), appearing at 44 FR 64786, are revised to read as follows:

§ 431.7 The application and policy.

* * * * *

(d) * * *

7. Notice of damage or loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if (1) after June 1 the insured wants the consent of the Corporation to replant acreage damaged by an insured cause(s) in order to qualify for the replanting payment and such acreage is at least 25 acres or 10% of the insured acreage on the unit, (2) during the period before harvest, the soybeans on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or (3) the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Consent to put acreage to another use (other than replanting to soybeans) shall not be given until it is too late or impractical to replant to soybeans. Notice shall also be given when such acreage has been replanted or put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire soybean crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Acreage upon which a replanting payment will be claimed shall be left intact until consent is given by the Corporation to replant.

(e) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(f) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of soybeans on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of soybeans on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of soybeans to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14 percent; and if, due to insurable causes, any soybeans do not grade No. 4 or better in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged soybeans (as determined by the Corporation) by the price per bushel of U.S. No. 2 soybeans and (ii) multiplying the result by the number of bushels of such soybeans. The applicable price for No. 2 soybeans shall be the local market price on the earlier of: The day the loss is adjusted or the day the damaged soybeans were sold.

(2) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before soybean harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, (iv) only the appraisal in excess of the lesser of 3 bushels or 20 percent of the production guarantee for all other unharvested acreage, and (v) the lesser of 3 bushels or 20% of the production guarantee for acreage on which a replanting payment has been made.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract.

However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of soybeans becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

(e) A replanting payment shall be applicable to any insured acreage replanted after June 1 upon which the Corporation has given consent to be replanted: *Provided,* That the acreage replanted is at least 25 acres or 10 percent of the insured acreage for the unit. *Provided, however,* no payment will be made on acreage (1) initially planted prior to the date determined as reasonable by the Corporation or (2) on which a prior replanting payment has been made during the current crop year. The amount per acre of such payment will be the lesser of 3 bushels or 20 percent of the production guarantee multiplied by the applicable price for computing indemities times the insured share: *Provided, further,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of replanting payment shall be computed on the insured acreage and share and then reduced proportionately.

(f) Any replanting payment will be considered as an indemity with respect to all provisions of the policy and appendix except sections 7 and 8 of the policy.

2. By inserting a new subsection 1(i) in the Appendix appearing at 44 F.R. 64792, to read as follows:

Appendix—Additional Terms and Conditions

1. Meaning of Terms.

(a) * * *

* * * * *

(i) "Replanting" means performing the agricultural practices necessary to replant insured acreage to the same crop.

3. By redesignating subsections (i), (j), and (k) of section 1 of the Appendix, appearing at 44 FR 64792, as follows:

1(i) is redesignated as 1(j)
1(j) is redesignated as 1(k)
1(k) is redesignated as 1(l)

(Sections 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A-40.

This action will not have a significant impact, specifically on area and community development; therefore, review as required by OMB Circular A-95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Dated: August 1, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 80-24189 Filed 8-11-80; 8:45 am]
BILLING CODE 3410-06-M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Proposed Minimum Size Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes a minimum size requirement of 1.82 inches in diameter for shipments of lemons grown in California and Arizona. This requirement is designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received not later than September 4, 1980. Proposed effective dates: September 21, 1980, through September 19, 1981.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Draft Impact Analysis relative to this proposed rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act. The proposed regulation would be issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed regulation was recommended by the Lemon Administrative Committee.

Shipments of lemons from the production area are now in progress, and such shipments are regulated by size through September 20, 1980, under Lemon Regulation 217, as amended (44 FR 69918). The proposed regulation, which would become effective September 21, 1980, would require shipments of lemons to be no smaller than 1.82 inches in diameter. The volume and size composition of the lemon crop in California and Arizona is such that ample supplies of the more desirable sizes are available to satisfy the demand in domestic fresh markets. The committee estimates that approximately 2-3% of the season's crop is smaller than 1.82 inches in diameter. The proposed regulation is designed to permit shipment of ample supplies of lemons of acceptable sizes, maturity, and juice content. Lemons which are smaller than 1.82 inches in diameter normally have negligible demand and sales opportunity, as they have relatively low juice yields. Lemons failing to meet this minimum size requirement could be shipped to fresh export markets, left on the trees to attain further growth, or utilized in processing. The proposed regulation is consistent with the

objective of the act of promoting orderly marketing in the interest of producers and consumers.

The proposed regulation reads as follows:

(a) From September 21, 1980, through September 19, 1981, no handler shall handle any lemons grown in District 1, District 2, or District 3 which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section, "handle", "handler", "District 1", "District 2", and "District 3" each shall have the same meaning as when used in said amended marketing agreement and order.

Dated: August 7, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 80-24345 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products Other Than Automobiles; Energy Efficiency Standards for Nine Types of Consumer Products; Notice of Opportunity for Further Comment

AGENCY: Department of Energy.

ACTION: Extension of written comment period on proposed rule.

SUMMARY: By this notice the Department of Energy is extending the written comment period to provide interested persons more time to submit written comments to assist the Department in developing energy efficiency standards for nine types of consumer products. The comment period was originally scheduled to close August 29, 1980 in response to a notice of proposed rulemaking published June 30, 1980 (45 FR 43976).

DATE: Comments by September 15, 1980.

ADDRESS: Comments on this document to: Carol A. Snipes, U.S. Department of Energy, Office of Hearings and Dockets, Room 1-F-085, CAS-RM-78-110, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-9319.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Mail Station G-H-068, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-9127.

SUPPLEMENTARY INFORMATION: Section 325 of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended by section 422 of the National Energy Conservation Policy Act (Pub. L. 95-619), requires that the Department of Energy (DOE) prescribe energy efficiency standards for nine types of consumer products no later than December 1980. The nine types of products include refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), kitchen ranges and ovens, central air conditoners, and furnaces. On June 30, 1980 (45 FR 43976) DOE published a notice of proposed rulemaking which solicited comments from interested persons to assist DOE in this undertaking. Comments were to be submitted to DOE by August 29, 1980.

Because some respondents have indicated a desire to have further opportunity to provide data, views and arguments in response to the notice, DOE has determined to provide interested persons an opportunity to submit further written comments in response to the notice by September 15, 1980.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation, "Energy Efficiency Standards for Consumer Products, CAS-RM-78-110." Fifteen copies should be submitted to the Office of Hearings and Dockets.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempted from public disclosure.

All comments received on or before September 15, 1980 will be considered by DOE in developing the final standards.

Issued in Washington, D.C., August 6, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80-24258 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212 and 214

[EDR-405A; Docket 37169; Dated: August 6, 1980]

Stranded Charter Passengers; Contracts; Comment Period Extended

AGENCY: Civil Aeronautics Board.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This action extends until September 25, 1980 the filing date for initial comments, and until October 10, 1980 for reply comments, in a rulemaking proceeding proposing to eliminate the clause in most charter contracts by which airlines exempt themselves from the obligation to return stranded charter passengers.

DATES: Comments by: September 25, 1980. Reply comments by: October 10, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 37169, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By EDR-405, 45 FR 46812, July 11, 1980, the Board proposed to prohibit direct carriers from including a *force majeure* clause in their charter contracts. The effect of this would be to shift the financial burden of returning stranded charter passengers from the charter operator to the direct carrier. The comment deadline was August 25, 1980. Reply comments were due September 9, 1980.

Transamerica Airlines, Inc., requested an extension of this period. It asked that comments not be due until the Board has ruled on its motion to consolidate this proceeding with Docket 34997 concerning consumer protection for members of scheduled service tour groups. Alternatively, Transamerica requested that the date for comments be extended to September 25, 1980.

In support of its request, Transamerica stated that "reasonableness requires that the dates for comments be stayed until the Board acts on its motion to consolidate." The basis for its alternative request was PS-88, 44 FR 65052, November 9, 1979, where the Board stated that it would usually allow at least 60 days for comments on its Notices of Proposed Rulemaking.

Upon consideration of the above, the undersigned finds that it is not necessary to await Board action on Transamerica's motion to consolidate before requiring comments in this proceeding. The Board has already tentatively concluded in EDR-405 that the problem of charter strandings warrants a rule directed specifically to that subject. It also, however, requested comments on whether the stranding problem on scheduled service was of a magnitude that would call for regulatory action directed at that mode as well. If comments should warrrant, the Board can consolidate Dockets 34997 and 37169 after comments on both have been received.

Because of the importance of the issues presented on this proceeding, there is good cause to allow a reasonable extension of time. Transamerica's alternate request is therefore granted. This will provide a comment period of 76 days.

Accordingly, under authority delegated in 14 CFR 385.20(d), the time for filing comments is extended to September 25, 1980 and the time for reply comments is extended to October 10, 1980.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

Richard B. Dyson,

Associate General Counsel.

[FR Doc 80-24353 Filed 8-11-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 732

Public Disclosure of Comments Received from Federal Agencies on the Indiana State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.D. Department of the Interior.

ACTION: Announcement of Public Disclosure of Comments on the Indiana Program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region III, 5th Floor, 46 E. Ohio Street, Indianapolis, Indiana 46204.

Office of Surface Mining, Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Division of Reclamation, Indiana Department of Natural Resources, 309 W. Washington St., Suite 201, Indianapolis, Indiana 46204.

FOR FURTHER INFORMATION CONTACT:

J. M. Furman, Assistant Regional Director, State & Federal Programs, Office of Surface Mining, 46 E. Ohio Street, Room 527, Indianapolis, Indiana 46204, Telephone (317) 269-2629.

or

Carl C. Close, Assistant Director, State & Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Indiana permanent regulatory program submitted by Indiana for his review on March 3, 1980. In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Indiana program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Indiana program:

Department of Agriculture
- USDA State Land Use Committee
- Soil Conservation Service
- Forest Service
- Farmers Home Administration
- Scientific and Educational Administration—Agricultural Research
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation
Council on Environmental Quality
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service (formerly Bureau of Reclamation)
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey
- Indiana River Basin Commission
- U.S. Army Corp of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Soil Conservation Service
- Forest Service

Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Council on Environmental Quality
U.S. Army Corps of Engineers
Department of the Interior
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

These comments are available for review and copying during business hours, at the locations listed above under "ADDRESSES".

Dated August 6, 1980.

Edgar A. Imhoff,

Regional Director, Office of Surface Mining.

[FR Doc. 80-24225 Filed 8-11-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Parts 884 and 926

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Extension of Review Period.

SUMMARY: The Director of OSM has extended for 30 days the period for agency review of the Montana Abandoned Mine Lands Reclamation Plan.

DATE: The review period is extended until September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Hugh Montgomery, Assistant Regional Director, AML Office of Surface Mining, U.S. Department of the Interior Brooks Tower 1020—15th Street, Denver, Colorado 80202, Telephone: (303) 837-5511.

SUPPLEMENTARY INFORMATION: On June 16, 1980, the State of Montana submitted to OSM its proposed Abandoned Mine Lands Reclamation Plan under the Surface Mining Control and Reclamation

Act of 1977 (SMCRA). Notice of Receipt

mean that Section 176 and 316 of the

regulations, provided the conditions and

operation procedures on the policy which

technical documentation that the

Act of 1977 (SMCRA). Notice of Receipt of the Montana Reclamation Plan was published in the **Federal Register** on June 20, 1980 (45 FR 41659). To insure prompt and expeditious review, OSM regulations require the Director to approve, disapprove or otherwise act upon a State reclamation plan within 60 days after it is submitted or after a State regulatory program is approved, whichever is later. 30 CFR 884.14. The Montana permanent regulatory program was approved April 1, 1980 (45 FR 19268). On July 28, 1980, the State of Montana requested a 30 day extension of the review period to consider comments received on the proposed reclamation plan.

The Director has determined that the request for a 30 day extension is reasonable and granting the request constitutes his "otherwise act[ing]" in accordance with 30 CFR 884.14(a). This Notice extends the review period to September 15, 1980, the first weekday after the 30th day following the original termination date for the review period. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 13, 1978).

The Department has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Dated August 5, 1980.

Walter N. Heine,

Director.

[FR Doc. 80-24224 Filed 8-11-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1565-6]

Proposed Schedules and Conditions to Correct Deficiencies in Maryland's Nonattainment Area Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: Elsewhere in today's **Federal Register**, EPA is approving in part the Maryland plan where there are deficiencies and the State had provided assurances that it will submit corrections. This notice solicits comments on deadlines for conditionally approved items and proposes EPA's conditional approval of portions of Maryland's plan. Conditional approvals mean that Section 176 and 316 of the Clean Air Act and new source growth restrictions will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the provisions are not approved by EPA.

DATE: Comments must be received on or before September 11, 1980.

ADDRESSES: All comments should be addressed to: James E. Sydnor, Chief (3AH11), DC, MD, VA Section, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: AH301MD.

Copies of the materials submitted by the State of Maryland are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Public Information Reference Unit. EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward A. Vollberg (3AH11), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597-8990.

SUPPLEMENTARY INFORMATION:

I. Conditional Approval of Maryland Regulations 10.18.04 and 10.18.05 Sections .06(H) Governing Preconstruction Review

Section 172(b)(6) and Section 173 of the Clean Air Act require that a preconstruction review procedure be incorporated into the Part D plans. These requirements for major new or modified sources are defined in Section 173. EPA in the notice of proposed rulemaking, 44 Fed. Reg. 45194, 1979, identified several deficiencies with the Maryland preconstruction review regulations. These were:

(1) The regulations did not provide for a review of sources undergoing modification. The State of Maryland has agreed that this was an omission and has developed proposed regulations to remedy the problem. Public hearings on the proposed regulations were held in August, 1979. Maryland submitted these as a formal State Implementation Plan (SIP) revision on December 10, 1979. Regulation 10.18.01.01(y), 10.18.04 and 10.18.05, Section .06, now include modification, meeting the requirement of Section 173. EPA is proposing to conditionally approve the new source regulations, provided the conditions and dates noted below are met.

(2) EPA noted in the notice of proposed rulemaking that the Maryland offset provision required continued further progress on an annual basis. The question arose as to the review of the impact of sources which would operate on a seasonal basis. Maryland stated that in the permit application review, the short-term emission rates and impacts would apply to the permit. EPA proposes to conditionally approve the new source regulation, provided that Maryland submits by September 1, 1980 a written commitment to examine and use the most restrictive emission rate.

(3) The Maryland regulations require a permit applicant to demonstrate that all major sources owned or operated by the applicant are in compliance or on a schedule for compliance with applicable emission standards. They do not require the same showing of sources owned or operated by any entity controlling, controlled by, or under common control with the applicant as required by Section 173(3) of the Clean Air Act. As a condition of the Part D approval published elsewhere in today's **Federal Register**, Maryland must take action to amend the new source regulations language to correct the noted omission. EPA proposes to approve the regulation if this is submitted as a formal SIP revision by December 31, 1980.

(4) EPA proposes to conditionally approve the new source provisions, provided that Maryland commit in writing by September 1, 1980 to submit all external offsets as SIP revisions.

II. Conditional Approval of Maryland Regulations 10.18.04(K)(10) and 10.18.05.04(K)(10) Governing the Use of Cutback Asphalt

Maryland Regulations 10.18.04 and 10.18.05 Section K(10(c) include a temperature exemption for use of cutback asphalt. A seasonal exemption was recommended by EPA, for ease of enforcement. In discussions with Maryland, the State indicated that it intends to use the temperature exemption and will enforce the regulation by means of the Maryland Highway Administration's responsibility to enforce the materials specification for highway use. Additionally the State of Maryland has informed us that the regulation will allow for some solvent to be present in the emulsified asphalts as represented by the specifications of the State Highway Administration. This intent will be clarified in a regulation amendment. EPA proposes to conditionally approve this regulation based upon the State submitting by December 31, 1980, documentation of the operation procedure or the policy which will form the basis of the enforcement of the regulation and an acceptable regulatory limit upon the solvent content in emulsified asphalts.

III. Conditional Approval of the Maryland Volatile Organic Compounds (VOC) Regulations 10.18.04 and 10.18.05 Section .04(K)

The following sections of Maryland's VOC regulations should include a test method for determining compliance with the requirement for 90 percent collection efficiency: K(2)(b)(ii)(bb), K(3)(b)(ii)(bb), K(5)(b)(ii)(bb), K(6)(b)(ii)(bb), and K(7)(b)(ii)(bb). An EPA memorandum dated November 15, 1979 outlining the VOC Test Methods for Procedures has been transmitted to the State of Maryland and should be used in the development of the State regulations to be incorporated into the SIP. EPA is proposing conditional approval of these regulations, on the condition that Maryland adopt appropriate test procedures by December 31, 1980.

IV. Conditional Approval of the Control Strategies to Attain the Standards for Total Suspended Particulates (TSP)

EPA proposes to conditionally approve the primary portion of the TSP plan submitted for the Metropolitan Baltimore area provided that:

(1) Maryland finalize the Bethlehem Steel Plan for compliance and submit it as a part of the iron and steel regulations by October 1, 1980.

Submittal of Public Comments

The public is invited to submit to the address stated above, comments on whether the schedules and conditions to rectify the deficiencies contained in the Maryland nonattainment plan are acceptable. All comments submitted on or before September 11, 1980; will be considered. Under Executive Order 12044, EPA is required to judge whether a regulations is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-7642)

Dated June 6, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc 80-24231 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1567-3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Withdrawal of Order as Proposed Revision; Disapproval of Orders as Proposed Revision.

SUMMARY: This action gives notice of withdrawal of proposed rulemaking on Illinois Pollution Control Board Order (PCB 78-41) issued to Cargill, Inc., and the disapproval by the U.S. Environmental Protection Agency (USEPA) of other Board Orders submitted to USEPA as proposed SIP revisions. The Orders disapproved as SIP revisions are PCB 76-124, issued to Granite City Steel, Division of National Steel Corp.; and PCB 76-242 which included settlement provisions of *IEPA and Citizens for a Better Environment v. Interlake, Inc.*, and *United States v. Interlake, Inc.* No. 76 C 3599.

FOR FURTHER INFORMATION CONTACT:

Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6029.

SUPPLEMENTARY INFORMATION:

I. Background

On April 3, 1979, the Illinois Environmental Protection Agency (IEPA) submitted certain variances and orders containing compliance schedules which extended beyond June 30, 1979, to USEPA as revisions to the Illinois State Implementation Plan (SIP). Copies of these variances and orders were contained in Volume 8 of the April 1, 1979 draft of the Illinois SIP submitted to USEPA April 3, 1979. The orders and variances, which were the subject of a notice proposed rulemaking published January 22, 1980 at 45 FR 4365, are as follows: PCB 76-124—*IEPA v. Granite City Steel Division of National Steel Corporation;* PCB 78-41—*IEPA v. Cargill, Inc.;* PCB 76-242—*IEPA and Citizens for a Better Environment v. Interlake, Inc.* (*U.S. v. Interlake, Inc.* No. 76 C 3599); No. S-CIV-76-0141—*U.S. v. City of Springfield* (*City of Springfield v. Illinois Pollution Control Board,* No. 13748); PCB 78-210—*PPG Industries, Inc. v. IEPA*; PCB 77-145—*Central Illinois Public Service Company* (*Newton Station*) *v. IEPA.*

In the January 22, 1980 **Federal Register** notice USEPA proposed to disapprove these variances and orders as SIP revisions because they lacked technical documentation that the proposed SIP revisions would protect the National Ambient Air Quality Standards (NAAQS).

Comments

1. PCB 78-41, *IEPA v. Cargill, Inc.*

Comment submitted on behalf of Cargill, Inc. stated that PCB 78-41, issued to Cargill, Inc., was issued solely for odor control and thus should not have been submitted to USEPA as a SIP revision. IEPA concurred in Cargill's assessment of the Order and withdrew the Order as a proposed SIP revision in a letter dated March 24, 1980.

USEPA Response

USEPA is withdrawing the Notice of Proposed Rulemaking of January 22, 1980 at 45 FR 4365 insofar as it pertains to PCB 78-41 issued to Cargill, Inc.

2. PCB 76-242, *IEPA and Citizens for a Better Environment v. Interlake, Inc., U.S. v. Interlake, Inc., No. 76c3599.*

Counsel for Interlake, Inc. submitted comments objecting to USEPA's proposed disapproval and urging approval because (a) "there is no showing that it will interfere with attainment and maintenance of air quality standards in the Chicago Metropolitan Area"; (b) "* * * it is Interlake's position that the 1977 Amendments to the Clean Air Act extended the date for attainment of the National Air Quality Standards until December 31, 1982"; and (c) "the variance which requires compliance prior to that time is legal under the Clean Air Act."

USEPA Response

Interlake's contention that the 1977 Amendments to the Clean Air Act extended the date for attainment of the NAAQS until December 31, 1982, is contrary to USEPA's interpretation of the Amendments. See General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20372, 20373, April 4, 1979. As stated by Congressman Rogers in discussing the 1977 Amendments:

Section 110 (a)(2) of the Act made clear that each source has to meet its emission limits as 'expeditiously as practicable' but not later than three years after the approval of the plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring preciously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part

D. (123 Cong. Rec. H 11950, daily ed. November 1, 1979).

Interlake's statement that "there is no showing" that the proposed SIP revision will not protect the NAAQS is previsely why USEPA must disapprove the proposed SIP revision. When a State proposes to revise its implementation plan, the burden is on the State to submit technical information which demonstrates that the revision will not interfere with attainment and maintenance of the NAAQS.

Section 110 (a)(3)(A) of the Clean Air Act provides for approval of SIP revisions by the Administrator if the revision "meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings." Paragraph (2) refers to Section 110 (a)(2) which requires in subparagraph (B) that the revision contain emission limitations "* * * and such other measures as may be necessary to insure attainment of such primary or secondary standard * * *"

PCB 76-242 did not include any technical documentation that the "measures" included in the Order would "insure attainment" of the primary and secondary standards. Without such documentation USEPA must disapprove the proposed SIP revision.

3. PCB 76-124—*IEPA v. Granite City Steel Division of National Steel Corp.* No comments were received regarding USEPA's proposed disapproval of PCB 76-124. Thus USEPA is following its proposed action and disapproving as a SIP revision Order PCB 76-124 issued to Granite City Steel Division of National Steel Corp.

PCB 78-210—PPG Industries, Inc. v. IEPA; PCB 77-145—Central Illinois Public Service Co. (Newton Station v. IEPA; No. S-CIV 78-0141 U.S. v. City of Springfield v. Illinois Pollution Control Board, No. 13748.

Comments were received from the State and certain of the above sources which included technical information in support of the proposed revisions for PPG industries, Central Illinois Public Service Co. (Newton Station) and City of Springfield, Illinois. USEPA will address these comments and the adequacy of the technical information in supplemental notices of proposed rulemaking to be published shortly.

The disapproval of PCB 76-242, *IEPA and Citizens for a Better Environment v. Interlake, Inc., U.S. v. Interlake, Inc.*, No. 76c3589 and PCB 76-124—*IEPA v. Granite City Steel Division of National Steel Corp.* as SIP revisions is pursuant to 42 USC 7410 (a)(2) and (3).

Dated: August 5, 1980.

Douglas Costle,

Administrator.

[FR Doc. 80-24381 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 51

Project Grants to States for Hypertension Control Services; Proposed Rulemaking

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposals for implementing the program of project grants to States for hypertension control services under section 317(a)(1) of the Public Health Service Act, as amended by Public Law 95-626. The proposed regulation sets forth criteria for evaluating grant applications, and the service and administrative requirements which must be met by hypertension project grantees. Interested parties are invited to submit written comments and recommendations concerning these proposals, as well as suggestions for alternative methods for implementing the program. After consideration of the material received in response to this notice, the Secretary of Health and Human Services will issue final regulations.

DATE: Comments must be received by October 14, 1980.

ADDRESS: Written comments, preferably in triplicate, should be sent to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6-40, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received in timely response to this notice will be considered and will be available for public inspection in that office on weekdays (except Federal holidays) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. James Purvis, Office of Primary Care, Bureau of Community Health Services, Room 7A-39, 5600 Fishers Lane, Rockville, Maryland 20857 301-443-2270.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services proposes to issue a regulation to implement section 317(a)(1) of the Public Health Service (PHS) Act (42 U.S.C. 247b) as enacted by section 202 of Public Law 95-626. The statute states: "The Secretary may make project grants to State health authorities to assist them in meeting the costs of establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and followup on compliance with treatment prescribed for, hypertension."

Effective October 1, 1979 section 317(a)(1) replaced section 314(d)(7)(B) of the PHS Act, which had authorized the Secretary to award formula grants to establish and maintain hypertension service programs. The legislative intent in replacing the formula grant authority with a project grant authority was to increase the effectiveness of hypertension control programs by providing mechanisms which would assure greater accountability for funds.

The proposed regulation sets forth requirements which would apply to grants awarded under section 317(a)(1), and includes proposed service and administrative requirements for project grantees and the criteria for evaluating grant applications. The issues raised by the statute and the Department's proposed approaches for resolving them are as follows:

1. Grant Award Funding Method

The most significant issue raised by the statutory changes is determination of the funding method to be used to implement the awarding of grants. The legislative history supporting the change from the formula grant authority to a project grant program states in part:

"Notwithstanding the small authorization for this program, it appears to be achieving some measure of success in a number of States * * *. The Committee believes however, that automatic formula grants to all States may not be the most efficient way to target limited available resources at the problem of hypertenstion. In addition, the Committee recognizes a need for better data on the use and effectiveness of such funds in supporting these State programs. Beginning in fiscal year 1980 * * * the hypertension program would become one of project grants to the States rather than the current formula grants. The major effect of the change would be the requirement for an application from the States delineating how hypertension funds would be used, the distribution of funds based on the need and adequacy of the programs proposed, and an improved accounting of the effectiveness of funds appropriated for hypertension programs." House Report 95-1191, 95th Congress, Second Session, 39-40. (1978) (Committee on Interstate and Foreign Commerce).

Thus, the legislative history supports several approaches to funding the hypertension program. The Department considered two approaches to the funding issue: (a) institute an openly competitive program which would ensure funding for the States which submit the best applications, with the possible result that some programs might be defunded; or (b) design a program which would authorize the award of funds to each approvable State applicant based on previously awarded amounts, with only the remaining available funds awarded on a strictly competitive basis.

The Department proposes to select the first approach. (*See,* proposed § 51.306.) States would have the opportunity to compete for funds to support basic programs and special activities designed to enhance the availability and effectiveness of services for high-risk populations. Funds would be awarded based on the Secretary's consideration of factors such as the project's relative need, demonstrated effectiveness, and proposed additional activities. Although this approach could result in defunding of some hypertension control programs, it would offer an incentive to the States to improve their program operations and it would provide maximum assistance to those best able to use the funds for the purposes stated in the statute.

2. Program and Fiscal Accountability

Because the legislative history clearly indicates congressional intent to increase program accountability, the proposed regulation contains provisions for assessment of an applicant's previous and proposed performance levels (*see,* proposed § 51.305(i)). Project grantees would be required to operate at a satisfactory level of productivity, evaluated by consideration of such factors as the actual or proposed distribution and management of funds and the percentage of the population estimated to be at high-risk for hypertension being served or proposed to be served. The Department considered inclusion of specific, quantified program effectiveness and administrative efficiency indicators. However, due to the Department's limited experience in applying specific indicators to hypertension control programs, the Secretary believes it would be more appropriate to address the use of detailed productivity indicators in program guidance material. The Secretary invites public comment relevant to these evaluation factors and is interested in views regarding additional or more specific indicators of effectiveness and efficiency.

Section 317(b) of the Act contains a number of administrative requirements directed toward improving program accountability, i.e., requirements regarding fiscal control, fund accounting procedures, evaluations, records, reports and payments. Because the statute is specific in this regard, the Department proposes to incorporate these requirements by reference in the proposed regulation (*See,* proposed § 51.304(a)(3)).

The proposed rule also specifies the following means for achieving greater fiscal accountability: (a) applicants must describe in detail how hypertension funds are to be used and how the project will coordinate its services with other providers engaged in hypertension control (*See,* proposed § 51.304(a)); (b) the Secretary, in evaluating an application, will consider the applicant's administrative ability and the project's productivity (*See,* proposed § 51.306); and (c) grantees must establish systems to collect specific data regarding awarded funds (*See,* proposed § 51.305(e)).

The proposed requirements for recordkeeping and reporting will be subject to clearance by the Office of Management and Budget before being imposed in a final regulation.

3. Scope of the Program

A. Although these activities are not mentioned in the statute, the Department proposes to permit use of hypertension program funds for limited studies and short-term training in order to enhance the ability of States to implement cost-effective hypertension programs and increase the availability and accessibility of services to high-risk populations (*see,* proposed § 51.307(b)). States could make studies to determine the prevalence and location of the hypertensive population; and could sponsor short-term training for personnel in the provision of hypertension control services.

B. Because the statute allows grants to be made only to State health authorities, the Department proposes to require that hypertension control programs be statewide in scope (*See,* proposed § 51.305(a)), with services available to all residents of a State (*See,* proposed § 51.305(b)). However, because of the need to set priorities for use of limited resources, it is proposed to require also that services be targeted to populations at high-risk for hypertension (*see,* proposed § 51.305(f)).

4. Interagency Coordination

The National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health, is considered the lead agency with respect to Public Health Service hypertension control activities. The Health Services Administration has collaborated actively with the NHLBI, principally with their National High Blood Pressure Education Program and other components of the Institute having responsibility for hypertension control. This collaboration has provided important support for hypertension programming and has resulted in a concerted interagency effort.

The Secretary proposes to add a new Subpart C to 42 CFR Part 51 as set forth below.

Dated: May 9, 1980.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: July 14, 1980.

Patricia Roberts Harris,

Secretary.

PART 51—GRANTS TO STATES FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

Subpart C—Project Grants to States for Hypertension Control Services

Sec.

51.301 What is the scope and purpose of these regulations?
51.302 Definitions.
51.303 Who is eligible to apply for a project grant for hypertension control services?
51.304 How does a State health authority apply for a project grant for hypertension control services?
51.305 What requirements must be met by a hypertension project grantee?
51.306 How will the Secretary determine which applications for grants under this subpart to fund?
51.307 For what purposes may grant funds be used?
51.308 What additional information should an applicant or grantee have about a project grant for hypertension control services?

Authority: Section 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216). Section 317(a)(1), Public Health Service Act (42 U.S.C. 247b(a)(1)).

Subpart C—Project Grants to States for Hypertension Control Services

§ 51.301 What is the scope and purpose of these regulations?

The regulations of this subpart apply to all project grants for hypertension control services authorized by section 317(a)(1) of the Public Health Service Act (42 U.S.C. 247b(a)(1)). The purpose of these grants is to assist State health authorities in meeting the costs of establishing and maintaining programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and followup on compliance with treatment prescribed for, hypertension.

§ 51.302 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act.

"Secretary" means the Secretary of Health and Human Services or any officer or employee to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Marianas or the Trust Territory of the Pacific Islands.

§ 51.303 Who is eligible to apply for a project grant for hypertension control services?

Any State health authority is eligible to apply for a grant under this subpart.

§ 51.304 How does a State health authority apply for a project grant for hypertension control services?

(a) An application for a grant under this subpart must be submitted at the time and in the manner required by the Secretary. The application must provide:

(1) A complete description of the type and extent of the program for which the applicant is seeking a grant under this subpart, including a budget and narrative description of the high-risk populations in the State, the goals of the program, and how the applicant proposes to meet the requirements of this subpart;

(2) A description of the mechanism used or to be used to assure coordination of the grantee's program activities with the activities of other public and private agencies involved in hypertension control in the State; and

(3) The assurances and information required by section 317(b) of the Act.

(b) The application must be submitted by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the statute, these regulations, and any additional conditions of the grant.

§ 51.305 What requirements must be met by a hypertension project grantee?

A grantee under this subpart must operate directly or indirectly a statewide hypertension control program which:

(a) Provides for screening for, the detection, diagnosis, prevention (including education and promotion), and referral for treatment of, and followup on compliance with treatment prescribed for, hypertension.

(b) Makes available the full range of hypertension control services described in paragraph (a) of this section to all residents of the State, as appropriate, in a manner which will assure continuity of service.

(c) Is operated in a manner designed to preserve human dignity, and maximize acceptability and use of project services.

(d) Implements a system for maintaining the confidentiality of patient records as required by § 51.308(a).

(e) Establishes basic statistical data, cost accounting, management information, and reporting or monitoring systems which enable the grantee to provide the statistics and other information which may be required by the Secretary.

(f) Establishes a means for review and evaluation annually of the progress of the program to achieve a more effective hypertension control program, including targeting of services to high-risk population groups in the State.

(g) To the extent possible, coordinates and integrates project activities with the activities of other Federal and State-supported hypertension control programs as well as public an private agencies providing hypertension control services.

(h) Participates in the National Public Health Program Reporting System.

(i) Operates at a level of productivity satisfactory to the Secretary, taking into consideration:

(1) The effective use of grant funds;

(2) The number of persons estimated to be at high-risk for hypertension;

(3) The total number of persons who have received the services described in paragraph (a) of this section;

(4) The number of persons in high-risk population groups who have received the services described in paragraph (a) of this section; and

(5) The geographic, social, and cultural barriers to care.

§ 51.306 How will the Secretary determine which applications for grants under this subpart to fund?

(a) Subject to the availability of funds, the Secretary may award grants under this subpart to eligible applicants which will, in the Secretary's judgment, best promote the purposes of section 317(a)(1) of the Act, taking into account:

(1) The relative need of each applicant;

(2) The relative ability of the applicant to meet the requirements of § 51.305;

(3) The relative administrative and management capability of the applicant;

(4) The comprehensiveness and soundness of the proposed objectives, scope and organization of the program;

(5) The adequacy of plans for coordination with other programs and resources;

(6) The adequacy of plans for reporting and evaluation;

(7) The demonstrated productivity, efficiency, and effectiveness of the program;

(8) Proposals to undertake and evaluate additional activities, such as:

(i) Development of innovative methods for delivering the services described in § 51.305(a), e.g., demonstration of new screening or followup procedures, or ways to improve access to, or acceptability of, services;

(ii) Limited studies, as approved by the Secretary, to identify and locate high-risk population groups; and

(iii) Provision of the services described in § 51.305(a) to population groups which have unique problems of access to these services.

(b) *Length of support.* (1) The notice of grant award specifies how long HEW intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 2 years.

(2) Generally the grant will initially be for 1 year and subsequent continuation awards will also be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HEW that continued funding is in the best interest of the government.

(3) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 51.307 For what purposes may grant funds by used?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, the terms and conditions of the grant award, applicable cost principles specified by Subpart Q of 45 CFR Part 74, and the regulations of this subpart.

(b) In addition to the purposes specified in the authorizing legislation, funds awarded under this subpart may be used to meet the costs of short-term training of personnel within the program to provide effective hypertension control services and to meet the costs of conducting limited studies to determine the prevalence and location of the hypertensive population, as determined by the Secretary to be appropriate, taking into account the need for the studies and the training and the feasibility of providing them within the limitation of funds available.

(c) Funds awarded under this subpart may *not* be used to meet the costs of:

(1) Providing treatment services;

(2) Conducting research, except as described in the preceding paragraph;

(3) Construction; or

(4) Acquisition of land or buildings.

§ 51.308 What additional information should an applicant or grantee have about a project grant for hypertension control services?

(a) *Confidentiality.* (1) Except as set forth in paragraph (b)(2) of this section, each recipient of a grant under this subpart must hold confidential all information obtained by its personnel about participants in the project related to their examination and care and may not divulge it without the individual's authorization, unless it is required by law or is necessary to provide service to the individual or in compelling circumstances to protect the health or safety of an individual.

(2) Information may be disclosed in summary, statistical, or other form which does not identify particular individuals. Information may be disclosed, whether or not authorized by the participants, to the Secretary or the Comptroller General if it is necessary for the performance of their duties under the Act. Records pertaining to project participants may be disclosed, whether or not authorized by the participants, to qualified personnel for the purpose of conducting scientific research, but these personnel may not identify, directly or indirectly, any individual participant in any report of the research or otherwise disclose participant identities in any manner.

(b) *Other HHS regulations that apply.* Several other regulations apply to grants under this subpart. These include but are not limited to:

42 CFR Part 50—PHS grant appeals process.
42 CFR Part 122, Subpart E—Health Systems Agency reviews of certain proposed uses of Federal health funds.
45 CFR Part 16—Department grant appeals process.
45 CFR Part 74—Administration of grants.
45 CFR Part 75—Informal grant appeals procedures (indirect costs rates, and other cost allocations).
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services' implementation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and procedure for hearings under Part 80.
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs receiving or benefiting from Federal financial assistance.
45 CFR Part 90—Nondiscrimination on the basis of age in programs or activities receiving Federal assistance.

(c) *Additional conditions.* The Secretary may with respect to any grant under this subpart impose additional conditions prior to or at the time of any award when in the judgment of the Secretary additional conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.

[FR Doc. 80-24133 Filed 8-11-80; 8:45 am]
BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Establishment of Manatee Protection Areas in Kings Bay, Crystal River, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: On February 6, 1980, the Fish and Wildlife Service published a Notice of Intent to Establish Permanently a Manatee Protection Area in Kings Bay, Crystal River, Florida (45 FR 8675). The purpose of this action was to prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. This action was taken under the authority of the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and 50 CFR 17.103, and follows the emergency establishment of a manatee refuge, in the same area, effective January 11, 1980. The emergency action which was taken to provide temporary protection from harassment during the 1979–80 winter season has now expired. The Service proposed to establish three permanent manatee sanctuaries in Kings Bay. All waterborne activities would be prohibited in these sanctuaries during the period November 15 through March 31 of each year.

DATES: Comments from the public must be received by September 12, 1980. Comments from the Governor of Florida must be received by , 1980. A public meeting will be held for the purpose of making comments on the permanent establishment of three manatee sanctuaries in Kings Bay, Crystal River, Florida. The meeting will be held at 7:30 p.m. on August 26, 1980 at Crystal River City–County Building, Citrus County, Florida. Comments may be made at that time, as well as questions asked of Service representatives who will be present.

ADDRESSES: Written comments regarding the permanent establishment of the three manatee sanctuaries are welcomed. Submit comments to Area Manager, Area Office, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202. Comments and materials received will be available for public inspection during normal business hours at the Service's Jacksonville Area Office.

FOR FURTHER INFORMATION CONTACT: Jim Baker, Area Office, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202, 904/791–2267, or, Robert R. Prather, Senior Resident Agent, U.S. Fish and Wildlife Service, 2639 N. Monroe Street, Box 56, Tallahassee, Florida 32303, 904/386–8079.

SUPPLEMENTARY INFORMATION: The West Indian manatee (*Trichechus manatus*) is a protected marine mammal which is also listed as an endangered species. In the winter months the manatee is dependent upon warm water sources for survival during periods when cold water temperatures prevail in the surrounding environment. The headwaters of Crystal River in Kings Bay, Citrus County, Florida, is one of only six natural warm water refuges used by West Indian manatees during the winter months. Over 100 over individual manatees have been known to use this area in recent years. The total population of manatees in Florida is estimated to be approximately 1,000 animals. Kings Bay has been developed extensively for residential and recreational use. Boating activity is heavy and the area is known internationally by divers and underwater photographers. Use of the area by divers, including snorkelers, is increasing at a rapid rate. It has been estimated that diving activity has doubled during the past winter as compared to the previous winters. Four dive shops are supported by this activity. Some of these shops actively promote contact with manatees by divers and use the manatees as an attraction for their business.

One of the main attractions to divers and photograhers, in addition to the clear warm waters around the underwater springs, is the presence of manatees. Some manatees have become conditioned to accept the presence of divers and will actually seek out contact with them. This behavior does not however, extend to the entire manatee population. Most of the animals tend to leave areas associated with human activity. The manatees are sought after

by boaters, swimmers and divers wherever they are located. They have virtually no area in the vicinity of the warm water springs where they are totally free from disturbance. This activity is probably not intended to harm the manatees, but it does involve the danger of taking manatees, within the meaning of the term "take" as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and regulations promulgated under each.

On October 22, 1979 (44 FR 60962), the Service promulgated regulations (50 CFR 17.100–17.108) providing a means for establishing manatee protection areas. Under 17.103 the Director may establish manatee protection areas "whenever there is substantial evidence that there is imminent danger of a taking of one or more manatees, and that such action is necessary to prevent such taking."

The term "take" (i.e., taking) is defined by the Endangered Species Act of 1973 (16 U.S.C. 1532(19)) as meaning to "harass, harm, pursuse, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct."

The term "take" is similarly defined in the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(13)) as meaning "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." The Act also defines the term "marine mammal" to include all members of the order Sirenia, which includes the West Indian manatee.

The terms "harass" and "harm" are further defined in regulations promulgated under the Endangered Species Act of 1973, 50 CFR 17.3, as follows:

"Harass" in the definition of "take" in the Act means an intentional or negligent act or omission which creates the likehood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering;

"Harm" in the definition of "take" in the Act means an act or omission which actually injures or kills wildlife, including acts which annoy it to such an extent as to significantly disrupt essential behavioral patterns, which include, but are not limited to breeding, feeding or sheltering; * * *.

The term "take" is defined in regulations promulgated under the Marine Mammal Protection Act of 1972, 50 CFR 18.3, to mean: to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal, including, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; . . . or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal.

As noted above, under 50 CFR 17.103, the Director may establish manatee protection areas whenever there is substantial evidence showing establishment is necessary to prevent the taking of one or more manatees. This includes a showing that such action is necessary in order to prevent the harassment of manatees. Observations made by Fish and Wildlife Service personnel and by researchers outside the Service have shown that manatees are being harassed to such an extent that their normal use of the warm water areas around the springs at the headwaters of Crystal River is being disrupted. This disturbance is caused by all forms of waterborne activity, including boating, swimming and diving (both SCUBA and snorkle diving). This disruption is affecting their normal sheltering behavior and may directly affect their breeding and calf-rearing activities. It may also directly affect their well-being by forcing them to use colder waters during critical periods, subjecting them to cold-related stress and disease. Such human activity involves imminent danger of a taking, or the actual taking of one or more manatees as the term "take" is variously defined.

The effectiveness of a manatee sanctuary has been observed in the emergency manatee refuge adjacent to Warden Key which was established during the winter of 1979–80 (45 FR 8675). Groups of manatees outside of the refuge have been observed by Service personnel moving through the unprotected areas as they were being followed or pursued by divers. Upon approaching the boundary of the refuge the divers stopped their pursuit and the manatees escaped from further harassment. Distribution data compiled from aerial surveys indicate that manatees increased their use of the sanctuary as compared to previous years. However, the lack of a warm water source within this area seriously limits its effectiveness during cold weather periods. For this reason, the Warden Key area has been dropped from consideration as a permanent manatee sanctuary.

The proposed manatee sanctuary adjacent to the south side of Banana Island, Kings Bay, Crystal River, is of critical importance to the maintenance of a healthy population of manatees in Kings Bay. It is immediately adjacent to the main spring and includes a large secondary warm water spring. It is a shallow water area containing an abundance of preferred manatee food plants. The area is frequented by divers and boaters seeking manatees. Divers anchor their boats in the proposed sanctuary area and swim to the main spring to dive. A floating diving platform is also adjacent to the proposed sanctuary from which divers enter the water. SCUBA diving classes are conducted on and around this platform and checkout dives are made in the main spring. The proposed sanctuary will not include areas essential for the continuation of these diving activities such as the main spring. When divers, swimmers and boaters enter the main spring area, most of the manatees leave. The proposed sanctuary is one of the first areas to which they retreat.

The proposed manatee sanctuary is primarily a shallow water area except for the relatively large secondary spring. It is believed that most of the manatees' needs will be met in this proposed sanctuary. They will be left unmolested in a warm water area where limited, but preferred, food plants and adequate space are available. In addition, diving activity in the main spring will continue much as in the past and divers will still have an opportunity to observe and interact with the individual tame manatees which choose to stay in this area. It is recognized that such co-existence is essential to the survival of manatees in the rapidly developing coastal environment.

The second proposed sanctuary is located directly south of the main spring south of Banana Island and is immediately adjacent to the Sunset Shores subdivision, Crystal River. It includes at least three known secondary warm water springs. This shallow water area is frequented by divers seeking manatees. Divers also enter the area by motorboat and anchor there. Manatees have been observed to retreat to this area from the main spring when disturbance by divers reaches an intolerable level. All but the most tolerant manatees are forced out of the spring area by intensive waterborne activities and are therefore deprived of the use of this natural warm water refuge. Designation of this area as well as the Banana Island site as a manatee sanctuary, prohibiting all waterborne activity during the winter months, is expected to be beneficial to divers as well as the manatees. It will enable more manatees to remain in the vicinity

of the main spring near Banana Island, which will enhance the opportunities for divers to see them. There are no diver instruction activities conducted in this proposed sanctuary; however, several private residents require access to their property by boat through the proposed area. Provisions for such access by the residents is provided in the proposed rulemaking.

The two proposed manatee sanctuaries at Banana Island and Sunset Shores will be designated by posting with signs and a floating line of sealed plastic (PVC) pipe sections. Openings will be provided in the Sunset Shores sanctuary to allow the entry of boats for access by residents. Both sanctuaries will have provisions for access by emergency and law enforcement boats.

The third proposed manatee sanctuary is located in a section of canal within the Springs O'Paradise subdivision in Crystal River. This section of canal is part of a network of man-made canals opening into the easterly shore of Kings Bay. A warm water spring, known as Magnolia Spring, or the Alligator Hole, is within the proposed manatee sanctuary. Several private residences exist on the canal. Through boat traffic is restricted by a low bridge at the north end of the proposed manatee sanctuary.

Several manatees frequent the Magnolia Springs area during the winter seeking warm waters and shelter. Boaters and divers enter the canal to observe and swim with the manatees. All but the tamest manatees seek to avoid boaters and divers and are forced to leave the area. Due to the confines of the canal, the danger to manatees from being struck by boats is increased. Local residents report many incidents of manatee harassment by swimmers, divers and boaters. Elimination of this activity is essential to prevent the taking of manatees by harassment. The proposed manatee sanctuaries will be marked with signs. Private residents will not be deprived of access to their property by boat but will be required to operate boats at idle speed within the sanctuary.

A critical cold weather period may occur during which it is necessary that the manatees have the undisturbed use of the warm waters in these three areas. It is essential that all waterborne activities be prohibited in order to prevent the taking of one or more manatees by harassment.

It is not proposed to establish a permanent manatee sanctuary adjacent to Warden Key, Kings Bay, Crystal River in the area which was designated as an emergency manatee sanctuary during a portion of the winter of 1979–80. The absence of any warm water springs in this area makes it less essential as a sanctuary than the areas proposed herein.

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information relating to the public meeting is set out below:

Place: Crystal River City-County Building; Date: Aug. 26, 1980; Time: 7:30 p.m.

National Environmental Policy Act: An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Jacksonville Area Office, 15 North Laura Street, Jacksonville, Florida 32202, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969.

Primary Author: The primary author of this rule is Bettina Sparrowe, Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia 22201 (703/235–2760).

Regulations Promulgation: It is proposed to amend Title 50, Chapter 1, Subchapter B, Part 17, Subpart J, subsection 17.108, List of Designated Manatee Protection Areas, by adding the following:

§ 17.108 List of Designated Manatee Protection Areas

A. Manatee Sanctuaries

The following areas are designated as manatee sanctuaries. All waterborne activities are prohibited in these areas during the period November 15-March 31 of each year. The areas which will be posted, are described as follows:

1. That part of Kings Bay, Crystal River, Citrus County, within T. 18S., R. 17 E., Tallahassee meridian; located in SW¼ fractional section 28, more particularly described as follows: Beginning at Corner 1 (N–1,653,459/E–308,915) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay near the southwest corner of Lot 9 as accepted on a plat by the Department of the Interior, General Land Office, dated January 10, 1928; thence easterly, along said shoreline, approximately 1240 feet to Corner 2 (N–1,653,762/E–309,641) a point; thence S. 56° 58′ 11″ W., across open water, 776.49 feet to Corner 3 (N–1,653,339/E–308,990) a point; thence N. 32° 03′ 07″ W., across open water, 142.26 feet to the point of beginning, containing 3.41 acres, more or less, to be known as the Banana Island Sanctuary.

2. That part of Kings Bay, Crystal River, Citrus County, Florida, within T. 18 S., R. 17 E., Tallahassee meridian; located in SW¼ fractional section 28, more particularly described as follows: Beginning at Corner 1 (N–1,652,684/E–309,396) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay, said point being the northwest corner of Lot 31 Sunset Shores Addition to Woodward Park (Plat Book 2, page 140 Citrus County Property Appraiser's Office); thence N. 35° 05′ 33″ W., across open water, 439.10 feet to Corner 2 (N–1,653,043/E–309,144) a point; thence N. 67° 23′ 28″ E., across open water, 873.45 feet to Corner 3, a point on the shoreline of Kings Bay said point also being a corner in the northerly boundary line of Lot 21 in said subdivision; thence southwesterly along said shoreline and the northerly boundary of Lots 21–31, including a canal, approximately 920 feet to the point of beginning, containing 5.62 acres, more or less, to be known as the Sunset Shores Sanctuary.

3. That part of Crystal River, Citrus County, Florida, within the Springs O'Paradise subdivision, T. 18 S., R. 17 E., Tallahassee meridian; located in SE¼ and SW¼ fractional section 21 and NE¼ fractional section 28, more particularly described as follows: Beginning at Corner 1, the southeast corner of Lot 3 Paradise Isle Subdivision (Plat Book 3, page 88 Citrus County Property Appraiser's Office), thence N. 89° 48′ 30″ E. along an extension of the south line of said Lot 3, across Spring Run, approximately 120 feet to Corner 2, a point in the line of mean high water on the east side of Spring Run; thence northerly along said mean high water line approximately 500 feet to Corner 3, a point in the line of mean high water on the north side of Caspian Canal; thence westerly along said mean high water line approximately 300 feet to Corner 4, a point on the east side of the S.W. 1st Court bridge; thence south along said bridge approximately 50 feet to Corner 5, a point in the line of mean high water on the south side of Caspian Canal; thence easterly along said mean high water line approximately 200 feet to Corner 6, a point in the line of mean high water on the west side of Spring Run; thence southerly along said mean high water line approximately 400 feet to the point of beginning, containing 1.70 acres, more or less, to be known as the Magnolia Springs Sanctuary.

B. Exception for Residents

PROPOSED MANATEE SANCTUARIES

B. Exception for Residents

Boat access to private residences, boat houses and boat docks through these sanctuaries by the residents and their authorized guests is permitted. Any such authorized boating activity must be conducted by operating motorboats at idle speed/no wake. Resident's boats will be identified by the placement of a sticker provided by the Fish and Wildlife Service, in a conspicuous location on each boat. Use of the waters within the proposed sanctuary by boats will be only for the purpose of access to residences and the storage of such boats in waters adjacent to residences.

Dated: August 8, 1980.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

BILLING CODE 4310-55-M

PROPOSED MANATEE SANCTUARIES
Crystal River, Florida

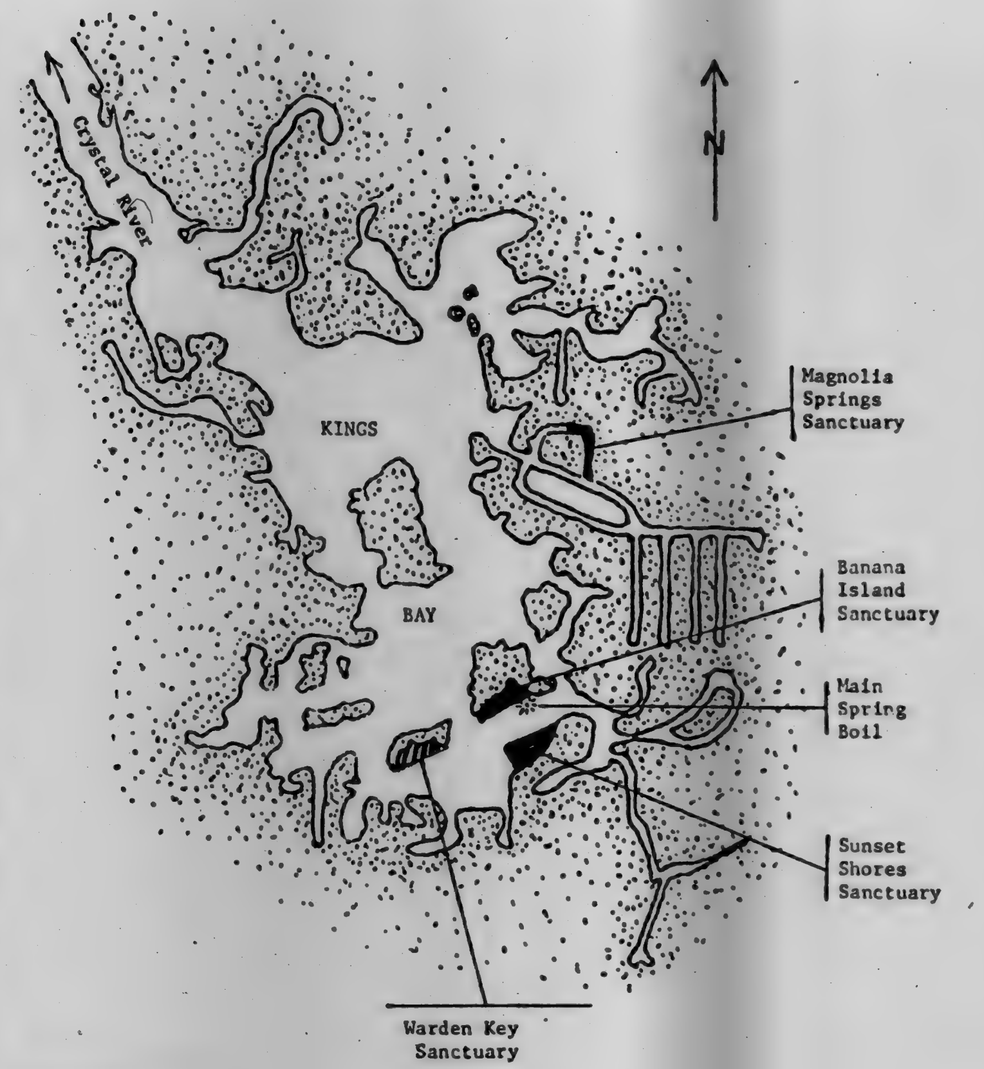

[FR Doc. 80-24366 Filed 8-11-80; 8:45 am]
BILLING CODE 4310-55-C

V 45 AG 12 80 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Bering Sea and Aleutian Islands, Groundfish Fishery: Approval of Amendments to Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Approval of an Amendment of Preliminary Management Plan and Proposed Implementing Regulations.

SUMMARY: This action would apportion to the domestic annual harvest (DAH) 7,814 metric tons (mt) of yellowfin sole currently comprising the unallocated portion of the total allowable level of foreign fishing (TALFF), and to apportion this amount to joint venture processing (JVP) so that domestic fishermen may catch that fish and deliver it to joint venture processors.

DATE: Comments on the amendment and proposed implementing regulations will be received until August 21, 1980.

ADDRESS: Comments should be addressed to Mr. Denton R. Moore, Chief, Permits and Regulations Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert W. McVey, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION:
Yellowfin sole are managed under a regime provided by the preliminary fishery management plan (PMP) for the Trawl and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific. The PMP was published in the **Federal Register** (42 FR 9298) on February 15, 1977, and implemented March 1, 1977, under provisions of the Fishery Conservation and Management Act of 1976. It was extended through 1978 and 1979, and again extended with amendments through 1980 (45 FR 1028).

The current amendment, approved by the Assistant Administrator July 31, 1980, establishes a TALFF for yellowfin sole of 109,000 mt of which 7,820 mt were allocated to the Soviet Union. The Soviet fleet harvested 6 mt of this amount. As a result of a Presidential order early this year, the remaining 7,814 mt was withdrawn and retained as an unallocated portion of TALFF. At the present time, two joint ventures are operating in the Bering Sea and are successfully targeting on yellowfin sole. However, the yellowfin sole JVP is presently inadequate to provide for joint ventures. NMFS surveys of U.S. fishing intent indicate that the amount of yellowfin sole established as domestic annual processing (DAP) will not need to be supplemented during the remainder of the fishing year, and therefore it is appropriate to allocate the entire 7,814 mt to JVP. This action will enable these highly important ventures to continue to operate efficiently and without unnecessary interruption.

The Assistant Administrator has determined that this amendment to the FMP is necessary and appropriate to the conservation and management of Bering Sea groundfish resources, and that it is consistent with the National Standards of FCMA section 301, other provisions of the FCMA, and other applicable law. He has therefore approved the amendment and the proposed regulations set forth below. The Assistant Administrator has determined that promulgation of the amendment and the proposed implementing regulations does not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act, and that it does not constitute a significant regulation requiring the preparation of a regulatory analysis under Executive Order 12044.

The Assistant Administrator has determined that, under the circumstances, a public comment period of 15 days on the proposed regulation is reasonable and appropriate. The proposed action is neither complex nor controversial. The regulation can be analyzed and commented upon by the public on a relatively short period of time. NOAA is aware of no interest which would be adversely affected by the action, since: (1) the Department of State has been consulted and has no objections; (2) foreign nations will lose no allocations; (3) there is almost no subsistance fishing for yellowfin sole; (4) no landings of sole from the Bering Sea for on-shore processing have been reported this year; (5) the action will have no adverse environmental impact; (6) U.S. fishermen participating in joint ventures will benefit; and (7) no additional restrictions will be imposed on any interest as a result of the proposed action. A longer comment period will result in interruption of the successful joint venture fishery and may hinder the FCMA and PMP objective of achieving the optimum yield in an underutilized fishery.

(16 U.S.C. 1801 *et seq.*)

Signed in Washington, D.C. this 7th day of August, 1980.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

A. Amendments to the Preliminary Fishery Management Plan

The following changes are made in 42 FR 9325 (February 15, 1977). Table 18, as amended:

For yellowfin sole, TALFF—to 101,286 mt from 109,100 mt; DAH—to 9,864 mt from 2,050 mt; JVP—to 8,664 mt from 850 mt.

B. Proposed Amendments to Implementing Regulations

The following changes are proposed in 50 CFR 611.20, Appendix 1, Part 4A, as amended.

For yellowfin sole, DAH—to 15,714 mt from 7,900 mt; JVP—to 14,514 mt from 6,700 mt; TALFF—to 101,286 mt from 109,100 mt.

[FR Doc. 80-24259 Filed 8-11-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 157
Tuesday, August 12, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1980 Feed Grains, Soybeans, Wheat, Rice, Upland Cotton and Extra Long Staple Cotton Programs—Determinations Regarding Various 1980 Program Decisions

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Determinations of 1980-Crop Normal Crop Acreages (NCA), Established "Target" Prices, Loan and Purchase Rates for Feed Grains, Soybeans, Wheat, and Rice, and Loan Rates for Upland and Extra Long Staple (ELS) Cotton.

SUMMARY: This notice is for the purpose of implementing the normal crop acreage (NCA) requirement and announcing 1980-crop established "target" prices, loan and purchase levels for feed grains, soybeans, wheat, and rice, and loan levels for upland and ELS cotton.

Producers who plant within the farm NCA will qualify for deficiency and disaster payments based upon higher wheat and feed grain (corn, sorghum and barley) established "target" prices as provided for in the Agricultural Act of 1949, as amended by the Agricultural Adjustment Act of 1980 (Pub. L. 96–213, 94 Stat. 119). These higher established "target" prices for wheat, corn, sorghum and barley are $3.63, $2.35, $2.50, and $2.55 per bushel, respectively. Producers who do not plant within the farm NCA will, for the 1980 crop, qualify for program benefits in accordance with the 1980-crop established "target" prices as provided in the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, which are $3.08 per bushel for wheat; $2.05 per bushel for corn; $2.45 per bushel for sorghum; and $2.29 per bushel for barley.

Producers of 1980-crop upland cotton and rice will be eligible for program benefits based upon the established "target" prices of 58.4 cents per pound and $9.49 per hundredweight, respectively.

Loan and purchase rates for 1980 crops will be $3.00 per bushel for wheat; $2.25 per bushel for corn; $2.14 per bushel for sorghum; $1.83 per bushel for barley; $1.191 per bushel for rye; $1.16 per bushel for oats; $5.02 per bushel for soybeans; and $7.12 per hundredweight for rice.

The loan rate for the 1980 crop of upland cotton will be 48 cents per pound, basis Strict Low Middling 1 1/16 inch, micronaire 3.5 through 4.9, at average location in the United States. The 1980-crop ELS cotton loan rate will be 93.5 cents per pound.

There will be no offsetting compliance requirements for 1980 program purposes.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT:
Bruce R. Weber, Agricultural Program Specialist, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6688. Final Impact Statements describing the options considered in developing this notice of determination and the impact of implementing each option are available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of determination action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

The need for this notice is to satisfy the statutory requirements provided in Sections 105A(a)(1), 105A(a)(2), 105A(b)(1)(B), 105A(b)(1)(D), 107A(a), 107A(b)(1)(B), 103(f)(1), 103(f)(4), 101(f), 101(h)(1), 101(h)(2), and 201(e), of the Agricultural Act of 1949, as amended, and Sections 1001(a), 1001(b), and 1001(c), of the Food and Agriculture Act of 1977, as amended. The announcement of these determinations by the Secretary must be made immediately so that farmers can indicate their 1980 program participation. Therefore, it is impractical and contrary to the public interest to comply with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044. Thus, this notice of determination shall become effective upon date of filing with the Director, Office of the Federal Register.

The Agricultural Act of 1949, as amended by the Agricultural Adjustment Act of 1980 (Pub. L. 96–213, 94 Stat. 119) provides for the following changes applicable to 1980 crops.

A. The 1980-crop established "target" prices for wheat and corn are increased to $3.63 and $2.35 per bushel, respectively. For sorghum and barley, the established "target" price shall be such rate as determined fair and reasonable in relation to the rate at which payments are made available for corn. The increased 1980-crop established "target" prices for sorghum and barley are $2.50 per bushel and $2.55 per bushel, respectively.

B. For the 1980 crops of wheat and feed grains, the Secretary may require that producers not exceed the acreage on the farm normally planted to designated crops (hereinafter referred to as "NCA") in order for such producers to be eligible to receive deficiency and disaster payments based upon the established "target" prices as provided for in paragraph A above.

C. Whenever the Secretary requires producers to plant within the farm NCA in order to be eligible for payments as provided for in paragraph B above, the Secretary may increase the established "target" price for any such commodity by an amount determined appropriate to compensate producers for not exceeding the NCA.

D. Producers of 1980 crops of wheat and feed grains who exceed the farm NCA are eligible for loans and purchases, as well as deficiency and disaster payments, based on the established "target" price for the commodity as determined under the provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977.

E. The authority of the Secretary to make disaster payments under the wheat, feed grains, upland cotton and rice programs was extended through the 1980 crops.

F. The total amount of disaster payments a person can receive under one or more of the 1980 crops of wheat, feed grains, upland cotton and rice shall not exceed $100,000.

The Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, provides that 1980-crop established "target" prices for wheat, feed grains (corn, sorghum and if designated by the Secretary, oats and

barley), upland cotton and rice shall be

National Forest and Crooked River

establish the following advisory

Contact Person for Agenda and More

barley), upland cotton and rice shall be based upon the established "target" prices for 1979 adjusted to reflect any change in the average costs of production for crop years 1978 and 1979 from the average costs of production for crop years 1977 and 1978. Costs of production used in this determination are limited to variable costs, machinery ownership costs and general farm overhead costs. The Secretary has not designated the 1980 crop of oats as eligible for payments.

Accordingly, the Secretary has made determinations pertaining to the 1980 crops of wheat, feed grains, soybeans, rice, upland cotton and ELS cotton. The purpose of this notice is to announce these determinations.

Determinations

1. *1980-Crop Loan and Purchase Levels:*

It is hereby determined that 1980-crop loan and purchase rates shall be:

Commodity	Loan/ purchase level
Wheat (per bu.)	$3.00
Corn (per bu.)	2.25
Sorghum (per bu.)	2.14
Sorghum (per cwt.)	3.82
Barley (per bu.)	1.83
Oats (per bu.)	1.16
Rye (per bu.)	1.91
Soybeans (per bu.)	5.02
Rice (per cwt.)	7.12
Upland Cotton (per lb.)	[1]0.48
ELS Cotton (per lb.)	[1]0.935

[1] Purchase program does not apply to these commodities. Loan and purchase rates for corn have been established at such level as will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States. Loan and purchase rates for sorghum, barley, oats, and rye have been established at such levels as the Secretary determines to be fair and reasonable in relation to the level at which loans and purchases are made available for corn, as well as taking into consideration certain other factors. Loan and purchase rates for soybeans have been established at a level determined appropriate in relation to competing commodities taking into consideration domestic and foreign supply and demand factors. Loan and purchase rates for wheat have been established so that wheat will maintain its competitive relationship to other grains in domestic and export markets. (Discounts will be increased for factors which reduce the quality of wheat for food use. The discount schedule will be published in Part 1421 of Chapter 7. The subpart of Part 1421 which governs the operation of the farmer-owned reserve will describe the grades which will be eligible for entry into the reserve.) The rice loan and purchase rates reflect the same relationship to the established "target" price as they did for the 1979 crop. The upland cotton loan rate was established in accordance with the formula calculation provided in Section 103(f)(1) of the Agricultural Act of 1949, as amended. The ELS cotton loan rate was established in accordance with Section 101(f) of the Agricultural Act of 1949, as amended.

2. *1980-Crop Established "Target" Prices:*

A. The 1980-crop established "target" prices as determined under provisions of the Agricultural Act of 1949, as amended by the Agricultural Adjustment Act of 1980, will be:

Commodity	Established "target" price/ bushel [1]
Wheat	$3.63
Corn	2.35
Sorghum	2.50
Barley	2.55

[1] The 1980-crop wheat and corn established "target" prices are specified by law. The barley and sorghum established "target" prices are set at rates that have been determined to be fair and reasonable in relation to the rate established for corn. (1980-crop barley and sorghum rates reflect the same relative percentage change in established "target" prices over 1979 levels as does corn).

B. The 1980-crop established "target" prices as determined under provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, will be:

Commodity	Established "target" price [1]
Wheat (per bu)	$3.08
Corn (per bu)	2.05
Sorghum (per bu)	2.45
Barley (per bu)	2.29
Upland cotton (per lb.)	0.584
Rice (per cwt.)	9.49

[1] These established "target" prices reflect the latest costs of production estimates for variable costs, machinery ownership costs and general farm overhead costs. They have been determined in accordance with the formula calculation as provided in the Food and Agriculture Act of 1977.

3. *Normal Crop Acreages (NCA):*

(a) It is hereby determined that for the 1980 crops of wheat and feed grains (corn, sorghum and barley), producers are required to plant within the farm NCA as a condition of eligibility to receive payments based upon the established "target" prices provide for in 2(A) above.

(b) Producers of 1980-crop wheat, corn, sorghum and barley, who do not comply with the NCA established for the farm are eligible to receive payments based upon the established "target" prices provided for in 2(B) above.

(c) Producers of 1980-crop upland cotton and rice will not be required to plant within the farm NCA to receive cotton and rice program benefits.

(d) All producers of 1980-crop wheat and feed grains are eligible for loans and purchases whether or not such producers complied with the NCA established for the farm.

Imposition of the NCA requirement for the 1980 crops of wheat and feed grains will help control plantings and, thus, moderate the adverse impact of bringing fragile lands into production. Otherwise, all producers of wheat, corn, sorghum, and barley, would have been eligible for program payments based on the established "target" prices as provided in the Agricultural Act of 1949, as amended by the Agricultural Adjustment Act of 1980, regardless of 1980-crop plantings.

4. *1980-Crop Offsetting Compliance:*

It is hereby determined that offsetting compliance requirements will not be effective for the 1980 crops of wheat and feed grains.

Signed at Washington, D.C. on August 7, 1980.

Bob Bergland,

Secretary.

[FR Doc. 80-24191 Filed 8-7-80; 3:09 pm]

BILLING CODE 3410-05-M

Forest Service

Coconino National Forest Grazing Advisory Board; Notice of Meeting

The Coconino National Forest Grazing Advisory Board will hold its first meeting since the Charter was approved for renewal at 1:30 p.m., September 5, 1980, at the Coconino National Forest Supervisor's Office Conference Room, 2323 E. Greenlaw Lane, Flagstaff, Arizona. The purpose of the meeting is to: 1) Elect a Board Chairman; 2) Discuss and adopt the operating By-laws; 3) Review the 1981–1982 and proposed 1983 work plans involving Range Betterment funds.

The meeting will be open to the public.

William L. Holmes,

Acting Forest Supervisor.

July 30, 1980.

[FR Doc. 80-24217 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; Ochoco National Forest and Crooked River National Grassland Crook, Grant, Harney, Jefferson, Wheeler Counties, Oreg.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Impact Statement for the Forest Land and Resource Management Plan for the Ochoco National Forest and Crooked River National Grassland. The Plan for these combined areas will encompass 949,782 acres.

The Plan will be developed in accordance with direction established in the regulations for National Forest System Land and Resource Management Planning (36 CFR 219).

The resulting Plan will provide for multiple use and sustained yield of products and services from the Ochoco National Forest and Crooked River National Grassland. The Plan will guide all natural resource management activities and establish management standards and guidelines. It will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

The Forest Plan will be selected from among representative alternatives that will include at least, (1) a no-change in existing resource outputs alternative, (2) an alternative that deviates from the sustained yield-even flow concept, (3) a range of alternatives that display possible outputs of resources available at each of several expenditure levels and (4) alternatives designed to resolve the identified major public issues and management concerns.

Public participation will be an integral part of the planning process. "Scoping" meetings will be held early in the process to identify issues to be addressed. The outcome of these meetings will be shared through the use of mails, news media, and public meetings to expand upon and firmly establish the issues to be addressed during the planning process. The meeting locations and dates will be provided to the public at a later date.

R. E. Worthington, Regional Forester, Pacific Northwest Region, is the responsible official for this plan. Questions or comments about the planning process, Environmental Impact Statement, and this Notice of Intent should be directed to: James H. Rogers, Forest Planning Staff Officer, Ochoco National Forest and Crooked River, National Grassland, P.O. Box 490, Federal Building, Prineville, Oregon 97754 (503–447–6247).

The Draft Environmental Impact Statement is expected to be available for public review by September 1983. The Final Environmental Impact Statement is scheduled to be completed in June 1984.

Frank J. Kopecky

Deputy RF, State and Private Forestry.

August 4, 1980.

[FR Doc. 80-24219 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Agricultural Advisory Committees for Trade; Proposed Establishment

Notice is hereby given that the Secretary of Agriculture, after consultation with the United States Trade Representative, proposes to establish the following advisory committees: Agricultural Policy Advisory Committee for Trade, and eight separate Agricultural Technical Advisory Committees for Trade on: Cotton, Dairy Products, Fruits and Vegetables, Grain and Feed, Livestock and Livestock Products, Oilseeds and Products, Poultry and Eggs, and Tobacco.

The purpose of these committees is to provide advice to the Secretary and the Trade Representative with respect to the trade policy of the United States pursuant to section 135(c) of the Trade Act of 1974 (Pub. L. 93–618), as amended by the Trade Agreements Act of 1979 (Pub. L. 96–39). Meetings of these committees will be open only to members of the committees in accordance with section 135(f)(2) of the Act unless otherwise determined.

The establishment of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974, as amended by the Trade Agreements Act of 1979.

Comments may be submitted to Thomas B. O'Connell, Advisory Committees Support Group Leader, FAS, U.S. Department of Agriculture, room 5528 South Building, Washington, D.C. 20250 until August 27, 1980.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 80-24248 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-10 -M

Science and Education Administration

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Adminstration, Cooperative Research, announces the following meeting:

Name: Committee of Nine.
Dates: September 9 and 10, 1980.
Time: 9:00 a.m., both days.
Place: Ohio Agricultural Research and Development Center, Conference Room, Wooster, Ohio.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone: 202/447–4329.

Done at Washington, D.C., this 7th day of August, 1980.

Edward C. Miller,

Acting Administrator, Cooperative Research.

[FR Doc. 80-24249 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-22-M

CIVIL AERONAUTICS BOARD

Air Florida Dallas/Fort Worth-Houston Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (80–8–20).

SUMMARY: The Board is proposing to award nonstop air route authority between Dallas/Ft. Worth (DFW Regional Airport) and Houston to Air Florida under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by September 8, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38340, which we have entitled the *Air Florida Dallas/Ft. Worth-Houston Subpart Q Proceeding.* They should be addressed to Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on the Mayors of the Cities of Dallas, Ft. Worth and Houston; the Texas Aeronautics Commission; and the airport managers of the DFW Regional Airport, the Houston International Airport and the William P. Hobby Airport.

FOR FURTHER INFORMATION CONTACT: Samuel Lebowich, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5329.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–8–20 is available from our Distribution Section,

Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–8–20 to that address.

By the Bureau of Domestic Aviation:
August 5, 1980.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-24282 Filed 8-11-80; 8:45 am]
BILLING CODE 6320-01-M

Part-Time Career Employment Program

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: CAB is proposing internal rules to implement the Federal Employees Part-Time Career Employment Act of 1978.

COMMENT DATE: Comments will be considered if received on or before September 15, 1980.

ADDRESS: Written comments should be addressed to the Director, Office of Human Resources, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: Pub. L. 95–437; the Federal Employees Part-Time Career Employment Act of 1978, requires Federal agencies to publish proposed internal rules in the **Federal Register** for public comment. After comments are received, considered, and necessary changes are made, CAB will adopt these regulations as CAB Manual Chapter 221.

221.1 General
221.2 Program Responsibilities
221.3 Procedures for Evaluating and Requesting Conversion to Part-Time Employment
221.4 Effect on Employee of Converting to Part-Time Employment
221.5 Increasing Hours of Part-Time Tour of Duty/Converting Back to Full-Time Employment
221.6 Effect of the Program on Filling Temporary Positions With Part-Time Employees
221.7 Inquiries About the Program

221.1 General.

221.11 Purpose. This chapter describes the policies and procedures to implement Pub. L. 95–437, the Federal Employees Part-time Career Employment Act of 1978, by establishing a continuing program in the Civil Aeronautics Board to provide career part-time employment opportunities (5 U.S.C. 3401 note and 3402).

221.12 Definitions. Part-time career employment—regularly scheduled work of from 16 to 32 hours per week performed by individuals serving under career or career-conditional appointments in the competitive service or whose tenure is equivalent to career or career-conditional (e.g., excepted without time limitation). Temporary or intermittent employees are excluded.

221.13 Policy. It is the Board's policy to employ persons on the basis of merit without regard to race, color, religion, sex, national origin, age, or handicap. In keeping with this commitment to equal employment opportunity, and in accordance with the Federal Employees Part-time Career Employment Act of 1978, the Board provides career part-time employment opportunities in positions GS–1 through GS–15 (or equivalent grades) in the competitive service subject to availability of resources and mission requirements. Consistent with this policy, managers are encouraged to use part-time employment as an alternative to full-time employment in planning for the accomplishment of the work of their organizations. Such categories as the physically or mentally handicapped, persons with family responsibilities, students or persons desiring part-time employment to continue their education, older persons, and others as appropriate, are considered valuable recruitment sources of part-time employees.

221.2 Program Responsibilities.

221.21 Office of Human Resources. The Office of Human Resources is responsible for:

a. Coordinating bureau/office efforts to determine functions that could be effectively performed by part-time employees;

b. Identifying and developing recruitment sources;

c. Designating a staff member to coordinate the part-time employment program;

d. Providing assistance to bureau/offices in restructuring jobs and work schedules, as appropriate;

e. Preparing reports on part-time employment for transmittal to the Office of Personnel Management and the Congress; and

f. Notifying the public of vacant part-time positions.

221.22 Bureau and Office Heads. Bureau and office heads are responsible for:

a. Implementing within their respective organizations the policies set forth in this chapter;

b. Reviewing positions which become vacant to determine which could be effectively performed by part-time employees; and

c. Restructuring jobs and changing work schedules, as necessary, to maximize opportunities for effective use of part-time employees.

221.3 Procedures for Requesting and Evaluating Conversion to Part-Time Employment.

221.31 Employees desiring to change from full-time to part-time career employment should submit a written request to the immediate supervisor stating the reasons for the request and the work schedule desired.

221.32 The immediate supervisor will evaluate the request, taking into consideration the following factors:

a. Workload—regular and peak workloads which might lend themselves to part-time schedules and the ease of filling the "second-half" of the position;

b. Employment ceilings—effective October 1, 1980, part-time employees will be counted toward personnel ceilings on the basis of the fractional part of the 40-hour week actually worked;

c. Adaptability or flexibility of the work to be performed on a part-time basis;

d. Special space and equipment requirements, if any; and

e. Benefits to employee—e.g., alleviating child care concerns for parents; lessening pressure of a full day's work on those with health problems; allowing those near retirement to discontinue work gradually.

1221.33 Based on the above considerations, the employee's immediate supervisor will approve or deny the request and forward it to the second-level supervisor for review and concurrence. There is no employee right of appeal for denials of request for conversion to part-time tours of duty.

221.34 All approved requests for conversion to part-time employment shall be forwarded to the Office of Human Resource on SF–52 for processing and documentation on SF–50, Notification of Personnel Action. These requests will be maintained in the Office of Human Resources for statistical purposes and as a record in the employee's Official Personnel Folder.

221.4 Effect on Employee of Converting To Part-Time Employment.

221.41 Status of Employee. Conversion to a part-time tour of duty does not change the respective employees's overall appeal rights and protections (or lack thereof) in adverse actions and reduction in force proceedings, conveyed by status as a probationary, career employee.

a. Appealable Actions—Actions which a career part-timer may appeal include those taken for his/her removal, suspension for more than 14 days, reduction in grade or pay, and any involuntary reduction in the scheduled number of hours of duty.

b. Reduction in force—Part-timers are entitled to complete only for other part-time jobs in a reduction in force and have no right of assignment to full-time jobs if there are no part-time jobs they can continue working in; likewise, full-time employees have no assignment rights to displace employees occupying part-time jobs.

221.42 Accrual of Experience for Promotion Eligibility. Part-time experience is credited on a prorated basis according to the relation it bears to a full workweek. In order to be eligible for promotion, such accumulated experience must meet the minimum amount of experience required by the Office of Personnel Management's Handbook of Qualification Standards X–118, which is available for review in the Office of Human Resources.

221.43 Earnings. The rate of pay is directly proportionate to the time schedule and hours worked. At in the case of full-time employees, waiting periods for within-grade increases are based on an appropriate number of calendar weeks or creditable service, as stipulated by OPM regulations.

221.44 Overtime While agencies are prohibited from regularly employing part-time

permanent workers under schedules of more than 32 hours per week, they are not restricted from temporarily increasing an employee's hours of duty above 32 hours per week for limited periods to meet heavy workloads, permit employee training, etc. Under Title 5 U.S.C., hours of work must be in excess of 40 hours in an administrative workweek or 8 hours in a day to be considered overtime. Under the Fair Labor Standards Act, overtime begins after an employee has completed 40 "hours of work" in a week, excluding holidays and paid leave.

221.45 Leave. Annual leave is earned on a pro-rata basis at the rate determined by years of service. Maximum carryover at the end of the leave year remains the same. Sick leave is earned at the rate of one hour for every 20 hours in a pay status. No leave (annual or sick) is earned for hours worked in excess of 80 in a single pay period. A part-time employee is not eligible for Military Leave. Other leave categories (e.g., Absence Without Leave, Funeral Leave, Excused Absence) are not affected. For all categories of leave for which a part-time employee is eligible, leave is charged only for absences during those hours the employee is scheduled to work.

221.46 Holidays. Holiday pay is received only if an employee is regularly scheduled to work on that day, and only for the number of hours covered by the employee's regular tour of duty.

221.47 Life Insurance Coverage. The amount of insurance carried will automatically decreases whenever an employee's annual pay rate is decreased by an amount sufficient to lower pay to a different $1,000 bracket (except that it cannot be lower than $10,000 minimum insurance amount).

221.48 Health Benefits Coverage. The Government's contribution for the health benefits of an eligible employee who becomes part-time after April 8, 1979, is prorated on the basis of the fraction of a full-time schedule worked. An employee who was working under a permanent part-time schedule on April 7, 1979, receives a full Federal health benefits contributions for as long as the employee remains part-time. In addition, a change in status of employment from full-time to part-time is an event which allows an employee to change health benefits enrollment to another plan and/or option within 31 days from the effective date of the change in status.

221.49 Retirement.

a. *Retirement Annuity.* Retirement annuity computations are based on the highest average annual basic pay for any three consecutive years of creditable service. Therefore, if years of part-time service are among the high three, an employee's annuity will be affected to the extent earnings were limited during those years.

b. *Retirement Date Eligibility.* Part-time employment has no affect on an employee's date of eligibility for retirement. Service time counts in full—it is not prorated but is credited by calendar days.

221.50 Returning to Full-Time Duty. If the position held by the employee immediately before converting to part-time, or a position of equal or lower grade elsewhere is vacant, and the employee meets the basic requirements for the job, he or she can be placed in the job if selected by the selecting official. If the position sought would involve a promotion or has promotion potential, the employee must complete with other applicants, as required in CAB Manual Chapter 236, as well as meet the basic requirements for the job.

221.5 Increasing Hours of Part-Time Tour of Duty/Converting Back to Full-Time Work.

221.51 Management Decision. It is the prerogative of management to make a decision to meet the work needs of the Board by increasing the hours of work of a part-time employee to a maximum prescribed by law (32 hours per week), or reassign a part-time employee back to his/her former full-time position. When such a decision is made, an affected employee must be given sufficient advance notice, but not less than two calendar weeks.

221.52 Employee Refusal. Failure of the part-time employee to comply with such management decision may result in separation.

221.6 Effect of the Program on Filling Temporary Positions With Part-Time Employees. While this part-time employment program relates solely to career-type (permanent) appointments, it neither prevents nor affects agency authority to staff nonpermanent positions with part-time personnel. Part-time workers may be employed in temporary and excepted positions of limited duration, when determined appropriate, by applying the same procedures outlined in section 221.3. Such temporary or other non-career part-time employees, however, are not restricted to a work schedule of from 16 to 32 hours per week, as for career part-timers; they may work any amount of time authorized by management, permitted by law governing the appointment and which does not exceed 39 hours a week.

221.7 Inquires. Inquires concerning the program should be directed to the immediate supervisor or the Office of Human Resources.

Dated: August 7, 1980.
Wilma Kriviski,
Assistant to the Director.

[FR Doc. 80-24283 Filed 8-11-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Industrial Development, New Orleans, Louisiana; Intent to Prepare an Environmental Impact Statement

Notice is hereby given that, pursuant to Section 102(2)(C) of the national Environmental Environmental Policy Act of 1969, the Economic Development Administration of the U.S. Department of Commerce will prepare an Environmental Statement (EIS) on the proposed industrial development in an area east of New Orleans, Louisiana, known as the Almonaster-Michoud Industrial District (A–MID). The proposal includes the analysis of environmental impacts of the drainage, site preparation, infrastructure improvements, and future planned growth in conjuction with a master plan currently being undertaken by the City.

Pursuant to the Council on Environmental Quality's regulations, a scoping meeting will be held both to inform interested parties and to solicit their comments. A notice will be published in a local newspaper prior to the meeting indicating the time, date, and location of the scoping meeting.

Comments and question regarding the development of A–MID, the EIS, or the time and place of the scoping meeting should be directed to Mr. John W. Faris, EIS Coordinator, Economic Development Administration, U.S. Department of Commerce, 221 West Sixth Street, Suite 600, Austin, Texas 78701, telephone: (512) 397–5849.

The Catalog of Federal Domestic Assistance official program number and the title of the program under which this EIS is prepared is 11.300 Economic Development—Grants and Loans for Public Works and Development Facilities. The Clearing house review requirements of Office of Management and Budget Circular No. A–95 will apply to the application for this project in accord with 13 CFR 309.17.

Dated: August 5, 1980.
H. W. Williams,
Acting Assistant Secretary for Economic Development.

[FR Doc. 80-24185 Filed 8-11-80; 8:45 am]
BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Scientific and Statistical Committee, which will meet to discuss amendments to the Squid, Mackerel and Butterfish and Surf Clam and Ocean Quahog Fishery Management Plans, as well as other fishery management matters.

DATES: The meeting, which is open to the public, will convene on Wednesday, September 3, 1980, at approximately 10:30 a.m., and will adjourn at approximately 3:30 p.m.

ADDRESS: The meeting will take place at the Holiday Inn Airport, 45 N. Governor Printz Boulevard, Essington, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 7, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24340 Filed 8-11-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Scientific and Statistical Committee, which will meet to discuss King Crab, Bearing Sea/Aleutian Island Groundfish, Salmon, and Tanner Crab Fishery Management Plans; Council policy and operations; research priorities for fiscal year 1981, and contracts.

DATES: The meeting, which is open to the public, will convene on Wednesday, September 3, 1980, at approximately 8:30 a.m., and will adjourn on Thursday, September 4, 1980, at approximately 5 p.m. The meeting may be lengthened or shortened, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the National Marine Fisheries Service's Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard, East, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: Aug. 7, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24347 Filed 8-11-80; 8:45 am]

BILLING CODE 3510-22-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 14 month period, beginning October 1, 1980, in Alaska, Arinzona, California, Hawaii, Idaho, Nevada, Oregon, Washington, and the Pacific Trust Territories. The cost of the project is estimated to be $325,000 and the Project Number is 09–10–50540–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorized MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to prepare business evaluation summaries for clients needing highly specialized management and technical assistance, and to obtain professional consultant services to meet those needs.

Eligibility Requirements: There are no rearictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: San Francisco Regional Office, Minority Business Development Agnency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36014, San Francisco, California 94102.

In requesting an application kit, the applicant must specify its profit status (i.e., State or local government, Federally recognize Indian tribes, educational institutions, hospitals, and other profit and non-profit organizations). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of September 4, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: August 6, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-24202 Filed 8-11-80; 8:45]

BILLING CODE 3510-21-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Preliminary Finding of Need To Accredit Laboratories That Provide Electromagnetic Calibration Services

Correction

In FR Doc. 80–23682 in the issue of Wednesday, August 6, 1980, appearing on page 52326, please make the following correction:

On page 52326, in the third column, under "Request for Comments," the fourth line down, the due date reads "September 6, 1980". This should be changed to read October 6, 1980.

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in the Textile Category System

August 7, 1980

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changes in the textile category system.

SUMMARY: "The Correlation: Textile and Apparel Categories with the Tariff Schedules of the United States, Annotated" provides for placement of Tariff Schedules of the United States, Annotated (T.S.U.S.A.) numbers in the Textile Category System. Amendments to the U.S.U.S.A. as a result of changes made in Supplement 3 to the T.S.U.S.A. 1980 require amendments to the Correlation. These changes are cited on the list which follows this notice.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, Commodity Industry Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D. C. 20230 (202/377–5423).

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 1, 1980 Changes in Textile Category System

Category and Type of Change	
334	Add 380.3943
359	Delete 380.3943
369	Change 359.10 to 359.1030 Delete 365.7610
647	Add 376.5618
648	Add 376.5623
659	Delete 376.5618 and 376.5623
666	Delete 365.7660

[FR Doc. 80-24192 Filed 8-11-80; 8:45 am]

BILLING CODE 3510-25-M

Announcing Additional Import Controls on Certain Cotton Textile Products From Mexico

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton dresses in Category 336, at the level of 22,075 dozen during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172) as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico, the United States Government has decided to control imports of cotton textile products in Category 336 produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated. (See 44 FR 76383).

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 26, 1979, there was published in the Federal Register (44 FR 76383) a letter dated December 18, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Mexico, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twleve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 336, produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on January 1, 1980. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on August 14, 1980, to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton textile products in Category 336, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1980, in excess of the designated level of restraint. The level has not been adjusted to reflect any imports after December 31, 1979. Imports during the January-May 1980 period amounted to 10,388 dozen and will be charged. As the data become available, further charges will be made to account for the period which began on May 1, 1980 and extends through the effective date of this action.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 18, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Mexico.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 14, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton, textile products in Category 336, produced or manufactured in Mexico and exported on and after January 1, 1980, in excess of 22,075 dozen.[1]

Cotton textile products in Category 336 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Cotton textile products in Category 336 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-24284 Filed 8-11-80; 8:45 am]

BILLING Code 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports during the period, January through May 1980, have amounted to 10,388 dozen.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Public Hearings Schedule for Draft Environmental Impact Statement To Dispose of DOD Stocks of DDT

The U.S. Army Corps of Engineers, Omaha District, is preparing, on behalf of the Defense Property Disposal Service of Battle Creek, Michigan, a Plan for the *Safe Collection, Transportation, and Ultimate Disposal of Department of Defense Stocks of DDT.* The Draft Environmental Impact Statement was published in July 1980. You are invited to participate in public hearings to be conducted in accordance with the National Environmental Policy Act of 1970 (Pub. L. 91–190). The public hearing schedule is as follows:

City: Kansas City, Missouri.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.
Date: 19 August 1980.
Location: Environmental Protection Agency, 324 East 11th Street, Room 415, Kansas City, MO 64106.
City: Dallas, Texas.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.

Date: 21 August 1980.
Location: Holiday Inn-Downtown, Holiday Room III, 1015 Elm Street, Dallas, TX 75202.
City: New York, New York.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.
Date: 26 August 1980.
Location: U.S. Army Engineer District, New York, 26 Federal Plaza, Room 2038, New York, NY 10278.
City: Washington, D.C.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.
Date: 28 August 1980.
Location: Headquarters, Environmental Protection Agency, Waterside Mall, Room 3906/3908, 401 M Street S.W., Washington, DC 20460.
City: Seattle, Washington.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.
Date: 9 September 1980.
Location: Environmental Protection Agency, 1200 Sixth Avenue, 12th Floor Conference Room Seattle, WA 98101.
City: San Francisco, California.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.
Date: 11 September 1980.
Location: Environmental Protection Agency, 215 Fremont Street, 6th Floor Conference Room, San Francisco, CA 94105.
City: Atlanta, Georgia.
Time: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 10:00 p.m.
Date: 16 September 1980.
Location: Environmental Protection Agency, 345 Courtland Street, Room 107, Atlanta, Georgia 30365.
Agenda: Opening remarks and summary: 1 hour public comment: 2 hours (Each speaker will be limited to a five minute presentation).
Date: August 7, 1980.

John O. Roach II,
Army Federal Register Liaison Officer.

[FR Doc. 80-24222 Filed 8-11-80; 8:45 am]
BILLING CODE 3710-08-M

Department of the Navy

Amendment to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendment to systems of records.

SUMMARY: The Department of the Navy proposes to amend two systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below followed by the systems published in their entirety, as amended.

DATE: The systems shall be amended as proposed without further notice on September 11, 1980, unless comments are received on or before September 11, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the systems managers identified in the records systems notices.

FOR FURTHER INFORMATION:
The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 552a (Public Law 93-579) have been published in the Federal Register as follows:

FR Doc 79-36400 (44 FR 67703) November 27, 1979.
FR Doc 79-36798 (44 FR 68947) November 30, 1979.
FR Doc 79-37052 (44 FR 74553) December 17, 1979.
FR Doc 80-6599 (45 FR 13794) March 3, 1980.
FR Doc 80-14985 (45 FR 32037) May 15, 1980.
FR Doc 80-15427 (45 FR 33679) May 20, 1980.
FR Doc 80-17286 (45 FR 38099) June 6, 1980.
FR Doc 80-19803 (45 FR 43841) June 30, 1980.
FR Doc 80-20317 (45 FR 43938) July 8, 1980.
FR Doc 80-23111 (45 FR 50851) July 31, 1980.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered systems report.

Dated: August 7, 1980.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

N00013

SYSTEM NAME:

Automated Claims Information System (ACIS) (44 FR 68947) 30 Nov 79

CHANGES:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add the following entry at the end of the paragraph: ". . . and 31 U.S.C. 231."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add the following entry at the end of the paragraph: "The cognizant U.S. Attorney and/or officials and employees of the Department of Justice who are charged with responsibility for either initiating civil actions or defending civil actions arising under the aforementioned claims statutes, and for prosecuting civil or criminal cases under the False Claims Act (31 U.S.C. 231)."

N00022 PERSREHSUPPSYS

SYSTEM NAME:

Navy Personnel Rehabilitation Support System (44 FR 74596) 17 Dec 79

CHANGES:

SYSTEM LOCATION:

In the second line after the words Rehabilitation Centers, add the following phrase: ". . . Naval Regional Medical Centers . . ."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line 4, delete the phrase: ". . . recovered alcoholic and nonalcoholic professional personnel who work part-time helping alcoholics;" and add: ". . . personnel who work part-time helping alcoholics;"

After the last word in the entry, add the following phrase: ". . . and spouses and significant others (this includes parents, live-togethers, and other non-spouses who play an important part in the alcoholic's/drug abuser's life) of Navy personnel who have undergone counseling and rehabilitation in Navy Drug or Alcohol Rehabilitation facilities, who themselves participate in counseling or treatment programs at such facilities, and civilians authorized by the Secretary of the Navy for treatment at a military facility for rehabilitiation purposes."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete the entire entry and substitute with the following: "Title V, Public Law 92-129; Section 413, Public Law 92-255."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the entire entry and substitute with the following: "Blanket "routine uses" identified in the yearly recompilation do not apply to this system of records".

Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175, as amended by 88 Stat. 137, and Title 42 U.S.C., Section 4582, as amended by 88 Stat. 131. These statutes take precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

Within the Armed Forces or within those components of the Veterans Administration furnishing health care to veterans or between such components and the Armed Forces.

To medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency.

To Government personnel for the purpose of obtaining benefits to which the patient is entitled.

To qualified personnel for the purpose of conducting scientific research, management or financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose identities in any manner.

To a court of competent jurisdiction upon authorization by an appropriate order after showing good cause therefore. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, "shall impose appropriate safeguards against unauthorized disclosure."

RETRIEVABILITY:

Delete he entire entry and substitute with the following: "Manual records may be retrieved by name and social security number. Automated records may be retrieved by social security number. Computer programs associated with automated records maintained in this system allow for names and social security numbers to be removed while leaving other data elements intact. When the name and social security number is removed, data is aggregated for use in research, management information, and planning."

RETENTION AND DISPOSAL:

Delete the entire entry and substitute with the following: "Manual records are maintained for two years and automated records are maintained indefinitely."

NOTIFICATION PROCEDURE:

Add the following phrase at the beginning of the second line: ". . . activity to which the individual received treatment or to the . . ."

N00013

SYSTEM NAME:

Automated Claims Information System (ACIS).

SYSTEM LOCATION:

Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have filed claims against the Department of the Navy under the Federal Tort Claims Act, the Foreign Claims Act, Military Claims Act, the 'Nonscope' Claims Act, Legislative Reorganization Act, or Military and Civilian Employees' Claims Act. All individuals who have filed claims with the U.S. Postal Service for loss or damage to mailed matter, and which claims have been paid by the U.S. Postal Service and thereafter forwarded for reimbursement by the Department of the Navy pursuant to 39 U.S.C. 712. All individuals who have asserted claims or instituted suits under the Public Vessels Act and Suits in Admiralty Act against the Department of the Navy in the name of the United States and all individuals who have instituted suits against third parties who have impleaded the Department of the Navy in the name of the United States. All individuals against whom the Navy has claims sounding in tort, and all individuals who are in the military or are dependents of military members and have been provided medical care by a Naval medical facility for injuries resulting from such tortious conduct. All common carriers against whom recovery has been sought by the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, social security number, office processing the claim, dollar amount of claim, dollar amount paid, type of claim, type of property damage, type of personal injury, date of incident that caused the claim date the claim was presented to the Navy, date payment was made or claim was closed, amount claimed against individual, amount received from individual, location of incident, and government bill of lading (if applicable).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act (28 U.S.C. 1346(b), 2671-2680); 32 CFR 750.30-750.49; Medical Care Recovery Act (42 U.S.C. 2651-53); Federal Claims Collection Act (31 U.S.C. 951-53); 32 CFR 757.1-757.21; Foreign Claims Act (10 U.S.C. 2734); 32 CFR 753.1-753.29; Military Claims Act (10 U.S.C. 2733); 32 CFR 750.50-750.59; 'Nonscope' Claims Act (10 U.S.C. 2737); 32 CFR 750.60-750.69; Military and Civilian Employees Claims Act (31 U.S.C. 240-243); 32 CFR 751.0-751.3; Legislative Reorganization Act (10 U.S.C. 1552); Admiralty Claims Act (10 U.S.C. 7622); 39 U.S.C. 712; 5 U.S.C. 30; 5 U.S.C. 301; 44 U.S.C. 3101; and 31 U.S.C. 231.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The officials and employees of the Department of the Navy in the performance of their official duties related to monitoring the current status of the Navy claims program. The officials and employees of the Military Traffic Management Command in the performance of their official duties related to the management of the Department of Defense personal property movement and storage program. The system will be used to report contingent liability to the Government Accounting Office to satisfy requirements of the GAO Policy and Procedures Manual. The cognizant U.S. Attorney and/or officials and employees of the Department of Justice who are charged with responsibility for either initiating civil actions or defending civil actions arising under the aforementioned claims statutes, and for prosecuting civil or criminal cases under the False Claims Act (31 U.S.C. 231).

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disk, magnetic tape, and hard copy forms.

RETRIEVABILITY:

ACIS users obtain information by means of either a query or a request for a standard report. Data may be indexed by any data item although the primary search keys are the name of social security number.

SAFEGUARDS:

Access to building is protected by uniformed guards requiring positive identification for admission after hours. The system is protected by the following software features; user account number and password sign-on, data base authority, set and item authority for list, add, delete and update.

RETENTION AND DISPOSAL:

An individual's record is retained on disk and will be available for on-line access for three years after the close of the individual's claim. The record will be transferred to magnetic tape after three years and will be utilized in a batch processing mode. After ten years, the record will be erased from the tape.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Claims Defense Program, Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

the Secretary of Energy on matters

Bonneville Power Administration

NOTIFICATION PROCEDURES:

Information should be obtained from the System Manager. Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies and from offices processing claims.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N00022 PERSREHSUPPSYS

SYSTEM NAME:

Navy Personnel Rehabilitation Support System

SYSTEM LOCATION:

Primary System—Navy Military Personnel Command, Navy Department, Washington, D.C. 20370

Decentralized segments—Navy Drug Rehabilitation Center, Navy Alcohol and Drug Information System Processing Office, Navy Alcohol Rehabilitation Centers, Naval Regional Medical Centers, Navy Counseling and Assistance Centers, Navy Alcohol Rehabilitation Drydocks, Naval Health Research Center, Navy Correction Centers, and local activities to which an individual is assigned (see Directory of Department of the Navy Mailing Addressess).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy personnel (officers and enlisted) who have been identified as drug or alcohol abusers, or have undergone counseling and rehabilitation for drug or alcohol abuse in Navy Drug or Alcohol Rehabilitation facilities; personnel who work part-time helping alcoholics; active duty Navy recovered alcoholics who help their commands develop alcoholism prevention programs; Navy personnel convicted by court-martial and sentenced to confinement, or who were in pre-trial confinement; spouses and significant others (this includes parents, live-togethers and other non-spouses who play an important part in the alcoholic's/drug abuser's life) who have undergone counseling and rehabilitation in Navy Drug or Alcohol Rehabilitation facilities, who themselves participate in counseling or treatment programs at such facilities and civilian authorized by the Secretary of the Navy for treatment at a military facility for rehabilitation purposes."

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and records in both automated and non-automated form concerning interview appraisals, personnel, service, biographical, educational, evaluation and testing, performance, and drug and alcohol rehabilitation program data. Correspondence and records in both automated and non-automated form concerning those in confinement containing offence, legal, service, health, personal, evaluation and classification, discipline and conduct, work and training data, interview appraisals, inventories or confinement personnel management data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title V, Public Law 92–129; Section 413, Public Law 92–255

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Blanket "routine uses" identified in the yearly recompilation do not apply to this system of records.

Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175, as amended by 88 Stat. 137, and Title 42 U.S.C., Section 4582, as amended by 88 Stat. 131. These statutes take precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

Within the Armed Forces or within those components of the Veterans Administration furnishing health care to veterans or between such components and the Armed Forces.

To medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency.

To government personnel for the purpose of obtaining benefits to which the patient is entitled.

To qualified personnel for the purpose of conducting scientific research, management of financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose identities in any manner.

To a court of competent jurisdiction upon authorization by an appropriate order after showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes, disc, drums, or on punched cards. Manual records may be stored in file folders, microfiche or microfilm.

RETRIEVABILITY:

Manual records may be retrieved by name, social security number. Automated records may be retrieved by social security number. Computer programs associated with automated records maintained in this system allow for names and social security numbers to be removed while leaving other data elements intact. When name and social security number is removed, data is aggregated for use in research, management information, and planning.

SAFEGUARDS:

Computer and punched card processing facilities are located in restricted areas accessible only to authorized persons who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Manual records are maintained for two years and automated records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Personnel, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Written requests should be addressed to activity to which the individual received treatment or to the Chief of Naval Personnel, Navy Annex, Washington, D.C. 20370. Requests must contain full name, social security account number, military status, address and signature of requester. (Those inquiring about records at Confinement Centers must have their signature notarized, if not confined at the time of the request.) The individual may visit the Chief of Naval Personnel, Arlington Annex (FOB–2) for assistance with records located in the Naval Military Personnel Command; the individual may also visit local activities concerned (see Directory of Department of the Navy mailing addresses). Proof identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Officials and employees of the Navy, Department of Defense, and components thereof, in performance of their official duties and as specified by current instructions and regulations promulgated by competent authority; notes and documents from service jackets and records, Federal, State, and local court documents; general correspondence concerning the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80–24237 Filed 8–11–80; 8:45 am]

BILLING CODE 3810–71–M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Arctic Oil and Gas Resources; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Arctic Oil and Gas Resources will meet in August 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Arctic Oil and Gas Resources will analyze the various issues bearing on expeditious resource development of this promising frontier area. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The meeting will be on Tuesday, August 19, 1980, starting at 4:00 p.m. in the 37th Floor Conference Room of the Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California.

The tentative agenda for the meeting follows:

1. Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on Arctic oil and gas resources.

2. Discuss an organizational structure for the study.

3. Discuss a timetable for completion of the study.

4. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform R.D. Langenkamp, Deputy Assistant Secretary, Resource Development and Operations, Office of Resource Applications, 202/633–8400, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 5B–180, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 5, 1980.

Robert Lawton,

Acting Deputy Assistant Secretary, Resource Development and Operations.

[FR Doc. 80–24235 Filed 8–11–80; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Ashe-Slatt (Pebble Springs) 500–kV Transmission Line; Intent To Prepare a Supplement to the Final Environmental Impact Statement (EIS)

The Bonneville Power Administration (BPA) hereby gives public notice of its intent to prepare a supplement to its final EIS for the Ashe-Slatt 500–kV transmission line. That final EIS was entitled "Final Facility Location Supplement to BPA's Fiscal Year 1976 Program EIS, Ashe-Willamette Valley (Ashe-Pebble Springs, FES 75–79)," and was filed with the Environmental Protection Agency on September 16, 1975. Construction of this transmission line (now referred to as the Ashe-Slatt line) is nearly complete except for the Columbia River crossing. The supplement to the final EIS will address design alternatives for the portion of the Columbia River crossing at Crow Butte slough, located approximately 21 miles upstream from Arlington, Oregon.

The proposed river crossing was originally designed to be a double-circuit 500–kV overhead line on both the north and south sides of Crow Butte Island. In April 1980, BPA agreed with the U.S. Fish and Wildlife Service to investigate using subsurface cables for the crossing of Crow Butte slough on the north side of the island. This proposed modification of the original design plans resulted from concerns over perceived environmental impacts associated with the overhead transmission lines crossing the slough. The remainder of the proposed overhead line across Crow Butte Island and the Columbia River is unaffected by the subsurface cable proposal and is to remain an overhead line.

By agreement with the U.S. Fish and Wildlife Service, which manages the Umatilla National Wildlife Refuge and Crow Butte Island, a temporary single-circuit 500–kV overhead line will be built across the Crow Butte slough. The temporary line will allow energization of the Ashe-Slatt line in the fall of 1980 and will be left in place for up to three years to allow for environmental and technical studies on the subsurface cables and completion of a permanent facility.

The supplement to the final EIS will address several alternatives for the 500–kV double-circuit transmission line across Crow Butte slough. These are:

A. Installation of cables beneath Crow Butte slough along the overhead alignment (approximately 4,100 feet).

B. Installation of cables along the existing causeway to Crow Butte Island (approximately 7,200 feet).

C. Installation of cables along the new

of October 31, 1980 to and including

addition to, the total currently

C. Installation of cables along the new causeway constructed for the cables (approximately 4,100 feet).

D. The original double-circuit 500–kV overhead line (approximately 4,100 feet).

E. Two single-circuit 500–kV line overhead lines (approximately 4,100 feet).

F. No action.

All interested parties are invited to comment upon the scope of the supplement. The following agencies have been invited to cooperate in the development of the supplement to the final EIS: (1) U.S. Fish and Wildlife Service, as the project involves the Umatilla National Wildlife Refuge; (2) the U.S. Army Corps of Engineers, a Federal permit-granting agency for water projects; (3) Washington State Parks and Recreation Commission, because of the proximity of Crow Butte State Park. Other Federal, State, regional and local agencies and appropriate public interest and other organizations will be consulted during the environmental analysis.

Although the draft supplement to the final EIS will be subject to public and agency review, BPA is now soliciting comment so that all issues may be fully considered in the draft supplement. Any suggestions or questions regarding the supplement should be directed to: Mr. John E. Kiley, Environmental Manager, Bonneville Power Administration, U.S. Department of Energy, P.O. Box 3621–SJ, Portland, Oregon 97208. Phone number: (503) 234–3361, extension 5137.

Dated at Portland, Oregon, this 1st day of August 1980.

Ray Folsen,

Acting Administrator.

[FR Doc. 80-24255 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-17-NG]

Midwestern Gas Transmission Co.; Application

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for an order amending existing authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt of the application of Midwestern Gas Transmission Company (Midwestern) to amend the previous order of the ERA in Docket No. 79–04–NG in order to extend the present authorization to import natural gas from Canada into the United States from the current expiration date of October 31, 1980 to and including October 31, 1981. No increase in the maximum daily import of 350,000 Mcf or to the total authorized import quantity of 114,000 MMcf is requested. Midwestern is also proposing to add Niagara Falls, New York, as a second import point in addition to the currently authorized point near Emerson, Manitoba. The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed on or before August 27, 1980.

FOR FURTHER INFORMATION CONTACT:

Leonard B. Levine (Division of Natural Gas), Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, Washington, D.C. 20461, (202) 653–3286.

James K. White, Acting Assistant General Counsel for Natural Gas and Mineral Leasing, 1000 Independence Ave., S.W., Room 5E–074, Washington, D.C. 20585, (202) 252–2900.

SUPPLEMENTARY INFORMATION:

On August 9, 1979, ERA authorized Midwestern in Docket No. 79–04–NG to import 350,000 Mcf of natural gas per day until October 31, 1980 or until a total quantity of 114,000,000 Mcf was imported. This natural gas is now being purchased by Midwestern from TransCanada Pipelines Ltd. (TransCanada) and is being resold to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company and Natural Gas Pipe Line Company of America. Midwestern's current application states that "the proposed import will permit gas to be delivered from TransCanada which has been previously authorized but not imported within the previously authorized period." The application is silent on the reasons for Midwestern's inability to import the already authorized volumes before October 31, 1980, as well as on the need for the gas at this time.

Midwestern is now requesting approval of an "additional point of delivery" at Niagara Falls, New York, at the existing interconnection of the facilities of TransCanada and Tennessee. Midwestern states that this additional point of delivery will allow it the flexibility to make sales directly to Tennessee when such sales are needed by Tennessee's customers in that area. All quantities imported at Niagara would be resold to Tennessee. Such volumes would be limited to 75,000 Mcf per day and would be part of, not in addition to, the total currently authorized of 350,000 Mcf per day.

According to the application, TransCanada is currently seeking authorization from the Canadian National Energy Board (NEB) to extend its exportation until October 31, 1981. Midwestern states that the price proposed to be paid by Midwestern to TransCanada is "the rate prescribed by the Canadian government as permitted by the ERA and the Commission."

In view of the termination of the present authorization on October 31, 1980, Midwestern has requested that the processing of this application be expedited.

OTHER INFORMATION:

The ERA invites protests or petitions for intervention in the proceeding. Such protests or petitions are to be filed with the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 1.8 and 1.10). Such protests or petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., August 27, 1980.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition and application for certificate should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervenor and is granted by ERA, or if the ERA on its own motion believes that such hearing is required. If such hearing is required, due notice will be given.

A copy of Midwestern's petition is available for public inspection and copying in Room 7108, 2000 M Street N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 29, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-24257 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RA80-51]

Alameda Texaco; Filing of Petition for Review

August 6, 1980.

Take notice that Alameda Texaco on June 18, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 20, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24298 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-549]

Arkansas Power & Light Co.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that Arkansas Power & Light Company (AP&L), on July 28, 1980, tendered for filing a Letter Agreement with Arkansas Electric Cooperative Corporation (AECC). This agreement provides for the sale of 15,000 kilowatts of additional capacity to AECC by AP&L to assure AECC of adequate reserve margins during the twelve motnhs ending June 30, 1981.

Copies of the filing were served upon Arkansas Electric Cooperative Corporation and also upon the Arkansas Public Service Commission, Louisiana Public Service Commission, and the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24299 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1723]

Frank N. Bien; Filing

August 4, 1980.

The filing party submits the following:

Take notice that on July 28, 1980, Frank N. Bien (Applicant) submitted for filing an application, pursuant to Section 305(b) of the Federal Power Act, to hold the following positions:

Director and Vice Chairman—Operations, American Electric Power Service Corp., Public Utility.

Vice President and Director, Columbus & Southern Ohio Electric Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24301 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-68]

Bill's Pershing Mobil; Filing of Petition for Review

August 6, 1980.

Take notice that Bill's Pershing Mobil on July 2, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 20, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24300 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-20]

Boland Oil Co.; Filing of Petition For Review

August 6, 1980.

Take notice that Boland Oil Company on April 1, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 20, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person

wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24302 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-548]

Central Hudson Gas & Electric Corp.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that the Central Hudson & Electric Corporation (Central Hudson), on July 28, 1980, tendered for filing as a rate schedule an executed agreement dated July 1, 1980 between Central Hudson and Connecticut Light and Power Company (CL&P). The proposed rate schedule provides for the sale of generating capacity and associated energy by Central Hudson as available and as scheduled from day to day.

The rate schedule provides for a capacity charge of $3 per megawatt per hour scheduled and an energy charge equal to Central Hudson's incremental fuel and maintenance costs, incremental out-of-pocket costs, incremental costs of transmission losses and applicable taxes.

Central Hudson requests waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective August 1, 1980 in accordance with the anticipated utilization by the parties.

Central Hudson states that a copy of its filing was served on CL&P.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24303 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA79-34]

Commonwealth Oil Refining Co., Inc.; Termination of Proceeding

Issued August 6, 1980.

On June 26, 1980, Commonwealth Oil Refining Company, Inc. (CORCO), the petitioner in this proceeding, filed, pursuant to Section 1.11(d) of the Commission's Rules of Practice and Procedure,[1] a notice of withdrawal of its petition for review of an order issued by the Secretary of Energy denying CORCO adjustment relief. Since no hearing had been held or convened in this proceeding, withdrawal of the petition for review became effective as of July 28, 1980,[2] thus terminating this proceeding as of said date.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-23404 Filed 8-11-80; 8:5 am]

BILLING CODE 6450-85-M

[Docket No. ER80-561]

Consumers Power Co.; Filing

August 6, 1980.

The filing company submits the following:

Take notice that Consumers Power Company on July 30, 1980, tendered for filing a Service Agreement for firm electric transmission service to be provided by Consumers Power Company upon the request of the City of Holland, Michigan. Such service will be provided for one or more weeks at a capacity reservation not to exceed 8,000 kW, at a voltage of approximately 138 kV. The service, if and when requested, will be provided under Consumers Power Company's Contract Rate FTR for firm transmission service under FERC Electric Tariff Original Volume No. 2. Consumers Power states that the Service Agreement will become effective on the first day of the first capacity reservation thereunder, and the Agreement will terminate on October 1, 1980, unless earlier cancelled by mutual consent.

Consumers Power states that copies of the filing were served on the City of Holland and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rule of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24305 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2742]

Copper Valley Electric Association., Inc.; Application for Approval of Revised Exhibit S

August 6, 1980.

Take notice that the Copper Valley Electric Association, Inc. (Copper Valley) filed on November 23, 1979, and supplemented on June 17, 1980, an application (pursuant to Article 38 of its license) for approval of a revised Exhibit S for the Solomon Gulch Project No. 2742 located on Solomon Gulch Creek near Valdez, Alaska. Correspondence with the Applicant should be directed to: Mr. James F. Palin, General Manager, Copper Valley Electric Association, Inc., Glennallen, Alaska 99588.

Description.—In the revised Exhibit S, Copper Valley proposes measures for the enhancement and protection of fish and wildlife resources at the project. These measures include development and maintenance of the 350-foot long powerhouse tailrace as a spawning channel for salmon and construction of a weir downstream of the powerhouse to prevent migrating salmon from entering the facility. Also, Copper Valley would adopt measures, during construction of the 105-mile long project transmission line to Glennallen, for the control of pollution and erosion; fish, wildlife, and raptor protection; maintenance of stream bank integrity; and other measures recommended by the Alaska Department of Natural Resources and the Bureau of Land Management, Department of the Interior. Further, Copper Valley would conduct a study, in cooperation with resource agencies, to determine the effect, if any, of project operation on salmon activities in Solomon Gulch Creek.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition or intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *September 12, 1980.* The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24306 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 251]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 5, 1980.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by August 27, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

[1] 18 C.F.R. 1.11(d), which section is applicable to this proceeding pursuant to Section 1.40(a)(2)(vi) of the Commission's Interim Regulations governing review of adjustment request denials.

[2] *Id.* and 18 C.F.R. 1.13(a) (regarding computation of time).

UMI 0 8 2 1 G A 5 4 V

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
•AMOCO PRODUCTION CO					RECEIVED: 07/11/80 JAI PA			
8046028	5115	3711120090	102		R M FRAZEE GAS UNIT NO 1	COXES CREEK	369.0	TEXAS EASTERN TRANSM
•APPALACHIAN ENERGY INC					RECEIVED: 07/11/80 JAI PA			
8045788	4886	3704920826	102		CHARLES KENNEDY #2 A-E-100	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8046057	5104	3704920919	102		D WIGGERS #1 A-E-59	SILURIAN	30.0	COLUMBIA GAS TRANSMI
8045789	4889	3704920862	102		HERBERT MORTON #1 A-E-125	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8045784	4884	3704920825	102		JENNIE BANKS #1 A-E-92	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8045783	4883	3704920838	102		JOHN JINGLESKI #1 A-E-33	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8045940	4881	3704920964	102		L WADE #1 A-E-123	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8045782	4882	3704920714	102		LELAND CROSSCUT A-E-51	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8045974	5039	3704920953	102		LEO SPITMAN #1 A-E-130	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8046058	5105	3704920898	102		M WICKWIRE #1 A-E-62	SILURIAN	30.0	COLUMBIA GAS TRANSMI
8045786	4888	3704920852	102		ORLO WATROUS #1 A-E-58	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
8045787	4887	3704920813	102		RICHARD C FARVER #1 A-E-86	SILURIAN & UPPER ORDOVIC	30.0	COLUMBIA GAS TRANSMI
8045785	4885	3704920868	102		RODNEY WATROUS #1 A-E-102	SILURIAN SANDS	30.0	COLUMBIA GAS TRANSMI
•BAKER GAS CO					RECEIVED: 07/11/80 JAI PA			
8046059	5102	3700500000	108		J A KLINGENSMITH #1	MATEER	4.7	APOLLO GAS CO
8046060	5103	3700500000	108		J A KLINGENSMITH #2	MATEER	4.7	APOLLO GAS CO
•BOYD & SHRIVER					RECEIVED: 07/11/80 JAI PA			
8045922	4843	3706320667	108		317-WULFERT	CANOE	5.1	T W PHILLIPS GAS AND
8045865	2110	3706322515	108		420-BEHM	N MAHONING	84.6	CONSOLIDATED GAS SUP
8046029	5116	3706329094	105		436-PEFFER	NORTH MAHONING	89.0	T W PHILLIPS GAS AND
8045964	4831	3706323918	103		466-WORK	E MAHONING	55.0	CONSOLIDATED GAS SUP
8046031	5121	3706323900	103		486-LEASURE	CANOE	636.0	CONSOLIDATED GAS SUP
8045963	4830	3706324088	103		490 - WORK	E MAHONING	50.0	CONSOLIDATED GAS SUP
•C & N CO					RECEIVED: 07/11/80 JAI PA			
8045981	5040	3706325396	103		DAY NICHOL #1 (30A)	WHITE	200.0	COLUMBIA GAS TRANSMI
8046052	5159	3706325397	103		EVELYN TRIMBLE #2	WHITE	200.0	COLUMBIA GAS TRANSMI
8046051	5158	3706325399	103		H A NICHOL #1	WHITE	200.0	COLUMBIA GAS TRANSMI
8046053	5160	3706325400	103		H A NICHOL #2	WHITE	200.0	COLUMBIA GAS TRANSMI
8046055	5162	3706325418	103		WILLIAM J MCINTIRE #3	WHITE	200.0	COLUMBIA GAS TRANSMI
8046054	5161	3706325416	103		WM J MCINTIRE #1	WHITE	200.0	COLUMBIA GAS TRANSMI
•CARDINAL OIL CO					RECEIVED: 07/11/80 JAI PA			
8046030	5120	3705920640	105		E KING #1-34 PA PER CHA20640	CONNEAUT	0.0	COLUMBIA GAS TRANS C
8046032	5122	3705920660	103		E MOSIS #1-39 PA PER CHA 20660	CONNEAUT	0.0	COLUMBIA GAS TRANS C
8046033	5123	3705920625	103		W F WHEELER #1-21 PA PER CHA-20625	CONNEAUT	0.0	COLUMBIA GAS TRANSMI
•CARL E MCCALL					RECEIVED: 07/11/80 JAI PA			
8046037	5130	3705120795	103		JAMES GOUHLEY #1	SLIGO	18.0	COLUMBIA GAS TRANS C
•CASTLE GAS CO INC					RECEIVED: 07/11/80 JAI PA			
8045945	1005	3700521004	108		G CROOKS #1 AHM-21004R	COWANSHANNOCK	9.0	EQUITABLE GAS CO
8045942	835	3706322135	108		J A MCALVEY #4 (C-122) IND-22135	BLACKLICK TWP	7.0	COLUMBIA GAS TRANS C
8045944	855	3706323419	108		J M LOUGHNEY #1(C-176) IND-23419	WHITE TWP	19.0	PEOPLES NAT GAS CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8045863	923	3712922683	108		J B POLLINS #1 (C-192) WE822683	DERRY TOWNSHIP	21.0	PEOPLES NATURAL GAS
8045864	924	3712920736	108		J B POLLINS #2 (C-221) WE8-20736	DERRY TOWNSHIP	21.0	PEOPLES NATURAL GAS
8045943	836	3706322390	108		JAMES MCKEE #1 (C-156) IND-22390	YOUNG TWP	7.0	COLUMBIA GAS TRANS C
8045941	826	3706322518	108		MARY J IRWIN #1 (C-207) IND-22518	YOUNG TWP	7.0	COLUMBIA GAS TRANS C
8045862	727	3706323172	108		A D BLACK (23-A) #1 C-317 IND-23172	EAST MAHONING TWP	19.0	PEOPLES NATURAL GAS
•CLARION OIL & GAS CORP					RECEIVED: 07/11/80 JAI PA			
8045973	5035	3703120781	103		CONNER #1	BLACK FOX	300.0	COLUMBIA GAS TRANS
8045972	5034	3703120780	103		HUTCHINSON #1	BLACK FOX	300.0	COLUMBIA GAS TRANSMI
•CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 07/11/80 JAI PA			
8046050	5156	3706521171	108		BUHL L SCHUCKERS WN-1427	SOLDIERS RUN 664915	12.0	GENERAL SYSTEM PURCH
8046049	5155	3706521148	108		EUGENE CATALANO WN-1407	OLIVEBURG 923959	10.0	GENERAL SYSTEM PURCH
8046044	5146	3706324439	103		IRAL I SAVAGE WN-1692	KENWOOD 375676	21.0	GENERAL SYSTEM PURCH
8046046	5148	3706324970	103		J CLYDE JOHNS WN-1755	CHERRY TREE 136278	27.0	GENERAL SYSTEM PURCH
8046042	5144	3703320709	103		J L BROTHERS EST WN-1671	CHERRY TREE 136278	21.0	GENERAL SYSTEM PURCH
8046048	5154	3706322527	108		JACOB B CASADY WN-1319	ROCHESTER MILLS 063023	10.0	GENERAL SYSTEM PURCH
8046047	5150	3706521432	108		JOHN C MILLER WN-1619	SOLDIER RUN 664915	19.0	GENERAL SYSTEM PURCH
8046043	5145	3706324276	103		SAMUEL STIFFLER WN-1670	CHERRY TREE 136278	26.0	GENERAL SYSTEM PURCH
8046041	5143	3702120078	103		W D WILSON WN-1653	CHERRY TREE 136278	25.0	GENERAL SYSTEM PURCH
8046045	5147	3702120083	103		WILLIAM BUTTERBAUGH WN-1751	CHERRY TREE 136278	27.0	GENERAL SYSTEM PURCH
•DELTA DRILLING CO					RECEIVED: 07/11/80 JAI PA			
8045860	5036	3706320694	108		O M GIBBON #1	CHERRY MILL	0.3	COLUMBIA GAS TRANSMI
•EUGENE MITCHELL					RECEIVED: 07/11/80 JAI PA			
8045859	5033	3704900000	103		MITCHELL MEARD JOBT #3	WATERFORD (MITCHELLS PAR	2.0	NATIONAL FUEL GAS SU
•FAIRMAN DRILLING CO					RECEIVED: 07/11/80 JAI PA			
8045861	5037	3703320313	108		GREEN GLEN-DEEMER WARRANT 3580 P-65	PUNXSUTAWNEY-DRIFTWOOD-R	19.0	CONSOLIDATED GAS SUP
•FOX O & G INC					RECEIVED: 07/11/80 JAI PA			
8046040	5136	3706324029	103		ALVIN ALMES #1	WHITE	26.0	LOUDEN PROPERTIES CO
8046038	5131	3706324052	103		ALVIN ALMES #2	WHITE	26.0	LOUDEN PROPERTIES CO
8045975	5041	3712921252	103		ANDREW KUBIOLEK #1	HEMPFIELD	24.0	SUPERIOR DRAWN STEEL
8046039	5135	3712921199	103		J E KING #2	SOUTH HUNTINGDON	46.0	LOUDEN PROPERTIES CO
•FRED J RUSSELL DBA LOUDEN PROPERTIE					RECEIVED: 07/11/80 JAI PA			
8045840	5014	3701900000	108		A BOWSER 1053-1	WORTHINGTON	1.6	CRUCIBLE INC
8045843	5013	3701900000	108		A BOWSER 1053-2	WORTHINGTON	1.6	CRUCIBLE INC
8045819	4985	3701900000	108		ALTMAN 1154-T1	WORTHINGTON	1.6	CRUCIBLE INC
8045836	5006	3701900000	108		BAUER 1095-1	WORTHINGTON	1.6	CRUCIBLE INC
8045832	5002	3701900000	108		BAULDAUF 1093-T1	WORTHINGTON	1.6	CRUCIBLE INC
8045833	5003	3701900000	108		BAULDAUF 1093-T2	WORTHINGTON	1.6	CRUCIBLE INC
8045835	5005	3701900000	108		BERG 1096-1	WORTHINGTON	1.6	CRUCIBLE INC
8045826	4994	3701900000	108		BERGBIGLER 1137-T1	WORTHINGTON	1.6	CRUCIBLE INC
8045825	4991	3701920791	108		BERGBIGLER 1137-T2	WORTHINGTON	0.5	CRUCIBLE INC
8045799	4899	3701900000	108		DIVENEY 1057-1	CURTISVILLE	0.8	CRUCIBLE INC
8045796	4896	3701900000	108		E C GRUMMAN 1020-1	WORTHINGTON	1.0	CRUCIBLE INC
8045795	4895	3701900000	108		E C GRUMMAN 1020-2	WORTHINGTON	1.0	CRUCIBLE INC
8045838	5008	3701900000	108		FINDLEY 1062-1	WORTHINGTON	1.6	CRUCIBLE INC
8045845	5015	3701900000	108		G KULP 1037-1	WORTHINGTON	1.6	CRUCIBLE INC
8045842	5012	3701900000	108		GORMLEY 1059-1	WORTHINGTON	1.6	CRUCIBLE INC
8045840	5011	3701900000	108		GORMLEY 1059-2	WORTHINGTON	1.6	CRUCIBLE INC
8045841	4010	3701900000	108		GRAHAM A1060-1	WORTHINGTON	1.6	CRUCIBLE INC
8045793	4893	3701900000	108		HARDMAN 1080-1	SAXONBURG	0.8	CRUCIBLE INC
8045796	4896	3701900000	108		HOAK 1030-1	WORTHINGTON	1.0	CRUCIBLE INC
8045805	4906	3701900000	108		J FISHER 1104-1	CURTISVILLE	0.8	CRUCIBLE INC
8045798	4898	3701900000	108		J FRANK 1152-1	CURTISVILLE	1.6	CRUCIBLE INC
8045818	4984	3701920794	108		J KULP 1153-1	WORTHINGTON	1.6	CRUCIBLE INC

V 45 A G 12 80 UMI

VOLUME 251 PAGE 005

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8045908	2456	3706500000	108		MARVEY JOHNS #8	BROOKVILLE	8,8	NATIONAL FUEL GAS SU
8045909	2457	3706500000	108		MARVEY JOHNS #5	BROOKVILLE	2,2	NATIONAL FUEL GAS SU
8045912	2460	3706500000	108		MARVEY T RHODES #1	BROOKVILLE	2,2	NATIONAL FUEL GAS SU
8045894	2442	3706500000	108		HOBART A CARRIER #1	CORSICA	1,5	NATIONAL FUEL GAS SU
8045884	2418	3706500000	108		ISAAC KNAPP #2	BROOKVILLE	1,7	NATIONAL FUEL GAS SU
8045898	2446	3706500000	108		J M BRINKER #1	BROOKVILLE	2,2	NATIONAL FUEL GAS SU
8045890	2425	3706520016	108		J W LOCKE #1	BROOKVILLE	1,7	NATIONAL FUEL GAS SU
8045950	2436	3706500000	108		K P ALLMOUSE #1	BROOKVILLE	1,7	NATIONAL FUEL GAS SU
8045910	2458	3706500000	108		M F KNISLEY A #1	BROOKVILLE	2,2	NATIONAL FUEL GAS SU
8045911	2459	3706500000	108		M F KNISLEY B #2	BROOKVILLE	2,2	NATIONAL FUEL GAS SU
8045952	2436	3706500000	108		MERLE BARNETT #1	BROOKVILLE	1,7	NATIONAL FUEL GAS SU
8045949	2433	3706500000	108		STANLEY B STAHLMAN #1	BROOKVILLE	1,7	NATIONAL FUEL GAS SU
8045899	2447	3706500000	108		W M BUTLER #1	BROOKVILLE	2,2	NATIONAL FUEL GAS SU
8045896	2444	3706500000	108		W P STAHLMAN #1	CORSICA	1,5	NATIONAL FUEL GAS SU
•J & J ENTERPRISES INC					RECEIVED: 07/11/80 JA: PA			
8045937	4856	3703320721	108		AMBROSE BRETH #1	BELL	11,0	CONSOLIDATED GAS SUP
8045934	4853	3703320683	108		BENNICE KUNSMAN #1 (120A)	BURNSIDE	9,2	CONSOLIDATED GAS SUP
8046019	5097	3703320747	108		BLAIR B BEATTY #2	BURNSIDE	1,0	CONSOLIDATED GAS SUP
8046002	5080	3703320720	108		CARTER SMITH #1 (153A)	BELL	4,9	CONSOLIDATED GAS SUP
8046001	5079	3703320738	108		CARTER SMITH #2 (153A)	BELL	4,9	CONSOLIDATED GAS SUP
8046018	5096	3703320685	108		DONALD LEE #1	BURNSIDE	11,7	CONSOLIDATED GAS SUP
8045929	4848	3706521497	108		E W JOHNSON #1 (201A)	MCCALMONT	1,3	CONSOLIDATED GAS SUP
8045927	4846	3706321459	108		EDWARD SKARBEK #1	BELL	8,6	CONSOLIDATED GAS SUP
8046022	5100	3703320774	108		ELZIE WOODSIDE #1	BURNSIDE	2,3	CONSOLIDATED GAS SUP
8045993	5071	3703320691	108		EUGENE REIGHARD #1	BELL	4,3	CONSOLIDATED GAS SUP
8045996	5074	3703320773	108		EUGENE REIGHARD #2	BELL	4,3	CONSOLIDATED GAS SUP
8045932	4851	3703320693	108		J BLAINE BYERS #1 (74A)	BURNSIDE	7,6	CONSOLIDATED GAS SUP
8046011	5089	3703320688	108		JAMES HORABAUGH #1 (130A)	BURNSIDE	4,5	CONSOLIDATED GAS SUP
8046010	5088	3703320744	108		JAMES HORABAUGH #2 (130A)	BURNSIDE	4,5	CONSOLIDATED GAS SUP
8046014	5092	3703320670	108		JESSE MUTTON #1 (112A)	BURNSIDE	12,6	CONSOLIDATED GAS SUP
8045989	5067	3703320671	108		JESSE MUTTON #1 (180A)	BURNSIDE	2,1	CONSOLIDATED GAS SUP
8046020	5098	3703320699	108		JESSE MUTTON #2 (112A) CLE=20699	BURNSIDE	12,6	CONSOLIDATED GAS SUP
8045990	5068	3703320696	108		JESSE MUTTON #2 (180A)	BURNSIDE	2,1	CONSOLIDATED GAS SUP
8045991	5069	3703320719	108		JESSE MUTTON #3 (180A)	BURNSIDE	2,1	CONSOLIDATED GAS SUP
8046004	5082	3703320672	108		JOHN FENCHAK #1 (174A)	BELL	19,8	CONSOLIDATED GAS SUP
8046003	5081	3703320716	108		JOHN FENCHAK #2 (174A)	BELL	19,8	CONSOLIDATED GAS SUP
8045939	4858	3703320743	108		K R MAHAFFEY #1 (36A)	BELL	10,6	CONSOLIDATED GAS SUP
8045926	4845	3703320684	108		KATHRYN MAHAFFEY #1 (99A)	BELL	6,5	CONSOLIDATED GAS SUP
8045931	4850	3703320727	108		KOUPER KARP #1	BELL	15,9	CONSOLIDATED GAS SUP
8046009	5087	3703320729	108		MAHAFFEY-MITCHELL #1 (496A)	BURNSIDE	8,7	CONSOLIDATED GAS SUP
8045925	4844	3703320675	108		MAHAFFEY-MITCHELL #2 (496A)	BURNSIDE	4,8	CONSOLIDATED GAS SUP
8045930	4849	3703320700	108		MAHAFFEY-MITCHELL #3 (496A)	BURNSIDE	7,8	CONSOLIDATED GAS SUP
8046008	5086	3703320730	108		MAHAFFEY-MITCHELL #4 (496A)	BURNSIDE	8,7	CONSOLIDATED GAS SUP
8045995	5073	3703320731	108		MAHAFFEY-MITCHELL #5 (496A)	BURNSIDE	8,7	CONSOLIDATED GAS SUP
8045994	5072	3703320732	108		MAHAFFEY-MITCHELL #6 (496A)	BURNSIDE	8,7	CONSOLIDATED GAS SUP
8046021	5099	3703320733	108		MAHAFFEY-MITCHELL #7 (496A)	BURNSIDE	8,7	CONSOLIDATED GAS SUP
8045923	4842	3703320661	108		MAHAFFEY-MITCHELL #8	BURNSIDE	7,3	CONSOLIDATED GAS SUP
8045997	5075	3703320775	108		MICHAEL METENKU #1 (62A)	BURNSIDE	2,9	CONSOLIDATED GAS SUP
8046007	5085	3703320673	108		NANCY HEISING #1 (177A)	BURNSIDE	4,0	CONSOLIDATED GAS SUP
8046023	5101	3703320748	108		NANCY HEISING #2 (177A)	BURNSIDE	4,0	CONSOLIDATED GAS SUP
8045933	4852	3703320692	108		RAYMOND PIERCE #1 (94A)	BURNSIDE	2,6	CONSOLIDATED GAS SUP
8046006	5084	3703320722	108		ROBERT BRETH #1 (96A)	BELL	8,8	CONSOLIDATED GAS SUP
8046005	5083	3703320737	108		ROBERT BRETH #2 (96A)	BELL	8,8	CONSOLIDATED GAS SUP

VOLUME 251 PAGE 006

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8045936	4855	3703320687	108		ROBERT HORABAUGH #1 (135A)	BURNSIDE	8,2	CONSOLIDATED GAS SUP
8045935	4854	3703320753	108		ROBERT HORABAUGH #2	BURNSIDE	5,0	CONSOLIDATED GAS SUP
8046000	5078	3703320711	108		SANOR BENNETT #1	BELL	11,0	CONSOLIDATED GAS SUP
8045992	5070	3703320739	108		SANOR BENNETT #2	BELL	11,0	CONSOLIDATED GAS SUP
8045938	4857	3706521501	108		T MARUCA #1	MCCALMONT	2,0	CONSOLIDATED GAS SUP
8045998	5076	3703320763	108		THEODORE BOLLEY #1	BURNSIDE	7,4	CONSOLIDATED GAS SUP
8046024	5102	3706523158	108		UMBERT PETRARCE #1	GRANT	16,0	CONSOLIDATED GAS SUP
8046012	5090	3703320713	108		W J DUNBIN #2 (432A)	BELL	8,5	CONSOLIDATED GAS SUP
8045988	5066	3703320712	108		W J DUNBIN JR #1 (432A)	BELL	8,5	CONSOLIDATED GAS SUP
8046013	5091	3703320736	108		W J DUNBIN JR #3 (432A)	BELL	8,5	CONSOLIDATED GAS SUP
8045999	5077	3703320740	108		W T MAHAFFEY #1 (320A)	BELL	5,1	CONSOLIDATED GAS SUP
8046015	5093	3703320741	108		W T MAHAFFEY #2 (320A)	BELL	5,1	CONSOLIDATED GAS SUP
8046016	5094	3703320660	108		W T MAHAFFEY #3 (320A)	BELL	5,1	CONSOLIDATED GAS SUP
8046017	5095	3703320742	108		W T MAHAFFEY #4 (320A)	BELL	5,1	CONSOLIDATED GAS SUP
8045928	4847	3706521470	108		WALTER PIPER #1	MCCALMONT	1,2	CONSOLIDATED GAS SUP
8045924	4843	3703320682	108		WM HORABAUGH #1 (89A)	BURNSIDE	7,0	CONSOLIDATED GAS SUP
•MERIDIAN EXPLORATION CORP					RECEIVED: 07/11/80 JA: PA			
8045921	3298	3708300000	108		DUTTER #5	WETMORE	7,0	NATIONAL FUEL GAS DI
•NORTHWEST NATURAL GAS CO					RECEIVED: 07/11/80 JA: PA			
8045982	5050	3704920877	103		CATICCHIO #1	CONNEAUT	30,0	NATIONAL FUEL GAS DI
8045983	5051	3703920609	103		CONLEY #1	CONNEAUT	45,0	NATIONAL FUEL GAS DI
8045985	5053	3703920603	103		ESCHWEILER #1	CONNEAUT	40,0	NATIONAL FUEL GAS DI
8045976	5044	3703920655	103		GUIANEN #1	CONNEAUT	35,0	NATIONAL FUEL GAS DI
8045980	5049	3704920866	103		HEMSTREET #1	CONNEAUT	30,0	NATIONAL FUEL GAS DI
8045978	5046	3703920835	103		J KOBYS	CONNEAUT	35,0	NATIONAL FUEL GAS DI
8045987	5055	3703920601	103		KLEINERT #2	CONNEAUT	45,0	NATIONAL FUEL GAS DI
8045986	5054	3703920631	103		KLEINERT #3	CONNEAUT	30,0	NATIONAL FUEL GAS DI
8045977	5045	3703920649	103		KULIK #1	CONNEAUT	30,0	NATIONAL FUEL GAS DI
8045979	5048	3703920604	103		RIPPERT #2	CONNEAUT	60,0	NATIONAL FUEL GAS DI
8045984	5052	3703920602	103		STAGL #1	CONNEAUT	30,0	NATIONAL FUEL GAS DI
•PHILLIPS PRODUCTION CO					RECEIVED: 07/11/80 JA: PA			
8046035	5128	3706522056	103		GEORGE C MANLEY ET AL #1	PUNXSUTAWNEY	40,0	
8046034	5127	3706324981	103		HELEN M PELEB #2	CLYMER	40,0	
8046036	5129	3706522055	103		JAMES M STALEY ET AL #1	PUNXSUTAWNEY	85,0	
•UNION DRILLING INC					RECEIVED: 07/11/80 JA: PA			
8045962	3985	3706324987	103		ALBERT G HARTMAN ET UX #1 • 630=PC	RAYNE TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8046027	5114	3706325380	103		C & M BRAUGHLER #3 682=PC	CHERRYHILL TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8045961	3984	3706324742	103		C & M G BRAUGHLER #1 • 626=PC	RAYNE TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8046025	5112	3706325383	103		JOHN & EDWARD BOKOL #1 683=PC	CHERRYHILL TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8046026	5113	3706325379	103		M C & M BRAUGHLER #2 681=PC	CHERRYHILL TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8045956	3781	3706324779	103		R & P COAL (DIXON) #1 635	CENTER TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8045958	3783	3706324777	103		R & P COAL (GAMBLE) #1 637	CENTER TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8045957	3782	3706324769	103		R & P COAL CO (DEVER) #1 636	CENTER TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8045960	3785	3706324764	103		R & P COAL CO (DUNCAN) #1 607	CENTER TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
8045959	3784	3706324778	103		R & P COAL CO (HARBAUGH) #1 639	CENTER TOWNSHIP	0,0	COLUMBIA GAS TRANSMI
•ZENITH EXPLORATION COMPANY					RECEIVED: 07/11/80 JA: PA			
8045856	5031	3705120120	108		FRANZ #1	BRANDONVILLE	73,0	COLUMBIA GAS TRANSMI
8046056	5103	3705120053	108		RYAN UNIT #1	BRUCETON MILLS	1,0	COLUMBIA GAS TRANSMI

[FR Doc. 80-24294 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-C

[Volume 252]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 5, 1980.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by August 27, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

JD NO	JA OR I	API NO	SEC D RELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION						
*CITY RESERVE OIL INC			RECEIVED: 07/07/80	JAI MT		
0040065	5-80-113	2505121502 103	RESERVE/LAUREN #1-21	MT LILLY	30.0	
*PATRICK PETROLEUM CORP			RECEIVED: 07/07/80	JAI MT		
0040062	5-80-110	2509121178 102	MILLER #1	DAGMAR	0.0	TRUE OIL CO
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS						
*AMERADA HESS CORPORATION		3001500000 108	RECEIVED: 07/09/80	JAI NM		
0040077		3002300000 108	MARVEY STATE #3		3.1	GAS CO OF NEW MEXICO
0040076			L M WHITE #2		83.5	PHILLIPS PETROLEUM C
*AMOCO PRODUCTION CO		3000325139 108	RECEIVED: 07/09/80	JAI NM		
0040070		3004300983 108	LIKINS GAS COM A #2		7.0	EL PASO NATURAL GAS
0040074			RECEIVED: 07/09/80	JAI NM	10.0	EL PASO NATURAL GAS
*CONOCO INC		3006320506 103	STATE KP#13 NO 4			
0040066			RECEIVED: 07/09/80	JAI NM	105.0	NORTHERN NATURAL GAS
*EL PASO NATURAL GAS COMPANY		3004506149 108	BURKHOLDER COM #1			
0040068		3003907000 108	MINCUN UNIT #32		20.1	EL PASO NATURAL GAS
0040073			RECEIVED: 07/09/80	JAI NM	10.0	EL PASO NATURAL GAS
*EL RAN INC		3004100000 103	BENGSTHOM #1			
0040071		3000320722 103	SAHAM #1		30.0	TRANSWESTERN PIPELIN
0040065		3000320723 103	SAHAM #2		12.0	TRANSWESTERN PIPELIN
0040064			RECEIVED: 07/09/80	JAI NM	1.0	TRANSWESTERN PIPELIN
*HAMPEN OIL COMPANY		3004300000 103	FRIER #1			
0040067			RECEIVED: 07/09/80	JAI NM		
*J GREGORY MERRIONNRODENT L BATLESS		3004300000 103	FANKED #1		10.0	WARREN PETROLEUM CO
0040080			RECEIVED: 07/09/80	JAI NM		
*MANALU INC		3004300000 100	MANALO 1A STATE #1		10.0	SOUTHERN UNION GAS C
0040075			RECEIVED: 07/09/80	JAI NM		
*MOBIL PROD TEXAS & NEW MEXICO INC		3002520540 102	MANALO 1A STATE #1		90.0	EL PASO NATURAL GAS
0040078		3003922198 103	RECEIVED: 07/09/80	JAI NM		
*ODESSA NATURAL CORPORATION			HUGHES-FEDERAL COM NO 1		10.0	NORTHWEST PIPELINE C
0040069		3004523600 103	RECEIVED: 07/09/80	JAI NM		
*TENNECO OIL COMPANY			BURKHOLDER STATE 1E			
0040072		3004524042 103	RECEIVED: 07/09/80	JAI NM	0.0	EL PASO NATURAL GAS
*TEXAS PETROLEUM CORPORATION		3001523184 103	THURSTON COM A #1			
0040079			RECEIVED: 07/09/80	JAI NM	800.0	EL PASO NATURAL GAS
			GREASEWOOD SD ST #6		0.0	TRANSWESTERN PIPELIN
UTAH DIVISION OF OIL, GAS & MINING						
*AMERICAN QUASAR PETROLEUM CO		4305347A8 A0107-S 4305350092 101	RECEIVED: 11/07/79	JAI UT		
0005474A8 A0107-S			PINEVIEW 4-28		100.0	MOUNTAIN FUEL SUPPLY
WEST VIRGINIA DEPARTMENT OF MINES						
*A C MAUFUMO			RECEIVED: 07/11/80	JAI WV		

UMI 0 8 2 1 G A V 5 4

VOLUME 252 PAGE 002

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046175		4704100618	108		EDWARD MORAN #1	COURTHOUSE DISTRICT	2,6	EQUITABLE GAS CO
•ALLEGHENY LAND & MINERAL COMPANY					RECEIVED: 07/11/80 JAI WV			
8046218		4708300290	103		A = 840	MIDDLE FORK DISTRICT	0,0	COLUMBIA GAS TRANSMI
8046216		4708300285	103		A = 843	MIDDLE FORK DISTRICT	0,0	COLUMBIA GAS TRANSMI
8046219		4708300286	103		A = 844	ROARING CREEK DISTRICT	0,0	COLUMBIA GAS TRANSMI
8046217		4708300292	103		A = 872	MIDDLE FORK DISTRICT	0,0	COLUMBIA GAS TRANSMI
8046230		4700101120	103		A=790	COVE DISTRICT	0,0	CONSOLIDATED GAS SUP
8046229		4701702316	103		A=791	SOUTHWEST DISTRICT	0,0	CONSOLIDATED GAS SUP
8046171		4707700198	103		A=802	VALLEY DISTRICT	0,0	CONSOLIDATED GAS SUP
8046213		4708300278	103		A=826	MIDDLE FORK DISTRICT	0,0	COLUMBIA GAS TRANSMI
8046214		4708300279	103		A=838	MIDDLE FORK DISTRICT	0,0	COLUMBIA GAS TRANSMI
8046215		4708300283	103		A=839	ROARING CREEK DISTRICT	0,0	COLUMBIA GAS TRANSMI
•APPALACHIAN EXPLORATION & DEVEL INC					RECEIVED: 07/11/80 JAI WV			
8046173		4700501987	108		SHONK LAND CO #25	SHERMAN	12,5	CONSOLIDATED GAS SUP
•ASHLAND EXPLORATION INC					RECEIVED: 07/09/80 JAI WV			
8046178		4703903488	103		EASTERN ASSOCIATED COAL #64	PAINT CREEK	35,0	COLUMBIA GAS TRANSMI
8046179		4703903487	103		EASTERN ASSOCIATED COAL CORP #63	PAINT CREEK	35,0	COLUMBIA GAS TRANSMI
8046181	01271	4700500000	103		SOUTHERN LAND #10	LOGAN=WYOMING	40,0	CONSOLDIATED GAS SUP
•BEECHER L W					RECEIVED: 07/11/80 JAI WV			
8046205		4708523026	108		KENNETH DEEN WELL NO 2	MURPHY DISTRICT	3,0	CONSOLIDATED GAS SUP
•BOMBER GAS & OIL CO					RECEIVED: 07/09/80 JAI WV			
•8046101		4701303106	108		M M BENNETT #5	ARNOLDSBURG	3,9	CONSOLIDATED GAS SUP
•8046096		4708504726	108		JOHN L GILL HEIRS #1		0,7	CONSOLIDATED GAS SUP
•BOX ENERGY ASSOCIATES LTD					RECEIVED: 07/11/80 JAI WV			
8046140		4708524325	103		BERTHA MCCOY M=762	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046139		4708524324	103		BERTHA MCCOY M=763	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046138		4708524323	103		BERTHA MCCUY M=764	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046137		4708524322	103		C ELDER M=761	CLAY DISTRICT	20,0	CARNEGIE NATURAL GAS
8046136		4708524321	103		CORA ELDER M=691	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046135		4708524202	103		D MADDUX M=665	UNION DISTRICT	30,0	CARNEGIE NATURAL GAS
8046146		4708524331	103		D MADDUX M=777	UNION DISTRICT	21,0	CARNEGIE NATURAL GAS
8046145		4708524330	103		D MADDUX M=778	UNION DISTRICT	30,0	CARNEGIE NATURAL GAS
8046144		4708524329	103		D MADDUX M=779	UNION DISTRICT	35,0	CARNEGIE NATURAL GAS
8046152		4708524395	103		E MAPLE M=622	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046153		4708524396	103		E MAPLE M=623	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046154		4708524397	103		E MAPLE M=624	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046132		4708524049	103		EUGENE R MAPLE M=625	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046133		4708524170	103		M E ELDER M=693	CLAY DISTRICT	20,0	CARNEGIE NATURAL GAS
8046134		4708524171	103		M E ELDER M=694	CLAY DISTRICT	20,0	CARNEGIE NATURAL GAS
8046143		4708524328	103		JESSIE ELDER M=772	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046142		4708524327	103		JESSIE ELDER M=773	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046141		4708524326	103		L ELDEN M=771	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046149		4708524334	103		L ELDEN M=774	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046150		4708524379	103		R JACKSON M=868	CLAY DISTRICT	20,0	CARNEGIE NATURAL GAS
8046147		4708524332	103		B HOWARD M=776	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046148		4708524333	103		SARAH HOWARD M=775	UNION DISTRICT	20,0	CARNEGIE NATURAL GAS
8046151		4708524381	103		WEDEKAMM M=666			
•BRAXTON OIL AND GAS CORP					RECEIVED: 07/11/80 JAI WV			
8046127		4700701435	103		CLYDE BUSLEY #3	CHAPEL=GERMAN	5,0	CONSOLIDATED GAS SUP
8046157		4700701432	103		FLEMING NO 1	HEATERS	10,0	CONSOLIDATED GAS SUP
8046126		4700701431	103		MILDEBRAND NO 1	CHAPEL = GERMAN	10,0	CONSOLIDATED GAS SUP
8046233		4700701427	103		MORGAN NO 1	OTTER	40,0	CONSOLIDATED GAS SUP
8046232		4700701426	103		NO 1 MINE	HEATERS	15,0	CONSOLIDATED GAS SUP

VOLUME 252 PAGE 003

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046130		4702103599	103		OLDHAM NO 1	BURNSVILLE	90,0	CONSOLIDATED GAS SUP
8046235		4700701430	103		PAUL STOUT NO 1	BURNSVILLE	0,0	CONSOLIDATED GAS SUP
8046131		4702103560	103		STUUT HEIRS NO 1	BURNSVILLE	20,0	CONSOLIDATED GAS SUP
8046234		4700701428	103		TOLLEY NO 1	GERMAN=CHAPEL	20,0	COLUMBIA GAS CO
8046231		4700701161	103		WATSON #1	OTTER	15,0	CONSOLIDATED GAS SUP
•C M & J E RICHARDS					RECEIVED: 07/09/80 JAI WV			
8046097		4708524730	108		C M COX #1 = 47 085	PULLMAN	1,4	CARNEGIE NATURAL GAS
8046098		4708524731	108		C M COX #2 = 47 085	PULLMAN	1,4	CARNEGIE NATURAL GAS
•C W BEECHER					RECEIVED: 07/11/80 JAI WV			
8046203		4702121981	108		ARTHUR DIVERS NO 2	CENTER DISTRICT	2,5	CARNEGIA NATURAL GAS
8046204		4702122004	108		ARTHUR DIVERS NO 3	CENTER DISTRICT	4,5	CARNEGIA NATURAL GAS
8046202		4708524283	108		M P CUNNINGHAM NO 1	MURPHY DISTRICT	3,5	CONSOLIDATED GAS SUP
8046199		4708523229	108		M P CUNNINGHAM NO 2	MURPHY DISTRICT	4,5	CONSOLIDATED GAS SUP
8046200		4708523262	108		M P CUNNINGHAM NO 3	MURPHY DISTRICT	4,1	CONSOLIDATED GAS SUP
8046201		4708523527	108		M P CUNNINGHAM NO 4	MURPHY DISTRICT	2,6	CONSOLIDATED GAS SUP
•CENTRAL GAS CO					RECEIVED: 07/09/80 JAI WV			
8046099		4708504733	108		E HALL #1	DEVIL HOLE	4,8	CONSOLIDATED GAS SUP
•CITIES SERVICE COMPANY					RECEIVED: 07/11/80 JAI WV			
8046169		4701702128	108		MAXWELL A #13	SMITHBURG	2,8	CONSOLIDATED GAS SUP
8046168		4701702129	108		MAXWELL A #15	SMITHBURG	1,9	CONSOLIDATED GAS SUP
•COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 07/11/80 JAI WV			
8046161		4701501388	108		HUMBARD RUFFNER 801132	UNION	6,6	COLUMBIA GAS TRANSMI
•CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 07/09/80 JAI WV			
8046089		4709100168	108		CECIL O WOLFE 12552	W VA OTHER A83772	4,0	GENERAL SYSTEM PURCH
•CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 07/11/80 JAI WV			
8046160		4701900209	108		GAULEY MTN COAL 12242	WEST VIRGINIA OTHER A=85	11,0	GENERAL SYSTEM PURCH
•CUMBERLAND GAS CO					RECEIVED: 07/09/80 JAI WV			
8046106		4704302362	108		W B BRUMFIELD #BR=83	CARROLL	6,8	COLUMBIA GAS TRANS C
•D B GRABLE					RECEIVED: 07/09/80 JAI WV			
8046095		4707300839	108		J E BAILEY NO 1	JEFFERSON DISTRICT	2,0	CONSOLIDATED GAS SUP
•D C MALCOLM INC					RECEIVED: 07/11/80 JAI WV			
8046176		4707900932	103		C BURNS #1	ST ALBANS = BURDETTE	29,0	COLUMBIA GAS TRANSMI
•DEB OIL & GAS CO					RECEIVED: 07/11/80 JAI WV			
8046167		4709700883	108		L B REEDER #1	WARREN DISTRICT	3,0	CONSOLIDATED GAS SUP
8046177		4709700804	108		MARTIN UNIT #1	BUCKHANNON DISTRICT	13,2	CONSOLIDATED GAS SUP
•DEVON CORPORATION					RECEIVED: 07/11/80 JAI WV			
8046162		4705300210	103		#942 JAY STONE	PANCHMENT	22,0	KAISER ALUMINUM & CH
•DIVERS BEECHER & GUNN					RECEIVED: 07/11/80 JAI WV			
8046226		4701322520	108		(LEE) GAINER HEIRS NO 1	CENTER	16,8	CABOT CORP
8046228		4702102129	108		BENNETT & MCCUMBERS NO 1	CENTER DISTRICT	3,6	CONSOLIDATED GAS SUP
8046227		4702122158	108		BENNETT=MCCUMBERS NO 2	CENTER DISTRICT	1,5	CONSOLIDATED GAS SUP
8046224		4702122073	108		BOYD C CULLINS NO 2	CENTER DISTRICT	4,0	CARNEGIA NATURAL GAS
8046225		4708523504	108		W M BAKER NO 3	MURPHY DISTRICT	4,2	CABOT CORP
•EDWARD C SINE					RECEIVED: 07/11/80 JAI WV			
8046189		4704900666	108		A D WELLS LEASE LEE KUHN 1	MANNINGTON DIST	5,2	PENNZOIL CO
8046190		4704900665	108		MAGGIE STILES NO 1	MANNINGTON DIST	5,2	PENNZOIL CO
•ELIZA ISABEL MORGAN					RECEIVED: 07/09/80 JAI WV			
8046104		4703502318	108		DAWSON MINES	WEST FORK RIVER COAL DIS	6,0	CONSOLIDATED GAS SUP
8046105		4703502319	108		NORTH VIEW WELL	WEST FORK RIVER COAL DIS	0,5	CONSOLIDATED GAS SUP
•FRANKLIN E CAIN					RECEIVED: 07/11/80 JAI WV			
8046158		4701302982	103		BUNTON DESMAND #7 CUNT #3071	CENTER	0,0	CONSOLIDATED GAS SUP
8046159		4701302979	103		MAHOMAN=MATHEWS #1 CUNT #4076	CENTER	0,0	CONS GAS SUPPLY CORP
•GAS SUPPLY CORP					RECEIVED: 07/09/80 JAI WV			

UMI 0 8 2 1 G A 5 4 V

VOLUME 292 PAGE 004

JD NO	JA DKT	API NO	SEC	D	WELL NAME
8046087		4709901709	108		C W FERGUSON NO 881
8046085		4709901707	108		FARIAN GILKERSON #38
8046086		4709901708	108		FRALEY NO 834 WELL 1
8046115		4709900000	108		TONEY NO 1
*J & J ENTERPRISES INC					RECEIVED: 06/02/80 JAI WV
8043866		4700108940	103		8-120 BAR-889
*J & J ENTERPRISES INC					RECEIVED: 07/11/80 JAI WV
8046170		4703302016	103		8-241 MAR-2016
8046190		4701702540	103		8-312
8046191		4701722467	103		K-501-#1
*JAMES P SCOTT					RECEIVED: 07/11/80 JAI WV
8046182		4703302217	103		HOWARD HUSTEAD #1 8-285
8046184		4703302216	103		ROBERT N WOLFE #1 8-284
8046185		4703302192	103		TERRY HAGGERTY 8-281
*KRAKRON CORP					RECEIVED: 07/09/80 JAI WV
8046107		4708703288	108		A CHURCH LOT #1
8046123		4708703286	108		E A STUMP & M R STUMP #5
8046114		4708703294	108		FRED & LIZZIE SMITH #19
8046124		4708703295	108		FRED & LIZZIE SMITH #27
8046108		4708703289	108		M R STUMP & E A STUMP #3
8046113		4708703287	108		I C STUMP #2
8046110		4708703291	108		JAMES M KEEN #13
8046109		4708703290	108		JAMES M KEEN #14
8046125		4708703296	108		JULIA BENT ETAL #24
8046111		4708703292	108		PRUSSIA CARPER #12
8046122		4708703285	108		R D ESTEP & I C STUMP #6
8046112		4708703293	108		W G & ERMA CARPER #9
*MARY JANE TENNANT WOODRUFF					RECEIVED: 07/09/80 JAI WV
8046081		4704900663	108		W M AND AUGUSTA MERCER
*M G BUSCH					RECEIVED: 07/09/80 JAI WV
8046092		4710500863	108		E C DAWSON NO 2
8046093		4710500864	108		M B BARNETT #1
*NORMES INDUSTRIES INC					RECEIVED: 07/11/80 JAI WV
8046183		4701302979	103		M C CARPENTER #1
8046166		4701302976	103		M C CARPENTER #2
8046165		4701302977	103		M C CARPENTER #3
*NRM PETROLEUM CORPORATION					RECEIVED: 07/11/80 JAI WV
8046195		4700101208	103		HARRIS A #1
8046193		4709702012	103		HOSS B #1
8046194		4708300277	103		ROESSING #2
8046192		4709702013	103		WAMSLEY #1
*P P GUNN ESTATE					RECEIVED: 07/11/80 JAI WV
8046223		4701322333	108		R G LINN NO 3
8046220		4701322095	108		R G LYNN HEIRS NO 1
*PENNZOIL COMPANY					RECEIVED: 07/11/80 JAI WV
8046190		4708703265	108		F P SNODGRASS #3
*POND FORK OIL & GAS CO					RECEIVED: 07/09/80 JAI WV
8046117		4700501302	108		COLE & CRANE REAL ESTATE TRUST #1
8046120		4700501305	108		COLE & CRANE REAL ESTATE TRUST #5
8046119		4700501304	108		COLE & CRANE REAL ESTATE TRUST #6
8046118		4700501303	108		COLE & CRANE REAL ESTATE TRUST #7
8046116		4700501301	108		POND FORK COAL CO #1 - 57
8046121		4700501306	108		POND FORK COAL CO FARM #5-49

FIELD NAME	PROD	PURCHASER
C W FEGERSON	3,1	INDUSTRIAL GAS CORP
GILKERSON	8,8	INDUSTRIAL GAS CORP
FRALEY	1,5	INDUSTRIAL GAS CORP
TONEY	4,0	INDUSTRIAL GAS CORP
PLEASANTS	16,9	CONSOLIDATED GAS SUP
TENMILE	20,0	CONSOLIDATED GAS SUP
WEST UNION	20,0	COLUMBIA GAS TRANSMI
WEST UNION	20,0	CONSOLIDATED GAS SUP
BARDIS DISTRICT	12,0	CONSOLIDATED GAS SUP
UNION DISTRICT	12,0	CONSOLIDATED GAS SUP
EAGLE DISTRICT	12,0	CONSOLIDATED GAS SUP
OTTER	1,9	COLUMBIA GAS TRANSMI
OTTER	12,8	COLUMBIA GAS TRANSMI
OTTER	19,0	COLUMBIA GAS TRANSMI
OTTER	2,6	COLUMBIA GAS TRANSMI
OTTER	11,1	COLUMBIA GAS TRANSMI
OTTER	3,7	COLUMBIA GAS TRANSMI
OTTER	2,3	COLUMBIA GAS TRANSMI
OTTER	3,0	COLUMBIA GAS TRANSMI
OTTER	12,0	COLUMBIA GAS TRANSMI
OTTER	1,2	COLUMBIA GAS TRANSMI
OTTER	6,1	COLUMBIA GAS TRANSMI
OTTER	1,2	COLUMBIA GAS TRANSMI
PAW PAW	9,0	CONSOLIDATED GAS SUP
BURNING SPRINGS DISTRICT	3,0	CONSOLIDATED GAS SUP
BURNING SPRINGS DISTRICT	1,3	CONSOLIDATED GAS SUP
MINNORA	19,0	CONSOLIDATED GAS SUP
MINNORA	19,0	CONSOLIDATED GAS SUP
MINNORA	19,0	CONSOLIDATED GAS SUP
BARKER	0,0	COLUMBIA GAS TRANSMI
ELLAMORE	0,0	COLUMBIA GAS TRANSMI
ELLAMORE	0,0	COLUMBIA GAS TRANSMI
ELLAMORE	0,0	COLUMBIA GAS TRANSMI
LEE DISTRICT	7,0	CONSOLIDATED GAS SUP
LEE DISTRICT	10,0	CONSOLIDATED GAS SUP
SMITHFIELD	0,0	CONSOLIDATED GAS SUP
MADISON	1,3	CONSOLIDATED GAS SUP
MADISON	32,0	CONSOLIDATED GAS SUP
MADISON	0,3	CONSOLIDATED GAS SUP
MADISON	0,7	CONSOLIDATED GAS SUP
MADISON	4,0	CONSOLIDATED GAS SUP
MADISON	2,1	CONSOLIDATED GAS SUP

VOLUME 292 PAGE 005

JD NO	JA DKT	API NO	SEC	D	WELL NAME
*QUAKER STATE OIL REFINING CORP					RECEIVED: 07/11/80 JAI WV
8046174		4703923396	103		FISHER #1 62823-1
*R & R ASSOCIATES LTD					RECEIVED: 07/11/80 JAI WV
8046211		4708524368	103		D BETTS M-813
8046212		4708524369	103		D BETTS M-814
8046222		4708524370	103		D BETTS M-815
8046221		4708524371	103		D BETTS M-816
8046210		4708524362	103		L B KEITH M-635
*R & B GAS COMPANY					RECEIVED: 07/09/80 JAI WV
8046103		4702103612	108		ARBUCKLE-KITSON NO 1
*ROY G MILDRETH					RECEIVED: 07/09/80 JAI WV
8046084		4701300274	108		C W STARCHER #1
*ROY G MILDRETH ET AL					RECEIVED: 07/09/80 JAI WV
8046100		4708700093	108		MILDRETH GAS CO #2
*ROYAL E MOORE & WILLIAM R ICE AGENT					RECEIVED: 07/09/80 JAI WV
8046082		4706100596	108		LOUIE MAUGHT #1
8046090		4706100598	108		SARAH E DEVINE #1
8046083		4706100597	108		SARAH E DEVINE #2
*SOUTHEASTERN GAS COMPANY					RECEIVED: 07/09/80 JAI WV
8046102		4701501771	108		W M EVANS #A-6
*STERLING DRILLING & PROD INC					RECEIVED: 07/11/80 JAI WV
8046197		4701501657	103		ALUI #11 SDP #139
8046172		4701501674	103		ALUI #12 SDP #176
8046180		4701501606	103		ALUI #3 SN #101
*UNITED PETRO LTD					RECEIVED: 07/11/80 JAI WV
8046164		4702103561	103		E T MANKS #1
8046163		4702103562	103		HARRY BRANNON #1
*WARREN ASSOCIATES INC					RECEIVED: 07/11/80 JAI WV
8046156		4708524410	103		CHESTER LEMON M-860
8046155		4708524401	103		CHESTER LEMON M-861
8046206		4708524466	103		CHESTER LEMON M-863
8046208		4708524465	103		LEMON M-859
*WARREN R MAUGHT AGENT					RECEIVED: 07/11/80 JAI WV
8046207		4708524477	103		M STANLEY M-922
8046209		4708524478	103		M STANLEY M-923
8046128		4701722437	103		W R & L G MAUGHT #M-745
8046129		4701722438	103		W R & L G MAUGHT #M-746
*WEBSTER MYERS					RECEIVED: 07/09/80 JAI WV
8046090		4709900648	108		WEBSTER MYERS #1
*WEVA OIL CORP					RECEIVED: 07/09/80 JAI WV
8046091		4710500861	108		RPN #25
8046088		4708723297	108		RPN #26
*WHITE PINE OIL & GAS CO					RECEIVED: 07/11/80 JAI WV
8046186		4701302644	108		G M SIMERS HEIRS NO 1
8046184		4701300293	108		MALINDA WIGHT NO 2
8046187		4701302648	108		B M &\C E SIMERS NO 1

****

ATTACHED TO GAS CONSERVATION COMMISSION

****

*PACIFIC TRANSMISSION SUPPLY COMPANY RECEIVED: 07/07/80 JAI WV

8045805 4902320232 108 PTS 42-52 BUCK

FIELD NAME	PROD	PURCHASER
ELK DISTRICT	11,8	COLUMBIA GAS TRANSMI
UNION	25,0	CARNEGIE NATURAL GAS
UNION	25,0	CARNEGIE NATURAL GAS
UNION	25,0	CARNEGIE NATURAL GAS
UNION	25,0	CARNEGIE NATURAL GAS
UNION DISTRICT	32,0	CONSOLIDATED GAS SUP
CENTER DISTRICT	3,0	CONSOLIDATED GAS SUP
LEE DISTRICT	5,7	CONSOLIDATED GAS SUP
SPENCER	0,0	CONSOLIDATED GAS SUP
BATTELLE DISTRICT	1,3	PENNZOIL CO
BATTELLE DISTRICT	1,3	PENNZOIL CO
BATTELLE DISTRICT	1,3	PENNZOIL COMPANY
UNION	3,3	CONSOLIDATED GAS SUP
BUFFALO DISTRICT	216,0	EQUITABLE GAS CO
BUFFALO DISTRICT	216,0	EQUITABLE GAS CO
BUFFALO DISTRICT	45,0	EQUITABLE GAS CO
GLENVILLE SOUTH	15,0	COLUMBIA GAS TRANSMI
GLENVILLE SOUTH	15,0	COLUMBIA GAS TRANSMI
MURPHY DISTRICT	18,0	CONSOLIDATED GAS SUP
MURPHY DISTRICT	18,0	CONSOLIDATED GAS SUP
MURPHY DISTRICT	18,0	CONSOLIDATED GAS SUP
MURPHY DISTRICT	118,0	CONSOLIDATED GAS SUP
GRANT DISTRICT	20,0	CONSOLIDATED GAS SUP
GRANT DISTRICT	20,0	CONSOLIDATED GAS SUP
CENTRAL DISTRICT	35,0	CONSOLIDATED GAS SUP
CENTRAL DISTRICT	35,0	CONSOLIDATED GAS SUP
SOUTHERN WEST VIRGINIA	9,3	UNITED FUEL GAS CO
M P W #23 TR 9	2,8	CONSOLIDATED GAS SUP
ROBERT PELL NEWMAN #28 T	2,8	CONSOLIDATED GAS SUP
SHERMAN DISTRICT	4,0	CABOT CORP
SHERMAN DISTRICT	0,1	CABOT CORP
SHERMAN DISTRICT	1,0	CABOT CORP
FUNTENELLE	2117,0	PACIFIC GAS TRANSMIS

[FR Doc. 80-24286 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-C

[Volume 253]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 5, 1980.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by August 27, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

JD NO	JA DAT	API NO	SEC D WELL NAME	PROD	PURCHASER	FIELD NAME
LMIU DEPARTMENT OF NATURAL RESOURCES						
•ADUKE OIL & GAS CORPORATION			RECEIVED! 07/11/80 JA	46.0	EAST OHIO GAS CO	ROOTSTOWN
8046332		3415322175 103	M MOWELL #1	817.0		CLAY
8046352		3415723879 103	M MOWL #5			
•APPALACHIAN ENERGY INC			RECEIVED! 07/11/80 JA	30.0	COLUMBIA GAS TRANSMI	PULTNEY
8046266		3401320305 103	P GREENLEE #3 AEE=145	30.0	COLUMBIA GAS TRANSMI	PULTNEY
8046265		3401320312 103	R COHEN #1 AEE=140			
•APPALACHIAN PETROLEUM CORP			RECEIVED! 07/11/80 JA	3.5	COLUMBIA GAS TRANSMI	ADAMS
8046257		3416723352 103	CHARLES STENGEL #2	3.5	COLUMBIA GAS TRANSMI	ADAMS
8046260		3416723349 103	CHARLES STENGEL #3	3.5	COLUMBIA GAS TRANSMI	ADAMS
8046263		3416723357 103	DAVID MANNIS #2			
•BEREA OIL AND GAS CORPORATION			RECEIVED! 07/11/80 JA	15.0	COLUMBIA GAS TRANSMI	RICH HILL
8046304		3414924018 103	BANNER #2	12.0	EAST OHIO GAS CO	VIENNA
8046342		3415924224 103	LALLOWILLAMAN UNIT A			
•BETHEL RESOURCES INC			RECEIVED! 07/11/80 JA	12.0	COLUMBIA GAS TRANSMI	CHESTER
8046367		3416922290 103	JOSEPH G MENGEL #1	12.0	COLUMBIA GAS TRANSMI	WAYNE
8046366		3416922238 103	NED RICKETT #1			
•CARL M POSTON			RECEIVED! 07/11/80 JA	4.0	COLUMBIA GAS TRANSMI	BROWNHELM
8046281		3407322307 103	WILLARD KIEFFER NO 2			
•CLARENCE K TUBBEL JR			RECEIVED! 07/11/80 JA	30.0		MONROE
8046268		3400721292 103	M GLASS #1			
•CLAY COUNTY PRODUCTION CO INC			RECEIVED! 07/11/80 JA	10.3	COLUMBIA GAS TRANSMI	READING
8046319		3412724508 103	GRACE BANNER #1			
•CLINE OIL & GAS CO			RECEIVED! 07/11/80 JA	4.0	COLUMBIA GAS TRANSMI	AURELIUS
8046267 03867		3416723900 107	HUPP #1			
•DISCOVERY OIL LTD			RECEIVED! 07/11/80 JA	773.0	COLUMBIA GAS TRANS C	MECHANIC
8046254		3407322406 103	#1 LEBTEM MOCHSTETLER	1770.0	COLUMBIA GAS TRANS C	MARDY
•DONALD G MOGUE			RECEIVED! 07/11/80 JA			
8046292		3411121911 103	MOGUE #1	10.0		WAYNE
•DWILLEYS PETROLEUM CORP			RECEIVED! 07/11/80 J			
8046234		3416724787 107	ALBERT MINARD #1	60.0		LUDLOW
•EDCO DRILLING & PRODUCING INC			RECEIVED! 07/11/80 JA			
8046251		3407524980 103	EDITA JACUB	10.0		JACOB
•ENTEMPRISE GAS & OIL INC			RECEIVED! 07/11/80 JA	10.2	COLUMBIA GAS TRANSMI	JACKSON
8046321		3412724884 105	DICE #1	27.4	COLUMBIA GAS TRANSMI	HICH HILL
8046314		3411925110 105	ELLIOTT #1	30.5	COLUMBIA GAS TRANSMI	CENTER
8046200		3415927720 105	MCCUMBEY #1	10.2	COLUMBIA GAS TRANSMI	CENTER
8046201		3415927720 105	SNIDER #1	30.5	COLUMBIA GAS TRANSMI	READING
8046202		3412724884 105	STATE PEN #8			
•GIANT PETROLEUM CORPORATION			RECEIVED! 07/11/80 JA	20.0	EAST OHIO GAS CO	
8046209		3400721341 105	JAMES & MAIMEMIKE AULA	20.0	EAST OHIO GAS CO	
8046210		3400721342 105	SIGMUND AULESAM = BELL			

VOLUME 253 PAGE 002

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
•GREEN GAS COMPANY					RECEIVED: 07/11/80 JA: ON			
8046366		3416922323	103		EUGENE FETZER #1	CANAAN	8,0	COLUMBIA GAS TRANSMI
•HOPCO RESOURCES INC					RECEIVED: 07/11/80 JA: ON			
8046246		3411925101	103		CLYDE DORSEY #2	LICKING	12,0	COLUMBIA GAS TRANSMI
8046248		3411925069	103		HOMER BONEY #2	HUSKINGUM	12,0	COLUMBIA GAS TRANSMI
8046315		3411925137	103		MCGINNIS-BELL UNIT #1	LICKING	12,0	COLUMBIA GAS TRANSMI
8046247		3411925074	103		WAYNE & CAROLYN GRAHAM #14	JACKSON	10,0	
•HOPEWELL OIL AND GAS DEVELOPMENT CO					RECEIVED: 07/11/80 JA: ON			
8046297		3411121958	103		BAKER #1	SUMMIT	10,0	
8046316		3411925145	103		CROCK #1	NEWTON	12,0	
•JANCO WELL OPERATIONS					RECEIVED: 07/11/80 JA: ON			
8046241		3415520886	103		#1 BALDOM-BANNMART UNIT	FARMINGTON	490,0	COLUMBIA GAS TRANS
8046242		3415521369	103		#1 DAN YODER	MESOPOTAMIA	1,1	COLUMBIA GAS TRANS C
8046264		3405520302	103		#1 WINDSOR FORD B	MIDDLEFIELD	1,0	COLUMBIA GAS TRANS C
8046263		3405520303	103		#2 WINDSOR FORD B	MIDDLEFIELD	0,7	COLUMBIA GAS TRANS C
8046262		3405520304	103		#3 WINDSOR FORD B	MIDDLEFIELD	0,7	COLUMBIA GAS TRANS C
•JUD NOBLE AND ASSOCIATES INC					RECEIVED: 07/11/80 JA: ON			
8046328		3413322128	103		COY #1	EDINBURG	20,0	GENERAL ELECTRIC CO
8046331		3413322131	103		E VILLERS #1	EDINBURG	20,0	GENERAL ELECTRIC CO
8046330		3413322130	103		E VILLERS #2	EDINBURG	20,0	GENERAL ELECTRIC CO
8046329		3413322129	103		MANGETT #1	EDINBURG	20,0	GENERAL ELECTRIC CO
8046245		3413322145	103		BONDERMEKER #1	EDINBURG	20,0	EAST OHIO GAS CO
8046244		3413322132	103		WASS #1	EDINBURG	20,0	EAST OHIO GAS CO
•L & M OPERATING INC					RECEIVED: 07/11/80 JA: ON			
8046363		3416724854	103		ALBERT BUSNER #2-A	WATERTOWN	12,8	GAS TRANSPORT INC
8046359		3416724327	103		ANDREW RAUCH #1	WATERTOWN	12,8	GAS TRANSPORT INC
8046271		3401921173	103		WATSON #1	ORANGE	6,6	BONANZA GAS LINE
•L & M PETROLEUM					RECEIVED: 07/11/80 JA: ON			
8046238		3416725193	103		ALLIE TEMPLETON 1-A	FEARING	12,8	COLUMBIA GAS TRANSMI
8046361		3416724727	103		RONALD BOHLEN UNIT #1	LAWRENCE	12,8	COLUMBIA GAS TRANSMI
8046362		3416724731	103		ROSA WEPPLER #2	MARIETTA	12,8	COLUMBIA GAS TRANSMI
8046364		3416724953	103		WILBUR MOFF #1	LAWRENCE	12,8	COLUMBIA GAS TRANSMI
•LESLIE OIL & GAS CO INC					RECEIVED: 07/11/80 JA: ON			
8046325		3413322110	103		CRAIG-BECK UNIT #1	PALMYRA	20,0	REPUBLIC STEEL CORP
8046290		3410322235	103		E MANTZ #1	SPENCER	20,0	COLUMBIA GAS TRANSMI
8046282		3407522026	103		G BOUGHMAN #5	KILLBUCK	10,0	COLUMBIA GAS TRANSMI
8046289		3410322213	103		KUSNIK #1	SPENCER	20,0	COLUMBIA GAS TRANSMI
8046283		3407522217	103		M AKINS #1	KILLBUCK	20,0	COLUMBIA GAS TRANSMI
8046288		3410322198	103		MORGAN #1	SPENCER	20,0	COLUMBIA GAS TRANSMI
•LIBERTY OIL&GAS CORP					RECEIVED: 07/11/80 JA: ON			
8046291		3410321868	103		REBECCA MEYER #2	ORANGE	20,0	COLUMBIA GAS TRANSMI
•MORGAN-PENNINGTON INC					RECEIVED: 07/11/80 JA: ON			
8046284		3407522484	103		SNYDER & FISHINGER NO 2	KILLBUCK	12,0	COLUMBIA GAS TRANSMI
•NATIONAL PETROLEUM CORP					RECEIVED: 07/11/80 JA: ON			
8046294		3411121936	107		D CHRISTMAN #1	MALAGA	15,0	TEXAS EASTERN
8046296		3411121939	107		R PETERS #1	MALAGA	15,0	TEXAS EASTERN TRANSM
•NEW FRONTIER EXPLORATION INC					RECEIVED: 07/11/80 JA: ON			
8046336		3415123183	103		CLARENCE GEORGE #1	OSNABURG	28,8	
8046337		3415123187	103		JAMES WRIGHT #1	PIKE	34,0	
•OAK DALE DRILLING CO					RECEIVED: 07/11/80 JA: ON			
8046320		3412724561	103		HANSON #6	JACKSON	5,0	NATURAL GAS & OIL CO
8046323		3412724706	103		WOLFE #1	MONDAY CREEK	5,0	PARAMOUNT TRANSMISSI
•OHIO OIL & GAS CO					RECEIVED: 07/11/80 JA: ON			

VOLUME 253 PAGE 003

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046349		3415521425	102		ALLEN #1	JOHNSTON	25,0	COLUMBIA GAS TRANSMI
8046353		3415521460	102		BIERWORTH #2	FOWLER	25,0	COLUMBIA GAS TRANSMI
8046350		3415521424	102		GABRIELE #1	FOWLER	25,0	COLUMBIA GAS TRANSMI
8046347		3415521415	102		GALLITE #1	FOWLER	25,0	COLUMBIA GAS TRANSMI
8046341		3415521206	102		HENTOSH #1	FOWLER	25,0	COLUMBIA GAS TRANSMI
8046346		3415521401	102		KINLEYSIDE #2	FOWLER	25,0	COLUMBIA GAS TRANSMI
8046348		3415521417	102		O L M #1	JOHNSTON	25,0	COLUMBIA GAS TRANSMI
8046345		3415521380	102		PATTERSON #1	FOWLER	20,0	COLUMBIA GAS TRANSMI
8046344		3415521379	102		PATTERSON #2	FOWLER	20,0	COLUMBIA GAS TRANSMI
8046351		3415521427	102		ROSZAK #1	JOHNSTON	25,0	COLUMBIA GAS TRANSMI
8046343		3415521318	102		YOUNG #1	FOWLER	25,0	COLUMBIA GAS TRANSMI
•OHIO TITAN ENERGY CO LTD 1980-3					RECEIVED: 07/11/80 JA: ON			
8046256		3407522429	103		#3 ATLEE J MILLER	MECHANIC	350,0	COLUMBIA GAS TRANS C
•OHIO TITAN ENERGY-LTD PART 1980-1					RECEIVED: 07/11/80 JA: ON			
8046259		3407522356	103		#3 MELVIN MILLER	MECHANIC	650,0	COLUMBIA GAS TRANS
•ONEAL PRODUCTIONS INC					RECEIVED: 07/11/80 JA: ON			
8046299		3411521783	102		COUNTY INFIRMARY #1	MORGAN	35,0	COLUMBIA GAS TRANSMI
8046300		3411521879	102		MUCK #5	MEIGSVILLE	52,0	COLUMBIA GAS TRANSMI
8046298		3411521725	102		MUCK #6	MEIGSVILLE	40,0	COLUMBIA GAS TRANSMI
8046302		3411522017	102		PARMETER #3	MORGAN	40,0	COLUMBIA GAS TRANSMI
•PATRICK T DONNELLY					RECEIVED: 07/11/80 JA: ON			
8046249		3411924859	103		MILDRED K DUGAN #1-80	MEIGS	25,0	
8046245		3411925263	103		WARDEN WEST #2A	PERRY	25,0	
•PDI ENERGY INC					RECEIVED: 07/11/80 JA: ON			
8046326		3413322120	103		BECK-DAVIS #2	STREETSBORO	10,0	
8046327		3413322122	103		BECK-DAVIS #4	STREETSBORO	10,0	
8046338		3415320700	103		PADDOCK #2	RICHFIELD	10,0	
8046324		3413321891	103		PIERCE #2	FRANKLIN	35,0	
•PREMIER ENERGY CORP					RECEIVED: 07/11/80 JA: ON			
8046252		3407522485	103		WILLIAM MCCORMICK #1	HARDY	6,0	COLUMBIA GAS TRANSMI
•RELIANCE MANAGEMENT CO					RECEIVED: 07/11/80 JA: ON			
8046260		3407522239	103		SUNDAY CREEK COAL CO #54R	HARD	6,0	COLUMBIA GAS TRANSMI
•RICHARD C MEYER INC					RECEIVED: 07/11/80 JA: ON			
8046286		3408923722	103		RONALD D CUMMINGS NO 1	FLINT RIDGE-EAST	2,0	NEWZANE GAS CO
•ROSCO & VIRGINIA WILKIL					RECEIVED: 07/11/80 JA: ON			
8046293		3411121929	103		WILKILM #1	FRANKLIN	10,0	
•ROYAL PETROLEUM 80 - I					RECEIVED: 07/11/80 JA: ON			
8046275		3405320525	103		BAYLOR #1	ADDISON	5,0	COLUMBIA GAS TRANSMI
8046279		3405320531	103		BAYLOR #2	ADDISON	5,0	COLUMBIA GAS TRANSMI
8046274		3405320524	103		STOVER #1	ADDISON	5,0	COLUMBIA GAS TRANSMI
8046276		3405320527	103		TARA DEVELOPMENT CORP #1	ADDISON	5,0	COLUMBIA GAS TRANSMI
•ROYAL PETROLEUM 80 - II					RECEIVED: 07/11/80 JA: ON			
8046278		3405320529	103		TARA DEVELOPMENT CORP #3	ADDISON	5,0	COLUMBIA GAS TRANSMI
8046277		3405320528	103		TARA DEVELOPMENT CORPORATION #2	ADDISON	5,0	COLUMBIA GAS TRANSMI
•STRATA EXPLORATION INC LTD 1980-1					RECEIVED: 07/11/80 JA: ON			
8046257		3407522426	103		#1 ALFRED PARR	MECHANIC	250,0	COLUMBIA GAS TRANS
•STRATA EXPLORATION INC LTD 1980-5					RECEIVED: 07/11/80 JA: ON			
8046253		3407522477	103		#1 LESTER COBLENTZ	BERLIN	850,0	COLUMBIA GAS TRANS C
•SUPERIOR PETROLEUM SERVICES INC					RECEIVED: 07/11/80 JA: ON			
8046339		3415320980	103		KING #1	BRISTOL	24,0	EAST OHIO GAS CO
8046340		3415321195	103		MCINTOSH #1	FARMINGTON	24,0	EAST OHIO GAS CO
•THE BENATTY CORPORATION					RECEIVED: 07/11/80 JA: ON			
8046303		3411522075	102		COUNTY INFIRMARY #19	MORGAN	25,0	COLUMBIA GAS TRANSMI

VOLUME 253 PAGE 004

JD NO	API NO	SEL D WELL NAME	FIELD NAME	PROD	PURCHASER
			MORGAN		25.0 COLUMBIA GAS TRANSMI
*THE CLINTON OIL CO	3411502002	102	HUCK B-24	RECEIVED: 07/11/80	JAI ON
8006334	3411322230	103	BRUGHAN #1	500.0	
8006273	3403123901	103	GALLAGHER #1	0.0	
8006333	3411322235	103	MOUSE #1	450.0	
8006306	3411925031	103	J YOST #1-A	200.0	
*THE OXFORD OIL CO	3405823775	103	BANRICK-MALCUTT #4	RECEIVED: 07/11/80	JAI ON
8006250	3407522398	103	GORDON BETTIS #1	12.0	
*VALENTINE OIL PROPERTIES	3416723169	107	CUNNINGHAM #1	10.0	
8006355	3416723172	107	JONES #1		
8006357	3416723190	107	MILLER #1		
8006356	3416723189	107	VALENTINE #1	5.7 COLUMBIA GAS TRANSMI	
W M PATON DRILLING CO	3403123744	103	ARTHUR & DALE BUMPUS #10	RECEIVED: 07/11/80	JAI ON
8006272				2.5 COLUMBIA GAS TRANSMI	
*WASHINGTON ENERGY LTD	3411121937	103	JAMES GRIFFIN #1	RECEIVED: 07/11/80	JAI ON
8006295				2.7 COLUMBIA GAS TRANSMI	
*WILLIAM N TIPKA	3415723505	103	HUMPHREY #1	RECEIVED: 07/11/80	JAI ON
8006260	3415723504	103	STAHL-HART #1	2.6 COLUMBIA GAS TRANSMI	
8006350					
*WILLISTON OIL & DEVELOPMENT CORP	3411924916	103	ALLISON #3	RECEIVED: 07/11/80	JAI ON
8006305				30.0	
				15.0	
				30.0 COLUMBIA GAS TRANSMI	
				30.0 EAST OHIO GAS CO	
				14.0	
				10.0	
				10.0	
				10.0	
				10.0	
				10.0	
				10.0	
				40.0	
*ZENITH EXPLORATION COMPANY	3411925044	103	D DINGEY #1	RECEIVED: 07/11/80	JAI ON
8006309	3411925043	103	D DINGEY #2	500.0	
8006308	3411925042	103	D DINGEY #3	600.0	
8006307	3411925103	103	D DINGEY #5	0.0	
8006310	3411925105	103	D DINGLY #6	0.0	
8006312	3411925104	103	D DINGEY #7		
8006311	3411925106	103	D DINGEY #8		
8006313					
*ZENITH OIL & GAS INC	3415123136	103	FLOYD MANN #1	RECEIVED: 07/11/80	JAI ON
8006335				147.0 COLORADO INTERSTATE	
*ZENITH OIL & GAS INC	3411925204	103	BUNRIEM #2	RECEIVED: 07/11/80	JAI ON
8006316	3411923202	103	BUNRIEM-JOHNSON #1		
8006317	3406923782	103	HARRIS #1		
8006287	3406923556	103	PAGEL #1		
8006285					
UTAH DIVISION OF OIL,GAS, & MINING			BITTER CREEK		
*GAS PRODUCING ENTERPRISES INC				RECEIVED: 06/23/80	JAI UT
8006236	4304730333	103	NATURAL BUTTES 23-7-10-22		

[FR Doc. 80-24280 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-C

[Volume 254]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 5, 1980.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by August 27, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
*AMERADA HESS CORPORATION					RECEIVED: 07/11/80 JAS LA			
8046422	80-2576	1705700000	108		CIB UP C&A RA VUA BT LSE 348 MD	BAYOU DES ALLEMANDS	19,0	TRANSCONTINENTAL GAS
*ERWIN INC					RECEIVED: 07/11/80 JAS LA			
8046441	80-2592	1711121932	103		ESTHER MILLER NO 1	MONROE	9,3	TEXAS GAS TRANSMISSI
*GLENDA PETROLEUM CORP					RECEIVED: 07/11/80 JAS LA			
8046378	80-2617	1711120598	108		EXXON 14 NO 1 S/N 147017	MONROE	19,0	MID LOUISIANA GAS CO
8046377	80-2618	1711120599	108		EXXON 14 NO 2 S/N 147018	MONROE	22,0	MID LOUISIANA GAS CO
8046375	80-2612	1711120620	108		EXXON 23 A #1 S/N 148332	MONROE	30,0	MID LOUISIANA GAS
8046372	80-2613	1711120621	108		EXXON 23-A #2 S/N 148333	MONROE	40,0	MID LOUISIANA GAS
8046381	80-2614	1711120622	108		EXXON 23-A #3 S/N 148334	MONROE	40,0	MID LOUISIANA GAS
8046380	80-2615	1711120623	108		EXXON 23-A #4 S/N 148335	MONROE	40,0	MID LOUISIANA GAS
8046376	80-2616	1711120624	108		EXXON 23-A #5 S/N 148336	MONROE	43,0	MID LOUISIANA GAS
8046426	80-2605	1707321120	108		PERRY HEIMS B #10 S/N 161111	MONROE	40,0	MID LOUISIANA GAS
8046433	80-2600	1707321113	108		PERRY HEIMS B #3 S/N 160924	MONROE	40,0	MID LOUISIANA GAS
8046432	80-2601	1707321114	108		PERRY HEIMS B #6 S/N 161004	MONROE	40,0	MID LOUISIANA GAS
8046431	80-2602	1707321115	108		PERRY HEIMS B #5 S/N 161005	MONROE	40,0	MID LOUISIANA GAS
8046430	80-2603	1707321117	108		PERRY HEIMS B #7 S/N 161108	MONROE	40,0	MID LOUISIANA GAS
8046429	80-2604	1707321118	108		PERRY HEIMS B #8 S/N 161109	MONROE	40,0	MID LOUISIANA GAS
8046435	80-2598	1707321111	108		PERRY HEIMS B#1 S/N 160922	MONROE	40,0	MID LOUISIANA GAS
8046434	80-2599	1707321112	108		PERRY HEIMS B#2 S/N 160923	MONROE	40,0	MID LOUISIANA GAS
8046371	80-2606	1706721256	108		WHITAKER #1 SERIAL #161247	MONROE	45,0	MID LOUISIANA GAS CO
8046370	80-2607	1706721257	108		WHITAKER #2 SERIAL #161248	MONROE	45,0	MID LOUISIANA GAS CO
8046369	80-2608	1706721264	108		WHITAKER #3 SERIAL #161352	MONROE	45,0	MID LOUISIANA GAS CO
8046368	80-2609	1706721265	108		WHITAKER #4 SERIAL #161353	MONROE	45,0	MID LOUISIANA GAS CO
8046375	80-2610	1706721266	108		WHITAKER #5 SERIAL #161354	MONROE	45,0	MID LOUISIANA GAS CO
8046374	80-2611	1706721471	108		WHITAKER #6	MONROE	45,0	MID LOUISIANA GAS CO
*HADDUX PETROLEUM CO INC					RECEIVED: 07/11/80 JAS LA			
8046447	80-2586	1711122232	103		MOBIL-IP #1	MONROE	0,0	MID LOUISIANA GAS CO
8046448	80-2585	1711122234	103		MOBIL-IP #3	MONROE	0,0	MID LOUISIANA GAS CO
8046449	80-2584	1711122235	103		MOBIL-IP #4	MONROE	0,0	MID LOUISIANA GAS CO
*JOE G STRAHAN					RECEIVED: 07/11/80 JAS LA			
8046442	80-2591	1707300871	108		ROGERS NO 1	MONROE	1,6	MID LOUISIANA GAS CO
*K D LANKFORD JR & LEN DRLG CO					RECEIVED: 07/11/80 JAS LA			
8046443	80-2590	1711121551	108		GAMONEM NO 2	MONROE GAS	0,0	UNITED GAS PIPE LINE
8046446	80-2587	1711121983	108		MANNELL #1	MONROE GAS	0,0	UNITED GAS PIPE LINE
8046445	80-2588	1711122002	108		MANNELL #2	MONROE GAS	0,0	UNITED GAS PIPE LINE
8046444	80-2589	1711121918	108		MOLLIS #1	MONROE	14,0	UNITED GAS PIPE LINE
*MID LOUISIANA GAS COMPANY					RECEIVED: 07/11/80 JAS LA			
8046460	80-2431	1711121385	108		MLGC FEE GAS #666	MONROE	18,0	MID LOUISIANA GAS CO
8046464	80-2437	1711121386	108		MLGC FEE GAS #669	MONROE	18,0	MID LOUISIANA GAS CO
8046465	80-2436	1711121409	108		MLGC FEE GAS #670	MONROE	16,5	MID LOUISIANA GAS CO
8046466	80-2435	1711121387	108		MLGC FEE GAS #674	MONROE	21,3	MID LOUISIANA GAS CO

VOLUME 254 PAGE 002

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046385	80-2419	1711121388	108		MLGC FEE GAS #675	MONROE	18,8	MID LOUISIANA GAS CO
8046467	80-2436	1711121390	108		MLGC FEE GAS #677	MONROE	20,5	MID LOUISIANA GAS CO
8046463	80-2438	1711121497	108		MLGC FEE GAS #689	MONROE	18,4	MID LOUISIANA GAS CO
8046384	80-2420	1711121491	108		MLGC FEE GAS #695	MONROE	14,7	MID LOUISIANA GAS CO
8046453	80-2432	1711121485	108		MLGC FEE GAS #701	MONROE	22,5	MID LOUISIANA GAS CO
8046454	80-2431	1711121484	108		MLGC FEE GAS #702	MONROE	17,9	MID LOUISIANA GAS CO
8046383	80-2421	1711121526	108		MLGC FEE GAS #709	MONROE	15,1	MID LOUISIANA GAS CO
8046455	80-2430	1711121540	108		MLGC FEE GAS #723	MONROE	14,7	MID LOUISIANA GAS CO
8046382	80-2422	1711121542	108		MLGC FEE GAS #725	MONROE	20,5	MID LOUISIANA GAS CO
8046456	80-2429	1711121606	108		MLGC FEE GAS #731	MONROE	16,5	MID LOUISIANA GAS CO
8046462	80-2423	1711121607	108		MLGC FEE GAS #735	MONROE	19,1	MID LOUISIANA GAS CO
8046461	80-2424	1711121609	108		MLGC FEE GAS #737	MONROE	18,3	MID LOUISIANA GAS CO
8046440	80-2593	1711121648	108		MLGC FEE GAS #747	MONROE GAS FIELD	18,7	MID LOUISIANA GAS CO
8046460	80-2425	1711121677	108		MLGC FEE GAS #752	MONROE	11,5	MID LOUISIANA GAS CO
8046439	80-2594	1711121653	108		MLGC FEE GAS #755	MONROE GAS FIELD	19,4	MID LOUISIANA GAS CO
8046386	80-2418	1711121845	108		MLGC FEE GAS #779	MONROE	10,2	MID LOUISIANA GAS CO
8046387	80-2417	1711121858	108		MLGC FEE GAS #792	MONROE	10,8	MID LOUISIANA GAS CO
8046388	80-2416	1711121859	108		MLGC FEE GAS #793	MONROE	5,9	MID LOUISIANA GAS CO
8046389	80-2415	1711121861	108		MLGC FEE GAS #795	MONROE	17,3	MID LOUISIANA GAS CO
8046459	80-2426	1711121868	108		MLGC FEE GAS #801	MONROE	12,2	MID LOUISIANA GAS CO
8046390	80-2414	1711121869	108		MLGC FEE GAS #802	MONROE	20,5	MID LOUISIANA GAS CO
8046458	80-2427	1711121870	108		MLGC FEE GAS #803	MONROE	17,6	MID LOUISIANA GAS CO
8046457	80-2428	1711121920	108		MLGC FEE GAS #808	MONROE	14,0	MID LOUISIANA GAS CO
8046405	80-2469	1711121923	103		MLGC FEE GAS #811	MONROE	43,8	MID LOUISIANA GAS CO
8046404	80-2468	1711121924	103		MLGC FEE GAS #812	MONROE	34,0	MID LOUISIANA GAS CO
8046403	80-2467	1711121944	103		MLGC FEE GAS #814	MONROE	28,2	MID LOUISIANA GAS CO
8046427	80-2439	1711121948	103		MLGC FEE GAS #818	MONROE	71,4	MID LOUISIANA GAS CO
8046401	80-2465	1711121982	103		MLGC FEE GAS #846	MONROE	34,0	MID LOUISIANA GAS CO
8046402	80-2466	1711122052	103		MLGC FEE GAS #854	MONROE	27,6	MID LOUISIANA GAS CO
*PRIMOS PRODUCTION CO					RECEIVED: 07/11/80 JAS LA			
8046398	80-2483	1711121248	108		DEAN #1	MONROE	1,5	GAS TRANSPORTATION C
8046396	80-2484	1711121163	108		EXXON #1	MONROE	4,0	GAS TRANSPORTATION C
8046395	80-2485	1711121164	108		EXXON #2	MONROE	4,0	GAS TRANSPORTATION C
8046394	80-2486	1711121165	108		EXXON #3	MONROE	4,0	GAS TRANSPORTATION C
8046393	80-2487	1711121189	108		EXXON #4	MONROE	4,0	GAS TRANSPORTATION C
8046392	80-2488	1711121197	108		EXXON #5	MONROE	4,0	GAS TRANSPORTATION C
8046391	80-2489	1711121198	108		EXXON #6	MONROE	4,0	GAS TRANSPORTATION C
8046406	80-2470	1711122188	103		FEE 105 #4	MONROE	16,4	UNITED GAS PIPE LINE
8046436	80-2597	1711121642	108		FEE 56 #1	MONROE	13,4	UNITED GAS PIPELINE
8046426	80-2570	1706721290	108		GEORGIA PACIFIC A #4	MONROE	7,8	UNITED GAS PIPELINE
8046425	80-2571	1706721299	108		GEORGIA PACIFIC A #5	MONROE	7,8	UNITED GAS PIPELINE
8046408	80-2472	1706721522	103		GEORGIA PACIFIC E #1	MONROE	14,4	UNITED GAS PIPE LINE
8046424	80-2572	1711121660	108		NOLAN #1	MONROE	13,6	UNITED GAS PIPELINE
8046423	80-2573	1711121661	108		NOLAN #2	MONROE	13,6	UNITED GAS PIPELINE
8046411	80-2475	1707321363	103		PETRO LEWIS POTTS #2	MONROE	4,2	PETRO-LEWIS FUNDS IN
8046409	80-2473	1707321318	103		PETRO LEWIS REA GREEN #8	MONROE	10,3	PETRO-LEWIS FUNDS IN
8046410	80-2474	1707321339	103		PETRO-LEWIS WALL #1	MONROE	14,6	PETRO-LEWIS FUNDS IN
8046412	80-2476	1711121663	108		SCHOOL BOARD #1	MONROE	10,3	UNITED GAS PIPELINE
8046413	80-2477	1711121664	108		SCHOOL BOARD #2	MONROE	14,4	UNITED GAS PIPELINE
8046414	80-2478	1711121665	108		SCHOOL BOARD #3	MONROE	9,3	UNITED GAS PIPELINE
8046415	80-2479	1711121666	108		SCHOOL BOARD #4	MONROE	9,3	UNITED GAS PIPELINE
8046416	80-2480	1711121667	108		SCHOOL BOARD #5	MONROE	9,3	UNITED GAS PIPELINE
8046400	80-2481	1711121668	108		SCHOOL BOARD #6	MONROE	9,3	UNITED GAS PIPE LINE

UMI 0 8 2 1 G A 5 4 V

VOLUME 256 PAGE 003

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046407	80-2471	17111222041	103		STRIPLING #2	MONROE	6,2	UNITED GAS PIPE LINE
8046437	80-2596	17067211172	108		TENSAS DELTA A #18	MONROE	18,4	UNITED GAS PIPELINE
8046436	80-2595	17067211173	108		TENSAS DELTA A-19	MONROE	18,4	UNITED GAS PIPELINE
8046399	80-2482	17111211237	108		USA #1	MONROE	14,7	GAS TRANSPORTATION C
*BAND MILL LTD					RECEIVED: 07/11/80 JA: LA			
8046419	80-2577	17111222322	103		RAMSEY ET AL NO 4	MONROE	27,0	PETRO-LEWIS FUNDS IN
8046420	80-2576	17111222310	103		CLARK ET AL NO 1	MONROE	25,0	PETRO-LEWIS FUNDS IN
8046450	80-2582	17111222346	103		FROST LUMBER CO NO 3	MONROE	24,0	PETRO-LEWIS FUNDS IN
8046417	80-2579	17111222317	103		FROST LUMBER CO NO 4	MONROE	0,0	PETRO-LEWIS FUNDS IN
8046451	80-2581	17111222318	103		FROST LUMBER CO NO 5	MONROE	20,0	PETRO-LEWIS FUNDS IN
8046418	80-2578	17111222347	103		FROST LUMBER CO NO 6	MONROE	15,0	PETRO-LEWIS FUNDS IN
8046452	80-2580	17111222348	103		UNION PRODUCING NO 1	MONROE	20,0	PETRO-LEWIS FUNDS IN
*SOUTH LOUISIANA PRODUCTION CO INC					RECEIVED: 07/11/80 JA: LA			
8046397	80-2389	17109220044	102		HARRY BOURG CORP NO 1	BAYOU DELARGE	73,0	LOUISIANA INTRASTATE
*UNION TEXAS PETROLEUM					RECEIVED: 07/11/80 JA: LA			
8046421	80-2575	17053205488	103		HUGHES NO B-10	LAKE ARTHUR SECTION	36,5	TEXAS GAS TRANSMISSI

****

WEST VIRGINIA DEPARTMENT OF MINES

****

*A F MORRIS TRUSTEE					RECEIVED: 07/14/80 JA: WV			
8046565		4704302486	108		EDGAR MAY #1 GPA 1051	MUD RIVER CARROLL DISTRI	1,1	PENNZOIL CO
*ALFRED E KNOBLER					RECEIVED: 07/14/80 JA: WV			
8046630		4701100568	103		E JORDAN ALTIZER K-26	BARBOURSVILLE	0,0	COLUMBIA GAS TRANSMI
*ALLEGHENY LAND & MINERAL COMPANY					RECEIVED: 07/14/80 JA: WV			
8046714		4703301225	103		A-736	COAL DISTRICT	0,0	CONSOLIDATED GAS SUP
8046716		4709701917	103		A-795	UNION DISTRICT	0,0	CONSOLIDATED GAS SUP
8046715		4707700199	103		A-803	VALLEY DISTRICT	0,0	CONSOLIDATED GAS SUP
8046713		4701702526	103		A-855	MC CLELLAN DISTRICT	0,0	CONSOLIDATED GAS SUP
*APPALACHIAN EXPLORATION & DEVEL INC					RECEIVED: 07/14/80 JA: WV			
8046489		4703902767	108		M C DICKINSON A-1	CABIN CREEK	37,9	COLUMBIA GAS TRANSMI
8046617		4701900365	102		M R DEITZ #1	MT COVE	42,0	EQUITABLE GAS CO
8046487		4701900408	102		M R DEITZ #2	MT COVE	42,0	EQUITABLE GAS CO
8046618		4701900374	102		J P BOWLING #1	MT COVE	42,0	EQUITABLE GAS CO
8046486		4701900403	102		L MINTER #2	MT COVE	42,0	EQUITABLE GAS CO
8046488		4706700461	102		RIDGEWAY #1	GRANT	42,0	EQUITABLE GAS CO
*ARLEN CARPENTER					RECEIVED: 07/14/80 JA: WV			
8046497		4701302916	108		E C KNUTTS NO 1	WASHINGTON	8,0	CONSOLIDATED GAS SUP
*ASHLAND EXPLORATION INC					RECEIVED: 07/14/80 JA: WV			
8046495		4703901678	108		BRIAR MTN COAL & COKE #3-026700	PAINT CREEK	15,5	COLUMBIA GAS TRANSMI
8046709		4710900613	108		W M LUMBER CO #198	LOGAN WYOMING	11,6	CONSOLIDATED GAS SUP
8046710		4710900643	108		W M RITTER LUMBER CO #208	LOGAN WYOMING	21,4	CONSOLIDATED GAS SUP
8046711		4710900647	108		W M RITTEN LUMBER CO #211	LOGAN WYOMING	19,5	CONSOLIDATED GAS SUP
8046703		4710900726	108		W M RITTER LUMBER CO #218	LOGAN WYOMING	20,6	CONSOLIDATED GAS SUP
*BUMBER GAS & OIL CO					RECEIVED: 07/14/80 JA: WV			
8046560		4701303007	108		NORRIS HEIRS #1	CENTER	1,9	CONSOLIDATED GAS SUP
*BOYD D & G INC					RECEIVED: 07/14/80 JA: WV			
8046558		4707900958	108		BOYD D & G INC #K-49-7269	POCA	4,0	COLUMBIA GAS TRANSMI
*C W & J E RICHARDS					RECEIVED: 07/14/80 JA: WV			
8046688		4708524732	108		C V IAMS #2 - 47085	PULLMAN	1,8	CARNEGIE NATURAL GAS
*CARL E WALTERS ETAL					RECEIVED: 07/14/80 JA: WV			
8046564		4709500796	108		LEMASTERS HEIRS	STRINGTOWN	2,5	PENNZOIL
*CHASE PETROLEUM					RECEIVED: 07/14/80 JA: WV			
8046629		4701702342	102		STELLA COX MAY #1	STRAIGHT FORK-BLUESTONE	90,0	COLUMBIA GAS TRANSMI

VOLUME 256 PAGE 004

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*CHRISMAN DRILLING COMPANY					RECEIVED: 07/14/80 JA: WV			
8046516		4700701035	103		D J MOYERS #5	OTTER DISTRICT	88,0	GEORGE JACKSON
8046515		4700721119	103		L J SMITH 3	OTTER	30,0	EQUITABLE GAS CO
*COFFMAN & MORRIS OIL & GAS CO					RECEIVED: 07/14/80 JA: WV			
8046566		4702161440	108		OPHA W KELLER #2	LINN	4,0	CARNEGIE NATURAL GAS
*COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 07/14/80 JA: WV			
8046570		4701501349	108		HUBBARD RUFFNER 801699	UNION	2,0	COLUMBIA GAS TRANSMI
*CONSOLIDATED GAS SUPPLY CORP					RECEIVED: 07/14/80 JA: WV			
8046513		4703301926	108		D M COLE 12514	WEST VIRGINIA OTHER A-85	18,0	GENERAL SYSTEM PURCH
8046511		4703301060	108		LAVINA MC MILLAN 12262	WEST VIRGINIA OTHER A-85	11,0	GENERAL SYSTEM PURCH
8046512		4701302629	108		CORA STUMP 12356	WEST VIRGINIA OTHER A-85	0,0	GENERAL SYSTEM PURCH
8046547		4701701984	108		W B MAXWELL 7042	WEST VIRGINIA OTHER A-85	8,0	GENERAL SYSTEM PURCH
*D & J OIL COMPANY					RECEIVED: 07/14/80 JA: WV			
8046490		4708703256	108		C C PAXTON WELL #1	WAYNE	0,3	PENNZOIL CO
*D B GAS ASSOCIATES					RECEIVED: 07/14/80 JA: WV			
8046561		4708503795	108		MILTON C SMITH #2	UNION	3,8	CARNEGIE NATURAL GAS
*E M AND M E SMITH					RECEIVED: 07/14/80 JA: WV			
8046501		4701301176	108		D B SHIMER NO 1	SHERIDAN DISTRICT	1,7	CABOT CORP
8046503		4701302876	108		CALHOUN COUNTY COURT	SHERMAN DISTRICT	2,4	CABOT CORP
8046502		4701302878	108		ESTHER BELL NO 2	SHERIDAN DISTRICT	3,2	CABOT CORP
8046510		4701302394	108		ESTHER BELL NO 4	SHERIDAN DISTRICT	4,9	CABOT CORP
8046506		4701302877	108		ESTHER BELL WELL NO 1	SHERIDAN DISTRICT	3,2	CABOT CORP
8046509		4701302338	108		ESTHER BELL WELL NO 3	SHERIDAN DISTRICT	6,4	CABOT CORP
8046498		4701301662	108		G B PARR NO 2	SHERIDAN DISTRICT	6,9	CABOT CORP
8046504		4701302423	108		G B PARR NO 3	SHERIDAN DISTRICT	4,6	CABOT CORP
8046508		4701302222	103		JOHN PROPET WELL NO 2	LITTLE KANAWHA RIVER CEN	3,5	CABOT CORP
8046500		4701302913	108		JOSEPH WILSON NO 1	CENTER DISTRICT	7,2	CABOT CORP
8046499		4701300029	108		L R HARLESS NO 2	WASHINGTON DISTRICT	1,0	CABOT CORP
8046507		4701302088	108		LEWIS LITTLE NO 1	SHERMAN DISTRICT	2,3	CABOT CORP
8046505		4701302874	108		S E B JOHNSON NO 1	SHERMAN DISTRICT	1,7	CABOT CORP
*EASTRIDGE ENERGY CORP					RECEIVED: 07/14/80 JA: WV			
8046571		4701302604	108		ROYAL AND LORENA WHITE #2	SHERMAN DISTRICT	3,0	CABOT CORP
*EDWARD C BINE					RECEIVED: 07/14/80 JA: WV			
8046669		4704900668	108		M ELLA WOODRUFF NO 1	MANNINGTON	0,5	PENNZOIL CO
*ENERGEX CORP					RECEIVED: 07/14/80 JA: WV			
8046667		4710700866	103		A STAATS #1	VIENNA	0,0	GAS TRANSPORT INC
8046662		4710700867	103		B STAATS #1	VIENNA	0,0	GAS TRANSPORT INC
8046664		4710700878	103		EUGENE MAYO B #1	VIENNA	0,0	GAS TRANSPORT INC
*FOX DRILLING CO INC					RECEIVED: 07/14/80 JA: WV			
8046550		4700101230	103		D BOSLEY #1(47-001-1230)	BELINGTON	80,0	COLUMBIA GAS TRANSMI
8046549		4700101231	103		D BOSLEY #2(47-001-1231)	BELINGTON	80,0	COLUMBIA GAS TRANSMI
8046551		4700101221	103		KITTLE #1(47-001-1221)	BELINGTON	80,0	COLUMBIA GAS TRANSMI
8046606		4700101219	103		WILLSON #1(47-001-1219)	BELINGTON	60,0	COLUMBIA GAS TRANSMI
8046550		4700101220	103		WILLSON #2(47-001-1220)	BELINGTON FIELD	60,0	COLUMBIA GAS TRANSMI
*FRANCIS E CAIN					RECEIVED: 07/14/80 JA: WV			
8046628		4701303169	108		C J THOMAS #2	SHERIDAN	3,0	CABOT CORP
8046632		4701303170	108		C J THOMAS #3	SHERIDAN	3,0	CABOT CORP
8046675		4701302432	108		C B DESPAND HEIRS #1	LEE	0,6	CONSOLIDATED GAS SUP
8046676		4701303122	108		J M BENNETT #3	SHERIDAN	3,3	CABOT CORP
8046674		4701303155	108		T P ROUNDS #1 CONTRACT #3497	SHERIDAN	1,8	CONSOLIDATED GAS SUP
*G L AND R D BEATY					RECEIVED: 07/14/80 JA: WV			
8046692		4704900667	108		KOEN-MCGHAW NO 2	MANNINGTON DISTRICT	7,0	PENNZOIL CO
*GEORGE JACKSON					RECEIVED: 07/14/80 JA: WV			

VOLUME 254 PAGE 005

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046493		4702100257	108		JONES & YOUNG WELL #1	GLENVILLE DISTRICT	1.0	EQUITABLE GAS CO
•CLOVER GAS CO					RECEIVED: 07/14/80 JAS WV			
8046609		4700501322	108		COON HEIRS #1	SHERMAN DISTRICT	7.5	CONSOLIDATED GAS SUP
8046610		4700501321	108		COON HEIRS NO 2	SHERMAN DISTRICT	7.5	CONSOLIDATED GAS SUP
8046615		4703903609	108		DUVALL #1	ELK & BIG SANDY DISTRICT	0.5	COLUMBIA GAS TRANSMI
8046616		4703903608	108		DUVALL #2	ELK & BIG SANDY DISTRICT	0.5	COLUMBIA GAS TRANSMI
8046686		4703923601	108		MOLLY YOUNG #1	ELK DISTRICT	10.0	COLUMBIA GAS TRANSMI
8046625		4703923610	108		MOLLY YOUNG #2	ELK DISTRICT	1.4	COLUMBIA GAS TRANSMI
8046612		4700520206	108		J W MCKINNEY #1	SCOTT DISTRICT	1.5	PENNZOIL CO
8046611		4700520211	108		J W MCKINNEY #2	SCOTT DISTRICT	1.5	PENNZOIL CO
8046618		4703920111	108		SAM BURDETTE #1	ELK DISTRICT	7.0	COLUMBIA GAS TRANSMI
8046613		4701120674	108		SHAN #1	MCCOMAS DISTRICT	2.5	DEVON CORP
•M E ACKER & J M HALL					RECEIVED: 07/14/80 JAS WV			
8046562		4704102569	103		HARRIS #1	HACKERS CREEK	0.0	CONSOLIDATED GAS SUP
•MOLLY NESTOR					RECEIVED: 07/14/80 JAS WV			
8046706		4701303163	108		HARDEN HEIRS GAS COMPANY	LEE DISTRICT	1.7	CONSOLIDATED GAS SUP
8046705		4701301421	108		STEMPLE GAS CO #1	LEE DISTRICT	1.9	CONSOLIDATED GAS SUP
8046693		4701300430	108		WEARS GAS COMPANY #2	WASHINGTON DISTRICT	10.2	CONSOLIDATED GAS SUP
8046707		4701300403	108		WILMOTH GAS CO #1	SHERMAN DISTRICT	2.3	CABOT CORPORATION
•HUNTINGTON OKLA/MIDWAY CITY GAS CO					RECEIVED: 07/14/80 JAS WV			
8046485		4703900947	108		H J EVANS	KERMIT	2.0	COLUMBIA GAS TRANSMI
•J & J ENTERPRISES INC					RECEIVED: 07/14/80 JAS WV			
8046601		4701722511	103		B-199	CENTRAL	20.0	COLUMBIA GAS TRANSMI
8046600		4703302165	103		B-277	EAGLE	20.0	CONSOLIDATED GAS SUP
8046661		4703302170	103		B-559-#1	TENNILE	20.0	CONSOLIDATED GAS SUP
•JAMES F SCOTT					RECEIVED: 07/14/80 JAS WV			
8046673		4703302209	103		A B LONG B-283	UNION DISTRICT	12.0	CONSOLIDATED GAS SUP
8046579		4704102684	103		AMANDA BUTCHER B-274	HACKERS CREEK	26.0	CONSOLIDATED GAS SUP
8046578		4704102690	103		E D BUTCHER (B276)	HACKERS CREEK	26.0	CONSOLIDATED GAS SUP
8046671		4704102566	103		J M BAILEY (B-272)	HACKERS CREEK DISTRICT	26.0	CONSOLIDATED GAS SUP
8046691		4704102729	103		J J HANKS (B-279)	HACKERS CREEK DISTRICT	26.0	CONSOLIDATED GAS SUP
8046690		4707700203	103		L A CREBS #1 B-280	VALLEY DISTRICT	12.0	CONSOLIDATED GAS SUP
8046672		4703302230	103		ROBERT WOLFE #2 B 288	UNION DISTRICT	12.0	CONSOLIDATED GAS SUP
•JESSIE CLINE & AGNES MARIE CLARK					RECEIVED: 07/14/80 JAS WV			
8046702		4707300085	108		SIMONTON #1	ROCK RUN	1.1	CONSOLIDATED GAS SUP
8046557		4707300158	108		SIMONTON #2	ROCK RUN	1.2	CONSOLIDATED GAS SUP
•JUSTIN M HENDERSON					RECEIVED: 07/14/80 JAS WV			
8046569		4701700298	108		HENDERSON NO 1	WEST UNION DISTRICT	5.0	CARNEGIE NATURAL GAS
•KING GAS CO					RECEIVED: 07/14/80 JAS WV			
8046484		4707900959	108		KING	CURRY	9.1	COLUMBIA GAS TRANSMI
•LENORE DEEM					RECEIVED: 07/14/80 JAS WV			
8046491		4708522733	108		MCNICHOL #1	MCNICHOL	3.0	CONSOLIDATED GAS SUP
•LEONARD C LANE					RECEIVED: 07/14/80 JAS WV			
8046668		4701300896	108		OLA O WHILE #2	SHERMAN	3.0	CABOT CORP
8046660		4701300704	108		OLA O WHITE #1	SHERMAN DISTRICT	3.0	CABOT CORP
•LEONARD FOWLER					RECEIVED: 07/14/80 JAS WV			
8046700		4701323167	108		ARMINDA BENNETT NO 1	SHERMAN DISTRICT	4.5	CABOT CORP
8046701		4701323130	108		UMSTEAD & SCOTT NO 2	CENTER DISTRICT	5.5	CABOT CORP
•LEWIS E SMITH					RECEIVED: 07/14/80 JAS WV			
8046563		4701302259	108		J M HANNAH NO 1	LEE DISTRICT	7.2	CONSOLIDATED GAS SUP
•MARK OIL & GAS LTD					RECEIVED: 07/14/80 JAS WV			
8046699		4710900822	103		F-1	PINEVILLE A-59482	60.0	CONSOLIDATED GAS SUP
8046697		4710900821	103		F-2	PINEVILLE A-59482	60.0	CONSOLIDATED GAS SUP

VOLUME 254 PAGE 006

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046698		4710900820	103		F-3	PINEVILLE A-59482	60.0	CONSOLIDATED GAS SUP
8046695		4710900816	103		F-4	PINEVILLE A-59482	60.0	CONSOLIDATED GAS SUP
8046696		4710900817	103		F-5	PINEVILLE A-59482	60.0	CONSOLIDATED GAS SUP
8046694		4710900815	103		F-6	PINEVILLE A-59482	60.0	CONSOLIDATED GAS SUP
•MILDRED C LANE					RECEIVED: 07/14/80 JAS WV			
8046627		47013615R1	108		E J HICKMAN #1	SHERMAN DISTRICT	7.5	CABOT CORP
•MOUNTAINEER 70-A					RECEIVED: 07/14/80 JAS WV			
8046520		4708524411	102		VANCAMPEN BM-879	CLAY DISTRICT	35.0	CONSOLIDATED GAS SUP
•N G BUSCH					RECEIVED: 07/14/80 JAS WV			
8046559		4708504788	108		GEORGIA M MAUGHT NO 1	MURPHY DISTRICT	0.3	CONSOLIDATED GAS SUP
•NRM PETROLEUM CORPORATION					RECEIVED: 07/14/80 JAS WV			
8046666		4709701980	103		A J BUNNER #1	ELLAMORE	0.0	COLUMBIA GAS TRANSMI
•OKMAR OIL COMPANY					RECEIVED: 07/14/80 JAS WV			
8046494		4701323095	108		PELL HEIRS #2	SHERIDAN DISTRICT	0.5	CABOT CORP
•PALEO INC					RECEIVED: 07/14/80 JAS WV			
8046567		4700700949	108		C PIERCE #1	OTTER	0.0	EQUITABLE GAS CO
•PENNZOIL COMPANY					RECEIVED: 07/14/80 JAS WV			
8046552		4708703023	108		B E ROGERS #6	SPENCER	0.0	CONSOLIDATED GAS SUP
8046555		4708702697	108		C W RADAKER #4	SPENCER DISTRICT	0.3	CONSOLIDATED GAS SUP
8046553		4708703260	108		F P SNODGRASS #2	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8046554		4708703258	108		P C & N SNODGRASS #3	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
8046599		4708702981	108		WM KAUFMAN #4	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
•PETRO-LEWIS CORPORATION					RECEIVED: 07/14/80 JAS WV			
8046482		4709701194	108		ABBOTT #1	UNION	0.0	PARTNERSHIP PROPERTI
8046585		4700100298	108		ANDERSON + THORNE	UNION	0.0	PARTNERSHIP PROPERTI
8046536		4709700919	108		BILLY REGER #2	UNION	0.0	PARTNERSHIP PROPERTI
8046537		4709700920	108		BILLYREGER #1	UNION	0.0	PARTNERSHIP PROPERTI
8046538		4709700924	108		BILLYREGER #3	UNION	0.0	PARTNERSHIP PROPERTI
8046521		4709721456	108		BRANNON #1	UNION	0.0	PARTNERSHIP PROPERTI
8046619		4709701481	108		BRANNON #2	UNION	0.0	PARTNERSHIP PROPERTI
8046479		4709701047	108		CARR-MILES TRACT	UNION	0.0	PARTNERSHIP PROPERTI
8046647		4700100236	108		CASTO #1	UNION	0.0	PARTNERSHIP PROPERTI
8046583		4700100585	108		CHARLES E MAXSON	UNION	0.0	PARTNERSHIP PROPERTI
8046587		4700100331	108		D MITCHELL #1	UNION	0.0	PARTNERSHIP PROPERTI
8046590		4700100510	108		DUCKWORTH #1	VALLEY	0.0	PARTNERSHIP PROPERTI
8046576		4700100192	108		GOSS #1-14	UNION	0.0	PARTNERSHIP PROPERTI
8046575		4700100193	108		GOSS #1-15	UNION	0.0	PARTNERSHIP PROPERTI
8046470		4709700989	108		HINKLE #1	WARREN	0.0	PARTNERSHIP PROPERTI
8046621		4709721462	108		HINKLE D-2	UNION	0.0	PARTNERSHIP PROPERTI
8046645		4700100273	108		HOLLAND HENDERSON #1	UNION	0.0	PARTNERSHIP PROPERTI
8046586		4700100299	108		HOLLAND HENDERSON #2	UNION	0.0	PARTNERSHIP PROPERTI
8046526		4709721201	108		HOOD #1	UNION	0.0	PARTNERSHIP PROPERTI
8046473		4709701014	108		HUNTER EDMISTON #1	UNION	0.0	PARTNERSHIP PROPERTI
8046642		4700100248	108		ISAAC MITCHELL #1	UNION	0.0	PARTNERSHIP PROPERTI
8046641		4700100247	108		ISAAC MITCHELL #2	UNION	0.0	PARTNERSHIP PROPERTI
8046476		4709701043	108		J R BENNETT #1	UNION	0.0	PARTNERSHIP PROPERTI
8046525		4709721248	108		JONES #1	UNION	0.0	PARTNERSHIP PROPERTI
8046653		4700100216	108		LEONA BENNETT #1	UNION	0.0	PARTNERSHIP PROPERTI
8046574		4700100218	108		LEONA BENNETT #2	UNION	0.0	PARTNERSHIP PROPERTI
8046577		4700100181	108		LOUK #2	UNION	0.0	PARTNERSHIP PROPERTI
8046656		4700101990	108		MCVICKER #1-16	UNION	0.0	PARTNERSHIP PROPERTI
8046655		4700100207	108		MCVICKER #1-20	UNION	0.0	PARTNERSHIP PROPERTI
8046573		4700100220	108		MEACOMB & TRACT	UNION	0.0	PARTNERSHIP PROPERTI

UMI 1 2 8 0 8 GAV 5 4

VOLUME 254 PAGE 007

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046538		4703300698	108		O MORRIS #1	ELK	0.0	PARTNERSHIP PROPERTI
8046620		4709701464	108		OLEN GRIFFITH	UNION	0.0	PARTNERSHIP PROPERTI
8046527		4709721195	108		PEARL #1	UNION	0.0	PARTNERSHIP PROPERTI
8046640		4700100546	108		PHILLIPS #1	VALLEY	0.0	PARTNERSHIP PROPERTI
8046589		4700100497	108		PLUM #1	VALLEY	0.0	PARTNERSHIP PROPERTI
8046477		4709701045	108		QUICK-KINCAID	UNION	0.0	PARTNERSHIP PROPERTI
8046472		4709701012	108		REGER-HARRIS #1	UNION	0.0	PARTNERSHIP PROPERTI
8046469		4709700997	108		ROSA BRINKLEY #1	UNION	0.0	PARTNERSHIP PROPERTI
8046474		4709701019	108		ROSA BRINKLEY #2	UNION	0.0	PARTNERSHIP PROPERTI
8046572		4700100221	108		RUBBELL WENTZ A	UNION	0.0	PARTNERSHIP PROPERTI
8046478		4709701046	108		S W BOUTH LTD	UNION	0.0	PARTNERSHIP PROPERTI
8046530		4700100628	108		STEELE 2	UNION	0.0	PARTNERSHIP PROPERTI
8046515		4709700897	108		STRADER #1	WARREN	0.0	PARTNERSHIP PROPERTI
8046524		4709721428	108		TKE BENNETT #1	UNION	0.0	PARTNERSHIP PROPERTI
8046522		4709721442	108		TKE BENNETT #2	UNION	0.0	PARTNERSHIP PROPERTI
8046539		4700100597	108		TKE EVERSON #1	VALLEY	0.0	PARTNERSHIP PROPERTI
8046531		4703326430	108		TKE HICKMAN #1	SIMPSON	0.0	PARTNERSHIP PROPERTI
8046581		4700100581	108		TKE KERR #1	UNION	0.0	PARTNERSHIP PROPERTI
8046523		4709721440	108		TKE LAFFERTY #1	UNION	0.0	PARTNERSHIP PROPERTI
8046532		4703300647	108		TKE MORROW #2	SIMPSON	0.0	PARTNERSHIP PROPERTI
8046540		4700100603	108		TKE PAUGH #1	ELK	0.0	PARTNERSHIP PROPERTI
8046533		4700100604	108		TKE PAUGH #2	ELK	0.0	PARTNERSHIP PROPERTI
8046528		4700100611	108		TKE PAUGH #3	UNION	0.0	PARTNERSHIP PROPERTI
8046582		4700100582	108		TKE PLUM #1	VALLEY	0.0	PARTNERSHIP PROPERTI
8046529		4700100612	108		TKE STOUT #1	UNION	0.0	PARTNERSHIP PROPERTI
8046584		4700100586	108		TKE WENTZ #1	UNION	0.0	PARTNERSHIP PROPERTI
8046580		4700100580	108		TKE ZEPHIA #1	UNION	0.0	PARTNERSHIP PROPERTI
8046481		4709701174	108		VINGINIA #1	UNION	0.0	PARTNERSHIP PROPERTI
8046588		4700100426	108		WARE #1	VALLEY	0.0	PARTNERSHIP PROPERTI
8046471		4709701000	108		WATKINS #1	UNION	0.0	PARTNERSHIP PROPERTI
8046650		4700100231	108		WENTZ B	UNION	0.0	PARTNERSHIP PROPERTI
8046651		4700100230	108		WENTZ C	UNION	0.0	PARTNERSHIP PROPERTI
8046648		4700100235	108		WENTZ D	UNION	0.0	PARTNERSHIP PROPERTI
8046652		4700100239	108		WENTZ E	UNION	0.0	PARTNERSHIP PROPERTI
8046654		4700100240	108		WENTZ F	UNION	0.0	PARTNERSHIP PROPERTI
8046643		4700100249	108		WENTZ H	UNION	0.0	PARTNERSHIP PROPERTI
8046475		4709701038	108		WENTZ I	UNION	0.0	PARTNERSHIP PROPERTI
8046480		4709701051	108		WILLIAM L CARR	UNION	0.0	PARTNERSHIP PROPERTI
8046649		4700100234	108		WOLFE-BENNETT	UNION	0.0	PARTNERSHIP PROPERTI
8046657		4700100198	108		WOODFORD-MCVICKER	UNION	0.0	PARTNERSHIP PROPERTI
8046644		4700100251	108		ZEPHIA M GOBB	UNION	0.0	PARTNERSHIP PROPERTI
8046656		4700101940	108		ZIRKLE #1-13	UNION	0.0	PARTNERSHIP PROPERTI
•PETROLEUM DEVELOPMENT CORP					RECEIVED: 07/14/80 JAI NV			
8046683		4700100898	103		A S PAUGH #1	ELK CREEK	4.5	CONSOLIDATED GAS SUP
8046682		4700100929	103		A S PAUGH #2	ELK CREEK	13.3	CONSOLIDATED GAS SUP
8046646		4700101042	103		EZRA SAYERS MRS #4	CLEMTOWN	8.5	CONSOLIDATED GAS SUP
8046681		4701701900	103		H J SHAMAN #1	CLEMTOWN	21.6	CONSOLIDATED GAS SUP
•PHILIP LEMON					RECEIVED: 07/14/80 JAI NV			
8046626		4708501925	108		DWIGHT CRANE NO 2 55-0016731	UNION	0.0	CONSOLIDATED GAS COR
•QUAKER STATE OIL REFINING CORP					RECEIVED: 07/14/80 JAI NV			
8046492		4701702698	108		JOESPH FREEMAN #2	WEST UNION DISTRICT	6.1	PENNZOIL CO
•R & S GAS COMPANY					RECEIVED: 07/14/80 JAI NV			
8046568		4708524118	103		L U HEFFNER NO 1	MURPHY DISTRICT	18.0	CABOT CORP

VOLUME 254 PAGE 008

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
•RAMCO OIL & GAS CORP					RECEIVED: 07/14/80 JAI NV			
8046592		4708100469	102		SOUTHERN LAND COMPANY #1	WEIR DISCOVERY	36.0	COLUMBIA GAS TRANSMI
8046597		4708100487	102		SOUTHERN LAND COMPANY #2	WEIR DISCOVERY	36.0	COLUMBIA GAS TRANSMI
8046607		4708100488	103		SOUTHERN LAND COMPANY #3	SOUTHERN LAND CO RAVENSC	36.0	COLUMBIA GAS TRANSMI
8046605		4708100506	103		SOUTHERN LAND COMPANY #4	SOUTHERN LAND CO RAVENSC	36.0	COLUMBIA GAS TRANSMI
8046603		4705900921	103		U S STEEL #19	U S STEEL	35.0	CONSOLIDATED GAS SUP
8046604		4705900920	103		U S STEEL #20	U S STEEL	35.0	CONSOLIDATED GAS SUP
8046602		4705900926	103		US STEEL #21	U S STEEL	100.0	CONSOLIDATED GAS SUP
•RAVENCLIFFS DEVELOPMENT COMPANY					RECEIVED: 07/14/80 JAI NV			
8046685		4710920838	103		Y & O COAL COMPANY #80	RAVENCLIFF	36.0	COLUMBIA GAS TRANSMI
•RHOADES MINING CORP					RECEIVED: 07/14/80 JAI NV			
8046541		4709700615	108		A O REGESTER #1	UNION	1.7	COLUMBIA GAS TRANSMI
8046591		4709700310	108		ANNA GERMIO #2	OTTER	0.0	COLUMBIA GAS TRANSMI
8046598		4709700619	108		BENNETT #1	UNION	2.6	COLUMBIA GAS
8046544		4709700402	108		DENNISON #2	UNION	3.1	COLUMBIA GAS TRANSMI
8046543		4709700405	108		DENNISON #3	UPSHUR	3.1	COLUMBIA GAS TRANSMI
8046593		4709700624	108		DENNISON #4	UNION	9.0	COLUMBIA GAS TRANSMI
8046548		4709700125	108		GLBOOTH #1	VALLEY	3.2	COLUMBIA GAS TRANSMI
8046545		4709700265	108		IONA CARTER #1	WASHINGTON	2.1	COLUMBIA GAS
8046542		4709700443	108		MARY MEE #1	UNION	6.4	COLUMBIA GAS TRANSMI
8046546		4709700230	108		MCCARTNEY NO 1	WASHINGTON	6.4	COLUMBIA GAS
8046596		4709700631	108		MCVICKER #1	UNION	2.6	COLUMBIA GAS TRANSMI
8046595		4709700639	108		MOATS #1	UNION	0.7	COLUMBIA GAS
•RICH FORK GAS CO					RECEIVED: 07/14/80 JAI NV			
8046683		4700220008	108		C A CRUFT ETAL #1	DUVAL	1.5	PENZOIL UNITED INC
•ROCKWELL PETROLEUM COMPANY					RECEIVED: 07/14/80 JAI NV			
8046680		4702103283	108		WAUGH #1	GLENVILLE DISTRICT	10.0	CONSOLIDATED GAS SUP
8046679		4702103384	108		WAUGH #2	GLENVILLE DISTRICT	10.0	CONSOLIDATED GAS SUP
•RUSSELL E RICHARDS					RECEIVED: 07/14/80 JAI NV			
8046678		4708504798	108		RUSSELL RICHARDS #1	HORNER	15.0	CONSOLIDATED GAS SUP
8046677		4708524799	108		RUSSELL RICHARDS #2	HORNER	15.0	CONSOLIDATED GAS SUP
•S R & J M BARTLETT					RECEIVED: 07/14/80 JAI NV			
8046706		4703903561	108		M M THOMAT 1716	CABIN CREEK	3.6	COLUMBIA GAS TRANSMI
•SECURITY GAS & OIL INC					RECEIVED: 07/14/80 JAI NV			
8046608		4707300797	103		EMMA WELLS #1	BENS RUN (ARVILLA)	45.0	COLUMBIA GAS TRANSMI
8046624		4707300758	103		IVA B HORNER #1	ARVILLA	15.0	COLUMBIA GAS TRANSMI
8046623		4707300785	103		R S & F R BUTCHER #1	BENS RUN (ARVILLA)	15.0	COLUMBIA GAS/TRANSMI
•SENECA-UPSHUR PETROLEUM CO					RECEIVED: 07/14/80 JAI NV			
8046510		4708320287	102		J M HUBER #56	MIDDLE FORK	30.0	EQUITABLE GAS CO
8046659		4708320288	102		J M HUBER #57	MIDDLE FORK	55.0	EQUITABLE GAS CO
8046708		4708320289	102		J M HUBER #59	MIDDLE FORK	55.0	EQUITABLE GAS CO
8046712		4700701512	108		MAMIE V SINGLETON #1	SALT LICK	3.0	CONSOLIDATED GAS SUP
•SOUTHEASTERN GAS COMPANY					RECEIVED: 07/14/80 JAI NV			
8046686		4701100621	108		LAPE KNIGHT #P-73	GRANT	11.8	COLUMBIA GAS TRANS C
•SWEETLAND LAND AND MINERAL CO					RECEIVED: 07/14/80 JAI NV			
8046633		4704302441	108		EVANS #5 GPA 1061	CANNOLL	1.1	PENNZOIL CO
8046634		4704302439	108		JACK SMITH #1 GPA 1061	CANNOLL	1.0	PENNZOIL CO
8046635		4704302434	108		LUCAS #2 GPA 1061	CANNOLL	0.7	PENNZOIL CO
8046636		4704302437	108		PULLEN #1 GPA 1061	CANNOLL	5.3	PENNZOIL CO
8046637		4704302431	108		PULLEN #2 GPA 1061	CANNOLL	5.4	PENNZOIL CO
8046638		4704302435	108		SWEETLAND BRANCH #5 GPA 1061	CANNOLL	5.4	PENNZOIL CO
8046639		4704302438	108		WILEY #1 GPA 1061 STEAM 1	CANNOLL	1.4	PENNZOIL CO
•TATE GAS CO					RECEIVED: 07/14/80 JAI NV			

[Docket No. ID-1779]

Vice President and Director; Columbus &

not serve to make protestants parties to

VOLUME 288 PAGE 000

JD NO	JA DKT	API NO	SEC D WELL NAME			
------	------	------	--- - ----------			
		FIELD NAME	PROD	PURCHASER		
		----------	----	---------		
		HARRISVILLE		18.7 CONSUMERS GAS UTILST		
		LINCOLN DISTRICT		18.0		
0006008		4708502082	108	TATE NO 1		
*THE CARTER JONES LUMBER CO				RECEIVED: 07/16/80	JAI	WV
0006040		4708506078	103	MILORED TUTTLE #1		
				RECEIVED: 07/16/80	JAI	WV
*UNION DRILLING INC						
0006063		4708702020	103	GLADYS KEELING #1-1555		
0006070		4708701908	103	THELMA WILFONG #1 S 1520		
*UNION GAS CORP				RECEIVED: 07/16/80	JAI	WV
0006516		4708506005	108	J D PRUNTY WELL #1		
0006518		4708701165	108	HOOVER #3		
*W A DEEM				RECEIVED: 07/16/80	JAI	WV
0006507		4708502900	108	MCDONALD #2		
*WEVA OIL CORP				RECEIVED: 07/16/80	JAI	WV
0006504		4710500887	108	A & A C NEWMAN #1		
0006517		4708723328	108	APN #33		
*WHITE PINE OIL & GAS CO				RECEIVED: 07/16/80	JAI	WV
0006065		4701300606	108	W W AYERS NO 1		
*Z OIL & GAS				RECEIVED: 07/16/80	JAI	WV
0006022		4708506376	108	L ZICKEFOOSE #2		
0006031		4708506375	108	L ZICKEFOOSE #1		

[FR Doc. 80-24297 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-C

[Docket No. ID-1779]

R. E. Disbrow; Notice of Filing

August 4, 1980.

Take notice that on July 29, 1980 R. E. Disbrow (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Director, Appalachian Power Company, Electric Utility.
Vice President and Director, Columbus and Southern Ohio Electric Company, Electric Utility.
Vice President and Director, Indiana & Michigan Company, Electric Utility.
Director, Kanawha Valley Power Company, Electric Utility.
Vice President and Director, Kentucky Power Company, Electric Utility.
Vice President and Director, Kingsport Power Company, Electric Utility.
Vice President and Director, Michigan Power Company, Electric Utility.
Vice President and Director, Ohio Power Company, Electric Utility.
Vice President and Director, Wheeling Electric Company, Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commisison, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1980.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-24307 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ID-1735]

John E. Dolan; Notice of Filing

August 4, 1980.

The filing party submits the following:

Take notice that on July 29, 1980, John E. Dolan (Applicant) submitted for filing an application, pursuant to Section 305(b) of the Federal Power Act, to hold the following positions:

Vice Chairman—Engineering and Construction, American Electric Power Service Corp., Public Utility.
Director, Cardinal Operating Co., Public Utility.
Vice President and Director, Columbus & Southern Ohio Electric Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 80-24308 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER 80-564]

Duke Power Co.; Supplement to Electric Power Contract

August 6, 1980.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on July 29, 1980 a supplement to the Company's Electric Power Contract with the City of Rock Hill. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 228.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for changes in SEPA reallocation. Duke Power proposes an effective date of July 20, 1980.

According to Duke Power copies of this filing were mailed to the City of Rock Hill and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24127 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP80-124]

El Paso Natural Gas Co.; Tariff Filing

August 1, 1980.

Take notice that on July 23, 1980, El Paso Natural Gas Company ("El Paso") pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, tendered for filing Third Revised Sheet No. 141 and First Revised Sheet No. 141-A to special Rate Schedule X-12 contained in its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that special Rate Schedule X-12 is comprised of a Gas Exchange Agreement ("Exchange Agreement") dated February 8, 1977, between El Paso and Transwestern Pipleine Company ("Transwestern") providing for the transportation and delivery of natural gas, by the parties on an exchange basis, in certain specified areas of interest in the States of Texas, New Mexico and Oklahoma. Such arrangements were authorized at Docket Nos. CP77-604 (El Paso) and CP77-658 (Transwestern), by order issued February 13, 1978, as amended by orders issued April 17, 1978, and July 24, 1978.

El Paso states that the tendered tariff sheets when accepted for filing and permitted to become effective will amend the Exchange Arrangement by providing for a new Article IV, *Construction of Facilities*, pursuant to a Letter Agreement dated May 30, 1980, between the parties.

El Paso states that inasmuch as the Exchange Agreement comprises special Rate Schedule X-12 to El Paso's Third Revised Volume No. 2 Tariff and, as well, special Rate Schedule X-1 to Transwestern's Original Volume No. 2 Tariff, the concurrent effectiveness of the tendered tariff sheets to El Paso's and Transwestern's said special rate schedules is desirable. El Paso further states that Transwestern will file a tariff tender with the identical revisions and will request an effective date coincident with the effective date requested by El Paso. El Paso has requested that the tariff sheets tendered as well as the aforementioned tariff sheets tendered by Transwestern be made effective after

thirty (30) days following the date of filing.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Aug. 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24280 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP79-12; (Extension)]

El Paso Natural Gas Co.; Motion by El Paso Natural Gas Co. for Leave To Effectuate Stipulation and Agreement Subject to Conditions

August 6, 1980.

Take notice that on July 29, 1980, El Paso Natural Gas Company (EL Paso), pursuant to 18 C.F.R. § 1.12, filed a motion requesting Commission authorization to effectuate a Stipulation and Agreement filed by the company on January 16, 1980, and approved by the Commission on May 30, 1980 in the above-listed docket. The principal purpose of such January 16, 1980, Stipulation and Agreement (Extension Agreement) is the extension of a prior Stipulation and Agreement (Original Agreement) approved by the Commission on July 20, 1979, in the above-listed docket.

El Paso states that principal elements of the Extension Agreement are (i) El Paso has agreed to a rate reduction reflecting (a) a decrease in depreciation rates and (b) acceptance of the Commission Staff's income tax normalization methodology; [1] (ii) El Paso has agreed to make interim refunds and to expand its refund obligation beyond the requirements of the Original Agreement to include certain increased natural gas liquid revenues resulting from decontrol of butane and natural gasoline, which additional revenues will be used principally to minimize future purchased gas cost rate adjustments; (iii) El Paso will be permitted to defer refunding a portion of the amount required by the Original Agreement for a limited period: (iv) El Paso's authority to track gas well royalty and production tax costs will be extended for an additional year through May 31, 1981; and (v) El Paso agreed to a post-period audit respecting cost incurred during the rate-period ending May 31, 1981. The remaining provisions of the Original Agreement (except for certain minor language modifications) are unchanged by the Extension Agreement.

In addition, El Paso observes that, although the Extension Agreement contains significant benefits accruing to the rate-payers, such agreement will not become effective until either (1) the Commission's order approving the Extension Agreement has become final and no longer subject to judicial review, or (2) the unilateral effectuation of such extension by the company pending judicial review. Accordingly, El Paso desires, notwithstanding the possibility of judicial review of the Extension Agreement, to exercise its right to unilaterally effectuate such agreement, but subject to certain conditions.

Specifically, El Paso seeks Commission approval of certain conditions that the company believes will protect it from undue prejudice if the May 30, 1980 Commission order approving the Extension Agreement is reversed on appeal. Therefore, the company requests express agreement and approval of the following specific conditions:

(i) El Paso shall be permitted to retain on file in suspended status the rate filing made by El Paso on December 31, 1979 in Docket No. RP80-63, notwithstanding effectuation of the Extension Agreement;

(ii) Such rate filing may be made effective subject to refund and to any conditions imposed by the Commission's January 30, 1980, suspension order in Docket No. RP80-63, at El Paso's option, at any time during the pendency of judicial review, if any, until the earlier of (a) the date on which the Commission's order approving the Extension Agreement becomes final and no longer subject to judicial review or (b) the effective date of any general, system-wide rate increase filed by El Paso following its effectuation of the Extension Agreement;

(iii) If the Docket No. RP80-63 rates have not been made so effective, El Paso shall withdraw its Docket No. RP80-63 tariff sheets upon the occurence of the earlier of the events or dates described in (ii) (a) or (b), *supra;*

(iv) El Paso shall be permitted to file on or about November 30, 1980, a general, systemwide rate increase to be effective June 1, 1981, notwithstanding the requirements of Section 154.66 of the Commission's Regulations; and

(v) El Paso be granted the authority to effectuate the Extension Agreement, subject to the foregoing conditions, as soon as practicable but, in any event, not later than August 15, 1980.

Any party or staff counsel desiring to object to or answer El Paso's motion should, on or before August 13, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, an objection pursuant to 18 C.F.R. § 1.12. All objections filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24281 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-552]

The Empire District Electric Co.; Proposed Tariff Change

August 4, 1980.

The filing Company submits the following:

Take notice that The Empire District Electric Company on July 28, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff, Volume No. One. The proposed changes would increase revenues from present jurisdictional sales and service to the City of Chetopa, Kansas by $65,654 based on the 12-month period ending February 28, 1978.

The presently effective rates are based on contractual agreements made up to thirteen years ago. Since that time Empire has experienced substantial increase in all elements of its cost, including fuel, labor, interest, taxes and construction to provide additional capacity and meet environmental requirements.

Copies of the filing were served upon the public utility's jurisdictional customers and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24282 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-554]

The Empire District Electric Co.; Proposed Tariff Change

August 4, 1980.

The filing Company submits the following:

Take notice that the Empire District Electric Company (EDE), on July 29, 1980 tendered for filing a proposed Service Schedule L, Peaking Power Service, as a supplement to an Electric Interchange Agreement between EDE and Kansas Gas and Electric Company (KGE).

The proposed Service Schedule L provides for the sale of 30 Mw of peaking capacity and related energy from Empire to KGE for the period beginning July 1, 1980. The capacity charge is cost plus $0.27 per Kw per month. Related energy will be furnished at cost plus 10% with an allowance for incurred losses. The schedule further provides that KGE will purchase no more than 36,000 Mwh during any contract year, 18,000 Mwh during any four consecutive months, and 6,000 Mwh in any one month. No less than 1,800 Mwh may be purchased in any one month.

Copies of the filing were served upon the Missouri Public Service Commission and Kansas Gas and Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24283 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-66]

Gulf States Utilities Co.; Application

August 1, 1980.

Take notice that on July 25, 1980, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an order pursuant to Section 204(a) of the Federal Power Act authorizing the issuance of up to 500,000 Shares of New Preferred Stock. Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge, Louisiana and vicinity.

The Applicant proposes to sell the New Preferred Stock on or about September 16, 1980, by competitive bidding in accordance with the Commission's Regulations under the Federal Power Act. The Applicant proposes to invite bids on or about September 8, 1980, (unless postponed), for the purchase of the New Preferred Stock. The proceeds from the sale of the New Preferred Stock will be used to pay off part of the Company's outstanding short-term debt previously authorized by the Commission and the balance, if any, to provide funds for other general corporate purposes including construction expenditures.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 14, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24284 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2935]

Graniteville Co.; Application for Short-Form License (Minor)

August 5, 1980.

Take notice that Graniteville Company (Applicant) filed on June 16, 1979, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for continued operation of a water power project to be known as Enterprise Project No. 2935. The project would be located on the Augusta Canal of the Savannah River in the City of Augusta, Richmond County, Georgia. Correspondence with the Applicant should be directed to: Mr. G. S. Pardue, General Manager, Plant Services, Graniteville Company, Graniteville, South Carolina 29829.

Project Description.—The project consists of: (1) intake works (gates and trash racks); (2) two 300-foot long, 8-foot diameter penstocks; (3) a reinforced concrete and masonry textile mill building housing two 600 kW generating units; and (4) appurtenant facilities. The average annual generation is 5,100 MWh.

Purpose of project.—To supplement power purchased from others and to lower the peak electrical demand of the Applicant's textile mill.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the

[1] Under Article XVII of the Original Agreement, the issue of El Paso's use of comprehensive interperiod income tax allocation (normalization) instead of full flow-through of actual tax benefits for certain transactions was reserved for expedited hearing. However, should such hearing result in a decision requiring the company to use normalization, then Article XIX adopts the Commission's South Georgia normalization methodology.

application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before September 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 10, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended* 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended*, 44 FR 61328, (October 25, 1979).

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 12, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24285 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-560]

Idaho Power Co.; Filing

August 4, 1980

The filing Company submits the following:

Take notice that on July 29, 1980, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during June 1980, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24288 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-551]

Idaho Power Co.; Filing

August 6, 1980.

The filing company submits the following:

Take notice that on July 28, 1980, Idaho Power Company (Idaho) submitted for filing a service agreement between Idaho and Sierra Pacific Power Company. The parties request that the Commission waive the filing requirements and allow the service agreement to become effective as of May 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10. All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24287 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-575]

Illinois Power Co.; Filing

August 6, 1980.

The filing company submits the following:

Take notice that Illinois Power Company ("the Company") on July 31, 1980 tendered for filing proposed changes in the following rate schedules:

Rate Schedule FPC No. 52, applicable to Clinton County Electric Cooperative, Inc.
Rate Schedule FPC No. 53, applicable to Corn Belt Electric Cooperative, Inc.
Rate Schedule FPC No. 54, applicable to Farmers Mutual Electric Co.
Rate Schedule FPC No. 55, applicable to Illinois Valley Electric Cooperative, Inc.
Rate Schedule FPC No. 56, applicable to McDonough Power Cooperative.
Rate Schedule FPC No. 57, applicable to Monroe County Electric Cooperative, Inc.
Rate Schedule FPC No. 58, applicable to Southwestrn Electric Cooperative, Inc.
Rate Schedule FPC No. 59, applicable to Tri-County Electric Cooperative, Inc.
Rate Schedule FPC No. 60, applicable to Western Illinois Power Cooperative, Inc.

The proposed changes would increase revenues from juridictional sales and service by approximately $1,763,939 based on the twelve month period ended December 31, 1979.

The Company states that with the present rates it earned a rate of return of only 10.40 percent on electric sales to these customers during the twelve months ended December 31, 1979. Continuing increases in cost of capital, labor and materials and supplies are expected to further reduce the Company's earnings. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for these increasing costs. The Company proposes the increased rates become effective on September 1, 1980 as agreed to by the Company and each of its nine electric cooperative customers.

Copies of the filing were served upon the Company's electric cooperative jurisdictional customers, the Association of Illinois Electric Cooperatives, and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24286 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-568]

Kanawha Valley Power Co.; Proposed Changes In Rates and Charges

August 6, 1980.

The filing company submits the following:

Take notice that Kanawha Valley Power Company (Kanawha) on July 31, 1980, tendered for filing modifications to its 1935 and 1937 Agreements with Appalachian Power Company (Appalachian) providing for the supply of power and energy from Kanawha's Marmet and London (Project No. 1175) and Winfield (Project No. 1290) hydro-electric plants, respectively, to be effective October 1, 1980.

The modifications would increase annual revenues to Kanawha for sales to Appalachian by $574,137 based on the 12-month period ending September 30, 1980.

The proposed changes are required due to substantial increases in the cost of providing service under the 1935 and 1937 Agreements since the last rate modification in 1952. Kanawha states that its calendar 1979 operations for sales of power and energy to Appalachian resulted in a net loss of $131,830. The rates under the proposed modification are designed to provide Kanawha with the opportunity to earn a 11.18% overall return. Both Kanawha and Appalachian are affiliates of the American Electric Power System.

Kanawha states that a copy of the filing has been provided to the West Virginia Public Service Commission, the State Corporation Commission of Virginia and Appalachian Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24289 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3116]

Merced Irrigation District; Application for Exemption for Small Conduit Hydroelectric Facility

August 6, 1980.

Take notice that on July 7, 1980, Merced Irrigation District (District) filed an application under Section 30 of the Federal Power Act (Act) [16 U.S.C. Section 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Fairfield Power Plant (FERC Project No. 3116) would be located on a proposed 600-foot long channel connecting the District's existing LeGrand and Fairfield Canals, approximately ¾ mile southeast of Lake Yosemite, in Merced County, California. Water is diverted into the District's Main Canal (which flows into the LeGrand Canal) from the Merced River at Snelling Diversion Dam, approximately 5½ miles northeast of the proposed project. Correspondence with the Applicant should be directed to Mr. Jay Anderson, Manager-Secretary, Merced Irrigation District, P.O. Box 2288, Merced, California 95340.

Purpose of Project.—Project energy would be sold to a nearby power utility, the Turlock Irrigation District (TID), for use within the TID's electrical service area.

Estimated Cost.—The cost of the project is estimated by the Applicant to be $2,546,000.

Project Description.—The proposed project would include a concrete powerhouse containing a single generating unit with a rated capacity of 900 kW and a substation adjacent to the powerhouse housing a 5/12-kV transformer. The powerplant would utilize an effective head of 30 feet, would be remotely monitored and controlled from the TID's Control Center in Turlock, California, and would produce approximately 3.6 million kilowatt-hours of energy per year.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the propose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before September 15, 1980. The Commission's address is: 825 North Captiol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24330 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3114]

Merced Irrigation District; Application for Exemption for Small Conduit Hydroelectric Facility

August 6, 1980.

Take notice that on July 7, 1980, Merced Irrigation District (District) filed an application under Section 30 of the Federal Power Act (Act) [16 USC Section 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Canal Creek Power Plant

(FERC Project No. 3114) would be located on a proposed 450-foot long channel connecting the District's existing Main and Creek Canals in Merced County, approximately 10½ miles north of the City of Merced, California. Water is diverted into the Main Canal from the Merced River at Snelling Diversion Dam, approximately 4½ miles northeast of the proposed project. Correspondence with the Applicant should be directed to Mr. Jay Anderson, Manager-Secretary, Merced Irrigation District, P.O. Box 2288, Merced, California 95340.

Purpose of Project.—Project energy would be sold to a nearby power utility, the Turlock Irrigation District (TID), for use within the TID's electric service area.

Estimated Cost.—The cost of the project is estimated by the Applicant to be $2,253,000.

Project Description.—The proposed project would include a concrete powerhouse containing a single generating unit with a rated capacity of 900 kW and a substation adjacent to the powerhouse housing a 5/12-kV transformer. The power plant would utilize an effective head of 30 feet, would be remotely monitored and controlled from the TID's Control Center in Turlock, California, and would produce approximately 3.6 million kilowatt-hours of energy per year.

Agency Comments.—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exempiton. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24293 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3115]

Merced Irrigation District; Application for Exemption for Small Conduit Hydroelectric Facility

August 6, 1980.

Take notice that on July 7, 1980, Merced Irrigation District (District) filed an application under Section 30 of the Federal Power Act (Act) [16 USC Section 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Escaladian Power Plant (FERC Project No. 3115) would be located on the District's Escaladian Canal approximately 10 miles northeast of the City of Merced, in Merced County, California. Water is diverted into the Main Canal (which flows into the Escaladian Canal) from the Merced River at Snelling Diversion Dam, approximately 5 miles northeast of the proposed project. Correspondence with the Applicant should be directed to Mr. Jay Anderson, Manager-Secretary, Merced Irrigation District, P.O. Box 2288, Merced, California 95340.

Purpose of Project.—Project energy would be sold to a nearby power utility, the Turlock Irrigation District (TID), for use within the TID's electric service area.

Estimated Cost.—The cost of the project is estimated by the Applicant to be $1,438,000.

Project Description.—The proposed project would include a concrete powerhouse containing a single generating unit with a rated capacity of 300 kW and a substation adjacent to the powerhouse housing a 5/12-kV transformer. The power plant would utilize an effective head of 15 feet, would be remotely monitored and controlled from the TID's Control Center in Turlock, California, and would produce approximately 1.2 million kilowatt-hours of energy per year.

Agency Comments.—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before September 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24329 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP79-39]

Michigan Wisconsin Pipe Line Co.; Tariff and Service Agreement Changes Filed Pursuant to Order Approving Stipulation and Agreement

August 6, 1980.

On July 29, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing revised tariff sheets to its FERC Gas Tariff to be effective July 17, 1980, as follows:

Original Volume No. 1

Eighth Revised Sheet No. 7.

First Revised Volume No. 2

Substitute Ninth Revised Sheet Nos. 92, 110, 129 and 130.

Substitute Eighth Revised Sheet Nos. 141, 142 and 171.

Substitute Sixth Revised Sheet Nos. 214 and 215.

Substitute Fifth Revised Sheet Nos. 231, 232, 297, 315 and 339.

Substitute Fourth Revised Sheet Nos. 420 and 421.

Substitute First Revised Sheet Nos. 486, 508, 519, 531, 553, 563, 575, 585, 596, 597, 611, 612, 618, 619, 680, 681, 698 and 699.

Substitute Second Revised Sheet No. 656.

First Revised Sheet Nos. 856, 857 and 865.

Additional, Michigan Wisconsin tendered for filing a revised service agreement with Michigan Consolidated Gas Company to be effective September 1, 1979.

Michigan Wisconsin states this filing is being made in accordance with the Commission's order dated July 17, 1980, approving the Stipulation and Agreement at Docket No. RP79-39. Michigan Wisconsin further states that copies of the filing have been mailed to its customers and all interested parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20406, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24290 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP66-110, et al. (CP66-121)]

Midwestern Gas Transmission Co.; Petition To Amend

August 6, 1980.

Take notice that on July 23, 1980, Midwestern Gas Transmission Company (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP66-110, *et al.* a petition to amend the order issued June 20, 1967,[1] as previously amended, in the instant docket pursuant to Section 3 of the Natural Gas Act so as to authorize Petitioner's importation of presently authorized quantities of gas purchased from TransCanada PipeLines Limited (TransCanada) for an extended term until and including October 31, 1981, with authorization for an additional point of importation at Niagara Falls, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that the order issued June 20, 1967, as amended, authorized it to import during the period ending October 31, 1980, an additional total quantity of 14,000,000 Mcf of natural gas purchased from TransCanada. Pursuant to an amending agreement between Petitioner and TransCanada dated June 16, 1980, Petitioner requests authorization to extend the term of importation until and including October 31, 1981, while utilizing only presently authorized total quantities and existing facilities.

Petitioner states that one point of importation would be near where Petitioner's pipeline system interconnects with TransCanada's on the United States-Canadian boundary near Emerson, Manitoba. It is stated that there would be a second point of delivery by TransCanada to Petitioner at the existing interconnection of the facilities of TransCanada and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), at Niagara Falls, New York (Niagara Interconnection). Petitioner asserts that the additional point of delivery at the niagara Interconnection would provide Petitioner with the flexibility to make direct sales to Tennessee when Tennessee's customers need such volumes. It is further stated that the second point of importation would be limited to a maximum import quantity of 75,000 Mcf per day which would be part of and not in addition to the total daily import quantity of 350,000 Mcf per day and that all quantities imported at the Niagara Interconnection would be resold to Tennessee.

Petitioner states that TransCanada has advised Petitioner that it is currently seeking authorization from the Canadian National Energy Board to extend its exportation of the subject quantities of gas until October 31, 1981.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24291 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER80-576]

Mississippi Power & Light Co.; Filing

August 6, 1980.

The filing Company submits the following:

Take notice that on August 1, 1980, Mississippi Power & Light Company (Mississippi) tendered for filing an unexecuted Agreement for Purchase of Power. This Agreement provides for the sale of electric energy by Mississippi to Delta Electric Power Association (Delta), to be delivered to a new delivery point near Shelby, Mississippi.

Mississippi states that its Rate Schedule REA-15, incorporated in the Agreement was heretofore filed with the Commission on August 29, 1977, as Mississippi's service rate schedule applicable to all existing and new points of delivery.

Mississippi requests that the Commission waive applicable notice requirements and permit the Agreement to become effective on June 15, 1980, the date service was initially rendered.

Mississippi states that a copy of this filing has been mailed to Delta.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington,

V 45 A G 12 80 UMI

D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24232 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-546]

Monongahela Power Co., et al.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on July 23, 1980, tendered for filing on behalf of Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), and West Penn Power Company (West Penn), the electric utilities which make up the integrated Allegheny Power System, Amendment No. 8 dated July 21, 1980 to the Operating Agreement dated January 1, 1973 between Monongahela, Potomac, and West Penn and Virginia Electric Power Company (Vepco) designated Monongahela Rate Schedule FPC No. 32, Potomac Rate Schedule FPC No. 33, West Penn Rate Schedule FPC No. 31, and Vepco Schedule FPC No. 99.

Amendment No. 8: (1) provides for increases in the demand charges for Short Term power from $0.70 to $0.85 per kilowatt-week and Short Term power obtained by the supplying party from another system from $0.24 per kilowatt-week; (2) provides for increases in the demand charges for Limited Term power from $3.75 to $4.50 per kilowatt-month and Limited Term power obtained by the supplying party from another system from 0.75 to $1.00 per kilowatt-month; and (3) places a $0.002 per kilowatt-hour cap ($0.001 when coming from a third party as required by the Commission in Rule 35.23(f)) on the adders to the out-of-pocket costs of providing energy sold under the Short Term and Limited Term Schedules.

APSC requests waiver of the Commisison's notice requirements to allow these increases to become effective August 1, 1979. APSC states that since Short Term Power and Energy transactions and Limited Term Power and Energy transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate it is impossible to estimate the increases in revenues which would result from Amendment No. 8.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before August 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceding. Any person, wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24331 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-574]

Nantahala Power & Light Co.; Proposed Tariff Change

August 6, 1980.

The filing Company submits the following:

Take notice that Nantahala Power and Light Company (Nantahala) on July 31, 1980, tendered for filing proposed changes in its FERC Electric Rate Schedule PL and a new Optional Rate Schedule PL (COSAC). The proposed changes would increase revenues from jurisdictional sales or service by $24,558, based on the 12 month period ending on December 31, 1979.

The proposed rate changes and rate charges are designed to increase the revenue from Nantahala Power and Light Company's jurisdictional customers sufficiently to improve the quality of the Company's earnings and to raise the rate of return on the investment necessary to serve jurisdictional customers to an acceptable level. Proper reflection of the cost of service in the proposed rate design results in Haywood Electric Membership Corporation and The Town of Highlands receiving a small increase in costs and Western Carolina University receiving a small decrease in costs.

Copies of the filing were served upon Nantahala's jurisdictional customers and on the regulatory commission of the State of North Carolina.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24332 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3128]

New Hampshire Water Resources Board; Application for Preliminary Permit

August 5, 1980.

Take notice that the New Hampshire Water Resources Board (The Board) filed on April 1, 1980, an application [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for preliminary permit for a proposed hydroelectric power project to be known as the Lochmere Project, FERC Project No. 3128, that would be located on the Winnipesaukee River and use the existing Lochmere Dam near the Towns of Belmont and Tilton, Belknap County, New Hampshire. The Board revised its application on June 30, 1980. The former owner of the power facilities, Public Service Company of New Hampshire (PSC), discontinued power generation at the project in the late 1960's. Ownership was then transferred to the Board. Correspondence with the Board should be addressed to: Mr. George M. McGee, Sr., New Hampshire Water Resources Baord, 37 Pleasant Street, Concord, New Hampshire 03301.

Purpose of the Project.—Power generated by Project No. 3128 would be sold to PSC.

Proposed Scope and Cost of Studies Under Permit.—The work proposed under this preliminary permit would include preliminary designs, and economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, the Permittee would decide whether to proceed with more detailed studies and the preparation of an application for license to rehabilitate and operate the project. The Board estimates that the work to be performed under this preliminary permit would cost $100,000.

Project Description.—The project would consist essentially of: (1) the existing diversion dam, built in 1910, 223 feet long and 14 feet high; (2) a reservoir 450 yards long when 2-foot high flashboards are installed, having negligible storage capacity; (3) a redeveloped power canal 60 feet long; (4) a new penstock inlet structure; (5) two existing penstocks, approximately 500 feet long; and (6) a redeveloped 25 by 75 foot power station. A study will be made to determine whether retrofitting the existing power station or construction of a new station would be more cost effective. Four turbines having a total rated capacity of about 1,000 kW would be installed in the power station. The median flow of the Winnipesaukee River is about 530 cfs. Estimated average annual output would be 5,600,000 kWh.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license. In this instance, the Applicant seeks a 36-month permit.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—This application was filed as a competing application to one filed by the Town of Belmont, New Hampshire on October 10, 1979, as Project No. 2982, under 18 C.F.R. § 4.33 *as amended,* 44 *Fed. Reg.* 61328 (October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before September 12, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24333 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. G-280, et al.]

Northern Natural Gas Co., Division of InterNorth, Inc.; Redesignation

August 4, 1980.

By a Certificate of Amendment to a Certificate of Incorporation, dated March 28, 1980, filed with the Commission on April 25, 1980, Northern Natural Gas Company has changed its corporate name to InterNorth, Inc. and its natural gas operations are to be conducted under the name of Northern Natural Gas Company, Division of InterNorth, Inc.

Accordingly, the authorizations issued by this Commission and by the Federal Power Commission,* the jurisdictional applications pending before the Commission,* the FERC Gas Tariff on file, and any other records or proceedings relating to Northern are redesignated as those of Northern Natural Gas Company, Division of InterNorth, Inc., in lieu of Northern Natural Gas Company.

* Set forth in Appendix.

This action is taken pursuant to 18 CFR 375.302(s) of the Commission's rules.

Lois D. Cashell,

Acting Secretary.

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
G-280	Apr. 6, 1943.
G-428	Oct. 5, 1945.
G-465	Oct. 26, 1943.
G-476	Apr. 6, 1943.
G-480	Jan. 6, 1944.
G-497	Oct. 5, 1945.
G-500	May 13, 1947.
G-533	Nov. 6, 1945.
G-535	Oct. 5, 1945.
G-623	June 29, 1945.
G-667	Jan. 22, 1946.
G-668	Jan. 22, 1946.
G-672	Jan. 22, 1946.
G-673	May 28, 1946.
G-679	May 28, 1946.
G-686	May 28, 1946.
G-712	June 18, 1946.
G-747	June 3, 1947.
G-750	Sept. 6, 1946.
G-753	Sept. 6, 1946.
G-754	Sept. 25, 1946.
G-763	Apr. 10, 1947.
G-765	Jan. 28, 1948.
G-767	Oct. 29, 1946.
G-777	May 21, 1947.
G-798	Oct. 18, 1946.
G-938	Nov. 4, 1947.
G-940	Nov. 17, 1947.
G-953	Nov. 4, 1947.
G-981	May 5, 1948.
G-998	Apr. 21, 1948.
G-1017	June 24, 1948.
G-1034	July 14, 1948.
G-1039	Apr. 16, 1956.
G-1064	Oct. 13, 1948.
G-1128	Dec. 9, 1948.
G-1129	Dec. 9, 1948.
G-1131	Nov. 30, 1948.
G-1173	Apr. 28, 1949.
G-1183	Jan. 19, 1950.
G-1194	June 22, 1949.
G-1221	Aug. 3, 1949.
G-1331	May 2, 1950.
G-1337	May 19, 1950.
G-1367	Aug. 19, 1953.
G-1398	Aug. 16, 1950.
G-1442	Oct. 1, 1951.
G-1511	Oct. 1, 1951.
G-1618	June 24, 1952.
G-1640	Sept. 19, 1952.
G-1928	May 1, 1953.
G-1994	Aug. 27, 1954.
G-2009	May 13, 1953.
G-2010	July 30, 1953.
G-2063	Mar. 11, 1954.
G-2124	Sept. 17, 1953.
G-2125	Sept. 17, 1953.
G-2195	Aug. 19, 1953.
G-2334	Mar. 18, 1954.
G-2409	June 30, 1956.
G-2430	July 15, 1954.
G-2458	Sept. 7, 1956.
G-2460	Aug. 27, 1954.
G-2465	Sept. 7, 1956.
G-2491	July 28, 1955.
G-2670	Nov. 8, 1954.
G-6867	Mar. 25, 1955.
G-8854	July 28, 1955.
G-8878	June 24, 1955.
G-8792	Dec. 13, 1957.
G-9120	Nov. 2, 1956.
G-9124	Feb. 7, 1957.
G-9156	Feb. 7, 1957.
G-9196	Feb. 7, 1957.
G-9237	Jan. 23, 1956.
G-9536	Sept. 7, 1956.
G-9994	July 12, 1956.
G-10200	Apr. 1, 1957.
G-10434	Nov. 13, 1956.
G-10638	Nov. 20, 1956.
G-10707	Oct. 1, 1956.
G-10800	Mar. 12, 1957.

V 45 A G 12 80 UMI

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*—Continued

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
G-11032	Nov. 20, 1956.
G-11408	Mar. 22, 1957.
G-11657	May 1, 1958.
G-11699	Apr. 8, 1959.
G-11859	July 29, 1957.
G-12032	June 4, 1957.
G-12033	June 19, 1957.
G-12231	June 28, 1957.
G-12241	Oct. 31, 1958.
G-12328	Aug. 2, 1957.
G-12371	Sept. 5, 1957.
G-13041	Dec. 13, 1957.
G-13116	Jan. 3, 1958.
G-13358	Feb. 11, 1958.
G-13359	Jan. 31, 1958.
G-13551	Feb. 11, 1958.
G-13563	Mar. 17, 1958.
G-13630	Jan. 27, 1958.
G-13675	Oct. 5, 1961.
G-14572	June 4, 1958.
G-14697	Apr. 23, 1959.
G-14738	June 4, 1958.
G-14779	Apr. 23, 1959.
G-14918	July 14, 1958.
G-14982	Nov. 6, 1958.
G-15261	Sept. 24, 1958.
G-15717	Feb. 3, 1959.
G-15911	Oct. 23, 1958.
G-16131	Dec. 8, 1958.
G-16166	Dec. 1, 1958.
G-16447	May 19, 1959.
G-17485	July 31, 1959.
G-17486	July 31, 1959.
G-17874	July 31, 1959.
G-18110	June 19, 1963.
G-18608	Oct. 20, 1959.
G-18633	Dec. 1, 1959.
G-18756	June 28, 1961.
G-18757	Oct. 5, 1959.
G-19287	Nov. 20, 1959.
G-19312	Nov. 17, 1959.
G-19671	June 6, 1960.
G-20570	June 28, 1961.
G-20571	June 28, 1961.
CP60-21	Mar. 23, 1961.
CP60-39	Aug. 21, 1961.
CP60-99	Apr. 18, 1968.
CP61-1	Mar. 17, 1961.
CP61-33	Nov. 22, 1960.
CP61-34	Nov. 7, 1960.
CP61-75	Dec. 19, 1960.
CP61-76	Mar. 23, 1961.
CP61-99	Feb. 1, 1961.
CP61-101	Dec. 29, 1960.
CP61-132	Dec. 28, 1962.
CP61-139	Jan. 11, 1965, Feb. 28, 1977.
CP61-186	Mar. 26, 1962.
CP61-190	Oct. 5, 1961.
CP61-213	Nov. 6, 1961, May 6, 1982.
CP61-303	Aug. 13, 1963.
CP61-332	Jan. 19, 1962.
CP62-37	Feb. 6, 1962.
CP62-47	Nov. 8, 1961.
CP62-66	Mar. 19, 1962, Mar. 21, 1963.
CP62-78	Jan. 19, 1962.
CP62-85	Sept. 30, 1963.
CP62-128	Feb. 8, 1962.
CP62-178	Sept. 30, 1963.
CP62-180	Nov. 8, 1963.
CP62-181	Oct. 28, 1968.
CP62-207	June 8, 1962.
CP62-210	June 8, 1962.
CP62-223	Dec. 17, 1962.
CP62-270	Oct. 8, 1962.
CP62-277	Aug. 15, 1962.
CP62-284	Sept. 21, 1962.
CP62-299	Oct. 1, 1962.
CP62-307	Mar. 18, 1963.
CP63-4	Mar. 11, 1963.
CP63-7	Feb. 5, 1963.
CP63-42	Jan. 24, 1963.
CP63-43	Jan. 29, 1963.
CP63-102	May 14, 1963.
CP63-121	June 3, 1963.
CP63-150	Apr. 30, 1963.
CP63-169	Apr. 23, 1963.
CP63-200	May 17, 1963.
CP63-219	Feb. 26, 1964.
CP63-235	Dec. 23, 1963.

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*—Continued

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
CP63-261	July 3, 1963.
CP63-262	July 3, 1963.
CP63-267	July 2, 1963.
CP63-291	Oct. 10, 1963.
CP64-17	Oct. 29, 1963.
CP64-47	Dec. 11, 1963.
CP64-54	Dec. 3, 1963.
CP64-58	Dec. 18, 1963.
CP64-101	Apr. 6, 1964.
CP64-112	Feb. 10, 1964.
CP64-122	May 25, 1964.
CP64-153	Apr. 28, 1964.
CP64-188	May 5, 1964.
CP64-228	Mar. 9, 1965.
CP64-241	July 13, 1964.
CP64-255	Dec. 21, 1964 (Phase I), June 2, 1965 (Phase II).
CP64-275	Sept. 28, 1964.
CP64-312	Sept. 4, 1964.
CP65-1	Mar. 30, 1967.
CP65-17	Nov. 20, 1964.
CP65-72	Dec. 4, 1964.
CP65-91	Mar. 30, 1967.
CP65-92	Feb. 8, 1965.
CP65-116	Jan. 19, 1965.
CP65-121	Jan. 19, 1965.
CP65-138	Jan. 13, 1965.
CP65-147	Feb. 16, 1965.
CP65-164	Jan. 29, 1965.
CP65-188	Mar. 31, 1965.
CP65-196	May 25, 1966.
CP65-210	May 25, 1965.
CP65-219	Mar. 24, 1965.
CP65-220	Mar. 15, 1965.
CP65-221	May 25, 1965.
CP65-225	May 6, 1965.
CP65-228	May 12, 1965.
CP65-304	May 13, 1965.
CP65-332	June 11, 1965.
CP65-338	Mar. 30, 1967.
CP65-344	July 7, 1965.
CP65-363	July 8, 1965.
CP65-389	Aug. 15, 1967, July 25, 1969.
CP65-399	Aug. 24, 1965.
CP65-414	Sept. 7, 1965.
CP65-415	Sept. 3, 1965.
CP66-44	Nov. 15, 1965.
CP66-71	Oct. 21, 1965.
CP66-75	Nov. 9, 1965.
CP66-80	Nov. 29, 1965.
CP66-86	Jan. 24, 1966.
CP66-98	Dec. 13, 1965.
CP66-151	Jan. 3, 1966.
CP66-158	Mar. 4, 1966.
CP66-185	Feb. 11, 1966.
CP66-206	May 19, 1966.
CP66-308	Mar. 27, 1968.
CP66-320	July 12, 1966.
CP66-321	Aug. 8, 1966.
CP66-326	Aug. 1, 1966.
CP66-370	July 8, 1966.
CP66-405	Sept. 28, 1966.
CP66-409	Oct. 3, 1966 (Phase I), Aug. 28, 1967 (Phase II).
CP67-3	Aug. 30, 1966.
CP67-10	May 19, 1967.
CP67-33	Sept. 16, 1966.
CP67-47	Nov. 28, 1966 (Phase I), July 6, 1967 (Phase II).
CP67-49	Jan. 25, 1967.
CP67-65	Nov. 1, 1966.
CP67-79	Dec. 19, 1966.
CP67-87	Nov. 28, 1966.
CP67-107	Nov. 28, 1966.
CP67-126	Jan. 4, 1967.
CP67-138	June 3, 1968.
CP67-139	Feb. 6, 1967.
CP67-140	Jan. 25, 1967.
CP67-148	Mar. 24, 1967 (Phase I), Feb. 5, 1968 (Phase II).
CP67-162	Jan. 16, 1967.
CP67-193	Mar. 1, 1967.
CP67-194	May 19, 1967 (Phase I), Feb. 5, 1968 (Phase II).
CP67-215	May 16, 1967 (Phase I), Feb. 5, 1968 (Phase II).
CP67-225	Apr. 24, 1967.
CP67-241	Apr. 11, 1967.
CP67-250	May 31, 1967.

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*—Continued

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
CP67-260	Apr. 16, 1968, Mar. 23, 1972.
CP67-294	July 6, 1967.
CP67-304	Nov. 22, 1967.
CP67-333	Aug. 22, 1967.
CP67-344	Sept. 21, 1967.
CP67-377	Nov. 16, 1967.
CP67-383	Aug. 4, 1967.
CP68-5	Dec. 11, 1967.
CP68-55	Nov. 20, 1967.
CP68-57	Feb. 21, 1968.
CP68-64	Dec. 7, 1967.
CP68-75	May 20, 1968, Sept. 16, 1977, Apr. 12, 1979, Apr. 17, 1980.
CP68-117	Dec. 26, 1967.
CP68-122	Jan. 10, 1968.
CP68-134	Feb. 26, 1968.
CP68-136	July 8, 1968.
CP68-147	Feb. 1, 1968.
CP68-151	Feb. 21, 1968.
CP68-167	Feb. 1, 1968.
CP68-193	June 14, 1968, Oct. 21, 1968, Mar. 10, 1969 (Phase I), Dec. 23, 1969 (Phase II), Apr. 7, 1970, Aug. 4, 1970, Sept. 11, 1970.
CP68-221	Apr. 22, 1968.
CP68-272	July 1, 1968.
CP68-312	Aug. 5, 1968.
CP68-354	Aug. 21, 1968.
CP68-20	Sept. 27, 1968.
CP68-61	Oct. 28, 1968.
CP68-82	Nov. 4, 1968.
CP68-83	Nov. 12, 1968.
CP68-93	Nov. 19, 1968.
CP68-95	Dec. 3, 1968.
CP69-119	Dec. 9, 1968.
CP69-123	Feb. 4, 1969.
CP69-124	Feb. 17, 1969.
CP69-133	Dec. 3, 1968.
CP69-158	Feb. 11, 1969.
CP69-204	Dec. 23, 1969.
CP69-205	Mar. 12, 1969.
CP69-223	May 8, 1969.
CP69-234	June 30, 1969.
CP69-240	July 1, 1969.
CP69-267	Dec. 23, 1969.
CP69-277	July 28, 1969.
CP69-285	July 25, 1969.
CP69-323	Sept. 16, 1969.
CP69-324	Dec. 23, 1969.
CP70-30	Mar. 5, 1970.
CP70-59	Dec. 23, 1969.
CP70-69[1]	Aug. 12, 1974.
CP70-70[1]	
CP70-71	
CP70-84	Jan. 6, 1970.
CP70-85	Dec. 3, 1969.
CP70-88	Apr. 30, 1970.
CP70-105	Jan. 20, 1970.
CP70-111	Jan. 20, 1970.
CP70-131	Mar. 4, 1970.
CP70-132	Feb. 24, 1970.
CP70-172	Apr. 14, 1970.
CP70-181	June 9, 1970.
CP70-201	June 15, 1970.
CP70-202	June 26, 1970.
CP70-203	May 19, 1970.
CP70-220	May 19, 1970.
CP70-235	July 7, 1970.
CP70-286	July 22, 1970.
CP70-312	Aug. 25, 1970.
CP71-11	Nov. 9, 1970.
CP71-15	Oct. 23, 1970.
CP71-57	Nov. 9, 1970.
CP71-62	Jan. 15, 1971.
CP71-63	Dec. 30, 1970.
CP71-107	Apr. 19, 1971.
CP71-110	Jan. 18, 1971.
CP71-122	Feb. 1, 1971.
CP71-160	Apr. 6, 1971.
CP71-179	June 2, 1971.
CP71-183	June 29, 1971.
CP71-188	May 7, 1971.
CP71-218	Aug. 23, 1971.
CP71-228	Oct. 19, 1971.
CP71-245	July 20, 1971.
CP71-254	Oct. 27, 1971.
CP71-270	Oct. 19, 1971.
CP71-298	Dec. 13, 1971.

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*—Continued

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
CP72-4	Dec. 16, 1971.
CP72-24	Nov. 9, 1971.
CP72-41	Nov. 29, 1971.
CP72-51	Feb. 22, 1972.
CP72-56	Nov. 22, 1971.
CP72-57	Jan 20, 1972.
CP72-81	Jan. 6, 1972.
CP72-123	Sept. 28, 1972.
CP72-124	Feb. 14, 1972.
CP72-149	May 4, 1972.
CP72-154	Apr. 17, 1972.
CP72-171	Mar. 24, 1972.
CP72-194	May 12, 1972.
CP72-224	Dec. 26, 1972.
CP72-225	Sept. 22, 1972.
CP72-234	July 31, 1972.
CP72-236	Dec. 4, 1972.
CP72-241	Nov. 17, 1972.
CP72-248	Aug. 4, 1972.
CP72-284	Nov. 3, 1972 (Pase I), Dec. 24, 1973 (Phase II)
CP72-291	Dec. 4, 1972.
CP73-7	Nov. 20, 1972.
CP73-26	Dec. 7, 1972.
CP73-29	Dec. 13, 1972.
CP73-37	Mar. 1, 1973.
CP73-63	Jan. 29, 1973.
CP73-96	July 2, 1973.
CP73-102	Mar. 17, 1973.
CP73-107	Apr. 9, 1973.
CP73-111	Jan. 17, 1973.
CP73-126	Aug. 7, 1973.
CP73-128	May 31, 1973.
CP73-134	Nov. 19, 1973.
CP73-166	July 20, 1973.
CP73-215	Dec. 18, 1973.
CP73-227	Nov. 30, 1973, Feb. 15, 1977.
CP73-231	July 18, 1973.
CP73-233	Aug. 2, 1973 (Phase I). Oct. 18, 1973 (Phase II)
CP73-257	June 28, 1973.
CP73-264	Aug. 2, 1973.
CP73-282	July 24, 1973.
CP73-286	July 31, 1973.
CP73-287	Feb. 5, 1974.
CP73-319	July 31, 1974.
CP74-1	Oct. 9, 1973, Dec. 27, 1973.
CP74-16	Nov. 30, 1973.
CP74-24	Dec. 27, 1973.
CP74-30	Oct. 29, 1973, Jan. 4, 1974.
CP74-31	Oct. 5, 1973.
CP74-32	Dec. 11, 1973, July 3, 1974.
CP74-51	Dec. 27, 1973.
CP74-63	Oct. 28, 1973.
CP74-74	Oct. 6, 1974.
CP74-107	Jan. 10, 1974.
CP74-111	Apr. 15, 1974.
CP74-145	May 29, 1975, June 15, 1977.
CP74-196	April 15, 1974.
CP74-205	May 21, 1974.
CP74-223	May 20, 1974.
CP74-236	Mar. 10, 1975.
CP74-237	June 4, 1974.
CP74-264	Mar. 15, 1976.
CP74-294	July 3, 1974.
CP75-13	Apr. 21, 1975.
CP75-21	July 7, 1977.
CP75-25	Nov. 26, 1974.
CP75-41	Apr. 17, 1975.
RP75-12-1	Sept. 20, 1974.
CP75-55	Oct. 31, 1974.
CP75-68	Jan. 6, 1975.
CP75-94	Dec. 24, 1974.
CP75-106	Feb. 7, 1975. Apr. 7, 1975.
CP75-114	Feb. 10, 1975.
CP75-126	Jan. 17, 1975, May 24, 1977.
CP75-178	Apr. 7, 1975.
CP75-217	Jan. 8, 1976.
CP75-229	July 2, 1975.
CP75-237	Apr. 28, 1976. Apr. 15, 1977, July 7, 1977.
CP75-280	July 7, 1975.
CP75-285	Sept. 16, 1975.
CP75-298	Feb. 8, 1977.
CP75-304	Sept. 3, 1976, Feb. 8, 1977.
CP75-305	Feb. 8, 1977.
CP75-311	July 3, 1975.
CP75-333	Aug. 13, 1976.
CP75-336	Sept. 30, 1975.

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*—Continued

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
RP75-12-3	Aug. 4, 1975.
CP75-361	Apr. 23, 1976.
CP75-365	Jan. 6, 1976.
CP76-4	Mar. 31, 1976, Dec. 27, 1979.
CP76-12	June 8, 1976.
CP76-31	Dec. 10, 1975.
CP76-40	Nov. 26, 1975.
CP76-47	Mar. 24, 1976.
CP76-95	June 28, 1976.
CP76-108	Jan. 27, 1976.
CP76-116	Feb. 27, 1976.
CP76-142	Feb. 5, 1976.
CP76-147	Feb. 18, 1976.
CP76-148	Feb. 18, 1976.
CP76-155	June 21, 1976.
CP76-156	Dec. 24, 1975, June 21, 1976.
CP76-180	Mar. 18, 1976.
CP76-185	Apr. 9, 1976.
CP76-191	Jan. 4, 1976.
CP76-201	June 21, 1976.
CP76-216	June 11, 1976.
CP76-229	Oct. 8, 1976.
CP76-230	Jan. 12, 1977.
CP76-231	Sept. 28, 1976.
CP76-246	Sept. 8, 1976.
CP76-247	Aug. 9, 1976, Dec. 20, 1977.
CP76-248	Apr. 9, 1976.
CP76-271	Feb. 19, 1976, May 21, 1976, Apr. 1, 1977, Mar. 20, 1978.
CP76-291	Oct. 5, 1976.
CP76-298	Sept. 30, 1977.
CP76-330	Aug. 27, 1976.
CP76-340	Aug. 18, 1976.
CP76-348	Oct. 6, 1976.
CP76-355	Mar. 1, 1977.
CP76-362	Aug. 31, 1976.
CP76-366	Oct. 6, 1976.
RP76-105-1	Oct. 4, 1976.
CP76-385	Oct. 27, 1976.
CP76-412	Jan. 19, 1977, June 30, 1977.
CP76-438	Mar. 18, 1977.
CP76-456	Jan. 19, 1977, Sept. 7, 1977.
CP76-457	Nov. 29, 1976.
CP76-477	Nov. 4, 1976.
CP76-481	Dec. 22, 1976.
CP76-482	Nov. 29, 1976.
CP76-505	Dec. 6, 1976.
CP76-515	Dec. 22, 1976.
CP76-533	Feb. 2, 1977.
CP77-5	Feb. 7, 1977.
CP77-11	Aug. 29, 1977.
CP77-20	Feb. 7, 1977.
CP77-54	Aug. 29, 1977.
CP77-76	Mar. 25, 1977.
CP77-84	May 24, 1977.
CP77-99	May 23, 1977, Apr. 10, 1979.
CP77-130	Apr. 12, 1977.
CP77-173	Sept. 30, 1977.
CP77-192	June 30, 1977.
CP77-193	June 23, 1978.
CP77-245	July 14, 1977.
CP77-277	May 11, 1977.
RP77-52	July 20, 1977.
CP77-348	Aug. 5, 1977.
CP77-385	July 19, 1977.
CP77-397	Sept. 19, 1977.
CP77-438	July 26, 1977, Sept. 15, 1977.
CP77-443	Sept. 8, 1977.
CP77-450	Sept. 30, 1977.
CP77-473	Dec. 16, 1977, Sept. 13, 1979.
CP77-499	Oct. 23, 1978.
CP77-508	Nov. 22, 1978.
CP77-509	Sept. 27, 1977.
CP77-510	Nov. 16, 1977.
CP77-520	Aug. 22, 1978.
CP77-545	Nov. 29, 1977, Apr. 3, 1978.
CP77-557	Nov. 29, 1977.
CP77-586	Nov. 2, 1977.
CP77-587	Nov. 2, 1977.
CP77-595	Nov. 23, 1977.
CP77-600	Mar. 22, 1978.
CP77-610	Sept. 19, 1978.
CP77-649	Jan. 2, 1979.
TC78-3	Aug. 23, 1978.
CP78-40	Jan. 30, 1978.
CP78-54	Apr. 3, 1978.
CP78-71	Aug. 3, 1978.
CP78-115	Mar. 13, 1978.
CP78-127	Mar. 27, 1978.

Appendix—*Northern Natural Gas Co., Division of InterNorth, Inc.*—Continued

[Certificate Applications by Docket No.]

Docket No.	Date of commission order
CP78-151	July 5, 1978.
CP78-187	Oct. 17, 1978.
CP78-188	Apr. 18, 1978.
CP78-196	May 23, 1978.
CP78-199	Nov. 22, 1978.
CP78-201	Sept. 25, 1978.
CP78-249	Mar. 29, 1978.
CP78-252	Dec. 10, 1979.
CP78-255	July 6, 1978.
CP78-345	Dec. 8, 1978.
CP78-386	Nov. 15, 1978.
CP78-407	Apr. 17, 1979.
CP78-416	Dec. 15, 1978, Aug. 2, 1979.
CP78-428	Oct. 23, 1978.
CP78-440	Dec. 22, 1978.
CP78-480	Jan. 2, 1979.
CP78-481	June 7, 1979.
CP78-482	Nov. 22, 1978.
CP78-496	June 13, 1979.
CP78-496	Dec. 15, 1978.
CP78-505	Apr. 23, 1979.
CP78-514	Feb. 2, 1979.
CP78-548	Feb. 21, 1979, July 18, 1979.
CP79-2	Feb. 23, 1979.
CP79-5	Feb. 12, 1979.
CP79-6	Jan. 12, 1979.
CP79-91	May 1, 1979.
CP79-110	Nov. 9, 1979.
CP79-111	Mar. 27, 1979.
CP79-122	Apr. 10, 1979.
CP79-125	May 1, 1979.
CP79-126	Feb. 23, 1979.
CP79-138	Mar. 27, 1979.
CP79-139	Aug. 24, 1979.
CP79-145	Nov. 8, 1979.
CP79-185	May 10, 1979.
CP79-186	May 10, 197.
CP79-201	Dec. 21, 1979.
CP79-213	June 5, 1979.
TC79-50	Aug. 20, 1979.
CP79-246	May 23, 1979, Dec. 10, 1979.
CP79-259	Sept. 25, 1979.
CP79-263	Sept. 18, 1979.
CP79-269	Nov. 6, 1979.
CP79-322	Dec. 10, 1979.
CP79-350	Apr. 18, 1980.
CP79-375	Sept. 21, 1979.
CP79-385	Nov. 26, 1979.
CP79-394	Nov. 19, 1979.
CP79-420	Oct. 24, 1979.
CP79-432	Dec. 3, 1979.
CP79-437	Oct. 24, 1979.
CP80-36	Feb. 26, 1980.
CP80-112	Mar. 26, 1980.
CP80-131	Feb. 21, 1980.
CP80-161	Mar. 26, 1980.
CP80-203	Mar. 26, 1980.
CP80-237	Apr. 2, 1980.
CP80-259	Apr. 9, 1980.

[1] The FERC is changing the name to the extent of its authority granted under the DOE Organization Act and the delegations of the Secretary of Energy thereunder, pursuant to which certain jurisdiction is delegated to the ERA, and residual jurisdiction is delegated to the FERC.

Docket No.	Date filed
CP77-181	Feb. 3, 1977.
CP79-42	Oct. 18, 1979.[2]
CP79-184	Feb. 13, 1979.[2]
CP79-264	Apr. 11, 1979.
CP79-396	July 6, 1979.
CP80-51	Oct. 26, 1979.
CP80-63	Nov. 7, 1979.[2]
CP80-103	Nov. 23, 1979.
CP80-123	Dec. 5, 1979.[2]
CP80-135	Dec. 13, 1979.
CP80-204	Jan. 21, 1980.[2]
CP80-206	Jan. 22, 1980.[2]
CP80-207	Jan. 23, 1980.[2]
CP80-244	Feb. 15, 1980.[2]
CP80-308	Mar. 31, 1980.[2]

V 45 AG 12 80 UMI

[Order issuing certificate issued after the April 25, 1980, filing in Docket Nos. G-280, et al.

[FR Doc. 80-24335 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-148]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

August 6, 1980.

Take notice that on July 8, 1980,[1] Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-148 a petition to amend the order issued February 14, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act as implemented by Section 157.7(b) of the Commission's Regulations (18 CFR 157.7(b)) by authorizing an increase in its budget authorization total cost limitation for the construction of certain gas facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the original $20,000,000 annual maximum limitation was reduced to $17,000,000 for 1980 in accordance with Order No. 56. It is further stated that Petitioner has to date scheduled construction projects which exhaust the total authorized limitation and that Petitioner can no longer compete for new gas supplies during the balance of the year in cases where a prompt connection is an essential part of negotiations. Petitioner maintains that unless its budget authorization is increased to $22,000,000 it would be at a disadvantage in acquiring new gas supplies during the remainder of 1980 and in providing new transportation service for other interstate pipelines.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24334 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[1] The application was initially tendered for filing on July 8, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until July 10, 1980; thus the filing was not completed until the latter date.

[Docket No. ER80-577]

Pacific Gas & Electric Co.; Filing

August 6, 1980.

The filing Company submits the following:

Take notice that on August 1, 1980, Pacific Gas and Electric Company (PGandE) tendered for filing a contract dated May 19, 1980, entitled "Agreement for Sale of Electric Capacity and Energy by Pacific Gas and Electric Company to City of Redding" (Agreement). The Agreement provides for supplemental power deliveries from PGandE to City of Redding (Redding) in the event that Redding's current supplier, United States of America, Department of Energy (Department), is unable to satisfy Redding's full electric power requirements. Since PGandE has no direct electrical connection to Redding, the power is to be delivered to Department's interconnection point with PGandE's system near Tracy, California. The proposed effective date of the contract is September 21, 1980.

Copies of the filing were served upon City of Redding and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24336 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-558]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that on July 8, 1980, the Pennsylvania-New Jersey-Maryland Interconnection (PJM) submitted for filing Schedule 8.03 to the NYPP–PJM Interconnection Agreement (Agreement) dated April 9, 1974. All of the parties to the Agreement have approved this filing, and have received copies thereof.

PJM further submits that Schedule 8.02 of the Agreement has expired by its own terms on December 31, 1978. Accordingly, PJM requests that Docket No. ER78-107 be terminated.

PJM requests that Section 35.13(b) of the Commission's Rules be waived to the extent that PJM has not complied with them. PJM further requests waiver of the 60-day notice requirements and an effective date of August 1, 1980.

Copies of this filing have been sent to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware, Virginia, New York, and the District of Columbia.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24337 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-557]

Philadelphia Electric Co.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that Philadelphia Electric Company, on July 29, 1980 tendered for filing proposed changes in its FERC Electric Service Tariff, FERC No. 36. The proposed changes would increase revenues from jurisdictional sales and service by $1,845,515, based on the 12-month period ending December 31, 1980.

Copies of the filing were served upon the public utility's jurisdictional customers (other parties the public utility served, inter alia, state public service commissions, other government agencies, etc.).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24338 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-558]

Philadelphia Electric Co.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that Philadelphia Electric Company, on July 29, 1980 tendered for filing proposed changes in its FERC Electric Service Tariff, applicable for service to the Borough of Lansdale. The proposed changes would increase revenues from jurisdictional sales and service by $630,631, based on the 12-month period ending December 31, 1980.

Copies of the filing were served upon the Borough of Lansdale and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24339 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-559]

Public Service Co. of Colorado; Filing

August 6, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) on August 1, 1980, tendered for filing an Energy Sales and Banking Agreement (Agreement) with Platte River Power Authority (Platte River).

PSCo states that the Agreement provides, *inter alia*, for exchanges of capacity and energy between the electric systems of PSCo and Platte River either directly or through the systems of other parties. The Agreement provides for establishing terms and conditions of such economy energy exchanges and banking agreement accounts.

PSCo states that copies of the filing were served upon all parties and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Regulations (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24340 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-563]

Public Service Company of Colorado; Proposed Tariff Change

August 6, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) on July 30, 1980, tendered for filing proposed changes in its FPC Electric Service Tariff. PSCo states that the proposed changes are the addition of new members to the Inland Power Pool.

The additional members to the Inland Power Pool are:

1. City of Colorado Springs
2. Basin Electric Cooperative
3. Tucson Electric Power Company
4. Public Service Company of New Mexico
5. Wyoming Municipal Power Agency

PSCo states that copies of the filing were served upon all parties to the Inland Power Pool Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 27, 1980. Protests will be considered by the Commisison in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24341 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-566]

Public Service Co. of Indiana, Inc.; Proposed Tariff Change

August 6, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. on July 31, 1980 tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Southern Indiana Gas and Electric Company a Seventh Supplemental Agreement to become effective September 30, 1980.

Said Supplemental Agreement increases the demand charge for Short Term Power from 70¢ per kilowatt per week to 85¢ per kilowatt per week.

Copies of the filing were served upon Southern Indiana Gas and Electric Company and Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal

According to Public Service, the filed

Operations Agreement for the Inland

Estimated Cost—The cost of the

Capitol Street, N.E., Washington, D.C.

investment incurred by

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24342 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-570]

Public Service Co. of New Hampshire; Amendment to Power Contract

August 6, 1980.

The filing company submits the following:

Take notice that on July 31, 1980, Public Service Company of New Hampshire ("Public Service") tendered for filing amendments to paragraph C of Article IV of the power and transmission contract, dated June 30, 1959, as revised June 2, 1975, between Public Service and Central Maine Power Company ("Central Maine"). According to Public Service, these amendments reflect revisions being filed on July 31, 1980 by Yankee Atomic Electric Company ("Yankee") to Section 6 of the power contract between Yankee and its owner companies other than Central Maine providing for sale of the net output of Yankee's nuclear power plant at Rowe, Massachusetts.

According to Public Service, since Central Maine which owns 9.5 percent of Yankee's stock, is not located in a state adjoining Massachusetts it is not entitled to purchase electric energy directly from Yankee. Under the present contract between Public Service and Central Maine, Public Service purchases 16.5 percent of Yankee's net output and passes on 9.5 percent to Central Maine under payment provisions which are the same as those contained in the presently effective power contract between yankee and its owner companies other than Central Maine. Public Service states that the arrangement results in passing 9.5 percent of Yankee's cost of service on to Central Maine with Public Service acting as intermediary.

According to Public Service, the filed amendments incorporate the revisions that are necessary to reflect the revisions to Section 6 of the Yankee power contract filed on July 31, 1980 by Yankee.

Public Service requests that the amendments be permitted to become effective at the same time as Yankee's filing made on July 31, 1980. Yankee has requested an effective date of October 1, 1980.

Public Service states that the documents submitted on July 31, 1980 by Yankee include all the information required by the Commission's regulations to support the present filing, including revenue comparisons to determine the increase in charges to Central Maine. Public Service asks that such data be incorporated by reference as part of its filing. According to Public Service, the increase in charges to Central Maine for the 12 months ended September 30, 1980 would be $1,355,650. Copies of the filing were served on Central Maine and on the appropriate state regulatory authorities.

Any persons desiring to be heard or to make any protest with reference to said filing should, on or before August 25, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Public Service Company of New Hampshire are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24343 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-555]

Public Service Company of New Mexico; Filing

August 6, 1980

The filing Company submits the following:

Take notice that on July 23, 1980, Public Service Company of New Mexico (PSNM) submitted for filing the Inland Power Pool Agreement and the current Operations Agreement for the Inland Power Pool.

PSNM further submits that it is filing said Agreement because it has recently become a member of the Inland Power Pool.

A copy of this filing has been sent to the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24314 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3113]

South San Joaquin Irrigation District; Application for Exemption for Small Conduit Hydroelectric Facility

August 6, 1980

Take notice that on July 7, 1980, South San Joaquin Irrigation District (District) filed an application under Section 30 of the Federal Power Act (ACT) [16 USC Section 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Frankenheimer Power Plant (FERC Project No. 3113) would be located on the District's Main Canal approximately 1½ miles upstream of the Woodward Reservoir in Stanislaus County, California. Water is diverted into the main Canal from the Stanislaus River at Goodwin Diversion Dam, approximately 3 miles east of the proposed project. Correspondence with the Applicant should be directed to Mr. Noel Negley, Manager—Chief Engineer, South San Joaquin Irrigation District, 11011 East Highway, Manteca, California 95336.

Purpose of Project.—Project energy would be sold to a nearby power utility, the Turlock Irrigation District (TID), for use within the TID's electric service area.

Estimated Cost.—The cost of the project is estimated by the Applicant to be $8,175,000.

Project Description.—Applicant proposes to relocate approximately 10,000 feet of the existing canal to an alignment approximately 1,000 feet northernly of the present location, creating a head of 78 feet, and construct the proposed project that would consist of: (a) a concrete powerhouse containing a single generating unit with a rated capacity of 4,700 kW; and (b) a substation adjacent to the powerhouse housing a 5/17-kV transformer. The power plant would be remotely monitored and controlled from the TID's Control Center in Turlock, California and would produce approximately 18.7 million kilowatt-hours of energy per year.

Agency Comments.—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests for other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 15, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24315 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-573]

Southwestern Public Service Co.; Proposed Tariff Change

August 6, 1980.

The filing Company submits the following:

Take notice that Southwestern Public Service Company (Southwestern), on July 31, 1980, tendered for filing proposed changes in its FERC Electric Service Tariffs as follows:

Rate Schedule FPC No. 74, Supplement No. 6, applicable to full requirement customer, Cochran Power and Light Company at Morton, Texas and at Whiteface, Texas.
Rate Schedule FPC No. 75, Supplement No. 6, applicable to full requirement customer, Community Public Service Company, Fort Worth, Texas, for service at Spearman, Texas and at Perryton, Texas.
Rate Schedule FERC No. 80, Supplement No. 4, applicable to partial requirement customer, City of Canadian, Texas.
Rate Schedule FERC No. 81, Supplement No. 2 to Supplement No. 1, applicable to partial requirement customer, City of Brownfield, Texas.
Rate Schedule FERC No. 82, Supplement No. 6 applicable to partial requirement customer, New Mexico Electric Service Company, Hobbs, New Mexico, and to Lea County Electric Cooperative, Inc., Lovington, New Mexico, jointly served as NML.
Rate Schedule FERC No. 83, Section 2 of Supplement No. 1, applicable to partial requirement customer, City of Floydada, Texas.

The proposed changes would increase revenues from jurisdictional sales and service by $647,443 for the full requirement customers and by $1,159,895 for the partial requirement customers based on the 12 month period ending August 31, 1981.

The reasons for the proposed increases in base rates are as follows: (1) in building coal fired generation plants to lower the overall cost of electricity, Southwestern has incurred increased capital costs, and (2) Southwestern has experienced increases in labor, material and other operating costs since the effective dates of the existing rate schedules.

Southwestern requests waiver of suspension of the proposed rate changes in recognition of its large capital investment incurred to replace gas-fired generation with coal-fired generation, allowing the rates to become effective, subject to refund, on October 1, 1980.

Copies of the filing were served on the affected customers, the Public Utility Commission of Texas and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before August 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24316 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-565]

Southern Indiana Gas & Electric Co.; Proposed Tariff Change

August 6, 1980

The filing Company submits the following:

Take notice that Southern Indiana Gas and Electric Company (Southern Indiana) on July 31, 1980, tendered for filing, proposed changes in its FERC Electric Service Schedules:

(a) City of Tell City, Indiana—FERC Schedule No. 37, as supplemented.
(b) City of Huntingburg, Indiana—FERC Schedule No. 35, as supplemented.
(c) City of Boonville, Indiana—FERC Schedule No. 34, as supplemented.
(d) Town of Ferdinand, Indiana—FERC Schedule No. 36, as supplemented.

The proposed changes would increase revenues from juridictional sales and service by $987,694 based on the twelve (12) months period ending April 30, 1980.

The proposed schedules require a written contract between each wholesale customer and Southern Indiana cancelable only upon five (5) years notice and provide for a unilateral rate change application in the form authorized by FERC Order No. 541-A. Southern Indiana's existing wholesale electric service agreements provide for a

825 North Capital Street, N.E.,

become a party must file a petition to

2:00 p.m., on August 11, 1980, at the

unilateral change in rates.

The proposed schedules also contain a fuel adjustment clause, revised in accordance with FERC Order No. 517. Southern Indiana has previously filed such a revised clause with the Federal Power Commission on March 1, 1976.

Southern Indiana states that the proposed changes are necessary in order to meet the increased demands for Southern Indiana's jurisdictional and non-jurisdictional electric utility service and to permit Southern Indiana to enlarge and extend its generation and transmission facilities requiring the expenditure and investment of substantial sums of money in plant, properties and equipment. The concurrence of rising costs in every category including fuel, labor, taxes, supplies and materials and the substantially increased cost of procuring required construction funds is reducing Southern Indiana's income from its jurisdictional electric utility business to a level substantially below that which is essential for the rendition of adequate service and provide a reasonable return to Southern Indiana.

Copies of Southern Indiana's filings have been served upon all of Southern Indiana's jurisdictional all requirements customers to-wit:

1. City of Tell City, Indiana;
2. City of Huntingburg, Indiana;
3. City of Boonville, Indiana;
4. Town of Ferdinand, Indiana;

and upon the Public Service Commission of Indiana, Attn: Max W. Tucker, Secretary.

Any person desiring to be heard or to protest Southern Indiana's application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 80-24317 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. TA80-2-7 and (PGA80-3)]

Southern Natural Gas Co.; Revision to PGA Rate Adjustment

August 1, 1980.

Take notice that on July 25, 1980, Southern Natural Gas Company tendered for filing Substitute Forty-Second Revised Sheet No. 4A to Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective on July 1, 1980.

Southern states that the purpose of the revised tariff sheets is to revise its July 1, 1980, PGA rate adjustment to reflect the price which it was authorized to pay Border Gas, Inc. on that date consistent with the Commission's June 30, 1980 letter order in this proceeding.

Southern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before August 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24318 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-571]

The Toledo Edison Co.; Proposed Tariff Change

August 6, 1980.

The filing company submits the following:

Take notice that the Toledo Edison Company, on July 31, 1980, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1 applicable to sales to Customers for Resale. The proposed changes would increase revenues from jurisdictional sales and service by $6,216,436 based on the twelve (12) month period ending December 31, 1980.

Toledo Edison states that in addition to an increase in rates, it proposes to combine the existing Municipal Resale Service Rate—Small and the existing Rural Electric Cooperative Resale Service Rate into a Resale Service Rate—Small. The proposed Municipal Resale Service Rate—Large and Resale Service Rate—Small have been modified by reducing the two demand blocks associated with the three part rate structures to a uniform Demand charge. The hours use differential and the Energy charge has been eliminated in favor of a uniform rate. The demand ratchet has been modified and an off-peak demand discount has been included. The transformer charge associated with the Resale Service Rate—Small has been increased. The base rate has been constructed to include a level of fuel costs reflective of present cost conditions.

Toledo Edison states that the additional revenue which would result from the proposed rates is needed to offset increased operating expenses and capital costs and the costs of facilities necessary to provide adequate and reliable electrical service to its jurisdictional customers.

Copies of the filing were served upon the public utility's fifteen (15) jurisdictional customers and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24320 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI77-329, CP77-304, and CP64-97]

Texaco, Inc. and Sabine Pipe Line Co.; Extension of Time

August 6, 1980.

On July 24, 1980, Texaco, Inc. and Sabine Pipe Line Company filed a request for an extension of time to respond to the late petitions to intervene filed with the Commission on behalf of Senator Howard M. Metzenbaum, *et al.*, in the above-docketed proceeding. The motion states that additional time is needed because of a delay in the companies' receipt of the late-filed petitions to intervene and further, because of the prior commitments of counsel for Texaco which will require him to be out of town during the week prior to the deadline for receipt of responses.

Upon consideration, notice is hereby given that an extension of time for the filing of responses is granted to and including August 15, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24319 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-123]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

August 1, 1980.

Take notice that Transwestern Pipeline Company (Transwestern) on July 23, 1980, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets representing revisions to Transwestern's Rate Schedule X-1:

Second Revised Sheet No. 2.
Fifth Revised Sheet No. 9.
Third Revised Sheet No. 10.
First Revised Sheet No. 10A.

Pursuant to a May 30, 1980 letter agreement between El Paso Natural Gas Company and Transwestern, a change is requested in Article IV of Rate Schedule X-1 entitled "Construction of Facilities" to provide for changes and additions regarding the payment date of invoices, the responsibility of changing meter charts and the responsibility of certain construction costs.

The proposed effective date of the tariff sheets is August 22, 1980.

A copy of this filing was served upon each party to the agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24321 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-553]

Tucson Electric Power Co.; Filing Amendment No. 1 to the Tucson-Los Angeles 1979 Nonfirm Energy Agreement

August 4, 1980.

The filing Company submits the following:

Take notice that Tucson Electric Power Company ("Tucson") on July 29, 1980, tendered for filing Amendment No. 1 to the "Tucson-Los Angeles 1979 Nonfirm Energy Agreement" between Tucson and Los Angeles Department of Water and Power ("Los Angeles"). The primary purpose of this Amendment No. 1 is to extend the term of the Agreement by advancing the termination date from June 30, 1980 to December 31, 1981. Tucson states that copies of the filing were served upon Los Angeles.

Any person desiring to be heard or to make any application with reference to said Amendment should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties ot the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Amendment are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24322 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-11 (PGA80-2, IPR80-2 & LFUT80-2)]

United Gas Pipeline Co.; Informal Settlement Conference

August 5, 1980.

An informal settlement conference will be held in the above-listed docket at 2:00 p.m., on August 11, 1980, at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The purpose of such conference is to discuss the Staff's proposed auditing, in mid-September, of United's books, particularly Account No. 191, Unrecovered Purchase Gas Costs.[1]

The conference room will be posted on the day of the conference on the second floor hearing board.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24323 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-121]

Utah Power and Light Co.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that on July 25, 1980, Utah Power and Light Company (Utah) submitted for filing a letter from Utah to CP National. Said letter informs CP National that Utah has made refunds pursuant to the settlement agreement, as approved by the Commission by letter dated April 10, 1980, in the above-referenced proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24324 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-562]

Vermont Electric Power Co., Inc.; Filing

August 6, 1980.

The filing Company submits the following:

[1] The Commission, in lieu of establishing formal procedures, directed that Staff convene a settlement conference to resolve the issues arising out of United's PGA filing in the above-listed dockets. Accordingly, the August 11, 1980, conference will

Footnotes continued on next page

Take notice that on July 31, 1980, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a rate schedule containing a letter amendment to its currently effective contract with New Bedford Gas and Edison Light Company (New Bedford) of New Bedford, Massachusetts, dated as of September 21, 1979.

VELCO states that the service to be rendered under this rate schedule consists of the sale of capacity and related energy from the Vermont Yankee unit for the estimated monthly amounts and periods as follows:

	7/1/80—10/31/80	11/1/80—12/31/80	3/1/81—3/31/81	4/1/81—4/30/81
MW..	10	30	25	65
MWH..	5,548	16,644	13,870	36,062
Dollar..	126,800	380,400	316,900	824,300

Charges for this power will be at VELCO's costs. Therefore, there will be no change in the overall rate of return of VELCO.

VELCO states that service under this rate schedule will commence on May 1, 1980, and will terminate on June 30, 1980.

Copies of the filing were served upon New Bedford Gas and Edison Light Company and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24325 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

Footnotes continued from last page

provide the first opportunity in such proceeding to discuss Staff's data needs. *See,* United Gas Pipe Line Company, "Order Accepting Tariff Sheets For Filing, Subject To Conditions, And Suspending Effective Date, Subject To Refund And Investigation, Docket No. TA80-2-11 (PGA80-2, IPR80-2 & LFUT80-2), issued June 30, 1980.

[Project No. 3090]

Village of Lyndonville, Vt.; Application for Short-Form License (Minor) for a Constructed Project

August 5, 1980.

Take notice that an application was filed on March 19, 1980, by the Village of Lyndonville Electric Department, under the Federal Power Act, 16, U.S.C. 791(a) 825(r), for an existing water power project known as the Vail Hydroelectric Project, FERC Project No. 3090 located on the Passumpsic River, near the Town of Lyndon, in Caledonia County, Vermont. Correspondence with the Applicant should be directed to Kleinschmidt & Dutting, Consulting Engineers, 73 Main Street, Pittsfield, Maine 04967.

Purpose of the Project.—All project power is fed into the Applicant's transmission and distribution system for use by its electric customers.

Project Description.—The existing run-of-river project consists of: (1) a 96-foot long ogee-shaped concrete gravity dam with a maximum height of 15 feet above the river bed and topped by 16-inch flashboards; (2) a small reservior with a normal water surface elevation of 688.33 feet msl and maximum gross storage capacity of 23 acre-feet: (3) a trash rack and head gate section leading to; (4) a 28 by 32-foot concrete powerhouse containing one vertical 350-kW turbine-generator unit with a hydraulic capacity of approximately 285 cfs at a head of 20 feet; (5) an 0.8-mile long 2.5-kV transmission line and (6) appurtenant facilities. The average annual generation of the project is 2,400,000 kWh.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before September 12, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than January 12, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 F.R. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 F.R. 61328, October 25, 1979.)

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 12, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24326 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-547]

Virginia Electric & Power Co.;

August 4, 1980.

The filing Company submits the following:

Take notice that on July 25, 1980, Virginia Electric and Power Comapny (VEPCO) submitted for filing revised contract supplements for Crimora and Columbia Furnace Delivery Points. The revisions are being made pursuant to a request by Shenandoah Valley Electric Cooperative.

VEPCO states that the revised supplements supersede FERC Rate Schedule Nos. 84-39 and 84-21, dated June 4, 1976 and June 2, 1971, respectively. VEPCO requests that the new supplements become effective on the dates of connection of the new facilities, and further requests that the notice requirements be waived.

A copy of this filing has been mailed to the Virginia State Corporation Commission, the Shenandoah Valley Electric Cooperative, and the Southeastern Power Administraton.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-24327 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-578]

Virginia Electric & Power Co.; Filing

August 6, 1980.

The filing Company submits the following:

Take notice that on August 1, 1980, Virginia Electric and Power Company (VEPCO) tendered for filing a Contract Supplement dated May 14, 1980 to the Rate Contract between VEPCO and the Mecklenburg Electric Cooperative.

Said Supplement requests the Commission's authorization for connection of the new delivery point designated as Barnes Junction Delivery Point, located in Charlottee County, Virginia.

VEPCO requests an effective date for the new delivery point as that of the date of connection of the new facilities which is expected to occur sometime in August, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24328 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-35]

Wabash Valley Power Association, Inc., et al. v. Indiana & Michigan Electric Co.; Complaint

August 6, 1980.

The filing party submits the following:

Take notice that on July 24, 1980, Wabash Valley Power Association, Inc., Fruit Belt Electric Cooperative, Jay County Rural Electric Membership Corporation, Noble County Rural Electric Membership Corporation, Paulding-Putnam Electric Cooperative, Inc., United Rural Electric Membership Corporation, and Whitley County Rural Electric Membership Corporation (collectively referred to as Complainants) filed a complaint against Indiana and Michigan Electric Company (I&M).

The Complainants state that I&M has failed to consent to the assignment of certain power supply contracts, and has further failed to notify this Commission of the assignments. Moreover, the Complainants allege that I&M has had knowledge of the assignments since December 4, 1978. Furthermore, the Complainants state that the assignments are essential if they are to obtain necessary financing from the Rural Electrification Administration or the National Rural Utilities Cooperative Finance Corporation. Finally, the Complainants allege that I&M's failure to approve and file the assignments constitutes an anticompetitive action.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24329 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-556]

Washington Water Power Co.; Filing

August 4, 1980.

The filing Company submits the following:

Take notice that on July 23, 1980, The Washington Water Power Company (Washington) tendered for filing copies of the Project Exchange Agreement (Contract No. 14-03-39216). This Agreement was executed by the Bonneville Power Administration (BPA). Washington Public Power Supply System (WPPSS) and Washington on February 6, 1973, and provides for Washington's share of WPPSS's Nuclear Project No. 1 to be assigned to BPA in exchange for firm energy made available to Washington from BPA.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to July 1, 1980, adding that there would be no effect upon purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois K. Cashell,

Acting Secretary.

[FR Doc. 80-24310 Filed 8-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-61]

Westlake Union Service, Inc.; Filing of Petition for Review

August 6, 1980.

Take notice that Westlake Union Service, Inc. on July 2, 1980 filed a Petition for Review under 42 U.S.C. 4194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 20, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24311 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-567]

Wisconsin Electric Power Co.; Proposed Changes in Rates

August 6, 1980.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company on July 31, 1980 tendered for filing proposed changes in its rates and charges for sales for resale to its 21 wholeasale customers. The proposed increase is $5,644,050, or 15.7%, on a 1980 test year basis.

The Company states that the filing accomplishes several purposes in addition to raising the wholesale rate level. First, it introduces time-of-day rate design into the Company's wholesale rates. Second, it introduces rate schedules for a variety of types of services—some not currently taken—that the Company will make available to wholesale customers. Third, it revises and standardizes the format of the Company's rate schedules and terms and conditions of wholesale service. Fourth, it files a proposed new interconnection agreement with the Cities of Kaukauna and Menasha, Wisconsin, in accordance with Article 2.4 of the settlement agreement dated January 19, 1979 in Docket No. ER78-512 and approved by direction of the Commission on May 17, 1979.

The Company requests that the proposed changes become effective on October 1, 1980.

Copies of the filing have been served upon the Company's jurisdictional customers. Copies have also been mailed to the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice. All such protests should be filed on or before August 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24312 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER 80-569]

Yankee Atomic Electric Co.; Filing of Amendment to Power Contract

August 6, 1980.

The filing company submits the following:

Take notice that on July 31, 1980, Yankee Atomic Electric Company ("Yankee") tendered for filing amendments to Section 6 of the power contract between Yankee and ten of its eleven owner companies for the sale of the net output of Yankee's nuclear powerplant at Rowe, Massachusetts. Yankee states that the eleven owner companies are: New England Power Company, Connecticut Light & Power Company, Boston Edison Company, Central Maine Power Company, Hartford Electric Light Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Montaup Electric Company, New Bedford Gas and Edison Company, Cambridge Electric Company and Central Vermont Public Service Corporation. Yankee further states that Central Maine Power Company, not being located in a state adjoining Massachusetts, is not entitled to purchase electrical energy from Yankee and that Public Service Company of New Hampshire supplies power to Central Maine in amounts equivalent to its ownership percentage.

Yankee requests that the proposed amendments to Section 6 of the contract be permitted to become effective October 1, 1980. Yankee states that the amendments to Section 6 would provide for a decommissioning trust fund, a revision in the depreciation charges, a revision in the method of calculating the allowed return on the net rate base, and a clarification of the contract with respect to the leasing of fuel inventory. The proposed amendments to Section 6 of the power contract would, according to the Company's estimate result in a revenue increase of $14,270,000 for the 12 months ended September 30, 1980.

Yankee states that copies of the filing have been served upon each of the eleven owner-purchaser utilities and upon the appropriate state utility regulatory commissions.

Any persons desiring to be heard or to make any protest with reference to said filing should, on or before August 25, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commisison will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commisison's Rules. Copies of this application are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24313 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59022A; FRL 1566-1]

Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under Section 5(h)(1) of the Toxic Substances Control Act (TSCA), EPA is granting an exemption from the premanufacture notification requirements of section 5 to a manufacturer for the test marketing of a new chemical substance identified by the generic name "copolymer of substituted ethenylbenzene and substituted ethenyl heterocycle" (TM 80-22).

FOR FURTHER INFORMATION CONTACT: George Bagley, Application Manager, Notice Review Branch, Premanufacturing Review Division (PTS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460. (202) 426-3936.

SUPPLEMENTAL INFORMATION: Under section 5 of TSCA anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b)(1) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, the Agency may impose restrictions on the test marketing activities.

On April 28, 1980, EPA received an application for a test marketing exemption from the requirements of sections 5(a) and 5(b) of TSCA. A **Federal Register** notice published on May 19, 1980 (45 FR 32770), announced the receipt of the exemption application. The application was designated TM 80-22. The manufacturer claimed both its identity as confidential and the identity of the new chemical substance as confidential. Accordingly, EPA has identified the chemical substance by a generic name submitted by the manufacturer: "copolymer of substituted ethenylbenzene and substituted ethenyl heterocycle."

EPA has reviewed information supplied in the application as well as other information gathered by the Agency. Based upon this review, EPA has determined that the manner of manufacture, processing, use, transport and disposal, as described in the application, will not present any unreasonable risk of injury to human health or the environment during the test marketing phase. The Agency, therefore, grants the manufacturer an exemption for this chemical substance from the premanufacture reporting requirements for test marketing purposes. The exemption is effective immediately and is conditioned upon the manufacturer's adherence to the specified requirements for worker safety as stated in the test marketing exemption application.

Following is a discussion of relevant information about the substance for which the exemption application was submitted. Also addressed are the bases for the Agency's determination that manufacture, processing, use, transport and disposal of the substance during test marketing will not present an unreasonable risk of injury to health or the environment.

The manufacturer claimed the specific use confidential. Production of the new chemical substance for test marketing purposes will be accomplished in manufacturing facilities under the control of the group responsible for its process research and development.

In the application the manufacturer stated its intention to test market a maximum of 200 kilograms (kg) of this substance. During the test marketing period the substance itself will not be test market but rather incorporated into articles which will be test marketed and sent to one or more closely monitored test sites within the United States to test the response of selected end-users to the introduction of articles containing the new chemical substance.

During manufacture a total of 20 people will work in the area where this chemical will be produced, but generally no more than two employees at any time will be involved directly in the manufacture of this chemical. The only potential for human contact with the new chemical substance is skin contact with a solution containing this chemical. Where there is such potential during cleaning, packaging and filter chances, industrial hygiene requirements include worker's use of chemical goggles and rubber gloves. Duration of manufacture operations is estimated to be 34 eight-hour shifts.

A total of 26 people will work in the areas where this chemical will be processed and used, but no more than three will be directly involved in processing this substance at any one time. The only potential for human contact with the new chemical substance is skin contact with solutions containing it. Where there is such potential during transfer, cleaning, packaging and filter changes, industrial hygiene requirements include worker use of chemical goggles and rubber gloves. Duration of all processing operations is estimated to total 56 eight-hour shifts. During these process and use steps small quantities of the new chemical substance, along with other materials, become an integral part of article.

Spills and wastes from cleaning and filter-change operations during manufacturing and processing will, where feasible, be collected in approved containers and disposed of by a licensed disposal vendor. Where appropriate, the licensed vendor will separate the aqueous portion and either destroy the solids in a thermal oxidizer or dispose of them in an approved chemical landfill. Where collection is not feasible an appropriate dilution with water will be made before discharge to the site sewer, and from there it will move to a publicly owned treatment works (POTW).

The Agency believes that adherence by the manufacture to the precautionary procedures for safe handling cited above for manufacturing, processing and use of this new chemical substance will keep human exposure and environmental release to a minimum and the granting of this test marketing exemption is contingent upon the strict adherence to these safe handling procedures.

Data submitted by the manufacturer with the application indicate that the substance has a low degree of acute toxicity (oral LD_{50} 5 g/kg), is a mild irritant to the eye and is non-irritating to the skin. No data were available with regard to carcinogenicity, teratogenicity or other chronic effects. The Ames test for mutagenicity was negative. With regard to environmental effects, the Agency has found no reason to anticipate significant hazard to invertebrates, plants, fish, mammals, birds or microorganisms.

Because of the low level of concern regarding the toxicity of the substance and the anticipated human exposure and environmental release during test marketing, EPA has determined that the substance will not present any

unreasonable risk of injury to health or the environment as a result of the test marketing activities described by the manufacturer. The manufacturer is restricted to producing, in adherence with the safe handling practices identified above, no more than 200 kg of the substance to be used by its selected test group. This exemption is granted only for the manufacturer that submitted the TMEA 80–22.

A PMN for this substance was submitted on April 22, 1980. Receipt of the PMN by the Agency was acknowledged in the **Federal Register** on May 13, 1980 (45 FR 31489). If the Agency takes no regulatory action on the PMN under sections 5(e) or 5(f) of TSCA before 21 July, and does not extend the notification period under section 5(c) of TSCA, TSCA will no longer preclude unrestricted production of the substance.

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24211 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-59013A/59014A; FRL 1562-7]

Approval of Test Marketing Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 5(h)(1) of the Toxic Substances Control Act (TSCA), EPA is granting test marketing exemptions from the premanufacture notification requirements of section 5 to a manufacturer for two new chemical substances, identified by the generic names "polymer formed from phenol formaldehyde resin and diazonaphthalene sulfonyl chloride" (TM 80–14) and "salt of polymer of 4-substituted diphenylamine formaldehyde and polymer of 5-substituted-1,3-benzene-dicarboxylate, 1,4-cyclo-hexanedimethanol, ethylene glycol, E-caprolactone, tolylene-2,4 diisocyante, 2-butanedioic acid" (TM 80–16).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Premanufacturing Review Division (PTS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, 202–426–3936.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, the Agency may impose restrictions on the test marketing activities.

On February 20, 1980 EPA received two applications for test marketing exemptions from the requirements of sections 5(a) and 5(b) of TSCA. **Federal Register** notices published on March 21, 1980 (45 FR 18474 and 18478) announced the receipt of the exemption applications. The manufacturer claimed both its identity as confidential and the identity of the two new substances as confidential. Accordingly, EPA has identified the two chemical substances by generic names submitted by the manufacturer and has assigned identifying numbers to the two applications as follows: "polymer formed from phenol formaldehyde resin and diazonaphthalene sulfonyl chloride" (TM 80–14) and "salt of polymer of 4-substituted-1,3-benzene-dicarboxylate, 1,4-cyclo-hexanedimethanol, ethylene glycol, E-caprolactone, tolylene-2,4 diisocyanate, 2-butanedioic acid" (TM 80–16).

EPA has reviewed information supplied in each of the exemption applications as well as other information gathered by the Agency. Based upon these reviews, EPA has determined that the manner of production, use and disposal as described in each of the applications will not present any unreasonable risk of injury to health or the environment during the test market period. Therefore the Agency grants the manufacturer exemptions for these two chemical substances from the premanufacture reporting requirements for test marketing purposes. These exemptions are conditioned upon the manufacturer's adherence to the specified safety requirements for workers exposed to the substance. These requirements are stated in each test market exemption application. The exemptions are effective immediately and are granted only to the manufacturer who submitted the exemption applications.

Following is a discussion of relevant information about the two substances for which the exemption applications were submitted. Also discussed are the bases for the Agency's determination that manufacture, processing, use, transport and disposal of each substance for test marketing will not present an unreasonable risk of injury to health or the environment.

TM 80–14

The generic chemical identity proposed by the manufacturer is polymer formed from phenol formaldehyde resin and diazo naphthalene sulfonyl chloride. The manufacturer claimed the use confidential. The manufacturer provided the following generic use description: a thin photosensitive layer on supporting substrates. During test marketing, which is to be conducted approximately for a 10-week period, the company plans to manufacture five kilograms of the substance. Twenty-five customers will be provided with sheets of the polyester film containing the coated chemical substance. The application states that during manufacturing one employee will be exposed to the raw materials for up to one half-hour when introducing the starting materials into the reaction vessel. This same employee will be exposed to the dry solid for up to one-half hour when removing and handling the chemical prior to packaging. The manufacturing process itself will be carried out in a closed system. Exposure of workers to the raw materials will be minimized by the use of safety equipment provided by the company and by following standard industrial hygiene practices. Waste generated during the manufacturing process will be incinerated.

The application states that during the processing operation one person will be exposed to the solid for one-half hour when it is dissolved in an appropriate solvent prior to its addition to coating solutions. One employee will be exposed for up to one hour to the coating solution during the clean-up of this coating operation. After processing the PMN substance will be given to 25 customers for test marketing. While the number of employees who may be exposed to the substance after distribution may be potentially quite large, actual exposure per individual will be low. Workers handle the dried film which contains about 25 milligrams of the chemical substance per square foot. Since the substance is located between layers of other materials, persons using the substance will not be directly exposed to the test marketed substance.

EPA believes that the closed manufacturing process and the steps being taken by the company to limit exposure to the new chemical substance will provide adequate protection to those persons involved with the manufacturing and processing operations.

Test data supplied by this manufacturer indicate that the substance is of moderate acute toxicity with an LD_{50} in rats of <5 grams/kilogram. The results of the acute eye irritation test indicate that the substance is minimally irritating. The results of mutagenicity assays (Ames Assay) were negative as were the results of yeast recombination studies. The skin irritation study performed on this substance indicated that it was minimally irritating. The 20-day BOD to COD ratio of 0.013 indicated little or no biochemical oxidation of the subject material. It also showed that this material did not prevent microbiological respiration at the concentration level tested (100mg/1). The COD for the substance was 2,100,000 mg/kg and the 5-day BOD was 11,000 mg/kg. No information was submitted by the manufacturer regarding chronic toxicity of the substance.

After reviewing the results of the above tests, and considering the low production volume and low exposure to workers, EPA has determined that the manufacture and use of the polymer as a thin photosensitive layer on supporting substrates will not present any unreasonable risk of injury to health or the environment. Accordingly, effective immediately, EPA grants the manufacturer of the polymer formed from phenolformaldehyde resin and diazonaphthalane sulfonyl chloride an exemption for test marketing purposes with the following conditions:

(1) The manufacturer will manufacture no more than 5 kilograms of the chemical substance;

(2) The manufacturer will provide only 25 customers with sheets of the polyester film containing the substance, and will keep records of the identity of each receipient and the number of rolls provided to each recipient;

(3) The manufacturer will use the chemical substance only in the manner described in the application;

(4) Exposure of the substance to workers during manufacturing and processing will not increase significantly from that described in the application; and

(5) Exposure to employees, both during manufacturing, processing, use and distribution will not significantly increase from that described in the application.

This exemption is granted only to this manufacturer of this substance and for use in the manner described in the test market exemption application and in this notice.

TM 80–16

The manufacturer claimed the use confidential. The generic chemical identity proposed by the manufacturer is salt of: Polymer of: 4-substituted diphenyl amine (cationic portion), formaldehyde and; Polymer of: 5-substituted-1,3,benzene-dicarboxylate, 1,4-cyclohexane dimethanol, E-caprolactone, ethylene glycol (anionic portion), tolylene-2,4-diisocyanate, 2-butenedioic acid.

The intended generic use has been given as a resin. The test marketing period covers approximately an eight month period. The exact amount to be manufactured has been claimed confidential. The substance will be contained in a maximum of 75,000 articles during test marketing, and the total number of people exposed to articles containing this substance has been estimated to be approximately 250.

The application states that during manufacture two employees will be exposed to the starting materials of the subject substance and to the subject substance itself. The total duration of this exposure will be eight hours. According to the manufacturer standard industrial hygiene practices will be followed when manufacturing this substance, including the use of dust masks and gloves to protect workers from unnecessary exposure to the starting substances and finished substance. The workplace is well ventilated and has an on-site incinerator for disposal of liquid and solid wastes.

During processing operations one to four employees are exposed to the subject substance. Two employees will be involved for a period of up to 12 hours (dermal exposure) in manufacturing the final article which will contain this substance. Two employees will be involved in packaging operations for up to 12 hours (dermal exposure).

During the test marketing of the substance there will be a potential for exposure to approximately 240 workers. During the use of articles containing the test market substance the subject substance will not be used up entriely, and unused portions must be discarded. Dermal exposure to the substance may be significant during this disposal operation. However, as a result of the chemical reaction which takes place during use, a functional group on the cationic portion of the polymer (for which EPA has some health concerns), is destroyed. The destruction of this functional group allays EPA's concern regarding worker safety when exposed to the substance.

The manufacturer supplied test data on both the cationic and anionic portions of the polymer. The cationic portion was reported to be of moderate acute toxicity ($1.25 < LD_{50} < 2.5$g/kg in rats). Primary eye irritation studies conducted on this portion found it to be a severe irritant. When the same study was modified to include "washout" (flushing the treated eye with water) the primary eye irritation study resulted in mild to moderate irritation. In primary skin irritation and skin sensitization tests the substance was found to be non-irritating and non-sensitizing. The cationic portion of the polymer comprises 8 percent by weight of the subject substance. No carcinogenic/mutagenic/teratogenic (C/M/T) studies were performed on this portion nor were any chronic data submitted. Lacking information in these areas EPA hypothesized that the cationic portion of the polymer may function as an arylator possibly displaying mutagenic properties. However, the low production volume and the low concentration of this cationic fraction in the final substance, coupled with the fact that the suspect functional group will be destroyed in use, have allayed this concern.

Data also were reported on the anionic portion. An acute oral toxicity test in rats indicated that this anionic portion is of moderate acute toxicity ($LD_{50} > 5$g/kg.) In eye irritation and primary skin irritation studies the substance was found to be a slight to moderate irritant. Results were negative in both mutagenicity studies (Ames Assay) and in yeast recombination studies. No chronic toxicity information was submitted for this anionic portion.

EPA has determined that during the manufacturing process worker exposure is limited. In the areas of usage and potential customer exposure EPA's concern has been allayed by the fact the

substance is a high molecular weight polymeric salt. The Agency's decision to grant this exemption is based on the molecular weight of the substance, the low production volume, limited worker exposure and the results of toxicity testing. EPA concludes that no unreasonable risk will be presented by exposure to this high molecular weight polymer during the test marketing. As discussed earlier, EPA's concern for the ability of the cationic portion of this polymer to display mutagenic effects was dismissed when it became evident that the functional group of concern on that portion of the mulecule was destroyed during use.

For these reasons EPA has determined that the manufacture, processing, use, disposal, and transport of the salt of polymer 4-substituted diphenyl amine; formaldehyde and polymer of 5-substituted-1,3-benzene-dicarboxylate; 1,4-cyclohexane dimethanol; ethylene glycol; E-caprolactone; tolylene-2,4-diisocyanate and 2-butenedioic acid as a resin will not present any unreasonable risk of injury to health or the environment during this test marketing phase. Accordingly, effective immediately, EPA grants the manufacturer of this substance an exemption for test marketing purposes with the following conditions:

(1) The manufacturer will only use the chemical substance in the manner described in the application;

(2) Exposure of the substance to manufacturing and processing workers will not increase significantly from that described in the application.

This exemption is granted only to this manufacturer and for the use specified in the test market exemption application.

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24193 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP 50492; FRL 1566-6]

Extension of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued extensions experimental use permits to the following applicants. Such permits are in accordance with, and subject, to the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

476–EUP–73. Stauffer Chemical Co., 1200 S. 47th St., Richmond, CA 94804. This experimental use permit allows the use of 660 pounds of the remaining 1,280 pounds of the active ingredient *N*-(mercaptomethyl)phythalimide *S*-(*O,O*-dimethyl phosphorodithioate) (2,080 pounds originally authorized) on forestland to evaluate control of the western spruce budworm. A total of 750 acres are involved. The program is authorized only in the State of Idaho. The experimental permit was effective from May 30, 1977 to May 30, 1978. It is now effective from May 30, 1980 to May 30. 1981. The permit is extended with the limitation that chemical not be applied on ecosystems containing endangered species of fish. (PM 15, George LaRocca, Rm. E–329, 202/426–9480)

1471–EUP–60. This experimental use permit allows the use of 938 pounds of the fungicide tricyclazole (5-methyl-1,2,4-triazolo(3,4-*b*) benzothiazole) or rice to evaluate control of rice blast disease. A total of 1,500 acres are involved. The program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, and Texas. This program was previously effective from May 26, 1978 to August 21, 1979. It is now effective from June 13, 1980 to August 21, 1981. A temporary tolerance for the residue of tricyclazole on rice has been established. (PM 21, Eugene Wilson, Rm. E–349, 202/755–1806)

1471–EUP–64. This experimental use permit allows the use of the remaining 205 pounds of the herbicide fluridone (1-methyl-3-phenyl-5-[3-trifluoromethyl)phenyl]-4 (1*H*)-pyridinone) on cotton to evaluate control of weeds. A total of 280 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The permit was previously effective from July 16, 1979 to July 16, 1980. It is now effective from July 16, 1980 to July 16, 1981. A temporary tolerance for residues of active ingredient in or on cotton has been established. (PM 23, Robert Mountfort Rm. E–351, 202/755–1397)

1471–EUP–68. This experimental use permit allows the use of 13,650 pounds of the herbicide oryzalin (3,5-dinitro-N^4,N^4 dipropylsulfanilamide) in or on wheat to control weeds. A total of 13,650 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The program was previously effective from July 9, 1979 to July 9, 1980. It is now effective from July 9, 1980 to July 9, 1981.

1471–EUP–69. This experimental use permit allows the use of 19,080 pounds of herbicide oryzalin on wheat to control weeds. A total of 19,080 acres are involved. This program is authorized in the same States as the one above. The experimental use permit is effective from July 9, 1980 to July 9, 1981. Both this permit and the three above have been issued to Elanco Products Co., PO Box 1750, Indianapolis, IN 46206. (PM 25, Robert J. Taylor, Rm. E–359, 202/755–2196)

400–EUP–52. Uniroyal Chemical, Division of Uniroyal, Inc., 74 Amity Road, Bethany, CT 06525. This experimental use permit allows the use of the defoliant (2,3-dihydro-5,6-dimethyl-1,4-dithiin 1,1,4,4-tetraoxide) in or on cotton, potatoes, grapes, and sunflowers to evaluate defoliation. A total of 2,255 acres is involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Illinois, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, South Dakota, South Carolina, Tennessee, and Texas. The experimental use permit is effective from July 8, 1980 to July 8, 1981. The permit is being extended under the condition that all treated crops are destroyed or used for research purposes only. (PM 25, Robert J. Taylor, Rm. E–359, 202/755–2196)

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 189, as amended (7 U.S.C. 136))

Dated: August 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24208 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[Docket No. ECAO–HA–79–06; FRL 1567–7]

Health Assessment Document for Arsenic; Correction and Extension of Comment Period for the First External Review Draft

In 45 FR 31773, May 14, 1980, and 45 FR 35895, May 28, 1980, inaccurate instructions appeared as to how the public might receive a copy of the draft Health Assessment Document for Arsenic and comment on its content. Please address all written requests for copies to Ms. Diane Chappell, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. To place a telephone request dial (919) 541–3746. Direct comments pertaining to this document's content to Dr. Lester D. Grant at the address given above. The public comment period for this document will remain open through August 31, 1980.

Dated: August 5, 1980.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-24194 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP–50494; FRL 1566–7]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

279–EUP–77. This experimental use permit allows the use of 879.1 pounds of the insecticide of permethrin (3-phenoxyphenyl)methyl (+) *cis-trans* 3-(2,2-dichloroethenyl) -2,2-dimethylcyclopropanecarboxylate) on almonds, apples, broccoli, Brussel sprouts, cabbage, cauliflower, celery, cherries, chyrsanthemums, grapes, mushrooms, peaches, pears, potatoes, sunflowers, sweetcorn, and tobacco (burley and flue-cured) to control insects. A total of 454 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. The program is effective from July 14, 1980 to July 14, 1981. The experimental use permit may be used under the special condition that all crops will be destroyed or used for experimental purposes.

279–EUP–80. This experimental use permit allows the use of 1,350 pounds of the insecticide permethrin on cotton to evaluate control of various insects. A total of 180 acres are involved. The program is authorized only in the States of Alabama, California, Mississippi, South Carolina, and Texas. The program is effective from July 14, 1980 and July 14, 1981. The use permit may be used under the special condition that all crops will be destroyed or used for experimental purposes.

279–EUP–81. This experimental use permit allows the use of 885 pounds of the insecticide permethrin on cotton to evaluate control of various insects. A total of 295 acres are involved. The program is authorized only in the States of Alabama, California, Mississippi, South Carolina, and Texas. The experimental use permit is effective July 14, 1980 to July 14, 1981. The experimental use permit may be used under the special condition that all crops will be destroyed or used for research purposes only. This permit and the two above have been issued to FMC Corporation, Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103. (PM 17, Franklin D. R. Gee, Rm. E–341, 202/426–9417).

38586–EUP–1. Washington State University, College of Agriculture, Pullman, WA 99164. This experimental use permit allows the use of 2,800 pounds of the insecticide/nematocide aldicarb on hops to evaluate control of insects. A total of 200 acres are involved. The program is authorized only in the State of Washington. The program is effective from June 11, 1980 to June 11, 1981. A temporary tolerance for the residues of aldicarb on hops has been established. (PM 12, Jay Ellenberger, Rm. E–303, 202/426–2635).

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs EPA, 401 M Street SW., Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended; (7 U.S.C. 136))

Dated: August 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24207 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP–C31037; FRL 1566–4]

Sandoz, Inc.; Receipt of Application To Conditionally Register Pesticide Product Entailing Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice publishes an application submitted by Sandoz, Inc. to conditionally register a pesticide product entailing a changed use pattern.

DATE: Written comments may be submitted on or before September 11, 1980.

ADDRESS WRITTEN COMMENTS TO: Franklin D. R. Gee, Product Manager (PM) 17, Office of Pesticide Programs, Rm. E–341, Registration Division (TS–767), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202/426–9417.

SUPPLEMENTARY INFORMATION: Sandoz, Inc., has submitted an application to EPA to conditionally register a pesticide product entailing a changed use pattern.

Notice of approval or denial of this application to register the pesticide product will be announced in the **Federal Register.** Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of the application does not indicate a decision by the Agency on the application.

Application Received: EPA File Symbol No. 11273–17. Sandoz, Inc. Crop Protection, 480 Camino Del Rio South, Suite 240, San Diego, CA 92108. ELCAR. Active Ingredient: Polyhedral Inclusion Bodies of Heliothis Nuclear Virus 0.4 percent. Application proposes that registration of the product be amended to include in its presently registered use, the use to control larvae of *Heliothis zea*

V 45 AG 12 80 UMI

or *Heliothis virescens*, including all growing crops; including: beans, corn, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomatoes.

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed to the Product Manager. The comments must be received on or before September 11, 1980, and should bear a notation indicating the document control number "[C31037]" and the file symbol number. Comments received within the specified time period will be considered before a final decision is made; comments will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(40 CFR 162.5 and 162.6)

Dated: August 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24210 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[PP OG2289/T252; FRL 1566-5]

Thiophanate-Methyl; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On June 5, 1980 EPA established temporary tolerances for the residues of the fungicide, thiophanate-methyl (dimethly[(1,2-phenylene) bis iminocarbonothioyl)] bis [carbanate], its oxygen analog dimethyl-4,4'-O-phenylene bis, and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on almonds and soybeans at 0.2 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Eugene M. Wilson, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-305, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/755-2562.

SUPPLEMENTARY INFORMATION: Pennwalt Corporation, Pennwalt Bldg., 3 Parkway, Philadelphia, PA 19102, submitted a pesticide petition (PP OG2289) on October 29, 1979 to the EPA. The petition requested that temporary tolerances be established for the fungicide, thiophanate-methyl (dimethyl[(1,2-phylene) bis iminocarbonothioyl)] bis [carbanate], its oxygen analog dimethyl 4,4'-O-phenyl bis, and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on almonds and soybeans at 0.2 part per million.

These temporary tolerance would permit the marketing of the above raw agricultural commodities when treated in accordance with the experimental use permit which was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80-104, 61 Stat. 163, as amended by Pub. L. 92-516, 86 Stat. 975; Pub. L. 94-140, 89 Stat. 754, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C.; 136).

The scientific data reported and other relevant material have been evaluated, and it was determined that establishment of these temporary tolerances would protect the public health. These temporary tolerances were established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the fungicide to be used will not exceed the quantity authorized in the experimental use permit.

2. Pennwalt Corp. will immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire December 31, 1980. Residues not in excess of these temporary tolerances remaining in or on the above raw agricultural commodity after expiration date of these tolerances will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561; (21 U.S.C. 346a(j))

Dated: August 4, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24209 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1565-4]

Assessment of Civil Penalty for Violation of Fuels and Fuel Additives Regulation; Region VII

AGENCY: Environmental Protection Agency, Region VII.

ACTION: Notice of final agency action.

SUMMARY: On May 7, 1980, the Regional Administrator for Region VII issued a final order assessing a civil penalty against Hudson Stations, Inc. for a violation of 40 CFR 80.22(f)(1). Section 80.22(f)(1) requires retailers to equip leaded gasoline pumps with nozzles of a certain minimum size to help prevent the introduction of leaded gasoline into vehicles equipped to operate on unleaded gasoline.

ADDRESS: Copies of the order are available for public inspection, upon request, at the following location: Environmental Protection Agency, Region VII, Office of Regional Counsel, 16th Floor, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: John H. Morse, Office of Regional Counsel, Environmental Protection Agency, Room 1618, 324 East 11th Street, Kansas City, Missouri 64106 (816-374-2069).

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of August 12, 1980, date of publication in the **Federal Register**. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: July 31, 1980.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 80-24362 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1566-3; PP 9G2211/T251]

American Cyanamid Co.; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the insecticide (±)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity cottonseed at 0.1 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Rm: E-341, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/426-2637.

SUPPLEMENTARY INFORMATION: American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, submitted a pesticide petition (PP 9G2211) to the EPA. The petition requested that a temporary tolerance be established for the insecticide (±)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultrual commodity cottonseed at 0.1 ppm.

This temporary tolerance would permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit being issued under the Federal Insecticide, Fungicide, and Rodenticide Act, (Pub. L. 80-104, 61 Stat. 163, as amended by Pub. L. 92-516, 86 Stat. 975; Pub. L. 94-140, 89 Stat. 754, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of a temporary tolerance would protect the public health. The temporary tolerance has been established on the condition that the experimental use permit be used with the following provisions:

1. The total amount of the insecticide to be used will not exceed the quantity authorized in the experimental use permit.

2. American Cyanamid will immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires on May 30, 1981. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of experimental use permit and temporary tolerance. These tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: August 4, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

[FR Doc. 80-24365 Filed 8-11-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission on Marine Services; Meeting

The Maritime Advisory Committee in preparation for the 1982 Mobile Services World Administrative Radio Conference (Special Committee No. 76 of the RTCM) will meet on Wednesday, August 20, 1980, at 9:30 a.m. The site will be the first floor auditorium in the Comsat General Building, 950 L'Enfant Plaza S.W., Washington, D.C.

The agenda will include the Chairman's Report, a discussion of past and new proposals, a review of the committee's work program, and the establishment of a future meeting schedule. The meeting is open to the public and written statements may be presented before or after the meeting. Oral presentations may be made by arrangement. For further information, contact the RTCM Secretariat at (202) 632-6490.

This meeting has been scheduled with less than the 15-day notice established by the Federal Advisory Committee Act (Pub. L. 92-463). The FCC Advisory Committee Management Officer has approved this action due to contingencies in preparing timely submissions to the FCC staff working on the Mobile Services WARC positions.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-24203 Filed 8-11-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Addition of New Routine Use to an Existing System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed addition of a new routine use to an existing FEMA system of records entitled, "National Flood Insurance Application and Related Documents Files—FEMA/FIA-2."

SUMMARY: The purpose of tnis proposal is to give notice that an additional routine use "To property loss reporting bureaus, state insurance departments, and insurance companies investigating fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, FEMA;" is being proposed to be added to the beginning of the first paragraph under "Routine uses" of the National Flood Insurance Application and Related Documents Files. On June 5, 1980, the Federal Emergency Management Agency published in the **Federal Register**, 45 FR 37890, a notice advising the public that this system was being transferred from the Department of Housing and Urban Development to the Federal Emergency Management Agency. This action was necessitated as a result of a reorganization that transferred functions of five existing agencies in four departments or parent agencies to the Federal Emergency Management Agency. The proposed routine use was merely an oversight when we published the system in the June 5 edition of the **Federal Register**. This particular routine use was included in the "Federal Crime Insurance Program," also published in the June 5 **Federal Register**, and was omitted from the "National Flood Insurance Application and Related Documents Files" system of records. The proposed routine use is compatible with the purposes for which the system was established, therefore, we are not required to file any reports with Congress or the Office of Management and Budget.

The following additional changes are being made to the "Routine use" portion of this system of records. After "Jonestown, Pennsylvania", the period should be changed to a comma. The second paragraph under "Routine use" has been revised to include only those routine uses in Appendix A that continue to apply to this system after the revision of the Appendix at 45 FR 51443, August 1, 1980.

In an effort to economize on the cost of publication in the **Federal Register**, we are publishing only the sections of the system of records affected by this notice. The remaining portions of the system can be viewed in the June 5 **Federal Register**, 45 FR 37890.

The Federal Emergency Management Agency should not be placed in a position of having to ignore information

relating to violations or potential

American Red Cross, the Federal

It is further ordered, that a copy of

Dated: August 7, 1980

relating to violations or potential violations of laws not within its jurisdiction when that information comes to the attention of the Federal Emergency Management Agency through the conduct of a lawful FEMA program or investigation. Nor, should the Federal Emergency Management Agency be placed in a position of non-cooperating with an agency involved in investigating fraud or potential fraud when we possess such pertinent information that could assist in the detection or apprehension of violators of laws adminstered by a state or local agency.

DATE: Any interested parties may submit written comments regarding this proposal. To be considered, comments must be received on or before September 11, 1980. Unless comments are received on or before that date, which would result in a contrary determination, the routine use will become effective as proposed without further notice on September 11, 1980.

ADDRESS: Address comments to the Rules Docket Clerk, Federal Emergency Management Agency, (Room 801), 1725 I Street, N.W., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m. during normal working days.

FOR FURTHER INFORMATION CONTACT: Linda M. Hartford, Office of Public Affairs, (202) 634–6772. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Based on the above reasons outlined under the Summary section, the Federal Emergency Management Agency finds it necessary to revise the routine use portion of the "National Flood Insurance Application and Related Documents Files."

FEMA/FIA–2

SYSTEM NAME:

National Flood Insurance Application and Related Documents Files.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To property loss reporting bureaus, state insurance departments, and insurance companies investigating fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, FEMA; for use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; to Small Business Administration, the American Red Cross, the Federal Disaster Assistance Administration, the Farmers Home Administration and State and local government individual and family grant and assistance agencies, including but not limited to the State of Ohio Disaster Services Agency and the Johnstown, Pennsylvania, Redevelopment Authority for determining eligibility for benefits and for verification of nonduplication of benefits following a flooding event or disaster.

Additional routine uses may include Nos. 1, 5, and 6 of Appendix A.

* * * * *

Dated: August 5, 1980.

Peg Maloy,

Acting Director, Office of Public Affairs, Federal Emergency Management Agency.

[FR Doc. 80–24235 Filed 8–11–80; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1347]

C. E. Tolonen Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of C. E. Tolonen Co., Inc., 1000 Second Avenue, Seattle, WA 98114, FMC No. 1347, was cancelled effective July 27, 1980.

By letter dated July 3, 1980, C. E. Tolonen Co., Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1347 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

C. E. Tolonen Co., Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1347 be and is hereby revoked effective July 27, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 1347, issued to C. E. Tolonen Co., Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon C. E. Tolonen Co., Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80–24204 Filed 8–11–80; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reasons why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Eastern International Forwarders, Inc., 250 West 29th Street, Hialeah, Florida 33012, Officer: Bernard Cotero, President/Secretary.

Master Forwarding Network, Inc., 427 W. Fifth Street, 6th Floor, Los Angeles, California 90013, Officers: George D. Rutnam, President, John E. Johns, Jr., Vice-President.

H.A.V. International Freight Corp., 152–34 Rockaway Blvd., Jamaica, New York, Officers: Harlan Nelson Haag, Chairman of the Board, Joseph Louis Vidal, President.

Airmar International Forwarders, Inc., 1401 N.W. 78th Avenue, Miami, Florida 33152, Officers: Ubaldo de la Riva, President/Director, Nancy de la Riva, Director.

Kenney Transport, Inc. (Gateway International, d.b.a.), 153–04 Rockaway Blvd., Jamaica, New York 11434, Officers: Donald D. Kim, President, Boniface DiProferzio, Vice President Operation, Dongshin Kim, Vice President Sales, Dongin Kim, Secretary/Treasurer, Samuel T. Hong, Export Manager, Ruben Rosado, Manager—Ocean Department.

Dan Beadle Customs House Broker (Dan Beadle, d.b.a.), 609 Fannin Street, No. 1421, Houston, Texas 77002.

United Van Lines, Inc., No. 1 United Driver, Fenton, Missouri 63026, Officers: Lloyd H. Meyer, Chairman of the Board, Paul Corrigan, President, Maurice Greenblatt, First Vice President, Gerald P. Stadler, Vice President and Secretary, Gene Anderson, Vice President and Treasurer.

By the Federal Maritime Commission.

Dated: August 7, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–24205 Filed 8–11–80; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2124]

World Trade Transport Corp.; Order of Revocation

On July 18, 1980, World Trade Transport Corp., The World Trade Center, Suite 2532, Baltimore, MD 21202, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 2124 for revocation.

Therefore by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2124 issued to World Trade Transport Corp., be and is hereby revoked effective July 18, 1980.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon World Trade Transport Corp.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80–24206 Filed 8–11–80; 8:45 am]

BILLING CODE 6730–01–M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 2, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: LM–1.

FILING PARTY: H. S. Thorne, President, Panama City Florida, Steamship Association, P.O. Box 1555, Panama City, Florida 32401.

SUMMARY: Agreement No. LM–1, which has been refiled for consideration by the Commission, constitutes the Articles of Incorporation and By-Laws of the Panama City Florida Steamship Association, Inc., (Association). The purposes of the Association are to: (1) acquire, preserve and disseminate information pertaining to the Port's ocean commerce and to promote the interest, decrease the risks and improve the methods in handling thereof; (2) promote the mutual welfare of the Association's members and the members' waterfront employees, to do any and all things to advance the interests of the Port and to increase the commerce thereof; (3) take over, carry on and continue the affairs of the unincorporated Association known as the Panama City Florida Steamship Association; (4) act upon request, as bargaining agent for any or all of its members with respect to labor contracts and disputes; (5) hold and exercise all such incidental powers that relate to the above purposes; and (6) engage in any and all lawful activities permitted under the laws of the State of Florida. Membership in the Association consists of persons, firms and corporations engaged in business as steamship agents and contracting stevedores and admission of new members is upon the unanimous vote of all members in good standing. Any member may be expelled from the Association with or without assigned cause after such member has been offered and opportunity to be heard but no member shall be expelled except pursuant to the approval of all of the other members of the Association.

AGREEMENT NO.: T–3516–3.

FILING PARTY: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

SUMMARY: Agreement No. T–3516–3, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui-O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd., (Lines) modifies the parties' basic agreement providing for the Port's lease to the Lines of certain premises at Terminal 37, Seattle, Washington.

The purpose of the modification is to increase the Lines' monthly amortization payments for final additional improvement costs and to provide for additional rental for the lease of four yard tractors.

AGREEMENT NO.: T–3808–1.

FILING PARTY: Robert W. Parkin, City Attorney, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

SUMMARY: Agreement No. T–3808–1 between the City of Long Beach (City) and Pacific Coast Cement Corporation (Corp.) revises the compensation to be paid by Corp. to City for the use of certain facilities at the Port of Long Beach as provided in Agreement No. T–3808. The ground rent for Parcel I shall be $0.032 per square foot per month for the first five year period. For each successive five-year period the rent shall be a sum agreed upon by the City and the Corp. Corp. also will pay City per month $81,968.90 plus 1.058 percent of the actual cost in excess of $8,830,000 for improvements constructed or to be constructed by City on Parcel I for Corp.'s use.

AGREEMENT NO.: T–3915.

FILING PARTY: Antonio Zapater, 50 Isabel Street, P.O. Box 1350, Ponce, Puerto Rico 00731.

SUMMARY: Agreement No. T–3915, between Junta Administrativa de los Muelles Municipales de Ponce (Junta) and Carol Lines, a joint container service operated by Compagnie Generale Maritime, Hapag-Lloyd A.G., Thos. & Jas. Harrison Ltd. and Koninklijke Nederlandsche Stoomboot-Maatschappij B.V., (Carol), provides for Carol's lease of facilities and preferential building privileges at Pier 6, Municipal Piers of Ponce and adjacent container parking areas. Carol shall have a 36-hour preferential use of Pier 6 on the days indicated on their vessel ETA schedules. The agreement shall run for 1 year with options for additional 3 year periods. Carol shall pay $3,000 for the preferential rights at Pier 6; a fixed annual fee for mooring charges as per revelant tariff with a yearly guarantee of $42,000; for use of parking annual rent of $30,000; and wharfage charges as per

applicable tariff with minimum guarantee of $30,000 with charges exceeding said minimum being split 75 percent for Junta and 25 percent for Carol. Junta will provide for Carol one shoreside crane (40 LT) at a rental of $3,000 per 8-hour period and any time exceeding this period will be at the rate of $93.75 for every 15-minute period.

AGREEMENT NO.: T–3916.

FILING PARTY: David F. Anderson, Matson Navigation Company, 333 Market Street, San Francisco, California 94105.

SUMMARY: Agreement No. T–3916, between Matson Navigation Company (Matson), and its wholly-owned subsidiary Matson Terminals, Inc. (Terminals) is a memorandum of understanding wherein Terminals will perform, at cost, full terminal and or stevedoring services and administrative and general services for Matson at the port of Los Angeles and Oakland, California; Portland, Oregon; Seattle, Washington; Honolulu, Hawaii and Richmond, California. Matson shall reimburse Terminals for all costs incurred in the performance of the services provided for in the Agreement. The cost transfers will be made on the basis of experience rather than a fixed schedule. The Agreement will supersede, and terminate FMC Agreement No. T–2737, approved by the Commission on March 23, 1973.

AGREEMENT NO.: 10156–3.

FILING PARTY: John R. Attanasio, Esquire, Billig, Sher & Jones, P.C., 2033 K. Street, N.W., Washington, D.C. 20006.

SUMMARY: Agreement No. 10156–3, is an application between the Mediterranean/North Pacific Coast Freight Conference (Agreement No. 8090) and Johnson Scanstar Combined Service (Agreement No. 9973) to extend the terms and conditions of the presently approved agreement for a period of three years beyond the current expiration date of September 30, 1980, i.e., until September 30, 1983. In addition, Article 3 of the basic agreement has been amended to include authority to agree on inland rates from points in Northern Italy.

AGREEMENT NO.: 10333–2.

FILING PARTY: Charles F. Fischer, Chairman, Calcutta, Bangladesh/U.S.A. Pool Agreement, 25 Broadway, New York, New York 10004.

SUMMARY: Agreement No. 10333–2 modifies the pool agreement to (1) have a specific pool fund accountant (2) add pool shares for each carrier in each section and (3) increase pool reporting time to 4 weeks from the close of the reporting period.

By Order of the Federal Maritime Commission.

Dated: August 7, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80–24221 Filed 8–11–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Adams Bankcorp, Inc.; Formation of Bank Holding Company

Adams Bankcorp, Inc., Northglenn, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Adams County Bank, Northglenn, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–24164 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

Farmers Bancshares of Cordell, Inc.; Formation of Bank Holding Company

Farmers Bancshares of Cordell, Inc., Cordell, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers National Bank, Cordell, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12) U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

9[FR Doc. 80–24168 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

Guardian Bancshares, Inc.; Formation of Bank Holding Company

Guardian Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of Guardian Bank of Houston, Houston, Texas. The factors that are considerd in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–24169 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

Kandi Bancshares, Inc.; Formation of Bank Holding Company

Kandi Bancshares, Inc., New London, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86 per cent or more of the voting shares of Farmers' State Bank of New London, New London, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–24167 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

Republic Bancshares; Formation of Bank Holding Company

Republic Bancshares, Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company be acquiring 80 per cent or more of the voting shares of Republic Bank, Oklahoma City, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–24170 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

Riverton State Bank Holding Co.; Formation of Bank Holding Company

Riverton State Bank Holding Company, Riverton, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Riverton State Bank, Riverton, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–24166 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

Shelard Bancshares, Inc.; Formation of Bank Holding Company

Shelard Bancshares, Inc., St. Louis Park, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97 percent or more of the voting shares of Shelard National Bank, St. Louis Park, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–24165 Filed 8–11–80; 8:45 am]

BILLING CODE 6210–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 1, 1980 (FCC), and August 4, 1980 (CPSC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC and FCC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 28, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC is requesting an extension-without-change clearance of Form 405–A, Application for Renewal of Radio Station License and/or Notification of Change to License Information. Form 405–A is used by licensees when applying for renewal of radio station licenses without major modification in the Aviation, Marine, Public Safety, Industrial, Land Transportation, and Disaster Services. Sections 90.119(b), 81.37, 87.33, and 99.11(d) of the FCC's Rules are applicable for Form 405–A. The form is used for five purposes: (1) Renewal of license, (2) mailing address change notification, (3) licensee name change notification (without change to corporate structure), (4) vessel name change notification (without change to vessel official number), and (5) station closure notification. The FCC estimates approximately 35,000 applications are received annually and that respondent burden averages 10 minutes per application.

The FCC is requesting an extension-without-change clearance of Form 406, Application for Ground Station

Authorization in the Aviation Services. Form 406 is used when requesting a new license, modifying an existing license, renewing with modifications or requesting assignment of ground radio station authorization. Section 87.31 of the FCC Rules and Regulations are applicable for Form 506. The FCC estimates approximately 5,000 applications are filed annually and that respondent burden will average one and one-quarter hours per application.

The FCC is requesting an extension-without-change clearance of Form 430, Common Carrier and Satellite Radio Licensee Qualification Report. Form 430 is filed with applications for common carrier and satellite radio licenses and is a report of the applicant's general legal qualifications. The form will be filed initially with the application for a construction permit and will be updated thereafter on a yearly basis, unless there is a significant change in a carrier's position or an application for modification. The FCC estimates that approximately 3,615 reports are received annually and that respondent burden will average 2 hours per report.

The FCC is requesting an extension-without-change clearance of Form 435, Application for a New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21. Form 435 is used by communications carriers to apply for facilities in the Point-to-Point Microwave Radio Service, the Multipoint Distribution Service, and the Local Television Transmission Service. These services are covered under Part 21, §§ 21.7, 21.13, and 21.15 of the FCC Rules and Regulations. The FCC estimates that approximately 3,000 applications are received annually and that respondent burden will average 2 hours per application.

The FCC requests an extension-without-change clearance of Form 480, Application for Civil Air Patrol Radio Station Authorization. Form 480 must be filed by applicants for a new, modification or renewal of a license for a land station used exclusively for communications of the Civil Air Patrol. Section 87.22 of the FCC Rules and Regulations applies to Form 480. The FCC estimates that approximately 2,000 applications are received annually and that respondent burden will average 45 minutes per application.

The FCC requests an extension-without-change clearance of Form 505, Application for Station License in the CB or R/C Service. Form 505 is required by Part 95, Subpart D of the FCC Rules and Regulations. Applicant's applying for a Citizens Band Service License or a Radio Control License must complete this form. Applications for a renewal or modification are filed on Form 505 also. The FCC estimates approximately 1,500,000 applications are received annually and that respondent burden will average 5 minutes per application.

The FCC requests an extension-without-change clearance of Form 610, Application for Individual Amateur Radio Station and/or Operator License. Form 610 is required by Part 97, §§ 97.11, 97.13, and 97.47 of the FCC Rules and Regulations. The form is used to apply for, renew, or modify an amateur radio station license. The FCC estimates approximately 300,000 applications are received annually and that respondent burden will average 5 minutes per application.

The FCC requests an extension-without-change clearance of Form 755, Application for Restricted Radiotelephone Operator Permit by an Alien. Form 755 is used by aliens to obtain a radio operator license. Public Law 93–505 enacted November 30, 1974, removed the restriction in the Communication's Act concerning licensing of aliens and alien-affiliated entities in the Safety and Special Experimental Radio Services. Prior to this action only aliens entitled to apply for a Restricted Radiotelephone Operator Permit were those who held FAA Pilot Certificates and used the permit in connection with piloting duties. This form is required under §§ 1.83(a)(1) and 13.11(a)(1)(ii) of the FCC Rules and Regulations. The FCC estimates that approximately 8,000 applications are filed annually and that the respondent burden will average one minute per application.

Consumer Product Safety Commission

The CPSC requests clearance of a new, voluntary, single-time questionnaire which will be sent to importers and manufacturers of carpets and rugs. The proposed survey questionnaire will be sent to a national probability sample of importers and manufacturers of carpets and rugs. The purpose of the survey is to evaluate the impact of the Commission's carpet and rug flammability standards upon industry. In addition, the survey will solicit suggestions for improving the standards. The evaluation is being conducted by the Division of Evaluation of the CPSC and the information collected will be used as a part of an overall assessment of actions taken under the Flammable Fabrics Act. CPSC expects the questionnaire to be mailed out upon GAO clearance and that the return date of the questionnaire from respondents will be 30 days thereafter. The CPSC estimates that the questionnaire will be sent to approximately 128 carpet and rug importers and manufacturers and that the average time needed for completion of the questionnaire will be 3 hours.

The CPSC requests clearance of a new, voluntary, single-time questionnaire which will be sent to importers and manufacturers of mattresses. The proposed survey questionnaire will be sent to a national probability sample of importers and manufacturers of mattresses. The purpose of the survey is to evaluate the impact of the Commission's mattress flammability standard upon industry. In addition, the survey will solicit suggestions for improving the standard. The evaluation is being conducted by the Division of Evaluation of the CPSC and the information collected will be used as a part of an overall assessment of actions taken under the Flammable Fabrics Act. The CPSC expects the questionnaire to be mailed out upon GAO clearance and that the return date of the questionnaire from respondents will be 30 days thereafter. The CPSC estimates the questionnaire will be sent to approximately 155 importers and manufacturers of mattresses and that the average time needed for completion of the questionnaire will be 3 hours.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80–24201 Filed 8–11–80; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

[F–80–13]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Kansas State Corporation Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Kansas State Corporation Commission involving the application of the Southwestern Bell Telephone Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: July 29, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–24174 Filed 8–11–80; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N–0271]

International Drug Scheduling Convention on Psychotropic Substances

Correction

In FR Doc. 80–21488, appearing at page 48254, in the issue of Friday, July 18, 1980, please make the following corrections on page 48255:

In the middle column, after the fourth line, there should have appeared some black space and then the date "March 26, 1980". This signifies the end and the date of the quoted notice from the World Health Organization (WHO). The following 24 lines were incorrectly set in small type, possibly creating the impression that they were part of the WHO notice. The material in the middle column, from the fifth line (beginning "Therefore, as required * * *") through the 28th line ("Convention.") should have been set in regular size type.

BILLING CODE 1505–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Hayward E. Mayfield, District Director, Nashville District Office, Nashville, TN.

DATE: The meeting will be held at 10:30 a.m., Tuesday, August 19, 1980.

ADDRESS: The meeting will be held at the Northside Senior Center, 104 E. Northside Dr., Jackson, MS 39206.

FOR FURTHER INFORMATION CONTACT: Jessica A. Parchman, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–7127.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Nashville District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–24171 Filed 8–11–80; 8:45 am]

BILLING CODE 4110–03–M

Public Health Service

Scientific Evaluation of Medical Technology

The National Center for Health Care Technology (Center) announces that it is beginning a scientific evaluation of the clinical effectiveness of bilateral lens calculation using A-scan ultrasound prior to cataract surgery. Based on this evaluation, a recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare reimbursement policy. Any person or group wishing to provide the Center with information relevant to this evaluation should do so in writing no later than 30 days from the day of this notice. To enable the Center's staff to give appropriate consideration to any literature references or analyses of clinical data, a written summary no longer than 10 pages should be attached to any such material submitted.

Written material should be submitted to: National Center for Health Care Technology, Room 17A–29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Pierre F. Renault, M.D., Associate Director for Medical and Scientific Evaluation, National Center for Health Care Technology, Room 17A–29, Parklawn Building, Rockville, Maryland 20857, (301) 443–4990.

Dated: August 6, 1980.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 80–24172 Filed 8–11–80; 8:45 am]

BILLING CODE 4110–85–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[Docket No. N–80–1017]

Guaranty of Mortgage-Backed Securities; Forms of Letters of Credit To Be Used in Mortgage-Backed Securities Program

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The Government National Mortgage Association, "GNMA," has established forms of letters of credit to be used in its Mortgage-Backed Securities Program. Only letters of credit in the prescribed forms are acceptable to GNMA as (1) collateral in GNMA's mark to market requirements and (2) collateral in GNMA's Construction Loan Securities Program.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–8772. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On June 13, 1980, the Government National Mortgage Association issued a Final Rule, published in the **Federal Register** at 45 FR 40556, amending regulations relating to the Mortgage-Backed Securities Program (24 CFR Part 390). The amendment, intended to reduce opportunities for abuses that have occurred in the trading of mortgage-backed securities, established rules governing the securities marketing and trading practices of issuers of securities guaranteed by GNMA.

One requirement of the Final Rule is that issuers of GNMA-guaranteed securites, with respect to certain forward market transactions, enter only into contracts which provide for at least weekly mark to market deposits of collateral with an independent financial institution. The marking to market of delayed delivery contracts involves the deposit of collateral by the party suffering an unrealized loss, when the current market price is measured against the contract price, in the amount of the unrealized loss. In response to

Tippecanoe County

Lane County

National Park Service

comments received, GNMA expanded the list of eligible collateral to include irrevocable, unconditional letters of credit in a form acceptable to GNMA, and issued by a banking institution supervised by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Reserve Board.

By this publication, notice is given as to the forms of letters of credit acceptable to GNMA as collateral in its mark to market requirements, and in the Construction Loan Securities Program.

The prescribed forms, and instructions for their completion, will appear as Appendix 56 to the *GNMA Mortgage-Backed Securities Guide,* GNMA Handbook 5500.1. The Mortgage-Backed Securities Guide is available through GNMA's office in Washington, D.C.

The prescribed letters of credit are irrevocable, unconditional and, in the mark to market case, nontransferrable. Letters of credit which do not follow the prescribed forms precisely are not acceptable to GNMA and use of a nonconforming letter of credit will constitute a failure to comply with GNMA requirements. Incorporation by reference of the Uniform Customs and Practices for Documentary Credits will not be acceptable.

Issued at Washington, D.C., August 4, 1980.

Ronald P. Laurent,

President, Government National Mortgage Association.

[FR Doc. 80-24214 Filed 8-11-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 32820]

Montana; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

August 4, 1980.

The Water and Power Resources Service (formerly Bureau of Reclamation), U.S. Department of the Interior, on December 4, 1975, filed application serial No. M 32820 for a withdrawal in relation to the following described land:

Principal Meridian, Montana.

T. 7 N., R. 1 E.,
Sec. 26, NE¼, NE¼NW¼, S½NW¼.

The area described contains 280 acres in Broadwater County, Montana.

The applicant desires that the land be reserved as a continuous source of material and rock for construction, operation, and maintenance of waterfowl nesting islands and dust abatement structures in connection with the Canyon Ferry Unit, Helena-Great Falls Division, Pick Sloan Missouri Basin Program.

A notice of the proposed withdrawal was published in the **Federal Register** on January 5, 1976, Vol. 41, Page 784, FR Document No. 76-15.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before September 20, 1980. Notice of the public hearing will be published in the **Federal Register,** giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before September 20, 1980.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

Edgar D. Stark,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-24218 Filed 8-11-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 1, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written Comments should be submitted by August 27, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ALABAMA

Baldwin County

Daphne, *Methodist Episcopal Church, South,* 1608 Old County Rd.

ILLINOIS

Mercer County

Keithsburg, *United Presbyterian Church,* Main and 8th Sts.

Sangamon County

Springfield, *Freeman, Clarkson W., House,* 704 W. Monroe St.

Warren County

Monmouth, *Quinby, Ivory, House,* 605 N. 6th St.

Will County

Plainfield, *Plainfield Halfway House,* 503 Main St.

INDIANA

Carroll County

Delphi, *Barnett-Seawright-Wilson House,* 203 E. Monroe St.

Marion County

Indianapolis, *Fidelity Trust Building,* 148 E. Market St.
Indianapolis, *St. John's Church and Rectory,* 121 S. Capitol Ave., 124 and 126 W. Georgia St.

Tippecanoe County

Lafayette, *Walsh Building and Germania House,* 201–211 South St.

Vanderburgh County

Evansville, *Bitterman Building,* 202–204 Main St.
Evansville, *Old Bitterman Building,* 200 Main St.
Evansville, *Smith, Robert, Mortuary,* 118–120 Walnut St.

KENTUCKY

Madison County

Richmond vicinity, *Duncannon,* S of Richmond on John Parrish Lane

Whitley County

Williamsburg, *Cumberland College Historic Buildings,* College Ave.

MASSACHUSETTS

Essex County

Rowley, *Platts-Bradstreet House,* Main St.

Franklin County

Turner Falls, *Turner Falls Historic District,* Roughly bounded by CT River, Power Canal, 9th and L Sts.

MISSOURI

Callaway Countyu

Fulton, *Willing, Dr. George M., House,* 211 Jefferson St.

Carter County

Van Buren vicinity, *Big Springs Historic District,* E of Van Buren on MO 103

Franklin County

Washington vicinity, *Caldwell, Kincaid, Farm,* S of Washington on Bieker Rd.

Shannon County

Eminence vicinity, *Chilton-Williams Farm Complex,* E of Eminence off MO 106

NEBRASKA

Saline County

Dorchester, *Freidell, William, House,* 10th and Main Sts.

NEW JERSEY

Cape May County

Woodbine, *Woodbine Brotherhood Synagogue,* 612 Washington Ave.

Sussex County

Wallpack Center vicinity, *Old Mine Road Historic District*

NEW MEXICO

Bernalillo County

Albuquerque, *Simms, John F., House,* 4317 Rio Grande, NW.

Luna County

Deming, *Mahoney Building,* Gold and Spruce Sts.

OREGON

Jackson County

Medford vicinity, *Hover, George A., House,* 4192 Coleman Creek Rd.

Lane County

Eugene, *Masonic Cemetery and Hope Abbey Mausoleum,* 25th and University Sts.

Washington County

Hillsboro, *Rice-Gates House,* 308 SE. Walnut St.

PUERTO RICO

San Juan, *Hotel Normandie,* Ponce de Leon Ave. and San Geronimo St.

SOUTH CAROLINA

York County

Clover vicinity, *Bethel Presbyterian Church,* E of Clover on SC 557
York vicinity, *Allison Plantation,* Off SC 40 and SC 60

TEXAS

Cooke County

Era, *Thomason-Scott House,* Off TX 51 and SR 922

Galveston County

Galveston, Reedy Chapel A.M.E. Church, 2013 Broadway

UTAH

Salt Lake County

Salt Lake City, *Best-Cannon House,* 1146 S. 900 East St.
Salt Lake City, *Covery, Almon A., House,* 1211 E. 100 South St.
Salt Lake City, *Covery, Hyrum T., House,* 1229 E. 100 South St.
Salt Lake City, *Hall, Nels G., House,* 1340 2nd Ave.
Salt Lake City, *Kearns-St. Ann's Orphanage,* 430 E. 2100 South St.
Salt Lake City, *Neuhausen, Carl M., House,* 1265 E. 100 South St.

Sanpete County

Ephraim, *Greaves-Deakin House,* 118 S. Main St.
Fairview, *Anderson, James, House,* 15 S. 200 East St.
Fairview, *Hjort, Niels P., House,* N. Main St.
Mount Pleasant, *Arilsen, Ole, House,* Off UT 116
Mount Pleasant, *Staker, James B., House,* U.S. 89
Mount Pleasant, *Wheelock, Cyrus, House,* 200 E. 100 North St.
Wales, *Lewellyn, John T., House,* Main St.

VERMONT

Caledonia County

St. Johnsbury, *Fairbanks, Franklin, House,* 30 Western Ave.

Essex County

Guildhall, *Guildhall Village Historic District,* VT 102

WASHINGTON

King County

Seattle, *Columbia City Historic District,* Roughly bounded by S. Hudson and S. Alaska Sts., 35th and Rainier Aves.

[FR Doc. 80-23905 Filed 8-11-80; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Flood Hazard Mitigation Plan, Willow Beach, Lake Mead National Recreation Area, Arizona-Nevada; Intent To Prepare Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Department of Interior, National Park Service has begun preparation of an Environmental Impact Statement to analyze impacts of various alternatives for the Mitigation of Flood Hazards and for future management of the Willow Beach developed area on Lake Mohave within Lake Mead National Recreation Area.

The statement will assess potential environmental impacts associated with the development of mitigation measures including the effects on access and circulation, overnight accommodations, visitor services, facilities, and management.

Alternatives which will be evaluated both by the Park Service and the public include no action, total facility relocation, partial relocation and revision of facilities, and restructured use alternatives.

This project commenced in March, 1977 with a series of Flood Hazard Studies. From those studies, the previously identified alternatives were developed. The Draft Environmental Statement will be released for public and agency review the Fall of 1980.

All interested agencies, organizations, or individuals are invited to submit comments or suggestions for consideration in the preparation of the Draft Environmental Impact Statement. The availability of the document will be announced in the **Federal Register** and additional public comments will be solicited. Those who desire to submit comments or suggestions should submit them to Donald Tiernan, Pacific Northwest/Western Team, Denver Service Center, National Park Service, 755 Parfet Street, P.O. Box 25287, Denver, Colorado 80225 on or before September 15, 1980.

Dated: August 5, 1980.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 80-24252 Filed 8-11-80; 8:45 am]

BILLING CODE 4310-70-M

Wind Cave National Park; Intention To Negotiate a Concessions Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; U.S.C. 20), public notice is hereby given that thirty (30) days after the date

of publication of this notice, the Department of the Interior, through the Rocky Mountain Regional Director, proposes to negotiate a concession contract with Mr. Carl Oberlitner, authorizing him to continue to provide food and merchandise facilities and services for the public at Wind Cave National Park, for a period of five (5) years from January 1, 1982 through December 31, 1986.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Wind Cave National Park, Hot Springs, South Dakota 57747.

The foregoing concessioner has performed his obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1981, and therefore, pursuant to the Act of October 9, 1965, as cited above is entitled to be given preference in the negotiation of a new contract. This provision, in effect, grants Mr. Carl Oberlitner, the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed contract and a preference in the award of the contract, if, thereafter, the offer of Mr. Carl Oberlitner is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before September 11, 1980.

Interested parties should contact the Superintendent, Wind Cave National Park, Hot Springs, South Dakota 57747, for information as to the requirements of the proposed contract.

Dated: May 28, 1980.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 80-24253 Filed 8-11-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: August 5, 1980.

In our decisions of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m., August 8, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Chairman Gaskins absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)

January 1, 1979.....63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

August 4, 1980.....114.0

	Transportation performed by—			
	Owner operator (1)	Other (2)	Bus carriers (3)	UPS (4)
Average percent fuel expense (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[1]2.1
Percent surcharge allowed	13.0	2.3	5.0	[2]1.3

[1] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in the UPS rates.

[FR Doc. 80-24198 Filed 8-11-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 18]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Correction

In FR Doc. 80-18938, published at page 42386, on Tuesday, June 24, 1980, on page 42391, in the first column, in the third paragraph, in the first line, "MC 29910 (Sub-23F), filed November 2," should be corrected to read "MC 29910 (Sub-243F), filed November 2,".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-16177, published at page 36182, on Thursday, May 29, 1980, on page 36204, in the second column in the first paragraph, in the tenth line, "MD, MA, MS, NH, NH" should be corrected to read "MD, MA, MS, NH, NJ".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 200 (Sub-468F), filed June 23, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). Transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment),* from Los Angeles, CA to the facilities of A and A International, Inc. at or near Groveport, OH, restricted to traffic having an immediate prior or subsequent movement by water.

MC 200 (Sub-478F), filed June 26, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *rough steel forgings,* from Baltimore, MD, to Somerset, KY, restricted to traffic originating at the named origin and destined to the indicated destination.

MC 720 (Sub-87F), filed June 23, 1980. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same as applicant). Transporting *Potash and cleaning* and *scrubbing compounds* and *materials,* equipment and supplies used in the processing and distribution of potash and cleaning and scrubbing compounds between Watertown and Milwaukee, WI on the one hand, and, on the other hand, those points in the U.S. in and East of ND, SD, NE, CO, OK and TX, restricted to traffic originating at and destined to the facilities used by U.S. Chemical Corporation of Wisconsin.

MC 720 (Sub-87F), filed June 23, 1980. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same as applicant). Transporting: *Foodstuffs* from Chicago, IL to points in MI, OH and PA, restricted to traffic originating at the facilities used by Plochman, Inc.

MC 2860 (Sub-206F), filed June 9, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Peter J. Nickles, Covington and Burling, 888 16th Street, N.W., Washington, DC 20006. Jack Gruenstein, National Freight, Inc., 71 West Park Avenue, Vineland, NJ 08360. Transporting: *general commodities* (except classes A and B explosives) between points in AL, AR, GA, IL, IN, KY, LA, ME, MI, MN, MS, NH, OH, OK, PA, TN, TX, VT, WI, and WV.

MC 7840 (Sub-34F), filed June 26, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *scrap paper,* between points in the U.S. (except AK and HI).

MC 7840 (Sub-35F), filed June 26, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *iron oxide,* between Ogdensburg, NY, and Elizabethtown, KY.

MC 11220 (Sub-216F), filed June 26, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MN, MO, MS, NM, OH, OK, PA, TN, and TX, restricted to traffic originating at or destined to the facilities of Morgan Building Corporation.

MC 29510 (Sub-10F), filed June 23, 1980. Applicant: EVANS TRANSPORTATION COMPANY, a Corporation, 7800 Route 13, Levittown, PA 19057. Representative: Edwin L. Scherlis, Esquire, Suite 420, 1315 Walnut Street, Philadelphia, PA 19107. Transporting: (a) *iron and steel articles,*

V 45 AG 12 80 UMI

and (b) wire rods in coils between the facilities of Raritan River Steel Co. in Perth Amboy, N.J. on one hand, and, on the other, points in PA, DE, MD, VA, WV, NC, SC, GA, FL, AL, OH, IN, NY, CT, MA, AR, IL, KY, MI, MS, MO, NH, RI, and TN.

MC 38320 (Sub-24F), filed June 23, 1980. Applicant: CENTRAL MOTOR EXPRESS, INC., P.O. Box Drawer "C", Campbellsville, KY 42718. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *alcoholic beverages*, in containers from the facilities of Old Fitzgerald Distillery, at or near Louisville, KY, to points in IL, OH, and IN. (hearing site: Louisville, KY.)

MC 82841 (Sub-289F), filed June 9, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road Omaha, NE 68106. Transporting: *zinc, zinc alloys, zinc products, zinc dross, residue or skimmings* between Braddock, PA, and East Liverpool, OH, and points in of CT, DE, MD, PA, WV, OH, MI, IN, KY, NJ, IL, WI, MN, IA, MO, AR, LA, TX, OK, KS, NE, SD, ND, MT, WY, CO, NM, AZ, ID, UT, NV, CA, OR, and WA.

MC 85130 (Sub-11F), filed June 23, 1980. Applicant: BRADLEY'S EXPRESS, INC., 130 Bodwell Street, Avon, MA 02322. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) over regular route (1) between junction U.S. Hwy 7 and the VT–MA State line and junction U.S. Hwy 7 and the MA–CT State line, over U.S. Hwy 7; (2) between junction MA Hwy 8 and the VT–MA State line and junction MA Hwy 8 and the MA–CT State Boundary Line: over MA Hwy 8, (3) Between junction Interstate Hwy 91 and the VT–MA State line and junction Interstate Hwy 91 and the MA–CT State line, over Interstate Hwy 91; (4) between junction MA Hwy 10 and the NH–MA State Line and junction MA Hwy 10 and the MA–CT State line, over MA Hwy 10; (5) between junction MA Hwy 32 and the NH–MA State Line and junction MA Hwy 32 and the MA-CT State Boundary Line, (A) Over MA Hwy 32; and (B) From junction MA Hwy 32 and the NH–MA State Boundary Line over MA Hwy 32 to junction MA Alt. Hwy 32, then over MA Alt. Hwy 32, to junction MA 32, then over MA Hwy 32 to its junction with the MA–CT State line, and return over the same route; (6) Between junction MA Hwy 13 and the NH–MA State Line and junction MA Hwy 12 and the MA–CT State Boundary Line, from junction MA Hwy 13 and the NH–MA State Boundary Line over MA Hwy 13 to junction MA Hwy 12, then over MA Hwy 12 to its junction with the MA–CT State line and return over the same route; (7) Between junction U.S. Hwy 3 and the NH–MA State line and junction Interstate Hwy 495 and Interstate 95, from junction U.S. Hwy 3 and the NH–MA State line over U.S. Hwy 3 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95; (8) Between junction Interstate Hwy 93 and the NH–MA State Boundary Line and junction Interstate Hwy 95, over Interstate Hwy 93; (9) Between junction Interstate Hwy 95 and the NH–MA State line and junction Interstate Hwy 95 and the RI–CT State line, over Interstate Hwy 95; (10) Between Boston MA and Provincetown, MA; from Boston over MA Hwy 3 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Provincetown, and return over the same route; (11) Between Boston, MA and MA–CT State line; From Boston over Interstate Hwy 90 to junction Interstate Hwy 86, then over Interstate Hwy 86 to its junction with the MA–CT State line, and return over the same route; (12) Between Boston, MA and the MA–NY State Boundary Line (A) Over Interstate Hwy 90; and (B) Over MA Hwy 2, serving all intermediate points on Route 1 through 12 above and all other points in MA as off-route points.

Note.—By this application, applicant seeks to convert its irregular-route authority.

MC 95920 (Sub-66F), filed June 26, 1980. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier*, transporting, *chemicals*, in bags, between ports of entry on the international boundary line between the U.S. and Canada in WA, on the one hand, and, on the other, points in OR, and WA, under continuing contract(s) with Van Waters & Rogers, Ltd., of Richmond, B.C., Canada.

MC 105881 (Sub-64F), filed June 20, 1980. Applicant: MR&R TRUCKING COMPANY, a corporation, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th Street, NW., Washington, DC 20036. Transporting: *General Commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment):* (1) Serving those points in FL east of the eastern boundary of Jefferson County, FL, and in and north of Sarasota, De Soto, Hardee, Polk, Oceola, and Indian River Counties, FL, as intermediate or off route points in connection with carrier's otherwise authorized regular routes and (2) Serving (a) the facilities of Union Carbide Corporation at or near Woodbine, GA, and (b) points in Mobile County, AL, and Jackson County, MS, as off-route points in connection with carrier's othewise authorized regular routes.

Note.—Tacking is intended.

MC 106920 (Sub-106F), filed June 27, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting (1) *chemicals, cleaners, scouring compounds, lubricants and foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between New Bremen, OH, on the one hand, and, on the other, those points in the U.S. in and east of WY, MT, UT, and AZ.

MC 110410 (Sub-28F), filed June 24, 1980. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 723 Forrest Rd., N.E., Atlanta, GA 30312. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *textiles*, between points in FL, and GA, and points in Edgefield, Saluda, Aiken, Barnwell, Allendale, and Hampton Counties, SC.

MC 114211 (Sub-470F), filed June 20, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same as applicant). Transporting: *Such commodities* as are dealt in or used by manufacturers and dealers of industrial equipment, between points in Van Buren County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 114211 (Sub-471F), filed June 20, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same as applicant). Transporting *Contractors' machinery and equipment*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by R. T. Madden Company.

MC 114211 (Sub-472F), filed June 23, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same as applicant). Transporting: (1) *Experimental and show display tractors*, agricultural, industrial, construction, and forestry equipment, (2) *parts, attachments, and accessories* for the commodities in (1) above, (3) paraphernalia, which at the time of movement is being transported for purposes of display or experiments, and not for sale, moving between the sites of plants, sales branches, warehouses, experimental stations, farms, shows, exhibits, or field demonstrations owned, operated or used by National Hydro-Ax, Inc., in the U.S. (except AK and HI), and (4) commodities named in (1) and (2) above, from the National Hydro-Ax, Inc. sites named above, to points in the U.S. (except AK and HI).

MC 114211 (Sub-473F), filed June 23, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same as applicant). Transporting: *Such commodities* as are dealt in or used by manufacturers and dealers of animal confinement products, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Maverick Stall Corporation.

MC 114211 (Sub-474F), filed June 20, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same as applicant). Transporting: *Such commodities* as are dealt in or used by manufactures and dealers of agricultural and industrial equipment, between points in McCook County, SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 115931 (Sub-186F), filed June 23, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *structural steel* from the facilities of Mannstedt & Sons, Inc., at or near LaCrosse, WI, to points in the U.S. (except AK and HI).

MC 125951 (Sub-62F), filed June 9, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Rd., Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* (except hides and commodities in bulk) as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation at (a) Albert Lea, MN, and (b) Cherokee, IA, to points in AL, GA, KY, LA, MS, NC, SC, and TN, restricted to traffic originating at the named and destined to the indicated destinations.

MC 126930 (Sub-53F), filed June 23, 1980. Applicant: BRAZOS TRANSPORT CO., a Corporation, 1611 Avenue M, P.O. —, Lubbock, TX 79408. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. Transporting: *roofing materials and materials, equipment and supplies* used in the manufacture, distribution, installation and application of roofing materials (except commodites in bulk) between Slidell, LA, on the one hand; and, on the other, points in AR, OK, MS, MO, KS, CO, NM, NE, SD, ND, IA, IL, TN, AL, TX, MN, and WI.

MC 129600 (Sub-35F), filed June 24, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner (same as applicant). *Contract carrier* transporting: *such commodities* as are dealt in or used by the manufacturer of foodstuffs (except commodities in bulk and those which, because of size or weight, require special equipment) between points in the United States, (except AK and HI), under a continuing contract with H.P. Hood, Inc. of Charlestown, MA. Issuance of a permit in this proceeding is subject to the coincidental cancellation of Permits MC–129600 (Subs 13, 16, 27, and 28).

Note.—Dual operations may be involved.

MC 135070 (Sub-169F), filed June 3, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting: *plastic articles*, from the facilities of Fenwick, a Subsidiary of Woodstream Corporation, at or near Westminster, CA, to points in the U.S. (except AK and HI).

Note.—Dual operations may be involved in this proceeding.

MC 135410 (Sub-103F), filed June 20, 1980. Applicant: COURTNEY J. MUNSON d.b.a., MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting: (1) *Household applicances* from the facilities of Admiral Division of Magic Chef, Inc. at Galesburg, IL, to points in CT, IA, IN, KS, KY, MA, MD, ME, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, TN, VA, VT, WV and WI and (2) *materials, equipment and supplies used in the production of household applicances* from points in IN, MI, NJ, OH, PA, and WI to the facilities of Admiral Division of Magic Chef, Inc. at Galesburg, IL. (Hearing site: Chicago, IL or Washington, D.C.)

MC 142830 (Sub-6F), filed June 19, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 N. Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *Contract Carrier* Transporting (1)(a) *foodstuffs*, and (b) *meats, meat products, meat byproducts* and *articles distributed by meat-packing houses*, as described in Sections A and C in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, foodstuffs, and commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture, and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Swift & Company at or near Rochelle, St. Charles and East St. Louis, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Swift & Company of Chicago, IL.

Note.—Dual operations may be involved.

MC 142830 (Sub-7F), filed June 19, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 N. Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *Contract Carrier* Transporting (1) *foodstuffs*, and *meats, meat products, meat byproducts* and *articles distributed by meat-packing houses*, as described in Sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, foodstuffs, and commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture, and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Swift & Company at or near Cactus, Ft. Worth and San Antonio, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Swift & Company of Chicago, IL.

MC 142830 (Sub-8F), filed June 19, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 N. Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001.

Contract Carrier Transporting: (1) *foodstuffs,* and *meat products, meat* by-products and *articles destributed by meat-packing houses,* as described in Sections A and C to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides, foodstuffs, and commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Swift & Company at or near (a) Glenwood, Sioux City, and Marshalltown, IA; (b) Kansas City, MO; and (c) Omaha, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Swift & Company of Chicago, IL.

MC 143471 (Sub-25F), filed June 19, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 West Boulevard, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Contract Carrier* Transporting: *Stone, Stone Aggregates and whiting* from points in Platte County, WY (a) to those points in the U.S. in and east of MI, IN, KY, TN, and MS, and (b) points in AZ, LA, NM, and TX under a continuing contract(s) with Basins Engineering Co., Inc. of Wheatland, WY.

MC 143500 (Sub-7F), filed March 3, 1980. Applicant: R. B. CARRIERS, INC., P.O. Box 92, Jeffersonville, IN 47130. Representative: James E. Savitz, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Contract carrier,* transporting (A)(1) *steel doors and steel door hardware, and (2) equipment and supplies* used in the installation of the commodities in (1) above; and (B) *plumbing fixtures and fittings,* and *equipment and supplies* used in the installation of plumbing fixtures and fittings, from Cincinnati, OH and Kokomo, IN, to those points in the U.S. in and west of MT, WY, CO, and NM (except AK and HI) under a continuing contract(s) with American Standard, Inc. of New Brunswick, NJ.

MC 143691 (Sub-28F), filed June 16, 1980. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Darryl B. Segraves (same as applicant). *Contract Carrier* Transporting: *such commercial papers, documents and written* instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions between points in Potter and Randall Counties, TX, on the one hand, and, on the other, points in Cimarron, Beaver and Texas Counties, OK and Quay and Union Counties, NM, under continuing contract(s) with Western Data, of Amarillo, TX; The First National Bank of Texhoma, of Texhoma, OK; The First National Bank of Guymon, of Guymon, OK; The City National Bank and Trust Company of Guymon, OK, and, Bank of the Panhandle, of Guymon, OK.

MC 143710 (Sub-1F), filed June 23, 1980. Applicant: KAL AUTO TRANSPORT, INC., Pier 70, San Francisco, CA 94107. Representative: David J. Marchant, Esq., Graham & James, One Maritime Plaza, Suite 300, San Francisco, CA 94111. *Contract Carrier* Transporting *new* automobiles from Benicia, CA to points in WA, UT, and CO under a continuing contract(s) with Jaguar, Rover, Triumph, Inc., of Brisbane, CA.

MC 143921 (Sub-3F), filed February 25, 1980. Applicant: BAMA EXPRESS, INC., P.O. Box 222, Tuscaloosa, AL 35401. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *concrete products,* and (2) *materials, equipment and supplies* used in the installation and distribution of concrete products, from the facilities of Tuscaloosa Concrete Pipe Co., at or near Tuscaloosa, AL, to points in MS, TN, GA, and FL.

MC 143921 (Sub-4F), filed June 20, 1980. Applicant: BAMA EXPRESS, INC., P.O. Box 222, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., Esq., 603 Frank Nelson Building, Birmingham, AL 35203, (205) 251–2881. Transporting (1) *metal articles, fabrications, pipe, gaskets, casings, fittings, breechings, valves, hydrants, boxes, tanks and vessels;* (2) *plastic articles;* (3)(a) *bath and shower enclosures, modules, doors and windows, and* (b) *parts and accessories for* (a)(4) *materials, equipment, supplies used in the manufacture, distribution or installation of commodities in (1), (2), and (3)* (except commodities in bulk, in tank vehicles between points in Tuscaloosa County, AL, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 144011 (Sub-2F), filed June 12, 1980. Applicant: HALL SYSTEMS INC., 214 So. 10th St., Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *foodstuffs,* from those points in LA on and south of a line beginning at the junction LA Hwy 12 and TX–LA State Line, and extending along LA Hwy 12 to junction U.S. Hwy 190, then along U.S. Hwy 190 to the Mississippi River, then along the Mississippi River to the LA–MS State line, then along the MS–LA State Line to the Gulf of Mexico, then along the Gulf of Mexico to points in AL.

MC 144121 (Sub-5F), filed June 20, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting (a) *Heating units,* and (b) *materials, equipment and supplies* used in the manufacture of (a), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Danart, Inc., or its customers or supplies.

Note.—Dual operations may be involved in this proceeding.

MC 144740 (Sub-26F), filed May 23, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same as applicant). *Contract Carrier* transporting: *curtains and drapes* (1) from Bridgeport, CT to Pinebluff, NC; and (2) from Pinebluff, NC to Los Angeles, CA, under a continuing contract or contracts with Century Curtain Company, Inc., of Pinebluff, NC.

MC 145441 (Sub-116F), filed May 19, 1980. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting: (a) *canned goods and (b) non-alcholic mixes* (except in bulk) from Byhalia, MS to those points in the U.S. on the east of ND, SD, NE, KS, OK, and TX.

MC 146551 (Sub-11F), filed June 26, 1980. Applicant: TAYLOR TRANSPORT, INC., P.O. Box 285, Grand Rapids, OH 43522. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Ralston Purina Company.

MC 146691 (Sub-3F), filed June 23, 1980. Applicant: JED, INC., P.O. Box 123, Milton, DE 19968. Representative: Wayne D. Hudson (same address as applicant). Transporting: *Railroad Cross Ties* from those points in DE, MD, and VA south of the Chesapeake and Delaware Canal on the Delmarva Peninsula to the facility of Koppers Company, Inc. at or near Montgomery, PA.

MC 146730 (Sub-9F), filed February 25, 1980. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 195, Sedalia, MO 65301. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101. Transporting *steel pipe,* from the facilities of Maverick Tube Corporation at or near Union, MO, to points in AR, LA, OK, and TX.

MC 148040 (Sub-2F), filed June 23, 1980. Applicant: GEORGE SABALUSKI, R.D. 1, Box 281F, Sweet Valley, PA 18656. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Transporting *empty metal containers* from Hanover Township, PA to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, OH, OK, TX, and WI.

MC 148370 (Sub-7F), filed June 27, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). *Contract carrier,* transporting (1) *paper, paper products, and copper flashing,* and (2) *supplies* used in the distribution of the commodities in (1) from the facilities of the Fortifiber Corporation at Attleboro, MA, to points in the U.S. (except AK and HI) and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) in the reverse direction, under continuing contract(s) with the Fortifiber Corporation, of Attleboro, MA.

MC 148710 (Sub-5F), filed June 19, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Road, Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *Contract carrier,* transporting: (1) *metal and metal products;* and (2) *material, equipment and supplies* used in the production or distribution of metal and metal products; (except commodities in bulk), between points in the U.S. (except AK and HI), under a continuing contract(s) with Taracorp, Inc., of Atlanta, GA.

MC 148710 (Sub-6F), filed June 19, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Road, Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *Contract carrier,* transporting: (1) *canned dog food,* from Atlanta, GA, to points in the U.S. (except AK and HI), and (2) *metal cans,* from Atlanta, GA, to those points in the U.S. in and east of MN, IA, MO, AR, and TX, under a continuing contract(s) with Allied Foods, Inc., of Atlanta, GA.

MC 149121 (Sub-2F), filed June 23, 1980. Applicant: GROAT BROTHERS, INC., d.b.a. WOODWASTE CO. & COLUMBIA WOODWASTE CO., P.O. Box 111, Ridgefield, WA 98642. Representative: Lloyd L. Groat (same as applicant). *Contract carrier,* transporting *wood residuals,* from Clatskanie, OR, to Longview, WA, under a continuing contract(s) with Beaver Lumber Co., of Clatskanie, OR.

MC 150101 (Sub-3F), filed June 27, 1980. Applicant: BLAZER EXPRESS, INC., Rt. 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier,* transporting *boiler tubes,* from Lyman, SC, to points in the U.S. (except AK and HI), under continuing contract(s) with Boiler Tube Company of America, of Lyman, SC.

MC 150200 (Sub-1F), filed June 16, 1980. Applicant: BRAVE TRANSPORT, INC., 3181 Bankhead Highway, Room 100, Atlanta, GA 30318. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Contract carrier,* transporting *iron and steel articles,* from the facilities of or used by Atlantic Steel Co., at or near Atlanta, Cartersville and Tallapoosa, GA, to those points in the U.S. on and east of U.S. Hwy 85, and points in CA, CO, NV, and UT, under continuing contract(s) with Atlantic Steel Co., of Atlanta, GA.

MC 150390 (Sub-1F), filed June 23, 1980. Applicant: JAMES R. COLLINS d.b.a. J & J TRUCKING COMPANY, Route 2, Box 148, Boonsboro, MD 21713. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract Carrier* Transporting: (1) *cement* in bags, from Security, MD, to points in VA and DC; and (2) *Stone dust,* from Frederick, MD, to Herndon, VA.

MC 150450 (Sub-1F), filed June 23, 1980. Applicant: WILLIAM C. COBURN, 1004 Hickory Avenue, Berryville, AR 72616. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Transporting: *Livestock feed and supplements,* from Springfield, MO to points in Carroll, Boone and Madison Counties, AR.

MC 150460 (Sub-1F), filed June 20, 1980. Applicant: GRAVES TRUCKING, 6121 Old Seward Highway, Anchorage, AK 99502. Representative: Richard C. Graves, P.O. Box 8 C, Anchorage, AK 99508. Transporting *General Commodities* (except classes A and B explosives, commodities in bulk in tank vehicles, those which because of size or weight require the use of special equipment, and household goods as defined by the Commission). Between Anchorage, AK on one hand and on the other, Hope, Seward, Chintna, Valdez, and Cordova, AK.

MC 150631 (Sub-1F), filed June 23, 1980. Applicant: HENRY W. FREDENBERG, Route 1, 2360 Uphoff Road, Cottage Grove, WI 53527. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Contract Carrier transporting particleboard, and lumber from points in the U.S. to Cottage Grove, WI, under a continuing contract(s) with Badger Wholesale Lumber, Inc., of Cottage Grove, WI 53527.

MC 150790 (Sub-1F), filed June 20, 1980. Applicant: ALLIANCE MOVING AND STORAGE, INC., 13150 Pavilion Lane, Fairfax, VA 22310. Representative: Jacob P. Billig, 2033 K Street, NW., Washington, DC 20006. Transporting household goods as defined by the Commission between (1) points in MD, VA, and DC, on the one hand, and, on the other, points in the U.S. (including AK and HI) and (2) between points in VA, MD, and DC.

MC 150830F, filed May 13, 1980. Applicant: JORGENSEN BROS. TRUCKING, P.O. Box 292, Hurley, SD 57036. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. *Contract carrier,* transporting *lumber and lumber mill products,* from points in CA, ID, MT, OR, and WA to points in IA, MN, and SD, under continuing contract(s) with Sprenger Midwest, Inc., and Allied Midwest Merchandisers, Inc., both of Sioux Falls, SD.

MC 151040F, filed June 11, 1980. Applicant: RTL HOLDINGS, INC., 2050 Kings Rd., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Contract carrier,* transporting *such commodities* as are dealt in by chain groceries and food business houses (except commodities in bulk, in tank vehicles), between the facilities of Smitty's Super Valu, Inc., at or near Phoenix, AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Smitty's Super Valu Stores, of Phoenix, AZ.

MC 151101 (Sub-1F), filed June 23, 1980. Applicant: FRANK H. AMATISTO d.b.a. F. A. DELIVERY SERVICE, 1666 Meade St., North Bend, OR 97459. Representative: Frank H. Amatisto (same address as applicant). *Contract carrier,* transporting (a) *personal care and home care products, jewelry, and food supplements* and (b) *materials, equipment, and supplies* used in the distribution of the commodities in (a), from Medford, OR, to points in Douglas, Curry, Coos, Lane, and Lincoln Counties, OR, under continuing contract(s) with Amway Corporation, of Kent, WA.

MC 151140F, filed June 18, 1980. Applicant: PULP TRANSPORT

CORPORATION, P.O. Box 1205, 1200

Transporting passengers and their

Cape Girardeau, MO. (Hearing site: St.

foodstuffs in containers, from the

MC 59150 (Sub-179F), filed April 28,

servicing, maintenance, and dismantling

CORPORATION, P.O. Box 1305, 1000 East Noir St., Lumberton, NC 28358. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Transporting *paper and paper products* from Greenwich, NY, and points in MA to points in the U.S. (except AK and HI).

Passengers

MC 3600 (Sub-9F), filed June 23, 1980. Applicant: FRANK MARTZ COACH COMPANY, a corporation, 239 Old River Road, Wilkes-Barre, PA 18701. Representative: S. Berne Smith, Esq., P.O. Box 1166, Harrisburg, PA 17108. *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in NY, NJ, PA, MD VA, DE, CT, and DC, and extending to points in the U.S. (including AK, but excluding HI), limited to transportation in vehicles with a seating capacity not to exceed 25 passengers.

MC 138730 (Sub-6F), filed June 23, 1980. Applicant: CARAVAN TOURS, INC., R.D. 3, Box 451, Wharton, NJ 07885. Representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Transporting: *passengers and their baggage in the same vehicle with passengers, in special operations*, from New York, NY and points in Nassau, Suffolk, Rockland and Westchester Counties, NY; NJ and those of PA east of the Susquehanna River, to the site of 1982 World's Fair to Knoxville, TN and return.

MC 150100 (Sub-1F), filed June 19, 1980. Applicant: SUN WEST STAGES, INC., 6112 Fruit Valley Road, Vancouver, WA 98660. Representative: David C. White, 2400 SW. Fourth Avenue, Portland, OR 97201. *Contract Carrier* Transporting *passengers* and their baggage in the same vehicle with passengers baggage (1) between Ocean Park, WA and Astoria, OR, from Ocean Park over WA Hwy 103 to Ilwaco, WA, then over US Hwy 101 to Astoria, and return over the same route, serving all intermediate points and off-route point of Nahcotta, WA. (2) between Naselle, WA and Astoria, OR. From Naselle over WA Hwy 4 to junction with WA Hwy 401, then over WA Hwy 401 to junction US Hwy 101, then over US Hwy 101 to Astoria, and return over the same route, serving all intermediate points, under a continuing contract(s) with Pacific Transit System of South Bend, WA.

MC 151061 (Sub-1F), filed June 18, 1980. Applicant: ROBERTS HOLIDAY LINES, INC., 930 Poinsettia Ave., Santa Ana, CA 92710. Representative: Gregory R. Erbe (same address as applicant). Transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in AZ, NV, and UT.

Vol. No. 283

Decided: June 27, 1980.

By the Commission, Reivew Board No. 2, Members Chandler, Eaton and Liberman.

MC 531 (Sub-449F), filed May 19, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting, *liquid chemicals*, in bulk, in tank vehicles, from Dighton, MA to points in the U.S. (except AK and HI).

MC 11220 (Sub-214F), filed May 27, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Union Chain Co., at or near Union, MS, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Jackson, MS.)

MC 29510 (Sub-9F), filed April 29, 1980. Applicant: EVANS TRANSPORTATION CO., a corporation, 7800 Route No. 13, Levittown, PA 19057. Representative: Robert L. Evans, Sr. (same address as applicant). Transporting (1) *iron and steel products* and (2) *equipment, materials and supplies* used in the manufacture of iron and steel products, between Fairless Hills, PA, on the one hand, and, on the other, points in AL, CT, FL, GA, KY, MA, ME, NC, NH, RI, SC, VA, VT, and WV. (Hearing site: Philadelphia, PA, or Washingon, DC.)

MC 29910 (Sub-283F), filed May 27, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Dexter and Bernie, MO, as off-route points in connection with carrier's otherwise authorized regular-route operations at Cape Girardeau, MO. (Hearing site: St. Louis, MO, Memphis, TN, or Washington, DC.)

MC 35320 (Sub-593F), filed May 19, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Mountain City, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 41951 (Sub-51F), filed May 19, 1980. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting *dry chemicals* (except in bulk), from points in DE, MD, NJ, NY, and OH, to points in DE, MD, VA, and DC. (Hearing site: Cambridge, MD.)

MC 52460 (Sub-276F), filed April 14, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *cloth articles, plastic articles, and paper and paper products* (except commodities in bulk), between points in AR, KS, LA, MS, MO, OH, OK, SC, TX, and WI, on the one hand, and on the other, Memphis, TN, restricted to the traffic originating at or destined to the facilities of Southern Wiping Cloth. (Hearing site: Memphis, TN.)

MC 52460 (Sub-277F), filed April 28, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 West 35th Street, Tulsa, OK 74107. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Arkansas City, KS, to Roswell, NM. (Hearing site: Roswell, NM.)

MC 52460 (Sub-277F), filed April 28, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 West 35th Street, Tulsa, OK 74107. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Transporting

foodstuffs in containers, from the facilities of Yoo-Hoo of Florida Corporation at or near Hialeah, FL, to points in AL, AR, GA, KS, LA, MS, MO, OK, and TX. (Hearing site: Hialeah, FL.)

MC 52580 (Sub-7F), filed April 28, 1980. Applicant: COLUMBIAN STORAGE & TRANSFER CO., a corporation, 900 Hall St. S.W., Grand Rapids, MI 49502. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. Transporting *general commodities*, (except classes A and B explosives, automobiles, trucks, cabs, chassis, and buses, household goods as defined by the Commission and commodities in bulk), from points in MI to Grand Rapids, MI. (Hearing site: Grand Rapids, MI.)

MC 53841 (Sub-44F), filed May 27, 1980. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Transporting *transformers and transformer parts, storage batteries, regulators and regulators parts, iron and steel pole line construction material, capacitors, transclosure housing, insulators, lightning arrestors, cutouts, circuit breakers and circuit breaker parts*, between those points in the U.S. east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, restricted to traffic originating at or destined to the facilities of McGraw Edison Power Systems Group. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 59150 (Sub-177F), filed April 28, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *waste paper and scrap paper*, from points in AL, AR, DE, FL, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC, to the facilities of the Georgia Kraft Corp., at Macon, GA. (Hearing site: Jacksonville, FL.)

MC 59150 (Sub-178F), filed April 28, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *concrete products*, from Knoxville, TN, to points in FL, AL, GA, NC, SC, LA, MS, and VA. (Hearing site: Jacksonville, FL.)

MC 59150 (Sub-179F), filed April 28, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *construction materials*, and *equipment, materials and supplies* used in the manufacture, installation, or distribution of construction materials, between Tucker, GA, on the one hand, and, on the other, points in AL, FL, MS, NC, SC, TN, and VA. (Hearing site: Jacksonville, FL.)

MC 61440 (Sub-191F), filed May 27, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd Street, Oklahoma City, OK 73157. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Magma Copper Company, at San Manuel, AZ, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tucson, AZ.)

MC 75320 (Sub-227F), filed April 28, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *aluminum scrap, ingots, slabs, billets, blooms, cable, and alumina*, from points in Saline and Garland Counties, AR, to points in IL, IN, OH, WI, and those in PA on and west of U.S. Hwy 219. (Hearing site: Little Rock, AR.)

MC 80730 (Sub-5F), filed April 29, 1980. Applicant: MAGNOLIA TRANSPORTATION CO., INC., 5121 Oates Road, P.O. Box 24458, Houston, TX 77012. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, (3) *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines other than those used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the traffic moving to or from pipe line rights-of-way, and (4) *earth drilling machinery and equipment, and machinery, equipment, materials, and supplies* used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in LA, those in TX on, south, and east of a line beginning at the AR–TX State line and extending along Interstate Hwy 30 to Dallas, TX, and then along Interstate Hwy 45 to the Gulf of Mexico, those in Montgomery, Harris, and Galveston Counties, TX, west of Interstate Hwy 45, those in Waller, Fort Bend, and Brazoria Counties, TX, and those in MS on and south of Interstate Hwy 20, on the one hand, and, on the other, points in MS, AL, GA, and FL. (Hearing site: Houston, TX and New Orleans, LA.)

MC 85970 (Sub-33F), filed May 27, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrock Street, Dyersburg, TN 38024. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. Transporting (1) *fibreboard*, and (2) *materials, equipment and supplies* used in the manufacture, distribution or sale of fibreboard, between the facilities of Colonial Fiber, at or near Covinton, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Memphis, TN.)

MC 88161 (Sub-98F), filed May 16, 1980. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Representative: Stephen A. Cole (same address as applicant). Transporting *liquid resins*, in bulk, in tank vehicles, and *resin catalysts*, in containers from Longview, WA, to points in OR, ID, MT, UT, and CA. (Hearing site: Seattle, WA.)

Note.—Dual operations may be involved.

MC 93840 (Sub-57F), filed April 15, 1980. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 72726. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *chemicals*, from Buffalo, IA, to points in IA, IL, IN, MN, MO, NE,

MD, SD, WI, and MT. (Hearing site:

to traffic originating at or destined to the

emulsion, in bulk, in tank vehicles, from

MC 117760 (Sub-7F), filed May 27,

accessories, materials, and supplies

Corp. (Hearing site: Panama City or

MD, SD, WI, and MT. (Hearing site: Kansas City, MO.)

MC 95540 (Sub-1160F), filed April 14, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *swinging meat*, from Albemarle, NC, to Denver, CO. (Hearing site: Charlotte, NC; Washington, DC; Tampa, FL.)

MC 97251 (Sub-12F), filed May 27, 1980. Applicant: TURNER TRUCKING COMPANY, INC., 1215 W. Main St., Lebanon, IN 46052. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *steel forgings*, from Champaign, IL, to Lafayette, IN. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 99680 (Sub-9F), filed April 28, 1980. Applicant: NORTH SHORE & CENTRAL ILLINOIS FREIGHT CO., a corporation, 7701 W. 9th Street, Hickory Hills, IL 60457. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Brookport, IL, and Paducah, KY, from over U.S. Hwy 45, serving no intermediate points, and (2) between East Cape Girardeau, IL, and Cape Girardeau, MO, over IL Hwy 146, MO, serving no intermediate points. (Hearing site: Chicago, IL.)

Note.—Applicant tends to tack this authority with its existing regular-route authority.

MC 105501 (Sub-47F), filed April 29, 1980. Applicant: TERMINAL WAREHOUSE COMPANY, a corporation, 1651 Raddison Road N.E., Blaine, MN 55434. Representative: Joseph J. Dudley, W–1260 First National Bank Bldg., Saint Paul, MN 55101. Transporting *beverages*, (except commodities in bulk, in tank vehicles), from Cold Spring, MN, to LaCrosse, WI. (Hearing site: St. Paul, or Minneapolis, MN.)

MC 108341 (Sub-186F), filed April 15, 1980. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting (1) *pulp and paper mill machinery*, (2) *parts, attachments, and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) and (2) above (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by KMW-Johnson, Inc. (Hearing site: Charlotte, NC or Washington, DC.)

MC 108380 (Sub-108F), filed April 14, 1980. Applicant: JOHNSTON'S FUEL LINERS, INC., 808 Birch Street, Newcastle, WY 82701. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Transporting *salt*, in bulk, from Salt Lake City, UT, to points in Campbell, Weston, Crook, and Converse Counties, WY. (Hearing site: Salt Lake City, UT or Cheyenne, WY.)

MC 110841 (Sub-21F), filed April 15, 1980. Applicant: PORT NORRIS EXPRESS CO., INC., 28 South High Street, Port Norris, NJ 18349. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post office Box 1240, Arlington, VA 22210. Transporting (1) *sand, gravel, clay, and stone*, and (2) *materials* used in the manufacture and distribution of glass, in bulk, between those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 111231 (Sub-304F), filed April 28, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., For Smith, AR 72902. Transporting (1) *asphalt, building materials, and insulation materials* (except commodities in bulk), and (2) *materials and supplies* used in the installation of the commodities named in (1) above (except commodities in bulk), between points in Dallas County, TX, on the one hand, and, on the other, points in AL, AR, CO, GA, KS, LA, MO, MS, NM and OK. (Hearing site: Dallas, TX.)

Note.—Applicant states an ability to tack at Dallas with regular route authority to serve points in IA, IL, IN, NE, and KY.

MC 111401 (Sub-600F), filed April 15, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). In foreign commerce only, transporting *diesel fuel*, in bulk, in tank vehicles, from Brownsville, TX, to El Paso, TX. (Hearing site: Houston or Forth Worth, TX.)

MC 111401 (Sub-601F), filed April 29, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same as applicant). Transporting (1) *liquefied petroleum gases*, in bulk, in tank vehicles, from Blackwell, OK, to points in GA, IL, IN, and those in MO south of U.S. Hwy 50; and (2) *asphalt emulsion*, in bulk, in tank vehicles, from Stroud, OK, to Waukegan, IL, and Fort Dodge, IA. Condition: To the extent the certificate issued in this proceeding authorizes the transportation of liquefied petroleum gases, it shall be limited in point of time to a period expiring 5 years from its date of issue. (Hearing site: Chicago, IL or Fort Worth, TX.)

MC 113140 (Sub-4F), filed April 14, 1980. Applicant: STEEL TRANSPORTERS OF CALIFORNIA, a corporation, 607 West B. Street, Wilmington, CA 90744. Representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Ca 94111. Transporting *iron and steel articles, aluminum ingots, and sheets, zinc, alloys, machinery, and machinery parts*, (a) between points in CA, and (b) between points in CA, on the one hand, and, on the other, points in OR, WA, ID, UT, NV, CO and AZ. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: San Francisco, CA.)

MC 115181 (Sub-39F), filed May 27, 1980. Applicant: HAROLD M. FELTY, INC., R.D. #1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn Street, Reading, PA 19601. Transporting *brick*, between Watsontown, PA, on the one hand, and, on the other, points in NJ, NY, and CT, PA, NY, and MA, (2) *talc and soap stone*, in bags, between, Gouverneur, NY, on the one hand, and, on the other, points in PA, KY and TN. (Hearing site: Reading or Philadelphia, PA.)

MC 116300 (Sub-82F), filed May 27, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *ground limestone*, from points in AL, to points in AR, LA, MS, TN, and TX. (Hearing site: Birmingham, AL.)

MC 117730 (Sub-77F), filed April 28, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 No. LaSalle St., Chicago, IL 60602. Transporting (1) *castings*, from Cookeville, TN, to those points in the U.S. in and east of MT, WY, CO, and MN, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of castings, in the reverse direction. (Hearing site: Chicago, IL.)

MC 117760 (Sub-7F), filed May 27, 1980. Applicant: FLOYD A. SCHEIB, INC., P.O. Box 528, 609 Main Street, Hegins, PA 17938. Representative: John W. Dry, 541 Penn Street, Reading, PA 19601. Transporting (1) *clay*, in bags, between Claybourne, KY, on the one hand, and, on the other, points in TN, to points in PA, NY, and MA, (2) *talc and soap stone*, in bags, between, Gouverneur, NY, on the one hand, and, on the other, points in PA, KY and TN. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 119631 (Sub-39F), filed May 27, 1980. Applicant: DEIOMA TRUCKING COMPANY, a Corporation, P.O. Box 3315, Mount Union Station, Alliance, OH 44601. Representative: Lawrence E. Lindeman, 425 13th Street, Suite 1032, Washington, DC 20004. Transporting (1) *clay products, refactories, and refractory products*, and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (1) between the facilities of General Refractories Co., at or near (a) Rockdale, IL, (b) Gary, IN, (c) Hitchins, KY, (d) Baltimore, MD, (e) Warren, OH, and (f) Claysburg, Salina, and Sproul, PA, on the one hand, and, on the other, those points in the U.S. in and east of AZ, UT, ID, MT; and (2) between the facilities of Harbison-Walker Refractories at or near (a) Bessemer, Eufala, and Fairfield, AL, (b) Brunswick and Calhoun, GA, (c) Hammond, IN, (d) Baltimore, Jennings, and Leslie, MD, (e) Ludington, MI, (f) Fulton and Vandalia, MO, (g) Cape May, NJ, (h) Portsmouth and Windham, OH, and (i) Mt. Union, Clearfiled, and Templeton, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 120581 (Sub-2F), filed April 29, 1980. Applicant: P & L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Transporting (1)(a) *plastic and vinyl building materials, siding, window profiles, and insulation board*, and (b) *accessories* for the commodities in (1)(a) above, from Weatherford and Saginaw, TX, to points in the U.S. (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction.

MC 120761 (Sub-63F), filed May 15, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Transporting *air conditioning equipment, and accessories, materials, and supplies* used in the distribution, installation and operation of air conditioning equipment, from the facilities of General Electric Company, CAC Division, at or near Fort Smith, AR, to points in the U.S. (except AK and HI). (Hearing site: Fort Worth or Dallas, TX.)

MC 120910 (Sub-49F), filed April 14, 1980. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Transporting (1) *metal articles, fabrications, pipe, gaskets, casings, fittings, breeching, valves, hydrants, boxes, tanks, and vessels;* (2) *plastic and plastic products;* (3)(a) *bath and shower enclosures, modules, doors, and windows*, and (b) *parts and accessories* for the commodities in (3)(a), and (4) *materials, equipment, and supplies* used in connection with the manufacture, distribution, or installation of the commodities in (1), (2), and (3) above, Between points in Tuscaloosa County, AL, on the one hand, and point in the U.S., on the other (except AK and HI), restricted against transportation of commodities in bulk, in tank vehicles.

MC 121060 (Sub-124F), filed May 27, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: Ronald F. Harris (same address as applicant). Transporting (1) *nuts, bolts, scrap metals, and iron and steel articles*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Birmingham Bolt Company in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Birmingham, AL; Washington, DC.)

MC 121060 (Sub-125F), filed May 27, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1)(a) *iron and steel articles and pipe*, from points in Bay County, FL, to points in the U.S. (except AK and HI); and (b) *materials, supplies, and equipment* used in the manufacture and distribution of the the commodities in (1)(a) above (except commodities in bulk) in the reverse direction; and (2) *iron and steel articles and pipe, and materials, supplies and equipment* used in the manufacture and distribution of iron and steel articles and pipe (except commodities in bulk) between points in the U.S (except AK and HI), restricted in (2) to traffic originating at or destined to the facilities used by the Berg Steel Pipe Corp. (Hearing site: Panama City or Pensacola, FL.)

MC 121081 (Sub-2F), filed April 29, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Anson, Bladen, Brunswick, Columbus, Craven, Durham, Duplin, Forsyth, Greene, Guilford, Lee, Lenoir, Moore, Mecklenburg, Montgomery, New Hanover, Onslow, Robeson, Richmond, Sampson, Stanly, Vance, Wake, Washington, Wilson, and Wayne Counties, NC, and (2) *building materials*, and *household goods*, as defined by the Commission, between points in NC. Condition: Issuance of a certificate in this proceeding is conditioned upon the prior coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–121081 Sub 1. (Hearing site: Charlotte, NC or Washington, DC.)

Note.—The purpose of this application is to convert the certificate of registration in MC–121081 Sub 1, to a certificate of public convenience and necessity.

MC 121081 (Sub-3F), filed April 29, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) *iron and steel articles*, (a) from points in Mecklenburg County, NC, to points in AL, FL, GA, KY, MD, OH, SC, TN, VA, WV, and DC, (b) from Raleigh, NC, to points in MD, SC, TN, VA, and DC, (c) from points in Aiken County, SC, to points in GA and NC, and (2) *iron and steel articles, and equipment, materials, and supplies* used in the fabrication, distribution, and sale of iron and steel articles, from points in AL, FL, GA, KY, MD, OH, SC, TN, VA, WV, and DC, to points in Aiken County, SC, Mecklenburg County, NC, and Raleigh, NC. Condition: Issuance of a certificate is conditioned upon the successful conversion of applicant's certificate of registration to a certificate of public convenience and necessity in MC–12108 Sub 2F. (Hearing site: Charlotte, NC or Washington, DC.)

MC 121470 (Sub-64F), filed April 28, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan Street, Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). Transporting *self-propelled articles, each weighing 15,000 pounds or more*, (1) from Peoria, IL, to

points in TN, and (2) from the facilities of Thompson and Green Machinery Co., Inc., at LaVergne, TN, to points in GA, KY, NC, and SC. (Hearing site: Nashville, TN.)

MC 121470 (Sub-65F), filed May 16, 1980. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan Street, Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). Transporting *iron and steel articles*, between Forest Part, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL.)

MC 123821 (Sub-15F), filed May 23, 1980. Applicant: LESTER R. SUMMERS, INC., P.O. Box 239, Ephrata, PA 17522. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting (1) *precast and prestressed concrete*, from Chambersburg, Hatfield, Cressona, and Roaring Spring, PA, Kresson, Berlin, Vineland, and Buena, NJ, Davidsonville, MD, Winchester, VA, and Syracuse, NY, to points in PA, DE, MD, NJ, NY, VA, WV, OH, and DC, restricted to traffic originating at the named origins and destined to the indicated destinations; (2) *sand, gravel, and stone*, in bulk, in dump vehicles, from points in Baltimore and Cecil Counties, MD, to points in Lancaster, Dauphin, and Lebanon Counties, PA; (3) *solite*, in bulk, in dump vehicles, from the plantsite of Northeast Solite Corporation, at Saugerties, NY, to points in Berks and Lancaster Counties, PA; and (4) *sand and gravel*, from points in Cumberland County, NJ, to points in Lancaster County, PA. (Hearing site: Harrisburg, PA; Washington, DC.)

MC 124170 (Sub-152F), filed May 27, 1980. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Transporting *such commodities* as are dealt in or used by manufacturers, distributors, and wholesalers of health and beauty aids, between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 125951 (Sub-58F), filed April 14, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *household products*, from Traverse City, MI, to the facilities of Interiors of America, Inc., at or near Omaha, NE, restricted to traffic originating at the named origin and destined to the named destination. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 127651 (Sub-63F), filed May 27, 1980. Applicant: EVERETT G. ROEHL, INC., East 29th Street, Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *wood articles and plastic articles, and materials, equipment, and supplies* used in the manufacture and distribution of wood articles and plastic articles, between the facilities of Teledyne Owen Division of Teledyne Industries, Inc. at or near Owen, WI, on the one hand, and, on the other hand, points in AR, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, and TN. (Hearing site: Minneapolis, MN; Milwaukee, WI.)

MC 127840 (Sub-163F), filed April 28, 1980. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *vegetable oil*, in bulk, in tank vehicles, from the facilities of Agri Industries, at Manning, IA to points in IL, KS, MN, MO, NE, OK, SD, TX, and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 129480 (Sub-58F), filed May 27, 1980. Applicant: TRI–LINE EXPRESSWAYS LTD., P.O. Bag 1212, Stn. T, Calgary, Alberta, Canada T2H 2J1. Representative: Richard S. Mandelson, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. In foreign commerce only, transporting (1) *horticultural mulch*, in bags, from Cloquet, MN, to the ports of entry on the International boundary line between the U.S. and Canada; and (2) *plastic bedding plant containers*, from Little Falls, MN, to the ports of entry on the international boundary line between the U.S. and Canada. (Hearing site: Minneapolis, MN.)

MC 133591 (Sub-101F), filed April 15, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Transporting *prepared foodstuffs*, from Denison, TX, to points in WA, OR, CA, NV, ID, MT, UT, AZ, CO, MN, SD, NE, KS, OK, LA, TX, AR, and MO. (Hearing site: Dallas, TX.)

MC 133591 (Sub-106F), filed May 27, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel (same as applicant). Transporting *paper and paper products*, from the facilities of Potlatch Corporation at Lewiston, ID, to points in AR, AZ, CO, IA, IL, IN, KS, MO, NE, NM, OK, and TX. (Hearing site: Seattle, WA; Portland, OR.)

MC 133630 (Sub-11F), filed April 28, 1980. Applicant: KING BROS. TRUCKING, INC., Rural Route 2, Ashkum, IL 60911. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. Transporting *feed ingredients*, from the facilities of Occidental Chemical Company, at Ashkum, IL, to points in IN, IA, KY, MI, MN, MO, OH, TN, and WI. (Hearing site: Springfield, IL or St. Louis, MO.)

MC 134970 (Sub-30F), filed April 28, 1980. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting *agricultural chemicals* (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Monsanto Company. (Hearing site: St. Louis, MO.)

MC 134970 (Sub-31F), filed April 28, 1980. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting *meats, meat products*, and *meat by-products*, used in the manufacture of pet foods, (except commodities in bulk), from points in IL, IA, MN, NE, and SD, to Muscatine, IA, and Peoria, IL. (Hearing site: San Francisco, CA.)

MC 134970 (Sub-32F), filed May 27, 1980. Applicant: UNZICKER TRUCKING, INC., Post Office Box 35, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting *paper and paper products, aluminum foil, and sealing tape*, from the facilities of St. Regis Paper Co., at Troy, OH, to Peoria, IL. (Hearing site: Chicago, IL.)

MC 135221 (Sub-20F), filed April 14, 1980. Applicant: DICK SIMON TRUCKING, INC., 9541 South 5250 West, West Jordan, UT 84084. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting (1) *appliances* and (2) *materials, supplies, and equipment* used in the distribution or repair of appliances, from the facilities of Whirlpool Corporation at Clearfield, UT, to points in CA, NV, OR, and WA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 135221 (Sub-21F), filed April 28, 1980. Applicant: DICK SIMON TRUCKING, INC., P.O. Box 26724, Salt Lake City, UT 84125. Representative: R. D. Simon (same address as applicant). Transporting (1) *juvenile furniture*, between the facilities of Graco Children Products, at or near (a) Blue Ball, Elverson, and Hallam, PA, (b) Rochester, NY, and (c) West Rutland, VT, on the one hand, and, on the other, point in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 135241 (Sub-6F), filed May 27, 1980. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 S.W. Edy Road, Sherwood, OR 97140. Representative: John A. Anderson, Suite 1440, 200 S.W. Market Street, Portland, OR 97201. *Contract carrier*, transporting *beer and wine* (except in bulk) (1) from points in CA to the facilities of Consolidated Beverages, Inc., at or near Edmonds, WA, under continuing contract(s) with Consolidated Beverages, Inc., of Edmonds, WA; and (2) from points in CA to the facilities of LaFrance Wine Company, at or near Portland, OR, under continuing contract(s) with LaFrance Wine Company, of Portland, OR. (Hearing site: Portland, OR.)

MC 136881 (Sub-4F), filed May 27, 1980. Applicant: GARRITY TRUCKING, INC., 110 Main Street, Fortville, IN 46040. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier*, transporting *plastic sheets*, from Ottowa, IL, and Milford, DE, to points in the U.S. (except AK and HI), under continuing contract(s) with Envirotech Corporation. (Hearing site: Chicago, IL; Indianapolis, IN.)

MC 138000 (Sub-72F), filed May 27, 1980. Applicant : ARTHUR H. FULTON, INC., Post Office Box 86; Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., Hagerstown, MD 21740. Transporting *automotive headliners and piece goods*, from Greensboro, NC, to points in MI, OH, and PA. (Hearing site: Greensboro, NC.)

Note.—Dual operations may be involved.

MC 140101 (Sub-8F), filed April 14, 1980. Applicant: I.T.A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting (1) *wire and wire products* from Appleton, WI to points in the U.S. (except AK, CT, HI, IL, MA, NJ, NY, OH, PA, and RI), (2) *materials, equipment, and supplies* used in the manufacture or distribution of wire and wire products (except commodities in bulk, in tank vehicles), in the reverse direction, (3) *plastic and metal forming wire*, from Appleton, WI to points in the U.S. (except AK and HI), and (4) *materials, equipment, and supplies* used in the manufacture or distribution of plastic and metal forming wire, in the reverse direction. (Hearing site: Madison or Appleton, WI.)

MC 142941 (Sub-64F), filed April 28, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). Transporting *paper and paper products* (except commodities in bulk), from Phoenix, AZ, to points in CA, CO, MN, TX, WA, and UT. (Hearing site: Phoenix, AZ, or San Francisco, CA.)

MC 142941 (Sub-65F), filed April 29, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). Transporting *electrical transformers, cutouts, lightning arresters, materials* for pole line construction, and *pole line parts*, from the facilities of McGraw Edison Company at or near Vcisalia, CA, to points in AZ. (Hearing site: Phoenix, AZ, or Pittsburgh, PA.)

MC 142941 (Sub-68F), filed May 27, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., P.O. Box 6716, Phoenix, AZ 85005. Representative: Doug W. Sinclair (same as applicant). Transporting *food stuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Newark, DE, to points in the U.S. (except AK and HI). (Hearing site: Phoenix, AZ, or Louisville, K.Y)

MC 142941 (Sub-69F), filed May 27, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., Post Office Box 6716, Phoenix, AZ 85009. Representative: Doug W. Sinclair (same as applicant). Transporting *cleaning compounds and chemicals* (except commodities in bulk), from Dallas, TX, to points in AZ. (Hearing site: Phoenix, AZ, or San Francisco. CA.)

MC 142941 (Sub-70F), filed May 27, 1980. Applicant: SCARBOROUGH TRUCK LINES, INC., Post Office Box 6716, Phoenix, AZ 85009. Representative: Doug W. Sinclair (same as applicant). Transporting *household applicances and electronic devices*, from San Diego, CA, to Phoenix, AZ. (Hearing site: Phoenix, AZ, or San Francisco, CA.)

MC 143540 (Sub-25F), filed April 14, 1980. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, 330 Shipyard Boulevard, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract carrier*, transporting *plastic bottles*, from Franklin, IN, to Chadbourn, NC, under continuing contract(s) with Beverage Bottle Division, Hoover Universal, Inc.

MC 144741 (Sub-3F), filed April 14, 1980. Applicant: NETTLETON ENTERPRISES CO., INC., d.b.a. NORWOOD TRANSPORT, Route 1, Box 96, Eligin, IL 60120. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by exhibitors of machinery, equipment, and tools between Chicago, IL, on the one hand, and, on the other, points in ND, SD, NE, KS, MO, IA, MN, WI, KY, TN, WV, OH, IN, MI and PA, restricted to traffice orginating at or destined to trade shows and facilities used by United Expositions. (Hearing site: Chicago, IL.)

MC 145301 (Sub-9F), filed May 23, 1980. Applicant: R.E.M. TRANSPORT CO., INC., Building No. 431, Raritan Center, Edison, NJ 08817. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 367, Arlington, VA 22201. Transporting *electric cable*, from Hillside, NJ, and Portsmouth, RI, to poins in AL, AZ, AR, CA, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, and DC. Note: Dual operations may be involved. (Hearing site: Newark, NJ; Washington, D.C.)

MC 145441 (Sub-113F), filed April 29, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *electronic equipment*, and *parts and accessories* used in the manufacture of electronic equipment, between Sunnyvale, CA, Wheeling, IL, Edison, NJ, and El Paso, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR, or Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 145441 (Sub-115F), filed May 15, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey, (same address as applicant). Transporting *general commodities* (except commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Beall Brothers, Inc. (Hearing site: Little Rock, AR; Dallas, TX.)

Note.—Dual operations may be involved.

MC 143540 (Sub-26F), filed May 15, 1980. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract carrier* transporting *malt beverages*, (1) from Detroit, MI, to Myrtle Beach, SC, under continuing contract(s) with Oliver Distributing Company, of Myrtle Beach,

SC, and (2) from Detroit, MI, to Wilmington, NC, under continuing contract(s) with Windham Distributing Company, of Wilmington, NC. (Hearing site: Wilmington, NC.)

MC 145610 (Sub-6F), filed April 14, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 576 Lake Mirror Road, College Park, GA 30349 Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE., Atlanta, GA 30309. Transporting (1) *printed matter*, Strasburg, VA, to points in AL, GA, NC, and SC, and (2) *materials, equipment and supplies* used in the manufacture and distribution of printed matter, in the reverse direction. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 145870 (Sub-21F), filed April 14, 1980. Applicant: L–J–R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *mining and construction equipment*, and (2) *parts* for the commodities in (1) above, between points in AL, GA, IL, IN, KY, MD, NC, OH, PA, SC, TN, VA, and WV, restricted to traffic originating at and destined to the facilities used by Coalfield Services, Inc. (Hearing site: Washington, DC, Roanoke, VA.)

MC 145981 (Sub-30F), filed April 28, 1980. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *steel shelving*, and *materials, equipment, and supplies* used in the manufacture and sale of steel shelving (except commodities in bulk), between points in MA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Boston, MA or Washington, DC.)

Note.—Dual operations may be involved.

MC 146451 (Sub-25F), filed May 27, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE., Dothan, AL 36302. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30328. Transporting *cleaning compounds, bleach, liquid softeners, and household cleaning products*, from the facilities of Purex Corp., at or near (a) Auburndale, FL, (b) Bristol, PA, (c) Atlanta, GA, and (d) Roanoke, VA, to points in AL, GA, NC, SC, FL, and LA. (Hearing site: Birmingham, AL; Atlanta, GA.)

MC 146451 (Sub-26F), filed May 16, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, NE., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. Transporting (1) *insulating materials and high temperature bonding cement*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of (a) Forty-Eight Insulations, Inc., at or near Aurora, IL, and Alliance, OH, (b) Keene Corporation, at or near Kalamazoo, MI, and (c) U.S. Gypsum, at or near Wabash, IN, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.)

MC 146670 (Sub-2F), filed May 27, 1980. Applicant: McCLOUD, INC., 2151 N. 900 W., P.O. Box 16027, Salt Lake City, UT 84116. Representative: Paul D. McCloud (same address as applicant). *Contract carrier*, transporting (1) *commercial and household laundry appliances and kitchen appliances*, and (2) *parts* for the commodities in (1) above, from Newton, IA to points in UT, AZ, NV, CA, OR, and WA, under continuing contract(s) with the Maytag Company. (Hearing site: Des Moines, IA.)

MC 146751 (Sub-8F), filed May 19, 1980. Applicant: J. C. LAWRENCE TRUCKING, INC., 1519 Ripley Street, P.O. Box 5331, Lake Station, IN 46405. Representative: Fred H. Daly, 2550 M Street, NW., Suite 475, Washington, DC 20037. Transporting *iron and steel articles*, between Wheeling, WV, Des Moines, IA, Buffalo, NY, Detroit, MI, Cleveland, Columbus, Cincinnati, Dayton, Akron, OH, Chicago, IL, Pittsburgh, PA, and St. Louis, MO, on the one hand, and, on the other, those points in the U.S. and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Chicago, IL or Washington, DC.)

MC 146890 (Sub-26F), filed May 16, 1980. Applicant: E & E TRANSPORT, INC., d.b.a. C. E. SUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Transporting (1) *animal and poultry feed* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, distribution or sale of the commodities in (1) above (except commodities in bulk), between the facilities used by (a) Eastern Minerals, Inc., in Vance County, NC, and (b) Southeastern Minerals, Inc., in Decatur County, GA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Atlanta, GA.)

Note.— Dual operations may be involved.

MC 147260 (Sub-2F), filed February 26, 1980. Applicant: MANUAL LAWRENCE d.b.a., LAWRENCE & SONS TRUCKING, 32 Lanouette Street, Meriden, CT 06450. Representative: Manual Lawrence (same address as applicant). *Contract carrier* transporting (1) *clothing*, on hangers, from Bowden, GA to Newton Center, MA, under continuing contract(s) with Crown Clothing Corp., of Newton Center, MA, and (2) *stationery products*, from Holyoke, MA, to points in NC, SC, GA, AL, TN, and MS, under continuing contract(s) with National Blank Book Co., of Holyoke, MA. (Hearing sites: Hartford, CT; Boston or Springfield, MA.)

MC 147521 (Sub-6F), filed April 14, 1980. Applicant: J.S.I., a Corporation, 918 East Vermont, Anaheim, CA 92805. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. Transporting *wood products* (1) between points in CA and AZ, and (2) from points in CA to points in CO, NV, MN, and UT, restricted in (1) and (2) to traffic originating at or destined to the facilities of Walled Lake Door.) (Hearing sites: Phoenix, AZ; Los Angeles, CA.)

MC 148220 (Sub-2F), filed May 27, 1980. Applicant: JEM EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AT 72701. *Contract carrier* transporting *foodstuffs and materials, equipment, and supplies* used in the manufacture, distribution and sale of foodstuffs, between Niles, IL, and Lakeville, MN, on the one hand, and, on the other, points in CA and MD, under continuing contract(s) with McCormick and Company, Inc., of Baltimore, MD. (Hearing sites: Baltimore, MD; Ft. Smith, AR.)

Note.— Dual operations may be involved.

MC 148270 (Sub-10F), filed April 28, 1980. Applicant: BRELAR, INC., Post Office Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553 Sunridge Cove, Greenville, MS 38701. Transporting (1) *such commodities* as are dealt in by grocery and food business houses (except frozen commodities and commodities in bulk), from the facilities of Clorox Company at or near Atlanta, GA, to points in AR, LA, MS, and TN; (2) (a) *such commodities* as are dealt in by grocery and food business houses and agricultural feed houses, *soy products, paste flour products, and dairy-based products* (except commodities in bulk), and, (b) *materials, equipment, and supplies* used in development, manufacture, distribution, and sale of the commodities in (2) (a) above, (except

commodities in bulk), between the facilities of Lewis Grocery Company, at Indianola, MS, on the one hand, and on the other, points in the U.S. (except LA, MS, AK, and HI). (Hearing sites: Jackson, MS or Atlanta, GA.)

Note.— Dual operations may be involved.

MC 148360 (Sub-7F), filed May 16, 1980. Applicant: PDR TRUCKING, INC., 6048 South York Road, Highway 21 South, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. Transporting (1) *plastic pipe and pipe fittings*, and (2) *materials and accessories* used in the production and distribution of the commodities in (1) above, (1) from Cleveland, OH, to Los Angeles, CA, and those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX, and (2) from Los Angeles, CA, Plaquemine, LA, and Louisville, KY, to Cleveland, OH. (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 148581 (Sub-2F), filed April 28, 1980. Applicant: JOSEPH RUFFIN dba., RUFFIN'S MOTOR FREIGHT, 3033 South 63rd Street, Philadelphia, PA 19153. Representative: Brian S. Stern, 2425 Wilson Boulevard Suite 367, Arlington, Va 22201. Transporting (1) *electric wire, and electric cable*, and (2) *materials, equipment and supplies* used in the manufacture, distribution and installation of the commodities in (1) above, between the facilities of the Okonite Company, at (a) Richmond, KY, (b) Downers Grove, IL, (c) Worcester, MA, (d) Paterson, Passaic, and North Brunswick, NJ, (e) Leetsdale, PA, and (f) Phillipsdale and Ashton, RI, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing site: Newark, NJ; Philadelphia, PA.)

Note.—dual operations may be involved.

MC 148600 (Sub-5F), filed May 27, 1980. Applicant: TRANSHIELD TRUCKING, INC., N. Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting (1) *animal feed, animal feed ingredients, and animal feed supplements and additives* (except commodities in bulk), and (2) *materials and supplies* used in the manufacute and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Columbus, OH, and (b) Mattoon, IL, one the one hand, and, on the other, points in the U.S. (except AK and HI). restricted to traffic originating at or destined to the named facilities. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 149020 (Sub-2F), filed May 19, 1980. Applicant: MYERS MEN, INC., 4429 Hamilton Boulevard, Allentown, PA 18103. Representative: Robert B. Einhorn, 3220 P.S.F.S. Building 12 South 12th Street, Philadelphia, PA 19107. *Contract carrier* transporting *used trucks*, in driveaway and truckaway service, between points in PA, NY, NJ, CT, RI, MA, OH, MD, DE, VA, NC, IN, WV, and IL, under continuing contract(s) with Mack Trucks, Inc. (Hearing site: Philadelphia, PA).

MC 149051 (Sub-1F), filed April 28, 1980. Applicant: L&M TRUCK BROKERS, INC., 930 Newton Bridge Road, Athens, GA 30607. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326. Transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Standard Brands, Inc., at or near Chicago, IL, to points in AL and GA. (Hearing site: Atlanta, GA.)

MC 149170 (Sub-8F), filed May 27, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *fabricated wire, hydraulic hose, and steel couplings*, between Sioux Falls, SD, Omaha, NE, Des Moines, IA, Fargo, ND, and Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Pace Manufacturing Co. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Sioux Falls, SD; or Minneapolis, MN.)

MC 149170 (Sub-9F), filed May 27, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except commodities in bulk and classes A and B explosives), from Chicago, IL, to Sioux Falls, SD, restricted to traffic originating at the facilities of Midwest Consolidators, Inc., at Chicago, IL. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Chicago, IL.)

MC 150091 (Sub-2), filed May 27, 1980. Applicant: PRESCOTT FERTILIZER CORP., 250 S. Second Street, Prescott, WI 54021. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Contract carrier*, transporting (1) *feed, feed ingredients, and fertilizer*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in IA, MN, and WI, restricted to traffic originating at or destined to the facilities of Ralston Purina Company, under continuing contract(s) with Ralston Purina Company. Condition: Carrier must conduct its for-hire business activities and its other business activities independently and maintain separate records for each. (Hearing site: Minneapolis, MN; St. Louis, MO.)

MC 150160 (Sub-1F), filed May 27, 1980. Applicant: J & B TRUCKING, INC., 15411 Chatfield Ave., Cleveland, OH 44111. Representative: Kevin R. Reichley, 50 W. Broad St., Columbus, OH 43215. Transporting *automobiles, trucks, and tractical vehicles*, between the facilities of AM General Corporation, at South Bend, IN, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC. (Hearing site: Cleveland, OH, Columbus, OH, or Washington, DC.)

MC 150231 (Sub-2), filed May 27, 1980. Applicant: MAVERICK TRANSPORTATION, INC., 1803 East Broad St., Texarkana, AR 75502. Representative: Lawrence Leahy (same as applicant). Transporting (1) *wire products*, from the facilities of Oklahoma Steel & Wire at or near Madill, OK, to points in AR, AL, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, OH, SD, TN, TX, and WI, and (2) *materials, equipment, and supplies* used in the manufacture of wire products, (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX; Little Rock, AR.)

MC 150301 (Sub-2F), filed May 27, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 3653 Lake Eastbrook Blvd, SE., Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract carrier*, transporting *such commodities* as are dealt in or used by retail department stores, from points in the U.S. (except AK, HI, and MI) to points in

MI, under continuing contract(s) with Meijer, Inc., of Grand Rapids, MI. (Hearing site: Lansing, MI; Chicago, IL.)

MC 150311 (Sub-10F), filed May 27, 1980. Applicant: P & L LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Transporting *malt beverages*, (1) from points in IL, IN, and NJ, to points in TX; and (2) from points in NJ to points in OK.

MC 150571F, filed April 14, 1980. Applicant: NORSEMAN TRUCKING, INC., Route 1, Box 111, Good Thunder, MN 56093. Representative: John B. Van de North, Jr., Attorney at Law, 2200 First National Bank Building, St. Paul, MN 55101. Transporting *plastic corrugated tubing*, from New Richland, MN, to points in ND, SD, NE, IA, WS, MO, IL, MT, WY, KS, OK, IN, and CO. (Hearing site: St. Paul, MN; Mankato, MN.)

Passenger

MC 150690F, filed April 28, 1980. Applicant: SEACOAST TRANSPORTATION CORPORATION, 1707 Frederica Plaza, St. Simons Island, GA 315229. Representative: Andrew A. Taylor, Post Office Box 1390, Brunswick, GA 31520. Over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, between Brunswick, GA, and Jacksonville International Airport, at Jacksonville, FL: from Brunswick over U.S. Hwy 17 to junction Interstate Hwy 95, and then over Interstate Hwy 95 to Jacksonville International Airport, and return over the same route, serving no intermediate points, and serving the off-route points of Sea Island, St. Simons Island, and Jekyll Islands, GA. (Hearing site: Jacksonville, FL, Atlanta, GA.)

Volume No. 302

DECIDED: July 25, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill.

MC 22509 (Sub-28F), filed May 13, 1980. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Transporting *containers, container ends, container closures and accessories and coatings, lacquers, varnishes, compounds and solvents* (except in bulk), between Chicago, Rockford and Waukegan, IL; Gary, Marion, and LaPorte, IN; Green Bay and Oak Creek, WI; Oklahoma City, OK; St. Louis and St. Joseph, MO; and St. Paul, MN, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, MN, MO, NE, OK, and WI restricted to traffic which originates at or is destined to facilities of National Can Corporation and/or Foster Forbes Glass Co. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 56679 (Sub-166F), filed May 15, 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave, SW, Atlanta, GA 30310. Representative: Leonard S. Cassell (same as applicant). Transporting *animal feed* from the facilities of KAL KAN FOODS, INC. at or near Columbus, OH to points in the U.S. in and east of MN, IA, MO, AR and LA. (Hearing site: Atlanta, GA, or Cincinnati, OH.)

MC 78228 (Sub-167F), filed May 15, 1980. Applicant: J MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *lime and lime products, limestone and limestone products* (except in tank vehicles), from points in Wyandot County, OH to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 94548 (Sub-4F), filed June 5, 1980. Applicant: FRANK CHAMPER, INC., 120 Eastern Avenue, Chelsea, MA 02150. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. *Contract carrier*, transporting: *new furniture and bean bags*, from Randolph, MA, to points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, and MD, under continuing contract(s) with Furniture Industries, Inc., of Randolph, MA. (Hearing site: Boston, MA.)

MC 104149 (Sub-215F), filed May 13, 1980. Applicant: OSBORNE TRUCK LINE, INC., P.O. Box 10727, Birmingham, AL 35202. Representative: Maurice F. Bishop, 601–09 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *pipe, fittings, connections, valves, hydrants and gaskets*, from points in Talladega County, AL to points in AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, and (2) *materials and supplies*, used in the manufacture of the commodities in (1) from points in the destination states named in (1) to points in Talladega County, AL. (Hearing site: Birmingham, AL.)

MC 105458 (Sub-7F), filed May 14, 1980. Applicant: DILLIE MOTOR FREIGHT, INC., P.O. Box 4, Washington, PA 15301. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Wetzel County, WV and points in Belmont, Harrison, Jefferson and Monroe Counties, OH as off-route points in connection with carrier's authorized regular route operations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 106398 (Sub-1074F), filed May 14, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). Transporting (1) *farm implements*, and (2) *materials, equipment and supplies*, used in the manufacture of farm implements, between the facilities of Forrest City Machine Works, Inc., at or near Forrest City, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR.)

MC 106398 (Sub-1075F), filed May 14, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). Transporting (1) *metal products and accessories and refractory products and accessories*, and (2) *equipment, materials, and supplies* (except in bulk), used in the manufacture and distribution of the commodities in (1) between the facilities of Kaiser Aluminum & Chemical Corporation at or near Chicago, IL, Gary, IN, Newark and Toledo, OH, Mexico, MO, Ravenswood, WV, and points in Lawrence County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL.)

MC 106398 (Sub-1076F), filed May 14, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). Transporting *metal products and accessories*, between Little Rock, Fort Smith, and West Memphis, AR; and Shreveport, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Little Rock, AR.)

MC 106398 (Sub-1077F), filed May 15, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (Same address as applicant). Transporting *motor homes, in drive-away services*, from Sunnyside, WA to points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 106398 (Sub-1078F), filed May 15, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (Same address as applicant). Transporting *boats on shipper's trailers*, from Tomahawk, WI, to points in the

U.S. (except AK and HI). (Hearing site: Chicago, IL.)

MC 108119 (Sub-263F), filed May 14, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting (1) *pipe and pipe fittings* (except iron and steel pipe), (2) *accessories* for the commodities in (1), and (3) *materials* used in the installation of pipe, from Gustine, CA, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Ingomar Plastics, at Gustine, CA. (Hearing site: San Francisco or Los Angeles, CA.)

MC 109689 (Sub-375F), filed May 16, 1980. Applicant: W. S. HATCH CO., P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 West Broadway, #400, Salt Lake City, UT 84101. Transporting *hydrochloric acid*, in bulk, from Portland, OR, and Tacoma, WA, to Little Mountain, UT. (Hearing site: Salt Lake City, UT.)

MC 109689 (Sub-376F), filed May 16, 1980. Applicant: W. S. HATCH CO., P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 Broadway Bldg., Suite 400, Salt Lake City, UT 84101. Transporting *sodium hydrosulfide*, in bulk, from Sahurita, AZ to points in Salt Lake County, UT. (Hearing site: Salt Lake City, UT.)

MC 113678 (Sub-875F), filed May 13, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (Same address as applicant). Transporting *meats, meat products, and meat by-products and articles distributed by meat-packing houses* (except in bulk), from points in Maricopa County, AZ, to point in UT. (Hearing site: Phoenix, AZ.)

MC 113678 (Sub-876F), filed May 16, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *ceramic tile* (except in bulk) from Los Angeles, San Diego, and San Francisco, CA, Savannah, GA, Canton, OH, and Houston, TX to Denver, Co. (Hearing site: Denver, CO.)

MC 119399 (Sub-131F), filed May 13, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Blvd., Joplin, MO 64801. Representative: Thomas P. O'Hara (same address as applicant). Transporting *barbeque grills and appliances and camping equipment and accessories*, from the facilities of Neosho Products Company at or near Neosho, MO to points in AZ, AR, CA, CO, ID, IL, IN, IA, LA, MI, MN, NM, ND, OH, OK, OR, SD, TX, WA, and WI. (Hearing site: Kansas City, MO, or Tulsa, OK.)

MC 119988 (Sub-251F), filed May 15, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *refrigerators and electronic sound equipment*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between San Diego, CA, on the one hand, and, on the other, points in the U.S. (except AK, HI and CA), restricted to traffic originating at or destined to the facilities of Sanyo E and E Corp. (Hearing site: San Diego, CA, or Dallas, TX.)

MC 119988 (Sub-252F), filed May 15, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting (1) *lead and lead products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of lead and lead products (except commodities in bulk), between Dallas, TX, Indianapolis, IN, Los Angeles, CA, Seattle, WA, Middletown, NY, and Winston-Salem, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Dallas, TX.)

MC 120249 (Sub-9F), filed April 22, 1980. Applicant: GEORGE A. HORTON, d.b.a., ASHLAND HARLO FREIGHT LINES, 1032 Delphinium Dr., Billings, MT 59102. Representative: George A. Horton (same address as applicant). Over regular routes, transporting *general commodities*, between Billings, MT and the Montana and North Dakota State Line, over Hwys 90 and 94 and (except Miles City and Baker, MT) over Highway 12, serving all intermediate points. Condition: To the extent this authority authorizes classes A and B explosives it shall be limited in point of time to a period expiring 5 years from the date of issuance.

MC 120728 (Sub-7F), filed May 12, 1980. Applicant: MOJAVE TRANSPORTATION CO., 14410 South Avalon Blvd., Gardena, CA 90247. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting *agricultural tractors, industrial and construction equipment, parts and attachments, construction materials and fabricated apparatus*, between points in AZ, CA, ID, NM, NV, OR, UT, and WA. (Hearing site: Los Angeles, or San Francisco, CA.)

MC 124328 (Sub-139F), filed May 23, 1980. Applicant: BRINK'S, INCORPORATED, Thorndal Circle, P.O. Box 1225, Darien, CT 06820. Representative: Richard H. Streeter, Esq., 1729 H Street, N.W., Washington, D.C. 20006. *Contract carrier* Transporting: *commercial papers, documents, business records, securities, stocks, bonds, negotiable or non-negotiable instruments and audit or accounting media*, between points in the U.S. (except AK and HI), under continuing contract(s) with Financial Institutions, Brokerage Houses and Securities Dealers. (Hearing site: New York, NY.)

MC 124679 (Sub-121F), filed May 19, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (Same address as applicant). Transporting *foodstuffs*, from points in UT, to points in WA, OR, MT, WY, ID, UT, NV, CA, CO, AL, and NM. (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 125708 (Sub-201F), filed May 16, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd St., East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *industrial baking ovens and industrial washers*, from the facilities of Infratrol Manufacturing Corporation, at Milwaukee, WI, to points in OH, MI, IN, PA, TX, IL, IA, KY, TN, and AR. (Hearing site: Milwaukee, WI, or Washington, DC.)

MC 126428 (Sub-10F), filed May 12, 1980. Applicant: ZIBERT TRANSPORT CO., P.O. Box 65, Peru, IL 61354. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *fertilizer*, from Albany and East Dubuque, IL to points in IA and WI. (Hearing: Chicago, IL, St. Louis, MO.)

MC 128878 (Sub-48F), filed June 5, 1980. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 3904, Shreveport, LA 71103. Representative: C. Wade Shemwell (Same address as applicant). *Contract carrier*, transporting *lumber, plywood, and forest products*, from the facilities of Crown Zellerbach Corporation at Joyce, LA to points in AL, AR, LA, MS, OK, and TX.

MC 129908 (Sub-47F), filed May 13, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. Transporting (1) *canned, bottled and packaged food products* (except in bulk)

and (2) *commodities* used in the production and distribution of the commodities in (1), between the facilities of La Victoria Foods, Inc., at Rosemead, CA and points in UT, CO, TX, OK, and IL. (Hearing site: Oklahoma City, OK, or Los Angeles, CA.)

MC 129908 (Sub-48F), filed May 13, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. Transporting (1) *foodstuffs* (except in bulk) and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between the facilities of Saticoy Foods Corporation at Saticoy, CA and points in the U.S. (except AK and HI). (Hearing site: Oklahoma City, OK, or Los Angeles, CA.)

MC 133689 (Sub-346F), filed May 19, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naple St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *steel shelving, pallet racks, industrial furniture, storage cabinets and hardware* and (2) *materials and supplies* used in the assemly and distribution of the commodities in (1) (except commodities in bulk), from Hatfield, PA, to points in IA, NE, ND, MN, MO, SD, and WI. (Hearing site: St. Paul, MN.)

MC 134319 (Sub-15F), filed May 16, 1980. Applicant: BRAAFLADT TRANSPORT CO., 501 N. Broadway, P.O. Box 1065, Dimmitt, TX 79027. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *urea* from the facilities of Cominco American, Inc., at or near Borger, TX to points in CO, KS, OK, NE, and NM. (Hearing site: Kansas City, MO.)

MC 134599 (Sub-181F), filed May 19, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Contract carrier*, Transporting *books, toys, games, paper products, telescopes, microscopes and microscope slides*, (1) from the facilities of Western Publishing Company, Inc., at Fayetteville, NC, to points in the U.S. in and east of OH, KY, TN, MS, and LA; and (2) from the facilities of Western Publishing Company, Inc., at Coffeyville, KS, to points in the U.S. in and west of MI, IN, IL, MO, AR, and TX (except AK and HI), under a continuing contract(s) with Mattel, Inc. (Hearing site: Salt Lake City, UT, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 134599 (Sub-182F), filed April 28, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, Utah 84127. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier;* Transporting *chemicals used in the manufacture of rubber products* (except commodities in bulk) from Laredo, TX to the facilities of the Armstrong Rubber Company at or near Little Rock, AR; Hanford, CA; West Haven, CT; Des Moines, IA; Natchez, MS; Clinton and Madison, TN.

MC 135078 (Sub-69F), filed May 12, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 F St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *floor coverings and floor tiles* and (2) *materials, equipment, and supplies* used in the installation and maintenance of the commodities in (1), from Canton and Middlefield, OH, and Whitehall, PA, to points in IA. (Hearing site: Omaha, NE.)

MC 135678 (Sub-19F), filed May 16, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting (1) *cabinets, audio equipment, and carts*, (2) *horn, wooden, horns signals, . electrical appliances or instruments, or loud speakers*, (3) *stands, microphone, sets, radio amplifiers, transformers, and transformer parts*, and (4) *materials, equipment, and supplies* used in the mannfacture of the commodities in paragraphs (1), (2), and (3), from Gardena, Downey, Hawthorne, Azusa and Anaheim, CA and Bend, OR, to Oklahoma City, OK. (Hearing site: Oklahoma City, OK.)

MC 135678 (Sub-20F), filed May 16, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting (1) *quilted fabric, woven cloth or synthetic fibre; bedspreads; mattress pads; curtains; drapes; comforters; sheets; pillow cases; cotton fabric*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in OK and TX. (Hearing site: Oklahoma City, OK.)

MC 135779 (Sub-10F), filed June 5, 1980. Applicant: BALDWIN TRUCKING, INC., 1904 Williams St., San Leandro, CA 94577. Representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract carrier*, Transporting (1) *cans, can ends and tinplate* from the facilities of Del Monte Corporation (a) at Sacramento, CA, to Seattle, WA, (b) at San Leandro, CA, to Medford and Salem, OR, and Vancouver, Toppinish, Yakima and Seattle, WA, and (c) at Oakland, CA, to Salem, OR, and Vancouver, Toppinish, Yakima and Seattle, WA, and (2) *pallets and fibers and separators used for preparing cans for shipment* from Medford and Salem, OR, and Vancouver, Toppinish, Yakima and Seattle, WA, to the facilities of Del Monte Corporation at Sacramento, Oakland and San Leandro, CA, under continuing contract(s) with Del Monte Corporation. (Hearing site: San Francisco, CA.)

MC 135989 (Sub-17F), filed May 29, 1980. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, 50 South Steele St., Denver, CO 80209. *Contract carrier*, Transporting *such commodities as are dealt in or used by manufacturers and distributors of canvas, webbing, and industrial fabrics*, from points in CT, MA, RI, NJ, OH, NC, AL and TX to Los Angeles, CA, under continuing Contract(s) with Covercraft Industries, Inc. (Hearing site: Los Angeles, CA.)

MC 138789 (Sub-7F), filed May 19, 1980. Applicant: U & R EXPRESS, INC., P.O. Box 2369, White City, OR 97501. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. *Contract carrier*, Transporting: *wood residuals*, from points in WA to Missoula, MT. (Hearing site: Portland, OR.)

Note.—Dual operations may be involved.

MC 139039 (Sub-3F), filed May 12, 1980. Applicant: A. MARIANNI'S SONS, INC., 3301 Tulip St., Philadelphia, PA 19134. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *scrap metals, scrap paper and scrap plastic*, between points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 142059 (Sub-130F), filed May 13, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting (1) *machinery and machinery parts* from Aurora and DeKalb, IL to points in the U.S. (except AK and HI) and (2) *materials, equipment and supplies* used in the manufacture and distribution of machinery and machinery parts (except

commodities in bulk in tank vehicles) in the reverse direction, restricted to traffic originating at or destined to the facilities of Barber-Greene Company at Aurora or DeKalb, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 142449 (Sub-10F), filed May 14, 1980. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 300 E. Fall Creek Parkway, Suite 403, Indianapolis, IN 46205. Transporting (1) *soft drinks and containers*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) between Goshen, La Porte and South Bend, IN on the one hand, and, on the other, Chicago, IL. (Hearing site: Indianapolis, IN.)

MC 142508 (Sub-152F), filed April 22, 1980. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Transporting *frozen bakery products* from the facilities of Lenders Bagels at West Seneca, NY and New Haven, CT, to points in the U.S. (except AK and HI), restricted to traffic originating at named origins. (Hearing site: Buffalo, NY, or New Haven, CT.)

MC 142508 (Sub-153F), filed April 22, 1980. Applicant: NATIONAL TRANSPORTATION, INC. 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Transporting *equipment and supplies* used by hospitals and research laboratories, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Scientific Products—Division of American Hospital Supply. (Hearing site: Chicago, IL or Milwaukee, WI.)

MC 143059 (Sub-122F), filed May 12, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Forth Worth, TX 76102. Transporting (1) *insulating materials and* (2) *equipment, materials and supplies* used in the installation and production of the commodities in (1) between Pueblo, CO and Fontana, CA, on the one hand, and, on the other, points in AZ and NM. (Hearing site: Los Angeles, CA, or Denver, CO.)

MC 143668 (Sub-1F), filed May 16, 1980. Applicant: LONG ISLAND AIRPORTS LIMOUSINE SERVICE CORP, 25 Newton Place, Hauppauge, NY 11787. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *Passengers and their baggage*, in round-trip charter and special operations beginning and ending at points in Nassau and Suffolk Counties, NY and extending to points in Atlantic County, NJ. (Hearing site: New York, NY.)

MC 144188 (Sub-22F), filed May 12, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Transporting (1) *paper and plastic bags* and *wrapping paper* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), (a) between the facilities of Trinity Midwest Corporation at or near Plainfield, IL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at points on one base and destined to points on the other base, and (b) between the facilities of Trinity Bag & Paper Co., Inc. at or near Elizabeth, NJ, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at points on one base and destined to points on the other base. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 144368 (Sub-5F), filed June 6, 1980. Applicant: GENPAT, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Contract carrier*, transporting *iron and steel articles*, between those points in IL, on and north of I Hwy 80, points in OH, and MI, and Chicago, IL, under continuing contract(s) with Pinkert Steel. (Hearing site: Chicago, IL.)

MC 144428 (Sub-11F), filed June 4, 1980. Applicant: TRUCKADYNE INC., Route 16, Mendon, MA 01756. Representative: Joseph A. Reed (Same address as applicant). *Contract carrier*, transporting (1) *such commodities* as are dealt in by manufacturers and distributors of dry cell batteries, lanterns, flashlight, and lighting fixtures, and (2) *materials, equipment and supplies* used in the manufacture, and distribution of commodities in (1) above (except commodities in bulk), between the facilities of Ray-O-Vac Corp., in CA, GA, IL, MA, MO, NC, NJ, OH, OR, PA, TN, TX, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Ray-O-Vac Corp.

MC 144568 (Sub-4F), filed June 4, 1980. Applicant: S. W. TRANSPORT, INC., 61 Lake Street, Rouses Point, NY 12979. Representative: Donald E. Cross, 918 16th Street, NW., Washington, DC 20006. *Contract carrier*, transporting (1) *nails, wire, wire mesh and wire fabric* from the facility of Virginia Wire and Fabric Co. in Fauquier County, VA to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WV, WI and DC, and (2) *material, equipment and supplies used in the manufacture of commodities* in (1) above, in the reverse direction, under continuing contract(s) in (1) and (2) with Virginia Wire and Fabric Co., Division of Niagara Lockport Industries, Inc. (Hearing site: Washington, DC.)

MC 144568 (Sub-5F), filed June 4, 1980. Applicant: S. W. TRANSPORT, INC., 61 Lake Street, Rouses Point, NY 12979. Representative: Donald E. Cross, 918 16th Street, NW., Washington, DC 20006. *Contract carrier*, transporting (1) *fencing* and *fencing parts* from the facility of Capital Wire and Fence Co., Inc. in Prince Georges County, MD to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV and DC and (2) *material, equipment and supplies used in the manufacture of fencing and fencing parts* in the reverse direction, under continuing contract(s) in (1) and (2) with Capital Wire and Fence Co., Inc. (Hearing site: Washington, DC.)

MC 144568 (Sub-6F), filed June 5, 1980. Applicant: S. W. TRANSPORT, INC., 61 Lake Street, Rouses Point, NY 12979. Representative: Donald E. Cross, 918 16th Street, NW., Washington, DC 20006. *Contract carrier*, transporting (1) *iron and steel articles* from the facility of National Wire of Ohio Inc. in Toledo, OH to points in IL, IN, KY, MI, MN, OH, PA, TN, WV and WI and (2) *material, equipment and supplies used on the manufacture of iron and steel articles* (except in bulk), in the reverse direction, under continuing contract(s) (1) and (2) with National Wire of Ohio Inc. (Hearing site: Washington, DC.)

MC 144568 (Sub-7F), filed June 6, 1980. Applicant: S. W. TRANSPORT, INC., 61 Lake Street, Rouses Point, NY 12979. Representative: Donald E. Cross, 918 16th Street, NW., Washington, DC 20006. *Contract carrier*: Transporting (1) *iron and steel articles* from the facilities of National Wire Products Corporation of MD in Baltimore, MD, to points in CT, DE, DC, IL, IN, ME, MA, NH, NJ, NY, OH, PA, RI, VT, VA and WV, and (2) *materials, equipment and supplies used in the manufacture of iron and steel articles* (except in bulk) in the reverse direction. Under continuing contract(s) in (1) and (2) with National Wire Products Corporation of MD. (Hearing site: Washington, DC.)

MC 145108 (Sub-23F), filed May 19, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* Transporting *malt beverages,* and *materials, equipment, and supplies* used in the manufacture and sale of malt beverages (except commodities in bulk), between the facilities of Pabst Brewing Company, on the one hand, and, on the other, points in the U.S. (except AK and HI). Under a continuing contract(s) with Pabst Brewing Company, Milwaukee, WI. (Hearing site: Milwaukee, WI or Washington, DC.)

MC 145149 (Sub-9F), filed May 15, 1980. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, 4111 E. 37th St. N., Wichita, KS 67201. Representative: Clyde N. Christey, Ks Credit Union Bldg., Suite 110L, 1010 Tyler, Topeka, KS 66612. Transporting *liquid fertilizer solutions,* from the facilities of Chevron Chemical Co. at or near Friend, KS to points in CO, NE, OK, TX and NM. (Hearing site: Kansas City, MO.)

MC 145348 (Sub-3F), filed May 12, 1980. Applicant: CHARLES REBEDEW, d.b.a. REBEDEW TRUCKING, 561 Monmouth Street, Fond du Lac, WI 54935. Representative: Ronald E. Laitsch, 117 S. Third Street, Watertown, WI 53094. *Contract carrier,* transporting *components of buildings and canopies,* from Waupun, WI, to points in the U.S. (except HI, AK, MN, IL, IN, OH, and MO) restricted to transportation in shipper owned trailers, under a continuing contract(s) with King Manufacturing Corp., of Waupun, WI. (Hearing site: Milwaukee, or Madison, WI.)

MC 145829 (Sub-19F), filed May 19, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* transporting *general commodities* (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Union Camp Corporation, Wayne, NJ and its subsidiaries, under a continuing contract(s) with Union Camp Corporation, Wayne, NJ

Note.—Authority, to the extent it includes classes A and B explosives, is limited to 5 years from date of issuance.

MC 145829 (Sub-20F), filed May 27, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* transporting *zinc, and zinc slabs, dross, residue, skimmings, ashes, scrap, and containers,* between the facilities of St. Joe Zinc Company, Division of St. Joe Minerals Corp., on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with St. Joe Zinc Company, Division of St. Joe Minerals Corp., Pittsburgh, PA.

MC 145829 (Sub-21F), filed June 2, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* transporting: *paper and plastic bags,* and *materials, equipment and supplies* used in the manufacture of paper and plastic bags (except commodities in bulk), (1) between Savage, MD, on the one hand, and, on the other, points in NY, NJ, PA, WV, VA, NC, SC, GA, DE, and DC; and (2) Between Huntington, NY, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NJ, PA, MD, VA, and DE, under a continuing contract(s) with Samson-Midatlantic, Inc., Huntington, NY. (Hearing site: New York, NY or Washingfton, DC.)

MC 146479 (Sub-7F), filed May 16, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Transporting *beverages* (except in bulk), between points in CT, NY, NJ, MA, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: New York, NY.)

MC 146479 (Sub-8F), filed May 16, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Raleigh, NC, or Washington, DC.)

MC 146479 (Sub-9F), filed May 16, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Transporting (1) *sporting goods, sporting goods apparel,* and (2) *materials and supplies* used in the manufacture and distribution of such commodities (except in bulk), between points in MA, NH, VT, NY, NJ, CO, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 146628 (Sub-5F), filed May 30, 1980. Applicant: HUNT SUPER SERVICE, INC., Route 50 North, P.O. Box 270, Bradley, IL 60915. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. *Contract carrier:* Transporting *meats, meat products, meat by-products, and articles* distributed by meat packinghouses, (except hides and commodities in bulk) from Ashkum, IL to New York, NY and points in CA and FL, under continuing contract(s) with Swissland Packing Company. (Hearing site: Chicago, IL.)

MC 146689 (Sub-3F), filed May 27, 1980. Applicant: LARK LEASING COMPANY, 261 Maplewood Dr., Pottstown, PA 19464. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Contract carrier:* Transporting *glass containers,* from Royersford and Linfield, PA to points in MA, under a continuing contract(s) with Diamond Glass Company of Royersford, PA. (Hearing site: Philadelphia or Harrisburg, PA.)

MC 146689 (Sub-4F), filed May 27, 1980. Applicant: LARK LEASING COMPANY, 261 Maplewood Dr., Pottstown, PA 19464. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Contract carrier:* Transporting *lead, lead oxide and litharge* (except in bulk), from facilities of Hammond Lead Products Company, Inc. at or near Stowe, PA to points in NJ, MA, CT, NY, VA, MD, DE, SC, NC, OH, LA, TX, FL and KY, under a continuing contract(s) with Hammond Lead Products Company, Inc. of Hammond, IN. (Hearing site: Philadelphia or Harrisburg, PA.)

MC 146888 (Sub-6F), filed May 13, 1980. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, Suite 202, 2200 Century Pkwy., Atlanta, GA 30345. Transporting *edible flour and flour mixes,* from the facilities of Peavey Company at or near Alton, IL, to points in the U.S. in and east of MN, IA, MO, OK, and TX. (Hearing site: Atlanta, GA.)

MC 148238 (Sub-1F), filed May 29, 1980. Applicant: COMMERCIAL BROADLOOMS, INC., 2125 Anderson Road, P.O. Box 4137, Greenville, SC 29608. Representative: Michael F. Morrone, 1150 17th Street, NW., Suite 100, Washington, DC 20036. *Contract carrier* Transporting *canned or preserved foodstuffs* from the facilities of Heinz USA at or near Pittsburgh, PA, Holland, MI, Fremont and Toledo, OH, Muscatine and Iowa City, IA and Greenville, SC to Points in GA, NC, SC, and TN restricted to traffic originating at

the named facilities and destined to the named states, under a continuing contract(s) with Heinz USA, a division of H. J. Heinz Company, of Pittsburg, PA.

MC 148588 (Sub-1F), filed May 16, 1980. Applicant: RED CARPET BUS LINES, 278 Regent Circle, Inglewood, CA 90301. Representative: Leroy Cotton (same address as applicant). Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip special or charter operations, between points in Los Angeles, Orange, Ventura, Riverside, San Diego, San Bernardino and Kern Counties, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Los Angeles and San Diego, CA.)

MC 149039 (Sub-2F), filed May 21, 1980. Applicant: HAVRE DE GRACE TRANSPORTATION CO., INC., 502 Warren Road, Havre De Grace, MD 21078. Representative: Robert J. Carson, 100 Light Street 6th Floor, Baltimore, MD 21202. *Contract carrier,* transporting *passengers and their baggage,* in the same vehicle with passengers, (1) between Perryville, MD, on the one hand, and, on the other, Alexandria, VA, and Philadelphia, Harrisburg, and Enola, PA; (2) between Edgemoor, DE, on the one hand, and, on the other, Perryville, Baltimore, Salisbury, Pocomoke City, and Snow Hill, MD, and Philadelphia, Harrisburg, and Enola, PA, and Alexandria, VA; and (3) between Harrington, DE, on the one hand, and, on the other, Berlin and Snow Hill, MD, restricted to the transportation of train crews; under a continuing contract(s) with Consolidated Rail Corporation.

MC 149138 (Sub-2F), filed May 14, 1980. Applicant: COLORADO, KANSAS, MISSOURI EXPRESS CO., d.b.a. DKM EXPRESS CO., P.O. Box 1183 (I–70, Exit 243), Idaho Springs, CO 80452. Representative: Tom George (same address as applicant). Transporting (1) *malt beverages,* from St. Louis, MO to Idaho Springs, Longmont, Greeley, Colorado Springs, and Ft. Collins, CO, and (2) *materials, empty containers, and can lids* used in the manufacture and distribution of malt beverages, from Colorado Springs, Denver, Greeley, Ft. Collins, Longmont, Pueblo, Glenwood Springs, Grand Junction, Steamboat Springs, Montrose, and Idaho Springs, to St. Louis, MO, and (3) *malt beverages,* from points in Jefferson County, CO to points in MO and AR, and (4) *empty used beverage containers* and *materials and supplies* used in and dealt with by breweries, from points in MO and AR to points in Jefferson County, CO. (Hearing site: Denver, CO.)

MC 149298 (Sub-1F), filed June 2, 1980. Applicant: DAIRY TRANSPORT, INC., 1928 Foxcroft Drive, Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Contract carrier:* Transporting: *dairy products, and (2) citrus products,* (1) between Winston-Salem, NC, on the one hand, and, on the other, points in AL, LA, FL, GA, SC, TN, OH, VA, PA, MD, IL, MO, IN, MI, and NY; and (2) from points in FL to Winston-Salem, NC, and points in VA under continuing contract(s) with Kraft, Inc., Dairy Group. (Hearing site: Winston-Salem, NC.)

MC 150109 (Sub-1F), filed May 16, 1980. Applicant: LIL LEASING CORP., 614 W. Walnut St., Albany, IN 47320. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Cincinnati and Hamilton, OH, to points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, and WA. (Hearing site: Cincinnati, OH, or Indianapolis, IN.)

MC 150339 (Sub-1F), filed June 9, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 918 16th Street NW., Suite 700, Washington, D.C. 20006. *Contract carrier:* Transporting: (1) *Such merchandise,* as is dealt in by wholesale and retail and chain hardware stores and by the manufacturers of power tools and (2) *materials, equipment and supplies* used in the manufacture of commodities in (1) above, between points in the U.S. (except AK and HI), under continuing contract(s) with Black & Decker (U.S.) Inc. of Towson, Maryland, under parts (1) and (2) above. (Hearing site: Washington, DC.)

Note.—Dual operations are involved.

MC 150369F, filed June 9, 1980. Applicant: M. W. ETTINGER, INC., 2711 North Fairview Ave., St. Paul, MN 55113. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Contract carrier:* Transporting *building materials and supplies and materials, equipment and supplies* used in the manufacture of building materials and supplies between St. Paul and Roseville, MN, on the one hand, and, on the other points in IL, IN, IA, KS, MI, MO, MT, NE, ND, SD and WI. Under a continuing contract(s) with Cole Sewell Corporation. (Hearing site: St. Paul, MN.)

MC 150529 (Sub-1F), filed June 9, 1980. Applicant: AMERICAN FINE FOODS, INC., P.O. Box 460, Payette, ID 83661. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Contract carrier,* transporting *carbonated beverages* (except alcoholic), from the facilities of Western Bottling Company, Inc. at or near Spokane, WA to Boise, Payette and Twin Falls, ID, restricted as follows: (1) under a continuing contract(s) with Western Bottling Company, Inc., (2) applicant shall maintain separate accounts and records for its for-hire operation distinct from its other business activities; and (3) applicant shall not at the same time and in the same vehicle transport property both as a private carrier and as a for-hire carrier.

MC 150749 (Sub-2F), filed May 27, 1980. Applicant: DOBSON TRUCKING, INC., P.O. Box 498, Dobson, NC 27017. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Contract carrier:* Transporting: *steel rods,* from Perth Amboy, NJ, and Fairless Hills, PA, to Mt. Airy, NC, under continuing contract(s) with Exposaic Wire Co. of Mt. Airy, NC.) (Hearing site: Winston-Salem, NC.)

Note.—Dual operations may be involved.

MC 150818 (Sub-1F), filed May 19, 1980. Applicant: SUSQUEHANNA TRANSPORTATION, INC., 7400 South Alton Court, Englewood, CO 80112. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* transporting (1) *plastic pipe; plastic pipe fittings, connectors and valves;* (2) *insulation and insulation materials;* (3) *mineral wool; and materials, equipment, and supplies* used in the distribution and production of the commodities described in (1), (2), and (3) above, between points in the U.S. (except AK and HI), under a continuing contract(s) with R & G Sloane Manufacturing Company, Inc., of Sun Valley, CA, and Rockwool Industries, Inc., of Englewod, CO.

MC 150868F, filed May 19, 1980. Applicant: MIDSTATE GRAIN, INC., 402 Iles Park Place, Springfield, IL 62703. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier,* transporting: *lime, limestone, products of limestone,* from Nokomis, IL to points in IN, MO and OH, under continuing contract(s) with: Hulcher Quarry, Inc. of Springfield, IL 62703. (Hearing site: St. Louis, MO, Chicago, IL.)

MC 150869F, filed May 20, 1980. Applicant: CONTINENTAL ARMORED TRANSPORT, INC., P.O. Box 3004, Seattle, WA 98114. Representative: David C. White, 2400 S.W. Fourth Ave., Portland, OR 97201. *Contract carrier* transporting *coin, currency, checks,*

drafts, securities, negotiable instruments and commodities of unusual value, in armored car service, between Portland, OR, on the one hand, and, on the other, points in Pacific, Wahkiakum, Cowlitz, Clark, Skamania and Klickitat Counties, WA, under continuing contract(s) with banks and banking institutions.

MC 150909F, filed May 27, 1980. Applicant: ROBERT B. HEBERT and REGINALD L. HEBERT, d.b.a. HEBERT BROS., RFD Box 61, Madawaska, ME 04756. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. *Contract carrier,* transporting *paper and paper mill materials and supplies,* between the facilities of Hebert Bros. at Madawaska, ME, and points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, and VT, under a continuing contract(s) with Fraser Paper Limited.

MC 150918F, filed May 27, 1980. Applicant: OTIS A. LEE d.b.a. DELTA CAB COMPANY, 212 North Third Street, Alexandria, LA 71301. Representative: Gregory S. Erwin, P.O. Box 906, Alexandria, LA 71301. *Contract carrier* transporting *safety valves, safety relief valves, forged steel-globe, gate, and check valves* from the facilities of Dresser Industrial Valve & Instruments at or near Alexandria, LA, to points in AL, AR, MS, OK, TN and TX, under a continuing contract(s) with Dresser Industrial Valve & Instrument, of Alexandria, LA.

MC 150968F, filed April 21, 1980. Applicant: PROCESSED CEMENT, INC., 355 Lakeview Road, Wayzata, MN 55391. Representative: James F. Finley, 1401 Silver Lake Road, New Brighton, MN 55112. *Contract carrier:* Transporting: *arkalite lightweight materials* between points in MN, ND, SD, IA, IL and WI under a continuing contract(s) with Lightweight Distributing Company, A Division of Silo Systems, Inc. at Plymouth, MN. (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

Volume No. 303

Decided: July 25, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill.

MC 908 (Sub-14F), filed March 3, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene L. Cohn, One North LaSalle St., Rm 2255, Chicago, IL 60602. Transporting (1) *steel containers, water heaters, filter, storage,* and *water softener tanks,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Chicago, IL, on the one hand, and, on the other, Louisville, KY, Detroit, MI, St. Louis, MO, Cincinnati, OH, and points in IN.

MC 908 (Sub-15F), filed March 5, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene L. Cohn, One North LaSalle St., Rm 2255, Chicago, IL 60602. Transporting (1) *radio receiving and transmitting sets and television and electronic equipment,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Chicago, IL, on the one hand, and, on the other, Louisville, KY, Cincinnati, OH, and points in IN.

MC 908 (Sub-16F), filed March 5, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene L. Cohn, One North LaSalle St., Rm 2255, Chicago, IL 60602. Transporting (1) *wooden kitchen cabinets, and materials, equipment, and supplies* used in the manufacture and distribution of wooden kitchen cabinets, (except commodities in bulk), between Jeffersonville, IN, on the one hand, and, on the other, points in IL, and (2)(a) *amplifier, electronic, loud speaker, phonographic, radio, and television cabinets,* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (2)(a) above, (except commodities in bulk), between the facilities of Zenith Radio Corporation, in Chicago, IL, on the one hand, and, on the other, Evansville, IN.

MC 29079 (Sub-174F), filed February 25, 1980. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 10785, Birmingham, AL 35202. Representative: Keith G. O'Brien, 1729 H St., NW, Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Dap, Inc., a subsidiary of Plough, Inc. at (a) Dayton and Tipp City, OH, (b) Michigan City, IN, (c) Baltimore, MD, and (d) Decatur, GA.

MC 29079 (Sub-175F), filed March 10, 1980. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St., NW, Washington, DC 20006. Transporting (1) *beverage bottle caps, cap ends, cans and can tops, metal containers, tin plate, sheet or coil steel,* and (2) *materials, supplies, and equipment* used in the manufacture of the commodities in (1) above, between the facilities of Crown Cork & Seal at or near Fairfield, AL, Bartow and Orlando, FL, Atlanta, GA, Chicago and Kankakee, IL, Baltimore and Salisbury, MD, Lawrence, MA, Faribault, MN, St. Louis, MO, North Bergen, NJ, Cleveland and Perrysburg, OH, Philadelphia, PA, Cheraw and Spartanburg, SC, Winchester, VA, and Milwaukee, WI, on the one hand, and, on the other, points in AL, DE, GA, IL, IN, KY, MD, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC, and points in that part of LA east of the Mississippi River.

MC 29079 (Sub-183F), filed May 16, 1980. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler Van Orman, 1729 H Street, NW., Washington, DC 20006. Transporting (1)(a) *pipe, fittings, valves, fire hydrants, firebrick, sewage treatment plants, and aerators,* (b) *accessories* used in the installation of the commodities in (1)(a) above, from the facilities of Clow Corporation, at (i) Coshocton and Parral, OH, and (ii) Richmond, KY, to points in AL, DE, GA, IL, IN, KY, MD, MI, MS, MO, NJ, NC, NY, OH, PA, SC, TN, VA, WV, WI, DC, and that part of LA east of the Mississippi River, (2) *pipe, fittings, valves, and hydrants,* (b) *materials and supplies* used in the installation of the commodities in (2)(a) above, from the facilities of Clow Corporation, at (i) Coshocton, OH, and (ii) Oskaloosa, IA, to points in AL, DE, GA, IL, IN, KY, MD, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, DC, and that part of LA east of the Mississippi River, and (3)(a) *clay products and refractory products,* and (b) *materials and supplies* used in the manufacture and installation of the commodities in (3)(a) above, from the facilities of Clow Corporation, at or near Carol Stream, IL, to points in AL, DE, GA, IL, IN, KY, MD, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, DC, and that part of LA east of the Mississippi River.

MC 29648 (Sub-14F), filed April 21, 1980. Applicant: E.F. SMITH, INC., P.O. Box 73, Roaring Spring, PA 16673. Representative: J. Bruce Walter, 410 North Third Street, P.O. Box 1146, Harrisburg, PA 17108. Transporting *paper and paper products, and materials, equipment, and supplies* used in the manufacture of paper and paper products, (a) between points in Blari County, PA, on the one hand, and, on the other, points in NC, TN, and KY, and (b) between points in North Woodbury Township (Blair County), PA, on the one hand, and, on the other, in DE, MD, IN, MI, NY, OH, PA, VA, WV, NJ, and DC, restricted to traffic originating at the

named origins and destined to the indicated destinations.

MC 50069 (Sub-562F), filed June 25, 1980. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *liquid chemicals and food products,* in bulk, in tank vehicles, from Chesaning, MI, to points in the U.S. (except AK and HI).

MC 63838 (Sub-12F), filed July 1, 1980. Applicant: BOLUS MOTOR LINES, INC., 700 North Keyser Ave., Scranton, PA 18508. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Transporting *magazines and periodicals,* from the facilities of Triangle Publications, Inc., at points in Lancaster, Luzerne, and Lackawanna Counties, PA, to points in MI, IL, OH, NY, PA, NJ, MA, VT, CT, RI, DE, MD, VA, and NH.

MC 72069 (Sub-30F), filed June 30, 1980. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030–15th St., NW., Washington, DC 20005. Transporting (1) *such commodities* as are dealt in or used by wholesale, retail, and chain grocery and food businesses, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, between Vineland, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted against the transportation of commodities in bulk, and restricted to the transportation of traffic originating at or destined to the facilities of Progresso Quality Foods.

MC 78228 (Sub-173F), filed June 27, 1980. Applicant: J MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *iron and steel articles, and materials, equipment, and supplies* use in the manufacture of iron and steel articles, between facilities used by Roth Steel Products, Division of Roth Industries, Inc., at Cleveland, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 99848 (Sub-4F), filed June 27, 1980. Applicant: J. F. LUX TRANS CO., INC., 232 Ash St., Reading, MA 01867. Representative: Joseph T. Bambrick, Jr., P.O. Box 43308, Atlanta, GA 30336. (1) *Copying and duplicating machinery,* and (2) *supplies* used in conjunction with the commodities in (1) above, from the facilities of A. B. Dick Co., at Suffield, CT, on the one hand, and, on the other, the facilities of North Central Warehouse at Reading, MA.

MC 100439 (Sub-8F), filed June 11, 1980. Applicant: DAVID W. HASSLER, INC., R.D. #8, York, PA 17403. Representative: Jeremy Kahn, Investment Bldg., Suite 733, 1511 K St., NW, Washington, DC 20005. Transporting *lime, limestone, and limestone products,* from West Manchester, PA, to points in VA.

MC 100439 (Sub-9F), filed June 23, 1980. Applicant: DAVID W. HASSLER, INC., R.D. #8, York, PA 17403. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting (1) *lime, limestone, and limestone products,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, from points in Frederick and Clarke Counties, VA, to points in DE, NJ, and PA.

MC 108119 (Sub-275F), filed June 30, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting *parabolic antenna and parts, cable, waveguides and fittings, electrical systems, machinery and equipment parts,* between the facilities of Andrew Corporation at (a) Orland Park, IL and (b) Denton, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the named facilities.

MC 108119 (Sub-276F), filed June 30, 1980. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting *food processing and packaging equipment,* from points in Monterey County, CA, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Goodale Manufacturing Company.

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 USC 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 108359 (Sub-7F), filed June 6, 1980. Applicant: WESTERN NEW YORK MOTOR LINES, INC., d.b.a. EMPIRE TRAILWAYS, 67 Chestnut Street, Rochester, NY 14604. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. Transporting *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, (1) between Syracuse, NY, and Erie, PA, from Syracuse over Interstate Hwy 690 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 79, then over Interstate Hwy 79 to Erie, and return over the same route, (2) between junction Interstate Hwy 90 and Interstate Hwy 490 (Interchange 45) and junction Interstate Hwy 90 and Interstate Hwy 490 (Interchange 47), over Interstate Hwy 490 (3) between junction Interstate Hwy 90 and New York Hwy 98 and Batavia, NY, over NY Hwy 98, (4) between junction Interstate Hwy 90 and NY Hwy 33 and Buffalo, NY, over NY Hwy 33, (5) from junction Interstate Hwy 90 and NY Hwy 179 over NY Hwy 179 to junction NY Hwy 5, then over NY Hwy 5 to Buffalo, and return over the same route, and (6) between junction Interstate Hwy 90 and US Hwy 20 and Erie, PA, over U.S. Hwy 20, serving all intermediate points in routes (1)–(6) above.

MC 109478 (Sub-157F), filed July 1, 1980. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110 Gay Rd., North East, PA 16428. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. Transporting (1) *paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk, and those requiring special equipment), between Erie and Lock Haven, PA, and Oswego, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MA, MD, MI, NH, NY, OH, PA, RI, VT, VA, WV, WI, and DC, and (2) *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk, and those requiring special equipment), from points in ND, SD, NE, KS, MN, IA, MO, AR, LA, TN, NC, SC, GA, FL, AL, and MS to Erie and Lock Haven, PA and Oswego, NY.

MC 109818 (Sub-87F), filed June 30, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from Oakland, IA, to points in IL.

MC 110288 (Sub-17F), filed July 1, 1980. Applicant: HARRY HENERY, INC., 3517 W. Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *lead and lead products, materials, equipment and supplies* used in the manufacture and

distribution of lead and lead products, distribution of the commodities in (1) distribution, and installation of the

carrier, transporting *automobile parts,* Trade Center, New York, NY 10048. American, Inc., at or near Borger, TX, to

distribution of lead and lead products, (except commodities in bulk), between Dallas, TX, Indianapolis, IN, Los Angeles, CA, Seattle, WA, Middletown, NY, and Winston-Salem, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110328 (Sub-19F), filed May 1, 1980. Applicant: ROY A. LEIPHART TRUCKING, INC., 1298 Toronita Street, York, PA 14702. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Transporting (1) *synthetic fibers and synthetic yarns*, (a) from Martinsville, Rocky Mount, and Waynesboro, VA, Salisbury, Shelby, and Earl, NC, and Spartansburg, SC, to Carlisle, PA, and (2) *automobile body panels, fiberboard, sound deadening materials, carpet padding, shoddy, and automobile roof lining*, from Marine City, MI, Franklin, OR, Norwalk, OH, and Marion, IN, to Carlisle and Lewistown, PA.

MC 110988 (Sub-432F), filed June 9, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Ave., Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *such commodities* as are dealt in, or used by, manufacturers and distributors of resins, between points in the U.S., restricted to the transportation of traffic from, to, or between the facilities of Freemen Chemical Corporation.

MC 110988 (Sub-433F), filed July 1, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting (1) *commodities in bulk*, between the facilities of Marden-Wild Corporation at Somerville, MA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the above-named origins and destinations, and (2)(a) *tanning oils*, from the facilities of Whittemore-Wright Company, Inc., at Boston, MA to points in IL IA, KY, MI, MN, PA, TN, and WI, and (b) *materials and supplies* used in the manufacture and distribution of tanning oils from points in IL to the facilities of Whittemore-Wright Company, Inc., at Boston, MA.

MC 112989 (Sub-129F), filed June 26, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting (1) *rubber, rubber compound, adhesives and machinery*, (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Bandag, Inc., at or near Muscatine, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 112989 (Sub-130F), filed June 27, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). Transporting (1) *paint and paint products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Inmont Corporation at Anaheim, CA, on the one hand, and, on the other, Oklahoma City, OK, restricted against the transportation of commodities in bulk, in tank vehicles.

MC 113678 (Sub-886F), filed July 1, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *photographic paper and supplies* (except commodities in bulk), (1) from Salt Lake City, UT, to Denver, CO, Hastings, MN, Billings, MT, Omaha, NE, Fargo, ND, Richardson, TX, and Chehalies and Spokane, WA, and (2) from Los Angeles, CA, to Salt Lake City, UT.

MC 113678 (Sub-887F), filed July 1, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except commodities in bulk), from the facilities of Pierce Packing Co., at or near Billings, MT, to points in AZ, AR, CA, CO, ID, KS, LA, MN, MO, NE, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 118089 (Sub-43F), filed June 19, 1980. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *doors* and *materials, equipment and supplies* used in the installation of doors, (except in bulk), from Tacoma, WA to points in AZ, NM, TX, OK, and LA.

MC 118468 (Sub-65F), filed June 30, 1980. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson, St., Eagle Grove, IA 50533. Representative: William L. Fairbanks, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier*, Transporting (1) *refractory products and insulation materials*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1), between points in the U.S., (except AK and HI), under continuing contract(s) with A. P. Green Refractories Company, of Mexico, MO.

MC 119988 (Sub-261F), filed June 30, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *plastic bags and plastic roll film*, between Tyler, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 119988 (Sub-262F), filed July 2, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting (1) *plastics and plastic articles and* (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Shuman Plastics, Inc.

MC 124408 (Sub-16F), filed June 25, 1980. Applicant: THOMPSON BROS., INC., 3604 Hovland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *iron and steel articles*, from the facilities of Washington Steel Corp. at Washington, PA, to points in IN, IL, IA, MN, WI, ND, SD, CO, CA, WA and OR, restricted to traffic originating at the named origin.

MC 124679 (Sub-126F), filed June 30, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Michael L. Bunnell (same address as applicant). Transporting *edible tallow, shortening and blends of shortening, vegetable oil, cooking or salad oils, and margarine* (except commodities in bulk), from the facilities of Bunge Edible Oil Corporation, at Bradley, IL, to points in NY.

MC 126118 (Sub-250F), filed June 16, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *beverages* (except in bulk), between points in CA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, SC, and TX.

MC 129748 (Sub-1F), filed June 25, 1980. Applicant: PONY EXPRESS, 2059 Belgrave Ave., Huntington Park, CA 90255. Representative: Arlo L. Dundas (same address as applicant). *Contract carrier*, transporting *automobile parts*, and *accessories* for automobile parts, between points in Los Angeles, Ventura, Santa Barbara, Orange, San Diego, Riverside, San Bernardino, San Luis Obispo, Kern and Imperial Counties, CA, under continuing contract(s) with General Motors Corporation of Flint, MI.

MC 129878 (Sub-4F), filed June 27, 1980. Applicant: FLOUR TRANSPORT, INC., 5471–A Ferguson Drive, Los Angeles, CA 90022. Representative: Walter L. Keeney (same address as applicant). Transporting *liquid and dry sweeteners*, in bulk, between points in Los Angeles County, CA, on the one hand, and, on the other, points in Clark County, NV, and AZ.

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 USC 11343(a) or submit an affidavit indication why such approval is unnecessary.

MC 129908 (Sub-53F), filed May 16, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 SW 15th Street, Oklahoma City, IL 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. Transporting *packaging materials*, from the facilities of RJR Archer, Inc., at Winston-Salem, NC, to points in AZ, AR, CA, CO, IL, IN, KS, KY, LA, MO, OK, OR, TN, TX, and WA.

MC 133689 (Sub-332F), filed March 5, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities* as are dealt in by discount and department stores (except commodities in bulk), and *materials, equipment, and suplies* used in the conduct of such business, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Dayton-Hudson Corporation.

MC 134038 (Sub-7F), filed June 9, 1980. Applicant: MAJORS TRANSIT, INC., P.O. Box 7, Hwy 79N, Caneyville, KY 42721. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. Transporting *washing compounds, cleaning compounds, and foodstuffs* (except commodities in bulk), between the facilities of the Proctor & Gamble Distributing Co., at Cincinnati, OH, on the one hand, and, on the other, the facilities of Wetterau, Inc., at Greenville, KY, and the facilities of D. G. Hayes Grocery Co., at Leitchfield, KY.

MC 134699 (Sub-4F), filed June 27, 1980. Applicant: CAMPUS DIVISION OF P'EYLIM (AMERICAN YESHIVA STUDENT UNION), 3 West 16th St., New York, NY 10011. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *campers' baggage and personal effects*, during the season from June 1 to October 1 inclusive, of each year, between New York, NY, and points in Nassau, Suffolk, Westchester, and Rockland Counties, NY, and Bergen, Essex, Hudson, Union, Passaic, Middlesex, Monmouth, Somerset, and Morris Counties, NJ, on the one hand, and, on the other, points in Sullivan County, NY, and Monroe and Wayne Counties, PA.

MC 138018 (Sub-61F), filed July 1, 1980. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). Transporting *bananas*, from points in LA, MS, and TX, to points in CO, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 138018 (Sub-62F), filed July 1, 1980. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). Transporting *such commodities* as are dealt in or used by wholesale and retail petroleum businesses (except commodities in bulk, in tank vehicles), between those points in the U.S. in and west of OH, IN, IL, MO, AR, and LA (except AK and HI), restricted to traffic originating at and destined to points in the described territory.

MC 138438 (Sub-88F), filed May 29, 1980. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *office fixtures and vending machines*, from Hagerstown, MD, and Ranson and Martinsburg, WV, to points in the U.S. (except AK and HI).

MC 138748 (Sub-3F), filed July 1, 1980. Applicant: DODDS REALTY CO., d.b.a. DODDS SERVICE CO., 40 Terminal St., Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Contract carrier*, transporting *twine*, from Duluth, MN, and Milwaukee and Superior, WI, to points in AL, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, and WY, under a continuing contract(s) with the Dubuque Twine Company, of Dubuque, IA.

MC 139299 (Sub-5F), filed July 1, 1980. Applicant: UNRUH GRAIN, INC., P.O. Box 187, Copeland, KS 67837. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *dry urea*, from the facilities of Cominco American, Inc., at or near Borger, TX, to points in CO, KS, OK, NE, and NM.

MC 139809 (Sub-12F), filed June 26, 1980. Applicant: FORBES REFRIGERATED TRANSPORT, INC., P.O. Box 7098, Wilson, NC 27893. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Transporting *foodstuffs* (except in bulk), between points in NC, SC, and VA, on the one hand, and, on the other, points in FL, GA, SC, NC, TN, KY, WV, VA, OH, MD, DE, NJ, PA, NY, CT, RI, and MA.

MC 140389 (Sub-85F), filed June 2, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. Transporting (1) *paper and paper products, and (2) materials equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Scott Paper Company at points in AL, AR, GA, and IL, on the one hand, and, on the other, those points in the U.S. in and west of MI, OH, KY, TN, NC, SC, GA, and FL (except AK and HI).

MC 141138 (Sub-19F), filed June 26, 1980. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle La., Belleville, IL 62221. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Wheat middlings*, in bulk, from Chester, IL, to points in AR, TN, KY, and MO.

MC 141548 (Sub-17F), filed June 27, 1980. Applicant: INTERIOR TRANSPORT, INC., P.O. Box 3347 TA, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Transporting *chairlifts and tramways*, knocked down, from the facilities of Riblet Aerial Tramway Co., Inc., at Spokane, WA, to points in the United States in and west of PA, OH, IN, IL, MO, AR, and TX (except AK and HI).

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 USC 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 142059 (Sub-135F), filed June 25, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *non ferrous metal articles* (except in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Metal Exchange Corporation or U.S. Reduction Company.

MC 142059 (Sub-136F), filed June 25, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd.,

Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *cleaning compounds* in packages from New Eagle, PA to points in the U.S (except AK and HI).

MC 142059 (Sub-137F), filed June 30, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *iron and steel articles* (except in bulk), from Milwaukee, WI, to points in the U.S. (except AK and HI).

MC 142059 (Sub-138F), filed July 1, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Ralston Purina Company.

MC 142059 (Sub-139F), filed July 1, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *nonferrous metal scrap*, in packages, between points in the U.S. in and east of MN, IA, NE, CO, OK, and TX.

MC 142268 (Sub-44F), filed June 30, 1980. Applicant: GORSKI BULK TRANSPORTATION, INC., R.R. #4, Harrow, Ontario, Canada NOR IGO. Representative: William H. Shawn, Suite 501, 1730 M St., NW, Washington, DC 20036. Transporting *liquid chemicals, petroleum products, and additives*, (1) from ports of entry on the international boundary line between the U.S. and Canada at Niagara Falls, NY, and Port Huron, MI, to points in IL, IN, MI, NJ, NY, PA, WV, and OH, and (2) from points in KS, NJ, NY, and PA, to ports of entry on the international boundary line between the U.S. and Canada at Niagara Falls, NY, and Port Huron, MI, restricted to the transportation of traffic originating at or destined to the facilities of Imperial Oil Ltd., or Esso Chemical Division of Imperial Oil Ltd.

MC 142559 (Sub-146F), filed January 14, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes, A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading of shippers' associations, as defined in 49 U.S.C. 10526(5)(a) from points in Essex and Clinton Counties, NY, and MA and VT, to points in CA, and those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 142559 (Sub-147F), filed January 15, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading of shippers' associations, as defined in 49 U.S.C. 10526(5)(a), from Boston, MA, to Los Angeles, CA, Chicago, IL, and Dallas, TX.

MC 142848 (Sub-13F), filed June 30, 1980. Applicant: JAMES R. POSHARD AND SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, fertilizer, and dry commodities in bulk), between the facilities of Southwind Maritime Centre at or near Mt. Vernon, IN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, LA, MI, MN, MO, MS, NC, NY, OH, PA, SC, TN, VA, WV, and WI, restricted to the transportation of traffic (1) having a prior or subsequent movement by water or rail, or (2) originating at the named origins or destined to the indicated destinations.

MC 143059 (Sub-120F), filed April 28, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610 12th & Main Streets, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting (1) *carbon wood products, charcoal, lighter fluid, and hickory chips*, (2) *accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the distribution of the commodities in (1) and (2) above, between points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities of Husky Industries.

MC 143389 (Sub-13F), filed July 1, 1980. Applicant: MERCHANTS DUTCH EXPRESS, INC., P.O. Box 2525, Monroe, LA 71207. Representative: Richard M. Tettelbaum, Lenox Towers S, Fifth Floor, 3390 Peachtree Rd., NE., Atlanta, GA 30328. *Contract carrier*, transporting *paper and plastic articles*, between points in LA, AR, MS, OK, TX, and AL, under continuing contract(s) with American Can Company.

MC 143649 (Sub-8F), filed April 30, 1980. Applicant: FIGANBAUM TRUCKING, INC., R.R. #1, Sumner, IA 50674. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *fertilizer*, from points in Dakota County, MN, to points in IA, restricted to traffic originating at the facilities of Land O'Lakes.

MC 144209 (Sub-10F), filed June 27, 1980. Applicant: ERWIN TRUCKING, INC., 9100 "F" Street, Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting (1) *such commodities* as are dealt in by drug, variety, and food stores, and (2) *materials, equipment, and supplies* used by manufacturers of the commodities in (1) above (except commodities in bulk), (a) from St. Paul, MN, to points in AL, AR, CA, CO, CT, DE, FL, GA, IA, IN, IL, KS, KY, LA, MA, MI, MO, MD, NE, NV, NY, NJ, OH, PA, RI, TX, UT, VA, WI, and WA, (b) from Andover, MA, to points in CA, CT, DE, GA, KY, MI, MN, MD, NY, NJ, OH, PA, TX, VA, and WA, (c) from Santa Monica and La Mirado, CA, to Andover, MA, and La Grange Park, IL, and (d) from La Grange Park, IL, to La Mirado, CA, and Andover, MA.

MC 144609 (Sub-11F), filed June 30, 1980. Applicant: DOMINGUEZ BROS. TRUCKING CO., 1500 South Zarzamora St., San Antonio, TX 78207. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between San Antonio, TX, on the one hand, and, on the other, Laredo, TX, restricted to tarffic having a prior or subsequent movement by rail.

MC 145468 (Sub-34F), filed July 1, 1980. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 & Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Logansport, IN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 145738 (Sub-18F), filed June 3, 1980. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., NE., Atlanta, GA 30328. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading of shippers' associations as defined in 49 U.S.C. 10526(5)(a), from New York, NY, and Philadelphia, PA, to points in CA, TX, MO, GA, and FL.

MC 145829 (Sub-18F), filed April 29, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier*, transporting (1) *plastic and rubber* (except in bulk, in tank vehicles), and (2) *scrap plastic and scrap rubber*, between points in NJ, OH, PA, WV, and VA, under continuing contract(s) with Koenig and Sons, of Trenton, NJ.

MC 146149 (Sub-16F), filed May 16, 1980. Applicant: KENNEDY FREIGHT LINES, INC., 74017 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *Glass containers*, and (2) *equipment, materials and supplies used in the manufacture of glass containers* (except commodities in bulk), (1) between Chattanooga, TN, on the one hand, and, on the other, points in NC; and (2) between Mt. Vernon, OH, on the one hand, and, on the other, points in IN and IL.

MC 146448 (Sub-19F), filed June 27, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *plastic articles*, from Charlotte, NC, Birmingham, AL, Havre de Grace, MD, St. Louis, MO, and Milford, CT, to points in AZ, CA, OR, TX, UT, and WA.

MC 146448 (Sub-20F), filed June 27, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *disposable plastic medical articles*, from the facilities of Superior Plastic Products Corp., at or near Cumberland, RI, to points in CA, FL, TN, PA, and TX.

MC 146448 (Sub-21F), filed June 27, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, classes A and B explosives, and commodities which because of size or weight require the use of special equipment), between the facilities of Laerco Transportation and Warehouse at Santa Fe Springs, CA, on the one hand, and, on the other, points in NJ, PA, DE, and MD.

MC 147198 (Sub-7F), filed June 25, 1980. Applicant: P. & E. I. TRUCK LINES, INC., P.O. Box 158, Hoopeston, IL 60942. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. Transporting (1) *canned goods*, from the facilities of Joan of Arc Company at (a) Hoopeston and Princeville, IL. (b) Mayville, WI and (c) St. Francisville and Belledeau, LA, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials and supplies* used in the manufacture and distribution of canned goods (except commodities in bulk), in the reverse direction.

MC 147259 (Sub-5F), filed July 1, 1980. Applicant: CHURCHILL TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill (same address as applicant). Transporting *printed matter and materials, equipment, and supplies* used in the manufacture of printed matter, between points in MI on the one hand, and, on the other, points in IL, IN, OH, WI, GA, FL, and TX.

MC 147949 (Sub-4F), filed June 26, 1980. Applicant: ROEDER CARTAGE COMPANY, INC., 175 Mumaugh Rd., Lima, OH 45804. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. *Contract carrier*, over irregular routes, transporting *sulphur dioxide*, in bulk, in tank vehicles, between Cario and Oregon, OH, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA (except IN, KY, MI, and WV), under continuing contract(s) with Coulton Chemical Corporation of Sylvania, OH.

MC 147969 (Sub-3F), filed June 26, 1980. Applicant: JOE S. BOWEN INC., Hwy. 264 East, P.O. Box 262, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *fresh and frozen meats and meat byproducts*, from points in SD, NE, IA, MN, OH, WI, KS, MO, KY, CA, IL, and TX, to points in TX, IL, IA, and CA.

MC 148409 (Sub-2F), filed June 6, 1980. Applicant: CGR TRUCK LINES, INC., 221 East Carolina, Memphis, TN 38126. Representative: Thomas A. Stroud, 5100 Poplar Avenue, 2008 Clark Tower, Memphis, TN 38137. Transporting *feed, feed ingredients, feed supplements, molasses, meals, fertilizer, fertilizer ingredients, caustic soda, sulfuric acid, and solvents*, in bulk between Memphis, TN, and Helena and Blytheville, AR, on the one hand, and, on the other, points in MS, AL, LA, AR, MO, KY, TN, GA, IL, IN, TX, and OK.

MC 149308 (Sub-5F), filed June 24, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by manufacturers of aluminum and aluminum articles, plastic and plastic articles, and paper and paper products (except in bulk), between the facilities of Reynolds Metals Company at or near Grottoes, Richmond, and Bellwood, VA, on the one hand, and, on the other, the facilities of Reynolds Metals Company at or near Louisville, KY.

MC 149349 (Sub-1F), filed June 10, 1980. Applicant: PHILPOTT BUS LINES, INC., 213 Crawford St., Campbellsville, KY 42718. Representative: Marvin L. Coan, Suite 601, Legal Arts Bldg., 200 So. Seventh St., Louisville, KY 40202. Transporting *passengers and their baggage* in the same vehicle, in charter operations, in round-trip tours, beginning and ending at points in Taylor, Marion, Washington, Larue, Green Adair, Casey, Russell, and Metcalf Counties, KY, and extending to points in IN, OH, TN, and NC.

MC 150449 (Sub-1F), filed May 5, 1980. Applicant: JAMES COCHRAN, d.b.a. COCHRAN FARMS, R.R. #2, Adel, IA 50003. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting: *Wood trusses*, from the facilities of Adel Truss Products, Inc., at or near Adel, IA, to points in IL, KS, MN, MO, NE, SD, and WI.

MC 150479 (Sub-1F), filed July 1, 1980. Applicant: SAFEWAY LINES AND TOUR CO., 1922 East Gage Ave., Los Angeles, CA 90001. Representative: John Paul Fischer, 256 Montgomery St., 5th Floor, San Francisco, CA 94104. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, in round-trip and one-way operations, beginning and ending at points in Los Angeles County, CA, Clark

County, NV, and Coconino, Mohave,

an application for approval of common

MC 151158F, filed June 27, 1980.

complainant's request for a temporary

Accordingly, the Commission is

investigation, interested agencies, and

County, NV, and Coconino, Mohave, Yavapai, Maricopa, Pinal, Yuma, Pima, and Santa Cruz Counties, AZ, and extending to points in the U.S. (including AL but excluding HI).

MC 150988F, filed June 30, 1980. Applicant: A & B CARTAGE, INC., 2411 Robeson St., Fayetteville, NC 28305. Representative: Eric Meierhoefer & Joseph L. Steinfeld, Jr., 1511 K St., Suite 423, Washington, DC 20005. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between all points in NC in and east of Union, Mecklenburg, Iredell, Yadkin, and Surry Counties, NC.

MC 150989F, filed June 9, 1980. Applicant: DOUG'S DELIVERY SERVICE, INC., 99 University Ave., SE, Atlanta, GA 30315. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *ladies' and girls' wearing apparel* between the facilities of K-Mart Apparel Corp., at or near Forest Park, GA, to points in GA.

MC 151089 (Sub-3F), filed June 16, 1980. Applicant: BLUE RIBBON TRUCKING, INC., 167 Fairfield Road, Fairfield, NJ 07006. Representative: Michael R. Werner (same address as applicant). Transporting (1) *plastic and plastic articles,* and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of Turex, Inc.

Note.—The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 151089 (Sub-4F), filed June 16, 1980. Applicant: BLUE RIBBON TRUCKING, INC., 167 Fairfield Rd., Fairfield, NJ 07006. Representative: Michael R. Werner (same address as applicant). Transporting *plastic articles, and materials, equipment and supplies* used in the manufacture, sale and distribution of plastic articles, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of Hussey Molding Corporation.

Note.—The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 151108F, filed June 27, 1980. Applicant: JOHN W. GAITHER d.b.a. GAITHER TRUCKING, P.O. Box 926, Wakeeney, KS 67672. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *fabricated agricultural implement parts and iron and steel articles,* from the facilities of Metal Contracting & Manufacturing, Inc., at or near Wakeeney, KS, to points in the U.S. (except AK and HI), and (2) *iron and steel articles,* in the reverse direction.

MC 151119F, filed April 28, 1980. Applicant: OVERLAND CONTRACT CARRIERS CORP., 2025 English Ave., Indianapolis, IN 46203. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Indianapolis, IN, on the one hand, and, on the other, points in IN.

MC 151138F, filed June 2, 1980. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Elliot Alderman, P.O. Box. 1181, Roswell, GA 30075. Transporting (1) *such commodities* as are dealt in, or used by manufacturers and distributors of water treatment chemicals, and (2) *water-soluble liquid plastics and water treating compounds* (except in bulk, in tank vehicles), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 151138 (Sub-1F), filed June 16, 1980. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Elliot Alderman, P.O. Box. 1181, Roswell, GA 30075. Transporting (1) *such commodities* as are dealt in, or used by manufacturers and distributors of calcium chloride; and (2)(a) *cheese additives* and (b) *extracts or enzymes* used in the manufacture and distribution of cheese products (except in bulk, in tank vehicles) between Germantown, WI and points in OH, MN, ND, SD, IA, IL, IN, MI, KY, MO, WV, NE, and KS.

Note.—The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 151158F, filed June 27, 1980. Applicant: BROWN TRANSIT, INC., 325 Ingram, Conway, AR 72032. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting *such commodities* as are dealt in by wholesale grocery businesses, between (a) points in AR and LA, and (b) Little Rock, AR, and Memphis, TN.

MC 151168F, filed June 26, 1980. Applicant: STEPHEN W. KETCHUM, d.b.a. KETCHUM TRUCKING CO., P.O. Box 464, Pontiac, MI 48056. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting (1) *motorcycles, snowmobiles, and all-terraine vehicles,* and (2) *parts and accessories* for the commodities in (1) above, between those points in the U.S. in and east of ND, SC, NE, KS, OK, and TX.

MC 1511679F, filed June 30, 1980. Applicant: G–M TRANSPORTS, INC., 12344 East Northwest Highway, Dallas, TX 75228. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Contract carrier, transporting *such commodities* as are dealt in by wholesale, retail, and discount stores (except commodities in bulk, and fresh meats and poultry), between Dallas, TX, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Gibson Co-Op Warehouse, Inc., of Dallas, TX.

Agatha L. Mergenovich,
Secretary.

[FR Doc 80-24055 Filed 8-8-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–85]

Certain Slide Fastener Stringers, and Machines and Components Thereof for Producing Such Slide Fastener Stringers; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding and the Public Interest, and of the Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: The Scheduling of Oral Argument and Briefing for Investigation No. 337–TA–85, Certain Slide Fastener Stringers, and Machines and Components Thereof for Producing Such Slide Fastener Stringers.

Notice is hereby given that the presiding officer has filed her recommended determination of

complainant's request for a temporary exclusion order on July 31, 1980. She has also certified the evidentiary record to the Commission for its consideration. Interested persons may obtain copies of the presiding officer's recommendation (and all other public documents) by contacting the Office of the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436.

COMMISSION HEARING: The Commission will hold a hearing beginning at 10:00 a.m., e.d.t., on August 15, 1980, in the Commission's Hearing Room (Room 331), 701 E Street, N.W., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral argument on the presiding officer's recommendation that temporary exclusion order should not issue under section 337(f) of the Tariff Act of 1930, as amended. Second, the Commission will hear presentations concerning appropriate relief, bonding and the public-interest factors for consideration in the event that the Commission determines that there is reason to believe that there is a violation of section 337. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties. The procedures for each portion of the hearing follows.

ORAL ARGUMENT: A party to the Commission's investigation or an interested federal agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to 20 minutes. In addition, such party or agency may present oral argument of up to 10 minutes on the questions of relief, bonding, and the public interest. The oral arguments will be held in this order: Complainant, Respondent, interested agencies, and Commission investigative staff. The complainant may reserve up to 5 minutes of its time for rebuttal. The issues of relief, bonding, and public interest are more fully described below.

RELIEF: If the Commission finds that there is reason to believe that a violation of section 337 has occurred, it may issue (1) an order which could result in the temporary exclusion from entry of Certain Slide Fastener Stringers, and Machines and Components Thereof for Producing Such Slide Fastener Stringers into the United States or (2) an order which could result in requiring the respondent to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of such Slide Fastener Stringers and Machines and Components Thereof for Producing Such Slide Fastener Stringers. Accordingly, the Commission is interested in what relief, if any, should be ordered.

BONDING: If the Commission finds that there is reason to believe that a violation of section 337 has occurred and orders some form of relief, the president has up to 60 days to approve or disapprove the Commission's report. During this period the Certain Slide Fastener Stringers, and Machines and Components Thereof for Producing Slide Fastener Stringers would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond, if any, should be assessed.

PUBLIC INTEREST: If the Commission concludes that there is reason to believe that a violation of section 337 has occurred and orders some form of relief, it must consider the effect of that relief upon the public. Accordingly, the Commission is interested in the effect of any exclusion or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

WRITTEN SUBMISSIONS: The Commission requests that written submissions of four types be filed in connection with these proceedings before the Commission.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be served by hand on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions on the issues are encouraged to consolidate their briefs, if possible. Briefs must be filed no later than the close of business on August 7, 1980. Parties are encouraged to consolidate the filing of exceptions to the presiding officer's recommended determination and alternative findings of fact and conclusions of law under section 210.54 of the Rules with this briefing requirement in order to eliminate duplicative filings. The filing date for such exceptions and alternative findings and conclusions is also August 7, 1980.

2. *Reply briefs to briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file reply briefs to the briefs of opposing parties concerning exceptions to the presiding officer's recommendation in order to give greater focus to the issues. Reply briefs must be filed no later than the close of business August 12, 1980.

3. *Post-hearing briefs.* Parties to the Commission's investigation, interested agencies and the Commission investigative staff may be asked to respond to questions in writing or to brief particular issues in more detail during the August 15, 1980 hearing. Such responses and additional briefing should be incorporated in post-hearing briefs. Post-hearing briefs, must be filed no later than the close of business on August 20, 1980.

4. *Requests to participate in the hearing.* Written requests to appear at the Commission hearing must be filed by August 12, 1980.

ADDITIONAL INFORMATION: The original and 19 true copies of all briefs and written comments and any written request to participate must be filed with the Secretary to the Commission. Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments reflecting confidential information approved by the Commission for *in camera* treatment will be treated accordingly. All nonconfidential written submissions will be open to public inspection at the Secretary's Office. Notice of the Commission's investigation was published in the Federal Register of June 13, 1980 (45 FR 40242).

By order of the Commission.
Issued: August 7, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-24223 Filed 8-11-80; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree In Action To Enjoin Discharge of Hazardous Waste

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 1, 1980, a proposed Consent Decree in *United States* v. *Automated Industrial Disposal*

and Salvage Co., Inc.; and Tipton Investment Service Co. was lodged with the United States District Court for the Eastern District of Tennessee, Northeastern Division. The proposed decree would require Defendants to immediately abate and remove all pollution from the surrounding waters, groundwater, and soil which is attributable to the operation at the Cedar Creek Site near Bristol, Tennessee.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Automated Industrial Disposal and Salvage Co., Inc.; and Tipton Investment Service Co.*, D.O.J. Docket No. 90-7-1-14.

The proposed consent decree may be examined at the Office of the Clerk, U.S. District Court, Federal Building, Summer Street and Main Street, Greenville, Tennessee, office of the United States Attorney, Court House Building, Greenville, Tennessee 37743, at the Region IV Office of the Environmental Protection Agency, Enforcement Division, Legal Branch, 345 Courtland Street, Atlanta, Georgia 30365 and at the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice (Room 1644), Ninth Street and Pennsyvania Avenue, N.W., Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-24175 Filed 8-11-80; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree In Action To Obtain Injuctive Relief To Abate an Imminent and Substantial Endangerment Presented by Disposal or Hazardous Wastes

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 1, 1980, a proposed consent decree in *United States* v. *North Eastern Phamaceutical & Chemical Co., Inc., et al.* (Civil No. 80-5066-CV-SW) was lodged with the United States District Court for the Western District of Missouri, Southwestern Division. The proposed decree would require Syntex Agribusiness, Inc., to undertake remedial work, including destruction and/or effective permanent disposal of hazardous wastes and other contaminated materials presently buried on a small farm near Aurora, Missouri, and to reimburse the United States for up to $100,000.00 in expenses associated with investigating and securing the site.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *North Eastern Pharmaceutical & Chemical Co., Inc. et al.* D.J. Ref. 90-7-1-8.

The proposed consent decree may be examined at the office of the United States Attorney, 549 U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri 64106, at the Region VII Office of the Environmental Protection Agency, Enforcement Division, 324 East 11th Street, Kansas City, Missouri 64106, and at the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice (Room 1644), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Hazardous Waste Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-24176 Filed 8-11-80; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

United States v. Lauhoff Grain Co. and Krause Milling Co.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Panalties Act, 15 U.S.C. § 16(b) through (h), that a proposed Final Judgement and a Competitive Impact Statement (CIS) have been filed with the United States District Court for the District of Kansas in *United States of America* v. *Lauhoff Grain Company and Krause Milling Company*, Civil Action No. 78-1123. The Complaint in this case alleges that the two dry corn milling industry defendants conspired with each other to rig bids and allocate contracts for the sale of a blended food known as corn-soya milk (CSM) products to the Commodity Credit Corporation, an agency of the U.S. Department of Agriculture, in violation of Section 1 of the Sherman Act. The proposed Final Judgment enjoins the defendants for ten years from entering into, continuing or renewing any agreement, understanding, combination or conspiracy to rig bids or allocate contracts for the sale of blended fortified foods. The proposed Judgment also enjoins any communications by Krause or Lauhoff with any seller of blended foods concerning price or other terms of sale prior to communication of such information to the public or trade generally, except in the course of bona fide purchase and sale transactions. The proposed Judgment requires defendants to take affirmative action for a period of five years to apprise management personnel of the companies of the requirements of the proposed Judgment and the possible consequence of its violation. The CIS describes the terms of the Judgment and the background of the action.

Public comment is invited within the statutory 60-day comment period and should be directed to John L. Burley, Assistant Chief, Midwest Office, Antitrust Division, Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604, (telephone: (312) 353-7538). Such comments and responses thereto will be published in the **Federal Register** and filed with the Court.

Dated: July 14, 1980.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. District Court, District of Kansas

United States of America, Plaintiff, v. *Lauhoff Grain Company*, and *Krause Milling Company*, Defendants.

Civil Action No. 78-1123.

Filed: July 14, 1980.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to the plaintiff and defendants in this and any other proceeding.

Dated: July 14, 1980.

For the plaintiff: Sanford M. Litvack, *Assistant Attorney General;* Joseph H. Widmar, *Director of Operations;* John L. Burley, Allyn A. Brooks, James J. Kubik, Diane C. Lotko-Baker, Mark S. Prosperi, *Attorneys, Department of Justice*, Room 2634, Everett M. Dirksen Bldg., Chicago, Illinois 60604, (312) 353-7283.

For the Defendant Krause Milling Company: David J. Cannon, Esq., *Michael, Best & Friedrich*, 250 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, (414) 271-6560.

For the Defendant Lauhoff Grain Company: Harold J. Bressler, Esq., *McDermott, Will & Emery*, 111 West Monroe Street, Chicago, Illinois 60603, (312) 372-2000.

U.S. District Court, District of Kansas

United States of America, Plaintiff, v. *Lauhoff Grain Company*, and *Krause Milling Company*, Defendants.

Civil Action No. 78-1123.

Filed: July 14, 1980.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on March 27, 1978 and its amended complaint on July 28, 1978 and defendants Lauhoff Grain Company ("Lauhoff") and Krause Milling Company ("Krause") having appeared and filed their Answers to the Amended Complaint denying the material allegations thereof and raising affirmative defenses, plaintiff having dismissed Counts Two and Three of its amended complaint against, and by agreement with, defendants Lauhoff and Krause, by their respective attorneys, and plaintiff and defendants Lauhoff and Krause by their respective attorneys each having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issue;

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by any party with respect to any such issue, and upon consent of the parties aforesaid, it is hereby

Ordered, Adjudged, and Decreed with respect to Count One of plaintiff's amended complaint as to defendants Lauhoff and Krause as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. Count One of the amended complaint states a claim upon which relief may be granted against defendants Lauhoff and Krause under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "blended foods" means any soy fortified sorghum grits, soy fortified bulgur, soy fortified rolled oats, soy fortified corn meal, corn-soy-blend, corn-soya-milk, instant corn-soya-milk, sweetened instant corn-soya-milk, instant soy fortified corn meal, sweetened instant soy fortified corn meal, soy fortified bread flour, whey soy drink mix, wheat protein concentrate blend, wheat soy blend and sweetened wheat soy blend, and soy fortified rice;

(B) "government agency" means any department, division, agency, branch or instrumentality of the United States, and any State or municipality;

(C) "person" means any individual, partnership, firm, corporation, association, or other business or legal entity.

III

The provisions of this Final Judgment shall apply to defendants Lauhoff and Krause and to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendants Lauhoff and Krause are enjoined and restrained from entering into, adhering to, maintaining, enforcing or furthering, directly or indirectly, any contract, combination or conspiracy with any other person to:

(A) Fix, determine, establish, maintain or stabilize the prices, discounts or other terms or conditions for the sale of blended foods to any person, government agency or foreign government;

(B) Submit noncompetitive, collusive, or rigged bids on contracts for the sale of blended foods to any person, government agency or foreign government;

(C) Allocate contracts, rotate or divide markets, customers or territories, with respect to sales of blended foods to any person, government agency or foreign government; and

(D) Communicate to or exchange with any other person manufacturing or selling blended foods any terms or conditions of sale including but not limited to any actual or proposed price, price component, price change, discount, total quantity, incremental price or quantity, or freight rate, at or upon which blended foods are to be, or have been, sold to any person, before such information is available to the public.

Subparagraphs (A) and (D) of this Section IV shall not apply to prices, discounts, or any other terms or conditions of purchase or sale, or necessary communications relating thereto, offered by either defendant Lauhoff or Krause to any person or offered by any person to either defendant Lauhoff or Krause in negotiating for, entering into or carrying out a bona fide sale or purchase or proposed sale or proposed purchase of blended foods either between defendant Lauhoff or Krause and such other person or where such other person is acting as a purchasing or selling agent or group buying or selling representative on behalf of any third person.

V

Defendants Lauhoff and Krause shall furnish to the plaintiff a copy of each audit of their bidding procedures required by paragraph (c) of the Order of the Commodity Credit Corporation Debarring Officer regarding defendants Lauhoff and Krause issued on December 17, 1976, and any other written notifications or interpretations of that Order.

VI

For a period of five (5) years from the date of entry of this Final Judgment, defendants Lauhoff and Krause shall preserve all written price computations and other written calculations perfomed by defendants subsequent to March 27, 1978, in the preparation of any bid on blended foods.

VII

Defendants Lauhoff and Krause are ordered and directed:

(A) To furnish, within sixty (60) days after the entry of this Final Judgment, a copy of this Final Judgment to each of its officers and directors, and to each of its employees and agents who have any responsibility for preparing, reviewing or submitting bids on blended foods;

(B) To furnish a copy of this Final Judgment to each successor to such officers, directors, employees or agents described in Section VII (A) hereof within sixty (60) days after such successor becomes employed or associated with either defendant Lauhoff or Krause;

(C) To obtain a receipt from each person to whom a copy of this Final Judgment has been furnished pursuant to Sections VII (A) and (B) hereof, and to maintain said receipts so long as this Final Judgment is effective;

(D) To establish a program for dissemination of, education as to, and compliance with this Final Judgment, for each individual to whom a copy of the Final Judgment has been furnished pursuant to Section VII (A) and (B) hereof and for each corporate employee and agent having responsibilities in connection with or authority over the establishment of prices, discounts or other terms or conditions of sale of blended foods, advising them of its and their obligations under this Final Judgment.

(E) To furnish to plaintiff within one hundred and twenty (120) days of the entry of this Final Judgment, and thereafter upon request by plaintiff for a period of five (5) consecutive years from the date of its entry, an annual account of all steps defendant has taken since the prior account to discharge its obligations under this Section VII and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

VIII

Defendants Lauhoff and Krause shall require, as a condition of the sale or disposition of all, or substantially all, of the assets used in the production and sale of blended foods, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

IX

XI

president of Krause Milling Company, was also filed in the District of Kansas on March

Government's Complaint and were prepared

officers, directors, employees, and agents

without additional litigation is appropriate in

IX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview under oath officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the Untied States except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such maerial, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XI

This Final judgment shall be in effect for a period of ten years from the date of its entry by this Court.

XII

Entry of this Final Judgment is in the public interest.

Dated:

_____,

United States District Judge.

U.S. District Court, District of Kansas

United States of America, Plaintiff v. *Lauhoff Grain Company*, and *Krause Milling Company*, Defendants

Civil No. 78-1123.

Filed: July 14, 1980.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)], the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgement submitted for entry in this civil antitrust proceeding.

I

Nature of the Proceeding

On March 27, 1978 the United States filed a civil complaint under Section 4 of the Sherman Act [15 U.S.C. § 4], alleging that the defendants, Krause Milling Company (hereinafter "Krause") and Lauhoff Grain Company (hereinafter "Lauhoff"), had violated Section 1 of the Sherman Act [15 U.S.C. § 1]. The Complaint alleged that, beginning in early 1970 and continuing until late 1976, defendants and various co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce, the substantial terms of which were: (a) to allocate between the defendants contracts awarded by the Commodity Credit Corporation (hereinafter CCC), an agency of the United State Department of Agriculture, for the total volume of corn-soya-milk products, various types of blended foods purchased by the CCC under the Food For Peace Program; and (b) to submit rigged, collusive and non-competitive bids to the CCC for the above-described contracts.

On July 26, 1978 the United States filed a First Amended Complaint in which the above-described violation of Section 1 of the Sherman Act was realleged as Count One. In addition, Count Two alleged a violation of the False Claims Act [31 U.S.C. §§ 231–233] and Count Three alleged actual damages under Section 4A of the Clayton Act [15 U.S.C. § 15(a)]. Counts Two and Three of the First Amended Complaint, seeking money damages for alleged overcharges suffered by the United States as a result of the alleged conspiracy, have been previously settled and compromised by the United States with the defendants Lauhoff and Krause without adjudication of any issue of fact or law. The attached final judgment provides injunctive relief against defendants Krause and Lauhoff under Count One.

A federal grand jury indictment against the same corporate defendants and one individual defendant, Charles A. Krause, president of Krause Milling Company, was also filed in the District of Kansas on March 27, 1978. The indictment alleged a criminal felony violation of Section 1 of the Sherman Act arising out of the same conspiracy alleged in this case. All defendants in the criminal case entered pleas of *nolo contendere* and were sentenced by District Judge Earl E. O'Connor on November 13, 1978. The sentences were as follows:

Lauhoff Grain Company—$450,000 fine.

Krause Milling Company—$450,000 fine.

Charles A. Krause—2 years custody of the Attorney General, 6 months to be served with the remainder suspended; $25,000 fine.

Entry by the Court of the proposed consent judgment will terminate the remaining portions of this civil action against Krause and Lauhoff, except insofar as the Court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify or enforce the judgement, or to punish alleged violations of any of the provisions of the judgment.

II

Description of Practices Involved in the Alleged Violation

The defendants are grain millers which manufacture corn-soya-milk products (CSM), high protein blended food products, which are sold to the CCC under the "Food For Peace Program" (Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended). The CCC ships the product to foreign countries for distribution by relief organizations to undernourished people and to victims of war, famine and a variety of natural disasters. Defendants' total sales of CSM products during the period of the alleged conspiracy amounted to about $280 million.

The Government would have been prepared to prove at trial that representatives of defendants entered into an agreement in early 1970 to allocate the total purchases of CSM products monthly by the CCC between their two companies on the basis of 55 percent of the quantity to be purchased from Lauhoff and 45 percent to be purchased from Krause. This allocation was to be accomplished through a series of phone calls on the occasion of each bid during which the prices and quantities to be bid by each company would be discussed and agreed upon. Bids were then submitted to the CCC containing the prearranged prices and quantities which each company had agreed to submit. This alleged bid rigging and contract allocation agreement continued until November, 1976 when grand jury subpoenas *duces tecum* were served upon the defendants.

According to the Complaint, the alleged conspiracy had the following effects:

(a) Prices of CSM products sold to the CCC under the Food For Peace Program were fixed, maintained, and established at artifical and non-competitive levels;

(b) Competition in such sales was restrained, suppressed and eliminated; and

(c) The United States Government was denied the benefits of free and open competition in the purchase of CSM products.

Defendants, in their formal pleadings filed in the case, denied all of the allegations in the Government's Complaint and were prepared to dispute the evidence to be offered by the Government at a trial.

III

Explanation of the Proposed Final Judgment

The United States and the defendants Krause and Lauhoff have stipulated that the proposed final judgment, which is in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment by the Court is conditioned upon a determination by the Court that the judgment is in the public interest.

A. *Prohibited Conduct.* The proposed judgment will prohibit Krause and Lauhoff for ten years from entering into or adhering to any agreement with any person to fix or maintain the prices or other terms or conditions for the sale of blended foods to any third party. The judgment also prohibits the submission of non-competitive, collusive, or rigged bids on contracts for the sale of blended foods to any person. Also forbidden is any agreement by Krause or Lauhoff to allocate contracts, rotate or divide markets, customers, or territories with respect to sales of blended foods. The judgment also prohibits Krause and Lauhoff, by agreement or individually, from communicating or exchanging with any other person any information on prospective prices, quantities, freight rates, discounts or other terms and conditions for the sale of blended foods, before such prices or other terms are made available to the public or trade generally, except in the course of bona fide purchase and sales transactions.

B. *Required Conduct.* To ensure that all bids to the Government are made without collusion or agreement, the proposed judgment requires defendant Krause and Lauhoff to furnish the Government a copy of any audit of their bidding procedures for CCC sales prepared in accordance with any Order of the CCC entered as a result of debarment proceedings conducted by CCC against Krause and Lauhoff. To permit monitoring of compliance with the provisions relating to competitive bidding, defendants Krause and Lauhoff are also required, over a five-year period, to preserve all written price computations and other calculations actually performed in connection with the submission of bids to public agencies.

For the purpose of notifying all necessary employees regarding the prohibitions of the judgment, defendants Krause and Lauhoff are each required, within 60 days, to serve a copy of the judgment on each of their respective directors and officers, and upon each of their employees or agents who have any responsibility for preparing, reviewing, or submitting bids on blended foods. If new employees are hired in these positions in the future, Krause and Lauhoff must also serve a copy of the judgment on these new employees. The judgment applies not only to the defendant corporations but also to their officers, directors, employees, and agents who have actual notice of the judgment. Requiring the defendants Krause and Lauhoff to give such notice to their responsible personnel serves two purposes: it enables the affected employees to know what activities are prohibited, and it permits prosecution for criminal contempt of those employees who disregard the provisions of the judgment. Krause and Lauhoff are also required to establish a reasonable program for those persons having duties in regard to establishment of prices, discounts, or other terms or conditions of sale of blended foods advising them of the company's obligations under the judgment.

Under the proposed judgment, the Department of Justice is given access for ten years to the files and records of the defendants Krause and Lauhoff in order to examine such records for compliance or noncompliance with the judgment. The Department is also granted access to interview employees of the defendants Krause and Lauhoff to determine whether defendants are complying with the judgment.

C. *Effect of the Proposed Judgment on Competition.* The relief encompassed in the proposed consent judgment is designed to prevent a recurrence of any of the activities alleged in the Complaint. The prohibitory language of the judgment will ensure that all pricing decisions on blended foods are made independently by the individual competitors. The judgment contains sufficient record-keeping requirements and access to defendants' records to allow the Department to adequately monitor defendants' activities in the future.

In addition, Krause will be dismissed as a defendant in another related civil case. A second civil complaint virtually identical in form to the complaint in the captioned case, was filed July 26, 1978, and seeks damages and injunctive relief in three counts against Krause Milling Company and ADM Milling Co., with respect to a different product, soy-fortified sorghum grits (SFSG). That case was entitled *United States* v. *Krause Milling Company and ADM Milling Co.*, 78 C 1122 (D. Kansas). Counts Two and Three, the damage counts, in that case have been previously settled with both ADM and Krause. A stipulated final judgment was entered on September 20, 1979 providing injunctive relief under Count One against ADM nearly identical to the relief which will be provided against Krause and Lauhoff in the attached decree. The Department of Justice and Krause have stipulated to a dismissal of Count One seeking injunctive relief in the *Krause-ADM* case, which dismissal shall be effective upon entry of the final judgment in the captioned *CSM* case. An additional decree against Krause in the *Krause-ADM* case would thus be identical to the decree against Krause in the captioned case, and would be repetitious and unnecessary. The single proposed decree against Krause prohibits all of the illegal acts alleged in the complaints in both cases.

Accordingly, it is the opinion of the Department of Justice that the proposed judgment is fully adequate to prevent any future antitrust violations by the defendants Krause and Lauhoff. It is also the view of the Department that disposition of the case without additional litigation is appropriate in view of the fact that the proposed judgment includes the form and scope of relief equal to that which might be obtained after a full hearing on the issues in both civil cases at a trial.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Since the CCC, an agency of the United States Department of Agriculture, was the only purchaser of blended foods, there are no potential private plaintiffs who have suffered any equitable or monetary damage as a result of the alleged violation in this case. Hence, no potential private litigants exist who have standing to sue under Section 4 of the Clayton Act in this matter.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to John L. Burley, Department of Justice, Antitrust Division, Room 2834, 219 South Dearborn Street, Chicago, Illinois 60604, within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary in the public interest. The proposed judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VI

Alternatives to the Proposed Consent Judgment

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than the entry of the negotiated consent judgment. The proposed judgment contains virtually all the relief which was requested in the Complaint.

VII

Other Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 USC 16(b)) were considered in formulating this proposed judgment.

John L. Burley, *Attorney, Department of Justice.*

V 45 AG 12 80 UMI

Allyn A. Brooks, James J. Kubik, Diane C. Lotko-Baker, Mark S. Prosperi, *Attorneys, Department of Justice*, Room 2634 Everett M. Dirksen Bldg., Chicago, Illinois 60604, 312-353-7283.

[FR Doc. 80-24216 Filed 8-11-80; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 6th day of August 1980.

Earl T. Klein,
Director, Office of Program Services.

Applications Received During the Week Ending August 9, 1980

Name of applicant and location of enterprise	Principal product or activity
U.S. Seating Co., Inc., Topton, Berks County, Pa.	Manufacture of transportation seating.
Arkansas Ethanol Corporation Helena, Ark.	Production of anhydrous ethanol for gasohol.
Warren Seibert Flippin, Ark	Multiple drilling and tapping spindles and components.
Intox Labs, Inc., Pulaski County, Ark.	Non-Clinical toxicological testing.

[FR Doc. 80-24079 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-81-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-46 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-46, the petitioner proposes to place crosscuts at intervals in excess of 100 feet between entries and rooms. In areas where shaft pillars and drill hole pillars already exist, they may continue to be utilized on centerlines in excess of 100 feet.

4. The size of pillars would have to be sacrificed to comply with the standard, the petitioner states. Considering the enormous volume of the rooms and openings, smaller pillars would diminish rather than enhance the safety of miners.

5. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 31, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24270 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-88-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-95 (gassy mines—explosives) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-95, the petitioner proposes to continue using Ammonium Nitrate Fuel Oil (AN-FO) explosives without stemming.

4. When blasing faces and benches, all personal would be out of the mine before electrically detonating the explosives.

5. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or non-permissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

6. The petitioner alleges that in conjuction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petiton are available for inspection at that address.

Dated: July 31, 1980.

Frank A. White,
Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24271 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-79-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-30 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-30, the petitioner proposes to use permissible auxiliary fans to thoroughly ventilate faces wherever drilling or undercutting is taking place, even though recirculation cannot be totally avoided. When such large rooms are involved it is impossible to totally eliminate recirculation, the petitioner says.

4. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or non-permissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

5. The petitioner alleges that in conjuction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 31, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.
[FR Doc. 80-24266 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-83-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21–53 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21–53, the petitioner proposes to use broken salt and fire resistant brattice as an alternative to the five solid stoppings listed as acceptable materials by MSHA, because slat and fire resistant brattice are appropriate materials for protecting against potential air leakage into the ventilation system.

4. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progess.

5. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 31, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.
[FR Doc. 80-24267 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-86-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21–79 (gassy mines—equipment) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21–79, the petitioner proposes to use non-permissible distribution boxes in working areas.

4. The petitioner claims that permissible distribution boxes are needed only in areas where methane-liberating activities are in progess.

5. A number of safeguards are listed as follows:

a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concetration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 31, 1980.
Frank A. White,
Director, Office of Standards, Regualtions and Variances.
[FR Doc. 80-24269 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-105-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, 1728 Koppers Building, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Federal No. 1 Mine located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Portions of the mine's main return airways are abandoned areas, unsafe for travel due to flooding or massive falls caused by deterioration of the draw slate top.

2. Because of flooding, the walls and ribs are so deteriorated that installation of additional roof supports still proves to be an inadequate means of support.

3. Although these portions of the main return airways are unsafe for travel, they still allow sufficient air to pass to ventilate the mine.

4. The deteriorated conditions of the airways have made it exceedingly hazardous to conduct weekly ventilation and methane tests in at least one entry of each return aircourse in its entirety as required by the standard.

5. Rehabilitation of the airways would expose miners to serious hazards from potential falls of roof and rib.

6. As an alternative method to complying with the standard, petitioner proposes to:

(a) Establish and maintain in a safe condition six special ventilation checkpoints to be examined by a qualified person;

(b) Make weekly air quantity and methane readings at each checkpoint;

(c) Record the results on a date board located at each station;

(d) Investigate immediately any increase in methane above 2.0% in any airway; any increase in carbon monoxide of .50% or more; or change in any quantity of air (increase or decrease) by 10% when compared to the last reading at that checkpoint; and

(e) Report any changes immediately to the mine foreman and ventilation foreman.

7. Petitioner states that the proposed alternate method will provide no less protection to the miners than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 31, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.
[FR Doc. 80-24268 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-99-C]

Zephyr Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Zephyr Mining, Route 1, Box 7M, Pineville, Kentucky 40977, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Gil-Way Mine located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the illumination of roof bolting machines being used in the mine.

2. Illumination provided for the roof bolters would result in a diminution of safety for the miners affected. Illumination would interfere with the miners' ability to communicate with their cap lamps and would cause discomforting glare to the jack setters or timbermen.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 11, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 31, 1980.
Frank A. White,
Director, Office of Standards, Regulations and Variances.
[FR Doc. 80-24256 Filed 8-11-80; 8:45 am]
BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR § 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 65, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of Subpart "O" to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State Standards after public hearing. Sections 1952.210–.214 of Subpart "O" set forth the State's schedule for the adoption of Federal standards. By letter dated April 24, 1979, from Commissioner Harvey A. Epstein, Maryland Division of Labor and Industry, to David H. Rhone, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1019(e), .1000 and .1018 pertaining to Occupational Exposure to Inorganic Arsenic, as published in the **Federal Register** (43 FR 19624), dated May 5, 1978. These standards, which are contained in COMAR 09.12.31, Maryland Occupational Safety and Health Standards, were promulgated after public hearing held August 2, 1978, pursuant to Article 41, § 256F(e), Annotated Code of Maryland.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 203 East Baltimore Street, Baltimore, Maryland 21202; and the Technical Data Center, Room N2439, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plans as a proposed change and making the Regional Adminstrator's approval effective

immediately upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 12, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania this 21st day of May, 1979.

David H. Rhone,

Regional Administrator.

[FR Doc. 80-24250 Filed 8-11-80; 8:45 am]

BILLING CODE 4510-26-M

Wyoming State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that when ever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letter dated June 13, 1979 from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Adminstrator, stating that the State of Wyoming will not incorporate as part of the plan, State standards comparable to 29 CFR 1910.1043 Occupational Exposure to Cotton Dust, which was published in **Federal Register** June 23, 1978 (43 FR 27350), June 30, 1978 (43 FR 29473), August 8, 1978 (43 FR 35032), and December 5, 1978 (43 FR 56893). These standards are not an issue in the State of Wyoming and will not be contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry. This decision was made by the Wyoming Legislative Management Council on June 7, 1979, pursuant to Section 27-278 Wyoming Status 1957 as amended 1973.

2. *Decision.* Having reviewed the State decision, it has been determined that there is no need for the State of Wyoming to incorporate 29 CFR 1910.1043 as part of the plan. There currently are no worksites in the State where employees are exposed to the hazard covered by this standard. In the event of further activity in the State which would be covered, enforcement of the standard will be the responsibility of Federal OSHA, until such time as the State adopts the standards.

3. *Location of supplements for inspection and copying.* A copy of the letter, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82001; and the Technical Data Center, Room N2439R, 3rd and Constitution Ave., N.W., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause at this time, under the present occupational circumstances in Wyoming, to exempt the Wyoming Occupational Health and Safety Program from the adoption of the Standard Occupational Exposure to Cotton Dust 29, CFR 1910.1043.

This decision is effective August 12, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1606 (29 U.S.C. 667))

Signed at Denver, Colorado, this 29th day of June 1979.

Curtis A. Foster,

Regional Administrator.

[FR Doc. 80-24231 Filed 8-11-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-7390 and 7391]

Bethlehem Mines Corp., Cambria Division, Mine #73 and Mine #77, Ebensburg, Pa.; Negative Determination Regarding Application for Reconsideration

By an application dated June 30, 1980, the United Mine Workers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers mining metallurgical coal at Mines #73 and #77 of the Cambria Division of the Bethlehem Mines Corporation, Ebensburg, Pennsylvania. The determination was published in the **Federal Register** on June 6, 1980 (45 FR 38181).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that imports of steel and coke have contributed importantly to the closing of Mines #73 and #77 of Bethlehem Mines Corporation. The petitioner further believes the stockpiling of coke by Bethlehem has played a role in the closing of the mines.

The Department's review shows that workers in Mines #73 and #77 of the Bethlehem Mines Corporation did not meet the increased import criterion or the "contributed importantly test" of the Trade Act of 1974. Nearly all the coal produced by the two mines was shipped to Bethlehem Steel's Johnstown plant where it was converted into coke used in steel-making. Steel imports do not provide a basis for certifying the coal miners. U.S. imports of carbon steel bars, alloy steel bars, carbon steel wire rod, and carbon steel wire decreased absolutely and relative to domestic shipments in 1979 compared to 1978. These four products together accounted for about 75 percent of the Johnstown plant's outside shipments during the first quarter of 1980. Imports of coke do not provide a basis for certifying the coal miners. Although a small amount of coke was used by the Johnstown plant in 1979, Bethlehem's imports of coke decreased in 1979 compared to 1978. Bethlehem imported no coke in the first quarter of 1980. Further, coal production at Mines #73 and #77 increased in 1979 compared to 1978. While the Johnstown plant maintained an inventory of Coke, this inventory is related to production at the plant. There is no indication of stockpiling for future use. Given the 1979 decline in aggregate and company imports of coke, the Department does not regard the inventory claim as germane to the union's petition for adjustment assistance.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 4th day of August 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-24274 Filed 8-11-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 4th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
3M (Chemolite Plant) (workers)	Cottage Grove, MN	7/23/80	7/21/80	TA-W-9661	Decals, stripping, dash parts for Ford automobiles.
Acco Industries, (UAW)	Adrian, MI	7/23/80	7/15/80	TA-W-9662	Stamped and screw machine parts for cable control for autos.
Arbitman and Arbitman, Inc. (workers)	New York, NY	7/23/80	7/18/80	TA-W-9663	Ladies leather coats.
Arrowhead Dodge (workers)	Pontiac, MI	7/23/80	7/10/80	TA-W-9664	Automobiles sales.
Bundy Tubing, Inc. (workers)	Warren, MI	7/23/80	7/4/80	TA-W-9665	Steel tubing.
Dino's Dress Manufacturer's Inc. (workers)	Copiague, NY	7/23/80	7/21/80	TA-W-9666	Contractors for David Warren Apparel Manufacturers.
E and R Packaging, Inc. (UAW)	Warren, MI	7/23/80	7/20/80	TA-W-9667	Buffing, polishing, and finishing of automotive trim.
Indiana Hide Corp. (workers)	Tupelo, MS	7/23/80	7/17/80	TA-W-9668	Cured cattle hides.
International Playtex, Corp., Inc. (workers)	Lagrange, GA	7/23/80	7/17/80	TA-W-9669	Ladies undergarments.
Compo Industries of New Jersey (workers)	Moonachie, NJ	7/7/80	6/26/80	TA-W-9670	Urethane and vinyl coated fabrics for the shoe industry.
Glen Tex, Inc. (IGLWU)	Flushing, NY	7/23/80	7/21/80	TA-W-9671	Sweaters, gloves, hats, belts, and ribbons.
Margie Sportswear (IGLWU)	New York, NY	7/23/80	7/21/80	TA-W-9672	Pants and women's slacks.
Michigan Plating & Stamping Co. (UAW)	New York, NY	6/26/80	6/23/80	TA-W-9673	Automotive bumpers.
ONAN Corp. (workers)	Huntsville, AL	7/17/80	7/10/80	TA-W-9674	Unknown.
Rock Hill Printing & Finishing Co. (union)	Rock Hill, SC	6/27/80	6/23/80	TA-W-9675	Printing of textile cloth.
Spicer Heavy Axle Division of Dana Corp. (UAW).	Hopkins, MN	6/17/80	7/12/80	TA-W-9676	Automotive machine operators.
Tee Stand, Inc. (IGLWU)	New York, NY	7/23/80	7/21/80	TA-W-9677	Sports wear.
White Pine Sportswear, Inc. (ILGWU)	Brooklyn, NY	7/14/80	7/8/80	TA-W-9678	Sewed precut blouses under contract from jobber.
Berr, Inc. (URW)	Sandusky, OH	6/26/80	6/24/80	TA-W-9679	Plastic and rubber industrial and consumer products.
Ford Motor Co., Tractor Parts Depot (UAW)	Troy, MI	7/22/80	7/16/80	TA-W-9680	Distribute tractor parts.
Metal Craft Co. (UAW)	Mariette, MI	7/23/80	7/21/80	TA-W-9681	Auto parts—stamped.
Metal Craft, Inc. (workers)	Tazewell, VA	7/23/80	7/17/80	TA-W-9682	Equipment for coal mines underground conveyors.
Redall Industries (workers)	Yale, MI	7/23/80	7/21/80	TA-W-9683	Manufacture metal trim and interior parts.
Royal Park, Inc. (workers)	Weatherford, TX	7/23/80	7/18/80	TA-W-9684	Women's apparel.
Shakespeare Co. (USWA)	Kalamazoo, MI	7/23/80	5/5/80	TA-W-9685	Brake cables and wire controls cables.
Union Carbide (OCAW)	Milwaukee, WI	7/23/80	7/16/80	TA-W-9686	Acetylene is only product produced at plant.
Wyckoff Steel (USWA)	Plymouth, MI	7/7/80	6/24/80	TA-W-9687	Cold draw steel.
American Motors Sales Corp. (National Parts District Center) (company).	Milwaukee, WI	6/26/80	6/20/80	TA-W-9688	Parts distribution.
American Motors Sales Corp. (Houston Branch Office) (company).	Houston, TX	6/26/80	6/20/80	TA-W-9689	Vehicle sales.
American Motors Sales Corp. (Washington Zone) (company).	McLean, VA	6/26/80	6/20/80	TA-W-9690	Vehicle sales and parts distribution.
American Motors Sales Corp. (San Francisco Zone) (company).	Burlingame, CA	6/26/80	6/20/80	TA-W-9691	Parts distribution.
American Motors Sales Corp. (Portland Zone) (company).	Portland, OR	6/26/80	6/20/80	TA-W-9692	Vehicle sales and parts distribution.
American Motors Sales Corp. (Pittsburgh Zone) (company).	Warrendale, PA	6/26/80	6/20/80	TA-W-9693	Parts distribution.
American Motors Sales Corp. (Pittsburgh Zone) (company).	Warendale, PA	6/26/80	6/20/80	TA-W-9694	Vehicle sales.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Motors Sales Corp. (Philadelphia Zone) (company).	Sharon Hill, PA	6/26/80	6/20/80	TA-W-9695	Parts distribution.
American Motors Sales Corp. (Philadelphia Zone Sales).	King of Prussia, PA	6/26/80	6/20/80	TA-W-9696	Vehicle sales.
American Motors Sales Corp. (New York Zone) (company).	Elmsford, NY	6/26/80	6/20/80	TA-W-9697	Vehicle sales and parts distribution.
American Motors Sales Corp. (Minneapolis Zone) (company).	Minneapolis, MN	6/26/80	6/20/80	TA-W-9698	Vehicle sales and parts.
American Motors Sales Corp. (Memphis Zone) (company).	Memphis, TN	6/26/80	6/20/80	TA-W-9699	Parts distribution.
American Motors Sales Corp. (Los Angeles Zone) (company).	Carson, CA	6/26/80	6/20/80	TA-W-9700	Parts distribution.
American Motors Sales Corp. (Los Angeles Zone) (company).	El Segundo, CA	6/26/80	6/20/80	TA-W-9701	Vehicle sales.
American Motors Sales Corp. (Kansas City Zone) (company).	Overland Park, KS	6/26/80	6/20/80	TA-W-9702	Vehicle sales and parts distribution.
American Motors Sales Corp. (Detroit Zone) (company).	Detroit, MI	6/26/80	6/20/80	TA-W-9703	Parts distribution.
American Motors Sales Corp. (Detroit Zone) (company).	Southfield, MI	6/26/80	6/20/80	TA-W-9704	Vehicle sales.
American Motors Sales Corp. (Denver Zone) (company).	Denver, CO	6/26/80	6/20/80	TA-W-9705	Vehicle sales and parts distribution.
American Motors Sales Corp. (Dallas Zone) (company).	Dallas, TX	6/26/80	6/20/80	TA-W-9706	Vehicle sales and parts distribution.
American Motors Sales Corp. (Cincinnati Zone) (company).	Cincinnati, OH	6/26/80	6/20/80	TA-W-9707	Vehicle sales and parts distribution.
American Motors Sales Corp. (Chicago Zone) (company).	Elk Grove Village, IL	6/26/80	6/20/80	TA-W-9708	Vehicle sales and part distribution.
American Motors Sales Corp. (Boston Zone) (company).	Mansfield, MA	6/26/80	6/20/80	TA-W-9709	Parts distribution.
American Motors Sales Corp. (Boston Zone) (company).	Westwood, MA	6/26/80	6/20/80	TA-W-9710	Vehicle sales.
American Motors Sales Corp. (Miami Branch) (company).	North Miami Beach, FL	6/26/80	6/20/80	TA-W-9711	Vehicle sales.
American Motors Sales Corp. (Atlanta Zone) (company).	Stone Mountain, GA	6/26/80	6/20/80	TA-W-9712	Vehicle sales and parts distribution.
Mirrex, Inc. (Teamsters)	Mount Clemmens, MI	6/26/80	6/16/80	TA-W-9713	Mirror manufacturer.
Precision Kidd Steel Company (PKEU)	West Aliquippa, PA	7/24/80	7/14/80	TA-W-9714	Cold finished steel bar.
Avondale Mills (company)	Stevenson, AL	7/24/80	7/21/80	TA-W-9715	100 pct manmade fiber yarns for the carpet.
Bethlehem Steel Corp. (USWA)	Sparrows Point, MD	7/9/80	7/7/80	TA-W-9716	Steel.
Dram Molding, Inc. (company)	Bad Axe, MI	7/24/80	7/22/80	TA-W-9717	Molding for cars.
Evans Products Co. (company)	Gagetown, MI	7/25/80	7/23/80	TA-W-9718	Material handling and containers.
RMP Parts Rebuilders (company)	Fitchburg, MA	7/24/80	7/22/80	TA-W-9719	RMP parts rebuildersrefurbishes and repairs.
R & S Stamping, Inc. (company)	Roseville, MI	7/25/80	7/21/80	TA-W-9720	Auto metal stampings.
U.S. Steel Corp.—Fairless Works (USWA)	Fairless Hills, PA	7/11/80	7/8/80	TA-W-9721	Steel products.
U.S. Steel Corp.—Southern District Mines (USWA).	Shelby County, AL	7/7/80	7/3/80	TA-W-9722	Coal.
U.S. Steel Corp.—Thomson-Irvin Works (USWA).	Braddock and Dravosburg, PA.	7/17/80	7/7/80	TA-W-9723	Steel.
Davenport Pontiac Co. (workers)	St. Louis, MO	6/18/80	6/14/80	TA-W-9724	Dealership.
Elegante Blouse Inc. (ILGWU)	Brooklyn, NY	6/26/80	6/24/80	TA-W-9725	Blouses.
RC Allen Co. (workers)	Grand Rapids, MI	7/7/80	6/27/80	TA-W-9726	Markets and services electronic products.
Sergio Guerra Carpentry Co. (workers)	Warren, MI	6/16/80	6/12/80	TA-W-9727	Residential construction.
Shelter Globe Corp. (workers)	Niles, MI	7/7/80	6/23/80	TA-W-9728	Door panels.
Stearns/Ferguson Co., Inc. (workers)	Flat Rocks, MI	6/17/80	6/12/80	TA-W-9729	Conveyor systems.
Tutas Oil Corp. (workers)	Port Huron, MI (Pine Grove)	7/22/80	7/7/80	TA-W-9730	Gas stations.
Tutas Oil Corp. (workers)	Port Huron, MI (Lapeer)	7/22/80	7/7/80	TA-W-9731	Gas stations.
Union City Industries, Inc. (workers)	Union City, MI	6/13/80	6/4/80	TA-W-9732	Adhesives and sealants for auto industry and others.
Bridon American Corporation (company)	Kingston, PA	7/28/80	7/31/80	TA-W-9741	Wire rope, slings, and assemblies.
Coplague Knitwear Corp. (ILGWU)	Copiague, NY	6/27/80	6/27/80	TA-W-9742	Women's sportswear.
Famous Cottons, Inc. (ILGWU)	Copiague, NY	6/27/80	6/27/80	TA-W-9743	Women's sportswear.
Hater Industries, Inc. (company)	Cincinnati, OH	7/28/80	7/31/80	TA-W-9744	Master cylinders.
I.D.R. Carpentry	Detroit, MI	6/13/80	7/30/80	TA-W-9745	Build houses and apartments.
Leaderman Sportswear, Inc. (ILGWU)	New York, NY	7/14/80	7/30/80	TA-W-9746	Skirts and blouses.
Linet Novelty (workers)	New York, NY	5/21/80	6/11/80	TA-W-9747	Key rings, wallets, etc.
Progressive Machinery Corp	Pontiac, MI	7/28/80	7/31/80	TA-W-9748	Resistance welding machine and fixtures.
SGL Modern Creative (company)	Elmwood Park, NJ	7/29/80	7/31/80	TA-W-9749	Decorating of glassware.
Thomas Die & Stamping, Inc	Pontiac, MI	5/28/80	6/11/80	TA-W-9750	Auto metal stampings—parts for auto production.
Black Manufacturing Company (UGW)	Seattle, WA	7/16/80	7/15/80	TA-W-9751	Down filled jackets and windbreakers.
Duquesne Slag Product Company (United Slag Workers).	Pittsburgh, PA	7/18/80	7/15/80	TA-W-9752	Blast furnace slag.
Duquesne Slag Product Company (United Slag Workers).	West Mifflin, PA	7/18/80	7/15/80	TA-W-9753	Blast furnace slag.
Duquesne Slag Product Company (United Slag Workers).	Monessen, PA	7/18/80	7/15/80	TA-W-9754	Blast furnace slag.
Duquesne Slag Product Company (United Slag Workers).	Monaca, PA	7/18/80	7/15/80	TA-W-9755	Blast furnace slag.
Gleason-Holbrook Manufacturing (Company)	Mount Clemmens, MI	7/16/80	7/14/80	TA-W-9756	Automotive components.
IPM Corp., an Allegheny Ludlum Ind. Co. (company).	Ridgway, PA	7/16/80	7/10/80	TA-W-9757	Powder metal engine.
Top Look Leather Fashions, Inc. (workers)	New York, NY	7/18/80	7/27/80	TA-W-9758	Ladies coats and jackets.
W. R. Weaver Co. (USWA)	El Paso, TX	7/16/80	7/16/80	TA-W-9759	Telescopic bun shifts.
Bessemer & Lake Erie R&R—Albion Shop (IAMAUW).	Albion, PA	7/7/80	7/17/80	TA-W-9769	Maintenance and repairs on locomotives and freight cars.
Brown Shoe Company (UFCW)	Fredricktown, MO	7/24/80	7/31/80	TA-W-9770	Womens and children's shoes.
Cotton Plant & Apparel Co., Inc. (workers)	Cotton Plant, AR	7/24/80	7/31/80	TA-W-9771	Ladies and young teens T-shirts, tank tops, shorts, skirts, and dresses.
Joseph Love, Inc. (ILGWU)	College Point, NY	7/28/80	7/31/80	TA-W-9772	Children's dresses.
Micinde Coal (workers)	Mountenville WV	7/7/80	7/14/80	TA-W-9773	Coal mined from underground.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Penn-Dixie Steel Corp. (company)	Centerville, IA	6/9/80	4/17/80	TA-W-9774	Steel hog and cattle panels (doors for pens).
Penn-Dixie Steel Corp. (company)	Kokomo, IN	6/9/80	4/17/80	TA-W-9775	Steel rods, wire and wire products.
Penn-Dixie Steel Corp. (company)	Joliet, IL	6/9/80	4/17/80	TA-W-9776	Steel bars and bar size light shapes.
Pittsburgh Airport Office Park (UB & CWA)	Irondale, OH	7/9/80	7/31/80	TA-W-9777	Raw fire clay.
Stalwart Rubber Co. (URW)	Bedford, OH	7/24/80	7/31/80	TA-W-9778	Spark plug wire covers; automotive specialties.
Aeolian Pianos, Inc. Aeolian American Division (Independent Union of Piano Workers).	East Rochester, NY	6/1/80	6/180	TA-W-9779	Pianos.
Clements Manufacturing Co., Inc. (workers)	Deckerville, MI	7/28/80	7/24/80	TA-W-9780	Wiring assemblies.
Dott Manufacturing Co. (URW)	Deckerville, MI	7/25/80	7/21/80	TA-W-9781	Automotive trim.
GAF Corp. (workers)	Joliet, IL	7/25/80	7/18/80	TA-W-9782	Fibrous padding and sound deadening materials.
Gulf & Western, Stamping Division (workers)	East Jordan, MI	7/28/80	7/24/80	TA-W-9783	Shifting levers, emergency brakes, hood latches, and window regulators.
ITT Corporation, United Plastics Division (AIWA).	Vassar, MI	7/28/80	7/23/80	TA-W-9784	Furnish various parts for auto and furniture industries.
Luxaire, Inc. (USWA)	Elyria, OH	7/28/80	7/22/80	TA-W-9785	Residential heating and air conditioning units.
Prestyle Manufacturing (workers)	Birmingham, MI	7/16/80	7/13/80	TA-W-9786	Water pumps, clutch, motor brackets, and gas tanks.
Rockwell International, Electronics Division	Dallas, TX	7/25/80	7/22/80	TA-W-9787	Transmitters and receivers.
General Motors Corp., Buick Motor Division (company).	Flint, MI	7/28/80	7/24/80	TA-W-9788	Administrative office.
General Motors Corp., Buick Motor Division (company).	Fremont, CA	7/28/80	7/24/80	TA-W-9789	San Francisco zone sales office.
General Motors Corp., Buick Motor Division (company).	Denver, CO	7/28/80	7/24/80	TA-W-9790	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Jacksonville, FL	7/28/80	7/24/80	TA-W-9791	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Atlanta, GA	7/28/80	7/24/80	TA-W-9792	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Oak Brook, IL	7/28/80	7/24/80	TA-W-9793	Chicago zone sales office.
General Motors Corp., Buick Motor Division (company).	Shawnee Mission, KS	7/28/80	7/24/80	TA-W-9794	Kansas City zone sales office.
General Motors Corp., Buick Motor Division (company).	North Quincy, MS	7/28/80	7/24/80	TA-W-9795	Boston zone sales office.
General Motors Corp., Buick Motor Division (company).	Farmington Hills, MI	7/28/80	7/24/80	TA-W-9796	Detroit zone sales office.
General Motors Corp., Buick Motor Division (company).	Edina, MN	7/28/80	7/24/80	TA-W-9797	Minneapolis zone sales office.
General Motors Corp., Buick Motor Division (company).	St. Louis, MO	7/28/80	7/24/80	TA-W-9798	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Clifton, NJ	7/28/80	7/24/80	TA-W-9799	Newark zone sales office.
General Motors Corp., Buick Motor Division (company).	White Plains, NY	7/28/80	7/24/80	TA-W-9800	New York zone sales office.
General Motors Corp., Buick Motor Division (company).	Williamsville, NY	7/28/80	7/24/80	TA-W-9801	Buffalo zone sales office.
General Motors Corp., Buick Motor Division (company).	Charlotte, NC	7/28/80	7/24/80	TA-W-9802	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Rocky River, OH	7/28/80	7/24/80	TA-W-9803	Cleveland zone sales office.
General Motors Corp., Buick Motor Division (company).	Cincinnati, OH	7/28/80	7/24/80	TA-W-9804	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Beaverton, OR	7/28/80	7/24/80	TA-W-9805	Portland zone office.
General Motors Corp., Buick Motor Division (company).	Pittsburgh, PA	7/28/80	7/24/80	TA-W-9806	Zone sales office.
General Motors Corp., Buick Motor Division (company).	King of Prussia, PA	7/28/80	7/24/80	TA-W-9807	Philadelphia zone sales office.
General Motors Corp., Buick Motor Division (company).	Memphis, TN	7/28/80	7/24/80	TA-W-9808	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Irving, TX	7/28/80	7/24/80	TA-W-9809	Dallas zone sales office.
General Motors Corp., Buick Motor Division (company).	Houston, TX	7/28/80	7/24/80	TA-W-9810	Zone sales office.
General Motors Corp., Buick Motor Division (company).	McLean, VA	7/28/80	7/24/80	TA-W-9811	Washington, D.C., zone sales office.
General Motors Corp., Buick Motor Division (company).	Wauwatosa, WI	7/28/80	7/24/80	TA-W-9812	Milwaukee zone sales office.
General Motors Corp., Buick Motor Division (company).	Oklahoma City, OK	7/28/80	7/24/80	TA-W-9813	Zone sales office.
General Motors Corp., Buick Motor Division (company).	Westlake Village, CA	7/28/80	7/24/80	TA-W-9814	Los Angeles zone sales office.
General Motors Corp., Buick Motor Division (company).	Westlake Village, CA	7/28/80	7/24/80	TA-W-9815	Pacific regional sales office.
General Motors Corp., Buick Motor Division (company).	Atlanta, GA	7/28/80	7/24/80	TA-W-9816	Southeast regional sales office.
General Motors Corp., Buick Motor Division (company).	Oak Brook, IL	7/28/80	7/24/80	TA-W-9817	Midwest regional sales office.
General Motors Corp., Buick Motor Division (company).	Troy, MI	7/28/80	7/24/80	TA-W-9818	Central regional sales office.
General Motors Corp., Buick Motor Division (company).	White Plains, NY	7/28/80	7/24/80	TA-W-9819	Eastern regional sales office.
General Motors Corp., Buick Motor Division (company).	Irving, TX	7/28/80	7/24/80	TA-W-9820	Southwest regional sales office.
General Motors Corp., Cadillac Motor Division (company).	Detroit, MI	7/24/80	7/21/80	TA-W-9821	Administrative office.
General Motors Corp., Cadillac Motor Division (company).	Westlake Village, CA	7/28/80	7/24/80	TA-W-9822	Los Angeles zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Fremont, CA	7/28/80	7/24/80	TA-W-9823	San Francisco zone sales office.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Cadillac Motor Division (company).	Denver, CO	7/28/80	7/24/80	TA-W-9624	Zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Jacksonville, FL	7/28/80	7/24/80	TA-W-9625	Zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Atlanta, GA	7/28/80	7/24/80	TA-W-9626	Zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Oak Brook, IL	7/28/80	7/24/80	TA-W-9627	Chicago zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Overland Park, KS	7/28/80	7/24/80	TA-W-9628	Kansas City zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Rockville, MD	7/28/80	7/24/80	TA-W-9629	Washington, D.C., zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Wellesley, MA	7/28/80	7/24/80	TA-W-9630	Boston zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Southfield MI	7/28/80	7/24/80	TA-W-9631	Detroit zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Edina, MN	7/28/80	7/24/80	TA-W-9632	Minneapolis zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Paramus, NJ	7/28/80	7/24/80	TA-W-9633	New York zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Cherry Hill, NJ	7/28/80	7/24/80	TA-W-9634	Philadelphia zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Beachwood, OH	7/28/80	7/24/80	TA-W-9635	Cleveland zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Cincinnati, OH	7/28/80	7/24/80	TA-W-9636	Zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Portland, OR	7/28/80	7/24/80	TA-W-9637	Zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Memphis TN	7/28/80	7/24/80	TA-W-9638	Zone sales office.
General Motors Corp., Cadillac Motor Division (company).	Irving, TX	7/28/80	7/24/80	TA-W-9639	Dallas zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Pontiac, MI	7/28/80	7/24/80	TA-W-9640	Administrative office.
General Motors Corp., GMC Truck & Coach (company).	Los Angeles, CA	7/28/80	7/24/80	TA-W-9641	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Panorama City, CA	7/28/80	7/24/80	TA-W-9642	Los Angeles zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Fremont, CA	7/28/80	7/24/80	TA-W-9643	Oakland zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Oakland, CA	7/28/80	7/24/80	TA-W-9644	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Denver, CO	7/28/80	7/24/80	TA-W-9645	Zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Miami, FL	7/28/80	7/24/80	TA-W-9646	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Atlanta, GA	7/28/80	7/24/80	TA-W-9647	Zone sales office
General Motors Corp., GMC Truck & Coach (company).	Oak Brook, IL	7/28/80	7/24/80	TA-W-9648	Chicago zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Chicago, IL	7/28/80	7/24/80	TA-W-9649	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Rockville, MD	7/28/80	7/24/80	TA-W-9650	Washington, D.C., zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Baltimore MD	7/28/80	7/24/80	TA-W-9651	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Boston, MA	7/28/80	7/24/80	TA-W-9652	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Wellesley, MA	7/28/80	7/24/80	TA-W-9653	Boston zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Pontiac, MI	7/28/80	7/24/80	TA-W-9654	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Pontiac, MI	7/28/80	7/24/80	TA-W-9655	Detroit zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Dearborn, MI	7/28/80	7/24/80	TA-W-9656	Detroit truck center.
General Motors Corp., GMC Truck & Coach (company).	Minneapolis, MN	7/28/80	7/24/80	TA-W-9657	Truck center and zone sales office.
General Motors Corp., GMC Truck & Coach (company).	St. Louis, MO	7/28/80	7/24/80	TA-W-9658	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Crestwood, MO	7/28/80	7/24/80	TA-W-9659	St. Louis zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Kansas City, MO	7/28/80	7/24/80	TA-W-9660	Zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Piscataway, NJ	7/28/80	7/24/80	TA-W-9661	New York zone sales office.
General Motors Corp., GMC Truck & Coach (company).	New York, NY	7/28/80	7/24/80	TA-W-9662	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Winston-Salem, NC	7/28/80	7/24/80	TA-W-9663	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Charlotte, NC	7/28/80	7/24/80	TA-W-9664	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Charlotte, NC	7/28/80	7/24/80	TA-W-9665	Zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Cleveland, OH	7/28/80	7/24/80	TA-W-9666	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Cincinnati, OH	7/28/80	7/24/80	TA-W-9667	Zone sales office.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., GMC Truck & Coach (company).	Beaverton, OR	7/28/80	7/24/80	TA-W-9668	Portland zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Glenshaw, PA	7/28/80	7/24/80	TA-W-9669	Pittsburgh truck center.
General Motors Corp., GMC Truck & Coach (company).	Pittsburgh, PA	7/28/80	7/24/80	TA-W-9670	Zones sales office.
General Motors Corp., GMC Truck & Coach (company).	Memphis, TN	7/28/80	7/24/80	TA-W-9671	Sales office.
General Motors Corp., GMC Truck & Coach (company).	Irving, TX	7/28/80	7/24/80	TA-W-9672	Dallas zone sales office.
General Motors Corp., GMC Truck & Coach (company).	Dallas, TX	7/28/80	7/24/80	TA-W-9673	Truck center.
General Motors Corp., GMC Truck & Coach (company).	Dayton, OH	7/28/80	7/24/80	TA-W-9674	Truck center.
General Motors Corp., Delco Air Conditioning (company).	Dayton, OH	7/28/80	7/24/80	TA-W-9675	Divisional administrative office.
General Motors Corp., Delco-Remy (company).	Anderson, IN	7/28/80	7/24/80	TA-W-9676	Divisional administrative office.
General Motors Corp., Guide (company)	Anderson, IN	7/28/80	7/24/80	TA-W-9677	Divisional administrative office.
General Motors Corp., Harrison Radiator (company).	Lockport, NY	7/28/80	7/24/80	TA-W-9678	Divisional administrative office.
General Motors Corp., Hydra-Matic (company).	Ypsilanti, MI	7/28/80	7/24/80	TA-W-9679	Divisional administrative office.
General Motors Corp., Inland Division (company).	Dayton, OH	7/28/80	7/24/80	TA-W-9680	Divisional administrative office.
General Motors Corp., Rochester Products (company).	Rochester, NY	7/28/80	7/24/80	TA-W-9681	Divisional administrative office.
General Motors Corp., Oldsmobile Division (company).	Lansing, MI	7/28/80	7/24/80	TA-W-9682	Divisional administrative office.
General Motors Corp., Oldsmobile Division (company).	Woodland Hills, CA	7/28/80	7/24/80	TA-W-9683	Pacific regional and Los Angeles zone sales offices.
General Motors Corp., Oldsmobile Division (company).	Fremont, CA	7/28/80	7/24/80	TA-W-9684	San Francisco zone sales office.
General Motors Corp., Oldsmobile Division (company).	Aurora, CO	7/28/80	7/24/80	TA-W-9685	Denver zone sales office.
General Motors Corp., Oldsmobile Division (company).	Jacksonville, FL	7/28/80	7/24/80	TA-W-9686	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Atlanta, GA	7/28/80	7/24/80	TA-W-9687	Southeast regional and zone sales office.
General Motors Corp., Oldsmobile Division (company).	Oak Brook, IL	7/28/80	7/24/80	TA-W-9688	Midwest regional and Chicago zone sales.
General Motors Corp., Oldsmobile Division (company).	Indianapolis, IN	7/28/80	7/24/80	TA-W-9689	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Overland Park, KS	7/28/80	7/24/80	TA-W-9690	Kansas City zone sales office.
General Motors Corp., Oldsmobile Division (company).	Rockville, MD	7/28/80	7/24/80	TA-W-9691	Washington, D.C., zone sales office.
General Motors Corp., Oldsmobile Division (company).	Wellesley, MA	7/28/80	7/24/80	TA-W-9692	Boston zone sales office.
General Motors Corp., Oldsmobile Division (company).	Southfield, MI	7/28/80	7/24/80	TA-W-9693	Central regional and Detroit zone sales.
General Motors Corp., Oldsmobile Division (company).	Minneapolis, MN	7/28/80	7/24/80	TA-W-9694	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Chesterfield, MO	7/28/80	7/24/80	TA-W-9695	St. Louis zone sales office.
General Motors Corp., Oldsmobile Division (company).	Omaha, NE	7/28/80	7/24/80	TA-W-9696	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Moorestown, NJ	7/28/80	7/24/80	TA-W-9697	Philadelphia zone sales office.
General Motors Corp., Oldsmobile Division (company).	Tarrytown, NY	7/28/80	7/24/80	TA-W-9698	Atlantic regional and zone sales office.
General Motors Corp., Oldsmobile Division (company).	Williamsville, NY	7/28/80	7/24/80	TA-W-9699	Buffalo zone sales office.
General Motors Corp., Oldsmobile Division (company).	Charlotte, NC	7/28/80	7/24/80	TA-W-9900	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Westlake, OH	7/28/80	7/24/80	TA-W-9901	Cleveland zone sales office.
General Motors Corp., Oldsmobile Division (company).	Cincinnati, OH	7/28/80	7/24/80	TA-W-9902	Cincinnati zone sales office.
General Motors Corp., Oldsmobile Division (company).	Oklahoma City, OK	7/28/80	7/24/80	TA-W-9903	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Beaverton, OR	7/28/80	7/24/80	TA-W-9904	Portland zone sales office.
General Motors Corp., Oldsmobile Division (company).	Pittsburgh, PA	7/28/80	7/24/80	TA-W-9905	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Memphis, TN	7/28/80	7/24/80	TA-W-9906	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Irving, TX	7/28/80	7/24/80	TA-W-9907	Southwest regional and Dallas zone sales.
General Motors Corp., Oldsmobile Division (company).	Houston, TX	7/28/80	7/24/80	TA-W-9908	Zone sales office.
General Motors Corp., Oldsmobile Division (company).	Milwaukee, WI	7/28/80	7/24/80	TA-W-9909	Zone sales office.
General Motors Corp., New Departure—Hyatt Bearings (company).	Rocky River, OH	7/28/80	7/24/80	TA-W-9910	Cleveland zone sales office.

V 45 AG 12 80 0 UMI

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., New Departure—Hyatt Bearings (company).	Moline, IL	7/28/80	7/24/80	TA-W-9911	Zone sales office.
General Motors Corp., New Departure—Hyatt Bearings (company).	Farmers Branch, TX	7/28/80	7/24/80	TA-W-9912	Dallas zone sales office.
General Motors Corp., Packard Electric (company).	Warren, OH	7/28/80	7/24/80	TA-W-9913	Divisional administrative office.
General Motors Corp., Pontiac Motor (company).	Pontiac, MI	7/28/80	7/24/80	TA-W-9914	Divisional administrative office.
General Motors Corp., Pontiac Motor (company).	Westlake Village, CA	7/28/80	7/24/80	TA-W-9915	Pacific regional and Los Angeles zone sales office.
General Motors Corp., Pontiac Motor (company).	Fremont, CA	7/28/80	7/24/80	TA-W-9916	San Francisco zone sales office.
General Motors Corp., Pontiac Motor (company).	Englewood, CO	7/28/80	7/24/80	TA-W-9917	Denver zone sales office.
General Motors Corp., Pontiac Motor (company).	Jacksonville, FL	7/28/80	7/24/80	TA-W-9918	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Atlanta, GA	7/28/80	7/24/80	TA-W-9919	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Oak Brook, IL	7/28/80	7/24/80	TA-W-9920	Chicago zone sales office.
General Motors Corp., Pontiac Motor (company).	Mission, KS	7/28/80	7/24/80	TA-W-9921	Midwest zone sales office.
General Motors Corp., Pontiac Motor (company).	Rockville, MD	7/28/80	7/24/80	TA-W-9922	Washington, D.C., zone sales office.
General Motors Corp., Pontiac Motor (company).	Wellesley, MA	7/28/80	7/24/80	TA-W-9923	Boston zone sales office.
General Motors Corp., Pontiac Motor (company).	Southfield, MI	7/28/80	7/24/80	TA-W-9924	Detroit zone sales office.
General Motors Corp., Pontiac Motor (company).	Minneapolis, MN	7/28/80	7/24/80	TA-W-9925	Zone sales office.
General Motors Corp., Pontiac Motor (company).	St. Louis, MO	7/28/80	7/24/80	TA-W-9926	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Omaha, NE	7/28/80	7/24/80	TA-W-9927	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Saddle Brook, NJ	7/28/80	7/24/80	TA-W-9928	Newark zone sales office.
General Motors Corp., Pontiac Motor (company).	Cherry Hill, NJ	7/28/80	7/24/80	TA-W-9929	Philadelphia zone sales office.
General Motors Corp., Pontiac Motor (company).	Tarrytown, NY	7/28/80	7/24/80	TA-W-9930	New York zone sales office.
General Motors Corp., Pontiac Motor (company).	Williamsville, NY	7/28/80	7/24/80	TA-W-9931	Buffalo zone sales office.
General Motors Corp., Pontiac Motor (company).	Charlotte, NC	7/28/80	7/24/80	TA-W-9932	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Cleveland, OH	7/28/80	7/24/80	TA-W-9933	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Cincinnati, OH	7/28/80	7/24/80	TA-W-9934	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Oklahoma City, OK	7/28/80	7/24/80	TA-W-9935	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Portland OR	7/28/80	7/24/80	TA-W-9936	Northwest zone sales office.
General Motors Corp., Pontiac Motor (company).	Pittsburgh, PA	7/28/80	7/24/80	TA-W-9937	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Memphis, TN	7/28/80	7/24/80	TA-W-9938	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Irving, TX	7/28/80	7/24/80	TA-W-9939	Dallas zone sales office.
General Motors Corp., Pontiac Motor (company).	Houston, TX	7/28/80	7/24/80	TA-W-9940	Zone sales office.
General Motors Corp., Pontiac Motor (company).	Brookfield, WI	7/28/80	7/24/80	TA-W-9941	Milwaukee zone sales office.

[FR Doc. 80-24272 Filed 8-11-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partical separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 22, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of July 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Applied Industries Inc. (workers)	Centerline, MI	7/15/80	7/10/80	TA-W-9517	Prototype tools, gauges, and fixtures.
Essex Group of Boyne City (workers)	Boyne City, MI	7/15/80	7/21/80	TA-W-9518	Switches for American made autos.
C. M. Products Co. (workers)	Dayton, OH	7/15/80	7/10/80	TA-W-9519	Steel wire forms.
Cornelius Weiss (workers)	Brooklyn, NY	7/15/80	7/12/80	TA-W-9520	Ladies slacks/sports.
Fenton Heading (workers)	Fenton, MI	7/15/80	7/19/80	TA-W-9521	Bolts and fasteners.
Firestone Steel Products (UAW)	Henderson, KY	7/11/80	7/2/80	TA-W-9522	Truck rims, discs, and wheels.
Inland Steel Co. (USWA)	East Chicago, IN	7/14/80	7/10/80	TA-W-9523	Basic steel products.
S. M. Frank & Co., Inc. (workers)	Richmond Hills, NY	7/15/80	7/8/80	TA-W-9524	Smoking pipes.
Unit Parts Co. (company)	Oklahoma City, OK	7/15/80	7/9/80	TA-W-9525	Automotive parts.
B.F. Goodrich Co. (workers)	Oneida, TN	7/16/80	7/14/80	TA-W-9526	Rubber hoses.
Dun Rite Roofing (workers)	Farmington Hills, MI	7/16/80	7/14/80	TA-W-9527	Asphalt shingles.
Frederick Tool Co. (workers)	Elkhalt, IN	7/16/80	7/11/80	TA-W-9528	Hardware items.
Huron Cement Corp. (workers)	Alpena, MI	7/07/80	7/30/80	TA-W-9529	Seamon worked on vessels.
Independent Cement Corp. (workers)	East Kingston, NY	7/16/80	7/8/80	TA-W-9530	Cement.
Kalamazoo Stamping & Die Company (UAW)	Kalamazoo, MI	7/14/80	7/6/80	TA-W-9531	Metal stampings and light assembly parts.
Tom McGuane Inc. (UAW)	Madison Heights, MI	7/16/80	7/14/80	TA-W-9532	Gaskets.
True Temper Corp. (USWA)	Geneva, OH	7/14/80	7/10/80	TA-W-9533	Golf shafts and tennis rackets.
Victoria Needlework Inc.	New York, NY	7/16/80	7/9/80	TA-W-9534	Ladies handbags.
Atlas Engine Works (workers)	Woodville, OH	7/14/80	7/14/80	TA-W-9535	Automotive crank shafts.
Art Below Chevrolet Inc. (workers)	Decatur, AL	7/14/80	7/2/80	TA-W-9536	Salesman/dealership.
Cadillac Products, Inc. (workers)	Sterling Heights, MI	6/30/80	7/6/80	TA-W-9537	Autom parts.
Rochester Button Company (co)	Rochester, NY	7/14/80	7/09/80	TA-W-9538	Buttons.
Rochester Button Company (co)	Wellsville, NY	7/14/80	7/09/80	TA-W-9539	Buttons.
Rochester Button Company (co)	South Boston, VA	7/14/80	7/09/80	TA-W-9540	Buttons.
Rochester Button Company (co)	McKenney, VA	7/14/80	7/09/80	TA-W-9541	Buttons.
Rochester Button Company (co)	Kenbridge, VA	7/14/80	7/09/80	TA-W-9542	Buttons.
Rochester Button Company (co)	New York, NY	7/14/80	7/09/80	TA-W-9543	Buttons.
Bethlehem Corp. (USWA)	Vernon, CA	7/9/80	7/7/80	TA-W-9544	Steel fastners, bars shape, and wire.
Prestolite Corp. (workers)	Bay City, MI	7/14/80	7/9/80	TA-W-9545	Starting motors.
Rochester Button Company (co)	New York, NY	7/14/80	7/9/80	TA-W-9546	Buttons.
Rochester Button Company (co)	Atlanta, GA	7/14/80	7/9/80	TA-W-9547	Buttons.
Rochester Button Company (co)	Rikesville, MD	7/14/80	7/9/80	TA-W-9548	Buttons.
Rochester Button Company (co)	Charlotte, NC	7/14/80	7/9/80	TA-W-9549	Buttons.
Rochester Button Company (co)	Chicago, ILL	7/14/80	7/9/80	TA-W-9550	Buttons.
Rochester Button Company (co)	Los Angeles, CA	7/14/80	7/9/80	TA-W-9551	Buttons.
Rochester Button Company (co)	Bala-Cynwd, PA	7/14/80	7/9/80	TA-W-9552	Buttons.
John Fisher Motor Rebuilders (workers)	Grand Rapids, MI	7/7/80	7/2/80	TA-W-9553	Warehouse distributing center.
M & H Industries, Inc. (company) (diemakers).	Livonia, MI	7/17/80	7/14/80	TA-W-9554	Automotive dies and stamping.
M & H Industries, Inc. (company) (press operators).	Livonia, MI	7/17/80	7/14/80	TA-W-9555	Automotive dies and stamping.
McGraw-Edison Co. Bussman Manufacturing Division.	St. Louis, MO	7/15/80	7/10/80	TA-W-9556	Circuit protection devices.
Patricia Gale Coat Co., Inc. (workers)	Brooklyn, NY	7/15/80	7/4/80	TA-W-9557	Ladies suits and jackets.
PPG Industries, Inc. (company)	Cleveland, OH	7/17/80	7/14/80	TA-W-9558	Auto-original finishes sold to auto manufacturers.
M & S Manufacturing Co. (workers)	Hudson, MI	6/13/80	5/30/80	TA-W-9559	Company headquarters.
The Timken Company (USWA)	Canton, OH	7/17/80	7/11/80	TA-W-9560	Tapered roller bearings and specialty steel limes.
Tyghem Tool Company (UAW)	Detroit, MI	7/15/80	7/9/80	TA-W-9561	Auto parts, dies, and fixtures.
General Motors Corp., Cheverolet Motor Division (union).	Muncie, IN	6/16/80	6/13/80	TA-W-9562	Transmissions and transaxles.
General Motors Corp., Fisher Body Division (union).	Grand Rapids, MI	6/16/80	6/13/80	TA-W-9563	Stampings.
General Motors Corp., Fisher Body Division (union).	Lordstown, OH	6/16/80	/13/80	TA-W-9564	Stampings.
General Motors Corp., New Departure—Hyatt Division (union).	Bristol, CT	6/16/80	6/13/80	TA-W-9565	Bearings and clutch parts.
General Motors Corp., Hydra-Matic Division (union).	Ypsilanti, MI	6/16/80	6/13/80	TA-W-9566	Transmissions.
General Motors Corp., Detroit Diesel Allison Division (union).	Detroit, MI	6/16/80	6/13/80	TA-W-9567	Diesel engines.
General Motors Corp., Diesel Equipment Division (union).	Grand Rapids, MI	6/16/80	6/13/80	TA-W-9568	Diesel engine parts.
General Motors Corp., Central Founding Division (union).	Messene, NY	6/16/80	6/13/80	TA-W-9569	Aluminum castings.
General Motors Corp., GM Assembly Division (union).	Linden, NJ	6/16/80	6/13/80	TA-W-9570	Luxury/specialty cars.
Air-Monitoring, Inc. (workers)	Royal Oak, MI	7/14/80	7/9/80	TA-W-9571	Automotive exhaust emission testers.
Athenia Steel Co. (USWA)	Clifton, NY	7/14/80	7/10/80	TA-W-9572	Flat strip and spring steel.
Automotive Group Lancaster 094 (IBEW)	Lancaster, OH	7/14/80	7/1/80	TA-W-9573	Assemble switches and relays.
Dial Machine & Tool Co., Inc. (workers)	Oak Park, MI	7/14/80	7/1/80	TA-W-9574	Sheet metal stamping and assembly.
Hillsboro Manufacturing Co. (UAW)	Hillsboro, OH	7/14/80	7/10/80	TA-W-9575	Automotive door and tailgate hinges, and transmission parts.
Palm Beach Co. (workers)	Knoxville, TN	7/14/80	7/2/80	TA-W-9576	Men's suits and sportscoats.
Para-Quality Carpentry, Inc. (workers)	Utica,d MI	7/14/80	6/23/80	TA-W-9577	Labor and carpentry.
Perfect Manufacturing, Inc. (workers)	Troy, MI	7/14/80	7/10/80	TA-W-9578	Metal stampings and assemblies for auto industry.

Appendix—Continued

Appendix—Continued

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Rose Truck & Castor Co. (workers)	Detroit, MI	7/14/80	7/11/80	TA-W-9579	Manufacture heavy-duty industrial castors for automobiles.
Browstown Parts Depot Ford Motor Co. (workers).	Romulus, MI	6/18/80	5/6/80	TA-W-9580	Service parts for trucks and cars.
Flex Plastics, Inc. Plant No. 1 (workers)	Midvale, OH	7/9/80	7/7/80	TA-W-9581	Vacuum harnesses for air-conditioning and emission control.
Flex Plastics Inc. Plant No. 2 (workers)	Midvale, OH	7/9/80	7/7/80	TA-W-9582	Vacuum harnesses for air-conditioning and emission control.
Lamson & Sessions Co. (IAM)	Birmingham, AL	7/9/80	6/16/80	TA-W-9583	Threaded screws and nuts.
Mack Trucks Inc. (union)	St. Louis, MO	7/11/80	6/3/80	TA-W-9584	Sales and servicing of trucks.
Moore Iron Works (UAW)	Flint, MI	7/16/80	6/21/80	TA-W-9585	Material handling equipment for automotive industry.
Redway Cartage Co. (union)	Detroit, MI	7/7/80	7/2/80	TA-W-9586	Truck drivers.
Richardson Co. (URW)	City of Industry, CA	7/14/80	6/26/80	TA-W-9587	Storage battery parts.
Tenneco Chemicals, Inc. (OCAW)	Burlington, NJ	6/13/80	6/9/80	TA-W-9588	PVC resin.
Allen Industries, Inc. (workers)	Richmond, VA	7/17/80	7/11/80	TA-W-9589	Heat and sound insulation for autos.
Atlas Engine Works (workers)	Fremont, OH	7/16/80	7/14/80	TA-W-9590	Automotivated crank shafts.
Atlas Engine Works (workers)	Gibsonburg, OH	7/16/80	7/14/80	TA-W-9591	Automotivated crank shafts.
Century Brass Products, Inc. (workers)	Waterbury, CT	7/17/80	7/13/80	TA-W-9592	Radiator parts, speedometer parts, and diesel tubes.
Columbia Chemical Co., Carbon Black Plant (workers).	Bunkie, LA	7/15/80	7/7/80	TA-W-9593	Carbon black.
Gilmore Steel Corp., Oregon Steel Mills Division (USWA).	Portland, OR	7/17/80	7/15/80	TA-W-9594	Steel plate.
Hutson Machine Products (workers)	Detroit, MI	7/17/80	7/14/80	TA-W-9595	Transmission and power steering parts.
New Jersey Steel (USWA)	Seyreville, NJ	7/15/80	7/10/80	TA-W-9596	Steel ingots.
United Pocohontas Coal Co., Algoma Fine Coal Plant (UMWA).	Mcdowell County, WV	7/17/80	7/14/80	TA-W-9597	Low-Volatile metallurgical coal.
Barry Steel Corp., Intervale Steel Division (workers).	Detroit, MI	7/15/80	7/10/80	TA-W-9598	Steel.
Bennett Importing Co., Inc., Farmington Division (workers).	Farmington, ME	7/1/80	7/27/80	TA-W-9599	Women's footwear.
E. I. duPont de Nemours & Co., Chambers Works Plant (workers).	Deepwater, NJ	7/15/80	7/7/80	TA-W-9600	Chemicals.
Liebel-Flarsheim Co. (union)	Cincinnati, OH	7/14/80	7/8/80	TA-W-9601	Urological tables, buckles, and grids.
Lunkenheimer Co. (USWA)	Cincinnati, OH	7/15/80	7/9/80	TA-W-9602	Valves.
Master Products (workers)	Yale, MI	7/11/80	7/7/80	TA-W-9603	Parts for autos.
Precision Kidd Steel Co. (union)	West Aliquippe, PA	7/17/80	7/14/80	TA-W-9604	Steel bars.
Satralloy Inc. (USWA)	Steubenville, OH	7/7/80	6/12/80	TA-W-9605	Charge chrome.
Toughboy Co. (company)	Coleman, MI	7/17/80	7/14/80	TA-W-9606	Speeker gaskets.
Consolidated Rail Corp. (union)	Buffalo, NY	6/10/80	6/2/80	TA-W-9607	Rail service to steel rubber and auto industry.
Crescent Tool & Machine Co. (UAW)	Melvindale, MI	7/17/80	7/14/80	TA-W-9608	Special machinery for auto industry.
Detroit Body Products Co. (UAW)	Wixon, MI	7/17/80	7/14/80	TA-W-9609	Auto parts, upholstery, and carpeting.
Douglas & Lomason Co. (union)	Cleveland, MS	7/15/80	7/8/80	TA-W-9610	Automobile chrome, wheel openings, and body side moldings.
Flexible Controls Corp. (UAW)	Detroit, MI	7/17/80	7/14/80	TA-W-9611	Drive cables for power seats.
Hager Hinge Co. (USWA)	St. Louis, MO	7/17/80	7/15/80	TA-W-9612	Architect-specified contract grade builders' hardware.
ITT Thompson Industries, Metal Division (workers).	North Vernon, IN	7/17/80	7/2/80	TA-W-9613	Interior moulding.
Mike Dorian Ford Inc. (workers)	Mount Clemens, MI	7/20/80	6/14/80	TA-W-9614	Retail motor vehicles.
Republic Steel Corp. (workers)	Buffalo, NY	7/8/80	6/30/80	TA-W-9615	Carbon and alloy hot steel bars.
Corning Glass Works (company)	Greenville, OH	7/21/80	7/15/80	TA-W-9616	Glass parts for seal beam headlamps.
Fullerton Metals Co. (company)	Indianapolis, IN	7/15/80	7/24/80	TA-W-9617	Metal service center.
GTE Sylvania (workers)	Seymour, IN	6/12/80	6/24/80	TA-W-9618	Automobile headlamps.
Holly Carburetor division Colt Industries (UAW).	Warren, MI	7/23/80	7/14/80	TA-W-9619	Test carburetors for Colt.
Reddiform, Inc. (company)	Redford, MI	7/21/80	7/24/80	TA-W-9619	Automotive sheet metal prototype-tooling and parts.
Revere Copper Products, Inc., Rome Division (MESA).	Rome, NY	7/17/80	7/14/80	TA-W-9621	Fabricate copper and alloys into rod, bar, tube, and sheet.
U.S. Steel Corp. Christy Park Works (USWA)	McKeesport, PA	7/14/80	7/10/80	TA-W-9622	Steel pressure vessles pipe and tubing.
U.S. Steel Corp. Pittsburg Works (USWA)	Pittsburg, CA	7/14/80	7/11/80	TA-W-9623	Steel products.
U.S. Steel Corp. Gary Works (USWA)	Gary, IN	7/11/80	7/8/80	24	Steel and tin.
Atlas Steel Corp. (workers)	Warren, MI	7/22/80	7/16/80	TA-W-9625	Steel.
Barlow Electric INc. (workers)	Detroit, MI	7/22/80	7/16/80	TA-W-9626	Electrical equipment.
Besser Company (USWA)	Alpena, MI	7/21/80	7/16/80	TA-W-9627	Concrete blockmaking machinery.
Douglas & Lomason (company)	Carrollton, GA	7/23/80	7/16/80	TA-W-9628	Metal fabrication for automotive body parts.
General Cable Co. (IBEW)	Lindsay, CA	7/21/80	7/30/80	TA-W-9629	Communications cables.
Hoover Universal, Inc. (company)	Mansfield, OH	7/23/80	7/17/80	TA-W-9630	Injection molded plastic.
IPM, an Allegheny Ludlum Indiana Co. (company).	Columbus, OH	7/22/80	7/15/80	TA-W-9631	Automotive components.
Tonawanda Coke Corp. Tonawanda Plant (USWA).	Tonawanda, NY	7/22/80	7/10/80	TA-W-9632	Foundry coke.
United Technologies Automotive Group	Tampa, FL	7/23/80	7/17/80	TA-W-9633	Printed circuit board assemblies.
Automotive Finishes, Inc. (workers)	Dearborn, MI	7/24/80	7/21/80	TA-W-9634	Industrial coatings (80% are for the auto industry).
Curtis Screw Co., Inc. (UAW)	Buffalo, NY	7/21/80	7/17/80	TA-W-9635	Automotive screw machine parts.
Genesco, Male Sportswear (company)	Atlanta, GA	7/24/80	7/18/80	TA-W-9636	Jeans and sportswear for men and women.
Gould Inc., Electric Motor Division (workers)	Lexington, TN	7/17/80	7/14/80	TA-W-9637	Electric motor and generators.
Moco, Inc. (RWDSU)	Alexandria, IN	7/21/80	7/17/80	TA-W-9638	Disassembly and cleaning of automotive parts.
Simpson Industries Inc., Gladwin Machine Products Division (AIW).	Gladwin, IN	7/21/80	7/16/80	TA-W-9639	Pulleys, vibration dampers, brake calipers, manifold parts, and diesel clutch housings.
Snow Screw Products, Inc. (workers)	Marlette, MI	7/21/80	7/15/80	TA-W-9640	Inverted flared tube nuts and flared tube nuts.
Thompson Products, Inc. (workers)	St. Charles, MO	7/21/80	7/17/80	TA-W-9641	Automotive components for power steering and other automotive parts.
Whitaker Cables Corp., Components (IAM&AW).	Excelsior, Springs, MO	7/21/80	7/16/80	TA-W-9642	Component parts, molded plastic insulators, boots and grouments, also stamp electric terminals for automotive wiring harnesses.
AM General Corp. (UAW)	Indianapolis, IN	6/27/80	7/18/80	TA-W-9643	Stampings for jeeps.
Clothing Factory Corp. (workers)	Tamaqua, PA	5/21/80	5/14/80	TA-W-9644	Knit tops and blouses.
Florsheim Shoe Co. (union)	Anna, IL	6/17/80	5/31/80	TA-W-9645	Shoes.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Gene Bell Chevrolet Inc. (company)	Detroit, MI	5/2/80	4/28/80	TA-W-9646	Auto dealership.
Northside Pattern Works (workers)	Indianapolis, IN	7/21/80	7/17/80	TA-W-9647	Patterns, models, prototypes for auto industry.
P.O.B. Inc. (workers)	Concinnati, OH	7/21/80	7/18/80	TA-W-9648	Sealing compounds.
Revonah Mills (ACTWY)	Hanover, PA	7/17/80	7/15/80	TA-W-9649	Jute mill.
Shefler-Globe Corp (workers)	Niles, MI	6/17/80	6/11/80	TA-W-9650	Automotive door panels.
Union Camp Corp. (workers)	Lapeer, MI	7/17/80	7/12/80	TA-W-9651	Corrugated containers.
American Metaseal Detroit Division (UAW)	Detroit, MI	7/2/80	6/10/80	TA-W-9652	Service autp parts.
Frank Industries Inc. (Explorer Motor Home Division (workers).	Brown City, MI	7/21/80	7/16/80	TA-W-9653	Motor homes and commercial vehicles.
Johnson Bronze Company (UAW)	New Castle, PA	7/21/80	7/16/80	TA-W-9654	Sleeve bearings and bushing.
Keller Aluminum Furniture of Texas, Division of Keller Industries, Inc. (USWA).	Caldwell, TX	7/17/80	7/15/80	TA-W-9655	Lawn chairs and lounges.
Meyer Olds, GMC (IAMAW)	Belleville, IL	5/20/80	5/14/80	TA-W-9656	Auto dealership.
Wheeling-Pittsburgh Steel Corporation (USWA).	Steubenville, OH	7/21/80	7/18/80	TA-W-9657	Carbon steel products.
Wheeling-Pittsburgh Steel Corporation (USWA).	Mingo Junction, OH	7/21/80	7/18/80	TA-W-9658	Carbon steel products.
Wheeling-Pittsburgh Steel Corporation (USWA).	Follansbee, OH	7/21/80	7/18/80	TA-W-9659	Carbon steel products.
UNELO Electronics (IAM)	Columbia, MD	7/17/80	7/14/80	TA-W-9660	Radio-phonograph record players.

[FR Doc. 80-24275 Filed 8/11/80; 8:45]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Consideration of Class 9 Accidents; Meeting

The ACRS Subcommittee on Construction of Class 9 Accidents will hold a meeting on August 28, 1980 in room 1046, 1717 H St., NW, Washington, DC to discuss hydrogen generation and control methods with degraded core conditions. Notice of this meeting was published July 25, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, August 28, 1980
8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 7, 1980.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 80-24229 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 43 and 26 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

The amendments update the Appendix A and B Technical Specifications to include revisions to the Organization Charts and Safety Committee membership to reflect the new organization.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated July 24, 1979, as supplemented June 24, 1980, (2) Amendments Nos. 43 and 26 to Licenses Nos. DPR-53 and DPR-69, and (3) the Commission's letter dated July 31, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear

Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of July, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-24233 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment was effective from July 7, 1980 to July 14, 1980.

The amendment modifies the Technical Specifications to permit interim operation with one recirculation loop out of service.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 7, 1980, (2) Amendment No. 62 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 31st day of July 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-24232 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

Screening Committee for Technical Vacancies on the Licensing Board Panel; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Authority Committee Act that the NRC's Screening Committee for Technical Vacancies on the Licensing Board Panel will meet in closed session on August 26, 1980. The meeting will begin at 9:00 a.m. and will be held at East-West Towers, 4350 East-West Highway, Room 415, Bethesda, Maryland 20014. The purpose of the meeting will be to discuss the qualifications of candidates for part-time positions as technical members of the Atomic Safety and Licensing Board Panel.

I have determined in accordance with subsection 10 (d) of Public Law 92-463 that it necessary to close this meeting in order to protect information, the disclosure of which would constitute an unwarranted invasion of personal privacy, Sec. 5 U.S.C. 552b(c)(6). Separation of non-exempt factual information from exempt information is not considered practical.

For further information contact Charles J. Fitti, Assistance Executive Secretary, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (Telephone (301) 492-7814).

Dated in Washington, D.C., this 6th day of August 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-24228 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Negative Declaration Supporting Amendments No. 2 to CPPR-97 and CPPR-98 Relating to Change in Ownership Interests, San Onofre Nuclear Generating Station, Units 2 and 3

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the request for amendments to Construction Permits CPPR-97 and CPPR-98 relating to changes in ownership interests in the San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California. The construction permits are issued to the Southern California Edison Company and San Diego Gas and Electric Company. The amendments would include the City of Riverside and the City of Anaheim as co-owners of the facility with the present owners.

In accordance with 10 CFR Part 51, the Commission's Division of Licensing has prepared an environmental impact appraisal (EIA) for the amendment. The Commission has concluded that an environmental impact statement for this action is not warranted, because there will be no adverse environmental impacts affecting the quality of the human environment attributable to the proposed action that would be in addition to those impacts evaluated in the Commission's Final Environmental Statement-Construction Permit Stage for San Onofre Generating Station, Units 2 and 3, issued in March 1973. A negative declaration is, therefore, appropriate.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the local public document room located at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A copy of the EIA may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of August 1980.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-24239 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-361 and 50-362]

Southern California Edison Co. and San Diego Gas & Electric Co., San Onofre Nuclear Generating Station, Units 2 and 3; Order Extending Construction Completion Dates

Southern California Edison Company and San Diego Gas and Electric Company are the holders of Construction Permits Nos. CPPR-97 and CPPR-98 issued by the Atomic Energy Commission[1] on October 18, 1973 for the San Onofre Nuclear Generating Station. These facilities are presently under construction at the applicants' site at Camp Pendleton, San Diego County, California. By letter dated March 31, 1978, Southern California Edison Company filed a request for an extension of the latest construction completion dates for the facilities to June 1, 1980 for Unit 2 and to June 1, 1981 for Unit 3. This request was granted by the Commission's Order dated December 28, 1978.

On April 23, 1980, Southern California Edison Company filed a request for another extension of the latest construction completion dates for the San Onofre 2 and 3 facilities. This request is to extend the latest completion dates to April 15, 1981 for Unit 2 and June 15, 1982 for Unit 3. The most recent extension was requested because construction has been delayed due to (1) late delivery and extensive rework of large pipe supports, (2) lack of available pipefitter welders, and (3) late and out of sequence deliveries of pipe spool.

This action involves no significant hazards consideration, good cause has been shown for the delay, and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Draft Environmental Statement-Construction Permit Stage for the San Onofre Nuclear Generating Station, Units 2 and 3, published in November 1972 and the Final Environmental Statement-Construction Permit Stage published in March 1973. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room established for the San Onofre Nuclear Generating Station, Units 2 and 3 at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 92676.

It is hereby ordered that the latest completion date for CPPR-97 be extended from June 1, 1980 to April 15, 1981 and the latest date for CPPR-98 be extended from June 1, 1981 to June 15, 1982.

Date of issuance: August 5, 1980.

For the Nuclear Regulatory Commission.

R. A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 80-24240 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

Footnotes continued on next page

Footnotes continued from last page

[Dockets Nos. 50-361 and 50-362]

Southern California Edison Co. and San Diego Gas & Electric Co., San Onofre Nuclear Generating Station, Unit Nos. 2 and 3; Negative Declaration Supporting: Extension of Construction Permit Nos. CPPR-97 and CPPR-98 Expiration Dates

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Southern California Edison Company and San Diego Gas and Electric Company (permittees) request to extend the expiration dates of the construction permits for the San Onofre Nuclear Generating Station, Units Nos. 2 and 3 (CPPR-97 and CPPR-98) which are located in San Diego County in the State of California. The permittees requested an extension to the permits through April 15, 1981 for CPPR-97 and through June 15, 1982 for CPPR-98, to allow for completion of construction of the facilities.

The Commission's Division of Licensing has prepared an environmental impact appraisal relative to these changes to CPPR-97 and CPPR-98. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement-Construction Permit Stage or evaluated in the environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Dated at Bethesda, Maryland, this 5th day of August 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-24241 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison., et al.; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit No. CPPR-97 and Amendment No. 2 to Construction Permit No. CPPR-98. The amendment reflects the addition of two new co-owners of the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility). Initially, the construction permits were issued to Southern California Edison Company and San Diego Gas and Electric Company. Amendment No. 2 adds as co-owners the City of Riverside and the City of Anaheim. Southern California Edison Company has sole responsibility for the design and construction of the facility, which is located in San Diego County, California.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments.

Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated July 17, 1979, and supplemental information dated June 16, 1980, (2) Amendment No. 2 to Construction Permit No. CPPR-97, (3) Amendment No. 2 to Construction Permit No. CPPR-98, (4) the Commission's related Safety Evaluation, (5) the Environmental Impact Appraisal and (6) the Negative Declaration supporting the amendments to the construction permits. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Mission Viego Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. In addition, a copy of the above items (2), (3), (4), (5) and (6) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 5th day of August 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-24238 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric & Power Co.; Issuance of Amendment tp Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-32, issued to Virginia Electric and Power Company (the licensee), which revised license conditions related to operation of the Surry Power Station, Unit No. 1 (the facility) located in Surry County, Virginia. This amendment is effective as of the date of issuance.

This amendment permits Surry Unit 1 to be operated for six months of equivalent (reactor coolant above 350° F) operation from May 11, 1980. Before additional operation beyond that approved by this amendment is permissible, steam generator tube inspection and further Commission approval is required.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 16, 1980 and the licensee's submittal dated April 15, 1980, (2) Amendment No. 59 to License No. DPR-32 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of July, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-24235 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric & Power Co.; Availability of Final Environmental Statement for the Surry Power Station, Unit No. 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to steam generator repairs to the Surry Power Station, Unit No. 1, which are being proposed by the Virginia Electric and Power Company, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and in the Swem Library, College of Williams and Mary, Williamsburg, Virginia. That document concludes that the proposed repair will not significantly affect the quality of the human environment and that the impacts from the repairs are outweighed by its benefits.

The notice of availability of the Draft Environmental Statement for the Surry Power Station, Unit No. 1, and request for comments from interested persons was published in the **Federal Register** on March 24, 1980 (45 FR 19105). The comments received from Federal, State, and local agencies and interested members of the public have been included as Appendix E to the Final Statement.

Copies of the Final Environmental Statement (NUREG-0892) may be purchased at current rates, from the National Technical Information Service, Springfield Virginia 22161, (703) 557-4650.

Final unclassified NUREG-series documents are also available directly from NRC to those with deposit accounts with the Superintendent of Documents, U.S. Government Printing Office (see 44 FR 46005, August 6, 1979). To place orders call (301) 492-7333 or write: ATTN: Publications Sales Manager, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 31st day of July 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 80-24234 Filed 8-11-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

August 7, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for an outreach event and meeting of the staff of Panel IV (Government and Social Justice) of the President's Commission for a National Agenda for the Eighties, scheduled August 22, 1980 in the LBJ Library, University of Texas, Austin, Texas. The outreach event is scheduled for 9:00 a.m. to 5:00 p.m., and the panel meeting is scheduled to 12:00 noon to 1:00 p.m.

The purpose of both will be to discuss civil rights in the eighties.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20036, (202) 275-0616.

Brenda Mayberry,

Budget and Management Officer.

[FR Doc. 80-24183 Filed 8-11-80; 8:45 am]

BILLING CODE 3110-01-M

President's Committee on the International Labor Organization

Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is hereby given of a meeting of the President's Committee on the ILO:

Name: President's Committee on the International Labor Organization.

Date: September 17, 1980.

Time: 10:00 a.m.

Place: Department of Labor, Third & Constitution Ave., N.W., Room S-2508, Washington, D.C. 20210.

This meeting will be closed to the public under the authority of Section 10(d) of the Federal Advisory Committee Act. During its closed session, the Committee will discuss national security matters.

All communications regarding this Committee should be addressed to: Mr. James H. Quackenbush, Counselor to the Committee, Department of Labor, Third & Constitution Ave., N.W., Room S-5307, Washington, D.C. 20210, telephone (202) 523-6251.

Dated: August 6, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-24273 Filed 8-11-80; 8:45 am]

BILLING CODE 4510-28-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11287; 811-1478]

First National Securities Corp.; Proposal To Terminate Registration

August 6, 1980.

In the matter of First National Securities Corporation, 42 Virginia Avenue, Indianapolis, Indiana 46204 (811-1478).

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that First National Securities Corporation ("Fund"), registered under the Act as a closed-end, non-diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Indiana on May 31, 1963, and registered under the Act on March 3, 1967. The Fund did not file a registration statement pursuant to the Securities Act of 1933 to make a public offering of shares of its capital stock. In addition, the Fund has not filed those annual and periodic reports required by Section 30 of the Act since the date of its registration under the Act. Furthermore, the files of the Commission indicate that the last communication the Commission had with the Fund was on February 29, 1968. Finally, communications sent to the Fund's last known address by the staff of the Commission have been returned as undeliverable. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24276 Filed 8-11-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11288; 812-4690]

44 Wall Street Equity Fund, Inc. and Forty Four Sales, Inc.; Filing of Application for an Exemption To Permit an Offer of Exchange

August 6, 1980.

In the matter of The 44 Wall Street Equity Fund, Inc. and Forty Four Sales, Inc., 150 Broadway, New York, New York 10038 (812-4690).

Notice is hereby given that The 44 Wall Street Equity Fund, Inc. ("Fund"), an open-end, non-diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and Forty Four Sales, Inc. ("Sales"), principal underwriter for the Fund (collectively the "Applicants"), filed an application on June 10, 1980, for an order of the Commission (1) pursuant to Section 11(a) of the Act to permit the Fund to offer its shares for certain shares of the Reserve Fund, Inc. ("Reserve"), and (2) pursuant to Section 6(c) of the Act to exempt Applicants from the provisions of Section 22(d) of the Act and the rules thereunder to the extent necessary to permit such an offer of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Sales, as principal underwriter for the Fund, will maintain a continuous public offering of the shares of the Fund at their net asset value plus a sales charge, following the effective date of the Fund's registration statement on Form N-1 under the Securities Act of 1933, which has been filed with the Commission.

On purchases of less than $10,000 the maximum sales charge is 8.50%, which is reduced on larger purchases. There is no sales charge imposed on the reinvestment of dividends and capital gains from shares of the Fund. The application states that Reserve, an open-end investment company registered under the Act, invests primarily in short-term money market instruments.

Applicants propose to permit a Reserve shareholder to exchange shares of Reserve acquired either (1) by investing the net proceeds from a redemption of shares of the Fund and held for such shareholders in the 44 Wall Street Equity Fund Exchange Account ("Account") in the name of such shareholder at Reserve or (2) by the reinvestment of income dividends and capital gains distributions paid on all Reserve shares held in such Account, for shares of the Fund, in either case without the imposition of the customary sales charge described in the prospectus of the Fund (hereinafter referred to as the "Switch Privilege"). Reserve shares acquired in any other manner than as described above would not qualify for the Switch Privilege. Reserve imposes no sales or administrative charge in connection with the sale of its shares. A $5 service fee will be charged by The Bank of New York, the custodian and transfer agent for the Fund, for each

redemption by telephone, telegraph or overseas cable.

According to the application, the participant in an Account would be able to exercise his Switch Privilege at any time by instructing Reserve to redeem shares of Reserve in his Account and apply the redemption proceeds to the acquisition of shares of the Fund. No charge on the exchange of Reserve shares for shares of the Fund will be imposed by Reserve or the Applicants. The Switch Privilege will not be available to the proceeds from a redemption of Reserve shares which are paid directly to the investor or at his direction to any person other than the Fund. The Fund and Reserve have reserved the right to limit further the number of exchanges pursuant to the Switch Privilege which any investor may make within a certain period. The Switch Privilege will be subject to termination by the Fund or by Reserve on not less than six months prior written notice to holders of Accounts, except for cause, in which event the Switch Privilege in respect of that Account is subject to immediate termination. An investor maintaining an Account will receive the current prospectus of both Reserve and the Fund provided the investor remains entitled to the Switch Privilege. The Switch Privilege will lapse for an investor if his account balance of shares of the Fund shows a zero balance for a period of two consecutive years.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and aproved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants state that, because any investor eligible for the Switch Privilege will have been an investor in shares of the Fund and will continue to receive current prospectuses of the Fund while he holds the Account with Reserve, no additional sales efforts will be incurred by Sales in connection with the reacquisition of shares of the Fund. Applicants contend that it is fair and equitable that no sales charge should be imposed on the investor in connection with his reacquisition of shares of the Fund. Applicants represent that the $5 service charge will defray the administrative costs involved in each exchange. It is asserted that the Switch Privilege will not enable any investor to avoid payment of the applicable sales charge on his original investment in shares of the Fund.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provisions of the Act and the Rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 28, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–24277 Filed 8–11–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Panacolor Inc.; Order of Suspension of Trading

July 14, 1980.

It appearing to the Securities and Exchange Commission that Panacolor, Inc. has failed to file with the Commission its Annual Report on Form 10–K for the year ending December 31, 1979 and its most recent Quarterly Report on Form 10–Q for the period ended March 31, 1980 and that, as a result, there is a lack of current adequate and accurate public information about the operations and financial condition of Panacolor, Inc., the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Panacolor, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:30 a.m. on July 14, 1980 through July 23, 1980.

By the Commission.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–24278 Filed 8–11–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:30 a.m. until 4:30 p.m., Monday, September 15, 1980, at the Great Western Financial Corporation, 10th Floor Conference Room, 8484 Wilshire Boulevard, Beverly Hills, California 90211, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public from 3:00–4:00 p.m. Space, however, is limited. The remainder of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(4), in order that the Committee can discuss confidential contractual information.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Director, Office of Capitol Ownership Development, Small Business Administration, Room 317, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–6528, in writing or by telephone no later than August 29, 1980.

Dated: August 5, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–24198 Filed 8–11–80; 8:45 a.m.]

BILLING CODE 8025–01–M

Solid Capital Corp.; Applicant

[Application No. 09/09–5267]

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), has been filed by Solid Capital Corporation (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Kirby Kwok, President, Director, General Manager (20 percent stockholder), 358—27th Avenue, San Francisco, California 94121.

Lusing Ty, Chief Financial Officer, Director, (25 percent stockholder), 826 Crocus Drive, San Leandro, California 94578.

Cecilia K. Kwok, Secretary, Director, (3 percent stockholder), 358—27th Avenue, San Francisco, California 94121.

James L. Murphy, (9 percent stockholder), 197 Desmond Street, San Francisco, California 94134.

Margaret R. Murphy, (7 percent stockholder), 197 Desmond Street, San Francisco, California 94134.

The Applicant, a California corporation, with its principal place of business at 652 Kearny Street, Suite 122, San Francisco, California 94108, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 101 shares of common stock.

The Applicant will conduct its activities primarily in the State of California.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before August 27, 1980, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N. W., Washington, D. C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, California.

[Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 4, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–24199 Filed 8–11–80; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 06/06–0237]

Zenith Capital Corp.; Application for a License To Operate as a Small Business Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Zenith Capital Corp., Suite 218, 5150 North Shepherd, Houston, Texas 77018, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Jerry E. Finger, President, Treasurer, Director, 318 Timberwilde, Houston, Texas 77024.

Andrew L. Johnston, Vice President, Secretary, Director, 3215 Tangley, Houston, Texas 77005.

J. Steven Winston, Director, P.O. Box 10816, Houston, Texas 77018.

Republic National Bank of Houston, 75 percent shareholder.

Colonial National Bank, 15 percent shareholder.

Willowbrook National Bank, 10 percent shareholder.

Republic National Bancshares, a Texas bank holding company, owns the following shares of the three banks: Republic National Bank of Houston (98.6 percent); Colonial National Bank (100 percent); and, Willowbrook National Bank (100 percent.)

The holding company has approximately 485 beneficial owners; the only individual owning 10 percent or more of the equity securities of the holding company is Jerry E. Finger who owns 52 percent.

There will be one class of stock authorized: One million shares of common stock. Initially, only 505,000 shares will be issued with a resultant private capital of $505,000. Applicant proposes to conduct its operations principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, on or before August 27, 1980, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–24200 Filed 8–11–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 720]

Bureau of Oceans and International Environmental and Scientific Affairs; Environmental Impact Statement

AGENCY: Department of State.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department, in conjunction with the Office for Micronesian Status Negotiations, plans to prepare a draft environmental impact

statement (DEIS) for the Compact of

Series—No. 24–80, dated July 31, 1980

Sunshine Act Meetings

Federal Register

statement (DEIS) for the Compact of Free Association and its subsidiary Agreements. The President, with the approval of both Houses of Congress, proposes concluding a Compact of Free Association between the Government of the United States and the Governments of Palau, the Marshall Islands and the Federated States of Micronesia (consisting of Yap, Truk, Ponape and Kosrae). These three areas are now separately administered entities within the Trust Territory of the Pacific Islands (TTPI). The Compact embodies a new political relationship known as "free association," a concept without precise precedent either in international practice or in United States Constitutional law. In brief, the Compact envisions the termination by the United States of its authority and responsibility as Administering Authority over the United Nations strategic trust known as the TTPI. The DEIS will review the provisions of the Compact, assess alternatives to the proposed action and address the environmental effects of implementing the Compact and such alternatives.

A public meeting will be held at the Department of State, Room 1107, 21st and C Streets, N.W., on August 28, 1980 from 10:00–12:00 A.M. to discuss the scope of the DEIS. This meeting will be chaired by Ambassador Peter Rosenblatt, the President's Personal Representative for Micronesian Status Negotiations.

Copies of the DEIS will be made available for agency and public comment upon publication. Requests for copies of the DEIS and summaries of the public meeting should be addressed to:

Lt. Col. Albert V. Short, Office for Micronesian Status Negotiations, Main Interior Building, Suite 3356, Washington, D.C. 20240 (202/343–9143) or

Irene F. Dybalski, Office of Environment and Health, Room 7820, Department of State, Washington, D.C. 20520 (202/632–0287).

Donald R. King,

Director, Office of Environment and Health.

[FR Doc. 80-36173 Filed 8-11-80; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

[Public Debt Series—No. 24–80]

Treasury Notes; Series A–1990

August 7, 1980.

The Secretary announced on August 6, 1980, that the interest rate on the notes designated Series A–1990, described in Department Circular—Public Debt Series—No. 24–80, dated July 31, 1980, will be 10¾ percent. Interest on the notes will be payable at the rate of 10¾ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-36215 Filed 8-11-80; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 157
Tuesday, August 12, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2
Federal Home Loan Bank Board	3
International Trade Commission	4
Nuclear Regulatory Commission	5, 6
Parole Commission	7, 8, 9
Postal Service	10
Railroad Retirement Board	11

1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 9:30 a.m. (closed), 2 p.m. (open), August 14, 1980.

PLACE: Room 1012 (closed), room 1027 (open), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Background Information Relating to U.S.–Philippine Negotations Scheduled to begin September 1, 1980 in Manila. (BIA)
2. Upcoming consultations with Japan. (BIA)
3. Upcoming consultations with Panama. (BIA)
4. Upcoming consultations with Ecuador. (BIA)

The following items are for the 2 p.m. open meeting:

5. Ratification of items adopted by notation.
6. IATA agreement adopting a standardized piece-related baggage system for use between Japan, on the one hand, and the U.S. (including Guam/Saipan) and Mexico, on the other, and increasing existing excess-baggage charges between Japan and TC1, as well as between Japan and Guam/Saipan, by 15 to 25 percent. (BIA, Memo 9857)
7. Docket 37444, July 15 oral argument on International Cargo Rate Flexibility Rulemaking—zones of reasonableness. (BDA, BIA, OGC, OEA) (Instructions)
8. Docket 37497, Petition of Alaska Airlines, Inc. to establish increased final intra-Alaska service mail rates. (Memo No. 9850, BDA)
9. Docket 38374, Application of Western Air Lines, Inc. for compensation for losses in providing essential air service at Pocatello, Idaho, under Section 419 of the Federal Aviation Act of 1958, as amended. (Memo No. 9366–B, BDA, OCCR.)
10. Evidence Requests in Carrier Selection Cases. (BDA)
11. Dockets 36776, EAS–639, EAS–640 and EAS–641; Mariana Islands' petition for reconsideration of Order 79–12–207 regarding Continental/Air Micronesia's notice to suspend service at Rota and the essential air service determinations for Rota, Saipan and Tinian (Memo 9399–A, BDA, OCCR, OGC)
12. Dockets EAS–634, 635, 636, 637, 638, 642 and 643; Essential Air Service Determinations for the Caroline and Marshall Islands and Johnston Island. (Memo No. 9856, BDA, OCCR, OGC)
13. Docket 38313, Frontier Airlines' Exemption Request to Reduce Service at West Yellowstone, Montana. (Memo No. 9855, BDA, OCCR)
14. Dockets EAS–645, EAS–646, EAS–647 and 37703; Appeal of Essential Air Service determination for Aguadilla, Mayaguez and Ponce, Puerto Rico; Sun International's notice of intent to suspend service at Aguadilla, Puerto Rico. (Memo No. 9828, BDA, OCCR, OGC)
15. Dockets EAS–360 and 38507, WestAir Commuter Airlines' notice of intent to suspend service at Santa Rosa, California. (BDA, OCCR)
16. Docket 37498, Notice of Intent of Nor East Commuter Airlines to suspend service between New Bedford, Massachusetts and Martha's Vineyard/Nantucket, Massachusetts. (BDA, OCCR)
17. Docket 35492, Boston-Dallas/Ft. Worth/Houston Show-Cause Proceeding. (Memo No. 8686–C, BDA)
18. Docket 38332, Marco Island Airways, Inc., application for a section 401 certificate of public convenience and necessity. (BDA)
19. Docket 37588, *Palm Beach Environmental Study.* (Memo No. 9446–E, BDA)
20. Docket 37982, Domestic Fare Flexibility—action for reconsideration. (OGC)
21. Docket 37657, Petition for rulemaking by Stanley and Elka Diefenthal to revoke the Board's smoking rule, Part 252. (Memo No. 9852, BCP, OGC)
22. Docket 37585, (Internacional de Aviacion, S.A. (Inair) v. Aerolineas Nacionales del Ecuador, S.A. (Andes Airlines) and Trans-Panama, S.A.) Motion for review of BCP's dismissal of third-party complaint. (Memo No. 9851, OGC)

STATUS:

1–4 (closed)
5–22 (open)

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: Items 1, 2, 3, and 4 concern strategy and positions that have been or may be taken by the United States regarding these cases.

Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on these items would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b (c)(9)(b) and 14 CFR Section 3106.5(i)(2) and that any meeting on these items should be closed.

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.

PERSONS EXPECTED TO ATTEND:

Board Members:
Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.
Member George A. Dalley.

Board Members Assistants:
Mr. David M. Kirstein.
Mr. Vance Fort.
Mr. Stephen H. Lachter.
Mr. James A. McMahon.

Managing Director:
Mr. Cressworth Lander.

Bureau of International Aviation:
Mr. Daniel M. Kasper.
Mr. Douglas V. Leister.
Mr. Ivars V. Mellups.
Mr. Parlen L. McKenna.
Mr. Regis P. Milan.
Mr. Ronald C. Miller.
Mr. Herbert P. Aswall.
Mr. Donald L. Litton.
Mr. James S. Horneman.

Office of General Counsel:
Ms. Mary McInnis.
Mr. Mr. Michael Schopf.
Mr. Peter B. Schwarzkopf.

Office of Economic Analysis:
Mr. Robert H. Frank.

Bureau of Consumer Protection:
Mr. Reuben B. Robertson.
Ms. Patricia Kennedy.

Bureau of Domestic Aviation:
Mr. Mark S. Kahan.

Office of the Secretary:
Mrs. Phyllis T. Kaylor.
Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(b) and 14 CFR Section

3106.5(i)(2) and that any meeting on these items should be closed:

Micheal Schoptf,
Deputy General Counsel.

[S-1522-80 Filed 8-8-80; 3:39 pm]
BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, August 22, 1980

PLACE: 2033 K Street NW., Washington, D.C., Eight floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1511 Filed 8-8-80; 9:46 am]
BILLING Code 6351-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., August 15, 1980.

PLACE: 1700 G Street NW., Board Room, Sixth Place, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:
Application for Branch Office—First Federal Savings and Loan Association of Thief River Fall, Thief River Falls, Minn.
Application for Branch Office—United Federal Savings and Loan Association, Des Moines, Iowa.
Application for Branch Office—Uptown Federal Savings and Loan Association, Chicago, Ill.
Application for Branch Office—King City Federal Savings and Loan Association, Mt. Vernon, Ill.
Application for Branch Office—Security Federal Savings and Loan Association, Albuquerque, N. Mex.
Application for Branch Office—American Federal Savings and Loan Association, Salem Oreg.
Application for Branch Office—First Federal Savings and Loan Association of Dawson County, Cozad, Nebr.
Application for Branch Offices—First Federal Savings and Loan Association of Santa Monica, Santa Monica, Calif. and Union Federal Savings & Loan Association, Los Angeles, Calif.
Extension of Time to Open a Branch Office—Central DuPage Federal Savings and Loan Association, Wheaton, Ill.
Application for Limited Facility—First Federal Savings and Loan Association of Fort Pierce, Fla.
Application for Limited Facility—Equitable Federal Savings and Loan Association of Fremont, Fremont, Nebr.
Application for Permission to Convert to Federal Chartered Stock Form—Southern Federal Savings and Loan Association of Broward County, Pompano Beach, Fla.
Application for Permission to Convert from a Federal Mutual to Federal Stock Form—American Federal Savings and Loan Association of Colorado, Pueblo, Colo.
Conversion to a State-Chartered Mutual Association—Home Federal Savings and Loan Association, Hollywood, Fla.
Bank Membership and Insurance of Accounts—Frontier Savings and Loan Association, Fairbanks, Alaska.
Application for Bank Membership—Inter-County Savings Bank, New Paltz, N.Y.
Termination of Bank Membership—Fellsway Co-operative Bank, Malden, Mass.
Request for a Commitment to Insure Accounts—First Oklahoma Savings & Loan Association of Tulsa, Tulsa, Okla.
Modification of Insurance Condition—Mercantile Building & Loan Co., Cincinnati, Ohio.
Merger—The new Ulm Savings & Loan Association, New Ulm, Minn., into Minnesota Federal Savings & Loan Association, St. Paul, Minn.
Merger—Home Federal Savings & Loan Association, Maumee, Ohio into the State Savings & Loan Co., Bowling Green, Ohio.
Charter S Amendment—First Federal Savings & Loan Association of Raleigh, Raleigh, N.C.

[S-1517-80 Filed 8-8-80; 1:54 pm]
BILLING CODE 6720-01-M

4

[USITC SE-80-41]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, August 21, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Copper rod (Docket No. 667).
b. Split shot fishing line sinkers (Docket No. 669).
5. Slide fastener stringers (Inv. 337–TA–85)—vote on temporary exclusion order.
6. Any items left over from previous agenda.,

CONTRACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-1521-80 Filed 8-8-80; 3:59 pm]
BILLING CODE 7020-02-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, August 7, 1980 (changes).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

Affirmation Session (approximately 10 minutes, public meeting).
a. Part 72, Spent Fuel Storage (ISFSI) (was delayed to a future date).
b. GESMO (additional item).

ADDITIONAL INFORMATION: By a vote of 3–0 (Chairman Ahearne not present) on August 7, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business requires that Affirmation Item b. (above) be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

August 8, 1980.
Roger M. Tweed,
Office of the Secretary.

[S-1518-80 Filed 8-8-80; 3:04 pm]
BILLING CODE 7590-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, August 14, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

Discussion of Draft Programmatic Environmental Impact Statement On Decontamination and Waste Disposal at TMI (approximately 1½ hours, public meeting).

2 p.m.

1. Briefing on Hydrogen Control in the Sequoyah Containment (approximately 1½ hours, public meeting.
2. Affirmation Session (approximately 10 minutes), (public meeting).
—Physical Protection of Category II Material in Transit (tentative).
—Burton FOIA Appeal.
3. Time Reserved for Discussion & Vote on Affirmation Items (if required) (public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

August 7, 1980.
Roger M. Tweed,
Office of the Secretary.

[S-1519-80 Filed 8-8-80; 3:04 pm]
BILLING CODE 7590-01-M

7

[OP0401]

PAROLE COMMISSION

Parole Commissioners, National Commissioners—the Commissioners presently maintaining Offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, Augsut 1, 1980, at 9:30 a.m.

PLACE: Room 826A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 7 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Analyst (202) 724–3094.

[S-1514-80 Filed 8-8-80; 12:28 pm]
BILLING CODE 4410-01-M

8

[OP0401]

PAROLE COMMISSION.

TIME AND DATE: 9:30 a.m.–5:30 p.m., Monday, August 25 and Tuesday, August 26, 1980.

PLACE: Room 818, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 13 cases decided by the National Commissioners pursuant to a reference under 28 CFR § 2.17 and appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Analyst (202) 724–3094.

[S-1515-80 Filed 8-8-80; 12:27 pm]
BILLING CODE 4410-01-M

9

[OP0401]

PAROLE COMMISSION.

Parole Commission, National Commissioners—the Commissioners presently maintaining Offices at Washington, D.C. Headquarters.

TIME AND DATE: Wednesday, Augsut 13, 1980, at 9:30 a.m.

PLACE: Room 826A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Markble, Analyst (202) 724–3094.

[S-1516-80 Filed 8-8-80; 12:28 pm]
BILLING CODE 4410-01-M

10

POSTAL SERVICE.
(Board of Governors)

Notice of meeting:

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. § 552b), hereby gives notice that it intends to hold a meeting at 9:30 A.M. on Friday, August 15, 1980, at Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. As explained in the following paragraph, the meeting is closed to the public. The Board expects to discuss the matters in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

Each of the two items on the agenda will consist of continuations of discussions that were commenced at the Board's meeting of August 4 and 5, 1980. On that occasion the members of the Board unanimously reaffirmed their earlier determinations under the Sunshine Act that their discussions of these matters should be closed to public observation. The meeting is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Counsel to the Governors Califano; Secretary of the Board Cox; and Senior Assistant Postmaster General Finch.

Agenda

1. Continuation of consideration of the Postal Rate Commission's April 8, 1980, Recommended Decision upon Reconsideration of the Electronic Mail Classification Proposal, 1978 (Commission Docket No. MC78–3).
2. Continuation of consideration of a Written Statement of the Decision of the Governors to approve the Postal Rate Commission's Recommended Decision of May 16, 1980, concerning Red Tag Proceeding, 1979 (Commission Docket No. MC79–3).

Louis A. Cox,
Secretary.

[S-1520-80 Filed 8-8-80; 3:05 pm]
BILLING CODE 7710-12-M

11

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 10:30 a.m., August 14, 1980.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED:

(1) OPM survey of Bureau of Unemployment and Sickness Insurance.
(2) Registration requirements for unemployment insurance.
(3) Travel allowances.
(4) Reports on Congressional bills (OMB).
(5) Appeal from referee's denial of widow's insurance annuity, Ruth Partin.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920, FTS No. 387–4920.

[S-1512-80 Filed 8-8-80; 10:13 am]
BILLING CODE 7905-01-M

V
4
5

A
G

1
2

8
0
UMI

federal register

Tuesday
August 12, 1980

Part II

Department of Labor

Occupational Safety and Health Administration

List of Substances Which may be Candidates for Further Scientific Review and Possible Identification, Classification, and Regulation as Potential Occupational Carcinogens

DEPARTMENT OF LABOR

date should be mailed to the Docket

potential carcinogens already identified

Chemical Substances (RTECS), the U.S.

V 45 A G 12 80 UMI

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

A List of Substances Which May Be Candidates for Further Scientific Review and Possible Identification, Classification, and Regulation as Potential Occupational Carcinogens

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Publication of a list of substances which may be candidates for further scientific review.

SUMMARY: OSHA is today publishing a list of substances which may be considered candidates for further scientific review and possible identification, classification, and regulation as potential occupational carcinogens. This listing of substances which is required by the OSHA standard for the identification, classification, and regulation of potential occupational carcinogens does not mean that OSHA has determined that a substance on the list is carcinogenic or that regulatory action on the substance is necessary, nor is such a listing intended as a preclassification warning. It is OSHA's view that the compilation and publication of the list of substances accomplishes the following: informs the public at the very first step in OSHA's standard-setting process that a substance is a candidate for closer scientific review; makes available to the public the data base for substances OSHA is considering for further scientific review; reduces the number of substances to be subjected to such a review; guides the research community in focusing its resources on those substances for which there is a need for testing and further research; stimulates early public comment regarding the availability and appropriateness of new or additional scientific data; and, overall, assists OSHA in its setting of priorities and selecting of substances for regulation.

DATE: All comments and requests for relevant data must be received in the Docket Office by October 14, 1980.

ADDRESSES: Comments on the Candidate List and requests for relevant data should be mailed to the Docket Office, Room S6212, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202/523/7894).

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA Office of Public Affairs, Room N3641, 200 Constitution Avenue, NW., Washington, D.C., 20210 (202/523-8151).

SUPPLEMENTARY INFORMATION:

A. Background Information:

One of the most critical health problems which OSHA must deal with today is the prevention of occupationally-related cancers. Moreover, OSHA recognizes its obligation to minimize the inherent social and economic impact of these dreaded diseases, and since 1970 has initiated rulemaking proceedings on the following occupational carcinogens: asbestos, "fourteen carcinogens," vinyl chloride, coke oven emissions, arsenic, benzene, acrylonitrile, and beryllium. More recently, OSHA proposed on October 4, 1977 (42 FR 54148) a general standard to assist in expediting the identification, classification, and regulation of potential occupational carcinogens. Extensive public comments were submitted and a lengthy hearing was held on the proposal. Then on January 22, 1980, OSHA promulgated its general standard for the identification, classification, and regulation of potential occupational carcinogens, the "Cancer Standard" (45 FR 5002, January 22, 1980). The first action to be taken by OSHA in following the procedures set forth by the Cancer Standard is the publication of this list of substances which are candidates for further scientific review.

B. The List of Substances Which Are Candidates for Further Scientific Review:

(1) *Discussion of the List of Candidate Substances in the Proposal:* The proposed regulation included OSHA's definition and criteria for classification of a potential occupational carcinogen. The proposal also included a statement of OSHA's intent of "devising its own system for the orderly, systematic classification of the large number of potential carcinogens already identified by NIOSH" (42 FR 54169, October 4, 1977). In addition, OSHA solicited public comment as to how to best handle the 1500 to 2000 substances for which some evidence of carcinogenicity existed, according to the National Institute for Occupational Safety and Health (NIOSH)'s list of "suspected carcinogens" (HEW Publication No. 77-149, December, 1976). OSHA received many requests from the public that it prepare a preliminary version of the list of candidate substances. OSHA complied with these requests and subsequently released such a tentative list for public comment in 1978. That list is available in the OSHA Docket Office.

A large number of participants also urged OSHA to adopt a specific screening process for "suspected carcinogens" and suggested a variety of screening procedures to be used by OSHA. After extensive review and deliberation of the various screening procedures submitted, OSHA selected those which it considered the most effective. By combining these selected procedures, OSHA has developed what it believes to be a most efficient three-step screening and priority-setting process. The three-steps are:

Step No. 1—publication of a list of substances which may be candidates for further scientific reviews;

Step No. 2—publication of two priority lists, one for Category I and one for Category II substances; and

Step No. 3—selection of one or more substances from the priority lists for full scientific review with a view to subsequent rulemakings.

(2) *Procedures Stated in the Cancer Standard Final Rule concerning the List of Candidate Substances:* After a thorough and conscientious analysis of the Hearing Record (see the discussion at 45 FR 5207-5211, January 22, 1980), OSHA arrived at the screening procedure it would use and this procedure has been followed in the compilation of this list of candidate substances—the first step in OSHA's screening process.

(a) Substances for which there was some evidence of carcinogenicity would be drawn from such well-known lists as the NIOSH Registry of Toxic Effects of Chemical Substances (RTECS), the U.S. Public Health Service, Publication No. 149, the Environmental Protection Agency (EPA)'s Inventory of Chemical Substances, the Monographs of the International Agency for Research on Cancer (IARC), and the Annual Report of the Secretary of the United States Department of Health and Human Services (HHS) to the President and Congress. These compiled substances would be verified as being present in the American workplace by using the EPA's Pesticides-Registered Active Ingredients List, the National Occupational Hazard Survey (NOHS), the EPA Inventory of Chemical Substances, the Food and Drug Administration (FDA)'a Food Additives List, and the FDA's Approved Drug Products List. The substances which are found in American workplaces and for which there is some evidence of carcinogenicity will be subjected to a brief scientific review.

(b) A "brief scientific review" has been interpreted to mean a review by senior government scientists of a sufficient quantity of available literature to determine whether or not a substance should be subject to a more thorough scientific review under the Cancer Standard. Based on the more detailed review a determination may then be made as to whether a substance meets OSHA's definition of a potential occupational carcinogen (29 CFR 1990.103 (45 FR 5283, January 22, 1980)).

(c) Only positive data would be considered for the substances which would be subjected to a brief scientific review. OSHA believes that consideration of all available scientific evidence (positive and non-positive) should be done in the later stages of classification.

(d) Substances on this list will not be tentatively classified into Category I or Category II at this early screening stage. Such categorization will be made only after a more extensive scientific review.

(e) The candidate list will be made public and will be updated annually.

OSHA emphasized in the Cancer Standard Final Rule that the inclusion of a substance on the candidate list did not signify a scientific determination that the substance was a potential occupational carcinogen, nor was it to be considered as a preclassification warning. Most importantly, the candidate list carries no regulatory effect. By the same token, the exclusion of a substance from the candidate list does not mean that a substance is non-carcinogenic. The candidate list includes substances that OSHA believes require a more detailed scientific review to determine whether they should be identified and classified as potential occupational carcinogens. The publication of the candidate list has several benefits. For instance, in conjunction with EPA's Carcinogen Assessment Group (CAG) "List of Carcinogens," it informs all interested parties as to which substances OSHA is reviewing for possible identification and classification as potential occupational carcinogens.

EPA's CAG List includes substances which were reviewed extensively by CAG and considered by CAG as having "substantial evidence of carcinogenicity." OSHA also reviewed many of these substances and will make available to interested parties the data base it used for each substance. Although at this stage of review OSHA has not reached a conclusion as to the potential carcinogenicity of these substances, it respects EPA's evaluation. Therefore, in a spirit of inter-agency co-ordination and co-operator, consistent with the objectives of the IRLG, OSHA has referenced EPA's CAG List of Carcinogens rather then relisting on the candidate list those substances OSHA reviewed. The substances from EPA's CAG List which OSHA reviewed will be considered for listing on the OSHA priority lists.

Publication of the candidate list also stimulates employers and employees, as well as the general public to comment on the available scientific data and to inform OSHA of additional relevant data concerning any substance on the candidate list. OSHA further believes that the scientific community will benefit from the publication of the candidate list because it will help to identify the substances for which additional research may be appropriate. These conclusions are reflected in 29 Code of Federal Regulations (CFR) 1990. 121 (45 FR 5284, 5285, January 22, 1980)) which requires the Secretary to publish a candidate list annually. The list published below is issued pursuant to those requirements.

(3) *Utilization of the List of Candidate Substances in the Priority Setting Process:* The compilation and publication of the candidate list is only the first step in the screening of toxic substances which might be potential occupational carcinogens. The second step in OSHA's screening procedure involves the application of several priority factors (29 CFR 1990. 131-132, 45 FR 5285, January 22, 1980) primarily to the list of candidate substances, as well as to EPA's CAG List, in order to screen out those substances which should be more seriously considered for regulation. In other words, OSHA is attempting to identify and classify "the worst first" in the most efficient and effective way. Some of the factors that may be considered by OSHA in its priority setting are: (a) The estimated number of exposed workers, (b) the estimated levels of workers' exposure, (c) the molecular similarity of the substance to a known carcinogen, and (d) the availability of safe substitute substances (45 FR 5210, 5285, January 22, 1980). That group of substances which remains after the application of the priority factors will then be considered for placement on the priority lists. At this point in the screening process, OSHA intends to perform a thorough analysis of all available scientific data relevant to the potential carcinogenicity of a substance. Two priority lists will be published and, subsequently, updated approximately every six months, one list for Category I candidates and one, for Category II candidate substances.

The third step in OSHA's screening procedure will be selecting those substances from the priority lists that are, in fact, potential occupational carcinogens and are to be regulated on a substance-by-substance basis as outlined in the Cancer Policy (45 FR 5284, January 22, 1980).

(4) *References Cited in the Text of the Supplementary Information Section:* (a) 42 FR 54148, Identification, Classification and Regulation of Toxic Substances Posing a Potential Occupational Carcinogenic Risk, October 4, 1977.

(b) 45 FR 5002, Identification, Classification and Regulation of Potential Occupational Carcinogens, January 22, 1980.

(c) National Institute for Occupational Safety and Health (NIOSH) *Suspected Carcinogens,* Health, Education and Welfare Publication No. (NIOSH) 77-149, December, 1976.

(d) Registry of Toxic Effects of Chemical Substances (RTECS) NIOSH, the version of RTECS as contained in the Environmental Protection Agency-National Institutes of Health Chemical Information System, July, 1979.

(e) United States Public Health Service, Publication No. 149, Original, Supplement II, 1961-1967, 1970-1971, 1972-1973.

(f) Environmental Protection Agency (EPA)'s Carcinogen Assessment Group (CAG) "List of Carcinogens," April 22, 1980.

(g) Environmental Protection Agency (EPA)'s Inventory of Chemical Substances, compiled pursuant to the Toxic Substances Control Act, the Inventory as of 1979.

(h) Monographs of the International Agency for Research on Cancer (IARC) Vols. 1-19, 1972-1979.

(i) Annual Report of the Secretary of the United States Department of Health and Human Services (HHS) to the President and Congress, 1979.

(j) Environmental Protection Agency (EPA)'s Pesticides-Registered Active Ingredients List, July 1974.

(k) National Occupational Hazard Survey (NOHS), 1976.

(l) Food and Drug Administration (FDA)'s Food Additives List, April, 1979.

(m) Food and Drug Administration (FDA)'s Approved Drug Products List, January, 1979.

Authority: This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, and by Bailus Walker, Jr., Director of Health Standards Programs, for the Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 4th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor for Occupational Safety and Health.

BILLING CODE 4510-26-M

A List of Substances Which May Be Candidates for Further Scientific Review

Acenaphthene, 5-nitro- Syn: 1,2-Dihydro-5-nitro-acenaphthylene	602-87-9**
Acetamide Syn: Methanecarboxamide	60-35-5**
Acetanilide, 4'-phenyl- Syn: 4-Acetylaminobiphenyl	4075-79-0**
Acetic acid, bromo-, ethyl ester Syn: Antol	105-36-2**
p-Acetophenetidide, 3'-amino- Syn: 3-Amino-4-ethoxyacetanilide	17026-81-2**
p-Acetophenetidide, 3'-nitro- Syn: 3-Nitro-p-acetophenetide	1777-84-0**
Aniline Syn: Benzeneamine	62-53-3**
Aniline, N,N-dimethyl-p-nitroso- Syn: 4-Nitrosodimethylaniline	138-89-6**
Aniline, N,N-dimethyl-p-(m-tolylazo)- Syn: N,N-Dimethyl-4-((3-methylphenyl)azo) benzeneamine	55-80-1**
Aniline hydrochloride Syn: Benzeneamine hydrochloride	142-04-1**
Aniline, N-methyl-N-nitroso- Syn: N-Methyl-N-nitrosobenzeneamine	614-00-6**
Aniline, 4,4'-methylenebis(N,N-dimethyl- Syn: Michler's Base	101-61-1**
Aniline, 4,4'-sulfonyldi- Syn: Dapsone	80-08-0**
Aniline, 4,4'-thiodi- Syn: p,p'-Diaminodiphenyl sulfide	139-65-1**
Aniline, 2,4,6-trichloro- Syn: 2,4,6-Trichloroaniline	634-93-5**
Aniline, 2,4,6-trimethyl- Syn: Aminomesitylene	88-05-1**
o-Anisidine, 5-methyl- Syn: p-Cresidine	120-71-8**
o-Anisidine, 5-nitro- Syn: 2-Amino-4-nitroanisole	99-59-2**
Anthraquinone, 2-amino- Syn: 2-Amino-9,10-anthracenedione	117-79-3**
Asphalt Syn: Petroleum pitch	9052-42-4**
Azobenzene Syn: Benzeneazobumzene	103-33-3**

1,3-Benzenediamine, 4-methoxy-, sulfate (1:1) Syn: 2,4-Diaminoanisole sulfate	39156-41-7**
Benzidine dihydrochloride Syn: (1,1'-Biphenyl)-4,4'-diamine dihydrochloride	531-85-1**
Benzimidazole, 5-nitro- Syn: 6-Nitro-benzimidazole	94-52-0**
Benzoic acid, 3-amino-2,5-dichloro- Syn: Amiben	133-90-4**
Benzoic acid, hydrazide Syn: Benzoyl hydrazide	613-94-5**
Benzophenone, 4,4'-bis(dimethylamino)- Syn: Michler's Ketone	90-94-8**
p-Benzoquinone dioxime Syn: Quinone dioxime	105-11-3**
4'4'''-Biacetanilide Syn: Diacetylbenzidine	613-35-4**
3,3',4,4'-Biphenyl-tetramine tetrahydrochloride Syn: 3,3'-Diaminobenzidine tetrahydrochloride	7411-49-6**
Butyric acid, 2-amino-4-(ethylthio)-, DL- Syn: DL Ethionine	67-21-0**
Butyric acid, 2-amino-4-(ethylthio)-, L- Syn: Ethionine	13073-35-3**
Carbamic acid, bis(2-hydroxyethyl)dithio-, monopotassium salt Syn: Potassium bis(2-hydroxyethyl)dithiocarbamate	23746-34-1**
Carbazole, 3-amino-9-ethyl Syn: 3-Amino-N-ethylcarbazole	132-32-1**
C.I. Azoicdiazo component 11 Syn: o-Toluidine, 4-chloro-, hydrochloride	3165-93-3**
C.I. Direct Black 38, disodium salt Syn: 2,7-Naphthalenedisulfonic acid, 4-amino-3-((4'-((2,4-diaminophenyl)azo) (1,1'-biphenyl)-4-yl) azo) 5-hydroxy-6-(phenylazo), disodium salt	1937-37-7**
C.I. Direct Blue 6, tetrasodium salt Syn: 2,7-Naphthalenedisulfonic acid, 3, 3'-((4,4'-biphenylene)bis(azo)) bis (5-amino-4-hydroxy-, tetrasodium salt	2602-46-2**
C.I. Direct Brown 95 Syn: Copper, (5-((4'-((2, 5-dihydroxy-4-((2-hydroxy-5-sulfophenyl)azo) phenyl)azo)(1,1'-biphenyl)-4yl) azo) 2-hydroxybenzoato(2-))-,disodium salt	16071-86-6**
C.I. Disperse Black 6, dihydrochloride Syn: Benzidine, 3,3'-dimethoxy, dihydrochloride	20325-40-0**
C.I. Disperse Orange 11 Syn: Anthraquinone 1-amino-2-methyl-	32-29-0**
C.I. Solvent Orange 2 Syn: 1-(o-Tolylazo)-beta-naphthol	2646-17-5**
C.I. Solvent Yellow 1 Syn: Aniline, o-(phenylazo)-	60-09-3**

C.I. Solvent Yellow 3 Syn: o-Toluidine, 4-(o-tolylazo)-	97-56-3**
C.I. Solvent Yellow 34 Syn: Aniline, 4,4'-(imidocarbonyl)bis (N,N-dimethyl-	492-80-8**
Cyclohexane, 1,2,3,4,5,6-hexachloro- Syn: Benzene hexachloride	608-73-1**
Diethylamine, 2,2'-dichloro-N-methyl-, hydrochloride Syn: Mechlorethamine hydrochloride	55-86-7**
m-Dioxan-4-ol, 2,6-dimethyl-, acetate Syn: Acetomethoxan	828-00-2**
Diphenylamine, 4-nitroso- Syn: p-Nitroso-N-phenylaniline	156-10-5**
Diphenylamine, N-nitroso- Syn: Diphenylnitrosamine	86-30-6**
Ethane, 1,2-bis (chloromethoxy)- Syn: Ethylene glycol bis (chloromethyl) ether	13483-18-6**
Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)- Syn: TDE	72-54-8**
Ethane, 1,1-dichloro-2,2-bis(p-ethylphenyl)- Syn: p,p'-Ethyl-DDD	72-56-0**
Ethanol, 2-hydrazino- Syn: beta-Hydroxyethylhydrazine	109-84-2**
Ether, 2,4-dichlorophenyl p-nitrophenyl Syn: 2,4-Dichloro-1-(4-nitrophenoxy)benzene	1836-75-5**
Ethylene, bromo- Syn: Vinyl bromide	593-60-2**
Ethylene, 1,1-dichloro-2,2-bis(p-chlorophenyl)- Syn: p,p'-DDE	72-55-9**
Fluoren-9-one, 2,4,7-trinitro- Syn: 2,4,7-Trinitro-9H-fluoren-9-one	129-79-3**
Fluorene, 2-nitro- Syn: 2-Nitro-9H-fluorene	607-57-8**
2-Furaldehyde, 5-nitro-, semicarbazone Syn: Nitrofurazone	59-87-0**
Hydrazine, 1,2-dimethyl-, dihydrochloride Syn: sym-Dimethylhydrazine dihydrochloride	306-37-6**
Hydrazine, methyl- Syn: Hydrazomethane	60-34-4**
Hydrazine methyl-, sulfate(1:1) Syn: Methylhdrazine monosulfate	302-15-8**
Hydrazine, monohydrate Syn: Hydrazine hydrate	7803-57-8**
Hydrazine, phenyl-, monohydrochloride Syn: Phenylhydrazine hydrochloride	59-88-1**

UMI 0 8 2 1 G A 5 4 V

Hydrazine, sulfate (1:1) Syn: Hydrazine hydrogen sulfate	10034-93-2**
Hydroxylamine, N-nitroso-N-phenyl-, ammonium salt Syn: Cupferron	135-20-6**
Imidazole-4-carboxamide, 5-(3,3'-dimethyl-1-triazeno)- Syn: Dacarbazine	4342-03-4**
Isophthalonitrile, tetrachloro- Syn: m-Tetrachlorophthalonitrile	1897-45-6**
1,3,4-Metheno-1H-cyclobuta(cd)pentalene, 1,1a,2,2,3,3a,4,5,5,5a,5b,6-dodecachlorooctahydro- Syn: Mirex	2385-85-5**
2-Naphthylamine, N,N-bis(2-chloromethyl) Syn: Naphthylamine mustard	494-03-1**
Peroxyacetic acid Syn: Peracetic acid	79-21-0**
Phenol, 4-amino-2-nitro- Syn: C.I. 76555	119-34-6**
m-Phenylenediamine, 4-chloro- Syn: 4-Chlorophene-1,3-diamine	5131-60-2**
o-Phenylenediamine, 4-chloro- Syn: 4-Chloro-1,2-benzenediamine	95-83-0**
o-Phenylenediamine dihydrochloride Syn: 1,2-Benzenediamine dihydrochloride	615-28-1**
p-Phenylenediamine, 2-nitro- Syn: C.I. 76070	5307-14-2**
Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethy ester Syn: Tetrachlorvinphos	961-11-5**
Phosphoric acid, trimethyl ester Syn: Methyl phosphate	512-56-1**
Phosphoric triamide, hexamethyl- Syn: HMPA	680-31-9**
Picolinic acid, 4-amino-3,5,6-trichloro- Syn: Picloram	1918-02-1**
Piperazine, 1,4-dinitroso- Syn: N-N'-Dinitrosopiperazine	140-79-4**
Propane, 2,2-bis(p-(2,3-epoxypropoxy)phenyl)- Syn: Bisphenol A diglycidyl ether	1675-54-3**
Propane, 2-nitro- Syn: Isonitropropane	79-46-9**
Pyridine, 2,6-diamino-3-(phenylazo)-, monohydrochloride Syn: Phenazopyridine hydrochloride	136-40-3**
Quinoline Syn: 1-Azanaphthalene	91-22-5**
Quinoline, 8-nitro- Syn: No synonym	607-35-2**

Semicarbazide Syn: Carbamylhydrazine	57-56-7**
Semicarbazide monohydrochloride Syn: Carbamylhydrazine hydrochloride	563-41-7**
Semicarbazide, 1-phenyl- Syn: Cryogenenine	103-03-7**
4,4'-Stilbenediol, alpha,alpha'-diethyl-, dipropionate, (E)- Syn: Diethylstilbestrol dipropionate	130-80-3**
Strobane Syn: Terpene polychlorinate	8001-50-1**
Succinic acid, mono (2,2-dimethylhydrazide) Syn: Daminozide	1596-84-5**
Sulfanilamide, N'-(5-methyl-3-isoxazolyl)- Syn: Sulfamethoxazole	723-46-6**
Sulfuric acid, diethyl ester Syn: Ethyl sulfate	64-67-5**
Tellurium, tetrakis(diethyldithiocarbamato)- Syn: Ethyl tellurac	20941-65-5**
Terphenyl, chlorinated Syn: PCT	61788-33-8**
Thiazole, 2-amino-5-nitro- Syn: Entramin	121-66-4**
p-Toluamide,N-isopropyl-alpha-(2-methyl-hydrazino)-monohydrochloride Syn: Procarbazine hydrochloride	366-70-1**
Toluene-2,4-diamine Syn: m-Toluenediamine	95-80-7**
o-Toluidine Syn: 1-Amino-2-methylbenzene	95-53-4**
o-Toluidine, 5-chloro- Syn: 1-Amino-3-chloro-6-methylbenzene	95-79-4**
p-Toluidine, alpha, alpha, alpha-trifluoro-2,6-dinitro-N,N-dipropyl- Syn: Trifluralin	1582-09-8**
Uracil, 2-thio- Syn: 2-Mercapto-4-hydroxypyrimidine	141-90-2**
Urea, 3-(p-Chlorophenyl)-1,1-dimethyl- Syn: Monuron	150-68-5**
Urea, 1,3-diethyl-2-thio- Syn: N,N'-Diethylthiourea	105-55-5**
Urea, 1,1,3,3-tetramethyl-2-thio- Syn: TMTU	2782-91-4**
Urea, 1,1,3-trimethyl-2-thio- Syn: N,N,N'-Trimethylthiourea	2489-77-2**

[FR Doc. 80-23940 Filed 8-11-80; 8:45 am]
BILLING CODE 4110-26-C

**Confirmed in workplace + positive evidence.

V
4
5

A
G

1
2

8
0
UMI

federal register

Tuesday
August 12, 1980

Part III

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act of 1978

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501, and 504

[Dockets Nos. ERA-R-78-19 C, F, and G]

Powerplant and Industrial Fuel Use Act of 1978; Existing Facilities: Definitions; Administrative Procedures; Prohibition Against Increased Use of Petroleum; Electric Utility System Compliance Option; Statutory Prohibitions; Findings and Procedures for Prohibition Rules and Orders; and Criteria for Petitions for Exemptions From Applicable Prohibitions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this final rule to implement certain provisions of Titles I, III, IV, V, and VII of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), which apply to existing powerplants and existing major fuel burning installations (MFBIs). This final rule establishes the definitions, administrative procedures and criteria applicable to:

(1) ERA proceedings by which prohibitions are imposed pursuant to Title III of FUA;

(2) Petitions for exemptions by owners and operators of existing powerplants and existing MFBIs ("existing facilities") from the prohibitions contained in, or imposed by ERA pursuant to Title III of the Act;

(3) Applications by owners or operators of existing powerplants for permits for the increased use of petroleum under Title IV of the Act; and

(4) Applications by owners or operators of existing powerplants for approval of System Compliance Plans under Title V of the Act.

EFFECTIVE DATE: This final rule shall become effective on October 14, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461 (202) 653-4055.

Stephen M. Stern, Division of Coal and Alternate Fuels Regulation, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7002, Washington, D.C. 20461 (202) 653-3217

Robert L. Davies, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461 (202) 653-3649.

G. Randolph Comstock, Office of the General Counsel, Department of Energy, Room 6G-087—Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-2967.

SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion of Comments and Rules Adopted

A. Administrative Procedures and Sanctions

1. Subpart E—Prohibition Rules and Orders. Prohibitions by order—existing facilites

B. Prohibition Against The Increased Use of Petroleum

C. Statutory Prohibitions

D. Electric Utility System Compliance Option

E. Findings and Procedures for Prohibitions by Order (Case-By-Case)

1. Technical Capability.
2. Substantial Physical Modification.
3. Substantial Reduction in Rated Capacity.
4. Financial Feasibility.
5. Prohibition Against Excessive Use of Petroleum or Natural Gas in Mixtures.

F. Criteria for Petitions for Exemptions From Applicable Prohibitions

1. Subpart C—General Requirements for Exemptions.
   a. General requirement cost calculation.
   b. No alternative power supply.
   c. Terms and conditions.
2. Subpart D—Temporary Exemptions for Existing Facilities.
   a. Lack of alternate fuel supply.
   b. Site limitations.
   c. Inability to comply with applicable environmental requirements.
   d. Future use of synthetic fuels.
   e. Use of innovative technologies.
   f. Retirement exemption.
   g. Reliability exemption.
   h. Peakload powerplant exemption.
3. Subpart E—Permanent Exemptions for Existing Facilities.
   a. Lack of alternate fuel supply.
   b. Site limitations.
   c. State or local requirements.
   d. Fuel mixtures.
   e. Emergencies.
   f. Permanent peakload powerplants.
   g. Use of natural gas by powerplants with capacity of less than 250 million BTU's per hour.
   h. Use of liquefied natural gas.
   i. Scheduled equipment outages.

III. Procedural Matters

I. Background

ERA published proposed rules for existing facilities on January 29, 1979 (44 FR 5808). Comments were solicited on the proposals and public hearings were held in Boston, Massachusetts; Salt Lake City, Utah; Tampa, Florida; and Lexington, Kentucky.

On May 15, June 20, and July 23, 1979, ERA issued interim rules on definitions, administrative procedures, prohibitions against increased use of petroleum, findings and procedures for prohibition rules and orders, and exemption criteria for existing facilities, as well as the electric utility system compliance option available to existing powerplants. (44 FR 28530, 28594, 36002 and 43176). ERA solicited written comments on these interim rules over an extended period of time and has considered the various comments received. ERA also reviewed the interim rules in light of its actual experience in implementing the regulatory program.

On May 30, 1980, ERA issued a final rule setting forth the definitions, administrative procedures, prohibitions and criteria for exemptions for new facilities under Title II of FUA. 45 FR 38276 and 38302 (June 6, 1980).

This final rule sets forth definitions, administrative procedures, statutory prohibitions, findings and procedures for prohibition rules and orders, and criteria for exemptions applicable to existing facilities under Titles I, III and VII of FUA. The rule also contains provisions relating to applications for permits for the increased use of petroleum under Title IV and for approvals of electric utility system compliance plans under Title V of the Act.

In preparing the final rule, several parts of the interim rule that were applicable to existing facilities have been deleted or combined with other parts. Former Parts 504 (Existing Electric Powerplants) and 506 (Existing Major Fuel Burning Installations) have been consolidated and appear in this final rule as Part 504, Existing Facilities. Notably, the requirement for a Fuels Decision Report (Part 502 of the interim rule) has been deleted, effective August 5, 1980. 45 FR 38276 at 38280 (June 6, 1980). Essential information and evidentiary requirements previously required by Part 502 are now incorporated as general requirements for exemptions under Subpart C of Part 504 and as evidentiary requirements applicable to individual exemptions under Subparts D and E of Part 504.

II. Discussion of Comments and Rules Adopted

A discussion of the more significant comments and suggestions received on the interim rules, as well as the major changes ERA has adopted, appears below. Except in a few instances, if an issue has been addressed earlier by ERA in the preambles to the relevant interim rules on existing facilities or to the final rule on new facilities, the same issue will not be addressed again here. The appropriate previous preamble discussions are incorporated herein by reference. 44 FR 28530 (May 15, 1979); 44 FR 28594 (May 15, 1979); 44 FR 28950 (May 17, 1979); 44 FR 36002 (June 20, 1979); 44 FR 43176 (July 23, 1979); 45 FR 38276 and 45 FR 38302 (June 6, 1980).

Considerable effort has been made to simplify, reorganize, and shorten the text of this rule, as well as to reduce both evidentiary and reporting requirements associated with many of the exemptions authorized by the Act. This effort was undertaken in response to public comments which are referred to in this and previous preambles. Other changes have been made by ERA in the interest of regulatory simplification.

A. Part 501—Administrative Procedures and Sanctions

1. *Subpart E—Prohibition Rules and Orders.* a. *Prohibitions by order—existing facilities (§ 501.51).* Interim rule §§ 501.51 and 501.52, which contained a description of the administrative procedures applicable to the issuance of prohibition orders to existing powerplants and existing MFBIs, respectively, have been replaced by § 501.51, existing facilities, of the final rule.

Certain commenters were concerned that § 501.31 of the interim rule (relating to the submission of written comments) provided for at least a 45 day comment period for a proposed prohibition order whereas §§ 501.51(b)(3) and 501.52(b)(3) (relating to procedures for the issuance of prohibition orders) provided for at least a three month period. ERA has revised § 501.31 in the final rule to refer to § 501.51(b)(3) (Prohibitions by Order—Existing Facilities) to provide for the three month period. Additionally, § 501.33(b) of the interim rule (relating to requests for a public hearing) has been revised to refer to § 501.51(b)(6) so as to make clear that a 45 day period will be available for interested persons to request a public hearing after publication of the tentative staff analysis.

It was suggested by some commenters that the three month comment periods provided for in connection with the issuance of prohibition orders be extended to 120 or 180 days. We have decided not to adopt these suggestions; however, it should be noted that ERA has discretion under §§ 501.51(b)(3) and 501.51(b)(5) to grant extensions upon request by a petitioner and an appropriate showing of need.

Certain commenters suggested that all evidence upon which ERA proposes to rely in deciding to issue a final prohibition order should be served upon all interested parties with an opportunity to respond by comment or in a public hearing. ERA believes that the provisions for a public hearing and comment on the tentative staff analysis provide a prohibition order recipient and all other interested persons a sufficient opportunity to respond to all pertinent issues. ERA believes, however, that the informal procedures authorized by Section 701 of FUA allow it to consider the whole record in determining whether or not to issue a final order, including information received and analyses made subsequent to the close of the public comment period. All information relied upon by ERA in making its determinations will be in the public record. In addition, in cases where a public hearing has been conducted, the hearing record will remain open for 14 days following the hearing. Participants at the hearing may submit additional written statements during that period which will be made a part of the administrative record and will be served by the presiding officer upon those parties listed on the service list.

Many commenters suggested that ERA should, upon issuance of a final prohibition order, immediately stay that order to allow an order recipient to petition for an exemption. This matter was addressed in the preamble to the interim rule, 44 FR 43178 (July 23, 1979). Such an approach would be unnecessarily protracted. The Conference Report accompanying FUA makes it clear at page 82 that a final order shall not be issued if the powerplant or MFBI would be eligible for an exemption if one had been requested. For ERA to properly analyze whether an exemption is available, ERA believes it must request that a proposed order recipient both identify and furnish evidence pertaining to eligibility for any appropriate exemptions. Under this rule, a proposed order recipient has the option of waiving this right as a defense to an order. However, it is evident, that by providing that an exemption showing could be employed in the nature of an affirmative defense to a prohibition order, Congress did not expect a prohibition order to be stayed where an order recipient chooses to wait and petition for an exemption only after the order is finalized.

Certain commenters believe that ERA has shifted the burden of proof to the proposed order recipient. As stated in the preamble to the interim rules, ERA does not believe that requiring the proposed order recipient to furnish evidence to ERA so it can make the required findings relieves ERA of the ulimate burden of proving the basis for the final prohibition order, 44 FR 43178 (July 23, 1979). ERA may, where appropriate, subpoena the necessary evidence if not provided by a proposed order recipient (see § 501.40 of the final rule) in order to make the findings required by FUA.

Other commenters on the interim rule requested that ERA issue prohibition orders based upon an adjudicatory hearing, with an opportunity to present and rebut evidence and to cross-examine witnesses. ERA has previously responded to this comment in the preamble to the interim rule, 44 FR 28536 (May 15, 1979), and the final rule applicable to Definitions and Administrative Procedures, 45 FR 38279 (June 6, 1980). Further, the Conference Report to FUA states that the adjudicatory provisions of 5 U.S.C. §§ 554 and 556 do not apply to FUA hearings on proposed prohibition orders.

It has been suggested that the final rule provide a reasonable time for an order recipient to comply with the requirements of a prohibition order. ERA agrees and has revised the procedures for issuing a prohibition order (§§ 501.51(c) (2) and (3)) to provide that any final order will include a schedule to ensure compliance with the prohibition order.

Certain commenters suggested that an environmental impact statement or an environmental assessment should be prepared prior to issuance of a proposed prohibition order and that there should be clear guidelines for determining what type of environmental report is required. ERA believes that the guidelines which DOE has issued to comply with the National Environmental Policy Act of 1969 (NEPA) are complete and that further standards are unnecessary. Under the guidelines, the requirements for NEPA compliance are determined on a case-by-case basis. ERA may, in its discretion, hold a combined hearing on an environmental report and a tentative staff anaylsis, if warranted. As required by NEPA, a 45 day comment period will be available to respond to a draft environmental report.

Certain commenters have suggested that ERA must provide a full rationale for its decision to proceed at the time it issues its notice of intention to proceed with a prohibition order. ERA believes that this demonstration is more appropriate in the tentative staff analysis after the staff has had an opportunity to analyze all material in the record up to that time. ERA believes that the notice of intention to proceed should outline the comments received,

the defenses raised, and the exemptions requested.

Some commenters have suggested that the final rule provide for a conference prior to the time ERA actually issues a proposed prohibition order. Since ERA, as a matter of practice, usually provides advance notice and an opportunity to request a conference to a proposed order recipient, ERA believes that a change in the regulations is unnecessary.

Certain commenters suggested that ERA provide a mechanism by which the owner or operator of a facility may request that a proposed prohibition order be issued. ERA agrees and has added § 501.51(d) to allow such a request. However, any order will be issued in ERA's sole discretion.

B. Prohibition Against the Increased Use of Petroleum (§ 504.1)

Section 405 of the Act directs DOE to prohibit by rule all existing powerplants which used coal or another alternate fuel as a primary energy source in 1977, from increasing their use of petroleum above that base year amount unless a permit is issued by ERA authorizing such use.

Several commenters stated that ERA exceeded its authority by requiring a showing that the petitioner first meet the criteria for an exemption under Title III of FUA (subparts C, D, and E of this Part) before a permit is issued for reasons relating to an inability to comply with Clean Air Act requirements because of environmental, financial, or physical limitations. Section 405 of the Act requires that the duration of a permit for increased use of petroleum be limited to the minimum period of time necessary to permit compliance with the Clean Air Act or to prevent impairment of reliability of service. In determining for what period an applicant will be unable to comply with requirements of the Clean Air Act, ERA will employ the criteria for pertinent exemptions under Title III. However, where an applicant establishes that the applicable exemptions criteria are met, a Section 405 permit rather than an exemption will be granted.

Another commenter stated that ERA exceeded its statutory authority in requiring a compliance plan designed to minimize the use and duration of such petroleum use, as well as estimates of quantity and rate of petroleum use. The commenter asserted that Section 405 of FUA does not include a "terms and conditions" provision similar to Section 314 of Title III of the Act. ERA believes that such a compliance plan is authorized by the Act to conserve the use of petroleum by limiting the duration of a permit.

A commenter stated that the Section 405 prohibition may force a utility to burn petroleum in less efficient units not subject to the prohibition. It was recommended that the definition of primary energy source be modified to permit petroleum or natural gas use when a powerplant loses its coal capability due to an equipment outage to avoid using petroleum or natural gas in less efficient units. ERA notes that the prohibitions of FUA are unit specific and Section 405 does not permit ERA to adopt a system-wide approach to the prohibition on increased use of petroleum. Equipment outage is not one of the listed criteria upon which a utility may base its petition for a permit to avoid the prohibition. However, Sections 103(a)(15)(B) and 404 of the Act, as implemented by Subpart M of the FUA regulations, permit the use of petroleum or natural gas, notwithstanding any of the prohibitions of the Act, in emergency situations or to alleviate or prevent unanticipated equipment outages.

C. Statutory Prohibitions (§ 504.3)

Section 301 of the Act imposes certain prohibitions on the use of natural gas by existing electric powerplants unless an exemption has been granted.

One commenter alleged that it is unclear under the interim rule how to determine the period of time a powerplant may burn natural gas pursuant to Section 301(a)(3) of the Act before an exemption is required. It was recommended that ERA average the proportion of permitted natural gas use over a three year period. ERA disagrees with this view. Section 301(a)(3) references a calendar year as the period of time during which the gas is to be used.

Another commenter stated that, in implementing FUA Section 301(a)(3), ERA should provide some flexibility to the prohibition which applies on a calendar year basis. The comment noted that even despite the best of planning, unanticipated outages do occur. ERA notes that provisions for dealing with emergencies are found in Subpart M of the regulations implementing the Act.

After reviewing one comment, ERA has made clear in the final rule that the prohibitions of FUA Sections 301(a) (2) and (3) apply unless, and to the extent that, a system compliance plan has been approved by ERA pursuant to Title V of the Act.

D. Electric Utility System Compliance Option (§ 504.4)

Section 501 of the Act authorizes utilities which own or operate powerplants subject to the prohibitions under Title III of the Act to elect to be covered by a system compliance plan. If ERA has approved such a plan the utility will be considered in compliance with the applicable prohibitions.

Many commenters stated that ERA has no authority under Section 501 of the Act to revoke a plan, even for material noncompliance, and that ERA is limited to the enforcement remedies under Title VII, Subtitle C, of the Act. ERA recognizes that revocation is an extraordinary remedy to be exercised only in cases of material non-compliance. ERA noted in the preamble to the interim rule, 44 FR 36002 (June 20, 1979), that it intends to develop, on a case-by-case basis, sanctions under Section 723(a) of the Act, for violation of an approved plan that include enforcement actions, short of revocation, which will insure compliance.

Some commenters stated that ERA had set too restrictive a formula in § 504.4(b)(5) for permissible natural gas consumption in peakload and intermediate load powerplants, and one commenter suggested that ERA permit a case-by-case analysis of natural gas consumption permitted in each system as of January 1, 1995. ERA believes the formula it has established best serves the purposes of the Act to reach the permitted natural gas use levels as of January 1, 1995. ERA also believes that such a case-by-case analysis would be too cumbersome.

Additionally, commenters stated that the Act does not require peakload and intermediate load powerplants to be identified at the time of submission of a system compliance plan. Such a requirement, it was asserted, would place greater restriction on companies willing to use the system compliance option than on companies seeking individual exemptions. ERA has modified the rule accordingly. However, ERA encourages utilities to indicate which of the powerplants identified pursuant to § 504.4(b)(1) are most likely to be peakload or intermediate load powerplant as of January 1, 1995. Such information will help ERA in analyzing system compliance plans submitted for approval.

Many comments stated that ERA exceeded its statutory authority in § 504.4(b)(9) of the interim rule by requiring submission of a fuel conservation plan to minimize petroleum consumption. These

commenters indicated that Section 501 of the Act contemplated that heavily gas dependent utilities would switch to petroleum. While ERA recognizes this potential development, ERA believes it has inherent authority under the terms and conditions provision of Section 501(h) of the Act to require conservation plans which limit petroleum or natural gas consumption.

Several commenters stated that ERA exceeded its statutory authority in § 504.4(k) of the interim rule with respect to limiting pre-1990 natural gas consumption. Another commenter stated that for pre-1990 natural gas consumption, a utility should have the option of implementing a "balloon" reduction rather than a straight-line reduction.

ERA believes it has authority under Section 501(h) of the Act to establish pre-1990 natural gas use on an individual utility basis. ERA previously noted in the preamble to the interim rule, 44 FR 36002 (June 20, 1979), that in appropriate cases, ERA may even provide for the use of natural gas in excess of the statutory 1974–1976 base period proportion.

Another commenter stated that §§ 504.4(d) (3) and (4) of the interim rule do not make clear whether ERA is incorporating the evidentiary criteria of interim rule § 504.37 (emergency purposes) and interim rule § 504.38 (peakload powerplants) before natural gas consumption may exceed the 20% volume limitation. ERA believes the present regulatory language is clear that the emergency or peakload use must be within the meaning of the referenced regulatory sections. In reviewing the request, ERA will determine whether the additional natural gas is needed for emergency purposes or peakload, within the meaning of §§ 504.57 and 504.58, respectively, of the final rule.

One commenter suggested that the regulations implementing Section 501 of the Act provide for the transfer of allowable natural gas usage between utilities. ERA will consider the advisability of such transfers on a case-by-case basis.

E. Findings and Procedures for Prohibitions by Order (Case-by-Case) § 504.6

Interim rule §§ 504.5 and 506.2, relating to how ERA can prohibit electric powerplants and MFBIs from using petroleum or natural gas as a primary energy source have been replaced by final rule § 504.6.

A number of commenters criticized the fact that the interim rules provided one standard of technical capability to burn an alternate fuel for new facilities and another one for existing facilities. It was pointed out that the standard for new facilities requires that all appurtenances, including pertinent fuel handling and storage facilities and pollution control equipment, be in place, while the standard for existing facilities focuses on the ability of the unit, from the point of fuel intake, to sustain combustion of that alternate fuel and to maintain heat transfer. ERA believes that different standards for new and existing facilities are appropriate, since in the case of new facilities FUA prohibits the construction of new powerplants without the capability to use coal or any other alternate fuel as a primary energy source. As a general rule, existing facilities not now using alternate fuels, may lack storage or fuel handling facilities or pollution control equipment. If the criteria for determining technical capability of existing facilities were to require the presence of such appurtenant facilities, the authority to issue prohibition orders contained in Sections 301(b) and 302(a) of FUA would be vitiated.

Other commenters criticized ERA's interpretation of "technical capability" to mean the ability to burn an alternate fuel, arguing that "technical capability" should involve consideration of a unit's *real* capability to use an alternate fuel, including the presence of fuel handling and storage facilities and pollution control equipment. These arguments were addressed in depth in the preamble to the interim rule, 44 FR 43179 (July 23, 1979), and ERA has not been persuaded to modify this interpretation.

Another commenter asserted that ERA has shifted the burden of proving technical capability to the petitioner despite the language of the Conference Report that the Secretary make a finding of real capability before issuing a prohibition order. ERA disagrees with this assertion. The burden of making the finding must be distinguished from the information gathering function, in which the recipient must participate.

With respect to the substantial physical modification and derating criteria, some commenters asserted that they had been so narrowly defined that the only effective criteria for issuing a prohibition order was financial feasibility.

Section 504.6(d) of the final rule indicates that physical modifications made to the unit will be considered "substantial" where warranted by the magnitude and complexity of the engineering task or where the modification would impact severely upon operations at the site. Significant alterations, such as are set out in footnote 5 to § 504.6(d), will be considered independently of any financial feasibility criteria.

The same commenters assert that by incorporating the "substantially exceeds" concept of the cost calculation into the financial feasibility criteria, an unduly harsh test was created. ERA previously expressed its view on this matter in the preamble to the interim rule. 44 FR at 43181 (July 23, 1979). There it was stated that "(a) formula that compares the costs of burning imported petroleum provides a presumptive measure of the financial feasibility of conversion. The provisions of the cost exemption enable such comparison. . . ." We find no reason to deviate from the essential conceptual approach set out in the foregoing quotation. ERA is, however, proposing to revise the cost calculation (45 FR 42190, June 23, 1980) which it will use as a presumptive test of financial feasibility until a final cost calculation rule is adopted.

A few commenters, referring to the technical capability finding required by Sections 301(b)(2) or 302(a)(2) of FUA, have concluded that ERA's discussion erroneously limits the substantial modification and derating findings of these sections to units which "previously had" technical capability. This was not ERA's intention. These statutory findings are applicable both to units which currently have, as well as those which previously had, technical capability to utilize an alternate fuel.

A commenter urged that a technical capability finding should not be made where a unit is utilizing or burning an alternate fuel to its maximum ability or fuel availability, or both. ERA has discretion, as prescribed by FUA, Section 302(a), in issuing a prohibition order. In exercising this discretion, ERA will take into account whether the unit is already utilizing an alternate fuel. Additionally, ERA has the authority under Title III of FUA, in appropriate circumstances, to accommodate situations where an existing facility seeks to use a mixture of alternate fuels and oil or natural gas.

1. *Technical Capability (§ 504.6(c)).* Interim rule §§ 504.5(d) and 506.2(d) relating to how ERA will assess "technical capability" for electric powerplants and MFBIs, respectively, have been replaced by final rule § 504.6(c) covering all existing facilities.

ERA has responded to several comments that a unit designed to burn natural gas also "has" the technical capability to burn medium BTU gas from coal. The final rule now makes clear that a unit designed to burn natural gas shall be presumed to have the technical capability to burn medium BTU gas from

V 45 A G 12 80 UMI

coal, but that this presumption is rebuttable upon submission of convincing evidence to the contrary.

2. *Substantial Physical Modification (§ 504.6(d)).* Interim rule §§ 504.5(e) and 506.2(e), relating to how ERA will assess "substantial physical modification" for electric powerplants and MFBIs, respectively, have been replaced by final rule § 504.6(d) covering all existing facilities.

One commenter suggested that ERA restructure its test for substantial physical modification to include two categories: (1) certain modifications which will always meet the "substantial" test and (2) those which may or may not meet the test. ERA acknowledges that this approach would facilitate its implementation of the order issuing provisions of FUA and would also provide the interested public with some certainty as to which modifications will always be regarded as substantial. However, ERA believes that due to the unique nature of various physical modifications, such a categorization is not practical. ERA will consider each case individually on its own merits.

3. *Substantial Reduction in Rated Capacity (§ 504.6(e)).* Interim rule §§ 504.5(f) and 506.2(f) relating to how ERA will assess "substantial reduction" in rated capacity for electric powerplants and MFBIs, respectively, have been replaced by final rule § 504.6(e) for all existing facilities.

ERA initially proposed that any derating less than 25 percent attributable to conversion to an alternate fuel would not be considered to be a substantial reduction in a unit's rated capacity. After considering these comments, ERA adopted in the interim rule (§§ 504.5(f) and 506.2(f)) a presumption that a derating of less than 10 percent was not substantial. *See* discussion in preamble, 44 FR at 43180 (July 23, 1979). ERA received many comments critical of this approach. Several commenters suggested that any derating in excess of 10 percent was a substantial derating and should prevent issuance of a prohibition order. Others suggested that deratings of less than 10 percent should be evaluated on a case-by-case basis.

After consideration of the comments on the interim rule, ERA has determined to adopt a presumption that (1) a derating of less than 10 percent will not be judged substantial unless convincing evidence to the contrary is submitted in rebuttal, and (2) a derating of 10 percent or more, but less than 25 percent, will be considered by ERA on a case-by-case basis. A derating of 25 percent or more will automatically be regarded as substantial.

ERA believes it is important to permit rebuttal of the presumptive threshold for a derating of less than 10 percent. This procedure will allow ERA to take into account, for example, small industrial operations with one or two boilers where even a small derating of one unit could contribute to a significant reduction in output.

One commenter suggested that ERA should adopt a two step approach in which the impact on the unit would first be considered. If a substantial derating of the unit were found, the prohibition order proceeding would be terminated. If the impact of the derating on the unit were not clear, ERA would be allowed to consider the impact of the derating on the plant site. Other commenters were critical of ERA's stated intention (§ 504.5(f)(2) of the interim rule) to consider the impact of the reduction in available capacity on the system as well as on the unit itself. ERA has determined, for purposes of the final rule, to consider only the impact of the reduction in rated capacity on the individual unit, unless the potential order recipient presents compelling evidence that consideration of the impact of the reduction in available capacity on the system is appropriate.

Criticism was also expressed with respect to a case-by-case assessment of the impact of a derating exceeding 10 percent of a unit's rated capacity. This procedure was characterized as unreasonable since consideration would be focused on a threshold percentage and permanent operational burdens would be compared with factors that are temporary, such as excess capacity. ERA believes, as now structured, the final rule eliminates this criticism since ERA will consider only the impact on the individual unit unless urged to do otherwise by the owner or operator of the unit.

Because of ERA's statement in the interim rule of its intention to consider reductions in rated capacity affecting utility systems where the unit involved is a powerplant, some commenters felt that it was ERA's intention to encroach upon the state regulatory authorities by making its own determinations of the capacity requirements for particular utility systems. ERA believes these views to be based upon a misunderstanding of its intention. In any case, the issue is moot because ERA intends to make this assessment only on a unit specific basis.

Several commenters asked that ERA consider other factors indirectly associated with conversion such as purchasing emission offsets in "nonattainment" areas. Because ERA will address derating on a unit specific basis, such factors are not appropriate for consideration in assessing derating. Such factors will be considered by ERA in connection with the financial feasibility finding required by § 504.6(a) and described in § 504.6(g) of these regulations.

4. *Financial Feasibility (§ 504.6(f)).* Interim rule §§ 504.5(g) and 506.2(g) relating to how ERA will determine "financial feasibility" for electric powerplants or MFBIs, respectively, have been replaced by final rule § 504.6(f) for all existing facilities.

Under this final rule, as in the interim rule, ERA will presume that it is financially feasible to use an alternate fuel as a primary energy source if, by using the general cost calculation to be adopted later (*see* 45 FR 42190, June 23, 1980) and the firm's cost of capital instead of a specified discount rate, it can be shown that the cost of using the alternate fuel does not substantially exceed the cost of using imported petroleum. ERA will use either the firm's cost of capital or a specified discount rate whichever is more favorable to the potential order recipient.

A number of commenters indicated that it was inappropriate for ERA to equate the "substantially exceeds" cost calculation with the financial feasibility test pertaining to the prohibition order issuance process. These commenters expressed concern that ERA would thereby shift the burden of proof on the financial feasibility finding to the potential order recipient, who must then seek to rebut it. The commenters were especially concerned over what they perceived to be ERA's grafting of a cost test intended to be used for "fuels decisions" onto the financial feasibility determination associated with prohibiting the use of oil or natural gas by existing facilities. It was suggested that a "one-on-one" test, to determine whether the cost of using an alternate fuel as a primary energy source exceeds the cost of using imported petroleum as the primary energy source, would be appropriate for making the financial feasibility finding.

Other commenters objected to the complexity of the economic analysis that will be involved in this assessment. They asked that ERA give equitable consideration to all factors that affect financial feasibility for a particular unit and that any economic analysis required contain only one cash flow comparison. In the preamble to the interim rule, 44 FR 43180 (July 23, 1979), ERA discussed in detail its reasons for proposing the formula approach to the financial feasibility finding, including why it believes the use of the "substantially exceeds" criteria is both appropriate and applicable to this finding. To the extent that such discussion is applicable to the comments received on the interim rule's financial feasibility finding, ERA does not believe it is necessary to repeat it here. However, ERA feels that it is important to make two relevant observations regarding the use of the "substantially exceeds" cost calculation in its determinations of financial feasibility.

First, it must be stressed that the financial feasibility determination that may result from application of the general cost calculation is only a presumption; it may be rebutted by a potential order recipient. ERA will take into account other relevant factors pertaining to the firm's financial situation, when such factors are introduced by the potential order recipient.

Second, ERA calls attention to the fact that the cost calculation methodology employed in making this finding under the interim rule was revoked by ERA, effective June 17, 1980, 45 FR 40966 (June 17, 1980). A new cost calculation methodology was proposed in a Notice of Proposed Rulemaking published on June 23, 1980 (45 FR 42190). Accordingly, the foregoing discussion of the cost calculation to be used in assessing financial feasibility is subject to change depending on the methodology finally adopted.

ERA included a methodology in Appendix I of the interim rule for computing a firm's own cost of capital for use in the presumptive portion of the financial feasibility finding. Essentially, it required a computation of the real after-tax weighted average marginal cost of capital. The equity portion of the cost of capital is computed with the capital asset pricing model. One of the parameters required to use this model is the mean excess return, which measures the return relative to the risk free rate of return, on the *Standard and Poor's* (S&P) 500 composite index.

ERA used data for a five year period to determine the mean excess return on the S&P composite index. Several commenters stated that five years was not enough and suggested that ERA use a longer, more stable period such as was used by Ernst & Whinney to determine the mean real after-tax weighted average marginal cost of capital.[1] One commenter recommended that ERA use the same period as that used by Ernst & Whinney.

After considering these comments, ERA has decided to use the same period that Ernst & Whinney used in its study. Therefore, the mean excess return on the S&P 500 which will be used in Appendix I is the mean as computed by Ibbotson and Sinquefield[2] for the years 1926–1976—9.2%.

One commenter noted that the risk-free rate of return used in the regression equation should be corrected so that it is not the bank discount rate. ERA notes that this observation is correct and has provided an equation that may be used to make this correction, and to convert the annual yield to a monthly yield. The derivation of the equation which corrects the yield is contained in technical Appendix II of the Ernst & Whinney study referenced above.

Several commenters stated that the previous year's GNP deflater should not be used as the expectation of inflation to adjust the nominal cost of capital to the real cost of capital. One commenter stated that the rate of inflation as computed over the equipment's useful life should be used. Another stated that a weighted average of several years inflation should be used. ERA does agree that another indicator of inflation could be a better measure of inflation expectation and is studying the matter. However, until ERA can identify a specific indicator which is clearly superior to the previous year's GNP deflater, ERA will continue to use the previous year's GNP deflater.

ERA has accumulated some experience using Appendix I and has observed that the data called for is not always available. Therefore, ERA is now expanding the potential sources of data and will allow the use of an alternate methodology when the capital structure does not consist of debt, preferred equity or common equity (*e.g.*, a university).

Other commenters suggested that ERA limit its consideration of financial feasibility to the market response to a *bona fide* attempt by the company to raise capital at a reasonable cost, as well as to consideration of the total capital needs of the company.

Another commenter took exception to limiting consideration of ability to raise capital for conversion to the same criteria applicable to the lack of capital availability exemption. (*See* § 503.35 of the Final Rule for New Facilities, 45 FR at 38317 (June 6, 1980)). The exemption criteria referred to measure capital availability on a parent firmwide level, over a five year period. Another commenter maintained that ERA was not authorized to employ a parent firm approach in measuring financial feasibility for issuance of a prohibition order. That approach, according to the commenter, might result in issuance of a prohibition order even where an MFBI could demonstrate that compliance would require the termination of certain manufacturing activities.

ERA notes that the parent firm approach accords with the approach adopted in the final rule for new facilities for exemptions for lack of capital availability (45 FR 38317 (June 6, 1980)). ERA finds no basis under FUA for restricting the scope of its evaluation of capital availability to a subsidiary firm. Such a narrow interpretation could make the statutory financial feasibility standard dependent upon internal corporate organizational and accounting practices; a result which we do not believe Congress intended.

ERA also observes that in addressing a financial issue in a different context, with respect to the "substantial financial penalty" test for classification of a facility as new or existing under section 103 of FUA, Congress explicitly directed DOE to consider financial impacts relative to the person owning, controlling or operating the facility, including the parent company. We believe that this approach is instructive in regard to our assessment of the financial impacts upon a company of conversion to the use of alternate fuels under Title III of the Act.

Various commenters asked that ERA reevaluate its position that utilities can raise the necessary capital for unit conversions through rate relief from appropriate regulatory authorities. These commenters argue that this policy will operate to effectively eliminate the capital availability component of the financial feasibility test, as ERA will always find that adequate capital can be obtained under this assumption. ERA has decided to retain this approach since it is consistent with the regulations adopted for new facilities for an exemption based on a lack of capital availability (45 FR 38316, June 6, 1980), when dealing with large utilities. However, for small utilities, ERA will consider the impact of raising additional capital upon the potential order recipient's customers in connection with the financial feasibility finding.

A commenter urged that ERA's financial feasibility standard of "loss of production" (§ 506.2(g)(3) of the interim rule) be broadened to include measurement of loss of profits that may result because of substantial conversion

[1] Ernst & Whinney, *Costs of Capital and Rates of Return for Industrial Firms and Class A&B Electric Utility Firms*, June 1979.

[2] Ibbotson, R. E. and R. A. Sinquefield, *Stocks, Bonds, Bills, and Inflation*, Charlottesville, Va. The Financial Analysts Research Foundation, 1977, cited by Ernst & Whinney, *Costs of Capital and Rates of Return for Industrial firms and Class A&B Electric Utility Firms*, June 1979. Pgs. 3–6.

costs, overall production delays, downtime and other expenses stemming from conversion of an existing MFBI. ERA will consider any relevant factors presented by the potential order recipient in connection with calculating the cost test, if they bear upon the competitive viability of the site or loss of production at the site during the period required for the conversion. This will include expenses associated with downtime but will not include tenuous and difficult to quantify items, such as foregone opportunities and lost profits resulting from downtime. ERA notes that such expenses would have been incurred had the firm voluntarily converted the unit, and that, in fact, many firms have already incurred such losses voluntarily. A paragraph (B) has been added to § 504.6(f)(3) to clarify ERA's position on this issue.

5. *Prohibition Against Excessive Use of Petroleum or Natural Gas in Mixtures (§ 504.7).* Interim rule §§ 504.6(h) and 506.2(h) relating to the manner by which ERA will prohibit the excessive use of petroleum or natural gas in mixtures by existing electric powerplants and MFBIs, respectively, have been combined and redesignated as § 504.7 in the final rule for all existing facilities. As in the case of the interim rule, this section substantially tracks the corresponding statutory language. ERA intends to issue a Notice of Proposed Rulemaking to establish criteria and a specific process for the issuance of prohibition orders pursuant to this section.

F. Criteria for Petitions for Exemptions from Applicable Prohibitions

1. *Subpart C—General Requirements For Exemptions.* a. *General requirement cost calculation (§ 504.12).* Numerous comments were received with respect to the cost calculation employed in §§ 504.12 and 506.12 of the interim rule. The cost calculation was to be used by petitioners in petitioning for an exemption based upon the cost of operating a unit to burn an alternate fuel.

After considering these comments ERA revoked §§ 504.12 and 506.12 of the interim rule, effective June 17, 1980 (45 FR 40966), and proposed a new rule with respect to the cost calculation for public comment, 45 FR 42190 (June 23, 1980).

b. *No alternative power supply (§ 504.13).* Several comments were received suggesting that the determination of "reasonable cost" under Section 313 of the Act should (1) be independent of any cost calculation associated with the "substantially exceeds" cost test under Section 312 of the Act and (2) should not rely upon the price of imported petroleum. ERA agreed with similar comments received prior to publication of the interim rule for new facilities, 44 FR 28960 (May 17, 1979), and revised the pertinent reasonable cost test at that time. ERA also addressed comments which criticized the comparison to the cost of imported petroleum in the preamble to the final rule for new facilities, 45 FR 38303 (June 6, 1980), and will not address them here.

One comment stated that the consultative role of the FERC had been reduced to a mere formality. Through inadvertance, the statutory provision for consultation with FERC was omitted from the proposed rule, 44 FR 5808 (January 29, 1979), but was subsequently added to the interim rule, 44 FR 28960 (May 17, 1979). The interim rule and this final rule restate the language of the statutory provision.

c. *Terms and conditions (§ 504.17).* A number of comments criticized ERA for suggesting that the terms and conditions of an exemption might require existing facilities to use specified liquid or gaseous alternate fuel, 44 FR 43185 (July 23, 1979). Commenters expressed concern that such a requirement might necessitate significant modification of an existing unit. However, ERA does not intend to impose as a term or condition for an exemption a future requirement that an alternate fuel be used, when available, if such a requirement would necessitate substantial modification to the unit.

2. *Subpart D—Temporary Exemptions for Existing Facilities.* a. *Lack of alternate fuel supply (§ 504.31).* Interim rule §§ 504.21 and 506.21 relating to temporary exemptions due to a lack of an alternate fuel supply for existing powerplants and MFBIs, respectively, have been replaced by final rule § 504.31 for all existing facilities.

In order to treat existing facilities in a manner comparable to new facilities with respect to this exemption, ERA has created an alternative evidentiary submission applicable to MFBIs which will be operated less than 600 hours per year, such as auxiliary units for powerplants. In such cases, the petitioner will be granted an exemption based on (1) a certification that the use of the unit will be so limited and (2) a compliance plan as required by § 504.17.

b. *Site limitations (§ 504.32).* Interim rule §§ 504.22 and 506.22 relating to how ERA will assess site limitations with respect to powerplants and MFBIs, respectively, have been replaced by final rule § 504.32 for all existing facilities.

To correct an inadvertent omission in the interim rule and to make clear that ERA will consider environmental site limitations, the eligibility section for this exemption has been redrafted to conform to the exact language of FUA Sections 103(a)(16)(D) and (a)(16)(E) with respect to facilities necessary to assure compliance with environmental requirements.

One commenter urged that the filing requirements for this exemption be reduced to enable a petitioner to obtain a site limitation exemption with a minimal showing where it is obvious that the exemption is warranted, and further suggested that certain categories of site limitations such as lack of adequate land be recognized, without further showing, as probable grounds for exemption. Because a petitioner is required to take action to eliminate the site limitation by the end of the temporary exemption period, ERA believes it is appropriate to ask that the petitioner indicate the nature of the physical limitation and describe the steps to be taken to overcome the limitation. Examples of the kind of evidence that may be submitted in satisfaction of these requirements are listed in the rule as a guide. The showing required in a particular case will depend on the applicable facts. ERA intends to take a flexible approach with regard to the requirements of this and all other exemptions.

c. *Inability to comply with applicable environmental requirements (§ 504.33).* Interim rule §§ 504.23 and 506.23 relating to temporary exemptions based on environmental requirements for powerplants and MFBIs, respectively, have been replaced by final rule § 504.33 for all existing facilities.

One commenter pointed out the difficulty in performing the extensive modeling which may be required in order to quality for the environmental exemption within the three-month period ordinarily permitted in a prohibition order proceeding [*See*, § 501.51(b)(5)]. ERA recognizes this difficulty, but has concluded that it would be inappropriate to reduce the evidentiary requirements for this exemption, as suggested by the commenter. ERA will, however, be very flexible in considering requests for extensions of the three-month period, as provided for in § 501.51(b)(5). ERA will also consider waiving or reducing the evidentiary requirements, where appropriate.

d. *Future use of synthetic fuels (§ 504.34).* Interim rule §§ 504.24 and 506.24 relating to temporary exemptions based on the future use of synthetic fuels by powerplants and MFBIs, respectively, have been replaced by final rule § 504.34 for all existing facilities.

In response to a number of comments, ERA has substantially reduced the requirements for the synthetic fuels exemption by the adoption of a certification procedure. This procedure will allow a petitioner to certify that he is unable to comply with the applicable prohibitions by use of a synthetic fuel derived from an alternate fuel until the end of the proposed exemption period, but will comply by use of such fuel as a primary energy source in the unit by the end of the period. The compliance plan contemplated by this exemption has been split into "preliminary" and "final" compliance plans. The preliminary plan is to be submitted with the petition and must demonstrate the petitioner's good faith commitment to use a synthetic fuel. This exemption may be granted on the basis of a preliminary plan, but it will not become effective until ERA approves the final plan. The final plan must contain copies of binding contracts for the purchase of the synthetic fuel and a list of milestones leading to synthetic fuel use.

One commenter urged ERA to provide that the recipient of a temporary exemption based on future use of synthetic fuels may receive another exemption if, at the end of the temporary exemption period, the synthetic fuel is unavailable at a reasonable cost. While it may be appropriate in extraordinary circumstances to consider any other exemption for which a petitioner may be eligible if the synthetic fuel intended to be used is unavailable at the end of the exemption period, ERA does not believe that an express provision for such a possibility is necessary. Any material change in circumstances over the course of the exemption period will, of course, be given consideration if necessary in the case of this and all other exemptions.

e. *Use of innovative technologies (§ 504.36).* Interim rule §§ 504.25 and 506.25 relating to temporary exemptions based on the use of innovative technologies by powerplants and MFBIs, respectively, have been replaced by final rule § 504.36 for all existing facilities.

This temporary exemption is now a certification exemption requiring the petitioner to certify that he will comply with the applicable prohibitions at the end of the proposed exemption period by the adoption of an innovative technology for the use of an alternate fuel as a primary energy source. Like the synthetic fuels exemption discussed above, the compliance plan requirement for this exemption has been split into "preliminary" and "final" plans. An order granting this exemption will not become effective until ERA approves the final compliance plan. Since ERA also must decide whether or not the technology proposed to be used is innovative, ERA encourages the petitioner to request a conference, before either a proposed prohibition order is issed or an exemption petition is filed to discuss plans to use the proposed technology.

f. *Retirement exemption (§ 504.38).* Interim rule §§ 504.27 and 506.26 pertaining to a temporary retirement exemption for a powerplant or MFBI, respectively, have been replaced by final rule § 504.38 for all existing facilities.

In response to the suggestions of commenters, the requirements for this exemption have been substantially reduced by the adoption of a certification procedure requiring a petitioner to submit (1) a duly executed certification that the facility will permanently cease operation at the expiration of the temporary exemption period and (2) a compliance plan as required under § 504.17. In addition, to correct an inadvertant omission in interim rule § 504.27(d), pertaining to the duration of the temporary retirement exemption, the corresponding final rule provision has been written to conform with the Act.

g. *Reliability exemption (§ 504.39).* Interim rule § 504.26 relating to a temporary exemption for a powerplant necessary to maintain reliability of service has been replaced by final rule § 504.39.

ERA received a number of comments criticizing the loss of load probability (LOLP) test for this exemption as an unreliable and inaccurate measure of reliability. Criticism also was directed at the components of the test. It was argued that the LOLP analysis cannot properly be computed for an electrical region because LOLP evaluations are not made for power supply areas, but rather are intended only for areas that are centrally planned and dispatched.

Some smaller utilities also complained that the data required to perform these calculations on an electric region basis are not available to them. ERA still believes that LOLP, on a regional basis, is a valid measure of future reliability of service. However, appropriate will be made to take account of the petitioner's special circumstances. For the purposes of this temporary exemption for existing powerplants (and also for the reliability of service demonstration required for the permanent exemption for existing peakload powerplants (§ 504.58)), ERA has adopted a simpler criterion, based on a reserve margin. Petitioners may elect to use this criterion or to propose an alternate criterion, such as LOLP. Under this test reliability is considered to be impaired if, in the absence of the existing facility, the projected annual peakload reserve margin during the first year for which the exemption is sought will be less than 15 percent. This reserve margin must be calculated on the basis of the electric region, or if more appropriate, the electric control area. Utilities that are dependent on hydroelectric sources for at least 20 percent of their supply are considered to have a reliability impairment if, under normal water conditions, the electric regions' reserve margin is less than 20 percent in the absence of the existing facility. This higher threshold is intended to compensate for the reduction in hydro power availability during dry years.

One commenters suggested that if a petitioner believes that he can show a probable impairment of reliability on any basis that he chooses, § 311(g) of the Act authorizes that petitioner to file for an exemption with or without ERA concurrence. ERA believes the reserve margin criterion will be acceptable to most petitioners. ERA strongly recommends that a petitioner confer with ERA before submitting a petition based on a different criterion, although such a conference is not mandatory.

Another commenter contends that a utility should be free to continue to use an exempt unit for the most sensible use rather than, as required by interim rule § 504.24(d), solely to prevent an actual reliability impairment. ERA does not intend that a powerplant operating under this exemption be the "last dispatched," since this would increase the use of less efficient powerplants. For the purposes of this exemption, a "reliability impairment" is a condition existing over a period of months or years, and does not depend on hour-by-hour changes in load or supply availability. During years of reliability impairment, ERA would expect the exempt unit to be used sensibly, that is, in accordance with normal dispatch procedures. However, when the period of impairment ends, the operation of the facility can no longer be justified on a reliability basis, and its use in the normal dispatch order would no longer be permitted under this exemption.

h. *Temporary peakload powerplant exemption (§ 504.40).* Interim rule § 504.29 relating to a temporary peakload exemption for an existing powerplant has been replaced by final rule § 504.40.

The evidentiary requirements for this exemption have been substantially

reduced. The petitioner must certify that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the period of the exemption. The certification also must set forth the design capacity of the unit and its maximum allowable generation in kilowatt hours for each 12 month period of operation. Finally, the petitioner must submit a compliance plan in accordance with § 504.17. The additional requirement contained in the interim rule to describe petroleum and gas use and conservation measures taken or intended to be taken has been deleted.

3. *Subpart E—Permanent Exemptions for Existing Facilities.* a. *Lack of alternate fuel supply (§ 504.51).* Interim rule §§ 504.31 and 506.21 relating to permanent exemptions due to a lack of an alternate fuel supply for existing powerplants and MFBIs, respectively, have been replaced by final rule § 504.51 for all existing facilities.

In order to treat existing facilities in a manner comparable to new facilities with respect to this exemption, ERA has created an alternative evidentiary submission applicable to MFBIs which will be operated less than 600 hours per year, such as auxiliary units for powerplants. In such cases, the petitioner will be granted an exemption: (1) based on a certification that the use of the unit will be so limited; and (2) that the use of a mixture of petroleum or natural gas and an alternate fuel for which an exemption would be available is not economically or technically feasible.

b. *Site limitations (§ 504.52).* Interim rule §§ 504.32 and 506.32 relating to the basis for an exemption due to site limitations for a powerplant or MFBI, respectively, have been replaced by final rule § 504.52 for all existing facilities.

One commenter expressed concern that ERA, contrary to the terms of Section 312(a) of the Act, required all six of the exemplary site limitations contained in the interim rule be satisfied in order to qualify for the exemption. ERA believes that § 504.32 clearly provides, consistent with Section 312(a) of the Act, that a demonstration of any one of the limitations would be sufficient to qualify for an exemption.

c. *State or local requirements (§ 504.54).* Interim rule §§ 504.34 and 506.34 pertaining to State and local requirements as a basis for exemptions by powerplants or MFBIs, respectively, have been replaced by final rule § 504.54 for all existing facilities.

One commenter indicated that paragraphs (2) and (5) of § 506.34(a) of the interim rule were redundant. ERA agrees and has accordingly deleted paragraph (5).

Another commenter suggested that ERA should waive a utility's responsibility to comply with State or local requirements if it is refused an exemption. Otherwise, according to the commenter, a utility might receive a final prohibition order, but be unable to obtain requisite local permits for conversion. ERA believes that the anticipation of any such conflict is speculative at this time, and should not be a part of this rulemaking.

Another comment suggested that ERA should consider the reasonableness of compliance with State or local requirements without resort to the cost calculation. ERA notes that Section 312(b) of the Act requires a demonstration, where the State or local requirement is under a building code or nuisance or zoning law, that no other exemption could be granted for the petitioner's facility. The phrase "no other exemption" includes the cost-related exemptions which incorporate the cost calculations. ERA, therefore, is bound by the Act to require petitioners, in such instances, to examine the availability of other exemptions, including the cost-related exemptions.

One comment suggested that the sole discretionary criterion under FUA for granting this exemption is whether the State or local requirement was expressly designed to evade FUA. ERA can find no support in the Act for such a restrictive interpretation of its authorities with respect to this exemption.

Finally, one commenter expressed concern that §§ 504.34(b)(4) of the interim rule, which requires a description of activities the petitioner had been involved in after April 20, 1977, pertaining to enactment of the State or local requirement, constituted an unjustified intrusion into the affairs of private operators. ERA believes that the information sought is necessary to its determination of whether or not there have been any collusive practices with respect to enactment of the requirement.

d. *Fuel mixtures (§ 504.56).* Interim rules §§ 504.36 and 506.36 relating to criteria for a fuel mixtures exemption for powerplants and MFBIs, respectively, have been replaced by final rule § 504.56 for all existing facilities.

ERA received a comment suggesting that it should consider that the term "reasonable level of fuel efficiency," as used in Section 312(d) of the Act, refers to optimum system-wide efficiency rather than to minimum fuel efficiency in the unit using the mixture. The fuel mixtures exemption in FUA is unit specific. ERA does not believe that it has the authority to introduce a system-wide approach into the statutory criteria for this exemption.

ERA received comments suggesting that it should recognize in its final rule the language contained in Section 312(d)(3) of FUA permitting the grant of a mixtures exemption allowing a greater percentage of natural gas in existing powerplants, where it is to be burned together with a synthetic fuel derived from municipal or agricultural waste. In response to the comment, ERA will propose a rule implementing the provisions of Section 312(d)(3) of the Act.

ERA has simplified the evidentiary requirements for exemptions where installations proposed to use a mixture containing 25 percent or less natural gas or petroleum. For such cases, ERA has established a certification alternative where the petitioner need only certify that annual use of natural gas or petroleum will be 25 percent or less.

Standard terms and conditions have been established for the certification alternative. These include (1) a 25 percent limit on oil and gas use: (2) insulation and maintenance requirements; and (3) required use of only the lowest grade (*i.e.*, quality) of petroleum available and feasible.

e. *Emergencies (§ 504.57).* Interim rules § 504.37 and 506.37 relating to exemption for emergency use by powerplants and MFBIs, respectively, have been replaced by final rule § 504.57 for all existing facilities.

ERA has simplified the criteria and the procedures for requesting this permanent exemption. The final rule requires a certification that (1) the operation of a unit under the exemption wil occur only in accordance with the definition of emergency; and (2) use of mixtures is not economically or technically feasible.

The final rule also requires that an annual report describing the energy use and a breakdown of monthly fuel consumption be filed at the end of each 12-month period from the effective date of the exemption.

Standard terms and conditions have been established in the case of petitions for emergency exemptions. These include (a) a requirement that operation of the unit will occur only in accordance with the definition of "emergency"; (b) insulation and maintenance requirements; and (c) required use of only the lowest grade (*i.e.*, quality) of petroleum available and feasible.

ERA received one comment recommending deletion of the mixtures requirement for this exemption, since only limited quantities of fuel are involved. Under Section 313(a) of the Act, the Secretary may grant an emergency exemption only where the petitioner has fulfilled the requisite mixtures showing.

One commenter suggested that ERA should expand the definition of "emergency", for utilities, to cover all situations in which system load cannot be met by a combination of available system generation and emergency purchases from adjoining utilities. ERA believes that the emergency exemption together with the emergency provisions of §§ 501.191 and 501.192 of the Final Rule, 44 FR 38298 (June 6, 1980), will cover emergency situations where a utility would be unable to meet system load.

Finally, ERA has modified the evidentiary requirements for this exemption, in response to comments that Section 763 of the Act excludes the grant or denial of this exemption from the NEPA requirement to prepare an environmental impact statement, by deleting the requirement to submit an environmental analysis.

f. *Permanent peakload powerplants (§ 504.58).* Interim rule § 504.38 has been replaced by final rule § 504.58.

One commenter opposed ERA's standard for demonstrating the technical infeasibility of modifying a powerplant to permit compliance with the prohibitions of the Act, which incorporates the technical capability tests in § 504.5 of the interim rule. Technical infeasibility must be a less demanding standard, according to the commenter, since if the two tests are identical, no powerplant found technically capable of burning an alternate fuel in a final prohibition order, can be found technically infeasible of modification and thus eligible for a peakload exemption. In response to this comment, ERA has recognized in this final rule that the term "technical feasibility" encompasses a broader scope than "technical capability." Accordingly, ERA will consider any pertinent evidence on a case-by-case basis that it is technically infeasible to modify a facility to comply with applicable prohibitions of the Act, even where technical capability may exist.

ERA received one comment that the evidentiary requirements of § 504.38(b)(5–7) are substantive and exceed those in the proposed rule. ERA has decided to delete these requirements from the final rule.

ERA received a number of comments concerning use of the LOLP standard for calculating reliability of service. In response to the comments, ERA has modified the reliability test for a permanent peakload exemption.

In lieu of the LOLP standard, ERA has adopted a reserve margin test, and has modified the evidentiary requirements for the exemption accordingly. This test is discussed at greater length above, in the preamble discussion under the heading "reliability exemption."

ERA notes that a petitioner may use an alternative test for meeting the impairment of reliability criterion. In any such case, ERA would review the test employed on a case-by-case basis. ERA strongly recommends that any petitioner seeking to utilize an alternative reliability test, first present such test at a prepetition conference for ERA review and concurrence.

One commenter suggested that the test to determine "unreasonable expense" under this exemption should be a one-to-one economic comparison of the real cost of using oil compared to the real cost of converting to coal. ERA notes that the method for demonstrating unreasonable expense under this final rule is discretionary with the petitioner.

One commenter, indicating that a combustion turbine utilizing such technologies as compressed air energy storage can operate in the range of 1,500 to 2,500 full load hours per year using the equivalent amount of oil as a conventional combustion turbine operating well below the 1,500 hour level, recommended that ERA, in order to encourage such technologies, should define the statutory peakload generation ceiling in terms of hours of equivalent oil use without such technologies. ERA does not believe that the definition of "peakload powerplant" in Section 103(a)(18)(A) of the Act permits it to interpret the peakload exemption in this manner. ERA does wish to encourage compressed air energy storage but believes this may be done more appropriately through the mixtures exemption (§ 504.56).

g. *Use of natural gas by powerplants with capacity of less than 250 million BTU's per hour (§ 504.60).* Interim rule § 504.40 has been replaced by final rule § 504.60.

ERA has simplified the criteria and procedures for requesting this permanent exemption. The final rule requires a certification that (1) the powerplant has a design capability of consuming any fuel or fuel mixture at a fuel heat input rate of less than 250 million Btu's per hour; (2) the unit was a baseload powerplant on April 20, 1977; (3) the powerplant is not capable of burning solid coal, and no suitable coal derivative is available; and (4) use of mixtures is not economically or technically feasible.

ERA believes, that for purposes of this exemption, a certification with respect to a lack of coal burning capability will constitute a demonstration that the powerplant is not capable of consuming coal without substantial physical modification or substantial derating of the unit.

Standard terms and conditions have been established, including (1) a requirement that this exemption may only apply to prohibitions under section 301 of FUA and prohibitions established by final rules or orders issued before January 1, 1990; and (2) insulation and maintenance requirements.

h. *Use of liquefied natural gas (§ 504.61).* Interim rule § 504.41 has been replaced by final rule § 504.61.

In response to comments received by ERA, and to clarify ERA's intent, the final rule has been modified to require that the LNG to be used under the exemption must be produced outside the "contiguous" United States, rather than "Continental" United States.

i. *Scheduled equipment outages (§ 504.62).* Interim rule § 506.39 has been replaced by final rule § 504.62.

In the interim rule ERA stated that if the annual scheduled outages did not exceed 21 days, the petitioners would not have to conduct an alternate fuels search. Upon consideration of comments, ERA has modified the regulations so that if projected use of the proposed unit does not exceed an average of 28 days per year over any three-year period, the petitioner need only submit a certification with certain specified terms, including infeasibility of use of a fuel mixture. If total use exceeds this level of use, the evidentiary requirements have been left substantially unchanged.

Standard terms and conditions have been established in the case of petitions for scheduled outage exemptions which are obtained by certification. These include (a) a maximum limit on use of the unit for scheduled outages purposes only; (b) insulation and maintenance requirements; (c) required use of only the lowest grade (*i.e.*, quality) of petroleum feasible and available; and (d) any terms and conditions which ERA deems necessary for ERA to fulfill its environmental obligations.

ERA notes that, as discussed in the preamble to its final rule for new facilities, 45 FR 38302, 38304 (June 6, 1980), the environmental reporting requirement for the certification alternative for this exemption has been changed to reflect DOE's anticipated proposal to categorize such actions as normally not requiring further analysis for NEPA purposes.

III. Procedural Matters

A Final Environmental Impact Statement (FEIS) was prepared pursuant to the National Environmental Policy Act. A Final Regulatory Analysis relating to the final rule, as contemplated by Executive Order No. 12044, was published on June 23, 1980 (45 FR 42190). The FEIS may be obtained from ERA, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 653-4055.

These final rules must be submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any data submitted in compliance with provisions of the final rule may require revision or additions as a result of OMB's action.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*), Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 43 FR 46267, September 15, 1977)

In consideration of the foregoing, §§ 504.35 and 506.35 (Cogeneration) remain in effect until superseded. Parts 500 and 501, as amended, and the remainder of Part 504, as revised, of Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, titled "Alternate Fuels", are adopted in final, applicable to existing facilities, effective on October 14, 1980. The remainder of Part 506 is deleted, effective on October 14, 1980.

Issued in Washington, D.C., August 1, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Table of Redesignation

Old section	New section
502.5	504.21
502.11	504.19
502.12	504.18
502.13	504.20
504.1	504.1
504.2	504.2
504.3	504.3
504.4	504.4
504.5	504.6
504.5(h)	504.7
504.10	504.10
504.11	504.11
[1]504.12	504.12
504.13	504.13
504.14	504.14
504.15	504.15
504.16	504.16
504.17	504.17
504.20	504.30
504.21	504.31
504.22	504.32
504.23	504.33
504.24	504.34
504.25	504.36
504.26	504.37
504.27	504.38
504.28	504.39
504.29	504.40
504.30	504.50
504.31	504.51

Table of Redesignation—Continued

Old section	New section
504.32	504.52
504.33	504.53
504.34	504.54
[2]504.35	504.55
504.36	504.56
504.37	504.57
504.38	504.58
504.39	504.59
504.40	504.60
504.41	504.61
506.1	504.2
506.2	504.8
506.2(n)	504.7
506.10	504.10
506.11	504.11
[1]506.12	504.12
506.13	Deleted
506.14	504.15
506.15	504.16
506.16	504.17
506.20	504.30
506.21	504.31
506.22	504.32
506.23	504.33
506.24	504.34
506.25	504.36
506.26	504.38
506.27	504.37
506.30	504.50
506.31	504.51
506.32	504.52
506.33	504.53
506.34	504.54
[2]506.35	504.55
506.36	504.56
506.37	504.57
506.38	Deleted
506.39	504.62
506.40	504.63

[1] Proposed sections 504.12 and 506.12 were published on June 23, 1980, 45 FR 42190. If adopted, the provisions in these proposed rules will appear in § 504.12.

[2] Interim sections 504.35 and 506.35 remain in effect. (44 FR 43178, July 23, 1979.) When final rules are adopted they will appear as § 504.55.

1. Sections 504.35 and 506.35 (Cogeneration) of the interim rule in effect until superseded.

2. The remainder of Part 506, including the Part heading, is deleted, effective on October 14, 1980.

3. Parts 500 and 501, as amended, and the remainder of Part 504, as revised, are adopted in final, applicable to existing facilities, to read as set forth below, effective on October 14, 1980.

PART 500—POLICY AND DEFINITIONS

Sec.

* * * * *

500.2 Definitions.

* * * * *

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

* * * * *

Subpart C—Written Comments, Public Hearings and Conferences During Administrative Proceedings

* * * * *

501.31 Written comments.

* * * * *

501.33 Requests for a public hearing.

* * * * *

Subpart E—Prohibition Rules and Orders

* * * * *

501.51 Prohibitions by order—existing facilities.

501.52 [Reserved]

* * * * *

PART 504—EXISTING FACILITIES

Subpart A—Restrictions on the Increased Use of Petroleum

504.1 Prohibition against the increased use of petroleum.

Subpart B—Prohibitions and System Compliance Option

504.2 Purpose and scope.
504.3 Statutory prohibitions (powerplants).
504.4 Electric utility system compliance option.
504.5 Purpose and scope.
504.6 Prohibitions by order (case-by-case).
504.7 Prohibitions against excessive use of petroleum or natural gas in mixtures.

Subpart C—General Requirements for Exemptions

504.10 Purpose and scope.
504.11 Contents of petition.
504.12 [Reserved]
504.13 No alternative power supply—general requirement for certain permanent exemptions for existing powerplants.
504.14 [Reserved]
504.15 Use of mixtures—general requirement for certain permanent exemptions.
504.16 Use of fluidized bed combustion not feasible—general requirement for certain permanent exemptions.
504.17 Terms and conditions; compliance plans.
504.18 Conservation measures.
504.19 Petroleum and natural gas consumption.
504.20 Environmental impact analysis.
504.21 Fuels search.

Subpart D—Temporary Exemptions for Existing Facilities

504.30 Purpose and scope.
504.31 Lack of alternate fuel supply.
504.32 Site limitations.
504.33 Inability to comply with applicable environmental requirements.
504.34 Future use of synthetic fuels.
504.35 Cogeneration.
504.36 Use of innovative technologies.
504.37 Public interest.
504.38 Retirement.
504.39 Temporary exemption for powerplants where necessary to maintain reliability of service.
504.40 Temporary peakload powerplants.

Subpart E—Permanent Exemptions for Existing Facilities

504.50 Purpose and scope.
504.51 Lack of alternate fuel supply.
504.52 Site limitations.
504.53 Inability to comply with applicable environmental requirements.
504.54 State or local requirements.
504.55 Cogeneration. [Reserved]

504.56 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.
504.57 Emergency purposes.
504.58 Permanent peakload powerplants.
504.59 Intermediate load powerplants.
504.60 Use of natural gas by powerplant with capacity of less than 250 million Btu's per hour.
504.61 Use of liquefied natural gas.
504.62 Scheduled equipment outages.
504.63 Installations served by certain international pipelines.
504.64 Product or process requirements [Reserved].
Appendix I—Procedures for the Computation of the Real Cost of Capital.

Authority: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267, September 15, 1977.

PART 500—POLICY AND DEFINITIONS

Sec.

* * * * *

500.2 Definitions.

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Subpart C—Written Comments, Public Hearings and Conferences During Administrative Proceedings

§ 501.31 Written comments.

* * * * *

(b) *Existing facilities.* Except as may be provided elsewhere in these regulations, ERA shall provide a period of at least 45 days for submission of written comments concerning a proposed prohibition rule or order or a petition for an exemption or permit. This period shall commence in the case of a petition for an exemption on the day after publication of the notice of acceptance in the **Federal Register** in accordance with § 501.63(a). In the case of a proposed prohibition rule or order, ERA shall also provide for a period of at least 45 days for submission of written comments concerning a tentative staff analysis. This period shall commence on the day after publication of the notice of availability of the tentative staff analysis in the **Federal Register.** The period may be extended by ERA in accordance with § 501.5. See § 501.51(b) of this part with respect to the comment periods applicable to prohibitions by order to existing facilities and the extension of such comment periods. Written comments shall be filed in accordance with § 501.7.

§ 501.33 Requests for a public hearing.

* * * * *

(b) *Existing facilities.* In the case of a petition for an exemption from a prohibition imposed either by the Act or by a final rule or order issued by ERA to an existing facility under Title III of FUA, or a petition for an exemption or permit, if applicable, any interested person may submit a written request that ERA convene a public hearing in accordance with section 701 of FUA within 45 days after the notice of the filing of a petition is published in the **Federal Register.** In the case of a proposed prohibition rule or order, the 45 day period in which to request a public hearing shall commence upon the publication of the notice of availability of the tentative staff analysis. This time limit may be extended at the discretion of ERA. Any request for a public hearing must include a description of the requesting party's interest in the issue or issues involved, and an outline of the anticipated content of the proposal to be made. The request should, to the extent possible, identify any witnesses that are intended to be called at the hearing and include, if possible, a summary of their anticipated testimony, and questions to be posed.

Subpart E—Prohibition Rules and Orders

§ 501.51 Prohibitions by order—existing facilities.

(a) ERA may prohibit by order the use of petroleum or natual gas as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in an existing facility if:

(1) That facility has not been identified as a member of a category subject to a final prohibition rule at the time of the issuance of such order;

(2) The requirements of § 504.6 have been met;

(3) The owner or operator of the facility has not demonstrated that an exemption would have been granted to the facility if the prohibition had been established by rule. If the facility would have been granted a temporary exemption, however, ERA may issue a final order which will take effect at such time as the temporary exemption would have terminated; and

(4) In any case in which an order is not issued by reason of paragraph (a)(3) of this section, or in which the effective date of such order is delayed under such paragraph, ERA shall take such steps as may be necessary to assure the facility involved complies with the same requirements (including provisions of section 314(a) of FUA) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date is delayed.

(b) *Notice of order and public participation.*

(1) ERA may hold a conference with the proposed order recipient prior to issuing the proposed order.

(2) Pursuant to section 701 of FUA, prior to the issuance of a final order to an existing facility, ERA shall publish a proposed order in the **Federal Register,** together with a statement of the reasons for the order. In the case of a proposed order that would prohibit the use of petroleum or natural gas as a primary energy source, the finding required by Section 301(b)(1) of the Act in the case of a powerplant or the finding required by Section 302(a)(1) of the Act in the case of an installation shall be published with such proposed order.

(3) ERA shall provide a period for the submission of written comments of at least three months after the date of the proposed order. During this period, the recipient of the proposed order and any other interested person must submit any evidence relating to each of the findings that ERA is required to make under Section 301(b) of the Act in the case of a powerplant or the findings required by Section 302(a) of the Act in the case of an installation. A proposed order recipient will not be allowed to submit evidence relating to the findings which it did no submit during this three month period unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist of amplification or rebuttal occasioned by the subsequent course of the proceeding. The order recipient must, during this period, identify any exemptions for which the unit in question may qualify, but the recipient need not during this period submit evidence attempting to demonstrate qualifications for the exemption. An extension of the three month time period may be granted in ERA's discretion.

(4) Subsequent to the end of the comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding.

(5) An owner or operator of a facility that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the facility would qualify for an exemption if the prohibition had been established by rule. Such demonstration shall be submitted within three months of the issuance of the notice of intention to proceed with the prohibition order. ERA will not delay the issuance of a final prohibition order or stay the effective

on a schedule that minimizes the need to

(ii) A certification from the

compliance for an indeterminate period of

date of such an order for the purpose of determining whether a proposed order recipient qualifies for a particular exemption unless the demonstration of qualification is submitted prior to or during the second three-month period, or unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist of amplification or rebuttal occasioned by the subsequent course of the proceeding. An extension of this time period may be granted in ERA's discretion.

(6) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and issue a notice of availability of a tentative staff analysis. Interested persons wishing a hearing must request a hearing within 45 days after issuance of the notice of availability of the tentative staff analysis. During this 45 day period, interested persons may also submit written comments on the tentative staff analysis.

(7) If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of this Part. The hearing will consider the findings which ERA must make in order to issue a final prohibition order and any exemption for which the proposed order recipient submitted its demonstration in accordance with subparagraph (5) above.

(8) Upon request by the recipient of the proposed prohibition order, the combined public comment periods provided for in this section may be reduced to a minimum of 45 days from the time of publication of the proposed order.

(9) ERA may terminate a prohibition order proceeding at any time prior to the date upon which a final order shall become effective. Should ERA terminate the proceeding, it will notify the proposed order recipient, and publish a notice in the **Federal Register**.

(c) *Record and decision to issue a final order.* (1) ERA's record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made a part of the record of the proceeding. ERA will base its determination to issue an order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final order a written statement of the pertinent facts, a statement of the basis upon which the final order is issued, a recitation of the conclusions regarding the required findings and qualifications for exemptions. The final order shall state the effective date of the prohibition contained therein. If it is demonstrated that the facility would have been granted a temporary exemption, the effective date of the prohibition contained in the final order shall be delayed until such time as the temporary exemption would have terminated. If it is demonstrated that a facility will need a period of time to comply with the final order, the effective date of the prohibition contained in the final order may be delayed, in ERA's discretion, so as to allow an order recipient to comply with the final order.

(3) ERA will enclose with a copy of the final order, where appropriate, a schedule of steps that should be taken by a stated date (a compliance schedule) to ensure that the affected facility will be able to comply with the prohibitions stated in the order by the effective date of the prohibition contained in the final order. The compliance schedule may require the affected person to take steps with regard to a unit 60 days after service of the final order.

(4) A copy of the final order and a summary of the basis therefore will be published in the **Federal Register**. The order will become effective 60 days after publication in the **Federal Register**.

(d) *Request for order.*

(1) A proceeding for issuance of a prohibition order to a specific unit may be commenced by ERA, in its sole discretion, in response to a request for an order filed by the owner or operator of a facility.

(2) A petition requesting ERA to commence a prohibition order proceeding should include the following information for all units to be covered by the prohibition order:

(i) A statement of the reasons why the owner or operator is seeking the issuance of a prohibition order; and

(ii) Sufficient information from which ERA may make the findings required by Section 301(b) of FUA in the case of a powerplant and Section 302(b) of FUA in the case of an installation.

(3) If ERA determines to accept the request, ERA shall publish a proposed order in the **Federal Register** together with a statement of the reasons for the order. The proceeding for issuance of the prohibition order shall thereafter continue in the same manner as proceedings commenced by ERA on its own initiative.

§ 501.52 [Reserved]

PART 504—EXISTING FACILITIES

Subpart A—Restriction on the Increased Use of Petroleum

§ 504.1 Prohibition against the increased use of petroleum.

(a) *Prohibition.* No existing electric powerplant, which during 1977 used an alternate fuel as a primary energy source, may use petroleum as a primary energy source in any calendar year in excess of the "base year amount" unless ERA issues a permit authorizing such increased use. The "base year amount" means the quantities of petroleum used in the powerplant as a primary energy source during calendar year 1977.

(b) *Policy note.* (1) Section 405 of the Act directs ERA by rule to restrain the use of petroleum by powerplants which burned an alternate fuel in 1977. Section 405 also directs ERA to establish, by rule, a procedure whereby powerplants may be permitted increased use of petroleum. Such permit shall be issued where the powerplant cannot comply with the requirements of the Clean Air Act without the permit and the increased use of petroleum is necessary to prevent an impairment of reliability of service. For example, where an electric powerplant requires a reasonably predictable time period to install pollution control equipment before returning to the use of an alternate fuel, ERA may issue a limited duration permit to use more petroleum as necessary to prevent impairment of reliability. In some cases, however, an electric powerplant may be unable to return to the use of an alternate fuel for an indeterminate period of time, or even permanently. Therefore, ERA, in implementing Section 405 of the Act, has designed two alternate procedures. Under either procedure the applicant should provide the information necessary to enable EPA, the appropriate State regulatory agency, and ERA to make their decisions.

(2) The Act directs ERA to limit the duration of the permit allowing increased oil consumption above the base year amount to the period it determines is necessary to carry out the statutory mandate. In order to make this determination as to duration, ERA needs to know when an existing powerplant either will be able to resume the use of an alternate fuel, or will no longer need to use petroleum to avoid impairment of reliability of electric service notwithstanding that it cannot burn an alternate fuel.

(3) ERA encourages applicants to plan for any interruption of alternate fuel use on a schedule that minimizes the need to burn increased amounts of petroleum and invites informal discussion prior to applying for a permit as to the duration of such increased use.

(c) *Temporary interruptions necessary to comply with the Clean Air Act and prevent impairment of reliability of service.*

Note.—Examples contemplated under this subsection would include those cases where it is necessary to install pollution control equipment, arrange for the delivery of suitable fuel, or bring other units in the applicant's system on line.

(1) *Eligibility.* Existing electric powerplants which are subject to the prohibition imposed by this rule, but which will be able to comply after a temporary interruption are eligible for a permit if:

(i) The powerplant used an alternate fuel as a primary energy source during 1977;

(ii) The applicant has applied for a variance or other waiver from EPA or the State air pollution control agency to continue the use of an alternate fuel, and a decision with regard to that application has been rendered;

(iii) EPA or the appropriate State air pollution control agency has certified that (A) the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan as defined in Section 110(d) of the Clean Air Act, without issuance of a permit to use petroleum above the base year amount, and (B) the applicant has established the duration of the need for increased petroleum in order to comply;

(iv) The appropriate State regulatory authority has certified that the increased use of petroleum is necessary to prevent impairment of reliability of electric service in that State; and

(v) The powerplant's operation will be in compliance with the prohibition imposed by this rule by the expiration of the permit.

(2) *Evidence of certification.* The application for a permit must include the following in order to make the demonstration required by this section:

(i) A certification from EPA or the appropriate State air pollution control agency stating that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan as defined in Section 110(d) of the Clean Air Act, without the issuance of such a permit to use petroleum above the base year amount, and that the applicant has established the duration of need for increased petroleum in order to comply; and

(ii) A certification from the appropriate State regulatory authority stating that the increased use of petroleum by the powerplant is necessary to prevent impairment of reliability of service.

(3) *Evidence of duration.* The duration of any permit to increase the use of petroleum granted under this subsection shall be the minimum reasonable length of time necessary to comply with the requirements of the Clean Air Act without impairment of reliability of electric service. To assist ERA in determining this period of time, the applicant must submit to ERA along with the application the following statements:

(i) A compliance plan indicating how and in what time period the applicant plans to comply. The compliance plan must include the following:

(A) A specific schedule of milestones for bringing the powerplant back into compliance with the applicable environmental requirements;

(B) What steps will be taken to minimize use of petroleum and duration of such use; and

(C) The quantity of petroleum the applicant estimates is required and an estimate of the rate of use by month.

(ii) A statement of why the powerplant is unable to burn an alternate fuel in compliance with the Clean Air Act;

(iii) A statement showing whether the applicant attempted to get a variance or other waiver from EPA or the State agency from applicable environmental requirements and if that waiver was denied; and

(iv) The basis, to the extent known to the applicant, for the State agency's reliability certification, including the data and analysis considered, the extent to which the State authority considered reliability in the applicant's electric region, and any other factors bearing on reliability which were considered.

(4) *Limitation on duration of permit.* ERA shall issue the permit for the increased use of petroleum only for the quantity and duration it determines is necessary after review and evaluation of the information set out above. ERA reserves the right to require whatever additional information may be necessary to enable it to make a determination as to duration.

(d) *Indeterminate cessations due to inability to comply with environmental requirements and prevent impairment of reliability of electric service.*

Note.—Examples contemplated under this section would include those cases where a financial or physical limitation would preclude a powerplant from coming into compliance for an indeterminate period of time.

(1) *Eligibility.* In addition to the criteria enumerated in subparagraphs (c)(1)(i), (ii), (iii), and (iv) above, existing electric powerplants which are subject to the prohibition imposed by this rule, but which are unable to comply with the Clean Air Act requirements after a temporary interruption, are eligible for a permit if they will be unable for specified reasons set out in (d)(2)(ii) to comply with the prohibition imposed by this rule for an indeterminate period of time.

(2) *Evidence of certification.* In addition to the evidence enumerated in subparagraphs (c)(2)(i) and (ii) above, an application for a permit must include the following:

(i) A statement to the extent such information is available to the applicant, of the basis for the State agency's certification, including the data and analysis considered and the extent to which it considered the reliability of the applicant's electric region; and

(ii) A showing in accordance with subparts C, D, and E of this Part that the powerplant would qualify for an exemption for reasons relating to its inability to comply with Clean Air Act requirements because of environmental, financial or physical limitations.

(3) *Statement.* A statement indicating which fuels were presented for consideration to the agency which certified with regard to the Clean Air Act, and to the extent known by the applicant, why they were rejected as a method of compliance.[1]

(4) *Evidence of duration.* The duration of any permit to increase the use of petroleum granted under this subsection shall not exceed the demonstrated need. Such duration shall be for the period the powerplant would qualify for an exemption, up to and including the remaining lifetime of the powerplant, or for the period of time that will be required to eliminate any impairment of reliability of electric service, whichever period is less.

(5) *Limitation on duration of permit.* ERA may issue a temporary permit under this subsection to enable the applicant to demonstrate it would qualify for an exemption under Title III of FUA for reasons relating to the inability to comply with Clean Air Act requirements. ERA reserves the right to require additional information necessary for a determination of duration.

[1] ERA encourages the applicant to request a pre-permit conference be held with EPA and ERA to discuss alternate fuel use strategies and to decide which fuels may be feasible.

(e) *Environmental Protection Agency procedures.* [Reserved]

Subpart B—Prohibitions and System Compliance Option

§ 504.2 Purpose and scope.

Section 504.3, below, sets forth the statutory prohibitions imposed by the Act upon existing powerplants. The prohibitions in this subpart apply to all existing electric powerplants as defined by § 500.2, unless, and to the extent that, ERA has either granted a temporary or permanent exemption, or approved a system compliance plan under Title V of the Act. Any person who owns, controls, rents, leases or operates an existing powerplant which is subject to the prohibitions may be subject to sanctions provided by the Act or these regulations.

§ 504.3 Statutory prohibitions (powerplants).

(a) Section 301(a)(1) of the Act prohibits the use of natural gas as a primary energy source by an existing electric powerplant on or after January 1, 1990, unless, and to the extent that, ERA has either granted a temporary or permanent exemption or approved a system compliance plan under Title V of the Act.

(b) Section 301(a)(2) of the Act prohibits the use of natural gas as a primary energy source in any existing electric powerplant before January 1, 1990, unless it used natural gas as a primary energy source any time during calendar year 1977, unless, and to the extent that, ERA has either granted a temporary or permanent exemption, or approved a system compliance plan under Title V of the Act.

(c) Section 301(a)(3) of the Act prohibits the use of natural gas as a primary energy source by any existing electric powerplant, in any calendar year before 1990, in greater proportion than the average yearly proportion of natural gas which:

(1) The powerplant used as a primary energy source in calendar year 1974 through 1976; or

(2) If the powerplant began operations on or after January 1, 1974, the powerplant used as a primary energy source during the first two calendar years of its operation, unless, and to the extent that, ERA has either granted a temporary or permanent exemption from the prohibition or approved a system compliance plan under Title V of the Act.

(d) Any prohibition against the use of natural gas on or after January 1, 1990, will be stayed while any petition filed for an exemption is resolved. The stay will include the time required for judicial review. Such petition for exemption may be filed at any time after May 8, 1979, the effective date of FUA, but it must be filed at least one year before the date the prohibition is first to take effect.

§ 504.4 Electric utility system compliance option.

(a) *General.* Section 501 of the Act provides for an electric utility system compliance option. An existing powerplant will be considered in compliance with any prohibition under Title III of the Act relating to the use of natural gas if ERA has issued an order approving a system compliance plan including such powerplant. No exemption, except an emergency exemption, for use of natural gas will be available for those powerplants which are covered or which have ever been covered by an approved plan.

(b) *Requirements for approval.* To qualify, the utility operating the existing powerplant must provide the information requested and demonstrate to the satisfaction of ERA its commitment to the following terms.

(1) Identification of all powerplants owned or operated by the utility, and an indication of those which would or could be subject to prohibitions under Title III (Existing Facilities) of the Act relating to the use of natural gas if a plan for the utility system were not approved;

(2) Identification of those powerplants covered in (b)(1) of this section that the utility believes would be likely to be entitled to an exemption if a plan were not approved;

(3) A commitment that if a plan is approved the utility will not thereafter use natural gas or petroleum as a primary energy source in any new baseload powerplant;

(4) A commitment that if a plan is approved, the utility will not use natural gas on and after January 1, 1990, in excess of (i) 20 percent of the base period usage of natural gas adjusted for emergency or peakload purposes, if applicable, or, if lower (ii) the utility's minimum peakload requirement adjusted for emergency or peakload purposes, if applicable;

(5) A commitment that if a plan is approved, the utility will not on or after January 1, 1995, use natural gas except in peakload or intermediate load powerplants identified in (b)(1) above and the volumes of gas consumed in those powerplants will not exceed 75 percent of the amount permitted under (b)(4) above;

(6) A commitment that on and after January 1, 2000, the utility will not use natural gas as a primary energy source unless ERA grants it a temporary extension for emergency or peakload purposes under subsection (h) of this section;

(7) A commitment that upon approval of the system compliance plan the utility will obtain natural gas used by the system only under the provisions of (i) a contract which the utility executed prior to November 9, 1978, other than under an extension or renewal of the contract on or after November 9, 1978; (ii) a contract which the utility executed on or after November 9, 1978, but only if the contract has been approved by ERA; or (iii) an extension or renewal occurring on or after November 9, 1978, of a contract entered into before November 9, 1978, but only if the extension or renewal has been approved by ERA;

(8) A 10-year forecast, to be revised and extended annually, which provides support for a conclusion by ERA that the commitments in the system compliance plan will be met. The forecast should include demand for electricity, construction plans and a financial plan; and

(9) A plan for use of fuel conservation measures that will minimize the utility system's natural gas and petroleum consumption.

(c) *Deadline for submission.* The period for submission of the complete system compliance plan expired on August 1, 1980.

(d) *Calculations of 1990 natural gas volumes for § 504.4(b)(4)(i).* For purposes of § 504.4(b)(4)(i), volumes of natural gas are the sum of the following:

(1) Twenty percent of the natural gas used in calendar year 1976 by the utility's powerplants that were placed in service on or before January 1, 1976;

(2) Ten percent of the natural gas used in the first 24 months of service by the utility's powerplants which were placed in service after January 1, 1976, and before May 8, 1979;

(3) Natural gas volumes for emergency purposes within the meaning of § 504.57 of these regulations, to the extent that such volumes exceed the volumes of natural gas enumerated in (1) and (2) above, if ERA has approved use of the volumes for such purposes;

(4) Natural gas volumes for peakload purposes within the meaning of Section 504.58 of these regulations, to the extent that such volumes exceed the volume of natural gas enumerated in (1) and (2) above, if ERA has approved use of the volumes for such purposes; and

(5) Natural gas volumes, if ERA has approved use of the volumes for such purposes, required (i) because of delays which occurred, despite diligent good faith efforts in the construction of powerplants which will use a primary energy source other than natural gas, or (ii) because without increased volumes reliability of service would be impaired.

(e) *Calculation of volumes for adjusted minimum peakload requirements for § 504.4(b)(4)(ii).* For purposes of Section 504.4(b)(4)(ii), volumes of natural gas are the sum of the following:

(1) The volume of natural gas required to produce 17.1 percent of the total electricity generated by the utility in 1990;

(2) Natural gas volumes, for emergency purposes within the meaning of Section 504.57 of these regulations, to the extent that such volumes exceed the volume of natural gas enumerated in (1) above, if ERA has approved use of the volumes for such purposes, and

(3) Natural gas volumes, for peakload purposes within the meaning of Section 504.58 of these regulations, to the extent that such volumes exceed the volume of natural gas enumerated in (1) above, if ERA has approved use of the volumes for such purposes.

(f) *ERA approval of natural gas contracts for § 504.4(b)(7).* ERA will approve any contract, or contract extension or renewal, for purposes of subsection (b)(7) with respect to any plan, if it determines that the electric utility which submitted such plan has demonstrated that the quantities available under such contract, or extension or renewal, do not exceed those which are necessary to meet the requirements of the powerplants under such plan. ERA will not approve any contract, or extension or renewal, which provides for the delivery of such natural gas after December 31, 1999, unless ERA has approved the use of such natural gas under subsection (h) below.

(g) *Fuel conservation measures for § 504.4(b)(9).* Fuel conservation measures include generation efficiency measures which conserve natural gas and petroleum by increasing the efficiency of the generation process. A utility may present plans for any other activity, service, or investment that would result in lower consumption of natural gas and petroleum as primary energy sources.

(h) *Temporary extension for § 504.4(b)(6).* ERA may grant an extension of up to 5 years of the limitation in § 504.4(b)(6) with respect to the use of natural gas if the utility demonstrates that such gas is needed for:

(1) Emergency purposes consistent with Section 504.57 of these regulations; or

(2) Peakload purposes consistent with Section 504.58 of these regulations.

(i) *Evidence.* To submit an adequate plan for review by ERA the utility must include in the plan at least the following, in order to make the demonstration required by this section:

(1) A ten year forecast of the utility's construction plans, financial plans, and electric demand with sufficient detail to conclude that the commitments in the plan will be carried out;

(2) A schedule for an orderly progression to meet the commitments for the years 1995 and 2000;

(3) A description of meetings, correspondence, and understandings or agreements reached, if any, with appropriate state regulatory authorities regarding the commitments contained in the plan; and

(4) A description of the planned petroleum and natural gas conservation measures, including their practicability, effectiveness, cost, anticipated savings, and implementation steps.

(j) *Reporting.* The utility must annually update the information contained in its plan, including progress on implementing the proposed conservation measures.

(k) *Terms and conditions.* ERA will condition approval of a system compliance plan on such terms and conditions as ERA determines to be appropriate, including the permissible level of natural gas use prior to 1990 and the use of effective fuel conservation measures which are practicable and consistent with the purposes of the Act.

(l) *Plan revision.* A system compliance plan may be revised for substantially changed circumstances supported by clear and convincing evidence. A revision to a system compliance plan may be proposed by the utility or by ERA on its own motion. No proposed revision will be effective without the utility's approval and the approval of ERA.

(m) *Plan revocation.* ERA reserves the right to revoke a system compliance plan at any time on the basis of the utility's material noncompliance with such plan.

(n) *Incorporation of Parts 500 and 501.* The administrative and definitional provisions contained in 10 CFR Parts 500 and 501, are incorporated by reference herein, and shall be applicable to the extent that they do not conflict with any of the provisions of this section.

§ 504.5 Purpose and scope.

Section 504.6 below sets forth the prohibitions that ERA, pursuant to Title III of FUA, may impose upon existing facilities. The prohibitions may be made to apply to existing electric powerplants and existing major fuel burning installations, as defined in § 500.2, unless an exemption is granted by ERA under Subparts D and E of this Part or a system compliance plan is approved by ERA under Subpart B of this Part. Any person who owns, controls, rents or leases an existing facility may be subjected to the prohibitions imposed by and the sanctions provided for in the Act or these regulations, if ERA can make the findings required by Sections 301 (b) and (c) and 302 (a) and (b) of the Act.

§ 504.6 Prohibitions by order (case-by-case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an existing facility if ERA finds that:

(1) The unit currently has, or previously had, the technical capability to use an alternate fuel as a primary energy source;

(2) The unit has this technical capability now, or it could have the technical capability without:

(i) A substantial physical modification of the unit; or

(ii) A substantial reduction in the rated capacity of the unit; and

(3) It is financially feasible for the unit to use an alternate fuel as its primary energy source.

(b) ERA must make a proposed finding regarding the technical capability of a unit to use alternate fuel as identified in subsection (a)(1) above prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the **Federal Register** along with the notice of the proposed prohibition.

(c) *Technical capability.* (1) ERA will consider "technical capability"on a case-by-case basis. In making this assessment, ERA will consider the characteristics of the unit itself and will not ordinarily consider the nature or absence of appurtenances outside the unit. ERA's major concern is the ability of the unit, from the point of fuel intake to physically sustain combustion of a given fuel and to maintain heat transfer.[2]

(2) ERA considers that a unit "had" the technical capability to use an alternate fuel if the unit was once able to burn that fuel (regardless of whether the unit was expressly designed to burn that fuel or whether it ever actually did burn it), but is no longer able to do so at

[2] For example, ERA will examine the furnace configuration and ash removal capability but will not normally consider the need to install pollution control equipment as a measure of technical capability. Furthermore, ERA will not conclude that the absence of fuel handling equipment, such as conveyor belts, pulverizers, or unloading facilities, bears on the issue of a unit's "technical capability" to burn an alternate fuel.

the present due to temporary or permanent alterations to the unit itself.[3]

(3) A unit "has" the technical capability to use an alternate fuel if it can burn an alternate fuel, notwithstanding the fact that adjustments must be made to the unit beforehand or that pollution control equipment may be required to meet air quality requirements.[4]

(d) *Substantial physical modifications.* ERA will make its determination on whether a physical modification to a unit is "substantial" on a case-by-case basis. ERA will consider physical modifications made to the unit as "substantial" where warranted by the magnitude and complexity of the engineering task or where the modification would impact severly upon operations at the site.[5] ERA will not, however, assess physical modification on the basis of cost or the installation of pollution control or fuel handling equipment.

(e) *Substantial reduction in rated capacity.* (1) ERA regards a unit's derating of 25 percent or more, as a result of converting a unit from oil or gas to an alternate fuel, as substantial.

(2) ERA will presume that a derating of less than 10 percent, as a result of converting a unit from oil or gas to an alternate fuel, is not substantial unless convincing evidence to the contrary is submitted in rebuttal.[6]

(3) ERA will assess units for which a derating is claimed of 10 percent or more, but less than 25 percent, on a case-by-case.

(4) In assessing whether a unit's derating is not substantial, ERA will consider the impact of a reduction in rated capacity of the unit taking into consideration all necessary appurtenances such as air pollution control equipment required to burn an alternate fuel in compliance with applicable environmental requirements. However, the potential order recipient may raise the following impacts on derating in rebuttal, if under paragraph (2), or case-by-case, if under paragraph (3).

(A) for an existing powerplant, on the site at which the unit is located and on the system as well as on the unit itself; and

(B) for an existing installation, on the site at which the unit is located as well as on the unit itself.[7]

(f) *Financial feasibility.* (1) ERA will presume that it is financially feasible for a unit to use an alternate fuel as its primary energy source if the cost of using an alternate fuel does not substantially exceed the cost of using imported petroleum as calculated using the general cost calculation described in § 504.12 of the regulations. However, in making this calculation, either the firm's real cost of captial [8] or the discount rate required in § 504.12 of this rule may be used as the discount rate—whichever results in a finding more favorable to the proposed order recipient.

(2) The proposed order recipient may seek to rebut the presumption in paragraph (f)(1), above, with evidence that, despite good faith efforts, it is unable to raise the capital that would be necessary for the conversion, or that for some other economic or finanical reason, conversion is not financially feasible. The standard for assessing capital availability will be identical to that specified in § 503.35(a)(2) of the new facilities regulations (inability to obtain adequate capital).

(3) In making this finding, ERA will consider the following:

(i) for an existing powerplant, the financial impact of the conversion, including other conversions which are or may be imposed upon the utility system by the Act; and

(ii) for an existing installation, any relevant factor presented by the proposed order recipient which bears upon the competitive viability of the site or loss of production, if any, at the site during the period required for the conversion.

§ 504.7 Prohibitions against excessive use of petroleum or natural gas in mixtures.

(a) If ERA finds that it is technically and financially feasible for a unit to use a mixture of petroleum or natural gas and alternate fuel as its primary energy source, ERA may prohibit, by order, the use in that unit of petroleum or natural gas, or both, in amounts exceeding the minimum amount necessary to maintain the reliability of operation consistent with maintaining reasonable fuel efficiency of the mixture. (For installations, such minimum amount determined by ERA shall not be less than 25 percent.)

(b) In making the technical feasibility finding required by § 301 (b) and (c) of the Act and paragraph (a), above, ERA may weigh "physical modification" or "derating of the unit," but these considerations, by themselves, will not control the technical feasibility finding. A technical feasibility finding might be made notwithstanding the need for substantial physical modification. The economic consequences of a substantial physical modification are taken into account in determining financial feasibility.

Note.—The authority of ERA implemented under this section should not be confused with the two other fuel mixture provisions of these regulations. One is the general requirement that petitioners for permanent exemptions demonstrate that the use of a mixture of natural gas or petroleum and an alternate fuel is not economically or technically feasible (*See* § 504.15). The second is the permanent fuel mixtures exemption itself (See § 504.56).

Subpart C—General Requirements for Exemptions

§ 504.10 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption from the prohibitions set out under this Part and establishes the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 504.11 Contents of petition.

Before ERA will accept a petition for either a temporary or permanent exemption to a statutory prohibition or from a final prohibition rule or order, the petition must include all of the evidence and information required to obtain an exemption in Parts 501 and 504. In the case of a temporary or permanent exemption to a proposed prohibition order or rule, the petitioner must submit adequate information to demonstrate eligibility for an exemption if the order or rule were finalized.

[3] For example, a unit which at one time burned solid coal but which could no longer do so because its coal firing ports and sluicing channels had been cemented over, would be classified as having "had" the technical capability to use coal. (The question of whether it again "could have" such capability without "substantial physical modification" is a separate and additional question.)

[4] A unit designed to burn natural gas shall be presumed to have the technical capability to burn a synthetic fuel such as medium Btu gas from coal (assuming such gas is available unless convincing evidence to the contrary is submitted in rebuttal). Also a unit designed to burn oil may, depending upon the chemical characteristics, be a unit that "has" the technical capability to burn liquefied coal. The fact that certain adjustments may be necessary does not render this a "hypothetical" as opposed to a "real" capability. Even an oil fired unit converting from the use of #2 distillate to #6 residual oil may be required to adjust or replace burner nozzles and add soot blowers.

[5] Significant alternations affecting the furnace configuration or a complete respacing of the tubes would likely fall into this category. A combination of modifications involving changes required for bottom ash removal, related construction and engineering work, and other modifications to the boiler, other than furnace configuration or tube spacing may, in some circumstances, cause modifications to be considered substantial.

[6] For example, units that are the subject of a prohibition order will not have installed any operating air pollution control equipment sufficient to burn coal in compliance with applicable environmental equipments. The installation and use of air pollution control equipment alone can, in many cases, produce a derating. Moreover, the shift to coal itself will, because of differences in energy density and fuel flow characteristics, typically involve some derating.

[7] For example, the proposed order recipient may claim and ERA may find that the derating of a unit is substantial if, due to the lack of excess capacity, the derating produces an appreciable effect upon the operations of the site at which the unit is located, if an MFBI, or upon the site and the system of the unit, if a powerplant.

[8] For the purposes of these regulations, the firm's real cost of capital will be computed according to the procedures outlined in Appendix I.

§ 504.12 [Reserved]

§ 504.13 No alternative power supply—general requirement for certain permanent exemptions for existing powerplants.

(a) *Application.* (1) Section 312 of the Act provides for a permanent exemption due to certain State or local requirements and for intermediate load powerplants. To qualify for one of these exemptions, Section 313(b) requires a demonstration that despite reasonable good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service.

(2) In making the determination as to whether the petitioner has satisfied this requirement, ERA will consider:

(i) In the case in which a final order has been issued, only the first year in which the petitioner proposes to use petroleum or natural gas;

(ii) In the case in which the petitioner proposes to use natural gas in excess of a statutory prohibition, only the first year in which the petitioner proposes to use the excess natural gas; or

(iii) In the case in which only a proposed order has been issued, only the first year after a date on which the order could reasonably be expected to become effective.

(3) If the petitioner is unable to demonstrate that there is no alternative supply of power during the appropriate period, ERA will conclude that the absence of the existing powerplant will not impair short-term reliability of service, and as a result may deny the exemption request. Such action would not impair long-term reliability of service, since the petitioner may submit a new petition one year later.

(b) *Criteria.* ERA will determine that there is no alternative supply of power if a petitioner demonstrates all of the following:

(1) A reasonable effort has been made to reduce the need for the power from the existing powerplant by implementing within the system whatever conservation measures are available to encourage or assist customers in implementing cost-effective conservation measures. In judging whether a conservation measure is cost effective, the cost of providing such capacity or energy by conservation should be compared with the life cycle cost of capacity or energy from the existing powerplant, including capital, operation and maintenance expenses, and fuel based on imported petroleum prices.

(2) A reasonable effort has been made to purchase firm power for the appropriate year of operation to cover all or part of the projected shortfall at a cost that is less than 10 percent above the annualized cost of generating power from the existing plant, including the capital, operation and maintenance expenses, and fuel at imported petroleum prices.

(3) Despite these efforts, (i) the reserve margin in the petitioner's electric region in the absence of the existing plant would fall below 20 percent during the appropriate year of operation; or (ii) the reserve margin will be greater than 20 percent and it can be demonstrated that reliability of service would be impaired. In such case, the demonstration must be related to factors not included in the calculation of reserve margin such as transmission constraints.

(c) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) The estimated peak demand for the system and the coincident peak demand for the electric region for the appropriate year of operation of the existing plant;

(2) The corresponding capacity projections, as well as any existing commitments by the system to purchase or sell power during that year;

(3) Evidence that firm power contracts have been solicited for the appropriate year of operation, via letters to all potential sources (including non-utility sources) within or contiguous to the electric region, and also via advertisements;

(4) A calculation of the delivered cost of the firm purchased power offered in response to the solicitation, along with a detailed description of the method by which the annual cost of the purchased power is determined. Where relevant, the FERC Tariff Identifications intended as the basis for the purchase power contracts under negotiation (including the service schedules and/or exhibits which would apply to these contracts) should be provided;

(5) A calculation of the cost of power from the existing powerplant during the appropriate year of operation. The petitioner may select the method of calculation, provided that the resulting cost may be meaningfully compared with the cost of purchased power. The calculation must include expenses due to capital, operations and maintenance, and fuel at imported petroleum prices. The petitioner may include cost effects of the economic dispatch of powerplants. The number of kilowatt hours being compared from the existing powerplant and the purchased power should be the same;

(6) A description of the measures that have been taken prior to the appropriate year of operation to reduce energy losses within the petitioner's own system, to improve the operational reliability of its existing non-oil or gas-fired plants, to improve its ability to meet peak demand without additional capacity, and to encourage or assist its customers in implementing cost-effective conservation measures;

(7) Estimates of the kilowatt and kilowatt-hour savings that would result from the conservation measures; and

(8) A calculation of the net capacity shortfall in the appropriate year of operation (compared to a 20 percent reserve margin) if the existing powerplant is not utilized, but all the reasonable purchase and conservation opportunities referred to above are pursued with reasonable good faith effort.

(d) *FERC consultation.* ERA will forward a copy of any petition for which a showing is required under this section to the Federal Energy Regulatory Commission (FERC) promptly after it is filed with ERA. ERA will also consult with FERC before making a finding on "no alternative supply of power" in the case of a petition for an intermediate load powerplant or state or local requirements exemption after the issuance of a final prohibition order.

§ 504.14 [Reserved]

§ 504.15 Use of mixtures—general requirement for certain permanent exemptions.

(a) *Application.* Except in the case of a permanent exemption for peakload powerplants, use of LNG by certain powerplants, certain state or local requirements, and installations served by certain international pipelines, ERA will not consider a petition for any permanent exemption provided for in Section 312 of the Act to be complete, adequate, or acceptable for filing unless the petition contains a demonstration satisfactory to ERA that the petitioner has considered the use of a mixture for which an exemption under § 504.56 of these regulations would be available.

Note.—Section 313 of FUA states as a requisite for granting a fuels mixture exemption that the petitioner must demonstrate that use of a mixture of natural gas or petroleum would not be economically or technically feasible. To rectify this

provision, ERA has deleted the fuels mixture exemption from this requirement.

(b) *Demonstration.* ERA will deny any of the exemptions listed above unless the petitioner demonstrates that use of such a mixture is not economically or technically feasible in the unit for which the petitioner is requesting an exemption. The following evidence must be submitted to ERA in order to make the demonstration required by this section:

(1) For any mixture for which an exemption under § 312(d) of the Act would be available, were it required, evidence that the petitioner would be eligible for a general use exemption; or

(2) Use of a mixture is not economically feasible. To make an adequate demonstration, a petitioner may select the manner of presenting the economic infeasibility of use of the mixture considered. The following detailed information is required: description of the mixtures considered, detailed capital costs, annual operations and maintenance expenses, maximum projected utilization factor, and fuel costs of oil and natural gas as outlined in Section 504.12; or

(3) Use of a mixture is not technically feasibile. To make an adequate demonstration, a petitioner may select the manner of presenting the technical infeasibility of use of the mixture considered. The following detailed information is required: description of the mixture considered; description of the type of unit for which the exemption is being requested, *e.g.*, boilers, combined cycle units, combustion turbines or internal combustion engines; and a technical explanation of the factors which preclude the use of any mixture in that type of unit.

§ 504.16 Use of fluidized bed combustion not feasible—general requirement for certain permanent exemptions.

(a) *ERA finding.* Except in the case of a permanent exemption for peakload powerplants, use of LNG by certain powerplants, and installations served by certain international pipelines, or certain State or local requirements, ERA my deny permanent exemptions authorized under Section 312 of the Act if ERA finds on a site-specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny a petitioner's request for exemption unless it is demonstrated that the use of a method of fluidized bed combustion is not economically or technically feasible. The petition or any supplement thereto required by ERA must include the following evidence:

(1) If use of a method of fluidized bed combustion were to be required, evidence that the petitioner would be eligible for a general permanent exemption; or

(2) Use of a method of fluidized bed combustion is not technically or economically feasible due to design or special circumstances.

§ 504.17 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* A petitioner must comply with the terms and conditions of an exemption granted under the Act by ERA, including terms and conditions requiring the use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.* (1) A duly executed compliance plan shall accompany a petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place indicating how compliance with the applicable prohibitions will occur;

(ii) Evidence of binding contracts for fuel, or facilities for the production of fuel, which are required for petitioner to comply with the applicable prohibitions of the Act; and

(iii) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, an updated duly certified compliance plan must be submitted to ERA:

(i) At the end of each 12-month period from the effective date of the exemption;

(ii) Within one month of an alteration of any milestones in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time ERA, in its discretion, determines that a revised compliance plan may be necessary.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of the Act or noncompliance with any provision of an exemption, including any pertinent terms and conditions.

§ 504.18 Conservation measures.

In the case of—(1) temporary and permanent exemptions for lack of alternate fuel supply (except for installations operated less than 600 hours, and opting for the certification alternative therefor), site limitations, and environmental requirements; (2) permanent exemptions for state or local requirements, cogeneration, fuel mixtures (except for installations using mixtures containing less than 25 percent oil or natural gas, and opting for the certification alternative therefor), peakload, intermediate load, use of LNG, scheduled equipment outages (except for installations used 28 days per year or less and opting for the certification alternative therefor), and international pipelines; and (3) temporary exemptions for public interest, and reliability, a petition must identify, describe, and document any conservation measures which have been taken, or for which studies have been undertaken, to minimize the use of oil or gas. This description should identify any conservation goals for the unit under consideration, and for the facility at which the unit is located, and in the case of powerplants, for the utility system. The description of these measures should be detailed and should include comparative consumption figures, identification of conservation equipment or techniques, proposed manner of use, proposed date of use, cost, and expected benefits and problems. Conservation measures entail either reduction in consumption of oil and gas or increased efficiency in the utilization of oil and gas. Such measures can range from housekeeping measures to replacement of inefficient units and also could include the use of mixtures of gas and oil and alternate fuels and new more efficient technologies.

§ 504.19 Petroleum and natural gas consumption.

In the case of permanent exemptions for lack of alternate fuel supply (except for installations operated less than 600 hours and opting for the certification alternative therefor), site limitations, environmental requirements, state or local requirements, cogeneration, fuel mixtures (except for installations using mixtures containing less than 25 percent oil or natural gas, and opting for the certification alternative therefor), peakload, intermediate load, use of LNG, scheduled equipment outages (except for installations used 28 days per year or less and opting for the certification alternative therefor), and international pipelines, a petition must include the following:

(a) For each unit located at the facility, its nameplate and net dependable capacity;

(b) Current and projected (through 1990) annual fuel consumption for each unit, by fuel type and unit of measure, at the facility; and

(c) Retirement plans for existing oil- and gas-fired units at the facility.

§ 504.20 Environmental impact analysis.

(a) In the case of permanent exemption for cogeneration, scheduled equipment outages (except for installations used 28 days per year or less and opting for the certification alternative therefore), state or local requirements, or intermediate load powerplants; in order to enable ERA to comply with the National Environmental Policy Act of 1969 (NEPA), a petition must include the following information:

(1) A description of the facility, including the site location, and surroundings, the facility's current operations, its fuel capability, and its pollution control systems and equipment (including those systems and equipment necessary for all fuel scenarios considered);

(2) A description of the existing environment, including air, water, and land resources;

(3) A description of the direct and indirect environmental impacts of the proposed action including impacts of alternative fuel scenarios; and

(4) Regulatory requirements governing the facility, including a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for each fuel considered.

Note.—Material which has been prepared pursuant to any Federal, State, or local requirement for environmental information for this unit or site may be incorporated by reference and appended to the petition. Guidelines issued by ERA for environmental reports should be used in preparing this analysis. 44 FR 63740 (November 5, 1979). These guidelines, which are also available in the ERA public document room, have been designed to ensure that environmental reports follow the format prescribed by Council on Environmental Quality final regulations implementing NEPA. The guidelines are subject to discussion at a prepetition conference and to modification according to the facts of a particular case.

(b) For a permanent exemption relating to scheduled equipment outages of 28 days per year or less, the information below is to be submitted in lieu of the information required by subsection (a) above. However, submission of the following information merely establishes a rebuttable presumption that the grant or denial of the exemption would have no significant environmental impact. ERA may, in individual cases, during the course of the administrative proceeding, determine that additional environmental information is required. In such cases, the petitioner may be required to submit any or all of the information described in subparagraph (a) above.

(1) A certification that the unit is operating in compliance with all applicable environmental requirements, as evidenced by possession of the permits and approvals required by, but not limited to, the Clean Air Act, the Clean Water Act, the Rivers and Harbors Act, the Coastal Zone Management Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and that the unit will continue to operate in compliance under the exemption; and

(2) Information required by the following environmental checklist, certified by the petitioner to be accurate:

Environmental Checklist for FUA Certification Exemptions

Instructions

All questions are to be answered by placing a check in the appropriate box. N/A represents not applicable. Although it is not required, the petitioner may elaborate on any question in writing on a separate sheet of paper.

	Yes	No	N/A
(1) Is the facility located in, or does it affect, a wetland (Protection of Wetlands Executive Order No. 11990)?			
(2) Is the facility located in, or does it affect, a 100-year old floodplain (Floodplain Management Executive Order No. 11988)?			
(3) Does the facility affect a designated wild, scenic, or recreation river (Wild and Scenic Rivers Act)?			
(4)(A) Is the facility located within a county in which critical habitat for threatened or endangered species are known to exist (Endangered Species Act)?			
(4)(B) Has a qualified biologist determined that the facility does not affect any species on the Threatened and Endangered Species list?			
(5) Is the facility located on, or does it affect land that has been classified as, prime or unique farmland or rangeland by the U.S. Department of Agriculture?			
(6) Is the facility located on, or does it affect, historical, archaeological, or cultural resources that have been designated pursuant to the National Historic Preservation Act?			

§ 504.21 Fuels search.

In the case of permanent exemptions for lack of alternate fuel supply (except for installations operated less than 600 hours and opting for the certification alterative therefore), site limitations, environmental requirements, state or local requirements, intermediate load, scheduled equipment outages (except for installations used 28 days per year or less and opting for the certification alternative therefore), a petitioner must perform a fuels search by examining the use of alternate fuels as a primary energy source for the unit for which the exemptions requested and for the site at which the unit is located. In submitting a petition the petitioner must demonstrate that it would qualify for an exemption under the Act for each of the fuels examined. The minimum number of alternate fuels which the petitioner will be required to examine in this fuel search may be ascertained prior to the submission of a petition at a prepetition conference held in accordance with Part 501.

Subpart D—Temporary Exemptions for Existing Facilities

§ 504.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 311 of the Act with regard to temporary exemptions for existing facilities.

(b) This subpart sets forth the criteria and standards for petitioning for temporary exemptions for existing facilities.

(c) All petitions for temporary exemptions for existing facilities must be submitted in accordance with the procedures and requirements set out in Parts 501 and 504 of this rule.

§ 504.31 Lack of alternate fuel supply.

(a) *Eligibility.* Section 311(a)(1) of the Act provides for a temporary exemption due to the unavailability of an adequate and reliable supply of an alternate fuel at a cost which does not substantially exceed the cost of imported petroleum. To qualify for this exemption, a petitioner must demonstrate to the satisfaction of ERA that:

(1) A diligent good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel of the quality and quantity necessary to conform to the design and operational requirements of the existing facility;

(2) For the period of the proposed exemption, the cost of using such alternate fuel would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 504.12 (Cost Calculation) of this rule; and

(3) Petitioner will comply with the applicable prohibitions at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* Petitioner must include the following evidence in his petition in order to make the demonstration required by this section:

§ 504.34 Future use of synthetic fuels.

(b) *Evidence required in support of*

(1) An analysis of the alternate fuels considered for use;

(2) A detailed description of the design requirements specified for the existing facility, including capacity, alternate fuel capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of each of the fuels which can be used by the existing facility;

(4) Evidence that petitioner sought to obtain the full range of alternate fuels which could be used by the existing facility, including bid requests and/or advertisements for supply contracts and all responses thereto, as well as any other arrangements petitioner undertook to make in order to secure current supplies;

(5) Evidence of the contracts or other arrangements petitioner has made to ensure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption period;

(6) All data necessary to compute the cost calculation formula contained in § 504.12;

(7) Compliance plan as required under § 504.17; and

(8) Conservation measures as required under § 504.18;

(c) *Certification alternative for installations.* If the MFBI for which this exemption is required will be operated less than 600 hours on an annual basis, the petitioner may substitute the following information in lieu of the requirements in paragraph (b) of this section:

(1) A duly executed certification that the unit will be operated less than 600 hours annually during the period of the exemption; and

(2) Compliance plan as required under § 504.17.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed 10 years.

§ 504.32 Site limitations.

(a) *Eligibility.* Section 311(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for this exemption, a petitioner must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of the existing facility using an alternate fuel as a primary energy source exist which, despite diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible because of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate land or facilities for the control or disposal of wastes from the unit, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements, would be unavailable;

(5) Adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements, would be unavailable; or

(6) Other site limitations which would not permit the location or operation of the existing facility using an alternate fuel at the site.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical one, rather than a limitation imposed by a requirement of Federal, State, or local law, which could be the basis of a permanent exemption under § 504.54 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitation were considered, with a detailed description of the efforts made to ovecome the site limitation;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed; and

(4) Evidence of contracts or other arrangements which have been made to ensure that the site limitation will be overcome and that the petitioner will comply with the applicable prohibitions at the end of the proposed exemption period.

Note.—For the purposes of paragraph (b), examples of the type of evidence which may be submitted to establish a site limitation include:

(i) Detailed documentation of impediments (including rights-of-way problems) such as site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the existing facility and a demonstration why existing transportation facilities cannot be utilized or new facilities cannot be constructed;

(iii) Description of general efforts made, including copies of bid requests and advertisements, to secure:

(A) Alternative transportation facilities;

(B) Alternative fuel storage facilities;

(C) Waste control and disposal equipment.

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the facility;

(v) Detailed scale site plans of the entire facility, including those areas not directly involved with the specific unit;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Documentation of price offerings from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(viii) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(ix) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the facility;

(x) A description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling equipment involved in their use.

(5) Compliance plan as required under § 504.17; and

(6) Conservation measures as required under § 504.18.

(c) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed 5 years.

§ 504.33 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 311(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify for this exemption, a petitioner must demonstrate that despite diligent good faith efforts:

(1) It is unable to comply with the applicable prohibitions without violating applicable Federal or State Environmental requirements; and

(2) It will comply with the applicable prohibitions and with applicable environmental requirements by the end of the temporary exemption period.

Note.—(i) For purposes of considering an exemption under this section, ERA's decision will be based solely on an analysis of the petitioner's ability to physically comply with applicable environmental requirements. The petitioner should focus on those conditions or circumstances which make compliance during the temporary exemption period physically impossible. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 504.31 (lack of alternate fuel supply).

(ii) Prior to submitting an exemption petition, it is recommended that the petitioner request a meeting with ERA and EPA or the appropriate State or local regulatory agency to discuss options for operating the facility using an alternate fuel in compliance with applicable environmental requirements.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) An examination of the environmental compliance at the facility, including an analysis of the petitioner's ability to comply with applicable standards and criteria when the facility uses both the proposed fuel and all alternate fuels which would provide the basis for the exemption. All such analyses must be based on accepted analytical techniques, such as air quality modeling, and must reflect the current conditions of the area which would be affected by the facility. The petitioner is responsible for obtaining the necessary data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain: (i) requests for bids and other inquiries made and responses received by the petitioner concerning the availability and performance of pollution control equipment; (ii) contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or (iii) other comparable evidence such as technical studies documenting the effectiveness of equipment available to meet applicable requirements;

(2) An examination of the regulatory options available to the petitioner in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document any efforts to locate, identify, and acquire offsets, including agreements made with the state or other companies for acquisition of offsets. If an agreement to acquire offsets is conditioned upon the grant of a variance, or upon State Implementation Plan revision, a letter from the appropriate state agency indicating when a proceeding, if any, to effectuate the agreement will take place must be submitted to ERA. The analysis must contain any correspondence initiated or received by the petitioner concerning these regulatory options and all technical studies relied upon;

(3) Any other documentation which demonstrates an inability to comply with applicable environmental requirements;

(4) Compliance plan as required under § 504.17; and

(5) Conservation measures as required under § 504.18.

(c) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed 5 years.

§ 504.34 Future use of synthetic fuels.

(a) *Eligibility.* Section 311(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify for this exemption, a petitioner must certify that:

(1) It will comply with the applicable prohibitions at the end of the proposed exemption period by the use of a synthetic fuel derived from an alternate fuel as a primary energy source in the unit; and

(2) It is unable to comply with the applicable prohibitions by the use of a synthetic fuel derived from an alternate fuel until the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* The following evidence must be included in the petition in order to make the demonstration required by this section:

(1) A duly executed certification that the petitioner is not able to comply with the applicable prohibitions by use of a synthetic fuel derived from an alternate fuel until the end of the proposed exemption period but will comply by the use of such fuel as a primary energy source in the unit by the end of the proposed exemption period;

(2) A description of the synthetic fuel which the petitioner proposes to use; and

(3) A preliminary compliance plan, including to the extent available the information required under § 504.17.

(c) *Final compliance plan.* Before this exemption may become effective, the petitioner must submit and ERA must approve a final compliance plan as required by § 504.17.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years, and taking into account any extentions and renewals, may not exceed 10 years.

§ 504.35 Cogeneration.

* * * * *

§ 504.36 Use of innovative technologies.

(a) *Eligibility.* Section 311(c) of the Act provides for a temporary exemption based upon the use of innovative technologies. To qualify for this exemption, a petitioner must certify that he will comply with the applicable prohibitions at the end of the proposed exemption period by adoption of a technology for the use of an alternate fuel which ERA determines to be an innovative technology.

Note.—ERA recommends that, before submitting a petition for this exemption, the petitioner request a pre-petition conference with ERA to discuss the requirements for this exemption.

(b) *Evidence required in support of the petition.* The following evidence must be included in the petition in order to make the demonstration required by this section:

(1) A duly executed certification that the petitioner will comply with the applicable prohibitions at the end of the proposed exemption period by the adoption of an innovative technology for the use of an alternate fuel as a primary energy source in the unit;

(2) A complete description of the innovative technology petitioner proposes to use, including explanation of its innovative characteristics, detailed design and engineering specifications, an a description of the fuel characteristics of the alternate fuels which can be used with the innovative technology; and

(3) A preliminary compliance plan, including to the extent possible the information required under § 504.17.

(c) *Final compliance plan.* Before this exemption may become effective, the petitioner must submit and ERA must approve a final compliance plan as required by § 504.17.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years, and taking into account any extensions and renewals, may not exceed 10 years.

§ 504.37 Public interest.

(a) *Policy note.* (1) Generally, the use of alternate fuels in lieu of petroleum and natural gas is in the public interest. Under certain circumstances, however, other considerations may be relevant to a determination of the public interest, and to accommodate these considerations, ERA will grant this temporary exemption where the petitioner is unable to comply immediately with the prohibitions of the Act, where the public interest would be better served by the granting of the petition, and where the petitioner will be in compliance with the applicable prohibitions at the end of the exemption period.

(2) One of the cases where ERA intends to grant this exemption is where the petitioner needs the temporary use of a natural gas or petroleum fired unit until the on-going construction of an alternate fuel fired unit or the modification of an existing unit is completed. However, in determining the appropriate basis on which to grant such an exemption, ERA may consider the petitioner's ability to use a mixture in the unit.

(b) *Eligibility.* Section 311(e) of the Act provides for a temporary public interest exemption. To qualify for this

exemption, a petitioner must demonstrate that:

(1) It will comply with the applicable prohibitions at the end of the proposed exemption period; and

(2) The granting of the exemption will be in accord with the purposes of the Act and will be in the public interest.

(c) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above;

(2) Compliance plan as required under § 504.17; and

(3) Conservation measures as required under § 504.18.

(d) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed 5 years.

§ 504.39 Retirement

(a) *Eligibility.* Section 311(d) of the Act provides for a temporary exemption for units to be retired. To qualify for this exemption, a petitioner must certify that the unit will be retired at the end of the proposed exemption period.

(b) *Evidence required in support of the petition.* The following evidence must be included in the petition in order to make the demonstration required by this section:

(1) A duly executed certification that the unit will permanently cease operation at the expiration of the exemption period; and

(2) Compliance plan as required under § 504.17.

(c) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed 5 years and, in the case of a powerplant permitted to use natural gas, may not extend beyond December 31, 1994.

(d) *Restriction.* In the event that this temporary exemption is granted, the exempt unit will not be eligible to receive any other exemption under Title III, Subtitle B of the Act.

§ 504.38 Temporary exemption for powerplants where necessary to maintain reliability of service.

(a) *Eligibility.* Section 311(g) of the Act provides for a temporary exemption for powerplants where necessary to maintain reliability of service. To qualify for this exemption, a petitioner must demonstrate that it is not capable of complying with the applicable prohibitions without an impairment of reliability of service as defined in paragraph (b) of this section.

(b) *Impairment of reliability of service*

(1) For purposes of subsection (a) above, power system reliability will be considered impaired if the projected annual peakload reserve margin during the first 12-month period beginning on the first day of the month following the effective date of the exemption will be 15 percent or less in the absence of the existing facility after considering all available resources including contracts for firm purchases and sales. The reserve margin must be calculated on the basis of the electric region or an appropriate electric control area.

(2) A utility system which has at least 20 percent dependence on hydroelectric sources for its firm power will qualify for a temporary reliability exemption if the projected annual peakload reserve margin of the electric region or appropriate electric control area is 20 percent or less in the absence of the existing facility, assuming average water conditions, during the first 12-month period beginning the first day of the month following the effective date of the exemption.

(3) The petitioner may choose to argue that the case for impaired reliability is supportable by criteria other than in (1) and (2) above. If so, ERA recommends that such an argument be presented in a pre-petition conference for ERA concurrence.

Note.—As a basis for justifying the use of an alternate criterion, ERA will generally require a ten-year reliability analysis document that discusses the following:

(i) Projected loads;

(ii) Expected resources;

(iii) Power transfer capability from neighboring utilities;

(iv) Expected fuel requirements;

(v) Existing and planned contracts for purchases and sales;

(vi) Forced outage and partial operation limitations on an average basis; and

(vii) Local area security concerns.

(c) *Evidence required in support of petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) All data and sources of information used in determining the reserve margins;

(2) A description of the method and assumptions used for projecting capacity and demand for the system and for the electric region or electric control area;

(3) The strategy planned for ending the period of reliability impairment, including a description of the measures expected to be taken to reduce demand and/or to increase supply of power from sources other than the plant for which the exemption is being requested that are either alternate fuel-fired or qualify for other exemptions;

(4) A calculation of the expected date of termination of the period of impairment. Several alternate termination dates may be specified, each corresponding to a different combination of major events that are beyond the control of the petitioner (such as delays in construction of a new plant by a different utility in his electric region);

(5) Compliance plan as required under § 504.17;

(6) Conservation measures as required under § 504.18; and

(7) Any additional evidence that the petitioner believes is relevant to its case.

(d) *Terms and conditions.* The exemption period will extend from the effective date of the exemption until the earliest date when the period of impairment is expected to end. ERA, at the time it grants this exemption, will specify the expected termination date of the exemption period. If circumstances beyond the control of the petitioner, which could not reasonably be anticipated at the time the petition is filed, cause a reliability impairment either at the end of this period or at any subsequent time, the petitioner may be permitted to continue or recommence operation. If continuation or recommencement of operation beyond the termination date is requested, appropriate reliability analyses must be submitted for ERA approval.

(e) *Foreclosure of other exemptions.* Notwithstanding any other provision of this rule or of the Act, an exemption under this Part (other than a permanent peakload powerplant exemption under § 504.58 for the use of petroleum) may not be granted for any powerplant for which an exemption under this section has been granted.

(f) *Duration.* This temporary exemption may be granted for a period of up to 5 years, and taking into account extentions or renewals, may not exceed 10 years and, if natural gas use is permitted, may not extend beyond December 31, 1994.

§ 504.40 Temporary peakload powerplants.

(a) *Eligibility.* Section 311(f) of the Act provides a temporary exemption for existing peakload powerplants which use natural gas or petroleum as a primary energy source. To qualify for this exemption, a petitioner must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the period of the exemption.

(b) *Evidence required in support of a petition.* The following evidence must be included in the petition in order to make the demonstration required by this section:

(1) A duly executed certification by the petitioner that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the period of the exemption. The certification must set forth both the design capacity of the powerplant and its maximum allowable generation in kilowatt hours for each 12-month period of operation as a peakload powerplant. The first such period shall begin on the first day of the month following the effective date of the exemption; and

(2) Compliance plan as required under § 504.17.

(c) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless it is demonstrated that the powerplant meets the criteria set forth in Section 721(c) of the Act.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed 5 years and, if use of natural gas is permitted, may not extend beyond December 31, 1994.

(e) *Reporting requirement.* If the petition is granted, petitioner must, at the end of each 12-month period of the proposed exemption, report to ERA. The first such period shall begin on the first day of the month following the effective date of the exemption. If applicable, upon reaching the maximum number of kilowatt hours of permitted generation within the 12-month period, petitioner must report the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

Subpart E—Permanent Exemptions for Existing Facilities

§ 504.50 Purpose and scope.

(a) This subpart implements the provisions contained in Section 312 of the Act with regard to permanent exemptions for existing facilities.

(b) This subpart establishes the criteria and standards which owners or operators of existing facilities who petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for permanent exemptions for existing facilities shall be submitted in accordance with the procedures set out in Part 501 and the applicable requirements of Part 504 of these regulations.

§ 504.51 Lack of alternate fuel supply.

(a) *Eligibility.* Section 312(a)(1)(A) of the Act provides for permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported oil. To qualify for this exemption, a petitioner must demonstrate to the satisfaction of ERA that:

(1) The petitioner has made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform to design and operational requirements of the existing facility; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source, as defined in § 504.12 (Cost Calculation) of these regulations during the remaining useful life of the existing facility.

(b) *Evidence required in support of the petition.* The following evidence must be submitted by petitioner in order to make the demonstration required by this section:

(1) A description of the detailed design requirements specified for the existing facility, including capacity, alternate fuels capability, and all other pertinent specifications;

(2) A description of the range of specific fuel characteristics of all the fuels which can be used by the existing facility;

(3) Evidence that petitioner has sought the full range of alternate fuels which could be used by the existing facility, including bid requests, advertisements for supply contracts, all responses received, and other arrangements attempted to secure supplies;

(4) All data necessary to compute the cost calculation formula contained in § 504.12;

(5) A description of the analysis of the alternate fuels the petitioner considered;

(6) Conservation measures, as required under § 504.18;

(7) Petroleum and natural gas consumption, as required under § 504.19;

(8) Use of mixtures, as required under § 504.15;

(9) Use of fluidized bed combustion not feasible, as required under § 504.16; and

(10) Fuels search, as required under § 504.21.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 600 hours on an annual basis, the petitioner may submit the following information in lieu of the requirements of paragraph (b) of this section. A duly executed certification that:

(1) The unit will be operated less than 600 hours annually; and

(2) Use of a mixture of petroleum or natural gas and an alternate fuel for which an exemption would be available is not economically or technically feasible.

(d) *Terms and conditions.* (1) Standard terms and conditions. By petitioning for an exemption under subsection (c) of this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(i) The unit will be operated less than 600 hours annually;

(ii) All steam pipes will be insulated and all steam traps properly maintained;

(iii) The quality of any petroleum to be burned in the unit will be the lowest grade available, technically feasible, and capable of being burned consistent with applicable environmental requirements; and

(iv) Petitioner shall report annually the hours of use and the fuel consumption in the previous calendar year for the unit.

§ 504.52 Site limitations.

(a) *Eligibility.* Section 312(a)(1)(B) of the Act provides for a permanent exemption due to site limitations. To qualify for this exemption, a petitioner must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of the existing facility using an alternate fuel as a primary energy source, exists which, despite good faith efforts, cannot reasonably be expected to be overcome within five years after the date the exemption is expected to take effect:

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(5) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(6) Other site limitations which would not permit the location or operation of

V 4 5 A G 1 2 8 0 UMI

the existing facility using an alternate fuel at the site.

(b) *Evidence required in support of the petition.* A petitioner must include in the petition the following in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State or local law which could be the basis of an exemption under § 504.54 (state or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed;

Note.—For the purposes of subsection (b), examples of kinds of evidence which may be submitted to establish a site limitation include:

(i) Detailed documentation of impediments (including rights-of-way problems) such as site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the existing facility and demonstration why existing transportation facilities cannot be utilized or new transportation facilities constructed;

(iii) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the unit;

(iv) A description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use;

(v) General efforts made, and copies of bid requests and advertisements to secure:

(A) Waste control and disposal equipment;

(B) Alternative fuel storage facilities; and

(C) Alternative transportation facilities.

(vi) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the facility;

(vii) Detailed scale site plans of the entire facility which include those areas not directly involved with a specific facility;

(viii) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(ix) Documentation of price offerings from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment; or

(x) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste.

(4) Use of mixtures as required under § 504.15;

(5) Use of fluidized bed combustion not feasible as required under § 504.16;

(6) Conservation measures as required under § 504.18;

(7) Petroleum and natural gas consumption as required under § 504.19; and

(8) Fuels search as required under § 504.21.

§ 504.53 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 312(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with applicable environmental requirements. To qualify for this exemption, a petitioner must demonstrate that despite deligent good faith efforts it will be unable, within 5 years of the date the exemption is requested to take effect, to comply with the applicable prohibitions without violating applicable Federal or state environmental requirements.

Note.—(1) For purposes of considering an exemption under this section, ERA's decision will be based solely on an analysis of the petitioner's capacity to physically achieve applicable environmental requirements. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 504.51 (Lack of alternate fuel supply).

(2) Prior to deciding to submit an exemption petition under this section, it is recommended that the petitioner request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating the facility utilizing an alternate fuel in compliance with the applicable environmental requirements.

(b) *Evidence required in support of a petition.* The petitioner must include in the petition the following evidence in order to make the demonstration required by this section:

(1) An examination of the environmental compliance of the facility, including an analysis of its ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels which would provide the basis for the exemption. All such analysis must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. The petitioner is responsible for performing necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain: (i) requests for bids and other inquiries made and responses received by the petitioner concerning the availability and performance of pollution control equipment; or (ii) other comparable evidence such as technical studies documenting efficiency of equipment to meet applicable requirements;

(2) An examination of the regulatory options available to the petitioner in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and SIP revisions, as appropriate. The analysis must illustrate and document any efforts to locate and identify available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by the petitioner concerning these regulatory options and all technical studies relied upon;

(3) Any other documentation which demonstrates an inability to comply with applicable environmental requirements;

(4) Use of mixtures as required under § 504.15;

(5) Use of fluidized bed combustion not feasible as required under § 504.16;

(6) Conservation measures as required under § 504.18;

(7) Petroleum and natural gas consumption as required under § 504.19; and

(8) Fuels search as required under § 504.21.

§ 504.54 State or local requirements.

(a) *Eligibility.* Section 312(b) of the Act provides for a permanent exemption due to certain state or local requirements. To qualify a petitioner must demonstrate that:

(1) With respect to the site of the existing facility, the operation of such facility using an alternate fuel is not feasible because of a state or local requirement;

(2) If such state or local requirement is under a building code or nuisance or zoning law, no other exemption could be granted for such facility;

(3) The petitioner has in good faith attempted unsuccessfully to obtain a variance from the state or local requirement or has demonstrated why none is available; and

(4) The granting of the exemption would be in the public interest and would be consistent with the purposes of the Act.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A copy of the pertinent state or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of the petitioner's attempts to obtain a variance from the

requirements or an explanation of why none is available;

(4) A description and dates of any activities the petitioner was involved in pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the state or local requirement is not feasible;

(7) The impact upon the petitioner and/or the local community, if any, should the petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest;

(9) An analysis of why the petitioner cannot qualify for any other exemption, if the state or local requirement is under a building code or nuisance or zoning law;

(10) For powerplants, no alternative power supply as required under § 504.13;

(11) Conservation measures as required under § 504.18;

(12) Petroleum and natural gas consumption as required under § 504.19;

(13) Environmental impact analysis as required under § 504.20; and

(14) Fuels search as required under § 504.21.

§ 504.55 Cogeneration. [Reserved]

§ 504.56 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 312(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify for this exemption, a petitioner must demonstrate that:

(1) The petitioner proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed to be used in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources needed to maintain operational reliability of the unit consistent with maintaining a reasonable level of fuel efficiency.

(b) *Minimum percentage.* In the case of MFBIs, if the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources used by an installation.

(c) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and the percentage and quantity of each component to be utilized;

(2) The design specifications of the unit for which the exemption is requested;

(3) An engineering assessment of the minimum percentages of petroleum or natural gas needed to maintain operational reliability consistent with a reasonable level of fuel efficiency;

(4) Use of fluidized bed combustion not feasible as required under § 504.16;

(5) Information regarding conservation measures as required under § 504.18; and

(6) Data on petroleum and natural gas used as required under § 504.19.

(d) *Certification alternative for use of mixture containing less than 25 percent petroleum or natural gas by an installation.* If an installation will use a mixture containing less than 25 percent petroleum or natural gas, the petitioner may, in lieu of the requirements of subsection (c) above, substitute the following information:

(1) A duly executed certification stating that the amount of petroleum or natural gas proposed to be used in the mixture will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the installation; and

(2) A description of the fuel mixture, component elements, and percentage and quantity of each component to be utilized.

(e) *Terms and conditions.* By petitioning for an exemption pursuant to subsection (d), the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(1) The amount of petroleum or natural gas to be used in the mixture will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the installation;

(2) All steam pipes will be insulated and all steam traps properly maintained; and

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(f) *Solar mixtures.* ERA will grant a permanent mixtures exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where:

(1) Solar energy will account for at least 20 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(2) The petitioner proposes an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraphs (c) (1) and (2) of this section; and

(ii) Contains a compliance plan prepared in accordance with § 504.17 of these regulations.

(g) *Reporting requirement.* If an exemption is granted, the petitioner must submit a duly executed annual report to ERA certifying that the affected unit has used no more than the percentage of oil or natural gas specified in the exemption order.

§ 504.57 Emergency purposes.

(a) *Eligibility.* Section 312(e) of the Act provides for a permanent exemption for emergency purposes. To qualify for this exemption, a petitioner must demonstrate he will operate and maintain the existing facility for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption, an emergency exists when:

(1) Operation of an oil or gas fired installation or the non-electric generating operation of a cogenerating facility is necessary for:

(i) Plant protection;

(ii) The preservation of human health; or

(iii) Continued facility production which otherwise would be reduced due to an interruption of alternate fuel supplies, equipment failures, or temporary environmental restrictions; or

(2) For a powerplant, an operating electric utility would be required to curtail noninterruptible electric supply to its industrial customers.

(c) *Evidence required in support of a petition.* A petition submitted under this section shall include the following certifications executed by a duly authorized officer of the company:

(1) Operation under the provisions of this exemption will occur only in accordance with the definition of emergency in accordance with subsection (b) of this section; and

(2) Use of a mixture, for which an exemption would be available is not technically or economically feasible in the unit.

(d) *Reporting requirements.* At the end of each 12-month period from the effective date of the exemption, the petitioner must report to ERA the number of days of use and the amount of fuel used under this exemption by month. The petitioner must also describe the emergency conditions that required the operation of the unit.

V 45 AG 12 80 UMI

Terms and conditions. By petitioning for an exemption under this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(1) Operation of the facility will occur only when there is an emergency as defined in this section;

(2) All steam pipes must be insulated and all steam traps properly maintained; and

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

§ 504.58 Permanent peakload powerplants.

(a) *Eligibility.* (1) Section 312(f) of the Act provides for a permanent exemption for peakload powerplants if a petitioner proposes to use petroleum or natural gas as a primary energy source in a peakload powerplant. To qualify for this exemption, a petitioner must certify to ERA that:

(i) The powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the remaining life of the powerplant;

(ii) A denial of the petition is likely to result in an impairment of reliability of service as measured by the reserve margin test described in paragraphs (a)(2) and (3), or pursuant to paragraph (a)(3) of this section; and

(iii) Modification of the powerplant to permit compliance with applicable prohibitions—

(A) Is technically infeasible; or

(B) Would result in an unreasonable expense.

(2) The petitioner should calculate reliability of service utilizing the reserve margin test. Under this test, the petitioner must demonstrate that the projected annual peakload reserve margin, calculated on the basis of the electric region or an appropriate electric control area, during the first 12-month period beginning on the first day of the month following the effective date of the exemption sought, will be 15 percent or less in the absence of the existing facility after considering all available resources including contracts for firm purchases and sales.

(3) If the petitioner is dependent on hydroelectric sources for more than 20 percent of its firm power, it must demonstrate that, under average water conditions, the projected annual peakload reserve margin in its electric region or appropriate electric control area is 20 percent or less in the absence of the existing facility during the first 12-month period beginning on the first day of the month following the effective date of the exemption sought.

(4) The petitioner may choose to argue that the case of impaired reliability is supported by evidence other than that described in paragraph (a)(2) or (a)(3) of this section. If so, ERA recommends that the petitioner present this argument and the justification therefor, in a prepetition conference for ERA concurrence.

(5) ERA will consider compliance with the applicable prohibitions to be technically infeasible if the facility is not "technically capable" of burning an alternate fuel, and if the facility does not have or has not previously had the technical capability to use an alternate fuel pursuant to § 504.6 of these regulations. Where the facility is technically capable of burning an alternate fuel, ERA will consider, on a case-by-case basis, appropriate evidence that it is technically infeasible to modify the facility to comply with applicable prohibitions.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A certification by a duly authorized officer of the electric utility which will operate the powerplant stating that the unit is to be operated solely as a peakload powerplant and to meet peakload demand for its remaining life;

Note.—The certification must (i) specifically set forth the design capacity of the unit and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload powerplant in § 500.2 of these regulations for each 12 months of operation as a peakload powerplant; and (ii) specifically state that the powerplant is to be operated solely to meet peakload demand for its remaining life.

(2) The estimated peak demand for the system and the coincident peak demand for the electric region for the appropriate year of operation of the existing plant;

(3) The corresponding capacity projections, as well as any existing commitments by the system to purchase or sell power during that year;

(4) A description of the method and assumptions used by the petitioner for projecting the demand for its system and for its electric region;

(5) Petitioner's explanation why modification of the powerplant to permit compliance with applicable prohibitions is technically infeasible;

(6) Petitioner's explanation why modification of the powerplant to permit compliance with applicable prohibitions would result in unreasonable expense;

(7) Any other evidence that the petitioner believes is relevant to its case, such as:

(i) Evidence that the reliability advantages of coordination on an electrical region basis cannot be achieved to an extent sufficient to remove the "impairment of reliability," the reasons for this deficiency, and an estimate of when such coordination could be implemented in the petitioner's region; or

(ii) Evidence that the petitioner's system has a unique situation that requires the use of different reliability criteria.

(8) An explanation, including all data relied upon, of how the petitioner has calculated impaired reliability;

(9) Conservation measures as required by § 504.18; and

(10) Petroleum and natual gas consumption as required by § 504.19.

(c) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act, unless the powerplant meets the criteria set forth in section 721(c) of the Act.

(d) *Reporting requirement.* If the petition is granted, petitioner must report to ERA, at the end of each 12-month period from the effective date of the exemption and, if applicable, upon reaching the maximum number of kilowatt hours of permitted generation within each 12-month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

§ 504.59 Intermediate load powerplants.

(a) *Eligibility.* Section 312(g) of the Act provides for an exemption for use of petroleum as a primary energy source by intermediate load powerplants. To qualify for this exemption, a petitioner must demonstrate to the satisfaction of ERA that:

(1) The Administrator of the EPA or the Director of the appropriate State air pollution control agency has certified that the use of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded as described in subsection (c) of this section;

(2) The Powerplant as operated will replace no more than the equivalent

generating capacity of existing units which:

(i) Permanently cease operation within one month of ERA's granting the intermediate load powerplant this exemption, as requested;

(ii) Use natural gas or petroleum as a primary energy source;

(iii) Are owned by the same person who is to operate the existing powerplant; and

(iv) Would, if they used coal as a primary energy source, cause or contribute to a pollutant concentration as described in paragraph (a)(1) of this section;

(3) The powerplant is and shall continue to be operated solely as an intermediate load powerplant in which the electrical generation (in kilowatt hours) for any 12-calendar-month period, shall not exceed the powerplant's design capacity multiplied by 3,500 hours;

(4) The net fuel heat input rate for the powerplant will be maintained at or less than 9,500 BTU's per kilowatt hour throughout the remaining useful life of the powerplant; and

(5) The powerplant has the capability to use synthetic fuels derived from an alternate fuel as a primary energy source.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the determination required by this section:

(1) An air quality certification for the unit, prepared by the administrator of EPA or by the appropriate State air pollution control agency, meeting the requirements of paragraph (a)(1) of this section, including a listing of all alternate fuels covered by the certification;

(2) A description of the existing powerplants to be replaced by the powerplant for which the intermediate load exemption is requested, which shall include:

(i) The name and location of each of these existing powerplants;

(ii) The volume of fuel consumed by type for the previous two years by these existing powerplants;

(iii) The corporate ownership of these existing powerplants; and

(iv) The reasons supporting the petitioner's claim that the existing powerplants would cause or contribute to a pollutant concentration as described in subsection (a)(1) of this section if they used coal as a primary energy source.

(3) An affidavit executed by a duly authorized officer of the electric utility which operates the powerplant for which the exemption is requested, certifying that the powerplant shall be operated at all times in the future solely as an intermediate load powerplant. The certification shall set forth the powerplant's design capacity and its maximum allowable generation in kilowatt hours for the first 12 months of operation from the date the petition for the exemption is filed;

(4) An affidavit executed by a duly authorized officer and a qualified engineer of the utility operating the powerplant certifying that the powerplant will be maintained (operated) at a net heat input rate of 9,500 BTU's per kilowatt hour or less throughout the useful life of the powerplant;

(5) An affidavit executed by a duly authorized officer and a qualified engineer of the operating utility certifying that the powerplant has the synthetic fuels capability requirement described in paragraph (a)(5) of this section, and agreeing to cease using petroleum or natural gas when ERA has found that such synthetic fuels are available;

(6) Identification of the synthetic fuel referred to in paragraph (b)(5) of this section, which the powerplant is designed to use, with appropriate documentation including:

(i) The expected source of synthetic fuel, if known;

(ii) The year the synthetic fuel is expected to be available in adequate quantities and at an acceptable price;

(iii) Estimates of the future prices of the synthetic fuel the plant is designed to use;

(iv) A description of the operating utility's role, if any, in developing the facilities to produce the synthetic fuel; and

(v) A statement of the operating utility's basis for believing that this synthetic fuel can be burned in the existing powerplant in compliance with applicable Federal and state environmental standards;

(7) No alternative power supply as required under § 504.13;

(8) Use of mixtures as required under § 504.15;

(9) Use of fluidized bed combustion not feasible as required by § 504.16;

(10) Conservation measures as required by § 504.18;

(11) Petroleum and natural gas consumption as required under § 504.19;

(12) Environmental impact analysis as required under § 504.20; and

(13) Fuels search as required under § 504.21.

(c) *Terms and conditions.* ERA, if it grants this exemption, will set as a condition the amount of oil to be used by the existing powerplant. In general, ERA will also require that as a condition to the granting of this exemption, the petitioner must reduce its oil use or reduce the rate of oil increase by its system. ERA expects that reduced oil use would be achieved by the petitioner's ceasing operation of the existing units identified in paragraph (a)(2) above and by employing the more efficient exempted unit in their place.

(d) *Reporting requirement.* If the petition is granted, the petitioner must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location and design capacity of the exempted unit, and the number of kilowatt hours of actual operation. The petitioner must also report at the same time the amount of petroleum used by the unit and the total amount of petroleum used by all units in the petitioner's system.

(e) *Periodic review.* ERA shall, from time to time, review this exemption and shall terminate it when it finds that there is available a supply of synthetic fuel suitable for use by the exempt powerplant.

§ 504.60 Use of natural gas by powerplant with capacity of less than 250 million Btu's per hour.

(a) *Eligibility.* Section 312(h) of the Act provides for a permanent exemption for the use of natural gas by powerplants with a capacity of 250 million Btu's per hour or less. To qualify for this exemption a petitioner must certify that:

(1) The unit has a design capability of consuming any fuel or fuel mixture at a fuel heat input rate of less than 250 million Btu's per hour;

(2) The unit was a baseload powerplant on April 20, 1977;

(3) The unit is not capable of burning solid coal, and no suitable coal derivative is available; and

(4) Use of a mixture of alternate fuel and natural gas or petroleum for which an exemption would be available is not technically or economically feasible in the unit.

(b) *Terms and conditions.* By petitioning for an exemption under this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(1) All steam pipes must be insulated and all steam traps properly maintained;

(2) This exemption may only apply to prohibitions under section 301 of FUA and prohibitions established by final rules or orders issued before January 1, 1990.

§ 504.61 Use of liquefied natural gas.

(a) *Eligibility.* Section 312(i) of the Act provides for a permanent exemption for the use of liquefied natural gas (LNG). To qualify for this exemption a petitioner must demonstrate to the satisfaction of ERA that:

(1) The Administrator of the EPA or the appropriate State air pollution control agency has certified that the use of coal, including any available coal-derived fuel, as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded (air quality certification);

(2) The Administrator of the EPA or the appropriate State air pollution control agency has certified that petitioner will be unable to use coal, including any available coal-derived fuel, as a primary energy source without violating applicable environmental requirements (environmental certification); and

(3) The LNG to be used at petitioner's powerplant will be produced outside the contiguous United States.

(b) *Evidence required in support of the petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) Copies of petitioner's applications for an air quality certification and an environmental certification filed with the EPA or State air pollution control agency which request certification for coal and all available coal-derived fuels, and copies of all supporting documentation filed with or subsequent to the applications; and

(2) The name of the country or state that will be the source of the LNG, the name of the company that owns the LNG terminal through which the LNG will be imported, the name and location of such terminal, and the name of the company that will be supplying the LNG;

(3) Conservation measures as required by § 504.18; and

(4) Petroleum and natural gas consumption as required by § 504.19.

(c) *Air quality certification.* A petition is not complete unless the following have been submitted to ERA:

(1) A certification of the EPA or the appropriate State air pollution control agency that the use by the powerplant of coal or any available coal-derived fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded and that the use of coal or any available coal-derived fuel would not comply with applicable environmental requirements; and

(2) A statement indicating which fuels were presented for consideration to the agency which certified with regard to the Clean Air Act, and, to the extent known by the petitioner, why they were rejected as a method of compliance.

(d) *Reporting requirement.* If the petition is granted, petitioner must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location and design capacity of the exempt unit, the number of hours of operation permitted by the exemption, the number of hours of actual operation, and efforts taken to seek and obtain a synthetic fuel for use in the powerplant.

(e) *Enforcement.* Violations of the provisions of this exemption will subject petitioners to the maximum penalties provided for by Part 501, Subpart L, of these regulations.

§ 504.62 Scheduled equipment outages.

(a) *Eligibility.* Section 312(l) of the Act provides for a permanent exemption for major fuel burning installations to meet scheduled equipment outages. To qualify for this exemption a petitioner must demonstrate that:

(1) The petitioner's routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) If scheduled outages and, thereby, projected use of the unit would exceed an average of 28 days per year over a three-year period, the petitioner cannot meet its requirements by burning an alternate fuel; and

(3) The unit will be used only during those periods when other units are not in operation for reason of scheduled outage.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, a petition must include the following information in order to make the demonstration required by this section:

(1) An explanation of why petitioner's routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) A schedule of operation for the unit estimating the number of hours per year used and fuel consumed on an annual basis;

(3) A description of the maintenance schedule for all units located at the facility, specifically identifying those units at the facility which will be out of service for scheduled maintenance at times when the unit for which the exemption is requested is operating;

(4) Use of mixtures as required under § 504.15;

(5) Use of fluidized bed combustion not feasible as required under § 504.16;

(6) Environmental impact analysis as required under § 504.20; and

(7) If scheduled outages and thereby projected use of the unit will exceed 28 days per year over a three-year period:

(i) Conservation measures as required under § 504.18;

(ii) Petroleum and natural gas consumption as required under § 504.19; and

(iii) Fuels search as required under § 504.21.

(c) *Certification alternative for unit use 28 days per year or less.* If use of the unit is not to exceed an average of 28 days per year over a three-year period, the petitioner may, in lieu of the requirement of subsection (b) of this section, provide:

(1) A certificate indicating:

(i) That the routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at a site unless ERA grants this exemption;

(ii) That the use of the unit will not exceed an average of 28 days per year over a three-year period; and

(iii) That the unit will be used only during those periods when other units are not in operation for reason of scheduled outage in accordance with a schedule of operation submitted simultaneously which contains an estimate of the annual number of days used and fuel consumed;

(2) A certificate indicating that use of a mixture of petroleum or natural gas and an alternate fuel for which an exemption would be available is not economically and technically feasible; and

(3) A certificate as required under § 504.20(b).

(d) *Terms and conditions.* By petitioning for an exemption under subsection (c) of this section, the petitioner agrees, upon grant of the exemption, to the following terms and conditions:

(1) The MFBI will only be operated for use necessary to meet scheduled equipment outages;

(2) Use of the MFBI will not exceed an average of 28 days per year over a three-year period;

(3) All steam pipes must be insulated and all steam traps properly maintained;

(4) The quality of any petroleum to be burned in the installation as a primary energy source will be of the lowest grade available which is technically feasible, and capable of being burned consistent with applicable environmental requirements; and

(5) Petitioner will comply with any terms and conditions which may be imposed pursuant to environmental requirements of § 504.20(b) of these regulations.

(e) *Reporting requirement.* ERA will rely upon the schedule of operation submitted with the petition as the permanent schedule for exempt use. The petitioner must notify ERA in advance of any proposed changes to this schedule.

(f) *Emergency use.* A petition for an emergency exemption may be submitted in addition to a petition for a scheduled equipment outage. Eligibility and evidentiary requirements of each exemption must be satisfied. If granted, separate reporting requirements will be required for each exemption.

§ 504.63 Installations served by certain international pipelines.

(a) *Eligibility.* Section 312(j) of the Act provides for a permanent exemption for the use of natural gas by major fuel burning installations served by certain international pipelines. To qualify for this exemption a petitioner must demonstrate to the satisfaction of ERA that:

(1) Petitioner's primary source of natural gas is under a contract with a pipeline between the United States and Canada;

(2) The contract was signed before April 21, 1977;

(3) The natural gas would revert to Canada if petitioner is not granted an exemption;

(4) The pipeline serves high priority users as defined in subsection (b) below;

(5) Petitioner would suffer substantial financial penalty if the contract were cancelled and there is no available relief from the penalty; and

(6) The revenues from the transportation and sale of natural gas under petitioner's contract are essential to the economic vitality of the pipeline.

(b) For purposes of this section the term "high priority user" means any residential user of natural gas or any commercial user whose consumption of natural gas on a peak day is less than 50 MCF.

(c) *Evidence required in support of the petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A copy of the contract between petitioner and the international pipeline with the applicable sections underlined;

(2) A certification from the natural gas supplier of the pipeline that the natural gas would revert to Canada upon cancellation of the contract;

(3) A certification by the pipeline that it serves high priority users and a description of those users;

(4) An explanation of the substantial financial penalty that would be incurred;

(5) An explanation of why *force majeure* would not apply to the contract cancellation;

(6) A description of petitioner's attempt to transfer its contract as described in Section 731 of the Act;

(7) A determination from the Federal Energy Regulatory Commission that the revenues from the transportation and sale of natural gas under petitioner's contract are essential to the economic vitality of the pipeline;

(8) Conservation measures, as required under § 504.18; and

(9) Petroleum and natural gas consumption, as required under § 504.19.

§ 504.64 Product or process requirements [Reserved].

Appendix I—Procedures for the Computation of the Real Cost of Capital

(a) The discount rate for use in determining if it is financially feasible to convert a facility from oil or gas to alternate fuel is the firm's real after-tax weighted average marginal cost of capital. This appendix outlines the procedure used to compute it.

(b) The firm's real after-tax weighted average marginal cost of capital (K) is computed with equation 1.

EQ 1

$$K = W_d \left[\frac{\hat{R}_d\,(1-t)}{1-f_d} - INF\right] + W_p \left[\frac{\hat{R}_p}{1-f_p} - INF\right] + W_e \left[\frac{\hat{R}_e}{1-f_e} - INF\right]$$

The terms in equation 1 are defined as follows:

W_d = Fraction of existing capital structure which is debt.

W_p = Fraction of existing capital structure which is preferred equity.

W_e = Fraction of existing capital structure which is common equity and retained earnings.

$\hat{R}_d$ = Predicted nominal cost of long term debt expressed as a fraction.

$\hat{R}_p$ = Predicted nominal cost of preferred stock expressed as a fraction.

$\hat{R}_e$ = Predicted nominal cost of common stock expressed as a fraction.

INF = Percentage change in the GNP implicit price deflator over the past 12 months expressed as a fraction.

f_d = Flotation cost of debt expressed as a fraction.

f_p = Flotation cost of preferrd stock expressed as a fraction.

f_e = Flotation cost of common stock expressed as a fraction.

t = Marginal federal income tax rate for the current year.

(c) *Information on parameters used in Equation 1.*

(1) The parameters will be obtained from the firm, accepted rating services [e.g., Standard & Poor's, Moody's], government publications, accepted financial publications, annual financial reports and statements of firms, and investment bankers.

(2) The predicted nominal cost of long term debt ($\hat{R}_d$) is estimated by determining the current average yield on newly issued bonds—industrial or utility as appropriate—which have the same rating as the firm's most recent debt issue.

(3) The predicted nominal cost of preferred stock ($\hat{R}_p$) is estimated by determining the current average yield on newly issued preferred stock—industrial or utility as appropriate—which has the same rating as the firm's most recent preferred stock issue.

(4) (A) The predicted nominal cost of common stock ($\hat{R}_e$) is computed with equation 2.

EQ 2 $\hat{R}_e = \hat{R}_f + B \times \hat{R}_m$

where:

$\hat{R}_f$ = The risk free interest rate—the average of the most recent auction rates of U.S. Government 13-week Treasury Bills,

B = The "beta" coefficient—the relationship between the excess return on common stock and the excess return on the S&P 500 composite index, and

$\hat{R}_m$ = The mean excess return on the S&P 500 composite index—the mean of the difference between the return on the S&P 500 composite index and the risk free

interest rate for the years 1926–1976 as computed by Ibbotson and Sinquefield [1]—9.2%

(B) The "beta" coefficient is computed with regression analysis techniques. The regression equation is Equation 3.

EQ 3 $(R_e^t - R_f^t) = A + B(R_m^t - R_f^t) + e^t$

where:

$$R_e^t = \frac{PRCC_t - PRCC_{t-1} + (DIVRATE/12)}{PRCC_{t-1}}$$

R_f^t = The risk free interest rate in month t—the average of the yields on 13-week treasury bills auctioned in month t.[2]

A = A constant which should not be significantly different than zero.

$$R_m^t = \frac{V_{sp,t} - V_{sp,t-1} + D_{sp,t}}{V_{sp,t-1}}, \text{ and}$$

e^t = The error in month t.

$PRCC_t$ = Closing market prices of the firm's common stock at the end of month t fully adjusted for splits and stock dividends.

$DIVRATE_t$ = The sum of the dividends paid in the fiscal year which contain month t.

$V_{sp,t}$ = The market value of "one share" of the S&P 500 composite index at the end of month t.

$D_{sp,t}$ = The estimated monthly income received from holding "one share" of the S&P 500 in month t.

The regression analysis is done with sixty months of data. The first month (t=1) is sixty months before the month in which the firm's current fiscal year started. The last month (t=60) is the last month of the past fiscal year.

(5) Where the parameters specified above are not obtainable, alternate parameters that closely correspond to those above may be used. This may include substituting a bond yield for nominal cost of preferred stock where the former is not available. Where the capital structure does not consist of any debt, preferred equity, or common equity, an alternate methodology to predict the firm's real after-tax marginal cost of capital may be used.

Examples of using alternate parameters that closely correspond to those above are:

(A) In the case of industrials, which do not typically issue preferred stock, the predicted nominal cost of preferred stock (R_e) can be estimated by determining the current average yield on newly issued industrial bonds which have the same rating as the firm's most recent debt issue.

(B) If necessary, the following assumptions can be made to determine the nominal cost of debt or preferred stock and their flotation costs.

(i) Where a company issued privately placed debt that was not rated, the rating applied to preferred stock could be used to determine the cost of debt and its flotation cost.

(ii) Where a company issued privately placed preferred stock that was not rated, the rating applied to debt could be used to determine the cost of preferred stock and its flotation costs.

(iii) In the case where all issues were privately placed, the current average yield on all newly issued debt or preferred could be used to determine the cost of debt or preferred respectively, and an average flotation cost, for debt or preferred, could be used.

Footnotes

[1] Ibbotson, R. E. and R. A. Sinquefield, *Stocks, Bonds, Bills, and Inflation,* Charlottesville, Va.: The Financial Analysts Research Foundation, 1977, cited by Ernst & Whinney, *Costs of Capital and Rates of Return for Industrial Firms and Class A&B Electric Utility Firms,* June 1979, p. 3–8.

[2] As an option, R_f^t can be developed with the following equation:

$$R_f^t = \frac{365D^t}{360 - ND^t} \times \frac{1}{12}$$

where:

D^t = The average annual yield on three month U.S. Treasury bills reported in the *Survey of Current Business* auctioned in month t—which is reported using the bank discount method.

N = Number of days to maturity.

[FR Doc. 80-24187 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-01-M

federal register

Tuesday
August 12, 1980

Part IV

Department of Energy

Office of Conservation and Solar Energy

Energy Conservation Program for Consumer Products; Test Procedures for Furnaces

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Final Rulemaking Regarding Amendments to Test Procedures for Furnaces

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby prescribes amendments to its test procedures for furnaces. The purpose of these amendments is to include test procedures for pulse combustion and condensing furnaces and to include certain technical revisions. These test procedures are part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. Among other program elements, the legislation requires that standard methods of testing be prescribed for covered products.

EFFECTIVE DATE: September 11, 1980.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room GH-065, Mail Stop 6B-025, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9127. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Room 1E-254, Mail Stop 6A-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, pursuant to Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-51). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163).[1] Section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing be prescribed for covered products. Test procedures appear at 10 CFR Part 430, Subpart B.

Test procedures for furnaces were originally proposed by notice issued August 11, 1977 (42 FR 40828). Public hearings on the proposed test procedures were held on October 4, 1977. A final rule was published May 10, 1978 (43 FR 20147).

On May 29, 1979 (44 FR 30978), DOE published an advance notice of proposed rulemaking which invited interested persons to present written data, views and arguments with respect to the need for amending DOE's test procedures for furnaces in order to address any areas which interested persons felt should be expanded or changed, and to include in the test procedures two new furnace designs, pulse combustion furnaces and condensing furnaces.

DOE has learned that some manufacturers, through the experience of testing, have identified areas of concern in the test procedures which they feel should be expanded or changed. A number of such areas of concern have been the subject of applications for exception to DOE's Office of Hearings and Appeals (OHA) and the findings of OHA are available from the Public Docket Room, Room B210, 2000 M St., Washington, D.C. 20461, Monday through Friday 1:00 p.m. to 5:00 p.m. On the basis of information submitted with applications to OHA, comments submitted in response to the advance notice, and other available information, DOE published a proposed rule to amend its test procedures for furnaces on January 4, 1980 (45 FR 1298). Subsequently, a hearing was held on February 27, 1980 and comments were received regarding the proposed rule.

B. Discussion of Comments

Comments were received from industry, trade associations and members of the public. The major issues raised by the comments are discussed below.

1. Number of Units to be Tested

Comments were received which raised two issues regarding the number of furnaces required to be tested.

First, an industry trade association outlined a procedure which would reduce the number of furnaces required to be tested for groups of furnaces utilizing forced air as the heating medium and which have heat exchangers consisting of a number of identical sections. The commenter felt the efficiency performance of furnaces of this design will be the same regardless of their size and therefore no need exists to test all basic models. The commenter concluded that the procedure outlined is statistically valid because differences in the various efficiency measures were insignificant even when a worse case analysis is performed. The commenter performed an "Analysis of Variance" on a manufacturer's line of forced air furnaces and concluded with 99 percent confidence that the efficiency variation seen within the line was due to chance variation and not due to any "true" or actual difference. The commenter concluded that, based on this "insignificant" difference, the efficiency measures of basic models in other related groups (for instance, basic models of the same heat exchanger design with electronic ignition added) can be predicted by the manufacturer, thus reducing his testing burden. DOE is of the opinion that this approach is a reasonable course of action to be taken by a manufacturer since no significant reduction in the probability of a manufacturer overstating his performance capability is likely to occur if every basic model of the line is tested in accordance with the existing sampling requirements.

DOE feels that the procedure outlined by the commenter is in accordance with the applicable DOE sampling provisions for representations and labeling, in particular the provision allowing components of similar design to be substituted without requiring additional testing and the provision allowing conservative rating of performance at the manufacturer's option. DOE feels the commenter's outlined procedure is an extension of these existing provisions and agrees that no changes to existing basic model definition or the sampling requirements are warranted at this time.

The above mentioned provisions (component substitution and conservative rating) have not been proposed as part of the standards program. Rather by notice issued June 19, 1980 (45 FR 43976 June 30, 1980), DOE has proposed that testing of all basic models be required in order to certify that the basic model meets or exceeds the standard.

DOE or FTC will not evaluate the statistical validity of a manufacturer's "analysis of variation" or other sampling plan when involved in any type of enforcement action under the Act, (i.e., representations, labeling or standards) whereas the commenter felt this should be the first area of investigation.

When DOE recognized component substitution and conservative rating in the sampling requirements for representations and labeling, it was not outlining a less stringent enforcement technique to be used by DOE or FTC. All enforcement actions will be carried out on a model by model basis. The use of a reduced testing plan as proposed by the commenter is not a justifiable reason for reduced accuracy.

Second, manufacturers from the electric furnace industry and representatives of a trade association felt that a reduced testing requirement was warranted in regard to all electrical furnaces. The commenters correctly realized that the DOE test procedures assign an efficiency of 100 percent to all indoor installed electric furnaces; therefore no actual testing requirements exist for determining efficiency. However, for electrical furnaces installed in unheated spaces the test procedures require that the percent loss through the jacket be evaluated and deducted from 100 percent. This is consistent with what is done in the test procedures for fossil fuel furnaces installed in unheated spaces. The commenters believe this jacket loss test requirement is burdensome and can be eliminated by DOE assigning a constant percent jacket loss that can be used by all manufacturers and thereby eliminate the testing requirement when determining measures of efficiency for all electric furnaces. Some commenters also pointed out that DOE should not be pursuing this insignificant energy loss because a large number of electric furnaces are proximate to cooling coils and thus the casings, jackets or ducts are insulated to protect this cooling function. The commenters felt that for this reason the manufacturer would minimize jacket losses. However, DOE believes that no such incentive exist for electric furnaces built solely for heating. In any event, DOE believes that the manufacturer should be accountable for this energy loss whereas an assigned value removes this accountability entirely.

Furthermore, the conservative rating provisions discussed above in regard to fossil fueled furnaces also can be applied to electric furnaces to greatly reduce the testing requirements. For example, if a manufacturer determines the percent jacket loss of the model with the largest heating element and poorest jacket he could consider using this value in calculating efficiency of all his outdoor models as long as he is willing to certify that none of the untested models will perform at a lower efficiency.

For the measures of energy consumption other than efficiency, such as operating cost, electric furnace manufacturers may employ the same approach regarding testing requirements as allowed with the electrical furnace efficiency determinations.

2. Energy Factor

DOE has sought in the proposal to include in the test procedures a new efficiency measure which will reflect variations in the efficiency of electrical components of fossil fueled furnaces. Comments were received which express strong opposition to the use of the proposed energy factor (EF) as the measure of efficiency used in the energy efficiency standards program or the labeling program. The proposed EF takes into account the relative efficiency of furnace electrical components. Commenters felt that at this point in time the resulting confusion would outweigh any benefit that could be obtained by adopting the proposed EF as the measure of efficiency in lieu of the existing Annual Fuel Utilization Efficiency (AFUE).

DOE agrees with the commenters that adopting the proposed EF in lieu of the AFUE would be inappropriate and therefore is not contemplating changing the measure of efficiency used in the labeling or standards program. Much effort has been spent by Government and industry to help the public assimilate AFUE for the labeling program. Also much of the economic analysis that has been conducted in support of the energy efficiency standards program has been based on AFUE levels.

However, since the inclusion of this energy measure adds to the completeness of the test procedures (it will allow manufacturers to make representations regarding efficiency improvements attributable to high efficiency electrical components), DOE is prescribing this energy factor in today's final rule.

3. Condensing Furnaces

There was no major objection to the proposed test procedures for condensing furnaces and boilers, however there were some minor technical changes suggested which the commenters felt would serve to improve the test procedures.

Several comments suggested that the temperature specifications called out in the test procedures should be changed. One commenter stated that condensing furnaces should be tested at temperature rises below the specified 50°F if the unit is capable and designed to do so. However, DOE and National Bureau of Standards (NBS) feel the substantial improved performance resulting from such testing conditions would not be reflective of what would occur in actual use. NBS believes the maximum temperature rise specified by the manufacturer is likely to be the most representative temperature rise and thus should be specified instead of the present 50°F temperature rise. Therefore, DOE is prescribing that paragraph 2.5.1 be changed to require that the tests "be carried out at the maximum temperature rise specified by the manufacturer for the unit being tested."

In related comments it was requested that the more stringent temperature constraints specified for condensing furnaces and boilers should be adopted for non-condensing furnaces and boilers. Specifically, an industry trade association felt the proposed narrow limits of permissible return air temperatures should be adopted for non-condensing furnaces and a manufacturer of boilers felt all boilers should be tested at the same return water temperature and the tighter limits on return water temperature rise for condensing boiler should be adopted for noncondensing boilers. DOE and NBS do not agree with these suggested revisions. Non-condensing furnaces and boilers are not nearly as sensitive as condensing furnaces and boilers to return water/air temperatures. Stricter specifications for noncondensing furnaces and boilers could penalize some small manufacturers who do not have conditioned laboratories and DOE believes there exists no reason to increase the complexity of the test procedure for noncondensing furnaces or boilers when approximately the same results can be obtained using the presently specified conditions. Therefore, today's rule prescribes stricter testing conditions only for condensing furnaces and boilers.

This same boiler manufacturer failed to see the appropriateness of testing a condensing boiler at 120°F return water temperature and then correcting its efficiency to a return water temperature of 180°F in the calculations. DOE, however, feels this procedure is appropriate because only steady state efficiency, not the annual fuel utilization efficiency, is corrected to a return water tmeperature of 180°F. This is done because 180°F return water temperature is more typical of actual operation under full load, steady state conditions.

Also, there were comments received concerning the proposed equations for steady state efficiency of condensing furnaces and boilers. DOE agrees with the suggestion to include the terms latent heat loss coefficient "C_L" and condensate heat loss "L_C" in the equation for furnaces and to include brackets in the equation for condensing

[1] Subsequently, the Act was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to "the Act" or to sections of the Act refer to the Energy Policy and Conservation Act as amended by NECPA.

boilers. DOE is correcting these

those obtained by collecting and

procedure would be applicable to non-

extended to only condensing units with

two adjustments is identical for forced

boilers. DOE is correcting these oversights in today's rule.

Also, the equation for condensing boiler steady state efficiency was critized because inherent in this equation is the assumption that for each 1°F change in entering water temperature there is a 1°F change in flue gas temperature. NBS agrees that this assumption is not exact but it has an insignificant effect on the calculations of steady state efficiency and it avoids the need for an additional boiler test at a return water temperature of 180°F. Thus, DOE is not changing the provisions that were proposed.

Further, a manufacturer claimed the proposed provisions of requiring the return air temperature of a condensing furnace to be maintained within ±5°F of the value of the room temperature (T_{RA}) coupled with the existing provisions that T_{RA} may not fall below 65°F could allow for the testing of condensing furnaces at return air temperatures of 60°F. This temperature of return air would not be realistic of the temperature encountered in the field and testing at 60°F would result in undeserved performance improvement. NBS has determined that the performance improvement is small (about 0.15 percentage points). Nevertheless DOE is adding to section 2.5.1 the provision that the return air temperature shall not be below 65°F for condensing furnaces.

Further a manufacturer commented that the calculations should be expanded to allow condensing furnaces and boilers to have separate ratings depending on whether the furnace uses indoor or outdoor air for combustion. DOE disagrees because the use of oudoor air for rating all condensing furnaces and boilers is a justifiable simplification of an already difficult calculation procedure. And because of the low flue temperature of condensing units, this simplification has an insignificant effect on the annual fuel utilization efficiency. The calculations do not prevent condensing furnaces or boilers from using indoor air for combustion; they only, for purposes of simplicity, evaluate all condensing furnaces and boilers as if they were direct vent furnaces (using outdoor air).

Finally, some commenters questioned the assumption employed in the calculation that the flue gases for condensing furnaces and boilers are saturated. One commenter claimed that this dew point method of test could result in an error of 2 or 3 percentage points. However, in laboratory tests performed at NBS, a discrepancy of only 1 percentage point was observed between results obtained using the dew point temperature of the flue gases and those obtained by collecting and measuring condensate. NBS believes that the use of the flue gas dew point method is the better procedure due to the repeatability and ease with which the required measurements can be performed. Therefore, DOE is prescribing today the dew point method of test as proposed.

4. Commercial Standards

Today's notice incorporates as part of the test procedures the updated versions of the American National Standards Institute (ANSI) standards in lieu of the versions cited in the existing test procedures.

Pursuant to section 301 of the Department of Energy Organization Act (Pub. L. 95-91), DOE is required to comply with section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (Pub. L. 93-275), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70).

The findings required of DOE by section 32 of the FEA Act serve to alert the public and DOE to the use and background of commercial standards in a proposed rulemaking and, through the comment and hearing process, allow interested persons to make known their views regarding the appropriateness of the use of particular commercial standards in any proposed rulemaking.

All comments received concerning these standards expressed the approval of the updated ANSI standards. Also, DOE has consulted with the Attorney General and the Chairman of the Federal Trade Commission as required by section 32(c) of the FEA Act and neither recommends against such incorporation or use of the updated ANSI standards. Therefore, DOE is incorporating in today's final rule the ANSI Z21.47—1978 standard in lieu of ANSI Z21.47—1973.

5. Determination of Draft Factors

A manufacturer of a direct vent furnace requested that the option of performing the procedure specified in 3.6 of Appendix N for determining draft factors be allowed for non-power burner furnaces, whereas currently this procedure is limited to power burner systems. This commenter contends that direct vent furnace models exhibited draft characteristics which warrant a flue draft factor lower than that assigned in the test procedures (D_p=1).

The optional procedure was specifically designed to evaluate the draft characteristics of furnaces equipped with power burners, and at the time of the proposed rule DOE had determined whether the optional procedure would be applicable to non-power burner furnaces. Specifically, DOE expressed concerns, in the proposed rule, as to the accuracy and repeatability of the results obtained when using the tracer gas technique employed in the optional procedure.

In this regard NBS has been tasked with a project to conduct a complete analysis of this manufacturer's direct vent non-power burner furnace. The purpose of this analysis was to determine the actual draft factors representative of operation and, if necessary, to devise a uniform test method for the accurate determination of these draft factors. NBS has determined that a reduction in the "D_p" value exists for this design but was unable to develop a simplified uniform test method for the accurate determination of these draft factors. However, NBS found that results obtained when using the tracer gas technique were reasonably accurate and repeatable. For this reason, DOE is including in today's final rule the provisions to allow manufacturers the option of using the tracer gas procedure, outlined in section 3.6 of Appendix N, to determine the off-period draft factor for flue gas flow, D_p, when testing direct vent furnaces (with or without preheating of combustion air). Having this option on direct vent units will enable manufacturers of this type of furnace to account for the reduced off-period flow found in such systems.

6. Pulse Combustion

The proposed amendments to include condensing units was based on furnace designs which employ pulse combustion along with the condensing mode of operation. Pulse combustion designs include some type of valves that are likely to eliminate all flow through the furnace during the off-period. Because of this and because it was thought that all pulse combustion furnace designs would include the condensing mode, NBS recommended, and DOE adopted, a procedure that would permit, at manufacturers' option, testing only under steady state conditions as specified in section 3.7 of Appendix N. However, commenters pointed out that some designs of pulse combustion units may not include the condensing mode and also other designs, not just pulse combustion, could have no flow conditions during the off-period. Therefore, today's final rule prescribes that the term pulse combustion be replaced by the expression "any unit whose design is such that not air flows through the combustion chamber and heat exchanger during the off-period." Also the option in section 3.7 is

extended to only condensing units with no off-period losses. Thus, the option in 3.7 is not extended to noncondensing furnaces because a noncondensing furnace has high flue gas temperatures which have a substantial effect on seasonal efficiency.

7. Finned Tube Boilers

One commenter believed the arguments presented in the proposal relative to water flow rate for finned tube boilers apply equally to any low water volume boiler. Accordingly, the commenter felt the proposed revisions to 2.5.4 should be applicable to all low water volume boilers and DOE should define "low water volume" rather than "finned tube." DOE sees no advantage in attempting to define "low water volume" since to the best of NBS's knowledge only finned tube boilers have the problem of boiling at high water temperature rises. Until such a problem in found to exist on other designs, DOE will prescribe the provision for finned tube boiler water flow rates as proposed.

The proposed rule also allowed the capacity (Q_{cont}) of finned tube boilers be calculated without regard to the adjustment which accounts for the difference in jacket heat losses measured at laboratory conditions and jacket heat losses that would occur at outside design conditions. Commenters suggested that other designs could deserve the same treatment. However, DOE feels it is inappropriate to give general applicability ruling and therefore, today's rule reflects only the changes resulting from the applications for exceptions filed by the manufacturers of finned tube boilers.

A related comment stated that the treatment of finned tube boilers was inconsistent in that the jacket heat loss adjustment factor is unity in the calculations for capacity but the factor C_j, which also is a jacket loss adjustment factor remains the same for all boilers in the calculations for AFUE. This commenter failed to realize that there is no direct relationship between the values assigned to C_j in the AFUE calculations and the coefficients appearing in front of L_j in the Q_{out} calculations. As mentioned above, the laboratory measured jacket loss (L_j) is adjusted for outside design conditions when calculating capacity. This is done because an outside furnace or boiler is likely to see outdoor design conditions at full capacity; whereas, the C_j factor in the calculations for AFUE adjusts the laboratory measured jacket loss for the effects of cycling and average outside conditions. A misinterpretation exists because the numerical value of these two adjustments is identical for forced air furnaces. DOE is currently considering expanding the list of adjustment factors, C_j, for all designs and installations but this requires considerable research. This research is not complete at this point in time. DOE and NBS are analyzing the entire jacket heat loss question. Once this research is completed, comprehensive assignment of jacket heat loss factors depending not only on design but also installation may be possible.

8. Room Temperature Measurement

Three comments were received regarding the procedures used to determine the test measure of room temperature, T_{RA}. First, it was suggested that the room temperature be measured with only one thermocouple instead of the specified four thermocouples because the commenter felt one is sufficient and there are no instructions regarding which (of the four) temperature readings should be used in the calculation procedure. However, DOE believes the four thermocouples provide a necessary level of accuracy and reliability of room temperature measurement, and the proposed section 2.9 clearly states that the four readings are to be averaged to find the value of T_{RA}, which is to be used in the calculation procedure.

This same commenter felt that other types of thermocouples besides the specified "iron-constantan" thermocouple should be allowed. NBS and DOE agree with the commenter and the words "iron-constantan" are deleted from section 2.9 in today's rule.

Finally, a manufacturer of a direct vent type of furnace believed it would be appropriate to raise the specified plane of measurement of T_{RA} so that the value obtained would be more reflective of the actual combustion air inlet temperature. This particular design has its inlet air and exhaust air openings located proximate to one another at the top of the furnace. The proposed amendments specify that the room air temperature and inlet air temperature should agree within ±5° F. DOE believes this provision is well within the ability of the manufacturer and provides equitable testing conditions. However, the commenter felt a superior solution of the problem would be for DOE to allow measurement of T_{RA} at the plane of air inlet. NBS has analyzed this problem and has concluded that the perceived temperature difference is not only due to some stratification of the air temperature in the testing laboratory but is primarily due to recirculation of hot flue gases into the cumbustion air intake. DOE feels that both these effects are artificial and should be avoided when testing. Therefore no change in the location where T_{RA} is measured is prescribed in today's rule.

9. Definition of Furnace

DOE has proposed to amend the definition of furnace in section 430.2 in order to more clearly define the applicability of the furnace test procedures by including the words "utilizing single phase electric current." Several commenters concurred with this change stating that it would have the desired effect of excluding from coverage some basic models using three-phase electric current that would otherwise be covered by the test procedures, but which are intended primarily for commercial applications. However, one commenter pointed out that the inclusion of the term "single-phase electric current" could be interpreted as excluding gas-fired units utilizing self energizing controls since DC millivoltage circuits are not usually considered "single-phase electric current." DOE agrees and is adding to the definition of furnace the words "or millivoltage DC current" in today's rule.

10. Draft Requirements

In order to better reflect field conditions in the laboratory, section 3.2.2 of the test procedures specifies that the draft in the flue must be maintained during the cool down test of oil fired boilers. This is done because the thermal mass of the venting system in the field will typically impose a draft on the furnace during this off-period. A commenter contended that this draft requirement should be deleted to simplify the running of the test because this requirement does not significantly affect the test results. NBS and DOE believe that this statement is correct for units equipped with power burners that have small off-cycle air flows but probably not correct for all types of oil fired units and therefore believe this requirement should not be relaxed at this time. However, DOE might consider a future research program to determine whether this requirement could be relaxed for certain types of oil fired equipment.

11. Conflicting Testing Conditions

The furnace test procedures currently specify restrictions on voltage, external static pressure, and temperature rise across the heat exchanger. Comments noted that on a few basic models these restrictions could conflict with one another. For example, at the specified static pressure and temperature rise, outlined in section 2.5.1, a particular furnace may not be able to meet the

V 45 AG 12 80 UMI

requirement that the testing voltage be within one percent of nameplate as specified in section 2.3.5. DOE agrees and is correcting this problem in today's rule by expanding section 2.5.1 to outline the priorities of these restrictions.

12. Nameplate Input Ratings

DOE has proposed to use the nameplate input rating in lieu of the measured input to prevent variations in the derived capacity. The proposed rule reflected this by changing the calculations for capacity in section 4.7. A commenter noted that the intent of this amendment will not be served until this change is also carried out in sections 4.2.34, 4.2.35, 4.8, and 4.12. NBS and DOE agree and is prescribing in today's rule that the measured input term Q_{in} in the above sections should be replaced by a new variable, Q_{np}, which would stand for the nameplate input rating.

13. Insulation on Flue Pipe During Testing

As discussed in Item 7 of the proposed rule, DOE intended to include provisions that would require insulation of exposed areas of flue pipe. A commenter stated, however, that the language in the proposed section 2.2.1.2 does not accomplish this intent. DOE agrees and is changing the appropriate sentences in this paragraph to read: "Test gas-fueled furnaces having a horizontally discharging hood outlet with the draft hood in place and elbow and a 5 foot long vertical pipe attached to the hood outlet. Insulate the flue pipe upstream of the draft hood."

14. Propane Gas Testing

One commenter suggested that since the American National Standards Institute (ANSI) Z21.47 1978 recognizes other liquid petroleum gases (LPG) besides propane, DOE should allow testing with other LPG's. NBS and DOE do not feel this expansion of procedures is warranted because results obtained using readily available propane are adequate to describe the performance of LPG burning furnaces regardless of the type of LPG.

This same commenter also suggested that manufacturers of furnaces fueled by either natural gas or propane be allowed to rate all models based on only natural gas testing. In accordance with the currently prescribed provisions of conservative rating discussed above in Item 1, this testing and rating method is allowed as long as the tested models' ratings are known to be below the ratings of the untested models.

15. CO_2 Readings

One of the proposed amendments allowed for measuring the CO_2 concentration at a location downstream of the plane of temperature measurement. This amendment served to eliminate problems regarding nonrepeatable test data, without compromising the reliability of measures of energy consumption derived from the test procedures. A commenter has brought to DOE's attention an instance in the test procedure where this provision was omitted. Therefore, DOE is today adding the words "or within 3.5 feet of this plane on the downstream side" to paragraph 7 of proposed section 3.1.1.

16. Temperature Measurement Times

One commenter felt that an explanation is needed to justify why the times at which the temperature measurements are taken differ for condensing and non-condensing furnaces. The only time that is changed for condensing furnaces is the time at which the flue gas temperature "$T_{f,off(\infty)}$" is measured. This has been reduced to 20 minutes after burner shut down for condensing boilers without pilot lights. This reduction in testing time is warranted since condensing boilers start the cool down process from a lower temperature than noncondensing boilers would and therefore equilibrium is reached sooner.

17. Blower Delay Time

One commenter requested that the test procedures should be modified to allow furnaces with a timing device for blower shutdown to be tested with the timer operating in its normal manner, whereas, the test procedures currently require blower shutdown at 3 minutes after burner shutdown or when the supply air temperature drops to a value of 40°F above the inlet air temperature, whichever results in the longest blower on time. DOE feels these existing provisions should remain because: (a) There is a desire to provide a fixed set of test conditions, representative of field conditions, that would facilitate the performance comparison of different furnaces, (b) there is a desire to discourage manufacturers from sacrificing the comfort of the homeowner for the sake of minute improvement in the efficiency number assigned to a furnace, (NBS believes supplying air at a temperature which is less than 40°F above inlet air temperature could be uncomfortable to the homeowner), and (c) there is a desire to prevent manufacturers from improving through increased use of electricity, their AFUE level at the expense of the annual operating cost. The latter follows from the fact that AFUE does not include the electrical energy consumption on gas or oil-fueled furnaces, but is included in the calculation procedures for determining the annual operation cost.

This same commenter requested that the test standard be modified to give proper credit to units that are designed such that the indoor blower starts simultaneously with the burner, whereas the test procedures specify a time delay (t#) between the burner startup and blower startup of 1.5 minutes for this type of design. DOE is also not changing this provision because the time delay (t#) of 1.5 minutes between blower and burner startup was fixed in the furnace test procedure for the same reasons cited above for the 3 minute delay between burner and blower shutdown. As in the above case, the 1.5 minute delay was chosen to be typical of most furnaces operating in the field and to minimize the total (fuel + electric) annual operating cost.

18. Miscellaneous

After careful consideration of all of the comments and further consultation with NBS, DOE has made some editorial and minor technical changes (for instance, added brackets, where appropriate, to the equations in section 4.2.5) in the prescribed amendments to the test procedures that were not discussed above and incorporated them in the final rule prescribed today.

C. Regulations Prescribed

1. *Test Procedures.* The amendments to the test procedures for furnaces prescribed today are included in Subpart B of Part 430 and are substantially the same as those proposed, with the exception of the changes discussed above. Specifically, in discussion comment number 4 above, today's final rule incorporates as part of the test procedures the updated versions of the American National Standards Institute (ANSI) standards in lieu of the versions cited in the existing test procedures. Any subsequent amendment to these standards by the standard-setting organizations will not affect the DOE test procedures, which can only be amended by DOE.

2. *General Provisions.* Today's rulemaking contains an amended definition of "Furnace."

3. *Application of Test Procedures.* For the convenience of the reader, today's amendments contain the previously prescribed statistical sampling provisions for any testing required in order to comply with sections 323(c) and 324 of the Act. Section 323(c) provides that, effective 180 days after a test procedure rule applicable to a covered product is prescribed by DOE, no manufacturer, distributor, retailer, or private labeler may make any representation in writing or in any broadcast advertisement respecting the energy consumption or cost of energy consumed by that covered product, unless the product has been tested in accordance with the DOE test procedure, and the representation fairly discloses test results. Section 333(c) of the Act assigns enforcement responsibility for this provision to the Federal Trade Commission (FTC). The test procedures prescribed today are also applicable to any labeling rules which may be prescribed by the FTC pursuant to section 324 of the Act.

The test procedure provisions prescribed today, other than the sampling provisions of § 430.23(m), are expected to be used generally for determining compliance with future standards, but the exact method of determining compliance will be decided upon during the ongoing efficiency standards setting process. The sampling provisions of § 430.23 are specifically intended to apply only to testing required pursuant to sections 323(c) and 324 of the Act. Future DOE regulations relating to the selection of units, for testing to ensure compliance with efficiency standards under section 325, may differ substantially from the approach taken in the sampling provisions of § 430.23.

4. *Unit Costs of Energy.* Under section 323(b)(2) of the Act, DOE is required to provide manufacturers with information on representative average unit costs of energy. This information was provided by notice issued June 22, 1979 (44 FR 37534, June 27, 1979), and is expected to be updated in the near future.

5. *Preemption.* Today's rulemaking prescribing final amended test procedures for furnaces supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of furnaces or which provide for an energy efficient standard, or other requirement regarding the energy efficiency or energy use of furnaces, must now employ test procedures identical to those specified in today's final rule.

6. *Regulatory and Environmental Review.* In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), DOE evaluated the proposed establishment of these test procedures for consumer products to determine if an environmental assessment or an environmental impact statement was required. These test procedures will be used only to standardize the measurement of energy usage for the subject consumer products. The action of prescribing the test procedures, by itself, will not result in any environmental impact. Because it was clear that the proposed action was not a major Federal action significantly affecting the quality of the human environment, DOE determined that neither an environmental assessment nor an environmental impact statement was required. The potential environmental impacts that might occur from the application of the test procedures in connection with DOE's energy efficiency standards program will be evaluated by the program.

This rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030.1. It was determined that this rule was significant in nature but did not have major impacts to manufacturers and consumers imposing annual economic costs of $100 million or more.

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective September 11, 1980.

Issued in Washington, D.C., August 4, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

1. Section 430.2 is amended by revising the definition of "furnace" to read as follows:

§ 430.2 Definitions.

* * * * * *

"Furnace" means a device, utilizing only single-phase electric current, or single-phase electric current or millivoltage DC. current in conjunction with either natural gas, propane, or home heating oil, which is designed to be the principal heating source for the living space of a residence and which is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu's per hour. Every furnace is either an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler. The heat input rate of a furnace is less than 300,000 Btu's per hour for electric boilers and low pressure steam or hot water boilers, and is less than 225,000 Btu's per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

* * * * * *

2. Section 430.22 is amended by redesignating the present paragraph (n)(4) as paragraph (n)(5) and by adding a new paragraph (n)(4) to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * * *

(n) *Furnaces.* * * *

(4) The energy factor for fossil-fueled furnaces, expressed in percent, is the ratio of annual output of useful energy delivered to the heated space to the total annual energy input to the furnace determined according to 4.15 of Appendix N of this subpart.

* * * * * *

3. The provisions of § 430.23 which relate to furnaces are reprinted as follows for the convenience of the reader:

§ 430.23 Units to be tested.

When testing of a covered product is required to comply with section 323(c) of the Act or to comply with rules prescribed under section 324 of the Act, a sample shall be selected and comprised of units which are production units, or are representative of production units of the basic model being tested, and shall meet the following applicable criteria.

* * * * * *

(n)(1) For each basic model[2] of furnaces, other than basic models of those sectional cast-iron boilers which may be aggregated into groups having identical intermediate sections and combustion chambers, a sample of sufficient size shall be tested to insure that—

(i) Any represented value of estimated annual operating cost, energy consumption or other measure of energy consumption of a basic model for which consumers would favor lower values shall be no less than the higher of (A) the mean of the sample, or (B) the upper 97½ percent confidence limit of the true mean divided by 1.05, and

(ii) Any represented value of the annual fuel utilization efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be no greater than the lower of (A) the mean of the sample, or (B) the lower 97½ percent confidence limit of the true mean divided by .95.

(2) For the lowest capacity basic model[3] of a group of basic models of those sectional cast-iron boilers having identical intermediate sections and combustion chambers, a sample of sufficient size shall be tested to insure that—

(i) Any represented value of estimated annual operating cost, energy consumption or other measure of energy consumption of a basic model for which consumers would favor lower values shall be no less than the higher of (A) the mean of the sample, or (B) the upper 97½ percent confidence limit of the true mean divided by 1.05, and

(ii) Any represented value of the fuel utilization efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be no greater than the lower of (A) the mean of the sample, or (B) the lower 97½ percent confidence limit of the true mean divided by .95.

(3) For the highest capacity basic model[3] of a group of basic models of those sectional cast-iron boilers having identical intermediate sections and combustion chambers, a sample of sufficient size shall be tested to insure that—

(i) any represented value of estimated annual operating cost, energy consumption or other measure of energy consumption of a basic model for which consumers would favor lower values be no less than the higher of (A) the mean of the sample, or (B) the upper 97½ percent confidence limit of the true mean divided by 1.05, and

(ii) Any represented value of the fuel utilization efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be no greater than the lower of (A) the mean of the sample, or (B) the lower 97½ percent confidence limit of the true mean divided by .05.

(4) For basic model[3] or capacity other than the highest or lowest of the group of basic models [3] of sectional cast-iron boilers having identical intermediate sections and combustion chambers, represented values of measures of energy consumption shall be determined by either—

(i) A linear interpolation of data obtained for the smallest and largest capacity units of the family, or

(ii) Testing a sample of sufficient size to insure that (A) any represented value of estimated annual operating cost, energy consumption or other measure of energy consumption of a basic model for which consumers would favor lower values shall be no less than the higher of (1) the mean of the sample, or (2) the upper 97½ percent confidence limit of the true mean divided by 1.05, and (B) any represented value of the energy factor or other measure of energy consumption of a basic model for which consumers would favor higher values shall be no greater than the lower of (1) the mean of the sample, or (2) the lower 97½ percent confidence limit of the true mean divided by .95.

(5) Whenever measures of energy consumption determined by linear interpolation do not agree with measures of energy consumption determined by actual testing, the values determined by testing will be assumed to be the more reliable values.

(6) In calculating the measures of energy consumption for each unit tested, use the design heating requirement corresponding to the mean of the capacities of the units of the sample.

4. Section 1.18 of Appendix N to Subpart B is amended to read as follows:

1.18 "Steady state heat input" (Q_{in}) means the rate of energy supplied in a fuel to a furnace, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

5. Section 1.27 of Appendix N to Subpart B is amended to read as follows:

1.27 "Heating capacity" (Q_{out}) means the rate of useful heat output from a furnace, operating under steady state conditions, expressed in Btu's per hour. For furnaces intended to be installed indoors, it is obtained by multiplying the "nameplate input" by the steady state efficiency (n_{ss}) divided by 100. For furnaces intended to be installed outdoors, it is obtained by multiplying (A) the "nameplate input" by (B) the difference of the steady state efficiency divided by 100 and the quantity (3.3) (L_t) divided 100, where L_t is the jacket loss as determined in 3.4 of this appendix. For finned tubed boilers intended to be installed outdoors, it is obtained by multiplying (A) the "nameplate input rating" by (B) the difference of the steady state efficiency divided by 100 and the quantity L_t divided by 100, where L_t is the jacket loss as determined in 3.4 of this appendix.

6. Appendix N to Subpart B is amended by adding, after § 1.27, the following new sections:

1.28 "Condensing furnace" means a furnace or boiler which condenses part of the water vapor generated by the burning of hydrogen in fuels and is equipped with a means of collecting and draining this condensate. A furnace or boiler shall be considered a "condensing furnace" only if the latent heat loss coefficient (C_L), defined in 1.29 below, is less than 1.

1.29 "Latent heat loss coefficient (C_L)" means the coefficient which is the fraction of the total latent heat remaining in the flue gases after any condensing has occurred, as calculated in section 4.17 of this appendix.

1.30 "Pulse combustion furnace" means a furnace or boiler which uses a steady sequence of explosions to produce heat.

1.31 "Nameplate input rating" (Q_{in}) means the maximum hourly Btu input rate affixed by the manufacturer to a fossil-fueled furnace to indicate the fuel burning capacity.

1.32 "Finned tube boiler" means a boiler whose heat exchanger consists of only finned tubes.

1.33 "Forced draft" means air forced into the combustion chamber by mechanical means.

1.34 "Direct exhaust system" means a furnace venting system supplied by the manufacturer through which the products of combustion pass directly from the furnace to the outside and which does not employ a means of draft relief.

7. Section 2.1 of Appendix N to Subpart B is amended to read as follows:

2.1 *Installation of test plenum, duct work, and piping.*

2.1.1 Gravity central furnaces (including direct vent systems). Install and equip gravity central furnaces with a vertical supply test plenum or extended casing and horizontal test ducts as described in section 2.3.3 of ANSI Standard Z21.47–1978.

2.1.2 Forced-air central furnaces (including direct vent systems). Equip gas-fueled forced-air central furnaces with a plenum and test duct as described in Sections 2.3.1 and 2.3.2 of ANSI Standard Z21.47–1978. Equip oil-fueled forced-air central furnaces with a plenum and test duct as described in Section 6.2 of ANSI Standard Z91.1–1972.

2.1.3 Low pressure steam and hot water boilers (including direct vent systems). Install gas-fueled low pressure steam and hot water boilers as prescribed in section 2.9 of ANSI Standard Z21.13–1974. Install oil-fueled low pressure steam and hot water boilers as prescribed in sections 7.0 and 8.1.1 through 8.1.3 in the January 1977 edition of the Hydronic Institute "Testing and Rating Standard for Cast Iron and Steel Heating Boilers." In the case of condensing boilers, a means shall be provided for supplying 120° F return water, at a constant rate, to the test boiler during both the steady state and heat-up tests described below. This will typically, although not necessarily, require the use of a large tank, an auxiliary boiler and two pumps.

2.1.4 Electric central furnaces. Install equipment for testing in accordance with ARI Standard 230–74, section 4 and figure 1.

2.1.5 Electric boilers.

Install equipment in accordance with manufacturer's instructions.

8. Section 2.2.1.2 of Appendix N to Subpart B is amended to read as follows:

2.2.1.2 Gas-fueled gravity and forced-air central furnaces which employ draft hoods. Test gas-fueled gravity and forced-air central furnaces which employ draft hoods having vertically discharging outlets with the draft hood in place and a 5-foot long pipe attached to the hood outlet. Test gas-fueled furnaces having a horizontally discharging hood outlet, with the draft hood in place and an insulated elbow and 5-foot long vertical pipe attached to the hood outlet. Insulate the flue pipe upstream of the draft hood with insulation having an R value not less than 7 (°F–HR-ft²/Btu's) and an outer layer of aluminum foil. Use an elbow and pipe with a cross sectional area the same size as the hood discharge outlet.

9. The first sentence of section 2.2.3 of Appendix N to Subpart B is amended to read as follows:

2.2.3 Direct vent and direct exhaust systems.

9a. Section 2.3.3 of Appendix N to Subpart B is amended to read as follows:

2.3.3 Other test gas. The specific gravity of other test gases shall approximate the values given in Table VII of ANSI Standard Z21.47–1978. Maintain the test pressures immediately ahead of all controls between the "normal" and "increased" values of test pressures given in Table VIII in the ANSI Standard. Use gas with a measured higher heating value within ±5 percent of the values specified in Table VII of ANSI Standard Z21.47–1978. Determine the actual higher heating value of the gas used in the test with an error no greater than 1 percent.

10. Section 2.4.1 of Appendix N to Subpart B is amended to read as follows:

2.4.1 Gas burner adjustments (not including condensing furnaces). Adjust burners of gas-fueled furnaces or boilers such that the Btu's per hour input, as measured during the steady state performance test described below and corrected to standard conditions of 80° F and 30 inches of mercury barometric pressure, is within ±2 percent of the nameplate input rating. Set the primary air shutters in accordance with the manufacturer's recommendation to give a good flame at this adjustment. If, however, the setting results in the deposit of carbon during any test specified herein, the tester shall adjust the shutters and burners until no more carbon is deposited and shall perform the tests again with the new settings. After the steady state performance test has been started, do not make additional adjustments to the burners during the required series of performance tests specified in section 3.0 of this appendix.

If a vent limiting means is provided on a gas pressure regulator, keep it in place during all tests.

11. Section 2.4.2 of Appendix N of Subpart B is amended to read as follows:

2.4.2 Oil burner adjustments (not including condensing furnaces). Adjust the burners of oil-fueled furnaces or boilers to give the CO_2 reading recommended by the manufacturer and an hourly Btu input during the steady state performance test described below which is within ±2 percent of the furnace nameplate input rating. Smoke in the flue may not exceed a No. 1 smoke during the steady state performance test as measured by the procedure in ANSI Standard Z11.182–1965 (R1971) (American Society for Testing and Materials D 2158–65 (1970)). Maintain the average draft over the fire and in the flue during the steady state performance test at that recommended by the manufacturer. Do not allow draft fluctuations exceeding 0.005 inches of water gauge. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in section 6.3 of ANSI Standard Z991.1–1972.

12. Appendix N to Subpart B is amended by adding, after section 2.4.2, the following new section:

2.4.3 Gas and oil burner adjustments for condensing furnaces. The burners on gas- and oil-fueled condensing furnaces and boilers shall be adjusted to give, during the steady state performance test described below, the CO_2 reading recommended by the manufacturer (if applicable) and an hourly Btu input which is within ±2 percent of the nameplate input rating. During the steady state performance test, the concentration of carbon monoxide present in dry flue gas shall not exceed 0.04 percent by volume. For oil-fired condensing units, the smoke in the flue gases shall not exceed a No. 1 smoke during the steady state performance test as measured by the procedure in ANSI Standard Z11.182–1965 (R 1971) (ASTM D2156–65 (1970)). If the carbon monoxide or smoke exceeds these specified limits during the steady state test, the burner shall be readjusted to give a lower CO_2 reading and all tests shall be started over. Once the burner is properly adjusted, no additional adjustments shall be made to it during the required series of performance tests.

If a vent-limiting means is provided on a gas pressure regulator, it shall be in placed during all tests.

13. Section 2.5.1 of Appendix N to Subpart B is amended to read as follows:

2.5.1 Gas-fueled forced-air central furnaces (including direct vent systems and condensing furnaces).

Adjust the external static pressure and air flow rate as specified in section 2.6 of ANSI Standard Z21.47–1978 and measure the inlet and outlet air temperatures in accordance with section 2.3.2 of this ANSI standard. If the above requirements on temperature rise and static pressure cannot simultaneously be met and the temperature rise does not exceed the maximum temperature rise specified by the manufacturer when the unit is operated against the minimum external static pressure specified in section 2.6 of ANSI Standard Z21.47–1978, then the blower motor voltage shall not be increased and the temperature rise shall be the lowest value attainable at the required minimum external static pressure, provided that it is not less than 15° F (8.5° C) below the manufacture's recommended maximum temperature rise. If the above restriction on not exceeding the maximum temperature rise specified by the manufacturer cannot be met while maintaining the required minimum external static pressure, then the voltage to the blower motor shall be increased to obtain the maximum temperature rise specified by the manufacturer at the required minimum external static pressure.

For gas-fueled condensing furnaces, the temperature rise during the steady state test described below shall be the maximum temperature rise specified by the manufacturer with the unit operating against a static pressure equal to a greater than the minimum external static pressure specified in section 2.6 of ANSI Standard Z21.47–1978. The static pressure shall be adjusted by symmetrically restricting the outlet air duct. If the above requirements on temperature rise and static pressure cannot simultaneously be met, then the blower motor voltage shall be increased. During the steady state and heat-up tests described below, the return air temperature to the condensing furnace shall remain within ±5° F of the value T_{RA} measured during the steady state performance tests and shall not be below 65° F.

If the above procedures require the voltage to the blower motor to be changed, then the requirements of section 2.5.3, relating to the blower motor voltage, are waived.

13a. Section 2.5.2 of Appendix N to Subpart B is amended to read as follows:

2.5.2 Gravity central furnaces (including direct vent systems). Maintain the air flow rate through the furnace such that the average normal air temperature rise at steady-state is not greater than 130° F above the inlet air temperature when the furnace is equipped with the vertical test plenum of extended casing and horizontal test ducts as described in section 2.1.1. Measure the outlet air temperature as specified in section 2.3.3 of ANSI Standard Z21.47–1978. Measure the inlet air temperature measured at the center of the plane of each inlet air opening by means of a single No. 24 American Wire Gauge (AWG) thermocouple, suitably shielded from direct radiation.

14. Section 2.5.3 of Appendix N to Subpart B is amended to read as follows:

2.5.3 Oil-fueled forced-air central furnaces (including direct vent systems and condensing furnaces). Adjust the external static pressure and air flow rate as specified in table 5 and section 6.2 of ANSI Standard Z91.1–1972. For oil fueled condensing furnaces, the temperature rise during the steady state tests described below shall be the maximum temperature rise specified by the manufacturer. During the steady state and heat-up tests described below, the return air temperature to the condensing furnace shall remain within ±5°F of the value T_{RA} measured during the steady state performance test.

15. Section 2.5.4 of Appendix N to Subpart B is amended to read as follows:

[3] Components of similar design may be substituted without requiring additional testing if the represented measures of energy consumption continue to satisfy the applicable sampling provision.

V 45 AG 12 80 UMI

2.5.4 Gas- and oil-fueled low pressure steam and hot water boilers (including direct vent systems and condensing boilers). For hot water boilers, adjust the water flow rate to produce a water temperature rise during steady state operation of between 120°F (48.9°C) and 185°F (73.9°C) and an outlet water temperature of 200°F (93.3°C) ±5°F (2.8°C). For finned tube boilers, the water flow shall be adjusted to produce a temperature rise of 20 to 40°F and outlet water temperature of 200°F ±5°F. Also for finned tube boilers, the maximum permissible temperature variation of the return water is limited to 5°F. For steam boilers, conduct the steady state performance test described in 3.1 at atmospheric pressure or at a pressure not exceeding 2 psia.

For condensing hot water boilers, the water flow rate shall be adjusted to produce a water temperature rise, during the steady state test described below, which is between 19.5 and 20.5°F. During the steady state and heat-up tests, the condensing boiler shall be supplied with return water having a temperature of 120°F. The maximum permissible variation of the return water temperature from the required value during the steady state and heat-up tests shall not exceed ±2°F, except during the first 30 seconds after start-up when it shall not exceed ±10°F, and between 30 and 60 seconds after start-up it shall not exceed ±5°F.

16. Section 2.6.1 of Appendix N to Subpart B is amended to read as follows:

2.6.1 Gas-fueled gravity furnaces, forced-air furnaces, and boilers (including direct vent systems and condensing furnaces and boilers). For units employing an integral draft diverter, install a grid of thermocouples wired in parallel, in a horizontal plane in the 5-foot test stack located 1 foot from the test stack inlet. The grid shall consist of either 9 or 17 thermocouples (manufacturer's option) if the nominal inside diameter of the flue pipe is greater than 2 inches and 5 thermocouples if the nominal inside diameter of the flue pipe is less than or equal to 2 inches. Henceforth in this section all parenthetical expressions refer to the 17 thermocouple grid, and all bracketed expressions refer to the 5 thermocouple grid. Equalize the length of all thermocouple leads before paralleling. Arrange the thermocouples in a grid with 1 thermocouple in the center of the test stack, and 8 (16) [4] along imaginary lines intersecting at right (45 degree) [right] angles in the horizontal plane at points one-third and two-thirds (one-third and two-thirds) [half] of the distance between the center of the pipe and the pipe wall.

For units which employ a draft hood, or a direct vent system which does not significantly preheat the incoming combustion air, install the thermocouple grid described above in a horizontal plane located within 12 inches (304.8 mm) of the furnace or boiler outlet, and upstream of the draft hood on units so equipped. Equalize the length of all thermocouple leads before paralleling and arrange the thermocouples as described above.

For furnaces or boilers which employ direct vent systems that significantly preheat the incoming combustion air, install the thermocouple grid described above in a plane parallel to and located within 6 inches (152.4 mm) of the vent/air intake terminal. Equalize the length of all thermocouple leads before paralleling and arrange the thermocouples as described above.

Use bead-type thermocouples having wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the flame, install radiation shields on the flame side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Locate the thermocouples used for measuring conditioned warm air as described in ANSI Z21.47–1978, sections 2.3.1, 2.3.2, and 2.3.3. Measure the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

For non-condensing boilers, measure the inlet and outlet water temperature on gas-fueled hot water boilers as shown in figure 3 of ANSI Standard Z21.13–1974. For condensing boilers, the inlet and outlet water temperatures shall be measured using sheathed thermocouples inserted through pipe plugs that are located within 12 inches of the inlet and outlet of the boiler. A minimum of 6 inches of thermocouple lead, immediately upstream of the thermocouple junction, shall be immersed in the water between the pipe plug and the boiler inlet/outlet. The remainder of the thermocouple lead shall be run along the surface of the pipe (and under any insulation) for a distance of not less than 3 feet. The pipe, 3 feet immediately before the boiler inlet and 3 feet immediately after the boiler outlet, shall be covered with insulation having a R value of not less than 7 (°F-h-ft²/Btu) and an outer layer of aluminum foil.

17. Section 2.6.2 of Appendix N to Subpart B is amended to read as follows:

2.6.2 Oil-fueled forced-air central furnaces and boilers (including direct vent systems and condensing furnaces and boilers). Install a grid of thermo-couples, wired in parallel and having equal length leads, in a plane perpendicular to the axis of the flue pipe. For systems other than direct vent systems which significantly preheat the incoming air, locate this plane at the position of the single thermocouple shown in figure 2 of ANSI Standard Z91.1–1972. For direct vent systems which significantly preheat the incoming air, locate the plane within 6 inches (152.4 mm) of the outlet of the vent/air intake terminal. Arrange the thermocouples as described in section 2.6.1.

Use bead-type thermocouples having a wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the flame, install radiation shields on the flame side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Locate the thermocouples for measuring conditioned warm air as described in section 6.2 of ANSI Standard Z91.1–1972. Measure the temperature of the inlet air by means of a single thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

For non-condensing boilers, measure the inlet and outlet water temperatures on oil-fueled hot water boilers as described in section 7.4 and figure 2 of the January 1977 edition of the Hydronic Institute Standard "Testing and Rating Standard for Cast Iron and Steel Heating Boilers." For condensing oil-fueled boilers, the inlet and outlet water temperature shall be measured as described in 2.6.1 for gas-fueled condensing boilers.

18. Section 2.7 of Appendix N to Subpart B is amended to read as follows:

2.7 *Combustion measurement instrumentation.* Analyze the samples of stack and flue gases for furnaces and determine the concentration by volume of CO_2 present in the dry stack or flue gas with instrumentation which will result in a determination of the CO_2 concentration with an error no larger than ±0.1 percentage points.

19. Section 2.9 of Appendix N to Subpart B is amended to read as follows:

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0, maintain the room temperature within ±5°F (+2.8 C) of the value T_{RA} measured at the end of the steady state performance test. During these tests, the room temperature may not exceed 100°F (37.8 C) or fall below 65°F (18.3 C) for noncondensing furnaces and boilers and condensing boilers and may exceed 80°F or fall below 65°F for condensing furnaces. Room temperature (T_{RA}) shall be the arithmetic average temperature of the test area, determined by measurement with four No. 24 AWG iron-constantan bead-type thermocouples with junctions shielded against radiation, located approximately at 90-degree positions on a circle circumscribing the furnace or furnace enclosure under test, in a horizontal plane approximately at the vertical midpoint of the appliance or test enclosure, and with the junctions approximately 24 inches from sides of the furnace or test enclosure and located so as not to be affected by other than room air. The temperature of the air for combustion and the air for draft relief shall not differ more than ±5°F from room temperature as measured above.

20. Section 2.10 of Appendix N to Subpart B is amended to read as follows:

2.10 *Equipment used to measure mass flow rate in flue and stack.* The tracer gas chosen for this task should have a density which is less than or approximately equal to the density of air. Use a gas that is of a different chemical species or different concentration from the flue gas to be measured and unreactive with the environment to be encountered. Using instrumentation of either the batch or continuous type, measure the concentration of tracer gas with an error no larger than ±2 percent of the value of the concentration measured.

21. Section 3.1.1 of Appendix N to Subpart B is amended to read as follows:

3.1.1 Gas-fueled gravity furnaces, forced-air central furnaces, and low pressure steam and hot water boilers (including direct vent systems and not including condensing furnaces, or boilers). The following procedure is to be used for gas-fueled gravity furnaces, forced-air central furnaces, and boilers (including direct vent systems).

Set up the furnace or boiler as specified in sections 2.1, 2.2, and 2.3. Begin the steady state performance test by operating the burner and the circulating air blower or water pump, with the adjustments specified by 2.4.1 and 2.5, until steady state conditions are attained as indicated by a temperature variation in three successive readings taken 15 minutes apart of not more than: (1) 3°F (1.7C) in the stack gas temperature for furnaces and boilers equipped with draft diverters, (2) 5°F (2.8C) in the flue gas temperature for furnaces and boilers equipped with either draft hoods, or direct vent systems, and (3) 4°F (2.2C) in the outlet water temperature for hot water boilers.

On units employing draft diverters, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state stack gas temperature ($T_{S.SS.X}$) using the thermocouple grid located in the 5-foot test stack as described in 2.6.1. Secure a sample of stack gases in the plane where $T_{S.SS.X}$ is measured, or within 3.5 feet of this plane on the downstream side, and determine the concentration by volume of carbon dioxide ($X_{CO^2,S}$) present in dry stack gas. If the location of gas sampling differs from the temperature measurement plane, care should be taken to assure that there are no air leaks in the stack pipe between the two locations.

On units employing draft hoods or direct vent systems, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature ($T_{F.SS.X}$) using the thermocouple grid located in the flue pipe as described in section 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO^2,F}$) present in dry flue gas. For units employing draft hoods or direct vent units which significantly preheat the incoming combustion air, secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO^2,F}$) present in dry flue gas. For direct vent units which do not significantly preheat the incoming combustion air, secure a sample of the flue gas in the plane of temperature measurement, or within 3.5 feet of this plane on the downstream side, and determine the concentration by volume of CO_2 ($X_{CO^2,F}$) present in dry flue gas. If the location of gas sampling differs from the temperature measurement plane, care should be taken to assure that there are no air leaks in the flue pipe between the two locations.

Determine the steady state heat imput rate (Q_{in}), including pilot gas, by multiplying the measured higher heating value of the test gas by the steady state gas input rate corrected to standard conditions of 60°F and 30 inches of mercury. Use measured values of gas temperature and pressure at the meter and the barometric pressure to correct the metered gas flow rate to standard conditions.

Measure the steady state electric power to the power burner (PE) on units so equipped. For furnaces, measure the steady state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady state water pump power of 0.13kW.

After the above test measurements have been completed on units employing integral draft diverters, secure a sample of the flue gases at the inlet to the draft diverter and determine the concentration of CO_2 ($X_{CO^2,F}$) present. In obtaining this sample of flue gas, move the sampling probe around to assure that an average value is obtained for the CO_2 concentration. To obtain the average CO_2 concentration for units with multiple heat exchanger outlets, draw and weigh a sample from each outlet. Block the draft diverter relief opening and cover the draft diverter and flue gas collection box (on a power vented unit) with insulation having an R value no less than 7 (°F-HR-ft²/Btu) and an outer layer of aluminum foil. If the unit is turned off during the process of blocking the diverter relief opening, run it until steady state conditions (as defined above) are again achieved. Progressively restrict the test stack outlet until the concentration of CO_2 in flue gas samples secured from the test stack in the plane where $T_{S.SS.X}$ was measured or within 3.5 feet of this plane on the downstream side, is within ±0.2 percentage points of the previously determined value of ($X_{CO^2,F}$). Measure the flue gas temperature ($T_{F.SS}$) using the thermocouple grid located in the 5-foot test stack as described in 2.6.1.

22. Section 3.1.2 of Appendix N to Subpart B is amended to read as follows:

3.1.2 Oil-fueled forced-air central furnaces and low pressure steam and hot water boilers (including direct vent systems and not including condensing furnaces or boilers). Set up and adjust the furnace or boiler as specified in sections 2.1, 2.2 and 2.3.4. Begin the steady state performance test by operating the burner and the circulating air blower or water pump with the adjustments specified by 2.4.2 and 2.5 until steady state conditions are attained as indicated by a temperature variation in three successive readings taken 15 minutes apart of not more than: (1) 5°F (2.8C) in the flue gas temperature for furnaces and boilers and (2) 4°F (2.2C) in the outlet water temperature for hot water boilers.

Smoke in the flue for units equipped with power burners may not exceed a No. 1 smoke during the steady state performance test as measured by the procedure described in ANSI Standard Z11.182–1975 (R1971) (ASTM D 2156–65 (1970)). Maintain the average draft (recommended by the manufacturer) over the fire and in the breeching during the steady state performance test. Draft fluctuations may not exceed 0.005 inches of water guage.

Measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature ($T_{F,SS}$) using the thermocouple grid located in the flue pipe as described in 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement or within 3.5 feet of this plane on the downstream side and determine the concentration by volume of CO_2 ($X_{CO^2,F}$) present in dry flue gas. If the location of gas sampling differs from the temperature measurement plane, care should be taken to assure that there are no air leaks in the flue pipes between the two locations.

Measure and record the steady state heat imput rate (Q_{in}) and the steady state electrical power to the power burner (PE) on unit so equipped. For furnaces, measure the steady state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady state water pump power of BE=0.13 kW.

23. Appendix N to Subpart B is amended by renumbering the present section 3.1.3 as 3.1.4.

24. Appendix N to Subpart B is amended by renumbering the present section 3.1.3 as 3.1.5.

25. Appendix N to Subpart B is amended by adding a new section 3.1.3 to read as follows:

3.1.3 Gas- and oil-fueled condensing furnaces and boilers. The furnace or boiler shall be set up as specified in sections 2.1, 2.2, 2.3, and 2.6. Begin the test by operating the burner and circulating air blower or water pump for hot water boilers, with the adjustments specified in 2.4 and 2.5, until steady state conditions are obtained as indicated by a temperature variation in their successive readings taken 15 minutes apart of not more than 1°F (0.56°C) in the flue gas temperature and the supply (outlet) water temperature.

Measure the room temperature (T_{RA}) as described in section 2.9, and measure the steady state flue gas temperature ($T_{F,SS}$) using the thermocouple grid described in section 2.6. A sample of the flue gas shall be secured in the plane of temperature measurement or within 3.5 feet of this plane on the downstream side and analyzed to determine the concentration by volume of CO_2 ($X_{CO2,F}$) present in the dry flue gas. If the location of sampling the CO_2 differs from the temperature measurement plane, care should be taken to assure that there are no air leaks in the flue pipe between these two locations.

The steady state heat imput rate (Q_{in}), including pilot gas input if appropriate, shall be determined by multiplying the measured higher heating value of the test fuel by the measured steady state imput rate. If gas is the fuel used, correct the imput rate to standard conditions of 60°F and 30 inches of mercury using measured values of gas temperature and pressure at the meter and the measured barometric pressure.

Measure the steady electric power to the burner (PE), if appropriate. For furnaces, measure the steady state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady state water pump power of BE = 0.13 kw. Record all measured values.

26. Section 3.2.1 of Appendix N to Subpart B is amended to read as follows:

3.2.1 Gas- and oil-fuel gravity and forced-air central furnaces (including direct vent systems but not including condensing furnaces). Turn off the main burner after steady state testing is completed and measure the flue gas temperature by means of the thermocouple grid described above at 1.5 ($T_{F,\,OFF}$ (t_5)) and 9.0 minutes ($T_{F,OFF}$ (t_6)) after the burner shuts off. By-pass the damper control in units employing stack dampers and integral draft diverters or draft hoods so that the damper remains open during the cool down test.

During this off-period, allow a time delay (t^+) between burner shut-down and blower shut-down of either 3 minutes or until the supply air temperature drops to a value of 40° F (22.2° C) above the inlet air temperature, whichever results in the longest blower on-time. However, if the furnace employs a single motor to drive a power burner and an indoor air circulating blower, turn off the blower and the burner together. If the blower delay time exceeds 3 minutes, measure the time delay (t^+) between burner shut-off and blower shut-off using a stop watch. The quantity t^+ shall be set equal to this measured delay time or 13.3 minutes, whichever is smaller. For oil-fueled furnaces not equipped with stack dampers, maintain the draft in the flue pipe within a range of −0.001 and +0.005 inch of water gauge of the average draft maintained during the steady state test described in section 3.1 if the optional test in section 3.6 is being carried out, or within ±0.01 inch of water gauge of the average steady state draft if it is not. For a direct vent system with a flue damper or a furnace equipped with both a stack damper and a barometric damper, close the flue or stack damper during the cool-down test. Keep the main burner(s) off until equilibrium conditions are attained as indicated by variations in the flue gas temperature of not more than 3° F (1.7° C) between three successive readings taken 15 minutes apart. For units employing a continuously burning pilot light, take a third flue gas temperature measurement and determine the off-period minimum flue gas temperature ($T_{F,\,OFF}(\infty)$). For units not employing a continuously burning pilot light, set ($T_{F,\,OFF}(\infty)$) equal to the room temperature (T_{RA}). During this cool-down test, measure the energy input rate to the pilot light (Q_P), if the unit is so equipped, within an error no larger than ±3 percent. Record all measured values.

27. Section 3.2.2 of Appendix N to Subpart B is amended to read as follows:

3.2.2 Gas- and oil-fueled boilers (including direct vent systems and not including condensing boilers). After steady state testing has been completed, turn the main burner(s) off and measure the flue gas temperature at 3.75 ($T_{F,\,OFF}(t_5)$) and 22.5 ($T_{F,\,OFF}(t_6)$) minutes after the burner shuts off, using the thermocouple grid described above. During this off-period, do not allow water to circulate through the hot water boilers. Make a third flue gas temperature measurement 45 minutes after the burner shuts off to determine the off-period minimum flue gas temperature ($T_{F,\,OFF}(\infty)$). During this cool-down test, measure the energy input rate to the pilot light (Q_P), if the unit is so equipped, to within an error no larger than ±3 percent. Record all measured values. For oil-fueled units not equipped with stack dampers, maintain the draft in the flue within the same ranges called for in section 3.2.1 above. For direct vent systems with flue dampers or boilers equipped with both stack dampers and barometric dampers, close the flue or stack damper during the cool-down test.

28. Appendix N to Subpart B is amended by adding, after section 3.2.2, the following new sections:

3.2.3 Gas- and oil-fueled condensing furnaces. After steady state testing is completed and all required measurements made, the burner shall be turned off and the flue gas temperature measured by means of the thermocouple grid described in section 2.6 at 1.5 ($T_{F,\,OFF}\,t_5$) and 9.0 ($T_{F,\,OFF}\,t_6$) minutes after the burner shuts off. Units employing flue dampers shall have their dampers closed during the cool-down test. During this off-period, there shall be a time delay (t^+) between burner shut down and blower shut-down of either 1.5 minutes or until the supply air temperature drops to a value of 40° F (22.2° C) above the inlet air temperature, whichever results in the larger blower on-time. An exception to this is if the furnace employs a single motor to drive a power burner and an indoor air circulating blower, the blower and the burner shall be shut off together. If the blower delay time exceeds 1.5 minutes, the time between burner shut-off and blower shut-off shall be measured using a stop watch and the quantity t^+ shall be set equal to this measured delay time or 13.3 minutes, whichever is smaller. For units equipped with a continuously burning pilot light, the main burner(s) shall remain off until equilibrium conditions are attained as indicated by variations in the flue gas temperature of not more than 0.5° F (0.28° C) in three successive readings taken 15 minutes apart, and then a third flue gas temperature measurement shall be made to determine the off-period minimum flue gas temperature ($T_{F,\,OFF}(\infty)$). For units not equipped with a continuously operating pilot light, $T_{F,\,OFF}(\infty)$ shall be set equal to the measured room temperature (T_{RA}) and the unit shall remain off for a minimum time period of 20 minutes.

During the cool-down test, the energy input rate to the pilot light (Q_P), if the unit is so equipped, shall be measured with an error no larger than ±3 percent. Record all measured values.

3.2.4 Gas- and oil-fueled condensing boilers. After steady state testing is completed, the main burner(s) shall be turned off and the flue gas temperature measured at 3.75 ($T_{F,\,OFF}(t_5)$) and 22.5 ($T_{F,\,OFF}(t_6)$) minutes after the burner(s) shuts off, using the thermocouple grid described in section 2.6. During this off-period, no water shall be allowed to circulate through the boiler. A third flue gas temperature shall be made 45 minutes after the burner(s) shuts off to determine the off-period minimum flue gas temperature ($T_{F,\,OFF}(\infty)$). During this cool-down test, the energy input rate to the pilot light (Q_P), if the unit is so equipped, shall be measured with an error no larger than ±3 percent. For units equipped with flue dampers, the damper shall be closed during the cool-down test. Record all measured values.

29. Section 3.3.1 of Appendix N to Subpart B is amended to read as follows:

3.3.1 Gas- and oil-fueled central furnaces (including direct vent systems and not including condensing furnaces). After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature using the thermocouple grid described above, at 0.5 ($T_{F,\,ON}(t_1)$) and 2.5 ($T_{F,\,ON}(t_2)$) minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t^-) unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together, or (2) the delay time would result in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure the time delay (t^-) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water gauge of the manufacturer's recommended on-period draft.

30. Section 3.3.2 of Appendix N to Subpart B is amended to read as follows:

3.3.2 Gas- oil-fueled boiler (including direct vent systems and not including condensing boilers). Fifty minutes after the main burner(s) is turned off for the cool-down test, turn on the steam or hot water boiler and measure the flue gas temperature using the thermocouple grid described above, at 1.0 ($T_{F,\,ON}(t_1)$) and 5.5 ($T_{F,\,ON}(t_2)$) minutes after the main burner(s) comes on. Start the pump circulating the water through the hot water boiler simultaneously with the main burner(s) and maintain the water flow rate at that maintained during the steady state test described in section 3.1. During the heat-up test for oil fired boilers, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft. Record the measured temperatures.

31. Appendix N to Subpart B is amended by adding, at the end of section 3.3.2, the following new sections:

3.3.3 Gas- and oil-fueled condensing furnaces. After the cool-down test is completed, the furnace shall be turned on and the flue gas temperature measured using the thermocouple grid described in section 2.6 at 0.5 ($T_{F,\,ON}(t_1)$) and 2.5 ($T_{F,\,ON}(t_2)$) minutes after the main burner(s) comes on. During this on-period, there shall be a time delay (t^-) between the burner start-up and blower start-up of 1.5 minutes. Two exceptions to this are: (1) if the furnace employs a single motor to drive a power burner and an indoor air circulating blower, both shall be started together, and (2) if a 1.5 minute blower delay time results in the operation of the high limit control to shut the burner off, the fan control shall be permitted to automatically start the blower provided, if it is adjustable, it is set to turn the blower on at the highest flue gas temperature. If the fan control is permitted to start the blower, the time delay (t^-) between burner and blower start-up shall be measured using a stop watch. Record the measured values.

3.3.4 Gas- and oil-fueled condensing boilers. Fifty minutes after the main burner(s) is turned off for the cool-down test, the condensing boiler shall be turned on and the flue gas temperature measured using the thermocouple grid described in section 2.6 at 1.0 ($T_{F,\,ON}(t_1)$) and 5.5 ($T_{F,\,ON}(t_2)$) minutes after the main burner comes on. The pump circulating the water through the boiler shall be started simultaneously with the main burner(s), the water flow rate shall be the same as that maintained during the steady state test described in 3.1, and the return water temperature shall be within the limits specified in section 2.5.4.

32. Section 3.4(i) and (ii) of Appendix N to Subpart B is amended to read as follows:

(i) Electric and gas-fueled gravity and forced-air central furnaces—ANSI Standard Z21.47–1978, section 2.12.1 and Exhibit B.

(ii) Gas- and oil-fueled low pressure steam and hot water boilers—ANSI Z21.47–1978 section 2.12.1 and Exhibit B.

33. The first two sentences of 3.6 of Appendix N to Subpart B are amended to read as follows:

3.6 *Optional procedure for determining D_f, D_p, and D_b for systems equipped with power burners, forced draft fans, induced draft fans and for direct vent systems with nonpowered burners.* On systems which employ power burners, forced draft fans, or induced draft fans and do not employ a stack damper, or do employ a stack damper but with a draft diverter or draft hood, and direct vent system measure D_f (the ratio of gas mass flow rate through the flue during the off-cycle to the gas mass flow rate through the flue during the on-cycle at identical temperatures) during the cool-down test described in section 3.2.

* * * * *

34. Appendix N to Subpart B is amended by adding the following new paragraph at the end of section 3.6:

* * * * *

For any unit whose design is such that there is no air flow through the combustion chamber and heat exchange during the off period, D_f and D_b shall be set equal to 0.0. For condensing units employing power burners, forced draft fans, or induced draft fans, the values of D_f and D_b may be obtained using the optional procedures described above in this section, except that the steady state conditions shall be indicated by a temperature variation in three successive readings, taken 15 minutes apart, of not more than 1°F in the flue gas temperature in the case of furnaces and the supply (outlet) water temperature for hot water boilers.

35. Appendix N to Subpart B is amended by adding after section 3.6, the following new section:

3.7 *Optional procedure for condensing furnaces and boilers which have no off-period flue losses.* At the discretion of the manufacturer, the cool-down and heat-up tests specified in 3.2 and 3.3 may be omitted on condensing units for which there is no air flow through the combustion chamber and heat exchange during the off period. In lieu of conducting the cool-down and heat-up tests, the manufacture may use the losses determined during the steady state test described in 3.1 when calculating part load efficiency (η_w).

36. Section 4.2.2 of Appendix N to Subpart B is amended to read as follows:

4.2.2 Ratio of combustion air to stoichiometric air. Determine the ratio of combustion air mass flow rate to stoichiometric air mass flow rate ($R_{T,F}$) for the test fuel from Figure 1 by using the value of dry flue gas CO_2 concentration ($X_{CO2,F}$) determined in accordance with section 3.1 of this appendix.

37. Section 4.2.5 of Appendix N to Subpart B is amended to read as follows:

4.2.5 Steady state efficiency. Calculate the steady state efficiency (excluding jacket loss) (η_{ss}) expressed in percent and defined as:

$\eta_{ss} = 100 - C'_L\,L_{L,A} - L_{s,SS,A} - L'_c$ for noncondensing furnaces and boilers and condensing furnaces

and

$$\eta_{ss} = 100 - L_{L,A} - L_{s,ss,A} - \frac{(100)(.24)(180-120)\left[1+(R_{T,F})(A/F)\right]}{HHV_A}, \text{ for condensing boilers}$$

where:

$L_{L,A}$ = average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{s,SS,A}$ as defined in 4.2.4.

(.24) = specific heat of air.

(180) = rated return water temperature.

(120) = test return water temperature.

$R_{T,F}$ as defined in 4.2.2.

A/F = the stoichiometric air/fuel ratio determined in accordance with table 3.

100 = number which relates results in percentages.

HHV_A = average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

L'_C=0 for non-condensing furnaces or boilers and as determined in 4.2.33 for condensing furnaces or boilers.

C'_L=1 for non-condensing furnaces or boilers and as determined in 4.2.33 for condensing furnaces or boilers.

38. Section 4.2.6 of Appendix N to Subpart B is amended to read as follows:

4.2.6 Average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady state operation. Determine the average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady state operation (S/F) for the system number to be tested from table 1 or 2.

39. Appendix N to Subpart B is amended by adding in the equation in section 4.2.8 a minus sign, "−", between the two terms of the numerator.

40. Appendix N to Subpart B is amended by changing the fourth and fifth paragraphs of section 4.2.13 to read:

D_p=off-cycle flue gas draft factor selected from table 1 or, for units with power burners, induced draft fans, or forced draft fans where D_p is measured, determined in accordance with section 4.4.2 of this appendix.

D_b=off-cycle stack gas draft factor selected from table 1 or, for units with power burners, induced draft fans, or forced draft fans where D_p is measured, determined in accordance with section 4.4.3 of this appendix.

41. Section 4.2.15 of Appendix N to Subpart B is amended to read as follows:

4.2.15 Correction factors for systems 9–12. Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature (C_n) defined as:

for non-condensing furnaces:

$$C_n = 1 + \frac{(70-42)\,\eta_{ss}}{(T_{F,SS}-T_{RA})\,100}$$

for condensing furnaces:

$$C_n = \frac{T_{F,SS}-42}{T_{F,SS}-70}$$

42 = average outdoor temperature

where:

$T_{F,SS}$ = average flue gas temperature at full-load steady-state

43. Appendix N to Subpart B is

42=average outdoor temperature corresponding to 5,200 degree day location, in degrees fahrenheit.
η_{ss} as defined in 4.2.5.
$T_{F,SS}$ as defined in 4.2.4.
70 assumed average indoor air temperature.
T_{RA} as defined in 4.2.4.

The correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'_L is defined as: $C'_L=1.22$

42. Appendix N to Subpart B is amended by changing the second paragraph of section 4.2.22 to read as follows:

For systems 1–8 and condensing units:

* * *

43. Appendix N to Subpart B is amended by changing the third paragraph of section 4.2.22 to read as follows:

For systems 9–12 except condensing units:

* * *

44. Appendix N to Subpart B is amended by changing section 4.2.32 to read as follows:

4.2.32 Latent heat loss coefficient (C_L). For condensing furnaces, and for part load and steady state conditions, calculate the latent heat loss coefficient expressed as a decimal and defined as:
for part load conditions

$$\text{If } P_V > P_V^S \quad C_L = \frac{P_V^S}{P_V} \times \frac{14.7 - P_V}{14.7 - P_V^S}$$

$$\text{If } P_V \leq P_V^S \quad C_L = 1.0$$

for steady-state conditions

$$\text{If } P_V > P_V^{S,SS} \quad C'_L = \frac{P_V^{S,SS}}{P_V} \times \frac{14.7 - P_V}{14.7 - P_V^{S,SS}}$$

$$\text{If } P_V \leq P_V^{S,SS} \quad C_L = 1.0$$

where:

$$P_V = \frac{M_V}{M_{FG}} \times \frac{m_{FG}}{m_V} (14.7),$$

is the water vapor partial pressure that would be in the flue gases if there were no condensation and the atmospheric pressure were equal to 14.7 psia.
14.7=standard atmospheric pressure in psia.
M_V=18, is the approximate molecular weight of water.
M_{FG}=
29.0 for No. 1 and No. 2 fuel oil
28.0 for natural gas
27.5 for manufactured gas
28.5 butane and propane, are the approximate apparent molecular weights of flue gases for different fuels.

$$m_{FG} = 1 + \left[(A/F) \quad (R_{T,F})\right]$$

is the weight of flue gases generated per unit weight of fuel burnt.

$$m_V = \frac{(HHV_A) \quad (L_{L,A})}{(100) \quad (1053.3)}$$

(HHV_A) as defined in 4.2.5
$(L_{L,A})$ as defined in 4.2.5
(A/F) as defined in 4.2.5
$(R_{T,F})$ as defined in 4.2.5
(1053.3) is assumed latent heat/lb. of water
P_V^S=saturated vapor pressure determined from Table 5 at average flue gas temperature $T_{F,ON}$.
$P_V^{S,SS}$=saturated vapor preasure determined from Table 5 at average flue gas temperature at full-load steady-state operation $T_{F,SS}$.
where:
If the option described in 3.7 is not employed:

$$T_{F,ON} = T_{F,SS} - \frac{\Theta_{F,O}\left[1 - e^{-(t_{ON}/\tau_{ON})}\right]}{(t_{ON}/\tau_{ON})}$$

If the option described in 3.7 is employed: $T_{F,ON}=T_{F,SS}$
where:
$T_{F,SS}$ as defined in 4.2.4.
$\theta_{F,O}$ as defined in 4.2.22.
t_{ON} as defined in 4.2.20.
τ_{ON} as defined in 4.2.20.

45. Appendix N to Subpart B is amended by renumbering existing section 4.2.33 to 4.2.35.

46. Appendix N to Subpart B is amended by adding a new section 4.2.33 to read as follows:

4.2.33 Condensate heat loss. For condensing furnaces, and for part load and steady state conditions calculate the loss due to condensate going down the drain and correct for the fact that this condensate did not go up the flue as heated vapor (as was assumed in determining $L_{S,SS,A}$), expressed as a percent and defined as:
for part load conditions:

$$L_C = \frac{L_{L,A}(1 - C_L)\left[1.0 \quad (T_{F,SS} - 70) - .45\ (T_{F,SS} - 42)\right]}{1053.3}$$

for steady steady state conditions:

$$L'_C = \frac{L_{L,A}(1 - C'_L)\left[1.0 \quad (T_{F,SS} - 70) - .45\ (T_{F,SS} - 42)\right]}{1053.3}$$

where:
$T_{F,SS}$ as defined in 4.2.4.
.45 specific heat of water vapor
1.0 specific heat of water (liquid)
70 as defined in 4.2.15
42 as defined in 4.2.15
C_L as defined in 4.2.32
C'_L as defined in 4.2.32
$L_{L,A}$ as defined in 4.2.5
1053.3 latent heat vaporization of water

47. Appendix N to Subpart B is amended by adding a new section 4.2.34 to read as follows:

4.2.34 Part-load fuel utilization efficiency. Calculate the part-load fuel utilization efficiency, expressed as a percent and defined as:
If the option described in 3.7 is not employed:

$$\eta_U = 100 - C_L L_{L,A} - L_C - C_J L_J - \frac{t_{on}}{t_{on} + \left(\frac{Q_p}{Q_{NP}}\right)(t_{off})} \left(Q_{NP}\right)\left[L_{S,ON} + L_{S,OFF} + L_{LON} + L_{LOFF}\right]$$

If the option described in 3.7 is employed:

$$\eta_U = 100 - C_L L_{L,A} - L_C - C_J L_J - \frac{t_{on}}{t_{on} + \left(\frac{Q_p}{Q_{NP}}\right)(t_{off})} \left[C_S L_{S,SS,A}\right]\left(Q_{NP}\right)$$

where:
C_J=0 for furnaces or boilers intended to be installed indoors, 3.3 for furnaces intended to be installed outdoors, and 4.7 for boilers intended to be installed outdoors.
C_S as defined in 4.2.15.
C_L=1 for non-condensing furnaces or boilers, and as determined in 4.2.32 for condensing furnaces or boilers.
t_{on} as defined in 4.2.20.
t_{off} as defined in 4.2.21.
Q_p=pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour.
Q_{NP}=nameplate input rating as defined in 1.31.
L_J=jacket loss determined in accordance with section 3.4 of this Appendix, in percent.
$L_{L,A}$ as defined in 4.2.5.
t_{on} as defined in 4.2.20.
t_{off} as defined in 4.2.21.
$L_{s,on}$ as defined in 4.2.28.
$L_{s,off}$ as defined in 4.2.29.
$L_{l,on}$ as defined in 4.2.30.
$L_{l,off}$ as defined in 4.2.31.
$L_{S,SS,A}$ as defined in 4.2.4.
L_C=0 for non-condensing furnaces or boilers, and as determined in 4.2.33 for condensing furnaces or boilers.

47a. Appendix N to Subpart B is amended by changing in section 4.2.35, 4.8 and 4.12 the term Q_{in} to Q_{NP} in all formulas and replacing the expression "Q_{in}" as defined in 4.2.32" to Q_{NP} as defined in 1.31.

48. Appendix N to Subpart B is amended by changing in sections 4.4.1, 4.4.2, 4.4.3, and 4.5, the words "power burner" to "power burner, induced draft fan or forced draft fan."

49. Section 4.4 of Appendix N to Subpart B is amended by adding a paragraph at the end of the section to read as follows:

* * * * *

For direct exhaust systems utilizing indoor air for combustion and employing forced or induced draft shall be tested as a direct vent system without preheating of combustion air. The test data for the type of furnace shall be reduced as a system number 2 with S/F=1, and $D_s=D_f=0.4$ or D_p if the unit is not equipped with a flue damper, and as a system number 8 with S/F=1, $D_f=0.4$ or D_p, and $D_s=(0.4)\ D_e$ or $(D_p)\ (D_8)$, if the unit is equipped with a flue damper.

50. Appendix N to Subpart B is amended by changing the fourth paragraph of section 4.7 to read as follows:

$Q_{out}=(\eta_{ss}/100)$ (nameplate input) rounded off to the nearest 1,000 Btu/hr for units intended for installation in a heated space, $Q_{out}=(\eta_{ss}/100)-(3.3)\ (L_J/100))$ (nameplate input) rounded off to the nearest 1,000 Btu/hr for finned tubed boilers intended for installation outdoors or in an unheated space, and $Q_{out}=(\eta_{ss}/100)-(L_J/100)$ (nameplate input) rounded off to the nearest 1,000 Btu/hr for finned tubed boilers intended for installation outdoors or in an unheated space.

51. Appendix N to Subpart B is amended by changing in section 4.7 the defined term "O_{in} as defined in 4.2.5" to "η_{ss} as defined in 4.2.5."

52. Appendix N to Subpart B is amended by changing the cite "4.2.32" in section 4.7 to "4.2.34."

53. Appendix N to Subpart B is amended by adding at the end of section 4.7 the defined term:

nameplate input as defined in section 1.31.

53a. Appendix N in Subpart B is amended by replacing the existing formula for $E_{F,R}$ to:

$E_{F,R}=(Q_{in}-Q_P)$ BOH+8760 Q_P

54. Appendix N to Subpart B is amended by adding a new section 4.15 after existing section 4.14 to read as follows:

4.15 *Energy factor for furnaces.*
Calculate the energy factor for gas and oil-fueled furnaces*, EF, defined as:

$$E_F = \left[\frac{(\eta_U/100)\left[E_F - (4600\ Q_P)\right]}{E_F + 3413\ E_{AE}}\right] (000)$$

Where:
η_u is the part-load fuel utilization-efficiency defined in 4.2.34.
E_F is the average annual fuel energy consumption as defined in section 4.8.
4600 as defined in 4.2.35.
Q_P as defined in 4.2.35.
E_{AE} is the average annual auxiliary electric energy consumption as defined in 4.9.
3413 conversion factor corresponding to 1 kilowatt=3414 Btu/hour.
*Set the energy factor for electric-furnaces equal to the annual fuel utilization-efficiency as defined in 4.1.

55. Appendix N to Subpart B is amended by changing the title of Table 1 to read as follows:

Factors Describing Air Flow Rate for Gas- and Oil-Fired Non-Condensing Furnaces or

Boiler Utilizing Indoor Air for Combustion and Draft Control.

56. Appendix N to Subpart B is amended by adding to the title of Table 2 the phrase "and All Condensing Furnaces or Boilers" at the end of the existing title.

57. Appendix N to Subpart B is amended by adding to Table 4 the following line items preceding the existing line items:

5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15

58. Appendix N to Subpart B is amended by adding a new Table 5 after existing Table 4 to read as follows:

Table 5.—*Saturated Vapor Pressure at Different Temperatures*

Temperature (°F):	Pressure (lb./in²a)
700	3094.3
600	1543.2
500	680.86
400	247.259
300	67.005
200	11.526
180.0	7.5110
179.0	7.3460
178.0	7.1840
177.0	7.0250
176.0	6.8690
175.0	6.7159
174.0	6.5656
173.0	6.4182
172.0	6.2736
171.0	6.1318
170.0	5.9926
169.0	5.8562
168.0	5.7223
167.0	5.5911
166.0	5.4623
165.0	5.3361
164.0	5.2124
163.0	5.0911
162.0	4.9722
161.0	4.8556
160.0	4.7414
159.0	4.6294
158.0	4.5197
157.0	4.4122
156.0	4.3068
155.0	4.2036
154.0	4.1025
153.0	4.0035
152.0	3.9065
151.0	3.8114
150.0	3.7184
149.0	3.6273
148.0	3.5381
147.0	3.4508
146.0	3.3653
145.0	3.2816
144.0	3.1997
143.0	3.1195
142.0	3.0411
141.0	2.9643
140.0	2.8892
139.0	2.8157
138.0	2.7438
137.0	2.6735
136.0	2.6047
135.0	2.5375
134.0	2.4717
133.0	2.4074
132.0	2.3445
131.0	2.2830
130.0	2.2230
129.0	2.1642
128.0	2.1068
127.0	2.0507
126.0	1.9959
125.0	1.9424
124.0	1.8901
123.0	1.8390
122.0	1.7891
121.0	1.7403
120.0	1.6927
119.0	1.6463
118.0	1.6009
117.0	1.5566
116.0	1.5133
115.0	1.4711
114.0	1.4299
113.0	1.3898
112.0	1.3505
111.0	1.3123
110.0	1.2750
109.0	1.2385
108.0	1.2030
107.0	1.1684
106.0	1.1347
105.0	1.10174
104.0	1.0339
103.0	1.06965
102.0	1.00789
101.0	0.97818
100.0	0.94924
99.0	0.92103
98.0	0.89356
97.0	0.86679
96.0	0.84072
95.0	0.81534
94.0	0.79062
93.0	0.76655
92.0	0.74313
91.0	0.72032
90.0	0.69813
89.0	0.67653
88.0	0.65551
87.0	0.63507
86.0	0.61518
85.0	0.59583
84.0	0.57702
83.0	0.55872
82.0	0.54093
81.0	0.52364
80.0	0.50683
79.0	0.49049
78.0	0.47461
77.0	0.45919
76.0	0.44420
75.0	0.42964
74.0	0.41550
73.0	0.40177
72.0	0.38844
71.0	0.37549
70.0	0.36292
69.0	0.35073
68.0	0.33889
67.0	0.32740
66.0	0.31626
65.0	0.30545
64.0	0.29497
63.0	0.28480
62.0	0.27494
61.0	0.26538

[FR Doc. 80-24186 Filed 8-11-80; 8:45 am]
BILLING CODE 6450-01-M

federal register

Tuesday
August 12, 1980

Part V

Environmental Protection Agency

Air Quality Assessment of Hydrocarbon and Carbon Monoxide Emission Standards for 1984 and Later Model Year Heavy-Duty Engines

regulations becomes prohibitive for

determining whether the other factors

the total pollutants emitted for three

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1567-5]

Air Quality Assessment of Hydrocarbon and Carbon Monoxide Emission Standards for 1984 and Later Model Year Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Clean Air Act as amended (the Act), Section 202(a)(3)(E)(i) (42 USC 7521(a)(3)(E)(i)), EPA is conducting a continuing pollutant specific study concerning the effects of hydrocarbon (HC) and carbon monoxide (CO) emissions from heavy-duty engines and other mobile sources of these pollutants on the public health and welfare. The purpose of this study is to assess the heavy-duty engine or vehicle control strategy contained in the 1977 Clean Air Act Amendments and provide a basis for evaluating the adequacy of that strategy for attaining the established air quality standards.

EPA considered the most up-to-date findings of the study in promulgating HC and CO exhaust emission standards applicable to 1984 and later model year heavy-duty motor vehicle engines. That information was made part of the record of the rulemaking. EPA is now publishing that information in the form of a Report to Congress to meet the requirements of section 202(a)(3)(E)(i) of the Act, which states that "the results of such study shall be published in the **Federal Register** and reported to the Congress * * *."

For additional copies of this report, or for further information, contact: Mr. Thomas Nugent, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, telephone: (313) 668-4491.

Dated: August 7, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

Air Quality Assessment of Hydrocarbon and Carbon Monoxide Emission Standards for 1984 and Later Model Year Heavy-Duty Engines

A Report to Congress, June 1980

Standards Development and Support Branch, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Office of Air, Noise, and Radiation, U.S. Environmental Protection Agency

Contents

I. Summary
II. Introduction
  A. Background
  B. Air Quality
  C. Mobile Source Emissions
III. Emission Reductions
  A. Heavy-Duty Engine Emission Rates
  B. Reduction in Urban Emissions From Heavy-Duty Vehicles
IV. Ambient Air Quality Impact
V. Potential Secondary Environmental Impact
  A. Sulfuric Acid
  B. Lead
  C. Water Pollution, Noise Control, Energy Consumption
VI. Irreversible and Irretrievable Commitment of Resources
VII. Alternative Actions
  A. Lifetime Emission Reductions and Cost
  B. Cost Effectiveness
  C. Change in Mobile Source Emissions
  D. Change in Air Quality
VIII. Conclusions
Footnotes
Appendix A

I. Summary

This report to the Congress is intended to fulfill the requirement of Section 202(a) the Clean Air Act as amended, for pollutant specific studies of the health and welfare effects of emissions of hydrocarbons and carbon monoxide from heavy-duty engines or vehicles. As part of the original process of developing ambient air quality standards, the Environmental Protection Agency (EPA) developed and published criteria for air quality standards requisite for the protection of the public health and welfare. These "criteria documents" were initially published in March 1970 for carbon monoxide, hydrocarbons, and photochemical oxidants. Under Section 108 of the Act, EPA has begun the process of revising and reissuing the criteria documents and proposing changes to ambient air quality standards where appropriate. Revised criteria for ozone were issued in April 1978 and a revised ozone standard of 0.12 ppm established. Carbon monoxide and hydrocarbon criteria are in the early stages of review and no conclusion about change in the air quality standard can be made at the present time. As distinguished from this process, the purpose of the Section 202 pollutant specific studies is to assess the heavy-duty engine or vehicle control strategy contained in the 1977 Amendments and provide a basis for evaluating the adequacy of that strategy for attaining the established air quality standards.

In the course of this report, reductions in emissions from heavy-duty engines attributable to the statutory 90% reduction are evaluated, along with the air quality impact of these reductions. Alternative standards requiring either more or less reduction than the statutory values are then examined in comparison. Consideration is also given to the potential secondary impact from the introduction of catalyst technology for heavy-duty gasoline engines.

Air quality problems related to hydrocarbon and carbon monoxide emissions are widespread in United States urban environments. As of July 1979, 586 counties or county equivalents were classified as exceeding the ozone ambient air standard, and 164 were classified as exceeding the carbon monoxide standard. Mobile sources have long been recognized as major sources of these emissions. In 1976, mobile sources represented over one-third of the hydrocarbon emissions and over 80 percent of the carbon monoxide emissions. Further control of light-duty vehicle emissions will greatly reduce these levels in the future, while at the same time highlighting an increasing need to control heavy-duty vehicle emissions.

Three principal conclusions are drawn from this study:

(1) The air quality in many urban areas of the U.S. continues to exceed applicable ambient air quality standards. These high levels are associated with detrimental effects on the health and welfare of the people living in those areas. Health effects from elevated ozone and CO levels are documented in the appropriate EPA Criteria Documents. (*1*)

(2) Heavy-duty vehicles are a significant contributor to urban emissions of HC and CO. Without further controls, they are expected to account for about 35 percent of mobile source non-methane HC emissions and 44 percent of mobile source CO emissions by 1995. In turn, mobile source emissions will represent about 17 percent of all urban HC emissions and 61 percent of urban CO emissions. Implementing the statutory standards will reduce (by 1995), heavy-duty vehicle HC emissions by about 75 percent for gasoline-fueled engines and 36 percent for diesels. For CO, and 84 percent reduction will be achieved for gasoline-fueled engines. CO emissions from diesels are unaffected by the New regulations since they are inherently lower than the standard dictates.

(3) The feasibility of attaining the target emission levels associated with a more stringent 95 percent standard cannot be specified at this time. Therefore, that standard is not an appropriate alternative. The 85 percent standard alternative results in a loss of benefits and some reduction in cost. These changes are in such proportions that the cost effectiveness of the

regulations becomes prohibitive for diesel engines. In addition, approximately half of the ozone air quality benefit of the statutory standard would be lost under the 85 percent standard. Furthermore, EPA has determined that the 90 percent standard is attainable with catalyst technology, and has estimated the approximate cost involved and found it to be cost effective. Therefore, the statutory standard represents the best of the three choices at the present time.

II. Introduction

A. Background

Section 202(a)(3)(E)(i) of the 1977 Amendments to the Clean Air Act (Pub. L. 95-95, August 7, 1977) requires that EPA "shall conduct a continuing pollutant specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare." Results of the study for hydrocarbons and carbon monoxide are reported to the Congress herein and the report for oxides of nitrogen is due by June 1, 1980. Subsequent reports are due before June 1 of each third year thereafter.

The intent of requiring these reports is to provide a portion of the framework needed to evaluate the statutory standards for heavy-duty vehicle (HDV) provided in those same Amendments. Subparagraph (ii) of the above section indicates that on the basis of such studies, and other information available, EPA may change the statutory standards for heavy-duty engines or vehicles. In this context then, the purpose of these pollutant specific studies is not so much to break new ground in basic health effect studies (where a great deal of work has already been done), but rather to assess the heavy-duty control strategy contained in the 1977 Amendments. The assessment will be done in terms of the emission reductions and air quality impact to be expected from implementing the new standards plus a comparison with less stringent or more stringent standards.

There are other considerations which must be entered into any decision to revise standards. These considerations would address such issues as technological feasibility, cost benefits, lead time requirements, fuel economy penalties, etc. Therefore, this pollutant specific study must be viewed as only one element of the overall framework. However, it is also true that insofar as the question of more stringent standards is concerned, this environmental assessment plays a key role in determining whether the other factors even need be addressed. That is, if the environmental assessment indicates that the present standards are appropriate from an environmental viewpoint, and that greater control of emissions from heavy duty engines is unnecessary, then there would be no need to address the other factors in depth.

In carrying out this study, primary attention is focused upon the impact of the statutory standards for hydrocarbons and carbon monoxide. Two alternatives are then evaluated in relation to the statutory standards. The first alternative would relax the standards to require only an 85% reduction from baseline. The second alternative would tighten the standards to a 95% reduction. In this way the effect of standards either more or less stringent than the existing ones can be evaluated. Comparisons will be made both in terms of emission changes and in terms of the expected air quality impact of these emission changes.

To avoid confusion over terminology it is important to note that the heavy-duty vehicle or engine class in the Clean Air Act Amendments refers to vehicles which EPA for purposes of regulation development has further subdivided. In the Amendments, heavy-duty vehicles are defined as those motor vehicles over 6,000 pounds gross vehicle weight. This includes what EPA commonly calls heavy-duty vehicles (8,500 lbs. GVW and over) plus that portion of EPA's "light-duty truck" (LDT) class between 6,000 and 8,500 lbs. GVW. EPA is developing separate standards for these trucks as part of that class (such standards will be as restrictive or more restrictive than the standards being developed for HDV). In this report then, we will focus on those HDV of 8,500 lbs. GVW and over, with the understanding that the 6,000-8,500 lbs. GVW vehicles are included in the LDT class.

B. Air Quality

The Clean Air Act as amended in 1970 contained many provisions aimed at removing harmful pollutants from the air we breathe. Among other things, the 1970 Act called for the establishment of National Ambient Air Quality Standards. These levels were to be set such that there would be no danger to public health and welfare.(*1*) To date, ambient air quality standards have been set for seven pollutants: particulate matter, sulfur dioxide (SO_x), carbon monoxide (CO), nitrogen dioxide (NO_x), ozone (of which hydrocarbons (HC) is the main precursor), hydrocarbon (HC) and lead (Pb). Of these seven pollutants, mobile sources are major contributors to the total pollutants emitted for three: HC, CO, and NO_x.

Both HC (in its role as an ozone precursor) and CO emissions have been related to adverse health effects. Detailed information on these health affects will not be discussed in depth in this Report since such information is well documented elsewhere.(*1*) Briefly, HC emissions react with sunlight to form ozone and other photochemical oxidants. Ozone is a pulmonary irritant that affects the respiratory mucous membrances, other lung tissues, and respiratory functions. CO when inhaled replaces ozygen in the blood. The presence of CO therefore, adversely affects the carrying and delivering capacity of oxygen by the blood.

Although significant improvements have been made in air quality since 1970, a review of air quality monitoring data makes it clear that additional reductions in HC and CO emissions will be necessary if ambient air quality goals set by Congress in the Clean Air Act are to be achieved. On March 3, 1978, EPA published in the **Federal Register** a listing on a State-by-State, pollutant-by-pollutant basis, of the attainment status of every area of the Nation (43 FR 8962). This information, compiled by the respective States are reviewed by EPA, was the most accurate picture available of the nation's air quality status as of the adoption of the Clean Air Act Amendments. These data indicated that of 3215 counties or county equivalents covered by those designations, 607 (19 percent) were classified as nonattainment for photochemical oxidant, and 190 (6 percent) were classified as nonattainment for carbon monoxide. Nonattainment status indicates that the given area fails to meet the primary national ambient air quality standard (NAAQS) for the pollutant under consideration based upon either direct air quality monitoring or indirect estimates for areas lacking monitoring data. Current non-attainment data is available to indicate the changes which have occurred since 1977. As of July, 1979, the non-attainment designations include 586 (18 percent) counties for ozone and 164 (5 percent) for carbon monoxide.

Since the U.S. population is not uniformly distributed, but rather is concentrated in urbanized areas, the above geographically based figures are not representative of the proportions of population actually exposed to excessive ambient pollutant concentrations. Indeed, it is the very fact of urbanization which has led to many of our air pollution problems. For example, the nonattainment areas for

ozone include 103 out of a total of 105 urban areas in the U.S. with populations greater than 200,000 (the exceptions being Honolulu, Hawaii, and Spokane, Washington). The 103 areas represent an exposure of over 100 million people.

Clearly, there is a great need to reduce pollutant (or pollutant precursor in the case of ozone) emissions in the urban areas of the U.S. So long as large numbers of people continue to be exposed to concentrations in excess of the NAAQS, further emission reductions must be sought.

C. *Mobile Source Emissions*

Mobile sources have been recognized for some time as major sources of hydrocarbons (ozone precursors) and carbon monoxide. Light-duty vehicles in particular have been the focus of considerable control work since the late 1960's. However, as light-duty vehicle emissions grow smaller, other source categories such as heavy-duty vehicles grow in proportional significance. The wisdom of controlling heavy duty vehicle emissions is evident when these emissions are placed in the context of other sources of these same pollutants.

In order to properly assess mobile source emissions and their control it is best to look at urban areas where historically the NAAQS contraventions have occurred. In this way a truer perspective of the air quality impact of mobile sources can be obtained. It is in these urban areas that improvements are most needed. HC analysis will be done on an Air Quality Control Region (AQCR) basis (refer to page 15 for an explanation of AQCR selection. CO, on the other hand, will be analyzed on a county basis. This is due to the more localized nature of CO problems. Fifty seven AQCRs have been selected for HC, and 52 counties for CO. Hydrocarbons analyzed include only non-methane hydrocarbons since the methane fraction is non-reactive.

Figures A and B present breakdowns of non-methane hydrocarbon (NMHC) and CO emissions into various source categories for the selected regions. These figures give the 1976 emission levels along with projected levels out to 1999. The data presented in these figures represents what is considered the base case. That is, it projects future heavy-duty emissions as if no new regulations beyond those already in existence (the 1979 heavy-duty standards) were promulgated. For other source categories, possible future control programs are included. For example, light-duty trucks are projected based upon the 1984 implementation of the regulations proposed for light-duty trucks in the July 12, 1979 **Federal Register** (44 FR 40784).(*2*)

Figure -A
Annual Non-Methane Hyrocarbon Emissions for 57 Urban Regions

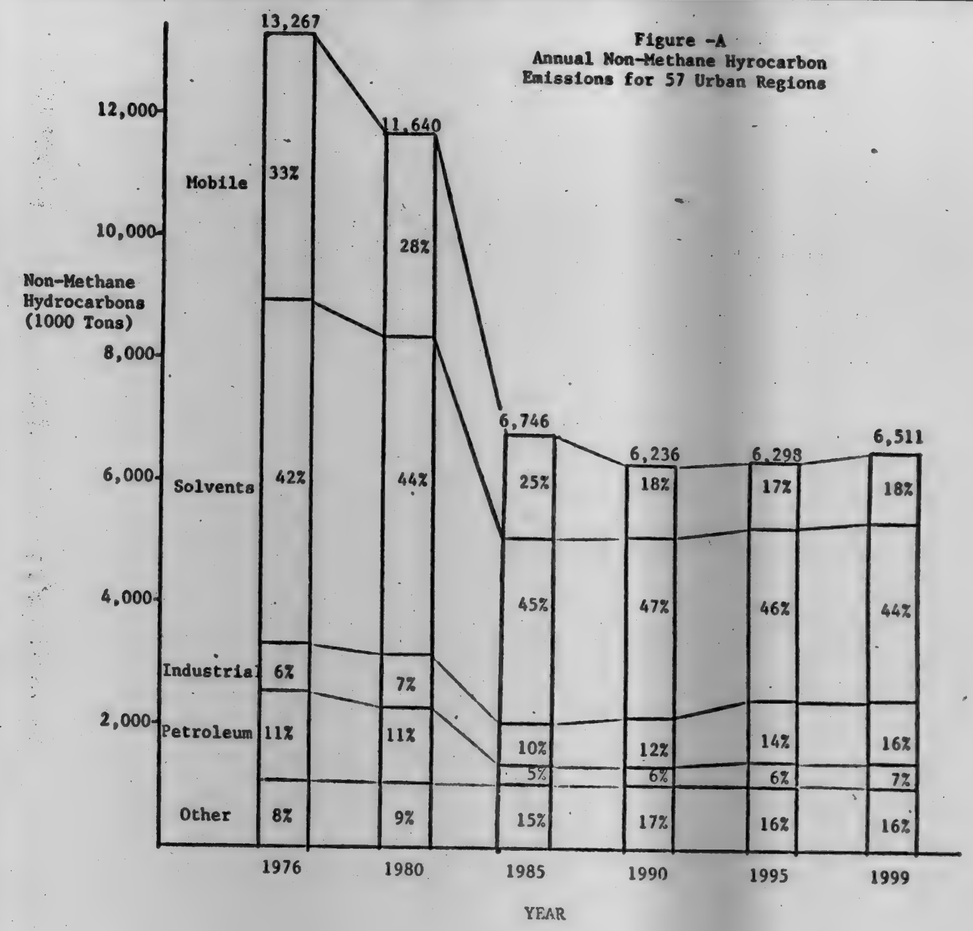

Figure –B
Annual Carbon Monoxide
Emissions for 52 Urban Counties

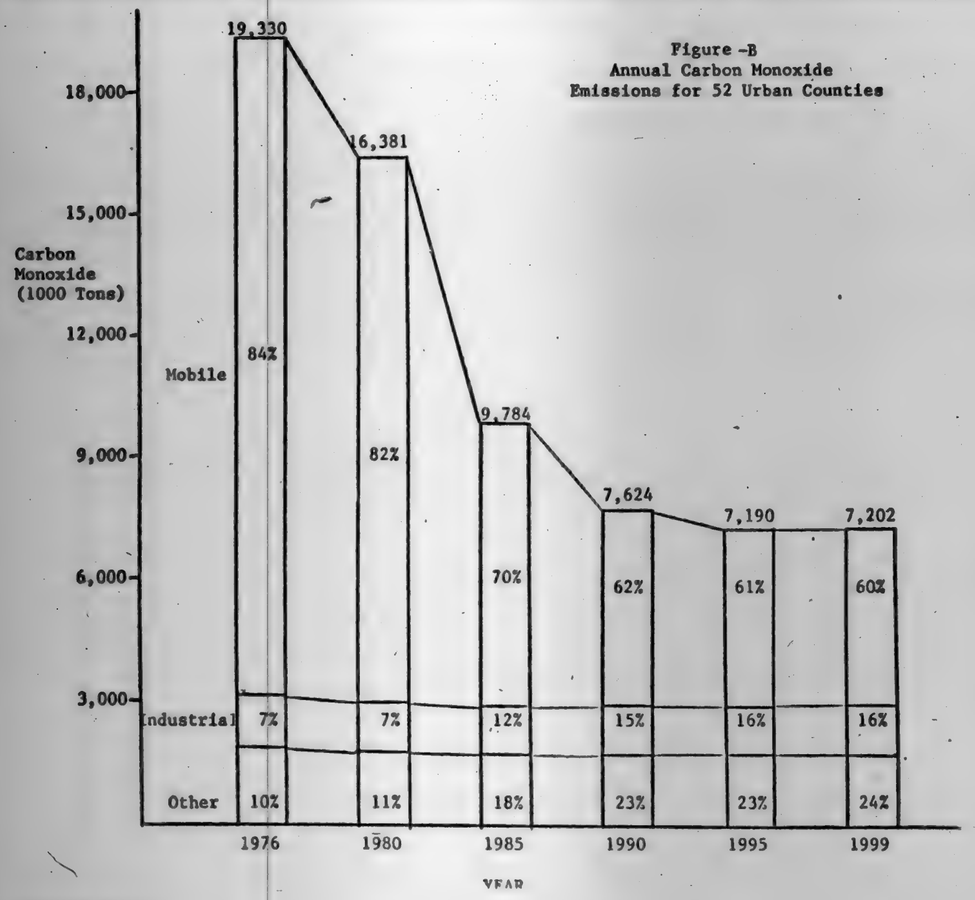

BILLING CODE 6560-01-C

For non-methane hydrocarbons, mobile sources currently represent approximately 30 percent of the urban emissions (Figure A). With current regulations this percentage is expected to decline to 17 percent by 1995. After that time a gradual increase begins to set in.

Mobile source carbon monoxide emissions currently represent over 80 percent of the urban emissions (Figure B). This amount is expected to decline to 60 percent by 1999. No significant change in stationary source emissions is expected for CO. However, since CO problems are often attributed to high localized concentrations during periods of high traffic density, stationary sources have minimal impact on CO air quality problems.

Light-duty vehicles (passenger cars) contribute the major portion of mobile source NMHC and CO emissions. The 1976 emission levels from light-duty vehicle and other mobile sources, and projections of the future urban emissions are given in Figures C and D. Again, these projections are for the base case of no new heavy-duty regulations. The figures give a general overview of the contribution to air pollution that each class of vehicles is expected to make through 1995, and of the distribution of the burden of control of emissions from all mobile sources. From these figures it can be seen that emissions from heavy-duty vehicles will grow in proportion to emissions from light-duty trucks and light-duty vehicles. This apparent inequitable distribution of the burden for reducing mobile source emissions can be in part accounted for by the past need to concentrate control efforts on the primary sources of mobile source pollution where potential gains were the highest.

It is evident from the figures that for both NMHC and CO, heavy-duty vehicles represent a growing proportion of emissions. For hydrocarbons, heavy-duty vehicles go from 12 percent of the total in 1976 to 36 percent in 1999. The increasing share of these emissions going to diesels is also apparent. For carbon monoxide the figures are 15 percent in 1976 and 43 percent in 1999. Thus, control of heavy-duty engines is extremely important in any overall strategy for reducing emissions sufficient to meet ambient air quality standards.

III. Emission Reductions

A. Heavy-Duty Engine Emission Rates

Heavy-duty vehicles may be equipped with either gasoline-fueled engines or diesel engines depending on the needs of the user. The use of a diesel engine, as opposed to a gasoline engine, in heavy-duty vehicles is also important from an emissions point of view because the emissions characteristics of the two engines differ. Basically diesel engines have very low levels of HC and CO emissions, below the levels of the current Federal emission standards for heavy-duty engines. NOx emissions on the other hand, for uncontrolled diesel engines are high relative to gasoline engine NOx emissions. Diesels also emit smoke consisting primarily of unburned carbon present in small particles. Gasoline engines do not. But gasoline engines do have higher HC and CO emissions than do diesels.

BILLING CODE 6560-01-M

Figure-C
Annual Mobile Source
Non-Methane Hydrocarbon
Emissions for 57 Urban Regions

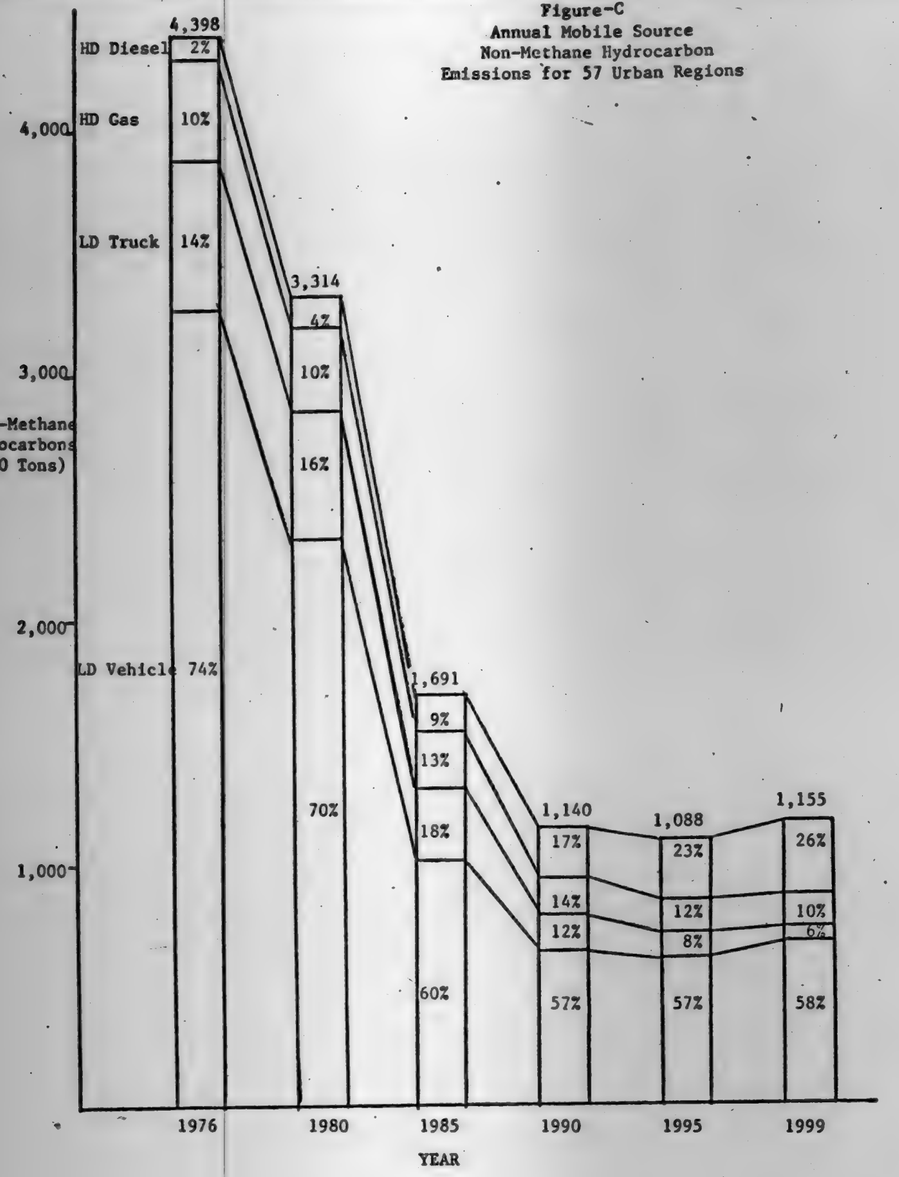

Figure -D
Annual Mobile Source
Carbon Monoxide Emissions
for 52 Urban Counties

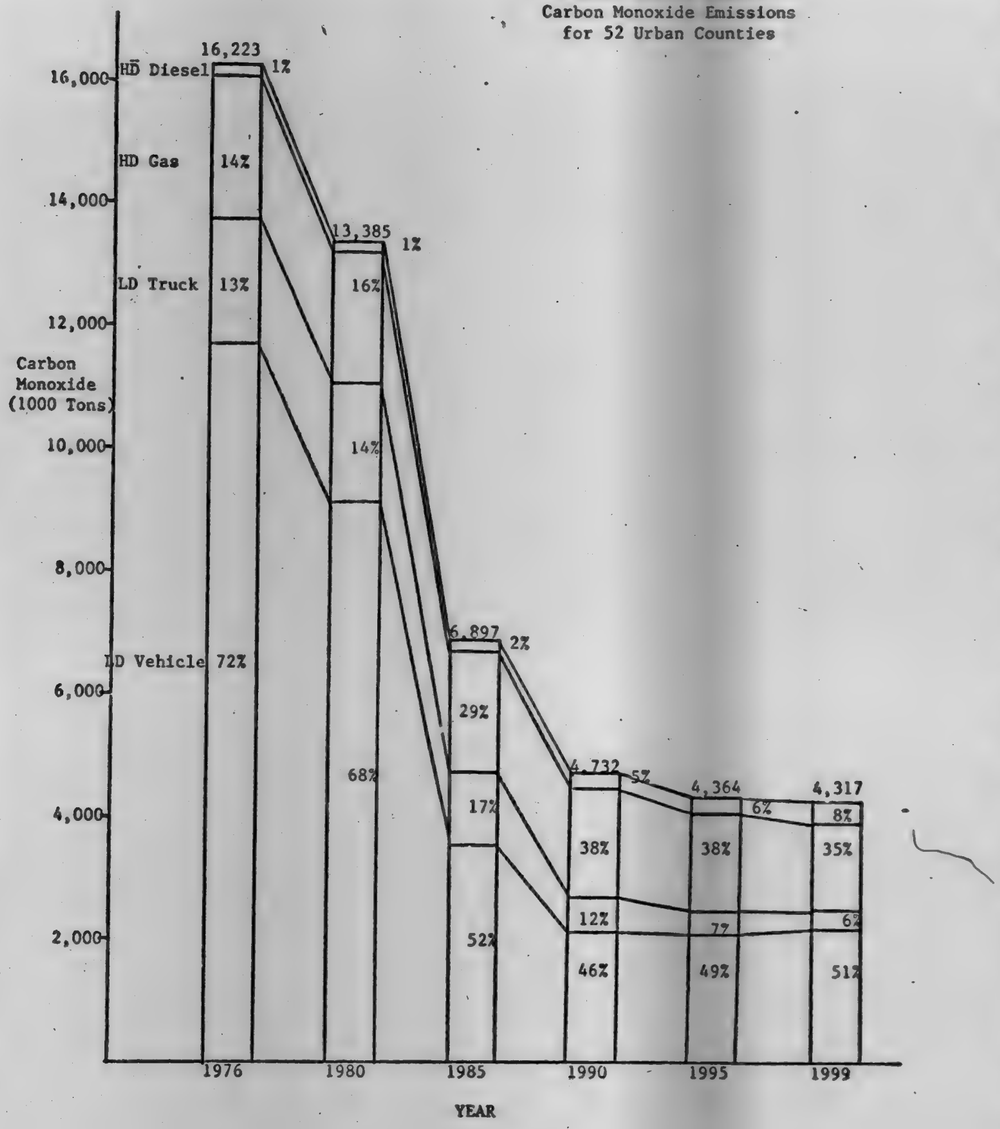

The primary reason for the different emission characteristics of diesel and gasoline engines is explained by the way each type of engine functions. With gasoline engines, the fuel and air are mixed in the carburetor prior to passing into the engine cylinder. The more or less homogeneous air/fuel mixture is admitted into the cylinders via a throttle plate, which is varied in position by the operator to control engine power, before it passes through the intake manifold to the individual cylinders. The air/fuel ratio of the mixture which enters the cylinder tends to vary at different power conditions, with excess fuel under some conditions and excess air under others. In the engine cylinder an ignition source (spark plug) must be provided to get the combustion started, since gasoline air mixtures have high minimum ignition temperatures. The compression ratio must be low enough to avoid detonation (or random auto ignition), which is another basic characteristic of gasoline-air mixtures. The effects of these constraints on pollutant emissions is that carbon monoxide and hydrocarbons tend to be relatively high, being primarily associated with engine operating modes at which the mixtures are somewhat on the excess fuel side. Hydrocarbons also result from "quenching" of the combustion reactions because of contact between the gasoline-air mixture and relatively cool surfaces of the combustion chamber. Nitrogen oxides are relatively high too, because of the high peak combustion chamber temperatures inherent in the relatively rapid combustion process of premixed gasoline and air.

Diesel engine operation differs in many ways from that of the gasoline engine. Fuel and air are not mixed prior to entering the engine cylinder, and there is no spark plug since the type of fuel used has ignition characteristics such that it can be ignited by the heat of compression as long as the compression ratio is high enough. Therefore, unthrottled air alone is inducted into the engine through the intake valve. Engine power is controlled by varying fuel flow only, with the fuel injected under pressure directly into the combustion chamber at the proper time for ignition to begin. Fuel continues to be injected and burned concurrently under highly stratified local air/fuel mixtures. The overall fuel/air mixture, however, is always on the excess air side to assure that enough oxygen is available near the fuel spray to support combustion. Compression ratios to achieve spontaneous ignition tend to be much higher than for gasoline engines, roughly 16 to 21. Because of these high compression ratios, diesel engines have higher thermal efficiencies than gasoline engines which, combined with the fact that there are no pressure losses associated with having a throttle valve in the inlet system, give them superior fuel consumption characteristics. As to emissions, the excess air conditions result inherently in relatively low carbon monoxide and hydrocarbon emissions, but the high compression ratio tends to cause diesel engines to have nitrogen oxide emission characteristics of roughly the same magnitude as gasoline engines. The smoke from diesel engines is caused by the initially unmixed nature of the fuel and air in the diesel combustion process. This may also result in objectionable odors in diesel exhaust that are not found in gasoline engine exhaust.

Considerable work has been done within EPA in an attempt to determine accurate emission factors for mobile sources. This work depends heavily on in-use vehicle testing under EPA's Emission Factor Program. To answer the question of how well vehicles perform in actual use, EPA has administered a series of exhaust emission surveillance programs. Test fleets of consumer-owned vehicles within various major cities are selected by model year, make, engine size, transmission, and carburetor in such proportion as to be representative of both the normal production of each model year and the contribution of that model year to total vehicle miles traveled. These programs have focused principally on light-duty vehicles and light-duty trucks.

The data collected in these programs are analyzed to provide mean emissions by model-year vehicle in each calendar year, change in emissions with the accumulation of mileage, change in emissions with the accumulation of age, percentage of vehicles complying with standards, and effect on emissions of vehicle parameters (engine displacement, vehicle weight, etc.). These surveillance data, along with prototype vehicle test data, assembly line test data, and technical judgment, form the basis for the existing and projected mobile source emission factors.(4)

For this study changes have been made to the emission factors for heavy-duty and light-duty trucks. The emission factors found in the mobile source emission factors document for heavy-duty vehicles are based upon steady-state data gathered on the 9-mode and 13-mode test procedures. In the course of developing current regulations, EPA has accumulated substantial data on the transient emissions of heavy-duty engines. Both the CAPE-21 data gathering program and resultant transient test procedure were designed to accurately characterize in-use operation and therefore in-use emission. Therefore, the available transient test data has been used to revise the heavy-duty truck emission factors which are currently being used. The emission factors for future heavy-duty engines as well as for future light-duty trucks have also been revised to reflect accurately the final standards and the implementation of Selective Enforcement Auditing with a 10 percent acceptable quality level. Refer to Appendix A for details of the methodology and the calculations.

The general form of all the emission factors for mobile sources is an equation with some starting new vehicle emission rate plus a mileage dependent deterioration rate (see Tables 1 and 2 of Appendix A). This means that to determine the emissions from a given vehicle one must know the accumulated mileage. To determine the average emission rate for the fleet made up by a given class of vehicles (for example, heavy-duty gasoline/fueled trucks), it is necessary to account for the fact that the on-the-road fleet consists of a mix of vehicles of varying ages and model years. The appropriate emission rate is applied to each fraction of the fleet and the fractions are summed into a composite.

When vehicles meeting a new emission standard are introduced into the on-the-road fleet, they at first represent only a small fraction of the whole fleet. As time passes, the newer technology vehicles come to represent a larger and larger share of the entire fleet. This means that the composite emission rate for the entire fleet will show a gradual change in response to new standards, rather than a sudden change. As an illustration, the composite emission rate for heavy-duty gasoline-fueled vehicles for CO changes as follows: (4)

Composite CO (g/mi): Years—	
1980	256
1985	222
1990	106
1995	57
1999	40

Although the new standard is introduced in 1984, composite rates do not show substantial drops until 1990 and beyond.

One way to examine the effect of the rulemaking action is to compare the emissions of engines built to meet the requirements of the rulemaking with the

emissions of earlier engines. Using the emission factor equation of Table 1, 2 and 4, of Appendix A, the total lifetime emissions of a given model year engine may be estimated. This will be done for 1969 (the "baseline" model year for derivation of the standard), 1979 (representing engines built to current standards), and 1984 (year of implementation for the final rulemaking) model year vehicles. The calculations will use average vehicle lifetimes of 114,000 miles for heavy-duty gasoline-fueled vehicles, and 475,000 miles for heavy-duty diesel vehicles. (5) Lifetime per-vehicle average emissions are given in Table A.

The impact of the new standards on vehicles produced for 1984 (or later) is clearly evident in this data. Compared to emissions from 1979 engines, 1984 engines are reduced 85 percent for HC and 92 percent for CO in the case of gasoline-fueled engines. For diesel engines, HC is reduced 35 percent while CO remains unchanged.

B. *Reduction in Urban Emissions From Heavy-Duty Vehicles*

Table A.—*Lifetime Emissions for Heavy-Duty Vehicles (Tons)*

Class + pollutant	Model year—		
	1969	1979	1984
Gasoline fueled:			
HC	2.71	1.17	0.17
CO	31	31	2.4
Diesel:			
HC	2.18	2.18	1.41
CO	5.9	5.9	5.9

We have seen that as new heavy-duty vehicles are put into use and older ones retired, the emissions of the average heavy-duty vehicle on the road will decrease. The resulting composite emission factors can be used to project changes in annual emissions from the entire fleet. The same can be done for other mobile source categories as well. To make the projections, the changes in composite emission rates are used along with estimated growth rates in total vehicle miles traveled to modify the baseline emission inventory for future years. Projections are also made of changes in stationary source emission rates depending on present and anticipated stationary source control programs. (2)

For hydrocarbons, the exhaust emissions themselves are an indirect rather than a direct problem. That is, the principal harmful effect of HC emissions stems from the photochemical reactions leading to ozone formation. The reaction process can take several hours, by which time the pollutants involved are transported and dispersed over broad areas. Therefore, the hydrocarbon emissions have been analyzed on an Air Quality Control Region (AQCR) basis. The AQCRs selected were those non-California, non-high-altitude regions violating the ozone standard (or estimated to be violating where actual sampling data is missing) in a 1975–1977 base period. California regions were excluded since California has its own emission standards. High altitude regions were excluded because the emissions data used in the analysis is not considered representative of high altitude conditions. A separate detailed analysis would have to be done to assess the impact of these regulations on high-altitude areas. This selection process led to a set consisting of 57 AQCRs to be analyzed for hydrocarbons. In addition, because methane emissions are non-reactive and do not contribute to ozone formation, the emission inventories compiled for analysis will be based upon non-methane hydrocarbons (NMHC).

Carbon monoxide emissions, in contrast to hydrocarbons, frequently create localized problems of high concentrations. These are often associated with urban core areas experiencing high traffic densities. It is desirable, therefore, to analyze CO on a more localized basis than AQCRs. This has been done by using a county based inventory. As for HC, only non-California non-high-altitude areas were selected. The result is 52 counties exceeding the CO standard for a 1975–1977 base period.

Following the selection of areas to be analyzed, an emission inventory for each region was compiled. The most recent year for which complete information could be obtained was 1976. This data then forms the basis for future projections. Compilation of the baseline and projection for future years is an involved process entailing a number of assumptions. These are discussed in detail in supporting documents(4, 6) Two assumptions are important to highlight here. The first is the assumption that light-duty vehicle and light-duty truck I/M programs will be implemented in all the areas analyzed by 1982. Since all the areas chosen are areas exceeding the HC and CO standards, such programs are expected.

The second assumption concerns projected growth rates for various source categories in future years. For non-methane hydrocarbons, rollback projections were made for a range of growth rates. The high and low end of these ranges differ by one or two percent. For this analysis we will use the growth rates of the low growth option. For mobile sources these rates appear most consistent with what appears likely because of energy costs and related matters. The high growth assumptions would increase the absolute levels of emissions and decrease the absolute levels of air quality benefits projected by the models somewhat. They would, however, make little difference in the relative change from the base case to the control case. The maximum air quality benefits would peak in 1995 rather than in 1999 if the high growth case were chosen. For heavy-duty vehicles, other specific adjustments in growth rates are also required. Based upon the results found in Section D of Appendix A, annual vehicle miles traveled (VMT) are expected to decline for gasoline-fueled engines by about 2 percent per year, while diesel VMTs will increase by about 5 percent per year. These rates reflect increased use of diesel engines in the heavy-duty industry, largely because of energy consideration.

Projections for both emission data and air quality data are made on an AQCR By AQCR basis (or county by county for CO). However, the underlying assumptions on emission factors are not region specific. Rather, they represent typical nationwide values. Because of this, only average results for all regions will be used for analysis.

Figure E and F provide a comparison of the projected mobile source emissions for the base case with no new heavy-duty regulations with the projected emissions for the control case with final regulations. They cover the year from 1990–1999. Without further controls, heavy-duty emissions become a major fraction of mobile source emissions. By 1995, heavy-duty emissions would account for 35 percent of mobile source NMHC and 44 percent of mobile source CO emissions. The substantial reductions in heavy-duty emissions expected are clearly indicated. For HC, in 1999 the reduction reaches 75 percent for gasoline-fueled engines and 36 percent for diesels. For CO, in 1999 the reduction for gasoline-fueled engines is 84 percent. Diesel CO is unaffected by the new regulations. These percentages are measured in comparison to the base-case emissions for the same year, 1999.

Expressed as a percentage of all mobile source emissions, the impact of the final rulemaking is as follows. Hydrocarbons are reduced 17 percent in 1995 and 1999. Carbons monoxide is reduced 30 percent in 1995 and 1999.

BILLING CODE 6560-01-M

UMI 0 8 2 1 G A 5 4 V

Figure -E
Annual Non-Methane Hydrocarbon
Emissions for Baseline Case
and Control Case

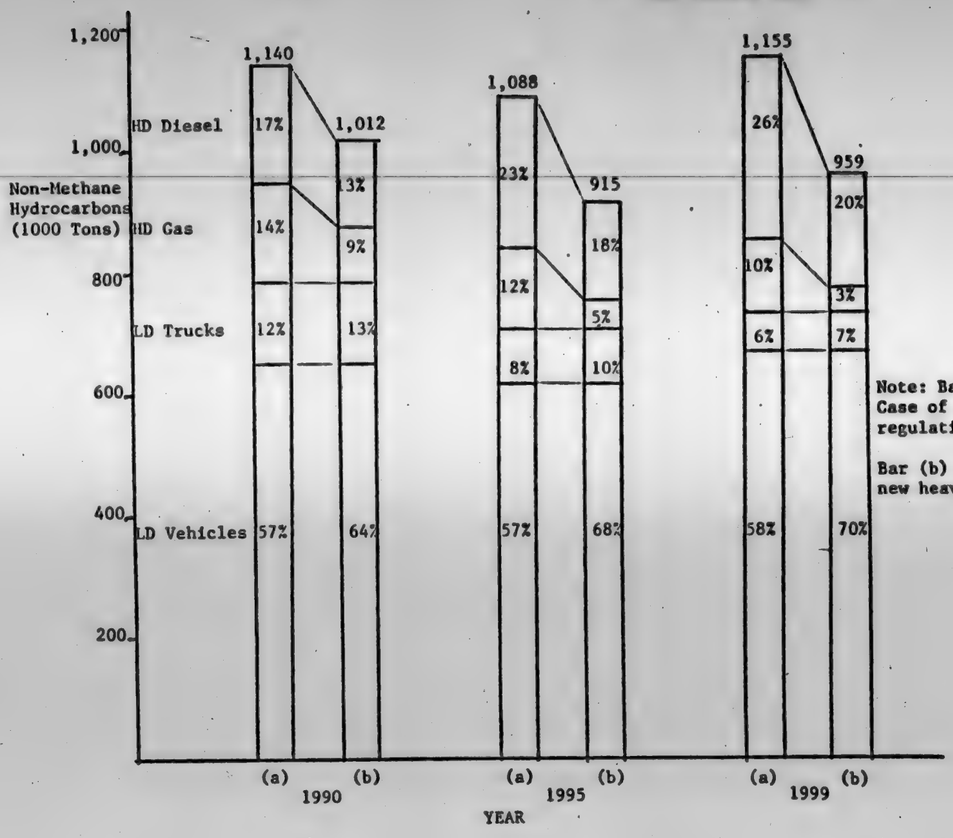

Note: Bar (a) = Baseline Case of no new heavy-duty regulations.

Bar (b) = Control Case with new heavy-duty regulations.

Figure -F
Annual Carbon Monoxide
Emissions for Baseline Case
and Control Case

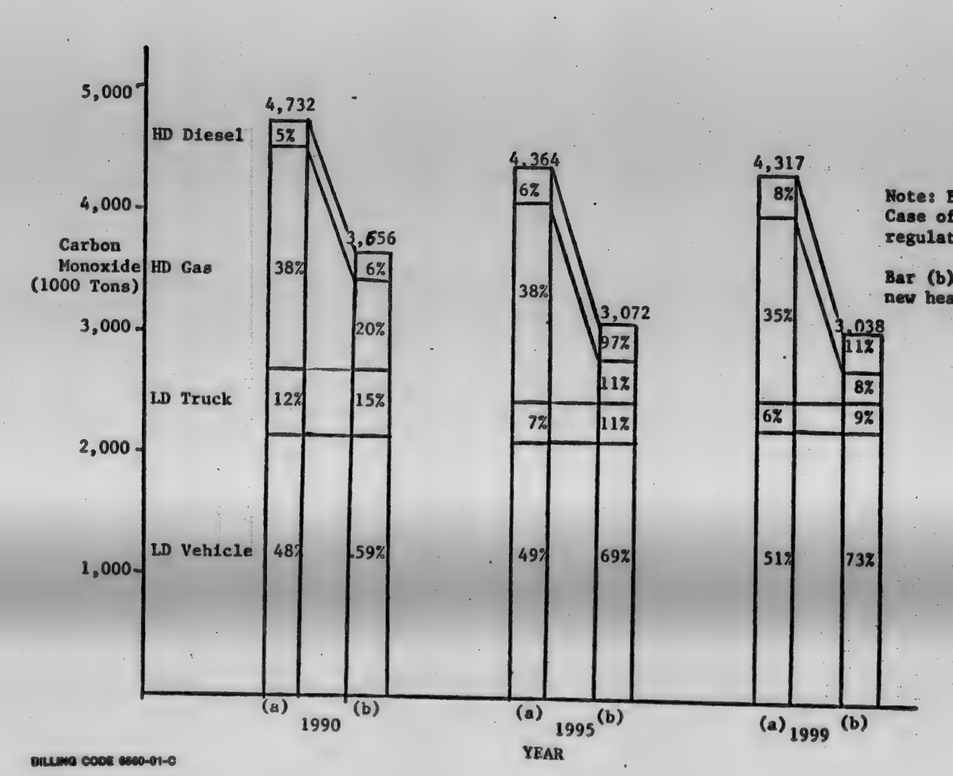

Note: Bar (a) = Baseline Case of no new heavy-duty regulations.

Bar (b) = Control Case with new heavy-duty regulations.

BILLING CODE 6560-01-C

IV. Ambient Air Quality Impact of Regulation

Using the emission rates previously discussed, an analysis was done of the air quality impact in each of the selected regions. (4) The Modified Rollback method was used for oxidant and CO to project future air quality improvements for each region. In addition, the Empirical Kinetic Modeling Approach (EKMA) was also used for oxidant. The EKMA procedure has been developed by EPA in an attempt to provide an improved analysis of the relationship between oxidant and precursor emissions while avoiding the complexity of photochemical dispersion models. (7) There is uncertainty over the applicability of EKMA, so that both EKMA and rollback were used to provide a range of possible air quality impacts.

In preparing the air quality projections, baseline emission rates for various source categories were taken from the National Emissions Data System (NEDS), and projections for future control strategies plus growth rates were made. In combination with the mobile source projections, this data allowed an evaluation of air quality improvements to be expected. With both Modified Rollback and the EKMA approach, the relative changes from strategy to strategy are more reliable than predictions of absolute levels of air quality. Therefore, the results will be expressed as percentage gains over baseline between various strategies. In addition, although the individual regions used in the analysis can be identified, the results are not considered accurate enough to be used for a region by region review of the regulations. Rather, averages over all areas analyzed will be used. The average air quality improvements are given in Table B.

The modified linear rollback and EKMA models differ by a factor of nearly 2 to 1 for ozone reductions. However, they each indicate nearly the same percentage gain from implementing the new standards. For example, both methods indicate an improvement of 1 percent in ozone in 1995 when the 1984 regulations are implemented. This reduction becomes 2 percent in 1999.

Table B indicates that carbon monoxide will be improved 5 percent in 1990, and 7 percent in both 1995 and 1999.

The significance of a percentage gain in air quality in terms of progress toward attainment of standards depends upon the original levels. For example, a 2 percent improvement in air quality may be sufficient to bring a region that is already close to the standard into compliance, whereas in a region experienceing very high levels (relative to the standard) that 2 percent would represent an inadequate reduction. In a region already meeting the standards, such a further gain would increase the margin for compliance. The question could then be posed: "How many areas originally exceeding air quality standards are brought into compliance by implementing the new emission standards?" In table C the air quality improvements are analyzed in this fashion.

Table B.—*Average Air Quality Percent Reductions, From 1976 Base Year*

[Ozone—Modified Linear Rollback/EKMA]

Strategy	1980	1985	1990	1995	1999
Base case	13/7	49/25	54/30	54/31	52/29
Implement HD Regs	13/7	49/25	55/32	55/32	54/31
Carbon Monoxide					
Base case	16	53	65	67	67
Implement HD	16	54	70	74	74

Table C.—*Percentage of Regions Originally Violating Air Quality Standards Brought Into Compliance*

[Ozone—Modified Linear Rollback/EKMA]

Strategy	1980	1985	1990	1995	1999
Base case	35/14	96/56	98/68	98/72	98/68
Implement HD	35/14	96/56	98/72	98/72	98/72
Carbon Monoxide					
Base case	2	88	100	100	100
Implement HD	2	88	100	100	100

Considering the ozone results first, the marked difference in absolute reductions predicted by modified rollback versus EKMA noted in Table B are again readily apparent. While modified rollback indicates that 96–98 percent of the regions originally violating the ozone standard will come into compliance in the 1990's, EKMA puts that percentage at 68–72 percent. Therefore, as noted earlier, caution must be used in interpreting results from either model in absolute terms. For example, the indication from modified rollback that nearly all violating regions will meet the ambient ozone standard by 1999 should not be considered reliable. Rather, the relative change attributable to implmentation of the new regulations is the item of maximum accuracy. The table indicates that implementation of the heavy-duty regulations will result in approximately a 2 percent (rollback) to 4 percent (EKMA) reduction in the number of violating regions.

The cautions noted for ozone are equally important in interpreting the CO results in Table C. Only rollback applies to this case, and that model indicates that with either strategy, all regions analyzed will attain the CO standard by 1990. However, it has already been noted that it is not within the ability of this model to accurately predict absolute air quality levels. Therefore, the indication of all regions meeting the standard is inconclusive. As an illustration of the accuracy required to accept the absolute projections, in the final rollback projections for 1999 only 87 percent of the regions are in compliance with the standard by a margin of greater than 20 percent for the base case. For the control case, that result changes by 5 percent to a value of 92 percent. Inaccuracies on the order of 20 percent or greater are more than possible in the present air quality analysis, and would markedly change the absolute levels of predictions. However, such inaccuracy would probably be relatively constant from strategy to strategy and lead to consistent relative effects. Unfortunately, since changes in air quality produced by the new regulations do not become significant prior to 1990, no clear conclusions can be drawn about the effect these regulations will have on attainment status. As noted, based upon the number of regions within 20 percent of the standard, implementing the heavy-duty regulations produces a 5 percent improvement.

V. Potential Secondary Environmental Impacts

A. Sulfuric Acid Emissions

A recent EPA report (8) provides an in-depth review of the current status of sulfate emissions from mobile sources. On a nationwide basis, mobile sources represent less than 2% of the total man-made sulfur oxides. However, with the introduction of the catalyst/air pump technology to control HC and CO emissions from mobile sources, there exists the potential for a significant source of mobile related sulfate emissions in the form of sulfuric acid aerosol. While negligible magnitude on a regional basis, mobile source sulfuric acid emissions could produce a significant localized urban sulfate concentration in urban street canyons, or congested urban freeway situations. Moreover, mobile source sulfates differ from stationary source sulfates in that they are emitted in the form of a fine sulfuric acid mist and the particles tend to remain near ground level.

The increase in sulfate emissions due to the use of oxidation catalst/air pump control systems on passenger cars and light-duty trucks has been of considerable concern to EPA. In pre-model year 1975 non-catalyst systems, most of the fuel sulfur leaves the vehicle after combustion as SO_2. In oxidation catalyst/air pump systems used on recent model year automobiles and light-duty trucks, a small amount (less than 10 percent) (8) of the sulfur is converted by the catalyst to SO_3. The SO_3 combines with water in the exhaust to form sulfuric acid aerosol. Heavy-duty catalyst technology has not yet been used on in-use vehicles, and so little is known about sulfate emissions from these systems.

Extensive efforts have been made within government and industry to improve the information about mobile source sulfate emission factors, sulfate air quality modeling techniques and sulfate health effects as a function of exposure level. In addition, technology assessment work is proceeding to identify how sulfates are formed in catalyst/air pump systems, and to develop other low sulfate producing catalytic control systems such as the three-way catalyst. According to current data, the extent of sulfate emissions is much less than early concerns had anticipated. Major adverse health and welfare effects from mobile source sulfates are unlikely.(8) Table D indicates sulfuric acid emission rates for several mobile source categories.

The use of catalysts on heavy-duty gasoline engines resulting from implementing the new gaseous standards is not expected to increase present mobile source sulfate emissions significantly or to present a future problem. Considering the much larger sulfate emissions already associated with diesel trucks, plus the fact that equipping HD gasoline vehicles with catalysts would increase the number of all catalyst equipped vehicles by only approximately 2 percent, there appears to be no reason to expect a significant change in roadside sulfate levels.

B. Lead

The introduction of catalyst technology for heavy-duty engines will require use of unleaded gasoline to replace the leaded gasoline used in current heavy-duty gasoline fueled engines. This change will have a positive environmental effect as regards the emission of lead particulate in engine exhausts. Reduction of mobile source lead emissions is an important means of reducing U.S. urban population exposures to high ambient air lead concentrations.

Table D.—*Approximate Mobile Source Sulfuric Acid Emission Rates (8)*

Source category	H_2SO_4 conversion rate (percent)	H_2SO_4 (mg/mile)
Non-catalyst car	1	1
Oxidation catalyst car	10	10–15
3-way catalyst car	5	4
Light-duty diesel car	2	9
Heavy-duty diesel truck	2	50
Aircraft gas turbine	0.03	N/A

Emission data for light-duty vehicles shows that approximately 60 percent of the lead content of leaded gasoline is eventually emitted from the tailpipe. Applying this to a typical lead content for leaded gasoline of 1.5 grams per gallon gives an emission of 1.2 grams per gallon. With an average heavy-duty mileage of 9.9 miles per gallon, and a 114,000 mile life, total lead emission over the life of a heavy-duty gasoline-fueled vehicle would be approximately 30 pounds. That is, converting to unleaded fuel will result in a reduction of lead emissions for gasoline-fueled heavy-duty vehicles of approximately 30 pounds per vehicle over the vehicle life.

C. Water Pollution, Noise Control, Energy Consumption

Complying with the heavy-duty engine regulations is expected to have negligible impact on water pollution, or on the ability of the heavy-duty vehicle manufacturers to meet present and future noise emission regulations. Implementing catalyst technology can be done with no fuel economy penalty. In fact, the analysis of fuel economy impact done in the Summary and Analysis of Comments for the heavy-duty rulemaking indicates the possibility of up to a 9 percent fuel economy benefit. (9)

VI. Irreversible and Irretrievable Commitment of Resources

Assuming that catalytic converters are used to meet the 1984 standards, an additional commitment of platinum and palladium would be required over and above that needed for light-duty vehicles and light-duty trucks which already employ catalysts. The incremental demand in 1985 from equipping all HD gasoline vehicles with catalytic converters would be approximately 72,423 troy ounces of platinum and 36,212 troy ounces of palladium. These figures are based upon projected vehicle sales, catalyst loadings and catalyst sizes.

VII. Alternative Actions

The statutory standard provides for emission standards for both gasoline-fueled and diesel engines derived from a 90 percent reduction from a 1969 gasoline-fueled engine baseline. To examine the appropriateness of that 90 percent reduction, two alternatives will be considered. One is an 85 percent reduction and is less stringent than the 90 percent statutory standard. The second is a 95 percent reduction from baseline and is more stringent than the statutory standard. These standards correspond to the following numerical values (g/BHP-hr):

85% standard 1.9, HC—23.3, CO
95% standard 0.64 HC—7.7, CO

These alternatives will be evaluated in terms of lifetime emission reductions per vehicle (and cost effectiveness), changes in mobile source emissions, and changes in air quality.

A. Lifetime Emission Reductions and Cost

Table A presented lifetime emissions for engines representative of 1969 baseline levels, 1979 engines, and the final regulations. Similar results can be computed for the alternative standards. Emission factors corresponding to the alternative standards are given in Table 4 of Appendix A. They were derived in the same fashion as those for the statutory standards. The corresponding lifetime emission rates, compared to the statutory standards, are as follows:

Lifetime Emissions for Heavy-Duty Vehicles (Tons)

Engine class and pollutant	Optional 85 percent standard	Statutory 90 percent standard	Optional 95 percent standard
Gasoline-fueled:			
HC	0.24	0.17	0.10
CO	3.20	2.40	1.50
Diesel:			
HC	2.07	1.41	0.71
CO	5.90	5.90	5.90

The effect of changing the stringency of the standard is significant over the average life of a heavy-duty vehicle. For example, relaxing the standard to the 85 percent level would increase HC emissions from gasoline-fueled engines by a factor of 1.4. On the other hand, increasing the stringency would reduce HC emissions by a factor of 1.7. A similar change occurs for CO. Relaxing the standard increases diesel HC emissions by a factor of 1.5, while tightening the standard would reduce diesel HC by a factor of 2.0. Diesel CO emissions are unaffected by a change in the standard because they are

Annual Nonmethane Hydrocarbon and Carbon

inherently lower than even the 95 percent standard level.

Lifetime emission rates have been used to evaluate the cost effectiveness of the heavy-duty regulation. To do this for the alternative standards necessitates assigning costs to these levels. A prime consideration in evaluating cost variations is the change in production target levels associated with the standards. Target levels are as follows:

Production Target Levels (g/BHP-hr)

Engine class and pollutant	85 percent standard	90 percent standard	95 percent standard
Gasoline-fueled:			
HC	0.73	0.50	0.24
CO	6.90	5.90	2.90
Diesel:			
HC	1.32	.99	.42

Considering gasoline-fueled engines first, the 85 percent standard will allow some reduction in hardware costs. R&D costs would be unchanged since most of the R&D effort is expected to be directed toward system durability. Likewise, other components of the per engine cost are not directly tied to the level of the standard and would remain unchanged. Hardware cost would include savings on air pump requirements and catalyst loading. Air pump cost has been estimated at $26 (before markup for overhead and profit). This was the cost of increasing air pump capacity the equivalent of two additional air pumps. At the 85 percent standard only one air pump would be required, and the cost would be reduced $13. At the 85 percent standard, catalyst loading will be reduced from 45 g/ft³ to 40 g/ft³ with a net savings of $11. Total cost change, including markup, is (13 + 11) 1.29 = $30.96. Applied to the estimated cost per engine of $477, the 85 percent standard would cost $446.(*10*)

For the case of the 95 percent standard for gasoline-fueled engines, the target level for CO is sufficiently low as to make the feasibility of this option questionable. There is insufficient data at this time to determine how low optimized heavy-duty catalyst systems will be able to operate. Therefore, no costs will be estimated for this case.

Turning next to diesel engines, a somewhat different situation exists. Much of the cost of reducing engine emissions is in R&D rather than in add-on hardware. Hardware costs relate largely to those few engine families which exceed the standards by substantial amounts. These are largely unaffected by the change of target values. Most engine families can attain the desired targets by design changes or calibration changes (e.g., injector design or injection timing). These actions are included in the R&D costs. In evaluating the cost for diesels associated with the AQL level changing the target from 0.89 g/BHP-hr to 1.05 g/BHP-hr was associated with a change of R&D cost of approximately $3 per engine.(*10*) For the 1.32 target level of the 85 percent standard given above, this change will be estimated as increasing to a $5 saving per engine.

A second area where diesel manufacturers would be expected to realize savings from a relaxed standard is in self-audit costs. The target level for the 85 percent standard is such that most engine families expected to be offered in 1984 already meet the standard with substantial margins. Therefore, less self-auditing and less stringent quality control programs would be required. Quality control costs will be estimated as reduced by half, and self-audit rates reduced to 0.2 percent. These changes result in a saving of $11.92 per engine. Total cost saving is then $5 (R&D) + 11.92 (audit plus quality control) = $16.92. Applied to the cost per engine of $195, the 85 percent standard would cost $178.(*10*)

In the case of the 95 percent standard, as was the case with gasoline-fueled engines, the target levels are sufficiently low as to make the feasibility of attainment uncertain. Therefore, no costs will be estimated.

B. Cost Effectiveness

Cost effectiveness is a measure of what might be termed the economic efficiency of some action directed toward achieving some goal. Expressed as cost per unit of benefit achieved, cost effectiveness can be used to compare various alternative methods of achieving the same goal. In the context of improving air quality, the goal is to reduce emissions of harmful pollutants, and cost effectiveness is expressed in terms of the dollar cost per ton of pollutant controlled.

To evaluate cost effectiveness, two pieces of information on the alternatives being evaluated are needed. These are the costs of the alternatives, which have been determined, and the benefits to be gained. The benefit from implementing any of the alternative standards is found by comparing the emissions of engines build to those standards with the emissions of current engines. Lifetime emissions for current engines are found in Table A. For gasoline-fueled engines they are 1.17 tons HC and 3 tons CO. For diesel engines the current value is 2.18 tons HC. From these starting values, the emission reductions per vehicle from the alternatives are:

Incremental Lifetime Emission Reductions (Tons)

Engine class and pollutant	Optional 85 percent standard	Statutory 90 percent standard	Optional 95 percent standard
Gasoline-fueled:			
HC	.93	1.0	1.07
CO	27.80	28.8	29.50
Diesel:			
HC	.11	.77	1.47

Using the costs estimated above (and allocating gasoline-fueled engine costs equally between HC and CO) the resulting cost effectiveness is:

Cost Effectiveness ($/ton)

Engine class and pollutant	Alternative 85 percent standard	Statutory 90 percent standard	Alternative 95 percent standard
Gasoline-fueled:			
HC	240	239	N/A
CO	8	8	N/A
Diesel:			
HC	1,618	253	N/A

Since it is not known if the 95 percent standard is feasible at this time, no costs have been estimated and, therefore, cost effectiveness cannot be computed. The 85 percent standard for gasoline-fueled engines is only marginally less cost effective than the 90 percent standard. However, for diesels, the alternative standard is shown to be much less cost effective than the statutory standard. This reflects the fact that at the level represented by the 85 percent standard very little emission reductions from curent levels would be required, while much of the cost would remain constant (being associated with acquisition of equipment, testing, etc.).

C. Change in Mobile Source Emissions

Since the feasibility of the 95 percent standard is unknown at present, the impacts of that option will not be evaluated further. The effect of the 85 percent alternative on mobile source emissions would be significant. The following table compares 1999 mobile source emissions for the selected areas under the base case (no new heavy-duty standard), the 85 percent option and the statutory 90 percent case.

Annual Nonmethane Hydrocarbon and Carbon Monoxide Emission in 1999 (thousands of tons)

	Base case	Alternative 85 percent standard	Statutory 90 percent standard
Non/methane hydrocarbons	1155	1058	969
Carbon monoxide	4317	3082	3038

The statutory standard produces a desirable reduction in benefits compared both to the base case and the alternative 85 percent standard.

D. Change in Air Quality

The optional standard being considered, when incorporated into the overall emission inventory for stationary plus mobile sources, produces some incremental changes. The average air quality improvement for the three cases would be as follows:

Average Percent Reduction from 1976 Base Year Realized in 1999

	Base case	Optional 85 percent standard	Statutory 90 percent standard
Ozone (rollback/EKMA)	52/29	53/30	54/31
Carbon monoxide	67	73	74

This data indicates that an additional one percent air quality improvement for ozone (either rollback or EKMA model) and for CO can be associated with the 90 percent standard over the 85 percent standard. For ozone, this is half of the total improvement.

VIII. Conclusions

(1) Pollution levels in many urban areas of the U.S. continue to exceed applicable ambient air quality standards. These high levels are associated with detrimental effects on the health and welfare of the people living in those areas. Health effects from elevated ozone and CO levels are documented in the appropriate EPA Criteria Documents. (*1*)

(2) Heavy-duty vehicles are a significant contributor to urban emissions of HC and Co. Without further controls, they are expected to account for about 35 percent of mobile source non-methane HC emissions and 44 percent of mobile source CO emissions by 1995. In turn, mobile source emissions will represent about 17 percent of all urban HC emissions and 61 percent of urban CO emissions. Implementing the statutory standards will reduce (by 1999) heavy-duty vehicle HC emissions by about 75 percent for gasoline-fueled engines and 36 percent for diesels. For CO, an 84 percent reduction will be achieved for gasoline-fueled engines. CO emissions from diesels are unaffected by the new regulations since they are inherently lower than the standard dictates.

(3) The feasibility of attaining the target emission levels associated with the more stringent 95 percent standard can not be specified at this time. Therefore, the standard is not an appropriate alternative. The 85 percent standard alternative results in a loss of benefits and some reduction in cost. These changes are in such proportions that the cost effectiveness of the regulations becomes prohibitive for diesel engines. In addition, approximately half of the ozone air quality benefit of the statutory standard would be lost under the 85 percent standard. Furthermore, EPA has determined that the 90 percent standard is attainable with catalyst technology, and has estimated the approximate cost involved and found it to be cost effective. Therefore, the statutory standard represents the best of the three choices at the present time.

Footnotes

(1) Section 109 of the Clean Air Act, as amended, 42 U.S.C. 7409. National Ambient Air Quality Standards are based on criteria documents; see "Air Quality Criteria for Carbon Monoxide," U.S. EPA Report AP–62, March 1970, and "Air Quality Criteria for Ozone and Other Photochemical Oxidants (preprint)," EPA–600/8–78–004, April 1978. An April, 1979, draft of a revised criteria document for CO is available from EPA's Environmental Criteria and Assessment Office; a final revised document will be issued upon proposal of revised standards. For a current review of health effects data and citations to other reports see "Health Effects of Exposure to Low Levels of Regulated Air Pollutants—A Critical Review," Benjamin G. Ferris, Jr., M.D., *Journal of the Air Pollution Control Association*, Vol. 28, No. 5, May 1978.

(2) For details on assumed future strategies for other source categories see "Data Assumptions and Methodology for Assessing the Air Quality Impact of Proposed Emission Standards for Heavy-Duty Vehicles," EPA Air Management Technology Branch, Office of Air Quality Planning and Standards, November 1979.

(3) A complete presentation of mobile source emission factors, including future use projections, can be found in EPA–400/9–78–006, "Mobile Source Emission Factors—Final Document," March 1978.

(4) "Air Quality Analysis of 1983 and 1985 Mandated Heavy-Duty Vehicle Emission Standards", EPA August, 1978.

(5) "Average Lifetime Periods for Light-Duty Trucks and Heavy-Duty Vehicles," EPA Report SDSB 79–24, G. Passavant, November 1979.

(6) "Data Assumptions and Methodology for Assessing the Air Quality Impact of Proposed Emission Standards for Heavy-Duty Vehicles," EPA Air Management Technology Branch, Office of Air Quality Planning and Standards, November 1979.

(7) "Uses, Limitations and Technical Basis of Procedures for Quantifying Relationships Between Photochemical Oxidants and Precursors", EPA–450/2–77–021a, USEPA, Research Triangle Park, NC, November 1977.

(8) Emission of Sulfur-Bearing Compounds from Motor Vehicles and Aircraft Engines, Report to the United States Congress, EPA Environmental Sciences Research Laboratory, EPA–600/9–76–028, August 1976.

(9) Summary and Analysis of Comments to the NPRM: "1983 and Later Model Year Heavy-Duty Engines Proposed Gaseous Emission Regulations," U.S. EPA, Office of Mobile Source Air Pollution Control, December 1979.

(10) "Regulatory Analysis and Environmental Impact of Final Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines," U.S. EPA, Office of Mobile Source Air Pollution Control, December 1979.

Appendix A—

Revised Emission Factors for Heavy-Duty Engines and Light-Duty Trucks

A number of changes to the MOBILE–1 factors and the air quality model inputs were needed for the final analysis of the heavy-duty regulation. Transient data on old and new heavy-duty engines can be used to update emission factor estimates. For future standards, emission target levels for manufacturing production have been identified, and projected in-use deterioration rates established for the components of the final package. Growth rates for regional heavy-duty gasoline (HDG) and heavy-duty diesel (HDD) vehicle miles traveled (VMT) need to be adjusted consistent with projected increased dieselization rates. Light-duty truck emission factors appropriate to the proposed LDT package are also needed, and dieselization of LDTs needs evaluation.

A. Incorporate HD Transient Data Into Emission Factor Equations

Heavy-Duty Gasoline—The Deterioration Factors (DFs) are based upon light-duty experience with various emission control systems. The EPA transient testing program for HD engines has not provided data at this time to revise the DFs, so they will remain as is.

The 1969 baseline engines were overhauled prior to testing and will be assumed to be at their new vehicle emission rates. While this is not strictly true, residual deterioration associated with basic engine wear should be quite small (witness the near-zero DFs from certification durability engines). The "pre-1970" HDG new vehicle emission

rate will therefore be ravised to equal the sales weighted 1969 baseline values. The 1969 baseline data represents 81.5 percent of 1969 sales of HDG engines.

1972–1973 baseline data is available at this time for seven engines representing 46.4% of 1973 sales. This data will be used to update the 1970–78 factors. There is insufficient data to distinguish 1970–1973 from 1974–1978 and a single factor will be used for both. The 1974 HD standards were not of such stringency as to produce any significant change in HC or CO emission control hardware. During the period of interest for our air quality analysis (late 1980's and beyond), vehicles of that vintage will have only a minor impact on overall HD emissions.

1979 baseline is available at this time on 12 engines representing 86% of 1979 sales projection. This data will be used to update the 1979–1983 emissions factors. Note that the analysis will use 1984 as the first year of implementation for the new standards and transient test procedure.

Since the 1979 baseline data is from certification engines, some allowance needs to be made for the difference between those engines and production line engines (since there was no Selective Enforcement Audit (SEA) program). This will be done by estimating the historic ratio of certification levels to new engine emission rates.

The sales weighted certification levels for 1974 heavy-duty engines are 4.8 (HC)/24 (CO) g/BHP-hr on the 9-mode test. The revised transient emission factor for that year derived from the 1972/1973 baseline program (Table 1–A) is 12.7/211 g/mile (new vehicle emission rate). To compare these two rates it is necessary to estimate the transient emission levels associated with the 1974 9-mode certification levels. These are estimated at 9.6/145 g/mile.

From the above two data sets the ratio of new vehicle emission rate (g/mile) to certification level (g/mile) can be estimated at 12.7/9.6 = 1.3 for HC and 211/145 = 1.45 for CO. These ratios were applied to the 1979 baseline to derive the new vehicle emission rates for 1979–1983 in Table 1–A.

Heavy-Duty Diesel—At this time, transient test data on diesel engines is extremely limited. This data will be used in two different manners to estimate HDD emission factors. The first, which is probably somewhat more accurate, but is also considerably more complicated, will be used to estimate HC rates. The second will be used for CO.

For HC emission rates, the method is based upon that approach developed to evaluate the cost effectiveness of the transient test procedure for HC control. Since CO from HDDs will not be affected by the new procedure, CO was not evaluated. Available test data on diesel engines from SwRI and Cummins was used to estimate an approximate ratio of transient HC emissions to 13-mode HC emissions. This ratio is estimated at 2.40. Since there were relatively few engines tested (10 used for this ratio), rather than use the transient HC emissions directly, the ratio was applied to 1979 certification data to estimate a sales weighted 1979 transient emission result. The sales-weighted 13-mode certification result is 0.594 g/BHP-hr on the 13-mode test. This converts to .594 × 2.4 = 1.42 g/BHP-hr estimated 1979 transient emission level. To convert to g/mile involves the relation between fuel consumption per BHP-hr and fuel consumption per mile of truck travel:

$$\frac{g}{BHP\text{-}hr} \times \frac{BHP\text{-}hr}{lb\ fuel} \times \frac{lb\ fuel}{per\ gallon} \times \frac{gallons}{mile} = g/mile$$

Table 1-A.—*Revised Exhaust Emission Rates Heavy-Duty Gas Vehicles For All Areas Except California and High Altitude*

Pollutant	Model year	A (g/mile) New Vehicle Emission Rate	B (g/mile) Deterioration Rate (Per 10,000 Miles)
HC	Pre-1970	18.3	0.58
HC	1970–78	12.7	.53
HC	1979–83	6.3	.53
CO	Pre-70	226.0	3.06
CO	1970–78	211.0	6.15
CO	1979–83	210.0	6.15

Table 1-B.—*Revised Exhaust Emission Rates Heavy-duty Diesel Vehicles For All Areas Except California and High Altitude*

Pollutant	Model year	A (g/mile) New Vehicle Emission Rate	B (g/mile) Deterioration Rate (Per 10,000 Miles)
HC	Pre-1984	4.0	0.007
CO	Pre-1984	9.7	0.11

From the SwRI test data, fuel/BHP-hr is estimated at 0.43 lb/BHP-hr.

The density of diesel fuel is 7.1 lb/gallon. Fuel economy was derived from fuel economy data for various HDD vehicle classes combined with projected sales splits to give an overall sales weighted fuel ecomony for current diesel engines of 5.8 mpg.

Using these numbers, the conversion factor is:

$$\frac{7.1}{0.43 \times 5.8} = 2.85$$

The resulting estimated diesel HC emission rate is 1.42 × 2.85 = 4.047 g/mile. This number is based upon 1979 certification data, which includes deterioration factors, if any. The sales-weighted 1979 certification DFs are 0.023 for HC and 0.38 for CO. These are additive values over a durability test approximately equal to 100,000 miles. The zero mileage emission rates for diesels are found by removing the DF. In g/mile, these DFs are .066/100,000 mi HC, 1.08/100,000 mi CO. The resulting HC emission rate is 3.98 g/mile. Considering the accuracy of the various inputs to this calculation, the result will be rounded to 4.0 g/mi. Existing emission factors suggest that there is little or no year-to-year variation in HDD emission factors. Therefore, a single factor will be estimated for all pre-1984 HDD engine.

For CO emissions, the available CO data was used directly. Individual engine results are tabulated below:

HDD Transient Test Data

(g/mile)

Engine	CO
1978 Caterpillar 3208	7.14
1976 Cummins NTC–350	16.84
1978 Detroit Diesel 6V–92T	8.66
1979 Cummins NTCC–350	8.53
1978 Detroit Diesel 6V–71N:	
No. 1 fuel	9.43
No. 2 Fuel	10.91
1979 Detroit Diesel 6V–92TA:	
No. 1 fuel	3.57
No. 2 fuel	4.40
Average	8.66

Since these results are for new or nearly new engines, no zero mileage DF adjustment is necessary. HC and CO emission factors are included in Table 1–B.

B. Modify Baseline Emission Inventory

Since the 1976 baseline emission inventory for both HDG and HDD has been computed based upon the existing emission factors, these values should be adjusted to account for the change to new factors. This should be done for each area analyzed by applying a correction ratio. The correction ratio would be determined by computing 1976 composite emission factors using the old and then the new emission factor equations. The ratio of the new composite factors to the old ones would be used to correct the baseline emission inventory.

C. Develop Estimates of Future HD Emission Factors

Heavy-Duty Gasoline—Given the existence of an SEA program, statistical relationships can be established between the standards and the design values of emissions. Determining factors are the low mileage target (which is equal to the divided by the deterioration factor), the emission, variability, the number of preproduction engines available for testing (typically 3), and the desired level of confidence that production engines would be able to pass an SEA. For HDGs, they are based upon a modification of the approach used by Ford and allow for an 80% confidence that the "manufacturer's risk" during an SEA would be no more than 10%.

In addition to new vehicle emission rates, estimates of deterioration rates are also needed. Expected deterioration rates for the catalyst systems to be used on HDG engines have been analyzed in the Summary and Analysis of Comments for the rulemaking (see the "allowable maintenance" issue). That analysis indicates that a catalyst DF of 1.7 over 100,000 miles should be reasonable.

The resulting emission rates are calculated in Chapter VII Section D1b of the Regulatory Analysis to be:

HC = 0.50 + 0.035 (M/10,000) g/BHP-hr
CO = 5.9 + 0.41 (M/10,000) g/BHP-hr

These can be converted to grams per mile, again based upon information in Chapter VII, Section D1a of the Regulatory Analysis. The conversion factor is 1.74, and yields the following results:

HC = 0.87 + 0.06 (M/10,000) g/mi
CO = 10.3 + 0.72 (M/10,000) g/mi

Because of such aspects of the final rulemaking as the transient test, parameter adjustment, full life useful life, allowable maintenance and SEA, in-use deterioration rates are expected to correspond closely to certification levels. However, as catalysts approach the end of their useful lives, a small number of them can be expected to fail. Therefore, average HDG emission rates will increase somewhat near the end of the useful life. Projections of catalyst failures made in the regulatory analysis indicate that approximately 15% of the catalysts would fail. These are distributed according to a Weibull distribution, and are assumed to fail to the level of a well maintained 1979 engine.

Vehicles with failed catalysts will be assumed to emit at levels corresponding to well-maintained 1979 engines. The zero-mileage emission rates will be taken from the EPA 1979 HDG baseline data. The DFs will be those derived in Chapter VII, Section D1a of the Regulatory Analysis, converted to g/mile:

HC (failed catalyst) = 4.9 + 0.035 (M/10,000) g/mi
CO (failed catalyst) = 145 + 0.36 (M/10,000) g/mi

If F is the fraction which has failed, then the average emission rate can be developed as follows:

HC (average) = [0.87 + 0.06 (M/10,000)][1–F] + [4.9 + 0.035 (M/10,000)][F]
HC (average) = 0.87 + 0.06 (M/10,000) + F [4.0 − 0.025 (M/10,000)]
CO (average) = [10.3 + 0.72 (M/10,000)][1–F] + [145 + 0.38 (M/10,000)][F]
CO (average) = 10.3 + 0.72 (M/10,000) + F [135 − 0.34 (M/10,000)]

These final results are given in Table 2.

Heavy-Duty Diesel.—New vehicle hydrocarbon emission rates for diesels were estimated following the procedure used by Caterpillar. This method estimates the maximum desired production mean level based upon the AQL and variability and then establishes a target level to assure attainment of the desired production level based upon a small sample of pre-production engines (e.g., 3). The calculations are given in Chapter VII of the Regulatory Analysis. Expressed in g/mile, the zero mileage emission rate is 2.5 g/mi.

HDD carbon monoxide emission rates fall below the final standards and therefore continue at the level of existing engines.

The resulting equations are found in Table 2.

D. Growth Rates for VMTs

The rollback model usually assumes a common growth rate for HDGs and HDDs, which has been based to some extent upon the pollutant in question and the ambient problem associated with that pollutant. That is, CO, which is seen as an urban core area "hot spot" problem, is limited to low growth on the assumption that urban core VMTs are near saturation levels HC, on the other hand, can increase at a greater rate because of the broader regional impact of HC emissions. One and two percent growth rates, respectively, have been used for these pollutants.

The analysis for the Final HD Regulations indicates a significant shift in diesel utilization rates. For major urban areas, negative growth in the HDG fleet is expected, while the diesel fleet will increase substantially. The analysis indicates that the usual MOBILE–1 growth rates need to be adjusted to account for this change. The results developed below result in growth of HDG plus HDD VMTs at about 2% per year, but apportion that growth unevenly between the two classes.

Future fleet projections used are those of the Interagency Study[1] for the 1980–1990 time period. The totals for HDGs and HDDs are summarized below:

Table 2.—Projected Exhaust Emission Rates for all Areas Except California and High Altitude

Applicable to 1984 and Later Years

Heavy-Duty Gasoline

HC = 0.87 + 0.06 (M/10,000) + F_M[4.0 − 0.025 (M/10,000)]
CO = 10.3 + 0.72 (M/10,000) + F_M[135 − 0.34 (M/10,000)]

Where,
M = Mileage.
F_M = Fraction of failed catalysts

$$= 1-\exp\left[-\left(\frac{M}{211,726}\right)^3\right]$$

Heavy-Duty Diesel

HC = 2.5 + 0.007 (M/10,000)
CO = 8.7 + 0.11 (M/10,000)

Light-Duty Trucks

HC = 0.39 + 0.016 (M/10,000) + F_L[1.5 + 0.022 (M/10,000)]
CO = 4.8 + 0.17 (M/10,000) + F_L[18.6 + 0.30 (M/10,000)]

Where,
FL = 1-exp[− (M ³)
269,141

$$FL = 1-\exp\left[-\left(\frac{M}{269,141}\right)^3\right]$$

[1] "Interagency Study of Post-1980 Goals for Commercial Motor Vehicles," June 1976.

Projected HD Fleet Population, Vehicle Class[1]

	III–V	VI	VII	VIII	Total
HDG:					
1973	1,595,000	2,442,000	335,000	437,000	4,809,000
1980	1,778,000	2,474,500	299,000	296,000	4,849,000
1985	2,036,000	2,123,000	217,000	184,000	4,560,000
1990	2,237,000	1,682,000	115,000	65,000	4,099,000
HDD:					
1973		75,000	161,000	718,000	954,000
1980		332,000	224,000	1,067,000	1,623,000
1985		947,000	314,000	1,243,000	2,504,000
1990		1,682,000	425,000	1,247,000	3,354,000

[1] Interagency Study, Fig. I–6, I–8.
[2] Class III–V=10,000–19,500 lb. GVW, Class VI=19,500–26,000 lb. GVW, Class VII=26,000–33,000 GVW, Class VIII=above 33,000 lb. GVW.

Over the 1973–1990 period, the total HDG fleet is projected to decline at an average rate of 0.9% per year, while the HDD fleet will increase by 7.7% per year on average. The overall fleet is projected to grow at an average rate of 1.5% per year.

Of more direct interest are those portions of the fleet contributing most to urban VMTs (as distinguished from interstate travel, for example). This generally can be done by looking at the lighter weight classes. Classes III–V and VI accumulate most of their VMTs on local or short hauls. For these classes, the following average growth rates between 1973 and 1980 are projected (% per year):

	III–V	VI	III–VI
HDG	+2.0	−2.2	−0.2
HDD		+20	+20
Total	+2.0	+1.7	+1.8

The growth in the size of the fleet will not correspond exactly to changes in VMTs. The Interagency Report also projected VMTs for 1973 and 1990 for local trips, short haul trips, and long haul trips.

Annual HD VMT's[4]

(Billions of miles per year)

	Local	Short	Long	Local and short	Total
1973					
HDG	35.8	19.7	3.3	46.5	49.8
HDD	10.4	18.3	30.6	28.7	59.3
Total	46.2	29.0	33.9	75.2	109.1
1990					
HDG	22.8	5.8	2.0	28.4	30.4
HDD	42.3	38.8	54.3	81.1	135.4
Total	65.1	44.4	56.3	109.5	165.8

[4] Interagency Report, Fig. I–7.

The average annual growth rates represented by these figures are as follows:

HDG	−2.6	−3.7	−2.9	−2.9	−2.9
HDD	+4.5	+3.4	+6.3	+5.0	
Total	+2.9	+2.5	+3.0	+2.2	+2.5

Comparing fleet growth rates with VMT growth rates reveals significant differences. They reflect a decline in sales of larger (and higher annual mileage) gasoline trucks and increasing sales of lighter (and lower annual mileage) diesel trucks. The VMT projections are the most appropriate to use since the rollback and EKMA models work on VMT growth rates. On the assumption that he shrinkage in HDG VMTs may be somewhat overstated, we will use the following growth projections:

Growth Rate of Annual VMTs to Use for Air Quality Projections

HDG = −2.0% per year
HDD = +5.0% per year

E. *LDT Estimated 1984 Emission Factors*

The LDT emission factors for future vehicles require estimates of "full life" deterioration rates and new vehicle production targets.

LDTs are expected to continue using oxidation catalysts similar to current systems. Therefore, similar DFs to current vehicles are expected. To determine a "full life" DF, we assume catalysts will be sufficiently durable to last the entire useful life and to maintain deterioration characteristics similar to those observed on current 50,000 mile systems. The full life DF can then be determined by linear extrapolation of the 50,000 mile DF. 1979 certfication data yields the following LDV and LDT average DFs:

LDV DF(HC)=1.20 DF(CO)=1.18 (197 vehicles)
LDT DF(HC)=1.18 DF(CO)=1.11 (60 vehicles)

In the interest of simplicity, a rounded off DF of 1.2/50,000 miles will be used for both HC and CO. Assuming manufacturers might certify for useful lives of about 100,000 miles this becomes 1.4/100,000 miles.

Manufacturers base their estmates of production line mean values upon limited testing of pre-production vehicles (typically 3). In order to ensure that a SEA audit will be passed with some desired confidence factor (we will use 90%), their target emission levels will, of necessity, be some point below the required level (because of production variability and the small sample size). This point can be estimated by standard statistical techniques, using the "t" statistic. The following relationships will be used:

LMT = low mileage target = standard/DF
m = maximum desired production mean = LMT − 1.28s
x = target new vehicle emission rate = m − s(t/n)

Where,

s = standard deviation of emission levels
t = "t" statistic for 90% confidence level and n − 1 degrees of freedom
n = sample size

To perform the calculations, an estimate of emission variability is needed. Data on variability expressed in the form of s/LMT was submitted by Ford in their comments on the LDT NPRM. That data indicated a value of s/LMT of 0.20 for LDVs certified to the 0.41/9/1.5 California standards. This value was higher than that found by Ford on vehicles certified to higher standards, and Ford felt that it would be even higher at lower standards.

For our analysis, we will assume that variability expressed as s/x is essentially constant. A value of s/x can be estimated from the Ford s/LMT data. Ford indicated in the submission of its data that current engines are such that X is approximately equal to or somewhat less than LMT. Therefore, current s/LMT data can be used as an estimate of the current s/x ratio. For engines built to meet a 10% AQL, we will assume that s/x remains constant (rather than s/LMT) as x goes down. To examine the effect of s/x increasing, we will calculate results using both 0.20 and 0.24.

We have:

x = m − s(t//n)
m = LMT − 1.28s
s/x = 0.20 or 0.24

Combining these we get, depending on the s/x ratio used:

x = LMT − .20x(1.28 + t/√n) or x = LMT − .24x(1.28 + t/√n)
x(1.256 + .20t/√n) = LMT or x(1.307 + .24t/√n) = LMT
x/LMT = 1/(1.256 + .20t/√n) or x/LMT = 1/(1.307 + .24t/√n)

For sample size n = 3,5,7, the results are as follows:

n	t	x/LMT (s/x=0.20)	x/LMT (s/x=0.24)
3	1.886	0.68	0.64
5	1.533	0.72	0.68
7	1.440	0.73	0.70

Based upon what seems to be the most common sample size (3) and the s/x = 0.20 ratio, we will use an x/LMT ration of 0.68. The above tabulations indicate that manufacturers could raise production target levels by increasing sample size or reducing variability. For example, if s/x were .24 instead of .20, increasing the sample size from 3 to 5 would allow maintenance of the same target value.

New vehicle emission rates for these ratios are:

0.68 (0.8/1.4) = 0.39 HC
0.68 (10/1.4) = 4.8 CO

A DF of 1.4/100,000 miles will yield the following:

HC = 0.39 + 0.016 (M/10,000)
CO = 4.8 + 0.19 (M/10,000).

These rates would apply to LDTs until such time as a catalyst failure occurred. As catalysts approach the end of their useful lives, random failures will begin to occur. These failures would be expected to follow a Weibull distribution of the form:

$$F = 1 - \exp\left[-\left(\frac{\theta}{0}\right)^{b}\right]$$

One of the principle uses of the Weibull distribution is in characterizing lifetime phenomena,[5] so that it is well suited to our purposes. To specify the distribution, we will assume the catalyst change point of 100,000 miles corresponds to a 5% failure rate (giving the manufacturers 95% confidence of catalyst survival). We will further assume a "Weibull slope" of b = 3. Based upon these parameters, 0 = 269,141 miles. A plot of this function is given in Figure A–1.

For those catalysts that fail, emission rates characteristic of well maintained, pre-catalyst engines are desired. Based upon review of emission factors for LDTs,[6] new vehicle emission rates of 1.9 HC, 23.4 CO will be used and combined with a DF of 1.1.

Then:

HC (failed catalyst) = 1.9 + 0.038 (M/10,000)
CO (failed catalyst) = 23.4 + 0.47 (M/10,000)

Combining the OK catalyst and failed catalyst emission rates according to the fraction (F) of failed catalysts, we get:

HC = [0.39 + 0.016 (M/10,000)][1–F] + [1.9 + 0.038 (M/10,000)][F]
HC = 0.39 + 0.0116 (M/10,000) + F [1.51 + 0.022 (M/10,000)]

BILLING CODE 6560-01-M

[5] Discussed in many statistical tests. See, for example "Statistical Design and Analysis of Engineering Experiments," Lipson and Sheth, p. 36.

[6] "Mobile Source Emission Factors—Final Document," EPA–400/9–78–005, March 1978, Table II–1.

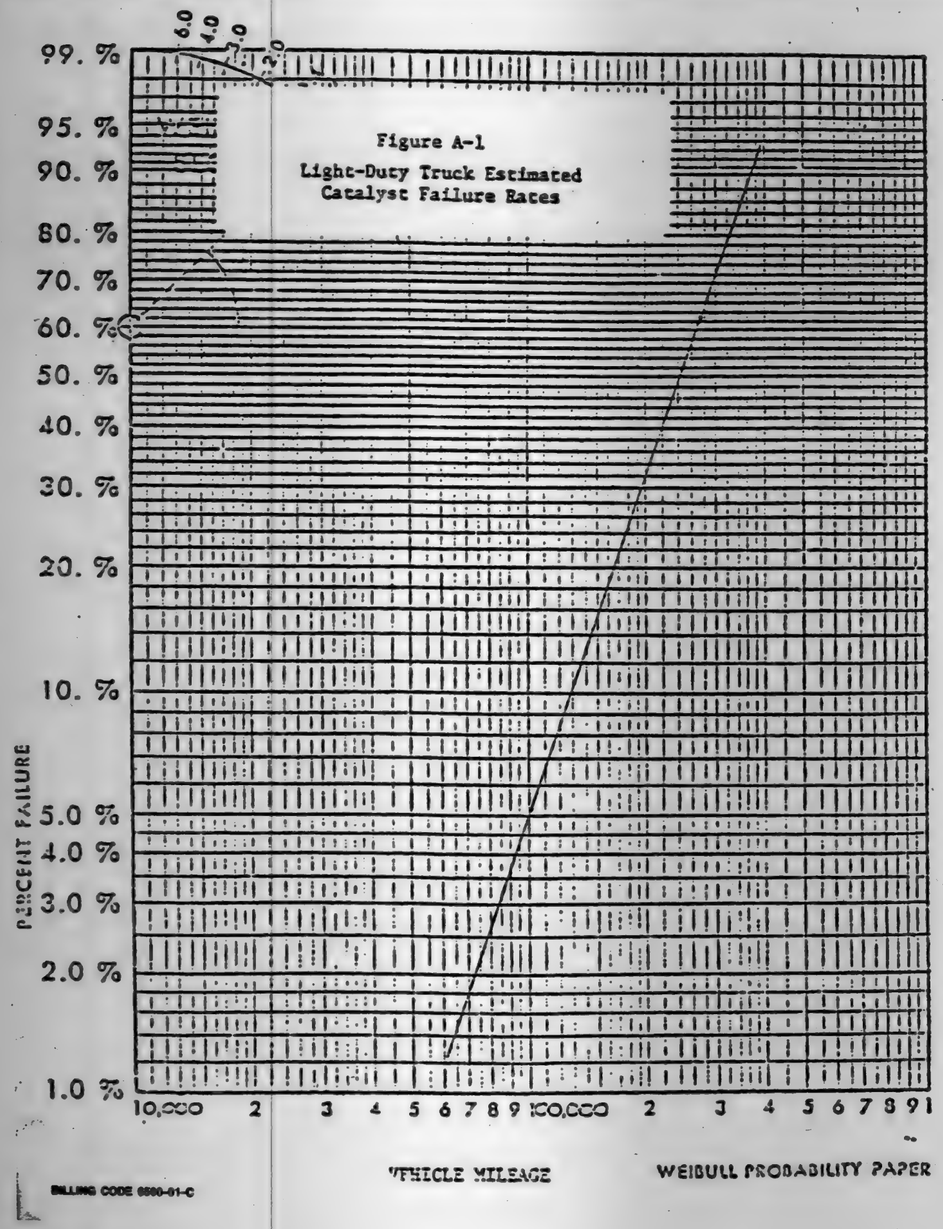

Figure A-1

Light-Duty Truck Estimated Catalyst Failure Rates

BILLING CODE 6560-01-C

CO = [4.8 + 0.17 (M/10,000)][1–F] + [23.4 + 0.47(M/10,000)][F]

CO = 4.8 + 0.17 (M/10,000) + F [18.6 + 0.30 (M/10,000)]

These results are included in Table 2.

The above factors are for gasoline fueled LDTs. In future years, some dieselization of LDTs is expected. Reproduced in Table 3 is data from the Summary and Analysis of Comments for the Light Duty Diesel Particulates package. This table gives diesel fractions for future LDV sales. These same projections will be used to estimate the fraction of LDT diesels.

For 23 certified LDV and LDT diesels in 1979 the average emissions are 0.60 (HC)/ 1.75 (CO). The two LDT diesels in this set span the average values. The following values will be used to estimate diesel LDT emission:

LDT Diesel Emission Rates

HC = 0.60 g/mile

CO = 2.0 g/mile

These levels are sufficiently low to be independent of AQL or emission standard. The average DF for 11 durability vehicles was low enough to neglect.

F. Develop Future HD Emission Standards for Optional Cases

In the course of evaluating the Clean Air Act mandated 90 percent reduction standard, optional reductions of 85 percent and 95 percent will be examined also. The standards corresponding to these levels would be 1.9/23.3 g/BHP-hr HC/CO for 85 percent and 0.64/7.7 g/BHP-hr HC/CO for 95 percent. Corresponding emission factors are derived below:

Heavy-Duty Gasoline.—Following the methodology developed earlier, zero mileage emission rates for HDGs would be:

85 Percent Standard

HC = 0.65 (1.9/1.7) = 0.73 g/BHP-hr

CO = 0.65 (23.3/1.7) = 8.9 g/BHP-hr

95 Percent Standard

HC = 0.65 (.64/1.7) = 0.24 g/BHP-hr

CO = 0.65 (7.7/1.7) = 2.9 g/BHP-hr

Converting these to grams per mile and adding in deterioration

Table 3.—*Year-by-Year Projections of the Diesel Fraction of Light-Duty Vehicle Sales* [1]

	Percent
Model year:	
1981	4.7
1982	7.5
1983	8.9
1984	9.5
1985	11.4
1986	13.8
1987	16.5
1988	17.6
1989	18.7
1990	19.7
1991	20.0
1992	20.0
1993	20.0
1994	20.0
1995	20.0

[1] Source: Summary and Analysis of Comments, EPA Light-Duty Diesel Particulate Final Rulemaking, Table I–5.

rates corresponding to a 1.7 DF these become:

85 Percent Standard

HC (OK Catalyst) = 1.3 + 0.09 (M/10,000) g/mile

CO (OK Catalyst) = 15.5 + 1.08 (M/10,000) g/mile

95 Percent Standard

HC (OK Catalyst) = 0.42 + 0.03 (M/10,000) g/mile

CO (OK Catalyst) = 5.0 + 0.35 (M/10,000) g/mile

Failed catalyst emission rates will be the same as those previously used for HDGs in Section C. The average emission rates are then:

85 Percent Standard

HC (average) = 1.3 + 0.09 (M/10,000) + F [3.6–0.05 (M/10,000)]

CO (average) = 15.5 + 1.1 (M/10,000) + F [129–0.72 (M/10,000)]

95 Percent Standard

HC (average) = 0.42 + 0.03 (M/10,000) + F [4.5–0.01 (M/10,000)]

CO (average) = 5.0 + 0.35 (M/10,000) + F [140–0.03 (M/10,000)]

These results are included in Table 4.

Heavy-Duty Diesel.—The zero mileage emission rates can be estimated as was done in Chapter VII of the Regulatory Analysis, Section E. As before, only HC is affected since diesel CO emissions naturally fall below even the 95 percent reduction standard.

In g/BHP-hr, the zero mileage emission rates are:

85 Percent Standard

0.72 (1.9–0.06) = 1.32 g/BHP-hr

95 Percent Standard

0.72 (0.64–0.06) = 0.42 g/BHP-hr

Converting to grams per mile and including the DF, the final results are:

85 Percent Standard

HC = 3.8 + .007 (M/10,000) g/mile

95 Percent Standard

HC = 1.2 + .007 (M/10,000) g/mile

These equations are included in Table 4.

Table 4.—*Optional Projected Exhaust Emission Rates For All Areas Except California and High-Altitude*

Applicable to 1984 and Later Years

A. *85 Percent Reduction Standard (1.9/23.3 g/BHP-hr HC/CO)* [1]

Heavy-Duty Gasoline:

HC = 1.3 + 0.09 (M/10,000) + F_H [3.6–0.05 (M/10,000)]

CO = 15.5 + 1.1 (M/10,000) + F_H [129–0.72 (M/10,000)]

Heavy-Duty Diesel:

HC = 3.8 + 0.007 (M/10,000)

CO = 8.7 + 0.11 (M/10,000)

B. *95 Percent Reduction Standard (0.64/7.7 g/BHP-hr HC/CO)* [1]

Heavy-Duty Gasoline:

HC = 0.42 + 0.03 (M/10,000) + F_H [4.5–0.01 (M/10,000)]

CO = 5.0 + 0.35 (M/10,000) + F_H [140 + 0.03 (M/10,000)]

Heavy-Duty Diesel:

HC = 1.2 + 0.007 (M/10,000)

CO = 8.7 + 0.11 (M/10,000)

[FR Doc. 80-24212 Filed 8-11-80; 8:45 am]
BILLING CODE 6560-01-M

[1] Percent reductions given indicate standards which are equal to the stated percent reduction from a 1969 gasoline-fueled baseline.

Note.—M and F_H are as defined in Table 2.

V 45 AG 12 80 UMI

federal register

Tuesday
August 12, 1980

Part VI

Interagency Working Group on a Hazardous Substances Export Policy

Draft Report

INTERAGENCY WORKING GROUP ON A HAZARDOUS SUBSTANCES EXPORT POLICY

Draft Report

AGENCY: Interagency Working Group on a Hazardous Substances Export Policy.

ACTION: Draft report.

SUMMARY: The Interagency Working Group was convened to review the authorities under which and the procedures by which the Federal government regulates the export of substances whose use in the United States is banned or significantly restricted. The fourth draft report of the Working Group was completed in January 1980. That report was distributed widely and was the subject of a series of consultation meetings with representatives of a variety of affected interests—the chemical, pesticides, consumer product and drug industries; consumer, environmental, and health groups; and labor organizations. Based upon the comments of the participants at these meetings and upon the views and suggestions of individual Federal agencies in response to the fourth draft, the Working Group has prepared a fifth draft report.

The report, which is printed below, discusses the nature and scope of the problems posed by the export of hazardous substances, summarizes the existing statutory authorities and regulatory procedures that are now used or may be used to address these problems, identifies the policy considerations that should be taken into account in the development of a hazardous substances export policy, and proposes a multipronged policy that reflects those considerations.

The Working Group is publishing the fifth draft report in the **Federal Register** in order to assure that it receives wide distribution. Comments on the report are welcome and will be reviewed and analyzed during the preparation of the Working Group's final report.

DATE: Please submit any comments you wish to make on or before September 12, 1980.

ADDRESS: Send comments to the Interagency Working Group on a Hazardous Substances Export Policy, c/o Esther Peterson, Special Assistant to the President for Consumer Affairs, 495 Old Executive Office Building, Washington, D.C. 20500.

FOR FURTHER INFORMATION CONTACT: Ed Cohen or Mark Goldberg at the White House Office of Consumer Affairs at (202) 456–6226 or Kitty Gilman or Jean Halloran of the Council on Environmental Quality at (202) 395–5780.

Introduction

In early summer of 1978, an Interagency Working Group was established to consider Federal policy on the export of hazardous substances which are banned or whose is use significantly restricted in the United States.[1] The catalyst for convening the Working Group was the national and international controversy over U.S. exports of TRIS-treated children's sleepwear, after it has been banned for sale in the United States.

The export of TRIS-treated sleepwear was not an isolated incident. Congressional hearings in July 1978 [2] pointed out numerous instances in which American firms exported, without restriction on the part of the U.S. government, substances that had been banned or strictly limited for use in this country. In some of these cases, the risks and benefits of using the exported products in the importing countries may have been different from those in the United States due to differing economic, social, and cultural conditions. However, in most instances, there was little evidence of a special U.S. government effort to share with importing countries the information which had led the United States to ban or strictly limit the use of the products, so that the importing countries could make their own informed judgments. The unrestrained export of hazardous substances by U.S. firms raised questions about this country's ethical responsibility for the hazards arising from hazardous exports, questions that have important implications for U.S. trade and foreign relations. One result of this concern was that in 1978 Congress amended several regulatory acts to provide notification to importers and/or to the government of the importing nation when certain banned products are exported from the United States.

U.S. manufacturers have a strong stake in fostering a positive attitude among foreign governments and consumers toward products bearing the label "Made in USA." Sale abroad of banned products tends to undermine foreign confidence in American-made products. Among the potential consequences are losses in export trade and thus negative effects on our balance of payments, and possible adverse long-term effects on foreign markets.

Uncontrolled export of hazardous substances also tends to damage our relations with foreign countries. Importing countries—generally the poorer, less developed nations of the world—have urged that exporting countries exercise restraint in sending abroad products that are banned for use at home and provide full information on the products' effects. UN Environment Programme resolutions (formally called decisions) in 1977, 1978, and 1980 asked nations not to permit export of hazardous substances without the knowledge and consent of the importing countries. To these countries, a U.S. government policy that tolerates unrestrained export of banned products could appear callous or hostile and thus be detrimental to U.S. foreign policy interests.

The purpose of the Working Group was to explore the nature and scope of problems related to the export of banned or significantly restricted substances, and, if appropriate, to propose a government policy to which all Federal agencies would subscribe.

II. Definition of Banned and Significantly Restricted Substances

The Working Group found that careful definition of terms was necessary, to make clear what substances should be considered for purposes of a policy to control export of banned and significantly restricted substances. The Working Group has generically defined these substances to mean a pesticide, chemical, food (including meat, meat product, or poultry), food additive, drug, cosmetic, medical device, electronic product, biological product, color additive, or consumer product for which a Federal agency has taken any of the following types of regulatory actions in order to protect against an actual or potential threat to the health or safety of the United States public or to the environment:

(1) Final rulemaking or adjudicatory action (including emergency or interim binding action) which denies or revokes approval for, or prohibits, the manufacture, production, use, or sale in the United States.

(2) Final rulemaking or adjudicatory action (including emergency or interim binding action) which prohibits or revokes approval of most significant uses in the United states.

(3) Withholding, or absence of registration or approval for any substance for which Federal law requires Federal agency registration or approval before manufacture, production, use, or sale in the United States.

A more detailed definition of "banned and significantly restricted substances," in which the substances and products considered under the policy are defined in terms of regulatory action under certain sections of certain statutes, is provided in Section VII.

Certain categories of products were excluded from the Working Group report because of their special legislative history or because of the special problems they raise: alcohol, tobacco, and firearms; military weapons and equipment; narcotic and pyschotropic substances; and nuclear fuels. Hazardous non-nuclear wastes are not included since a current Administration effort led by the State Department is developing a policy to deal with exports of these wastes. Also generally excluded from consideration are the export of hazardous production facilities, and U.S. financial assistance for such facilities. Substances which may cause hazardous workplace conditions are included in parts of the policy.

III. Nature and Scope of the Problem

Since there are only limited controls at present on export of banned and significantly restricted substances, the government has no mechanisms for monitoring or valuing such exports. Further, many firms resist disclosure of the extent or destination of export products. Some of them consider their marketing plans trade secrets. Thus, no estimates are available of the dollar value of such substances exported from the United States.

Virtually unrestrained export is currently allowed for many substances banned for sale in the United States: certain food dyes; cyclamate sweeteners; and drugs, cosmetics, and antibiotics that are adulterated or misbranded. Other banned substances may be exported provided notice is sent to the importing nation. These include most CPSC and EPA-regulated products. Finally, a few classes of banned substances, including unapproved drugs and banned medical devices, are categorically prohibited from export.

Several examples, drawn from Congressional hearings and information provided by federal agencies, suggest the nature and scope of the problem. Some of the examples also suggest the complexity of controlling the export of substances which the United States may consider too hazardous to use but which other countries, with differing needs and conditions, may judge differently.

- Complying with federal requirements, U.S. manufacturers treated children's sleepwear with the chemical flame-retardant TRIS. In April 1977, after the carcinogenic hazard of the substance was discovered, the Consumer Product Safety Commission (CSPC) banned domestic sales of TRIS-treated sleepwear. According to Congressional testimony, however, exports of the garments continued for more than a year. Approximately 2.4 million pieces valued at $1.2 million were reported to have been shipped abroad. Most banned consumer products may still be exported, provided the government of the importing country is notified of the shipment.
- In March 1978, the Food and Drug Administration (FDA) issued a final rule prohibiting the nonessential uses of certain chlorofluorocarbons (CFCs) as propellants in self-pressurized containers of foods, drugs and cosmetics. EPA at the same time prohibited domestic production, processing, and use of CFCs for nonessential aerosol propellant use. These actions were taken because chlorofluorocarbons may deplete stratospheric ozone, leading to an increase in skin cancer, climatic changes, and other adverse effects. EPA also banned the processing of CFCs into aerosols for export, though it did not ban the export of unprocessed CFCs. Subsequently, some manufacturers requested information from FDA as to whether or not it was legal to export cosmetics (e.g., hair sprays) containing chlorofluorocarbons as propellants. FDA advised these firms that shipping cosmetic products to other countries was lawful as long as they were not prohibited by the country to which they are shipped.
- The very powerful and very hazardous pesticide, Leptophos, never registered by EPA for domestic use, was manufactured in the United States principally for export. According to Congressional testimony, nearly 14 million pounds was exported to 50 countries between 1971 and 1976. In 1971 and 1972 a number of Egyptian farmers were found to be suffering from hallucinations and impairment of vision and speech after using Leptophos, and 1,200 water buffalos were reported to have died from exposure to the pesticide.
- According to the General Accounting Office, over 500 million pounds of pesticides were exported from the United States in 1976. Of these exports, approximately 30 percent (more than 160 million pounds) were pesticides not registered for use in the United States. This includes pesticides whose "active ingredient" is contained in registered products, but which is being exported in a different formulation; pesticides for which registration has never been sought; and pesticides whose registration has been cancelled, suspended, or denied. Unregistered pesticides may lawfully be exported provided that the product is labeled as unregistered (and meets other labeling requirements) and that importers are notified and acknowledge that the pesticide is unregistered. A copy of the acknowledgement is sent to EPA for transmittal to the foreign government.
- The World Health Organization has estimated that approximately 500,000 human poisonings, including about 5,000 deaths, are attributable to pesticides each year. Many of these are due to use of certain classes of pesticides which degrade quickly but are extremely toxic when applied. EPA has established stringent standards for the training and certification of individuals wishing to use these registered pesticides in the United States. However, the U.S. exports tens of millions of pounds of these pesticides each year to countries where such training may not be required and warning labels may not be followed.
- Chloramphenicol is an extremely potent antibiotic used in the United States only against typhoid fever and a few other life-threatening infections because of its serious potential side effects, such as aplastic anemia. The FDA indicated in Congressional testimony that an American firm had labelled and exported it to Spanish-speaking countries as suitable for treatment of much more routine disease for which there had been no substantiation of its effectiveness, including measles, mumps, and chicken pox, with no warnings as to its dangerous side effects.
- Depo-Provera, a drug that can be used legally in 69 countries (though not in the United States) as an injectable contraceptive, is supplied for contraception by an American drug firm from overseas manufacturing sites. According to FDA, it is approved for use in the United States only for palliative treatment of endometrial cancer, because there is evidence that it may be linked to long-term risks of other cancers. The drug is produced in this country only at dosage levels that are not effective for contraception. Currently, it may not be exported for

[1] The Working Group, convened by Esther Peterson, Special Assistant to the President for Consumer Affairs, included the Departments of State, Agriculture, Commerce, Energy, Health and Human Services (Food and Drug Administration), Justice, Defense, Labor, Transportation, and Treasury, and the Environmental Protection Agency, Consumer Product Safety Commission, Export-Import Bank, Overseas Private Investment Corporation, Action, Agency for International Development, Regulatory Council, Office of Management and Budget, Council on Environmental Quality, Nuclear Regulatory Commission, Office of the U.S. Trade Representative, and several other Executive offices.

[2] Hearings before the Subcommittee on Commerce, Consumer and Monetary Affairs of the House Committee on Government Operations.

contraceptive use. Several foreign countries, will put a strain on global

U.S. balance of trade has deteriorated,

The provisions of existing statutes

Consumer Product Safety Act

Provisions

contraceptive use. Several foreign government representatives have asked for U.S. approval of the drug as a contraceptive so it can be used in AID programs for population control.

• Manually collumated X-ray machines are not approved for use in the United States because their operation can result in patients' being overexposed. However, according to FDA testimony before Congress, these machines could provide substantial medical benefits to underdeveloped countries lacking the equipment or personnel required to maintain more complex machines. They can be exported under current law if the exporter obtains the approval of the FDA and the importing country for the shipment.

Besides the concerns about health and safety effects of hazardous substances exports on foreign citizens, effects on our own citizens are also a cause of concern. Export of hazardous substances can have a direct effect on U.S. citizens by more than one route: through adverse effects on workers in the plant where the product is manufactured; through the reimportation of the original substances or their traces or derivatives; through the illegal diversion into domestic commerce of restricted products originally produced for export; or through transport of hazardous substances back to this country via the air or oceans. The world environment itself could suffer through release of hazardous substances to the global commons.

A General Accounting Office report concluded that many kinds of imported foods may be contaminated with pesticides not allowed in the United States. FDA spot checks (examining about 1 percent of shipments) of imported raw agricultural commodities found that about 5 percent of the shipments tested in 1977 through 1979 contained residues of pesticides for which no U.S. tolerance levels exist. According to the GAO report, test results showing unacceptable residue levels are sometimes received after the item tested has already entered the marketplace. Moreover, the vast majority of imported foods enter the United States with no testing for toxic residues. Pesticides banned in the United States but used in other countries, especially nearby countries like Canada and Mexico, can also travel by water or air to enter the environment of the United States.

Several factors suggest that the problem of hazardous substances exports is likely to increase over the next several years. Growth in world population, especially in developing countries, will put a strain on global resources. Significant health and food supply problems may follow, leading to increased foreign demand for imported drugs, pesticides, and other potentially hazardous products. Moreover, continued new discoveries of carcinogenic and other damaging effects of many substances are probable over the next few years. In some cases, certain firms may be left with stocks of materials which can no longer be sold in the United States, and the incentive to recover some of their investment by selling in products abroad may be considerable.

If current economic trends continue, exports are likely to increase. In 1970, total U.S. exports of goods and services were $82.5 billion or 6.4 percent of gross national product. By 1978, the percentage had risen to 9.7 percent and the dollar value was $205 billion. Yet the U.S. balance of trade has deteriorated, and pressure for U.S. firms to increase exports has mounted. The National Export Policy, recommended by the President's National Export Policy Task Force provides new economic incentives for export. Importing countries may improve their ability to assess the effects of imports and exclude those they consider damaging. Nevertheless, it appears that the problem of hazardous substances exports will remain serious.

IV. Existing Statutory Authority and Procedures

A. Summary of Existing Authority

The following agencies have been directed by Congress to regulate the domestic manufacture, use, and introduction in interstate commerce of certain products or substances that may involve hazards to human health and the environment.

Agency[1]	Product class	Statute
Consumer Product Safety Commission	Consumer products	Consumer Product Safety Act.
	Fabric-type products	Flammable Fabrics Act.
	Household chemical substances, e.g., if toxic, corrosive, flammable.	Federal Hazardous Substances Act.
	Children's articles	
Drug Enforcement Administration	Drugs (narcotics and dangerous drugs).	Controlled Substances Act.
Environmental Protection Agency	Pesticides	Federal Insecticide, Fungicide, and Rodenticide Act; Federal Food, Drug and Cosmetic Act.
	Chemical substances	Toxic Substances Control Act.
Food and Drug Administration	Foods, drugs, cosmetics, and medical devices.	Federal Food, Drug and Cosmetic Act.
	Biological and electronic products	Public Health Service Act.
U.S. Department of Agriculture	Meat and meat products	Federal Meat Inspection Act.
	Poultry	Poultry Products Inspection Act.
Occupational Safety and Health Administration	Workplace hazards and workplace equipment.	Occupational Safety and Health Act.

[1] The Customs Service of the Treasury Department assists some of these agencies in enforcement.

While many of the statutes listed above address the export issue in some measure, there are no consistent principles underlying their various mandates. If any generalizaiton is warranted, it is that Congress seems recently to have moved away from extremes—complete permissiveness on the one hand and rigid controls on the other—toward a middle course that calls for notification, disclosure, and, in limited circumstances, bans on exports of hazardous substances (see Appendix A for more information on the provisions of these statutes).

Since the mid-1970s, Congress has put increasing emphasis on notification to the receiving country of the export of banned and significantly restricted substances. Such notificaiton was required by the Toxic Substances Control Act of 1976 and amendments to four existing statutes passed in 1978 by the 95th Congress. These amendments strengthened existing notification procedures of the Federal Insecticide, Fungicide, and Rodenticide Act and established notification requirements for consumer products under the Consumer Product Safety Act, the Flammable Fabrics Act, and the Federal Hazardous Substances Act. Also, Congress authorized limited discretionary export banning authority, to protect U.S. consumers, under the same three acts. These recent actions suggest that there is a growing concern in Congress about the effects of exports of hazardous substances on foreign citizens, combined with the view that it is generally appropriate for countries to make their own judgments about their needs for hazardous substances, so long as they are adequately informed.

The provisions of existing statutes pertaining to export of substances which are banned or significantly restricted in the United States are of five general types, although some statutes fit more than one category. In addition there are a good many qualifications and exceptions in the laws. As the following outline shows, the regulatory scheme is complex.

(1) *Substances for which there are no export limitations or for which exports must be in accord with the laws of the importing nation:*

Federal Food, Drug and Cosmetic Act—adulterated or misbranded foods (except meat and poultry subject to controls), cosmetics, drugs, and antibiotics.
Public Health Service Act—noncomplying electronic products.
Federal Insecticide, Fungicide and Rodenticide Act—registered pesticides composed of active ingredients for which major uses have been cancelled or suspended.

(2) *Substances for which notification of the importing country of any export is required:*

Federal Insecticide, Fungicide, and Rodenticide Act—pesticides not registered for use in the United States.
Toxic Substances Control Act—certain regulated chemical substances.
Consumer Product Safety Act—consumer products which are banned or do not meet federal safety standards.
Flammable Fabrics Act—fabric-type products which do not conform to federal safety standards.
Federal Hazardous Substances Act—toxic, flammable, corrosive and otherwise hazardous products, including children's articles which fail to meet federal requirements.

(3) *Substances for which prior approval by the importing country must be sought:*

Federal Food, Drug and Cosmetic Act—unapproved medical devices [2] and investigational drugs.[3]

(4) *Substances for which an agency can ban exports if there is a risk to health or the environment of the United States:*

Toxic Substances Control Act—chemical substances [4]
Consumer Product Safety Act—consumer products [5]
Flammable Fabrics Act—fabric-type products [5]
Federal Hazardous Substances Act—household chemicals [5]

(5) *Substances for which there is a total ban on export:*

Federal Food, Drug and Cosmetic Act—unapproved new drugs,[6] unapproved new animal drugs
Public Health Service Act—unapproved biological products (serums, vaccines, etc.)
Meat Inspection Act—meat failing to meet U.S. quality standards (except for preservation)
Poultry Products Inspection Act—poultry failing to meet U.S. standards.

A more detailed summary of the authority contained in the various regulatory statutes for each product appears in Appendix A.

It is not surprising that the export provisions of the various regulatory statutes are not consistent in their treatment of the export of hazardous substances. These laws were enacted over a period of 40 years. In addition, considering the different hazards involved in the various product categories, the various circumstances in which the products are shipped, and the different conditions of use of the products, some variation in the treatment of different products is perhaps warranted.

This is not to say that more consistency in the treatment of hazardous substance exports is not desirable or achievable. For example, where federal agencies provide notification of export to a foreign government, it would be desirable to systematize the procedures to assure more regularity in the process. Additional steps, described later in this report, could be taken to make product hazard information and data more readily available and accessible. Finally, there are some circumstances, also discussed afterward, under which any export of a banned or significantly restricted substance may be undesirable and not in the national interest.

In addition to the laws regulating specific products or practices, two additional authorities are relevant to export policy.

First, the Export Administration Act of 1979 (Pub. L. 96–72) authorizes the President to use export controls to restrict the export of goods and technology where such export might prove detrimental to the national security of the United States; restrict export where necessary to prevent the excessive drain of scarce materials from the United States or to reduce the serious inflationary impact of foreign demand; and restrict export where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. This recently enacted statute extends and revises the Export Administration Act of 1969.

Second, Executive Order No. 12114, issued by President Carter on January 4, 1979, requires that agencies analyze the environmental effects abroad of certain types of major Federal actions that may significantly affect the environment. This analysis will help guide decisions by the responsible agency officials. However, the grant or denial of an export license under the Export Administration Act is not considered a major Federal action for the purposes of Executive Order No. 12114.

B. Present Export Procedures

Present agency procedures dealing with the export of hazardous substances may be described in two categories: (1) procedures to implement specific control authorities and (2) mechanisms to promote international cooperation in the analysis and exchange of hazard data and to develop common approaches to regulation.

1. *Procedures to Implement Existing Control Authority:* Most agencies have in place administrative procedures which could be adapted to carrying out a more consistent export policy for banned and severely restricted hazardous substances. This is particularly true of agencies with long established responsibilities in the export area. The Commerce Department has well established procedures for imposing export controls for the various purposes specified in the Export Administration Act. The State Department has formal procedures for the cases where it is required by statute to transmit notifications regarding hazardous exports from U.S. regulatory agencies to foreign governments. Customs has long-established procedures for controlling the entry of goods into international commerce, such as checking for required export licenses and documents, which could be adapted to the needs of an export policy for banned and severely restricted hazardous products. FDA has in place under its various statutory authorities procedures for approving exports, as

[2] Non-complying banned products cannot be exported unless the HHS Secretary determines that export is not contrary to public health and safety and the foreign government approves of the export.
[3] Export is permitted if requested by the foreign government.
[4] Banning is authorized if the exported product presents an unreasonable risk of injury to health within the U.S. or to the environment of the U.S.
[5] Banning is authorized if exported product presents an unreasonable risk of injury to consumers within the U.S.
[6] A bill (S. 1075) has passed the Senate which would allow export if the approval of the importing country were obtained and the HHS Secretary determined that the export would not be contrary to public health.

well as for notifying foreign governments of significant regulatory decisions and changes in statutes or regulatory approaches. In the case of agencies with new statutory authorities—EPA for the Toxic Substances Control Act and Federal Insecticide, Fungicide and Rodenticide Act and CPSC for the various laws it administers—new formal procedures either are currently in place or soon will be.

2. *Existing Programs to Foster International Exchange of Hazard Data and Consistent Approaches to Regulation and Export of Hazardous Substances:* The U.S. government is participating in several programs to promote international cooperation on control of hazardous substances and their export. The programs seek to improve exchange of information, to broaden understanding of common regulatory issues, and to develop consistent approaches where feasible.

The locus and subjects of such international initiatives include:

- Organization for Economic Cooperation and Development (OECD): exchange of information on regulation of pesticides and other toxic chemicals; development of consistent testing methods and control practices for chemicals; possible controls over the export of unsafe consumer goods; study of export policy needs for chemicals.
- United Nations General Assembly (UNGA): Resolution requesting the Secretary General in cooperation with the United Nations agencies and bodies concerned, especially the World Health Organization, to assist governments to exchange information on banned hazardous chemicals and unsafe pharmaceutical products. A report is to be submitted to the General Assembly at its 35th (1980) session, through the Economic and Social Council about the experience of Members States and United Nations agencies and bodies concerned.
- World Health Organization (WHO, a UN body): dissemination of methodologies to study the human health effects of chemicals and evaluate risks; development of environmental health criteria for various toxic substances; intergovernmental cooperation of international health matters.
- Food and Agricultural Organization (FAO, a UN body): consultation on assessing environmental hazards of pesticides and on developing consistent requirements for pesticide registration.
- Codex Alimentarius Commission (independent UN body established by WHO and FAO): establishment of international maximum residue limits for pesticides in foods, to be adopted by member countries.
- United Nations Environment Programme (UNEP): resolutions calling for strong and consistent policies governing hazardous substances exports; development of an International Registry of Potentially Toxic Chemicals (IRPTC) to serve as data clearinghouse for all information generated on potentially toxic substances.
- International Labor Organization (ILO): a global occupational safety and health hazard alert system.
- The UN Committee of Exports on the Transport of Dangerous Goods: development of recommendations regarding classification, labeling, and packaging of hazardous materials during transport.
- Multinational agreements: an example, is the Tri-Partite Pesticide Agreement among the U.S., U.K., and Canada.

U.S. participation in international programs takes on still more importance as the United States implements a strong hazardous substances export policy. The "International Efforts" section VI, below, gives the Working Group's recommendations for strengthened international efforts.

V. Policy

This section identifies considerations that must be weighed in arriving at a hazardous substances export policy and proposes and discusses a policy that balances those considerations.

A. Policy Considerations

The Working Group agreed on the need to establish a more consistent, practical Federal policy to govern the export of banned and significantly restricted substances. Participating agencies identified the following considerations that should be taken into account:

(1) As a nation exporting banned and significantly restricted substances, the United States has a moral obligation to recognize and assist in controlling the potential effects of these substances on the health and safety of citizens abroad and on the world environment.

(2) Nations differ substantially in their economic and cultural conditions and in their use of, and need for, hazardous substances. It is difficult for one nation to make decisions on the acceptability of risks for another nation. Such assessments require extensive information regarding economic, political, and social conditions which U.S. regulatory agencies do not have and cannot readily obtain.

(3) U.S. relations with other countries could be harmed by unrestrained export of substances which are banned or significantly restricted in the United States.

(4) The unrestrained export of hazardous products could undermine confidence of foreign buyers in U.S.-made goods, and could jeopardize their sale abroad.

(5) Excessively restrictive limitations on the export of products which a foreign country may decide it needs could place U.S. firms at a competitive disadvantage and harm U.S. relations with the government of that country.

(6) Excessively restrictive limitations could also place significant economic burdens on the U.S. economy, including adverse effects on the balance of trade and payments, on output and jobs, and perhaps on domestic competition (if smaller firms suffer disproportionately from reduced ability to compete in foreign markets).

(7) An export policy should be administratively simple and inexpensive to implement, and should recognize the complexities of international commerce.

(8) The United States should encourage and participate actively in international initiatives to develop consistent policies for hazardous substance exports, and for the sharing of data, analysis, and information. The effectiveness of unilateral United States action could be substantially diminished if foreign facilities or firms were to become alternative suppliers of substances which U.S. policies seek to control.

(9) The United States should attempt to protect American citizens against the dangers to their health and safety of importing hazardous substances and their derivatives or residues, and of damage to the world environment.

B. Proposed Policy

The Working Group recommends a policy that includes the considerations listed above and that also recognizes and uses the expertise of individual regulatory agencies. The proposed policy relies on existing statutory authority and would be further implemented through formal Executive action. The Executive action would set forth the *minimum* requirements that all agencies would be obliged to meet. Agencies would be expected to adopt more stringent requirements where required by statute or where authorized and appropriate for the types of hazards within their jurisdiction.

(1) *Hazard Notification:* The Working Group concluded that in most circumstances the international responsibilities of the United States could be met by an effective hazard notification system. Existing law requires notification tied to actual shipment (either first shipment of the year or shipment-by-shipment) or intent to export for most categories of products included in this policy. Exceptions include foods, cosmetics, and radiation-emitting electronic products which do not meet FDA health and safety standards; approved drugs and antibiotics which do not meet FDA quality control standards; and registered pesticides made from active ingredients for which major uses have been suspended or cancelled in the United States.

Most of the laws requiring notification, including those contained in the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Federal Insecticide, Fungicide, and Rodenticide Act, are less than 2 years old; some of the regulations implementing them are not yet final, and those in effect are very recent. The notification schemes in the various laws differ in terms of timing, frequency, and content of the notice, and experience with them is minimal. Accordingly, the Working Group is not able at this point to recommend the best scheme for notification.

The Working Group does not recommend any changes in existing law at this time. As we gain experience with the requirements of present laws, the Administration will assess their effectiveness, any important omissions they may have left, and any burdens they may impose. The Administration will then work together with Congress to determine whether notification requirements should be imposed where they are not now required and whether existing notification requirements should be modified.

Notification systems are intended to allow a foreign government to decide for itself whether the potential benefits of a substance are worth the anticipated risks and detriments. With this knowledge, a foreign government would be in a position to limit the importation of a partiuclar hazardous substance or take other measures to protect its citizens, if it decides any of these limitations or measures would be in its national interest.

The Working Group agreed that there was a need for greater procedural uniformity in the notification process as used by Federal agencies. It would be more effective and more efficient, for the United States and for other countries, to establish an official government-to-government contract for transmission of information concerning hazardous substances.

The Working Group recommends that the State Department be designated the official conduit of notifications concerning exports of banned and significantly restricted hazardous substances for all Federal agencies. This recommendation is consistent with the Department's role as official U.S. representative to foreign governments. Each agency would list for the State Department its own offices and people to be contacted if a foreign government wanted further information about regulatory actions or hazardous substances risks. Agencies should also work with the Department to identify their opposite numbers in foreign governments, to receive notifications and to serve as points of contact. The State Department would transmit notifications to the U.S. embassy in the country in question and might also transmit them to the country's embassy in the United States. U.S. embassies in foreign countries would keep on file copies of notifications transmitted to host governments. If a foreign government is required under any existing notification system to respond to a notice, that response should be transmitted through the State Department to the relevent U.S. regulatory agency.

Individual agencies would still be free to communicate directly with their counterparts in a foreign government if they wished, and would of course do so where required to by law.

In addition to greater uniformity in procedure, it is also desirable to achieve greater uniformity in the content of the notices sent to foreign governments. The Working Group recommends that the information to be provided by the State Department to the foreign government include, at a minimum:

(a) The name of the hazardous substance to be exported;

(b) A concise summary of the agency's regulatory actions regarding that substance, including the statutory authority for such actions and the timetable for any further actions that are planned; and

(c) A conscise summary of the potential risks to human health or safety or to the environment that are the grounds for the agency's actions.

In addition, to the extent deemed appropriate by the agency with jurisdiction, copies of additional documents could be forwarded to a foreign country to assist that country in its assessment of the risks associated with the substance. Trade secret data would not be sent to the foreign country except as authorized by domestic statute and deemed appropriate by the agency with jurisdiction.

(2) *Annual Summary:* As a complement to the notification scheme that is already in effect, the Working Group recommends the preparation and distribution of a report which:

(a) Summarizes all final regulatory actions of the types described in Section VII [1] that were taken by federal agencies by the end of the previous calendar year (including those antedating that calendar year by continuing in force) and that are of significant international interest;

(b) Summarizes all proposed regulatory actions of the types described in Section VII that were pending before agencies at the end of the previous calendar year and that are of significant international interest; and

(c) Indicates generally what kind of additional information is available with respect to each of these final or proposed regulatory actions and how the information may be obtained.

The report would also include information on some substances the use of which is generally permitted in the United States, subject to conditions or restrictions based on potential risks to human health or safety or to the environment. For example, the Occupational Safety and Health Administration, under the Occupational Safety and Health Act, issues health standards that set maximum workplace exposure levels for certain chemicals and other substances, and establishes other requirements for worker protection. Similarly, the Environmental Protection Agency issues regulations governing the use of some pesticides. Such regulations should be included in the Annual Summary when they are likely to be of interest to other countries in protecting against similar hazards.

The report would be compiled by the Regulatory Council and distributed by the State Department to appropriate foreign officials and to public and private international organizations. (The latter would include such organizations as the UN Environment Programme, OECD, FAO, World Health Organization and the ILO.) Each agency would provide the Regulatory Council with the information requested in a standard format and on a timetable determined by the Regulatory Council. The report would also be published in the United States in the **Federal Register.**

The annual summary would serve several important purposes. It would compile in one up-to-date document a summary of U.S. regulatory actions banning or significantly restricting the

[1] Information on unregistered pesticides would be included in the Annual Report only if EPA suspends, cancels or denies registration or if a tolerance is denied or revoked.

V 45 AG 12 80 UMI

manufacture, production, use, or sale of hazardous substances. It would inform foreign governments of regulatory actions the previous year that were not included in the last annual report, and for which some governments would not have received a shipment notification. It would give foreign governments notice of prospective regulatory actions so they could monitor the progress of a proceeding if they so desired. Furnished with this information, a foreign government could take regulatory action it deems appropriate at the same time that U.S. regulatory action takes place. The report would also list people and offices in the United States to approach for discussions of hazards of particular substances. The summary would also serve as a "hazard alert" for foreign governments on products that it may be importing from other countries.

(3) *Export Control:* The Working Group concluded that the responsibilities of the United States concerning the export of hazardous substances would be fulfilled in most cases through notification. There are some limited circumstances, however, where additional safeguards are needed to assure good and stable relations with other nations in the world community. If the United States does not exercise special vigilance over the export of some banned or significantly restricted products which are particularly hazardous, our economic and diplomatic ties with other countries could be jeopardized. Citizens and governments of foreign countries receiving these products directly, or being adversely affected indirectly as innocent bystanders, may develop increasingly hostile attitudes towards this country and its products.

As indicated in Section IV, existing law already prohbits the export of some substances in particular circumstances. Another mechnism that can be used to prohibit hazardous exports where such exports would prove detrimental to the foreign policy interests of the United States is the Export Administration Act of 1979 (Pub. L. No. 96–72, 93 Stat. 503, 50 U.S.C. App. § 2401 *et seq.* (the Act)). The Act authorizes the President to "* * * prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations." (Sec. 6(a)(1)). The authority contained in this subsection is to be exercised by the Secretary of Commerce, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate, and is to be implemented by means of export licenses issued by the Secretary.

The Export Administration Act of 1979 is the successor statute to the Export Administration Act of 1969. By memorandum dated January 30, 1979, Deputy Assistant Attorney General, Office of Legal Counsel, Leon Ulman advised the Department of Commerce that the 1969 statute gave the President authority to control exports of hazardous substances for foreign policy purposes. On January 9, 1980, the Working Group inquired as to whether this authority was modified in the 1979 statute. Deputy Assistant Attorney General Ulman advised the Working Group, by memorandum dated April 11, 1980, that the President may control the export of hazardous substances to further significantly the foreign policy of the United States under the 1979 statute. [8]

The Working Group recommends that the Secretary of Commerce require a validated export license for those prohibited and significantly restricted products which, if exported, would prove detrimental to the foreign policy interests of the United States. The products on which such export controls would be imposed would be chosen in the following manner. First, the appropriate regulatory agencies would prepare lists of substances, products, and classes of products which have been banned or significantly restricted in the United States under the specific statutory authorities listed in Section VII. These prohibited and restricted substances, with the exception of certain unregistered pesticides [9] and "medicines and medical supplies" as the term is used in the Act, [10] would constitute the universe from which those substances to be subjected to export controls would be chosen. No substance which is not already prohibited or significantly restricted for use in the United States would be considered for export controls under this policy.

Next, these lists of substances and products would be brought before an interagency task force chaired by the State Department and composed of the Department of Commerce, the Environmental Protection Agency, the Consumer Product Safety Commission, the Food and Drug Admnistration, the Office of the United States Trade Representative, and the Council on Environmental Quality. The State Department, as chair of the task force, could invite representatives of other Federal agencies as well to participate from time to time in the work of the task force. This task force would advise the State Department as to which of the listed substances should be considered, because of the especially severe hazards that their export would pose to human health or safety or to the environment, candidates for inclusion on the Commodity Control List. In doing so, the task force would consider, to the extent possible within the limits of available information, the type, extent, and severity of the potential detrimental effects of each substance proposed for inclusion on the Commodity Control List by a member of the task force; the likelihood of the effects; the duration of the effects; the ability of foreign countries to avoid or mitigate the effects; the availability of the substance from sources other than the United States; the availability of other substances or methods that would serve the same purpose as the substance to be exported; and the importance of the beneficial uses of the substance (this is not intended to require a rigorous, quantitative analysis of costs and benefits, however, as is usually performed in domestic regulatory procedures).

The function of the regulatory agencies on the task force would be to provide technical advice to the State Department, on the basis of available information compiled in the course of previous regulatory proceedings pertaining to the substance or product; and to assure that those products for which a recommendation of restricted export is made all pose a common, especially severe, level of hazard. The task force would be a continuing one which would review additional substances and suggest new candidates for the Commodity Control List as new actions of the type defined in Section VII are taken. With the benefit of advice obtained from the interagency task force, the State Department would identify, subject to the concurrence of

[8] The full text of the 1980 memorandum appears in Appendix B.

[9] Pesticides for which registration has never been sought would not generally be included in this universe of products since U.S. regulatory agencies would not necessarily possess any test data on their health or safety ramifications. However, pesticides for which a tolerance has been denied or revoked would be included in the universe for the purpose of consideration for export controls. In this way, some unregistered pesticides might be placed on the list for consideration. For example, the unregistered pesticide Leptophos would appear on the list (were it still being manufactured), because EPA denied a tolerance for residues on foods (under authority of Sec. 408 of the Food, Drug, and Cosmetics Act).

[10] The Working Group has asked the Office of Legal Counsel of the U.S. Department of Justice for a legal opinion as to the particular classes of products regulated by FDA which are covered by this term as used in the Export Administration Act.

the Secretary of Commerce, those relatively few banned or significantly restricted substances which should be included on the Commodity Control List because controls on their export would further significantly the foreign policy of the United States or would fulfill declared international obligations of the United States.

In the event that the State and Commerce Departments disagreed over the imposition of export controls, the disagreement would be referred to the President as provided in the Act.

The Act mandates a number of procedural and substantive requirements which must be met when invoking foreign policy controls. The President may impose export controls "only after full consideration of the impact (of such controls) on the economy of the United States" (sec. 3(2)) and only if the foreign policy standard is satisfied (sec. 3(2)(B)). Where the controlled goods or technology are comparably available from foreign sources, he may impose controls only after he "determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States." Sec. 4(c). Furthermore, the President is obligated to initiate negotiations with foreign governments to eliminate foreign availability of goods or technology comparable to those subject to U.S. controls (Sec. 6(g)). Export controls maintained for foreign policy reasons expire one year after their imposition, unless extended by the President.

In addition, the Act specifies several preconditions to the imposition of foreign policy controls. The President must determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means" Sec. 6(d). The President must "in every possible instance * * * consult with the Congress before imposing any export control * * *" Sec. 6(e). The Secretary of Commerce must "consult with such affected United States industries as the Secretary considers appropriate, with respect to * * * [criteria 1 and 4 listed below]" Sec. 6(c).

Section 6(b) of the Act also requires that the President consider the following criteria [11] when imposing, expanding, or extending foreign policy controls:

"(1) The probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

"(2) The compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) The reaction of other countries to the imposition or expansion of such export controls by the United States;

"(4) The likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

"(5) The ability of the United States to enforce the proposed controls effectively; and

"(6) The foreign policy consequences of not imposing controls."

In addition to consulting with Congress, the Act requires that when controls are imposed, expanded or extended, the President "shall immediately notify the Congress of such action and shall submit with such notification a report * * *." The report must (1) specify "the conclusions of the President" with respect to each of the six criteria discussed above; (2) specify "the nature and results of any alternative means attempted * * * or the reasons for imposing, extending, or expanding the control without attempting any such alternative means"; and (3) indicate "how such controls will further significantly the foreign policy of the United States * * *." (Sec. 6(e)).

The Secretary of Commerce has statutory authority, or the President has delegated to the Secretary, the responsibility for meeting many of the above requirements.

Once all of the above requirements for imposing export controls have been met and a hazardous substance has been placed on the Commodity Control List, an exporter must apply to the Commerce Department for a validated license before it can export that substance. The Act sets forth specific statutory deadlines for processing applications. The Department of Commerce would make the decision on whether to grant the license in consultation with the Federal agency with domestic regulatory authority, the State Department, and any other relevant agency.

Historically, the Commerce Department has rarely, if ever, granted licensees over State Department objections. In this context, Commerce will continue to give great weight to State Department recommendations. The State Department would not recommend issuing a license unless it had determined that the export would not be detrimental to U.S. foreign policy interests, and that the State Department, after appropriate consultations, had received no objections to the export from the government of the foreign country to which the banned or significantly restricted product is being sent. The State Department's determination and findings would be conveyed in writing to the Commerce Department. The State Department would instruct its personnel at missions and embassies in foreign nations to be prepared to carry out such consultations. Embassy personnel would be instructed to identify an official of the foreign government with whom to consult on proposed hazardous export shipments. When a validated export license is sought for a substance added to the CCL under this policy, a U.S. embassy official in the country of destination would apprise the foreign government official of the nature of the product, quantity to be shipped, the regulatory action which prohibited or significantly restricted its sale in the United States, the potential risks to human health or the environment which were the basis for the action, and such other information as is deemed appropriate (provided that the confidentiality of trade secret information would be maintained as required by law).

Other factors to be considered by the Commerce Department in acting on an application for a validated export license might include: the type of hazardous substance, the destination of the export; the proposed use to which the product would be put; whether the foreign government is the importer; the nature and type of hazards involved; the number of people potentially affected by the hazard; the benefits to be gained by the export (again, this would not be a rigorous, quantitative analysis of costs and benefits); the availability of alternative sources of the substance; the availability of non-hazardous alternative; precautions the importer will take with the substance; the dangers inherent in alternative substances presently being used; the effect the substance might have on neighboring countries; the potential reaction of other countries; results of consultations with industry

[11] The legislative history of the Act indicates that these criteria are to be taken into consideration, but they are not conditions which must be met. See Appendix B for further discussion.

representatives and other concerned parties; and the results of international efforts to curb the export of the substance. Actual experience evaluating applications may reveal other factors that should be considered. The Commerce Department would propose and receive comment on regulations governing its consideration of applications for export licenses for hazardous substances.

The Working Group believes that the economic consequences of invoking export controls would not be great. The categories of products which would be candidates for Commodity Control List are well defined (see Section VII) and readily identifiable. The number of substances which would be chosen for the CCL is expected to be small. In addition, it is quite possible that a U.S. firm may have or could develop a substitute product offering the same benefits without posing severely hazardous risks.

(4) *Evaluation:* Considering the importance of an effective policy for export of hazardous substances, and recognizing that experience with such a policy is lacking, the Working Group considered it essential to evaluate from time to time how well the policy is working in practice. The Working Group recommends that the President be provided a progress report 18 months after the effective date of the policy, and annually thereafter. The report would be prepared jointly by the Council on Environmental Quality, the Department of State, and the Department of Commerce in consultation with other affected agencies.

The report would summarize agency activities under the policy, evaluate the effectiveness of the hazardous substances export policy, and make any recommendations that are deemed appropriate.

(5) *Government-Sponsored Exports:* All the policies discussed so far apply to exports by private commercial firms. Somewhat different considerations apply to products which the U.S. government itself buys and distributes abroad, mainly for the purpose of assisting economic development in other countries. The Working Group expects and recommends that the U.S. government, in its own dealings with export of hazardous substances, maintain the highest standards of good judgment and scrupulous care for the health and welfare of foreign citizens and their environment.

Environmental review by which government agencies look at the consequences of a proposed action before undertaking it, and analyze reasonable alternatives, is a good model for government dealings with hazardous exports. In fact, such an approach has been tried and worked well. In the early 1970s, the Agency for International Development (AID) distributed abroad some pesticides which were not approved for use in the United States (Leptophos, DDT for other than public health uses). Following a lawsuit, AID reexamined its entire pesticide program, writing a comprehensive environmental impact statement that looked at consequences and weighed alternatives. AID no longer purchases or distributes abroad pesticides that are banned for use in the United States, except for compelling reasons and after very careful examination. The AID pest control program now emphasizes alternatives such as integrated pest management.

The Working Group recommends the same approach of program assessment and analysis of alternatives for other programs that may involve the distribution abroad of hazardous substances. For example, population programs that are a part of U.S.-assisted development efforts should be carefully scrutinized, to ensure that the birth control drugs and devices bought with U.S. government funds are as safe and effective as possible. The program assessment should be concerned with more than the simple avoidance of products that have already been banned, through lengthy legal proceedings, for use in the United States. It should also be sensitive to the likely circumstances of use in the country of destination. For example, if a birth control drug is known to interfere with vitamin metabolism, or if safe application of a birth control device requires special medical skills, these facts should be carefully considered before the U.S. government provides the funds to export such products to countries where women are likely to be malnourished, or medical skills are scarce.

Similar considerations apply to mother-child nutrition programs. Infant formula that is safe and convenient to use in the United States may be fatal if used in places with impure water supplies. Program assessments and the decisions based on them should take such factors into account.

Responsible, well-informed decisions by U.S. government agencies related to shipments of hazardous substances abroad might serve as a model for other countries and for private traders.

(6) *Labeling of Hazardous Exports:* The Working Group recommends that regulatory agencies give continuing attention to improvements in labeling, as a technique for dealing with hazardous exports. In some cases, it may be possible to develop simplified, more readily understandable labels. Agencies may also want to consider new requirements that pesticide, drug and toxic substance labels on exported products include more information on the nature of possible hazards associated with their use. The Administration might propose legislation, if appropriate, to impose such requirements.

VI. International Efforts

Unilateral actions should be just one part of a broader U.S. program to promote international cooperation on trade of hazardous substances throughout the world. The Working Group recommends that the President direct the State Department and other federal agencies in consultation with the State Department to seek international agreement in these areas:

- Notification of the export of hazardous substances;
- Comprehensive adoption of uniform, readily understandable hazard labeling for substances in international commerce;
- Improved worldwide hazard alert systems and clearinghouses for information on health and safety risks in the workplace;
- Other common standards and practices related to the export of hazardous substances.

These steps could lead to the formulaton of an international convention governing hazardous substances exports.

A common international effort is important for several reasons. Common policies governing hazardous exports, subscribed to by all counties, would help to assure that U.S. multinational firms located abroad or firms in other nations would not become alternate suppliers for hazardous substances. Consistency among nations in hazard notification and labeling would be more effective than widely varying national programs, because more hazards would be covered and the procedures would be more universally understood; more accurate, because it would be based on broad international experience; and less burdensome to industry, because firms would not have to respond to multiple varying requirements. Moreover countries like the United States that take responsibility for hazardous exports would not be penalized economically.

Through international cooperation, ongoing technical assistance programs should focus on helping developing countries to establish adequate standards for health and safety, competent regulation, and effective use of available hazard information. The United States committed itself to such bilateral efforts when it signed the Multilateral Trade Negotiations Agreement on Technical Barriers to Trade (Standards Code) in December, 1979. Differences among countries in needs and desires for assistance should be recognized in shaping these programs. International cooperation will more likely flourish if it is built on existing structures, and is mindful of resource constraints that affect the ability of developing countries to contribute to the effort.

Targeted technical assistance to countries which are increasing their importation, manufacture and use of chemicals would greatly enhance the policy's chances of success. The Working Group recommends that appropriate agencies consider possibilities for technical assistance under present legal authorities, and adopt changes to make present programs more effective. In this connection, the Department of Commerce should investigate opportunities for the Bureau of the Census to monitor exports of hazardous substances, to serve as the basis for better notification and targeting technical assistance.

The Working Group recommends continued participating by the United States in the international efforts listed in Section IV. The Group encourages increased activity by the UNEP Committee on Toxic Chemicals, the WHO International Program on Chemical Safety, and the OECD. The OECD has begun considering approaches to the control of toxic substances and export of hazardous products. OECD membership includes the major non-Communist industrialized nations; these nations are responsible for the bulk of hazardous substances trade. OECD is an excellent forum for exchange of information and tehnology among member countries, and for consideration of export notification and control policies. However, OECD is not so useful as a clearinghouse for communication with less developed countries, which are often importing countries and are thus greatly interested in and affected by policies concerning trade in hazardous substances. OECD should be encouraged to cooperate with UNEP, or to include by other means a broader array of nations in conducting deliberations on these matters.

U.S. resources to be devoted to international health and safety cooperation merit careful consideration and budget review. The success of the effort would depend to a significant extent on U.S. leadership, plus financial support and cooperaton from other major industrial countries.

The proposals described above, together with the other recommendations in this report, are an important first step toward the control of hazardous substances in international trade. The adoption of a U.S. policy that includes notification, export controls in limited circumstances, careful assessment of exports by U.S. government agencies, and efforts to reach international agreements on controls over hazardous exports will put the United States in a position of world leadership in the field. Through such domestic and international policies, the United States will be in a strong position to persuade other industrialized nations to control the distribution of hazardous products throughout the world. This leadership role is, we believe, consistent with the President's human rights themes and will enhance our trading position.

VII. Substances Covered by the Policy

As discussed in Section II, this policy would cover substances which are banned or significantly restricted in the United States because of the threat they pose to public health and safety or the environment. It would thus apply to substances and products regulated under certain sections of FIFRA, TSCA, FDCA, PHSA, CPSA, FHSA and the Flammable Fabrics Act. The Working Group has specifically defined the policy as covering the following substances and products, all of which are banned or significantly restricted in the United States:

(a) A food or class of food which:

(1) Is adulterated, as defined by rules issued under Sec. 402 (a) or (c) (21 U.S.C. 342 (a) or (c)),

(2) Is in violation of emergency permit controls issued under Sec. 404 (21 U.S.C. 344),

(3) Contains a poisonous or deleterious substance which exceeds a tolerance or action level issued under Sec. 406 (21 U.S.C. 346), or

(4) Contains an unsafe food additive within the meaning of Sec. 409 (21 U.S.C. 348) of the Federal Food, Drug, and Cosmetic Act;

(b) A drug which is:

(1) Adulterated, as defined by rules or orders issued under Sec. 501 (a), (b), (c), or (d) (21 U.S.C. 351 (a), (b), (c), or (d)),

(2) Misbranded, as defined by rules or orders issued under Sec. 502(j) (21 U.S.C. 352(j)), or

(3) A new drug for which an approval is not in effect under Sec. 505 (21 U.S.C. 355) of the Federal Food, Drug and Cosmetic Act;

(c) an Antibiotic drug which has not been certified as required under Sec. 507 (21 U.S.C. 357) of the Federal Food, Drug and Cosmetic Act;

(d) A drug containing insulin which has not been certified as required under Sec. 506 (21 U.S.C. 356) of the Federal Food, Drug and Cosmetic Act;

(e) A device which:

(1) Is adulterated, as defined by rules or orders issued under Sec. 501(a) (21 U.S.C. 351(a)),

(2) Is misbranded, as defined by rules or orders issued under Sec. 502(j) (21 U.S.C. 352(j)),

(3) Fails to comply with a performance standard issued under Sec. 514 (21 U.S.C. 360d),

(4) Has not received premarket approval where so required by rules issued under Sec. 515 (21 U.S.C. 360e), or

(5) Is a banned device under Sec. 516 (21 U.S.C. 360f) of the Federal Food, Drug and Cosmetic Act;

(f) A cosmetic which is adulterated as defined by rules or orders issued under Sec. 601 (21 U.S.C. 361) of the Federal Food, Drug and Cosmetic Act;

(g) A color additive in or on a food, drug, device, or cosmetic which is deemded unsafe within the meaning of Sec. 706 (21 U.S.C. 376) of the Federal Food, Drug and Cosmetic Act;

(h) A biological product which has been propagated or manufactured and prepared at an establishment which did not hold a license as required by Sec. 351 (42 U.S.C. 262) of the Public Health Services Act;

(i) An electronic product which does not comply with a performance standard issued under Sec. 358 (42 U.S.C. 263f) of the Public Health Services Act;

(j) A consumer product which:

(1) Does not comply with a consumer product safety standard adopted under Sections 7 and 9 (15 U.S.C. 2056 and 2058) other than one relating solely to labeling,

(2) Has been declared to be a banned hazardous product under Sections 8 and 9 (15 U.S.C. 2057 and 2058),

(3) Presents a substantial product hazards under Sec. 15 (15 U.S.C. 2064), or

(4) Is an imminently hazardous consumer product under Sec. 12 (15 U.S.C. 2061) of the Consumer Product Safety Act;

(k) A fabric, related material, or product which does not comply with a flammability standard (other than one relating to labeling) adopted under Sec. 4 (15 U.S.C. 1193) of the Flammable Fabrics Act;

(l) A product which is a banned hazardous substance (including a

children's article) under Secs. 2 and 3 (15 U.S.C. 1261 and 1262) of the Federal Hazardous Substances Act;

(m) A pesticide which, on the basis of potential risks to human health, or safety or to the environment,

(1)(A) Has been denied registration for all or most significant uses under Sec. 3(c)(6) (7 U.S.C. 136a(c)(6)),

(B) Has been classified for restricted use under Sec. 3(d)(1)(C) (7 U.S.C. 136a(d)(1)(C)),

(C) Has had its registration cancelled for all or most significant uses under Sec. 6 (7 U.S.C. 136d),

(D) Has been proceeded against and seized under Sec. 13 (7 U.S.C. 136k), or

(E) Requires an acknowledgement statement under Sec. 17(a)(2) (7 U.S.C. 1360(a)(2)) of the Federal Insecticide, Fungicide, and Rodenticide Act, or

(2) For which a tolerance has been denied or revoked under Sec. 408 (U.S.C. 346a) of the Federal Food, Drug and Cosmetic Act; and

(n) A chemical subtance or mixture

(1) Which is subject to an order or injunction issued under Sec. 5(f) (15 U.S.C. 2604(f)),

(2) Which is subject to a requirement issued under Sec. 6(a)(1), 6(a)(2), 6(a)(5) or 6(a)(7) (15 U.S.C. 2605(a)(1) 2605(a)(2), 2605(a)(5), or 2605(a)(7)), or

(3) For which a civil action has been brought and relief granted under Sec. 7 (15 U.S.C. 2606) of the Toxic Substances Control Act.

The number of substances and products which would be covered by this policy is limited. Under FIFRA, EPA estimates that there are less than 20 pesticide chemicals the use of which is entirely prohibited in the United States, about 15 pesticide chemicals for which major uses are prohibited, and 36 whose use is restricted by regulation (under FIFRA, Sec. 3(d)(1)(C)). (EPA also estimated on the basis of early experience with the notification process that there are perhaps 25 pesticides which are wholly unregistered in the U.S. being manufactured for export only.[12]) Under TSCA, two classes of chemicals (PCBs and chlorofluorocarbons) have been regulated so far, though more actions are expected in the future. Under FDCA and PHSA there are perhaps several hundred standards which prohibit sale of certain kinds of foods, drugs, cosmetics and medical products; it is not known how many products are manufactured and sold for export only which do not comply with these standards. However, it is anticipated that few of these products would be recommended for inclusion on the Commodity Control List. Under the three statutes which CPSC administers, some 30 classes of products have been subject to standard-setting or other actions which prohibit sale in the U.S. Again, it is not certain how many products which do not comply with these requirements are exported, but early experience with notification requirements suggests that the number is quite small.

The Working Group agreed to exclude from within the purview of its recommended policy alcohol, tobacco, firearms, military weapons and equipment, narcotic and psycotropic substances, and nuclear fuel. Also excluded are the exportation of hazardous production facilities, and U.S. financial assistance for such facilities. As indicated, certain substances which may create hazardous workplace conditions are included only in the annual summary proposed as part of the policy. Finally, Export-Import Bank financing of exports would not be covered by the policy.

Alcohol, tobacco, and firearms were excluded because they are extensively controlled through the tax code and their health and safety implications are well known. The Working Group believes there is sufficient attention to and control over these products and that their exclusion does not detract from the policy review. Military weapons and equipment and narcotic and psychotropic substances were excluded because they are subject to an extensive system of national controls and agreements under international treaty obligations. Likewise, nuclear fuels were excluded because they are extensively controlled nationally and internationally.

As indicated by the criteria, substanaces for which most significant uses in the United States have been prohibited would be covered by the policy. In this category are products such as DDT, banned for most uses by EPA because of its serious adverse environmental effects but allowed for certain very narrowly defined uses (i.e., public health measures).

Products that are not restricted for use in the United States, but subject to unsafe circumstances fo consumption abroad are not included in the Working Group's policy recommendations affecting private, commercial trade. The Working Group excluded these products with some reluctance, since there are indications that they are posing problems in cerain countries. One such product is infant formula, discussed above in connection with U.S. government actions. It appears that commercial trade involving such products might be more appropriately dealt with through such means as technical assistance or codes for industry rather than export controls.

The Working Group also excluded from consideration the export of hazardous production facilities and direct or indirect financial assistance for those facilities (for example, through the Export-Import Bank and the Overseas Private Investment Corporation). As occupational health and safety and environmental protection requirements are placed on U.S. production facilities, some firms have established new facilities in other countries with less rigorous regulatory requirements. In some cases these "runaway" facilities have been established in Mexico near the U.S. border so that they remain close to U.S. markets, with advanced freight transport systems, but they can be and are located elsewhere in the world.

Hazardous production facilities were excluded because the issues they raise and the nature of possible remedial action are quite different from those related to exports of hazardous substances. In the case of banned or severely restricted hazardous substances, there are ample precedents for export controls on products. This is not true for exports of production facilities. Only certain exported production facilities involving major federal actions abroad (as defined under Executive Order 12114) are subject to even environmental review. Often the only connection between the facility and this country is that it is owned or built by a U.S.-based firm. Any system of controls for export of hazardous facilities would require a statutory basis; this is an issue that the Congress may want to examine.

Substances causing hazardous workplace conditions as regulated by OSHA are included in one part of the Working Group's proposals. The Working Group recommends that the Annual Summary include OSHA health standards where appropriate, so that foreign governments will have the benefit of our studies and regulations to protect their own workers.

The question of how to control the export of hazardous wastes (as defined by EPA under RCRA) has not yet been resolved. EPA has promulgated stringent new regulations governing the disposal of wastes in the United States which could create increased pressure for export. Because these regulations will go into effect in the fall of 1980, resolution of of this matter is urgent. The Working Group recommends that the interagency group led by State which is now considering the matter should make recommendations to control the export of these substances as soon as possible.

[12] While unregistered pesticides would be covered by certain aspects of this policy (e.g., notification as required by statute), they would generally not be candidates for inclusion on the Commodity Control List or the Annual Report on regulatory actions.

VIII. Implementation and Enforcement

Virtually all of the policies affecting commercial trade proposed by the Working Group can be established through Executive action. To implement the policy, each regulatory agency with jurisdiction over substances subject to the policy would undertake the following:

(1) Define with particularity either the specific products or the classes of products which are banned or significantly restricted substances as defined in Section VII, for publication in the **Federal Register**. This list would be revised as necessary to reflect new regulatory actions.

(2) Prepare, on an annual basis, consistent with the format developed by the Regulatory Council, summaries of all final and proposed regulatory actions taken each year concerning banned and severly restricted hazardous substances, and indications of what additional information is available with respect to each of these final or proposed regulatory actions. In addition, in the first year, each agency would provide a listing or summary of all of its final regulatory actions with respect to such hazardous substances.

(3) Establish procedures, where notification is required under existing law, for expeditiously notifying the State Department of exports of relevant hazardous substances to foreign countries. The procedures would include timing and content of notices, recordkeeping responsibilities, provisions relating to trade secrets and confidential information, any special agency requirements in addition to those required by this policy, and provisions for enforcement.

It is not anticipated that the regulatory agencies will require additional personnel or resources to carry out these tasks. In implementing this policy, the State Department will need to enhance its ability to expeditously provide export notifications, through its embassies, to the appropriate foreign officials, and to consult with these officials prior to the granting of a validated export license for hazardous substances on the Commodity Control List. This will require each embassy to develop accurate up-to-date directories of the foreign officials responsible for hazardous substances so that there is no delay in identifying the appropriate official when a notification is transmitted or an export license is applied for.

The Department of Commerce would have enhanced responsibilities in implementing the Export Administration Act. In order to implement certain provisions of this policy, certain hazardous substances would be added to the Commodity Control List (see Section V). The Working Group anticipates that the small number of substances so listed should not unduly burden the Department. However, some resources may need to be shifted to or added to the offices responsible for implementing this part of the policy.

The Customs Service also has authority, resources, field structure, and enforcement experience which will be needed to implement certain provisions of this export policy. Customs, through the use of Shipper's Export Declarations, enforces Commerce's greatest export licensing requirements. Customs can inspect, seize, and detain articles in violation of the Export Administration Act. Enforcement responsibility for shipment notification would be added as another element in the Customs export check.

Esther Peterson,

Special Assistant to the President for Consumer Affairs and Chair, Interagency Working Group on a Hazardous Substances Export Policy.

Attachment A

Consumer Product Safety Commission

Consumer Product Safety Act (15 U.S.C. 2051)

Products or Financing Arrangement: Consumer products—articles used in and around the residence, school, or in recreation for the personal use, consumption, or enjoyment of a consumer, except tobacco, motor vehicles, pesticides, boats, ammunition, aircraft, foods, drugs, cosmetics, or medical devices. (15 U.S.C. 2052(a)(1))

Regulatory Authority for Domestic Use: CPSC can (1) set mandatory Federal standards for products which pose an unreasonable risk of injury; (2) ban products which pose such risk if no standard can adequately protect the public; (3) seek a court order to seize products which contain an imminent hazard; (4) order pre-market notice of new products; (5) mandate labeling and data disclosure requirements; and (6) order public notice and recall of products presenting substantial product hazards. (15 U.S.C. 2056; 2057; 2058; 2061; 2062; 2063; 2064; 2076(e))

Regulatory Authority for Exports: The CPSC can prohibit export if it determines that exportation of a product presents an unreasonable risk of injury to consumers within the U.S.

Any other product can be exported (except to U.S. installation outside the U.S.) if it

(1) Is manufactured or sold for export purposes and has never been distributed in the U.S., and

(2) Is labeled for export.

Thirty days prior to exporting a product which does not comply with a product safety standard or banned by rule, the exporter must notify the CPSC. CPSC notifies country of destination of the exportation and the basis of the standard or rule. CPSC may, by petition, require only 10 days notice. (15 U.S.C. 2067)

Pending Amendments: None.

Federal Hazardous Substances Act (15 U.S.C. 1261)

Products or Financing Arrangement: A substance which is (1) toxic, corrosive, an irritant, a strong sensitizer, flammable, combustible, or which generates pressure and which may cause substantial personal injury or illness, and (2) toys. (15 U.S.C. 1261)

Regulatory Authority for Domestic Use: CPSC may ban hazardous substances, require labeling, and seek a court order to seize noncomplying products, or enjoin their distribution. (15 U.S.C. 1262; 1265; 1267)

Regulatory Authority for Exports: CPSC may prohibit export if it determines that exportation of a hazardous substance represents an unreasonable risk of injury to persons residing within the United States. All other products can be exported if they are

(1) In a package branded in accordance with the specifications of the foreign purchaser;

(2) Labeled in accordance with the laws of the foreign country;

(3) Labeled on the shipping package as intended for export;

(4) So exported and have not previously been introduced into domestic commerce.

Thirty days prior to exporting a misbranded or banned hazardous substance, the exporter must notify CPSC. CPSC notifies country of destination of the exportation and the basis upon which the substance has been misbranded or banned. CPSC may, by petition, require only 10 days notice. (15 U.S.C. 1264(b); 1265(a); 1273(d))

Pending Amendments: None.

Flammable Fabrics Act (15 U.S.C. 1191)

Products or Financing Arrangement: Wearing apparel, fabrics, interior furnishings, or related materials. (15 U.S.C. 1191)

Regulatory Authority for Domestic Use: CPSC can set standards, issue

cease and desist order, and seek court order to seize noncomplying products. (15 U.S.C. 1193; 1195)

Regulatory Authority for Exports: The CPSC can prohibit export if it determines that exportation of a product presents an unreasonable risk of injury to persons residing within the U.S.

Any other product can be exported (except to U.S. installations outside the U.S.) if it is labeled for export. (15 U.S.C. 1202)

CPSC interprets this provision so as to require the manufacturers of noncomplying goods to have the intention to export goods at the time of orginal manufacture. (16 CFR 1602.2)

Thirty days prior to exporting a fabric which fails to conform with a standard, the exporter must notify CPSC. CPSC notifies country of destination of the exportation and the basis of the standard. CPSC may, by petition, require only 10 days notice. (15 U.S.C. 1202)

Pending Amendments: None.

Drug Enforcement Administration

Controlled Substances Import and Export (21 U.S.C. 881)

Products or Financing Arrangement: Narcotics and Dangerous Drugs.

Regulatory Authority for Domestic Use: Broad controls are provided for the transshipment of controlled substances through the United States to other countries and for their in transit shipment within the U.S. for immediate export, and for the possession of controlled substances on board any vessel, aircraft or other vehicle arriving or departing from the United States.

Regulatory Authority for Exports: Regulates the importation and exportation of all controlled substances—narcotics, marijuana, depressants, stimulants and other dangerous drugs. No controlled substance can be exported except in compliance with specified procedures which vary according to the schedule of the substance. Registration of importers and exporters of substances classified in schedule I or II would be based on the Attorney General's determination that this would be consistent with the public interest and certain treaty obligations.

Pending Amendments: None.

Environmental Protection Agency

Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136)

Products or Financing Arrangement: Substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or for use as a plant regulator, defoliant or desiccant. (7 U.S.C. 136)

Regulatory Authority for Domestic Use: Registration of pesticides for specified uses upon a finding by EPA of no "unreasonable adverse effect on the environment"; EPA registration of pesticide producers; EPA can issue "stop sale, use, or removal" orders and seek court orders for seizure of noncomplying pesticides. (7 U.S.C. 136a; 136e; 176k)

Regulatory Authority for Exports: Pesticides are subject only to certain labeling regulations when intended solely for export and are prepared or packed according to specifications or directions of the foreign purchaser. Pesticides not registered in the U.S. may be exported if, prior to export, the foreign purchaser signs a statement acknowledging that it understands the product cannot be sold in the U.S. A copy of the statement is forwarded to the appropriate government official of the importing country.

EPA notifies State Department whenever a registration is cancelled or suspended. State Department notifies foreign governments and appropriate international agencies.

EPA, in cooperation with State and other appropriate federal agencies are to participate and cooperate in international efforts to develop improved pesticide research and regulation. (7 U.S.C. 136(0))

Pending Amendments: None.

Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901–6987)

Products or Financing Arrangement: Hazardous wastes, which are defined to include solids, liquids, and sludges which may cause or significantly contribute to an increase in serious irreversible or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health on the environment when improperly treated, stored, transported or disposed of, or otherwise managed. (42 U.S.C. § 6903(5))

Regulatory Authority for Domestic Use: EPA to identify hazardous wastes, establish standards applicable to generators and transporters of such waste and owners and operators of hazardous waste treatment, storage and disposal facilities. Each person owning or operating a hazardous waste treatment, storage or disposal facility is required to obtain a permit from EPA within prescribed time periods. EPA is to assist states in the development of hazardous waste programs. (42 U.S.C. §§ 6921–25, 6930)

Regulatory Authority for Exports: None.

Pending Amendments: None.

Toxic Substances Control Act (15 U.S.C. 2601)

Products or Financing Arrangement: Chemical substances or mixtures except pesticides, tobacco, nuclear materials, firearms, etc. (15 U.S.C. 2602)

Regulatory Authority for Domestic Use: EPA may require testing, impose pre-market notice requirements, require labeling, limit or prohibit sale if tests show a reasonable basis to conclude an unreasonable risk of injury to health or the environment, or obtain a court order to seize a substance or mixture posing an imminent hazard. (15 U.S.C. 2603–2606)

Regulatory Authority for Exports: Statute does not apply if substance, mixture or article is manufactured for export and is labeled as such *except* as follows:

1. If EPA finds the substance, mixture or article will present "an unreasonable risk of injury to health within the United States or to the environment of the United States," it may control export. Administrator may order testing to make such a determination.

2. If a person intends to export a substance which has been subject to certain regulatory actions, such person shall notify EPA and EPA shall furnish foreign government notice of the rule, order, action, or relief. (15 U.S.C. 2611)

Pending Amendments: None.

Food and Drug Administration

Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(i))

Products or Financing Arrangement: Foods. (21 U.S.C. 321(f))

Regulatory Authority for Domestic Use: Secretary may establish standards of identity, levels of adulteration, and standards of misbranding. (21 U.S.C. 341–343)

Regulatory Authority for Exports. May be exported, (no permit required) if—

(1) Accords to specifications of foreign purchasers.

(2) Is not in conflict with laws of foreign country.

(3) Is labeled for export.

(4) Is not offered for domestic sale. (21 U.S.C. 381(d))

Foods which are subject to Emergency Permit Controls and for which a permit has not been issued, cannot be exported. (21 U.S.C. 344)

Pending Amendments: None.

Products or Financing Arrangement: Cosmetics. (21 U.S.C. 321(1))

Regulatory Authority for Domestic Use: Secretary may establish standards of adulteration and misbranding. (21 U.S.C. 361–362)

Regulatory Authority for Exports: May be exported, (no permit required) if—

(1) Accords to specification of foreign purchasers.

(2) Is not in conflict with laws of foreign country.

(3) Is labeled for export.

(4) Is not offered for domestic sale. (21 U.S.C. 381(d))

Pending Amendments: None.

Products or Financing Arrangement: Drugs approved for United States use.

Regulatory Authority for Domestic Use: Drug must previously have been approved by FDA.

Regulatory Authority for Exports: A drug which may be sold in interstate commerce may be exported without special requirements. A drug which is misbranded or adulterated may be exported (no permit required) if—

(1) Accords to specifications of foreign purchasers.

(2) Is not in conflict with laws of foreign country.

(3) Is labeled for export.

(4) Is not offered for domestic sale.

This provision also applies to antibiotics, insulin, and pre-1938 drugs. (21 USC 381(d))

Pending Amendments: May be exported (permit required) so long as drug meets manufacture and quality standards required for domestic products (outlined in subparts 3 and 4 of H.R. 4258 and S. 1045). (H.R. 4258 and S. 1045, Sec. 134)

Products or Financing Arrangement: New drugs; New animal drugs. (21 USC 321(p) and (w))

Regulatory Authority for Domestic Use: No introduction of new drugs or animal drugs in interstate commerce without approval by FDA ("Interstate commerce" between any state or territory and any place outside thereof). (21 USC 355(a) and 360b(a))

Regulatory Authority for Exports: No exportation permitted unless the new drug is in complete compliance with an approved new drug application.

Exportation authorized for *investigational* use only if FDA receives, through the State Department a formal request from the foreign government. The request must specify that such government has adequate information about the drug and the proposed investigational use. (21 CFR 312.1 and 21 CFR 511.1)

Pending Amendments: New drugs not yet approved in the United States, or approved drugs not in compliance with domestic requirements, may be exported if exporting firm applies to the HEW Secretary for an export permit. The Secretary shall issue the permit unless he finds:

(1) Drug does not accord to specifications of foreign purchaser.

(2) Drug is not labeled for export.

(3) The foreign government has not been informed of the legal status of the drug in the United States and it does not disapprove of importation of the drug.

(4) Export of the drug is contrary to the public health (presumably of the United States or the foreign country). (H.R. 4258 and S. 1045, Sec. 134–135)

Products or Financing Arrangement: Medical devices for human uses. (21 USC 321(h))

Regulatory Authority for Domestic Use: Depending upon the type of device, the Secretary may (1) establish performance standards, (2) require premarket approval, (3) ban devices which present unreasonable deception or an unreasonable and substantive risk of illness or injury, and (4) require recall. (21 USC 360d, 360e, 360f, 360h)

Regulatory Authority for Exports: Generally, may be exported (no permit required) if:

(1) Accords to specifications of foreign purchasers.

(2) Is not in conflict with the laws of foreign country.

(3) Is labeled for export.

(4) Is not offered for sale in domestic commerce.

In addition to the above, devices which do not comply with performance standards, have not received premarket clearance, or have been banned cannot be exported unless the Secretary has determined:

(1) That exportation is not contrary to the public health and safety, and

(2) That the foreign country approves. (21 USC 381(d)(1) and (d)(2))

Similar requirements for investigational devices. (proposed 43 FR 20749 to 21 CFR 812.19(b))

Pending Amendments: None.

Public Health Service Act (42 USC 262)

Products or Financing Arrangement: Biological Products. (42 USC 262(a))

Regulatory Authority for Domestic Use: HEW Secretary licenses establishments which propagate or manufacture and prepare biological products (e.g., viruses, serums, vaccines, blood, toxins). (42 USC 262(a))

Regulatory Authority for Exports: No exportation of products which cannot be sold in United States (42 USC 262(a))

Pending Amendments: None.

Public Health Service Act (42 USC 2636)

Products or Financing Arrangement: Electronic products. (42 USC 263c(2))

Regulatory Authority for Domestic Use: Secretary of HEW may establish performance standards to control emission of electronic product radiation and require notification for defects or noncompliance. (42 USC 263f(a); 263g)

Regulatory Authority for Exports: Products for export need not conform to standards if—

(1) Labeled for export.

(2) Product meets all applicable requirements of the foreign country. (42 USC 263f(a)(3))

Pending Amendments: None.

U.S. Department of Agriculture Food Safety and Quality Service

Federal Meat Inspection Act (21 U.S.C. 601 et seq.)

Products or Financing Arrangement: Meat or meat food products of cattle, sheep, swine, goats, horses, mules or other equines.

Regulatory Authority for Domestic Use: Secretary has regulatory authority with respect to standards of identity, adulteration and misbranding.

Regulatory Authority for Exports: Meat or meat food products which are not allowed to enter interstate or foreign commerce may not be exported. Provisions in regard to preservatives used in meat food products shall not apply to such products exported if:

(1) They are prepared or packed according to specifications or directions of the foreign purchasers and

(2) No substance used therein is in conflict with the laws of the country to which the products are to be exported. (21 U.S.C. 606)

In addition, livestock and meat or meat food products derived therefrom that are offered for export must undergo an export inspection and certification procedure. (21 U.S.C. 612–618)

Pending Amendments: None.

Poultry Products Inspection Act (21 U.S.C. 451 et seq.)

Products or Financing Arrangement: Poultry and poultry products.

Regulatory Authority for Domestic Use: Secretary has regulatory authority with respect to standards of indentity, adulteration and misbranding.

Regulatory Authority for Exports: Poultry or poultry products which are not allowed to enter interstate or foreign commece may not be exported.

Pending Amendents: None.

Attachment B

Department of Justice,
Washington, D.C.

Subject: Legal Memorandum dated April 11, 1980. Titled: Controlling the Export of Hazardous Substances Under the Export Administration Act of 1979 [50 U.S.C. App. 2401 et seq.].

To: Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs.

From: Leon Ulman, Deputy Assistant Attorney General, Office of Legal Counsel.

The Attorney General has directed the Office of Legal Counsel to undertake the publication of selected opinions of this Office. We believe the attached opinion addressed to you is appropriate for publication. Unless we hear from you to the contrary within ten days, we shall assume that you have no objection to its publication.

This Office will undertake review of the opinion for accuracy of citations, etc., and will subsequently prepare an appropriate headnote. In instances involving questions of conflict-of-interest and ethical matters, the opinion will be sanitized to delete identifying details. Minor editorial revisions may also be made.

April 11, 1980.

Memorandum for the Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs

Re Controlling the Export of Hazardous Substances Under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

This responds to your request of January 9, 1980, for our opinion on whether the Export Administration Act of 1979, Pub. L. No. 96–72, 93 Stat. 503, to be codified at 50 U.S.C. App. § 2401 *et seq.*, provides authority for the President to control the export of hazardous substances in pursuit of the foreign policy of the United States. We conclude that the Act does provide such authority. You have also asked whether the President, in exercising such authority, is formally bound by the factors for his considerations that are set forth in § 6 of the 1979 Act. We conclude that he is not.

I. Substantive Authority to Control Exports of Hazardous Substances

In our previous memorandum dated January 30, 1979, to Deputy General Counsel Moyer of the Department of Commerce (copy enclosed), we concluded that the 1979 Act's predecessor statute, the Export Administration Act of 1969, gave the President authority to control exports of hazardous substances for foreign policy purposes. The issue, then, is whether the 1979 Act continued this authority, or modified it in any respect.

The Act's operative language for foreign policy controls was left essentially unchanged in 1979. It authorizes the President to "prohibit or curtail the exportation of any goods, technology, or other information * * * to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations." (§ 6(a)1; *compare* 50 U.S.C. App. § 2404(2) (Supp. V 1975)). Although the phrase "foreign policy" is not defined in either the 1969 or the 1979 statute, Congress provided some explanatory legislative history in 1979. It did so in the course of separating authority for foreign policy controls from that for national security controls, and providing different criteria and procedures for each. In the House of Representatives, where the separation originated, the Report of the Committee on Foreign Affairs explained how these two sources of authority differ. (H.R. Rep. No. 200, 96th Cong., 1st Sess. 7 (1969)):

> The purposes of foreign policy controls are more vague and more diffuse. The purposes can range from changing the human rights policy of another country; to inhibiting another country's capacity to threaten the security of countries friendly to the United States; to associating the United States diplomatically with one group of countries as against another; to disassociating the United States from a repressive regime. Unlike the situation with national security controls, some of these foreign policy purposes may be served by denying exports even where foreign availability exists. (In the hypothetical case frequently mentioned in hearings and markup, the United States would not want to export thumbscrews, even if other countries were doing so.) Since decisions on foreign policy controls are often more political than technical, congressional involvement in those decisions is more appropriate than in the case of national security controls.

The Report's emphasis on the range of purposes that foreign policy controls may serve suggests strongly that controls on exports of hazardous substances are included. The Conference Report provides further support in its statement that this authority "encompasses the full range of U.S. foreign policy goals." H.R. Conf. Rep. No. 482, 96th Cong., 1st Sess. 43 (1979).

The 1979 Act provides definitions of the terms "good" and "technology" as used in § 6. These are certainly broad enough to include hazardous substances. Under § 16(3), "good" is defined to mean "any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data." The term "technology" is defined by § 16(4) to mean "the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data."

II. Procedure for Imposing Foreign Policy Controls

Procedurally, § 6(e) of the 1979 Act requires that the President "in every possible instance shall consult with the Congress before imposing" foreign policy controls. Upon imposing the controls, the President must report to Congress, specifying his conclusions with respect to a set of criteria for decisions set forth in § 6(b) of the Act. On their face, these criteria are not significantly confining of presidential discretion. (For example, the President is to consider the probability that controls will achieve the intended foreign policy purpose in light of such factors as foreign availability of the goods.) Moveover, the legislative history is clear that these criteria "are to be taken into consideration, but they are not conditions which must be met." (125 Cong. Rec. S 10123, Daily ed. July 21, 1979, Statement of Senator Stevenson on introducing S. 737.) The Committee reports confirm this interpretation. *See* H.R. Rep. No. 200, *supra*, at 20: "Having considered these criteria, the President is not strictly bound by them." *See also* Sen. Rep. No. 169, 96th Cong., 1st Sess. 8 (1979), remarking that this provision "did not establish criteria to be met but factors to be considered, and recognized that the President, having considered them, might find one or more of the factors irrelevant to a decision to impose or remove controls."

Section 6(e) also requires the President to report any alternative means that were attempted to achieve the purposes of the controls, or his reason for eschewing them; § 4(c) of the Act allows the President to impose foreign policy controls only on a determination that the embargoed goods cannot be replaced through sources outside of the United States, "unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States."

III. Conclusion

Thus we conclude that under the Export Administration Act of 1979, the President may control the export of hazardous substances in appropriate circumstances. We would enter one caveat, however. Certain statutes presently impose conditions on the export of hazardous substances, *e.g.*, the Toxic Substances Control Act, 15 U.S.C. § 2611, requiring notice to the recipient nation of product risks. It may be that these statutes foreclose presidential discretion to take some actions, for example banning a product that a statute allows to be exported if notice is given. In the absence of a specific proposal, we have not researched such questions, and wish merely to alert you to them.

Leon Ulman,
Deputy Assistant Attorney General, Office of Legal Counsel.

January, 30, 1979.

Memorandum for Homer E. Moxer, Jr., Deputy General Counsel, Department of Commerce

Re Controlling Exports of Hazardous Substances Under the Export Administration Act of 1969.

Assistant Attorney General Harmon has asked me to respond to your letter of October 21, 1978, inquiring whether current authority under the Export Administration Act of 1969, 50 U.S.C. App. § 2401 *et seq.* (1970), as amended, Act of June 22, 1977, Pub. L. 95–52, 91 Stat. 235, may be used by the Department of Commerce to control the export of hazardous substances upon a determination by the Department, in consultation with the Department of State, that such controls are necessary to further the foreign policy of the United States. We conclude that existing authority is sufficient for such a purpose.

Section 3(2) of the Act states: It is the policy of the United States to use export controls * * * (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, * * *.

50 U.S.C. App. § 2404(2) (Supp. V 1975). Section 4(b) of the Act authorizes the President to "effectuate" this and the other declared statutory policies by prohibiting or curtailing the exportation of:

> * * * any articles, materials, or supplies, including technical data or any other information, subject to the jurisdiction of the United States or exported by any person subject to the United States.

50 U.S.C. App. § 2403(b)(1) (Supp. V 1975), amended by the Act of Dec. 28, 1977, Pub. L. 95–223, 91 Stat. 1629. The President has delegated this authority to the Secretary of Commerce. Executive Order No. 12002, 3 CFR 133 (1978 Comp.).

No definition of "the foreign policy of the United States," restrictive or otherwise, appears within the Act,[1] which suggests that any significant foreign policy concern may be the basis for appropriate export controls.

What little legislative history is relevant supports this conclusion. The authority to use export controls to further the foreign policy of the United States and to permit it to fulfill its international responsibilities was created first by the Export Control Act of 1949, 63 Stat. 7. The accompanying House of Representatives committee report emphasized, with respect to foreign policy objectives apart from national security, the importance of controls in connection with the fulfillment of Marshall Plan obligations and our relations with Soviet bloc countries. H.R. Rep. No. 18, 81st Cong., 1st Sess. 2 (1949). The 1949 Act granted export control authority to the President through 1951, but was extended for two-, three-, or four-year intervals until 1969. (See Appendix to this memorandum.) The legislative history of the Export Control Act extensions indicates no Congressional intent to limit the scope of foreign policy-oriented controls, but instead reflects Congress' changing foreign policy concerns throughout the Korean conflict and the Cold War. The Senate Committee on Banking and Currency, summarizing in 1962 the history to that point of the administration of export controls, said:

> * * * [T]he act gives the President the widest possible discretion to limit, restrict, or prohibit entirely exports to any person or to any Nation of any or all commodities or articles whether or not, and to whatever extent they are of military, industrial, or economic significance, if limitation, restriction, or prohibition is found to be in the interest of our national security or our foreign policy or necessary because of domestic shortages. The act is not limited to strategic materials or to critical material or to essential commodities. It will support a total embargo or the mildest of restrictions. The requirements of foreign policy, national security, and domestic shortages are the only tests.

[1] Our research discloses that the phrase "foreign policy" is nowhere defined in the United States Code.

S. Rep. No. 1576, 87th Cong., 2d Sess. 4–5 (1962).

Congress substituted the Export Administration Act of 1969 for the Export Control Act of 1949, reiterating and adding to the earlier Act's declared objectives, and revising the system of export control administration. The House Committee on Banking and Currency, in reporting the bill that was the basis for the law as enacted, noted with apparent approval the disparate ways in which controls had been used to further United States foreign policy, including controls on the export of non-strategic goods to Eastern Europe, the embargo on exports to Rhodesia, and restrictions on the export of commodities and data for use in the testing or development of nuclear technology. H.R. Rep. No. 524, 91st Cong., 1st Sess. 2 (1969). In the nearly ten years since the implementation of the 1969 Act, Congress has continued to leave unconstrained the President's power to control exports to further the nation's foreign policy.

No statute under which hazardous substances are currently controlled domestically provides for export controls. However, Congress has already recognized the importance of domestic-substance control decisions to our foreign policy by providing in the Toxic Substances Control Act, 15 U.S.C. § 2611 (1976), for notice to other countries as to any government data available with respect to chemical substances intended for export to those countries in cases in which the submission of data to the Environmental Protection Agency concerning such substances is required by the Act. In 1978, Congress enacted similar amendments with respect to products and substances regulable under the Consumer Product Safety Act, 15 U.S.C. § 2051–81 (1976), the Federal Hazardous Substances Act, 15 U.S.C. § 1261–74 (1976), and the Flammable Fabrics Act, 15 U.S.C. § 1191–1204 (1976). Act of Nov. 10, 1978, Pub. L. 95–631, 92 Stat. 3742. In reporting on these amendments, the House Committee on Interstate and Foreign Commerce said:

> It is the belief of the Committee that the United States government has an obligation to share the results of its safety research with countries which purchase U.S. exports. Such a policy not only affirms this nation's commitment to human rights, but also strengthens U.S. diplomatic relations and long range export prospects.

H.R. Rep. No. 1164, 95th Cong., 2d Sess. 7 (1978). This language confirms Congress' awareness of the potential relevance to United States foreign policy of governmental decisions to regulate hazardous substances domestically.

In sum, we conclude that the plain language of the Export Administration Act of 1969 affords executive authority to control the export of hazardous substances when necessary to further significantly the foreign policy of the United States. Congress has in no way limited this broad grant of power in thirty years of export control authority extensions, recognizing instead the importance of extensive and flexible executive authority in this area. Congress' awareness of the potentially significant foreign policy implications of internal decisions to regulate or ban hazardous substances is confirmed by the legislative history of the statutes under which such substances are controlled domestically.

Leon Ulman,
Deputy Assistant Attorney General, Office of Legal Counsel.

Appendix.—*Legislative History of the Export Control Act of 1949*

Note	Year	Public law	Session laws
Export Control Act of 1949; authority granted to 1951	1949	81–11	63 Stat. 7.
Authority extended to 1953	1951	82–33	65 Stat. 43.
Authority extended to 1956	1953	83–62	67 Stat. 62.
Authority extended to 1958	1956	84–631	70 Stat. 407.
Authority extended to 1960	1958	85–466	72 Stat. 220.
Authority extended to 1962	1960	86–464	74 Stat. 130.
Authority extended to 1965	1962	87–515	76 Stat. 127.
Authority extended to 1969	1965	89–63	79 Stat. 209.
Export Administration Act of 1969 enacted; authority granted to 1972	1969	91–184	83 Stat. 841.
Equal Export Opportunity Act of 1971; extends authority to 1974	1972	92–412	86 Stat. 644.
Authority extended to 1976	1974	93–500	88 Stat. 1553.
Authority lapses	1976	.....	.....
Export Administration Amendments of 1977; extends authority to Sept. 30, 1979	1977	95–52	91 Stat. 235.
Amends section 4(b)(1) of the Export Administration Act of 1969	.....	95–223	91 Stat. 1629.

[FR Doc. 80–24197 Filed 8–11–80; 8:45 am]

BILLING CODE 3510–25–M

V 45 AG 12 80 UMI

V
4
5

A
G

1
2

8
0
UMI

federal register

Tuesday
August 12, 1980

Part VII

Department of Justice

Law Enforcement Assistance Administration

Formula Grants for Juvenile Justice

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

28 CFR Part 31

Formula Grants for Juvenile Justice

AGENCY: Law Enforcement Assistance Administration, U.S. Department of Justice.

ACTION: Notice of final regulations: juvenile justice formula grants.

SUMMARY: The Law Enforcement Assistance Administration (LEAA) is publishing final regulations for the implementation of the formula grant program authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

DATE: These regulations are effective August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Frank M. Porpotage (202) 724-7774.

SUPPLEMENTARY INFORMATION: Draft regulations were published in the **Federal Register** on January 14, 1980 (44 FR 2808-2827), for a 45 day period of public review and comment. A total of five national organizations, and twenty-two regional and local organizations responded in writing with comments, some of which were received as late as March 21, 1980. All comments have been considered by LEAA in accordance with the terms contained in the draft regulations.

The president's revised fiscal year 1981 budget represents no change in the $100 million appropriation requested for the programs authorized by the Juvenile Justice and Delinquency Prevention Act. However, the President's revised fiscal year 1981 budget request, submitted to the Congress in March 1980, contains no funding to implement in fiscal year 1981 the formula grant program authorized under Part D of the Justice System Improvement Act. *Therefore, final regulations regarding the development and administration of Part D criminal justice formula grants will not be issued at this time.* Should funds subsequently be appropriated for the implementation of this program, formal notice will be provided in the **Federal Register** and sufficient time alloted for the development of Part D formula grant applications.

Discussion of Comments

Numerous responders commented favorably upon the relative simplicity of the draft regulations and the degree to which they reduce red tape. The following is a summary of major issue areas in the juvenile justice formula grant program.

1. *Comment:* The mandatory Juvenile Justice Advisory Group membership on the State Criminal Justice Council (CJC) was opposed.

Response: The Mandatory Juvenile Justice Advisory Group representation on the CJC is a continuation of existing policy cleared and implemented by OJJDP. It is also specifically required by the Juvenile Justice Act.

2. *Comment:* The draft guidelines language should be modified to track the specific statutory requirement that 66⅔% of JJDP formula grant funds must be passed through to units of general local government and to local private agencies.

Response: Agreed. Section 31.703(c) has been modified accordingly.

3. *Comment:* Audit requirements require excessively detailed application information as opposed to assurances. The entire section should be reserved until further clarification of OMB requirements, as applied to the intergovernmental LEAA formula grant program, can be obtained.

Response: Explanatory language regarding financial and compliance audits is deleted, as is the requirement for a survey of subgrantees in the final regulations. Individual specific requirements were responses to external critiques of LEAA's implementation of OMB's audit regulations. These requirements are viewed as necessary to emphasize and implement this priority activity.

4. *Comment:* Civil rights requirements should be clarified to indicate who specifically is required to submit an approved EEOP.

Response: Agreed. Section 31.506(b) was modified accordingly.

5. *Comment:* The separation requirement of section 223(a)(13) of the Juvenile Justice Act should be clarified to be consistent with OJJDP policy and with the current criteria states are using to determine whether regular contact occurs between juveniles and incarcerated adult offenders. Thus, the term "sight and sound" should be incorporated into the regulations.

Response: Agreed. Section 31.703(f) was modified accordingly.

The Official program number and title as outlined by OMB Circular A-89 for these regulations are 16.540, Juvenile Justice and Delinquency Prevention Allocation to States (State Formula Grants).

Applications (State plans) are subject to Part III of OMB Circular A-95 and must be submitted to the Governor for review and comment. Clearinghouse review at the discretion of the Governor is encouraged.

Title 28 of the Code of Federal Regulations is amended by the addition of new Part 31 which reads as set forth below:

PART 31—FORMULA GRANTS

Subpart A—General Provisions

Sec.
31.1 Genaral.
31.2 Purpose of program.
31.3 Statutory authority.
31.4 Research and statistics.
31.5 Submission date.
31.6 Further information.

Subpart B—Eligible Applicants

31.100 General.
31.101 State Government.
31.102 Reserved.
31.103 Reserved.

Subpart C—Reserved

Subpart D—Reserved

Subpart E—Reserved

Subpart F—Additional Requirements

31.501 Reserved.
31.502 Reserved.
31.503 Juvenile Justice Maintenance of Effort.
31.504 Reserved.
31.505 Audit.
31.506 Civil Rights.
31.507 Open meetings and public access to records.
31.508 Reserved.

Subpart G—Reserved

Subpart H—Juvenile Justice

31.700 General.
31.701 Fund Availability.
31.702 State Council.
31.703 Other Requirements.
31.704 Definitions.

Subpart I—General Conditions and Assurances

31.800 Compliance with Statute.
31.801 Compliance with other Federal Laws, Orders, Circulars.
31.802 Application on File.
31.803 Non-Discrimination.
31.804 Applicability.

Authority:—Juvenile Justice and Delinquency Prevention Act of 1974, (42 U.S.C. 5601 et seq.)

Subpart A—General Provisions

§ 31.1 General.

This Part defines eligibility criteria and sets forth hereto State Governments authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act. These regulations simplify the application process, reduce paperwork, and emphasize the submission of certifications and assurances, rather than detailed and voluminous applications.

§ 31.2 Purpose of program.

This program allocates monies among the States by formula to undertake juvenile justice improvement efforts in accord with broad statutorily-specified purposes. States and localities have discretion to determine priorities and propose programs and projects based on their analysis of their needs and problems.

§ 31.3 Statutory authority.

The statute establishing the Office of Juvenile Justice and Delinquency Prevention within LEAA and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the *Juvenile Justice and Delinquency Prevention Act of 1974*, as amended (42 U.S.C. 5601 et seq). Formula grants are authorized to States which in turn make subgrants for use by State and local public and private agencies in carrying out juvenile justice and delinquency prevention improvement programs. Complete application requirements for this grant program are detailed in Subpart H of this Regulation. In addition to formula grants, the Juvenile Justice and Delinquency Prevention Act authorizes a major national-level grant program called:

Special Emphasis Grants (Part B, Subpart II, of the Juvenile Justice and Delinquency Prevention Act). These grants provide assistance to public and private agencies for juvenile justice demonstration and improvement programs. Information and application requirements for these related grant programs may be obtained on request from LEAA's Office of Juvenile Justice and Delinquency Prevention (OJJDP).

§ 31.4 Research and statistics.

The Juvenile Justice and Delinquency Prevention Act authorizes programs of juvenile justice statistics and research. These programs are administered by the National Institute of Juvenile and Delinquency Prevention (NIJJDP).

§ 31.5 Submission date.

Juvenile Justice Plans for Fiscal Years 1981 shall be submitted to the Law Enforcement Assistance Administration by August 31, 1980.

§ 31.6 Further information.

Persons requesting additional information about the formula grants program should contact: Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue, NW, Washington, D.C. 20531.

Subpart B—Eligible Applicants

§ 31.100 General.

This subpart describes who may apply for formula grants under the Juvenile Justice and Delinquency Prevention Act and the general responsibilities and functions of applicants.

§ 31.101 State government.

All States are eligible to apply for and receive formula grants authorized by the Juvenile Justice and Delinquency Prevention Act. States are defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(a) *Establishment of State Criminal Justice Council.* Each state which chooses to apply for a formula grant must establish or designate by law a State Criminal Justice Council. This Council must be subject to the jurisdiction of the State's chief executive. The chief executive of the State shall provide professional, technical and clerical support to the Council to enable it to meet its responsibilities under the Act. (Sec. 402(b) of the Justice System Improvement Act and Sec. 223(a)(1) of the JJDP Act):

(1) *Membership.* Membership requirements are set forth in Section 402(b)(2) of the Justice System Improvement Act. States participating in the formula grant program of the Juvenile Justice and Delinquency Prevention Act, must include on the Council the chairperson and at least two additional citizen members of any advisory group established pursuant to Sec. 222(a)(3) of that Act. For purposes of this requirement a citizen member is defined as any person who is not a fulltime government employee or elected official. Any executive committee of the Council must include the same proportion of juvenile justice advisory group members as are included in the total Council membership. Individual representatives may fulfill the requirements of more than one functional or geographical area where appropriate to the background and expertise of the individual. Federal representation is prohibited except in the District of Columbia, American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(2) *Council Functions.* Sec. 402(b)(1) of the Justice System Improvement Act sets forth the purposes of State Criminal Justice Council.

(3) *Transition.* State criminal justice planning agencies established pursuant to the Omnibus Control and Safe Streets Act may carry out the functions, powers and duties of State Criminal Justice Councils provided that within two years of the effective date of the Justice System Improvement Act, they meet the representation requirements set forth therein. Prior to this date, Councils not meeting the representation requirements of the Justice System Improvement Act must be in compliance with those set forth in the Sec. 203(a) of the Crime Control Act.

(4) *Assurance.* States must assure that they have on file and available for review a copy of the state law establishing the Council, and a current list of Council membership that includes information adequate to document compliance with the representation requirements set forth.

Subpart C—Reserved

Subpart D—Reserved

Subpart E—Reserved

Subpart F—Additional Requirements

§ 31.500 General.

This subpart sets forth additional requirements under the Justice System Improvement Act (JSIA) of 1979 and JJDP Act of 1974, as amended. Formula grants applicants must assure compliance with each of these requirements.

§ 31.501 Reserved.

§ 31.502 Reserved.

§ 31.503 Juvenile justice maintenance of effort.

States must expend at least 19.15 percent of their total annual Part D allocation under the JSIA for juvenile justice and delinquency prevention related programs and projects. States may expend more than this required minimum at their discretion. States must assure that at a minimum they have allocated 19.15 percent of their formula grant funds for planning and administrative activities for juvenile justice. Prior OJJDP approval is necessary for any reprogramming of Part D funds out of juvenile justice. OJJDP should be notified of any reprogramming that increases the maintenance of effort level of a specific state.

§ 31.504 Reserved.

(contractors, etc.) in OMB Circulars A-

due, that necessary audits have been

Compliance (OCRC) within ten (10) days

objectives of Section 223(a) and other

formula grant award may be utilized to

§ 31.504 Reserved.

§ 31.505 Audit.

(a) *Policy.* Pursuant to the JSIA and OMB Circulars A–102 and A–110, as revised, it is LEAA policy that the audit function is primarily the responsibility of the recipients and subrecipients of Federal funds. Further in accordance with the Justice System Improvement Act and circulars A–102 and A–110, it is LEAA policy that:

(1) The State Council and each of its subgrantees must arrange for and have an audit of its activities. These audits are to determine whether:

(i) Financial operations are conducted properly;

(ii) The financial statements are presented fairly;

(iii) The organization has complied with laws and regulations affecting the expenditure of federal funds;

(iv) Internal procedures have been established to meet the objectives of federally assisted programs; and

(v) Financial reports to the Federal Government contain accurate and reliable information.

(2) Audits shall be made in accordance with the General Accounting Office Standards for Audit of Governmental Organizations, Programs, Activities and Functions, the Guideline for Financial and Compliance Audits of Federally Assisted Programs, compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(3) Audits of the State Council and each of its subgrantees will be made on an organization-wide basis (entity audits) and not on a grant-by-grant basis.

(4) Audits of the State Council and each of its subgrantees will usually be made annually, but not less frequently than every two years. Audits will cover the period since the previous audit.

(5) Audit reports, in accordance with GAO reporting standards and applicable requirements in OMB Circulars A–102 and A–110, will be prepared and issued in connection with all audit work. Procedures will be established to ensure the timely and appropriate resolution of the audit findings and recommendations contained in those reports.

The "Financial Management for Planning and Action Grants" Manual, Guideline M 7100.1A, Chapter 8, contains a more comprehensive statement of LEAA's audit policies and requirements relative to grantees and subgrantees.

(b) *Background.* Uniform administrative requirements have been (contractors, etc.) in OMB Circulars A–102, revised, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," and A–110, revised, "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations—Uniform Administrative Requirements." Attachments G and P of Circular A–102 and Attachment F of Circular A–110 specify the audit responsibilities included in these administrative requirements for grantees, subgrantees and subrecipients. Accordingly, the audit responsibilities of all recipients of LEAA funds are those specifically established in the JSIA and the referenced Attachments to OMB Circulars A–102 and A–110.

(c) *Application Requirement.* Regarding the audit responsibilities applicable to the State Council and each of its subgrantees, the following must be submitted as part of the State application.

(1) *State Council.* The application must describe the procedures and controls to ensure that:

(i) An Audit is performed of the State Council in accordance with the requirements of OMB Circular A–102. The application must indicate the organization that will conduct the audit of the council, the approximate timing of audit performance and completion, the audit coverage to be provided including the period of activity to be included, and the assistance, both programmatic and audit, requested.

(ii) An audit report is issued in connection with the State Council audit and three (3) copies are forwarded to the appropriate Federal cognizant audit agency, where assigned, or to the OJARS Office of Audit and Investigation, if more is assigned.

(iii) There is a timely and appropriate resolution of all audit findings and recommendations contained in the audit report of the State Council.

(2) *State Council Subgrantee Audits.* The State application must describe the policy, procedures and controls established by the State Council to ensure each of its subgrantees satisfies the audit requirements. The procedures and controls must include:

(i) Clear notification to all applicants of the audit requirements.

(ii) A mechanism for ensuring that subgrantees explicitly agree to comply with the audit requirements (special or general conditions, specific commitment in the application, etc.).

(iii) A mechanism for determining that subgrantees audits are due or coming due, that necessary audits have been done and that corrective action is appropriately initiated for instances of subgrantee non-compliance with audit responsibilites.

(iv) A control for ensuring that audit reports are prepared upon completion of each subgrantee audit and forwarded to the appropriate Federal cognizant audit agency, where assigned, or to the OJARS Office of Audit and Investigation, if none is assigned.

(v) A control for ensuring that subgrantees have a system for the timely and appropriate resolution of all audit findings and recommendations.

§ 31.506 Civil rights.

(a) *Applicability.* The State Criminal Justice council must assure that it will comply, and require other applicants located within its State to assure that they will comply, with the following nondiscrimination laws:

(1) Section 815(c) of the Justice System Improvement Act (JSIA), and its implementing regulations, found at 28 CFR 42.201, et seq. and 28 CFR 42.301, *et seq.;*

(2) Title VI of the Civil Rights Act of 1964, and its implementing regulation, found at 28 CFR 42.101, et seq.;

(3) Section 504 of the Rehabilitation Act of 1973, as amended; and its implementing regulations, published in Vol. 45, No. 108 of the **Federal Register** on June 3, 1980, 28 CFR 42.501, *et seq.*

(4) Old Age Discrimination Act of 1975, as amended, and its implementing regulations; and

(5) Executive Order 12138, 44 FR 29637 (May 22, 1979), requiring recipients of federal financial assistance to take appropriate affirmative action in support of women's business enterprise.

(b) *Designation of Civil Rights Compliance Officer.* The State Criminal Justice Council shall designate an employee as Civil Rights Compliance Officer. This officer shall:

(1) Secure the assurances listed in § 31.506(a) in every application for assistance under the JJDP Act;

(2) Require that each state or local unit of government assure in its application that, in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination of the basis of race, color, religion, sex or national origin against the recipient after a due process hearing, the recipient will forward a copy of the finding to the Council and the OJARS Office of Civil Rights Compliance (OCRC) within ten (10) days after receipt of the finding;

(3) Require that every applicant required to formulate an Equal Employment Opportunity Program (EEOP) in accordance with 28 CFR 42.301 *et seq., submit a certification to the State Criminal Justice Council that it has an EEOP on file;*

(4) Require that every criminal justice agency applying for a grant of $500,000 or more submit a copy of its EEOP (if required to maintain one under 28 CFR 42.301, *et seq.*) to OCRC at the same time it submits its application to the Council;

(5) Where the Council is required to formulate an EEOP pursuant to 28 CFR 42.301 *et seq.*, submit the EEOP with the formula grant application, if the application is for $500,000 or more; and

(6) Serve as liaison with the OJARS Office of Civil Rights Compliance (OCRC). The officer's duties in this regard include informing the public and grantees of an affected person's right to file a complaint of discrimination to OCRC for investigation, and cooperating with OCRC during compliance reviews of recipients located within the State.

§ 31.507 Open meetings and public access to records.

Pursuant to section 402(e)(2), of the JSIA, State Councils, State Advisory Groups and local criminal justice advisory boards must assure that meetings are open to the public and must give public notice of the time and place, and the nature of the business to be transacted, if final action is to be taken on any application for funds or amendment. Further, they must assure public access to all records relating to their functions, except those required to be kept confidential by local, state or Federal law.

§ 31.508 Reserved.

Subpart G—Reserved

Subpart H—Juvenile Justice

§ 31.700 General.

(a) The Juvenile Justice and Delinquency Prevention Act provides formula grants to States for use by State and local government and private non-profit agencies in carrying out juvenile justice improvement programs. This subpart sets forth all of the requirements for application and receipt of JJDP Act formula grants.

(b) Section 223(a) of the JJDPA requires States to submit for LEAA approval a State plan which meets the requirements of the Act. Applications by the State to LEAA must set forth programs for funding which meet the objectives of Section 223(a) and other necessary information to assure compliance with the requirements of the statute. Application forms and additional information are provided in OJJDP's "Fiscal Year 1981 Application Kit for Formula Grant under the JJDPA". Responsibility for administering the program is vested in the State Council which, under the transition authority of the JSIA (Sec. 1301(i)), serves as the State Planning Agency for the purposes of the JJDP Act. The process for applying for and administering JJDP Act formula grant monies differs in two major respects from that required by the JSIA:

(1) The juvenile justice plan is for one, rather than three years; and

(2) Entitlement jurisdictions have no mandated portion of funds or administrative responsibilities.

(c) The State application must include programs for the improvement of juvenile justice or the development of delinquency prevention programs funded with JJDP Act formula funds. These programs shall be described in accordance with the standard format set forth in § 31.703(h).

Information to comply with all other requirements shall also be included and shall be submitted annually. Unless otherwise indicated, an assurance is sufficient to indicate compliance, providing that there has been no change from the previous year juvenile justice plan submission.

§ 31.701 Fund availability.

(a) *Allocation to States.* Each State receives a base allotment of $225,000 except for the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas where the base amount is $56,250. Funds are allocated among the States on the basis of relative population of people under 18 years of age.

(b) *Funds for Local Use.* At least two-thirds of the formula grant allocation to the State must be used for programs of local government, or local private agencies unless the State applies for and is granted a waiver by LEAA's Office of Juvenile Justice and Delinquency Prevention (OJJDP).

(c) *Match.* Formula grants under the JJDP Act shall be 100 percent of approved costs, with the exception of planning and administrative funds which must be matched dollar for dollar and construction projects funded under section 227(a)(2) which require a 50 percent cash match.

(d) *Funds for Administration.* Not more than 7.5 percent of the total annual formula grant award may be utilized to develop the annual juvenile justice plan and to pay for administrative expenses, including monitoring and evaluation. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local government or combinations on an equitable basis.

§ 31.702 State Council.

(a) Pursuant to section 223(a) (1) and (2) of the JJDP Act, the State Council shall assure that it is the sole agency for supervising the preparation and administration of the plan and has the authority to implement the plan even if an agency other than the Council is delegated the authority to prepare or administer the plan under the Council's supervision.

(b) The Chief Executive shall establish a Juvenile Justice Advisory Group pursuant to section 223(a)(3) of the JJDP Act. State Councils shall as part of their annual juvenile justice plan:

(1) Provide a list of all current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this Section of the Act. Indicate those members appointed prior to their 26th birthday as youth members. Full-time elected officials are considered to be government employees and may not be appointed to chair advisory groups.

(2) Assure that three members who have been or are now under the jurisdiction of the juvenile justice system have been appointed to the advisory group.

(3) Indicate the roles, responsibilities and activities of the advisory group concerning those duties listed in section 223(a)(3) of the Act.

(b) Pursuant to section 222(e) of the JJDP Act, the advisory group shall develop a plan for using the five percent minimum allotment which, upon review by the State, it shall submit as part of the application. The State shall indicate the total amount of funds allocated to the advisory group. For computing that allotment, use the following procedures:

(1) Each State shall allocate a minimum of $11,250; the Virgin Islands, Guam, American Samoa, Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas shall allocate $2,812.50. Do not count these funds as part of the maximum 7½ percent monies set aside for planning and administration. Calculate the latter on the total formula grant award.

(2) Use funds allocated to the advisory groups for such functions and responsibilities as are consistent with Section 223(a)(3) of the JJDP Act. Funds allocated to the advisory group shall not supplant any funds currently allocated to them.

§ 31.703 Other requirements.

(a) *Consultation With and Participation of Units of General Local Government.* Pursuant to sections 223(a)(4) and (6) of the JJDP Act, the state shall assure that:

(1) The Chief Executive Officer of such a unit has assigned responsibility for the preparation and administration of its part of the State application.

(2) The State recognizes, consults with, and incorporates the needs of such units into the State application.

(b) *Participation of Private Agencies.* Pursuant to section 223(a)(9) of the JJDP Act, the state shall assure that private agencies have been consulted and allowed to participate in the development and execution of the state application.

(c) *Pass-Through Requirement.* Pursuant to section 223(a)(5) of the JJDP act, the state must pass through at least 66⅔ percent of JJDP formula grant funds to units of general local government and to local private agencies unless a waiver is requested by the State and approved by OJJDP. For purposes of this requirement, local private agency is defined as a private non-profit agency or organization that provides program services within an identifiable unit or a combination of units of general local government.

(1) Inclusion and Compilation of Pass-Through.

(i) Juvenile justice formula grant funds that the State makes available to units of general local governments or combination of units may be included in the compilation of pass-through. This includes funds for planning and administration as well as for programs.

(ii) If a unit of general local government or a combination of units has denied funding to a private agency, yet that agency received formula grant funds for prgrams consistent with the State application, then include those funds in the compilation of pass-through. In States lacking regional or local planning units, and in which the State distributes funds directly, a private agency need not first apply to a unit of general local government or a combination of units for funding. Those funds can also be included in the compilation of pass-through. In addition, if a unit of general local government or a combination of units receives pass-through funds from the State and, in turn, refuses to fund a project submitted by a private agency, the State can reduce the local allocation if it funds the project.

(2) Waiver of Pass-Through Requirements.

State Councils shall make all requests for waivers in writing to the Administrator of OJJDP and enclose a statement setting forth the following:

(i) The extent of State and local implementation of juvenile justice and delinquency prevention programs.

(ii) The extent of State and local financial responsibility for juvenile deliquency programs.

(iii) The extent to which the State provides services or directs outlays for or on behalf of local government (as distinct from statewide services).

(iv) The approval of the State Criminal Justice Council.

(v) Specific comments from local units of government expressing their position regarding the waiver.

(d) *Rights of Privacy of Recipients of Services.* Pursuant to sections 223(a)(16) and 229 of the JJDP Act, the State shall assure that it has established procedures to ensure that programs funded under the JJDP Act shall not disclose program records containing the identity of individual juveniles. Exceptions to this require:

(1) Authorization by law;

(2) The consent of either the juvenile or his legally authorized representative; or

(3) Justification that otherwise the functions of this title cannot be performed.

Under no circumstances may public project reports or findings name actual juveniles in the program.

(e) *Deinstitutionalization of Status Offenders and Non-Offenders.* Pursuant to Section 223(a)(12) of the JJDP Act the State Council shall:

(1) Describe in detail its specific plan, procedure, and timetable for assuring that within three years of its initial submission of an approved plan, juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities.

(2) Describe the barriers, including financial, legislative, judicial and administrative ones, the state faces in achieving full compliance with the provisions of this paragraph. All accounts shall include a description of the technical assistance needed to overcome these barriers. These barriers should be keyed to the annual plan noted in paragraph (e)(1) of this section.

(3) For those States that have achieved "substantial compliance" as outlined in section 223(c) of the Act, indicate the unequivocal commitment to achieve full compliance. Attach appropriate documentation.

(4) Submit the report required under section 223(a)(12)(B) of the JJDP Act as part of the annual monitoring report required by paragraph 704(g).

(f) *Contact with Incarcerated Adults.*

(1) Pursuant to section 223(1)(13) of the JJDP Act the State Council shall:

(i) Describe in detail its specific plan and procedure for assuring that juveniles alleged to be or found to be delinquent, status offenders, and non-offenders will be removed from any institution in which they have regular sight and sound contact with incarcerated adults, including inmate trustees. This prohibition seeks as absolute a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults. In addition, include a specific timetable for compliance and justify any deviation from a previously approved timetable.

(ii) In those isolated instances where juvenile criminal-type offenders remain confined in adult facilities or facilities in which adults are confined, the State must set forth in detail the procedures for assuring no regular sight and sound contact between such juveniles and adults for each jail, lockup and detention and correctional facility.

(iii) Describe the barriers, including physical, judicial, fiscal, and legislative ones, which may hinder the removal and separation of alleged or adjudicated juvenile delinquents, status offenders and non-offenders from incarcerated adults in any particular jail, lockup, detention or correctional facility. All such accounts shall include a description of the technical assistance needed to overcome those barriers. These barriers should be keyed to the Annual Plan in § 31.703(f)(1)(i) above.

(iv) Assure that offenders are not reclassified administratively and transferred to a correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. However, this does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority or a transfer within a mixed juvenile and adult facility for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to a juvenile correctional authority for placement.

(2) *Implementation.* Each State shall immediately plan and implement the requirement of this provision.

(g) *Monitoring of Jails, Detention Facilities and Correctional Facilities.*

(1) Pursuant to section 223(a)(14) of the JJDP Act, the State Council shall:

(i) Indicate how it will annually identify and survey all public and private juvenile detention and correctional facilities and facilities usable for the detention and confinement of juvenile offenders and adult criminal offenders.

(ii) Provide a plan for an annual on-site inspection of all such facilities identified in paragraph (g)(1)(i) of this section. Such plan shall include the procedure for reporting and investigating compliance complaints in accordance with sections 223(a)(12) and (13).

(iii) Include a description of the technical assistance needed to implement fully the provisions of this paragraph.

(2) *For the purpose of monitoring,* a juvenile detention or correctional facility is:

(i) Any *secure* public or private *facility* used for the *lawful custody* of *accused or adjudicated juvenile offenders* or *non-offenders;* or

(ii) Any public or private facility, secure or non-secure, which is also used for the lawful custody of accused or convicted adult *criminal offenders.* (Definitions of terms emphasized are found in § 31.704.)

(3) *Reporting Requirement.* The State shall report annually to the Administration of OJJDP on the results of monitoring for both sections 223(a)(12) and (13) of the JJDP Act. Three copies of the report shall be submitted to the Administrator of OJJDP no later than December 31 of each year.

(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Dates of baseline and current reporting period.

(B) Total number of public and private juvenile detention and correctional facilities AND the number inspected on-site.

(C) Total number of accused status offenders and non-offenders held in any juvenile detention or correctional facility as defined in § 31.703(g)(2) for longer than 24 hours.

(D) Total number of adjudicated status offenders and non-offenders held in any juvenile detention or correctional facility as defined in § 31.703(g)(2).

(ii) To demonstrate compliance with section 223(a)(12)(B) of the JJDP Act, the report must include the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community-based.

(iii) To demonstrate the progress and extent of compliance with section 223(a)(13) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Designated date for achieving full compliance.

(B) The total number of facilities that can be used for the secure detention and confinement of both juvenile offenders and adult criminal offenders.

(C) Both the total number of facilities used for the secure detention and confinement of both juvenile offenders and adult criminal offenders during the past 12 months AND the number inspected on-site.

(D) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders AND which did not provide adequate separation.

(E) The total number of juvenile offenders and non-offenders NOT adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

(4) *Compliance.* A State must demonstrate compliance with section 223(a)(12)(A) and (13) of the Act. Should a state fail to demonstrate substantial compliance with section 223(a)(12)(A) by the end of the three-year time frame and full compliance within an additional 2 years, eligibility for formula grant funding shall terminate.

(h) *Detailed Study of Needs and Utilization of Existing Programs.* Pursuant to section 223(a) (8) and (9) of the JJDP Act, the State Council shall assure that it has conducted a detailed study of the juvenile justice system. This study shall include: an analysis both of the juvenile crime for Part I offenses and of the status offenses and non-offenses, such as dependency and neglect, and an analysis of problems confronting the juvenile justice system. The result shall be a series of problem statements that reflect an analysis of the data, the monitoring reports and requirements of the JJDP Act and that provided the basis for developing the annual juvenile justice system programs.

(1) *Product.*

(i) The product of the Detailed Study of Needs and analysis is a series of brief written statements set forth in the application that define and describe the priority problems.

(ii) A problem statement, as used herein, is defined as a written presentation which describes the magnitude, seriousness, rate of change, persons affected, and spatial and temporal aspects of a problem using qualitative and quantitative information. It identifies the nature, extent, and effect of system reponse, makes projections based on historical inferences and rigorously attempts to establish the origins of the problem. A problem statement is a clear and succinct summary which reflects the results of the analysis undertaken. It does not necessarily represent all the analysis undertaken, or all data collected for any given priority problem area.

(2) *Programs.* Applications are to include descriptions of programs to be supported with Juvenile Justice Act formula grant funds.

(i) *Organization of Programs.* Programs are groupings of projects with similar program designs and objectives.

(ii) *Program Description.* Descriptions should not be more than three or four pages in length, but this may vary. Each item below must be addressed for all programs.

(A) *Title.*

(B) *Description of Program.*

(*1*) *Program Objectives.* Objectives are specific descriptive statements of the expected program performance and its impact on the identified problem. These must be quantified where possible and must be related to the measures used to describe the problem in the problem statement.

(*2*) *Summary of Activities Planned and Services Provided.* This part of the program description must summarize what agencies will implement the program, where and when the activities will take place, what services will be provided, and who will benefit from the services.

(3) *Budget.* Total Federal funds requested from JJDP allocations must be presented, along with any expected State, local or private funds. Indicate the number of subgrants and the dollar range, as well as anticipated subgrantees (if known). Include minimum duration of each program and minimum number of years that funding may be requested and received for projects. Once Congressional appropriations are final, specific budget figures must be submitted.

(4) *Relationship to Similar Programs.* The program description must indicate how the program relates to other similar State or local programs directed at the same or similar problems.

(iii) *Performance Indicators.* A list of performance indicators must be developed and set forth for each program. These indicators show what data will be collected at the project level to measure whether objectives and performance goals have been achieved and should related to the measures used in the problem statement and statement of program objectives.

(3) *Format.* Exhibit 1 shows the standard format for setting forth priority problems and programs in the annual plan.

Exhibit 1—Standard Format for Program Descriptions

Problem Statement: Statement of problem including an indication of its priority.

Program: Description of program developed to deal with the problem stated above.

1. Title
2. Description
   a. Objectives
   b. Summary of Activities Planned
   c. Budget
   d. Relationship to Similar Programs
3. Performance Indicators

Note: There may be more than one program for each priority problem.

(i) *Equitable Distribution of Juvenile Justice Funds and Assistance to Disadvantaged Youth.* Pursuant to section 223(a)(7) and (15) of the JJDP Act, the State Council shall assure that:

(1) The state will establish and adhere to procedures for the equitable distribution of JJDP Act formula grant money.

(2) The detailed study of needs analyzes the needs of disadvantaged youth and that assistance will be available equitably.

(3) It has developed and adheres to procedures for filing and considering grievances arising under this section.

(j) *Advanced Techniques.* Pursuant to section 223(a)(10) of the JJDP Act, the State Council shall:

(1) Demonstrate clearly in its application that at least 75 percent of the JJDP funds support advanced techniques as enumerated in this section of the Act.

(2) In order to ensure timely compliance with sections 223(a) (12)(13) and (14) of the JJDP Act, States should place special emphasis on projects which are designed to deinstitutionalize juveniles, remove children from jails, lock-ups and other adult institutions where adults are incarcerated to ensure adequate separation of adult and juvenile offenders, and monitor compliance.

(k) *Analytical and Training Capacity.* Pursuant to section 223(a)(11) and (20) of the JJDP Act, the State Council shall provide an assurance that it will conduct research, training and evaluation activities.

(l) *Continuation Support.* Pursuant to section 228(a) of the JJDP Act, the State Council shall:

(1) Indicate the minimum duration of each JJDP program described in its plan.

(2) Indicate the minimum number of years that funding may be requested and received for projects in each program.

(3) Assure that each funded project shall receive funding for the minimum number of years, unless prematurely ended due to:

(i) A substantial decrease in Federal funding to a State under the JJDP Act; or

(ii) An applicant's failure to comply with the terms and conditions of the award; or

(iii) An applicant's failure to receive a satisfactory yearly evaluation.

(4) The state must assure that potential applicants know the information submitted under paragraph (l) when programs are announced.

(m) *Other Terms and Conditions.* Pursuant to section 223(a)(21) of the JJDP Act, States shall agree to other terms and conditions as the Associate Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the formula grant.

§ 31.704 Definitions.

(a) *Private Agency.* A private non-profit agency, organization or institution is:

(1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control, and

(2) Any other agency, organization or institution which is operated primarily for scientific, educational, service, charitable, or similar public purposes, but which is not under public supervision or control, and not part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of Section 501(c)(3) of the 1954 Internal Revenue Code.

(b) *Juvenile Offender.* An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by state law.

(c) *Criminal-type Offender.* A juvenile who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(d) *Status Offender.* A juvenile who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(e) *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(f) *Accused Juvenile Offender.* A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a criminal-type offender or is a status offender and no final adjudication has been made by the juvenile court.

(g) *Adjudicated Juvenile Offender.* A juvenile with respect to whom the juvenile court has determined that such juvenile is a criminal-type offender or is a status offender.

(h) *Facility.* A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public or private agencies.

(i) *Facility, Secure.* One which is designed and operated so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detaind has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

(j) *Facility, Non-secure.* A facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its residents access to the surrounding community with minimal supervision.

(k) *Lawful Custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law of a judicial order or decree.

(l) *Criminal Offender.* An individual, adult or juvenile, who has been charged with or convicted of a criminal offense in a court exercising criminal jurisdiction.

Subpart I—General Conditions and Assurances

§ 31.800 Compliance with satute.

The applicant State assures and certifies that the State Criminal Justice Council and its subgrantees and contractors will comply with the provisions of the Omnibus Crime Control and Safe Streets Act of 1976 Pub. L. 90–351, as amended by Pub. L. 91–644, Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, and Pub. L. 96–157 (the Justice System Improvement Act of 1979); and with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, as amended by Pub. L. 94–503, for activities funded under each Act.

§ 31.801 Compliance with other Federal laws, orders, circulars.

(a) The applicant State further assures and certifies that the State Criminal Justice Council and its subgrantees and contractors will adhere to regulations of the Department and other applicable Federal laws, orders and circulars. These requirements are described in greater detail in the "Fiscal Year 1981 Application Kit for Formula Grant under the JJDP Act." They include compliance, where applicable, with the provisions of the National Environmental Act of 1966, Pub. L 89–665; the Flood Disaster Protection Act of 1973, Pub. L. 93–234; the Clean Air Act, Pub. L. 88–206; the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92–500; the Safe Drinking Water Act, Pub. L. 93–523; the Endangered Species Act of 1973, Pub. L. 93–205; the Wild and Scenic Rivers Act, Pub. L. 90–524; the Fish and Wildlife Coordination Act, Pub. L. 85–624; the Historical and Archeological Preservation Act, Pub. L. 93–291; the Coastal Zone Management Act of 1972, Pub. L. 92–583; the Hatch Political Activity Act, Pub. L. 93–443; the Animal Welfare Act of 1970, Pub. L. 91–579; the Impoundment Control Act of 1973, Pub. L. 93–112; the Intergovernmental Cooperation Act of 1974, Pub. L. 93–510; the Education Amendments of 1974 (Title IX), Pub. L. 93–318; Executive Orders Nos. 11246, 11377, 11507, 11738, 11752, and 11914; Office of Management and Budget Circulars Nos. A–102 and A–111; FMC Circulars Nos. 74–4 and 74–7 found at 34 CFR Parts 255 and 256 respectively and all amendments and additions to those statutes, orders, and circulars.

(b) In administering funds awarded pursuant to this application, the State will assure compliance with 28 CFR Parts 18, 19, 20, 22, 42, and 52 as they relate to activities funded with LEAA funds; G 6060.1A, Medical Research and Psychosurgery; and the Guideline Manual M 7100.1A, Financial Management for Planning and Action Grants. The State further represents that it has established policies and provided procedures to assure sound fiscal control, effective management, and efficient use of funds received pursuant to this grant.

§ 31.802 Application on file.

Any Federal funds awarded pursuant to this application will be distributed and expended pursuant to and in accordance with the programs contained in the applicants State's current approved application and any advance funds will not be awarded for any program not specifically approved and clearly set forth in the current comprehensive application. Any departures therefrom, other than to the extent permitted by the Administration's current program and fiscal regulations and guidelines, will be submitted for advance approval by the Administration. The applicant State assures that it has complied with any special grant conditions applicable to formula grants previously awarded to the State or, as to those special conditions to which action is not yet due or required, will comply with such conditions within specific deadlines.

§ 31.803 Non-discrimination.

The State Criminal Justice Council hereby assures that it will comply with and will insure compliance by its subgrantees and contractors with all applicable non-discrimination requirements, including but not limited to Section 815(c) of the Justice System Improvement Act and its implementing regulations found at 28 CFR 42.201, et seq. and 28 CFR 42.301, et seq.; Title VI of the Civil Rights Act of 1964, Subparts C–E of 28 CFR Part 42; and, where applicable, Section 262(b) of the Juvenile Justice Act, to the end that no person shall, on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under or be denied employment in connection with any program or activity funded in whole or in part with funds made available through the Law Enforcement Assistance Administration. The State Council further assures that it will comply with and will insure compliance by its State and local governmental subgrantees with the requirement that in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination on the ground of race, color, religion, national origin, or sex against the recipient State or local government unit or agency thereof, it will forward a copy of the finding to the cognizant State Council and to LEAA. The State Council further insures that educational institutions comply with the provisions and requirements of Title IX, Section 901, of the Federal Amendments of 1972 (Pub. L. 92–318) which provides that no person shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving financial assistance from the Department of Justice. The State Council recognizes the right of the United States to seek judicial enforcement of the foregoing covenants against discrimination, and will include a similar covenant assuring the right of the United States to seek judicial enforcement in its subgrants or contracts.

§ 31.804 Applicability.

The applicant State hereby further assures and certifies that by appropriate language incorporated in each grant, subgrant, contract, subcontract, or other document under which funds are to be disbursed, the grantee shall assure that these conditions apply to all recipients of assistance.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Homer F. Broome, Jr.,

Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80–24245 Filed 8–11–80; 8:45 am]

BILLING CODE 4410–18–M

V 45 AG 12 80 UMI

federal register

Tuesday
August 12, 1980

Part VIII

Department of Education

Program of Research Grants on Organizational Processes in Education

DEPARTMENT OF EDUCATION

45 CFR Part 1480

Program of Research Grants on Organizational Processes in Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations that govern the Program of Research Grants on Organizational Processes in Education by adding institutions of postsecondary education to the range of organizations that are eligible for study. The effect will be to broaden the opportunity for the research community to explore new areas involving organizational processes in education. The intention is to produce a foundation of knowledge leading to more effective and equitable postsecondary institutions.

EFFECTIVE DATE: These final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed if Congress takes certain adjournments. If you want to know the effective date of these final regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joan Snyder, Postsecondary Organization and Management Studies, National Institute of Education, Mail Stop 16, 1200 19th Street, N.W., Washington, D.C. 20208, Telephone: (202) 254–6070.

SUPPLEMENTARY INFORMATION: On April 2, 1980, a notice of proposed rulemaking was published in the **Federal Register** to amend the regulations of the Program of Research Grants on Organizational Processes in Education to permit the funding of research at the postsecondary level. Interested persons were invited to submit comments concerning the amendments. Comments were received from seven individuals. All expressed support or enthusiasm, and some suggested research topics that would be appropriate or desirable under the amended regulations. None recommended any changes in the proposed regulations.

A. Background

In 1977, the National Institute of Education (NIE) established a research grants program for the study of elementary and secondary schools as organizations. Since then, the program has considered 650 proposals and funded 60 research projects representing a wide range of academic disciplines.

During this period, the program staff has received several hundred inquiries from the educational community concerning the possibility of obtaining funding for research on postsecondary education, which was not previously allowed. Consultation with experts has led to the conclusion that there is a substantial need for research in the postsecondary area. Further, the research areas of greatest concern in postsecondary education coincide with those of the elementary and secondary levels. Consequently, under these regulations, there will be two separate grants competitions conducted by the Program of Research Grants on Organizational Processes in Education. Funds for the Separate grants competition for postsecondary education have been included in the Department of Education budget for FY 1980 and later years, in addition to the funds allocated for the elementary and secondary research grants competition.

B. Changes in the Regulations

1. Most of the changes between the former regulations and these regulations have the effect of simply adding the words "and postsecondary institutions" to the phrase "elementary and secondary schools." Another change increases the maximum direct costs of a small grant from $7,500 to $15,000 to reflect the impact of inflation. Another change makes for-profit private organizations eligible to obtain grants, in accordance with current Federal policy. Finally, the language and order of the regulations have been changed, without any change in substance, to conform to administrative directives for the improvement of regulations.

2. When the notice of proposed rulemaking was published on April 2, 1980, the preamble included the statement that appropriate changes would be made in the final regulations if the Education Division General Administrative Regulations (EGDAR) took effect in the interim. EDGAR was published on April 3, 1980 and, at the same time, amendments to these regulations were published in EDGAR (45 FR 22545) to bring them into conformity with EDGAR. However, some of these amendments were inappropriate. Accordingly, the following changes have been made:

(i) The application requirements (formerly § 1480.8) are retained as new § 1480.20 because grant applications were invited for FY 1980 and FY 1981 under the earlier provisions.

(ii) Unnecessary administrative details dealing with application review procedures (formerly § 1480.9 (a), (b), and (c)) are deleted.

(iii) Paragraph (d), selection criteria, is retained as new § 1480.30 because grant applications were invited under these provisions. Requirements for multi-year projects (formerly § 1480.10) are deleted because they are covered under EDGAR.

C. Effective Period of these Regulations

These regulations apply only to awards made prior to December 31, 1981.

D. Application Information

Applications are accepted in accordance with application notices published in the **Federal Register**. An application notice announcing closing dates in FY 1981 for the elementary and secondary program area will be published in late summer 1980. Application instructions and program information for submission of proposals for FY 1981 are available from the Program Staff, School Management and Organization Studies, Mail Stop 16, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208, Telephone: (202) 254–7930.

An application notice announcing closing dates for the postsecondary program area was published in the **Federal Register** on May 2, 1980 (45 FR 29414). Application instructions and program information for submission of proposals for FY 1981 are available from the Program Staff, Postsecondary Organization and Management Studies, Mail Stop 16, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208, Telephones: (202) 254–5555 and 254–6070.

Citation of Legal Authority:

A citation of statutory or other legal authority appears in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.117, Educational Research and Development. Part I of OMB Circular A–95 does not apply to this program.)

Dated: August 7, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Title 45 of the Code of Federal Regulations is amended by revising Part 1480 to read as follows:

PART 1480—PROGRAM OF RESEARCH GRANTS ON ORGANIZATIONAL PROCESSES IN EDUCATION

Subpart A—General

Sec.

1480.1 Description of program of research grants on organizational processes in education.
1480.2 Eligible parties.
1480.3 Regulations that apply to the program of research grants on organizational processes in education.
1480.4 Effective period of the regulations.
1480.5 Definitions that apply to this program.

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

1480.10 Eligible research projects.
1480.11 Ineligible projects.

Subpart C—How Does One Apply for a Grant?

1480.20 Application requirements.

Subpart D—How Does the Secretary Make a Grant?

1480.30 Selection criteria the Secretary uses to review an application.

Authority: Section 405 of the General Provisions Act, sec. 301(a)(2) of Pub. L. 92–318, 86 Stat. 328, 332, as amended (20 U.S.C. 1221e).

Subpart A—General

§ 1480.1 Description of Program of Research Grants on Organizational Processes in Education.

The Program of Research Grants on Organizational Processes in Education supports studies of how educational organizations, including elementary and secondary schools, school districts, and postsecondary institutions, carry out the essential tasks of any organization, such as setting goals, finding resources, assigning work, monitoring performance, identifying and solving problems, and adapting to changing conditions.

(20 U.S.C. 1221e(b)(2))

§ 1480.2 Eligible parties.

A college, university, State or local educational agency, other public or private agency, organization, group, or individual is an eligible applicant.

(20 U.S.C. 1221e(e)(1))

§ 1480.3 Regulations that apply to the Program of Research Grants on Organizational Processes in Education.

The following regulations apply to the Program of Research Grants on Organizational Processes in Education:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR Part 100c (General), except the following:

(1) Sections 100a.200 through 100a.206, selection criteria; and

(2) Sections 100a.590 through 100a.592, project evaluations.

(b) The general provisions for National Institute of Education (NIE) grants in 45 CFR Parts 1400–1410.

(c) The regulations in this Part 1480.

(20 U.S.C. 3474)

§ 1480.4 Effective period of the regulations.

These regulations apply only to awards made prior to December 31, 1981.

(20 U.S.C. 3474)

§ 1480.5 Definitions that apply to this program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 45 CFR Part 100c except as otherwise noted: Applicant, Application, Award, Budget (45 CFR 74.104), Department, Direct costs (45 CFR Part 74 Appendix C), Elementary school, EDGAR, Equipment (45 CFR 74.51), Facilities, Fiscal year, Grant (45 CFR 74.3), Indirect costs (45 CFR Part 74 Appendix C), Local educational agency, Private, Project, Public, Secondary school, Secretary, State educational agency, Subcontract (45 CFR 74.3).

(b) *The following terms apply specifically to this program.*

"Arrangements" means provisions for obtaining access to data and to study populations.

"Major grant" means a grant for an amount in excess of $15,000 of direct costs.

"Postsecondary institution" means any public or private nonprofit or for-profit organization that provides instruction at any level beyond secondary education.

"Preliminary proposal" is used interchangeably with "preapplication."

"Proposal" is used interchangeably with "application."

"Research" includes any activity designed to increase or synthesize basic knowledge about one or more processes or conditions relevant to understanding educational organizations and their context.

"Small grant" means a grant for an amount that does not exceed $15,000 of direct costs. (In the case of an indivdual applicant not affiliated with any institution, the NIE will not award indirect costs but will reimburse reasonable general and administrative expenses associated with and directly related to the administration of the small grant).

(20 U.S.C. 3474)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 1480.10 Eligible research projects.

Under the Program of Research Grants on Organizational Processes in Education, the Secretary awards both major grants and small grants. The following provisions apply to research funded by this program:

(a)(1) Research funded under this part must be designed to increase or synthesize basic knowledge about one or more organizational processes, or the barriers which impede or prevent these processes, within or related to educational organizations.

(2) Organizational processes include the following:

(i) The means by which an elementary or secondary school, postsecondary institution, or larger administrative unit—

(A) Makes basic policy choices;

(B) Sets goals;

(C) Recruits and assigns personnel;

(D) Chooses and implements courses of action;

(E) Allocates resources;

(F) Establishes organizational forms and structures;

(G) Gathers and processes information on performance, and takes corrective action based on such evaluation; and

(H) Adapts to change.

(ii)(A) Interaction among personnel and among organizational units; and

(B) Changes in processes and interactions within the organization over time.

(b) Studies supported under this program may have potential relevance to other kinds of organizations, but must aim to build a body of data and theory particularly useful in designing and managing educational organizations.

(c) Increased understanding of organizational processes related to elementary and secondary schools and postsecondary institutions may require study of other organizations such as school districts, State or Federal agencies, community groups, and professional associations. Studies supported under this program may include examination of relevant organizations as necessary to advance knowledge about elementary and secondary schools and postsecondary institutions.

(d) A research project may use any research process or approach consistent with the purposes of this section.

(20 U.S.C. 3474)

§ 1480.11 Ineligible projects.

(C) The name, department, institution,

specific questions the research will

Departmental grant administration

§ 1480.11 Ineligible projects.

A project whose primary purpose is the operation, development, demonstration, or evaluation of specific programs or materials is not eligible for support under this part. Examples of ineligible projects follow:

(a) Operation of an educational program in any elementary or secondary school, postsecondary institution, or other setting or agency.

(b) Development, adaptation, implementation or evaluation of a new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment.

(c) Course development through the production of a new curriculum or the improvement of an existing curriculum, including the preparation of new instructional material or the modification of instructional material already in existence.

(d) Demonstration, either in person or through communication media, of a technique or material employed in the execution of a new or modified instructional task, educational program, or administrative or management process.

(20 U.S.C. 3474)

Subpart C—How Does One Apply for a Grant?

§ 1480.20 Application requirements.

(a) *General.* An applicant shall file an application specifically directed to either the major grant or small grant segment of the Program of Research on Organizational Processes in Education.

(b) *Major grants.* An applicant for a major grant shall comply with the requirements contained in paragraph (b) of this section.

(1) *Preliminary proposal.* An applicant shall submit a preliminary proposal for initial review. Information concerning the strengths and weaknesses of the preliminary proposal and its standing relative to others reviewed will be returned to the applicant and may be used in preparation of the full proposal. The preliminary proposal must include the following:

(i) A cover sheet executed by the principal investigator, and by an individual authorized to execute grant applications for the institution, indicating—

(A) That the preliminary proposal is submitted to the Program of Research Grants on Organizational Processes in Education, National Institute of Education;

(B) The title of the study;

(C) The name, department, institution, address, and telephone number of each principal investigator;

(D) The estimated budget amount; and

(E) The proposed starting date and duration of the project.

(ii) A statement preferably not exceeding five typewritten pages summarizing the proposed project, including—

(A) A description of the proposed research, its relation to what is already known and to the problems of American education, and the importance of its expected addition to knowledge; and

(B) A description of the procedures to be followed in carrying out the research including where appropriate such concerns as sampling, data acquisition, instrumentation and data analyses.

(iii) A description of the equipment, facilities, and arrangements available to the investigator for conducting the research, including access to suitable organizations for study purposes.

(iv) A vita for each principal investigator, including education, applicable experience, and a list of major publications.

(v) An estimated budget covering direct costs (e.g., salaries and benefits, travel, supplies and materials, communication, services, equipment) and indirect costs proposed to be charged against the grant.

(2) *Full proposal.* A full proposal may only be submitted by an applicant who has submitted a preliminary proposal in the required format, and whose preliminary proposal has been reviewed by NIE. Full proposals must include the following elements:

(i) A cover sheet executed by the principal investigator and by an individual authorized to execute grant applications for the institution, indicating—

(A) That the application is submitted to the Program of Research Grants on Organizational Processes in Education, National Institute of Education;

(B) The title of the study;

(C) The name, department, institution, address, and telephone number of each principal investigator;

(D) The estimated budget amount; and

(E) The proposed starting date and duration of the project.

(ii) An abstract of approximately 200–250 words stating clearly the objectives and plans of the proposed research.

(iii) A table of contents.

(iv) A statement not to exceed forty (40) typewritten pages that describes—

(A) The research objectives, including identification of the problem or issue the proposed research will contribute to solving, the anticipated contribution of the research to that solution, and specific questions the research will address; and

(B) A research design, clearly linked to the questions the study will try to answer. The scientific or technical work of the project and methods for its accomplishment must be stated clearly. A discussion of related research with appropriate citations must be included to show that the investigators are thoroughly familiar with current and prior research in pertinent fields. Data to be obtained and analytic methods to be used upon that data must be explained.

(v) An organization and management plan that describes—

(A) The arrangements intended for direction, coordination, and control of the project;

(B) The roles, responsibilities, and project time-commitments of proposed staff;

(C) A schedule for major portions of multi-year projects; and

(D) An explanation of any expected subcontract arrangements.

(vi) A description of equipment, facilities, and arrangements available for the research. If new data are proposed to be collected, the proposal must give evidence of access to suitable organizations for study purposes. Letters of agreement to participate must be included, showing that relevant authorities in educational or education-related organizations have reviewed the research plans and agree to take part willingly. A lengthy and complex study which could place special burdens on parts of the education community may require joint planning and management of the entire project. A proposal for such a study must give detailed information to allow reviewers to judge the adequacy of the arrangement.

(vii) A plan for the dissemination of the research findings, including methods for reaching researchers, theorists, and practicing educators.

(viii) A vita and bibliography for each professional staff person, including professional background and employment as well as education, a chronological list of publications, and a listing of prior and current research support for each individual including requests now being considered regardless of source.

(ix) An estimate of expenses proposed to be charged against the grant, including direct costs (e.g., salaries and benefits, travel, supplies and materials, communication, services, equipment) and indirect costs. The proposed budget shall include all other details and explanations, and shall be arranged in such a form as to allow the cost analyses and other reviews called for by Departmental grant administration policies.

(c) *Small grants.* (1) An applicant for a small grant shall submit a proposal including all the elements listed in paragraph (b)(2) of this section.

(2) The discussion of objectives and design, as described in paragraph (b)(2) of this section, may not exceed eight typewritten pages.

(20 U.S.C. 3474)

Subpart D—How Does the Secretary Make a Grant?

§ 1480.30 Selection criteria the Secretary uses to review an application.

The Secretary uses the following criteria to evaluate all grant proposals:

(a) Significance of the proposed research for American education, including the—

(1) Importance of the research topic from the standpoint of basic knowledge or problems of American education; and

(2) Likely magnitude of the addition that will be made to knowledge if the project is successful, including the generalizability of the results.

(b) Quality of the proposed research project, including the—

(1) Adequacy of the design, methodology, and instrumentation where appropriate;

(2) Likelihood of success of the project; and

(c) Qualifications of the proposed principal investigator and other professional project personnel as evidenced by—

(1) Experience and previous research productivity; and

(2) Quality of the discussion and analysis in the application.

(d) Adequacy of the facilities and arrangements available to the investigator to conduct the proposed study, including evidence of access to necessary organizations, groups, and individuals for study purposes and the willingness of study populations to participate in the proposed research.

(e) Reasonableness of the budget for the work to be done and for the anticipated results.

(f) Whether funding the proposed project would contribute to—

(1) A diversity of projects under the overall program which collectively address a variety of research needs in the area of organizational processes in education;

(2) Other research efforts of NIE; or

(3) The educational needs and interests of other Federal agencies.

(20 U.S.C. 3474)

[FR Doc. 80-24357 Filed 8-11-80; 8:45 am]

BILLING CODE 4000-01-M

V 45 A G 12 80 UMI

V 4 5 A G 1 2 8 0 UMI

federal register

Tuesday
August 12, 1980

Part IX

Department of Education

Grants for Research on Knowledge Use and School Improvement

DEPARTMENT OF EDUCATION

34 CFR Part 709

Grants for Research on Knowledge Use and School Improvement

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations that govern a program of research grants on knowledge use and school improvement. The program seeks to build knowledge about improvement processes in elementary and secondary schools. Studies will clarify how schools go about altering their administrative and instructional practices, and how knowledge resources in the form of ideas, new programs, products, or materials can support these changes.

EFFECTIVE DATE: These final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the Federal Register. The effective date is changed if Congress takes certain adjournments. If you want to know the effective date of these final regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Rolf Lehming, Research and Educational Practice, Mail Stop 24, National Institute of Education, 1200 19th Street N.W., Washington, D.C. 20208. Telephone: (202) 254–6050.

SUPPLEMENTARY INFORMATION:

A. Background

In support of the Federal responsibility to provide leadership in the conduct and support of research into educational processes, Congress authorized the National Institute of Education (NIE) under Section 405 of the General Education Provisions Act to award grants for projects that further the realization of these national educational goals.

The studies on knowledge use and school improvement are designed to help build a systematic body of knowledge about effective improvement processes in elementary and secondary schools. This research seeks to clarify how schools go about altering their administrative and instructional practices, and how knowledge resources in the form of ideas, programs, products, or materials can support these changes. Results of this research program will be used by the Department to help policy makers, practitioners, and education officials at all levels to formulate and implement school improvement efforts more effectively.

These regulations describe—

(1) The purposes of the proposed program of studies on knowledge use and school improvement;

(2) The scope of the program;

(3) The types of activities eligible for support;

(4) The criteria that will be used in the selection of grantees; and

(5) Project requirements.

B. Summary of the Regulations

Subpart A of the regulations (1) describes the program, (2) lists the regulations that apply, (3) states who is eligible to apply, and (4) provides definitions.

Subpart B discusses the types of activities that are eligible for support under the program and describes ineligible activities.

(1) The program will support only research on knowledge use and school improvement. Examples of school improvement activities include organized attempts of schools, school districts, educators and educational organizations to improve, and render more equitable, student learning, instruction or curriculum, school or district organization or operations, or the ways the schools relate to their communities or governance organizations. High-quality studies of these kinds of processes will be eligible for support, provided they show promise of adding to our understanding of how school improvement and greater educational equity come about.

(2) Grants will not be made for the planning of a school improvement project or for its development, implementation, operation, modification, demonstration, evaluation, or dissemination.

Subpart C is reserved.

Subpart D states how the Secretary makes award decisions and what criteria are used for selecting applications that merit support. These criteria are identical for major and small grants.

Subpart E explains certain conditions that a grantee must meet.

C. Relationship to Education Division General Administrative Regulations (EDGAR)

The Education Division General Administrative Regulations (EDGAR) were published as final rules in the Federal Register on April 3, 1980 (FR 22494–22530). These regulations have been drafted to conform to the EDGAR requirements and to supplement EDGAR for the purpose of governing grants for research on knowledge use and school improvement. Except as noted in § 709.3, the EDGAR provisions apply to these grants.

The present regulations do not repeat certain types of requirements that are covered by EDGAR. These include:

How to apply for a grant.
How grants are made.
Conditions a grantee must meet.
Administrative responsibilities of a grantee.
Procedures used by the Secretary to assure compliance.

D. Relationship to Consolidated NIE Grant Regulations

The Department is currently developing a set of proposed regulations to govern all of NIE's research grants programs. The current rules are expected to be replaced by those regulations after they become effective.

E. Location of Regulations

These regulations were published as a notice of proposed rulemaking (NPRM) in the Federal Register (41 FR 13135–13138). They are now being issued as final regulations, and there have been changes in the numbering of sections. Thus, changes that result from public comment have section numbers that correspond to those in the final regulations. The affected section numbers of the NPRM appear in brackets.

F. Comments Received and Changes Made in the Regulations

Section 709.1(b)(2) [§ 1496.1(b)(2)] *Description of the Research on Knowledge Use and School Improvement Program.*

Comment. One commenter expressed concern that State educational agencies, while bearing main responsibility for public education, were not explicity mentioned as influencing school improvement activities and suggested doing so.

Response. A change has been made. Governance agencies outside the school district are specifically mentioned.

Section 709.12 [§ 1496.12] *Ineligible projects.*

Comment. One commenter noted that research to be proposed under these regulations might address questions about project effects as part of a larger research design. The commenter expressed concern that this type of incidental evaluation component might make this work ineligible.

Response. A change has been made. The section has been revised to state that project evaluations are ineligible. However, research containing an evaluation component as an incidental part of a larger research design is eligible under these regulations.

Section 709.32(d)(iv) [§ 1496.32(c)(1)] *What selection criteria does the Secretary use?*

Comment. A commenter suggested that selection criteria should specifically include points for the extent to which a proposed project could contribute to enhanced educational equity, along with its contribution to educational practice.

Response. A change has been made. The Secretary is committed to examining and improving educational equity wherever possible. A project's significance for enhancing educational equity is specifically included in the selection criteria.

Part 709 Subpart C [Part 1496 Subpart C] *How an Application for a Grant is Made*

Comment. A commenter asked that application procedures be kept simple so school districts with limited staff resources could apply for grant support.

Response. No change has been made. These regulations do not establish unique application procedures. Application procedures have been streamlined and simplified and are published in EDGAR.

Sections 709.11–709.12 [§§ 1496.11–1496.12] *Projects that will be assisted.*

Comment. One commenter noted that schools face a major problem in coordinating various social service programs potentially available to students and their parents, such as health care, counseling, and job training programs, with the school's education activities. The commenter expressed the hope that this problem could be addressed under these rules. Another commenter noted that schools face a severe problem of school dropouts and alienated pupils in schools and urged that this problem be studied.

Response. No change has been made. Improvement efforts that seek to address these problems are a permissible subject for research under these regulations.

G. Application Information

A first round of applications has already been received, based on the NPRM that was published in the Federal Register of February 28, 1980 (45 FR 13135–13138). Application notices inviting applications for future competitions will be published in the Federal Register at appropriate dates in the future. To obtain additional program information, including a package that contains detailed information about the program, contact Rolf Lehming, Knowledge Use and School Improvement Studies Staff, Mail Stop 24, NIE, 1200 19th Street N.W., Washington, D.C. 20208.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development. Part I of OMB Circular A–95 does not apply to this program)

Dated: August 7, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Title 34 of the Code of Federal Regulations is amended by adding a new Part 709 to read as follows:

PART 709—GRANTS FOR RESEARCH ON KNOWLEDGE USE AND SCHOOL IMPROVEMENT

Subpart A—General

Sec.

709.1 Description of the Research on Knowledge Use and School Improvement Program.
709.2 Eligible applicants.
709.3 Regulations that apply to this program.
709.4 Definitions that apply to this program.
709.5 Types of grants.

Subpart B—Projects That Will Be Assisted

709.11 Projects that are eligible for support.
709.12 Projects that are ineligible for support.

Subpart C—How an Application for a Grant is Made [Reserved]

Subpart D—How Grants are Made

709.31 How does the Secretary evaluate an application?
709.32 What selection criteria does the Secretary use?
709.33 How the Secretary selects a new project.

Subpart E—Conditions a Grantee Must Meet

709.41 Restrictions on the items a grant may support.

Authority. Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e); Section 414 of the Department of Education Organization Act (20 U.S.C. 3474).

Subpart A—General

§ 709.1 Description of the Research on Knowledge Use and School Improvement Program.

(a) Through the Research on Knowledge Use and School Improvement Program, the Department of Education builds a systematic body of knowledge about improvement processes in elementary and secondary schools.

(b) The program explores:

(1) How elementary and secondary schools go about improving educational quality and equity by altering existing administrative and instructional practices, and how knowledge resources in the form of ideas, programs, products, or materials can support these changes;

(2) How bureaucratic, political, economic, cultural and other aspects of school life, such as school-community or school-state relations, affect school changes, and how these influences modify the effects of knowledge resources; and

(3) How knowledge and resources from outside the school district or school can support the different phases of a school improvement process.

(20 U.S.C. 1221e(b)(2))

§ 709.2 Eligible applicants.

Any institution of higher education, State educational agency, local educational agency, public or private nonprofit or for-profit agency, organization, individual, or any combination of these is eligible to apply for a grant award under this program.

(20 U.S.C. 1221e(e)(1))

§ 709.3 Regulations that apply to this program.

In addition to the regulations in this part, the Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR Part 100c (General) apply, except the following:

(1) 45 CFR 100a.115 and 45 CFR 100a.590 through 100a.592, project evaluations.

(2) 45 CFR 100a.205 through 100a.206, selection criteria.

(20 U.S.C. 3474)

§ 709.4 Definitions that apply to this program.

(a) *Definitions in EDGAR.* The following terms used in these regulations are defined in 45 CFR Part 100c:

Applicant
Application
Award
Direct Cost
Government
Local educational agency
Local government
Nonprofit
Public
Secretary
State
State educational agency

(b) *Specific program definitions:* Definitions as used in this part are:

"Major grant" means support for a project whose direct, federally supported costs exceed $15,000.

"Small grant" means support for a project whose direct, federally

supported costs do not exceed $15,000 and whose duration is up to 12 months.

(20 U.S.C. 3474)

§ 709.5 Types of grants.

(a) The Secretary invites applications for small and major grant support in an application notice that is published in the **Federal Register**.

(b) The Secretary initially reserves funds for each of these application categories.

(20 U.S.C. 3474)

Subpart B—Projects That will be Assisted

§ 709.11 Projects that are eligible for support.

(a) The program supports only research on knowledge use and school improvement, as described in § 709.1.

(b) Any research process or approach except those listed in § 709.12 is eligible for support.

(20 U.S.C. 1221e(e)(1), 3474)

§ 709.12 Projects that are ineligible for support.

Grants will not be provided to support the planning of a school improvement project or its development, implementation, operation, evaluation, or dissemination.

(20 U.S.C. 1221e(e)(1), 3474)

Subpart C—How an Application for a Grant is Made [Reserved]

Subpart D—How Grants are Made

§ 709.31 How does the Secretary evaluate an application?

(a) The Secretary evaluates a proposal on the basis of the criteria in § 709.32.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum score for each complete criterion is indicated in parentheses.

(20 U.S.C. 3474)

§ 709.32 What selection criteria does the Secretary use?

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b) (1) and (2) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *The significance of the proposed research for American education.* (35 points)

(1) The Secretary reviews each application for information that shows that the project addresses a significant problem of American education.

(2) The Secretary looks for information that shows—

(i) The proposed research is important from the standpoint of basic knowledge and problems of American education;

(ii) The likelihood of a significant addition to existing knowledge, if the project is successful;

(iii) The ability to generalize the project's results; and

(iv) The contribution to improving educational practice and equity at the elementary and secondary school level.

(e) *Conceptual and technical quality.* (35 points)

(1) The Secretary reviews each application for information that shows that the project is of very high conceptual and technical quality.

(2) The Secretary looks for information that shows—

(i) The adequacy of the analysis, conceptualization, design, methods, and instrumentation, as appropriate;

(ii) The extent to which the application exhibits, and builds upon, a thorough grasp of the results of pertinent prior research as well as the problems and issues facing schools as they undergo change;

(iii) Evidence that, where appropriate, there is collaboration between investigators and practitioners in the conduct of the research;

(iv) The likelihood that the proposed project can achieve the intended results; and

(v) The likelihood that the proposed research will be conducted in a manner that benefits the research sites, if appropriate.

(20 U.S.C. 1221e, 3474)

§ 709.33 How the Secretary selects a new project.

(a) Only applications of the highest quality will be funded by the program, even though all available funds may not be exhausted.

(b) In the case of proposals of substantially equal quality, the Secretary considers whether funding a particular project would contribute to a portfolio of studies throughout the nation that collectively address the range of research needs in the area of knowledge use and school improvement.

(20 U.S.C. 3474)

Subpart E—Conditions a Grantee Must Meet

§ 709.41 Restrictions on the items a grant may support.

No funds may be used for construction, repair, remodeling, or alteration of facilities or sites.

(20 U.S.C. 3474)

[FR Doc. 80-24358 Filed 8-11-80; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
August 12, 1980

Part X

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Verification Requirements

V 45 A G 12 80 UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amendment No. 179]

Food Stamp Program; Verification Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rulemaking proposes amendments to the regulations published October 17, 1978 (43 FR 47846), concerning the requirements for verifying information in determining household's eligibility for food stamp benefits. The amendments would increase State agencies' authority to verify information in a number of areas. The amendments proposed in this rulemaking would change the requirements for verifying information in determining household's eligibility for food stamp benefits as a result of changes in the Food Stamp Act enacted by Pub. L. 96-249, 94 Stat. 357, May 26, 1980, and per comments solicited by a Notice of Intent published in the Federal Register on October 12, 1979 (44 FR 58915). The purpose of this proposed rule is to improve program integrity without creating barriers to households with a legitimate need of food assistance.

DATE: Comments must be received on or before October 14, 1980 to be assured of consideration.

ADDRESS: Comments should be submitted to: Alberta C. Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C., 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday) at Room 678, 500 12th Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, Washington, D.C. 20250. Phone (202) 447-9075.

The Draft Impact Analysis is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant".

Section 11(e)(3) of the Food Stamp Act of 1977 requires State agencies to verify nonexempt gross income along with "such other eligibility factors as the Secretary determines to be necessary." Final regulations published on October 17, 1978, established three categories of verifications; those that are mandatory for all households, those that are mandatory at the State's option, and those that are required when the information is questionable. When a household applies for food stamps, State agencies are required to verify all gross nonexempt income (both earned and unearned), declared alien status, utility expenses in excess of a utility standard, medical expenses, and social security numbers. State agencies determine their own verification policies regarding liquid resources and loans provided that, at a minimum, these items are verified if questionable. States are allowed to verify those two items in all cases. Other factors of eligibility are verified prior to certification if they are questionable and could affect a household's eligibility or benefit level.

These include: (1) household composition; (2) a household's statement that its members are U.S. citizens; (3) tax dependency; (4) deductible expenses: dependent care costs and those shelter costs not already verified on a mandated basis; (5) work registration exemptions; (6) residency; (7) identity; and (8) nonliquid resources. Information on the application for assistance is considered questionable if it is inconsistent with statements made by the applicant, inconsistent with information on the application or previous applications, or inconsistent with information received by the State agency.

As noted below, verification provisions have been strengthened by recently published regulations. State agencies are being given investigative and deterrent tools to help reduce error and fraud.

Food Stamp Program regulations issued January 31, 1980 (45 FR 7208) set forth procedures by which social security numbers may be obtained for all food stamp household members authorized by Section 4 of Pub. L. 96-58, (93 Stat. 391, Aug. 14, 1979). That law enabled the Department to require that each household member furnish the State agency his/her social security number(s) as a condition of eligiblity. Use of a social security number is viewed as a positive measure to counteract underreporting or nonreporting of income.

With the social security number, State agencies have the same access provided to the Department of Health and Human Services (DHHS) to information regarding individual Food Stamp Program applicants and participants who receive Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, to the extent that the Secretaries of USDA and DHHS determine that access to SSI information is within the purposes set forth in the statute. Other uses that are consistent with Federal or State privacy laws or other pertinent legislation, and that further administration of the program, would also be permitted. This information would be used to determine a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the household's benefits.

New Legislation

As a result of a new legislation, Pub. L. 96-249, the Department proposes to allow verification of eligibility factors based upon information obtained from error-prone profiles. An error-prone profile is the product of a statistical analysis, based on statistically valid data derived from quality control reviews, including audits, or other special studies to identify types of cases (i.e., categories of households) and types of eligibility factors with a high probability of agency or participant error. In its simplest form, a profile is a description of characteriestics which are most strongly associated with errors. With this information, certain cases characterized by one or more features can be singled out for corrective or preventive action.

The use of error-prone profiles as a verification tool is not foreign to the Food Stamp Program. The West Virginia State agency, under the Food Stamp Act of 1964, implemented such a procedure which resulted in a substantial decrease in error rates and a subsequent dollar savings.

Section 116 of Pub. L. 96-249 provides that States "may verify prior to certification, whether questionable or not, the size of any applicant household and any factors of eligibility involving households that fall within the State agency's error-prone household profiles as developed by the State agency from the quality control program undertaken pursuant to section 16 of this Act and as approved by the Secretary" (94 Stat. 361). The proposed rule would allow State agencies to verify, without regard to a determination of questionable status, those factors of eligibility determined by a State's quality control analysis to be statistically subject to high rates of error. This verification would be applied to those categories of households determined to be subject to high rates of error with regard to these particular eligibility factors.

This would not apply to those eligibility factors already subject to mandatory verification or those eligibility factors for which a State option for expanded verification would be provided under these rules. There would be no need for a State to apply to FNS for approval to verify these factors based on an error-prone profile analysis (that is, those now verified on a mandated basis or those allowed at State option), because a State would already be either required or permitted to do so.

Some States have requested, however, that error-prone profile results also be used to permit them to forego verification of particular eligibility factors for particlular categories of households shown to be relatively error-free. Officials from the West Virginia State agency, the State that has experience in successful use of error-prone profiles, have specifically sought this authority. They wish to divert caseworker resources from areas where they are apparently not needed. Accordingly, the proposed rule also allows State agencies to be exempt from requirements to verify eligibility factors other than income, alien status and social security numbers in those instances where a State can show, based on error-prone profile analysis, an extremely low rate of error for specific eligibility factors with regard to particular categories of households. FNS approval would be required when such authority is requested. This provision would not apply to income, alien status, and social security numbers because verification of income is specifically required by the Act; documentation of alien classification is the only feasible means to accurately determine program eligibility; and the use of social security numbers can be an effective measure to conteract fraud and program abuse.

The determination that verification requirements would be modified based on an error-prone profile would have to be applied on a uniform basis. The House Committee Report observes that individual caseworkers would not have discretion over these matters (House Rpt. No. 96-788, 96th Cong., 2nd Sess., p. 97). That would defeat the purpose of using the error-prone profiles. However, this rulemaking proposes allowing application of the error-prone profiles for verification purposes to particular project areas, rather than State-wide, where a State can show that certain eligibility factors are subject to high error rates in those particular localities. For example, the quality control data may show that additional verification of an eligibility factor is necessary in a large city, but not in the rural areas of the same State. Error-prone profiles applied at the project area level must be based on statistically valid data as well. Project areas containing cities may have a large enough caseload that statistically valid conclusions can be drawn just for that project area. The Department believes States should have the flexibility, in a situation such as this, to provide for expanded verification in an error-prone urban area, without burdening recipients and caseworkers in the rest of the State.

The use of error-prone profiles may result in a number of benefits. Corrective actions based on such quantitative data analysis may reduce the rate of case and allotment errors and ensure that food stamp benefits are correctly issued to eligible households, thereby reducing both program and participant loss. Error-prone profiles may enable more effective use of administrative resources by directing those resources to areas where they may be most beneficial. These profiles can assist the eligibility worker by identifying potentially difficult cases at the time of application or recertification, making it possible to take appropriate preventive or corrective action. They can ease the manager's job by locating weaknesses in procedures which require additional training or supervision of the eligibility workers. Finally, error-prone profiles can provide a way of evaluating the effectiveness of specific corrective actions.

If a State agency opted to utilize the error-prone profile in the manner prescribed by the proposed rule, the State agency's request for expanded verification (or for reduced verification) would be subject to FNS approval. This request would be submitted as part of the State corrective action plan as specified in § 275.17.

The statute directs such an approval process. The House Committee Report states: "Each State's profile would, before being applied in this fashion, have to be approved by the Secretary in order to prevent inadvertent discrimination * * * or the creation of overly broad profiles casting the verification net so widely so to cover most eligibility factors affecting a majority of applicant households * * *. The error-prone profile concept is intended to be a selective tool for error control and not a trigger for universal verification" (House Rpt., p. 97).

As the House Committee Report goes on to explain, the Secetary's approval would be needed both for the statistical methodology by which a particular State is constructing its error-prone profile and for the State's actual use of the profile in determining where to apply more intensive verification. The State agency would be expected to demonstrate that the prevalence of a particular type of error is likely due to lack of verification and not some other causal factor that would remain unaffected (and uncorrected) by additional verification. The Committee Report expresses its intention that the Secretary disapprove a request for "mandatory verification of virtually anything showing up on the error-prone profile, even if it was causing overissuances of only a fraction of one percent. The Secretary should closely monitor this area, requiring States to justify their proposals for the items and/or household types that they want to verify as a result of the error-prone profile data through a showing that the proposals are supported by the profile data" (House Rpt., p. 98).

FNS will provide assistance upon request to States agencies in developing the statistical methodology to construct an error-prone profile.

The new legislation also allows State agencies the option of verifying household size, regardless of whether or not it appears questionable, and this proposal reflects that option. Household size is distinguished from other factors involving household composition such as boarder status or whether or not a particular group of individuals customarily purchases and prepares meals together. Existing regulations would remain in place regarding those other factors of household composition (although expanded verification of these factors also could be performed as a result of an error-prone profile). The distinction is directed by the House Committee report. (House Rpt., p. 97).

Notice of Intent

In establishing the verification requirements contained in the October 17, 1978 regulations, the Department had several concerns: (1) That information provided by the applicant be verified to ensure that eligibility and allotments are correctly determined; (2) that an unnecessary amount of effort and administrative costs are not spent verifying information that is normally reported accurately or that does not affect eligibility and allotment levels; (3) that verification standards not impede participation in the program by needy households; and (4) that verification standards are set to ensure national uniformity. Subsequently, the Department received comments indicating that it may be necessary to

make some adjustments in the requirements.

With the implementation of an ongoing quality control system which began on October 1, 1979, some State agencies requested that we make the verification rules used by eligibility workers to determine the eligibility of households for food stamp benefits more consistent with the procedures used by quality control reviewers to measure the accuracy and validity of eligibility determinations.

In addition, some State agencies requested that they be allowed to implement verification requirements in addition to those contained in the October 17, 1978 regulations. These State agencies felt that additional verification requirements could enhance program accountability.

Based on the above concerns voiced by State agencies, the Department published a Notice of Intent on October 12, 1979, concerning the possibility of changing the requirements for verifying information in determining household eligibility for food stamp benefits which are contained in § 273.2 of the Food Stamp Regulations. In response to this Notice, 137 individuals, groups, agencies and organizations submitted comment letters.

With regard to whether verification need to be changed at this time, the comment letters were basically divided into two groups. One group including 7 State and local agencies, and nearly all public interest groups and individual commenters, expressed a general preference of no change or change conditional on evidence that current policy contributed to a high error rate. The second group, including 37 State and local offices, supported increasing verification requirements.

Nearly all public interest groups and individuals opposed any changes in current verification requirements because they believed this would result in harassment of clients and would present a barrier to participation. One group suggested that verification be changed only in areas where known information indicated a problem.

The proposed revisions to verification requirements contained in this rulemaking respond to concerns to strengthen program integrity by providing State agencies more discretion in a number of areas in determining which eligibility factors to verify.

In developing these proposed verification procedures, the Department has sought to achieve a balance among four factors: the reduction of errors, the administrative cost of verification, the effect of verification on program accessibility, and the administrative feasibility of these proposed procedures.

Mandatory Verification

Some commenters pointed out what they believed to be an inconsistency in the current regulations. They noted that identity and residency had to be verified for households applying for expeditied service, but that the current regulations do not specifically state that identity and residency must be verified for other households.

This was not intended as an inconsistency. In promulgating the October 17, 1978 rules, the Department assumed that information attesting to the household's identity and residency would be captured as part of the regular verification process. For example, income stubs and utility bills would contain this information. However, since normal verification may be postponed when an applicant is considered under the expedited service rules, the Department was concerned that without a special effort to verify identity and residency, the accuracy of these items might not be confirmed prior to the issuance of an emergency allotment. Therefore, verification of identity and residency was specifically required in expedited service cases.

To clarify this issue, this rulemaking proposes that identity and residency be added to the list of eligibility factors for which verification is mandatory during regular application processing. This is not intended to result in a change in procedure or need for additional verification, however. Documents that are used to verify other factors should normally suffice to confirm identity and residency, as well. The change is intended principally as clarification.

To this end, the Department wishes to clarify that this modification in verification rules would not establish a durational residency requirement; the provisions of § 273.3 remain intact.

In addition, State agencies would not be allowed to require that applicants produce birth certificates to verify identity. Any document establishing identity would be accepted, in accordance with § 273.2 (f)(4) and (5).

Optional Verification

Presently State agencies may determine when to verify liquid resources or if moneys received by households are loans, so long as those items are, at a minimum, verified when questionable. In comments on the Notice of Intent, State agencies requested more authority and flexibility to determine when to verify other eligibility factors as well. The Department is now proposing to extend significantly the number of factors which States can determine when to verify, so long as verification is conducted at least whenever the item is questionable. Although error-prone profiles will allow States to verify those factors of eligibility subject to high error rates, their true effectiveness cannot be determined at this early stage. Therefore these proposed options may serve as interim methods of verification for State agencies to use until the results of the use of error-prone profiles are analyzed.

First, all shelter costs, except utilities, would be put in the same category as liquid resources and loans for an initial certification. State agencies would determine when to verify these factors, verifying at a minimum when the factors are questionable. Shelter costs constitute major expenses, and a number of commenters believed errors could be reduced significantly by verifying these major expenses. In addition, there are certain types of households (elderly and SSI recipients and those receiving disability payments under Title II of the Social Security Act) which now receive an excess shelter deduction for the entire monthly cost that exceeds 50 percent of the household's monthly net income. By lifting the maximum allowed for the combined dependent care/excess shelter deduction, household eligibility and benefit levels are more sensitive to changes in the amount of shelter costs.

This State option would be on a one-time basis. At subsequent certifications, the State option regarding shelter costs other than utilities, would apply only if the household had moved or reported an increase in the amount of its individual shelter costs such as rent (in which cases those individual shelter costs that had changed could be reverified). Otherwise, these factors would be verified only if questionable. The reason for this is that shelter costs other than utilities, such as rent and mortgage payments, are extremely unlikely to go down. If they have been verified once, and the household has not moved or reported an increase in these payments, there would be no reason to routinely verify these items again unless they were questionable.

The Department is also proposing a new option in the area of utility expenses. The current requirement that State agencies must verify utility expenses that exceed the State's standard utility allowance is being retained. Several commenters requested a State agency option to verify that households claiming the utility standard do indeed incur a utility expense and are entitled to the standard. This suggestion is incorporated in the proposed rule. State agencies would have the option of determining when to verify the existence of bills for one utility to substantiate the household's eligibility for the standard allowance. Those State agencies with separate standards for each utility which choose this option would be able to verify the existence of bills for the heating/cooling utility and one other utility. This option would apply to the fact that the household was incurring bills for a utility, and not of the amount of the utility bill. The utility cost, itself, would be verified only if the household wished to claim expenses in excess of the utility standard and the expense would result in a deduction in accordance with § 273.2(f)(1)(iii). This option would be on a one-time basis unless the household moved or changed its utilities.

The Department also proposes to allow State agencies the option of determining when to verify that a household is incurring a dependent care expense and the amount of that expense. As with shelter costs, this is a major deductible item and can have a significant effect on eligibility and benefit levels. Verification would be on a one-time basis unless the provider or amount has changed.

Finally, as noted previously, this rulemaking would allow State agencies to determine when to verify household size.

Some further elaboration is also necessary on how the State option is intended to work. Some commenters believed that a State's options under current rules are restricted to verifying liquid resources or loans for every household, or verifying only in questionable cases. Some commenters believed that there was no middle ground.

This was not the intention of the October 17, 1978 rulemaking, nor is it the intention of the current rulemaking. States are allowed to determine when to verify these items, without FNS approval, so long as they are at least verified when questionable. A State agency could establish its own standards for the use of verification, so long as its standard is at least as comprehensive as the Department's "questionable" standard and does not allow inadvertent discrimination. State agencies could elect to allow more room for caseworker decisions on when to verify and when not to verify these items so long as all questionable factors are verified.

State agencies could also elect to adopt different verification policies on these factors in different project areas. The determination as to what verification policy will apply at the project area level must be approved at the State level.

In light of the expanded options for State verification, as well as the use of error-prone profiles, the Department is not proposing to change its definition of "questionable" set forth in § 273.2(f)(2). Information on the application is considered questionable if it is inconsistent with statements made by the applicant, inconsistent with information on the application or previous applications, or inconsistent with other information received by the State agency.

The Department did receive a number of comments on this definition. However, the basic theme of many of the comments was to redefine the term to provide States with more flexibility to verify eligibility factors. This goal would be accomplished through the expanded State options and the error-prone profiles.

Moreover, the commenters arrived at no consensus on how to redefine the terms; some suggested changes conflicted with other suggestions, and most suggested changes posed new problems.

The Department believes that tinkering with this definition is not as effective a response to commenters' concern as the other changes included in the proposal.

Regulations published July 8, 1980, (45 FR 46036) which addressed in part, student provisions, and which deleted § 273.2(f)(2)(iii), *Tax Dependency*, did not make any reference to student verification requirements. The Department welcomes comments on this issue.

Sources of Verification

Presently, regulations allow State agencies to use a collateral contact or home visit only when documentary evidence cannot be obtained. Some commenters believed this was too restrictive. The Department is proposing to allow State agencies more flexibility in determining when to use a collateral contact or home visit. States would now be allowed to use a collateral contact or home visit whenever documentary evidence is judged insufficient to make a firm determination of eligibility or benefit levels, as well as whenever documentary evidence cannot be obtained. Documentary evidence may be considered insufficient, for example, when the household presents pay stubs which do not represent an accurate picture of the household's income (such as, out-dated pay stubs). A document presented to establish identity that appears to have been falsified may also be determined insufficient.

Home visits would still need to be scheduled in advance with the household. The House Committee report is unequivocal in this matter, and declares that constitutional protections must continue to be provided. The Report States: "In *Reyes* v. *Edumunds*, 472 F. Supp. 1218, 48 U.S.L. Week. 2078 (D. Minn. 1979), a Federal district court decided that unannounced home visits without advance notice or arrangement for the purpose of investigating welfare fraud complaints contravened the Fourth Amendment as unreasonable searches. Accordingly, the Committee had not changed the status of home visits in current law." House Rpt., p. 98. However, the Department wishes to emphasize that a household may not refuse to allow a home visit. If the State agency attempts to schedule a home visit but a household simply refuses to allow the visit, the household should be denied for refusal to cooperate.

This proposed rule also clarifies that those sources of verification to which the State agency has routine access are not considered collateral contacts and, therefore, do not require the household's consent. This includes the State Data Exchange (SDX) and the Beneficiary Data Exchange (Bendex). Regulations published April 22, 1980 (45 FR 27426) specify that a release statement from the household is not needed provided the State agency makes the appropriate data request to SSA or executes any SDX or Bendex data exchange agreements required by the Social Security Administration. A household's release statement is also not required in those States where a routine access agreement exists with those agencies administering unemployment compensation, public assistance and the like. Pub. L. 96–249 provides the necessary legal foundation for access to a variety of wage, benefit, and other information contained in Social Security Administration files and in files maintained by State unemployment compensation agencies. These provisions will be addressed in a future rulemaking.

Documentation

Four commenters requested that the requirement for documenting in the casefile why an item is considered questionable be dropped. However, documentation as to why an item is questionable and how it was then verified is needed if a reviewer is to determine the reasonableness of the determination and to assure that regulatory requirements on verification are complied with.

This proposed rulemaking would, however, ease the documentation

requirements in two respects. First, as discussed above, States would have options to go beyond the "questionable" determination, in which case, such a determination would not need to be documented. Secondly, the Department proposes to clarify that for documentation purposes State agencies could, at a minimum, indicate where in the casefile the discrepancy exists, and what documentation was required to resolve the questionable information. This should cut down on time spent documenting the "why" and "how" of questionable information. For example, if a discrepancy exists within the case file (e.g. a household reports receipt of alimony in a previous application but does not report any in a new application), the eligibility worker could write a brief statement such as "Page 3 of previous and new applications show alimony discrepancy; contacted ex-spouse who is currently unemployed and cannot make payments."

Changes Resulting in Increased Benefits

Under current regulations, the State agency must act promptly on all changes affecting eligibility or benefit levels that occur during a certification period. In most cases in which the change would result in an increase in benefits, the change must be reflected in the next normal monthly allotment, or a supplementary benefit must be provided in the next month.

Current rules require that in such cases, any required verification must be obtained prior to issuance of the second normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits revert to the original benefit level.

A number of commenters suggested that, in the interests of program integrity, State agencies be allowed to verify these changes before any action need be taken to increase a household's benefits. The Department is incorporating this suggestion. States would be permitted to require households to provide verification within ten days after the date the change was reported to the State agency. If the household did so, the State would have to continue to meet current timeliness standards for reflecting the increased benefits in the household's allotment, as prescribed in § 273.12(c)(1). If the household did not provide verification in time, the State agency would not have to act until the verification was provided. States would also be allowed to continue the current procedure of obtaining verification before the second normal monthly allotment after the change is reported. Whenever a State agency increases a household's benefits to reflect a reported change and subsequent verification shows that the household was actually eligible for fewer benefits, the State agency shall establish a claim for the over-issuance in accordance with § 273.18.

Expedited Service

Some comments indicated misunderstanding of current verification requirements regarding expedited service. These commenters believed that all verification, except verification of idenity and residency, is automatically postponed in all expedited service cases.

This is not what the current regulations envisage. The rules state that: "The household's income statements shall be verified through a collateral contact or readily available documentary evidence whenever it can be done in sufficient time to meet the expedited processing standards. However, benefits shall not be delayed beyond the delivery standard . . . solely because income has not been verified." 7 CFR 273.2(i)(4)(i).

The Department is concerned that some State agencies may be automatically deferring income verification in all expedited cases, even when some verification could be accomplished within the expedited standards. Therefore, this rulemaking proposes to restructure and revise § 273.2(i)(4)(i) to emphasize that State agencies are required to make every effort to verify a household's income statements prior to certifying a household under expedited service, and that the sole acceptable reason for not verifying income statements is that the verification cannot be accomplished within expedited processing standards. This means, for example, that where a State agency can verify a household's income statements in one day, it must not postpone income verification in order to certify the household in one or two hours.

In addition, it has come to the Department's attention that some State agencies are verifying the income statements of a household being processed under expedited service rules only when the household has reported income. The proposed regulations allow State agencies to verify the absence of income as well. For example, a collateral contact could be made to corroborate the household's statement of no income.

The Department has always intended that State agencies may also verify a household's report of no income under regular certification procedures.

The proposed rule specifies that State agencies may verify factors other than identity, residency and income for expedited cases provided that verification can be accomplished within expedited processing standards.

Questions have also arisen as to whether work registration is postponed in expedited service cases. The proposed regulations require that the State agency shall, at a minimum, register the applicant (unless the applicant is either exempt or the household's authorized representative). If other household members are subject to work registration, the regulations propose that these households also be registered prior to certification if this can be done within the expedited processing standards. However, if registration of other household members cannot be accomplished within the expedited processing standards, this shall be postponed. Since work registration forms need not be filled out by the individual who is being registered, the applicant may in some cases be able to complete the work registration forms for other household member(s). The proposed rules would allow State agencies to request the applicant to complete work registration forms for other household members to the best of his or her ability. The State agency could also call the household and request the pertinent information on other household members. A clarification is added to the effect that verification of questionable work exemptions shall be postponed when the expedited timeframes cannot be made.

Resources

One commenter noted that a new vehicle may not be listed in the latest blue book used by a State agency. Language is, therefore, proposed to say that, in those instances, the State agency shall determine the wholesale value through some other means such as contacting a dealer which sells that make of vehicle.

Additional Issues

The Department is requesting comments on the feasibility of providing households in writing, at the conclusion of the interview, with information on what verification is needed to make an eligibility determination. Households would then have a written reminder of what exactly is still needed; this would minimize the chances of the household forgetting what was requested. This would not be an FNS prescribed or approved form. State agencies could provide this written information in whatever form they saw fit.

In summary, the overall impact of the proposals should be to increase States' ability to obtain verification where necessary to improve program integrity. A considerable amount of flexibility would be provided to States to determine which factors of eligibility to verify for which households.

While these proposals would allow State agencies to move verification procedures closer to quality control procedures, it would not make the two sets of procedure the same. Some commenters had asked that the two sets of procedures be synonomous. However, the House Committee Report states that difference in the procedures should be maintained. The Report states:

"Finally, in light of the carefully maintained balance between verification that reduces costly program error and verification that harasses applicants and prevents participation without impacting on error, the Committee does not wish as some States have requested, to equate the certification process with the quality control review procedures so as to require comparable verification and investigation in both. What is useful for detecting systemic error tendencies in the latter would hopelessly clog the program if applied to the former. Similarly, the need for the quality control evidence to highlight operational deficiencies and indicate where extra effort would pay off in program savings argues against any attempt to exclude from error analysis and error rate calculation variances in elements which the State agency was not required to verify as of certification absent questionable information. (House Rept., p. 98).

Implementation

The Department proposes that State agencies implement these verification procedures no later than the first of the month 90 days following the date final regulations are published. States would be permitted, however, to implement these rules as soon as possible after publication in order that effective measures could be taken to reduce errors during the new QC review period.

The Department proposes that Parts 272 and 273 of the Federal Regulations be amended to read as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new subparagraph (22) is added to paragraph (g) of that subsection to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(22) Amendment 179. State agencies shall implement the verification procedures in §§ 273.2, 273.8, and 273.12 no later than the first of the month 90 days following publication of final regulations.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Part 273 is amended as follows:

1. In § 273.2(f):

a. Subparagraph (1) is amended by adding new subparagraphs (vi) and (vii).

b. Subparagraphs (2) and (2)(i) are revised and (2)(iii) is deleted.

c. Subparagraph (3) is revised and new subparagraphs (i) through (vi) are added.

d. Subparagraphs (4)(i) and (iii), (5), and (6), are revised; 4(ii) is amended by adding two sentences at the end.

e. Subparagraph (9)(i) is amended.

2. In § 273.2(i), subparagraph (4)(i) is revised.

The amended provisions read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification* * * *

(1) *Mandatory verification* * * *

* * * * *

(vi) *Residency.* The residency requirements of § 273.3 shall be verified for all households. Verification of residency should be accomplished in conjunction with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity. Documents used to verify other factors of eligibility should normally suffice to verify residency as well. No durational residency requirement shall be established.

(vii) *Identity.* The applicant's identity shall be verified. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school ID, an ID for health benefits or for another assistance or social services program, a voter registration card, wage stubs, or a birth certificate. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document, such as a birth certificate, may be imposed.

(2) *Verification of questionable information.* With the exception of those items specified in paragraph (3) of this subsection which the State agency has opted to verify, State agencies shall verify all other factors of eligibility prior to certification only if they are questionable as indicated in this paragraph and affect a household's eligibility or benefit level. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the State agency. When determining if information is questionable, the State agency shall base the decision on each household's individual circumstances. A household's report of expenses which exceed its income may be grounds for a determination that further verification is required. Additionally, a household reporting no income while still managing its financial affairs could in some instances justify the requirement for additional verification. However, these circumstances shall not, in and of themselves, be grounds for a denial. The State agency shall instead explore with the household how it is managing its finances, whether the household receives excluded income or has resources, and how long the household has managed under these circumstances. Procedures described below shall apply when information concerning one of the following eligibility requirements is questionable:

(i) *Household composition.* With the exception of household size if the State agency opts for more frequent verification of this item in accordance with paragraph (f)(3) of this section, State agencies shall verify factors affecting the composition of a household such as boarder status, if questionable. However, due to the difficulty in verifying whether or not a group of individuals customarily purchases and prepares meals together and, therefore, constitutes a household, State agencies shall generally accept the household's statement regarding food preparation and purchasing.

* * * * *

(iii) [Deleted]

(3) *State agency options.* The State agency may determine when to verify the following items on a uniform basis within a State or project area provided that, at a minimum, these items are verified if questionable as specified in paragraph (2) of this subsection. If these factors are not verified on a uniform basis within a State, the State agency shall approve the verification policies which will be applied at the project area level.

If a State agency opts to verify a deductible expense and obtaining the verification may delay the household's certification, the State agency shall advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. This

provision also applies to the allowance

§ 273.9(d)(6), the State agency may

stubs, rent receipts, and utility bills.

level, or cannot be obtained, the State

verified at recertification unless the

allowed 90 days to obtain the SSN, in

provision also applies to the allowance of medical expenses as specified in subparagraph (f)(1)(iv) of this section. Shelter costs would be computed without including the unverified components. The standard utility allowance shall be used if the household is entitled to claim it and has not verified higher actual costs. If the expense cannot be verified within 30 days of the date of application, the State agency shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense. If the household subsequently provides the missing verification, the State agency shall redetermine the household's benefits, and provide increased benefits, if any, in accordance with the timeliness standards in § 273.12 on reported changes. The household shall be entitled to the restoration of any benefits as a result of the disallowance of the expense only if the expense could not be verified within 30-day processing standard because the State agency failed to allow the household sufficient time, as defined in paragraph (h)(1) of this subsection, to verify the expense. If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in paragraph (h) of this section.

(i) *Liquid resources and loans.* The State agency may verify liquid resources and if monies received by households are loans. When verifying that income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties which indicates that the payment is a loan and must be repaid shall be sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, the State agency may also require that the provider of the loan sign an affidavit which states that repayments are being made or that payments will be made in accordance with an established repayment schedule.

(ii) *Continuing shelter charges.* The State agency may verify those shelter costs as specified in § 273.9(d)(5), other than utilities, if allowing the expense would result in a deduction. For example, for those households subject to a shelter maximum, rent would not be verified if the household's child care expenses exceeded the limit on the combined dependent care/shelter deduction since the amount of the rent could not alter the amount of the deduction.

(iii) *Utility expenses.* For those households entitled to claim the standard utility allowance a specified in § 273.9(d)(6), the State agency may verify that the household actually incurs one utility cost, although the State agency would not verify the amount of the cost. If the State has separate standards for each utility, the State agency may verify that the household actually incurs costs for the heating/cooling utility and one other utility.

(iv) *Dependent care costs.* For those households claiming dependent care costs as specified in § 273.9(d)(4), the State agency may verify that the household actually incurs the costs and the actual amount of the costs, if allowing the expense would actually result in a deduction.

(v) *Household size.* State agencies may verify household size. Other factors involving household composition such as boarder status or whether or not a particular group of individuals customarily purchases and prepares meals together shall not be verified unless questionable in accordance with § 273.2(f)(2)(i) or with prior FNS approval in accordance with paragraph (vi) of this subsection.

(vi) *Error-prone profiles.* The State agency may, with prior FNS approval, require additional verification of other eligibility factors as indicated by error-prone household profiles developed and based on statistically valid data derived from the State agency's quality control review, audits, or other special reviews in accordance with § 275.15(a)(2). These expanded verification requirements would be applied only to those particular eligibility factors and/or households identified as being error-prone, and would apply only on a uniform basis statewide or in one or more project areas. In addition, if the State agency's error-prone household profiles demonstrate that verification of particular eligibility factors (other than gross nonexempt income, declared alien status, and social security numbers) mandated under § 273.2(f)(1) is not needed for particular categories of households, the State agency may, with prior FNS approval, appropriately reduce mandatory verification. FNS must approve both the statistical methodology by which a State agency's error-prone profile is constructed, and the State agency's proposed use of the profile in determining where to apply more intensive (and/or less intensive) verification.

(4) *Sources of Verification.*—(i) *Documentary evidence.* State agencies shall use documentary evidence as the prmary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers appear to be fasified.

(ii) *Collateral contacts.* * * *

Those sources of verification to which the State agency has routine access are not considered collateral contacts, and therefore need not be designated by the household. Examples are the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) and any agency where a routine access agreement exists.

(iii) *Home visits.* Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, and the home visit is scheduled in advance with the household.

* * * * *

(5) *Responsibility for obtaining verification.*

(i) The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The State agency shall accept any reasonable documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application. If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner or the household has presented insufficient documentation, the State agency shall either offer assistance to the household in obtaining the documentary evidence, except as otherwise stated in this section, or shall use a collateral contact or home visit. The State agency shall not require the household to present verification in person at the food stamp office.

(ii) Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, the State agency may require a collateral contact or a home visit. The State agency shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the State agency shall either ask the household to designate another collateral contact or substitute a home visit. The State agency is responsible for obtaining verification from acceptable collateral contacts.

(6) *Documentation.* Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. Where verification was required to resolve questionable information, the State agency shall document why the information was considered questionable, or at a minimum indicate where in the casefile the inconsistency exists, and what documentation was used to resolve the questionable information. The State agency shall also document the reason why an alternate source of verification, such as a collateral contact or home visit, was needed, and the reason a collateral contact was rejected and an alternate requested.

* * * * *

(9) *Verification subsequent to initial certification.*—

(i) *Recertification.* (A) At recertification the State agency shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, medical expenses or actual utility expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section.

(B) Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in 273.2(f)(1)(v).

(C) Unchanged information, other than income, medical expenses, and actual utility expenses shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section. Changes in items other than income, medical expenses or actual utility expenses shall be subject to the same verification procedures as at initial certification. For example, dependent care costs (unless questionable) may be reverified at State option only if the care provider has changed or the amount has changed and the change would affect the level of the deduction. Shelter costs other than utilities may (if not questionable) be reverified only if the household has moved or has reported a change in the amount of individual shelter cost components and the change would affect the level of the deduction. (If the household reports a change in the cost of particular shelter components, only those components that have changed may be reverified). A household's eligibility to claim the standard utility allowance may be reverified (unless questionable) only if the household has moved or changed utilities.

* * * * *

(i) *Expedited Service.* * * *

* * * * *

(4) *Special procedures for expediting service.*

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f) except that (A) the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence as specified in paragraph (f)(1) of this subsection, and (B) all reasonable efforts shall be made to verify the household's income statement (including a statement that the household has no income) within the expedited processing standards, through collateral contacts, or readily available documentary evidence. However, benefits shall not be delayed beyond the delivery standards prescribed in paragraph (i)(3) of this subsection, solely because income has not been verified. State agencies also may verify factors other than identity, residency, and income provided that verification can be accomplished within expedited processing standards. Households entitled to expedited service shall not be required to furnish or apply for a social security number until after they have received their first allotment. However, those households shall be required to furnish an SSN before their next issuance in accordance with subdivision (iii) of this subparagraph. Those households unable to provide the required SSN's or who do not have one prior to their next issuance shall be allowed 90 days to obtain the SSN, in accordance with § 273.6(a)(2). With regard to the work registration requirements specified in § 273.7, the State agency shall, at a minimum, require the applicant to register (unless exempt or unless the household has designated an authorized representative to apply on its behalf in accordance with § 273.1(f)). Other household members' work registration shall be postponed if it cannot be accomplished within the expedited service timeframes. the State agency may request that the applicant complete the work registration forms for other household members to the best of his or her ability. The State agency may also attempt to accomplish work registration for other household members in a timely manner through other means, such as calling the household. In addition, verification of questionable work registration exemptions shall be postponed if the expedited service timeframes cannot be met.

* * * * * *

3. In § 273.8, a new sentence is added to the end of paragraph (g) and reads as follows:

§ 273.8 Resource eligibility standards.

* * * * * *

(g) *Fair market value of licensed vehicles.* * * * If a new vehicle is not yet listed in the blue book, the State agency shall determine the wholesale value through some other means (e.g., contacting a new car dealer which sells that make of vehicle).

4. In § 273.12, subparagraph (c)(1)(iii) is revised as follows:

§ 273.12 Reporting changes.

* * * * * *

(c) *State agency action on changes.* * * * (1) *Increase in benefits.*

* * * * * *

(iii) The State agency may elect to verify changes which result in an increase in a household's benefits in accordance with the verification requirements of § 273.2(f)(9)(ii), prior to taking action on these changes. If the State agency elects this option, it must allow the household 10 days from the date the change is reported to provide verification required by § 273.2(f)(9)(ii). If the household provides verification within this period, the State agency shall take action within the timeframes specified in subparagraphs (i) and (ii) of this paragraph. If the household provides the required verification at a later date, the timeframes specified in subparagraphs (i) and (ii) shall run from the date verification is provided rather than from the date the change is

V 45 A G 12 80 UMI

reported. If the State agency does not elect this option, verification required by § 273.2(f)((9)(ii) must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If in these circumstances the household does not provide verification, the household's benefits will revert to the original benefit level. Whenever a State agency increases a household's benefits to reflect a reported change and subsequent verification shows that the household was actually eligible for fewer benefits, the State agency shall establish a claim for the overissuance in accordance with § 273.18. In cases where the State agency has determined that a household has refused to cooperate as defined in § 273.2(d), the State agency shall terminate the household's eligibility following the notice of adverse action.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catology of Federal Domestic Assistance Program No. 10.551 Food Stamps)

Dated: August 7, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-24359 Filed 8-11-80; 8:45 am]

BILLING CODE 3410-30-M

Reader Aids

Federal Register

Vol. 45, No. 157

Tuesday, August 12, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202–523–5240.

Federal Register, Daily Issue:

202–783–3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202–523–5022	Washington, D.C.
312–663–0884	Chicago, Ill.
213–688–6694	Los Angeles, Calif.
202–523–3187	Scheduling of documents for publication
523–5240	Photo copies of documents appearing in the Federal Register
523–5237	Corrections
633–6930	Public Inspection Desk
523–5227	Index and Finding Aids
523–5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523–3419	
523–3517	
523–5227	Index and Finding Aids

Presidential Documents:

523–5233	Executive Orders and Proclamations
523–5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523–5266	Public Law Numbers and Dates, Slip Laws, U.S.
–5282	Statutes at Large, and Index
275–3030	Slip Law Orders (GPO)

Other Publications and Services:

523–5239	TTY for the Deaf
523–5230	U.S. Government Manual
523–3408	Automation
523–4534	Special Projects
523–3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167–51538.....1
51539–51754.....4
51755–52138.....5
52139–52354.....6
52355–52768.....7
52769–53074.....8
53074–53436.....11
53437–53800.....12

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139
12232.....53437

Proclamations
4776.....51539
4777.....53075
4778.....53439
4779.....53441
4780.....53443
4781.....53445

Administrative Orders:

Memorandums:
July 31, 1980.....51169–51174

5 CFR
297.....52769
410.....51755
581.....53447
Ch. XIV.....51541

Proposed Rules:
339.....53481
359.....51214
432.....53481
752.....53481
831.....53481
930.....53485

6 CFR
705.....51175
706.....51541, 52769

7 CFR
2.....52355
210.....51175
245.....52770
272.....53448
273.....53448
301.....51176
319.....53449
331.....51755, 53450
722.....51755
908.....52356
910.....51177, 52771
916.....53450
917.....51179, 53450
921.....51180
922.....53451
924.....51180
926.....52772
946.....52141
948.....51182
958.....52141
967.....52143
1137.....51542
1427.....53077
1446.....51756
2853.....51757

Proposed Rules:
29.....51572
272.....51216, 53792
273.....51216, 53066, 53792
301.....52816
404.....51573
431.....53486
722.....52817
800.....52339
910.....53487
985.....51818
1464.....51579
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR
264.....52143

Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR
78.....52772
92.....52773

Proposed Rules:
94.....52818
317.....53002
318.....51832
381.....53002

10 CFR
110.....51184
212.....52112
430.....53488
445.....51763
456.....53434
500.....53682
501.....53682
504.....53682

Proposed Rules:
205.....51833
378.....51581
430.....53714
456.....53422
500.....53368
503.....53368
504.....53368
505.....53368
506.....53368

11 CFR
100.....52356
110.....52356

12 CFR
7.....53080
201.....52144
220.....53452

Proposed Rules:
Ch. I.....52186
Ch. II.....51581

303.....52819
309.....52819
525.....52173
541.....52173, 52177
545.....52173, 52177
561.....52177
563.....52173, 52177

13 CFR

101.....51763, 53081

14 CFR

39.....51543–51548, 52357, 53081, 53084, 53086
71.....51546, 53086–53090
91.....51547
97.....52358
121.....51547
127.....51547
135.....51547
201.....53453
207.....53358
208.....53363
211.....53453
212.....53364
214.....53365
241.....53366
375.....51838
385.....53454
374a.....53453

Proposed Rules:

Ch. I.....53161, 53162
39.....53162
45.....53163
71.....51587–51590, 52396, 53163
73.....51591
75.....52396
121.....53316
135.....53316
207.....53488
208.....53488
212.....53488
214.....53488
255.....52820

15 CFR

378.....53090

Proposed Rules:

19.....51592

16 CFR

13.....52776, 52778, 53455
305.....53340
436.....51763, 51765
455.....52750
1019.....53036

Proposed Rules:

13.....51593, 51596
239.....51838
705.....51218

17 CFR

7.....51520

Proposed Rules:

1.....51598
4.....51600

18 CFR

2.....53091, 53099
154.....53091
270.....53091, 53099
271.....53099
277.....53116
282.....52359
292.....52779
375.....53456

Proposed Rules:

271.....51219
273.....51219
274.....51219
301.....51614

19 CFR

353.....52780
571.....52365

Proposed Rules:

Ch. I.....51490

20 CFR

404.....52078
416.....52078

Proposed Rules:

Ch. II.....51615

21 CFR

172.....51766
175.....51184
176.....51767
193.....51768, 53457, 53458
520.....52781
558.....53457
884.....51185, 51186

Proposed Rules:

Ch. II.....51832, 52397
101.....53023
600.....52821
606.....52821
610.....51226
660.....51226

22 CFR

Proposed Rules:

Ch. II.....53164–53182

23 CFR

31.....00000
657.....52365
658.....52365

Proposed Rules:

625.....51720
652.....51720
663.....51720

24 CFR

203.....51769, 51770
207.....51769, 51771
213.....51771
220.....51769, 51770
221.....51770, 51771
222.....51770
226.....51770
235.....51770
279.....51510
571.....51516
590.....52762
869.....52371
885.....51186
1710.....52144

Proposed Rules:

570.....51227
865.....51228
866.....51615
886.....51228
888.....51228
889.....51229

25 CFR

Proposed Rules:

171.....53164
172.....53164
173.....53164
177.....53164
182.....53164

26 CFR

1.....52373, 52782
26.....53123
26a.....51771
48.....52800
54.....52782

Proposed Rules:

1.....52399, 52824
26.....51840

27 CFR

Proposed Rules:

Ch. I.....51496
19.....52407
70.....52407
240.....52407
245.....52407
250.....52407
270.....52407
275.....52407

28 CFR

0.....52145
31.....53772

Proposed Rules:

Ch. I.....51506, 51832
16.....52183
50.....52183

29 CFR

11.....51187
40.....51192
102.....51192
1625.....51547
1952.....51775, 53457
1999.....51187
2520.....51446
2550.....51194

Proposed Rules:

Ch. XIV.....51229
2520.....51231, 52824
2530.....51231, 52824
2550.....51231, 51840

30 CFR

Ch. VII.....51547, 52834
211.....53128
762.....52375
800.....52306
801.....52306
805.....52306
806.....52306
807.....52306
808.....52306

Proposed Rules:

Ch. VII.....52407, 52408, 53180
250.....52408
700.....52410
701.....52410
715.....53183
732.....53489
784.....51240
816.....53183
817.....51240, 53183
884.....53489
926.....53489

31 CFR

341.....53
346.....53

32 CFR

763.....51776
853.....52800
888d.....52145

33 CFR

117.....51550
161.....53135
165.....53158
207.....51551, 51555
401.....52376

Proposed Rules:

117.....51617, 51618

34 CFR

64.....53412, 53414
709.....53788

Proposed Rules:

100.....52052

36 CFR

Proposed Rules:

7.....51618
1202.....51843

37 CFR

304.....51197

38 CFR

21.....51777

39 CFR

Proposed Rules:

111.....51846

40 CFR

35.....51484, 53382
51.....52676
52.....51198, 51199, 52148, 52676, 53460, 53475, 53476
81.....53147
86.....53400
122.....52149
124.....52676
180.....51200, 51781, 51782, 53477, 53478

Proposed Rules:

6.....53187
35.....53187
52.....51619, 51620, 52184, 52834, 52841, 53490, 53491
81.....52841
162.....52628
164.....52628
167.....52184
169.....52184
180.....51854
406.....52411
410.....52185
717.....51855

41 CFR

Ch. 101.....51201, 53149

Proposed Rules:

101–17.....52842

42 CFR

57.....51201, 51205
58.....51209, 51556
405.....51783
455.....51559

Proposed Rules:

51.....53492
72.....51241
460.....53189
461.....53189

43 CFR

4100.....53154
8351.....51740

Proposed Rules:

2560.....52303

Public Land Orders:

5742.....51787
5743.....51787
5744.....51788
5745.....52382
5746.....52382
5791.....53155

44 CFR

64.....52383
65.....51212, 51788, 52384
67.....51213, 51559, 51789, 51796
205.....53334
322.....53479

Proposed Rules:

6.....51426
67.....51855–51858, 52416, 52417, 52422, 52427

45 CFR

121i.....52130
121o.....52130
121p.....52130
121q.....52130
121r.....52130
801.....52800
1050.....53155
1060.....51561
1480.....52782

Proposed Rules:

121q.....52136
190.....51243

46 CFR

30.....52386
61.....52386
151.....52386

47 CFR

Ch. I.....52389
13.....52154
22.....52149
68.....52151
73.....51561–51563, 52152, 52800, 52801, 53156
74.....51563
76.....52153
81.....52154
83.....52154
87.....52154
90.....51811
97.....51564

Proposed Rules:

Ch. I.....51251
2.....51251, 51252
15.....51251
21.....51252
73.....51624, 52843, 52845, 52846, 52848
74.....51252
94.....51252

48 CFR

Proposed Rules:

9.....51253

49 CFR

571.....51569, 53157
941.....52389
1002.....51213, 52158, 52802
1003.....51213, 52158
1033.....51812–51815, 52158, 52160, 52161, 52803, 53157
1045A.....51213, 52158
1056.....51213, 52158
1062.....51213, 52158
1100.....51213, 52158
1130.....51213, 52158
1150.....51213, 52158
1309.....52161
1310.....52161

Proposed Rules:

398.....51625
571.....51626, 51628
1080.....53190
1102.....51858
1116.....52186

50 CFR

17.....52803, 52807
26.....52391
32.....52392, 52393
285.....53479
652.....53480
653.....52810

Proposed Rules:

13.....52849
17.....52849, 53495
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254, 53500
655.....51254
661.....51861

V 45 A G 12 80 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago, inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 7, 1980

V 45 AG 12 80 UMI

V
4
5

A
G
1
2
8
0
UMI

NOW AVAILABLE

V
4
5
A
G
1
2
8
0
UMI

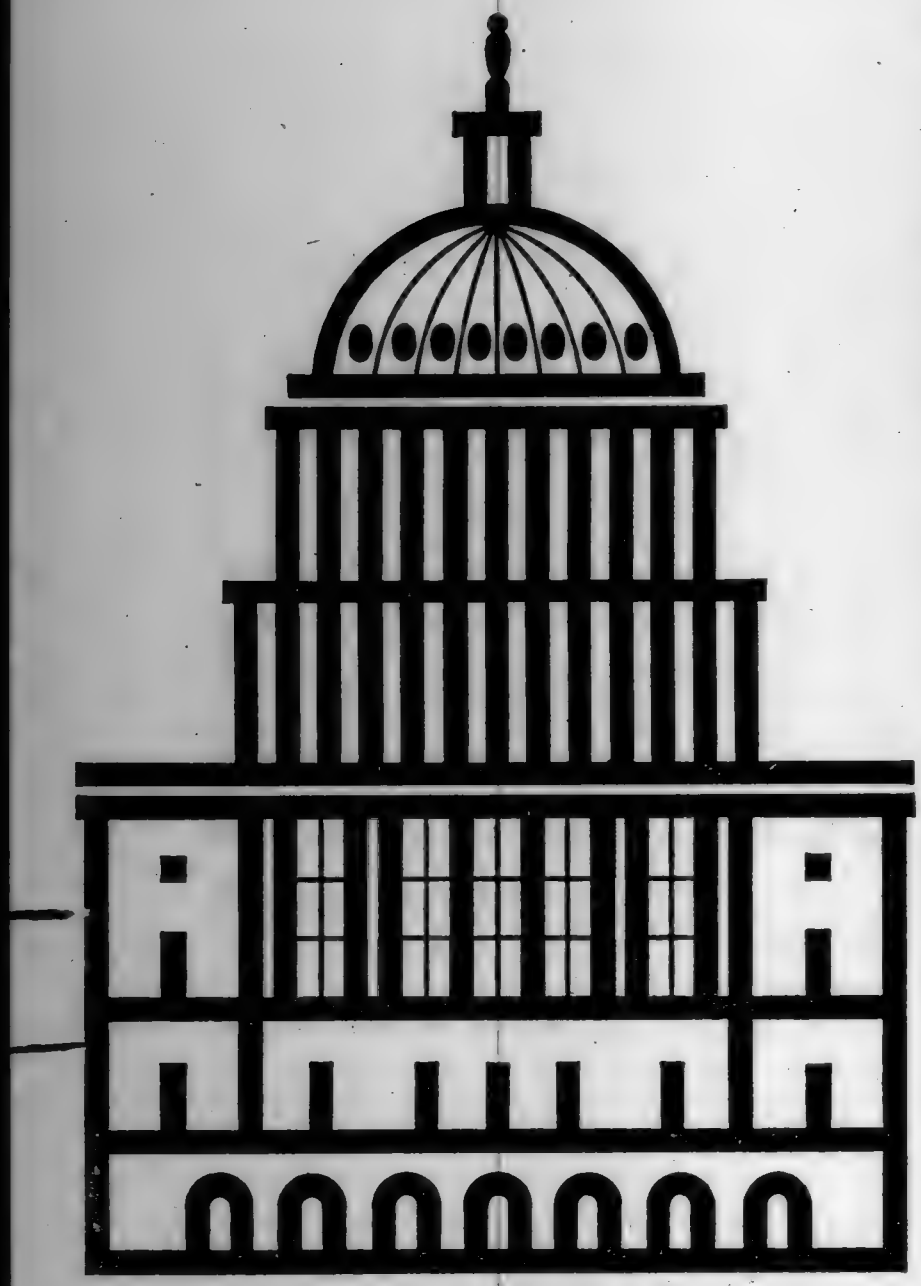

NOW AVAILABLE

1979-1980 United States Government Manual

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies, international organizations in which the United States participates, and boards, committees, and commissions.

For those citizens interested in where to go and who to see about a subject of particular concern, the *Manual* provides the "Guide to Government Information" section, a reference to an agency's statement of organization in the *Federal Register* or *Code of Federal Regulations*, and comprehensive name, subject, and agency indexes. Particularly helpful is each agency's "Sources of Information" section, which provides addresses and telephone numbers for obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

$7.50 per copy

ORDER FORM Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check,
☐ money order, or charge to my
Deposit Account No.
☐☐☐☐☐☐☐–☐

Order No._____

VISA

master charge

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me _____ copies of the **United States Government Manual**, 1979/80, at $7.50 per copy. Stock No. 022-003-00982-5

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		

8-13-80
Vol. 45 No. 158
Pages 53801-54008

federal register

Wednesday
August 13, 1980

Highlights

53839 **Mobile Homes** FTC announces availability of staff report regarding evidence in rulemaking proceeding on warranty service in mobile home industry; comments by 10-14-80

53806 **Housing** HUD/FHC grants Secretary authority to waive certain provisions of section 235 of the National Housing Act; effective 9-13-80

53807 **Home Improvement** VA authorizes Veterans purchasing homes with VA guaranteed loans to secure additional funds for energy-saving improvements at the time of acquisition; effective 8-6-80

53807 **Veterans** VA clarifies "Medical Series" of regulations to state that claims made under a grant prior to the effective date of the grant of service connection will not be paid; effective 8-6-80

53956 **Disaster Assistance** FEMA revises regulations concerning public assistance; for declarations of major disasters or emergencies made after 9-12-80 (Part II of this issue)

53844 **Radio** FCC proposes to allow the use of bio-medical telemetry radio transmisions on frequencies in 150 MHz band in Special Emergency Radio Service; comments by 9-15-80; reply comments by 9-30-80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

54004 **Education** ED publishes final regulations for nonprofit organization grants under the Emergency School Aid Act (Part VIII of this issue)

53996 **Education** ED issues regulations for Territorial Teacher Training Assistance Program (Part VI of this issue)

54000 **Teachers' Education** ED proposes rules for Pre-College Teacher Development in Science Program; comments by 9–12–80 (Part VII of this issue)

53877 **Continental Shelf** Interior/GS publishes proposed notice to lessees and operators concerning produced oil and gas exempt from royalty requirements; comments by 9–12–80

53840 **Oil and Gas Exploration** Interior/GS proposes to amend its regulations relating to royalty requirements on outer continental shelf leases; comments by 9–12–80

53856 **Computer Technology** Commerce/NBS issues notice providing specific guidance concerning technical interface implementation approaches

53972 **Foreign Government** DOE intends to implement certain provisions governing acceptance of gifts and travel; effective 8–13–80 (Part IV of this issue)

53853 **Antidumping** Commerce/ITA issues early determination of antidumping duties for portable electric typewriters from Japan; effective 8–13–80

53841 **Civil Rights** ED invites comments on proposed FY 1981 Annual Operating Plan; comments by 9–29–80

53835 **Small Businesses** SBA proposes rules to implement section 503, Development Company Program; comments by 9–12–80

53842 **Cancer** EPA extends comment period to 8–12–80 on proposed policy and procedures for identifying, assessing and regulating carcinogens emitted into ambient air from stationary sources

53856 **Commercial or Industrial Activities** Commerce/MA intends to conduct cost comparisons

53941 **Sunshine Act Meetings**

Separate Parts of This Issue

53956 **Part II, FEMA**
53968 **Part III, Interior/FWS**
53972 **Part IV, DOE**
53982 **Part V, Interior/FWS**
53996 **Part VI, ED**
54000 **Part VII, ED**
54004 **Part VIII, ED**

Contents

Federal Register
Vol. 45, No. 158
Wednesday, August 13, 1980

Agricultural Marketing Service
RULES
53801 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Soil Conservation Service.

Alaska Natural Gas Transportation System, Office of Federal Inspector
NOTICES
53850 Western delivery system, legal status; statement of policy and enforcement authority delegation

Arts and Humanities, National Foundation
NOTICES
Meetings:
53851 Design Arts Panel

Civil Aeronautics Board
NOTICES
Hearings, etc.:
53851 American Trans Air, Inc.
53852 Spanish Main International Airlines
53852 Yucatan service case

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
53852 District of Columbia
53852 North Dakota

Civil Rights Office, Education Department
NOTICES
Organization and functions:
53858 Annual operating plan for 1981 FY; inquiry

Commerce Department
See International Trade Administration; Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
53801 Grain, etc.

Economic Regulatory Administration
NOTICES
Consent orders:
53860 Blarney Castle Oil Co.

Education Department
See also Civil Rights Office, Education Department.
RULES
54004 Emergency school aid; nonprofit organization grants
53996 Territorial teacher training assistance program
PROPOSED RULES
53841 Nondiscrimination on basis of national origin in federally-assisted programs; limited English proficiency students, equal access (Lau regulations); hearings
54000 Science program; pre-college teacher development; support to colleges, universities and nonprofit institutions

Energy Department
See also Economic Regulatory Administration.
RULES
53972 Foreign gifts, decorations, and travel, acceptance by department employees; policies

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
53809 Tennessee
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
53842 Airborne carcinogens, identification, policies and procedures; and carcinogenic organic chemical sources, generic standards, extension of time
NOTICES
Air programs; fuel and fuel additives:
53861 Conservation Consultants of New England, Inc.; waiver application; denial
Toxic and hazardous substances control:
53867 Premanufacture exemption applications
53866 Premanufacture notices receipts

Equal Employment Opportunity Commission
NOTICES
53941 Meetings; Sunshine Act

Federal Communications Commission
RULES
Radio stations; table of assignments:
53821 Texas
Television stations; table of assignments:
53818 California
PROPOSED RULES
Frequency allocations and radio treaty matters:
53843 One-way paging stations in domestic public mobile radio and private land mobile radio services; comment deadline stayed
Radio broadcasting:
53843 Class II daytime-only AM stations; increase in presunrise broadcasting; extension of time
Radio services, special:
53844 Bio-medical telemetry operations; transmission of vital life signs for diagnosis and prescribed treatment
NOTICES
Hearings, etc.:
53868 American Telecasters, Inc., et al.
53870 Bradley, Hand, & Triplett, et al.
53871 Cleveland Television Corp. et al.
53872 Radio Lubbock, Inc., et al.

Federal Emergency Management Agency
RULES
Disaster assistance:
53956 Public assistance; eligibility determinations; guidelines and policies

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
53806 Home ownership and project rehabilitation, waiver provision

Federal Mine Safety and Health Commission
NOTICES
53941 Meetings; Sunshine Act (2 documents)

Federal Reserve System
NOTICES
Applications, etc.:
53873 B. P. Corp.
53874 Century Banks, Inc.
53874 Kanawha Investment Co.
53875 Peoples Bancshares of Belleville, Inc.
53875 Southeast Banking Corp. et al.
53875 Southwest Bancshares, Inc.
53875 Wamego Bancshares, Inc.
53941 Meetings; Sunshine Act

Federal Trade Commission
PROPOSED RULES
53839 Mobile home sales and warranty service; staff report
NOTICES
Premerger notification waiting periods; early terminations:
53876 British Petroleum Ltd.

Fish and Wildlife Service
RULES
Endangered and threatened species:
53968 Osgood Mountains milk-vetch; emergency rule
PROPOSED RULES
Migratory bird hunting:
53982 Late season regulations; frameworks

Geological Survey
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
53840 Oil and gas, unavoidable discharges; exemption from royalty payments
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
53877 Oil and gas, unavoidable discharges; exemption from royalty payments; notice to lessees and operators (NTL); inquiry

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department

Health and Human Services Department
See also National Institutes of Health.
RULES
53806 CFR Chapter nomenclature changes to reflect Health, Education, and Welfare Department redesignation as Health and Human Services Department

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Interior Department
See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; Surface Mining Office.
NOTICES
53877 Senior Executive Service Performance Review Board; membership

International Trade Administration
NOTICES
Antidumping:
53852 Countertop microwave ovens from Japan; extension of time
53853 Portable electric typewriters from Japan

International Trade Commission
NOTICES
Import investigations:
53922 Animal identification tags from New Zealand
53923 Apparatus for continuous production of copper rod
53923 Coin-operated audio visual games and components
53924 Steel wire nails from Korea

Interstate Commerce Commission
RULES
Practice and procedure:
53827 Rail carriers; common carrier status of States, State agencies and instrumentalities, and political subdivisions
Railroad car service orders; various companies:
53824 Chicago, Rock Island & Pacific Railroad Co.
53826 Kansas City Southern Railway Co.
53824 Norfolk & Western Railway Co.
PROPOSED RULES
Rail carriers:
53846 Minimum rates; interpretation of statutory provisions; extension of time
NOTICES
Motor carriers:
53879 Intercorporate hauling; proposed policy statement; discontinuance
53880 Lease and interchange of vehicles
53880, 53882, 53888 Permanent authority applications (3 documents)
53880 Permanent authority applications; correction (2 documents)
53907 Temporary authority applications
53915 Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, gateways, and pack and crate

Railroad services abandonment:
53922 Chicago & North Western Transportation Co.

Land Management Bureau
NOTICES
Withdrawal and reservation of lands, proposed, etc.:
53878, 53879 Oregon (2 documents)

Legal Services Corporation
NOTICES
53930 Grants and contracts; applications

Maritime Administration
NOTICES
Procurement:
53856 Commercial or industrial activities; cost comparison reviews

National Bureau of Standards
NOTICES
Information processing standards, Federal:
53856 I/O channel level interface standards; technical verification guidance

National Institutes of Health
NOTICES
Meetings:
53876 Cancer Institute, National; advisory committees (2 documents)
53877 Cancer Panel, President's

National Labor Relations Board
NOTICES
53941 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
53831 Foreign fishing; Bering Sea and Aleutian Islands groundfish; reserve amounts apportionment
53832 Salmon, commercial and recreational; off Wash. and Oreg.; catch limit reduction
PROPOSED RULES
Fishery conservation and management:
53847 Foreign fishing; Northeast Pacific Ocean; Pacific whiting domestic annual harvest
NOTICES
Marine mammal permit applications, etc.:
53857 American Cetacean Society; correction
Meetings:
53857 Coastal Zone Management Advisory Committee

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
53834 Staff proposals and advance notice of proposed rulemaking; denial of petition
NOTICES
Applications, etc.:
53930 Commonwealth Edison Co. et al.
53930 Kansas Gas & Electric Co. et. al.; republication
53931 Philadelphia Electric Co. et al.
53933 Providence Hospital
53931 Public Service Co. of New Hampshire et al.
53931 Export/import of nuclear facilities or materials; license applications
53932 International Atomic Energy Agency codes of practice and safety guides; availability of draft and inquiry
53933 Mixed oxide fuel; International Nuclear Fuel Cycle Evaluation (INFCE); inquiry
53936 Regulatory guides; issuance and availability of errata
Rulemaking petitions:
53936 Gulf Nuclear, Inc.; denial of petition

Ohio River Basin Commission
NOTICES
Environmental statements; availability, etc.:
53938 Allegheny River Basin

Postal Rate Commission
NOTICES
53941 Meetings; Sunshine Act

Securities and Exchange Commission
NOTICES
53942 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
53938 Municipal Securities Rulemaking Board
Self-regulatory organizations; unlisted trading privileges:
53940 Boston Stock Exchange, Inc.
53940 Philadelphia Stock Exchange, Inc.

Small Business Administration
PROPOSED RULES
53835 Loans to State and local 503 development companies, financing requirements

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
53848 Cawaco Resource Conservation and Development Area Critical Area Treatment RC&D Measures, Ala.
53848 Cross Creek Township Park Critical Area Treatment RC&D Measure, Penn.
53848 Forbes Flood Prevention RC&D Measure, N. Dak.
53849 Putnam County Park Critical Area Treatment RC&D Measure, W. Va.
53849 Sistersville High School Land Drainage RC&D Measure, W. Va.
53850 Williamson-French Creek Fisherman Access RC&D Measure, W. Va.

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States:
53841 Alabama
53839 Kentucky

Veterans Administration
RULES
Loan guaranty:
53807 Home acquisition and improvement loans; energy saving improvements or repairs and loan reporting requirements
Medical benefits:
53807 Claims filing

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
53851 Design Arts Panel (Design Demonstration), 9–3 and 9–4–80

CIVIL RIGHTS COMMISSION
53852 District of Columbia Advisory Committee, 9–9–80
53852 North Dakota Advisory Committee, 8–25–80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
53857 Coastal Zone Management Advisory Committee, 8–21 and 8–22–80

HEALTH AND HUMAN SERVICES DEPARTMENT
National Institutes of Health—
53876 Bladder and Prostatic Cancer Review Committee, 9–22–80
53876 Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee), 9–8 and 9–9–80
53876 Board of Scientific Counselors, Division of Cancer Cause and Prevention, 9–29 and 9–30–80
53876 Cancer Research Manpower Review Committee, 9–25 and 9–26–80
53876 Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee), 9–3 through 9–5–80
53876 National Cancer Advisory Board Working Group on Board Activities and Agenda, 8–28–80
53877 President's Cancer Panel, 8–29–80

HEARINGS

COMMERCE DEPARTMENT
International Trade Administration—
53852 Countertop microwave ovens from Japan, 9–30–80

EDUCATION DEPARTMENT
53841 Nondiscrimination under programs receiving Federal Assistance through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964, September hearings

INTERNATIONAL TRADE COMMISSION
53922 Animal identification tags from New Zealand, 8–22–80
53923 Certain coin-operated audio visual games and components thereof; 8–25–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

HOUSING
Mobile homes, warranties; Federal Trade Commission; Proposed Rules

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
908 53801
1421 53801

10 CFR
1050 53972

Proposed Rules:
2 53834

13 CFR

Proposed Rules:
108 53835

16 CFR

Proposed Rules:
441 53839

20 CFR
Ch. III 53806

24 CFR
235 53806

30 CFR

Proposed Rules:
Ch. VII 53839
250 53840
924 53841

34 CFR

Proposed Rules:
100 53841
797 54000

38 CFR
17 53807
36 53807

40 CFR
52 53809

Proposed Rules:
61 53842

41 CFR
3 53806

42 CFR
Ch. I 53806
Ch. III 53806
Ch. IV 53806

44 CFR
205 53956

45 CFR
Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
151 53996
185 54004

47 CFR
73 (2 documents) 53818, 53821

Proposed Rules:
2 53843
22 53843
73 53843
90 (2 documents) 53843, 53844

49 CFR
1033 (3 documents) 53824, 53826
1120A 53827

Proposed Rules:
Ch. X 53846

50 CFR
17 53968
611 53831
661 53832

Proposed Rules:
20 53982
611 53847

V 45 A G 13 80 UMI

V 45 A G 13 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 158
Wednesday, August 13, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 640, Amdt. 3]

Valencia Oranges Grown in Arizona and Designated Part of California; Amendment of Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment suspends during the period August 8, 1980, through September 4, 1980, the maximum size requirement of 3.41 inches in diameter for fresh shipments of Valencia oranges grown in Arizona and designated part of California. The maximum size requirement remains in effect during the period September 5, 1980, through January 31, 1981. This action is necessary to provide markets with ample supplies of acceptable sizes of fruit to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." This amendment is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

Valencia Orange Regulation 640 (§ 908.940; 45 FR 23638; 38339; 45573), during the period April 11, 1980, through January 31, 1981, limits shipments of Valencia oranges grown in Arizona and a designated part of California to oranges not smaller than 2.32 inches in diameter. It also requires that such oranges be not larger than 3.41 inches in diameter during the period August 8, 1980, through January 31, 1981. The amendment suspends this latter requirement during the period August 8, 1980, through September 4, 1980.

This amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Valencia oranges. It is designed to assure an ample supply of acceptable sizes of Valencia oranges to consumers consistent with the size composition of the crop.

It is further found that there is insufficient time between the date when information became available upon which this amendment is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The amendment relieves restrictions on the handling of Valencia oranges and will not require any special preparation by persons subject thereto which cannot be completed by the effective time.

Therefore, § 908.940(b) Valencia Orange Regulation 640 (45 FR 23638; 38339; 45573) is amended to read as follows: (§ 908.940 expires January 31, 1981, and will not published in the annual Code of Federal Regulations).

§ 908.940 Valencia Orange Regulation 640.

(a) * * *

(b) During the period September 5, 1980, through January 31, 1981, no handler shall handle any Valencia oranges grown in Districts 1, 2, or 3 which are of a size larger than 3.41 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure larger than 3.41 inches in diameter.

(c) * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 8, 1980, to become effective August 8, 1980.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–24498 Filed 8–12–80; 8:45 am]
BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations Governing the Grain Reserve Program for 1980 and Subsequent Crops and Alternative Program for 1980 and Prior Crops]

CCC Grain Price Support Grain Reserve Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this document is to announce changes in the regulations which govern the Farmer-Owned Grain Reserve Program. The changes (1) implement the new reserve program for feed grains and food quality wheat, (2) decrease the release level for wheat, (3) decrease the call level for wheat, and (4) removes the provision which provided for the waiver for the first year's interest on corn which enters the reserve. The action is being taken in response to the President's announcement on July 28, 1980, of higher loan rates for 1980 crops and revision of reserve release and call levels. Release and call levels for feed grains remain the same as under the current reserve program.

DATES: This regulation shall become effective upon the date of filing with the Director, Office of the Federal Register (August 8, 1980).

ADDRESSES: Director, Price Support and Loan Division, ASCS, USDA, Room

3741–S, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harold L. Jamison, ASCS, (202) 447–7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "signficant". The emergency nature of this action warrants publication of this final action without completion of a Draft Impact Analysis. A Final Impact Statement will be developed after public comments have been received.

Jerome F. Sitter, Director, Price Support and Loan Division, ASCS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period of this final action because oats and sorghum in the existing farmer-owned reserves are in call status and farmers are not permitted to enter oats and sorghum into the existing reserves. Implementation of the new reserve will offer farmers an opportunity to place oats and sorghum in the new reserve if prices remain below the call levels for oats and sorghum in the new reserve.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments will be received for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Title Grain Reserve Program, Number 10.067 from Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Generally, the existing grain reserve program, as well as the new program implemented by this final rule, provide for the extension of farm storage and warehouse storage loans. Under either reserve program, when the release level is reached, a producer may redeem the applicable commodity without payment of liquidated damages. Also, when the reserve loan is called, the producer must redeem or forfeit such commodity. Release and call levels under both programs are tied to the national average loan rate for each commodity eligible for the reserve program. Loan rates for these commodities are determined by the Secretary for price support purposes in accordance with the provisions of the Agricultural Act of 1949, as amended.

Since the national average price support loan rate for wheat was increased from $2.50 to $3.00 per bushel, decreasing the release level for wheat to 140 percent will permit a farmer with wheat in the new reserve to repay the reserve loan, without penalty, when the national average market price for wheat reaches a lower level than provided for in the existing reserve which has a wheat release level of 150 percent.

Subsection 1421.673 provides for establishing a new reserve when market prices drop below call level after a prior reserve has been called.

Subsection 1421.678 is changed to provide that some wheat which is eligible for regular price support loan may not enter the reserve. Wheat which enters the reserve must be food quality wheat.

All reserve loan agreements approved prior to the effective date of this new program will remain subject to the program regulations governing the applicable reserve program. However, producers with such prior grain reserve agreements could be permitted to enter the new program by executing new agreements.

Final Rule

Accordingly, the regulations at 7 CFR part 1421 are amended by adding a new "Subpart-Regulations Governing the Grain Reserve Program for 1980 and Subsequent Crops and Alternative Program for 1980 and Prior Crops" to read as follows:

Subpart—Regulations Governing the Grain Reserve Program for 1980 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

Sec.

1421.670 General statement.
1421.671 Eligible commodities and length of loans.
1421.672 Limit on reserve quantity.
1421.673 Program availability.
1421.674 Eligibility requirements.
1421.675 Applicability of the general regulations governing price support for the 1978 and subsequent crops.
1421.676 Warehouse receipts.
1421.677 Quantity eligible for grain reserve loans.
1421.678 Quality eligibility requirements of reserve grain.
1421.679 Storage rates.
1421.680 Storage payments.
1421.681 Interest rates.
1421.682 Commingling and replacement of grain.
1421.683 Release levels, redemption requirements, and early redemption charges.
1421.684 Maturity.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); sec. 110, 91 Stat. 951, as amended (7 U.S.C. 1445e).

Subpart—Regulations Governing the Grain Reserve Program for 1980 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

§ 1421.670 General statement.

(a) The regulations in this subpart set forth the terms and conditions for the reserve program which provides for the extension of farm storage and warehouse storage loans (hereinafter called "grain reserve loan(s)") on eligible commodities as provided in § 1421.671. Farm storage grain reserve loans will be evidenced by notes and secured by security agreements, grain reserve agreements, and in certain cases, chattel mortgages or financing statements. Warehouse storage grain reserve loans will be evidenced by notes, security agreements, and grain reserve agreements and secured by the pledge of warehouse receipts representing an eligible commodity in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) To participate in the grain reserve program a producer must request and enter into a grain reserve agreement with the local county ASCS office. Such agreement shall be for a period of time specified in § 1421.671. Storage payments will be paid to the producer annually during the period of the grain reserve agreement for the time the commodity is eligible to earn storage payments. Producers may redeem commodities under the Grain Reserve Program without repaying earned storage when the national average market price reaches the release level, as determined pursuant to § 1421.683. All wheat loans in the grain reserve and all loans on any feed grain in the reserve will be called when the national average market price of such wheat or feed grain reaches the call level pursuant to § 1421.683.

§ 1421.671 Eligible commodities and length of loans.

(a) *Eligible commodities.* Subject to such limitations on quantity as may be provided in accordance with § 1421.672, wheat and feed grain shall be eligible for the grain reserve.

(b) *Length of reserve agreements.* Reserve agreements shall be for a period of not less than three years nor more than five years.

§ 1421.672 Limit on reserve quantity.

An unlimited quantity of feed grains may be stored under this program. The quantity of wheat will not be less than 300,000,000 nor more than 700,000,000 bushels, except that such maximum quantity may be adjusted by the Secretary pursuant to an international agreement containing provisions relating to grain reserves. Notice of such adjustments will be published in the **Federal Register.**

§ 1421.673 Program availability.

Producers with farm or warehouse-stored wheat or feed grain under CCC loan (hereinafter called "regular loan(s)") may participate in the Grain Reserve Program anytime a reserve is in effect for their commodity. The program will be available when announced by USDA press release, but availability will end when the reserve for a commodity is called. A subsequent reserve for a called commodity will be established when the national average market price determined according to § 1421.683(a) has fallen below the call level. The subsequent reserve will be announced by USDA press release. A called commodity loan may only enter a new reserve program under the provisions of § 1421.683(b). A producer desiring to participate in the Grain Reserve program shall file a request to participate at the county ASCS office which disbursed the regular loan. An approved cooperative marketing association shall request a grain reserve loan at the county ASCS office which disbursed the regular loan or at its servicing agent bank which disbursed the regular loan.

§ 1421.674 Eligibility requirements.

(a) *Producer.* A producer shall be eligible to participate in this program if such producer has an eligible commodity under a regular loan or has an eligible commodity under a purchase agreement which is converted into a regular loan.

(b) *Commodities.* Eligibility of producers to place designated wheat and feed grains into the reserve program will be on a first come, first served basis. After the quantities of wheat established pursuant to § 1421.672 have been accomplished, the program will be suspended to new applicants.

§ 1421.675 Applicability of the general regulations governing price support for the 1978 and subsequent crops.

Provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, published at 44 FR 2353, corrected at 44 FR 6351, and any amendments thereto (hereinafter referred to as "General Regulations") which are not inconsistent with provisions of this subpart shall apply to grain reserve loans.

§ 1421.676 Warehouse receipts.

(a) *General.* Warehouse receipts tendered to CCC under this program must meet all of the requirements of this section and any other requirements contained in the regulations in this subpart, the General Regulations, and the applicable commodity supplement.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder.

(c) *Requirements.* Warehouse receipts must: (1) be issued by an approved warehouse, (2) represent a commodity which is deemed to be stored commingled, (3) be negotiable, (4) cover the eligible commodity actually in storage in the warehouse of original deposit, except that warehouse receipts may be issued by another warehouse if the eligible commodity was reconcentrated under a "Reconcentration Agreement and Trust Receipt" approved by CCC, (5) be registered or recorded with appropriate State of local officials when required by State law, and (6) show that storage charges have been paid through the end of first year of the grain reserve agreement or the producer must provide evidence that storage charges have been paid or otherwise provided for through the end of the first year of the grain reserve agreement.

(d) *Where a warehouseman is also owner.* If the warehouse receipt is issued for a commodity which is owned by the warehouseman, either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on their own commodity is invalid, the warehouseman may offer such commodity to CCC for loan only if such warehouse is licensed and operating under the U.S. Warehouse Act.

§ 1421.677 Quantity eligible for grain reserve loans.

(a) *Farm-stored.* The quantity eligible for grain reserve loan is the measured quantity covered by the regular loan, as determined by the county committee.

(b) *Warehouse-stored.* The quantity eligible for grain reserve loan is the quantity shown on the warehouse receipt or the supplemental certificate, if applicable, which secured the regular loan.

§ 1421.678 Quality eligibility requirements of reserve grain.

Quality will be determined according to the Official United States Standards for Grain, Federal Grain Inspection Service (FGIS), U.S. Department of Agriculture.

(a) *Feed grains.* Feed grains which enter the reserve must meet the quality eligibility requirements for securing a regular CCC price support loan.

(b) *Wheat.* Wheat which enters the reserve must be merchantable for food and meet the quality eligibility requirements for securing a regular CCC price support loan. The wheat must: (1) not contain mercurial compounds, toxin-producing molds or other substances poisonous to man or animals, (2) not grade Ergoty or Treated, (3) not grade Weevily, (4) not grade Smutty, and (5) not grade Garlicky.

(c) *Farm-stored grain.*

(1) Prior to approval of a grain reserve farm-stored loan, the commodity will be inspected by a representative of the county committee and the agreement will not be approved unless it is determined on the basis of such inspection that (i) the commodity is such that it can reasonably be expected to be stored with safety until maturity of the loan, and (ii) the commodity meets the quality eligibility requirements as described above in subparagraphs (a) and (b). If the loan inspector questions the eligibility of the commodity, a sample shall be drawn and submitted to FGIS for quality analysis.

(2) The producer is responsible for maintaining the quality and quantity of the farm-stored grain. Farm-stored grain which is delivered to CCC must meet the quality eligibility requirements specified in subparagraphs (a) and (b) above. CCC may reject the delivery of farm-stored grain which does not meet the quality eligibility requirements, in which case the producer shall repay to CCC the loan principal, plus interest, plus unearned storage payments. If CCC accepts the delivery of the ineligible commodity, the producer shall repay to CCC the loan principal, plus interest, plus unearned storage payments, less the settlement value of the commodity

as determined in accordance with the settlement procedures specified in 7 CFR 1421.22.

§ 1421.679 Storage rates.

(a) Producers will be paid per annum storage payments at the initial rate of 26½ cents per bushel for wheat, barley and corn, 20 cents per bushel for oats, and 47.32 cents per hundredweight for sorghum. Such rates may be changed from time to time by announcement in a separate notice published in the **Federal Register** but will not be less than (1) 26½ cents per bushel for wheat, barley and corn, (2) 47.32 cents per hundredweight for sorghum, and (3) 20 cents per bushel for oats.

(b) When storage is computed for less than one year, appropriate daily rates announced in the **Federal Register** will be used, which will not be less than (1) .0726 cents per bushel for wheat, barley and corn, (2) .1296 cents per hundredweight for sorghum, and (3) .0548 cents per bushel for oats. Annual storage payments shall be adjusted and paid in accordance with provisions outlined in § 1421.680.

§ 1421.680 Storage payments.

(a) *Time.* Storage payments shall be paid annually in advance on the date the grain reserve agreement is approved and each anniversary date thereafter, except storage payments will not be made in any State when storage earning has been stopped according to § 1421.680(b) in the State where the grain is stored. If CCC subsequently determines that the price in the State where the grain is stored has dropped below the release level, storage payments will be made for the balance of the year. Second or third year storage payments will not be made to producers having grain reserve warehouse loans until the producers furnish written evidence that at least the next year's storage payment has been paid to the warehouseman or provided for with the warehouseman. If the producer fails to provide written evidence within a reasonable period of time, the county office shall call such loans, and if the loan is not repaid or evidence that that storage has been paid is not furnished, within 10 days after such call, title to the commodity shall vest in CCC on the eleventh day and the producer shall be considered to have voluntarily forfeited his commodity to CCC and shall be subject to the voluntary forfeiture provisions of § 1421.683(d).

(b) *Storage payment units.* Storage payments for farm-stored grain reserve loans shall be based on the regular loan quantity transferred to the reserve, except that such payments can be based on the quantity measured for reserve loan when such measured quantity is more than the regular loan quantity.

(c) *Storage credit.* Storage credit for less than one year will be computed on a daily basis.

(d) *Eligible storage credit.* Storage credit shall be allowed for the duration of the loan, except that no storage credit shall be earned between the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the release level and the date of a subsequent announcement by CCC that the market price is again below the release level. However, notwithstanding the above exception, storage credits will continue to be earned by farmers if their State's mid/month average price received by farmers where the grain is stored (as announced by the Economics, Statistics, and Cooperatives Service) is less than such State's average loan level, plus the difference between the national average loan rate and the release level. Any unearned storage will be subtracted from any future storage payments or will be collected when the loan is redeemed or forfeited to CCC.

(e) *Unearned storage.* No storage payment shall be earned if the producer (1) has made any false representation in the loan documents in obtaining the loan or in settlement of the loan, (2) makes an unauthorized disposition of the commodity with intent to defraud CCC, (3) abandons the commodity, or (4) negligently or otherwise impairs the commodity.

§ 1421.681 Interest rates.

(a) Each grain reserve loan shall bear interest during the first year of the agreement at the rate recorded on the regular loan document or such lower rate as may be later announced in a separate notice(s) published in the **Federal Register.**

(b) The loans shall not bear interest after the first year.

§ 1421.682 Commingling and replacement of grain.

(a) *Commingling.* In the case of farm storage, grain in the grain reserve may, with prior written approval of the county committee, be commingled with other eligible or ineligible grain from the same or any other crop year and of the same class if (1) the county committee gives prior written approval of such commingling, and (2) the county ASCS office inspects and measures the grain prior to commingling at the producer's expense.

(b) *Replacement.* Grain in the reserve may, with prior written approval of the county committee, be replaced with other grain of the same kind and equal value produced by the borrower if (1) the county committee gives prior written approval of such replacement, (2) the grain to be used for replacement is in storage on the farm or the county committee has authorized removal of the reserve grain to licensed storage before replacement according to § 1421.682(c), (3) the county committee inspects and measures the grain replacing the reserve grain at the producer's expense before removal of the reserve grain, and (4) the county committee determines that the grain to be used for replacement is of a quality equal to or better than the grain in storage in the grain reserve program. Removal of farm-stored grain in the grain reserve program without prior written approval will be considered unauthorized removal.

(c) *Licensed storage.* The producer may be authorized to move the grain in the Grain Reserve Program to licensed warehouse storage before replacement if, (1) prior to the movement of grain, a written request to do so is filed in the county office, (2) approval of the county committee is granted in writing, (3) the county ASCS office inspects and measures the grain at the producer's expense prior to removal, and (4) the grain is moved to licensed storage within 30 days after approval is granted and an endorsed negotiable warehouse receipt is deposited in escrow with the County Executive Director. The producer shall agree to remain liable for all charges incident to the storage of the grain in the warehouse and the United States in no way shall be liable for such charges. Whenever the grain which is used to replace the grain covered by the warehouse receipt held in escrow is in farm storage and the county office has determined by inspection and measurement that there is sufficient quantity in storage an the quality is equal to or better than the grain represented on the warehouse receipt, the warehouse receipt shall be returned to the person who deposited it. Whenever, a producer does not place grain in acceptable farm storage as provided herein prior to maturity of the grain reserve agreement, the producer's interest in the grain represented by the warehouse receipt, held in escrow by the County Executive Director, shall transfer to CCC.

(d) *Release for sale or livestock feed.* The producer may be authorized to move farm-stored grain in the Grain Reserve Program for delivery to a buyer for sale or for livestock feed thirty days before the producer intends to have replacement stocks in place if (1) prior to the movement of the grain, a written request to do so is filed in the county office, (2) approval of the county committee is granted in writing, (3) the county ASCS office inspects and measures the grain at the producer's expense prior to removal, (4) the grain released for livestock feed will be fed to the producer's own livestock, and (5) an inspection, at the producer's expense, of the unharvested crops indicates there will be sufficient eligible unencumbered production of equal or better quality to replace the reserve commodity.

§ 1421.683 Release levels, redemption requirements, and early redemption charges.

(a) *General.* Commodities under grain reserve loans shall not be eligible for redemption without the producer incurring liability for liquidated damages unless the national average market price as determined and announced by CCC is at least 140 percent of the then current national average loan rate in the case of wheat and 125 percent of the then current national average loan rate in the case of feed grains (hereinafter called the release level). The national average market price for each commodity, except barley, will be considered by CCC to have reached the release level when the five-day national average price for the respective commodity at major markets published by the Agricultural Marketing Service, adjusted downward to reflect prices received by farmers by the difference between (1) and mid-month prices published by the Economics, Statistics and Cooperative Service for the respective commodity for the previous month, and (2) the average mid-month price for the same month at major markets published by the Agricultural Marketing Service, equals or exceeds the release level for the respective commodity. The national average market price for barley will be considered by CCC to have reached the release level when the five-day average price for barley published by the Agricultural Marketing Service for the major market which serves the area where the majority of the barley in the reserve is stored, adjusted downward to reflect prices received by farmers by the difference between (i) the mid-month price published by the Economics, Statistics and Cooperatives Service for feed barley for the previous month in the are where the majority of the barley in the reserve is stored, and (ii) the average mid-month price for barley published by the Agricultural Marketing Service for the same month at the major market which serves the area where the majority of the barley in the reserve is stored, equals or exceeds the release level for barley. However, if CCC determines that the trend in such wheat or feed grains (including barley) prices is downward, release may not be authorized. Producers will be advised when the market reaches this release level for any such commodity and that their loans are eligible for redemption without an early redemption charge. Such determinations shall be made and announced by CCC and shall be applicable until a subsequent announcement is made. When the release level is reached for a commodity, the intial release period shall be for the remainder of the month in which release is announced plus the next month. Subsequent announcements to continue or discontinue release will be made at the end of the initial or subsequent release period. Subsequent announcements to continue release will be for the month following the preceding release period. If a subsequent announcement shows that the market price is below the applicable release level, the terms of the reserve agreement and the regulations which are applicable prior to release shall again apply and the commodity will not be eligible for redemption without an early redemption charge.

(b) *Call level.* The national average market price shall be detemined to be at the call level when the national average market price is at least 175 percent for wheat of the then current national average loan rate or 145 percent of the than current national average loan rate for feed grains.

(1) CCC will determine that the national average market price is at call level and will call the loans when the moving average AMS market price as determined in the same manner as prescribed for release levels in § 1421.683(a) is at or above such level for five consecutive market days. If the loan is not redeemed within 90 days after notification, CCC may take title to the commodity.

(2) Nothwithstanding any provision of this subpart, with respect to loans called under paragraph (c)(1) of this section, the Secretary may provide producers the options of (i) delaying their date for settlement of such loans for a period of 30 days and such additional 30-day periods as determined necessary by the Secretary in areas where the Secretary determines conditions exist which disrupt orderly marketing of the commodity under loan, and (ii) entering the unsettled loan into a subsequent reserve loan program if during the 90-day settlement period the national average market price of the loan commodity falls below the release level applicable to the loan commodity.

(c) *Redemption or voluntary forfeiture.* Redemption or voluntary forfeiture of a commodity when the national average market price for the commodity is below the release level.

(1) For conditions other than emergency release as provides in paragraph (c)(2), if a producer redeems the commodity prior to CCC announcing that the release level has been reached, such producer will be required to repay as liquidated damages, the higher of the loan principal, plus interest, plus all storage payments, plus interest, or 140 percent of the producer's then current loan rate in the case of wheat or 125 percent of the producer's then current loan rate in the case of feed grains. If a producer voluntarily forfeits the commodity prior to CCC announcing that the release level has been reached, such producer shall be required to repay all storage payments, plus interest and, as liquidated damages, the difference between the amount which would otherwise be due on the loan is redeemed at such time and 140 percent in the case of wheat or 125 percent in the case of feed grains of the producer's then current loan rate.

(2) *Emergency release.* In the case of warehouse-stored loans, if it is determined by CCC that storage space is no longer available and approved in-line storage for wheat, sorghum and barley cannot be found, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments. In the case of farm-stored loans, if it is determined by CCC that there is insect infestation which cannot be controlled, the commodity is subject to damage by flood or fire, there is damage to the structure, the producer has lost control of the storage structure, or the commodity is going out of condition, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and retain earned storage payments.

§ 1421.684 Maturity.

Grain reserve loans mature and are due and payable on the last day of the 36th calendar month after the later of (a) the day the regular loan matured, or (b) the last day of the 36th month following the month in which the grain reserve agreement is approved, except, when the grain reserve loan is an extension of the unmatured regular loan, the grain reserve loan matures and is due and payable on the last day of the 36th month following the month in which the grain reserve agreement is approved.

Signed at Washington, D.C., on August 8, 1980.

Bob Bergland,

Secretary.

[FR Doc. 80-24464 Filed 8-8-80; 4:56 pm]

BILLING CODE 3410-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Chapter III

41 CFR Part 3

42 CFR Chapters I, III, and IV

45 CFR Subtitle A and Chapters II, III, and XIII

Nomenclature Changes

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: This document makes nomenclature changes in Titles 20, 41, 42, and 45 of the Code of Federal Regulations. The Department of Education Organization Act removes the education functions from the Department of Health, Education, and Welfare and redesignates that department as the Department of Health and Human Services, effective May 4, 1980. These changes are necessary to keep the Code Federal Regulations current by reflecting recent statutory changes.

EFFECTIVE DATE: May 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Bergstrom, Room 706E, HHH Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201, Telephone: 202-245-6733.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 5, 1980 (45 FR 29642), the Department of Health and Human Services announced the redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services, in accordance with the Department of Education Organization Act of 1979 (Pub. L. 96-88), effective May 4, 1980. Nomenclature changes to Title 21 were made by the Food and Drug Administration, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), in the June 17, 1980 edition of the **Federal Register** (45 FR 40976). These amendments are technical and involve no substantive change in any program. Therefore, we find that a notice of proposed rule making and public comment are unnecessary and that there is good cause not to have a delayed effective date. Therefore, under the authority of the Department of Education Organization Act of 1979, the Code of Federal Regulations is amended by changing "Department of Health, Education, and Welfare" to "Department of Health and Human Services" and "HEW" to "HHS" wherever they appear in the following CFR units:

1. Title 20, Chapter III
2. Title 41, Part 3
3. Title 42
4. Title 45, Subtitle A and Chapters II, III, and XIII.

(Sec. 509, Pub. L. 96-88, 93 Stat. 695 (20 U.S.C. 3508))

Dated: August 5, 1980.

Joan Z. Bernstein,

General Counsel.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-24490 Filed 8-12-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 235

[Docket No. R-80-855]

Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation; Waiver Provision

AGENCY: Department of Housing and Urban Development (HUD), Office of Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This rule will provide the Secretary of Housing and Urban Development with discretionary authority to waive, subject to statutory limitations, any provision in the Section 235 regulations in any case where it is determined that good cause exists for such action.

EFFECTIVE DATE: September 13, 1980.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, DC 20410. Telephone: (202) 755-6720 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The Section 235 regulations presently do not contain a provision authorizing case waivers of the regulations' requirements. In the past this has resulted in disapprovals of worthwhile and unique proposals to provide much needed housing for lower income families which could have met all applicable statutory requirements. The regulations for the Section 8 program contain a waiver provision, specifically 24 CFR 899.101(a), which has permitted needed flexibility in the administration of that program. Therefore, it has been determined that the Section 235 regulations should be amended to include a similar waiver provision.

It has also been determined that prior notice and public procedure in regard to this rule are unnecessary because the rule will promulgate a minor technical provision intended to facilitate program administration within existing legal requirements. Moreover, early effectiveness of this rule is necessary since a waiver provision may be needed to facilitate processing during the remainder of the current Fiscal Year.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, Part 235 of Chapter II, 24 CFR is amended by adding a new section as follows:

§ 235.3 Waivers.

Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this Part. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

Authority: The provisions of this Part 235 issued under Sections 211, 235, National Housing Act, as amended; 12 U.S.C. 1715b, 1715z; and Section 7(d) Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Issued at Washington, DC, August 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-24371 Filed 8-12-80; 8:45 am]

BILLING CODE 4210-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Timely Filing of Claims for Payment

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) has amended its "Medical Series" of regulations to clarify the present regulation on timely filing of claims to include that payment of claims will not be made for medical care received prior to the effective date of the grant of service connection.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Fleckenstein (202-389-3785).

SUPPLEMENTARY INFORMATION: On pages 7268 and 7269 of the **Federal Register** of February 1, 1980, proposed amendments were published to §§ 17.82, 17.84 and 17.85, Title 38, Code of Federal Regulations. Interested persons were given 30 days to submit comments, suggestions or recommendations regarding the proposed regulations. No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Approved: August 6, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 17.82 [Amended]

1. Section 17.82 is amended by deleting the word "his" and adding the word "his/her".

§ 17.84 [Amended]

2. Section 17.84 is amended by deleting the words "Veterans Administration hospital" and inserting the words "Veterans Administration facility" in paragraph (a); by deleting the words "Veterans Administration Hospital" and inserting the words "Veterans Administration Medical Center" in paragraph (c); and by deleting the words "Veterans Administration Center" and inserting the words "Veterans Administration Medical and Regional Office Center" in paragraph (e).

3. In § 17.85, paragraph (b) is revised to read as follows:

§ 17.85 Timely filing.

Claims for payment or reimbursement of the expenses of medical care or services not previously authorized must be filed within the following time limits:

* * * * *

(b) In the case of care or services rendered prior to a Veterans Administration adjudication allowing service connection, a claim must be filed within 2 years of the date of notification of such allowance of an original or reopened claim for service connection of the disability for which treatment was rendered, except payment will not be made for any care rendered prior to the effective date of the grant of service connection or more than 2 years prior to filing the original or reopened claim for service connection which resulted in allowance, whichever is later, or

* * * * *

[FR Doc. 80-24385 Filed 8-12-80; 8:45 am]

BILLING CODE 8320-01-M

---

38 CFR Part 36

Loan Guaranty; Acquisition and Improvement Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations to authorize veterans purchasing an existing home with a VA guaranteed loan to secure additional funds for energy-saving home improvements or other alterations, improvements or repairs at the time of home acquisition. These regulations will assist veterans to make their homes more energy efficient, to save valuable fossil fuel resources, and to protect the veteran's investment in the home by lowering monthly utility bills.

The VA also is amending its regulations to authorize lenders to report closed loans for guaranty at any time within 60 days following full disbursement of the loan. These amendments are for the purpose of liberalizing loan reporting requirements through extension from 30 to 60 days the time within which a loan must be reported to the VA for loan guaranty. It is expected that these amendments will reduce paperwork for program participants and the VA by eliminating the majority of late reported loans.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, D.C. 29420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The VA is amending the home loan (§ 36.4300 series) regulations to authorize VA guaranty of loans which include funds for simultaneous acquisition and improvement of existing homes. These amendments make it possible for a veteran purchasing an existing home to finance the installation of energy conserving improvements at the time of home acquisition. For example, improvements may include insulation, storm windows, a heat pump, solar energy water heating equipment or solar heating and/or cooling equipment. A veteran may make other desired alterations, improvements or repairs such as the addition of a bathroom or the modernization of a kitchen.

The addition of § 36.4301(c) provides a new definition entitled "Acquisition and Improvement Loan." The amendments to § 36.4303(a) delete the requirement that home loans processed on the automatic basis may not be guaranteed until the improvements have been completed. The amendment to § 36.4301(n) authorizes lenders to place the portion of the loan funds for improvements in an escrowed or earmarked account pending completion of the home improvements. The amendments to §§ 36.4301(n) and 36.4303(a) therefore, allow acquisition and improvement loans to be guaranteed on the automatic basis once the loan has been closed, title to the property has been properly acquired and the improvement funds satisfactorily escrowed or earmarked. Similarly, the amendments to §§ 36.4301(n) and 36.4303(d) authorize loans closed on the prior approval basis to be guaranteed after the loan has been properly closed, title to the property properly acquired, and the improvement funds placed in an escrowed or earmarked account. In addition, amendments to § 36.4312(d)(6) authorize the veteran to pay the discount on that portion of the loan which is for energy conservation improvements or other alterations, improvements or repairs. Since a majority of VA guaranteed loans are sold to secondary market investors, VA lenders usually require discounts in order to sell the loan on the secondary market. A lender making a VA loan and selling it on the secondary market will require the discount on the entire loan amount. However, the seller of an existing property probably will be unwilling to pay the loan discount on the improvements portion of the loan. Thus, the amendment to § 36.4312(d)(6) authorizes the veteran to pay the loan discount on the improvement portion of the loan provided it does not exceed the

percentage of discount paid by the seller on the acquisition portion of the loan.

Amendments also are adopted to §§ 36.4303 (a), (d), and 36.4335 to allow lenders to report either automatic or prior approval loans for guaranty within 60 days following full loan disbursement. Previously, loans had to be reported to the VA within 30 days of full disbursement in order to be eligible for loan guaranty. A substantial number of loans were reported "late" or over 30 days after full loan disbursement, but were otherwise eligible for guaranty. Lenders reporting loans late must request a waiver which must be accepted by VA, and the waiver appropriately documented in the VA loan file. A very large number of loans are reported within 60 days of full loan disbursement. These amendments will mean that such loans are no longer late reporting thereby eliminating time consuming waivers. The amendments should have the beneficial effect of reducing paperwork for both program participants and the VA.

A technical clarifying amendment also is adopted to § 36.4303(b), and an amendment is adopted to § 36.4303(f) to delete an obsolete proviso.

These amendments were published as proposed regulations in the **Federal Register** on January 21, 1980 (45 FR 3926). Five comments were received concerning the amendments to establish an acquisition and improvement home loan program. All five comments were favorable; however, one commentator expressed concern that veterans would use improvement funds to install heat pump heating and cooling systems when more efficient heating systems are available. We expect the commentator's concern to be solved by normal market forces in which a majority of people will attempt to purchase the most efficient heating and cooling systems depending upon the fuel sources available. Therefore, no amendment to the proposed acquisition and improvement regulations is necessary. No comments were received concerning the change in the late reporting requirements or the technical amendments to other regulations.

Finally, a technical clarifying amendment is adopted to § 36.4312(d)(6)(iv) to conform the VA regulations to a longstanding VA policy. When a refinancing loan or other loan in which the veteran may pay the discount is approved, a VA certificate of commitment is issued specifying a maximum discount which the lender may charge the veteran. Current VA policy requires that only the Chief Benefits Director or the Director, Loan Guaranty Service, as delegated by the Administrator, may authorize an increase in the loan discount payable by the veteran on such loans after the date the certificate of commitment is issued. Previously, § 36.4312(d)(6)(iv) delegated this authority to several officials including officials at the field station level. Section 36.4312(d)(6)(iv) therefore, is amended to conform the regulations to the VA policy and to authorize only the Chief Benefits Director and the Director, Loan Guaranty Service to increase the loan discount maximum payable by a veteran on loans in which certificates of commitments have previously been issued.

These amendments are adopted under authority of sections 210(c), 1803(c)(1), 1810(a)(1), (4) and (7) of title 38, United States Code.

Accordingly, the proposed regulations are hereby adopted and are set forth below.

Approved: August 6, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 36.4301, paragraph (c) is added and paragraph (n) is revised so that the added and revised material reads as follows:

§ 36.4301 Definitions.

* * * * *

(c) "Acquisition and improvement loan." A loan to purchase an existing property which includes additional funds for the purpose of installing energy conservation improvements or making other alterations, improvements, or repairs. (38 U.S.C. 1803(c)(1), 1810(a)(1), (4), and (7))

* * * * *

(n) "Full disbursement." Payment by a lender of the entire proceeds of a loan or the purposes described in the report of the lender in respect of such loan to the Administrator either—

(1) By payment to those contracting with the borrower for such purposes, or

(2) By payment to the borrower, or

(3) By transfer to an account against which the borrower can draw at will, or

(4) By transfer to an escrow account, or

(5) By transfer to an earmarked account if

(i) The amount thereof is not in excess of 10 percent of the loan, or

(ii) The loan is an Acquisition and Improvement loan pursuant to § 36.4301(c), or

(iii) The loan is one submitted by a lender of the class specified in 38 U.S.C. 1802(d) or 1815(a). (38 U.S.C. 1803(c)(1))

* * * * *

2. Section 36.4303 is amended as follows:

(a) By deleting "if the application of the veteran to a lender for such loan was made on or after September 15, 1956," in the last sentence of paragraph (f).

(b) By revising paragraphs (a), (b) and (d) to read as follows:

§ 36.4303 Reporting requirements.

(a) With respect to loans automatically guaranteed under 38 U.S.C. 1803(a)(1) evidence of the guaranty will be issuable to a lender of a class described under 38 U.S.C. 1802(d) if the loan is reported to the Administrator within 60 days following full disbursement, and upon the certification of the lender that:

(1) No default exists thereunder which has continued for more than 30 days;

(2) Except for acquisition and improvement loans as defined in § 36.4301(c), any construction, repairs, alterations, or improvements effected subsequent to the appraisal of reasonable value, and paid for out of the proceeds of the loan, which have not been inspected and approved upon completion by a compliance inspector designated by the Administrator have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based, and any deviations or changes of identity in said property have been approved as required in § 36.4304 concerning guaranty or insurance of loans to veterans;

(3) The loan conforms otherwise with the applicable provisions of 38 U.S.C. ch. 37 and of the regulations concerning guaranty or insurance of loans to veterans. (38 U.S.C. 1803(c)(1))

(b) Loans made pursuant to 38 U.S.C. 1815 although not entitled to automatic insurance thereunder may, when made by a lender of a class described in 38 U.S.C. 1802(d)(1), be reported for issuance of an insurance credit or a certificate of commitment as provided in paragraph (a) of this section. (38 U.S.C. 1802(d), 1815)

* * * * *

(d) A certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty or insurance upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 60 days thereafter of a supplemental report showing that fact and—

(1) The identity of any property purchased therewith,

(2) That all property purchased or acquired with the proceeds of the loan has been encumbered as required by the

regulations concerning guaranty or insurance of loans to veterans,

(3) Except for acquisition and improvement loans as defined in § 36.4301(c), any construction, repairs, alterations, or improvements paid for out of the proceeds of the loan which have not been inspected and approved subsequent to completion by a compliance inspector designated by the Administrator have been completed properly in full accordance with the plans and specifications upon which the original appraisal was based and that any deviations or changes of identity in said property have been approved as required by § 36.4304, and

(4) That the loan conforms otherwise with the applicable provisions of 38 U.S.C. ch. 37 and the regulations concerning guaranty or insurance of loans to veterans. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4312, paragraph (d)(6)(i)(B) and (iii) is revised and paragraph (d)(6)(iv) is added so that the added and revised material reads as follows:

§ 36.4312 Charges and fees.

* * * * *

(d) The following schedule of permissible fees and charges shall be applicable to all Veterans Administration-guaranteed or insured loans:

* * * * *

(6) Allowable discounts.

(i) The veteran borrower subject to the limitations set forth in this paragraph, may pay a discount required by a lender when the proceeds of the loan will be used for any of the following purposes:

* * * * *

(B) To repair, alter or improve a dwelling owned by the veteran pursuant to 38 U.S.C. 1810(a) (4) or (7);

* * * * *

(iii) A veteran may pay the discount on an Acquisition and Improvement loan (as defined in § 36.4301(c)) provided:

(A) The veteran pays no discount on the acquisition portion of the loan except in accordance with paragraph (d)(6)(i)(D) of this section; and

(B) The discount paid on the improvements portion of the loan does not exceed the percentage of discount paid on the acquisition portion of the loan.

Acquisition and Improvement loans may be closed either on the automatic or prior approval basis.

(iv) All powers of the Administrator under paragraph (d)(6) of this section except the authority to revise the discount after the commitment is issued, are hereby delegated to those officials designated by § 36.4342(b). The power of the Administrator to approve an increase in the discount after the commitment is issued is delegated to those officials designated by § 36.4335. (38 U.S.C. 1803(c)(1), 1810(a))

4. In § 36.4335, paragraphs (a) and (b) are revised to read as follows:

§ 36.4335 Supplementary administrative action.

* * * * *

(a) The requirement in § 36.4303(a) that a lender of a class described under 38 U.S.C. 1802(d) originating a loan under the automatic (nonprior approval) procedure report such loan for issuance of guaranty or insurance evidence within 60 days following full disbursement. Waiver of the lender's failure to report the loan within the 60-day period shall be confined to cases where the loan is not in default. (38 U.S.C. 1803(c)(1))

(b) The requirement in § 36.4303(d) that a lender originating a loan under a certificate of commitment report the loan for issuance of guaranty or insurance evidence within 60 days following actual payment of the full proceeds of the loan. In such cases it is not necessary that a finding be made that the loan is not in default. (38 U.S.C. 1803(c)(1))

* * * * *

[FR Doc. 80-24386 Filed 8-12-80; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1568-6]

Approval and Promulgation of Implementation Plans; Tennessee: 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces action on specific State Implementation Plan (SIP) revisions which the Tennessee Air Pollution Control Division submitted pursuant to requirements of Part D of Title I of the Clean Air Act, as amended in 1977, with regard to nonattainment areas. EPA has found all portions of the submitted revisions to be approvable except for certain aspects. First, EPA is giving conditional approval to the CO and ozone control strategy for Nashville on condition that the noted deficiency is corrected by January 31, 1981 and June 30, 1981. Secondly, EPA is giving conditional approval to the Statewide ozone control strategy on the condition that noted deficiency in stationary source regulations be corrected by October 1, 1980. Thirdly, EPA is giving conditional approval to the total suspended particulate (TSP) plan for Nashville provided the noted deficiency be corrected by October 1, 1980. EPA has been informed by the Tennessee Department of Public Health, Division of Air Pollution Control, that the Tennessee Government Operations Committee of the Tennessee Legislature has rejected the regulations pertinent to control of particulates in the Columbia particulate nonattainment area. Under these circumstances, no action on the previously submitted TSP plan for Columbia is being taken and the applicable stationary new source growth restrictions of Section 110(a)(2)(I) of the Clean Air Act continue to apply to that nonattainment area.

DATE: These actions are effective August 13, 1980.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37203.

Air Pollution Section, Metropolitan Health Department, 1600 Hayes Street, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION:

Background

In the March 3, 1978, **Federal Register** (43 FR 8962 at 9035), the September 11, 1978 **Federal Register** (43 FR 40412 at 40432), and the November 2, 1979 **Federal Register** (44 FR 63104 at 63105), a number of areas within the State of Tennessee were designated as not attaining certain national ambient air quality standards. The areas designated nonattainment for the primary and secondary standards for total suspended particulate matter (TSP) are:

A. That portion of Anderson and Knox Counties surrounding TVA's Bull Run Plant. (Secondary only)

V 45 A G 13 80 UMI

B. Those portions of Campbell County within downtown Lafollette and the area surrounding the Carborundum Company's plant at Jacksboro.

C. That portion of Davidson County within the 1964 Urban Services area of Nashville.

D. That portion of Hamilton County within approximately the city limits of Chattanooga.

E. That portion of Maury County within the northern section of Columbia.

F. Those portions of Shelby County within two sections of downtown Memphis.

G. Those portions of Sullivan County within a section of Bristol and a section of Kingsport.

H. That portion of Sumner County surrounding TVA's Gallatin plant. (Secondary only)

The areas designated nonattainment for the primary and secondary standards for sulfur dioxide (SO_2) are:

A. That portion of Polk County surrounding the Cities Service plant at Copperhill.

B. That portion of Benton and Humphreys Counties surrounding TVA's Johnsonville plant.

The areas designated nonattainment (the same standard serves as both the primary and secondary standard) for carbon monoxide (CO) are:

A. That portion of Davidson County located in downtown Nashville.

B. That portion of Knox County located in metropolitan Knoxville.

C. That portion of Shelby County located in metropolitan Memphis.

The areas designated nonattainment (the same standard serves as both the primary and secondary standard) for photochemical oxidants (ozone) are:

A. Nashville area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties.

B. Shelby County
C. Maury County
D. Hamilton County
E. Knox County
F. Sullivan County
G. Bradley County
H. Roane County

Implementation plan revisions under Part D of the Clean Air Act Amendments (CAAA) previously developed and submitted by the State for the following areas were the subject of final rulemaking published in the **Federal Register** on February 6, 1980 (45 FR 8004): TSP-Sullivan County (Bristol), Campbell County, Sumner County, Anderson/Knox Counties; SO_2—Polk County, Benton/Humphreys Counties; CO—Shelby County, Knox County.

Implementation plan revisions under the CAAA developed by the State and the subject of today's notice include the following areas:

Ozone—Statewide
CO—Davidson County
TSP—Columbia, Nashville

The implementation plan revisions for the remaining nonattainment areas will be proposed later after review of submittals. The revisions which are the subject of today's action were submitted for EPA's approval on June 28, July 2, 1979 and May 8, 1980. The announcement of proposed conditional approval for these revisions was published on October 2, 1979 (44 FR 56717). The Tennessee revisions have been reviewed by EPA in light of the CAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, 1979 (44 FR 20372), and need not be repeated in detail here. Supplements to the April 4 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53716), and November 23, 1979 (44 FR 67182); these involve, among other things, conditional approval.

As indicated in detail in the October 2, 1979, proposed notice, these Tennessee revisions meet all the requirements of section 172 of the Clean Air Act and EPA's implementing regulations except as noted below. Also, the State has made a commitment to submit as plan revisions any external offsets required of sources impacting nonattainment areas (see revised § 52.2222 below).

EPA is taking final action to approve and to conditionally approve certain elements of Tennessee's plan. A discussion of conditional approval and its practical effect appears in a supplement to the General Preamble, 44 FR 38583 (July 2, 1979). The conditional approval requires the State to submit additional materials by the deadlines specified in today's notice. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.
2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing that the condition has been met and approve the plan, or that the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110 (a)(2)(I) restrictions on construction will be in effect.
3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110 (a)(2)(I) restrictions on growth are in effect.

Certain deadlines for satisfying conditions are being promulgated today without prior notice and comment. EPA finds that for good cause notice and comment on these deadlines are unnecessary. See 5 U.S.C. 553(b)(B) (the Administrative Procedure Act). The State is the party responsible for meeting the deadlines; and the State has requested this extension of the deadline from March 1, 1980, to October 1, 1980. This is because the State must have the additional time to complete the SIP revision process after adoption of the changes for Nashville by the Metropolitan Health Department (Nashville-Davidson County). In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions. 44 FR 38583 (July 2, 1979), 44 FR 56717 (October 2, 1979).

EPA finds good cause to make these approvals and conditional approvals immediately effective, because the Clean Air Act restricts new construction where plans are not approved after June 30, 1979, and making these actions immediately effective will terminate the restriction as soon as possible.

General Discussion

The notice of proposed rulemaking discussed each of the provisions of Section 172(b) of the Clean Air Act of 1977. This notice discusses the substantive issues addressed in the proposal notice of October 2, 1979, and the public comments which were received as a result of that notice as well as responses to comments made on a national basis.

Public hearings were held in the State on the adopted material following 30 days public notice. Public hearings were conducted October 16, 1978, February 14, April 19, May 8 and 9, June 5, 6, 14, and 19, 1979 and March 13, 1980. These SIP provisions were adopted by the State and/or local agency on March 14,

April 11, June 20 and 28, 1979 and May 1, 1980.

Reasonable further progress (RFP) graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area. the submitted revisions which this notice addresses call for meeting the National Ambient Air Quality Standards in all areas by the end of 1982 except for carbon monoxide and ozone in Nashville. The State has requested an extension to the end of 1987 for meeting the carbon monoxide and ozone standards in this area. EPA is approving this extension request. Therefore, a mandatory inspection/maintenance program for motor vehicles, transportation control measures, and a new source review program consistent with Section 172 (b)(11) must be implemented. As a requirement for the extension to 1987, the SIP must include:

A. An adequate inspection and maintenance program for motor vehicles.

"Inspection/Maintenance" (I/M) as it is used in Section 172 (b)(11)(B) above, refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes may be included as well.

Operation of noncomplying vehicles is prohibited. This is most effectively accomplished by requiring proof of compliance in order to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system can be used, much like many motor vehicle safety inspection programs. Section 172 of the Clean Air Act requires that State Implementation Plans for States which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these notices are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking 44 FR 20372, n 6.

Although the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

- *Legal Authority.* States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172 (b) (10).)
- *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172 (b) (10).)
- *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172 (b)(7).)
- *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172 (b) (11) (B).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).
- *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172 (b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a State Department of environmental protection or Department of Transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be included with any plan revision which establishes an attainment date beyond December 31, 1982, unless an approved extension to certify legal authority is granted by EPA. The legal authority certification has been submitted and is addressed later in this notice.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172 (b)(10).) Under Section 172 (b)(7), supporting commitment for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172 (b)(11)(B).) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones meet the general SIP requirement for compliance schedules as governed by 40 CFR 51.15(c). That section requires that increments of progress be contained in compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reductions in both hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expeditiously as practicable." Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs of New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before initial testing. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number that the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the

criteria to determine compliance of the I/M portion with Section 172(b)(2). (See Nashville (CO) for discussion of the above points.)

B. A program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reductions target must be described in the SIP. The package should include an adopted schedule for expeditious implementation of currently planned reasonable transportation control measures, and schedules for analysis and adoption of additional transportation control (and other necessary) measures (Ref. CAA Section 110 (a)(3)(D), and Section 172(b)(2)).

C. A commitment to establish, expand, or improve public transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and State and local funds (Ref. CAA, Section 110(a)(3)(D), and Section 172(b)(2)).

The following is a discussion of the adequacy of the submittals for each nonattainment area:

Nashville (CO)–The State has calculated that a 40% reduction in CO emissions is necessary to achieve the 10 mg/m^3 8-hour ambient standard. Since approximately 99% of the CO emissions are attributed to motor vehicles, all emission reduction measures are directed toward this source category through use of the Federal Motor Vehicle Control Program (FMVCP). Nashville will be unable to meet the CO ambient standard by the end of 1982 and has requested an extension to 1987 to meet the ambient standard. EPA is approving this extension request. EPA's review of the Nashville CO control strategy relative to the transportation control measures has revealed some deficiencies as noted in the Agency's October 2, 1979 [44 FR 56717] proposal notice. Listed below are the deficiences noted in 44 FR 56717 and the corrections submitted on May 8, 1980.

1. Deficiency: The current 1979 Annual Element of the Transportation Improvement Program (TIP/AE) must be reviewed for projects that have a positive air quality impact. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporating into the State Implementation Plan must also include a commitment to the implementation and enforcement of such measures by the responsible agencies.

Correction: A list of projects, committed to implementation by the end of 1980 on Davidson County, which will have air quality benefits was submitted by the State by letter of May 8, 1980. The projects were taken from the 1979 Annual Element of the area's Transportation Improvement Program. The projects are actions to promote ride sharing, bicycling and transit use. A letter of commitment to these projects by the State Department of Transportation and a resolution of commitment adopted by the Metropolitan Planning Organization was also included in the above submittal. Implementation dates are consistent with the Annual Element of the Transportation Improvement Program.

2. Deficiency: under Section 174, the Memorandum of Understanding (MOU) between the proper State and local officials includes a commitment to the implementation of stationary source controls but not mobile source controls. The I/M schedule should be revised to identify the date by which the enforcement mechanism(s) will be decided. The I/M schedule should also identify when procedures and guidelines for testing and quality control will be adopted.

Correction: The list of projects to be implemented with air quality benefits (see correction above) do not require an enforcement mechanism. Therefore, the Memorandum of Understanding pursuant to Section 174 is considered adequate. The I/M schedule has been revised showing January 1981 as a deadline date for adoption of procedures and guidelines for testing, and quality control. The revised schedule was included in the May 8, 1980 submittal.

EPA is conditionally approving the Nashville transportation control plan upon adoption by Council of the Metropolitan Governments of Nashville of a mechanism to prevent noncomplying vehicles from operating upon public roads in Davidson County. Such a mechanism shall be as equally effective as denial of vehicle registration. The deadline for adoption of this mechanism shall be January 31, 1981. Submission of the adopted mechanism to EPA shall be June 30, 1981.

EPA has received an opinion from the Tennessee Attorney General's office concluding that there is sufficient statutory authority for an inspection and maintenance program to be implemented by certain cities in the State. Further, EPA has received a letter from the Mayor of Nashville committing to seek legislation and the necessary financial and manpower resources to implement a mandatory motor vehicle emission inspection and maintenance (I/M) program for light duty vehicles. Last year, the necessary ordinance was passed by the Council of the Metropolitan Governments of Nashville. This ordinance allows the Metropolitan Board of Health (Board of Health) to adopt by rule or regulation, promulgate, require and enforce programs for vehicles propelled by internal combustion engines and to prescribe reasonable fees. Also, the Mayor's letter and ordinance indicate that the final implementing regulations must be approved by the Council of Metropolitan Governments of Nashville. Because approval by the Council of Governments is the device used routinely for adoption of regulatory requirements, EPA believes the existing legal authority is adequate. However, EPA recognizes that the Mayor cannot commit the Council of Governments to any future action, and it should be understood that a failure by the City to institute a mandatory I/M program according to the schedule submitted in the SIP will make the area liable to the imposition of limitations under the Clean Air Act.

The Mayor's letter endorses the I/M schedule submitted in the SIP. This schedule indicates that a centralized operated I/M program will be instituted, and calls for the mandatory I/M program to begin in September 1981.

The enforcement mechanism is currently undecided, with several options open. The ordinance passed by the Council grants the authority for enforcement and establishment of fees to the Board of Health. One option is for the Board of Health to use its personnel and resources to implement an enforcement program. Another option is to add the I/M enforcement to the current city sticker system. Failure to enact an adequate enforcement mechanism would also make Nashville liable to sanctions under the Clean Air Act.

The SIP also indicates that a 25 percent reduction in CO emissions from light duty vehicles will be achieved and this is reflected in the reasonable further progress (RFP) curve.

Based upon the commitments, legal authority and schedules to implement and enforce the I/M program, EPA is conditionally approving the CO control strategy for Nashville provided that the deficiency noted above in the transportation control plan is corrected by adoption by January 31, 1981 and submittal by June 30, 1981.

Nashville (Ozone)—The State has calculated that a 35 percent reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions of 34 percent will be obtained through the FVMCP and regulations for volatile

organic compounds (VOCs) emitted by specific categories of sources by 1982. Since the area will not be able to demonstrate attainment of the ozone standard by December, 1982, they have requested an extension to 1987 to attain the ozone standard. This requires that a transportation control plan including a mandatory inspection and maintenance program be implemented in Nashville/Davidson County. EPA is approving this extension request. For the discussion on Nashville/Davidson County's transportation control plan, please refer to the previous discussion on the Nashville CO control strategy. The Nashville Metropolitan Health Department has adopted regulations pertaining to those emission limitations and process and equipment specifications necessary to meet the requirement that RACT be applied to these sources. Categorical compliance schedules are included. These regulations are for sources in nine source categories.

Categories of sources controlled by presently adopted regulations include:

(1) surface coating including (a) coil coating (b) paper coating (c) fabric and vinyl coating; (2) metal furniture coating; (3) large appliance surface coating; (4) petroleum liquid storage; (5) bulk gasoline plants; (6) bulk gasoline terminals; (7) gasoline dispensing facility Stage I; (8) solvent metal cleaning; and (9) cutback asphalt. The Nashville Agency submitted certification that no sources within the remaining source categories were located in Nashville/Davidson County.

In addition, the local agency has committed to adopt VOC regulations for additional RACT categories annually as they are developed by EPA. The Control Techniques Guidelines (CTGs) provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulation represent RACT, except for the definition of VOC which was submitted as 1.5 psia instead of the recommended 0.1 mm HG.

The plan included Stage I requirements for gasoline service stations which allowed an exemption for stations with throughput of les than 260,000 gallons per year rather than the recommended throughput of 120,000 gallons per year or tank size cutoff of 2,000 gallons. An adequate demonstration that this deviation represents less than five percent of the amount of control which would have been obtained from the recommended values has been submitted by the Nashville Agency. This was identified as a deficiency in the proposal notice. With the submitted demonstration, the exemption for gasoline service stations is removed as a deficiency.

EPA is conditionally approving the ozone control plan submitted for Nashville/Davidson County provided that the above-noted deficiency correction in the transportation control plan be adopted by January 31, 1981, submitted to EPA by June 30, 1981, and that the stationary source regulations be corrected by the appropriate officials and submitted to EPA by October 1, 1980.

Memphis (Ozone)—The State has calculated that a 13% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions will be obtained through the FMVCP and statewide regulations for volatile organic compounds (VOC) emitted by large sources—those with potential emissions equal to or in excess of 100 tons per year. The State projects that a 30% reduction will occur by 1982. Therefore, the area should become attainment by early 1981. EPA is conditionally approving the Memphis ozone plan conditioned upon the State's correcting the deficiencies in the VOC regulations noted under the discussion on "Rural Areas", below.

Chattanooga (Ozone)—The State has calculated that a 7% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions will be obtained through the FMVCP and statewide regulations for VOCs emitted by large sources. The State projects that a 27% reduction will occur by 1982. Therefore, the area should become attainment by early 1981. EPA conditionally approves the Chattanooga ozone plan conditioned upon the State's correcting the deficiencies in the VOC regulations noted under the discussion on "Rural Areas", below.

Rural Areas (Ozone)—Several counties in Tennessee were designated as nonattainment for ozone. As discussed under the section Ozone Control Strategy in the General Preamble of April 4, 1979, the criteria utilized in the review of the 1979 SIP revisions, EPA's policy is that only the RACT requirements for major VOC sources covered by Control Techniques Guidelines (CTGs) need to be adopted for rural areas. The State of Tennessee has responded and has adopted all the CTGs (applicable Statewide) which EPA had issued by January, 1978 and committed to adopt additional RACT categories as they are developed by EPA. The CTG provides information on available air pollution control techniques and contains recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT except for the exemption for 42,000 gallon tanks in the petroleum liquid storage requirements instead of the 40,000 gallon (or less) tanks as recommended. On May 8, 1980, the State submitted material which corrects this deficiency.

The exemption for gasoline service stations noted as a deficiency in the proposal notice is removed as a deficiency. The demonstration referred to in the discussion of the Nashville (Ozone) section of this notice is also applicable to State's Stage I requirements for gasoline service stations.

EPA is approving the ozone control plan submitted for the rural nonattainment areas.

As noted in the "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas", 44 FR 20376 (April, 1979), ozone SIPs such as Tennessee's must include RACT requirements for VOC sources covered by CTGs EPA issued by January 1978. The General Preamble also required such SIPs to contain schedules to adopt and submit by each future January additional requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT requirements was revised from January 1, 1980, to July 1, 1980, by **Federal Register** notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Tennessee plan is contingent on the submittal of these additional RACT regulations. Also, by each subsequent January beginning January 1, 1981, RACT regulations for CTGs published by the preceding January must be included in the plan. The above requirements are set forth in the "Approval Status" section of this final rule. If the RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will take appropriate remedial actions.

Nashville (TSP)—The Nashville-Davidson County Metropolitan Health Department has reviewed all the sources in or impacting on the nonattainment area and found that the ambient violations were not due to a specific source or activity, but were the result of a combination of factors such as process fugitive emissions, nontraditional source emissions, and traditional source emissions. During the review, RACT emission limitations were developed for all traditional sources. These RACT

emission limits were adopted as revised permit conditions which require compliance with specific limits on mass emissions and visible emissions, and in some cases limitations on hours of operation. When modelling all of the sources at their 1982 allowable emission limits, attainment of the annual primary standard was not demonstrated, nor was attainment of the secondary standard demonstrated. One of the factors in the failure to demonstrate attainment of the primary standard was the impact of nontraditional sources. In order to evaluate and develop the necessary nontraditional source control measures to attain the primary standards, Nashville Metropolitan Health Department has submitted a schedule to develop these regulations. On October 2, 1979 EPA proposed conditional approval of the Nashville plan and since no comments were received, EPA is today conditionally approving the plan for attainment of the primary standards on condition that a more detailed listing of measures to be investigated be submitted by October 1, 1980. In addition, Nashville has asked for an 18-month extension in order to develop the attainment plan for secondary standards. On January 10, 1980 (45 FR 2032), EPA granted Nashville's request for an 18-month extension to submit the plan for attainment of the secondary standard.

Columbia (TSP)—The nonattainment designation of this area was due to a combination of factors. Fugitive emissions from roadways, haul roads, materials handling systems and stack emissions all contribute to violations of the ambient standards. The State of Tennessee has made a RACT evaluation of all traditional sources in or impacting on the nonattainment area and adopted, as categorical emission requirements, regulations for the area. These regulations include limitations on stack emissions, more stringent controls on fugitive sources, and in some cases a restriction on hours of operation. When the State modelled the area at the 1982 emission level, attainment of the primary standards was not demonstrated. This was due largely to the impact of emissions from nontraditional sources. The State has submitted a schedule for developing, adopting, and submitting regulations for control of nontraditional sources.

EPA was recently informed by letter that the Tennessee Government Operations Committee had invalidated the regulations concerning the Columbia TSP non-attainment area. This action prevents these regulations from being "state effective" or enforceable by the State. Because the action of the Government Operations Committee causes the Columbia non-attainment plan to be unapprovable, EPA defers action on the Columbia TSP submittal and the applicable stationary source growth restrictions of Section 110(a)(2)(I) of the CAA continue to apply to that nonattainment area. Pursuant to a request made by the State, EPA on January 10, 1980 (45 FR 2032), granted an 18-month extension (to July 1, 1980) for the submittal of a plan to attain the secondary TSP standard in Columbia.

Public Comments

Comment: A spokesman for an industrial source commented concerning EPA's proposed disapproval of the definition of volatile organic compound (VOC) adopted by the metropolitan Nashville/Davidson County Health Department. Specifically, EPA proposed to disapprove the use of a vapor pressure greater than 76.0 millimeters of mercury (1.5 psia) at standard conditions for defining any volatile compound of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate). The commenter stated that the selection of 76.0 millimeters of mercury was arbitrary and that the threshold should have been greater.

Response: EPA rejects the contention that 1.5 psia at standard conditions is a more appropriate physical parameter of volatile organic compounds than 0.1 mm of Hg at standard conditions (20°C., 760 mm Hg). The information available to the Agency indicates that almost any organic compound (with few exceptions) that remains air-borne in the vapor state will eventually form oxidants. Two major issues must be addressed in any definition of VOC.

1. What compounds, when emitted in the gaseous state from ovens, will not condense and precipitate but rather remain air-borne and ultimately react to form photochemical oxidants?

2. What is the fate of organic compounds emitted as an ultra-fine aerosol which remains air-borne for extended periods because of its extremely small particle size, but would not normally be expected to evaporate based on its relatively high vapor pressure? (Some printing operations emit tons of such matter annually). There is no evidence of precipitation of these compounds, it is very possible that they remain air-borne until they evaporate and then react to form oxidants.

The Agency desires any definition of VOC to be sufficiently broad so as to address all organic compounds that form oxidants. Accordingly, the Agency has defined organic compounds to include all compounds of *carbon* except carbonates, metallic carbides, carbon monoxide, carbon dioxide, and carbonic acid. Further, volatile organic compounds (VOCs) have been defined as any organic compound that when released to the atmosphere, can remain long enough to participate in photochemical reactions. While there is no clear line of demarcation between volatile and nonvolatile organics, the predominant fraction of the VOC burden are compounds which evaporate rapidly at ambient temperatures. Almost all organics which can be considered VOC have vapor pressures greater than 0.1 mm Hg at standard conditions (20° C., 760 mm Hg). 1.5 psia is an appropriate control level for petroleum liquid storage. However, this physical parameter could be specified in the individual regulation and should not, by itself, be taken as the definition of all VOCs. Many organic solvents have a vapor pressure less than 77.6 mm Hg and greater than 0.1 mm Hg. Those compounds would then become exempt from control if the less stringent 1.5 psia (77.6 mm Hg) definition was used.

The following comments were received prior to the start of the public comment period.

Comment. The first comment concerned a possible contradiction in the cutoff size requirement for vapor recovery on service stations.

Response: The service station regulation (1200–3–18–.10) is specific for the cutoff exemption. A misinterpretation might arise if the regulation for bulk gasoline plants (1200–3–18–.08) were read without reference to the service station regulation. By copy of the response to the commenter, a suggestion was made to the State that clarifying language on applicability could be incorporated in the above regulations.

Comment: A second comment concerned the Columbia, Tennessee, nonattainment area for TSP. Since the Tennessee Government Operations Committee of the Tennessee Legislature has rejected the nonattainment plan for TSP for Columbia, no action is being taken concerning the Columbia TSP nonattainment area and the comments will not be addressed at this time.

National Comments and Responses:

Comment and Response: One commenter submitted extensive comments which it requested be considered part of the record for each State plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues raised are not relevant to provisions in Tennessee's submission, EPA is notifying the public of its response to these comments at this time.

1. The commenter asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as Part of their comments on each State plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commenter objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the CAA. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co. v. Costle*, 13 E.R.C. 1933 (D.C. Cir. 1979).) In the commenter's view, the court's rulings on the definition of "source", "modification", and "potential to emit", should apply to Part D as well as PSD programs. In addition, the commenter believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the **Federal Register** on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commenter. To the extent necessary, EPA will respond in greater detail to the commenters' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979, proposal, EPA proposed regulations for Part D plans in Section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously-submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the CAA, to submit revisions after EPA promulgates the final regulations. Since the Tennessee NSR program satisifies existing requirements for Part D, it is now being approved.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commenter questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commenter noted, EPA has set forth its proposed bubble policy in a separate **Federal Register** publication, 44 FR 3720 (January 18, 1979). EPA responded to the comments on the "bubble" approach in its final "bubble" policy statement of December 11, 1979 (44 FR 71780).

5. The commenter questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impractical, it would not constitute a reasonably available control measure.

6. The commenter found the discussion in the General Preamble of RACT for volatile organic compound (VOC) sources covered by Control Techniques Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the GTGs.

The CTGs provide recommendations to the States for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commenter questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of lowest achievable emission rate (LAER) determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commenter suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commenter's view the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation.

EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. *See* 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

Comment: Another commenter, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(k) of the Act), and proper composition of State boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commenters argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under

V 45 AG 13 80 UMI

Part D. In those States that fail to correct the omission within the required time, the commenters urged that restrictions on construction under Section 110(a)(2)(I) of the CAA must apply.

Response: To be fully approved under Section 110(a)(2) of the CAA, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the CAA.

Comments were also received from the Asphalt Emulsion Manufacturers Association (AEMA) concerning the availability of emulsified asphalts with low solvent content for all applications in all regions of the country. Although some of the issues raised are not relevant to the Tennessee plan, EPA is notifying the public of its response to these comments at this time. AEMA's main point is that no general rule regarding solvent content of emulsified asphalt for the nation is possible because of varying conditions. AEMA urges that EPA accept each State's emulsion specifications as RACT. AEMA also incorrectly concludes that EPA has been using a figure of five percent as nationwide RACT for maximum content in emulsified asphalt.

EPA recognizes that varying conditions may require different solvent content asphalts. RACT for asphalt should be determined on a case-by-case basis in order to take varying conditions into account. Therefore, EPA has not set a nationwide standard for the solvent content of emulsified asphalt. However, EPA has accepted a five percent maximum solvent content regulation where a State has chosen to submit an across-the-board regulation for emulsified asphalt, rather than develop case-by-case RACT. The intent of EPA guidance has been for States to specify in the regulations, and justify, those emulsions and/or applications where addition of solvent is necessary. Since RACT can be determined on a case-by-case basis. States are free to specify necessary solvent contents on the basis of application or asphalt grade. Where a State demonstrates that these are RACT, EPA will approve the regulations. The following maximum solvent contents for specific emulsified asphalt applications have appeared in EPA guidance and are based on ASTM, AASHTO, and State specifications and on information recently received from the Asphalt Institute.

Use, Max. Solvent Content

Seal coats in early spring or late fall—3%.
Chip seals when dusty or dirty aggregate is used—3%.
Mixing w/open graded aggregate that is not well washed—6%.
Mixing w/dense graded aggregate—12%.

The State of New Jersey submitted comments on the proposed Part D ozone SIP revisions for several States. New Jersey contends that SIPs which do not include uniform Statewide controls for existing and new sources which meet the requirements of Part D will not attain the ozone standard. New Jersey urges the Administrator to disapprove ozone SIPs which do not include such Statewide measures. The State of Tennessee, however, has adopted measures including Statewide RACT regulations for existing sources and have met the requirements of Part D for ozone nonattainment areas. Moreover, New Jersey has not made a specific showing that Tennessee's SIP will not attain standards. Therefore, the Administrator has no basis for disapproving Tennessee's SIP.

In addition, New Jersey argues as it did in objecting to the Administrator's ozone nonattainment area designations that entire States should be designated nonattainment, thereby requiring Part D SIP revisions Statewide. The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattainment Areas for Ozone" January 5, 1979. Availability of this document was announced in the February 1, 1979 **Federal Register** (44 FR 6395). This document and the Administrator's response to New Jersey's comments are incorporated herein by reference.

Attainment Dates:

Changes in the attainment date table (§ 52.2230) occasioned by the revisions approved today are added to the chart of attainment dates in 40 CFR Part 52, and the corresponding earlier deadlines for attainment under Section 110 (a)(2)(A) of the act are detected. The reader may refer to 45 FR 8004 (February 6, 1980) and read in the preamble of that notice a discussion of this topic.

Action

The measures approved today will be additional to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable. The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with existing regulations while it is achieving compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA either as part of these approved regulations or as future SIP revisions.

The Administrator approves Tennessee's 1979 revisions for the ozone nonattainment areas and for the Nashville TSP nonattainment area, on the condition that the deficiency noted in the volatile organic compound regulations and in the list of measures to be investigated for control of nontraditional sources of TSP in Nashville be corrected by October 1, 1980. Since the action by the Tennessee Government Operations Committee invalidated the plan for the Columbia TSP nonattainment area, the new source growth restrictions (Section 110(a)(2)(I) CAA) remain in place for the Columbia TSP nonattainment area. The Administrator approves Tennessee's 1979 revisions for the Nashville CO ozone nonattainment area.

These actions are effective immediately. EPA finds good cause to make these actions immediately effective, because the Clean Air Act restricts new construction where plans are not approved after June 30, 1979. Making these actions immediately effective will terminate the restriction as soon as possible. Also, they impose no requirement that is not already in effect at the State level.

Under Section 307(b)(1) of the Clean Air Act, judicial review is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410, 7502))

Dated: July 31, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. In § 52.2220, paragraph (c) is amended by adding subparagraph (33) as follows.

§ 52.2220 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(33) 1979 implementation plans for the Nashville TSP and CO nonattainment areas and Statewide ozone nonattainment areas, including regulations 1200–3–18–.01 through .47, adopted on March 14, April 11, June 20 and 28, 1979, and May 1, 1980 and submitted on June 28, July 2, 1979, and May 8, 1980 by the Tennessee Department of Public Health.

2. Section 52.2222 is revised to read as follows:

§ 52.2222 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Tennessee's plans for the attainment and maintenance of the national standards under § 110 of the Clean Air Act. Furthermore, the Administrator finds the plans thus far submitted satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below.

In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980, for the sources covered by CTGs issued between January 1978 and January 1979 and on adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

(b) New source review permits issued pursuant to Section 173 of the Clean Air Act will not be deemed valid by EPA unless the provisions of Section V of the emission offset interpretative rule (Appendix S of 40 CFR Part 51) are met.

3. Section 52.2225 is amended by adding paragraph (b) as follows:

§ 52.2225 Control strategy: Carbon monoxide and ozone.

Part D conditional approved.

* * * * * *

(b) The control strategy submitted pursuant to Part D of Title I for the Nashville CO and ozone nonattainment area is approved on condition the indicated actions are taken by the appropriate dates as follows:

(1) The Council of Metropolitan Governments of Nashville adopt a mechanism to prevent noncomplying vehicles from operating upon public roads in Davidson County by January 31, 1981, and that the adopted mechanism be submitted to EPA by June 30, 1981.

(c) The ozone control strategy submitted pursuant to Part D of Title I is approved on condition that the State by October 1, 1980, submit an adequate demonstration that the VOC regulations represent RACT or submit revisions in the regulations such that:

(1) VOC is defined as a compound having a vapor pressure of 0.1 millimeter of mercury at standard conditions.

4. A new § 52.2231 is added as follows:

§ 52.2231 Control strategy: Sulfur oxides and particulate matter.

Part D conditional approval.

(a) The control strategy submitted pursuant to Part D of Title I for the Nashville TSP area is approved on condition that the State by October 1, 1980, submit a detailed listing of measures to be investigated concerning nontraditional source control measures.

5. Section 52.2230 is revised to read as follows:

§ 52.2230 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Tennessee's plan.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Eastern Tennessee-Southwestern Virginia Interstate:							
a. Sullivan County—Bristol nonattainment area [1]	d	d	c	c	b	b	d
b. Campbell County nonattainment area [1]	d	d	c	c	b	b	b
c. Anderson/Knox County nonattainment area [1]	c	d	c	c	b	b	b
d. Copperhill nonattainment area [1]	e	e	d	f	b	b	b
e. Knox County nonattainment area [1]	c	c	c	c	b	d	d
f. Bradley County nonattainment area [1]	c	c	c	c	b	b	d
g. Roane County nonattainment area	c	c	c	c	b	b	d
h. Rest of AQCR	c	c	c	c	b	b	b
Tennessee River Valley-Cumberland Mountains Intrastate.	c	c	c	c	b	b	b
Middle Tennessee Intrastate:							
a. Benton/Humphreys County nonattainment areas [1]	c	c	d	d	b	b	c
b. Davidson County nonattainment area [1]	d	d	c	c	b	e	e
c. Maury County nonattainment area [1]	c	c	b	b	b	b	d
d. Rest of AQCR	c	c	b	b	b	b	c
Western Tennessee Intrastate:							
a. Benton/Humphreys County nonattainment area [1]	c	c	d	d	b	b	b
b. Rest of AQCR	c	c	b	b	b	b	b
Chattanooga Interstate:							
a. Hamilton County nonattainment area [1]	c	c	b	b	b	b	d
b. Rest of AQCR	c	c	b	b	b	b	b
Metropolitan Memphis:							
a. Shelby County nonattainment area [1]	c	c	b	b	b	e	d
b. Rest of AQCR	c	c	b	b	b	b	c

[1] For more precise delineation, see § 81.343 of this chapter.

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. July 1975.
d. December 31, 1982.
e. December 31, 1987.
f. 18-month extension granted.

[FR Doc. 80-24425 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-176; RM-3171; RM-3387; RM-3493; RM-3494]

TV Broadcast Stations in Riverside and Santa Ana, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns UHF TV Channel 62 to Riverside, California. In taking this action, the Commission denied various alternative proposals which would have assigned Channel 62 to Santa Ana, California; reserved Channel 62 at Riverside for noncommercial educational use; or reassigned Channel 40 from Santa Ana to Riverside. The assignment of a non-reserved channel to Riverside allows all potential applicants, commercial and noncommercial, to apply for the channel.

DATE: Effective September 19, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mike McGregor, (202) 653-7586, or Mark N. Lipp, (202) 632-7792, Broadcast Bureau.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Riverside and Santa Ana, California), BC Docket No. 79-176, RM-3171, RM-3387, RM-3493, RM-3494.

Report and Order—Proceeding Terminated

Adopted: July 31, 1980.

Released: August 12, 1980.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making* (44 FR 44194), released July 24, 1979, which proposed the assignment of UHF television Channel 62 to Riverside, California, for noncommercial educational use, or the assignment of UHF television Channel 62 to Santa Ana, California, for commercial use. Spacing restrictions preclude assigning the channel to both communities. Comments have been filed by petitioner, Bethel Broadcating, Inc. ("Bethel") for Riverside, and by Asian American Telecasters ("Asian"), which supports the assignment of Channel 62 to Santa Ana. Comments were also submitted by Golden Orange Broadcasting Company ("Golden Orange"), permittee of UHF Television Station KGOF (Channel 56), Anaheim, California; and Asian International Broadcasting Corp. ("AIB"), an applicant for a new television broadcast station on Channel 16 in Ventura, California (BPCT-790130LO); Comments in the nature of counter-proposals were submitted by the Greater Riverside Chambers of Commerce, which proposes that UHF Channel 62 be assigned to Riverside for commercial use; and by Trinity Broadcasting Network, Inc. ("Trinity"), proposing that UHF Channel 40, currently assigned to Santa Ana, California, be reassigned to Riverside and that UHF Channel 62 be assigned to Santa Ana. Trinity controls International Panorama TV, Inc., licensee of KTBN-TV, Channel 40, Fontana, California, and applicant for Channel 40 at Santa Ana, California (BPCT-5154).[1] To summarize, the following proposals are before the commission:

Petitioner and Proposal

Bethel; Assign Channel *62 to Riverside.

[1] For a full discussion of Trinity's current status, see para. 6, *infra.*

Asian; Assign Channel 62 to Santa Ana.
Chambers of Commerce; Assign Channel 62 to Riverside.
Trinity; Assign Channel 40 to Riverside and Channel 62 to Santa Ana.

Reply comments were filed by Asian, Trinity, Golden Orange, and Saddleback Broadcasting Company, Inc. ("Saddleback"), another applicant for the new television station on Channel 40 at Sant Ana, California (BPCT-5203). Saddleback's application is mutually exclusive with the application of Trinity for the same facilities. Several parties submitted informal comments in this proceeding.[2]

2. Santa Ana (pop. 155,762),[3] the seat of Orange County (pop. 1,420,676), is located approximately 53 kilometers (33 miles) southeast of Los Angeles. It has two TV assignments: Channel 50, which is reserved for noncommercial use and presently being used under the 15-mile rule, § 73.607(a) of the Commission's Rules, at Huntington Beach, by noncommercial educational Station KOCE-TV; and Channel 40, on which the mutually exclusive applications of Trinity and Saddleback are pending. Orange County has one other TV assignment, Channel 56, at Anaheim.

3. Riverside (pop. 140,089), seat of Riverside County (pop. 459,074), is located approximately 90 kilometers (55 miles) east of Los Angeles. It has one UHF TV channel assignment, Channel 46, which is used by Station KBSA and is licensed, under the "15-mile rule," to serve Guasti, California. No other channels are assigned to communities in Riverside County.

The Comments

4. Bethel and Asian submitted comments which incorporated their original pleadings by reference and restated their intentions to apply for the channel, if assigned, and, if authorized, to build the station promptly. Asian argues that Channel 62 should be assigned to Santa Ana. However, if that channel is assigned to Riverside and not reserved for noncommercial use, it still intends to apply for the channel there. Asian argues that the comparative hearing would then be the best forum for deciding whether the channel should be used for commercial or noncommercial operations. Finally, Asian refutes the need for any further noncommercial assignments in the Los Angeles area by pointing out that there are already four licensed educational stations in the area and an application is pending for a fifth station. Golden Orange argues for the assignment of Channel *62 to Riverside. It reasons that Riverside has a greater need for the assignment because Santa Ana already has two assignments and Riverside's existing assignment, Channel 46, is licensed to serve Guasti. Further, a transfer of the Guasti station is pending, and the assignee proposes to operate the facility as an STV station. Golden Orange implies that such an operation will fall short of meeting the non-entertainment needs of the city of Riverside. Moreover, Golden Orange opposes the assignment to Santa Ana because it might have a detrimental economic impact on its own broadcast operations in Orange County. AIB also supports the reservation of Channel 62 to Riverside, by stating that there is a greater need for an educational assignment in Riverside than there is for another commercial assignment in Santa Ana. AIB contends that if it were successful in obtaining a license for Channel 16, it will be providing a service similar to that proposed at Santa Ana by Asian and will serve substantially the same area. AIB therefore concludes that there is no need to assign a commercial channel to Santa Ana for the purposes proposed by Asian.

The Counterproposals

5. The Greater Riverside Chambers of Commerce filed a counterproposal requesting that Channel 62 be assigned to Riverside but not as a reserved channel. If such an assignment were made, the Chambers of Commerce would apply for the license. Petitioner lists several factors in support of its counterproposal. First, Riverside's physical distance from Los Angeles deprives the area of coverage of local events and news from the Los Angeles television stations. Although the Riverside area lies within 11 predicted Grade A signal contours, Santa Ana receives 14 such signals. Riverside's one commercial assignment, Channel 46, is currently licensed to a community outside of Riverside County and therefore no station is licensed to provide local commercial service to Riverside.

6. A second counterproposal, filed by Trinity Broadcasting Network, requests that Channel 62 be assigned to Santa Ana, and that Channel 40 be reassigned from Santa Ana to Riverside. To understand Trinity's rationale for its counterproposal, a recitation of the background of the assignment of Channel 40 to Santa Ana is necessary. Channel 40 was initally assigned to Riverside, California, and was licensed to Fontana, California, under the "15 mile" rule. Trinity gained control of the licensee (International Panorama) of Channel 40 in 1974.

Subsequently, Trinity moved the station's studio to Santa Ana and petitioned the Commission to assign Channel 40 to Santa Ana. Trinity also requested that the Commission amend International Panorama's license to designate Santa Ana as its city of license. The Commission did assign Channel 40 to Santa Ana but decided that International Panorama must apply for a permit authorization there. *Riverside and Santa Ana, California,* 65 F.C.C. 2d 920 (1977); *reconsideration denied,* 68 F.C.C. 2d 557 (1978). The Commission reasoned that the addition of a channel to a particular community for which interested parties have not had an opportunity to apply necessitated the acceptance of competing applications for that channel. Pursuant to that ruling, Trinity filed an application for Channel 40 at Santa Ana. A second application was filed by Saddleback Broadcasting Company, Inc. Trinity continues to operate on Channel 40 by virtue of its existing license to serve Fontana, which will expire in December, 1980. In the instant proceeding, Trinity asks the Commission to reassign Channel 40 to Riverside "* * * not without rueful perspective and not without reassessment of formerly held positions." Trinity states that it commissioned a random public viewing survey which revealed that the Fontana/Riverside area leads all other areas in receptiveness to the religious programming offered by Trinity. Trinity asks that Channel 40 be reassigned to Riverside so that it can better serve the communities whose residents appreciate its programming the most. Once Channel 40 is reassigned to Riverside, Trinity argues that Channel 62 should then logically be assigned to Santa Ana. Trinity states that this will serve the public interest by giving both cities new allocations and by extricating Trinity from the expense and disruption of the pending comparative proceeding concerning Channel 40 at Santa Ana. Reassignment of Channel 40 to Riverside would not necessitate opening up the channel to competing applications, Trinity argues, since its station is already licensed to serve Fontana "* * * and the change would be a mechanical amendment to the

[2] Informal comments were received by Most Reverend William R. Johnson, Bishop of Orange; Korean American Christian Business Men's Committee of Southern California; Edward S. Wheeler, Jr., San Bernardino Councilman; Olen J. Jones, Executive Asst. to San Bernardino City Council; Sue Tsuda, Mayor Pro Tem of Fullerton; Robert Hoyt, Mayor of Orange; Robert T. Anderson; Pacific Asian American Center; Greater Santa Ana Chamber of Commerce; and Robert Presley, California State Senator. Also, several petitioners appended letters of support and recommendation along with their formal filings.

[3] All population data are taken from the 1970 U.S. Census, as corrected.

V 45 A G 1 3 0 UMI

Table of Allocations." Trinity states that if Channel 40 is reassigned to Riverside, it will establish a studio in Fontana, its current city of license. This action, if taken, would effectively wash out Saddleback's application for Channel 40 at Santa Ana. Trinity argues that this is not unfair to Saddleback because Saddleback can amend its application to specify Channel 62 and because "Saddleback has already demonstrated its willingness to go through the comparative process."

The Reply Comments

7. In its reply comments, Bethel reiterates its intention to apply for Channel 62 if assigned to Riverside. Asian generally refutes the arguments made by AIB and Golden Orange in their comments by charging that the commenters were motivated by fear of competition rather than sound public policy. Asian restates its position that Channel 62 should be assigned to Santa Ana, but if it is assigned to Riverside, it should not be reserved for noncommercial use. With regard to Trinity's counterproposal, Asian takes no position except to urge the Commission not to delay assignment of Channel 62 while it decides the Channel 40 issue. Golden Orange, in its reply comments, changes its original position and now argues that Trinity's counterproposal should be adopted. This counterproposal would provide Riverside with a local television station (Channel 40), in the most expeditious manner, while eliminating one of two prospective comparative hearings, while also providing a local service for Santa Ana (Channel 62). Trinity's reply comments restate the arguments made in its counterproposal based on the market research survey which it commissioned. Trinity attempts to refute the counterproposal of the Greater Riverside Chambers of Commerce for Channel 62 at Riverside, by stating that its own counterproposal will serve the same purposes (*i.e.*, a local commercial outlet for the Riverside area), yet avoid the "* * * administrative nightmare of a Chambers of Commerce applicant, or licensee, with its periodic wholesale changes in officers and directors, and fluctuating membership * * *" Saddleback Broadcasting Company's reply comments were addressed entirely to Trinity's counterproposal. Saddleback finds the basis for Trinity's arguments "inherently unbelievable" given the fact that for the past five years Trinity has operated Channel 40 but only now discovers that interest in its programming centers around the Fontana/Riverside area. Saddleback also attacks the reliability of the market study relied on by Trinity. According to Saddleback's experts, the Trinity study is flawed in several important respects. Trinity's argument that shifting Channel 40 back to Riverside would preclude any comparative applications for the channel is also challenged by Saddleback. The same principles which required opening up the channel for competing applications in Santa Ana, Saddleback argues, would require a similar result if Channel 40 were reassigned to Riverside. Finally, Saddleback takes issue with Trinity's assertions that Saddleback will not be harmed if Channel 40 is assigned back to Riverside. Saddleback argues that it has "protected status" as being one of two applicants for the Santa Ana channel, and further explains that it has invested a significant amount of time and energy in the Santa Ana proceeding. Saddleback concludes that Channel 40 should remain at Santa Ana, and Channel 62 should be assigned to Riverside.

Discussion

8. As stated in the *Notice*, the decision made in this proceeding is important because it appears that Channel 62 is the last television channel which could be assigned to Riverside, Santa Ana, or elsewhere in the Los Angeles area. Our analysis logically breaks down into three separate issues. These issues may be stated as follows: (1) Should each city, Riverside and Santa Ana, receive a television assignment or should one of the two cities receive both channels; (2) should Channel 40, if assigned to Riverside, be open to other applicants; and (3) should the Riverside assignment be reserved for noncommercial educational use or left unreserved. These issues are addressed, in turn, below.

9. Many interested parties have filed comments in this proceeding. In determining whether each city should receive an assignment, we think it bears noting that the issue is whether a channel should be assigned to a particular community, and not the qualifications of a particular party. *UHF Channel Assignments*, FCC 66–137, 2 F.C.C. 2d 527, 535 (1966). We begin by reiterating that each of the original petitioners have made a sufficient public interest showing to warrant assignment of a new channel to each of the communities. Santa Ana currently has two assignments, including one commercial assignment, but no local service as yet. It is one of the largest cities in the country without local television service. Riverside does have one commercial assignment, but that channel is currently used at Guasti, which is outside of Riverside County. Thus, Riverside, only slightly less populated than Santa Ana, is also unserved by a local television station. As to the comments of Golden Orange and AIB, the Commission has consistently decided against placing artificial restraints on competition unless the overall public interest would be adversely affected by such competition. *Oxnard, California*, 20 R.R. 2d 1570 (1970). Furthermore, existing (or potential) licensees are not entitled to protection from additional assignments which might have a possible adverse effect on private economic interests. The economic impact question is better evaluated in passing upon an applicant's proposal for use of a new assignment. *Grand Junction, Colorado*, 38 F.C.C. 2d 1167 (1973). We have decided to assign a new channel to Riverside and to retain a channel at Santa Ana, as the most equitable option in distributing the last available channels in the Los Angeles area.

10. Having decided that each community deserves a channel assignment, we now turn to the issue of which channel to assign, Channel 62 or Channel 40, to which community. Channel 40 was very recently reassigned from Riverside to Santa Ana at the request of Trinity. *Riverside and Santa Ana, California, supra*. Now Trinity requests that Channel 40 be reassigned to Riverside. Trinity primarily bases its request to reassign Channel 40 on the following argument. Trinity reasons that if Channel 40 is reassigned to Riverside, the channel would not be opened up for the filing of competing license applicants. Because Trinity is licensed to Fontana, which is within 15 miles of Riverside, Trinity argues that the assignment would be merely a mechancial adjustment which would effectuate immediate local service to the Riverside/Fontana area. Such an action would further benefit Trinity by extricating it from the comparative application process which it currently faces in Santa Ana. Trinity notes that Saddleback, the other Santa Ana applicant, could amend its application to specify Channel 62. The other petitioners in this proceeding could apply for Channel 62 in Santa Ana, and the result would be one comparative hearing instead of two. We disagree with Trinity's assessment of the situation. The same reasoning which led us to conclude that competing applications could be filed when Channel 40 was assigned to Santa Ana, equally applies to reassigning the channel to Riverside. In the prior case, we concluded that under the principles

of *Ashbacker Radio Corp. v. F.C.C.*, 326 U.S. 327 (1945), the assignment of a television channel to a community requires the opportunity for competing filings. We stated that in policy terms alone this approach was preferable because it allowed us to select the applicant which would best serve the public interest. This is particularly true according to our Commission policy where another interest in a proposed assignment has been expressed. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). The present situation is sufficiently analogous to assigning a channel to a community for the first time that *Ashbacker* principles should be applied here also. Since Trinity took control of International Panorama, it has never operated a studio in its city of license, Fontana. Only three years ago, Trinity persuasively argued that Riverside had no compelling need for a television service and that Fontana had not provided sufficient financial support for the station. Indeed, Trinity argued that the assignment of Channel 40 to Santa Ana was necessary to permit the station to conform to the realities of its existing operation. Also, even though Channel 40 was initially assigned to Riverside, no station was licensed there. Riverside thus does not now have, and has not had in the past, a local television station licensed to serve its unique needs. Given these facts, we feel that assigning Channel 40 back to Riverside would be essentially the same as making the assignment available to Riverside for the first time, and that, under the *Ashbacker* principles elucidated in *Riverside and Santa Ana, California, supra*, assignment of Channel 40 back to Riverside would necessitate the opportunity for filing competing applications. See also *Los Angeles, California*, 31 F.C.C. 2d 666 (1971). Reassigning Channel 40 to Riverside would not, therefore, produce the results (*i.e.*, the elimination of one comparative hearing and the concomitant facilitation of local service to Riverside/Fontana) which Trinity had hoped for. This effectively negates the major basis for Trinity's counterproposal.[4] In summary, while the original assignment of Channel 40 to Santa Ana certainly presents no bar to reassigning the channel to Riverside, we find no public interest benefits in doing so.

11. The final issue to resolve is whether in assigning Channel 62 at Riverside a reservation for noncommercial educational use should be placed. Generally, when one party has requested a reserved assignment and another party seeks a non-reserved assignment, we have opted to leave the assignment unreserved. See *e.g., Eureka, California*, 3 F.C.C. 2d 614 (1966); *Medford and Brookings, Oregon*, 3 F.C.C. 2d 860 (1966). This leaves the assignment open for all qualified applicants, commercial and noncommercial. *UHF Channel Assignments*, 2 F.C.C. 2d 527, 541 (1966). In doing so, the ultimate decision as to what use is best for the community can be made in the comparative hearing process rather than in a rule making proceeding such as this. *San Angelo, Texas*, 4 F.C.C. 2d 889 (1966). At least three parties have expressed an interest in applying for a new channel in Riverside. In order to give all potential applicants an equal footing in applying for the channel, we will not reserve the channel for noncommercial use. Rather, as stated, the broadcast use which most clearly meets the public interest needs of the Riverside market can thus be decided in a comparative proceeding.

12. Mexican concurrence in the assignment of Channel 62 to Riverside has been obtained.

13. Accordingly, it has ordered, that the Television Table of Assignments, § 73.606(b) of the Commission's Rules, IS AMENDED, effective September 19, 1980, as follows:

City; Channel No.

Riverside, California—46, 62.

14. Authority for the action taken herein is found in Section 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended.

15. It is further ordered, that the petition of Asian American Telecasters to assign Channel 62 to Santa Ana, California, is denied.

16. It is further ordered, that the counterproposal of Trinity Broadcasting Network to reassign Channel 40 from Santa Ana, California, to Riverside, California, and to assign Channel 62 to Santa Ana is denied.

17. It is further ordered, that the petition of Bethel Broadcasting, Inc., to assign and reserve Channel 62 at Riverside, California is denied in part.

18. It is further ordered, that this proceeding is terminated.

19. For further information concerning this proceeding, contact Michael A. McGregor, (202) 653–7586, or Mark N. Lipp, (202) 632–7792, Broadcast Bureau.

Federal Communications Commission.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

William J. Tricarico,

Secretary.

[FR Doc. 80-24445 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79–256; RM–3116]

Radio Broadcast Services FM Broadcast Station in Lockhart, Tex; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns Channel 234 to Lockhart, Texas, as that community's first FM assignment, in response to a petition filed by D. Garry Munson and John Charles Larsh. Further action denies the counterproposal of Entertainment Communications, Inc. to substitute Channel 296A for Channel 292A at Gonzales, Texas, and assign Channel 292A to Lockhart.

DATE: Effective September 19, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Molly Pauker, Broadcast Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION:

Report and Order

(Proceeding Terminated)

Adopted: July 31, 1980.

Released: August 8, 1980.

By the Commission:

1. The Commission has before it a *Notice of Proposed Rule Making*, adopted September 27, 1979, in which it proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, by assigning Channel 234 to Lockhart, Texas, as that community's first FM channel assignment. The *Notice* was issued in response to a petition filed by D. Garry Munson and John Charles Larsh ("petitioners"). Comments and reply

[4] Furthermore, although it is not necessary to our decision in this case, we wish to comment briefly on Trinity's argument that Saddleback, Trinity's competition for the Channel 40 license in Santa Ana, would not be unfairly prejudiced by Trinity's counterproposal. It is certainly true that a license applicant is not denied its rights whenever, during the pendency of the application, the Commission takes action otherwise within its authority, even if one of the consequences may be to lessen the probabilities in favor of a grant of the pending application. *Western Communications, Inc.*, 38 F.C.C. 2d 970 (1972). At this time, Saddleback does enjoy protected status by virtue of its application having been cut-off. If made available for competing applications, a hearing involving more than two parties could result. See *Austin A. Harrison*, 3 R.R. 2d 847, 851–52 (1964). The very purpose for establishing our cut-off procedures would be defeated and Saddleback would surely be affected thereby.

comments have been filed by petitioners and by Hicks Communications, Inc. ("Hicks"). Entertainment Communications, Inc. ("ECI"), licensee of Station KLEF(FM), (Channel 233), Houston, Texas, filed an opposition, a counterproposal, and reply comments. The counterproposal suggests that Channel 296A be substituted for Channel 292A in Gonzales, Texas,[1] and Channel 292A be reassigned to Lockhart.[2]

2. Lockhart (population 6,489),[3] seat of Caldwell County (population 21,178), is located approximately 32 kilometers (20 miles) south of Austin, Texas, and 222 kilometers (140 miles) west of Houston, Texas. Lockhart is currently served by daytime-only AM Station KCLT (1060 kHz). Channel 234 could be assigned to Lockhart in conformity with the Commission's minimum distance separation requirements at a site approximately 25 kilometers (15.6 miles) northwest of the community. The site being within 318 kilometers (199 miles) of the Mexican border, Mexican concurrence in the assignment has been obtained. Both petitioners and Hicks have affirmed an intent to apply for Channel 234, if assigned to Lockhart.

3. In comments, petitioners reiterated their view that a Class C channel is appropriate for a community the size and nature of Lockhart. Hicks filed comments supporting the allocation of Channel 234 to Lockhart, stating that no other channel of any class is available for assignment to this community. Hicks provided corrected *Roanoke Rapids*[4] data, which reduced slightly petitioners' original first and second service estimates. See fn. 5, *infra*.

4. ECI filed opposing comments stating that there are no alternative sites available to relocate the transmitter and still enable it to provide a 70 dBu signal over all of Houston, so that assignment of Channel 234 to Lockhart may effectively preclude KLEF from continuing to offer adequate service to the public. ECI tells us that this is especially significant, in light of KLEF's unique classical music format. It put forward its counterproposal as a solution by which KLEF could remain at its present temporary site and not preclude Lockhart from receiving a first FM and fulltime aural service.

5. In reply comments, petitioners argued that there are alternative locations available to ECI which would permit the Class C assignment to Lockhart. They also stated that they would not apply for a Class A channel at Lockhart. Hicks, in reply comments, argued that ECI's own comment indicated that other non-short-spaced sites are available for KLEF, in particular a common "tall tower" site southwest of Houston, which several licensees have proposed, subject to FAA approval. Hicks also refused to commit itself to apply for a Class A channel at Lockhart. ECI's reply comments suggested that both the signal of educational Station KUT–FM, Austin, and 50 uV/m interference-free contours should have been considered in estimating the amount of first and second service a Class C facility at Lockhart could provide, citing *Rhinelander, Wisconsin,* Docket No. 18289, 34 FR 13736, 16 R.R. 2d 1681 (1969). ECI further argued that it is not clear that the FAA would approve a tower of the height necessary to provide the first and second service petitioners claim they could provide with a Class C facility at Lockhart. Finally, ECI argued that any alternative site available to it would result in short spacing with Lockhart. In a later pleading, petitioners moved to strike ECI's arguments relating to 50 uV/m contours and FAA approval of its tower height, on the grounds that because they had not been raised previously they were improperly alleged in reply comments. ECI opposed the motion to strike, to which opposition petitioners filed a reply.

6. A threshold issue to be resolved here is the propriety of our assigning a Class C channel to a community the size of Lockhart, to which ECI vigorously takes issue. As was pointed out in the *Notice,* there is a general policy that Class A channels be allocated to smaller communities. However, we have on numerous occasions found provision of significant first or second service to justify the Class C channel assignments. See *e.g., Antigo, Wisconsin, and Hart, Michigan,* 44 Fed. Reg. 6721, 45 R.R. 2d 22 (1979); *Yermo and Mountain Pass, California,* 44 Fed. Reg. 4486, 45 R.R. 2d 58 (1979); *Columbia, North Carolina,* 44 Fed. Reg. 2455, 45 R.R. 2d 757 (1979); *Marco, Florida,* 54 F.C.C. 2d 886 (1975). Provision of first or second service is without doubt one of the highest priorities in FM allocation. See, *e.g., Anamosa, Iowa,* 46 F.C.C. 2d 520 (1974). In unserved or underserved areas, assignment of a high-powered facility to a small community may be the only means of achieving provision of first or second service to sparsely populated outlying areas. See, *e.g., Cape Charles, Virginia,* 43 Fed. Reg. 6606, 42 R.R. 2d 363 (1978). Preclusion is generally not a significant barrier in such situations. In the instant case, we are told that assignment of Channel 234 to Lockhart could provide a first FM service to 1,487 persons in a 146 square kilometer (57 square miles) area and a second FM service to 3,768 persons in a 384 square kilometer (150 square miles) area, using facilities of 100 kW at 850 feet.[5] The assignment of Channel 234 to Lockhart will not cause preclusion to any community with a population greater than 1,000.[6] We believe that these figures justify assignment of a class C channel to Lockhart.

7. ECI argues that it is doubtful that petitioners could obtain FAA approval for a tower in excess of 500 feet, because of the site's proximity to existing highway and railway routes.[7]

[1] Channel 292A is assigned to Gonzales but is unoccupied at present.

[2] During the pendency of the instant rule making proceeding, ECI filed an application to relocate the transmitter site of Station KLEF some 24 kilometers (15 miles) to the east of Houston, on an existing tower, on the grounds that expiration of its lease and construction in downtown Houston prevented it from locating another suitable transmitter site closer to the city (File No. BPH0790209 AE). The application was opposed by petitioners, because ECI's propsed site would result in short spacing of 13.07 kilometers (8.17 miles) to the proposed Lockhart site. By Commission action of July 12, 1979, ECI was granted special temporary authority for its requested relocation, as an immediate and temporary means for Station KLEF to provide uninterrupted service to its listenership. However, the grant clearly specified that the instant rule making proceeding would in no way be prejudiced thereby.

[3] Population figures are based on 1970 U.S. Census data.

[4] 9 F.C.C. 2d 672 (1967).

[5] These figures were provided in comments by Hicks. Staff analysis indicates that they are substantially correct. They indicate less first and second service than that reflected in data previously submitted by petitioners; however, petitioners did not take into account all existing stations. ECI's contentions that 50 uV/m contours should have been used and that the signal of educational Station KUT–FM should have been considered are incorrect. See *Hubbard Broadcasting, Inc., et al.,* 12 F.C.C. 2d 765 (1968); *The News-Sun Broadcasting Co., et al.,* 7 F.C.C. 2d 203 (1967); *Campbell and Sheftall, et al.,* 7 F.C.C. 2d 658, 664 (1967). Also see *Anamosa, Iowa, supra.* Since Hicks' data is based on facilities of greater magnitude for the Lockhart station than those assumed under *Roanoke Rapids* criteria, we would expect the applicant for the channel to propose to use such greater facilities.

[6] The preclusion analysis presumes operation by Station KLEF at its previous site, not at the present STA location. KLEF's STA grant, by its terms, is not to "be of any decisional significance to the [instant] rule making." Therefore, petitioners were not required to base their preclusion analysis on KLEF's STA site.

[7] Petitioners have moved that we strike this contention, as well as ECI's argument that 50 uV/m contours should be used to reduce first and second service estimates, on the grounds that those arguments were not previously alleged in comments. We believe we have the flexibility to give consideration to all relevant issues and, if necessary, seek additional comments thereafter. None of the cases cited by petitioners persuades us otherwise. The public interest is ultimately better served if we permit introduction of all relevant factors via pleadings filed in a timely manner. See *Citizens Committee v. F.C.C.,* 436 F. 2d 263 (1970). We also note that the two new arguments raised by ECI in reply comments are indeed germane to issues

Footnotes continued on next page

Without facilities of this magnitude, ECI contends, the Lockhart facility would be unable to provide the first and second service promised. While we believe that such matters should generally be taken up at the application stage, we do note that petitioners' rebuttal, which argues that ECI focused on only one of at least two significant factors in air hazard determination by the FAA (indeed, one which might well not be dispositive in this case), is sufficient to assuage concerns we might entertain at this stage of the proceeding.

8. Staff analysis indicates that Channel 296A can be assigned to Gonzales as a substitute channel at a site at least 12 kilometers (7.5 miles) east of the community, and that Channel 292A can then be reassigned to Lockhart at a site at least 10.3 kilometers (6.4 miles) northeast of the community, in conformity with the Commission's minimum distance separation requirements. However, we are constrained from further acting on ECI's counterproposal, due to the expressed lack of interest of either petitioners or Hicks in applying for the Lockhart assignment on Channel 292A.[8] It is against our policy to assign a frequency to a community absent stated interest on the part of at least one party in applying to utilize the assignment for the provision of broadcast service. See *e.g., West Memphis, Arkansas,* Docket No. 20787, RM–2607, *Memorandum Opinion and Order,* September 28, 1976.

9. The principal matter in contention here is whether an existing licensee's site preference should be permitted to take precedence over an assignment which could provide a first local FM service to a community, as well as a significant amount of first and second FM service. Provision of FM service to persons who are currently unserved is of the highest priority in FM allocation. See *Anamosa, Iowa, supra,* 46 F.C.C. 2d at 524. Also see *Colorado West Broadcasting, Inc., et al.,* 57 F.C.C. 2d 526 (1976). Only the assignment of a Class C channel to Lockhart would achieve this.

Footnotes continued from last page

raised in the record heretofore. Most importantly, we note that petitioners, in their motion to strike, have responded substantively to ECI's contentions. Thus, the notice-giving function of pleading has clearly been fulfilled. See *Kuhn v. C.A.B.,* 183 F. 2d 639, 641–642 (D.C. Cir. 1950). Accordingly, we shall deny petitioners' motion to strike and have herein considered ECI's arguments (and petitioners' responses) on the merits.

[8] Petitioners tell us that, given the inability of a Class A facility to reach the rural audience, they would not apply to construct a station of the magnitude necessary to provide city-grade coverage to Lockhart at the site mandated by the separation requirements. Hicks likewise refuses to commit itself to apply for Channel 292A.

10. On the other hand, we recognize that ECI faces an interference problem at its present site, a problem shared by other Houston stations, and we do not discount the magnitude of its difficulties. Our deliberations here may be guided by a recent decision by the Broadcast Bureau, pursuant to Section 0.281 of the Commission's Rules, in which the facts are quite similar. See *Freeport, Texas,* Docket No. 21513, 45 FR 21638 (1980). That case involved a proposed first FM assignment of a Class C channel to Freeport, a community of 11,997, on the Gulf Coast. No Class A channel was available for assignment to Freeport. Opposing the assignment was Houston Station KMJQ, which claimed to provide unique service to the minority population of that city. Station KMJQ complained that its signal was sustaining interference caused by construction in downtown Houston, and sought to relocate its transmiter at a site 27.2 kilometers (17 miles) outside of Houston. This would have resulted in short spacing with the proposed Freeport site. In ultimately assigning the Class C channel to Freeport, the Bureau gave great decisional weight to the fact that KMJQ had offered no evidence, beyond its bald assertion, that it was unable to procure an alternative transmitter site which would not be short-spaced to Freeport. We find the same to be true in the instant case. It appears from the record that alternative locations exist to which Station KLEF's transmitter might be moved. In particular, we note the "tall tower" site, 24 kilometers (15 miles) from Houston (see par. 3, *supra*), east of Station KLEF's present STA location. The record indicates that a 1,049 foot tower could be erected here with FAA concurrence.[9] From this site, Station KLEF could provide the necessary signal contour over Houston. If Station KLEF were to operate from this location, the Lockhart site would have to be moved 8 kilometers (5 miles) west, to meet the mileage separation requirements. A Class C facility operating there would in all likelihood be able to cover Lockhart adequately. In addition, the record indicates that Station KLEF could be sited further east than the "tall tower" site, enabling the Lockhart site originally proposed to be utilized.

[9] KLEF is part of a group of stations which have applied for FAA approval of a 1,970 foot tower (2,049 feet above mean sea level) at this "tall tower" site. In an October 5, 1979, letter to an engineering consultant to KLEF, Mr. Frank Lappas, an aeronautical consultant, stated that he believes the FAA would approve a maximum tower height of 1,049 feet above mean sea level at the "tall tower" site. The letter was filed by ECI as an attachment to its comments and counterproposal.

11. The significance of the possibility of other available sites for Station KLEF's transmitter can best be evaluated by an analogy to cases in which waiver of short-spacing prohibitions is sought. In such situations, we require concrete evidence, as opposed to mere undocumented assertion, that no non-short-spaced site is available. See *Townsend Broadcasting Corporation,* 62 F.C.C. 2d 511 (1976). Further, it is only in the most compelling circumstances that we have been willing to deviate from the original FM allocation plan. *John Lamar Hill,* 70 F.C.C. 2d 153 (1978). Here, no party has thus far sought waiver of the minimum distance separation requirements, although the possibility has been addressed in the pleadings. We shall not decide an issue which is not before the Commission, however, we note that the absence of categorical evidence that no non-short-spaced sites are available for KLEF is dispositive in the instant situation, just as it would be in the context of a requested waiver. We would be extremely reluctant to deny a first local FM service to Lockhart and favor ECI, when there are apparent solutions to the controversy which would permit both the continued operation of Station KLEF at a permissible site and the assignment of Channel 234 to Lockhart.[10] On the evidence before us, it appears that our action herein need not entail the demise of Station KLEF. Thus, considering all the factors before us, it appears that the public interest would best be served by our assigning Channel 234 to Lockhart as a first FM assignment.

12. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, It is ordered, That effective September 19, 1980, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to Lockhart, Texas, as follows:

City and Channel No.
Lockhart, Texas 234

13. It is further ordered, That the counterproposal of ECI to substitute Channel 296A for Channel 292A at Gonzales, Texas, and assign Channel 292A to Lockhart, Texas, is denied.

[10] Since we do not believe that assignment of Channel 234 to Lockhart would cause Station KLEF to cease operation, it is not necessary for us to consider substantively ECI's argument that the Lockhart assignment would cause loss of Station KLEF's unique classical format.

14. It is further ordered, That this proceeding is terminated.

15. For further information concerning this proceeding, contact Molly Pauker, Broadcast Bureau, (202) 632–6302.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-24442 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1470, Amdt. 1]

Norfolk and Western Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp. and of Illinois Central Gulf Railroad Co.

August 7, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1470.

SUMMARY: This order provides authority for the Norfolk and Western to operate over tracks of the Illinois Central Gulf Railroad and Conrail, which expedites the movement of freight traffic to be interchanged with those carriers. Amendment No. 1 amends Service Order No. 1470 by extending the expiration date until 11:59 p.m., October 30, 1980.

EFFECTIVE DATE: 11:59 p.m., August 8, 1980.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr. (202) 275–7840.

Upon further consideration of Service Order No. 1470 (45 FR 31724), and good cause appearing therefor:

§ 1033.1470 [Amended]

It is ordered, § 1033.1470 *Norfolk and Western Railway Company Authorized To Operate Over Tracks of Consolidated Rail Corporation and of Illinois Central Gulf Railroad Company.* Service Order No. 1470 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 8, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24361 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Sixth Rev. S.O. No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

August 7, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Sixth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96–254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

In particular, Sixth Revised Service Order No. 1473, is revised by deleting from Appendix A, Item 1, the authority for Louisiana and Arkansas Railway to operate between Hodge and Winnfield, and at Alexandria, Louisiana, which operation was never commenced. That operation is now being authorized for the Louisiana Midland Railway Company which has undertaken a lease/purchase agreement with the Trustee (Item 23). Items 5 and 8 are corrected as indicated, to be consistent with the operations being performed. Also deleted from Appendix A, is Item 21, which authorized the Winchester and Western Railroad Company to operate between LaSalle and Ottawa, Illinois, which operation was assumed by the Baltimore and Ohio Railroad on August 4, 1980. All Items after Item 20 are renumbered one number less.

EFFECTIVE: 12:01 a.m., August 9, 1980, and continuing in effect until 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr. (202) 275–7840.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Sixth Revised Service Order No. 1473, is revised by deleting from Appendix A, Item 1, the authority for Louisiana and Arkansas Railway to operate between Hodge and Winnfield, and at Alexandria, Louisiana, which operation was never commenced. That operation is now being authorized for the Louisiana Midland Railway Company which has undertaken a lease/purchase agreement with the Trustee (Item 23). Items 5 and 8 are corrected as indicated, to be consistent with the operations being performed. Also deleted from Appendix A, is Item 21, which authorized the Winchester and Western Railroad Company to operate between LaSalle and Ottawa, Illinois, which operation was assumed by the Baltimore and Ohio Railroad on August 4, 1980. All Items after Item 20 are renumbered one number less.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the RI lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees*—In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., August 9, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C, and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A.—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of the Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No.19.

2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska

B. from Colby to Caruso, Kansas

C. approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska

4. *Toledo, Peoria and Western Railroad Company (TP&W):*

A. Keokuk, Iowa

B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois

5. *Burlington Northern, Inc. (BN):*

A. Burlington, Iowa (milepost 0 to milepost 2.06)

B. Fairfield, Iowa

C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).

D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9)

* E. CBQ Junction, Kansas (milepost 325.9) to Gem, Kansas (milepost 380.5).

6. *Fort Worth and Denver Railway Company (FW&D):*

A. From Groom, Texas (milepost 718.9) to Adrian, Texas (milepost 809.5)

B. Terminal trackage at Amarillo, Texas, including approximately (3) three miles northerly along the old Liberal Line, and at Bushland, Texas.

C. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

7. *Chicago and North Western Transportation Company (C&NW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0)

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6)

E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364)

F. from Short LIne Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7)

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 502.2)

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2)

J. from Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9)

K. from Rake (milepost 50.7) to Ocheyedan, Iowa (milepost 502)

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502)

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2)

* Corrected.

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids
O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6)
P. Sibley, Iowa
Q. Worthington, Minnesota
R. Altoona to Pella, Iowa
S. Carlisle, Indianola, Iowa
T. Omaha, Nebraska, (between milepost 502 to milepost 504).
U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

8. Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland
*B. Seymour, Iowa
C. Washington, Iowa
D. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota

9. Davenport, Rock Island and North Western Railway Company (DRI):

A. Davenport, Iowa
B. Moline, Illinois
C. Rock Island, Illinois, including 26th Street yard
D. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex
E. from East Moline to Silvis, Illinois
F. from Davenport to Wilton, Iowa
G. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal

10. Illinois Central Gulf Railroad Company: (ICG) Ruston, Louisiana.

11. St. Louis Southwestern Railway Company (SSW): operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas City, KS/MO), a total distance of 995.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 26.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.

12. The Southwestern Oklahoma Railroad Company: from Hobart, Oklahoma (milepost 70) to Mangum, Oklahoma (milepost 97.7), and from Hobart, (milepost 70) to Anadarko, Oklahoma (milepost 18.5).

13. Little Rock & Western Railway Company: from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

14. Missouri Pacific Railroad Company: from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

15. Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:

A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth
B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas
C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 496.4 within the City of Oklahoma City, Oklahoma
D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas
E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 81.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only
F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas
G. Rock Island right to interchange with and use the properties of the Great Southwest Railroad Company located in Grand Prairie, Texas
H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph, and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles
I. The Ponca City Line at approximately milepost 26.1 at Billings, Oklahoma, to North Enid, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 26.1 miles
J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles
K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

16. El Dorado and Wesson Railroad Company: from El Dorado to Catesville, Arkansas, a distance of 8 miles, in order to serve the Velsical Plant.

17. The Denver and Rio Grande Western Railroad Company:

A. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

18. Norfolk and Western Railway Company: is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port District. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

19. St. Louis-San Francisco Railway Co.:

A. At Okeene, Oklahoma.
B. At Lawton, Oklahoma.

20. Southern Railway Company:

21. Cadillac and Lake City Railroad:

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

22. Baltimore and Ohio Railroad Company:

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

23. Louisiana Midland Railway Company:

A. From Hodge, Louisiana (milepost 173.3) to Alexandria, Louisiana (milepost 247.8), which includes assumption of RI's trackage rights over the Louisiana and Arkansas Railway Company between Winnfield, Louisiana, and Alexandria, Louisiana, and the RI's track and yard in Alexandria, Louisiana.

[FR Doc. 80-24380 Filed 8-12-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[S.O. No. 1481]

The Kansas City Southern Railway Co. Authorized To Operate Over Certain Tracks of St. Louis-San Francisco Railway Co. and Missouri Pacific Railroad Co.

August 7, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Final rule (Service Order No. 1481).

SUMMARY: This order authorizes Kansas City Southern to operate over certain tracks of the St. Louis-San Francisco and the Missouri Pacific due to damage to its bridge over the Elk River near Noel, Missouri. The operation is between Neosho, Missouri and Sallisaw, Oklahoma, a total distance of about 171.8 miles. This order will remain in effect until September 15, 1980, to provide time to make necessary repairs.

EFFECTIVE DATE: 12:01 a.m., August 9, 1980.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275-7840.

The Kansas City Southern Railway Company (KCS) is unable to operate over a portion of its lines in Missouri and Oklahoma due to an inability to operate over its Elk River Bridge, 3 miles north of Noel, Missouri. An alternate route is available over lines of the St. Louis-San Francisco Railway Company (SLSF) between Neosho, Missouri and Claremore, Oklahoma, and over lines of the Missouri Pacific Railroad Company (MOP) between Claremore and Sallisaw, Oklahoma. MOP and SLSF have consented to the use of their lines by the KCS for a period of time sufficient to allow the bridge to be repaired.

It is the opinion of the Commission that an emergency exists requiring the operation by KCS over tracks of MOP and SLSF in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1481 Service Order No. 1481.

(a) *The Kansas City Southern Railway Company authorized to operate over certain tracks of St. Louis-San Francisco Railway Company and Missouri Pacific Railroad Company.* The Kansas City Southern Railway Company (KCS) is authorized to operate over tracks of the St. Louis-San Francisco Railway Company (SLSF) between Neosho, Missouri (milepost 309.14) and Claremore, Oklahoma (milepost 397.0); and over tracks of the Missouri Pacific Railroad Company (MOP) between Claremore, Oklahoma (milepost 609.7) and Sallisaw, Oklahoma (milepost 525.8), a total distance of approximately 171.8 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the KCS over tracks of the MOP and SLSF is deemed to be due to carrier's disability, the rates applicable to traffic moved by the KCS over these tracks shall be the rates which were applicable on the shipments at the time the shipment was originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., August 9, 1980.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 15, 1980, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24379 Filed 8-12-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1120A

[Finance Docket No. 28990F]

Rail Carriers; Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions

Decided: July 23, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules and exemptions.

SUMMARY: We are exempting the acquisition by a State of rail lines approved for abandonment, when the abandonment has not been consummated. Further, we are exempting from our regulation the start up and termination of operations over lines abandoned or approved for abandonment, which have been acquired by a State. We are also adopting rules for a modified certificate of public convenience and necessity for these operations. This will insure that our regulations do not prevent a State or political subdivision from initiating programs to continue rail service, and will encourage operators to provide service over State acquired lines.

FOR FURTHER INFORMATION CONTACT:
Richard Kelley, (202) 275-7564.

EFFECTIVE DATE: September 12, 1980.

SUPPLEMENTARY INFORMATION:

On March 26, 1980, a notice of proposed rulemaking and proposed exemptions was served and published at 45 FR 19585. These proposals were in response to petitions filed by States concerned about the effect regulation might have on their programs to continue rail service. In that notice, we proposed to exempt from our approval, under 49 U.S.C. 10901, the acquisition by a State of rail line which had been abandoned or approved for abandonment. In addition, we proposed to exempt the operators who provide service over these lines, from our regulatory requirements concerning start up and termination of operations. (49 U.S.C. 10901 and 10903). We also proposed special rules which would apply to the States and to the operators of these lines.

The purpose of these proposals is to promote continuation of rail service by removing certain regulatory constraints from the States and thus encouraging rail continuation programs. In addition, it will remove regulatory constraints which might discourage new operators from initiating service over marginal lines. Within the last year two major rail systems, the Chicago, Rock Island and Pacific Railroad Company, and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company have terminated either all or a substantial portion of their operations. In response to the threat of losing rail service that the States find vital to their economic well being, several States have developed programs to continue service. These programs include plans by States to purchase rail lines and contract with operators to provide service. Also, new businesses have been organized to provide service over these lines. This proposal is designed to facilitate these efforts.

Comments on the notice were filed by five States: the State of Michigan, Department of Transportation (MI-DOT), the State of Wisconsin, Department of Transportation (WI-DOT), the Commissioner of Transportation of the State of New York (NY), the State of South Dakota (SD), the State of Iowa, Department of Transportation, the United States Department of Transportation (DOT), Railway Labor Executives' Association (RLEA), the Illinois Legislative Director for the United Transportation Union (UTU), the Association of American Railroads (AAR) and the Freight User Association of Long Island, Inc. Generally, the States and DOT favored the proposals but raised several questions about them. The labor and

*Added.

shipper organizations opposed the proposals.

NY filed a petition to be considered a party and moved to dismiss the proceeding, on the ground that this Commission has no jurisdiction over a State. NY is a proper party to the proceeding. The motion to dismiss is denied. It is well established that when a noncarrier, including a State, acquires a railroad, it must seek our approval under section 10901. See *United States* v. *California*, 297 U.S. 175 (1936); *Iowa Term. R. Co. Acquisition and Operation*, 312 I.C.C. 546, 549 (1961).

Discussion and Conclusion of Issues

1. *Exemptions.*—RLEA and UTU contend that the proposed exemptions are beyond the scope of section 10505 and that the Commission has not met the statutory burdens of this section. The unions' concern is that these proposed rules and exemptions will be used to avoid the labor protective provisions of 49 U.S.C. subtitle IV. They contend that the Commission cannot act as a superlegislature and exempt a class from important statutory provisions.

The language of section 10505 and the legislative history [1] give the Commission broad discretion concerning exemptions. We can exempt not only a transaction, but transactions. The Senate report explained the scope of the Commission's exemption authority as follows:

> The requirement of full proceedings before exemption can be granted * * *, as well as the findings which must be made, assure that the Commission will not act in such a manner as to contravene its Congressional mandate to regulate interstate commerce. At the same time, the power to exempt from regulation in whole or in part will enable the Commission to commit its limited resources in areas where they are most needed, by enabling it to deregulate those areas which have no significant bearing on the overall regulatory scheme. [S. Rept. 94–499, p. 53 (November 26, 1975).]

See also H. Rept. 94–725, p. 75 (December 12, 1975) which stated:

> The Committee has given the Commission the [exemption] power to study and review the areas of its regulation so as to eliminate from regulation those areas where regulation is not required to effectuate the national transportation policy or where the removal of the regulation would be no undue burden on persons or class or persons in interstate or foreign commerce, or where such regulation would serve little or no useful public purpose.

Additional legislative history indicates that the exemption power is to be used where regulation is not necessary to carry out the statutory criteria. See H. Rept. 94–768, p. 125 (December 10, 1975) and H. Rept. 94–781, p. 153 (January 23, 1976). Based on the clear legislative history of our exemption power and its precise wording as enacted in the Railroad Revitalization and Regulatory Reform Act of 1976, we can clearly exempt a class of transactions.

Under section 10505, we are authorized to exempt from our regulation a class of persons, or a transaction or service where appropriate "because of the limited scope of the transaction or service." This exemption is available when we find that continued regulation:

(1) is not necessary to carry out the transportation policy contained in section 10101 of the act;

(2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) would serve little or no useful public purpose.

We will now apply these statutory requirements to the two exemptions proposed here. The scope of the exempted transactions is limited. Both exemptions will apply only to rail lines which have been approved for abandonment. Out of a national rail system totaling approximately 325,000 miles of main and branch lines, we approved the abandonment of only 2,873 miles in 1979, 2,417 miles in 1978, 2,500 miles in 1977, and 1,789 miles in 1976. The average length of the lines approved for abandonment is short: 23 miles in 1979, 22 miles in 1978, 17 miles in 1977, and 18 miles in 1976. In addition, States have shown interest in acquiring only a small fraction of these abandoned lines. Also, lines approved for abandonment generally have relatively sparse traffic, and have been either not profitable or only marginally profitable.

a. *Acquisition by State of a rail line approved for abandonment.*—When a rail line has been fully abandoned,[2] it is no longer rail line and the transfer of the line is not subject to our jurisdiction. However, when a line has not been fully abandoned, the transfer of the line is subject to our jurisdiction. We are exempting States from our regulatory requirements concerning acquisition of lines not fully abandoned. When a State wishes to acquire a line approved for abandonment by the Commission or a Bankruptcy Court, and the line has not been fully abandoned we will not require the filing of an application. This is a narrow class of transactions which does not require review by this Commission to protect the public interest.

We are requiring States to notify the Commission of the acquisition of these rail lines and whether operations will be continued over them.

The fact that the abandonment has not been consummated will not result in any change in employee protective conditions which may have been imposed in the abandonment proceeding. In acquisition proceedings where the vendor had filed abandonment applications for the involved line, but the application was dismissed when the acquisition was granted, the Commission has required the selling railroad to assume the costs of labor protection. See *Prairie Trunk Railway—Acquisition and Operation*, 348 I.C.C. 832 (1977) and *Cadillac & Lake City Ry. Co. Acquisition and Operation*, 320 I.C.C. 617 (1964).

SD requests that this exemption proposal be modified to include nonabandoned lines of bankrupt railroads purchased by a State with the approval of the Bankruptcy Court. We see no justification for abdicating our concurrent jurisdiction. Under the Milwaukee Railroad Restructuring Act, section 5(b)(2) (MRRA), a Bankruptcy Court may not authorize a sale or transfer *until* an application has been filed with the Commission. To comply with the requirements of MRRA, we have adopted special procedures in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980). These procedures streamline the information filed by applicants; yet enable the Commission to rule quickly and knowledgeably on the acquisition. We have ruled upon an acquisition under these procedures with a 30-day court imposed time limit. See, Finance Docket No. 29237, *State of Wisconsin—Acquisition of Certain Lines of Chicago Milwaukee, St. Paul and Pacific Railroad Company* (not printed), decided January 30, 1980. However, transfers to States of those lines abandoned or approved for abandonment will fall within the scope of this exemption.

b. *Operators exempt from filing start up and abandonment applications.*—(49 U.S.C. 10901 and 10903.) The lines involved under this exemption are lines that have been approved for abandonment, or have been fully abandoned; as discussed above, the scope of the transaction is limited.

In acquiring these lines the States may be contracting with new operators for service over these lines which have proven uneconomical to operate. Service over lines may be in danger of immediate termination. Requiring an application under section 10901 to start up operations may result in temporary cessation of service to shippers. The new carriers may also be concerned with the necessity of continuing operations for months should another abandonment application be required. To require applications for the start up and termination of service over these lines serves no public purpose, is an unreasonable burden, and is not necessary to carry out the transportation policy.

We recognize the concern of RLEA and UTU regarding the Commission's statutory duty to impose employee protective conditions. However, these exemptions will not affect the labor protective conditions imposed by the Bankruptcy Court or the Commission in abandonment proceedings. All rail lines exempted here will have been approved for abandonment and employees protective conditions will have been imposed on the abandoning carrier.

The purpose of this proceeding is to facilitate the acquisition and operation of lines for which service by the current carrier will in all likelihood not be continued. This purpose clearly fulfills our most fundamental congressional mandate: to ensure the development, coordination, and preservation of a transportation system. This proposal should increase employment opportunities for railroad employees. However, employees of the new operators will be on notice from the beginning that this is an enterprise that may go out of business, and as with most business enterprises, the employees will have no protections other than those provided by the original abandoning carrier imposed if the new operations terminate.

2. *Common carrier status of states.*—In our March 26 notice, we suggested that both the State and the operator would become common carriers, even though certain transactions would be exempt from our jurisdiction. The States argue strenuously that no common carrier status should attach when they acquire rail line and contract for the operations over the line. They contend that a State should be required to file an application for a common carrier certificate only if it operates a rail line. Further, where the operator has assumed the entire burden of operating the line, no purpose is served by requiring a State to become a common carrier. WI–DOT explained:

> These Wisconsin counties and cities do not provide any rail service for compensation. They simply permit an operator on their track and WISDOT land and hope the operator can break even or turn a profit with a minimum contribution of public moneys for track maintenance and rehabilitation. [WI–DOT comment, p. 1.]

In addition, they contend that a finding that States incur a common carrier obligation merely by owning a rail line is contrary to established Commission policy and contrary to the purpose of 49 U.S.C. subtitle IV. They argue that the fundamental test for determining common carrier status is whether there has been a "holding out to the public as a common carrier." *Status of Bush Universal, Inc.*, 342 I.C.C. 550, 564 (1973). See also *State of Okla. Ex Rel., Dept. of Highways, Abandonment*, 324 I.C.C. 666 (1965), where the State paid the contruction cost of a rail line, but was not considered a "carrier" under 49 U.S.C. 10901. Further, in *State of Vt. and Vermont Ry., Inc., Acquisition and Op.*, 320 I.C.C. 609, 610 (1964), the Commission, Division 3, ruled that a State, which acquired a rail line authorized to be abandoned, was not considered a common carrier when it never performed, or held itself out to perform transportation service.

WI–DOT notes that many State constitutions prohibit a State from becoming a common carrier. WI–DOT also asks the Commission to consider the additional burden common carrier status would impose on States insofar as employee protective arrangements under 49 U.S.C. 11347 and liability under the Federal Employee's Liability Act.

We are persuaded by the States' arguments. The purpose of this proposal is to promote continuation of rail service and to remove obstacles which might inhibit States from acquiring lines so that service can be continued. Our mandate to promote transportation is best served by following the policy that mere ownership of a rail line by a State does not create common carrier status. When a State has not held itself out to be the operator of a line and thus has not incurred a duty to the public, the common carrier duty to provide and maintain service should be only on the operator. Therefore, we have modified our proposal, and we will not require the State to file jointly with the operator of a notice for a modified certificate.[3] A State will be considered a common carrier if it operates a rail line itself. *United States* v. *California, supra.*

3. *Modified certificate of public convenience and necessity.*—The operators, whether a State or its contractor, which would be exempted from our regulatory requirements concerning start up and termination of operations, must however, file a notice for a modifed certificate of public convenience and necessity under 49 CFR 1120A. See appendix. This notice will provide the Commission with essential information concerning the financial condition of the operator, liability insurance coverage, and the nature of the operations. An operator may commence operations immediately upon the filing of a completed notice under 49 CFR 1120A. Service can be terminated after providing 60 days' notice to the State, the Commission, and shippers on the line.

The operators under the modified certificate incur full common carrier obligations (within any limitations contained in the certificate such as shipper subsidy) and may subscribe to existing industrywide agreements and rules pertaining to the joint movement and interchange of freight cars and traffic, and arrangements for accounting, billing, and settlements.

DOT questions whether an operator under this type of certificate should be eligible for antitrust immunity under section 10706. The issue of rate bureau antitrust immunity is being considered in other proceedings before the Commission [4] and in legislation pending in Congress. DOT has not shown how granting the immunity to these operators would promote uneconomical transportation. It is our view, that insofar as operations are concerned, the operators under modified certificates are the same as other common carriers—they differ only in the requirements for start up and termination of service. To the extent that these carriers join rate bureaus for the purpose of discussing collective rates, they will be held to the same standards applicable for rail carrier antitrust immunity generally.

We should also clarify the limitation of service under the modified certificate. The State through its operational agreement and/or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over a line. All shippers must be notified of the

[1] See H. Rept. 94–725, p. 75 (December 12, 1975), H. Rept. 94–781, p. 153 (January 23, 1976), and S. Rept. 94–499, p. 53 (November 26, 1975).

[2] A line is fully abandoned after a cerficiate of public convenience and necessity has been issued, and when operations have ceased, tariffs have been canceled and a letter has been filed with the Commission that the abandonment has been consummated.

[3] In our original notice, we had proposed exempting the States from the securities requirements of section 11301. Under that proposal the State, as the nonoperating owner of a rail line was required to join in the application for a modified certificate. Since, we have ruled here that only the operator of a line is a common carrier, this exemption for the States is not needed.

[4] Section 5(b) Application No. 2, Western Railroads—Agreement; Section 5(b) Application No. 3, Eastern Railroads—Agreement; and Section 5(b) Application No. 6, Southern Railroads—Agreement.

precondition and any shipper who meets the requirements must be served. The modified certificate will authorize service only to the shippers who meet these preconditions and the operator's common carrier duty will extend only to those shippers.

4. *Other issues.*—DOT suggests that the exemptions apply only to rail lines which carried traffic of 5 million gross ton-miles or less during its last year of operation. This limitation is needed, DOT contends, because States may acquire abandoned main line and these State-owned lines could achieve "unfair competitive advantages." This limitation is not necessary. DOT has not shown what "unfair competitive advantages" may result from this proposal. Also, shippers along lines served by these operators are on notice that service may be terminated after providing 60 days' notice. If the operations become profitable enough, a carrier would, in all likelihood, apply for a common carrier certificate so that shippers would know the service was long term and would be willing to expand or locate on the line.

DOT is authorized, under 49 U.S.C. 1654 (f) and (k), with certain limited exceptions, to grant assistance to States for *subsidizing* service over lines previously authorized for abandonment by this Commission, and to grant assistance for *rehabilitating* light density lines that have not been abandoned or authorized for abandonment. Thus, the type of assistance which DOT is authorized to provide varies depending on whether the line for which a State seeks assistance has been abandoned or authorized for abandonment.

DOT requests that we clarify whether the line operated under a modified certificate of public convenience and necessity is a line authorized for abandonment and therefore eligible only for operating subsidies, or is a line operated under a common carrier certificate and thus eligible for rehabilitation assistance. Since all the rail lines that will be covered by this exemption would have been abandoned pursuant to our regular procedures but for this exemption, we conclude that they would not be eligible for rehabilitation assistance. If a carrier wishes to take advantage of Federal rehabilitation assistance programs, it will have to apply for a full-fledged certificate of public convenience and necessity pursuant to section 10901 of the act.

UTU asks why States should be treated differently than private sector railroads. Our statutory mandate requires us "to cooperate with each State and the officials of each State on transportation matters." 49 U.S.C. 10101(a)(15). In addition, Congress has clearly enunciated its view that States should take an active role in maintaining rail service. See the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976.

We adopt the exemptions discussed in this notice and the rules set forth in the appendix.

This action does not affect significantly the quality of the human environment or conservation of energy resources.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321 and 10505.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliman.

Agatha L. Mergenovich,
Secretary.

Appendix

The following rules are added as 49 CFR 1120A:

PART 1120A—MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Sec.
1120A.1 Scope of rules.
1120A.2 Exemptions and common carrier status.
1120A.3 Modified certificate of public convenience and necessity.
1120A.4 Termination of service.

Authority: 5 U.S.C. 553 and 49 U.S.C. 10321 and 10505.

§ 1120A.1 Scope of rules.

These special rules apply to the operations over abandoned rail line, which has been acquired (through purchase or lease) by a State. The rail line must have been fully abandoned, or approved for abandonment by the Commission or a Bankruptcy Court. As used in these rules, the term "State" includes States, political subdivisions of States, and all instrumentalities through which the State can act. An operator has the option of applying for a modified certificate of public convenience and necessity under this section or a common carrier certificate under 49 U.S.C. 10901 and 49 CFR 1120.

§ 1120A.2 Exemptions and common carrier status.

The acquisition by a State of a fully abandoned line is not subject to the jurisdiction of the Interstate Commerce Commission. The acquisition by a State of a line approved for abandonment and not yet fully abandoned is exempted from the Commission's jurisdiction. If the State intends to operate the line itself, it will be considered a common carrier. However, when a State acquires a rail line described under section 1120A.1 and contracts with an operator to provide service over the line, only the operator incurs a common carrier obligation. The operators of these lines are exempted from 49 U.S.C. 10901 and 10903 to which are the statutory requirements governing the start up and termination of operations. Operators exempted from these requirements must comply with the requirements of this part and must apply for a modified certificate of public convenience and necessity. The operator is a common carrier and incurs all benefits and responsibilities under 49 U.S.C. subtitle IV; however, the State through its operational agreement or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over the line. The operator must notify the shippers on the line of any preconditions. The modified certificate will authorize service to shippers who meet these preconditions and the operator will be required to provide complete common carrier service under this certificate only to those shippers. (See 363 I.C.C. 132.)

§ 1120A.3 Modified certificate of public convenience and necessity.

(a) The operator must file a notice with the Commission for a modified certificate of public convenience and necessity. Operations may commence immediately upon the filing; however, the Commission will review the information filed, and if complete, will issue a modified certificate notice. If an operator has an application pending under section 10901a the time the rules become effective, it may file a request to convert the application to a modified certificate within 60 days of the effective date of these rules.

(b) A notice for a modified certificate of public convenience and necessity shall include the following information:

(1) The name and address of the operator and, unless the operator is an existing rail carrier:

(i) its articles of incorporation or, if it is unincorporated, the facts and organizational documents relating to its formation;

(ii) the names and addresses of all of its officers and directors and a statement indicating any present affiliation each may have with a rail carrier; and

(iii) sufficient information to establish the financial responsibility of the operator.

(2) The exact dates of the period of operation which have been agreed upon by the operator and the State which owns the line (if there is any agreement, it should be provided);

(3) A description of the service to be performed including, where applicable, a description of:

(i) the line over which service is to be performed;

(ii) all interline connections, including the names of the connecting railroads;

(iii) the nature and extent of all liability insurance coverage, including binder or policy number and name of insurer; and

(iv) any preconditions which shippers must meet to receive service.

(4) The name and address of any subsidizers, and,

(5) Sufficient information to establish the financial responsibility of any subsidizers (if the subsidizer is a State, the information should show that it has authority to enter into the agreement for subsidized operations).

(c) The service offered and the applicable rates, charges, and conditions must be described in tariffs published by the operator pursuant to the Commission's rules.

§ 1120A.4 Termination of service.

The duration of the service may be determined in the contract between the State and the operator. An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be: (1) filed with the State and the Commission, and (2) mailed to all persons that have used the line within the 6 months preceding the date of the notice.

[FR Doc. 80-24411 Filed 8-12-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Bering Sea and Aleutian Islands Groundfish Fishery; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Apportionment of reserve amounts; response to comments.

SUMMARY: This notice announces the apportionment of (1) the remaining reserve amounts of fish to the total allowable level of foreign fishing (TALFF) and domestic annual harvest (DAH) and (2) DAH amounts to TALFF. These amounts were eligible on August 2, 1980, in the Bering Sea/Aleutian Islands in accordance with provisions of the preliminary fishery management plan (PMP) for the Bering Sea and Aleutian Islands Groundfish Fishery (see 45 FR 1028) and implementing regulations (50 CFR 611.93(b)(3)). These PMP regulations apply to vessels of foreign nations fishing for groundfish in the Bering Sea/Aleutian Islands.

EFFECTIVE DATE: August 9, 1980.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. BOX 1668, Juneau, Alaska 99802; telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. domestic harvest, including the extent to which U.S. vessels delivering to U.S. and foreign processors would harvest groundfish, this PMP established reserves of fish in the Bering Sea/Aleutian Islands which could be apportioned to DAH or, if U.S. vessels did not harvest at anticipated levels, to TALFF.

On January 4, 1980, the Secretary of Commerce published approved amendments to the PMP that established initial amounts of TALFF, DAH and reserves for the fishing year. Amounts of DAH were determined by surveys conducted by the National Marine Fisheries Service and by the North Pacific Fishery Management Council. Reserves were established to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to U.S. processors or to foreign processors at sea (joint ventures). Regulations implementing these amendments were effective January 1, 1980.

II. Determination of Amounts of Reserve and DAH Apportionment

In accordance with regulations implementing the PMP, (611.93(b)(3)(iii)), the Regional Director has determined that:

1. The remaining reserves of all species except "other flounders" in the Bering Sea and Aleutian Islands area should be apportioned to TALFF.

The remaining reserves of "other flounders" should be apportioned to the JVP portion of DAH.

2. Certain amounts of the DAH for pollock, Pacific cod, Pacific ocean perch, rockfish, sablefish and "other species" should be transferred to TALFF.

3. Certain amounts of the DAP for yellowfin sole and "other flounders" should be transferred to JVP.

In making this determination, the Regional Director considered the need for DAH in the Bering Sea/Aleutian Islands to be supplemented with reserves. U.S. fishermen have caught a large portion of the JVP component of DAH for yellowfin sole and other flounders in U.S.-Soviet and U.S.-South Korean joint ventures. Because of this activity, it is necessary to supplement JVP with amounts of "other Flounder" from the reserves, and with yellowfish sole and "other flounder from DAP. For certain species (Pacific ocean perch, "other rockfish" and "other species") amounts of JVP considered surplus to joint venture needs are being apportioned to TALFF. Amounts of DAP considered surplus to the projected U.S. groundfish fishery for pollock, Pacific ocean perch, "other rockfish" and sablefish are being apportioned to TALFF.

Amounts of fish apportioned from reserves and DAH to TALFF and JVP are summarized in the following table.

Summary of amount (mt) being apportioned

Pollock:	
Apportioned from reserve to TALFF	25,000
Apportioned from DAH to TALFF	5,000
Yellowfin sole: Apportioned from DAP to JVP	1,100
Turbots:	
Apportioned from reserve to TALFF	1,125
Apportioned from DAH to TALFF	800
Other Flounders:	
Apportioned from reserve to JVP	763
Apportioned from DAP to JVP	1,100
Pacific cod:	
Apportioned from reserve to TALFF	2,935
Apportioned from DAH to TALFF	2,000
Pacific Ocean Perch:	
Apportioned from reserve to TALFF	537
Apportioned from DAH to TALFF	1,900
Rockfish:	
Apportioned from reserve to TALFF	500
Apportioned from DAH to TALFF	1,300
Sablefish:	
Apportioned from reserve to TALFF	500
Apportioned from DAH to TALFF	800
Atka mackerel: Apportioned from reserve to TALFF	620
Squid: Apportioned from reserve to TALFF	500
Other species:	
Apportioned from reserve to TALFF	1,856
Apportioned from DAH to TALFF	500

III. Response to Public Comments

One comment was received that addressed the Bering Sea/Aleutian Islands reserves. It is summarized and responded to below:

Comment: Eligible reserves and surplus DAH amounts of sablefish, Pacific cod, and turbot should be apportioned to TALFF.

Response: The remaining reserves and surplus DAH amounts of sablefish, Pacific cod, and turbot will be apportioned to TALFF.

IV. Other Matters

An environmental impact statement was prepared for the PMP and is on file with the Environmental Protection

Agency (EPA). A negative assessment of environmental impact prepared for the reserve apportionment provisions of the PMP is also on file with the EPA.

The Assistant Administrator for Fisheries has determined that this action does not require the preparation of a regulatory analysis under Executive Order 12044. The Assistant Administrator further finds that delaying the implementation of this order under the requirements of the Administrative Procedure Act would be detrimental to the orderly fishery now being conducted by fishermen of several foreign countries. This action confers a benefit.

Signed at Washington, D.C. this 8th day of August, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

In accordance with 50 CFR 611.93(b)(3), Appendix I, § 611.20 is amended to include the following revised numbers:

Species	Area	DAH	JVP	Reserve	TALFF
Pollock	Bering Sea	27,050	[1] 21,550	0	972,950
	Aleutians	[1] 0	[1] 0	[1] 0	[1] 100,000
Yellowfin:					
Sole		[1] 7,900	7,800	0	[1] 109,100
Turbots		1,400	[1] 1,200	0	98,600
Other: Flounders		2,825	2,725	0	[1] 58,175
Pacific Ocean perch	Bering Sea	430	330	0	2,820
	Aleutians	430	330	0	7,070
Other: Rockfish		250	150	0	7,477
Sablefish	Bering Sea	300	200	0	3,200
	Aleutians	300	200	0	1,200
Pacific cod		22,265	15,065	0	36,435
Atka mackerel		[1] 720	[1] 720	0	24,080
Squid		[1] 50	[1] 50	0	9,950
Other species		750	550	0	73,499

[1] No change.

[FR Doc. 80-24549 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

Commercial and Recreational Fisheries off the Coast of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final rulemaking.

SUMMARY: The Director, Northwest Region, (Regional Director) National Marine Fisheries Service, (NMFS), in accordance with the 1980 Amendment to the Fishery Management Plan (FMP) for the *Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California Commencing in 1978,* and regulations implementing the 1980 Amendment (50 CFR Part 661), has evaluated the latest catch and effort information for the recreational salmon fishery and has found that the projected ocean harvest of coho salmon by the recreational fishery has exceeded 240,000 coho in the Oregon Production Index (OPI) and will exceed 347,000 coho in the Washington Production Projection Regulatory Area by the end of the season (September 14, 1980). As a result of these findings, the Regional Director issues a final regulation (Field Order) reducing the daily ocean recreational catch limit of salmon from three fish to two fish in the fishery conservation zone (FCZ) off the coasts of Washington and Oregon.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, Telephone (206)442-7575.

SUPPLEMENTARY INFORMATION: The final regulations implementing the FMP at 50 CFR 661, were published in the **Federal Register** on July 31, 1980 (45 FR 50764). They specify in § 661.12(a) that the Regional Director of the Northwest Regional Office, NMFS, on August 7, may reduce the recreational daily catch limit of salmon from three fish to two fish in any portion of subareas A, B or C by issuing a Field Order if the Regional Director finds that (1) the total catch by the recreational fishery in the Washington Production Projection (WPP) Regulatory Area (as defined in § 661.5(v)) will exceed 333,000 (adjusted upward to 347,000 by Washington Department of Fisheries on May 21, 1980) coho salmon by or before September 14 or, (2) if the total catch by the recreational fishery in the Oregon Production Index (OPI) Regulatory Area (as defined in § 661.5(1)) will exceed 240,000 coho salmon by or before September 14.

According to § 661.12(c)(1) of the regulations, the Regional Director on July 29, 1980, made a preliminary projection of the coho salmon harvest by the ocean recreational fishery based on the following criteria:

(A) Coho salmon stock abundance, as updated during the season, in the WPP Regulatory Area and the OPI Regulatory Area; and

(B) Catch and effort in the recreational fishery to date; and

(C) The effort trend to date compared to average efforts as specified in subparagraphs (d)(2)(i) and (ii) of this section and projected effort to September 14.

Notice of the preliminary projection was issued on July 30, 1980. Comments were invited until August 6.

Information received from the Washington Department of Fisheries (WDF) during the comment period estimates that the catch of coho salmon in the WPP area through July 27, 1980, by the ocean recreational fishery to be 284,397 fish; effort is 174,764 angler days as compared to 1979 effort of 171,820 (as of July 29, 1979) and average effort for the 1974–76 period of 217,333 at a comparable date. On the basis of this information, I project that the recreational harvest of coho in the WPP will exceed 347,000 coho before September 14. It is still too early to assess the accuracy of the preseason estimate of total allowable ocean harvest in the WPP area as adjusted upward by WDF (from 833,000 to 857,000 coho) on May 21, 1980. Data through mid-August will be necessary before this estimate can be refined.

The Oregon Department of Fisheries and Wildlife (ODFW) estimated the catch of coho salmon in the OPI area through July 27, 1980, by the ocean recreational fishery to be 373,421 fish, well in excess of the target harvest of 240,000 fish. The data available as of August 6 still are inadequate to determine the accuracy of the preseason estimate of a total allowable ocean harvest of 820,000 coho in the OPI area. Therefore this estimate remains the best assessment of coho abundance within the OPI area as of this date.

The Washington Department of Fisheries and the Oregon Department of Fisheries and Wildlife reduced the daily catch limit to two fish in state waters effective July 16. The action taken by the two state fishery agencies was prompted by projections that the ocean recreational fishery would exceed its historical share of the total catch by September 14.

The Regional Director has reviewed the most recent recreational harvest data for Washington and Oregon and concurs with the conclusions drawn from that data. The Regional Director received no public comments as a result of the preliminary projections of July 29.

To prevent exceeding the desired recreational harvest level of coho salmon in the OPI and WPP regulatory areas, the Regional Director has determined, in accordance with 50 CFR 661.12(c)(2), and following consultation with the Washington Department of Fisheries, the Oregon Department of Fisheries and Wildlife, and the Chairman of the Pacific Fishery Management Council, that the daily catch limit for the ocean recreational salmon fishery off Washington and Oregon should be reduced from three fish to two fish, and issues this Field Order directing that action, effective 0001 hours, August 8, 1980.

A Supplemental Environmental Impact Statement (SEIS) was prepared for the 1980 Amendment to the fishery management plan for *Commercial Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California Commencing in 1978,* and is on file with the Environmental Protection Agency. As this action does not constitute a "significant action" under Executive Order 12044 the preparation of a regulatory analysis is not necessary.

For the reasons set forth below, the Regional Director for good cause finds that further opportunity for public comment prior to the effective date of this field order (final regulation), is impracticable, unnecessary, and contrary to the public interest, and that there is good cause for this field order to take effect on the date specified herein.

1. Further public comment and further delay in implementing this order is unnecessary because the public had advance notice of the impending action, is familiar with it, and was afforded a reasonable opportunity to review data and submit information from July 30 to August 6 pursuant to procedures fully set forth at 50 CFR 661.12, the FMP itself, and the Notice of Preliminary Projection issued on July 30, 1980, which was also publicized through regional news media. Relevant data was made available to the public as set forth at 50 CFR 661.12 and summarized in the Notice of Preliminary Projection. The public participated in development of the FMP/ SEIS, both orally and in writing, and had opportunity to comment on the implementing regulations since May 1. The opportunity afforded for public comment is reasonable because the determination made by the Regional Director under 661.12, and relevant public input, is limited to the narrow factual question of stock abundance and projected harvest of the recreational fishery in Management Areas A, B and C to September 14.

2. A delay in issuing this field order is not practicable. Data necessary for the Regional Director to review and for the public to review in order to submit relevant comments was made available at the earliest practicable time. Such data is only available during the fishing season and enough of the fishing season must elapse for there to be a sufficient amount of catch and effort information to make reasonably precise midseason stock abundance forecasts and harvest projections. Issuing this field order at a later time would be contrary to the purpose for which this action is being taken: to provide a sufficient escapement of salmon from the ocean and to limit the recreational ocean catch to an appropriate share of the ocean harvest as set forth in the FMP and at 50 CFR 661.12. The procedures followed maximize the information available to the public and the scientific and public input necessary to the determinations made by the Regional Director consistent with the timetable deemed necessary to attain the objectives of the FMP and of 50 CFR 661.12.

3. A delay in the effective data of this field order would be contrary to the public interest. Such a delay would substantially increase the likelihood that the objectives of the FMP, including ocean escapement goals necessary to meet spawning, treaty-Indian, and other inland-harvest objectives, would not be achieved without creating a severe imbalance in the harvest opportunity between commercial and recreational ocean fishermen.

(16 U.S.C. 1801 *et seq.*, 50 CFR 661.12)

Signed at Washington, D.C. this 8th day of August, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

[FR Doc. 80-24465 Filed 8-8-80; 4:57 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 158
Wednesday, August 13, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[Docket No. PRM-2-8]

Practice Rules; Union of Concerned Scientists and Natural Resources Defense Council, Inc.; Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is hereby denying a petition for rulemaking (PRM-2-8) submitted by the Union of Concerned Scientists and the Natural Resources Defense Council, Inc. The petitioners had requested the Commission to amend its regulations to precede all proposed regulations by an advance notice of proposed rulemaking and treat staff proposals for regulations procedurally the same as those generated by members of the public.

FOR FURTHER INFORMATION CONTACT: Bruce A. Berson, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492-7678.

SUPPLEMENTARY INFORMATION: The petition for rulemaking (PRM-2-8) submitted by the Union of Concerned Scientists and Natural Resources Defense Council, Inc. was part of a letter commenting upon certain amendments to 10 CFR Part 21, "Reporting of Defects and Noncompliance," adopted by the Commission on October 19, 1978 (43 FR 48621). Petitioners requested the Commission to adopt the following modifications in the policy applicable to consideration of regulatory actions:

1. All proposed regulations should be preceded by an advance notice of intent to develop a regulation.

2. Staff proposals for regulations should be treated no differently from those generated by the public—i.e., a staff submittal of a proposal to the Commission should trigger a **Federal Register** notice and opportunity for public comment on the staff proposal. Only after receipt of the public comment should the Commission take action on the proposal. The staff proposal could be treated as the proposed amendment, provided its publication did not represent a prejudgment of the merits by the Commission.

The petitioners' revised procedures for noticing and treating staff-proposed regulations are designed to prevent the staff from acting in an "adversarial" fashion in its presentations to the Commission.

A notice of filing of the petition, requesting comments by August 6, 1979, was published in the **Federal Register** on June 6, 1979 (44 FR 32489). No letters of public comment were received regarding petitioners' suggestion to revise NRC procedures for handling staff-proposed regulations. (However, three persons did comment on the substance of the amendments to Part 21.) Both the petition and the comments are available for public inspection and copying at the NRC Public Document Room at 1717 H Street, N.W., Washington, D.C.

The Commission has carefully considered the two proposals—(1) that all proposed regulations should be preceded by an advance notice of proposed rulemaking, and (2) that staff proposals for regulations should be treated procedurally no differently than those generated by members of the public. For the reasons set forth below, the Commission has concluded that adoption of these proposals is unnecessary and is not in accordance with good administrative practice.

The procedures which the Commission follows in exercising its authority to promulgate rules and regulations are codified in §§ 2.800 through 2.808 of Title 10 of the Code of Federal Regulations. Under these procedures, which comply with the provisions of the Administrative Procedure Act (APA) applicable to rulemaking (5 U.S.C. 553), the Commission may initiate a rulemaking proceeding on its own initiative, on the recommendation of another Federal agency, or on the petition of any other interested person. The first step in most NRC rulemaking proceedings is publication in the **Federal Register** of a notice of proposed rulemaking; neither the APA nor the Commission's implementing rules requires publication of an advance notice of proposed rulemaking.

The petitioners' first proposal would require that all proposed regulations be preceded by an advance notice of intent to develop a regulation. The Commission's current practice is to publish advance notice of proposed rulemaking only when it deems it appropriate to do so. Such circumstances include matters on which the Commission desires early comments from potentially affected members of the public to assist it in determining the need for a rule, or, if a rule is necessary, the possible components and parameters of a subsequent rulemaking. Hence, the Commission considers an advance notice of proposed rulemaking a useful tool to gauge public interest or obtain public assistance on certain issues in early stages of development.

It does not appear useful or appropriate for the Commission to require an advance notice in all cases. In most cases, the notice of a proposed rulemaking with opportunity for public comment is sufficient to gauge public interest in the proposal and to elicit suggestions relative to such rulemaking. In those matters where the Commission perceives a benefit to be derived from an advance notice, such as those mentioned above, the Commission has in the past exercised, and will continue to exercise, its discretionary authority to publish an advance notice of proposed rulemaking which seeks early advice from the public.[1] It should also be noted that the authority of the Commission extends in certain circumstances to issuing rules without prior notice and comment. While the APA (5 U.S.C. 553(b)(B) and (d)(3)) and the Commission's implementing rules (10-CFR 2.807) require that, in most cases, 30 days notice must precede the effective date of a rule, the APA and Commission rules do provide, in certain circumstances, for publication of immediately effective rules.

The petitioners' second proposal would require that the staff be treated no differently from the public in the procedures applicable to proposals for regulations. In effect this mean that if the staff wished to propose a rulemaking to initiate a new rule or amend an existing one, it would do so by publishing its proposal in the **Federal Register** for public comment without prior Commission review and approval. this suggestion appears to misapprehend the nature and organization of the Nuclear Regulatory Commission and is inconsistent with accepted administrative agency practice.

It has long been recognized that the staff's expertise is central to and an inherent part of the execution of the agency's mission. The staff's advice is considered vital to effective regulation. Hence, pursuant to 10 CFR Part 1, "Statement of Organization and General Information," §§ 1.40-1.64, the staff is directed to recommend to the Commission proposed regulations in a variety of procedural and substantive areas. Only in certain delegated instances may the Executive Director for Operations issue, without prior Commission review and approval, proposed amendments to regulations and amendments in final form.

Unless specifically authorized by the Commission to do otherwise, it is the staff's role to provide advice and expertise to the Commission. In the case of rulemaking, the Commission's review and approval of a recommendation that a proposed rulemaking be instituted (or that an advance notice of proposed rulemaking be published) does not mean that the matter has been finally decided. By assuring that proposed rules comport generally with Commission policy before they are approved for publication, the Commission does not prejudge the final rule (which may differ from the proposal as a result of comments received) but rather intends to achieve sound, effective, economical, and consistent agency practice.

Thus, pursuant to its statutory authority, the Commission reviews and approves staff action such as proposals for regulations prior to publication. The Commission is not aware of any Federal agency that treats staff proposals in the same manner as those generated by the public. The Commission considers it necessary and appropriate in the interest of proper leadership and conduct of agency business that there be ongoing coordination between the staff and the Commission in rulemaking matters.[2]

In view of the foregoing, the Commission denies the petition for rulemaking filed by UCS and NRDC on March 2, 1979. A copy of the Commission's letter of denial is available for public inspection and copying at the NRC Public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Washington, D.C., this 6th day of August, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-24500 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

[1] The Commission believes this procedure is consistent with E.O. 12044 (43 FR 12661, March 23, 1978). The Commission has previously expressed full support for the basic objectives of the Executive Order which is to improve existing and future government regulations.

[2] On October 4, 1979 the Commission was provided a report entitled "Review of Delegations of Authority Within NRC" (dated September 1979) and in response to a recommendation of that report requested that a draft proposal be prepared to delegate substantial rulemaking powers to the Office of Standards Development and other staff offices.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Regulations for the Section 503; Development Company Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The regulations proposed herein state the rules under which the Small Business Administration would implement the Section 503 development company program enacted on July 2, 1980. The regulations would define the section 503's certification and application process, the program's eligibility and operational requirements, and the terms and conditions under which financing would be made available to participating 503 companies.

DATE: Comments must be received on or before September 11, 1980.

ADDRESS: Send comments to the Office of Associate Administrator for Financial Assistance, Small Business Administration, 1441 L St. NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Alan B. Abraham, Financial Analyst, Office of Associate Administrator for Financial Assistance, Small Business Administration, Washington, D.C. 20416, (202) 653-6470.

SUPPLEMENTARY INFORMATION: Section 113 of Pub. L. 96-302, enacted on July 2, 1980, amends the Small Business Investment Act of 1958 by adding a new section 503 Development Company Program. This program authorizes SBA to provide a 100% guarantee of the timely payment of principal and interest on debentures issues by 503 development companies that have a full-time professional staff, an active board of directors, and professional management ability, including adequate accounting, legal and business servicing abilities.

Qualified development companies would be authorized to sell each debenture pertaining to an identifiable small concern with SBA's guarantee. The proceeds from the sale of each debenture would be used for plant acquisition, construction, conversion, expansion or the acquisition of land by or for each such small concern.

The amount of each debenture guaranteed by SBA could not exceed one-half the cost of each project. The remaining one-half would have to be provided from non-federal sources. Each loan made from the debenture proceeds must be approved by SBA.

It is the intent of this law that development companies participating in this program be active, self-sustaining entities that offer small businesses in their area of operations the full range of professional services required in commercial and industrial development projects. In order to reflect the intent of Congress, the Agency has developed a system which would ensure that participating development companies, representative of their constituency, would be available on a full-time basis to provide financial and management assistance to small concerns.

Under the proposed regulations, prospective 503 development companies would be required to apply to SBA for certification. The application process would permit SBA to determine whether the development company is representative of its constituency and has the requisite capabilities that SBA considers essential.

The regulations contained herein, and briefly summarized in the following paragraphs, are intended to promote active, self-sustaining companies that have as their primary objective the growth and development of small business concerns in their area of operations.

Each 503 development company would be required to maintain a minimum level of activity in each fiscal year. For the purposes of this program, that annual level of activity would be not less than assistance to one small business concern.

In order to ensure continuity of the development company's assistance to its portfolio concerns, SBA would require that each development company inject at least 10% of the project's total cost in cash or in property (at its fair market value); such injection may come from Federal, State or local government sources, or, subject to certain conditions, from the small concern to be assisted. Moreover, SBA would require

annual audited reports, with data about each portfolio concern.

Since it is SBA's intent that each 503 development company be active and self-sustaining, such company would be allowed a reasonable return on each project payable to closing, not to exceed 1.5% of the guaranteed debenture, plus a service charge not to exceed 0.5% annually of the outstanding balance of the debenture.

Pursuant to authority contained in section 308(c) of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 687, it is proposed to add the following sections 108.503, and 108.503–1 through 108.503–8, under a new Centerheading entitled "Section 503" to Chapter I, Part 108 of Title 13 of the Code of Federal Regulations, as follows:

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

* * * * *

Section 503

Sec.

108.503 Statutory provisions.
108.503–1 Eligibility requirements.
108.503–2 Application procedures.
108.503–3 Operational requirements.
108.503–4 Financing.
108.503–5 Cost of money to small business concerns.
108.503–6 Availability of financing from private sources.
108.503–7 Compliance with other laws.
108.503–8 Suspension and revocation of eligibility.

Authority: Sec. 308(c) of the Small Business Investment Act of 1958, 15 U.S.C. 687, as amended.

§ 108.503 Statutory provisions.

The relevant statutory provisions will be found at 15 U.S.C. 697 (94 Stat. 837).

§ 108.503–1 Eligibility requirements.

SBA is authorized to gurarantee the timely payment of all principal and interest as sheduled on any debenture issued by any qualified state or local development company. The full faith and credit of the United States is pledged to the payments of all amounts so guaranteed. Such debentures (herein sometimes referred to as 503 debentures) will be issued within certain limits solely for the purpose of assisting identifiable small business concerns to finance plant acquisition, construction, conversion, or expansion, including the acquisition of land. For the purpose of this section, state and local development companies qualified to participate in this program (herein sometimes referred to as "503 companies") shall be formally certified by SBA on the terms and conditions contained herein, consistent with the intent of Congress. To qualify, a development company must demonstrate to the satisfaction of SBA that it has:

(a) *Capability.* Capability will include: (1) a full-time professional staff as required by such company, with capability to package, process, close and service its loans; (2) professional management ability, including adequate accounting, legal and business-servicing abilities. Business-servicing ability means the ability to provide management advice and services to small business concerns. Such capabilities as set forth under paragraph (a) (1) and (2) of this section may be drawn from the staff, the board or membership of the development company or acquired on a contractual basis, from qualified individuals or organizations who reside or do business in the development company's defined area of operation, subject to SBA approval; and (3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company. A 503 company must have at least five directors who meet at least once in every other month and must be representative of the community as stated in paragraph (b) of this section.

(b) *Membership.* (1) The 503 company must be representative of the community in which the company operates. Evidence of such representation shall include participation by the local government, a private sector lending institution, and at least one of the following groups:

(i) Community development organizations

(ii) Neighborhood Associations

(iii) Business Associations

(iv) Chamber of Commerce.

(2) The 503 company must have at least 25 individual members or stockholders, 75% of whom must reside or do business in the company's defined area of operation, which may be state-wide for a state development company, or as large as city-wide or composed of up to two contiguous counties for a local development company.

(c) *Good Character and Reputation.* A proposed 503 company must possess good character and reputation. Such company will be deemed to possess good character and reputation if all the holders of its voting power and all members of its management possess good character and reputation. Good character and reputation shall be presumed absent if such holders or management are currently incarcerated, on parole or probation following conviction of a serious offense, or when probation or parole is lifted solely for qualification under this program.

(d) *Sole Purpose Intention.* A 503 company shall operate pursuant to Title V of the Small Business Investment Act (Loans to State and Local Development Companies) and shall not participate in any other SBA program.

§ 108.503–2 Application procedures.

Applications for certification as a 503 company should be submitted on Form 503, which is hereby made a part of these regulations, to the SBA field office serving the area in which the prospective 503 company is located. The field office shall forward the application, along with its recommendation, to the Associate Administrator for Financial Assistance, Washington, D.C., for final determination of eligibility. Qualified companies shall receive a certificate evidencing eligibility for participation in this program.

§ 108.503–3 Operational requirements.

(a) *Participation by the Development Company.* (1) A 503 company may be required to inject into the project an amount equal to 10 percent of the funds necessary to complete a given project. Moreover, a 503 company that has not participated in a project under this part, must furnish an amount equal to at least 10 percent of the amount guaranteed by SBA from funds other than funds furnished by the SBC to be assisted. [For example, in a $900,000 project that includes a $400,000 SBA guaranteed debenture, the 503 company must provide an injection equal to 10% of the project, or $90,000. A 503 company which has not participated in at least one such project must provide $40,000 from funds which did not come from the project concern; the remaining $50,000 may come from any source, including the project concern.] SBA may permit a lesser amount in extreme hardship cases, where a project important to the community would otherwise be lost to the community. For the purpose of this section, the 503 company may inject cash and property at fair market value received in exchange for shares of stock issued by the 503 company, or cash and such property contributed to the 503 company without conditions, or cash and such property for which the development company is indebted on a subordinated basis.

(2) Subject to paragraph (a)(1) of this section, a 503 company's injection may also be derived, by way of example and not of limitation, from money contributed to the 503 company by state or local government, banks, or other financial institutions, or the small business concern (or such small business concern's owners, stockholders or affiliates) receiving assistance from the 503 company.

(3) Contributions or loans to the 503 company for inclusion in such company's participation in the cost of a given project may not be conditioned on the granting of voting rights, stock options, or any other type of financial interest in or control of the 503 company or the small business concern being assisted.

(4) The maximum rate the 503 company may charge on its participation in a project shall be legal and reasonable.

(b) *Place of Business.* Each 503 company shall maintain a reasonably accessible place of business which will display the section 503 development company certificate, shall have a separately listed telephone number, and shall be open to the public during normal business hours.

(c) *Level of Activity.* In order to meet the needs of the small business community in its defined area of operation a 503 company shall be required to conduct active operations. For the purposes of this section, a 503 company shall be presumed to be inactive if, during any full fiscal year, it has not been of significant assistance to at least one small business concern: *Provided, however,* That written justification for inactivity promptly filed by the 503 company and acceptable to SBA may rebut the presumption. "Significant", for purposes of this subsection, means assistance utilizing a 503 debenture or Section 502 Financing.

(d) *Records and Reports.* (1) A 503 company shall submit to SBA, within 90 days after the end of each fiscal year, an annual report containing financial statements, management information (including minutes from meetings of the board of directors), a full activity report in narrative form and data that analyze the impact of its assistance on small business concerns. When requested by SBA, interim reports of a similar nature shall be required. The reports are to be prepared in accordance with the Guide for the Preparation of the Annual Report (Appendix A hereto). The annual report shall be filed in duplicate with the SBA field office serving the area in which the 503 company is located, on or before the last day of the third month following the end of the fiscal year, and in the case of interim reports, within the period stated in the SBA request therefor.

(2) The financial statement contained in the annual report shall be audited by an independent public accountant approved by SBA. SBA reserves the right to request additional information or explanations on the reports required by this subsection.

(3) *Changes to be reported.* Any change in stockholdings or membership in a 503 company or in its board of directors shall be reported to SBA in the report required by paragraph (d)(1) of this section, or at an earlier time when an application pursuant to § 108.503–4 is filed.

(e) *Examination.* Each 503 company shall be subject to the same examination requirements, and the fee payment therefor, as are established for paragraph (b) Lenders in § 120.7 of these regulations.

(f) *Restrictions.*

(1) A 503 company is prohibited from owning any equity interest in a small business concern which has received section 503 assistance.

(2) Proceeds from the sale of a section 503 debenture may not be used for working capital purposes.

(3) A 503 company's injection pursuant to § 108.503–3(a) may not be repaid at a faster rate than the repayment on SBA's guaranteed 503 debenture.

(4) No shareholder or member or group of shareholders or members of the 503 company, owning a financial interest in a small business concern to be assisted, shall have voting control of the 503 company in excess of 10%. Ownership of a financial interest includes ownership by a close relative, as defined in § 120.1(d)(3)(i) of these regulations.

(5) No officer, director, or person or group of persons controlling as much as 10% of the voting power of the 503 company, may be an officer, director, or in control of a small business concern receiving assistance, or a close relative of such persons, unless the 503 company has previously assisted at least two small business concerns under Part 108 of these regulations. For definitions of "control," see § 121.3–2(a), and of "close relative," see § 120.1(d)(3)(i) of these regulations.

§ 108.503–4 Financing.

(a) *Method and Amount.* Upon application to the field office described in § 108.503–2, and subject further to the provisions of § 108.503–6, SBA may guarantee 503 debentures to be sold by 503 companies with such guarantee under the following conditions:

(1) Such debenture is issued for the purpose of making a loan to an identifiable small business concern complying with the regulations of this Chapter.

(2) Each loan to be made from the debenture proceeds is approved by SBA.

(3) The aggregrate amount of such debenture does not exceed the amount of the loan to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loan).

(4) The amount of any loan to be made from such debenture proceeds does not exceed an amount equal to 50 percent of the total cost of the project with respect to which the loan is made. At least 50 percent of each project cost must be provided from non-Federal sources, which may not include assistance under Sections 501 and 502 of the Act.

(5) The total amont of guaranteed debentures outstanding at any one time for each identifiable small business concern shall not exceed the statutory limitation of SBA's Business Loan Program pursuant to Sec. 7(a) of the Small Business Act, 15 U.S.C. § 636(a).

(6) A 503 company may prepay a 503 debenture in an amount sufficient to compensate the purchaser for accelerated repayment of the 503 debenture.

(7) SBA may permit subordination of a 503 debenture to any other debenture, promissory note, or other debt or obligation of such company, except any obligation incurred by such company to satisfy the requirement of its participation pursuant to § 108.503(a)(1).

(b) *Collateral.* All debentures guaranteed under this section shall be so secured as SBA determines reasonably to assure repayment. SBA shall require that the 503 company's injection pursuant to § 108.503–3(a) be subordinated to the loan made from the proceeds of the 503 debenture. In the event of default on the debenture, the liability of the 503 company to SBA as guarantor shall be limited to all payments by the small business concern owed to SBA and the collateral securing the defaulted loan. A pledge of additional collateral may be required, when SBA determines that such additional collateral is necessary. In the event personal guarantees are obtained from one or more principals of a small business concern, such guarantee agreement shall waive any right of recovery from the 503 company. All collateral shall be insured against such hazards and risks as SBA may require.

(c) *Participation with Tax-Exempt Financing.* SBA shall not disapprove the guarantee of a debenture because the proceeds would be used in a project whose other sources of financing include tax-exempt bonds.

(d) *Interest Rate.* The interest rate on section 503 debentures shall not be less than a rate determined from time-to-time by the Secretary of the Treasury taking

into consideration the current average market yield on outstanding marketable U.S. obligations with comparable maturities. Such rate can be obtained from the field office described in § 108.503–2.

(e) *Debenture Conditions.* The maturity of any section 503 debenture shall not exceed 25 years. The 503 company shall require the small business concern to make the requisite payments in sufficient time to ensure timely payment by the 503 company. In the case of a lease agreement between the 503 company and a small business concern, SBA shall generally require a lease term no shorter than the term of the debenture.

(f) *Use of Proceeds.* At the time of disbursement to the 503 company, such company shall submit evidence satisfactory to SBA that the proceeds will be used in accordance with the statutory purpose. Such evidence shall include, but not be limited to, proof that the small business concern has the right to use the Plant for at least as long as the term of the debenture whether (1) by lease of the Plant, (2) by lease of the Plant with option in the small business concern to purchase such Plant, (3) by sale of such Plant or (4) by loan of the proceeds for the acquisition of the Plant by the small business concern.

§ 108.503–5 Cost of money to small business concerns.

(a) *Contract Terms.* The contract between the 503 company and the small business concern shall set forth terms acceptable to such concern and SBA, not to exceed the sum of the following:

(1) repayment with interest of the section 503 debenture;

(2) taxes and insurance on the Plant;

(3) administrative costs of the loans; and

(4) The 503 company may also require a reasonable processing fee, not to exceed one and one-half (1.5) percent of the amount of the debenture, payable at closing, and a periodic service charge not to exceed one half of one (0.5) percent per annum on the outstanding balance of the debenture.

(b) *Disclosure of Charges.* The debenture application and the annual report submitted to SBA by the 503 company shall disclose the full amount of all fees and charges, together with names of the recipients and a description of the services rendered therefor.

§ 108.503–6 Availability of financing from private sources.

(a) *Other Lenders.*

(1) Applications for financial assistance will not be accepted for processing unless the 503 company can demonstrate to the satisfaction of SBA that the desired financing is not available from private sources on reasonable terms.

(2) Financial assistance shall be deemed to be available from private sources on reasonable terms, unless the 503 company can demonstrate to SBA that

(i) not less than two banks (including the bank of account of the small business concern to be assisted) have declined to provide assistance on reasonable terms to the project. Evidence of refusal must contain the date, amount and terms requested and the reasons for not granting the desired funds;

(ii) the 503 company is unable to provide financial assistance through funds raised from its membership or, in the case of a for-profit company, from the sale of stock or securities.

(b) *Principals of Concern Receiving Assistance.* The availability of personal resources of the owner or owners of the small business concern shall not disqualify a project for this program.

(c) *State Development Companies.* No Section 503 debenture shall be guaranteed for a state development company unless (1) such company maintains an investment portfolio with a prinicipal value of at least 133⅓% of the Section 503 debenture for which such company is applying, and (2) such company has utilized at least 75% of the funds pledged to it by its stockholders or membership.

§ 108.503–7 Compliance with other laws.

All projects financed with federal assistance are subject to all applicable laws, including (without limitation) the civil rights laws (see Part 112 and 113 of these regulations, as well as Part 117 when adopted) and wage and labor laws, e.g. the Davis-Bacon Act, 40 USC 276a.

§ 108.503–8 Suspension and revocation of eligibility.

(a) *Violations.* SBA reserves the right to revoke the eligibility of any 503 company or to suspend temporarily the eligibility of any 503 company in the case of a violation of law, SBA regulations, any agreement with SBA, or of any failure to comply with operational requirements (§ 108.503–2): *Provided, however,* That such revocation or suspension shall not invalidate any guarantee previously issued by SBA.

(b) *Notification of Suspension or Revocation.* SBA shall serve notice on the 503 company of its intention to revoke or suspend such company's eligibility (Notice). Such Notice shall set forth in detail the basis for SBA's intention. The Notice shall be served upon the 503 company by registered or certified mail, return receipt requested, addressed to the said company's principal business office.

(c) *Service of Papers Other Than the Notice.* Papers other than the Notice may be served upon a 503 company as provided in paragraph (b) of this section, or by service in the manner provided therein upon an attorney at law or other agent designated by such company.

(d) *Service of Papers Upon SBA.* Papers in connection with the suspension or revocation of a 503 company's eligibility shall be served upon SBA by:

(1) Delivery to the Associate Administrator for Financial Assistance, SBA, 1441 L Street, NW., Washington, D.C. 20416; or

(2) Registered or certified mail, return receipt requested, addressed to the Associate Administrator for Financial Assistance at the above listed address.

(e) *Effect of Failure to Respond.* The revocation or temporary suspension of a 503 company's eligibility to participate shall become effective as of the close of business on the tenth day following receipt of the Notice unless, prior to the expiration of the aforementioned time period, SBA shall receive notice of such company's intention to submit an answer.

(f) *Answer.* A 503 company that has notified SBA of its intention to file an answer shall be given twenty additional days to submit to SBA such answer, including briefs and affidavits, showing why its eligibility should not be suspended or revoked. SBA may, in its sole discretion, extend the period permitted hereunder for the filing of an answer. Suspension or revocation of the eligibility of any 503 company that has filed an answer shall be held in abeyance pending final determination by SBA.

(g) *Initial Decision.* SBA's Notice, together with the said company's answer thereto, including briefs and affidavits, shall be referred by the Associate Administrator for Financial Assistance to an SBA employee designated by him/her (designee) for initial determination of any material issues of fact or of law. No person who has particpated in the preparation or approval of the notice to such company, or in any investigation or other fact-finding procedure in connection therewith shall participate in the preparation of the initial determination; and no person who has participated in such companys case, as aforesaid, shall communicate with, or otherwise attempt to influence the initial decision of the designee, who shall as soon as possible prepare proposed findings and conclusions and present them to the Associate Administrator for Financial Assistance.

(h) *Final Decision.* The decision of the Associate Administrator for Financial Assistance shall give appropriate weight to the recommended findings and conclusions of the designee and shall, without further proceedings, be the final decision of SBA.

(i) *Effect of Decision.* Suspension or revocation of a 503 company's eligibility to participate with SBA shall become effective upon such company's receipt of notification of SBA's decision, but shall not relieve that company from its obligation to service any loan made in participation with SBA, nor any other obligation arising out of, or out of the breach of, any agreement with SBA, or any regulation promulgated by SBA.

(Catalog of Federal Domestic Assistance No. 59.013 State and Local Development Company Loans.)

Dated: August 7,1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-24424 Filed 8-11-80; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 441

Mobile Home Sales and Service

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report and invitation to submit written comments.

SUMMARY: Federal Trade Commission's Bureau of Consumer Protection has released to the public a Staff Report that summarizes and analyzes the evidence in its rulemaking proceeding on warranty service in the mobile home industry. The report includes the staff's recommendations to the Commission concerning a trade regulation rule. The public is invited to comment on the Staff Report and the previously released Presiding Officer's Report for a period of 60 days, commencing with the publication of this notice. The Staff Report has not been reviewed or adopted by the Commission. The Commission's final determination in this matter will be based on the entire rulemaking record, including the Staff and Presiding Officer's Reports, and on the comments received during the 60-day comment period.

DATE: Written comments on the Staff Report and Presiding Officer's Report will be accepted by the Commission for 60 days, until October 14, 1980.

ADDRESSES: Copies of the Staff and Presiding Officer's Reports are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Telephone: 202–523–3598.

Written comments should be sent to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, 600 E Street, N.W., Room 667, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Arthur B. Levin, Eloise Gore or Allen Hile, Attorneys, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580; telephone 202–523–3827.

SUPPLEMENTARY INFORMATION: The Staff Report on warranty service in the mobile home industry was prepared pursuant to § 1.13(g) of the Commission's Rules of Practice. The report and staff's Recommended Rule have been placed on Public Record No. 215–41. The Presiding Officer's Report was issued on September 11, 1979 (see 44 FR 53,538). The rulemaking record and a computer digest of and index to the rulemaking record are also available for use by the public at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Copying of these materials is permitted, upon payment of the appropriate fees.

Written comments on the Staff and Presiding Officer's Reports are invited from the public pursuant to § 1.13(h) of the Commission's Rules of Practice. Comments must be confined to information already on the record; no new evidence will be accepted. To facilitate consideration, comments should be identified as "Comments on Presiding Officer and Staff Reports—Mobile Home TRR." Comments must be received on or before October 14, 1980 and, when possible, should be submitted in four copies. The Staff Report has not been reviewed or adopted by the Commission, and its publication should not be interpreted as representing the views of the Commission or any individual Commissioner.

Approved: August 4, 1980.

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 80-24382 Filed 8-12-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Public Disclosure of Comments on the Kentucky Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Kentucky Program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Administrative Record Room, Office of Surface Mining, Region II, 530 Gay Street, S.W., Suite 500, Knoxville, TN

Administrative Record Room, Office of Surface Mining, 1951 Constitution Avenue, Room 153, Washington, D.C. 20240.

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, 6th Floor, Frankfort, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, Old TB Facility, Laffon Street, Madisonville, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, 1632 East Cumberland Avenue, Middlesboro, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, 213 Lovern Street, Hazard, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, 431 South Lake Drive, Prestonburg, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, 165 South Mayo Trail, Pikeville, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, Reclamation Building (Near intersection of East 80, Daniel Boone Parkway, and Hwy. 25), London, Kentucky.

Bureau of Surface Mining Reclamation and Enforcement, 620 West Main Street, Grayson, Kentucky.

V 45 A G 0 1 3 8 0 UMI

FOR FURTHER INFORMATION CONTACT:
Mr. John T. Davis, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, 530 Gay Street, Knoxville, TN 37902, Telephone: (615) 637–8060 or
Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., N.W., Washington, D.C., Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Kentucky permanent regulatory program submitted by Kentucky for his review on February 29, 1980. See 45 FR 15948–15950, March 12, 1980; (April 29, 1980), 45 FR 28368–28369; (June 23, 1980), 45 FR 41977–41979. In accordance with Section 503(b)(1) of SMCRA, and 30 CFR 732.13(b)(1) the Kentucky program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Kentucky program:

Tennessee Valley Authority.
Advisory Council on Historic Preservation.
Department of Labor: Mine Safety and Health Administration.
Ohio River Basin Commission.
Appalachian Regional Commission.
U.S. Army Corps of Engineers.
Water Resources Council.
Department of Energy.
Department of the Interior: Bureau of Indian Affairs, Bureau of Land Management, Heritage Conservation and Recreation Service, U.S. Geological Survey, Bureau of Mines, U.S. Fish and Wildlife Service, National Park Service.
U.S. Environmental Protection Agency.

Of these agencies invited to comment, OSM received comments from the following offices:

Department of the Army: U.S. Army: Corps of Engineers.
Department of Agriculture: U.S. Forest Service; Soil Conservation Service.
Department of the Interior: Heritage Conservation and Recreation Service: U.S. Fish and Wildlife Service.
Department of Labor: Mine Safety and Health Administration.
Tennessee Valley Authority.
Department of Energy.

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: August 6, 1980.

R. Bruce Carroll,
Acting Assistant Director, State and Federal Programs.

[FR Doc. 80-24437 Filed 8-12-80; 8:45 am]
BILLING CODE 4310-05-M

Geological Survey

30 CFR Part 250

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Lease Royalty Requirements

AGENCY: U.S. Geological Survey, Interior.

ACTION: Proposed rule.

SUMMARY: The Geological Survey proposes to amend its regulations relating to royalty requirements on outer continental shelf leases. Currently, lease operators are required to pay royalty on oil and gas unavoidably leaked, spilled, vented, flared, or lost in least or unit operations. As a result of changes in departmental policy, royalty on this oil and gas is no longer required.

DATES: Written comments and recommendations should be submitted on or before September 12, 1980.

ADDRESS: Interested persons are invited to submit written comments and recommendations with respect to the proposed regulations. Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATON CONTACT:
Price McDonald, Chief, Branch of Offshore Field Operations, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, telephone 703/860–7571.

Principal Author

Charles Perrott, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that this proposed revision of the provisions of 30 CFR 250.65 and 250.66 is not a major Federal action significantly affecting the quality of the human environment, and, therefore, preparation of an Environmental Impact Statement is not required. The Department has also determined that this proposed rule is not a significant regulatory action and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: August 6, 1980.

Joan M. Davenport,
Assistant Secretary—Energy and Minerals.

It is proposed that 30 CFR Part 250, as published on October 26, 1979, 44 FR 61886 be revised as follows:

1. In § 250.65(b), delete the first sentence which reads, "Royalty is due on all oil removed from a reservoir." Section 250.65(b) would read as follows:

§ 250.65 Royalty on oil.

* * * * *

(b) The royalty on oil may be based on production as products are moved from the lease. When conditions warrant, the Director may require royalty to be based on actual monthly production, including products remaining on the leased area. Evidence of all shipments shall be filed with the Director within 5 days (or longer period when approved by the Director) after the oil has been shipped by pipeline or by other means of transportation. That evidence shall be signed by representatives of the lessee and by representatives of the purchaser or the transporter who witnessed the measurement reported. That evidence shall also note determinations of the gravity and temperature of the oil and the percentage of impurities contained in the oil.

2. (a) In § 250.66, delete the first sentence which reads, "Royalty is due on all gas removed from a reservoir."

(b) In § 250.66, second sentence, insert a period following the word "products" the second time it occurs and delete the phrase "removed from the reservoir."

Revised § 250.66 would read as follows:

§ 250.66 Royalty on unprocessed gas.

When gas is sold without processing for the recovery of constituent products, the royalty thereon shall be a percentage, established by the terms of the lease, of the value or amont of the gas and constituent products. The value of wet gas and entrained liquids may be established by adjusting the value of the gas less entrained liquids using a British thermal unit (Btu) or other appropriate adjustment factor. The value shall not be less than that which would accrue by computing royalty in accordance with §§ 250.67 (a) through (d) of this Part.

(43 U.S.C. 1334(a), as amended, 92 Stat. 636–637)

[FR Doc. 80-24435 Filed 8-12-80; 8:45 am]
BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

Permanent Regulatory Program; Public Disclosure of Comments Received From Federal Agencies on the Alabama State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Alabama program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Administrative Record Room, Office of Surface Mining, Region II, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902.
Alabama Surface Mining Reclamation Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama
Alabama Surface Mining Reclamation Commission, 100 Third Street, Fort Payne, Alabama
Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Mr. John T. Davis, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, 530 Gay Street, Knoxville, Tennessee 37902, Telephone: (615) 637–8060.
or
Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C., Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Alabama permanent regulatory program submitted by Alabama for his review on March 3, 1980. See 45 FR 15947–15948, (March 12, 1980) and 45 FR 28367–28368 (April 29, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Alabama program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Alabama program:

Tennessee Valley Authority
Advisory Council on Historic Preservation
Department of Labor: Mine Safety and Health Administration
Ohio River Basin Commission
Appalachian Regional Commission
Department of the Army: U.S. Army Corps of Engineers
Department of Agriculture
U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior: Bureau of Indian Affairs; Bureau of Land Management; Heritage Conservation and Recreation Service; U.S. Geological Survey; Bureau of Mines; U.S. Fish and Wildlife Service; and National Park Service

Of these agencies invited to comment, OSM received comments from the following offices:

Department of the Army: U.S. Army Corp of Engineers
Department of Agriculture: U.S. Forest Service and Soil Conservation Service
Department of the Interior: Heritage Conservation and Recreation Service; U.S. Fish and Wildlife Service; and National Park Service
Department of Labor: Mine Safety and Health Administration
Tennessee Valley Authority
Department of Energy

These comments are available for review and copying during business hours at the locations listed above under "Addresses."

Dated: August 8, 1980.

R. Bruce Carroll,
Acting Assistant Director, State and Federal Programs.

[FR Doc. 80-24545 Filed 8-12-80; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 100

Hearings on Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964

AGENCY: Department of Education.

ACTION: Notice of hearings.

SUMMARY: The Secretary of Education proposed rules to implement the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, *et seq.*), on August 5, 1980 (45 FR 52052). The proposed rules prohibit recipients of Federal financial assistance from denying an equal educational opportunity to students whose primary language is not English and who have limited proficiency in English. The Department of Education will sponsor public hearings September 8 through September 17, 1980 to provide an opportunity for interested citizens and organizations to comment on the proposed rules. Interested persons are invited to attend the hearings and to comment on the proposed rules.

DATES: Public hearings will be held as follows:

City, Time, and Date

San Antonio, Texas—8:30 a.m., Monday, September 8, 1980.
New York, New York—8:30 a.m., Tuesday, September 9, 1980.
Denver, Colorado—8:30 a.m., Wednesday, September 10, 1980.
New Orleans, Louisiana—8:30 a.m., Monday, September 15, 1980.
San Francisco, California—8:30 a.m., Tuesday, September 16, 1980.
Chicago, Illinois—8:30 a.m., Wednesday, September 17, 1980.

ADDRESSES: The locations of the public hearings are:

San Antonio, Texas—Institute of Texan Cultures, 801 South Bowie Street, San Antonio, Texas.
New York, New York—Tisch Hall, Schimmel Auditorium, New York University, 40 West 4th Street, New York, New York.
Denver, Colorado—St. Cajetan Center, Auraria College Campus, 9th and Lawrence Streets, Denver, Colorado.
New Orleans, Louisiana—Board of Education Chambers, 4100 Touro Street, New Orleans, Louisiana.
San Francisco, California—Trustees Auditorium, Asian Art Museum, Tea Garden Drive, Golden Gate Park, San Francisco, California.
Chicago, Illinois—Illinois Room, Chicago Circle Campus, University of Illinois.

750 South Halstead Street, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT:
Mr. David Leeman, Office for Civil Rights, Department of Education, Washington, D.C. Telephone: (202) 472–4422.

FOR INFORMATION ON PUBLIC HEARINGS CONTACT:

Region I
Thomas J. Burns, Secretary's Regional Representative, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203; telephone No. 617/223–7500.

Region II
Josue Diaz, Secretary's Regional Representative, Department of Education, Federal Building, 26 Federal Plaza, New York, NY 10007; telephone No. 212/264–4045 (registration for New York hearing).

Region III
Robert Smallwood, Secretary's Regional Representative, Department of Education, Gateway Building, 3535 Market Street, Philadelphia, PA 19104; telephone No. 215/596–1018.

Region IV
Steve Cornett, Secretary's Regional Representative, Department of Education, 101 Marietta Tower Building, Atlanta, GA 30323; telephone No. 404/221–2063.

Region V
Ralph Church, Secretary's Regional Representative, Department of Education, Federal Building, 300 South Wacker Drive, Chicago, IL 60606; telephone No. 312/353–5463 (registration for Chicago hearing).

Region VI
Edward Baca, Secretary's Regional Representative, Department of Education, 1200 Main Tower Building, Dallas, TX 75202; telephone No. 214/767–3626 (registration for San Antonio and New Orleans hearings).

Region VII
Harold Blackburn, Secretary's Regional Representative, Department of Education, Eleven Oak Building, 324 East Eleventh Street, Kansas City, MO 64106; telephone No. 816/374–2276.

Region VIII
James Ballantyne, Secretary's Regional Representative, Department of Education, U.S. Customs House, 721 19th Street, Room 195, Denver, CO 80294; telephone No. 303/837–2442 (registration for Denver hearing).

Region IX
Caroline Gillin, Secretary's Regional Representative, Department of Education, Federal Building, 50 United Nations Plaza, San Francisco, CA 94102; telephone No. 415/556–4920 (registration for San Francisco hearing).

Region X
Allen Apodaca, Secretary's Regional Representative, Department of Education, Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101; telephone No. 206/442–0460.

SUPPLEMENTARY INFORMATION: The schedule for each hearing will be as follows:

8:30 a.m. Registration (including pre-registrants).
10:00 a.m. to 10:30 a.m. Orientation.
10:30 a.m. to 1:30 p.m. Public Comment.
1:30 p.m. to 3:00 p.m. Break.
3:00 p.m. to 5:00 p.m. Public Comment.
5:00 p.m. to 7:00 p.m. Break.
6:00 p.m. to 7:00 p.m. Registration (evening session).
7:00 p.m. to 7:30 p.m. Orientation.
7:30 p.m. to 9:00 p.m. Public Comment.

Those wishing to testify should submit a written or oral request to the Secretary's Regional Representative (SRR) at the appropriate regional office. Those who submit requests which are received at least 72 hours prior to the scheduled hearing will be pre-registered and given priority consideration for testimony. Those who register on the day of the hearing will be permitted to testify following presentations of those who pre-register, time permitting. Morning registrants (8:30–10:00 AM) will be scheduled to testify during the morning and afternoon sessions. Those wishing to testify in the evening will register during the evening regisration period (6:00–7:00 PM). There will be no pre-registration for the evening session. The time for testimony in all sessions will be limited and in no instance longer than 15 minutes per person. Sign language interpreters will be present at each hearing. All oral and written testimony will become part of the written record of each hearing. Written comments will be accepted at any time through October 6, 1980. They should be mailed to: Antonio J. Califa, Acting Deputy Assistant Secretary for Legal Standards, Program Support and Litigation, Office for Civil Rights, U.S. Department of Education, Post Office Box 8240, Washington, D.C. 20024.

Dated: August 6, 1980.

Shirley M. Hufstedler,
Secretary of Education.

[FR Doc. 80-24548 Filed 8-12-80; 8:45 am]
BILLING Code 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL 1562-2, Docket No. OAQPS 79-14]

Proposed Policy and Procedures for Indentifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer; Advance Notice of Proposed Generic Standards; Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice extends the period for comment on proposed and procedures for identifying, assessing, and regulating carcinogens emitted into the ambient air from stationary sources. The comment period is extended from August 12, 1980 through the public meeting of EPA's Science Advisory Board Subcommittee on Airborne Carcinogens, tentatively scheduled for early November, 1980. Notice of the date by which comments are due will accompany the announcement of the meeting date and location.

DATES: The public comment period on the proposed policy and ANPR will close following the public meeting of EPA's Science Advisory Board Subcommittee on Airborne Carcinogens tentatively scheduled for early November, 1980.

ADDRESSES: All written comments on the proposed policy and ANPR should be addressed to: Central Docket Section, Gallery 3, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. Attn.: OAQPS 79–14 (proposed policy) or A 79–13 (ANPR).

Information on which the proposed policy and ANPR are based as well as the written comments received and transcripts of the public hearings are available for public inspection and copying at the Central Docket Section.

FOR FURTHER INFORMATION CONTACT:
Mr. Joseph Padgett, Telephone 919–541–5204 (FTS 629–5204).

SUPPLEMENTARY INFORMATION: On October 10, 1979, the Environmental Protection Agency proposed in the **Federal Register** (44 FR 58642) a policy and procedures for identifying, assessing, and regulating carcinogens emitted into the ambient air from stationary sources. In the same **Federal Register** (44 FR 58662), EPA published an advance notice of proposed rulemaking (ANPR), soliciting comments on draft generic work practice and operational standards for volatile organic compounds which could be applied quickly to reduce emissions of airborne carcinogens from certain source categories.

Interested individuals were invited to submit written comments on the proposed policy and ANPR by February 21, 1980. This was extended to April 14, 1980 and again to August 12, 1980 in order to afford additional opportunity for public comment.

Based on the written and oral comments received on the proposed policy. EPA has determined that further public discussion of certain major scientific issues is warranted. The format for this discussion will be a public meeting of EPA's Science Advisory Board Subcommittee on Airborne Carcinogens tentatively scheduled for early November, 1980. Once the date for this meeting is determined, an announcement will be published in the **Federal Register**. The meeting announcement will include notice of the comment period deadline and the date of by which material rebutting, responding to, or supplementing written or oral comments submitted at the Science Advisory Board meeting must be submitted to EPA.

Dated: August 8, 1980.

David G. Hawkins,
Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-24610 Filed 8-12-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22 and 90

[General Dockets Nos. 80–183; RM–2365; RM–2750; RM–3047; RM–3068]

Allocation of Spectrum in the 928–941 MHZ Band and Establishment of Other Rules, Policies, and Procedures for One-Way Paging Stations

AGENCY: Federal Communications Commission.

ACTION: Order staying comment deadline of proposed rule.

SUMMARY: The Federal Communications Commission stays the comment deadline established in the Notice of Proposed Rulemaking on allocating spectrum in the 928–941 MHz Band and to establish other rules, policies, and procedures for One-way paging stations in the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Service, pending issuance of a Supplemental Notice of Proposed Rulemaking. The Supplemental Notice will establish a new comment deadline.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Rodney T. Small (Office of Science and Technology), (202) 653–8169; Michael D. Sullivan (Common Carrier Bureau), (202) 632–6450; Richard Taube (Private Radio Bureau), (202) 632–6497; or John Williams (Office of Science and Technology), (202) 632–7073.

SUPPLEMENTARY INFORMATION:

Order

Adopted: August 1, 1980.
Released: August 5, 1980.

In the matter of amendment of Parts 2, 22 and 90 of the Commission's Rules to Allocate Spectrum in the 928–941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services.

By the office of Science and Technology:

1. In paragraph 56 of the *Notice of Proposed Rule Making* in this proceeding 45 FR 32013, 32020–21, the Commission stated that it intended to issue a *Supplemental Notice* outlining alternative allocation methods. The comment period established in the original *Notice* was intended to be long enough to encompass comments on the original *Notice* and the *Supplemental Notice*. The Commission has not yet issued the latter document, however, and the August 15 deadline for initial comments is no longer appropriate.

2. In view of the Commission's intention to have a single, consolidated comment period in this proceeding, It is ordered that the time for filing comments and reply comments is Stayed pending issuance of a *Supplemental Notice*, in which the dates for filing will be set.

3. The Secretary shall cause a copy of this *Order* to be published in the **Federal Register**.

S. J. Lukasik,
Chief Scientist.

[FR Doc. 80-24482 Filed 8-12-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Dockets Nos. 80–244; RM–2650]

Amending Rules To Permit Certain Class II Daytime-Only AM Stations (Such as Station WHYT), Situated Between Cochannel U.S. Class I–B Clear Channel Station; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This action extends the time for filing reply comments from July 29 to August 8, 1980. This proceeding proposes a uniform 6:00 a.m. sign-on time for certain Class II stations situated between co-channel Class I–B clear channel stations.

DATE: July 29, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Robert Hayne, (202) 632–6985.

In the matter of Amendment of § 73.99 of the Commission's rules, BC Docket No. 80–244, RM–2650. See 45 FR 40626, June 16, 1980.

Adopted: July 29, 1980.
Released: August 1, 1980.

1. The Commission adopted a *Notice of Proposed Rulemaking* on May 29, 1980, proposing a uniform 6:00 a.m. sign-on time for certain Class II stations situated between co-channel Class I–B clear channel stations. Reply comments are presently due July 29, 1980.

2. On July 22, 1980, counsel for Jefferson-Pilot Broadcasting Company, Inc., licensee of Class I–B Station WBT, Charlotte, North Carolina, filed a request seeking additional time through August 8, 1980 to submit reply comments. In support of its request, counsel states that this additional time is necessary in order to enable its consulting engineer to review certain technical arguments advanced by the Daytime Broadcasters Association to the effect that the early morning skywave service of the Class I–B clear channel stations should not be protected.

3. Since it would be in the public interest to have all material available to the Commission in arriving at a decision in this proceeding, the requested additional time will be granted.

4. Accordingly, it is ordered, that the aforementioned request is granted and the date for filing reply comments is hereby extended through August 8, 1980.

5. This action is taken pursuant to Sections 4(i), 5(d)(1) and 303(r) of the

Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-24443 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Dockets Nos. 80-422; RM-3199; FCC 80-459]

Amending Rules Concerning Bio-Medical Telemetry Operations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to allow the use of bio-medical telemetry radio transmissions on frequencies in the 150 MHz band in the Special Emergency Radio Service. The operation will only be allowed beyond 75 miles of urban areas of 500,000 or more population. The telemetry transmissions show the vital life signs of sick or injured persons and are usually sent from ambulances to hospitals for diagnosis and prescribed treatment.

DATES: Comments must be received on or before September 15, 1980 and Reply Comments must be received on or before September 30, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C., 20554.

FOR FURTHER INFORMATION CONTACT: Richard Taube, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 90 of the Commission's rules concerning bio-medical telemetry operations, PR Docket No. 80-422, RM-3199.

Adopted: July 23, 1980.

Released: August 11, 1980.

1. Notice of Proposed Rule Making is hereby given in the above-entitled matter. This action responds to a petition for rule making (RM-3199) submitted by the State of Missouri Department of Social Services (Missouri).

2. Missouri proposes that we amend our rules to allow licensees of medical services communication systems in the Special Emergency and Local Government Radio Services to transmit bio-medical telemetry communications [1] in the VHF bands under certain limited conditions. In the Local Government Service, petitioner proposed this rule change for thirty frequencies in the 154–155 MHz band; in the Special Emergency Service, the change is proposed to apply to ten specified frequencies in the 45–47 MHz band, and to eleven specified frequencies in the 155 MHz band.

3. Petitioner proposes that these bio-medical telemetry operations be licensed only in rural communities that are forty miles removed from urban areas of 200,000 or more population except that "itinerant ambulances entering the 40 mile radius" would also be allowed to transmit these telemetry signals. Further, it is proposed to restrict bio-medical telemetry to intermittent operations not to exceed one minute in any five-minute period.

4. In support of its proposal, Missouri states:

"* * * many rural communities are trying to develop better and more effective EMS capabilities by extending medical resources beyond the door of the hospital's emergency department. These rural area services are attempting to phase in Advanced Life Support (ALS) by first training their employees as paramedic-type personnel * * * The Commission's regulations now limit communications necessary to use new capabilities to the UHF MED channels.[2] The obstacle is that of acquiring communications on the UHF channels to allow the paramedics to use their skills to (1) monitor the patient to assess what is wrong, (2) consult with a physician for possible instructions and, if needed, (3) administer stablilzation drugs and treatment * * * UHF channels just for telemetry may be appropriate for urbanized America, but VHF for ambulance-to-hospital communications is all that is needed in our rural areas. Fortunately, many rural services have an adequate VHF radio system that we are proposing adding bio-medical telemetry * * *"

Background

5. The regular use of bio-medical telemetry operations was first permitted by action taken in 1972, in Docket 19261.[3] We noted at that time:

"* * * The Commission has been aware of the importance of this radio technique to the efforts of the medical community to improve prehospitalization treatment for cardiac patients, accident victims, and others for whom emergency care is necessary * * * Developmental telemetry systems have been authorized in both the 150 and 450 MHz bands where they have demonstrated their practicality and their significant potential for advancement to the life saving function of medical facilities. An important example has been the telemetering of electrocardiograms of heart attack victims to enable hospital-based physicians to provide instructions for administering effective preliminary emergency care * * *"

6. Bio-medical telemetry operations are generally limited to operations in the 460 MHz UHF band in the Special Emergency Radio Service.[4] [5] As to permitting these operations in the VHF bands, particularly in the 155 MHz band where a large number of medical services systems operate, we found serious problems. For example, the apparent medical need at that time for continuous carrier operations in bio-medical telemetering was not feasible on the frequencies at VHF which had to be intensively shared. Docket 19261 discussed these and other problems and we stated:

"* * * A few parties sought separate frequencies in the 150 MHz band for these operations instead of, or at least in addition to, the 460 MHz allocations. The argument was that this would permit utilization of their present equipment and tie-in with their regular base station operations for necessary communications related to telemetering activities. The Commission recognizes that these advantages exist for licensees, as do certain economic advantages and technical advantages including more favorable propagation characteristics in the 150 MHz band. The difficulty is that there is not a sufficient number of 150 MHz frequencies available for exclusive telemetry operations. Nor did the comments in this regard produce a reasonable solution. Most suggested that we permit licensees the option to use the hospital frequency 156.34 MHz for telemetry systems. But sharing of a single frequency in a given community would not, in our view, serve to meet anticipated emergency telemetering requirements * * *."

In addition to these issues, the VHF frequencies at the 150–160 MHz range are heavily used in urban areas and cannot normally accommodate the relatively lengthy bio-medical telemetry transmissions.

Discussion

7. Missouri's petition answers some of the concerns that we noted in our consideration of the problems of VHF for bio-medical telemetry. We have additionally learned a great deal from the experience gained in use of this technique by the medical community since 1972. For instance, we indicated that in the early development of this technique continuous carrier operations for extended telemetry transmissions, perhaps for as long as twenty minutes, was considered to be a requisite. Today, however, intermittent telemetry is extensively employed so as to significantly reduce the need for dedicated frequencies. Also, the proposal to limit VHF telemetry to our less populated areas where channel sharing requirements can be expected to be minimal is a much more viable approach in terms of the number of VHF channels that are reasonably available for this function.

8. The comments were largely supportive of Missouri's petition.[6] Arkansas' Department of Health observed:

"If the petition is granted, there will be a better chance of the rural areas, where ambulance transport is a 20–30 minute trip, obtaining Advanced Life Support equipment and personnel. By utilization of radios currently on-board, many services will be able to upgrade their equipment. This will be especially true of those services that have to justify expenditures to either quorum courts or city government."

And for the Illinois Department of Public Health:

"* * * Although our long-range health plans call for eventual conversion to UHF radio, we feel that allowing rural systems to fully utilize their presently completed VHF systems will yield a cost benefit ratio that could make it possible for them to provide ALS/Paramedic services for their small and dispersed populations * * *"

9. Not all of the comments agreed that there were benefits. The Virginia Department of Health took the view that VHF telemetry is undesirable for two reasons:

"* * * to partially upgrade existing VHF systems will create pockets of incompatible systems and generate a general reluctance to take the final step to a coordinated UHF system * * *;" and

"Upgrading a VHF system to provide telemetric communications will not be cost effective when compared to a UHF system * * *."

10. The concerns noted by Virginia are not relevant to our consideration of the petitioner's proposals. Cost comparisons may favor UHF systems in some areas or under certain circumstances. However, these relevant costs are system design issues to be considered by users. Similarly, the operational benefits of a VHF telemetry system against one at UHF should be evaluated from the perspective of licensees. They are in the position to understand and apply local economic and geographic factors to determine how best to meet their medical communication requirements. We intend that our rules provide licensees viable options for bio-medical telemetry systems. It is consistent with this objective to provide available frequencies, as recommended by Missouri, which can enable development of alternative bio-medical telemetry system approaches.

11. Our finding, therefore, is that the petitioner's basic proposals to this end have considerable merit. These proposals would afford many licensees the opportunity they don't have now to utilize an important medical diagnosis and treatment telemetry technique through radio communications. Accordingly, we are proposing rule changes to provide for the operation of VHF bio-medical telemetry systems. At the same time, we do not agree with a number of the specific allocations and requirements proposed by the petitioner.

12. One problem we have is with petitioner's proposal to allow the bio-medical telemetry in the Local Government Service. This is not in accord with the rules and allocation structure for medical services radio operations. Basically, it is contemplated that these operations be licensed in the Special Emergency Service where the rules provide emphasis and flexibility for development of medical communications that can be fully interfaced within regions and from one area to another. This is not feasible where systems are licensed in many radio services. We are aware of a few medical communications systems that operate in radio services other than the Special Emergency Service. However, this is comparatively uncommon and usually reflects older systems that were in place before the Commission took action in 1974 (Docket 19880) to establish a medical services category in the Special Emergency Service. Our understanding is that most, if not all, of these few systems are planning conversion to operations in the Special Emergency Service as local budgets permit. In any event, licensing is permitted in the Special Emergency Services for all persons and organizations involved in medical services operations and we propose to limit VHF bio-medical telemetry to this radio service.

13. We also are modifying the frequencies that petitioner proposes for VHF bio-medical telemetry operations in the Special Emergency Service. Most of the frequencies suggested by Missouri are shared for non-medical services operations including school buses, veterinarians, beach patrols, and other uses. Licensees of medical services systems, therefore, have no practical means to control these diverse types of operations so as to avoid intersystem interference to or from telemetry operations. This is a significant problem as experience has demonstrated that the conduct of telemetry operations on the same frequencies used for voice communications is generally incompatible. The way to effectively deal with this problem is through close monitoring and control of all of the operations being conducted on the frequency. The point of Missouri's proposals is that this can be done in rural areas in medical services operations because there are generally only one or two eligible users and the transmissions are under the control of the licensees. However, this control cannot be exercised on a frequency that is available to other categories of users. We propose, therefore, to limit the bio-medical telemetry operations to the five frequencies that are available exclusively for medical services operations. These are 155.325, 155,340, 155,355, 155.385, and 155.400 MHz. These channels should afford sufficient spectrum in non-urbanized areas to accommodate the anticipated bio-medical telemetry requirements.

14. Missouri's proposed permissible geographic areas of operation for VHF bio-medical telemetry are also being modified. The petitioner has suggested that these operations be allowed within regions forty miles removed from urbanized areas of 200,000 or more population. Arizona Public-Safety Communications Officers Association notes:

"* * * we are concerned about the request for only a 40 mile restricted area rather than the typical 75 miles radius area around major metropolitan areas."

We agree, and the restriction we propose is for seventy-five miles which, as observed by Arizona, is the normal areas separation standard for the 155 MHz band. At the same time, we are proposing to reduce the restricted areas by applying the seventy-five mile limit only to urbanized areas of 500,000 or more population. This approximates the top fifty urbanized areas as developed

[1] Bio-medical telemetry is a widely used medical diagnostic technique that is accomplished through radiocommunications. The technique is used to permit diagnosis of patients before they reach a hospital. A patient's vital life signs are monitored by use of such devices as electrocardiograms. These measuremens are then transmitted by telemetry to a hospital-based physician who makes a diagnosis and prescribes appropriate treatment.

[2] This reference is to the frequencies in the 463/468 MHz band that are available in the Special Emergency Radio Service for medical services operations. See § 90.53 of the Commission's rules.

[3] See Report and Order adopted March 23, 1972 (FCC 72-274; 37 FR 6661).

[4] By action taken in Docket 19880 in 1974 (FCC 74-707; 39 FR 137), the original frequency allocation structure for bio-medical telemetry operations as established in Docket 19261 was modified. The rules now in effect, as adopted in Docket 19880, provide that telemetry operations are primarily permitted on three channel pairs at 463/468 MHz and on four single channels in the 458 MHz band; on a secondary basis to regular two-way voice operations, this technique is also permitted on five additional channels at 463/468 MHz. See § 90.53(b)(13), (19) and (20) of the Commission's rules.

[5] Bio-medical telemetry frequencies for in-hospital and low-power applications of this technique have also been allocated for use in the Business Radio Service (Part 90 of the rules) and on an unlicensed basis under Part 15 of our rules.

[6] Comments were submitted by Arizona Public-Safety Communications Officers Association; Arkansas Department of Health; Illinois Department of Public Health; Memorial Hospital of Carbondale, Illinois; Missouri Division of Health; Virginia Department of Health; and Johnnie Walker Medical Electronics, Inc. of Raytown, Mo.

in the U.S. Census of 1970, a listing of which is shown in Appendix A.

15. Another provision recommended by the petitioner would allow itinerant telemetry operations within the restricted areas. This proposal defeats the intent of the restriction which is to prevent interference to or from the telemetry operations because of heavy use of the VHF channels in the seventy-five mile regions. As a result, we are not including this proposal.

16. Finally, we are relaxing the proposal with respect to the permissible air time for transmission of bio-medical telemetry signals. Petitioner suggested that one-minute of transmission time be allowed in any five-minute period. Experience has shown that this may not be adequate for effective medical diagnosis. We propose to permit telemetry for up to five-minute periods but we request specific comments and suggestions on this aspect.

17. We would also like the comments to address the issue of "interrupt" capability. This results from the necessary use of VHF frequencies in a simplex mode so as to preclude the physician at the hospital having the ability to transmit while the mobile unit is sending. It is not our intent to provide any rule requirement as to this condition. However, we want licensees to consider the problem and, hopefully, we will be able to develop in our report in this proceeding some suggestions as to approaches being used.

Conclusion

18. In consideration of the foregoing, Missouri's petition for amendment of the Commission's rules is granted. Specific rules changes recommended by the petitioner, with modifications as discussed above, are being proposed as follow:

A. The use of F2 or F9 emission is proposed to be authorized on the frequencies 155.325, 155.340, 155.355, 155.385, and 155.400 MHz in the Special Emergency Radio Service for bio-medical telemetry operations;

B. These VHF bio-medical telemetry operations are proposed to be conducted at all locations beyond seventy-five miles of the centers of the top fifty urbanized areas as set forth in the U.S. Census for 1970 (See Appendix A).

C. The transmission of VHF bio-medical telemetry signals is proposed to be permitted for five-minute periods.

19. In accordance with the above, the Petition, RM–3199, submitted by the State of Missouri, Department of Social Services, is granted, and Notice of Proposed Rule Making is hereby given. The proposed amendments are issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

20. All interested persons are invited to file written comments on or before September 15, 1980 and reply comments on or before September 30, 1980. Any person wishing to file a reply to a comment before the close of the formal comment period is encouraged to do so. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

21. In accordance with the provisions of 47 CFR 1.419(b), an original and five copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C., (1919 M Street NW.).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Top Fifty Urbanized Areas in the United States by Population: 1970

Rank and urbanized area

1: New York, N.Y.-Northeastern New Jersey.
2: Los Angeles-Long Beach, Calif.
3: Chicago, Ill.-Northwestern Indiana.
4: Philadelphia, Pa.-N.J.
5: Detroit, Mich.
6: San Francisco-Oakland, Calif.
7: Boston, Mass.
8: Washington, D.C.-Md.-Va.
9: Cleveland, Ohio.
10: St. Louis, Mo.-Ill.
11: Pittsburgh, Pa.
12: Minneapolis-St. Paul, Minn.
13: Houston, Tex.
14: Baltimore, Md.
15: Dallas, Tex.
16: Milwaukee, Wis.
17: Seattle-Everett, Wash.
18: Miami, Fla.
19: San Diego, Calif.
20: Atlanta, Ga.
21: Cincinnati, Ohio-Ky.
22: Kansas City, Mo.-Kans.
23: Buffalo, N.Y.
24: Denver, Colo.
25: San Jose, Calif.
26: New Orleans, La.
27: Phoenix, Ariz.
28: Portland, Oreg.-Wash.
29: Indianapolis, Ind.
30: Providence-Pawtucket-Warwick, R.I.-Mass.
31: Columbus, Ohio
32: San Antonio, Tex.
33: Louisville, Ky.-Ind.
34: Dayton, Ohio.
35: Fort Worth, Tex.
36: Norfolk-Portsmouth, Va.
37: Memphis, Tenn.-Miss.
38: Sacramento, Calif.
39: Fort Lauderdale-Hollywood, Fla.
40: Rochester, N.Y.
41: San Bernardino-Riverside, Calif.
42: Oklahoma City, Okla.
43: Birmingham, Ala.
44: Akron, Ohio
45: Jacksonville, Fla.
46: Springfield-Chicopee-Holyoke, Mass.-Conn.
47: St. Petersburg, Fla.
48: Omaha, Nebr.-Iowa.
49: Toledo, Ohio-Mich.
50: Albany-Schenectady-Troy, N.Y.

[FR Doc. 80-24444 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 355]

Cost Standards for Railroad Rates; Revised Interpretation; Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed interpretation of statutory provisions; extension of comment period.

SUMMARY: The present due date for filing comments on the proposed revised interpretation of statutory minimum rail rates provisions (45 FR 48676, July 21, 1980) is August 20, 1980. The nation's railroads have requested a 20 day extension of the filing due date to permit completion of necessary studies on proposed new costing definitions. The Water Transportation Association has sought a 90 day extension. We believe that a 30 day extension is warranted. This will permit the petitioners a total of 72 days since service of our detailed decision on July 9, 1980.

DATE: Comments are now due September 19, 1980.

ADDRESS: An original and 15 copies of comments should be sent to: Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Richard Felder or Jane Mackall (202) 275–7693.

Decided: August 6, 1980.

By the Commission, Robert C. Gresham, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24428 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations; Northeast Pacific Ocean; Order To Retain Domestic Annual Harvest (DAH)

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Proposed order.

SUMMARY: This document proposes that the Domestic Annual Harvest (DAH) of Pacific whiting in the fishery conservation zone off the Washington, Oregon, and California coasts shall not be reduced since it appears that U.S. fishermen will fully utilize that portion of the optimum yield.

DATE: Written comments may be submitted until August 28, 1980.

ADDRESS: Comments should be addressed to H. A. Larkins, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, telephone (206) 442–7575.

FOR FURTHER INFORMATION CONTACT:
H. A. Larkins (same as above).

SUPPLEMENTARY INFORMATION: On February 10, 1977, a preliminary fishery management plan (PMP) prepared by the Secretary of Commerce was published in the **Federal Register** (42 FR 8578). The PMP established conservation and management measures for the foreign trawl fisheries of the Washington, Oregon, and California region under authority of section 201(g) of the Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. The PMP was subsequently amended on November 30, 1977 (42 FR 60945), May 4, 1979 (44 FR 26131), and May 16, 1980 (appearing in 45 FR 34003 on May 21, 1980). The Third Amendment to the PMP established an optimum yield (OY) for Pacific whiting of 175,000 metric tons (m.t.), a domestic annual harvest (DAH) of 40,000 m.t. (12,000 m.t. for shore-based processing (DAP) and 28,000 m.t. for joint venture processing (JVP)), and a Total Allowable Level of foreign fishing (TALFF) of 100,000 m.t. Because of uncertainties in stock abundance and DAH, 35,000 m.t. of the optimum yield were held in reserve until better information could be obtained. Provisions were made in the Third Amendment for the Regional Director to release the whiting reserve to TALFF as soon as practicable after July 1 if events and available data justified this action. On July 23, 1980 final action was taken to increase DAH to 55,000 m.t. by taking 15,000 m.t. from the 35,000 m.t. whiting reserve; the remaining 20,000 m.t. of the reserve were added to TALFF.

The Regional Director was also authorized to supplement TALFF, near August 1, with the amount of the whiting DAH which would not be harvested by domestic vessels if available data justified this action. In July, an evaluation of domestic industry revealed that the 12,000 m.t. DAP estimate may be completely utilized; several firms indicated that they may initiate whiting production later in the season and others may increase production above current levels. Inasmuch as it has already been necessary to supplement DAH (JVP) from the whiting reserve and because it appears that the portion of DAH that will be processed by shore-based processors is expected to be fully utilized, there will be no DAH available to TALFF this year.

A 15-day comment period (following publication of this notice) is established and, during this time, pertinent information will be available for public review in the Regional Office (as allowed by 50 CFR Part 603 on Confidentiality of Statistics). Written comments will be accepted during the comment period, and should be submitted to H. A. Larkins, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, telephone (206) 442–7575.

Based on the above information, and with the rulemaking authority delegated by the Assistant Administrator, the Regional Director has determined that no part of the 55,000 m.t. whiting DAH shall be added to TALFF.

The Assistant Administrator for Fisheries has determined that this action does not require the preparation of a regulatory analysis under Executive Order 12044.

Signed at Washington, D.C., this 7th day of August 1980.

(16 U.S.C. 1801 *et seq.*)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24480 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-22-M

V 45 A G 13 80 UMI

Notices

Federal Register
Vol. 45, No. 158
Wednesday August 13, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

CAWACO Resource Conservation and Development Area Critical Area Treatment R.C. & D. Measures, Alabama; Environmental Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. William B. Lingle, State Conservationist, Soil Conservation Service, 136 South Gay Street, Auburn, Alabama 36830, telephone 205–821–8070.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the CAWACO Resource Conservation and Development Area Critical Area Treatment Measures in Blount, Chilton, Jefferson, Shelby, and Walker Counties, Alabama.

The environmental assessment of this federally-assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment. The planned works of improvement include shaping and sodding, debris basins, diversions, grade stabilization structures, erosion control dams, grassed waterways, tree planting, and others to reduce or control critically eroding areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. William B. Lingle, State Conservationist, Soil Conservationist, Soil Conservation Service, 136 South Gay Street, Auburn, Alabama 36830, telephone 205–821–8070. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

August 1, 1980.

[FR Doc. 80–24459 Filed 8–12–80; 8:45 am]

BILLING CODE 3410–16–M

Cross Creek Township Park Critical Area Treatment R.C. & D. Measure, Pennsylvania; Environmental Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717–782–2202.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cross Creek Township Park Critical Area Treatment RC&D Measure, Washington County, Pennsylvania.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include soil and water conservation practices to stabilize the park area. Practices to be installed include: subsurface drains, a waterway, diversions, streambank protection, grading, and vegetating bare and disturbed areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Room 820, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone 717–782–2202. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

August 1, 1980.

[FR Doc. 80–24456 Filed 8–12–80; 8:45 am]

BILLING CODE 3410–16–M

Forbes Flood Prevention R.C. & D. Measure, North Dakota; Environmental Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone 701–255–4011, Extension 421.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Forbes Flood Prevention R.C. & D. Measure, Dickey County, North Dakota.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a dike system to protect the City of Forbes from flooding. The planned works of improvement include approximately 4,300 lineal feet of dike with 7-foot maximum height, 10-foot top width, 3 and 4 to 1 horizontal to vertical side slopes. The dike will be located along the north and west limits of the city.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone 701–255–4011, Extension 421. A combined environmental assessment and FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

August 1, 1980.

[FR Doc. 80–24457 Filed 8–12–80; 8:45 am]

BILLING CODE 3410–16–M

Putnam County Park Critical Area Treatment R.C. & D. Measure, West Virginia; Environmental Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Putnam County Park Critical Area Treatment RC&D measure, Putnam County, West Virginia.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of critical area treatment in order to reduce soil erosion and prevent sediments from entering the stream. The bottom of the waterway will be regarded and the banks will be sloped and reshaped. Rock riprap and vegetative seeding will be used to stabilize the entire area.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151. A combined environmental assessment and FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy request at the above address.

Implementation of the proposal will not be initiated until September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

James W. Mitchell,
Associate Deputy Chief for Natural Resource Projects.

August 1, 1980.

[FR Doc. 80–24455 Filed 8–12–80; 8:45 am]

BILLING CODE 3410–16–M

Sistersville High School Land Drainage R.C. & D. Measure, West Virginia; Environmental Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sistersville High School Land Drainage R.C. & D. Measure, Tyler County, West Virginia.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a subsurface drainage system to correct the internal drainage problems. The system will be 1,280 feet of 6-inch perforated polyethylene drainage tubing and have a gravel backfill to the ground surface. This will improve infiltration and also provide suitable bedding for the tile.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental

Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151. A combined environmental assessment and FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 1, 1980.

[FR Doc. 80–24458 Filed 8–12–80; 8:45 am]

BILLING CODE 3410–16–M

Williamson-French Creek Fisherman Access R.C. & D. Measure, West Virginia; Environmental Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Williamson-French Creek Fisherman Access R.C. & D. Measure, Pleasants County, West Virginia.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a fisherman access which will permit a more even distribution of fishing pressure on French Creek.

The planned works of improvement include grading and shaping of parking area, guard posts, walk and stairways, and a slide-type boat ramp.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assesament are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151. A combined environmental assessment and FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

August 1, 1980.

[FR Doc. 80–24454 Filed 8–12–80; 8:45 am]

BILLING CODE 3410–16–M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

[Order No. 2]

Statement of Policy on Legal Status of the "Western Delivery System", as Related to the Alaska Natural Gas Transportation System, and Delegation of Enforcement Authority

Dated: August 6, 1980.

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Statement of Policy and Delegation of Enforcement Authority.

SUMMARY: The Office of the Federal Inspector (OFI) is an independent establishment of the Executive Branch, established by Reorganization Plan No. 1 of 1979, which was put into effect by Executive Order 12142 of June 21, 1979, 44 FR 36927 (June 25, 1979). This agency is the central focus for Federal activities concerning the planning, construction, and initial operation of the Alaska Natural Gas Transportation System (ANGTS).

This order sets forth the OFI policy pertaining to the application by the Federal Energy Regulatory Commission (FERC) of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) to the "Western Delivery System." In agreeing with the FERC determination of ANGTA applicability, the OFI also enumerates the legal effects of being "related to" the ANGTS. This order also delegates certain ANGTS-related enforcement authority back to appropriate Federal agencies. It is intended to eliminate any confusion concerning the responsibilities of the various Federal agencies, including the OFI, with regard to the Western Delivery System.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Esposito, Office of the General Counsel, Office of the Federal Inspector, ANGTS, Room 2413, Post Office Building, 1200 Pennsylvania Avenue, NW., Washington, DC. 20044, (202) 275–1144.

I. Background

On January 11, 1980, the Federal Energy Regulatory Commission (FERC) issued an order approving applications relating to the importation, sale, and transportation of natural gas from Alberta, Canada, and to the construction of certain "prebuilt" facilities of the Western Leg of the Alaska Natural Gas Transportation System (ANGTS) between Kingsgate, British Columbia and Stanfield, Oregon. On June 13, 1980, by supplemental order the FERC issued a certificate of public convenience and necessity authorizing the construction and operation of a Western Delivery System (WDS).[1] WDS construction will entail connecting the Stanfield end of the prebuilt portion of the ANGTS Western Leg to, and expanding, certain Northwest Pipeline Corporation and El Paso Natural Gas Company facilities. Displacement will effectively "deliver" the Canadian gas to Southern California.

The FERC noted that its consideration of the WDS certificate was "governed by the Alaska Natural Gas Transportation Act" (ANGTA), Pub. L. 94–586, 15 U.S.C. Section 719. *Id.* at 43–46. In light of ANGTA applicability, the FERC issued a supplemental order on June 20, 1980, applying affirmative action conditions to the June 13 certificates. These conditions are

[1] *Northwest Alaskan Pipeline Company, et al.*, FERC Docket Nos. CP78–123, *et al.*, supplemental order issued June 13, 1980.

intended to implement Section 17 of ANGTA.

II. Statement of Policy

Pursuant to Section 202(b) of Reorganization Plan No. 1 of 1979, the OFI has the responsibility to expedite the regulatory processes necessary to the completion of the ANGTS. In this vein the OFI establishes a policy both endorsing the FERC conclusion that ANGTA is applicable to the WDS and enumerating the regulatory effects of this ANGTA applicability.

A. Endorsement of ANGTA Applicability to the WDS

Section 9(a) of ANGTA mandates that "any action which is *necessary or related to* the construction and initial operation of the approved transportation system" [2] be expedited (emphasis added). The same standard is also expressly referenced for, and therefore triggers, the other provisions of Section 9, dealing with administrative procedures, together with Section 8 waiver of law, Section 10 judicial review, and certain other operating sections of ANGTA.

In its certification order, the FERC found that "the WDS * * * is related to the ANGTS since these facilities will be used to transport Alberta gas volumes to the Southern California market as part of the pre-built project." The FERC also concluded that the WDS will "support construction of the ANGTS facilities between Kingsgate and Stanfield, and contribute to the realization of various benefits of pre-building the rest of the ANGTS." Moreover, it was determined that the existence of the WDS was an "essential prerequisite" to, and that denial of the WDS certificate would substantially delay, prebuilding the Kingsgate-to-Stanfield segment.

Based on its own analysis of the FERC order, Section 9(a) of ANGTA, and applicable judicial precedent,[3] the OFI agrees that the WDS is "related to the construction and initial operation" of the ANGTS, and thus is governed by ANGTA and is eligible for treatment pursuant to ANGTA and ANGTA-derivative authorities.

B. Legal Effects of Being "Related to" ANGTS

Generally, the legal effects of being "related to" ANGTS depend upon the specific terms of the authority being applied. If the terms apply to actions "related to" ANGTS, they will be applied to the WDS. If the authority refers specifically to ANGTS, it will not be applicable to actions involving facilities which are merely "related to" ANGTS.

Specifically, the treatment flowing from being "related to" ANGTS includes: (1) expedited agency permit action, Section 9 of ANGTA; (2) expedited and limited judicial review of certain regulatory actions, Section 10 of ANGTA; (3) the availability of supplemental enforcement authority, Section 11 of ANGTA; (4) the application of affirmative action regulations, Section 17 of ANGTA; (5) Federal Inspector coordination of permitting, Section 202(b) of Reorganization Plan No. 1 of 1979; and (6) Federal Inspector responsibility for all functions related to the enforcement of all Federal statutes and regulations and enforcement of terms, conditions and stipulations of Federal authorizations related to the WDS, Section 102 of the Reorganization Plan.

The OFI concludes, however, that being "related to" ANGTS does not trigger the ANGTS-specific provisions in ANGTA, the President's *Decision*, [4] and the Agreement on Principles with Canada.[5] The most important ANGTS-specific provisions not applicable to the WDS are: (1) the Terms and Conditions listed in Section 5 of the President's *Decision*, and (2) the procurement review provisions of the U.S.-Canadian Agreement.

III. Delegation of Authority

In terms of OFI enforcement authority over the WDS, the primary source of field level activity comes from the Interior Department grant of right-of-way across Federal lands. Because that grant, pursuant to Section 28(w) of the Mineral Leasing Act, has already been transmitted to Congress, the Federal Inspector now notes that he is the "authorized officer," the position responsible for enforcement on the face of the grant. Nevertheless, because WDS construction is standard pipeline upgrading, of limited complexity relative to ANGTS itself, the OFI, subject to appropriate OFI oversight, is hereby delegating enforcement authority back to the appropriate Federal agencies, including the Interior Department, to the greatest extent possible pursuant to Section 202(a) of the Reorganization Plan. This delegation does not, however, apply to equal opportunity requirements.

Peter L. Cook,

Acting Federal Inspector.

[FR Doc. 80–24372 Filed 8–12–80; 8:45 am]

BILLING CODE 6820–AW–M

[2] For ANGTA purposes, the "approved transportation system" is ANGTS.

[3] *Midwestern Gas Transmission Co.* v. *FERC*, 589 F.2d 603 (D.C. Cir. 1978).

[4] *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, Executive Office of the President, Energy Policy and Planning, issued September 22, 1977.

[5] Agreement between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline, President's *Decision*, Section 7.

NATIONAL ENDOWMENT ON THE ARTS AND THE HUMANITIES

Design Arts Panel (Design Demonstration); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Demonstration) to the National Council on the Arts will meet September 3, 1980 from 9:00 a.m. to 5:30 p.m., and September 4, 1980 from 9:00 a.m. to 5:30 p.m. at Columbia Plaza Office Complex, room 1422, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 5, 1980.

[FR Doc. 80–24460 Filed 8–12–80; 8:45 am]

BILLING CODE 7537–01–M

CIVIL AERONAUTICS BOARD

[Dockets 33363, 38208 and 38209]

Former Large Irregular Air Service Investigation Phase III; Applications of American Trans Air, Inc.; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on September 11, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW, Washington, D.C., before the undersigned.

Dated at Washington, D.C., August 8, 1980.

William A. Pope, II,

Administrative Law Judge.

[FR Doc. 80-24439 Filed 8-12-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38534]

Spanish Main International Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 4, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., August 7, 1980.

William A. Pope, II,

Administrative Law Judge.

[FR Doc. 80-24438 Filed 8-12-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33220]

Yucatan Service Case

Notice to all Parties:

On August 4, 1980 Northwest Airlines filed a motion for a change of date for the oral argument in this proceeding. Northwest stated that the current date of August 13 conflicted with preexisting obligations of its counsel. Answers were filed by the Bureau of International Aviation and Continental Air Lines in opposition to Northwest's proposed three-week postponement.

We have decided, with the informal concurrence of all parties participating in the oral argument, to grant Northwest's motion and postpone oral argument for two days. It is now scheduled for 10:00 a.m. on Friday, August 15, 1980.

Time allotments for argument include questions by the Board and parties should prepare their direct arguments accordingly. Parties may reserve up to 25 percent of their allotted time for rebuttal. Rebuttal will be heard in reverse order of direct argument. The order of appearance and allotments are as follows:

Parties and Time

Continental Air Lines, James T. Lloyd—20 minutes.
Texas International Airlines, Emory N. Ellis—20 minutes.
Houston Parties, Robert E. Cohn—10 minutes.
Eastern Air Lines, Allison Wade—20 minutes.
Northwest Airlines, Ronald D. Eastman—20 minutes.
New Orleans Parties, Michael J. Rapier—10 minutes.
Bureau of International Aviation, William J. Wagner—30 minutes.

In our opinion and order on discretionary review (adopted July 31, 1980 and transmitted to the President on August 1, 1980) we asked parties to address certain specific issues at the oral argument which the Board considers to be of particular importance. In addition to those issues, the Board requests parties to address the potential impact on Washington/Baltimore-Yucatan service of an award to any of the applicants in the Houston-Yucatan market.

Dated in Washington, D.C. on August 7, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-24440 Filed 8-12-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 2:30 p.m. and will end at 4:00 p.m., on September 9, 1980, at the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20037.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, Suite 510, Washington, D.C. 20037.

The purpose of this meeting is to review draft of Forum on Police-Community Relations Report on follow-up to sharing of information about the Forum with Mayor's office.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 8, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24446 Filed 8-12-80; 8:45 am]

BILLING CODE 6335-01-M

North Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and will end at 3:00 p.m., on August 25, 1980, at the Dakota Association of Native Americans, 2900 Broadway, Bismarck, North Dakota, 58501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado, 80202.

The purpose of this meeting is to review and plan for the September 19–20, 1980 factfinding meeting on Fair Housing in Bismarck and to discuss the possibility of doing an education handbook.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 8, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24449 Filed 8-12-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Countertop Microwave Ovens From Japan; Antidumping—Extension of Period for Final Determination and Rescheduling of Antidumping Hearing

AGENCY: United States Department of Commerce.

ACTION: Extension of period for final determination and rescheduling of antidumping hearing.

SUMMARY: The Department of Commerce hereby extends for 60 days the period for final determination and reschedules the antidumping hearing with respect to countertop microwave ovens from Japan. The hearing will be held on September 30, 1980, and the final determination will be made not later than November 21, 1980.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–2438.

SUPPLEMENTARY INFORMATION:

On July 9, 1980, the Department of Commerce determined preliminarily that countertop microwave ovens from Japan were being, or were likely to be, sold at less than fair value within the meaning of section 731, Tariff Act of 1930 (93 Stat. 162, 19 USC 1673) ("the Act"), as regards imports of countertop microwave ovens produced by Tokyo Shibaura Corporation (Toshiba). That notice stated that imports of this merchandise produced by Matsushita Electric Industrial Co., Ltd., Sanyo Electric Co., Ltd. and Sharp Corporation were excluded from the determination.

On July 25, 1980, counsel for Toshiba, requested that the Department extend the period for final determination for 60 days in accordance with section 735(a)(2) of the Act. Although imports of countertop microwave ovens produced by Toshiba do not account for a significant proportion of exports of the merchandise which is the subject of the investigation, it has been determined to grant Toshiba's request for an extension of the period for a final determination since Toshiba is the only manufacturer for which the preliminary determination was affirmative. Counsel for petitioner supports this request. Accordingly, the period for final determination is hereby extended for 60 days to November 21, 1980.

The preliminary action notice also stated that if an interested party requested an opportunity to present oral views in accordance with section 353.47, International Trade Administration Regulations (19 CFR 353.47, 45 Fed. Reg. 8204) a hearing would be held at the U.S. Department of Commerce, Room 6802, 14th and Constitution Avenue, N.W., Washington, D.C., 20230, beginning at 11:00 a.m., August 19, 1980.

Because of the extension of the period for a final determination, the date and time of the hearing have been changed. The hearing will be held at the address and room number shown above beginning at 10:00 a.m. on September 30, 1980. Prehearing briefs must be received in the Office of the Deputy Assistant Secretary for Import Administration, Room 2800A, at the address shown above not later than 5:00 p.m., September 23, 1980.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

August 8, 1980.

[FR Doc. 80-24441 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-25-M

Portable Electric Typewriters From Japan; Antidumping; Determination of Duty

AGENCY: U.S. Department of Commerce.

ACTION: Early determination of antidumpting duties.

SUMMARY: This notice is to advise the public that pursuant to section 736(c) of the Tariff Act of 1930, as amended (93 Stat. 173, 19 U.S.C. 1673e(c)) the Department of Commerce has determined the amount of antidumping duties to be assessed upon the importation of portable electric typewriters from Japan manufactured by Brother Industries Ltd. (Brother) and Silver Seiko Ltd. (Silver Seiko). Portable electric typewriters produced by these two companies and entered or withdrawn from warehouse on or after January 4 to May 7, 1980, will be assessed antidumping duties in accordance with this determination. This determination will also be the basis for the deposit of estimated antidumping duties on future entries of typewriters produced by Brother and Silver Seiko.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Steven S. Lim, Office of Investigations, Import Administration, U.S. Department of Commerce, Room 2124, N.W. Washington, D.C. 20230, telephone (202) 377–1776.

SUPPLEMENTARY INFORMATION:

A. Procedural Background

On May 9, 1980, an Antidumpting Duty Order was published in the **Federal Register** covering imports of portable electric typewriters from Japan (45 FR 30618 and 30619). In accordance with that Order Customs officers were directed to require a deposit of estimated antidumping duties pending liquidation of entries of the portable typewriters subject to the Order for all entries, or withdrawals from warehouse, for consumption. On May 14 and 15, 1980, two manufacturers of these typewriters (Brother Industries, Ltd. and Silver Seiko, Ltd.) requested that the deposit of estimated duties be waived and an early determination of duty be made. Section 736(c) of the Act (93 Stat. 173, 19 U.S.C. 1673e(c)) provides that if we are satisfied as to our ability to determine the foreign market value and the United States price for all of the merchandise which was entered between the date of our preliminary affirmative determination and the International Trade Commission's final determination, within 90 days of the date the Antidumping Order was published, we may permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties.

On May 30, 1980 the Department announced that it was satisfied that it would be able to determine foreign market value and United States Price for all entries of typewriters manufactured by Brother and Silver Seiko, during the relevant time period. Deposit of estimated duty was waived in lieu of security pending the early determination.

B. Scope of the Investigation

All imports of portable electric typewriters produced by Brother and Silver Seiko entered, or withdrawn from warehouse, for consumpton, during the period from January 4 to May 7, 1980 were investigated. For the purposes of this determination, the term "portable electric typewriters" means those provided for in item 676.0510, Tariff Schedules of the United States Annotated.

C. Basis of Comparison—Silver Seiko

For purposes of this determination, the basis of comparison was between purchase price or exporter's sales price, as appropriate, and the adjusted foreign market value of such or similar typewriters on all imports of portable electric typewriters manufactured by Silver Seiko. Purchase price, as defined in section 772(b) of the Tariff Act of 1930, as amended (93 Stat. 181, 19 U.S.C. 1677a(b)), was used for those shipments to the U.S. where the sales were made to unrelated U.S. customers. Exporter's sales price, as defined in section 772(c) of the Act (93 Stat 181, 19 U.S.C. 1677a(c)), was used for those sales by Silver Seiko to a U.S. firm related to it within the meaning of section 771(13) of the Act (93 Stat 180, 19 U.S.C. 1677(13)). Foreign market value was determined in accordance with section 773 of the Act (93 Stat 182, 19 U.S.C. 1677b).

1. *Purchase Price.* Purchase price was calculated on the basis of f.o.b. packed price to the United States, with deductions for inland freight and handling charges. Silver Seiko's selling price to one of its U.S. purchasers was subject to an exchange rate agreement.

Generally, this agreement provides for an adjustment to the selling price of the merchandise to account for fluctuations in the exchange rate. The net selling price, after adjustment for exchange rate fluctuations in accordance with the agreement, was used for sales involving this U.S. purchaser.

2. *Foreign Market Value Compared to Purchase Price.* The foreign market value compared to purchase price for Silver Seiko was calculated on the basis of sales in the home market as of the date the imported typewriters were purchased or agreed to be purchased. Foreign market value was based on the net sales price to the purchasers who purchased in large wholesale quantities, taking into account volume discounts. Adjustment to foreign market value was made for differences in Japanese inland freight. In accordance with Section 773(a)(4)(B) of the Act (93 Stat 183, 19 U.S.C. 1677b(a)(4)(B)) and § 353.15 of the Commerce Regulations (19 CFR 353.15, 45 FR 8194), an adjustment to foreign market value was made for differences in packing costs incurred in sales in the home market and the United States.

Pursuant to section 773(a)(4)(C) of the Act, adjustments to foreign market value were made for differences in physical characteristics of the merchandise being compared. In accordance with section 353.16 of the Commerce Regulations, adjustments were limited to differences in cost of production of the typewriters (i.e., cost of materials and labor).

3. *Exporter's Sales Price.* Exporter's sales price was calculated for Silver Seiko on the basis of the selling price to unrelated U.S. dealers, with deductions for Japanese inland freight, handling charges, ocean freight, brokerage, U.S. inland freight, delivery costs, insurance, commissions, advertising and selling expenses.

4. *Foreign Market Value Compared to Exporter's Sales Price.* Foreign market value compared to exporter's sales price was calculated on the basis of sales to retailers for resale in the home market at the time of exportation of the portable electric typewriters to the United States. Adjustment to foreign market value was made for differences in Japanese inland freight expenses.

Three general categories of adjustments were granted for differences in circumstances of sale. Pursuant to §§ 353.15(a) and 353.15(b) of the Commerce Regulations, adjustments were made to foreign market value for differences in circumstances of sale which bore a direct relationship to the sales under consideration or advertising and other selling expenses assumed by the seller attributable to a later sale by the purchaser. Adjustments were made for certain advertising expenses, warranty and after sales service, packing costs and after sale rebates.

Silver Seiko incurred commission expenses in the United States but not in Japan. Section 353.15(c) of the Commerce Regulations provides, in part;

> * * * reasonable allowances for other selling expenses will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual other selling expenses incurred in one market, or the total amount of the commission, whichever is less.

The "other selling expenses" referred to in the quoted language of the Regulation refers to selling expenses other than those found to be directly related or attributable to a later sale by a purchaser of the merchandise under consideration. For Silver Seiko, adjustment to foreign market value was made for "other selling expenses" incurred in the home market, not exceeding the total amount of the commissions in the United States. Section 353.15(c) of the Commerce Regulations also provides for adjustment to foreign market value in the case of exporter's sales price transactions for all actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States. This adjustment is frequently referred to as the exporter's sales price offset. Certain types of advertising expenses which are not appropriate for adjustment under § 353.15 (a) or (b) of the Regulations have been included in the total amount of other actual selling expenses incurred in the home market subject to the exporter's sales price offset. Adjustment to foreign market value has been made for Silver Seiko up to the amount of the non-directly related selling expenses incurred in the United States since such expenses were less than the non-directly related selling expenses incurred in Japan.

Pursuant to section 773(a)(4)(C) of the Act, adjustments to foreign market value were made for differences in physical characteristics of the typewriters being compared. In accordance with sections 353.16 of the Commerce Regulations, adjustments were limited to differences in the cost of production of the typewriters (i.e., cost of materials and labor).

5. *Claims for Adjustments to Foreign Market Value That Have Been Denied.* Counsel for Silver Seiko claimed that the foreign market value of one of its export models should be determined on the basis of constructed value. Counsel for Silver Seiko contended that there were no similar models sold in the home or third country markets. We have determined that the foreign market value for this model should be based upon home market sales of a model which meets the definition of "such or similar" as set forth in Section 771(16) of the Act (93 Stat. 180, 19 U.S.C. 1677(16)). Production of the home market model chosen by the Department for comparison with the U.S. model was discontinued prior to the period of investigation. However, it appears that sales of this model continued during the period of investigation and that those sales were made in the ordinary course of trade. Therefore, the Department selected this model as the basis for comparison with the export model.

Counsel for Silver Seiko also claimed an adjustment based upon the costs associated with changeover of production lines between home market and export models. This claim is not based upon savings in production costs associated with economics of scale. The costs associated with changes in the production line are costs in the nature of general manufacturing overhead which should be allocated over total production. Since the merchandise being compared is substantially identical this claim has been denied.

Silver Seiko also claimed that an adjustment to foreign market value should be made for certain costs in transporting the merchandise from the factory to the central distribution warehouse. This claim was disallowed since it was not shown to be an expense directly related to the sale under consideration.

D. Basis of Comparison—Brother

For purposes of this determination, the basis of comparison was between purchase price or exporter's sales price, as appropriate, and the adjustd foreign market value of such or similar typewriters on all imports of portable electric typewriters manufactured by Brother Industries, Ltd. Purchase price, as defined in section 772(b) of the Act, was used for those shipments to the U.S. where the sales were made to unrelated U.S. customers. Exporter's sales price, as defined in section 772(c) of the Act, was used for those sales by Brother Industries which were made to a U.S. firm related to it within the meaning of section 771(13) of the Act (93 Stat. 180, 19 U.S.C. 1677(13). Foreign market value was determined in accordance with section 773 of the Act.

1. *Purchase Price.* Purchase price was calculated on the basis of the delivered sales price to the United States, with deductions for Japanese inland freight, shipping, ocean freight, brokers and handling charges, United States inland freight and insurance.

2. *Foreign Market Value Compared to Purchase Price.* Brother provided the department with information on actual sales prices of home market models comparable to the export models for sales during the period of investigation. The home market sales were divided into two groups to reflect changes in the list price of the models that occured during the period of this investigation. However, the actual dates of sales in the home market were not provided. In the absence of the dates of sales, foreign market value was calculated on the basis of the weighted averge sales price of comparable home market models, calculated for each of the two distinct time periods within the period of our investigation. Adjustment to foreign market value was made for differences in Japanese inland freight expenses. Adjustments to foreign market value were made for differences in circumstances of sale in accordance with section 773(a)(4)(B) of the Act (93 Stat. 183, 19 U.S.C. 1677b(a)(4)(B)) and § 353.15 of the Commerce Regulations (19 CFR 353.15, 45 FR 8194). Section 353.15(a) of the Regulations provides for adjustment to foreign market value for differences in circumstances of sales which bear a direct relationship to the sales which are under consideration. Section 353.15(b) provides for adjustment to foreign market value for advertising and other selling expenses assumed by the seller that are attributable to a later sale by the purchaser. We have detemined that adjustment to foreign market value is warranted for Brother for warranty expenses, certain types of rebates, packing costs and certain types of direct advertising expenses.

Pursuant to section 773(a)(4)(C) of the Act, adjustments to foreign market value were made for differences in physical characteristics of the typewriters being compared. In accordance with § 353.16 of the Regulations, adjustments were limited to differences in cost of production of the typewriters (i.e. cost of materials and labor).

3. *Exporter's Sales Price.* Exporter's sales prices was calculated for Brother on the basis of the selling price to unrelated U.S. dealers, with deductions, where applicable, for Japanese inland freight, shipping, ocean freight, brokerage and handling charges, U.S. inland freight, insurance, commissions, freight-out (transportation), co-op advertising, overbilling, warranty costs, accrual advertising, bad debt allowances, selling expenses (indirect), direct and indirect advertising, and collection expenses as appropriate.

4. *Foreign Market Value Compared to Exporter's Sales Price.* For the reasons explained above for foreign market value compared to purchase price, the foreign market value compared to exporter's sales price was calculated on the basis of the weighted average sales price of comparable models in the home market for each of the two distinct time periods of our investigation. Adjustments to foreign market value were granted for differences in Japanese inland freight expenses.

Pursuant to §§ 353.15(a) and 353.15(b) of the Commerce Regulations, adjustments were made to foreign market value for differences in circumstances of sale which bore a direct relationship to the sales under consideration or advertising and other selling expenses of Brother attributable to a later sale of the merchandise by a purchaser. Adjustments were made for after sale rebates, certain advertising expenses, packing and warranty expenses. Brother incurred expenses for commissions in the home market and the United States. In accordance with § 353.15(b) of the Commerce Regulations, an adjustment to foreign market value equal to the difference in commissions was allowed. Foreign market value was adjusted for the exporter's sales price offset. Adjustments to foreign market value were also made for differences in physical characteristics of the typewriters being compared.

5. *Claims for Adjustments to Foreign Market Value that Have Been Denied.* In determining foreign market value for purchase price transactions, counsel for Brother requested an adjustment for commissions incurred in the home market. Brother did not incur expenses for commissions in the United States. As explained above, where commissions are incurred in only one market under consideration, adjustment to foreign market value is limited to the amount of "other selling expenses" or the amount of the commissions, whichever is less. Since Brother did not incur selling expenses in the United States in purchase price transactions, no adjustment to foreign market value is warranted.

Counsel for Brother also requested adjustment to foreign market value for promotional expenses. Information presented to the Department during this investigation is insufficient to permit an allowance for this claim.

E. Verification

In accordance with section 776(a) of the Act (93 Stat. 186, 19 U.S.C. 1677e(a)), officials of the Department of Commerce verified all information used in making this determination. The officials were granted access to the books and records of the foreign producers and their U.S. subsidiaries and used traditional verification procedures. These procedures included on site inspection of randomly selected source documents (such as financial statement, various accounting ledgers and proof of payment records such as invoices and cancelled checks) pertinent to this investigation, inspection of promotional materials and material advertisements.

The petitioner submitted information based upon independent market research that indicated that certain prices and expenses claimed by the manufacturers were overstated or understated. Based upon the verifications performed in Japan and the United States, we have determined that no reason exists to disregard the information provided by the manufacturers.

F. Public Hearing

A public hearing notice was published in the **Federal Register** on June 23, 1980 (45 FR 41995). Interested persons have been provided an opportunity to present written and oral views in accordance with § 353.44(e) of the Commerce Regulations (19 CFR 353.44(e), 45 FR 82021).

G. Results of Comparisons of Foreign Market Value and United States Price

Using the above criteria, United States prices (purchase price or exporter's sales price, as the case may be) were found to be lower than the foreign market value of such or similar typewritters. Comparisons were made on all portable electric typewriters produced by Brother and Silver Seiko entered, or withdrawn from warehouse, for consumption on or after January 4, 1980 to May 7, 1980.

Margins were found on 74 percent of sales compared. The weighted average margin found with respect to sales by Silver Seiko was 14.91 percent and with respect to sales by Brother was 5.31 percent.

H. Determination of Antidumping Duties

On the basis of information developed during the ninety day investigation and using the above criteria, I hereby determine that the United States prices of portable electric typewriters from Japan, produced by Brother Industries, Ltd. and Silver Seiko, Ltd. are less than the foreign market values of such or similar typewriters.

In accordance with Section 736(c)(3) of the Act (93 Stat. 173, 19 U.S. C. 1673e(c)(3)) Customs officials will be directed to assess antidumping duties equal to the amount determined by the Department during this proceeding for all entries of portable electric typewriters manufactured by Brother and Silver Seiko entered or withdrawn from warehouse for consumption on or after January 4, 1980 to May 7, 1980. For purposes of the assessment of antidumping duties on the entries subject to this determination under section 736, we also intend that this determination constitute the completion of a review under section 751 of the Act which vests in all interested parties the rights flowing from the completion of such a review.

I. Deposit of Estimated Antidumping Duties

In accordance with Section 736(c)(3) Customs officials are being directed to require at the same time as estimated normal customs duties on the merchandise are deposited, a deposit of

estimated antidumping duties pending liquidations of entries of portable electric typewriters from Japan, for all entries, or withdrawals from warehouse for consumption. The estimated antidumping duty deposit required for entries of the subject merchandise shall be 14.91 percent for Silver Seiko; 5.31 percent for Brother; 4.36 percent for Nakajima All; and 7.55 percent for the subject merchandise produced by all other Japanese manufacturers.

This notice is published pursuant to Section 736(c)(3) of the Act (93 Stat. 172, 19 U.S.C. 1673(e)), and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48, 45 FR 8204).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

August 7, 1980.

[FR Doc. 80-24498 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Cost Comparison Reviews Scheduled for Commercial or Industrial Activities Performed by Government Personnel in the Maritime Administration

AGENCY: Maritime Administration.

ACTION: Cost comparison review.

SUMMARY: Notice is hereby given that pursuant to Office of Management and Budget Circular A-76 and Department of Commerce Administrative Order 201-41, the Maritime Administration intends to conduct cost comparisons of the following commercial or industrial activities performed by Government personnel in the Maritime Administration and to issue an invitation for bids or requests for proposals after the start date scheduled for each review:

Description of activity	Location	Review start	Completion
Custodial services.	Kings Point, N.Y...	11/03/80	10/30/81
Computer operations.	Washington, D.C...	11/03/80	10/30/81

Each invitation for bids or request for proposals will be announced in the *Commerce Business Daily*. A contract or contracts may or may not result from the cost comparison of each activity.

All interested parties may obtain information regarding the results of the cost comparison of an activity and additional information as required from the following: Mr. Stinson J. Miller, Office of Management and Organization, Maritime Administration, Room 3884, Department of Commerce, Washington, D.C. 20230, Tel: (202) 377-2562.

So ordered by the Assistant Secretary for Maritime Affairs.

Dated: August 6, 1980.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 80-24394 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-15-M

National Bureau of Standards

Federal Information Processing Standards 60, 61, 62, 63; Technical Verification Guidance

Under the provisions of Public Law 89-306 (79 Stat. 1127; 40 USC 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform automatic data processing (ADP) standards. On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098-10101) announcing that the Secretary of Commerce had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60, FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the **Federal Register** (44 FR 50078-50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079-50080), August 31, 1979 (44 FR 51294) and December 3, 1979 (44 FR 69317).

On December 11, 1979, notice was given in the **Federal Register** (44 FR 71444-71445) announcing the verification procedures for FIPS PUBS 60, 61, 62, and 63.

On June 25, 1980, notice was given in the **Federal Register** (45 FR 42783-42784) of the interim revision of FIPS PUBS 60-63 as follows:

The Director of the National Bureau of Standards shall, through publication of notices in the **Federal Register**, specify the verification procedures and techniques to be employed and shall conduct or arrange to have conducted this required verification. The Director shall provide, upon request or when he otherwise determines it to be necessary and appropriate, guidance as to whether specific technical interface implementation approaches will meet the verification requirement. Such guidance shall be published in summary form through notices in the **Federal Register**, specifying the manner in which persons may obtain copies of the full guidance provided.

This is the first notice providing specific guidance concerning technical interface implementation approaches. The questions which follow are numbered 1.1, 1.2, * * *. Future notices, if any, will have questions numbered 2.1, 2.2, * * *; 3.1, 3.2, * * *.

FIPS 60, 61, 62, and 63 are intended to achieve full plug-to-plug interchangeability of peripheral components. This general intent is the basis for this guidance.

1.1 Would the verification requirements for FIPS 60-63 be satisfied if there were one adaptor or channel for magnetic tape and another adaptor or channel for rotating mass storage? The two adaptors or channels would not be functionally interchangeable.

FIPS 60-63 verification does not require that each interface that conforms with the subset of these standards applicable for a particular type of peripheral be able to work with all types of peripherals. Thus, the verification requirements for FIPS 60-63 could be satisfied if different adaptors or channels are supplied for the connection of magnetic tape and rotating mass storage subsystems.

1.2 Would the verification requirements for FIPS 60, 61, and 63 be satisfied if there were more than one adaptor or channel to satisfy the requirements of the three classes of rotating mass storage? That is, one rotating mass storage adaptor or channel would not accommodate all three classes; it might accommodate two classes or it might be limited to just one class.

The FIPS 60, 61, and 63 verification requirements do not preclude a different type of adaptor or channel being supplied for each class of rotating mass storage. Thus, the verification requirements for FIPS 60, 61, and 63 could be satisfied if different adaptors were provided for each of the three classes of rotating mass storage.

1.3 Do the verification requirements for FIPS 60-63 consider the second eight bit data byte feature to be optional or must it be provided as a standard feature with all adaptor boxes?

FIPS 60-63 verification does not require implementation of I/O channel features or options not ordinarily used by the classes of peripheral devices being employed or expected to be employed. For example, an I/O channel adaptor used to attach Class A, B, or C Rotating Mass Storage Devices to a Central Processing Unit (CPU) would not be required to provide either the bus extension (two byte wide) feature or the byte multiplexor mode of operation since neither is used with these devices. Specific agency solicitations may require options or features which exceed those required for verification.

1.4 Would the FIPS 60-63 verification requirements be satisfied if the number of device addresses were limited to less than 256 when connecting a peripheral subsystem to a mainframe via an adaptor or channel? (This assumes that only one peripheral sybsystem might be configured per adapted channel.)

Verification of FIPS 60-63 requires the ability to support 256 device addresses and multiple peripheral subsystems. Therefore, the FIPS 60-63 verification requirements would not be satisfied if the number of device addresses were limited to less than 256. With regard to the specific assumption that a capability might be provided that would permit only one peripheral subsystem to be configured per adapted channel, the concern here is that such a restriction would severely constrain the possibilities for possible future system augmentation by precluding the attachment of additional peripherals.

1.5 Would the verification requirements for FIPS 61 be satisfied if all of the FIPS 61 features were not provided when connecting a peripheral subsystem to a mainframe via an adaptor or channel?

Verification of FIPS 61 requires that all specified features be provided.

1.6 Do the verification requirements of FIPS 62 permit the use of the bits designated as "spare" in any sense byte to indicate special, vendor specific or user defined conditions?

For magnetic tape peripheral subsystems, the verification requirements of FIPS 62 will be satisfied if any of sense bits designated by the standard as "spare" are employed to indicate special, vendor specific or user defined conditions. In contrast to this, however, FIPS 62 verification of computer systems requires that the ability to correctly perform all operations not be in any way dependent upon the value of any of the sense bits designated as "spare."

1.7 Does FIPS 60-63 verification require that subsystems containing recorded media be interchangeable, e.g., is it required that a Rotating Mass Storage subsystem that has been recorded when connected to one conforming computer system be capable of being read when connected to any other conforming computer system?

FIPS 60-63 verification requires the capability for plug-to-plug interchangeability of peripheral components based upon the functional, electrical, mechanical, and device specific operational characteristics specified for the I/O channel interface. FIPS 60-63 verification also requires that it be possible to interchange peripheral subsystems (of the same kind) among conforming computer systems and to be able to physically read data recorded from one computer system into any other. However, there is no FIPS 60-63 requirement that the files, file structures, or data recorded by one computer be meaningful to another computer.

Because it is possible to respond fully to the foregoing questions in such a brief fashion, the National Bureau of Standards had decided not to avail itself of the opportunity to summarize the guidance provided for in the interim revision of FIPS PUBS 60-63. The guidance provided in response to questions 1.1 through 1.7 is, therefore, considered complete. Requests for additional FIPS 60-63 verification guidance should be addressed to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: FIPS 60-63 Verification Guidance.

Dated: August 7, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-24396 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

American Cetacean Society; Marine Mammal Permit Application; Correction

Notice was published in the **Federal Register** on July 21, 1980 (45 FR 48682), that an application had been filed with the National Marine Fisheries Service by the American Cetacean Society for a scientific research permit under the provisions of the Marine Mammal Protection Act and the Endangered Species Act. The Applicant name and address is corrected to read as follows:

1. Applicant:

a. Name: Mr. Gregory Dean Kaufman (P254)

b. Address: The American Cetacean Society, Maui Chapter, P.O. Box 1518, Kihei, Maui, Hawaii 96753.

Dated: August 6, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-24395 Filed 8-12-80; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Coastal Zone Management Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Thursday and Friday, August 21-22, 1980. The meeting will commence at 9:00 am.m. on August 21, and 9:00 a.m. on August 22. The meetings will be held at the Page I Building, Naval Conference Room, 2001 Wisconsin Avenue, NW. Washington, D.C.

The meeting will be open to public observation and approximately 25 seats will be available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 2:30 p.m. until 3:30 p.m. on August 22, persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. The Chairperson retains the prerogative to place limits on the duration of oral statements and discussions. Persons wishing to make oral statements should notify the Committee Control Officer in advance of the meeting. A written version of an oral statement or a written statement may be submitted to the Committee Control Officer before or after the meeting, or may be mailed within five days to: Coastal Zone Management Advisory Committee, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235 Attn: Ms. JoAnn Chandler, Committee Control Officer, CZM Advisory Committee. All statements received in typewritten form will be distributed to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to the Committee Staff at (202) 634-4249.

The items for Committee discussion at the meeting will include the following:

August 21

9:00 A.M. Call to Order Barbara Fegan, Chairperson, Swearing in of New Member
9:15 A.M. Public Access to Federal Lands
10:45 A.M. Energy Siting
12:30 P.M. Lunch
2:00 P.M. Special Area Management Plans
4:00 P.M. Discussion
5:00 P.M. Adjourn

August 22

9:00 A.M. Federal Infrastructure

11:00 A.M. Discussion
12:00 Noon Lunch
1:30 P.M. Hazards
2:30 P.M. Public Statements (if any)
3:30 P.M. Adjourn

The entire meeting wil be devoted to an analysis and comment upon the Federal Coastal Programs Review. Several Office of Coastal Zone Management staff members will provide background information and answer questions concerning each of the topics listed above.

Dated August 8, 1980.

William Matuszeski,

Acting Assistant Administrator, Coastal Zone Management, National Oceaic and Atmospheric Administration.

[FR Doc. 80-24453 Filed 8-12-80; 8:45 am]
BILLING CODE 3510-08

DEPARTMENT OF EDUCATION

Office for Civil Rights; Proposed Fiscal Year 1981 Annual Operating Plan; Request for Comments

AGENCY: Department of Education.

ACTION: Request for comments on annual operating plan for fiscal year 1981.

SUMMARY: The Secretary of Education invites comments on the proposed Fiscal Year 1981 Annual Operating Plan for the Office of Civil Rights.

DATES: Interested persons are invited to submit comments, suggestions, and objections regarding the proposed plan on or before September 29, 1980.

ADDRESS: Written comments should be addressed to Cynthia Brown, Assistant Secretary for Civil Rights, Department of Education, (Rm. 5000, Switzer Bldg.), 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: John Hodgdon, (202) 426-6917.

SUPPLEMENTARY INFORMATION: The basis purpose of the Office for Civil Rights (OCR) is to insure that no person is unlawfully discriminated against by Federal education fund recipients in the delivery of services or the provision of benefits on the basis of his or her race, national origin, handicap, sex or age. Covered under these authorities are 50 State education agencies, 16,000 local education agencies, 3,200 institutions or higher education, 50 State rehabilitation agencies and their subrecipients, as well as other institutions such as libraries and museums which receive education funds. The job of protecting the civil rights of 12 million minorities, 4 million handicapped and 26 million women who attend public schools or postsecondary institutions rests almost exclusively with OCR, as does the responsibility of guaranteeing these rights for potential students.

OCR's strategy to insure compliance with civil rights guarantees involves two basic types of activities: compliance activities and technical assistance activities. Many of OCR's compliance activities are required by various statutes, regulations and court orders (complaint investigations, ESAA pregrant reviews, *Lau* plan monitoring, and monitoring State higher education system desegregation). OCR engages in two other types of compliance activities (compliance reviews and remedial plan monitoring) that give it wider discretion as to the level of effort made and the recipients selected for coverage. OCR's approach is to concentrate its investigative activities on those recipients which are believed to be in serious noncompliance with a major civil rights requirement.

Through the transfer of information, materials and skills, OCR encourages recipients to voluntarily comply with, and beneficiaries to understand their rights under, civil rights statutes. OCR staff, including headquarters staff and the Regional Technical Assistance Staff, Department of Education (ED) program offices and contracted personnel are the major vehicles used by OCR to deliver technical assistance.

During FY 1980, OCR developed a policy on the enforcement of Title IX as it relates to intercollegiate athletics. During FY 1981, OCR will commence investigations of all complaints it has received alleging violations of Title IX in the area of intercollegiate athletics. A total of 123 such complaints, which were filed with OCR during the last several years, are currently pending. The investigations will not only cover the specific allegations cited in the complaints but will be expanded in scope so that thorough reviews of the entire intercollegiate athletics programs of the affected institutions can be made.

The following narrative and tables describe the activities that OCR plans for FY 1981.

I. Regional Investigatory Activities

A total of 415 investigative staff years will be assigned to compliance and enforcement work in FY 1981 as follows:

	Investigator time	
	Staff years	Percent
Complaint investigations	259	62
Compliance reviews	82	20
ESAA pregrant reviews	47	11
Lau monitoring	20	5
Adams monitoring	8	2
Total	415	100

A. Complaint Investigations

Table 1 shows projected complaint receipts, closures, and opening and ending inventories by jurisdiction. In order to determine the level of investigative staff resources required to process these complaints, the following projections were made.

—OCR will have a pending caseload of 2,144 complaints as of October 1, 1980.
—During FY 1981, OCR will receive 4,272 complaints.
—During FY 1981, OCR will close 4,452 complaints.
—OCR will have a pending caseload of 1,964 complaints as of October 1, 1981.

Based on these projections, 258 investigative years will be allocated to complaints.

B. Compliance Reviews

A total of 82 investigator years will be available to conduct compliance reviews in FY 1981. This activity will include completing reviews started in previous years, monitoring remedial action plans resulting from reviews conducted in previous years, and initiating new reviews.

The issues to be covered in the reviews conducted during FY 1980 are presented in Table 2. These issues were identified on the basis of survey results, findings from previous complaint investigations and compliance reviews, and related research findings. Table 2 also indicates the amount of investigative years to be assigned to each issue. Shortly after the beginning of each quarter of FY 1981, OCR will make available to the public, upon request, information on the specific types of compliance reviews it will initiate during that quarter.

C. ESAA Pregrant Reviews

OCR is responsible for reviewing applications for funding under the Emergency School Aid Act (ESAA). ESAA funds are used to encourage the voluntary elimination, reduction, or prevention of minority group isolation, and to aid school children in overcoming educational disadvantages. ESAA pregrant reviews ensure that the practices of grant applicants conform to certain civil rights requirements prior to the awarding of Federal funds. In FY 1981, 47 investigator years will be allocated to conduct 665 ESAA pregrant reviews.

D. Mandated Monitoring Activities

During FY 1981, OCR will review recipients to determine whether they are complying with the terms of compliance agreements. These activities will include *Adams* higher education desegregation and *Lau* plan monitoring.

1. *Adams* Higher Education Desegregation Plan Monitoring—OCR is currently monitoring higher education desegregation plans of six States. In FY 1981, eight investigator years will be allocated to monitoring the desegregation activities of these States. Additional reviews will be completed during this period, and it is expected that monitoring of additional plans will commence in FY 1981.

2. *Lau* Plan Monitoring—OCR is required to monitor the implementation of *Lau* plans by recipients. In FY 1981, 20 investigator years will be allocated to monitoring 50 such plans.

E. Summary

Table 3 summarizes the allocation of investigative years by recipient groups. Table 4 summarizes the allocation by jurisdiction.

II. Technical Assistance Activities

Over 20,000 education institutions which receive federal funds must comply with a number of complex civil rights requirements. Because of the numbers involved, OCR is unable to investigate the policies or practices of each recipient. In order to encourage these institutions to voluntarily comply with the law, OCR, either through headquarters or regional staff, provides technical assistance to recipients, and works with ED program staff to help recipients understand their civil rights obligations. These assistance activities complement OCR's compliance activities by extending the range of OCR's impact beyond those recipients who are directly covered by an OCR investigation and by enabling OCR to accomplish its mission more efficiently and effectively. By combining a forceful compliance review program with an effective assistance program, OCR will be able to make substantial progress toward achieving broad compliance with civil rights guarantees.

A total of 125 technical assistance staff years will be available in FY 1981 to provide consultation, conduct on-site visits, participate in workshops and respond to telephone and written requests for information and materials. This effort will be provided by OCR staff, including both headquarters staff and Regional Technical Assistance Staff, as well as contracted personnel. OCR expects to respond to about 85,000 requests for civil rights technical assistance from recipients, beneficiaries, State and local officials, and other Federal agencies. As part of its technical assistance program OCR intends to distribute 700,000 publications, save recipients $30 million based upon Section 504 cost-effective program accessibility strategies, help OCR complete 250 complaint investigations and compliance reviews, conduct 760 workshops and conclude 2,200 on-site visits to recipients.

III. Program Management Activities

In order to effectively carry out its compliance, enforcement and technical assistance activities, OCR conducts a comprehensive legal, management and evaluation program that includes:

—Formulating regulations, policies, and investigation manuals;
—Providing technical guidance on cases and reviews referred from regional offices;
—Conducting hearings before Administrative Law Judges on the compliance of Federal fund recipients with civil rights requirements;
—Monitoring State higher education desegregation and *Lau* plans;
—Meeting with school district representatives, college and university officials, complainants, and civil rights groups to discuss OCR activities;
—Conducting OCR national surveys and data collection projects to obtain information on recipients and beneficiary populations;
—Operating a data base management system to assure that complaint processing times are met; and
—Providing basic training to new investigators as well as training on policy initiatives for experienced investigators and legal staff.

Table 1.—*Fiscal Year 1981 Annual Operating Plan*

[Projected fiscal year 1981 complaint workload]

	Title VI, race/national origin	Title IX	Section 504	Age	Total
Pending Oct. 1, 1980	472/107	707	836	22	2,144
Fiscal year projected receipts	1111/256	612	2008	85	4,272
Fiscal year 1981 closures (total)	1024/267	1247	1870	44	4,452
Pending Oct. 1, 1981	559/96	272	974	63	1,964

NOTE.—The October 1, 1980, project pending complaint was distributed in proportion to the complaint distribution existing as of May 31, 1980. Projected fiscal year receipts were distributed according to the proportions each jurisdiction represented in the complaints received from October 1, 1979, to May 31, 1980. Similarly, the projected fiscal year 1981 closures were distributed according to the proportions each jurisdiction represented in the closures occurring between October 1, 1979, and May 31, 1980.

Table 2.—*Fiscal Year 1981 Annual Operating Plan*

[Compliance reviews scheduled]

Issue	Description of violation	Investigator years planned
Elementary and Secondary Education: Identification of and Services to Limited English Proficiency (LEP) Children.	Discrimination against non-English speaking (NES) or limited English proficiency (LEP) children.	5
Within School Discrimination: Classroom Assignments, Tracking and Ability Grouping, Special and Physical Education, and Secondary School Athletics.	Discriminatory assignment of students on the basis of race, national origin, sex and/or handicap to courses (including industrial arts and home economics), classrooms, special programs. (Special programs would include those for the educable mentally retarded as well as those for the gifted or talented, e.g., advanced mathematics or sciences.) This issue would also cover biased counseling and appraisals of students as well as unequal opportunities involving athletics.	9
School Discipline: Expulsions and Suspensions	Discriminatory disciplinary treatment of students on the basis of race, national origin, sex and/or handicap.	6
Vocational Education: Access, Admissions and Job Placement.	Discrimination of the basis of race, national origin, sex and/or handicap in vocational education programs and courses.	13
Special Purpose Schools: Program Availability and Least Restrictive Environment.	Discrimination in admissions, accessibility, treatment or employment in State administered special purpose schools on the basis of race, national origin, sex and/or handicap.	7
Unserved Special Education	Discrimination in the provision of a free and appropriate education on the basis of handicap. These efforts will include several joint reviews of State education agencies with the Office of Special Education and Rehabilitative Services (ED).	4
School Segregation	Discriminatory assignment of students to schools on the basis of race or national origin.	6

Table 2.—*Fiscal Year 1981 Annual Operating Plan—Continued*

[Compliance reviews scheduled]

Issue	Description of violation	Investigator years planned
Postsecondary Education: Program Accessibility for the Handicapped.	Lack of program accessibility and accommodations for handicapped students in postsecondary school programs.	6
Graduate and Professional Schools: Admissions	Discrimination on the basis of sex in admissions to graduate and professional schools.	13
Intercollegiate Athletics: Overall Program Equality [1].	Lack of comparable intercollegiate athletic facilities and programs for women based on their interests and abilities.	2
Vocational Rehabilitation Services	Discrimination in the provision of services and benefits to severely mentally and physically handicapped individuals, and/or discrimination on the basis of race, national origin and/or sex in the provision of educational services and benefits.	3
Higher Education Desegregation	Completion of compliance reviews of State higher education systems to determine whether they continue to bear the vestiges of their former segregated status.	7

[1] Two investigator staff years are being developed to compliance reviews in addition to the investigation of complaints in this area.

Table 3.—*Fiscal Year 1981 Annual Operating Plan*

[Investigative years allocated to each type of recipient]

Type of recipient	Complaints	Compliance reviews	ESAA pregrant reviews	Monitoring		Total	Percent
				Adams	Lau		
Elementary and Secondary Schools	181	49	47	0	20	297	72
Postsecondary Education Institutions	77	33	0	8	0	118	28
Total	258	82	47	8	20	415	100

Table 4.—*Fiscal Year 1981 Annual Operating Plan*

[Investigative years allocated to each jurisdiction]

Jurisdiction	Complaints	Compliance reviews	ESAA pregrant reviews	Monitoring		Total	Percent
				Adams	Lau		
Title VI:							
Race	59	18	31	8	0	116	28
National origin	16	10	16	0	20	62	15
Title IX	72	29	0	0	0	101	24
Section 504	109	25	0	0	0	133	32
Age	3	0	0	0	0	3	1
Total	258	82	47	8	20	415	100

IV. Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed plan. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the end of the comment period will be considered in the development of the final plan.

All comments submitted in response to the proposed plan will be available for pubic inspection, during and after the comment period, at the Department of Education, Room 4094, Switzer Building, 330 C Street, SW., Washington, D.C., between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday of each week except Federal holidays.

Dated: August 8, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-24388 Filed 8-12-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Blarney Castle Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent Order.

SUMMARY: The Economic Regulatory Administration of the Department of Energy announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: July 30, 1980
Comments by: September 12, 1980.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement Department of Energy, 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106, (phone) 816–374–5932.

SUPPLEMENTARY INFORMATION: On July 11, 1980 the Office of Enforcement executed a Consent Order with Blarney Castle Oil Company, of Bear Lake, Michigan. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Blarney Castle Oil Company (Blarney), with its home office located in Bear Lake, Michigan, is a firm engaged in the marketing of motor gasoline to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement as a result of its audit of Blarney, the Office of Enforcement and Blarney Castle Oil Company have entered into a Consent Order.

The Consent Order encompasses Blarney's sales of covered products during the period March 1, 1979 through July 31, 1979.

II. Disposition of Refunded Overcharges

In this Consent Order, Blarney agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, arising out of the transactions specified in I. above, the sum of $26,836.23. Refunded overcharges (including interest) will be in the form of price rollbacks with respect to sales of regular and premium gasoline.

Other Comments: The ERA invites interested persons to comment on the terms, conditions or procedural aspects of this Consent Order.

You should send your comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816–374–5932.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Blarney Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on or before September 12, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 31st day of July 1980.

Concurrence: David Jackson,

Chief Enforcement Counsel.

William D. Miller,

District Manager of Enforcement.

[FR Doc 80-24406 Filed 8-12-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1564-8]

Denial of Application for a Fuel Additive Waiver; Conservation Consultants of New England, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of decision.

SUMMARY: Pursuant to section 211(f)(4) of the Clean Air Act (Act), as amended, 42 U.S.C. 7545(f)(4), the Administrator of EPA is denying the waiver requested by Conservation Consultants of New England, Inc. for a one-to-one mixture of methanol and ethanol at 10 percent, by volume, and unleaded gasoline. The waiver is denied because the applicant failed to establish that the methanol/ethanol mixture in unleaded gasoline will not cause or contribute to a failure of any 1975 or subsequent model year vehicle to comply with the emission standards to which it was certified under the Act.

PUBLIC DOCKET: Copies of information on this waiver application are available for inspection in public docket EN–80–7 at the Central Docket Section (A–130) of the Environmental Protection Agency, Gallery I-West Tower, 401 M Street, SW, Washington, D.C. 20460, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Thomas E. Moore, Attorney-Advisor, Field Operations and Support Division (EN–397), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 472–9367.

DECISION OF THE ADMINISTRATOR:

I. Introduction

Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any manufacture of any fuel or fuel additive to first introduce or increase the concentration in use of any fuel or fuel additive for use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act provides that the Administrator of EPA may waive the prohibitions of section 211(f)(1) upon application of any fuel or fuel additive manufacturer if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliace by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days, of its receipt, the waiver shall be treated as granted.

An application for a waiver was submitted by Conservation Consultants of New England, Inc. (Conservation) on February 13, 1980 to allow the blending of a 10 percent, by volume, mixture of a one-to-one ratio of methanol to ethanol (i.e., 5 percent methanol and 5 percent ethanol making up the 10 percent mixture) with 90 percent, by volume, unleaded gasoline.[1] The 180 day review period terminates on August 11, 1980.

A **Federal Register** notice was published April 29, 1980 (45 FR 28484), acknowledging receipt of Conservation's application.[2] The notice also solicited comments and data from other interested parties on Conservation's methanol/ethanol mixure in unleaded gasoline.

Conservation concluded from the information it submitted in support of its application that the blend of 90 percent, by volume, unleaded gasoline and of 10 percent, by volume, of a methanol/ethanol mixture and its emission products do not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system

[1] Conservation's methanol/ethanol mixture at the 10 percent, by volume, concentration would not lie within the definition of "substantially similar" contained in the June 2, 1978 **Federal Register**, 43 FR 24131, or the proposed definition in the March 10, 1979 **Federal Register**, 44 FR 16033.

[2] In this same application, Conservation applied for waivers for two other mixtures of methanol/ethanol combinations which were subsequently withdrawn. Conservation also withdrew its application for a waiver for methanol at 10 percent, by volume, in 90 percent, by volume, unleaded gasoline. 45 FR 47725, July 16, 1980.

is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

II. Summary of the Decision

I have determined that Conservation has not met the burden established under section 211(f)(4) necessary to obtain a waiver to blend a one-to-one methanol/ethanol mixture in unleaded gasoline at 10 percent, by volume. The data which Conservation and other interested parties have submitted are not sufficient to establish that the methanol/ethanol and unleaded gasoline blend will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. I hereby deny the waiver requested by Conservation for its methanol/ethanol mixture at 10 percent, by volume, in unleaded gasoline. All section 211(f) prohibitions remain in effect. Conservation or any other manufacturer is free to reapply for a waiver under section 211(f)(4) provided additional data are submitted on Conservation's methanol/ethanol and unleaded gasoline blends.

III. Method of Review

In order to obtain a waiver for a fuel or fuel additive (hereinafter, "fuel or fuel additive" will be collectively referred to as "additive") the applicant must establish that the additive and its emission products will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such system or device is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant section 206 of the Act. This burden, which Congress has imposed on the applicant, if interpreted literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision, some mitigation of this stringent burden was deemed necessary. For the purposes of the waiver provision, EPA has previously indicated that reliable statistical sampling and fleet testing protocols may be used to demonstrate that an additive under consideration would not cause or contribute to failure or emission standards by vehicles in the national fleet (see, Waiver Decision on Tertiary Butyl Alcohol (TBA), 44 FR 10530 (1979)).[3]

Emissions data submitted in support of a waiver request are analyzed by appropriate statistical methods in order to characterize the effect that an additive will have on emissions.[4] The statistical tests applied to the emission data provided in support of a waiver request for an additive which is expected to have an instantaneous emissions effect are: a Paired Difference Test, Sign of Difference Test, and a Deteriorated Emissions Test (a test which compares the deteriorated emissions with the emission standards).[5] These statistical tests are described in Appendix 1 to this decision.

An alternative to providing the amount of data necessary to enable the statistical tests to be performed is to make judgments based upon a reasonable theory regarding emissions effects and to support these judgments with confirmatory testing. If there exists a reasonable theory which predicts the emission effects of an additive, an applicant may only need to conduct a sufficient amount of testing to demonstrate the validity of such theory. This theory and confirmatory testing then form the basis from which the Administrator may exercise his judgment on whether the additive will cause or contribute to a failure of any emission control device or system to achieve compliance by the vehicle with emission standards. In addition to emissions data, EPA also reviews data on materials compatibility, driveability, fuel composition and specifications. This information is necessary to fully characterize an additive and to determine whether such additive will cause or contribute to a failure of vehicles to comply with appropriate emission standards. Such failure could result if driveability is impaired. Driveability problems such as lean misfire and repeated starting lead to increased emissions. Materials compatibility problems could lead to failure of fuel systems which are designed to precise tolerances. Deviations beyond these tolerances could result in greater emissions. Volatility specifications could demonstrate a tendency for high evaporative losses.

IV. Analysis

A. *Exhaust Emission Data.* Exhaust emission data were submitted on six vehicles tested on a base fuel and an equal parts mixture of ten percent, by volume, methanol/ethanol and 90 percent unleaded gasoline.[6] Numerical results of the three statistical tests are summarized in Appendix 2. Tests 1 and 2 are designed to determine whether the methanol/ethanol mixture contributes to a failure of vehicles to meet emission standards. Test 3 is designed to determine if the methanol/ethanol mixture will cause the failure of vehicles to meet emission standards.

With regard to the application of the Paired Difference Test (Test 1) and the Sign of Difference Test (Test 2) for exhaust emissions, the data are not completely sufficient to reach a definitive conclusion as to the effect the methanol/ethanol mixture will have on exhaust emissions. To be able to utilize the Paired Difference Test to arrive at a conclusion, for each pollutant, the upper bound of the confidence interval must be equal to or less than ten percent of the applicable standard, e.g., with a HC standard of 1.5 grams per mile, the upper bound of the interval must be 0.15 or less, when the interval contains zero. In this instance, the interval for HC contained zero but its upper bound exceeded 10% of the HC standard. For CO and NO_x, the data demonstrate no adverse effect.

Since the results of the first test are not completely conclusive and the results of the second test do not conclusively demonstrate the existence or non-existence of an adverse effect, it is not possible to determine with a measure of certainty that this mixture will not contribute to the failure of vehicles to meet emission standards.

The minumum number of samples necessary to apply the Deteriorated Emissions Test (Test 3) is eight. Consequently, there are insufficient data to determine whether the methanol/ethanol mixture will cause vehicles to fail to meet emission standards according to this test.

B. *Evaporative Emissions.* In order to make a determination under section 211(f)(4) data normally must be provided. No data for evaporative emissions on this methanol/ethanol mixture were submitted. Notwithstanding the policy that EPA will consider engineering arguments in lieu of sufficient test data to make its waiver determinations, there still must be some accompanying confirmatory test data on the emission effects on which to base a determination. No such data were submitted. Based on evaporative emission data available on other alcohol/gasoline blends, EPA suspects that evaporative emissions would likely increase with this methanol/ethanol mixture. But without any data, a definitive conclusion regarding the magnitude of any possible effect cannot be made.

C. *Other Technical Issues*—1. *Materials Compatibility.* No information on materials compatibility has been provided. Consequently, no determination regarding materials compatibility can be made with certainty. Such information is important since methanol is chemically active and may exhibit compatibility problems with components of a vehicle's fuel systems. Any future application for such fuels containing methanol should be supported with materials compatibility data.

2. *Driveability.* Driveability may be a problem at higher concentrations (e.g. 10–15 percent) of methanol/ethanol because of the increasing oxygen content of the fuel. As the oxygen content increases, the air/fuel ratio shifts outside the vehicle design specifications (enleanment). Poor driveability can lead to repeated starting which can increase emissions. No conclusion regarding driveability can be drawn because Conservation did not submit any driveability data.

VII. Findings and Conclusions

I have determined that Conservation has not established that its blend of 10 percent, by volume, of a one-to-one ratio methanol/ethanol mixture and 90 percent, by volume, of unleaded gasoline, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. I hereby deny the waiver requested by Conservation for its one-to-one ratio methanol/ethanol mixture blended into unleaded gasoline at 10 percent, by volume. The applicant, or any other fuel or fuel additive manufacturer, may reapply for this mixture in the event that additional relevant data become available.

This is a final Agency action. Jurisdiction to review this action lies exclusively in the U.S. Court of Appeals for the District of Columbia Circuit. Section 307(b)(1) judicial review of this action is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 13, 1980. Under section 307(b)(2) today's action may not be challenged later in a separate judicial proceeding brought by the Agency to enforce the statutory prohibitions.

Dated: August 8, 1980.

Douglas M. Costle,
Administrator.

Appendix 1—Statistical Criteria

The following is a brief description of the statistical tests used to characterize the emission effects of an additive:

(1) The Paired Difference Test

For each vehicle tested on a base fuel and on the waiver fuel or fuel additive, the difference between the waiver fuel or fuel additive emissions and the base fuel emissions is calculated. A 90 percent confidence interval is constructed for the mean differences. If the resulting interval lies entirely below zero it is indicative of no adverse effect from this waiver fuel or fuel additive. If the entire interval is above zero, it is indicative of an adverse effect from the waiver fuel or fuel additive. If the interval contains zero, there is arguably no difference between the base fuel and the waiver fuel or fuel additive with regard to emissions provided the confidence interval is small.

(2) The Sign of Difference Test

For each vehicle tested with a base fuel and the waiver fuel or fuel additive, the sign of the emission difference between the waiver fuel or fuel additive emissions and a base fuel emissions is ascertained. This test is designed to determine whether the number of vehicles demonstrating an increase (+) in emissions with the waiver fuel or fuel additive significantly (at a 90 percent confidence level) exceeded those showing a decrease (−) in emissions with the waiver fuel or fuel additive.

(3) The Deteriorated Emissions Test

For each vehicle, the effect the waiver fuel or fuel additive had on emissions is determined. Any change in emissions, either positive or negative, attributable to the waiver fuel or fuel additive is added to the 50,000 mile certification emission value of the certification emission vehicle which the test vehicle represented. This incremented 50,000 mile emission value is compared to emissions standards to determine if it did or did not exceed the standards. Either a pass or fail is assigned accordingly. The pass/fail results are analyzed using a one-sided sign test.

The Paired Difference Test and the Sign of Difference Test are designed to determine whether the waiver fuel or fuel additive has an adverse effect on emissions as compared to the base fuel. Each characterizes a different aspect of adverse effect. The Paired Difference Test determines the mean difference in emissions between the base fuel and the waiver fuel or fuel additive. The Sign of Difference Test assesses the number of vehicles indicating an increase or decrease in emissions. The two tests are considered together in evaluating whether an adverse effect exists to assure that a mean difference determination is not unduly influenced by very high or very low emission results from only a few vehicles.

The Deteriorated Emissions Test analysis indicates whether the waiver fuel or fuel additive causes a vehicle to fail to meet emission standards. This test examines each vehicle's emission performance as compared to each pollutant standard. It is useful to perform this analysis even if the first two analyses indicate the waiver fuel or fuel additive has no adverse effect. The analysis indicates whether the emissions from any particular type of vehicles or special emission control technologies are uniquely sensitive to the waiver fuel or fuel additive, thus causing vehicles to fail to meet emission standards. This effect could be masked in the previous analyses which consider the emissions results as a group without distinguishing the emissions impact on subgroups.

Appendix 2—Numerical Summary of the Statistical Tests

1. Paired Difference Test

Listed below are the 90 percent confidence intervals around the mean difference between the base fuel and the

[3] No data were provided by Conservation or other commenters on the impact of this methanol/ethanol mixture on three-way catalyst technology. While this omission was not the basis for the denial of the instant application, future waiver applications should include test results showing the effect of the methanol/ethanol mixture on a representative number of vehicles with three-way catalysts. These types of vehicles should be included since vehicles of this type have been certified pursuant to section 206 of the Act and such technology will be used more extensively in post-1980 model year vehicles.

[4] The tests which are appropriate to characterize the emission effects of an additive depend on whether the additive is expected to have an instantaneous effect or a long-term deteriorative effect on emissions, or both. If a long-term deteriorative effect is expected, then 50,000 mile durability testing and/or materials compatibility testing would also be necessary. The results would be analyzed using the tests used in the MMT decision (see 43 FR 41424 (1978)). Experience with other oxygenated hydrocarbon additives leads EPA to believe that the mixture at issue in this decision would probably have an instantaneous effect. Thus, the method of review set out in the decision, which is designed to test instantaneous effects, would apply. The Conservation mixture may also exhibit long-term deteriorative effects on fuel system components. Therefore, any future waiver application should be supported with materials compatibility testing.

[5] These tests may only be performed when sufficient data are available.

[6] The data were submitted by Texaco, Inc. The vehicles are fully described in Table 1 of the Characterization Report.

methanol/ethanol blended fuel emission level.

a. Hydrocarbons (HC)—0.12 to 0.20
b. Carbon Monoxide (CO)—4.01 to 0.63
c. Oxides of Nitrogen (NO_x)—0.32 to 0.20

2. Sign of Difference Test

Set out below is the percent confidence that the methanol/ethanol mixture will cause an increase in the emissions over the base fuel emissions based on the observed increases in emissions out of the total vehicles tested (in parentheses are the number of observed increases out of the total sample size.) [7]

a. HC (3/5) 50.0 percent confidence of an increase [8]
b. CO (2/6) 10.9 percent confidence of an increase
c. NO_x (1/6) 1.6 percent confidence of an increase

3. Deteriorated Emissions Test

Listed below are the number of vehicles whose incremental 50,000 mile emission values exceed emission standards.

a. HC—none out of six
b. CO—none out of six
c. NO_x—none out of six

Characterization Report

Summary

This paper presents an analysis of the emission data presented in support of the request from Conservation Consultants of New England, Inc. (Conservation) for a waiver of the prohibition from the introduction into commerce of an equal parts mixture of methanol and ethanol at a concentration of 10 percent, by volume in 90 percent, by volume, unleaded gasoline. Included are a description of the sources of test data, the statistical analysis of the data, and a discussion of the conclusion drawn.

Sources of Test Data

EPA has received back-to-back Federal Test Procedure (FTP) exhaust emissions data on oxidation catalyst vehicles from Texaco, Incorporated.[9] A description of the vehicles tested is contained in Table 1.

Texaco submitted data on six 1978, 1979, and 1980 oxidation catalyst vehicles comparing FTP exhaust emissions on an unleaded Texaco base fuel versus a fuel blended with the methanol/ethanol mixture having physical and chemical specifications similar to the base fuel.

Analytic Procedures

This section reviews several procedures designed to examine the emissions effects of the methanol/ethanol mixture containing fuel compared to the base fuel. They are:

(1) Paired Difference Test
(2) Sign of Difference Test
(3) Comparison of Deteriorated Emissions with Standards (Deteriorated Emissions Test)

(1) Paired Difference Test

For each vehicle tested on a base fuel and a waiver fuel, the difference between the waiver fuel emissions and the base fuel emissions was calculated. A 90 percent confidence interval was construed for the mean of these differences for each pollutant.

This method of establishing 90 percent confidence intervals on the mean difference implicitly assumes emissions follow a normal distribution. While this requirement may not be exactly met, the method is robust enough to withstand some deviation from the normality assumption. This interval can be interpreted as: In approximately 90 experiments out of 100, one is confident that the interval so constructed would include the true value of the mean emission difference (i.e., the waiver fuel effect). If the resulting entire interval is below zero, it is indicative of a decrease in emissions from the methanol/ethanol mixture; if the entire interval is above zero, it is indicative of an increase in emissions from the waiver fuel.

If the interval contains zero, there is arguably no difference between the base fuel and the waiver fuel emission levels provided this interval is reasonably small. Since the length of the confidence interval can be large in the case of a small sample size, any interval containing zero must be sufficiently small that its upper limit does not exceed 10 percent of the applicable emission standard to reasonably contend that no increase in emissions has occurred.

In order to assure that intervals covering zero are small enough, sufficient samples must be taken. Since the interval length varies inversely with the sample size, an increase in sample size would decrease the interval length. If the interval length were sufficiently small, one of three possible results would occur:

(i) The entire interval would lie below zero;

(ii) The interval would include zero and the upper limit would be lower than 10 percent of the applicable emission standard; or

(iii) The entire interval would lie above zero. In general, the result is dependent on the location of the sample mean. Any of the three results would permit a definitive conclusion to be drawn. Hereafter, the situation in which a confidence interval includes zero, but has an upper limit above 10 percent of the standard will be referred to as having "insufficient data to reach a definitive conclusion."

Therefore, this procedure considers an increase in emissions from the methanol/ethanol mixture to exist when this confidence interval lies entirely above zero. A lack of an increase in emissions is said to exist if it contains zero while the upper limit does not exceed 10 percent of the applicable standard, or if the interval lies entirely below zero.

For the purposes of this procedure, replicate tests on any one vehicle and fuel were averaged to provide a single data point in the analyses. Each vehicle carried an equal weight in the determination of the confidence interval.

The results of this procedure are shown in Table 2. While the intervals contain zero for each pollutant, the upper limit of the HC interval exceeds 10% of the applicable standard. Therefore, there are insufficient data to reach a definitive conclusion.

(2) Sign of Difference Test

For each vehicle tested with a base fuel and the methanol/ethanol mixture, the sign of the emission difference between the methanol/ethanol mixture fuel emissions and base fuel emissions was ascertained. The sign of these differences was considered. This non-parametric test was designed to determine whether the number of cars demonstrating an increase (+) in emissions with the methanol/ethanol mixture significantly (at a 90% confidence level) exceeded those showing a decrease (−) in emissions with the methanol/ethanol mixture.

In each test for each pollutant, the null hypothesis was that the median emission level for that pollutant was the same for both the base and the methanol/ethanol mixture fuel. The alternative hypothesis for hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NOx) was that the median emissions level for the methanol/ethanol mixture was higher than that of the base fuel.

The number of vehicles for which an increase in emissions was observed was calculated. If there were no inherent differences in emission levels attributable to the methanol/ethanol mixture, the expected proportion of instances in which an increase between fuels would occur for any pollutant would be 0.5. Thus a large proportion of observed increases in emission levels for a pollutant would indicate an increase in emissions from the methanol/ethanol mixuture. Similarly, a small proportion of increases in emission levels would indicate a reduction in emissions from the methanol/ ethanol mixture.

To be able to recognize large and small proportion increases (compared with 0.5) with confidence a sufficient sample size is required.

Table 3 shows the results of this procedure. While no increase or decrease can be shown with high certainty, the results are very sensitive to sample size. Thus one or two additional samples could radically perturb the results, and no definitive conclusion can be drawn.

(3) Deteriorated Emissions Test

In order to determine whether the methanol/ethanol mixture would cause the failure of any vehicle to meet emission standards during its useful life, a one-sided sign test to evaluate compliance using projected 50,000 mile emission levels was performed. This statistical procedure assumes that the difference in emission levels between the base fuel and the methanol/ethanol mixture for a particular vehicle either remains constant or becomes larger over the useful life of the vehicles. Hence, it is assumed the minimum difference has been observed.

Projected 50,000 mile emission levels for each vehicle were obtained by using average FTP results and 50,000 mile certification data.

To apply the procedure, the differences in emissions are added to the projected 50,000 mile emission levels. If the resulting figure is greater than the standards on any pollutant to which the vehicle is certified, then the vehicle is said to have failed the emission standard. If the number of such vehicle failures equals or exceeds the statistically determined critical number, the fleet is said to have failed this statistical procedure.

The test was designed such that the risk of failing the statistical procedure would be at least 90% if 25% or more of the represented fleet failed to meet Federal emission standards for the methanol/ethanol mixture.[10]

The risk of failing this procedure is high for small sample sizes but decreases when the sample size is increased. under this procedure, the critical number (the smallest number of projected test failures for a given sample size which would constitute a failure of the criterion) for a sample size of eight would be one. A sample of less than eight would be insufficient information to apply the procedure.

Although the number of vehicles tested was not sufficient to apply this test to the data, the number of failures are set out in Table 4. Because only six vehicles were tested, there are insufficient data to make any determination of whether the methanol/ethanol mixture causes vehicles to fail to meet emission standards.

Evaporative Emissions

Due to its polar nature, as measured by its dipole moment and dielectric constant, the addition of methanol to gasoline (which is non-polar) increases front-end volatility (as measured by American Society for Testing and Materials (ASTM) D–86 or D–216 distillation), Reid Vapor Pressure (RVP) vapor/liquid ratio (V/L)). Increases in front-end volatility and RVP have correlated with increased evaporative hydrocarbon emissions. This was particularly evident from the 1978 Gasohol (10% ethanol/gasoline) testing done by EPA and others where evaporative losses increased approximately 50%. Methanol increases volatility and RVP to a greater degree than a comparable concentration of ethanol in gasoline. Since Conservation's mixture is a mixture of methanol and ethanol, it would be expected to produce higher evaporative losses than Gasohol but less than a 10% methanol mixture.

However, no vehicular data of any kind were submitted or obtained to evaluate the change in evaporative emissions resulting from the addition of the methanol/ethanol mixture to unleaded gasoline. Therefore, EPA cannot determine to what extent the methanol/ethanol mixture will affect evaporative emissions.

Materials Compatibility

Materials compatibility is of concern with alcohol and alcohol(s) gasoline blends. Past experience with methanol has indicated particular problems with elastomeric materials. The methanol/ethanol mixture's effects on automotive materials would be expected to be worse than those for ethanol/gasoline but less than those for methanol/gasoline. There were, however, no data submitted to indicate what effect the methanol/ethanol mixture would have on metallic and non-metallic components used in the fuel system. Thus, no conclusion can be made. Any future application should be supported by materials compatibility testing with particular emphasis on elastomeric materials (see Sun's Waiver Decision, 44 FR 37074; and Beker's Waiver Decision and Characterization Report, 45 FR 26122, and 45 FR 32760).

Driveability

Driveability may be adversely affected by the addition of the methanol/ethanol mixture to unleaded gasoline. It is well known that if water enters the blend then phase separation is likely and that engine performance is impaired or impossible on the more dense water/alcohol phase.

Also, too much enleanment from alcohol addition will result in hard starting and poor running. The current consensus is that the enleanment resulting from the addition of 10% ethanol is the approximate maximum before encountering a significant number of driveability problems. However, DOE test vehicles were operated on 10% methanol/gasoline and only encountered driveability problems as a result of phase separation or materials compatibility problems, not enleanment.

Again, the applicant has not provided any specific vehicular data from which the effect on driveability can be determined. Therefore, no conclusions can be made regarding the effect the methanol/ethanol blend has on driveability. Such data should be included in any future application.

Conclusions

The exhaust emission data presented on this methanol/ethanol mixture were not sufficient to draw any definitive conclusions regarding the extent of the impact this mixture will have on exhaust emissions.

Evaporative emissions may increase with the methanol/ethanol blend, but no data were presented to guage the magnitude of any increase beyond the inferred prediction of a larger increase than with a comparable ethanol concentration.

The methanol/ethanol addition to gasoline may also increase the probability of phase separation which could lead to poor engine performance with a resulting increase in emissions. Additionally, there exists the strong

[7] For this test, an increase in emissions exists when the emission level for the waiver fuel is greater than the emission level for the base fuel and is assigned a (+). Similarly, a lower emissions level for the waiver fuel than the base fuel is a decrease in emissions and is assigned a (−).

[8] This test for HC only had five observations because data from one of the vehicles did not indicate any directional change.

[9] Back-to-back FTP testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on the base fuel containing the waiver requests fuel or fuel additive.

[10] The table of critical values for this test are shown in Appendix 3.

V 4 5 A G 1 3 8 0 UMI

possibility that this mixture may also exhibit materials compatibility problems which could also lead to a degradation of performance and a resulting increase in both exhaust and evaporative emissions.

In summary, there are insufficient data to conclude that the methanol/ethanol mixture at 10 percent, by volume, in unleaded gasoline will not cause or contribute to the failure of vehicles to meet emission standards.

Table 1.—*Description of Test Vehicles*

Make	Model	Year	Engine	Vin	Emissions system
Oldsmobile	Cutlass	1979	260 CID V-8	3R47F9G40543	SB 4.3L 4930 H2U/983-3.
Buick	LeSabre	1980	231 CID V-6	4P69A8H574323	NB 231 CID 840 B2 3 BCV.
Mercury	Cougar	1980	302 CID V-8	9H93F648954	5.0 "C" (2x124) EGR/Air/ Catalyst/PCV.
Mercury	Bobcat	1979	2.3L 4 cyl	OT20A603358	2.3 AC EGR/Air/Catalyst.
Chevrolet	Impala	1979	305 CID V-8	IL69G9J114868	AU 305 CID 2 Bbl Carb 910 Y2.
Plymouth	Volare	1979	225 CID 6 cyl	HL41D9F244778	9FD 225-2-CA 225 CID 6 cyl.

Table 2

1. Paired Difference Test

a. Hydrocarbons (HC)—0.12 to 0.20.
b. Carbon Monoxide (CO)—4.01 to 0.63.
c. Oxides of Nitrogen (NO_x)—0.32 to 0.20.

Table 3

2. Sign of Difference Test

a. HC (3/5) [1] 50.0 percent confidence of an increase
b. CO (2/6) 10.9 percent confidence of an increase
c. NO_x (1/6) 1.6 percent confidence of an increase

Table 4

3. Deteriorated Emissions Test

a. HC—none out of six

[1] These numbers represent the number of observed increases out of the total number of observations. The test for HC only indicates five observations because one of the vehicles showed no directional difference between the base fuel emissions and the methanol/ethanol mixture emissions.

b. CO—none out of six
c. NO_x—none out of six

Appendix 3.— *Power of Binomial Test [1] With p=0.25*

Sample size	Critical value	Power
8	1	.900
9	1	.925
10	1	.944
11	1	.958
12	1	.968
13	1	.976
14	2	.899
15	2	.920
16	2	.937
17	2	.950
18	2	.961
19	3	.868
20	3	.909
21	3	.925
22	3	.939
23	3	.951
24	4	.885
25	4	.904
26	4	.920
27	4	.933
28	4	.948
29	5	.885
30	5	.902
31	5	.917

Appendix 3.— *Power of Binomial Test [1] With p=0.25*

Sample size	Critical value	Power
32	5	.930
33	5	.941
34	6	.888
35	6	.902
40	7	.904
45	8	.906
50	9	.908
60	11	.914
70	13	.920
80	15	.926
90	16	.890
100	20	.900

[1] For purposes of analysis, this test was designed such that the risk of being denied a waiver would be at least 90% if 25% or more of the represented fleet fails to meet emission standards. This approach is related to the approach applied to the vehicle manufacturers under the vehicle assembly line selective enforcement audit procedures.

[FR Doc. 80-24357 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1568-4; OPTS-51107]

Polymer of Mixed Alkylacrylates; Receipt of Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 19, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington. DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: David Dull, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202/426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance to the Inventory. After the substances is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

PMN 80-179.

Close of Review Period. October 19, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polymer of mixed alkylacrylates.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Protective coating.

Production Estimates. (Kilograms per year)

First year—145,000
Second year—227,000
Third year—454,000

Physical/Chemical Properties.

Viscosity (Gardner-Holdt)—V-X.
Percent Solids (Gravimetric)—68-70.
Color (Gardner 1933 number scale)—4 max.

Toxicity Data.

Skin irritation (rabbits)—Mild to no skin irritation.

Eye irritation (rabbits)—Slight to mild eye irritant.

Acute and toxicity (rats)—Low toxicity.

Approximate lethal dose (ALD) (rats)—25,000 mg/kg.

Exposure.

Activity per site and potential route(s)	Number of potentially exposed workers	Maximum duration of exposure
Manufacturing:		
Dermal	3 per shift	8 hour per shift, 2 shifts per day, 252 days per year.
Inhalation	3 per shift	8 hour per shift, 2 shifts per day, 252 days per year.
Customer:		
Dermal	8 per shift	8 hour per shift, 2 shifts per day, 242 days per year.
Inhalation	8 per shift	8 hour per shift, 2 shifts per day, 242 days per year.

Environmental Release/Disposal. E. I. du Pont de Nemours states that release of the PMN substance to the environment will be minimal and incidental. Disposal of waste products will by be recycling (80 percent) and by incineration.

Interested persons may, on or before September 19, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51107]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 5, 1980.

D. G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-24389 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1569-3; OPTS-59032]

2(Substituted)Ethylamine Fractionation Forecuts-Phosphonomethylated and Its Sodium Salts; Receipt of Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either appove or deny the application by September 5, 1980. Persons should submit written comments on the applications no later than August 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, 202-426-3980.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for

new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2288) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before August 28, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59032]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 7, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

TME 80—36.

Close of Review Period. September 5, 1980.

Manufacturer's Identity. Claimed confidential.

Specific Chemical Identity. Claimed confidential. Generic name provided: 2(Substituted)ethylamine fractionation forecuts-phosphonomethylated and its sodium salts.

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Use. Scale inhibitor.

Physical/Chemical Properties

	Aqueous solution	
	Sodium salt of a phosphonate	Sodium salt of a phosphonate in methanol
Color	3.5	3.0.
Appearance and Odor	Clear amber liquid with bland odor.	Clear golden liquid with bland odor.
Reid Vapor pressure at 100° F	68.58 mmHg	121.92 mmHg.
Flash point	163° F PMCC	87° F PMCC.
Viscosity at 60° F	46.27 CTS	9.54 CTS.
Specific gravity at 60° F	1.328	1.162.
pH	5.0	4.9.
Corrosivity to carbon steel	0.0933 ipy	0.0657 ipy.
Corrosivity to aluminum	0.0302 ipy	0.0129 ipy.

Production Estimates. The submitter plans to produce 20,000 pounds in three batches of the new phosphonate which will be part of 100,000 pounds of the formulated product needed for the test market. The test market period will be eight months.

Toxicity Data. There were no data submitted with the application but the submitter stated that the following tests are being undertaken and results will be forwarded to the Agency upon completion:

Acute oral LD_{50} toxicity (albino rats).

Acute dermal LD_{50} toxicity (albino rabbits).

Primary skin irritation (albino rabbits), and

Eye irritation (albino rabbits).

Exposure. The manufacturer states that four employees will be involved during the manufacturing process but expects no significant exposure to the substance. During the time of potential exposure, the submitter states that supervision will be provided and protective equipment will be worn.

[FR. Doc. 80-24388 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Dockets Nos. 80-406—80-408; File Nos. BPCT-781222LC]

American Telecasters, Inc., et al.; Hearing Designation Order

Adopted: July 16, 1980.

Released: August 7, 1980.

In re application of American Telecasters, Inc., Greensboro, N.C. BC Docket No. 80-406, File No. BPCT-781222LC; Greensboro Telecasting Corp., Greensboro, N.C., BC Docket No. 80-407, File No. BPCT-790507KF; James Thrash, Greensboro, N.C., BC Docket No. 80-408, File No. BPCT-790507KH.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 48, Greensboro, North Carolina.

Preliminary Matters

2. Greensboro Telecasting Corp. ("GTC") has an application for a subscription television (STV) authorization pending before the Commission. This application will not be consolidated for hearing in this proceeding, however. STV is essentially an entertainment format indistinguishable from other entertainment packages except that it is supported directly by viewers' subscriptions rather than by advertising revenues. Accordingly, the Commission's reluctance to compare applicants on the basis of entertainment formats expressed in George E. Cameron, Jr. Communications, 71 FCC 2d 460 (1979), provides ample precedent for precluding consideration of STV proposals in otherwise routine hearings on applications for television construction permits.

American Telecasters, Inc.

3. American Telecasters, Inc. ("Telecasters") estimates that it will require an estimated $406,259 to construct its proposed station and an additional $64,450 to operate the station for three months. To meet these costs, applicant relies upon the following funds:

Existing capital	$49,900
Pre-paid equipment costs	77,000
Stock subscriptions	77,600
North Carolina Mutual Life Loan	250,000
Bank loan	250,000
Programming contracts	274,040
Total	$978,540

4. Telecasters' reliance on $274,040 in programming contracts to demonstrate its financial qualifications is misplaced. The present television financial standard requires an applicant to demonstrate the ability to construct a proposed station and operate it for three months without reliance on advertising or other broadcast revenue. *New Financial Qualifications Standard for Broadcast Television Applicants*, 72 FCC 2d 784 (1979). Further Telecasters has provided no documentation tending to substantiate the availability of a $250,000 bank loan to finance its proposal. Finally, the applicant has not submitted any documentation tending to demonstrate the availability of $77,600 in stock subscriptions as required in Question 4, Section III, FCC Form 301. Accordingly, an appropriate issue will be specified exploring Telecasters' financial qualifications.

5. The Community leader survey contained in Telecasters' ascertainment showing does not identify any of the community leaders interviewed. This information is required by Question and Answer 20 of the *Primer on Ascertainment of Community Problems by Broadcast Applicant*, 27 FCC 2d 650 (1971), and its complete omission precludes the Commission from finding that Telecasters' ascertainment effort is in substantial compliance with the *Primer, supra*. Accordingly, an issue will be specified inquiring into the sufficiency of Telecasters' ascertainment efforts.

Greensboro Telecasting Corp.

6. Review of GTC's financial showing reveals that approximately $773,394 will be required to construct and operate its proposed station for three months. To meet this cost, GTC relies upon funds to be provided by its principals in the form of loans and stock subscriptions. GTC has failed to provide balance sheets demonstrating the ability of it principals to supply the funds in question. Accordingly, an issue will be specified exploring applicant's financial qualifications.

James Thrash

7. Examination of James Thrash's financial showing indicates that roughly $2,340,000 will be required to construct his proposed station and operate it for three months. Mr. Thrash relies upon his personal assets and a $3,100,000 loan commitment from the Wachovia Bank and Trust Company to demonstrate his financial qualifications. Mr. Thrash's application does not, however, contain a balance sheet, and therefore it cannot be determined that he has sufficient net liquid assets to commit to funding his proposed station. Furthermore, the letter submitted to demonstrate the availability of the Wachovia Bank and Trust Company loan fails to indicate the rate of interest to be charged or the collateral required as specified in Question 4(e), Section III of FCC Form 301. Accordingly, an issue will be specified exploring the availability of the funds applicant relies upon to meet his financial qualifications.

Conclusion and Order

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to American Telecasters, Inc.:

(a) The source and availability of additional funds over and above the $376,900 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to the ascertainment efforts of American Telecasters, Inc.:

(a) The identity of each community leader interviewed;

(b) The groups represented by each community leader interviewed; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, applicant is qualified to be a Commission licensee.

3. To determine with respect to Greensboro Telecasting Corp.:

(a) The sources and availability of the funds applicant relies upon to demonstrate its financial qualifications; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

4. To determine with respect to James Thrash:

(a) The source and availability of the funds applicant relies upon to demonstrate his financial qualifications; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

10. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the

publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-24451 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Dockets Nos. 80-344—80-346; File Nos. BPH-790326AE etc.]

Bradley, Hand, and Triplett et al.; Hearing Designation Order

Adopted: June 25, 1980.

Released: August 7, 1980.

In re applications of Daniel B. Bradley, Owen W. Hand and Wendell A. Triplett d.b.a. Bradley, Hand, and Triplett, Ocean City, New Jersey, BC Docket No. 80-344, File No. BPH-790326AE, Req: 98.3 MHz, Channel 252, 3.0 kW (H&V), 276 feet; JM Communications, Ocean City, New Jersey, BC Docket No. 80-345, File No. BPH-790803AB, Req: 98.3 MHz, Channel 252, 3.0 kW (H&V), 300 feet; Ocean City Radio of New Jersey, Inc., Ocean City, New Jersey, BC Docket No. 80-346, File No. BPH-790806AB, Req: 98.3 MHz, Channel 252, 3.0 kW (H&V), 288.3 feet, for a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Bradley, Hand, and Triplett (BHT), JM Communications (JM), and Ocean City Radio of New Jersey, Inc. (Ocean) for a construction permit for a new FM station.

2. *BHT.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that BHT published the required notice. To remedy this deficiency, BHT will be required to publish local notice of its application if it has not already done so and to file a statement of publication with the presiding Administrative Law Judge.

3. Analysis of the financial data submitted by BHT reveals that $76,487 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$19,332
Equipment payments with interest (4 months)	3,640
Land	3,000
Buildings	5,000
Loan interest (5 months)	2,458
Miscellaneous	19,750
Operating costs (3 months	23,307
Total	76,487

To meet this requirement BHT intends to rely solely upon a loan of $59,000 from one of its partners, Wendell A. Triplett. Since the applicant has shown only $59,000 available to meet a requirement of $76,487, a limited financial issue will be specified.

4. BHT indicates that it plans to locate its main studio 0.25 miles southwest of the proposed community of license, Ocean City. The applicant has failed, however, to formally request that we waive § 73.1125 of the Commission's Rules nor has it demonstrated good cause for locating the main studio site outside of Ocean City. An appropriate issue will, therefore, be specified.

5. Ronald L. Oberholtzer, an alleged former employee of one of BHT's partners, Owen Hand, filed an informal objection to BHT's application. Oberholtzer claimed that BHT should not receive a Commission license because of a contractual dispute between him and Hand. Additionally, the objection asserted that an additional radio station in the Ocean City area would be economically depressing. Oberholtzer's allegations are not adequately documented, thereby failing to raise a substantial and material question of fact. Accordingly, the objection will be denied.

6. *JM.* The applicant indicated that one of its principals, Jacqueline E. Pryor, is an alien and will control 20% of the corporation's stock. Ms. Pryor will also serve as a director and officer of the corporation. An issue will therefore be specified to determine whether JM is in violation of Section 310(b)(3) of the Communications Act of 1934, as amended.

7. An area resident, Mary Juliana, filed an informal objection to all of the applicants' proposals, claiming that an additional radio tower would result in adverse health effects to the population. The objection is not sufficiently documented and therefore fails to raise a substantial and material question of fact. Accordingly, the objection will be denied.

8. *Other issues.* Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to BHT:

(a) The source and availability of additional funds over and above the $59,000 indicated; and

(b) In light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate the proposed station.

2. To determine whether BHT's proposal to locate its transmitter outside the proposed community of license complies with Section 73.1125 of the Commission's Rules and, if not, whether circumstances exist which warrant a waiver of the rule.

3. To determine whether JM Communication's proposal complies with Section 310(b)(3) of the Communications Act of 1934, as amended.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, that BHT file a statement of publication of local notice of its application with the presiding Administrative Law Judge, in accordance with § 73.3580(f) of the Commission's rules.

12. It is further ordered, that Ronald L. Oberholtzer's informal objection to BHT's application and Mary Juliana's informal objection to the BHT, JM and Ocean applications are denied.

13. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-24450 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-425, File No. BPCT-5149; BC Docket No. 80-426, File No. BPCT-5242]

Cleveland Television Corp. and Channel 19, Inc. (Shaker Heights, Ohio); Applications Designated for Consolidated Hearing on Stated Issues

Adopted: July 29, 1980.

Released: August 5, 1980.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast, Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by Cleveland Television Corporation (CTC),[1] and Channel 19, Inc. (Channel 19)[2] for a new commercial television station on channel 19, allocated to Cleveland, Ohio;[3] a Motion to Dismiss the Channel 19 application filed October 19, 1979 by CTC, and related pleadings; a petition for leave to amend the Channel 19 application filed November 15, 1979; oppositions to the petition for leave to amend filed by both CTC and Gaylord; an informal objection to the Channel 19 application filed March 19, 1979 by Doubleday Broadcasting Company, Inc. (Doubleday); and other related filings.

2. All parties were informed by staff letter dated June 22, 1979 that amendments filed after July 31, 1979 would be "considered only upon a showing of good cause for late filing or pursuant to Sections 1.65 or [73.3514]." Channel 19 filed a petition for leave to amend and an amendment to its application on November 15, 1979, citing a need to clarify the intentions of its preferred stockholders as to their participation in the station. Oppositions to the petition were filed by both CTC and Gaylord, citing lack of a "good cause" showing for the late amendment. The proffered amendment contains the following: revisions to paragraphs 9 (Capital structure) and 20(d) (legal qualifications) of the application, a statement on stock conversion rights, amended Articles of Incorporation, a statement of the intent of an earlier amendment, and financial statements of stockholders Maltz, Hirsch and Wilson. The allegation presented in the petition for leave to amend is inadequate to demonstrate "good cause" for the late amendment. *See Sands Broadcating Corp.*, 22 RR 2d 106, 110 (1961); *accord, Western Connecticut Broadcasting Co.*, 69 F.C.C. 2d 1890, 1892–3 (1978). Accordingly, we shall reject the amendment as being untimely filed, and deny the petition for leave to amend (see para. 10, *infra*).

3. Cleveland is the community of license of Malrite Broadcasting, Inc.'s (Malrite) radio stations WHK and WMMS(FM). Milton Maltz, John R. Wilson and Carl E. Hirsch are principals in Malrite and were common stockholders in the Channel 19 application as originally filed. Subsequent to the filing of the original application and before the date designated for final amendments, Channel 19 amended its application to change Messrs. Maltz, Wilson and Hirsch to preferred stockholders with no voting rights, except as required by Ohio law. Their stock was to be convertible into voting common stock only in the event Commission rules and policies permitted such ownership. Shares would also be convertible should any of the stockholders divest themselves of any interest in an AM and/or FM station in the Cleveland market. The CTC motion to dismiss alleges that this preferred stockholder status is not sufficient to remove conflict with 47 CFR 73.636 (the multiple-ownership rule) and that the three stockholders still plan to exercise control over the station through their financial support by an advantageous equipment lease arrangement with a Malrite television station in North Carolina.

4. Section 73.636(a)(1) sets out a policy against granting a television construction permit to an applicant with principals who, directly or indirectly, own, operate, or control an AM or FM radio station licensed to the same community as its proposed television station. However, because Channel 19 filed its application before September 13, 1979, it is subject to Note 8 of the Rule, which provides that applications for UHF television facilities will be considered on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. *Notice of Proposed Rule Making in BC Docket 79-233*, 44 FR 55603 (1979). An issue will be designated to determine whether common ownership of WHK and WMMS(FM) and the proposed television station would be consistent with the public interest, and the CTC motion to dismiss will be denied (see para. 11, *infra*).

5. The captioned proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

6. Doubleday has submitted a pleading which will be considered as an informal objection to the Channel 19 application pursuant to §73.3587 of the Rules. The pleading is a response to Metroplex Communications of Missouri, which opposed minor changes to Doubleday's Station WWWK(FM), Granite City, Illinois, and calls the opposition "harassment." Metroplex Communications, of Missouri has virtally identical ownership with Metroplex Communications, a 50 percent stockholder in Channel 19. The Commission granted the minor changes requested by Doubleday on January 16, 1980 (FCC 80-19) and considered the Metroplex opposition on its merits. In light of this resolution and the fact that the objection contributes no significant information to the Cleveland proceeding, we find no merit to the informal objection in the instant case.

7. Except as indicated in the issues specified below, the Commission finds Cleveland Television Corporation and Channel 19, Inc. legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, the

[1] On July 6, 1979, CTC stated its intention to file a request for subscription television (STV) authorization. We have no record of any STV application for this channel.

[2] Channel 19 proposes Shaker Heights, Ohio as its community of license, although this frequency is allocated to Cleveland. Shaker Heights is located within 15 miles of Cleveland, and thus Channel 19's application complies with Section 73.607(b) of the Commission's Rules relating to availability of channels and is acceptable for filing for the Cleveland allocation.

[3] Gaylord Broadcasting Company of Ohio (Gaylord) was an applicant for this frequency (File No. BPCT-5241). Gaylord requested voluntary dismissal from the proceeding and, on July 14, 1980, submitted the affidavit of no consideration required by Section 73.3525(d) of the Rules. Reference to Gaylord's pleadings are to those filed while Gaylord had standing as an applicant in this case.

Commission is unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

8. Accordingly, It is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the captioned applications Are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place specified in a subsequent Order, upon the following issues:

1. To determine with respect to Channel 19 the extent of common ownership, operation and control between stations WHK and WMMS(FM) and the proposed television station, and whether said ownershiup would be in the public interest.

2. To determine the areas and populations which would receive primary television service (Grade B or better) from CTC and Channel 19, and other primary television service to such areas and populations.

3. To determine, in light of Section 307 (b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between the applications should not be based on considerations relating to Section 307(b) of the Act, which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the informal objection filed by Doubleday Broadcasting, Inc., is denied.

10. It is further ordered, That the petition for leave to amend filed by Channel 19, Inc., is denied and its amendment of October 19, 1979 Is dismissed as unacceptabe for filing.

11. It is further ordered, That the Motion to Dismiss filed by Cleveland Television Corporation is denied.

12. It is further ordered, That, since the application of Channel 19 shows substantial ownership by minority interests, this proceeding shall be expedited.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-24400 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-419, File No. BPH-10,375, et al.]

Radio Lubbock, Inc., et al.; Applications Designated for Consolidated Hearing on Stated Issues

Adopted: July 28, 1980.

Released: August 4, 1980.

In the matter of applications of Radio Lubbock, Inc., Lubbock, Texas, Req: 102.5 MHz, Channel 273 100 kW (H&V), 230 feet (BC Docket No. 80-419, File No. BPH-10,375) REX Broadcasting Corporation, Lubbock, Texas, Req: 102.5 MHz, Channel 273 100 kW (H&V), 750 feet (BC Docket No. 80-420, File No. BPH-10,463) Robert E. Clark tr/as WESTERN Broadcasting Co., Lubbock, Texas, Req: 102.5 MHz, channel 273 78 kW (H&V), 240 feet (BC Docket No. 80-421, File No. BPH-10,522); for construction permit for a new FM station; hearing designation order.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration: (i) the above-captioned mutually exclusive applications; (ii) a motion to dismiss the application of Rex Broadcasting Corporation (hereinafter "Rex") filed by Radio Lubbock, Inc. (hereinafter "Radio Lubbock"); (iii) a petition to specify issues filed by Radio Lubbock; and (iv) responsive pleadings.[1]

2. *Radio Lubbock.* Analysis of the financial data submitted by Radio Lubbock indicates that it has failed to comply with the explicit conditional language contained in the June 12, 1978 loan commitment letter for $200,000 from the First National Bank of Abilene which Radio Lubbock is relying upon as its sole source of funds to meet its needs of $122,500 to construct and operate the station for three months without revenue. The bank letter states:

> This commitment is in effect only if Mr. Larry Ackers and Mr. Bill Fox are the controlling stockholders in Radio Lubbock, Inc., and are in charge of its operation.

On December 19, 1979, Radio Lubbock amended its application to show that the corporate treasury purchased Mr. Fox's entire interest of 25,000 shares. Thus, he no longer retains the status of a controlling shareholder as required by the terms of the bank letter. Therefore, a general financial issue will be specified.

3. *Other Matters.* Rex's application, as filed on March 3, 1977 listed the following stock ownership: Jim Slone, 49%; Thomas Chandler, 10.5%; Robert Chandler, 10.5%; Estate of Rex Nicholson, 20%; and Philip Richardson, 10%. On February 6, 1978 the application was amended to reflect the following stock ownership; Jim Slone, 62.5%; Thomas Chandler, 12.5%; Robert Chandler, 12.5% and Philip Richardson, 12.5%. Radio Lubbock's motion to dismiss contends that the transaction reported on February 6, 1978 constitutes a major change under § 73.3573(b) of the Rules requiring that the application be assigned a new file number.[2] Consequently, petitioner claims the application should be dismissed as patently inconsistent with § 1.227(b)(1) [3] of our Rules. In applying § 73.3573(b), the Commission determines whether the transaction in question would require the filing of a long form (FCC Form 314 or 315) assignment or transfer application. Generally, such an application is not required where less than a controlling interest (50 percent) is being transferred and, as a result of the transaction, 50 percent or more of the total ownership interest will not be held by a person or persons whose qualifications have not been passed upon. *Gaffney Broadcasting, Inc.*, 55 FCC 2d 388, 35 RR 2d 1607, 1609 (1976); *Clay Broadcasters, Inc.* FCC 71-284, released March 15, 1971, 21 RR 2d 442 (1971). For purposes of applying the new file number rule to applications for construction permits, the requirement that any new controlling party has been "passed upon" means that the party was an original party to the application when it was originally filed. In the instant case, only 20% of the applicant's stock was transferred, and the transferees were original parties to the application. Consequently, a new file number will not be assigned.

4. Section 73.210 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Rex proposes to locate its main studio approximately one mile south of Lubbock. The applicant has not submitted any information to justify the proposed studio location. Therefore, we conclude an issue is warranted to determine whether Rex's proposal complies with § 73.210 of the Rules.

5. Western amended its application several times after the time for filing pre-designation amendments had expired. The factors the Commission considers in determining whether good cause for acceptance of untimely amendments [4] has been satisfied include whether: (i) the applicant acted with due diligence; (ii) the proposed amendment was not required by the voluntary act of the applicant; (iii) modification or addition of issues or parties would be necessitated; (iv) the proposed amendment would interrupt the orderly conduct of the designation process or necessitate an additional hearing; (v) the other parties will be unfairly prejudiced; and (vi) the applicant will gain a competitive advantage. *See, e.g. Rose Broadcasting Company*, 68 FCC 2d 1242, 43 RR 2d 1317 (1978); *Athens Broadcasting Co., Inc.*, 37 FCC 2d 374, 25 RR 2d 483 (Rev. Bd. 1972); *Erwin O'Connor Broadcasting Co.*, 22 FCC 2d 140, 18 RR 2d 820 (Rev. Bd. 1970). On September 8, 1978 Western filed an amendment disclosing that it had contracted to assign the license of its AM station KDAV, Lubbock, Texas. Although the amendment was filed long after the deadline for filing of amendments as a matter of right pursuant to § 1.522(a) of the Rules, it will be accepted for filing pursuant to the requirements of the § 1.65 of the Rules, but in accordance with our usual practice will not be allowed to improve the comparative status of Western. *Cypress Communications, Inc.*, 47 RR 2d 132 (Broadcast Bureau 1980).[5]

6. Radio Lubbock and Rex propose independent programming while Western proposes to duplicate the programming of its commonly-owned AM station KDAV, Lubbock, Texas during 20 percent of its broadcast time. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication which could offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967).

7. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

8. Except as indicated by the issue specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, It is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Radio Lubbock, Inc., is financially qualified to construct and operate the proposed facility for three months.

2. To determine whether the proposal of Rex Broadcasting Corporation is in compliance with § 73.210 of the Commission's Rules with respect to location of the main studio.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, that the motion to dismiss filed by Radio Lubbock, Inc., is denied.

11. It is further ordered, that the petition to specify issues is denied.

12. It is further ordered, that the petition for leave to amend filed by Rex Broadcasting Corporation is granted, and the amendment is accepted; the petitions for leave to amend filed by Robert E. Clark t/a Western Broadcasting Company are granted and the amendments are accepted to the extent indicated above and denied in all other respects.

13. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-24401 Filed 8-12-80; 8:45 am]

BILLING CODE 6712-01-M

---

[1] The Radio Lubbock application was tendered on January 3, 1977, the Rex application was tendered on March 3, 1977, and the application of Robert E. Clark, t/a Western Broadcasting Co. (hereinafter "Western") was tendered on April 26, 1977. The Radio Lubbock application appeared on public notice of cut-off effective July 11, 1977. The Rex and Western applications appeared on public notice of cut-off effective May 4, 1978. Accordingly, the amendent and predesignation issue pleadings procedures of former §§ 1.522 and 1.584 of the Rules were applicable and the parties filed numerous issue pleadings and amendments. However, pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Broadcast Applications; Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, the matters sought to be raised by the parties in issue pleadings and amendments have not been considered herein. Accordingly, an opportunity to seek to raise any allegations contained in the issue pleadings herein will be afforded the parties post designation pursuant to § 1.229.

[2] Section 73.3573(b) provides in part: A new file number will be assigned to an application for a new station * * * when it is amended so as to result in an assignment or transfer of control * * * which in the case of an authorized station, would require the filing of an application * * * on FCC Form 314, 315 (long form).

[3] Section 1.227(b)(1) provides that no application will be consolidated for hearing with a previously filed application if not substantially complete and tendered for filing by the cut-off date of the previously filed application.

[4] At the time Western filed it amendments, § 1.522(a) of the Rules allowed applications to be amended as a matter of right within 30 days after the cut-off date for the last-filed application. The rule as modified, is now set forth in § 73.3522(a) of the Rules.

[5] Western's July 21, 1978 amendment to report Commission approval and consummation of the assignment of KILO(FM), Colorado Springs, Colorado, is mooted by the withdrawal of David Pinkston as 50 percent partner in Western, and will be dismissed.

FEDERAL RESERVE SYSTEM

B.P. Corp.; Proposed Retention of Credit-Related Insurance Activities

B.P. Corp., Clinton, Iowa, has applied, pursuant to section 4(c)(8) of the Bank

Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to directly engage in credit-related insurance activities.

Applicant states that it would continue to directly engage, as agent, in the sale of credit life, accident and health insurance made in connection with extensions of credit by its subsidiary bank, Iowa State Savings Bank, Clinton, Iowa. These activities would be performed from offices of Applicant in Clinton, Iowa, and the geographic area to be served is a twenty-five mile radius around Clinton, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or grants in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Borad of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 5, 1980.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24470 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

Century Banks, Inc.; Acquisition of Bank; Proposal To Engage in Insurance Activities

Century Banks, Inc., Fort Lauderdale, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of State Bank of Apopka, Apopka, Florida, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Century Banks, Inc., Fort Lauderdale, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) for permission to engage through its subsidiary, CBI Insurance Agency, Inc., in the sale as agent or broker of credit life insurance. These activities would be performed from the office of State Bank of Apopka and the geographic area to be served is northwestern Orange County, Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicits of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 4, 1980.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24468 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

Kanawha Investment Co.; Proposed Retention of Kanawha Insurance Agency

Kanawha Insurance Co., Kanawha, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.(b)(2) of the Board's Regulatory Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of general insurance through its subsidiary, Kanawha Insurance Agency, Kanawha, Iowa.

Applicant states that the subsidiary would continue to engage in the sale of general insurance in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Kanawha, Iowa, and the geographic areas to be served are Hancock County, the top tier of townships in Wright County and the eastern edge of Kossuth County. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumption of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency,.that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition., conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 5, 1980.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24469 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancshares of Belleville, Inc.; Formation of Bank Holding Company

Peoples Bancshares of Belleville, Inc., Belleville, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Peoples National Bank of Belleville, Belleville, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 6, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24391 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

Southwest Bancshares, Inc.; Acquisition of Bank

Southwest Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of San Filipe Green, National Association, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24392 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

Wamego Bancshares, Inc.; Formation of Bank Holding Company

Wamego Bancshares, Inc., Wamego, Kansas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the The First National Bank of Wamego, Wamego, Kansas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 5, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24393 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de novo Nonbank Activities

The bank holding companies listed in this notice have applied, purusant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR) 225.4(b)(1), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 5, 1980.

A. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Southeast Banking Corporation, Miami Florida (trust company and investment advisory activities; Florida): To engage through its subsidiary, Southeast Banks Trust Company, N.A., in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency, or custodian nature. These activities would be conducted from an office in Fort Pierce, Florida, serving St. Lucie County, Florida.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Continental Illinois Corporation, Chicago, Illinois (real property leasing; nationwide): To engage, through its subsidiary, Continental Illinois Energy Development Corporation, in leasing personal and real property and acting as agent, broker, adviser in leasing such property where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such leases will relate primarily to energy development and exploration projects. These activities would be conducted from an office located in Houston, Texas, serving the entire United States.

C. *Other Federal Reserve Banks: None.*

Board of Governors of the Federal Reserve System.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

August 6, 1980.

[FR Doc. 80-24457 Filed 8-12-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: British Petroleum Ltd. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Selection Trust Ltd. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION:

Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission

James A. Tobin,

Acting Secretary.

[FR Doc. 80-24383 Filed 8-12-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Meetings for the Review of Grant Applications

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with a the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee).
Dates: September 3-5, 1980.
Place: 10th Floor Dining Room, Prudential Building, Houston, Texas.
Times:
Open: September 3, 7:30 p.m.—8 p.m.
Closed: September 3, 8 p.m.—adjournment.
September 4, 8:30 a.m.—adjournment.
September 5, 8:30 a.m.—adjournment.
Closure reason: To review grant applications.
Executive secretary: Vincent J. Cairoli, Ph.D.
Address: Westwood Building, Room 855, National Institutes of Health.
Phone: 301/496-7194.

(Catalog of Federal domestic assistance Nos. 13.393, 13.394, 13.395, project grants in cancer cause and prevention research; cancer detection and diagnosis research and cancer treatment research, National Institutes of Health.)

Name of committee: Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee).
Dates: September 8-9, 1980.
Place: Ramada Inn, 225 William F. McClellan Highway, East Boston, Massachusetts 02128.
Times:
Open: September 8, 1 p.m.—1:30 p.m.
Closed: September 8, 1:30—5 p.m. September 9, 8:30 a.m.—adjournment.
Closure reason: To review grant applications.
Executive secretary: William E. Straile, Ph.D.
Address: Westwood Building, Room 853, National Institutes of Health.
Phone: 301/496-7194.

(Catalog of Federal domestic assistance Nos. 13.393, 13.394, 13.395, project grants in cancer cause and prevention research; cancer detection and diagnosis research and cancer treatment research, National Institutes of Health.)

Name of committee: Cancer Research Manpower Review Committee.
Dates: September 25-26, 1980.
Place: 31A/Conference Room 4, National Institutes of Health, Bethesda, Maryland 20205
Times:
Open: September 25, 9 a.m.—10 a.m.
Closed: September 25, 10 a.m.—5 p.m. September 26, 9 a.m.—adjournment.
Closure reason: To review grant applications.
Executive secretary: Barney C. Lepovetsky, J.D./Ph.D.
Address: Westwood Building, Room 10A18, National Institutes of Health.
Phone: 301/496-7803.

(Catalog of Federal domestic assistance Nos. 13.398, project grants in cancer research manpower, National Institutes of Health.)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.)

Dated: August 1, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-24403 Filed 8-12-80; 8:45 am]

BILLING CODE 4110-08-M

National Cancer Institute; Open Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

The Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: National Cancer Advisory Board Working Group on Board Activities and Agenda.
Dates of meeting: August 28, 1980, 1 p.m.—adjournment.
Place of meeting: Building 31A Conference Room 11A10, National Institutes of Health.
Open for the entire meeting:
Agenda: To review the role of the National Cancer Advisory Board.
Executive Secretary: Dr. William A. Walter.
Address: Building 31, Room 10A03, National Institutes of Health.
Phone: 301/496-5147.

Name of committee: Board of Scientific Counselors, Division of Cancer Control and Rehabilitation.
Dates of meeting: September 18-19, 1980, 9 a.m.—adjournment.
Place of meeting: Building 31C, Conference Room 6, National Institutes of Health.
Open for the entire meeting:
Agenda: To review planning for several projects and the reorganization of the Division.
Executive Secretary: Dr. Robert G. Burnight.
Address: Blair Building, Room 7A17, National Institutes of Health.
Phone: 301/427-8630.

Name of committee: Bladder and Prostatic Cancer Review Committee.
Dates of meeting: September 22, 1980, 8:30 a.m.—adjourment.
Place of meeting: Roswell Park Memorial Institute, 666 Elm Street, Buffalo, N.Y.
Open for the entire meeting:
Agenda: Annual Program Review of the National Prostatic Project.
Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building, Room 853, National Institutes of Health.
Phone: 301/496-7194.

Name of committee: National Cancer Advisory Board Subcommittee on Centers and Contruction.
Dates of meeting: September 25-26, 1980, 8:30 a.m.—adjournment.
Place of meeting: Marriott Hotel, 2 Pooks Hill Road, Bethesda, Md.
Open for the entire meeting:
Agenda: To review guidelines for cancer centers.
Executive Secretary: Dr. Donald M. Pitcairn.
Address: Westwood Building, Room 832, National Institutes of Health.
Phone: 301/496-7491.

Name of committee: Board of Scientific Counselors, Division of Cancer Cause and Prevention.
Dates of meeting: September 29-30, 1980, 9 a.m.—adjournment.
Place of meeting: Building 31C, Conference Room 9, National Institutes of Health.
Open for the entire meeting:
Agenda: To discuss the extramural program of the Division.
Executive Secretary: Dr. David Howell.
Address: Building 31, Room 11A04, National Institutes of Health.
Phone: 301/496-6927.
Dated: August 1, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80-24404 Filed 8-12-80; 8:45 am]

BILLING CODE 4110-08-M

President's Cancer Panel; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the President's Cancer Panel, August 29, 1980, Building 31C, Conference Room 7, National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to adjournment, to hear reports on activities of the President's Cancer Panel and the National Cancer Program. Attendance by the public will be limited to space available.

Dr. Richard A. Tjalma, Executive Secretary, National Cancer Institute, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5854) will furnish summaries of the meeting, rosters of Panel members, and substantive program information, upon request.

Dated: August 6, 1980.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 80-24402 Filed 8-12-80; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board appointments.

SUMMARY: This Notice provides the names of those individuals who have been appointed to serve as members of five of the Department of the Interior Performance Review Boards. The publication of these appointments is required by Section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454; 5 U.S.C. 4314(c)(4)).

DATE: These appointments are effective on August 13, 1980.

FOR FURTHER INFORMATION CONTACT:

Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, Room 5201, 1800 C Street, NW., Washington, D.C. 20240, Telephone number 343-6761.

Assistant Secretary—Energy and Minerals PRB: Doyle, G. Frederick, Chairperson (Replaces Joseph S. Cragwall)
Assistant Secretary—Policy, Budget and Administration PRB: Alan D. Powers (Replaces Lester P. Silverman)
Assistant Secretary—Indian Affairs PRB: Theodore Krenzke; Chairperson; Maurice W. Babby (Replaces Rick Lavis)
Assistant Secretary—Land and Water Resources PRB: Eugene Hinds (Replaces Joe Hall)
Solicitor PRB: Robert Uram, Chairperson; Gary Widman (Replaces John Leshy)

Dated: August 7, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80-24281 Filed 8-12-80; 8:45 am]

BILLING CODE 4310-10-M

Geological Survey

Proposed Notice to Lessees and Operators, Outer Continental Shelf (OCS) Regions

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed notice to lessees and operators in the Outer Continental Shelf concerning produced oil and gas exempt from royalty requirements.

SUMMARY: The purpose of this Notice is to solicit comments on the proposed Notice to Lessees and Operators (NTL). The proposed NTL would exempt from royalty payments all oil and gas unavoidably leaked, spilled, vented, flared or lost in OCS lease or unit operations, and is being issued so that royalty requirements comply with legal interpretations resulting from recent litigation. Currently, the only OCS producing areas are the Gulf of Mexico OCS and the Pacific OCS.

DATES: Comments must be received on or before September 12, 1980.

ADDRESSES: Responses should identify the subject matter and be directed to the Deputy Division Chief for Offshore Minerals Regulation, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Mr. Price McDonald, Chief, Branch of Offshore Field Operations, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092, telephone 703/860-7571.

Robert L. Rioux

Deputy Division Chief, Offshore Minerals Regulation Conservation Division.

Proposed Notice to Lessees and Operators of Federal Oil and Gas Leases in the Outer Continental Shelf (OCS)

Royalty Payment Exemptions for Oil and Gas Produced From OCS Leases

This Notice supersedes the Gulf of Mexico's Notice 78–5 dated March 20, 1978 (and the Pacific OCS Area's NTL entitled "Royalty Payments on Oil and Gas Lost" dated November 1, 1974).

I. General

Effective June 1, 1974, royalty is not due on the following oil and/or gas production on OCS leases.

A. For All OCS Leases

1. Royalty is not due on oil that the Deputy Conservation Manager determines to have been unavoidably leaked, spilled, or lost in lease or unit operations.

2. Royalty is not due on gas that the Deputy Conservation Manager determines to have been unavoidably vented, flared, or lost in lease or unit operations.

B. For OCS Leases Issued Prior to June 1, 1974

For leases issued prior to June 1, 1974, in addition to the exemptions from royalty listed in part A, royalty is not due on gas used for purposes of production from operations upon the lease or unit area.

Royalty is due on all other oil and gas production, including production that is avoidably lost, and oil or gas used for purposes of production from and operations upon the lease or unit area. Gas used for reinjection within the same lease or unit is not liable for royalty until the time it is finally produced.

II. Definitions

A. "Unavoidably lost" production shall mean that oil or gas which is lost because of line failures, equipment malfunctions, blowouts, fires, or otherwise if the Deputy Conservation Manager determines that said loss did not result from the negligence or the failure of the lessee or operator to take all reasonable measures to prevent and/or to control the loss. Unavoidably vented or flared gas includes flaring approved by the Deputy Conservation Manager.

B. "Avoidably lost" production shall mean the venting or flaring of produced gas without the authorization, approval, ratification, or acceptance of the Deputy Conservation Manager and the loss of produced oil or gas as a result of (1) negligence on the part of the lessee or operator; (2) the failure of the lessee or operator to take all reasonable measures to prevent and/or to control the loss; (3) the failure of the lessee or operator to comply fully with the applicable lease terms, regulations, OCS Orders, or the prior written orders of the Deputy Conservation Manager; or (4) any combination of the foregoing.

III. Volume Determination

If separate measurements are not available for gas and/or oil volumes that are flared, vented, spilled, and avoidably or unavoidably lost, these volumes shall be estimated by comparison with the last measured throughput, well production tests, or such other methods as may be approved by the Deputy Conservation Manager. The volume and value of all oil and gas on which royalty is due shall be reported on Form 9–153, Monthly Report of Sales and Royalty. Payments therefore shall be reported on Form 9–614–A, Rental and Royalty Remittance Advice. All volumes of oil and gas produced shall be reported on Form 9–152, Monthly Report of Operations.

IV. Refunds

Lessees and operators who submitted royalty payments under the provisions of Gulf of Mexico NTL 74–14, NTL 74–20, and NTL 78–5 or under Pacific OCS Area NTL's dated June 28, 1974, and November 1, 1974, may apply for a refund of those payments made for (1) oil that was unavoidably leaked, spilled, or lost and (2) gas that was unavoidably vented, flared, or lost. Applications for refunds shall be in form of a letter signed by an authorized officer or agent of the lessee/operator and for *each individual lease* shall include:

1. The lease prefix code and lease number.

2. The specific month and year.

3. The product code (01, 02, 03, 04, 41, or 43) used in the reports and payments previously submitted.

4. The volume of exempt oil and/or gas previously reported and the amount of the refund requested.

5. The total amount of refund requested for each lease as a subtotal.

6. The total amount of the refund requested for all leases as a grand total.

Additional instructions in regard to the filing and contents of said applications may be obtained by contacting the Deputy Conservation Manager having jurisdiction over the lease or leases involved.

[FR Doc. 80-24436 Filed 8-12-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[OR 5546]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 4839 on June 1, 1970, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 10 S. R. 1 E.,
Sec. 31, fractional NW¼NW¼, NE¼NW¼, and N½NE¼.

The area described contains 158.44 acres in Linn County, Oregon.

The purpose of the withdrawal is to protect the public recreation and scientific study values within the Rogers Mountain Petrified Wood Area. The land is currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before September 22, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proosed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 22, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 4, 1980.

Harold A Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-24461 Filed 8-12-80; 8:45 am]

BILLING CODE 4310-84-M

[OR 8754]

Oregon; Proposed Continuation of Withdrawl

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 5229 on July 14, 1972, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 15 S., R. 1 W.,
Sec. 29, W½SW¼SW¼;
Sec. 30, S½SW¼NE¼, N½SE¼, NE¼SW¼SE¼, and SE¼SE¼;
Sec. 31, E½E½NE¼, and NW¼NE¼NE¼;
Sec. 32, W½W½NW¼.

The area described contains 260 acres in Lane County, Oregon.

The purpose of the withdrawl is to protect the recreational values within the Shotgun Recreation Site. The land is currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before September 22, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawl continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 22, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final dtermination on the contiunation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 4, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-24462 Filed 8-12-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-122]

Motor Carriers; Intercorporate Hauling; Discontinuance of Proposed Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinuance of proposed policy statement.

SUMMARY: The Commission is discontinuing its consideration of a Proposed Policy Statement on compensated intercorporate hauling (44 FR 42838, July 20, 1979). The Commission takes this action because Congress preempted the subject in the Motor Carrier Act of 1980.

DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT:
Melvin B. Werner (202) 275–7987;
or
Edward E. Guthrie (202) 275–7691.

SUPPLEMENTARY INFORMATION: This proceeding was initiated by a notice served on July 16, 1979, and published at 44 FR 42838, July 20, 1979.

The notice incorporated a staff report entitled "Evaluation of Intercorporate Hauling Regulation," dated May 1979. The report found a need to modify or eliminate existing restrictions against compensated intercorporate hauling (CIH) operations. The notice proposed to authorize these operations where parent-subsidiary ownership is at a level of 80 percent or greater. General regulatory power given to the Commission in 49 U.S.C. 10321(a) formed the basis for the proposal.

Public comments were requested, and the Commission, after considering the comments, determined that action should be withheld pending Congressional action on proposed motor carrier reform legislation. Section 9 of the Motor Carrier Act of 1980 (Pub. L. 96–296, 94 Stat. 793) specificially addresses the area of CIH operations. It amends 49 U.S.C 10524 by enabling companies to intiate CIH operations where there exists 100-percent ownership of a subsidiary by a parent corporation, subject to certain notice requirements. The legislation has definitively resolved the matters considered in this proceeding and effectively preempts Commission action in the area.

The Motor Carrier Act of 1980 imposes certain conditions on CIH operations. By notice served July 2, 1980, in Ex Parte No. MC–122 (Sub-No. 1), *Implementation of Intercorporate Hauling Reform Legislation*, 45 FR 45526

(July 3, 1980), the Commission adopted interim procedures under which compliance may be made with Section 9 of the Motor Carrier Act of 1980, and requested comments on their suitability as final rules. Given the preemption of the area under consideration in the lead proceeding in this docket and the Commission's implementation of legislation in that regard, no further action is necessary or proper in this proceeding. Accordingly, it is discontinued.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

Decided: August 6, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners, Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24414 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 175]

Permanent Authority Applications; Decision-Notice

Decided: April 23, 1980.

Correction

In FR Doc. 80-14844, appearing at page 32127 in the issue of Thursday, May 15, 1980, on page 32130, first column, first complete paragraph starting MC 107002 (Sub-577F), Applicant: Miller Transporters, Inc., line 10, "VA." should be corrected to read: "WA."

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-14162 appearing at page 30723 in the issue of Friday, May 9, 1980, on page 30725, first column, line 18, "Omah" should be corrected to read "Omaha".

BILLING CODE 1505-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carrier

Decided: July 28, 1980.

Casket Distributers, Inc. (MC-135152), lessor, has filed an application for approval of contract carrier rental contract No. 4-8015 with National Casket Co., of Lancaster, KY, lessee, under Paragraph (d) of Section 1057.41 of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057).

Findings:

1. Applicant prior to filing the application had converted to a common carrier.

2. Paragraph (d) of Section 1057.41 authorizes only contract carriers to lease equipment to shippers with Commission approval. Common carriers are not authorized to do so.

It is ordered:

1. The application for approval for contract carrier rental contract No. 4-8015 is dismissed.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24406 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Liberman not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 58035 (Sub-33F), filed July 28, 1980. Applicant: TRANS-WESTERN EXPRESS, LTD., 5231 Monroe Street, Denver, CO 80216. Representative: David E. Driggers, Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 106594 (Sub-6F), filed July 28, 1980. Applicant: KIRKPATRICK TRUCKING CO., a corporation, 11317 Route 1 North, Harvard, IL 60033. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. government, between points in the U.S.

MC 130974F, filed July 21, 1980. Applicant: DAVID E. McCABE, Route 1 By-Pass, P.O. Box 402, Kittery, ME 03409. Representative: (same as applicant). As a *broker*, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 130975F, filed July 25, 1980. Applicant: ROLLAND G. TRUMAN, PETER V. MANNINO, and RANDALL KUTSCHKAU, a partnership, d.b.a. TRANSPORTATION SERVICES, 615 W. 17th Street, Long Beach, CA 90813. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. As a *broker*, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 142835F, (Sub-8F), filed July 28, 1980. Applicant: CARSON MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 145515 (Sub-12F), filed July 23, 1980. Applicant: GREENE'S CARTAGE CO., INC., 1934 Avalon Avenue, Muscle Shoals, AL 35660. Representative: Robert E. Born, 1447 Peachtree Street, N.E., Suite 508, Atlanta, GA 30309. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 151304F, filed July 15, 1980. Applicant: PERCY F. CLARK, P.O. Box 77, Schuyler, VA 22969. Representative: (same as above). Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers*, between points in the U.S., when such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations.

Volume No. OP5-005

Decided: August 5, 1980.

By the Commission Review Board No. 3, members Parker, Fortier, and Hill.

MC 135598 (Sub-44F), filed July 31, 1980. Applicant: SHARKEY TRANSPORTATION, INC., 4 Valley View Drive, Burlington, IA 52601. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 151346F, filed July 23, 1980. Applicant: J. D. TRANSPORTS, INC., P.O. Box 179, Memphis, TN 38101. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP1-006

Decided: July 30, 1980.

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill.

MC 59150 (Sub-182F), filed July 23, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in KS, OK, TX, MO, AR, LA, IL, IN, OH, PA, NY, NJ, DE, MD, WV, VA, KY, TN, NC, SC, MS, AL, GA, FL, and DC.

Note.—Issuance of a certificate in this proceeding shall cancel MC 59150 and Subs 8, 9, 13, 14, 15, 16, 17, 21, 23, 24, 25, 26, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 53, 54, 55, 58, 63, 66, 67, 70, 71, 73, 75, 76, 79, 80, 82, 85, 86, 87, 88, 89, 90, 92, 95, 96, 97, 100, 103, 105, 106, 107, 109, 110, 112, 113, 114, 115, 117, 118, 119, 120, 121, 122, 123, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 151, 152, 153, 154, 156, 157, 158, 160, 161, 162, 165, 166, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, and 180, and all gateway elimination "E" authorities MC 59150 Sub. E-1 through E-47.

MC 95540 (Sub-1166F), filed July 23, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, and TN.

MC 133591 (Sub-110F), filed July 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. Transporting (1) *bakery goods and snack foods*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between Portland, OR, Santa Fe Springs and Oakland, CA, Kansas City, KS, and Columbus, GA, on the one hand, and, on the other, points in AR, MO, LA, TX, OK, CO, KS, UT, AZ, NM, CA, WA, and OR.

MC 135861 (Sub-83F), filed July 28, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 144140 (Sub-53F), filed July 28, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and comodities in bulk), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 149170 (Sub-16F), filed July 25, 1980. Applicant: ACTION CARRIER, INC., 100 East 41st Street, Sioux Falls SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting *alcoholic beverages and mixes* (except in bulk), between points in SD, on the one hand, and, on the other, points in CA, MN, PA, KY, IL, TN, OH, and NY. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file and application for approval of common control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4-008

Decided: July 28, 1980.

By the Commission, Review Board No. 2, Members—Chandler, Eaton, and Liberman.

MC 150496 (Sub-1F), filed July 14, 1980. Applicant: P.A.M. TRANSPORT,

INC., P.O. Box 188, Tontitown, AR 72770. Representative: Barry Weintraub, Suite 800, 6133 Leesburg Pike, Vienna, VA 22180. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP2–011

Decided: August 5, 1980.

By the Commission Review Board No. 1, members—Carleton, Joyce, and Jones.

MC 143803 (Sub-1F), filed July 23, 1980. Applicant: CONSOLIDATED DISTRIBUTING COMPANY, INC., 750 South Main St., Tooele, UT 84074. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *shipments* weighing 100 pounds or less, if, transported in a motor vehicle in which no one package exceeds 100 pounds, between points in WA, OR, CA, ID, NV, UT, AZ, MT, WY, CO, NM and TX.

MC 143803 (Sub-2F), filed July 23, 1980. Applicant: CONSOLIDATED DISTRIBUTING COMPANY, INC., 750 South Main St., Tooele, UT 84074. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 144912 (Sub-6F), filed July 28, 1980. Applicant: LEON R. GOLDSMITH d.b.a. TERMINAL MOTOR EXPRESS, 1711 East 15th St., Los Angeles, CA 90021. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Vol. No. OP2–014

Decided: August 6, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 151303F, filed July 31, 1980. Applicant: GEORGE W. SMYTH, JR., COMPANY, 1101 Ritchie Rd., Capitol Heights, MD 20027. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

[FR Doc. 80-24409 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application, must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (September 29, 1980) (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 105808 (Sub-11F), filed July 23, 1980. Applicant: PLYMOUTH ROCK TRANSPORTATION CORPORATION, 1230 Massachusetts Avenue, Boston, MA 02125. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) over regular routes, serving all points in RI as off-route points in connection with carrier's otherwise authorized regular-route operations, and (2) over irregular routes, between points in MA and RI, on the one hand, and, on the other, points in NJ and PA.

Note.—Applicant currently holds authority to serve all points in RI (except points in Washington County and those points in Kent County, RI, west of RI Hwy 102), and points in Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Union, and Warren Counties, NJ. By this application applicant seeks to provide single-line service in substitution of joint/line service.

MC 107839 (Sub-192F), filed July 28, 1980. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Ave., Denver, CO 90216. Representative: David E. Driggers, Suite 10, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Finney County, KS, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, and TN.

MC 110098 (Sub-187F), filed July 25, 1980. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road (Box 20380), San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). Transporting *meats, meat products and meat by-products and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, on the one hand, and, on the other, those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA (except AK and HI).

MC 117119 (Sub-829F), filed July 28, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). Transporting *meat, meat products, meat by-products, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in the U.S.

MC 119789 (Sub-709F), filed July 24, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). *Meat, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S. (except AK and HI).

MC 121568 (Sub-43F), filed July 21, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, TN, and Texarkana, TX: from Memphis over Interstate Hwy 40 to junction Interstate Hwy 30, then over Interstate Hwy 30 to Texarkana, and return over the same route, serving all intermediate points, (2) between Memphis, TN, and Jonesboro, AR, over U.S. Hwy 63, serving all intermediate points; and (3) serving those points in AR on and north of U.S. Hwy 70 as off-route points in connection with applicant's existing regular-route authority.

MC 138308 (Sub-120F), filed July 24, 1980. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, LA, MS, MT, NV, NM, NC, OK, OR, SC, TN, TX, UT, WA and WY.

MC 138328 (Sub-120F), filed July 28, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). *General commodities* (except commodities in bulk, those requiring special equipment, commodities of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in the United States, restricted to traffic originating at or destined to the facilities used by Ardan, Inc.

MC 140829 (Sub-369F), filed July 28, 1980. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 145818 (Sub-2F), filed July 24, 1980. Applicant: AMERICAN TRANSPORT, INC., 4915 N. Lincoln Blvd., Oklahoma City, OK 73105. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., Oklahoma City, OK 73106. Transporting (1) *farm grain bins, buildings, aeration equipment, and auguring equipment,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in SD, ND, IA, MN, WI, IL, IN, MO, AR, LA, TX, OK, KS, NE, NM, CO, WY, and MT, under continuing contract(s) with Agra Sun Systems, Inc., and Wholesale Farm Supply, both of Oklahoma City, OK, and Conrad-American, Inc., of Houghton, IA.

MC 150148 (Sub-1F), filed July 23, 1980. Applicant: KANAWHA CARTAGE COMPANY, a corporation, 85 East Gay Street, Columbus, OH 43215. Representative: Homer W. Hanna, Jr., 1510 Kanawha Boulevard East, P.O. Box 2311, Charlestown, WV 25328. Transporting *alcoholic beverages,* and *equipment and supplies* used by alcoholic beverage control stores and agencies, between Charlestown, WV, on the one hand, and, on the other points in WV, under continuing contract(s) with the West Virginia Alcohol Beverage Control Commission, of Charlestown, WV.

Volume No. OP3–005

Decided: August 1, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton and Liberman.

MC 9325 (Sub-81F), filed July 29, 1980. Applicant: K LINES, INC., P.O. Box 1549, Lake Oswego, OR 97034. Representative: John A. Anderson, 200 SW Market St., Suite 1440, Portland, OR 97225. Transporting *bulk commodities,* between points in ID, OR, and WA, and (2) between points in ID, OR, and WA, on the one hand, and, on the other, points in CA, NV, and MT.

MC 15975 (Sub-30F), filed July 25, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting *alcoholic beverages,* from Elizabeth, NJ, to points in the U.S. (except AK and HI).

MC 30844 (Sub-693F), filed July 24, 1980. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Stricker, P.O. Box 5000, Waterloo, IA 50704. Transporting *meats, meat products and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MC.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AL, FL, GA, MS, NC, SC, TN, and DC.

MC 65475 (Sub-39F), filed July 25, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexander, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *fabricated steel and equipment, materials, and supplies used in the manufacture of fabricated steel,* between the facilities of Standard Building Systems, Inc., at or near Point of Rocks, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 94265 (Sub-359F), filed July 29, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA

30328. Transporting *foodstuffs*, from Memphis, TN, to points in AL, DE, FL, GA, MD, NJ, NY, NC, PA, VA, WV, and DC.

MC 114015 (Sub-31F), filed July 29, 1980. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, 2 World Trace Center, Suite 1832, New York, NY 10048. Transporting (1) *iron and steel articles*, and (2) *materials, supplies and equipment* used in the manufacture, distribution and sale of iron and steel articles, between points in the U.S., under continuing contract(s) with Raritan River Steel Company of Perth Amboy, NJ.

MC 117644 (Sub-56F), filed July 24, 1980. Applicant: D & T TRUCKING CO., INC., 498 First Street N.W., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in the U.S. in and east of ND, SD, NE, KS, AR, and LA, under continuing contract(s) with Armour and Company, Phoenix, AZ.

MC 121664 (Sub-123F), filed July 30, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Ave., South, Birmingham, AL 35233. Transporting (1) *forest products, lumber, wood products, insulation board, insulation sheets, gypsum wallboard, and veneer*, and (2) *materials, equipment and supplies* used in the production and distribution of the commodities in (1) above, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 138104 (Sub-99F), filed July 28, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting *hides*, from points in Finney County, KS, to points in the U.S.

MC 140024 (Sub-99F), filed July 25, 1980. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Don L. Bryce (same address as applicant). Transporting *meats, meat products, meat byproducts*, and *articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 143255 (Sub-5F), filed July 30, 1980. Applicant: R&D TRANSPORTATION CORPORATION, P.O. Box 1908, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309. Transporting (1) *pumps* and *accessories* for pumps; and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Hellstar Corporation, at or near Wahoo, NE, on the one hand, and, on the other, points in the U.S. (except HI).

MC 144115 (Sub-3F), filed July 28, 1980. Applicant: DIVERSIFIED CARRIERS, INC., 903—6th St., N.W., Rochester, MN 55901. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *meats, meat products, meat byproducts*, and *articles distributed by meat packing houses*, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, IL, IN, IA; KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, AZ, CO, CA, ID, MT, NV, NM, OR, UT, WA, WY, and DC.

MC 146995 (Sub-3F), filed July 28, 1980. Applicant: WINEBRENNER TRANSFER, INC., 315 Woodhaven Drive, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. Transporting *steel bars*, from Cumberland, MD, to points in PA.

MC 149234 (Sub-2F), filed July 25, 1980. Applicant: RIVER VALLEY OIL CO., INC., Box 526, Spring Green, WI 53588. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting (1) *glass and insulated glass units*, and (2) *parts and accessories* for the commodities in (1) above, to points in IN, KY, NE, and TN.

MC 150274F, filed July 18, 1980. Applicant: SUPERIOR TRANSFER, INC., 2669 Merchant Drive, Baltimore, MD 21230. Representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Streamline Shippers Association, Inc., of Los Angeles, CA.

MC 151305F, filed July 14, 1980. Applicant: W. S. McMILLEN TRUCKING CO., INC., 2211 Shades Crest Road, Huntsville, AL 35801. Representative: W. S. McMILLEN (same address as applicant). Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption*, between points in TX, AR, LA, TN, AL, MS, and FL, on the one hand, and, on the other, MA, CT, RI, NY, NJ, VA, ME, MD, DE, CA, and AZ.

MC 151324 (Sub-1F), filed July 23, 1980. Applicant: ALAN H. KRAMER, 2525 N.E. Stephens, Apt. No. 4, Roseburg, OR 97470. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *paper and paper articles*, and (2) *materials, supplies and equipment* used in the manufacture and distribution of paper and paper articles, between the facilities of International Paper Company in Douglas County, OR, on the one hand, and, on the other, points in CA.

Volume No. OP2–006

Decided: August 1, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce and Jones.

MC 107162 (Sub-72F), filed July 25, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 Pinckney St., M, Madison, WI 53703. Transporting *iron and steel articles*, from points in Whiteside County, IL, to points in WI and MI.

MC 145102 (Sub-67F), filed July 28, 1980. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting *cheese and cheese products*, from points in IL, IA, MO, and WI, to points in IN, OK, and TX.

MC 147002 (Sub-2F), filed July 28, 1980. Applicant: BELUGA TRUCKING, INC., 1110 West Sixth Ave., Suite 208, Anchorage, AK 99501. Representative: Carol Johnson, 1127 West Seventh Ave., Anchorage, AK 99501. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) C. R. Lewis Co., Inc., (b) Maynard R. Smith, and (c) E. J. Bartells Co., all of Anchorage, AK.

MC 151352F, filed July 22, 1980. Applicant: E. L. M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 35801. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. Transporting *general commodities* (except household goods as defined by the Commission and Classes A & B explosives), between points in Lee County, AL, on the one hand, and, on the other, points in the U.S.

MC 151382F, filed July 25, 1980. Applicant: LAND TRUCKING COMPANY, a corporation, 1560 Jessie St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Transporting *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in FL, restricted to traffic having a prior or subsequent movement by rail or water, and (2) between the facilities of Land Trucking Company, Land Warehouse Company, Laney & Duke Terminal Warehouse Company, Inc, and Laney & Duke Distribution Center, Inc., at or near Tampa, Miami, and Jacksonville, FL, on the one hand, and, on the other, points in FL.

Volume No. OP5–006

Decided: August 5, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill.

MC 22988 (Sub-19F), filed July 28, 1980. Applicant: K. G. MOORE, INC., 9 Park Avenue, Hudson, NH 03051. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Transporting (1) *telephone equipment*, and (2) *materials and supplies used in the construction and maintenance of telephone systems*, (a) between Watertown, MA and Orange, CT, on the one hand, and, on the other, Bridgeport, WV, and (b) between Southboro and Watertown, MA, on the one hand, and, on the other, points in VT.

MC 52709 (Sub-397F), filed July 31, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Dodge County, WI, on the one hand, and, on the other, points in Douglas and Sarpy Counties, NE and Denver County, CO.

MC 110098 (Sub-188F), filed July 30, 1980. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Rd., P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). Transporting (1) *paint and paint products* and (2) *plastic articles*, (except commodities in bulk), between points in Orange County, CA, Sedgwick County, KS, and Tulsa County, OK on the one hand, and, on the other, points in AZ, NM, TX, OK, AR, and LA.

MC 113678 (Sub-888F), filed July 28, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 116519 (Sub-87F), filed July 30, 1980. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, N.W., Washington, DC 20005. Transporting *glass containers*, from the ports of entry on the international boundary line between the U.S. and Canada at points in MI, NY, VT, NH, and ME, to points in the U.S. (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY), restricted to traffic moving in foreign commerce.

MC 118089 (Sub–44F), filed July 30, 1980. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting: *Meats, meat products, and meat byproducts, and articles distributed by meatpacking houses* as described in Sections A & C of Appendix I, to the report *in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to ponts in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, and TN.

MC 119988 (Sub-263F), filed July 28, 1980. Applicant: GREAT WESTERN TRUCKING, CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *drugs, pharmaceuticals*, and *medical equipment* (except commodities in bulk), between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to the facilities used by Alcon Labs, Inc., and its subsidiaries.

MC 119988 (Sub-264F), filed July 31, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting (1) *television sets, radios, stereos, tape recorders, record players, antennas and electronic equipment* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in Henderson County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124988 (Sub-14F), filed July 30, 1980. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Transporting *aluminum granules* (except in bulk) between points in the U.S., under continuing contract(s) with U.S. By-products Corp. of Kansas City, MO.

MC 136818 (Sub-112F), filed July 28, 1980. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 325 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, and TN.

MC 138328 (Sub-121F), filed July 28, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, foodstuffs, household goods, commodities in bulk, and those requiring special equipment), between the facilities of Herschel Corporation at Indianola, IA, Minneapolis, MN, Dallas, TX, Indianapolis, IN, and Harrisburg, PA, on the one hand, and, on the other, points in the U.S.

MC 140768 (Sub-48F), filed July 31, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *computer terminals, hardware, assemblies, sub assemblies, and parts and supplies* used in the manufacture of computer terminals, assemblies and keyboards, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, New York, NY and points in Middlesex, Somerset and Hunterdon Counties, NJ.

MC 148389 (Sub-2F), filed July 31, 1980. Applicant: MILBAX TRUCKING, INC., P.O. Box 1124, Aurora, IL 60507. Representative: Paul J. Maton, Ten S. LaSalle St., Suite 1620, Chicago, IL 60603. Transporting (1) *Metal cutting fluids and soaps* and (2) *materials and supplies* used in the manufacture of the commodities in (1) between St. Charles, IL, on the one hand, and, on the other, points in CA, CO, TX, OK, LA, NY, NJ, VA, NC, GA, PA, OH, KY, MI, MO, WI and MN.

MC 151239 (Sub-1F), filed July 23, 1980. Applicant: HILL LEASING CORPORATION, 76 Sellers Rd., Kearney, NJ 07032. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106. Transporting (1) *such commodities* as are dealt in or distributed by pharmaceutical houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (except commodities in bulk), between points in the U.S., under continuing contract(s) with Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich, of Norwich, NY.

MC 151399F, filed July 29, 1980. Applicant: CENTRAL VERMONT TRANSPORT, INC., d.b.a. TWIN CITY TRANSIT, 136 So. Main St., Barre, VT 05641. Representative: Ronald F. Larivee (same address as applicant). Transporting *passengers and their baggage*, in charter operations, between points in VT, on the one hand, and, on the other, (a) points in the U.S. east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, and (b) ports of entry on the international boundary line between the U.S. and Canada.

Vol. No. OP1–007

Decided: July 30, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 94901 (Sub-10F), filed July 28, 1980. Applicant: EDDY MESSENGER SERVICE, INC., 4 Warehouse Lane, Elmsford, NY 10523. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 119990 (Sub-11F), filed July 24, 1980. Applicant: MERCHANTS DELIVERY CO., a corporation, 1212 E. 19th St., Kansas City, MO 64108. Representative: David W. Howard, 601 W. 47th St., Kansas City, MO 64112. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, from Wichita, KS, to Kansas City, MO.

MC 133591 (Sub-109F), filed July 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between Ft. Reno, Calumet, Seary, Hydro, Weatherford, Ralph, Ford, Sarye, Canute, Elk City, Hext, Erick, Gotebo, Mountain View, Carnegie, Ft. Cobb, Wakita, Verden, Stecker, Apachee, Richards, Geronimo, Walters, Temple, Hastings, Homestead, Hitchcock, Bucher, Watonga, Greenfield, Geary, Warren, Ringwood, Meno, Lahoma, Garber and Alcorn, OK; S. Dodge, Ford, Wilbwads, Munden, Stuttgart, Prairie View, Clavert, Norton, Clayton, Jennings, Drisden, Selden, Rexford, Brenton, Gem, Caruso, Ruleton, Kanorado, Atchinson, and Goodland, KS; Texola, Benonine, Norrick, Shamrock, Ramsdell, Whited, McLean, Rockledge, Jericho, Boydston, Groom, Lark, Conway, Yarnal, Royal, Soncy, Bushland, Wildorado, Everett, Vega, Landergin, Adrian, Gruhlkey, Boise and Glenerio, TX; Lillie, Bernice, Dubach, Vienna, Ansley, Tonnehill, Dodson, Hunt, Jonesboro and L & A Jct., LA; Endee, Bard, San Jon and Lesbia, NM; Geneso, Athinson, Annauan, Mineral, Sheffield, Tishila, De Pue and Tinely Park, Illinois; Harbine, Plymouth, Clatonia, Hallman, Martell, Rockeby, Prairie Home, Murdock, Louisville and Albright, NE; Kenmoor, Clarksdale, Jamesport and Corburn, MO; Peconie, Burlington, Bethane, Straton, Vona, Seibert, Flagler, Ariba, Bovina, Genoa, Resolus, Matheron, Simla, Ramah, Calham, Peyton, Falcon, Shirely and Elsmere, CO; Hancock, Atlantic, Anita, Adair, Casey, Menlo, Stuart, Colfax, Kellog, Malcom, Brooklyn, Victor, Homestead, Center, Thompson, Hayfield Jct., Dows, Rowan, Prairer City, Monroe, Pella, Melcher, Douds, Mt. Zion, Bonaparte, Farmington, Croton, Belfast, Prairi, Brighton, S. Washington, Ainsworth, Columbus Jct., Linwood, Bureau, Putman, Carlisle, Indianola, Winear, Winterset, Bragton, Atlantic, Exira, Audubon, Avoca, Hancock Jct., Oakland, Titonka, Woodin, Crystal Lake, Moneta, Royal, Rossie, Lawrens, Wares, Pocahontas, Westview, Lin, Wellsburg, Holland, Grundry Center, Traer, Dysart, Garrison, Vinton Oxford, Shellsbury, Lismore, Wilmont, Reading, Round Lake, Rockford, Gune, La Porte City, Shellrock, Waverly Jct., Armstrong, Conger, Swea City, Lakota, Rake and Walters, IA, on the one hand, and, on the other, points in the U.S.

MC 141320 (Sub-4F), filed July 28, 1980. Applicant: UNITED STATES PRIORITY TRANSPORT CORP., Suite 303, 900 Walt Whitman Rd., Huntington Station, NY 11746. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in the U.S.

Vol. No. OP4–007

Decided: August 5, 1980.

By the Commission Review Board No. 1, Members Carleton, Joyce and Jones.

MC 117686 (Sub-285F), filed July 16, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st St., South Sioux City, NE 68776. Representative: George L. Hirschbach (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission, between points in the U.S. (except CT, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, WV, and DC). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of duplicating certificates issued under Docket No. MC 117686.

Vol. No. OP1–008

Decided: August 4, 1980.

By the Commission, Review Board No. 1, Members Carlton, Joyce and Jones.

MC 111310 (Sub-59F), filed July 30, 1980. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI

54615. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *beverages* from Lenexa, KS, Columbus, OH, and Granite City, IL, to points in IA, IL, IN, MI, MN, MO, ND, NE, SD, and WI, and (2) *materials, equipment and supplies* used in the manufacture and distribution of beverages, in the reverse direction.

MC 129600 (Sub-36F), filed July 31, 1980. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant). Transporting *general commodities (except household goods as defined by the Commission, and classes A and B explosives) between points in the U.S., under continuing contract(s) with Caribou Fisheries, Inc., of Gloucester, MA, Boston Bonnie, Inc., of Boston, MA, Central Soya Company, Inc., of Fort Wayne, IN, J. H. Filbert, Inc., of Baltimore, MD, H. P. Hood, Inc., of Charlestown, MA, Iowa Beef Processors, Inc., of Dakota City, NE, Nabisco Confections, Inc., a subsidiary of Nabisco, Inc., of East Hanover, NJ, and Deran Confectionery, a division of Borden, Inc., Howard Johnson Company, and The Schrafft Candy Company, a subsidiary of Gulf & Western Industries, Inc., all of New York, NY.*

Note.—Issuance of a permit in this proceeding shall cancel MC 129600 (Subs-3, 6, 8, 10, 12, 13, 16, 17, 19, 21, 24, 26, 27, 28, and 30).

MC 148541 (Sub-2F), filed July 28, 1980. Applicant: M. P. I. CORPORATION, R.D. 6, Bridgeton, NJ 08302. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *petroleum products*, between points in DE, NJ, NY, and PA.

Vol. No. OP1–009

Decided: August 5, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce and Jones.

MC 13471 (Sub-12F), filed July 28, 1980. Applicant: WILEY'S AUTO EXPRESS INC., Oak Lane and MacDade Blvd., Glenolden, PA 19036. Representative: Fred E. Wiley, Jr. (same address as applicant). Transporting (1) *petroleum products*, in containers, and (2) *such commodities* as are dealt in by service stations (except those in (1) above), between points in the U.S., under continuing contract(s) with Gulf Oil Company, of Pittsburgh, PA.

MC 119741 (Sub-272F), filed July 30, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs*, (1) from Omaha, NE, to Lexington, KY, and (2) from Terre Haute, IN, to Oklahoma City and Tulsa, OK.

MC 123490 (Sub-17F), filed July 28, 1980. Applicant: CHIP CARRIERS, INC., 11216 Elm St., Omaha, NE 68144. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *foodstuffs* (except in bulk), between points in the U.S., under continuing contract(s) with Frito-Lay, Inc., of Dallas, TX.

Note.—Issuance of a certificate in this proceeding shall cancel MC 123490 (Subs-2, 3, 4, 6, 10, 12, 14, and 16).

MC 133591 (Sub-111F), filed July 31, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. Transporting *general commodities* (except classes A and B explosives), between points in LA, AR, MO, IA, MN, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, UT, AZ, NV, ID, WA, OR, and CA.

MC 146451 (Sub-33F), filed July 31, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. Transporting *resin and rosin* (except in bulk), from Pensacola, FL, to Mamaroneck, NY.

Volume No. OP2–010

Decided: August 4, 1980.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 52932 (Sub-34F), filed July 28, 1980. Applicant: NORTH PENN TRANSFER, INC., Box 230, Lansdale, PA 19446. Representative: John W. Frame, Box 626, 2207 Old Gettysbury Rd., Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Philadelphiaa, PA, and Baltimore, MD, on the one hand, and, on the other, points in MD east of the Chesapeake Bay, and those in DE south of the Chesapeake and Delaware Canal.

MC 105632 (Sub-32F), filed July 23, 1980. Applicant: SOUTHERN REGION MOTOR TRANSPORT, INC., 966 Bankhead Ave., Atlanta, GA 30318. Representative: David J. Kaufman, P.O. Box 1808, Washington, DC 20013. Regular routes transporting *general commodities* (except classes A and B explosives, commodites in bulk, in tank vehicles, household goods as defined by the Commission, and those requiring special equipment), in trailers having an immediately prior or subsequent movement by rail between Macon, GA and (1) Swainsboro, GA, over U.S. Hwy. 80, (2) Hazlehurst, GA, over GA Hwy. 247 to junction U.S. Hwy. 341, then over U.S. Hwy. 341 to Hazlehurst, and return over the same routes; (3) Pelham, GA, over U.S. Hwy. 41 to Tifton, GA, then over U.S. Hwy. 319 to Moultrie, GA, then over GA Hwy. 37 to junction GA Hwy. 93, then over GA Hwy. 93 to Pelham, and return over the same route,; (4) Bainbridge, GA over U.S. Hwy. 41 to Tifton, GA, then over GA Hwy 125 to Valdosta, GA, then over U.S. Hwy. 84 to Bainbridge, and return over the same route, and serving all intermediate points in routes (1) through (4) above.

MC 112713 (Sub-308F), filed July 25, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC. P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (address same as applicant). Transporting *meats, meat products, meat byproducts and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the Report in *Descriptions on Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in the U.S.

MC 113362 (Sub-401F), filed July 28, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *petroleum and petroleum products, vehicle body sealer, sound deadner compounds, and filters*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between St. Louis, MO, and points in PA.

MC 118142 (Sub-249F), filed July 24, 1980. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *meats, meat products, meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides). From the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in the U.S.

MC 145773 (Sub-3F), filed July 25, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *foods*, between points in the U.S. under continuing contract(s)

with Westerville Creamery, Division of Beatrice Foods, Inc., of Covington, OH.

MC 146843 (Sub-3F), filed July 28, 1980. Applicant: FRANCES THOMPSON and HAROLD THOMPSON d.b.a. F & H EXPRESS, 4612 Pogue Drive, House Springs, MO 63051. Representative: Joseph E. Rebman, 314 North Broadway, Suite 1330, St. Louis, MO 63102. Transporting *fabricated metal products* (except ordnance, machinery, and transportation equipment), between points in the U.S., under continuing contract(s) with Heads and Threads, Div., MSL Industries, Inc., of Northbrook, IL.

MC 149452F, filed July 28, 1980. Applicant: GILLILAND TRANSFER CO., a corporation, 7180 West 48th St., Fremont, MI 49412. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Gerber Products Company, of Fremont, MI.

Volume No. OP2-013

Decided: August 6, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 151423F, filed July 30, 1980. Applicant: KENGRAPHIC INTERIORS, INC., 1011 Lake Rd., Medina, OH 44256. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting (1) *Interior Designs, advertising displays and* (2) *materials, equipment and supplies* used in the manufacturing and shipping of interior designs and advertising displays between points in the U.S., under continuing contract(s) with Kengraphics, Inc., of Medina, OH.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24409 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 200 (Sub-457F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *aluminum, steel, and vinyl siding,* and *materials, equipment and supplies* used in the distribution and installation of the foregoing commodities (except commodities in bulk), (1) from the facilities of Wolverine Aluminum, at or near Jackson, MI, to points in NC, ND, NH, SC, SD, TN, and UT, restricted to traffic originating at the named origin and destined to the indicated destinations, and (2) serving Jackson, MI, as an off-route point in connection with carrier's regular-route authority.

MC 200 (Sub-458F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *starch* (except in bulk), from Kansas City, MO, to Hanover, PA, restricted to traffic originating at the named origin and destined to the indicated destination.

MC 200 (Sub-459F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *toilet preparations,* from the facilities of Vi-Jon Laboratories, Inc., at or near San Leandro, CA, to points in NV, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 200 (Sub-460F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *clothing,* from points in CA to Cleveland, OH, and Fall River, MA, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 200 (Sub-461F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *data processing devices, duplicating equipment, copying equipment,* and *materials and supplies* used in the manufacture and distribution of all the foregoing commodities, from the facilities of A. B. Dick Co., at or near Manchester, NH, to Niles, IL, restricted to traffic originating at the named origin and destined to the indicated destination.

MC 200 (Sub-462F), filed June 18, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *iron and steel nuts, bolts, and washers,* between the facilities of Sterling Bolt Co., at or near Dallas and Houston, TX, Tulsa, OK, and Omaha, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at and destined to the indicated points.

MC 200 (Sub-463F), filed June 19, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *plastic sheet and plate,* from the facilities of Impact Extrusions, at or near Grand Prairie, TX, to the facilities of Triangle Plastics at or near Winthrop, IA, restricted to traffic originating at the named origin and destined to the indicated destination.

MC 200 (Sub-464F), filed June 19, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Riegel Textile at or near Maryville, MO, as an off-route point in connection with applicant's regular-route authority, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 200 (Sub-465F), filed June 23, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Colgate-Palmolive Corp., at Jeffersonville, IN, to Atlanta, GA, New Orleans, LA, Memphis, TN, Birmingham, AL, Jacksonville, FL, Greenville, SC, and Raleigh, NC, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 200 (Sub-466F), filed June 23, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses, between the facilities of Safeway Stores, at or near Dallas and Denison, TX, and Chester and Richmond, VA, restricted to traffic originating at and destined to the indicated destinations.

MC 200 (Sub-467F), filed June 23, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *rubber hose,* between the facilities of Uniroyal, Inc., at or near Red Oak, IA, and Maryville, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at and destined to the indicated points.

MC 531 (Sub-447F), filed April 18, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *liquid, petroleum and petroleum products* in bulk, in tank vehicles, from the facilities of Exxon Company, U.S.A. at or near Baton Rouge, LA, to points in the U.S. (except AK and HI).

MC 531 (Sub-448F), filed April 18, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank truck vehicles, from the facilities of Reichhold Chemical Company at Tuscaloosa, AL, to points in the U.S. (except AK and Hi).

MC 531 (Sub-450F), filed June 23, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *liquid chemicals,* (except cryogenics), in bulk,

in tank vehicles, from Troy, MI, to points in CA, OR, and WA.

MC 2960 (Sub-40F), filed June 19, 1980. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Dallas, TX, on the one hand, and, on the other, points in TX, restricted to traffic moving in foreign commerce.

MC 9291 (Sub-15F), filed May 6, 1980. Applicant: CARROL BALL TRANSPORT, INC., 312 E. Market, Centerville, KS 66014. Representative: Clyde N. Christey, Ks Credit Union Bldg, 1010 Tyler, Suite Suite 110L, Topeka, KS 66612. Transporting *iron and steel articles and mechanical tubing,* from the facilities of Maverick Tube Corp, at or near Union, MO, to points in IA, KS, NE, AR, OK and TX.

MC 9291 (Sub-16F), filed May 6, 1980. Applicant: CARROL BALL TRANSPORT, INC., 312 E. Market, Centerville, KS 66014. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler Suite 110L, Topeka, KS 66612. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), between the facilities of Hoover Universal, Inc., Beverage Bottling Div., at or near Lenexa, KS, on the one hand, and, on the other, points in OK and NE.

MC 11220 (Sub-211F), filed May 18, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *iron and steel articles* from Dover, OH, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, OK, PA, SC, TN, TX, WI, and WV.

MC 17000 (Sub-24F), filed June 18, 1980. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *automotive parts and commodities* used in the manufacture and distribution of automotive parts, between Linden, TN, on the one hand, and, on the other, points in NY and IN.

MC 19201 (Sub-139F), filed June 23, 1980. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th St. and Parkside Ave., Philadelphia, PA 19131. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cleveland, Columbus, and Toledo, OH, Detroit, MI, St. Louis, MO, Chicago, IL, Elkhart and Indianapolis, IN, and Louisville, KY, on the one hand, and, on the other, points in IL, IN, KY, and the Lower Peninsula of MI, OH, those points in PA on the west of U.S. Hwy 15, and WV, and (2) between Cincinnati, OH, on the one hand, and, on the other, points in IL, the Lower Peninsula of MI, OH, those in PA on and west of U.S. Hwy 15, and WV, restricted in (1) and (2) to traffic having a prior or subsequent movement by rail or water.

MC 29910 (Sub-266F), filed June 19, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Jacobsen Textron at or near Prentiss, MS, as an off-route point in connection with applicant's otherwise authorized regular-route operations.

MC 29910 (Sub-267F), filed June 19, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *lumber, lumber products,* and *wood products,* from Navajo, MN, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Navajo Forest Products Industries.

MC 29910 (Sub-268F), filed June 23, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Huffy Corporation, at or near Ponca City, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Huffy Corporation.

MC 29910 (Sub-269F), filed June 17, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Houma and Thibodaux, LA, as off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant intends to tack the sought rights to its existing regular route authority.

MC 47171 (Sub-168F), filed April 18, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *general commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commdities in bulk, and those requiring special equipment), between the facilities of Richardson Company at points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 52460 (Sub-279F), filed May 5, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 West 35th St., Tulsa, OK 74107. Representative: Michael A. Calvert (same address as applicant). Transporting *foodstuffs,* except in bulk, from the facilities of McIhenny Company at or near Avery Island, and Collinsville, IL, to points in AL, AR, CO, FL, GA, IL, IA, KS, LA, MS, MO, NM, NC, OK, SC, TN, and TX.

MC 64600 (Sub-58F), filed June 18, 1980. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer, Fishersville, VA 22939. Representative: William J. Jones (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Westminster, MD, as an off-route point in connection with carrier's otherwise authorized regular routes between Washington, DC and Baltimore, MD.

Note.—Applicant intends to tack the sought rights to its existing authority.

MC 75281 (Sub-19F), filed May 6, 1980. Applicant: BOOTHEEL TRANSPORTATION COMPANY, P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA. 30326. Transporting *paper and paper products,* from the facilities of Westvaco Corporation, at or near Wickliffe, KY, to points in FL, GA, NC, SC, MD and DC.

MC 75281 (Sub-20F), filed May 6, 1980. Applicant: BOOTHEEL TRANSPORTATION COMPANY, P.O. Box 511, Sikeston, MO 63801. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA. 30326. Transporting *carpet land rug pads, padding and cushioning, and materials, equipment and supplies used in the manufacture and installation of the foregoing commodities,* from the facilities of Ludlow Corporation at or near Cape Girardeau, MO, to points in FL.

MC 80430 (Sub-180F), filed June 23, 1980. Applicant: GATEWAY TRANSPORTATION CO., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Bloomer Plastics, Inc., at Bloomer, WI, as an off-route point in connection with carrier's otherwise authorized regular route operations from or to Eau Claire, WI.

Note.—Applicant intends to tack the sought rights to its existing authority.

MC 82841 (Sub-290F), filed June 23, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting *lumber, plywood* and *lumber products,* from Greenville and Madison, GA, to points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 105350 (Sub-30F), filed April 18, 1980. Applicant: NORTH PARK TRANSPORTATION CO., 5150 Columbine Street, Denver, CO 80216. Representative: Leslie R. Kehl, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center, 1600 Lincoln, Denver, Co 80264. Transportating *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Green River, WY, and the junction of I–80 with the WY–UT State line near Evanston, WY, over Interstate Hwy 80, serving all intermediate points and off route points located in Uinta, Sweetwater and Lincoln Counties, WY.

MC 106400 (Sub-126F), filed May 5, 1980. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8525, Sugar Creek, MO 64054. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Transporting *crude oil,* from points in Johnson and Franklin Counties, KS, to ARCO Pipeline Terminal at or near Humboldt, KS.

MC 110420 (Sub-850F), filed May 5, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Rd., P.O. Box 1000, Lake Bluff, IL 60044. Representative: John E. Sims, Jr., Goff, Sims, Cloud, Stroud, Shepherd & Walker, 915 Pennsylvania Building, 425 13th Street, NW, Washington, DC 20004. Transporting *chemcials, and materials and supplies used in the manufacture of chemicals,* in bulk, in tank vehicles, between Burlington, IA, Chatham, VA, Marshall, TX and Saukville, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities of Freeman Chemical Corp.

MC 111231 (Sub-306F), filed May 5, 1980. Applicant: JONES TRUCK LINES, INC., 710 E. Emma Avenue, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *irrigation equipment and supplies, plastic pipe, aluminum pipe, fittings, and equipment and materials* used in the manufacture and distribution of irrigation equipment, from Garden City, KS, and points in York County, NE, to points in the U.S. (except AK and HI).

MC 111231 (Sub-307F), filed June 23, 1980. Applicant: JONES TRUCK LINES, INC., 610 E. Emma, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting *bicycles* and *tricyles* and *accessories* and *equipment, materials and supplies* used in the manufacture, distribution and sale of bicycles and tricycles, between Ponca City, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 111670 (Sub-6F), filed June 19, 1980. Applicant: ABLE TRUCKING CO., INC., 615 Industrial Road, Carlstadt, NJ 07072. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *such merchandise* as is dealt in or used by a shoe retailer, between ponts in NJ, on the one hand, and, on the other, points in CT, DE, NJ, NY and PA.

MC 112801 (Sub-254F), filed June 19, 1980. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting *chemicals,* in bulk, in tank vehicles, from Bayport and Channelview, TX, to points in the U.S. (except AK and HI).

MC 114211 (Sub-465F), filed April 5, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). Transporting (1) *construction equipment, earth moving equipment, and material handling equipment,* and (2) *attachments, accessories, and parts* for the commodities named in (1) above, between points in Baltimore County, MD, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 114211 (Sub-466F), filed April 6, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). Transporting *lumber, lumber mill products, and forest and wood products,* from points in McCurtain County, OK, to points in the U.S. (except AK and HI).

MC 114211 (Sub-469F), filed June 20, 1980. Applicant: WARREN TRANSPORT INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same address as applicant). Transporting *such commodities as are manufactured, dealt in, distributed by, or used by manufacturers, dealers and distributors of agricultural machinery and equipment, fabricated products, heating and cooling machinery and equipment, and metal articles,* between St. Louis Park and Merrifield, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 115181 (Sub-40F), filed June 23, 1980. Applicant: HAROLD M. FELTY, INC., R.D. No. 1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *bakerage,* from Carteret, NJ, to points in Adams, Lancaster and York Counties, PA.

MC 115331 (Sub-544F), filed April 18, 1980. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills

Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, MO 63122. Transporting *such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters and printers of paper and paper products* (except commodities in bulk), between points in Wisconsin, on the one hand, and, on the other, points in KS, OK, TX, LA, AR, MO, IL, MS, AL, TN, KY, IN, OH, PA, and MI.

MC 115331 (Sub-546F), filed June 19, 1980. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: William H. Shawn, Suite 501, 1730 M St., NW., Washington, DC 20036. Transporting *alcoholic liquors, alcohol, alcohol distilled spirits, neutral spirits, brandy, cordials, wine, juices,* and *juice concentrates,* (a) between Bardstown, KY, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, Detroit, MI, Scobeyville, NJ, and Burlingame, CA, (b) between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, Bardstown, KY, and New Orleans, LA, (c) between Silverton, OH, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, Bardstown, KY, New Orleans, LA, and Scobeyville, NY, (d) between ports of entry on the international boundary line between the United States and Mexico located in TX, on the one hand, and, on the other, Fort Smith, AR, (e) between port facilities in NY, PA, NJ, MD, FL, AL, LA, on the one hand, and, on the other, Fort Smith, AR, Silverton, OH, Plainfield, IL, Bardstown, KY, and Scobeyville, NJ, (f) between Roberta, GA, and Auburndale and Lake Alfred, FL, on the one hand, and, on the other, Fort Smith, AR, and (g) between points in CA, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, and Bardstown, KY, restricted in (a), (c), (e), and (f) to the transportation of traffic originating at and destined to the facilities utilized by Hiram Walker & Sons, Inc., and further restricted in (b), (d) and (e) to traffic originating at or destined to the facilities utilized by Hiram Walker & Sons, Inc.

MC 115821 (Sub-52F), filed April 16, 1980. Applicant: BEELMAN TRUCK CO., P.O. Box 93, St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *coke,* in bulk, in dump vehicles, from points in AL, to the facilities of ASARCO, Inc., at Glover, MO.

MC 115841 (Sub-770F), filed June 23, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Rudolph L. Ennis, (same address as applicant). Transporting *liquid and dry plastic materials,* from West Chester, PA, and Linden and Bayonne, NJ, to points in AL, AR, NC, and TN.

MC 116710 (Sub-41F), filed June 20, 1980. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 East Texas Ave., P.O. Box 6176, Bossier City, LA 71010. Representative: Joe T. Lanham, P.O. Box 2165, Austin, TX 78768. *Contract carrier* transporting *petroleum products* (except cryogenics and compressed gases), in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation, at or near Waskom, Center, and Beaumont, TX, to points in AR, FL, GA, IL, KS, LA, MN, MO, MS, NE, NC, OK, SC, TN, TX, and WI, under continuing contract(s) with Mobil Oil Corporation.

MC 117940 (Sub-363F), filed April 18, 1980. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting (1) *such commodities as are dealt in by wholesale and retail grocery stores and food business houses;* and (2) *materials, equipment and supplies* as are used in the operation of wholesale and retail grocery stores and food business houses, between points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 119090 (Sub-11F), filed April 17, 1980. Applicant: THRUWAY FREIGHT LINES, INC., P.O. Box 567, 15 White Lake Road, Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *paper and paper products,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC.

MC 119741 (Sub-265F), filed April 18, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. Transporting *advertising matter, magazines, periodicals, printed matter, and equipment, materials and supplies used in the printing publishing business,* from the facilities of Dayton Press, Inc. at or near Dayton, OH, to points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI.

MC 124141 (Sub-41F), filed April 17, 1980. Applicant: JULIAN MARTIN, INC., Highway 25, P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *malt beverages* from points in Jefferson County, CO, to points in AR, OK and TX.

Note.—Dual operations may be involved.

MC 124141 (Sub-42F), filed April 17, 1980. Applicant: JULIAN MARTIN, INC., Highway 25, P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting (1) *malt beverages* and (2) *materials and supplies* used in the sale and distribution of the commodities in (1), from points in IL, IN and WI to points in AR.

Note.—Dual operations may be involved.

MC 124141 (Sub-43F), filed April 17, 1980. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Highway 25W, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Contract carrier, transporting *meats, meat products, and meat byproducts, and articles distributed* by meat packing houses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TX and WI to Greenville, MS, under continuing contract(s) with Distribuco, Inc., of Denver, CO.

Note.—Dual operations may be involved.

MC 124141 (Sub-44F), filed April 17, 1980. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Highway 25W, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting (1) *household and electric appliances,* (2) *equipment, parts and accessories* for the commodities in (1), from the facilities of the General Electric Co. at Little Rock, AR, to points in LA, MS, NM, OK and TX.

MC 124141 (Sub-45F), filed April 17, 1980. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Highway 25W, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *canned food and frozen fruits and vegetables* from points in Cameron, Hidalgo and Webb Counties, TX, to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NM, NV, OH, OK, TN, WV and WI.

Note.—Dual operations may be involved.

MC 124160 (Sub-38F), filed April 16, 1980. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East, American Fork, UT 84003, Batesville, AR 72501. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Transporting *dry commodities, in bulk,* between points in the U.S. in and west of WI, IL, MO, AR, and LA (except HI).

MC 124160 (Sub-39F), filed April 18, 1980. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East, American Fork, UT 84003, Batesville, AR 72501. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Transporting *sodium sulphate,* from Waterflow, NM, to points in AZ, CO, OK, TX, and UT.

MC 124821 (Sub-96F), filed June 20, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *commodities dealt in or used by manufacturers and distributors of metal cabinets and metal stampings,* between Scranton, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124821 (Sub-97F), filed June 23, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *foodstuffs,* from the facilities of Heinz USA at or near Holland, MI, to points in CT, MA, NJ, NY, and PA, restricted to traffic originating at the named facilities destined to the named points.

MC 127610 (Sub-6F), filed June 19, 1980. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting *rock,* from West Paris, ME, to points in CT, MA, NH, NY, RI, and VT.

MC 134501 (Sub-67F), filed June 19, 1980. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting (1) *furniture,* from points in FL to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, DC, VA, WV, OH, IN, MI, KY, TN, (except Shelby County), NC, SC, GA, AL, MS, LA, AR (except points on, north, and west of a line beginning at Interstate Hwy 40 and the Mississippi River, then along Interstate Hwy 40 to junction Interstate Hwy 30, then along Interstate Hwy 30 to junction AR Hwy 9, then along AR Hwy 9 to junction U.S. Hwy 79, then along U.S. Highway 79 to the AR–LA state-line), IL (except points on and west of U.S. Hwy 51), and TX (except points on, north, and west of a line beginning at the AR–TX state line and Interstate Hwy 20, then along Interstate Hwy 20 to junction Interstate Hwy 35E, then along Interstate Hwy 35E to junction Interstate Hwy 35, then along Interstate Hwy 35 to Waco, then along U.S. Hwy 77 to Victoria, then along U.S. Hwy 87 to the Gulf of Mexico); and (2) *fixtures,* from points in FL to points in the U.S. (except AK and HI).

MC 135070 (Sub-170F), filed June 23, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *insulated copper wire cable,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Schuylkill Haven, PA, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, KS, LA, MO, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

MC 135231 (Sub-45F), filed April 6, 1980. Applicant: NORTH STAR TRANSPORT, Rt. 1, Highway 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities as are manufactured, sold or distributed by persons engaged in the manufacturing, processing or milling of soybeans, soybean products, grain and steel products,* and (2) *materials, supplies and equipment* used in the conduct of such business (except commodities in bulk) between the facilities of Cargill, Inc. and its subsidiaries on the one hand, and, on the other, points in the other, U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Cargill, Inc. or its subsidiaries.

MC 135231 (Sub-48F), filed June 23, 1980. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *paper bags, paper, plastic bags and pouches, plastic sheeting, paper tape, cellulose sheeting, plastic resins, packaging forms, plastic articles and pressure sensitive adhesive paper, cartons, adhesives, starch, cores, latex, scrap paper, woodpulp concentrates, fibre drums and fibreboard* (except commodities in bulk), between the facilities of Bemis Company, Inc., and subsidiary plants at points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Bemis Company, Inc., and its subsidiaries.

MC 135241 (Sub-4F), filed April 18, 1980. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 S.W. Edy Road, Sherwood, OR 97140. Representative: John A. Anderson, Suite 1440–200 S.W. Market St., Portland, OR 97201. Contract carrier, transporting (1) *comodities manufactured by the printing industry,* and (2) *materials, supplies and equipment* used in the manufacture of commodities in (1), between the facilities of Treasure Chest Advertising Company, Inc. at points in OR, WA and CA, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, UT, ID, MT, WY, CO and NM, under continuing contract(s) with Treasure Chest Advertising Co., Inc., of City of Industry, CA.

MC 135861 (Sub-76F), filed April 17, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, Atlanta, GA 30349. Contract carrier, transporting *confectionery, chewing gum, drugs, and toilet preparations,* in vehicles equipped with mechanical refrigeration, in NY, NJ and PA to points in AR, AZ, CA, CO, KS, LA, MO, NM, OK and TX, under continuing contract(s) with Confectionery Consolidators, Inc., A Non-Profit Shippers Association of Rahway, NJ.

MC 136850 (Sub-8F), filed April 17, 1980. Applicant: FOOTE & DAVIES TRANSPORT CO., 3101 McCall Drive, Doraville, GA. 30340. Representative: Frank D. Hall, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Contract carrier, transporting *dated printed matter,* from the facilities utilized by Magazine Shippers Association, Inc., at or near Bridgeport, CT, to points in GA, NC, SC, FL, AL, MS, LA and TN, under continuing contract(s) with Magazine Shippers Association, Inc.

MC 138861 (Sub-20F), filed June 20, 1980. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between railroad ramps, at Bridgeport, North Haven, and Plainfield, CT, Boston, West Springfield, and Worcester, MA, and Pawtucket and Providence, RI, on the one hand, and, on the other, points in ME and NH, and (2) between railroad ramps, at Alexandria, VA, on the one hand, and, on the other, points in MA, ME, CT, NH, and RI, restricted in (1) and (2) to traffic having a prior or subsequent movement by rail.

MC 144041 (Sub-47F), filed June 23, 1980. Applicant: DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *plastic articles*, from Murfreesboro, TN, to points in the U.S. (except AK and HI).

MC 142880 (Sub-13F), filed April 16, 1980. Applicant: SUMTER TIMBER CO., INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting *Lumber*, from Tuscaloosa, AL, to points in MS.

MC 143621 (Sub-50F), filed May 7, 1980. Applicant: TENNESSEE STEEL HAULERS, INC., Post Office Box 5748, Nashville, TN 37208. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *fabricated structural steel* from the facilities of Volunteer Structures, Inc., at Nashville, TN, to points in the U.S. (except AK and HI).

MC 143701 (Sub-25F), filed May 6, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Midsouth Refrigerated Warehouse Company at Memphis, TN, to points in AL, AR, FL, LA, MS, NC, SC and TX.

MC 144821 (Sub-8F), filed May 5, 1980. Applicant: FREEDOM FREIGHTWAYS, INC., P.O. Box 5850, St. Louis, MO 63134. Representative: Raymond W. Ellsworth (same address as applicant). Transporting *confectionery and advertising materials, and supplies and equipment* used in the manufacture, sale and distribution of the foregoing commodities from Chicago, IL, to points in AL, GA, IN, LA, MD, MA, MI, MS, MO, NJ, NY, OH, PA, and TN, restricted to traffic originating at the facilities of Tootsie Roll Industries, Inc.

MC 145150 (Sub-14F), filed May 6, 1980. Applicant: HAYNES TRANSPORT CO. INC. R.R. 2, P.O. Box 9, Salina, KS 67401. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 1101, Topeka, KS 66612. Transporting (1) *fertilizer* (except anhydrous ammonia, from Altus, OK, to points in AR, MO, KS, LA, and Tx. (2) *fertilizer and feed grade urea*, from Pryor, OK, to points in KS, MO, AR, LA and TX, and (3) *fertilizer*, from the Port of Catoosa, OK, to points in KS and MO.

MC 145341 (Sub-8F), filed June 18, 1980. Applicant: NORTH CENTRAL DISTRIBUTING CO., a Corporation, Box 5453 University Station, Fargo, ND 58105. Representative: Richard P. Anderson, 502 First National Bank Bldg., fargo, ND 58126. Transporting *waferboard*, from the facilities of Louisiana-Pacific Corporation, at or near Hayward, WI, to those points in the U.S. in and west of MT, WY, CO, and NM.

MC 145950 (Sub-82F), filed May 6, 1980. Applicant: BAYWOOD TRANSPORT, INC., Route 6, P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *clothing and piecegoods, and materials, equipment and supplies* used in the manufacture, *distribution, and sale of clothing and piecegoods* (except commodities in bulk, in tank vehicles), between Griffin, GA, and Seguin, TX.

MC 145981 (Sub-No. 28F), filed April 17, 1980. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07934. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *chemicals and cleaning compounds* (except commodities in bulk), between points in MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146360 (Sub-23F), filed May 6, 1980. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 4415 Highland Blvd., Suite 107, Oklahoma City, OK 73148. Representative: Timothy R. Strivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. Transporting *such commodities as are dealt in by department, discount and catalog stores, and equipment, materials and supplies used in the conduct of such business*, from Seattle and Tacoma, WA, to Minneapolis, MN, Kansas City, MO, Denver, CO, and Jacksonville, FL, restricted to traffic originating at or destined to the facilities of Modern Merchandising, Inc., and its subsidiary divisional and affiliated companies viz.: LaBelles Distributing, Dolgin's, Jafco, Leeds Holding, Inc., Great Western Distributing, Standard Sales Co., Rogers Distributing, Miller Sales Co.

MC 146440 (Sub-7F), filed March 20, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market St., Everett, MA 02149. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from points in MA, and points in Hillsboro County, NH, to points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NC, ND, NE, NM, NV, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, WV, and WY.

Note.—The purpose of this application is to convert applicant's contract carrier authority to common carrier authority. Issuance of a certificate in this proceeding is conditioned upon the coincidental cancellation of Permits MC–143254, issued November 18, 1977, MC–143254 Sub 1, issued August 17, 1978, MC–143254 Sub 2, issued July 24, 1978, MC–143254 Sub 3F, issued August 2, 1979, and certificate MC–146440F, issued December 17, 1980.

MC 146870 (Sub-2F) filed May 5, 1980. Applicant: C. L. MORTELLO TRUCKING INC., 13 Hagemount Avenue, Hightstown, NJ 08520. Representative: Lorraine L. Mortello, 13 Hagemount Avenue, Hightstown, NJ 08520. Contract Carrier, trasnporting *sugar*, in packages, between the facilities of The National Sugar Refining Co. at Philadelphia, PA, and points in OH, under continuing contract(s) with the National Sugar Refining Co., of Philadelphia, PA.

MC 147820 (Sub-2F), filed May 5, 1980. Applicant: RODGER W. BURRIS, BURRIS TRUCKING, 36789 San Pedro Drive, Fremont, CA 94536. Representative: Rodger W. Burris (same address as applicant). Transporting *Sodium phosphate*, in bulk, from Newark, CA to Salt Lake City, UT.

MC 147900 (Sub-4F), filed June 19, 1980. Applicant: COLLINS WHOLESALE SUPPLY, INC., 4073 Hooker Road, Roseburg, OR 97470. Representative: Kerry D. Montgomery, 400 Pacific Bldg., Portland, OR 97204. Transporting *building materials* (1) from points in CA to points in CA to points in OR, WA, and UT, and (2) from points in OR to points in WA.

MC 147941 (Sub-4F), filed April 18, 1980. Applicant: WAYNE MOLES TRUCKING COMPANY, 1313 Southwest 3rd Street, Oklahoma City, OK 73108. Representative: Wayne Moles (same address as applicant). Contract carrier, transporting *adhesives and paint*, (except in bulk, in tank vehicles), from the facilities of Chemical Products Development Corp. at Oklahoma City, OK, to points in AL, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, MN, MO, MT, NE, NM, NY, NC, OH, OR, PA, SD, TX, UT, VA, WA, WI, and WY, under continuing contract(s) with Chemical Products Development Corp., of Oklahoma City, OK.

MC 148751 (Sub-7F), filed June 19, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *paper and paper products, and materials, equipment and supplies* used in the manufacture and distribution of paper and paper products (except in bulk, in tank vehicles), between points in KY, TN, MN, MO, KS, OH, IN, IL, MI, IA, OK, TX, AR, and WI, restricted to traffic originating at or destined to the facilities of Scott Paper Company.

MC 148751 (Sub-8F), filed June 19, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of glass containers (except commodities in bulk), from AL, CT, DE, FL, GA, IL, IA, KY, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC, to the facilities of Brockway Glass Company, at Lapel, IN.

MC 149180 (Sub-2F), filed May 6, 1980. Applicant: T. G. WEBB CO., P.O. Box 414, Wingate, NC 28174. Representative: W. G. Reese, IL, P.O. Box 3004, Charlotte, NC 28203. Transporting *animal, fish, and poultry feed and feed ingredients* from the facilities of Diamond Shamrock Corp., at or near Louisville, KY, to points in NC and SC.

MC 150201F, filed April 18, 1980. Applicant: SAM F. HARKEY, d.b.a. SAM F. HARKEY TRUCKING, Box 423, Holdenville, OK 74848. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Contract Carrier:* Transporting *bentonite clay* (except in bulk), from the facilities of American Colloid Co., at points in Big Horn, Crook and Weston Counties, WY, and Phillips County, MT, to points in OK and TX, under continuing contract(s) with American Colloid Co., of Skokie, IL.

MC 150211F, filed April 18, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato, Attorney, P.O. Box E, Bowling Green, KY 42101. Transporting *fiberglass materials and products, fibrous glass textile materials and products, plastic materials and products, and materials, supplies, machinery, and equipment*, (except commodities in bulk), used in the manufacture, packing, and installation of all the foregoing commodities, between the facilities of Owens-Corning Fiberglas at or near Jackson, TN, and points in the U.S. east of ND, SD, NE, CO, and NM.

MC 150211 (Sub-1F), filed April 18, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Louis J. Amato, Attorney, P.O. Box E, Bowling Green, KY 42101. Transporting *printed matter and advertising matter*, (1) from the facilities of Hall of Mississippi at or near Corinth, MS, to points in IL, OH, NY, MD, DE, GA, TN, MO, and KS, and (2) *materials and supplies* used in the manufacturing, warehousing, and distribution of the foregoing commodities, frompoints in the U.S. in and east of MN, IA, KS, OK, and TX, to the facilities of Hall of Mississippi at or near Corinth, MS.

MC 150221 (Sub-1F), filed May 6, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier*, transporting (1) *fiberglass materials and products, fibrous glass textile materials and products, and plastic materials and products*, and (2) *materials, supplies, machinery and equipment* used in the manufacture, packing, and installation of the commodities in (1) above (except commodities in bulk), between the facilities of Owens-Corning Fiberglas Corporation at or near Anderson, SC, on the one hand, and, on the other, the facilities of Owens-Corning Fiberglas Corporation at or near Huntingdon, PA, and Ashton, RI, under continuing contract(s) with Owens-Corning Fiberglas Corporation of Toledo, OH.

MC 150231 (Sub-1F), filed May 6, 1980. Applicant: MAVERICK TRANSPORTATION, INC., 1803 East Broad St. Texarkana, AR 75502. Representative: Lawrence Leahy (same address as applicant). Transporting *lumber and lumber mill products* from points in AR to points in AL, IL, IN, IA, KY, LA, MI, MN, MS, MO, OH, OK, TN, TX, and WI.

MC 150311 (Sub-8F), filed April 16, 1980. Applicant: P & L MOTOR LINES, INC., P.O. Box 4616, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Transporting *confectionery, chewing gum, drugs, and toilet preparations*, in vehicles equipped with mechanical, refrigeration, from Brooklyn NY, Philadelphia, Duryea, and Reading, PA, and points in NJ to points in AR, AZ, CA, CO, IL, KS, LA, MO, NM, OK and TX.

MC 150280 filed March 17, 1980. Applicant: BILL–ED, INC., d.b.a. GLASSMAN TRUCKING CORPORATION, 110 North King St., Gloucester City, NJ 08030. Representative: Andrew D. Lipman, Suite 200, 1776 F St. N.W., Washington, DC 20006. *Contract carrier* transporting *general commodities* (except those of unusual value, classes A and B explosives household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and furniture), between the facilities of Liss Brothers, at Philadelphia PA, and those points in the U.S. in and east of MN, IA, MO, AR, and TX, under codntinuing contract(s) with Liss Brothers, of Philadelphia, PA.

MC 150521 (Sub-1F), filed June 23, 1980. Applicant: HUMISTON FARMS, Rte. 1, Box 144, Muleshoe, TX 79347. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *irrigation systems and parts, materials, and supplies* used in the manufacture, assembly, and distribution of irrigation systems, between points in NE, TX, and NM.

MC 150871 (Sub-1F), filed June 20, 1980. Applicant: NORMAN AND KENNETH TEIGLAND, a partnership of Norman and Kenneth Teigland, d.b.a. TEIGLAND BROTHERS, Route 1, Box 84, Canby, MN 56220. Representative: Grant J. Merritt, 4444 IDS Center Minneapolis, MN 55402. Transporting (1) *agricultural machinery and tractors, and attachments, implements, and parts* for the foregoing commodities, (a) from points in AR, GA, IA, IL, KS, LA, NC, ND, NE, OH, PA, SC, SD, TN, and TX, to points in Yellow Medicine County, MN, and (b) from points in Yellow Medicine County, MN, to points in ND, (2) *lumber and lumber mill products*, from points in AL, AR, GA, LA, and MS, to Minnesota, MN, (3) *building materials*, from Minnesota, MN, to points in IA, MN, ND, NE, SD, and WI.

MC 150931F, filed June 16, 1980. Applicant: ARTHUR MOODY, d.b.a. S.W.D. TRANSPORTATION, Main Street, P.O. Box 731, Southwest Harbor, ME 04679. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. Transporting *finished and unfinished boats and hulls*, (a) between points in ME and points in the U.S. (except AK and HI), and (b) between points in ME and ports of entry on the international boundary line between the U.S. and Canada in ME, NY, and WA.

MC 150980F, filed June 10, 1980. Applicant: PATRICK DERRO, d.b.a. DERRO CARTAGE CO., 10701 South Keeler Ave., Oak Lawn, IL 60453. Representative: Anthony E. Young, 29 South LaSalle St., Chicago, IL 60603. Transporting *clothing*, from the facilities of K-Mart Apparel, at or near Alsip, IL, to Indianapolis, IN, Kansas City, KS, St. Louis, MO, Minneapolis, MN, and Des Moines, IA.

MC 151001 (Sub-1F), filed June 5, 1980. Applicant: RED ARROW CORPORATION, Box 10035, Lambert

Field, St. Louis, MO 63145. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lambert Field, at or near St. Louis, MO, and O'Hare International Airport, at or near Chicago, IL, on the one hand, and, on the other, points in Greene and Jackson Counties, MO, those points in MO on and east of a line beginning at the IA State line and extending along the western boundaries of Schuyler, Adair, Macon, Chariton, Saline, Cooper, Morgan, Miller, Pulaski, Texas, Shannon, Carter, and Ripley Counties, MO, to the AK State line, and those points in IL on and south of a line extending from the Mississippi River along the northern boundaries of Adams, Schuyler, Mason, Logan, Dewitt, Platt, Champaign, and Vermilion Counties, IL, to the IN State line restricted to traffic having a prior or subsequent movement by air.

MC 151060F, filed June 2, 1980. Applicant: DIEHL LUMBER TRANSPORTATION CO., a corporation, 1885 South 900 West, Salt Lake City, UT 84125. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting *shale cinders*, from the facilities of Utelite Corporation, in Summit County, UT, to points in OR, WA, ID, and MT.

Passenger

MC 146460 (Sub-2F), filed June 16, 1980. Applicant: CONSOLIDATED TRANSPORTATION SERVICES, P.O. Box 3254, Incline Village, NV 89450. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Transporting *passengers and their baggage and ski and camping equipment* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 20 passengers including the driver in any one vehicle, between those points in CA in and east of Tahoe National Forest, on the one hand, and, on the other, points in Washoe, Carson City, Storey and Douglas Counties, NV.

MC 150771F, filed May 6, 1980. Applicant: ARIZONA BUS TOURS, DIVISION OF WILLETT CORPORATION, 4647 East University Drive, Phoenix, AZ 85034. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *passengers and their baggage*, in special charter operations, beginning and ending at Sun City, Sun City West, Phoenix, Scottsdale, Tempe, Peoria, Glendale, Mesa, Apache Junction, Chandler, Goodyear, Carefree and Fountain Hills, AZ, and extending to points in the U.S. (except AL and HI).

Volume No. 299

Decided: July 14, 1980.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 200 (Sub-441F), filed June 5, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Transporting *carbonated soft drinks, beverage compounds, and new or used beverage containers*, from the facilities of Faygo Beverages at or near Detroit, MI, to Scott City, Sikeston, and Mexico, MO, and Eldorado, IL; restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-442F), filed June 5, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *aluminum cans*, from the facilities of Reynolds Metals Co. at or near Woodbridge, NJ, and Middletown, NY to Houston, TX, restricted to traffic originating at the named origins and destined to the indicated destination. (Hearing site: Kansas City, MO.)

MC 200 (Sub-443F), filed June 5, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. *Nickel, and ferro nickel cathodes, bars, crowns, granules, and cobalt cathodes* (except commodities in bulk) from Baltimore, MD, and the facilities of Falconbridge USA, Inc. at or near Detroit, MI to points in CA, IA, IL, IN, KS, KY, MI, MN, MO, NC, NE, OH, OK, PA, TN, TX, WI and WV; restricted to traffic originating at the named origins and destined to indicated destinations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-446F), filed June 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Over regular routes transporting *cooling coils, and air handling equipment*, serving the facilities of Marlo Coil, Nuclear Cooling, Inc., at or near High Ridge, MO as an off-route point in connection with carrier's otherwise authorized regular routes; restricted to traffic originating at or destined to Marlo Coil, Nuclear Cooling, Inc., at or near High Ridge, MO. (Hearing site: Kansas City, MO.)

MC 200 (Sub-447F), filed June 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Over regular routes transporting *medical supplies, except commodities in bulk*, serving the facilities of Sherwood Medical at or near Commerce, TX, as an off-route point in connection with carrier's otherwise authorized regular routes; restricted to traffic originating at or destined to Sherwood Medical at or near Commerce, TX. (Hearing site: Kansas City, MO.)

MC 200 (Sub-448F), filed June 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Transporting *containers and container closures*, from the facilities of the Continental Group, Inc., (Continental Can Co., USA) at or near Wayne, NJ, to Howell, MI; restricted to traffic originating at the origin facilities and destined to the indicated destination. (Hearing site: Kansas City, MO.)

MC 200 (Sub-449F), filed June 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Transporting *foodstuffs*, except frozen, and except commodities in bulk, from the facilities of American Home Foods located at or near Vacaville, CA to points in AZ, CO, and UT; restricted to traffic originating at named origin and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-455F), filed June 9, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Transporting (1) *fibrous glass products and materials*, and (2) *products and materials used in the installation and manufacture* of the commodities in (1) above between the facilities of Johns-Manville Sales Corp., at or near McPherson, KS, On the one hand, and, on the other, points in AR, CO, IA, IL, IN, KY, MI, MN, MO, MS, ND, NE, NM, OK, SD, TN, TX, WI, WY; restricted to traffic originating at the origin facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-479), filed July 1, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *foodstuffs, and containers* for foodstuffs, from the facilities of Phethean, Ltd. at or near LaHabra, CA, to points in UT, CO, and AZ, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 200 (Sub-480F), filed July 1, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *diatomaceous earth* (except in bulk), from the facilities of Magic Mountain Mining Co., at or near Kirkland, AZ, to Los Angeles and San Francisco, CA, Dallas and Houston, TX, Denver, CO, Salt Lake City, UT, Boise, ID, Portland, OR, and Seattle, WA, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 730 (Sub-509F), filed June 30, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 No. Via Monte, Walnut Creek, CA 94595. Representative: E. E. Reddick (same address as applicant). Transporting *iron and steel articles*, between the facilities of Georgetown Steel Corporation, at or near Georgetown, SC, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 2900 (Sub-426F), filed June 9, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Transporting *general commodities* (except in bulk, household goods as defined by the Commission, classes A and B explosives) between Grand Rapids, MI, on the one hand, and on the other, Verona, MS.

MC 2900 (Sub-427F), filed June 9, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Transporting *such commodities as are dealt in and sold by mail order businesses*, between points in OR, on the one hand, and on the other, points in the U.S. (except AK and HI); restricted to traffic originating at the facilities of Harry and David (Bear Creek Corporation). (Hearing site: Portland, OR, San Francisco, CA.)

MC 2960 (Sub-39F), filed June 9, 1980. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., 2301 McKinney Avenue, Houston, TX 77023. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. In foreign commerce only transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Dallas and Houston, TX, on the one hand, and on the other, points in OK. (Hearing site: Dallas or Houston, TX.)

MC 16831 (Sub-39F), filed July 1, 1980. Applicant: MID SEVEN TRANSPORTATION COMPANY, a corporation, 2323 Delaware Avenue, Des Moines, IA 50317. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *water purification equipment and water purification materials*, and (2) *materials and supplies* used in the manufacture of the commodities in (1), between Ames and Muscatine, IA, and Eau Claire, WI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH and WI.

MC 29910 (Sub-265F), filed June 5, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. Over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities of Magma Copper Company at or near San Manuel, AZ as an off-route point, in connection with carrier's otherwise authorized regular routes. (Hearing site: Phoenix, Az or Washington, DC.)

MC 29910 (Sub-273F), filed June 30, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Over regular routes, transporting, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of American Cotton Growers, Textile Division, at or near Littlefield, TX, as an off-route point in connection with applicant's otherwise authorized regular-route operations.

MC 29910 (Sub-274F), filed June 30, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *plastic pipe and pipe fittings*, and (2) *materials, equipment and supplies* used in the installation of the commodities in (1) above, (except commodities in bulk), between the facilities of Cement Asbestos Products Company, at or near Mt. Vernon, IN on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 29910 (Sub-278F), filed July 1, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Over regular routes, transporting *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving Farmington, NM, as an off-route point in connection with applicants regular route service at Gallup, NM.

Note.—Applicant intends to tack with existing authority.

MC 33641 (Sub-147F), filed June 26, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Chevron Refinery Plant in Uinta County, WY, as an off-route point in connection with carrier's otherwise regular-route operations.

MC 47171 (Sub-179F), filed June 30, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting: alcoholic beverages and wine from Hammondsport, NY, to points in NC.

MC 59150 (Sub-180F), filed June 9, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *concrete products* between points in AL, GA, FL, NC, SC, TN, NJ, NY, VA, LA, MS, KY,

V 45 A G 13 80 UMI

TX, WV, DC, DE, and PA. (Hearing site: Jacksonville FL.)

MC 59640 (Sub-82F), filed June 30, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Crabford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier,* transporting *paper, printed matter,* and *books,* between points in CA, IL, IN, MI, NJ, OH and TX, restricted to traffic originating at or destined to the facilities of Commerce Clearing House, Inc., under continuing contract(s) with Commerce Clearing House, Inc., of Clark, NJ.

MC 59640 (Sub-83F), filed July 1, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier,* transporting *such commodities,* as are dealt in or used by home improvement centers and department stores (except commodities in bulk), between points in the U.S. (except AK and HI), restricted against the transportation of traffic between Jersey City, NJ, Canton, OH, Worcester, MA, and Rochester, NY, on the one hand, and, on the other, points in DE, FL, ME, MD, MA, NH, NJ, NY, NC, OH, PA, VT, and VA, under continuing contract(s) with Ames Department Stores, Inc., of Rocky Hill, CT.

MC 59640 (Sub-84F), filed June 30, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier,* transporting *such commodities* as are dealt in or used by retail sporting goods houses (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Herman's World of Sporting Goods, Div. of W. R. Grace and Company, under continuing contract(s) with Herman's World of Sporting Goods, Div. of W. R. Grace and Company, of Carteret, NJ.

MC 82841 (Sub-286F), filed June 6, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting *agricultural implements, agricultural machinery and irrigation systems* from points in Tift County, GA, to points in the US (except AK and HI). (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 82841 (Sub-287F), filed June 9, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting *materials, equipment and supplies* used in the manufacture of irrigation systems from points in the US (except AK and HI) to Lindsay, Newman Grove and Columbus, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 82841 (Sub-288F), filed June 9, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting *irrigation systems and parts* for irrigation systems from Amarillo, TX. to points in the US (except AK and HI). (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 85970 (Sub-38F), filed June 30, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Warren Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *general commodites* (except those of unusual value, classes A and B explosives, household goods as defined by Commission, and those requiring special equipment), from Dresden, TN, to points in the U.S. (except AK and HI).

MC 108631 (Sub-17F), filed June 27, 1980. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Road at, Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. Transporting (1) valves, dampers, and expansion joints, and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities, in (1) above, (except commodities in bulk), between the facilities of Lehigh Metal Fabricators, Inc., at Bethlehem, PA, on the one hand, and, on the other, points in the U.S. (except AK, HI and PA).

MC 110420 (Sub-854F), filed June 6, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. Transporting *commodities in bulk* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities owned or utilized by Spencer Kellogg, Division of Textron, Inc. (Hearing site: Washington, DC.

MC 110420 (Sub-855F), filed June 6, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street, NW, Washington, DC 20004. Transporting *liquid resin,* in bulk, in tank vehicles, from the plantsite of Spencer Kellogg, Division of Textron, Inc., at Pensacola, FL, to those points in the US in and east of ND, SD, NE, KS, OK, and TX; restricted to traffic originating at the named plantsite. (hearing site: Washington, DC).

MC 111611 (Sub-48F), filed March 24, 1980. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of packing materials, from the facilities of FMC Corporation, at (a) Downingtown, PA, and (b) Newark, DE, to points in CA, AZ, and WA.

MC 113271 (Sub-71F), filed May 19, 1980. Applicant: TRANSYSTEMS, INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *solar panels,* and *materials, equipment, and supplies* used in the manufacture, distribution, and installation of solar panels, between Great Falls, MT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 113271 (Sub-72F), filed May 19, 1980. Applicant: TRANSYSTEMS, INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *containers and closures* for containers, from points in CA, CO, OR, and WA, to points in MT.

MC 113271 (Sub-73F), filed May 28, 1980. Applicant: TRANSYSTEMS, INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *lime and lime products,* (a) from points in Millard County, UT, to points in CO, ID, MT, NV, NM, OR, WA, and WY, and (b) between points in WA and OR, restricted in (b) above to traffic having a prior movement by rail.

MC 113271 (Sub-74F), filed June 2, 1980. Applicant: TRANSYSTEMS, INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *fiberboard,* from points in Flathead County, MT, to points in CA, and WA.

MC 113271 (Sub-75F), filed June 2, 1980. Applicant: TRANSYSTEMS, INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting (1) *chisel plows,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of chisel plows, between points in Chouteau County, MT, on the one hand, and, on the other, points in IL, IN, IA, MN, NE, ND, SD, and WI.

MC 113271 (Sub-76F), filed June 23, 1980. Applicant: TRANSYSTEMS, INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *bentonite clay,* in bulk, from points in Crook County, WY, to points in Butte County, SD.

MC 113651 (Sub-341F), filed June 30, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Omaha, NE 68154. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting vinegar and cider (except commodities in bulk), from the facilities of National Vinegar Company at or near Alton and Olney, IL, to points in OH, KY, IN, IA, MO, NE, KS, CO, AR and TN.

MC 115181 (Sub-41F), filed June 23, 1980. Applicant: HAROLD M. FELTY, INC., R.D. No. 1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *coal,* from points in Dauphin County, PA, to New York, NY, and points in DE.

MC 115931 (Sub-119F), filed June 5, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting: (1) *pumps, diesel power units and tubing,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above between the facilities of The Crisafulli Pump Company, Inc., located at or near Glendive, MT, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Billings, MT.)

MC 115931 (Sub-120F), filed June 5, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *lumber* from the facilities of Bighorn Lumber Co., Inc., at or near Laramie, WY, to points in IL, IN, IA, MI, MN, NE, ND, SD, and WI. (Hearing site: Cheyenne, WY.)

MC 117730 (Sub-78F), filed June 30, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route No. 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. La Salle St., Chicago, IL 60602. Transporting *foodstuffs and animal foods* (except commodities in bulk), between the facilities of Jefferson Cold Storage Corporation, at Jefferson, WI, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 117890 (Sub-1F), filed July 1, 1980. Applicant: SEMINOLE TRANSPORT LINES, INC., 1335 N.W. 23rd St., Miami, FL 33142. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005. Transporting *foodstuffs* (except in bulk), from St. Elmo, IL, to points in CO and CA.

MC 117890 (Sub-2F), filed July 1, 1980. Applicant: SEMINOLE TRANSPORT LINES, INC., 1335 N.W. 23rd St., Miami, FL 33142. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005. Transporting *foodstuffs* (except in bulk), from Croswell, MI, to points in CT, MA, RI, MD, PA, NY, NJ, NH, VT, ME, and DC.

MC 123361 (Sub-9F), filed June 9, 1980. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Road, Fairview Heights, IL 62208. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *meats, meat products, packinghouse products, and commodities used by packinghouses* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, between St. Louis, MO on the one hand, and, on the other, points in AL, TN, MI, FL, MN, AR, WI, OH, GA, MO, MS, KY, IA, and IN. (Hearing site: St. Louis, MO.)

MC 123840 (Sub-34F), filed June 27, 1980. Applicant: SUMMIT CITY ENTERPRISES, INC., 320 Maumee Ave., Fort Wayne, IN 46803. Representative: Irving Klein, 371 Seventh Ave., New York, NY 10001. *Contract carrier,* transporting (1) *carpet padding,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of carpet padding, between Fort Wayne, IN, on the one hand, and, on the other, points in MO, KY, IA, IL, MI, OH, and WI, under continuing contract(s) with General Felt Industries, Inc., of Saddle Brook, NJ.

MC 124141 (Sub-46F), filed June 30, 1980. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Highway 25 W, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting (1) *foodstuffs,* from Birmingham, AL, and Houston, TX, to points in the US. (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, in the reverse direction.

MC 124170 (Sub-149F), filed March 3, 1980, previously noticed in the Federal Register June 12, 1980. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. Transporting *such commodities* as are dealt in or used by producers and distributors of alcoholic beverages, and wine from the facilities of Heublein, Inc., at or near Hartford, CT to points in AZ, CA, CO, ID, IL, IN, KY, MI, NV, TN and WI, restricted to traffic originating at the named origin facilities.

Note.—This republication includes wine as a commodity.

MC 124511 (Sub-65F), filed June 26, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Transporting (1) *refractories* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), between Chicago, IL, and Wellsville, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124711 (Sub-109F), filed June 5, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker (same address as applicant). *Liquid feed and liquid feed supplements,* from Crete, NE, to points in CA, NV, UT, OR, WA, ID, AR, TN, NC, VA, KY, IL, SD, IA, MN, KS, OK, TX, AZ, AL, MO, CO, NM, WY, FL, GA, SC, MS, LA, ND, MT and WI. (Hearing site: Oklahoma City, OK, or Kansas City, KS.)

MC 124821 (Sub-92F), filed June 6, 1980. Applicant: GILLCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *Household cleaning products* (except commodities in bulk), (1) from Bristol, PA, to points in NY, MA, CT, RI, NH, ME and VT, (2) from London, OH, to Bristol, PA, and (3) from Brockport, NY, to Bristol, PA, Atlanta, GA, Auburndale, FL, Chicago, IL, Dallas, TX, New Orleans, LA, Roanoke, VA, St. Louis, MO, and Toledo, OH. (Hearing site: Harrisburg, PA.)

MC 124821 (Sub-83F), filed June 9, 1980. Applicant: GILLCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *sodium bicarbonate*, in bags from the facilities of Church & Dwight, at Old Fort, OH, and Green Springs, OH, to points in AL, CT, DC, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, BA, VT, WI and WV. (Hearing site: Harrisburg, PA.)

MC 125951 (Sub-63F), filed June 30, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE to points in AZ, NV, and CA restricted to traffic originating at the above named origin.

MC 127550 (Sub-7F), filed June 5, 1980. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington St., Bartonville, IL 61607. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. *Contract carrier*, transporting (1) (a) *commodities* the transportation of which requires special equipment because of their size or weight, and *machinery*, (b) *materials and parts* used in the manufacture and distribution of the commodities in (1)(a) above, and (2) *office and maintenance supplies*, between points in IL, IN, IA, and WI, restricted to traffic moving to or from the facilities of Caterpillar Tractor Co. and further restricted against the transportation of commodities in bulk, under continuing contract(s) with Caterpillar Tractor Co. of Peoria, IL. (Hearing site: Chicago, IL.)

MC 127651 (Sub-64F), filed June 6, 1980. Applicant: EVERETT G. ROEHL, INC., East 29th Street, Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *poles, posts, timbers, pilings, plywood, and dimensional lumber* between the facilities of Engelien Wood Preserving, Inc. at or near Tomah, WI on the one hand and, on the other hand, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, and TN. (Hearing site: Minneapolis, MN, or Milwaukee, WI.)

MC 133591 (Sub-107F), filed June 23, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. Transporting *paper containers, plastic articles, glass products*, and *paper dishes, plates, and napkins*, between the facilities used by Owens-Illinois, at or near (a) Springfield, MO, (b) Bardstown, KY, (c) Augusta, GA, and (d) Holmdel, NJ.

MC 133591 (Sub-108F), filed June 30, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Charles A. Daniel (same address as applicant). Transporting *bakery goods*, from Niles, IL, to Oakland and Santa Fe Springs, CA.

MC 134730 (Sub-28F), filed June 30, 1980. Applicant: METALS TRANSPORT, INC., 528 South 108th Street, West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). Contract carrier, transporting (1) *heat processing equipment*, (2) *accessories* for the commodities in (1) above, and (3) *materials, equipment and supplies* used in the manufacture, distribution, and repair of heat processing equipment, between New Berlin, WI, on the one hand, and, on the other, points in U.S. (including AK, but excluding HI), under continuing contract(s) with Oven Systems, Inc., of New Berlin, WI.

MC 135391 (Sub-5F), filed June 30, 1980. Applicant: WILDERNESS EXPRESS, INC., 525 Lake Avenue, South, Duluth, MN 55802. Representative: Sperling R. Englehart (same address as applicant). *Contract carrier*, transporting *foodstuffs* (except commodities in bulk), from the facilities of Jeno's, Inc. at Atlanta, GA, to points in AL, AR, CO, DE, FL, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, ND, NE, NJ, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WV and WI, under continuing contract(s) with Jeno's Inc. of Duluth, MN.

MC 135560 (Sub-1F), filed June 27, 1980. Applicant: MOBERG TRANSPORT, INC., 901 Michigan Road, Marshall, MN 56258. Representative: Charles E. Nieman, 615 Minnesota Federal Bldg., Minneapolis, MN 55402. Transporting *food and food ingredients*, (except commodities in bulk, in tank vehicles), between the facilities of Schwan's Sales Enterprises, Inc., in the U.S. (except AK and HI), on the one hand, and on the other, points in the U.S. (except AK and HI)

MC 139960 (Sub-3F), filed June 9, 1980. Applicant: WPX FREIGHT SYSTEM, INC. (formerly WESTERN PACIFIC TRANSPORT COMPANY), 526 Mission Street, San Francisco, CA 94105. Representative: Stephen T. Rudman, 526 Mission Street, San Francisco, CA 94105. Transporting *general commodities* (except commodities in bulk, commodities requiring special equipment, Classes A and B explosives and household goods as defined by the Commission), (1) between Los Angeles, CA and Salt Lake City, UT; from Los Angeles over Interstate Hwy 5 to junction CA Hwy 14, then over CA Hwy 14 to junction US Hwy 395, then over US Hwy 395 to junction US Hwy 6, then over US Hwy 6 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Salt Lake City, and return over the same route serving all intermediate points and The Anaconda Copper Company's "Nevada Moly" project located north of Tonopah, NV, as an off-route point; (2) between Salt Lake City, UT and Ontario, OR; from Salt Lake City over Interstate Hwy 15 to junction Interstate Hwy 80–N (Note: Interstate Hwy 80–N was to be redesignated Interstate Hwy 84 on or about May 1, 1980), then overcombined Interstate Hwys 15 and 80–N to Tremonton, UT, then over Interstate Hwy 80–N to Glenns Ferry, ID, then over combined US Hwys 26 and 30 from Glenns Ferry to junction Interstate Hwy 80–N near Hammett, ID, then over Interstate Hwy 80–N to Ontario, and return over the same route; serving all intermediate points and serving Marsing, Homedale, Weiser, Payette, Rupert, Paul, Burley, Buhl, Twin Falls, Jerome, Mountain Home and Mountain Home Air Force Base, ID, as off-route points; (3) between Ogden, UT, and Idaho Falls, ID, from Ogden over US Hwy 89 to junction US Hwy 91, then over US Hwys 89 and 91 to Logan, UT, then over US Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Idaho Falls, and return over the same route serving all intermediate points and serving the facilities of Basic American Food Company near Blackfoot, ID as an off-route point; (4) between Ogden, UT and Pocatello, ID, over Interstate Hwy 15 serving no intermediate points as an alternate route for operating convenience only in connection with applicant's otherwise authorized regular routes; (5) between Pacatello, ID and junction Interstate Hwys 86 and 80–N (Note: Interstate Hwy 80–N was to be redesignated Interstate Hwy 84 on or about May 1, 1980); from Pacatello over Interstate Hwy 86 to junction US Hwy 30, then over US Hwy 30 to junction Interstate Hwy 86, then over Interstate Hwy 86 to junction Interstate Hwys 86 and 80–N and return over the same route serving no intermediate points but serving

Aberdeen and American Falls, ID as off-route points and serving the junction of Interstate Hwys 86 and 80–N for purposes of joinder only; (6) between Caldwell, ID and Coaldale, NV, over US Hwy 95 serving no intermediate points as an alternate route for operating convenience only, in connection with applicant's otherwise authorized regular routes; (7) between Twin Falls, ID and Los Angeles, CA; from Twin Falls, over US Hwy 93 to junction Interstate Hwy 15, then over Interstate Hwy 15, to junction Interstate Hwy 10, then over Interstate Hwy 10 to Los Angeles, and return over the same route serving no intermediate points as an alternate route for operating convenience only in conection with appliant's otherwise authorized regular routes. (Hearing site: Los Angeles, CA.)

MC 141721 (Sub-4F), filed June 6, 1980. Applicant: DFC TRANSPORTATION COMPANY, a corporation, 45 East Main Street, Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier*, transporting *peppers in containers, cheese sauce, tortilla chips, paper bowls, and food warmers*, (a) from Laredo, Dallas, Houston, and San Antonio, TX, to points in CO, KS, MO, OK, AR, TN, KY, IL, IN, OH, MN, and NE; and (b) from Dixon, IL, to points in the U.S. (except AK and HI), under continuing contract(s) with Liberto Speciality Company, d.b.a Ricos Products Company of San Antonio, TX. (Hearing site: Chicago, IL.)

MC 141740 (Sub-12F), filed June 9, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract carrier*, transporting *electrical components*, from the facilities of Square D Company at or near Smyrna, TN, to Los Angeles, CA, under a continuing contract(s) with Square D Company. (Hearing site: Louisville, KY, or Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 142821 (Sub-1F), filed May 12, 1980. Applicant: ROY M. BROWN, Rt. 2, Galatia, IL 62935. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *coal*, from points in Saline, Williamson, Jefferson and Franklin Counties, IL to points in Vanderburgh and Posey Counties, IN.

MC 142920 (Sub-17F), filed June 9, 1980. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier*, transporting *such merchandise* as is dealt in or used by retail department stores (except commodities in bulk), between New York, NY, and Indianapolis, IN, under continuing contract(s) with L.S. Ayres & Co. of Indianapolis, IN. (Hearing site: Indianapolis, IN.)

MC 143651 (Sub-16F), filed June 5, 1980. Applicant: HILT TRANSPORT, INC. (formerly Blackhawk Express, Inc.), P.O. Box 1, Wall Lake, IA 51466. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *meats, meat products and meat-by-products and articles distributed by meat packinghouses* as described in Parts A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 and foodstuffs from St. Joseph, MO, Omaha and Madison, NE, Worthington, MN, Huron, SD, and Sioux City, IA to those points in the US in and east of ND, SD, NE, KS, OK and TX; restricted to traffic originating at the facilities used by Armour & Co. at the above named origin points. (Hearing site: Phoenix, AZ or Denver, CO.)

MC 144061 (Sub-15F), filed July 1, 1980. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac Avenue, Wyckoff, NJ 07481. Representative: Jack L. Schiller, 345 Webster Avenue, Brooklyn, NY 11230. Contract Carrier, transporting (1) *liquid chemicals* and *castor oils*, in bulk, from the facilities of NL Chemicals-Division of NL Industries, Inc., at or near Bayonne, NJ to points in GA, IL, MA, MI, MN, NC, PA, SC and TX, and (2) *Materials* used in the manufacture of liquid chemicals and castor oils, in bulk, from points in MN, NC, NY, PA, SC, TN, TX, and WV, to the facilities of NL Chemicals-Division of NL Industries, Inc., at or near Bayonne, NJ, under continuing contract(s) with NL Chemicals-Division of NL Industries, Inc., of Bayonne, NJ.

MC 144630 (Sub-49F), filed July 1, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *steel shelving and bins, unassembled pallet racks, storage racks, screws, and storage cabinets*, and (2) *accessories* for the commodities in (1) above, from the facilities of Frick-Gallagher Mfg. Co., at Wellston, OH, to points in the U.S. (except AK and HI).

MC 145150 (Sub-17F), filed June 5, 1980. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R. R. 2, Salina, KS 67401. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 1101, Topeka, KS 66612. Transporting *liquid fertilizer solutions and dry fertilizer* from the facilities of Poole Chemical Inc., at or near Texline, TX, to points in CO, KS, NM, and OK. (Hearing site: Kansas City, MO.)

MC 145380 (Sub-1F), filed June 6, 1980. Applicant: CALIFORNIA-PACIFIC FREIGHT, INC., P.O. Box 7266, Los Angeles, CA 90022. Representative: Dean McCormick, P.O. Box 7266, Los Angeles, CA 90022. Transporting *general commodities* (except commodities in bulk in tank vehicles and classes A and B explosives) between points in Los Angeles, County, CA, on the one hand, and on the other, points in Kern and Tulare Counties, CA; restricted to traffic moving on the bills of lading of freight forwarders as defined in 49 USC § 10102(8). (Hearing site: Los Angeles or Bakersfield, CA.)

MC 146090 (Sub-2F), filed March 5, 1979, and previously noticed in Federal Register issue of August 28, 1979. Applicant: WESTERN MOTOR EXPRESS, a corporation d.b.a. WESTERN TRANSPORT, 7843 Chatfield St., Whittier, CA 90601. Representative: Robert Fuller, Suite 310, Whittier Square, Whittier, CA 90601. Transporting *wrought steel pipe*, the transportation of which, because of size or weight, requires the use of special equipment, (1) from the facilities of Pipe Fabricating and Supply Company, and Pullman Power Products, in Los Angeles County, CA, to points in Los Angeles, San Bernardino and Riverside Counties, CA, and (2) from points in Los Angeles, San Bernardino, and Riverside Counties, CA, to points in AZ.

Note.—This republication clarifies the territorial description.

MC 146360 (Sub-24F), filed June 9, 1980. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 4415 Highline Blvd., Suite 107, Oklahoma City, OK 73148. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *foodstuffs (except commodities in bulk)*, from the facilities of Idaho Frozen Foods at or near Nampa and Twin Falls, ID and Clearfield, UT to points in AL, AR, CT, DE, DC, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA and WV. (Hearing site: Boise, ID.)

MC 146480 (Sub-1F), filed July 1, 1980. Applicant: AURORA TRUCKING, INC., 1045 Moneta, Aurora, OH 44202. Representative: Charles E. Wigton III, 275 E. State St., Columbus, OH 43215. *Contract carrier*, transporting *iron and steel articles, aluminum articles*, and *non-ferrous metals* (except commodities in bulk), between the facilities used by Castle Metals, A. M. Castle & Co., at or near Bedford Heights, OH, on the one hand and, on the other, points in IN and IL, under continuing contract(s) with

Castle Metals, A.M. Castle & Co., of Bedford Heights, OH.

MC 147100 (Sub-3F), filed June 30, 1980. Applicant: TRANSWEST, INC., P.O. Box 1791, Gastonia, NC 28052 Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204. Transporting (1) *hot tops*, and (2) *materials and supplies* used in the manufacture and installation of hot tops, between Conneaut, OH, and Marshall, TX, on the one hand, and, on the other, points in KS, OK, MO, AL, TX, PA, and LA.

MC 147681 (Sub-13F), filed June 30, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. No. 2, West Middlesex, PA 16159. Representative: Michael P. Pitterich (same address as applicant). Transporting *laboratory materials and laboratory supplies*, between Columbus, IN, Madison, WI, and points in NJ.

MC 147900 (Sub-3F), filed June 9, 1980. Applicant: COLLINS WHOLESALE SUPPLY, INC., 4073 Hooker Road, Roseburg, OR 97470. Representative: Kerry D. Montgomery, 400 Pacific Bldg., Portland, OR 97204. Transporting *building materials*, between points in CA and NV on the one hand, and, on the other, points in Douglas County, OR.

MC 147940 (Sub-2F), filed June 9, 1980. Applicant: MAE DUBLIN d.b.a. DUBLIN TRUCKING, Route 5, Miller Church Rd., Mayfield, KY 42066. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting *clay*, in bags, from the facilities Old Hickory Clay Company at Hickory, KY, and Gleason, TN, to points in OH, IL, IN, KY, PA, MO, and MI and Baltimore, MD, Woodstock, VA, Manville, NJ, Waterford, NY, Houston, MS, Little Rock, AR, Chester and Newell, WV, and Leesburg, AL. (Hearing site: Memphis, TN or Louisville, KY.)

MC 148650 (Sub-1F), filed June 30, 1980. Applicant: NORTHEAST TRANSPORT COMPANY, INC., 22 South Holmdel Road, Holmdel, NJ 07733. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave. NW., Washington, DC 20036. Transporting *such commodities* as are dealt in or used, by processors and dealers of waste paper, paper articles, and publications, between Lyndhurst, NJ, on the one hand, and, on the other, points in IN, IL, KY, and OH.

MC 148761 (Sub-2F), filed June 6, 1980. Applicant: J. E. JACKSON POULTRY & PRODUCE, INC., 1717 Princeton Ave., Birmingham, AL 35211. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Contract carrier,* transporting *aluminum and fiberglass insect screening, aluminum nails, aluminum wire and vinyl coated yarns*, from the facilities of Phifer Wire Products, Inc., at or near Tuscaloosa, AL, to Los Angeles and City of Industry, CA, under continuing contract(s) with Phifer Wire Products, Inc., at Tuscaloosa, AL. (Hearing site: Birmingham, AL.)

MC 149170 (Sub-10F), filed June 19, 1980. Applicant: ACTION CARRIER, INC. 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *paints, bronzing liquid, wood fillers, and pigments* (except in bulk), between Batavia, IL, on the one hand, and, on the other, points in NE, ND, SD, IA, CO, MN, WI, IN, KS, and MO, and Bethlehem, PA, restricted to traffic originating at or destined to the facilities of Olympic Stain, Division of Comerco, Inc. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 C.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149170 (Sub-11F), filed June 19, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *automobile accessories, home canning kits, cleaning compounds, and plastic, metal, wooden and rubber articles*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Huron, SD, and Savage, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Matermotive, Inc. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 C.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149170 (Sub-12F), filed June 9, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities used by Fargo Beef Industries, at or near Fargo, ND, to points in FL, TN, MO, IL, WI, MI, OH, PA, IN, NC, SC, GA, AL, AR, TX, OK, CA, OR, ID, KS, MN, and LA, restricted to traffic originating at the facilities of Fargo Beef Industries. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 C.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149351 (Sub-1F), filed April 29, 1980. Applicant: HEYMAN TRUCKING, INC., Box 97, 212 Mulberry St., Stephens City, VA 22655. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Contract carrier,* transporting *plastic articles*, from Winchester, VA, to points in ID, MT, OR, WA, WY, CO, NE ND, and SD, under continuing contract(s) with Rubbermaid Commerical Products, Inc., of Winchester, VA.

MC 150060F, filed February 11, 1980. Applicant: FLYOD DUNFORD, LTD., Box 381, Peterborough, Ontario, Canada K9J 6Z3. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. In foreign commerce only, transporting *nepheline syenite*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the U.S. and Canada on the Niagara River in NY, to the facilities of Glass Containers Corporation, at Knox, Parker, and Marienville, PA.

MC 150101 (Sub-2F), filed July 1, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier,* transporting *adhesives, liquid cements, washing compounds, and liquid latex* (except commodities in bulk), from Simpsonville, SC, to points in FL, IL, KY, LA, MO, OH, TN, TX and WI, under continuing contract(s) with Para-Chem Southern Inc., of Simpsonville, SC.

MC 150101 (Sub-4F), filed May 28, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier,* transporting *railroad components and materials* used in the manufacture of railroad cars, (1) from Charleston, SC, Atlanta, GA, Chicago, IL, Ashland City, TN, Renovo, PA, St. Louis, MO, Norfolk, NY, and Youngstown, OH, to Greenville and Pickens, SC, (2) from Greenville and Pickens, SC, to Ashland City, TN and Norfolk, NY, and (3) from Renovo, PA, and St. Louis, MO, to Norfolk, NY, under

continuing contract(s) with National Railway Utilization Corp., of Philadelphia, PA.

MC 150221 (Sub-62F), filed June 30, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract carrier,* transporting: (1) *beverage cooling equipment*, and (2) *materials and supplies used in the manufacture of beverage cooling equipment*, between the facilities of Beverage-Air, a Subsidiary of Tannetics, Inc., at or near Spartanburg, SC, on the one hand, and, on the other, the facilities of Beverage-Air, a subsidiary of Tannetics, Inc., at or near Brookville, PA, under continuing contract(s) with Beverage-Air, a subsidiary of Tannetics, Inc., of Spartanburg, SC.

MC 150271F, filed March 4, 1980. Applicant: SUNSHINE STATE MESSENGER SERVICE, INC., 2331 North State Rd. 7, Fort Lauderdale, FL 33313. Representative: F. Philip Blank, Suite 600, Lewis State Bank Bldg., Tallahassee, FL 32301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CA, CT, FL, GA, IL, MA, NJ, NY, PA, TX, VA, and DC. (Hearing site: Miami or Tallahassee, FL.)

MC 150371 (Sub-1F), filed June 17, 1980. Applicant: RICHARD DYKES, d.b.a. RICHARD DYKES TRUCKING, R.R. No. 2, Mechanicsville, IA 52306. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *iron castings*, from the facilities of Crane Company, at or near Washington, IA, to Romeo, MI, and Fargo, ND.

MC 150440 (Sub-No. 1F), filed June 6, 1980. Applicant: Universal Express, Ltd., 536 S. 19th Street, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. (1) *household*, and *commercial laundry, and kitchen appliances* and (2) *parts and materials* used in the repair or manufacture of the commodities in (1) above, (except commodities in bulk in tank vehicles), between Newton, IA, on the one hand, and, on the other, points in DE, IN, KS, KY, MD, MI, MO, NJ, NC, OH, OK, PA, SC, TX, VA, WV, and DC.

MC 150440 (Sub-2F), filed June 6, 1980. Applicant: UNIVERSAL EXPRESS, LTD., 536 S. 19th Street, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *such commodities* as are used in the manufacture of valves and valve control systems, from Coffeyville, KS, and Blackwell and Tulsa, OK, to Marshalltown, IA.

MC 150411 (Sub-1F), filed May 19, 1980. Applicant: JERRY REID TRUCKING, LTD., 16728–111 Ave., P.O. Box 5364, Edmonton, Alberta, Canada T5P 4C9. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract carrier,* tranporting *polystyrene foam products*, from ports of entry on the U.S.-Canada international boundary line in MT, ID and WA, to points in CA, ID, MT, NV, OR and WA, under continuing contract(s) with Beaver Plastics Ltd., Edmonton, Alberta, Canada.

MC 150841F, filed June 5, 1980. Applicant: PREMIER TRUCKING CO., INC., P.O. Box 187, Osawatomie, KS 66064. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Contract carrier,* transporting *machinery, equipment, materials, and supplies*, used in or in connection with the discovery, development, production, refining manufacturing, processing, storage transmission and distribution of natural gas and petroleum and their products and by-products (except complete drilling rigs) and *iron and steel articles* from points in NY, PA, WV, OH, IN, IL, MO, KS, OK, LA, TX, KY, CO, NE, CA, and NM to points in KS, MO, OK, OH, KY, TX, PA, NM, IL, and NE, under continuing contract(s) with Kenneth R. Johnson, Inc., of Osawatomie, KS. (Hearing site: Kansas City, MO.)

MC 150970F, filed June 5, 1980. Applicant: SEAPOOL EXPRESS, INC., 333 South Flower St., Los Angeles, CA 90071. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *general commodities* (except classes A and B explosives), (1) between points in the Los Angeles, CA, commercial zone, (2) between points in the Long Beach, CA, commercial zone, (3) between points in the Oakland, CA, commercial zone, (4) between points in the San Francisco, CA, commercial zone, (5) between points in the Seattle, WA, commercial zone, and (6) between points in the Portland, OR, commercial zone, in (1), (2), (3), (4), (5) and (6) above to the transportation of traffic having a prior or subsequent movement by water.

MC 151000F, filed June 9, 1980. Applicant: WILFORD P. DONNELLY, d.b.a. TUFFERNELL TRUCKING, P.O. Box 526, Chadron, NE 69337. Representative: Wilford P. Donnelly, c/o C. Keith Spencer, 346 Main St., Chadron, NE 69337. *Contract carrier* transporting *malt beverages*, from Milwaukee, WI, and St. Paul, MN, and Fort Worth, TX to Chadron, NE, under continuing contract(s) with Bolln Distributing Co., of Chadron, NE. (Hearing site: Casper, WY.)

MC 151001F, filed June 5, 1980. Applicant: RED ARROW CORPORATION, P.O. Box 10035, Lambert Field, St. Louis, MO 63145. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48084. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Vigo County, IN, McCracken County, KY, and Cook County, IL, those points in IL, in and south of Pike, Morgan, Sangomon, Macon, Moultrie, Douglas, and Edgar Counties, IL, points in Jackson and Greene Counties, MO, and those points in MO, in and east of Mercer, Grundy, Livingston, Carroll, Saline, Pettis, Morgan, Camden, Pulaski, Texas, and Howell Counties, MO, restricted to the transportation of individual packages not exceeding 100 pounds in weight, moving in shipments not exceeding pounds in weight from one consignor to one consignee in a single day.

MC 151141F, filed June 18, 1980. Applicant: COASTAL TRUCKING CO., INC., P.O. Box 1256, Bell Point St., Brunswick, GA 31521. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *foodstuffs*, between points in Glynn and Chatham Counties, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). The purpose of this application is to convert the carrier's authority from contract to common. Condition: Issuance of a certificate is subject to prior or coincidental cancellation of Permit No. MC 136239 and Sub 2, at applicant's written request.

MC 151180F, filed July 1, 1980. Applicant: C & M CARTAGE, INC., 1308 West 11th St., Kansas City, MO 64101. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Transporting *such commodities* as are dealt in by grocery, food, business variety, discount and drug stores, (except commodities in bulk), from the facilities of Kansas City Distribution, Inc., at Kansas City, MO to points in IA, KS, NE, and OK, restricted to traffic originating at the named origin and destined to the indicated destinations.

Volume No. 307

Decided: August 4, 1980.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 4963 (Sub-123F), filed June 26, 1980. Applicant: JONES MOTOR CO., INC., Bridge Street & Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Suite 501, Perpetual Building, 1111 E Street, NW., Washington, DC 20004. Transporting *plastic articles* between Bryan, OH, on the one hand, and, on the other, points in TN.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 4963 (Sub-124F), filed June 26, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Suite 501, Perpetual Bldg., 1111 E Street, N.W., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of MTD Products, Inc., at or near (a) Cleveland, Shelby, Strongsville and Willard, OH, (b) Westfield, MA; (c) Brownsville, TN, and (d) Indianola, MS, and those points in the U.S. in and east of WI, IA, MO, TN, and MS.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 5623 (Sub-54F), filed June 27, 1980. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22304. Transporting (1) *tubing* from points in Milwaukee County, WI, to points in the U.S. (except AK and HI), and (2) *machinery, equipment, materials, and supplies* (except commodities in bulk) used in the manufacture of the commodities described in (1), in the reverse direction.

MC 5623 (Sub-55F), filed June 27, 1980. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean VA 22304. Transporting *Construction equipment, materials, and supplies*, between points in the U.S. (except AK and HI), restricted to shipments originating at and/or destined to the facilities of C. F. Braun & Company, C-E Lummus Combustion Engineering, Inc., Davy-McKee & Co., The Litwin Corporation, Foster Wheeler Energy Corp., Petro-Chem Development Co., Inc., The Pritchard Company, and Stone & Webster Engineering Corp.

MC 32882 (Sub-124F), filed October 4, 1980. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same as applicant). Transporting (1) *commodities* the transportation of which requires the use of special equipment and (2) *materials, equipment and supplies* moving in connection with the commodites in (1) above, between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY.

MC 82063 (Sub-120F), filed June 27, 1980. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Rd., Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). Transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of E. I. Du Pont de Nemours & Company, at or near Orange and Victoria, TX to points in the U.S. (except AK and HI).

MC 105733 (Sub-81F), filed June 26, 1980. Applicant: RITTER TRANSPORTATION, INC., P.O. Box 1064–A, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030—15th Street, N.W., Washington, DC 20005. Transporting (1) *Propylene* in bulk, tank vehicles, from Marcus Hook, PA and Bayway, NJ, to Welford, SC and Spartanburg, SC; and (2) *BiPhehol*, in bulk, in tank vehicles, from Philadelphia, PA, to Welford, SC and Spartanburg, SC. Condition: Any certificate issued in this proceeding shall be limited in term to a period expiring 5 years from its date of issue.

MC 109533 (Sub-130F), filed June 26, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, VA. 23224. Representative: C. H. Swanson, P.O. Box 1216, Richmond, VA 23209. Transporting *general commodities:* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Tunica, MS, as an off-route point in connection with carrier's authorized regular route operation. Applicant intends to tack this authority with authority presently held in docket MC 109533.

MC 10683 (Sub-183F), filed June 25, 1980. Applicant SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, D.C. 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), Serving points in Green, Rock, Walworth, Kenosha, Racine, Dane, Jefferson, Waukesha, Washington, and Ozaukee, Counties, WI, as intermediate or off-route points in connection with carrier's authorized regular route operations.

Note.—Applicant intends to tack this authority with its otherwise existing regular route authority.

MC 110683 (Sub-184F), filed June 25, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, D.C. 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) Between Memphis, TN, and New Orleans, LA, serving no intermediate points: From Memphis over U.S. Hwy 51 and/or Interstate Hwy 55 to New Orleans, (2) Between Memphis, TN, and Beaumont, TX, serving all intermediate points on U.S. Hwy 90: From Memphis over U.S. Hwy 61 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 165, then over U.S. Hwy 165 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Beaumont, and Serving Port Arthur, TX, as an off-route point in connection with carrier's authorized regular routes, (3) Between Memphis, TN, and Mobile, AL, serving no intermediate points: from Memphis over Interstate Hwy 55 to junction U.S. Hwy 49, then over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Mobile (4) Between Tupelo, MS, and Mobile, AL, serving no intermediate points, over U.S. Hwy 45 (5) Between Tupelo, MS, and New Orleans, LA, serving all intermediate points in LA: From Tupelo over U.S. Hwy 45 to junction U.S. Hwy 45A, then over U.S. Hwy 45A to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction Interstate Hwy 59, then over Interstate Hwy 59 to New Orleans, (6) Between Birmingham, AL, and New Orleans, LA, serving all intermediate points in LA, over U.S. Hwy 11 and/or Interstate Hwy 59 (7) Between Chattanooga, TN, and Mobile, AL, serving no intermediate points: From Chattanooga over Interstate Hwy 24 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction AL Hwy 5, then over AL Hwy 5 to junction U.S. Hwy 43, then over U.S. Hwy 43 to Mobile, (8) Between Chattanooga, TN, and Montgomery, AL, serving no intermediate points: From Chattanooga over Interstate Hwy 24 to junction Interstate Hwy 59, then over Interstate Hwy 59 to junction Interstate Hwy 65 or U.S. Hwy 31, then over Interstate Hwy 65 or U.S. Hwy 31 to Montgomery, (9)

Serving points in Warren, Yazoo, Madison, Scott, Rankin, Hinds, Smith, Simpson, Copiah, and Claiborne Counties, MS, as intermediate or off-route points in connection with carrier's authorized regular routes. (10) Between Atlanta, GA, and Dallas, TX, serving all intermediate points in GA and AL; Jackson, MS; and Tallulah, LA, over Interstate Hwy 20.

Note.—Applicant intends to tack this authority with its otherwise existing authorized regular route operations.

MC 110683 (Sub-186F), filed June 26, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), Between Franklin and Adolphus, KY, serving all intermediate points: From Franklin over U.S. Hwy 31W to junction TN Hwy 109, then over TN Hwy 109 to junction TN Hwy 52, then over TN Hwy 52 to junction U.S. Hwy 31E, then over U.S. Hwy 31E to Adolphus.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 111812 (Sub-734F), filed June 23, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same as applicant). Transporting, (1) *Laminated plastic wood products* (except commodities in bulk); and (2) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Oconomowoc and Ashippun, WI, on the one hand, and, on the other, points in the U.S. (except AK, HI and WI).

MC 114273 (Sub-763F), filed June 27, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *such commodities* as are used in the manufacture, sale and distribution of excavators and cranes (except commodities in bulk, in tank vehicles and commodities which because of size or weight require special equipment), from points in PA to Cedar Rapids, IA.

MC 114273 (Sub-764F), filed June 27, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *printed matter, and materials, equipment and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between those points in the U.S. in and east of TX, OK, CO, NE, ND, and SD, restricted to traffic originating at or destined to the facilities of Thomas Publishing Company.

MC 114273 (Sub-765F), filed June 22, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 56406. Representative: Kenneth L. Core (same address as applicant). Transporting: *foodstuffs*, and *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture of foodstuffs between Danville, IL, on the one hand, and, on the other, points in CT, DE, IN, IA, KY, MD, MI, MO, NJ, NY, OH, PA, TN, VA, and WV.

MC 114273 (Sub-766F), filed June 27, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *foundry equipment, materials, and supplies* (except in bulk), between points in OH, on the one hand, and, on the other, points in MN, MO, NY, and WI.

MC 114273 (Sub-767F), filed June 27, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting *plastic articles* (except in bulk) from points in MO to points in IL, IN, IA, KY, MD, MI, MN, NE, NJ, NY, OH, PA, VA, WV and WI.

MC 125023 (Sub-81F), filed June 27, 1980. Applicant: SIGMA–4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Transporting *malt beverages*, in containers, and *equipment, materials, and supplies* (except commodities in bulk), (1) between the facilities of Pabst Brewing Co., at or near Newark, NJ, Milwaukee, WI, Peoria Heights, IL, and Houston County, GA; and (2) between the facilities named in (1) above, on the one hand, and, on the other, points in DE, MD, IL, IN, KY, GA, MI (except upper peninsula), NC, NJ, NY, OH, PA, SC, TN, VA, WI, WV and DC, restricted against traffic from shipper's facilities at Milwaukee, WI.

MC 126622 (Sub-8F), filed May 8, 1980. Applicant: AUDET & MEGANTIC TRANSPORT, LTEE., P.O. Box 1330, Lac Megantic, Quebec, Canada G6B 1s7. Representative: Harold C. Pachios, 443 Congress Street, Portland, ME 04101. *Contract carrier*, transporting *lumber*, from ports of entry on the International Boundary line between the U.S. and Canada at or near Jackman and Coburn Gore, ME, to points in ME, NH, VT, MA, RI, CT, NY, and NJ, under continuing contract(s) with (1) J. A. Fontain & Fils, Inc., of Woburn, Quebec, Canada; and (2) Henri-Georges d.b.a. Grondin & Fils, Ltee., of Woburn, Quebec, Canada.

MC 126873 (Sub-2F), filed June 26, 1980. Applicant: PORT MOTOR LINES, INC., 121 Enterprise Avenue, South, Secaucus, NJ 07094. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Bucks, Montgomery, Philadelphia, and Northampton Counties, PA, those points in Orange, Putname, Dutchess, Suffolk, Sullivan, Ulster, Albany, Greene, Columbia, Rensselaer Counties, NY, and points in NJ and CT (except points in CT, NY and NJ within 60 miles of Columbus Circle, New York, NY).

Note.—Applicant proposes to tack the authority described above to its existing authority within 60 miles of Columbus Circle, New York, NY.

MC 128273 (Sub-391F), filed April 23, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities* as are dealt in by processors and distributors of sugar and sugar products (except in bulk, in tank vehicles), from points in Assumption, Jefferson, LaFourche, Orleans, St. Bernard, St. James, St. John the Baptist and Terrebonne Parishes, LA, to points in the U.S. (except AK, HI and LA). Condition: The person or person who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 128543 (Sub-25F), filed June 25, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting *pipe, tubing and accessories* for pipe and tubing, between St. Louis, MO, and Staunton, IL, on the one hand, and, on the other, points in IN, OH, MI, and MN, under continuing contract(s) with Tubular Steel, Inc., of Hazelwood, MO.

MC 133233 (Sub-76F), filed July 1, 1980. Applicant: Clarence L. Werner, d.b.a. Werner Enterprises, I–80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137.

Representative: Donna Ehrlich (same as applicant). *Transporting* (1) *appliances,* from Fairfield, IA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, KY, LA, MS, MT, NV, NM, NC, OK, OR, SC, TN, TX, UT, VA, WA and WY; and (2) *equipment, material, parts and supplies* used in the manufacture of appliances, in the reverse direction, under a continuing contract(s) with The Maytag Co., of Newton, Iowa.

MC 135033 (Sub-13F), filed June 30, 1980. Applicant: Silvey Refrigerated Carriers, Inc., 7000 West Center Road–Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino, (same as applicant). Transporting *store fixtures and equipment, materials and supplies* used in the manufacture of store fixtures, between the facilities of Lozier Store Fixtures, Inc. at or near Omaha, NE, Scottsboro, AL, and Cucomango, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Lozier Store Fixtures, Inc., of Omaha, NE.

MC 135152 (Sub-42F), filed June 19, 1980. Applicant: Casket Distributors, Inc., R.R. 2, P.O. Box 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, OH 45202. Transporting *household appliances* from the facilities of Kelly & Cohen Company at Pittsburgh, PA to points in IL, IN, KY, NY, OH, PA, TN, and WV.

MC 135803 (Sub-21F), filed June 27, 1980. Applicant: WALLACE TRANSPORT, 9290 E. Hwy 140, P.O. Box 67, Planada, CA 95365. Representative: Donald M. Fennel (same as applicant). Transporting *such commodities as is dealt in by wholesale, retail and chain grocery stores and business houses,* from the facilities of Colgate-Palmolive Co., at or near Berkeley, CA, to points in OR and WA.

MC 135803 (Sub-23F), filed July 1, 1980. Applicant: WALLACE TRANSPORT, 9290 E. Hwy. 140, P.O. Box 67, Planada, CA 95365. Representative: Donald M Fennel (same as applicant). Transporting *plastic and rubber articles,* from the facilities of EPCO II, Inc., at or near Reno, NV, to points in UT, ID, CA, OR, and WA.

MC 135953 (Sub-17F), filed June 26, 1980. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *such commodities as are dealt in by drug, variety, and food stores, and materials, supplies and equipment used by manufacturers of such commodities (except commodities in bulk),* (1) from Andover, MA, to points in AR, CA, GA, IL, KS, MD, MI, MN, MO, NC, OH, OK, PA, TN, TX, and VA; (2) from St. Paul, MN, to AR, GA, IL, IN, KY, KS, MA, MI, MO, MD, NE, NJ, NY, OH, OK, PA, TN, TX, VA, and WV; (3) from Santa Monica and La Mirado, CA to Andover, MA and La Grange Park, IL; and (4) from La Grange Park, IL to La Mirado, CA and Andover, MA.

MC 136343 (Sub-22F), filed June 30, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, Esq., P.O. Box 1166, Harrisburg, PA 17108. (1) *Cloth, and* (2) *material, equipment and supplies* used in the manufacture, sale, and distribution of cloth (except in bulk) between Moonachie, NJ, on the one hand, and, on the other, points in the U.S. east of MN, IA, MO, OK, and TX.

MC 141533 (Sub-20F), filed June 30, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, Esq., 118–21 Queens Boulevard, Forest Hills, NY 11375. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in New York, NY, on the one hand, and, on the other, points in PA.

MC 142672 (Sub-152F), filed June 23, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72947. Transporting *petroleum, petroleum products and sound deadening compounds* (except commodities in bulk), from the facilities of Pennzoil Corporation, at or near Maryland Heights, MO, to points in AR, CO, LA, MS, OK and TX.

MC 142703 (Sub-29F), filed June 23, 1980. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. Third Street, P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, Esquire, 275 East State Street, Columbus, OH 43215. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between (a) Memphis, TN, on the one hand, and, on the other, points in Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, White and Williamson Counties, IL; (b) between Memphis, TN, on the one hand, and, on the other, points in Posey and Vandenburgh Counties, IN; (c) between Memphis, TN, on the one hand, and, on the other, points in Calhoun, Etowah, Jefferson, Lauderdale, Mobile, Montgomery, Morgan, Tuscaloosa, and Winston Counties, AL; (d) between Memphis, TN, on the one hand, and, on the other, points in Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Webster and Warren Counties, KY and (e) between Memphis, TN, on the one hand, and, on the other, points in Bollinger, Butler, Cape Giardeau, Carter, Christian, Crawford, Dent, Douglas, Dunklin, Franklin, Greene, Howell, Iron, Jefferson, Laclede, Madison, Mississippi, New Madrid, Oregon, Ozark, Pemiscot, Perry, Phelps, Pulaski, Reynolds, Ripley, Saint Francois, Scott, Shannon, Ste. Genevieve, Stoddard, Stone, Taney, Texas, Washington, Wayne, Webster and Wright Counties, MO, restricted to traffic having a prior or subsequent movement by rail or water.

MC 143853 (Sub-11F), filed June 27, 1980. Applicant: S.M.E. EXPRESS, INC., 101 E. Washington St., Upland, IN 46989. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *such commodities* as are dealt in or used by cosmetics manufacturers (except commodities in bulk), from the facilities of Avon Products, Inc., at Newark, DE, to points in MD, under continuing contract(s) with Avon Products, Inc.

MC 146423 (Sub-11F), filed June 27, 1980. Applicant: STEPHEN HROBUCHAK, d.b.a. TRANS–CONTINENTAL REFRIGERATED LINES, Route 502, P.O. Box 1465, Scranton, PA 18503. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Warren, NJ and points in Bradford, Carbon, Columbia, Franklin, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Pike, Schuylkill, Tioga, and Wayne Counties, PA, and Broome, Cayuga, Chanango, Chemung, Cortland, Onandaga, Schuyler, Seneca, Steuben, Tioga, Tompkins and Yates Counties, N.Y., on the one hand, and, on the other, points in the U.S. (excluding AK, HI, NJ, NY,

and PA) restricted to transportation originating at or destined to the facilities used, by Northeastern Pennsylvania Shippers Cooperative Association, Inc., or its members and restricted to shipments on bills of lading of shippers associations.

MC 146753 (Sub-2F), filed October 4, 1979. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *General commodities,* (except those of unusual value, commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment), between the facilities of Leon Korol Company at Chicago, IL, on the one hand, and on the other, points in the US (except AK and HI.)

MC 147212 (Sub-4F), filed May 13, 1980. Applicant: YASTE TRANSPORTATION CO., INC., 1950 Riverside Avenue, Hoquiam, WA 98550. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. Transporting *general commodities,* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, and commodities in bulk), between points in CA, ID, MT, OR, and WA, restricted to traffic having a prior or subsequent movement by water or rail, under continuing contract(s) with Weyerhaeuser Co., of Tacoma, WA, Yamashita Shinnihon Line, of Seattle, WA, Farrell Lines, Inc., of Seattle, WA, Sea Land Service, Inc., of Seattle, WA, Bakke Steamship-Columbus Line, of Seattle, WA & Knutsen Lines, of Seattle, WA.

MC 147433 (Sub-4F), filed June 23, 1980. Applicant: LONG LEASING CORP., P.O. Box 587, East Jordan, MI 49727. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting *reproduction automobiles and materials and supplies* used in the manufacture and distribution, reproduction of automobiles, between Battle Creek, MI, on the one hand, and, on the other, points in the U.S. (except AK, HI, and MI).

MC 148183 (Sub-27F), filed June 26, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Registered ICC Practitioner, Suite 348 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *frozen bakery goods* (in refrigerated vehicles), from the facilities of Lender's Bagel Bakery, Inc., at (a) New Haven, CT and (b) Buffalo, NY, to points in AL, FL, GA, NC, SC, and TN.

MC 148423 (Sub-8F), filed June 30, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, P.O. Box 4987, Macon, GA 31208. Transporting *fertilizer and fertilizer materials,* (1)(a) from the facilities of the Brunswick Port Authority at or near Brunswick, GA and (b) from the facilities of Estech General Chemicals Corporation, at or near Albany, GA, to points in AL, and (2) from the facilities of Estech General Chemicals Corporation, at or near Dothan, AL, to points in GA.

MC 148423 (Sub-9F), filed June 30, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, P.O. Box 4987, Macon, GA 31208. Transporting *road construction materials and aggregates* from points in GA to points in AL and those points in FL on and north of Interstate Hwy 4.

MC 149442F, filed June 3, 1980. Applicant: M & L TRUCK LINE, INC., P.O. Box 358, Memphis, TN 38101. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *store displays and empty plastic bottles,* from points in GA, IL, MO, MS, NJ, NY, OH, WI, and VA, to the facilities of Plough, Inc., at Memphis, TN and its affiliate, Maybelline Company, at North Little Rock, AR, under continuing contract(s) with Plough, Inc., P.O. Box 377, Memphis, TN 38151.

MC 150103 (Sub-7F), filed June 26, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 W. Washington Street, Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. Transporting: *Cloth* from points in NC, SC, GA, TX and AL to Jumpertown, and Booneville, MS, under continuing contract(s) with Prentiss Manufacturing Company, Inc., of Booneville, MS.

MC 150973 (Sub-1F), filed June 27, 1980. Applicant: HERBERT R. SHIPLEY, INC., 3304 Sykesville Road, Westminster, MD 21157. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *latex,* in bulk, in tank vehicles, from Baltimore, MD to Akron, OH, under continuing contract(s) with Killian Latex, Inc., of Akron, OH.

MC 151073F, filed June 16, 1980. Applicant: APOLLO EXPEDITING, INC., 38500 Van Born Road, Wayne, MI 48184. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and those commodities requiring the use of special equipment) between those points in MI on and east and south of a line beginning at the MI–IN State line and extending along U.S. Hwy 27 to junction MI Hwy 46, then along Hwy 46 to Lake Huron, restricted to transportation of freight having a prior or subsequent movement by air.

MC 151173F, filed April 17, 1980. Applicant: HAR–BET, INC., 7209 Tara Boulevard, Jonesboro, GA 30236. Representative: Bruce E. Mitchell, Esq., Suite 520, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30326. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring the use of special equipment), between the facilities of Gibson Metalux, Inc., at (a) Americus, GA and (b) Eufaula, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24410 Filed 8-12-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St. Room 620, Philadelphia, PA 19106.

MC 138438 (Sub-II–15TA), filed July 28, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. (1) *Gypsum, gypsum products and building materials,* and (2) *materials equipment and supplies used in or incidental to the manufacture, installation, and distribution of gypsum, gypsum products and building materials,* between points in and east of MN, IA, KS, OK, and TX, restricted to the transportation of shipments originating at or destined to the facilities owned, utilized or operated by Georgia Pacific Corp.—Gypsum Div. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Georgia Pacific Corp., Gypsum Div., 1062 Lancaster Ave., Rosemont, PA 19010.

Note.—Dual operations may be involved.

MC 124821 (Sub-II–21TA), filed July 30, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *General commodities* (except articles of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Evansville, IN, Mt. Vernon, IN and Springfield, MO, on the one hand, and, on the other, points in NJ, PA, MA and NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mead Johnson & Company, 2402 Pennsylvania, Evansville, IN 47721.

MC 115268 (Sub-II–1TA), filed July 30, 1980. Applicant: DAYTON TRANSPORT CORP., P.O. Box 338, Dayton, VA 22821. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *Water, in bulk, in tank vehicles,* from Augusta County, VA to pts. in MD and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Baker Seawright Corp., Rt. 1, Box 263, Mt. Sidney, VA 24467.

MC 116763, (Sub-II–23TA), filed July 30, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General Commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), Between points in the U.S. in and east of MN, IA, MO, OK and TX, for 270 days. Restricted to the transportation of traffic originating at or destined to the facilities of Fiberlog, Inc., or its customers or suppliers. Supporting shipper(s): Fiberlog, Inc., P.O. Box 285, Centerville Stn., Dayton, OH 45459.

MC 116763 (Sub-II–24TA), filed July 30, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General Commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), Between points in the U.S. in and east of MN, SD, NE, KS, OK and TX, for 270 days. Restricted to the transportation of traffic orgniating at or destined to the facilities of Paris Manufacturing Corporation. Supporting shipper(s): Paris Manufacturing Corp., P.O. Box 250, S. Paris, ME 04281.

MC 116763, (Sub-II–25TA), filed July 30, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *(1) Chemicals or allied products (2) Such materials, equipment and supplies used in the manufacture, distribution and sale of the commodities named above (expect commodities in bulk),* between points in the U.S. in and east of MN, IA, MO, OK and TX for 270 days. Restricted to the transportation of traffic originating at or destined to the facilities of American Synthetic Rubber Corporation or its customers or suppliers. Supporting shipper(s): American Synthetic Rubber Corp., P.O. Box 32960, 4500 Camp Ground Rd., Louisville, KY 40232.

MC 134156 (Sub-II–1TA), filed July 30, 1980. Applicant: AL SALEM d.b.a. AL SALEM PRODUCE, 5136 Cherokee Hill Dr., Salem, VA 24153. Representative: Al Salem (same as applicant). *Bakery goods NOI O/T frozen* between the facilities of Interbake Foods at Richmond, VA, and Battle Creek, MI, and points in the United States, for 270 days. Supporting shipper: Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261.

MC 151401 (Sub-II–1TA), filed July 30, 1980. Applicant: TRANSPORT RESOURCES, INC., 906 Shiloh Rd., West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Washington, DC 20014. *Such commodities* as are dealt in by retail, department, and discount stores, between points in that part of PA in and east of York, Dauphine, Schuylkill, Carbon, Monroe, and Pike Counties, PA; points in and north of Kent, Anne Arundel, and Baltimore Counties, MD; Kent and New Castle Counties, DE; and points in NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Jefferson Ward, Inc., 15800 NW. 13th Ave., Miami, FL 33169.

MC 135170 (Sub-II–4TA), filed July 28, 1980. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract Carrier, Irregular Route: Plastic Articles* (except commodities in bulk), between points in the United States (except AK and HI), restricted to movements from or to the facilities of Amoco Foam Products Company, under a continuing contract or contracts with Amoco Foam Products Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Amoco Foam Products Co., 2111 Powers Ferry Rd., Atlanta, GA 30339.

MC 114015 (Sub-2–3TA), filed July 29, 1980. Applicant: HUSS, INCORPORATED, Hwy. 47 West—P.O.B., 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 1832—2 World Trade Center, New York, NY 10048. CONTRACT, IRREGULAR—*Iron and steel wire rods* from Perth Amboy, NJ to points in NC, SC, GA, VA and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Raritan River Steel Co., P.O.B. 309, Perth Amboy, NJ 08862.

MC 115703 (Sub-2–5TA), filed July 28, 1980. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 6331, Wyomissing, PA 19610. Representative: Bernard L. Quaglia (same as applicant). *General Commodities,* in International Standard Organization Containers requiring container chassis type equipment, between points and places within the state of Georgia restricted to the transportation of traffic having a prior or subsequent movement by water for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The H. J. Hosea and Sons Company, P.O. Box 398, Newport, KY 41072.

MC 147681 (Sub-2–11TA), filed July 28, 1980. Applicant: HOYA EXPRESS, INC., P.O. box 543, West Middlesex, PA 16159. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Glassware, bulbs, electric lamps, electric lighting fixtures, ballast, bases, batteries and materials and supplies* used in the manufacture and distribution of the above-named commodities between CT, DE, IL, IN, KY, MA, MD, MI, MO, MS, NC, NJ, NY, OH, PA, RI, TX, TN, VA, WV and DC for 180 days. Supporting shipper: General Electric Company, 4504 Nela Pk., Cleveland, OH 44112.

MC 151320 (Sub-II–2TA), filed July 24, 1980. Applicant: ISNER TRUCKING, INC., Rt. No. 4, Marietta, OH 45750. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Contract Carrier, Irregular Route, Iron and steel articles and materials, Supplies and Equipment* used in the manufacture thereof, except commodities in bulk, between Marietta, OH; Marion, IL and Clearfield, UT, on the one hand, and, on the other, points in CO, IA, IL, IN, KY, MI, MT, MO, NV, NM, NY, OH, PA, TN, UT, VA, WV, WY. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pattin Manufacturing Co., P.O. Box 659, Marietta, OH 45750.

MC 145773 (Sub-II–3TA), filed July 25, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 600 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. *Contract, irregular: Non-exempt food or kindred products* between points in the US, under continuing contracts with Westerville Creamery, Division of Beatrice Foods, Inc. for 270 days. Supporting shipper: Westerville Creamery, Division of Beatrice Foods, Inc., 400 Hazel St., Covington, OH 45318.

MC 4963 (Sub-II–15TA), filed July 24, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: Robert R. Hollenbach (same address as above). *General commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission and those requiring special equipment* serving points in Boone, Bureau, Henry, DeKalb, Kane, Kendall, Lake LaSalle, Lee, McHenry, Ogle, Rock Island, Whiteside and Winnebago Counties, IL; Dane, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Washington, Walworth and Waukesha Counties, WI; and Bettendorf and Davenport, IA and their commercial zones as off-route points in connection with carrier's otherwise authorized regular route operations. An underlying ETA seeks 120 days authority. The right to tack is requested. Applicant intends to interline at Milwaukee and Madison, WI; Rockford; Rock Island and Moline, IL; Davenport and Bettendorf, IA. There are no supporting shippers' statement to this application. Applicant has filed a Verified Statement.

MC 146174 (Sub-II–1TA), filed July 30, 1980. Applicant: P D EXPRESS, INC., 817 West Fifth Ave., Columbus, OH 43212. Representative: David H. Rowe (same as applicant). *Cans, fibreboard, or I/S, with or without their equip, SU, with or without tops or bottoms capacity, nx 5 gal; and lids* from pts. in OH to the facilities and warehouses owned or leased by Bunge Oil Corp. at Bradley, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Bunge Edible Oil Corp., Rte. 50 North, Bradley, Box 192, Kankakee, IL 60901.

MC 142359 (Sub-II–2TA), filed July 30, 1980. Applicant: PORT EAST TRANSFER, INC., 1404 South Clinton St., Baltimore, MD 21224. Representative: Ray P. Turchi (same as applicant). *General Commodities in containers or trailers, and empty containers or trailers, and container chassis,* between Norfolk, VA and its commercial zone on the one hand, and, on the other points in VA and NC restricted to traffic having an immediately prior or subsequent movement by rail or water, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Containership Agency, Inc., 7737 Hampton Blvd., Building 4–D Room 213, Norfolk, VA 23505.

MC 107012 (Sub-II–70TA), filed July 31, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Toys and games* from the facilities of Fisher-Price Toys at or near Brownsville, TX, to Clearfield, UT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Fisher-Price Toys, 636 Girard Ave., East Aurora, NY 14052.

Note.—Common control may be involved.

MC 107012 (Sub-II–71TA), filed July 31, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Furniture and furniture parts,* from the facilities of Burlington Industries, Inc., Burlington Furniture Division at or near Robbinsville, NC to points in IN, IL, MI, MN, NY, OH and PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Burlington Industries, Inc., Burlington Furniture Division, P.O. Box 907, Lexington, NC 27292.

Note.—Common control may be involved.

MC 142976 (Sub-II–1TA), filed July 29, 1980. Applicant: JOHN D. PERFETTI, R.D. No. 4 Box 265 C, Blairsville, PA 15717. Representative: Arthur Diskin, Suite 806 Frick Building, Pittsburgh, PA 15219. *Contract irregular:* (1)(a) *Rolls, Metal Rolling Mill, Iron and Steel.* (b) *Castings, Iron and Steel.* From: The facilities of National Roll Division General Industries, Inc. Avonmore, PA. To: Points in the US (except AK and HI). (2)(a) *Rolls, Metal Rolling Mill, Iron and Steel.* (b) *Castings, Iron and Steel.* (c) *Materials, Supplies and Equipment used to manufacture and process the commodities in paragraph (1).* From: Points in the US (except AK and HI). To: The facilities of National Roll Division General Steel Industries, Inc. Avonmore, PA. Under a continuing contract with National Roll Division General Steel Industries, Inc., Avonmore, PA., for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: National Roll Division, General Steel Industries, Inc., Avonmore, PA 15618.

MC 107403 (Sub-II–29TA), filed July 29, 1980. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Propane, in bulk, in tank vehicles,* from Lyle, IN to Beaver Dam, Nevo, Owensboro, Scottsville, Sturgis, Frankline and Oak Grove, KY for 270 days. Supporting shipper(s): Pargas, Inc., P.O. Box 67, Waldorf, MD 20601.

MC 117565 (Sub-II–6TA), filed July 28, 1980. Applicant: MOTOR SERVICE CO., INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same as applicant). *(1) Metal Articles, and (2) Accessories, materials, supplies and equipment used in the installation, manufacture, shipping and maintenance of (1) above, from the plant* site and warehouse facilities of Ohio Steel Tube Co. at or near Shelby, OH to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, and VA, for 270 days.

Supporting shipper: Ohio Steel Tube Co., Shelby, OH 44875.

The following applications were filed in Region 3. Send protests to: ICC, P.O. Box 7520, Atlanta, GA 30309.

MC 121568 (Sub-3-14TA), filed August 1, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same as applicant). *Wrapping paper, printed and non-printed paper and paper products and the materials, supplies, and equipment used in the manufacture and distribution of these commodities,* between Nashville, TN on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Better Methods, 535 B, Thompson Lane, Nashville, TN. Applicant intends to tack in MC 121568 and interline at Memphis, TN and Nashville, TN and other authorized points. Supporting shipper: Better Methods, Inc., Nashville, TN 37211.

MC 107002 (Sub-3-22TA), filed August 4, 1980. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: Larry M. Ford (same address as applicant). *Phosphoric acid,* in bulk, in tank vehicles, from Geismar and Luling, LA to the facilities of Southeastern Chemicals at Jackson, MS. Supporting shipper: Southeastern Chemical, 7 Lakeland Circle, Jackson, MS 39209.

MC 145230 (Sub-3-1TA), filed July 28, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, 456 Main Street, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Contract carrier,* irregular routes: (1) *Urethane roof insulation* from Hinds County, MS to points in AL, AR, FL, GA, KS, KY, LA, MO, NC, OK, SC, TN and TX; and (2) *Equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) above* in the reverse direction under a continuing contract or contract(s) with Apache Building Products Company. Supporting shipper: Apache Building Products Company, 2025 E. Linden Ave., Linden, NJ 07036.

MC 151427 (Sub-3-1TA), filed August 1, 1980. Applicant: SABRE TRANSPORT, INC., P.O. Box 12288, Atlanta, GA 30305. Representative: Harry L. Walsh (same address as applicant). *New furniture, furniture parts, material and supplies used in the manufacture of new furniture and the distribution thereof;* between the facilities of S. K. Products Corp. located at or near Houston, TX; Chicago, IL; Clifton, NJ; and Atlanta, GA; and all points south and east of OR, ID, WY, and MT. Supporting shipper: S. K. Products Corp., 5355 Bucknell Drive, SW., Atlanta, GA 30378.

MC 141328 (Sub-3-6TA), filed August 1, 1980. Applicant: C. C. SALTER d.b.a. SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Metals, metal articles, fabrications, fabricated metal coils, angles, channels, and tractor parts* and (2) *materials, equipment and supplies used in the manufacture, distribution or installation of commodities in (1) above* between the facilities of or used by Roller Die & Forming Company, Inc. at or near Eufaula, AL, on the one hand, and, on the other, all points in TX, AR, LA, MS, AL, GA, FL, SC, NC, TN, KY, MO, IA, CA, and MD. Supporting shipper: Roller Die & Forming Company, Inc., P.O. Box 555, Eufaula, AL 36072.

MC 151431 (Sub-3-1TA), filed August 1, 1980. Applicant: HAROLD MEADE FACTORY AGENT, INC., Post Office Box 239, Russellville, TN 37860. Representative: Carl W. Eilers, 111 East Market Street, Kingsport, TN 37660. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between points in the United States in and east of MT, WY, NM, and CO, under continuing contracts with Triangle Pacific Corp., 16803 Dallas Parkway, Dallas, Texas 75248 and Lowe's Companies, Inc., Highway 268 East, Box 1111, N. Wilkesboro, NC 28656. Supporting shipper: Lowe's Companies, Inc., N. Wilkesboro, NC, Triangle Pacific Corp. Dallas, TX 75248.

MC 150357 (Sub-3-2TA), filed August 1, 1980. Applicant: AUBREY ALLEN, an individual, Route No. 2, Linville, TN 38472. Representative: Hugh C. Hoswer, Jr., 300 James Robertson Parkway, Nashville, TN 37201. *Contract carrier:* irregular routes: *Salad dressings, fish batter, mustard, catsup and condiments,* from the facilities utilized by Mike Rose Food Company at Nashville, TN to Asheville, NC and its commercial zone; points in Dade, Catoosa and Hall Counties, GA; Chattanooga and Cleveland, TN and their commercial zones; and points in VA. Supporting shipper: Mike Rose Food Company, 189 Spence Lane, Nashville, TN 37210. Restriction: Restricted to a transportation service to be performed under a continuing contract with Mike Rose Food Company, Inc. of Nashville, TN.

MC 69492 (Sub-3-2TA), filed August 1, 1980. Applicant: HENRY EDWARDS, d.b.a, HENRY EDWARDS TRUCKING COMPANY, P.O. Box 97, Clinton, KY 42301. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Trays, stands, lamps, shades, materials, supplies and equipment used in manufacturing and distribution thereof,* between Carlisle County, KY, on the one hand, and, points in the U.S. (except AK and HI), on the other. Supporting shipper: National Ceramics, Inc., Cunningham, KY 42035.

MC 144922 (Sub-3-2TA), filed August 1, 1980. Applicant: A.T.F. Trucking Co., Inc., Route 11, Box 507-B, Birmingham, AL 35210. Representative: John R. Frawley, Jr., Attorney at Law, 5506 Crestwood Blvd., Birmingham, Al 35212. *General commodities (except commodities in bulk, those commodities requiring the use of special equipment and classes A and B explosives and other commodities which are dangerous or harmful to the environment),* between the facilities of Borden, Incorporated on the one hand and on the other all points in the United States, restricted to traffic originating at or destined to the facilities of Borden, Incorporated. Supporting shipper: Borden's Incorporation, 3900 Vanderbilt Rd., Birmingham, Al 35217.

MC 144082 (Sub-3-6TA), filed August 1, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a., TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as above). *Contract carrier,* irregular routes: *Such commodities as are dealt in or distributed by automobile supply and applicance stores,* from St. Paul and Minneapolis, MN and/or Chicago, IL to Baltimore, MD and Gastonia, NC, restricted to service performed under a continuing contract or contracts with Western Auto Supply Company. Supporting shipper: Western Auto Supply Company, 2107 Grand Ave., Kansas City, MO 64108.

MC 134105 (Sub-3-5TA), filed August 1, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Avenue, Chattanooga, TN 37408. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Paper and plastic bags, rolls of wrapping paper,* from the plantsite of International Paper Company at or near Jackson, TN to points in and east of ND, SD, NE, CO and NM. Supporting shipper: International Paper Company, 220 E. 42nd St., New York, NY 10017.

MC 150843 (Sub-3-1TA), filed August 1, 1980. Applicant: "AA" HOTSHOT DELIVERY, INC., 1900-A South Broad Street, Mobile, AL 36615. Representative: William H. Sisson, Suite 525, Bel Air Office Mall 11, 3100 Cottage Hill Road, Mobile, AL 36606. *General commodities, excepting no Class A or B explosives, no bulk commodities, no household goods and no passengers will be carried,* between points in Mobile, AL, on the one hand, and, on the other, any points in the nine State area of the southeastern U.S.; to wit: AL, FL, GA, MS, TX, LA AR, TN, and SC. Restricted to shipments weighing no more than 12,000 pounds. Restricted using straight truck or truck-tractor having an unlading full-equipped weight or no more than 7,500 pounds. Supporting shippers: Revell Equipment Co., Inc., 1900 A South Broad, Unit 4, Mobile, AL 36615; Wire Rope & Riggings, Inc., 1900 A South Broad, Unit 4, Mobile, AL 36615; Alabama Dry Docks, Inc., P.O. Box 1507, Mobile, AL 36601; Bittner Industries, Inc., 639 Diaz St., Prichard, AL 36610 and Moddy-Price, Inc., 1900 A South Broad, Unit F, Mobile, AL 36615.

MC 148710 (Sub-3-6TA), filed August 4, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Road, Atlanta, GA 30341. Representative: Michael D. Bromley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Contract;* irregular; *Containers,* from Atlanta, GA to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, and WV, restricted to transportation conducted under a continuing contract(s) with Armstrong Container, Inc. Supporting shipper: Armstrong Container, Inc., 1166 Logan Circle NW., Atlanta, GA 30318.

MC 116300 (Sub-3-6TA), filed June 3, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Salt and salt products,* from Ft. Bend and Harris Counties, TX to points in AR, LA and MS. Supporting shipper: United Salt Corporation, 4151 Southwest Fwy., Suite 508, Houston, TX 77027.

MC 148281 (Sub-3-6TA), filed July 14, 1980. Republication—originally published in **Federal Register** of July 28, 1980, page 50016, Volume 45, No. 146. Applicant: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, P.O. Box 6089, Knoxville, TN 37914. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Common carrier:* regular: *General commodities (except commodities of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving points in Mobile county, AL as an off-route point in connection with applicant's presently authorized authority. Applicant plans to tack with existing authority. Supporting shipper: None. Filed to eliminate interline.

The following protests were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 24583 (Sub-5-2TA), filed August 4, 1980. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 411 Pyramid Life Building, Little Rock, AR 72201. *Bromine Chloride, in cylinders,* from the facilities of Dow Chemical, USA, at or near Magnolia, AR, to all points in the U.S. (except AK and HI). Supporting shipper: Dow Chemical, USA.

MC 26825 (Sub-5-4TA), filed August 4, 1980. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. (1) *Such commodities as are dealt in by manufacturers and distributors of infant and juvenile products,* and (2) *Raw materials, supplies and equipment utilized in the manufacture of* (1), between points in the U.S. (except AK and HI). Restriction: Restricted to traffic originating or terminating at the facilities of Welsh Company and its affiliates. Supporting shipper: Welsh Company, 1535 South 8th St., St. Louis, MO 63104.

MC 29910 (Sub-5-42TA), filed August 4, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). *Aluminum, aluminum ingots, billets, blooms, lineal shapes, pigs, plates, sheets and slabs,* from Goose Creek, SC to points in the U.S. (except AK and HI). Supporting shipper: Alumax of South Carolina, P.O. Box 1000, Goose Creek, SC.

MC 29910 (Sub-5-43TA), filed August 4, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). Common, Regular. *General commodities (except those of unusal value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving the facilities of Digital Equipment Corporation, at or near Contoocook, NH as an off-route point in connection with applicant's regular route authority between Boston and Lowell, MA. Supporting shipper: Digital Equipment Corporation, 450 Whitney Street, Northboro, MA 01532. Applicant intends to tack and interline.

MC 35320 (Sub-5-30TA), filed August 4, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Common, regular. *General Commodities, except household goods as defined by the Commission, and Classes A and B explosives,* serving Abilene, TX and its commercial zone as an off-route point in conection with carrier's otherwise authorized regular-route operations restricted to the traffic originating at or destined to the facilities of Texas Instruments. Supporting shipper: Texas Instruments, Abilene, TX.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future and interline with other carriers.

MC 61440 (Sub-5-5TA), filed August 4, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. *General Commodities (except Household Goods as defined by the Commission and classes A and B Explosives).* Between points in OK and all points in the U.S. except AK and HI. Supporting shipper: Allied Materials Corporation, P.O. Box 12340, Oklahoma City, OK 73112.

MC 88368 (Sub-5-8TA), filed August 4, 1980. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Bar, kitchen and food service furniture, fixtures, furnishings, equipment and supplies (except foodstuffs), and accessories, materials and parts thereto* (except in bulk, in tank vehicles), from Conway and Lewisville, AR to points in AZ, CA, FL, IN, IA, KS, MN, MO, NM, ND, OH, SD, IN, TX, WV and WI. Supporting shipper: The General Fixture and Supply Company, 22 Mead Street, Dayton, OH 45402.

MC 99427 (Sub-5-1TA), filed August 4, 1980. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, 50309. *Sulfuric acid,* from El Segundo, CA to Phoenix, AZ. Supporting shipper: H. J. H. Chemicals, Inc., 2229 East Magnolia, Phoenix, AZ 85034.

MC 99427 (Sub-5-2TA), filed August 4, 1980. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, 666 Grand Avenue, Des Moines, IA 50309. *Sulfuric acid, in bulk, in tank vehicles,* from Milan, NM to Sahuarita, AZ. Supporting shipper: Chemical Marketing Service, Suite 2501,

Fourth National Bank Bldg., Tulsa, OK 74119.

MC 108207 (Sub-5–20TA), filed August 4, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Drugs, toilet preparations, and shampoo, in mechanically, refrigerated equipment,* from Dallas, TX and Memphis, TN, to points in AZ, AR, CA, CO (on and east of the Continental Divide), KS, LA, NM, OK, TX, and Memphis, TN. Supporting shipper: Block Drug Company, Inc., 257 Corelison Avenue, Jersey City, NJ 07302.

MC 108207 (Sub-5–21TA), filed August 4, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Source plasma (human), moving in mechanically refrigerated equipment,* between points in AZ, IL, MN, NE, NM, OH, OK, TX, and WI. Supporting shipper: Associated Bio Science, Inc., 1100 E. Missouri, Suite 640, Phoenix, AZ 85014.

MC 111170 (Sub-5–5TA), filed August 4, 1980. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Dennis Ledet (same address as applicant). *Pulpmill Liquids,* between Pine Bluff, AR, on the one hand, and, on the other, Campti, Hodge, and Pineville, LA. Supporting shipper: International Paper Company, P.O. Box 160707, Mobile, AL 36616.

MC 114737 (Sub-5–1TA), filed August 4, 1980. Applicant: O & A TEX-PACK EXPRESS, INC., 1313 Avenue E, Lubbock, TX 79401. Representative: Timothy J. Herman, Attorney at Law, 522 First Federal Plaza, Austin, TX 78701. Common; regular. *General Commodities (Except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment),* to, from and between points on and along the following regular routes: Between Farwell, TX, and Sweetwater, TX, serving all intermediate points: From Farwell over U.S. Hwy 84 to Sweetwater, and return over the same route. Between Sweetwater, TX, and Dallas, TX, serving all intermediate points: From Sweetwater over U.S. Hwy 80 to Dallas, and return over the same route. Between Sweetwater, TX, and Roswell, NM, serving all intermediate points: From Sweetwater over TX Hwy. 70 to junction U.S. Hwy. 277, thence over U.S. Hwy. 277 to San Angelo, TX, thence over U.S. Hwy. 67 to Barnhart, TX, thence over TX Hwy. 163 to Ozona, TX, thence over U.S. Hwy. 290 to junction U.S. Hwy. 80 (also from Ozona, TX, over U.S. Hwy. 290 to junction U.S. Hwy. 285, thence over U.S. Hwy. 285 to junction U.S. Hwy. 80 at Pecos, TX), thence over U.S. Hwy. 80 to El Paso, TX, thence over U.S. Hwy. 80 to Las Cruces, NM, thence over U.S. Hwys. 70 and 82 to Alamogordo, NM, thence over U.S. Hwy. 70 to Roswell, and return over the same routes. Between Roswell, NM, and Pecos, TX, serving all intermediate points: From Roswell over U.S. Hwy. 285 to Pecos, and return over the same route. Between Roswell, NM, and Farwell, TX, serving all intermediate points: From Roswell over U.S. Hwy. 70 to Farwell, and return over the same route. Between Pecos, TX, and Sweetwater, TX, serving all intermediate points: From Pecos over U.S. Hwy. 80 to Sweetwater, and return over the same route. Between Lubbock, TX, and junction U.S. Hwys. 67 and 290 to Fort Stockton, TX, serving all intermediate points: From Lubbock over U.S. Hwy. 87, to Lamesa, TX, thence over TX. Hwy. 349 to Rankin, TX, thence over U.S. Hwy. 67 to junction U.S. Hwy. 290, and return over the same route. Between El Paso, TX, and Carlsbad, NM, serving all intermediate points: From El Paso over U.S. Hwys. 62 and 180 to Carlsbad, and return over the same route. Between Roswell, NM, and Lubbock, TX, serving all intermediate points: From Roswell over U.S. Hwy. 380 to junction New Mexico Hwy. 125, thence over NM Hwy. 125 to the NM–TX State lines, thence over TX. Hwy. 116, thence over TX Hwy. 116 to Lubbock, and return over the same route. From Roswell over U.S. Hwy 380 to junction NM Hwy. 18, thence over NM Hwy. 18 to junction NM Hwy. 83 to the NM–TX State line, thence over TX Hwy. 83 to junction U.S. Hwy. 62, thence over U.S. Hwy. 62 to Lubbock, and return over the same route. Service authorized above as of off-route points (a) points in that part of Texas bounded by a line beginning at Farwell, TX, and extending over U.S. Hwy. 84 to Sweetwater, TX, thence over U.S. Hwy. 70 to junction U.S. Hwy. 277, thence over U.S. Hwy. 277 to Sonora, TX, thence over U.S. Hwy. 290 to junction U.S. Hwy. 80, thence over U.S. Hwy. 80 to the TX–NM State line, (b) points in Curry, DeBaca, Roosevelt, Lincoln, Chaves, Dona Ana, Otero, Eddy, and Lea Counties, NM. Restricted to the transportation of packages or articles each weighing not more than 100 pounds. Applicant intends to interline. Supporting shipper: Twenty-two.

MC 115669 (Sub-5–3TA), filed August 4, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicants). *Malt beverages and related advertising materials,* (1) From Bellville and Peoria, IL; Omaha, NE; Memphis, TN; Ft. Worth, TX; and Milwaukee, WI, to points in KS; and (2) from Belleville, IL; St. Paul, MN; and Milwaukee, WI, to Auburn, NE. Supporting shippers: B & B Distributors, Route 1, Manhattan, KS 66502; Blick Sales Co., 526 W. 1st, Hutchinson, KS 67501; Capital Distributing Co., Inc., 4601 Adams, Topeka, KS 66605; DeBauge Bros., Inc., 2915 W. 15th, Emporia, KS 66801; Thomas Distributing Co., Inc., 2507 Schnider Ave., Auburn, NE 68305.

MC 117119 (Sub-5–20TA), filed August 4, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Canned foodstuffs* from Biloxi, MS to points in MT, OR, WA. Supporting shipper(s): DeJean Packing Co., P.O. Box 509, Biloxi, MS 39533.

MC 117119 (Sub-5–21TA), filed August 4, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Metal office furniture and accessories* from Conway, AR to Los Angeles, San Francisco, Sacramento, CA, Portland, OR and Seattle, WA. Supporting shipper(s): Tiffany Stand & Furniture Co., North Salem Road, Conway, AR 72032.

MC 119493 (Sub-5–30TA), filed August 4, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Paper and paper products, wood and wood products, building products, and materials and supplies used in the manufacture and distribution thereof (except in bulk in tank vehicles)* Between: Points in the U.S. (except AK and HI). Restricted to traffic from or to facilities of Manville Forest Products Corp. Supporting shipper: H. T. Nichols, Director of Transportation, Manville Forest Products Corp., P.O. Box 488, W. Monroe, LA 71291.

MC 119493 (Sub-5–33TA), filed August 4, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Roofing, building materials, and supplies used in the manufacture and distribution thereof (except in bulk).* Between: Ennis, TX on the one hand and points in NJ on the other hand. Supporting shipper: John Parker, Traffic Supervisor, Elk Corp., P.O. Box 500, Ennis, TX 75119.

MC 119493 (Sub-5–34TA), filed August 4, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *PVC plastic pipe, cast iron fittings, iron and steel and plastic articles (except in bulk)* From: Litchield and Springfield, IL To: AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MN, MO, MS, MI, NE, ND, OK, OH, SD, TN, TX, and WI. Supporting shipper: John A. Hellner, Controller, Marathon Plastics, Inc.; Contractor Utility Sales Co., P.O. Box 2937, Springfield, IL 62708.

MC 119741 (Sub-5–13TA), filed August 4, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). *Such commodities as are manufactured, sold, or distributed by persons engaged in the manufacturing, processing or milling of soybeans, soybean products, salt, grain and steel products, and materials, supplies and equipment used in the conduct of such business (except in bulk),* between the facilities of Cargill, Inc. and its subsidiaries on the one hand, and points in the United States on the other hand. Supporting shipper: Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440.

MC 119988 (Sub-5–21TA), filed August 4, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *(1) Anti-slip compound, in containers, and (2) materials, equipment, and supplies used in the manufacture and distribution thereof,* between Overland Park, KS, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Star-Brite Sales, Inc., P.O. Box 4622, Overland Park, KS 66204.

MC 121517 (Sub-5–3TA), filed August 4, 1980. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Cement, in bulk,* from Fredonia, KS to Dallas, TX. Supporting shipper(s): Victor Division, General Portland, Inc., P.O. Box 18556, Wichita, KS 67218.

MC 124174 (Sub-5–17TA), filed August 4, 1980. Applicant: MOMSEN TRUCKING CO., 13811 L Street, Omaha, NE 68137. Representative: Karl E. Momsen, 13811 L Street, Omaha, NE 68137. *Rigid board insulation,* from Sanford, ME to Belleville, NJ; Johnstown, PA; Akron, OH; and New York City, NY. Supporting shipper(s): N.R.G. Barriers, Inc., 61 Emery Street, Sanford, ME 04073.

MC 142508 (Sub-5–35TA), filed August 4, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Commodities dealt in and sold by Food Business Houses (except in bulk)* from Omaha, NE to points in the contiguous United States. Supporting shipper: Omaha Steaks International, 4400 South 96th Street, Omaha, NE 68127.

MC 144209 (Sub-5–3TA), filed August 4, 1980. Applicant: ERWIN TRUCKING, INC., 9100 "F" Street, Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Such commodities as are dealt in by drug, variety, and food stores, and materials, supplies and equipment used by manufacturers of such commodities (except in bulk),* from St. Paul, MN to AL, AR, CA, CO, CT, DE, FL, GA, IA, IN, IL, KS, KY, LA, MA, MI, MO, MD, NE, NV, NY, NJ, OH, PA, RI, TX, UT, VA, WI, and WA; from Andover, MA to CT, CA, DE, GA, KY, MI, MN, MD, NY, NJ, OH, PA, TX, VA and WA; from Santa Monica, CA and La Mirado, CA to Andover, MA and La Grange Park, IL; and from La Grange Park, IL to La Mirado, CA and Andover, MA. Supporting shipper: The Gillette Company, Prudential Tower Building, Boston, MA 02199.

MC 144603 (Sub-5–11TA), filed August 4, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights MO 63043. Representative: Laura C. Berry (same address as applicant). *Non-exempt food and kindred products (except commodities in bulk, in tank vehicles.)* Between St. Louis MO and its commercial zone and Jackson MS; Little Rock AR; Louisville KY, and Huntington WV and their commercial zones. Supporting shipper: Sunmark, Inc., 10795 Watson Rd., St. Louis MO 63127.

MC 144984 (Sub-5–1TA), filed August 4, 1980. Applicant: LAHOMA TRANSPORT, INC., 2565 St. Mary's Avenue, Omaha, NE 68105. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Cement,* (1) from the facilities of Oklahoma Cement, Division of Lone Star Industries, at or near Pryor, OK to points in AR, KS and MO; and (2) from the facilities of Oklahoma Cement, Division of Lone Star Industries, at or near Woodward and Oklahoma City, OK to points in KS for Supporting shipper(s): Lone Star Industries, Inc., P.O. Box 12449, Dallas, TX 75225.

MC 145904 (Sub-5–5TA), filed August 4, 1980. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Boulevard, Edina, MN 55435. *General commodities, (except those of unusual value, Class A and B explosives, commodities in bulk, and commodities requiring special equipment).* Between points in IA, IL, MN, NE and WI restricted to shipments originating at or destined to facilities utilized by Underwriter's Salvage Co., Inc. Supporting shipper: Underwriter's Salvage Co., Inc., 1400 Busse Road, Elk Grove Village, IL 60007.

MC 145955 (Sub-5–10TA), filed August 4, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 108, 7101 Mercy Road, Omaha, NE 68106. *Foodstuffs,* between Chicago, IL and Milwaukee, WI, on the one hand, and, on the other, points in the US. Supporting shipper: V. Larosa & Sons, Inc., 40 Jacksonville Road, Warminster, PA 18974.

MC 145997 (Sub-5–3TA), filed August 4, 1980. Applicant: JEM EQUIPMENT, INC., Post Office Box 396, Alma, AR 72921. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Such commodities as are dealt in by wholesale and retail discount and variety stores*—from points in AL, CA, CT, FL, GA, KY, MA, ME, MS, NC, NH, OH, RI, SC, TN, UT, VA, WI and WV—to the facilities of Wal-Mart Stores, Inc., at or near Bentonville and Searcy, AR; and, Palestine, TX. Supporting shipper: Wal-Mart Stores, Inc., Post Office Box 116, Bentonville, AR 72712.

MC 148107 (Sub-5–1TA), filed August 4, 1980. Applicant: JESSE J. MESA, d.b.a. J. J. MESA TRUCKING CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *Batteries* from San Antonio, TX to New Orleans, LA and Fitzgerald, GA. Supporting shipper: Standard Industries, Inc.

MC 149173 (Sub-5–1TA), filed August 4, 1980. Applicant: NATIONAL EXPRESS, INC., 8138 Balson Ave., St. Louis, MO. 63130. Representative: Clarence E. Scott, 8138 Balson Ave., St. Louis, MO. 63130 (same as applicant) *Such commodities as are dealt in by*

retail chain grocery and food business houses and materials and supplies used in the manufacture and distribution of the above. Between the St. Louis, MO./E. St. Louis, IL. commercial zone on the one hand and the states of KY, TN, MS, AR, IL, IN, LA, OH, KS, IA, NE, MI, MN, PA, NJ, GA, FL, WI, CA, DE, NY, VA, MD, NC, SC, OK, TX, and Washington, D.C. on the other hand. No. 2: From the above mentioned states on the one hand and the St. Louis, Mo./E. St. Louis, IL commercial zone on the other hand. Supporting shipper: Purex Corp., 6901 McKissock Ave., St. Louis, MO 63147.

MC 151154 (Sub-5-3TA), filed August 4, 1980. Applicant: LENERTZ, INC., OF IOWA, 1004–29th Street, Sioux City, IA 51104. Applicant's Representative: Edward A. O'Donnell, 1004–29th Street, Sioux City, IA 51104. *Chewing gum and equipment, materials and supplies used in the manufacture and distribution of chewing gum.* Between Chicago, IL; Garland, TX; Flowery Branch, GA and Edison, Plainfield and South Plainfield, NJ on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, OK, and TX. Restricted to traffic originating at or destined to the facilities of Wm. Wrigley Jr. Company. Supporting shipper: Wm. Wrigley Jr. Company.

MC 151154 (Sub-5-4TA), filed August 4, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004–29th Street, Sioux City, IA 51104. Applicant's Representative: Edward A. O'Donnell, 1004–29th Street, Sioux City, IA 51104. *General commodities (except Class A & B explosives, commodities in bulk, commodities which because of size and weight require special equipment and household goods as defined by the Commission),* between points in the United States in and east of ND, SD, NE, CO, OK and TX. Restricted to facilities utilized by Sunbeam Corporation. Supporting shipper: Sunbeam Corp., 5400 W. Roosevelt Rd., Chicago, IL 60650.

MC 151154 (Sub-5-6TA), filed August 4, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004—29th Street, Sioux City, IA 51104. Applicant's Representative: Edward A. O'Donnell, 1004—29th Street, Sioux City, IA 51104. *Welders, battery chargers, electrical apparatus, welding supplies and related parts; and equipment, materials and supplies used in the manufacture, sale and distribution of these commodities.* Between Minneapolis, MN on the one hand, and, on the other, all points in the United States in and east of ND, SD, NE, CO, OK and TX. Supporting shipper: Century Mfg. Co.

MC 151154 (Sub-5-7TA), filed August 4, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004—29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell, 1004—29th Street, Sioux City, IA 51104. *Beverages and equipment, materials and supplies used in the manufacture and distribution of beverages.* Between St. Paul, MN on the one hand, and, on the other, all points in ND, SD, IA, IL, WI, IN, OH and KY. Supporting shipper: Gold Medal Beverages.

MC 151363 (Sub-5TA), filed August 4, 1980. Applicant: GENE SCHMITZ TRUCKING, INC., 2800 South Meridian, Oklahoma City, OK 73108. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. (1) *Machinery, materials, supplies and equipment, incidental to or used in the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum;* and (2) *Machinery equipment and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products;* and, (3) *machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including stringing and picking up thereof* Between points in LA, OK, and TX, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, ID, KS, LA, MN, MO, MT, ND, NE, NM, NV, OK, OR, SD, TN, TX, WA, and WY. Supporting shippers: Monsanto Co. Inc., 3545 NW 58th, Oklahoma. City, OK, Karchmer Pipe, Inc., P.O. Box 1416, Oklahoma City, OK, Double G. Oil Company, Post Office Box 4, Okemah, OK 74859, Southwestern Oil Corp., 8005 South I–35, Oklahoma City, OK 73149, Republic Supply Co. Post Office Box 1995, Oklahoma City, OK 73101, Rockwell Int. 3605 Ridgeover Dr. Midwest City, OK 73110.

MC 151435 (Sub-5–1TA), filed August 4, 1980. Applicant: MOTRAN SERVICES, INC., 6816 Englewood, Raytown, MO 64133. Representative: Charles Dixon, 6816 Englewood, Raytown, MO 64133. *General Commodities,* from Jackson County, MO on the one hand and to points in the United States on the other hand. Supporting shipper: Lite Weight Products, Inc., 1706 Kansas Ave., Kansas City, KS.

MC 151436 (Sub–5–1TA), filed August 4, 1980. Applicant: FRANCES THOMPSON and HAROLD THOMPSON, d.b.a. F & H Express, 4612 Pogue Drive, House Springs, MO 63051. Representative: Joseph E. Rebman, 314 North Broadway, Suite 1330, St. Louis, MO 63102. Contract; Irregular. *Nuts, bolts, screws and fasteners,* between St. Louis, MO-E. St. Louis, IL, and its commercial zone and Kansas City, MO, KS and its commercial zone. Supporting shipper: Heads and Threads, Div., MSL Industries, Inc., 2727 Shermer Road, Northbrook, IL 60062.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 147506 (Sub-6–1TA), filed July 29, 1980. Applicant: ACE TRUCK LINE, INC., 2372 Newark St., Aurora, CO 80010. Representative: Robert N. Yohe (same address as applicant). *Contract carrier;* irregular routes: *Foodstuffs and food service materials, supplies, and equipment,* in mixed shipments with foodstuffs for Nobel, Inc., from Los Angeles, CA and its commercial zone to Denver, CO and Albuquerque, NM, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nobel, Inc., 1101 W. 48th Avenue, Denver, CO.

MC 116544 (Sub-6–12TA), filed July 29, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Non-exempt food, or kindred products* between St. Louis, MO and the St. Louis, MO commercial zone on the one hand, and, on the other, the States of AR, LA, and MS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Sunmark Companies, 10795 Watson Road, St. Louis, MO 63127.

MC 116544 (Sub-6–13TA), filed July 29, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Meat, meat products, meat byproducts and articles distributed by meat packing houses* as described in sections A & C of Appendix 1 in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 from Denver, CO to points in OR and WA for 270 days. Supporting shipper: Peppertree Beef Co., 5300 Franklin, Denver, CO 80216.

MC 147002 (Sub-6–1TA), filed July 28, 1980. Applicant: BELUGA TRUCKING, INC., 1110 West Sixth Avenue, Suite 208, Anchorage, AK 99501. Representative: Carol Johnson, 1127 West Seventh Avenue, Anchorage, AK 99501. *Contract carrier,* irregular routes: *General commodities,* (except for household goods as defined by the Commission and classes A and B explosives) between Anchorage, AK and Beluga, AK, for 270 days. Supporting shippers: C. R. Lewis Co., Inc., 1500 Post Road, Anchorage, AK 99501, Maynard R. Smith, P.O. Box 1953, Anchorage, AK 99510, E. J. Bartells Co., 601 Whitney Road, Anchorage, AK 99501.

MC 143993 (Sub-6–2TA), filed July 29, 1980. Applicant: BLACK HILLS TRUCKING, INC., P.O. Drawer 2360, Casper, WY 82602. Representative: Manuel A. Lojo, P.O. Drawer 2360, Casper, WY 82602. *Butane/Natural Gasoline Mixture,* in bulk, in tank vehicles from points in Summit County, UT, to points in Albany, Campbell, Converse, Crook, Natrona, and Weston Counties, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: True Oil Purchasing Company, 106 River Cross Road, Casper, WY 82601.

MC 145054 (Sub-6–4TA), filed July 30, 1980. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln St., Denver, CO 80264. *Non-exempt food or kindred products,* (STCC Code No. 20); Between Los Angeles County, CA on the one hand, and, on the other, points in the State of Colorado for 270 days. Supporting shippers are Kerns Food, Inc., 13000 East Temple Ave., City of Industry, CA 91749, and Serv-A-Portion, Inc., 9410 Lurline Ave., Chatsworth, CA 91311.

MC 148876 (Sub-6–2TA), filed July 30, 1980. Applicant: MAGNUM FREIGHT LINES, INC., 4841 Eastern Avenue, Bell, CA 90201. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading issued by Acme Fast Freight, Inc., a freight forwarder, as defined in the Section 10102(8) of the Interstate Commerce Act, (1) Between points in the State of CA, on the one hand, and, points in AZ, NM, NV, OR, TX and WA, on the other hand, and (2) between points in CA, for 270 days. Supporting shipper: Acme Fast Freight, Inc., 2110 Alhambra, Los Angles, CA 90031.

MC 147946 (Sub-6–3TA), filed July 30, 1980. Applicant: MIRMAN TRANSPORTATION, INC., 26240 Industrial Blvd., Hayward, CA 94545. Representative: Donald J. McKay, Jr. (same address as applicant). (1) *General commodities* (except Classes A and B Explosives), in trailers, having a prior or subsequent movement by water; between points in CA on the one hand and Tacoma, WA on the other; and, (2) *Athletic shoes* in trailers, having a prior or subsequent movement by water; between points in OR on the one hand and Buena Park, CA on the other, for 270 days. Supporting shippers: Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124; J. C. Penney Company, Inc., 6131 Orangethorp, Buena Park, CA 90624.

MC 148769 (Sub-6–1TA), filed July 28, 1980. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 50 Freeport Blvd., Unit No. 17, Sparks, NV 89431. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract carrier,* irregular routes; *Pancreas glands in refrigerated containers* from Davenport, IA to New Orleans, LA, for 270 days, under contract to H. A. Salzman & Company. An underlying ETA seeks 120 days authority. Supporting shipper: H. A. Salzman, P.O. Box 337, Rock Island, IL 61201.

MC 138875 (Sub-6–19TA), filed July 29, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, An Idaho Corporation, 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). *Chemicals (except commodities in bulk),* from Elkhart, IN to CA, ID, OR and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Great Western Chemical Corporation, 808 S.W. 15th, Portland, OR 97219.

MC 1924 (Sub-6–1TA), filed July 30, 1980. Applicant: WALLACE–COLVILLE MOTOR FREIGHT, INC., North 400 Sycamore, Spokane, WA 99220. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Common Carrier,* Regular routes: *Insulation,* between ports of entry in ID, MT and WA on the International Boundary Line between United States and Canada, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 270 days. Supporting shipper: Pacific Enercon, Inc., P.O. Box 2349, Grand Forks, B.C., Canada V0H 1H0.

MC 143775 (Sub-6–21TA), filed July 30, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Aluminum sheet, in coils* from Los Angeles, CA, and its commercial zone, to Longview, TX, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Continental Can Company, 155 Vovet Road, San Mateo, CA 94402.

MC 143775 (Sub-6–22TA), filed July 30, 1980. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same as applicant). *Frozen meat, in boxes* from Oakland, CA and its commercial zone to Houston, TX; Atlanta, GA; Tampa, FL; Baltimore, MD; Philadelphia, PA; Hartford, CT; Chicago, IL; and Detroit, MI and their respective commercial zones, for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: LeMoine & Son Cattle Company, 6085 Scarlett Court, Dublin, CA 94566.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24407 Filed 8-12-80; 8:45 am]
BILLING CODE 7035-01-M

Volume No. 25

Petitions, applications, finance matters (including temporary authorities), alternate route deviations, intrastate applications, Gateways, and Pack & Crate.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent whith the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 4405 (Sub-295(MIF) (notice of filing of petition to remove restrictions), filed June 23, 1980. Petitioner: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Petitioner holds a motor *common carrier* certificate in MC 4405 (Sub-295), issued March 30, 1960, authorizing transportation, over irregular routes, of *trailers and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movements, in truckaway and driveway service, from the site of the Fruehauf Trailer Company (Independent Metal Products) plants at Fresno, CA to points in the United States (except AK and HI); *truck-tractors*, in secondary movements, in driveaway service, only when drawing trailers moving in initial movements in driveaway service, from the site of the Fruehauf Trailer Company (Independent Metals Products) plant at Fresno, CA to points in AZ, NV, OR, and VT, *truck and trailer bodies* from the site of the Fruehauf Trailer Company (Independent Metal Products) plant at Fresno, CA to points in the United States (except AK and HI). By the instant petition, petitioner seeks to modify the above authority by removing the plantsite restrictions.

MC 19105 (Sub-51(MIF) (notice of filing of petition to modify territory description), filed June 13, 1980. Petitioner: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004. Petitioner holds motor *common carrier* authority in certificate no. MC 19105 (Sub-51) issued February 28, 1979 authorizing transportation, over irregular routes, of *malt beverages*, in containers, from Williamsburg, VA to points in NC in and east of Granville, Durham, Chatham, Lee, Harnett, Cumberland and Robeson Counties, NC. By the instant petition, petitioner seeks to modify the territory description so as to read from Williamsburg, VA to points in NC.

MC 30374 (Sub-23) (M1F) (notice of filing of petition to modify certificate), filed June 23, 1980. Petitioner: TRI-STATE TRANSPORTATION CO., INC., P.O. Box 488, Bellmawr, NJ 08031. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds a motor common carrier certificate in MC 30374 (Sub-23), issued October 19, 1976, authorizing the transportation, over irregular routes, of *wearing apparel*, loose, on hangers, between Baltimore and Frederick, MD, on the one hand, and, on the other points in Washington, DC, commercial zone and those in Fairfax County, VA. By the instant petition, petitioner seeks to modify the authority so as to read: (1) *wearing apparel*, on hangers and in cartons, (2) *materials, supplies and equipment* used in the manufacture of wearing apparel, and (3) *department store merchandise* moving in mixed loads with (1) and (2), between Baltimore and Frederick, MD, on the one hand, and, on the other, points in Fairfax County, VA, and Washington, DC.

MC 50935 (Sub-11) (M1F) (notice of filing of petition to modify certificate), filed June 18, 1980. Petitioner: WOLVERINE TRUCKING COMPANY, 1020 Doris Road, Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Petitioner holds Motor Common Carrier Certificate MC 50935 (Sub-11), issued November 16, 1966, which authorizes transportation over irregular routes of: *malt beverages*, from Detroit, Michigan, to points in Kentucky, except those in Warren County, and those in that part of Kentucky on and east of a line beginning at the Kentucky-Virginia state line and extending along Kentucky Highway 932 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Kentucky Highway 15 near Whitesburg, Kentucky, thence along a line extending from Jackson through Olive Hill, Kentucky, to Portsmouth, Ohio, with no transportation for compensation on return except as otherwised authorized. By the instant Petition, Petitioner seeks to modify the authority by deleting the word *malt* from the commodity description.

MC 50935 (Sub-16) (M1F) (notice of filing to delete a restriction), filed June 9, 1980. Petitioner: WOLVERINE TRUCKING COMPANY, 1020 Doris Rd., Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48084. Petitioner holds motor *common carrier* certificate in MC 50935 (Sub-16F), issued March 5, 1979, authorizing transportation, over irregular routes, of *malt beverages*, from the facilities of Pabst Brewing Company at Peoria, IL, to Detroit and Saginaw, MI, and Toledo, OH, and from the facilities of Pabst Brewing Company at Milwaukee, WI, to Toledo, OH. By the instant petition, petitioner seeks to modify the authority by deleting the plantsite restriction at Milwaukee, WI.

MC 59135 (Subs-13, 17, 19, 22, 25, 26, 27, 29, 32, 34, 39F and 40F) (M1F) (notice of filing of petition for modification), filed June 17, 1980. Petitioner: RED STAR EXPRESS LINES OF AUBURN, INC., 24-50 Wright Avenue, Auburn, NY 13021. Representative: Edward J. Kiley, 1730 M Street, NW, Washington, DC 20036. Petitioner holds motor *common carrier* certificates in MC-59135, issued November 20, 1953; (Sub-13), issued July 25, 1967; (Sub-17), issued August 6, 1965; (Sub-19), issued April 20, 1966; (Sub-22), issued October 3, 1968; (Sub-25), issued August 15, 1969; (Sub-26), issued May 5, 1969; (Sub-27), issued October 11, 1972; (Sub-29), issued August 21, 1979; (Sub-32), issued October 23, 1978; (Sub-34), issued May 15, 1978; (Sub-39), issued November 8, 1979; and (Sub-40), issued October 17, 1979, respectively. As pertinent to this petition for modification, all of these Certificates of Public Convenience and Necessity authorize services to be performed over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment). The regular route authority contained in the lead Certificate authorizes services to be performed in the States of NY and NJ, together with authority to serve intermediate points in specifically identified off-route points; (Sub-13) authorizes services to be performed in NY together with service at intermediate points and specifically identified off-route points; (Sub-17) authorizes

services to be performed in NY, NJ, VT and MA, together with authorized service at intermediate points in specifically identified off-route points; (Sub-19) authorizes services to be performed in NY and MA, together with authorization to serve intermediate points and specifically identified off-route points; (Sub-22) authorizes services to be performed in MD, DE, and PA, together with authorizations to serve intermediate points in specifically identified off-route points; (Sub-25) authorizes services to be performed in PA and NY, together with authorizations to serve intermediate points and specifically identified off-route points; (Sub-26) authorizes services to be performed in MA and CT, together with authorizations to serve intermediate points and specifically identified off-route points; (Sub-27) authorizes services to be performed in RI, VT, NY, NH and ME, together with authorization to serve intermediate points and specifically identified off-route points; (Sub-29) authorizes services to be performed in NY, together with authorization to serve intermediate points and specifically identified off-route points; (Sub-32) authorizes services to be performed in MA and VT; (Sub-34) authorizes services to be performed in NY together with authorization to serve intermediate points and specifically identified off-route points; (Sub-39) authorizes services to be performed in PA and NY together with authorization to serve intermediate points and specifically identified off-route points; (Sub-40) authorizes services to be performed in NY, PA and MD, together with authorization to serve intermediate points and specifically identified off-route points.

The purpose of this petition insofar as the lead Certificate is as follows: substitution of authority to serve all intermediate points for authority to serve specifically identified intermediate points; substitution of authority to serve all points in NY and NJ as off-route points for authority to serve specifically identified off-route points in NY and NJ; Sub 13—substitution of authority to serve all points in NY as off-route points for authority to serve specifically identified off-route points in NY; Sub 17—substitution of authority to serve all intermediate points for authority to serve specifically identified intermediate points; substitution of authority to serve all points in NY, NJ, VT and MA as off-route points for authority to serve specifically identified off-route points in NY, NJ, VT, and MA; Sub 19—substitution of authority to serve all intermediate points for authority to serve specifically identified intermediate points; substitution of authority to serve all points in NY and MA as off-route points for authority to serve specifically identified off-route points in NY and MA; Sub 22—substitution of authority to serve all points in MD and DE as off-route points for authority to serve specifically identified off-route points in MD and DE; Sub 25—substitution of authority to serve all points in PA and NY as off-route points for authority to serve specifically identified off-route points in PA and NY and the deletion of the territorial restruction; Sub 26—substitution of authority to serve all points in MA and CT as off-route points for authority to serve specifically identified off-route points in MA and CT and deletion of the territorial restriction; Sub 27—substitution of authority to serve all intermediate points; substitution of authority to serve all points in RI, MA, ME, NH, VT, and NY as off-route points in authority to serve specifically identified off-route points in RI, MA, ME, NH, VT, and NY; Sub 2—substitution of authority to serve all points in NY as off-route points for authority to serve specifically identified off-route points in NY; Sub 32—substitution of authority to serve all points in MA and VT as off-route points for authority to serve specifically identified off-route points in MA and VT; Sub 34—substitution of *general commodities* with the usual Commission exceptions for the present commodity authorized; substitution of authority to serve all points in NY as off-route points for authority to serve specifically identified off-route points in NY; Sub 39F—deletion of the territorial restriction and substitution of authority to serve all points in PA and NY as off-route points for specifically identified off-route points in PA and NY; and *Sub 40F*—substitution of authority to serve all intermediate points; substitution of authority to serve all points in NY, PA, MD as off-route points for authority to serve specifically identified off-route points in NY, PA and MD.

MC 102616 (Sub-1, paras (1)-(3), (5)-(13), (16)-(26), 281, 339, 348, 352, 360, 370, 376 (40), (41), 440, 443, 476, 477, 478, 479, 485, 497(57), (61), 514, 520, 556, 569(78), (79), 577(82)-(86), 592, 604, 617, 624, 629, 630, 661, 667, 677, 747, 766, 773, 834 (221)-(242), (247), (248), (275)-(281), (321)-(323), (341), (342), (349)-(355), (374), (382), 864, 867, 941, 944, 949, 954, 969, 971, 973, E1-E21, E33-E35, E46, E48, E50, E52, E53, E57, E58, E59, E62-E64, E85, E92, E94-E99, E101, E111, E130, E132-E141, E144-E179, E181-E204, E207-E228, E235-E238, E241-E262, E264-E334, E336-E343, E346-E367, E369-E417, E419-E449) (M1F), filed June 30, 1980. Petitioner: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, Ohio 44313. Representative: Attorney Fred H. Daly, Hanna & Cullen, 2550 M St. N.W., Washington, D.C. 20037. Petitioner generally holds authority as a common carrier as follows: Various commodities in bulk, in tank vehicles, primarily chemicals and petroleum products, from and to points in the New England States, the Mid Atlantic States, the Central States and the Southeastern States and from those areas to the Midwest, the Southwest and the Western States. By the instant petition it seeks to remove the one-way haul restriction implicit in the scope of the subject authorities by adding at the end of the last sentence of each grant the phrase: "and in the reverse direction."

MC 110325 (Sub-3) (M1F) (notice of filing of petition to delete restriction and add joinder point), filed June 9, 1980. Petitioner: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. Petitioner holds Motor *Common Carrier* Certificate MC 110325 (Sub-3) issued May 3, 1960, which authorizes transportation over alternate routes of: *general commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and *oilfield equipment and supplies:* Between junction U.S. Hwy 60 and AZ Hwy 71 near Aguila, AZ, and Albuquerque, NM, serving no intermediate points, but with the right to tack at Albuquerque, and serving the junction of U.S. Hwy 60 and AZ Hwy 71 for the purpose of joinder only; From junction U.S. Hwy 60 and AZ Hwy 71 over AZ Hwy 71 to Congress Junction, AZ, then over U.S. Hwy 89 to junction Alternate U.S. Hwy 89, then over U.S. Hwy 89 or Alternate U.S. Hwy 89 to junction U.S. Hwy 66 near Ash Fork or Flagstaff, AZ, and then over U.S. Hwy 66, through Winslow and Holbrook, AZ and Gallup, NM, to Albuquerque, and return over the same route. Between Albuquerque, NM and Oklahoma City, OK, serving no intermediate points, but with the right to tack at Albuquerque: From Albuquerque over U.S. Hwy 66, through Santa Rosa and Tucumcari, NM and Amarillo, TX to Oklahoma City, and return over the same route. Restriction: The routes specified in the two paragraphs immediately above shall be

used, in conjunction with other authorized routes, solely for the movement of shipments to or from points in CA. *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and of *government-owned compressed gas trailers*, loaded with compressed gas (other than liquefied petroleum gas) or empty: Between Wichita, KS and junction U.S. Hwy 60 and AZ Hwy 71, near Aguila, AZ, serving no intermediate points; From Wichita over U.S. Hwy 54 to Tucumcari, NM, then over U.S. Hwy 66 to junction U.S. Hwy 89, near Ash Fork, AZ, then over U.S. Hwy 89 to junction Alternate U.S. Hwy 89 (also from junction U.S. Hwy 66 and Alternate U.S. Hwy 89, near Flagstaff, AZ, over Alternate U.S. Hwy 89 to junction U.S. Hwy 89), then over U.S. Hwy 89 to Congress Junction, AZ, and then over AZ Hwy 71 to junction U.S. Hwy 60, near Aguila, and return over the same route. Restriction: The service authorized immediately above is subject to the restriction that such route shall be used in conjunction with other authorized routes solely for the movement of shipments to and from points in CA. By the instant Petition, Petitioner seeks to delete the restrictions and add Flagstaff, AZ as a joinder point in the route between junction U.S. Hwy 60 and AZ Hwy 71, near Aguila, AZ and Albuquerque, NM.

MC 110325 (Sub-14) (M1F) (notice of filing of petition to delete a restriction), filed June 16, 1980. Petitioner: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Petitioner holds motor *common carrier* certificates in MC 110325 (Sub-14), issued March 6, 1957, authorizing transportation, over regular routes, as pertinent, *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (a) between Memphis, TN and Pine Bluff, AR, serving all intermediate points, between Memphis, TN and Little Rock, AR, including Little Rock, restricted to traffic moving to or from Memphis, TN; from Memphis over U.S. Hwy 70 to Little Rock, AR, then over U.S. Hwy 65 to Pine Bluff and return over the same route, (b) between Memphis, TN and Pine Bluff, AR, serving all intermediate points, restricted to traffic moving to or from Memphis, TN; from Memphis over U.S. Hwy 70 to junction AR Hwy 11, then over AR Hwy 11 to Stuttgart, AR, then over U.S. Hwy 79 to Pine Bluff, and return over the same route. By the instant petition, petitioner seeks to delete the restriction which reads "restricted to traffic moving to or from Memphis, TN."

MC 112148 (Sub-1) (M1F) (notice of filing of petition to modify certificate), filed February 11, 1980. Petitioner: WORSTER-IOWA, INC., Gay Rd., North East, PA 16428. Representative: William J. Taylor (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 112148 (Sub-1) issued November 13, 1973, authorizing transportation, as pertinent, over irregular routes, of *meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site and storage facilities utilized by Wilson Foods Corporation, at or near Cherokee, IA, to points in the Lower Peninsula of MI, restricted to the transportation of traffic originating at the plant site and storage facilities utilized by Wilson Foods Corporation at or near Cherokee, IA. By the instant petition, petitioner seeks to add Hygrade Foods Products Corp. as an additional user of the Cherokee, IA storage facilities.

MC 112989 (Sub-95F) (M1F) (notice of petition to modify certificate), filed June 10, 1980. Petitioner: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 112989 (Sub-95F) issued February 7, 1980, authorizing transportation over irregular routes, of *aluminum sheet and aluminum plates*, from the facilities of Kaiser Aluminum & Chemical Corporation, at Ravenswood, WV, to points in OR, WA, CA, ID, AZ, UT, WY, MT, NV, and TX. By the instant petition, petitioner seeks to delete the above commodity description and substitute in lieu thereof "aluminum articles."

MC 115789 (Sub-4) (M1F) (notice of petition to modify permit), filed June 20, 1980. Petitioner: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, 425 13th St. NW., Suite 1032, Washington, DC 20004. Petitioner holds a motor *contract carrier* Permit in MC-115789 (Sub-4) issued July 29, 1980, authorizing transportation over irregular routes, of (a) *fabricated pipe and fittings*, and (b) *materials, equipment and supplies* used in the manufacture, erection, and maintenance of the commodities named in (a) above (except commodities in bulk), between the facilities of ITT Grinnell Industrial Piping, Inc., at or near Kernersville, NC, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NC), under a continuing contract(s) with ITT Grinnell Industrial Piping, Inc., of Kernersville, NC. By the instant petition, petitioner seeks (1) to modify the commodity description by deleting (a) above and substituting in lieu thereof "(a) fabricated steel, aluminum, pipe and fittings"; and (2) to modify the territorial description to include the facilities of Carolina Grating Company, Inc., to Carolina Fabricators, Inc., at points in York County, SC to the base, and also as additional contracting shippers.

MC 130216 (Sub-1F), filed April 10, 1980, previously noticed in the Federal Register issue of July 7, 1980. Applicant: IL PROGRESSO ITALO-AMERICANO PUBLISHING CO., INC., 260 Audubon Ave., New York, NY 10033. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. To engage in operations, in interstate or foreign commerce, as a *broker*, at New York, NY, and Emerson, NJ, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter and special operations, between points in the U.S. (including AK and HI).

Note.—The purpose of this republication is to include Emerson, NJ as an office facility.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before September 12, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 24379 (Sub-21) (M1F) (notice of petition to modify certificate), filed May 2, 1980. Petitioner: LONG TRANSPORTATION COMPANY, 14510 W. Eight Mile Rd., Oak Park, MI 48237. Representative: Donald G. Hichman (same address as applicant). Petitioner holds a motor *common carrier* Certificate in MC 24379 (Sub-21) issued July 26, 1976, authorizing transportation, over (A) regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (1) between Harrisburg, PA, and Burlington, NJ, from Harrisburg over U.S. Hwy 422 to junction Interstate Hwy 276 (Pennsylvania Turnpike), then over Interstate Hwy 276 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Bristol, PA, and then Bristol-Burlington Toll Bridge to Burlington, and return over the same route; (2) between Harrisburg, PA, and junction U.S. Hwy 202 and Interstate Hwy 276, from Harrisburg over US. Hwy 322 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 202, then over U.S. Hwy 202 to junction Interstate Hwy 276, and return over the same route; (3) between Harrisburg, PA, and junction U.S. Hwys 30 and 322, from Harrisburg over PA Hwy 230 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 322, and return over the same route; (4) between Norristown, PA, and Lambertville, NJ, over U.S. Hwy 202; (5) between junction U.S. Hwys 30 and 202, and Palmyra, NJ, from junction U.S. Hwys 30 and 202 over U.S. Hwy 30 to Philadelphia, PA, and then over Tacony-Palmyra Bridge to Palmyra, and return over the same route; (6) between junction Interstate Hwy 276 (Pennsylvania Turnpike) and U.S. Hwy 422, and Philadelphia, PA over U.S. Hwy 422; and (7) between Bristol, PA, and Philadelphia, PA, over U.S. Hwy 13; (B) regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between junction U.S. Hwy 22 and NJ Hwy 24 near Phillipsburg, NJ, and New York, NY, from junction U.S. Hwy 22 and NJ Hwy 24 over NJ Hwy 24 to junction U.S. Hwy 46, then over U.S. Hwy 46 to George Washington Bridge, then over George Washington Bridge to New York, and return over the same route; (2) between Ridgefield Park, NJ, and Deepwater, NJ, over the New Jersey Turnpike; (3) between Netcong, NJ, and Montague, NJ, over U.S. Hwy 206; (4) between Hasbrouck Heights, NJ, and Mahwah, NJ over NJ Hwy 17; (5) between Newark, NJ, and Hasbrouck Heights, NJ, from Newark over NJ Hwy 21 to junction NJ Hwy 3, then over NJ Hwy 3 to junction NJ Hwy 17, and then over NJ Hwy 17 to Hasbrouck Heights, and return over the same route; (6) between Fort Lee, NJ, and Alpine, NJ, over U.S. Hwy 9W; (7) between Somerville, NJ, and Lambertville, NJ, over U.S. Hwy 202; (8) between Wayne, NJ, and Montague, NJ, from Wayne over NJ Hwy 23 to junction NJ Hwy 521, then over NJ Hwy 521 to Montague, and return over the same route; (9) between Netcong, NJ, and Hammonton, NJ, from Netcong over U.S. Hwy 206 to junction NJ Hwy 54, then over NJ Hwy 54 to Hammonton, and return over the same route; (10) between Ridgefield, NJ, and Woodbridge, NJ, from Ridgefield over U.S. Hwy 1 to junction NJ Hwy 35, then over NJ Hwy 35 to Woodbridge, and return over the same route; (11) between junction NJ Hwy 35 and U.S. Hwy 1 near Woodbridge, NJ, and Trenton, NJ, over U.S. Hwy 1; (12) between Woodbridge, NJ, and Cape May, NJ, over U.S. Hwy 9; (13) between Hightstown, NJ, and Ocean Grove, NJ over NJ Hwy 33; (14) between South Amboy, NJ, and Point Pleasant, NJ, from South Amboy over NJ Hwy 35 to junction NJ Hwy 549, then over NJ Hwy 549 to Point Pleasant, and return over the same route; (15) between North Brunswick, NJ, and Seaville, NJ, from North Brunswick over U.S. Hwy 130 to junction NJ Hwy 551, then over NJ Hwy 551 to junction NJ Hwy 49, then over NJ Hwy 49 to junction NJ Hwy 50, then over NJ Hwy 50 to Seaville, and return over the same route; (16) betwen Penns Grove, NJ, and Atlantic City, NJ, from Penns Grove over NJ Hwy 48 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Atlantic City, and return over the same route; (17) between Palmyra, NJ, and Point Pleasant, NJ, from Palmyra over NJ Hwy 73 to junction NJ Hwy 70, then over NJ Hwy 70 to junction NJ Hwy 88, then over NJ Hwy 88 to Point Pleasant, and return over the same route; (18) between junction NJ Hwys 70 and 73, and Atlantic City, NJ, from junction NJ Hwys 70 and 73 over NJ Hwy 73 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Atlantic City, and return over the same route; (19) between Hammonton, NJ, and Millville, NJ, from Hammonton over NJ Hwy 54 to Millville, and return over the same route; (20) between Camden, NJ, and junction NJ Hwy 47 and U.S. Hwy 9, from Camden over NJ Hwy 42 to junction U.S. Hwy 130, then over U.S. Hwy 130 to junction NJ Hwy 47, then over NJ Hwy 47 to junction U.S Hwy 9, and return over the same route; and (21) between junction U.S. Hwy 130 and New Jersey Hwy 42 near Camden, NJ, and Atlantic City, NJ, from junction U.S. Hwy 130 and NJ Hwy 42 over NJ Hwy 42 to junction U.S Hwy 322, and then over U.S. 322 to Atlantic City, and return over the same route; (C) regular routes, of *general commodities* (except commodities in bulk,, classes A and B explosives, and household goods as defined by the Commission) (except in connection with traffic moving between Newark, NJ, and points in the New York, NY commercial zone, as defined by the Commission, on the one hand, and, on the other, Tuxedo Park, NY, and points in Rockland County, NY, on which traffic the only exception to general commodities is commodities in bulk), (1) between Newark, NJ, and Highland, NY, from Newark over U.S. Hwy 1 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction U.S. Hwy 9W, then over U.S. Hwy 9W to Highland, and return over the same route; (2) between junction U.S. Hwys 1 and 46, and junction U.S. Hwys 202 and 9W, from junction U.S. Hwys 1 and 46 over U.S. Hwy 46 to junction NJ Hwy 23, then over NJ Hwy 23 to junction U.S. Hwy 202, and then over U.S. Hwy 202 to junction U.S. Hwy 9W, and return over the same route; (3) between Newark, NJ, and Poughkeepsie, NJ, from Newark over U.S. Hwy 1 to the Hudson River crossings to NY, then over such crossings to NY, then over U.S. Hwy 9 to Poughkeepsie, and return over the same route; (4) between junction U.S. Hwy 9W and Tappan Zee Bridge, and junction U.S. Hwy 9 and Tappan Zee Bridge, from junction U.S. Hwy 9W and Tappan Zee Bridge over Tappan Zee Bridge to junction U.S. Hwy 9, and return over the same route; (5) between Highland, NY, and Poughkeepsie, NY, over Highland-Poughkeepsie Bridge; (6) between New York, NY, and White Plains, NY, from New York over NY Hwy 100 to junction NY Hwy 119, then over NY Hwy 119 to White Plains and return over the same route; (7) between Tarrytown, NY, and junction NY Hwys 100 and 119 over NY Hwy 119; and (8) between New York, NY and Stamford, CT, over U.S. Hwy 1, and return over the same route; (D) regular routes: Service in connection with routes specified in Section (a) is authorized at Burlington, Lambertville, and Palmyra, NJ, but restricted against the provision of service at those points in the commercial zones thereof which are located outside of NJ; and service at all other points on the routes specified in Section (A) above is authorized for purposes of joinder only with the authority granted herein; and service is

also authorized at Harrisburg, PA, for puposes of joinder with carrier's regular-route authority held September 15, 1958, so restricted that all service set forth above in connection with the routes specified in Section (A) above shall have the same inherent limitations set forth in carrier's underlying irregular-route authority which for convenience, is restated as follows: Between points in NJ, on the one hand, and, on the other, points authorized September 15, 1958, to be served by carrier on its regular routes, including off-route points appurtenant thereto, west of the PA–NJ State line, serving Harrisburg, PA, as a point of joinder only with the authority granted herein and the regular-route authority held by carrier September 15, 1958; (E) regular routes: Service in connection with routes specified in Section (B) above is authorized at all intermediate and off-route points in NJ, with no service authorized at those parts of the commercial zones of any NJ points authorized in Section (B) above which are located outside of NJ, service in connection with the routes specified in Section (c) above is authorized at the intermediate and off-route points in the New York, NY, Commercial zone, as defined by the Commission, those in that part of Westchester County, NY, not included in such commercial zone, that part of CT on and west of CT Hwy 104, those in Putnam County, NY, on and south of NY Hwy 55, those in Ulster County, NY, on the U.S. Hwy 9W south of Highland, NY, including Highland, those in Orange County, NY, on U.S. Hwy 9W, those in Hudson County, NJ, not included in the New York, NY, Commercial zone, those in Essex County, NJ, those in Rockland County, NY, Kingston and Tuxedo Park, NY, and Teaneck, Elizabeth, and Bound Brook, NJ, so restricted that all service set forth above in connection with the routes specified in Section (B) and Section (C) above shall have the same inherent limitations set forth in carrier's underlying irregular-route authority which is restated as follows: (1) between Newark, NJ, and points in NJ in the New York, NY Commercial zone, as defined by the Commission, on the one hand, and, on the other, points in NJ, restricted to traffic moving to and from points to be served by carrier west of the NJ–PA State line, (2) between points in the New York, NY, Commercial zone, as defined by the Commission and those in that part of Westchester County, NY, not included in such commercial zone, and those in that part of CT on and west of CT Hwy 104, (3) between points in the territory described immediately above in (2), on the one hand, and, on the other, points in Putnam County, NY, and those in Dutchess County, NY, on and south of NY Hwy 55, and those in Ulster County, NY, on U.S. Hwy 9W south of Highland, NY, including Highland, and those in Orange County, NY, on U.S. Hwy 9W, and those in Hudson County, NJ, not included in the New York Commercial Zone, and those in Essex County, NJ, and Kingston, NY, Teaneck, Elizabeth, Rahway, and Bound Brook, NJ, and (4) between Newark, NJ, and points in the New York, NY Commercial zone, as defined by the Commission, on the one hand, and, on the other, Tuxedo Park, NY, and points in Rockland County, NY; and (F) irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NJ, on the one hand, and, on the other, points authorized September 15, 1958, to be served by carrier on its regular routes, including off-route points appurtenant thereto, west of the PA–NJ State line, serving Harrisburg, PA, as a point of joinder only with the irregular-route authority granted in Section (F) above and the regular-route authority held by carrier September 15, 1958, restricted in Section (F) to the following conditions: (a) carrier shall not, pursuant to the irregular-route authority contained in Section (F) above, transport shipments moving between any points authorized to be served by it in the regular-route operations authorized herein, and (b) the authority granted in Section (F) above and that now held by carrier between the same points shall be construed as comprising a single operating right and shall not be severable by sale or otherwise. By the instant petition, petitioner seeks to delete the following restrictions from the above authority: (1) In Section D: "but restricted against the provision of service at those points in the commercial zones thereof which are located outside of New Jersey; and service at all other points on the route sepecified in Section (A) above is authorized for purposes of joinder only with the authority granted herein; and service is also authorized at Harrisburg, Pa., for purposes of joinder with carrier's regular-route authority held September 15, 1958, so restricted that all service set forth above in connection with the routes specified in Section (A) above shall have the same inherent limitations set forth in carrier's underlying irregular-route authority which, for convenience, is restated as follows: Betwen points in New Jersey, on the one hand, and, on the other, points in Putnam County, NY, and those in Dutchess County, NY, on and south of NY Hwy 55, and those in Ulster County, NY, on U.S. Hwy 9W south of Highland, NY, including Highland, and those in Orange County, NY, on U.S. Hwy 9W, and those in Hudson County, NJ, not included in the New York Commercial Zone, and those in Essex County, NJ, and Kingston, NY, Teaneck, Elizabeth, Rahway, and Bound Brook, NJ, and (4) between Newark, NJ, and points in the New York, NY Commercial zone, as defined by the Commission, on the one hand, and, on the other, Tuxedo Park, NY, and points in Rockland County, NY; and (F) irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NJ, on the one hand, and, on the other, points authorized September 15, 1958, to be served by carrier on its regular routes, including off-route points appurtenant thereto, west of the PA–NJ State line, serving Harrisburg, PA, as a point of joinder only with the irregular-route authority granted in Section (F) above and the regular-route authority held by carrier September 15, 1958, restricted in Section (F) to the following conditions: (a) carrier shall not, pursuant to the irregular-route authority contained in Section (F) above, transport shipments moving between any points authorized to be served by it in the regular-route operations authorized herein, and (b) the authority granted in Section (F) above and that now held by carrier between the same points shall be construed as comprising a single operating right and shall not be severable by sale or otherwise. By the instant petition, petitioner seeks to delete the following restrictions from the above authority: (1) In Section D: "but restricted against the provision of service at those points in the commercial zones thereof which are located outside of New Jersey; and service at all other points on the route sepecified in Section (A) above is authorized for purposes of joinder only with the authority granted herein; and service is also authorized at Harrisburg, Pa., for purposes of joinder with carrier's regular-route authority held September 15, 1958, so restricted that all service set forth above in connection with the routes specified in Section (A) above shall have the same inherent limitations set forth in carrier's underlying irregular-route authority which, for convenience, is restated as follows: Betwen points in New Jersey, on the one hand, and, on the other, points authorized September 15, 1958 to be served by carrier on its regular routes, including off-route points appurtenant thereto, west of the Pennsylvania–New Jersey State line, serving Harrisburg, Pa., as a point of joinder only with the authority granted herein and the regular-route authority held by carrier September 15, 1958." (2) In Section E: "with no service authorized at those parts of the commercial zone of any New Jersey points authorized in Section (B) above which are located outside of New Jersey." (3) In Section E: "so restricted that all service set forth above in connection with the routes specified in Section (B) and Section (C) above shall have the same inherent limitations set forth in carrier's underlying irregular-route authority which is restated as follows: (1) between Newark, N.J., and points in New Jersey in the New York, N.Y., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in New Jersey, restricted to traffic moving to and from points to be served by carrier west of the New Jersey–Pennsylvania State line, (2) between points in the New York, N.Y., Commercial Zone, as defined by the Commission, and those in that part of Westchester County, N.Y., not included in such commercial zone, and those in that part of Connecticut on and west of Connecticut Highway 104, (3) between points in the territory described immediately above in (2), on the one hand, and, on the other, points in Putnam County, N.Y., and those in Dutchess County, N.Y., on and south of New York Highway 55, and those in Ulster County, N.Y., on U.S. Highway 9W south of Highland, N.Y., including Highland, and those in Orange County, N.Y., on U.S. Highway 9W, and those in Hudson County, N.J., not included in the New York Commercial Zone, and those in Essex County, N.J., and Kingston, N.Y., Teaneck, Elizabeth, Rahway, and Bound Brook, N.Y., and (4) between Newark, N.J., and points in the New York, N.Y., Commercial zone, as defined by the Commission, on the one hand, and, on the other, Tuxedo Park, N.Y., and points in Rockland County, N.Y." (4) In Section F: "September 15, 1958." (5) In Section F: "including off-route points appurtenant thereto, west of Pennsylvania–New Jersey State line, serving Harrisburg, Pa., as a point of joinder only with the irregular-route authority granted in Section (F) above and the regular-route authority held by carrier September 15, 1958." (6) In Section F: "Restriction: the service authorized in Section (F) above is subject to the following conditions: Carriers shall not, pursuant to the irregular-route authority contained in Section (F) above, transport shipments moving between any points authorized to be served by it in the regular-route operations authorized herein."

FF–64) (M1F), notice of filing of petition to modify permit filed March 21, 1980. Petitioner: P. O. W. FREIGHT SYSTEMS, INC., 994 Williams St., Longmeadow, MA 01106. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Petitioner holds a Freight Forwarder Permit in FF–64, issued July 10, 1980, authorizing as pertinent, operations in interstate or foreign commerce as a Freight Forwarder of *commodities generally*, from points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, to points in OH, PA, and WV. By the instant petition, petitioner seeks to modify the territorial description to read "between points in CT, ME, NY, MA, NH, NJ, PA, RI, and VT, on the one hand, and, on the other, points in OH, PA, and WV.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules my be rejected.

W–303 (Sub-2F), filed February 1, 1980. Applicant: WESTERN TRANSPORTATION CO., a corporation, P.O. Box 3869, Portland, OR 97208. Representative: Paul M. Donovan, 1511 K St., NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by water, in interstate or foreign commerce, transporting *general commodities*, by non-self-propelled vessels with the use of separate towing vessels and by towing vessels in the performance of general towage between all ports and points in WA on the Strait of Juan De Fuca, Strait of Georgia, Haro Strait, Rosario Strait, Admirality Inlet, Puget Sound and tributary waterways on the one hand, and, on the other, all ports and points in OR and WA on the Columbia River and its tributaries below Bonneville, Dam, but not including the Willamette River above Pulp, OR, all ports and points in OR and WA, on the Columbia River from below Bonneville, Dam to Priest Rapids, WA, all ports and points in WA and ID on the Snake River, from its confluence with the Columbia River to Asotin, WA, and all ports and points in ID on the Clearwater River from its confluence with the Snake River to the Lewiston Memorial Bridge, at Lewiston, ID.

Note.—(1) Dual operations may be involved. (2) Under the provisions of 49 CFR 1106.5(a)(6), this proceeding is considered to be a major regulatory action under the provisions of the Energy Policy and Conservation Act. Applicant has submitted evidence under the provisions of 49 CFR 1106.7(a) and a statement of energy impact will be included in the decision disposing of this proceeding.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for oprating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 12, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 61599 (Deviation No. 15), TRAILWAYS SOUTHEASTERN LINES, INC., Suite 415, 1500 Jackson St., Dallas, TX 75201, filed July 25, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers over deviation routes as follows: From Columbia, SC over SC Hwy 277 to junction Interstate Hwy 77, then over Interstate Hwy 77 (using portions of US Hwy 21 where Interstate Hwy 77 is incomplete) to junction SC Hwy 160 near Fort Mill, SC, and return over the same route for operating convenience only, with the right of access wherever there is an interchange at a junction with its presently certificated route. Also access routes via US Hwy 21 and Lee Blvd. to and from Rock Hill, SC. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Columbia, SC over US Hwy 321 to Rockton, SC, then over SC Hwy 34 to Winnsboro, SC, then over US Hwy 321 to Chester, SC, then over SC Hwy 72 to junction SC Hwy 901, then over SC Hwy 901 to Rock Hill, SC, then over US Hwy 21 to unnumbered hwy, then over unnumbered hwy to Fort Mill, then over SC Hwy 160 to junction Interstate Hwy 77 and return over the same route.

Permanent Authority Notices, Substitution Applications: Single-Line Service for Existing Joint-Line Service

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2). These proposals are published as "service sought" (as opposed to decision-notices), because in each case it appears questionable as to whether all or part of the authority sought should be issued, weighing applicant's evidence under 49 CFR 1062.2. (For example, questions may be raised relating to applicant's contentions concerning why the involved joint-line service has been cancelled or is in a state of deterioration which warrant a decision on the merits, regardless of whether the application is opposed.)

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or

have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

MC 150996F, filed April 1, 1980. Applicant: FRANK GONZALEZ, d.b.a. RELIABLE DRIVE-AWAY, 125 Given Place, Montebello, CA 90640. Representative: Frank Gonzalez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles* owned by other persons or entities, between points in the U.S. (except AK and HI).

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24413 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-75F)]

Chicago and North Western Transportation Company—Abandonment—Between Merrillan and Marshfield, Wis.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided June 19, 1980, a finding, which is administratively final; was made by the Commission Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its track extending from milepost 0.0 near Merillan to milepost 37.5 near Marshfield, in Jackson, Clark and Wood Counties, WI, provided that (1) conditions for the protection of employees as discussed in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), will be imposed; (2) applicant shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts, for a period of 180 days from August 2, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way; and (3) applicant shall make available to present users of the line a conveniently located public team track. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed and served no later than 15 days after publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary

[FR Doc. 80-24412 Filed 8-12-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[303-TA-14 (Peliminary)]

Animal Identification Tags From New Zealand; Institution of Preliminary Countervailing Duty Investigation and Scheduling of Conference

Investigation instituted. Following receipt of a petition on August 1, 1980, filed by Y-Tex Corporation, Cody, Wyoming, a domestic producer of plastic animal identification tags, the United States International Trade Commission on August 5, 1980, instituted a preliminary countervailing duty investigation under section 303 of the Tariff Act of 1930, as amended by section 103 of the Trade Agreements Act of 1979, to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from New Zealand of plastic animal identification tags provided for in item 666.00 of the Traffic Schedules of the United States. This investigation will be subject to the provisions of Part 207 of the Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 76457) and, particularly, Subpart B thereof, effective January 1, 1980.

Written submissions. Any person may submit to the Commission on or before August 27, 1980, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submission must conform with the requirements of

section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All the written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with the investigation for August 22, 1980, at the U.S. International Trade Commission Building, 701 E. Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. William Schechter (202-523-0300). It is anticipated that parties in support of the petition for countervailing duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference may be obtained from Mr. Schechter.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission, and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: August 8, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-24489 Filed 8-12-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-89]

Certain Apparatus for the Continuous Production of Copper Rod; Import Investigation

Notice is hereby given that a Complaint was filed with the U.S. International Trade Commission on July 29, 1980, and amended on August 1, 1980, and August 5, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) on behalf of Southwire Company of Carrollton, Georgia, alleging that unfair methods and unfair acts exist in the importation into the United States of certain apparatus for the continuous production of copper rod, or in their sale, because the apparatus are being made in accordance with the claims of U.S. Letters Patent 4,129,170. The Complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests that the Commission, after a full investigation has been conducted, order permanent exclusion from entry into the United States of the imports in question and provide all other necessary and proper relief. Complainant also requests that the Commission conduct expedited proceedings and issue a temporary exclusion order prohibiting entry into the United States of the imports in question.

Having considered the complaint, the Commission on August 11, 1980, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337(o)), an investigation be instituted to determine whether there is reason to believe that there is a violation and whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain apparatus for the continuous production of copper rod, or in their sale, by reason that such apparatus are made in accordance with the claims of U.S. Letters Patent 4,129,170, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) That for the purposes of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Southwire Company, 126 Fertilla Street, Carrollton, Ga. 30119.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint is to be served:

Fried. Krupp G.m.b.H., Essen, Federal Republic of Germany.

Krupp International Inc., 550 Mamaroneck Avenue, Harrison, N.Y. 10528.

(c) Donald Dinan and Brocke Murdock, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street N.W., Washington, D.C. 20436, shall be the Commission investigative attorneys, parties to this investigation; and

(3) Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer who is instructed to issue a recommended determination as to temporary relief by September 28, 1980, and the Commission hereby shortens to five (5) days the period for filing exceptions to the recommended determination and for filing alternative findings of fact and conclusions of law under section 210.54 of the Commission's Rules.

The presiding officer shall also establish a schedule for oral presentations concerning the remedy, bonding, and public interest considerations for the purpose of creating an administrative record to be certified to the Commission by September 26, 1980. In addition to appearances and oral presentations on the remedy, bonding, and public interest considerations, the presiding officer shall provide for a pre-hearing briefing schedule to be published in the Federal Register soliciting the written views of any persons interested in this phase of the investigation. The transcript of the oral presentations, the pre-hearing briefs, and the other written comments will comprise the administrative record concerning remedy, bonding, and the public interest factors to be certified to the Commission. The Commission shall issue its determination on temporary relief by October 29, 1980.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York Office, 6 World Trade Center, Suite 655, New York, N.Y. 10048.

By order of the Commission.

Issued: August 12, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-24681 Filed 8-12-80; 10:35 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-87]

Certain Coin-Operated Audio Visual Games and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on August 25, 1980, in the Dodge Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the Federal Register.

Issued: August 7, 1980.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80-24495 Filed 8-12-80; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-26 (Final)]

Certain Steel Wire Nails From Korea; Import Investigation

Determination

On the basis of the record [1] developed in this investigation, the Commission [2] determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C 1673d(b)), that an industry in the United States is not materially injured and is not threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of certain steel wire nails from Korea, provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States, which are covered by the U.S. Department of Commerce determination of sales at less than fair value (LTFV).

Background

The Commission instituted this investigation effective May 19, 1980, following receipt of notice by the Department of Commerce that certain steel wire nails from Korea are being sold at LTFV. Notice of the institution of the Commission's investigation and of the hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and in the Commission's New York City Office, located at 6 World Trade Center, and by publishing the notice in the **Federal Register** on May 23, 1980 (45 FR 34941).

The hearing was held in Washington, D.C., on July 9 and 10, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

On the basis of the record developed in investigation number 731–TA–26 (Final), we determine pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry materially retarded [3] by reason of imports of nails from the Republic of Korea, which are covered by the U.S. Department of Commerce's determination of sales at less than fair value.[4]

Domestic Industry

To begin an analysis of the impact on a domestic industry of imports sold in the United States at less than fair value, the Commission must first define the relevant industry. As a general rule, the term "industry" is defined in section 771(4)(A) of the Trade Agreements Act of 1979 (hereinafter referred to as the Trade Act), as,

[T]he domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

The term "like product" is defined in section 771(10) as,

[A] product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation.

Thus, the starting point for an analysis of the relevant industry is the proper identification of the imported article subject to the investigation and the proper identification of the "like product."

The Department of Commerce determination of less-than-fair-value sales covers those articles entering the United States under items 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS), which includes brads, nails, spikes, staples, and tacks of one-piece construction, made of round steel wire. TSUS item 646.25 provides for these articles which are under 1-inch in length and less than 0.065 inchs in diameter. Item 646.26 provides for these articles which are 1-inch or more in length and 0.065 inches or more in diameter.

While the technical scope of the Department of Commerce determination covers more than nails, the Department found LTFV sales only with respect to certain steel wire nails. Those items actually found to be entering at LTFV are electro-galvanized nails which account for 52.8 percent of LTFV imports; bright nails which account for 14.8 percent; phosphate coated nails which account for 10.2 percent; vinyl coated nails, 10.1 percent; cement coated nails, 8.8 percent; hot dipped galvanized nails, 1.5 percent; blued nails, 1.4 percent; and miscellaneous nails, 0.4 percent. As a result, these nails are the articles subject to the investigation and the subject of our determination. For the most part, the imported nails in question are distinguishable from each other by their coatings and the consequent specialized uses which their coatings permit. The one exception is bright nails, which are not coated but are processed to give them a clean, smooth surface.[5]

Footnotes continued on next page

[1] The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Commissioners Moore and Bedell dissenting.

[3] Since there is an established domestic industry, the question of material retardation of the establishment of an industry is not at issue.

[4] This case comes before us as a result of a final affirmative determination of less than fair value sales by the Department of Commerce. On December 6, 1977, the President approved implementation by the Department of the Treasury of the Trigger Price Mechanism to monitor import prices of steel mill products. (The TPM was suspended in March 1980 in response to the filing of antidumping petitions by U.S. Steel Corporation relating to certain carbon steel products from European countries.) Production costs of steel mill products in Japan formed the basis of the trigger prices because Japan is considered to be the most efficient producer in the world. Imports priced below those prices were viewed as potential sales at less than fair value and when substantial quantities of such steel mill products entered the United States, an antidumping investigation could be "triggered" by the Department of the Treasury on its own motion. The Department's trigger price investigation of U.S. imports of certain steel wire nails from the Republic of Korea covered the 7-month period from May 1 through November 23, 1979. The investigation involved 33 Korean companies which shipped steel wire nails to the United States. On the basis of its investigation, the Department of the Treasury determined that 22 of these Korean companies shipped quantities of steel wire nails below the applicable trigger prices. Accordingly, on April 20, 1979, the Department of Treasury initiated an antidumping investigation, excluding the 11 companies not found to be selling below the trigger price. (On January 2, 1980, under the authority of the Government Reorganization Act (Reorganization Plan No. 3), the Department of Commerce succeeded to the authority of the Department of the Treasury in this matter.) The Department of Commerce investigation of U.S. imports of certain steel wire nails from the Republic of Korea covered the 4-month period from December 1, 1978 through March 31, 1979. This investigation included 12 of the 22 Korean producers mentioned above which accounted for 73 percent by value of nails imported into the United States from the Republic of Korea during the period of investigation. Fair value comparisons were made on approximately 64 percent by value of all nails shipped from the Republic of Korea to the United States during the period of investigation. As a result of these comparisons, two companies were found to have no margins and four companies had *de minimus* margins. These six companies were found not to be selling below fair value.

In addition, the Department of Commerce determined that some of the 11 firms originally excluded from the investigation may be trading companies which might be subject to the possible imposition of antidumping duties to the extent that the nails they exported were manufactured by firms found to have made sales at LTFV. Furthermore, other Korean manufacturers that exported to the United States during May 1979 through March 1979 would also be subject to any antidumping order resulting from an affirmative finding.

[5] Nails are galvanized with a zinc coating to prevent rust and corrosion. Two methods are commonly used to galvanize nails: electro-galvanizing and hot-galvanizing. Electro-galvantized nails are coated with a pure coating of zinc of a controlled thickness, attainable because of the electrical coating process. Hot-galvanized nails are coated with zinc by dipping them, which results in a thicker layer of zinc, presumably affording greater resistance to rust and corrosion. In the hearing, there was debate about the comparative advantages of the two processes for galvanizing nails. Evidence collected during the investigation indicates, however, that nails galvanized by one process perform as well as those galvanized by the other process in certain circumstances.

Phosphate coated nails are covered with a layer of phosphorous, which makes them easier to drive. They are used for dry-wall construction. Green-vinyl nails are coated with a poly-vinyl chloride lacquer, which makes the nails easier to drive and promotes a greater adherence to the wood. Cement coating is a process whereby nails are dipped in a resin mixture. The heat generated when this nail is driven into wood causes the cement coating to fuse, which thereby forms a bond with the wood. And, finally, blued nails are annealed and are preferred by some carpenters for sanitary reasons.

Approximately fifty domestic firms produce steel wire nails which include nails that are like the LTFV imports. In 1979, electro-galvanized nails accounted for 1.1 percent of domestic production of steel wire nails; bright nails accounted for 44.3 percent; cement coated nails for 20.9 percent; and hot galvanized for 25.1 percent. Phosphate coated, vinyl coated, blued, and other miscellaneous nails accounted for the remaining 8.5 percent of production.

There are two general types of domestic producers of steel wire nails: large integrated companies that make steel rod, draw it into wire, and then make nails from the wire and smaller, nonintegrated firms that make nails from purchased steel rod or wire. Eight known integrated firms accounted for about two-thirds of total production in 1977.

It is our view that there are seven domestic like products, which, for all practical purposes, are identical to the seven imported articles described above. We also find that since at least one type of these specific nails is produced by every domestic steel wire nail producer, the domestic industry, that is "the domestic producers as a whole of a like product," is comprised of all producers of steel wire nails.

In certain circumstances, the general definition of industry in section 771(4)(A) can be superseded to allow producers of the like product located within a particular geographic area to be treated as a distinct industry. This modification of the general definition of industry is provided for in section 771(4)(C), which states in relevant part:

(C) Regional Industries.—In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if—

(i) the producers within such market sell all or almost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

Footnotes continued from last page

In this case, domestic producers of steel wire nails in the 10 western states of Arizona, California, Colorado, Idaho, Nevada, Montana, Oregon, Utah, Washington and Wyoming have argued for treatment as an industry under section 771(4)(C). We find that the two requirements for qualifying as a regional industry are met by the steel wire nail producers in these states. First, section 771(4)(C)(i) requires that producers within the regional market must sell all or almost all of their production of the subject like product in that market. The staff estimates that in 1979 shipments made by western regional producers to customers within the region accounted for more than 80 percent of all nail shipments for those producers. Because of high transportation costs, most shipments of steel wire nails in the United States are made to customers located within 500 miles of the plant. Second, section 771(4)(C)(ii) requires that regional demand must not be supplied to any substantial degree by producers of steel wire nails located in other parts of the country. Evidence on the record indicates that shipments of nails into the western region by producers located outside the region was about 1.5 percent of western consumption in 1979.

Establishing that producers in the western states have met the two statutory criteria for qualifying as a regional industry does not necessarily lead to the treatment of these producers as a regional industry. Treatment under section 771(4)(C) is a discretionary matter for the Commission to decide as this section provides for such treatment "in appropriate circumstances." Virtually no guidance is given the Commission in deciding when "appropriate circumstances" exist which warrant the treatment of regional producers as a separate industry. There is no instruction within the statute nor any implicit standard on the face of the statute. Moreover, both the legislative history and the Statements of Administrative Action are silent on this question. Therefore, it would seem the Commission has broad discretion in exercising this permissive authority. In viewing the statute as a whole, we view at least two considerations to be implicit in the notion of "appropriate circumstances": First, a particular region should account for a significant share of domestic consumption and production. Second, the condition of producers of the like product in the region should be worse than that of the industry at large.

The first consideration prevents imposition of duties on imports sold in the entire national market when their negative impact is limited to a very small segment of that market. The second consideration recognizes the appropriateness of focusing on a regional industry only where a smaller group of producers is suffering more than all producers as a whole.

With regard to the first consideration, evidence in this investigation reveals that producers in these 10 states account for approximately 20 percent of the domestic production of steel wire nails and that the region accounts for about 20 percent of total domestic consumption. Regarding the second consideration, while the domestic industry as a whole is experiencing a downward trend, producers in the 10 western states are experiencing a sharper decline. The western region's profitability is substantially lower than that of the industry as a whole. The ratio of less-than-fair-value imports to domestic consumption was significantly greater in the 10 western states. Furthermore, the level of inventories of producers in these states has been considerably higher than the level of producers' inventories within the entire industry.

Therefore, it is our view that appropriate circumstances exist for treating producers of steel wire nails in the 10 western states as a separate regional industry pursuant to section 771(4)(C). Indeed, in view of the facts, treatment under section 771(4)(C) provides the domestic industry its best case for relief.

While the matter of import concentration is treated in the context of material injury under section 771(4)(C) of the Trade Act, we shall address it here because, as a practical matter, it operates as a further consideration elucidating our treatment of a regional industry in this investigation.[6] The data obtained in this investigation indicate that approximately 43 percent of the LTFV imports entered the United States through this region. We must, therefore, determine whether 43 percent should be considered a concentration of such imports within the meaning of the statute.

In *Carbon Steel Plate from Taiwan*, which was considered under a different law containing a similar provision, Vice Chairman Alberger and Commissioner Stern stated:

[B]ecause cases before the Commission are likely to involve different factual

[6] Vice Chairman Calhoun, while concurring in the analysis, believes it inappropriate to view the notion of concentration as a factor bearing on a finding of regional industry. In his view, section 771(4)(C) establishes concentration as a factor bearing solely on the question of whether there is material injury to a regional industry.

circumstances, a precise mathematical formula will not always be reliable in determining the minimum percentage which constitutes sufficient concentration.[7]

There may be instances in which shipments of less than 50 percent may be considered a concentration of the subsidized or dumped imports within the region. In our view, this investigation is such a case.

The legislative history indicates that concentration can be found to exist where the ratio of the LTFV imports to consumption is clearly higher in the regional market than in the rest of the U.S. markets.[8] Although we do not have sufficient data to determine the approximate shares of U.S. consumption which the other regional markets represent, the record indicates that the western region constitutes only 20 percent of total U.S. consumption, although 43 percent of the Korean LTFV imports enter there. It might seem that the greatly disproportionate share of imports in this region is a function of a statistical aberration caused by the fact that a large portion of the LTFV imports enter this country through ports on the West Coast. However, as we have noted earlier, because of the high cost of land transportation associated with shipping steel wire nails, nails tend to be distributed within a 500 mile radius. Thus, it would appear that the overwhelming majority of steel wire nails entering the West Coast ports are actually sold within the ten western states under consideration.

Therefore, since the volume of dumped imports amounts to twice what could be expected if such imports were to be distributed evenly nationwide, we find that there is a concentration of the LTFV imports in the western regional market.

Material injury

Section 735(b) of the Tariff Act of 1930 provides for a Commission final determination as to material injury or threat thereof. Under section 771(7)(B), in making such a final determination—

> [T]he Commission shall consider, among other factors—
> (i) The volume of imports of the merchandise which is the subject of the investigation,
> (ii) The effect of imports of that merchandise on prices in the United States for like products, and
> (iii) The impact of imports of such merchandise on domestic producers of like products.

In addition, section 771(4)(D), directs the Commission to assess the effect of subsidized imports in relation to the domestic production of a like product—

> [I]f available data permit the separate identification of production in terms of such criteria as production process or the producers' profits.

If this is not possible, then—

> [T]he effect of the . . . dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

Furthermore, since we have found that producers in the ten western states should be treated as a regional industry, section 771(4)(C) adds the further requirement that material injury, or threat of material injury, to that region can only be found where such injury is experienced by "the producers of all or almost all of the production within that market."[9]

In the unanimous preliminary determination in this case, the Commission found a "reasonable indication of injury."[10] In that case there were four factors which pointed to the possibility of injury and which required particular attention in the final investigation. Those factors were price depression, market penetration, shipments, and profits, particularly in the western states.

Pricing information shows that the average net selling prices for nails from Korean companies found to be selling at LTFV[11] were generally lower during the period of investigation than those of the comparable U.S.-produced nails. However, the price of both imported and domestically produced nails generally increased in the period 1978–79. The largest price differences were on the electro-galvanized and green-vinyl nails, which were not produced in any meaningful volume in the United States until 1979. Just under fifty-three percent of LTFV nails were electro-galvanized which are very costly to produce in the United States due to EPA regulations.[12] The green-vinyl nails were another large import item and, although they were developed by a domestic company, the demand for them, particularly in the western states far exceeded domestic capacity to produce them at least until 1979.[13] Thus, we do not find a causal relationship between the LTFV imports and any restraint on the upward movement of prices for nails.

There are also signs that the U.S. industry is undergoing some fundamental changes in its composition that have had an impact on pricing. Since 1976, six new non-integrated firms with improved productivity have entered the industry. The additional capacity of these plants, plus some capacity expansions in other firms, resulted in almost 60,000 tons of additional annual nail-producing capability (on a five-day operating basis) during 1977–79.

These new U.S. firms are aggressively seeking to gain market share by offering extensive product lines (which some integrated producers do not offer) and by adopting pricing strategies that in some cases do not cover costs of production. For example, a sales manager for two of the new U.S. firms stated at the public hearing that faced with current market conditions—

> We had three choices: We could keep production up in order to hold on to our market share even if that meant selling at a loss; we could cut production in the hope of maintaining prices; or we could get out of the business. We chose to maintain production. With our substantial investment in new plant equipment, we could not afford to sacrifice our market position and our skilled employees. We had to think of our future in the nail business, but obviously we cannot sustain these losses on an indefinite basis.[14]

Another of the new firms, Tree Island Steel Co., has adopted a marketing strategy of by-passing middlemen to offer end-users a more attractive price.[15] The entry of these firms into the market and the overall decline in consumption in 1979 created a situation in which there was considerably more U.S. capacity than the market could absorb without a substantial drop in imports from all sources.

[7] See USITC Publication 970, May 1979, Determination of Injury in Investigation No. AA1921–197 Under the Antidumping Act, 1921, As Amended, at pp. 22–23.

[8] See S. Report No 96–249, 96th Cong., 1st Session, at p. 83 and H. Report No. 96–317, 96th Cong., 1st Session, at p. 72.

[9] Vice Chairman Calhoun feels section 771(4)(C) adds concentration as a second requirement. See footnote 1 on page 11.

[10] Investigation No. AA1921–Inq.–26, Certain Steel Wire Nails from the Republic of Korea, May 1979. Vice Chairman Calhoun did not participate in the preliminary determination.

[11] The Department of Commerce investigation covered the four-month period from December 1, 1979 through March 31, 1979, and involved twelve of the 22 Korean producers found to be selling below trigger price. Another eleven companies had already been found not to be selling below trigger price. Of the twelve companies, six were found to be selling at less than fair value. The LTFV margins ranged from 1.3 to 11.5. Five of the six companies are located in the Masan free trade zone in Korea and constitute nearly all of the LTFV imports.

[12] Prehearing statement of Counsel for Armco Inc. and CF & I Steel Corporation, p. 22.

[13] Domestic production is now increasing to meet this demand for green-vinyl nails.

[14] Testimony of Mr. Ed Knapp, Sales Manager for Virginia Wire & Electric Co. and Florida Wire & Nail Co., Tr. p. 264.

[15] See Transcript, p. 198.

Profits generally declined both on a national and regional basis between 1977 and 1979. The total aggregate gross margin for all U.S. producers operating during 1977–79 fell from more than 8 percent in 1977 to 4.4 percent in 1979. In the western region, profits show an even sharper declining trend. However, much of this, on both a national and regional basis, can be attributed to the changes in the nail industry discussed above. New firms have entered the market since 1977, incurring significant start-up costs. At the same time, some of the older, less efficient firms have been going out of business due to their chronic noncompetitive position in the market which began well before the period that the domestic industry alleged injury.

U.S. consumption of nails, which is closely related to overall construction activity, rose each year since the 1975 recession until 1979 when an estimated decline of about 11 percent occurred. U.S. producers' shipments followed a similar trend increasing from 354,000 short tons in 1977 to 355,000 in 1978 before dropping to an estimated 348,000 tons in 1979. The impact of increasing import competition (from non-LTFV sources) can be seen, however, in the fact that the U.S. producers' share of the market declined from 58 percent in 1975 to 44 percent in 1978, before rising to an estimated 50 percent in 1979.

The most dramatic change in data from the preliminary affirmative case is in market penetration. The Department of Commerce finding of LTFV sales excludes 17 Korean firms, eleven of which were not selling below applicable trigger prices and 6 of which were specifically found not to be selling at LTFV. These 17 firms apparently account for the bulk of increases in imports from Korea, since data on the 5 largest producers, the Masan companies, show sharp declines since 1977, and questionnaire data show parallel declines for imports from Korea from other than the 17 excluded firms. These declines in imports began prior to the present investigation, and also prior to the initiation of trigger prices. The market penetration of LTFV imports declined by more than 50 percent both nationally and in the western states from 1977 to 1979. This decline seems to be continuing in 1980.

Further, the 14 customers contacted by the Commission and alleged to have purchased Korean imports in lieu of U.S. nails were unable to confirm that sales had in fact been lost specifically to imports from LTFV suppliers. We have therefore found no causal link between the condition of the industry and the LTFV imports.

There are other factors which indicate the relative stability of the nail industry in the United States. Production rose by 10 percent from 1977 to 1978 and remained constant in 1979. Inventories remained relatively stable between 1977 and 1979, but rose in the first quarter of 1980 resulting in part from the 1979 decline in consumption. Employment increased from 1,827 in 1977 to 1,882 in 1978. It fell to 1,867 in 1979; however, worker output per hour increased from 149 pounds in 1978 to 156 in 1979. Thus, while the number of workers decreased by 0.7 percent, worker productivity increased by 5 percent.

Many of the problems we have discussed in the nail industry are explained by the recession in the housing market. As noted, the consumption of steel wire nails is closely related to the construction industry. Statistics indicate that in the last decade (1969–79) the consumption of steel wire nails has followed the same cycle as construction, at least through 1976. During the period of decline in housing starts in 1979, the nail industry suffered a derivative period of decline affecting its profitability.

It was argued by counsel for the domestic producers that the substantial reduction in LTFV exports to the United States from the five Masan companies is merely a temporary and ill-disguised attempt to affect the outcome of this dumping case. They speculate that if the Commission "condones the Koreans tactic"[16] it would open an immense loophole in the administration of the antidumping act. While we recognize that these firms may presently have excess capacity, we cannot determine, on the basis of pure conjecture, that this excess capacity will necessarily be directed at the United States upon the termination of this investigation. There must be some independent corroborating evidence before we can conclude that this withdrawal from the market has been done in bad faith. Moreover, the decline in LTFV imports began before the initiation of any antidumping proceedings, and plausible alternative causes in explanation of this decline were presented to the Commission at the hearing and in the written submissions of the respondents.

For these reasons, we determine that the U.S. industry is not materially injured or threatened with material injury by reason of LTFV imports from Korea.

Findings of Fact

Section 771(7)(B) of the Tariff Act of 1930 requires the Commission to consider (1) the volume of the subject imports, (2) their effect on the domestic price of the like product, and (3) their impact on the domestic producers of the like product. In section 771(7)(C), the act further specifies a series of economic factors that the Commission must include in these considerations. Our findings of fact on each of these factors follows:

A. Volume of Imports

1. Imports from Korea increased from 1,500 tons, or less than 0.5 percent of imports in 1973, to 109,000 tons or 25 percent of imports in 1978. There was a corresponding decrease in Japan's share of imports due in part to the fact that there was shift in Japanese-owned nail producing facilities from Japan to the Masan free trade zone in Korea. (See Report at p. A–29)

Imports into the western states from Korea increased from 0.5 percent of total western imports in 1973 to 55 percent of imports in 1978. (See Report at p. A–31)

2. Imports from Korea decreased 109,000 short tons in 1978 to 92,000 short tons in 1979, a drop of 16 percent. They show a further decrease of 20 percent during January-March 1980 when compared to the corresponding period in 1979. (See Report at p. A–29)

In 1979 imports from Korea into the western states decreased to 53 percent of total imports in that region. (See Report at p. A–31)

3. U.S. imports of nails from the 5 Masan companies[17] declined from 51,000 tons in 1977, to 23,000 tons in 1979, representing a decrease of 55 percent. As a share of total imports from Korea, imports from the 5 Masan companies declined from 61 percent in 1977, to 25 percent in 1979. Information on the first quarter of 1980 indicates another decline to 18 percent of total imports from Korea. (See Report at p. A–29)

Estimated imports from the 5 Masan companies into the western region declined from 19 percent of imports in 1977 to 11 percent in 1979. (See Report at p. A–31)

4. Imports from the 5 Masan companies declined from 6.9 percent of apparent U.S. consumption in 1977 to 3.4 percent of consumption in 1979. (See Report at p. A–29)

Import to consumption ratios in the western states for nails from the five Masan companies decreased to 7.1 percent in 1979. (See Report at p. A–31)

[16] Post-hearing brief of Tree Island Steel, Inc., July 15, 1980, pp. 7–10.

[17] These 5 firms accounted for nearly all imports found to be at LTFV.

V 45 A G 13 80 UMI

B. Effects of LTFV Imports on U.S. Prices

5. The average net selling prices for the four types of nails compared were lower for imports from LTFV suppliers than those of the comparable U.S.-produced nails on both a national and regional basis. However, the margins of underselling were the largest on those nails which were not produced in commerical quantities in the United States until 1979. (See Report at p. A–35)

6. The price of domestic nails rose during the period January 1978-March 1980 on both a national and regional basis; in the case of 16-penny bright common nails by as much as 20 percent. (See Report at p. A–34)

7. Several customers alleged to have purchased LTFV nails in lieu of U.S. nails indicated that the Korean nails they purchased were for the most part nails which were unavailable domestically. Although they indicated Korean imports were competitively priced, this was only one of several variables involved in their decision to purchase nails. In addition many indicated that some domestic nails are priced competitively with Korean nails. Many of these customers were located in the western region. (See Report at pp. A–44–48)

C. Impact on the Affected Industry

8. U.S. production rose by 10 percent between 1977 and 1978 and remained stable in 1979. (See Report at p. A–16) In the western states production increased to 60,000 tons in 1979. (See Report at p. A–16)

9. Employment increased from 1,827 in 1977 to 1,882 in 1978 and then dropped slightly to 1,867 in 1979. However, for this same time period, productivity increased from 142 pounds per hour in 1977 to 156 pounds per hour in 1979, an increase of 10 percent. (See Report at pp. A–22–23) Employment increased between 1977 and 1979 to 282 workers in the western states region. (See Report at p. A–23)

10. U.S. producers capacity to produce steel wire nails rose each year during 1977–79, whether considered on a national or a regional basis. The ratio of production to capacity declined from 1978 to 1979 because production did not increase while capacity rose by 6 percent. (See Report at p. A–17)

11. The ratio of gross profits to net sales declined between 1977 and 1979. This can be attributed in large part of the start-up costs of the several new producers that began operations in this period. (See Report at p. A–24) Gross profit information for the western states is confidential.

12. There have been nine new or expanded steel wire nail production facilities in the United States since 1976. Four of these new or expanded firms are located in the western region. (See Report at p. A–13)

13. Many of the financial problems of the nail industry can be attributed to the housing recession. (See Report at p. A–13)

14. U.S. producers' shipments increased between 1977 and 1978, but declined somewhat in 1979. (See Report at p. A–18) Shipments in the western states increased since 1977.

15. Apparent U.S. consumption increased from 739,000 short tons in 1977 to 759,000 short tons in 1978, but then declined sharply by 11 percent in 1979 to an estimated 675,000 short tons. Apparent consumption in the western region remained stable in the period January-March 1980 when compared with the same period 1980. (See Report at p. A–22)

16. Inventories remained stable in relation to production during 1977–79. (See Report at p. A–21)

17. There was insufficient data available to the Commission to enable us to analyze the factors cash flow, wages, ability to raise capital, and investments.

Conclusions of Law

1. A regional industry exists as defined by section 771(4)(C) of the Tariff Act of 1930 comprised of the producers of steel wire nails operating in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

2. The domestic industry producing steel wire nails, whether considered on a national or regional basis, is not being materially injured, and is not threatened with material injury, by reason of the imports of those nails from Korea which are covered by the LTFV determination of the U.S. Department of Commerce.

Statement of Reasons for the Affirmative Determination of Commissioners George M. Moore and Catherine M. Bedell

In order for the Commission to reach an affirmative determination in this investigation under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), it is necessary to find that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the steel wire nails from Korea which the U.S. Department of Commerce has determined are being sold in the united States at less than fair value (LTFV).

The Domestic Industry

In this investigation we consider the relevant domestic industry against which the impact of imports at LTFV must be measured to consist of the facilities of the domestic steel wire nail producers located in the Western States region of the United States.[18]

Section 771(4)(C) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(C)) provides as follows:

> In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if—
> (i) The producers within such market sell all or almost of their production of the like product in question in that market, and
> (ii) The demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.
>
> In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

The record indicates that appropriate circumstances exist for treating the Western States region as a separate industry. Producers within the region sell more than 80 percent of their production of nails therein, principally because nails are heavy and costly to transport long distances, and only about 1.5 percent of consumption in that region is supplied by companies located elsewhere.[19] The "concentration of subsidized or dumped imports" criterion is met in that about 43 percent of imports from LTFV suppliers enter the Western States although that region accounts for only 20 percent of total U.S. consumption.[20]

Because of the small number of reporting firms, much of the economic data collected by the Commission on the Western industry is confidential. To avoid disclosure of such information, we will discuss only general trends and make comparisons with national data.

[18] Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.
[19] Report, p. A–33, and data submitted by U.S. producers.
[20] Report, pp. A–32 and A–22.

As a preface, we point out that our determination of material injury to the Western regional industry by reason of LTFV imports from Korea takes into consideration the vulnerable position of the Western producers brought about by an expansion of domestic capacity and a concurrent decline in demand for nails. The adverse effect of the present recession on nail producers has left them particularly susceptible to injury from unfair import competition.

Sales at Less Than Fair Value

In its investigation covering the 4-month period from December 1, 1978, through March 31, 1979, the Commerce Department found sales at less than fair value by six Korean companies. Five of these companies were Japanese-owned concerns operating in the Mason Free Trade Zone. The LTFV margins found by Commerce for these five companies range from 5.5 percent to 11.5 percent. The average LTFV margin found for the six company, Kuk Dong, was 1.3 percent.

Material Injury by Reason of LTFV Imports

Section 771(7)(A) defines "material injury" as harm which is not inconsequential, immaterial, or unimportant. In making its determination with respect to material injury, the Commission is required, pursuant to section 771(7)(B) to consider, among other factors, the volume of the subject imports, the effect of such imports on prices in the United States for like products, and the impact on the domestic producers of like products.

Volume of LTFV imports.—Section 771(7)(C)(i) directs that, in evaluating the volume of imports, "the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."

Imports from Korea in the Western region increased from less than 0.5 percent of total imports in that region in 1973 to 53 percent in 1979. in 1977, imports from the five Masan companies, which accounted for nearly all sales found by Commerce to be at LTFV, represented an estimated 46 percent of total imports from Korea in the Western region. In 1978 and 1979 they accounted for an estimated 32 percent and 21 percent, respectively. About 43 percent of total LTFV imports from the Masan companies entered the Western region, or about 22,000 tons in 1977, 19,000 tons in 1978, and 10,000 tons in 1979. While such imports have declined, they still represented more than 7 percent of apparent Western consumption in 1979, a year in which U.S. producers accounted for only about 37 percent of consumption.[21] Moreover, it was likely that the sharp decline in imports in 1979 was at least partly the result of this antidumping investigation.

The effect of the LTFV imports on prices.—In evaluating the impact of the subject imports on U.S. prices for like products, section 771(7)(C)(ii) requires the Commission to consider whether there has been significant price undercutting by the imported merchandised and whether the effect of such imports has caused significant price depression or price suppression.

In this investigation, it is evident that U.S. producers' prices have been suppressed by reason of LTFV imports from Korea. This price suppression is reflected in the financial performance of Western nail producers, which declined each year during 1977–79 and was significantly poorer than that of producers located outside of the Western region. Losses were reported in both 1978 and 1979. One of the main reasons for declining gross profits was the inability of domestic producers to raise the price of their product to keep pace with the increasing costs of raw material, labor, and energy.[22] Producers' prices did rise between January 1978 and March 1980, but the increase was much less than the rate of increase in the Bureau of Labor Statistics (BLS) price index for iron and steel, which rose by 26.8 percent in that period. For example, the largest increase for the four types of nails examined was in the price of the 16-penny bright common nails, which rose by 19.9 percent, significantly less than the increase in the BLS producer price index for iron and steel products. In addition, U.S. producers' prices for the electro-galvanized and green-vinyl sinker nails examined rose much less than prices for bright and cement-coated nails. Electro-galvanized and green-vinyl nails accounted for more than 60 percent of total LTFV imports of nails during Commerce's investigation, indicating that price suppression is particularly evident for these major types of nails imported at LTFV. A comparison of domestic and import prices for the four types of nails on which the Commission collected information shows that LTFV imports from Korea generally undersold U.S.-produced nails for the eight quarters in which comparable data were available, in one instance by as much as 39 percent. Overall, the margins of underselling approximated the average LTFV margins, which ranged from 1.3 percent to 11.5 percent.[23]

The impact of the LTFV imports on the affected industry.—In the examination of the impact of the LTFV imports on the affected domestic industry, section 771(7)(C)(iii) directs the Commission to evaluate all relevant economic factors which have a bearing on the state of the industry.

As mentioned above, the financial experience of Western producers on their nail operations deteriorated each year during 1977–79. We found other convincing indicators of material injury to the Western region in the underutilization of domestic production capacity and in the high level of U.S. producers' inventories. While capacity rose during 1977–79, utilization of that capacity declined each year and was consistently lower than the comparable figures for producers nationwide.[24] Coupled with this increase in unused capacity was a rapid increase in inventories that continued into the first quarter of 1980. By March of that year, Western producers' inventories had more than doubled in comparison with the level at the end of 1977. as a share of production, Western region inventories have been high than national inventories since 1978.[25] While declining consumption had some effect on producers' falling capacity utilization and growing inventories, nevertheless, in 1979, the 7 percent ratio of LTFV imports to consumption in the Western region was a direct cause of material injury to the U.S. industry.

Moreover, the Commission was able to confirm that several U.S. producers had lost sales to imports from Korea. While it was difficult for most customers to specifically identify imports from LTFV suppliers, questionnaire data indicated that the Korean producers selling at LTFV had supplied at least a portion of the imports in question.[26]

In this investigation, the demonstrated price suppression, sizable inventory buildup, declining profitability and capacity utilization, confirmed lost sales, and significant penetration of LTFV imports in the Western region lead us to the determination that the injury caused by the LTFV imports is more than inconsequential, immaterial, or unimportant.

Conclusion

On the basis of the foregoing considerations, we conclude that an industry in the United States is

[21] Report, pp. A–29–A–33.
[22] Report, pp. A–24A–27.
[23] Report, pp. A–34–A–41, and BLS data.
[24] Report, pp. A–17 and A–18.
[25] Report, pp. A–20 and A–21.
[26] Report, pp. A–43–A–48.

V 45 A G 13 80 UMI

materially injured by reason of imports of the steel wire nails from Korea which the Commerce Department has determined are being sold in the United States at less than fair value.

By order of the Commission.

Issued: August 1, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-24494 Filed 8-12-80; 8:45 am]

BILLING CODE 7020-03-M

LEGAL SERVICES CORPORATION

Grants and Contracts

August 8, 1980

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, publ. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Oklahoma, Inc., in Oklahoma City, Oklahoma, to serve Alfalfa, Beaver, Blaine, Cimmaron, Custer, Dewey, Ellis, Grant, Harper, Kingfisher, Major, Roger Mills, Texas, Washita, Woods and Woodward Counties.

Interested persons are hereby invited to sumit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Clinton Lyons,

Director Office of Field Services.

[FR Doc. 80-24497 Filed 8-12-80; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-254, 50-265]

Commonwealth Edison Co., Iowa-Illinois Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 57 and 52 to Facility Operating License Nos. DPR-29 and DPR-30, issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised Technical Specifications for operation of the Quad Cities Nuclear Power Station Unit Nos. 1 and 2 (the facility) located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications, Appendix B, so that the 2°F per hour temperature change limit does not apply during changes in the mode of condenser cooling. In addition, administrative changes have been made to the facility's environmental monitoring reporting requirements to bring this in conformance with current practice.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated February 2, 1978, (2) Amendment No. 57 to License No. DPR-29, Amendment No. 52 to DPR-30, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Moline Public Library, 504-17th Street, Moline, Illinois 61265. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 6th day of August 1980.

For the Nuclear Regulatory Commission.

T. A. Ippolito,

Operating Reactors Branch No. 2, Division of Licensing.

[FR. Doc. 80-24472 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN. 50-482-A]

Kansas Gas & Electric Co., Kansas City Power & Light Co., and Kansas Electric Power Cooperative, Inc.; Receipt of Information for Antitrust Review of Operating License Application

The Kansas Gas and Electric Company, acting for itself, Kansas City Power and Light Company and Kansas Electric Power Cooperative, Inc., filed information for Antitrust Review of an Operating License Application, dated May 6, 1980. This information was filed pursuant § 2.101 of the Commission's rules and regulations and is in connection with the plans of Kansas Gas and Electric Company, Kansas City Power and Light Company and Kansas Electric Power Cooperative, Inc. to operate a pressurized water reactor located on a site in Coffey County, Kansas. This reactor has been designated as the Wolf Creek Generating Station, Unit No. 1.

The portion of the application filed contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document room and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register notice.** The results of any reevaluation that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document room.

A copy of the information for Antitrust Review for Operating License Application is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the local public document room in the Coffey County Courthouse, Burlington, Kansas 66839.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before September 22, 1980.

Dated at Bethesda, Md., this 10th day of July 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-22156 Filed 7-22-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277, 50-278]

Philadelphia Electric Co., et al., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 72 and 70 to Facility Operating Licenses Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications regarding suppression pool temperature limits for routine startup and power operation conditions and for periods of testing which add heat to the suppression pool.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 1, 1978, (2) Amendments Nos. 72 and 70 to Licenses Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 1st day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-24471 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443 and 50-444]

Public Service Co. of New Hampshire, et al.; Issuance of Amendment To Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Construction Permit No. CPPR-135 and Amendment No. 3 to Construction Permit No. CPPR-136 issued to the Public Service Company of New Hampshire, The United Illuminating Company, Central Maine Power Company, Central Vermont Public Service Corporation, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas & Edison Light Company, New England Power Company, Town of Hudson, Massachusetts, Light and Power Department, Vermont Electric Cooperative, Inc., Bangor Hydro-Electric Company, Massachusetts Municipal Wholesale Electric Company, Maine Public Service Company and Taunton Municipal Lighting Plant. The amendments reflect changes in ownership and transfer of shares of the Seabrook Station, Units 1 and 2 (the facility), located in Rockingham County, New Hampshire. The amendments are effective as of their date of issuance.

These amendments provide for the addition of New Hampshire Electric Coop, Inc., and the reinstatement of The Connecticut Light and Power Company as applicants for all licenses previously requested, and the transfer of partial ownership shares as noted in the construction permit amendments for these applicants and for ten other continuing applicants.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments contained in Public Service Company of New Hampshire's letters, dated May 16, 1979, and March 14, 1980; (2) Amendment Nos. 1 and 2 to Construction Permit No. CPPR-135; (3) Amendment Nos. 1 and 2 to Construction Permit No. CPPR-136; and (4) the Commission's letter to Public Service Company of New Hampshire and the related Safety Evaluation attached thereto. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 6th day of August, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-24485 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room

located at 1717 H St., N.W., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed by August 28, 1980. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated August 6, 1980 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Joseph D. LaFleur,

Acting Director, Office of International Programs.

Name of applicant, date of application, date received, and application number	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., 07/03/80, 07/07/80, XSNM01699	93.3% Enriched Uranium	20.050	18.707	Fuel for use in the H.F.R. Reactor, Petten.	Netherlands.
Exxon Nuclear Co., 07/07/80, 07/14/80, XSNM01703	2.85% Enriched Uranium	10,000	240	Fuel for Gundremmingen Reactor	West Germany.
Marubeni America, 07/11/80, 07/15/80, XSNM01705	3.10%Enriched Uranium	156,333	3,486	Initial Core—Fukushima II, Unit 2..	Japan.
Mitsui & Co., 07/22/80, 07/25/80, XSNM01709	3.95% Enriched Uranium	29,648	813	Reload fuel for Fukushima I, Unit No. 3.	Japan.
Trasnuclear, Inc., 07/07/80, 07/07/80, ISNM80005	1.0% Enriched Uranium	40,000	400	Feed material for Tihange	From France.
Transnuclear, Inc., 07/07/80, 07/07/80, ISNM80006	1.0% Enriched Uranium	14,000	140	Feed material for Borssele	From France.
Transnuclear, Inc., 07/03/80, 07/07/80, ISNM80007	1.15% Enriched Uranium	15,000	225	Feed material for Obrigheim	From France.
Union Carbide, 07/02/80, 07/08/80, ISNM80008	93.15% Enriched Uranium	10.8	10.0	Reimport of material from XSNM01595 and XSNM01354. For use in U.C. Sterling Forest Reactor.	From France.
Exxon Nuclear 06/23/80, 07/14/80, ISNM80009	3.5% Enriched Uranium	80,000	2,800	For conversion and fabrication at Exxon and re-export to West Germany for Rheinisch-Westfalische.	West Germany.
RMI-Company 07/07/80, 07/10/80, XU08342 (03)	Amended to increase material by 90,100 Kgs depleted uranium and extend the expiration date to 10/01/82.				Canada.
Edlow Int'l, 07/21/80, 07/22/80, XU08427 (01)	Amended to add intermediate consignee in Switzerland; increase quantity by 179,500 kgs natural uranium; and extend the expiration date to 03/10/90.				France.

[FR Doc. 80-24488 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA working group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D9, "Design Aspects of Radiological Protection for Nuclear Power Plants," has been developed. An IAEA working group, consisting of Mr. R. Hock of the Federal Republic of Germany; Mr. B. F. Chamany of India; and Mr. P. A. Solari of the United Kingdom developed the initial draft of this Safety Guide from an IAEA collation during a meeting on April 17–20, 1978. The working group modified the initial draft at meetings on October 16–20, 1978, and May 27–June 6, 1980, and we are soliciting public comment on Revision 3 of the Guide. Comments on this draft received by September 19, 1980, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 4th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-24483 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. RM 50-5, 50-201, 50-332, 50-564, 50-1327, 50-1432, 50-1821]

Mixed Oxide Fuel; International Nuclear Fuel Cycle Evaluation

Order

On December 23, 1977 and May 8, 1978 the Commission issued orders terminating GESMO and recycle related proceedings. See CLI–77–33, 6 NRC 861 and CLI–78–10, 7 NRC 711. In those orders the Commission committed itself to reexamine its decision following the completion of the International Nuclear Fuel Cycle Evaluation (INFCE).

In early 1980 INFCE was completed. On May 2, the Commission wrote to Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy, requesting the Administration's views on whether its nonproliferation policies had changed since October 4, 1977, the date Mr. Eizenstat, speaking on behalf of the President, had recommended to the NRC that it terminate GESMO and recycle related proceedings. The Commission also requested the Administration's views on whether the GESMO proceeding should be reopened.

On July 14, 1980 Mr. Eizenstat responded asserting that the views expressed in his letter of October 4, 1977 continue to be those of the Administration. He also stated: "it is the view of the President that the GESMO proceedings should remain terminated and that a reopening of GESMO would be inimical to national security and contrary to the non-proliferation and foreign policy interests of the United States."

Before making its decision the Commission invites the parties to these proceedings and any other interested persons to provide comments to the Commission on the issues raised by the Eizenstat letter. In particular, the Commission invites comments on:

—Whether the Commission should reopen GESMO and other recycle-related licensing proceedings;
—What action, if any, the Commission should take regarding the license applications listed above which relate to the commercial reprocessing of nuclear material;
—Whether the Commission should consider any other actions related to this subject.

Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Chief, Docketing and Service Branch by September 29, 1980.

It is so ordered.

Dated at Washington, D.C., this 7th day of August, 1980.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-24402 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 50–17838–01 EA–80–24]

Providence Hospital, Radioactive Materials Licensees; Order Imposing Civil Monetary Penalties

I

Providence Hospital, 3200 Providence Drive, Anchorage, Alaska, (the "licensee"), is the holder of Byproduct Material License No. 50–17838–01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). License No. 50–17838–01 authorizes the licensee to receive, acquire, possess, and transfer radioactive materials in accordance with the conditions specified therein, and is due to expire on March 31, 1983.

II

A special inspection of the license's activities under the license was conducted on January 28 and 29, 1980, at the licensee's facility in Anchorage, Alaska. As a result of this inspecton, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license and with the requirements of the Nuclear Regulatory Commission's "Standards for Protection Against Radiation," Part 20, Title 10, Code of Federal Regulations. A written Notice of Violation was served upon the licensee by letter dated May 7, 1980, specifying the items of noncompliance in accordance with 10 CFR 2.201. A Notice of Proposed Imposition of Civil Penalties dated May 7, 1980, was served concurrently upon the licensee in accordance with Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, incorporating by reference the Notice of Violation, which stated the nature of the items of noncompliance and the provisions of Nuclear Regulatory Commission regulations and license conditions.

An answer dated May 31, 1980, to the Notice of Violation and the Notice of Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument in denial of the allegations of noncompliance and in protest of the imposition of penalties contained therein, as set forth in Appendix A to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the items of noncompliance designated in the Notice of Violation should be imposed, except for Item 3, which is remitted.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282) and 10 CFR 2.205, It is hereby ordered that: The licensee pay civil penalties in the total amount of One Thousand Five Hundred Dollars within twenty-five days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States, and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within twenty-five days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Secretary to the Commission, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an order designating the time and place of hearing. Upon failure of the licensee to request a hearing within twenty-five days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above and a hearing is held, the issues to be considered at such hearing shall be:

(a) whether the licensee was in noncompliance with the Commission's regulations and the conditions of the license as set forth in the Notice of Violation referenced in Section III above, with the exception of Item 3, which is remitted; and,

(b) whether, on the basis of such items of noncompliance, this Order should be sustained.

Dated this 5th day of August 1980 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

R. C. DeYoung,

Deputy Director, Office of Inspection and Enforcement.

Appendix A To Order Imposing Civil Penalties Evaluations and Conclusions

For each item of noncompliance and associated civil penalty identified in the Notice of Violation (dated May 7, 1980), the original item of noncompliance is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's responses to each item (two responses dated May 31, 1980) is presented.

Statement of Noncompliance

1. 10 CFR 20.207(b), "Storage and control of licensed material in unrestricted areas," requires that licensed material in an unrestriced area be tended under constant surveillance and under the immediate control of the licensee. 10 CFR 20.105(b), "Permissible levels of radiation in unrestricted areas," limits the radiation level in an unrestricted area from a radioactive source such that an individual could not receive a dose in excess of 2 millirems in any one hour or 100 millirems in any seven consecutive days.

Contrary to the above requirements, after removing ten iridium-192 seed from a patient on December 29, 1979, a licensee physician placed the seeds in an unlocked lead container and moved them to an adjacent anteroom where several relatives were waiting to see the patient. The physician then returned to the patient's room for approximately 30 minutes to perform necessary post removal tasks, leaving the iridum seeds unattended.

Subsequently, the ten iridium-192 seeds totaling approximately 3.0 mCi were determined to be lost. On January 29, 1980, an NRC inspector found 9 of the seeds under the access stairway to the hospital truck pier adjacent to the dumpster. He also found one seed in a vacuum clearner. Hospital personnel had access to the areas where the seeds were found. The dose rate from the seeds exceeded two millirems per hour at one foot.

This violation constituted an occurrence related to health and safety (Civil Peanlty—$1,000.)

Evaluation of Licensee Response

This item of noncompliance contains two parts involving the separate requirements of 10 CFR 20.207(b) and 20.105(b). The licensee denies the part of the citation pertaining to 10 CFR 20.207(b), "Storage and Control of licensed material in unrestricted areas." Essential element of this ctitation are: (a) Was NRC licensed radioactive material involved? (b) Was the material unattended? and (c) Was the area an unrestricted area?

The answers to (a) and (b) are yes, but the licensee maintains that the anteroom in question was actually a restricted area, with access controlled by the hospital staff. This position is further strenghtened by photographs of signs posted in the area declaring the area a restricted area and announcing the presence of radioactive material. It thus appears that the anteroom in question was likely a restricted area.

However, the licensee did lose ten iridium seeds which were eventually found in an unrestricted area. Nine iridium-192 seeds remained for a period of time, possibly as long as 31 days, in the unrestricted area under the steps adjacent to the truck pier outside the hospital. This area is an unrestricted area as defined in 10 CFR Part 20, and the material there was not "tended under constant surveillance and under the immediate control of the licensee." Also, a single seed was found in a vacuum cleaner located in another unrestricted area, and had likely been there for a considerable time.

There also was a period of time when all 10 iridium-192 seeds were in the hospital, in all probability on the floor and in vaccum cleaners. During this period, the seeds again were likely neither in a restricted area nor were they under the control of any individual who is authorized by the NRC license to use these radioactive materials.

The licensee also denies the second part of the citation pertaining to 10 CFR 20.105(b), "Permissible levels of radiation in unrestricted areas." Essential elements of this citation are: (a) Was NRC licensed radioactive material involved? (b) Did radiation levels exist which if an individual were continuously present in the area could result in his receiving a dose in excess of two millirems in any one hour or in excess of 100 millirems in any seven consecutive days? and (c) Was the area involved an unrestricted area?

This item of noncompliance relates to the ten seeds subsequent to their loss. In response to (a) above, there is no question that the one seed found in the vacuum cleaner in use in the hospital and the nine seeds found under the steel steps adjacent to the truck pier outside the hospital were NRC licensed material. They were part of a shipment of iridium-192 seeds received at Providence Hospital on December 24, 1979 from Alpha Omega Services, Paramount, California. They were used in treatments at Providence Hospital and subsequently lost.

With respect to (b), above, the nine seeds found under the stairway adjacent to the truck pier outside the hospital emmitted radiation levels of 16 millirems/hr at one foot. Therefore, if an individual were continuously present, it could result in his receiving a dose of 16 millirems in one hour if he were located one foot away from the nine seeds. This is greater than 2 mrem in any one hour. In addition, if an individual were continuously present for seven consecutive days, it could result in his receiving a dose in excess of 100 millirems. In either event, the levels of 10 CFR 20.105(b) were exceeded.

Finally, with respect to (c), above, both areas where the iridium seeds were eventually found were unrestricted areas.

The licensee questions the application 20.105(b) in the circumstances of this case. The licensee suggests that the use of the word "or" in the regulations allows the licensee to meet either requirement imposed (i.e., 2 millirems per hour or 100 millirems in any consecutive seven day period) and thus meet the regulation.

This argument is irrelevant because, at the dose rate actually measured at one foot, both the requirements of the regulations and hence the regulation itself, were violated.

The licensee further questions the application of this regulation in the circumstances of this case in that the licensee seems to imply that the application of the regulation requires an analysis of the actual exposures in each instance. This is not so. The regulation prohibits certain *radiation levels*. If the potential exists for individuals to be exposed to the radiation levels at or above those specified in the regulation for the time period prescribed, the regulation is violated. Whether personnel exposure in fact occurred is irrelevent. In this case, the licensee had no idea where the iridium seeds were located. The seeds could have adhered to clothing or been placed in a pocket resulting in significant exposures at contact. The Staff reported radiation levels at one foot to provide a measure of the levels involved. This instance had the clear potential to expose individuals for times and at levels in excess of the regulation and this determines the violation. The language of the Statement of Consideration issued with the regulations is clear in this regard:

These levels are believed to be sufficiently low to assure that there is *no reasonable probability* of individuals in unrestricted areas receiving exposures in excess of 10 percent of the permissible levels for restricted areas

under any circumstances. (24 Fed. Reg. 3527, May 12, 1958, Emphasis supplied.)

The licensee further challenges the citations against 10 CFR 20.105(b) and 10 CFR 20.207(b) on the ground that the sources were lost and therefore compliance with those regulations was not required. Every licensee is responsible for meeting the requirements of Part 20 in any of the activities it conducts with materials under license. If the licensee misplaces or loses the licensed material, that loss constitutes an act of possession, use, transfer and the regulatory requirements of Part 20 apply to the lost material. Any other approach has the illogic of permitting the licensee to commit a transgression in fact, i.e., a loss, without there being any legal violation. The regulations were not promulgated with that intent. "The intention of the section [i.e., § 20.207] is to assure that proper controls are maintained over licensed radioactive material *at all times.*" (40 Fed. Reg. 26679, June 15, 1975, Emphasis supplied). And so the licensee errs when it argues that materials lost are not materials subject to regulations, i.e., materials possessed, used or transferred.

The licensee in his response also describes various parts of the NRC regulations such as the maximum annual dose permitted to an individual member of the general public, 20.105(a); permissible radiation levels permitted on packages of radioactive materials during transportation, 10 CFR Part 71; and requirements for posting and controlling high radiation areas, 10 CFR 20.203(c). None of those regulations have any bearing on citations for 20.105(b) and 20.207(b).

Conclusion

Noncompliance with 10 CFR 20.207(b) and 10 CFR 20.105(b) existed for the period of time when the seeds were lost at the hospital. The information presented by the licensee does not provide a basis for modification of this enforcement action. The item as stated in the Notice of Violation is an item of noncompliance.

Statement of Noncompliance

2. 10 CFR 20.201(b), "Surveys," requires each licensee to make such surveys as may be necessary for him to comply with the regulations in this part. As used in the regulations in this part, "Survey" means an evaluation of the radiation hazards incident to the use of radioactive materials.

Contrary to this requirement, surveys conducted during the period of January 15, 1980 to January 29, 1980, subsequent to the loss of the iridium–192 seeds, were not adequate to detect radiation levels in unrestricted areas in excess of the limits specified in 10 CFR 20.105(b).

This violation contributed to an occurence related to health and safety. (Civil Penalty—$500.)

Evaluation of Licensee Response

The licensee denies this item of noncompliance. Essential elements in this citation are: (a) Was NRC licensed material involved? (b) Was a survey required? (c) With what part of the regulations was the survey intended to ensure compliance? (d) Was a survey made? and (e) Was the survey adequate to ensure compliance with the regulation? With respect to (a), the radioactive material involved was the same 10 iridium–192 seeds described earlier. In response to (b) and (c), a radiation survey was required by 10 CFR 20.201(b), and the survey was intended to ensure compliance with 10 CFR 20.105(b). In response to (d), a survey was made by the licensee.

However, with respect to (e) above, the licensee argues that its surveys were adequate and no violation of 20.201(b) took place. A survey is of little value if it is not adequate to accomplish the desired end. In this case, the intent of the survey was to detect 10 iridium–192 seeds encased in a single nylon ribbon approximately six inches long, containing a total of approximately 3.0 millicuries of iridum–192. That quantity of radioactive material (10 seeds) will result in radiation dose rates of approximately 18 millirems per hour at one foot, approximately 4 millirems per hour at two feet, and approximately 1 millirem per hour at 4 feet. The survey was also to ensure compliance with the limits expressed in 20.105(b) which are 2 millirems in any one hour (2 millirems per hour in this case) and 100 millirems in any 7 consecutive days which calculates to be approximately 0.6 millirem per hour if a continuous, uniform rate of delivery is assumed. Thus the radiation levels which the survey was intended to detect are well defined.

The licensee in his response takes the position that his surveys were made with a standard portable Geiger-Mueller counter, and that his surveys did not detect the seeds. Since the NRC inspector used a more sensitive instrument and was successful in locating the sources, the licensee says, in effect, the NRC is requiring that all licensees procure these more sensitive instruments.

Conventional portable Geiger-Mueller instruments measure normal natural radiation background at less than 0.1 milliren per hour and the meter indicates full scale on the most sensitive range at 0.5 millirem per hour. Thus, the instruments available to the hospital were sufficiently sensitive to detect the radiation levels of interests in this situation. For example, one seed would indicate a dose rate of approximately 2 millirems per hour at one foot.

In any loss such as this, there is always the possibility that the radioactive material has fallen to the floor, and has been picked up or moved about during cleaning and other housekeeping activities. Thus, floors cleaning equipment and waste receptacles are prime candidates for survey. Providence Hospital in a letter to the NRC dated January 22, 1980 described surveys of the patient's rooms, the incinerator, mops and linen, laundry and adjacent areas. That letter further mentions the possibility that the seeds may have been transferred in some way to the general hospital hallways, swept up and discarded. However,this possibility evidently was not followed up. A radiation survey with the instruments possossed by the hospital would have easily detected the seeds while they were in the vacuum cleaner bag, and a careful radiation survey of the area around the dumpster outside the hospital would have detected the seeds. A careful-radiation survey with the hospital's instruments should have detected the one seed in the vacuum cleaner. One seed emits a radiation level of about 1.8 millirems per hour at one foot, which would be off-scale on the most sensitive range of the Hospital's instrument. Even assuming some shielding by the vacuum cleaner, such radiation levels should be detectable with a standard Geiger-Mueller instrument.

One of the licensee's survey instruments was actually used to finally locate the seeds under the steel stairway outside the hospital. Using that instrument a hospital employee quickly found and recovered 9 seeds in the nylon ribbon.

The licensee contends that the NRC position in this situation will require all licensee to obtain very sensitive instruments. That is not the case. The instrument used is only one aspect of a survey. The Geiger-Mueller instruments owned by the hospital were adequate for the required survey when used properly. As stated by the licensee in his response, the NRC has accepted those instruments in previous inspections. The NRC will also accept those standard Geiger-Mueller instruments as adequate in future inspections. Such instruments are standard in medical institutions across the United States. However,

materials users who are forced to share the

adequate instruments do not ensure adequate surveys unless properly used.

Conclusion

The licensee's existing instrumentation was adequate for the required surveys. We conclude that, if diligent radiation surveys has been conducted, the seeds would have been found by the licensee. Thus, we conclude that the radiation surveys that were conducted by the licensee were not adequate. The item as stated in the Notice of Violation is an item of noncompliance.

Statement of Noncompliance

3. 10 CFR 20.402(a), "Reports of theft or loss of licensed material," requires that each licensee reported by telephone to the Director of the Nuclear Regulatory Commission Inspection and Enforcement Regional Offices listed in Appendix D [of Part 20] immediately after its occurrence becomes known to the licensee, any loss or theft of licensed material in such quantities and under such circumstances that it appears to the licensee that a substantial hazard may result to persons in unrestricted areas.

Contrary to the above requirement, although it was determined on January 15, 1980 that ten iridium–192 seeds were lost, the appropriate Regional NRC Office was not notified until January 17, 1980.

This is an infraction. (Civil Penalty—$200.)

Evaluation of Licensee Reponse

The licensee denies this item. The discrepancy in the seed count was noted on January 15, 1980. After some search and survey, the hospital attempted to notify the Region V office of the NRC in Walnut Creek, California of the loss by telephone, within 24 hours, on January 16, 1980. The hospital was not successful in reaching the Region V office. The call placed by the hospital went to a Federal Government Switchboard which is not manned except during normal daytime working hours. The hospital was unaware of the correct 24 hour number currently in use by the Region V office for such notifications. This was so even though the correct number had been published in the Federal Register on November 5, 1979. See 44 FED Reg. 63515. Therefore, the actual notification was not received by the NRC until January 17, 1980.

The licensee states that there is no definition of "immediate" in the NRC Regulations. That "immediate" notification should be prompt and in no event later than 24 hours is supported by Section 20.403 where immediate notification is required in some cases, and 24 hour notification is required for less significant matters. A reading of that Section leads to the conclusion that "immediate" notification should be made in less than 24 hours. The licensee, in fact, attempted its first notification within 24 hours but was unsuccessful due to the circumstances discussed above.

The licensee argues incorrectly that no substantial hazard could result to persons in the unrestricted area from the loss of 3 millicuries of iridium–192. While the radiation dose rates at some distance are not excessive, the possibility exists of the seeds adhering to clothing, being placed in a pocket, or otherwise ending up on or near the surface of a body. Such a situation could result in injury to that person. Loss of the iridium seeds was a situation which could result in substantial hazard and therefore required immediate notification of the NRC under 10 CFR 20.402(a).

Finally, the licensee appears to ascribe some significance to the arrival of the NRC inspector at the licensee's facility, twelve days after notification. The purpose of notification is not necessarily to permit the immediate dispatch of an NRC inspector. Its purpose is in fact, to permit an assessment of the incident to be made and to insure that the licensee is responding properly. A proper response by the licensee in this instance would have included surveys adequate to find the lost seeds. When the licensee's response on this area proved inadequate, an inspector was sent to the facility to review the situation.

Conclusion

Although the violation occurred, Providence Hospital did make an effort to make the required notification and did actually notify the NRC within 48 hours. On this basic, the $200 civil penalty is remitted.

[FR Doc. 80-24487 Filed 8-12-80; 8:45 am]
BILLING CODE 7590-01-M

Errata to Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued errata to Regulatory Guide 1.59, Revision 2, "Design Basis Floods for Nuclear Power Plants." Since August 1977, when Revision 2 to this guide was issued, new information that affects the Probable Maximum Flood (PMF) isolines for the Upper Ohio River for drainage areas 10,000 and 20,000 square miles has been identified. The new information has resulted in two revised figures and two revised sheets of PMF data. These changes do not have any significant impact on the Design Basis Flood for existing plants.

Requests for single copies of these errata should be directed to the Distribution Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 552 (a))

Dated at Rockville, Maryland this 5th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-24484 Filed 8-12-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. PRM–30–56]

Gulf Nuclear, Inc.; Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of Petition for rulemaking.

By letter dated April 12, 1979, Mr. Walter P. Peeples, Jr., on behalf of Gulf Nuclear, Inc., filed with the Nuclear Regulatory Commission a petition for rulemaking.

The Petition

The petitioner proposed that the Nuclear Regulatory Commission be divided into two separate entities—one area would cover power reactors, uranium mining, nuclear weapons manufacturing, nuclear fuel processors and any area that deals with fissile materials; the second area would deal with byproduct materials. (Note: Nuclear weapons manufacturing is a responsibility of the Department of Energy rather than the Nuclear Regulatory Commission.)

Basis for Request

In support of his petition, Mr. Peeples stated five propositions that he felt were adequate justification for consideration of his proposal:

1. Fissile materials used in power production and the production of nuclear weapons require far more stringent rules than those required of byproduct material users and licensees. This includes regulations concerning shipment and use of these materials. Because the U.S. Nuclear Regulatory Commission is a single entity, all rules pertain to both types of licensees.

2. The majority of effort of the U.S. NRC is devoted to fissile materials creating enormous costs and efforts to control. The majority of the licensees are byproduct materials users who are forced to share the cost burden exhibited in U.S. NRC fees.

3. The staff and leadership of the U.S. NRC devotes the majority of its time to expended energy related to power reactors which creates undue burdens on byproduct materials users.

4. A division of responsibility by NRC would create a positive effect on the general public by making them aware that there are different types of radioactive materials, easing some of the political pressure on the NRC.

5. Because of the present makeup of NRC controlling both areas, the public apprehension toward power reactors has a tendency to force over-regulation of byproduct materials because both are jointly referred to as simply "radioactive materials". This detracts from the ability to point out the positive nature of public benefits derived from both types of materials. Since NRC fails to distinguish between the two types of materials, undue burdens in transportation and publicity force byproduct materials users to defend a position they are not totally familiar with. Petitions and regulations, including regulatory guides, are frequently opposed or incorrectly interpreted because of lack of distinction between the two types of materials.

In summary, the NRC staff responses are based on published statements related to (1) legislative mandates, (2) judicial guidelines, and (3) statutory responsibilities for regulating civilian nuclear activities. Many parts of the NRC rules are devoted to regulating production and utilization facilities, including nuclear reactors and facilities for processing irradiated special nuclear material. Other parts are devoted to regulating byproduct materials, source materials, or special nuclear materials. Several parts cover both fissile materials and other nuclear materials.

An example of this last case is the NRC's regulation, "Fees for Facilities and Materials Licenses and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended," 10 CFR Part 170. The fees charged for licensing and inspection services by the NRC are based on guidelines that determine whether or not the NRC may charge a fee for a particular service and what the maximum fee may be. The NRC is generally obliged to impose the fees allowed by the guidelines where it is fair and equitable to do so and is limited by the requirement that a consistent and fundamentally fair fee structure must accord equal treatment to similarly situated recipients of agency service for nuclear facilities, fissile materials, and other radioactive materials.

A copy of "NRC Staff Responses to Petitioner's Justification Statements) PRM 30–56," is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of the document may be obtained on request from the Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Request for Comments on Petition

A notice of filing of petition for rulemaking was published in the **Federal Register** on May 17, 1979 (44 FR 28896). The comment period expired July 16, 1979. Eleven letters of comment were received in response to the notice. Two of the letters opposed the proposal and nine letters supported the proposal.

Several persons commented generally that NRC regulations which cover both fissile materials and byproduct materials result in administrative burdens, confusion, and added costs for byproducts materials users. Application of pertinent NRC regulatory requirements in a graded approach, i.e., applied to an extent consistent with their importance to safety, can reduce burdens and costs for persons complying with the requirements. In many instances, the NRC's regulations grant relief from safeguards reporting requirements for small quantities of byproduct material and grant relief from both safeguards and criticality safety controls for small quantities of fissile material.

Two persons commented on the costs of NRC licensing and inspection fees and the beneficiaries of NRC services. Fees associated with fissile material licensing and inspection activities (and all other fee categories) are based on the sum on the average of the direct and indirect costs that the NRC incurs in furnishing the services for a member of the class of identifiable recipients for which the fees are assessed. Excluded from consideration for recovery are budgeted regulatory costs that are part of a program conducted on behalf of the public.

One person expressed the opinion that the inclusion of 10 CFR Part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations," within the scope of 10 CFR Part 21, "Reporting of Defects and Noncompliance," is not ncessary. The NRC's regulations in 10 CFR Part 21 implement section 206 of the Energy Reorganization Act of 1974, as amended. Part 21 requires, among other things, that information reasonably indicating that a licensed activity or basic component supplied to such activity fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the NRC relating to substantial safety hazards, or contains a defect which could create a substantial safety hazard should be reported. Incident and overexposure reporting requirements had been in existence in Commission regulations for a number of years before enactment of the Energy Reorganization Act of 1974 (which contains section 206) in October 1974.

That person also expressed the opinion that the inclusion of industrial radiography licensees in 10 CFR 71.12, "General License for Shipment in DOT Specification Containers, in Packages Approved for Use by Another Person, and in Packages Approved by a Foreign National Competent Authority," is not necessary. It is the general licensees delivering licensed radioactive material to a carrier for transport under the authority of 10 CFR 71.12(b) who must assure themselves and the NRC that the subject packages are as described in the packages approvals and that they are used, tested, and maintained in accordance with both the general and specific portions of an approved quality assurance program. (The NRC must exercise its regulatory authority through its general licensees who use package approvals because the NRC has no general enforcement powers over package manufacturers or package owners unless they possess and use licensed radioactive material. They would, however, be subject to 10 CFR Part 21, "Reporting of Defects and Noncompliance.")

A copy of "Abstracts of Comments and Staff Reponses: Proposal that Nuclear Regulatory Commission Be Divided into Two Separate Entities—Docket No. PRM 30–56," is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of the comment analysis may be obtained on request from the Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Assigned Functions

The Energy Reorganization Act of 1974, as amended, was enacted by the Congress and approved as Public Law 93–438 on October 11, 1974.

Title II of that Act established the Nuclear Regulatory Commission and transferred to the Nuclear Regulatory Commission all the licensing and related regulatory functions of the Atomic Energy Commission.

In assigning those functions within the Nuclear Regulatory Commission, the Congress not only distinguished between nuclear reactors and other licensed facilities and nuclear materials, but also gave due and proper emphasis to functions which are vital to the public health and safety and the safe and

efficient operation of both nuclear reactors and other licensed activities.

Sec. 203(b) of that Act provides that the Director of Nuclear Reactor Regulation shall perform such functions as the Commission shall delegate including principal licensing and regulation involving all facilities and materials licensed under the Atomic Energy Act of 1954, as amended, associated with the construction and operation of nuclear reactors licensed under the Atomic Energy Act of 1954, as amended.

Sec. 204(b) of the Energy Reorganization Act of 1974, as amended, provides that the Director of Nuclear Material Safety and Safeguards shall perform such functions as the Commission shall delegate including principal licensing and regulation involving facilities and materials licensed under the Atomic Energy Act of 1954, as amended, associated with the processing, transport, and handling of nuclear materials, including the provision and maintenance of safeguards against threats, theft, and sabotage of such licensed facilities and materials. The Nuclear Regulatory Commission has used the flexibility provided by Sec. 204(b) of the Energy Reorganization Act of 1974, as amended, to establish within the Office of Nuclear Material Safety and Safeguards the Division of Fuel Cycle and Material Safety to perform those licensing and regulatory activities which pertain to the processing, transport, and handling of nuclear materials off the nuclear reactor site.

The Energy Reorganization Act of 1974, as amended, provides no authority under which the Nuclear Regulatory Commission, on its own initiative, may transfer any licensing or related regulatory function to a new or established agency of the Federal Government.

Alternative Organization Forms

Alternative organization forms for nuclear regulation have been considered in recent studies conducted on or for the Nuclear Regulatory Commission.

Sec. 306 of the Energy Reorganization Act of 1974, as amended, required the Comptroller General of the United States to audit, review, and evaluate the implementation of the provisions of Title II of that Act by the Nuclear Regulatory Commission not later than sixty months after the effective date of that Act and submit to the Congress a report on his audit.

In the Comptroller General's report to Congress, "The Nuclear Regulatory Commission: More Aggressive Leadership Needed," EMD–80–17, dated January 15, 1980, the General Accounting Office (GAO) identified an alternative (separating NRC into separate policymaking and regulatory agencies) similar to the petitioner's proposal.

GAO noted that separation of NRC into two agencies could build on the strengths of both the commission and the single administrator forms of nuclear regulation. Policymaking on critical unresolved nuclear regulation issues could continue under the commission form with the advantage of multimember deliberations. At the same time, day-to-day regulation of nuclear activities could proceed under an agency headed by a single administrator with prospects for better management of these day-to-day activities.

GAO discussed this alternative with a cross-section of people knowledgeable of nuclear regulation, including representatives of Government, the nuclear industry, public interest groups, and academia. Opinion on the alternative ranged from active interest to a belief that it represents an unnecessary proliferation of Federal regulatory agencies.

GAO chose not to recommend any alternative to strengthening the present commission because none of the alternative forms appeared to have a clear-cut advantage. In conclusion, GAO stated:

> Ultimately, the Congress must consider the advantages and disadvantages of various organizational forms and decide on the organizational structure which, on balance, best represents what the Congress wants for nuclear regulation.

Grounds for Denial

The Commission has given careful consideration to petition for rule making PRM 30–56 and the public comments received thereon and has decided to deny the petition on the grounds that, given the structure of the Energy Reorganization Act of 1974, as amended, it is clear that Congress intended the newly created Nuclear Regulatory Commission to have licensing and related regulatory authority not only over nuclear reactors, uranium milling, nuclear fuel processing and reprocessing, and other areas dealing with fissile materials but also have this same authority over byproduct materials. The NRC itself cannot ". . . separate the United States Nuclear Regulatory Commission into two separate entities . . ." Such a separation could only be accomplished in either of two ways: (1) enactment of legislation by the U.S. Congress, the method by which the existing NRC was created; or (2) through implementation of an Executive Reorganization Plan pursuant to 5 U.S.C. 901 *et seq.*

A copy of the petition for rule making and copies of the letters of comment and the Commission's letter of denial are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. this 25th day of July, 1980.

For the Nuclear Regulatory Commission,

William J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-24486 Filed 8-12-80; 8:45 am]

BILLING CODE 7590-01-M

OHIO RIVER BASIN COMMISSION

Availability of Adopted Regional Plan; Allegheny River Basin Water and Related Land Resources Study Report and Environmental Impact Statement

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89–80), the Ohio River Basin Commission has adopted the Allegheny River Basin Water and Related Land Resources Study Report and Environmental Impact Statement for transmittal to the President and the Congress through the Water Resources Council.

Copies are available on request from the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

Fred J. Krumholtz,

Chairman.

[FR Doc. 80-24493 Filed 8-12-80; 8:45 am]

BILLING CODE 6410-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–17051; File No. SR–MSRB–80–7]

Municipal Securities Rulemaking Board; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 4, 1980, the above-mentioned self-regulatory organization filed with the Securities Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

On March 28, 1980, the Securities and Exchange Commission (the "Commission") approved certain amendments to the provisions of rule G–15 relating to customer confirmations

(Securities Exchange Act Release No 16707) File (No. SR–MSRB–79–6). In response to the request of the Board, the Commission delayed the effective date of the amendments for six months from the date of Commission approval, or until September 24, 1980. The Board hereby respectfully requests that the Commission extend the effective date of the amendments until December 1, 1980.

In addition, the Board respectfully requests that the Commission also delay the effective date until December 1, 1980 of certain amendments to rules G–12 and G–15 which were approved by the Commission on May 27, 1980.*(Securities Exchange Act Release No. 16844) (File No. SR–MSRB–80–1).

These amendments are also currently scheduled to become effective on September 24, 1980.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

The amendments approved by the Commission on March 28, 1980 effected several changes to rule G–15 on customer confirmations. The amendments modified rule G–15 to require that a confirmation of a transaction effected on the basis of dollar price, including a transaction in "dollar bonds," include not only the dollar price at which the transaction was effected, but also the lowest of the resulting yield to premium call, par option, or maturity. In addition, the amendments require municipal securities dealers, when confirming transactions involving callable securities, to include on the confirmation a statement indicating that the yield shown may be affected by the exercise of a call provision, and that information concerning call provisions will be provided upon request. Reference should be made to the text of the amendments contained in file No. SR–MSRB–79–6 for the precise changes effected by the amendments; a discussion of the purpose of the amendments is also contained in that filing.

As indicated above, the amendments will become effective on September 24, 1980. The Board provided for a delayed effective date in order to permit municipal securities dealers sufficient time to make necessary changes in their data processing systems and customer confirmation forms. The purpose of this filing is to request the Commission to grant an extension of the effective date of the amendments, until December 1, 1980. The Board is making this request as a result of its consideration of several recent requests from municipal securities dealers who indicated that an extension of time was necessary in order to enable them to implement the computer processing changes necessitated by the amendments.

With respect to the request for a delay in the effective date for the amendments to rules G–12 and G–15 approved by the Commission on May 27, 1980, the Board notes that it originally requested that the effective date for these amendments be made the same as the effective date for the other amendments, so that municipal securities brokers and municipal securities dealers could make all the required computer changes at one time, and thereby reduce the costs associated with the implementation of the amendments. For the same reason, the Board requests that the effective date of the amendments approved by the Commission on May 27, 1980 also be delayed until December 1, 1980.

Basis Under the Act for Proposed Rule Change

The Board is requesting the extension of time pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general to protect investors and the public interest * * *.

Comments Received From Members, Participants or Others on Proposed Rule Change

The changes effected by the amendments have been the subject of industry discussion since June 1978 when the Board issued its first notice soliciting comments on proposed changes to rule G–15. The Board subsequently issued an exposure draft in September 1979 which was the focus of considerable attention. No commentator suggested in response to the Board's various solicitations of comments or the publication of the notice of filing in Securities Exchange Act Release No. 15938 (June 19, 1979) that the 6-month delay in the effective date would not provide sufficient time for the implementation of the amendments.

However, subsequent to the approval of the amendments by the Commission, several municipal securities dealers have commented to the Board that the 6-month period would not provide sufficient time for them to modify their computer processing systems in order to comply with the requirements of the amendments. These municipal securities dealers have apparently encountered difficulties in acutally modifying their computer processing systems. *See,* for example, the comment letters of Merrill Lynch, Pierce, Fenner & Smith Incorporated and the Public Securities Association. In addition to these two letters, the Board and its staff have also received oral requests that the Board consider extending the effective date from several other municipal securities dealers. These municipal securities dealers have requested extensions ranging from two months, to accomplish the technical modifications needed to present the required information on customer confirmations, to eighteen months, to accomplish broader, system-wide changes that will, among other matters, facilitate compliance with the amendments.

As a result of these requests for an extension, the Board has considered the matter and decided to request an extension of the effective date for the amendments in question from September 24, 1980 to December 1, 1980. The Board is of the view that such an extension is necessary and appropriate, and sufficient, to enable municipal securities brokers and municipal securities dealers to make the technical reprogramming changes necessitated by the amendments. The Board further believes that such an extension will permit municipal securities brokers and municipal securities dealers planning more extensive changes to their computer systems to devise interim measures that will permit them to comply with the requirements, while the major system changes are in process.

Burden on Competition

The granting of the requested extensions will not impose a burden on competition because it will result in all municipal securities brokers and municipal securities dealers having additional time to implement the amendments. The Board recognizes, however, that extending the date to December 1, 1980, rather than some later date, may have a diffierent impact on different municipal securities brokers and municipal securities dealers. The Board believes that, to the extent that the selection of the December 1, 1980 date has such an impact, it is necessary and appropriate in view of the important purposes served by the amendments. *See* File No. SR–MSRB–79–6 and File No. SR–MSRB–80–1.

V 45 A G 13 80 UMI

On or before September 17, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 3, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

August 6, 1980.

[FR Doc. 80-24397 Filed 8-12-80; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 6, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Atlantic City Electric, Common Stock, $3 Par Value (File No. 7-57)
Audiotronics Corp., Common Stock, $1 Par Value (File No. 7-5712)
C.H.B. Foods, Inc., Common Stock, $1 Par Value (File No. 7-5713)
C P National Corp., Common stock $5 Par Value (File No. 7-5714)
Earth Resources Co., Common Stock, No Par Value (File No. 7-5715)
Energy & Utility Shares, Inc., Common Stock, $1 Par Value (File No. 7-5716)
Gulf Resources & Chemical Corp., Common Stock, $.10 Par Value (File No. 7-5717)
Juniper Petroleum Corporation, Common Stock, $.10 Par Value (File No. 7-5718)
National Patent Development Corp., Common Stock, $.01 Par Value (File No. 7-5719)
Pennsylvania Engineering Corp., Common Stock, $.10 Par Value (File No. 7-5720)
Standard Metals Corp., Common Stock, $.03 Par Value (File No. 7-5721)
Technical Tape, Inc., Common Stock, $1 Par Value (File No. 7-5722)
Thermo Electron Corp., Common Stock, $1 Par Value (File No. 7-5723)[1]
Unimax Group, Inc. (The) Common Stock, $.75 Par Value (File No. 7-5724)
WTC, Inc., Common Stock, No Par Value (File No. 7-5725)
Western Financial, Common Stock, $1 Par Value (File No. 7-5726)
Wilson Brothers, Common Stock, $1 Par Value (File No. 7-5727)

These securities, subject to the exception noted above, are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 27, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and ordererly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24398 Filed 8-12-80; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

August 6, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Staley (A.E.) Manufacturing Company, Common Stock, No Par Value (File No. 7-5728)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 27, 1980 written data, views, and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24399 Filed 8-12-80; 8:45 am]

BILLING CODE 8010-01-M

[1] A listing application regarding this security currently is pending before the New York Stock Exchange.

Sunshine Act Meetings

Federal Register
Vol. 45, No. 158
Wednesday, August 13, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Mine Safety and Health Commission	2, 3
Federal Reserve System	4
National Labor Relations Board	5
Postal Rate Commission	6
Securities and Exchange Commission	7

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" Citation of Previous Announcement: S-1502-80.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern time), Tuesday, August 12, 1980.

CHANGE IN THE MEETING: The following matter was added to the agenda for the closed portion of the meeting:

Proposed Decision in Charge No. TMR4-0557.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change:

Eleanor Holmes Norton, Chair.
Daniel El Leach, Vice Chair.
Ethel Bent Walsh, Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued August 8, 1980.

S-1523-80 Filed 8-11-80; 9:37 am]

BILLING CODE 6560-06-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 8, 1980.

TIME AND DATE: 10 a.m., Wednesday, August 13, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Missouri Gravel Company, Docket No. LAKE 80-83-M (Petition for Discretionary Review).

It was determined by a unanimous vote of Commissioners that the Commission business required that a meeting be held on this matter and no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-1528-80 Filed 8-11-80; 3:35 pm]

BILLING CODE 6820-12-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 8, 1980.

TIME AND DATE: 10 a.m., Wednesday, August 20, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Ronald McCracken v. Valley Camp Coal Company, Docket No. WEVA 79-116-D (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

S-1529-80 Filed 8-11-80; 3:35 pm]

BILLING CODE 6820-12-M

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, August 18, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
2. Proposed salary structure adjustments at Federal Reserve Banks.
3. Request by the Government Accounting Office for Board comment on a draft report concerning federal examinations of financial institutions.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-32-04.

Dated: August 8, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-1524-80 Filed 8-11-80; 9:50 am]

BILLING CODE 6210-01-M

5

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10:30 a.m., Tuesday, August 12, 1980.

PLACE: Board conference room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel-related matters.

CONTACT PERSON FOR MORE INFORMATION: Robert Volger, Acting Executive Secretary, Washington, D.C. 20570; telephone: (202) 254-9430.

Dated, Washington, D.C., August 11, 1980.

By direction of the Board:

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-1526-80 Filed 8-11-80; 12:30 pm]

BILLING CODE 7545-01-M

6

POSTAL RATE COMMISSION:

TIME AND DATE: 11 a.m., Tuesday, August 19, 1980.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of proposed rulemaking. (See FR, July 21, 1980.)

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street

V 45 A G 13 80 UMI

NW., Washington, D.C. 20268, telephone (202) 254–5614.

[S–1525–80 Filed 8–11–80; 12:33 pm]

BILLING CODE 7715–01–M

7

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 52549, August 7, 1980.

STATUS: Closed meeting/open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, August 4, 1980.

CHANGES IN THE MEETING: Rescheduling.

The following closed meeting scheduled for August 12, 1980, at 10 a.m. has been rescheduled for Monday, August 11, 1980, at 2 p.m.

The subject matter of the closed meeting scheduled for Monday, August 11, 1980, at 2 p.m., will be:

Access to investigate files by Federal, State, or Self-Regulatory Authorities.
Litigation matter.
Freedom of Information Act appeal.
Formal order of investigation.
Subpoena enforcement action.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceeding and injunctive action.
Institution of injunctive actions.
Institution of injunctive action and access to investigate files by Federal, State, or Self-Regulatory Authorities.
Opinion.
Administrative proceeding of an enforcement nature.
Freedom of Information Act appeals and requests for Confidential treatment.
Personnel security matter.
Litigation matter.

The following open meeting scheduled for Wednesday, August 13, 1980, at 10 a.m. has been rescheduled for Thursday, August 21, 1980, at 10 a.m.

The subject matter of the open meeting scheduled for Thursday, August 21, 1980, at 10 a.m., will be:

1. Consideration of whether to grant the application of Joel L. Halpern to become associated with Donald Sheldon & Co., Inc., a registered broker-dealer, as a registered representative. For further information, please contact David P. Tennant at (202) 272–2945.
2. Consideration of whether to affirm action, taken by the Duty Officer, granting Professor Thomas K. McCraw, Graduate School of Business Administration, Harvard University, access to Commission minutes from 1933 to 1940 and correspondence of Commissioners Landis and Douglas. For further information, please contact Shirley Hollis at (202) 272–2600.
3. Consideration of whether to adopt amendments to Regulation S–K and certain forms and rules under the Securities Act of 1933 and the Securities Exchange Act of 1934 relating to the filing of exhibits to certain frequently used forms. For further information, please contact Joseph G. Connally, Jr. at (202) 272–3097.
4. Consideration of whether to grant the request of Randolph Phillips, pursuant to the Government in the Sunshine Act, for a copy of an official Commission minute dated June 16, 1980. For further information, please contact Myrna Siegel at (202) 272–2430.
5. Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272–2454.
6. Consideration of whether to propose for public comment a rule under the Public Utility Holding Company Act of 1935 (the "Act") which, if adopted, would exempt certain non-utility subsidiaries of registered holding companies from the duties, obligations, and liabilities imposed under the 1935 Act on a subsidiary company, if no more than 50% of the voting securities or other voting interests of any such company are owned, directly or indirectly, by any one or more registered holding companies. For further information, please contact Grant G. Guthrie at (202) 523–5156.

The closed meeting scheduled for Wednesday, August 13, 1980, has been rescheduled for Thursday, August 21, 1980, following the 10 a.m. open meeting.

The subject matter of the closed meeting will be:

Institution of injunctive actions.

Chairman Williams and Commissioners Evans and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

August 11, 1980.

[S–1527–80 Filed 8–11–80; 3:32 pm]

BILLING CODE 8010–01–M

---

federal register

Wednesday
August 13, 1980

Part II

Federal Emergency Management Agency

Disaster Relief, Public Assistance

V 45 A G 13 80 UMI

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. FEMA-DR 205]

Disaster Assistance: Public Assistance (Subpart E)

AGENCY: Federal Emergency Management Agency, disaster response and recovery.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency is in the process of revising its regulations which implement the Disaster Relief Act of 1974. This document revises the regulations concerning public assistance. The regulations provide policies and guidelines for determinations of eligibility of applicants for public assistance, eligibility of work, and eligibility of costs of the Disaster Relief Act of 1974, Pub. L. 93-288, as amended. The existing rule is expanded to incorporate certain material published previously in the FEMA Eligibility Handbook, DRR-2. Portions of the material have been revised to clarify existing policy and procedures.

EFFECTIVE DATE: For declarations of major disasters or emergencies made after September 12, 1980.

FOR FURTHER INFORMATION CONTACT: Gene Morath, Office of Public Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone: (202) 634-7835.

SUPPLEMENTAL INFORMATION: A notice issued in the **Federal Register** on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Chapter I, Federal Emergency Management Agency, with Subchapters A-E) indicated that Disaster Assistance would be Subchapter D, Parts 200-299. On September 28, 1979, FEMA published a Notice of Transfer and Redesignation that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200-2205 to 44 CFR Part 200 *et seq.* The regulations implementing the Disaster Relief Act of 1974, Pub. L. 93-288 (44 CFR Part 205), are in the process of reorganization and revision. On November 1, 1979, the then Acting Director for Disaster Response and Recovery published in the **Federal Register** (44 FR 63061) a proposed rule to revise and recodify the material concerning eligibility for public assistance in the existing 44 CFR 205 as a new Subpart E. The rule is expanded to incorporate material previously published in the FEMA Eligibility Handbook, DRR-2. Portions of the material have been revised to clarify existing policy and procedures. Comments were invited to December 31, 1979. In addition, copies were sent to each State official responsible for disaster operations.

A total of 124 responses were received concerning the proposed Subpart E. The comments received can be summarized as those (1) editorial in nature; (2) suitable for incorporation in Handbooks but not regulations; (3) not relevant to Subpart E but which could be considered as another appropriate subpart of the regulations; (4) requesting changes to conform ot OMB Circular 74-4; (5) proposing mandatory consultation by FEMA with applicants prior to taking any grant action; (6) questioning whether the Regional Director has mandatory or discretionary authority in withholding funding in no-action alternatives; (7) requesting clarification of the grant-in-lieu concept; (8) those challenging the eligibility aspects of the snow removal reimbursement policy (more specific comments concerning responses in each of these categories are discussed in the succeeding paragraphs); and (9) suggesting changes which have been incorporated in the final rule.

(1) Editorial Comments: Our editors who have final review of each draft rule for clarity of expression have reviewed each such comment and have incorporated those which, in our judgement, result in improvements when compared to the proposed rule.

(2) Handbooks: Some suggestions that examples or clarification be included in Subpart E can best be accommodated by appropriate coverage in FEMA Handbooks. Any suggestion requesting a change of mandatory policies or procedures has been considered as pertainng to 44 CFR Subpart E. Coverage in handbooks of such suggestions is not appropriate and none has been scheduled.

(3) Other FEMA Regulations: Suggestions pertaining to other subparts of 44 CFR 205, or other FEMA regulations, were referred to the responsible FEMA staff member for consideration in appropriate rulemaking.

(4) OMB Circular 74-4: Based on our review of the Eligibility of Cost section of the regulations and OMB Circular 74-4, we have modified Section 205.76 to conform to the circular, except for certain indirect costs identified as administrative expenses. We advised the Office of Management and Budget (OMB) by letter of March 27, 1980, that we would incorporate some changes at this time and consult with them, further, concerning the treatment of certain indirect costs. FEMA and its predecessor agencies, the Federal Disaster Assistance Administration (FDAA) and the Office of Emergency Preparedness (OEP), have maintained the position that not allowing such indirect costs was consistent with the provision of the Disaster Relief Act of 1974. Public Law 93-288 provides that Federal disaster assistance be supplementary to the efforts of State and local governments and also provide that such governments commit a reasonable amount of their own funds towards alleviating the damage caused by the disaster. To avoid further delay, we are publishing Section 205.76 as a final rule at this time subject to future amendment as the results of our discussions with OMB.

(5) Mandatory Consultation: Suggestion was made that, prior to approval of any grant or loan, the FEMA Regional Director must consult with the applicant and with the Governor's Authorized Representative. The FEMA workload for individual projects of disaster assistance to local or State governments, or to other eligible grantees, varies depending upon occurrence of major disasters or emergencies, but ranges from 20,000 to 40,000 projects per year. A recent sampling of about 10,000 projects revealed that ninety-two percent were for under $25,000 per project. Our present FEMA policies and procedures require that each Damage Survey Report (DSR) be prepared based on field surveys by Federal/State inspectors escorted by a local representative. These DSR's are reviewed by Federal engineers, FEMA program officers and by State program officers before each project application (P/A) is submitted. Each P/A is submitted by the applicant and approved by the Governor's Authorized Representative before the Regional Director approves the project application and obligates FEMA funding. At every point in these procedures, the State on behalf of the eligible grantee may appeal any decision or action taken. Considering the numerous projects comprising the FEMA workload and the opportunities for consultation already provided by the existing procedures, the FEMA Associate Director for Disaster Response and Recovery has determined that further mandatory consultations are not justified. Therefore, those suggestions have been rejected.

(6) No Action Alternative: Questions have been posed as to whether the Regional Director has mandatory or discretionary authority in withholding

FEMA funding requested by an eligible grantee through the State. Under Section 303(a)(4), Public Law 93-288, the Federal Coordinating Officer is responsible for assisting "local citizens and public officials in promptly obtaining assistance to which they are entitled." However, the Regional Director may approve a FEMA grant or loan only when he determines that such action is legal and proper under the Act and 44 CFR. He has no discretion to disapprove any grant or loan arbitrarily and capriciously, but he may not approve grants or loans which he is unable to justify.

(7) Grant-in-Lieu (GIL): Suggestions were made that the proposed rule be modified to support the position taken by claimants in a recent appeal on behalf of a private nonprofit hospital. The FEMA General Counsel has already made a legal review of the issues involved and has supported the language of the proposed rule. Therefore, no change is contemplated. However, further examples and explanations will be incorporated in the next revision of the FEMA Eligibility Handbook to avoid any misunderstanding of the correct interpretation of the GIL concept.

(8) Emergency Snow Removal: Ninety-four responses to this proposed rulemaking commented on principles in 44 CFR 205 Subpart E pertaining to emergency snow removal. These included 20 from State officials; 68 from local officials; five from members of Congress; and one from the Federal Highway Administration. Sixty-six of the sixty-eight local responses were from Illinois and most were very similar in phraseology and content to a sample letter sent to heads of local governments by the Illinois Director of Emergency Services. Considering these numerous comments and the fact that the 1979-1980 winter season has passed, the Associate Director decided to reserve the following paragraphs: 44 CFR 205.72(f); 44 CFR 205.74(c)(6); and 44 CFR 205.76(d)(4). After further review of the comments received on emergency snow removal assistance as the result of this proposed rulemaking, the Associate Director expects to consult with individuals representing local and State governments who have participated in past Federal programs of emergency snow removal assistance or who have raised many of the issues in these comments. A final rule for these reserved paragraphs is scheduled for publication prior to the next snow season.

(9) Suggestions Accepted and Reflected in the Final Rule: There were numerous suggestions or changes in wording to clarify or to modify sections in the proposed rule which have been accepted with modifications in the final rule. Since these changes should satisfy the respondent and do not constitute major changes of policies or procedures, they are not discussed further in these paragraphs. In most cases they clarify or expand on concepts expressed in the proposed rulemaking.

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

The regulation is in consonance with the provisions of the Executive Order dated November 16, 1979, and does not impose an unnecessary burden on the small business sector of the economy.

The regulation does not impact adversely on the central cities, suburban communities, or non-metropolitan communities.

As provided in Executive Order 12044 dated March 23, 1968, the regulation does not have any significant economic consequences on the general economy, individual industries, geographic regions, or levels of government.

Subpart "G" (Sections 205.75-205.79) entitled Disaster Preparedness Assistance has been replaced by Part 300 of this Chapter, added February 29, 1980, 45 FR 13464. Also, 205.100-205.104 were added December 11, 1979 at 44 FR 71793 and were designated Subpart G, Fire Suppression Assistance. Sections 205.75-205.79 should be removed and 205.100-205.104 remain in effect as current Subpart G.

Accordingly, 44 CFR Part 205 of the Federal Disaster Assistance Regulations is revised by deleting §§ 205.29-205.32, 205.33(b), 205.52-205.55, 205.57, and 205.75 through 205.79 (titled subpart G), and by adding a new Subpart E (Public Assistance), §§ 205.70 through 205.76, as follows:

Subpart E—Public Assistance

Sec.

205.70 General.
205.71 Definitions.
205.72 Applicant eligibility.
205.73 General work eligibility.
205.74 Emergency work.
205.75 Permanent work.
205.76 Eligibility of costs.

Authority: Sec. 601, Disaster Relief Act of 1974, as amended, Pub. L. 93-288, 88 Stat. 163 (42 U.S.C. 5201); Executive Order 12148 (44 FR 43239); and Delegation of Authority.

Subpart E—Public Assistance

§ 205.70 General.

This subpart provides policies and guidelines for determinations of eligibility of applicants for public assistance, eligibility of work, and eligibility of costs of Pub. L. 93-288, as amended. It includes criteria for determining eligibility of assistance under Sections 305, 306, 402, 403, 415, 416, 418, and 419 of Pub. L. 93-288, as amended. Refer also to Subparts J, K, and M, and to 44 CFR Parts 9 and 10 of these regulations for additional guidance related to eligibility determinations.

§ 205.71 Definitions.

(a) "Educational institution" means:

(1) Any elementary school as defined by section 801(c) of the Elementary and Secondary Education Act of 1965;

(2) Any secondary school as defined by section 801(h) of the Elementary and Secondary Education Act of 1965; or

(3) Any institution of higher education as defined by section 1201 of the Higher Education Act of 1965.

(b) "Predisaster condition" means the state of repair or serviceability of a facility immediately prior to the disaster, taking into consideration prior damages, age, deterioration, and any limitations upon its operation.

(c) "Predisaster design" means the size and capacity of a facility when the major disaster occurred, taking into account its major features, as originally placed in service but updated by any modernization or expansion of the facility, prior to the major disaster, to provide added capacity for public services.

(d) "Private nonprofit facility" means any private nonprofit educational, utility, emergency, medical, and custodial care facility, including those for the aged or disabled, and those on Indian reservations.

(1) "Educational facilities" means classrooms plus related supplies, equipment, machinery, and utilities of an educational institution necessary or appropriate for instructional, administrative, and support purposes, but does not include:

(i) Buildings, structures and related items used primarily for athletic exhibitions, contests, games or other events for which admission is charged to the general public, such as athletic stadiums, gymnasiums, and swimming pools.

(ii) Buildings, structures and related items used primarily for religious purposes or primarily in connection with any part of the program of a divinity school, or department of divinity, as

defined by Section 1201 of the Higher Education Act of 1965.

(2) "Utility" means buildings, structures, or systems of any power, energy, telephone, water supply, sewage collection and treatment, or other similar public service. An irrigation system is not a "utility".

(3) "Emergency facility" means those buildings, structures, or systems used primarily to provide emergency services, such as fire protection, ambulance, or rescue, to the general public.

(4) "Medical facility" means any hospital, outpatient facility, rehabilitation facility, or facility for long term care, as defined by the Associate Director, and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operation of such medical facilities even if not contiguous.

(5) "Custodial care facility" means those buildings, structures, or systems including those for essential administration and support, which are used to provide institutional care for such persons as the aged and disabled; such persons do not require day-to-day care by doctors or by other professionals but do require close supervision and some physical constraints of their daily activities.

(e) "Private nonprofit organization" means any nongovernmental agency or entity that currently has:

(1) An effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954, or

(2) Satisfactory evidence from the State that the non-revenue producing organization or entity is a nonprofit one organized or doing business under State law.

(f) "Standards" as used in this subpart means codes, specifications, or standards.

§ 205.72 Applicant eligibility.

(a) "Within the disaster area designated by the Associate Director, State or local governments, as defined in 44 CFR 205, Subpart A, are eligible applicants.

(b) Private nonprofit organizations or institutions, owning and operating educational, utility, emergency, medical or custodial care facilities, are eligible applicants.

(c) An Indian tribe (or authorized tribal organization or Alaskan village or organization, which exists for public service,) is also an eligible applicant. In those cases where the State is unable or unwilling to process a project application on its behalf, such applicant may submit its project application directly to the Regional Director.

(d) A public entity is eligible for assistance when its requests are submitted by a State or a political subdivision of the State. Organizations which are formed for a public purpose and whose direction and funding are provided primarily by one or more political subdivisions of the State are normally considered to be public entities.

(e) Any rural community or unincorporated town or village may be eligible when an application for Federal assistance is made by a State or a political subdivision of the State on its behalf.

(f) [Reserved]

(g) Under Public Law 93–288 grants to eligible applicants are discretionary and are based on FEMA grant approval for proposed work and subject to any conditions upon which that grant approval was based.

§ 205.73 General work eligibility.

(a) *General.* To be eligible for financial assistance, an item of work must:

(1) Be for a purpose set forth in the Act and these regulations.

(2) Be required as the result of the major disaster or emergency, and

(3) Be located within a disaster area designated by the Associate Director.

(b) *Work under other Federal agency programs.* Disaster assistance under the Act is not available for work which other Federal agencies may fund under their own statutory authorities, except under unusual circumstances approved by the Regional Director. When another Federal agency (OFA) has authority and the necessary funds available to restore facilities damaged or destroyed by a major disaster or emergency that OFA funding authority shall be used instead of FEMA funding.

(c) *Restoration of leased facilities.* (1) Applicant-owned facilities are eligible, except when leased and the lease places such responsibility on the lessee.

(2) Facilities owned by others but under lease to an applicant are eligible to the extent of the applicant's responsibility under the lease.

(d) *Assurances.* As a condition for any grant or loan under the Act, the State and the applicant shall provide the assurances required by the Regional Director and accompanying the project application or loan application. These assurances are legally binding when offered by the applicant and the State, and approved by the Regional Director.

(e) *Facilities serving a rural community or unincorporated town or village.* To be eligible, a facility or system not owned by a State or local government must meet the following requirements:

(1) The facility is located in and/or serves an unincorporated community, town, or village; *and*

(2) Ownership is vested in a not-for-profit organization; *and*

(3) Proposed work on the facility satisfies eligibility requirements otherwise applicable to public facilities under Section 306 of the Act and must be necessary to restore essential public services on an emergency basis.

(f) *Grants-in-lieu.* A grant-in-lieu is a categorical grant, based on work eligible under section 306 or 402(e) of the Act, which the grantee may use to provide a larger, more elaborate or equivalent facility that as a minimum replaces the design or capacity of the public facility damaged or destroyed by the major disaster. The facility to which the grant-in-lieu is applied must be restored to its predisaster capacity and serve the same purpose or function as the damaged facility.

(g) *Time limitations.* Timely performance of eligible work is necessary to minimize costs of work and to avoid delays in restoration of public services. The Regional Director may approve reimbursement to an applicant for eligible work performed prior to the Federal damage survey, but within the time limitations and the disaster-affected area. When, due to circumstances not beyond its control, an applicant fails to comply with the approved time limitations, the Associate Director, or his/her designee may decline to approve an extension of time for starting or completing the approved work.

(h) *Maintenance.* Routine or regular maintenance is not eligible. To be eligible, repairs or replacements of damaged facilities which are of the types usually performed as maintenance, must:

(1) Be of disaster scope and magnitude, and

(2) Be essential to restore the disaster condition and design of the damaged or destroyed facilities, and

(3) Be performed on an expedited basis.

§ 205.74 Emergency work.

(a) *General.* (1) Emergency work is eligible under section 305 or 306 of the Act to provide emergency protective measures to save lives, to protect public health and safety, and to protect property as the result of a declared major disaster or emergency; under section 306 or 403 for debris removal; under section 415 for Emergency Communications; and under Section 416 for Emergency Public Transportation.

(2) When immediately necessary and no lesser emergency work is feasible, permanent restorative work on facilities damaged or destroyed by a major disaster or emergency may be expedited as emergency work under sections 305 or 306 of the Act. Eligibility of such emergency work shall be determined separately from any other permanent restorative work eligible under section 402 of the Act.

(3) In determining public interest for emergency work for which these regulations require such determination, the Regional Director shall determine whether the work is necessary to:

(i) Eliminate immediate threats to life, public health, and safety; or

(ii) Eliminate an immediate hazard which threatens substantial destruction of undamaged improved public or private property; or

(iii) Assure economic recovery of the affected community to the benefit of the community-at-large; or

(iv) Provide emergency facilities when necessary to resume essential public services.

(4) In determining whether such emergency work is in the public interest, the Regional Director may require certification by local, State, or Federal health officials, including identification and evaluation of the threat and recommendations of the emergency work necessary to cope with the threat. Refer also to 44 CFR 205.70.

(b) *Debris removal.* No such work shall be performed unless the affected State or local government first provides to the Regional Director written assurances of rights of entry and indemnification required by FEMA. When approved in the public interest by the Regional Director the following types of emergency work are eligible:

(1) Clearance of debris and wreckage from publicly and privately owned land and waters.

(2) Demolition and removal of public and private buildings damaged beyond repair.

(3) Cleanout of reserviors, debris catch basins, streams, and opening of drainage channels or facilities only under section 306 or 403 of the Act. Such clearance shall be limited to the removal of materials which are foreign to that facility and which were deposited by the disaster. It is not in the public interest to clean out debris catch basins at Federal expense that have a remaining capacity of storing debris that could be expected from a five-year storm. In determining public interest, past history of clean out of such facility shall be considered. Some removal of debris, deposited prior to the Presidential declaration, may be required as a condition for Federal funding under this section.

(c) *Emergency protective measures.* (1) The Regional Director may approve emergency protective measures under section 306(a)(4) of the Act which he/she determines are in the public interest. Such emergency work to protect property must be justified further by favorable benefits when compared to Federal costs involved and by providing widespread benefits to the community-at-large.

(2) Emergency protective work to prevent additional damage to improved property is eligible only when the effects of a declared major disaster or emergency have severely damaged or destroyed facilities and further destruction to improved property is threatened soon by subsequent similar disasters or emergencies. When approved, such emergency work is limited to the essential measures required to protect the community-at-large against similar disasters or emergencies that would be expected to occur not less frequently than every five years, or to restore protection as existed prior to the disaster, whichever is lesser.

(3) Removal of health and safety hazards. The following are examples of measures that may be eligible when approved in the public interest by the Regional Director: disposal of dead animals; drainage of water trapped as a result of a major disaster or emergency; pumping of basements only where there is flooding of numerous basements in the disaster-affected area; decontamination of private wells or pumping septic tanks only where pollution problem is widespread; vector control of insects involving a serious health hazard to humans.

(4) Landslides. To be eligible for FEMA reimbursement, emergency work shall be performed during the incidence period for the major disaster or emergency, except under unusual circumstances where the Regional Director determines that the proposed work is primarily disaster-related and in the public interest. Examples are debris removal, simple drainage measures, and emergency repairs to damaged public facilities. Permanent stabilization of a landslide is not attainable usually by such emergency measures.

(5) Emergency access. An access facility that is not publicly owned or is not the direct responsibility of an eligible applicant or grantee for operation and maintenance may be eligible for emergency repairs or replacement provided:

(i) The Regional Director determines that emergency repair or replacement of the facility is in the public interest, or economically eliminates needs for temporary housing, with no alternative access facilities immediately available within a reasonable distance, and

(ii) The necessary emergency work can be provided on a one-time basis can and will in no way obligate the Federal Government to fund further emergency work or maintenance.

(6) [Reserved]

(7) Work that is immediately necessary as the result of a major disaster and directly related to permanent work eligible to be preformed later under section 402 of the Act will normally be approved by the Regional Director in the public interest as emergency protective measures under section 306 of the Act.

(8) Water control facilities. Emergency work on water control facilities shall be limited to that required to insure the structural integrity of the damaged facilities or to restore disrupted public services when necessary to meet emergency needs of the community-at-large.

(9) Ice jams. FEMA assistance to remove ice jams is not eligible.

(10) Emergency protective facilities installed will be eligible for removal under the Act only when such facilities are directly affecting the operations of, or access to, public facilities required by the applicant in its normal day to day operation.

(d) *Emergency communications.* The Regional Director is authorized as the result of an emergency or major disaster to establish emergency communications and make them available to State and local government officials and other persons as he/she deems appropriate. Such emergency communications are ordinarily intended for use as necessary to carry out the disaster relief functions. Communications provided under this section are intended to supplement but not replace normal communications that remain operable after a major disaster. These emergency communications will be discontinued immediately when the essential emergency communications needs of FEMA and the community have been met.

(e) *Emergency public transportation.* The Regional Director may provide emergency public transportation in a disaster-affected area to meet emergency needs and to provide transportation to public places and such other places as necessary for the community to resume its normal pattern of life as soon as possible. Any transportation provided under this section is intended to supplement but not replace predisaster transportation facilities that remain operable after a

major disaster. FEMA funding of such emergency transportation will be discontinued by the Regional Director as soon as the emergency needs have been met.

§ 205.75 Permanent work.

(a) *General.* (1) Applicability. Permanent work is eligible under section 402 of the Act and these regulations and includes help to eligible applicants to repair, restore, reconstruct, or replace eligible facilities on the basis of the design of the facilities as they existed immediately prior to the disaster and in conformity with applicable standards. Criteria for determining eligibility of permanent work are the same for categorical, flexible funding, and small project grants.

(2) Standards. (i) To be applicable for Federal grant assistance under section 402 of the Act, standards for repairs, or for new construction, must be in writing, formally adopted, enforced, and in general use when the major disaster occurred, except:

(A) Those standards prescribed by the Associate Director

(B) Those standards authorized as deviations by the Associate Director.

(ii) In those cases where no standards are applicable, Federal grant assistance for permanent work under the Act shall be limited to restoring the facility to its predisaster condition and predisaster design to the extent practicable.

(iii) In restoring damaged or destroyed facilities by use of grant assistance for permanent work under the Act, the Regional Director may authorize minor disaster proofing not required by applicable codes, specifications or standards, when in the public interest. Refer also to 44 CFR 205.70.

(iv) Under section 406 of the Act, as implemented by 44 CFR 205.402(d), the Associate Director may prescribe standards which then are applicable only to Federally-assisted projects for permanent work.

(v) Under section 402 of the Act, when the Associate Director determines that conformity to existing applicable standards will jeopardize public health and safety, he/she may authorize appropriate standards as deviations after consultations with the Regional Director, the Governor's Authorized Representative, and the applicants. Prior to the authorization of such deviations, the State or local government having jurisdiction in the affected areas shall also adopt and enforce these new standards for all like projects. Refer also to 44 CFR 205.70.

(3) Materials. For all eligible repairs, replacements, rebuilding or other restorative work, the most economical materials shall be used, taking into consideration the following: predisaster design and condition of the facility; current applicable standards, if any; and predisaster public services or usage of the facility. Consideration shall also be given to protection of the environment (44 CFR Part 10) and to floodplain management, if applicable, (44 CFR Part 9).

(4) Public Interest. Refer also to 44 CFR 205.70. In determining whether permanent work is in the public interest, the Regional Director shall determine that:

(i) The applicant and the work involved are eligible under the Act and these regulations.

(ii) The work is necessary for the benefit of the community-at-large.

(iii) The outlook for continued future public use of the restored facility and the ratio of benefits to costs of restoration are favorable.

(5) Repairs. (i) A facility is considered repairable when in terms of current applicable standards for repairs in effect at the time of the disaster:

(A) It is feasible to repair the facility so that it can perform the function for which it was designed as well as it did immediately prior to the disaster; and

(B) Such repairs can be made at a cost less than the estimated cost of replacing the damaged structure on the basis of its design immediately prior to the disaster; and

(C) Such permanent repairs are a practicable alternative under 44 CFR 205, Subpart M, 44 CFR Part 9 and 44 CFR Part 10 when applicable and are determined by the Regional Director to be in the public interest. If not, the Regional Director may authorize emergency repairs under Section 306, PL 93–288, to restore essential public service and shall then decline to approve any permanent restorative work in accordance with 44 CFR Part 9.

(ii) If the facility was in a damaged or unsafe condition prior to the major disaster, the applicant shall agree to pay the cost of correcting any such conditions as a prerequisite to Federal assistance.

(iii) Only those repairs will be approved which restore the portions of the structure damaged by the major disaster.

(6) Replacement. If a damaged facility is not repairable to predisaster condition as determined by the Regional Director, approved restorative work shall include replacement of the facility on the basis of its predisaster design, in conformity with applicable standards for new construction. Refer also to 44 CFR Parts 9 and 10 and to 44 CFR 205, Subpart M, for additional guidance where applicable.

(7) Relocation. When the Regional Director determines that there is a practicable alternative to restoring a facility in a high hazard area he/she may approve relocation to the less hazardous site. In each such case an environmental assessment is required and the applicant shall provide the new site. Refer also to 44 CFR 205.76(e)(6).

(8) Feasibility studies. In those cases where the decision to repair or to replace the damaged facility depends upon the relationship between repair costs and replacement costs, and the project is of sufficient magnitude, a feasibility study may be undertaken.

(9) Limited use facilities. Facilities which were in limited use prior to the disaster, or were being used for other purposes than originally designed, may be eligible for assistance only to the extent necessary to restore immediate predisaster capacity for such use.

(10) Inactive facilities. Facilities that were not in active use at the time of occurrence of the major disaster are not eligible except in those instances, as determined by the Regional Director, where the facilities were only temporarily inoperative for repairs or remodeling, or where active use by the applicant was firmly established in an approved budget and was scheduled prior to the major disaster to begin within a reasonable time.

(11) No action. (i) The Regional Director may decline to approve Federal funding to restore facilities at the original site when such facilities were subject to frequent repetitive heavy damages or destruction.

(ii) The Regional Director shall decline to approve Federal funding when he/she determines in accordance with 44 CFR Part 9, 44 CFR Part 10, or 44 CFR Subpart M that FEMA funding is barred. For each such determination, there is no flexible funding option under Section 402(f) or in lieu contributions under Section 419 Pub. L. 93–288, as amended.

(12) Nonessential features. Although constructed and maintained by the applicant, non-functional features of a facility only of aesthetic value are not eligible.

(13) Furnishings and equipment. Comparable used or surplus furnishings and equipment will be approved as replacement items when available. Only those functional furnishings and equipment essential to the maintenance and operation of the facility are eligible.

(14) Consumable supplies. Consumable supplies damaged or lost in a disaster are eligible for replacement but limited to a 30-day requirement of each item replaced. However, the

Regional Director may approve additional requirements for certain items for which he determines that minimum economical stockage levels exceed 30 days.

(15) Seeding. Seeding shall normally be limited to broadcast seeding without mulching or fertilizer during the regular seasons when such work is performed locally. The Regional Director may approve broadcast seeding to retard erosion in disaster-affected areas and in areas disturbed by eligible work. The Regional Director may approve mulching, fertilizer, and watering only on highway slopes or where required to maintain the structural integrity of a facility, and in areas where sodding is eligible but seeding is substituted.

(16) Sodding. Sodding is not eligible except when the local practices of the applicant would require sodding as in golf greens and in certain grassy areas in parks or public places. Seeding shall be substituted whenever feasible.

(17) Landslides. Section 402 of the Act provides for restoration of damaged or destroyed facilities which are man-made features or improvements. The site is the owner's responsibility. Permanent stabilization of a landslide area can be quite costly and may not produce the desired results. When the Regional Director determines that no practicable alternative exists, he may decline to provide such grant assistance for restoration of facilities within the slide area. Permanent work to stabilize a landslide is not eligible.

(b) *[Reserved]*

(c) *Road and street facilities or systems.* (1) Width standards. The Associate Director has prescribed minimum bridge width standards which are applicable to bridge replacement (but not to repairs) involving FEMA funding. These standards appear in applicable handbooks and may be superseded by changes when approved by the Associate Director.

(2) Approach roads. If the approach roads were undamaged and a bridge can be replaced at the existing site without unacceptable traffic safety hazards, the Regional Director may approve eligible restoration costs to replace the bridge at that site in accordance with current applicable standards. If relocation of the bridge is approved to achieve a safer road alignment, any replacement of existing, undamaged approach roads and all other work on approach roads not resulting directly from major disaster damages are the responsibility of the applicant. Such relocated approach roads of any replacement bridge shall conform at least to the minimum American Association of State Highway and Transportation Officials (AASHTO) standards outlined in Tables 1 thru 7, AASHTO Geometric Design Guide for Local Roads and Streets. Skewing of any replacement bridge to conform to a FEMA-approved safer alignment is eligible for Federal reimbursement. If an applicant decides not to provide at its own cost the approach roads, relocated and upgraded to minimum AASHTO standards, Federal assistance under the Act shall be limited to a replacement bridge at the original location with the same capacity as existed at the time of the disaster and with width not exceeding the minimum safe standards stated above.

(3) Sidewalks. Sidewalks on bridges are not eligible unless they existed on the damaged bridge prior to the disaster, or are required by current, applicable standards.

(4) Waterway openings. In the design of bridge and culvert waterway openings, consideration will be given to the drainage area involved above and below the bridge site. Federal regulations pertaining to the National Flood Insurance Program provide for prevention of "new enroachments" into 100-year floodway. However, the replacement of bridges under the Act which were damaged or destroyed is not "new encroachment" within the meaning of those regulations. Waterway openings for bridges and culverts shall be based on predisaster design and capacity in accordance with current applicable standards and additional guidance in 44 CFR 205, Subpart M, 44 CFR Part 9 or 44 CFR Part 10.

(5) Floodway. Work in floodway related to bridge restoration, including lining and straightening or bank protection such as rip-rap that did not exist prior to the major disaster, is not eligible unless such work will reduce overall project costs of new construction eligible for Federal funding.

(6) Traffic standards. Determination of predisaster capacity for handling traffic of bridges damaged or destroyed as a result of a major disaster shall be based on the average daily traffic which the bridge carried immediately prior to the disaster.

(7) New drainage structures. Construction of new drainage structures in those cases where lack of drainage structures caused flooding damage is not eligible, except for disaster proofing. In accordance with 44 CFR Part 9 or Part 10 of these Regulations, the Regional Director may require that an applicant provide without reimbursement adequate drainage structures or erosion-resistant structures, as a condition for approval of Federal grant assistance for the placement of a fill, embankment, or other facility.

(8) Culverts. Culverts that are washed out and destroyed may be replaced by culverts of similar construction or by larger culverts if required by applicable standards. However, if a culvert is merely plugged, and no other damage has been sustained, cleaning of the culvert is routine maintenance and therefore is not eligible.

(d) *Water control facilities.* (1) Repairs or other restorative work will not exceed restoration in accordance with current applicable standards including appropriate hazard mitigation measures as practiced by the applicant throughout its system of other like facilities:

(i) Predisaster condition and design capacity,

(ii) Previously existing elevations, and

(iii) Cross sections

(2) In those cases where inadequate maintenance by the applicant prior to a major disaster significantly diminished the predisaster design or hydraulic capacity of a facility or system, the Regional Director shall require the applicant to correct the maintenance deficiencies of the entire facility or system as a condition for Federal grant approval. The approval will be limited to restoration of the design and condition of the facility or system as it existed immediately prior to the major disaster. The applicant shall submit a plan and schedule for the required maintenance work acceptable to the Regional Director before his/her approval of otherwise eligible costs. If these conditions are not satisfied, the Regional Director may decline to approve Federal assistance. Final payment of approved Federal assistance may not be made until the design capacity of the facility or system has been restored and all maintenance deficiencies have been corrected.

(e) *Public buildings and equipment.* (1) Repairs to buildings. Where an eligible building receives extensive damage but remains structurally sound, the Federal contribution is limited to repairing the damage in accordance with applicable standards for repairs.

(2) Replacement of buildings. When a publicly-owned building is destroyed or damaged to the extent that the Regional Director determines that it would not be feasible to perform repairs, a replacement structure may be authorized, with its eligible capacity not to exceed the capacity of the original structure.

(3) Office equipment. When damage to office equipment is repairable, only repair is authorized. Comparable office equipment such as typewriters, desks and chairs, when available from Federal

and State surplus or commercially, shall be procured for repalcement items.

(4) Service equipment. Police cars and motorcycles, fire trucks, public works construction and maintenance equipment, and other such equipment damaged as a direct result of the disaster, but not as the result of the disaster operations, are eligible for repair or replacement in accordance with the following criteria:

(i) Repairs. (A) Only those repairs necessary to return service equipment to its predisaster repair standards are eligible. The allowable repairs normally will not exceed the "Blue Book" retail value of the piece of equipment, less any salvage value and insurance recoveries.

(B) As a condition for Federal grant assistance for repairs, the applicant shall correct any predisaster deficiencies needed to restore the service equipment to safe operating condition without Federal assistance except for disaster-related eligible repairs.

(ii) Replacement. Non-repairable service equipment will normally be replaced with used equipment of approximately the same age and value to the extent such equipment is readily available within a reasonable time and distance. Any equipment eligible for replacement must have been in active use or temporarily out of service.

(5) Library books and publications. Replacement of library books and publications is based on an inventory of the quantities of various categories of books or publications damaged or destroyed. When damage to books is repairable, only repair is authorized. Federal grant assistance shall be based on used replacements, when resonably comparable and available. Discounts normally are available and must be considered. The Regional Director may authorize equivalent replacement, such as substituting microfilm copies of newspapers and periodicals, if they can be provided at no greater Federal cost than replacement of the damaged items in kind.

(f) *Public utilities.* (1) Repair of public utility distribution systems normally requires the same general type of materials as previously existed. If more economical and satisfactory alternate materials are available, they shall be used.

(2) Cleaning of storm and sanitary sewer lines damaged by the disaster is eligible only to the extent it is disaster-related and necessary to restore adequate functioning of the system under conditions expected each year.

(3) Repair or replacement of measuring devices such as meters is eligible only if the responsibility is that of the applicant.

(4) The Federal contribution shall not provide a higher level of sewage treatment. If a higher level of treatment is required to meet State or Federal standards, the additional cost of such facilities is the responsibility of the applicant.

(g) *Facilities under construction.* (1) "Under construction" means that period of time from the initiation of construction by applicant forces to final completion of all eligible work or from the award of the prime contract to the applicant's final acceptance of the facility from the contractor. Although the applicant may have accepted certain features of the project for use, the project is considered to be under construction until it is finally accepted.

(2) Only those repairs or replacements are eligible that are necessary to restore facilities damaged or destroyed by a major disaster substantially to predisaster condition. Restoration of the site or natural setting for such facilities is the owner's responsibility and is therefore not eligible. Disaster proofing is not eligible.

(h) *Private nonprofit facilities.* (1) Eligibility criteria for restorative work on facilities owned by eligible private nonprofit organizations are the same as for like work on similar facilities owned by any eligible applicant.

(2) As a condition for Federal grant assistance, such facilities must have been operated at the time of the major disaster in a manner to carry out fully the purposes of the facilities and of the owning organization or entity, except those facilities under construction.

(3) As a condition for Federal grant assistance, the eligible owning organization shall provide all assurances normally required from any applicant in submitting a project application plus any additional assurances required by the Regional Director, including but not limited to the following: the grant recipient shall operate and maintain the restored facilities continuously after completion throughout their useful life.

(4) The eligible owning organization must provide the necessary permits and licenses to repair, restore, reconstruct or replace the facility in accordance with the project application and subsequently to maintain and operate the facility. Refer aso to 44 CFR 205.76(a)(15) and (a)(16).

(5) Repair or replacement of any educational facility is not eligible for which disaster relief assistance would not be authorized if it were a public facility under the Act, under Pub. L. 81-815, or Title VII of the Higher Education Act of 1965.

(6) Repair or replacement of any hospital or other medical care facility in any disaster-affected area is not eligible:

(i) For which disaster relief assistance would not be eligible under the Act if it were a publicly-owned facility, or

(ii) Where the Regional Director after consulting with the State hospital planning agency, determines that a significant surplus of such facilities exists, or

(iii) Where after consulting with the State hospital planning agency, he/she determines that a significant surplus of such facilities would be created by the proposed work, or

(iv) Unless the facility was in active use prior to the major disaster and providing significant medical services to the general public.

(i) *Publicly-owned parks and recreational facilities.* (1) Publicly-owned facilities which constitute physical installations in the area such as playgrounds, swimming pools, boat docks, bath houses, tennis courts, picnic tables, etc., are eligible for repair or replacement when damaged or destroyed as the result of a major disaster.

(2) Natural features of a publicly-owned park or recreational facility such as trees and shrubs may be restored to predisaster condition to the extent necessary to restore significant public services or use that the Regional Director determines to be reasonable and practicable and in the public interest.

(3) Repair or replacement of other damaged or destroyed natural areas is not eligible except to eliminate an immediate threat to public health and safety.

(j) *Removal of timber.* (1) When in the public interest, the Regional Director may approve grants to a State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster. Refer also to 44 CFR 205.76(e)(9).

(2) Approved Work Practices. Bent, twisted, downed timber of commercial value will be salvaged or cleared when approved under 44 CFR 205.75. This includes the construction of approved temporary access roads required for removal of the damaged timber.

(i) Slash created by approved timber removal may be disposed of by not more than one of the following practices when approved by the Regional Director:

(A) Prescribed burning.

(B) Drum chopping.

(C) Raking, windrowing, and burning.

(ii) Where such slash is to be burned, appropriate permits will be obtained from the Forestry Commission and/or other appropriate agency(ies), and other precautions and notifications made as required by law.

(iii) No such slash should be placed where it will interfere with existing drainage facilities.

§ 205.76 Eligibility of costs.

(a) *General.* (1) This section provides policies and guidelines for determining eligibility of costs of work eligible under the Act that may be paid to any eligible applicant or other recipient of this grant assistance. The subparagraphs which follow are generally applicable to eligibility of costs. Only reasonable costs of eligible work are reimbursable.

(2) Factors affecting eligibility of costs. To be eligible under a FEMA grant, costs must meet the following general criteria:

(i) Be necessary and reasonable for proper and efficient administration of the approved work, be allocable thereto under these regulations, and, except as specifically provided herein, not to be a general expense required to carry out the overall responsibilities of State or local governments.

(ii) Be authorized or not prohibited under State or local laws or regulations.

(iii) Conform to any limitations or exclusions set forth in these regulations, Federal laws, or other governing limitations as to types or amounts of cost items.

(iv) Be consistent with policies, regulations, and procedures that apply uniformly to both Federally assisted and other activities of the unit of government of which the grantee is a part.

(v) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(vi) Not be allocable to or included as a cost of any other Federally financed program.

(vii) Be net of all applicable credits.

(3) Funding to any applicant for costs that are reimbursable by another Federal agency under its own statutory authorities is not eligible under the Act.

(4) The amount of Federal reimbursement made to an applicant under categorical funding or under a small project grant is limited to the eligible cost of performing work approved by FEMA. This limitation is not intended to restrict the type and cost of work which the applicant may choose to undertake. If the applicant performs work in excess of the approved amount, Federal financial assistance is limited to the costs of eligible work approved by the Regional Director. Flexible funding under section 402(f) of the Act, is limited to 90 percent of the estimated costs of eligible permanent restorative work.

(5) The applicant may use assistance under the Act to supplement funds available from the grant programs of other Federal agencies, or from other sources provided that:

(i) There is no duplication of benefits prohibited by section 315 of the Act, or

(ii) Such funding is not in violation of applicable laws and Federal regulations.

(6) Approval of Federal funding may be withdrawn for any project not started within approved time limitations, including extensions. Federal funding is not eligible for work performed after the approved termination date, including extensions. Refer also to 44 CFR 205, Subpart H.

(7) Administrative expenses. Administrative expenses attributable to requesting, obtaining, and administering FEMA grant or loan assistance are not eligible, including but not limited to the following:

(i) Preparation or processing of project applications, reports, appeals, inspection reports, audits, and claims for payment.

(ii) Performance of owners responsibilities.

(iii) Operation of Emergency Operations Center.

(iv) Salaries, wages, and expenses of State and local officials who are responsible for directing regular governmental activities.

(v) Salaries, wages, fees, and expenses of individuals or firms while engaged in the preparation and processing of damage assessments, of project applications, claims for payment and supporting documentation, including costs of damage estimates.

(vi) Office supplies and equipment.

(vii) Rent.

(viii) Telephone and telegraph expenses.

(8) Grant-in-lieu, (i) The amount for which a grant-in-lieu is approved is limited to the estimated costs of the eligible work.

(ii) Proportionate sharing of costs is not an acceptable method of determining eligible costs for a grant-in-lieu.

(iii) The only permissible basis for increasing or reducing the Federal funding under a grant-in-lieu is a substantial error or omission in defining the approved scope of eligible work or in the approved estimated reasonable costs of such work. In cases where the actual audited costs for completing the project are less than the approved grant-in-lieu, the final payment will not exceed the actual audited costs. In such cases the Regional Director or the Associate Director will make appropriate reductions in the Federal payment based on his/her determination of costs of completed betterments.

(9) Equipment rental. Rental of privately-owned equipment to perform eligible disaster work is eligible. However, the rental rates must be comparable to going rates in the locality for similar types of equipment. If not, reasonable rates as determined by the Regional Director shall be substituted in approval of project applications, or of claims. When auditable records are available, the actual audited costs of equipment may be considered in processing appeals.

(10) Hand tools, materials, and supplies. (i) Eligible: (A) Reasonable costs for materials and supplies consumed in eligible disaster work, including those procured by direct purchase or taken from applicant's stock.

(B) Costs of hand tools (shovels, handsaws, hammers, etc.), personal equipment, and protective clothing reasonably lost, worn out or destroyed through disaster use in performing eligible work.

(ii) Not eligible: Costs for losses, damage or destruction while in disaster or emergency use of radios, weapons, and other items used regularly in field operations by police and other employees whose duties do not change because of the disaster.

(11) Salvage. Salvage value of any damaged or destroyed property must be deducted in all determinations of eligibility of work and from final reimbursement to any claimant.

(12) Stockpiled items. Costs of all stockpiled items purchased under the Contributions Program (Pub. L. 920, 81st Congress, as amended) for civil defense purposes which are lost, damaged, or destroyed by a major disaster while in storage are not eligible.

(13) Insurance. (i) Cost of insurance required for performance of grant or loan assistance is eligible.

(ii) Insurance purchased by the State, the applicant, or grantee for its protection from any liability arising from assurances made to the grantor, or arising directly or indirectly from use of the grant shall be at the insured's expense and is not eligible.

(iii) The Regional Director shall reduce the grant by the actual applicable amount of insurance proceeds received by the grantee or by any prior insurance commitment for Federal assistance that is delinquent. In the event insurance recovery is contingent upon the amount of reimbursement under the Act, reimbursement is limited to eligible

costs as determined by the Regional Director after deducting the maximum amount otherwise recoverable under and up to the limit of the policy.

(14) Acquisition of lands, easements, and rights-of-way. Such acquisitions are the responsibility of the applicant, or grant recipient upon whose behalf project application was made. These costs are usually covered by the assurances accompanying the project application and are not eligible for Federal reimbursement except when approved in the public interest by the Associate Director under unusual circumstances, requiring immediate action beyond State, applicant, or grantee's capabilities, or involving significant cost savings to the Federal Government.

(15) Licenses. The costs of Federal, State, or local licenses which are required for the grantee to operate and maintain completed facilities are not eligible. Meeting the requirements for licenses is the responsibility of the grantee.

(16) Permits. The costs of Federal, State, or local permits which are required to perform eligible work are eligible.

(17) Loss of revenue. Replacement of revenues lost as the result of a major disaster or emergency is not eligible for grant assistance.

(18) Excess utility costs. Any loss of revenue or added costs or charges for providing utility services is not eligible.

(19) National Guard. (i) Eligible: Actual projects paid by the State not otherwise federally funded for work undertaken by the National Guard on a project basis, including salaries of National Guardsmen directly engaged in project work or supervision, when such projects are approved in advance by the Regional Director.

(ii) Not eligible: Use of National Guard for public safety, or other security measures.

(20) Cooperative agreements. (i) Eligible: Costs for work performed under cooperative arrangements between State or local governments, but limited to those direct costs of the performing entity, which would be eligible if the applicant had performed the work.

(ii) Not eligible: Costs for work performed under arrangement between a State or political subdivision of a State and a Federal agency, except when approved in advance by the Regional Director.

(21) Work performed by service, fraternal, and other similar organizations which do not normally contract their service for disaster relief. (i) Eligible: Only out-of-pocket costs for equipment, materials, and supplies used or consumed in the performance of eligible work.

(ii) Not eligible: Wages or salaries of member personnel engaged in disaster relief activities.

(22) Prison labor. (i) Eligible: Out-of-pocket costs to an eligible applicant of prison labor performing eligible disaster work, limited to the amount paid the prisoners in accordance with rates established prior to the disaster, and the cost of transportation.

(ii) Not eligible: Costs of food, lodging, and guards. Also, any costs for prison labor utilized by a contractor.

(23) Private nonprofit organizations. (i) Only catergorical grants may be approved by the Regional Director for such eligible grantees. No payment will be made for any work which was not within the scope of responsibility of the eligible private nonprofit organization prior to the major disaster.

(ii) Such grants shall not: (A) Be used to pay any part of the cost of facilities, supplies, or equipment which are to be used primarily for sectarian purposes; or

(B) Be used to pay costs to repair or replace: any facility, equipment, or supplies used primarily:

(*1*) For religious worship,

(*2*) For religious instruction, or

(*3*) In connection with any part of the program of a school or department of divinity.

(24) Negligence. No Federal reimbursement shall be made to any applicant for damages caused by its own negligence, by the negligence of any interested public or private organization or entity that is a direct grant recipient, or by any contractor.

(25) Interest and other financial costs. Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith are not eligible.

(26) Governor's expenses. The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State of local government and are not eligible.

(27) Legislative expenses. Salaries and other expenses of the State legislature or similar local governmental bodies such are county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are not eligible.

(28) Legal fees required in the administration of the grant are eligible. Legal services furnished by the Chief legal office of a State or local government of this staff solely for the purpose of discharging his general responsibilities as a legal officer are not eligible. Legal expenses for the prosecution of claims against the Federal Government are not eligible.

(29) Other. Any costs not allowable under OMB Circular 74–4 are ineligible for FEMA reimbursement.

(30) Interest on Advances. Interest earned on advances of Federal funds shall be remitted to FEMA except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577) and advances made to tribal organizations pursuant to section 102, 103, or 104 of the Indian Self Determination Act (Pub. L. 93–638).

(b) *Work by applicant's own forces.* (1) In addition to the provisions of 44 CFR 205.76(a), this section provides criteria for eligibility of costs specifically applicable to work by the applicant's own forces, hereinafter referred to as force account.

(2) Personnel. (i) Gross salaries or wages (including overtime) of extra employees of the applicant or grantee are eligible when the employees are engaged in the performance of eligible work, but not to exceed the going wages paid locally for such work.

(ii) Gross salaries or wages (including overtime) of regular employees of the applicant or grantee are eligible for reimbursement, but not to exceed the going wages paid locally for such work except the following types of ineligible costs:

(A) Regular salaries or wages of regularly employed policemen and firemen and of other regular employees whose duties do not change because of the disaster. Examples are levee patrollers, pumping plant operators, and building inspectors.

(B) Regular salaries of supervisory personnel other than working foremen engage primarily-and-continuously in field supervision of eligible work.

(C) All payroll costs above each employee's gross pay.

(3) Equipment. (i) The FEMA Schedule of Equipment Rates, or an alternative Schedule of Equipment Rates approved by the Associate Director, is applicable to all reimbursements for equipment that is publicly-owned or owned by other grantees.

(ii) For vehicles or equipment utilized by police, firemen, and other employees whose duties do not change because of the major disaster or emergency, only disaster-related actual costs in excess of average costs for the same period of time for the pervious three years, based on auditable records are eligible.

(iii) For permanently installed fixed equipment, such as pumping stations, only disaster-related actual costs in excess of the average costs for this same period of time for the previous three years, based on auditable records are eligible.

(c) *Contract work.* (1) Eligible: Reasonable costs for work performed by private contractors on eligible projects contracted for in accordance with State or local statutes.

(2) Not eligible: Costs incurred under the following types of contracts unless the Regional Director determines, on a case-by-case basis, that reimbursement of reasonable actual costs of eligible work is in the best insterests of the government:

(i) Cost-plus-percentage-of-cost contracts.

(ii) Contracts containing a provision which makes payment for eligible work contingent upon reimbursement under the Act.

(iii) Contracts with any contractor included on any FEMA listing of debarred contractors.

(d) *Emergency work.* (1) General. In addition to provisions of 44 CFR 205.76, (a), (b) and (c), these specific criteria apply to emergency work under the Act.

(2) Engineering and design. For emergency work such services are usually not necessary and Federal reimbursement may not be justified. The provisions of 44 CFR 205.76(e)(2) are also applicable to any engineering or design services related to emergency work.

(3) Debris removal. No Federal reimbursement will be made to an applicant for its reimbursement of an individual or private organization for the cost of removing debris from his/her own property except those public entities and private nonprofit organizations eligible under section 402(b) of the Act.

(4) (Reserved.)

(5) Emergency pumping. Reimbursement for emergency pumping shall terminate promptly after the river or stream has crested, except for removal of trapped water posing an immediate threat to public health and safety.

(6) Access to water control facilities. Emergency repairs to roadways along the top of a water control facility shall not exceed that required to provide access for emergency work or that which existed prior to this major disaster or emergency.

(7) Vector control. Only disaster-related actual costs in excess of the average cost for the same period of time during the previous three years are eligible when vector control is approved in the public interest.

(e) *Permanent work.* (1) General. In addition to provisions of 44 CFR 205.76 (a), (b), and (c), these specific criteria apply to permanent work under Section 402 of the Act.

(2) Engineering and design. Reimbursement for eligible engineering, planning, design, supervision, or inspection services is based upon actual direct costs but shall not exceed the amount approved on the project application, or on a supplemental project application. The Regional Director may approve special services, such as engineering, surveys, soil investigations, resident engineers, and additional construction inspection when justified.

(3) Feasibility studies. Feasibility studies may be reimbursable under the Act when approved in advance by the Regional Director. Costs for feasibility studies primarily concerning alternate facilities, betterments, or post-disaster programs or any project approved for flexible funding are not eligible for reimbursement under the provisions of the Act.

(4) Environmental review. Costs incurred by an applicant to perform an environmental review and assessment are not eligible without prior approval by the Regional Director. Refer also to 44 CFR Part 10.

(5) Disaster proofing. The eligible costs of disaster proofing are limited to minor measures to make the affected features of a facility or structure disaster-resistant. Eligible costs of disaster proofing shall not exceed a small percentage of otherwise eligible costs of restorative work being disaster proofed, unless approved by the Associate Director under unusual circumstances on a case-by-case basis.

(6) Relocations. When the Regional Director has approved replacement of a facility at a new location under section 402 of the Act, the costs of acquiring the site plus providing to the site road access, utilities, and communication lines are the owner's responsibility and are not eligible. The costs of replacing the facility at the new approved location, otherwise eligible under the Act, are reimbursable.

(7) Warranties. Additional costs to provide warranty or guarantee of any repaired or replacement items or facilities are not eligible for Federal reimbursement. However, after applying for relief from the contractor, manufacturer, or supplier, the applicant or grantee may appeal to the Regional Director for any grant assistance that he can justify as disaster related.

(8) Projects under construction. (i) Only categorical grants may be approved for those facilities under construction when damaged or destroyed by a major disaster. Federal reimbursement shall not exceed the net eligible costs to the applicant, to a private nonprofit organization or entity, or to the contractors in restoring a facility to substantially the same condition as existed prior to the major disaster.

(ii) In addition to other provisions of 44 CFR 205.76, the following are not eligible:

(A) Repair or replacement of the site.

(B) Repair or replacement of mobile construction equipment.

(C) Project operation and maintenance.

(D) Idle construction equipment ownership expense or loss of revenue because of damages to construction equipment or for other reasons.

(E) Contractors' administrative or overhead costs not directly related to eligible work including computer costs.

(F) Costs covered by insurance settlements or salvage, including reimbursement which might be received from any other private, State or local government, or Federal agency.

(G) Contractor's profit in those instances where the contractor is the beneficiary of the Federal assistance.

(H) Losses resulting from delays in completion of the work such as contract penalties or loss of revenue.

(I) Costs of disaster proofing.

(9) Timber removal. (i) Eligible costs: (A) Reimbursement for eligible expenses actually incurred in the removal of damaged timber subject to verification by inspection and audit.

(B) Costs of repair or construction of temporary roads approved by the Regional Director as necessary for access to damaged timber for removal.

(ii) Ineligible costs: (A) Estimated salvage value of timber destroyed by burning or otherwise by the claimant in lieu of practicable salvage operations.

(B) Costs of timber removal for which the Regional Director determines salvage or insurance recoveries by the claimant are applicable.

(C) Debris removal other than

provided in approved work practices for primary purpose of timber removal.

(iii) Maximum Payment: Maximum payment for completed approved work practices will be based on the following:

(A) Construction of approved temporary access roads for salvage of damaged timber. 100% of eligible costs not to exceed $60.00 per thousand linear feet.

(B) Drum chopping: 100% of eligible cost not to exceed $100.00 per acre.

(C) Prescribed burning: 100% of eligible cost not to exceed $5.00 per acre.

(D) Raking, windrowing and burning: 100% of eligible cost not to exceed $140.00 per acre.

Any payment will be minus any residual salvage value, insurance recoveries or other cost-share payments related to timber removal.

Issued at Washington, D.C.

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-24434 Filed 8-12-80; 8:45 am]

BILLING CODE 6718-02-M

V 45 A G 13 80 UMI

federal register

Wednesday
August 13, 1980

Part III

Department of the Interior

Fish and Wildlife Service

Emergency Determination of Endangered Status and Designation of Critical Habitat for Astragalus yoder-williamsii

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status and Designation of Critical Habitat for Astragalus yoder-williamsii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Service determines the Osgood Mountains milk-vetch (*Astragalus yoder-williamsii*) to be an Endangered species and an area on Bureau of Land Management land in Humboldt County, Nevada, to be its Critical Habitat. The species also is found in Owyhee County, Idaho. Mining development threatens the integrity of the species' habitat and hence poses a significant risk to the survival of the plant. This emergency rule will provide the Endangered Species Act's protection to this species for 240 days.

DATES: This emergency determination for the species and designation of its Critical Habitat will be effective on August 13, 1980, and remain in effect until April 15, 1981.

ADDRESSES: Interested persons or organizations can obtain information from the Area Director, U.S. Fish and Wildlife Service, Room E2730, Federal Building, 2800 Cottage Way, Sacramento, California 95825; telephone 916/484–4664.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; telephone 703/235–2771.

SUPPLEMENTARY INFORMATION:

Background

Astragalus yoder-williamsii is known only from eastern Humboldt County in northern Nevada and from southeast of Black Butte in Owyhee County, southwestern Idaho. It was first collected in 1977 and was recognized as a new species from a second collection in 1979. It was formally named and described as a new species earlier this year (Barneby 1980). It is found on exposed ridge crests and flat plateaus of decomposed granite gravel or sandy soil derived from granodiorite parent material, at elevations of 1890–2230 meters. The Nevada population, in the northern Osgood Mountains, is estimated to number about 500 individual plants. The Idaho population was composed of less than ten plants in 1977. Searches undertaken in 1979 and 1980 for other populations of the species in both states have been unsuccessful.

At both locales where this species occurs there are recent mining claims, and assessment work on the claims in Nevada appears imminent. The Nevada population is on land managed by the Bureau of Land Management (BLM), while the Idaho population is mostly on BLM land and also on some private land. The BLM has requested that this emergency rule be enacted, in a letter to the Director dated July 1, 1980. The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Summary of factors affecting the species: Subsection 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of the Interior shall determine whether any species is an Endangered species due to one or more of the five factors described in that subsection. This authority has been delegated to the Director. These factors and their application to *Astragalus yoder-williamsii* Barneby are as follows:

1. *Present or threatened destruction, modification, or curtailment of its habitat or range.* This species appears to be restricted to a few granodiorite outcrops in north-central Nevada and southwestern Idaho. The larger population on about 20 acres of BLM land in eastern Humboldt County, Nevada, is located east of Soldier Cap and southwest of the Getchell Mine, in the northern Osgood Mountains. The population lies within mining claims of a private corporation, which were filed in 1974. This June, the majority of these claims were leased to a private company which indicates they will carry out assessment work this summer. The claims lie on deposits of a tungsten and gold ore. The ore deposits are immediately to the west and north of this population of the species. Considerable mining excavations occur within one mile of the population in all directions, a road passes through the population, and past mining assessment cuts have been made in the species' habitat (Yoder-Williams 1980). Considerable care will be necessary to avoid further damage to the species in assessment work and development of these mining claims.

The smaller population in southwestern Idaho is in Owyhee County, 4.5 km SSE of Black Butte and 14.5 km E of Triangle. It was discovered in June 1977, but plants could not be found in the area this June. The population is on some private land but mostly on land managed by BLM; mining claims for the area were filed this April. Barneby (1980) indicates that there are morphological differences between plants at the two sites, but he places them in one species.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

3. *Disease or predation* (including grazing). Grazing has occurred on the species' habitat. This grazing does not appear to threaten the species.

4. *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species. The BLM has advised us that it intends to set aside the Nevada habitat for this species as an Area of Critical Environmental Concern, under the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579), section 102(a). The Endangered Species Act of 1973, as amended, offers additional possibilities for protection of *Astragalus yoder-williamsii.*

5. *Other natural or man-made factors affecting its continued existence.* Any human pressure on this species may exaggerate the possibility of small populations going extinct through natural population fluctuations.

Critical Habitat

The Act defines Critical Habitat to include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and which may require special management considerations or protection, and (b) specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat for *Astragalus yoder-williamsii* is as follows: Nevada, Humboldt County, the immediate ridge area on both sides of Burma Road at the summit, in the northern Osgood Mountains, excluding the existing roadways of Burma Road and the road to the Alpine Mine. The exact boundaries are the N½ of the SW¼ of the NE¼, and the SW¼, SE¼, and NE¼ of the NW¼ of the NE¼ of section 6, T38N R42E, and the SE¼ of the SW¼ of the SE¼ of section 31, T39N R42E.

It is anticipated that these areas will provide the species with the necessary requirements for survival and conservation. The Idaho site of the species is not included in Critical Habitat because plants could not be relocated there in field work recently undertaken. Nevertheless, it is protected through the jeopardy provision of Subsection 7(a)(2) of the Act should plants be found there.

Subsection 4(f)(4) of the Act requires, to the maximum extent practicable, that Critical Habitat designations be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or those Federal actions which may be impacted by such designation. Such activities are discussed below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency actions through section 7 of the Act.

Two activities are planned in the area of the designated Critical Habitat. The BLM intends to designate an Area of Critical Environmental Concern for the species, as discussed above under threat factor four, and it may fense this area. This action appears fully compatible with the Subsection 7(a)(1) responsiblities BLM will now have for this Endangered plant.

Second, Pinson Mining Company, working with Cordex Exploration Company, plans further assessment work on mining claims at the Nevada site this summer. In June of this year, the majority of these claims were leased to Cordex Exploration Company by Utah International, Inc., a division of the General Electric Corporation. Access to the ores on BLM land is regulated by the Mining Law of 1872. The effect of this species' listing and Critical Habitat designation on the mining activity is currently under review (cf. BLM, m.d.; Sheridan 1978). It is clear that future mining assessment work and development of the claims could cause severe decreases in available habitat for the species, as well as direct loss of individual plants. Cooperative efforts so as to avoid damage to the species and its habitat are certainly indicated.

Effects of This Rule

In addition to the effects discussed above, the effects of this emergency rule include, but are not necessarily limited, to those mentioned below.

Subsection 7(a)(2) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered. Provisions for Interagency Cooperation implementing this subsection are codified at 50 CFR Part 402. New regulations to accommodate amendments to Section 7 are in preparation. This emergency rule requires Federal agencies to insure that actions they authorize, fund or carry out are not likely to jeopardize the continued existence of this species, or to result in destruction or adverse modification of its Critical Habitat. Since the BLM has requested this emergency rule, it appears it intends to readily comply with the effects of this subsection to the extent that it has discretionary powers to exercise.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373–32381) set forth a series of general trade prohibitions and exceptions which apply to all Endangered plant species. The prohibitions are found at Section 17.61 of 50 CFR and are summarized below. With respect to *Astragalus yoder-williamsii,* all prohibitions of Subsection 9(a)(2) of the Act, as implemented by Section 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR Sections 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species, under certain circumstances. No such trade in this *Astragalus* is known. It is anticipated that no permits involving the species will be requested.

Subsection 4(f)(2)(C) of the Act provides the authority for this emergency rule, which is effective for 240 days. During that time period, the Service intends to carry out the regular proposed and any final rulemaking procedure for this species, as required by the Act, in order to replace this emergency rule with appropriate long-term legal protection for the species. The Governors of Nevada and Idaho have been notified of this emergency rule, in accord with Subsection 4(b)(1)(A) of the Act and our regulations in the February 27, 1980, **Federal Register** (45 FR 13025), to be codified at 50 CFR Part 424, Section 424.19.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this emergency rule. It is on file in the Service's Area Office, Room E2740, Federal Building, 2800 Cottage Way, Sacramento, California, and may be examined by appointment during regular business hours. A determination has been made that this emergency rule is not a major Federal action which significantly affects the quality of the human environment within the meaing of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This rule is published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* 87 Stat. 884, 92 Stat. 3751, 93 Stat. 1225). The primary author of the rule is Dr. Bruce MacBryde, Office of Endangered Species, Washington, D.C. 20240, (703–235–1975).

References Cited

Barneby, R.C. 1980. Dragma Hippomanicum VI: a new tragacanthoid *Astragalus* from Nevada and Idaho. Brittonia, Vol. 32, No. 1, pp. 30–32.

Bureau of Land Management. n.d. Draft Environmental Impact Statement. Surface Management of Public Lands under the U.S. Mining Laws 43 CFR 3809. BLM, Washington.

Sheridan, D. 1978. Mining the public wealth. Sierra Club Bulletin, Vol. 63, No. 3, pp. 10–13.

Yoder-Williams, M.P. 1980. Status report on *Astragalus yoder-williamsii* Barneby. Prepared by the Bureau of Land Management and submitted to U.S. Fish and Wildlife Service, January 8, 1980.

Regulation Promulgation

Accordingly, for 240 days amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. Amend § 17.12 by adding in alphabetical order the following to the list of plants:

§ 17.12 Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Fabaceae—Pea family:						
Astragalus yoder-williamsii	Osgood Mountains milk-vetch.	U.S.A. (ID, NV)	E	101	17.96(a)	NA

§ 17.96(a) [Amended]

2. Also, the Service amends § 17.96(a) by adding the Critical Habitat of *Astragalus yoder-williamsii* after that of *Astragalus perianus*, as follows:

Fabaceae (Astragalus yoder-williamsii)

Osgood Mountains milk-vetch. Nevada, Humboldt County: The immediate ridge area on both sides of Burma Road at the summit, in the northern Osgood Mountains, excluding the existing roadways of Burma Road and the road to the Alpine Mine. The exact boundaries are the N½ of the SW¼ of the NE¼, and the SW¼, SE¼, and NE¼ of the NW¼ of the NE¼ of Section 6, T38N R42E, and the SE¼ of the SW¼ of the SE¼ of Section 31, T39N R42E.

Dated: August 7, 1980.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-24447 Filed 8-12-80; 8:45 am]

BILLING CODE 4310-55-M

V 45 AG 13 80 UMI

federal register

Wednesday
August 13, 1980

Part IV

Department of Energy

Provisions Governing Acceptance of Gifts and Travel From Foreign Governments

V 4 5 A G 1 3 8 0 UMI

DEPARTMENT OF ENERGY

10 CFR Part 1050

Foreign Gifts and Decorations

AGENCY: Department of Energy.

ACTION: Final regulations.

SUMMARY: The Department of Energy is amending 10 CFR to establish a new Part 1050, to contain regulations implementing the Foreign Gifts and Decorations Act (5 U.S.C. 7342). The regulations are intended to implement for the Department of Energy that Act's provisions governing acceptance of gifts and travel from foreign governments.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT:
Tony C. Upchurch, AD–41, Deputy Director of Administrative Services, Office of Administration, U.S. Department of Energy, Washington, D.C. 20585 (202–252–5712).
Katherine B. Soffer, Attorney, Office of the Assistant General Counsel for Standards of Conduct, GC–45, U.S. Department of Energy, Washington, D.C. 20545 (301–353–4016).

SUPPLEMENTARY INFORMATION: In the Foreign Gifts and Decorations Act, 5 U.S.C. 7342 (hereafter the Act), the Congress consented to an exception to the general Constitutional rule prohibiting Federal employees from accepting gifts or decorations from foreign governments. The statute allows employees to accept gifts of minimal value tendered as souvenirs or as marks of courtesy; it permits acceptance of gifts such as medical or educational services; it allows acceptance, on behalf of the United States, of gifts of more than minimal value where refusal would adversely affect the foreign relations of the United States; it consents to acceptance by employees of gifts of travel and related expenses for travel taking place entirely outside of the United States; and it permits the acceptance of decorations in recognition of active field service in combat or other outstanding performance. The Act establishes reporting and enforcement provisions and identifies the Department of State as the lead Executive Branch agency in this area.

The regulations are consistent with State Department Guidelines issued on the subject and implement the substantive provisions of the Act in a straightforward manner. They identify the Directorate of Administration as the lead organization within the Department of Energy for purposes of administering the Act, and include draft forms for use in meeting reporting requirements. Where appropriate, the General Counsel, the Inspector General, and the Assistant Secretary for International Affairs are given major responsibility for consultation. The Federal Energy Regulatory Commission has been included in coverage of the regulations.

Comments

On March 18, 1980, the Department of Energy (DOE) published proposed regulations (45 FR 17560) with a 30 (thirty) day comment period to establish policies and procedures for DOE employees to follow concerning the acceptance of gifts and decorations from foreign Governments. No comments were received. Several non-substantive or editorial changes in the regulations have been made: the principal revisions are discussed below.

The first change in the regulations consists of deleting Appendix III, General Services Administration (GSA) Standard Form 120, Report of Excess Personal Property. The regulations at § 1050.302(d)(1) already provide that the Directorate of Administration is responsible for reporting and transmitting to GSA for disposal, pursuant to the Federal Property and Administrative Services Act of 1949 and the Federal Property Management Regulations at 41 CFR 101–49, gifts or decorations which are not retained for official use by DOE. The reports on Standard Form 120 are to be made by the Directorate of Administration and not by the employee who received the gift or decoration. Because the reporting responsibility is designated in the regulations, there is no need to attach Standard Form 120 as Appendix III and the reference to it has therefore been deleted from the final regulations.

The second change consists of clarifying the regulations at § 1050.101 to reflect the policy of the Department of Energy that compliance with the regulations will satisfy the requirements of DOE Conduct of Employees regulations. (10 CFR Part 1010).

Section 1050.202(d) of the regulations regarding gifts in the form of travel or travel expenses has been clarified to specify that advance written approval for acceptance by DOE employees of such gifts must be obtained. This revision makes the treatment of these gifts consistent with the approval requirements in the regulations for acceptance of travel by spouses or dependents of employees under § 1050.202(d) and for acceptance of travel from international energy-related organizations under § 1050.202(e).

The treatment in the regulations of gifts in the form of an educational scholarship or medical treatment has been clarified. The regulations have been revised at § 1050.204(a) to specify that advance approval is required, where feasible, for the acceptance of a gift of more than minimal value in the form of an educational scholarship or in the form of medical treatment. In addition § 1050.202(c) and § 1050.301 have been changed to reflect that acceptance of these gifts must be reported on the DOE Form contained in Appendix I. This clarification was necessary to make the regulations reflect DOE policy that the treatment of these gifts should be consistent with the required treatment of gifts of more than minimal value accepted as a souvenir or mark of courtesy under § 1050.202(b).

The regulations have been changed at § 1050.303 to clarify the functions of the General Counsel. Section 1050.303(b) has been revised to specify that the General Counsel of DOE or of FERC, as appropriate, as well as the Inspector General, shall be notified of all suspected violations of the regulations. Section 1050.204(a) of the regulations (which has not been changed) also provides that the Director of Administration should consult with the Assistant Secretary for International Affairs and the appropriate General Counsel in connection with determining whether to grant advance approval for acceptance of gifts or decorations by DOE employees.

Appendix I, DOE Form 3735.2, Statement Concerning Gifts Received from a Foreign Government, refers to a reporting requirement for receipt of gifts having an aggregate value of $250 or more. This requirement has been clarified, and the regulations at § 1010.301(a) have been revised to specify the requirement.

Issued in Washington, D.C., July 9, 1980.

John C. Sawhill,
Deputy Secretary of Energy.

In consideration of the foregoing, title 10, Code of Federal Regulations, is amended to add a new Part 1050 to read as set forth below.

PART 1050—FOREIGN GIFTS AND DECORATIONS

Subpart A—General

Sec.
1050.101 Purpose and scope.
1050.102 Applicability.
1050.103 Definitions.
1050.104 Responsibilities and authorities.

Subpart B—Guidelines for Acceptance of Foreign Gifts or Decorations

1050.201 Policy against accepting foreign gifts or decorations.
1050.202 Allowable aceptance of gifts.
1050.203 Acceptance of decorations.
1050.204 Advance approval for acceptance of gifts or decorations.

Subpart C—Procedures and Enforcement

1050.301 Reports.
1050.302 Use or disposal of gifts and decorations accepted on behalf of the United States.
1050.303 Enforcement.

Subpart D—Gifts to Foreign Individuals

1050.401 Prohibition against use of appropriated funds.
Appendix I—DOE Form 3735.2.
Appendix II—DOE Form 3735.3.

Authority: The Constitution of the United States, Article I, Section 9; 5 U.S.C. 7342; Pub. L. 95–91, sections 644 and 652, 91 Stat. 599 (42 U.S.C. 7254 and 7262).

Subpart A—General

§ 1050.101 Purpose and scope.

These regulations implement the provisions of the Foreign Gifts and Decorations Act (5 U.S.C. 7342), which establishes policies and procedures pertaining to the acceptance, use, and disposition of gifts or decorations from foreign governments. If an employee of Department of Energy (DOE) meets the requirements of these regulations, he or she is deemed to be in compliance with the DOE Conduct of Employees regulations, 10 CFR Part 1010.

§ 1050.102 Applicability.

These regulations apply to all DOE employees, including special Government employees, and civilian and military personnel of other Government agencies regularly detailed to DOE, and to spouses and dependents of such personnel. These regulations apply to all employees of the Federal Energy Regulatory Commission (FERC) to the extent the Commission by rule makes these regulations applicable to FERC employees. These regulations do not apply to gifts and bequests accepted by the Department as authorized by section 652 of the Department of Energy Organization Act (42 U.S.C. 7262), except as set forth in section 1050.202(d) of this Part. These regulations do not apply to assistance from a foreign government for participation by DOE employees in foreign cultural exchange programs pursuant to the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2458a).

§ 1050.103 Definitions.

(a) "Employee" means—

(1) An employee of DOE or FERC as defined by 5 U.S.C. 2105 (employees of DOE contractors are specifically excluded);

(2) A special Government employee as defined in 18 U.S.C. 202(a), and an expert or consultant who is under contract to the DOE pursuant to 5 U.S.C. 3109, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(3) A member of a Uniformed Service or an employee of another Government agency assigned or detailed to the DOE or FERC;

(4) The spouse of an individual described in paragraphs (a)(1) through (a)(3) of this section (unless such individual and his or her spouse are legally separated) or a dependent (within the meaning ot section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under paragraphs (a)(1) through (a)(3).

(b) "Foreign government" means—

(1) Any unit of foreign governmental authority, including any foreign national, State, local, or municipal government;

(2) Any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (b)(1); and

(3) Any agent or representative of any such unit or such organization, while acting as such.

(c) "Gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

(d) "Decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government.

(e) "Minimal value" means a retail value in the United States at the time of acceptance of $100 or less.

(f) "The Act" means the Foreign Gifts and Decorations Act, 5 U.S.C. 7342.

(g) "Appropriate General Counsel" means either the DOE General Counsel when the employee involved is an employee of that portion of the DOE which excludes FERC, or the FERC General Counsel when the employee involved is an employee of FERC.

§ 1050.104 Responsibilities and authorities.

(a) The Director of Administration shall—

(1) Assure that all employees are given access to or a copy of the Act and these regulations;

(2) Maintain liaison with the Department of State and prepare Departmental reports to the Department of State consistent with the Act and these regulations;

(3) Provide advice and assistance on implementation of the act and these regulations, in coordination with the Assistant Secretary for International Affairs (IA) and the appropriate General Counsel;

(4) Collect and maintain for public inspection all employee statements submitted pursuant to these regulations;

(5) Arrange for independent appraisal of the value of gifts or decorations, upon the request of the General Services Administration or the Inspector General (or other appropriate DOE official); and

(6) Accept and maintain custody and make all determinations regarding the use and disposition of all gifts and decorations accepted by employees on behalf of the United States, in coordination with IA, the appropriate General Counsel, and, for gifts to the Secretary, Deputy Secretary or Under Secretary, the appropriate official in the Office of the Secretary.

(b) The Assistant Secretary for International Affairs (IA) shall assist the Directorate of Administration, where appropriate, in making determinations concerning the effects of the proposed acceptance, use, or disposition of a foreign gift or decoration on the foreign relations of the United States.

(c) The appropriate General Counsel shall assist the Directorate of Administration in matters relating to the interpretation and application of the Act, and these and any related regulations, and shall provide counseling and interpretation regarding the Act, and these and any related regulations, to employees.

(d) The Inspector General shall investigate suspected violations of these regulations pursuant to section 1050.303 below.

Subpart B—Guidelines for Acceptance of Foreign Gifts or Decorations

§ 1050.201 Policy against accepting foreign gifts or decorations.

(a) The Constitution of the United States, Article I, section 9, clause 8, provides that "* * * no Person holding any Office of Profit or Trust under * * * [the United States], shall, without the consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any * * * foreign State." In the Foreign Gifts and Decorations Act the Congress consented to the acceptance by Federal employees of gifts and decorations with certain constraints and under certain procedures. Acceptance of any gift or decoration not consistent with this Act, the Department of Energy Organization Act, or the regulations in this Part is prohibited.

(b) No employee shall request or otherwise encourage the tender of a gift or decoration from a foreign government. No employee shall accept a

gift or decoration from a foreign government except as provided in sections 1050.202 or 1050.203 of this Part and in accordance with the additional procedures set forth in sections 1050.204 and 1050.301 of this Part.

§ 1050.202 Allowable acceptance of gifts.

(a) An employee may accept and retain gifts from foreign governments where the gift is tendered or received as a souvenir or mark of courtesy, and is of minimal value. Initial responsibility for determining the value of a gift lies with the employee.

(b) Subject to the prior approval requirements described in § 1050.204(a) of this Part, an employee may accept gifts of more than minimal value, tendered as a souvenir or mark of courtesy, where it appears that refusal of the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. Otherwise, an employee, when offered a gift of more than minimal value from a foreign government, other than a gift designated in paragraph (c) of this section, should advise the donor that acceptance of such gifts by the employee is contrary to the policy of the United States. If a gift described in this paragraph is accepted by an employee and not immediately returned thereby, it shall be deemed to have been accepted on behalf of the United States. Upon acceptance it becomes the property of the United States. Within 60 days after acceptance by the employee, the gift shall be deposited with the Directorate of Administration for disposal or official Departmental use as determined by the Directorate of Administration, in accordance with § 1050.302 of this Part, and an appropriate statement shall be filed by the employee in accordance with § 1050.301(a) of this Part.

(c) Subject to the prior approval requirements described in § 1050.204(a) of this Part, an employee may accept and retain gifts of more than minimal value:

(1) Where the gift is in the nature of an educational scholarship.

(2) Where the gift is in the form of medical treatment.

An employee accepting a gift pursuant to this paragraph shall file an appropriate statement in accordance with § 1050.301(a) of this Part.

(d) An employee may accept gifts (whether or not of minimal value) of travel or expenses for travel (such as transportation, food, lodging, or entertainment) taking place entirely outside of the United States where the provision of such travel or expenses is in accordance with diplomatic custom or treaty and where the Head of the employee's Office grants prior written approval. A spouse or dependent may accept gifts of travel or travel expenses when accompanying the employee, provided this is done with the prior written approval of the Head of the employee's Office. The Head of the employee's Office shall consult with the appropriate General Counsel in connection with granting approval under this paragraph. Travel or expenses for travel may not be accepted merely for the personal benefit, pleasure, enjoyment, or financial enrichment of the individual involved. An appropriate statement shall be filed in accordance with § 1050.301(b) of this Part. When *any portion* of the travel (such as the origination or termination of a flight) is within the United States, it may not be paid for by a foreign government, except as set forth in paragraph (e) of this section.

(e) Pursuant to section 652 of the DOE Organization Act, an employee may accept gifts from the International Atomic Energy Agency or other energy-related international organizations (e.g., the Nuclear Energy Agency and the International Energy Agency) covering transportation expenses to or from a foreign country in connection with scientific or technical assistance projects of such agencies for which the Department of Energy has lead U.S. Government agency responsibility. Such gifts may be accepted only with the prior written approval of the Head of the employee's Office, who is hereby delegated authority to accept such gifts in accordance with section 652.

§ 1050.203 Acceptance of decorations.

(a) An employee may accept, retain and wear a decoration tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance.

(b) Acceptance of a decoration in accordance with paragraph (a) of this section shall be reviewed and approved by the Directorate of Administration in accordance with § 1050.204 of this Part. Otherwise, it will be deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited, within 60 days of acceptance, with the Directorate of Administration for disposal or official Departmental use as determined by the Directorate of Administration in accordance with § 1050.302 of this Part.

§ 1050.204 Advance approval for acceptance of gifts or decorations.

(a) If an employee is advised that a gift of more than minimal value as described in § 1050.202 (b) or (c) is to be tendered to him or her, the employee shall, if time permits, request the written advice of the Directorate of Administration regarding the appropriateness of accepting or refusing the gift. A request for approval shall be submitted to the Directorate of Administration in writing, stating the nature of the gift and the reasons for which it is being tendered. The Directorate of Administration shall consult with Assistant Secretary for International Affairs and the appropriate General Counsel in connection with advising the employee. If such advice cannot be obtained and refusal of the gift would likely cause offense or embarrassment or otherwise adversely effect the foreign relations of the United States, the gift may be accepted, but the Directorate of Administration shall be informed as soon as possible. In either event, the employee shall proceed as provided in §§ 1050.202 and 1050.301 of this Part.

(b) Where an employee is notified of the intent of a foreign government to award him a decoration for outstanding or unusually meritorious service, approval required under § 1050.203 should be obtained prior to acceptance of the award. A request for approval shall be submitted to the Directorate of Administration in writing, stating the nature of the decoration and the reasons for which it is being awarded. The Directorate of Administration shall consult with the Assistant Secretary for International Affairs and the appropriate General Counsel. If time does not permit the employee to obtain approval for the award of the decoration before its receipt, the employee may accept it, but shall seek such approval immediately thereafter.

Subpart C—Procedures and Enforcement

§ 1050.301 Reports.

(a) Within 60 days of accepting a gift of more than minimal value, other than gifts of travel or travel expenses, which are covered in paragraph (b) below, an employee shall, in addition to depositing a tangible gift (e.g. wearing apparel, liquor, etc.) with the Directorate of Administration in accordance with § 1050.202 of this Part, file with the Directorate of Administration a statement concerning the gift containing the information identified on the sample form set forth in Appendix I. The form set forth in Appendix I must also be filed if the aggregate value of gifts accepted by the recipient from all sources over any period of one year exceeds $250.

(b) Within 30 days after accepting travel or travel expenses in accordance with § 1050.202 of this Part, an employee shall file with the Directorate of Administration a statement concerning the travel containing the information identified on the sample form set forth in Appendix II. Such a statement need not be filed, however, if the travel is in accordance with specific travel arrangements made by the Department in cooperation with the foreign government.

(c) The Directorate of Administration shall:

(1) Maintain the statements filed pursuant to these regulations and make them available for public inspection and copying during regular business hours; and

(2) Not later than January 31 of each year compile and transmit to the Department of State for publication by the Department of State in the **Federal Register** a list of all statements filed pursuant to these regulations during the preceding calendar year.

§ 1050.302 Use or disposal of gifts and decorations accepted on behalf of the United States.

(a) The Directorate of Administration shall accept and maintain custody of all tangible gifts and decorations accepted by employees on behalf of the United States pending their final disposition.

(b) Whenever possible, the gift or decoration shall be returned to the original donor. The Directorate of Administration shall examine the circumstances surrounding its donation, and, in consultation with the Assistant Secretary for International Affairs, assess whether any adverse effect upon the United States foreign relations might result from return of the gift or decoration to the donor. The appropriate officials of the Department of State shall be consulted if the question of an adverse effect arises.

(c) The Directorate of Administration may determine that the gift or decoration may be retained for the official use of the Department, if it can be properly displayed in an area at Headquarters or at a field facility accessible to employees or members of the public or if it is otherwise usable in carrying out the mission of the Department. The Assistant Secretary for International Affairs shall be consulted to determine whether failure to accept the gift or decoration for the official use of the Department will have an adverse effect on the foreign relations of the United States. In no case shall a gift or decoration be accepted for the official use of the Department when the enjoyment and beneficial use of the gift will accrue primarily to the benefit of the donee or any other individual employee. Gifts or decorations that are retained for the official use of the Department shall be handled in accordance with the provisions of paragraph (d) of this section when their official use is ended.

(d) If a gift or decoration is not retained for official use of the Department, or if its official use has ended, the Directorate of Administration shall, within 30 days after its deposit or after its official use has ended—

(1) Report the gift or decoration to the General Services Administration (GSA) for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 and the Federal Property Management Regulations at 41 CFR 101–49, or

(2) If the gift or decoration is in cash, currency, or monies (except those with possible historic or numismatic value), or is a noncash monetary gift such as a check, money order, bonds, shares of stock, or other negotiable instrument, forward it to the Finance and Accounting Office for deposit with the Department of the Treasury.

(e) The Directorate of Administration shall retain custody of gifts and decorations not returned to the donor or retained for the official use of the Department until GSA directs it concerning their disposition. At the request of GSA, the Directorate of Administration shall arrange for appraisal of specific gifts and decorations.

§ 1050.303 Enforcement.

(a) An employee who violates the provisions of the Act or these regulations may be subject to disciplinary action or civil penalty action as set forth in paragraphs (c) and (d) of this section.

(b) Suspected violations of the Act or these regulations shall be reported promptly to the appropriate General Counsel and the Inspector General.

(c) The Inspector General will be responsible for taking the following actions:

(1) If the results of an investigation by the Inspector General do not provide any support for a determination that a violation of the Act or these regulations has occurred, then no further action shall be taken.

(2) If it is determined that the employee knowingly and through actions within his own control has done any of the following, the matter shall be referred to the Attorney General for appropriate action: (i) solicited or accepted a gift from a foreign government in a manner inconsistent with the provisions of the Act and these regulations; (ii) as the approved recipient of travel expenses failed to follow the procedures set forth in the Act and these regulations; or (iii) failed to deposit or report a gift as required by the Act and these regulations.

(3) If it is determined that the employee failed to deposit a tangible gift with the Directorate of Administration within 60 days, or to account properly for acceptance of travel expenses, or to comply with the requirements of these regulations relating to the disposal of gifts and decorations retained for official use, but that the criteria of knowledge and control specified in paragraph (c)(2) of this section for referral to the Attorney General have not been met, then the matter shall be referred by the Inspector General to appropriate Departmental officials for administrative action.

(d) As set forth in section 7342(h) of title 5, United States Code, the Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by the Act, or who fails to deposit or report such gift as required by the Act. The court in which such action is brought may assess a civil penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

Subpart D—Gifts to Foreign Individuals

§ 1050.401 Prohibition against use of appropriated funds.

No appropriated funds other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State may be used to purchase any tangible gift of more than $100 value for any foreign individual unless such gift has been approved by the Congress.

BILLING CODE 6450-01-M

APPENDIX I

U.S DEPARTMENT OF ENERGY

FOREIGN GIFTS STATEMENT

(Statement Concerning Gifts
Received from a Foreign Government)

1. Name of Employee		2. Date
3. Division	4. Position	
5. Name of Recipient	6. Relationship to Employee	
7. Description of Gift		
8. Date of Acceptance	9. Value of Gift	
10. Circumstances Justifying Acceptance of the Gift		
11. Foreign Government Donor		
12a. Name of Individual Presenting Gift	12b. Position of Individual Presenting Gift	
13. Do you wish to participate in the sale of this item if it is sold by GSA? ☐ Yes ☐ No		
Signature of Recipient		Date

Statement Concerning Gifts
Received From a Foreign Government

Item 1. This statement is to be filed pursuant to the provisions of the Foreign Gifts and Decorations Act (5 U.S.C. 7342, as amended by Pub. L. 95-105, August 17, 1977) and DOE implementing Regulations at 10 CFR Part 1050. These provisions apply to foreign gifts tendered to or accepted by Federal employees and their spouses and dependents. The name of the employee should always be indicated in item 1; if the employee is the recipient of the gift then items 5 and 6 should be marked N/A-not applicable; if the recipient is a spouse or dependent, then the appropriate information should be included in items 5 and 6.

Item 2. Self explanatory.

Items 3 and 4. The Office or Division and the position of the employee should be indicated here regardless of whether the recipient is the employee or a spouse or dependent.

Items 5 and 6. See above, Item 1.

Item 7. Self explanatory.

Item 8. Self explanatory.

Item 9. Indicate the retail value in the United States at the time of acceptance. If there is any uncertainty as to the value of the gift, it is the recipient's responsibility to make a reasonable effort to determine value. If the value is $100 or under, and if the aggregate value of the gifts accepted by the recipient from all sources over any period of one year does not exceed $250, then the gift may be retained by the recipient and this Statement need not be submitted.

Item 10. Identify in this item whether or not approval to accept the gift was sought or given in advance in accordance with Section 1050.204 of the DOE regulations. Also identify those circumstances supporting a determination that refusal of the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

Items 11 and 12. Self explanatory.

Item 13. Though there is no assurance that the item will be sold or if it is sold that it will be feasible for the recipient to participate in the sale, GSA regulations provide for participation by the recipient where feasible.

V 45 AG 13 80 UMI

APPENDIX II

U.S. DEPARTMENT OF ENERGY

FOREIGN TRAVEL STATEMENT

(Statement Concerning Acceptance of Travel or Travel Expenses from a Foreign Government)

1. Name of Employee	2. Date
3. Division	4. Position
5. Name of Recipient	6. Relationship to Employee
7a. Description of Transportation Provided: Approximate Value $	7b. Description of Other Travel Expenses Provided: Approximate Value $
8. Date of Acceptance	9. Total Value of Transportation and Expenses Provided $
10. Nature of Employee's Official Business Related to Travel:	
11. Circumstances Justifying Acceptance:	
12. Foreign Government Donor	
13a. Name of Individual Responsible for Payment of Travel or Travel Expenses	13b. Position of Individual Responsible
Signature of Recipient	Date

Statement Concerning Acceptance of Travel or Travel Expenses from a Foreign Government

Item 1. This statement is to be filed pursuant to the provisions of the Foreign Gifts and Decorations Act (5 U.S.C. 7342, as amended by Pub. L. 95-105, August 17, 1977) and DOE implementing regulations at 10 CFR Part 1050. These provisions apply to travel or travel expenses for travel entirely outside of the United States* tendered to or accepted by Federal employees and their spouses and dependents. The name of the employee should always be indicated in item 1; if the employee is the recipient of the travel or travel expenses, then items 5 and 6 should be marked N/A-not applicable; if the recipient is a spouse or dependent, then the appropriate information shall be included in items 5 and 6.

Item 2. Self explanatory.

Items 3 and 4. The Office or Division of the employee should be indicated here regardless of whether the recipient is the employee or a spouse or dependent.

Items 5 and 6. See above item 1.

Item 7a. Indicate the location and mode of transportation and approximate value in U.S. dollars, if possible. Attach itinerary if available.

Item 7b. Indicate nature and location of travel expenses provided and approximate value in U.S. dollars, if possible. Attach itinerary if available.

Item 8. Indicate dates of travel.

Item 9. Self explanatory.

Item 10. Travel and travel expenses may be accepted in accordance with DOE regulations where the travel is official agency business. Spouses and dependents may accept such travel and expenses only when accompanying the employee. Item 10 therefore should be completed to identify the employee's official business whether the recipient is an employee or a spouse or dependent.

Item 11. Identify in this item any treaty or diplomatic custom that related to acceptance of the travel or expenses, and any circumstances indicating that acceptance would be consistent with the interests of the U.S. Also provide information regarding any prior approval of the acceptance.

Items 12, 13a, and 13b. Self explanatory.

---

*The Congress has consented in Pub. L. 95-105 only to acceptance of travel or travel expenses that is entirely outside of the United States. Travel, any portion of which (such as the origination or termination of a flight) is within the United States, may not be paid for by a foreign government. All such travel must be handled within applicable DOE Travel Regulations and Standards of Conduct Regulations.

[FR Doc. 80-24463 Filed 8-12-80; 8:45 am]
BILLING CODE 6450-01-C

V 45 A G 13 80 UMI

V
4
5

A
G
1
3
8
0
UMI

federal register

Wednesday
August 13, 1980

Part V

Department of the Interior

Fish and Wildlife Service

Proposed Framework for Late Season Migratory Bird Hunting Regulations

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements proposed rulemakings published in the Federal Register on February 29 and July 1, 1980, and proposes to establish frameworks, (i.e., the outer limits for dates and times when shooting may occur, hunting areas, and the number of birds which may be taken and possessed) for late season migratory bird hunting regulations for the 1980–81 season. These seasons commence on or after October 1, 1980, and include most of those for waterfowl. The Service annually prescribes hunting regulations frameworks to the States. The effects of this proposed rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late season migratory bird hunting regulations for the 1980–81 season.

In general, the frameworks for ducks are similar to those in effect last year. The Service proposes to stabilize these regulations as part of a cooperative program with Canada aimed at improving its understanding of factors other than annual hunting regulation changes on duck harvests and population dynamics. Other changes proposed include removal of hunting area closures for redheads, separating limits for canvasbacks and redheads under conventional regulations, zoning changes or additions in several Atlantic and Mississippi Flyway States, including mergansers in the regular duck limit in the Pacific Flyway, and local or regional changes for some goose hunting areas, limits, and seasons.

DATES: The comment period for these proposed late season frameworks will end on August 23, 1980.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received on the supplemental proposed late season frameworks will be available for public inspection during normal business hours in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C. Copies of the draft environmental assessment on proposed stabilization of hunting regulations are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. The Service's biological opinions resulting from its consultation under Section 7, Endangered Species Act, are available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: In the annual process of developing migratory game bird hunting regulations, a distinction is made between "early" and "late" season frameworks. Earl seasons include those which may open before October 1, while late seasons may open no earlier than October 1. Regulations are developed independently for early and late seasons. The early season regulations include mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, an early duck season in Iowa, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a **Federal Register** document published in late February and opened to public comment. Following termination of the comment period and a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory measures or options. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the **Federal Register**. Using these frameworks, State conservation agencies then select hunting season dates and options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR Part 20, then appear in the **Federal Register**, taking effect upon publication.

The regulations schedule for this year is as follows. On February 29, 1980, the Service published for public comment in the **Federal Register** (45 FR 13630) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1980. All comments received to date were considered. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On June 20, 1980, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting was announced in the **Federal Register** on February 29, 1980 (45 FR 13630). Proposed hunting season frameworks for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; an early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On June 27, 1980, the Service published in the **Federal Register** (45 FR 43419) a second document in the series of proposed and final rulemaking documents dealing specifically with final frameworks for the 1980–81 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1980–81 season.

On July 1, 1980, the Service published for public comment in the **Federal Register** (45 FR 44540) a third document in the series consisting of proposed frameworks for early season migratory bird hunting regulations and supplemental proposals for late season regulations arising from comments received or from new information. The comment period for proposed early season frameworks ended on July 12, 1980, and for late season proposals will end on August 23, 1980.

On July 22, 1980, the Service published for public comment in the **Federal Register** (45 FR 49061) a fourth document in the series dealing specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife agency officials selected season dates and daily bag and possesion limits for the 1980–81 season.

On August 4, 1980, the Service delivered to the **Federal Register** a fifth document in the series dealing specifically with amending Subpart K of 50 CFR 20 to set hunting seasons and areas, shooting and hawking hours, and bag and possession limits for species subject to early hunting regulations. These regulations will be published on or about August 15, 1980, and will take effect immediately.

On August 5, 1980, a public hearing was held in Washington, D.C., as announced in the **Federal Register** on February 29, 1980 (45 FR 13630) and July 1, 1980 (45 FR 44540) to review the status of waterfowl. Proposed population and harvest objectives and regulations frameworks were discussed, and statements and comments were solicited and received from the public.

This supplemental proposed rulemaking is the sixth document in the series and contains changes to the original framework proposals published on February 29, 1980, in the **Federal Register**, as supplemented on July 1, 1980. The present supplemental proposals are briefly described and discussed later.

Review of Public Comments and the Service's Response

Comments Received at Public Hearing

Six individuals presented statements at the Public Hearing on the proposed late season regulations. These comments are summarized below, and when appropriate, responded to by the Service. Some comments related to matters other than the proposed annual hunting frameworks, and thus were irrelevant.

Dr. James Timmerman, representing the Atlantic Flyway Council, emphasized the importance of cooperative efforts to manager North American waterfowl on a continental basis; endorsed the Service's proposed stablilzation of duck hunting regulations frameworks; expressed concern about the growing populations of Canada geese, greater snow geese, and whistlng swans in the Atlantic Flyway, and the need for hunting relaxations to stabilize or reduce certain populations; and reiterated the Council's interest in a special 11-day and 4 canvasback daily bag limit season oriented to harvest of drake canvasbacks in portions of the flyway.

Mr. John Newsom, representing The Wildlife Society, strongly supported the Service's proposal to stablilze duck hunting regulations for a five-year period, and recommended that the study of stabilized regulations commence this year despite the anticipated reduced fall flight of ducks.

Mr. Toby Cooper, Defenders of Wildlife (Defenders) urged changes in the regulations process; expressed concern about the use of "average" population levels for defining population objectives; indicated that Defenders would comment later on the proposal to stabilize duck hunting regulations; opposed separate treatment of canvasback and redheads in the regulations because of problems in distinguishing the two species during early morning and late afternoon hunting periods; opposed the hunting of whistling swans in the Atlantic Flyway; and expressed support of the Service's proposal not to establish hunting seasons on brant in the Atlantic Flyway this year.

Mr. John Anderson, National Audubon Society, advocated the simplification of regulations and expressed support for the proposed stabilization of duck hunting regulations. He urged that necessary research be undertaken during the stabilization period so that the results of the study can be properly evaluated.

Dr. Laurence Jahn, Wildlife Management Institute, recommended completion of national waterfowl management plans now being developed in Canada and the United States; supported the idea of an international waterfowl management plan to be developed jointly by the U.S. Fish and Wildlife Service, Canadian Wildlife Service, and Mexican Direccion General de la Fauna Silvestre; urged that the issue of subsistence taking of waterfowl in northern areas be resolved and that such taking be recognized in the management plan; favored stabilization of duck hunting regulations at the 1979–80 level in principle but urged that population objectives be clarified; urged completion of a black duck management plan, and the development of plans leading to the rebuilding of mid-continent mallard populations; and expressed concern about the effects of drought on duck numbers, the unbalanced sex ratios of some waterfowl, and the establishment of conservative regulations for certain Arctic-nesting geese.

Mr. Dale Whitesell, speaking on behalf of Ducks Unlimited, Inc., endorsed the stablilzation of duck hunting regulations, urged the Service to complete its national waterfowl management plan, offered views on the regulations setting process, and described his organization's program in Canada.

Response: In replying to comments on the proposed stabilization of duck hunting regulations, the Service notes that a draft environmental assessment on this subject is available for public review from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Despite the anticipated reduction in the fall flight of ducks, the Service believes it highly desirable to implement the program this year so that U.S. and Canadian cooperative studies would be underway simultaneously. The Service emphasizes that the stabilization of regulations is not expected to result in substantial changes in duck harvests nor adversely affect efforts to meet various population and harvest objectives. Rather, information gathered during the study is expected to provide valuable information on the role of hunting and other forms of mortality on the population dynamics of ducks, and thus contribute to the management of these migratory game birds.

The Service recognizes that populations of Canada geese and whistling swans have increased in the mid-Atlantic States in recent years. However, the most recent evaluation of greater snow goose numbers suggests that the population is stable. Cooperative management plans are being developed for these Canada geese and greater snow geese. The Service believes that regulatory relaxations should be deferred until these plans are completed. The Service has previously explained its position on the hunting of whistling swans in the Atlantic Flyway (see the **Federal Register** dated February 29, 1980, at 45 FR 13638; and July 1, 1980, at 45 FR 44546).

The Service supports, in principle, a special, limited canvasback hunting season directed primarily at the harvest of drakes to be conducted on a trial basis in designated areas of the Atlantic Flyway (see the **Federal Register** dated July 1, 1980, at 45 FR 44543). However, the hunt should be initiated in a year when population levels and production are favorable. Recently completed surveys show that although the number of breeding canvasbacks increased modestly this spring, habitat conditions were such that little production occurred. Consequently, the Service believes that implementation of the proposal should be temporarily delayed, pending a year of good production.

In regard to the difficulty of distinguishing between canvasbacks and redheads in early morning and late afternoon, the Service notes that an environmental assessment on shooting

hours was issued in 1977, and that the subject has been discussed several times in the **Federal Register** (see the **Federal Register** dated March 10, 1977, at 42 FR 13314; and February 29, 1980, at 45 FR 13634). The Service believes that the proposed change will have little effect on the welfare of either species.

Written Comments Received

In the **Federal Register** dated July 1, 1980, (at 45 FR 44542), the Service reported and responded to all public comments which had been received up to that time. These included communications on both the proposed early and late season frameworks. Eighty-nine written comments were received subsequent to that time, and through August 6, 1980. These are summarized and responded to below.

The comments originated from 79 individuals, 7 State conservation agencies, 3 conservation organizations, and 1 waterfowl flyway council. In some instances, the communications do not specifically mention the open comment period or regulatory proposals. However, because they were received or sent during the comment period and generally relate to migratory bird hunting regulations, they are treated as comments.

Sixty-nine of the comments requested that the Service approve a request by the Central Flyway Council that the length of the hunting season be increased by 16 days in the flyway. These letters originated from 68 individuals and 1 organization.

Response. In the **Federal Register** dated July 1, 1980, (at 45 FR 44545), it was stated that the proposal was aimed primarily at increased harvest of mallards. The Service noted that it did not favor any regulatory change which would increase or tend to increase hunting pressure on mallards in the mid-continent area of the United States at this time. This is judged to be inconsistent with present mallard population and harvest goals. The Service stated the view that a balanced program of reasonable harvest opportunity among the four flyways, as developed over the past few years, now exists and that further changes in hunting opportunity should be based on changes in the status of the populations involved. With a decline in the mallard breeding population, severely curtailed production, and prospects for a reduced fall flight in 1980, the Service reaffirms its previously expressed views.

Eighteen comments concerned stabilized duck regulations (season lengths and bag limits). Two States, 2 organizations, and 2 individuals expressed support and twelve individuals, chiefly from the Low Plains area of the Central Flyway, expressed opposition to the proposal. Most of the latter were concerned that regulations stabilization would occur at the 1979 rather than the more liberal level proposed for the Low Plains by the Central Flyway Council.

As noted in the **Federal Register** dated July 1, 1980 (at 45 FR 44546), the Service proposes to implement stabilized duck hunting regulations at the 1979–80 level this season. The Service views stabilized hunting regulations as a means of providing an improved basis for evaluating and better understanding the relationships between hunting regulations, duck harvests, and duck populations. It is believed appropriate to take this action now in order to take advantage of those elements of stability that have already been introduced into the regulations in both Canada and the United States and because the program will be substantially improved if implemented jointly by the United States and Canada.

The Service does not anticipate that implementing the program in a year of below average waterfowl breeding conditions will affect overall duck populations or the ability to attain the population objectives to a significantly greater degree than would be the case with other, more restrictive alternatives.

The Service believes that the level at which it proposes to stabilize the regulations is reasonable in terms of current waterfowl conditions, the amount of hunting opportunity provided across the flyways, and a relatively modest impact on duck populations. The proposal is described in more detail in a draft environmental assessment that is available on request.

The remaining requests concerned a wide array of regulations, including local or regional changes in goose regulations, a variety of hunting proposals for Michigan, Sunday hunting in certain Atlantic Flyway States, and boundary changes in special management areas.

Response. Disposition of rejected proposals has been previously discussed. Accepted proposals are included in the accompanying frameworks.

Public Comment Invited

Based on the results of migratory game bird studies now underway and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons, hours, areas, and bag and possession limits for waterfowl, coots, and gallinules; sandhill cranes in portions of the Central Flyway; and snipe in the Pacific Flyway.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and the unavailability before late July of specific, reliable data on year's status of waterfowl. Therefore, the Service believes that to allow a comment period past August 23, 1980, is contrary to the public interests.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in this rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525–B in the Matomic Building, 1717 H Street, NW., Washington, D.C. 20240.

All relevant comments received on the late season proposals no later than August 23, 1980, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Consequently, the Service reviewed all regulations frameworks being contemplated this year for outside dates, season lengths, hours, areas, and limits within which States may select regulations subject to early seasons. As a result of intra-Service Section 7 consultation, Acting Associate Director Harold J. O'Connor stated in a biological opinion dated July 14, 1980, "that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species [Aleutian Canada goose, Everglade kite, bald eagle, American peregrine falcon, Arctic peregrine falcon, and whooping crane] and is not likely to result in the destruction or adverse modification of any designated Critical Habitat."

The proposed late season regulatory frameworks were likewise subjected to careful study to insure that they complied with Section 7 of the Endangered Species Act. Special attention was again given the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite (*Rostrhamus socialbilis plumbeus*), bald eagle (*Haliaeetus leucocephalus*), American peregrine falcon (*Falco peregrinus anatum*), Arctic peregrine falcon (*Falco peregrinus tundrius*), and whooping crane (*Grus americanus*) and designated Critical Habitat for the Everglade kite, American peregrine falcon, and whooping crane. As a result of intra-Service Section 7 consultation, Acting Associate Director Harold J. O'Connor stated in a biological opinion dated July 14, 1980, "that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species and is not likely to result in the destruction or adverse modification of any Critical Habitat."

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, areas in Alaska and California are closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

Nontoxic Shot Regulations

On February 11, 1980, the Service published in the **Federal Register** (45 FR 9028) proposed rules describing nontoxic shot zones for waterfowl hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. The nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas. The final regulations were published in the **Federal Register** on June 5, 1980 (45 FR 37847) under § 20.108 of 50 CFR and will also be summarized in waterfowl regulations leaflets to be published late this summer.

In 1980, shotshells loaded with toxic shot will not be permitted for waterfowl hunting in designated nontoxic shot zones (44 FR 2597). This regulation related only to 12-gauge shotshells in previous years but applies to all gauges of shotshells after August 31, 1980.

Authorship

The primary author of this proposed rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exemption from Executive Order 12044 and 43 CFR Part 14

As discussed in the **Federal Register** dated February 29, 1980 (45 FR 13630) the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the statutory requirements under Section 704 of the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed ruelmakings. Compliance with the procedures for the development of significant rules and the preparation of a regulatory analysis established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines were to be achieved. Consequently, although the rules establishing the annual migratory bird hunting regulations are significant, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR Part 14 which is provided for in § 14.3(f).

Proposed Regulations Frameworks for 1980–81 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

General

States in the Pacific, Central and Mississippi Flyways may split their season for ducks or geese into two segments of equal or unequal lengths. States in the Atlantic Flyway may, in lieu of zoning, split their season for ducks or geese into two or three segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset.

States in Mississippi and Central Flyways selecting neither a September teal season nor the point system may slect an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic Flyway not selecting the point system may select an extra teal limit for 9 consecutive days during the regular duck season of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession.

V 45 A G 13 80 UMI

States in the Altantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, and daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1980, and January 31, 1981, all dates inclusive.

2. The season must fall outside the open season for any other ducks expect sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1980.

4. These areas must be described and delineated in State hunting regulations.

or

As an alternative, states in the Atlantic, Mississippi, and central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects that point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Maine, Massachusetts, Connecticut, Pennsylvania, West Virginia and North Carolina may not select the point system pending completion of zoning studies.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

Between October 1, 1980, and January 20, 1981, States in this Flyway may select open seasons on ducks, coots, and mergansers of: (a) 50 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 50 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks.

Except in closed areas, the limit on canvasbacks is 1 canvasback daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The possession limit on redheads is twice the daily bag limit under conventional regulations. The canvasback possession limit is equal to the daily bag limit. Under the point system, canvasback (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia and Florida may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1980 shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the full number of days offered under option (a) or (b). In addition, a 2-segment split season without penalty may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to option (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine may implement its current zoned season program on an operational basis. Massachusetts, Connecticut, West Virginia, and North Carolina each may be divided into two zones on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Pennsylvania and New Jersey each may be divided into three zones for the same purpose. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected in Maine, Massachusetts, Connecticut, West Virginia and North Carolina. New Jersey must select the point system. Each zone will be permitted the full number of days offered under option (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

The zones are defined as follows:

Maine

North Zone—Game Management Zones 1, 2 and 3.

South Zone—Game Management Zones 4 through 8.

Massachusetts

Coastal Zone—Beginning at the New Hampshire-Massachusetts border, that portion of the State east and south of a boundary formed by Interstate 95, south to U.S. Route 1, south to Interstate 93, south to Route 3, south to U.S. Route 6, southwest to Route 28, northwest to Interstate 195, and west to the Rhode Island line.

Inland Zone—That portion of the State west and north of the above boundary.

Connecticut

North Zone—That portion of the State north of Interstate 95.

South Zone—That portion of the State south of Interstate 95.

Pennsylvania

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junction with the Allegheny River, and then north along the Allegheny River to the New York border. The Allegheny River is included in the North Zone.

South Zone—The remaining portion of the State.

New Jersey

North Zone—That portion of New Jersey west of the Garden State Parkway and north of a line starting at the Garden State Parkway and running west along Route 70 to the junction of Route 38, then west along Route 38 and Route 30.

South Zone—That portion of New Jersey west of the Garden State Parkway and south of a line starting at the Garden State Parkway and running west along Route 70 to the junction of Route 38, then west along Route 38 and Route 30.

Coastal Zone—That portion of New Jersey lying east of the Garden State Parkway from the New York State line to the Cape May Canal.

West Virginia

Allegheny Mountain Upland Zone (contained with the circumscribed boundaries below).

The north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Huntersville, and then follows State Route 92 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I–79, and follows I–79 north to the Pennsylvania State line.

Remainder of the State—That portion outside the above boundaries.

North Carolina

East Zone—That portion of the State east of U.S. Highway 1.

West Zone—That portion of the State west of U.S. Highway 1.

As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia and Florida during the early wood duck season option), redhead and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectivley, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1980, and January 20, 1981, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1981. The dialy bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate

64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1980, to January 20, 1981, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. South Carolina may select a 50-day season on Canada geese within the October 1, 1980, to January 20, 1981, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1980, and January 31, 1981, States in the Atlantic Flyway may select 70-day seasons on snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

The season is closed on Atlantic brant.

Mississipppi Flyway

Between October 4, 1980, and January 20, 1981, States in this Flyway may select concurrent 50-day seasons on ducks, coots, and mergansers, except that in Iowa the framework opening date is September 20 and in Mississippi the framework closing date is January 31. The daily bag limit for ducks is 5, and may include no more than 3 mallards, no more than 2 of which may be female mallards, 1 black duck, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards, no more than 4 of which may be female mallards, 2 black ducks, and 4 wood ducks (except as noted below).

Except in closed areas, the conventional limit on canvasbacks and redheads is 1 daily and 2 in possession for each species. Under the point system, canvasbacks count 100 points each (except in closed areas) and redheads count 70 points each. Areas closed to canvasback hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead, female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 4 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens on November 1, 1980. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio, Missouri, Alabama and Tennessee may select hunting seasons on ducks, coots and mergansers by zones described as follows:

Michigan

North Zone—State Management Zones I and II.

South Zone—State Management Zone III.

Michigan may split its season in the South Zone into two segments.

Illinois

North Zone—That portion of the State north of a line running east from the Iowa border along U.S. Highway 34 to I–74, north along I–74 to I–80, then east along I–80 to the Indiana border.

Central Zone—That portion of the State between the North and South Zone boundaries.

South Zone—That portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I–57, north along I–57 to I–70, then east along I–70 to the Indiana border.

Indiana

North Zone—That portion of Indiana north of a line running east from the Illinois border along U.S. Highway 24 to U.S. Highway 41, north along U.S. Highway 41 to State Highway 16, east along State Highway 16 to State Highway 5, southeast along State Highway 5 to Huntington, then east along U.S. Highway 224 to the Ohio border.

South Zone—The remainder of Indiana.

Ohio

North Zone—The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13.

South Zone—The remainder of Ohio.

Ohio may split its season in each zone into two segments.

Missouri

North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border.

South Zone—The remainder of Missouri.

Missouri may split its season in each zone into two segments.

Alabama

South Zone—Mobile and Baldwin Counties.

North Zone—The remainder of Alabama.

Tennessee

Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area.

State Zone—The remainder of Tennessee.

Within each State: (1) The same bag limit option must be selected for both zones; and (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

The waterfowl seasons, limits, and shooting hours in the lower St. Francis River area of Arkansas and Missouri shall be the same as those selected by Missouri. The area is defined as that part of the St. Francis River south of U.S. Highway 62 that is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

Between October 4, 1980, and January 20, 1981, States in this Flyway, except Louisiana, may select 70-day seasons on geese (except as noted below for Michigan), with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 4, 1980, and February 14, 1981, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits as described in the above paragraph.

The season on Canada geese is closed in Arkansas and Louisiana.

In Minnesota, in the:

(a) Lac Qui Parle Zone (described in State regulations)—the season on Canada geese closes after 50 days or when 5,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Iowa, the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Missouri, in the:

(a) Swan Lake Zone (described in State regulations)—The season on Canada geese closes after 70 days or when 20,000 birds have been harvested, whichever occurs first. Through November 23, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. After November 23, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 50-day season on Canada geese between December 1, 1980, and January 20, 1981, with a daily bag limit of 2 Canada geese and a possession limit of 4 Canada geese.

(c) Remainder of the State—The season on Canada geese will be concurrent with the duck season in the respective duck hunting zones. The daily bag limit is 2 Canada geese, and the possession limit is 4 Canada geese.

In Wisconsin, the harvest of Canada geese is limited to 30,000. In the Horicon Zone, during the first hunting period, the daily bag and possession limits are 1 Canada goose; thereafter, the daily bag and possession limits are 2 Canada geese. In the Central Zone, the daily bag and possession limits are 2 Canada geese. Elsewhere in Wisconsin, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the Horicon Zone and the Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of State Highway 175 and State Highway 23 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S and continuing easterly on County Highway AS to it intersection with County Highway E, then northerly on County Highway E to its intersection with State Highway 23, then easterly on State Highway 23 to the point of beginning.

The Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then southerly on State Highway 175 to its intersection with State Highway 23, then westerly on

V 45 A G 13 80 UMI

State Highway 23 to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway AS, then westerly on County Highway AS and continuing westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway151, then southwesterly on U.S. Highway 151 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, 70-day seasons on geese may be selected by zones established for duck hunting seasons, except that in the South Zone the season will close December 31. The harvest of Canada geese is limited to 33,000, with 27,000 birds allocated to the Southern Illinois Zone (described in State regulations). The daily bag limit is 2 Canada geese and the possession is 4 Canada geese. The season on Canada geese in the Southern Illinois Zone will open November 3 and extend through December 31, 1980, or until the Zone's quota of 27,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Canada Goose Management Area (described in State regulations)—The Canada goose season may extend for 107 days within the flyway framework dates. Through November 14, the daily bag limit will be 1 Canada goose and the possession limit will be 2 Canada geese. From November 15 through November 30, the daily bag limit will be 2 Canada geese and the possession limit will be 4 Canada geese. For the remainder of the season, the daily bag limit will be 3 Canada geese and the possesion limit will be 6 Canada geese.

(c) Remainder of the State—The daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

In Ohio, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

In Indiana, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Kentucky, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese. The season on Canada geese is closed in that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the season on Canada geese will be November 15 through December 14, 1980. The daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canada geese is closed.

In Alabama, the season is closed on all geese in the counties of Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone and the Swan Lake Zone of Missouri will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Seasons on ducks (including mergansers) and coots may be selected between October 4, 1980, and January 18, 1981, inclusive, in Central Flyway States and portions of States.

The basic season may include no more than 60 days. Conventional limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 canvasback (note areas closed to canvasback hunting), 1 redhead, 1 female mallard, 1 hooded merganser, and 2 wood ducks. The possession limit may include no more than 1 canvasback (note areas closed to canvasback hunting), 2 redheads, 2 female mallards, 2 hooded mergansers, and 4 wood ducks. The daily bag and possession limits on coots are 15 and 30, respectively.

The areas closed to canvasback hunting are:

North Dakota—That portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—All of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days provided that the last 23 days of such season must begin on or after December 13, 1980. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 60 days.

The point values for species and sexes taken in the Central Flyway are: canvasbacks count 100 points each (note areas closed to canvasback hunting); female mallards, Mexican-like ducks, wood ducks, redheads and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Appache Indian Reservation, and that portion of Montana which includes the counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

States in the Central Flyway may select goose seasons between October 4, 1980, and January 18, 1981, inclusive.

Montana, Wyoming and Colorado may select, for the Central Flyway portions, seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

New Mexico (for the Central Flyway portion) and Texas (for that portion west of U.S. Highway 81) may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 10 geese which may include no more than 4 dark geese.

North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (for that portion east of U.S. Highway 81) may select seasons (which need not be concurrent) for light (Ross' and snow, including blue) geese of 86 days with limits of 5 daily, and dark (Canada and white-fronted) geese of 72 days with daily bag limits as follows (possession limits are described later):

In North Dakota, 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese.

In South Dakota, 1 Canada goose and 1 white-fronted goose.

In Nebraska, 1 Canada goose and 1 white-fronted goose, except in that portion of the State west of U.S. Highway 183, prior to November 24, the daily bag limit may include 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

In Kansas, 1 Canada and 1 white-fronted goose.

In the Oklahoma counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with daily limits of 1 Canada goose and 1 white-fronted goose.

or

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose daily.

In the remainder of Oklahoma, the limits are 2 Canada geese or 1 Canada goose and 1 white-fronted goose daily.

In that portion of Texas east of U.S. Highway 81, the bag limit is 1 Canada goose or 1 white-fronted goose daily.

In all East Tier Central Flyway States, goose possession limits are twice the daily bag limits.

Colorado, Montana, New Mexico, Oklahoma, Texas, and Wyoming may select a sandhill crane season with daily bag and possession limits of 3 and 6, respectively, within an October 4, 1980-January 31, 1981, framework as follows:

(a) 37 consecutive days from October 4 through November 23, 1980, in the Central Flyway portion of Colorado except the San Luis Valley area, and in the Wyoming counties of Crook, Goshen, Laramie, Niobrara, Platte and Weston.

(b) 93 consecutive days between October 20, 1980, and January 31, 1981, in the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 22, 1980, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days, to open with the goose season, in all of the Central Flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Rocky Mountain or Wood Buffalo-Aransas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

Pacific Flyway

Between October 4, 1980, and January 18, 1981, concurrent 93-day seasons on ducks (including mergansers), coots, and gallinules may be selected in Pacific Flyway States and portions of States, *except* as subsequently noted. Basic daily bag and possession limits on ducks (including mergansers) are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Waterfowl season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Northeastern Zone of California must coincide with season dates selected by Oregon for waterfowl, except that the season on geese may differ according to prescribed options described later. For the Southern Zone of California (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

For Nevada, county of Clark, the State may designate season dates for waterfowl differing from those in the remainder of the State.

In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County (all formerly identified as the Columbia Basin Area for ducks), between October 4, 1980, and January 18, 1981, the season lengths for ducks (including mergansers), coots and gallinuiles may be 100 days with all seasons to run concurrently.

Between October 4, 1980, and January 18, 1981, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except as subsequently noted. The basic daily bag and possession limits are 0, provided that the daily bag limit includes no more

V 45 A G 1 3 1980 UMI

than 3 white geese (snow, including blue, and Ross's geese) and 3 dark geese (Canada and white-fronted geese); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of dark geese (all subspecies of Canada and white-fronted geese) in order to protect the Aleutian Canada goose for which no hunting is allowed and to temporarily reduce harvests on white-fronted geese and cackling Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season on dark geese during the 1980–81 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: beginning at Willos in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where is meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking dark geese will not open until December 15, 1980, and will then continue to the end of the 1980–81 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking dark geese will close on November 23, 1980.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season; and the bag limits for geese are to be the same as in the general goose season in their respective States.

Oregon, for Lake and Klamath Counties, must select frameworks for season and limits from among the following listed Options 1, 2, 3 and 7; California, for the Northeastern Zone must select frameworks from among Options 1, 2, 3, 8 and 9; and California, for the Balance-of-the-State Zone, must select frameworks from among Options 4, 5, 6 and 8. The selected season for geese must occur within that selected for ducks.

Option 1. A season of not more than 79 days between November 1, 1980, and January 18, 1981, with a basic goose limit of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 2. A season of not more than 86 days between October 25, 1980, and January 18, 1981, with a basic goose limit of 4 per day and 4 in possession, of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 3. A season of 93 days between October 4, 1980, and January 18, 1981, with a basic goose limit of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

Option 4. A season of not more than 83 days between October 4 and December 25, 1980, with a basic goose limit of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 5. A season of not more than 90 days between October 4, 1980, and January 1, 1981, with a basic goose limit of 4 per day and 4 in possession of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 6. A season of not more than 93 days between October 4, 1980 and January 18, 1981, with a basic goose limit of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

Option 7. A season of not more than 93 days having daily bag limits of 1 dark and 1 white geese with possession limits twice the daily limit through October 31, 1980. Thereafter, limits may be increased to 3 dark and 3 white geese in the daily bag with any 6 geese in possession.

Option 8. A season of not more than 79 days opening not less than 2 weeks after the opening of the duck season, with limits of 2 dark geese and 2 white geese daily and 4 of any geese in possession.

Option 9. A season of not more than 93 days with a limit of 1 goose (either dark or white) in daily bag and possession for the first 14 days of the season. Thereafter, limits may be increased to 3 geese in daily bag and possession of which not more than 2 may be dark geese and not more than 2 may be white geese.

In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond December 28, 1980.

In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in that portion of Colorado in the Pacific Flyway; in Utah except Washington County, the daily bag and possession limits are 2 Canada geese, and the season on Canada geese may be no more than 72 days and may not extend beyond December 21, 1980.

For Nevada, the State may experimentally designate season dates on geese in Clark County and on geese in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. The daily bag and possession limits are 2 Canada geese throughout the State.

In Arizona, except in the counties of Mohave and Yuma; in that portion of New Mexico in the Pacific Flyway; in Clark County, Nevada; in Washington County, Utah; and in the Southern Zone, except that portion in California Department of Fish and Game District 22, of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 18, 1981.

In California, the balance of California Fish and Game District 22 in the Southern Zone (that portion of District 22 lying outside the Colorado River Zone), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 4, 1981.

In the Arizona counties of Mohave and Yuma and in the Colorado River Zone of California, the seasons on Canada geese may be no more than 72 days and may not extend beyond January 4, 1981. The daily bag and possession limits on Canada geese are 2 and 2, respectively, in these areas. the season on geese in the Colorado River Zone of California must be the same as that selected by Arizona.

In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the seasons on snow geese may not extend beyond January 1, 1981; and the daily bag and possession limits on snow geese are 3 and 6, respectively.

Between October 25, 1980, and February 22, 1981, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) The season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific Flyway, open seasons on common snipe must coincide with the duck season. For other States partially within the Pacific Flyway seasons between September 1, 1980, and February 28, 1981, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

Special Falconary Frameworks

Falconry is a permitted means of taking migratory game birds in any State.

Any State listed in 50 CFR 21.29(k) as meeting Federal Falconry Standards may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours shall not exceed ½ hour before sunrise to sunset.

4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

5. Each State selecting extended seasons shall report to the Service the results of the special falconry season by March 15, 1981.

6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Notice: In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in any geographical area.

Dated: August 8, 1980.

F. Eugene Hester,

Acting Director, United States Fish and Wildlife Service.

[FR Doc. 80-24452 Filed 8-12-80; 8:45 am]
BILLING CODE 4310-55-M

V 45 A G 1 3 8 0 UMI

V
4
5

A
G

1
3

8
0
UMI

federal register

Wednesday
August 13, 1980

Part VI

Department of Education

Territorial Teacher Training Assistance Program; Final Regulations

DEPARTMENT OF EDUCATION

45 CFR Part 151

Territorial Teacher Training Assistance Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations for the Territorial Teacher Training Assistance Program. This program was established by the Education Amendments of 1978 to provide assistance to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for the training of teachers.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress disapproves these regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Nancy E. Martin, Department of Education, Office of School Improvement, (Room 3700, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 426–7220.

SUPPLEMENTARY INFORMATION: On April 8, 1980, the Commissioner of Education published a Notice of Proposed Rulemaking (NPRM) for this program in the **Federal Register** (45 FR 24070). Interested persons were given 60 days to comment on the notice. Three persons submitted comments. The comments generally supported the provisions established in the NPRM. However, certain changes have been made in response to comments and for clarification purposes. The provisions of these final regulations are substantially the same as the provisions of the NPRM. The paragraphs below summarize the comments and the Secretary's response to them.

§ 151.2(b)(2) Eligible Parties.

Comment. All commenters expressed concern regarding the capability of the institutions of higher education (IHEs) located in the territories to provide the needed training, although the commenters believed it desirable to promote the use of territorial IHEs.

Response. A change has been made. The Secretary agrees that these concerns are valid. Section 151.10(d) provides that the training is to be done in the territory, except in unusual circumstances. However, where necessary the IHE may be from outside the territory. The Secretary does encourage the use of territorial IHEs to the maximum extent possible.

§ 151.4(b) Definitions.

Comment. One commenter asked whether the definition of teacher included teachers of adults.

Response. A change has been made. The definition of "teacher" in § 151.4(b) now includes persons who provide instruction to adults in courses traditionally provided to students in elementary and secondary schools.

Comment. One commenter wanted further clarification of the term "nonindigenous contract teacher". The commenter expressed concern that the present definition excludes teachers from general training who have been in the school system for many years and who reside in the territory on a permanent basis.

Response. A change has been made. The definition of "nonindigenous contract teacher" has been clarified to include those teachers who have been in the school system less than three (3) years and who were not, at the time of entering into the contract, a resident of the territorial jurisdiction in which the service will be performed.

§ 151.10 Project Activities (formerly § 151.5)

Comment. One commenter suggested that training for principals and administrators should be allowed with these funds.

Response. No change has been made. Such training is not allowed by law. The statute specifically states that grants shall be made "for the purpose of providing training to teachers in schools" in the territories.

Comment. One commenter asked whether activities designed to help teachers obtain bachelor's degrees in education are allowable under § 151.10(b).

Response. No change has been made. The regulations do not prohibit the use of funds for programs which lead to a bachelor's degree. However, all inservice training must be related directly to the teacher training needs of the jurisdiction. See § 151.10(b).

Comment. Two commenters expressed concern over the requirement in § 151.10 (formerly § 151.5) that limits training within the geographic boundaries of the territories.

Response. No change has been made. The Secretary believes that the purpose of the statute is most effectively met by providing training to teachers in the schools of the territories. To do this, territorial IHEs should be used whenever feasible. If territorial IHEs cannot provide the needed training, IHEs outside the territory may conduct training programs in the territories. However, if circumstances are such that training within territorial limits is not feasible, the Secretary may approve training to be provided outside the territory(ies).

Citation of Legal Authority

A citation of statutory or other legal authority has been placed in parentheses on the line following the text of each provision.

Dated: August 8, 1980.

(Catalog of Federal Domestic Assistance No. 84.124, Territorial Teacher Training Assistance Program. Part I of OMB Circular A–95 does not apply)

Shirley M. Hufstedler,

Secretary of Education.

Title 45 of the Code of Federal Regulations is amended by adding Part 151 as follows:

PART 151—TERRITORIAL TEACHER TRAINING ASSISTANCE

Subpart A—General

Sec.

151.1 Description of the Territorial Teacher Training Assistance Program.
151.2 Eligible parties.
151.3 Regulations that apply to the Territorial Teacher Training Assistance Program.
151.4 Definitions.

Subpart B—What Kinds of Projects does the Department of Education Assist under This Program?

151.10 Project activities.

Subpart C—How Does One Apply for a Grant?

151.20 How to apply for funds.

Subpart D—How Is a Grant Made?

151.30 How applications are reviewed.
151.31 How funds are allocated.

Subpart E—What Conditions Must be met by a Grantee?

151.40 Allowable costs.
151.41 Limitations on costs.
151.42 Participation of private school personnel.

Authority—Title XV, Part C, sec. 1525, Education Amendments of 1978 (Pub. L. 95–561), 92 Stat. 2379.

Subpart A—General

§ 151.1 Description of the Territorial Teacher Training Assistance Program.

The Territorial Teacher Training Assistance Program provides Federal assistance for the training of teachers in schools in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(Sec. 1525, Pub. L. 95–561)

§ 151.2 Eligible parties.

Each territory is eligible to receive a grant. If a jurisdiction desires a grant, its SEA—either alone or in conjunction with an IHE—shall submit an application. If an SEA submits an application in conjunction with an IHE, the SEA remains fully responsbile for the administration of the project.

(Sec. 1525, Pub. L. 95–561)

§ 151.3 Regulations that apply to the Territorial Teacher Training Assistance Program.

(a) The following regulations apply to grants under the Territorial Teacher Training Assistance Program:

(1)(i) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Program), except for 45 CFR 100a.202–100a.206; and

(ii) 45 CFR Part 100c (Definitions).

(2) The regulations in this Part 151.

(b) The "Introduction to Education Division Programs" at the beginning of EDGAR includes general information to assist in using regulations that apply to Education Division programs.

(Sec. 1525, Pub. L. 95-561)

§ 151.4 Definitions.

(a) *Definitions in EDGAR.* The following terms in this part are defined in 45 CFR Part 100c: Applicant, Application, Award, Budget, EDGAR, Grant, Grantee, Nonprofit, Private, Project, Public, State educational agency (SEA).

(b) *Specific program definitions.* As used in these regulations—

"Teacher" means a person who has the primary responsibility for teaching elementary and secondary students in an educational institution, whether public or private. The term includes persons who provide instruction to adults in courses traditionally provided to students in elementary and secondary schools.

"Nonindigenous contract teacher" means a teacher who serves on a contract basis, who has been employed in the school system for less than three years, and who was not at the time of entering the contract, a resident of the territorial jurisdiction in which the service will be performed.

(c) *Other definitions.* "Institution of higher education" is defined in the Higher Education Act of 1965 (Pub. L. 89–329), as amended.

(Sec. 1525, Pub. L. 95–561; 20 U.S.C. 1141)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 151.10 Project activities.

(a) Projects funded under this part provide for the training of teachers in the five territorial jurisdictions who teach—

(1) Students in grades kindergarten through 12 in public and nonprofit private schools; or

(2) Adults in courses traditionally provided by elementary or secondary schools.

(b) All activities must be directly related to teaching. Activities that may be funded include, but are not limited to, the following:

(1) In-Service teacher training in—
(i) Basic Skills development; or
(ii) Specific subject areas.
(2) Curriculum development.
(3) Use of instructional materials or equipment.
(4) Classroom management.
(5) Training for teachers to achieve full certification under the appropriate territorial requirements.

(c) Nonindigenous contract teachers may receive only that training directly necessary for teaching within the territorial schools, rather than training concerned with general teacher competency.

(d) Except in unusual circumstances, as determined by the Secretary, the Secretary does not approve training to be provided outside the geographical limits of the territory(ies) involved.

(Sec. 1525, Pub. L. 95–561)

Subpart C—How Does One Apply for a Grant?

§ 151.20 How to apply for funds.

(a) The "Introduction to Education Division Programs" at the beginning of EDGAR includes general information to assist in applying for assistance under an Education Division program.

(b) The Secretary makes a grant only if the applicant submits an application meeting the applicable requirements under Subpart C of 45 CFR Part 100a of EDGAR and the following requirements:

(1) For the first year of the program an application must contain:

(i) A needs assessment defining teacher training needs of both public and private schools in the jurisdiction covered by the application;

(ii) A four-year plan explaining the methods to be employed and activities to be conducted to meet the teacher training needs identified in paragraph (b)(1)(i) of this section;

(iii) A detailed explanation of the goals, objectives, and activities to be carried out in the first year of the program;

(iv) A detailed proposed budget for the accomplishment of the activities described in paragraph (b)(1)(iii) of this section for the fiscal year for which the application is submitted; and

(v) The estimated funding needs for each subsequent year of the four-year plan.

(2) For each subsequent year of the program, an application must contain:

(i) Any revisions to the needs assessment statement or amendments to the four year plan statement submitted in (b) paragraphs (1)(i) and (1)(ii) of this section;

(ii) A statement regarding the extent to which the previous year's project met the goals and objectives set forth in that year's application;

(iii) A detailed explanation of the activities to be carried out for the current project year;

(iv) A detailed proposed budget for the current project year; and

(v) An updated estimate of funding needs for the subsequent years of the project.

(20 U.S.C. 1221e–3(a)(1))

Subpart D—How Is a Grant Made?

§ 151.30 How applications are reviewed.

The Secretary reviews an application to ensure that—

(a) The proposed objectives and activities respond to the needs assessment stated in the application: and

(b) The proposed budget is applicable to these needs.

§ 151.31 How funds are alloted.

(a) The Secretary allots funds to each territory on the basis of the identified needs and a review of the proposed activities and budget in its application.

(b)(1) If the total determined allotments to the territories exceed the total amount of funds appropriated, the Secretary reduces each allotment.

(2) However, the Secretary allots to each territory whose application for funds is approved at least five percent of each fiscal year's appropriation.

(Sec. 1525, Pub. L. 95–561)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 151.40 Allowable costs.

(a) Funds may cover all or part of the cost of establishing and implementing a teacher training assistance project, subject to applicable cost principles in 45 CFR Part 100a and 45 CFR Part 74.

(b) These costs may include, but are not limited to—

(1) Research material and resources;

(2) Consultants; and

(3) Training of project staff.

§ 151.41 Limitations on costs.

(a) Funds received under this program may not be used for the training of teachers outside the geographic limits of the territory(ies) involved, except—

(1) In unusual circumstances as determined by the Secretary; and

(2) With prior written approval of the Secretary.

(b) The application must describe the circumstances that require training outside the geographic limits of the territories if funds are requested for that purpose.

(Sec. 1525, Pub. L. 95–561)

§ 151.42 Participation of private school teachers.

(a) A grantee shall provide teachers in private nonprofit schools in the area served by the project an opportunity to participate in the training on a basis comparable to that provided for public school teachers.

(b) Training for teachers in private nonprofit schools shall be provided in accordance with §§ 100b.658 through 100b.662 of EDGAR.

(Sec. 1525, Pub. L. 95–561)

[FR Doc. 80-24479 Filed 8-12-80; 8:45 am]
BILLING CODE 4000-01-M

V 4 5 A G 1 3 8 0 UMI

federal register

Wednesday
August 13, 1980

Part VII

Department of Education

Pre-College Teacher Development in Science Program; Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 797

Precollege Teacher Development in Science Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations for the Pre-College Teacher Development in Science Program for the first time. This program provides support to colleges and universities and certain nonprofit institutions for the continuing education of elementary school teachers in mathematics and the natural and social sciences.

DATES: Comments must be received on or before September 12, 1980.

ADDRESSES: Comments should be addressed to Mary G. Lewis, Room W-458, Pre-College Teacher Development in Science Program for Elementary School Teachers, U.S. Department of Education, c/o National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Mary G. Lewis. Telephone No. (202) 282-7083.

SUPPLEMENTARY INFORMATION: The Pre-College Teacher development in Science Program was transferred to the Department of Education from the National Science Foundation by the Department of Education Organization Act of 1979. Pub. L. 96-88, section 304.

The National Science Foundation's Pre-College Teacher development in Science Program, of which this Program was a part, and which also includes training opportunities for middle and secondary school teachers, was reestablished in fiscal year 1977 by Congress through Pub. L. 94-378.

The program for fiscal year 1980 for kindergarten through grade twelve teachers was announced by the National Science Foundation (NFS) in a *Guide for Preparation of Proposals and Project and Award Management*, NSF Publication No. SE 80-27, in July 1979. With the transfer of the elementary school portion of this program to the Education Department on May 4, 1980, the program for these grades is now subject to the general Education Provisions Act which requires publication of regulations in the Federal Register.

Provisions of the regulations

These proposed regulations follow closely the characteristics of the FY 1980 Pre-College Teacher development in Science Program as administered by the NSF and announced in the *Guide* referred to under Supplementary Information. The exceptions are noted below:

Since the inception of this program in FY 1977, the NSF has invited proposals from colleges and universities nationwide that offer at least a baccalaureate degree in science. In FY 1981, however, the eligibility at NSF and at ED, has been broadened to include nonprofit institutions having both the scientific research staff and the facilities necessary to provide a quality science education program for pre-college teachers. Institutions might include, but are not limited to, science museums, nonprofit scientific research laboratories, and planetariums.

The target group for which the program is designed is elementary school teachers who have been identified by their peers as key teachers in their schools. A work group of two or three teachers teamed with a school principal, assistant superintendent, resource teacher, or other school leader to represent a school or system is encoouraged. The intent of the program is that these school personnel who attend the projects will, upon their return, carry out further inservice training of teachers in their schools, thereby creating a multiplier effect.

(b) Most projects are expected to be local or regional rather than national. This emphasis is intended to promote economy of operation as well as to encourage continuing communication among teachers in a locality or region.

The Secretary intends to use groups of experts to evaluate the merit of each proposal using the nine selection criteria in § 797.31 of the regulations. Panels of scientists, and science educators selected from all areas of the United States, and from relevant disciplines, pre-college educator roles, and a variety of colleges and universities will be assembled for proposal review.

Additional Requirements for Projects

These proposed regulations do not contain certain types of administrative requirements. Those requirements are covered in the Education Division's General Administrative Regulations (EDGAR) which were published as final regulations on April 3, 1980 (45 FR 22494)

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the adreess given at the beginning of this preamble. All comments received on or before September 12, 1980, will be considered in the development of the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room W458, NSF Wisconsin Avenue Annex, 5225 Wisconsin Avenue, NW., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 13.119, Pre-College Teacher development in Science Program. Part I of the OMB Circular does not apply to this program)

Dated: August 7, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary proposes to add a new Part 797 to Title 34 of the Code of Federal Regulations as follows:

PART 797—PRE-COLLEGE TEACHER DEVELOPMENT IN SCIENCE PROGRAM

Subpart A—General

Sec.

797.1 Description of the Pre-College Teacher Development in Science Program.
797.2 Eligible parties.
797.3 Regulations that apply to the Pre-College Teacher Development in Science Program.
797.4 Definitions that apply to the Pre-College Teacher Development in Science Program.

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

797.10 What is the purpose of the program?
797.11 What are the general characteristics of the projects?
797.12 What types of projects are supported?

Subpart C—How Does One Apply for a Grant? [Reserved]

Subpart D—How Is a Grant Made?

797.30 How does the Secretary evaluate a proposal?
797.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

797.40 Who may participate in the projects?

Authority: Pub. L. 81-507; Pub. L. 94-378; Pub. L. 96-88; 42 U.S.C. 1862; 20 U.S.C. 3444.

Subpart A—General

§ 797.1 Description of pre-college teacher development in science program.

The Pre-College Teacher Development in Science Program offers continuing education in science, to provide in-service training for elementary school teachers.

(42 U.S.C. 1862)

§ 797.2 Eligible institutions.

The following institutions are eligible to receive grants:

(a) Institutions of Higher Education that offer at least a baccalaureate degree in science.

(b) Nonprofit private, non-academic institutions having both the scientific research staff and the facilities necessary to provide a quality science education program for pre-college teachers. This may include institutions such as, but not limited to, scientific research laboratories, field stations, museums, or planetariums.

(42 U.S.C. 1862)

§ 797.3 Regulations that apply to the pre-college teacher development in science program.

The following regulations apply to the Pre-College Teacher Development in Science Program:

(a) The Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100a (Direct Grant Programs) and 45 CFR Part 100c (General).

(b) The regulations in this Part 797.

(42 U.S.C. 1862; 20 U.S.C. 3444)

§ 797.4 Definitions that apply to the pre-college teacher development in science program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 45 CFR Part 100c: Applicant, Application, Award, Department, Elementary school, Fiscal year, Nonprofit, Project, Secretary.

(20 U.S.C. 1221e-3(a)(1))

(b) *Definitions that apply to this Part.* The following definitions apply to this part:

"Science" means the mathematical, biological, physical, engineering, and social sciences.

"Proposal" means the application.

(42 U.S.C. 1862)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 797.10 What is the purpose of the program?

The major objective of the Pre-College Teacher Development in Science Program is to promote the offering of quality science, mathematics, and social studies instruction to the Nation's elementary school students. This is accomplished by—

(a) Improving elementary teachers' knowledge of the subject matter of science and mathematics, and their awareness of accompanying appropriate instructional strategies;

(b) Developing and maintaining cooperation and communication between scientists and mathematicians at colleges, universities, and certain other scientific institutions, and teachers in elementary schools; and

(c) Aiding teachers in the identification and use of resources appropriate to their level of instruction, which will aid in their teaching of scientific concepts.

(42 U.S.C. 1862)

§ 797.11 What are the general characteristics of the projects?

(a) Projects supported in this program will be characterized in general by a group of elementary school teachers engaged in a learning experience sponsored by the grantee institution and staffed by its faculty members or others selected for their appropriate expertise.

(b) Staff site visits for individual consultation, and group meetings devoted to classroom teaching strategies may be used to augment the instructional phase.

(c) Projects are to provide instruction on general concepts of science and mathematics, basic elements and concepts of a particular discipline, or more advanced training in specific disciplines, consistent with the needs of an identified group of teachers. The instruction would also illustrate appropriate materials and instructional teaching strategies for classroom use, as well as local resources that are applicable to classroom instruction.

(42 U.S.C. 1862)

§ 797.12 What types of projects are supported?

The types of projects supported under this program include but are not limited to:

(a) Academic Year Seminars—Part-time study offered at a central location for teachers within commuting distance, with sessions during the academic year.

(b) Summer Seminars—Part-time study offered during the summer at a central location for teachers within commuting distance with follow-up sessions during the academic year.

(c) Summer Workshops—Full-time projects offered during the summer, generally for 1 to 4 weeks. These projects normally will be regional and intended for more advanced training in specific disciplines. A limited follow-up activity may take place during the academic year.

(42 U.S.C. 1862)

Subpart C—How Does One Apply for a Grant? [Reserved]

Subpart D—How Is a Grant Made?

§ 797.30 How does the Secretary evaluate a proposal?

(a) The Secretary evaluates each proposal on the basis of the criteria in § 797.31.

(b) The Secretary assigns a maximum of 70 points that a proposal may receive under all the criteria.

(c) Each criterion is evaluated using a scale of 1-7.

(d) The weight assigned to each complete criterion is indicated in parenthesis following each criterion.

(e) For proposals of substantially equal quality, the Secretary gives priority to projects that, nationwide, contribute to achieving overall balance among projects funded under this program in the following categories:

(1) Grade level.

(2) Academic discipline.

(3) Institutional type.

(4) Geographic location.

§ 797.31 What selection criteria does the Secretary use?

(a) *Plan of operation.* (10 percent)

(1) The Secretary reviews each proposal for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women; and

(C) Handicapped persons.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows

the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under-represented, such as members of racial or ethnic minority groups, women, and handicapped persons.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 percent)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 percent)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 45 CFR 100a.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 percent)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(iii) Evidence is presented of long term support and institutional commitment to pre-college science education from the host institution.

(20 U.S.C. 1221(e)–3(a)(1))

(f) *Need for the project.* (20 percent)

(1) The Secretary reviews each proposal for information that shows a well-established need for the project.

(2) The Secretary looks for information that shows—

(i) An adequate needs assessment has been carried out;

(ii) Appropriate individuals, especially representative teachers, have been consulted in the needs assessment; and

(iii) Instructional needs have been clearly indentified and stated.

(g) *Cooperative relationships.* (10 percent)

(1) The Secretary reviews each proposal for information that shows the extent to which cooperative teaching relationships will be established between elementary teachers and college and university faculty or other scientists.

(2) The Secretary looks for information that shows the extent to which the project will advance the long term program objective of promoting useful relationships between elementary science teachers and college and university or other scientists beyond the term of the grant.

(h) *Subject matter emphasis.* (20 percent)

(1) The Secretary reviews each application for information that shows the extent to which subject matter in science is emphasized.

(2) The Secretary looks for information that shows—

(i) The extent to which there is a central focus on science curriculum is integrated with appropriate teaching strategies; and

(ii) The appropriateness of the content for the designated teacher group.

(i) *Participant selection.* (10 percent)

(1) The Secretary reviews each proposal for information that shows the appropriateness of the participant selection process.

(2) The Secretary looks for information that shows—

(i) Adequacy of publicity plan to recruit participants; and

(ii) Suitability of participant evaluation and selection procedures.

(42 U.S.C. 1862)

Subpart E—What Conditions Must be Met by a Grantee?

§ 797.40 Who may participate in the projects?

(a) The program is designed for the continuing education of elementary school teachers.

(b) Other school leaders such as principals, assistant superintendents, or resource teachers, may team with one or two teachers to represent a school or system.

(42 U.S.C. 1862)

[FR Doc. 80-24477 Filed 8-12-80; 8:45 am]
BILLING CODE 4000-01-M

federal register

Wednesday
August 13, 1980

Part VIII

Department of Education

Final Regulations for Nonprofit Organization Grants Under the Emergency School Aid Act

V 45 AG 13 80 UMI

DEPARTMENT OF EDUCATION

45 CFR Part 185

Emergency School Aid Act

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations for nonprofit organization grants under the Emergency School Aid Act. These Awards to public or private nonprofit organizations support a local educational agency in the development or implementation of a qualifying desegregation plan. These regulations implement changes in the program made by the Education Amendments of 1978 and respond to the extensive public comment received on two notices of proposed rulemaking.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to the Congress. Regulations are usually transmitted to the Congress several days before they are published in the **Federal Register**. The effective date is changed if Congress takes certain adjournments. If you want to know the effective date of these final regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Ms. L. Ann Benjamin, Room 2011–A, Federal Office Building #6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–8230.

SUPPLEMENTARY INFORMATION: The authority for these regulations is the Emergency School Aid Act ("ESAA" or "the Act"), Title VI of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 3191 *et seq.*), as well as section 408 of the General Education Provisions Act (20 U.S.C. 1221e–3).

Background

These regulations are based on the amended ESAA enacted as part of the Education Amendments of 1978 (Pub. L. 95–561), the legislative history of the amendments to the Act, the Office of Education's experience in administering the nonprofit organization (NPO) program, and an evaluation of the NPO program by the Rand Corporation ("An Evaluation of the Emergency School Aid Act Nonprofit Organization Program", Vols. I–IV, 1978).

The notice of proposed rulemaking (NPRM) for the ESAA program was published in the **Federal Register** on June 29, 1979 (44 FR 38364). Numerous comments were received requesting major changes to the nonprofit organization section of the ESAA NPRM. In response to the comments, a revised NPRM for the NPO program was published on April 11, 1980 (45 FR 25028).

Summary of Changes

The provisions of the final regulations are substantially the same as the provisions of the April 11 NPRM. The only changes are in the selection criteria. the points assigned to recency of the qualifying plan have been changed to reduce the disadvantage to nonprofit organizations that are addressing continuing racial discrimination problems or that are involved in long-term monitoring of plans previously implemented. The selection criterion on project design has been revised to increase the maximum possible score and to include teachers among the groups to be involved in the development and implementation of the project. The Secretary believes that the effective involvement of teachers will help to ensure the success of the desegregation program. In addition, the selection criterion on budget has been revised to increase the maximum possible score. Finally, the selection criterion on personnel has been revised to take into consideration racial and cultural diversity of the applicant's staff. The Secretary believes that the applicant should make an effort to have staffing patterns reflect the racial and cultural diversity of the community.

These changes in the selection criteria will not take effect until October 1, 1980. The selection criteria and point allocations contained in the proposed regulations are adopted as final regulations for fiscal year 1980. This delayed effective date is intended to ensure that applicants are not disadvantaged by a change in the selection criteria on which they based their applications.

Many of the comments received on the second NPRM are similar to the comments received in response to the initial ESAA NPRM, e.g. the statutory abolition of the State apportionment, the prohibition against compensatory education activities and the reduced funding level. A major criticism of both NPRMs is the emphasis on recency of the local educational agency's qualifying plan in evaluating NPO applications.

A summary of the comments on the revised notice of proposed rulemaking follows and is organized according to the section numbers and titles of the final regulations. This summary does not repeat the comments and responses received in response to the June 29, 1979 ESAA NPRM.

Summary of Comments and Responses

General

Comment. One commenter recommended a regulatory provision that would allow a grantee to receive a negotiated indirect cost rate.

Response. No change is necessary. Provisions relating to indirect costs are contained in the Education Division General Administrative Regulations (45 CFR Part 100a) and in 34 CFR Part 74, Appendix F.

Comment. Two commenters recommended the restoration of NPO funding to the FY 1979 level of $17.5 million.

Response. The statute authorizes $15 million for fiscal year 1980 and for each of the three succeeding fiscal years for grants to public or private nonprofit agencies. Congress appropriated $5 million for the fiscal year 1980 NPO program. The decision on the amount of each year's appropriation rests with Congress and is not subject to ESAA regulatory provisions.

Comment. One commenter recommended the continuation of NPO advisory committee requirements contained in previous regulations.

Response. No change is made. The advisory committee requirements for NPOs were eliminated in an effort to reduce the administrative burden on NPO applicants and because the selection criteria address community participation. Since many of the boards of NPOs are made up of a diverse group of community and civic representatives, the ESAA advisory committee may be a duplication.

Comment. One commenter recommended that the Department add to the selection criteria consideration of the degree of support and/or participation of classroom teachers and teacher associations, as well as provision for effective input by teachers, in the development and implementation of inservice programs.

Response. A change is made. Based upon the findings of the Rand study, an effort was made to increase the independence of the NPOs. It would be inappropriate to add a provision requiring the involvement of teacher associations, since such involvement may hamper the full autonomy of the nonprofit organization. However, the selection criterion on project design (§ 185.128(c)) is revised to address the involvement of teachers in the development and implementation of the project. This change will be effective in FY 1981. Applications for awards this year are evaluated on the basis of the criterion in the proposed regulations.

Comment. One commenter objected to the change from State to national competition for NPO applications.

Response. No change is made. The statute provides for the State apportionment of funds through the basic grant program only. Congress eliminated State competition under the NPO program.

Comment. One commenter was unclear whether a procedure is available for reconsideration of applications that are initially rejected for funding.

Response. No change is made. Under the technical amendments to ESAA, local educational agencies and State educational agencies are allowed to resubmit their applications. There are no resubmit provisions for NPOs.

§ 185.122 Authorized activities.

Comment. One commenter objected to the elimination of all instructional services as authorized activities.

Response. No change is made in this provision. The NPO regulations attempt to increase the focus on school districts in the initial stages of desegregation and on making the program more accurately reflect the original Congressional intent to assist in emergency situations resulting from desegregation. The Rand study indicated that educational service activities conducted by most NPOs made little impact on the desegregation process.

Comment. One commenter suggested that the prohibition on NPOs monitoring desegregation plans where a court-appointed group is conducting a similar activity be limited to those cases in which the court-appointed group is required to report back to the court.

Response. No change is made. The problem that this restriction is intended to address—duplication of activities and potential interference with the mandate of a court-appointed group—is present whether or not that group is required to report back to the court.

§ 185.124 Approval of new projects.

Comment. One commenter expressed concern about the separate selection criteria for applications for implementation and development. It was suggested that the regulations permit the awarding of a single multiple year grant to an applicant to support both the development and implementation of a plan.

Response. No change is made. Separate criteria are needed because of differences in the types of projects. For example, a criterion addressing recency of plan implementation is inapplicable to a project for the development of a plan. However, an NPO is permitted to submit separate applications to support the development and implementation of a plan.

§ 185.126 Selection criterion: Recency of qualifying plan.

Comment. Several commenters objected to the emphasis on the implementation date of the qualifying plan in evaluating NPO applications. Some apparently believed that recency would be the sole basis for ranking applications while others felt that too much emphasis is placed on that criterion. These commenters noted that nonprofit organizations proposing to assist districts meeting problems of continued racial discrimination will be disadvantaged by the criterion.

Response. A change is made. Nonprofit organizations are ranked on a combination of factors related to recency of the plan and the quality of the proposal. The inclusion of a criterion on recency of implementation of a qualifying plan reflects the statute's focus on early support of desegregation plans. However, the number of points awarded for recency of plan implementation has been reduced so that organizations will not be as disadvantaged in supporting school districts with continuing racial discrimination problems. This change will be effective beginning in fiscal year 1981. Applications for fiscal year 1980 grant awards will be reviewed according to the total point value for recency of a qualifying plan in the revised NPRM published April 11, 1980.

§ 185.130 Selection criterion: Personnel.

Comment. One commenter interpreted the selection criterion on personnel as putting "* * * the affirmative action employment process at the same impasse faced by minority persons prior to 1965". This commenter suggested that all staff persons hired by NPOs for the purpose of implementing an ESAA program should be screened by a panel composed of representatives from the LEA, community agencies, parents and NPOs. Another commenter recommended that the criterion be revised to consider racial and cultural diversity in staffing patterns.

Response. A change is made. The purpose of this selection criterion was to encourage inclusion of minority group members on an applicant's staff in order to enhance its ability to carry out desegregation-related activities. The criterion has been revised to address the extent to which the staff includes the racial and cultural diversity needed to facilitate the project's success. It would be unnecessarily burdensome and intrusive to require screening of job applicants before they can be hired by an NPO.

Citation of Legal Authority

A citation of statutory of other legal authority is placed in parentheses on the line following each substantive provision of the final regulations. The first citation is to the appropriate section of the Act (Title VI of the Elementary and Secondary Education Act of 1965, as amended). This is followed by a citation to the same provision in the United States Code.

(Catalog of Federal Domestic Assistance Number 13.529, Nonprofit Organization Grants. Part I of OMB Circular A–95 does not apply to this program)

Dated: August 8, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary amends 45 CFR Part 185 as follows:

1. The table of contents is amended by adding a new entry for Subpart G to read as follows:

PART 185—EMERGENCY SCHOOL AID

Subpart G—Nonprofit Organization Grants

Sec.
185.120 Purpose.
185.121 Eligible applicants.
185.122 Authorized activities.
185.123 Application procedures.
185.124 Approval of new projects.
185.125 Selection criteria.
185.126 Selection criterion: Recency of qualifying plan (3 points).
185.127 Selection criterion: Need (20 points).
185.128 Selection criterion: Project design (40 points).
185.129 Selection criterion: Organizational experience (10 points).
185.130 Selection criterion: Personnel (15 points).
185.131 Selection criterion: Evaluation plan (5 points).
185.132 Selection criterion: Budget (7 points).
185.133 Selection criterion: Commitment to plan adoption (10 points).

2. A new Subpart G is added to read as set out below.

Subpart G—Nonprofit Organization Grants

§ 185.120 Purpose.

The purpose of a nonprofit organization grant is to support an LEA's development or implementation of a qualifying plan described in § 185.42.

(Sec. 604(b)(3), 608(b); 20 U.S.C. 3194(b)(3), 3198(b))

§ 185.121 Eligible applicants.

(a) Any public or private nonprofit agency, institution or organization (NPO), other than an LEA, is eligible to apply for a grant under this subpart.

(b) An NPO may receive a grant under this subpart regardless of whether the LEA whose plan the NPO proposes to support applies for assistance under the Act.

(c) An NPO that proposes to support the development of a qualifying plan must receive a written request for that assistance from the LEA, except in the case of a plan described in § 185.42(a) that has been required but not yet adopted.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.122 Authorized activities.

(a) Except as provided in paragraph (b) of this section, an NPO may apply for any activity that is designed to support the development or implementation of a qualifying plan. These activities include, but are not limited to—

(1) Encouraging parental and community involvement in matters relating to the development or implementation of the plan;

(2) Providing information to parents and community members on the contents of the plan;

(3) Monitoring the implementation of the plan;

(4) Carrying out activities designed to promote interracial and intercultural understanding among students who are affected by, or are reasonably likely to be affected by, the implementation of the plan;

(5) Carrying out activities designed to stimulate a desire to learn in those students;

(6) Addressing non-academic problems faced by those students—at home, in school, or in the community—that affect their adjustment to schools to which the plan relates;

(7) Promoting student understanding of and support for the plan;

(8) Providing training to LEA staff related to the development or implementation of the plan; and

(9) Providing specialized technical assistance to LEA staff in areas related to the development or implementation of the plan, such as the development of affirmative action programs or the review of curricular materials.

(b)(1) An NPO may not use funds under this subpart in connection with the provision of compensatory education or the development of basic skills.

(2) An NPO may not use funds under this subpart for monitoring the implementation of the plan where a court-appointed group is conducting a similar activity.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.123 Application procedures.

(a) An NPO may include in an application activities in support of only one qualifying plan. However, an NPO may submit more than one application.

(b) An NPO shall include in its application a needs assessment that shows the severity of the needs addressed by the proposed activities and the relationship of those needs to the development or implementation of a qualifying plan.

(c) An NPO shall address each selection criterion in §§ 185.126–185.133 that applies to its application.

(d) An NPO that proposes to support the implementation of a qualifying plan shall include in its application—

(1) A copy of the LEA's qualifying plan or a detailed description of that plan; and

(2) The date when the LEA adopted the plan.

(e) An NPO that proposes to support the development of a plan shall include a copy of the LEA's request for that assistance, if a request is required under § 185.121(c).

(f) An NPO shall include in its application an assurance that it has met and will meet the applicable requirements of the Act and this part.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.124 Approval of new projects.

(a) Applications for projects to support the development of qualifying plans and those to support the implementation of qualifying plans are considered separately. The Secretary states in the application notice published in the **Federal Register** the amount of funds available for each type of project.

(b) The Secretary evaluates applications for projects that support the development of qualifying plans on the basis of the selection criteria in §§ 185.127–185.133. The Secretary evaluates applications for projects that support the implementation of qualifying plans on the basis of the selection criteria in §§ 185.126–185.132.

(c) If more than one otherwise approvable project relates to the same qualifying plan, the Secretary—

(1) Reviews the approvable activities to identify any duplication in the needs addressed by those activities; and

(2) In the case of duplication, approves only the activity contained in the highest ranking application.

(d) The Secretary may approve a project period of up to 36 months.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.125 Selection criteria.

The number of points awarded for each criterion depends on how well the application addresses all the factors under the criterion. The total possible score for an implementation grant is 100 points and for a development grant 107 points. The selection criteria in §§ 185.127–185.133 apply to an application for a project that supports the development of a qualifying plan. The selection criteria in §§ 185.126–185.132 apply to an application for a project that supports the implementation of a qualifying plan.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.126 Selection criterion: Recency of qualifying plan (3 points).

(a) In the case of an application for a project that supports the implementation of a qualifying plan, the Secrtary considers the recency of the implementation date of the qualifying plan on which the applicant bases its application.

(b) In assessing the recency of a qualifying plan, the Secretary uses the table set out below. The Secretary assigns each application the number of points in column B that corresponds to the period of time in column A between—

(1) The implementation date of the LEA's plan on which the applicant bases its eligibility, as described in § 185.45(c)(2); and

(2) The July 1 that follows the deadline date for applications under this subpart.

Table

Col. A—Implementation date	Col. B—Points
3 years or less	3
More than 3 years but not more than 6 years	2
More than 6 years	1

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.127 Selection criterion: Need (20 points).

The Secretary considers:

(a) The severity of the needs to be addressed (10 points).

(b) The extent to which the identified needs are directly related to the development or implementation of the qualifying plan (10 points).

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.128 Selection criterion: Project design (40 points).

The Secretary considers the extent to which:

(a) The project objectives are likely to meet the identified needs (10 points).

(b) The proposed activities are designed to meet the objectives within the project period (10 points).

(c) The parents, students, teachers, and community members are involved in the development and implementation of the project (5 points).

(d) The applicant demonstrates sensitivity to the community and the population to be served (5 points).

(e) The applicant's management plan is effective in terms of resource allocation, realistic schedules, and a sufficient amount of time to be spent on the project by the proposed staff members (10 points).

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.129 Selection criterion: Organizational experience (10 points).

The Secretary considers the extent to which the applicant has experience in working effectively with the LEA and with community organizations, especially on matters related to school desegregation and race relations.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.130 Selection criterion: Personnel (15 points).

The Secretary considers the extent to which—

(a) The project director and other key project staff members are qualified on the basis of training and experience, to carry out the project (10 points).

(b) The applicant's staff includes such racial and cultural diversity as may be necessary to facilitate the success of the project (5 points).

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.131 Selection criterion: Evaluation plan (5 points).

The Secretary considers the quality of the proposed plan for evaluating the success of the project in achieving the stated objectives.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.132 Selection criterion: Budget (7 points).

The Secretary considers the extent to which proposed costs are reasonable in relation to the expected benefits of the project.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.133 Selection criterion: Commitment to plan adoption (10 points).

In the case of an application for a project that supports the development of a qualifying plan, the Secretary considers the extent to which the cooperating LEA has demonstrated its commitment to the adoption of a qualifying plan.

(Sec. 608(b); 20 U.S.C. 3198(b))

Note.—The following Appendix will not be published in Title 45 Code of Federal Regulations.

Appendix B—Selection Criteria for Fiscal Year 1980.

The selection criteria in these regulations (§§ 185.125–185.133) do not apply to grants under Subpart G for fiscal year 1980. Instead, the selection criteria contained in the notice of proposed rulemaking published in the **Federal Register** on April 11, 1980, and republished below, apply to those grants.

§ 185.127 Selection criterion: Recency of qualifying plan (10 points).

(a) In the case of an application for a project that supports the implementation of a qualifying plan, the Commissioner considers the recency of the implementation date of the qualifying plan on which the applicant bases its application.

(b) In assessing the recency of a qualifying plan, the Commissioner uses the table set out below. The Commissioner assigns each application the number of points in column B that corresponds to the period of time in column A between—

(1) The implementation date of the LEA's plan on which the applicant bases its eligibility, as described in § 185.35(c)(2); and

(2) The July 1 that follows the deadline date for applications under this subpart.

Table

Col. A—Implementation date	Col. B—Points
3 years or less	10
More than 3 years but not more than 6 years	5
More than 6 years	1

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.128 Selection criterion: Need (20 points).

The Commissioner considers:

(a) The severity of the needs to be addressed (10 points).

(b) The extent to which the identified needs are directly related to the development or implementation of the qualifying plan (10 points).

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.129 Selection criterion: Project design (25 points).

The Commissioner considers the extent to which:

(a) The project objectives are likely to meet the identified needs (5 points).

(b) The proposed activities are designed to meet the objectives within the project period (5 points).

(c) Parents, students, and community members are involved in the development and implementation of the project (5 points).

(d) The applicant demonstrates sensitivity to the community and the population to be served (5 points).

(e) The applicant's management plan is effective in terms of resource allocation, realistic schedules, and a sufficient amount of time to be spent on the project by the proposed staff members (5 points).

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.130 Selection criterion: Organizational experience (10 points).

The Commissioner considers the extent to which the applicant has experience in working effectively with the LEA and with community organizations, especially on matters related to school desegregation and race relations.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.131 Selection criterion: Personnel (15 points).

The Commissioner considers the extent to which the project director and other key project staff members are qualified, on the basis of training and experience, to carry out the project (10 points).

(b) If the applicant's staff does not include members of minority groups, the extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of those groups (5 points).

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.132 Selection criterion: Evaluation plan (5 points).

The Commissioner considers the quality of the proposed plan for evaluating the success of the project in achieving the stated objectives.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.133 Selection criterion: Budget (5 points).

The Commissioner considers the extent to which proposed costs are reasonable in relation to the expected benefits of the project.

(Sec. 608(b); 20 U.S.C. 3198(b))

§ 185.134 Selection criterion: Commitment to plan adoption (10 points).

In the case of an application for a project that supports the development of a qualifying plan, the Commissioner considers the extent to which the cooperating LEA is committed to the adoption of a qualifying plan.

(Sec. 608(b); 20 U.S.C. 3198(b))

[FR Doc. 80-24478 Filed 8-12-80; 8:45 am]
BILLING CODE 4000-01-M

V 4 5 A G 1 3 8 0 UMI

Reader Aids

Federal Register

Vol. 45, No. 158

Wednesday, August 13, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538	1
51539-51754	4
51755-52138	5
52139-52354	6
52355-52768	7
52769-53074	8
53074-53436	11
53437-53800	12
53801-54008	13

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231) 52139
12230 51167
12231 52139
12232 53437

Proclamations
4776 51539
4777 53075
4778 53439
4779 53441
4780 53443
4781 53445

Administrative Orders:

Memorandums:
July 31, 1980 51169-51174

5 CFR

Ch. XIV 51541
297 52769
410 51755
581 53447

Proposed Rules:
339 53481
359 51214
432 53481
752 53481
831 53481
930 53485

6 CFR

705 51175
706 ..... 51541, 52769

7 CFR

2 52355
210 51175
245 52770
272 53448
273 53448
301 51176
319 53449
331 ..... 51755, 53450
722 51755
908 ..... 52356, 53801
910 ..... 51177, 52771
916 53450
917 ..... 51179, 53450
921 51180
922 53451
924 51180
926 52772
946 52141
948 51182
958 52141
967 52143
1137 51542
1421 53801
1427 53077
1446 51756
2853 51757

Proposed Rules:
29 51572
272 ..... 51216, 53792
273 ..... 51216, 53066, 53792
301 52816
404 51573
431 53486
722 52817
800 52339
910 53487
985 51818
1464 51579
1492 52342
1990 51818
2858 51217
2871 51217

8 CFR

264 52143

Proposed Rules:
Ch. I 51832
214 51580

9 CFR

78 52772
92 52773

Proposed Rules:
94 52818
317 53002
318 51832
381 53002

10 CFR

110 51184
212 52112
430 53488
445 51763
456 53434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:
2 53972
205 51833
378 51581
430 53714
456 53422
500 53368
503 53368
504 53368
505 53368
506 53368

11 CFR

100 52356
110 52356

12 CFR

7 53080
201 52144
220 53452

Proposed Rules:
Ch. I 52166
Ch. II 51581
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR

Proposed Rules:
101 ..... 51763, 53081
108 53835

14 CFR

39 ..... 51543–51546, 52357, 53081, 53084, 53086
71 ..... 51546, 53086–53090
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:
Ch. I 53161, 53162
39 53162
45 53163
71 ..... 51587–51590, 52396, 53163
73 51591
75 52396
121 53316
135 53316
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR

378 53090

Proposed Rules:
19 51592

16 CFR

13 ..... 52776, 52778, 53455
305 53340
436 ..... 51763, 51765
455 52750
1019 53036

Proposed Rules:
13 ..... 51593, 51596
239 51838
441 53839
705 51218

17 CFR

7 51520

Proposed Rules:
1 51598
4 51600

18 CFR

2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
282 52359
292 52779
875 53456

Proposed Rules:
271 51219
273 51219
274 51219
301 51614

19 CFR

353 52780
571 52365

Proposed Rules:
Ch. I 51490

20 CFR

Ch. III 53806
404 52078
416 52078

Proposed Rules:
Ch. II 51615

21 CFR

172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458
520 52781
558 53457
884 ..... 51185, 51186

Proposed Rules:
Ch. II 51832, 52397
101 53023
600 52821
606 52821
610 51226
660 51226

22 CFR

Proposed Rules:
Ch. II 53164–53182

23 CFR

657 52365
658 52365

Proposed Rules:
625 51720
652 51720
663 51720

24 CFR

203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
279 51510
571 51516
590 52762
869 52371
885 51186
1710 52144

Proposed Rules:
570 51227
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:
171 53164
172 53164
173 53164
177 53164
182 53164

26 CFR

1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:
1 ..... 52399, 52824
14 52824
26 51840

27 CFR

Proposed Rules:
Ch. I 51496
19 52407
70 52407
240 52407
245 52407
250 52407
270 52407
275 52407

28 CFR

0 52145
31 53772

Proposed Rules:
Ch. I 51506, 51832
16 52183
50 52183

29 CFR

11 51187
40 51192
102 51192
1625 51547
1952 ..... 51775, 53457
1999 51187
2520 51446
2550 51194

Proposed Rules:
Ch. XIV 51229
2520 ..... 51231, 52824
2530 ..... 51231, 52824
2550 ..... 51231, 51840

30 CFR

Ch. VII 51547, 52834
211 53128
762 52375
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306

Proposed Rules:
Ch. VII 52407, 52408, 53180, 53839
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR

341 53
346 53

32 CFR

763 51776
853 52800
888d 52145

33 CFR

117 51550
161 53135
165 53158
207 ..... 51551, 51555
401 52376

Proposed Rules:
117 ..... 51617, 51618

34 CFR

64 ..... 353412, 53414
709 53788

Proposed Rules:
100 ..... 52052, 53841
797 54000

36 CFR

Proposed Rules:
7 51618
1202 51843

37 CFR

304 51197

38 CFR

17 53807
21 51777
36 53807

39 CFR

Proposed Rules:
111 51846

40 CFR

35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809
81 53147
86 53400
122 52149
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478

Proposed Rules:
6 53187
35 53187
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491
61 53842
81 52841
162 52628
164 52628
167 52184
169 52184

180 51854
408 52411
410 52185
717 51855

41 CFR

Ch. 101 ..... 51201, 53149
3 53806

Proposed Rules:
101–17 52842

42 CFR

Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205
58 ..... 51209, 51556
405 51783
455 51559

Proposed Rules:
51 53492
72 51241
460 53189
461 53189

43 CFR

4100 53154
8351 51740

Proposed Rules:
2560 52303

Public Land Orders:
5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR

64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796
205 ..... 53334, 53956
322 53479

Proposed Rules:
6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427

45 CFR

Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
151 53996
185 54004
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:
121q 52136
190 51243

46 CFR

30 52386
61 52386
151 52386

47 CFR

Ch. I 52389
13 52154
22 52149
68 52151
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821
74 51563
76 52153
81 52154
83 52154
87 52154
90 51811
97 51564

Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252, 53843
15 51251
21 51252
22 53843
73 ..... 51624, 52843, 52845, 52846, 52848, 53843
74 51252
90 ..... 53843, 53844
94 51252

48 CFR

Proposed Rules:
9 51253

49 CFR

571 ..... 51569, 53157
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1309 52161
1310 52161

Proposed Rules:
Ch. X 53846
398 51625
571 ..... 51626, 51628
1080 53190
1102 51858
1116 52186

50 CFR

17 ..... 52803, 52807, 53968
26 52391
32 ..... 52392, 52393
285 53479
611 53831
652 53480
653 52810
661 53832

Proposed Rules:
13 52849
17 ..... 52849, 53495
20 53982
32 52163
216 51254
265 51858
285 52853
611 ..... 51254, 53500, 53847
655 51254
661 51861

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ADMINISTRATION OFFICE, EXECUTIVE OFFICE OF THE PRESIDENT

47112 7-14-80 / Availability of records—Freedom of Information Act

CIVIL AERONAUTICS BOARD

49540 7-25-80 / Oversales, clarification of "total boardings"

COMMODITY FUTURES TRADING COMMISSION

47136 7-14-80 / Contract markets; member-to-member arbitration

Securities and Exchange Commission

47138 7-14-80 / Amendment to guides for statistical disclosure by bank holding companies

FEDERAL COMMUNICATIONS COMMISSION

47428 7-15-80 / TV broadcast station in Crossville, Tenn. table of assignments

Deadlines for Comments On Proposed Rules of the Week of August 17 through August 23, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

51572 8-4-80 / Continuation of Official Standard Grades for Burley Tobacco, U.S. Type 31; comments by 8-22-80

50773 7-31-80 / Milk marketing orders; Nebraska and Western Iowa; comments by 8-20-80

Animal and Plant Health Inspection Service—

40965 6-17-80 / Brucellosis indemnity; comments by 8-18-80

Commodity Credit Corporation—

51579 8-4-80 / Proposed price support for baled burley tobacco; comments by 8-22-80

49085 7-23-80 / Terms and conditions of 1980-81 Price Support Program for Milk; comments by 8-18-80

Farmers Home Administration—

41647 6-20-80 / Business and Industry Loan Program; administrative provisions; comments by 8-19-80

Federal Crop Insurance Corporation—

41640 6-20-80 / Proposed grape crop insurance regulations; comments by 8-19-80

Rural Electrification Administration—

48909 7-22-80 / Loan terms and conditions; comments by 8-21-80

41646 6-20-80 / Proposed revision of accounting and disclosure requirements for jointly-owned electric plants; comments by 8-19-80

48909 7-22-80 / Revision of REA Form 805, "Electric Transmission Specifications and Drawings"; comments by 8-21-80

48910 7-22-80 / Revision of standard for minimum acceptable quality of wood poles, stubs, and anchor logs; comments by 8-21-80

CIVIL AERONAUTICS BOARD

48654 7-21-80 / Fare flexibility for Puerto Rico/Virgin Islands, Hawaii, and Alaska; comments by 8-18-80

48654 7-21-80 / Interim fare suspension policies for Puerto Rico/Virgin Islands, Hawaii, and lower-48-Alaska (but not intra-Alaska) markets; comments by 8-18-80

42318 6-24-80 / Intermodal Services of air carriers and foreign air carriers; liberalize regulation; comments by 8-22-80

ENERGY DEPARTMENT

48910 7-22-80 / Patent licensing; comments by 8-21-80

Economic Regulatory Administration—

41450 6-19-80 / Exemption from natural gas incremental pricing for certain industrial facilities that commit to conversion from natural gas or petroleum to other fuels; comments by 8-20-80

40078 6-12-80 / Motor gasoline allocation revision; comments by 8-19-80

Federal Energy Regulatory Commission—

49102 7-23-80 / Affirmative action in accordance with Section 604 of Outer Continental Shelf Lands Act Amendments of 1978; inquiry; comments by 8-18-80

ENVIRONMENTAL PROTECTION AGENCY

48168 7-18-80 / Ambient air quality monitoring, data reporting, and surveillance provisions for the State of Minnesota; comments by 8-18-80

48169 7-18-80 / Ambient air quality monitoring, data reporting, and surveillance provisions for the State of Ohio; comments by 8-18-80

47877 7-17-80 / Approval and promulgation of Ohio implementation plan, comments by 8-18-80

49960 7-28-80 / Evaporative emission standard and test procedure for 1983 and later model year gasoline fueled heavy-duty vehicles; comments by 8-18-80

[*See also* 45 FR 28922, 4-30-80]

48171 7-18-80 / Financial requirements for owners and operators of hazardous waste management facilities; comments extended to 8-18-80

[Originally published at 45 FR 33154, 5-19-80]

48142 7-18-80 / Hazardous waste guidelines and regulations, interim final listing; comments extended to 8-18-80

[Originally published at 45 FR 33123, 5-19-80]

48142 7-18-80 / Hazardous waste management system; identification and listing of hazardous waste; comments extended to 8-18-80

[Originally published at 45 FR 33066, 33084, 33124, 5-19-80]

49117 7-23-80 / Methoxychor; proposed tolerance; comments by 8-22-80

49112 7-23-80 / Metropolitan Pima County, Ariz. nonattainment area plan and regulations; comments by 8-22-80

48171 7-18-80 / Phensulfonic acid-Formaldehyde-Urea condensate, proposed tolerance exemption; comments by 8-18-80

48164 7-18-80 / San Francisco Bay area air basin nonattainment area plan; comments by 8-18-80

50825 7-31-80 / Visibility protection for Federal class I areas; comments by 8-22-80

[*See also* 45 FR 34762, 5-22-80]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

48614 7-21-80 / Procedural regulations; reconsideration of previously issued determinations of reasonable cause or dismissals of charges (interim rule); comments by 8-20-80

FEDERAL COMMUNICATIONS COMMISSION

46457 7-10-80 / FM broadcast station in Bemidji, Min., changes in table of assignments; comments by 8-22-80

40176 6-13-80 / FM Broadcast Station in Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge and West Memphis, Ark.; Portageville, Mo. and Collierville, Tenn.; Proposed Changes in Table of Assignments; reply comments by 8-21-80

40181 6-13-80 / FM broadcast station in Boise, Idaho; reply comments by 8-21-80

40184 6-13-80 / FM broadcast stations in Chubbock and Pocatello, Idaho; table of assignments; reply comments by 8-21-80

40186 6-13-80 / FM broadcast station in Edenton, N.C.; reply comments by 8-21-80

40182 6-13-80 / FM broadcast station in Eureka, Calif.; table of assignments; reply comments by 8-21-80

46453 7-10-80 / FM broadcast station in Fruita, Colo.; channel assignment; comments by 8-22-80

41171 6-18-80 / FM broadcast station in Hertford, N.C.; reply comments by 8-21-80

40180 6-13-80 / FM broadcast station in Idaho Falls, Idaho, table of assignments; reply comments by 8-21-80

45601 7-7-80 / FM broadcast station in Seneca, Kans.; changes in table of assignments; comments by 8-18-80

46454 7-10-80 / FM broadcast stations in West Tulsa, Sand Springs, and Pawhuska, Okla.; changes in table of assignments; comments by 8-22-80

45600 7-7-80 / Frequency allocation to the instructional television fixed service, the multipoint distribution service and private operational fixed microwave; comment period extended to 8-18-80

[*See also* 45 FR 42724, 6-25-80]

47885 7-17-80 / Scope and coverage of restrictions on employee financial interests; comments by 8-22-80

FEDERAL MARITIME COMMISSION

48172 7-18-80 / Public information; appeals of denials of requests for information; comments by 8-18-80

41024 6-17-80 / Used household goods; tariff filing regulations applicable to carriers in the foreign and domestic offshore commerce of the U.S.; comments by 8-18-80

FEDERAL TRADE COMMISSION

41650 6-20-80 / Pay Less Drug Stores Northwest, Inc.; consent agreement with analysis to aid public comment; comments by 8-19-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

48125 7-18-80 / Acrylamide and *N*-(Hydroxymethyl) Acrylamide, use as indirect food additive; objections by 8-18-80

48124 7-18-80 / Amendment to adhesives and components of paper and paperboard in contact with dry food, use of certain mixtures; objections by 8-18-80

48123 7-18-80 / Microcapsules for flavoring substances; objections by 8-18-80

Health Care Financing Administration—

41794 6-20-80 / Medicare and medicaid programs; conditions of participation: hospitals; comments by 8-19-80

Social Security Administration—

41453 6-19-80 / Supplemental Security income for the aged, blind, and disabled; reports required; comments by 8-18-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

41936 6-23-80 / PHA-owned projects; modernization of oil-fired heating plants; comments by 8-22-80

[Corrected at 45 FR 46380, 7-10-80]

Fair Housing and Equal Opportunity Office—

40999 6-17-80 / State and local fair housing laws; recognition of; comments by 8-18-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

44540 7-1-80 / Migratory bird hunting; late season frameworks; comments by 8-23-80

[*See also* 45 FR 13630, 2-29-80]

48830 7-21-80 / Potential proposals to amend the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; comments by 8-20-80

41322 6-18-80 / Proposal to determine Callirhoe Scabriuscula (Texas Poppy-Mallow) to be endangered species; comments by 8-18-80

V 45 1 13 8 0 UMI A G

49677 7–21–80 / Proposals by Australia and South Africa to amend Appendices to the Convention on International Trade in Endangered Species in Wild Fauna and Flora; comments by 8–20–80

41328 6–18–80 / Proposal to determine Spiranthes Parksii (Navasota Ladies'-Tresses) To be an endangered species; comments by 8–18–80

46465 7–10–80 / Scientific authority procedures under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; preliminary notice of 1980–81 export findings for certain Appendix II species; comments by 8–18–80

Indian Affairs Bureau—

47869 7–17–80 / Attorney contracts with Indian tribes; comments by 8–18–80

47869 7–17–80 / Recognition of attorney and agents to represent claimants; comments by 8–18–80

Land Management Bureau—

41860 6–20–80 / Public lands; exchanges; comments by 8–19–80

Surface Mining Reclamation and Enforcement Office—

48129 7–18–80 / Disposal of excess spoils and durable rock fills; comments by 8–18–80

INTERNATIONAL COMMUNICATION AGENCY

49103 7–23–80 / Appointment of foreign service personnel; comments by 8–22–80

INTERSTATE COMMERCE COMMISSION

48792 7–21–80 / Appellate procedures governing Commission's handling of non-rail proceedings; (interim rules); comments by 8–20–80

48676 7–21–80 / Cost standards for railroad rates; interpretation of statutory provisions; comments by 8–20–80

48796 7–21–80 / Policy statement on motor carrier pooling applications; comments by 8–20–80

51858 8–5–80 / Railroad cost recovery procedures; comments by 8–20–80

JUSTICE DEPARTMENT

Attorney General—

41001 6–17–80 / Federal financial assistance; nondiscrimination on the basis of sex in education programs; comments by 8–18–80

Justice Assistance, Research, and Statistics Office—

40156 6–13–80 / Confidentiality of identifiable research and statistical information; comments by 8–20–80

40156 6–13–80 / Criminal intelligence systems operating policies; comments by 8–20–80

LABOR DEPARTMENT

Occupational Safety and Health Administration—

35298 5–23–80 / Provisions for access to employee exposure and medical records in agricultural employments; comments by 8–21–80

MANAGEMENT AND BUDGET OFFICE

43236 6–26–80 / Draft Federal Acquisition Regulation; contracts with Government employees or organizations owned or controlled by them, Component Breakout, and Value Engineering; comments by 8–22–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48879 7–22–80 / Space transportation system; procurement of spinning solid upper stages; comments by 8–21–80

NATIONAL CREDIT UNION ADMINISTRATION

42628 6–25–80 / Share accounts and Share certificates; penalties for premature withdrawals; comments by 8–18–80

PERSONNEL MANAGEMENT OFFICE

40990 6–17–80 / Grade and pay retention; comments by 8–18–80

POSTAL RATE COMMISSION

48663 7–21–80 / Streamline of procedures for cases filed by the Postal Service as experiments under section 3623 of the Postal Reorganization Act; comments by 8–20–80

TRANSPORTATION DEPARTMENT

Coast Guard—

45327 7–3–80 / Unmanned barges carrying certain bulk dangerous cargoes; comments by 8–18–80

Federal Aviation Administration—

41596 6–19–80 / Operations review program; comments by 8–18–80

49290 7–24–80 / Recordation of conveyances affecting title to, or an interest in aircraft; comment period extended to 8–21–80

[*See also* 45 FR 34286, May 22, 1980]

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

14069 3–4–80 / Recodification of wine regulations; comments by 8–20–80

[*See also* 44 FR 29691, 5–22–79 and 44 FR 53178, 9–13–79]

VETERANS ADMINISTRATION

41169 6–18–80 / Improving Government Regulations; Semiannual Agenda of Regulations; comments by 8–18–80

49297 7–24–80 / Veterans benefits; service records as evidence of service and character of discharge; comments by 8–22–80

41661 6–20–80 / Veterans education; ratio of Federally-supported to other students for flight courses; comments by 8–18–80

Deadlines for Comments on Proposed Rules for the Week of August 24 through August 30, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

50347 7–29–80 / Irish potatoes grown in Modoc and Siskiyou Counties in California and in all Counties in Oregon except. Malheur County; handling regulations; comments by 8–28–80

Animal and Plant Health Inspection Service—

43366 6–27–80 / Gypsy moth and browntail moth; list of hazardous recreational vehicle sites; comments by 8–26–80

43368 6–27–80 / Pink bollworm quarantine; suppressive areas in Ark. and La.; comments by 8–26–80

Federal Crop Insurance Corporation—

50341 7–29–80 / Almond crop insurance regulations; comments by 8–28–80

43783 6–30–80 / Proposed Canning and processing tomato crop insurance regulations; comments by 8–29–80

43776 6–30–80 / Proposed Eastern U.S. apple crop insurance regulations; comments by 8–29–80

43771 6–30–80 / Proposed peach crop insurance regulations; comments by 8–29–80

Food and Nutrition Service—

42303 6–24–80 / Food distribution program; subdistributing, and recipient agencies; processing of USDA—donated foods by commercial or institutional facilities; comments by 8–25–80

43422 6–27–80 / National School Lunch and School Breakfast Programs; comments by 8–25–80

Food Safety and Quality Service–

43425 6–27–80 / Bacon made with dry curing materials; comments by 8–26–80

36417 5–30–80 / Food grading policy; comments by 8–28–80

35345 5–27–80 / Voluntary Grading of Shell Eggs; comments by 8–25–80

Rural Electrification Administration—

49586 7–25–80 / Proposed revision of REA Specification D–17 remanufactured distribution transformers; comments by 8–25–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

41661 6–20–80 / Nondiscrinination on basis of sex in Federally assisted programs; comments by 8–25–80

CIVIL AERONAUTICS BOARD

46812 7–11–80 / Charter flight limitations; Carriers obligation in case of interruptions of its service; comments by 8–25–80

49291 7–24–80 / Employee protection program; Federal payments to airline employees; determination of "qualifying dislocation", comments by 8–25–80

48654 7–21–80 / Interim fare suspension policies for Puerto Rico / Virgin Islands, Hawaii and Lower-48-Alaska (but not intra-Alaska) markets; reply comments by 8–28–80

42629 6–25–80 / Notice to passengers of conditions of carriage; reply comments by 8–25–80

COMMERCE DEPARTMENT

International Trade Administration—

43010 6–25–80 / Commodity Control List; revision; comments by 8–25–80

43139 6–25–80 / Export Administration Regulations to conform to revised Commodity Control List; comments by 8–25–80

[Corrected at 45 FR 50724, July 31, 1980]

National Oceanic and Atmospheric Administration—

52853 8–8–80 / Atlantic bluefin tuna regulations; Intent to prepare environmental impact statement; comments by 8–29–80

43205 6–26–80 / Flower Garden Banks Marine Sanctuary; comments by 8–25–80

Office of the Secretary—

49278 7–24–80 / Regional Action Planning Commissions; administration; comments by 8–25–80

COMMODITY FUTURES TRADING COMMISSION

42324 6–24–80 / Procedures of the Complaints Section and conforming Amendments to reparation rules; comments by 8–25–80

COMMUNITY SERVICES ADMINISTRATION

50296 7–28–80 / Grantees, funding; community action agencies, program management system; republication; comments by 8–27–80

COST ACCOUNTING STANDARDS BOARD

49274 7–24–80 / Allocation of business unit general and administrative expenses to final cost objectives; comments by 8–25–80

49573 7–25–80 / Cost accounting standard; allocation of home office expenses to segments; comments by 8–25–80

DEFENSE DEPARTMENT

Office of the Secretary—

43438 6–27–80 / Policy on organizations that seek to represent or organize members of the armed forces in negotiation or collective bargaining; comments by 8–26–80

ENERGY DEPARTMENT

50355 7–29–80 / General Policy for establishing prices or charges for materials and services sold by DOE; comments by 8–28–80

49601 7–25–80 / Property management regulation, transportation and traffic management; comments by 8–25–80

Conservation and Solar Energy Office—

43976 6–30–80 / Energy conservation program for consumer products; comments by 8–29–80

Economic Regulatory Administration—

44238 6–30–80 / Mandatory petroleum price regulations; equal application rule; comments by 8–29–80

45098 7–2–80 / Review and establishment of natural gas curtailment priorities for interstate pipelines; comments by 8–29–80

Federal Energy Regulatory Commission—

49087 7–23–80 / Establishment of natural gas curtailment priorities for interstate pipelines; previous proposal by ERA; comments by 8–29–80

51219 8–1–80 / High-cost natural gas: Production enhancement procedures; comments by 8–25–80

ENVIRONMENTAL PROTECTION AGENCY

43794 6–30–80 / Approval and promulgation of State implementation plans; proposed revision of New York State Implementation Plan; comments by 8–29–80

49600 7–25–80 / N-(1-Ethylpropyl)-3,4-Dimethyl-2,6-Dinitrobenzenamine; proposed tolerances; comments by 8–25–80.

49599 7–25–80 / Ohio; approval and promulgation of implementation plans; comments by 8–25–80

43148 6–25–80 / Prior notice of citizen suit; proposed procedural regulation; comments by 8–25–80

42335 6–24–80 / Revision of New Jersey State Implementation Plan; comments by 8–25–80

39766 6–11–80 / Standards to limit emissions of volatile organic compounds (VOC) and trichloroethylene 1,1,1-trichloroethane, perchloroethylene, methylene chloride, and trichlorotrifluoroethane from new, modified, and reconstructed organic solvent cleaners (degreasers) in which solvents are used to clean (degrease) metal, plastic, fiberglass, or any other type of material; comments by 8–25–80

49110 7–23–80 / Visibility protection for Federal class I areas; guideline availability; comments by 8–25–80

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

43794 6–30–80 / Equal employment opportunity in the Federal government; complaints of handicap discrimination; comments by 8–29–80

50326 7–29–80 / Procedure for review of final decisions of the Merit Systems Protection Board involving allegations of discrimination (mixed cases); comments by 8–28–80

FEDERAL COMMUNICATIONS COMMISSION

46121 7–9–80 / American Telephone and Telegraph Co., manual containing procedures to be followed in allocating costs; comments by 8–29–80

42729 6–25–80 / Amendments to broadcast equal employment opportunity rules and FCC Form 395; comments by 8–25–80

42747 6–25–80 / FM broadcast station in Anchorage, Alaska; changes in table of assignments; reply comments by 8–27–80

42749 6–25–80 / FM broadcast station in Belfast, Me.; changes in table of assignments; reply comments by 8–27–80

42751 6–29–80 / FM broadcast station in Hanover, N.H.; changes in table of assignments; reply comments by 8–27–80

46452 7–10–80 / FM broadcast station in Jacksonville, Fla.; channel assignment; comments by 8–25–80

42752 6–25–80 / FM broadcast station in Petersburg, Ind.; changes in table of assignments; reply comments by 8–27–80

42748 6–25–80 / FM broadcast station in Vincennes, Ind.; changes in table of assignments; reply comments by 8–27–80

46455 7–10–80 / FM broadcast stations in Wichita and Winfield, Kans.; change to table of assignments; comments by 8–25–80

42727 6–25–80 / FM broadcast stations in Woodward and Alva, Okla.; changes in table of assignments; reply comments by 8–27–80

10606 2–15–80 / Revision of the Radio Control (R/C) Radio Service Rules in plain language; reply comments by 8–29–80

TRANSPORTATION DEPARTMENT

FEDERAL EMERGENCY MANAGEMENT AGENCY

42341 6-24-80 / Policy and procedures for review and approval of State and local emergency plans and preparedness for coping with offsite effects of radiological emergencies which may occur at nuclear power facilities; comments by 8-25-80

FEDERAL MARITIME COMMISSION

42721 7-25-80 / Foreign commerce tariff regulations; amendments implementing the Ocean Shipping Act of 1978; comments by 8-25-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

35576 5-27-80 / Anorectal drug products for OTC human use; establishment of a monograph; comments by 8-25-80

44326 7-1-80 / Tentative final regulation prohibiting deodorizer distillate substances from animal food or feed; comments by 8-29-80

See also 45 FR 28349, 4-29-80

Office of the Secretary—

47169 7-14-80 / Freedom of Information Act; treatment of data in contract proposals; comments by 8-25-80

Social Security Administration—

42647 6-25-80 / Federal Old-Age, Survivors, and Disability Insurance benefits; computing primary insurance amounts; comments by 8-25-80

43235 6-30-80 / Inclusion of child receiving Old-age, Survivors, or Disability Insurance benefits into an Aid to Families With Dependent Children Assistance unit; comments by 8-25-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner—

46377 7-10-80 / Increased loan-to-value ratios for dwellings with warranty plans; comments by 8-25-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

43358 6-26-80 / Proposed endangered status for *achatinella*, a genus of Hawaiian tree snails; comments by 8-25-80

49854 7-25-80 / Proposal to determine *Erogonum* gypsophilum (Gypsum Wild buckwheat) to be a threatened species and to determine its critical habitat, Carlsbed, N. Mex., 8-27-80

Surface Mining Reclamation and Enforcement Office—

49958 7-28-80 / Receipt of abandoned mine lands reclamation plan submission from State of Illinois; comments by 8-27-80

INTERSTATE COMMERCE COMMISSION

49627 7-25-80 / Chicago, Ill., commercial zone; comments by 8-25-80

LIBRARY OF CONGRESS

Copyright Office—

50823 7-31-80 / Unauthorized use of certain works transmitted "live" and simultaneously being fixed in tangible form; comments by 8-29-80

PERSONNEL MANAGEMENT OFFICE

49577 7-25-80 / Pay administration features of the Merit Pay System; implementation; comments by 8-25-80

SECURITIES AND EXCHANGE COMMISSION

49957 7-28-80 / Statement of beneficial ownership of securities of registered holding companies and their subsidiaries; comments by 8-25-80

42642 6-25-80 / Unavailability of exemption for limited offers and sales of securities of certain issuers; comments by 8-30-80

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration—

35405 5-27-80 / Lamps, Reflective Devices and Associated Equipment; Federal Motor Vehicle Safety Standards; comments by 8-25-80

TREASURY DEPARTMENT

Customs Service—

49591 7-25-80 / Proposed change in the Customs regulations pertaining to the issuance of Administrative rulings concerning the tariff classification of merchandise; comments by 8-25-80

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—

51629 8-4-80 / National Forest System Advisory Committee, Ontario, Calif. (open), 8-21 through 8-23-80

47890 7-17-80 / Tonto National Forest Grazing Advisory Board, Phoenix, Ariz. (open), 8-22-80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

51318 8-1-80 / Design Arts (Design Exploration/Research), Washington, D.C. (closed), 8-18 and 8-19-80

49200 7-23-80 / Humanities Panel, Washington, D.C. (closed), 8-18 and 8-22-80

51676 8-4-80 / Humanities Panel, Washington, D.C. (closed), 8-19 through 8-22-80

50492 7-29-80 / Opera-Musical Theatre Panel, Washington, D.C. (partially open), 8-18 and 8-19-80

CIVIL RIGHTS COMMISSION

49966 7-28-80 / Alabama Advisory Committee, Birmingham, Alabama (open), 8-22-80

48680 7-21-80 / Arizona Advisory Committee, Phoenix, Ariz. (open), 8-23-80

50617 7-30-80 / Hawaii Advisory Committee Honolulu, Hawaii (open), 8-23-80

50617 7-30-80 / Minnesota Advisory Committee, Duluth, Minnesota (open), 8-22-80

50617 7-30-80 / South Carolina Advisory Committee, Columbia, South Carolina (open) 8-18-80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

48179 7-18-80 / Gulf of Mexico Fishery Management Council's Stone Crab Subpanel, Tampa, Fla. (open), 8-20-80

[Corrected at 45 FR 51259, 8-1-80]

49120 7-23-80 / Inter-Council/National Marine Fisheries Service representatives, Philadelphia, Pa. (open), 8-19-80

49312 7-10-80 / Pacific Fishery Management Council, Scientific and Statistical Committee, and Salmon Subpanel, Seattle, Wash. (partially open), 8-19 through 8-21-80

[*See also* 45 FR 52438]

National Technical Information Administration—

49631 7-25-80 / Frequency Management Advisory Council, Washington, D.C. (open), 8-22-80

DEFENSE DEPARTMENT

Air Force Department—

43458 6-27-80 / USAF Scientific Advisory Board, Electronic Systems Division Advisory Group, Hanscom Air Force Base, Mass. (closed), 8-21 and 8-22-80

[Originally published at 45 FR 27807, 4-24-80]

Army Department—

50379 7-29-80 / Army Sciences Board, Washington, D.C. and Arlington, Va. (open), 8-18 and 8-19-80

Navy Department—

46847 7-11-80 / Chief of Naval Operations Executive Panel Advisory Committee, Alexandria, Va. (closed), 8-19 and 8-20-80

Office of the Secretary—

42003 6-23-80 / Wage Committee, Washington, D.C. (closed), 8-19-80

EDUCATION DEPARTMENT

52194 8-6-80 / National Advisory Council on Adult Education, Washington, D.C. (open), 8-21 and 8-22-80

ENERGY DEPARTMENT

51262 8-1-80 / Consumer Affairs Advisory Committee and Subcommittees, Washington, D.C. (open), 8-18 and 8-19-80

Economic Regulatory Administration—

51892 8-5-80 / Gasoline Marketing Advisory Committee, Los Angeles, Calif. (open), 8-21 and 8-22-80

[Originally published at 45 FR 49972, 7-28-80. *See also* 45 FR 52861, 8-6-80]

Energy Research Office—

51893 8-5-80 / Energy Research Advisory Board, La Jolla, Calif. (open), 8-18 through 8-22-80

[Originally published at 45 FR 50634, 7-30-80]

Western Area Power Administration—

50929 7-31-80 / Eastern Division, Pick-Sloan Missouri Basin Program; Post-1985 marketing plan; Billings, Mont. (open), 8-22-80

ENVIRONMENTAL PROTECTION AGENCY

51644 8-4-80 / Science Advisory Board Clean Air Scientific Advisory Committee, Arlington, Va. (open), 8-20 thru 8-22-80

FEDERAL COMMUNICATIONS COMMISSION

52257 8-6-80 / Radio Technical Commission for Marine Services, Washington, D.C. (open), 8-21-80

FEDERAL PAY ADVISORY COMMITTEE

46209 7-9-80 / Federal Pay Adjustment, Washington, D.C. (open), 8-18-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Center for Disease Control—

51921 8-5-80 / Love Canal Epidemiology Work Group, Atlanta, Ga., 8-20-80

[Rescheduled at 45 FR 52931, 8-8-80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

47471 7-15-80 / Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, Silver Spring, Md. (open and closed), 8-22-80

49681 7-25-80 / General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, Silver Spring, Md. (partially open), 8-22-80

Health Care Financing Administration—

50373 7-29-80 / Proposed Rule on conditions of participation for skilled nursing and intermediate care facilities, (open), Atlanta, Ga., 8-19-80; Dallas, Tex., 8-19 and 8-20-80

Office of the Secretary—

51656 8-4-80 / National Advisory Committee and National Task Force of the White House Conference on Families, Washington, D.C. (open), 8-19 through 8-21-80

INTERIOR DEPARTMENT

Land Management Bureau—

47933 7-17-80 / Butte District Multiple Use Advisory Council, Butte, Mont. (open), 8-19 and 8-20-80

46491 7-10-80 / Miles City District Advisory Council, Miles City, Mont. (open), 8-20-80

48950 7-22-80 / Prineville District Grazing Advisory Board, Prineville, Oregon (open), 8-19-80

47936 7-17-80 / Regional Coal Team for the Fort Union Coal Project; Bismarck, N. Dak. (open), 8-20-80

National Park Service—

45702 7-7-80 / Appalachian National Scenic Trail Advisory Council, Mountain Lake, Va. (open), 8-22 and 8-23-80

49689 7-25-80 / San Antonio Missions Advisory Commission, San Antonio, Tex. (open), 8-19-80

50665 7-30-80 / Santa Monica Mountains National Recreation Area Advisory Commission, Los Angeles, Calif. (open), 8-19-80

INTERNATIONAL CONVENTION ADVISORY COMMISSION

51928 8-5-80 / Meeting, Washington, D.C. (open), 8-20-80

JUSTICE DEPARTMENT

Justice Assistance Research and Statistics Office—

52286 8-6-80 / Juvenile Justice and Delinquency Prevention National Advisory Committee, Portland, Oreg. (open), 8-20 through 8-23-80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

51969 8-5-80 / NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC), Subcommittee on the Numerical Aerodynamic Simulator (NAS), Moffet Field, Calif. (open), 8-21 and 8-22-80

NATIONAL SCIENCE FOUNDATION

50687 7-30-80 / Policy Research and Analysis and Science Resources Studies Advisory Committee, Subcommittee on Output Indicators, Washington, D.C. (open), 8-19-80

NUCLEAR REGULATORY COMMISSION

42904 6-25-80 / Medical Uses of Isotopes Advisory Committee; Bethesda, Md. (open) 8-18-80

51678 8-4-80 / Reactor Safeguards Advisory Committee Subcommittee on Fluid Dynamics, Inglewood, Calif. (partially open), 8-19 and 8-20-80

[*See also* 44 FR 49723, July 25, 1980]

52292 8-6-80 / Reactor Safeguards Advisory Committee, Reactor Fuel Subcommittee, Idaho Falls, Idaho (open), 8-21-80

OCEANS AND ATMOSPHERE NATIONAL ADVISORY COMMITTEE

49409 7-24-80 / Independent Area Task Force on Ocean Operations and Services, Boulder, Colo. (open), 8-20 through 8-22-80

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

51710 8-4-80 / Meeting, Washington, D.C. (closed unless otherwise stated), 8-20-80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

43202 6-26-80 / Rotorcraft Regulatory Review, Washington, D.C. (open), 8-18 through 8-20-80

TREASURY DEPARTMENT

Office of the Secretary—

43516 6-27-80 / U.S.-British Virgin Islands Tax Treaty Issues, Washington, D.C. (open), 8-19-80

Next Week's Public Hearings

DEFENSE DEPARTMENT

Navy Department—

41691 6-20-80 / Naval Discharge Review Board, 8-18 through 8-29-80; Atlanta, Ga.; Tampa, Fla.; Chicago, Ill.

[*See also* 45 FR 28793, 4-30-80]

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

46075 7-9-80 / Energy conservation program for consumer products, Washington, D.C., 8-11 through 8-22-80

[Originally published at 45 FR 44086, 6-30-80]

Economic Regulatory Administration—

48568 7-18-80 / Gas utility rate design proposals, San Francisco, Calif., 8-20-80

46811 7-11-80 / Mandatory petroleum price regulations; equal application rule, San Francisco, Calif., 8-19-80

[Originally published at 45 FR 44238, 6-30-80]

V 45 A G 13 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

49298 7-24-80 / National emission standards for hazardous air pollutants; emissions from malec anhydride plants; benzene, Washington, D.C., 8-21-80

INTERNATIONAL TRADE COMMISSION

50685 7-30-80 / Certain adjustable window shades and components thereof, Washington, D.C., 8-18-80

WATER RESOURCES COUNCIL

48800 7-21-80 / State Water Management Planning; program guidelines, San Francisco, California, 8-22-80

List of Public Laws

Last Listing August 7, 1980

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 1198 / Pub. L. 96-324 To clarify the authority to establish lines of demarcation dividing the high seas and inland waters. (Aug. 8, 1980; 94 Stat. 1020) Price $1.

H.R. 6613 / Pub. L. 96-325 "Maritime Labor Agreements Act of 1980". (Aug. 8, 1980; 94 Stat. 1021) Price $1.

H.R. 827 / Pub. L. 96-326 To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service. (Aug. 8, 1980; 94 Stat. 1023) Price $1.

S. 1916 / Pub. L. 96-327 To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China. (Aug. 8, 1980; 94 Stat. 1026) Price $1.

H.R. 5748 / Pub. L. 96-328 To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard. (Aug. 8, 1980; 94 Stat. 1027) Price $1.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

Rules Going Into Effect

51556 8-4-80 / HHS/PHS—Special project grants for graduate programs in public health, effective 8-4-80

Deadlines for Comments on Proposed Rules

52136 8-5-80 / ED/Secretary—Instructional media for the handicapped; comments by 10-6-80

Applications Deadlines

51890 8-5-80 / ED—Handicapped Children's Early Education Program; applications by 10-15-80

51891 8-5-80 / ED—Student Research; applications by 10-10-80

52295 8-6-80 / HHS—Resettling Refugees; availability of funds; apply by 9-8-80

52287 8-6-80 / NRC—Financial Assistance to Enhance Technology Advancement of Nuclear Energy Safety; applications will be accepted throughout fiscal year 1981

Meetings

52257 8-6-80 / Fine Arts Commission, Washington, D.C. (open), 9-3-80

52298 8-6-80 / HHS/PHS—National Council on Health Care Technology, Washington, D.C. (closed), 8-14 and 8-15-80

51676 8-4-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 8-19 through 8-22-80

51676 8-4-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 8-25 through 8-29-80

51676 8-4-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 9-4 and 9-6-80

51676 8-4-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 9-10-80

51677 8-4-80 / NFAH—Music Panel (Jazz Section), Washington, D.C. (closed), 8-25-80

51677 8-4-80 / NFAH—Music Panel (New Music performance section), Washington, D.C. (closed), 9-2 through 9-5-80

52516 8-7-80 / NFAH—National Council on the Arts, Design Arts (Design Communication), Washington, D.C. (closed), 8-25 and 8-26-80

52517 8-7-80 / NFAH—National Council on the Arts, Expansion Arts Panel, Washington, D.C. (open), 8-27 through 8-29-80

Other Items of Interest

52195 8-6-80 / DOE—Alternative fuels production; Financial Assistance; effective 7-29-80

52130 8-5-80 / ED/Secretary—Instructional media for the handicapped

51638 8-4-80 / EPA—Grants for construction of treatment works; procedures for application of the Buy American Provision of the Clean Water Act

51635 8-4-80 / EPA—Issuance of Memorandum on Management Reforms to Reduce the Time Interval Between Step 3 Grants Award and Initiation of Construction

52947 8-8-80 / Justice/LEAA—Continuation policy for all grants awarded pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974

52287 8-6-80 / LSC-Application under consideration; Anishinabe Legal Services Inc,. Cass Lake, Minn.

52287 8-6-80/LSC—Application under consideration; Neighborhood Legal Services, Hartford, Conn.

V 45 AG 13 80 UMI

V
4
5
A
G

The authentic text behind the news . . .

The Weekly Compilation of PRESIDENTIAL DOCUMENTS

Administration of Jimmy Carter

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, personnel appointments and nominations, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published quarterly, semiannually, and annually. Other features include lists of acts approved by the President and of nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

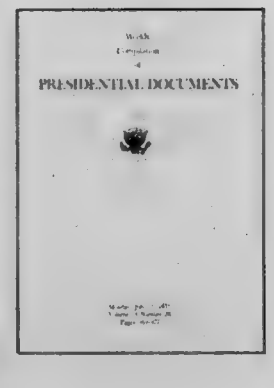

SUBSCRIPTION ORDER FORM

ENTER MY SUBSCRIPTION FOR 1 YEAR TO: WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (PD)

@ $15.00 Domestic; @ $23.50 Foreign.
@ $15.00 additional if Domestic first-class mailing is desired.

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY | STATE | ZIP CODE

PLEASE PRINT OR TYPE

(or) COUNTRY

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No. .....

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

1
3
8
0
UMI

8-14-80
Vol. 45 No. 159
Pages 54009-54298

federal register

Thursday
August 14, 1980

Highlights

Seminar on Principles of Regulations—Writing
For details on seminar in Washington, D.C., see announcement in the **Reader Aids** section at the end of this issue.

54264 **Energy** DOE proposes loan guarantee rules for alcohol fuels, biomass energy and municipal waste energy projects; comments by 9-12-80; hearings 9-5, 9-8, and 9-9-80 (Part VI of this issue)

54090 **Gasoline** EPA denies petition to repeal lead phasedown regulations

54194 **Grant Programs—Juvenile Delinquency Prevention** Justice/LEAA proposes policy and criteria for compliance with deinstitutionalization requirement under Formula Grants Program; comments by 10-14-80 (Part II of this issue)

54120 **Grant Programs—Minority Business** Commerce/MBDA solicits minority applicants for funds to establish and operate businesses; apply by 9-16-80

54198 **Housing** HUD/FHC amends previous participation review and clearance procedures for applications of project sponsors, owners, prime contractors, turnkey developers, management agents, packagers and consultants; effective 1-1-81 (Part III of this issue)

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

54210 **Housing** HUD/FHC publishes general prototype housing costs for one- to four-family dwelling units, effective 8–14–80 (Part V of this issue)

54204 **Housing** HUD/FHC establishes policy on transfer of HUD-insured and owned multifamily housing projects from nonprofit to profit-motivated ownership; effective 9–15–80 (Part IV of this issue)

54087 **Low Income Public Housing and Indian Housing** HUD transmits proposed rule to Congress on maximum limit on total development costs

54115 **Loan Programs—Business and Industry** USDA/FmHA announces 11½ percent insured loan interest rate

54028 **Business and Industry** Commerce establishes Cooperative Generic Technology Program procedures; effective 8–14–80

54173 **Revenue Sharing** Treasury/RSO announces 9–30–80 final date for adjustment demands for Entitlement Period Ten (10–1–78 through 9–30–79)

54036 **Nondiscrimination** Justice/OJARS amends provisions prohibiting discrimination by recipients of its financial assistance programs

54135 **Water Pollution Control** EPA announces availability of Wastewater Treatment Manual (Treatability Manual); comments by 4–1–81

54037 **Maritime Carriers** DOT/CG requires certain oil and hazardous materials carrying vessels to install electronic relative motion analyzers; effective 7–1–82; comments by 9–29–80

54174 **Sunshine Act Meetings**

Separate Parts of This Issue

54194 **Part II, Justice/LEAA**
54198 **Part III, HUD/FHC**
54204 **Part IV, HUD/FHC**
54210 **Part V, HUD/FHC**
54264 **Part VI, DOE**
54285 **Part VII, USDA/FGIS**
54288 **Part VIII, OMB**

Contents

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

Agency for International Development
NOTICES
54149 Organization and functions

Agricultural Marketing Service
RULES
54063 Oranges (Valencia) grown in Ariz and Calif.
54064 Prunes (dried) produced in Calif.
PROPOSED RULES
Milk marketing orders:
54066 New England; hearing

Agriculture Department
See Agricultural Marketing Service; Farmers Home Administration; Federal Grain Inspection Service; Forest Service; Soil Conservation Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
54142 September

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
54087 Distilled Spirits Tax Revision Act of 1979; temporary rules; extension of time

Army Department
See also Engineers Corps.
NOTICES
54122 Senior Executive Service Performance Review Boards; membership

Coast Guard
RULES
Boating safety:
54042 Equipment requirements; hand red flares as visual distress signals; correction
Navigation safety regulations:
54037 Electronic relative motion analyzer requirement for self-propelled vessels of 10,000 gross tons or more
PROPOSED RULES
Cargo vessels:
54095 Great Lakes bulk dry vessels; damage stability standards; advance notice
NOTICES
Meetings:
54166 Chemical Transportation Advisory Committee

Commerce Department
See also International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.
RULES
54028 Cooperative generic techology program
NOTICES
Procurement:
54121 Commercial or industrial activities; cost comparison study of government versus contract operations; correction

Commodity Futures Trading Commission
RULES
Commodity Exchange Act regulations:
54032 Associated person registration requirement; "Supervision" scope; interpretation

Conservation and Solar Energy Office
PROPOSED RULES
54264 Alcohol fuels, biomass energy and municipal waste energy projects; loan guarantees

Customs Service
PROPOSED RULES
Administrative rulings:
54085 Ornamented wearing apparel, etc.; classification
NOTICES
Trade name recordation application:
54173 Donkenny, Inc.
54173 R.B.K. Importers, Inc.

Defense Department
See also Army Department; Engineers Corps.
NOTICES
Meetings:
54124 Defense Systems Management College Board of Visitors
54124 Women in Services Advisory Committee

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
54155 Cordova Chemical Co.
54155 Diosynth Inc.; correction
54156 Merck, & Co., Inc.
54156 Penick Corp.
54156 Sterling Drug Inc.

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
54069 Equal application rule; sales of gasoline; hearing cancellation
NOTICES
Procurement:
54124 Contract award; proposed

Energy Department
See Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
54122 Brazos Island Harbor Channel, Tex.
54123 Palo Blanco and Cibolo Creeks, Tex.; flood control study
54123 Rippowam River Basin Study, Conn. and N.Y.

Environmental Protection Agency
RULES
54072, VOR Federal airways (4 documents)
54074

54141 J. J. Gavin & Co., Inc.

Human Development Services Office
NOTICES

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
54042 West Virginia
Air quality planning purposes; designation of areas:
54052 West Virginia
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
54053 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate
Pesticides; tolerances in food:
54035 Cyano(3-phenoxyhenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate
PROPOSED RULES
Air programs; fuel and fuel additives:
54090 Gasoline refiners; lead phase-down regulations; repeal petition denied
Air quality implementation plans; approval and promulgation; various States, etc.:
54088, 54089 West Virginia (2 documents)
Pesticide programs:
54094 Biorational pesticides; data requirements; registration guidelines for U.S. and chemistry guidelines; meeting
NOTICES
Air pollution control, new motor vehicles and engines:
54126, 54130, 54132 California (3 documents)
Air quality implementation plans; approval and promulgation:
54139 Prevention of significant air quality deterioration (PSD); final determination
Water pollution control:
54135 National pollutant discharge elimination system; wastewater treatment manual (treatability manual); availability

Farmers Home Administration
NOTICES
54115 Business and industrial loans, insured; interest rates

Federal Aviation Administration
RULES
Airworthiness directives:
54013 Aerosonic Corp.
54012, 54014 Bell (2 documents)
54014 Dowty Rotol
54013 Sikorsky
54028 Restricted areas
54015 Terminal control areas
54027 Transition areas (2 documents)
54028 Transition areas; correction
PROPOSED RULES
Airworthiness directives:
54071 Bell
54072 Boeing
54073 Control zones
54081 Jet routes
54081 Jet routes; correction
54076–54080 Transition areas; (7 documents)
54072, 54074, 54075, 54080 VOR Federal airways (4 documents)

Federal Deposit Insurance Corporation
NOTICES
54174 Meetings; Sunshine Act (2 documents)

Federal Election Commission
NOTICES
54174 Meetings Sunshine Act

Federal Energy Regulatory Commission
RULES
Public Utilities Regulatory Policy Act of 1978:
54033 Cost of service information collection; procedures and reporting requirements
PROPOSED RULES
54082 Natural gas pipelines; annual gas supply report (Revised Form No. 15)
Natural Gas Policy Act of 1978:
54085 High-cost natural gas produced in deep water; qualifications and establishment of incentive price; extension of time

Federal Grain Inspection Service
NOTICES
54115 Foreign commerce grain businesses; registration procedures, administrative modification
Grain standards; inspection points:
54285 Michigan

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
54166 Collier County, Fla.; intent to prepare
54167 Douglas County, Oreg.
54167 Multnomah and Clackamas Counties, Oreg.

Federal Home Loan Bank Board
NOTICES
54139 Part-time career employment for Federal employees; implementation; inquiry

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
54198 Housing programs; previous participation review and clearance procedures
Mortgage and loan insurance programs:
54204 Multifamily housing projects; transfer from nonprofit to profit-motivated ownership
NOTICES
Authority delegations:
54143 Regional Administrators et al.; authority to waive Section 8 and traditional public housing conflict of interest provisions
54210 Prototype housing costs for one- to-four family dwelling units; revision

Federal Maritime Commission
NOTICES
54140 Agreements filed, etc.
Freight forwarder licenses:
54141 Aviation Transport Systems, Inc.
54141 George A. Stattel, Inc.
54141 James Loudon & Co., Inc.

54141 J. J. Gavin & Co., Inc.

Federal Reserve System
RULES
Authority delegations:
54011 Consumer and Community Affairs Division Director; preemption determinations and granting of exemptions
54009 Credit extension by Federal Reserve Banks (Regulation A)
PROPOSED RULES
Electronic fund transfers (Regulation E):
54070 Preemption of State law; Michigan; official staff interpretation

Fish and Wildlife Service
RULES
Hunting:
54058 Bombay Hook National Wildlife Refuge, Del.
54057 Great Dismal Swamp National Wildlife Refuge, Va.
54060 Mingo National Wildlife Refuge, Mo., et al.
54059 Prime Hook National Wildlife Refuge, Del.
Marine mammals:
54056 Alaska native exemption provision; transfers of mammal parts for scientific research purposes
PROPOSED RULES
Endangered and threatened species:
54112 Illinois mud turtle; withdrawn
54111 Leopard; extension of time
NOTICES
54144 Endangered and threatened species permits; applications

Forest Service
NOTICES
Meetings:
54117 Umatilla National Forest Grazing Advisory Board

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
54144 Kerr-McGee Corp.
54144 Pennzoil Co.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Human Development Services Office.
NOTICES
Meetings:
54142 Physical Fitness and Sports, President's Council

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
PROPOSED RULES
Low income housing:
54087 Public and Indian housing; maximum limits on development costs; transmittal to Congress
NOTICES
Authority delegations:
54143 Assistant Secretary for Community Planning and Development; redelegations with respect to Section 312 rehabilitation loan program

Human Development Services Office
NOTICES
54142 Developmental disabilities services and facilities construction; reallotment of funds; American Samoa et al.; correction

Interior Department
See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; Surface Mining Office; Water and Power Resources Service.
NOTICES
Senior Executive Service:
54147 Bonus award schedule

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
RULES
Countervailing duty petitions and preliminary determinations:
54035 Dextrines and soluble or chemically treated starches derived from potato starch from the European Community; revoked
Export licensing:
54031 Computer-cosignee destination; technical amendments
NOTICES
Export privileges, actions affecting:
54118 Excel Industries et al.

International Trade Commission
PROPOSED RULES
54086 Investigations to review outstanding antidumping, countervailing duty determinations, and suspension agreements; conduct procedures

Interstate Commerce Commission
PROPOSED RULES
Rail Carriers:
54111 Railroad contract rates; freight forwarder; general policy statement

Justice Assistance, Research, and Statistics Office
RULES
54036 Nondiscrimination in federally assisted programs

Justice Department
See also Drug Enforcement Administration; Justice Assistance, Research and Statistics Office; Law Enforcement Assistance Administration.
NOTICES
Pollution control; consent judgments:
54155 International Minerals & Chemicals Corp. et al.

Land Management Bureau
NOTICES
Authority delegations:
54147 Utah District Managers; sale of material other than forest products
Environmental statements; availability, etc.:
54145 Lakeview District, grazing management program Oreg.
Exploration permits:
54146 Eglin Air Force Base, Fla.; geophysical
Management framework plans:
54146 Powder River Resource Area; coal mining

Meetings:
54146 Las Cruces District Advisory Council
54145 Roswell District Advisory Council
54146 Socorro District Advisory Council
Recreation management restrictions, etc.:
54145 Green River, Desolation and Gray Canyons, river management plan, Utah
Wilderness areas; characteristics, inventories, etc.:
54147 Wyoming; amendment

Law Enforcement Assistance Administration
NOTICES
54194 Formula grants for juvenile justice; deinsitutionalization requirements; proposed policy statement; inquiry

Management and Budget Office
NOTICES
54288 Budget rescissions and deferrals

Minority Business Development Agency
NOTICES
54120 Financial assistance application announcements

National Highway Traffic Safety Administration
NOTICES
Consumer information:
54167 Tire quality grading, uniform; change in monitoring tire size for treadwear testing
Motor vehicle safety standards; exemption petitions, etc.:
54168 American Honda Motor Co. Inc.; replace fusebox on motorcycle; petition denied

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
54113 Salmon, commercial and recreational, off Wash., Oreg., and Calif.; preliminary projections
NOTICES
54120 Senior Executive Service Performance Review Board; membership

National Transportation Safety Board
RULES
54055 Railroad accidents; notification requirements
NOTICES
54156 Accident reports, safety recommendations and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
54160 Florida Power & Light Co. et al.; republication

Postal Service
NOTICES
54160 Political committee mailings; adjustment of bulk third-class rates

Research and Special Programs Administration, Transportation Department
PROPOSED RULES
Hazardous materials:
54097 Aluminum cylinders (DOT 3AL seamless); specifications and usage requirements
NOTICES
Hazardous materials:
54168 Applications; exemptions, renewals, etc.
Meetings:
54172 International Atomic Energy Agency regulations; proposed revisions

Revenue Sharing Office
NOTICES
Fiscal assistance to State and local Governments:
54173 Entitlement funds; computation, adjustment, etc.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
54161 Conoco Inc, et al.
54161 Intercapital Income Securities Inc. et al.
54162 Metropolitan Fund, Inc.
54163 Municipal Securities Rulemaking Board
54164 Trinwall Cash Reserve, Inc.
54164 Western Massachusetts Electric Co.
54165 Zenith Growth Fund, Inc.

Small Business Administration
NOTICES
Applications, etc.:
54165 Myriad Capital, Inc.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
54117 Advent Christian Conference Critical Area Treatment RC&D Measure, W.Va.
54115 Betsy Jeff Penn 4–H Center Critical Area Treatment RC&D Measure, N.C.
54117 Greenfield Lake Recreational Development RC&D Measure, Iowa
54117 Jebens Park Critical Area Treatment RC&D Measure, Wyo.
54116 Placervile Airport RC&D Measure, Calif., et al.
54117 Putnam County Vocational and Technical Center Critical Area Treatment RC&D Measure, W.Va.
54116 Washington County Union School Flood Prevention RC&D Measure, N.C.
Watershed projects; deauthorization of funds:
54116 Black Creek-Mason Watershed, Mich.

State Department
NOTICES
Authority delegations:
54166 Security Assistance, Science and Technology Under Secretary, et al.; Foreign Assistance Act of 1961, etc.; correction

Surface Mining Office
NOTICES
Coal mining and reclamation plans:
54147 Great National Corp.
54148 North American Coal Co.

Textile Agreements Implementation Committee
NOTICES
Man-made textiles:
54121 Taiwan

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration Transportation Department; Urban Mass Transportation Administration.
RULES
Organization, functions, and authority delegations:
54054 Federal Aviation Administrator; Aviation Safety and Noise Abatement Act of 1979; final rule with request for comments

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Revenue Sharing Office.

Urban Mass Transportation Administration
NOTICES
54173 Light rail vehicles, specifications; extension of comment period

Water and Power Resources Service
NOTICES
Meetings:
54149 Colorado River Basin Salinity Control Advisory Council

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
54117 Umatila National Forest Grazing Advisory Board, 9–23–80

DEFENSE DEPARTMENT
Office of the Secretary—
54124 Defense Systems Management College, Board of Visitors, 9–10–80
54124 Women in the Services, Defense Advisory Committee, 9–8 and 9–9–80

ENVIRONMENTAL PROTECTION AGENCY
54094 FIFRA Scientific Advisory Panel, 9–4 and 9–5–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
54142 Advisory committees, September meetings
Office of Assistant Secretary for Health—
54142 President's Council on Physical Fitness and Sports, 9–18–80

INTERIOR DEPARTMENT
Land Management Bureau—
54145 Lakeview (Oregon) grazing management plan, scoping meeting, 9–3–80
54146 Las Cruces District Advisory Council, 9–23–80
54145 Roswell District Advisory Council, 9–16–80
Water and Power Resources Service—
54149 Colorado River Basin Salinity Control Advisory Council, 9–12–80

TRANSPORTATION DEPARTMENT
Coast Guard—
54166 Chemical Transportation Advisory Committee, Liquified Gas Vessels Subcommittee, 9–17–80
Research and Special Programs Administration—
54172 Proposed revisions to the International Energy Agency regulations, 8–18–80

CANCELLED HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
54069 Mandatory petroleum pricing regulations; equal application rule for sales of gasoline; 8–15–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

BANKING
Electronic fund transfers, preemption of State law; Federal Reserve System; Proposed Rules

CFR PARTS AFFECTED IN THIS ISSUE

Rules and Regulations

Federal Register
Vol. 45, No. 159

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
908.....54063
993.....54064
Proposed Rules:
1001.....54066
10 CFR
Proposed Rules:
212.....54069
799.....54264
12 CFR
201.....54009
265.....54011
Proposed Rules:
205.....54070
14 CFR
39 (5 documents).....54012–54014
71 (4 documents).....54015, 54027, 54028
73.....54028
Proposed Rules:
39 (2 documents).....54071, 54072
71 (12 documents).....54072–54080
75 (2 documents).....54081
15 CFR
17a.....54028
373.....54031
17 CFR
Ch. I.....54032
18 CFR
290.....54033
Proposed Rules:
260.....54082
271.....54085
273.....54085
274.....54085
19 CFR
355.....54035
Proposed Rules:
177.....54085
207.....54086
21 CFR
193.....54035
24 CFR
200.....54198
265.....54204
Proposed Rules:
804.....54087
805.....54087
841.....54087
27 CFR
Proposed Rules:
5.....54087
13.....54087
19.....54087
170.....54087
173.....54087
186.....54087
194.....54087
195.....54087
196.....54087
197.....54087
200.....54087
201.....54087
211.....54087
212.....54087
213.....54087
231.....54087
240.....54087
250.....54087
251.....54087
252.....54087
28 CFR
42.....54036
33 CFR
164.....54037
175.....54042
40 CFR
52.....54042
81.....54052
180.....54053
Proposed Rules:
52 (2 documents).....54088, 54089
80.....54090
162.....54094
46 CFR
Proposed Rules:
93.....54095
49 CFR
1.....54054
840.....54055
Proposed Rules:
171.....54097
173.....54097
178.....54097
1039.....54111
50 CFR
18.....54056
32 (4 documents).....54057–54060
Proposed Rules:
17 (2 documents).....54111, 54112
661.....54113

Rules and Regulations

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R-0307]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221) provides that a depository institution that maintains transaction accounts or nonpersonal time deposits is entitled to the same discount and borrowing privileges as banks that are members of the Federal Reserve System. In order to implement this provision, the Board has revised its rules relating to the provision of Federal Reserve credit presently contained in Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR Part 201).

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Paul S. Pilecki, Attorney (202/452–3281), or John Spitzer, Senior Economist (202/452–2587), Board of Governors of the Federal Reserve System, Washington, D.C.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221) provides that any depository institution that holds transaction accounts or nonpersonal time deposits subject to Federal Reserve requirements shall be entitled to the same discount and borrowing privileges as member banks. On June 10, 1980, the board solicited public comments on a proposed revision of its rules regarding access to Federal Reserve credit currently provided for in Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR Part 201) (45 FR 40130). After consideration of the comments received, the Board has determined to adopt the regulation substantially in the form proposed on June 10, 1980. Certain technical amendments have been made to clarify the regulation further.

The regulation provides that Federal Reserve credit may be offered under two basic programs—adjustment and extended. Nonmember depository institutions that are now eligible to borrow from the Federal Reserve, like member banks, generally, are expected to rely on other reasonable available sources of funds before turning to the discount window for assistance. Consequently, institutions that have access to credit programs provided by Federal Home Loan Banks, credit union centrals, the Central Liquidity Facility of the National Credit Union Administration or other specialized industry lenders are expected to seek assistance from these sources prior to requesting credit from the Federal Reserve. A number of comments were received concerning this requirement. While some supported the concept, others indicated that they did not believe it appropriate to require a depository institution to seek funds from other available sources prior to turning to the Federal Reserve for assistance. The Board believes that continuation of this requirement, which applies to member banks, is appropriate. The credit facilities of the Federal Reserve are not intended to supplant other reasonable available sources of funds, and use of Federal Reserve credit facilities is regarded as appropriate only when these other alternatives have been fully used. In instances where depository institutions require funds on short notice to cover immediate cash or reserve needs and are unable to gain timely access to their special industry lenders, the Federal Reserve is prepared to advance funds through its discount window. On these occasions the Federal Reserve will consult and coordinate with the special industry lender as soon as possible. Any such advances made will be viewed as strictly temporary and will be expected to be repaid when access to usual sources of funds is secured, usually the next business day.

The primary form of Federal Reserve lending will continue to be short-term *adjustment* credit. Such credit is available on a short-term basis to assist borrowers in meeting temporary requirements for funds, or to cushion more persistent fund outflows pending an orderly adjustment of the borrower's assets and liabilities. Borrowing is not permitted to take advantage of a favorable spread between the discount rate and other market rates, to add to investment portfolios, or to finance a program of loan expansion.

Interest on Federal Reserve adjustment credit will generally be at the basic discount rate. However, the Federal Reserve retains the option to impose a surcharge in addition to the baic rate. While the discount rate surcharge introduced for a brief period earlier this year applied only to large institutions, any surcharge that may be imposed may apply to all institutions that are eligible to borrow depending upon the length and frequency of the borrowing.

In addition to the short-term adjustment credit program, under the regulation adopted by the Board *extended* credit will be available under certain limited conditions. Regular arrangements for providing seasonal credit to smaller institutions that lack ready access to national money markets or to special industry lenders such as the Federal Home Loan Banks, credit union centrals, or the Central Liquidity Facility will remain in effect. In determining a depository institution's eligibility for seasonal credit, Federal Reserve Bank discount officers will give weight not only to its historical record of seasonally adjusted loan and deposit performance, but will also take into account evidence with regard to changing patterns of recent and prospective needs for funds and liquidity conditions at the institution. The special program for seasonal credit adopted as a temporary measure on April 17, 1980, will be terminated on September 1, 1980, when the new regulation becomes effective.

Extended credit will also be available to meet the needs of a depository institution experiencing difficulties arising from exceptional circumstances or practices involving only that institution, where the provision of such temporary assistance is in the public interest and the needed funds are not available from other sources. In addition, when conditions warrant, extended credit will be available to accommodate the needs of institutions, including those with longer term asset

portfolios, that may be experiencing

PART 201—EXTENSIONS OF CREDIT

important bearing on overall monetary

be imposed above the basic rate of interest normally charged by Reserve

the Board of Governors, may be applied to other extended credit.

and (2) shall consider such information in determining whether to extend credit.

portfolios, that may be experiencing difficulties adjusting to changing money market conditions. These advances may be extended over a longer period than contemplated in the use of adjustment credit, particularly at times of deposit disintermediation. In cases where there may be serious liquidity strains affecting a broad range of depository institutions, Federal Reserve Banks will be prepared to address the problems of particular institutions being affected by the general situation. Before extending credit, however, the Reserve Bank will be expected to consult with other official agencies responsible for supervising the institution affected to determine, among other things, why funds are not available from other sources. Loan agreements will be drawn to establish the conditions under which credit is being advanced and to assure that the borrower adopts an appropriate plan to restore adequate liquidity and to repay the loan in a reasonable period of time.

Advances made under the seasonal credit program will be at the basic discount rate, but, as with adjustment credit, the Federal Reserve reserves the option to impose a surcharge in addition to the basic rate. Depending on market conditions, a special rate above the basic discount rate may be applied to other extended credit.

Section 201.5(d) of Regulation A currently provides that obligations of customers tendered for discount or as collateral for an advance generally may not exceed the limitations of section 5200 of the Revised Statutes (12 U.S.C. 84) applicable to the lending limitations for one obligor. While this restriction is required by law (12 U.S.C. 345) to apply to discounted paper, there is no statutory requirement that it apply to collateral for advances, which is the principal way in which Federal Reserve credit is extended. Accordingly, the Board will no longer require that collateral tendered as security for advances comply with the lending limitations of 12 U.S.C. 84. However, Reserve Banks may, for prudential purposes, impose limitations on the maximum amount of obligations of one customer that may be tendered as collateral for advances.

Pursuant to authority under sections 10(a), 10(b), 13, 13a, and 19 of the Federal Reserve Act (12 U.S.C. §§ 347a, 347b, 343–347, 347c, 347d, 348–352, 374, 374a, and 461), as amended by the Monetary Control Act of 1980 (Title I, Pub. L. 96–221; 94 Stat. 132), effective September 1, 1980, the Board amends Regulation A (12 CFR Part 201) to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Sec.
201.1 Authority, scope and purpose.
201.2 Definitions.
201.3 Availability and terms.
201.4 Advances and discounts.
201.5 General requirements.
201.6 Federal Intermediate Credit Banks.

Authority: Sections 10(a), 10(b), 13, 13a, and 19 of the Federal Reserve Act, 12 U.S.C. 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 374, 374a, and 461, Section 7(b) of the International Banking Act of 1978, 12 U.S.C. 347d.

§ 201.1 Authority, scope and purpose.

(a) *Authority and Scope.* This Part is issued under the authority of sections 10(a), 10(b), 13, 13a, and 19 of the Federal Reserve Act (12 U.S.C. §§ 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 374, 374a and 461), other provisions of the Federal Reserve Act, and section 7(b) of the International Banking Act of 1978 (12 U.S.C. § 347d) and relates to extensions of credit by Reserve Banks to depository institutions and others. Except as may be otherwise provided, this Part shall be applicable to United States branches and agencies of foreign banks subject to reserve requirements under Regulations D (12 CFR Part 204) in the same manner and to the same extent as member banks.

(b) *Purpose.* This Part establishes rules under which Federal Reserve Banks may extend credit to depository institutions and others. Extending credit to depository institutions to accommodate commerce, industry, and agriculture is a principal function of Reserve Banks. While open market operations are the primary means of affecting the overall supply of reserves, the lending function of the Reserve Banks is an effective method of supplying reserves to meet the particular credit needs of individual depository institutions. The lending functions of the Federal Reserve System are conducted with due regard to the basic objectives of monetary policy and the maintenance of a sound and orderly financial system. These basic objectives are promoted by influencing the overall volume and cost of credit through actions that affect the volume and cost of reserves to depository institutions. Borrowing by individual depository institutions, at a rate of interest that is adjusted from time to time in accordance with prevailing economic and money market conditions, has a direct impact on the reserve positions of the borrowing institutions and thus on their ability to meet the credit needs of their customers. However, the effects of such borrowing do not remain localized but have an important bearing on overall monetary and credit conditions.

§ 201.2 Definitions.

For purpose of this Part, the following definitions shall apply:

(a)(1) *"Depository institution"* means an institution that maintains reservable transaction accounts or nonpersonal time deposits and is:

(A) An insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or a bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(B) A savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(f), (g));

(C) An insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or a credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(D) A member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); or

(E) An insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or an institution that is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1728).

(2) A financial institution that is not required to maintain reserves under Part 204 of this Title (Regulation D) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public is not a depository institution.

(b) *"Transaction account and nonpersonal time deposits"* have the meanings specified in Part 204 of this Title (Regulation D).

§ 201.3 Availability and terms.

(a) *Short-term adjustment credit.* Federal Reserve credit is available on a short-term basis to a depository institution under such rules as may be prescribed to assist the institution, to the extent appropriate, in meeting temporary requirements for funds, or to cushion more persistent outflows of funds pending an orderly adjustment of the institution's assets and liabilities. Such credit generally is available only after reasonable alternative sources of funds, including credit from special industry lenders, such as Federal Home Loan Banks, the National Credit Union Administration's Central Liquidity Facility, and corporate central credit unions have been fully used. Under certain circumstances, a surcharge may be imposed above the basic rate of interest normally charged by Reserve Banks.

(b) *Extended credit*—(1) *Seasonal credit.* Federal Reserve credit is available for periods longer than those permitted under adjustment credit to assist smaller depository institutions in meeting regular needs for funds arising from a combination of expected patterns of movement in their deposits and loans. Seasonal credit is available only if similar assistance is not available from other special industry lenders. Seasonal credit will ordinarily be limited to the amount by which the depository institution's seasonal needs exceed certain percentages, established by the Board of Governors, of the institution's average total deposits in the preceding calendar year. Such credit will be available if the Reserve Bank is satisfied that the institution's qualifying need for funds is seasonal and will persist for at least four weeks. Need for credit at depository institutions will also be given consideration when institutions are experiencing unusual seasonal demands for credit in a period of liquidity strain. To the extent practicable, a depository institution should arrange in advance for seasonal credit for the full period during which such credit is expected to be required. Under certain circumstances, a surcharge may be imposed above the basic rate of interest normally charged by Reserve Banks.

(2) *Other extended credit.* Federal Reserve credit is available to depository institutions under extended credit arrangements where similar assistance is not reasonably available from other sources, including special industry lenders. Such credit may be provided where there are exceptional circumstances or practices involving only a particular depository institution. Exceptional circumstances would include situations where an individual depository institution is experiencing financial strains arising from particular circumstances or practices affecting that institution—including sustained deposit drains, impaired access to money market funds, or sudden deterioration in loan repayment performance. Extended credit may also be provided to accommodate the needs of depository institutions, including those with longer term asset portfolios, that may be experiencing difficulties adjusting to changing money market conditions over a longer period, particularly at times of deposit disintermediation. A special rate or rates above the basic discount rate established by the Reserve Banks, subject to review and determination by the Board of Governors, may be applied to other extended credit.

(c) *Emergency credit for others.* In unusual and exigent circumstances, a Reserve Bank may, after consultation with the Board, advance credit to individuals, partnerships, and corporations that are not depository institutions if, in the judgment of the Reserve Bank, credit is not available from other sources and failure to obtain such credit would adversely affect the economy. The rate applicable to such credit will be above the highest rate for advances in effect for depository institutions. Where the collateral used to secure such credit consists of assets other than obligations of, or fully guaranteed as to principal and interest by, the United States or an agency thereof, an affirmative vote of five or more Board members is required before credit may be extended.

§ 201.4 Advances and discounts.

(a) Reserve Banks may lend to depository institutions either through advances secured by acceptable collateral or through the discount of certain types of paper. Credit extended by the Federal Reserve generally takes the form of an advance.

(b) Reserve Banks may make advances to any depository institution if secured to the satisfaction of the Reserve Bank. Satisfactory collateral generally includes United States government and Federal agency securities, and, if of acceptable quality, mortgage notes covering 1–4 family residences, State and local government securities, and business, consumer and other customer notes.

(c) If a Reserve Bank concludes that a depository institution will be better accommodated by the discount of paper than by an advance, it may discount any paper endorsed by the depository institution that meets the requirements specified in the Federal Reserve Act.

§ 201.5 General requirements.

(a) *Credit for capital purposes.* Federal Reserve credit is not a substitute for capital.

(b) *Compliance with law and regulation.* All credit extended under this Part shall comply with applicable requirements of law and of this Part. Each Reserve Bank (1) shall keep itself informed of the general character and amount of the loans and investments of depository institutions with a view of ascertaining whether undue use is being made of credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions, and (2) shall consider such information in determining whether to extend credit.

(c) *Information.* A Reserve Bank shall require such information as it believes appropriate or desirable to insure that paper tendered as collateral for advances or for discount is acceptable and that the credit provided is used in a manner consistent with this Part.

(d) *Indirect credit for others.* Except with the permission of the Board of Governors, no depository institution shall act as the medium or agent of another depository institution in receiving Federal Reserve credit.

§ 201.6 Federal Intermediate Credit Banks.

A Reserve Bank may discount for any Federal Intermediate Credit bank (1) agricultural paper, or (2) notes payable to and bearing the endorsement of the Federal Intermediate Credit Bank that cover loans or advances made under subsections (a) and (b) of section 2.3 of the Farm Credit Act of 1971 (12 U.S.C. 2074) and that are secured by paper eligible for discount by Reserve Banks. Any paper so discounted shall have a period remaining to maturity at the time of discount of not more than nine months.

By order of the Board of Governors, August 11, 1980.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-24579 Filed 8-13-80; 8:45 am]
BILLING CODE 6210-01-M

---

12 CFR Part 265

[Docket No. R-0321]

Delegation of Authority to Determine Preemption and to Grant Exemptions

AGENCY: Board of Governors of the Federal Reserve System.
ACTION: Final rule.

SUMMARY: As permitted by section 11(k) of the Federal Reserve Act, this rule delegates to the Director of the Division of Consumer and Community Affairs the authority to determine whether provisions of the Electronic Fund Transfer Act and Regulation E preempt provisions of state laws that are inconsistent with federal law and are not more protective of the consumer. In addition, the rule delegates to the Director the authority to grant, but not to deny or revoke, exemptions to states if their statutes contain provisions substantially similar to the federal statute and there is adequate provision for enforcement. Because of the complex and time-consuming nature of these decisions, the Board finds that this delegation of authority is appropriate.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT:
Susan Werthan, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867).

SUPPLEMENTARY INFORMATION: (1) The Board has delegated authority to the Director of the Division of Consumer and Community Affairs to determine whether provisions of the Electronic Fund Transfer Act preempt state laws relating to electronic fund transfers. The Director has authority to decide, under section 919 of the Electronic Fund Transfer Act and Regulation E (12 CFR 205.12), whether state law provisions are inconsistent with and preempted by federal law. If inconsistent state law provisions are more protective of the consumer, they shall not be preempted.

The Board has also delegated the authority to grant, but not to deny or revoke, exemptions to states. If the Director determines, under section 920 of the Electronic Fund Transfer Act and § 205.12 of Regulation E, that provisions of a state law are substantially similar to the federal statute and there is adequate provision for enforcement, any class of electronic fund transfers in that state may be exempted from the federal requirements.

The Board finds that delegation of its authority to make preemption and exemption decisions is necessary because of the highly technical and time-consuming nature of these decisions. The complexity of each statute is compounded by the difficulty of comparing provisions of different statutes. In addition, the existence of more than 20 state electronic fund transfer statutes indicates that there will be many requests for preemption and exemption determinations.

(2) The Board finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reasons, the expanded rule-making procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with this proceeding.

(3) Pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby amends 12 CFR 265.2 by revising paragraph (h) and by adding two paragraphs, effective immediately, to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(h) The Director of the Division of Consumer and Community Affairs (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(4)(i) Pursuant to Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693, et seq.) and the Board's Regulation E, 12 CFR 205.12, to determine whether the act and regulation preempt state laws that are inconsistent with the act and regulation,

(ii) Pursuant to Section 920 of the Electronic Fund Transfer Act and Regulation E, to grant, but not deny or revoke, exemptions to states from the requirements of the act or regulation, where state law imposes substantially similar requirements and there is adequate provision for enforcement.

Dated: August 8, 1980.

By order of the Board of Governors,

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-24552 Filed 8-13-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 80-ASW-18; Amdt. 39-3875]

Airworthiness Directives: Bell Models 206A, 206B, 206A-1, 206B-1, and 206L Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections on all models, replacement as necessary, and a reduction in service life on the Model 206L, for tail rotor blades, P/N 206-010-750-005 and -007, installed on Bell Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters. The AD is needed to prevent inflight failure of the tail rotor blades, P/N 206-010-750-005 and -007, with resulting loss of helicopter control.

DATES: Effective September 10, 1980. Compliance required as prescribed in the AD.

ADDRESSES: Copies of the applicable service information may be obtained from the Regional Counsel, Attention: Docket No. 80-ASW-18, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Bell Service Information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:
Tom Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) requiring repetitive inspections on all models, replacement as necessary, and a reduction in service life on the Model 206L, for tail rotor blades, P/N 206-010-750-005 and -007, installed on Bell Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters was published in 45 FR 38402 June 9, 1980.

The proposal was prompted by six reported cases of blade skin chordwise cracks at tail rotor blade Station 9.1 on the Bell Model 206B and 206L helicopters. Four of these occurred on the 206B and two on the 206L. All cracks were discovered during the daily inspection. Reported blades had 530 to 1,105 hours' time in service. Operations Safety Notice 206-79-5/206L-79-2 dated December 4, 1979, was issued on this subject and alerted operators on the importance of the daily inspection.

There has been one inflight failure of the subject blade on a military helicopter. The blade had 880 hours' time in service, and the failure was the result of an undetected crack.

Interested persons have been afforded the opportunity to participate in the making of the amendment. One response was received from the National Transportation Safety Board in support of the proposal. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell: Applies to Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters equipped with tail rotor blades, P/N 206-010-750-005 and -007, certificated in all categories (Airworthiness Docket No. 80-ASW-18).

Compliance required as indicated.

To prevent possible failure of tail rotor blades, P/N 206-010-750-005 and -007, due to fatigue cracks, accomplish the following:

a. Before the first flight of each day after the effective date of this AD, visually check for chordwise cracks in the tail rotor blade skin surfaces in the area between Blade Station 7.1 and 11.1 using a three-power or higher magnifying glass. (Blade Station 0 is the center of the tail rotor yoke.)

b. Replace tail rotor blades having cracks before further flight.

c. Blades with 450 or more hours' time in service (as calculated in paragraph (e) below) on the effective date of this AD must be removed from service within the next 50 hours' time in service.

d. Blades with less than 450 hours' time in service (as calculated in paragraph (e) below) on the effective date of this AD must be removed from service prior to or on attaining 500 hours' time in service.

e. For purposes of this AD, hours' time in service is calculated by the following formula:

Time on 206A/B÷2.4 Series+Time on 206L=Calculated Time in Service

f. The check required by paragraph (a) of this AD may be performed by the pilot, providing the pilot's logbook has been endorsed by a properly rated mechanic stating that the pilot has been trained to conduct the daily check in accordance with this AD.

Note.—For the requirements regarding the listing of compliance with this AD in the aircraft maintenance record, see FAR 91.173.

(Bell Helicopter Textron Operations Safety Notice No. 206-79-5/206L-79-2, dated December 4, 1979; Alert Service Bulletin Nos. 206-80-6 dated February 22, 1980, and 206L-80-8, Rev. A, dated June 3, 1980; and Technical Bulletin Nos. 206-78-3 dated July 18, 1978, and 206L-79-38 dated September 28, 1979, pertain to this subject.)

This amendment becomes effective September 10, 1980.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Fort Worth, Texas, on July 31, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-24429 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NE-34; Amdt. 39-3877]

Airworthiness Directives; Sikorsky S-61 Series Helicopters Certified in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which establishes new replacement times for the main rotor horizontal hinge pins of Sikorsky S-61 series helicopters. These times are required to prevent fatigue failures of these horizontal hinge pins.

EFFECTIVE DATE: This amendment becomes effective on August 15, 1980.

FOR FURTHER INFORMATION CONTACT:
William E. Garlock, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION: As a result of a review of engineering analysis and the utilization of recent methodology, new replacement times have been developed, for Sikorsky S-61 main rotor hub horizontal hinge pins. The FAA has, therefore, determined that S-61 series horizontal hinge pins must be replaced prior to these new times.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Sikorsky Aircraft: Applies to S-61 series helicopters certificated in all categories, including military counterparts. Compliance required as indicated. To prevent fatigue failures of the horizontal hinge pins: Replace the Rotary Wing Hub Horizontal Hinge Pin P/N S6110-23020 and S6110-23320 prior to 4000 and 5300 hours time in service, respectively, or within 25 hours time in service after the effective date of this AD, whichever occurs later. This AD is effective August 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on July 31, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-24430 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-SO-39; Amdt. No. 39-3873]

Airworthiness Directives; Aerosonic Corp. Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires that Aerosonic Corporation Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6, to be inspected and as applicable, removed and replaced on all affected airplanes. The AD is prompted by a report in which an Aerosonic Fuel Flow Transducer failed and resulted in an in-flight engine fire.

DATES: Effective August 14, 1980. Compliance as prescribed in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerosonic Corporation, P.O. Box 4627, Clearwater, Florida 33518, telephone (813) 461-3000.

A copy of the applicable service bulletins are also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:
John J. Lyness, Manufacturing Inspection Section, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7280.

SUPPLEMENTARY INFORMATION: There has been a report in which an Aerosonic Fuel Flow Transducer epoxy plug was found displaced causing fuel leakage which resulted in an in-flight fire. Since this condition is likely to exist or develop on other products of the same type design, an Airworthiness Directive is being issued which requires an inspection and as applicable, the removal and replacement of Aerosonic Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6, except those identified with "FLO-SCAN" on the bottom.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and

public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Aerosonic Corp. Applies to all Aerosonic Fuel Flow Transducers, Part Numbers 33184–1 and 32622–6, installed on, but not limited to, Cessna Models 335, 340A, 402B, 404, 414A, and 421C; Mooney Aircraft Corporation Models M20J and M20K; and Piper Aircraft Aerostar Models 600, 601, and 601P airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible fuel leakage, accomplish the following within the next 25 hours time in service after the effective date of this AD:

(a) Inspect for installation of Aerosonic Fuel Flow Transducers Part Numbers 33184–1 or 32622–6 (name plate has part number identification). If the Transducer(s) is identified with the word "FLO–SCAN" on the bottom, or is identified with an Aerosonic part number other than 33184–1 or 32622–6, or any other manufacturer's part number the unit(s) is acceptable.

(b) Remove Aerosonic Fuel Flow Transducers, Part Numbers 33184–1 and 32622–6 (except "FLO–SCAN") identified in paragraph (a) and reinstall Aerosonic replacement units identified with "FLO–SCAN," Serial Numbers 5000 and up.

(c) Accomplish the following in accordance with Aerosonic Service Bulletin No. 1 dated June 30, 1980, or Service Bulletin No. 2 dated June 26, 1980, as applicable:

(1) Torque fittings to 25–30 ft. lbs.

(2) Perform a system leak check.

(d) Make an appropriate entry in the aircraft maintenance record.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective August 14, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, on July 30, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-24432 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80–GL–13–AD; Amdt. 39–3879]

Airworthiness Directives; Dowty Rotol (c)R.289/3 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective by airmail letter dated July 18, 1980 on Dowty Rotol (c)R.289/3–110–F/1 and (c)R.289/3–110–F/11 propellers installed on the WSK-Pezetel Model PZL–3S engine used on Gulfstream American (formerly Grumman) Model G–164A, B, C airplanes modified by Supplemental Type Certificate (STC) SA2731SW, and Ayres (formerly Rockwell) Model S2R–R3S, and model S2R airplanes modified by STC SA3897WE. The AD is needed to prevent possible propeller blade tip failures and requires installation of a placard in the cockpit to alert the pilot of a restricted operating range.

DATES: Effective August 20, 1980. Compliance required within 10 operating hours after the effective date of the AD, unless already accomplished.

ADDRESSES: None. No service document is required for compliance with this AD.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL–214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312–694–4500, extension 308.

SUPPLEMENTARY INFORMATION: There have been two reports of propeller blade tip failures which were attributed to engine induced vibration at high power and low r.p.m. Since this condition is likely to exist on other engine/propeller combinations of the same design, an Airworthiness Directive is being issued which requires installation of a placard in the cockpit to alert the pilot of a restricted operating range.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective immediately.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Dowty Rotol: Applies to Dowty Rotol (c)R.289/3–110–F/1 and (c)R.289/3–110–F/11 propellers installed on the WSK-Pezetel Model PZL–3S engine used on Gulfstream American (formerly Grumman) Model G–164A, B, C airplanes modified by STC SA2731SW, and Ayres (formerly Rockwell) Model S2R–R3S, and model S2R airplanes modified by STC SA3897WE.

Compliance is required as indicated unless previously accomplished. To preclude the possibility of blade tip failures, accomplish the following:

Within the next 10 hours time in service after the effective date of this AD, install in the cockpit as near the engine tachometer as possible and in clear view of the pilot a placard which reads, "AVOID MP ABOVE 26 IN. HG. BELOW 1950 RPM." The placard may be fabricated locally, using 5/32 inch high red lettering on a white background.

Upon request of the operator, an equivalent means of compliance with the requirement of this AD may be approved by the Chief, Engineering and manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective August 20, 1980 as to all persons except those to whom it was made immedately effectively by the airmail letter dated July 18, 1980, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—Due to the emergency nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Des Plaines, Illinois, on July 29, 1980.

Kenneth C. Patterson,

Acting Director, Great Lakes Region.

[FR Doc. 80-24431 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 80–ASW–25; Amdt. 39–3876]

Bell Models 204B, 205A–1, 212, 214B, and 214B–1 Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that provides for a reduction in retirement time from 2,400 hours to 1,200 hours or 2 years total time in service for the main rotor blade tension-torsion straps used on Bell Models 204B, 205A–1, 212, and 214B series helicopters. The AD is needed to preclude possible failure of a tension-torsion strap and loss of a main rotor blade.

DATES: Effective September 15, 1980. Compliance required as indicated in the AD.

ADDRESSES: A copy of the service bulletins may be obtained from the Regional Counsel, Attention: Docket No. 80–ASW–25, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Bell service information may be obtained from Product Support Department, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624–4911, extension 516.

SUPPLEMENTARY INFORMATION: A proposal was issued to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of certain main rotor blade tension-torsion straps on or before attaining 1,200 hours' total time in service, or require replacement on or before attaining 24 months' elapsed time from initial release to service, whichever comes first, for the Bell Models 204B, 205A–1, 212, 214B, and 214B–1 helicopters and the UH–1 series military helicopters. The proposal to establish a retirement time based on calendar time or time in service, whichever would occur first, was published in 45 FR 38403 on June 9, 1980.

The proposal was prompted by an offshore accident of a Bell Model 212 helicopter in which a main rotor blade tension-torsion strap, P/N 204–012–122–1, reportedly failed in flight after 2,140 hours' time in service with resulting loss of the main rotor blade. The investigation into the cause of the strap failure is still continuing. However, preliminary information indicates fatigue failures of individual wires have occurred.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Only the National Transportation Safety Board (NTSB) responded to the notice. The NTSB believes this action is needed to provide reasonable safety for similarly equipped aircraft until the cause of the strap failure has been established and permanent corrective action has been implemented.

Accordingly, the proposal is adopted with only a minor editorial change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell. Applies to Models 204B, 205A–1, 212, 214B, and 214B–1 helicopters and military UH–1 series helicopters certificated in all categories.

Compliance required as indicated for helicopters equipped with main rotor straps, P/N 204–012–122–1, –5, or 214–010–178–1.

To preclude possible separation of a main rotor blade tension-torsion strap and loss of a main rotor blade, accomplish the following:

a. Within the next 100 hours' time in service after the effective date of this airworthiness directive (AD), remove and replace main rotor straps having:

(1) 1,100 or more hours of total time in service on the effective date of this AD, or

(2) 24 or more months elapsed calendar time in service as of the effective date of this AD, whichever comes first.

b. Remove and replace main rotor straps having less than 1,100 hours' total time in service or having less than 24 months elapsed time in service on the effective date of this AD:

(1) Prior to attaining 1,200 hours' total time in service, or

(2) Prior to exceeding 24 months elapsed time in service, whichever comes first.

c. The helicopter may be flown in accordance with FAR's 21.197 and 21.199 to a base where this AD may be accomplished.

(Bell Helicopter Textron Alert Service Bulletin No. 212–80–17 pertains to this subject.)

This amendment becomes effective September 15, 1980.

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Fort Worth, Texas, on July 31, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-24587 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 19605/79–APC–1]

Establishment of Group II Terminal Control Area Honolulu, Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a Group II Terminal Control Area (TCA) at Honolulu, Hawaii. The adoption of a TCA at Honolulu was initially proposed as part of a comprehensive FAA program announced by the Administrator on December 27, 1978, for enhanced safety of flight operations in the National Airspace System. This action will increase the capability of the Air Traffic Control (ATC) system to separate all aircraft in the terminal airspace around Honolulu International Airport while providing sufficient flexibility to permit aircraft operating under visual flight rules (VFR) to operate within or outside the TCA. The TCA adopted by this amendment is the product of discussion with a broad representation of the aviation community. In conjunction with this action, the FAA will work cooperatively with local user groups to ensure that the TCA is effective for all users by identifying any adjustments or modifications that appear necessary. Through joint FAA and user cooperation, any problems that arise can then be identified and corrective action taken when necessary.

EFFECTIVE DATE: November 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. B. Keith Potts, Airspace and Air Traffic Rules Division (AAT–200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–3731.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1978, the Administrator of the Federal Aviation Administration announced his Plan for Enhanced Safety of Flight Operations in the National Airspace System. As part of that comprehensive program, the FAA proposed to establish a Group II TCA at Honolulu, Hawaii, with operations in the proposed TCA subject to the operating and equipment rules for Group II TCAs specified in § 91.90(b) of Part 91 of the Federal Aviation Regulations. These include, among other rules, the requirements to have ATC authorization to operate in the TCA, and to have an operable VOR/TACAN receiver, two-way radio, and a transponder to operate

in the TCA. An altitude encoder would

The Need for Increased Positive Control

terminal gives sufficient need to ensure

1968 (which preceded the establishment

fact, to date the FAA's analysis has led

would be provided to small, VFR

in the TCA. An altitude encoder would not be required.

User Group Participation

The TCA configuration adopted here has been developed through substantial public participation. Initially, meetings were held with local groups and individuals representing both the VFR and IFR aviation communities to receive and discuss their needs and and views concerning a preliminary TCA configuration. After those initial meetings, a tentative TCA configuration was prepared for further public discussion at a subsequent local informal airspace meeting. To announce that meeting, the FAA made a bulk mailing to groups and persons believed to have an interest in the proposal. As a result of those efforts, further adjustments to the TCA configuration were made and were reflected in the FAA's modified configuration proposed formally for adoption. An additional opportunity for public participation was provided by a notice of proposed rulemaking (Airspace Docket No. 18605/79–APC–1) published in the **Federal Register** on December 17, 1979 (44 FR 73114). Twenty-six comments and a petition signed by more than 300 pilots were received during the comment period in response to the notice. Due consideration has been given to these comments as well as the comments received at the various meetings.

Changes to Accommodate VFR Traffic

Since the original development of a preliminary TCA configuration for discussion with airspace users, numerous changes in the configuration have been made to accommodate VFR activity. Those changes have primarily been in the vicinity of NAS Barbers Point, the area north of the Honolulu International Airport, the description of the northern outer boundaries of the TCA east of the Honolulu International Airport and the TCA floor altitudes over and south of Waikiki. Some adjustments to IFR approach procedures have also been made since the proposed TCA action was started over one year ago. Those changes allow the maximum use possible for VFR operations beneath the TCA floor by aircraft not equipped to operate in the TCA. No VFR corridor is provided because the maximum exclusion of airspace has been provided along the southern shores of the island. The vast majority of airspace designated as TCA is offshore over the ocean, airspace which is not generally used by VFR aircraft.

The Need for Increased Positive Control in Terminal Airspace

The departure and arrival phases of flight result in a high concentration of aircraft in a relatively limited volume of airspace surrounding an airport. Aircraft density is a function of the number of aircraft using that airport and its proximity to one or more adjacent airports that share or abut that airspace. As air traffic activity at an airport increases, the need for increasingly precise control of aircraft and protection of airspace from unknown aircraft becomes essential for continued safe operations. The FAA has developed a spectrum of air traffic procedures which, when coupled with precision navigational aids, airport surveillance radar facilities, automated radar data processing capability, and a highly skilled work force, forms a comprehensive system to provide safe and efficient flight operations at all controlled airports. The scope of services range from simple, recommended airport traffic flows at lowest density airports, to TCAs at the busiest airports.

This action extends and enhances the application of these proven control techniques and subsystems to airports in the Honolulu area and assures greater protection of VFR and IFR air traffic in the airspace surrounding this area.

An analysis of the overall need for extending the ability of ATC to separate VFR aircraft and IFR aircraft in terminal airspace is contained in the Administrator's plan for enhanced safety. A copy of the plan and other documents referred to in this amendment have been filed in the Rules Docket.

The "Highest Degree" of Air Transportation Safety

Near midair collision statistics indicate that, for all classes of users of terminal airspace, the use of ATC separation services, in addition to the duty of pilots to see and avoid each other, results in a higher level of air traffic safety. For the millions of air carrier passengers who enter and leave the major air terminals each year, Congress has directed that the highest feasible degree of safety be achieved. A continued "mix" of ATC controlled aircraft and uncontrolled VFR aircraft can interfere unnecessarily with that safety objective. That position applies generally, however, it is particularly pertinent to the Honolulu terminal area. While a continuous record of potential midair collisions does not exist at Honolulu, the number of large, passenger carrying aircraft using that terminal gives sufficient need to ensure that those large, passenger carrying aircraft are operating in airspace restricted from any mix with uncontrolled, VFR aircraft.

The congressional mandate is clear with respect to the high level of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest . . ." The congressional concern for air transportation, as a distinct class to be protected, was restated in the Airline Deregulation Act of 1978 (Pub. L. 95–504, October 24, 1978) which amended Section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directed the Secretary of Transportation to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator of the FAA is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The orderly and extensive expansion of positive controlled airspace, including the amendments adopted by this action, ensures that the local and systemwide capability of the FAA to ensure separation and protection for air carrier passengers remains commensurate with the growth of a vigorous, safe, and efficient air transportation system under the new act. By this action, the FAA is also increasing the degree of safety available to the general aviation community, many of whom are fully qualified to operate within the parameters of a TCA.

Building on Existing Programs

The FAA's experience since the establishment of mandatory participation in TCAs and voluntary participation in Terminal Radar Service Areas (TRSAs) indicates that, in terminal airspace, ATC control of VFR aircraft reduces the potential for hazardous traffic conflicts. For the year 1968 (which preceded the establishment of TCAs), the "Near Midair Collision Report of 1968," July 1969, concluded that, for the airports now served by TCAs, there were 271 incidents reported as "hazardous" to flight. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions (NMACs) in the 21 then existing TCAs. For comparison purposes, that translates into an average of approximately 21 reported incidents per year, under TCA requirements, in contrast with 271 incidents for the year 1968. Those figures are not conclusive indicators of the absolute numbers of incidents, but are viewed as meaningful evidence of the critical relationship between the absence of control of all aircraft and the likelihood of hazardous traffic conflicts in congested terminal airspace.

As a result of public comments, in response to Notice No. 78–19 (44 FR 1322, January 4, 1979), questioning the adequacy of FAA's near midair collision information, a comprehensive review of that information has been undertaken. The results of that review are discussed under the "Discussion of Comments—Safety."

The Honolulu TCA adopted by this amendment is a logical extension of programs that first gained momentum in 1962. In addition to the earlier nonregulatory programs, the 1970 National Terminal Radar Program initiated the regulatory development of TCAs, also in response to the 1968 Near Midair Collision Report. The TCA concept was added to the Federal Aviation Regulations in Amendments 71–6 and 91–78, which were published in the **Federal Register** (35 FR 7782) on May 21, 1970, to be effective on June 25 of that year. Those amendments followed extensive public comment in response to Notice No. 69–41, issued on September 30, 1969, (34 FR 15252); 22 public meetings; and a supplemental notice of proposed rulemaking (Notice No. 69–41B), issued on March 11, 1970 (35 FR 4519). That regulatory history led to the issuance of § 71.12 of Part 71 of the Federal Aviation Regulations (FARs), under which TCAs are issued, and § 91.90 of Part 91 of the FARs, which describes the equipment and operating rules for participating in a TCA. While the safety enhancement plan identified 44 new potential locations for Group II TCAs, the regulatory basis for, and description of, the TCA concept was established under those 1970 amendments to Parts 71 and 91. It should be noted that the 44 additional locations were only proposals. Each site is being evaluated on its own merits. In fact, to date the FAA's analysis has led to dropping eleven proposed TCAs from the original list. The evaluation is continuing with the very real possibility that other sites may be dropped even before issuance of a notice of proposed rulemaking.

The establishment of a Group II TCA at Honolulu is an important and timely step forward and represents a meaningful contribution to the local and systemwide increase in safety because it responds specifically to the conditions that exist in the Honolulu terminal area. The design will safely accommodate the present traffic flow of all user groups in the TCA and the overall traffic flows of adjacent areas that interface with Honolulu while minimizing the impact on operation of aircraft not operating in the TCA. The TCA design is based on existing traffic flows, airport locations, and navigation aid locations. It is part of an evolutionary growth process and is workable immediately. Other plans offered in response to the notice of proposed rulemaking, while having some attractive features or advantages for some airspace users, would have unattractive aspects and disadvantages for other airspace users. Some adjustments to the design proposed in the notice, however, have been made as a result of comments received. Those are discussed in detail under "Discussion of Comments—Alternative Proposals."

Discussion of Comments

In response to the TCA proposal, the FAA received 26 written comments from individuals, pilots and owners of aircraft, aircraft operators, State and Federal government agencies, and aviation trade and industry associations. A petition signed by more than 300 pilots was also received. In addition, prior to the notice, the FAA had the benefit of meetings with various user groups. The FAA appreciates the thoughtful and meaningful contributions and the interest expressed by all of those who took time to participate in the several steps of this rulemaking proceeding. Most of the comments received came from pilots and owners of general aviation airplanes who stated their objections to the TCA concept and to its application in Honolulu.

In responding to the issues involved in the FAA's proposal, some commenters expressed complete support of the proposal and some made suggestions for achieving flight safety in the Honolulu terminal area that were either alternative or supplementary to those proposed in the notice. Other commenters were critical of the air traffic control services that are and would be provided to small, VFR aircraft using the Honolulu International Airport. Specifically, some commenters were critical of runway separation standards; radar separation standards; unsupervised holding awaiting approval to enter the area; and the vectoring of aircraft at low altitudes over the ocean (especially at night and in poor weather conditions). Some felt vectoring is unnecessary, unsafe, causes delays with a resulting waste of fuel, and contributes to the mix of low and high performance aircraft rather than relief from that mix. Some commenters stated that a TCA was not needed or justified and that there is no evidence that a TCA would enhance or increase safety or provide local benefit; that the existing voluntary acceptance of Stage III services in the Honolulu TRSA was adequate, especially in light of the high participation rate and lack of satellite reliever airports in the area; that it would be better to urge increased voluntary acceptance of Stage III in the TRSA; and that more rules are not necessary but that what is necessary is a better understanding and application of the existing ones. A few commenters recommended that altitude encoders should be required for all aircraft using the Honolulu International Airport, or at least by those that use the radar procedures presently offered. Other commenters felt that transponders would add little benefit and no added safety. Many commenters stated that what Honolulu really needs to reduce the mix of large and small aircraft is a general aviation reliever airport, not a TCA; and that FAA should assist the State of Hawaii to provide such a site that would not increase the airspace congestion around the Honolulu terminal area. Some stated that no TCA was needed now but acknowleged there could be such a need in the future, when reliever airports have been provided, if a safety problem developed. The Navy expressed their objection based upon its effect on their use of the airspace at and around Naval Air Station (NAS) Barbers Point.

As in most proceedings of this kind, the public beneficiary of a safety regulation does not have an organizational basis to participate and they do not traditionally present their views in significant numbers to counterbalance the advocacy of the more institutionalized commenters. This does not, however, reduce the viability of the public benefits that may be achieved if an otherwise beneficial proposal is adopted.

V 45 A G 1 4 8 0 UMI

A. Safety

The primary concern in any proposed TCA action is providing the highest degree of safety while preserving the most efficient use of the available terminal airspace. The TCA designates areas where large, turbine-powered aircraft are required to operate. That airspace is also available for use by properly equipped general aviation and military aircraft operating under an ATC clearance. Providing air traffic control services to all aircraft reduces the probability of near midair collisions in that airspace.

While the mix of controlled and uncontrolled aircraft in the Honolulu area is less than that surrounding many major mainland U.S. locations, the air carrier aircraft density is greater than all the other Group II TCA locations except Denver, and the collision potential between air carrier and uncontrolled, VFR aircraft still exists. A factor decreasing the mix of aircraft in the Honolulu area is the fact that much of the terminal airspace used by the large, turbine-powered aircraft is over the open ocean south of the Island of Oahu where uncontrolled VFR flight is less likely to occur. Thus, the airspace designated by this amendment, in the south shoreline areas and areas east and southeast of the island that would actually affect most commenters objecting to the action, is the minimum necessary to meet the TCA objectives. The area of NAS Barbers Point is an example. Most uncontrolled, VFR activity presently is along the shoreline area east of the Honolulu International Airport and to and from the island's central valley area. The VFR traffic pattern activity at NAS Barbers Point operates also in relative proximity to Honolulu's instrument approach flight paths to Runways 4 and 8, and has for some years required close coordination between the control towers of the two airports.

Since the TRSA was established in September 1975, there have been two near midair collisions reported by air carrier flights (using the ILS procedure to Runway 8L at Honolulu) with uncontrolled VFR flights originating from NAS Barbers Point. For some time there has been concern expressed by Barbers Point officials about the proximity of ILS Runway 8L arrivals to aircraft operating in the NAS Barbers Point traffic pattern. The FAA also is concerned with the potential conflicts between operations at the two airports. The proposal contained in the notice attempted to minimize the impact on NAS Barbers Point activity, and yet also attain the objectives of the TCA by containing the flight paths of the large, turbine-powered, passenger carrying aircraft. An analysis of the Navy's comments are discussed in greater detail under "NAS Barbers Point area."

Several commenters recommended that the FAA withdraw the proposal for a TCA at Honolulu, and, based on factors of safety and efficiency, should change the present procedures to allow VFR aircraft to operate completely in the see-and-be-seen environment as they did prior to radar services being provided. The FAA declines to adopt either of those recommendations. First, the mix of various types of aircraft using the airspace in and around Honolulu International Airport makes it highly desirable to add the assurance that the flight paths of IFR, air carrier aircraft using this airport are contained within airspace free of uncontrolled, VFR aircraft to provide the highest level of safety to persons traveling on those air carrier aircraft. Second, to further ensure that an adequate level of safety be provided for all aircraft using the Honolulu International Airport, the radar service, when available, is considered essential for the safe, orderly, and expeditious movement of air traffic. A detailed explanation of the necessary traffic flow is contained under "VFR Arrival/Departure Procedures."

Comments were received stating the opinion that the 1968 Near Midair Collision (NMAC) study was not valid because (1) it did not consider areas outside the Continental United States (CONUS), (2) contained no statistics for Hawaii, and (3) that it was out of date especially because fewer aircraft were transponder equipped in that period. The 1968 NMAC study solicited reports without any reference to geographical areas. In fact, 28 of the 2230 reports received were from the Pacific Region. Because of radar target enhancement, if more of the aircraft involved had been transponder equipped, fewer NMACs might have occurred in radar environments.

One commenter felt that the cause or contributing causes of several major accidents can be attributed to reliance upon air traffic controller use of radar. No details or indentification of those accidents were provided nor was it apparent to which accidents the commenter referred in order to provide a basis for analysis or response. The commenter did refer to an accident between Koko Head and Honolulu of a night, sight-seeing flight in which ATC allegedly contributed as a cause because it vectored the pilot over the ocean where he flew into cloudy weather, became disoriented, and crashed. While no specific identification of that flight was provided, the description seems to correspond to an accident of a Cessna 310 that occurred on the night of April 13, 1977. However, that accident and the subsequent National Transportation Safety Board (NTSB) report on the probable causes of the accident do not correspond to the causes suggested by the commenter.

Commenters also referred to the near midair collision draft report originated by the National Aeronautics and Space Administration (NASA) as support for the proposition that TCAs do not enhance safety. Those commenters generally stated that the NASA report was based on more recent information than the 1968 Near Midair Collision Report and indicated that more near midair collisions occur within the confines of a TCA than in other terminal airspace areas.

The FAA has reviewed that draft report and the underlying data on which it is based. The data used to originate the NASA Draft Report was produced under the Aviation Safety Reporting System (ASRS). The ASRS is a voluntary reporting system and the commentaries received are not investigated to verify information they contain. Consequently, incomplete, inaccurate, and multiple reports have been filed on some of the same incidents and counted as separate incidents. In its findings, NASA reminds the reader of the limitations of the program. The FAA obtained copies from NASA of all data base incidents (July 1, 1976 to November 30, 1978). These 2,965 nationwide reports were analyzed using the near midair collision criteria as defined by both the FAA and NASA. Of those, 1,303 clearly did not meet the criteria and 301 were duplicate reports.

The remaining 1,361 near midair collision reports were analyzed in light of the conclusions offered in the NASA Draft Report. The NASA Draft Report presented a comparison of terminal airspace at all locations covered by reports (low density to high density) and concluded that most hazardous incidents occur in high density areas. The relative number of hazardous incidents in high density areas is, of course, a primary reason why the FAA embarked upon the program to establish TCAs and TRSAs in those high density areas. Contrary to the impression of many commenters, the NASA Draft Report did not address the effectiveness of TCAs after they were established compared to the number of incidents reported before they were created. As noted previously, the FAA's data shows

that after establishing a TCA there have been fewer hazardous incidents in that airspace than there were before it was established.

B. Complexity

Commenters contended that the TCA as proposed was too complicated for even the most experienced pilot to comprehend and apply in flight. The FAA also wants a simple and uncomplicated an airspace designation as possible, while designating no more airspace than is necessary to meet the objectives of the TCA program. The complexity of the TCA's configuration has been reduced as much as possible while accomplishing the objectives of the TCA. For example, in the notice some of the northern boundaries had been revised to use geographical references rather than abstract lines to describe TCA boundaries so that a pilot may more easily recognize the aircraft's position relative to the TCA. However, an additional area has been established over NAS Barbers Point, at the Navy's request, to reduce the adverse impact on their VFR airport operations. The description of Area J has been revised slightly so that its boundary, as intended in the notice, abuts that of Area A. During a charting review, it was discovered that there was a minor discrepancy between the boundaries of Areas J and A. The change to the description corrects that discrepancy. If, from subsequent evaluation, it is found that the TCA configuration is too complex or does not attain the safety objectives sought, the FAA will revise the configuration to solve those problems.

C. Stage III Concept and Services

Many general aviation commenters expressed concern about FAA's procedures for radar control of VFR aircraft. Specific criticism was made of runway separation standards, radar separation standards, and radar procedures used for vectoring and spacing arrivals.

1. Runway separation standards—The suggestion was made that VFR aircraft using Honolulu should be allowed to operate as though it were an uncontrolled airport, like the nearby Ford Island and Dillingham Airports, where it is not unusual for two to four aircraft to be using the runway simultaneously.

At uncontrolled airports, such as those cited, the responsibility for separation between aircraft and collision avoidance rests with the pilots. When an air traffic control tower is in operation at an airport, the controllers ensure separation on the runways by using procedures established and applied nationally by the FAA. Application of those procedures is appropriate, as is airport traffic control service at a tower controlled airport like the Honolulu International Airport.

2. Radar separation standards—The VFR radar separation standards applied in Stage III service between two small aircraft is at least 1½ miles. Between a small and large aircraft, or behind a heavy jet, that standard increases to as much as 6 miles between the aircraft, depending on the particular aircraft involved and their relative positions. Once visual sighting by a pilot of the other aircraft is verified, pilots may be allowed to assume responsibility for their own visual separation. Those standards are not excessive and have been in use for many years throughout the country. However, the safety aspects of the see-and-be-seen concept have occasionally been criticized, but a recent review with user organizations shows this concept is still viable.

3. Stage III terminal radar services at Honolulu—In September 1975, the FAA implemented Stage III radar service for IFR and participating VFR aircraft operating in the Honolulu TRSA. That was part of a national program to reduce the potential for collisions involving passenger carrying aircraft by ensuring the separation of those aircraft from other participating aircraft while operating in the terminal area. Establishing a TCA is an extension of that protection by requiring ATC control of all aircraft within the airspace containing the flight paths of large, turbine-powered aircraft. The uncontrolled operation of see-and-be-seen flight by aircraft in the terminal area is no longer adequate at Honolulu to ensure an acceptable level of safety in air transportation.

4. Pilot complacency—Pilots' failure to see and avoid other aircraft can be a problem in any terminal environment, particularly if the pilot places undue reliance on radar separation services. However, in a TCA environment, regardless of weather, aircraft are controlled and provided separation. In VFR weather conditions, ATC will provide separation unless the other aircraft is sighted by the pilot. In that situation the pilot may be allowed to maintain visual separation. Although ATC separation enhances safety, pilots continue to have the responsibility to see and avoid other aircraft.

5. Overcontrol—Some commenters felt that establishing a TCA would give controllers the power to coerce pilots into unsafe situations, and that the controllers would abuse their authority with arbitrary vectors and overcontrol, and that ATC control of aircraft is not necessary.

Pilots are required to request an amended clearance or instruction if a controller issues one that would put them into an unsafe situation. Nothing in this program removes the final authority of the pilots for the safe conduct of their aircraft. Controllers should not step beyond their authority or coerce any pilot into an unnecessary or unsafe situation. If a pilot thinks a controller has acted improperly, the incident should be reported in detail to the ATC supervisor as soon as a pilot is able to do so.

D. VFR Arrival/Departure Procedures.

1. Routes—The routes established for VFR aircraft using the Honolulu International Airport are separated from the IFR routes. In addition, the individual arrival and departure paths of each aircraft are also separated from other paths. For example, during trade wind conditions when Runways 4 and 8 are in use, small, single-engine aircraft making VFR departures proceed eastbound via the H–1 freeway; small, twin-engine aircraft making VFR departures proceed eastbound just off the island shoreline; and IFR departures proceed eastbound south of those routes. VFR arrival routes from the east are south of the twin-engine departure route and beneath the IFR departures. The IFR arrival route is south of both of those. An optional routing for single-engine arrivals, when weather permits, is at an altitude above and in the opposite direction to the single-engine departures. To the north of the airport, VFR departures follow the Moanalua Freeway out of the area; arrivals proceed inbound south of the freeway. Similar routings are used during Kona wind conditions (Runways 22 and 26). To allow traffic flows without those procedures would cause unsafe head-on and cross-traffic situations.

2. Overwater vectors—VFR arrivals from the east to Runway 4R are normally routed along or south of the Molokai VOR 265° radial until turning onto final approach and are instructed to be at 1,000 feet no later than abeam Diamond Head. That route and altitude is necessary to ensure separation from jet departures off Runway 8 and from VFR departures along the shoreline. When weather conditions permit, single-engine arrivals do have an optional overland routing available in the opposite direction to and above the single-engine departures. If weather does not permit that routing, the only alternative that exists is offshore routing unless eastbound VFR departures are not being used. Flight in single-engine

V 45 A G 14 80 UMI

aircraft over water at relatively low altitudes is not unique to those arrivals. Flight to any other island from Oahu puts aircraft beyond engine-out gliding distance to land. It is common for pilots to operate at low altitudes between islands over water, beneath rather than above, a cloud layer.

3. VFR Holding—Many commenters complained that holding VFR aircraft without an ATC clearance at entry points occurs because of ATC application of excessive radar separation procedures. Any holding of arriving aircraft is to establish an organized and safe flow of air traffic at it approaches the airport for landing. It is not safe or efficient to allow uncontrolled VFR aircraft to approach the airport for landing on various runways without ensuring adequate spacing. It is safer for arrivals to circle in an uncongested area away from the airport traffic pattern than to have to many aircraft simultaneously in the traffic pattern thereby extending the traffic pattern and impeding the safe and orderly flow of air traffic. Congestion is caused by excessive demand for use of the airport or airspace at any given time and not by the use of radar procedures. When the demand exceeds the capacity, aircraft may be held short of a runway before takeoff, held over a geographical point when in flight, or they may be issued alternate routing or other instructions to accommodate other traffic.

E. Efficiency.

There were many comments that the TCA would encompass an excessive amount of airspace in light of the limited airspace available in the Oahu area and the lack of alternate areas. They also objected because the TCA would limit the freedom of movement in the airspace and infringe on flight practice and training areas. Many commenters expressed concern that a TCA would waste fuel because of added vectors and holding. Commenters also stated that the proposal did not fairly apportion costs, inconveniences, and benefits among the various airspace users, and would further restrict a massive amount of airspace to the detriment of general aviation and for the convenience of the airlines. Other commenters felt a TCA would require more controllers and would result in an increased controller grade level.

1. Airspace—It is true that airspace around Oahu is at a premium. To design a safe and efficient controlled environment in a terminal area, it is necessary to tailor the airspace configuration to the specific needs of that area. The various types of aircraft that operate within the area and the basic requirements of all airports and user groups within the terminal area must be considered, along with the constraints imposed by terrain, weather conditions, and optimum traffic flows. The Honolulu TCA was designed with those considerations in mind. For example, the airspace in the Ford Island area and much of the airspace north of Honolulu's Runway 8L ILS approach course are not designated within the TCA because large, turbine-powered aircraft do not operate in those areas but other aircraft do. The tailoring of the TCA along the Runway 8L ILS approach course in the vicinity of NAS Barbers Point minimizes as much as possible any adverse impact on the Navy operations. The minimum amount of airspace necessary is designated north of Honolulu Airport to meet the TCA program objectives. The restriction of the free, uncontrolled movement of aircraft in the TCA is a result of ensuring that uncontrolled VFR aircraft do not operate in the same terminal airspace as that used by the controlled aircraft. No general aviation VFR practice and training areas are known to exist in the areas designated as TCA airspace, although IFR general aviation practice and training are conducted in the area and are not precluded in a TCA. Since those IFR areas are used by large turbojets, it is necessary to mandate control of all aircraft in those areas. Any uncontrolled VFR training being conducted in those areas would be inconsistent with the objectives of the TCA program. The TCA airspace is not designated for any one user group's convenience, but to ensure that use of that airspace is safe and efficient. Use of TCA airspace must be with ATC authorization, therefore ensuring that ATC services are provided to all aircraft operating within that airspace. The result is intended to be a higher level of safety provided to air transportation.

2. Fuel—While there may be some increase in fuel use because of the TCA, it is not considered significant in light of the anticipated benefits to the traveling public. Any added delays resulting from the TCA are anticipated only at peak traffic periods when extended vectors or holding for arrival spacing becomes necessary. Some delays could be expected during those periods even if a TCA were not established. Currently, the most prevalent time a general aviation aircraft experiences that type of delay is when the local, air tour flights are returning to Honolulu in the early evening.

3. Costs—When considering the distribution of costs to the user, much has been said about it being the general aviation operators who are the most likely to incur the greatest cost impact. To operate within the confines of the TCA, aircraft must be equipped with a transponder. From available data, it is estimated that 51 percent of the aircraft based in the area are already equipped with a transponder. The operators of the remaining aircraft will have to elect to incur the cost of a transponder in order to achieve the enhanced level of safety and receive ATC services or to operate outside the TCA airspace. Nevertheless, the FAA has made a concerted effort to design the TCA to accommodate those who wish to avoid the TCA airspace and to minimize the potential risks of operating on the periphery of the TCA. However, the options are clearly posed for the election of each operator to pursue whichever is appropriate to that operator's situation.

The additional operating costs incurred by the transponder equipped operators who operate within the TCA airspace, as explained in the Airspace User Cost Impact Study, will be minimal. The FAA estimates that those costs are anticipated to be approximately a one-minute average ATC procedural delay during peak traffic periods. That delay is attributable, in part, to ATC procedures, and includes the time required to radar identify any VFR traffic and integrate that traffic into established IFR traffic flows.

The cost of avoiding the TCA for nonparticipating aircraft is expected to be minimal, because the TCA has been configured to lie mostly over water, away from frequently used VFR routes.

4. Weight of Transponder and Required Avionics—Commenters stated that the additional weight of the avionics required to operate in the TCA is prohibitive to small civil aircraft. A typical transponder weighs approximately 3 pounds. A typical VOR and two-way communications radio weighs approximately 6 pounds. Many aircraft will not incur additional weight because they already have some or all of the required avionics. When the avionics weight is considered in relation to the overall weight of an aircraft, it is minimal. The FAA has determined that the small additional weight to meet the equipment requirements to operate in the Honolulu TCA is insignificant compared to the benefits to be achieved by the designation of the TCA.

5. Controller Staffing and Pay Grades—Little or no increase in ATC staffing is anticipated, nor is any pay grade level change expected as a result of this TCA. Honolulu Tower has been providing Stage III terminal radar services in a TRSA since September 1975. Those services are nearly identical to TCA services; the main difference being that pilot participation in the TRSA is voluntary. Any workload change as a result of the TCA is expected to be insignificant and is not anticipated to cause any immediate need to adjust controller staffing levels. Staffing is constantly under review considering all activities of the facility. Controller grade levels are adjusted according to pre-established aircraft activity levels. If no significant change of activity results from the TCA, no pay grade level changes are expected.

F. TRSA vs. TCA.

1. Some commenters felt the existing TRSA and its voluntary participation by pilots provides an adequate level of service. They cited the high level of participation and contend that because of that a TCA would not provide any additional benefits. Since voluntary participation is so high in the TRSA, the impact of a TCA on VFR operations should not be significant. Additional airspace is designated within the TCA that is not in the TRSA which may require VFR pilots to request arrival instructions earlier in some areas, but pilots presently participating in the TRSA should expect little, if any, difference in the ATC handling they now receive. The additional airspace, and required ATC clearance to enter the airpsace, provides more assurance that the passenger carrying aircraft operating in the terminal area are operating in airspace free of uncontrolled aircraft. Considering the higher level of activity, the mix of aircraft types that operate in the terminal area, and the high numbers of passengers carried by the large, turbojet-powered aircraft, that assurance is essential to ensure the highest degree of safety in air transportation.

2. Some commenters felt that it is necessary only to require transponders rather than establish a TCA. Others felt that transponders were too expensive and would add little benefit or added safety. Requiring transponders provides the benefit of radar target enhancement, but without a TCA, would still allow the mix of uncontrolled and controlled flights. It is the elimination of that controlled/uncontrolled aircraft "mix" that the FAA seeks to accomplish. The cost of purchasing transponders by those not so presently equipped is not a significant cost when balanced against the benefits achieved. Further discussion is contained in the user cost assessment made for this rulemaking and contained in the docket. The FAA disagrees that transponders add little benefit and no added safety. Benefit and safety are the reasons that transponder requirements were originally included in the rules to operate in TCAs. A transponder provides for immediate radar identification of an aircraft, radar target enhancement, and a more efficient method to maintain radar identification of the aircraft.

G. Public Consultation.

A commenter stated that the FAA should have surveyed individual pilots in Hawaii for their opinions on the proposed TCA. Individual pilots and other interested parties have been accorded several opportunities to express their views. The Honolulu TCA proposal was the result of FAA staff analysis and input received from various meetings with user respresentatives that resulted in a tentative TCA configuration. An informal airspace meeting was held on March 7, 1979. The results of that meeting and comments received were factors contributing to the proposal to establish a TCA and its configuration. Those were submitted and published as a notice of proposed rulemaking (NPRM). This rulemaking action is a result of those proceedings. The notice of the informal airspace meeting was made to over 100 users and user organizations. The NPRM was mailed to those same addresses, persons who attended the informal airspace meeting, and others who contacted the FAA and requested copies. The NPRM was published in the Federal Register on December 17, 1979, soliciting comments to be received not later than March 17, 1980. Twenty-six letters and a petition signed by more than 300 persons were received. The public has had adequate opportunity to participate in this proceeding.

H. Aircraft Mix and Reliever Airports.

Many comments addressed the mix of types of aircraft operations that occur at the Honolulu International Airport and the lack of an adequate system of general aviation reliever airports in the area. A TCA action would likely still have been proposed even if most general aviation aircraft were relocated at one or more reliever airports. TCA airspace free of uncontrolled VFR aircraft is designed to contain the flight paths of the large, turbine-powered aircraft in terminal airspace. The FAA supports establishing reliever airports and is actively encouraging the State of Hawaii to provide such facilities. However, providing reliever airports does not eliminate the uncontrolled aircraft problem. A TCA at Honolulu will. Some commenters recognized that increased use of Runway 8L, for IFR aircraft rather than 4R, during the higher traffic periods of the day would be a positive step in reducing hazardous incidents and the aircraft mix problem. While segregating the large aircraft on Runway 8L/R and small aircraft on Runway 4L/R would help reduce the mix of types of aircraft using the airport, a prime objective of establishing the TCA is to ensure that the passenger carrying aircraft operating IFR in the terminal airspace receive the added radar separation services from VFR aircraft that is provided. Runway segregation of VFR/IFR aircraft does not present an adequate alternative.

I. ATC Component and Aircraft Equipment Failures.

Some commenters asked what the effects would be if the Honolulu Tower experiences a radar, or computer failure, or aircraft experiences a transponder failure.

1. Computer failure—It is assumed that concern refers to the ARTS III computer. No significant effect would be felt by pilots or controllers. Controllers would not have alphanumerics information available. They would still retain nondiscrete use of the beacon interrogator but would be required to revert to nonautomated coordination, a function normally provided by the ARTS III. Computer outages do occur at various times, both scheduled and unscheduled. Pilots are seldom aware of them, except possibly during a transition to nondiscrete beacon use.

2. Radar failure—The Stage III separation and sequencing for VFR aircraft is dependent upon the terminal radar while a TCA is not. When a radar outage occurs, the rules for entry into and operation within the TCA still apply. ATC will apply available alternate procedures to segregate VFR traffic as much as possible from the IFR traffic flow. Some delays could be expected, but there would be no decrease in the level of safety provided. The same effects would result under the existing TRSA procedures when radar outages occur.

3. Transponder failures—Pilots should familiarize themselves with § 91.24(c)(1) transponder requirements in the case of equipment failure. ATC may authorize an immediate deviation from the requirement for a transponder to allow an aircraft with an inoperative transponder to continue to the airport of ultimate destination, including intermediate stops, or to proceed to a place where suitable repairs can be made, or both. Provisions for other deviations are also prescribed in § 91.24(c)(2) and (c)(3). One commenter

stated the FAA should not issue "waivers" to the transponder

communications with ATC when operating within 5 miles of, and below

K. Alternative Proposals.

1. Proposed Area F—The commenters

the airport traffic area. Separation services will be provided only at and

informal airspace meeting held on March 7, 1979, to which there was no

they were implemented in the TRSA in 1975. That altitude was selected to

stated the FAA should not issue "waivers" to the transponder requirements. Exceptions to those requirements are not issued by waiver, but by obtaining a deviation authorization from the appropriate ATC facility, in this case the Honolulu Tower. Regardless of what it is called, ATC must remain responsive to legitimate deviation requests for specific flights or aircraft which can be handled without undue risk to operations in the TCA.

J. NAS Barbers Point Area.

The U.S. Navy objected to the proposed TCA primarily because of its adverse impact on their mission capability and aviation safety concerns at and around Naval Air Station Barbers Point. They contend it is extremely complicated and would create a more complex operational situation, and would add little, if any, significant improvement to the existing Stage III terminal radar service in the TRSA. While the FAA understands the Navy's position, each airport is considered separately and collectively through a system approach to aviation safety. Airports that are located in such proximity to one another as Honolulu and NAS Barbers Point cannot have large or high performance aircraft operations without some interaction. The FAA has worked with the Navy to design a TCA configuration with as little adverse effect on NAS Barbers Point activity as possible. The airspace configuration of the TCA contains the minimum airspace necessary to contain within the TCA the IFR flight paths and altitudes over and adjacent to NAS Barbers Point. The Navy stated that the proposed Area G would result in Honolulu arrivals crossing NAS Barbers Point as much as 600 feet lower than at present. That conclusion is erroneous. Nothing in the ILS procedure has been changed over NAS Barbers Point and operations should continue as in the past. Changes were made to the west and south, however, but those were to increase the glide slope interception altitude and the intermediate approach segments to 3,000 feet. Those changes were made to enable the floor of Area D to be at 3,000 feet to minimize the impact on NAS Barbers Point operations.

The Navy objected to any TCA airspace encroaching on the NAS Barbers Point airport traffic area, and recommended changes for the narrow areas established to contain the ILS Runway 8L flight path and altitudes. (Those recommendations are reviewed in greater detail under "Alternative Proposals.") Airport traffic areas are established in part to require communications with ATC when operating within 5 miles of, and below 3,000 feet above, an airport with an operating control tower. It is not airspace delegated to a tower to conduct whatever activities they see fit and prohibit other aircraft access to that airspace. Since there is no ATC separation responsibility created by the existence of an airport traffic area, there is no encroachment of airport traffic area airspace by the establishment of a TCA. However, where the TCA airspace is within the NAS Barbers Point airport traffic area, Barbers Point Tower no longer has overall communications responsibility for that airspace. That does not preclude the responsibility for the two ATC facilities involved to execute a Letter of Agreement to ensure the safe, orderly, and expeditious coordination and movement of aircraft activity under their respective jurisdictions. An agreement to achieve that purpose is currently in effect, but it may need to be updated to reflect the establishment of the TCA.

The Navy stated that the TCA action will increase noise because of increased activity to Runway 8L through the Barbers Point airport traffic area. The added activity of jet arrivals to Runway 8L at Honolulu during busy traffic periods is not connected to the TCA action. The TCA will require jet arrivals conducting a visual turn to Runway 8L in the vicinity of Barbers Point to remain at or above 3,000 feet until within the TCA areas confining the Runway 8L approach course. Previously, with coordination with Barbers Point Tower, those aircraft could descend to a minimum of 2,200 feet at or west of the Honolulu VOR in accordance with noise abatement procedures. As previously stated, an altitude below 3,000 feet, south of Barbers Point, was not designated in order to minimize the impact on Barbers Point VFR activity.

The Navy also stated they believed a reduction in safety would occur due to increased numbers of aircraft attempting to avoid the TCA beneath its floor west of Area A. The FAA has found no basis to expect areas over the ocean, south of the ILS Runway 8L localizer, to be used as a detour route around Area A. North of the localizer, over the land, some increased activity may be expected, however, it is not expected to cause any reduction in safety. Aircraft properly equipped and with the appropriate authorization can operate in the TCA. ATC authorization will be based on traffic conditions, pilot intentions, and other factors related to ensuring a safe, orderly, and efficient movement of air traffic in the terminal area.

K. Alternative Proposals.

1. Proposed Area F—The commenters stated that Area F is too low and will unduly restrict en route and other VFR flight. That area contains the departure profiles of the Kules, Blush, and Molokai standard instrument departures (SIDs) as well as the initial approach segments from BAMBO Intersection to the LDA/DME Runway 26L final approach course. A higher floor altitude would require climb rates exceeding those used (300 feet per mile) for the departures and would restrict the Runway 26 arrivals such that a higher rate of descent or an extended vector pattern would be required from BAMBO. Past experience with VFR overflights, especially the afternoon air tours en route to Kauai, indicates that 4,500 feet, or lower, is an optimum altitude. Properly equipped aircraft should encounter little difficulty receiving authorization to transit through that area, especially when Runways 4 and 8 are in use. VFR altitudes of 4,500 feet and lower along V–15 between Molokai and Koko Head are outside the TCA except at the Koko Head VORTAC.

2. Proposed Area K—Commenters stated that this area would unduly restrict VFR pilots, is an arbitrary impediment to VFR traffic, is unnecessary control by ATC, and is not necessary to contain the flight paths of large, turbine-powered aircraft in light of the regulatory requirements associated with operating within airport traffic areas. There were also several comments suggesting that geographical references rather than the proposed northern boundaries of the TCA would be more appropriate for VFR navigation. The FAA agrees with some of those points and Area K has been revised by adjusting its northern boundary from the control zone to along the State Highway H–1 and by reducing the ceiling altitude from 3,000 feet to 2,000 feet. That will exclude unnecessary airspace and establish only that airspace as TCA that is necessary to contain large, turbine-powered aircraft approaching to land on Runways 22L/R and 26R. Further, it ensures aircraft transiting northeast of the airport, that is, those operating to and from Ford Island or helicopter landing areas within the Honolulu airport traffic area, are provided ATC separation services. It will also allow aircraft bypassing Honolulu to remain outside the TCA en route between Koko Head and the central valley area. Pilots are reminded, however, this exclusion does not remove the requirements of § 91.85(b) and § 91.87(b) concerning authorization from, and communication with, the control tower to transit through the airport traffic area. Separation services will be provided only at and below 2,000 feet MSL.

3. Improved TCA entry and exit procedures—Commenters suggested developing improved entry and exit procedures in the State Highway H–1 and H–2 Interchange area, providing landmark reporting points and additional arrival frequencies, especially to the east. Those recommendations are being reviewed by the Honolulu Tower staff. Those actions are beyond the scope of designating TCA airspace, and should be considered even if a TCA were not established since they involve the Stage III radar procedures. The need for another radar position has already been identified, is in the planning stage, and will be installed when funding and equipment availability permit.

4. Revision of proposed northern boundaries—Recommendations were made that all the northern boundaries should be established geographically rather than as proposed. The north boundaries of proposed Area K and a portion of proposed Area J have been revised as suggested. The portion of Area J using VOR radials and the other northern boundaries of the TCA have not been changed because no suitable alternative geographical references exist without establishing more TCA airspace than is necessary. This rationale also applies to not using roads or visual landmarks for defining Areas A, D, G, and H.

5. Corridors—Several commenters recommended that all jet aircraft operate within corridors over the ocean using Runaway 8 thereby leaving light, single-engine aircraft over land and twin-engine aircraft along the shoreline to use Runway 4. Between 7 a.m.–7 p.m. during trade wind conditions, the normal flow is as recommended, except when delays exist for jet arrivals to Runway 8L or when other traffic using Runway 4 is light. Although the TCA does not have an overall appearance of corridors, it does contain the various arrival and departure routes of the large, turbine-powered aircraft. There are six departure and five arrival paths contained along and within V–12 to the northeast of Koko Head VORTAC clockwise to V–15 northwest of Honolulu VORTAC. Those paths connect to the landing and takeoff area of each runway at Honolulu since they are all used by large aircraft. Some additional airspace within Area J was included in the proposed TCA, even though it is not necessary to contain large, turbine-powered aircraft. That was the result of a suggestion at the informal airspace meeting held on March 7, 1979, to which there was no objection. (Area J contains within the TCA aircraft descending to 1,000 feet abeam Diamond Head for separation from jet departures off Runway 8.) No VFR corridor through the TCA exists because flight beneath Area F, above Area K, and north of Areas A, C, D, and J provides the equivalent bypass that would be provided by a VFR corridor.

6. Concerning the applicability of operating rules over the high seas—A question was asked why the 250 knot below 10,000 feet rule (§ 91.70(a)) can't be enforced when the TCA operating and equipment rules (§ 91.90) apply in these same areas. The applicability of those rules is specified in § 91.1(b)(1), which specifies that the rules concerning operations within and underlying a TCA are applicable over the high seas. No such applicability is specified for § 91.70(a) nor does such a requirement exist in Annex 2 to the Convention on International Civil Aviation concerning flight over the high seas.

7. Containing IFR procedures—

a. It was pointed out that on the "PEBLE ONE" (IFR) arrival, an aircraft could be at 2,000 feet between PEBLE and MAKAI intersections and that 15 miles of that route would be below the floor of Area E. The altitude on that route is the minimum en route altitude. Large, turbine-powered aircraft will be assigned altitudes by ATC in that area to ensure they remain at or above the floor of TCA.

b. Another comment stated that an "ELRON" departure, using the 300 feet per mile rate of climb, would exit the TCA between 8,000 and 9,000 feet. That would be true for Runway 4 and 8 departures; however, the 3,000 feet restriction crossing the Honolulu VORTAC 190° radial is usually removed prior to that point allow a climb to exit the TCA above 9,000 feet. Even if that were not possible, the limited VFR activity at those altitudes in that area is not sufficient reason to amend the IFR departure procedure or extend the TCA. However, that situation will be monitored by ATC to determine whether VFR activity dictates adjustment in the procedures or whether a later change in the TCA should be considered.

c. A commenter said that there is no justification for the TCA ceiling of 9,000 feet since practically no uncontrolled, VFR aircraft would be operating above 7,000 feet in the vicinity of the Honolulu International Airport. A recommendation was therefore submitted that the ceiling altitude be amended to 7,000 feet. The altitude of 9,000 feet is the same as has been used for State III separation services since they were implemented in the TRSA in 1975. That altitude was selected to contain the overflights that were known to transit Oahu daily, usually at and below 8,500 feet. Therefore, the ceiling altitude of 9,000 feet was selected to ensure that those aircraft would not operate without ATC authorization while within the same airspace used by the large, turbine-powered aircraft operating from Honolulu International Airport.

d. A commenter stated that Areas B and C and a large portion of Areas E and F are not required because large, turbine-powered aircraft should not be in those areas below 7,000 feet. The commenter further stated that IFR approach and departure procedures could be easily accommodated in slightly enlarged Areas D and J, a reduced Area A, and the Areas G and H as proposed. That commenter then recommended an alternative configuration comprised of six areas, each having a ceiling of 7,000 feet, except over the Honolulu International Airport where the recommended ceiling was at 4,000 feet. The base altitudes would range from the surface up to 4,000 feet.

It was also recommended that if a TCA was adopted it should not be applicable between midnight and 6 a.m. because very few large, turbine-powered scheduled air carriers operate between those hours.

The statement concerning areas where large, turbine-powered aircraft operate below 7,000 feet is incorrect. Areas B and C each contain IFR nonradar approach segments of the primary instrument approaches to Honolulu International Airport and the "ELRON" and "CORAL" standard instrument departures (SIDs). Areas E and F contain other SID procedures to "KULES," "BLUSH," "MOLOKAI," "LANAI," and "ELRON." Areas C and F also contain the vector paths of aircraft transiting from "BAMBO" to the LDA/DME Runway 26L final approach course. The base altitudes established are all predicated on the altitudes established in those procedures or anticipated by use of a 300 feet per mile climb/descent gradient.

The alternate configuration and hours proposed are not adopted for the following reasons:

(1) Aircraft conducting an ILS Runway 4R approach would be operating beneath the floor of a 3,000 feet area while on the final approach course until reaching the airport traffic area.

(2) Aircraft conducting instrument approaches to Runway 8L would be operating beneath the floor of a 1,600

feet area between the Honolulu VORTAC and the airport traffic area.

(3) Aircraft conducting an LDA/DME Runway 28L approach would be operating beneath the floor of a 1,500 feet area between "DELMO" and the airport traffic area.

(4) Runway 8 departures flying the "CATTY" SID or military VORTAC departure could be expected to exit the area over the airport at 4,000 feet.

(5) All other large, turbine-powered aircraft departing Runways 8, 22, and 26 would not be continuously contained within the TCA in the terminal area. For example, the departure ends of all runways used by turbine-powered aircraft for departure are less than 4 miles from the boundary proposed for the core surface area. Using a 300 feet per mile climb rate, departures would either exit the TCA beneath the 1,500 feet floor proposed to the southeast, into an area not designated to the south, or beneath a 3,000 feet floor proposed to the southwest.

(6) Section 91.90(b)(1)(ii) requires that unless otherwise authorized by ATC, each person operating a large, turbine-powered aircraft to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the TCA. Therefore, the situations cited in (1), (2), (3), and (5) would be conflict with that rule in that through improper design of the TCA pilots could not be in compliance with § 91.90(b)(1)(ii) unless ATC gave authorization to operate beneath the floor of the TCA. Such authorization would not be in keeping with the purposes of establishing a TCA and, therefore, is not an acceptable alternative.

(7) No purpose can be found for excluding airspace beyond the airport traffic area due south of the Honolulu International Airport as recommended in the alternative proposal. Three known VFR activities could occur in that area, each of which give reason to designate sufficient airspace to contain the IFR procedures to and from Honolulu International Airport. Those are VFR flights operation to and from the Warning Areas of Oahu, airway navigation training flights, and low altitude air work with surface vessels. Sufficient airspace beneath the TCA will be available for the latter activity, and the operations of the two former activities should be contained within the TCA since those operations may be operating in airspace containing the flight paths of the Honolulu large, turbine-powered aircraft.

(8) Concerning the hours of designation of the TCA, it is true that activity in the early morning hours is reduced. The same is true for all categories of operations. The designation of a TCA between midnight and 6 a.m. is not considered adverse to any operation. During a randomly selected week of activity at Honolulu, an average of 42 air carrier, 7 air taxi, 1 general aviation, and 4 military operations per day took place during those hours. Aircraft activity through the terminal area from other airports is considered extremely light, and aircraft should have no difficulty obtaining any authorizations required. Since the availability of service exists with no anticipated adverse impact on any operation, the FAA sees no advantage in designating the TCA for less than the full day period.

8. Barbers Point area—The U.S. Navy recommended that if the TCA were established, an additional area should be established along the Honolulu ILS Runway 8L approach course, and amendments should be made to Areas G and H to reduce the operational impact on the missions of NAS Barbers Point. Those recommended changes are reflected in the TCA as adopted. Pilots of aircraft operating beneath those areas (G, H and I) are reminded that aircraft flying the glide slope of the ILS Runway 8L procedure will be very near the base of those areas and that no-separation buffer is provided between aircraft operating within and outside of the TCA.

Economic Impacts

The FAA has thoroughly assessed the costs of establishing the Honolulu TCA. A comprehensive economic assessment, covering the entire program as described in the Plan for Enhanced Safety was made available to attendees at informal airspace meetings held in Honolulu on March 7, 1979, and was placed in the Regional and Washington dockets for public comment. The assessment includes systemwide assumptions concerning the impact of all 44 originally proposed TCAs, including the Honolulu, Hawaii, TCA proposal. Since eleven of the original sites are no longer under current consideration, the cost impact systemwide is even less but the underlying assumptions are still applicable to the remaining candidate sites. In addition, to determine whether these general assumptions are valid for the particular TCA airspace description proposed for Honolulu, Hawaii, a Regional detailed draft addition to the broad national study was prepared by the FAA's Pacific-Asia Regional Office. The Regional economic assessment was appended to the national assessment and was also in the Regional and Washington dockets.

Environmental Impacts

In a manner similar to that described above for the national and local economic assessments, an environmental assessment was prepared, which addresses the overall national environmental effect of the 44 original candidate sites for TCAs. The assessment addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the program as a whole, and concludes that those impacts would not significantly affect the quality of the human environment. That national assessment is in the Regional and Washington dockets. In addition, as with the economic study, the program-wide assessment has been supplemented with an environmental assessment prepared by the Pacific-Asia Regional Office, responding to the site-specific impacts of the Honolulu, Hawaii, TCA proposal. The local assessment was likewise in both dockets for public comment and has been updated to reflect the proposed action of adopting this amendment.

Airspace Outside the United States

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States, is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertain to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided, and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standard and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provision of Executive Order 10854.

Adoption of the Amendment

Accordingly, § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) on January 2, 1980, is hereby amended, effective November 27, 1980, by adding a new Group II Terminal Control Area to read as follows:

Subpart K—Terminal Control Areas

§ 71.401 Designation.

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Honolulu, Hawaii, Terminal Control Area
Primary Airport
Honolulu International Airport (Lat. 21°19'20"N., Long. 157°55'27"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at the Honolulu ILS Runway 4R DME (Lat. 21°20'01"N., Long. 157°54'23"W.), to Lat. 21°18'39"N., Long 157°51'15"W.; thence direct to a point on bearing 145°, and 4.5 miles from the ILS Runway 4R DME; thence along the 145° bearing to, and then clockwise along, the 7.5-mile radius arc of the ILS Runway 4R DME to, and along, the Honolulu VORTAC (Lat. 21°19'41"N., Long. 158°01'56"W.) 179°/359° radial to, and then east along, a line 0.5 miles north of, and parallel to, the ILS Runway 8L localizer course to a point 1.5 miles west of the ILS Runway 4R DME, thence direct to the point of beginning.

Area B. That airspace extending upward from 1,500 feet MSL to and including 9,000 feet MSL between 7.5 miles and 15 miles of the ILS Runway 4R DME and bounded on the east by the Honolulu VORTAC 134° radial and on the west by a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course, excluding that airspace within Area A.

Area C. That airspace extending upward from 2,000 feet MSL to and including 9,000 feet MSL between 15 miles and 22 miles of the ILS Runway 4R DME and bounded on the northeast by the Koko Head VORTAC (Lat. 21°16'06"N., Long. 157°42'21"W.) 111° radial and on the west by a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course.

Area D. That airspace extending upward from 3,000 feet MSL to and including 9,000 feet MSL within 22 miles of the ILS Runway 4R DME, south of a line 0.5 miles north of, and parallel to, the Honolulu VORTAC 293° radial, north of a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course, and west of the Honolulu VORTAC 179°/359° radial, excluding that airspace within Areas G, H, and I.

Area E. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL within 32 miles of the ILS Runway 4R DME extending from the Honolulu VORTAC 119° radial clockwise to Lat. 20°49'00"N., Long. 157°46'35"W., to Lat. 20°52'00"N., Long. 157°50'00"W., to Lat. 20°48'20"N., Long. 157°50'00"W., thence clockwise along the 32-mile radius arc of the ILS Runway 4R DME to Lat. 20°51'30"N., Long. 158°10'00"W., to Lat. 21°00'00"N., Long. 158°10'00"W., to Lat. 21°00'00"N., Long. 158°16'00"W., to Lat. 20°59'02"N., Long. 158°19'58"W., thence clockwise along the 32-mile radius arc of the ILS Runway 4R DME to a line 0.5 miles north of, and parallel to, the Honolulu VORTAC 293° radial, excluding that airspace within Areas A, B, C, D, G, H, I, and J.

Area F. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL bounded by a line 0.5 miles northeast of, and parallel to, the Koko Head VORTAC 050° radial beginning at the Koko Head 291° radial and extending to Lat. 21°25'15"N., thence southeast along a 152° heading to, and then along, the 32-mile radius arc of the ILS Runway 4R DME to, and then along, the Honolulu VORTAC 119° radial to a point 22 miles from the ILS Runway 4R DME, thence direct to the point of beginning, excluding that airspace within Areas C and J.

Area G. That airspace extending upward from 1,600 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of, the ILS Runway 8L localizer course, on the east by the Honolulu VORTAC 179°/359° radial and, on the west by the 1.1-mile radius arc of the Honolulu VORTAC.

Area H. That airspace extending upward from 1,900 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of, the ILS Runway 8L localizer course, on the east by the 1.1-mile radius arc of the Honolulu VORTAC, and on the west by the 1.9-mile radius arc of the Honolulu VORTAC.

Area I. That airspace extending upward from 2,200 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of the ILS Runway 8L localizer course, on the east by the 1.9-mile radius arc of the Honolulu VORTAC, and on the west by the 9-mile radius arc of the Honolulu VORTAC.

Area J. That airspace extending upward from 1,000 feet MSL to and including 9,000 feet MSL within 15 miles of the ILS Runway 4R DME, bounded on the north by a line extending west along the Koko Head VORTAC 111°/281° radial until intersecting, and then proceeding along, the H–1 Freeway to Lat. 21°18'39"N., Long. 157°51'15"W.; bounded on the west by Area A, and on the south by the Honolulu VORTAC 134° radial.

Area K. That airspace extending upward from the surface to and including 2,000 feet MSL within an area south of the H–1 Freeway, between Lat. 21°22'32"N., Long. 157°55'40"W., Lat. 21°21'29"N., Long. 157°54'00"W., and Lat. 21°18'39"N., Long 157°51'15"W., east of Long. 157°55'40"W., and north of Area A.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 [49 U.S.C. 1348(a), 1354(a), and 1510]; Executive Order 10854 [24 FR 9565]; Sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)])

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). However, establishment of this terminal control area in concert with the proposed establishment or alteration of many other terminal control areas has been determined to be significant. Therefore, this action is included in the final evaluation prepared in conjunction with that comprehensive action. Copies of the evaluation are in the Washington and Regional dockets, and may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT: . . ."

Issued in Washington, D.C. on August 5, 1980.

Langhorne Bond,
Administrator.

BILLING CODE 4910-13-M

Since this regulatory action involves an established body of technical requirements

to alter the Wrightstown, N.J., Transition Area. The rule is an amendment to

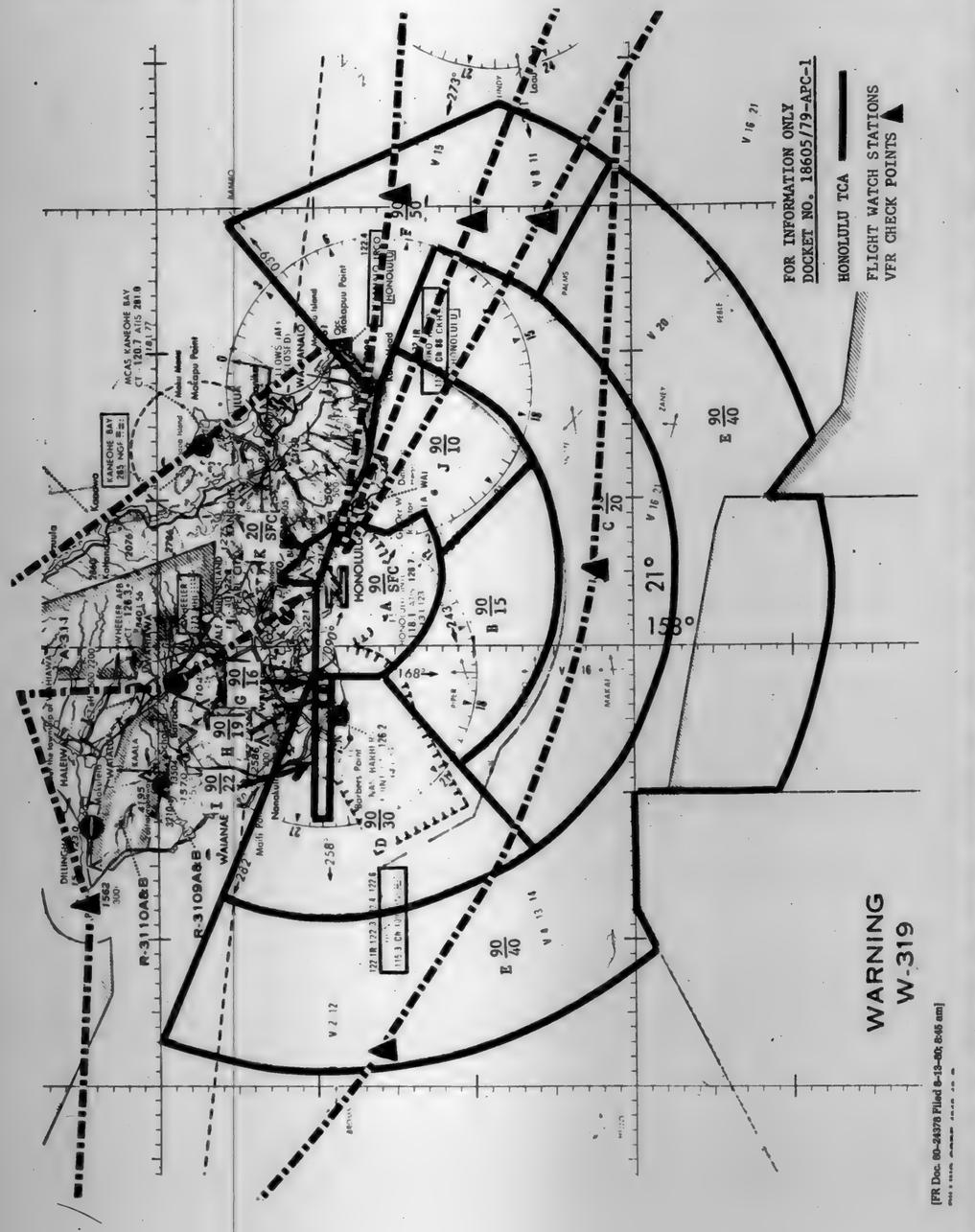

14 CFR Part 71

[Airspace Docket No. 79-EA-65]

Alteration of Transition Area; Martinsville, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Martinsville, Va., Transition Area over Blue Ridge Airport, Martinsville, Va. This alteration will provide protection to aircraft executing an amended VOR-B and a new VOR/DME Runway 30 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 3920 of the **Federal Register** for January 21, 1980, the FAA published an NPRM to alter the Martinsville, Va., Transition Area. The rule will amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Martinsville, Va., Transition Area. The airport is at present overlaid by a 700-foot area to which is now added a portion of airspace approximately three miles long and nine miles wide to the southeast side of the area and a portion approximately one mile wide by six miles long to the westerly side of the southern extension. Interested parties were given time in which to submit comments. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 4, 1980, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Martinsville, Va., 700-foot floor transition area as follows:

In the text delete all after, "extended from the 6.5-mile radius area to 14 miles northeast of the end of the runway"; and substitute therefor, "within 4.5 miles each side of the Martinsville, Va. VOR 178° radial extending from the 6.5-mile radius area to 12 miles south of the airport; within 4.5 miles each side of the Martinsville, Va. VOR 115° radial extending from the 6.5-mile radius area to 11 miles southeast of the airport."

[FR Doc. 80-24376 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-57]

Alteration of Transition Area; Wrightstown, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Wrightstown, N.J., Transition Area over Monmouth County Airport, Belmar-Farmingdale, N.J. This alteration provides protection to aircraft executing the proposed Runway 14 simplified directional facility (SDF) instrument approach which is being developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 3922 of the **Federal Register** for January 21, 1980, the F.A.A. published an NPRM to alter the Wrightstown, N.J., Transition Area. The rule is an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Wrightstown, N.J., Transition Area. The airport is at present overlaid by a 700-foot area to which will be added a portion of airspace approximately six miles deep and eight miles wide to the northwest. Interested parties were given time in which to submit comments. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT September 4, 1980, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

§ 71.181 [Amended]

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Wrightstown, N.J., 700-foot floor transition area by amending the description to read:

Wrightstown, N.J.

Following, "within a 5-mile radius of Monmouth County Airport (40°11'05" N., 74°07'20" W.); within 2 miles each side of the Colts Neck VORTAC 167° radial extending from the Monmouth County Airport 5-mile radius area to the VOR;" add the following: "within 4 miles each side of the Belmar (BLM), N.J., localizer (40°10'57" N., 74°07'14" W.) 315° bearing extending from the Monmouth County Airport 5-mile radius area to 7-miles northwest of the approach end of Runway 14."

[FR Doc. 80-24377 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

V 45 A G 1480 UMI

14 CFR Part 71

[Airspace Docket No. 80-NW-4]

Alteration of Transition Area; Redmond, Oreg.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: The final rule altering the Redmond, Oregon, transition area to be effective September 4, 1980, omitted an airspace exclusion to the transition area being altered. This correction will reflect the additional airspace exclusion.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, (ANW-534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION: Correction to the final rule excludes that airspace within the Lakeview, Oregon, control area from the transition area being altered at Redmond, Oregon.

Since this action is editorial in nature, notice and public procedure hereon are not necessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., September 4, 1980, as follows:

Redmond, Oreg.

After "* * * of and parallel to the 189° radial," on line eleven add: "* * *; that airspace extending upward from 1700 feet above the surface within a line beginning at Redmond, Oregon, VORTAC, extending north on V25 to The Dalles VORTAC, east on V112 to Pendleton VORTAC, southeast on V4 to Baker VORTAC, southwest on V357 to Lakeview VORTAC, west on V122 to Klamath Falls, VORTAC, northwest on V452 to Eugene VORTAC, east on V121N to Redmond VORTAC, excluding that airspace within Federal Airways, the Juniper MOA, the Lakeview Control Area, and the Baker, Eugene, Klamath Falls, Pendleton, The Dalles, and Burns (Wildhorse), Oregon transition areas."

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.65))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedure and criteria prescribed by Executive Order 12044 and as implemented by Department of Tranportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Wash., August 1, 1980.

E. O'Connor,

Acting Director, Northwest Region.

[FR Doc. 80-24580 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 80-ARM-14]

Amendment to Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the title of the using agency of R-6404A and R-6404B Hill AFB, Utah; R-6405 Windover, Utah; and R-6406 Windover, Utah, to reflect internal military reorganization. There are no changes to the area's utilization or dimensions.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) changes the using agency of R-6404A and R-6404B Hill AFB, Utah; R-6405 Windover, Utah: and R-6406 Windover, Utah, from "Commander, Hill AFB, Utah" to "Commander, 6501st Range Squadron, Hill AFB, Utah." Because this action is administrative in nature and not affected by public comment, I find that notice of proposed rulemaking and public procedure is unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 722) is amended, effective 0901 GMT, October 30, 1980, as follows:

In § 73.64:

Under R-6404A Hill AFB, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

Under R-6404B Hill AFB, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

Under R-6405 Windover, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

Under R-6406 Windover, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 7, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24561 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 17a

Cooperative Generic Technology Program Procedures

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Final rule.

SUMMARY: This notice announces the intention of the Department of Commerce to develop and carry out a Cooperative Generic Technology Program in cooperation with U.S. industry and commerce. This new program will provide an opportunity for government, industry, technical institutes, and universities to cooperate in the development of needed generic technologies—those that underlie a broad range of industries—in instances where it is inappropriate for the private sector, acting alone, to do so. The cooperation will include the activities of problem analysis, discovering new knowledge, and providing institutional mechanisms that will promote the development, improvement, and/or transfer of generic technology in selected areas of major importance.

DATE: The regulations become effective August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick Haynes, Department of Commerce, Room 3520, 14th and Constitution Avenue, N.W. Washington, D.C. 20230. (202) 377-5905.

SUPPLEMENTARY INFORMATION: These regulations finalize the Proposed Procedures of the Cooperative Generic Technology Program, which were published for comment, in the **Federal Register** on June 18, 1980.

Maintaining vitality in the Nation's economy and improving our quality of life requires an increased commitment to the development of new technology and improved application of existing technology by domestic industry. In recent years, analysts and decision makers in Government and industry have noted opportunities for stimulating the development of generic technologies—those that underlie a broad range of industries. These generic technologies, broadly used in industry, are often beyond the capability of any one firm to develop for a variety of reasons (cost, lack of management expertise, limited return on investment within a single industry, among others). To encourage a commitment to technological growth and innovation in these generic fields, the Department of Commerce seeks to promote cooperative centers for generic technology research, development and transfer to the private sector. Sharing costs, risks and ideas and building cumulative expertise through a cooperative program such as the one described here will encourage technical progress in these generic technologies.

To this end, the President's Industrial Innovation Initiatives announced on October 31, 1979 called for establishment of non-profit centers—at universities or other private sector sites—to develop and transfer generic technologies. Each center will be targeted on a technology that is involved in the processes of several industrial sectors, and has the potential for significant technological upgrading. The Centers would not supplant efforts in the private sector that are designed for specific product development. Each center will be jointly financed by industry and government, with the government's share dropping to 20 percent or less of the center's cost in the fifth year. In future years, the size of the program will depend on the proposals received, and the experience gained from this initial effort.

Program Goals

The goals of this program are to stimulate technological and industrial innovation in the United States. By stimulating innovation, this program will help to satisfy important national goals such as:

Generating advances in productivity necessary for a growing and noninflationary economy;

Developing new jobs by fostering the creation of new high technology companies;

Protecting environmental quality and human health and safety while enhancing productivity and competitiveness; and

Meeting foreign competitive challenges.

The institutional mechanism chosen to satisfy these program goals is the Cooperative Generic Technology (COGENT) Center. Center will be established for each technology area selected by the program. These centers will be independent non-profit institutions or separate operating units of such institutions that are managed and controlled by private industry sponsors, and funded through government and private sector cost sharing.

Procedural Description

The establishment of centers for generic technologies will follow a three step process. First, the Secretary shall create and maintain an inventory of candidate generic technologies, based upon outside suggestions and internal analysis.

Second, the Secretary will select technologies and invite proposals and requests for funding.

Third, the proposals received will be reviewed, and funds will be released to implement those proposals that best fit the program goals and budgetary limitations.

Description of a Generic Technology Center

A COGENT center will be responsible for the conduct of major R&D projects in the specified generic technology and for promoting technology transfer and utilization. To carry out this responsibility, each Center must perform the following major functions:

A. In-House Generic R&D

Each center will conduct R&D to develop the knowledge needed for new technologies which are unlikely to be created without a cooperative effort. The R&D agenda established by members or their governing boards must be relevant to the specified generic technology, and the potential results should significantly outweigh costs. This R&D must be performed in-house in order to take advantage of cummulative research and problem solving expertise. Therefore the center should plan to develop its facilities, equipment and personnel to the point where it has the capacity to perform in-house as much of the required R&D as possible. The center will not develop a technology beyond the point at which a member firm, acting on its own, may assume the development and resulting commercialization.

B. Technical Services

A major facet of this program is that each center is cooperatively funded by government and industry. However, it is recognized that industry support is likely only if members obtain concrete benefits which are available only to them, and which provide an adequate and near-term return on contributions of the members. Such returns are unlikely from long-term generic R&D. Therefore, each center is expected to design and operate a program of technical services that will provide knowledge of, and ability to utilize available technologies. The specific nature and mix of these services will undoubtedly vary from field to field. However, candidate services include:

1. *Consulting and Technology Service:* A center may have the capability to provide consulting and technical services to interested members, and to non-member firms on an appropriate fee basis. Center staff should include specialists that can provide services such as technical audits, quality control calibrations, technology evaluation, etc. However, the services chosen should complement the capabilities of private consultants rather than compete with them. Therefore, the center must create and distribute a directory of outside experts who can serve as consultants in the specified generic technology.

2. *Information System Service:* The center may establish and maintain a specialized library and data bank that gathers worldwide information on all new developments relevant to the generic technology and disseminates it to its membership. The center could produce periodic status reports on the technology and respond to queries for

technical information from both center members, and from nonmembers on an

(ii) Dues will be assessed by a formula which considers such factors as:

should identify the funding sources and indicate how these funds will be spent.

coordinate the request with the other agency or agencies.

technical information from both center members, and from nonmembers on an appropriate fee basis.

3. *Training:* The center should ensure the availability of programs and facilities for the training of both management and labor in the evaluation and use of the technology in industry. Such services, if provided in-house, must complement programs available from universities and other private sources.

4. *Technology Evaluation:* On a continuing basis, a center will assess new developments in technology on a generic, rather than producer by producer, basis. In this way the center will keep members informed as to progress being made in the development of the technology and the appropriate utilization of new developments.

C. Strategic Planning

The center must have the capability of doing strategic planning in the area of technology development and technology transfer. Strategic planning will involve the periodic assessment of the technology, technology forecasting, identification of critical R&D projects that are required for the advancement of the technology, and of future technology transfer requirements.

Jordan J. Baruch,

Assistant Secretary.

Issued: August 8, 1980.

Title 15 of the Code of Federal Regulations is hereby amended by adding Part 17a, as follows:

PART 17a—COOPERATIVE GENERIC TECHNOLOGY PROGRAM PROCEDURES

Sec.

17a.1 Purpose.
17a.2 Definitions.
17a.3 Program overview.
17a.4 Inventory of candidate technologies.
17a.5 Workshops on generic technologies.
17a.6 Selection of technologies for inclusion in the program.
17a.7 Annual notice of availability of funds.
17a.8 Content of proposals.
17a.9 Waiver procedure.
17a.10 Criteria for selection of center proposals.
17a.11 Proprietary data.
17a.12 Coordination/cooperation with other Federal agencies.
17a.13 Amendments of procedures and criteria.

Authority: 15 U.S.C. 1512; sec. 2, 31 stat. 1449, as amended; sec. 1, 64 stat. 371 (15 U.S.C. 272); Reorg. Plan No. 3 of 1946, Part VI; Reorg. Plan No. 5 of 1950.

§ 17a.1 Purpose.

The purpose of this part is to establish procedures under which the Department of Commerce will administer the Cooperative Generic Technology Program.

§ 17a.2 Definitions.

(a) The term "Secretary" means the Secretary of Commerce or his designee.

(b) The term "Program" means the Cooperative Generic Technology Program.

(c) The term "Generic Technology" means technology that is not product-specific, or that has not been refined to a point where a single firm could reasonably be expected to complete its development.

(d) The term "center" means the Cooperative Generic Technology Centers.

(e) The term "person" means individuals, associations, companies, corporations, firms, government agencies at the Federal, State, and local level, organizations, professional societies, and institutions.

(f) The term "sponsor group" means a group of persons (including users, producers, and/or suppliers of the technology) organized to support centers in a specific technology area.

§ 17a.3 Program overview.

The establishment of generic technology centers will follow a three part process. First, the Secretary will create and maintain an inventory of candidate generic technologies. Second, the Secretary will select technologies from the inventory for inclusion in the Program, and will seek proposals for funding. Third, the proposals received will be reviewed, and funds will be released to implement those proposals which best fit program goals and budget limitations.

§ 17a.4 Inventory of candidate technologies.

The Secretary shall create and maintain an inventory of generic technologies which may be suitable candidates for inclusion in the Program. The inventory will be based upon internal analysis and outside suggestions.

§ 17a.5 Workshops on generic technologies.

The Secretary may hold workshops with representatives from the private sector in order to better understand the nature, need, and value of work in a field of generic technology inventoried in § 17a.4 of this section. Notice of such workshops shall be published in the **Federal Register** and *Commerce Business Daily*, a reasonable time before such a meeting is to be held. Such notice shall state that the workshop is open to the public, and shall give time and location of the workshop.

§ 17a.6 Selection of technologies for inclusion in the program.

(a) The Secretary may select generic technologies for inclusion in the Program from the inventory of technologies prescribed in § 17a.4, or such other sources as he deems appropriate.

(b) Upon making a determination that a specific technology shall be included in the Program, the Secretary may issue in the **Federal Register** an invitation for proposals to fund Centers in the specific technology. The notice shall contain a deadline for submission of the proposal.

(c) The notice shall require that the contents of each proposal shall be as prescribed in § 17a.8 of these regulations.

(d) The Secretary may hold workshops and otherwise encourage the preparation and submission of proposals requested under § 17a.6(b).

(e) The Secretary may select one or more proposals for funding which best meets the requirements set out in § 17a.10.

§ 17a.7 Annual notice of availability of funds

The Secretary shall publish annually, in the **Federal Register** and the *Commerce Business Daily*, a notice containing information about:

(a) Those technologies which the Secretary has designated for inclusion in the Program.

(b) The amount of funds available to the Program; funds for the various technology centers will be available from this total amount.

(c) Contact person, address and phone number.

(d) A listing of other publications in which the funding announcement will appear.

§ 17a.8 Content of proposals.

Each proposal for the establishment of a Center shall contain the following:

(a) A completed *cover sheet* applying for Federal Assistance, SF–424, as described in OMB Circular A–110, Attachment M.

(b) *Corporate Charter and By-laws,* showing that the organization has been established, or will be established, as a nonprofit corporation, and listing the sponsoring individuals.

(1) Each Center's by-laws shall state that the governing board of the Center will be elected in a manner which will ensure fair representation of the interests of all members. No Federal employees will be eligible to serve on a governing board in any capacity.

(2) The Center's by-laws shall also provide that:

(i) Membership in a Center shall be open to all interested domestic persons.

(ii) Dues will be assessed by a formula which considers such factors as:

(A) Overall size of each member;

(B) Volume of activity relevant to the Center's technology;

(C) The member's directness of interest.

(D) A prorated share of the cost of research previously conducted by the Center.

(iii) Membership in a Center may not be conditioned upon adherence to agreements which unreasonably restrain trade. Prohibited agreements shall include:

(A) Restrictions upon members' operational use of technical information or patents developed by the Center;

(B) Restrictions upon independent research conducted by individual members; and

(C) Restrictions upon the use, by individual members, of technology developed outside the Center.

(iv) A Center will not serve as a means for sharing confidential business data among members. Should research or development require the use of such data, it shall be collected either by employees of the Center, or by some independent entity. In no event will such information be shared with the sources' competitors in a form which would allow identification of individual firms.

(v) The Center shall make technical information, resulting from the Center's research activities available to all members at a reasonable cost without discrimination. Terms and conditions of dissemination to nonmembers of the Center shall be at the discretion of the Board; however, the Board shall be governed by the consideration that no significant anticompetitive result ensue from such decisions.

(c) *The Site and Organizational Affiliation* of the proposed Center.

(d) *A Center Organization Plan,* which will describe the Center's activities in these major areas:

(1) In-house R&D;

(2) Technical Services, including:

(i) Consulting and technical services;

(ii) Information system services;

(iii) Training;

(iv) Technology evaluation;

(3) Strategic planning.

(4) The Organizational Plan will include the following for each Center function listed above:

(i) Budget;

(ii) Equipment requirements;

(iii) Personnel requirements;

(iv) Facility requirements;

(v) Major milestones;

(vi) Expected outputs.

(e) *Overall Center Budget and Funding Plan,* covering the first five years of Center operation. This plan should identify the funding sources and indicate how these funds will be spent. Institutional support for the Center operations will be funded by membership dues, sales of technical services, and government supplements that will decline over a number of years.

§ 17a.9 Waiver procedure.

(a) The Secretary may waive the requirement of § 17a.8(b) that a center be established as an independent nonprofit organization under the following circumstances:

(1) If the organization is an independent entity within an existing nonprofit organization, and

(2) If the management and direction of the Center is controlled by the sponsoring firms.

(b) Organizations qualified under this section must meet all the requirements of § 17a.8(b) paragraphs (1) and (2).

§ 17a.10 Criteria for selection of center proposals.

(a) The Secretary may select one or more proposals for funding, which best meet the following criteria:

(1) The breadth and extent of the base of sponsors committed to collaborate in the work of a center, including the likelihood of operation of the center independent of government support after a reasonable period of time.

(2) The degree of center operation's enhancement of industry structure and competition.

(3) The comprehensiveness of coverage of the requirements in § 17a.8.

(4) Availability of funds, and program priorities.

§ 17a.11 Proprietary data.

All persons who request the Secretary to select a technology for inclusion in the Program, and all persons submitting proposals to establish a specific Center, are cautioned that data submitted to the Department may be vulnerable to dissemination under the Freedom of Information Act. The Department would, however, withhold any information it deemed proprietary, on the basis of the provision of 5 U.S.C. 552(b)(4). The Department will consult with the submitter of any data requested under the Freedom of Information Act, prior to the release of such information.

§ 17a.12 Coordination/cooperation with other Federal agencies.

While the Secretary is considering a request prior to making either a preliminary or final determination to establish a specific Center, it may become apparent that the request covers such subjects that are of primary interest of another Federal agency(ies). In such a case, the Secretary will coordinate the request with the other agency or agencies.

§ 17a.13 Amendment of procedures and criteria.

(a) The Secretary may amend these Procedures and Criteria by publishing in the **Federal Register** a notice of proposed amendment. A thirty (30) day period will be allowed from the date of publication for written comment by the public on the proposed amendment. Any amendment adopted shall be published in the **Federal Register.**

(b) If the Secretary finds for good cause that an amendment must be made in a shorter time period than required by this section, he may publish an interim amendment in the **Federal Register,** and at the same time, request comments as provided in paragraph (a) of § 17a.13.

[FR Doc. 80-24642 Filed 8-13-80; 8:45 am]
BILLING CODE 3510-18-M

International Trade Administration

15 CFR Part 373

Revision of Computer-Consignee Destinations

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This revision amends Supplements 2 and 3 to Part 373, which define destinations to which various levels of computers may be exported under the Distribution License Procedure. In the original submission of these lists (43 FR 29448), Luxembourg erroneously appeared in both lists. Italy appeared in Supplement No. 2, while San Marino and Vatican City appeared in Supplement No. 3. This revision amends these supplements by:

(a) Deleting Luxembourg from Supplement No. 3;

(b) Deleting San Marino and Vatican City from Supplement No. 3; and

(c) Inserting a footnote to Italy to indicate that San Marino and Vatican City are considered as parts of Italy for purposes of establishing computer-consignee eligibility.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, telephone: (202) 377–5247 or 377–4811.

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures

of the Administrative Procedure Act. Section 13(b) of the Act, which

determining that they comply fully with their obligations under the Act.

Section 4k was enacted as part of the Commodity Futures Trading

DEPARTMENT OF ENERGY

and extensive reporting requirements on those electric utilities covered by Title I

Summary

Reports filed under Order No. 48 must

of the Administrative Procedure Act. Section 13(b) of the Act, which expressed the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form.

Supplement Nos. 2 and 3 to Part 373 [Amended]

Accordingly, Supplements Nos. 2 and 3 to Part 373 are amended as follows:

1. A footnote to Italy is inserted in Supplement No. 2 to read as follows:

*Includes San Marino and Vatican City.

2. Luxembourg, San Marino and Vatican City are deleted from Supplement No. 3.

(Secs. 13, and 15, Pub. L. 96-72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401, *et seq.*; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); and Department Organization Order 41-1, 45 FR 11862 (February 22, 1980))

Dated: August 7, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-24544 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. 1

Interpretative Statement Regarding the Scope of the Term "Supervision" in the Associated Person Registration Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Interpretative statement.

SUMMARY: The Commission is publishing this interpretative statement regarding the scope of the registration requirement under Section 4k of the Commodity Exchange Act as it applies to those individuals who supervise persons who solicit or accept customers' orders. The purpose of this notice is to assist affected individuals in determining that they comply fully with their obligations under the Act.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone: (202) 254-9703.

SUPPLEMENTARY INFORMATION: Section 4k(1) of the Commodity Exchange Act, 7 U.S.C. 6k(1) (1976), states in pertinent part:

> It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the *supervision of any person or persons so engaged*, unless such person shall have registered, under this Act, with the Commission. . . . (Emphasis added.)

The Commission has received inquiries concerning the scope of the associated person registration requirement as it applies to those individuals who supervise other associated persons on behalf of a futures commission merchant or its agent. The Commission believes that the registration requirement under Section 4k includes all those individuals in the line of supervisory authority over the associated persons who solicit and accept customers' orders.*

Section 4k was enacted as part of the Commodity Futures Trading Commission Act of 1974. The House Report on that Act provides some indication of Congressional intent with respect to the breadth of the registration requirement. That report states that Section 4k would "extend the requirements for registration to any person associated with a futures commission merchant or with any agent of a futures commission merchant in any capacity which involves . . . the supervision of persons" engaged in the solicitation or acceptance of customers' orders. H.R. REP. No. 93-975, 93d Cong., 2d Sess. 65 (1974).

Because of the organizational diversity of futures commission merchants and of their agents, it is not possible to provide specific guidance as to what positions at a given firm would require registration. It should be emphasized, however, that all persons, regardless of position title, who supervise associated persons must register. Since this requirement, as mentioned above, applies to all individuals in the line of supervisory authority, it includes positions up through that of the firm's chief operating officer. Thus, for example, depending upon the organization of each firm, the supervisors required to register might be the branch office manager and designated supervisor, district manager, vice-president in charge of commodity sales, vice-president in charge of the commodity department, the executive vice-president to whom these persons report, and the president of the firm.

In publishing this notice regarding those supervisors required to be registered under Section 4k, the Commission wishes to emphasize that it intends to enforce that Section in accordance with this Interpretation. Accordingly, any person failing to comply with this Interpretation will be subject to appropriate Commission action.

Issued in Washington, D.C., on August 11, 1980.

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 80-24656 Filed 8-13-80; 8:45 am]

BILLING CODE 6351-01-M

* In connection with the initial organization of the Commission, staff reports were prepared concerning the proper implementation of the Act, and one such report (Report for the Commodity Futures Trading Commission, *Questions Respecting the Registration of Associated Persons*, Project No. 204 (1975)) specifically discussed the interpretation of Section 4k as it relates to supervisory personnel.

The Report stated that three approaches could be taken. First, the Commission could view the term "supervision" narrowly, as applying only to the immediate supervisor of the employee who is engaged in the solicitation or acceptance of customers' orders. Second, the Commission could construe the term to include not only the immediate supervisors and those in the supervisory "chain-of-command" but also to include anyone who has policy-making responsibility with respect to these activities or who supervises persons with such responsibility. The third approach would be to include not only the immediate supervisors, but also all those persons in the supervisory "chain-of-command" of a futures commission merchant or its agent. It is this third approach which the Report recommended and which the Commission has followed and concerning which it is now giving the public general notice.

While this Interpretation deals with the question of who must register under Section 4k(1)(ii) of the Act, Commission rule 166.3, 17 CFR 166.3 (1979), concerns the scope of the supervisory obligations of registrants other than non-supervisory associated persons and, of course, would apply to those who must register under Section 4k(1)(ii) in accordance with this Interpretation.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM79-6; Order No. 48-B]

Collection of Cost of Service Information Under Section 133 of the Public Utilities Policies Act of 1978

August 7, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission hereby amends its regulations regarding the collection of cost of service information under section 133 of the Public Utilities Regulatory Policy Act of 1978 to provide utilities required to submit data under that section with instructions for submitting the required information.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lewis, Assistant to the Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376-9227.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 48, containing final regulations implementing section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] On January 4, 1980, the Commission issued Order No. 48-A, granting in part and denying in part petitions for reconsideration of certain provisions of Order No. 48.[2]

Section 290.102(b) of Order No. 48 provides that the information required to be submitted by utilities "shall be submitted on suitable standard forms prescribed by the Commission or in any form otherwise determined by the Commission." The present order amends § 290.102 to provide respondent utilities with instructions for submitting the required information by November 1, 1980. The order further states the Commission's intention to consider refinement and extension of these instructions following its review of the first submissions under these regulations.

In seeking to fulfill the purpose of section 133, Order No. 48 places new and extensive reporting requirements on those electric utilities covered by Title I of PURPA. Whether these reporting requirements should include new standard forms, thereby assuring uniformity among the submissions, has not yet been determined. Uniform submissions would facilitate use of the information by some interested parties [3] and any compliance review that is necessary. However, there are arguments against the prescription of standard forms, including the fact that many of the required data have already been developed by respondent utilities for their own purposes and would have to be transcribed to such standard forms as we might prescribe. Because the time in which utilities must submit their first reports is only about three months away, it is urgent to provide respondents with basic instructions now so as to enable them to meet the first reporting date. This can be done with instructions that permit latitude in format. Even if we determine now that standard forms are desirable, their preparation and adoption would take more time and would jeopardize effective compliance, which would not serve the overall purposes of the law. We think it better to give respondent utilities the opportunity to take advantage of the existing report formats and media, where these are applicable and thus seek the means to minimize new reporting costs to the extent possible.

However, it is important that the data be available to users in convenient form. The required information is expected to be used, at least initially, on a case by case basis, involving one utility or a very small number of utilities. The Congressional purpose was to provide for the availability of information that would be used primarily by persons interested in retail electric rate proceedings in the various states. As a consequence, the filed information must be ready for use in locations that are readily accessible to such interested persons. For this reason, the filings must be self-contained. The potential users must not have the burden from which the Congressional act would relieve them of having to depend on data in a variety of reports that the utilities would file with Federal or State agencies, some of which might not only be inaccessible, but even unknown to some interested persons.

Summary

Reports filed under Order No. 48 must be legible and complete. They must be capable of being understood by a person who is familiar with the data requirements of Order No. 48 and generally familiar with utility accounting and operating terminology and practices.

It is our conclusion that a minimal and adequate reporting format consistent with the objectives set forth above is a set of data presentations, of the respondent utilities' design and choosing, having clear and unambiguous correspondence to the paragraphs and subparagraphs of the regulations that specify data requirements. The presentations must be clearly labeled as to the paragraph of the regulations treated, and must be arranged in the order in which the items are to appear.

As an appendix to this order, but not a part of it, the Commission has included a Staff Advisory Statement describing specific formats that may be used, at each respondent utility's option, for reporting certain information specified in the regulations. Commission Staff is hereby directed to review the submitted information and by February 1, 1981, advise the Commission as to the need for refinement and extension of the reporting instructions, including the need for standard forms. To the extent that standard forms are included in Staff recommendations, such forms may or may not be similar to those included in the Staff Advisory Statement attached hereto. The comments of utilities and other interested parties will be sought on any standard forms proposed in Staff recommendations.

Effective Date

The revision to § 290.102(b) is intended to inform persons required to file data under 18 CFR Part 290 by November 1, 1980, of the way in which such data to be submitted is to be organized. There is an immediate need for regulations to give direction to those who are preparing data submissions for the approaching deadline. In addition, the regulation is a procedural one relating to the format and organization of data submittals already required by Part 290. For these reasons, good cause exists to adopt this revision effective immediately.

(Public Utility Regulatory Policies Act, (16 U.S.C. 2801-2645), Department of Energy Organization Act, (42 U.S.C. 7101-7352), Exec. Order No. 12009, 3 CFR Part 142 (1978))

In consideration of the foregoing, the Commission revises Part 290 of Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

[1] 44 FR 48,687 (1979).

[2] 45 FR 2,023 (1980).

[3] In particular, this would appear pertinent to the intervention activities of the Secretary of Energy, as well as to those users or other interested persons who express a national concern with retail electric ratemaking procedures, such as some industrial groups and some consumer or conservationist groups.

By the Commission.

Kenneth F. Plumb,

Secretary.

Part 290, Subchapter K, Chapter I of the Code of Federal Regulations, § 290.102 is revised in paragraph (b) to read as follows:

§ 290.102 Compliance.

* * * * *

(b)(1) *Form of the information.* The information prescribed in Subparts B, C, D, and E of this part shall be submitted as a set of presentations corresponding to the named paragraphs which are listed in outline in paragraph (b)(2) of this section. The presentations are to be of each respondent utility's design and choosing: *Provided,* That each presentation is clearly identified with the name of the utility, the date of submission, and the paragraph or subparagraph of this part to which the information corresponds. The presentations must be arranged in order corresponding to the order given in paragraph (b)(2) of this section following, and must be preceded by a title sheet as prescribed in paragraph (b)(3) of this section following. The presentations must be clear and legible, and suitable headings and identification must be provided for numerical data. The presentations may be tabular or descriptive according to the nature of the information prescribed.

(2) *List of required items for information.* Those paragraphs and subparagraphs of Order No. 48 that identify specific information requirements are as follows:

Subpart B—Accounting Cost Information

Section 290.201 Rate Base Information

(a) Plant accounts
(b) Depreciation reserve
(c) Depreciation expense
(d) Construction work in progress
(e) Prepayments
(f) Accumulated deferred income tax
(g) Materials and supplies
(h) Electric plant held for future use
(i) Nuclear fuel materials
(j) Common utility plant and expenses

Section 290.202 Operating Expense Information

(a) Operating and maintenance expense accounts
(b) Payroll
(c) Taxes

Section 290.203 Income and Revenue Related Tax Information

(a) Tax rates
(b) Differences in income items and deductions
(c) Itemized deductions
(d) Adjustments to taxes

Section 290.204 Rate of Return Information

(a) Capitalization
(b) Costs of capital

Section 290.205 Costing Periods

Subpart C—Marginal Cost Information

Section 290.302 Generation Cost Information

(a) Production planning information for existing generating plants
(b) Production planning information for planned additions to generating capacity
(c) Factors affecting existing generating units
(d) Planning method used
(e) Other sources of information
(f) Ten year resource projection
(g) Net annual cost of the generating unit or units that will be installed to meet increases in peak demand

Section 290.303 Energy Cost Information

(a) Typical hourly marginal energy costs
(b) Other information on marginal energy costs
(c) Pool hourly marginal energy costs
(d) Procedures and models used
(e) Hydroelectric units
(f) Effect of purchased power costs
(g) Marginal energy costs by costing period and by year
(h) Calculated marginal energy costs by costing period
(i) Effect of energy loss

Section 290.304 Transmission Cost Information

(a) Plant information
(b) Operating and maintenance expense

Section 290.305 Distribution and Customer Cost Information

(a) Plant information
(b) Operating and maintenance expense

Section 290.306 Other Cost Information

(a) Customer expenses
(b) Sales expenses
(c) Administrative and general expenses
(d) Certain taxes
(e) Electric plant in service
(f) General plant
(g) Materials and supplies
(h) Prepayments

Section 290.307 Annual Carrying Charge Rates

(a) Estimates
(b) Worksheets

Section 290.308 Costing Periods

Subpart D—Load Data

Section 290.402 Load Data for the Total of all Customers (System and Pool Load Data,

(c) Historic peak loads
(d) Load data for the reporting period
(e) Projected load data

Section 290.403 Load Data for Certain Customer Groups

Section 290.406 Other Information

(a) Information on customer groups
(b) Loss factors
(c) Shifts on and off daylight saving time

Subpart E—Calculated Costs

Section 290.501 Accounting Cost Calculations

(a) Calculated accounting costs of providing service
(b) Description of method used
(c) Cost study

Section 290.502 Marginal Cost Calculations

(a) Calculated marginal costs of providing service
(b) Description of method used
(c) Cost study

(3) *Title Sheet.* Respondent utility's information presentations must be preceded by a title sheet as illustrated below:

Title Sheet

Electric Utility Information

Submitted by: (name of utility)_____

in compliance with

Federal Energy Regulatory Commission Order No. 48

Cost of Service Information

Reporting Period:_____
Calendar year:_____
Or other:_____

Attestation: I have prepared or supervised the preparation of the information presented herewith, and I certify that it is as complete and accurate as the records of the respondent will permit, to the best of my knowledge and belief

Signature:_____
Name:_____
Title:_____
Address:_____

Technical questions on the content of this report should be addressed to:

Name:_____
Title:_____
Address:_____
Date submitted:_____

(4) *Use of Uniform System of Accounts.* With regard to specific items of cost information, if an account number from the FERC [1] Uniform System of Accounts is specified in Subparts B and C of this part, public utilities under the Federal Power Act shall file in accordance with the specified accounts. Any utility covered by section 133 of the Public Utility Regulatory Policies Act (PURPA) but not required to keep its books by the FERC Uniform System of Accounts may provide this information in accordance with the system of accounts presently employed, so long as all required individual items of information are fully defined and expressed in the same degree of detail as that required in the FERC Uniform System of Accounts.

[FR Doc. 80-24600 Filed 8-13-80; 8:45 am]

BILLING CODE 6450-85-M

[1] FERC accounts refer to FPC accounts so numbered.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Dextrines and Soluble or Chemically Treated Starches Derived From Potato Starch From the European Community; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Revocation of countervailing duty order.

SUMMARY: This notice is to advise the public that, as a result of a negative injury determination by the International Trade Commission, the Department of Commerce is revoking the countervailing duty order on dextrines and soluble or chemically treated starches derived from potato starch from the European Community. The table in Part 355, Annex III of the Commerce Regulations is amended to reflect this revocation.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-2209).

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination," T.D. 80-2, was published in the Federal Register of December 19, 1979 (44 FR 75135). The notice stated that the Treasury Department had determined that exports of dextrine and soluble or chemically treated starches derived from potato starch from the European Community were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce (the Department). Since the member states of the European Community were "countries under the Agreement" as of January 1, 1980, the Department referred this case to the International Trade Commission (ITC) for a material injury determination in accordance with section 104(a)(1) of the TAA. Effective January 1, liquidation was suspended and estimated countervailing duties were collected (see 45 FR 12860, February 27, 1980). The ITC published a negative material injury decision in the Federal Register of May 7, 1980 (45 FR 30182).

As a result, the Department hereby revokes T.D. 80-2 with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980.

The Department will instruct Customs officers to proceed with liquidation of all such entries of the subject merchandise without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to such entries. Entries, or withdrawals from warehouse, for consumption made from December 19, 1979, through December 31, 1979, are subject to countervailing duties as set forth in T.D. 80-2.

It should be noted that the ITC's negative injury decision also applies to dextrines and soluble or chemically treated starches derived from corn starch from European Community, which product was the subject of a separate affirmative "Final Countervailing Duty Determination" by the Department on March 21, 1980 (45 FR 18414).

Consistent with section 705(c)(2) of the Tariff Act of 1930 the Department terminated the corn starch investigation at the time the ITC published notice of its negative injury determination.

The table in section 355, Annex III, Commerce Regulations (19 CFR Part 355, Annex III, 45 FR 4949), is amended under the country heading "European Communities" by deleting from the column headed "Commodity," the words "Dextrines and soluble or chemically treated starches derived from potato starch"; from the column headed "Treasury Decision," the number "80-2"; and from the column headed "Action," the words "Bounty declared-rate."

This revocation and notice publication are in accordance with section 104(a)(3)(B) of the TAA (93 Stat. 191, 19 U.S.C. 1671 note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

August 11, 1980.

[FR Doc. 80-24596 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1589-6; FAP 9H5222/R63]

Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the pesticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on dried apple pomace at 0.2 part per million (ppm). The regulation was requested by Shell Chemical Co. This rule establishes a maximum permissible level for residues of cyano in dried apple pomace.

EFFECTIVE DATE: Effective on August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202/426-9417.

SUPPLEMENTARY INFORMATION: Notice was published in the Federal Register of July 20, 1979 (44 FR 42773) that Shell Chemical Co. had filed a food additive petition (FAP 9H5222) with EPA. This petition proposed that 40 CFR Part 193 be amended to establish tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the food commodity dried apple pomace at 0.2 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rat acute oral toxicity study with a median lethal dose (LD_{50}) of 1-3 grams (gm)/kilogram (kg) of body weight (bw) in water and 450 milligrams (mg)/kg of bw in dimethylsulfoxide (DMSO); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm; and an 18-month mouse feeding study with a NOEL of 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month rat feeding study with a NOEL of 250 ppm (the highest level fed) with no oncogenic effects; a three-

generation rat reproduction study with a NOEL of 250 ppm (the highest level fed); teratology studies in mice and rabbits (both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: Mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: A hen study negative at 1g/mg/kg of bw for 5 days, repeated again at 21 days; a rat acute study with an NOEL of 200 mg/kg of bw; a 15 month rat feeding study resulted in a systemic NOEL of 500 ppm and a NOEL of 1500 ppm with respect to nerve damage.

The pesticide is considered useful for the purpose for which the tolerance is sought. Establishment of the tolerance will protect the public health. Therefore, the regulation amending 21 CFR Part 193 by adding § 193.86 is set forth below.

Any person adversely affected by this regulation may, on or before September 15, 1980, file written objections with the Hearing Clerk, EPA, Room M–3708 (A–110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 14, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: August 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart A of 21 CFR Part 193 is amended by adding § 193.86 to read as follows:

§ 193.86 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate.

A tolerance is established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the following food additive commodity:

Commodity	Parts per million
Dried apple pomace	0.2

[FR Doc. 80-24583 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

28 CFR Part 42

Nondiscrimination in Federally Assisted Programs

AGENCY: Office of Justice Assistance, Research, and Statistics (OJARS), Law Enforcement Assistance Administration (LEAA), National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS), Justice.

ACTION: Final rules.

SUMMARY: OJARS is adopting, as final, two amendments to its Nondiscrimination Regulations originally proposed for comment on May 20, 1980. 45 FR 33652. New 28 CFR 42.203(b)(8) specifically prohibits recipients of financial assistance under the Justice System Improvement Act (JSIA) or Juvenile Justice (JJ) Act from depriving any person of his or her constitutional rights on the basis of race, color, religion, national origin, or sex. New 28 CFR 42.204(b) prohibits certain awards of assistance under the JSIA or the JJ Act until the applicant's Equal Employment Opportunity Program (EEOP) has been approved by OJARS.

OJARS is also making technical and typographical corrections to its previously published final rules.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Attorney-Advisor, OJARS, Office of General Counsel, (202) 724–6235.

SUPPLEMENTARY INFORMATION: OJARS received only four comments on the proposed amendments, two on the constitutional rights issue and two on the EEOP issue.

On the constitutional rights issue, one commenter asked why a deprivation of rights on the basis of handicap was not prohibited. The OJARS Nondiscrimination Regulations implement section 815(c) of the Justice System Improvement Act of 1979, which proscribes discrimination on only the grounds of race, color, religion, national origin, or sex. Accordingly, these regulations are not the appropriate vehicle to enjoin conduct discriminating against the handicapped. Discrimination against the handicapped in IEAA-, NIJ-, and BJS-financed programs is addressed in the Department of Justice's regulations, "Nondiscrimination Based on Handicap in Federally Assisted Programs," 45 FR 37620 (June 3, 1980).

The other commenter on this issue commended the amendment for its application of the constitutional rights accorded juveniles in *In Re Gault* to JSIA agencies' recipients. To the extent that a recipient denies juveniles the rights accorded by that case on the basis of race, color, religion, national origin, or sex, such conduct is prohibited by section 42.203(b)(8).

With respect to the EEOP review issue, one commenter suggested that OJARS conduct a pre-award review of all grants for $250,000 or more, rather than $500,000 or more. Prior to proposing this amendment, OJARS reviewed all announced grant programs, and the size of the grants likely to be awarded under them in FY 1980, and concluded that it could conduct a thorough and timely review of only the (approximately) 35 awards that would exceed $500,000. Our conclusion has not changed in this regard.

The other commenter suggested doing pre-award reviews of non-governmental applicants' EEOP's as well. OJARS' present EEOP regulations do not, however, require non-governmental applicants to prepare EEOP's. This issue is being examined during the agency's present efforts to revise the EEOP regulations, and will be highlighted for comment when those revisions are proposed in the **Federal Register** in the near future.

Accordingly, 28 CFR Part 42 is amended in the following paragraphs. Paragraph (b)(8) is added to § 42.203; paragraph (a) is published for clarity:

§ 42.203 Discrimination prohibited.

(a) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under the JSIA or the Juvenile Justice Act.

(b) A recipient may not, directly or through contractual or other arrangements, on the grounds set forth in paragraph (a) of this section:

* * * * *

(8) Subject any individual to physical abuse or summary punishment, or deny any individual the rights guaranteed by the Constitution to all persons;

* * * * *

Section 42.204 is amended to add paragraph (b) as follows:

* * * * *

§ 42.204. Applicant's Obligations.

* * * * *

(b) Every unit of State or local government and every agency of such unit that applies for a grant of $500,000 or more under the JSIA or the Juvenile Justice Act, must submit a copy of its current Equal Employment Opportunity Program (if required to develop one under 28 CFR 42.301, et. seq.) to OJARS at the same time it submits its grant application. No application for $500,000 or more will be approved until OJARS has approved the applicant's EEOP.

* * * * *

In addition, the following technical and typographical corrections are being made, as final, in the OJARS Nondiscrimination Regulations otherwise adopted as final on April 30, 1980. 45 FR 28704.

1. The last sentence of paragraph 9 in the "Supplementary Information" portion of the preamble to the regulations, 45 FR 28705, is deleted as incorrect and inconsistent with the commentary on section 42.205(c)(1). OJARS does not have "jurisdiction" to investigate a complaint, if the agency complained against is not receiving OJARS, LEAA, NIJ, or BJS assistance at the time the complaint is received.

§ 42.202 [Amended]

2. In 28 CFR 42.202(r), "criminal justice control" is corrected to read "criminal justice council."

§ 42.205 [Amended]

3. 28 CFR 42.205(c)(4) is corrected to read: "If, within 30 days, the Office's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Director of OJARS for a determination of compliance or non-compliance. The determination shall be made no later than 14 days after the conclusion of the 30-day period. If the Director makes a determination of non-compliance with section 815(c)(1) of the JSIA, the Office shall institute administrative proceedings pursuant to § 42.208 et seq."

§ 42.206 [Amended]

4. In 28 CFR 42.206(a) (1) and (2), "IEAA" is corrected to read "LEAA."

Robert F. Diegelman,

Assistant Administrator, Office of Planning and Management.

[FR Doc. 80-24587 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 79–148]

Electronic Relative Motion Analyzer

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule requires self-propelled vessels of 10,000 gross tons or more that are U.S. vessels or call at a U.S. port, and that carry oil or liquid hazardous materials in bulk as cargo or in residue, to have an electronic relative motion analyzer (ERMA) installed by July 1, 1982. This requirement is mandated by Section 5 of the Port and Tanker Safety Act of 1978 (Pub. L. 95–474). It is intended to help minimize the occurrence of collisions involving those vessels which may have the potential of creating environmental harm. Because of the confusion concerning applicability that was made evident by comments on the notice of proposed rulemaking, additional comments on applicability, as clarified by this final rule, are invited.

DATES: 1. This amendment is effective on July 1, 1982. 2. Comments must be received by September 29, 1980.

ADDRESSES: Comments on the applicability and definitions should be submitted to the Commandant (G–CMC/24) (CGD 79–148), U.S. Coast Guard, Washington, DC, 20593. All comments and copies of the final evaluation are available for examination at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems (G–WWM–2/11), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426–4958.

SUPPLEMENTARY INFORMATION: In response to the President's message to Congress of March 17, 1977, a notice of proposed rulemaking on this subject was published on May 16, 1977 (42 FR 24871). Public hearings were held in San Diego, California, on June 16, 1977, and in Washington, DC, on June 21, 1977. The proposal was withdrawn on July 24, 1978 (43 FR 32112) in order to allow the U.S. to encourage and participate in a parallel international action conducted by the Intergovernmental Maritime Consultative Organization (IMCO).

The U.S. Congress, in October 1978, enacted the Port and Tanker Safety Act (the Act) (Pub. L. 95–474). Section 5(7)(J) of the Act requires certain vessels of 10,000 gross tons or more to be equipped with, among other things, an "electronic relative motion analyzer" by July 1, 1982. In response both to the Presidential directive and to the Act, a second notice of proposed rulemaking was published by the Coast Guard on February 21, 1980 (45 FR 11790).

DRAFTING INFORMATION: The principal persons involved in drafting this document are Mr. Fred Schwer, Office of Marine Environment and Systems, Project Manager, and Lieutenant Commander Jack Orchard, Office of Chief Counsel, Project Attorney.

DISCUSSION: Fourteen letters of comment on the docket were received. Six of the letters, plus numerous telephone calls to the Project Manager, made it evident that the applicability of the proposed rule was unclear. The rule is intended to implement Section 5(7)(J)(ii) of the Port and Tanker Safety Act of 1978 and derives its applicability from the Act. In summary, this rule applies to any self-propelled vessel of 10,000 gross tons or more that is a U.S. vessel or calls at a U.S. port, and carries:

1. Oil in bulk as cargo or in cargo residue; or

2. Liquid hazardous material in bulk as cargo or in cargo residue. Some definitions have been added to this final rule to clarify the scope of its applicability.

Note particularly that the term "self-propelled vessel" includes those combinations of a pushing vessel and a vessel being pushed ahead which are rigidly connected in a composite unit and are required by Rule 24(b) of the "International Regulations for Preventing Collisions at Sea," 1972 ('72 COLREGS) (App. A to 33 CFR Part 87), to exhibit the lights prescribed in Rule 23 for "Power Driven Vessels Underway". This language also is consistent with IMCO's proposed amendment to Regulation 12 of Chapter V of the "International Convention on Safety of Life at Sea, 1974" (SOLAS '74), which will require these composite units to carry navigation equipment prescribed for ships of comparable aggregate tonnage.

Several callers have asked whether non-revenue cargo is included in the

One commenter cited the possibility that a mariner could set the alarm

adequacy of the standards. The Coast Guard is required to report annually to

nonsignificant. A final evaluation has

any port or place subject to the jurisdiction of the United States, must

as they can by manually plotting a single target; and

Several callers have asked whether non-revenue cargo is included in the term "cargo". "Cargo" means either revenue or non-revenue cargo. The rule does not apply to ships that carry only "bunker" fuel for their own use, regardless of quantity.

"Bulk" means material in any quantity that is shipped, stored, or handled without benefit of label, mark, or count. In this application it means liquid material that is pumped on or off the vessel, into or from integral or fixed independent tanks. It does not apply to marine portable tanks or containers that are handled as "package" products.

One commenter suggested that the applicability of the regulations should be extended to include public vessels. Section 5(4)(A) of the Act specifically excepts public vessels. This rule, as noted above, is intended to implement the Act. Therefore, it is beyond the authority of the Coast Guard, acting under the Act, to broaden its applicability.

Four commenters took issue with the United State' unilateral action, which they consider to be inconsistent with recent actions taken by IMCO. The U.S. Government, through the U.S. Congress, has determined that immediate action is necessary to protect the waters of the nation from environmental damage by vessels which have the greatest potential for creating harm. With the exception of the legislatively mandated implementation date of July 1, 1982, and the requirement for audible and visual contact alarms, both of which are required by the Act, the Standards contained in this regulation are compatible with the IMCO standard. Furthermore, the proposed amendment to SOLAS' 74 will require all vessels of 10,000 gross tons or more to have the devices. Implementation of that requirement would start on January 1, 1984. The Coast Guard will conduct further rulemaking before that date as may be required by our treaty obligations.

Four letters of comment called attention to the possibly dangerous effect of "operational warnings". They contended that audible and visual alarms to warn of newly acquired targets will condition the watchstander to observe the radar only "when the bell rings." This certainly is a possibility and could be a danger, but it is one that can be offset by proper training in the use of radar and ERMA. However, the risk of negative conditioning is problematical. In reality, some watchstanders do not pay sufficient attention to the radar now and casualties caused by inattentive watchstanding do occur.

One commenter cited the possibility that a mariner could set the alarm feature at a zero range setting, thereby effectively disabling the mechanism. This is quite true, but it is a useful capability. In channels and crowded waterways, an alarm-disabling feature is necessary to avoid continuous alerting of the watchstander. Again, training in the proper use of the device will eliminate most misuse.

Four letters of comment asserted that extensive ERMA training is necessary before the units come into widespread use. The commenters consider the device to be dangerous in the hands of an untrained or undertrained operator and likely to cause collisions rather than to avert them. The Coast Guard agrees that, like any tool, an ERMA can be misused. However, it is not agreed that extensive training is necessary. It has been demonstrated many times that 30 to 60 minutes of familiarization is adequate to permit a reasonably intelligent person with a knowledge of radar plotting to effectively use the devices. Thereafter, practice increases proficiency. The key to proper use is the realization that ERMA is a time and labor saving tool, not a decision making machine. It provides the operator with timely information in an easy to understand format, from which an informed navigating decision may be made.

Three commenters urged that the ERMA be capable of accepting electronic inputs from either of the two radars required on vessels of 10,000 gross tons or more. The Coast Guard agrees that an interswitching capability can be useful. However, interswitching requires compatible radar systems. Recent advances in radar technology have led to new directions in radar design, at least one of which is electronically incompatible with existing radars. A required interswitching capability at this time could choke-off development of these very promising concepts.

Four commenters recommended various technical changes to the standard. Some of those unquestionably have merit. However, the standard cited in this rulemaking is essentially that which has been agreed to internationally. Unilaterally amending the international standard to achieve incremental improvements of questionable value to safety is not considered a reasonable course of action.

Two commenters recommended that the U.S. Coast Guard monitor the performance of the devices as they go into widespread service and report to IMCO and to the U.S. Congress on the adequacy of the standards. The Coast Guard is required to report annually to the Congress on its progress in implementing the Act. Should a revision of the standard become necessary, the mechanism exists for the report of this fact to Congress. Regarding IMCO, international standards are under continuous review by the Organization. As more shipboard experience with the devices is gained, necessary changes to the standard will become evident and will be incorporated as the need dictates.

One commenter suggested that U.S. "grandfather" devices which are already installed on many ships. The Act does not allow the Coast Guard to accept a lesser standard than that of the Maritime Administration. Internationally, administrations may accept a standard less than IMCO's until 1991, but vessels calling at U.S. ports will have to comply with one of the standards described in this rulemaking.

One commenter suggested that failure of the ERMA be added as a required report under 33 CFR Part 164.53. The Coast Guard disagrees. Reports under that section are intended to cover only those items of navigational equipment that may be essential for the safe passage of a ship from the sea into port. The ERMA may be helpful, but it is not essential.

The wording of paragraph 164.38(c)(1), as it appeared in the NPRM, has been changed to eliminate references to 1984 and 1985. These dates were in reference to the proposed SOLAS '74 carriage requirements for the devices. However, the wording caused some confusion about the implementation date of this rule, which is July 1, 1982, as stated above. The SOLAS '74 references are not a factor in this rulemaking.

Although the "Port and Tanker Safety Act of 1978" refers to an "electronic relative motion analyzer" (ERMA), the term used by IMCO is "automatic radar plotting aid" (ARPA). As was mentioned in the preamble to the NPRM, this rulemaking adopts the IMCO term to avoid confusion and to promote standardized terminology for these devices.

This rule will become effective on July 1, 1982. If, as a result of comments, the Coast Guard decides that further clarification of its applicability is desirable, due notice will be given in the **Federal Register** within 120 days of publication of this rule.

This final rule has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (FR 11034, February 26, 1980) and is determined to be nonsignificant. A final evaluation has been prepared and is included in the public docket.

In view of the foregoing Part 164 of Chapter I of Title 33, Code of Federal Regulations is amended as follows:

1. By revising § 164.01 to read as follows:

164.01 Applicability.

(a) This part (except for §§ 164.38 and 164.39) applies to each self-propelled vessel of 1600 or more gross tons (except foreign vessels described in § 164.02) when it is operating in the navigable waters of the United States except the St. Lawrence Seaway.

2. By revising § 164.02(a) to read as follows:

§ 164.02 Applicability exception for foreign vessels.

(a) This part (including §§ 164.38 and 164.39) does not apply to vessels that—

* * * * *

3. By adding § 164.38 and appendices A and B to that section to read as follows:

§ 164.38 Automatic radar plotting aids (ARPA).

(a) Definitions: As used in this section—

"Bulk" means material in any quantity that is shipped, stored, or handled without benefit of package, label, mark or count and carried in integral or fixed independent tanks.

"Hazardous material" means any liquid material or substance which is flammable or combustible, is designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), or is designated as a hazardous material under Section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"Oil" means oil of any kind or in any form.

"Self-propelled vessel" includes those combinations of pushing vessel and vessel being pushed ahead which are rigidly connected in a composite unit and are required by Rule 24(b) of the International Rules for Preventing Collisions at Sea, 1972 (App. A to 33 CFR Part 87) to exhibit the lights prescribed in Rule 23 for a "Power Driven Vessel Underway".

(b) Except as allowed by paragraph (c) of this section each self-propelled vessel, except a public vessel, of 10,000 gross tons or more carrying oil or any hazardous material in bulk as cargo or in residue that is a U.S. vessel or operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdiction of the United States, must, not later than July 1, 1982, be fitted with an Automatic Radar Plotting Aid which:

(1) Complies with the standard for such devices adopted by the Intergovernmental Maritime Consultative Organization in its "Operational Standards for Automatic Radar Plotting Aids" (See Appendix A);

(2) Provides both visual and audible warnings, described in paragraphs 3.5.1 and 3.5.2 of Appendix A; and

(3) Has a permanently affixed label containing—

(i) The name and address of the manufacturer; and

(ii) The following statement:

"This device was designed and manufactured to comply with the Intergovernmental Maritime Consultative Organization's 'Operational standards for automatic Radar Plotting Devices' ".

(c)(1) In lieu of the device required by paragraph (b) of this section, an Automatic Radar Plotting Aid which does not fully conform to the standard adopted by the Intergovernmental Maritime Consultative Organization but is certified by the manufacturer to comply with the U.S. Maritime Administration's "Collision Avoidance System Specification" (See Appendix B), may be retained until January 1, 1991.

(2) The devices allowed under this paragraph must have a permanently affixed label containing—

(i) The name and address of the manufacturer; and

(ii) The following statement:

"This device was designed and manufactured to comply with the U.S. Maritime Administration's 'Collision Avoidance System Specification'."

(92 Stat. 1471, (46 U.S.C. 391(a), as amended); 49 CFR 1.46(n)(4))

August 7, 1980.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

Appendix A—Performance Standards For Automatic Radar Plotting Aids (ARPA)

1 Introduction

1.1 The Automatic Radar Plotting Aids (ARPA) required by Regulation 12, Chapter V of the 1974 SOLAS Convention, as amended,* should, in order to improve the standard of collision avoidance at sea:

.1 Reduce the work-load of observers by enabling them to automatically obtain information so that they can perform as well with multiple targets as they can by manually plotting a single target; and

.2 Provide continuous, accurate and rapid situation evaluation.

1.2 In addition to the General Requirements for Electronic Navigational Aids (Resolution A.281(VIII)), the ARPA should comply with the following minimum performance standards.

2 Definitions

2.1 Definitions of terms in these performance standards are given in Annex 1.

3 Performance Standards

3.1 *Detection*

3.1.1 Where a separate facility is provided for detection of targets, other than by the radar observer, it should have a performance not inferior to that which could be obtained by the use of the radar display.

3.2 *Acquisiton*

3.2.1 Target acquisition may be manual or automatic. However, there should always be a facility to provide for manual acquisition and cancellation. ARPA with automatic acquisition should have a facility to suppress acquisition in certain areas. On any range scale where acquisition is suppressed over a certain area, the area of acquisition should be indicated on the display.

3.2.2 Automatic or manual acquisition should have a performance not inferior to that which could be obtained by the user of the radar display.

3.3 *Tracking*

3.3.1 The ARPA should be able to automatically track, process, simultaneously display and continously update the information on at least:

.1 20 targets, if automatic acquisition is provided, whether automatically or manually acquired; or

.2 10 targets, if only manual acquisition is provided.

3.3.2 If automatic acquisition is provided, description of the criteria of selection of targets for tracking should be provided to the user. If the ARPA does not track all targets visible on the display, targets which are being tracked should be clearly indicated on the display. The reliability of tracking should not be less than that obtainable using manual recording of successive target positions obtained from the radar display.

3.3.3 Provided the target is not subject to target swop, the ARPA should continue to track an acquired target which is clearly distinguishable on the display for 5 out of 10 consecutive scans.

3.3.4 The possibility of tracking errors, including target swop, should be

*This amendment has not yet been ratified.

V 45 A G 14 80 UMI

minimized by ARPA design. A qualitative description of the effects of error sources on the automatic tracking and corresponding errors should be provided to the user, including the effects of low signal to noise and low signal to clutter ratios caused by sea returns, rain, snow, low clouds and non-synchronous emission.

3.3.5 The ARPA should be able to display on request at least four equally time-spaced past positions of any targets being tracked over a period of at least eight minutes.

3.4 *Display*

3.4.1 The Display may be a separate or integral part of the ship's radar. However, the ARPA display should include all the data required to be provided by a radar display in accordance with the performance standards for navigational radar equipment adopted by the Organization.

3.4.2 The design should be such that any malfunction of ARPA parts producing data additional to information to be produced by the radar as required by Resolution A.222(VII) should not affect the integrity of the basic radar presentation.

3.4.3 The size of the display on which ARPA information is presented should have effective display diameter of at least 340 mm.

3.4.4 The ARPA facilities should be available on at least the following range scales:

.1 12 or 16 miles;
.2 3 or 4 miles.

3.4.5 There should be a positive indication of the range scale in use.

3.4.6 The ARPA should be capable of operating with a relative motion display with "north-up" and either "head-up" or "course-up" azimuth stabilization. In addition, the ARPA may also provide for a true motion display. If true motion is provided, the operator should be able to select for his display either true or relative motion. There should be a positive indication of the display mode and orientation in use.

3.4.7 The course and speed information generated by the ARPA for acquired targets should be displayed in a vector or graphic form which clearly indicates the target's predicted motion. In this regard:

.1 ARPA presenting predicted information in vector form only should have the option of both true and relative vectors;
.2 An ARPA which is capable of presenting target course and speed information in graphic form, should also, on request, provide the target's true and/or relative vector;
.3 Vectors displayed should be either time adjustable or have a fixed time-scale;
.4 A positive indication of the time-scale of the vector in use should be given.

3.4.8 The ARPA information should not obscure radar information in such a manner as to degrade the process of detecting targets. The display of ARPA data should be under the control of the radar observer. It should be possible to cancel the display of unwanted ARPA data.

3.4.9 Means should be provided to adjust independently the brilliance of the ARPA data and radar data, including complete elimination of the ARPA data.

3.4.10 The method of presentation should ensure that the ARPA data is clearly visible in general to more than one observer in the conditions of light normally experienced on the bridge of a ship by day and by night. Screening may be provided to shade the display from sunlight but not to the extent that it will impair the observer's ability to maintain a proper lookout. Facilities to adjust the brightness should be provided.

3.4.11 Provisions should be made to obtain quickly the range and bearing of any object which appears on the ARPA display.

3.4.12 When a target appears on the radar display and, in the case of automatic acquisition, enters within the acquisition area chosen by the observer or, in the case of manual acquisition, has been acquired by the observer, the ARPA should present in a period of not more than one minute an indication of the target's motion trend and display within three minutes the target's predicted motion in accordance with paragraphs 3.4.7, 3.6, 3.8.2 and 3.8.3.

3.4.13 After changing range scales on which the ARPA facilities are available or resetting the display, full plotting information should be displayed within a period of time not exceeding four scans.

3.5 *Operational Warnings*

3.5.1 The ARPA should have the capability to warn the observer with a visual and/or audible signal of any distinguishable target which closes to a range or transits a zone chosen by the observer. The target causing the warning should be clearly indicated on the display.

3.5.2 The ARPA should have the capability to warn the observer with a visual and/or audible signal of any tracked target which is predicted to close to within a minimum range and time chosen by the observer. The target causing the warning should be clearly indicated on the display.

3.5.3 The ARPA should clearly indicate if a tracked target is lost, other than out of range, and the target's last tracked position should be clearly indicated on the display.

3.5.4 It should be possible to activate or de-activate the operational warnings.

3.6 *Data Requirements*

3.6.1 At the request of the observer the following information should be immediately available from the ARPA in alphanumeric form in regard to any tracked target:

.3 Predicted target range at the closest point of approach (CPA);
.4 Predicted time to CPA (TCPA);
.5 Calculated true course of target;
.6 Calculated true speed of target.

3.7 *Trial Manoeuvre*

3.7.1 The ARPA should be capable of simulating the effect on all tracked targets of an own ship manoeuvre without interrupting the updating of target information. The simulation should be initiated by the depression either of a spring-loaded switch, or of a function key, with a positive identification on the display.

3.8 *Accuracy*

3.8.1 The ARPA should provide accuracies not less than those given in paragraphs 3.8.2 and 3.8.3 for the four scenarios defined in Annex 2. With the sensor errors specified in Annex 3, the values given relate to the best possible manual plotting performance under environmental conditions of plus and minus ten degrees of roll.

3.8.2 An ARPA should present within one minute of steady state tracking the relative motion trend of a target with the following accuracy values (95 percent probability values):

3.8.3 An ARPA should present within three minutes of steady state tracking the motion of a target with the following accuracy values (95 percent probability values):

3.8.4 When a tracked target, or own ship, has completed a manoeuvre, the system should present in a period of not more than one minute an indication of the target's motion trend, and display within three minutes the target's predicted motion in accordance with paragraphs 3.4.7, 3.6, 3.8.2 and 3.8.3

3.8.5 The ARPA should be designed in such a manner that under the most favorable conditions of own ship motion the error contribution from the ARPA should remain insignificant compared to the errors associated with the input sensors, for scenarios of Annex 2.

3.9 *Connexions with other equipment*

3.9.1 The ARPA should not degrade the performance of any equipment providing sensor inputs. The connexion

of the ARPA to any other equipment should not degrade the performance of that equipment.

3.10 *Performance test and warnings*

3.10.1 The ARPA should provide suitable warnings of ARPA malfunction to enable the observer to monitor the proper operation of the system. Additionally test programmes should be available so that the overall performance of ARPA can be assessed periodically against a known solution.

3.11 *Equipment used with ARPA*

3.11.1 Log and speed indicators providing inputs to ARPA equipment should be capable of providing the ship's speed through the water.

Annex 1 to Appendix A—Definitions of Terms To Be Used Only in Connexion With ARPA Performance Standards

Relative course—The direction of motion of a target related to own ship as deduced from a number of measurements of its range and bearing on the radar. Expressed as an angular distance from North.

Relative speed—The speed of a target related to own ship, as deduced from a number of measurements of its range and bearing on the radar.

True course—The apparent heading of a target obtained by the vectorial combination of the target's relative motion and ship's own motion*. Expressed as an angular distance from North.

True speed—The speed of a target obtained by the vectorial combination of its relative motion and own ship's motion*.

Bearing—The direction of one terrestrial point from another. Expressed as an angular distance from North.

Relative motion display—The position of own ship on such a display remains fixed.

True motion display—The position of own ship on such display moves in accordance with its own motion.

Azimuth stabilization—Own ship's compass information is fed to the display so that echoes of targets on the display will not be caused to smear by changes of own ship's heading.

/North-up—The line connecting the center with the top of this display is North.

/Head-up—The line connecting the center with the top of the display is own ship heading.

/Course-up—An intended course can be set to the line connecting the center with the top of the display.

*For the purpose of these definitions there is no need to distinguish between sea or ground stabilization.

Heading—The direction in which the bow of a vessel is pointing. Expressed as an angular distance from North.

Target's predicted motion—The indication on the display of a liner extrapolation into the future of a target's motion, based on measurements of the target's range and bearing on the radar in the recent past.

Target's motion trend—An early indication of the target's predicted motion.

Radar Plotting—The whole process of target detection, tracking, calculation of parameters and display of information.

Detection—The recognition of the presence of a target.

Acquisition—The selection of those targets requiring a tracking procedure and the initiation of their tracking.

Tracking—The process of observing the sequential changes in the position of a target, to establish its motion.

Display—The plan position presentation of ARPA data with radar data.

Manual—An activity which a radar observer performs, possibly with assistance from a machine.

Automatic—An activity which is peformed wholly by a machine.

ANNEX 2 Appendix A—Operational Senarios

For each of the following scenarios predictions are made at the target position defined after previously tracking for the appropriate time of one or three minutes:

Scenario 1

Own ship course—000°
Own ship speed—10 kt
Target range—8 n.m.
Bearing of target—000°
Relative course of target—180°
Relative speed of target—20 kt

Scenario 2

Own ship course—000°
Own ship speed—10 kt
Target range—1 n.m.
Bearing of target—000°
Relative course of target—090°
Relative speed of target—10 kt

Scenario 3

Own ship course—000°
Own ship speed—5 kt
Target range—8 n.m.
Bearing of target—045°
Relative course of target—225°
Relative speed of target—20 kt

Scenario 4

Own ship course—000°
Own ship speed—25 kt
Target range—8 n.m.
Bearing of target—045°
Relative course of target—225°
Relative speed of target—20 kt

ANNEX 3 to Appendix A—Sensor Errors

The accuracy figures quoted in paragraph 3.8 are based upon the following sensor errors and are appropriate to equipment complying with the Organization's performance standards for shipborne navigational equipment.*

Note: σ means "standard deviation"

Radar

Target Glint (Scintillation) (for 200 m length target)

Along length of target σ = 30 m. (normal distribution)

Across beam of target σ = 1 m. (normal distribution)

Roll-Pitch Bearing. The bearing error will peak in each of the four quadrants around own ship for targets on relative bearings of 045°, 135°, 225° and 315° and will be zero at relative bearings of 0°, 90°, 180° and 270°. This error has a sinusoidal variation at twice the roll frequency. For a 10° roll the mean error is 0.22° with a 0.22° peak sine wave superimposed.

Beam shape—assumed normal distribution giving bearing error with σ = 0.05.

Pulse shape—assumed normal distribution giving range error with σ = 20 metres.

Antenna backlash—assumed rectangular distribution giving bearing error ± 0.5 maximum.

Quantization

Bearing—rectangular distribution ± 0.01° maximum.

Range—rectangular distribution ± 0.01 n.m. maximum.

Bearing encoder assumed to be running from a remote synchro giving bearing errors with a normal distribution σ = 0.03°

Gyro compass

Calibration error 0.5°.

Normal distribution about this with σ = 0.12°.

*In calculations leading to the accuracy figures quoted in paragraph 3.8, these sensor error sources and magnitudes were used. They were arrived at during discussions with national government agencies and equipment manufacturers and are appropriate to equipments complying with the Organization's draft performance standards for radar equipment (preliminary) (NAV XXII/WP.14), gyro compasses (NAV XXI/9, Annex X) and logs (preliminary) (NAV XXII/WP.15).

Independent studies carried out by national government agencies and equipment manufacturers have resulted in similar accuracies, where comparisons were made.

Log

Calibration error 0.5 kt

advance warning time (TCPA—Time to Closest Point of Approach). Means shall

ENVIRONMENTAL PROTECTION AGENCY

FOR FURTHER INFORMATION CONTACT:

Raymond D. Chalmers, Air Programs

County from primary and secondary nonattainment for TSP to secondary

14. Evidence of public, local government, and State legislative

Log

Calibration error 0.5 kt.

Normal distribution about this, 3 σ = 0.2 kt.

* * *

Appendix B—U.S. Maritime Administration Collision Avoidance System Specification

A collision system designed as a supplement to both surface search navigational radars via interswitching shall be installed. The system shall provide unattended monitoring of all radar echoes and automatic audio and visual alarm signals that will alert the watch officer of a possible threat. The display shall be contained within a console capable of being installed adjacent to the radar displays in the wheelhouse and may form a part of the bridge console.

Provision for signal input from the ship's radars, gyro compass, and speed log, without modification to these equipments shall be made. The collision avoidance system, whether operating normally or having failed, must not introduce any spurious signals or otherwise degrade the performance of the radars, the gyro compass or the speed log.

Computer generated display data for each acquired target shall be in the form of a line or vector indicating true or relative target course, speed and both present and extrapolated future positions. Data shall be automatically displayed on a cathode ray tube or other suitable display contrivance sufficiently bright and unobstructed to permit viewing by more than one person at a time.

In addition to displaying the collision potential of the most threatening fixed and moving targets, the system shall be capable of simultaneously showing land masses.

The system display shall include a heading indication and bearing ring. The system shall also have the capability of allowing the operator to select "head-up" and to cancel the vector or line presentation of any of the targets. The presentation shall be non-smearing when changing modes or display scales in order to permit rapid evaluation of the displayed data.

Target acquisition, for display data purposes, may be manual, automatic or both, as specified by Owner.

For any manual acquisition system the alarms shall be initiated by a preset minimum range; and likewise for any automatic acquisition system the alarms shall be initiated by a preset minimum acceptable passing distance (CPA—Closest Point of Approach) and a preset advance warning time (TCPA—Time to Closest Point of Approach). Means shall be provided to silence the audio alarm for a given threat but the alarm shall resound upon a subsequent threat. The visual alarm shall continue to operate until all threats have been eliminated. If the collision avoidance system fails to perform as indicated above, after the system is set for unattended monitoring, the system shall produce both audio and visual warning alarms.

The system shall be capable of simulating a trial maneuver.

In addition to the target display, an alpha-numeric readout shall be provided which can present range, bearing, course, speed, CPA and TCPA for any selected target, either on the target display or by other display means.

The collision avoidance system shall be energized from the interior communications panel board in the wheelhouse.

The collision avoidance function may be incorporated in an integrated conning system, provided that failure of any other integrated system component will not degrade the collision avoidance function.

[FR Doc. 80-24611 Filed 8-13-80; 8:45 am]
BILLING CODE 4910-14-M

Coast Guard

33 CFR Part 175

[CGD 80-021A]

Equipment Requirements for Boat Operators: Acceptance of Hand Red Flares as Visual Distress Signals; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule correction.

SUMMARY: In FR Doc. 80-20078 appearing on page 45269 in the **Federal Register** of July 3, 1980, the citation to the Code of Federal Regulations in footnote 3 of Table 175.130, should be corrected to read 46 CFR 160.028.

FOR FURTHER INFORMATION CONTACT: LCDR Harry Schmecht, Office of Boating, Public and Consumer Affairs (G-BEL-3/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-4176.

Dated: August 7, 1980.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 80-24636 Filed 8-13-80; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1569-7]

Approval of Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve, with certain conditions, a revision of the West Virginia State Implementation Plan (SIP) for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The revision consists of plans for attaining NAAQS for total suspended particulates (TSP) in the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR) and in those portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining NAAQS for sulfur dioxide (SO_2) in the New Manchester-Grant Magisterial District, and for attaining NAAQS for ozone (O_3) in the Kanawha Valley Intrastate AQCR. West Virginia submitted the revision to meet the requirements of Part D (Plan requirements for Nonattainment Areas) of the Clean Air Act (the Act), as amended in 1977.

EPA has placed conditions on its approval of West Virginia's SIP revision to assure that West Virginia will correct certain deficiencies in the revision. EPA's conditions include deadlines by which West Virginia must make the necessary corrections. EPA has published a proposed rulemaking notice elsewhere in today's **Federal Register** which solicits public comment on the appropriateness of the deadlines.

EFFECTIVE DATE: This action is effective as of August 14, 1980.

ADDRESSES: Copies of the revision and accompanying support materials are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA. 19106, ATTN: Patricia Sheridan

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia, ATTN: Mr. Carl Beard

FOR FURTHER INFORMATION CONTACT: Raymond D. Chalmers, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, PA. 19106, Telephone Number: 215-597-8309

SUPPLEMENTARY INFORMATION:

I. Introduction

A. General

The Clean Air Act (the Act) amendments of 1977 required States to revise their State Implementation Plans (SIPs) for all areas where primary health related National Ambient Air Quality Standards (NAAQS) or secondary welfare related NAAQS had not been attained.

On June 18, 1979, the Honorable John D. Rockefeller IV, Governor of the State of West Virginia, submitted to EPA a proposed SIP revision for West Virginia's nonattainment areas. EPA published a notice of receipt of the proposed SIP revision at 44 FR 43298 (1979). This notice described the proposed revision and the requirements of the Act, discussed deficiencies of the proposed revision with respect to the Act's requirements, and solicited public comment.

West Virginia's SIP revision addresses all of the present nonattainment areas in the State. It should be noted that the revision takes into account several areas that EPA is redesignating in a notice published elsewhere in today's **Federal Register**.

EPA designated West Virginia's nonattainment areas in the **Federal Register** on March 3, 1978, 43 FR 8962, and on September 12, 1978, 43 FR 40502. EPA designated the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the portions of Union and Winfield Magisterial Districts in Marion County that are west of Interstate Route 79, and the area including Kanawha County and Valley Magisterial District in Fayette County as primary and secondary nonattainment for total suspended particulates (TSP). EPA designated the Parkersburg-Tygart Magisterial District in Wood County as secondary nonattainment for TSP. In addition, EPA designated the New Manchester-Grant Magisterial District in Hancock County and the Wellsburg Magisterial District in Brooke County as primary nonattainment for sulfur dioxide (SO_2). Finally EPA designated the Kanawha Valley Intrastate AQCR as primary nonattainment for ozone (O_3).

EPA is redesignating two of these areas today. EPA is redesignating Kanawha County and the adjacent Valley Magisterial District in Fayette County from primary and secondary nonattainment for TSP to secondary nonattainment for TSP. EPA is also redesignating the Wellsburg Magisterial District in Brooke County from primary nonattainment for SO_2 to attainment for SO_2.

B. Requirements for Nonattainment Area SIP Revisions

All SIP revisions must meet the requirements of section 110 and Part D of the Act and of EPA's implementing regulations, which are codified at 40 CFR Part 51. Each plan must be based on adequate State legal authority, must have been subject to public review and comment at one or more hearings, must contain an adequate control strategy for the attainment of air quality standards, must contain all regulations or other legal requirements needed to implement the control strategy, and must assure the attainment of air quality standards by the deadlines established in the Act.

The specific requirements for an approvable SIP are discussed in the General Preamble published on April 4, 1979, 44 FR 20372 and in the following supplements:

July 2, 1979, 44 FR 38583
August 28, 1979, 44 FR 50371
September 17, 1979, 44 FR 53761
November 23, 1979, 44 FR 67182

The following list summarizes the basic requirements for nonattainment area plans:

1. Evidence that the SIP revision was adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards.
4. An accurate emissions inventory.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emissions growth.
7. A permit program for major new or modified sources that is consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M), if necessary, as expeditiously as practicable.
10. Necessary transportation control measures.
11. Enforceable regulations.
12. An identification of and commitment to the resources necessary to carry out the plan.
13. Commitments to comply with schedules.
14. Evidence of public, local government, and State legislative involvement and consultation.

C. Discussion of Conditional Approval

A discussion of the conditional approval of certain elements in West Virginia's plan and its practical effect appears in a Supplement to the General Preamble, 44 FR 38583, July 2, 1979 and in 44 FR 67182, November 23, 1979. The conditional approval requires the State to submit additional materials by the deadlines identified in this notice and proposed elsewhere in today's **Federal Register**. There will be no extensions of conditional approval deadlines when they are made final.

EPA will follow the procedures described below when determining if the State has satisfied the conditions:

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the section 110(a)(2)(I) restrictions on growth will be in effect.

3. If the State fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submittal. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

If a State has failed to submit the required data to meet any condition contained in this notice, EPA will at that time consider whether the funding restrictions contained in Sections 176(a) and 316 are also appropriate (*see* 44 FR 33473, June 11, 1979).

Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines. Only a EPA approved change in the deadlines can release a State from this obligation.

D. Discussion of Compliance Requirements

footnote to the chart. Sources subject to plan requirements and deadlines

specific demonstration of attainment for such areas, West Virginia had included

complies with the Ohio SIP's limitation on SO_2 emissions.

categories from which TSP emission reductions are expected.

approved because the Legislative Rulemaking Review Committee had

D. Discussion of Compliance Requirements

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre–1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

"The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D."

(123 Cong. Rec. H11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a preexisting attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment. This subject is discussed further in the General Preamble for Proposed Rulemaking, 44 Fed. Reg. 20373–74 (April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be on a case-by-case basis.

The 1978 edition of 40 CFR Part 52 lists in the subpart for West Virginia the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by section 172(a) of the Act, the new deadlines are substituted on West Virginia's attainment data chart in 40 C.F.R. Part 52. The earlier attainment dates under Section 110(a)(2)(A) are referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A), prior to the 1977 Amendments, remain obligated to comply with those requirements. These sources must also comply with the new Section 172 plan requirements.

E. Definitions

In the following sections of this notice there are several references to the term "rollback." To avoid confusion or misunderstanding, this term is defined here. Rollback is a proportional model used to calculate the degree of improvement in ambient air quality needed to attain a national ambient air quality standard.

II. Background

This section describes West Virginia's submittals for attaining NAAQS for O_3, SO_2, and TSP.

A. General

The elements of West Virginia's submittal listed below apply to each of West Virginia's attainment plans. These elements are required by Section 172(b) of the Clean Air Act.

1. *Pre-Construction Review and Emission Offsets*—West Virginia did not submit a regulation requiring preconstruction review and emission offsets.

2. *Analysis of Effects*—West Virginia did not submit an analysis of the health, welfare, economic, energy, and social effects of its SIP revision.

3. *Public Participation*—West Virginia certified that the SIP revision meets all notice and hearing requirements and other requirements for public participation.

4. *Involvement and Consultation*—West Virginia demonstrated that local government officials and the public were involved in the preparation of the SIP revision.

5. *Financial and Manpower Commitments*—West Virginia certified that it will expend the financial and manpower resources needed to implement its plan.

B. Ozone

West Virginia submitted an attainment plan and regulations for the Kanawha Valley Intrastate AQCR. This is the State's only nonattainment area for ozone. The area encompasses Putnam County, Kanawha County, and Kanawha and Falls Magisterial Districts in Fayette County.

EPA has determined that the Kanawha Valley Intrastate AQCR is a rural ozone nonattainment area. Although EPA does not require a specific demonstration of attainment for such areas, West Virginia had included such a demonstration in its June 18, 1979 submittal. Subsequently, West Virginia decided to revise its SIP revision for ozone. On November 21, 1979, West Virginia submitted a revised ozone plan to EPA that did not include a demonstration of attainment. This was the only significant change in the SIP revision. This November 21 submittal is now West Virginia's official SIP revision for ozone.

EPA's major requirement for rural ozone nonattainment areas is that States adopt regulations requiring certain categories of Volatile Organic Compound (VOC) sources to use reasonably available control technology (RACT). *See* the Administrator's Memorandum on Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas 43 Fed. Reg. 2673, May 19, 1978.

The only categories of VOC sources in West Virginia that must be controlled are petroleum refineries, bulk gasoline terminals, and stored petroleum liquids. West Virginia's SIP revision includes regulations requiring RACT for these source categories.

EPA will be designating additional categories of VOC sources for which RACT will be required. West Virginia commits in its SIP revision to adopt all necessary VOC regulations for such categories.

EPA also requires States to submit VOC emission inventories for rural ozone nonattainment areas. West Virginia's submittal includes an inventory of major categories of VOC sources.

C. Sulfur Dioxide

West Virginia submitted an attainment plan for the New Manchester-Grant Magisterial District in Hancock County. This is the only nonattainment area for SO_2 in West Virginia.

The Wellsburg Magisterial District in Brooke County was also a nonattainment area for SO_2 at the time West Virginia submitted its SIP revision. West Virginia did not address this area in its SIP revision because it had requested the redesignation of the area to "attainment." EPA is approving this request in a notice published elsewhere in today's **Federal Register**.

West Virginia's SIP submittal for New Manchester indicates that the Ohio Edison Company's W. H. Sammis Power Plant is the cause of the violations of SO_2 standards in New Manchester. The SIP submittal shows that New Manchester will attain SO_2 air quality standards when the Sammis plant complies with the Ohio SIP's limitation on SO_2 emissions.

D. Total Suspended Particulates

West Virginia's SIP submittal addressed the State's four TSP nonattainment areas. These are the Steubenville-Weirton-Wheeling Interstate AQCR, the Parkersburg-Tygart Magisterial District, the area including Kanawha County and the Valley Magisterial District in Fayette County, and the area including the portions of Union and Winfield Magisterial Districts west of Interstate Route 79 in Marion County.

Governor Rockefeller stated, when he submitted the SIP revision, that the West Virginia Legislative Rulemaking Review Committee had not yet approved the TSP regulations included in the revision. EPA proposed the revision, on July 24, 1979, with the anticipation that the West Virginia Legislative Rulemaking Committee would approve the regulations submitted with the revision.

West Virginia's submittal for the Steubenville-Weirton-Wheeling Interstate AQCR provides for attaining primary TSP standards by December 31, 1982. The State requested an extension, until July 1, 1980, of the deadline for submitting a plan to attain secondary TSP standards. The State's submittal indicates that attainment of primary standards will be assured by the enforcement of existing regulations for controlling TSP emissions. The State used a rollback model to demonstrate the adequacy of the emission reductions required by these regulations.

West Virginia's submittals for the Parkersburg-Tygart Magisterial District and the area including Kanawha County and the Valley Magisterial District in Fayette County provide for attaining secondary TSP standards by December 31, 1985. West Virginia's strategy for attaining TSP standards is to control fugitive dust emissions. West Virginia submitted a proposed regulation, Regulation XVII, to limit fugitive dust emissions.

West Virginia's submittal for the area including the portions of Union and Winfield Magisterial Districts west of Interstate Route 79 in Marion County provides for the attainment of both primary and secondary TSP standards by December 31, 1980. The submittal states that the emission reductions needed to attain standards will result from the shutdown of a coke plant owned by the Sharon Steel Corporation.

West Virginia's submittals for all four areas include TSP emission inventories. These inventories show the source categories from which TSP emission reductions are expected.

West Virginia's submittals include graphs that show expected TSP emission reductions in each nonattainment area. These graphs show that West Virginia commits to reasonable further progress towards attainment.

West Virginia's submittals also provide for expected growth in TSP emissions. The submittals indicate that additional TSP emissions from major TSP sources will be accommodated by an offset regulation. West Virginia's submittals also include allowances for increases in the emissions of area sources.

III. EPA Evaluation

EPA's evaluations of West Virginia's submittals for attaining NAAQS for O_3, SO_2, and TSP are given in this section. EPA's evaluations indicate whether West Virginia's submittals are approved, conditionally approved, or disapproved.

A. General

The elements of West Virginia's submittal listed below apply to each of West Virginia's attainment plans. These elements are required by Sections 110 and 172(b) of the Clean Air Act.

1. *Adoption by the State*—The regulations included in West Virginia's SIP revision had not been approved by the West Virginia Legislative Rulemaking Review Committee at the time EPA proposed West Virginia's SIP revision. According to Chapter 29A–3 of the Code of West Virginia, the Legislative Rulemaking Review Committee must approve all new air pollution control regulations before they become State law. The Committee can approve regulations either by direct vote, or by failing to act on them within six months of receiving them.

On September 24, 1979, the Legislative Rulemaking Review Committee acted on West Virginia's proposed regulations. The Committee approved new Regulations III, XXI, XXIII, and XXIV, and revisions to Regulation VIII, but did not approve new Regulations XVII and XVIII or Revisions to Regulation VI and VII.

On December 19, 1979, the Governor of West Virginia submitted Regulations III, VIII, XXI, XXIII, and XXIV to EPA. The Governor asked EPA to include these regulations in the West Virginia SIP.

On March 27, 1980, the Director of the West Virginia Air Pollution Control Commission notified EPA that Regulations XVII and XVIII and the revisions of Regulations VI and VII were approved because the Legislative Rulemaking Review Committee had failed to act on them within the required six months time period.

The Governor of West Virginia has not submitted Regulations XVII and XVIII or revised Regulations VI and VII to EPA for incorporation in the West Virginia SIP. Accordingly, EPA has based its decisions on the SIP on the plans submitted by the Governor on June 18, 1979, and on the regulations submitted by him on September 24, 1979.

2. *Pre-Construction Review and Emission Offsets*—West Virginia's SIP revision does not include a regulation requiring pre-construction review and emission offsets. Section 172(b)(6) of the Clean Air Act requires such a regulation.

West Virginia has agreed to adopt a regulation requiring pre-construction review and emission offsets and to submit this regulation to EPA for incorporation into the West Virginia SIP. Until this regulation is incorporated into the SIP, West Virginia has agreed to keep in effect a temporary regulation requiring pre-construction review and emission offsets. Although this temporary regulation meets the requirements of Section 173 of the Clean Air Act, it will not be included in the West Virginia SIP. Therefore, the regulation will not be enforceable by EPA, but only by West Virginia. To assure that Federal Requirements are met, West Virginia will submit all permits issued under the provisions of this temporary regulation to EPA for approval as SIP revisions.

EPA approves the West Virginia SIP revision on the condition that West Virginia meets the following requirements. First, the State of West Virginia must submit an adequate regulation requiring pre-construction review and emission offsets to EPA; second, West Virginia must keep a temporary regulation requiring pre-construction review and emission offsets in effect until EPA approves a permanent regulation, and third, West Virginia must submit all permits issued under the provisions of its temporary pre-construction review and offset regulation to EPA as SIP revisions.

Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of a deadline for submittal of the pre-construction review and emission offsets regulation.

3. *Analysis of Effects*—West Virginia has not submitted an analysis of the health, welfare, economic, energy, and social effects of its SIP revision as required by Section 172(b)(9) of the Clean Air Act. However, EPA has reviewed a draft of the analysis West

Virginia intends to submit, and has concluded from this review that the

means for determining if the SIP's requirements are being met

Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the

measures, West Virginia agreed to adopt

preliminary review revealed instances

weighted average and which also meet certain other requirements of the policy,

Virginia intends to submit, and has concluded from this review that the West Virginia SIP should not cause any major adverse effects. Therefore, EPA approves this portion of West Virginia's SIP revision on the condition that West Virginia submits an adequate analysis of its SIP's effects to EPA. In accordance with the requirements of Section 172(b)(9) of the Clean Air Act, EPA also requires West Virginia to submit a summary of the public comments on the analysis. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of a September 30, 1980, deadline for submitting this analysis.

4. *Adequate Regulations*—The regulations adopted by West Virginia impose requirements on stationary sources of air pollution in West Virginia. However, in order to provide flexibility, the regulations authorize West Virginia to modify certain requirements of the regulations. The requirements of the regulations with respect to an individual source may be modified if the source can show that such modifications are necessary and will not prevent the regulation's objectives from being attained.

The approval of alternate control plans, programs or designs under this authority may result in applicable State requirements which differ from requirements of the State Implementation Plan approved by EPA. Both West Virginia and EPA desire to avoid potential conflicts between State and Federal requirements for the abatement of air pollution. Therefore, West Virginia has adopted an administrative rule establishing a procedure under which West Virginia's Air Pollution Control Commission will enter any approved alternate control plan as a Consent Order, and will notify EPA of its action and ask the Governor to submit the action as a plan revision so that the Agency may review the Order for approval and incorporation in the State Implementation Plan. This evaluation is very important because the requirements of an approved State Implementation Plan remain applicable to a source notwithstanding changes to the State's regulations, until such time as EPA approves the incorporation of those changes in the Plan.

West Virginia has also adopted an administrative rule establishing the requirement that EPA review and approve any changes in the test methods used to verify compliance with West Virginia's regulations. EPA's approval of such changes will be required before EPA will accept the new test methods as means for determining if the SIP's requirements are being met.

EPA considers these two procedural rules to be essential. They are needed to assure that the requirements of West Virginia's regulations do not differ from requirements of the West Virginia SIP approved by EPA.

5. *Public Participation*—All notice and hearing requirements and other requirements for public participation have been met.

6. *Involvement and Consultation*—West Virginia has involved local government officials and the public in the preparation of the SIP revision.

7. *Financial and Manpower Commitments*—West Virginia has committed to expend the financial and manpower resources necessary to implement its plan.

B. Ozone

West Virginia's submittal for O_3 addresses the Kanawha Valley Intrastate AQCR. The Kanawha Valley Intrastate AQCR is West Virginia's only O_3 nonattainment area.

1. *Control Strategy*—EPA has determined that the Kanawha Valley Intrastate AQCR is a rural nonattainment area for O_3. This determination was made since the AQCR does not contain any "urbanized area" with a population of over 200,000.

EPA does not require a specific demonstration of attainment of the O_3 standard or an accompanying demonstration of reasonable further progress for rural O_3 nonattainment areas. Also, EPA does not require mobile source control measures such as automobile inspection and maintenance programs or transportation control measures. *See* the Administrator's memorandum on Criteria for Approval of 1979 SIP revisions, 43 Fed. Reg. 21673, May 19, 1978.

EPA has only one major control strategy requirement for rural ozone nonattainment areas. States must adopt regulations requiring RACT for VOC source categories which are covered by EPA's control technique guideline documents and which contain VOC sources that have the potential to emit 100 or more tons of VOCs per year.

The only categories of such VOC sources in West Virginia are petroleum refineries, bulk gasoline terminals, and stored petroleum liquids. West Virginia has adopted regulations for these source categories. West Virginia has certified that in the Kanawha Valley there are no other major sources within the categories addressed by the CTG documents.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as West Virginia's, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 and schedules to adopt and submit by each future January additional RACT requirements for sources covered by GTGs to EPA issued by the previous January. West Virginia has agreed to adopt VOC regulations for additional VOC source categories if CTG documents published in the future make such regulations necessary.

West Virginia's VOC control strategy meets EPA's requirements. Therefore, West Virginia's control strategy for O_3 is acceptable.

2. *Emission Inventory*—West Virginia submitted an inventory listing the VOC emissions of various categories of VOC sources. EPA indicated in its July 24, 1979, proposal of West Virginia's SIP revision that the State's VOC inventory was required to be more detailed. Accordingly, EPA asked West Virginia to submit an inventory listing the emissions of individual VOC sources. On October 10, 1979, West Virginia submitted such an inventory; EPA has found it to be adequate.

3. *RACT As Expeditiously as Practicable*—In the notice of proposed rulemaking, EPA identified three RACT deficiencies in West Virginia's VOC regulations. All three items have been addressed by West Virginia in a September 24, 1979 letter.

EPA now agrees with West Virginia that a 90 percent collection efficiency requirement is not needed in Section 4.01(b) of Regulation XXI, which applies to stored petroleum liquids. This regulation is actually an equipment specification and no EPA test method currently exists to measure a collection efficiency from this type of source. This regulation is approved.

In the letter of September 24, 1979, West Virginia certified that the words "during the transfer of gasoline" have been deleted from Section 3.21 of Regulation XXIII, which covers VOC emissions from bulk gasoline terminals. Therefore, this deficiency has been rectified and the regulation is approved.

EPA commented that Section 4.04 of Regulations XXI, XXIII and XXIV, a section which provides for alternative control measures, should allow alternative control measures to be approved only when equivalent emission reductions can be achieved or when more stringent controls are technologically or economically infeasible. To assure that Section 4.04 does not allow improper control measures, West Virginia agreed to adopt a procedural rule requiring all alternative control methods to be submitted to EPA as SIP revisions. West Virginia adopted this rule on November 20, 1979.

4. *Enforceability*—In the notice of proposed rulemaking, EPA recommended that the VOC regulations be made future-effective to avoid possible imposition of penalities under Section 120 of the Clean Air Act. West Virginia has chosen to retain the immediately-effective approach. However, West Virginia did change the effective date from July 6, 1979 to October 27, 1979. Because future-effective regulations are not required by the Clean Air Act, EPA approves West Virginia's regulatory approach.

There are currently no EPA test methods which apply to Regulations XXI and XXIV. These regulations are enforced through equipment and operating specifications. Regulation XXIII, however, does require a test method and West Virginia has agreed to adopt an acceptable test method. EPA is approving Regulation XXIII on the condition that West Virginia submit this test method as a SIP revision. In a notice which appears elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of a September 30, 1980 deadline for that submittal.

EPA now agrees that a definition of "fuel gas system" is not needed in Section 4.02(a)(2) of Regulation XXIII. The definition of this term is considered general knowledge within the industry concerned. Therefore, EPA approves this regulation.

Also, EPA has decided to accept the wording of the definition of "condensate" in Section 3.05 of Regulation XXIII. West Virginia correctly pointed out that the basic meaning is not altered by EPA's suggested wording. EPA approves this definition.

EPA noted in the notice of proposed rulemaking that the definition of "Volatile Organic Compound" in Regulations XXI and XXIV did not state that methane is not considered a VOC. This was correctly included in Regulation XXIII. Defining VOC as including methane has no effect on the enforcement of Regulations XXI and XXIV since they are equipment and operating specification regulations. Therefore, even though West Virginia's definition of VOC for these regulations is incorrect, Regulations XXI and XXIV are enforceable and are acceptable. EPA approves these regulations.

EPA also stated in the notice of proposed rulemaking that the Agency's preliminary review revealed instances where the language of the regulations needed clarification. Upon further review EPA has decided that no changes are necessary.

C. Sulfur Dioxide

West Virginia submitted an attainment plan for the New Manchester-Grant Magisterial District in Hancock County. This is the only nonattainment area for SO_2 in West Virginia.

The Wellsburg Magisterial District in Brooke County was also a nonattainment area for SO_2 at the time West Virginia submitted its SIP revision. West Virginia did not address this area in its SIP revision because it had requested the redesignation of the area to "attainment." EPA is approving this request in a notice published elsewhere in today's **Federal Register**.

1. *Control Strategy and Demonstration of Attainment*—West Virginia indicates in its control strategy that the New Manchester area will attain standards for SO_2 after the Sammis power plant complies with the SO_2 emission limitations of the Ohio SIP. Therefore, West Virginia did not submit new or revised SO_2 regulations for the area.

West Virginia's demonstration states that "modeling results show that the annual mean level of SO_2 in New Manchester should decrease by 20 $\mu g/m^3$ when the Sammis plant comes into compliance with Ohio's sulfur emission standards. When this reduction is applied to the calendar year 1977 arithmetic mean, an annual mean of 81 $\mu g/m^3$ results." West Virginia's demonstration concludes that "this, in conjunction with the apparent improvement in SO_2 air quality, demonstrates attainment of the primary annual standard of 80 $\mu g/m^3$." West Virginia's demonstration also shows that the 24-hour primary standard for SO_2 has been met in the New Manchester area. Finally, the demonstration states that there should be no violations of the secondary SO_2 standard after the Sammis plant comes into compliance.

Sammis, which is owned by the Ohio Edison Company, is not now in compliance with the Ohio SIP's emission limitations for SO_2. However, on February 11, 1980, EPA published a notice, 45 Fed. Reg. 9101, announcing an interim enforcement policy for SO_2 sources in Ohio. EPA's interim policy, as explained in that notice, is to refrain from initiating SO_2 enforcement actions in Ohio against SO_2 sources which can meet Ohio's current SO_2 emission limitations applied on a 30 day rolling weighted average and which also meet certain other requirements of the policy.

Ohio Edison has attempted to meet these requirements. The Company has had several units at Sammis burn lower sulfur coal. However, EPA has not yet received sufficient information from Ohio Edison to determine if Sammis meets the requirements of EPA's interim enforcement policy.

West Virginia's SO_2 monitor in New Manchester has registered attainment since 1977. However, several violations have been registered through the end of 1979 at an SO_2 monitoring network established by Ohio Edison. No violations have been recorded at Ohio Edison's monitors through the first quarter of 1980.

In view of the data from West Virginia's monitor and the most recent monitoring data from the Ohio Edison network, EPA agrees with West Virginia that no new or revised SO_2 regulations are needed for the New Manchester area at this time.

D. Total Suspended Particulates

There are now four areas in West Virginia which EPA finds to be nonattainment areas for TSP. These are the Steubenville-Weirton-Wheeling Interstate AQCR, the Parkersburg-Tygart Magisterial District, Kanawha County and the adjacent Valley Magisterial District in Fayette County, and the portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79.

West Virginia submitted plans for all these areas. EPA's decisions to approve, conditionally approve, or disapprove these plans are related below. West Virginia submitted only one new regulation for controlling TSP emissions. This regulation, Regulation III, "To Prevent and Control Air Pollution From the Operation of Hot Mix Asphalt Plants," is acceptable. West Virginia also submitted a revised version of Regulation VIII, "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter." The revised version of Regulation VIII is acceptable.

1. *Control Strategies and Demonstrations of Attainment.*—(a) *Steubenville-Weirton-Wheeling Interstate AQCR*—West Virginia's submittal for the Steubenville-Weirton-Wheeling AQCR states that attainment of primary TSP standards will occur by December 31, 1982. The State's submittal indicates that attainment will be assured by the enforcement of existing regulations for controlling TSP emissions.

West Virginia's demonstration of attainment for the Steubenville-Weirton-Wheeling Interstate AQCR is based on

rollback. Rollback can be an acceptable technique for demonstrating that TSP

requested that EPA allow it until July 1, 1980, to submit an alternative plan. EPA

October 10, 1979, West Virginia submitted such an inventory.

contains examples of standards which EPA has found to be RACT for iron and

Environmental Protection Agency's January 16, 1979 Emission Offset

this regulation. Until it can adopt this regulation, West Virginia will keep in

rollback. Rollback can be an acceptable technique for demonstrating that TSP standards will be attained; however, rollback does have limitations. In some cases rollback may fail to require sufficient emission reductions. This can occur when actural source-receptor relationships are not the same as those assumed by the rollback model. Actual source-receptor relationships in the Steubenville-Weirton-Wheeling Interstate AQCR will be identified in the future when a consultant under contract to EPA completes a currently ongoing TSP study. This study is expected to be completed in the fall of 1980.

West Virginia's demonstration of attainment for the Steubenville-Weirton-Wheeling Interstate AQCR is based on an acceptable model. Therefore, EPA finds the demonstration acceptable. However, EPA believes that the study of source-receptor relationships in the Steubenville-Weirton-Wheeling Interstate AQCR may show that additional TSP controls are needed to bring the AQCR into attainment. If the study shows that additional controls are necessary, EPA will require West Virginia to submit a new plan for the AQCR. EPA has the authority to require such a plan under Section 110(a)(2)(H) of the Clean Air Act.

West Virginia's plan for the Steubenville-Weirton-Wheeling Interstate AQCR does not demonstrate that less than RACT will bring the AQCR into attainment. Therefore, RACT is required for the AQCR. *See* the *General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas*, 44 FR 20372, April 4, 1979. For this reason, EPA requires West Virginia to revise Regulation VII as indicated below in the section on RACT for TSP.

West Virginia has requested that EPA allow it until July 1, 1980, to submit a plan for attaining secondary TSP standards. EPA is proposing this request in a notice published elsewhere in today's **Federal Register.**

(b) *Parkersburg-Tygart Magisterial District*—West Virginia's submittal for the Parkersburg-Tygart Magisterial District provides for the attainment of secondary TSP standards by December 31, 1985. The strategy for attaining standards is to control fugitive dust emissions. West Virginia's failure to submit Regulation XVII to EPA for inclusion in the West Virginia SIP makes it impossible for EPA to enforce this strategy. Therefore, EPA considers that West Virginia no longer has an attainment plan for the Parkersburg-Tygart Magisterial District. West Virginia, after being notified of this fact, requested that EPA allow it until July 1, 1980, to submit an alternative plan. EPA is proposing this request in a notice published elsewhere in today's **Federal Register.**

(c) *Kanawha County and the Valley Magisterial District in Fayette County*—Kanawha County and the Valley Magisterial District in Fayette County have until today been designated as primary nonattainment areas for TSP. On April 6, 1979, West Virginia requested the redesignation of these areas to only secondary nonattainment for TSP. West Virginia assumed in developing its plan for these areas that EPA would approve their redesignation. EPA proposed their redesignation on August 20, 1979, 44 FR 48723, and is approving their redesignation in a notice published elsewhere in today's **Federal Register.**

West Virginia's submittal for Kanawha County and the Valley Magisterial District in Fayette County provides for the attainment of secondary TSP standards by December 31, 1985. The strategy for attaining standards is to control fugitive dust emissions. West Virginia's failure to submit Regulation XVII to EPA for inclusion in the West Virginia SIP makes it impossible for EPA to enforce this strategy. Therefore, EPA considers that West Virginia no longer has an attainment plan for Kanawha County and the Valley Magisterial District in Fayette County. West Virginia, after being notified of this fact, requested that EPA allow it until July 1, 1980, to submit an alternative plan. EPA is proposing this request in a notice published elsewhere in today's **Federal Register.**

(d) *Winfield and Union Magisterial Districts (Marion County)*—West Virginia's submittal for Winfield and Union Magisterial Districts in Marion County provides for the attainment of both primary and secondary TSP standards. The plan shows that these areas will attain TSP standards because of the shutdown of a large coke plant. The plan demonstrates by air quality modeling that the shutdown of this plant will bring about the attainment of primary and secondary TSP standards by December 31, 1980. Therefore, EPA approves the plan.

2. *Emission Inventory*—West Virginia submitted an inventory listing the TSP emissions of various categories of TSP sources. EPA indicated in its July 24, 1979, proposal of West Virginia's SIP revision that the State's TSP inventory was required to be more detailed. Accordingly, EPA asked West Virginia to submit an inventory listing the emissions of individual TSP sources. On October 10, 1979, West Virginia submitted such an inventory.

EPA has determined, since the publication of its proposal of West Virginia's SIP revision, that it is consistent with Agency policy to approve categorical TSP inventories whenever a SIP contains such an inventory and EPA is aware that supporting source-by-source documentation exists elsewhere. Therefore, West Virginia's categorical TSP inventory is acceptable.

Nevertheless, EPA has reviewed West Virginia's inventory of emissions of individual sources. EPA has found several discrepancies in this inventory. West Virginia has indicated in discussions with EPA that it believes most of these discrepancies can be resolved by the submission of additional information. EPA will continue to work with West Virginia to assure that the State's source-by-source inventory is adequate.

(3) *Margin for Growth*—EPA noted in its proposal of the West Virginia SIP revision for TSP that the revision did not contain an adequate provision for the growth of major TSP sources. As noted elsewhere in this notice, EPA is approving West Virginia's SIP on the condition that West Virginia adopts an offset regulation and meets other requirements.

West Virginia's attainment demonstration includes a provision for the growth of TSP emissions from area sources. As stated in the notice of proposed rulemaking, EPA asked for additional documentation of these growth estimates. On October 10, 1979, West Virginia submitted the additional information.

West Virginia has agreed to adopt an offset regulation and has provided for additional TSP emissions from new area sources. Therefore, EPA approves this section of West Virginia's SIP revision.

4. *Reasonably Available Control Technology (RACT)*—EPA's proposal of the West Virginia SIP revision indicated Regulations VI and VII were deficient in that they did not require RACT. On September 24, 1979, West Virginia stated in a letter to EPA that it believed Regulation VI did require RACT since it contained a 20% opacity standard. EPA has reviewed the State's contention and agrees that Regulation VI does require RACT. The issue of the Regulation VII was resolved in discussions between EPA's and West Virginia's representatives. Regulation VII must contain more specific requirements to assure that RACT is required for certain sources. West Virginia has agreed to make the necessary revisions. (The rulemaking docket on this Notice contains examples of standards which EPA has found to be RACT for iron and steel-making facilities, with supporting data, as well as acceptable test methods and definitions to ensure sufficient clarity for enforcement purposes.)

EPA approves this portion of West Virginia's SIP on the condition that West Virginia revises Regulation VII and submits this revised Regulation to EPA. Elsewhere in today's **Federal Register,** EPA is proposing a February 1, 1981, deadline for submittal of the revised regulation.

5. *Enforceability*—EPA's proposal of the West Virginia SIP revision noted several deficiencies in Regulation XVII. Regulation XVII is not part of West Virginia's SIP revision. Accordingly, any deficiencies in it are no longer an issue.

EPA's proposal also noted several deficiencies with Regulation VIII, which establishes West Virginia's air quality standards for SO_2 and TSP. EPA noted that section 3.01 of Regulation VIII was deficient in that it only required attainment of NAAWS at sampling sites.

Upon closer examination, EPA has determined that the standards of Regulation VIII can be enforced in all areas of West Virginia. Therefore, EPA now believes Section 3.01 of Regulation VIII to be acceptable.

EPA also noted that the sampling methods specified in Regulation VIII were inadequate. West Virginia has notified EPA that it will be revising its air monitoring requirements to comply with 40 CFR Part 58, and that 40 CFR Part 58 must be complied with for all monitoring for SIP purposes performed in the State. The State's response satisfies the concern EPA raised earlier about the sampling methods specified in Regulation VIII. Furthermore, compliance with 40 CFR Part 58 is not required to meet the requirements of Part D of the Clean Air Act.

IV. Comments and Responses

This section describes the pertinent comments EPA has received on West Virginia's SIP revision and gives EPA's responses to those comments.

A. General

EPA received comments on the general aspects of the West Virginia SIP revision from the Commonwealth of Pennsylvania and from the West Virginia Chamber of Commerce. These comments and EPA's responses are given below:

1. *Pennsylvania's Comments*—The notice indicates that a "major issue" with the West Virginia SIP revision is the lack of a preconstruction review program that meets the requirements of Section 173 of the Clean Air Act and the Environmental Protection Agency's January 16, 1979 Emission Offset Interpretative Ruling. The notice elsewhere states, "EPA proposed to conditionally approve the plan where there are *minor* deficiencies and the State provides assurances that it will submit corrections on a specified schedule" (emphasis added). The notice solicits comments on what items should be conditionally approved. Because the plan has a major deficiency—the lack of an acceptable preconstruction review program—I recommend against conditional approval unless West Virginia demonstrates that it will handle new construction in nonattainment areas under their existing procedures in a manner that is consistent with Section 173 of the Act and that will be equitable with other States.

Response: West Virginia has agreed to adopt a permanent regulation requiring preconstruction review that will meet the requirements of Section 173 of the Clean Air Act and of EPA's final Emission Offset Interpretative Ruling. West Virginia will keep a temporary regulation requiring preconstruction review and emission offsets in effect until it adopts a permanent regulation. EPA considers the present lack of a permanent regulation a minor deficiency.

2. *Chamber of Commerce's Comments*—a. The July 24, 1979 notice of proposed rulemaking includes a number of references to changes which EPA will require in regulations which are included as a part of the State's proposed SIP with respect to both ozone and total suspended particulates. In both cases these changes deal with redefining RACT and with enforceability.

Our review of these suggested changes indicates that many of them are of a substantive nature which have not been the subject of any public hearing or comment before the State agency. We therefore suggest that it would be inappropriate for these changes to be made in the SIP without first going through further hearings at the State level to assure compliance with the letter and spirit of the public notice and hearing requirements of the Clean Air Act and of State law.

Response: West Virginia adopted or revised only five of the nine regulations that EPA critiqued in the July 24, 1979 notice of proposed rulemaking. West Virginia did not make any significant changes in these regulations.

West Virginia has agreed to adopt a regulation requiring preconstruction review and emission offsets. The State will observe all public notice and hearing requirements before adopting this regulation. Until it can adopt this regulation, West Virginia will keep in effect a temporary regulation requiring pre-construction review and emission offsets. West Virginia has adhered to all requirements of West Virginia law in adopting this temporary regulation.

West Virginia has agreed to submit to EPA an adequate analysis of the health, welfare, economic, energy, and social effects of its SIP revision. West Virginia will follow all public notice and hearing requirements before submitting this analysis to EPA.

West Virginia has agreed to revise Regulation VII. West Virginia will follow all public notice and hearing requirements when revising this Regulation.

West Virginia has agreed to adopt an adquate test method for Regulation XXIII. This test procedure will be adopted in accordance with the requirements of West Virginia law.

In conclusion, all changes required in West Virginia's SIP revisions will be made in accordance with Federal public notice and hearing requirements.

b. The 1977 Amendments to the Clean Air Act established the requirement now contained in Section 172(b)(9) that a nonattainment plan must provide for "(A) an identification and analysis of air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the States, and (B) a summary of the public comments on such analysis."

No such analysis has been made with respect to West Virginia's proposed SIP and certainly no opportunity has been provided for public comment on any such analysis. It is plain on the face of the legislative history of the Clean Air Act that Congress intended that the SIP should evidence public cognizance of the economic, energy and social effects of the plan. 2 U.S. Code, Cong. & Admin. News 1536 (95th Cong., First Sess. 1977).

Response: EPA has approved the West Virginia SIP on the condition that West Virginia submits an analysis of the SIP's effects to EPA. EPA also requires West Virginia to submit a summary of the public comments on the analysis at that time. The public will be given additional opportunity to comment on the analysis after EPA proposes it in the **Federal Register.**

B. Ozone.

EPA received comments on West Virginia's SIP revision for O_3 both from a private citizen and from the State of New Jersey. These comments and EPA's responses are given below:

1. *Citizen's Comments*—a. The Kanawha Valley Intrastate AQCR is

designated a rural nonattainment area for ozone. This designation is reasonable in determining that adoption of transportation measures is unnecessary, but not in determining that RACT is unnecessary. Transportation is an area source and justifiably must be looked at on a broad scale. However, the population density around VOC sources in the Kanawha Valley is similar to population densities in urban nonattainment areas for ozone.

Response: For rural nonattainment areas, States must adopt regulations requiring RACT for major sources for which EPA has published a CTG, and must commit to adopt additional regulations requiring RACT for major sources covered by future CTGs, 43 FR 21673, May 19, 1978. West Virginia has satisfied this requirement.

It must be pointed out that attainment of ambient air quality standards is the goal of the SIP. Major sources are selected for control in rural areas because they have the potential to contribute to the ambient air quality problem. Mechanisms such as New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPs), and State and local regulations are intended to control localized air pollution problems.

b. The Administrator should require the application of RACT in the Kanawha Valley to demonstrate RFP and attainment. In applying RACT, West Virginia should be required to provide for attainment as expeditiously as practicable. West Virginia has submitted a control strategy demonstration. This action is commendable and shows a desire to resolve the problems caused by the chemical plants in the Kanawha Valley.

Response: Since the Kanawha Valley AQCR is a rural nonattainment area, West Virginia is not required to submit a RFP presentation or a control strategy demonstration. This is in accordance with EPA policy stated in Administrator's Memorandum on Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas 43 FR 21673, May 19, 1979. West Virginia's new regulations apply to petroleum refineries, bulk gasoline terminals, and stored petroleum liquids. The SIP did not contain and is not required to contain regulations for controlling emissions from chemical plants.

c. Some of the emission reductions which West Virginia uses to demonstrate achievement of the NAAQS are questionable.

Response: Same as response to comment b.

d. EPA outlines several corrections to West Virginia's SIP for ozone in the "RACT as Expeditiously as Practicable" and "Enforceability" sections in its notice of proposed rulemaking in the **Federal Register.** These corrections should be made on an appropriate schedule if a conditional approval of the ozone SIP is granted.

Response: The State must either correct or agree to correct all deficiencies of the SIP before approval or conditional approval can be given. EPA is proposing dates by which West Virginia must fulfill certain conditions in a notice published elsewhere in today's **Federal Register.** The public is being invited to comment on the acceptability of these dates.

2. *State of New Jersey's Comments.*—The State of New Jersey submitted comments on the proposed Part D ozone SIP revisions for several States. New Jersey contends that SIPs which do not include uniform Statewide controls for existing and new sources which meet the requirements of Part D will not attain the ozone standard. New Jersey urges the Administrator to disapprove ozone SIPs which do not include such Statewide measures. In addition, New Jersey argues as it did in objecting to the Administrator's ozone nonattainment area designations that entire States should be designated nonattainment, thereby requiring Part D SIP revisions Statewide.

Response: West Virginia's O_3 plan meets the requirement for rural O_3 nonattainment areas. Therefore, the Administrator has no basis for disapproving the O_3 plan. The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattatinment Areas for Ozone," dated January 1979. Availability of the document was announced in the February 1, 1979 **Federal Register,** 44 FR 6395. This document and the Administrator's response to New Jersey's comments are incorporated herein by reference.

C. *Sulfur Dioxide*

A citizen concerned about air pollution in West Virginia submitted comments on the SO_2 section of the West Virginia SIP revision. These comments and EPA's responses are given below:

1. *Citizen's Comments*—a. The proposed rule states that if a 20 ug/m^3 annual average reduction is realized once the Sammis Generating Station achieves compliance (required by October 19, 1979) then no further reductions in emissions by other facilities would be required to attain ambient SO_2 standards. West Virginia's SIP should be conditionally approved with a schedule specifying continuous review of the attainment status of the New Manchester-Grant Magisterial District. If attainment of ambient standards is not achieved by a reasonable date, then West Virginia should schedule further revisions as necessary.

Response: West Virginia's SIP revision indicates that New Manchester will attain SO_2 standards after the Sammis plant complies with the SO_2 emission limitations of the Ohio SIP. At this time EPA does not know when Sammis will finally comply with Ohio's limitations on SO_2 emissions. In these circumstances, EPA believes that December 31, 1982 is a reasonable date to expect New Manchester to attain air quality standards. If Sammis complies with Ohio's SO_2 emissions limitations before December 31, 1982, and New Manchester still fails to attain SO_2 standards, West Virginia will have to develop further SIP revisions to ensure that SO_2 air quality standards are attained.

b. In revising the SO_2 SIP, West Virginia assumed that the Wellsburg Magisterial District in Brooke County would be redesignated as a primary and secondary attainment area. EPA did not comment on this assumption. The SO_2 SIP should not be finalized unless the validity of this assumption is affirmed by EPA.

Response: EPA is redesignating the Wellsburg Magisterial District from primary and secondary nonattainment to attainment in a notice published elsewhere in today's **Federal Register.**

D. *Total Suspended Particulates*

The West Virginia Chamber of Commerce submitted comments on the TSP section of West Virginia's SIP submittal. These comments follow:

1. *Chamber of Commerce's Comments*—a. Regulation XVIII is deficient in several respects and should not be approved.

Response: West Virginia has not submitted Regulation XVII to EPA. Therefore, Regulation XVII is not part of the SIP revision.

b. As noted at the outset of your July 24, 1979 **Federal Register,** notice, the new provisions to the Clean Air Act, enacted in August, 1977, call upon all states to revise their SIP's with respect to those areas in which national ambient air quality standards are not being attained. The Commission and EPA have identified such areas in West Virginia to include the following regions with respect to total suspended particulates:

1. Kanawha County and portions of Fayette County.
2. Portions of Marion County, and
3. Hancock, Brooke, Ohio and Marshall Counties.

Even though nonattainment areas in West Virginia have been limited to these three, the Commission proposes to amend the SIP by including a new Regulation XVII, and revisions to certain existing regulations, which impose new or more stringent emission controls on sources located in the attainment areas of Putnam County, West Virginia. This unwarranted expansion of the scope of these regulations is in spite of the fact that there is no evidence to support the proposition that any sources in Putnam County contribute to the violations of ambient standards in any of the State's designated nonattainment areas."

Reponse: The Clean Air Act requires States to adopt all emission controls necessary to assure attainment of air quality standards. Each State has the responsibility of determining exactly which controls are necessary. EPA understands that the West Virginia Air Pollution Control Commission has determined that the regulation of sources in Putnam County is necessary to assure the attainment of air quality standards. Therefore, EPA accepts West Virginia's plans to regulate sources in Putnam County.

E. *National Comments*

EPA has receive several comments applying to the SIP revisions of all States. These comments and EPA's responses can be found in EPA's notice of final rulemaking for Delaware's Part D SIP revision, and in EPA's Rationale Document for this final ruelmaking. EPA's notice of final rulemaking for Delaware's Part D SIP revision can be found at 45 FR 14551 (1980).

EPA Actions

EPA's decisions to approve, conditionally approve, or disapprove West Virginia's SIP revisions for the attainment of TSP, O_3, and SO_2 standards are given in this section. Elsewhere in today's **Federal Register** EPA is proposing deadlines for meeting all conditions given in this section.

A. General

EPA approves West Virginia's SIP revisions for attaining primary TSP standards in the Steubenville-Weirton Wheeling Interstate AQCR and in those portions of Union and Winfield Magisterial Districts in Marion west of Interstate Route 79, for attaining the O_3 standard in the Kanawha Valley Interstate AQCR, and for attaining SO_2 standards in the New Manchester-Grant Magisterial District in Hancock County, on the condition that:

1. West Virginia adopts a permanent regulation requiring preconstruction review and emission offsets. This regulation must meet the requirements of Section 173 of the 1977 Clean Air Act Amendments.

2. West Virginia keeps a temporary regulation requiring preconstruction review and emission offsets in effect until EPA approves a permanent regulation.

3. West Virginia submits all permits issued under the provisions of its temporary preconstruction review and offset regulation to EPA for approval as SIP revisions.

4. West Virginia submits to EPA an adequate analysis of the health, welfare, economic, energy, and social effects of its SIP revision, and an adequate summary of the public comments on this analysis.

B. Ozone

EPA approves West Virginia's SIP revision for attaining the O_3 standard in the Kanawha Valley Intrastate AQCR on the condition that West Virigina adopts an adequate test method for Regulation XXIII and submits this test method to EPA as a SIP revision.

C. Sulfur Dioxide

EPA approves West Virginia's SIP revision for attaining SO_2 standards in the New Manchester-Grant Magisterial District in Hancock County.

D. Total Suspended Particulates

EPA approves West Virginia's SIP revisions for attaining TSP standards in the Steubenville-Weirton-Wheeling Interstate AQCR on the condition that West Virginia revises Regulation VII and submits this revised regulation to EPA for incorporation into West Virginia's SIP.

EPA approves West Virginia's plan for attaining primary and secondary TSP standards in those portions of Union and Winfield Magisterial Districts west of Interstate Route 79.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth restrictions in those areas for which the State of West Virginia has submitted adequate plans in accordance with Part D requirements.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: August 6, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart XX—West Virginia

1. Section 52.2520, paragraph (c) is amended by adding paragraphs (10) through (12) as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(10) Revised plans for attaining primary air quality standards for TSP and SO_2 submitted to EPA by the Governor of West Virginia on June 18, 1979. These plans are contained in a document entitled, "Revisions to the State Implementation Plan to Achieve and Maintain Air Quality Standards for Particulates, Sulfur Oxides, and Ozone."

(11) Revised plan for attaining the ozone standard submitted to EPA by the Governor of West Virginia on November 21, 1979.

(12) Revised Regulations III and VIII, and new Regulations XXI, XXIII, and XXIV, submitted to EPA by the Governor of West Virginia on December 19, 1979.

2. Section 52.2522, paragraph (b) relating to the Harrison power plant added at 45 FR 39255, June 10, 1980 is redesignated as (c) and a new paragraph (d) is added as follows:

§ 52.2522 Approval status.

* * * * *

(d) In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and the adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

3. Section 52.2529 is added as follows:

§ 52.2529 Review of new sources and modifications.

EPA's approval of West Virginia's plans for attaining primary total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR and in those portions

of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining the ozone standard in the Kanawha Valley Intrastate AQCR, and for attaining sulfur dioxide standards in the New Manchester-Grant Magisterial District in Hancock County, is given on the condition that:

(a) West Virginia adopts a permanent regulation requiring preconstruction review and emission offsets. This regulation must meet the requirements of Section 173 of the 1977 Clean Air Act Amendments.

(b) West Virginia keeps a temporary regulation requiring preconstruction review and emission offsets in effect until EPA approves a permanent regulation.

(c) West Virginia submits all permits issued under provisions of its temporary preconstruction review and offset regulation to EPA for approval as SIP revisions.

4. Sections 52.2530 is added as follows:

§ 52.2530 General requirements.

EPA's approval of West Virginia's plans for attaining primary total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR and in those portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining the ozone standard in the Kanawha Valley Intrastate AQRC, and for attaining sulfur dioxide standards in the New Manchester-Grant Magisterial District in Hancock County, is given on the condition that West Virginia submits to EPA an adequate analysis of the health, welfare, economic, energy, and social effects of its SIP revision, and an adequate summary of the public comments on this analysis.

5. Section 52.2531 is added as follows:

§ 52.2531 Control strategy: (hydrocarbons).

(a) EPA's approval of West Virginia's plan for attaining the ozone standard in the Kanawha Valley Intrastate AQCR is given on the condition that West Virginia adopts an adequate test method for Regulation XXIII submits this test method to EPA as a SIP revision.

6. Section 52.2532 is added as follows:

§ 2532 Control strategy; particulate matter.

EPA's approval of West Virginia's plan for attaining total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR is given on the condition that West Virginia revises Regulation VII and submits this revised regulation to EPA for incorporation into the West Virginia SIP.

(b) West Virginia's does not have approved plans for attaining secondary TSP standards in the Steubenville-Weirton-Wheeling AQCR, Kanawha County and the adjacent Valley Magisterial District in Fayette County, and the Parkersburg Tygart Magisterial District in Wood County.

§ 52.2523 [Amended]

7. Section 52.2523 is amended by revising the chart of attainment dates to read as follows:

* * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Steubenville-Weirton-Wheeling Interstate:							
a. New Manchester-Grant Magisterial District in Hancock County.	[1]a	[2]e	[1]g	[2]g	[4]h	[4]h	[4]h
b. Wellsburg Magisterial District in Brooke County.	[1]a	[2]e	[1]b	[2]c	[4]h	[4]h	[4]h
c. Remainder of AQCR	[1]a	[2]i	[1]b	[2]c	[4]h	[4]h	[4]h
Parkersburg-Marietta Interstate:							
a. Parkersburg-Tygart Magisterial District in Wood County.	[1]b	[2]i	[1]b	[2]c	[4]h	[4]h	[4]h
b. Remainder of AQCR	[1]b	[2]c	[1]b	[2]c	[4]h	[4]h	[4]h
Huntington-Ashland Portsmouth-Ironton Interstate	[1]b	[2]c	[1]b	[2]c	[4]h	[4]h	[4]h
Kanawha Valley Intrastate:							
a. Kanawha County	[1]b	[2]e	[1]b	[2]c	[4]h	[4]h	[4]i
b. Remainder of AQCR	[1]b	[2]c	[1]b	[2]c	[4]h	[4]h	[4]h
Southern West Virginia Intrastate:							
a. Valley Magisterial District in Fayette County.	[1]b	[1]e	[1]b	[1]c	[4]h	[4]h	[4]h
b. Remainder of AQCR	[1]b	[1]c	[1]b	[1]c	[4]h	[4]h	[4]h
North Central West Virgina Intrastate:							
a. In Marion County, all portions of Union and Winfield Magisterial Districts west of Intrastate Highway I–79.	[1]d	[2]e	[1]b	[1]c	[4]h	[4]h	[4]h
b. Remainder of AQCR	[1]b	[2]c	[1]b	[1]c	[4]h	[4]h	[4]h
Cumberland-Keyser Intrastate	[1]b	[2]c	[1]b	[1]c	[4]h	[4]h	[4]h
Central West Virgina	[1]b	[1]c	[1]b	[1]c	[4]h	[4]h	[4]h
Allegheny Intrastate	[1]b	[1]c	[1]b	[1]c	[4]h	[4]h	[4]h
Eastern Panhandle Intrastate	[1]b	[1]c	[1]b	[1]c	[4]h	[4]h	[4]h

a. December 31, 1982.
b. Air quality levels presently below primary standards or area is unclassifiable.
c. Air quality levels presently below secondary standards or area is unclassifiable.
d. December 31, 1980.
e. Plan for attaining secondary standards not yet submitted.
f. Plan for attaining primary standards not yet submitted.
g. Attainment expected as soon as the Sammis Power Plant meets the SO_2 limitations in the Ohio State Implementation Plan.
h. Air quality levels presently better than National Standards or area is unclassifiable.
i. This is a rural nonattainment area.

[1] Attainment date in 1972 plan was June 1975.
[2] Attainment date in 1972 plan was June 1977.
[3] Attainment date in 1972 plan was June 1978.
[4] Listed as attainment area in 1972 plan.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52.2523 (1978).

[FR Doc. 80-24554 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 81

[FRL 1569-8]

Approval of Section 107 Designations for West Virginia; Designations of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of West Virginia has revised its list of air quality attainment designations for one area within the State with respect to particulate matter (TSP) and one area with respect to sulfur dioxide (SO_2). For TSP, the State has changed the designation for Kanawha County and the adjacent Valley Magisterial District in Fayette County from nonattainment of primary standards to nonattainment of secondary standards. For SO_2, the State has changed the designation for the Wellsburg Magisterial District from nonattainment of primary standards to attainment.

On April 6, 1979, West Virginia submitted these revisions to the Environmental Protection Agency (EPA), along with supporting information, for promulgation under Section 107(d) of the Clean Air Act.

This notice announces EPA's approval of these changes submitted by West Virginia. All other Section 107 designations for the State of West Virginia not discussed in this notice remain intact, 44 FR 40521, (September 12, 1978).

EFFECTIVE DATE: August 14, 1980.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Mr. Harold Frankford

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, ATTN: Mr. Carl Beard

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT:

Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597–8392

SUPPLEMENTARY INFORMATION:

Background

Section 107(d)(1) of the Clean Air Act requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards (NAAQS). The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, 43 FR 8962, the Administrator promulgated nonattainment designations for West Virginia for total suspended particulates (TSP), sulfur dioxide (SO_2) and ozone (O_3). These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and amended certain of the original designations, 43 FR 40502.

The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the **Federal Register** of March 3, 1978, 43 FR 8962; September 11, 1978, 43 FR 40412; and September 12, 1978, 43 FR 40502. West Virginia has revised its original designation list and on April 6, 1979, submitted these revisions to EPA.

On August 20, 1979, 44 FR 48723, the Environmental Protection Agency acknowledged receipt of these revised designations and solicited public comments on the acceptability of these changes.

Change to SO_2 Designation

The State of West Virginia has revised the SO_2 designation for the Wellsburg Magisterial District (Brooke County) from nonattainment of primary SO_2 standards to attainment. The State submitted air quality data showing no violations of SO_2 air quality standards during eight consecutive quarters (April, 1977 to March, 1979) of monitoring. Therefore, EPA redesignates this area to "better than national standards" in accordance with West Virginia's revision.

Change to TSP Designation

The State of West Virginia has revised the TSP designation for Kanawha County and the adjacent Valley Magisterial District in Fayette County from nonattainment of primary TSP standards to nonattainment of secondary TSP standards. The State submitted air quality data showing that no violations of the annual and 24-hour primary TSP standards have occurred during eight consecutive quarters (April, 1977 to March, 1979). However, the air quality data still show violations of the secondary (24-hour) TSP standard. Therefore, EPA approves the redesignation of this area to "does not meet secondary standards" in accordance with West Virginia's revision.

EPA Actions

Although this action is being taken as a final rule, EPA will consider comments at any time and make appropriate changes in attainment designations.

This SO_2 redesignation to attainment is being made immediately effective in order to lift the statutory restriction on construction of new or modified sources applying in nonattainment areas for which state implementation plan revisions have not been submitted by the State and approved by EPA. The TSP redesignation to nonattainment of secondary standards is being made immediately effective to relieve the state of the requirement to submit a plan revision for the attainment of the primary TSP standard. Elsewhere in today's **Federal Register**, EPA is proposing to extend until July 1, 1980 the deadline for the State's submittal of a plan revision for attainment of the secondary TSP standards.

All comments should be addressed to: Mr. Howard R. Heim, Jr., Chief (3AH12), Air Programs Branch, U.S. Enviornmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, 10th Floor, Philadelphia, PA. 19106, Attn: 107WV–1.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated August 6, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-24553 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 180

[FRL 1569-5; PP 9F2210/R268]

Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on apples and pears at 0.02 part per million (ppm). The regulation was requested by Shell Chemical Co. This rule establishes maximum permissible levels for residues of the subject insecticide in or on apples and pears.

EFFECTIVE DATE: Effective on August 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M

Street SW, Washington, D.C. 20460, 202/426-9417.

SUPPLEMENTARY INFORMATION: Notice was published in the Federal Register of July 20, 1979 (44 FR 42773) that Shell Chemical Company, 1025 Connecticut Avenue, NW, Suite 200, Washington, D.C. 20036, had filed a pesticide petition (PP 9F2210) with EPA. This petition proposed that 40 CFR 180.379 be amended by establishing tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities apples and pears at 0.02 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rat acute oral toxicity study with a median lethal dose (LD_{50}) of 1–3 grams (gm)/kilogram (kg) of body weight (bw) in water and 450 milligrams (mg)/kg of bw in dimethylsulfoxide (DMSO); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm; and an 18-month mouse feeding study with a NOEL of 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month rat feeding study with a NOEL of 250 ppm (the highest level fed) with no oncogenic effects, a three-generation rat reproduction study with a NOEL of 250 ppm (the highest level fed); teratology studies in mice and rabbits (both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: Mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: A hen study negative at lg/mg/kg of bw for 5 days, repeated again at 21 days; a rat acute study with a NOEL of 200 mg/kg of bw; a 15 month rat feeding study resulted in a systemic NOEL of 500 ppm and a NOEL of 1500 ppm with respect to nerve damage.

Data considered desirable but currently lacking are: (1) Further research on granulomas observed in an 18-month inch mouse study; and (2) a six-month non-rodent (preferably dog) oral feeding study. Action being taken to obtain the lacking information or other additionally needed information:

a. Petitioner has submitted a protocol to further study the granulomas in the mouse strain used.

b. The petitioner has agreed to submit the six-month non-rodent (preferably dog) oral feeding study within one (1) year from the date of notification by the Agency to conduct this study.

There are, at this writing, no pending regulatory actions against the registration of this pesticide.

There are established tolerances for residues in eggs, milk, meat, and poultry, which are adequate to cover secondary residues resulting from the proposed uses as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerances of 0.02 ppm established by amending 40 CFR 180.379 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before September 15, 1980, file written objections with the Hearing Clerk, EPA, Room M-3708 (A-110), 401 M Street, SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 14, 1980.

(Sec. 408(d)(2), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: August 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by adding apples and pears at 0.02 ppm to § 180.379 to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate.

* * * * *

Commodity	Parts per million
Apples	0.02
Pears	0.02

[FR Doc. 80-24594 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

Delegation of Authority to the Federal Aviation Administrator; Aviation Safety and Noise Abatement Act of 1979

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule delegates to the Administrator of the Federal Aviation Administration the authority to exercise the powers and duties of the Secretary of Transportation under the Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50; February 8, 1980). This action is needed to expressly provide the delegation of that authority and ensures that its exercise is consistent with similar and related functions and responsibilities of the Administrator under section 611 of the Federal Aviation Act of 1958, as amended.

DATES: Effective date—August 6, 1980. Comments must be received by October 14, 1980.

ADDRESSES: Comments should be sent to: Docket Clerk (Docket No. 400 Seventh Street SW., Room 10200, Washington, DC 20590. Comments are available for public examination at that address Monday through Friday from 9:00 a.m. to 5:30 p.m. Persons wishing to have receipt of their comments acknowledged must send a stamped, self-addressed post card with their comments. The docket clerk will return those post cards when the comments are docketed.

FOR FURTHER INFORMATION CONTACT: Jack Lusk, Office of Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 426-4723.

SUPPLEMENTARY INFORMATION:

Request for Comments

Although this action is in the form of a final rule, which involves the internal management and procedures of the Department and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the Department will use the comments and any other available information to review the regulation. After the review, if the Department finds that changes are appropriate, it will adopt amendments to the regulation.

Need and Effect of the Amendment

On February 18, 1980, the President signed into law the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193; 94 Stat. 50). The Act authorizes and directs the Secretary of Transportation to take various regulatory and nonregulatory actions concerning aviation noise control and abatement and safety in aviation. Under the Department of Transportation Act of 1966 (49 U.S.C. 1651, et seq.) and the regulations of the Secretary (49 CFR Part 1), the related functions and responsibilities are vested in the Federal Aviation Administrator. Similarly, section 611 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431), authorizes and directs the Administrator to adopt and amend regulations for the control and abatement of aircraft noise and sonic boom. This action ensures that the purposes of the Aviation Safety and Noise Abatement Act of 1979 are fully realized in a manner compatible with related FAA regulations and programs. Since the Act concerns, in part, international aviation policy, questions and actions involving those matters would continue to be coordinated with the appropriate elements within the Office of the Secretary. This delegation is consistent with the provisions of sections 3(e)(3), 6(c), and 9(e) of the Department of Transportation Act (49 U.S.C. 1652(e)(3), 1655(c) and 1657(e)).

Regulatory Impact

The Department of Transportation, pursuant to its Regulatory Policies and Procedures Implementing Executive Order 12044, has determined that this is not a significant regulation. Further, since it involves regulations affecting only the internal process and delegation of authority within the Department, the anticipated impact of the amendment is so minimal that it does not warrant a full regulatory evaluation analyzing its economic impact.

Since this amendment to the regulations of the Secretary involves a matter relating to the management, organization, and delegation of agency powers and duties, I find, in accordance with 5 U.S.C. 553, that notice and public procedure thereon is unnecessary and good cause exists for making it effective in less than 30 days after publication in the Federal Register.

Adoption of the Amendment

Accordingly, § 1.47 of Part 1 of Title 49 of the Code of Federal Regulations (49 CFR 1.47) is amended, effective August 6, 1980, by adding a new paragraph (m) to read as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

* * * * *

(m) Carry out the powers and duties vested in the Secretary by the Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50; 49 U.S.C. 2101 et seq.)

(Secs. 3(e), 6(c), and 9(e), Department of Transportation Act (49 U.S.C. 1652(e), 1655(c), and 1657(e)))

Issued in Washington, DC, on August 6, 1980.

Neil Goldschmidt,

Secretary of Transportation.

[FR Doc. 80-24244 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 840

Notification of Railroad Accidents; Amendment

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment establishes a 6-hour time limit for notification of railroad accidents, specifies that an estimate of the repair or current replacement cost to railroad and nonrailroad property shall be used in determining the damages resulting from such accidents, and requires notification of all passenger train accidents. The purpose of these changes is to eliminate unnecessary delay in determining whether notification is required, and to require prompt reporting of the designated railroad accidents to the Safety Board.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Elmer Garner, Chief, Railroad Accident Division, 800 Independence Avenue, SW., Washington, D.C. 20594, (202) 472-6091.

SUPPLEMENTARY INFORMATION: On March 6, 1980, the National Transportation Safety Board published at 45 FR 14609 a proposed amendment to § 840.3 and invited interested persons to submit written comments by April 29, 1980. Comments were received from the Association of American Railroads (AAR), six individual railroads, the American Public Transit Association, one operator of a rail rapid transit system, and a member of Congress. The AAR comment incorporated the views of 16 railroads, three of which also provided separate comments. All of those commenting on behalf of the railroads and rail rapid transit systems opposed the Board's initial proposal to establish a 2-hour time limit for notification. Some advocated an 8-hour time limit while others favored either no change in the present requirement of notification "at the earliest practical moment" or a maximum allowance of 12 hours. Under the present requirement railroads and rapid transit systems have delayed notifying the Board of accidents from 8 hours to as much as several days. There is no practical necessity for most of the delays, which have resulted from waiting for a more precise estimate of damages, or channeling the reporting process through a central office, or the failure of a railroad employee to comply with the reporting requirements. Railroads and rapid transit companies should know the value of prompt investigations in the development of facts necessary to determine the probable cause of railroad accidents. Congress expects the Safety Board to make such investigations and, to do so, prompt notification is imperative. However, in considering the comments, the Board recognizes that the 2-hour time limit may at times be impractical due to remoteness of the accident site, adverse climatic conditions, inaccessibility, lack of communications, and other like causes. In order to give the railroads a greater degree of flexibility in those unusual situations, the Board has decided to modify this proposal to require notification of reportable accidents at the earliest practical time but not later than 6 hours after their occurrence. We expect the railroads to emphasize "earliest practical time" as the reporting deadline and to utilize the grace period solely in those cases when delay cannot be avoided.

The second proposal to use estimates of the repair or current replacement costs in determining whether an accident results in damages of $150,000 or more to railroad and nonrailroad property was also opposed by the railroads. In particular, the objection was made that such estimates will be drastically affected by the rate of inflation. This has been considered and in lowering the minimum damage figure for a reportable accident from $500,000 to $150,000 as of October 1, 1978, the Board stated: "If the cost of railroad

equipment and other factors should increase to the extent that the numbers

(2) Damages, based on a preliminary gross estimate, of $150,000 or more of

of the exceptions to the moratorium is that the provisions do

subsistence and handicraft purposes by Alaska Natives under Native exceptions

Area Director of the U.S. Fish and Wildlife Service for scientific research

Operation of the National Wildlife Refuge System published in November

equipment and other factors should increase to the extent that the numbers of accidents reported exceeds the handling capability of its staff, the Board will then raise the damage threshold figure to the appropriate level" (49 FR 44535–44536, September 28, 1978). Several of the comments suggested that the Board adopt the industry standard for calculating the depreciated or settlement value of railroad equipment to correct for inflation. Another suggestion was to further define the term "nonrailroad property" as property adjacent to the railroad right-of-way. However, it should be understood that the reporting threshold represents only an estimate of the present value of damaged property. In addition, damage to nonrailroad property must include all such damage to other than railroad property occurring as a result of an accident. If it is demonstrated that an upward revision of the reporting threshold is needed due to the rate of inflation, the Board will take appropriate action but sees no reason to do so at this time.

The rail rapid transit systems opposed elimination of the $10,000 damage figure as the reporting threshold for accidents involving passenger trains. In their view, the change will require the reporting of trivial or insignificant accidents such as hard couplings, motor flashovers, the transfer of passengers from a disabled train, and slow speed impacts during yard operations. These are examples of an overly strict interpretation of the term "accident" defined in the rules. The definition is limited to "any collision, derailment, or explosion involving railroad trains, locomotives, and cars; or any other loss-causing event involving the operation of such railroad equipment that results in a fatality or the emergency evacuation of persons" (49 CFR 840.2(b)). If this definition is adhered to, the reporting of "trivial" accidents such as those mentioned would not be required. For clarification, it should also be noted that a passenger train is considered to be a train in revenue service.

Accordingly, Part 840 of Title 49, Chapter VIII of the Code of Federal Regulations, is amended as follows:

1. By revising the introductory text of § 840.3(a) and paragraphs (a) (2) and (3) to read as follows:

§ 840.3 Notification of railroad accidents.

(a) A railroad shall notify the Board in the manner prescribed by paragraph (c) of this section at the earliest practical time but not later than six hours after the occurrence of an accident which results in—

* * * * *

(2) Damages, based on a preliminary gross estimate, of $150,000 or more of the repair or current replacement cost to railroad and nonrailroad property; or

(3) Involvement of a passenger train.

* * * * *

(49 U.S.C. 1903(a)(1)(C), (a)(6))

Signed at Washington, D.C., on August 6, 1980.

Patricia A. Goldman,

Acting Chairman.

[FR Doc. 80-24547 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-58-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

Transfer for Scientific Research Purposes of Marine Mammal Parts Taken Under the Alaska Native Exemption Provision of the Marine Mammal Protection Act of 1972

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The current regulation governing the transfer of marine mammals and marine mammal parts taken by Alaska Natives for subsistence or handicraft purposes does not allow transfer to non-Natives for the purpose of scientific research. This amendment allows transfers for scientific research purposes to be made to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service. Researchers now have a regulatory mechanism to obtain specimens which would otherwise be unavailable for scientific use.

EFFECTIVE DATE: August 14, 1980.

ADDRESSES: Please address correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information on this amendment is available for review during business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday in Room 605, 1000 N. Glebe Road, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1937).

SUPPLEMENTARY INFORMATION:

Background

Subject to certain exceptions, the Marine Mammal Protection Act of 1972, hereinafter referred to as the Act, imposes a moratorium on the taking of marine mammals (16 U.S.C. 1371). One of the exceptions to the moratorium is that the provisions do

* * * not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking (1) is for subsistence by Alaskan natives who reside in Alaska, or (2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing:

Provided, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further,* That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting, and (3) in each case, is not accomplished in a wasteful manner.

The exemption and regulations implementing it contain a number of restrictions on the transfer of marine mammals and marine mammal parts taken under the exemption (16 U.S.C. 1371(b); 50 CFR 18.23(b)). These restrictions contain no exception for sale, donation or transfer of such specimens for scientific research purposes. Thus, valuable scientific specimens are currently being lost.

The Secretary of the Interior is authorized under section 112(a) of the Act (16 U.S.C. 1382(a)) to prescribe such regulations as are necessary and appropriate to carry out the purposes of the Act for those species for which he has responsibility. In enacting the Act, Congress found that "there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully" (16 U.S.C. 1361(3)).

The proper management of marine mammals requires information on age structure of the population, nutrition, disease, reproduction and other factors. Much of this information is available by analysis of samples from dead animals. The Act's purpose of preventing unnecessary taking of marine mammals would be well-served if scientists were allowed access to specimens from animals which are already dead, animals which would not have to be killed for research purposes.

Effect of the Amendment

This amendment allows the transfer of marine mammal parts, taken for subsistence and handicraft purposes by Alaska Natives under Native exceptions of the Act, to the Alaska Area Director for purposes of scientific research. It allows scientists access to data from specimens which would otherwise be unavailable to them.

Transfer for scientific research purposes is allowed only to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service. This allows for transfer of specimens to qualified scientists with a need for such specimens. The Alaska Area Director would review scientists' qualifications and provide written approval for legitimate scientific research. Transfer for personal use is not authorized by this amendment.

The Administrative Procedure Act and the Department's regulations governing rulemaking generally require a notice of proposed rulemaking and an opportunity for public comment on rules adopted by the Service (5 U.S.C. 553(b)). However, an exception to this requirement is provided if it is found for good cause that notice and an opportunity for comment are impracticable or contrary to the public interest (5 U.S.C. 553(b)(B)). Because valuable biological specimens from marine mammals taken by Alaska Natives for subsistence and handicraft purposes are being lost, the Service for good cause finds that notice and public procedure on this rule is impracticable and contrary to the public interest. This rule is effective on August 14, 1980, as provided in 5 U.S.C. 553(d)(1) and 43 CFR 14.5(b)(5), because it relieves a restriction.

This rule is issued under the authority of section 112 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1382) and was prepared by Bob Batky, Staff Biologist, Federal Wildlife Permit Office.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Service has also determined that this final rule will not have a significant impact on the quality of the human environment and therefore does not require an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and 40 CFR 1508.13.

Accordingly, Part 18 of Title 50, Code of Federal Regulations, is hereby amended as follows:

§ 18.23 [Amended]

1. Paragraph (b)(1) of § 18.23 is amended by deleting the word "No" and inserting in lieu thereof the words, "Except for a transfer to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service for scientific research purposes, no * * *"

2. Paragraph (b)(2) of § 18.23 is amended by deleting the word "No" and inserting in lieu thereof the words, "Except for a transfer to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service for scientific research purposes, no * * *"

Dated: August 1, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-24595 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Great Dismal Swamp National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Great Dismal Swamp National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATE: November 1, 8, 15, 22, 29 and December 10, 11, 12, 1980.

FOR FURTHER INFORMATION CONTACT: Ralph M. Keel, Jr., Great Dismal Swamp National Wildlife Refuge, Box 349, Suffolk, Virginia 23434, Telephone No. 804–539–7479.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Great Dismal Swamp National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

(1) Species to be taken: Whitetail deer.

(2) Bag Limits: One per day, either sex.

(3) Season: November 1, 8, 15, 22, 29 and December 10, 11, 12).

(4) Hunting equipment: Shotguns only, no smaller bore than 20 gauge, loaded with buckshot and/or rifled slugs.

(5) Possession of other weapons or ammunition prohibited.

(6) Dogs are prohibited.

(7) Hunting hours—same as state hunting hours. All hunters must be clear of hunting areas by two hours after the close of local hunting hours.

(8) Possession of loaded firearms in or on a vehicle or shooting from a vehicle is prohibited.

(9) Possession of loaded firearms in or on a refuge road or shooting from or on a road is prohibited.

(10) Camping and fires on refuge are prohibited.

(11) All hunters under 18 years of age must be accompanied by an adult.

(12) All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered. All deer taken on the area must be brought to the check station to be checked out. Jawbones may be removed by refuge personnel.

(13) Shooting at wildlife other than deer is prohibited.

(14) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescense color material on the head, chest, and back.

(15) Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) Hunters-Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualifications test or tests:

(1) Shotgun with rifle slugs: Place three consecutive shots in a 12–inch bullseye from 30 yards or better from

an offhand position. This is a lifetime qualification subject to verification.

(2) Shotguns with buckshot: Place five shot pellets in a 20-inch bullseye target from a range of 30 yards.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

August 7, 1980.

Wm. C. Ashe,

Acting Regional Director, Fish and Wildlife Service.

FR Doc. 80-24541 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Bombay Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. #1, Box 147, Smyrna, Delaware 19977, Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Bombay Hook National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots is permitted on areas designated by signs as open to hunting including the South Waterfowl Hunting Area, the West Waterfowl Hunting Area, the Young Waterfowlers Area, and the South Upland Hunting Area.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

1. Hunting is permitted on the West Waterfowl Hunting Area from one-half hour before sunrise to 12 noon local standard time, Tuesdays, Thursdays, and Saturdays (except November 8) during the goose season.

2. Hunting in the South and West Waterfowl Areas and Young Waterfowlers Area shall be only from existing numbered blinds. The possession of an uncased gun or shooting while outside of a blind is prohibited on these areas except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled bird.

3. Hunting is permitted in the South Waterfowl Hunting Area only on Monday, Wednesday, Friday, and Saturday, during the State duck season.

4. The necessary permit to enter the South Waterfowl Hunting Area will be issued each hunting day by a ticket-lottery system at one and one-half hours before legal shooting time at the checking station at Port Mahon. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis. Permits will be surrendered at the checking station within one-half hour after sunset. The necessary permit to enter the West Waterfowl Hunting Area may be obtained by applying to the refuge manager for advance reservation. The permits for advance reservations will be cancelled if the holder is not present one hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lottery on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

5. Each hunting permittee using the West Waterfowl Hunting Area will pay a recreation fee of $10.00 prior to entrance into the hunting area. A recreation fee of $2.00 per hunter will be charged on the South Waterfowl Hunting Area prior to entrance into the hunting area. Non-ambulatory individuals using the Young Waterfowl Hunting Area will pay a recreation fee of $5.00 per blind prior to entrance into the hunting area.

6. Not more than four persons may occupy a blind at any one time on the West Waterfowl Hunting Area nor more than three on the South Waterfowl Hunting Area.

7. The Young Waterfowlers Area will be open from one-half hour before sunrise to 12:00 noon local standard time on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two youths, accompanied by an instructor who may not possess ammunition or possess or discharge a firearm, may use one blind. Two blinds within the Young Waterfowlers Area will also be utilized on Tuesdays by non-ambulatory individuals. These individuals will be selected in cooperation with the Delaware Division of Vocational Rehabilitation. Two hunters accompanied by an assistant who may not possess ammunition or possess or discharge a firearm, may use each blind.

8. Waterfowl hunters on all four areas are required to use steel shotshells and may not have in their possession lead shotshells. No hunter may have in their possession or use in one day more than 12 shells on the West Waterfowl Hunting Area or 15 shells on the Young Waterfowlers Hunting Area.

9. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

Public hunting of rails and gallinules, mourning doves, woodcock, crows, and common snipe on the 169 acre South Upland Hunting Area is permitted during the regular state seasons.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails and gallinules, mourning doves, woodcock and common snipe.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game on the 169 acre South Upland Hunting Area is permitted during the regular state season in accordance with all Federal and State regulations covering upland game hunting.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas. Hunting shall be in accordance with all state regulations subject to the following special conditions:

1. Season: (a) Archery—Hunting by bow and arrow on the regular Deer Hunting Area is permitted on the first four Saturdays of the season from September 6 through October 4. Hunting by bow and arrow on the South Upland Hunting Area is permitted during the entire season.

(b) Shotgun—Hunting with shotguns on the regular Deer Hunting Area is permitted only on November 7, 8, 10 and 12, 1980. Hunting with shotguns on the South Upland Hunting Area is permitted during the entire state season. Hunting with shotguns by non-ambulatory individuals on the Special Deer Hunting Area is permitted on November 10 and 14, 1980.

(c) Primitive Firearms—Hunting with primitive firearms on the Regular Deer Hunting Area is permitted on October 10 and 11, 1980. Hunting with primitive firearms on the South Upland Hunting Area is permitted during the entire state season.

2. Hunter Qualification Requirements: All deer hunters are required to show proof of completion of hunter qualification test and possess a valid hunter qualification card. Qualification tests are required every three years to maintain a valid card. Tests must be completed and passed with the weapon which the individual uses during the hunt. Qualification requirements for each weapon are as follows:

(a) Archery—The hunter must place three out of five arrows in the 9x14 inch chest area of standard size deer target at 25 yards.

(b) Shotgun—The hunter must place three consecutive slugs in a 12-inch circle at 30 yards from the standing position.

(c) Primitive Firearms—The hunter must place three consecutive rounds in a 12-inch circle at 50 yards, firing from the offhand position.

3. Permit Requirements: All deer hunters, regardless of type of weapon, are required to obtain a daily permit prior to hunting on the Regular Deer Hunting Area. Daily permits are not required on the South Upland Area. Procedures for obtaining daily permits are as follows:

(a) Archery—Permits are issued at the Dutch Neck Gate Refuge Entrance on a first-come, first-served basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the Regular Deer Hunting Area at any one time will be 80.

(b) Shotgun—Permits are obtained by applying to the refuge manager in writing for an advance reservation. Successful applicants are selected by public lottery. Individuals who have been selected for advance reservation must appear at refuge headquarters prior to one hour before legal shooting time on the day of the hunt to be issued a permit. Failure to appear will result in forfeiture of the reservation. Forfeited permits and permits not reserved by advance reservations will be awarded to standby hunters by lottery one hour before the start of legal shooting time. The maximum number of hunters admitted to the Regular Deer Hunting Area at any one time will be 50.

Shotgun hunters utilizing the Special Deer Hunting Area will be restricted to non-ambulatory individuals as selected in cooperation with the Delaware Division of Vocational Rehabilitation. The maximum number of hunters admitted to the Special Deer Hunting Area at one time will be ten.

(c) Primitive weapon—Permits are issued at the Dutch Neck Gate Refuge Entrance on a first-come, first-served basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the Deer Hunting Area at any one time will be 50.

4. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

5. Target practice or the test firing of any weapon is not permitted.

All the refuge hunting areas are shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative needs require that the Bombay Hook Refuge hunting seasons be held concurrent with the Delaware State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Wm. C. Ashe,

Deputy Regional Director, Fish and Wildlife Service.

August 7, 1980.

[FR Doc. 80-24542 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Prime Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: George O'Shea, Assistant Refuge Manager, Prime Hook National Wildlife Refuge, R.D. #1, Box 195, Milton, Delaware 19968, Telephone No. 302-684-8419, under the administration of Bombay Hook National Wildlife Refuge.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Prime Hook National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

2. Field possession of waterfowl or

Tom A. Saunders, Area Manager, U.S.

required for the construction or use of

of the hunt area(s) are available at

1. Blinds—only temporary blinds

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots, is permitted on the 1,180 acre Waterfowl Hunting Area.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of migratory game birds subject to the following special conditions:

1. Permits will be issued by a ticket-lottery system at two hours before legal shooting time. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis until 3:00 p.m. Permits will be surrendered at the checking station within one hour after sunset. When leaving a blind unoccupied for any reason the permit must be turned in and a new permit must be completed at the check station before hunting again.

2. Hunting shall be only from blinds at locations designated by refuge personnel. The possession of an uncased gun or shooting while outside of a blind is prohibited except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled waterfowl. Three hunters per blind permitted.

3. The area is open each Monday, Wednesday, Friday, and Saturday, throughout the duck hunting season.

4. Access to the waterfowl hunting area will be at designated boat access points.

5. Steel shotshells are required for all waterfowl hunters. No waterfowl hunters shall have in their possession lead shotshells.

6. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment and ammunition.

Public hunting of rails, gallinules, mourning doves, common snipe, woodcock, and crows is permitted only on the 2,185 acre North Hunting Area. Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails, gallinules, mourning doves, woodcock, common snipe and crows.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game is permitted only on the 2,185 acre North Hunting Area. Hunting shall be in accordance with all State and Federal regulations covering the hunting of upland game subject to the following conditions:

1. Hunting hours will be from one-half hour before sunrise to one-half hour after sunset.

2. Field possession of waterfowl or coots is prohibited on the North Hunting Area.

3. Practice and target shooting is prohibited.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on the 2,185 acre North Hunting Area. Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following conditions:

Archery Hunt

1. Archery hunters must show proof of completion of an archery qualification test. This test will consist of placing three out of five arrows in the 9 × 14 inch chest area of a standard size deer target at twenty-five yards. Hunters qualified in 1977 must requalify. The qualification is valid for three years only.

2. Seasonal permits are required for the North Hunting Area and will be issued at the Prime Hook Refuge office Mondays through Fridays between 7:30 a.m. and 4:00 p.m. Permits may also be requested by mail. Those permits must be returned to the refuge office by the end of the deer hunting seasons.

3. Only blinds, platforms or scaffolds that are erected and removed each day for the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structures.

Firearms Hunt

1. Primitive firearm and shotgun hunters must possess a valid firearms qualification card. The test for muzzleloaders will consist of placing three consecutive rounds in a 12-inch bullseye at 50 yards firing from the standing position. The test for shotgun hunters will consist of placing three consecutive slugs in a 12-inch target at a distance of 30 yards from the standing position.

2. Permits are required for all deer hunting. These permits are available free of charge and will be issued by mail to successful applicants selected by a pre-season drawing.

3. The number of shotgun hunters admitted to the open area will be restricted to 25 preselected hunters per day.

4. Permits must be returned to the refuge office within five days of the closure of the deer hunting season.

5. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The Waterfowl Hunting Area and the North Hunting Area are shown on maps available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative needs require that Prime Hook Refuge hunting seasons be held concurrent with the Delaware State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Wm. C. Ashe,

Deputy Regional Director, Fish and Wildlife Service.

August 7, 1980.

[FR Doc. 80-24543 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 32

Hunting; National Wildlife Refuges in Iowa, Kansas, Missouri and portions of Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunities to the public. These special regulations describe the condition under which sport hunting will be permitted on portions of certain National Wildlife Refuges in Iowa, Kansas, Missouri and portions of Nebraska.

DATES: Period covered—September 1, 1980 to January 31, 1981. See State regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone numbered listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116, Telephone: 816/374–6166

George Gage, Refuge Manager, DeSota National Wildlife Refuge, RR #1, Box 114, Missouri Valley, Iowa 51555, Telephone: 712/642–4121

Michael J. Long, Refuge Manager, Flint Hills National Wildlife Refuge, P.O. Box 128, Hartford, Kansas 66854, Telephone: 316/392–5553

Keith Hansen, Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas 67644, Telephone: 913/543–6673

Gerry Clawson, Refuge Manager, Mingo National Wildlife Refuge, RR #1, Box 8, Puxico, Missouri 63960, Telephone: 314/222–3589

Charles Darling, Refuge Manager, Quivira National Wildlife Refuge, P.O. Box "G", Stafford, Kansas 67578, Telephone: 316/486–2393

Al Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681, Telephone: 816/856–3323

SUPPLEMENTARY INFORMATION: Donald G. Young is the primary author of these special regulations.

General Conditions

1. Hunting is permitted on National Wildlife Refuges indicated below in accordance with 50 CFR Part 32, all applicable State regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to adminster such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (a) that any recreational use permitted will not interfere with the primary purpose of which the area was established; and (b) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of special conditions applying to the individual refuge hunts and a map of the hunt area(s) are available at refuge headquarters. Portions of refuges which are closed to hunting are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specified areas. Vehicles use on all refuge areas is restricted to designated roads and lanes.

4. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any guage is prohibited during such hunts.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Missouri

Mingo National Wildlife Refuge

Waterfowl hunting is permitted only on areas designated by signs as being open to hunting, subject to the following conditions:

1. Dogs may be used to retrieve downed waterfowl within the hunting area.

2. Hunting in or entering any cultivated field, pasture or dike area is prohibited.

3. Waterfowl hunting is restricted to steel shot only. Possession of lead shot in the hunting area is prohibited during the waterfowl hunting season.

4. The use of outboard or electric motors is prohibited.

Swan Lake National Wildlife Refuge

Public hunting for geese only is permitted only on designated areas comprising 2,500 acres within Swan Lake National Wildlife Refuge, Missouri. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Each hunter must obtain a State permit prior to hunting, hunt only from an impartially assigned blind, and fire no than ten (10) shells.

2. Daily bag as determined by applicable State and Federal laws.

3. Use or possession of shells loaded with any material other than steel shot is prohibited.

4. Authorized officials may retrieve legally shot geese falling inside the refuge boundary for the hunters who shot them.

Kansas

Quivira National Wildlife Refuge

Public hunting of ducks, geese, coots, mourning doves, snipe, rails and woodcock is permitted only on the areas designated by signs as being open to hunting subject to the following conditions:

1. Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

2. Dogs—not to exceed two per hunter may be used only for retrieving.

3. Waterfowl hunting is restricted to steel shot only.

Flint Hills National Wildlife Refuge

Public hunting of mourning doves, rails, woodcock, Wilson's snipe, ducks, geese, coots, and mergansers is permitted, but only on the area designated by signs as open to hunting.

Refuge hunting shall be subject to the following special conditions:

1. Vehicle access shall be restricted to designated parking areas and to existing roads as shown on refuge leaflets.

2. Blind construction by the public is permitted but limited to temporary above ground construction. Constructed blinds become the property of the Government. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come-first-serve basis.

3. The transportation or possession of firearms is not permitted on the Neosho River from the northern refuge boundary to and including the point where the river empties into John Redmond Reservoir, and extending to the southern refuge boundary, as marked by buoys.

4. Waterfowl hunting is restricted to steel shot only.

Kirwin National Wildlife Refuge

Public hunting of mourning doves, ducks, geese, and coots is permitted only on the areas designated by signs as being open to hunting.

Refuge hunting shall be subject to the following special conditions:

1. Blinds—Temporary blinds constructed above ground from natural vegetation are permitted. Digging of holes or pits to serve as blinds is prohibited.

2. Waterfowl hunting is restricted to steel shot only.

Iowa

Desoto National Wildlife Refuge

1. Migratory game bird hunting is permitted only on an area comprising 174 acres located adjacent to U.S. Highway 30 on the north side of the refuge.

2. Hunting season will be November 1, 1980 and continue through the closing date of the snow goose season to be set by the Iowa Conservation Commission, both dates are inclusive.

3. Shooting hours will be consistent with State regulations regarding opening

hours and shall continue until 12 noon daily.

4. Only waterfowl species (ducks, geese and coots) may be taken.

5. All hunting will be by refuge permit only. Advance reservations for a specific date will be accepted by mail, or in person at refuge headquarters between the hours of 8:00 a.m.–5:00 p.m., Monday through Friday from September 1 through September 28, 1980. A drawing to determine successful applicants will be held on Monday, September 29, 1980. Should openings remain following the drawing, reservations will be accepted on a first-come, first-serve basis on and after October 6, 1980. Reservations will not be accepted by telephone. Individuals will be allowed only one reservation at any one time. When this reservation is used, the individual may apply for an unfilled date. Applicants for reservation must be at least 16 years of age or older. A $3.00 fee must accompany each request for a reservation and this must be in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Each reservation holder will be entitled to bring two additional hunters in order to utilize the 3-person blinds. Each person will be charged a $2.00 blind-use fee when registering to hunt.

6. Reservations are non-transferable and fees will not be refunded. No provisions shall be made for "standby" hunters.

7. All hunters must hunt from refuge-constructed 3-person blinds only.

8. Blinds will be assigned on a drawing basis each day of the hunt.

9. All hunting will be from assigned blinds only with the exception that wounded birds may be pursued and shot within the shooting zone line (within 40 yards of blind, as posted). Wounded birds may be pursued beyond this point up to the retrieval zone line within 100 yards of blind, as posted), but guns must remain within the shooting zone.

10. Hunters will be required to check in and out at the refuge check station on each hunting day.

11. Permit holders must park in assigned parking lots within the hunting area. Non-refuge hunters may not use the refuge parking areas as access to private lands.

12. Hunters are allowed the use of decoys (personal or rented at check station) and retrieving dogs (one per hunter). Goose decoys, up to 3 dozen may be rented at the refuge check station at a charge of $1.00 per dozen. Hunters will be responsible for rented decoys and will be charged for any decoys lost or damaged.

13. Only shotguns capable of holding three shells or less will be permitted.

14. Only steel shot loads will be allowed in the hunting area.

15. A maximum of 25 shells per hunter will be allowed per day.

16. Camping is not allowed in the refuge.

17. All litter, including empty shotgun shells is to be picked up before leaving the blind site.

Nebraska

DeSoto National Wildlife Refuge

1. Migratory game bird hunting is permitted only on an area comprising 326 acres located west of the Missouri River in Washington County, Nebraska.

2. Hunting season will be November 1, 1980 and continue through December 9, 1980, both dates inclusive.

3. Hunting will be permitted only on Sunday, Tuesday, Thursday and Saturday during the open season.

4. Shooting hours will be consistent with State regulations regarding opening hours and shall continue until 12 noon daily.

5. Only waterfowl species (ducks, geese and coots) may be taken.

6. All hunting will be by refuge permit only. Advance reservations for a specific date will be accepted, by mail or in person, at refuge headquarters between the hours of 8:00 a.m.–5:00 p.m., Monday through Friday from September 1 through September 26, 1980. A drawing to determine successful applicants will be held on Monday, September 29, 1980. Should openings remain following the drawing, reservations will be accepted on a first-come, first-serve basis on and after October 6, 1980. Reservations will not be accepted by telephone. Individuals will be allowed only one reservation at any one time. When this reservation is used, the individual may apply for an unfilled date. Applicants for reservations must be at least 16 years of age or older. A $3.00 fee must accompany each request for a reservation and this must be in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Each reservation holder will be entitled to bring two additional hunters in order to utilize the 3-person blinds. Each person will be charged a $2.00 blind-use fee when registering to hunt.

7. Reservations are non-transferable and fees will not be refunded. No provision shall be made for "standby" hunters.

8. All hunters must hunt from refuge-constructed 3-person blinds only.

9. Blinds will be assigned on a drawing basis each day of the hunt.

10. All hunting will be from assigned blinds only with the exception that wounded birds may be pursued and shot within the shooting zone (within 40 yards of blind as posted). Wounded birds may be pursued beyond this point up to the retrieval zone line (within 100 yards of blind as posted), but guns must remain within the shooting zone.

11. Hunters will be required to check in and out at the refuge check station on each hunting day.

12. Permit holders must park in assigned parking lots within the hunting area. Non-refuge hunters may not use the refuge parking areas as access to private lands.

13. Hunters are allowed the use of decoys (personal or rented at check station) and retrieving dogs (one per hunter). Goose decoys up to 3 dozen may be rented at the refuge check station at a charge of $1.00 per dozen. Hunters will be responsible for rented decoys and will be charged for any decoys lost or damaged.

14. Only shotguns capable of holding three shells or less will be permitted.

15. Only steel shot loads will be allowed in the hunting area.

16. A maximum of 25 shells per hunter will be allowed per day.

17. Camping is not allowed on the refuge.

18. All litter, including empty shotgun shells, is to be picked up before leaving the blind site.

§ 32.22 Special regulation; upland game; for individual wildlife refuge areas.

Kansas

Quivira National Wildlife Refuge

Hunting of ring-necked pheasants, bobwhite quail, squirrel and rabbits is permitted but only on the area designated by signs as open to hunting subject to the following conditions:

1. The use of rifles is prohibited for taking squirrel and rabbits.

2. The hunting of any species after sunset is prohibited.

3. The hunting of all upland game will close at the end of the ring-necked pheasant and/or bobwhite quail seasons.

4. Dogs—not more than two per hunter.

Flint Hills National Wildlife Refuge

The public hunting of small game animals, upland game birds, fur bearing animals and non-game animals is permitted, but only on the area designated by signs as open hunting subject to the following special conditions:

1. The use of rifles or pistols are prohibited on the refuge.

2. Vehicles access shall be restricted to designated parking areas and existing roads, as shown on refuge leaflets.

3. Dogs may be used only for hunting and retrieving small game animals and game birds. Dogs may not be used for hunting fur bearing animals and non-game animals, either by sight or trailing by scent.

Kirwin National Wildlife Refuge

The public hunting of pheasant, quail, rabbits and squirrels is permitted but only on the area designated by signs as open to hunting. The hunting of all small game will close at the end of the ring-necked pheasant and/or bobwhite quail seasons.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Missouri

Mingo National Wildlife Refuge

Hunting of deer and turkey is permitted on areas designated by signs or maps as being open to hunting subject to the following conditions:

1. Hunting with bows and arrows only is permitted.

2. Hunters must register when entering the refuge and record kill when leaving.

3. Hunting from permanent tree stands (one that is connected to the tree by nails, screws, etc.) is prohibited.

4. All tree stands must be identified with the name and address of the hunter using it.

5. Hunters are not permitted to enter those areas shown as being closed on the refuge hunting map.

6. Hunters are permitted on the refuge from one hour before sunrise until one hour after sunset.

Kansas

Kirwin National Wildlife Refuge

Public hunting of deer with bow and arrow is permitted but only on areas designated by signs as open to hunting. Portable blinds and ladders are permitted. All portable blinds must be removed by the close of the season. No permanent tree blinds or stands may be built.

Flint Hills National Wildlife Refuge

Public hunting of deer, with bow and arrow is permitted but only on the area designated by signs as open to hunting subject to the following special conditions:

1. The area is open to big game hunting for white-tailed deer only.

2. Any use of rifles or pistols are prohibited on the refuge.

Iowa

DeSoto National Wildlife Refuge

1. Archery hunting of deer on the Iowa side is permitted only on an area comprising 600 acres located on the southeast portion of the refuge.

2. Hunting will be permitted October 11, 1980 through December 5, 1980, all dates inclusive.

3. Portable blinds and ladders are permitted. No permanent tree blinds or stands may be built, or may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season. No firearms are permitted on the areas.

4. Vehicles shall be confined only to designated parking lots. Overnight camping is not allowed on the area.

5. Only those persons possessing a valid state permit will be allowed to enter the area.

Nebraska

DeSoto National Wildlife Refuge

1. Archery hunting of deer on the Nebraska side is permitted only on an area comprising 1,000 acres located on the west side of the Missouri River.

2. Hunting will be permitted September 20, 1980 through October 31, 1980 and December 10, 1980 through December 31, 1980, all dates inclusive.

3. Portable blinds and ladders are permitted. No permanent tree blinds or stands may be built, or may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season. No firearms are permitted on the areas.

4. Vehicles shall be confined only to designated parking lots. Overnight camping is not allowed on the area.

5. Only those persons possessing a valid State permit will be allowed to enter the area.

Special Regulations

1. Muzzleloader hunting of deer is permitted on an area comprising approximately 3,350 acres located in the central portion of the refuge.

2. Hunting season will be December 13, 1980 through December 17, 1980, both dates are inclusive.

3. A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid State permit will be allowed to enter the area. Muzzleloader rifles are the only weapons allowed and deer of either sex are the only legal wildlife species that may be taken during the hunt. Discharging firearms from or across all roads open to vehicle traffic including adjacent rights-of-way is prohibited. Camping and pets are not permitted on the refuge.

4. Entry to the open area will be permitted one hour before shooting hours. Shooting hours will be one-half hour before sunrise to one-half hour before sunset. All permit holders and vehicles must be out of the designated hunting area no later than one hour after sunset.

5. Vehicles shall be confined to designated roads, parking areas, and field access approaches. Parking is not permitted on asphalt roads.

6. Parking is permitted along graveled roads.

7. Portable blinds and ladders are permitted. No permanent blinds or stands may be built, or may any nails, wire, or other foreign materials be used.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of these special regulations which generally govern hunting on wildlife areas and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 5, 1980.

Donald G. Young,

Assistant Area Manager, Refuges and Wildlife.

[FR Doc. 80-24602 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 659]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 15–August 21, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and

designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 12, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specific week. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 908.959 is added as follows:

§ 908.959 Valencia Orange Regulation 659.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 15, 1980 through August 21, 1980, are established as follows:

(1) District 1: 353,000 cartons;
(2) District 2: 397,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 13, 1980.

Charles R. Brader

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24887 Filed 8-13-80; 1:30 pm]

BILLING CODE 3410-02-M

---

7 CFR Part 993

Dried Prunes Produced in California; Salable and Reserve Percentages

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This regulation establishes salable and reserve percentages applicable to prunes acquired by handlers during the 1980–81 crop year. This action is necessary to provide for orderly marketing under the marketing agreement and order in the interest of producers and consumers.

EFFECTIVE DATE: For the 1980–81 crop year beginning August 1, 1980.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, USDA, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant". This regulation is issued under marketing order No. 993, which regulates the handling of dried prunes produced in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Prune Administrative Committee, and other information. The Committee is the agency established under the order. It is hereby found that establishing the salable percentage at 100 percent and the reserve percentage at 0 percent, as hereinafter set forth, for the 1980–81 crop year will tend to effectuate the declared policy of the act.

The establishment of the salable and reserve percentages imposes no restrictions on marketing during the 1980–81 crop year.

The marketing policy for the 1980–81 crop year adopted by the Prune Administrative Committee at its meeting of June 24, 1980, was based on the production estimate released by the California Crop and Livestock Reporting Service on June 1, 1980, and other estimates developed by the Prune Administrative Committee, including demand, and carryover requirements. Total 1980 production of California dried prunes was estimated at 160,000 tons natural condition weight. The Committee gave further consideration to its marketing policy at a meeting held July 29, 1980. The recommended salable and reserve percentages are based upon the following estimates:

	Natural condition tons
Supply	
1. Estimated production	160,000
2. Carryover July 31, 1980	38,162
3. Total supply available	198,162
Demand	
4. Estimated domestic trade demand	100,000
5. Estimated export trade demand	55,000
6. Desirable carryout July 31, 1981	30,000
7. Total estimated trade requirements	185,000
Reserve	
8. Apparent reserve	13,162

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044. It is further found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rulemaking, and that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), in that: (1) Handlers will begin receiving prunes soon and therefore must know what regulation will be effective for the 1980–81 crop year, (2) no useful purpose would be served by delaying the effective date of this action, (3) the Committee held an open meeting on June 24, and July 29, 1980, after giving notice thereof and interested persons were given the opportunity to submit

information and views at that meeting; and (4) this regulation impose no restrictions on the handling of prunes.

Therefore, a new § 993.216 is added to Subpart—Salable and Reserve Percentages—which reads as follows:

§ 993.216 Salable and reserve percentages for prunes for the 1980–81 crop year.

The salable and reserve percentages for the 1980–81 crop year shall be 100 percent and 0 percent, respectively.

(Secs. 1–19, 48 Stat. 31 as amended (7 U.S.C. 601–674))

Dated: August 11, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24610 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-02-M

Proposed Rules

For Zones 1 through 8. Each price zone differential as stated in paragraph (g) will be

index of price on which the adjustment depends, except that the initial "catch-

dairy farmers' farms is shipped as fluid milk products, including as diverted

Proposed Rules

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO–14–A58]

Milk in the New England Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changs in the order that have been proposed by milk plant operators and producer groups. The key proposals would adjust the prices for milk throughout the production area. Proponents contend that the requested order changes are needed to more nearly reflect the costs of transporting milk from farms and supply plants to city bottling plants.

DATE: Hearing will convene September 9, 1980.

ADDRESS: Hearing will be held at the Holiday Inn, 30 Worcester Road (Rt. 9), Framingham, Massachusetts 01701 (telephone 617–875–6151).

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn, 30 Worcester Road, Framingham, Massachusetts, beginning at 9:30 a.m., on September 9, 1980, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New England marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Green Mountain Cooperative Federation, Inc.

Proposal No. 1

Revise paragraph (b) of § 1001.4 to read as follows:

§ 1001.4 Plant.

* * * * *

(b) Bulk reload points (separate premises used for the purpose of transferring bulk milk from one tank truck to another tank truck or to stationary storage tanks, while en route from dairy farmers' farms to a plant, and from which premises milk is not transferred by pipeline for the processing or packaging of milk and milk products.) The cooling of milk, collection or testing of samples, and washing and sanitizing of tank trucks at the premises shall not disqualify it as a bulk reload point under this paragraph.

Proposal No. 2

Revise § 1001.41 to read as follows:

§ 1001.41 Classification of inventories.

Inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk product, if the handler requests such classification or does not claim a Class II classification of any fluid milk products received.

Proposal No. 3

Revise paragraph (a) of § 1001.47 to read as follows:

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) At pool distributing plants that have received bulk fluid milk products from other pool plants, assign to Class II milk, a quantity of receipts from producers and cooperative associations in their capacity as handlers under Section 1001.9(d) equal to 10 percent of skim milk and 25 percent of butterfat in the plant's Class I route disposition or the remaining Class II milk at the plant, whichever is less.

* * * * *

Proposal No. 4

Revise paragraph (g) of § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location Adjustments for Determination of Zone Price

Distance to basing point (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
1 to 10	1	+66.0
11 to 20	2	+66.2
21 to 30	3	+64.4
31 to 40	4	+62.6
41 to 50	5	+60.8
51 to 60	6	+59.0
61 to 70	7	+57.2
71 to 80	8	+55.4
81 to 90	9	+49.6
91 to 100	10	+47.3
101 to 110	11	+45.0
111 to 120	12	+42.7
121 to 130	13	+40.4
131 to 140	14	+38.1
141 to 150	15	+13.8
151 to 160	16	+11.5
161 to 170	17	+9.2
171 to 180	18	+6.9
181 to 190	19	+4.6
191 to 200	20	+2.3
201 to 210	21	+0.0
211 to 220	22	−2.3
221 to 230	23	−4.6
231 to 240	24	−6.9
241 and over	25	−9.2

Proposal No. 5

Add five new paragraphs to § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(h) For each 5.0 cents per gallon increase or decrease in the price of diesel fuel, measured as stated in paragraphs (i) and (j), the zone price differentials as stated in paragraph (g) of this section shall automatically be changed as follows:

§ 1001.52 Plant location adjustments.

* * * * *

For Zones 1 through 8. Each price zone differential as stated in paragraph (g) will be increased or decreased by 1 cent.

For Zones 9 through 20. Each price zone differential as stated in paragraph (g) of this section will be increased or decreased by .05 cents (one twentieth of one cent) per 100 pounds for each zone distant from the 21st zone.

For Zone 21. No change.

For Zones 22 through 25. Each price zone differential as stated in paragraph (g) of this section will be increased or decreased by .05 cents per 100 pounds for each zone distant from the 21st zone.

(i) For the purpose of paragraph (h) of this section, the price of diesel fuel shall be as reported monthly by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor for "diesel to commercial consumers, New England." If BLS should convert this report exclusively to an index basis, the index shall be converted to a per gallon equivalent on a basis consistent with the price in ( ) having been ( ) cents per gallon. (It is proposed that the base price be the announced price for the month of the hearing.)

(j) Whenever the price of diesel fuel to commercial users in New England, as specified in paragraph (i) of this section, shall have changed by 5.0 cents per gallon or more from ( ) cents per gallon, the zone price differentials shall automatically be appropriately adjusted as stated in paragraph (h) of this section. If the total increases or decreases in the price of diesel fuel exceed 5.0 cents per gallon, the excess shall become a part of the basis for subsequent automatic adjustments, except that, in the case of the initial automatic adjustments in zone price diferentials, all cumulative fuel price increases or decreases from the ( ) base of ( ) cents per gallon, shall be compensated in the automatic adjustment to the extent that the fuel price increases or decreases can be measured in full multiples of 5.0 cents per gallon. If there are subsequent changes in the price of diesel fuel—after the initial automatic zone differential adjustment—which cause a further aggregate increase or decrease 5 cents or more per gallon, beyond the increase or decrease last compensated by an automatic adjustment, an additional automatic adjustment shall be made in the zone price differential schedule. Similar additional adjustments shall be made whenever the uncompensated amount of change in the price of diesel fuel equals or exceeds 5 cents per gallon.

(k) The effective date of these automatic revisions in zone price differentials will be the first day of the month after the release, in the Boston office of BLS, of the diesel fuel price or index of price on which the adjustment depends, except that the initial "catch-up" adjustment shall become effective on the first day of the first month this amendment becomes a part of Milk Order No. 1.

(l) The computations related to paragraphs (h) through (k) of this section shall be performed in the office of the Market Administrator, using the latest available data, which may in some instances be identified as "preliminary", or otherwise less than final. In the event of revisons of data, or refinement of computational methods, appropriate adjustments will be made in the zone price differentials on the first day of the first month following the revision or the refinement. There will be no retroactive adjustments in zone price differentials.

Proposed by Association of New England Milk Dealers, Inc.

Proposal No. 6

Revise paragraph (b) of § 1001.4 to read as follows:

§ 1001.4 Plant.

* * * * *

(b) Bulk reload points (premises used for the purpose of transferring bulk milk from one tank truck to another tank truck while en route from dairy farmers' farms to the plant of final destination). The cooling of milk, collection or testing of samples, washing and sanitizing of tank trucks, use of the same premises and facilities for receiving and shipping of milk and milk products and the maintenance and use of stationary storage tanks used exclusively for reloading bulk milk shall not disqualify it as a bulk reload point under this paragraph. Any premises which would otherwise be a bulk reload point under this paragraph shall not be considered a bulk reload point in any of the months of July through December in which all of the milk moved from farmers' farms to the premises is received by a handler who qualifies his supply plants as pool plants under § 1001.5b(c) and who requests that the facility not be considered a bulk reload point in that month.

* * * * *

Proposal No. 7

Revise paragraph (b) of § 1001.5b to read as follows:

§ 1001.5b Supply plant.

* * * * *

(b) It is a plant from which in any month of August and December at least 5 percent, and in any month of September through November at least 15 percent, of its total receipts of milk from

dairy farmers' farms is shipped as fluid milk products, including as diverted milk, to pool distributing plants.

* * * * *

Proposal No. 8

Revise § 1001.41 to read as follows:

§ 1001.41 Classification of inventories.

Inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk products, if the handler requests such classification or does not claim a Class II classification of any fluid milk products received.

Proposal No. 9

Revise paragraph (a) of § 1001.47 to read as follows:

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) For handlers operating one pool distributing plant that has received bulk fluid milk products from other pool plants, assign to Class II milk, a quantity of receipts from producers and cooperative associations in their capacity as handlers under § 1001.9(d) equal to 15 percent of skim milk and 50 percent of butterfat in the plant's Class I route disposition or the remaining Class II at the plant, whichever is less. For handlers operting more than one pool distributing plant, assign to Class II milk a quantity of receipts from producers and cooperative associations in their capacity as handlers under § 1001.9(d) at each distributing plant equal to 15 percent of skim milk and 50 percent of butterfat in the pool distributing plant's Class I route disposition. If any of the handler's pool distrbuting plants receive from other pool plants a quantity less than 15 percent of skim milk and 50 percent of butterfat of its Class I route disposition, then the remainder shall be eligible for use at the handler's other pool distributing plants.

* * * * *

Proposal No. 10

Revise paragraph (a) of § 1001.50 to read as follows:

§ 1001.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price at the plants located in Zone 21 shall be the basic formula price for the second preceding month plus $2.30.

* * * * *

Proposal No. 11

Revise paragraph (g) of § 1001.52 to read as follows:

the transportation differential in (a)

§ 1001.40 Classes of utilization.

any amendments thereto that may result

§ 1001.52 Plant location adjustments.

* * * * *

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location Adjustments for Determination of Zone Price

Distance to basing point (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
1 to 10	1	+68.0
11 to 20	2	+66.2
21 to 30	3	+64.4
31 to 40	4	+62.6
41 to 50	5	+60.8
51 to 60	6	+59.0
61 to 70	7	+57.2
71 to 80	8	+55.4
81 to 90	9	+49.6
91 to 100	10	+47.9
101 to 110	11	+45.0
111 to 120	12	+42.7
121 to 130	13	+40.4
131 to 140	14	+38.1
141 to 150	15	+13.8
151 to 160	16	+11.5
161 to 170	17	+9.2
171 to 180	18	+6.9
181 to 190	19	+4.6
191 to 200	20	+2.3
201 to 210	21	+0
211 to 220	22	−2.3
221 to 230	23	−4.6
231 to 240	24	−6.9
241 and over	[1] 25	[2]−9.2

[1] Includes 25 and over.

[2] Class I and blended price location adjustments applicable to plants located in subsequent zones shall be obtained by extending the table for each additional 10 miles at the rate of 2.3 cents plus the automatic fuel adjustment as determined under paragraph (h) of this section. in no event shall the Class I or blended price at any zone be less than the Class II price for the month.

Proposal No. 12

Add five new paragraphs to § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(h) For each 5.0 cents per gallon increase or decrease in the price of diesel fuel, measured as stated in paragraphs (i) and (j) of this section, the zone price differentials as stated in paragraph (g) of this section shall automatically be changed as follows:

For Zones 1 through 8. Each price zone differential stated in paragraph (g) will be increased or decreased by 1 cent.

For Zones 9 through 20. Each price zone differential stated in paragraph (g) will be increased or decreased by .05 cents (one twentieth of one cent) per 100 pounds for each zone distant from the 21st zone.

For Zone 21. No change.

For Zones 22 through 25 and over. Each price zone differential as stated in paragraph (g) of this section will be increased or decreased by .05 cents per 100 pounds for each zone distant from the 21st zone.

(i) For the purpose of paragraph (h) of this section, the price of diesel fuel shall be as reported monthly by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor for "Diesel to commercial consumers, New England". If BLS should convert this report exclusively to an index basis, the index shall be converted to a per gallon equivalent on a basis consistent with the price in ( ) having been ( ) cents per gallon. (It is proposed that the base price be the announced price for the month of the hearing.)

(j) Whenever the price of diesel fuel to commercial users in New England, as specified in paragraph (i) of this section, shall have changed by 5.0 cents per gallon or more than ( ) cents per gallon, the zone price differentials shall automatically be appropriately adjusted as stated in paragraph (h). If the total increases or decreases in the price of diesel fuel exceed 5.0 cents per gallon, the excess shall become a part of the basis for subsequent automatic adjustments, except that, in the case of the initial automatic adjustments in zone price differentials, all cumulative fuel price increases or decreases from the ( ) base of ( ) cents per gallon, shall be compensated in the automatic adjustment to the extent that the fuel price increases or decreases can be measured in full multiples of 5.0 cents per gallon. If there are subsequent changes in the price of diesel fuel—after the initial automatic zone differential adjustment—which cause a further aggregate increase or decrease 5 cents or more per gallon, beyond the increase or decrease last compensated by an automatic adjustment, an additional automatic adjustment shall be made in the zone price differential schedule. Similar additional adjustments shall be made whenever the uncompensated amount of change in the price of diesel fuel equals or exceeds 5 cents per gallon.

(k) The effective date of these automatic revisions in zone price differentials will be the first day of the month after the release, in the boston office of BLS, of the diesel fuel price or index of price on which the adjustment depends, except that the initial "catch-up" adjustment shall become effective on the first day of the first month this amendment becomes a part of Milk Order No. 1.

(l) The computations related to paragraphs (h) through (k) of this section shall be performed in the office of the Market Administrator, using the latest available data, which may in some instances be identified as "preliminary", or otherwise less than final. In the event of revisions of data, or refinement of computational methods, appropriate adjustments will be made in the zone price differentials on the first day of the first month following the revision or the refinement. There will be not retroactive adjustments in zone price differentials.

Proposal No. 13

This is an alternative proposal if Proposals 11 and 12 are not adopted:

Add a new § 1001.52a and revise § 1001.61(b) as follows:

§ 1001.52a Transportation and receiving cost credit.

Each handler that operates a pool supply plant shall be entitled to a transportation and receiving cost credit for the shipments of fluid milk products to pool distributing plants, to the extent of the quantity of such shipments that are assigned to Class I milk. The rates of the credit shall be as follows:

(a) The transportation credit differential shall be determined from the following table by taking the difference in the amount specified for the zone in which the pool supply plant is located, less the amount specified for the zone in which the pool distributing plant is located:

Transportation Credit Differential

Plant zone location	Transportation credit differential [1]
Zone:	
1	.00
2	.50
3	1.00
4	1.50
5	2.00
6	2.50
7	3.00
8	3.50
9	4.00
10	4.50
11	5.00
12	5.50
13	6.00
14	6.50
15	7.00
16	7.50
17	8.00
18	8.50
19	9.00
20	9.50
21	10.00
22	10.50
23	11.00
24	11.50
25	12.00

[1] Cents per hundredweight.

(b) Receiving cost credit shall be at the rate of 8 cents per hundredweight for all zones.

(c) For each 5 cents per gallon increase or decrease in the price of diesel fuel, subsequent to November 1979, as measured by the bureau of Labor Statistics (BLS), of the U.S. Department of Labor for "Diesel to commercial consumers, New England", the transportation differential in (a) shall be increased or decreased .05¢ per hundredweight for each zone distant from Zone 1 to Zone 25. Zone 1 will remain at zero. This computation shall be performed by the Market Administrator's office.

(d) In no event shall the combined rate under the preceding paragraphs of this section, plus the rate of the location adjustment under § 1001.52 cause the effective Class I price at any zone to be lower than the blended price for that zone.

§ 1001.61 Computation of basic blended price.

* * * * *

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments that are applicable under §§ 1001.52 and 1001.53 and deduct the transportation credit applicable under § 1001.52a.

Proposed by National Farmers Organization

Proposal No. 14

Revise paragraph (c) of § 1001.15 to read as follows:

§ 1001.15 Diverted milk.

* * * * *

(c) milk reported as diverted milk that fails to meet the requirements set forth in this section, shall be considered as having been moved directly from the dairy farmers' farms to the plant of physical receipt, and if that plant is a nonpool plant the milk shall be excluded from producer milk. If the handler fails to designate the dairy farmers whose milk is to be so excluded, the entire quantity of milk that the handler caused to be moved from dairy farmers' farms directly to nonpool plants during the month shall be excluded from producer milk.

Proposed by Moser Farms Dairy, Inc.

Proposal No. 15

Revise § 1001.33(d) to read as follows:

§ 1001.33 Notices to producers.

* * * * *

(d) If butterfat tests of the producer's milk are determined in accordance with any approved method by any state or commonwealth, the handler shall give the producer within 7 days after the end of each sampling period a written notice of the producer's average butterfat test for the period.

Proposal No. 16

Add a new § 1001.40(b)(9) to read as follows:

§ 1001.40 Classes of utilization.

* * * * *

(9) Any shrinkerage of butterfat in excess of 2 percent of milk handled shall be classified as Class II shrinkage of up to 3 percent of milk handled if the butterfat testing is of 4 or less fresh samples during any month.

Proposal No. 17

Add a new provision to read as follows:

Notwithstanding the provisions of any section in accounting and assignments of milk (skim milk and butterfat) the handler shall not be charged with any excess in butterfat that can be offset by an amount of skim milk shrinkage up to 1 percent of butterfat in milk handled during any month, provided that this shall only apply one time in each 3-month period comprised of 4 quarters in a year.

Proposed by Association of Rhode Island Milk Dealers, Inc.

Proposal No. 18

Revise § 1001.52 to provide additional location adjustments to the Class I and blended prices at plants located in Rhode Island, the Massachusetts counties of Barnstable, Bristol, or Plymouth. As an alternative proposal, provide that handlers located in Rhode Island, the Massachusetts counties of Barnstable, Bristol, or Plymouth shall pay a set differential above the Zone 1 blended price to producers for milk received directly from such producer's farms. (The additional location adjustments or "direct delivery differential" shall be an amount that reflects the additional cost per hundredweight to move milk from northern New England to plants in Rhode Island or southeastern Massachusetts compared to plants in the vicinity of Boston.)

Proposed by Massachusetts Milk Control Commission

Proposal No. 19

In § 1001.52(g) fix location adjustments beyond Zone 24 at the Zone 24 level.

Proposal No. 20

Revise the order to provide that the Zone 1 plant location price shall apply to all Class I packaged fluid milk product disposition.

Proposed by Dairy Division, Agricultural Marketing Service

Proposal No. 21

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 230 Congress Street, Room 403, Boston, MA 02110, or from the Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, DC 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, Agricultural Marketing Service; Office of the General Counsel; Dairy Division, Agricultural Marketing Service (Washington office only); and Office of the Market Administrator, New England Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on August 11, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-24615 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-20]

Equal Application Rule; Cancellation of Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of cancellation of public hearing.

SUMMARY: On July 8, 1980, the Economic Regulatory Administration of the Department of Energy issued a Notice of Change in Hearings Schedule (45 FR 46811, July 11, 1980) concerning proposed alternative amendments to the Mandatory Petroleum Pricing Regulations modifying or eliminating the equal application rule with respect to sales of gasoline. The Notice announced a public hearing in San Francisco, California, to be held at the Golden Gate Way Holiday Inn, 1500 Van Ness Avenue, on August 15, 1980. The San

Francisco public hearing is hereby cancelled because of lack of sufficient interest.

The Washington, D.C. hearing on this matter remains scheduled for August 19–20, 1980.

FOR FURTHER INFORMATION CONTACT:

Lorrain Hall (Public Hearings Division), Economic Regulatory Administration, Room B–210, 2000 M Street, NW., Washington, D.C., (202) 653–3974

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–210, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–2170

Chuck Boehl (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7108, 2000 M Street, NW., Washington, D.C., 20461, (202) 653–3220

William Mayo Lee or William Funk (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C., 20585, (202) 252–6736 or 252–6754

Issued in Washington, D.C., August 11, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80–24683 Filed 8–13–80; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT–2]

Electronic Fund Transfers; Proposed Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: In accordance with 12 CFR 205.13(b)(2)(ii), the Board staff is publishing for comment official staff interpretation EFT–1 of Regulation E, Electronic Fund Transfers, regarding the preemption of certain provisions of the Michigan statute governing electronic fund transfers. Based upon a section-by-section comparison, inconsistent state law provisions are preempted by the federal act, unless they are more protective of the consumer, as provided by § 205.12 of Regulation E.

DATES: Comments must be received on or before September 15, 1980.

ADDRESS: Comments (which should include a reference to EFT–1) may be mailed to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT:

Susan M. Werthan, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867).

SUPPLEMENTARY INFORMATION: (1) The text of official staff interpretation EFT–1 is published with identifying details deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public, subject to certain limitations stated in 12 CFR Part 261.6.

(2) Interested persons are invited to submit relevant comment. The letter is being issued as a proposal, rather than in final form, with comment particularly being solicited on the section-by-section analysis used to determine which provisions of the state statute are inconsistent and preempted by federal law.

(3) After comments are considered, this official staff interpretation may be amended, may be withdrawn or may remain unchanged. Final action regarding this official staff interpretation will appear in the Federal Register.

(4) Authority: 15 U.S.C. 1693m(d).

§ 205.12(a) and (b)—Premption of certain provisions of the Michigan statute governing electronic fund transfers.

This is in response to your letter of . . ., in which you request that the Board determine to what extent the Michigan statute governing electronic fund transfers is preempted by the federal Electronic Fund Transfer Act. Your request was made pursuant to § 205.12 of Regulation E.

By amending 12 CFR § 265.2(h), the Board has delegated to the Director of the Division of Consumer and Community Affairs its authority to make preemption determinations. The Director has exercised the Board's authority under § 919 of the act to decide which provisions of the state statute are preempted and is communicating that decision through this official staff interpretation. As § 919 provides, if it is determined that a state law requirement is inconsistent, financial institutions will incur no liability for a good faith failure to comply with that state law.

In applying § 919 of the act and § 205.12 of the regulation a section-by-section analysis of the Michigan statute with reference to Regulation E was made. Attention was also given to the comparison of groups of related sections. The statutory language supports this analysis since it refers to inconsistencies in "provisions" of federal and state statutes. This approach also addresses both purposes in § 902(b) of the act by contributing to the protection of individual consumer rights and the establishment of a basic framework of rights for participants in EFT systems. Finally, this approach avoids the formation of very complex hybrid rules resulting from preemption of individual requirements in each section.

The following general analysis was used in making the section-by-section comparison. If state law is the same as federal law, no preemption occurs. If state law is different from federal law, but financial institutions can comply with both, state law is not prempted and institutions must comply with both laws. If state law is different from federal law, and institutions may violate state law when complying with federal law, the laws are inconsistent within the meaning of § 205.12(a) and (b). In this case, if state law is more protective of the consumer, state law is not preempted. Otherwise, federal law preempts state law and institutions need comply only with federal law.

You ask that several specific sections of the Michigan statute be preempted. After comparing the inconsistencies in each requirement of each section, the section was viewed as a whole in order to make the final preemption decision on a section-by-section basis. The final preemption determination are as follows:

1. Section 13 of the Michigan statute regarding issuance of unsolicited access devices is inconsistent with § 205.5 of Regulation E, but is more protective of the consumer. Therefore, it is not preempted by the federal law. The main provisions of state law contributing to this decision are the requirement that an unsolicited access device be accepted in writing by the consumer and that additional information be given to the consumer after acceptance.

2. Section 5(4) of the state statute, which defines unauthorized use of an access device, is not inconsistent with § 205.2(1) of Regulation E and is not preempted.

3. Section 14 of the state statute, which governs the consumer's liability for unauthorized use of an account, is inconsistent with § 205.6 of Regulation E and is preempted. The state provision is not more protective of the consumer since the negligence standard of liability could result in the consumer's increased exposure to liability.

4. Section 15 of the state statute governing error resolution procedure is inconsistent with and preempted by § 205.11 of Regulation E. Since the state statute permits a possible 70 days for errors to be resolved, but Regulation E permits only 45 days, Michigan law is not more protective of the consumer. This conclusion is supported by the fact that § 205.12(b)(3) of the regulation specifically lists longer time periods for error resolution as one of the standards for preemption.

5. Sections 17 and 18 of the state statute, which cover receipts and periodic statements, are inconsistent with § 205.9 of Regulation E and are preempted. Section 205.12(b)(4) provides that one of the standards for preemption is any state law provision for

receipts of periodic statements that are different in content from those required under federal law. Differences exist between the Michigan statute and the EFT Act. Also, the state statute is not more protective of the consumer since it provides for the consumer's paying the cost of getting a receipt if a machine cannot furnish one at the time of a transfer.

6. Section 19 of the state statute regarding initial disclosures is inconsistent with § 205.7 of Regulation E, but is not preempted. Since the state provision requires initial discloures to be given when an access card is issued, rather than at any time before the first electronic fund transfer is made, as Regulation E provides, the state law is more protective of the consumer. Therefore, the Michigan provision stands.

Although the Michigan statute's initial disclosure section stands, certain items in the disclosure statement will have no conform to the federal requirements where substantive sections of federal law have preempted state law. Therefore, the liability disclosure and the error resolution disclosure must conform to the federal requirements.

The staff notes that the scope of the Michigan statute is narrower than that of the federal EFT Act since it covers only terminal-based transfers. As a result, the federal provisions continue to govern EFTs outside the scope of the state statute, such as preauthorized transfers.

This is an official staff interpretation of Regulation E, issued pursuant to § 205.13(b)(2) of Regulation E. It is limited to the facts and issues discussed above.

Sincerely,

Janet Hart,

Director.

Dated: August 8, 1980.

Board of Governors of the Federal Reserve System

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80–24551 Filed 8–13–80; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 80–ASW–29]

Bell Model 47 Series Helicopter; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would require installation of safety washers and longer bolts on each tail rotor blade pitch control link on Bell Model 47 Series helicopters equipped with the 47–641–170 series tail rotor hub and blades. The proposed AD is needed to prevent possible fatigue failure of the tail rotor pitch control link. Failure of the control link would result in loss of tail rotor blade control and helicopter directional control.

DATES: Comments must be received on or before September 15, 1980. Proposed effective date of the adopted rule will be November 1, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 80–ASW–29, Southwest Region, Federal Aviation Administration, PO Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, PO Box 1689, Forth Worth, Texas 76101, telephone (817) 624–4911, extension 516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons.

There have been three reports of tail rotor pitch link fatigue failures on Bell Model 47G–2A–1, 47G–4, and 47G–5A helicopters that reportedly resulted in loss of tail rotor blade pitch control and subsequent loss of helicopter directional control. Excessive wear of the rod end bearing could allow the rod end housing to slide down on the tail rotor pitch horn boss, restrict the flapping action of the blade as a result of interference and impose excessive bending loads on the pitch link. The noted reports concern Model 47 series helicopters equipped with the improved tail rotor blades of 47–641–170 series tail rotor hub and blade assembly. Since this condition is likely to develop on other Model 47 series helicopter equipped with this tail rotor hub and blade assembly, the proposed AD would require removal of two bolts, installation of two new longer bolts, and two special washers on the blade pitch horn, and replacement of excessively worn rod end bearings within 100 hours' time inservice after November 1, 1980. The special washer will prevent the rod end bearing housing from sliding down on the tail rotor pitch horn boss after the bearing has become excessively worn and thereby prevent interference and excessive bending loads on the pitch link.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Bell: Applies to all Model 47 series helicopters and military Model H–13, OH–13, and TH–13T series helicopters, including modified versions, certificated in all categories, that are equipped with the 47–641–170 series tail rotor hub and blade assemblies.

Compliance required within 100 hours' time inservice after November 1, 1980.

To prevent loss of directional control as a result of possible tail rotor pitch link failure, accomplish the following, unless already accomplished in accordance with Bell Helicopter Textron Alert Service Bulletin No. 47–80–5, Rev. A, dated April 29, 1980.

(a) Remove the tail rotor pitch link from each blade pitch horn.

(b) Inspect the pitch link bearings for axial and radial play. Remove bearings having .015 inch or more of play or looseness, and install serviceable bearings.

(c) Install bolts P/N NAS1304–30D or 20–057–4–30D (used with pitch horn, P/N 47–641–189–1, –3, or –5), or P/N NAS1304–32D, or 20–057–4–32D (used with pitch horn, P/N 47–641–187–7) as appropriate, with washer, P/N 47–641–187–1 or –3 under the bolt head or nut, and washer P/N 47–641–189–3 between the link bearing and pitch horn with bevel towards the bearing. Torque nuts 80 to 100 inch-pounds and install cotter pins.

(d) Determine that no binding or interference occurs in the blade controls when the tail rotor controls are full left and right, and the tail rotor hub is flapped to each stop. Track the tail rotor blades in accordance with the appropriate Model 47 maintenance manual if a rod end bearing or a link is replace in accordance with paragraph (b) of this AD.

(e) Equivalent means of compliance with this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(Bell Helicopter Textron Operations Safety Notice OSN 47–79–1 dated October 19, 1979, also pertains to this subject.)

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of

Transportation guidelines (43 FR 9582; March 8, 1978).

they may desire. Communications should identify the regulatory docket or

provision of Executive Order 12044, as implemented by Department of

number and be submitted in triplicate to

"V–338 From Linden, Calif., via Hangtown, Calif. to Lake Tahoe, Calif." is added

Avenue, SW., Washington, D.C. 20591;

Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Tex., on August 1, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-24588 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-NW-39-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes Equipped With B. F. Goodrich Slides

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This proposed rule making would require replacement of escape slide bayonet/spring mechanical restraints on Boeing Model 747 series airplanes equipped with B. F. Goodrich Slides with shear pin mechanical restraints. Replacement is necessary due to corrosion of the bayonet/spring type restraint, possibly causing failure of the escape slide.

DATES: Comments must be received on or before October 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-39-AD, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: One escape slide failed during a deployment due to corrosion on the bayonet/spring type mechanical restraint. These restraints control the unfolding of the escape slide when inflated. Six of twenty-six operators surveyed reported finding restraints with varying amounts of corrosion. Since this condition is likely to exist or develop on other B. F. Goodrich slides this proposal requires replacement of the bayonet/spring restraints.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments recieved. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Avaition Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket No. 80-NW-39-AD, 9010 East Marginal Way South Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following Airworthiness Directive:

Boeing: Applies to all Model 747 airplanes equipped with B. F. Goodrich slides.

Within one (1) year after the effective date of this AD, unless already accomplished, install shear pin mechanical restraints to affected escape slides in accordance with B. F. Goodrich Service Bulletins 25-054 dated March 4, 1980, 25-055 dated March 5, 1980, or 25-056 dated March 6, 1980, or later FAA approved revisions, or an equivalent installation approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

All persons affected by this proposal who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c)), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 4, 1980.

E. O'Connor,

Acting Director Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-24427 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-AWE-12]

Designation of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airways V-332, from Friant, Calif., to Red Bluff, Calif., and V-338 from Linden, Calif., to Lake Tahoe, Calif. This alteration would provide a bypass route in the Sacramento area, and permit additional flexibility for arrival/departures in the Sacramento terminal area.

DATES: Comments must be received on or before September 15, 1980.

ADDRESSES:

Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWE-12, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate two new VOR Federal Airways in the vicinity of Sacramento, Calif.; V-332, from Friant, Calif., direct to Hangtown, Calif., direct to Red Bluff, Calif., and V-338, from Linden, Calif., direct to Hangtown, direct to Lake Tahoe, Calif. These new airways would permit the traffic flow flexibility necessary to expedite arrival/departure traffic in the Sacramento, Calif., area. Also, VOR/DME approach procedures for the Placerville, Calif., airport at Hangtown would be established. The Hangtown VOR/DME (HNW) is located at Lat. 38°43'31"N., Long. 120°44'52"W., and will be commissioned in September 1980. Subpart C of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under § 71.123

"V-332 From Friant, Calif., via Hangtown, Calif., to Red Bluff, Calif." is added

"V-338 From Linden, Calif., via Hangtown, Calif.; to Lake Tahoe, Calif." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24585 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-ANW-6]

Establishment of Newport, Oreg., Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a control zone at Newport, Oreg., to provide controlled airspace to protect aircraft executing the instrument approaches to Newport Municipal Airport.

DATES: Comments must be received on or before September 15, 1980.

ADDRESSES:

Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 80-ANW-6, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: 1L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish a part-time control zone at Newport, Oreg. This airspace is to protect aircraft executing instrument approach and departure procedures established for Newport Municipal Airport. The proposed action would designate an area within a 5-mile radius of the Newport Municipal Airport (Lat. 44°34'48"N., Long. 124°03'25"W.) and within 4 miles each side of the Newport VORTAC 357°T(336°M) radial extending from the 5-mile radius to 9 miles northwest of the VORTAC. The effective time would be from 0900 to 1700 local time. Section 71.171 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 356).

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United

States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) by adding a control zone at Newport, Oreg., to read as follows:

Newport, Oreg.

Within a 5-mile radius of the Newport Municipal Airport, (Lat. 44°34'48" N., Long. 124°03'25" W.); within 4 miles each side of the Newport VORTAC 357° radial extending from the 5-mile radius to 9 miles northwest of the VORTAC. This control zone is effective from 0900 to 1700 hours, local time daily.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24586 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-ASO-38]

Proposed Alteration of Federal Airways, Orlando, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Victor Airways V-3, V-152, V-159, V-267 and V-441 in the vicinity of Orlando, Fla. Alteration of these routes will provide a "bypass" airways system for the congested Orlando terminal area. This will reduce controller/pilot workload and reduce radio frequency congestion.

DATES: Comments must be received on or before September 15, 1980.

ADDRESSES:

Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASO-38, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Charles R. Horne, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter Victor Airways V-3, V-152, V-159, V-267 and V-441 in the vicinity of Orlando, Fla. Alteration of these routes will provide a "bypass" airway system for the congested Orlando terminal area, reduce controller/pilot workload, and reduce radio frequency congestion. The primary use of the "bypass" airway system will be for routing low altitude en route aircraft around the Herndon and Orlando International Airports, and areas of nonlimited radar coverage during peak traffic periods. Section 71.123 of Part 71 was republished in the

Federal Register on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-3, after "Ormond Beach, Fla.;" add "including a W alternate from Vero Beach to Ormond, via INT Vero Beach 341°T(339°M) and Melbourne, Fla, 321°T(319°M) radials, INT Melbourne 321°T(319°M) and Ormond Beach 211°T(213°M) radials;"

Under V-152, all after "St. Petersburg, Fla." is deleted and "via INT St Petersburg 060°T(061°M) and Ormond Beach, Fla., 211°T(212°M) radials; Ormond Beach, including a S alternate via Lakeland, Fla., Orlando, Fla.; INT Orlando 048°T(049°M) and Ormond Beach 160°T(161°M) radials;" is substituted therefor.

Under V-159, after "Ocala, Fla.," add "including a S alternate from INT Vero Beach 317°T(319°M) and Melbourne, Fla., 297°T(299°M) radials, to Ocala via INT Melbourne 297°T(299°M) and Ocala 145°T(146°M) radials;"

Under V-267, after "Jacksonville, Fla.," delete "including an E alternate from Orlando to INT Ormond Beach, Fla., 308° and Jacksonville 174° radials via Ormond Beach;"

Under V-441, delete "Ocala 171° radials." and substitute "Ocala 182°T(182°M)." therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 7, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24584 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-AGL-29]

Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of VOR Federal Airway V-58 by extending the airway 77 miles west to EARED Intersection, thence via Clarion, Pa., 228°M radial to GRACE, Pa., Intersection. This action provides a shorter route for aircraft arriving at the Greater Pittsburgh, Pa., Metro area.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 80-AGL-29, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60016. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications recieved on or before September 15, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter VOR Federal Airway V-58 by extending it westward 77 miles to EARED Intersection, thence to GRACE Intersection. Designation of this extension would provide a more direct route to the Greater Pittsburgh Airport terminal area. In addition, the more direct and shorter route will result in significant fuel savings. Subpart C of Part 71 was republished in the Federal Register on January 2, 1980, (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-58 "From Philipsburgh, Pa.;" is deleted and "From INT Franklin, Pa., 175°T(181°M) and Clarion, Pa., 222°T(228°M) radials, via INT Clarion 222°T(228°M) and Philipsburg, Pa., 272°T(279°M) radials; Philipsburg;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportaiton Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24582 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-18]

Proposed Alteration of Transition Area; Chambersburg, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Chambersburg, Pa., Transition Area over Chambersburg Municipal Airport, Chambersburg, Pa. This alternation will provide protection to aircraft executing a new non-directional beacon (NDB) approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment.

The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Chambersburg, Pa., Transition Area. The airport is at present overlaid by a 700-foot area which will be expanded by the addition of an extension to the northeast, 3.5 miles in width and approximately 6 miles in length.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of the Federal Aviation Regulations so as to amend the Description of the Chambersburg, Pennsylvania, 700-foot floor transition area as follows:

Chambersburg, Pa.

In the text delete, "29 miles east of the VORTAC." and substitute therefor, 29 miles east of the VORTAC; within 3.5 miles each side of the NEAL NDB (39°59'05"N., 77°37'56"W.) 036° bearing extending from the NDB to 12 miles NE of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958, [72 Stat. 749; 49 U.S.C. 1348(a)] and of Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 16, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24421 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-39]

Proposed Alteration of Transition Area; Skaneateles, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Skaneateles, N.Y., Transition Area over Lake Pines Aviation Airport, Skaneateles, N.Y. This alteration will provide protection to aircraft executing a new VOR-A instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Skaneateles, N.Y., Transition Area. The airport will be overlaid by a 700-foot area with a radius of 5 miles around the airport and an extension to the northeast approximately 5 miles wide and 2 miles in length.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Skaneateless, New York 700-foot floor transition area as follows:

Skaneateles, N.Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 42°54'50"N., 76°26'20"W., of Lake Pines Aviation Airport, Skaneateles, New York within 2.5 miles each side of the Syracuse VORTAC 215° radial extending from the 5-mile radius area to 14.5 miles southwest of the Syracuse VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York on July 16, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24423 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-19]

Proposed Designation of Transition Area; Woodbine, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Woodbine, N.J., Transition Area over Woodbine Municipal Airport, Woodbine, N.J. This designation will provide protection to aircraft executing a VOR-A runway instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Woodbine, N.J., Transition Area. The airport will be overlaid by a 700-foot area approximately 6.5 miles in radius around the airport with an extension approximately 1 mile long and 1.5 miles wide extending to the south.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Woodbine, New Jersey, 700-foot floor transition area as follows:

Woodbine, N.J.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (39°13'06" N/74°47'37" W) of the Woodbine Municipal Airport, Woodbine, New Jersey, and within 1.5 miles each side of the Sea Isle, New Jersey, VORTAC 002 radial extending from the 6.5-mile radius area to a point 1 mile north of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures [44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which

frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24422 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-EA-17]

Proposed Alteration of Transition Area Annville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate an Annville, Pa., Transition Area over Millard Airport, Annville, Pa. This designation will provide protection to aircraft executing a new VOR-DME-A instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submittee will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate an Annville, Pa., Transition Area. The airport will be overlaid by a 700-foot area with a radius of 5 miles around the airport and an extension 8 miles wide and 4 miles in length extending from the radius to the south of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designation an Annville, Pennsylvania, 700-foot floor transition area as follows:

Annville, Pa.

That airspace extending upward from 700 feet above the surface within 5.0-mile radius of the center (40°19'00" N/76°32'15"W) of the Millard Airport, Annville, Pennsylvania and within 4.0 miles either side of the Ravine, Pennsylvania, VORTAC 169° radial extending southward from the 5.0-mile radius area to a point 26 miles from the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24420 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

Airspace Docket No. 80-EA-54

Proposed Alteration of Transition Area Greenville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Greenville, PA., Transition Area over Greenville Municipal Airport, Greenville, PA. This designation will provide protection to aircraft executing a new VOR Runway 4 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7 Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment.

The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Greenville, Pa., Transition Area. The airport, will be overlaid by a 700-foot area with a radius of 6 miles around the airport and an extension approximately 9 miles wide and 4 miles in length extending from the radius area to the southwest of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Greenville, Pennsylvania 700 foot floor transition area as follows:

Greenville, Pa.

That airspace extending upward from 700 feet above the surface within an 6.0 mile radius of the center (41°26'49"N/80°23'30"W) of the Greenville Municipal Airport, Greenville, Pennsylvania and within 4.5 each side of the Youngstown, Pennsylvania, VORTAC 062 radial from the 6.0 mile radius area to a point 7 miles east of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24419 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-EA-50]

Proposed Alteration of Transition Area, Quarryville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Quarryville, Pa., Transition Area over Tanglewood Airport, Quarryville, Pa. This designation will provide protection to aircraft executing a new VOR-DME-B instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Quarryville, Pa., Transition Area. The airport will be overlaid by a 700-foot area 6.5 miles in radius around the airport and with an extension of approximately 4.5 miles wide and 11 miles in length extending from the radius to the north of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Quarryville, Pennsylvania, 700-foot floor transition area as follows:

Quarryville, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (39°51'00"N/76°12'55"W) of Tanglewood Airport, Quarryville, Pennsylvania, and within 4.5 miles each side of the Lancaster, Pennsylvania, VORTAC 168° radial extending from the 6.5-mile radius area to the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24418 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-EA-42]

Proposed Alteration of Transition Area; Sidney, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Sidney, N.Y., Transition Area over Sidney Municipal Airport, Sidney, N.Y. This alteration will provide protection to aircraft executing a new VOR Runway 25 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Sidney, N.Y., Transition Area. The Airport is at present overlaid by a 700-foot area which will be extended to the northeast by approximately 10 miles in length and 12 miles in width. A major portion of the extension, however, is composed of the Oneonta and Norwich, N.Y., Transition Areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Sidney, NY 700-foot floor transition area as follows:

Sidney, N.Y.

In the text delete, "from a 080° bearing to a 215° bearing from the airport", and substitute therefor, "from a 080° bearing to a 215° bearing from the airport and within 9.5 miles northwest and 4.5 miles southeast of the Rockdale VORTAC 218°/038° radials extending from 8.5 miles southwest to 11 miles northeast of the Rockdale VORTAC."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24417 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-AWE-11]

Designation and Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airways V-22 and V-317 in the vicinity of San Diego, Calif., and alter V-460 by extending the airway from Julian, Calif., to new VORTAC at Poggi, Calif. These changes would better define en route traffic flows and terminal operations in the San Diego area. Consequently, this action would simplify and increase flight safety.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to:
Director, FAA Western Region,
Attention: Chief, Air Traffic Division,
Docket No. 80-AWE-11, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.
The Official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 15, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate new VOR Federal Airways V-22 from Oceanside, Calif., to Poggi, Calif., and V-317 from Mission Bay, Calif., via Poggi, to Imperial, Calif. Also, V-460 would be extended from Julian, Calif., to Poggi. The new Poggi VORTAC, identification PGY, will be located at Lat. 32°36'37" N., Long. 116°50'42" W. This action would improve en route traffic flow and terminal operations in the San Diego, Calif., Area, thereby, increasing flight safety. Subpart C of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-460—"From Julian, Calif.," is deleted and "From Poggi, Calif., via Julian, Calif.;" is substituted therefor.

"V-317—From Mission Bay, Calif., via Poggi, Calif., to Imperial, Calif." is added.

"V-22—From Oceanside, Calif., via INT Oceanside 143°T(129°M) and Poggi, Calif., 350°T(336°M) radials; to Poggi." is added.

(Secs. 307(a) and 313(a), Federal Aviation act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C. on August 6, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air, Traffic Rules Division.

[FR Doc. 80-24433 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 75

[Airspace Docket No. 80-ASW-30]

Alteration of Jet Route and Establishment of Jet Route

Corrections

In FR Doc. 80-23637 appearing at page 52396 in the issue of Thursday, August 7, 1980, make the following changes:

(1) On page 52396, third column, bottom line, the zip code should read "76101".

(2) On page 52397, first column, second line under "FOR FURTHER INFORMATION * * *", "(ATT-230)" should read "(AAT-230)"; second column, fourth line of the first full paragraph "§ 74.100" should read "§ 75.100".

BILLING CODE 1505-01-M

---

14 CFR Part 75

[Airspace Docket No. 80-AWE-10]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter several jet routes in the vicinity of Los Angeles, Calif. These changes would improve traffic flow between Los Angeles and San Francisco, Calif. In addition, these alterations would permit greater flexibility for maneuvering traffic in terminal areas, thereby reducing congestion and delays.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWE-10, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 15, 1980 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed

in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign Jet Route 5, 6, 126, and 501 in the vicinity of Los Angeles, Calif. These alterations would improve traffic flow in the San Francisco, Calif/Los Angeles corridor. Also, traffic congestion and delays at jet route merge points would be eliminated. Controller workload would be reduced by aligning jet routes in areas where aircraft are normally vectored. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under Jet Route 5 "From Los Angeles, Calif., via the INT of the Palmdale, Calif., 291° and the Bakersfield, Calif., 149° radials; Bakersfield; Reno, Nev.;" is deleted and "From Seal Beach, Calif., via Porterville, Calif.; Reno, Nev.;" is substituted therefor.

Under Jet Route 6 "From the INT of the Salinas, Calif., 145° and the Palmdale, Calif., 291° radials via Palmdale; Hector, Calif.;" is deleted and "From Big Sur, Calif., via INT Big Sur 137°T(121°M) and Palmdale, Calif., 291°T(276°M) radials; Palmdale; hector, Calif.;" is substituted therefor.

Under Jet Route 126 "From Los Angeles, Calif., via the INT of the Los Angeles 319° and the Avenal, Calif., 145° radials; Avenal; Stockton, Calif.; Sacramento, Calif.;" is deleted and "From Los Angeles, Calif., via Santa Barbara, Calif.; Salinas, Calif.; Sacramento, Calif.;" is substituted therefor.

Under Jet Route 501 "From Point Reyes, Calif.," is deleted and "From Santa Barbara, Calif., via Big Sur, Calif.; Point Reyes, Calif.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24583 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM80–69]

Proposed Revision To Annual Report of Gas Supply for Certain Natural Gas Pipelines: Form No. 15

Issued: August 7, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this Notice, the Federal Energy Regulatory Commission proposes to amend Form No. 15 (Interstate Pipelines' Annual Report of Gas Supply). The proposed amendments include changing the number of schedules contained in the form, the format of those schedules and statements in the form, and the instructions for completion of the form. As a result, the reporting burdens will be reduced by approximately one third. The proposed changes are a product of the Commission's ongoing effort to eliminate unnecessary reporting burdens and to update its forms.

DATE: Comments are due September 26, 1980.

ADDRESS: Comments to this Notice should be addressed to the Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM80–69.

FOR FURTHER INFORMATION CONTACT: Wayne Thompson, Chief, Gas Supply Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 4402–B, Washington, D.C. 20426 (202) 357–9077.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is engaged in an ongoing effort to eliminate unnecessary reporting burdens. This rulemaking to amend Form No. 15, Annual Report of Gas Supply for Certain Natural Gas Pipelines, is part of that effort and reflects an evaluation of data needed by the Commission to carry out its regulatory functions. The proposed amendments to the content, format, and instructions of Form No. 15 should result in a significant reduction in respondent burden and improve the quality of the responses filed under Form No. 15.[4]

A. Background

Form No. 15 was instituted to obtain an annual report of the total gas supply of each pipeline company under the jurisdiction of the Commission.[1] This gas supply consists of the pipeline company's owned reserves, producer contracts for which the producer has received a certificate to sell the gas to the pipeline,[2] gas purchase contracts with other jurisdictional pipelines,[3] purchases of gas from foreign suppliers, purchases of Liquefied Natural Gas (LNG), Synthetic Natural Gas (SNG),[4] and short-term or other purchases over which the Commission has regulatory authority.

Form No. 15 provides the Commission with information needed to address gas supply issues in certificate applications, to perform depreciation analyses in rate cases and to make determinations concerning new or increased sales, the extension of facilities, or the abandonment of services.

There are at least four problems which have become evident in the use of the current Form No. 15: (1) excessive detail is prescribed for individual reservoirs; (2) definitions and data requests in the form do not conform to changes resulting from passage of the Natural Gas Policy Act (NGPA); (3) definitions are not adequately standardized to permit cross checks with other data; and (4) the format of the computer printout ("hard copy") is designed for computer use, rather than human use.

By this rulemaking, the Commission is proposing certain changes in the form which will address these problems. In addition, the Commission's review of regulatory burdens indicates that the proposed revisions to Form No. 15 will make the form more concise, will better facilitate its use and will reduce respondent burdens.

B. Current Format

Form No. 15 is currently composed of: (1) forty-five pages of filing instructions (pp. 0001–0045); (2) three unnumbered statements—"Disclosure of Other Gas Supply Filings With Federal Agencies" (p. 0046), "Synopsis of Pipeline Company Gas Supply" (p. 0047), and "Gas Procurement Activity Statement" (p. 0048); (3) four schedules designed more for computer use rather than for completion by hand—"Schedule No. I—System Deliverability Summary," "Schedule No. II—Reservoir Data and Dedicated Remaining Recoverable Salable Reserves," "Schedule No. III—Deliverability Estimate for Each Supply Source," and "Schedule No. IV—Committed Reserves and Deliverability Estimates for Other Supply Sources;" and (4) a "Footnote Data" page.

C. Summary of Proposed Changes

1. General

The Commission proposes to revise and clarify Form No. 15 and its instructions, including consolidating and renumbering its schedules and reporting statements. The schedules would also be redesigned to better facilitate completion by hand. As a result of these revisions, the reporting requirement of the respondent pipelines should be reduced by approximately one third.

An "Identification Schedule" (page 1) which includes a certification section would be added to the form, on which the reporting pipeline company would identify itself, state the number of pages submitted for each statement and schedule, and attest to the accuracy of the reported information. "Synopsis of Pipeline Company Gas Supply" (page 0047) would be shortened to "Synopsis of Gas Supply" and renumbered as page 2; "Disclosure of Other Gas Supply Filings With Federal Agencies" (page 0046) would be redesignated as page 3; and the "Gas Procurement Activity Statement" (page 0048) would be identified as page 4. The current "Schedule I—System Deliverability Summary," would remain Schedule I (page 5); the present "Schedule II—Reservoir Data and Dedicated Remaining Recoverable Salable Reserves" and "Schedule III—Deliverability Estimate for Each Supply Source" would be combined into "Schedule II—Reservoir Data, Field Data, Salable Reserve Data and Deliverability Estimate" (page 6); and the current "Schedule IV—Committed Reserves and Deliverability Estimates for Other Supply Sources" would be renumbered as the new Schedule III (page 7). The "Footnote Data" page (page 8) would be revised to include certain classification and footnote codes for reporting the required data.

A requirement to report a "Class Code" on each statement and schedule would be deleted. A space would be provided on each statement and schedule for designating the report as "an original" or "a resubmission." A resubmission would be filed when reportable data have changed from the originally filed form. Only such altered data and data of resubmission would have to be reported. Finally, a separate instruction is included for the attachment of pipeline system maps.[5]

2. Statements

The first substantive statement, "Synopsis of Gas Supply" (new page 2) would be changed as follows: Items 4 through 10 of the old form which pertain to information from the last certificate application would be deleted. For purposes of clarification with reference to gas reserves, two lines are proposed to be added to the statement entitled, "Company Owned Recoverable Gas in Underground Storage," and "Gas Balance Due From Exchange Agreements (Positive or Negative)."

The second statement, "Disclosure of Other Gas Supply Filings With Federal Agencies" (new page 3) would remain essentially the same. The definition of the term "affiliates" would be included for purposes of clarification.

The third statement, "Gas Procurement Activity Statement" (page 4) would be essentially unchanged.

3. Schedules

The following items would be deleted from "Schedule I—System Deliverability Summary" (page 5): "Annual Requirements"[6] (for all years except the current year), "Gas Curtailments" (Line Nos. 03–22); "Firm Gas Sales," "Interruptible Gas Sales," "Other Use Gas," "Reserve Life Index," and "Short Term Contract Volume" (Line No. 25). The item labeled, "Contracted" which is presently reported under "Current Gas Supply" would be retitled "Producer Dedicated" for purposes of clarification.

The new "Schedule II—Reservoir Data, Field Data, Salable Reserve Data, and Deliverability Estimate" (page 6) would be the product of extensive revisions and deletions as a result of the merger of the current Schedules II and III. The schedule would be used only for reservoir and field data—all "Group" data would be required to be reported on the new Schedule III. Elements eliminated from each form would be as follows:

Current Schedule II

Group Code
Line No. 1—FPC Natural Gas Area
Line No. 2—Type calculation
Total Producing Completions
Total Net Completions
Dedicated Percentage of Sellers Reserves
Decline Factor MMCF Per PSI
Cumulative Wet Gas Production at Current Pressure
Current Z Value
Terminal Z Value
Depth Classification
Basic Lithology
Line No. 4—Recovery Factor
Productive Area—Acres
Average Net Thickness—Feet
Reservoir Volume—Acre/Feet
Porosity
Porosity By (How porosity is determined)
Connate Water
Connate Water By (How connate water is determined)
Initial Z Value
Yield Barrels Per MMCf
FVF (Initial Formation Volume Factor)
Mole Percent H_2S
Mole Percent N_2
Mole Percent CO_2

[1] Form No. 15 was initially promulgated in 1964: Order No. 279, Docket No. R–239, 29 FR 4874 (April 7, 1964). It has undergone four revisions since that date: Order No. 337, Docket No R–308, 32 FR 3292 (February 25, 1967), revised the form to allow companies with comparatively small volumes of reserves to file an abbreviated report, and made certain conforming amendments; Order 399, Docket No. R–308, 35 FR 6982 (May 1, 1970), amended the form to require respondents to submit estimates of productive capacity Mcf/d, maximum daily quantity Mcf/d for each source of gas supply, and gas reserves by independent producer rate schedules, and made other minor changes; Order No. 476, Docket No R–308, 38 FR 6810 (March 13, 1973), amended the form with reference to the reserves report; and Order No. 546, Docket No. R–308, 41 FR 9688 (March 8, 1976), revised the form to require that respondents disclose gas reserves filings with other Federal agencies.

[2] Pursuant to the Natural Gas Policy Act (NGPA), producers are no longer required to obtain certificates in certain instances. (*See* sections 302, 312 and 601, NGPA.)

[3] Pursuant to the NGPA, pipelines are permitted to purchase gas from nonjurisdictional companies. (*See* sections 302, 303 and 311, NGPA.)

[4] Also known as "Substitute" Natural Gas.

[5] Elimination of the requirement to file individual reservoir area outline maps reduces the respondents' map filing burden by over 50 percent.

[6] Estimated total pipeline system annual gas requirements.

[4] FERC Form No. 15 (Attachment A) is not being printed by the **Federal Register.** Copies are available in the Office of Public Information.

Current Schedule III

Group Code
Line No. 1—FPC Natural Gas Area
Line No. 2—Type calculation
Total Producing Completions
Total Net Completions
Dedicated Percentage of Sellers Reserves
Decline Factor MMCF Per PSI
Cumulative Wet Gas Production at Current Pressure
Current Z Value
Terminal Z Value
Depth Classification
Basic Lithology
Line No. 4—Recovery Factor
Productive Area—Acres
Average Net Thickness—Feet
Reservoir Volume—Acre/Feet
Porosity
Porosity By (How porosity is determined)
Connate Water
Connate Water By (How connate water is determined)
Initial Z Value
Yield Barrels Per MMCf
FVF (Initial Formation Volume Factor)
Mole Percent H_2S
Mole Percent N_2
Mole Percent CO_2

3. Instructions

owned and controlled by producers and that amount to less than 50 billion cubic

DEPARTMENT OF THE TREASURY

pockets, pocket flaps, belts and belt

Current Schedule III

Line No. 1—all data elements
Line No. 2—all data elements
Line No. 3—Pc (Shut-in pressure)
Pt (Flowing pressure)
Pf (Formation pressure)
PS (Sandface pressure)
C (Coefficient C in back pressure equation)
n (value of slope n)
Q (rate of flow)
Duration Flow
Wellhead Open Flow
Absolute Open Flow
Daily Productive Capacity—Non-Associated Gas
Daily Productive Capacity—Associated and Solution Gas

Three data elements would be added to the new Schedule II for clarification purposes: "New Reservoirs," "Extensions", and "Revisions (Plus or Minus)."

The new "Schedule III—Committed Reserves and Deliverability Estimates for Other Supply Sources" (page 7) would require the filing of field data by those companies which are not required to file Schedule II,[7] or when there is insufficient data to file Schedule II. In these instances, the field name and code would be substituted for group name and code. The following items would be deleted from Schedule III: "FPC Natural Gas Area" (Line No. 1); "Daily Productive Capacity for Undesignated Gas," "Daily Productive Capacity for Non-Associated Gas," and "Daily Productive Capacity for Associated and Solution Gas" (Line No. 2); and "Gas Volume Not Scheduled" (Line No. 3). A requirement for filing "Type of Gas" is added for clarification. The Commission also proposes an additional line item entitled, "Intrastate or Interstate"[8] in order to identify the type of gas sale. Finally, certain changes are proposed for the current "Committed Reserves" portion of the form in order to better distinguish company owned production and reserves from contracted purchases and reserves. Thus, "Company Owned" is replaced by "Company Owned Remaining Dry Gas;" "Owned and Contracted" is now "Remaining Contracted Gas;" "Gas Purchased and/or Produced" is replaced by "Contracted Gas Purchased" and a new item, "Company Owned Dry Gas Produced" is added.

[7] Companies with gas reserves which are owned and controlled by producers and which amount to less than 50 billion cubic feet of natural gas at the end of any reporting year; or companies which purchase their entire supply of natural gas from other companies subject to Form No. 15 requirements, and/or from foreign suppliers.

[8] *See also* section 311, NGPA.

3. Instructions

The reporting instructions and definitions are proposed to be changed to reflect revisions in and to clarify reporting requirements of Form No. 15. While the schedules will be revised to better facilitate completion by hand, the Commission will retain its preference that respondents file a magnetic tape (computer copy) of the form.[9] In order to ease the data processing burdens for respondent companies, the Commission has requested the Energy Information Administration (EIA) to develop a computer program which would translate the current requirements into the proposed format. As a result, respondents could continue to file magnetic tape copies under the current format without reprogramming their computers.[10] The "hard copy" (computer printout) would, however, still have to be filed in the proposed format. The Commission specifically seeks views on this proposal from the affected respondents.

The Commission would also revise certain of the form's definitions to reflect other changes and to correspond to provisions in currently applicable statutes.

The proposed changes should provide the Commission with more meaningful data in a more usable form and should ease respondent burdens substantially. Because of these advantages, it is proposed that the changes described in this Notice should be implemented in time for the report due on or before April 1, 1981.

In addition to the above-described changes to Form No. 15, the Commission proposes to amend those regulations which reference Form No. 15. Section 260.7 would be changed to designate the form as "FERC" Form No. 15. In the prescription, the term "interstate pipeline companies, as defined by the Natural Gas Policy Act," would replace "natural gas company, as defined by the Natural Gas Act." Section 260.7a would be amended to provide for the filing of a statement of gas transported by pipelines for other companies. Other revisions would be made to reflect changes in the effective date and in schedule and statement designations, and to clarify the prescription of the form.

D. Written Comment Procedures

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by September 28, 1980. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM80–69.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Act, 42 U.S.C. 3301–3432)

In consideration of the foregoing, the Commission proposes to amend Form No. 15 as set forth in Attachment A, and Part 260, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 260—Statements and Reports (Schedules) is amended in the Table of Contents and in the text by revising §§ 260.7 and 260.7a to read as follows:

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

* * * * *

Sec.
260.7 FERC Form No. 15, Interstate pipelines' annual report of gas supply.
260.7a Annual statement of gas transported by interstate natural gas pipelines for other interstate natural gas pipelines.

* * * * *

§ 260.7 FERC Form No. 15, Interstate pipelines' annual report of gas supply.

(a) *Prescription.* The form of Interstate Pipelines' Annual Report of Gas Supply, designated herein as FERC Form No. 15, is prescribed for the year 1980 and thereafter.

(b) *Filing requirements.* (1) *Who must file.* (i) *Generally.* All interstate pipeline companies, as defined by the Natural Gas Policy Act, section 2(15), shall prepare and file with the Energy Information Administration (EIA) an original and four copies of FERC Form No. 15.

(ii) *Exceptions.* The following interstate pipelines shall prepare and file with EIA an original and four copies of only the Identification Schedule (with Certification) (page 1), the "Synopsis of Gas Supply" (page 2) and Schedule III of FERC Form No. 15: (A) each interstate pipeline with gas reserves that are owned and controlled by producers and that amount to less than 50 billion cubic feet of natural gas at the end of any reporting year; or (B) each interstate pipeline that purchases its entire supply of natural gas from other interstate pipelines subject to the provisions of this section, and/or from foreign suppliers.

(2) *When to file.* Such reports shall be filed on or before April 1 for each calendar year ending December 31 of the previous year.

§ 260.7a Annual statement of gas transported by interstate pipelines for other interstate pipelines.

Each interstate pipeline, as defined by the Natural Gas Policy Act, section 2(15), which only transports natural gas for another interstate pipeline shall prepare and file with the Energy Information Administration an original and four copies of a statement which contains the name and address of each interstate pipeline for which it transports the gas. Such statement shall be filed on or before April 1 for each calendar year ending December 31 of the previous year.

[FR Doc. 80-24599 Filed 8-13-80; 8:45 am]
BILLING CODE 6450-85-M

[9] *See* Attachment A for the revised instructions for magnetic tape filings.

[10] In order for the translation program to be successful, EIA could make no exceptions for magnetic tape filings.

18 CFR Parts 271, 273 and 274

[Docket No. RM80–38]

High-Cost Natural Gas Produced From Wells Drilled In Deep Water; Extension of Time for Comment

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Extension of Time for Comment.

SUMMARY: On July 11, 1980, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking. (High-Cost Natural Gas Produced From Wells Drilled in Deep Waters, 45 FR 47863, July 17, 1980.) The notice prescribed a comment period ending August 11, 1980. The comment period on this rulemaking is hereby extended to September 10, 1980.

FOR FURTHER INFORMATION CONTACT:
Kenneth F. Plumb, Secretary, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24601 8-13-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

[521743]

Garments With Traditional, but Primarily Decorative Features: Garments With Simulated Features: Ornamented Wearing Apparel; Change of Practice Considered

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed change of practice.

SUMMARY: This document gives notice that the Customs Service is reviewing the current uniform and established practice of classifying certain garments with traditional, but primarily decorative, features as nonornamented wearing apparel. The practice of classifying certain garments with simulated features as nonornamented is also under review. The Customs Service is considering whether it must classify garments with traditional, but primarily decorative features, and garments with simulated features, as ornamented wearing apparel. The Customs Service is seeking public comment as to whether a recent decision of the Customs Court requires these changes.

DATE: Comments (preferably in triplicate) must be received on or before: September 15, 1980.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Philip Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202) 566–8181.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to uniform and established practices, the Customs Service has classified various types of garments with traditional features which are also decorative as nonornamented wearing apparel. These features have included epaulets on raincoats, bush-safari jackets, and military-style garments, D-rings on the belts of trenchcoats, and overlaid yokes on Western-style shirts. It has also been the practice to classify garments with simulated features as nonornamented wearing apparel on the ground that the simulation is of a feature otherwise functional. These features have included simulated buttonholes, pockets, pocket flaps, belts and belt segments, or front openings (plackets).

Recently, in *The Ferriswheel* v. *United States*, C.D. 4844 (February 21, 1980), the United States Customs Court held Scottish Highland jackets, having traditional (but primarily decorative) epaulets, and braid which simulates buttonholes, to be thereby ornamented. In holding the merchandise to be classifiable as ornamented wearing apparel, the court found the jacket epaulets and braid to be primarily ornamental or decorative, i.e., intended primarily to enhance the beauty and appearance of the garments by adornment or embellishment. *Blaimoor Knitwear Corp.* v. *United States*, 60 Cust. Ct. 388, C.D. 3398, 284 F. Supp. 315 (1968). That the ornamental braid and epaulets are traditional in Highland dress, the court held, did not preclude classification as ornamented wearing apparel. While *Ferriswheel upheld* the Customs classification in that case, this opinion may be contrary to Customs' uniform and established practice of classifying other types of garments with traditional, but primarily decorative features, as nonornamented wearing apparel.

Proposed Change of Practice

The Customs Service is considering whether the opinion in the *Ferriswheel* case requires it to classify all garments having traditional, but primarily decorative, features as ornamented wearing apparel. Such a change of practice might affect raincoats, bush-safari jackets, and military-style garments, all having epaulets, trenchcoats with D-rings, and Western-style shirts with overlaid yokes, as well as all other garments with traditional features which might be considered to be primarily decorative.

The Customs Service is also considering whether the opinion in this case also requires it to classify garments with simulated features as ornamented wearing apparel. Subject to this change of practice would be garments with simulated buttonholes, pockets, pocket flaps, belts and belt segments, or front openings (plackets), as well as garments with any other simulated feature, notwithstanding that such simulation is of a feature otherwise functional.

The Customs Service seeks public comment as to the applicability of this opinion and as to whether these traditional and simulated features are primarily decorative or primarily functional.

Authority

Inasmuch as the proposed change of practice will affect the assessed duties

on garments subject to such change, the Customs Service is giving this notice and opportunity for comment in accordance with section 315(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and section 177.10(c)(1) of the Customs Regulations (19 CFR 177.10(c)(1)).

Consideration will be given to any written comments submitted in writing to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, Room 2428, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this notice was Harold I. Loring, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the U.S. Customs Service participated in developing this notice, both on matters of style and substance.

R. E. Chasen,

Commissioner of Customs.

Approved: August 5, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-24644 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-22-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 207

Investigations To Review Outstanding Antidumping and Countervailing Duty Determinations and Outstanding Suspension Agreements

AGENCY: United States International Trade Commission.

ACTION: Proposed rule.

SUMMARY: The proposed amendment sets forth procedures for the conduct of Commission investigations to review suspension agreements under sections 704 and 734 of the Tariff Act of 1930 and determinations under sections 704(h)(2), 705(b), 734(h)(2), and 735(b) of the Tariff Act and determinations under the Antidumping Act, 1921, and the duty-free merchandise provisions of section 303(b) of the Tariff Act.

DATE: Comments on the proposed rule should be submitted on or before September 15, 1980.

ADDRESS: Comments on the proposed rule should be submitted to the Secretary, U.S. International Trade Commission, 701 E Street, NW, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW, Washington, D.C., telephone (202) 523-0379.

SUPPLEMENTARY INFORMATION: Section 207.45 of the Commission's Rules of Practice and Procedure implements section 751 of the Tariff Act. The proposed amendments to the rule set forth a new procedure for the Commission decision whether to review an outstanding antidumping or countervailing duty determination upon receipt of a request for such a determination. The proposed amendment also changes the determination of the Commission in these investigations and investigations to review a suspension agreement accepted under section 704 or 734 of the Tariff Act to conform to the provisions of section 751 of the Tariff Act.

Section 207.45(a)(1) makes reference to "alleged" changed circumstances in describing the Commission's determination in investigations to review a suspension agreement accepted under section 704 or 734 of the Tariff Act. The proposed amendments would require the Commission to determine whether a request for a review of a suspension agreement "shows changed circumstances sufficient to warrant the review" prior to the institution of an investigation to determine "whether, in light of the changed circumstances, the agreement continues to eliminate completely the injurious effect of imports of the merchandise." This sequence and the standard for the determination are provided for in section 751 of the Tariff Act. Accordingly, the Commission proposes to remove the word "alleged" from § 207.45(a)(1).

Section 207.45(a)(2) provides the standard for a Commission determination in investigations to review outstanding antidumping and countervailing duty determinations. The subsection makes reference to "changed circumstances . . . which indicate" that an industry in the United States would not be threatened or the establishment of such an industry would not be materially retarded, if the countervailing duty order or antidumping order were modified or revoked. The linkage of changed circumstances with the threat of material injury or the possibility of material retardation is not provided for in section 751 of the Tariff Act and could possibly have a more restrictive effect than a standard relying only on the concepts of threat of material injury and the possibility of material retardation. Accordingly, the Commission proposes to delete the reference to changed circumstances in § 207.45(a)(2).

The Commission also proposes to change the formulation of the material injury determination in § 207.45(a) from the threat of material injury or material retardation to the standard found for countervailing duty investigations under section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note); i.e., whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order or the antidumping order if the order were to be revoked.

Section 207.45(b) provides for the procedures to be followed in review investigations authoized by section 751 of the Tariff Act. At present § 207.45(b) provides that the procedures set forth in subpart C of Part 207, Title 19, shall be applicable to investigations conducted under section 207.45. This section also provides that investigations conducted under section 207.45 shall be completed within 120 days. Inquiries have been made concerning the starting date for the calculation of the 120 day period. The proposed amendment of this subsection would have the 120 days period run from the date of the insitution of an investigation.

Section 207.45(b) as it is now written does not provide the bifurcated procedure suggested in section 751 of the Tariff Act. Section 751 provides that the requests for the review of suspension agreements or countervailing duty or antidumping determinations must show changed circumstances sufficient to warrant a review. Only after the Commission is satisfied that the showing required is sufficient is the institution of a review investigation called for. Section 207.45(b) has been redrafted to provide for this sequential, bifurcated procedure. In the event that the Commission finds that a request does not show changed circumstances sufficient to warrant a review, the Commission shall publish a notice to this effect in the **Federal Register**. This publication is provided for in subsection 516A(a)(1)(C) of the Tariff Act.

The proposed rule reads as follows:

§ 207.45 Investigation to review outstanding determination.

(a) *Purpose.* Upon the receipt of information concerning, or upon a request for a review of, a determination concerning a suspension agreement accepted under section 704 or 734 of the Act or an affirmative determination made under section 704(h)(2), 705(b), 734(h)(2), or 735(b) of the Act, or under the Antidumping Act or section 303(b) of the Act, which shows changed circumstances sufficient to warrant a review of such determination, the Commission shall institute an investigation to determine, as the case may be, (1) whether, in light of the changed circumstances, the agreement continues to eliminate completely the injurious effect of imports of the merchandise; or (2) whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order or the antidumping order if the order were to be revoked. In the absence of good cause shown, no investigation under this section 207.45 shall be instituted within 24 months of the date of publication of the notice of the suspension or determination.

(b) *Procedures.* (1) *Commencement of Proceedings.*

(i) *Upon receipt of a request.* A proceeding is commenced by filing with the Commission the original and nineteen (19) true copies of a request. Requests for a review investigation may be filed by any person. All requests shall set forth a description of changed circumstances sufficient to warrant the institution of a review investigation by the Commission under this section.

(ii) *Upon the initiative of the Commission.* Upon receipt of information concerning a suspension agreement accepted under section 704 or 734 of the act or an affirmative determination made under 704(h)(2), 705(b), 734(h)(2), or 735(b) of the Act, which shows changed circumstances sufficient to warrant a review of such determination, the Commission shall initiate an investigation to review such determination.

(2) *Institution of an investigation.* Within thirty (30) days after receipt of a request or, in exceptional circumstances, as soon after receipt of a request as possible, the Commission shall determine whether the request shows changed circumstances sufficient to warrant a review and, if so, shall institute an investigation. The investigation shall be instituted by notice published in the **Federal Register** and shall be completed within 120 days of the date of institution. If the Commission determines that a request does not show changed circumstances sufficient to warrant a review, the request will be dismissed and a notice of the dismissal shall be published in the **Federal Register** stating the reasons therefor.

(3) *Procedures set forth in Subpart C of Part 207.* The procedures set forth in §§ 207.21 through 207.24 and § 207.28 of this part shall apply to all investigations instituted under this § 207.45.

(Sec. 751, June 17, 1930, as amended, July 26, 1979, Pub. L. 96-39, 93 Stat. 175 (19 U.S.C. 1675))

By order of the Commission.

Kenneth R. Mason,

Secretary.

August 7, 1980.

[FR Doc. 80-24502 Filed 8-13-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 804, 805, 841

[Docket No. R-80-856]

Maximum Limit on Total Development Cost; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(0) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would establish a maximum limit on the total development cost of low-income public housing and Indian housing projects developed under the United States Housing Act of 1937.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations; Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document.

24 CFR Parts 804, 805 and 841—Maximum Limit on Total Development Cost

(Sec. 7(0) of the Department of HUD Act. (42 U.S.C. 3535(0)), sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 8, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-24538 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252

[Notice No. 347; Ref: Notice No. 329, TD-ATF-62]

Implementing the Distilled Spirits Tax Revision Act of 1979 (Pub. L. 96-39)

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 329, Implementing the Distilled Spirits Tax Revision Act of 1979 (Pub. L. 96-39), until October 15, 1980. Notice No. 329 was published in the **Federal Register** on December 11, 1979 (44 FR 71612).

DATE: The comment period for Notice No. 329 is extended until October 15, 1980.

ADDRESS: Comments should be submitted to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Notice No. 329).

FOR FURTHER INFORMATION CONTACT: Edward J. Sheehan or E. J. Ference, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 1979, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking cross-reference to temporary regulations (Notice No. 329) to obtain comments on the temporary regulations for implementation of the Distilled

Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96–39). The temporary regulations were published as Treasury Decision TD–ATF–62 in the **Federal Register** of December 11, 1979 (FR 44 71613). Those temporary regulations will remain in effect until superceded by final regulations. In the development of the final rule, ATF intends to—

(1) Eliminate unnecessary regulatory sections;

(2) Incorporate ATF rulings and industry circulars into the final regulations; and

(3) Rewrite the regulations into language that is more understandable.

Further comment from consumers and industry members will aid ATF in attaining these goals. For that reason, and due to comments received from an industry group, ATF is changing the comment period closing date for the notice and temporary regulations from September 11, 1980, to October 15, 1980.

Disclosure of Comments

Copies of written comments or data are available for public inspection in the ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

ATF will not recognize any material in comments designated as confidential or as not to be disclosed; and any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Drafting Information

The principal author of this document is E. J. Ference of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

This notice is issued under the authority contained in 26 U.S.C. 7805 (68a Stat. 917).

Signed: August 8, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-24708 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1570-2]

State of West Virginia—Proposed Deadlines for Correcting Deficiencies in West Virginia's SIP Revision for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Elsewhere in today's **Federal Register**, EPA is conditionally approving the West Virginia State Implementation Plan (SIP) in instances where the plan is deficient and the State has assured EPA that it will submit corrections. Conditional approvals mean that restrictions under Sections 110, 176, and 316 of the Clean Air Act will not apply unless West Virginia fails to submit the necessary corrections or EPA fails to approve them. This notice solicits comments on the adequacy of the deadlines established for conditionally approved items.

DATE: Comments must be submitted on or before September 15, 1980.

ADDRESS: Copies of the materials submitted by the State of West Virginia are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Raymond D. Chalmers

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be addressed to:

Howard Heim, Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: AH300aWVA

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond D. Chalmers (3AH12), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: 215–597–8309.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register**, EPA has published a notice approving, with certain conditions, West Virginia's State Implementation Plan (SIP) revision for attaining total suspended particulae (TSP), ozone (O_3), and sulfur dioxide (SO_2) air quality standards. This notice proposes the deadlines associated with the conditions EPA has established.

The SIP revisions that EPA has conditionally approved, and the conditions and deadlines EPA has established for correcting the deficiencies in these revisions, are:

1. West Virginia's SIP revision for attaining primary total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR and in those portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining the ozone standard in the Kanawha Valley Intrastate AQCR, and for attaining sulfur dioxide standards in the New Manchester—Grant Magisterial District in Hancock County, is approved on the condition that:

(a) West Virginia adopts a permanent regulation requiring preconstruction review and emission offsets by (nine months after publication date of this notice). This regulation must be submitted to EPA for inclusion in the West Virginia SIP.

(b) West Virginia keeps a temporary regulation requiring preconstruction review and emission offsets in effect until EPA approves a permanent regulation.

(c) West Virginia submits all permits issued under the provisions of it temporary preconstruction review and offset regulations to EPA as SIP revisions.

(d) West Virginia submits to EPA by September 30, 1980, an adequate analysis of the health, economic, energy and social effects of its SIP revision, and an adequate summary of the public comments on this analysis.

2. West Virginia's SIP revision for attaining the ozone standard in the Kanawha Valley Intrastate AQCR is approved on the condition that West Virginia submits an adequate test method for Regulation XXIII to EPA by September 30, 1980 for inclusion in the West Virginia SIP.

3. West Virginia's SIP revision for attaining total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR is approved on the condition that West Virginia revises Regulation VII and submits this revised regulation to EPA by February 1, 1981 for incorporation into the West Virginia SIP.

EPA invites the public to submit comments on whether the deadlines discussed above are acceptable and should be approved as a revision of the West Virginia State Implementation Plan. Comments should be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the revision conforms to the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: March 5, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-24556 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1570-1]

State of West Virginia—Proposed Extension of the Deadline for Attaining Secondary TSP Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of West Virginia has asked EPA to approve a new deadline of July 1, 1980, for the State to submit State Implementation Plan (SIP) revisions for attaining secondary total suspended particulate (TSP) standards in the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the Tygart Magisterial District in Wood County, and Kanawha County and Valley Magisterial Distict of Fayette County. This notice requests public comment on whether this new deadline should be approved.

DATE: Comments must be submitted on or before September 15, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Raymond D. Chalmers

West Virginia Air Pollution Control Commission, 1558 Washington Street, East Charleston, West Virginia 25311. ATTN: Carl G. Beard, II

Public Information Reference Unit, EPA Library Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to:

Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air, Toxics & Hazardous Material Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: AK300bWVA.

FOR FURTHER INFORMATION CONTACT:

Raymond D. Chalmers, U.S. Envornmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, Telephone Number: (215) 597–8309.

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA) Amendments of 1977 required States to submit SIP revisions for all areas where National Ambient Air Quality Standards (NAAQS) had not been attained. The CAA established a deadline of January 1, 1979, for the submission of these SIP revisions.

West Virginia submitted a SIP revision for attaining primary NAAQS for total suspended particulates, sulfur dioxide, and ozone. This SIP revision is being approved, with certain conditions, in a notice published elsewhere in today's **Federal Register.**

West Virginia has not submitted an adequate SIP revision for attaining secondary NAAQS for total suspended particulates (TSP) for three areas. Such a revision is required to assure the attainment of secondary TSP standards in the Steubenville-Weirton-Wheeling Interstate AQCR, the Tygart Magisterial District in Wood County, and Kanawha County and Valley Magisterial District of Fayette County.

West Virginia has asked EPA to approve a new deadline of July 1, 1980, for the submission of this revision. West Virginia requested that EPA approve this new deadline under the authority delegated EPA by Section 110(b) of the Clean Air Act. Section 110(b) of the CAA authorizes EPA to extend the period for submission of any plan which implements a national secondary ambient air quality standard for a period not to exceed eighteen months from the date otherwise required for the plan's submission.

EPA has listed the requirements a State must meet to receive an extension in 40 CFR 51.31. Three major requirements are listed. First, a request for an extension must be for areas in a priority I or II region. All the areas for which West Virginia has requested extensions are in priority I or II regions. Second, a request for an extension must show that attainment of secondary standards will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology (RACT). EPA believes that emission reductions exceeding those which can be achieved through the application of RACT will be needed to bring into attainment those areas for which West Virginia has requested extensions. Third, a request made with respect to any State's portion of an interstate region must either be submitted jointly with requests for such extensions from all other States within the region, or show that all other States within the region have been notified of the request. West Virginia has requested extensions for two areas that are part of interstate regions. These are the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate AQCR and the Tygart Magisterial District in Wood County. West Virginia has notified Ohio of its request for an extension in these areas.

EPA believes that West Virginia has met the requirements for obtaining a new deadline of July 1, 1980 for the submission of a SIP revision for attaining secondary TSP standards in the Steubenville-Weirton-Wheeling Interstate AQCR and the Tygart Magisterial District in Wood County, and Kanawha County and Valley Magisterial District of Fayette County. Therefore, EPA is proposing approval of West Virginia's request for a new deadline of July 1, 1980 for submitting a SIP revision for these areas.

EPA invites the public to submit comments on whether West Virginia's deadline for submitting plans for attaining secondary TSP standards should be changed. Comments should be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Section 110(b) of the Clean Air Act and of 40 CFR Part 51.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and have

V 45 A G 14 80 UMI

determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: March 5, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-24555 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 80

[FRL 1560–1]

Fuels and Fuel Additives; Petition To Repeal Lead Phasedown Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition to repeal regulations controlling lead content in gasoline.

SUMMARY: On January 17, 1980, Du Pont Corporation (Du Point) submitted a petition seeking repeal of certain EPA regulations controlling the lead content in gasoline (the "lead phasedown regulations"). Du Pont also submitted an addendum to that petition dated May 19, 1980. EPA has examined Du Pont's petition, the addendum, and information submitted by Du Pont and others in support of the petition and finds that the various submissions do not contain new information warranting a new rulemaking proceeding to consider revision or revocation of the regulations. For this reason EPA denies Du Pont's petition.

ADDRESS: Information concerning this action may be found in Docket EN 79–14, Central Docket Section, Environmental Protection Agency, Gallery I–West Tower, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Susan Finder, Attorney-Advisor, Fuels Section, Field Operations and Support Division, U.S. Environmental Protection Agency, at (202) 472–9367.

SUPPLEMENTARY INFORMATION:

Background

The original lead phasedown regulations were promulgted on December 6, 1973 (38 FR 33734), under Section 211(c) of the Clean Air Act, 42 U.S.C. 7545(c). They established a 0.5 gram per gallon (gpg) final standard effective January 1, 1979. In promulgating the 0.5 gpg standard the Administrator took into consideration the known health effects of lead exposure and the difficulty of establishing a safe exposure level, and concluded "it would be prudent to reduce preventable lead exposure from automobiles emitting airborne lead to the fullest extent possible." (38 FR 1259, January 10, 1973.)

Refiners and lead manufacturers sought judicial review of the regulations. The U.S. Court of Appeals for the District of Columbia Circuit set aside the regulations by a 2–1 vote on December 20, 1974. On March 17, 1975, the Court granted the Agency's petition for rehearing *en banc* and vacated the prior judgment and opinions, and on March 19, 1976, upheld the regulations. *Ethyl Corp.* v. *EPA*, 541 F.2d. 1 (en banc) (D.C. Cir. 1976), *Cert. denied* 426 U.S. 941 (1976). The Court concluded that the Administrator had not been arbitrary and capricious in promulgating the regulations but had in fact "handled an extraordinarily complicated problem with great care and candor" (541 F.2d. at 47).

EPA amended the regulations on September 28, 1976, to provide for a standard of 0.8 gpg effective January 1, 1978, and a 0.5 gpg standard effective October 1, 1979 (41 FR 42675). These amendments were designed to give refiners sufficient time to install the equipment necessary to meet the reduced lead level without causing a gasoline shortage.

The interruption of crude oil supplies from Iran in 1979 led the Agency to believe that a further temporary relaxation might be warranted. Therefore, on June 6, 1979, EPA proposed to amend the lead phasedown regulations to permit refiners to meet a 0.8 gpg standard until October 1, 1980, provided these refiners would produce increased percentages of unleaded gasoline (44 FR 33116). On June 20, 1979, a public hearing was held in Washington, D.C., on the proposed amendments. Du Point participated in the rulemaking. On September 12, 1979, the regulations were amended substantially as proposed ("the 1979 rulemaking") (44 FR 53144). At that time, EPA made clear that "we continue to believe that a 0.5 gpg lead standard should be achieved as rapidly as possible for purposes of public health but that this *short-term* relaxation should not have a substantial health effect." *Id.* (emphasis added).

Under 307(b)(1) of the Act, 42 U.S.C. § 4607(b)(1), the time for seeking judicial review of the 1979 rulemaking expired on November 11, 1979.[1] Du Pont did not seek judicial review.

On January 17, 1980, the Du Pont Corporation submitted a document to the Environmental Protection Agency entitled "Petition to Repeal Regulations Controlling Lead Content in Gasoline."[2] On May 19, 1980, Du Pont submitted an addendum to the petition. In general, the petition seeks to show that because of decreased demand for gasoline and an increasing proportion of vehicles using unleaded gasoline, revocation of the lead phasedown regulations would make little difference in terms of compliance with the national ambient air quality standard for lead and, further, that it would offer certain energy benefits.[3]

Criteria for Review of Du Pont's Petition

Du Pont asserts that it is submitting its petition in accordance with certain procedures set forth in *Oljato Chapter of the Navajo Tribe* v. *EPA*, 515 F.2d 654, 666 (D.C. Cir. 1975), which govern petitions for revision of rules promulgated under the Clean Air Act. The procedures described in *Oljato* are essentially that: (1) a petition for revision of such a rule, along with any supporting material, should first be submitted to the Agency; (2) the Agency should respond to the petition and, if it

[1] The **Federal Register** notice appeared on September 12, 1979. Section 307(b)(1) of the Act states, in relevant part, that "a petition for review shall be filed within sixty days from the date notice of such promulgation appears in the **Federal Register**, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review shall be filed within sixty days after such grounds arise."

[2] The Petrochemical Energy Group and the Ethyl Corporation also submitted information in support of the petition. Their submissions have been considered in this decision and are referred to below as appropriate.

[3] With its petition, Du Pont submitted nine exhibits:

Exhibit 1, a copy of the original phasedown regulations (38 FR 33734);

Exhibit 2, a copy of EPA's environmental impact statement for its ambient air standard for lead;

Exhibit 3, a Du Pont technical brief, "Forecast of Gasoline Demand Through 1990";

Exhibit 4, a technical paper by three Du Pont engineers, "Projections of Motor Vehicle Fuel Demand and Emissions";

Exhibit 5, a Du Pont memorandum, "Projected Air Lead Quality";

Exhibit 6, "Unleaded Gasoline Sales in Two Metropolitan Areas";

Exhibit 7, "Critique of a Study by the U.S. Department of Housing and Urban Development on Gasoline Lead Use and Blood Lead Levels of Children in New York City," by Du Pont employee E. S. Jacobs;

Exhibit 8, a copy of "Fact Sheet on the President's Program," April 4, 1979; and

Exhibit 9, a letter from the Du Pont Corporation, commenting on Docket No. ERA–R–77–7 (Department of Energy), Motor Gasoline De-Control.

In its addendum, Du Pont submitted the following items:

Appendix A, Affidavit of Anthony J. Yankel, P. E., one of the three author of a study considered by EPA in connection with establishing the national ambient air standard for lead; and

"Analysis of a Study by the Department of Housing and Urban Development on Blood Lead Levels of Children in New York City," by Emmet S. Jacobs and Charles G. Pfeifer, of Du Pont's Petroleum Laboratory.

denies the petition, set forth its reasons; and (3) if the petition is denied, the petitioner may seek judicial review pursuant to Section 307(b) of the Act. *Oljato, supra*, 515 F.2d at 666. By this notice the Agency is responding to Du Pont's petition and is setting forth the reasons for its decision.[4]

The scheme devised in *Oljato* was designed to address the situation where purportedly new information becomes available after promulgation of a rule. The Court concluded that such "new information" should be presented to the Agency first so that it may determine what administrative action, if any, should be taken before the matter is reviewed by a court. Under this scheme, the threshold determination to be made is whether a petitioner has submitted "new information."

If the information supporting a petition was raised or could have been raised in the original rulemaking, I do not consider it new information of the sort contemplated by the *Oljato* scheme and, accordingly, would not view it as warranting my reopening the previous rulemaking. This view is consistent with Section 307(d)(7)(B) of the Act, which governs certain petitions for reconsideration.[5] Moreover, to hold otherwise would permit a petitioner to circumvent the limitation on judicial review specified in Section 307(b)(1) of the Act. That section reads in pertinent part:

> Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise.

Section 307(b)(1) is designed to bring about a measure of finality to Agency rulemaking by limiting the period during which challenges can be made. If a party could cure its failure to seek judicial review during the period specified by petitioning the Agency for revision or revocation of the original rulemaking, based on information that was available at the time of the original rulemaking, and then seeking judicial review of the Agency's action on the petition, one of the main purposes of Section 307(b)(1) would be defeated.[6]

Assuming the information presented in the petition is "new" in the sense that it was not and could not have been presented in the original rulemaking, I must then determine whether it warrants my convening a supplemental rulemaking to consider revision or revocation of the regulations in question.

Although the Act does not provide specific criteria for making such a determination in the context of petitions for revision or revocation of regulations, it does not leave me completely without guidance. Section 307(d)(9)(A) suggests that the ultimate test of my threshold decision on such a position (i.e., my determination whether the petition and supporting materials warrant further rulemaking proceedings) is whether, in light of the information presented, the decision is arbitrary, capricious, or an abuse of discretion.[7] In addition, Section 307(d)(7)(B) provides some guidance in determining whether new information warrants the commencement of supplementary proceedings.[8] That section requires me to convene a proceeding for reconsideration if the new grounds presented are of "central relevance to the outcome of the rule." In another situation, I have interpreted this phrase as meaning that the petitioner must demonstrate that its objections, if assumed to be true, would cause me to seriously consider changing the rule previously promulgated. Denial of Petition for Reconsideration or Revision of the Lead Ambient Air Quality Standards, 45 FR 41211 (June 18,1980).

As a general matter, I conclude that the proper test in assessing new information in the context of a petition for revision or revocation of a rule is roughly the same as that for petitions for reconsideration under Section 307(d)(7)(B); that is, whether the petitioner has demonstrated that its objections, if assumed to be true, would cause me to seriously consider revising or revoking the rule previously promulgated.[9]

In summary, the criteria I am applying in deciding whether to initiate a new rulemaking proceeding in response to Du Pont's petition are that: (1) The petition must be based on information that was not and could not reasonably have been presented during the original rulemaking; and (2) Du Pont's objections, if assumed true, must be of such significance that they would cause me to seriously consider revising or revoking the regulations.

Discussion

Du Pont's petition and the supporting material fail to meet the criteria specified above. For the most part, Du Pont has relied on information that was presented or could have been presented during the 1979 rulemaking. Furthermore, none of the information submitted by Du Pont is of such significance that it would cause me to seriously consider revising or revoking the rule.

Therefore, I am not required to review once again the regulations as promulgated. Indeed, I continue to believe that the lead phasedown regulations are a reasonable exercise of my authority under Section 211 of the Clean Air Act to protect public health and welfare.

[4] Du Pont also cites Section 108(c) of the Act, 42 U.S.C. 7408(c), as a basis for its petition. Section 108(c) concerns review and revision of air quality criteria documents and information on air pollution control techniques issued under Section 108(a)(2) and (b)(1). Du Pont has not explained its pertinence to revision or revocation of the lead phasedown regulations, which were promulgated under Section 211(c) of the Act. For present purposes, I believe it is sufficient to indicate my conclusion that Section 108(c), if pertinent at all, would not alter the criteria I have used in evaluating Du Pont's petition.

[5] Section 307(d)(7)(B) requires me to convene a proceeding to reconsider a rule if the person raising an objection can demonstrate, among other things, that it was impractical to raise such objection during the comment period or that the grounds for such objection arose after the comment period but within the time specified for judicial review. Du Pont has not relied on this section as the basis for its petition, and I have previously determined that Section 307(d)(B) is only applicable where the grounds for a petition arise after the comment period but within sixty days from the date a rule is published in the Federal Register. *See* Denial of Petition for Reconsideration or Revision of the Lead Ambient Air Quality Standards, 45 FR 41211 (June 18, 1980). In enacting Section 307(d)(7)(B), however, Congress was aware of the *Oljato* decision and intended to confirm it, particularly in requiring that purportedly new information be presented first to EPA so that the Agency may determine, in the first instance, whether supplementary proceedings are warranted. *See* H.R. Rep. No. 95–294, 95th Cong., 1st Sess. 323 (1977). Accordingly, I believe it is appropriate to view Section 307(d)(7)(B) as offering some guidance in assessing petitions for review that purport to be based on new information and are subject to the procedures set forth in *Oljato*.

[6] In a somewhat analogous context, the courts have viewed with disfavor attempts to present information or arguments in judicial review that could have been (but were not) first presented during the rulemaking process. *E.g., Lead Industries Association* v. *EPA*, No. 78–2201, slip op. at 87–88 (D.C. Cir. June 27, 1980); *American Iron and Steel Institute* v. *EPA*, 526 F.2d 1027, 1050 (3rd Cir. 1975). Similarly, Congress provided in Section 307(d)(7)(B) that "only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." Congress obviously sought to have parties raise all available objections during the rulemaking proceeding or not at all. The only exception provided is for objections based on "new information" of the sort specified in Section 307(d)(7)(B).

[7] *Cf. Union Electric* v. *EPA*, 427 U.S. 246, 256 (1975).

[8] *See* note 5, *supra*.

[9] For purposes of this decision, I have found it unnecessary to decide whether a greater or lesser showing is required to meet this test under Section 307(d)(7)(B) than in the present context. Nor have I found it necessary to decide whether or how circumstantial factors (for example, the imminence of scheduled reviews of regulations) may affect decisions on other petitions for revision or revocation of regulations.

I. A Major Portion of the Information Submitted by Du Pont Is Not "New Information"

Exhibits 1 and 2, identified in footnote 3 above, were generated by EPA prior to the promulgation of the September 1979 amendments to the phasedown regulations. Because EPA was obviously aware of these documents during the 1979 rulemaking, they cannot be considered to be "new information." Exhibit 9 was submitted by Du Pont to a Department of Energy rulemaking proceeding on Motor Gasoline De-Control in January 1979. Du Pont clearly had the opportunity to submit the information to EPA during the Agency's rulemaking.

Two other documents submitted by Du Pont, "An Analysis of a Study by the Department of Housing and Urban Development on Blood Lead Levels of Children in New York City" and Exhibit 7, "Critique of a Study by the U.S. Department of Housing and Urban Development on Gasoline Lead Use and Blood Lead Levels of Children in New York City," challenge a HUD study considered by EPA in the 1979 rulemaking. Du Pont is not submitting new data contradicting the results of the study, but is merely fashioning arguments why EPA should not rely on the study. Had Du Pont believed any reliance on the study was misplaced, it had the opportunity to state its objections fully during the 1979 rulemaking.

Du Pont also argues that substantial energy savings are possible if the lead phasedown regulations are revoked. In support of this argument, Du Pont submitted a copy of the press release for the president's Energy Message of April 5, 1979. The EPA was, of course, aware of the press release during the 1979 rulemaking, and Du Pont could, in any event, have submitted it at that time. The EPA was also aware, during the 1979 rulemaking, of the argument concerning the possible energy savings that might result from revocation of the phasedown program. Indeed, the Ethyl Corporation presented information in support of that argument in the 1979 rulemaking.[10] The energy arguments made now are virtually identical to those made and considered in the 1979 rulemaking. Therefore, they can hardly be regarded as new.

As is evident from the discussion above, much of the information Du Pont cites to support its petition was or could have been raised during the 1979 rulemaking. To that extent, I do not view the petition as presenting new information that would warrant my convening a proceeding for revision or revocation of the regulation. Nevertheless, I will discuss the information submitted and explain why it would not cause me to reconsider the regulations.

II. The Information Submitted by Du Pont Is Not of Such Significance That it Would Cause Me to Seriously Consider Changing the Rule Previously Promulgated

In general, the information submitted by Du Pont covers three subject areas: projected air quality, gasoline lead and blood lead levels, and the economic and energy impacts of revoking the phasedown requirements. Assuming for present purposes that all of the information submitted is true, none of it is of such significance that I would seriously consider revising or revoking the phasedown regulations.

A. Submissions Concerning Projected Air Quality

Du Pont cites its Exhibits 3–6 as demonstrating that because of the growth of unleaded gasoline use, due to sales of newer cars requiring unleaded gasoline, revoking the phasedown regulations would affect only minimally compliance with the national ambient air quality standards (NAAQS) for lead. Because the NAAQS for lead are intended to protect the public health with an adequate margin of safety,[11] Du Pont argues that the phasedown regulations are no longer necessary on health grounds. To the contrary, Du Pont's own analysis (assuming it is accurate) shows that the regulations are needed and to a greater extent than previously thought.

Du Pont uses its ESCON (estimated consumption) model (Exhibit 4) along with new gasoline demand estimates (Exhibit 3) to generate the projections of ambient air lead levels contained in Exhibit 5. Recent data submitted by Du Pont suggest both reduced total annual gasoline usage as well as reduced rate of change-over from leaded to unleaded gasoline. The newly projected lead levels indicate rates of compliance by air quality control regions (ACQRs) with the NAAQS for lead different from the estimates Du Pont submitted in the 1979 rulemaking. Du Pont's current projections suggest that 17 AQCR's will not comply with the NAAQS for lead in 1980, even if the lead phasedown regulations are preserved, while 28 AQCRs would not comply if the phasedown regulations were revoked. The corresponding numbers for 1982 are 6 and 14 respectively. In other words, by Du Pont's own analysis, the lead phasedown regulations are in fact necessary if 11 AQCR's in 1980 and 8 AQCR's in 1982 are to achieve the reductions in ambient lead levels needed to protect the public from the hazards of airborne lead.

In comments (docket EN–79–14, II–B–2–08) and testimony on the 1979 proposal (transcript of June 20, 1979 hearing at 103–104), Du Pont claimed that maintaining the 0.8 gram per gallon standard indefinitely ("arrested phasedown") would result in 22 AQCRs not complying with the ambient air lead standard in 1980, while going to 0.5 gpg in October 1980 would result in 20 noncomplying AQCRs. The projections for 1982 were 22 and 9, respectively. According to Du Pont's statement at that time, if the phasedown requirements were revoked "the number of regions not meeting the standard would not be much different at any one time from that of the arrested phasedown case." (EN–79–14, II–B–2–08, Du Pont's prepared statement at 13). In response, the Agency concluded that compliance with NAAQS for lead of two additional AQCRs in 1980, along with other factors, was sufficient reason for maintaining the phasedown program with 0.5 gpg becoming effective October 1, 1980. The information now indicating that attainment of the NAAQS in 11 AQCRs in 1980 depends on the phasedown regulations (assuming the information is correct) is an even more compelling reason for preserving the phasedown requirements than the information in the earlier record.

The significant increase in non-complying regions that would result if the phasedown regulations were revoked would, of course, raise the numbers of persons whose health potentially would be threatened by excess lead exposure. Although the Du Pont projections (assuming they are accurate) indicate that "natural phasedown" (that resulting from the increasing proportion of vehicles that require unleaded gasoline) would achieve the same degree of compliance with the NAAQS for lead as would the current regulations in 1985, the intervening five years could be critical for the millions whose health could be affected adversely. Moreover, data from Du Pont indicate that the shift from leaded to unleaded gasoline is proceeding slower than was earlier anticipated. Even with decreased demand, the slower shift will limit the effectiveness of a natural phasedown, and will make the phasedown regulations even more important to the protection of public health.

In addition, Du Pont has not addressed the problem of lead from dustfall (deposited lead) in any of the documents submitted with its petition. Lead from auto emissions contributes to the amount of lead in non-air sources such as soil, vegetation, and surfaces near highways and streets. In promulgating the original phasedown regulations, the EPA sought to decrease the amount of deposited lead, noting that:

> lead from gasoline is the most ubiquitous source of lead found in both the air and the dirt and dust in urban areas. Human exposure to this lead takes place by inhalation and by ingestion of dirt and dust contaminated by air lead fallout. Since exposure to lead among the general population is widespread, it is reasonable that efforts be made to reduce preventable sources of lead exposure including lead emissions from gasoline.

38 FR 33734–5 (1973). In *Ethyl,* the Court of Appeals specifically upheld EPA's reliance on evidence concerning lead exposure from dustfall. *Ethyl, supra,* 541 F.2d at 46. The NAAQS for lead were not designed to protect against exposure from non-air sources, including those resulting from automobile emissions.[12] For these reasons, Du Pont's basis premise, that attainment of the NAAQS will protect health fully from all effects resulting from lead emissions from automobiles, is incorrect. I continue to believe that it is prudent to reduce such emissions, by means of the phasedown regulations, to minimize their contribution to non-air sources of exposure.

Du Pont also submitted an affidavit by Anthony Yankel, one of the authors of one of the studies to which EPA referred in the preamble to the regulations establishing the NAAQS for lead.[13] In his affidavit, Mr. Yankel claims he has discovered an error of 25 percent or more in a model used to predict air lead levels in the study. He also objects to the manner in which EPA considered the study in establishing the NAAQS for lead.

In response to a separate petition filed by the Lead Industries Association, Inc., seeking revision of the NAAQS for lead, I concluded after careful consideration that Mr. Yankel's affidavit did not provide an adequate basis to warrant a supplemental rulemaking proceeding to revise the NAAQS for lead. Among other things, I concluded that his assertions, if assumed to be correct, were not centrally relevant to the outcome of the rulemaking on the NAAQS.[14] 45 FR 41211.

The only apparent relevance Mr. Yankel's affidavit would have to the lead phasedown regulations would be to the extent it called into question the level of the NAAQS for lead, which was one of the factors EPA considered in the 1979 rulemaking. Since I have previously determined that the affidavit does not warrant commencement of a proceeding to revise the NAAQS, I now conclude that it does not warrant commencement of a proceeding to revise or revoke the lead phasedown regulations.

B. Submissions Concerning Gasoline Lead and Blood Lead Levels

As noted above Du Pont submitted two documents to challenge a Housing and Urban Development (HUD) study considered by EPA in the 1979 rulemaking. This study by Dr. Irwin Billick and two associates[15] strongly suggested a highly significant relationship between geometric mean blood lead levels and the amount of lead present in gasoline sold during the same period.

Du Pont makes two claims concerning the HUD study: (1) the author of the study, Dr. Irwin Billick, used gasoline lead data that were not representative of lead consumption during the period of study; and (2) his method of analysis does not result in a correlation between gasoline lead and blood lead levels, let alone a prediction of an appropriate gasoline lead level to protect human health. For present purposes, I need not decide the merits of these claims. As indicated below, I would not seriously consider changing the phasedown requirements even if the claims were shown to be true. Nonetheless, I believe it is appropriate to indicate that I have some reservations concerning the merits of the claims.

As to the representativeness of the gasoline lead data used in the study, Du Pont claims that the study should have used data from gasoline sold only in New York City, and not from the New York metropolitan area.[16] However, it appears to have been reasonable to use three-state regional gasoline consumption data to calculate lead levels during 1970–76, because many cars fill up in the New Jersey, Connecticut, or suburban New York areas, where gasoline prices tend to be lower than in the inner city.[17] In addition, the lead levels that Dr. Billick computed are supported by data accumulated by the Motor Vehicle Manufacturers Association (MVMA) for New York City during this period.[18]

As to Du Pont's second claim, Dr. Billick appears to have derived a direct correlation between gasoline lead and blood lead levels. Changes in gasoline lead levels were followed, point by point, by changes in children's blood lead levels. Dupont has raised arguments that the statistics underlying the study are not reliable for various reasons such as that only a particular population was studied, that the study was not longitudinal, and that the number of samples and type of blood samples changed during the period of the study. First, these so-called errors would not necessarily alter the results of the study. The results only purported to apply to the population sampled. Second, and more importantly, the elements Du Pont raised, if true, would not explain the simultaneous concomitance shown between blood lead levels and gasoline lead. That is, the correlation demonstrated between blood lead levels and lead in gasoline could be shown t be unrealiable only if there was a third factor, somehow tied to one of the other two, which could have led to the corresponding rise and fall in measured blood lead levels and gasoline lead levels. Du Pont has not suggested the existence of such a factor. Statistical analysis by Billick shows that for black children in New York City, approximately 80% of the variation observed in blood lead levels can be explained by variations in gasoline lead levels. For these reasons, I conclude that

[10] Analysis by Turner, Mason and Solomon, consulting engineers, entitled "Impact of Lead Antiknock Usage on Gasoline Production and Crude Oil Consumption," dated July 20, 1979, in docket EN–79–14. Ethyl also submitted the analysis in support of the Du Pont petition as Exhibit B. The comments of the Petrochemical Energy Group, addressing this point, are virtually identical to those submitted by the Group during the 1979 rulemaking.

[11] The ambient air lead standard of 1.5 micrograms per cubic meter was set based on my judgment that the level was the maximum ambient level allowable to protect public health from airborne lead. 43 FR 46246 (1978). The lead standard was upheld in *Lead Industries Association, Inc.* v. *EPA,* No. 78–2201 (D.C. Cir. June 27, 1980)

[12] *See, e.g.,* 43 FR 46253–54 (Oct. 5, 1978).

[13] "The Silver Valley Lead Study—The Relationship Between Childhood Lead Levels and Environmental Exposure," 27 J.A. Air Pollut. Cont. Ass'n 783–87 (1977).

[14] In *Lead Industries Association, Inc* v. *EPA* No. 78–2201 (D.C. Cir. June 27, 1980) (on motion to hold in abeyance), the Court noted a number of questions concerning both the accuracy and the significance of the Yankel affidavit and concluded that it did not warrant the Court's delaying a decision on the merits of the NAAQS for lead. Slip opinion at 8–10.

[15] Billick, Curran, and Shier, *Relation of Pediatric Blood Lead Levels to Lead in Gasoline,* No. II–A–4 in Docket No. EN–79–14.

[16] Du Pont has included in its addendum data on gasoline lead levels from a private survey conducted by the Ethyl Corporation from 1972 to 1978. These data seem questionable since they show no seasonal fluctuation in gasoline lead use, as is normally found to be the case.

[17] *See, e.g.,* American Automobile Association Fuel Gauge Report, July 1, 1980.

[18] MVMA National Fuel Surveys: Fall Season—January 15, 1976, Spring Season—July 15, 1976, Fall Season—January 15, 1977.

the Billick study is evidence of a correlation between blood lead levels and lead in gasoline.

In any event, even if the HUD study had not been considered in the 1979 rulemaking, I would have reached the same conclusion concerning the desirability of achieving the 0.5 gpg level. It should be noted that the original phasedown regulations were promulgated and upheld without the evidence contained in the HUD study.[19] For these reasons, I would not seriously consider changing the lead phasedown requirements even if Du Pont's objections to the HUD study were shown to be valid.

C. Submissions Regarding Energy Considerations

Lastly, Du Pont suggests that certain energy benefits would occur if the regulations were revoked. I do not read Du Pont's petition as arguing that these potential benefits provide an independent ground for revocation of the regulations. Moreover, as indicated previously, the information submitted on this point was submitted or could have been submitted in the 1979 rulemaking. Indeed, the arguments made are virtually identical to those considered in the 1979 rulemaking.

For these and other reasons, discussed below, I would not seriously consider revoking or revising the phasedown regulations even if Du Pont's energy arguments were shown to be correct. Although I need not decide their merits for present purposes, I believe it is appropriate to indicate that other information suggests that these arguments are overstated.

Reducing the lead content of gasoline does result in slightly higher usage of crude oil to provide constant gasoline output. As a review of the lead phasedown regulations reveals, the record has always shown that there is some energy penalty. Yet, currently gasoline stocks are at a high level, and gasoline demand has decreased.[20] Alternative technology exists for increasing octane levels in gasoline.[21] Other products, which do not apear to cause health related problems, such as ethanol, methyl tertiary-butyl ether (MBE), and tertiary-butyl alcohol (TBA), may be substituted in part for tetraethyl lead.[22] For these reasons, it appears that revoking the phasedown regulations would increase gasoline availability only minimally.

In any event, I believe Congress intended me to base regulation of fuels and fuel additives under Section 211(c)—the statutory basis for the phasedown regulations—primarily on protection of health, assuming that I may consider economic or social costs of the regulations at all.[23] Considering the nature of the health effects against which the phasedown regulations are intended to protect—particularly for Black and Hispanic urban children, who are exposed to large quantities of lead from automobile sources and may be especially sensitive to the harmful effects of lead [24]—I would not consider it appropriate to revoke the regulations even if the energy arguments made now were both new and shown to be correct.

Conclusion

For the reasons stated above Du Pont's petition is denied.

Note.—This is a nationally applicable, final Agency action. Under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this action is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of [date of publication]. Under Section 307(b)(2), today's action may not be challenged later in a separate judicial proceeding brought by EPA to enforce the lead phasedown requirements.

Dated: August 7, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24609 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 162

[FRL 1570-6; OPP-00127]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule notice.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to discuss Subpart M: Data Requirements for Biorational Pesticides of the Guidelines for Registering Pesticides in the United States, and Subpart N: Chemistry Requirements: Environmental Fate. The meeting will be open to the public.

DATE: Thursday and Friday, September 4 and 5, 1980, from 9:00 a.m. to 5:00 p.m. daily.

ADDRESS: The meeting will be held at the: Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA, 703–521–5500.

FOR FURTHER INFORMATION CONTACT: H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS–766), Office of Pesticide Programs, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7560.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Review by the Panel on proposed rulemaking on Subpart M: Data Requirements for Biorational Pesticides of the Guidelines for Registering Pesticides in the United States;

1. Review by the Panel on proposed rulemaking on Subpart N: Chemistry Requirements, Environmental Fate of the Guidelines for Registering Pesticides in the United States;

3. Completion of any unfinished business from previous Panel meetings; and

4. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 and item 2 may be obtained by contacting William Preston, Hazard Evaluation Division (TS–769), Rm. 800, Crystal Mall, Building No. 2, at the address given above, telephone: 703–557–1405.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than September 2, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to sumbit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is October 7 and 8, 1980.

(Sec. 25(d), as amended, (92 Stat. 819; (7 U.S.C. 136)); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: August 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-24582 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 93

[CGD 77-162]

Damage Stability Standards for Great Lakes Bulk Dry Cargo Vessels

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to inform the public of: (1) The plans and approximate scheduling for a regulatory proposal on improved damage stability/survivability standards for Great Lakes bulk dry cargo vessels of 1600 gross tons or more; (2) The effort to date including public response to a previous ANPRM concerning such a proposal; and (3) The results of the Maritime Administration's (MarAd) study of "Economic Benefits of Improved Watertight Subdivision for Great Lakes Bulk Carriers" with regard to the crew and ship safety viewpoint. This notice also provides interested parties with an opportunity to review and comment upon the MarAd study prior to the development of a stability standard by the Coast Guard.

DATE: Comments must be received on or before November 12, 1980.

ADDRESS: Copies of the Maritime Administration sponsored report on the economic benefits of subdivision of Great Lakes bulk carriers, (Report No. MA–RD–940–79031), are available for examination in Room 1206, Ship Characteristics Branch, Merchant Marine Technical Division (G–MMT–5/12), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C., 20593. Copies of this report may be purchased from the National Technical Information Service, Springfield, Virginia, 22151.

Comments may be mailed to Commandant (G–CMC/24), (CGD 77–162), U.S. Coast Guard, Washington, D.C., 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/24) Room 2418, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C., 20593, (202) 426–1477, between the hours of 7 a.m. and 5 p.m. Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Mr. Jay Howell, Merchant Marine Technical Division (G–MMT–5/12), Room 1206, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C., 20593, (202) 426–2187. Normal business hours are 7 a.m. to 5 p.m., Monday through Thursday.

SUPPLEMENTARY INFORMATION

On March 16, 1978, the Coast Guard issued an Advance Notice of Proposed Rulemaking (ANPRM) at 43 FR 10946, concerning the development of damage stability standards for Great Lakes bulk dry cargo vessels. This ANPRM indicated that a minimum level of subdivision was under consideration, solicited comments on specific questions of a technical and economic nature, and referred to the ongoing Maritime Administration (MarAd) study of economic benefits of watertight subdivision of Great Lakes vessels. Nineteen comments were received in response to the ANPRM.

Drafting Information

The principal persons involved in drafting this notice are Mr. Jay Howell, Project Manager, Office of Merchant Marine Safety, and Lcdr. Jack Orchard, Project Attorney, Office of the Chief Counsel.

Discussion

The Coast Guard's primary objective in formulating damage stability standards for Great Lakes bulk dry cargo vessels is to reduce the loss of life associated with vessel sinkings on the Great Lakes, especially losses caused by catastrophic, rapid sinkings which preclude the employment of lifesaving equipment. A secondary consideration is to prevent traffic blockages caused by loss of buoyancy in restricted channels. In addition, damage stability standards are intended to produce vessel designs that provide sufficient resistance to flooding incidents to save the vessel and its cargo.

As evidenced by the responses to the ANPRM, the concept of damage stability standards for Great Lakes vessels is a complex issue. The need for improved crew and vessel safety measures has been generally recognized since the tragic loss of the S.S. Edmund Fitzgerald. Therefore, the philosophy of including some kind of damage stability standard in future designs was not questioned by the commenters. Few commenters questioned the technical feasibility of providing either one or two compartment subdivision for both new vessel construction and as a retrofit on existing vessels. However, opinions differed as to how this should be accomplished. Some commenters expressed a lack of confidence in "guillotine" gates acting as barriers to provide watertight subdivision on vessels configured for self-unloading. (Self-unloading ships employ a conveyor system which runs the length of the cargo space, typically 75% to 90% of the vessel length, to unload the bulk cargo. To provide watertight integrity between bulkheads, "guillotine" gates or similar devices are used to create a seal around the conveyor belt where it passes through a bulkhead.)

The economic impact of imposing a damage stability standard received considerable attention, with widely varied opinions concerning feasibility or advisability, particularly with respect to existing vessels. One company indicated that establishing a retroactive subdivision standard would probably bankrupt its operation. Commenters who opposed a subdivision standard suggested several alternative methods which might improve the safety of Great Lakes vessels: procedural steps such as assuring hatch cover weathertight integrity; more extensive vessel traffic control; and modification of load lines to the pre-1969 standard (which required greater freeboard values).

Builders, naval architects, and seamen's unions expressed varying degrees of enthusiasm for damage stability standards. However, no definitive suggestions were made regarding what standard to impose or what damage assumptions to use. The commenters urged the Coast Guard to recognize the effects of longitudinal subdivision on damage stability, and to consider technical problems such as additional piping requirements and longitudinal strength in the damaged condition.

The MARAD Subdivision Study

Several commenters requested the opportunity to review the MarAd study, "Economic Benefits of Improved Watertight Subdivision for Great Lakes Bulk Carriers", before they provided their comments regarding this ANPRM. The study examines the economic effect of fitting Great Lakes bulk dry carriers with one or two compartment subdivision. It compares the cost of providing various levels of compartmentation with the cost savings which may be realized through a reduction in the number of vessels which are sunk. Standard economic analysis procedures were used in the

---

[19] See 38 FR 33734, 33735 (1973).

[20] Department of Energy, "Energy Information Administration Weekly Petroleum Status Report", June 13, 1980.

[21] *See generally*, G. Unzelman, and G. Michalski, "Octane Improvement Economics—Antiknocks and Alternatives", paper presented at 1979 National Petroleum Refiners Association Annual Meeting, NPRA Reprint AM–79–46.

[22] *Id. See also* 44 FR 10530 (1979); 44 FR 12242 (1979); 44 FR 20777 (1979).

[23] As to economic costs, the issue was raised but not decided in *Ethyl, supra*, 541 F.2d at 54 n. 124.

[24] *See* EPA's Air Quality Criteria For Lead, EPA–600/8–77–017 (1977), p. 12–8.

study to determine the change in the expected Net Present Value (NPV) of a vessel with respect to the risk of sinking, for each level of subdivision considered. Net Present Value is a standard measure of the economic worth of a vessel, which can be calculated using the initial cost, annual operating costs, annual revenues, economic life span, and end-of-life salvage value. However, the NPV at some future date cannot be determined because these variables are subject to random elements of risk which could incur large, unpredictable salvage and repair costs or could cut short the economic life span of the vessel. Therefore, the NPV should be expressed as a probabilistic quantity such as the "Expectation Value" of NPV. This value, symbolized mathematically as E(NPV), varies as the risk of sinking changes, so it can be used as a measure of merit in comparisons of safety systems (safety related design considerations or pieces of safety equipment). Each safety related system can be associated with both a cost and a change in the risk of sinking. If the cost of the safety system exceeds the increase in E(NPV) associated with the decrease in risk achieved by the system, the value of the vessel is decreased, and an economic disbenefit is said to occur.

Conversely, if the increase in E(NPV) associated with the decrease in risk achieved by the safety system exceeds the cost of the system, the value of the vessel increases and an economic benefit accrues. The relationship between the risk of sinking and the change in E(NPV) is a complex one which is highly dependent on the cost of sinking and the initial economic assumptions: ship price, operating costs, revenues, and the interest rate.

The initial assumptions made will determine the outcome of the study regarding both the quantitative assessment of the benefit or disbenefit and the conclusions reached. A salient point established early in the study is that a safety system of any kind is an economic liability to the vessel on which it is installed unless it is actually used to save the vessel or the lives of its crew, at which point practically any expense may be economically justified. The Coast Guard has reviewed the MarAd study with particular regard to ship survivability and crew safety rather than to economic benefit alone, and finds the study quite encouraging on these two points.

The study shows the Coast Guard that:

(1) Either one or two compartment subdivision protection is physically achievable on virtually all current Great Lakes ship arrangements if it is incorporated in the initial design.

(2) The number of additional bulkheads required to achieve a one or two compartment standard of subdivision may be quite small. In some cases, especially for one compartment protection, no more bulkheads are needed, but a slightly different arrangement of the same number of bulkheads provides the desired level of subdivision protection.

(3) The study utilizes the time honored standard of an average collision penetration of B/5 in its evaluation. The Coast Guard supports this decision as a first step for evaluation purposes. However, it may be proper to consider the greater possibility of minor damage (less than 760 mm (30 inches) penetration) in regard to the relative vulnerability of the ship to any impact penetration.

Alternatives To increase Survivability

The MarAd study and the PRM responses suggest several alternatives for improving damage stability or survivability, including several preventative measures. These alternatives can be categorized as either operational procedures or design and construction features.

Each of the suggested alternatives in the study can be effective in preventing or mitigating the effects of some of the mechanisms of vessel loss caused by flooding, so each should be analyzed before deciding on the most effective course of action. Alternative design and construction features include: compartmentation (such as that assumed in the MarAd study); other subdivision measures (including longitudinal bulkheads); stronger hatch covers and/or improved hatch and vent cover seals; and additional pumps. Alternative operational procedures include: weather limited operations (a heavy weather warning system); vessel traffic control; increased freeboard requirements; and hatch cover closure inspections.

Within each category of alternative there is a range of measures which could be instituted to improve the survivability or damage stability of Great Lakes bulk dry cargo vessels. The increased level of safety or survivability to be achieved is comparable to the magnitude of the changes made, thus the alternatives are susceptible to evaluation to ensure that an effective level of safety is achieved at a reasonable cost. The variety of worthwhile alternatives and combination of alternative measures which could be imposed is significant, so evaluation will require a considerable review effort by the Coast Guard. The damage stability measures adopted should be effective against most of the five major mechanisms of vessel loss:

(a) Loss of transverse stability (capsizing),
(b) Loss of longitudinal strength,
(c) Foundering,
(d) Plunging,
(e) Flooding from impact damage (collision, grounding, pier or tug impact, etc).

Passive containment systems such as compartmentation or subdivision are still attractive alternatives for several reasons: they are the traditional, proven methods of providing for damage stability in ship design; they are effective in four of the five major mechanisms of vessel loss listed above (with the exception of plunging); they require no crew action (other than maintenance) to function; and no international agreements would be necessary to implement a subdivision requirement. However, installation of additional bulkheads on existing vessels would be an expensive and time consuming process. In addition, if the hull girder is to withstand the loading in the flooded condition, longitudinal strengthening may be necessary. Extra bulkheads may also require the installation of additional piping systems, another expensive item.

Active prevention systems such as vessel traffic control and weather limited operation would require little or no direct vessel modification to achieve an increase in vessel safety. However, such systems would require active participation by the vessel's Master, improved weather and wave forecasting capabilities, and additional communications equipment. International agreements with Canada and compliance by foreign Masters would be required. In addition, these schemes would not mitigate the effects of an actual casualty (such as providing additional time for lifesaving measures). Furthermore, the increased communications system and weather/wave forecasting capability would require a substantial annual increase in Coast Guard budget allocations for both equipment and personnel to provide coverage over the Great Lakes region. Finally, it should be recognized that prevention systems alone will provide no protection in the event of flooding, should it occur despite all precautions.

Future Plans

Although this ANPRM is intended primarily to inform interested parties of the status of this rulemaking effort, comments and suggestions regarding subdivision and damage stability standards for Great Lakes bulk dry cargo vessels are solicited. The Coast Guard intends to evaluate the MarAd study as well as comments by the public regarding this study prior to publication of a proposed set of regulations.

(R.S. § 4405, (46 U.S.C. 375); R.S. § 4417, (46 U.S.C. 391); R.S. § 4462, (46 U.S.C. 416))

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

August 6, 1980.

[FR Doc. 80-24613 Filed 8-13-80; 8:45 am]
BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Parts 171, 173, 178

[Docket No. HM-176; Notice No. 80-7]

Specification and Usage Requirements for New DOT 3AL Seamless, Aluminum Cylinders

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, D.O.T.

ACTION: Notice of proposed rulemaking.

SUMMARY: The MTB proposes to amend the Department's Hazardous Materials Regulations to establish a new specification for aluminum cylinders and to authorize use of these cylinders for certain hazardous materials. A proposed new § 178.46 would contain the specification for the new 3AL aluminum cylinder which, bascially, would be constructed in accordance with recommended specifications contained in two petitions for rulemaking and the requirements specified in existing exemptions for aluminum cylinders. This proposed rule change would provide for greater acceptance of aluminum cylinders by purchasers and would terminate six exemptions authorizing use of over 1,000,000 cylinders.

DATE: Comments must be received November 1, 1980.

ADDRESS: Comments must be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590 (phone (202) 426-3148). Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. Office hours are 8:30 a.m. to 5 p.m., Monday thru Friday.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Chief, Technology Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590 (202-755-4906).

SUPPLEMENTARY INFORMATION: This proposed rule is based in part on the Compressed Gas Association's (CGA) petition dated November 3, 1975, and Airco Industrial Gases' (AIG) petition dated April 2, 1979, to add a new high pressure aluminum cylinder specification to Part 178. The proposed rule differs from the petitioners' requests on the following points.

Qualification, Maintenance and Filling of Cylinders

The applicable requirements pertaining to usage, maintenance, qualification and requalification of aluminum cylinders proposed by the petitioners are similar to current requirements specified for DOT 3A and DOT 3AA cylinders. This proposal modified the requests of the petitioners by incorporating certain requirements specified in existing aluminum cylinder exemptions (DOT-E 6498, 6567, 6668, 7042, 7941 and 8364) as follows:

(1) Since data on compatibility with aluminum is limited or nonexistent for some of the materials authorized in the exemptions and for many materials authorized for shipment in DOT 3A and DOT 3AA cylinders, the MTB proposes to allow only those materials authorized in existing exemptions for which satisfactory compatibility data are available to be charged and shipped in the proposed aluminum cylinders.

(2) Because of the lack of supporting retest data for aluminum cylinders, a ten year retest frequency (49 CFR 173.34(e)(11), (14), and (15)) and a visual inspection in lieu of a hydrostatic retest (49 CFR 173.34(e)(10)) would not be authorized. This matter will be addressed in a future rulemaking action when sufficient retest data has been accumulated to support such an action. The MTB invites public participation in the accumulation of this data.

(3) A "rejection elastic expansion" which is used as "service control" for DOT 3A and 3AA cylinders charged in accordance with 49 CFR 173.302(c) is not available for aluminum cylinders. Therefore, filling of aluminum cylinders would be limited to 100 per cent of the marked service pressure.

(4) When used in oxygen service, aluminum cylinders would be required:

(a) To have straight threads only;

(b) To have a marked service pressure not exceeding 3000 psi; and

(c) To be cleaned in compliance with Federal Specification RR-C-901b in order to remove contaminants that would support ignition.

(5) Due to the absence of industry justification and the lack of information on the compatibility of aluminum with certain hazardous materials listed in Part 173, manifolding of aluminum cylinders would not be authorized.

Specification for Aluminum Cylinders

The specification for aluminum cylinders in this proposed rule varies from the petitioners' proposals as follows:

(1) The MTB is proposing that inspections be performed by independent inspection agencies approved in accordance with §§ 173.300a or 173.300b. The duties of the inspector would be clarified so that certain specified tests must be witnessed or performed by the inspector, and certain quality controls using documented data must be verified by the inspector.

(2) To assure compliance with the material specification, the inspector, material producer or cylinder manufacturer would be required:

(a) To perform a chemical analysis on each melt or cast of material;

(b) To obtain a certified chemical analysis from the material manufacturer for each melt of material; or,

(c) To perform a check analysis on one cylinder out of each lot of 200 cylinders or less if in lieu of a certified chemical analysis a certificate indicating compliance with the material specification is obtained.

(3) In this proposal "Reporting volumetric capacity and tare weight" is not included in the listing of specific duties of the inspector (§ 178.46-4(d)). A specific listing of this duty is considered unnecessary since it would be performed in the process of fulfilling item (10) of 178.46-4(d)—"Preparing and providing the required report to the purchaser, cylinder maker, and the Associate Director for OE.

(4) A definition of a "lot" size, and "significant design change" would be provided.

(5) Starting material would be required to be traceable to cast stock and would be required to have uniform equiaxed grain structure not exceeding 250 microns average.

(6) The acceptable results obtained from certain physical and mechanical properties tests would be restricted to standards which are consistent with properties of cylinders manufactured under existing exemptions as follows:

(a) The elongation requirements would be changed from 10 percent to 14 percent using a 4D bar or 2 inch gauge length test specimen,

(b) The flattening test would be changed from 10t to 9t, and

(c) The minimum burst pressure would be increased from 2.3 to 2.5 times the marked service pressure; failure would be required to initiate in the sidewall; and the failed cylinder would be required to remain in one piece.

(7) An internal bottom knuckle radius of 12 percent of the inside diameter of the cylinder would be specified to minimize stress concentrations created by the transition from sidewall to bottom of the cylinder.

(8) The requirement for openings would be patterned after the more specific requirements in 49 CFR 178.45.

(9) Cylinders containing certain hazardous materials would be required to be packaged in strong outside packagings for proper protection of valves, safety devices or other connections.

(11) The flattening test procedure and the test result would be revised for consistency with current manufacturing practice. An acceptable level for failure would be specified for test results. An alternate bend test using an appropriately sized mandrel in lieu of performance of a flattening test would be authorized.

(12) As required by the regulations for other cylinder specifications, the symbol of the maker would be required to appear on the cylinder.

(13) The proposed rule would require an inspector to report the following additional information:

(a) the temper designation, along with the alloy designation, of the material;

(b) The flattening test result as a multiple of the actual sidewall thickness; and

(c) The design and the actual minimum thickness of the sidewall.

(14) The proposed rule would set the cyclic pressurization rate for the design qualification test at not more than 10 cycles per minute. In the absence of test data there is concern that a faster rate of cycling would not allow adequate time for the cylinder metal to fully respond to the stress reversals.

Cylinders determined to be in full compliance with the requirements specified in an exemption will be allowed to be re-marked with the appropriate cylinder specification number.

In addition to receiving comments on the other issues in this proposal, the MTB is taking the opportunity to solicit comments on hazardous materials being shipped in alumium cylinders. Comments should address or provide information on the following:

(1) A listing of materials actually shipped under exemption or other authority indicating the quantity shipped by cylinders, in cubic feet (gas), gallons (liquid) or some other unit of measurement along with a listing of the sources from which the compatibility data was derived such as shipping experience, tests, etc.

(2) Data to support or refute the 3000 psi service pressure limitation for aluminum cylinders in oxygen service.

(3) Data on the compatibility of aluminum with other hazardous materials not authorized in this proposed rule.

There are certain hazardous materials and conditions in which they are shipped that are in need of further evaluation to justify authorization for their use in aluminum cylinders such as those listed below:

(1) *Cylinders charged with poison A liquid or gas.*

(a) *Pressure Relief Devices.*—Section 173.34(d) prohibits the use of pressure relief devices on steel DOT specification cylinders charged with Poison A gas and liquid. The use of a pressure relief device is prohibited because it has been determined that poisonous materials must be contained to the maximum extent possible under all conditions. This prohibition is intended to provide the maximum safeguard against leakage under normal transportation conditions, in addition to maintaing the maximum possible duration of containment in a fire situation. For these materials, containment of the contents up to burst pressure of the cylinder is considered a lesser risk than that of releasing the contents at pressure relief device settings, even though there is a chance of cylinder failure.

(b) In addition to delaying the release of hazardous materials until cylinder failure occurs by prohibiting the use of a pressure relief device, further delay of such release is accomplished by lengthening the time to cylinder failure by limiting the filling pressure at 70° F. to a pressure less than the marked service pressure (see § 173.337(a)(1)). Consideration, then must be given to the filling pressure limits at 70° F. for aluminum cylinders to equate the time to release (cylinder failure) of the hazardous material to no less than the time to release for steel cylinders currently specified.

(2) *Aluminum cylinders charged with fluorine and other strong oxidizers.*

Fluorine and other strong oxidizers have been compatible with the steel cylinders currently authorized. These same materials are considered compatible with aluminum at ambient temperatures; however, evaluations must be made to determine if elevated temperatures such as in a fire situation change the compatibility of these hazardous materials with aluminum. The compatibility is to be determined using steel cylinders as the criteria.

(3) *Pressure limitations for certain hazardous materials.*

Cylinders charged with carbon monoxide and other gaseous materials are currently required to be filled at pressures less than the marked service pressure. Some of the reasons for this requirement are the reactions between the hazardous materials and the cylinder material, reactions between impurities in the hazardous material and the cylinder material (See § 173.301(f) and (g)), and a concern for the release of toxic materials if charged to the marked service pressure, as discussed in paragraph (1)(a) above.

It is requested that comments and meaningful data be supplied on these and other similar hazardous materials and their shipping state to provide the information necessary to determine the conditions that must be imposed and the acceptability of the aluminum cylinder for shipment of these materials. In developing the comments and data, the following should be taken into consideration.

1. Elevated temperature data (to include fire conditions) for cylinders without a pressure relief device to determine steel and aluminum cylinder failure levels at various temperatures and developed pressures for:
   a. Liquids (poison A)
   b. Liquefied gases (poison A)
   c. Nonliquefied gas (poison A)
2. Effect of varying filling pressures at elevated temperatures to reach comparability with steel cylinders for the same materials listed above.
3. Elevated temperature reaction data for steel and aluminum cylinders filled with oxidizers currently authorized to be shipped in steel cylinders.
4. Corrosion or other reaction data for hazardous materials currently required to be shipped at pressures less than the cylinder marked service pressure.

The cylinder marking requirements proposed in this notice at § 178.46–15 are not fully consistent with the revised marking requirements proposed under Docket HM–172; Notice 80–2 (45 FR 9960) published on February 14, 1980. The MTB's consideration of final regulations under this rulemaking will take into account its decision concerning final regulations under Docket HM–172.

Primary drafters of this document are Arthur J. Mallen, Paul H. Seay, Jose Pena, Hattie Mitchell, Office of Hazardous Materials Regulation, MTB, and Douglas A. Crockett, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, it is proposed to amend Parts 171, 173, and 178 of Title 49 Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In § 171.7, paragraphs (d)(5)(x), (xi) and (xii), and (d)(23) would be added, paragraph (d)(19) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(5) * * *

(x) ASTM E–8–79 is titled "Standard Methods of Tension Testing of Metallic Materials," 1979 edition.

(xi) ASTM B–221–76 is titled "Standard Specification for Aluminum Alloy Extruded Bars, Rods, Shapes and Tubes," 1976 Edition.

(xii) ASTM E 290–77 is titled "Semi-Guided Bend Test for Ductility of Metallic Materials," 1977 edition.

* * * * *

(19) Federal Specification RR–C–901b is titled "Federal Specification, Cylinders, Compressed Gas: With Valve or Plug and Cap; ICC 3AA RR–C–901b, August 1, 1967."

* * * * *

(23) Aluminum Associations' Handbook is titled "Aluminum Standards and Data," Sixth Edition, 1979.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.34, the Table in paragraph (e) would be amended by adding an entry "3AL" immediately following the entry "3A, 3AA"; paragraphs (e)(4) and (f)(4) would be revised, to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(e) * * *

Specification under which cylinder was made	Minimum retest pressure (pounds per square inch)	Retest period (years)
*	*	*
3AL	5/3 times service pressure	5
*	*	*
*	*	*

(4) A cylinder must be condemned when it leaks, or when internal or external corrosion, denting, bulging, or evidence of rough usage exists to the extent that the cylinder is likely to be weakened appreciably, or when the permanent expansion exceeds 10 percent of the total expansion, except that for DOT 4E aluminum cylinders, when the permanent expansion exceeds 12 percent of the total expansion. Except for DOT 3AL and DOT 4E aluminum cylinders, a cylinder condemned for excessive permanent expansion may be reheat-treated. (See paragraph (g) of this section.) DOT 4 series cylinders, condemned for other than excessive permanent expansion, may be repaired and rebuilt as otherwise provided in this section.

* * * * *

(f) * * *

(4) DOT 3AL and DOT 4E aluminum cylinders may not be reheat-treated and must be removed from service.

* * * * *

3. In § 173.119, paragraphs (a)(11), (f)(2) and (m)(9) would be revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) * * *

(11) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

(f) * * *

(2) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

(m) * * *

(9) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. All cylinder valves must be protected by one of the methods described in § 173.301(g) (1), (2), or (3) of this part. See § 173.34(e)(16).

* * * * *

4. In § 173.123, paragraph (a)(4) would be revised to read as follows:

§ 173.123 Ethyl chloride.

(a) * * *

(4) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

5. In § 173.124, paragraph (a)(2) would be revised to read as follows:

§ 173.124 Ethylene oxide.

(a) * * *

(2) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. All cylinders must be seamless or welded, and may not exceed 30 gallons nominal water capacity. Cylinders must be equipped with safety devices of the fusible plug type with threaded straight bore orifice and with yield temperature of 157° to 170° F. having a minimum vent area of 0.0055 square inch per pound of water capacity for cylinders not over 1-gallon capacity and 0.0012 square inch per pound of water capacity for all cylinders over 1-gallon capacity. Each cylinder must be tested for leakage at a pressure of at least 15 psig with an inert gas before each refilling. Filling must be such that the cylinder will not be liquid full at 185° F. Pressurizing valves must be provided for all cylinders over 1-gallon cacity. Educator tubes must be provided for all cylinders over 5-gallon capacity. Cylinders having a water capacity in excess of 1 gallon must be insulated with at least three coats of heat-retardant paint, of a type examined by the Bureau of Explosives and approved by the Associate Director for OE, applied over suitable primer and finished with suitable waterproof paint; or with other equally efficient insulation examined by the Bureau of Explosives and approved by the Associated Director for OE.

* * * * *

6. § 173.126 would be revised to read as follows:

§ 173.126 Nickel carbonyl.

Nickel carbonyl must be packed in specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. A cylinder used exclusively for nickel carbonyl may be given a complete external visual inspection in lieu of the interior hydrostatic pressure test required by § 173.34(e) of this part. Visual inspection must be in accordance with CGA Pamphlet C–6.

7. In § 173.134, paragraph (a)(1) would be revised to read as follows:

§ 173.134 Pyroforic liquids, n.o.s.

(a) * * *

(1) Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas having a minimum design pressure of 175 pounds per square inch is authorized. Cylinders with valves must be: * * *

* * * * *

8. In § 173.135, paragraph (a)(6) would be revised to read as follows:

§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) * * *

(6) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

9. In § 173.136, paragraph (a)(5) would be revised to read as follows:

§ 173.136 Methyl dichlorosilane and trichlorosilane.

(a) * * *

(5) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

10. In § 173.137, paragraph (a)(3) would be revised to read as follows:

§ 173.137 Lithium aluminum hydride, ethereal.

(a) * * *

(3) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. Valves or fittings must be protected from injury by a metal cap or equally efficient device securely attached to the cylinder.

11. § 173.138 would be revised to read as follows:

§ 173.138 Pentaborane.

Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas is authorized. Each cylinder must be protected with a valve protection cap or must be packed in a strong wooden box and blocked therein so as to protect the valve from injury under conditions normally incident to transportation. Cylinders not exceeding 2 inches in diameter nor 6 inches in lenght, excluding the length of the valve, may also be packed in strong solid fiberboard boxes, having no outside dimension less than 4 inches, completely filled with layers of strong corrugated fiberboard, the center of which shall be cut out to fit the cylinder valve, and otherwise so designed that neither the clyinder nor the valve will be in contact with the wall of the box under conditions normally incident to transportation.

12. In § 173.141, paragraph (a)(9) would be revised to read as follows:

§ 173.141 Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.

(a) * * *

(9) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

13. In § 173.148, paragraph (a)(2) would be revised to read as follows:

§ 173.148 Monoethylamine.

(a) * * *

(2) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

14. In § 173.245, paragraph (a)(28) would be revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(28) Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas is authorized. All cylinder valves must be protected by one of the methods described in § 173.301(g)(1), (2), or (3) of this part. See § 173.34(e)(16).

* * * * *

15. In § 173.251, paragraph (a)(1) would be revised to read as follows:

§ 173.251 Boron trichloride and boron tribromide.

(a) * * *

(1) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

16. In § 173.280, paragraph (a)(6) would be revised to read as follows:

§ 173.280 Trichlorosilanes.

(a) * * *

(6) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

17. In § 173.301, paragraphs (d)(2) and (3) would be revised; the Table in paragraph (h) would be amended by adding the entry "3AL" immediately following the entry "DOT3A," as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(d) * * *

(2) Specification steel or nickel cylinders containing the following nonliquefied gases may be manifolded: boron trifluoride, carbon monoxide, ethylene, hydrogen, hydrocarbon gases, methane, and nitrogen trifluoride, provided individual cylinders are equipped with approved safety relief devices as required by § 173.34(d) or § 173.315(i) of this part: *and provided further,* that each cylinder is equipped with an individual shutoff valve that must be tightly closed while in transit. Manifold branch lines of these individual shutoff valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines. A temperature measuring device may be inserted in one cylinder of a manifold installation in place of the shutoff valve.

(3) Specification steel or nickel cylinders containing the following gases may be manifolded: ethane, ethylene, liquefied hydrocarbon gas, hydrogen chloride (anhydrous), liquefied petroleum gas and propylene provide each cylinder is equipped with approved safety relief devices as required by § 173.34(d) or § 173.315(i) of this part: and provided further, that each cylinder is equipped with an individual shutoff valve that must be tightly closed while in transit. Each cylinder must be separately charged and means must be provided to insure that no interchange of cylinder contents can occur during transportation. Manifold branch lines to these individual shutoff valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines.

* * * * *

(h) * * *

Cylinders
* * * * *
DOT 3AL
* * * * *

* * * * *

18. In § 173.302, paragraph (a)(4)(iii) would be revised; a new paragraph (a)(5) would be added; and paragraph (f) would be revised to read as follows:

§ 173.302 Charging of cylinders with nonliquefied compressed gases.

(a) * * *

(4) * * *

(iii) Each cylinder must be cleaned and tested for oil contamination in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2, 3.8.2 and 4.4.2.3. One cylinder selected at random from each lot of 200 or less must be tested and meet the standard of cleanliness specified.

(5) Specification 3AL (§ 178.46 of this subchapter) cylinders are authorized only for the following nonliquefied gases: air, argon, carbon monoxide, helium, hydrogen, krypton, methane, nitrogen, neon, oxygen and xenon. When used in oxygen service, aluminum cylinders must be in compliance with the following conditions:

(i) Cylinder must be equipped only with brass valves;

(ii) Cylinder must have only straight threads in the opening;

(iii) Each cylinder must be cleaned and tested for oil contamination in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2, 3.8.2 and 4.4.2.3. One cylinder selected at random from each lot of 200 or less must be tested and meet the standard of cleanliness specified; and

(iv) Cylinder must have a marked service pressure not exceeding 3,000 psi.

* * * * *

(f) *Carbon monoxide.* Carbon monoxide must be shipped in a specification 3A, 3AX, 3AA, 3AAX, 3AL, 3, 3E, or 3T, (§§ 178.36, 178.37, 178.46, 178.42, 178.45 of this subchapter) cylinder having a minimum service pressure of 1,800 psig. The pressure in the cylinder must not exceed 1,000 psig at 70°F. except that if the gas is dry and sulfur free, the cylinder may be charged to five-sixths of the cylinder service pressure or 2,000 psig, whichever is the lesser.

* * * * *

19. In § 173.304, paragraphs (a)(1) and (d)(3)(i) would be revised; the table in paragraph (a)(2) would be revised to authorize DOT 3AL cylinders with various service pressures for certain commodities as follows:

§ 173.304 Charging of cylinders with liquefied compressed gases.

(a) * * *

(1) Specifications 3,[1] 3A, 3AA, 3AL, 3B, 3BN, 3D, 3E, 4, 4A, 4B, 4BA, 4B–ET, 4BW, 4E, 9,[1] 25,[1] 26,[1] 38,[1] 39, 40,[1] or 41[1] (§§ 178.36, 178.37, 178.46, 178.38, 178.39, 178.41, 178.42, 178.48, 178.49, 178.50, 178.51, 178.55, 178.61, 178.65, 178.68 of this subchapter), cylinders except that no specification 3AL, 9, 39, 4E, 40, or 41 cylinders may be charged and shipped with a mixture containing a pyrophoric liquid, carbon bisulfide (disulfide), ethyl chloride, ethylene oxide, nickel carbonyl, spirits of nitroglycerin, or poisonous material (class A, B, or irritating material), unless specifically authorized in this part.

(2) * * *

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table)
Anhydrous ammonia	54 pct	DOT–4; DOT–3AA480; DOT–3AAX480; DOT–3A480X; DOT–4A480; DOT–8; DOT–4AA480; DOT–3E1800, DOT–3AL480.
* * * *	*	* * *
Carbon dioxide, liquefied (See Notes 4, 7, and *)	68 pct	DOT–3A1800; DOT–3AX1800; DOT–3AA1800; DOT–3AAX1800; DOT–8; DOT–3E1800; DOT–3T1800; DOT–3HT2000; DOT–39; DOT–3AL1800.
Carbon dioxide-nitrous oxide mixture (See Notes 7 and *)	68 pct	DOT–3A1800; DOT–3AX1800; DOT–3AA1800; DOT–3AAX1800; DOT–8; DOT–3E1800; DOT–3T1800; DOT–3HT2000; DOT–39; DOT–3AL1800.
* * * *	*	* * *
Cyclopropane (See Notes 6 and 9)	55 pct	DOT–3A225; DOT–3A480X, DOT–3AA225, DOT–3B225; DOT–4A225; DOT–4AA480, DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–4E240ET; DOT–8; DOT–3E1800; DOT–39; DOT–3AL225.
Dichlorodifluoromethane (See Note 8)	119 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–4B240ET; DOT–4E225; DOT–8; DOT–39; DOT–41; DOT–3E1800; DOT–3AL225.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (See Note 8).	Not liquid full at 130° F	DOT–3A240; DOT–3AA240, DOT–3B240; DOT–3E1800; DOT–4A240; DOT–4B240; DOT–4BA240; DOT–4BW240; DOT–4E240; DOT–8; DOT–39; DOT–3AL240.
Difluoroethane	79 pct	DOT–3A150; DOT–3AA150; DOT–3B150; DOT–4B150; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–3AL150.
Difluoromonochloroethane (See Note 8)	100 pct	DOT–3A150; DOT–3AA150; DOT–3B150; DOT–4B150; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL150.
* * * *	*	* * *
Ethane (See Notes 8 and 9)	35.8 pct	DOT–3A1800; DOT–3AX1800; DOT–3AA1800; DOT–3AAX1800; DOT–8; DOT–3E1800; DOT–3T1800; DOT–39; DOT–3AL1800.
Ethane (See Notes 8 and 9)	38.8 pct	DOT–3A2000; DOT–3AX2000; DOT–3AA2000; DOT–3AAX2000; DOT–3T2000; DOT–39; DOT–3AL2000.
Ethylene (See Notes 8 and 9)	31.0 pct	DOT–3A1800; DOT–3AX1800; DOT–3AA1800; DOT–3AAX1800; DOT–8; DOT–3E1800; DOT–3T1800; DOT–39; DOT–3AL1800.
Ethylene (See Notes 8 and 9)	32.5 pct	DOT–3A2000; DOT–3AX2000; DOT–3AA2000; DOT–3AAX2000; DOT–3T2000; DOT–39; DOT–3AL2000.
Ethylene (See Notes 8 and 9)	35.5 pct	DOT–3A2400; DOT–3AX2400; DOT–3AA2400; DOT–3AAX2400; DOT–3T2400; DOT–39; DOT–3AL2400.
* * * *	*	* * *
Hydrogen sulfide (See Note 10)	62.5 pct	DOT–3A480; DOT–3AA480; DOT–3B480; DOT–4A480; DOT–4B480; DOT–4BA480; DOT–4BW480; DOT–26–480; DOT–3E1800; DOT–3AL480.
* * * *	*	* * *
Methylacetylenepropadiene, stabilized (See Note 5)	Not liquid full at 130° F	DOT–4B240, without brazed seams; DOT–4BA240, without brazed seams; DOT–3A240; DOT–3AA240; DOT–3B240; DOT–3E1800; DOT–4BW240; DOT–4E240; DOT–4B240ET; DOT–4; DOT–41; DOT–3AL240.
* * * *	*	* * *
Monochlorodifluoromethane (See Note 8)	105 pct	DOT–3A240; DOT–3AA240; DOT–3B240; DOT–4B240; DOT–4BA240; DOT–4BW240; DOT–4B24 ET; DOT–4E240; DOT–39; DOT–41; DOT–3E1800; DOT–3AL240.
Monochloropentafluoroethane (See Note 8)	110 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL225.
Monochlorotrifluoromethane (See Note 8)	100 pct	DOT–3A1800; DOT–3AA1800; DOT–3; DOT–3E1800; DOT–39; DOT–3AL1800.
* * * *	*	* * *
Sulfur dioxide (See Note 6)	125 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–4B240ET; DOT–3; DOT–4; DOT–25; DOT–26–150; DOT–38; DOT–39; DOT–3E1800; DOT–3AL225.
Sulfur hexafluoride	120 pct	DOT–3A1000; DOT–3AA1000; DOT–3; DOT–3E1800; DOT–3AL1000.
* * * *	*	* * *

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table)
Trifluoromonobromomethane (See Note 8)	120 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–4E225; DOT–8; DOT–39; DOT–41; DOT–3E1800; DOT–3AL225.
Trifluoromonochloroethane (See Note 8)	100 pct	DOT–3A150; DOT–3AA150; DOT–3B150; DOT–4B150; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL150.
Vinyl bromide (See Note 9)	70 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL225.
Vinyl chloride (See Note 9)	81 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL225.
Vinyl fluoride (See Note 9)	59 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL225.
Vinylidene chloride (See Note 9)	99 pct	DOT–3A225; DOT–3AA225; DOT–3B225; DOT–4A225; DOT–4B225; DOT–4BA225; DOT–4BW225; DOT–3E1800; DOT–39; DOT–3AL225.

§ 173.46–5 Authorized material and

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301@ (see notes following table)
Vinyl chloride (See Note 5)	84 pct	DOT-4B150, without brazed seams; DOT-4BA225, without brazed seams; DOT-4BW225; DOT-3A150; DOT-3AA150; DOT-25; DOT-3E1600; DOT-3AL150.

(d) * * *

(3) * * *

(i) Specification 3,[1] 3A, 3AA, 3AL, 3B, 3E, 4, 4A, 4B, 4BA, 4B240FLW, 4B240ET, 4BW, 4B240X,[1] 4E, 9,[1] 25,[1] 26,[1] 36,[1] 39, or 41[1] (§§ 178.36, 178.37, 178.46, 178.38, 178.42, 178.48, 178.49, 178.50, 178.51, 178.54, 178.55, 178.61, 178.68, 178.65, of this subchapter) cylinders. The internal volume of a specification 39 cylinder must not exceed 75 cubic inches.

20. In § 173.346, paragraph (a)(11) would be revised to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(11) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

21. In § 173.354, paragraph (a)(3) would be revised to read as follows:

§ 173.354 Motor fuel antiknock compound or tetraethyl lead.

(a) * * *

(3) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

22. In § 173.358, paragraph (a)(7) would be revised to read as follows:

§ 173.358 Hexaethyl tetraphosphate; methyl parathion; organic phosphate compound; organic phosphorous compound; parathion; tetraethyl dithio pyrophosphate; and tetraethyl phyrophosphate, liquid.

(a) * * *

(7) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

23. In § 173.382, paragraph (a)(4) would be revised to read as follows:

§ 173.382 Irritating materials, not specifically provided for.

(a) * * *

Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas is authorized. These cylinders must be qualified, maintained, and filled in accordance with §§ 173.34 and 173.301(g) of this part. If used for material with vapor pressures exceeding 25 psig at 70° F., they must also be retested as required by § 173.34(e).

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

24. The Table of Sections to Subpart C, Part 178 would be amended by adding an entry for § 178.46 to read as follows:

* * * * *

§ 178.46 Specification 3AL; seamless cylinders made of definitely prescribed aluminum alloys.

* * * * *

25. § 178.46 would be added to read as follows:

§ 178.46 Specification DOT-3AL; seamless cylinders made of definitely prescribed aluminum alloys.

§ 178.46-1 Compliance.

Each specification DOT 3AL seamless cylinder must comply with this section and § 173.24 of this subchapter.

§ 178.46-2 Size and service pressure.

(a) The maximum water capacity is 1000 pounds.

(b) The minimum service pressure is 150 psi (see § 173.300(h) of this subchapter).

§ 178.46-3 Inspection.

Inspections and verifications must be performed by an independent inspection agency approved in writing by the Associate Director for OE in accordance with § 173.300a of this subchapter. Chemical analyses and tests as specified must be made within the United States unless otherwise approved in writing by the Associate Director for OE in accordance with § 173.300b of this subchapter.

§ 178.46-4 Duties of the inspector.

(a) The inspector shall determine that all materials comply with this specification before releasing those materials for cylinder manufacture.

(b) The inspector shall verify compliance with the provisions of § 178.46-5(d)(1) by:

(1) Performing a chemical analyses on each melt or cast or other unit of starting material;

(2) Obtaining a certified chemical analysis from the material manufacturer for each melt or cast of material; or

(3) Performing a check analysis on one cylinder out of each lot of 200 cylinders or less, if in lieu of a certified chemical analysis a certificate indicating compliance with the material specification is obtained.

(c) The inspector shall verify ultrasonic inspection of all material by inspection or by obtaining the materials producer's certificate of ultrasonic inspection. Ultrasonic inspection must be performed or verified as having been performed in accordance with § 173.46-5(e).

(d) The inspector shall determine that each cylinder complies with this specification by:

(1) Making a complete internal inspection before closing;

(2) Making a complete external inspection;

(3) Verifying that heat treatment was proper;

(4) Selecting samples for all tests and check chemical analysis;

(5) Witnessing each test;

(6) Measuring the wall thickness and verifying that the prescribed minimum thickness was met;

(7) Verifying that the identification of material is proper;

(8) Verifying the threads, by gauge;

(9) Determining that each cylinder is marked in compliance with the specification; and

(10) Preparing and providing the required report to the purchaser, cylinder maker, and the Associate Director for OE.

(e) In this specification, a "lot" means a group of cylinders successively produced having the same:

(1) Size and configuration;

(2) specified material of construction;

(3) process of manufacture and heat treatment;

(4) equipment of manufacture and heat treatment; and

(5) Conditions of time, temperature and atmosphere during heat treatment.

In no case may the lot size exceed 200 cylinders. Any cylinder processed for use in the required destructive physical testing need not be counted as being one of the 200, but must have been processed with the lot.

§ 178.46-5 Authorized material and identification of material.

(a) Starting stock must be cast stock that is later scalped prior to extrusion of the cylinder shell. If starting stock is not cast stock, it must be traceable to scalped cast stock.

(b) Material with seams, cracks, laminations, or other defects likely to weaken the finished cylinder may not be used.

(c) Material must be identified by a suitable method that will identify the alloy, the aluminum producer's cast number, and when performed, the solution heat treat batch number during all manufacturing operations.

(d) The material must be of uniform quality. Only the following heat treatable aluminum alloys are permitted:

BILLING CODE 4910-60-M

(1) Chemical Composition Limits [1/]

Aluminum Association Alloy Designation Number	CHEMICAL COMPOSITION										
									Others [2/]		
	Si	Fe	Cu	Mn	Mg	Cr	Zn	Ti	Each	Total	Al
6351	0.7-1.3	0.50 Max	0.10 Max	0.40-0.8	0.40-0.8		0.20 Max	0.20 Max	0.05 Max	0.15 Max.	Remainder
6061	0.40-0.8	0.7 Max	0.15-0.40	0.15 Max	0.8-1.2	0.04-0.35	0.25 Max	0.15 Max	0.05 Max	0.15 Max	Remainder

(2) Physical Property Limits

Alloy and Temper	TENSILE STRENGTH - PSI		Elongation - Percent Minimum for 2" or 4D [3/] Size Specimen
	Ultimate-Minimum	Yield-Minimum	
6351-T6	42,000	37,000	14
6061-T6	38,000	35,000	14

1/ ASTM B 221-76 Standard Specification for Aluminum-alloy Extruded Bars, Rods, Shapes, and Tubes, Table 1 Chemical Composition Limits.

2/ Analysis is regularly made only for the elements for which specific limits are shown, except for unalloyed aluminum. If, however, the presence of other elements is suspected to be, or in the course of routine analysis is indicated to be in excess of specified limits, further analysis is made to determine that these other elements are not in excess of the amount specified. (Aluminum Association Standards and Data - Sixth Edition 1979).

3/ "D" represents specimen diameter.

BILLING CODE 4910-60-C

(e) Before parting, all starting stock must be 100 per cent ultrasonically inspected, along the length at right angles to the central axis from two positions at 90° to one another. The equipment and continuous scanning procedure must be capable of detecting and rejecting internal defects such as cracks which have an ultrasonic response greater than that of a calibration block with a 5/64-inch diameter flat bottomed hole.

(f) Cast stock must have uniform equiaxed grain structure not to exceed 250 microns average.

(g) Any starting stock not complying with the above must be rejected.

§ 178.46-6 Manufacture.

(a) Cylinder shells must be manufactured by the backward extrusion method and have a cleanliness level adequate to ensure proper inspection.

(b) No fissure or other defect is acceptable that is likely to weaken the finished cylinder below the design strength requirements. A reasonably smooth and uniform surface finish is required. If not originally free from such defects, the surface may be machined or otherwise conditioned to eliminate these defects.

(c) The cylinder base must have a thickness not less than the prescribed minimum wall thickness of the cylindrical shell. The interior of the base must be concave to pressure and have a basic torispherical, hemispherical, or ellipsoidal shape with the dish radius no greater than 1.2 times the inside diameter of the shell. The inside knuckle radius must not be less than 12 percent of the inside diameter of the cylindrical shell.

(d) For free standing cylinders the base thickness must be at least two times the minimum wall thickness at the juncture between the cylinder base and the floor when the cylinders are in the vertical position.

(e) Welding or brazing is prohibited.

(f) Each new design and any significant change to any acceptable design must be qualified for production by testing prototype samples as follows:

(1) Three samples must be subjected to 100,000 pressure reversal cycles between zero and service pressure or 20,000 pressure reversal cycles between zero and test pressure, at a rate not in excess of 10 cycles per minute, without failure.

(2) Three samples must be pressurized to destruction and failure must not occur at less than 2.5 times the marked cylinder service pressure. Each cylinder must remain in one piece. Failure must initiate in the cylinder sidewall in a longitudinal direction.

(g) In this specification "significant change" means a 10 percent or greater change in cylinder design wall thickness or diameter; a 20 percent or greater change in length, service pressure or rated capacity; and any change in material.

§ 178.46-7 Wall thickness.

(a) The minimum wall thickness must be such that the wall stress at the minimum specified test pressure may not exceed 80 per cent of the minimum yield strength and may not exceed 67 per cent of the minimum ultimate tensile strength as verified by physical tests in § 178.46-13.

(b) Calculations must be made by the formula:

$$S=[P(1.3D^2+0.4d^2)]/[D^2-d^2-d^2]$$

Where:

S=wall stress in pounds per square inch;
P=prescribed minimum test pressure in pounds per square inch (see § 178.46-11(c));
D=outside diameter in inches;
d=inside diameter in inches.

(c) The minimum wall thickness for any cylinder with an outside diameter greater than 5 inches must be 0.125 inch.

§ 178.46-8 Openings.

(a) Openings are permitted in heads only.

(b) The size of any centered opening in a head may not exceed one-half the outside diameter of the cylinder.

(c) Other openings are permitted in the head of a cylinder if:

(i) Each opening does not exceed 2.625 inches in diameter, or one-half the outside diameter of the cylinder;

(ii) Each opening is separated from each other by a ligament; and

(iii) Each ligament which separates two openings must be at least three times the average of the diameters of the two openings.

(d) All openings must be circular.

(e) All openings must be threaded. Threads must comply with the following:

(1) Each thread must be clean cut, even, without any checks, and to gauge.

(2) Taper threads, when used, must be the American Standard Pipe Thread (NPT) type complying with the USDC, NBS Handbook H-28, Part III, Section VII, or the National Gas Taper Thread (NGT) standard complying with NBS Handbook H-28, Part II, Sections, VII and IX.

(3) Straight threads conforming with National Gas Straight Thread (NGS) standards are authorized. These threads must comply with NBS Handbook H-28, Part II, Section VII and IX.

§ 178.46-9 Heat treatment.

Prior to any test, all cylinders must be subject to a solution heat treatment and aging treatment appropriate for the aluminum alloy used.

§ 178.46-10 Safety relief devices and protection for valves, safety devices, and other connections.

Pressure relief devices and protection arrangements for valves, pressure relief devices, and other connections must comply with §§ 173.34(d) and 173.301(g) of this subchapter.

§ 178.46-11 Hydrostatic test.

(a) Each cylinder must be subjected to an internal test pressure using the water jacket equipment and method or other suitable equipment and method. The testing apparatus must be operated in a manner so as to obtain accurate data. The pressure gauge used must permit reading to an accuracy of 1 percent. The expansion gauge must permit reading to an accuracy of 1 percent of total expansion or 0.1 cubic centimeter, whichever is greater.

(b) The test pressure must be maintained for a sufficient period of time to assure complete expansion of the cylinder. In no case may the pressure be held less than 30 seconds. If, due to failure of the test apparatus, the required test pressure cannot be maintained, the test may be repeated at a pressure increased by 10 percent or 100 psi, whichever is lower. If the test apparatus again fails to maintain the test pressure, the cylinder being tested must be rejected. Any internal pressure applied to the cylinder after heat treatment and before any official test may not exceed 90 percent of the test pressure.

(c) The minimum test pressure is the greatest of the following:

(1) 450 psi regardless of service pressure;

(2) Two times the service pressure for cylinders having service pressure less than 500 psi; or

(3) Five-thirds times the service pressure for cylinders having a service pressure of at least 500 psi.

(d) Permanent volumetric expansion may not exceed to 10 percent of total volumetric expansion at test pressure.

§ 178.46-12 Flattening test.

(a) The flattening test must be performed on one cylinder taken at random out of each lot of 200 or less by placing the cylinder between wedge shaped knife edges having a 60° included angle, and rounded in accordance with the following table. The longitudinal axis of the cylinder

must be at an angle 90° to the knife edges during the test.

(1) The yield strength must be determined by either the "offset"

appear near the serial number; then the date of test (such as 5-73 for May 1973).

Hydrostatic tests, flattening tests, tensile tests of material, and other tests, as

must be at an angle 90° to the knife edges during the test.

Table

Cylinder wall thickness in inches	Radius in inches
Under 0.150	0.500
0.150 to 0.249	.875
0.250 to 0.349	1.500
0.350 to 0.449	2.125
0.450 to 0.549	2.750
0.550 to 0.649	3.500
0.650 to 0.749	4.125

(b) An alternate bend test in accordance with ASTM E 290–77 performed on two test specimens cut from a ring, using a mandrel diameter not more than 6 times the wall thickness is authorized in the following cases:

(1) When the length of the cylindrical portion of the cylinder is less than 2 times the cylinder diameter; or

(2) When the wall thickness is greater than 0.500 inch.

(c) Each test cylinder must withstnd flattening to nine times the wall thickness without cracking. When the alternate bend test is used, the test specimens shall remain uncracked when bent around a mandrel in the direction of curvature of the cylinder wall, until the interior edges are at a distance apart not greater than the diameter of the mandrel.

§ 178.46–13 Physical test.

(a) Two test specimens cut from one cylinder representing each lot of 200 cylinders or less must be tested. The results of the test must conform to at least the minimum acceptable physical property limits for aluminum alloys as specified in § 178.46–5(d)(2).

(b) Specimens must be 4D bar or gauge length 2 inches with width not over 1½-inch taken in the direction of extrusion approximately 180° from each other and tested in accordance with ASTM E–8–79. The specimen, exclusive of grip ends, may not be flattened. Grip ends may be flattened to within one inch of each end of the reduced section. When the size of the cylinder does not permit securing straight specimens, the specimens may be taken in any location or direction and may be straightened or flattened cold by pressure only, not by blows. When such specimens are used, the inspector's report must show that the specimens were so taken and prepared. Heating of specimens for any purpose is forbidden.

(c) The yield strength in tension must be the stress corresponding to a permanent strain of 0.2 percent of the gauge length.

(1) The yield strength must be determined by either the "offset" method or the "extension under load" method as prescribed in ASTM Standard E–8–79.

(2) In using the "extension under load" method, the total strain (or "extension under load") corresponding to the stress at which the 0.2 percent permanent strain occurs may be determined with sufficient accuracy by calculating the elastic extension of the gauge length under appropriate load and adding thereto 0.2 percent of the gauge length. Elastic extension calculations must be based on an elastic modulus of 10,000,000 psi. In the event of controversy, the entire stress-strain diagram must be plotted and the yield strength determined from the 0.2 percent offset.

(3) For the purpose of strain measurement, the initial strain must be set while the specimen is under a stress of 6,000 psi, the strain indicator reading being set at the calculated corresponding strain.

(4) Cross-head speed of the testing machine may not exceed ⅛ inch per minute during yield strength determination.

§ 178.46–14 Rejected cylinder.

Reheat treatment is authorized one time; subsequent thereto, cylinders must pass all prescribed tests to be acceptable.

§ 178.46–15 Marking.

(a) Each cylinder must be plainly and permanently marked, by stamping on the cylinder shoulder, top head, or neck, in the following order)

(1) The specification marking "DOT 3AL" must appear first on the cylinder followed immediately by the service pressure (for example: DOT–3AL 1800).

(2) The serial number and an identifying symbol or letters appear next; location of the number to be just below or immediately following the DOT mark; location of the symbol to be just below or immediately following the number. The symbol and numbers must be those of the maker, or of the purchaser or user if the maker's symbol also appears near the date of the original test. The symbol must be registered with the Associate Director for OE. No duplication is authorized. Examples:

DOT–3AL 1800
1234

DOT–3AL1800–1234–XY.

(3) The inspector's official mark must appear near the serial number; then the date of test (such as 5–73 for May 1973), so placed that the dates of subsequent test can be easily added.

(4) Marks must be at least ¼ inch high if space permits.

(b) Other marks are authorized provided they are made in low stress areas other than the side wall and are not of a size and depth that will create harmful stress concentrations. Such marks may not conflict with any DOT required markings.

§ 178.46–16 Inspector's report.

(a) Required to be clear, legible, and in the following form:

Place _____
Date _____
Gas Cylinders:
Manufactured for _____
Location at _____
Manufactured by _____
Location at _____
Consigned to _____
Location at _____
Quantity _____
Size _____ inches outside diameter by _____ inches long
Marks stamped into the shoulder of the cylinder are:
Specification DOT _____
Serial number _____ to _____ inclusive
Identifying symbol (registered) _____
Cylinder manufacturer's identification symbol _____
Inspector's mark _____
Test Date _____
Tare weights (yes or no) _____
Other marks (if any) _____
These cylinders were made by process of _____
The cylinders were heat treated by the process of _____
(alloy and temper designation).

The material used was verified as to chemical analysis and record thereof is attached hereto.

All material and each cylinder were inspected; all that were accepted were found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the cylinder. The processess of manufacture and heat treatment of cylinders were supervised and found to be efficient and satisfactory.

The cylinder walls were measured and the minimum thickness noted was _____ inch. The outside diameter was determined to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of _____ pounds per square inch. The required minimum thickness is _____ inch and the maximum wall stress allowed is _____ pounds per square inch at an internal pressure of _____ pounds per square inch.

Hydrostatic tests, flattening tests, tensile tests of material, and other tests, as prescribed in Specification DOT–3AL were made in the presence of the inspector and all material and cylinders accepted were found to be in compliance with the specification. Records thereof are attached hereto.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the Department of Transportation Specification 3AL except as follows:
Exceptions _____

(Signed) _____
Inspector
(Place) _____
(Date) _____

BILLING CODE 4910–60–M

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

V 45 AG 14 80 UMI

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by .... inches long.
Made by ..... Company

Serial Nos. of cylinders tested arranged numerically	Actual test pressure (lbs. per sq. inch)	Total expansion (cubic centimeters) 1/	Permanent expansion cubic centimeters) 1/	Percent ratio of permanent expansion to total expansion (Actual value)	Tare weight (lbs) 2/	Volumetric capacity
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

1/ If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressures, then the basic data on which the calculations are made, such as the pump factors, temperature of liquid, coeffficient of compressibility of liquids, etc., must also be given.

2/ Do not include removable cap but state whether with or without valve. These weights must be accurate to a tolerance of 1 percent.

(Signed) .....

(Place) .....

(Date) .....

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by ..... inches long.
Made by ..... Company.
For ..... Company.

Test No.	Cylinders represented by test (Serial Nos.)	Yield Strength at 0.2 percent offset (lbs. per sq. inch).	Tensile Strength (Pounds per sq. inch).	Elongation (Percent in ____ size specimen)	Flattening Test (Record as multiple of t).
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

(Signed) .....

(Place) .....

(Date) .....

RECORD OF CHEMICAL ANALYSES OF MATERIAL FOR CYLINDERS

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A

policy statement. The amendments

many more comments remain to be

RECORD OF CHEMICAL ANALYSES OF MATERIAL FOR CYLINDERS

Numbered .....to ..... inclusive.
Size ..... inches outside diameter by .... inches long.
Made by ..... Company.
For ..... Company.

Note: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file," or by attaching a copy of the certificate.

Alloy Designation*	Cylinders Represented (Serial Numbers)	Chemical Analyses										
										Others		
		Si	Fe	Cu	Mn	Mg	Cr	Zn	Ti	Ea.	Total	Al
.....	.....	...	...	...	...	...	...	...	...	...	...	...
.....	.....	...	...	...	...	...	...	...	...	...	...	...
.....	.....	...	...	...	...	...	...	...	...	...	...	...
.....	.....	...	...	...	...	...	...	...	...	...	...	...

* Aluminum Association Alloy Designation Number

The analyses were made by .....

(Signed) .....
(Place) .....
(Date) .....

BILLING CODE 4910-60-C

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on July 31, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24648 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 364]

Railroad Freight Forwarder Contract Rates; General Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Proposed policy statement; notice of termination of proceeding.

SUMMARY: The issues in this proceeding were (1) the jurisdiction of the Commission to permit the filing of contract rates between rail carriers and freight forwarders; and (2) the standards to be used to judge these contracts, if permitted. (44 FR 33714, June 12, 1979) We had proposed, for these purposes, to treat freight forwarders as shippers, and had suggested that the standards developed in Ex Parte No. 383F, Change of Policy—Railroad Contract Rates, for rail contracts with shippers be imposed on rail contracts with freight forwarders.

Pub. L. No. 96-296 has made a number of changes that require a realignment of this approach. New section 10703(a)(4)(E) specifically authorizes these contracts with rail and water carriers. In addition, the legislative history [1] clearly states that, for contracting purposes, freight forwarders are to be treated as carriers, not as shippers. Thus, the issues raised in the notice in this proceeding are no longer relevant. Instead, the statutory amendments reflect the intent to treat these contracts in a fashion similar to contracts presently authorized under section 10766 (b). In addition, in this proceeding we proposed to issue a policy statement. The amendments require actual rules. Due to this basic inconsistency between our original notice and the recent statutory amendments, we are discontinuing this proceeding. A new proceeding, Ex Parte No. 364 (Sub No. 1), Freight Forwarder Contract Rates—Implementation of Pub. L. 96-296, is being instituted on this date to accomplish the changes required by the legislation.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall (202) 275-7693.

(49 U.S.C. 10321, 10703(a)(4)(E), 10749, and 10766(b), 5 U.S.C. 553.)

Decided: July 31, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24786 Filed 8-13-80; 8:45 am]

BILLING CODE 7035-01-M

[1] H.R. Rep. No. 96-1069, 96th Congress, 2d Session, p. 35 (1980).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period on Leopard Reclassification

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of comment period.

SUMMARY: In the Federal Register of 24 March 1980 (45 FR 19007), the Service published a proposed rule to reclassify the leopard (*Panthera pardus*) under the Endangered Species Act of 1973, from Endangered to Threatened status in Sub-Saharan Africa; the Service also proposed to permit the importation of sport-hunted leopard trophies from this area under the rules and regulations established by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The comment period permitted by the proposal expired on June 24, 1980, and during this established comment period the Service received an unprecedented amount of correspondence on the proposal. At the close of the comment period, the Service was still receiving a large volume of mail daily on the leopard issue, and it is obvious that many more comments remain to be received. Because of the great public interest in the matter, and the Service's desire to adequately address all the issues involved, it has now been decided that the comment period will be extended until November 24, 1980. All parties with data, comments, opinion, new insights, etc. on the proposal to reclassify the leopard in Sub-Saharan Africa, and to permit regulated importation of sport-hunted trophies, are invited to correspond with the Service before November 24, 1980.

DATES: All relevant comments and materials concerning the March 24, 1980, proposal to reclassify the leopard as a Threatened species and to permit the regulated import of sport-hunted trophies of this species, must be received no later than November 24, 1980.

ADDRESSES: All comments and materials should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Such comments and materials will be available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1980, the Service published in the **Federal Register** (45 FR 19007) a proposal to reclassify the leopard (*Panthera pardus*) in Sub-Saharan Africa from Endangered to Threatened status. The Service also proposed to permit the importation into the United States of legally-taken, sport-hunted trophies under the terms and conditions specified by the Convention on Trade in Endangered Species of Wild Fauna and Flora. The leopard is on Appendix I of the Convention which means that a valid export permit from the country of origin would be required, and a valid import permit must be issued by the United States Management Authority for the Convention before a trophy could be imported. An export permit will not be granted by the State of export unless its Scientific Authority advises that such export will not be detrimental to the survival of the species. The United States Management Authority will not issue an import permit unless it determines that an export permit has been granted and that the importation is

not for primarily commercial purposes,

final, or whether it should be modified,

technical information presented at the

whether or not to repropose the Illinois

California Commencing in 1978," and

coho salmon abundance and catch data for

not for primarily commercial purposes, and unless the United States Scientific Authority has advised that the importation will be for purposes which are not detrimental to the survival of the species involved.

In addition to publishing the proposal in the **Federal Register**, the Service notified each of the African countries in which the leopard is resident of the proposed action and requested any comments, data, opinions or new insights they may have on the matter.

All interested and/or concerned parties were invited to submit their comments for consideration before June 24, 1980. This deadline for receipt of comments has now passed but the Service feels that, due to the following factors, it is necessary to extend the deadline date for comments to November 24, 1980.

(1) The response to the leopard proposal has been very large. At the time of the closing date for comments, letters were still arriving in great numbers and such correspondence continues to arrive daily. Additional time is required to allow the public to adequately express its views concerning the proposal.

(2) Only three African countries have responded to the Service's notification. It is essential that the other African countries have ample opportunity to present their data comments, and this can best be achieved by an extension of the comment period.

(3) Because of the great volume of new data and insights received, and the complexity of the issues involved, the Service will need more time than originally believed in which to analyze the data and arrive at a final determination. An extension of the comment period would provide the Service with the additional time needed.

Because of the above, the Service has decided to extend the comment period on the reclassification of the Sub-Saharan African leopard from June 24, 1980 to November 24, 1980. Complete details on the leopard's status and current distribution, and the Service's reasons for proposing reclassification and regulated trophy importation, may be found in the March 24, 1980 **Federal Register** (45 FR 19007–19012).

The Service is recontacting the Sub-Saharan African countries where the leopard is resident and requesting from them any data or comments relative to the status, distribution, population trends, or potential threats to the species. All data and comments received as a result of the proposal, and of this comment period extension, will be analyzed by the Service to determine whether the proposal should be made final, or whether it should be modified, or abandoned.

This notice was prepared by John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: August 1, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-24540 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Withdrawal of An Expired Proposal for Listing of the Illinois Mud Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of an expired proposed rule.

SUMMARY: The Endangered Species Act mandates withdrawal of proposed rules to list species which have not been finalized within 2 years of the proposal. The time limit has expired for the Illinois mud turtle (*Kinosternon flavescens spooneri*) which was originally proposed for listing as Endangered with Critical Habitat on July 6, 1978 (43 FR 29152–54). This notice constitutes the withdrawal of the Illinois mud turtle listing proposal.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION: Background—The Illinois mud turtle (*Kinosternon flavescens spooneri*) was proposed to be an Endangered species, together with Critical Habitat areas in Illinois and Iowa, on July 6, 1978 (43 FR 29152–29154). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (44 FR 12382–12384), because of procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. On December 7, 1979 (44 FR 70680–70682) the Service reproposed Critical Habitat for the Illinois mud turtle. The areas proposed were modified somewhat based upon information received subsequent to the original proposal. Public meetings were held on the proposal on January 30, 1980, in Springfield, Illinois, and on January 31, 1980, at Muscatine, Iowa. The public comment period on this reproposal expired on February 5, 1980, but was reopened from March 7 to March 22, 1980, in order for the Service to receive written comments submitted on the technical information presented at the two hearings (45 FR 14608–9). As a result of the comment periods a total of 131 written comments were received by the Service. Many of the comments were extensive and had appended scientific studies or reports.

As a result of analyzing the comments received it became apparent that there were strong differences of opinion among the commentors as to: (1) Whether the Illinois mud turtle was a valid subspecies, (2) whether any population estimates for the turtle were accurate, and (3) whether the species qualified for listing. It was the decision of the Service to convene a panel of outside qualified biologists to examine the submitted data and to advise the Service as to its considered judgment of the above questions, as well as other issues. The panel members were selected from a list recommended by the National Academy of Science. Accordingly, on June 5, 1980, the Service convened a 2 day panel meeting on the issues. The panel members were Dr. James F. Berry (Elmburst College), Dr. James L. Christiansen (Drake University), Dr. Carl H. Ernst (George Mason University), Dr. J. Whitfied Gibbons (Savannah River Ecology Laboratory), Dr. Paul N. Hinz (Iowa State University), and Dr. John B. Iverson (Earlham College). The panel felt *Kinosternon flavescens spooneri* was a valid subspecies, but that the small Nebraska population may belong to this subspecies, in addition to those known from Illinois, Iowa, and Missouri. The panel judged that no reliable overall population estimate was available, nor was it possible to determine an overall population trend. The panel did express that it felt the number of available habitats for the Illinois mud turtle were declining in quantity and quality, and went on to state that there is a need for protection of this subspecies, especially populations in Illinois. It should be noted that the panel did not state whether Federal, State, or local protection would be the most appropriate and effective strategy.

Based upon the panel's report it was felt that insufficient information is available to justify listing the Illinois mud turtle as a Threatened or Endangered species. Further, there is a need to conduct additional research so as to clarify the complex taxonomic relationship and to estimate the total population of this subspecies.

Accordingly, I have determined that the proposal to list the Illinois mud turtle should be withdrawn so that taxonomic and other questions raised by the panel may be clarified. A determination as to whether or not to repropose the Illinois mud turtle will be made on the basis of findings from the above study.

Section 4(f)(5) of the Endangered Species Act of 1973, states that:

> A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the **Federal Register** not later than 2 years after the date of publication of the notice of the regulation proposing listing under paragraph (B)(i)(1). If a final regulation is not adopted within such 2 year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the **Federal Register** not later than 30 days after the end of such period.

The 2-year time limit on proposals established in this subsection have expired for the Illinois mud turtle which was proposed July 6, 1978 (43 FR 29152–54). The Illinois mud turtle is known to occur from several localities in Illinois, Iowa, and Missouri.

In accord with section 4(f)(5), the Illinois mud turtle is withdrawn. This action gives notice of the withdrawal of this species.

This notice is issued under the authority contained in the Endangered Species Act of 1973.

The primary author of this notice is Dr. Paul A. Opler, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Dated: August 1, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-24647 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Commercial and Recreational Salmon Fisheries Off the Coasts of Oregon, Washington, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Notice of preliminary projections.

SUMMARY: The Acting Director, Northwest Region, ("Regional Director") National Marine Fisheries Service, (NMFS), has completed a preliminary in-season review of pre-season estimates of coho salmon stock abundance and total ocean harvest of coho to date. This review is in accordance with the 1980 amendment to the Fishery Management Plan (FMP) for the "Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California Commencing in 1978," and regulations implementing the 1980 amendment. The area considered is from the U.S./Canadian boundary to the California/Oregon boundary.

On or before August 22, a final determination will be made using the best information then available. If the data indicate that in-season modification of the 1980 seasons or catch limits is necessary, such action will be taken by publication of a notice of final rulemaking in the **Federal Register** on or near August 22.

DATE: Public comments are invited until August 21, 1980.

ADDRESS: Comments may be sent to: H. A. Larkins, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Telephone 206–442–7575.

SUPPLEMENTARY INFORMATION: The final regulations implementing the FMP at 50 CFR Part 661, were filed with the **Federal Register** on July 29, 1980. They specify in § 661.12(b) that the Acting Director, Northwest Region, NMFS, on August 22, may modify the open seasons and catch limits set forth in § 661.10 and § 661.11 in any portion of Sub-areas A, B or C by issuing a field order if he determines that (1) actual conditions of abundance and distribution of salmon and fishing efforts and catches differ from conditions anticipated prior to May 1; and (2) in-season modifications are necessary to provide adequate escapement for spawning, to meet treaty-Indian allocation requirements, or to maintain insofar as possible the historical harvest ratio between commercial and recreational salmon fisheries. Sub-area A is the area extending from Cape Falcon, Oregon, to the U.S./Canadian boundary; Sub-area B is the area from Cape Falcon to Cape Blanco, Oregon, and Sub-area C extends from Cape Blanco to the California/Oregon border.

According to § 661.12(d)(1) of the regulations, preliminary projections are to be made on August 7 based on the following factors:

(A) The number of participants, amount and distribution of fishing effort, in the commercial and recreational fisheries as of August 7 compared to similar time periods in prior years; and

(B) The current and historical coho salmon harvest ratios between the commerical fishery and the recreational fishery, as set forth in paragraph (e) of this section; and

(C) Abundance estimates and catches of coho stocks in the WPP Regulatory Area as of August 7 compared to the WPP estimate of coho salmon abundance and catch data for the 1974–1976 period; and

(D) Abundance estimates and catches of coho stocks in the OPI Regulatory Area, including private hatchery fish, compared to the original OPI predictions; and

(E) Data from marked-fish recoveries, including analysis of recoveries of coho salmon with implanted coded-wire tags and

(F) Any other scientific information relevant to the abundance and distribution of coho stocks, total fishing efforts and catches that is available as of August 7.

These criteria were applied to two major production areas as follows:

The Washington Production Projection (WPP) Regulatory Area

Catch Data

Information gathered through July 27, 1980, indicates that as of that time the ocean harvest of coho in the WPP was 498,666 fish: 283,397 caught in the recreational fishery and 214,271 in the troll fishery (31,637 by the treaty Indian ocean fishery). These data reveal a harvest ratio between the commercial and recreational fisheries of 43:57 as compared to the 1971–75 historic seasonal ratio of 60:40. Coho harvest figures for 1979 for the WPP through July 27 were 164,641 for the recreational fishery and 392,165 for the troll fishery. Comparable catch data for the 1974–76 period show an average WPP coho harvest of 502,085 fish for the first two weeks of the all species season for those years; 300,894 in the recreational fishery and 201,191 in the troll fishery.

Effort Data

Current WPP troll effort through July 27, 1980, is 12,079 boat days down approximately 36.5% from the 1979 effort to July 27 of 19,033 boat days. Recreational effort through the same date is 174,764 angler trips as compared to a 1979 level of 171,820 angler trips and a 1977–79 average of 216,773 angler trips.

The Oregon Production Index (OPI)

Catch Data

An estimated 623,285 coho have been harvested by the ocean fisheries in the OPI as of July 27, 1980. This total includes catches of 135,781 for Ilwaco, 440,641 for Oregon and 46,843 for California. The troll fishery harvested 228,409 compared with 394,856 for the recreational fishery. The 1980 harvest ratio between the commercial and recreational fisheries through the same date was 37:63 as compared to the 1971–75 historic seasonal ratio of 71:29.

Comparable OPI catch data as of the same date for the 1979 season was 760,952 coho for the troll fishery and 176,831 coho for the recreational fishery.

Effort Data

June vs early May releases. An

WPP is slightly lower than originally

Notices

Effort Data

Effort for the combined Oregon, and Ilwaco, Washington, area through July 27, 1980 was 14,922 boat days for the troll fishery and 274,649 angler trips for the recreational fishery. This is compared with 1979 effort through a comparable date of 26,213 boat days for the troll fishery and 241,031 angler trips for the recreational fishery.

Coho Abundance in the WPP and OPI

Preliminary analysis of May through early July coded-wire tag (CWT) recoveries indicates a significant increase in percentage contribution of Columbia River-origin coho to the recreational fishery catches in all four Washington coastal areas as contrasted to final pre-season forecasts. This implies that either the OPI or the WPP or both pre-season forecasts of coho stock abundance are inaccurate and may be in need of modification. The possible reasons for this inaccuracy are:

a. The initial OPI abundance estimate is correct, but Puget Sound-Washington coastal coho abundance is much lower than originally forecast.

b. Coho abundance for the OPI is moderately higher than forecast, and Puget Sound-Washington coastal coho abundance is moderately lower than pre-season forecasts.

c. The initial Puget Sound-Washington coastal forecasts are correct, but the actual OPI coho abundance is much higher than forecast.

For the following reasons, alternative "b" above seems to be the most plausible, although refinement of stock composition and distribution analysis will require CWT data from the first three complete weeks of the all species troll fishery which are not currently available.

1. CWT data available to date in 1980 on 3-year-old adults show improved survival for delayed-release hatchery coho in the Columbia River system. Results from 1979 hatchery returns of 2-year-olds indicate, however, that this type of production also produces 2-year-old jack salmon at a much lower rate than normal releases. Since these jacks are the basis for the OPI abundance forecast, a reduction in jack production resulting from delayed releases can produce an OPI underestimate. In addition, delayed-release production was not uniformly distributed among artificial production stations included in the OPI jack total.

2. Preliminary analysis of 1977 brood year time-of-release experimental groups from four different Columbia River hatcheries show a survival advantage as adults of 2.18 to 1 for early June vs early May releases. An estimated 21% of total Columbia River yearling coho releases benefited from this advantage (release from May 16–June 7) which could translate into an increased Columbia River coho stock size as high as 25%.

3. To date, private Oregon aquaculture production has been a very small contributor to Washington's ocean salmon catch.

4. Although efforts to develop predictive methods similar to the OPI for salmon stocks predominating off northern Washington have been less successful to date, real time statistics available for the northern Washington troll fishery seem to indicate a lower abundance of coho than prevailed in any of the past five years.

Summary and Conclusions

It is apparent that to date the harvest of coho by recreational fishermen off Oregon and Washington is higher than anticipated. Through July 27, 623,265 coho have been harvested in the OPI, of which 63% (394,856 coho) were taken by the recreational fishery. The preseason forecast for the OPI was for a 820,000 coho harvest of which 29% (240,000) were expected to be harvested by recreational fishermen.

In the WPP, 498,668 coho were harvested through July 27, of which 284,397 coho were taken by the recreational fishery. The preseason estimate of available coho harvest in the WPP was 857,000 coho of which 40% (347,000 coho) were expected to be harvested in the recreational fishery.

As of this date there is insufficient reliable information to conclude that actual conditions of coho abundance differ from pre-season estimates although there are indicators that there could be differences identified by August 22, 1980, in either the OPI area, the WPP area or both. It is possible that the Columbia River component of the OPI is slightly higher than forecast and the Puget Sound component of the WPP is slightly lower than forecast. If such differences are confirmed by later data, modifications to provide adequate escapement for spawning, or to meet treaty-Indian allocation requirements, or to help insofar as possible achieve the historical harvest ratio between commercial and recreational salmon fisheries, may be made by notice of final rulemaking by the Regional Director on August 22. Such modifications could shorten or extend either the recreational or the troll season in the OPI area or the WPP area or both.

A finding that the Columbia River component of the OPI is slightly higher and the Puget Sound component of the WPP is slightly lower than originally forecast has the following implications: A downward revision of abundance for the WPP coho stocks will lead to a reduction in the 857,000 fish allowable ocean catch north of Cape Falcon since the fishery will be limited by the strength of the stocks and treaty Indian allocation requirements. This could lead to a shortening of the recreational season, the troll season, or both.

An upward revision of the OPI coho abundance forecast could increase the allowable ocean coho catch in the area south of Leadbetter Point and necessitate some lengthening of one or more of the seasons. Whether this occurs depends on the level of effort and catch rates between now and August 22. The 37 percent commercial *vs.* 63 percent recreational catch ratio, if maintained, will certainly be a factor in adjusting the seasons, if necessary, on August 22.

Comments and Subsequent Actions

In accordance with § 661.12(g) of the final regulations, the Regional Director finds that a public comment period ending August 21 would be in the best interests of the public and the resource prior to the finalization of these preliminary findings and determinations. Relevant data on which these preliminary projections are based may be reviewed at the offices of the Regional Director (address above) during the comment period.

As a result of comments received during the public comment period and updated information available on August 21, the Regional Director will consider further the necessity for in-season modifications in the 1980 open fishing seasons and catch limits of the ocean recreational and commercial fisheries and will, as soon as practicable, publish in the Federal Register either (a) a notice of final rulemaking that makes in-season modifications or (b) a notice of no change in the regulations.

Signed at Washington, D.C., this 11th day of August 1980.

(16 U.S.C. 1801 *et seq.*)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24678 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[F.C.D.A. Number 10.422, Business and Industrial Loans]

Business and Industrial Loans; Insured Loan Interest Rates

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR 1980.423(b) is as follows:

a. Insured loans for other than public bodies in rural areas will be at the rate of eleven and one-half percent (11½%).

This rate will remain in effect until a change is published in the Federal Register.

Funds are very limited for this program. $10 million is available nationwide for fiscal year 1980.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. LaVerne A. Isenberg, Room 4118, Farmers Home Administration, USDA, Washington, DC 20250. Phone: 202–447–4871.

This notice does not directly affect any FmHA program or projects which are subject to A–95 clearinghouse review.

Dated: August 1, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

FR Doc. 80-24190 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-07-M

Federal Grain Inspection Service

Administrative Modification of Registration Procedures for Foreign Commerce Grain Businesses

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces a modification of the administrative procedures established by the Administrator of the Federal Grain Inspection Service (FGIS or Service) for purposes of inital implementation of the registration procedures for foreign commerce grain businesses under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.)* (Act), and the regulations which implement the Act. The modification will permit grain firms to submit one application form and FGIS to issue one certificate of registration for the period from October 10, 1980, through December 31, 1981.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, 2405 Auditors Building, Washington, D.C. 20250, telephone (202) 447–8262.

SUPPLEMENTARY INFORMATION: Section 17A of the Act requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting grain for sale in foreign commerce.

Sections 800.32–800.38 of the regulations require the registration of grain firms beginning October 10, 1980, (6 months after the effective date of the regulations). They further state that applications shall be made on a form furnished by the Service and that certificates of registration will terminate on December 31 of the year for which they are issued. Renewal notices may be sent to holders of a certificate of registration at least 60 calendar days before termination.

To prevent the duplication of effort involved in having grain firms complete two application forms (one for the period October 10, 1980, through December 31, 1980, and another for calendar year 1981), the Service will combine the two periods. Thus, the initial certificates of registration will be valid for the period from October 10, 1980, through December 31, 1981. Applicable registration fees (§ 800.71 of the regulations) will be prorated for the remainder of 1980, and the annual fee will be charged for calendar year 1981.

The Service has developed a list of potential registrants and will be mailing applications forms to them on or about August 15, 1980. Firms which do not receive application forms may request them by writing or calling the Compliance Division, Federal Grain Inspection Service, 2405 Auditors Building, Washington, D.C. 20250 (202) 447–8300. Firms having one or more facilities will be required to submit only one application for registration, since registration is done on a corporate basis, not a facility basis.

(Sec. 17A, Pub. L. 95–113, 91 Stat. 1024 (7 U.S.C. 87(f–1)))

Done in Washington, D.C., on August 8, 1980.

L. E. Bartelt,

Administrator.

[FR Doc. 80-24525 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Betsy Jeff Penn 4–H Center Critical Area Treatment RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Betsy Jeff Penn 4–H Center Critical Area Treatment RC&D Measure, Rockingham County, North Carolina.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these

findings, Mr. Jesse L. Hicks, State

(Catalog of Federal Domestic Assistance

Davis, California 95616, telephone 916–

eliminate ponding. All disturbed areas

Time limits may be set on individual

agencies and interested parties. A

findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion on 200 feet of streambank. The planned works of improvement include sloping existing streambank to a 2:1 slope and installing rock riprap. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80-24508 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Black Creek-Mason Watershed, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT:
James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202–447–3587).

Notice: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Black Creek-Mason Watershed project, Mason County, Michigan, effective on July 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: July 30, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-24510 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Placerville Airport RC&D Measure and the Georgetown Divide Public Utilities District RC&D Measure, California

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Francis C. H. Lum, State Conservationist; Soil Conservation Service, 2828 Chiles Road, Davis, California 95616; telephone 916–758–2200.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 the Council on Environment Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the High Sierra RC&D Area, Placerville Airport and Georgetown Public Utilities District Critical Treatment Measures in El Dorado County, California.

The environmental assessment of these federally-assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Francis C. H. Lum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for these measures.

The measures concern plans for critical area treatment. The planned works of improvement include erosion control practices such as small grade stabilization structures, diversions, minor grading and shaping, debris basins, metal culverts, concrete crib walls, grassed waterways, and revegetation of exposed and critically eroding areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916–758–2200. A combined environmental assessment and FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable.)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR. Doc. 80-24511 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Washington County Union School Flood Prevention RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

Notice: Pursuant to Section 192(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Washington County Union School Flood Prevention RC&D Measure, Washington, County, North Carolina.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on the school grounds. The planned works of improvement include installing catch basins, pipes, subsurface drainage tubing and one sump pump. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80-24509 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Forest Service

Umatilla National Forest Grazing Advisory Board; Meeting

The Umatilla National Forest Grazing Advisory Board will meet at 1:00 p.m., September 23, 1980, at the U.S. Forest Service Office, 2517 S. W. Hailey Avenue in Pendleton, Oregon. The purpose of this meeting is to conduct the committee business meeting and hold election of officers; to adopt the Constitution and Bylaws; and to offer advice and make recommendations to the Forest Supervisor on any matter pertaining to the development of allotment management plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office at 2517 S. W. Hailey Avenue, Pendleton, Oregon 97801, or call 276–3811, ext. 231. Written statements may be filed with the Forest Service before or after the meeting.

The established rules for public participation are that a time period will be set up for the public to participate. Time limits may be set on individual public participation.

H. B. Rudolph,

Forest Supervisor.

[FR Doc. 80-24650 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Camp Whitney, W. Va., Advent Christian Conference Critical Area Treatment; R.C. & D. Measure, W. Va.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, W. Va. 26505, telephone 304–599–7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camp Whitney, W. Va., Advent Christian Conference Critical Area Treatment R.C. & D. Measure, Kanawha County, W. Va.

The environmental assessment of this federally-assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a subsurface drainage system totaling 1,340 feet of 4- and 6-inch tile to correct internal drainage problems. These drains will be constructed of clay tile and have a sand-gravel backfill to the ground surface. This will improve infiltration and also provide suitable bedding for the tile.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservaton Service, 75 High Street, Morgantown, W. Va. 26505, telephone 304–599–7151. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-24505 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Greenfield Lake Recreational Development R.C. & D. Measure, Iowa; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650): the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Greenfield Lake Recreation Development RC&D Measure, Adair County, Iowa.

The environmetnal assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the construction of day-use and camping recreation facilities around an existing 47-acre lake. The planned works of improvement include a boat dock, shelters, pinic tables and grills, campsites, vault toilets, parking lots, and hard-surfaced access roads.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental

assessment are on file and may be

Export Administration (OEA) against

Regulations issued under the Export

Amsterdam, where they were on-loaded

assessment are on file and may be reviewed by contacting Mr. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80-24504 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Jebens Park Critical Area Treatment; R. C. & D. Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307–265–5550, Ext. 5201.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Jebens Park Critical Area Treatment RC&D Measure, Carbon County, Wyoming.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to stabilize about 640 feet of the Little Snake River streambank by use of rock gabions. Trees and shrubs will be planted behind the gabion structures. The measure area is entirely in the boundaries of Jebens Park, a town park for Baggs, Wyoming.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307–265–5550, Ext. 5201. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80-24506 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Putnam County Vocational and Technical Center Critical Area Treatment R. C. & D. Measure, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Putnam County Vocational and Technical Center Critical Area Treatment RC&D Measure, Putnam County, West Virginia.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of critical area treatment on approximately 1.5 acres. About ¼ acre will be shaped to provide a stable slope for revegetation. The entire site will be vegetated in accordance with seeding recommendations for high-use areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80-24507 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

UNITED STATES DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 597 and Case No. 598]

Joseph Kelmer, d.b.a. Excel Industries and Peter G. Virag, d.b.a. DeVimy Test-Lab, Ltd.; Order Denying Export Privileges

In the matter of Jacob Kelmer, d.b.a. Excel Industries, 66 Hanita Street, Haifa, Isreal, and/or P.O. Box 11369, Tel Aviv, Isral, and/or 58 Bustenai Street, Ramat Hasharon, Israel, Respondent; Peter G. Virag, d.b.a.; DeVimy Test-Lab, Ltd., 388 St. James Street West; Montreal 126, Quebec, Canada, and/or 72 Manual Drive, Dallard des Orneaux, Montreal, Quebec, Canada; Respondent.

Separate proceedings were initiated by the June 13, 1980 service of charging letters issued by the Director, Office of

Export Administration (OEA) against Jacob Kelmer [1] (in Israel) and Peter G. Virag [2] (in Canada). The actions are joined because of their common background. Each of the parties was separately charged with violating the Export Administration Act, 50 U.S.C. App. 2401 *et seq.* OEA alleged that on not fewer than ten occasions, each unlawfully exported or caused to be exported or reexported, U.S. manufactured, and COCOM controlled, electronic manufacturing equipment valued in excess of $1,500,000. The Director alleged that the equipment was exported from the United States to Canada, thence to the Netherlands, or other friendly country, and ultimately delivered to proscribed destinations in the Eastern Bloc countries, all without authorization from the Office of Export Administration.

The respondents failed to answer or deny the charging letters. Although the charges against the parties may be taken as confessed, 15 CFR 388.9, the Compliance Division, OEA, submitted evidence to support the charges. The evidence was considered by the undersigned Hearing Commissioner, whose findings are limited to a single export of March 19, 1976, as detailed below.

The Compliance Division, while investigating a series of possible violations by the respondents, alerted the Customs authorities who seized an export from the United States at the control point in Champlain, New York, on May 19, 1976. Ostensibly, the consignment was for DeVimy, but the arrangements had been made with a shipping company for its immediate reexportation. In recognition of Virag's cooperation with the Department of Justice, criminal process was issued against and limited to DeVimy, which company was fined $1,500 in the U.S. District Court, Northern District, New York, Cr. No. 76–Cr.–3 (January 18, 1978), upon a finding that:

> Defendant has been convicted as charged of the offense(s) of wilfully and knowingly exporting from the United States, at the Port of Entry, Champlain, New York, to Amsterdam, Holland, a certain commodity, that is, one complete Mann photomask system, without a validated license authorizing such exportation having been applied for, granted or issued by the Office of Export Control, United States Department of Commerce as required by the Export Control Regulations issued under the Export Administration Act, on or about March 19, 1976, in violation of Title 50, Appendix, United States Code Section 2405(e); Title 15 CFR, § 370.3

Canada also found the company criminally guilty of violating that country's export laws. Kelmer was indicted for his complicity in the aborted export attempt of May 17. An unexecuted warrant for his arrest was issued from the U.S. District Court for the Northern District of New York, 78 Cr–60, and is outstanding. Although he was interviewed for his part in the illegal export activities by the Fraud Division, National Police Headquarters, Jaffa, Israel, Kelmer refused to give a written statement or to meet with the U.S. authorities. The gist of Virag's statements in connection with the criminal proceedings surrounding the seizure of May 19, 1976, and the voluntary information furnished by Kelmer to the fraud Division is the basis for the findings herein.

Kelmer is a commissioned merchant primarily dealing in catalogue items. He is fully knowledgeable of the import and export laws of the United States, Israel and the European countries. Knowing full well that controlled electronic manufacturing equipment would not be licensed to the Eastern Bloc countries, he devised a scheme to circumvent the export laws. He convinced Virag that the goods were destined for Israel and that a validated export license would be issued upon proper application for the commodities. However, in some inexplicable fashion, he convinced Virag that the Israelis wanted no publicity and enlisted his aid to that end. The vision of high dollar profits, even though he knew better, encouraged Virag to become a willing dupe in an illegal plot. Once involved, Virag was unable or unwilling to extricate himself. On instructions and cash advances from Kelmer, Virag purchased controlled electronic commodities in the United States. The end-user was stated to be the innocent-appearing Canadian manufacturing DeVimy company, for which no validated export license is required. Virag receipted the export declarations for the illegal shipment. It bore the caveat, "These commodities licensed by the United States for ultimate destination, Canada, diversion contrary to United States law prohibited." In reality the commodities were purchased for delivery to Eastern European destinations and delivered to the ultimate end-users in those countries.

When the scheme of operations was initiated, deliveries of electronic materials were made to a warehouse in Montreal. Later they were reexported to Amsterdam, where they were on-loaded for ultimate delivery to Eastern Europe. The seized shipment [3] destined for Czechoslavakia was one of a series of illegal exports.

Based on the foregoing, I find that respondents, by scheme and subterfuge, knowingly and wilfully engaged in illegal export activities and did effect illegal reexports, all in violation of the Export Administration Act and Regulations, as alleged in the separate charging letters. I find that an order denying export privileges to Jacob Kelmer for a period ending May 31, 1995 and an order denying export privileges to Peter G. Virag for a period ending May 31, 1990 is reasonably necessary to protect the public interest and to achieve effective enforcement of the regulations. Therefore, pursuant to the authority delegated to me, 15 CFR 388, *it is ordered*

I. All outstanding export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part. Without limitation of the generality of the foregoing, participation, directly or indirectly, in any manner or capacity; (a) As a party or as a representative of a party to any export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiation with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents but also to their agents, employees, representatives, and partners and to any other person, firm, corporation, or

[1] Unless otherwise stated, reference to Jacob Kelmer includes his wholly owned or controlled company, Excel Industries. Kelmer is also known as Jack Kay, Jack Kaye and Jack Kelmer. He was previously denied all export privileges, 37 FR 10511 (August 15, 1972).

[2] Unless otherwise stated, Peter G. Virag includes his wholly owned company, DeVimy Test-Lab Ltd.

[3] A Decree of Forfeiture, *U.S.* vs. *One Mann Type 3595 Photorepeater, Parts and Accessories*, U.S. District Court, Northern District, New York, Civil No. 79–CV–207, was entered on May 7, 1979.

business organization with which the respondents now or hereafter may be

Dated: August 7, 1980.

Bertram Freedman,

Department of Commerce, Washington, D.C. 20230

months service, which officially begins on August 8, 1980.

Ocean Sciences, National Science Foundation

was published in the Federal Register on February 28, 1980 (45 FR 31372), as amended

business organization with which the respondents now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for said respondents or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. (a) This order shall remain in effect against the respondents, Peter G. Virag and DeVimy Test-Lab, Ltd. for the period ending May 31, 1990. (b) This order shall remain in effect against the respondents Jacob Kelmer and Excel Industries for the period ending May 31, 1995. The prior order of August 15, 1972 is hereby superseded.

VI. In accordance with the provisions of § 388.18 of the Export Administration Regulations, the respondents may move at any time to vacate or modify this Denial Order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner at the earliest convenient date.

This order shall become effective immediately.

Dated: August 7, 1980.

Bertram Freedman,

Hearing Commissioner.

[FR Doc. 80-24523 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one to three national projects for a 12 month period beginning October 1, 1980. The total cost of the project is estimated to be $600,000.

Funding Instrument: It is anticipated that the funding instrument as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide consulting and technical support services to minority buyers to assist them in evaluating the historical performance of the business being acquired, its present financial condition, prospects for the future, and the present management; to determine capital requirements in connection with the proposed purchase; to prepare a business plan and forecast financial statements for three years from the date of purchase; to aid in the negotiation of an agreement to purchase; and to identify sources of financing and prepare appropriate applications, documentation (other than legal) and information necessary to facilitate lenders and/or investors' decision. The Grantee, as an independent recipient and not as an agent of the Government, shall provide, on call, all qualified personnel, equipment, materials and facilities to perform all services required by this grant on a task-by-task basis.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested either by calling (202) 377-3165 or writing to the following address: Grants Administration Division, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, or other type of non-profit organization, or if the applicant is a for-profit firm), this information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated will be included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of September 16, 1980. Detailed submission procedures are outlined in each application kit.

[Catalog of Federal Domestic Assistance. This program is not subject to the requirements of OMB Circular A-95, 11.800 Minority Business Development]

Dated: August 8, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-24532 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Membership of National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of initial membership of NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 USC, 4314(c)(4), NOAA announces the appointment of persons to serve as members of NOAA Performance Review Boards (PRB's). The NOAA PRB's are responsible for reviewing performance apprisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and amounts, and initial recommendations from potential rank awards. The appointment of the initial members to the NOAA PRB's will be for a period of approximately 18 months service, which officially begins on August 8, 1980.

DATE: The effective date of service of initial appointees to the NOAA Performance Review Boards is August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Ralph C. Reeder, Director, Office of Personnel, NOAA, 6001 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8781.

SUPPLEMENTARY INFORMATION: The names and titles of the initial members of the NOAA PRB's (NOAA officials unless otherwise identified) are set forth below:

James P. Walsh—Deputy Administrator
George S. Benton—Associate Administrator
Martin H. Belsky—Assistant Administrator for Policy and Planning
Samuel A. Lawrence—Assistant Administrator for Management and Budget
James W. Brennan—Deputy General Counsel, Office of the General Counsel
William H. Stevenson—Deputy Assistant Administrator for Fisheries, Office of Fisheries
Martha O. Blaxall—Director, Office of Utilization and Development, Office of Fisheries
Mirco Snidero—Deputy Assistant Administrator for Management and Budget
Ned A. Ostenso—Deputy Assistant Administrator, Office of Research and Development
C. Gordon Little—Director, Wave Propagation Lab, Environmental Research Laboratories, Office of Research and Development
Hugo F. Bezdek—Director, Atlantic Oceanographic and Meteorological Laboratories, Environmental Research Laboratories, Office of Research and Development
Donald P. Martineau—Acting Deputy Assistant Administrator for Office of Oceanic and Atmospheric Services
Richard H. Hagemeyer—Executive Director, National Weather Service, Office of Oceanic and Atmospheric Services
Robert L. Carnahan—Director, Weather and Flood Warnings Coordination, National Weather Service, Office of Oceanic and Atmospheric Services
Thomas D. Potter—Director, Environmental Data and Information Service, Office of Oceanic and Atmospheric Services
Joan Hock—Director, Center for Environmental Assessment Services Environmental Data and Information Service, Office of Oceanic and Atmospheric Services
Clifford A. Spohn—Deputy Director, National Environmental Satellite Service, Office of Oceanic and Atmospheric Services
Ross Williams—Rear Admiral, Oceanographer of the Navy
Thomas A. Dillon—Deputy Director, National Bureau of Standards
Claude C. Gravett, Jr.—Deputy Director, Programs, National Measurements Laboratories, National Bureau of Standards
Mary Johrde—Oceanographer, Office of Astronomical, Atmospheric, Earth and Ocean Sciences, National Science Foundation
Helen McCammon—Director, Ecological Division, Department of Energy
Robert G. Prestemon—Director, Programs and Evaluation, Office of Assistant Secretary for Budget and Programs, Department of Transportation
Alexander Grant—Associate Commissioner of Consumer Affairs, Food and Drug Administration, Public Health Service, Health and Human Resources

Dated: August 8, 1980.

Samuel A. Lawrence,

Assistant Administrator for Management and Budget.

[FR Doc. 80-24515 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-12-M

Office of the Secretary

Cost Comparison Reviews Scheduled for Commercial or Industrial Activities Performed by Government Personnel in the Office of the Secretary; Correction

In FR Doc. 20640, in the issue of Thursday, July 10, 1980, appearing on page 46471, please make the following correction:

In the chart appearing half way down the first column, delete the line "Library services * * * 09/01/80 05/31/81."

FOR FURTHER INFORMATION CONTACT: Albert D. Petrilak, Office of the Assistant Secretary for Administration, Department of Commerce, Washington, D.C. 20230 (202-377-2577).

Dated: August 5, 1980.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-24516 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancelling Import Controls on Certain Man-Made Fiber Textile Products From Taiwan

AGENCY: Commitee for the Implementation of Textile Agreements.

ACTION: Cancelling the import controls established on man-made fiber textile products in Category 669, including fish netting and fishing nets in T.S.U.S.A. 355.4560, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1980 and extends through December 31, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 21372), as amended on April 23, 1980 (45 FR 27463).)

SUMMARY: In discussions between the American Institute in Taiwan and the Coordination Council for North American Affairs, it has been agreed to establish an export certificate system pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, which will eliminate the need for further control of certain categories by the United States. Accordingly, the imports controls previously established on Category 669 and 669 pt. are being cancelled.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the Federal Register (44 FR 76839) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, including man-made fiber textile products in Category 669 and 669 pt., which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to cancel the import controls in effect on Category 669 and 669 pt.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 11, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain designated categories.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on August 15, 1980, to cancel the import controls established in the directive of December 21, 1979 for Category 669 and 669 pt. (only T.S.U.S.A. 355.4560).

The action taken with respect to Taiwan and with respect to imports of man-made fiber textile products from Taiwan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-24675 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of Army

Department of Army Performance Review Boards

AGENCY: Department of Army, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Boards for the Office of the Surgeon General and the Office of the Chief of Engineers.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of Army, the Pentagon, Washington, DC 20310, (202) 697-2169.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executives' appraisals from their respective commands or activities. Publication of this notice provides corrections, additions and/or deletions of members previously published in 45 FR, page 49122, dated July 23, 1980.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major General Enrique Mendez, Jr., M.D., Deputy Surgeon General-Chairman.
2. Brigadier General Robert T. Cutting, M.D., Director, Health Care Operations, Office of the Surgeon General.
3. Brigadier General Bernhard T. Mittemeyer, M.D., Director of Professional Services, Office of the Surgeon General.
4. Brigadier General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.
5. Dr. F. K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.
6. Dr. L. C. Johnson, M.D., Chairman, Department of Orthopedic Pathology, Armed Force Institute of Pathology.
7. Dr. G. F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.
8. Dr. W. R. Beisel, M.D., Deputy for Science, Walter Reed Army Institute of Research.
9. Dr. T. R. Sweeney, M.D., Ph.D., Scientific Advisor (Biochemistry), Walter Reed Army Institute of Research.

The Members of the Performance Review Board for the Office of the Chief of Engineers (OCE) are:

1. Major General Joseph K. Bratton, Deputy Chief of Engineers.
2. Major General William E. Read, Assistant Chief of Engineers.
3. Major General E. R. Heiberg, Director of Civil Works, Chief of Engineers.
4. Brigadier General Ames S. Albro, Jr., Division Engineer, Middle East Division.
5. Brigadier General Henry J. Hatch, Division Engineer, Pacific Ocean Division.
6. Ms. Betty J. Farwell, Director of Real Estate, Office, Chief of Engineers.
7. Dr. L. R. Shaffer, Technical Director, Construction Engineering Research Lab.
8. Mr. Lee Garrett, Chief, Engineer Division, Director of Military Programs, Office, Chief of Engineers.
9. Mr. Zane Goodwin, Chief, Engineer Division, North Central Division.
10. Mr. Herbert Howard, Chief, Engineer Division, North Atlantic Division.
11. Mr. Rodney Resta, Chief, Engineer Division, Lower Mississippi Valley Division.
12. Mr. William N. McCormick, Chief, Engineer Division, South Atlantic Division.
13. Dr. James Choromokos, Chief, Research and Development, Office, Chief of Engineers.
14. Mr. George Brazier, Chief, Construction-Operations Division, Director of Civil Works, Office, Chief of Engineers.
15. Mr. Delbert E. Olsen, Chief, Planning Division, North Pacific Division.

Carol D. Smith, *Chief*

Senior Executive Service Office.

[FR Doc. 80-24652 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Brazos Island Harbor Channel, Brownsville, Tex. Regulatory Permit

AGENCY: Galveston District, U.S. Army Corps of Engineers, DOD.

APPLICANT: Brownsville Navigation District, Brownsville, Texas.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: 1. The Galveston District, Corps of Engineers has received an application for a permit to construct improvements to the Brazos Island Harbor Channel, Texas, an existing Federal navigation project in south Texas. A preliminary assessment of the application has determined that an EIS is required. A revised application is anticipated after development of the scope and preparation of an environmental report. The proposed project is intended to provide more efficient waterborne commerce in the general area of the Lower Rio Grande Valley of Texas. Benefits would be derived from savings in transportation of commodities such as petroleum, petroleum products, ores, and grains.

2. Potential alternatives proposed for consideration would include: (1) no action; (2) alternative means of commodity transport, i.e., rail, truck, barge, and pipeline; (3) alternative facility sitings, (4) alternative facility designs,

(5) alternative channel designs, i.e., depth, length, and width;

(6) alternative channel alignments, (7) alternative disposal methods for dredged material; and (8) alternative disposal sites, i.e., upland disposal, ocean disposal, upland/ocean disposal. Channel widening by 100 feet and channel deepening by 9 and 19 feet will be intensely investigated.

3.a. A public scoping and coordination meeting is scheduled to be held on 3 September 1980 for the purpose of obtaining government agency and other public comment on relevant matters of concern in examining the various alternatives of the project. Proposed plans will be developed in accordance with Corps of Engineers regulations, considering the views expressed by the public and agencies of the local, State, and Federal governments.

b. Some important environmental considerations to be analyzed because of the potential for special environmental concern include: (1) dredging and disposal, (2) aquatic ecology/wetlands, (3) sport and commercial fisheries, (4) water and sediment quality, (5) hydrography, (6) air quality, (7) socioeconomic/hazards analysis and, (8) cultural resources.

c. Agencies which may be requested to become cooperating agencies include the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service.

d. Other environmental consultation and review will be conducted in accordance with various laws and regulations.

4. A public meeting specifically to determine the scope of the DEIS will be held on 3 September 1980 in Brownsville, Texas. All previous and future input to studies for the project will be considered in the scoping process, if made during the relevant time frames for comment and response in the overall permitting process.

5. The DEIS is scheduled to be available to the public in April 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. Marcos De La Rosa, Chief, Permit Branch, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553, (713) 763-1211, extension 382.

Dated: August 7, 1980.

James M. Sigler,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-24661 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-GK-M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Palo Blanco and Cibolo Creeks, Falfurrias, Tex., Flood Control Study

AGENCY: Galveston District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: 1. The proposed action to be addressed in the DEIS consists of construction of flood control improvements to Palo Blanco and Cibolo Creeks at and in the vicinity of Falfurrias, Brooks County, Texas. The proposed project would provide for protection in the Falfurrias vicinity now subject to periodic stream flooding.

2. Alternatives to be considered in the DEIS include no action, diversion channels, reservoirs, various levels of flood plain buyout, ring levee, and various levels of channel enlargement and straightening with and without channel lining, and various combinations.

3.a. Coordination of the project has included a public meeting and workshop, consultation with local governing entities, and a planning aid document from the U.S. Fish and Wildlife Service. A public meeting and workshop was held in Falfurrias, Texas on April 13, 1977 to obtain information on flooding problems in Falfurrias and adjacent areas of Brooks County and to identify concerns of all interested individuals and groups. Proposed plans for improvement are being developed in accordance with Corps of Engineers' regulations considering the views expressed by the public and agencies of the local, State, and Federal governments. Additional meetings will be held to discuss these plans and to determine public views on issues and preferences on proposed alternative plans. A final plan will be developed to reflect the views expressed by the public and local, State and Federal agencies.

b. Some important environmental considerations to be analyzed as a result of past coordination and participation include: (1) Preserving and minimizing disturbance to the wildlife habitat along existing creeks and lakes, (2) preserving and enhancing acquatic ecosystems of natural lakes, especially Laguna Salada, by reducing erosion, (3) preserving or maintaining existing wetlands in lake and riparian areas, (4) preserving and enhancing species of recognized importance that may occur in the area, (5) avoiding removal of vegetation in brushland habitat, (6) disposing of excavated material in areas where environmental damages would be minimal, and (7) considering effects of burrowing animals on maintenance of levees.

c. Further coordintion and consultation will be continued with appropriate local, State, and Federal agencies and interested organizations and individuals.

d. Environmental consultation and review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and all other applicable laws, regulations and guidelines.

4. A scoping meeting specifically to determine and identify significant resources of the project area for preparing the DEIS is being planned.

The meeting is to be held on September 18, 1980 at Brooks County Court House, Falfurrias, Texas. Various Federal, State, and local agencies will be contacted and requested to send a representative to the meeting.

5. The DEIS is scheduled to be available to the public in early 1982.

ADDRESS: Questions about the proposed action can be answered by Mr. Paul Wilson, Chief, Regional Planning Section at (713) 763-1211, extension 313 or toll-free in Texas at 1-800-392-6412. Questions concerning the DEIS should be directed to Mr. C. R. Harbaugh, Chief, Environmental Resources Branch at (713) 763-1211, extension 492. Written inquiries should be addressed to the District Engineer, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553.

Dated: August 3, 1980.

James M. Sigler,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-24650 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-GK-M

Corps of Engineers, Department of the Army

Rippowam River Basin Study in Connecticut and New York; Intent To Prepare a Draft Environmental Impact Statement (DEIS)

AGENCY: U.S. Army Corps of Engineers, DOD, New England Division.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed action is a plan to provide flood protection to the lower Rippowam River Basin. During the

course of the study, other water resource needs have also been

4. A scoping meeting will be held. The date and location will be identified

Defense Systems Management College; Board of Visitors Meeting

Findings

related to the contract work to be performed. To aid in the information-

Federal Government. Both Dames & Moore and SAI are in the latter group.

course of the study, other water resource needs have also been investigated, including recreation, water supply, water quality, fish and wildlife, and environmental amenities.

2. The alternatives being considered include:

a. Structural channel enlargement with flood proofing of buildings in the residual flood plain,

b. Bypass tunnel to divert excess channel flow from the Stillwater Pond area into a 26' diameter deep rock tunnel to Stamford Harbor,

c. Bypass tunnel of same alignment but with a diameter reduced to 24' due to floodwater storage provided by a new enlarged dam and reservoir located at existing Siscowit Dam in Pound Ridge, New York and New Canaan, Connecticut,

d. Utilizing existing and proposed water supply reservoirs to provide seasonal flood control storage in conjunction with flood forecasting, warning and emergency evacuation,

e. No action.

3. a. Close coordination with key resource agencies and local interests is underway to determine the problems and needs to be addressed and to identify the significant issues related to each alternative being considered. Additional public meetings and coordination with other agencies will be held as issues and alternatives are more clearly defined. Affected Federal, State and local agencies and other interested organizations and parties will continue to be encouraged to participate in the identification of issues, problems and needs and the formulation of alternative courses of action by communicating with the addressee listed below.

b. Significant issues to be analyzed in depth in the DEIS include river basin flood damage control needs, fish and wildlife habitat requisites, potential impacts on proposed plans for a recreation greenbelt along the banks of the lower Rippowam River, water quality impacts resulting from retention and periodic discharge of water in a subsurface diversion tunnel, and construction activity impacts.

c. Consultation with the State Historic Preservation Officer and the U.S. Heritage Conservation and Recreation Service will be initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning is being coordinated with the U.S. Fish and Wildlife Service on an informal and formal basis, including the procedures required by the Fish and Wildlife Coordination Act of 1958 and the Endangered Species Act Amendments of 1978.

4. A scoping meeting will be held. The date and location will be identified through Public Notice procedures.

5. The DEIS is scheduled to be completed and available for review in September 1981.

ADDRESS: Information concerning the proposed action and DEIS can be obtained by contacting: Charles Freeman, Impact Analysis Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02154, ATTN: NEDPL–IR, Phone (617) 894–2400, Extension 347; (FTS 839–7347).

Dated: August 7, 1980.

Max B. Schaider,

Colonel, Corps of Engineers, Division Engineer.

[FR Doc. 80-24813 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-24-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., September 8, 1980 and from 9:30 a.m. to approximately 1:00 p.m., September 9, 1980 in Room 1E801, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review responses to recommendations/requests for information made at the 1980 Spring Meeting, discuss current issues relevant to women in the Services, and plan the itinerary/program for the next Semi-Annual Meeting scheduled for November 16–19, 1980 in Scottsdale, Arizona.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D322, The Pentagon, Washington, D.C. 20301, telephone 202–697–5655 no later than September 1, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 11, 1980.

[FR Doc. 80-24526 Filed 8-13-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Wednesday, September 10, 1980, from 8:30 a.m. until 5 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703–664–1175) to reserve a seat.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 8, 1980.

[FR Doc. 80-24527 Filed 8-13-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Contract Award

AGENCY: Economic Regulatory Administration.

ACTION: Notice of proposed contract award.

SUMMARY: In accordance with Department of Energy Procurement Regulations, the Economic Regulatory Administration gives public notice that two (2) contracts are being awarded, after taking into account the existence of potential organizational conflicts of interest, because this procurement is determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Ferguson, Office of Fuels Conversion, Economic Regulatory Administration, Room 3322-D, 2000 M Street, N.W., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: Upon the basis of the following findings, mitigation and determination, the proposed contracts described below are being awarded, after taking into account the existence of potential organizational conflicts of interest, because this procurement is determined to be in the best interest of the United States pursuant to the authority of Department of Energy Procurement Regulation 41 CFR 9–1.5409(a)(3).

Findings

(1) The Department of Energy (DOE), Economic Regulatory Administration ERA), Office of Fuels Conversion implements the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (the "Act") (Pub. L. 95–888). A primary purpose of the Act is to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States by encouraging and fostering the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source by utilities and major fuel burning installations. In implementing the Act, ERA, on an individual facility basis, (1) issues prohibition orders against the further use of petroleum or natural gas, and (2) processes petitions for exemption from the prohibitions against petroleum or natural gas use contained in the Act.

(2) In the course of implementing the Act it is necessary for ERA to obtain by contract technical support services regarding aspects of the environmental issues associated with acting on individual prohibition orders and exemption petitions. The contractors shall analyze and evaluate the site-specific environmental impacts of prohibiting specific powerplants and major fuel burning installations (MFBIs) or classes of powerplants and MFBIs from using natural gas or petroleum; shall evaluate the environmental impact of the granting or denying of a petition for exemption from prohibitions against natural gas or petroleum use; shall evaluate the adequacy and validity of environmental analyses provided in petitions for exemptions; and shall perform other similar assessments and analyses as appropriate. Without such environmental analyses Federal decisions cannot be made and the authorities of the Act would remain unimplemented.

A Source Evaluation Board (SEB) was convened for the procurement, since the anticipated cost for the requirement exceeded five (5) million dollars. The Request for Proposal (RFP) was sent to nearly 250 prospective offerors. Proposals were received from 15 firms. As a result of the evaluation process, it was determined that six (6) firms were in the competitive ranges. Two (2) contractors among the six (6) were selected for award. They are Dames & Moore, and Science Applications, Inc. (SAI).

(3) In accordance with 41 CFR 9–1.5405, all six (6) offerors in the competitive range provided disclosure of information concerning their interests related to the contract work to be performed. To aid in the information-gathering process, detailed questions concerning the nature of their businesses and how various aspects of them (e.g., organizational, Financial, past or current contracts) could contribute to a possible organizational conflict of interest were provided to each contractor. As a result of this process, DOE was furnished with information concerning whether possible organizational conflicts of interest exist with respect to (1) a contractor's ability to render impartial technically sound and objective assistance or advice, and (2) whether an unfair competitive advantage may be conferred on a contractor as a result of performing specific tasks.

(4) After a thorough review of the information submitted, DOE was unable to find that there is little or no likelihood that a possible organizational conflict of interest exists for any of the six (6) offerors. This result is due to the nature of the business in which the offerors (and in appropriate cases, their subcontractors) are engaged. All six (6) offerors actively seek work with private industry to provide environmental services similar to that required by this procurement. Any such firm would stand to benefit economically from actions taken by DOE regarding the continued use of petroleum or natural gas in powerplants and major fuel burning installations to the extent that such actions by DOE would increase the demand by energy firms for environmental professional support services.

However, the potential for an organizational conflict of interest varies among the six (6) offerors. Three (3) offerors have a substantially greater potential for a conflict because they design and construct powerplants and major fuel burning installations as well as provide environmental consulting services to the owner of such facilities. They could thus obtain additional work (e.g., design and/or construction of a new plant or a plant modification) as a direct result of a Federal action in which they participate. The other three (3) offerors perform only analytical studies rather than design and construction work and thus the professional services they render are the end product of their involvement with a private client. Any potential for bias would result only indirectly, i.e., from the expectation of obtaining additional industry business as environmental consultants because of their Federal association or the nature of the consultation they provide to the Federal Government. Both Dames & Moore and SAI are in the latter group.

(5) Dames & Moore performs a substantial part of its business in providing services to industry that are similar to those being procured. It describes itself as providing ". . . a broad range of geotechnical, planning and environmental services to both industry and governement." A significant portion of its business is with energy firms. Dames & Moore is not proposing to use subcontractors for this effort.

(6) Although SAI does a substantially smaller proportion of its business with private clients, it does actively seek similar business in the private sector. Thus, its potential for a conflict is different only in degree from that of Dames & Moore. In addtion, several of SAI's proposed subcontractors were found to have potential for conflicts, due to their work for industrial clients, including in some cases energy firms. These subcontractors were found to be essential to SAI's proposal. SAI proposed to use the following five (5) subcontractors: JRB Associates; GCA Corporation/Technology Division; Jacobs Engineering Group; Environmental Systems Corporation and Engineering Analysis, Inc.

(7) If an award is made to any of the six (6) firms in the competitive range, the possibility exists that the firm would be simultaneously performing similar technical and analytical services both for the Government and for private clients in support of different actions occurring under the Act.

(8) DOE has been unable to develop reasonable contractual language to totally avoid the type of potential conflict of interest recognized in this case. Furthermore, it is unreasonable as a condition for award to restrict any further the ability of a firm to secure business in the private section other than that provided in the Special Contract Clause (41 CFR 9–1.5408–2(b)), particularly when so doing would not affect the presence of the potential conflict, but rather would only contribute to the degree of mitigation achieved. Both the determination of whether a potential conflict exists and the establishment of reasonable mitigation in those cases where a potential conflict is recognized should be guided by good business judgment based upon the relevant facts and the work to be performed.

Mitigation

(1) Documents prepared by these contractors to support DOE's NEPA compliance requirements will be prepared under the regulations

promulgated by the Council on

contractor analysis will become a part

FOR FURTHER INFORMATION CONTACT:

promulgated by the Council on Environmental Quality (CEQ) (43 FR 55978, November 29, 1978). These regulations recognize that contractor assistance is an integral part of Federal agency NEPA documentation, and they provide that in order to avoid a conflict of interest, contractors shall submit a disclosure statement showing that they have no financial or other interest in the project being evaluated. The mitigation procedures used in this procurement to insure that no conflict of interest will in fact exist substantially exceed the CEQ requirement.

(2) Both contracts awarded under this procurement will include the Organizational Conflicts of Interest Special Clause (41 CFR 9–1.5408–2(b)), which will apply to both prime and subcontractors. The primary purpose of this clause is to aid in ensuring that the Contractor is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(3) The RFP provides that a principal reason for awarding more than one contract under this procurement is to provide a mechanism for avoiding the situation where a conflict of interest would actually exist. Prior to the assignment of a task, the contractor will submit a statement as to whether performing that task for the Government would create a conflict because of work performed for the company in question under a past, present, or currently planned relationship. The contractor will also be required to state whether performing that task would require them to review work they had previously performed for the Government. Similar information will be required from all subcontractors. DOE will independently review that statement, and if a conflict is found the contractor will be disqualified and that task will be assigned to another contractor or will be completed with other resources at DOE's disposal. In the case of a prohibition by rule for a class of powerplants or MFBIs, DOE will prior to assignment of a task establish that no conflict exist for any facility included in the class.

(4) As stated in the RFP, all work performed by the contractors under this procurement will be independently reviewed by DOE. All final decisions will be made by the Government, and the contractors will play an advisory role only. In addition, all pertinent contractor analysis will become a part of the public record of the particular action in question and thus will be subject to close third-party scrutiny for the validity of the data and technical findings presented.

(5) Similarly, any work which one of the contractors might perform for a private client and which is submitted by that company as part of an action under the Act will also become part of the public record and subject to review and comment. Furthermore, any information so developed for and submitted by a company would be independently evaluated and verified by DOE (either by the other support contractor secured by this procurement or by another resource) before it is used in support of a Government decision.

Determination

In light of the above findings and mitigation, I hereby determine in accordance with 41 CFR 9–1.5409(a)(3) that award of these contracts would be in the best interests of the United States.

Dated August 5, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-24608 Filed 8-13-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1570–3]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption

AGENCY: Environmental Protection Agency.

ACTION: Waiver of Federal preemption.

SUMMARY: This decision grants California a waiver of Federal preemption to enforce amendments to its 1979 and 1980 model year Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

ADDRESSES: Information relevant to this decision is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. (202) 755–2808. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Attorney/Advisor, Manufacturers Operations Division, (EM–340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce the following enforcement procedures:

(1) Amendments to Assembly-Line Test procedures which California has adopted for (a) the 1979 model year, as set forth in section 2057 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted December 19, 1977, as amended May 9, 1979,[2] and (b) the 1980 model year, as set forth in section 2058 of title 12 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted November 16, 1978, as amended January 30, 1979 and May 9, 1979.[3]

(2) California's New Vehicle Compliance Testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Vehicle Compliance Test Procedures" adopted June 24, 1976, as amended May 9, 1979, for 1979 and subsequent model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

Under section 209(b)(1) of the Act, when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to standards for which a waiver has already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the accompanying enforcement procedures are not consistent with section 202(a) of the Act. With regard to the first finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.[4] With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures impose inconsistent certification requirements.

On the basis of the record before me, I cannot make the findings required for a denial of the waiver under section 209(b)(1) with respect to California's 1979 and 1980 model year Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

[1] 42 U.S.C. 7543(b) (1977).

[2] These amended procedures are applicable to 1979 model year gasoline-powered passenger cars, gasoline- and diesel-powered light-duty trucks, and gasoline- and diesel-powered medium-duty vehicles.

[3] These amended procedures are applicable to 1980 model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles. California has not requested a waiver of Federal preemption for its unamended 1980 model year Assembly-Line Test procedures, but the unamended 1980 procedures fall within the scope of the waiver I previously granted for the 1979 model year procedures. 44 FR 7807 (February 27, 1979). I have reached this conclusion because the unamended 1980 procedures are identical to the unamended 1979 procedures; thus, they are not new "initially adopted" standards or enforcement procedures, they do not undermine California's protectiveness determination, and they do not cause any inconsistency with section 202(a) of the Act. See 44 FR 61096 (October 23, 1979). No party presented evidence as part of these proceedings which would tend to contradict this conclusion.

II. Background

A. Amendments to Assembly-Line Test Procedures

The California Air Resources Board (CARB) adopted Assembly-Line Test (ALT) procedures (one of two separate programs which the amendments under consideration in this decision affect) for 1979 and 1980 model year passenger cars, light-duty trucks and medium-duty vehicles on February 16, 1978, and November 16, 1978, respectively. These ALT procedures require each manufacturer to conduct a functional inspection and a steady-state emissions test of every vehicle it produces for sale in California, and to perform quality audit tests (according to the full California exhaust emission test procedures) on at least two percent of its California production.

[4] 43 FR 9344, 9345, 9346 (March 7, 1978).

California received a waiver of Federal preemption to enforce its 1979 ALT procedures on February 2, 1979.[5] On May 9, 179, CARB adopted amendments to both the 1979 and 1980 ALT procedures that form part of the basis of this waiver request.[6] The 1979 ALT amendments contained several minor changes which no party contested in these waiver proceedings and an amendment regarding Quality Audit testing at remote facilities which several parties did contest.

California also incorporated these changes into its 1980 ALT procedures. These amendments along with some additional minor changes CARB adopted on January 30, 1979 (also uncontested in these waiver proceedings), are the changes relating to the 1980 model year vehicles for which California has requested a waiver.[7]

The Quality Audit testing change at issue pertains to test procedures performed at remote facilities.[8] Under the unamended 1979 procedure, California permitted manufacturers to perform a "Pre-Delivery Inspection" (PDI) prior to the actual emissions testing to correct any shipping-related defects that may have occurred during shipment to the remote facility.[9] Under the amendments, a manufacturer may correct shipping-related damage only *after* the initial Quality Audit test of the vehicle, except for "compelling reasons".[10] The manufacturer otherwise may not conduct any PDI activity prior to the emissions test. If the manufacturer performs a retest, the manufacturer may petition the Executive Officer to substitute the after-repair results for the original test results.[11] A manufacturer may perform PDI on Quality Audit test cars prior to initial test without petitioning the Executive Officer only if the manufacturer performs the same PDI on 100% of its production, subsequent to consignment for shipping from the assembly line.

CARB adopted these contested Quality Audit amendments to prevent a manufacturer from correcting previously undetected manufacturing defects along with shipping-related defects before Quality Audit testing, and thereby to ensure that a manufacturer will test vehicles in the same condition in which they arrive at the dealership.[12] CARB further stated that neither CARB nor the manufacturer has any real assurance that, before delivering a vehicle to a consumer, dealership personnel actually perform a PDI identical to that performed by the manufacturer at the Quality Audit test site.[13]

B. Amendments to New Vehicle Compliance Test Procedures

On June 24, 1976, California adopted its New Vehicle Compliance Test procedures (the other program which amendments under consideration in this decision affect), which, along with subsequent amendments, received waivers of Federal preemption.[14] The 1979 and subsequent model year amendments under consideration in these proceedings include the following provisions:

(1) A prohibition against pre-test mileage accumulation or modifications, and adjustments or special preparation

[5] 44 FR 7807 (February 27, 1979).

[6] The waiver request was contained in a letter from Mr. Thomas C. Austin, Executive Officer (CARB), to Administrator, Environmental Protection Agency (EPA), dated July 5, 1979. EPA held a public hearing on this request on October 24, 1979. At the same time, a waiver request for California's optional 100,000-mile emission standards and accompanying enforcement procedures applicable to 1980 and subsequent model year passenger cars, light-duty trucks and medium-duty vehicles was considered. I granted the waiver request for the 100,000-mile option in a decision published on February 25, 1980 (45 FR 12291).

[7] All of the amendments to both the 1979 and 1980 ALT procedures were before the Presiding Officer for his consideration at the October 24, 1979 waiver hearing.

[8] Under California's regulations, manufacturers have the option of performing their Quality Audit tests at either the end of their assembly lines, or at a "remote facility" away from the assembly line.

[9] PDI is any procedure a manufacturer may instruct its dealers to perform to identify and correct a variety of defects before the dealers actually deliver the vehicles to consumers. CARB's 1979 model year regulations initially permitted a manufacturer to perform its PDI procedures on Quality Audit vehicles shipped to remote facilities for testing because those procedures presumably would be representative of the repairs its dealers actually would perform to correct shipping-related defects on vehicles delivered to consumers. As a result, the emissions performance of the vehicles on which a manufacturer would conduct Quality Audit testing after performing PDI presumably would be representative of the emissions performance of the vehicles its dealers ultimately would deliver to consumers for actual use.

[10] Compelling reasons are "that the vehicle is not testable, or is not reasonably operative, or is not safe to drive, or that damage to the vehicle would be likely if the vehicle were tested". See California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, p. 11.

[11] The Executive Officer must respond to the petition within 10 days. *Id.*

[12] April 5, 1979 CARB Staff Report, "Public Hearing to Consider Proposed Changes in the Regulations of the Air Resources Board Regarding Predelivery Inspection and Compliance Test Evaluation," 4 (hereinafter "Staff Report").

[13] Staff Report, 6.

[14] 43 FR 9344 (March 7, 1978) (pertaining to 1978–1982 model year medium-duty vehicles, diesel-powered light-duty trucks and 1979–1982 model year gasoline-powered light-duty trucks), 43 FR 15490 (April 13, 1978) (pertaining to 1983 and later model year light-duty trucks and medium-duty vehicles); 43 FR 25729 (June 14, 1978) (pertaining to 1979 model year gasoline-powered passenger cars and 1980 and later year gasoline- and diesel-powered passenger cars.)

or maintenance, unless the manufacturer

that the vehicles actually tested under

speculative.[37] AM testified that its lead

involved.[44] AM, also stated that

or maintenance, unless the manufacturer first procures written consent from the Executive Officer. The Executive Officer will not unreasonably withhold consent where the adjustments are necessary "to render the vehicle testable and reasonably operative."

(2) A manufacturer may perform "Specific, Special Maintenance" (SSM) necessary to restore test vehicles to their "natural condition" [15] Only if it has submitted an advance written request to the Executive Officer, and he approves the request.

(3) A manufacturer may inspect for and correct shipping-related damage or maladjustment only after it has conducted an initial emissions test of the vehicle, except where 100% of the manufacturer's production receives the same inspections or corrections. After the initial test, the manufacturer may request permission to correct shipping-related damages and to retest the vehicle. If it receives this permission, the manufacturer then may substitute its retest results for the original test results. This provision parallels the Assembly-Line test procedure amendment.

(4) The manufacturer must supply any unique specialty hardware and personnel necessary to perform the test.

(5) Under the unamended procedure, when the Executive Officer evaluated the test vehicles, if "no decision" was reached after 20 vehicles, he could not make a "pass" or a "fail" decision, and he did not have the authority to test any additional vehicles to give him an adequate basis for reaching a "pass" or "fail" decision. The amendments allow him to select 10 additional vehicles for testing. If the average emissions of the 30 vehicles tested exceed or are less than any of the exhaust emission standards, the Executive Officer may render a "fail" or "pass" decision, respectively.

III. Discussion

A. Public Health and Welfare

Test procedures like the California Assembly-Line Test procedures and New Vehicle Compliance Test procedures are "accompanying enforcement procedures" under section 209(b)(1) of the Act.[16] The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

All exhaust emission standards to be enforced by the procedures under consideration here have received waivers of Federal preemption which are still in effect.[17] The public record contains no plausible evidence that the proposed Assembly-Line Test procedures or New Vehicle Compliance Test procedures reduce the protectiveness of these standards.[18] In fact, CARB testified that the amended PDI procedures are slightly more stringent than the current procedures.[19] With regard to the amended New Vehicle Compliance Test evaluation procedures, CARB,[20] the Motor Vehicle Manufacturers Association (MVMA)[21] Ford Motor Company (Ford),[22] and General Motors Corporation (GM) [23] agreed that the amended procedure is slightly more stringent than the current procedure. Accordingly, California did not need to make any additional public health and welfare determinations in conjunction with these waiver requests. Thus, I cannot find a basis for denying the waiver on this issue.

B. Consistency

Under section 209(b)(1)(C), I must grant a California waiver request unless I find that California's accompanying enforcement procedures are not consistent with section 202(a) of the Act. Section 202(a) states, in part, that any regulation promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period."

1. *Lead Time and Technology.*—With regard to the PDI rule for the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures, Ford contended that the definition of the compelling reasons exception is too vague,[24] making it impossible to determine whether compliance with the proposed procedures is technically feasible.[25] GM opposed granting the waiver, stating that to continue performing PDI under the proposed procedure would necessitate the establishment of its own PDI center or centers in California, and that the amendment does not afford adequate lead time to consider this decision.[26] GM also contended that the compelling reasons exception was too vague and lacked objective criteria it could depend on and, thus, compliance with the rule would not be feasible when lead time is considered.[27] Chrysler testified that it would experience lead time problems in performing any engineering modifications the new procedures may require, and therefore only favored granting the waiver if the effective date were changed to the 1981 model year.[28] American Motors (AM), addressing its remarks only to the New Vehicle Compliance Test procedures, also expressed lead time concerns by stating that the amendments established a new test procedure. AM stated that manufacturers must receive lead time to facilitate compliance with this new procedure prior to the effective date of the amendments.[29] AM also was concerned that the New Vehicle Compliance Test procedures did not include a corresponding compelling reasons exception.[30]

Finally, CARB testified that no lead time is necessary, because the changes are not new requirements. CARB explained that the changes are simply intended to permit more accurate checks on assembly line quality, thus ensuring that the vehicles actually tested under the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures will be representative of vehicles leaving the assembly line.[31] As to the vagueness objection, CARB stated that the exceptions permitting PDI are sufficiently clear and specific, and that they adequately implement the intent of CARB's regulations by providing examples that show PDI is not allowed for the correction of manufacturing defects.[32] Moreover, CARB expressed its willingness to work with the manufacturers on a case-by-case basis to create a list of compelling reasons agreeable to both parties.[33]

The manufacturers' testimony also points out the deficiencies in their arguments regarding lead time and technology. Ford testified that it has already implemented the PDI rule, and it has had no greater difficulty complying with the emission standards.[34] GM testified that it already subjects every vehicle shipped to California to a thorough end-of-the-line inspection that, to some extent, is more thorough than the PDI performed by dealers.[35] Since GM performs this check on 100% of its California vehicles, it still may perform the check under the amended procedures. It did indicate, however, that the "key issue" involved the shipping-related defects that may occur after the vehicles leave the assembly line, because the end-of-assembly line check obviously cannot correct those problems.[36] The amended PDI procedure specifically addresses these shipping-related problems by permitting PDI to correct them after the manufacturer performs the initial test. Thus, GM apparently is already functioning successfully using procedures that it still may ultimately employ under the contested amendments.

GM also testified that it was considering constructing its own PDI center or centers in California to perform PDI on 100% of its California production. It has not yet decided whether it will construct any centers; therefore, any claims regarding lead time problems it may encounter in employing such a center are merely speculative.[37] AM testified that its lead time concerns would be somewhat vitiated if CARB included the compelling reasons exceptions in the New Vehicle Compliance Test procedures.[38] CARB had already testified at the October 24, 1979, EPA hearing that the substance of the exception is included in those procedures.[39]

With regard to the proposed changes in the evaluation of test results obtained from the New Vehicle Compliance Test procedure, if tests of 20 vehicles do not result in a "pass" or "fail" decision, the MVMA and several manufacturers testified that the increased stringency of the amended procedure may result in the failure of vehicles that would otherwise pass.[40] CARB testified, however, that the proposed evaluation procedures were only slightly more stringent than the present procedures.[41] Thus, the proposed changes are not a new requirement; they simply facilitate the capabilities of both the Assembly-Line Test and the New Vehicle Compliance Test procedures to ensure that production vehicles actually meet California's emission standards.

In light of the above discussion, I cannot conclude that manufacturers cannot develop and apply the requisite technology within the available lead time in order to achieve compliance with the California standards under the proposed Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

2. *Cost of Compliance.*—With regard to the cost of compliance, GM testified that compliance with the proposed procedures might require the construction of its own PDI center or centers, which, because of GM's high volume of sales, would involve substantial costs.[42] Additionally, GM asserted that the burden of possible retests would also be very disruptive of manufacturing and impose a significant cost penalty, although it did not provide estimates of such costs.[43] AM testified that the additional personnel, equipment, and possible expansion of existing facilities that would be necessary to comply with the procedures would be costly. AM failed to provide estimates of the costs involved.[44] AM, also stated that administrative costs due to the possible double testing under the retest provision would be burdensome.[45]

Finally, CARB testified that under the Quality Audit Assembly-Line Test procedures, the PDI rule only applies to vehicles that have been shipped to remote facilities.[46] This is only a small percentage of total production; therefore, CARB contended that the potential additional costs manufacturers would incur in retesting these vehicles also would be limited. Moreover, a manufacturer may retest a vehicle only if it has corrected a shipping-related defect, and CARB indicated that it did not believe that there were many vehicles in that category. GM's projected costs for construction of its own PDI center or centers are uncertain, because GM has not actually decided to proceed with construction.[47] I therefore cannot find that the cost of compliance with any or all of the amendments at issue is so excessive as to warrant a denial of the waiver on these grounds.

Other Objections to Granting the Wavier. Ford and GM testified that their dealers are obligated by contract and specifically reimbursed to perform a thorough PDI. Additionally, they are subject to legal liability under section 11705 of the California code if they fail to do so. Ford [48] and GM [49] also introduced evidence intended to indicate that their dealers were complying with their obligations. Chrysler,[50] GM,[51] Ford [52] and MVMA [53] contended that testing vehicles without PDI constituted testing at an "intermediate" step, and that since the condition of the vehicle as received by the consumer is the crucial consideration, a manufacturer should conduct the tests after it performs any PDI procedure similar to that which the dealer will perform.

CARB, however, introduced evidence indicating that the manufacturers' PDI

---

[15] E.g., to eliminate unnatural amounts of fuel vapor or carbon. California New Vehicle Compliance Test Procedures, p. 2.

[16] 42 FR 3192, 3194 (January 17, 1977).

[17] 43 FR 23729 (June 14, 1978) (pertaining to 1980 and subsequent model year passenger cars); 43 FR 1829 (January 12, 1978) (pertaining to 1979–1982 light-duty trucks and medium-duty vehicles); and 43 FR 15490 (April 13, 1978) (pertaining to 1983 and subsequent model year light-duty trucks and medium-duty vehicles).

[18] The Motor Vehicle Manufacturers Association (MVMA) testified that the PDI rule would adversely affect the enforcement procedures as they relate to the protectiveness of the standards. MVMA presented no evidence to support this claim, however, nor did it explain how this result would occur. Transcript of Public Hearing on California Waiver Request, 71 (October 24, 1979) (hereinafter "Tr.").

[19] Tr. 15.

[20] Tr. 10.

[21] Transcript of California Air Resources Board Hearing held on April 5, 1979, to consider these amendments, 102 (hereinafter "CARB Hearing Tr.") The MVMA expressed concern that the increased stringency would result in the failure of vehicles that would otherwise actually have passed.

[22] CARB Hearing Tr. 166. Ford expressed concerns similar to MVMA's regarding increased stringency.

[23] CARB Hearing Tr. 121.

[24] Although the New Vehicle Compliance Test procedures do not use the term "compelling reasons", the procedures provide that the Executive Officer will allow mileage accumulation, modifications, adjustments, or special preparation or maintenance where such action is needed to "render the vehicle testable and reasonably operative." See California New Vehicle Compliance Test Procedures, pp. 1–2. Additionally, CARB testified that the Executive Officer may permit SSM for reasons covered by the compelling reasons exception. See Tr. 27. For purposes of brevity, I will refer to these provisions in the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures as the "compelling reasons exception," unless indicated otherwise.

[25] Tr. 92.

[26] Tr. 103–104. 111. In the alternative, GM suggested granting the waiver, while advancing the effective date to accommodate GM's lead time problem. See Tr. 108.

[27] Tr. 92.

[28] Tr. 161.

[29] Tr. 184.

[30] Letter from Mr. William C. Jones, Manager, Vehicles Emissions and Fuel Economy Standards, AM, to Charles N. Freed, Director, Manufacturers Operations Division, EPA (November 20, 1979). But see footnote 24.

[31] Tr. 17–18.

[32] Letter from Mr. K. D. Drachand, Acting Chief, Mobile Source Control Division, CARB, to Mr. C. N. Freed, Director, Manufacturers Operations Division, EPA (November 20, 1979) (hereinafter "CARB Letter") p.4.

[33] Tr. 201.

[34] Tr. 98.

[35] Tr. 112–113. GM has also tested engine families under the proposed New Vehicle Compliance Test procedures, and they have passed. See Tr. 117.

[36] Tr. 114.

[37] Tr. 115. GM may still correct defects by showing they are shipping related.

[38] Tr. 191.

[39] See footnote 24.

[40] CARB hearing Tr. 102, 121, 166.

[41] Tr. 15. See Staff Report at 15–17 for CARB's analysis of the risk of wrongful failure under the proposed New Vehicle Compliance Test evaluation procedures.

[42] Tr. 103–105.

[43] Tr. 122, 131.

[44] Tr. 184.

[45] CARB Hearing Tr. 150.

[46] Tr. 208. Under both the original and amended procedures manufacturers are not permitted to perform PDI on vehicles undergoing Quality Audit tests on the manufacturers' premises, except in limited circumstances.

[47] TR. 115, 145.

[48] Tr. 76 and Letter from Mr. Roger E. Maugh, Assistant Director Automobile Emissions Office, Environmental and Safety Engineering Staff (Ford) to Mr. Charles N. Freed, Director Mobile Sources Enforcement Division, EPA (August 24, 1979).

[49] Tr. 103, 107.

[50] Tr. 159.

[51] CARB Hearing Tr. 115.

[52] CARB Hearing Tr. 162.

[53] Tr. 66.

instructions were vague [54] and that dealers were not completely performing their PDI obligations.[55] More importantly, on occasion manufacturers can use PDI to correct production defects instead of only shipping-related defects as intended by the amended regulations.[56] The PDI rule, therefore, is not a new legal obligation, but simply a device to ensure that the manufacturer produces vehicles that meet the standards when they leave the assembly line. This is the point where the manufacturer relinquishes physical control over the condition of its vehicles.[57] The PDI rule simply fixes responsibility for emissions control with the manufacturer.

GM objected to the provision requiring the manufacturers to supply any personnel and unique specialty hardware that may be necessary to perform the tests. GM stated that the requirement was unnecessary since the manufacturers were already supplying them.[58]

The Act does not authorize me to deny California a waiver on the grounds supplied in these other objections. The decision on such matters of public policy is properly left to California's judgment.[59]

IV. Finding and Decision

Having given due consideration to the public hearing record of October 24, 1979, all material submitted for the record, and other relevant information, I find that I cannot make the determinations required for a denial of the waiver under section 209(b) of the Act, and therefore I hereby waive application of section 209(a) of the Act to the State of California with respect to the following enforcement procedures:

(1)(a) Amendments to the 1979 model year Assembly-Line Test procedures set forth in section 2057 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted December 19, 1977, as amended May 9, 1979, for 1979 model year gasoline-powered passenger cars, gasoline- and diesel-powered light-duty trucks, and gasoline- and diesel-powered medium-duty vehicles.

The unamended 1980 model year Assembly-Line Test procedures fall within the scope of the waiver I previously granted for the unamended 1979 procedures because the unamended 1980 procedures are identical to the 1979 procedures, and therefore they do not: (1) undermine California's determinations that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal Standard, nor (2) cause California's requirements to be inconsistent with section 202(a) of the Act.

(b) The amendments to the 1980 model year Assembly-Line Test procedures set forth in section 2058 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," adopted November 16, 1978, as amended January 30, 1979, and May 9, 1979. The procedures are applicable for 1980 model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

(2) California's New Vehicle Compliance Testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Vehicle Compliance Test Procedures" adopted June 24, 1976, as amended May 9, 1979, for 1979 and subsequent model years gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Dated: August 8, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-24557 Filed 8-13-80; 8:45 am]
BILLING CODE 6560-01-M

[54] Tr. 209. See CARB Letter. Attachment 'F' "1979 Oldsmobile Pre-Delivery Inspection Procedure Check Sheet".

[55] See CARB Letter, Attachment 'G'. "General Motors New Vehicle Predelivery Inspection Survey," January, 1979. This survey indicates that while 63% of the dealers performed driveability tests, only 13% actually performed functional (underhood) vehicle emission component checks. Also, Ford's letter (see footnote 48) indicated that only 78% of their dealers perform a complete PDI.

[56] Tr. 29, 209.

[57] CARB Hearing Tr. 106.

[58] CARB Hearing Tr. 129.

[59] 43 FR 1829 (January 12, 1978).

[FRL 1570-4]

California State Motor Vehicle Pollution Control Standards; Amendments Within Previous Waivers of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adpoted Assembly-Line Test procedures for various classes of new motor vehicles, for the 1981 model year. The 1981 procedures are essentially the same as those for the 1980 model year. The few changes which CARB has adopted are minor in nature. I find these changes to be included within the scope of previously granted waivers of Federal preemption and the accompanying waiver that I am granting today. Since the changes are included within these waivers, a public hearing to consider them is necessary. However, if any party asserts a *bona fide* objection to these findings, a public hearing will be held to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings.

DATES: Any *bona fide* objection to the findings in this notice must be filed on or before September 15, 1980; otherwise, at the expiration of this 30-day period these findings will be deemed final. Upon the receipt of any timely objection a public hearing will be scheduled and announced in a subsequent **Federal Register** notice.

ADDRESS: Any *bona fide* objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division, (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Copies of the above standards and procedures at issue in this notice, as well as those documents used in arriving at this decision, are available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacremento, California 98512.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Manufacturers Operations Division, (EN–340), U.S. Environmental Protection Agency, Washington, D.C. 20460. (202) 472–9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 209(a) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7543(a), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard

relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrtor must grant a waiver unless he finds that: (1) the determination of the State is arbitrary and capricious, (2) the State does not need the State standards to meet compelling and extraordinary conditions, or (3) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

In addition, once the State receives a waiver of Federal preemption for its standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption.[1] If the State acts to change a previously-waived accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it does not undermine the State's determination that its standards, in the aggregate, are as protective as comparable Federal standards, does not affect the technological feasibility of the State's requirements, and raises no new issues affecting the Administrator's previous waiver determinations.[2]

II. Discussion

In a February 13, 1980 letter to the Administrator, CARB notified EPA that it had adopted Assembly-Line Test (ALT) procedures for various classes of new motor vehicles for the 1981 model year.[3] CARB also stated its belief that the 1980 and 1981 model year ALT procedures are essentially the same, that changes from 1980 to 1981 are of a minor, technical nature, and that these 1981 changes are included within the scope of previous waivers of Federal preemption. I agree with CARB's judgment that these changes are included within the scope of previous waivers because they are not new, "initially-adopted" standards of enforcement procedures, present no new issues affecting my previous determinations with regard to California's standards and enforcement procedures, do not undermine California's "protectiveness in the aggregate" determination, and do not effect the technological feasibility of California's requirements.

The 1981 changes[4] adopted on December 19, 1979, and the existing waivers[5] which include them are as follows:

(i) Clarification of the "compelling reasons exception" to the pre-delivery inspection (PDI) rule of the Quality Audit test procedures.

The 1980 ALT procedures prohibit a manufacturer from correcting damages or maladjustments which have resulted from shipment of a vehicle to a remote testing facility until after the initial Quality Audit test, [6] except for "compelling reasons". The 1981 amendments delete the words "compelling reasons" but expand and clarify the substance of the exception to ensure that the exception includes only defects which are easily recognizable to the average observer. This restriction now applies to every adjustment or repair, whether a manufacturer performs it at a remote test facility or not. Previously, this restriction only applied to tests conducted at remote test facilities.

In addition, a manufacturer previously was required to report every adjustment or repair. The amendments now require the manufacturer to justify its adjustments and repairs, and delineate the information the manufacturer must report, such as the conditions and obvious symptoms of the vehicle and the reason for repair. These changes do not undermine the State's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, do not cause the State's requirements to be inconsistent with section 202(a) of the Act, and raise no new issues affecting the Administrator's previous waiver determinations, and therefore, are included within the previous waiver for the 1980 ALT procedures.

(ii) Clarification of the exception permitting repair of Quality Audit test vehicles if, subsequent to shipping from the assembly line, the manufacturer performs an identical repair on all of its California production vehicles.

The 1980 ALT procedures permitted repair of vehicles prior to performance of the Quality Audit test if the manufacturer has been performing the same corrections on all California vehicles subsequent to consignment for shipping from the assembly line. The 1981 change clarifies the language to make it clear that inspections and repairs by dealers or distributors will not suffice to allow repairs on Quality Audit vehicles. Since this change is only a clarification of an existing requirement it does not undermine California's protectiveness determination, and it raises no new issues of technological feasibility or other issues. Accordingly, it is included within the previous waiver for the 1980 ALT procedures.

(iii) Requirement that each manufacturer report all of its invalidated or aborted Quality Audit tests, the retest results, and the reasons explaining the necessity for the retest before CARB will permit the invalidations. Additionally, each manufacturer must report the applicable exhaust emission standard it has elected to meet by listing options selected, durability mileage used, and whether non-methane or total hydrocarbon standards apply.

The 1980 ALT procedures already obligate the manufacturers to provide some of the information required in the 1981 ALT procedures; however, the manufacturers were not meeting all the

[1] *See* 43 FR 36679, 36680 (1978).

[2] *See* 44 FR 61096, 61099–61001 (1979); *see also*, letter from Marvin B. Durning, Assistant Administrator for Enforcement, Environmental Protection Agency (EPA), to Thomas C. Austin, Executive Officer, California Air Resources Board (CARB), March 8, 1979.

[3] Letter from Gary Rubenstein, Deputy Executive Officer, California Air Resources Board (CARB), to Douglas M. Costle, Administrator, Environmental Protection Agency (EPA), February 13, 1980. CARB's ALT program involves emission-related testing and inspection of new production motor vehicles coming off manufacturer's assembly line.

[4] The 1981 procedures are set forth in Section 2059 of Title 13 of the California Administrative Code and in State of California Air Resources Board, "California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" (hereinafter "1981 ALT procedures").

[5] Most of the changes are included within the 1980 Assembly Line Test Procedures as set forth in Section 2058 of Title 13 of the California Administrative Code and in State of California Air Resources Board "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles". The entire 1980 procedures, along with amendments to the 1979 ALT procedures received a waiver of Federal preemption in an accompanying notice published in today's **Federal Register**. Change number (iv) below is included within the scope of a previously granted waiver.

[6] The Quality Audit test is one of three tests performed in Assembly-Line testing, and is a slightly modified version of a full certification test procedure. The ALT procedures require the manufacturers to Quality Audit test approximately two percent of their California production for each engine family produced.

1980 reporting requirements.[7] Therefore, under these changes CARB now will not

California Air Resources Board, 1102 Q

of vehicles, it may adopt other

passenger cars, light-duty trucks, and

1980 reporting requirements.[7] Therefore, under these changes CARB now will not permit invalidation of any emission test result unless the manufacturer retests the vehicle and reports the reasons for invalidation. Additionally, since for the 1981 model year, a vehicle may meet any one of several emission standards to show compliance with the Quality Audit test procedure, a manufacturer must indicate the standards it is selecting, the durability mileage it has used, and whether it has taken non-methane or total hydrocarbon measurements. Because the manufacturers need only report the required information to comply with the amendments, they do not undermine the State's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, do not cause the State's requirements to be inconsistent with section 202(a) of the Act, and raise no new issues affecting the Administrator's previous waiver determinations; therefore, they are included within the previous waiver for California's 1980 ALT procedures.

(iv) Requirement that if a manufacturer uses a flame ionization detector (FID) to measure non-methane hydrocarbon (HC) emissions the manufacturer must supply the hexane equivalent conversion value for each different FID model it uses and for each engine family it tests.

In an accompanying notice, I have determined that California's adoption of a specific reference method utilizing a gas chromatograph combined with a flame ionization detector for determining compliance with the non-methane hydrocarbon standard falls within the scope of a previously granted waiver.[8] In the past (and in the 1980 ALT procedures), EPA recommended and CARB used conversion factors to convert FID measurements of non-methane HC to non-dispersive infra-red (NDIR) measurements. CARB has concluded that the actual conversion factors, in fact, vary from CARB's and EPA's values;[9] therefore, CARB is now requirings the manufacturers to obtain the actual conversion value after they obtain their test results. Since this requirement raises no new issues of technological feasibility, raises no new issues affecting the Administrator's previous waiver determinations, and through increased accuracy of measurement will enhance the protectiveness of California's standards, it is included within the previous waivers for California's test procedures.

(v) Elimination of the Methane Content Correction Factor (MCCF) for Quality Audit testing. CARB's regulations now require engine families to meet the same HC standard they met during certification testing without application of the factor.

The 1980 ALT procedures provided a manfuacturer with the option of applying a MCCF to its HC measurements, whether the manufacturer certified an engine family to the non-methane HC standard or the total HC standard. The 1981 changes eliminate this MCCF option, thereby requiring a manufacturer to meet the same standards it met during certification while using the appropriate instrumentation. Although the manufacturers may encounter some possible lead time problems in procuring HC instrumentation necessary to certify to the non-methane standard, CARB's regulations still provide the manufacturers with the option of certifying to either a total HC standard or a non-methane standard.[10] Thus, the manfacturers are not required to purchase the non-methane HC instrumentation. Additionally, the MCCF was subject to certain inherent variability and inaccuracies; thus, its elimination will improve the reliability of HC measurements.[11] Since there do not appear to be potential technological feasibility problems, and since the increased accuracy of measurement will enhance the protectiveness of California's standards, this amendment is included within the previous waivers for the 1980 ALT procedures.

III. Finding and Decision

Accordingly, the California regulations addressed in this notice [12] need not independently meet the waiver criteria of Section 209(b)(1) and may be enforced by California at the expiration of 30 days (September 15, 1980) following publication of this notice unless a *bona fide* objection is filed.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Dated: August 8, 1980

Douglas M. Costle,
Administrator.

[FR Doc. 80-24559 Filed 8-13-80; 8:45 am]
BILLING CODE 6560-01-M

[7] State of California Air Resources Board Staff Report "Public Hearing to Consider Proposed 1981 Assembly-Line Test Procedures" (hereinafter "Staff Report") November 19, 1979, p. 6.

[8] See the accompanying notice published in today's Federal Register.

[9] Staff Report, 5.

[10] 1981 ALT procedures, p. 18.

[11] Staff Report, 12.

[12] California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, adopted December 19, 1979.

[FRL 1570-5]

California State Motor Vehicle Pollution Control Standards; Amendments Within Previous Waivers of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted several changes to the California Exhaust Emission Standards and Test Procedures, for various classes of new motor vehicles, for 1979, 1980, 1981 and subsequent model years. I find these changes to be included within the scope of previously granted waivers of Federal preemption. Since the changes are included within previous waivers, a public hearing to consider them is unnecessary. However, if any party asserts a *bona fide* objection to these findings, a public hearing will be held to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings.

DATES: Any *bona fide* objection to the findings in this notice must be filed on or before September 15, 1980; otherwise, at the expiration of this 30-day period these findings will be deemed final. Upon the receipt of any timely objection a public hearing will be scheduled and announced in a subsequent **Federal Register** notice.

ADDRESS: Any *bona fide* objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the above standards and procedures at issue in this notice, as well as those documents used in arriving at this decision, are available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 98512.

FOR FURTHER INFORMATION CONTACT: Glenn Unterberger, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone 202-472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 209(a) of the Clean Air Act, as amended, 42 U.S.C. 7543(a) ("Act"), provides:

> "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator must grant a waiver unless he finds that: (A) the determination of the State is arbitrary and capricious, (B) the State does not need the State standards to meet compelling and extraordinary conditions, or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

As previous waiver decisions have explained, State standards or enforcement procedures are not consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to meet those requirements, giving appropriate considerations to cost of compliance within that time frame, or if the Federal and State test procedures impose inconsistent certification requirements.[1] California is the only state which meets section 209(b)(1)'s eligibility criteria for receiving waivers.

Once California has received a waiver of Federal preemption for its standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption.[2] If California adopts a change to a previously-waived standard or accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it does not cause California's standards, in the aggregate, to be less protective of public health and welfare than applicable Federal standards, does not cause California's requirements to be inconsistent with section 202(a) of the Act, and raises no new issues affecting the Administrator's previous waiver determinations.[3]

II. Discussion

In a May 30, 1979, letter to the Administrator,[4] the California Air Resources Board (CARB) notified EPA that it had adopted several changes to the California Exhaust Emission Standards and Test Procedures for various vehicle classes for the 1979, 1980, 1981, and later model years. CARB also stated its belief that the changes are of a minor, technical nature and are included within the scope of waivers of Federal preemption already granted to California. I agree with CARB's judgment that these changes are included within the scope of previous waivers because they are not new standards or enforcement procedures, they present no new issues affecting my previous determinations with regard to California's standards and enforcement procedures, they do not cause the California standards, in the aggregate, to be less protective than applicable Federal standards, and they do not affect the technological feasibility of California's requirements of their consistency with Federal certification test requirements. The amendments, adopted on May 24, 1978, and on September 6, 1978, and the existing waivers in which they are included, are as discussed below:

(i) *Adoption of a non-methane hydrocarbon (HC) test procedure for 1980 model year passenger cars and 1981 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles.*[5]

In a notice published on June 14, 1978, EPA waived Federal preemption for California's non-methane hydrocarbon standard for these classes of vehicles, as well as for the method for determining compliance with that standard, provided that hydrocarbon emissions be measured with an analytical system which responds only to the non-methane fractions.[6] CARB now has adopted a specific reference method utilizing a gas chromatograph combined with a flame ionization detector to measure the non-methane fraction, and allows equivalent methods to be used.[7]

This specific test procedure merely identifies a specific method for compliance with a test procedure requirement for which California already has received a waiver. It does not affect the stringency of the standard or raise any new issues affecting the previous waiver determination. This specific reference method therefore constitutes a test procedure covered by the June 14, 1978, waiver.

(ii) *Addition of warning signal requirement for exhaust gas sensor in allowable maintenance regulations for 1980 and 1981 and later model passenger cars, light-duty trucks, and medium-duty vehicles.*[8]

EPA waived Federal preemption on July 17, 1978, for California to enforce its allowable maintenance regulations.[9] The regulations allow manufacturers to require replacement of exhaust gas sensors at 30,000 miles, and the May 24, 1978, California amendment requires manufacturers to provide an audible and/or visible signal to the driver if maintenance on this item is necessary. This requirement raises no new issues of technological feasibility of achieving applicable emission standards or of consistency in general with section 202(a) of the Act because it does not

[1] *See, e.g.*, 43 FR 32182 (July 25, 1978).

[2] *See* 43 FR 36679, 36680 (1978).

[3] *See* 44 FR 61096, 61099-61101 (1979); *see also*, letter from Marvin B. Durning, Assistant Administrator for Enforcement, Environmental Protection Agency (EPA, to Thomas C. Austin, Executive Officer, California Air Resources Board, March 8, 1979.

[4] Letter from Thomas C. Austin, Executive Officer, California Air Resources Board, to Douglas M. Costle, Administrator, EPA, May 30, 1979 (hereinafter "CARB May 30, 1979 letter").

[5] State of California, Air Resources Board, "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978, incorporated by reference in "California Exhaust Emissions Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1980 Standards and Test Procedures"] ¶ 3 (a), and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1981 Standards and Test Procedures"], ¶ 3(a), as amended May 24, 1978.

[6] 43 FR 25729, 25730, n. 7 (1978).

[7] The gas chromatograph flame ionization procedure is recommended by SAE J 1151. Other acceptable methods are also described in SAE J 1151. "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978.

[8] 1980 Standards and Test Procedures, ¶ 3(f)(1)(i)(A)(5); 1981 Standards and Test Procedures, ¶ 3(e)(1)(i)(A)(5).

[9] 43 FR 32182 (1978).

impose any new emission control requirements on vehicles and requires little lead time or cost to implement.[10] In addition, the requirement, if anything, will serve to increase the protectiveness of California's standards by increasing the likelihood that consumers will be aware of and act on the need for maintenance of an emission control component. Finally, the requirement does not raise any new issues affecting the previous waiver determinations. As a result, the warning signal requirement is included within the scope of the July 17, 1978, waiver.

(iii) *Requirement that each manufacturer submit a statement that the driveability and performance characteristics of vehicles for which certification is requested satisfy the manufacturer's own driveability and performance requirements, applicable to 1980, 1981 and later model year passenger cars, light-duty trucks, and medium-duty vehicles.*[11]

On June 14, 1978, EPA waived Federal preemption for California to enforce its earlier adopted 1980 and 1981 and later model year passenger car standards and test procedures.[12] This May 24, 1978, amendment simply requires manufacturers to submit statements that their vehicles comply with their own driveability and performance criteria, and authorizes the Executive Officer of CARB to request from a manufacturer driveability data for vehicles demonstrating performance problems and to take appropriate enforcement action. There are no technological issues surrounding compliance with this requirement because it does not impose any new emission requirements on vehicles; rather, it merely requires the submittal of a statement by the manufacturers. For the same reason, it does not undermine California's previous determinations that its 1980 and later model year passenger car standards, in the aggregate, are as protective as applicable Federal standards. Nor does this requirement raise any new issues affecting the previous waiver determinations. Therefore, it is included within the scope of the previous waivers for California's standards and test procedures.

(iv) *Two-year postponement of 1.5 grams per vehicle mile (gpm) oxides of nitrogen (NO_x)* standard for 1979 and 1980 model year four-wheel drive lightduty trucks under 4,000 pounds, with appropriate amendments to 1979 model year assembly-line test procedures.[13]

EPA waived Federal preemption for California to enforce its emission standards for 1979 and 1980 model light-duty trucks, including a 1.5 gpm NO_x standard, on January 12, 1978.[14] CARB's postponement of the waived 1.5 gpm NO_x standard for 1979 and 1980 model light-duty trucks (LDTs) leaves in effect the model year 1978 NO_x standard of 2.0 gpm for these two years. Although this postponement affects the stringency of the standards, each California emission standard (i.e. for carbon monoxide (CO), HC and NO_x) for this vehicle class in these two model years remains more stringent than each corresponding Federal standard, and therefore does not affect California's determination that its own standards are at least as protective as Federal standards.[15] The Delay is intended to permit the enlargement of the chassis of the LDT in this small class of vehicles to accommodate the larger catalysts needed to permit this LDT to comply with the more stringent NO_x standard.[16] Since a waiver has already been granted California to enforce the more stringent NO_x standard of 1.5 gpm, california's lessening of the stringency presents no issues of technological feasibility. This amendment also raises no other new issues affecting the previous waiver determinations; therefore, it is included within the previous waiver for California's 1979 and 1980 LDT emissions standards.

(v) *Editorial and corrective changes to the standards and test procedures for 1980 and 1981 and later model passenger cars, light-duty trucks and medium-duty vehicles*[17] and to the standards and test procedures for 1980 and later model heavy-duty engines and vehicles.[18]

These changes consist merely of correcting and updating references, separating documentation, and reinstating items inadvertently omitted in earlier documents.[19] Thus, they automatically are incorporated into the waiver for these vehicle classes.

III. Finding and Decision

Accordingly, the California amendments addressed in this notice [20] are included within the scope of waivers California already has received and may be enforced by California at the expiration of 30 days (September 15, 1980) following publication of this notice unless a *bona fide* objection is filed.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that

[10] Before adopting this amendment, California already had been enforcing a similar warning signal requirement when a manufacturer schedules catalyst or exhaust gas recirculation maintenance.

[11] 1980 Standards and Test Procedures, ¶ 5(g); 1981 Standards and Test Procedures, ¶ 5(g).

[12] 43 FR 25729 (1978).

[13] Title 13, California Administrative Code, ¶¶ 1959.5(a), 1960.0(a), and 2057, as amended September 7, 1978; "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles", ¶ 4, as amended September 6, 1978; 1980 Standards and Test Procedures, ¶ 4, as amended September 6, 1978.

[14] 43FR 1829 (1978).

[15] The California standards for 1979 and 1980 model year four-wheel drive light-duty trucks under 4,000 pounds with the requested postponement of the 1.5 NO_x standard are:

HC:	CO:	NO_x
0.41	Model year 1979—9.0	2.0
0.39(0.41)*	Model year 1980—9.0	2.0

(*Beginning in 1980, the HC standard is expressed as a non-methane HC standard. HC standards in parentheses apply to total hydrocarbons, or, for 1980 models only, to emissions corrected by a methane content correction factor. 43 FR 1829, 1830 (1978).)

The Federal standards for the same vehicle class in these model years are: 1.7 gpm HC, 18 gpm CO and 2.3 gpm NO_x.

[16] CARB May 30, 1979, letter at 6; "Hearing Officers Report Regarding American Motors Petition for Modification of Light-Duty Truck Emission Standards for 1979–1980 Model Years."

[17] 1980 standards and Test Procedures, as amended May 24, 1978; 1981 Standards and Test Procedures, as amended May 24, 1978.

[18] "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines", as amended May 24, Procedures for 1981 and Subsequent Model Heavy-Duty Engines", as amended May 24, 1978.

[19] *See* CARB May 30, 1979 letter, at 2, 5. Regarding the inadvertently omitted items, CARB explained that it had not included fuel filters and air filters in its list of allowable maintenance items from its earlier version of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty trucks, and Medium-Duty Vehicles."

[20] Specifically, those regulations are the following: "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978, incorporated by reference in "California Exhaust Emissions Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Truck, and Medium-Duty vehicles" [hereinafter "1980 Standards and Test Procedures"] ¶ 3(a), and in "California Exhaust Emissions Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1981 Standards and Test Procedures"], ¶ 3(a), as amended May 24, 1978; 1980 Standards and Test Procedures, ¶¶ 3(f)(i)(A)(5), 5(g), and 3(f)(i)(ii), as amended May 24, 1978; 1980 Standards and Test Procedures, as amended May 24, 1978; 1981 Standards and Test Procedures, ¶¶(3)(i)(i)(A)(5), 5(g) and 3(e)(i)(ii), as amended May 24, 1978; 1981 Standards and Test Procedures, as amended May 24, 1978; "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines", as amended May 24, 1978, and "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Heavy-Duty Engines", as amended May 24, 1978; Title 13, California Administrative Code, ¶¶ 1959.5(a), 1960.0(a) and 2057, as amended September 7, 1978; "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles", ¶4, as amended September 6, 1978; and 1980 Standards and Test Procedures, ¶4, as amended September 6, 1978.

this decision is of nationwide scope and effect.

Dated: August 8, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24559 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1568-8]

National Pollutant Discharge Elimination System (NPDES); Availability of Wastewater Treatment Manual (Treatability Manual)

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of technical information and request for comments.

SUMMARY: This notice announces the availability of the Treatability Manual. The Treatability Manual is a compilation of available information including: (1) Physical, chemical, biological and treatability data on the toxic or "priority" pollutants; (2) descriptive information on numerous industrial categories; (3) summaries of performance data on existing pollutant treatment technologies; (4) capital, operating and maintenance cost estimates for these treatment technologies; and (5) an executive summary to assist users. To enhance the quality of information in future supplements or revisions to the Treatability Manual, EPA also is providing a review and comment period.

DATES: Comments may be submitted at any time. However, to be considered for inclusion in the Manual's first scheduled annual supplement or revision, comments must be received on or before April 1, 1981.

ADDRESSES: Interested persons may obtain a copy of the Treatability Manual after September 15, 1980 by requesting publication stock number 055-000-00190-1 from the Superintendent of Documents, U.S. Government Printing Office, Department 50, Washington, D.C. 20402. The price of the Manual is $47.00. The Treatability Manual is available for examination at the following EPA Regional Offices, Laboratories and State Offices after September 1, 1980:

EPA Regions

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
Library, EPA Region I, Twenty-first Floor, JFK Building, Boston, Massachusetts 02203, (617) 223–5791
Librarian, Environmental Research Laboratory, U.S. EPA, South Ferry Road, Narragansett, Rhode Island 02882, (401) 789–1071

Region II

(New Jersey, New York, Puerto Rico, Virgin Islands)
Water Permits Branch, EPA Region II, Room 845, 26 Federal Plaza, New York, New York 10278, (212) 264–9895

Region III

(Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia)
Library, EPA Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–0580

Region IV

(Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky)
Library, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, (404) 881–4216
Chris L. West, Office of Public Awareness, Environmental Research Center, Room M–306, U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–4577
Robert C. Ryans, Environmental Research Laboratory, U.S. EPA, College Station Road, Athens, Georgia 30613, (404) 546–3306
Andre Lowery, Librarian, Environmental Research Laboratory, U.S. EPA, Sabine Island, Gulf Breeze, Florida 32561, (904) 932–5311 Ext. 218

Region V

(Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota)
Ms. Lou W. Tilley, Librarian, Library, EPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 353–2022
Library, Environmental Research Laboratory, U.S. EPA, 6201 Congdon Blvd., Duluth, Minnesota 55804, (218) 727–6692
Office of Public Affairs, Environmental Research Laboratory, U.S. EPA, 26 W. St. Clair Street, Cincinnati, Ohio 45268, (513) 684–7771

Region VI

(Arkansas, Louisiana, Oklahoma, Texas, New Mexico)
Oscar Cabra, EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767–4375
Marvin L. Wood, Robert S. Kerr Environmental Research Laboratory, U.S. EPA, Ada, Oklahoma 74820, (405) 332–8800

Region VII

(Iowa, Kansas, Missouri, Nebraska)
Library, EPA Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–3497

Region VIII

(Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota)
Delores Eddy, Librarian, EPA Region VIII, Room 101, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–2560

Region IX

(Arizona, California, Nevada, Hawaii)
Permits Branch, EPA Region IX, 215 Fremont Street, San Francisco, California 94111, (415) 556–3454
Office of Environmental Quality, City Hall, 400 East Stewart Street, Las Vegas, Nevada 89101, (702) 386–6277

Region X

(Alaska, Idaho, Oregon, Washington)
Harold Geren, EPA Region X, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1348
Public Information Office, Room 101, Environmental Research Laboratory, U.S. EPA, 200 SW 35th Street, Corvallis, Oregon 97330, (503) 757–4600

States and Territories

Alabama

Alabama Water Improvement Commission, Perry Hill Office Park, 3815 Interstate Court, Montgomery, Alabama 36109, (205) 277–3630

Alaska

Alaska Operation Office, EPA, Room E–535, Federal Building, 701 C Street, Anchorage, Alaska 99513, (907) 271–5083

American Samoa

Pati Faiai, Executive Secretary, Environmental Quality Commission, Pago Pago, American Samoa 96920

Arizona

Will Gilbert, Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007, (602) 255–1277

Arkansas

John Ward, Arkansas Department of Pollution, Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, (501) 371–1701

California

Edward C. Anton, California State Water Resources Control Board, 1416 9th Street, Room 631, Sacramento, California 95801, (916) 322–3133

Colorado

Mr. Arden Wallum, Colorado Department of Health, Water Quality Control Division, 4210 East 11th Avenue, Denver, Colorado 80220, (303) 320–8333 Ext. 3361

Connecticut

Connecticut Department of Environmental Protection, Water Compliance Unit, 122 Washington Street, Hartford, Connecticut 06115, (203) 566–7167

Delaware

Mr. Robert Zimmerman, Department of Environmental Control, Water Pollution Control Branch, Edward Tatnall Building, Legislative Avenue and William Penn Street, Dover, Delaware 19901, (302) 736–4761

District of Columbia

District of Columbia Department of Environmental Services, Room 309, 415 12th Street, N.W., Washington, D.C. 20004, (202) 727–5748

Florida

Library, Room 423, Florida Department of Environmental Regulation, Twin Tower Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301, (904) 487–1620

Georgia

Water Protection Branch, Georgia Environmental Protection Division, 270 Washington Street, S.W., Atlanta, Georgia 30334, (404) 656–4887

Guam

O.V. Natarajan, Administrator, Guam Environmental Protection Agency, Agana, Guam 96910

Hawaii

Hawaii State Department of Health, Pollution Technical Review Branch, 645 Halekauwila Street, Honolulu, Hawaii 96813, (808) 548–6410

Idaho

Idaho Operation Office, EPA, 422 W. Washington Street, Boise, Idaho 83702, (208) 384–1450

Illinois

Permits Section, Illinois Environmental, Protection Agency, 2200 Churchill road, Springfield, Illinois 62706, (217) 782–0610

Indiana

Indiana State Board of Health, Division of Water Pollution Control, Room A–320, 1330 West Michigan Street, Indianapolis, Indiana 46206, (317) 633–0795

Iowa

Department of Environmental Quality, Henry A. Wallace Building, 900 E. Grand, Des Moines, Iowa 50313, (515) 281–8863

Kansas

Donald R. Carlson, Kansas Department of Health and Environment, Building 740—Forbes Field, Topeka, Kansas 66620, (913) 862–9360

Kentucky

Library Conference Room, Division of Water Quality, Kentucky Department for Natural Resources and Environmental Protection, Century Plaza #B, 1065 U.S. 127 Bypass South, Frankfort, Kentucky 40601, (502) 564–2126

Louisiana

Louisiana Department of Natural Resources, Water Pollution Control Division, 625 North 4th Street, Baton Rouge, Louisiana 70804, (504) 342–6363

Maine

Steve Groves, Maine Department of Environmental Protection, Hospital Road, Augusta, Maine 04333, (207) 289–2591

Maryland

William E. Chicca, Office of Environmental Programs, Tawes State Office Building, Annapolis, Maryland 21401, (301) 269–3821

Massachusetts

Massachusetts Division of Water Pollution Control, 110 Tremont Street, Boston, Massachusetts 02108, (617) 727–3855

Michigan

Water Quality Division, Michigan Department of Natural Resources, Stevens T. Mason Building, Lansing, Michigan 48909, (517) 373–8088

Minnesota

Randy D. Burnyeat, Minnesota Pollution Control Agency, Water Quality Division, Permits Section, 1935 West County Road B–2, Roseville, Minnesota 55113, (612) 296–7228

Mississippi

Mississippi Department of Natural Resources, Bureau of Pollution Control, 2380 Highway 80 West at Southport Mall, Jackson, Mississippi 39209, (601) 961–5171

Missouri

Missouri Department of Natural Resources, Division of Environmental Quality, Water Pollution Control Program, 2010 Missouri Boulevard, Jefferson City, Missouri 65101, (314) 751–3241

Montana

Montana Department of Health and Environmental Sciences, Water Quality Bureau, Cogswell Building, Helena, Montana 59601, (406) 449–2406

Nebraska

Nebraska Department of Environmental Control, 301 Centennial Mall South, Lincoln, Nebraska 68509, (402) 471–2186

Nevada

Nevada Division of Environmental Protection, 201 South Fall Street, Room 221, Carson City, Nevada 89710, (702) 885–4670

New Hampshire

New Hampshire Water Supply and Pollution Control Commission, Hazen Drive, Concord, New Hampshire 03301, (603) 271–3503

New Jersey

New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625, (609) 292–6220

New Mexico

New Mexico Environmental Improvement Division, Water Pollution Control Bureau, 725 St. Michaels, Santa Fe, New Mexico 87503, (505) 827–5271

New York

New York Department of Environmental Conservation, Division of Water, Room 306, 50 Wolf Road, Albany, New York 12233, (518) 457–1067

North Carolina

Permits and Engineering Branch, North Carolina Division of Environmental Management, Room 912, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611, (919) 733–7120

North Dakota

Division of Water Supply and Pollution Control, North Dakota State Department of Health, 1200 Missouri Avenue, Bismarck, North Dakota 58505, (701) 224–2354

Ohio

Ann Galli, Librarian, Environmental Technical Information Center, Ohio EPA, 361 E. Broad Street, Columbus, Ohio 43216, (614) 466–8058

Oklahoma

Office of Water Resources Board, Water Quality Division, 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73105, (405) 271–2555

Oregon

Oregon Department of Environmental Quality, Second Floor, 522 South West 5th Avenue, Portland, Oregon 97204, (503) 229–5325

Pennsylvania

Ernest Giovannitti, Division of Nonpoint and Industrial Sources, Bureau of Water Quality Management, Pennsylvania Department of Environmental Resources, 12th Floor, Foulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 21720, (717) 787–6184

Puerto Rico

Mr. Weems Clevenger, EPA Carribean Field Office, Stop 8½, Avenue Fernandez Juncos, San Juan, Puerto Rico 00902, (809) 725–7825

Rhode Island

James Fester, Division of Water Resources, Rhode Island Department of Environmental Management, Room 209, 75 Davis Street, Providence, Rhode Island 72908, (401) 227–2234

South Carolina

Charles R. Jeter, Chief, Bureau of Wastewater & Stream Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 758–3877

South Dakota

Steve Pirner, Office of Water Quality, South Dakota Department of Water and National Resources, Room 413, Joe Foss Building, Pierre, South Dakota 57501, (605) 773–4523

Tennessee

Paul E. Davis, Manager, Permits Section, Tennessee Department of Public Health, Division of Water Quality Control, Room 490, Capitol Hill Building, Nashville, Tennessee 37219, (615) 741–7883

Texas

Texas Department of Water Resources, Library, Room 511, Stephen F. Austin Building, 1700 North Congress, Austin, Texas, (512) 475–7896

Trust Territories

Nachsa Siren, Executive Director, Environmental Protection Board, Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950,

Utah

Steve McNeil, State of Utah, Bureau of Water Pollution Control, Room 410, 150 W. North Temple, Salt Lake City, Utah 84110, (801) 533–6146

Vermont

Vermont Agency of Environmental Conservation, 81 River Street, Montpelier, Vermont 05602, (802) 828–3345

Virgin Islands

Division of Natural Resources Management, Building 129, Sub Base, St. Thomas, Virgin Islands 00801, (809) 774–6420

Virginia

Larry G. Lawson, Virginia State Water Control Board, 211 N. Hamilton Street, Richmond, Virginia 23230, (804) 257–6361

Washington

State of Washington Department of Ecology, St. Martins College Campus, Olympia, Washington 98504, (206) 753–3864

West Virginia

Water Resources Division, West Virginia Department of Natural Resources, 1201 Greenbrier Street, Charleston, West Virginia 25305, (304) 348–2107

Wisconsin

Paul Didier, Wisconsin Department of Natural Resources, 101 S. Webster Street, Madison, Wisconsin 53707, (608) 266–0289

Wyoming

John F. Wagner, Wyoming Department of Environmental Quality, Water Quality Division, 401 West 19th Street, Cheyenne, Wyoming 82002, (307) 777–7781

Comments on the Treatability Manual should be submitted to:

William A. Cawley, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268, (513) 684–4310

FOR FURTHER INFORMATION CONTACT:

William A. Cawley, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268, (513) 684–4310

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 (the Act) places an increased emphasis on the control of discharges of toxic pollutants from industrial sources by requiring the achievement of effluent limitations based on the application of the best available technology economically achievable (BAT) by July 1, 1984. The BAT effluent limitations guidelines are currently under development by EPA's Effluent Guidelines Division for numerous industries which discharge toxic (priority) pollutants. Although BAT guidelines have been proposed for several industrial categories, some BAT guidelines will not be available in the immediate future. Also, even where guidelines are available, certain waste streams may not be covered by the guidelines. Therefore, in those cases where no national guidelines exist or where guidelines are not applicable, NPDES permitting authorities, either the EPA Regional Office or NPDES State, will be required to exercise "best engineering judgment" in order to establish BAT effluent limitations in new or renewed permits.

The Treatability Manual (The Manual) was developed by EPA's Office of Research and Development (ORD) with assistance from the Office of Water and Waste Management (OWWM) and the Office of Water Enforcement (OWE). The Manual is, primarily, a compilation of currently available data on the effectiveness of water pollution control technologies for removal of toxic pollutants from industrial waste streams. A variety of data sources were used to develop the Manual, including: EPA's Effluent Guidelines Division's technical files; EPA Regional and State files; government publications; ORD treatability studies; equipment vendors' information; and open literature.

The Manual is expected to be of general interest to industry, academia, and public interest groups. NPDES permitting authorities should find the Manual useful to develop case-by-case effluent limitations for toxic pollutants in permits in the absence of national effluent limitations guidelines. In addition, the Manual may be used to develop limitations for conventional and nonconventional pollutants as well as other pollutants not specifically addressed by national guidelines. In summary, the Manual is expected to be useful for:

- Evaluating the potential effectiveness and approximate costs of proposed effluent treatment systems;
- Determining the potential cost and feasibility of compliance with discharge limitations under consideration; and
- Developing wastewater pollution control strategies.

While the Manual has been developed to be a comprehensive information resource, it is not intended to be a substitute for effluent limitations guidelines.

The Manual consists of five volumes:
Volume I—Treatability Data,
Volume II—Industrial Descriptions,

Volume III—Technologies,
Volume IV—Cost Estimating,

- Subcategory-wide or industry-wide tables covering,

references examined and/or used in developing the Manual.

revision. The same timetable is expected

EPA, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2000

FEDERAL HOME LOAN BANK BOARD

Volume III—Technologies,
Volume IV—Cost Estimating,
Volume V—Summary.

Volume I is a compendium of treatability data for specific pollutants. Information is provided on the 129 priority pollutants developed by EPA from the list of 65 chemicals and classes of chemicals originally contained in a Consent Agreement between EPA and the Natural Resources Defense Council, 8 ERC 2120 (D.D.C. 1976). Also included is information on a number of compounds found among the 299 chemicals (now 297 with the deletion of calcium oxide and calcium hydroxide from the list) designated by EPA as hazardous substances under the authority of Section 311 of the Act. The pollutants contained in the volume are organized into the following chemical categories:

- Metals and inorganics
- Ethers
- Phthalates
- Nitrogen compounds
- Phenols
- Aromatics
- Polynuclear aromatic hydrocarbons
- PCB's and related compounds
- Halogenated hydrocarbons
- Pesticides
- Oxygenated compounds
- Miscellaneous

For each of the pollutants, the following information is provided when available:

- Alternate names of the chemical;
- Chemical Abstracts Number;
- Physical, chemical, and biological properties, including molecular weight, melting point, boiling point, vapor pressure, solubility in water at 20° C, log octanol/water partition coefficient, Henry's Law constant, and biodegradability data;
- Probable fate of the compound in the aqueous environment. Removal processes considered include photolysis, oxidation, hydrolysis, volatilization, sorption and biological processes;
- Isotherm data on the effectiveness of activated carbon to remove organics;
- Industrial occurrence of the material. Minimum, maximum, and mean concentrations are reported for both untreated and treated wastewater for each industry in which the substance has been detected; and
- Average and maximum removal efficiencies and average effluent concentrations for specific control technologies.

Volume II contains a general description of most of the primary industries (and their major subcategories) cited in the 1976 NRDC Consent Agreement. Also included are:

- Subcategory-wide or industry-wide tables covering,

The number of dischargers,
The types of pollution control systems in use,
The range of effluent flow rates and pollutant concentrations in controlled and uncontrolled waste streams, and
The efficiency of treatment systems, when available;

- Summary tables, when available, on BPT effluent guidelines and the status of BAT guidelines, New Source Performance Standards, and Pretreatment Standards; and
- Tabulated information on individual plants specifying industrial subcategory, treatment systems (including operating characteristics, when available), effluent pollutant concentrations, and influent pollutant concentrations, when available.

Volume III summarizes information on the nature and effectiveness of various pollution treatment technologies. It described the nature of the generic type of control equipment, the major variations of design, and the following information on each of the technologies:

- Design criteria
- Typical performance
- Applications and limitations
- Reliability information
- Chemical requirements
- Environmental impacts

A summary table for each technology is also provided showing the concentrations of various pollutants in the effluents; the minimum, maximum, median, and mean removal efficiencies for these pollutants; and the number of data points used to generate this information. Data sheets summarizing the sampling results at specific installations also are included.

Volume IV provides typical costs of treatment unit operations. The following information is provided for each unit operation:

- Equipment purchase and installation costs;
- Total capital cost;
- Total direct operating cost, including materials, chemicals, power, fuel and labor; and
- Total annual operating cost, including total direct operating cost and total indirect operating cost (plant overhead, taxes, insurance, administrative expenses, depreciation, and interest on working capital).

Volume V is a summary designed to facilitate the use of the first four volumes by including a user's guide and several summary tables in the appendices. Volume V also contains an executive summary of Volumes I through IV, and a bibliography listing all references examined and/or used in developing the Manual.

Although the Manual contains a considerable amount of data, it is not intended to be the sole source of information for permit writers in establishing case-by-case effluent limitations.

Permit writers can be expected to use other available information including but not limited to: Historical information on the individual facility; personal knowledge of the particular facility and similar facilities; applications for permit(s) previously submitted; applicable Effluent Guidelines' Development Documents; the initial permit for the discharger (if any) and associated files; consultation with technical experts both within and outside EPA; relevant technical reports such as those published by EPA's Office of Research and Development; attainable effluent limitations for similar facilities; EPA guidance for best practicable, best available and best conventional technologies as well as best management practices; trip reports on site visits; results of ambient and effluent water monitoring; compliance monitoring reports; and permit writers' engineering judgment.

The Manual, in the present form, is intended to be neither a definitive document on treatment systems performance, nor an effluent limitations guideline. The document is a compilation of existing data as of early 1980 on the performance of various water pollution control technologies and systems.

The Agency expects to update the Manual annually as additional data become available and believes that the Manual can be improved and important issues resolved by soliciting public comments on its content and format. Therefore, the Agency welcomes any data or comments of a technical nature that might improve the quality of the Manual.

At the present time, EPA plans to revise the Manual by publishing annually either a supplement or a revised Manual. The supplement or revision will consist of changes resulting from public comments and newly acquired data. The Agency will accept written comments on the Manual at any time after the date of this notice. However, in order for comments to be considered for inclusion in the first supplement or revision, comments must be received no later than April 1, 1981, 90 days before the expected publication date of the first annual supplement or revised Manual. Comments received after this date will be reviewed and considered for the next supplement or revision. The same timetable is expected to be maintained for subsequent supplements or revisions, as necessary.

Each year, the Agency will review all comments received during the preceding 12-month period and respond to significant comments as appropriate. The response may take the form of the publication of a summary of significant comments and responses in the Federal Register and/or incorporation of suggestions into the annual supplement or revision.

Dated: July 29, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-24605 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1570-7]

Columbia Gas Transmission Corp.; Applicability of Regulations for Prevention of Significant Air Quality Deterioration; West Virginia

In the matter of the applicability of Title I, Part C of the Clean Air Act (the Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for the Prevention of Significant Deterioration of Air Quality (PSD), to Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, Southeast, Charleston, West Virginia 25314.

On March 7, 1980, Columbia Gas Transmission submitted a request to the U.S. Environmental Protection Agency (U.S. EPA), Region V office, for a determination of applicability of the regulations for PSD.

On May 19, 1980, Columbia Gas Transmission was notified that it is not subject to a PSD review.

This determination does not relieve Columbia Gas Transmission of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed on or before October 14, 1980.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353-2090.

John McGuire,

Regional Administrator, Region V.

May 19, 1980

A. M. Ferenz, P. E., *supervisory Engineer, Engineeering Services, Columbia Gas Transmission Corp., 1700 MacCorkle Ave. SE., Charleston, W.Va.*

Dear Mr. Ferenz: We are in receipt of your request for exemption from New Source Review under the regulations for the Prevention of Significant Deterioration of Air Quality (PSD), 43 F.R. 26403, June 19, 1978 (40 CFR 52.21). Your letter of March 7, 1980 describes Columbia Gas Transmission's (CGT) proposed modification of the Crawford Compressor Station in Fairfield County, Ohio.

CGT currently has 15 natural gas compressor units and is replacing 3 Snow compressor units (totaling 4050 horsepower) with a single compressor unit rated at 4000 horsepower. After the modification, there would be 13 gas compressors at the site. The potential emissions have been calculated and are compared to the present source emissions in Table 1.

TABLE 1.—Changes in Potential to emit

[Tons per year]

	From	To	Change
NO_x	2,289.0	2,052.2	−236.8
CO	306.7	329.2	+22.5
HC*	62.4	100.0	+37.6
SO_2	.47	.47	0

*Nonmethane.

One set of emission factors applied to three of the Snow compressors in identical to the set which appears in the U.S. Environmental Protection Agency's (U.S. EPA) publication 42, while the factors used for the other compressors are believed to have been supplied by the manufacturers (including the factors for the new replacement unit).

As a result of the *Alabama Power Co.* vs. Douglas M. Costle (78-1006 and consolidated cases) ruling on December 14, 1978, and the proposed regulations promulgated on September 5, 1979, 44 F.R. 51924, the Crawford Compressor Station modification is not subject to PSD review. This exemption from PSD review does not relieve Columbia Gas Transmission of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

Thank you for cooperation.

Very truly yours,

Sandra S. Gardebring,

Director, Enforcement Division

Charles Taylor,

Chief, Office of Air Pollution Control, Ohio Environmental Protection Agency.

FR Doc. 80-24546 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL HOME LOAN BANK BOARD

Proposed Implementation of the Part-time Employment Program

AGENCY: The Federal Home Loan Bank Board.

ACTION: Proposed implementation of the Federal Employees Part-time Employment Program Act of 1978, 5 U.S.C. 3401 et seq by establishing a continuing program to provide career part-time employment opportunities within the Federal Home Loan Bank Board.

In accordance with 5 U.S.C. 3406, the Federal Home Loan Bank Board is required to publish its instructions in proposed form and to provide an opportunity for interested parties to comment. After comments have been received and reviewed, the final intructions will be issued and the Program implemented immediately.

DATES: Written comments will be considered if received by the person named below on or before October 14, 1980.

ADDRESS: Doris McGhee, Director of Personnel, Federal Home Loan Bank Board, 1700 G Street, NW—2nd Floor, Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Lenor Reese (202) 377-6054 (this is not a toll free number).

Part-Time Employment Program

I. General Provisions

A. *Purpose*—These regulations implement Pub. L. 95-437, the Federal Employees Part-Time Career Employment Act of 1978, and establishes a continuing program to provide career part-time employment opportunities within the Federal Home Loan Bank Board (FHLBB).

B. *Policy*—It is the policy of the FHLBB to provide career part-time employment opportunities to the maximum extent possible consistent with agency resources and mission requirements for positions in GS-1 through GS-15, for hourly paid blue collar positions and any other career positions which do not exceed a GS-15 equivalent. This policy provides the FHLBB the opportunity to recognize talented workers who otherwise might not be available for employment.

C. *Definitions*—1. *Part-time career employment* is regularly scheduled work of 16 to 32 hours per week performed by individuals serving under competitive or excepted appointments in tenure groups of I or II.

2. *Tenure Group I* includes employees in the competitive service under career

appointments when not serving

rate; affirmative action; and employee

F. Notifying the Public of Part-Time

to Sea-Land of approximately 6 acres of

Register and served upon Aviation

[Independent Ocean Freight Forwarder

appointments when not serving probation; and permanent employees in the excepted service where appointments carry no restrictions or conditions. This group does not include employment on a temporary or intermittent basis.

3. *Tenure Group II* includes employees in the competitive service serving probation; career-conditional employees in obligated positions; and employees in the excepted service serving trial periods whose tenure is indefinite solely because they occupy obligated positions, or whose tenure is equivalent to career-conditional in the competitive service.

D. Applicability—These regulations are applicable to all FHLBB Offices and Districts.

E. *Exceptions*—These regulations do not apply to positions which are in the Senior Executive Service or others at GS–16 and above.

II. Program Implementation

A. *Program Coordinator*—The Director of Personnel is hereby designated as the Agency Part-Time Employment Coordinator and assigned the following responsibilities:

1. Establishing Agency part-time employment goals and timetables.

2. Consulting with the Equal Employment Opportunity Officer, Selective Placement Coordinator, Federal Women's Program Coordinator, and Hispanic Employment Coordinator to assure that the specific needs of minorities, women and the handicapped are addressed and to assess the impact on these groups.

3. Consulting with interested parties in other special interest areas (e.g. employment of veterans, upward mobility) and with union officials.

4. Responding to requests for advice and assistance from management officials within the Agency.

5. Monitoring agency progress in expanding part-time employment opportunities within the Agency; and

6. Preparing reports on part-time employment for transmittal to the Office of Personnel Management and Congress.

B. Part-Time Employment Goals and Timetables

1. Each year the Program Coordinator will set goals for establishing and converting positions for part-time career employment; and a timetable setting forth interim and final deadlines for achieving such goals.

2. The goals and timetables will be based on considerations such as agency mission and occupational mix; workload fluctuations; size of workload; turnover rate; affirmative action; and employee interest in part-time employment.

C. Guidance for Managers, Supervisors and Employees

The Director of Personnel will be responsible for insuring that Office Directors and employees are informed of the procedures and benefits derived through the establishment of part-time positions.

D. Evaluating and Reporting

1. The part-time employment program will be received and evaluated through the internal personnel management evaluation process.

2. The Director of Personnel will report twice a year to the Office of Personnel Management on its progress in meeting part-time goals, noting any impediments encountered and measures taken to overcome them; and the extent to which part-time career employment opportunities have been extended to older persons, physically and mentally handicapped persons, persons with family responsibilities, and students.

E. Part-Time Employment Practices

1. *Vacant Positions*—Prior to filling any vacancy, the supervisor and Personnel Management Specialist shall give consideration to filling the position on a part-time basis.

2. *Establishment and Conversion of Part-Time Career Positions*—The Personnel Management Office is responsible for developing procedures and criteria for employees to follow in requesting a change from full-time to a part-time work schedule.

3. An employee requesting a change in employment from full-time to part-time should consult with the immediate supervisor to determine the effects the change would have on his/her rights and benefits. If the employee wishes to pursue the matter, a formal request should be made in writing to the immediate supervisor.

4. The supervisor should evaluate the request in terms of the following criteria:

a. Employment ceilings
b. Workloads
c. Special space and equipment requirements
d. Benefit to the employee
e. Retention of a valuable employee

A written decision will be given to the employee within 5 workdays.

5. A position may not be abolished in order to make the duties and responsibilites available to be performed on a part-time basis.

6. Specific part-time employment guidelines will be updated as needed and published in the agency's How-To-Do-It-Manual.

F. Notifying the Public of Part-Time Vacancies

The Personnel Management Office shall take appropriate steps to notify the public of vacant part-time positions. This requirement will be carried out through such methods as Federal Job Information Announcements and position vacancy listings.

J. J. Finn,

Secretary.

[FR Doc. 80-24848 Filed 8-13-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 25, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation of detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. T–3918.

Filing Party: David A. Schaller, Director of Administration, Port Everglades Authority, P.O. Box 13136, Port Everglades, Florida 33316.

Summary: Agreement No. T–3918, between Port Everglades Authority (Port) and Sea-Land Service, Inc. (Sea-Land), restates and extends the terms of a previous lease agreement between the parties. Agreement No. T–3918 provides for the one-year lease to Sea-Land of approximately 6 acres of land for use in the handling and processing of containers and related equipment. As compensation, Sea-Land will pay Port an annual rental of $47,460, as well as applicable State taxes. Rental, however, may be offset by dockage and wharfage payments.

By Order of the Federal Maritime Commission.

Dated: August 11, 1980.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-24655 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1603]

Aviation Transport Systems, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Aviation Transport Systems, Inc., 130–29 135th Avenue, South Ozone Park, New York, 11420, FMC No. 1603, was cancelled effective August 2, 1980.

By letter dated July 3, 1980, Aviation Transport Systems, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1603 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Aviation Transport Systems, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1603 be and is hereby revoked effective August 2, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 1603, issued to Aviation Transport Systems, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Aviation Transport Systems, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-24658 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight fowarder License No. 244R]

James Loudon & Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of James Loudon & Company, Inc., 110 West Ocean Boulevard, Long Beach, California, 90802, FMC No. 244R, was cancelled effective August 2, 1980.

By letter dated July 3, 1980, James Loudon & Company, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 244R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

James Loudon & Company, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 244R be and is hereby revoked effective August 2, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 244R, issued to James Loudon & Company, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon James Loudon & Company, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-24659 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 729]

J. J. Gavin & Co., Inc.; Order of Revocation

On July 18, 1980, J. J. Gavin & Co., Inc., 140 Cedar Street, New York, New York, 10006, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 729; on August 4, 1980, the licensee returned FMC License No. 729.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 729 issued to J. J. Gavin & Co., Inc., be and is hereby revoked effective July 18, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon J. J. Gavin & Co., Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-24657 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1006]

George A. Stattel, Inc.; Order of Revocation

On July 30, 1980, George A. Stattel, Inc., 17 Battery Place, New York, New York, 10004, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1006 for revocation.

Therefore, by virtue of authority vested in me my the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It Is Ordered, that Independent Ocean Freight Forwarder License No. 1006 issued to George A. Stattel, Inc., be and is hereby revoked effective July 30, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon George A. Stattel, Inc.

Robert G. Drew,

Bureau of Certification and Licensing.

[FR Doc. 80-24660 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on Thursday, September 18, 1980. The meeting will be held from 10:00 a.m. to 4:00 p.m. in Room 2008 of the New Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, D.C.

The purpose of the meeting is to report on ongoing projects; to provide an update on progress that has been made on directives made to the Council by President Carter at the National Conference on Physical Fitness and Sports for All; and to discuss future directions of the PCPFS.

A list of Council members and the Executive Order 11562, as amended October 25, 1976, establishing their responsibility, may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, DC 20201, Telephone: 202/755–7947. The meeting will be open to the public.

Dated: August 7, 1980.

V. L. Nicholson,

Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 80-24624 Filed 8-13-80; 8:45 am]

BILLING CODE 4110-86-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of September 1980.

National Advisory Mental Health Council

September 16–18; 9:30 a.m. (September 16th Only), Conference Room 6, "C" Wing, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

(September 17 and 18), Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open—September 16, 9:30 a.m. to adjournment.

Closed—September 17 and 18.

Contact: Mrs. Ruth Gorin, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda: On September 16, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

National Advisory Council on Alcohol Abuse and Alcoholism

September 22–23, 9:30 a.m., Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

Open—September 22.

Closed—September 23.

Contact: Mr. James Vaughan, Room 16C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3887.

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: September 22 will be devoted to general business of the Council and a discussion of psychotherapy assessment, modified confidentiality regulations, and other subjects related to Institute programs. On September 23, the Council will conduct a final review of grant applications for Federal Assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

National Advisory Council on Drug Abuse

September 25–26, 9:00 a.m., Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open—September 25, 9:00 a.m. to 5:00 p.m., September 26, 1:00 p.m. to 5:00 p.m.

Closed—September 26, 9:00 a.m. to 12 noon.

Contact: Ms. Pamela Jo Thurber, Executive Secretary, National Advisory Council on Drug Abuse, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–6480.

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda: On September 25, from 9:00 a.m. to 5:00 p.m., and September 26, from 1:00 p.m. to 5:00 p.m., the session will be open to the public for discussion of program development and policy issues.

On September 26, from 9:00 a.m. to 12 noon, the session will be closed to the public for the final review of grant applications for Federal assistance, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer, who will furnish upon request summaries of the meeting and rosters of the Council members, is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4536. The NIAAA Information Officer, who will furnish upon request summaries of the meeting and rosters of the Council members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3306. The NIDA Information Officer who will furnish summaries of the meeting and rosters of the Council members is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–6245.

Dated: August 8, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-24530 Filed 8-13-80; 8:45 am]

BILLING CODE 4110-88-M

Office of Human Development Services

Reallotment of Funds

Corrections

In FR Doc. 80–20119 appearing on page 45699 in the issue of Monday, July 7, 1980; second column, the total for "Basic Support" now reading "40,500" should read "405,000"; third column, the Commissioner's name should read "Evelyn Provitt".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–80–608]

Redelegation of Authority to Waive the Section 8 and Traditional Public Housing Conflict of Interest Provisions

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of Authority to Waive the Section 8 and Traditional Public Housing Conflict of Interest Provisions.

SUMMARY: This Notice redelegates to each Regional Administrator, Deputy Regional Administrator, Area Manager, Deputy Area Manager, and Multifamily Service Office Supervisor authority to waive, to a limited extent, the conflict of interest provisions contained in the Annual Contributions Contracts, the Agreement to Enter into Housing Assistance Payments Contracts, the Housing Assistance Payments Contracts and the Consolidated Annual Contributions Contracts.

FOR FURTHER INFORMATION CONTACT: Joseph F. Gelletich, Assistant General Counsel, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–7227. This is not a toll free number.

SUPPLEMENTAL INFORMATION: The redelegation of authority by the Assistant Secretary for Housing-Federal Housing Commissioner published at 35 FR 16105, October 14, 1979, as amended at 35 FR 17964, November 31, 1970, 36 FR 21298, November 5, 1971, and 37 FR 12420, June 23, 1972, is amended to add the following provisions to section A paragraph 8c:

v. The Section 8 Existing Housing and Moderate Rehabilitation Programs' conflict of interest provisions.

vi. The Section 8 New Construction Substantial Rehabilitation, and State Agency Programs' conflict of interest provisions for individuals who involuntarily acquire an interest in the program or in a project, or who had acquired, prior to the beginning of their tenure, any such interest.

vii. The traditional Public Housing Programs' conflict of interest provisions for individuals who involuntarily acquire an interest in the program or in a project, or who had acquired, prior to the beginning of their tenure, any such interest.

Effective date: June 20, 1980.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., August 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-24530 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. D–80–609]

Assistant Secretary for Community Planning and Development and Assistant Secretary for Housing; Delegation of Authority With Respect to the Section 312 Rehabilitation Loan Program

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of Authority.

SUMMARY: This Notice consolidates in one document, amends, and supersedes prior delegations of authority to the Assistant Secretaries of the Department with respect to the property rehabilitation loan program authorized by Section 312 of the Housing Act of 1964, as amended (Section 312). The principal substantive change is to transfer responsibility for servicing Section 312 loans to the Assistant Secretary for Community Planning and Development from the Assistant Secretary for Housing. In addition, the power and authority to establish interest rates, which was excepted from the authorities previously delegated to the Assistant Secretaries responsible for the Section 312 program, is being delegated in this Notice to the Assistant Secretary for Community Planning and Development. Existing redelegations to field officials of the Department are not affected by this Notice.

SUPPLEMENTARY INFORMATION: The previously issued delegations of authority to Assistant Secretaries of the Department concerning the Section 312 rehabilitation loan program are set forth at 36 FR 5004 (March 16, 1971), 36 FR 5005 (March 16, 1971), 38 FR 8011 (March 27, 1973) and 41 FR 24755 (June 18, 1976). This Notice amends, consolidates, and supersedes such prior delegations. However, outstanding redelegations to field officials concerning the Section 312 loan program are not contained in the cited documents and are not superseded by this Notice; such redelegations therefore remain in effect. The most significant of these redelegations were published at 41 FR 29011 (July 14, 1976), 37 FR 15948 (August 8, 1972), 35 FR 16104 (October 14, 1970) and 35 FR 16106 (October 14, 1970). While it is anticipated that some changes will be made in these redelegations, particularly with respect to the loan servicing function, any revised redelegations will be published at a later date, so that an orderly transfer of responsibility in the field can be arranged.

The principal substantive change made by this document in the pattern of delegated authority with respect to the Section 312 loan program is to transfer, from the Assistant Secretary for Housing to the Assistant Secretary for Community Planning and Development, the responsibility for loan servicing (i.e., management of loan collection activities, including responsibility for decisions to make expeditures for the protection of the Government's financial interest in non-acquired properties securing Section 312 loans, to seek mortgagee-in-possession status, to foreclose upon or otherwise to acquire security properties, or to take other legal action against the borrower.) However, the Assistant Secretary for Housing retains authority to act for the Secretary once mortgagee-in-possession status is obtained and with respect to the management and disposition of acquired properties.

Accordingly, the Secretary delegates as follows:

Section A. Authority delegated. The Assistant Secretary for Community Planning and Development shall exercise the power and authority to the Secretary with respect to the rehabilitation loan program under Section 312 of the Housing Act of 1964, as amended, except for the power and authority delegated to the Assistant Secretary for Housing in this Section A and as additionally excepted in Section B. The Assistant Secretary for Housing shall exercise the power and authority of the Secretary under Section 312 of the Housing Act of 1964, as amended, to manage, repair, lease, and otherwise take all actions necessary to protect the financial interest of the Secretary in properties as to which the Secretary is mortgagee-in-possession and to manage,

V 45 A G 14 80 UMI

repair, complete, remodel and convert, administer, dispose of, lease, sell or exchange at public or private sale, pay annual sums in lieu of taxes on, obtain insurance against loss on, and otherwise to deal with properties as to which the Secretary has acquired title under the Section 312 rehabilitation loan program.

Section B. Authority excepted. There is excepted from the authority delegated in Section A the power to:

1. Issue notes or other obligations for purchase by the Secretary of the Treasury.

2. Exercise the powers under Section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749(a)).

3. Sue and be sued.

Section C. Authority redelegated. The Assistant Secretary for Community Planning and Development is authorized to redelegate to employees of the Department any of the authority delegated to the Assistant Secretary for Community Planning and Development under Section A, except the power and authority to issue rules and regulations. The Assistant Secretary for Housing is authorized to redelegate to employees of the Department any of the authority delegated to the Assistant Secretary for Housing under Section A, except the authority to issue rules and regulations.

Section D. Continuation in effect of redelegations. Existing redelegations of authority by the Assistant Secretary for Community Planning and Development or the Assistant Secretary for Housing or their predecessors with respect to the Section 312 loan program which are in effect as of the effective date of this delegation of authority are continued in effect as if issued under this document, unless and until expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

Section E. Supersedure. This delegation supersedes preceding delegations to the Assistant Secretary for Community Planning and Development or the Assistant Secretary for Housing or their predecessors with respect to the Section 312 rehabilitation loan program.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); and sec. 312(g) of the Housing Act of 1964, as amended (42 U.S.C. 1452b(g)))

Effective date. This delegation of authority shall be effective as of August 8, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-24529 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Receipt of Application

Applicant: Death Valley National Monument, National Park Serivce, Death Valley, NV 92328.

The applicant requests a permit to take (harass) Devil's Hole pupfish *(Cyprinodon diabolis)* for habitat management and censusing purposes for enhancement of survival. No live fish will be collected.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–1856. Interested persons may comment on this application on or before September 15, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 8, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR. Doc. 80-24534 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0828, Block 214, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 7002, Phome 504–837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 5, 1980.

R. L. Scrivener,

Deputy Conservation Manager, Offshore Resource Evaluation.

[FR Doc 80-24577 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Pennzoil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2439, Block 335, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 504–837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 5, 1980.

R. L. Scrivener,

Deputy Conservation Manager, Offshore Resource Evaluation.

[FR Doc. 80-24578 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Oregon, Lakeview Grazing Management Plan; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Oregon State Office, will be preparing an Environmental Impact Statement (EIS) on the grazing management program on 3,360,000 acres of public land in the Lakeview District in south-central Oregon. The final statement is to be completed by September 30, 1981. Dicisionmaking will take place over a several-month period following comletion of the final statement. A public meeting will be held during the decisionmaking process.

The proposed grazing management program has evolved from coordinated land use allocations for all resources developed through the Bureau's land use planning system. The objectives of the proposed program are to enhance the vegetative resource, provide quality habitat for wildlife and wild horses, provide a continuous supply of livestock forage, reduce soil erosion and sedimentation damage, improve water quality, improve the recreation and visual resources, and protect archeological and historical sites.

The EIS will discuss alternatives to the proposed grazing management program. Two alternatives, no action and no livestock grazing, will be included in the EIS. Other alternatives being considered for discussion include a least a higher and lower level of livestock grazing than that in the proposal.

The EIS will identify the impacts that can be expected from implementation of either the proposed grazing management program or any of the alternatives discussed. The statement will be an analytical tool used in making final decisions for managing livestock grazing in the Lakeview EIS area.

A public scoping meeting will be held to identify the significant issues which must be discussed in detail in the EIS. Also to be discussed in the meetings are the various alternatives that could realistically be addressed in the EIS and the possible methods of obtaining public comment on the draft EIS after it is published next year. Input from the public will be sought in those areas.

The public meeting will be held September 3, 1980, at 7:30 p.m. at the Bureau of Land Management District Office, 1000 Ninth Street, Lakeview, Oregon 97630.

Further information may be obtained from:

Richard A. Gerity, District Manager, Bureau of Land Management, P.O. Box 151, Lakeview, Oregon 97630, Telephone (503) 947–2177.

Gerry Fullerton, Statement Leader, Bureau of Land Management (911.1), P.O. Box 2965, Portland,Oregon 97208, Telephone (503) 231–6955.

Dated: August 1, 1980.

Phillip C. Hamilton,

Chief, Planning and Environmental Coordination Staff, Oregon State Office.

[FR Doc. 80-24517 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Roswell District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 that a meeting of the Roswell District Advisory Council will be held on September 16, 1980, at 9:00 a.m. in the Conference Room of the Roswell District Office, 1717 W. Second Street, Roswell, New Mexico.

The agenda for the meeting will include: (1) An orientation to the U.S. Bureau of Land Management and the Roswell District Office; (2) definition of the organization and functions of the Council; (3) general discussion of programs, objectives, and goals for the 1981 fiscal year; (4) preliminary information on potential issues; (5) identification of additional issues the Council wishes to address; and (6) scheduling and determination of the agenda for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council or file written statements. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, by September 15, 1980. The public comment period will begin at 1:30 p.m. on the day of the Council meeting.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

James H. O'Connor,

District Manager.

August 5, 1980.

[FR Doc. 80-24521 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Amendment of Maximum Party Size Per Trip Limits for Desolation and Gray Canyons of the Green River

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of Maximum Party Size Per Trip Limits for Desolation and Gray Canyons of the Green River.

Summary

On November 2, 1979, the River Management Plan for Desolation and Gray Canyons portion of the Green River was issued to the general public.

The River Management Plan is a recreation use management plan. It provides a framework for management decisions and actions relating to river management in Desolation and Gray Canyons. This plan has been prepared to protect the resource and to meet the needs of the recreational users. Coordination has been carried out to ensure that the provisions of the River Management Plan result in minimum conflict with other multiple use resource management values.

The seven management objectives found on pages 19 and 20 of the plan spell out the long term goals for management action on Desolation and Gray Canyons. Based on the present knowledge, the seventeen management actions beginning on page 21 are intended to implement the management objectives until changes are needed.

In 1974, the State Director for the Bureau of Land Management in Utah established criteria for issuing commerical permits to river guides and outfitters, and setting amounts of use each would be entitled to. Noncommercial permits were also required that use could be managed within acceptable limits. In 1974, there was a maximum party size limitation of 40 persons, established for Desolation and Gray Canyons of the Green River.

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976, and the Land and Water Conservation Fund Act, as amended, Management Action Number 10—Maximum Party Size of the Desolation and Gray Canyons River Management Plan is amended to allow 25 persons per trip for non-commercial trips, and 25 persons plus boatman for commercial trips.

The above stated action becomes effective beginning the 1981 river use season, and will remain in effect unless modified by future publication in the Federal Register.

DATE: Effective Immediately.

ADDRESS: District Manager, Moab District, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: District Manager, Moab District (801) 259–6111.

Kenneth V. Rhea,

Assistant District Manager.

August 5, 1980.

[FR Doc. 80-24618 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Las Cruces District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Las Cruces District Office, New Mexico.

ACTION: Las Cruces District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–579 that a meeting of the Las Cruces Advisory Council will be held on Tuesday, September 23, 1980.

The meeting will begin at 9:30 a.m. in the conference room of the Santa Teresa Building, second level, at 317 N. Main, Las Cruces, New Mexico.

The agenda for the meeting will include:

(1) Function and duties of Advisory Councils

(2) Election of Officers

(3) Briefing on Major District Programs

(a) McGregor Environmental Impact Statement and Rangeland Management Program Document

(b) Wilderness Study Area Designations

(c) Las Cruces/Lordsburg Area Inventories

(d) Southern Rio Grande Planning and Environmental Impact Statement (EIS)

(e) Alternatives for Southern Rio Grande EIS

The meeting will be open to the public and interested persons may make oral statements to the council during an allotted time period beginning at 2:00 p.m. and lasting at least one-half hour. The District Manager máy establish a time limit for oral statements depending on the number of persons wishing to make statements.

EFFECTIVE DATE: August 7, 1980.

ADDRESS: Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1705 N. Valley Drive (P.O. Box 1420), Las Cruces, New Mexico 88001, by September 16, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, NM 8801.

SUPPLEMENTAL INFORMATION: Summary minutes of the council meeting will be maintained in the Las Cruces BLM District Office and will be available for public inspections and reproduction (during regular business hours) for 30 days following the meeting.

Donnie R. Sparks,

Acting District Manager.

[FR Doc. 80-24603 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Opportunity To Participate in Geophysical Exploration of Eglin Air Force Base

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Opportunity to Participate in Geophysical Exploration of Elgin Air Force Base, Florida.

SUMMARY: Notice is hereby given that geophysical exploration of Eglin Air Force Base, Florida, will be conducted under an Exploration Permit issued by the Bureau of Land Management.

Principals in the joint venture are:

GBD, Inc., 234 Loyola Building, Suite 303, New Orleans, Louisiana 70112

Paladin Geophysical Corporation, 1004 Pere Marquette Corporation, 150 Baronne Street, New Orleans, Louisiana 70112

American Geophysical Data, Inc., 6825 South Marion Circle East, Littleton, Colorado 80122

All interested parties are invited to participate on a cost-sharing basis in the data that will be obtained from the geophysical exploration.

All activities under the geophysical exploration permit will be controlled by the Operating Agreement authorized by the United States Air Force and signed by the principals in the joint venture. Copies of the Exploration Permit and Operating Agreement can be obtained from: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

All operational decisions concerning the geophysical survey shall be made by the principals in the joint venture.

DATE: Anyone electing to participate in this geophysical exploration survey is required to send written notice to both the Bureau of Land Management and the principals in the joint venture by September 15, 1980.

ADDRESS: Written notice for the Bureau of Land Management shall be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Written notice for the principals in the joint venture shall be sent to: Eglin Geophysical Survey, c/o Murray, Murray, Ellis, Braden & Landry, 612 Gravier Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Charles Weller, 202–343–7753.

Dated: August 8, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-24575 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Powder River Resource Area Management Framework Plan; Update Report—July 1979

August 8, 1980.

This notice is to advise you that the findings of the surface owner view consultation process on certain specified lands were in error. The views on the following lands will be corrected to show that the surface owner has "expressed a preference in favor of mining": T. 3 S, R. 44 E., Sec. 12: NE¼ of Rosebud County and T. 3 S., R. 45 E., Sec. 8: N½N½, SW¼NW¼, NW¼SW¼, SE¼NE¼, NE¼SE¼ of Powder River County. The basis for this correction is the Federal Coal Management Regulation dated July 19, 1979. Specific reference is made to 43 CFR 3420.2–3(e)(2). This citation states in part " * * * any surface owner who has previously granted written consent to any party to mine by other than underground mining techniques shall be deemed to have expressed a preference in favor of mining."

For further information, contact Robert Bennett, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, MT 59301—Telephone: (406) 232–4331.

George Neuberg,

Miles City District Manager.

[FR Doc. 80-24640 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Socorro District, New Mexico; District Advisory Council Meeting

The first meeting of the Socorro District Advisory Council will be held September 5, 1980 beginning at 10:00 a.m. The meeting will be held in the Hospitality Room of the First State Bank, 103 Manzanares Avenue, NE, Socorro, New Mexico.

The agenda for the meeting will include: a presentation by New Mexico Bureau of Land Management State Office personnel concerning the function and duties of the advisory council and a discussion of major programs within the Socorro District. Election of officers is scheduled for the second meeting.

The public is welcome to attend the meeting and may make oral statements to the council between 1:00 and 2:00 p.m. A per person time limit may be imposed depending on the number of people wishing to speak.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

Arlen P. Kennedy,

District Manager.

August 1, 1980.

[FR Doc. 80-24654 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Redelegation of Authority From the State Director to District Managers

In accordance with Bureau Order 701 and Amendments 1–27 and pursuant to the authority contained in Part III, Section 3.9 of that Bureau Order, District Managers of the Utah Districts are authorized to perform their respective areas of responsibility in accordance with existing written policies, instructions, information guides, and regulations published by the Department and the Bureau. Performance of these duties is under the direct supervision of the State Director.

Specific redelegation of significant functions listed below from the State Director to District Managers is subject to any limitations set forth in Bureau Order 701, as amended.

Authority in specified matters which Utah District Managers may take action on is listed below:

Authority in Specified Matters

Section 3.9—Land Use: The District Manager may take all listed action on:

(g) Material other than forest products not exceeding $10,000 in value unless authority to make sales in greater amounts is delegated by the State Director.

Dated: August 7, 1980.

Gerald E. Magnuson,

Acting State Director.

[FR Doc. 80-24663 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Amendment To Proposed Decision on Intensive Wilderness Inventory

The newspaper supplement entitled *BLM's Proposed Wilderness Study Areas—April 1980*, published in conjunction with the April 4, 1980, Federal Register notice proposing wilderness study areas (WSA) in Wyoming, included a proposal to reinstate certain lands in T. 13 N., R. 105 W., into the wilderness inventory. These lands known as the Overlook Annex are adjacent to the west side of wilderness inventory unit WY–040–406, Red Creek Badlands, and are shown on the map on page six of the newspaper supplement.

A previous decision issued on July 10, 1979 (final decision on the initial wilderness inventory), dropped the Overlook Annex area from the wilderness inventory and released it from the constraints of interim management.

Information on page 13 of the April 1980 newspaper supplement states that the intensive inventory for adjacent units WY–040–406, 407, and 410 was inconclusive in determining wilderness characteristics. Therefore, these units were proposed as WSA's pending a special public tour and further inventory. The inventory work and public tour have been completed. The additional inventory data and public information are sufficient to conclude that the Overlook annex to unit WY–040–406 does not possess wilderness characteristics.

Based on the findings of the reinventory and public tour, the proposed decision of April 4, 1980, to reinstate the Overlook Annex area into the wilderness inventory is hereby rescinded effective upon publication of this notice. As provided for in the July 10, 1979, decision, this area is dropped from the wilderness inventory and is no longer subject to the constraints of interim management. This notice affects no other unit or partial unit included in the April 4, 1980, decision and newspaper supplement.

F. William Eikenberry,

Associate State Director.

FR Doc. 80-24652 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Senior Executive Service (SES) Performance Awards

AGENCY: Department of the Interior.

ACTION: Notice of Intention to Grant Senior Executive Service Performance Awards to Career Members of the SES.

SUMMARY: This Notice serves to establish September 2, 1980, through September 30, 1980 as the period during which SES Performance Awards will be granted to Career members of the SES in compliance with the new statutory limitations established by Congress of no more than 25 percent of the number of SES positions in the agency.

DATE: September 2, 1980 through September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, Room 5201, 1600 C Street, NW, Washington, D.C. 20240, Telephone Number 343–6761.

On July 21, 1980, the Director, Office of Personnel Management issued the following instructions:

"(b) Each agency should publish a notice in the Federal Register of the agency's schedule for awarding bonuses at least 14 days prior to the date on which the awards will be paid." The Department of the Interior intends to grant Senior Executive Service Performance Awards to Career Members of the SES during the period from September 2 through September 30, 1980."

Dated: August 8, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 80-24643 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. NM 24005]

Great National Corporation (Nevada)—McCurtain No. 2—Federal Haskell County, Okla.; Notice of Pending Decision To Approve Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve surface coal mining and reclamation plan with stipulations.

SUMMARY: Pursuant to Section 1506.6 of Title 40 and Section 211.5 of Title 30 Code of Federal Regulations, notice is hereby given that the Region IV Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Great National Corporations' McCurtain No. 2—Federal mining and reclamation plan and has recommended to the Department that the proposed plan be approved contingent on the applicant's acceptance of certain stipulations. The plan is described below. Notice of availability of the mining and reclamation plan for McCurtain was published in the Federal Register on May 30, 1980 (45 FR 36561).

Location of Lands to be Affected by Mining:

Applicant: Great National Corporation (Nevada)

Mine Name: McCurtain No. 2—Federal

State: Oklahoma
County: Haskell
Township, range section: Sections 14 and 15, T. 8 N., R. 22 E.

This proposed mine is located approximately one (1) mile north of McCurtain, Oklahoma and lies between two nonfederal tracts previously mined by the Great National Corporation under permits issued by the Oklahoma Department of Mines. The Great National Corporation is presently surface mining coal approximately one (1) mile east of the Federal lease under a permit issued by the Oklahoma Department of Mines. The Company proposes to mine on 140 acres of the Federal coal lease that contain approximately 32 acres of strippable coal. The company expects to produce coal for three years or until the strippable reserves are exhausted. A total of about 89.0 acres will be disturbed and reclaimed. Mining will be open pit stripping and removal of overburden with a dragline after blasting. All coal will be shipped by rail or truck. The reclamation plan is designed to provide productivity equal to or better than existing pastureland and rangeland. Other surface mining operations are conducted in the McCurtain area of eastern Oklahoma. OSM has prepared a technical analysis and a site-specific analysis of impacts, mitigating measures, and alternatives in an environmental assessment titled "Environmental Assessment, McCurtain No. 2—Federal Mine, Haskell County, Oklahoma." It was determined that the proposed operation would not have significant impacts on the environment.

The purpose of this notice is to inform the public that the Regional Director, Region IV, OSM, is recommending approval with stipulations of Great National Corporation's coal mining and reclamation plan, McCurtain No. 2—Federal mine, based on staff reviews and the reviews of the Oklahoma Department of Mines, the U.S. Bureau of Land Management, the U.S. Geological Survey and the U.S. Fish and Wildlife Service. Any persons having an interest that is or may be adversely affected by the recommended approval may, in writting, request a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the permanent regulatory program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on Great National Corporation's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application no later than two months after the effective date of the Oklahoma State program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Secretary's decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, and any public comments received on or before September 3, 1980.

DATES: All requests for a public meeting must be made on or before September 3, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The mining and reclamation plan, proposed stipulations, the Technical Analysis and the Environmental Assessment are available upon request, for review in the Region IV Office of OSM. Any comments on the proposed approval should be submitted in writing, to the Regional Director, Office of Surface Mining, Reclamation and Enforcement, Region IV, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Richard Dawes, Assistant Regional Director, Division of Technical Services and Research, Office of Surface Mining, Region IV, 818 Grand Avenue, Room 428, Scarritt Building, Kansas City, Missouri 64106. Telephone: (816) 374–5109 or FTS 758–5109.

Paul L. Reeves,
Acting Director.

[FR Doc. 80-24461 Filed 8-13-80; 8:45 am]
BILLING CODE 4310-05-M

[Federal Lease No. M-34980]

North American Coal Co.—Indian Head Mine, Mercer County, N.D.; Notice of Pending Decision To Approve a Major Modification to Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior

ACTION: Notice of pending decision to approve surface coal mining and reclamation plan with stipulations

SUMMARY: Pursuant to § 1506.6 of Title 40 and § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of North American Coal Company's Indian Head mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of North American Coal Company's application was published in the **Federal Register** on March 28, 1980, 45 FR No. 62, p. 20577.

Location of Lands to be affected by Mining:

Applicant: North American Coal Company
Mine Name: Indian Head
State: North Dakota
County: Mercer
Township, range, section: Lots 1, 2, S½ N½, SW14 and NW¼ SE¼ of Section 2, T. 143 N., R. 89 W.
Office of Surface Mining References No. ND0013a.

The mine, located about 8 miles southwest of Beulah, North Dakota, is operating on non-Federal lands under a State permit. State-owned coal has been mined in the past and private coal is presently mined at the rate of about 975,000 tons/year from a mine plan area of approximately 1,500 acres.

The proposed modification of the plan into the Federal coal lease area involves surface mining of Federal coal overlain by privately-owned surface for 2 years at a production rate of approximately 900,000 tons/year. The Federal coal lease area is 441.12 acres; of this area, approximately 370 acres will be disturbed. Coal would continue to be shipped via unit train to a local power generation plant.

The U.S. Bureau of Land Management (BLM) evaluated impacts that could occur from development of the Indian Head Mine in its Environmental Assessment ("Land Use Analysis"), "North American Coal Company Coal Lease Application M-34980 (ND)" (March, 1978). In addition the BLM and the State of North Dakota analyzed regional impacts from coal development in the *West Central North Dakota Regional Environmental Impact Study on Energy Development* (October, 1978). OSM has prepared a technical analysis and environmental assessment and based on these analyses, as well as the above mentioned analyses, determined that no significant impacts would occur to the 370 acres proposed to be disturbed, if the proposed mitigation measures required in the plan are implemented and monitored.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of the North American Coal's mining and reclamation plan for the Indian Head Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the Permanent Regulatory Program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on North American Coal Company's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application not later than two months after the effective date of the North Dakota program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Assistant Secretary for Energy and Mineral's decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, and any public comments received on or before September 3, 1980.

DATES: All requests for a public meeting must be made on or before September 3, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Steve Manger or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202. Telephone: (303) 837–4072 or FTS 327–4072.

Paul L. Reeves,
Acting Director.

[FR Doc. 80-24640 Filed 8-13-80; 8:45 am]
BILLING CODE 4310-05-M

Water and Power Resources Service

Colorado River Basin Salinity Control Advisory Council; Public Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council at 8:00 a.m. on September 12, 1980, in Room 339, Executive-Legislative Building, State Capitol Complex, Santa Fe, New Mexico.

Purpose of Meeting: Council members will be briefed on the status of salinity control activities and draft annual report.

Proposed Agenda: The Water and Power Resources Service, Soil Conservation Service, and Bureau of Land Management will each present a progress report and schedule of activities on salinity control in the Colorado River Basin. The Council will discuss Colorado River Basin salinity control activities and prepare a draft of their annual report.

Public Participation: The meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting including requests for time to make statements should be addressed to Mr. Michael J. Clinton, Chief, Colorado River Water Quality Office, Water and Power Resources Service, Engineering and Research Center, P.O. Box 25007, Denver, Colorado, 80225.

Dated: August 7, 1980.

D. D. Anderson,
Acting Commissioner of Water and Power Resources Service.

[FR Doc. 80-24499 Filed 8-13-80; 8:45 am]
BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Public Notice No. 1, Revised]

Statement of Organization, Functions, and Procedures; Information Guidance

In compliance with the Freedom of Information Act (5 U.S.C. 552), this notice provides information for the guidance of the public regarding: the basic authorities and programs of the Agency for International Development; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the methods whereby the public, may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "the Agency for International Development Public Notice No. 1," published in the **Federal Register** on August 2, 1978 (43 FR 33984–33990). It reflects the organization, basic functions, and methods of operations of the Agency for International Development as of July 25, 1980. Subsequent revisions of this statement will also be published in the **Federal Register.**

I. Creation and Authority of the Agency

The Agency for International Development (AID) carries out assistance programs designed to help the people of certain developing countries develop their human and economic resources, increase productive capacities, and improve the quality of human life as well as to promote economic or political stability in friendly countries.

The Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2381), as amended, authorizes the President to exercise his functions under that act through such agency or officer of the U.S. Government as he/she may direct. Executive Order 12163 of September 29, 1979, delegates to the Director of the International Development Cooperation Agency (IDCA) the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts with certain limited exceptions. The Executive Order also directs that the Director of the International Development Cooperation Agency continue within that Agency the Agency of International Development.

International Development Cooperation Agency Delegation of Authority No. 1 of October 1, 1979 (44 FR 57521), continues the Agency for International Development as an agency within the International Development Cooperation Agency and delegates to the Administrator of the Agency the functions conferred upon the director of the International Development Cooperation Agency by Executive Order 12163 and certain related Executive Orders, unless otherwise reserved by the Director or delegated to others by him/her.

The Agency for International development performs its functions under an Administrator, who reports to the Director of the International Development Cooperation agency and the President, and is charged with central direction and responsibility for the U.S. foreign economic assistance program

II. Programs of the Agency

The Foreign Assistance Act of 1961 as amended, authorizes the Agency to

administer two kinds of foreign economic assistance: development International Development programs overseas toward assisting developing countries with their national economy problems;

Coordinator for International Disaster Assistance. In this role the

4. Special Provisions

Development Support Staff; eight staff offices; four functional bureaus for

administer two kinds of foreign economic assistance: development assistance and economic support funds. The Agency, in cooperation with the Department of Agriculture, and the Department of State, also implements Public Law 480, the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 454; 7 U.S.C. 1691 et seq.), as amended, specifically the sale on concessional terms (Title I), the donation (Title II) of agricultural commodities, and the provision of food under the Food for Development Program (Title III).

To implement its economic assistance programs the Agency utilizes the following tools authorized by the Foreign Assistance Act: loans, on concessional terms repayable in dollars, to developing countries, emphasizing assistance in long-range plans and programs designed to meet the basic human needs of poor people in developing countries and achieve self-sustaining growth with equity; technical cooperation and development grants to promote economic development, including specific grant authorities for U.S. reseach, and educational institutions, American schools and hospitals abroad, reimbursement for international transporation costs of private, registered U.S. voluntary agency shipments of humanitarian relief and rehabilitation supplies, housing and other credit guarantee programs, including agricultural and productive credit and self-help community development programs, and development research into and evaluation of the process of economic development. Loan and grant assistance for programs relating to population growth are provided to foreign governments, the United Nations and its specialized agencies, other international organizations and programs, U.S. and foreign nonprofit organizations universities, hospitals, accredited health institutions, and voluntary health or other qualified organizations.

To prevent famine and promote freedom from hunger, the Agency provides assistance under Title XII of Chapter 2 of Part I of the Foreign Assistance Act of 1961, as amended, to support institution-building programs for the development of national and regional agricultural research, education and extension capacities in developing countries; build and strengthen human resource skills for agricultural and rural development; support international agricultural research; and stengthen the capacities of land and sea grant and other eligible universities to participate more extensively in the Agency for International Development programs overseas.

In carrying out all assistance programs, emphasis is placed on optimum participation in the task of economic development by the people of the developing countries through the encouragement of democratic private and local governmental institutions. Among recipient countries emphasis is given to the poorest and to those committed to helping their poor people participate in development.

B. Specifically, the Agency administers programs under the Foreign Assistance Act within the following major categories of assistance.

1. Development Assistance

The Agency for International Development focuses its development assistance programs on critical problem areas in those functional sectors which affect the majority of the people in the developing countries. The areas of concentration are:

a. *Food, Nutrition, and Rural Development.* To alleviate starvation, hunger, and malnutrition in the developing countries by increasing the food supply in order to achieve improvements in diets and by expanding employment opportunities for low-income families in both rural and urban areas to enable them to purchase the food they need.

b. *Population Planning and Health.* To address problems of rapid population growth and to extend family planning services to the village level through programs that provide or promote safe, effective, affordable, acceptable family planning services.

c. *Education and Human Resource Development.* To expand access to basic education the Agency for International Development supports programs in health, nutrition, family planning, and agriculture. Specifically, the Agency supports low-cost primary education, particularly for the rural poor; the use of mass media and communications technology, such as radio; curricula revision and teacher training to increase the relevancy of formal education to meet basic human needs; and the development of informal education and training approaches for rural families and workers in agriculture, nutrition, health, and family planning.

d. *Technical Assistance, Energy, Research, and Selected Development Problems (Selected Development Activities).* Selected Development Activities enable the Agency for International Development to deal with a wide range of development concerns which do not fall within the above functional sectors; e.g., projects directed toward assisting developing countries with their national energy problems; projects which lessen the problems of rapid urbanization, including employment and income problems; etc.

2. Economic Support Fund

The Economic Support Fund (ESF) program has a more immediate political orientation than development assistance. It is designed to promote economic or political stability in areas where the United States has special foreign policy interests and economic assistance can be immediately useful in securing peace or averting economic or political crises.

The Economic Support Fund is a flexible economic instrument which may take the form of unrestricted cash grants and general budget support, commodity import programs, capital projects, and programs specifically directed toward meeting basic human needs. It may concentrate on all of the critical areas which have been described above in Section II.B.1 In administering Economic Support Fund, the Agency for International Development seeks to develop economically and technically sound projects. Although the primary purpose of Economic Support Fund is to meet political objectives, these funds can provide an opportunity to encourage sound development. Congress has directed that, to the extent possible, Economic Support Fund be used to promote development efforts which effectively aid the poor.

3. Specific Programs

a. *Sahel Development.* The Agency for International Development participates in a long-term program for the development of the Sahelian region of West Africa. The objectives of the Sahel Development Program are to promote food self-sufficiency and self-sustaining economic growth. The program is coordinated, planned, and designed by the Club du Sahel, comprised of 8 Sahel states: Mali, Chad, Niger, Upper Volta, Senegal, Mauritania, Cape Verde, and Gambia; the United States; 11 other donor nations; and 8 multilateral organizations.

b. *American Schools and Hospitals Abroad.* The American Schools and Hospitals Abroad program provides grants to private U.S. nonprofit organizations sponsoring American schools and hospitals abroad. The purpose is to demonstrate American ideas and practices in education and medicine.

c. *International Disaster Assistance.* The President has designated the Administrator of the Agency for International Development as Special Coordinator for International Disaster Assistance. In this role the Administrator may call upon the resources of any agency of the U.S. Government to provide emergency relief or technical assistance in disaster preparedness. Relief may also be channeled through U.S. voluntary agencies or international relief organizations in response to foreign disasters resulting from earthquakes, droughts and famines, epidemics, floods and storms, civil strife, power shortages, and accidents.

d. *Housing Guaranty Program.* The Agency for International Development's Housing Guaranty Program facilitates private financing for shelter for lower income families in developing countries by guaranteeing repayment to U.S. lenders for projects requested by these countries.

The Agency seeks to finance innovative programs, such as squatter upgrding through the provisions of sewerage, potable water, electricity, and credit for home improvements; sites and services by the provision of a basic urbanized lot, with the family constructing its own dwelling unit; and low-cost, expandable core housing units.

e. *Food for Peace.* In cooperation with the Department of Agriculture, the agency participates in the sale of agricultural commodities on concessional terms under Title I of Public Law 480 to encourage economic development, assist in combating hunger and malnutrition, and for other purposes. Under Title II, the Agency for International Development administers the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Agency for International Development also administers Title III, which provides that a portion of funds accruing from Title I sales be used for Food for Development Programs to improve the production, protection, and utilization of food to increase the well-being of the poor in the rural sector of the recipient country, and that funds so used are applied against that government's Title I repayment obligation (Public Law 480, Agricultural Trade Development and Assistance Act of 1954, as amended). The Agency for International Development supports the use of food aid in ways which promote rather than hinder the growth of food production and associated policy and program initiatives in the host government.

4. Special Provisions

a. *Human Rights.* The Administrator of the Agency for International Development is responsible for implementing the statutory and policy guidelines for promoting human rights in its bilateral country programs. In consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, the Administrator determines the eligibility of countries to receive foreign assistance and how programs will be formulated to benefit needy people and promote human rights in countries violating internationally recognized human rights. Proposed assistance to such countries is brought before the Interagency Group on Human Rights and Foreign Assistance, chaired by the Deputy Secretry of State.

b. *Light Capital (Appropriate) Technology.* The Agency for International Development supports projects with the specific objective of broadening the range of technologies in use. This is accomplished by increasing local research and the flow of information on appropriate technologies; promoting local development, adaptation, and utilization of technologies appropriate to developing countries; and providing assistance which encourages the formulation of rational policies that broaden the range of technological options.

c. *Women in Development.* In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, Congress requires that U.S. bilateral aid be administered so as to give particular attention to the programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort. The Agency carries out this Congressional mandate with leadership by the Office of Women in Development, Bureau for Program and Policy Coordination.

III. Organization, Functions, and Methods of Operations

A. *General.* The Agency for International Development consists of a central headquarters staff in the Washington metropolitan area (AID/W) and a number of overseas missions and offices. The structure of the Agency for International Development headquarters includes: The Office of the Administrator supported by the Office of the Executive Secretary; a Board for International Food and Agricultural Development Support Staff; eight staff offices; four functional bureaus for program and policy coordination, development support, private and development cooperation, and program and management services; and four geographic bureaus for Africa, Asia, Latin America and the Caribbean, and Near East.

B. *The Office of the Administrator.* The Administrator plans, directs, and coordinates the operations of the Agency and is responsible, subject to the approval of the Director of the International Development Cooperation Agency (IDCA) and the President, for the formulation and execution of U.S. foreign economic assistance policies and programs. The Administrator supervises and directs the activities of all personnel of the agency in the United States and overseas. In addition, the Agency for International Development Administrator serves as the President's Special Coordinator for International Disaster Assistance.

The Office of the Executive Secretary (ES) facilitates and expedites the decision-making process of the Agency for International Development. it serves as a channel of communication and coordination between the Office of the Administrator and the Agency's Senior Staff.

The *BIFAD Support Staff (BIFAD/S),* in compliance with the Agency for International Development's statutory obligation, provides staff support to the Board for International Food and Agricultural Development (BIFAD) and its subcommittees as authorized by section 298 of Title XII of the Foreign Assistance Act, as amended.

C. *Staff Offices.* The following staff offices report to the Office of the Administrator:

1. The *Office of the Auditor General (AG)* is the Agency's focal point for assuring the integrity of the Agency for International Development's operations. It is the central authority concerned with the quality, coverage, and coordination of the audit, inspection and investigation services of the Agency. In directing, monitoring, and reviewing these activities, the Auditor General emphasizes both the protective and constructive aspects of these services as a tool of management within a comprehensive Agency effort to attain improved management effectiveness. The Auditor General has full access to all phases of the Agency's operations in order to carry out a comprehensive plan of selected audits, investigations, surveys and reviews to provide reasonable protection and constructive advice for Agency management. Serves as liaison for the Agency for

International Development with the Department of State to assure adequate

operation of overseas and domestic personnel systems; operates centralized

of the Agency's program and budget, and participates in the presentation of

bureaus, identifies problems impeding development and devises efforts to find

American Schools and Hospitals Abroad Program.

Agreements (PASA) for automated data information systems; and provides

International Development with the Department of State to assure adequate security services are performed by that Department.

2. The *Office of Legislative Affairs (LEG)* has responsibility for the Agency's relations with the Congress, and is the central point of contact between the Agency and the Congress, including Congressional members and Committees. The Office coordinates the preparation of the Agency for International Development's legislative program, including the preparation and submission of information relating to legislative authority and appropriations requests. The Office is also responsible for advising the Administrator and the Agency on the status of pending legislation of interest and on the history of pending legislation, including the concerns and views of members of the Congress on pending legislation and other matters of interest to the Agency for International Development.

3. The *Office of Public Affairs (OPA)* has responsibility for information policy leadership and coordination to ensure that information about the Agency's policies, objectives, and operations is disseminated fully and freely to the Congress and to the public. Dissemination of information is accomplished by concurrent external public affairs programs, such as: production and distribution to mass communication outlets of informational materials (e.g., an Agency magazine, press releases, speech texts, brochures, films, and video tapes); scheduling press conferences, media interviews, speaking and conference engagements for senior Agency officers; responding to public inquiries and to requests for information filed under the Freedom of Information Act and the Privacy Act; declassification of Agency documents. Internally, the Office of Public Affairs prepares and distributes certain informational materials such as a biweekly newspaper, public opinion analyses, press highlights and summaries.

4. The *Office of the General Counsel (GC)* provides all legal advice, counsel, and services to the Agency and its officials both in the United States and abroad, and ensures that the Agency for International Development programs are administered in accordance with legislative authorities. The Office maintains legal staffs both at headquarters and at regional or country organizations overseas.

5. The *Office of Personnel Management (PM)* has central responsibility for personnel administration. The Office develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and employee training programs; and conducts a full range of personnel operations for the Agency. Additionally, the Office is responsible for the administration of the Agency's labor relations program (Executive Orders 11491 and 11636).

6. The *Office of Equal Opportunity Programs (EOP)* is the central Agency office responsible for directing the policy and coordinating and monitoring the implementation of all Government laws, executive orders, policies, and regulations relating to the provision of equal opportunity for employees of, and applicants for employment with, the Agency for International Development and activities financed by it.

7. The *Office of Financial Management (FM)* as the principal financial Office of the Agency, provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. The Office administers and coordinates such financial management activities as accounting, operating expense and workforce budgets, internal financial management control, advice and assistance to overseas missions regarding financial policies, practices and procedures, and preparation and interpretation of financial and related statistical reports. The Office also administers the Agency's workforce resources management program.

8. The *Office of Small and Disadvantaged Business Utilization (SDB)* is the central Agency office responsible for encouraging, coordinating and ensuring the effective participation of small and disadvantaged businesses in the Agency for International Development-financed activities. The Office was established in accordance with the provisions of the Small Business Act, as amended, Pub. L. 95–507 and reports directly to the Administrator.

D. *Functional Bureaus.* 1. The *Bureau for Program and Policy Coordination (PPC)* is responsible for the Agency's overall program policy formulation, planning, coordination, resource allocation, evaluation activities, and the program management information systems which support them. The Bureau develops economic assistance policies, provides guidance on long-range program planning, economic analysis, sector assistance strategies, and project analysis and design. It coordinates the formulation and revision of the Agency's program and budget, and participates in the presentation of the Agency's program to the Congress. The Bureau reviews and monitors all country program strategies and project proposals and selectively reviews project papers from other to ensure compliance with Agency policy guidance. It provides in-depth analyses of development problems and related issues and formulates the Agency's position on major U.S. development policies affecting the Agency's assistance programs in the developing countries.

The Bureau assures implementation of Title IX of the Foreign Assistance Act (FAA), which emphasizes the encouragement of democratic institutions and seeks to develop an Agency policy for the furtherance of human rights in the developing countries, in accordance with sections 116 and 502B, and implements sections 113 and 305 of the FAA relating to women in development. The Bureau provides leadership in the development of Agency policies and procedures for the integrated use of capital, technical, Public Law 480, and other assistance and for evaluation of progress toward program goals; incorporates these policies and procedures into Agency directives; reviews the policy aspects of all types of Agency projects to assure consistency with Agency objectives; develops and coordinates Agency environmental policies; and serves as Secretariat for the Bilateral Assistance Subcommittee (BAS) of the Development Coordination Committee (DCC).

The Bureau carries out significant evaluations of Agency-supported projects which can introduce improve ideas and valuable experience into the Agency's program at key points. The Bureau exercises systems management responsibilities for the policy, planning, and program management systems, both automated and nonautomated, assigned to the Bureau; and provides central Agency statistical services.

2. The *Bureau for Development Support (DS)* administers the Agency's housing investment guaranty and international training programs and provides professional leadership and technical support to Agency activities in the areas of agriculture, nutrition, education, health, urban development, rural development and development administration, science and technology, population, engineering, and energy. Within each of these technical areas the Bureau:

a. Under the leadership of the Bureau for Program and Policy Coordination and in cooperation with geographical bureaus, identifies problems impeding development and devises efforts to find solutions to those problems, including, but not limited to, those appropriately treated through central research and development activities.

b. Identifies, at the request of the geographical bureaus, field service needs most efficiently met from a central source, and arranges for these needs to be srved either by direct-hire staff or by contracted resources.

c. Ensures that new approaches to development are widely disseminated within the Agency for International Development and are utilized in field projects, and that the results of experimental efforts in one country are disseminated in useful form among the geographical bureaus, throughout the Agency, and to the international development community.

d. Provides leadership for the Agency's central research programs which shall be responsive to problems of priority concern to the Agency for International Development's field missions and developing countries. Leads efforts to ensure coordination of centrally funded, regional and country research activities. Assures provision of expert assistance in research design and methodology to geographical bureaus and missions as required. Gives particular attention to utilization of the results of research sponsored by the Agency.

The Bureau acts as the Agency's focal point for liaison with U.S. universities, government agencies, and professional and research organizations, and for technical coordination with United Nations specialized agencies and other international organizations. It coordinates participation with the Board for International Food and Agricultural Development and its committees in the management and implementation of programs/activities authorized under Title XII of the Foreign Assistance Act as amended.

3. The *Bureau for Private and Development Cooperation (PDC)* has central Agency responsibility for encouraging and strengthening the effective participation of nongovernmental organizations in support of the Agency for International Development's developmental and humanitarian objectives; performs designated Agency responsibilities for the Food-for-Peace Program; coordinates internal U.S. Government responses to foreign disasters with those of other private and international organizations; provides leadership and policy guidance for Agency activities in the development-related labor and manpower fields; and administers the American Schools and Hospitals Abroad Program.

In the area of private and voluntary cooperation, the Bureau creates and explores approaches to enlarge the role of volunteerism in the development process; maintains liaison with the American Council on Foreign Aid, the Advisory Committee on Overseas Cooperative Development and the U.S. cooperatives engaged in overseas cooperative development and with the community of voluntary agencies generally; and provides staff support to the Advisory Committee on Voluntary Foreign Aid.

4. The *Bureau for Program and Management Services (SER)* provides centralized services in the areas of management planning, management operations, data management, direct contracting, and commodity management. It establishes and monitors Agency policies, regulations, and procedures in all of these areas. The Bureau is also responsible for administering the U.S. Earthquake Reconstruction Program in Italy.

The Bureau assists Agency management in the development, implementation, and evaluation of management policies and practies; provides or arranges for management consulting services to the headquarters and overseas organizations; and oversees administration of the programs for organization and functional alignment, directives, committee management (Public Law 92–463), management improvement, and system coordination.

The Bureau develops policies, standards, and guidelines for, and oversees the development, operation, and management of worldwide administrative and logistical support systems; counsels and assists senior Agency personnel on all phases of administrative and logistical support services; acts as the Agency coordinator for overseas combined administrative support services, for all aspects of foreign affairs administrative support (FAAS), and joint nonappropriated fund activities; and provides a wide range of administrative and logistical services for the Agency for International Development.

The Bureau provides leadership and coordination to the development and administration of the Agency for International Development's automated data information systems; provides leadership and guidance on all phases of the use of automatic data processing technology; reviews, recommends, and monitors the Agency-wide use of management consulting firms, contracts, or Participating Agency Service Agreements (PASA) for automated data information systems; and provides leadership and policy guidance to the Agency's data management systems.

The Bureau directs the development and maintenance of policies, procedures, standards, and regulations governing direct contracting and the Agency for International Development-financed borrower/grantee contracting; directs centralized contracting services; encourages the participation of U.S. small business in services, contracting, and export supply activities of the Agency; and develops and maintains the Agency for International Development procurement regulations.

The Bureau provides leadership and coordination to the development and administration of the Agency's policies and procedures for commodity management; serves as the principal advisor on the commodity management aspects of the economic assistance programs; administers commodity import programs and provides support for the implementation of the commodity and transportation elements of other programs financed by the Agency; implements requirements for commodity marking and labeling; and provides support for the transportation element of all Agency programs and for programs financed by Title II, Public Law 480, and the world food programs.

E. *Geographic Bureaus.* There are four Geographic Bureaus: Africa, Asia, Latin America and the Caribbean and Near East.

These Bureaus are the principal line offices of the Agency for International Development with responsibility for the planning, formulation, and management of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the Administrator.

Each Geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices.

2. Directs the formulation of U.S. economic assistance programs; approves programs and projects within the limits of authorities delegated from the Administrator; and authorizes the execution of economic assistance agreements with Bureau countries and regional organizations.

3. Exercises policy control within the region over the housing guaranty programs which are administered by the Office of Housing within the Bureau for Development Support.

4. Submits, through the Bureau for Program and Policy Coordination for the Administrator's approval, an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress.

5. Approves and directs the allocation of available resources among Bureau offices and overseas missions.

6. Assures necessary liaison with other Agency offices, the Department of State, other U.S. bilateral, and multilateral agencies and officials of recipient countries; and represents the Agency for International Development at country consortia or consultative group meetings.

7. Oversees the implementation of Bureau programs and projects; monitors performance under loan and grant agreements, contracts, and other operating agreements; and takes or recommends any required remedial action.

8. Represents the Agency for International Development before the press and the public, as required.

F. *Overseas Missions and Offices.* 1. The Agency for International Development's country organizations are located in countries where the Agency is carrying out bilateral economic assistance programs. Such organizations report to the Geographic Bureau, with one exception as noted below, and include the following:

a. *Missions* are currently located in 46 countries for which the Agency for International Development program is major, continuing, and usually involves multiple types of aid in several sectors. Each mission is headed by the mission director who has been delegated program planning, implementation, and representation authorities.

b. *Offices* are currently located in 13 countries for which the Agency for International Development program is moderate, declining, or has limited objectives. Each office is usually headed by an Agency representative who has been delegated program planning, implementation, and representation authorities.

(Exception: The Regional Office—Fruili, in Italy, reports directly to the Bureau for Program and Management Services.)

c. *Sections of Embassy* are currently located in nine countries for which the Agency program is small or is being phased out. The Agency for International Development program planning and implementation authorities are delegated to the chief U.S. diplomatic representative in the country.

2. *Offices for Multicountry Programs* (Seven offices) administer the Agency for International Development's overseas program activities which involve more than one country. These offices may also perform "country organization" responsibilities for assigned countries and report directly to the Geographic Bureaus.

3. *Offices for Multicountry Services* (Four offices) provide services to other overseas organizations, primarily the Agency for International Development's country organizations and Multicountry Program Offices. (The Excess Property Field Offices report to the Bureau for Program and Management Services, all others report to the Geographic Bureaus.)

4. *Development Assistance Coordination and Representation Offices* (Five Offices) maintain liaison with various international organizations and represent U.S. and the Agency's interest in development assistance matters. Such offices may be only partially staffed by Agency personnel and may be headed by employees of other U.S. Government agencies.

5. *Audit and Inspections Offices* (12 offices) are maintained by the Office of the Auditor General at overseas locations to carry out a comprehensive program of selected audits, investigations, inspections, surveys, reviews, and security services for the Agency.

IV. Statements of General Policy, Rules, and Procedures

The statements of the Agency for International Development policy and the nature and requirements of formal and informal procedures, which are currently available to the public, are contained in the published regulations and other publications of the Agency listed below. To the extent applicable, these also contain descriptions of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, reports, or examinations involved in the transaction of business with the Agency for International Development.

The following Agency regulations are codified in chapter II of Title 22 of the Code of Federal Regulations.

Subject

No. 1. Rules and Procedures Applicable to Commodity Transactions Financed by the Agency for International Development.

No. 2. Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies.

No. 3. Registration of Agencies for Voluntary Foreign Aid.

No. 5. Per Diem Payments to Participants in Nonmilitary Economic Development Training Programs.

No. 8. Suppliers of Commodities and Commodity-Related Services Ineligible for the Agency for International Development Financing.

No. 9. Nondiscrimination in Federally Assisted Programs of the Agency for International Development Effectuation of Title VI of the Civil Rights Act of 1964.

No. 10. Loyalty and Security Investigations for Persons Serving Under Contracts Financed from U.S. Foreign Assistance Funds.

No. 11. Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance (Public Law 480, Title II).

No. 12. Public Information.

No. 13. Collection of Civil claims by the Agency for International Development.

No. 14. Advisory Committee Management.

No. 15. Implementation of Privacy Act of 1974.

No. 16. Environmental Procedures.

No. 17. [Reserved]

No. 18. Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

No. 19. [Reserved]

No. 20–22. Personnel Regulations Implementing Section 401 of the International Development and Food Assistance Act of 1978 (Obey Amendment)

The procurement regulations for the Agency for the International Development are codified in Chapter 7 of Title 41 of the Code of Federal Regulations. In addition, the following other Agency for International Development publications contain procedures available to the public:

1. The Agency for International Development's Country Contracting Precedures, including:

a. The Agency for International Development's Handbook 11—Country Contracting (formerly Capital Projects Guidelines).

b. Environmental Assessments Guidelines Manual.

c. Information Packet for Architect-Engineer Firms.

2. The Agency for International Development—Financed Export Opportunities.

3. The Agency for International Development's Procurement Information Bulletins.

4. The Agency for International Development's Small Business Memos.

5. The Agency for International Development's Importer Lists.

6. U.S. Small Supplier Lists.

Copies of the above listed Agency for International Development regulations and other publications are available for public inspection and copying through the Office of Public Affairs, the Agency for International Development, the International Development Cooperation Agency, Washington, D.C. 20523. In addition, publications listed under No. 2 through No. 6 above are available from the Office of Small and Disadvantaged Business Utilization, the Agency for International Development, Washington, D.C. 20523, and at Department of Commerce field offices located in principal cities of the United States. The Agency for International Development procurement regulations are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

V. Information, Submittals, and Requests for Decisions

A. *Information.* The Agency for International Development Regulations Nos. 12, 14, and 15 (22 CFR Parts 212, 214, and 215, respectively) specify the Agency for International Development policy and procedures for public access to the Agency for International Development records.

B. *Submittals, Requests, or Decisions.* Members of the public doing business, or wishing to do business, with the Agency for International Development may make their submittals or requests, or obtain decisions at the cognizant Agency for International Development bureau or office described in section III above, in accordance with the provisions of the Agency for International Development regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate Agency for International Development bureau or office, or as to the methods of applying for or obtaining Agency for International Development action, application should be made to the Director, Office of Public Affairs, Agency for International Development, International Development Cooperation Agency, Room 4898, 21st Street and Virginia Avenue, N.W., Washington, D.C. 20523.

Effective date: This notice shall be effective July 25, 1980.

D. G. MacDonald,

Assistant Administrator for Program and Management Services.

August 1, 1980.

[FR Doc. 80-24512 Filed 8-13-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

United States v. International Minerals and Chemicals Corp. and IMC Chemical Group, Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed amended consent decree in *United States* v. *International Minerals and Chemicals Corporation* and *IMC Chemical Group*, will be lodged with the United States District Court for the Western District of Louisiana, Monroe Division. The proposed decree modifies effluent limitations established in an existing decree for four specific parameters of the company's discharge into the Ouachita River from its Dixie Chemical Plant in Sterlington, Louisiana.

The Department of Justice will receive until September 15, 1980, written comments relating to the proposed amended decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and refer to *United States* v. *International Minerals and Chemicals Corporation et al.*, D. J. Ref. 90-5-1-1-532.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Louisiana, Federal Building, Room 3B12, Shreveport, Louisiana 71101; at the Region VI Office of the Environmental Protection Agency, Enforcement Division, 1201 Elm Street, Dallas, Texas, 75270, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2644), Ninth Street and Pennsylvania Avenue, NW., Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resource Division.

[FR Doc. 80-24591 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacture of Controlled Substances; Application by Cordova Chemical Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 19, 1980, Cordova Chemical Company, Highway 50 at Hazel Avenue, P.O. Box 13400, Sacramento, Calif., 95813, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule I controlled substance Tetrahydrocannabinols.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any suth comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24570 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Diosynth Inc.; Correction

On April 11, 1980, the Drug Enforcement Administration published a Notice of Application in the **Federal Register** (Vol. 45, No. 72, pg. 24931) stating the Diosynth Inc., 3532 W. Henderson, Chicago, Illinois 60618, has submitted an application for registration as a bulk manufacturer of Concentrate of Poppy Straw, a basic class of controlled substance in Schedule II.

On April 15, 1980, the Drug Enforcement Administration was advised that Diosynth Inc., 3432 W. Henderson, Chicago, Illinois 60618, did not wish to apply for registration as a bulk manufacturer of Concentrate of Poppy Straw.

The Application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn. This pertains only to Concentrate of Poppy Straw (9670).

Dated: August 8, 1980.

Peter B. Bensinger,

basic class of controlled substances listed below:

hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed

activating this control unless the guard/latch is moved first.

Yardmasters are responsible for around-the-clock supervision of South

existing physical redundancies such as the "run-out" track are not adequate to

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24671 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Merck and Co., Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 10, 1980, Merck & Co., Inc., Merck Chemical Manufacturing Div., P.O. Box 2000, Lincoln Avenue, Attn: Office of the Secretary, Rahway, New Jersey 07065, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Codeine	II
Ethylmorphine	II
Hydrocodone	II
Morphine	II
Thebaine	II
Anileridine	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24670 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Penick Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 26, 1980, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Pholcodine	I
LAAM	I
Codeine	II
Dihydrocodeine	II
Oxycodone	II
Diphenoxylate	II
Hydrocodone	II
Meperidine	II
Methadone	II
Methadone-Intermediate	II
Morphine	II
Thebaine	II
Opium Extracts	II
Opium Fluid Extracts	II
Opium Tinctures	II
Opium Powders	II
Opium Granulated	II
Mixed Alkaloids of Opium	II
Conc. of Poppy Straw	II
Phenazocine	II
Fentanyl	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24573 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Sterling Drug Inc.

Pursuant to Section 1301.43(a) of Title 2 of the Code of Federal Regulations (CFR), this is notice that on May 20, 1980, Sterling Drug Inc., 33 Riverside Avenue, Rensselaer, New York, 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance meperidine.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24572 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-33]

Report, Safety Recommendations, Responses and Closeouts; Availability

Special Investigation Report

Design-Induced Landing Gear Retraction Accidents in Beech Baron, Bonanza and Other Light Aircraft (NTSB-SR-80-1).—The National Transportation Safety Board has recently concluded a detailed review of all inadvertent landing gear retraction accidents occurring from 1975 to 1978. The Board's special investigation report, released August 1, notes that the data indicated that Beech Bonanza and Baron-type aircraft, while comprising only one-quarter of the single-engine and light twin-engine fleets, were involved in the majority of these accidents. Pilot comments and a human engineering evaluation of contemporary light aircraft cockpits revealed that these two Beech aircraft had four design features which would tend to increase the probability of inadvertent retraction accidents.

The four problem areas singled out by the Safety Board are: (1) Lack of adequate "shape-coding" of the landing gear and flap control knobs to permit the pilot to differentiate between them on the basis of feel alone; (2) an arrangement of these two controls in nonstandard locations which increases the probability that the pilot will actuate one control while intending to actuate the other; (3) the location of the horizontal bar on which control wheels are mounted that obscures the pilot's view and obstructs his reach of these two controls; and (4) lack of a guard or latch mechanism over the landing gear control to prevent the pilot from activating this control unless the guard/latch is moved first.

The human engineering problem areas documented in the report result largely from the fact that basic instrument panel in the aircraft was designed 35 years ago. A great deal of knowledge about the effects of good design in preventing human error has been acquired since these aircraft were originally certificated, and more appropriate standards have been established. The Safety Board notes that current Federal Aviation Administration regulations, however, permit the continued manufacture of these aircraft under their previously issued type certificates. This practice, which is not unique to the Bonanza and Baron aircraft, should be reconsidered.

As a result of this special investigation, the Safety Board on July 16 forwarded three "Class II, Priority Action" recommendations to the FAA. (See 45 FR 49410, July 24, 1980.)

Railroad Safety Recommendation Letter

R-80-27 through -29 to the Western Pacific Railroad Co., August 1, 1980.—The Safety Board notes that Western Pacific has reported to the Federal Railroad Administraiton 29 accidents which occurred in the Sacramento area from November 1, 1978, to November 1, 1979. Although none of these accidents met the established criteria for investigation by the Safety Board, the Board undertook a review of the accident reports and an on-site inspection to determine whether these accidents collectively indicate a situation posing a potential threat to public safety.

Investigation revealed that 22 of the 29 accidents were not directly relevant to operations in the South Sacramento Yard: 5 were rail/highway grade crossing accidents, 5 were side collisions, 6 were car derailments, 5 involved engines with cars which were pushed or pulled through improperly aligned switches, and 1 involved a car which rolled into and damaged a railroad shop door. The remaining seven accidents and a subsequent one on June 6, 1980, however, occurred in the vicinity of 21st Street yard area and, with one exception, involved cars and/or locomotives which rolled uncontrolled to a collision or derailment. General descriptions of these accidents may be found in an attachment to the Safety Board's recommendation letter.

The Board notes that South Sacramento Yard is managed by a Terminal Superintendent and Trainmaster who also are responsible for 120 miles of main track and branch lines, including three other terminals.

Yardmasters are responsible for around-the-clock supervision of South Sacramento Yard, which is surrounded by residential and commercial buildings. Public streets on both sides of the yard and a main street which crosses the main tracks at grade at the east end of the yard are relatively heavily traveled. A city college and a high school are located nearby on Freeport Boulevard and many of the students walk across the railroad property going to and from the schools.

The track grade in the yard descends from the west end to the east end at an average rate of about 0.25 percent and from the approximate midpoint to the east end of about 0.3 percent. Just short of the main track at the east end of the yard, a "run-out" track, built in 1972 to prevent uncontrolled cars and locomotives from running into the main track.

After the fourth of six similar accidents which occurred between March 31 and September 21, 1979, the Terminal Superintendent issued a "notice" on July 24, 1979, to train and engine employees, yardmasters, and all concerned advising them of the need to understand and adhere strictly to Western Pacific rules which require proper securement of rolling stock left on yard tracks and warning that future violations might be disciplined serverly. Following the sixth accident, the Terminal Superintendent issued another "notice" on September 5 regarding the "critical problem in this yard relating to the failure of personnel to carry out instructions." Third and fourth notices were issued on September 15 and 19, respectively, regarding the securement of standing cars. On June 7, 1980, improperly secured cars rolled out of the east end of track 1 into the "run-out" track and derailed the east car. Understandably, the neighboring residents have voiced concern regarding a perceived threat to public safety.

Despite the fact that none of the aforementioned eight accidents resulted in harm to the public, the Safety Board's experience in investigating similar accidents indicated that such accidents represent a threat to residents of the surrounding area, especially if hazardous materials are involved. In addition, each accident posed a threat to the safety of the yard employees.

The Safety Board concludes that Western Pacific's operations at South Sacramento Yard are not managed and supervised adequately to provide a satisfactory level of safety to the public. Management has not achieved a balance between the required level of safety and the level of training and motivation exhibited by the employees, and the existing physical redundancies such as the "run-out" track are not adequate to assure the required level of safety. Yard tracks with a descending grade of 0.3 percent should have some means of preventing cuts of cars from rolling out at the lower ends of each track. Accordingly, the Safety Board recommends that Western Pacific:

Install physical appliances, such as car retarders, track skates, or derails, to prevent cars from rolling out of the lower ends of the tracks at South Sacramento Yard. (R-80-27)

Improve the quality of supervision and the training of yard employees in respect to the safe operation of South Sacramento Yard. (R-80-28)

Periodically examine employees on those rules which govern their performance. The examination should ensure that employees exhibit knowledge and understanding of the pertinent rules and proficiency in their application. (R-80-29)

Each of the above recommendations is designated "Class II, Priority Action."

Response to Railroad Safety Recommendations

R-79-14 through -28, from the Federal Railroad Administration, July 18, 1980.—Response is in reference to the Safety Board's letter of May 12, 1980, commenting on FRA's response of last October 12 (44 FR 72248, December 13, 1979) to recommendations issued in connection with Board report No. NTSB-SEE-79-2, "Safety Effectiveness Evaluation—Review of the Federal Railroad Administration's Hazardous Materials Program and the Applicable Track Safety Standards."

The Safety Board's letter of May 12 advised that FRA's response to recommendations R-79-14 (re qualifications of the Associate Administrator for the FRA's Office of Safety) and R-79-15 (re organizational changes in FRA's Office of Safety) had been found to be satisfactory. Both recommendations are now classified as "Closed—Acceptable Action." The Board noted that recommendation R-79-16 (re establishment of a data base for railroad safety problems) will continue in "Open—Acceptable Action" status, awaiting development of the proposed hazardous materials information system.

With respect to recommendation R-79-17, concerning revision of the track safety program, the Safety Board's May 12 letter affirms that all track should be maintained and made safe for the passage of all trains and that trackage in urban corridors should be given high priority maintenance if such trackage carries hazardous materials traffic because of the increased risk of harm to the public. The Board notes that recommendation R-79-17 and

V 45 AG 14 80 UMI

recommendations R–78–32 and R–79–22 indicate plainly that the Board favors decisions based on an acceptable level of risk. Further in response to R–78–32 on January 16, 1979, and June 6, 1979, FRA advised of an accident study in conjunction with population/traffic density data to identify urban corridors which may qualify for track improvement funding. The Board states that that response appears to be inconsistent with FRA's current position that it will not differentiate in track requirements based on risk. Also, the Board takes issue with FRA's belief that risk levels must be equated with deferred maintenance and capital shortfall of carriers. The Board agrees that financial hardships have been, in large measure, responsible for the track problems of today; however, the Board cannot passively continue to accept substandard track conditions. Aside from clarification of these issues, the Board asked to receive FRA's System Safety Plan, particularly as it relates to R–79–17.

In its July 18 response concerning recommendation R–79–17, FRA points to its January 16, 1979, response which discussed track improvement funding and specified that funding was pursuant to Title 5 of the Railroad Revitalization and Regulatory Reform Act of 1976. This Act established a fund to provide the necessary capital to furnish financial assistance to railroads for facilities maintenance, rehabilitation, improvements, and acquisitions. FRA says this assistance is only available to those railroads which apply for such funds through FRA and that FRA does not fund projects without an application. FRA notes that its January 16, 1979, response implied that such information as accident data, volume of hazardous materials traffic, etc., is beneficial in justifying these loan applications. Also, FRA states that the report referred to in its June 6, 1979, response has not yet been received. This report will provide valuable information concerning the transportation of hazardous material but it will not provide the funds necessary to upgrade the track to some level higher than now required, FRA states.

With respect to recommendation R–79–18 concerning selective upgrading of track, the Safety Board's May 12 letter notes that (a) monthly accident report printouts are furnished to track inspectors in the field, (b) these reports enable the inspectors to determine the locations of trackage having a high derailment history and concentrate track inspection efforts in these areas, and (c) upgrading of substandard track is thus brought about through FRA's enforcement program. The Board said that this approach fulfills the objective of the recommendation and R–79–18 will be classified as "Closed—Acceptable Action."

In connection with recommendation R–79–19, regarding revision of track safety standards, the Safety Board said it is aware of FRA's ongoing revision of the track standards and trusts a final rule will be issued following analysis of the material presented at the public hearing; evaluation of FRA's response to recommendation R–79–19 is dependent on the revisions contained in the final rule. In the interim, the recommendation will be classified as "Open—Acceptable Action."

Concerning recommendation R–79–20 (evaluation of the Automated Track Inspection Program (ATIP)), the Safety Board understands that FRA will ultimately relate the output from the Hazard Analysis and Priority Determination System (HAPDS) with the ATIP to establish priorities for dealing with the problems of track maintenance inspections and to measure the succes of ATIP efforts. The impact of the combined programs will be incorporated in FRA's System Safety Plan. Accordingly, the Board's May 12 letter notes, until the HAPDS becomes operative, recommendation R–79–20 will be classified "Open—Acceptable Action."

The Safety Board notes that FRA's response to recommendation R–79–21, relating to the State Participation Program, does not address the problem as the Board perceives it. FRA's and the State's opinion differ because of different interest. The Board believes that an objective evaluation of the reasons why more States haven't joined the State Participation Program can only be performed by an unbiased, independent party. The Board does not consider FRA's response to satisfy the requirements of the recommendation and, therefore, the recommendation will be classified as "Open—Unacceptable Action."

With respect to recommendation R–79–22, which concerned bypass routing of hazardous materials, the Safety Board's May 12 letter expressed appreciation of FRA's efforts to determine the feasibility of special routes for hazardous materials traffic. As previously stated, the Board believes that safety would be enhanced by requiring that trackage in urban corridors be given high priority maintenance if the trackage is utilized for hazardous materials movement. Should the feasibility study lead to the establishment of special routes for hazardous materials, the high-density hazardous material movement will emphasize the importance of the track quality. The Board asked to be advised of the anticipated completion date of the feasibility study and urged FRA to establish a cooperative working procedure with the Interstate Commerce Commission (ICC) in the determination of routes for hazardous materials. Recommendation R–79–22 is classified as "Open—Acceptable Action."

In its July 18 response concerning R–79–22, FRA indicates that a national program of rerouting hazardous materials cars to avoid exposure to major population centers was found to be counterproductive due to the incurrence of additional car mileage, increased interchange switching and more exposure to yard handling activities which are associated with circuitous routing. FRA notes that in the simulation of this study, actual casualties were lower in 1975 through 1977 when compared with the number of expected casualties under the following conditions:

- Minimize population exposure but no change in traffic shares. The historical junctions between railroads would be maintained.
- Minimize population exposure, with no restraints on any rerouting which would change a railroad's traffic share.

FRA reports that the final report on this study is currently being prepared for FRA by the Transportation Systems Center, and as soon as the report is available a copy will be forwarded to the Safety Board. FRA is also studying the effectiveness of selective local rerouting of hazardous materials cars. A case study of the costs and benefits of rerouting hazardous materials cars in a single local area is now underway. A followup contract to identify those sites in which localized rerouting may be useful is planned.

The Safety Board's May 12 letter with respect to recommendation R–79–23, which concerns tank car head shield and insulation program, expresses emphatic opposition to the process in which tank car owners were routinely allowed to transfer tank cars from the "T" to the "J" retrofit programs. The Board's concern was clearly expressed with the issuance of recommendations R–79 –65 and –66 on October 19, 1979. However, the Board is now pleased to learn that FRA has accelerated the retrofit program, and that the tank cars shifted from the "T" to the "J" retrofit were not counted in the requirement for 65 percent retrofit completion of "J" tank cars by December 31, 1979. The Board asked FRA to report the progress of the head shield and insulation program.

Meanwhile, recommendation R–79–65 will be classified in an "Open—Acceptable Action" status. In response, FRA reports that as of June 15, 1980, 75 compliance reports covering 17,622 DOT Specification 112 and 114 tank cars have been received as required by regulations issued in Materials Transportation Bureau Docket HM–144. The tank car retrofit status as of April 1, 1980, is as follows:

Cars with Completed Coupler Retrofit	17,622 (100%)
Cars with Completed "A" Retrofit	788 (100%)
Cars Subject to "S" Retrofit	2,233
Completed	2,217 (99.3%)
Cars Subject to "T" Retrofit	1,858
Completed	1,338 (70.0%)
Cars Subject to "J" Retrofit	12,744
Completed	10,921 (85.7%)

With further reference to recommendation R–79–23, FRA reports that 29 owners with Specification 112 and 114 tank car fleets ranging from 1 to 468 tank cars have completed their retrofit program. A total of 1,529 cars have been completed by these owners. Also, according to commodity usage, 15,242 out of 17,622 tank cars (86.5%) have been completely retrofitted. The "S" retrofit program is essentially completed. As of April 1, 1980, 16 tank cars remained to be retrofitted with headshields; 15 of these were at car repair shops and the 16th was en route. FRA notes that encouraging progress is being made in completing the "T" retrofit. Of these tank cars, 70 percent have been completed. Approximately 16 cars are being retrofitted each week with thermal protection. At this rate, the retrofit should be completed by December 31, 1980. Twelve of these cars lacked headshields as of April 1, 1980; however, they were in car shops for retrofitting. Further, FRA reports that the "J" retrofit continues ahead of schedule with approximately 1,400 more tank cars completely retrofitted on April 1, 1980, than required by the regulation. The current retrofit rate is approximately 125 tank cars per week. At this rate, this program should be completed by September 15, 1980.

The Safety Board's May 12 letter states that FRA's response fails to address the specifics of recommendation R–79–24, which concerns safety improvement of tank cars. The Board feels that the Inter-Industry Task Force is the appropriate and most effective group to determine what additional cost-effective steps, based on risk-ranking results, can be taken to make tank cars more resistant to hazardous materials releases in derailments. The Board asked for a response which speaks to the specifics of the recommendation, and continues to classify R–79–24 as "Open—Unacceptable Action."

FRA's July 12 response with respect to recommendation R–79–24 states that the Inter-Industry Task Force could play a part in the process of determining proper modification to tank cars so as to reduce the incidence of hazardous materials released in derailments. However, since 1972 FRA has been jointly working with the Association of American Railroads/Railway Progress Institute Tank Cars Safety Research Project. FRA believes that this is the key body for achieving results since it has the knowledge, expertise and ability to effect improvement in tank car safety. Shipper, carrier, and car builder information is stored in usable form and is regularly applied to developing safety modifications for tank cars. As a result of this effort, the tank car builders have developed "low profile" bottom unloading valves. Other areas of current study include bottom shield protection and improved top fitting protection. FRA believes that this program is the most effective one in developing cost-effective improvements so as to improve tank car safety.

With respect to recommendation R–79–25, which concerned lowering of main track classifications, the Safety Board in its May 12 letter states that the Board's concern in making this recommendation was that when a carrier lowers its track classification, it is permitted to accordingly decrease the maintenance standards. As noted in Board Report No. NTSB–SEE–79–2, in CY 1975, 40 percent of train accidents occurred on Class I track; in CY 1977, this track class accounted for 52 percent of the train accidents. Recommendation R–79–25 asks FRA to make a determination of the safety effect of the lowering of maintenance standards as opposed to requiring that the track be maintained to the standards of the higher class. With this clarification, the Board asked to be apprised of FRA's plans to determine the safety effect of permitting reduced maintenance standards (track classification) in lieu of maintaining the track in the originally higher track class. Pending receipt of this information, recommendation R–79–25 will also be classified as "Open—Unacceptable Action."

In response to the Board's comments on recommendation R–79–25, FRA notes that the present track standards allow the railroads to determine the classification of track to which the track will be maintained. However, the safety equivalency among the six track classifications is intended to be preserved by speed reductions as the classification decreases. Even though the major portion of train accidents occur on Class I trackage, almost two-thirds of past derailments are in yards where a comparatively high frequency of movement (exposure) occurs and where the severity potential is significantly reduced due to the maximum speed limitation of 10 mph. FRA data shows that the damage to equipment and track in derailments is directly related to speed. Thus, maintaining the physical plant to a higher class becomes an economic rather than a safety issue.

With respect to recommendation R–79–26, regarding the development of compatible economic and safety policies, the Safety Board states that FRA's response reflects full awareness of the various constraints which adversely affect the financial status of railroads but does not indicate coordination between FRA and ICC in establishing the economic and safety policies cited in the recommendation, pending Congressional action on the Railroad Deregulation Act. The Safety Board asked to be advised of any constructive actions that have been mutually undertaken by the FRA and the ICC so as to establish consonant policies of both safety and profit. Pending receipt of this information, recommendation R–79–26 will be classified as "Open—Unacceptable Action." FRA's July 18 letter does not address recommendation R079026.

The Safety Board's May 12 letter with respect to the recommendation R–79–27, which concerned Transportation Test Center (TTC) policies, notes that FRA and the Board are in accord in their conclusion that the TTC data output is not sufficiently timely. FRA's intent to acquire a computer to expedite data processing is regarded as an effective method to correct the problem. The Board asked FRA to determine whether the current policy encourages the "filing" of industry data which should be publicized. Also, the Board asked to be advised when the computer system becomes operative at the TTC. Until such time, recommendation R–79–27 will be classified as "Open—Acceptable Action." In response, FRA reports that the computer system at TTC is now in full operation. This computer will help to expedite the analysis of test results, thus reducting the Center's dependence upon outside contractors. However, in order to encourage voluntary testing and improvement, FRA will continue to treat designated private industry test data as proprietary data.

Recommendation R–79–28 is concerned with reduced speeds of trains

carrying hazardous materials in tank cars not equipped with shelf couplers

Multiple copies of Safety Board reports may be purchased from the National

consideration should submit such views to the U.S. Nuclear Regulatory

third-class mailings by qualified

Conoco is transported to its Gillis Plant

September 3, 1980, request in writing

carrying hazardous materials in tank cars not equipped with shelf couplers and tank head protection. The Safety Board in its May 12 letter expresses disagreement with FRA's belief that it would be impractical if not impossible to make a distinction of freight train speed based on nonequipped cars. The Board notes that restriction of a train's speed due to any unusual equipment in the train is an everyday operating practice. The problem of the timeframe to amend the regulations could be readily handled through the issuance of an Emergency Order. Ast to the effect of Emergency Order No. 5, this restriction essentially governs car handling techniques in switching yards and is not applicable to this recommendation. The Board directed FRA's attention to 44 FR 8407 of February 9, 1979, relating to FRA Emergency Order No. 11. As noted, "Placement of a limitation on the speed of trains transporting placarded hazardous materials cars is also important because it minimizes the risk created by certain other factors that could cause a derailment, etc. . . ." The Safety Board supports this judgment, and believes that nonequipped tank car safety problems can be lessened through the protection of movement at reduced speed. The Board asked FRA for its intent to act on this recommendation and noted that R–79–28 will be continued in "Open—Acceptable Action" status.

FRA's July 18 response in connection with recommendation R–79–28 notes that the status report contained in response to recommendation R–79–23, above, indicates that the shelf coupler and tank head retrofitting process is nearing completion. Therefore, the problems with 112 and 114 tank cars are minimized. In addition, steps are being taken to require shelf couplers on all tank cars carrying hazardous materials. FRA states that in the interim, options concerning train speed are being considered in the context of the overall transportation system impact. At present, it appears that while speed restrictions in selected local cases may be justifiable, a national restriction on the speed of all cars carrying hazardous materials commodities (70 to 85 percent of all trains) would not result in desirable economic or safety outcomes.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

August 8, 1980.

[FR Doc. 80-24524 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389-A] Florida Power & Light Co.;

City of Orlando, Fla. and the Orlando Utilities Commission; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Florida Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, (the Act), filed on June 13, 1980, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of the City of Orlando, Florida and the Orlando Utilities Commission, as an owner of the St. Lucie Plant, Unit 2, located on Hutchinson Island in St. Lucie County, Florida. The Orlando Utilities Commission was created by the Florida State Legislature and is a part of the City of Orlando, Florida.

The information was filed in connection with Florida Power and Light Company's application for an amendment to Construction Permit No. CPPR–144 to the St. Lucie Plant, Unit 2. Construction Permit No. CPPR–144 was issued on May 2, 1977 and construction of the plant is underway.

The original Notice of Receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the **Federal Register** on June 16, 1971, (36 FR 11473).

A copy of the Florida Power and Light Company letter, dated June 13, 1980 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room located at 1717 H Street, NW, Washington, D.C. and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450

Any person who wishes to have his views on the antitrust matters with respect to the City of Orlando, Florida and Orlando Utilities Commission presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation on or before September 29, 1980.

Dated at Bethesda, Maryland this 18th day of July 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief Licensing Branch No. 1, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-22704 Filed 7-29-80; 8:45 am]

BILLING CODE 7590-01-

POSTAL SERVICE

Rate Adjustment for Qualified Political Committees

On August 5, 1980, the Governors of the Postal Service, pursuant to 39 U.S.C. 3627, adopted the following resolution concerning the adjustment of the bulk third-class rates of postage paid by qualified political committees pursuant to 39 U.S.C. 3626(e):

Resolution of the Governors of the U.S. Postal Service

[Resolution No. 80–5]

Adjustment of Bulk Third-Class Rates for Political Committee Mailings

Resolved: Pursuant to section 3627 of title 39, United States Code, and in accordance with the provisions of the Postal Service Appropriation Act, 1980 (Public Law 96–74), the Governors of the Postal Service determine that the rate for bulk third-class mail matter mailed by any qualified political committee authorized by section 3626(e) of title 39, United States Code (Public Law 95–593), shall be the regular rate for such mail matter, rather than the nonprofit rate, when the $4 million appropriated by Public Law 96–74 to cover qualified political committee mailings is expended before the end of fiscal year 1980. In making this determination, the Governors find that, in light of the upcoming election campaigns, there is a strong likelihood that the appropriation will not be sufficient to last through the remainder of the fiscal year. The Governors take this prospective rate adjustment action in order to ensure that the rate adjustment is made promptly upon the exhaustion of the revenue forgone appropriation. The rate adjustment shall take effect at the time that the appropriation for qualified political committees is fully depleted.

The foregoing Resolution was adopted by the Governors on August 5, 1980.

Louis A. Cox,

Secretary

Approximately $3 million of the amount appropriated for fiscal year 1980 has now been expended. The Postal Service intends to cease accepting bulk third-class mailings by qualified political committees at the special (reduced) rates when the remaining funds are depleted. Because of the need for prompt action at that time, the Postal Service will be unable to five prior notice to qualified political committees that the full appropriation has been depleted. However, specific notice of the Governors' action is being given to each political committee presently authorized to mail at the special bulk third-class rates.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80-24533 Filed 8-13-80; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21676; (31–775)]

Conoco Inc. and Louisiana Gas System Inc.; Application for Exemption Pursuant to Section 2(a)(4)

August 8, 1980.

Notice is hereby given that Conoco Inc. ("Conoco"), High Ridge Park Stamford, Connecticut 06904, a Delaware corporation, and its wholly-owned subsidiary, Louisiana Gas System Inc. ("Louisiana Gas"), 5 Greenway Plaza East, Houston, Texas 77046, also a Delaware corporation, have filed an application pursuant to Section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act") for an order declaring Louisiana Gas not to be a "gas utility company" under the Act. All interested persons are referred to the application, which is summarized below, for a description of the applicants and a statement as to the basis upon which the exemption is sought.

Conoco, directly and through subsidiaries, engages in business in over 20 countries. Its operations include the following: exploring for, developing and producing crude oil and natural gas; refining petroleum; producing and processing chemicals; and transporting and marketing crude oil, natural gas, refined products and chemicals. In addition, Conoco has held a major position in the coal industry in the United States through its wholly-owned subsidiary, Consolidated Coal Company, and has engaged in exploring for and producing uranium, and exploring for copper and other associated minerals. Conoco's natural gas transportation facilities include a 610 mile intrastate pipeline system in Louisiana (the "System") through which natural gas produced or purchased by Conoco is transported to its Gillis Plant for processing and to certain direct customers. In addition, Conoco transports natural gas for others over the System.

At December 31, 1979, Conoco reported consolidated assets of $8,802,139,000, and for the year then ended, consolidated revenues of $3,404,570,000. At that date, and for the same period, the total assets of the System were $34,048,000, and its total revenues were $70,775,000. Of the total revenues of the System, approximately $33,561,000 (or 47.42%) were from sales of natural gas for fed stock, fuel and pressure maintenance to industrial and utility purchasers (43,895 MCF representing $32,797,000) and to domestic and irrigation purchasers (231 MCF representing $462,000).

Approximately $35,828,000 (or 50.62%) of the System's total revenues were from intercompany transfers, and the balance was derived from fees for transporting gas for others.

Conoco proposes to transfer the System to Louisiana Gas. Following the transfer, Louisiana Gas will be primarily engaged in the pipeline business, but will, by virtue of retail sales of natural gas to purchasers other than Conoco's refining and chemical department and its industrial and utility purchasers, be a "gas utility company" within the meaning of Section 2(a)(4) of the Act. Conoco states that sales of natural gas at retail will not exceed 1% of the total revenues of Louisiana Gas on a *pro forma* basis, and requests that the Commission find that by reason of the small amount of such sales at retail Louisiana Gas will not be deemed a "gas utility company."

Section 2(a)(4) provides, in part, that the Commission may declare a company not to be a "gas utility company" if it finds that "(A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors and consumers that such company be considered a gas utility comany for the purposes of [the Act]." Rule 10(a)(1) under the Act provides, further, that a company shall be exempt from the duties, liabilities and obligations imposed under the Act upon it as a "holding company" with respect to a subsidiary which, insofar as it is a public utility company, is declared not to be a "gas utility company" under Section 2(a)(4).

Notice is further given that any interested person may, not later than September 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it deems appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24565 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11292; (812–4671)]

Intercapital Income Securities Inc., et al.; Filing of Application Pursuant to Section 10(e)(3) of the Act for an Order Suspending the Operation of Section 15(f)(1) of the Act for a Period of 150 Days

August 8, 1980.

In the Matter of Intercapital Income Securities, Inc., Intercapital Liquid Asset Fund Inc. and Dean Witter Reynolds Intercapital Inc., One Battery Park Plaza, New York, New York 10004.

Notice is hereby given that InterCapital Income Securities Inc., a registered closed-end, diversified investment company, InterCapital Liquid Asset Fund Inc., a registered, open-end, diversified investment company (collectively, the "InterCapital Funds"), and Dean Witter Reynolds InterCapital Inc. ("InterCapital Adviser," collectively with the InterCapital Funds, "Applicants"), adviser to the InterCapital Funds, filed an application pursuant to Section 10(e)(3) of the Investment Company Act of 1940 ("Act") on May 23, 1980, with an

amendment thereto on July 1, 1980, for an order declaring that, for purposes of

prescribe, by order upon application, as not inconsistent with the protection of

at-law, by certificate) shall be filed contemporaneously with the request. As

eighteen months transferred any of its assets to a separate trust the

[Release No. 17052; (SR–MSRB–80–6)]

statements with respect to the proposed rule change which are filed with the

amendment thereto on July 1, 1980, for an order declaring that, for purposes of the requirements of Section 15(f)(1) of the Act, the period for filling a currently existing vacancy on each of the InterCapital Funds' boards of directors be expanded to 150 days. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that, effective September 1, 1977, the InterCapital Funds' advisory contracts with InterCapital Adviser were assigned as a result of a transaction in which all of the outstanding stock of InterCapital Adviser was transferred from Standard & Poors Corporation to Dean Witter Organization Inc. (now Dean Witter Reynolds Organization Inc.). Applicants further state that, from September 1, 1977, to March 23, 1980, at least 75 percent of the InterCapital Funds' boards of directors consisted of persons who were not interested persons of InterCapital Adviser. According to the application, on March 23, 1980, Dr. Arthur M. Okun, who had served as a director who was not an interested person of InterCapital Adviser, died, leaving a vacancy on the InterCapital Funds' boards of directors and leaving each board with only two of three directors being directors who are not interested persons of InterCapital Adviser. Section 15(f)(3) of the Act provides, in part, that an investment adviser of a registered investment company may receive any amount or benefit in connection with a sale of securities of such investment adviser which results in an assignment of an investment advisory contract with such registered investment company if, for a period of three years after the time of such action at least 75 percent of the members of the board of directors of the registered investment company whose advisory contract was assigned are not interested persons of the investment adviser of such company or interested persons of the predecessor investment adviser and if there is no unfair burden imposed upon the registered investment company as a result of such transaction.

Section 10(e) of the Act provides, in part, that if by reason of the death of any director the requirements of Section 15(f)(1) in respect of directors shall not be met by an investment company, the operation of such provision shall be suspended for a period of thirty days if the vacancy may be filled by action of the board of directors, for a period of sixty days if a vote of stockholders is required to fill the vacancy, or for such longer period as the Commission may prescribe, by order upon application, as not inconsistent with the protection of investors.

Applicants represent that the two remaining directors who are not interested persons of InterCapital Adviser ("Disinterested Directors") commenced a search for a replacement for Dr. Okun promptly after his death. Applicants represent that, despite diligent efforts to locate a replacement, no replacement has yet been found. Applicants state that since the vacancy occurred, Applicants have not taken action to renew or extend the InterCapital Funds' investment advisory or principal underwriting contracts or to appoint independent public accountants as the InterCapital Funds' auditors, and further represent that no such actions will be required or taken during the period of time for which an extension has been requested in the application. Applicants represent that, since the vacancies have occurred, Applicants have not taken any action that would impose an "unfair burden" (as that term is used in Section 15(f)(2)(B) of the Act) on the InterCapital Funds and that it is not contemplated that any such action will be taken during the period of the requested extension. Applicants also state that two-thirds of the InterCapital Funds' present boards of directors are not interested persons of the InterCapital Funds or InterCapital Adviser and that all of the directors of the InterCapital Funds were elected to office by a vote of shareholders at an annual or special meeting of shareholders. Applicants further state that the nominee for election to the boards of directors will not be an interested person of InterCapital Adviser or the InterCapital Funds. Applicants assert that, in light of the above representations, the order that they request would not be inconsistent with the protection of investors.

Notice is further given that any interested person may, not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24587 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11293; (811-2065)]

Metropolitan Fund, Inc., (The); Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order of the Commission Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that The Metropolitan Fund, Inc. ("Applicant"), c/o The Plains Corporation, 7000 E. Camelback Road No. 33, Scottsdale, Arizona 85251, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on June 21, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of the State of Arizona. It registered under the Act on May 25, 1970. The application states that Applicant has not filed a registration statement pursuant to the Securities Act of 1953, and thus has never made a public offering of its securities. The application also states, among other things, that Applicant's charter has been abandoned; that it has no securityholders; that it has no assets, debts or liabilities outstanding; that it is not a party to any pending litigation or administrative proceedings; and that Applicant has not within the last eighteen months transferred any of its assets to a separate trust the beneficiaries of which were or are shareholders of Applicant. Finally, Applicant states it is not currently engaged in nor will it engage in any business activities except the winding-up of its business affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24586 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17052; (SR–MSRB–80–6)]

Municipal Securities Rulemaking Board; Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board and Order Approving Proposed Rule Change

August 6, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on July 24, 1980, the Municipal Securities Rulemaking Board (the "MSRB") 1150 Connecticut Avenue, N.W., Suite 507, Washington, D.C. 20036, filed with the Commission copies of a proposed rule change which would amend MSRB rule G–3, the MSRB's professional qualifications rule. The proposed rule change would extend from August 11, 1980, to September 15, 1980, the effective date of the requirement that persons performing the fucntions of municipal securities principals must qualify as municipal securities principals by taking and passing the Municipal Securities Principal Qualification Examination (the "Examination"), if they are not eligible for one of the exemptions provided under the rule. The text of the proposed rule change is as follows:[1]

Rule G–3. Classification of Principals and Representatives; Numerical Requirements; Testing

No municipal securities broker or municipal securities dealer or person who is a municipal securities principal, financial and operations principal, or municipal securities representative (as hereafter defined) shall be qualified for purposes of rule G–2 unless such municipal securities dealer or person meets the requirements of this rule.

(a) through (b). No change.

(c) Qualification Requirements for Municipal Securities Principals.

(i) through (v). No change.

(vi) The requirements of paragraph (c)(i) shall become effective on *September 15, 1980* [August 11, 1980 (six months following the date of the first administration of the Municipal Securities Principal Qualification Examination)].

(d) through (h). No change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change by September 4, 1980. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–80–6.

Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule change, by extending from August 11, 1980, to September 15, 1980, the date by which candidates subject to the examination requirement must take and pass the Examination, will ensure that all candidates are afforded at least the six month period contemplated by MSRB rule G–3 for taking and passing the Examination. The six month time period was included in MSRB rule G–3 to provide a reasonable time for a person currently performing activities as a municipal securities principal to satisfy the examination requirement. Candidates associated with securities firms that are not members of the National Association of Securities Dealers, Inc. ("SECO firms"), and banks for which the Commission is the appropriate regulatory agency were not able, however, to enroll for the Examination until early March of 1980. Accordingly, by approving the rule on an accelerated basis, the Commission will provide at least a six month period for all candidates.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24589 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[1] *Italics* indicate new language; [Brackets] indicate deletions.

V 45 AG 14 80 UMI

[Release No. 11291; (811-2595)]

Trinwall Cash Reserve, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring that Applicant Has Ceased To Be an Investment Company

August 7, 1980.

Notice is hereby given that Trinwall Cash Reserve, Inc. ("Applicant"), 61 Broadway, New York, New York 10006, an open-end, diversified, investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 17, 1980, pursuant to Section 8(f) of the Act, and Rule 8f-1 thereunder, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On September 30, 1975, Applicant, a Maryland corporation, registered under the Act and filed a registration statement under the Securities Act of 1933 with respect to 4,000,000 shares of its capital stock, $1.00 par value. Such registration statement was declared effective on December 5, 1975, and Applicant commenced offering its shares to the public on that date.

Applicant represents that on October 26, 1979 its board of directors voted to recommend to shareholders approval of transactions contemplated by Articles of Transfer and Agreement and Plan of Reorganization (the "Agreement"), providing for the acquisition by Putnam Daily Dividend Trust ("Putnam"), an open-end, diversified investment company registered under the act, of substantially all of the assets of Applicant in exchange for shares of Putnam, the pro rata distribution of such shares to shareholders of Applicant, and for Applicant's dissolution. Applicant further states that on February 8, 1980 the Agreement was approved by its shareholders, and that on February 11, 1980 substantially all of its assets were acquired by Putnam in exchange for shares of beneficial interest in Putnam under the terms of the Agreement.

Applicant represents that as of the date of the filing of the application it had no assets and no assets and no debts or other liabilities outstanding, and was not a party to any litigation or administrative proceedings. Applicant further represents that it is not engaged, and does not proposed to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment compnay, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the cse of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24588 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21675; (70-6482)]

Western Massachusetts Electric Co.; Supplemental Notice Regarding Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

August 8, 1980.

Supplemental notice is hereby given that Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

On August 4, 1980, WMECO's proposal to issue and sell, at competitive bidding, up to $30,000,000 principal amount of its First Mortgage Bonds, Series N, — % due October 1, 2010 was noticed. The notice stated that, among other things, the interest rate, which shall be a multiple of ⅛ of 1%, and the price, exclusive of accrued interest, to be paid to WMECO, would be not less than 100% nor more than 103% of the principal amount thereof, to be determined by competitive bidding. WMECO now informs the Commission that the price, exclusive of accured interest, to be paid to WMECO, would be not less than 98% nor more than 102% of the principal amount thereof, to be determined by competitive bidding.

The notice also stated that the net proceeds from the sale of the bonds together with capital contributions totaling $15,000,000 scheduled to be made by Northeast Utilities to WMECO prior to the sale of the bonds, will be used by WMECO to repay a portion of the company's short-term borrowings estimated to total $37,000,000 at the time of such sale. WMECO now estimates such short-term borrowings to total $31,000,000 at the time of such sale.

In all other respects the proposed transactions remain the same.

Notice is further given that any interested person may, not later than August 31, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24564 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11290; (811-2142)]

Zenith Growth Fund, Inc.; Proposal to Terminate Registration Pursuant to Section 8(f) of the Investment Company Act of 1940

August 7, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Zenith Growth Fund, Inc. ("Fund"), c/o Bernard W. Heinel, President, Fund/Plan Services, Inc., P.O. Box 8079, Philadelphia, Pa. 19101, registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Delaware on May 20, 1970; that it registered under the Act on November 10, 1970; and that it filed a registration statement (File No. 2-38782) pursuant to the Securities Act of 1933. This registration statement became effective on June 16, 1972, and permitted the Fund to commence the public offer and sale of shares of its capital stock. The Fund's last effective proposectus used in the offer and sale of its shares was dated October 6, 1972. In December, 1973, the public sale of the Fund's shares was discontinued, and on April 24, 1974, the Fund's Board of Directors suspended the right of redemption and no Fund shares were redeemed after that date. By August, 1974, the Fund was left without any officers or directors, and with no investment adviser.

The First Pennsylvania Bank, N.A. ("Bank"), acting as the Fund's custodian, presently has in its possession portfolio securities of the Fund which it has found to have no value. The Bank last received its custodian fee from the Fund in November, 1973. In August, 1977, and June, 1978, the Bank received $425.11 and $2100.00, respectively, for the shares of five companies held by the Fund. The Bank applied these amounts to the payment of fees owed it by the Fund. The Bank is still owed $3,000.00 under its Custody Agreement with the Fund, and Fund/Plan Services, Inc., an affiliate of the Bank, is owed approximately $38,500 for shareholder services it provided the Fund. The Fund appears to have a number of other outstanding obligations, including bills for legal services and state taxes, no provision for payment of which has been made, and which far exceed the presently valueless assets being held by the Bank for the Fund.

The Bank has also acted as the Fund's transfer agent. According to the transfer agent's files, the Fund currently has 38 shareholders holding some 10,918.441 shares of the Fund (of which 4710 shares are in certificated form). Since the date that the right to redeem Fund shares was suspended, there has been no shareholder activity. In addition, because the assets of the Fund being held by the Bank currently have no value there are no assets available which may be distributed to Fund shareholders as a liquidating dividend. If the Fund assets held by the Bank should develop a value, it is possible that the Bank and Fund/Plan Services, Inc., would succeed in claiming such assets in payment for debts due them for services provided to the Fund. Since 1973 the Fund has not filed any of the periodic reports required by the Act. Thus, based on the above information, it appears that the Fund is not currently engaged in the business of an investment company.

Section 3(c)(1) of the Act provides in pertinent part, that any issuer whose outstanding securities (other than short term-paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24569 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09-5272]

Myriad Capital, Inc.

An application for a license to operate as a small business investment company under Section 301(d) of the Small business Investment Act of 1958, as amended (The Act) (15 U.S.C. 661 *et seq.*), has been filed by Myriad Capital, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Chuang-I Lin, 2770 Calle Aventura, Ranchos Palos Verdes, California 90274; president, director, 40.38 percent stockholder

Betty C. Lin, 2770 Calle Aventura, Ranchos Palos Verdes, California 90274; secretary, chief financial officer, director, 40.38 percent stockholder

Kuo Hung Chen, 10030 Daines Drive, Temple City, California 91780; director, 9.62 percent stockholder

Chin Ying Wang, 5507 Cartagena Drive, Houston, Texas 77035; director, 9.62 percent stockholder

The Applicant, a California corporation, with its principal place of

business at 8820 Sepulveda Boulevard, Suite 109, Los Angeles, California 90045, will begin operations with $520,000 of paid-in capital and paid-in surplus derived from the sale of 5,200 shares of common stock.

The Applicant will conduct its activities primarily in the States of California, Texas, Louisiana, and Arizona.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitibility and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 200416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 7, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-24638 Filed 8-13-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Delegation of Authority No. 145-1, Public Notice 719]

Foreign Assistance Act of 1961 and Certain Related Acts; Delegation of Authority

Correction

In FR Doc. 80-23265 appearing on page 51974 in the issue of Tuesday, August 5, 1980, the "Delegation of Authority No." should read as set forth in the heading above.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD (80-101)]

Chemical Transportation Advisory Committee; Meeting of Subcommittee on Liquefied Gas Vessels

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on Wednesday, September 17, 1980, beginning at 9 a.m., Room 8334, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. The agenda for its meeting is as follows:

To discuss inspection and testing standards for new liquefied gas ships, i.e. those ships subject to 46 CFR Part 154, "Safety Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases."

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements. Any member of the public may present a written statement to the Subcommittee at any time. For additional information, contact: Mary M. Williams, Commandant (G-MHM), 2100 Second Street, SW., U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2306.

For scheduling and for providing adequate seating, those wishing to present oral statements or attend the meeting should notify the above office no later than the day before the meeting.

Issued in Washington, D.C., on August 6, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-24645 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Collier County, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Collier County, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, Post Office Box 1079, Tallahassee, Florida 32302, Telephone: (904) 224-8111.

SUPPLEMENTAL INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an Environmental Impact Statement (EIS) for a proposal to improve State Road 951 in Collier County, Florida. The proposed improvement would involve the reconstruction of State Road 951 from State Road 92 on Marco Island to U.S. Route 41, for a distance of approximately 10 miles. Also included in this proposal is the structure carrying State Road 951 over Big Marco Pass.

Alternatives under consideration include (1) taking no action; (2) widening to four lanes, with a minimal separation between opposing traffic; and (3) widening to four lanes, with a safer, wider median. Approximately three miles of the project passes through coastal wetlands. Widening the existing roadway will require filling of existing canals and areas of mangrove vegetation.

Federal, State, and local agencies have contributed early coordination comments through the A-95 process. Additionally, a project planning team developing this project has contacted State, Federal, County, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. A series of public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be made available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 4, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 80-24220 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Douglas County, Oreg.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway in Douglas County, Oregon.

FOR FURTHER INFORMATION CONTACT: Paul V. Riedl, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 378-3832.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to reconstruct a 1.3 mile section of the Oakland-Shady Highway (State Route No. 234/ORE 99) in Douglas County, Oregon. The project is located in the northern city limits of Roseburg and passes through commercial, light industrial and residential land uses. The proposed improvements are considered necessary to provide for the existing and projected traffic demand and a safe and efficient highway meeting modern design standards.

Alternatives under consideration include (1) taking no action; (2) reconstructing the existing narrow two-lane road to current urban street standards: five lanes with curbs and sidewalks, with minor possible variations in alignment; and (3) other feasible alternatives that may develop during the project study stage.

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to citizens who have previously been involved and expressed interest in this proposal. As necessary, public meetings will be held and, in addition, a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, "Reconstruction of Oakland-Shady Highway from NW. Hooker Road-NE. Alamada Avenue."

The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program issued August 4, 1980.

E. J. Valach,

Program Development Engineer, Oregon Division, Salem, Oreg.

[FR Doc. 80-24519 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Multnomah & Clackamas Counties, Oreg.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Multnomah and Clackamas Counties, Oregon.

FOR FURTHER INFORMATION CONTACT: Paul V. Riedl, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 378-3832.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Oregon Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to widen a 4.1 mile section of Pacific Highway East (McLoughlin Blvd.) (State Route 99E/U.S. No. 1E) in Multnomah and Clackamas Counties, from the Ross Island Bridge in Portland to the Clackamas Highway Interchange in the City of Milwaukie, Oregon. The project is located in a developed urban area. The proposed improvements are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include: (1) Taking no action; (2) reconstructing the existing 4 to 6 lane facility to 6 travel lanes and one to two high occupancy vehicle (HOV) lanes, which may be reversible in portions; and (3) other feasible alternatives that may develop during the project study stage.

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. As necessary, public meetings will be held and, in addition, a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, "Reconstruction of McLoughlin Boulevard from Ross Island Bridge to Milwaukie.

The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program issued August 4, 1980.

E. J. Valach,

Program Development Engineer, Oregon Division Salem, Oreg.

[FR Doc. 80-24520 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 25; Notice 41]

Consumer Information Regulations, Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of change in course monitoring tire size.

SUMMARY: This notice announces the selection by the National Highway Traffic Safety Administration (NHTSA) of a new tire size for radial course monitoring tires (CMT's) used in treadwear testing under the Uniform Tire Quality Grading (UTQG) Standards (49 CFR 575.104). UTQG treadwear grades are determined from treadwear projections based on tire performance in a 6,400-mile test sequence on a prescribed test course near San Angelo, Texas. The UTQG treadwear grading procedure accounts for environmental influence on the treadwear rates of tested tires by means of an adjustment factor derived by comparing the wear rates of concurrently run CMT's with an established CMT wear rate for the test course, the base course wear rate (49 CFR 575.104(d)(2)). CMT's are made available by NHTSA at the agency's San Angelo test facility for purchase by any person conducting UTQG testing.

Production of the radial construction CMT presently being supplies by NHTSA, the Goodyear Custom Polysteel Radial, has been discontinued in the size (GR 78–15) initially chosen by the agency for UTQG testing. In order to meet the continuing demand for radial CMT's, NHTSA has selected a new radial CMT, the Goodyear Custom Polysteel Radial, size P 195/75 R 14. Selection of a smaller size tire is considered desirable in view of the increasing trend toward downsized motor vehicles using smaller tire sizes. Use of the smaller CMT, which will not affect UTQG test results, will assure that the tire chosen will be appropriate for use on large numbers of vehicles to be produced in the coming years. Testing to establish a base course wear rate for the new tires is now underway and the tires should be available for purchase by the public by August of this year.

Due to reduced demand for bias ply and bias ply and bias-belted CMT's and the adequate stocks of these tires already on hand, no corresponding change in CMT size for these construction types is contemplated at this time. For further information on CMT availability contact Mr. James C. Gilkey, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2834).

(Sec. 103, 112, 119, 201, 203, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 6, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-24309 Filed 8-8-80; 10:52 am]

BILLING CODE 4910-59-M

Petition for Hearing on Notification and Remedy of Defects; Denial

This notice sets forth the reasons for the denial of a petition for a hearing on the question of whether a manufacturer has reasonably met its obligation to remedy a safety-related defect.

On May 30, 1980, Ms. Carmen Cesario of Schaumburg, Illinois, petitioned the agency to hold a public hearing pursuant to 49 CFR 557.3(c) to determine if American Honda Motor Co. Inc. had reasonably met its responsibility to correct a safety-related defect in her 1977/78 CB750A motorcycle, specifically to replace the fusebox. Honda had notified her of the safety-related defect in her machine but her local dealer seemingly had never received the replacement part.

Information received from Honda indicated that the vehicle was repaired on June 18, 1980. Based upon the fact that the problem was resolved without holding a hearing, the petition was denied on July 17, 1980.

(Sec. 156, Pub. L. 93–492, 38 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 7, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80-24280 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in June 1980. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions		
2587–P	DOT–E 2587	Mid-West Gases, Inc., Kansas City, KS	49 CFR 173.315(a)(1)	To become a party to Exemption 2587. (Mode 1.)
2732–X	DOT–E 2732	U.S. Department of Energy, Washington, DC	49 CFR 173.65(a), 173.65(b), 173.65(c).	To authorize the use of non-DOT specification packagings for the transportation of high explosives. (Modes 1, 2.)
2961–X	DOT–E 2961	Austen Powder Company, Cleveland, OH	49 CFR 173.64(a), 173.93(a)	To authorize the transportation of certain Class A and Class B explosives in packagings not prescribed in 49 CFR. (Modes 1, 2.)
2991–X	DOT–E 2991	Hercules, Incorporated, Wilmington, DE	49 CFR 173.64(a), 173.93(a)	To authorize the transportation of certain Class A and Class B explosives in packagings not prescribed in 49 CFR. (Modes 1, 2.)
3128–X	DOT–E 3128	Walter Kidde & Co., Inc., Belleville, NJ	49 CFR 173.304, 175.3	To authorize the use of non-DOT specification cylinders for the transportation of a Class C explosive and a liquefied nonflammable gas. (Modes 1, 2, 3, 4.)
3302–X	DOT–E 3302	Liquid Air Corporation of America, Chicago, IL	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification sampling bottles (cylinders) for the transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3302–X	DOT–E 3302	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification sampling bottles (cylinders) for the transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3302–X	DOT–E 3302	Airco Industrial Gases, Murry Hill, NJ	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification sampling bottles (cylinders) for the transportation of certain nonflammable gases. (Modes 1, E 3, 4.)
3563–X	DOT–E 3563	U.S. Department of Energy, Washington, DC	49 CFR 172.101, 173.302(a), 173.395(a).	To authorize the use of non-DOT specification cylinders for the transportation of a nonflammable, nonliquefied compressed gas. (Modes 1, 2, 4, 5.)
4390–X	DOT–E 4390	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	49 CFR 173.119(a), 173.119(b), 173.125, 173.245, 173.263, 173.266, 173.268(e), 173.269, 173.272, 173.289, 173.346, 173.349.	To authorize the use of non-DOT specification glass inner packaging overpacked in a form fitting polystyrene case for the transportation of certain oxidizers, corrosive, flammable, and poison B liquids. (Modes 1, 2, 3.)
4390–X	DOT–E 4390	Mallinckrodt, Inc., St. Louis, MO	49 CFR 173.119(a), 173.119(b), 173.125, 173.245, 173.263, 173.266, 173.268(e), 173.269, 173.272, 173.289, 173.346, 173.349.	To authorize the use of non-DOT specification glass inner packaging overpacked in a form fitting polystyrene case for the transportation of certain oxidizers, corrosive, flammable, and poison B liquids. (Modes 1, 2, 3.)
4463–X	DOT–E 4463	Stream Explosives, Inc., Dallas, TX	49 CFR 173.182(c), 173.114a(h)(3)	To authorize the use of non-DOT specification bulk, hopper-type tanks for the transportation of an oxidizer. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
4453–X	DOT–E 4453	Austin Powder Company, Cleveland, OH	49 CFR 173.182(c), 173.114a(h)(3)	To authorize the use of non-DOT specification bulk, hopper-type tanks for the transportation of an oxidizer. (Mode 1.)
4734–X	DOT–E 4734	General Electric Company, Waterford, NY	49 CFR 173.135(a)(9), 173.136(a)(6), 173.280(a)(6).	To authorize the use of a modified DOT Specification MC–331 cargo tank for the transportation of certain flammable liquids and corrosive materials. (Mode 1.)
4790–X	DOT–E 4790	Smith & Wesson/General Ordnance Equipment Company, Pittsburgh, PA.	49 CFR 173.305(d), 173.385(a)(1)	To authorize the use of non-DOT inside containers overpacked in DOT Specification 12B fiberboard boxes for the transportation of an irritating material. (Modes 1, 2.)
5196–X	DOT–E 5196	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)(1)	To authorize the use of non-DOT specification cargo tanks for the transportation of liquefied ethylene, a flammable gas. (Mode 1.)
5206–P	DOT–E 5206	Independent Explosives Co., Cleveland, OH	49 CFR 173.182(c)	To become a party to Exemption 5206. (Mode 1.)
5372–X	DOT–E 5372	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the shipment of various flammable and nonflammable gases in DOT Specification 3T cylinders marked "DOT–SP 5372" instead of "DOT 3T".
5372–X	DOT–E 5372	Union Carbide Corporation, Tarrytown, NY	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the shipment of various flammable and nonflammable gases in DOT Specification 3T cylinders marked "DOT–SP 5372" instead of "DOT 3T".
5372–X	DOT–E 5372	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the shipment of various flammable and nonflammable gases in DOT Specification 3T cylinders marked "DOT–SP 5372" instead of "DOT 3T".
5456–X	DOT–E 5456	Fisher Scientific Company, Fair Lawn, NJ	49 CFR 173.245, 173.247, 173.263, 173.268, 173.269, 173.272, 173.349.	To authorize the use of non-DOT specification glass carboys overpacked in polystyrene drums for the transportation of certain poison B liquids, corrosive liquids, and oxidizers. (Modes 1, 2, 3.)
5704–X	DOT–E 5704	Hercules, Incorporated, Wilmington, DE	49 CFR 173.93(e), 173.62, 173.93(e)	To authorize the transportation of certain Class A and Class B explosives in prescribed non-DOT specification drums. (Modes 1, 2, 3.)
5852–X	DOT–E 5852	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable liquefied compressed gases. (Mode 1.)
6113–X	DOT–E 6113	Fitchburg Gas and Electric Light Co., Canton, MA	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6113–X	DOT–E 6113	Bay State Gas Co., Canton, MA	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6113–X	DOT–E 6113	Providence Gas Co., Providence, RI	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6197–X	DOT–E 6197	Providence Gas Company, Providence, RI	49 CFR 172.101, 173.315(a)(1)	To authorize the use of a non-DOT specification cargo tank for the transportation of liquefied natural gas or methane, flammable gases. (Mode 1.)
6225–X	DOT–E 6225	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252(g)	To authorize the shipment of bromine in packaging not presently allowed: glass jugs overpacked in polystyrene case and fiberboard box or fiberboard box with aonolite cushioning. (Modes 1, 2.)
6263–X	DOT–E 6263	Amtrol, Incorporated, West Warwick, RI	49 CFR 173.302(a)(1)	To authorize the transportation of certain nonflammable compressed gases in non-DOT specification welded, cylindrical or spherical, steel tanks. (Modes 1, 2.)
6296–X	DOT–E 6296	Olin Chemicals Group, Stamford, CT	49 CFR 173.377(g)	To authorize additional bag packagings, DOT Specification 44D, for the transportation of certain Class B poisons. (Modes 1, 2.)
6536–X	DOT–E 6536	SunOlin Chemical Company, Claymont, DE	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tank for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536–X	DOT–E 6536	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536–X	DOT–E 6536	Utility Propane Company, Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tank for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536–X	DOT–E 6536	L. P. Transportation, Inc., Chester, NY	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536–X	DOT–E 6536	New Jersey Natural Gas Company, Asbury Park, NJ.	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536–X	DOT–E 6536	Public Service Electric and Gas Company, Newark, NJ.	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6602–P	DOT–E 6602	Jones Chemicals, Inc., Caledonia, NY	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)
6614–P	DOT–E 6614	Jones Chemicals, Inc., Caledonia, NY	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to Exemption 6614. (Mode 1.)
6637–X	DOT–E 6637	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), (b), (m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 178.19.	To authorize the manufacture, marking, and sale of non-DOT specification polyethylene drums for use in the transportation of various hazardous materials. (Modes 1, 2, 3.)
6755–X	DOT–E 6755	Lincoln Welding Supply Company, Lincoln, NE	49 CFR 173.315(a)(1)	To authorize the shipment of liquid argon, nitrogen, and oxygen in non-DOT specification cargo tanks. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
6765-X	DOT-E 6765	Kansas Refined Helium Co., Otis, KS	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a non-flammable gas. (Modes 1, 3.)
6768-P	DOT-E 6768	Van De Mark Chemical Co., Inc., Lockport, NY	49 CFR 173.315(a)(1), 172.101	To become a party to Exemption 6768. (Mode 1.)
6787-X	DOT-E 6787	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a)(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a)(b).	To authorize the manufacture, marking, and sale of DOT-34 polyethylene drums for use in the transportation of various hazardous materials. (Modes 1, 2, 3.)
6805-X	DOT-E 6805	Union Carbide Corporation, Tarrytown, NY	49 CFR 173.301(d), 173.302(a)(3)	To authorize the use of Dot Specification 3AAX steel cylinders for the transportation of a flammable compressed gas mixture. (Mode 1.)
6828-X	DOT-E 6828	Boyle-Midway Div. of American Home Products Corp., New York, NY.	49 CFR 173.244(a), 173.1200(a)	To authorize the use of inside glass bottles packed in fiberboard boxes for the transportation of certain corrosive materials. (Modes 1, 2, 3.)
6861-X	DOT-E 6861	Teledyne McCormick Selph, Hollister, CA	49 CFR 173.65(a)	To authorize the use of a DOT Specification 21P/2SL or 2U composite container for the transportation of certain Class A explosives. (Mode 1.)
6898-X	DOT-E 6898	Ashland Chemical Company, Columbus, OH	49 CFR 178.150–4(a)(1)	To authorize ½-inch poly-propylene type strapping instead of 1¼ inch tape for closure of a container used in the transportation of certain corroisive liquids and an oxidizer. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	J. T. Baker Chemical Co., Phillipsburg, NJ	49 CFR 178.150–4(a)(1)	To authorize ½-inch poly-propylene type strapping instead of 1¼ inch tape for closure of containers used in the transportation of certain corroisive liquids and an oxidizer. (Modes 1, 2, 3.)
6902-X	DOT-E 6902	Halocarbon Products Corporation, Hackensack, NJ.	49 CFR 173.314(c), 179.300–15	To authorize shipment of a liquefied nonflammable compressed gas in DOT Specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6919-X	DOT-E 6919	Northern Petrochemical Company, Des Plaines, IL.	49 CFR 172.101, 173.315(a)	To authorize the use of a non-DOT specification insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
7005-P	DOT-E 7005	Itel Container Division, San Francisco, CA	49 CFR 173.119, 173.141(a)(10), 173.245(a)(30), 173.346, 173.820, 173.630, 46 CFR 90.05–35.	To become a party to Exemption 7005. (Modes 1, 2, 3.)
7023-X	DOT-E 7023	HiPure Chemicals, Inc., Nazareth, PA	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently prescribed, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7023-X	DOT-E 7023	Western Electric Company, Inc., Greensboro, NC.	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable, tanks, packaging which is not presently prescribed, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7023-X	DOT-E 7023	Texas Instruments Incorporated, Dallas, TX	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently prescribed, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7023-X	DOT-E 7023	Allied Chemical Corporation, Morristown, NJ	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently authorized, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7042-X	DOT-E 7042	Walter Kidde & Company, Inc., Mebane, NC	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 173.336(a)(2), 173.337(a)(1), 175.3.	To authorize the use of non-DOT specification aluminum cylinders, for the transportation of of various compressed gases and other hazardous materials. (Modes 1, 2, 3, 4, 5.)
7052-X	DOT-E 7052	Eagle-Picher Industries, Inc., Joplin, MO	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	GTE Products Corporation, Needham Heights, MA.	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials. (Modes 1, 2, 3, 4.)
7598-X	DOT-E 7598	Pratt & Whitney Aircraft Group, East Hartford, CT	49 CFR 173.154(a), 173.182(b), 173.194(a), 173.234(a), 173.245(a), 173.249(a), 173.263, 173.264, 173.266, 173.268, 173.272, 173.283, 173.287, 173.352, 173.370, 178.255–1(a).	To authorize the use of portable tanks, complying with DOT Specification 60, except that the ends are bolted instead of welded, for the transportation of certain corroisive materials, oxidizers, and Class B poisons. (Mode 1.)
7601-X	DOT-E 7601	Atlantic Research Corporation, Gainesville, Va	49 CFR 173.53(e), 173.62	To authorize the shipment of desensitized nitroglycerin in non-DOT specification packaging. (Mode 1.)
7607-X	DOT-E 7607	Century Systems Corporation, Arkansas City, KS.	49 CFR 172.101, 175.3	To authorize the shipment of hydrogen in certain non-DOT specification cylinders. (Mode 5.)
7607-P	DOT-E 7607	Foxboro Company, Burlington, MA	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7607-X	DOT-E 7607	U.S. Department of Health, Education, and Welfare, Rockville, MD.	49 CFR 172.101, 175.3	To authorize the shipment of hydrogen in certain non-DOT specification cylinders. (Mode 5.)
7620-P	DOT-E 7620	Pennwalt Corporation, Philadelphia, PA	49 CFR, 46 CFR 90.05–35, 173.119, 173.154, 173.245, 173.247, 173.266, 173.346.	To become a party to Exemption 7620. (Modes 1, 3.)
7621-X	DOT-E 7621	Great Lakes Chemical Corporation, West Lafayette, IN.	49 CFR 173.353, 173.357	To authorize the use of an ISO portable tank for the transportation of methyl bromide and chloropicrin. (Modes 1, 2, 3.)
7632-X	DOT-E 7632	Enterprise Service Company, Houston, TX	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize the use of an insulated DOT MC-331 cargo tank for the transportation of a liquefied gas mixture. (Mode 1.)
7651-X	DOT-E 7651	Austin Powder Company, Cleveland, OH	49 CFR 173.93(e), 177.834(l)(1)	To authorize the shipment of a Class B explosive in tank packaging not presently authorized in 49 CFR. (Mode 1.)
7682-X	DOT-E 7682	Igloo Corporation, Houston, TX	49 CFR 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To authorize the shipment of corroisive liquids in a 55-gallon non-DOT specification all-polyethylene drum. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
7777-X	DOT-E 7777	Saunders Chemical Co., Inc., Evans, CO	49 CFR 173.248	To authorize the use of several different DOT specification packagings for the transportation of spent sulfuric acid. (Modes 1, 2, 3.)
7796-X	DOT-E 7796	Dow Chemical Co., Midland, MI	49 CFR 173.357	To authorize the use of a non-DOT specification metal can not authorized in 49 CFR for the transportation of chloropicrin. (Modes 1, 2, 3.)
7804-X	DOT-E 7804	Igloo Corporation, Houston, TX	49 CFR 178.35e–1	To authorize the molding of a DOT Specification 2SL inside polyethylene container of high denselty, high molecular weight resin for the transportation of commodities presently authorized for shipment in DOT 2SL container. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Societe Anonyme pour L'Industrie Chimique, Mulhouse Cedex, France.	49 CFR, 46 CFR 90.05–3549, 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255.	To authorize the shipment of certain hazardous materials in a non-DOT specification IMCO type I portable tank. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Compagnie des Container Reservoirs, Saine, France.	49 CFR, 46 CFR 90.05–3549, 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255.	To authorize the shipment of certain hazardous materials in a non-DOT specification IMCO type I portable tank. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Hugonnet, S.A., Paris, France	49 CFR, 46 CFR 90.05–3549, 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255.	To authorize the shipment of certain hazardous materials in a non-DOT specification IMCO type I portable tank. (Modes 1, 2, 3.)
7929-X	DOT-E 7929	C-I-L Chemicals Inc., Plattsburg, NJ	49 CFR 173.65	To authorize the transportation of flaked or pelletized TNT in woven plastic bags with plastic film liners. (Modes 1, 2.)
7929-X	DOT-E 7929	C-I-L Inc., Montreal, Canada	49 CFR 173.65	To authorize the transportation of flaked or pelletized TNT in woven plastic bags with plastic film liners. (Modes 1, 2.)
7933-X	DOT-E 7933	Grief Brothers Corporation, Union, NJ	49 CFR 173.119(a)(b), 173.124, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(6), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.364, 178.19.	To authorize the manufacture, marking, and sale of non-DOT specification 55-gallon polyethylene Specification 34 type container for the transportation of certain corroisive liquids, flammable liquids, and oxidizers. (Modes 1, 2, 3.)
7945-X	DOT-E 7945	HTL Industries, Inc., Monrovia, CA	49 CFR 173.304(a)(1), 175.3, 178.47...	To authorize the use of a non-DOT specification stainless steel for the construction of a cylinder in compliance with DOT Specification 4DS. (Modes 1, 2, 4, 5.)
7963-X	DOT-E 7963	Stauffer Chemical Co., Westport, CT	49 CFR 173.360(a)(5), 46 CFR 90.05–35.	To authorize the transportation of perchloromethyl mercaptan in monel tanks constructed in accordance with DOT Specification 51. (Modes 1, 2, 3.)
7997-X	DOT-E 7997	Dow Chemical U.S.A., Midland, MI	49 CFR 173.245	To authorize the transportation of bromine chloride in a DOT Specification MC–312/ISO type lead lined portable tank by highway and vessel. (Modes 1, 3.)
8006-P	DOT-E 8006	Toy Armory, Inc., Florence, Italy	49 CFR 172.400(a), 172.504 Table 2...	To become a party to Exemption 8006. (Mode 1.)
8146-P	DOT-E 8146	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.375	To become a party to Exemption 8146. (Modes 1, 2.)
8168-X	DOT-E 8168	Container Corporation of America, Wilmington, DE.	49 CFR 173.217, 173.245(b), 178.19...	To authorize the use of non-DOT specification fully removable head polyethylene drums of 30- and 57-gallon capacity for the shipment of certain corroisive solids and solid oxidizers. (Modes 1, 2, 3.)
8206-X	DOT-E 8206	Rexnord, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 178.131.	To authorize shipment of certain corroisive liquids, n.o.s. in two one-quart tin cans overpacked in a modified 26-gage, unlined DOT Specification 37A five-gallon drum, also containing a one-gallon tin can of non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8207-X	DOT-E 8207	Rexnord, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 178.131.	To authorize shipment of certain corroisive liquids, n.o.s. in a one-quart tin can, placed in a molded polyethylene liner, overpacked in a modified 26-gage, unlined DOT Specification 37A two-gallon drum, also containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8240-P	DOT-E 8240	Hoyer S.A.G.L., Chiasso, Switzerland	49 CFR 173.119, 173.125, 173.245, 173.271, 173.346.	To become a party to Exemption 8240. (Modes 1, 2, 3.)
8249-X	DOT-E 8249	Lawrence Packaging Supply Corporation, Newark, NJ.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.402(a)(4), 172.504(a), 173.25(a), 175.3, 173.126, 173.138, 173.237, 173.246.	To provide latitude in the cushioning requirement for an inside packaging integral to composite packaging for certain Class B poisons and flammable solids. (Modes 1, 2, 4.)
		New Exemptions		
8240-N	DOT-E 8240	Container and Pressure Vessel, Ltd., Monaghan, Ireland.	49 CFR 173.119, 173.125, 173.245, 173.271, 173.346.	To authorize the use of non-DOT specification intermodel portable tanks for the transportation of certain flammable, corroisive, and poison B liquids. (Modes 1, 2, 3.)
8299-N	DOT-E 8299	HTL Industries, Incorporated, Monrovia, CA	49 CFR 173.304(a)(1), 175.3, 178.44...	To authorize the manufacture, marking and sale of non-DOT specification pressure vessels for use in the transportation of a compressed gas. (Modes 1, 2, 4, 5.)
8339-N	DOT-E 8339	Eastern Steel Barrel Corp., Piscataway, NJ	49 CFR 173.119(a),(b), 173.245(a)(26), 173.245(b)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.271, 173.266(b)(6), 173.272(i)(9),	To authorize the manufacture, marking, and sale of a non-DOT specification 55-gallon polyethylene Specification 34 type container for the transportation of various hazardous materials. (Modes 1, 2, 3.)

V 45 AG 14 80 UMI

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
New Exemptions—Continued				
			173.277(a)(6), 173.267(c)(1), 173.289(a)(1), 173.292(a)(1), 173.357(b), 179.19.	
8340-N	DOT-E 8340	Columbus Steel Drum Company, Blackstick, OH	49 CFR 173.28(o), 175.3.	178.118-10(a), To authorize the conversion of a non-DOT specification 55-gallon steel drum to an open-head, DOT-17H drum for the transportation of materials authorized for the 17H drum. (Modes 1, 2, 3, 4.)
8351-N	DOT-E 8351	Du Bois Chemical Company, Cincinnati, OH	49 CFR 173.245	To authorize the use of a stainless steel DOT Specification 57 portable tank for the transportation of certain corrosive liquids. (Mode 1.)
8363-N	DOT-E 8363	E. I. du Pont de Nemours and Company, Wilmington, DE.	49 CFR 173.93(a)	To authorize the shipment of certain solid propellant explosives in metal canisters overpacked in DOT Specification 12H 65 fiberboard boxes. (Modes 1, 3.)
8380-N	DOT-E 8380	Sherwin-Williams Company, Cleveland, OH	49 CFR 173.1200(a)(6)(i)(A), 173.1200(a)(6)(i)(E).	To authorize a slightly larger DOT-2Q container and a variation in head test procedure for filled inside metal containers used in the transportation of certain nonflammable, compressed gases. (Mode 1.)
8392-N	DOT-E 8392	Walter Kidde & Company, Incorporated, Belleville, NY.	49 CFR 173.302(a), 175.3	To authorize the manufacture, marking, and sale of a non-DOT specification cylinder for the transportation of certain nonflammable, compressed gases. (Modes 1, 2, 3, 4, 5.)
8393-N	DOT-E 8393	D & R Instruments and Manufacturing, Inc., Tulsa, OK.	49 CFR 173.306(f), 175.3	To authorize the use of a non-DOT specification pressure vessel for the transportation of a flammable gas under pressure. (Modes 1, 4.)
Emergency Exemptions				
EE 8012-P	DOT-E 8012	Liqui-Tank, Limited, Dallas, TX	49 CFR 173.266	To become a party to Exemption 8012. (Modes 1, 2, 3.)

Withdrawals

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7060-P	Petroleum Air Transport, Inc., Hazelwood, MO	49 CFR 175.75(a)(3), 175.700(a)	To become a party to Exemption 7060. (Mode 4.)
8261-N	Department of the Army, Washington, DC	49 CFR 173.62	To authorize shipment of nitrocellulose nitroglycerin in two-gallon capacity polyethylene jugs sealed with rubber stoppers overpacked in a DOT 15M container. (Mode 1.)
8418-N	Aerojet Tactical Systems Company, Sacramento, CA.	49 CFR 172.101, 175.30	To authorize a one-time shipment of a rocket motor, Class B explosive, exceeding the weight limitations presently authorized by cargo-only aircraft. (Mode 4.)

Denials

8614-P—Request by Esbro Chemical, Redwood City, CA to authorize use of non-DOT specification polyethylene bottles packed inside a high density polyethylene box for the transportation of corrosive liquids denied June 30, 1980.

7227-P—Request by Brisam, Inc., Houston, TX to authorize the use of non-DOT specification portable tanks for the transportation of nonflammable gas denied June 30, 1980.

8187-N—Appeal by PPG Industries, Incorporated, Pittsburgh, PA to denial of their request to authorize the use of a DOT Specification 17E steel drum of 20/18 gauge, and having triple-seamed top and bottom chimes, for shipment of paint or lacquer thinning compounds with flash points above zero degrees F denied June 30, 1980.

8236-P—Request by Eurotainer, Paris, France to authorize shipment of vinyl bromide and two low pressure gases in non-DOT specification IMCO type V portable tanks denied June 30, 1980.

Issued in Washington, D.C., on August 1, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24604 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-60-M

Public Meeting on Proposed Revisions to the International Atomic Energy Agency Regulations

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: A public meeting will be held for discussion on the comments which have been received by the International Atomic Energy Agency (IAEA) as suggested changes to its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6".

DATE: August 18, 1980 at 8:30 a.m.

ADDRESS: Fifth floor conference room, East-West Towers Building, 4350 East-West Highway, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Richard Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, (202) 426-2311.

SUPPLEMENTARY INFORMATION: In early 1979 the IAEA asked all Member States to submit comments and suggestions for change on its radioactive material transport regulations.

As a result of this request, on April 5, 1979 (44 FR 20532, FR Doc. 79-10262) the MTB issued a request for public comment on the IAEA regulations.

A compilation of all comments received in response to this Federal Register notice was sent to the IAEA for its consideration. The U.S. comments have been compiled with the comments of other Member States and these comments are available in the Dockets Branch, Materials Transportation Bureau, Department of Transportation, 400 Seventh St., SW., Washington, D.C. 20590, Room 8426, 8:30-5.

This meeting will be held to discuss as many of the comments as possible in the time available (1 day), particularly those comments received in response to the Federal Register Notice. Minutes of the meeting will also be made available in the Dockets Branch.

Joseph T. Horning,

Acting Associate Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24787 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Specifications for Light Rail Vehicles

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Extension of Comment Period.

SUMMARY: In the Federal Register of July 3, 1980 (45 FR 45447), the Urban Mass Transportation Administration announced the availability of "A General Specification for the Procurement of Light Rail Vehicles" and requested comments on the specification. Interested parties were given until August 22, 1980 to submit comments. A request has been received to extend the comment period, and a new closing date for comments has been established and is set out below.

DATE: Comments must be received on or before September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen S. Teel, Office of Rail and Construction Technology, (202) 426-0090.

Dated: August 7, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-24625 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-RRUEE]

Application for Recordation of Trade Name Donnkenny, Inc.

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 13.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name DONNKENNY, INC., used by Donnkenny, Inc., a corporation organized under the laws of the State of Delaware, located at 1411 Broadway, New York, New York 10018.

The application states that the trade name is associated with women's wearing apparel and sportswear including but not limited to sweaters, skirts, tops, jackets, shirts, jeans, and slacks. The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than September 15, 1980.

Notice of the action taken on the application for recordation of the trade name will be published in the Federal Register.

Dated: August 8, 1980.

Salvatore E. Caramagno,

Acting Director, Office of Regulations and Rulings.

[FR Doc. 80-24677 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-22

[TMK-2-RRUEE]

Application for Recordation of Trade Name R. B. K. Importers, Inc.

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name R.B.K. IMPORTERS, INC., used by R.B.K. Importers, Inc., a corporation organized under the laws of the State of Delaware, located at 940 So. Alameda Street, Los Angeles, California 90021.

The application states that the trade name is associated with women's wearing apparel and sportswear including but not limited to sweaters, skirts, tops, jackets, shirts, jeans, and slacks. The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than September 15, 1980.

Notice of the action taken on the application for recordation of the trade name will be published in the Federal Register.

Dated: August 8, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

Office of Revenue Sharing

Final Date of Adjustment Demands: Entitlement Period Ten

August 6, 1980.

AGENCY: Office of Revenue Sharing, Department of Treasury.

ACTION: Data notice.

SUMMARY: This notice announces that allocation payments to State and local governments for Entitlement Period Ten (October 1, 1978-September 30, 1979) of general revenue sharing will be final, unless a demand for adjustment has been received by September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, 2401 E Street, N.W., Washington, D.C. 20226, telephone (202) 634-5166.

SUPPLEMENTARY INFORMATION: Section 102(b) of the State and Local Fiscal Assistance Act of 1972, as amended by Section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488; 90 Stat. 2347; 31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's payments for an entitlement period, unless a demand for adjustment has been made by the recipient government or the Secretary of the Treasury within one year after the end of that entitlement period. A demand by the Director or Deputy Director of the Office of Revenue Sharing will be treated as a demand for adjustment by the Secretary.

An entry in the Federal Register of April 7, 1978 (43 FR 14785) originally gave notice that the Office of Revenue Sharing will honor adjustment demands for Entitlement Period Ten received from a government or the Secretary of the Treasury by September 30, 1980. Thus, this notice finalizes the Entitlement Period Ten allocations to recipient governments for which demands for adjustment are not pending with the Office of Revenue Sharing on September 30, 1980. A demand accompanied by adequate supporting documentation pending at the close of business on the September 30, 1980 deadline will be researched and a written decision on the data challenge will be rendered. Any resulting adjustment to a government's allocation due to a pending adjustment will be made by the Office of Revenue Sharing.

Dated: August 6, 1980.

Jose Pepe Lucero,

Director, Office of Revenue Sharing.

[FR Doc. 80-24514 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-28-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Election Commission	1
Federal Deposit Insurance Corporation (2 documents)	2 and 3

1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, August 19, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel. Threshold Audits. 9038(a) Audits.

* * * * *

DATE AND TIME: Wednesday, August 20, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on August 19, 1980.

* * * * *

DATE AND TIME: Thursday, August 21, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory Opinions:
Draft AO 1980-61: Virgil H. Moore, Jr., President, First Farmers and Merchants National Bank of Columbia.
Draft AO 1980-68 (Supplement): H. Oliver Welch, Treasurer, Zell Miller for U.S. Senate Committee.
Draft AO 1980-81: Henry F. Frisch (on behalf of Mark Dayton).
Draft AO 1980-83: Jan W. Baran (Crane for President Committee, Inc.).
Draft AO 1980-84: G. William Fowler, Treasurer, Congressional Club of the Permian Basin.
Draft AO 1980-86: Connie Gale, American Natural Resources PAC/ANR Freight PAC/ANR Coal PAC.
Clearinghouse project review.
Contributions from unregistered organizations.
1980 Election and related matters.
Appropriations and budget:
Budget Execution Report.
Proposed FY 1981 Management Report.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1532-80 Filed 8-13-80; 3:15 pm]
BILLING CODE 6715-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 18, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Final amendments to Part 339 of the Corporation's rules and regulations entitled "Loans in Areas Having Special Flood Hazards".

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 11, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1530-80 Filed 8-12-80; 2:30 pm]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 18, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Application for consent to establish a branch:

Great Western Bank & Trust, Phoenix, Arizona, for consent to establish a branch in the 1300 block of Iron Springs Road, Prescott, Arizona.

Request for modification of a condition previously imposed in connection with approval to establish a branch:

Bank of Commerce, San Diego, California.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Richmond Commerce Bank, Houston, Texas.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44-421-NR United States National Bank, San Diego, California.
Memorandum re: The Monroe Bank and Trust Company, Monroe, Connecticut.
Memorandum re: First Augusta Bank & Trust Company, Augusta, Georgia.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Grievance officer's findings and recommendations in connection with the formal grievance of a Corporation employees:

Name of employee authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 11, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Exective Secretary.

[S-1531-80 Filed 8-12-80; 2:30 pm]
BILLING CODE 6714-01-M

Thursday

V
4
5

A
G

1
4

8
0
UMI

register

federal

Thursday
August 14, 1980

Part II

Department of Justice

Law Enforcement Assistance Administration

Juvenile Justice and Delinquency Prevention; Formula Grant Program; Deinstitutionalization Requirement

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Proposed OJJDP Policy and Criteria for de Minimis Exceptions to Full Compliance With the Deinstitutionalization Requirement of Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as Amended

AGENCY: Law Enforcement Assistance Administration (LEAA).

ACTION: Request for public comment.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq. (JJDP Act), proposes to issue a policy and criteria for determining full compliance with de minimis exceptions to the deinstitutionalization requirement of Section 223(a)(12)(A) of the JJDP Act, as amended.

SUPPLEMENTARY INFORMATION: Section 223(a)(12)(A) of the JJDP Act requires that states participating in the Formula Grant Program (Part B, Subpart I) of the JJDP Act "provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities." Section 223(c) of the Act further provides that failure to achieve compliance with the Section 223(a)(12)(A) requirement within the three-year time limitation shall terminate a State's eligibility for formula grant funding unless a determination is made that the State is in substantial compliance, through achievement of deinstitutionalization of not less than 75 percent of such juveniles, and has made an unequivocal commitment to achieving full compliance within two additional years. The LEAA Office of General Counsel Legal Opinion 76–7, October 7, 1975, indicated that a state's failure to meet the Section 223(a)(12) requirement within the statutorily designated time frame would result in future ineligibility for Formula Grants unless such failure was de minimis. The opinion further stated that determinations would be made on a case-by-case basis.

OJJDP's proposed policy and criteria for making determinations of full compliance with the deinstitutionalization requirement is set forth in Appendix A. The Office specifically invites comment on whether there may be exceptional circumstances and the nature of those circumstances, which would justify a finding of full compliance with de minimis exceptions for any state which has a rate of institutionalization in excess of 28.4 incidences per 100,000 population (see Criterion A). This notice and opportunity to submit written views and comments on the proposed policy is provided pursuant to Executive Order No. 12044, Improving Government Regulations. OMB Circular No. A–95, regarding State and Local Clearinghouse review of Federal and Federally-assisted programs and projects, is not applicable to the issuance of this policy. This policy is specificaly applicable to Program No. 16.540, Juvenile Justice and Delinquency Prevention Allocation to States, within the Catalog of Federal Domestic Assistance.

Interested persons are invited to submit written comments or suggestions to Mr. Ira M. Schwartz, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Room 442, Washington, D.C. 20531, on or before October 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Doyle A. Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW, Washington, D.C. 20531, (202) 724–7775.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Deliquency Prevention.

Policy and Criteria for de Minimis Exceptions to Full Compliance With the Deinstitutionalization Requirement of Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended

The following provides the Office of Juvenile Justice and Delinquency Prevention policy for the determination of State compliance with Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.*). The criteria presented below will be applied in determining whether a State has achieved full compliance, with de minimis exceptions, with the above cited deinstitutionalization requirement of the Juvenile Justice Act. Also specified is the information which each state must provide in response to each criterion when seeking from OJJDP a finding of full compliance with de minimis exceptions.

States requesting a finding of full compliance with de minimus exceptions should submit the request at the time the annual monitoring report is submitted or as soon thereafter as all information required for a determination is available. For those States that have participated in the formula grant program continuously since 1975 such a request, if needed, would be due December 31, 1980, because that is the first monitoring report due after five years of participation. States that had extremely low rates of institutionalization when they begin participation in the program are eligible to request a finding of full compliance with de minimis exceptions after three years of participation in lieu of demonstrating a 75% reduction from the number of status and non-offenders institutionalized in their base year.

Background

Office of General Counsel Legal Opinion 76–7, October 7, 1975, established that a State's "good faith" effort to meet the (then) two year requirement for deinstitutionalization of status offenders would preclude the imposition of sanctions with regard to funds already granted to the State under the formula grant program. However, a State's "good faith" effort cannot be considered in determining whether the statutory minimum compliance level has been met. In terms of eligibility for funding, the opinion concluded:

> A State's failure to meet the Section 223(a)(12) requirement within a maximum of two years from the date of submission of the initial plan would result in future fund cut-off unless such failure was de minimis. These determinations would be made on a case-by-case basis.

Subsequent amendments to the Juvenile Justice Act in 1977 modified Section 223(a)(12) to require full compliance within three years. However, Section 223(c) was also amended to provide that if a State was in substantial compliance with the modified Section 223(a)(12)(A) provision at the end of three years, substantial compliance being defined as a 75 percent reduction in the number of status offenders held in juvenile detention or correctional facilities, then the State could be given up to two additional years to achieve full compliance.

Thus, this opinion provides the legal basis for the OJJDP to utilize the de minimis principle, i.e., by disregarding instances of non-compliance that are of slight consequence or insignficant, in making a determination regarding a state's full compliance with Section 223(a)(12)(A) of the Act.

Parameters

The legal concept of de minimis, meaning "the law cares not for small things," is generally applied where small, insignificant or infinitesimal matters are at issue. Whether a matter, such as the number of status offenders and non-offenders held in non-compliance with Section 223(a)(12)(A), can be characterized as de minimis cannot be determined by an inflexible formula. Therefore, OJJDP will consider each case on its merits based on criteria which take into consideration relative numbers, circumstances of non-compliance, and State law and policy. The establishment of these criteria is intended to achieve an equitable determination process. States reporting significant numbers of institutionalized status and non-offenders should not expect a finding of full compliance with de minimis exceptions.

In determining whether a State has achieved substantial compliance within three years, OJJDP must compare the number of status and non-offenders held in non-compliance with Section 223(a)(12)(A) at the conclusion of the three-year period with the number of status and non-offenders held at the start of the three year period (the State's baseline figure). However, in determining whether a State is in full compliance with de minimis exceptions, OJJDP does not consider a comparison of current situation to baseline to be relevant. Only data and information which accurately and completely portrays the current situation is relevant when demonstrating full compliance with de minimis exceptions.

Individual states must continue to show progress toward achieving 100 percent compliance in order to maintain eligibility for a finding of full compliance with de minimis exceptions.

Criteria and Required Information

The OJJDP has determined that the following criteria will be applied in making a determination of whether a State has demonstrated full compliance with Section 223(a)(12)(A) with de minimis exceptions. While States are not necessarily required to meet each criterion at a fully satisfactory level, OJJDP will consider the extent to which each criterion has been met in making its determination of whether the State is in full compliance with de minimis exceptions. The information following each criterion must be provided to enable OJJDP to make this determination.

Criterion A

The extent of non-compliance is insignificant or of slight consequence in terms of the total juvenile population in the State.

In applying this criterion OJJDP will compare the State's status offender and non-offender detention and correctional institutionalization rate per 100,000 population under age 18 to the average rate that has been calculated for eight states (e.g., two states from each of the four Bureau of Census regions). The eight states selected by OJJDP were those having the smallest institutionalization rate per 100,000 population *and* which also had an adequate system of monitoring for compliance. By applying this procedure and utilizing the information provided by the eight states' most recently submitted monitoring reports, OJJDP determined that the eight states' average annual rate was 15.8 incidences of status offenders and non-offenders held per 100,000 population under age 18. In computing the standard deviation from the mean of 15.8, it was determined that a rate of 3.2 per 100,000 was one standard deviation below the mean and 28.4 per 100,000 was one standard deviation above the mean. Therefore, in applying Criterion A, states which have an institutionalization rate less than 3.2 per 100,000 population will be considered to be in full compliance with de minimis exceptions and will not be required to address Criteria B and C. Those states whose rate falls between 15.8 and 3.2 per 100,000 population will be eligible for a finding of full compliance with de minimis exceptions if they adequately meet Criteria Board B and C. Those states whose rate is above the average of 15.8 but does not exceed 28.4 per 100,000 will be eligible for a finding of full compliance with de minimis exceptions only if they fully satisfy Criteria B and C. Finally, those states which have a placement rate in excess of 28.4 per 100,000 population are presumptively ineligible for a finding of full compliance with de minimis exceptions because any rate above that level is considered to represent an excessive and significant level of status offenders and non-offenders held in juvenile detention or correctional facilities.

OJJDP deems it to be of critical importance that all states seeking a finding of full compliance with de minimis exceptions demonstrate progress toward 100 percent compliance and continue to demonstrate progress annually in order to be eligible for a finding of full compliance with de minimis exceptions.

The following information must be provided in response to criterion A and must cover the most recent and available 12 months of data (calendar, fiscal, or other period) or available data for less than 12 months, projected to 12 months in a statistically valid manner. If data projection is used the state must provide both the statistical method used and the specific data used. States are encouraged to use and expand upon currently available monitoring data gathered for purposes of the annual monitoring report required by Section 223(a)(14).

1. Total number of *accused* status offenders and non-offenders held in juvenile detention or correctional facilities in excess of 24 hours (per OJJDP monitoring policy).

2. Total number of *adjudicated* status offenders and non-offenders held in juvenile detention or correctional facilities.

3. Total number of status offenders and non-offenders held in juvenile detention or correctional facilities (i.e., sum of items 1 and 2).

4. Total juvenile population (under 18) of the State according to the most recent available U.S. Bureau of the Census data or census projections.

States may provide additional pertinent statistics that they deem relevant in determining the extent to which the number of non-compliant incidence is insignificant or of slight consequence. However, factors such as local practice, available resources, or organizational structure of local government will not be considered relevant by OJJDP in making this determination.

Criterion B

The extent to which the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

The following information must be provided in response to criterion B and must be sufficient to make a determination as to whether the instances of non-compliance with Section 223(a)(12)(A) as reported in the State's monitoring report were in apparent violation of, or departures from, state law or established executive or judicial policy. OJJDP will consider this criterion to be satisfied by those States that demonstrate that all or substantially all of the instances of non-compliance were in apparent violation of, or departures from, state law or established executive or judicial policy. This is because such instances of non-compliance can more readily be eliminated by legal or other enforcement processes. The existence of such law or

policy is also an indicator of the

If the State determines that instances

indicating the extent to which non-

Thursday

policy is also an indicator of the commitment of the State to the deinstitutionalization requirement and to future 100% compliance. Therefore, information should also be included on any newly established law or policy which can reasonably be expected to reduce the State's rate of deinstitutionalization in the future.

1. A brief description of the non-compliant incidents must be provided which includes a statement of the circumstances surrounding the instances of non-compliance. (For example: Of 15 status offenders/non-offenders held in juvenile detention or correctional facilities during 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, 3 were accused status offenders held in excess of 24 hours in a diagnostic and evaluation facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offender jurisdiction.) Do not use actual names of juveniles.

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached.

(For example. The 3 assused status offenders held in jail in excess of 24 hours were held in apparent violation of a State law which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law.

The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

Criterion C

The extent to which an acceptable plan has been developed which is designed to eliminate the non-compliant incidents within a reasonable time, where the instances of non-compliance either (1) indicate a pattern or practice, *or* (2) appear to be consistent with State law or established executive or judicial policy, or both.

If the State determines that instances of non-compliance (1) do not indicate a pattern or practice, *and* (2) are inconsistent with and in apparent violation of State law or established executive or judicial policy, then the State must explain the basis for this determination. In such case no plan would be required as a part of the request for a finding of full compliance under this policy.

The following must be addressed as elements of an acceptable plan for the elimination of non-compliance incidents that will result in the modification or enforcement of state law or executive or judicial policy to ensure consistency between the state's practices and the JJDP Act deinstitutionalization requirements.

1. If the instances of non-compliance are currently sanctioned by State law or executive or judicial policy, the plan must contain a strategy to modify the law or policy to prohibit non-compliant placement.

2. If the instances on non-compliance were in apparent violation of State law or executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of non-compliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive or jucicial policy.

3. If the instances on non-compliance are sanctioned or consistent with State law or executive or judicial policy, then the plan should detail a strategy to modify the law or policy so that it is consistent with the Federal deinstitutionalization requirement.

4. In addition, the plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and non-offenders in non-compliance with Section 223(a)(12)(A). It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

Implementation of Plan and Maintenance of full compliance

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under criteria C above, the State will be required to include the plan as a part of its current or next submitted formula grant plan as appropriate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliant incidences have been eliminated.

Determinations of full compliance status will be made annually by OJJDP following the submission of the monitoring report due by December 31st of each year. Any State reporting less than 100% compliance in any annual monitoring report would, therefore, be required to follow the above procedures in requesting a finding of full compliance with de minimis exceptions. Subject to amendment to the Juvenile Justice Act, an annual monitoring report will continue to be due by December 31 of each year.

FR Doc. 80-24401 Filed 8-13-80; 8:45 am]
BILLING CODE 4410-18-M

federal register

Thursday
August 14, 1980

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

HUD Housing Programs; Previous Participation Review and Clearance Procedure

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

All of these comments have been carefully reviewed and changes are

participation of limited partners who have interests of 26 percent or more,

A. 200.219(a)(2)(iv) Deleting "for cause" and substituting "attributable to

Inapplicability is available for public inspection during regular business hours

principals in projects based upon their past performance as well as other

V 45 A G 14 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R 80-767]

HUD Housing Programs; Previous Participation Review and Clearance Procedure

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This rule amends the procedure for parties (who apply to become a sponsor, owner, prime contractor, turnkey developer, management agent, packager or consultant in HUD projects) to report and certify their previous participation record and the other background data necessary for approval to participate in HUD housing programs.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jon Will Pitts, Room 9212, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6533 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 6, 1980, a proposed revision of the regulation pertaining to these procedures under 24 CFR 200.210, et seq. was published in the **Federal Register** at 45 FR 14828 for public comment. Interested parties were given until May 5, 1980 to submit comments.

This revised regulation provides the procedure for parties (who apply to become a sponsor, owner, prime contractor, turnkey developer, management agent, packager or consultant in HUD projects) to report and certify their previous participation record and other background data necessary for approval to participate in HUD multifamily housing programs.

This procedure was initiated by HUD in 1966 to prescreen applicants for FHA multifamily housing project mortgage insurance. In the housing industry, it is generally known as the "2530 procedure." Using HUD Form 2530, principals applying to participate must report their participation records in HUD programs before they are approved to participate in other projects.

Twenty-two individuals and organizations submitted comments in response to HUD's proposal of March 6. All of these comments have been carefully reviewed and changes are being made in the regulation in response to the comments received. A discussion of comments and changes follows.

One comment suggested that the regulation require that the Form 2530 certificate, when approved, be made a part of the A-95 Review and Comment procedure in order that local Governments and planning agencies might know the identity of each principal in project proposals referred to them for review and comment. HUD declines to accept this suggestion. Local Government review agencies under the A-95 system who have a need to know the identity of principals involved with any specific HUD proposal, may obtain this information from their local HUD office upon request.

Section 200.215—Definitions

Several commentors complained about the vagueness of the definition given for the word "affiliate". The term is employed to determine the full identities of responsible principals and individuals who seek HUD assistance or approval. A revised definition of affiliate has been adopted which is designed to address this concern.

Under the definition of "principal," several parties objected to the inclusion of "packagers and consultants". This requirement was added to present regulations about 10 years ago because in most states, packagers and consultants (unlike attorneys and architects) are not subject to professional licensing boards that determine and monitor qualifications, standards, ethical conduct, etc. HUD believes it should be continued because of the complex and crucial nature of their role in the formation of a successful project.

Other comments related to the inclusion of limited partners with 25 percent or more interest in the project. Some contended that limited partners should be exempted from the process altogether because by definition they play no active role in management. However, limited partners can assume an active role in the management of the project and, by doing so, become general partners even though it was not their intention to become general partners. This makes their active participation a real contingency and, therefore, they must be included. In addition, those limited partners with an interest of 25 percent or more can certainly play a persuasive role in the decisions made by the general partners in the operation of the project. For these reasons, HUD needs to know the previous participation of limited partners who have interests of 26 percent or more.

Another party objected to the inclusion of management agents as principals in this procedure since both HUD and owners under the regulatory agreement have authority to approve and/or replace such agents. HUD could not agree to such an exemption or exclusion as experience has taught that an up-front review of the previous participation records of management agents is essential if HUD is to avoid repeating past bad experiences.

Section 200.217—Filing the Certificate

Several comments received objected to the requirements that the certificate must be filed 60 days prior to the commencement of participation. They contend that such a requirement will limit their ability to make quick and necessary business decisions. HUD agrees. The sixty day lead requirement has been deleted.

Section 200.218—Who Must Sign and Certify

This section is being changed in response to comments relative to the burden corporate principals encountered in obtaining signatures of all officers, directors and major stockholders. From now on, officers can sign for the corporation and disclose all other principals in most cases where they all have the same previous record. Their signatures will not by required.

Section 200.219—Content of Certification

More than a dozen responses objected to the provisions of § 200.219(a)(5) relating to work stoppages of 20 days or more and for projects completed for 90 days or more when loans have not gone to final closing. All comments seem to agree that the 90 day period following project completion was too short due to frequent delays in final processing of cost certification by Area Offices. The section has been amended to address this problem. Others pointed out that a 20 day work stoppage constitutes a default under the Building Loan Agreement. We believe that both time frames are appropriate when clarified to meet our objective of surfacing serious problems caused by principals with on going projects.

Based on comments intended to clarify the language of the certificate's content, we have made the following changes:

A. 200.219(a)(2)(iii) Changing "no unresolved findings raised as a result of HUD audits * * *" to "no *known* unresolved findings * * *"

A. 200.219(a)(2)(iv) Deleting "for cause" and substituting "attributable to the fault or negligence of principal".

Section 200.225—Authority of Area Manager To Approve Limited Partners

A new section has been added in response to comments concerning limited partners with interests of 25% or more in the project. The new section permits Area Managers to approve such limited partners when they have no other record of participation on their certificate except that of a limited partner. This addition should substantially speed many final closings where such last-minute additions are frequently encountered.

Section 200.228—Determination by the Review Committee

One commentor advocated automatic approvals if HUD had failed to approve, withhold or disapprove certificates within 120 days. Such a provision could be very costly to the Government and could result in approvals of unacceptable risks if certificates were lost in transit, mis-filed or in need of complex reports concerning past performance. While such occurrences are infrequent, they do happen.

Other Comments

Numerous other comments went beyond the published proposal. One response advocated limiting principals to participation in only three projects and to prohibit participation as combined owner, builder and manager. One advocated that violations of local building codes should be a basis for disapproval of principals. Another suggested that actions by the Multifamily Participation Review Committee should require a ⅔ vote. These suggestions were rejected as being beyond the intended scope or capacity of the proposed process.

All comments received were carefully reviewed and evaluated and HUD appreciates the overall response and public interest in the proposal.

Effective Date and Implementation

The effective date of these new regulations is January 1, 1981. HUD needs time to issue new processing instructions to field offices and to revise HUD Form 2530 and have it approved by OMB, printed and made available to the public.

Inapplicability of NEPA

HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of the Findings of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Chapter II, Subpart H of Part 200 is amended to read as follows:

Subpart H—Participation and Compliance Requirements

Previous Participation Review and Clearance Procedure

Sec.

200.210 Policy.
200.213 Applicability of Procedure.
200.215 Definitions.
200.217 Filing of Previous Participation Certificate on Prescribed Form.
200.218 Who Must Certify and Sign.
200.219 Content of Certification.
200.222 Certification or Previous Record on Basis of a Master List.
200.224 Multifamily Participation Review Committee and Participation Control Officer.
200.225 Approvals by Area Manager for Limited Partners.
200.226 Determinations by the Participation Control Officer.
200.228 Determination by the Review Committee.
200.229 Withholding Approval.
200.230 Standards for Disapproval.
200.233 Effect and Requirement of Approval.
200.236 Modification or Withdrawal of Certain Approvals.
200.239 Notice of Determination.
200.241 Request for Reconsideration of an Adverse Determination and Request for a Hearing.
200.243 Hearing Rules: How and When to Apply.
200.245 Hearing Officer Determines Facts and Law; Review Committee Makes Final Administrative Decision.

Authority. Sec. 7(d), Dept. of HUD Act, 79 Stat. 670, (42 U.S.C. 3535(d)); and the National Housing Act, 48 Stat. 1246 as amended (42 U.S.C. 1701, et seq.)

Subpart H—Participation and Compliance Requirements

Previous Participation Review and Clearance Procedure

§ 200.210 Policy.

It is the Department's policy that participants in its housing programs be responsible individuals and organizations who will honor their legal, financial and contractual obligations. Accordingly, uniform standards are established in this part for approval, disapproval, or withholding of action on principals in projects based upon their past performance as well as other aspects of their records.

§ 200.213 Applicability of Procedure.

The Previous Participation Review and Clearance procedure set forth in this part is administered by the Assistant Secretary for Housing-Federal Housing Commissioner and is applicable to all principals and to their: (a) Projects already financed or which are proposed to be financed with a mortgage insured under the National Housing Act and projects subject to a mortgage held by the Secretary under that Act or projects acquired by the Secretary under that Act (FHA projects); (b) projects financed or to be financed with direct loans or projects acquired by the Secretary pursuant to Section 202 of the Housing Act of 1959 (Housing for the Elderly and Handicapped); (c) projects in which 20% or more of the units now receive or will receive a subsidy in the form of: (1) Interest reduction payments under Section 236 of the National Housing Act; (2) Rent Supplement payments under Section 101 of the Housing and Urban Development Act of 1965, (3) Housing assistance payments under Section 8 of the United States Housing Act of 1937 (with the exception of the programs described in 24 CFR Part 882, which are the Section 8 Existing Housing and Moderate Rehabilitation programs); (d) Public Housing projects financed or to be financed or modernized under the United States Housing Act of 1937; and (e) Sales of projects by the Secretary.

§ 200.215 Definitions.

(a) *Affiliate.* Any person or business concern that directly or indirectly controls policy of a principal or has the power to do so is an affiliate. Persons and business concerns controlled by the same third party are also affiliates.

(b) *Felony.* A felony is any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State *and* punishable by a term of imprisonment of two years or less.

(c) *Packager or Consultant.* A person or firm that furnishes or proposes to furnish advisory services in connection with the financing or construction of a project and the related HUD requirements. Such services may include, but are not limited to, the selection and negotiation of contracts with a general contractor, architect, attorney or management agent.

(d) *Participation Control Officer.* (See § 200.224)

(e) *Principal.* (1) An individual, joint venture, partnership, corporation, trust, nonprofit association or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, packager, or consultant and architects and attorneys who have any interest in the project other than an arms-length fee arrangement for professional services. (2) The term principal also includes (i) any affiliates of a principal; (ii) if the principal is a partnership, all general partners, and each limited partner having a 25 percent or more interest in the partnership; (iii) if the principal is a public or private corporation or governmental entity; the President, Vice-President, Secretary and Treasurer and any other executive officers who are directly responsible to the Board of Directors, or the equivalent thereof; all the directors; and each stockholder having a 10 percent or more interest. (3) Specifically excepted from this definition of a principal are: (i) Parties whose sole interest is that of purchaser or owner of less than five individual unit(s) in the same condominium or cooperative development; (ii) parties whose sole interest is that of a tenant; and (iii) Public Housing Agencies.

(f) *Project.* A project is: (1) Five or more residential units covered by a single mortgage, loan or contract of assistance; (2) a hospital, group practice facility or nursing home; (3) cooperative and condominium developments; and (4) a subdivision being developed and financed with a mortgage under Title X of the National Housing Act.

(g) *Review Committee.* (See §§ 200.224 and 200.93)

§ 200.217 Filing of Previous Participation Certificate on Prescribed Form.

(a) A previous participation certificate on a form prescribed by the Assistant Secretary of Housing-Federal Housing Commissioner shall be completed by every principal in each of the following transactions and shall be filed with HUD at the times specified herein: (1) Projects to be financed with mortgages insured under the National Housing Act (FHA)—With an Application for a Site Appraisal and Market Analysis Letter, Feasibility Letter, Conditional Commitment for Mortgage Insurance, or Firm Commitment for Mortgage Insurance, whichever Application is first filed; (2) Projects to be financed pursuant to Section 202 of the Housing Act of 1959 (Elderly and Handicapped)—With the Application for a Fund Reservation; (3) Public housing projects to be financed pursuant to the United States Housing Act of 1937; (i) The developer and prime contractor—With the Turnkey proposal or Conventional Construction Bid; (ii) All other Principals—Prior to selection; (4) Projects in which 20% or more of the units are to receive a subsidy as described under § 200.213(c)—With the first request for a reservation of funds for assistance payments; (5) Purchase of a project subject to a mortgage insured or held by the Secretary—With the Application for Transfer of Physical Assets; (6) Purchase of a Secretary-owned project—With the Bid to Purchase; (7) Proposed substitution or addition of a principal, such as management agents or partners or proposed participation in a different capacity from that previously approved for the same project—Prior to the date that the proposed action or transfer is to become final; and (8) Proposed acquisition by existing limited partner or stockholder of additional interest resulting in a total interest of at least 25 percent or 10 percent, respectively—Prior to the proposed acquisition.

(b) Certificates are not required for interests acquired by inheritance or by Court decree.

§ 200.218 Who Must Certify and Sign.

All principals must certify and sign the certificate personally as to their individual record and are responsible for its timely filing with the HUD Area Office in whose jurisdiction the project or proposal is located except: (a) When a corporation is a principal all its officers, directors and principal stockholders need not individually sign, certify nor file the certificate when they all have the same record. When their previous participation records are the same the officer authorized to sign for the corporation will list on the certificate the full names for all such principals connected with the corporation who do not elect to sign. Those principals who have a separate participation record outside that of their corporation must certify, sign and file. The objective is full disclosure.

(b) The Participation Control Officer is authorized to waive the requirement for signatures for good cause in cases where he finds that adequate provision has been made for full disclosure, and the signature is thereafter provided.

§ 200.219 Content of Certification.

(a) Each principal who executes the certificate certifies that: (1) The certificate contains a listing of every assisted or insured project of HUD, Farmers Home Administration and State or local government housing finance agencies in which the principal has been or is now a principal; (2) For a period beginning 10 years prior to the date of the certificate under review and except as shown on the certificate; (i) no mortgage on a project listed has ever been in default nor has mortgage relief been given; (ii) there have been no defaults or noncompliances under any conventional construction contract or Turnkey contract of sale in connection with a public housing project; (iii) there are no known unresolved findings raised as a result of HUD audits, management reviews or other governmental investigations; (iv) there has been no suspension or termination of payments under any HUD assistance contract attributable to the fault or negligence of principal; (v) the principal has not been convicted of a felony (See definitions § 200.215(b)) and is not presently the subject of a complaint or indictment charging a felony; (vi) the principal has not been suspended, debarred, or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency; (vii) the principal has not defaulted on an obligation covered by a surety or performance bond, and has not been the subject of a Claim under an employee fidelity bond; (3) The principal has listed all parties who are known to him to be principals under § 200.215(e)(2); (4) The principal is not a HUD employee or a member of an employee's immediate household as defined by HUD's Standards of Conduct in 24 CFR O.735–205(c); (5) Except as shown on the certificate under review, the principal is not a participant (i) in a HUD assisted or insured project on which construction, as of the date of said certificate, has stopped for a period in excess of twenty days or; (ii) in an insured project on which construction, as of the date of said certificate, has been substantially completed for more than 90 days and documents for closing, including cost certification, have not been filed with HUD;

(b) The project owner shall certify that he has also listed all other parties who are principals under § 200.215(e)(1);

(c) If a principal cannot certify as to any items under paragraphs (a) and (b) of this section, such items may be deleted from the face of the certificate and a full explanation of the reason for the deletion, signed by the principal, may be attached to the certificate for HUD's review, evaluation and determination;

(d) Each principal who executes the certificate must also certify that said principal is not a Member of Congress or a Resident Commissioner.

§ 200.222 Certification of Previous Record on Basis of a Master List.

A principal may avoid repetitious listings by providing HUD with a complete master list, acceptable to the Participation Control Officer, of all projects in which the principal has participated. Where such a list has been provided, the principal may submit a certificate which refers to the master list and which supplements it by the addition of all information required under § 200.219 with respect to occurrences since the date of the master list (including subsequent occurrences with respect to the projects on the master list as well as subsequent projects). Partners, corporate officers, directors and stockholders may likewise refer to and thereby incorporate their firm's master list when they certify.

§ 200.224 Multifamily Participation Review Committee and Participation Control Officer.

The membership and authority of the Multifamily Participation Review Committee (hereinafter referred to as the Review Committee) are set forth in § 200.93. A majority of the members of the Review Committee shall constitute a quorum. The Executive Secretary of the Review Committee shall be the Participation Control Officer under this part and shall serve under the administrative supervision of the Director of the Participation and Compliance Division, who acts as Participation Control Officer in his absence.

§ 200.225 Approvals by Area Managers for Limited Partners.

The Area Manager of the HUD Area Office where the certificate is filed is authorized to review the certificate and approve for participation limited partner principals: *Provided,* That they have no previous record of participation or their only participation in previous projects covered by these regulations has been as a limited partner. All other certificates must be forwarded to the Participation Control Officer.

§ 200.226 Determination by the Participation Control Officer.

(a) The Participation Control Officer is authorized to: (1) Approve a principal when a review of the previous participation certificate and other available information reveals that there are no grounds to withhold approval or disapprove under the standards in § 200.229 or § 200.230, respectively; (2) Disapprove a principal who; (i) is suspended or debarred or otherwise restricted under 24 CFR Part 24; or (ii) has been disapproved for participation no more than 12 months prior to the filing of the certificate under review, unless the principal has requested reconsideration of the disapproval; (3) Refer all other cases to the Review Committee, together with all available information and documents and a recommendation of the action to be taken.

§ 200.228 Determination by the Review Committee.

(a) The Review Committee shall make one of the following determinations in connection with every case referred to it by the Participation Control Officer: (1) Approve the principal after consideration of the entire record in the light of the standards in § 200.230. All mitigating or extenuating factors will be considered. In each case, the decision shall be within the discretion of the Review Committee and rendered in the best interest of the Government and the public; (2) conditionally approve the principal's participation with such conditions or limitations which in the Review Committee's judgment are necessary to make the principal approvable; (3) withhold approval of the principal in accordance with § 200.229; or (4) disapprove the principal when approval is not justified and withholding approval is not appropriate.

(b) All determinations by the Review Committee shall be made by majority vote of those members present and entitled to vote.

§ 200.229 Withholding Approval.

Approval of a principal may be withheld for (a) a period not to exceed 120 days when such action is deemed necessary to secure additional information upon which to base a final action including a determination as to whether a suspension or debarment action will be taken; or (b) for a longer period pending the resolution of a criminal complaint or indictment.

§ 200.230 Standards for Disapproval.

The standards for disapproval shall be as follows: (a) Suspension, debarment or other restriction of the principal under Part 24 of this title; (b) Suspension, debarment or other restriction of the principal by any other Department or Agency of the Federal Government from doing business with such Department or Agency; (c) Unless the Review Committee finds mitigating or extenuating circumstances that enables it to make an intelligent risk determination for approval, any of the following occurrences attributable or legally imputable to the fault or neglect of a principal may be the basis for disapproval whether or not the principal was actively involved in the project: (1) Mortgage defaults, or assignments, or foreclosures for which principal was wholly or partially responsible; (2) defaults or noncompliance under any conventional construction contract or turnkey contract of sale in connection with a public housing project; (3) violation of the regulatory agreement or noncompliance with any other obligation to HUD that has not been corrected to the satisfaction of the Review Committee at the time of its consideration; (4) suspension or termination of payments under any HUD assistance contract; (5) defaults under an obligation covered by a surety or performance bond and/or claims under an employee fidelity bond; (6) unresolved findings as a result of HUD or other governmental audits or investigations; or (7) a criminal record or other evidence that the principal's previous conduct or method of doing business has been such that his participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency; (d) With respect to any HUD insured or assisted projects, work stoppage for a period in excess of 20 days, or in the case of an insured project, failure to achieve final endorsement of the mortgage where the project has been substantially completed for more than 90 days but documents for closing, including cost certification have not been filed with HUD and such is chargeable to the fault or neglect of the principal; (e) Any serious and significant violation by a management agent of a project management contract, where the contract required HUD or other Governmental agency approval at its inception; (f) Any other significant violation of or noncompliance with regulations, or programs or contract requirements of HUD, Farmers Home Administration or a State or local government's Housing Finance Agency in connection with any insured or assisted project.

§ 200.233 Effect and requirement of approval.

Approval is required as a precondition for participation and constitutes clearance of the principal under this part for participation only for a specific project in a specific role. Approval of a principal does not obligate the Department to approve the principal's applications or contracts for program participation.

§ 200.236 Modification or withdrawal of certain approvals.

Approvals will not be modified or withdrawn except in cases where the

principal is subsequently suspended or

the Hearing Officer shall be governed by

principal is subsequently suspended or debarred from further participation in any HUD programs under Part 24 of this title, or is found by the Review Committee to have obtained approval based upon submission of a false, fraudulent or incomplete report or certificate submitted to HUD. In such cases the Review Committee may take such action, including modification or withdrawal of approval, as it determines to be in the best interest of the Department and the public. For the purpose of this section, the term approval includes conditional approval.

§ 200.239 Notice of determination.

The Participation Control Officer shall give written notice to the principal and to the field office concerned of disapproval under § 200.226, and conditional approval, withholding of approval or disapproval by the Review Committee under § 200.228. In the case of any such adverse notice: (a) The notice shall contain a general statement of the reasons for the determination; and (b) the notice to the principal shall be sent by certified mail to the address shown on the certificate with a return receipt requested.

§ 200.241 Request for reconsideration of an adverse determination and request for a hearing.

(a) Where approval has been withheld, denied, or conditionally granted, the principal may request reconsideration by the Review Committee. Such request shall be made in writing, within 30 days of receipt of the notice of such action, addressed to the Review Committee. It may contain such supporting material as principal desires; or (b) the principal may file a request for a hearing before a Hearing Officer as provided in § 200.243. Such request for a hearing shall be made in writing within 30 days from the date of receipt of the determination.

§ 200.243 Hearing rules—How and when to apply.

(a) A principal whose request for reconsideration has resulted in an adverse determination by the Review Committee or who is disapproved by the Participation Control Officer may request a hearing before a Hearing Officer in accordance with 24 CFR Part 24. Such request must be made within 30 days from the date of receipt of the notice of the Review Committee's determination. The requirement in § 24.7 of this title that a request for a hearing must be made within 10 days shall not apply to requests for a hearing under this section or under § 200.241; (b) hearings and review of determination by the Hearing Officer shall be governed by the procedures contained in Part 24 of this Title except as modified in paragraph (a) of this section and by § 200.245.

§ 200.245 Hearing Officer determines facts and law: Review Committee makes final administrative decision.

The Hearing Officer will determine the facts and the law relevant to the issues and will report the determination in writing to the Review Committee and to the principal. The Review Committee shall be bound by the Hearing Officer's findings of facts and law and will make a final decision based upon its application of the uniform underwriting and risk evaluation standards contained in this part. It will notify principal of the final action taken.

(Sec. 7(d), Department of HUD Act, 79 Stat. 670 (42 U.S.C. 3535(d)); and the National Housing Act, 48 Stat. 1246 as amended (42 U.S.C. 1701, *et seq.*))

Issued at Washington, D.C., August 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-24539 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

federal register

Thursday
August 14, 1980

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Transfer From Nonprofit to Profit-Motivated Ownership for Multifamily Housing Projects With HUD-Insured or HUD-Held Mortgages; Final Rule

V 45 A G 14 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 265

[Docket No. R-80-698]

Transfer From Nonprofit to Profit-Motivated Ownership for Multifamily Housing Projects With HUD-Insured or HUD-Held Mortgages

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule establishes HUD's policy on the transfer of physical assets from nonprofit to profit-motivated ownership for multifamily housing projects with HUD-insured or HUD-held mortgages and is applicable to all applications for transfer received by the Department on and after the publication of this regulation. The lack of a clear policy has made it difficult for HUD and nonprofit owners to use the transfer of physical assets process effectively. This rule will clarify HUD requirements and ensure that the physical, financial and management needs of a housing project will be met satisfactorily by a transfer to new ownership.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jimmy Bell, Director, Management Operations Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, 451 7th Street, SW., Room 6150, Washington, D.C. 20410. Telephone (202) 755-5866. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In issuing these regulations, HUD is recognizing that under certain conditions the sale of a project from a nonprofit to a profit-motivated owner can result in significant benefits to the project, the neighborhood and the tenants, as well as protect the interests of the government.

Nonprofit ownership is an important element of HUD's multifamily housing programs. The Department believes that a transfer should be approved only when it is necessary to respond satisfactorily to the problems of a project. Therefore, as a first step before formally accepting an application for a transfer of physical assets from nonprofit to profit-motivated ownership, HUD will establish that a transfer of ownership is necessary to resolve the problems of the project either because the nonprofit owner lacks the present capability or willingness to own and operate the project successfully or the needs of the project for financial assistance cannot be satisfied without additional cash contributions. If the basis for the proposed transfer is only that the nonprofit lacks the capability or willingness to continue successful ownership, HUD will first seek a transfer to another nonprofit entity. (See § 265.7)

Transfers of physical assets, i.e., the sale or transfer of projects by original or subsequent owners to a new owner without prepayment of the existing mortgage, are controlled by the Regulatory Agreement. The Regulatory Agreement provides that owners or sponsors shall not convey, transfer or encumber any of the mortgaged property without the express written approval of the Secretary of HUD.

Prior to 1976, any requests for sale by a nonprofit to a profit-motivated owner required that the mortgage be paid down by 10%. That requirement adjusted for the 100% mortgage received by a nonprofit owner and 90% mortgages available to a profit-motivated owner. A change in policy allowed local office directors to accept less than the 10% equity contribution on such transfers if certain conditions were met. It further provided that funds received by the project from the sale could be utilized for various purposes other than paying down the mortgage, such as curing mortgage payment delinquencies or correcting deferred maintenance.

On September 26, 1979, the Secretary of HUD published a Notice of Proposed Rulemaking (24 CFR Part 265) to clarify the process and criteria for the transfer of physical assets from nonprofit to profit-motivated ownership for multifamily housing projects with HUD-insured or HUD-held mortgages. Comments were invited until November 26, 1979. Five comments were received. The following is a summary of the comments and the changes made to the proposed rule.

(1) One writer suggested we define non-troubled project, leaving the balance to be considered as trouble, rather than defining a troubled project. Under that approach, a project would be considered a troubled project if it did not satisfy the definition of non-troubled. In the final rule, we have eliminated the definitional distinction between troubled and non-troubled projects. All transfers will be subject to the same requirements for review and approval.

(2) We received several comments that the 10% cash contribution requirement (8% cash plus 2% cash reserve or letter of credit) for a distressed project is too high. Two writers said that the 2% irrevocable letter of credit is the same as requiring a cash reserve because the letter of credit must be collateralized with a cash deposit. One person suggested that the amount of cash contribution be determined by the actual needs of the project and the availability of other forms of financial assistance. There were several comments recommending deletion of the competitive bid option for ascertaining the level of contribution. We agree that the 8+2% scheme is unnecessary. However, we are not persuaded that a 10% cash contribution for a distressed project is unworkable. We agree that the minimum contribution should be related to the actual physical and financial needs of the project. We are firm, however, on the requirement that a profit-motivated owner make a minimum cash contribution to signify commitment to the project and to symbolize a change in ownership status from non-profit to profit. Therefore, § 265.12(a) requires a cash contribution for all transfers which is the greatest of 10% of the unpaid mortgage principal balance or an amount equal to the physical and financial needs of the project as determined by the Director. This provision does not preclude the Director from considering other forms of assistance available from the Department when determining the purchaser's contribution for cases where the physical and financial needs of the project are greater than the 10% minimum contribution.

The competitive bid element has been dropped from the final rule. However, this option remains available should a nonprofit decide that it is the best method of transferring ownership. The basic minimum contribution requirements described above would still apply.

(3) We received several comments that the requirement of a local general partner and local management agent is too restrictive. Although we believe that local accountability is an issue of serious merit, we have revised this requirement recognizing that the success of the project will be dependent more on overall management and ownership ability, which must be shown in any case, than on geographic accountability. However, we are strongly encouraging that there be a local general partner and a local manager. If the new owner or management entity is other than local, the owner and manager must show evidence of their capability to own or manage a project outside of their immediate area of business.

(4) We deleted the requirement that the 10% cash contribution on a project which is not distressed by used only to prepay the mortgage as part of removing the definitional distinction from troubled and non-troubled projects. We are providing the Director with greater flexibility by leaving the decision to authorize other uses of the contribution at the field office level. We are recognizing that a project which is not distressed may benefit from some repairs or other improvements.

(5) Several writers objected strenuously to the requirement that an investor's prospectus be submitted to HUD when the new owner is a limited dividend partnership. The intent of this requirement was to provide HUD with a full disclosure of the details surrounding the transaction. We deleted the requirement entirely because the information necessary for our review is contained in the limited partnership agreement. The submission of the partnership agreement is a normal requirement of any transfer of physical assets.

(6) We received several comments objecting to the exclusion of a return on equity in the rent formula to be used by the project after transfer to profit-motivated ownership. We excluded the allowance for return on equity in the rent formula so that rents would not increase solely because of the change to profit-motivated status. It should be noted, however, that the rent formula for nonprofit projects presently provides for a reserve in excess of operating expenses, which in effect could provide a margin for return on equity. A return of up to 6% of the initial equity investment is permitted if the project generates surplus cash, which would come typically from more efficient operation, higher occupancy rates and the operating reserve.

(7) One comment suggested requiring the cash contribution to be made over a 36-month period rather than 24 months. The final rule requires payments to be made over a 24-month period unless the Director determines that in order to meet the cash contribution a 36-month period pay-in is necessary.

(8) Most of the comments favored the decentralization of authority to approve the transfers to the field office level. It is HUD's intention to give the field office Director such authority when the necessary training, instruction and guidance have been provided to the field office staff. The final rule has been written to permit this authority to be delegated by administrative instructions without the need to amend these regulations further.

(9) To highlight energy use and conservation, the Director's review pursuant to § 265.6 must specifically identify energy related needs and problems through an energy audit, to which the proposed purchaser must then respond.

(10) The proposed rule contained a specific requirement for adhering to tenant participation requirements which were to have been published in 24 CFR Part 402. These have not yet been promulgated so that specific reference has been dropped.

(11) The intent to apply these regulations to projects which have reached final endorsement is clarified in § 265.2.

(12) Several other minor changes were made to improve the format and readability of the regulations.

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with Procedures for Protection and Enhancement of Environmental Quality. Copies of the finding are available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, the Department adds Part 265 to 24 CFR Chapter II, Subchapter B, to read as follows:

PART 265—TRANSFER FROM NONPROFIT TO PROFIT-MOTIVATED OWNERSHIP FOR MULTIFAMILY HOUSING PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES

Sec.

265.1 Purpose.
265.2 Applicability.
265.3 Definitions.
265.4 Waivers.
265.5 Limitations Against Transfer.
265.6 Review of Projects Proposed for Transfer and Notice to Proposed Purchaser.
265.7 Director's Analysis and Findings on the Need for a Transfer.
265.9 Applying for Transfer of Physical Assets.
265.10 Criteria for Approval.
265.11 Approval of Transfer of Physical Assets.
265.12 Contributions and Schedule for Payments.
265.13 Prohibition Against Payment to the Nonprofit Owner.
265.14 Rents and Leases.
265.15 Limits on Distributions.
265.16 Prepayment Prohibition.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 265.1 Purpose.

This part governs the transfer of physical assets from nonprofit to profit-motivated ownership of certain multifamily housing projects with HUD-insured or HUD-held mortgages. It provides for the orderly processing and approval of these transfers and assures HUD that the physical, financial and management needs of the projects are met through the change in ownership.

§ 265.2 Applicability.

These regulations apply to each nonprofit owned multifamily housing project with a finally endorsed HUD-insured or HUD-held mortgage which is assisted under one of these programs:

(a) Section 236 of the National Housing Act;

(b) Section 221(d)(5) of the National Housing Act;

(c) Section 101 of the Housing and Urban Development Act of 1965; or

(d) Section 8 of the U.S. Housing Act of 1937.

§ 265.3 Definitions.

"Commissioner" means the Assistant Secretary for Housing-Federal Housing Commissioner.

"Director" means the HUD field office Director, who is either an Area Office Manager in a HUD Area Office, a Supervisor in a HUD Service Office with multifamily management responsibility, or the Regional Administrator in the Denver Regional/Area Office.

"Local General Partner" means a general partner which has as its principal place of business an office within the market area served by the multifamily housing project.

"Local Management Agent" means a management agent which has as its principal place of business an office within the market area served by the multifamily housing project.

"Market Area" means the geographical area established for the purpose of setting Section 8 Fair Market Rents under 24 CFR Part 888.

"Multifamily Housing Project" (or "Project") means any property, or combination of properties, consisting of five or more living units with a HUD-insured or HUD-held mortgage.

"Nonprofit" means a corporation or association organized for purposes other than the making of profit or gain for itself or any persons identified with it and which the Commissioner finds is in no manner controlled or directed by persons or firms seeking to derive profit or gain from it.

"Profit-motivated" means a corporation, trust, association, partnership, individual or other entity capable of holding title to real property and organized for the purposes of making profit or gain.

§ 265.4 Waivers.

Upon a determination and finding of good cause, the Commissioner may waive any provision of this part in any particular case subject only to statutory limitations. Each waiver shall be in writing supported by documentation of the facts and reasons which formed the basis for the waiver.

§ 265.5 Limitations Against Transfer.

No nonprofit owner of a multifamily housing project may convey, transfer, or encumber any of the mortgaged property without the prior written approval of the Commissioner.

§ 265.6 Review of Projects Proposed for Transfer and Notice to Proposed Purchaser.

When a project is proposed for a transfer of physical assets, the Director shall schedule a full review of the project to identify the present physical, financial, management and tenant needs, including the energy related problems and needs of the project. The Director shall provide the nonprofit owner and the proposed purchaser with the results of this review in writing, including a complete physical inspection report and management review report, indicating HUD's recommended corrective actions. The Director will require the proposed purchaser to respond satisfactorily in writing to all the deficiencies noted in the Director's reports, as well as the criteria of § 265.10. A current energy audit of the project shall be used to determine its energy related problems and needs. HUD and the proposed purchaser shall review the audit and develop a plan to implement energy conservation improvements.

§ 265.7 Director's Analysis and Findings on the Need for a Transfer.

(a) Before accepting an application for a transfer of physical assets from nonprofit to profit-motivated ownership, the Director shall make a written finding that a transfer of ownership to a profit-motivated owner is necessary to resolve the problems of the project based on one or both of the following factors:

(1) The nonprofit owner is no longer capable or willing to own and operate the project successfully; or

(2) There is a need for additional cash contributions to satisfy the present physical and financial needs of the project as determined by the review conducted pursuant to § 265.6 because assistance for the project from HUD, considering other use of this assistance, is not available in amounts necessary to satisfy these needs.

(b) If the sole basis for a proposed transfer is the lack of capability or willingness of the existing nonprofit sponsor to own and operate the project successfully, the Director shall determine that there is no capable, nonprofit sponsor in the area which is interested in assuming ownership of the project.

§ 265.9 Applying for Transfer of Physical Assets.

The proposed purchaser shall submit the following to the Director:

(a) An application for transfer of physical assets and all required attachments as stated on the application form and in the Insured Project Servicing Handbook, 4350.1, Chapter 4;

(b) A narrative explanation of why the owner is proposing a transfer of physical assets; and

(c) A check for the transfer fee in the amount of 50 cents per thousand dollars of the original principal amount of the mortgage.

§ 265.10 Criteria for Approval.

(a) The proposed purchaser and its principals shall, to the Director's satisfaction, meet the following criteria as supported by written findings of fact:

(1) Include a local general partner if an acceptable local general partner is available. If a local general partner is not available, the proposed ownership entity shall show evidence of its capability to own and successfully operate a project outside the area of its principal place of business.

(2) Show the ability to provide sound project management, especially sound physical and financial management. Employing a local management agent is strongly encouraged. If a proposed management agent is not local, the agent shall show evidence of its capability to manage a project successfully outside the area of its principal place of business.

(3) Show the ability to respond to the needs of the tenants and to work cooperatively with tenant organizations as demonstrated by prior experience in other mutlifamily housing projects or as described in an acceptable plan for establishing sound working relationships with individual tenants and tenant organizations.

(4) Show an overall capacity, including financial capacity as determined by the Commissioner, to operate the project successfully for the remaining term of the mortgage. The involvement of the owner in other multifamily housing projects will be considered in making this determination.

(b) Any proposed purchaser shall satisfy the following additional criteria as determined by the Director and supported by written findings of fact:

(1) Develop a detailed plan acceptable to the Director which responds to the needs of the project and the corrective actions specified by the Director in the review prepared pursuant to § 265.6. Where there is a mortgage delinquency, the plan shall provide that the delinquency will be eliminated by a specified date.

(2) Receive previous participation clearance (2530) for the proposed purchaser and the proposed management agent.

(3) Execute a new regulatory agreement governing the future operation of the project, which shall include the requirement to adhere to the project's Affirmative Fair Housing Marketing Plan on record, as updated and approved by HUD for the transfer. The updated plan shall cover particularly the marketing of vacant units both at the time of transfer and during normal turnover. Proposed purchasers of projects not covered under an Affirmative Fair Housing Marketing Plan shall submit a plan in accordance with 24 CFR 200.600.

§ 265.11 Approval of Transfer of Physical Assets.

(a) The Director shall make a written finding determining whether or not the proposed purchaser meets the criteria set out in § 265.10.

(b) The Director may reject any application upon a written finding of its failure to meet any of the criteria of this part.

(c) If the Director finds that all of the criteria are met, the Commissioner or the Commissioner's designee may approve the transfer.

§ 265.12 Contributions and Schedule for Payments.

(a) The proposed purchaser shall contribute to the project in cash an amount equal to the greater of 10 percent of the unpaid mortgage principal balance or an amount sufficient, in addition to assistance available from HUD, to meet the present physical and financial needs of the project as determined by the Director pursuant to § 265.6.

(b) The proposed purchaser shall pay the required cash contribution in equal or successively smaller installments over a 24-month period or, if the Director determines it to be necessary in order to meet the cash contribution required by the needs of the project, over a 36-month period. The initial contribution shall be made at the final closing of the transfer

and shall be sufficient to meet the project's immediate physical and financial needs as specified by HUD in its review under § 265.6.

(c) Cash contributions shall be placed either in the reserve for replacement account or in a restricted bank account established pursuant to the receipt of flexible subsidy assistance as provided by 24 CFR Part 219 or paid directly to the mortgages as a prepayment on the mortgage or to HUD in the case of HUD-held mortgages. The Director shall determine the appropriate use of the cash contributions and shall approve each withdrawal from the reserve for replacement and escrow accounts.

§ 265.13 Prohibition Against Payment to the Nonprofit Owner.

(a) Except as provided in paragraph (b) of this section, the nonprofit owner selling the project shall not receive any remuneration in any form, either in direct payment in respect of the transfer or in respect of any other contribution to the nonprofit, its parent or affiliate organizations, in excess of nominal consideration necessary to effect the sale.

(b) If approved by the Director, the nonprofit owner may be reimbursed in order to repay advances or loans made within the 24 months prior to HUD's approval of the transfer to assure the continued operation of the project.

§ 265.14 Rents and Leases.

(a) The rental formula to be used in determining maximum rents after the transfer shall be the same formula as applied previously to the project under the nonprofit owner. No separate allowance shall be made in the rent formula for a return on equity to the profit-motivated owner. This does not preclude the owner from receiving a distribution if the criteria in § 265.15 are satisfied.

(b) The owner shall honor all existing leases on the property regardless of state or local law.

§ 265.15 Limits on Distributions.

(a) Distribution can be made only as permitted by the Regulatory Agreement.

(b) The Director shall limit the owner in any one year to a maximum distribution of six percent of the actual cash contribution.

§ 265.16 Prepayment Prohibition.

Prepayment of mortgages in whole or in part of projects transferred from nonprofit to profit-motivated ownership shall be prohibited without the prior written approval of the Commissioner.

Issued at: Washington, D.C., August 8, 1980.

Clyde McHenry,

Deputy Assistance Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-24537 Filed 8-13-80; 8:45 am]
BILLING CODE 4210-01-M

V 45 A G 1 4 8 0 UMI

V
4
5

A
G

1
4

8
0
UMI

federal register

Thursday
August 14, 1980

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

General Prototype Housing Costs for One- to Four-Family Dwelling Units

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-80-1018]

General Prototype Housing Costs for One- to Four-Family Dwelling Units

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner/Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: On August 21, 1979, the Department published, "General Prototype Housing Costs for One- to Four-Family Dwelling Units." The Department is revising for all areas the prototype costs, based on cost data and other current information received from HUD Field Offices and the public.

DATE: These revised prototype costs will be effective from August 14, 1981 until publication of new cost figures in 1981.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6720.

SUPPLEMENTARY INFORMATION: Section 904 of the Housing and Community Development Act of 1977 requires HUD to publish prototype housing costs for a broad variety of one- to four-family housing in each market area. These prototype figures serve merely as an aid to the general public and *are not* applicable to prototype determinations required for public housing under the United States Housing Act of 1937. The costs for land and site improvements are included in the Section 904 prototype cost figures.

In order to cover various economic situations, prototype costs are divided into three cost ranges; low, medium and high. The information sources for developing the figures include data from HUD Field Offices, the public, and the basic Section 203(b) mortgage insurance program. The prototype costs are generally representative of the sales prices.

Due to the lack of information on two-, three-, and four-family dwelling units, generally costs shown are for one-family dwellings. The market areas, as designated, are the Base and Key Localities and cover both the urban and rural areas of each market area. Every HUD Field Office has maps of these designated areas. The typical low-range, one-family dwelling will contain three bedrooms and one full bath. The medium range one-family dwelling will contain three or four bedrooms and two full baths. The high range one-family dwelling will contain three to five bedrooms and two or three full baths.

The figures shown below the cost range designations are the typical square-foot areas of a one-family dwelling in the captioned market area.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d); sec. 904, Housing and Community Development Act of 1977 (42 U.S.C. 3540.

Issued at Washington, DC, on August 4, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

NOTICE H 78-1(HSD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HARTFORD, CONNECTICUT

	Low Range 820	Medium Range 960	High Range 1270
Market Area: HARTFORD			
One Family Dw.	53,000	57,500	62,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: NEW HAVEN-BRIDGEPORT			
One Family Dw.	55,200	60,000	65,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: STAMFORD			
One Family Dw.	60,000	67,300	79,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)

Field Office: Boston, Massachusetts

	Low Range 1000	Medium Range 1250	High Range 1760
Market Area: Boston			
One Family Dw.	46,000	69,800	90,700
Two Family Dw.	68,100		
Three Family Dw.			
Four Family Dw.			
Market Area: Pittsfield			
One Family Dw.	43,200	64,900	83,100
Two Family Dw.	63,700		
Three Family Dw.			
Four Family Dw.			
Market Area: Worcester			
One Family Dw.	42,900	62,300	82,000
Two Family Dw.	63,208		
Three Family Dw.			
Four Family Dw.			
Market Area: Springfield			
One Family Dw.	44,000	65,300	83,700
Two Family Dw.	63,900		
Three Family Dw.			
Four Family Dw.			
Market Area: Cape Cod			
One Family Dw.	45,100	68,500	86,300
Two Family Dw.	65,500		
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MANCHESTER, NEW HAMPSHIRE

	Low Range 960	Medium Range 1690	High Range 1980
Market Area: PORTLAND, MAINE			
One Family Dw.	$45,400	$71,100	$92,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BANGOR, MAINE			
One Family Dw.	44,600	70,800	92,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AUGUSTA, MAINE			
One Family Dw.	46,000	72,500	94,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MANCHESTER, NEW HAMPSHIRE			
One Family Dw.	43,900	74,100	99,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: KEENE, NEW HAMPSHIRE			
One Family Dw.	42,700	68,600	94,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: MANCHESTER, NEW HAMPSHIRE

	Low Range	Medium Range	High Range
Market Area: PORTSMOUTH, NEW HAMPSHIRE			
One Family Dw.	46,900	75,300	99,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BURLINGTON, VERMONT			
One Family Dw.	45,100	72,700	95,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PROVIDENCE, RHODE ISLAND

	Low Range 1040	Medium Range 1250	High Range 1540
Market Area: Rhode Island			
One Family Dw.	46,700	59,300	70,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ALBANY, NEW YORK

	Low Range 940	Medium Range 1090	High Range 1970
Market Area: ALBANY-TROY			
One Family Dw.	37,080	46,300	72,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AUBURN			
One Family Dw.	36,500	46,100	69,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BINGHAMTON			
One Family Dw.	36,700	46,000	71,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ITHACA			
One Family Dw.	38,200	47,500	77,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PLATTSBURGH			
One Family Dw.	34,900	45,600	71,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

(Continuation Sheet)
Field Office: ALBANY, NEW YORK

	Low Range	Medium Range	High Range
Market Area: SCHENECTADY			
One Family Dw.	37,000	46,300	72,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SYRACUSE			
One Family Dw.	38,300	47,900	74,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: UTICA-ROME			
One Family Dw.	35,700	46,600	72,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WATERTOWN			
One Family Dw.	34,900	44,100	71,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BUFFALO, NEW YORK

	Low Range	Medium Range	High Range
	960	1040	1140
Market Area: BUFFALO			
One Family Dw.	45,000	53,500	68,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ROCHESTER			
One Family Dw.	45,500	54,100	69,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ELMIRA			
One Family Dw.	41,800	49,800	63,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JAMESTOWN			
One Family Dw.	41,700	49,700	63,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CAMDEN, NEW JERSEY

	Low Range	Medium Range	High Range
	1160	1320	1480
Market Area: COMDON, GLOUCESTER, BURLINGTON			
One Family Dw.	45,200	59,900	65,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ATLANTIC (SHORE)			
One Family Dw.	46,500	57,500	69,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: OCEAN COUNTY			
One Family Dw.	47,300	60,700	66,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: B.A.S.C.			
One Family Dw.	44,500	57,100	60,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MERCER			
One Family Dw.	51,100	64,800	68,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NEWARK, NEW JERSEY

	Low Range	Medium Range	High Range
	1,000	1,475	1,856
Market Area: JERSEY CITY - BAYONNE			
One Family Dw.	44,000	55,600	60,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: EDISON - NEW BRUNSWICK			
One Family Dw.	53,400	64,000	68,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MORRISTOWN			
One Family Dw.	63,400	71,700	78,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SOMERVILLE			
One Family Dw.	56,900	67,300	72,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ASBURY PARK			
One Family Dw.	51,500	61,800	66,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NEW YORK, NEW YORK

	Low Range 940	Medium Range 1490	High Range 2230
Market Area: NASSAU/SUFFOLK			
One Family Dw.	39,700	52,500	82,500
Two Family Dw.	53,200	73,200	90,900
Three Family Dw.	84,300	99,500	129,500
Four Family Dw.	102,200	127,800	155,900
Market Area: NEW YORK CITY			
One Family Dw.	42,900	62,700	76,000
Two Family Dw.	59,500	80,800	92,500
Three Family Dw.	86,100	110,900	135,100
Four Family Dw.	104,900	136,700	156,900
Market Area: ROCKLAND			
One Family Dw.	46,800	57,400	70,100
Two Family Dw.	57,800	73,300	85,700
Three Family Dw.	84,500	96,700	119,000
Four Family Dw.	101,800	128,300	146,600
Market Area: ORANGE			
One Family Dw.	42,200	54,700	68,600
Two Family Dw.	55,000	67,800	83,600
Three Family Dw.	81,800	93,300	116,400
Four Family Dw.	98,800	119,800	145,600
Market Area: DUTCHESS, ULSTER & SULLIVAN			
One Family Dw.	44,200	52,600	67,600
Two Family Dw.	53,900	66,200	78,900
Three Family Dw.	79,180	[illegible]	115,400
Four Family Dw.	97,300	120,800	138,900

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN JUAN, PUERTO RICO

	Low Range 850	Medium Range 1170	High Range 1490
Market Area: San Juan			
One Family Dw.	45,500	53,100	70,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PONCE			
One Family Dw.	35,000	56,100	65,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MAYAQUEZ			
One Family Dw.	35,000	51,500	64,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BALTIMORE, MARYLAND

	Low Range 1090	Medium Range 1660	High Range 1950
Market Area: BALTIMORE			
One Family Dw.	65,700	79,900	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HAGERSTOWN			
One Family Dw.		53,800	85,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SALISBURY			
One Family Dw.	51,400	58,400	69,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WALDORF			
One Family Dw.	52,800	77,800	97,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CHARLESTON, WEST VIRGINIA

	Low Range 980	Medium Range 1150	High Range 2600
Market Area: CHARLESTON			
One Family Dw.	50,500	86,400	134,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BECKLEY, PRINCETON, BLUEFIELD			
One Family Dw.	49,000	83,500	129,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MARTINSBURG			
One Family Dw.	47,400	80,600	125,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WHEELING			
One Family Dw.	51,400	88,200	137,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HUNTINGTON			
One Family Dw.	48,100	81,800	127,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(HED)
FORMAT

(Continuation Sheet)
Field Office: CHARLESTON, WEST VIRGINIA

	Low Range	Medium Range	High Range
Market Area: PARKERSBURG			
One Family Dw.	47,300	80,700	126,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: UPPER MONONGALIA			
One Family Dw.	49,800	85,200	132,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PHILADELPHIA, PENNSYLVANIA

	Low Range 1220	Medium Range 1790	High Range 2200
Market Area: Philadelphia			
One Family Dw.	38,200	65,000	120,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: POTTSTOWN - READING			
One Family Dw.	49,000	57,500	71,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ALLENTOWN - BETHLEHEM - EASTON			
One Family Dw.	61,000	72,000	99,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LANCASTER - YORK			
One Family Dw.	50,000	56,600	77,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HARRISBURG			
One Family Dw.	61,000	72,000	88,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: PHILADELPHIA, PENNSYLVANIA

	Low Range	Medium Range	High Range
Market Area: WILKES BARRE - SCRANTON			
One Family Dw.	49,500	60,500	71,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BELLEFONTE			
One Family Dw.	49,500	60,500	77,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TIOGA			
One Family Dw.	49,000	54,900	74,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WILMINGTON - STATE OF DELAWARE			
One Family Dw.	53,000	66,500	82,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PITTSBURGH AREA OFFICE

	Low Range 960	Medium Range 1610	High Range 2210
Market Area: PITTSBURGH			
One Family Dw.	77,400	87,000	98,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ERIE			
One Family Dw.	72,800	82,600	93,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ALTOONA			
One Family Dw.	71,000	81,600	91,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JOHNSTOWN			
One Family Dw.	71,600	80,200	91,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

The Pittsburgh Area Office experiences no two, three or four family dwellings

UMI 8041 GA 54V

[ ] [ ] NOTICE H 78-111(HUD) FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: RICHMOND, VIRGINIA

	Low Range	Medium Range	High Range
Market Area: RICHMOND	1090	2110	2240
One Family Dw.	40,400	57,400	100,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PETERSBURG			
One Family Dw.	38,300	54,700	90,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LYNCHBURG			
One Family Dw.	34,500	51,200	85,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ROANOKE			
One Family Dw.	36,600	53,100	87,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DANVILLE			
One Family Dw.	34,600	51,300	83,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

[ ] [ ]

(Continuation Sheet)
Field Office: RICHMOND, VIRGINIA

	Low Range	Medium Range	High Range
Market Area: FREDERICKSBURG			
One Family Dw.	40,300	57,700	99,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHARLOTTESVILLE			
One Family Dw.	36,100	51,500	88,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: NEWPORT NEWS			
One Family Dw.	40,000	57,200	99,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: NORFOLK			
One Family Dw.	38,600	55,600	95,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: VIRGINIA BEACH			
One Family Dw.	39,200	56,000	95,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

[ ] [ ]

(Continuation Sheet)
Field Office: RICHMOND, VIRGINIA

	Low Range	Medium Range	High Range
Market Area: WINCHESTER			
One Family Dw.	36,500	53,100	89,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

[ ] [ ] NOTICE H 78-111(HUD) FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: WASHINGTON, D.C.

	Low Range	Medium Range	High Range
Market Area: WASHINGTON METRO AREAS	1060	1370	2480
One Family Dw.	67,000	114,000	155,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE N 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ATLANTA, GEORGIA

	Low Range 980	Medium Range 1420	High Range 2130
Market Area: ATLANTA			
One Family Dw.	40,800	64,300	91,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ATHENS			
One Family Dw.	36,600	56,000	82,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ALBANY			
One Family Dw.	36,600	57,500	78,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AUGUSTA			
One Family Dw.	36,100	56,000	79,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COLUMBUS			
One Family Dw.	38,000	57,500	82,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: ATLANTA, GEORGIA

	Low Range	Medium Range	High Range
Market Area: ROME			
One Family Dw.	37,600	58,300	84,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAVANNAH			
One Family Dw.	39,200	61,700	87,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BIRMINGHAM, ALABAMA

	Low Range 1030	Medium Range 1350	High Range 1680
Market Area: ANNISTON			
One Family Dw.	39,400	49,700	73,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BIRMINGHAM			
One Family Dw.	37,280	50,200	72,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DOTHAN			
One Family Dw.	38,400	56,000	60,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: FLORENCE			
One Family Dw.	35,600	53,700	61,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GADSDEN			
One Family Dw.	39,300	*47,500	64,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: BIRMINGHAM, ALABAMA

	Low Range	Medium Range	High Range
Market Area: HUNTSVILLE			
One Family Dw.	40,200	47,700	64,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MOBILE			
One Family Dw.	42,700	49,700	63,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MONTGOMERY			
One Family Dw.	38,300	43,000	58,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TUSCALOOSA			
One Family Dw.	37,500	44,400	63,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(REV)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings
RMS Number MM0700002028

Field Office: COLUMBIA AREA OFFICE

	Low Range 1070	Medium Range 1360	High Range 1510
Market Area: ROCK HILL-AIKEN			
One Family Dw.	40,900	51,100	56,900
Two Family Dw.	58,900	70,500	
Three Family Dw.			
Four Family Dw.			
Market Area: COLUMBIA-ORANGEBURG-FLORENCE			
One Family Dw.	40,700	51,800	60,100
Two Family Dw.	58,400	70,800	
Three Family Dw.			
Four Family Dw.			
Market Area: CHARLESTON-MYRTLE BEACH			
One Family Dw.	42,800	54,600	63,100
Two Family Dw.	61,000	74,300	
Three Family Dw.			
Four Family Dw.			
Market Area: GREENVILLE			
One Family Dw.	40,800	52,300	59,500
Two Family Dw.	58,600		
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(REV)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CORAL GABLES, FLORIDA

	Low Range 1000	Medium Range 1250	High Range 1970
Market Area: DADE			
One Family Dw.	36,880	54,000	87,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BROWARD			
One Family Dw.	38,500	55,000	87,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PALM BEACH			
One Family Dw.	34,100	51,700	83,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LEE			
One Family Dw.	33,400	47,700	75,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MONROE			
One Family Dw.	35,600	61,700	94,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(REV)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: GREENSBORO, NORTH CAROLINA

	Low Range 1000	Medium Range 1300	High Range 1680
Market Area: GREENSBORO			
One Family Dw.	38,000	46,400	59,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ASHEVILLE			
One Family Dw.	40,100	44,500	56,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHARLOTTE			
One Family Dw.	37,700	41,600	60,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ELIZABETH CITY			
One Family Dw.	36,900	42,700	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GREENVILLE			
One Family Dw.	38,100	46,300	59,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: GREENSBORO, NORTH CAROLINA

	Low Range	Medium Range	High Range
Market Area: RALEIGH			
One Family Dw.	37,500	47,400	59,100
Two Family Dw.		59,300	
Three Family Dw.			
Four Family Dw.		100,600	
Market Area: WILMINGTON			
One Family Dw.	40,000	46,100	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 8041 GA 54V

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: JACKSON, MISSISSIPPI

	Low Range 1170	Medium Range 1860	High Range 2560
Market Area: BILOXI-GULFPORT			
One Family Dw.	41,300	65,500	93,500
Two Family Dw.	63,700		
Three Family Dw.			
Four Family Dw.	103,700		
Market Area: COLUMBUS			
One Family Dw.	41,200	66,600	95,200
Two Family Dw.	65,900		
Three Family Dw.			
Four Family Dw.	105,900		
Market Area: GREENVILLE			
One Family Dw.	38,500	64,400	100,700
Two Family Dw.	62,600		
Three Family Dw.			
Four Family Dw.	100,800		
Market Area: HATTIESBURG			
One Family Dw.	41,200	65,600	94,300
Two Family Dw.	65,400		
Three Family Dw.			
Four Family Dw.	106,400		
Market Area: JACKSON			
One Family Dw.	41,800	66,600	98,700
Two Family Dw.	70,300		
Three Family Dw.			
Four Family Dw.	105,700		

(Continuation Sheet)
Field Office: JACKSON, MISSISSIPPI

	Low Range	Medium Range	High Range
Market Area: LAUREL			
One Family Dw.	40,900	67,600	91,900
Two Family Dw.	66,900		
Three Family Dw.			
Four Family Dw.	105,400		
Market Area: MERIDIAN			
One Family Dw.	39,200	64,300	88,900
Two Family Dw.	63,500		
Three Family Dw.			
Four Family Dw.	102,000		
Market Area: NATCHEZ			
One Family Dw.	38,000	63,700	89,000
Two Family Dw.	61,900		
Three Family Dw.			
Four Family Dw.	90,200		
Market Area: VICKSBURG			
One Family Dw.	40,200	66,400	90,100
Two Family Dw.	65,200		
Three Family Dw.			
Four Family Dw.	104,700		
Market Area: SOUTHHAVEN			
One Family Dw.	43,400	69,400	97,900
Two Family Dw.	68,800		
Three Family Dw.			
Four Family Dw.	110,500		

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: JACKSONVILLE, FLORIDA

	Low Range 1090	Medium Range 1340	High Range 1620
Market Area: JACKSONVILLE			
One Family Dw.	42,300	52,800	65,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GAINSVILLE			
One Family Dw.	40,500	48,100	60,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TALLAHASSEE			
One Family Dw.	37,300	47,400	56,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PANAMA CITY			
One Family Dw.	39,800	46,400	59,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PENSACOLA			
One Family Dw.	42,300	46,000	61,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: KNOXVILLE, TENNESSEE

	Low Range 980	Medium Range 1030	High Range 1300
Market Area: KNOXVILLE			
One Family Dw.	40,000	46,000	55,000
Two Family Dw.		55,000	69,500
Three Family Dw.			
Four Family Dw.	111,000	120,000	
Market Area: CHATTANOOGA			
One Family Dw.	38,500	44,750	55,500
Two Family Dw.		53,500	67,750
Three Family Dw.			
Four Family Dw.	106,000	114,000	
Market Area: KINGSPORT			
One Family Dw.	38,750	45,000	53,250
Two Family Dw.		53,000	67,000
Three Family Dw.			
Four Family Dw.	106,000	114,500	
Market Area: JOHNSON CITY			
One Family Dw.	39,000	45,500	53,750
Two Family Dw.		53,500	67,750
Three Family Dw.			
Four Family Dw.	107,000	115,500	
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LOUISVILLE, KENTUCKY

	Low Range 930	Medium Range 1630	High Range 1930
Market Area: LOUISVILLE			
One Family Dw.	40,800	55,900	76,900
Two Family Dw.	53,200	113.000	
Three Family Dw.			
Four Family Dw.	100,300	131,600	
Market Area: OWENSBORO			
One Family Dw.	38,700	52,600	72,800
Two Family Dw.	50,500	90,300	
Three Family Dw.			
Four Family Dw.	93,600	125,000	
Market Area: ASHLAND			
One Family Dw.	40,800	55,900	76,900
Two Family Dw.	54,000	113.500	
Three Family Dw.			
Four Family Dw.	98,600	131,600	
Market Area: COVINGTON			
One Family Dw.	41,300	56,700	78,500
Two Family Dw.	54,600	115,100	
Three Family Dw.			
Four Family Dw.	117,200	133,800	
Market Area: PADUCAH			
One Family Dw.	37,900	51,600	62,800
Two Family Dw.	50,700	89,500	
Three Family Dw.			
Four Family Dw.	109,000	123,900	

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MEMPHIS, TENNESSEE

	Low Range 1020	Medium Range 2020	High Range 3030
Market Area: MEMPHIS			
One Family Dw.	43,000	67,100	85,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JACKSON			
One Family Dw.	42,200	65,300	83,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NASHVILLE, TENNESSEE

	Low Range 1040	Medium Range 1260	High Range 2190
Market Area: NASHVILLE			
One Family Dw.	38,200	57,800	81,400
Two Family Dw.	57,500	76,300	
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ORLANDO, FLORIDA

	Low Range 1050	Medium Range 1200	High Range 1760
Market Area: ORANGE, SEMINOLE/OSCOLA			
One Family Dw.	40,000	50,000	75,000
Two Family Dw.		70,000	
Three Family Dw.			
Four Family Dw.			
Market Area: BREVARD			
One Family Dw.	40,000	50,000	76,000
Two Family Dw.		70,000	
Three Family Dw.			
Four Family Dw.			
Market Area: VOLUSIA			
One Family Dw.	40,000	50,000	75,000
Two Family Dw.		70,000	
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TAMPA, FLORIDA

	Low Range 1010	Medium Range 1320	High Range 1690
Market Area: TAMPA			
One Family Dw.	38,600	56,000	81,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LAKELAND			
One Family Dw.	33,200	50,200	87,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BRODENTON-SARASOTA			
One Family Dw.	39,400	54,600	81,980
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CHICAGO, ILLINOIS

	Low Range 1130	Medium Range 1500	High Range 2000
Market Area: CHICAGO			
One Family Dw.	52,500	89,800	124,900
Two Family Dw.	84,000	106,000	130,000
Three Family Dw.			
Four Family Dw.	155,000	164,200	178,200
Market Area: ROCKFORD			
One Family Dw.	46,200	77,800	108,500
Two Family Dw.	73,900	92,200	113,000
Three Family Dw.			
Four Family Dw.			
Market Area: ROCK ISLAND			
One Family Dw.	47,800	79,800	111,208
Two Family Dw.	77,300	94,300	115,700
Three Family Dw.			
Four Family Dw.			
Market Area: STERLING			
One Family Dw.	45,800	77,300	108,000
Two Family Dw.	73,900	91,200	111,800
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CINCINNATI, OHIO

	Low Range 1120	Medium Range 1220	High Range 2020
Market Area: CINCINNATI			
One Family Dw.	49,500	58,700	89,400
Two Family Dw.	89,500		
Three Family Dw.	Not typical for the area		
Four Family Dw.	140,000	163,500	
Market Area: DAYTON			
One Family Dw.	43,500	62,000	88,000
Two Family Dw.	See Note		
Three Family Dw.	Not typical for the area		
Four Family Dw.	See Note		
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTE: In the past year construction of the two (2) and four (4) family dwelling unit has declined in the Dayton Area. We, therefore, are submitting no data for this area, for these types of buildings.

NOTICE H 78-111(RED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CLEVELAND, OHIO

	Low Range 1040	Medium Range 1320	High Range 1790
Market Area: CLEVELAND			
One Family Dw.	54,400	81,800	126,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AKRON			
One Family Dw.	51,100	68,000	121,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TOLEDO			
One Family Dw.	53,600	70,800	126,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: YOUNGSTOWN			
One Family Dw.	50,700	67,600	120,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: FINDLEY			
One Family Dw.	53,600	70,800	126,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(REV)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: COLUMBUS, OHIO

	Low Range	Medium Range	High Range
	940	1680	2210
Market Area: COLUMBUS			
One Family Dw.	43,300	64,700	100,800
Two Family Dw.	77,300	97,600	
Three Family Dw.			
Four Family Dw.			162,700
Market Area: ATHENS			
One Family Dw.	38,600	69,400	100,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LIMA			
One Family Dw.	43,600	77,100	100,400
Two Family Dw.	85,700	104,100	
Three Family Dw.			
Four Family Dw.			
Market Area: ZANESVILLE			
One Family Dw.	42,800	60,600	92,100
Two Family Dw.			
Three Family Dw.		110,000	
Four Family Dw.			
Market Area: NEWARK			
One Family Dw.	47,700	67,600	88,400
Two Family Dw.	71,500	90,300	
Three Family Dw.		115,400	
Four Family Dw.		132,000	

(Continuation Sheet)
Field Office: CLEVELAND, OHIO

	Low Range	Medium Range	High Range
Market Area: LORAIN			
One Family Dw.	54,000	70,800	126,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MANSFIELD			
One Family Dw.	49,900	65,700	116,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(REV)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DETROIT, MICHIGAN

	Low Range	Medium Range	High Range
	900	1600	2300
Market Area: DETROIT			
One Family Dw.	49,000	62,200	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: COLUMBUS, OHIO

	Low Range	Medium Range	High Range
Market Area: SPRINGFIELD			
One Family Dw.	44,000	71,300	99,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TROY			
One Family Dw.	38,700	71,400	99,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FLINT, MICHIGAN

	Low Range 1000	Medium Range 1220	High Range 1530
Market Area: FLINT			
One Family Dw.	47,300	60,000	100,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAGINAW			
One Family Dw.	47,000	55,000	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BAY CITY			
One Family Dw.	47,000	55,000	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MIDLAND			
One Family Dw.	47,000	65,000	100,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: GRAND RAPIDS, MICHIGAN

	Low Range 1060	Medium Range 1320	High Range 1860
Market Area: GRAND RAPIDS			
One Family Dw.	45,800	52,100	72,000
Two Family Dw.	62,300	73,700	81,000
Three Family Dw.			
Four Family Dw.			
Market Area: BENTON HARBOR			
One Family Dw.	38,800	45,200	65,200
Two Family Dw.	52,700	64,300	71,600
Three Family Dw.			
Four Family Dw.			
Market Area: JACKSON			
One Family Dw.	43,500	50,300	72,000
Two Family Dw.	60,300	72,600	80,500
Three Family Dw.			
Four Family Dw.			
Market Area: LANSING			
One Family Dw.	46,400	53,100	74,000
Two Family Dw.	67,500	79,500	87,200
Three Family Dw.			
Four Family Dw.			
Market Area: BATTLE CREEK			
One Family Dw.	47,600	53,900	74,000
Two Family Dw.	63,000	76,700	84,000
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: GRAND RAPIDS, MICHIGAN

	Low Range	Medium Range	High Range
Market Area: MUSKEGON			
One Family Dw.	40,500	46,900	67,500
Two Family Dw.	54,980	68,000	75,400
Three Family Dw.			
Four Family Dw.			
Market Area: TRAVERSE CITY			
One Family Dw.	45,900	52,300	72,800
Two Family Dw.	60,300	72,400	79,700
Three Family Dw.			
Four Family Dw.			
Market Area: MT. PLEASANT			
One Family Dw.	41,700	48,100	68,000
Two Family Dw.	56,900	69,500	76,800
Three Family Dw.			
Four Family Dw.			
Market Area: MARQUETTE			
One Family Dw.	46,400	52,900	74,700
Two Family Dw.	63,100	75,900	83,400
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: INDIANAPOLIS, INDIANA

	Low Range 1060	Medium Range 1120	High Range 2100
Market Area: INDIANAPOLIS			
One Family Dw.	44,400	55,700	86,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: FT. WAYNE			
One Family Dw.	43,800	54,400	83,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TERRE HAUTE			
One Family Dw.	46,100	57,900	89,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GARY			
One Family Dw.	54,000	59,800	91,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MILWAUKEE, WISCONSIN

	Low Range 1200	Medium Range 1650	High Range 2020
Market Area: MILWAUKEE			
One Family Dw.	62,100	92,000	137,000
Two Family Dw.	103,300	127,000	169,300
Three Family Dw.	152,600	188,600	248,800
Four Family Dw.	203,500	254,300	333,900
Market Area: MADISON			
One Family Dw.	57,400	85,200	126,700
Two Family Dw.	95,100	117,900	157,700
Three Family Dw.	139,700	174,400	230,500
Four Family Dw.	187,200	233,200	307,900
Market Area: GREEN BAY			
One Family Dw.	48,600	76,400	117,400
Two Family Dw.	84,900	106,800	145,600
Three Family Dw.	129,900	162,400	216,400
Four Family Dw.	173,900	217,200	287,100
Market Area: EAU CLAIRE			
One Family Dw.	45,400	71,900	109,700
Two Family Dw.	81,500	102,900	140,800
Three Family Dw.	122,600	154,600	207,600
Four Family Dw.	164,100	208,800	280,400
Market Area: SUPERIOR			
One Family Dw.	45,400	73,200	113,300
Two Family Dw.	83,800	106,300	146,200
Three Family Dw.	126,300	159,900	215,400
Four Family Dw.	168,600	214,400	288,500

NOTICE # 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MINNEAPOLIS, MINNESOTA

	Low Range 1080	Medium Range 1260	High Range 2010
Market Area: DULUTH			
One Family Dw.	53,100	72,300	98,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HIBBING			
One Family Dw.	52,800	71,900	97,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MANKATO/WORTHINGTON			
One Family Dw.	52,400	71,400	96,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MINNEAPOLIS/ST. PAUL			
One Family Dw.	55,800	75,500	101,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MOORHEAD			
One Family Dw.	52,100	70,900	96,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: MINNEAPOLIS, MINNESOTA

	Low Range	Medium Range	High Range
Market Area: ROCHESTER/AUSTIN			
One Family Dw.	52,800	71,900	97,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ST. CLOUD			
One Family Dw.	52,400	71,400	96,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SPRINGFIELD, ILLINOIS

	Low Range 1130	Medium Range 1350	High Range 2020
Market Area: SPRINGFIELD			
One Family Dw.	51,500	62,900	67,100
Two Family Dw.	53,700	55,000	72,300
Three Family Dw.	75,600	78,400	107,900
Four Family Dw.	100,700	102,100	147,000
Market Area: PEORIA-PEKIN			
One Family Dw.			
Two Family Dw.	SAME AS ABOVE		
Three Family Dw.			
Four Family Dw.			
Market Area: BLOOMINGTON-NORMAL			
One Family Dw.			
Two Family Dw.	SAME AS ABOVE		
Three Family Dw.			
Four Family Dw.			
Market Area: CHAMPAIGN-URBANA			
One Family Dw.			
Two Family Dw.	SAME AS ABOVE		
Three Family Dw.			
Four Family Dw.			
Market Area: BELLEVILLE-ALTON			
One Family Dw.			
Two Family Dw.	SAME AS ABOVE		
Three Family Dw.			
Four Family Dw.			

UMI 308 41 GA 54V

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ALBUQUERQUE SERVICE OFFICE

	Low Range	Medium Range	High Range
Market Area: ALBUQUERQUE	1160	1680	2000
One Family Dw.	49,300	71,600	98,200
Two Family Dw.			
Three Family Dw.		92,300	
Four Family Dw.		118,800	
Market Area: SANTA FE			
One Family Dw.	53,200	74,000	104,600
Two Family Dw.			
Three Family Dw.		108,700	
Four Family Dw.		129,300	
Market Area: CLOVIS			
One Family Dw.	38,300	59,600	74,800
Two Family Dw.			
Three Family Dw.		83,700	
Four Family Dw.		98,400	
Market Area: HOBBS			
One Family Dw.	43,200	55,600	80,700
Two Family Dw.			
Three Family Dw.		94,800	
Four Family Dw.		110,100	
Market Area: LAS CRUCES			
One Family Dw.	45,800	63,100	84,300
Two Family Dw.			
Three Family Dw.		93,800	
Four Family Dw.		113,000	

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DALLAS, TEXAS

	Low Range	Medium Range	High Range
Market Area: DALLAS	1090	1600	2390
One Family Dw.	36,000	66,600	113,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WACO			
One Family Dw.	33,800	60,100	107,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TYLER			
One Family Dw.	34,500	56,200	109,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FT. WORTH, TEXAS

	Low Range	Medium Range	High Range
Market Area: FT. WORTH	1400	1600	2200
One Family Dw.	56,000	66,500	80,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WICHITA FALLS			
One Family Dw.	52,700	61,900	76,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ABILENE			
One Family Dw.	44,800	61,300	77,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BROWNWOOD			
One Family Dw.	42,700	51,900	77,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAN ANGELO			
One Family Dw.	42,700	59,600	77,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HED)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HOUSTON, TEXAS

	Low Range	Medium Range	High Range
Market Area: HOUSTON	1100	1620	2150
One Family Dw.	41,000	67,900	113,600
Two Family Dw.	66,400	94,400	130,300
Three Family Dw.			
Four Family Dw.			
Market Area: BEAUMONT-PORT ARTHUR			
One Family Dw.	39,500	66,900	112,200
Two Family Dw.	64,500	92,800	130,300
Three Family Dw.			
Four Family Dw.			
Market Area: TEXAS CITY-GALVESTON			
One Family Dw.	41,000	68,900	115,100
Two Family Dw.	66,800	95,600	132,600
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 80 41 GA 54V

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LITTLE ROCK, ARKANSAS

	Low Range	Medium Range	High Range
Market Area: LITTLE ROCK	1200	1260	2420
One Family Dw.	39,500	46,900	81,300
Two Family Dw.		80,200	87,500
Three Family Dw.			
Four Family Dw.	101,200	111,700	130,600
Market Area: TEXARKANA			
One Family Dw.	39,200	46,100	76,900
Two Family Dw.		79,500	85,600
Three Family Dw.			
Four Family Dw.	102,600	112,000	130,200
Market Area: JONESBORO			
One Family Dw.	37,000	44,800	75,800
Two Family Dw.		75,300	84,200
Three Family Dw.			
Four Family Dw.	96,000	105,900	125,200
Market Area: FORT SMITH			
One Family Dw.	38,000	46,200	80,300
Two Family Dw.		77,900	88,400
Three Family Dw.			
Four Family Dw.	96,000	110,500	129,400
Market Area: FAYETTEVILLE			
One Family Dw.	38,200	45,700	80,300
Two Family Dw.		76,600	86,900
Three Family Dw.			
Four Family Dw.	98,500	108,900	129,400

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LUBBOCK, TEXAS

	Low Range	Medium Range	High Range
Market Area: AMARILLO	1060	1390	1700
One Family Dw.	35,900	53,300	71,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: EL PASO			
One Family Dw.	35,400	51,400	67,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LUBBOCK			
One Family Dw.	36,000	52,800	70,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MIDLAND-ODESSA			
One Family Dw.	37,200	54,400	73,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NEW ORLEANS, LOUISIANA

	Low Range	Medium Range	High Range
Market Area: NEW ORLEANS	980	1470	2260
One Family Dw.	42,000	67,200	103,400
Two Family Dw.	67,900	106,300	
Three Family Dw.	111,700	134,900	
Four Family Dw.	130,600	175,800	
Market Area: BATON ROUGE			
One Family Dw.	34,000	67,900	107,200
Two Family Dw.	60,100	93,900	
Three Family Dw.	87,600	115,800	
Four Family Dw.	106,400	158,000	
Market Area: HOUMA			
One Family Dw.	38,500	62,300	94,300
Two Family Dw.	67,100	96,300	
Three Family Dw.	95,200	117,900	
Four Family Dw.	115,000	152,000	
Market Area: LAFAYETTE			
One Family Dw.	37,100	61,500	103,300
Two Family Dw.	55,400	81,500	
Three Family Dw.	86,100	107,500	
Four Family Dw.	109,500	145,400	
Market Area: LAKE CHARLES			
One Family Dw.	34,000	55,100	89,300
Two Family Dw.	52,700	84,600	
Three Family Dw.	85,900	106,600	
Four Family Dw.	103,800	141,800	

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: OKLAHOMA CITY, OKLAHOMA

	Low Range	Medium Range	High Range
Market Area: OKLAHOMA CITY	1060	1420	1730
One Family Dw.	40,600	55,300	67,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ENID			
One Family Dw.	40,700	57,400	60,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LAWTON			
One Family Dw.	40,600	56,800	58,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WOODWARD			
One Family Dw.	42,400	58,300	62,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ARDMORE			
One Family Dw.	39,800	55,900	59,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN ANTONIO AREA OFFICE

	Low Range	Medium Range	High Range
	900	1310	1700
Market Area: SAN ANTONIO, TEXAS			
One Family Dw.	32,900	54,500	67,500
Two Family Dw.	54,900	62,000	74,400
Three Family Dw.			
Four Family Dw.			
Market Area: AUSTIN, TEXAS			
One Family Dw.	33,800	54,000	68,700
Two Family Dw.	56,000	63,300	75,800
Three Family Dw.			
Four Family Dw.			
Market Area: CORPUS CHRISTI, TEXAS			
One Family Dw.	33,000	52,700	67,000
Two Family Dw.	54,700	61,700	73,900
Three Family Dw.			
Four Family Dw.			
Market Area: RIO GRANDE VALLEY, TEXAS			
One Family Dw.			
Two Family Dw.	31,900	50,600	64,200
Three Family Dw.	52,500	59,200	70,700
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SHREVEPORT, LOUISIANA

	Low Range	Medium Range	High Range
	1090	1650	2770
Market Area: SHREVEPORT			
One Family Dw.	45,000	83,200	99,600
Two Family Dw.			102,400
Three Family Dw.			
Four Family Dw.			129,000
Market Area: MONROE			
One Family Dw.	41,500	64,100	92,200
Two Family Dw.			95,000
Three Family Dw.			
Four Family Dw.			120,400
Market Area: ALEXANDRIA			
One Family Dw.	43,000	66,100	86,700
Two Family Dw.			97,500
Three Family Dw.			
Four Family Dw.			121,900
Market Area: MARSHALL, TEXAS			
One Family Dw.	38,500	63,100	84,700
Two Family Dw.			97,000
Three Family Dw.			
Four Family Dw.			123,000
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TULSA, OKLAHOMA

	Low Range	Medium Range	High Range
	1220	1530	1920
Market Area: ULSA			
One Family Dw.	51,700	65,900	80,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BARTLESVILLE			
One Family Dw.	51,200	66,100	81,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MCALESTER			
One Family Dw.	47,600	61,900	76,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MUSKOGEE			
One Family Dw.	47,900	62,300	76,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: _____			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DES MOINES, IOWA

	Low Range	Medium Range	High Range
	860	960	1400
Market Area: CEDAR RAPIDS			
One Family Dw.	40,800	60,300	98,900
Two Family Dw.	70,700	107,300	
Three Family Dw.			
Four Family Dw.	106,100	133,500	
Market Area: COUNCIL BLUFFS			
One Family Dw.	40,300	59,500	97,600
Two Family Dw.	69,700	105,800	
Three Family Dw.			
Four Family Dw.	104,600	131,500	
Market Area: DAVENPORT			
One Family Dw.	42,000	61,900	101,500
Two Family Dw.	72,600	110,300	
Three Family Dw.			
Four Family Dw.	108,900	136,600	
Market Area: DES MOINES			
One Family Dw.	40,300	59,500	97,600
Two Family Dw.	69,700	105,800	
Three Family Dw.			
Four Family Dw.	104,600	131,500	
Market Area: SIOUX CITY			
One Family Dw.	39,700	58,800	96,300
Two Family Dw.	68,800	104,300	
Three Family Dw.			
Four Family Dw.	103,000	129,400	

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: KANSAS CITY, KANSAS

	Low Range 1060	Medium Range 1200	High Range 2150
Market Area: KANSAS CITY			
One Family Dw.	49,300	68,800	92,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JOPLIN			
One Family Dw.	54,500	68,600	104,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SEDALIA			
One Family Dw.	53,900	76,400	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SPRINGFIELD			
One Family Dw.	54,000	72,900	102,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ST. JOSEPH			
One Family Dw.	50,400	56,200	91,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: OMAHA, NEBRASKA

	Low Range 960	Medium Range 1020	High Range 1210
Market Area: OMAHA BASE CITY			
One Family Dw.	42,900	47,400	63,100
Two Family Dw.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: LINCOLN KEY AREA #2			
One Family Dw.	44,900	50,000	66,700
Two Family Dw.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: NORFOLK KEY AREA #4			
One Family Dw.	45,600	NOT AVAILABLE	NOT AVAILABLE
Two Family Dw.	NOT AVAILABLE	"	
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: GRAND ISLAND KEY AREA #5			
One Family Dw.	NOT AVAILABLE	53,700	NOT AVAILABLE
Two Family Dw.	"	NOT AVAILABLE	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: NORTH PLATTE KEY AREA #7			
One Family Dw.	NOT AVAILABLE	53,700	NOT AVAILABLE
Two Family Dw.	"	NOT AVAILABLE	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"

(Continuation Sheet)
Field Office: OMAHA, NEBRASKA

	Low Range	Medium Range	High Range
Market Area: SCOTTSBLUFF KEY AREA #8			
One Family Dw.	NOT AVAILABLE	83,700	NOT AVAILABLE
Two Family Dw.	"	NOT AVAILABLE	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ST. LOUIS AREA OFFICE (MO.)

	Low Range 1050	Medium Range 1800	High Range 2360
Market Area: ST. LOUIS			
One Family Dw.	41,000	54,000	85,000
Two Family Dw.		80,000	
Three Family Dw.			
Four Family Dw.			
Market Area: KIRKSVILLE			
One Family Dw.	40,000		92,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COLUMBIA			
One Family Dw.	42,000	52,000	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ROLLA			
One Family Dw.	53,000	67,000	145,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CAPE GIRARDEAU			
One Family Dw.	77,000	95,000	162,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TOPEKA, KANSAS

	Low Range 1060	Medium Range 1200	High Range 2150
Market Area: TOPEKA			
One Family Dw.	48,300	55,000	85,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PITTSBURG			
One Family Dw.	50,300	59,200	85,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WICHITA			
One Family Dw.	50,000	58,900	84,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GARDEN CITY			
One Family Dw.	48,100	55,000	81,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CASPER, WYOMING

	Low Range 900	Medium Range 1930	High Range 1700
Market Area: CASPER			
One Family Dw.	51,500	95,100	111,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHEYENNE			
One Family Dw.	46,900	69,600	103,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CODY/POWELL			
One Family Dw.	49,800	72,000	104,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JACKSON			
One Family Dw.	62,300	96,100	137,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LARAMIE			
One Family Dw.	46,400	67,000	102,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: CASPER, WYOMING

	Low Range	Medium Range	High Range
Market Area: GILLETTE			
One Family Dw.	51,000	74,200	106,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: RIVERTON			
One Family Dw.	50,300	72,600	104,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ROCK SPRINGS			
One Family Dw.	53,300	77,900	113,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DENVER, COLORADO

	Low Range 860	Medium Range 1610	High Range 2110
Market Area: DENVER			
One Family Dw.	41,100	74,100	113,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COLORADO SPRINGS			
One Family Dw.	37,700	67,700	104,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PUEBLO			
One Family Dw.	35,200	64,700	101,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DURANGO, CORTEZ			
One Family Dw.	41,000	77,000	118,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GRAND JUNCTION			
One Family Dw.	39,400	72,200	115,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: DENVER, COLORADO

	Low Range	Medium Range	High Range
Market Area: GREELEY			
One Family Dw.	39,600	73,600	112,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: FORT COLLINS			
One Family Dw.	47,600	77,400	116,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ASPEN/CARBONDALE			
One Family Dw.	53,900	87,900	128,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: RANGELY			
One Family Dw.	41,200	70,900	107,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COLORADO CITY			
One Family Dw.	36,300	64,900	100,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: DENVER, COLORADO

	Low Range	Medium Range	High Range
Market Area: LEADVILLE			
One Family Dw.	35,700	65,800	104,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GEORGETOWN			
One Family Dw.	51,400	83,800	123,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NMFIC # 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FARGO, NORTH DAKOTA

	Low Range 960	Medium Range 970	High Range 1330
Market Area: FARGO			
One Family Dw.	54,400	77,100	91,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BISMARK			
One Family Dw.	54,100	77,700	91,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DICKINSON			
One Family Dw.	54,600	77,300	92,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GRAND FORKS			
One Family Dw.	53,280	75,700	91,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MINOT			
One Family Dw.	51,800	73,900	90,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NMFIC # 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HELENA, MONTANA

	Low Range 860	Medium Range 1330	High Range
Market Area: MISSOULA			
One Family Dw.	46,500	74,800	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.	84,000	114,500	
Market Area: BILLINGS			
One Family Dw.	46,500	75,500	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LEWISTON			
One Family Dw.	47,600	76,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HELENA			
One Family Dw.	48,600	76,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GREAT FALLS			
One Family Dw.	47,600	76,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

(Continuation Sheet)
Field Office: HELENA, MONTANA

Market Area: BUTTE

	Low Range	Medium Range	High Range
One Family Dw.	45,500	75,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: BOZEMAN

One Family Dw.	47,100	76,800	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SALT LAKE CITY, UTAH

	Low Range 890	Medium Range 1110	High Range 1640
Market Area: SALT LAKE CITY			
One Family Dw.	48,600	56,900	96,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		129,500	
Market Area: CEDAR CITY			
One Family Dw.	47,300	61,500	96,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		126,900	
Market Area: LOGAN			
One Family Dw.	46,900	50,900	96,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		127,200	
Market Area: MOAB			
One Family Dw.	46,000	53,000	94,180
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PROVO			
One Family Dw.	50,700	57,400	98,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		133,100	

NOTICE H 78-111(HUD)
FORMAT

(Continuation Sheet)
Field Office: SALT LAKE CITY, UTAH

Market Area: VERNAL

	Low Range	Medium Range	High Range
One Family Dw.	45,400	58,200	92,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: RICHFIELD

One Family Dw.	44,200	49,000	91,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SIOUX FALLAS, SOUTH DAKOTA

	Low Range 900	Medium Range 1450	High Range 1700
Market Area: SIOUX FALLS			
One Family Dw.	44,900	66,800	106,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ABERDEEN			
One Family Dw.	43,600	64,500	104,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: RAPID CITY			
One Family Dw.	45,100	76,100	107,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MITCHELL			
One Family Dw.	42,600	63,200	102,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PIERRE			
One Family Dw.	44,400	64,800	103,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FRESNO SERVICE OFFICE

	Low Range 1150	Medium Range 1580	High Range 2000
Market Area: FRESNO			
One Family Dw.	50,500	75,500	127,000
Two Family Dw.	84,750	128,250	198,750
Three Family Dw.	*25,500	*36,000	*52,000
Four Family Dw.	*32,750	*46,250	*65,500
Market Area: MODESTO			
One Family Dw.	51,000	76,000	128,750
Two Family Dw.	85,500	129,750	200,750
Three Family Dw.	*26,750	*37,500	*54,000
Four Family Dw.	*34,500	*48,500	*71,000
Market Area: VISALIA			
One Family Dw.	49,000	73,250	121,000
Two Family Dw.	84,500	128,500	195,750
Three Family Dw.	*23,750	*34,000	*50,500
Four Family Dw.	*31,000	*44,000	*63,000
Market Area: BAKERSFIELD			
One Family Dw.	48,500	73,500	123,500
Two Family Dw.	83,750	128,000	196,250
Three Family Dw.	*23,250	*33,500	*50,000
Four Family Dw.	*30,250	*42,000	*61,000
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: SIOUX FALLS, SOUTH DAKOTA

	Low Range	Medium Range	High Range
Market Area: WATERTOWN			
One Family Dw.	41,800	61,900	99,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LAS VEGAS, NEVADA

	Low Range 900	Medium Range 1390	High Range 2200
Market Area: LAS VEGAS			
One Family Dw.	46,700	69,400	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HONOLULU AREA OFFICE

	Low Range 900	Medium Range 1400	High Range 1800
Market Area: HONOLULU			
One Family Dw.	98,000	151,000	224,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MAUI			
One Family Dw.	96,000	145,000	177,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HAWAII			
One Family Dw.	74,000	107,000	144,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: KAUAI			
One Family Dw.	75,000	110,000	147,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GUAM			
One Family Dw.	55,000	80,000	101,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LOS ANGELES, CALIFORNIA

	Low Range 1280	Medium Range 2070	High Range 2760
Market Area: LOS ANGELES			
One Family Dw.	71,100	114,000	193,100
Two Family Dw.	126,100		
Three Family Dw.			
Four Family Dw.	178,100	249,300	
Market Area: LANCASTER, PALMDALE			
One Family Dw.	61,000	108,300	163,300
Two Family Dw.	90,600		
Three Family Dw.			
Four Family Dw.	158,100		
Market Area: VENTURA, OXNARD			
One Family Dw.	72,800	106,200	177,500
Two Family Dw.	118,300		
Three Family Dw.			
Four Family Dw.		197,500	
Market Area: SANTA BARBARA, OJAI, PIRU			
One Family Dw.		170,600	233,600
Two Family Dw.	156,200		
Three Family Dw.			
Four Family Dw.		220,600	
Market Area: SAN LUIS OBISPO, SANTA MARIA, PASO ROBLES			
One Family Dw.	60,400	121,800	169,000
Two Family Dw.	109,400		
Three Family Dw.			
Four Family Dw.	169,100		

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PHOENIX, ARIZONA

	Low Range 840	Medium Range 1240	High Range 2370
Market Area: PHOENIX			
One Family Dw.	33,700	60,100	117,600
Two Family Dw.	61,600	90,400	115,600
Three Family Dw.	87,100	107,600	
Four Family Dw.	103,200	136,100	174,400
Market Area: FLAGSTAFF			
One Family Dw.	35,300	62,600	119,600
Two Family Dw.	63,200	93,600	116,700
Three Family Dw.	90,300	109,300	
Four Family Dw.	106,900	136,800	177,200
Market Area: PRESCOTT			
One Family Dw.	34,100	56,400	109,200
Two Family Dw.	59,500	90,300	114,300
Three Family Dw.	83,900	108,900	
Four Family Dw.	109,400	139,200	179,600
Market Area: YUMA			
One Family Dw.	32,200	52,300	100,100
Two Family Dw.	58,900	87,600	108,700
Three Family Dw.	81,800	102,200	
Four Family Dw.	99,400	128,900	164,600
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: RENO, NEVADA SERVICE OFFICE

	Low Range 1050	Medium Range 1390	High Range 2190
Market Area: RENO/SPARKS NEVADA			
One Family Dw.	59,500	72,500	93,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SACRAMENTO, CALIFORNIA

	Low Range 840	Medium Range 1190	High Range 1810
Market Area: SACRAMENTO			
One Family Dw.	47,300	62,500	92,800
Two Family Dw.		81,800	103,700
Three Family Dw.			
Four Family Dw.		175,500	
Market Area: PLACERVILLE			
One Family Dw.	55,100	68,800	93,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHICO			
One Family Dw.	44,300	54,300	99,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: YREKA			
One Family Dw.	46,100	62,600	
Two Family Dw.	82,200		
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

UMI 0 8 4 1 G A 5 4 V

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN DIEGO SERVICE OFFICE

	Low Range 940	Medium Range 1640	High Range 2640
Market Area: SAN DIEGO			
One Family Dw.	64,400	102,800	135,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN FRANCISCO, CALIFORNIA

	Low Range 1260	Medium Range 1470	High Range 2090
Market Area: SAN FRANCISCO			
One Family Dw.	114,800	129,800	181,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAN JOSE			
One Family Dw.	77,800	92,100	151,600
Two Family Dw.		155,900	
Three Family Dw.			
Four Family Dw.			
Market Area: SAN RAFAEL			
One Family Dw.	100,200	119,200	174,700
Two Family Dw.		184,100	
Three Family Dw.			
Four Family Dw.			
Market Area: SALINAS			
One Family Dw.	68,900	81,400	137,200
Two Family Dw.		142,800	
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SANTA ANA, CALIFORNIA

	Low Range 1120	Medium Range 1710	High Range 2190
Market Area: SANTA ANA			
One Family Dw.	61,300	109,300	162,300
Two Family Dw.		161,300	
Three Family Dw.			
Four Family Dw.			
Market Area: VICTORVILLE			
One Family Dw.	55,000	103,300	
Two Family Dw.		130,500	
Three Family Dw.			
Four Family Dw.			
Market Area: INDIO			
One Family Dw.	57,500	106,000	
Two Family Dw.		133,500	
Three Family Dw.			
Four Family Dw.			
Market Area: BLYTHE			
One Family Dw.	53,800	101,800	
Two Family Dw.		127,300	
Three Family Dw.			
Four Family Dw.			
Market Area: BIG BEAR			
One Family Dw.	60,800	113,000	
Two Family Dw.		140,800	
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: SANTA ANA, CALIFORNIA

	Low Range	Medium Range	High Range
Market Area: BISHOP			
One Family Dw.	56,500	106,300	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TUCSON, ARIZONA

	Low Range 910	Medium Range 1280	High Range 2000
Market Area: TUCSON			
One Family Dw.	42,300	63,500	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SIERRA VISTA			
One Family Dw.	42,300	63,500	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: NOGALES			
One Family Dw.	42,300	63,500	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ANCHORAGE, ALASKA

	Low Range 1020	Medium Range 1450	High Range 1800
Market Area: ANCHORAGE			
One Family Dw.	94,300	125,100	146,200
Two Family Dw.	105,600	142,400	166,900
Three Family Dw.			
Four Family Dw.	135,400	194,300	238,900
Market Area: FAIRBANKS			
One Family Dw.	86,700	116,700	138,500
Two Family Dw.	93,700	129,400	155,800
Three Family Dw.			
Four Family Dw.	121,700	183,000	231,500
Market Area: JUNEAU			
One Family Dw.	83,200	112,200	130,900
Two Family Dw.	91,900	126,300	147,400
Three Family Dw.			
Four Family Dw.	120,200	178,900	221,200
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BOISE, IDAHO

	Low Range 1040	Medium Range 1220	High Range 2340
Market Area: BOISE			
One Family Dw.	44,100	56,600	86,800
Two Family Dw.	67,800	76,200	
Three Family Dw.			
Four Family Dw.		160,600	
Market Area: IDAHO FALLS			
One Family Dw.	44,500	52,700	81,300
Two Family Dw.	65,200	73,200	
Three Family Dw.			
Four Family Dw.		153,000	
Market Area: MCCALL			
One Family Dw.	42,700		
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: POCATELLO			
One Family Dw.	44,400	52,500	81,200
Two Family Dw.	65,000	73,000	
Three Family Dw.			
Four Family Dw.		152,800	
Market Area: TWIN FALLS			
One Family Dw.	42,000	54,700	80,900
Two Family Dw.	65,600	73,400	
Three Family Dw.			
Four Family Dw.		150,800	

(Continuation Sheet)
Field Office: BOISE, IDAHO

	Low Range	Medium Range	High Range
Market Area: LEWISTON			
One Family Dw.	44,000		
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COEUR D' ALENE			
One Family Dw.	47,600	56,200	86,300
Two Family Dw.	68,600	77,400	
Three Family Dw.			
Four Family Dw.		166,100	
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PORTLAND, OREGON

	Low Range	Medium Range	High Range
Market Area: PORTLAND (1160)			
One Family Dw.	50,000	58,500	71,000
Two Family Dw.	77,300	85,200	97,700
Three Family Dw.	117,300	128,200	146,800
Four Family Dw.	141,600	155,400	178,300
Market Area: BEND, COOS BAY & EUGENE			
One Family Dw.	48,400	57,200	68,600
Two Family Dw.	74,300	84,100	95,300
Three Family Dw.	115,500	125,100	143,100
Four Family Dw.	137,600	151,000	172,700
Market Area: MEDFORD			
One Family Dw.	48,700	56,600	66,800
Two Family Dw.	73,900	82,800	95,400
Three Family Dw.	115,000	125,800	144,200
Four Family Dw.	139,100	152,800	175,500
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SEATTLE, WASHINGTON

	Low Range	Medium Range	High Range
Market Area: SEATTLE (1060 / 1130 / 1340)			
One Family Dw.	62,100	70,600	77,100
Two Family Dw.	79,300	96,400	123,200
Three Family Dw.		144,300	
Four Family Dw.		192,900	
Market Area: BELLINGHAM			
One Family Dw.	60,700	69,100	75,700
Two Family Dw.	77,800	94,800	121,400
Three Family Dw.		142,400	
Four Family Dw.		190,700	
Market Area: OLYMPIA			
One Family Dw.	59,600	68,200	74,900
Two Family Dw.	77,000	94,400	121,600
Three Family Dw.		142,900	
Four Family Dw.		192,100	
Market Area: ABERDEEN			
One Family Dw.	57,900	66,400	73,000
Two Family Dw.	75,100	92,200	119,000
Three Family Dw.		140,100	
Four Family Dw.		188,700	
Market Area: LONGVIEW			
One Family Dw.	58,100	66,500	73,000
Two Family Dw.	75,200	92,200	118,800
Three Family Dw.		139,800	
Four Family Dw.		188,100	

(Continuation Sheet)
Field Office: SEATTLE, WASHINGTON

	Low Range	Medium Range	High Range
Market Area: PORT ANGELES			
One Family Dw.	59,600	68,200	74,900
Two Family Dw.	77,000	94,400	121,600
Three Family Dw.		142,900	
Four Family Dw.		192,100	
Market Area: YAKIMA			
One Family Dw.	57,800	66,000	72,300
Two Family Dw.	74,500	91,000	116,700
Three Family Dw.		137,300	
Four Family Dw.		184,500	
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SPOKANE, WASHINGTON

	Low Range	Medium Range	High Range
Market Area: SPOKANE (1000 / 1000 / 1100)			
One Family Dw.	44,700	54,700	72,700
Two Family Dw.	60,700	71,500	92,600
Three Family Dw.			
Four Family Dw.	97,300	111,900	131,900
Market Area: CHENEY			
One Family Dw.	45,100	55,300	73,600
Two Family Dw.	61,400	72,300	93,800
Three Family Dw.			
Four Family Dw.	98,600	113,400	133,700
Market Area: KENNEWICK			
One Family Dw.	44,100	63,400	84,900
Two Family Dw.	66,800	80,900	105,600
Three Family Dw.			
Four Family Dw.	113,800	128,600	148,900
Market Area: PULLMAN			
One Family Dw.	44,700	57,300	78,600
Two Family Dw.	59,400	72,400	96,600
Three Family Dw.			
Four Family Dw.	99,700	116,200	138,100
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

[FR Doc. 80-24531 Filed 8-13-80; 8:45 am]
BILLING CODE 4210-01-C

V 45 AG 14 80 UMI

federal register

Thursday
August 14, 1980

Part VI

Department of Energy

Office of Alcohol Fuels and Office of Conservation and Solar Energy

Loan Guarantees for Alcohol Fuels, Biomass Energy and Municipal Waste Energy Projects; Proposed Rulemaking, Written Comments, and Request for Voluntary Applications

DEPARTMENT OF ENERGY

Office of Alcohol Fuels and Offices of Conservation and Solar Energy

10 CFR Part 799

Loan Guarantees for Alcohol Fuels, Biomass Energy and Municipal Waste Energy Projects; Proposed Rulemaking, Written Comments, and Request for Voluntary Applications

AGENCY: Department of Energy.

ACTION: Proposed Rule and Request for Voluntary Applications.

SUMMARY: On June 30, 1980, the President signed the Energy Security Act, Pub. L. 96–294 which contains Title II, the Biomass Energy and Alcohol Fuels Act of 1980 (the "Act"). The Act, among other things, authorizes the Department of Energy ("DOE") to provide various forms of financial assistance to alcohol fuels, biomass energy and municipal waste energy projects to reduce the dependence of the United States on imported petroleum and natural gas. This notice sets forth as a proposal the rules under which DOE will provide loan guarantees to assist such projects, requests public comments on the proposed rule, and establishes dates for public hearings on the proposed rule. This notice also requests persons to file voluntary applications for loan guarantees prior to promulgation of the final rule.

DATES: Written comments in response to this notice September 12, 1980; requests to speak by August 29, 1980; public hearing on the dates set forth below; and speakers to be notified by 4:30 p.m., September 3, 1980. Public hearings:
September 5—Denver, Colorado.
September 8—Chicago, Illinois.
September 9—Washington, D.C.

ADDRESSES: Public hearing begin at 9:30 a.m. and will be held on the following dates and at the following places:
September 5, 1980: Post Ofiice Auditorium, Room 269, 1825 Stout Street, Denver, Colorado
Send Requests To Speak to: Mr. Dale Eriksen, DOE, Region VIII, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, (303) 234–2420
September 8, 1980: Pick Congress Hotel, 8th Floor, Michigan and Congress Avenues, Chicago, Illinois
Send Requests To Speak to: Ms. Janice Rudzinski, DOE, Region V, 175 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8778
September 9, 1980: Room 2105, 2000 M Street, NW., Washington , D.C.
Send Requests To Speak to: Ms. Dorothy Hamid, Room B210, 2000 M Street, NW., Washington D.C. 20461, (202) 653–3974
Written comments should be sent to Public Hearings Management, Department of Energy, Room B210, Box XU, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:
As to alcohol fuels projects: Bert Greenglass, Acting Director, Office of Alcohol Fuels, Mail Stop 6A–211, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9487
As to non-alcohol biomass projects: Leslie S. Levine, Acting Director, Office of Solar Applications for Industry, Mail Stop 404, 600 E Street, NW., Washington, D.C. 20585, (202) 376–4424
As to municipal waste projects: Donald K. Walter, Chief, Community Technology Stystems Branch, Mail Stop 1E–276, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9393
As to hearing procedures: Ms. Dorothy Hamid, Office of Public Hearings Management, Room B210, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3974
As to legal matters: Thomas L. Blair, Office of General Counsel, Mail Stop E–067, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6967

SUPPLEMENTARY INFORMATION: For the submission of voluntary applications: See addresses specified in Subparts B, C, or D of the regulation as applicable.

I. Background
A. Energy Production goals
B. Relationship of USDA and DOE Regarding Alcohol Fuels and Biomass Energy Projects.
C. Availability of Funds
II. Requests for Voluntary Applications
III. Discussion of the Proposed Rule
A. General Provisions
B. Alcohol Fuels Projects
C. Biomass Energy Projects
D. Municipal Waste Energy Projects
IV. National Environmental Policy Act Review
V. Regulatory Analysis
VI. Period for Public Comment
VII. Comment and Hearing Procedures
A. Written Comments
B. Request Procedures
C. Conduct of Hearings

I. Background

The Act provides the framework for a national effort to stimulate the production of energy from alcohol fuels, biomass and municipal waste projects to reduce dependence on imported petroleum and natural gas. DOE and the United States Department of Agriculture ("USDA") are authorized by Subtitle A of the Act to provide loan guarantees, purchase agreements and price guarantees for alcohol fuel and biomass energy projects. DOE is also authorized by Subtitle B of the Act to provide construction loans, construction loan guarantees, price guarantees and price support loans for municipal waste energy projects. This proposal is the first rule promulgated by DOE to implement the Act and concerns loan guarantees only. The United States Department of Agriculture has also issued a proposed rule for implementing its authority to make loan guarantees under the Act. the public is invited to review that proposed rule and comment to DOE regarding any material discrepancies between the two proposed rules which would affect their ability to participate in these programs.

A. Energy Production Goals

Section 211(a) of the Act requires the Secretary of USDA and the Secretary of DOE to prepare a plan for the President and the Congress by the end of this year. This plan will detail the methods for maximizing the production and use of alcohol fuels and biomass energy and be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

Section 211(b) requires submission of a similar plan by January 1, 1982, to cover the period from January 1, 1983, to December 31, 1990. This plan is to be designed to achieve a level of alcohol production within the United States Equal to at least 10 percent of the level of gasoline consumption within the United States, as estimated by the Secretary of DOE for the calendar year 1990. The Secretary of Agriculture and the Secretary of Energy are to include within this plan their evaluation of the feasibility of reaching such goals.

While there is not statutory production goal for municipal waste energy projects, section 231 of the Act does required the Secretary of Energy to prepare a comprehensive plan, in consultation with various heads of other federal agencies, by the end of September 1980. This plan will detail the anticipated research, development, demonstration and commercialization objectives to be achieved; the managment structure and approach to be adopted to carry out the plan; the program strategies and detailed milestones goals; and the total federal and non-federal funding required therefor. A second report, due by January 1, 1982, shall describe any financial, intitutional, environmental and social barriers to the development and application of technologies for the recovery of energy from municipal wastes.

B. Relationship of USDA and DOE Regarding Alcohol Fuels and Biomass Energy Projects

As noted above, USDA and DOE are both authorized under the Act to issue loan guaranteed for alcohol fuels and biomass energy projects. Section 212 of the Act generally provides that USDA is authorized to provide financial assistance to any alcohol fuel or biomass energy project which has an anticipated annual capacity of less than 15,000,000 gallons of ethanol or its energy equivalent and that DOE is authorized to assist biomass energy projects of larger anticipated capacity. However, DOE has the sole authority to provide financial assistance for all projects, without regard to capacity, which use aquatic plants as feedstock. USDA and DOE are both authorized, jointly or separately, to provide financial assistance for any project of 15,000,000, gallons or more which uses wood, wood wastes or residues as the feedstock; or which is owned and operated by an agricultural cooperative. USDA and DOE have jointly issued a notice (published in the Federal Register as 45 FR 52911 on August 8, 1980) which prescribes the method of determining the equivalency of 15,000,000 gallons of ethanol with other energy produced by a biomass energy project. This notice is required under Section 212(g) of the Act.

The Act provides for consultation between the Secretaries of Agriculture and Energy prior to providing financial assistance for biomass energy projects. In addition, either Secretary must concur before the other may offer assistance to projects over 15,000,000 gallons based on wood wood wastes or residues as the feedstock or owned by a cooperative. Although USDA and DOE could issue joint regulations covering these projects, the agencies have determined that the concurrence system rather than the issuance of joint regulations, will result in applications being processed more expeditiously. In addition, the Act also established an Office of Alcohol Fuels and an Office of Energy from Municipal Waste to be located in the Department of Energy. These offices have responsibility for implementing the financial assistance programs established by DOE under the authority of the Act for their respective technology areas.

Availability of Funds

Section 204(a) of the Act provides the Secretary of Energy with an authorization for appropriations under Subtitle A of $800,000,000 of which at least $500,000,000 shall be available to the Office of Alcohol Fuels for its financial assistance activities under the Act, including providing loan guarantees for alcohol fuels projects. In addition to the $800,000,000 authorization, the Act also provides the Secretary of DOE with an authorization for appropriations under Subtitle B of $250,000,000 for carrying out the activities of Subtitle B which contains all the provisions of the Act relating to financial assistance for municipal waste energy projects.

Section 204(c) of the Act provides that for purposes of determining the availability of appropriations, loan guarantees shall be counted at their initial face value.

The Supplemental Appropriations and Recission Act, 1980 (Pub. L. 96–304), which was enacted on July 8, 1980, appropriated a total of $525,000,000 to DOE for carrying out its alcohol fuels and biomass energy activities under the Act. This law also appropriated $220,000,000 to DOE for purposes of carrying out municipal waste energy projects under Subtitle B. DOE gives no assurance that it will in fact issue or conditionally commit ot issue loan guarantees in such total amounts, since such decision can only be made after review and selection of applications in accordance with the provisions of this rule.

II. Requests for Voluntary Applications

Section 212(b)(2) of the Act provides that the Secretary of Energy may use procedures not specified in the Act to the extent the Secretary finds that they will result in applications being processed more expeditiously. Based on this expression of Congressional intent, together with the need for a fast start program in order to meet the production goals previously noted, DOE has determined that it may not initially issue a separate solicitation announcement for the first competition cycle, but will permit the immediate filing of applications for loan guarantees in an initial competition cycle which will remain open until at least October 1, 1980 as discussed below. In this context, the provisions of this paragraph constitute the equivalent of a solicitation announcement as required in § 799.3(c) of the proposed rule. Therefore, DOE requests interested persons to submit their applications for loan guarantees so that evaluations of such applications may commence at once. A response to this request before the proposed rule becomes final is voluntary and involves some risks to early applicants. If the final rule differs from the proposed rule, it may be necessary for initial applicants to amend their applications to come into conformity with the final rule. Since few proposed rules become final without any changes, it is likely that such amendments will be necessary. In addition, this proposed rule has been submitted to the Office of Management and Budget for clearance under the provisions of the Federal Report Act. Therefore, revisions or additions may occur as a result of such review and necessary changes will be reflected in the final rule.

DOE anticipates, and the rule so reflects, that the final rule will be effective on its publication rather than 30 days thereafter as normally required and that no applications received after the tenth day following the date of the publishing of the final rule will be considered during the initial competition cycle. This competitive cycle will not end, in any event, before October 1, 1980. Thereafter, for applications under Subpart A, an additional competition cycle shall occur beginning on the eleventh day following final publication and ending on December 31, 1980 whereupon competition cycles shall occur for all types of applications as described in § 799.3 of the proposed rule. Although evaluation of voluntary applications will begin immediately upon receipt, final selection from the applications received in this initial competitive cycle will not occur until after such tenth day, Applications for this first competition cycle should be filed at the locations identified in the applicable subparts (B, C, or D) of the proposed rule.

III. Discussion of the Proposed Rule

This proposal, which sets forth the guidelines and procedures to be used for the alcohol, biomass energy and municipal waste energy loan guarantee programs, consists of four subparts. Subpart A contains general provisions relating to all loan guarantees under the Act; Subparts B, C and D contain the specific provisions relating to the alcohol fuels, biomass energy and municipal waste energy loan guarantee programs, respectively. Each of these subparts is discussed below.

A. General Provisions

Subpart A of the proposed rule contains sixteen sections which will be applicable to all DOE loan guarantees for biomass energy projects. Each section of the subpart is discussed in the order in which it appears. This discussion also identifies those sections upon which DOE particularly desires the views of the public.

Section 799.1 states the purpose of the regulation and further provides that the authority of the Secretary to issue loan guarantees under the rule is limited to the extent provided in advance in appropriation acts.

Section 799.2 sets forth the definitions to be used throughout the regulation. Many of these definitions come directly from the Act while others are defined in accordance with their normal meaning, with specific language, where required, to make them applicable to loan guarantees under this regulation. A number of these definitions are discussed below. DOE has defined applicant in the broadest sense. This would allow any legal form of business entity and any State, local, or special purpose governmental unit to be eligible to file applications for loan guarantees. Further, in accordance with the Act, projects which receive guarantees under this regulation must be built and operated in the United States. DOE has included a definition of "contracting officer" to make it clear that such official is the only DOE representative legally authorized to contractually obligate the Department and enter into agreements that are binding upon the Department. Parties dealing with the agency regarding activities covered by this rule, should inquire as to the representative's authority as a contracting officer. "Loan" is broadly defined to include any form of appropriate financial obligation to which a guarantee could be attached under the proposed regulation. Finally, it should be noted that the definition of "municipal waste," in accordance with the provisions of the Act, includes, among other things, industrial or commercial waste, but excludes any hazardous waste. However, for environmental reasons, explained in Part IV of this preamble, DOE is proposing to temporarily not accept applications for the utilization of industrial waste, except for limited categories specified. With respect to hazardous waste, DOE is proposing a definition of "municipal waste" which excludes any hazardous waste listed by the Environmental Protection Agency in 40 CFR Part 261 pursuant to the Resource Conservation and Recovery Act of 1976, Pub. L. 94–580, as well as any other waste determined by the Secretary to be hazardous on a case by case basis. The proposed rule specifically makes projects found by the Secretary to involve hazardous waste ineligible to receive a loan guarantee.

Section 799.3, which is entitled Solicitation, Evaluation, and Approval of Applications, is a particularly important section of the regulation for the public to review because it describes the general policies and procedures which will be utilized by DOE in receiving, evaluating, and approving applications which become eligible for the issuance of a loan guarantee. DOE intends the process specified to provide for competition between guarantee applicants within a technology area for the amount of loan guarantees that are available in each competition cycle.

The selection of applications after a competitive evaluation does not, however, necessarily mean those applications selected will receive loan guarantees. The Application Approving Official will identify the conditions under which DOE will execute a loan guarantee for a particular application. Thereafter negotiation will be undertaken with the applicant and the applicant's lender to determine if the application will result in a transaction which meets the Department's conditions and complies with the provisions of the regulation. While the Department is optimistic that successful negotiations will occur in every case, it is realistic to assume that some selected applicants may ultimately fail to receive executed loan guarantees. The procedure by which DOE intends to notify the public of the availability of loan guarantees is through the publishing of a Solicitation Announcement in the **Federal Register** and the Commerce Business Daily. Parties interested in submitting applications, but who are unable to determine if in fact applications are being solicited, should make inquiries through one of the offices listed for receipt of such applications. Applications should be submitted to those offices specified in Subpart B, C, or D, as appropriate.

Section 799.4 sets forth the detailed information which must be included in an application. The requirements contained in this section are designed to ensure that applications provide the information necessary for accurately evaluating and ranking applicants and their projects. Among other things, the proposed rule requires that applicants supply detailed technical, financial, environmental, legal, and marketing information concerning the project for which a loan guarantee is sought. It is the applicant's responsibility to organize the application in accordance with the evaluation consideration areas described in § 799.3(e) of the proposed rule. The application should contain sufficient information to allow the DOE evaluation panel to make recommendations to the Application Approving Official concerning the ability of the applicant to comply with the requirements described in § 799.6 of the proposed rule and to apply the policy considerations described in § 799.5.

Applications timely received by the Department of Energy, will be comparatively evaluated with other applications received during the same competition cycle. The panel evaluating the applications will rank the applications and make recommendations to the Application Approving Official concerning the selection of applications for possible award. The Application Approving Official may direct the panel to undertake competitive negotiations with one or more of the applicants prior to making a selection when the Application Approving Official determines competitive negotiations to be necessary. These negotiations will further identify for the Application Approving Official those projects most capable of achieving the objectives specified by the Secretary. The Application Approving Official shall then designate those applicants to which conditional commitments should be issued. The purpose of the conditional commitment is to identify those terms and conditions upon which the Department of Energy will issue a guarantee to the applicant. Officials of the Department of Energy will then undertake negotiations in an effort to satisfy the conditions of the conditional commitment and bring the transaction to a closing. Interested parties are specifically requested to provide comments to the Department regarding the procedures for the evaluation and selection of competing proposals.

Section 799.5 contains the general policy considerations which the Department will use as part of the evaluation process. These policy considerations include the extent to which the guarantee is needed, the amount of borrower equity in the project, the degree of risk of the lender, the availability of feedbacks, the length of time to which the Government is exposed to risk in the project, the percentage of the guarantee, and factors associated with competition in the energy industry. Public comments are invited on the proposed policy factors to be applied by the Department as part of the application evaluation process. Particular comments are requested on subsection (b) of § 799.5 which provides that the amount of the guarantee shall not in any event exceed 90% of the principal and accured interest of the loan. The Department of Energy has decided to limit guarantees to partial guarantees of not more than 90% in order to ensure compliance with the provisions of the Act which require that the lender bear an appropriate degree of risk in the financing of the biomass energy project. The Department would be particularly interested in receiving comments from lenders concerning their willingness to participate in the program under a maximum 90% guarantee and other ways which could be utilized by the Department to ensure that the lender bear an appropriate degree of risk in the project.

Section 799.6 specifies required determinations for the issuance of a guarantee and § 799.7 specifies terms and conditions that will be contained in the guarantee agreement. Comments are desired from potential borrowers and lenders concerning these requirements and terms and conditions and whether or not they pose potential problems to borrowers or lenders who might wish to participate in the program. Comments are particularly desired on § 799.6(c) which provides that guaranteed loans be secured by a first lien on assets of the project but in some instances may find other lien positions acceptable. Comments are also invited on § 799.7(a)(2) and (3) which pertain to patents and other technology utilized or developed in the course of a project to which a guarantee is issued.

Section 799.9 deals with those circumstances under which the Secretary may limit the guarantee to the amount of funds that have then been disbursed under a guaranteed loan. Subsection (b)(3) provides that one of the reasons for such limitation of the guarantee would be if the Secretary determines that the economic or environmental acceptibility of the project is no longer achievable. This is an important consideration which should be fully understood by prospective borrowers and lenders. In no event would be Secretary be able to terminate the protection of the guarantee to that portion of the loan that had already been disbursed, in accordance with the terms and conditions of the guarantee and lending agreements, assuming no other violations of the guarantee had occurred.

Section 799.10 attempts to illustrate eligible and ineligible project costs. Comments are requested from prospective applicants concerning the list of eligible and ineligible project costs and whether any such includable or excludable costs pose significant problems for the project which is contemplated.

Section 799.13 establishes servicing requirements by the lender in the servicing of loans which are guaranteed under this proposed rule. Prospective lenders should review such requirements and comment upon their ability or inability to comply with this section.

Section 799.15 establishes default circumstances which will result in a payment on a guarantee by the Secretary, and defines the rights of the lender to accelerate the debt and make demand with or without the consent of the Secretary. Basically this section provides that the lender may accelerate the debt without the consent of the Secretary only when the borrower is in default as a result of the failure to pay principal or interest on the debt in accordance with the terms and conditions of the debt instrument. Other occasions of default will require the Secretary's consent before the lender can accelerate and make demand for payment pursuant to the guarantee. In all cases the lender will be required to give written notice to the Secretary prior to taking any adverse action against the borrower. Also included in this section of the proposed rule are provisons for liquidation of collateral. Because partial guarantees are involved in transactions made under this rule, the Department envisions that joint plans of liquidation will be involved in most loan default situations. Lenders are particularly requested to comment upon the provisions of this section.

Finally, § 799.16 provides procedures by which disputes arising out of a guarantee agreement or other contractual relationships made under the proposed rule may be decided by the Financial Assistance Appeal Board of the Department. The purpose of this provision is to provide a method of resolving disputes which may make recourse to the courts unnecessary. The provisions do not, however, prevent any party from pursuing his or her legal rights in an appropriate court of law should such action become necessary.

B. Alcohol Fuels Loan Guarantee Program

Subpart B sets forth the policies and procedures which apply to alcohol fuels projects in addition to those applicable under Subpart A to any loan guarantee under the Act. The purpose of Subpart B is set forth in § 799.20. Section 799.22 gives the addresses where applications may be filed. Section 799.23 establishes the additional eligibility requirements for projects as specified in Section 212 of the Act, and as discussed in the Background section of the preamble. Section 799.24, also implementing requirements of the Act, sets forth additional required findings and determinations which the Application Approving Official must make, and the need to consult, and, where applicable, obtain the concurrence of the Secretary of Agriculture. Finally, § 799.25 sets forth the requirements of the Act that certain projects be given priority.

C. Biomass Energy Loan Guarantee Program

In a similar manner, Subpart B sets forth the policies and procedures which apply to biomass energy projects not covered under Subpart B or Subpart D. The sections of this subpart include those type of provisions as mentioned in the discussion of Subpart B. These policies and procedures are in addition to those applicable under Subpart A to any loan guarantee under the Act.

D. Municipal Waste Energy Loan Guarantee Program

Similarily, the provisions of Subpart D deal with eligibility requirements, additional application requirements, policy considerations, additional required findings and determinations, priorities, tax treatment of obligations, and interagency coordination with EPA. These provisions are unique to municipal waste energy projects. Most of these provisions are based on the language of the Act or the related conference report.

IV. Compliance with the National Environmental Policy Act (NEPA)

Although the Secretary is obligated under section 212 of the Act to promulgate program guidelines within 90 days, DOE is endeavoring to comply with the NEPA to the fullest extent possible prior to promulgation of these guidelines. In this connection, DOE has completed or will expeditiously complete, programmatic NEPA reviews of the three separate components of the program covered by the Act.

A. DOE published a notice of availability of an environmental assessment (EA) (DOE/EA–0095) and negative declaration in the **Federal Register** on July 18, 1979 (44 FR 42110) stating that the Department's overall urban waste program (covering municipal waste other than industrial waste) would not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of NEPA, 42 U.S.C. 4321 *et seq.* DOE has reviewed this EA and negative declaration and has concluded that the analysis in the EA and the negative declaration (i.e., the finding of no significant impact) are applicable to this rulemaking.

V 45 A G 1 4 8 0 UMI

Industrial waste, which is included in the Act's definition of municipal waste, is not covered by the urban waste EA. Therefore, DOE is preparing a separate industrial waste EA, which may support: (1) A finding of no significant impact as to certain industrial waste processes; and (2) a determination that, as to other industrial waste processes, environmental impacts could be significant. Consequently, in the near term loan guarantees would be available only for those technologies with impacts that are environmentally not significant under NEPA, as determined by the final EA and a finding of no significant impact. (These technologies are expected to include those using waste wood, waste paper, and food process waste which do not constitute agricultural or forest wastes.) See proposed § 799.43(b). Following completion of a programmatic environmental impact statement (EIS) concerning industrial waste, DOE may amend the rule to permit issuance of loan guarantees for additional technologies covered in the EIS. Should the EA not support a finding of no significant impact for certain industrial waste processes, proposed § 799.43(b) would be appropriately amended and all loan guarantees for industrial waste processes would be deferred until EIS completion.

B. DOE issued a notice of availability of an EA (DOE/EA–0107) and a finding of no significant impact on June 27, 1980, which reflected DOE's determination that the impacts of increasing production of alcohol by 30,000 barrels/day would not constitute a "major Federal action significantly affecting the quality of the human environment." DOE has reviewed the EA and believes that the analysis in the EA will be generally applicable to the first phase of the alcohol program under this Act. In any event, DOE is presently preparing a programmatic EA on biomass energy including alcohol fuels. This EA is expected to support both DOE's preparation of the plan required by Section 211(a) and awards made in the second (and subsequent) competitive cycles should the EA not support a finding of no significant impact, then a programmatic EIS will be prepared. Furthermore, DOE will undertake the preparation of an EIS to support preparation of the plan required by Section 211(b).

In addition to the environmental analyses referred to above, DOE will evaluate (and point score) the environmental aspects of each proposal as set forth in the application's environmental report. Further, DOE will complete prior to issuing any loan guarantee, any appropriate NEPA site-specific analysis that may be required.

IV. Review Under Executive Order 12044 and OMB Circular A–116

Today's proposal was reviewed under Executive Order 12044, (43 FR 12661, March 23, 1978) implementing DOE directives thereunder and OMB Circular A–116. DOE has determined that it will be "significant" because of its widespread impact. However, DOE has concluded that it will not be "major" because it will not have the kind or degree of effect which, under Executive Order 12044, necessitates a regulatory analysis. For the same reason, an urban and community impact analysis under OMB Circular A–116 is not required.

V. Period for Public Comment

Taking into account the 90 day statutory deadline for promulgating this as a final regulation, DOE has determined that it would be inappropriate to delay final issuance of this rulemaking any longer than is absolutely required to allow a minimally adequate period for public comment. Accordingly, a 30-day comment period rather than a 60-day period is being provided for public review and comment on this proposed rulemaking.

In light of these considerations, DOE believes that good cause exists to make the final rule effective on the date it is published. Comments of the public are solicited on this course of action.

VI. Comment and Hearings Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to today's proposed rule. comments should be submitted by September 12, 1980, to the address indicated in the beginning of this preamble. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "ESA loan guarantees." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue, SW, between 8:00 a.m. and 4:00 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established in 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Hearing Procedures

The time and place of the public hearings are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in this proposed regulation, or who is representative of a group or class of persons that has such interest, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the addresses indicated in the addresses section of this preamble, must be received before 4:30 p.m., August 29, 1980 and may be hand-delivered to such address, between the hours of 9:00 a.m. and 4:30 p.m.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted during the day.

DOE will notify each person selected to appear at the hearings on or before September 3, 1980. Each person selected to be heard should bring 50 copies of his or her statement to the hearing location.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination. At the conclusion of all initial oral statements, each person who has made an oral statement will, if time permits, be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be asked.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 pm., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Part 799 as set forth below.

Issued in Washington, D.C., August 8, 1980.

John A. Hewitt, Jr.,

Acting Secretary of Energy.

PART 799—LOAN GUARANTEES FOR ALCOHOL FUELS, BIOMASS ENERGY AND MUNICIPAL WASTE ENERGY PROJECTS

Subpart A—General Provisions

Sec.
799.1 Purpose.
799.2 Definitions.
799.3 Solicitation, evaluation, and approval of applications.
799.4 Applications.
799.5 Policy considerations.
799.6 Required finding and determination.
799.7 Guarantee Agreement terms and conditions.
799.8 Loan Agreement requirements and conditions.
799.9 Withdrawal or limitation of guarantee.
799.10 Project costs.
799.11 Cost overruns.
799.12 Principal and interest assistance.
799.13 Lender servicing requirements.
799.14 Project monitoring.
799.15 Default, demand, payment, and collateral liquidation.
799.16 Appeals.
799.17 Deviations and contract modifications.

Subpart B—Alcohol Fuel Projects

799.20 Purpose.
799.21 Program management and administration.
799.22 Receipt of applications.
799.23 Eligible projects.
799.24 Additional required findings and determinations.
799.25 Priorities.

Subpart C—Biomass Energy Projects

799.30 Purpose.
799.31 Program management and administration [Reserved].
799.32 Receipt of applications.
799.33 Eligible projects.
799.34 Additional required findings and determinations.
799.35 Priorities.

Subpart D—Municipal Waste Energy Projects

799.40 Purpose.
799.41 Program management and administration [Reserved].
799.42 Receipt of applications.
799.43 Eligible and ineligible projects.
799.44 Additional application requirements.
799.45 Policy considerations.
799.46 Additional required findings and determinations.
799.47 Priorities.
799.48 Tax treatment.
799.49 EPA role in program administration.

Authority:—Title II of the Energy Security Act (Pub. L. 96–294), 94 Stat. 683, 42 U.S.C. 8801 et seq. and the Department of Energy Organization Act (Pub. L. 95–91), sec. 644, et seq. 91 Stat. 599 (42 U.S.C. 7254).

Subpart A—General Provisions

§ 799.1 Purpose.

The purpose of this regulation is to set forth policies and procedures utilized by the Secretary to receive, evaluate, and approve applications seeking federal loan guarantees for the financing of biomass energy projects (which include alcohol fuels, biomass, and municipal waste energy projects). This regulation also identifies those requirements and conditions which will be imposed by the Secretary under loan guarantees issued for the purpose of providing financial assistance for the construction of biomass energy projects. The authority of the Secretary to issue loan guarantees under this regulation shall be limited to the extent provided in advance in appropriation acts.

§ 799.2 Definitions.

For the purposes of this regulation:

"Act" means the Biomass Energy and Alcohol Fuels Act of 1980, Pub. L. 96–294 (Title II).

"Alcohol" means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

"Applicant" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any state or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization which has the authority to enter into and is seeking a loan guarantee under this regulation.

"Application Approving Official" means the Secretary or person designated by the Secretary who is authorized to approve an application for a loan guarantee under this regulation and to authorize the negotiation and award of commitments to guarantee, guarantee agreements and other contractual documents. In the case of loan guarantees issued under Subpart B of this part, the Secretary has designated the Director of the Office of Alcohol Fuels as the Application Approving Official.

"Application Evaluation Panel" (also referred to as "the Panel") means a team of Federal employees appointed by an Application Approving Official to evaluate loan guarantee applications and make approval or disapproval recommendations regarding such applications.

"Biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural waste and residues, wood and wood waste residues, animal waste, municipal waste, and aquatic plants.

"Biomass energy" means biomass fuel; or energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

"Biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass.

"Biomass energy project" means any facility (or portion of a facility) located in the United States which is primarily for the production of biomass fuel (and by-products); or the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including congeneration).

"Borrower" means any applicant who enters into a loan all or any portion of which is guaranteed under this regulation.

"Btu" means British thermal unit.

"Cogeneration" means the combined generation by any facility of electrical or mechanical power, and steam or forms of useful energy (such as heat) which are used for industrial, commerical, heating or cooling purposes.

"Competiton cycle" means the period of time in which applications will be received for evaluation. The initial competition cycle will expire on the fifteenth day following the effective date of this regulation. An additional competition cycle may occur immediately thereafter and end on December 31, 1980. Then, beginning with 1981, the competition cycle for applications submitted under Subparts B and C will begin with the first day of each calendar quarter (e.g. January 1, April 1, July 1 and October 1) and expire on the last day of each calendar quarter (e.g. March 31, June 30, September 30

and December 31) unless otherwise

the Application Approving Official in his or her sole discretion;

(3) Late applications, unless excepted in paragraph (d)(2) of this section, will

(ii) Market potential and economic feasibility;

and December 31) unless otherwise modified as provided in § 799.3. For applications submitted under Subpart D, beginning in 1981, the competition cycle will begin on January 1 and July 1, and end on June 30 and December 31 respectively, unless otherwise modified as provided in § 799.3.

"Construction" means the construction or acquisition of any biomass energy project; for the conversion of any facility to a biomass energy project; or the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy. Such term includes the acquisition of equipment and machinery for use in or at the site of a biomass energy project and the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project including the capital costs necessary to meet environmental standards. Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

"Cooperative" means any agricultural association as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

"Contracting Officer" means the Department of Energy official warranted and authorized to contractually obligate the Department of Energy and execute written agreements that are binding on the Department.

"Cost overrun" means any cost that exceeds the estimated total cost of the project as established by the Secretary prior to or at the time of the execution of a loan guarantee agreement.

"Default" means the actual failure by the borrower to make payment of principal or interest in accordance with the terms and conditions of a loan guaranteed under this regulation, or the failure of the borrower to meet other requirements specified as a default condition in the guarantee agreement.

"Disadvantaged business concern" means a concern which is at least 51 percent owned by one or more socially and economically disadvantaged individuals (as defined in Pub. L. 95–507).

"Federal Agency" means any Executive agency, as defined in Section 105 of Title 5, United States Code.

"Guarantee Agreement" means the same as that definition contained herein for "Loan Guarantee".

"Holder" means a person or entity holding in due course all or part of the rights, title and interest in the guaranteed portion of the loan.

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Lender" means any entity which makes a loan that is guaranteed under this regulation. Examples of lenders include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, institutional investors, venture capital investment companies, trust companies, trusts, or other entities designated as trustees or agents acting on behalf of bond holders or other lenders: *Provided*, That the term lender does not include the Federal Financing Bank, or any other Federal agency.

"Loan" means any written financial obligation, including, but not limited to, bonds, debentures, notes, or other instruments, under which the payment of money is guaranteed in accordance with the provisions of this regulation.

"Loan guarantee" or "Guarantee agreement" means a written agreement issued by the Department of Energy that guarantees, in accordance with the terms and conditions contained therein, the payment of sums of money owing by a borrower to a lender.

"Motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

"Municipal waste" means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse from any publicly or privately operated municipal waste collection or similar disposal system, or from similar waste flows (other than such flows which constitute agricultural waste or residues, or wood waste or residues from wood harvesting activities or production of forest products). Such term does not include any hazardous waste specifically listed in 40 CFR Part 261 or which when utilized in any biomass energy project would, in the opinion of the Secretary, endanger the public health or negatively impact the environment in a significant way.

"Municipal waste energy project" means any facility (or portion of a facility) located in the United States primarily for—

(a) The production of biomass fuel (and byproducts) from municipal waste; or

(b) The combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

"Primary fuel" means the predominate fuel used by the biomass energy project and does not include incidental use of petroleum and natural gas.

"Project cost" means any cost that is described in § 799.10 of this regulation.

"Secretary" means the Secretary of Energy or his designee, by delegation or otherwise.

A "small business" is a concern which, including its affiliates, is independently owned and operated and not dominant in its field of operation, has a net worth less than $6 million or has an average net income (after Federal income taxes) for the preceding two years of less than $2 million or has 1000 employees or less.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

§ 799.3 Solicitation, evaluation, and approval of applications.

(a) *Competition.* It is Department of Energy policy to solicit and evaluate applications on a competitive basis as provided herein. Each application received in accordance with the provisions of this regulation will be considered within the competition cycle in which it is received.

(b) *Application Process.* The Application Process will consist of the following:

(1) The continuing solicitation of applications during the competition cycle or otherwise as provided in paragraph (c) of this section;

(2) Submission of an application which complies with § 799.4 of this regulation;

(3) Preliminary review and screening of applications;

(4) Comparative evaluation;

(5) Selection of applications, to the extent that appropriations are available, by the Application Approving Official for commitment to guarantee, subject to appropriate conditions as determined by the Application Approving Official in his or her sole discretion;

(6) Issuance of such conditional commitment;

(7) Negotiation; and

(8) Execution of a loan guarantee upon satisfaction of conditions in such conditional commitment.

(c) *Solicitation announcement.* (1) The Secretary will, after the beginning of each competition cycle, issue a Solicitation Announcement, which shall at a minimum be published in the Federal Register and the Commerce Business Daily. A Solicitation Announcement will indicate some or all of the following:

(i) The place and time for application submission;

(ii) The programmatic or technological areas that will be emphasized in the next competition cycle;

(iii) Identification of the issuing office;

(iv) Identification of statutory authority and relevant regulations;

(v) Any special requirements not contained in the regulation;

(vi) Application receipt deadline and location to which application must be delivered if different from that specified in the regulation;

(vii) The extent to which appropriations are currently available for loan guarantees; and

(viii) Date of presubmission conference, if any, open to all interested parties.

(2) Presubmission discussion between prospective applicants and DOE personnel (other than the Contracting Officer or designee) regarding the competition is prohibited outside the presubmission conference.

(d) *Receipt and handling of applications.* (1) Applications for loan guarantees may be filed at the addresses specified in the applicable subparts of this regulation in accordance with the type of project to be undertaken.

(2) An application received after 4:30 p.m. at the location of filing on the last day of the competition cycle will not be considered in that competition cycle unless

(i) It is received before a commitment to guarantee is made under that solicitation cycle and;

(ii) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of the application; or

(iii) It was sent by mail and is determined by the contracting officer that the late receipt was due solely to mishandling by the Department of Energy after receipt at the Department of Energy receiving office.

(3) Late applications, unless excepted in paragraph (d)(2) of this section, will be considered in the next competition cycle, if any.

(e) *Evaluation and ranking of applications.* (1)(i) Evaluation and ranking of applications shall be accomplished by an appointed Application Evaluation Panel or other appropriate officials designated by the Application Approving Official (hereinafter referred to as the Panel) for the purpose of determining eligibility of applications and identifying those best suited for selection to accomplish the purpose of the Act. The application evaluation process is intended to provide the Application Approving Official with appropriate findings to permit an optimal selection from among competing applications. The Panel shall be appointed by the Application Approving Official. The Panel is responsible for preliminary review and screening, comparative evaluations, and presentation of its findings and recommendations to the Application Approving Official.

(ii) Applicants shall not be permitted to modify applications in the course of evaluations, nor are discussions with applicants anticipated, except as provided by paragraph (f) of this section, prior to completion of evaluations and presentation of findings to the Application Approving Official.

(iii) Applicants shall not be permitted to modify applications in the course of evaluations, nor are discussions with applicants anticipated, except as provided by paragraph (f) of this section, prior to completion of evaluations and presentation of findings to the Application Approving Official.

(2) Preliminary review and screening of all applications received shall be conducted to determine which applications should be considered in comparative evaluations. The Panel shall review the applications to determine whether each application:

(i) Appears to comply with statutory requirements for project eligibility;

(ii) Appears to comply with programmatic eligibility requirements stated in this regulation and the Solicitation Announcement, if any;

(iii) Contains sufficient information to enable the Panel to perform a comparative evaluation; and

(iv) Is signed by an authorized official of the applicant organization and the lending institution making the loan.

(3) The Panel shall consider the following in comparatively ranking applications:

(i) Technical project feasibility and likelihood of success;

(ii) Market potential and economic feasibility;

(iii) Financial

(A) Credibility of cost estimates,

(B) Adequacy of capitalization, cash flow, working capital, and other financial capability,

(C) Financial condition of applicant and other principals:

(iv) Financing structure

(A) Financial commitment of applicant and other principals to the project,

(B) Lender commitment and debt financing plan,

(C) Other factors which are relevant to a full description of the particular financing structure of the proposed project;

(v) Management plan

(A) Corporate and personnel experience,

(B) Management organization and interrelationships,

(C) Key personnel and associated responsibilities;

(vi) Environmental, health, safety and socio-economic impacts of the proposed project; and

(vii) Ability of applicant to comply with requirements of this regulation.

(4) In developing its recommendations, the Panel shall also utilize the policy considerations specified in § 799.5 and the policy considerations specified in the applicable subparts of this regulation.

(5) The Panel shall present to the Application Approving Offical its ranking of the applications together with its findings and recommendations in a comprehensive report, which represents internal evaluations and judgments prior to final decision making.

(f) *Selection of Applications.* The Application Approving Official may, in his sole discretion, select any number of the competing applications, subject only to the requirement that appropriations be available for the total guaranteed loan amount of the applications selected.

(1) Prior to making a decision, the Application Approving Official may determine that additional project specific information is required. Such additional information requirements will be communicated in writing directly to all applicants still competing, or, in some cases, their respective lenders or servicers.

(2) The Application Approving Official will consider the report of the Panel and such other information as the Application Approving Official determines to be relevant pursuant to the provisions of this regulation in selecting applications for conditional

V 45 A G 1 4 8 0 UMI

commitments or competitive negotiations, as appropriate.

(3) When the Application Approving Official determines that competitive negotiations are appropriate, the Panel will negotiate with all or a subset of competing applicants indentified by the Application Approving Official for the purpose of clearly defining the degree and extent of the competitive issues related to the applications prior to the selection of applications for conditional commitments. The Panel will revise its report to the Application Approving Official to reflect the results of negotiations.

(4) Upon, or, in some cases, subject to, the satisfactory completion of the rquirements contained in this section, the Application Approving Official may authorize a contracting officer to issue a conditional commitment to provide a guarantee for the transaction proposed by the application. The conditional commitment will identify the terms and conditions under which the guarantee would be issued, and any additional requirements to be placed upon the applicant as a condition of the guarantee.

(5) Decisions by the Application Approving Official shall be made within 120 days of the deadline for receipt of applications (as specified in the Solicitation Announcement). For the purpose of beginning this 120 day period, all applications received during a competition cycle shall be considered as received on the last day of the competition cycle. Those applications not approved for issuance of a conditional commitment shall receive an immediate notification of such disapproval and reasons therefor from the Contracting Officer.

(6) After the Conditional Commitment is executed, negotiations will normally be conducted with the borrower and the lender to determine compliance with the conditions established by the Application Approving Official. The Application Approving Official shall designate a Contracting Officer and other DOE representatives for the purpose of negotiations. In the event that these representatives are unable to negotiate agreements that satisfy such conditions, they shall advise the Application Approving Official who shall determine if the applications should be disapproved or the conditions of the commitment modified.

(g) *Post Selection Negotiation and Closing.* (1) Subsequent to execution of a conditional commitment, the Application Approving Official shall designate a Contracting Officer to ensure that the conditions of the conditional commitment are met and negotiate such terms and conditions of the guarantee agreement and related documents as may be required to comply with the Act and this regulation including §§ 799.7 and 799.8.

In performing the functions under paragraph (g)(1) of this section, the Contracting Officer may request necessary additional information from any relevant party.

(3) If, withing a reasonable period of time, the Contracting Officer is unable to negotiate satisfactory terms and conditions, or conditions of the conditional commitment cannot be met, on a timely basis, the Application Approving Official shall determine whether to continue negotiations, authorize modification of the commitment, disapprove the application, or take other appropriate action. A condition of the conditional commitment shall be unsatisfied unless the Contracting Officer certifies in writing that the condition has been met or, in the alternative, the guarantee agreement is executed.

(4) If the Contracting Officer can negotiate satisfactory terms and conditions in the instruments to be used in the closing of the guaranteed loan, and the conditions of the conditional commitment are met, the Contracting Officer shall schedule a closing, subsequent to obtaining the approval of the Application Approving Official, for the purpose of signing the loan guarantee agreement. The date, time and place for closing shall be fixed by agreement with the applicant and the lender. Nothing contained in the conditional commitment shall in any way constrain or restrict the ability of the Contracting Officer to require additional documentation, or the insertion of additional terms and conditions which, in his or her sole discretion, are reasonable and necessary for the protection of the interests of the United States. Issuance of the guarantee shall be conclusive evidence that the loan and guarantee comply with the Act and these regulations; that the loan has been approved by the Secretary; and that the guarantee is an obligation supported by the full faith and credit of the United States of America.

(h) *Unsolicited Applications.* Because applications will be evaluated on a competitive basis, unsolicited applications for a loan guarantee will not be considered under this regulation. Applications not submitted pursuant to a specific solicitation announcement will be returned to the applicant with a recommendation to refile in accordance with the next publicized solicitation announcement.

(i) *Discussion with Unsuccessful Applicants.* Upon the written request by an applicant whose application did not result in a loan guarantee, representatives of the Application Approving Official will explain in detail why the application was disapproved.

(j) *Non-written Representations.* No representation shall be binding on the Department of energy unless written and duly signed by a Contracting Officer and all instruments and modifications thereof shall not be considered as approved by the Department unless approved by a Contracting Officer.

§ 799.4 Applications.

(a) The Secretary's consideration of a loan guarantee request for a specific biomass energy project shall begin with a filing of an application which complies with the application requirements of this regulation. In addition to the application requirements specified by this regulation, the Secretary may publish additional application requirements in Solicitation Announcements issued pursuant to § 799.3 of this regulation. In general, an applicant is expected to provide information in the application which is similar to that required by an investment banking or other financial institution which might consider the biomass energy project for debt financing. The application must contain the most current data available, and be adequate for the Secretary to properly evaluate the project. Applications shall be filed with one original and four legible copies. Each application must contain the following information submitted in a brief but precise manner:

(1) A description of the scope, nature, extent, and location of the proposed project, including identification and feasibility of the technology to be utilized in the project and the extent to which such applicant is applying for, or receiving any other Federal or other governmental financial assistance for the project;

(2) A preliminary or conceptual design of the proposed facility;

(3) A description of prior construction and operating experience of the applicant with the technology to be utilized in the project;

(4) A detailed estimate for the total construction and financing cost of the project (including escalation and contingencies);

(5) A general description of the overall financial plan for the proposed project including all sources of equity, debt, and the liability of parties associated therewith, necessary for the construction and operation of the project;

(6) Construction and operation schedules for the project including major activity and cost milestones;

(7) Copies of proposed or actual construction contracts together with a description of the construction contractor's experience and financial strength;

(8) An analysis of the market for the product to be producted including relevant economics justifying the analysis and proposed and actual marketing contracts or letters of intent, if any;

(9) A description of the applicant's management concept and plan of operation to be employed in carrying out the project;

(10) A description of the general management experience of the applicant in organizing and undertaking projects of this nature;

(11) Pro forma cash flow statements for at least the first five (5) years of project operation;

(12) Proposed risk allocation among project participants and financial statement supporting the project participant's ability to contribute equity to the project;

(13) Financial statements for the past three (3) years of the applicant and parties relevant to the applicant's financial backing, together with business and financial interests of principal organizations such as parent and/or subsidiary corporations or partners of the applicant;

(14) An environmental report containing a detailed analysis of the potential environmental, health, safety and socio-economic (EHSS) impacts of the project and any necessary or proposed mitigation measures and other relevant data to enable the Department to assess the probable EHSS impacts and provide the Department with information for any documents required by the National Environmental Policy Act.

(15) A list of all applications filed or to be filed, and approvals issued or to be issued by Federal, state, and local government agencies for all required permits and authorizations to undertake construction and begin operations associated with the project. If these approvals have not been obtained, or applications not filed, the estimated date of such filings and approvals should be provided. Explain any past, present or anticipated problems in obtaining any approvals.

(16) A description of the applicant's organization and, where applicable, a copy of partnership agreement or corporate charter, articles of incorporation, bylaws, and appropriate authorizing resolutions or their equivalent;

(17) A written affirmation from both the applicant and any proposed lender justifying the need for a Federal loan guarantee in order to finance the project;

(18) The amount of the loan and percentage of guarantee requested, proposed repayment schedule, and other relevant terms and conditions of the anticipated debt financing;

(19) A copy of any lending commitment issued to the applicant by the proposed lender in the transaction;

(20) A statement from the lender reciting the lender's general experience in financing and servicing debt related to projects of the size and general type of the proposed project, together with the lender's proposed loan servicing and monitoring plan for the proposed project;

(21) A listing of assets, associated, or to be associated, with the project and any other asset which will serve as collateral for the loan to be guaranteed, including appropriate data as to the value and useful life of any physical assets and a description of any other associated security and its value;

(22) Copies of all current or proposed contracts between the applicant and any third parties which are significant to the proposed project including any feedstock supply agreements and contracts for the sale of biomass energy and related byproducts.

(23) Information relevant to findings or determinations which the Secretary must make under the Act or this regulation in accordance with § 799.6, and §§ 799.24, 799.34 or § 799.46, as appropriate.

(24) Information relevant to the policy considerations under § 799.5 and the priorities and policy considerations under Subparts B, C, or D of this part, as appropriate.

(b) In addition to the above requirements, the application shall contain such additional information as may be required by the appropriate subpart of this regulation which will apply to the specific type of biomass energy projects for which a loan guarantee is requested.

(c) Information received by the Secretary under this regulation may be made available to the public subject to the provision of 5 U.S.C. 552 and 18 U.S.C. 1905; *Provided,* That,

(1) Subject to the requirements of law, information such as trade secrets, commercial and financial information, and other information or data concerning the project that the applicant or lender submits to the Secretary in an application or at other time throughout the duration of the project, on a privileged or confidential basis, will not be disclosed by the Department of Energy without prior notice to the submitter in accordance with Department of Energy regulations concerning public disclosure of information. Any submitter asserting that the information is privileged or confidential should appropriately identify and mark such information.

(2) Upon a showing satisfactory to the Secretary by any person that any information or portion thereof obtained under this regulation would, if made public, divulge trade secrets or other proprietary information of such person, the Secretary may not disclose such information.

(3) This section shall not be construed as authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman.

(d) When information submitted by the applicant pursuant to an application filed under this regulation or in response to a request for additional information made by the Secretary, is significantly changed as a result of new circumstances which make the originally submitted information inaccurate or incomplete, the applicant shall promptly notify the Secretary in writing.

§ 799.5 Policy considerations.

The following policy considerations described under this subpart, and other subparts to this regulation which are relevant to the specific type of biomass energy project for which a guarantee has been requested, will be utilized by the Application Approving Official in the selection process.

(a) The Application Approving Official shall consider the extent to which a loan guarantee is necessary for the lender to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time. The Application Approving Official shall also consider whether the financial assistance applied for encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed project on reasonable terms and conditions.

(b) In evaluating applications for loan guarantees to be issued under this regulation, the Application Approving Official shall consider the percentage of the guarantee in relation to the total cost of the project and any nonguaranteed loan being provided to the project: *Provided,* That the amount of the guaranteed loan does not, in any event, exceed 90 percent of the cost of the construction of the project, as estimated

V 45 AG 14 80 UMI

by the Application Approving Official: *And further provided,* That the amount of the guarantee does not in any event exceed 90 percent of the principal and interest of the loan.

(c) In evaluating applications for loan guarantees to be made under this regulation, the Application Approving Official shall consider the degree to which the borrower is investing equity funds into the project, which were not provided through the issuance of debt, and the extent to which responsible financial parties affiliated with or constituting the legal entity of the borrower are liable for repayment of the debt to be guaranteed.

(d) The Application Approving Official shall consider the degree to which the lender has accepted a reasonable and appropriate degree of risk in the financing of the project. The Application Approving Official shall also consider the extent to which liability will accrue to the Government for repayment of loan proceeds during both the interim and permanent financing stages of the project.

(e) The Application Official shall consider the extent to which necessary feedstocks and a market for the biomass energy produced and related project by-products are available and reasonably expected to be available throughout the life of a biomass energy project.

(f) In evaluating applications for loan guarantees to be made under this regulation, the Application Approving Official shall consider the length of time over which the proposed borrower will repay the guaranteed debt, with regard to the anticipated cash flow of the project and the length of time that the Government should reasonably be exposed to liability for debt associated with the project.

(g) The Application Approving Official shall consider competition factors associated with the concentration and control of biomass energy production that may result from the issuance of a loan guarantee in connection with a particular biomass energy project.

(h) The Application Approving Official shall consider the degree to which the project is receiving other Federal Financial Assistance.

(i) The Application Approving Official shall consider the relative ability of a project or technology to maintain or improve the quality of the environment.

§ 799.6 Required finding and determination.

In addition to meeting the requirements set forth in other applicable subparts of this regulation, a loan guarantee for a biomass energy project shall be issued only after the Secretary is satisfied, in the sole discretion of the Secretary, that the following requirements have been met:

(a) The amount of the loan to be guaranteed, when combined with other funds available to the applicant, will be sufficient to carry out the project, including adequate contingency funds and working capital;

(b) There is a reasonable assurance of repayment of principal and interest of the loan by the borrower;

(c) The project assets (or other acceptable forms of collateral) and other collateral or surety, as determined by the Secretary to be necessary, are pledged by the borrower as security for the repayment of the loan and a valid first and superior lien or other acceptable lien position will exist on such assets, collateral, or surety for the mutual benefit of the lender and the Department of Energy in accordance with their pro-rata interest;

(d) The terms, conditions, maturity, security, and repayment provisions with respect to the guaranteed loan are reasonable and sufficient to protect the interest of the United States pursuant to the guarantee;

(e) The interest rate on the loan to be guaranteed and other fees charged by the lender in connection with the making of the loan are determined to be reasonable by the Secretary after consideration of the range of interest rates and fees prevailing in the private sector for similar obligations and the degree to which the lender is protected from risk by the guarantee;

(f) Advancement of the loan proceeds by the lender to the borrower will be made under a milestone and disbursement schedule which is satisfactory to the Secretary;

(g) The Secretary has determined that there is satisfactory evidence that the applicant is capable of constructing and operating in a competent manner, the project for which the loan is made;

(h) The Secretary is satisfied that the lender is capable of servicing the debt that is guaranteed in accordance with the requirements of § 799.13 of this regulation;

(i) The Secretary has determined that the loan to be guaranteed is for the construction of a project which falls within the applicable purposes and objectives of this regulation;

(j) The Secretary has determined that the project will be in conformance with established environmental statutes, regulations, and Executive Orders, which shall include, but are not limited to, the following: (1) Completing any environmental analysis required pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq., Pub. L. 91–190); (2) conformance with Executive Order 11988—Floodplain Management, and Executive Order 11990—Protection of Wetlands, and DOE regulations thereunder (10 CFR Part 1022); and (3) receiving, or anticipated receipt of, all necessary environmental permits and approvals;

(k) The Secretary has determined that the project is technically and economically feasible and environmentally acceptable;

(l) There is sufficient evidence that the applicant will initiate and complete the project in a timely, efficient and acceptable manner;

(m) The Secretary has determined that necessary feedstocks are available and will reasonably continue to be available for the life of the project and that the process to be used by the project (except in the case of municipal waste energy projects) will extract the protein content of the feedstock as food or feed unless such extraction would be technically or economically impractical;

(n) The Secretary has determined that no portion of the interest paid on the guaranteed portion of the loan will be excluded from the gross income of the holder of the debt pursuant to the provision of the Internal Revenue Code of 1954, as amended;

(o) The project meets such additional requirements as determined reasonable and necessary by the Secretary for the protection of the interest of the United States; and

(p) The Secretary has made the findings and determinations required under Subparts B, C, or D of this part, as appropriate.

§ 799.7 Guarantee Agreement Terms and Conditions.

(a) A loan guarantee agreement issued by the Secretary under this regulation shall contain the following requirements and conditions:

(1) A requirement that the lender may not accelerate repayment of the borrower's indebtedness or exercise other remedies available to the lender in the event of the borrower's default, except in the case of the borrower's failure to pay a required payment of principal or interest, without the prior consent of the Secretary or as otherwise permitted in the guarantee agreement;

(2) A requirement that patents and other proprietary rights necessary for the construction or operation of the project, or accruing to the borrower and resulting from the project, will be, in the case of default, treated as collateral in accordance with terms and conditions in the loan or guarantee agreement;

(3) A requirement that patents or other proprietary intellectual property rights utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Secretary to be in the public interest;

(4) A requirement that no change of project ownership or financial arrangement will occur without the prior written consent of the Secretary;

(5) A requirement that the project be built and operated in the United States;

(6) A requirement that, in the event that the Secretary makes a payment of principal or interest on the guaranteed loan in accordance with liability accruing to the Secretary under the guarantee, the Secretary shall be subrogated to the rights of the recipient of such payment and have superior right in and to the property acquired by virtue of such payment;

(7) A requirement that the borrower not obtain credit from any creditor without the written, consent of the Secretary, unless such creditor agrees to subordinate, in a manner acceptable to the Secretary, its rights to receive payment, in the event that such creditor would, without such subordination, receive by contract or otherwise a lien on the assets securing the guaranteed loan;

(8) A provision that specifies that when a lender holds a guaranteed and a non-guaranteed portion of a loan for a biomass energy project, payments of principal or interest made by the borrower under such loan shall be applied by the lender, unless the Secretary agrees in writing to the contrary, to reduce the guaranteed and non-guaranteed portion of the loan on a proportionate basis and that the non-guaranteed portion of the loan shall not, in any event, receive preferential treatment over the guaranteed portion of the loan;

(9) A requirement that the lender provide an adequate period of grace of not less than 60 days prior to the making of demand for payment pursuant to the guarantee agreement in order that the Secretary have adequate time to make a decision regarding principal and interest assistance in accordance with the provisions of § 799.9 of this regulation;

(10) A requirement that the borrower keep and maintain adequate records and documents concerning the construction and operation of the project in order that representatives of the Secretary may determine the technical and financial condition of the project and its compliance with environmental requirements;

(11) A requirement for the borrower to prepare and deliver to the Secretary annual audited financial statements according to generally accepted accounting principles;

(12) A requirement that duly authorized representatives of the Secretary shall have access to the project site at all reasonable times during construction and operation of the project;

(13) A requirement that the borrower agree to make every effort reasonable to protect and preserve the project assets and other collateral serving as security for the guaranteed loan and to assist in the liquidation of the collateral in the event of loan default for the purpose of minimizing loss;

(14) A requirement providing for the orderly liquidation of the assets of the project in the event of loan default with an option on the part of the Secretary to acquire from the lender the lender's interest in the project assets pursuant to any non-guaranteed portion of the loan;

(15) A requirement that the borrower not discriminate against any person on the grounds of race, color, national origin, sex, handicap, or age in the carrying out or completion of the project;

(16) A requirement that the borrower agree to take positive efforts to maximize the utilization of small and disadvantaged business concerns in connection with the project;

(17) A requirement that the Secretary be paid at the closing of the guaranteed loan, a fee for the issuance of the loan guarantee, which fee shall not exceed 1 percent of the total amount of the guaranteed portion of the loan;

(18) A requirement that the lender perfect and maintain the lien on the collateral pledged as security for the guaranteed loan and undertake such other loan servicing functions normally performed by a reasonable and prudent lender or as required of the lender in accordance with the provisions of § 799.13 of this regulation;

(19) A requirement that performance of contractors engaged in the construction of the project for which the guaranteed loan is made be fully bonded;

(20) A requirement that the project operate in full compliance with all laws and regulations, including, but not limited to, environmental laws requiring permits, monitoring, and reporting;

(21) A provision permitting free transferability and assignability of shares of all or partial interests in the guaranteed loan: *Provided,* That such transfers take place under agreements acceptable to the Secretary and the lender will not transfer or assign the servicing requirements levied upon the lender by the guarantee without the prior written approval of the Secretary;

(22) A requirement that the lender not take any adverse action against the borrower without providing 15 days prior notice to the Secretary;

(23) Such other terms and conditions as determined by the Secretary to be reasonable and necessary for the protection of the United States.

(b) Upon the issuance of a duly executed guarantee agreement in accordance with the requirements of this regulation, the full faith and credit of the United States shall be pledged to the payment of sums of money due and lawfully owing under such guarantee. The guarantee agreement shall be conclusive evidence that the guarantee and underlying loan for which the guarantee is issued comply with the provisions of the Act and this regulation and such a guarantee subject to terms and conditions of the guarantee shall be valid and incontestable by the Government except for fraud or misrepresentation by the holder of the loan to which the guarantee applies.

§ 799.8 Loan agreement requirements and conditions.

In addition to meeting the requirements set forth in § 799.6 of this regulation, a guarantee for a loan may be made only if the underlying loan agreement and other documents necessary for the financing transaction to which the guarantee applies contain provisions which are determined to be satisfactory to the Secretary, at the Secretary's sole discretion, and which meet the following requirements:

(a) The notes, bonds, debentures, or other instruments of debt, credit agreements, security agreements, guarantees, collateral pledge agreements, mortgages, and all other instruments, legal opinions, certificates, licenses, contracts and other documents determined necessary by the Secretary to properly document and close the lending transaction, and the terms and conditions related thereto, are satisfactory to the Secretary in both form and content.

(b) The plan for marketing the debt, if any, to secondary lenders or other holders, is acceptable to the Secretary and provides a reasonable assurance that the debt will be funded in a timely manner in accordance with the requirements of the project. The Secretary must also be satisfied that the types of debt instruments and the mix between long term and short term securities, if any, are appropriate for the size and scope of the project and

reasonably minimize the cost of borrowing.

(c) The orderly and ratable retirement of the loan which may include sinking fund provisions, installment payment provisions, or other methods of payment and reserves which are appropriate and necessary in accordance with the size and type of the project and the type of debt instruments to be used.

(d) The lending agreements contain provisions for a minimum period of grace of 60 days from the date the principal or interest payment is due.

(e) The loan proceeds will be advanced by the lender to the borrower on an identified disbursement scehedule which is appropriate for the size and type of project to be financed and has adequate control mechanisms to ensure that the funds are utilized in the construction of the project and for the purpose intended.

(f) Trustee escrow agents, fiscal agents and other fiduciaries acting for benefit of the lender, the borrower, holders, or any other party, agree, in accordance with the powers, rights and duties expressed in the written contract by virtue of which they so act, to appropriately recognize and protect the interests of the United States Government pursuant to the guarantee.

(g) An option on the part of the borrower to prepay the loan at acceptable time intervals, with prepayment penalties, if any, determined acceptable by the Secretary in accordance with the type of debt instrument utilized and the likely holder of such debt at the time of prepayment.

(h) Appropriate opportunities on the part of the borrower to cure any default, failure, or breach of any of the convenants, conditions and obligations undertaken by the borrower pursuant to the provisions of the loan agreement and other documents relevant to the financing transaction.

(i) The exclusion of any provision which prohibits forbearance or waiver of any breach or failure on the part of the borrower.

(j) Appropriate provisions for the acceleration and demand for full payment of the entire indebtness in the event of the occurrence of identifiable occasions of default on the part of the borrower.

(k) A requirement that the borrower keep the assets of the project insured in an acceptable amount from risk of loss, and acceptable provisions for control over any proceeds of insurance paid in the event of such a loss to assure that such proceeds are appropriately utilized for the benefit of the project.

(l) A requirement that the borrower maintain its legal entity in good standing with applicable federal, state, and local laws and requirements regulating the conduct of its business, including the payment of all taxes, fees and other charges, and the maintenance of all requisite licenses and any other governmental authorization necessary for the continued operation of the project.

(m) A requirement that the borrower not suffer or permit any judgment, lien, or other encumbrance to be placed against any asset of the project (excluding those liens obtained by the lender pursuant to the loan guarantee under this regulation.)

(n) An acceptable provision for the control over project revenue which ensures that profits above a predetermined level are made available to the project for the future requirements of the project or for prepayment of the guaranteed loan.

(o) A provision specifying to what extent project profits can be utilized for dividends and other distributions to the equity participants in the project.

(p) Such other terms and conditions determined necessary by the Secretary for the protection of the interest of the United States.

§ 799.9 Withdrawal or limitation of guarantee.

(a) The Secretary may withdraw the guarantee by written notice to the lender and the borrower if after discussions with the borrower and lender, it is determined that initiation of the project has not occurred within the period of time set forth in the guarantee agreement of collateral documents, and such failure has materially affected the purposes of the Government in issuing the guarantee.

(b) The Secretary may limit the guarantee by written notice to the lender and the borrower to those amounts already disbursed under the guaranteed loan if it is determined that:

(1) The borrower has failed to acquire capital from intended or alternate sources, or has failed to comply with material terms and conditions as set forth in the loan or guarantee agreement. The Secretary will notify the borrower and the lender that the guarantee shall be limited only to the amount that has been received by the borrower as of the date of the written notice;

(2) The lender has failed to comply with any material term or condition set forth in the guarantee or loan agreement. The guarantee may be limited to the amount that has been received by the borrower as of the date the Secretary's notice of reduction of the guarantee. Notice of the Secretary's finding that a material term has not been complied with by the lender shall be sent by the Secretary to the borrower and the lender. Following notification, the borrower will be allowed reasonable time to acquire a substitute lender that is capable of complying with provisions in the loan and guarantee agreements.

(3) The project's economic success or environmental acceptability is no longer achievable as determined by the Secretary. The guarantee shall be limited to amounts which have been received by the borrower as of the date that the notice is received by the lender. Any guaranteed funds held by a servicing agent shall be returned to the lender.

(c) The guarantee agreement or collateral documents shall provide that the lender will obtain a substitute servicing agent whenever the Secretary, by written notice to the lender, determines that the current servicing agent has failed to comply with a material term or condition in the guarantee agreement or collateral document.

§ 799.10 Project costs.

(a) Project costs will be recorded in accordance with generally accepted accounting principles which are customarily applied.

(b) Except as set forth in paragraph (c) of this section, those reasonable and customary costs that have been incurred, are expected to be incurred, and which are directly related to the project shall be used to estimate total project costs. Examples of these costs may include, but are not limited to the following:

(1) Costs of acquisition or rental of real property, including engineering fees, surveys, title insurance, recording fees, real estate commissions, and legal fees incurred in connection with land acquisition or rental, site improvements, site restoration, access roads and fencing;

(2) Professional services and fees necessary to obtain licenses, permits, and to prepare environmental reports and data;

(3) Financial, accounting, and legal services costs;

(4) Engineering and architectural fees;

(5) Equipment purchase, placement and testing costs;

(6) Materials, labor, utility services, travel, and transportation;

(7) Costs to provide safety and environmental protection equipment, facilities, and services;

(8) Interest costs and other normal costs charged by lenders during the construction period;

(9) Bond financing costs and trustee's fees and commissions during the construction period;

(10) Necessary and appropriate insurance and bonds of all types related to the construction of the project;

(11) Purchase of flood and other natural disaster insurance, if required;

(12) Taxes to be paid to Federal, State, and local government agencies, and other taxing authorities during construction;

(13) A reasonable contingency reserve to cover the possibility of construction cost overruns;

(14) Other necessary and reasonable costs, as approved by the Secretary.

(c) Costs that are not considered as allowable project costs include the following:

(1) Fees and commissions charged to the borrower, including finder fees, for obtaining the Federal guarantee;

(2) Parent corporation general and administrative expenses, including company organizational expenses;

(3) Goodwill, franchise, trade, or brand name costs;

(4) Dividends and profit sharing to stockholders, employees, and officers;

(5) Expenses not paid or incurred by the applicant;

(6) Costs that are excessive or are not directly required to construct the project, as determined by the Secretary.

(d) The Secretary may audit any or all cost elements included in the estimated project cost, and reserves the right to exclude or reduce the amount of any cost which the Secretary determines to be unnecessary or excessive. The borrower will make available records and other data necessary to permit the Secretary to carry out such an audit. In carrying out this responsibility, the Secretary may utilize employees of other Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

§ 799.11 Cost overruns.

(a) At the discretion of the Secretary, a guarantee agreement may be amended to increase the amount of the loan guaranteed in the event that the actual construction cost incurred exceeds the original estimated construction cost. In no event may the guarantee be increased to cover overruns that amount to more than that allowed in paragraph (c) of this section. All of the following conditions must be met by the borrower before the Secretary may determine whether to amend the guarantee agreement to cover such cost overruns:

(1) The Secretary must be notified as soon as an overrun is anticipated, along with the reasons for such cost overrun;

(2) The borrower, when requesting overrun assistance, provides a revised expected completion date, and revised construction costs for the project;

(3) The borrower submits an acceptable plan indicating how the borrower's share of the cost overruns will be funded;

(4) The borrower provides a list of the additional collateral, if any, to be pledged for the increased guarantee(s) to cover the expected cost overruns; and

(5) The borrower provides updated information on the project economics to indicate that a reasonable assurance of repayment of the guaranteed loan (including the cost overruns) still exists.

(b) Based on the information submitted by the borrower and other information known to the Secretary, the Secretary may determine, at his discretion, to provide for the guarantee of additional loan funds for the expected cost overruns if the Secretary finds that:

(1) The continuation of the project is worthwhile to meet the program's objectives and is in the public interest or

(2) The probable net costs to the Government in increasing the loan guarantee, in the event of cost overruns, will be less than that which would result in the event of default.

(c) In no event may the original loan guarantee be increased to cover overruns that amount to more than:

(1) 60 percent of the estimated overrun costs for biomass energy projects (excluding municipal waste projects); or

(2) 90 percent of a loan to cover estimated overrun costs for construction of municipal waste energy projects, providing that such overrun costs do not exceed 10 percent of the total initially estimated project costs.

§ 799.12 Principal and interest assistance.

With respect to any loan guaranteed pursuant to this regulation, the Secretary may enter into a principal and interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the principal and interest charges that become due and payable on the unpaid balance of such loan, if the Secretary finds that:

(a) The borrower is unable to meet principal or interest payments or both and is not in default;

(b) It is in the public interest to permit the borrower to continue to pursue the purposes of the project;

(c) The probable net benefit to the Federal Government in paying such principal or interest will be greater than that which would result in the event of a default for the nonpayment of principal or interest;

(d) The amount of principal or interest payment which may be made under this section will not be greater than the amount of principal or interest that the borrower is obligated to pay under the loan agreement; and

(e) The borrower agrees to reimburse the Secretary for such payment (including interest) on terms and conditions which are satisfactory to the Secretary and executes all written contracts required by the Secretary for such purpose.

§ 799.13 Lender servicing requirements.

(a) The loan guarantee agreement shall provide that the lender service the loan in accordance with these regulations, and the terms and conditions of the guarantee. In this regard the lender is generally expected to undertake those servicing responsibilities that a reasonable and prudent lender would undertake in a similar transaction which was not guaranteed by the Government. The lender may select another party to service the loan in the event that the lender is a private entity that normally does not service loans or in other situations where such course of action is determined by the Secretary to be appropriate and such services are acceptable to the Secretary.

(b) The lender or other party servicing the loan shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without a guarantee.

(c) The lender or other party servicing the loan shall notify the Secretary in writing without delay:

(1) That the disbursement or loan drawdown for the first project milestone is ready to be made, together with evidence from the borrower that the project has begun or is about to begin;

(2) Of the date and amount of disbursement for each subsequent milestone under the loan;

(3) Of any nonreceipt of payment within 10 days after the date specified for payment, together with evidence of appropriate notifications to the borrower;

(4) Of any known failure by an intended source of capital to honor its commitment;

(5) Of any known failure by the borrower to comply with terms and conditions as set forth in the loan guarantee agreement;

(6) Of evidence that the borrower may fall within any of the default conditions set forth in the loan agreement or the

borrower may not be able to meet any future scheduled payment of principal or interest; or

(7) Of any significant changes from the original cash flow projections as evidenced from information and reports by the borrower.

(d) The guarantee agreement or related documents shall require the lender or other party servicing the loan to submit to the Secretary periodic financial reports on the status and condition of the loan.

§ 799.14 Project monitoring.

The guarantee agreement or collateral documents shall provide that employees and representatives of DOE shall have access at reasonable times and under reasonable circumstances to the project site. Further, the agreement shall provide that auditors selected by the Secretary or the U.S. Comptroller General shall have access to, and the right to examine any directly pertinent documents and records of the borrower. The lender or servicing agent, to the extent lawful and within its control, and the borrower will assure availability of information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guarantee. The guarantee agreement or related documents shall identify those items or types of information which the Secretary may not make available for public dissemination.

§ 799.15 Default, demand, payment and collateral liquidation.

(a) In the event that the borrower has defaulted in the making of required payments of principal or interest on the loan guaranteed by the Secretary, and such default has not been cured within the period of grace provided in the guarantee and loan agreements, the lender, or any nominee or trustee empowered to act for the lender, may make written demand upon the Secretary for payment pursuant to the provisions of the guarantee agreement.

(b) In the event that the borrower has failed to comply with one or more of the terms of the guarantee agreement, note, loan agreement, or other contractural obligation relating to the transaction, other than the borrower's obligation to pay principal or interest, as provided in paragraph (a) of this section, the lender will not be entitled to make demand for payment pursuant to the guarantee, unless the Secretary agrees in writing that such default has materially affected the rights or security of the parties, and finds that the lender should be entitled to receive payment pursuant to the guarantee agreement.

(c) No provision of this regulation shall be construed to preclude forbearance by the Secretary or the lender, with the consent of the Secretary, for the benefit of the borrower in accordance with the terms and conditions of the guarantee.

(d) Upon the making of demand for payment as provided in paragraph (a) or (b) of this section, the lender shall provide, in conjunction with such demand, or immediately thereafter at the request of the Secretary, such supporting documentation as may be reasonably required to justify such demand.

(e) Payment as required by the guarantee agreement shall be made within 60 days after receipt by the Secretary of written demand for payment: *Provided,* That the demand complies with terms and conditions of the guarantee agreement.

(f) The guarantee agreement shall provide that upon payment of the guaranteed portion of the loan by the Secretary, the lender shall transfer and assign to the Secretary all rights held by the lender in the guaranteed portion of the loan. Such assignment shall include all related liens, security, and collateral rights. Upon such payments and assignment, the Secretary shall be subrogated to the rights of the recipient of the payment and shall have superior rights in the property acquired from the recipient of the payment.

(g) The guarantee agreement will specify the terms and conditions for the handling of collateral by the lender and the Secretary in loan default situations. Such provisions may provide for liquidation of the collateral either prior to or after the Secretary has made payment pursuant to the guarantee.

(h) The guarantee agreement shall specify the respective rights of the parties who are the legal owners of the guaranteed loan with respect to the liquidation of assets securing the loan. Such agreement shall include a specification that proceeds received, for the benefit of the legal owners of the loan which was guaranteed, as a result of collateral liquidation, shall be applied in the following manner:

(1) First to the payment of legaly recoverable expenses actually incurred as a result of such recovery;

(2) Second to the payment of accrued interest on the loan;

(3) Third to the payment of the outstanding principal balance of the loan; and

(4) Fourth to the payment of other recognizable claims held by the legal owners of the loan and for which such proceeds may be lawfully utilized.

The proceeds so recovered shall be paid to each of the legal owners of the loan in accordance with their respective percentage of ownership.

(i) In the event that proceeds received as a result of liquidation of the assets securing the loan are insufficient to fully pay all expenses of recovery, and the principal and accrued interest of the loan, the legal owners of the loan shall be entitled to attempt further recovery from any parties liable for such deficiency in accordance with the provisions of the loan agreement and other documents related thereto. No action taken in the liquidation of any assets pledged by the borrower to secure the loan will, unless agreed otherwise, affect the rights of any party, including the Secretary, to attempt further recovery of any deficiency.

§ 799.16 Appeals.

The guarantee agreement shall include a provision which specifies that any dispute concerning a question of fact arising under the guarantee shall be decided in writing by the Contracting Officer. The borrower or lender may request the Contracting Officer to reconsider any such decision. If not satisfied with the Contracting Officer's final decision, the borrower or lender upon receipt of such written decision, may appeal the decision within 30 days, in writing, to the Chairman, Financial Assistance Appeal Board (FAAB) Department of Energy, Washington, D.C. 20585. The Board shall proceed in accordance with the Department of Energy's rules and regulations for such purpose. The decision of the Board with respect to such appeals shall be the final decision of the Secretary.

§ 799.17 Deviations and contract modifications.

(a) To the extent that such requirements are not specified by the Act, relevant Appropriations Acts, or in other applicable statutes, the Secretary may deviate on an individual application basis from the requirements of this regulation upon a finding that a deviation is necessary and warranted in the individual case to the accomplishment of program objectives and unique circumstances in the guarantee application make a deviation clearly in the best interests of the Government.

(b) The Contracting Officer may approve, subject to approval by other necessary parties, modifications or amendments to the terms and conditions in a guarantee agreement, collateral agreements, or other documents pertaining to the project: *Provided,* That such modifications will not deviate from provisions in this regulation.

Subpart B—Alcohol Fuel Projects

§ 799.20 Purpose.

The purpose of this subpart is to set forth the policies and procedures, in addition to those of Subpart A, of this part under which the Secretary will approve an application and issue, or commit to issue, a Federal guarantee on a loan or loans to construct facilities for the production of alcohol fuel from biomass (other than municipal waste) in an environmentally acceptable manner.

§ 799.21 Program management and administration.

Program management of the alcohol fuels loan guarantee program is assigned to the Director of the Office of Alcohol Fuels ("Director"). For purposes of this subpart the Director is the Application Approving Official as defined in § 799.2 and exercises the functions of the Application Approving Official described in Subpart A of this part. That authority includes, but is limited to, determining terms and conditions for inclusion in conditional commitments and guarantee agreements, selecting members of the application evaluation panel, selecting recipients of loan guarantees, and representing the Secretary in consultations with other Federal agencies on alcohol fuel program matters.

§ 799.22 Receipt of applications.

(a) Applicants are requested to file applications under this subpart directly with: Manager, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.

(b) Applications may also be filed at one of the following regional offices:

Region I

Department of Energy, Regional Representative, 150 Causeway Street, Analex Building, Room 700, Boston, MA 02114

Region II

Department of Energy, Regional Representative, 26 Federal Plaza, Room 3206, New York, NY 10007

Region III

Department of Energy, Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, PA 19102

Region IV

Department of Energy, Regional Representative, 1651 Peachtree Street, 8th Floor, Atlanta, GA 30309

Region V

Department of Energy, Regional Representative, 175 West Jackson Boulevard, Room A-333, Chicago, IL 60604

Region VI

Department of Energy, Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235

Region VII

Department of Energy, Regional Representative, Twelve Grand Building, P.O. Box 2208, 112 East 12th Street, Kansas City, MO 64142

Region VIII

Department of Energy, Regional Representative, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226

Region IX

Department of Energy, Regional Representative, 111 Pine Street, Third Floor, San Francisco, CA 94111

Region X

Department of Energy, Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174

(c) All applications should be marked by the application on the outside of the package "Application for Loan Guarantee—"Alcohol Fuel."

§ 799.23 Eligible projects.

In addition to meeting the requirements of Subpart A, to be eligible under this subpart to receive a Federal guarantee on a loan or loans to construct facilities for the production of alcohol fuel from biomass (other than municipal waste), a project must either:

(a) Utilize aquatic plants as feedstocks; or

(b) Have an anticipated annual energy production capacity equal to at least the energy equivalent of 15 million gallons of ethanol.

§ 799.24 Additional required findings and determinations.

(a) In addition to meeting the requirements of Subpart A of this part, prior to committing to issue, or issuing a loan guarantee, the Application Approving Official must find with respect to an eligible project:

(1) The Btu content of the motor fuels to be used in the facility involved to produce the alcohol fuel will not exceed the Btu content of the alcohol fuel produced in the facility. In making this determination, the Application Approving Official shall take into account any displacement of motor fuel or other petroleum products which result from the alcohol fuel produced in the facility involved;

(2) The process to be used by the project will extract the protein content of the feedstock for use as food or feed for readily available markets where such extraction is technically and economically practicable; and

(3) Necessary feedstocks are available and will continue to be available in the future to sustain long term commercial operations, and for alcohol fuel projects using wood, wood wastes or residues from the National Forest System, the current levels of use by existing facilities have been considered.

(b) Prior to committing to issue, or issuing a loan guarantee, the Application Approving Official shall, to the extent and in the manner required by the Act, consult with and, where applicable, obtain the concurrence of the Secretary of Agriculture.

§ 799.25 Priorities.

(a) In evaluating applications under Subpart A of this part, priority will be given to eligible projects which use a primary fuel other than petroleum or natural gas in the production of alcohol fuel; apply new technologies that expand possible feedstocks; produce alcohol using improved or new technologies; or any combination of the foregoing.

(b) Within the group of priority projects preferential consideration will be given to:

(1) Projects which have the smallest ratio of petroleum or natural gas consumed to biomass energy produced;

(2) Applicants proposing projects that evidence a strong likelihood of business success and economic viability;

(3) Applicants that qualify as small or disadvantaged business concerns;

(4) Applicants which maximize private investment and have a strong equity position;

(5) Projects which promote competition.

Subpart C—Biomass Energy Projects

§ 799.30 Purpose.

The purpose of this Subpart is to set forth the policies and procedures in addition to those of Subpart A of this part, under which the Secretary will approve an application and issue, or commit to issue, a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy (other than alcohol) from biomass (other than municipal waste) in an environmentally acceptable manner.

§ 799.31 Program Management and Administration. [Reserved]

§ 799.32 Receipt of applications.

(a) Applicants are requested to file applications under this subpart directly with:

Department of Energy, Manager, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401

(b) Applications may also be filed at one of the following regional offices:

Region I

Department of Energy, Regional Representative, 150 Causeway Street, Analex Building, Room 700, Boston, MA 02114

Region II

Department of Energy, Regional Representative, 26 Federal Plaza, Room 3206, New York, NY 10007

Region III

Department of Energy, Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, PA 19102

Region IV

Department of Energy, Regional Representative, 1655 Peachtree Street NE., 8th Floor, Atlanta, GA 30309

Region V

Department of Energy, Regional Representative, 175 West Jackson Boulevard, Room A–333, Chicago, IL 60604

Region VI

Department of Energy, Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235

Region VII

Department of Energy, Regional Representative, Twelve Grand Building, P.O. Box 2208, 112 East 12th Street, Kansas City, MO 64142

Region VIII

Department of Energy, Regional Representative, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226

Region IX

Department of Energy, Regional Representative, 111 Pine Street, Third Floor, San Francisco, CA 94111

Region X

Department of Energy, Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174

(c) All applications should be marked by the applicant on the outside of the package "Application for Loan Guarantee Biomass."

§ 799.33 Eligible projects.

In addition to meeting the requirements of Subpart A of this part, to be eligible under this subpart to receive a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy (other than alcohol) from biomass (other than municipal waste), a project must either:

(a) Utilize aquatic plants as feedstock; or

(b) Have an anticipated annual energy production capacity equal to at least the energy equivalent of 15 million gallons of ethanol as determined pursuant to a notice issued by DOE and USDA, 45 FR 52911, August 8, 1980, or any revisions thereof.

§ 799.34 Additional required findings and determinations.

(a) Prior to committing to issue, or issuing a loan guarantee, the Secretary must find with respect to an eligible project that:

(1) The Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will not exeed the Btu content of the biomass fuel produced in the facility, taking into account any displacement of motor fuel or other petroleum products which results from the biomass fuel produced in the facility involved;

(2) The process to be used by the project will extract the protein content of the feedstock for use as food or feed for readily available markets where such extraction is technically and economically practicable;

(3) Necessary feedstocks are available and will continue to be available in the future to sustain long term commerical operations, and for biomass energy projects using wood, wood wastes or residues from the National Forest System, the current levels of use by existing facilities have been considered.

(b) Prior to committing to issue, or issuing a loan guarantee, the Secretary shall, to the extent and in the manner required by the Act, consult with and, where applicable, obtain the concurrence of the Secretary of Agriculture.

(c) In cases where a variety of technologies is available, the Secretary shall assure that the awards of financial assistance are designed to minimize duplication of technologies.

§ 799.35 Priorities.

(a) In evaluating applications under Subpart A of this part, priority will be given to eligible projects which use a primary fuel other than petroleum or natural gas in the production of biomass fuel; apply new technologies that expand possible feedstocks or produce new forms of energy, produce energy (other than alcohol) using improved or new technologies; or any combination of the foregoing.

(b) Within the group of priority projects preferential consideration will be given to:

(1) Projects which have the smallest ratio of petroleum or natural gas consumed to biomass energy produced;

(2) Applicants proposing projects that evidence a strong likelihood of business success and economic viability;

(3) Applicants that qualify as small or disadvantaged business concerns;

(4) Applicants which maximize private investment and have a strong equity position;

(5) Projects which promote competition.

Subpart D—Municipal Waste Energy Projects

§ 799.40 Purpose.

The purpose of this subpart is to set forth the policies and procedures in addition to those of Subpart A of this part, under which the Secretary will approve an application and issue, or commit to issue, a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy from municipal waste in an environmentally acceptable manner.

§ 799.41 Program Management and Administration. [Reserved]

§ 799.42 Receipt of applications.

(a) Applications under this subpart shall be filed with

Department of Energy, Procurement and Contracts Management Directorate, Mail Stop 1J009, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585

(b) All applications should be marked by the applicant on the outside of the package "Application for Loan Guarantee—Municipal Waste."

§ 799.43 Eligible and ineligible projects.

(a) In addition to meeting the requirements of Subpart A of this part, to be eligible under this Part to receive a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy, a project must utilize municipal waste as a feedstock.

(b) Pending completion of an environmental impact statement for industrial waste, loan guarantees for municipal waste energy projects involving industrial waste shall be available only for waste wood, waste paper, and food process waste which do not constitute the wastes or residues of agricultural activities, wood harvesting activities or production of forest products. These latter categories may be eligible for loan guarantees subject to the completion of an environmental assessment which is anticipated to be available prior to this rule becoming final.

§ 799.44 Additional application requirements.

An application for a loan guarantee for a municipal waste energy project shall include the following additional information—

(a) An analysis of the feasibility and effect of source separation techniques, including identification of existing source separation efforts, if applicable;

(b) Assurances that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of issuance of the loan guarantee which are engaged in the separation or recovery of reuseable materials from municipal waste.

(c) A description of the materials in the waste stream and an analysis to the extent practicable, of the economic and energy conservation potential for alternative uses of materials derived from the municipal waste stream.

(d) Other information relevant to the policy considerations, required findings and determinations, and priorities under this subpart.

§ 799.45 Policy considerations.

The following additional considerations apply to evaluation of applciations—

(a) The extent of energy that can be recovered or conserved economically by the project including, but not limited to, energy savings resulting from recycling of source separated and otherwise recovered material and from displacement of petroleum or natural gas.

(b) The extent of the economic and energy conservation potential of alternative uses of source separated components of the municipal waste feedstock.

(c) The extent to which there are performance guarantees on the technology;

(d) The extent of coordination with local or regional planning activities;

(e) The extent to which the project minimizes unnecessary disruption of existing municipal waste collection and disposal services.

§ 799.46 Additional required findings and determinations.

In addition to the requirements stated in Subpart A, the Application Approving Official must, prior to committing to issue or issuing a loan guarantee, for an eligible project determine that:

(a) With respect to projects producing biomass energy other than biomass fuel, that the project does not use petroleum or natural gas except for flame stabilization or startup;

(b) With respect to projects producing biomass fuel, that the Btu content of the biomass fuel exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel; and

(c) Assurances have been provided as required under § 799.44(b).

§ 799.47 Priorities.

In evaluating applications under Subpart A of this part, priority will be given to eligible projects which will:

(a) Produce a liquid fuel from municipal waste; or

(b) Will displace petroleum or natural gas as a fuel.

§ 799.48 Tax treatment.

(a) With respect to any loan or debt obligation which is—

(1) Issued after June 30, 1980, by or on behalf of, any State or any political subdivision or governmental entity thereof,

(2) Guaranteed by the Secretary, and

(3) Not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(b) With respect to the amount of obligations described in paragraph (a)(1) of this section that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

§ 799.49 EPA role in Program Administration.

The administration of any project entered into pursuant to these regulations for any commercial demonstration facility for the conversion or bioconversion of solid waste will be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency (EPA) and DOE on the "Development of Energy From Solid Wastes," and related documents. The interagency agreement provides that:

(a) For those energy-related projects of mutual interest, planning will be conducted jointly by EPA and DOE, following which project responsibility will be assigned to one agency;

(b) Energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste will be the responsibility of DOE; and

(c) EPA will retain responsibility for the environmental, and institutional aspects of solid waste projects and for assurance that these projects are consistent with any applicable suggested guidelines pursuant to Section 1008 of the Resource Conservation and Recovery Act of 1976, Pub. L. 94–580, as amended, and any applicable State or regional solid waste management plan.

[FR Doc. 80-24608 Filed 8-13-80; 8:45 am]
BILLING CODE 6450-01-M

V
4
5

A
G
1
4
8
0
UMI

federal register

Thursday
August 14, 1980

Part VII

Department of Agriculture

Federal Grain Inspection Service

Assignment of Additional Geographic Area to the Grain Inspection Services, Inc., Battle Creek, Mich.

DEPARTMENT OF AGRICULTURE

assigned the additional geographic area on an interim basis effective April 1

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

V 45 AG 14 80 UMI

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Geographic Area; Assignment of Additional Geographic Area to the Grain Inspection Services, Inc., Battle Creek, Michigan

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of additional geographic area to the Grain Inspection Service, Inc., for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Grain Inspection Services, Inc., 24 First Street, Battle Creek, Michigan 49017 (the "Agency"), was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2641). Final assignment of geographic area to the Agency was announced in the January 31, 1980, issue of the **Federal Register** (44 FR 6979). Subsequent to the publication of the January 12, 1979, notice, the Agency requested and was assigned the additional geographic area on an interim basis effective April 1, 1979. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed additional geographic area assigned on an interim basis to the Agency was announced in the April 4, 1980, issue of the **Federal Register** (44 FR 23005). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the additional geographic area shall remain as originally proposed.

The additional geographic area assigned to the Agency is:

Bounded: on the North by the northern Isabella County line; the eastern Isabella County line south to the northern Gratiot County line; the northern Gratiot County line east to the northern Saginaw County line; the northern Saginaw County line east to State Route 52;

Bounded: on the East by State Route 52 from the northern Saginaw County line south to State Route 21;

Bounded: on the South by State Route 21 from State Route 52, west to the western Shiawassee County line; and

Bounded: on the West by the western Shiawassee County line from State Route 21 north to the southern Gratiot County line; the southern Gratiot County line west to State Route 27; State Route 27 north to the southern Isabella County line; the southern Isabella County line west to the western Isabella County line; the western Isabella County line north to the northern Isabella County line.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspecitions and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned additional geographic area for this Agency together with the original geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 11, 1980.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 80-24823 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-01-M

V
4
5

A
G

1
4

8
0
UMI

federal register

Thursday
August 14, 1980

Part VIII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 1980.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1980 of 59 rescission proposals and 72 deferrals contained in the first eleven special messages of FY 1980. These messages were transmitted to the Congress on October 1, November 15, December 28, 1979, January 28, February 20, March 4, April 16, May 13, May 20, June 18, and July 30, 1980.

(*See* Rescissions—Table A and Attachment A).

Congressional action has been completed on all FY 1980 rescission proposals. Table A summarizes the status of rescissions proposed by the President as of August 1, 1980, while Attachment A shows the history and status of each rescission proposed during FY 1980.

(*See* Deferrals—Table B and Attachment B).

As of August 1, 1980, $2,670.2 million in 1980 budget authority was being deferred from obligation and another $10.0 million in 1980 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President as of August 1, 1980, while Attachment B shows the history and status of each deferral reported during FY 1980.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the Federal Registers of:

Friday, October 5, 1979 (Vol. 44, No. 195, Part IX)
Tuesday, November 20, 1979 (Vol. 44, No. 225, Part III)
Monday, December 31, 1979 (Vol. 44, No. 251, Part VII)
Thursday, January 31, 1980 (Vol. 45, No. 22, Part X)
Tuesday, February 26, 1980 (Vol. 45, No. 39, Part V)
Monday, March 10, 1980 (Vol. 45, No. 48, Part VI)
Wednesday, April 23, 1980 (Vol. 45, No. 80, Part III)
Friday, May 16, 1980 (Vol. 45, No. 97, Part IX)
Friday, May 23, 1980 (Vol. 45, No. 102, Part V)
Friday, June 20, 1980 (Vol. 45, No. 121, Part IX)
Friday, August 1, 1980 (Vol. 45, No. 150, Part XII)

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

Table A

STATUS OF 1980 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Rescissions proposed by the President	$1,618.1 a
Accepted by the Congress	(550.8)b
Rejected by the Congress	(1,067.3)c

a. This amount is net of a $6.4 million reduction proposed in a Department of Health, Education, and Welfare rescission (R80-2A).

b. Of the $638.1 million identified in attachment A (page 7) as rescinded by the Congress in action on the Administration's proposals, $87.3 million exceeded the amounts proposed for rescission. This amount excludes the $87.3 million not proposed by the Administration.

c. Of the $1,515.9 million identified in attachment A (page 7) as made available, $546.4 million proposed for rescission on April 16, 1980 was subsequently rescinded. (An additional $4.4 million proposed for rescission on May 20, 1980 was also accepted by the Congress.) In addition, funds related to a $97.8 million rescission proposal (R80-36) were not withheld.

* *

Table B

STATUS OF 1980 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$10,507.2
Routine Executive releases (-$1,828.6 million) and adjustments (-$501.9 million) through August 1, 1980	-2,330.5
Overturned by the Congress	-5,496.6 a
Currently before the Congress	2,680.2 b

a. This amount includes $3,263.4 million overturned by the Senate on August 1, 1980 (see the Department of Interior deferral, D80-56 and the Environmental Protection Agency deferral, D80-65A). These funds were released on August 5, 1980.

b. This amount includes $10.0 million in outlays for a Department of the Treasury deferral (D80-23A) and three Department of Energy deferrals (D80-51A, D80-52A, and D80-53A).

* Detail does not add to total due to rounding.

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 08/05/80 TO 14

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 08/05/80 TO 14

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 — AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF AGRICULTURE							
Science and Education Administration							
Cooperative research							
BA	R80- 5	2,500		4 16 80	3,000	2,500a	6 5 80
Extension activities							
BA	R80- 6	1,500		4 16 80		1,500	6 5 80
Farmers Home Administration							
Rural water and waste disposal grants							
BA	R80- 7	75,000		4 16 80	10,000	75,000b	6 5 80
Rural development planning grants							
BA	R80- 8	2,000		4 16 80	1,000	2,000b	6 5 80
Soil Conservation Service							
Watershed and flood prevention operations							
BA	R80- 9	20,000		4 16 80	2,000	20,000b	6 5 80
Resource conservation and development							
BA	R80-10	4,000		4 16 80		4,000	6 5 80
DEPARTMENT OF AGRICULTURE TOTAL BA		105,000			16,000	105,000	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Coastal energy impact fund							
BA	R80-11	50,000		4 16 80	35,400	50,000b	6 5 80
DEPARTMENT OF ENERGY							
Atomic Energy Defense Activities							
Operating expenses							
BA	R80-12	3,400		4 16 80	6,400	3,400a	6 5 80
Plant and capital equipment							
BA	R80- 4	17,000		3 4 80		17,000	4 30 80
Energy Programs							
Energy supply R&D- operating expenses							
BA	R80-13	9,350		4 16 80	44,350	9,350a	6 5 80
Energy supply R&D- plant and capital equip							
BA	R80-14	6,150		4 16 80	5,150	6,150b	6 5 80
Uranium enrichment-operating expenses							
BA	R80-15	1,000		4 16 80	4,000	1,000a	6 5 80
Fossil energy research and development							
BA	R80-16	22,000		4 16 80	17,600	22,000b	6 5 80
Energy conservation							
BA	R80-17	4,000		4 16 80	10,000	4,000a	6 5 80
Economic regulation							
BA	R80-18	1,000		4 16 80	1,000	1,000a	6 5 80
Departmental Administration							
Departmental administration							
BA	R80-19	3,000		4 16 80	31,725	3,000a	6 5 80
DEPARTMENT OF ENERGY TOTAL BA		62,900			120,225	62,900	

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 — AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services Administration							
Health services							
BA	R80 20c	34,900		4 16 80	18,500	34,800b	6 5 80
Indian health facilities							
BA	R80-21e	18,000		4 16 80		18,000	6 5 80
National Institutes of Health							
National Cancer Institute							
BA	R80-22c	17,000		4 16 80		17,000	6 5 80
National Heart, Lung, and Blood Institute							
BA	R80-23c	7,000		4 16 80		7,000	6 5 80
National Institute of Dental Research							
BA	R80-24c	300		4 16 80		300	6 5 80
Nat Inst. of Arthr., Metabolism, & Diges Disease							
BA	R80-25c	2,500		4 16 80		2,500	6 5 80
Nat Inst of Neurol and Comm Disord. and Stroke							
BA	R80-26c	2,000		4 16 80		2,000	6 5 80
Nat Inst. of Allergy and Infectious Diseases							
BA	R80-27c	1,500		4 16 80		1,500	6 5 80
Nat Inst of General Medical Sciences							
BA	R80-28c	500		4 16 80		500	6 5 80
Nat Inst. of Child Health and Humen Develop							
BA	R80-29c	1,000		4 16 80		1,000	6 5 80
National Eye Institute							
BA	R80-30c	3,200		4 16 80		3,200	6 5 80
Nat Inst of Environmental Health Sciences							
BA	R80-31c	500		4 16 80		500	6 5 80
National Institute of Aging							
BA	R80-32c	500		4 16 80		500	6 5 80
Research resources							
BA	R80-33c	5,000		4 16 80		5,000	6 5 80
National Library of Medicine							
BA	R80 34c	500		4 16 80		500	6 5 80
Alcohol, Drug Abuse, and Mental Health Administrat							
Alcohol, drug abuse, and mental health							
BA	R80-35c	4,000		4 16 80	4,000	4,000a	6 5 80
Health Resources Administration							
Health resources							
BA	R80- 2c	104,218		1 28 80			
BA	R80- 2A	-6,450		2 20 80		97,768	3 18 80
BA	R80-36c	149,953d		4 16 80	19,300	52,185b	6 5 80
Office of Assistant Secretary for Health							
Salaries and expenses							
BA	R80-37c	12,800		4 16 80	18,500	12,800a	6 5 80
Office of Education							
Elementary and secondary education							
BA	R80 38c	135,750		4 16 80	130,750	135,750b	6 5 80
Emergency school aid							
BA	R80-39c	25,123		4 16 80	21,052	25,123b	6 5 80
Occupational, vocational, and adult education							
BA	R80-40c	87,500		4 16 80		87,500	6 5 80
Student assistance							
BA	R80-41c	108,000		4 16 80		108,000	6 5 80

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 — AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Office of Education							
Education for the handicapped							
BA	R80-42c	100,000		4 16 80		100,000	6 5 80
Vocational rehabilitation							
BA	R80-43c	20,000		4 16 80		20,000	6 5 80
Rehabilitation services and handicapped research							
BA	R80-44c	5,000		4 16 80		5,000	6 5 80
Social Security Administration							
Supplemental security income program							
BA	R80-45c	1,000,000		4 16 80	1,000,000	1,000,000b	6 5 80
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		1,744,191			1,262,305	1,744,191	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Community Planning and Development							
Urban development action grants							
BA	R80-46c	400,000		4 16 80		400,000	6 5 80
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		400,000				400,000	
DEPARTMENT OF THE INTERIOR							
Bureau of Land Management							
Management of lands and resources							
BA	R80-47c	1,000		4 16 80		1,000	6 5 80
Bureau of Mines							
Mines and minerals							
BA	R80-48c	1,000		4 16 80		1,000	6 5 80
Geological Survey							
Surveys, investigations, and research							
BA	R80-49c	1,000		4 16 80		1,000	6 5 80
Office of Surface Mining Reclamation and Enforcement							
Regulation and technology							
BA	R80-50c	1,000		4 16 80		1,000	6 5 80
DEPARTMENT OF THE INTERIOR TOTAL BA		4,000				4,000	

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 — AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Highway trust fund							
BA	R80-51c	1,000,000		4 16 80		1,000,000	6 5 80
Urban mass transportation administration							
Urban mass transportation fund							
BA	R80-52c	1,000,000		4 16 80		1,000,000	6 5 80
DEPARTMENT OF TRANSPORTATION TOTAL BA		2,000,000				2,000,000	
ENVIRONMENTAL PROTECTION AGENCY							
Environmental Protection Agency							
Research, development, and demonstration							
BA	R80-53c	5,000		4 16 80		5,000	6 5 80
Abatement and control							
BA	R80-54c	1,000		4 16 80		1,000	6 5 80
Construction grants							
BA	R80-55c	5,000,000		4 16 80		5,000,000	6 5 80
ENVIRONMENTAL PROTECTION AGENCY TOTAL BA		5,006,000				5,006,000	
GENERAL SERVICES ADMINISTRATION							
Federal Buildings Fund							
Limitations on availability of revenue							
BA	R80-56c	1,000		4 16 80		1,000	6 5 80
GENERAL SERVICES ADMINISTRATION TOTAL BA		1,000				1,000	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION							
Research and development							
BA	R80-57c	1,000		4 16 80		1,000	6 5 80
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TOTAL BA		1,000				1,000	
NATIONAL SCIENCE FOUNDATION							
Research and related activities							
BA	R80-58c	1,000		4 16 80		1,000	6 5 80
NATIONAL SCIENCE FOUNDATION TOTAL BA		1,000				1,000	
SMITHSONIAN INSTITUTION							
Salaries and expenses							
BA	R80-59c	1,000		4 16 80		1,000	6 5 80
SMITHSONIAN INSTITUTION TOTAL BA		1,000				1,000	
TOTAL BA		9,572,091			1,398,530	9,572,091	

V 45 A G 1 14 8 0 UMI

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 — AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Higher and continuing education BA	R80-42c	44,275		4 16 80	16,000	44,275b	6 5 80
Library resources BA	R80-43c	18,000		4 16 80	18,000	18,000a	6 5 80
Special projects and training BA	R80-44c	11,000		4 16 80	5,000	11,000b	6 5 80
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		788,569			251,102	690,801	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Community Planning and Development							
Community development grants BA	R80-45	153,200		4 16 80	153,200	153,200a	6 5 80
Rehabilitation loan fund BA	R80-46	38,000		4 16 80	25,500	38,000b	6 5 80
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		191,200			178,700	191,200	
DEPARTMENT OF THE INTERIOR							
Heritage Conservation and Recreation Service							
Urban park and recreation grants BA	R80-47	85,000		4 16 80	15,000	85,000b	6 5 80
Land and water conservation fund BA	R80-48	251,000		4 16 80		251,000	6 5 80
Historic preservation fund BA	R80-49	16,500		4 16 80		16,500	6 5 80
Geological Survey							
Exploration of natl petroleum reserve-Alaska BA	R80- 3	18,000		1 28 80		18,000	3 18 80
DEPARTMENT OF THE INTERIOR TOTAL BA		370,500			15,000	370,500	
DEPARTMENT OF JUSTICE							
Office of Justice Assist., Research, and Statistic							
Law enforcement assistance BA	R80-59	12,439		5 20 80	4,439	8,000	7 25 80
DEPARTMENT OF THE TREASURY							
Bureau of Government Financial Operations							
Salaries and expenses BA	R80-50	322		4 16 80	322	322a	6 5 80
OTHER INDEPENDENT AGENCIES							
Arms Control and Disarmament Agency							
Arms control and disarmament activities BA	R80-51	720		4 16 80	720	720a	6 5 80
Federal Mine Safety and Health Review Commission							
Salaries and expenses BA	R80-52	188		4 16 80	188	188a	6 5 80
International Communication Agency							
Special international exhibitions BA	R80- 1	114		10 1 79		114	11 15 79

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 — AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Merit Systems Protection Board							
Office of the special counsel BA	R80-53	1,000		4 16 80	2,000	1,000a	6 5 80
National Alcohol Fuels Commission							
Salaries and expenses BA	R80-58	9		5 13 80		9	7 3 80
National Science Foundation							
Science education activities BA	R80-54	5,000		4 16 80	2,500	5,000b	6 5 80
Occupational, Safety, and Health Review Comm.							
Salaries and expenses BA	R80-55	100		4 16 80	100	100a	6 5 80
Small Business Administration							
Business loan and investment fund BA	R80-56	19,000		4 16 80		19,000	6 5 80
Water Resources Council							
Water resources planning BA	R80-57	11,000		4 16 80	11,431	11,000a	6 5 80
OTHER INDEPENDENT AGENCIES TOTAL BA		37,131			16,939	37,131	
TOTAL BA		1,618,061			638,127	1,515,854	

FOOTNOTES

a. These funds were made available for obligation on June 5, 1980. Subsequently, the funds were rescinded by the 1980 Supplemental Appropriations and Rescission Act (P.L. 96-304), signed into law on July 8, 1980.

b. These funds were made available for obligation on June 5, 1980. Subsequently, the amount listed in the adjacent column was rescinded by P.L. 96-304 resulting in a like decrease in the amount remaining available.

c. This rescission proposal was made prior to the formation of the Department of Health and Human Services and the Department of Education on May 7, 1980. At the time this proposal was transmitted to the Congress, it was reported under the Department of Health, Education, and Welfare.

d. These funds include $97,768,000 previously proposed for rescission in R80-2a which were not withheld pending congressional action on R80-36.

END OF REPORT

V 45 A G 14 80 UMI

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17:59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
FUNDS APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs								
Appalachian regional development programs								
BA	D80-48	14,300		4 16 80				14,300
International Security Assistance								
Economic support fund								
BA	D80- 1	100,000		10 1 79				100,000
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		114,300						114,300
DEPARTMENT OF AGRICULTURE								
Farmers Home Administration								
Mutual self-help housing								
BA	D80-46	15,000		2 20 80	-10,000			5,000
Forest Service								
Timber salvage sales								
BA	D80- 2	9,298		10 1 79				9,298
Expenses, brush disposal								
BA	D80- 3	32,060		10 1 79				
BA	D80- 3A		20,643	6 18 80				52,703
Restoration of forest lands								
BA	D80- 4	38		10 1 79	-4			34
DEPARTMENT OF AGRICULTURE TOTAL BA		56,396	20,643		-10,004			67,035
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Local public works program								
BA	D80-69	6,447		5 13 80	-6,447			
National Oceanic and Atmospheric Administration								
Construction								
BA	D80- 5	7,000		10 1 79				
BA	D80- 5A		39,459	1 28 80				46,459
Coastal zone management								
BA	D80- 6	20,000		10 1 79				
BA	D80- 6A		a	11 15 79				20,000
Promote and develop fishery products and research								
BA	D80- 7	2,400		10 1 79	-2,400			
Fisheries loan fund								
BA	D80- 8	5,300		10 1 79				
BA	D80- 8A		B	1 28 80	-293			5,007
Coastal energy impact fund								
BA	D80-49	54,922c		4 16 80				54,922
DEPARTMENT OF COMMERCE TOTAL BA		96,069	39,459		-9,140			126,388
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Shipbuilding and conversion, Navy								
BA	D80-41	997,500		1 28 80	-27,500			970,000
Military Construction								
Military construction, all services								
BA	D80- 9	31,386		10 1 79				
BA	D80- 9A		355,780d	1 28 80				
BA	D80- 9B		e	7 30 80	-375,976	26,194		37,384
Family Housing, Defense								
Family housing, Defense								
BA	D80-42	18,651		1 28 80				18,651
Various Activities								
Various accounts								
BA	D80-50	801,700f		4 16 80				
BA	D80-50A		112,900	5 20 80	-728,400			186,200

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17:59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		1,849,237	468,680		-1,131,676		26,194	1,212,235
DEPARTMENT OF DEFENSE-CIVIL								
Cemeterial Expenses, Army								
Salaries and expenses								
BA	D80-71	113		6 18 80				113
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services								
BA	D80-10	595		10 1 79				
BA	D80-10A		114	12 26 79	-86			623
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		708	114		-86			736
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Operating expenses								
BA	D80-51			4 16 80				
O	D80-51A		1,000g	5 20 80				1,000
Energy Programs								
Energy supply R&D-operating expenses								
BA	D80-52			4 16 80				
O	D80-52A		2,500g	5 20 80				2,500
Fossil energy construction								
BA	D80-11	50,000		10 1 79	-50,000			
Departmental Administration								
Departmental administration								
BA	D80-53			4 16 80				
O	D80-53A		1,000g	5 20 80				1,000
DEPARTMENT OF ENERGY TOTAL BA		50,000			-50,000			
TOTAL O			4,500					4,500
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D80-12h	23,314		10 1 79				23,314
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D80-43h	10,000		1 28 80				10,000
Office of Education								
Student assistance								
BA	D80-54h	140,000		4 16 80		-140,000i		
Social Security Administration								
Limitation on administrative expenses								
BA	D80-47h	5,000		2 20 80				5,000
Human Development Services								
White House Conferences - Aging, Families, & Child								
BA	D80-13h	4,649		10 1 79				
BA	D80-13A		j	2 20 80	-3,054		1,604	3,199
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		182,963			-3,054	-139,396		41,513
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Troubled projects operating subsidy								
BA	D80-55	10,000		4 16 80				10,000

V 45 A G 1480 UMI

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17:59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D80-44	1,134		1 28 80				1,134
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D80-14	30,000		10 1 79				30,000
National Park Service								
Construction								
BA	D80-56	15,500		4 16 80		-15,500k		
Geological Survey								
Payments from proceeds, sale of water								
BA	D80-15	39		10 1 79				39
Bureau of Mines								
Drainage of anthracite mines								
BA	D80-16	1,137		10 1 79				
BA	D80-16A		328	1 28 80	-500			965
DEPARTMENT OF THE INTERIOR TOTAL BA		47,810	328		-500	-15,500		32,138
DEPARTMENT OF JUSTICE								
Legal Activities								
Fees and expenses of witnesses								
BA	D80-45	1,181		1 28 80	-1,181			
Federal Prison System								
Buildings and facilities								
BA	D80-17	22,853		10 1 79				
BA	D80-17A		14,888	11 15 79				
BA	D80-17B		12,610	1 28 80	-26,214			22,137
Office of Justice Assist., Research, and Statistic								
Law enforcement assistance								
BA	D80-70	13,396		5 13 80				
BA	D80-70A		6,000	5 20 80	-19,396			
DEPARTMENT OF JUSTICE TOTAL BA		37,430	33,498		-48,791			22,137
DEPARTMENT OF LABOR								
Employment and Training Administration								
Employment and training assistance								
BA	D80-57	190,760		4 16 80	-27,500			163,260
Temporary employment assistance								
BA	D80-58	203,000		4 16 80				203,000
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to intl peacekeeping activities								
BA	D80-32	10,000		11 15 79				
BA	D80-32A		2,000	1 28 80	-12,000			
Other								
Emergency refugee and migration assistance fund								
BA	D80-18	5,650		10 1 79				
BA	D80-18A		19,350l	1 28 80	-15,300		1,194	10,894
DEPARTMENT OF STATE TOTAL BA		15,650	21,350		-27,300		1,194	10,894

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17:59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
DEPARTMENT OF TRANSPORTATION								
Coast Guard								
Acquisition, construction, and improvements								
BA	D80-59	33,800		4 16 80				33,800
Federal Aviation Administration								
Construction, Metropolitan Washington Airports								
BA	D80-60	4,000		4 16 80				4,000
Civil supersonic aircraft development termination								
BA	D80-19	5,004		10 1 79	-5,000			4
Facilities & equip. (Airport & airway trust fund)								
BA	D80-20	138,211		10 1 79				
BA	D80-20A		166,081	1 28 80				304,292
Federal Highway Administration								
Federal aid highways								
BA	D80-33	495,789		11 15 79	-495,789			
BA	D80-61	1,659,000		4 16 80		-1,659,000m		
Federal Railroad Administration								
Railroad research and development								
BA	D80-62	3,800		4 16 80				3,800
Northeast corridor improvement program								
BA	D80-63	75,000		4 16 80				75,000
Urban Mass Transportation Administration								
Urban mass transportation fund								
BA	D80-21	393,076		10 1 79			-393,076n	
BA	D80-64	7,875		4 16 80		-7,875m		
BA	D80-72	166,245		6 18 80		-166,245m		
DEPARTMENT OF TRANSPORTATION TOTAL BA		2,981,800	166,081		-500,789	-1,833,120	-393,076	420,896
DEPARTMENT OF THE TREASURY								
Office of the Secretary								
Investment in national consumer cooperative bank								
BA	D80-38	12,550		12 26 79				12,550
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D80-22	79,548		10 1 79				
BA	D80-22A		34,245	12 26 79	-2,322		14	111,485
O	D80-23	2,735		10 1 79				
O	D80-23A		13,850o	2 20 80	-13,269		2,173	5,489
Bureau of the Mint								
Construction of mint facilities								
BA	D80-24	3,230		10 1 79				
BA	D80-24A		2,500	1 28 80				5,730
DEPARTMENT OF THE TREASURY TOTAL BA		95,328	36,745		-2,322		14	129,765
TOTAL O		2,735	13,850		-13,269		2,173	5,489
ENVIRONMENTAL PROTECTION AGENCY								
Construction grants								
BA	D80-65	3,636,254		4 16 80				
BA	D80-65A		11,694p	5 20 80		-3,647,948q		
OTHER INDEPENDENT AGENCIES								
District of Columbia								
Loans for capital outlay								
BA	D80-39	8,130		12 26 79				8,130
Federal Emergency Management Agency								
Emergency planning, preparedness, and mobilization								
BA	D80-25	80		10 1 79				80
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D80-26	1,800		10 1 79	-940			860
General Services Administration								
Federal Buildings Fund								
BA	D80-66	25,000		4 16 80				75,000

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17 59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
International Communication Agency									
Salaries & expenses	BA	D80-34	2,000		11 15 79				2,000
Special foreign currency program	BA	D80-35	1,600		11 15 79				
	BA	D80-35A		137	7 30 80				1,737
Acquisition & construction of radio facilities	BA	D80-37	10,973		10 1 79				10,973
National Consumer Cooperative Bank									
Self-help development fund	BA	D80-40	8,000		12 26 79				8,000
National Science Foundation									
Research and related activities	BA	D80-67	18,000		4 16 80	-2,000			16,000
National Commission on Social Security									
Salaries and expenses	BA	D80-29	250		10 1 79				
	BA	D80-29A		145	12 26 79				395
Navajo & Hopi Indian Relocation Commission									
Salaries and expenses	BA	D80-30	8,300		10 1 79				8,300
Railroad Retirement Board									
Regional rail transportation protective account	BA	D80-36	1,000		11 15 79	-1,000			
Smithsonian Institution									
Construction	BA	D80-66	19,000		4 16 80				19,000
National Alcohol Fuels Commission									
Salaries and expenses	BA	D80-28	250		10 1 79				
	BA	D80-28A		900	1 28 80	-9			741
President s Commission on Pension Policy									
Salaries and expenses	BA	D80-27	700		11 15 79				700
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES TOTAL BA			119,083	782		-3,949			115,916
TOTAL BA			9,686,798	799,374		-1,815,311 -5,496,568		-504,070	2,670,213
TOTAL O			2,735	18,350		-13,269		2,173	9,989

FOOTNOTES

a. This supplementary report was transmitted solely to expand the application of this deferral to include funds appropriated in FY 1980 as well as balances carried forward from previous years.

b. This supplementary report was transmitted solely to change the justification for deferring the funds.

c. This deferral action was taken in conjunction with a rescission proposal (R80-11).

d. This amount includes the effect of releases totalling $19,279 thousand made prior to the transmittal of the supplementary report.

e. This supplementary report was transmitted solely to reflect a change in justification involving the delay of an additional construction project.

f. These deferral items were transmitted to the Congress in a consolidated deferral report which listed the individual items as D80-90.1 through 90.34.

g. This supplementary report was transmitted solely to make a technical correction to the original report by reflecting a delay of expenditures (outlays) rather than a delay of obligations (BA).

h. This deferral was made prior to the formation of the Department of Health and Human Services and the Department of Education on May 7, 1980. At the time this item was transmitted to the Congress, it was reported under the Department of Health, Education, and Welfare.

i. This amount was rescinded by the 1980 Supplemental Appropriations and Rescission Act, P.L. 96-304.

j. This supplementary report was transmitted to expand the application of this deferral.

k. The Senate disapproved this deferral (S Res. 464) on August 1, 1980. The release of these funds occurred on August 5, 1980.

l. This supplementary report includes the effect of releases totalling $8,000 thousand and adjustments of $5,982 thousand made prior to the transmittal of the report.

m. This release was required pursuant to Chapter XIII of P.L. 96-304.

n. Congressional action on the 1980 Transportation and Related Agencies Appropriation Bill (P.L.96-131) rescinded these funds.

o. This amount includes the effect of releases totalling $2,691 thousand made prior to the transmittal of the supplementary report.

p. This amount includes the effect of a release totalling $12,496 thousand made prior to the transmittal of the supplementary report.

q. A release of $400 million was required on July 8 pursuant to Chapter VII of P.L. 96-304. The Senate disapproved the remainder of this deferral ($3,247,948,114)--S Res. 470-- on August 1, 1980. The release of these funds occurred on August 5, 1980.

[FR Doc. 80-24765 Filed 8-13-80; 8:45 am]

BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 45, No. 159

Thursday, August 14, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO) "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1
51539-51754.....4
51755-52138.....5
52139-52354.....6
52355-52768.....7
52769-53074.....8
53074-53436.....11
53437-53800.....12
53801-54008.....13
54009-54298.....14

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139
12232.....53437
Proclamations
4776.....51539
4777.....53075
4778.....53439
4779.....53441
4780.....53443
4781.....53445
Administrative Orders:
Memorandums:
July 31, 1980.....51169-51174

5 CFR

Ch. XIV.....51541
297.....52769
410.....51755
581.....53447
Proposed Rules:
339.....53481
359.....51214
432.....53481
752.....53481
831.....53481
930.....53485

6 CFR

705.....51175
706.....51541, 52769

7 CFR

2.....52355
210.....51175
245.....52770
272.....53448
273.....53448
301.....51178
319.....53449
331.....51755, 53450
722.....51755
908.....52356, 53801, 54063
910.....51177, 52771
916.....53450
917.....51179, 53450
921.....51180
922.....53451
924.....51180
926.....52772
946.....52141
948.....51182
958.....52141
967.....52143
993.....54064
1137.....51542
1421.....53801
1427.....53077
1446.....51756
2853.....51757
Proposed Rules:
29.....51572
272.....51216, 53792
273.....51216, 53066, 53792
301.....52816
404.....51573
431.....53486
722.....52817
800.....52339
910.....53487
985.....51818
1001.....54066
1464.....51579
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR

264.....52143
Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR

78.....52772
92.....52773
Proposed Rules:
94.....52818
317.....53002
318.....51832
381.....53002

10 CFR

110.....51184
212.....52112
430.....53488
445.....51763
456.....53434
500.....53682
501.....53682
504.....53682
1050.....53972
Proposed Rules:
2.....53972
205.....51833
212.....54069
378.....51581
430.....53714
456.....53422
500.....53368
503.....53368
504.....53368
505.....53368
506.....53368
799.....54264

11 CFR

100.....52356
110.....52356

12 CFR

239.....51838
Proposed Rules:
203.....51769, 51770
42.....54036

36 CFR

5742.....51787

49 CFR

12 CFR

7 53080
201 ..... 52144, 54009
220 53452
265 54011

Proposed Rules:
Ch. I 52166
Ch. II 51581
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR

Proposed Rules:
101 ..... 51763, 53081
108 53835

14 CFR

39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014
71 ..... 51546, 53086–53090, 54015, 54027, 54028
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:
Ch. I 53161, 53162
39 ..... 53162, 54071, 54072
45 53163
71 ..... 51587–51590, 52396, 53163, 54072–54080
73 51591
75 ..... 52396, 54081
121 53316
135 53316
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR

17a 54028
373 54031
378 53090

Proposed Rules:
19 51592

16 CFR

13 ..... 52776, 52778, 53455
305 53340
436 ..... 51763, 51765
455 52750
1019 53036

Proposed Rules:
13 ..... 51593, 51596
239 51838
441 53839
705 51218

17 CFR

Ch. I 54032
7 51520

Proposed Rules:
1 51598
4 51600

18 CFR

2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
290 54033
282 52359
292 52779
375 53456

Proposed Rules:
260 54082
271 ..... 51219, 54085
273 ..... 51219, 54085
274 ..... 51219, 54085
301 51614

19 CFR

353 52780
355 54035

Proposed Rules:
Ch. I 51490
177 54065
207 54086

20 CFR

Ch. III 53806
404 52078
416 52078

Proposed Rules:
Ch. II 51615

21 CFR

172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458, 54035
520 52781
558 53457
884 ..... 51185, 51186

Proposed Rules:
Ch. II 51832, 52397
101 53023
600 52821
606 52821
610 51226
660 51226

22 CFR

Proposed Rules:
Ch. II 53164–53182

23 CFR

657 52365
658 52365

Proposed Rules:
625 51720
652 51720
663 51720

24 CFR

200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
571 51516
590 52762
869 52371
885 51186
1710 52144

Proposed Rules:
570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:
171 53164
172 53164
173 53164
177 53164
182 53164

26 CFR

1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:
1 ..... 52399, 52824
14 52824
26 51840

27 CFR

Proposed Rules:
Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR

0 52145
42 54036
31 53772

Proposed Rules:
Ch. I 51506, 51832
16 52183
50 52183

29 CFR

11 51187
40 51192
102 51192
1625 51547
1952 ..... 51775, 53457
1999 51187
2520 51446
2550 51194

Proposed Rules:
Ch. XIV 51229
2520 ..... 51231, 52824
2530 ..... 51231, 52824
2550 ..... 51231, 51840

30 CFR

Ch. VII 51547, 52834
211 53128
762 52375
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306

Proposed Rules:
Ch. VII 52407, 52408, 53180, 53839
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR

341 53
346 53

32 CFR

763 51776
853 52800
888d 52145

33 CFR

117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:
117 ..... 51617, 51618

34 CFR

64 ..... 353412, 53414
709 53788

Proposed Rules:
100 ..... 52052, 53841
797 54000

36 CFR

Proposed Rules:
7 51618
1202 51843

37 CFR

304 51197

38 CFR

17 53807
21 51777
36 53807

39 CFR

Proposed Rules:
111 51846

40 CFR

35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042
61 ..... 53147, 54052
86 53400
122 52149
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053

Proposed Rules:
6 53187
35 53187
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089
61 53842
80 54090
81 52841
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
408 52411
410 52185
717 51855

41 CFR

Ch. 101 ..... 51201, 53149
3 53806

Proposed Rules:
101–17 52842

42 CFR

Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205
58 ..... 51209, 51556
405 51783
455 51559

Proposed Rules:
51 53492
72 51241
460 53189
461 53189

43 CFR

4100 53154
8351 51740

Proposed Rules:
2560 52303

Public Land Orders:
5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR

64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796
205 ..... 53334, 53956
322 53479

Proposed Rules:
6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427

45 CFR

Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
151 53996
185 54004
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:
121q 52136
190 51243

46 CFR

30 52386
61 52386
151 52386

Proposed Rules:
93 54095

47 CFR

Ch. I 52389
13 52154
22 52149
68 52151
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821
74 51563
76 52153
81 52154
83 52154
87 52154
90 51811
97 51564

Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252, 53843
15 51251
21 51252
22 53843
73 ..... 51624, 52843, 52845, 52846, 52848, 53843
74 51252
90 ..... 53843, 53844
94 51252

48 CFR

Proposed Rules:
9 51253

49 CFR

1 54054
571 ..... 51569, 52365, 53157
840 54055
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1309 52161
1310 52161

Proposed Rules:
Ch. X 53846
171 54097
173 54097
178 54097
398 51625
571 ..... 51626, 51628
1039 54111
1080 53190
1102 51858
1116 52186

50 CFR

17 ..... 52803, 52807, 53968
18 54056
26 52391
32 ..... 52392, 52393, 54057–54060
285 53479
611 53831
652 53480
653 52810
661 53832

Proposed Rules:
13 52849
17 ..... 52849, 53495, 54111, 54112
20 53982
32 52163
216 51254
285 51858
285 52853
611 ..... 51254, 53500, 53847
655 51254
661 ..... 51861, 54113

V 45 A G 14 80 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

HEALTH AND HUMAN SERVICES DEPARTMENT

47612 7–15–80 / Records and reports; applicability of requirements to manufacturers of industrial dielectric heaters, including radio frequency (RF) sealers, and electromagnetic (EM) induction heating equipment

INTERIOR DEPARTMENT

Bureau of Land Management—

47618 7–15–80 / Financial assistance, local governments entitlement lands; payments in lieu of taxes

List of Public Laws

Last Listing August 13, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 7786 / Pub. L. 96–329 To amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election. (Aug. 11, 1980; 94 Stat. 1029) Price $1.

PRINCIPLES OF REGULATIONS WRITING SEMINAR

WHAT: The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.
The Principles of Regulations Writing Seminar covers the following concepts:
1. How to prepare for drafting: adopting a style manual, knowing your audience.
2. How to draft a regulation: organizing a regulation to make it easier for the reader, using consistent clear language, avoiding jargon and legalese, and reviewing and redrafting systematically.
3. How to prepare a regulation to comply with Federal Register publication requirements: writing an effective preamble and explaining how the regulation amends the Code of Federal Regulations.

WHO: Any Federal employee who drafts documents or who reviews for substance documents that are published in the Federal Register.

WHEN: October 22, 1980; November 19, 1980; January 21, 1981; February 25, 1981; May 13, 1981

HOW: Register for the class by sending a training authorization form to us. After we receive your training authorization form, we will mail you a confirmation letter that will serve as an admission ticket to the class. Tuition will not be charged for an applicant who cancels a confirmed reservation five work days before the day of the class. Someone may substitute for the applicant if the agency training office approves.

WHERE: Send your training form to: Principles of Regulations Writing Seminar, Office of the Federal Register, NARS, Washington, D.C. 20408. The class will be held in Washington, D.C., at 1100 L Street N.W. in Room 9407.

COST: $75 for each person.

FOR MORE INFORMATION: Phone Viola Wilson (202) 523–5240.

V
4
5

A
G

1
4

8
0

UMI

would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

LSA (List of CFR Sections Affected)
$10.00
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index $8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

..... **LSA (LIST OF CFR SECTIONS AFFECTED) ($10.00 a year domestic; $12.50 foreign)**

..... **FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)**

Name _____

Street Address _____

City _____ **State** _____ **ZIP** _____

Make check payable to the Superintendent of Documents

8-15-80
Vol. 45 No. 160
Pages 54299-54710

federal register

Friday
August 15, 1980

Highlights

54299 **Overseas Private Investment Corporation Programs In PRC** Presidential determination

54471, 54472 **Grants—Training** Labor/ETA reallocates funds under Title II–D of the Comprehensive Employment and Training Act (3 documents)

54638, 54640 **Food Stamps** USDA/FNS publishes regulations regarding Food Stamp Workfare Demonstration Project; apply by 9–15–80, effective 5–26 and 8–15–80 (Part III of this issue) (2 documents)

54420 **Consumer Protection** EPA publishes notice regarding study of automating consumer complaint handling

54326 **Banks** FRS publishes regulations regarding bank holding company may form a subsidiary to perform services for its subsidiaries; effective 8–11–80

54694 **Gasoline** DOE/ERA proposes maximum lawful selling price for unleaded gasoline; comments by 10–14–80 (Part IX of this issue)

54708 **Nuclear Safety** NRC requests comments by 9–29–80 and announces workshops on functional criteria for emergency response facilities (2 documents) (Part XI of this issue)

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AID$ section of this issue.

54403 **Fuel** DOE/ERA gives notice of requirement of development and submission of annual fuel substitution plans by Federal agencies

54662 **Petroleum** DOE/ERA proposes amendments to Mandatory Petroleum Allocation Regulations; comments by 9–15–80 (Part VI of this issue)

54355 **Health and Safety** Labor/OSHA proposes basic program elements for Federal employee occupational safety and health programs; comments by 9–15–80

54326 **Banks and Banking** FDIC publishes regulations delegating authority to suspend time deposit withdrawal penalties for disaster areas; effective 8–15–80

54702 **Advertising** FTC announces 9–29–80 effective date of final rule concerning labeling and advertising of home insulation (Part X of this issue)

54329 **Prescription Drugs** Justice/DEA publishes regulations modifying procedure for partial filling of prescriptions for Schedule II controlled substances; effective 9–15–80

54688 **Petroleum** DOE/ERA proposes several changes to the Tertiary Incentive Program; comments by 10–10–80 (Part VIII of this issue)

54307 **Freedom of Information** USDA/FSQS establishes procedures for obtaining Food Safety and Quality Service (FSQS) records under the Freedom of Information Act; effective 8–15–80

54656 **Mines** Labor/MSHA proposes identifying mines which have a pattern of violations of mandatory health or safety standards; comments by 10–14–80 (Part V of this issue)

Privacy Act Document

54396 DOD/DIS
54444 HHS/PHS

54516 **Sunshine Act Meetings**

Separate Parts of this Issue

54578 **Part II, Labor/ESA**
54638 **Part III, USDA/FNS**
54642 **Part IV, EPA**
54656 **Part V, Labor/MSHA**
54662 **Part VI, DOE/ERA**
54678 **Part VII, Interior/FWS**
54688 **Part VIII, DOE/ERA**
54694 **Part IX, DOE/ERA**
54702 **Part X, FTC**
54708 **Part XI, NRC**

Contents

Federal Register
Vol. 45, No. 160
Friday, August 15, 1980

The President
ADMINISTRATIVE ORDERS
54299 Overseas Private Investment Corporation programs in PRC (Presidential Determination No. 80–25 of Aug. 8, 1980)

Executive Agencies

Agricultural Marketing Services
RULES
54304 Lemons grown in Ariz. and Calif.
54305 Peaches grown in Colo.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Federal Crop Insurance Corporation; Food and Nutrition Service; Food Safety and Quality Service; Foreign Agricultural Service; Forest Service; Rural Electrification Administration.

Animal and Plant Health Inspection Service
RULES
Plant pest regulations:
54302 Mediterranean fruit fly

Arms Control and Disarmament Agency
NOTICES
54388 Senior Executive Service Performance Review Board; membership

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
54392, 54393 Procurement list, 1980; additions and deletions (2 documents)

Civil Aeronautics Board
NOTICES
Hearings, etc.:
54388 Pan American World Airways, Inc., et al., enforcement proceeding

Civil Rights Commission
NOTICES
54388 Administration of justice, role of Federal Government; hearing

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
54305 Rice
PROPOSED RULES
Loan and purchase programs:
54347 Sugar beets and sugarcane

Commodity Futures Trading Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
54393 Chicago Board of Trade; plywood contract

Defense Department
See also Engineers Corps.
NOTICES
54396 Privacy Act; systems of records

Drug Enforcement Administration
RULES
Prescriptions:
54329 Schedule II controlled substances; partial filling of prescriptions for patients in long term care facilities

Economic Regulatory Administration
RULES
Motor gasoline; State recommendations to increase retail price margin:
54325 Oregon
PROPOSED RULES
Petroleum allocation and price regulations:
54662 Crude oil for Strategic Petroleum Reserve (SPR) by exchange of Naval Petroleum Reserves (NPR) etc.
54694 Gasoline, unleaded; maximum lawful selling price; hearing
54688 Tertiary incentive program
NOTICES
Consent orders:
54412 Hawn Brothers
54414 Payne Inc.
54403 Fuel substitution plans, annual; development and submission requirements for Federal agencies
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
54409, 54411 Consolidated Edison Co. (2 documents)
54408 Hooker Chemicals & Plastics Corp.
54413 Orange & Rockland Utilities, Inc.
54405 Shell Oil Co.

Employment and Training Administration
NOTICES
Comprehensive Employment and Training Act programs:
54471, 54472 Reallocation of funds: prime sponsors (3 documents)
54472 Wage adjustment index 1981 FY; correction

Employment Standards Administration
NOTICES
54578 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Calif., Conn., Fla., Ga., Ill., Iowa, Kans., Ky., Maine, Mich., N.H., N.Y., Ohio, Pa., R.I., Tenn., Va., and Wis.)

V 45 A G 15 80 UMI

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
Environmental statements; availability, etc.:
54399 Near-term acquisition of away-from-reactor (AFR) spent fuel storage facilities
International atomic energy agreements; civil uses; subsequent arrangements:
54405 Canada
54405 Japan
54404 Korea
Meetings:
54404 National Petroleum Council
Procurement:
54404 Contract awards, proposed; Systems Control, Inc.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
54395 Carlyle Lake and Lake Shelbyville, Ill.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
54336 Arkansas
54336 New Hampshire
Pesticide chemical in or on raw agricultural commodities; tolerances and exemptions, etc.:
54340 Oxamyl
Pesticide programs:
54337 Books and records of pesticide production and distribution
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
54385 Opacity of emissions determination remotely by lidar; extension of time
Air quality implementation plans; approval and promulgation; various States, etc.:
54372 New York
Toxic substances:
54642 Premanufacture review program; processing of exempt substances for commercial purposes; notification requirement
NOTICES
54420 Consumer program; automating complaint handling feasibility study
Environmental statements; availability, etc.:
54436 Agency statements; weekly receipts
Pesticides; experimental use permit applications:
54427 Mobay Chemical Corp.
54435 Rohm & Haas Co.
54427 Water and Power Resources Service et al.
Pesticides; temporary tolerances:
54428 Great Western Sugar Co.
54436 Herculite Products, Inc.
Pesticides; tolerances in animal feed and human food:
54428 Mobay Chemical Corp.
54426 Pennwalt Corp. et al.
54436 Rohm & Haas Co.
Toxic and hazardous substances control:
54420, 54422, 54423, 54425 Premanufacture notices receipts (4 documents)
Water pollution; discharge of pollutants (NPDES):
54428 Gulf of Mexico

Federal Communications Commission
RULES
Common carrier services:
54341 Telephone network; connection of equipment systems, and protection apparatus to private line services; correction

Federal Contract Compliance Programs Office
NOTICES
Contract sanctions:
54478 PFG & Sons Builders & Contractors, Inc.
54481 S.T.C. Construction Co.

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
54346 Oats

Federal Deposit Insurance Corporation
RULES
Authority delegations:
54326 Bank Supervision Division Director et al.; presidentially-declared disaster areas; time deposit withdrawal penalties waived
NOTICES
54516, 54517 Meetings; Sunshine Act (4 documents)

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act of 1978:
54354 Curtailment plans; compensation provisions; withdrawal
NOTICES
54517 Meetings; Sunshine Act (2 documents)

Federal Home Loan Bank Board
NOTICES
54517 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
54439 Agreements filed, etc.
54517 Meetings; Sunshine Act

Federal Prevailing Rate Advisory Committee
NOTICES
54440 Meetings

Federal Reserve System
RULES
Bank holding companies (Regulation Y):
54326 Operations subsidiaries
NOTICES
54517 Meetings; Sunshine Act

Federal Trade Commission
RULES
54702 Home insulation, labeling and advertising; effective date and stay of effect of representative thickness testing and television advertising disclosure requirements

Fish and Wildlife Service
RULES
Endangered and threatened species:
54678 Leon Springs pupfish
Hunting:
54344 Cibola National Wildlife Refuge, Calif., et al.
PROPOSED RULES
Endangered and threatened species:
54682 Foreign reptiles; status review
54682 McKittrick Pennyroyal

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
54327 Chloramphenical oral solution
54329 Sterile benzathine penicillin G suspension
54328 Tylosin
PROPOSED RULES
Human drugs:
54354 Anorectal products (OTC); monograph establishment; correction
54354 Stomach acidifier products (OTC); correction
NOTICES
Medical devices:
54444 USCI Gruntzig Dilaca coronary artery balloon dilatation catheter; premarket approval; correction
Meetings:
54442, 54443 Advisory committees; panels, etc. (2 documents)

Food and Nutrition Service
RULES
Food stamp program:
54638 Workfare demonstration project; emergency rule
NOTICES
Child nutrition programs:
54386 Donated foods or cash in lieu of; national average minimum value (July 1, 1980–June 30, 1981)
Food stamp program:
54640 Workfare demonstration project; application period reopened

Food Safety and Quality Service
RULES
54307 Freedom of Information Act; implementation
Meat and poultry inspection, mandatory:
54310 Voluntary plant quality control systems

Foreign Agricultural Service
RULES
Import quotas and fees:
54301 Dairy products; "pricebreak" system elimination, quota shares

Forest Service
NOTICES
Environmental statements; availability, etc.:
54386 Los Padres National Forest, uranium prospecting, Calif.

General Accounting Office
NOTICES
54441 Regulatory reports review; proposals, approvals, violations, etc. (FCC, FMC)

Health, Education, and Welfare Department
See Health and Human Services Department

Health and Human Services Department
See Food and Drug Administration; Public Health Service.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
54414, 54418 Decisions and orders (2 documents)
Remedial orders:
54417 Objections filed

Heritage Conservation and Recreation Service
RULES
Urban park and recreation recovery:
54334 Local recovery action programs; uniform preparation criteria; extension of time

Housing and Urban Development Department
RULES
Low income housing:
54330 Fair market rent schedules for existing housing and mobile home spaces (Sections 8 and 23); correction

Immigration and Naturalization Service
RULES
Transportation line contracts:
54310 Evergreen International Airlines, Inc.

Indian Affairs Bureau
RULES
Irrigation projects; operation and maintenance charges:
54331 Colorado River, Ariz.

Interior Department
See also Fish and Wildlife Service; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Office; Water and Power Resources Service.
NOTICES
54452 Arizona; Central Arizona Project, proposed water allocations to Indian tribes; hearings

International Trade Administration
NOTICES
Antidumping:
54388 Racing plates (aluminum horseshoes) from Canada
Meetings:
54391 Importers and Retailers' Textile Advisory Committee
54391 Management-Labor Textile Advisory Committee
Scientific articles; duty free entry:
54389 University of California et al.

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
54344 Indiana Interstate Railway Co., Inc.
PROPOSED RULES
Rail carriers:
54385 Railroad contract rates; standards, procedures, and exemptions; extension of time
NOTICES
54457 Hearing assignments

V 45 A G 15 80 UMI

54458 Long and short haul applications for relief (2 documents)
Motor carriers:
54453, 54459, 54467 Finance applications (3 documents)
54461, 54466 Intercorporate hauling operations, intent to engage in (2 documents)
54453 Permanent authority applications; correction
Railroad car service orders; various companies:
54471 Chicago, Rock Island & Pacific Railroad Co.
54456, 54471 Railroad car service rules, mandatory; exemptions (4 documents)
Railroad operation, acquisition, construction, etc.:
54470 Oklahoma, Kansas & Texas Railroad Co.
Railroad services abandonment:
54453 Chicago & North Western Transportation Co.
54470 Norfolk & Western Railway Co.
Rerouting of traffic:
54470 All railroads

Justice Department
See Drug Enforcement Administration; Immigration and Naturalization Service.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Federal Contract Compliance Programs Office; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
54487 American Motors Sales Corp. et al.
54489 Brown Shoe Co.
54490 General Motors Corp.
54489 Homer Laughlin China Co.
54491 Mogadore Patterns Inc.
54490 Phoenix Forging Co.

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
54451 Royal Gorge Resource Area, Colo.; grazing management
Meetings:
54448 Coos Bay District Multiple Use Advisory Council
54450 Montrose District Grazing Advisory Board
54451 Socorro District Grazing Advisory Board
Motor vehicles, off-road, etc.; area closures:
54449 Arizona
54450 California
Withdrawal and reservation of lands, proposed, etc.:
54450 Idaho

Legal Services Corporation
NOTICES
54518 Meetings; Sunshine Act

Merit Systems Protection Board
NOTICES
54491 Disciplinary cases based on off-duty misconduct; filing of amicus briefs; extension of time

Mine Safety and Health Administration
PROPOSED RULES
54656 Mandatory health or safety standards; pattern of violations; identification criteria
NOTICES
Environmental statements; availability, etc.:
54478 Dallas Pike Area, Ohio County, W.Va.; construction and operation of expanded approval and certification center
Petitions for mandatory safety standard modifications:
54473 Carey Salt
54473 Consolidation Coal Co.
54474, 54476 Domtar Industries, Inc. (6 documents)
54473, 54477 Homestake Mining Co. (2 documents)
54477 Jim Walter Resources, Inc., et al.

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
54391 Gulf of Mexico Fishery Management Council

National Science Foundation
NOTICES
Meetings:
54493 Advisory Council (2 documents)
54491 Astronomy Advisory Committee
54491 Information Science and Technology Advisory Committee
54492 Ocean Sciences Advisory Committee (3 documents)
54492 Policy Research and Analysis Advisory Committee

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
54708 Emergency response facilities functional criteria; inquiry and workshops (2 documents)
NOTICES
Applications, etc.:
54494 Baltimore Gas & Electric Co.
54493, 54495 Duke Power Co. (2 documents)
54493, 54495 Metropolitan Edison Co. et al. (2 documents)
54494 Regulatory guides; issuance and availability

Occupational Safety and Health Administration
RULES
Health and safety standards:
54333 Employee exposure and medical records, access; corrections
State plans; development and enforcement, etc.:
54334 Puerto Rico
PROPOSED RULES
54355 Federal employee safety and health programs

Pension and Welfare Benefit Programs Office
PROPOSED RULES
Employee benefit plans:
54370 Individual benefit reporting and recordkeeping for single employer plans; correction (2 documents)

NOTICES
Employee benefit plans:
54485, 54486 Prohibition on transactions; exemption proceedings, applications, hearings, etc. (2 documents)

Public Health Service
NOTICES
54444 Privacy Act; systems of records

Rural Electrification Administration
RULES
Electric borrowers:
54307 High-voltage transmission lines design manual (Bulletin 62-1)
Telephone borrowers:
54307 Subscriber carrier systems; relaxation of signal to noise ratio (Bulletin 345-66)
PROPOSED RULES
Telephone borrowers:
54354 Trunk and subscriber carrier systems; design specifications (Bulletin 385-4; forms 397b and 397c)
NOTICES
Environmental statements; availability, etc.:
54387 Eastern Iowa Power & Light Cooperative
54387 Seminole Electric Cooperative, Inc.
54386 Tri-State Generation & Transmission Association, Inc.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
54510 Liberty Oil Corp.
54510 Panacolor, Inc.
54518 Meetings; Sunshine Act

Small Business Administration
NOTICES
Applications, etc.:
54510 Bando-McGlocklin Investment Co., Inc.
Meetings; advisory councils:
54510 North Carolina

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States:
54371 Iowa
54371 Oklahoma
54372 Pennsylvania

Tennessee Valley Authority
NOTICES
54511 National Environmental Policy Act; implementation

Textile Agreements Implementation Committee
NOTICES
Cotton textiles
54392 Macau

Trade Representative, Office of United States
NOTICES
54496 Generalized System of Preferences; articles eligible for duty-free treatment; review of petitions

Water and Power Resources Service
NOTICES
Environmental statements; availability, etc.:
54452 Central Valley Project, Calif., et al.

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Rural Electrification Administration—
54386 Tri-State Project, 9-15 through 9-18-80

COMMERCE DEPARTMENT
International Trade Administration—
54391 Importers and Retailers' Textile Advisory Committee, 9-3-80
54391 Management-Labor Textile Advisory Committee, 9-3-80
National Oceanic and Atmospheric Administration—
54391 Gulf of Mexico Fishery Management Council, 9-3-80

ENERGY DEPARTMENT
54404 Emergency Preparedness of the National Petroleum Council, Subcommittee, 9-8-80
Federal Prevailing Rate Advisory Committee Meetings, 9-4, 9-11, 9-18 and 9-25-80

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
54443 Antimicrobial Panel, 9-21 and 9-22-80
Miscellaneous Internal Drug Products Panel, 9-28 and 9-29-80
54442 Neurological Device Section of the Respiratory and Nervous System Devices Panel, 9-26-80

INTERIOR DEPARTMENT
Bureau of Land Management—
54448 Coos Bay District Multiple Use Advisory Council, 9-18-80
54450 Montrose District Grazing Advisory Board, 9-16 and 9-17-80
54451 Socorro District Grazing Advisory Board, 9-11-80

NATIONAL SCIENCE FOUNDATION
54493 Astronomy Advisory Committee, 9-24 and 9-25-80
54491 Information Science and Technology Advisory Committee, 9-4 and 9-5-80
54492 Ocean Sciences Advisory Committee, 9-17 and 9-18-80
54492 Ocean Sciences Advisory Committee, 9-24 and 9-25-80
54492 Ocean Sciences Advisory Committee, 9-30 and 10-1-80
54492 Policy Research and Analysis Advisory Committee, Environment, Energy, and Resources Subcommittee, 9-5-80
54493 Steering Committee of the NSF Advisory Council, 9-3-80
54493 Task Group #9 of the NSF Advisory Council, 9-12-80

Federal Register

Presidential Documents

SMALL BUSINESS ADMINISTRATION
54510 Region IV (Charlotte, North Carolina) Advisory Council, 9–10 and 9–11–80

HEARINGS

CIVIL RIGHTS COMMISSION
54388 Federal Role in the Administration of Justice, 9–16–80

ENERGY DEPARTMENT
Economic Regulatory Administration—
54662 Crude oil for the strategic petroleum reserve by exchange of naval petroleum reserves crude oil, 8–27 and 9–4–80
54694 Maximum lawful selling price for unleaded gasoline, 9–5 and 9–11–80
54688 Tertiary Incentive Program, 9–16–80

ENVIRONMENTAL PROTECTION AGENCY
54428 Oil and Gas Operations in Portions of the Gulf of Mexico, 10–1 and 10–2–80

INTERIOR DEPARTMENT
Secretary Office–
54452 Allocations of water from the Central Arizona project to Indian tribes, 9–16, 9–17, and 9–18–80
Water and Power Resources Service—
54452 Draft environmental statement on the proposed reauthorization of the Central Valley Project, Calif., September dates

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

HOME INSULATION
Labeling and advertising: Federal Trade Commission: Rules

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Presidential Determinations:
No. 80–25 of August 8, 1980 54299

7 CFR
6 54301
282 54638
331 54302
910 54304
919 54305
1421 54305
1701 (2 documents) 54307
2890 54307
2891 54307
2892 54307
2893 54307
2894 54307
2895 54307
2896 54307
2897 54307
2898 54307
2899 54307
Proposed Rules:
427 54346
1435 54347
1701 54354

8 CFR
238 54310

9 CFR
318 54310
381 54310

10 CFR
212 54325
Proposed Rules:
50 (2 documents) 54708
211 54662
212 (2 documents) 54688, 54694

12 CFR
225 54326
303 54326

16 CFR
460 54702

18 CFR
Proposed Rules:
2 54354
154 54354

21 CFR
510 (2 documents) 54327, 54328
540 54329
555 54327
558 54328
1306 54329
Proposed Rules:
310 54354
346 54354

24 CFR
803 54330
888 54330

25 CFR
231 54331

29 CFR
1910 54333
1913 54333
1952 54334
Proposed Rules:
1960 54355
2520 (2 documents) 54370
2530 (2 documents) 54370

30 CFR
Proposed Rules:
Ch. VII (3 documents) 54371, 54372
104 54656

36 CFR
1228 54334

40 CFR
52 (2 documents) 54336
169 54337
180 54340
Proposed Rules:
52 54372
60 54385
720 54642

47 CFR
68 54341

49 CFR
1033 54344
Proposed Rules:
1039 54385

50 CFR
17 54678
32 54344
Proposed Rules:
17 (2 documents) 54682, 54685

Federal Register
Vol. 45, No. 160
Friday, August 15, 1980

Presidential Documents

Title 3—

The President

Presidential Determination No. 80–25 of August 8, 1980

Determination Under Subsection 239(g) of the Foreign Assistance Act of 1961, as Amended—People's Republic of China

Memorandum for the Secretary of State, the President of the Overseas Private Investment Corporation

Pursuant to subsection 239(g) of the Foreign Assistance Act of 1961, as amended, I determine that the operation of the programs of the Overseas Private Investment Corporation in the People's Republic of China is important to the national interest.

This Determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, August 8, 1980.

[FR Doc. 80–24985
Filed 8–13–80; 4:11 pm]
Billing code 3195–01–M

V 45 A G 15 80 UMI

V
4
5
1
5
8
0
A
G
UMI

Rules and Regulations

Federal Register
Vol. 45, No. 160
Friday, August 15, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Section 22 Import Quotas; Certain Dairy Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Import Regulation I which governs the administration of an import licensing system for certain dairy products subject to quota under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. The amendments in this final rule will (1) elimate certain inconsistencies between Presidential Proclamation 4708 (December 11, 1979) and the regulation in its present form and (2) provide authority to grant nonhistorical licenses to certain persons who did not receive quota shares for Other Cheese, NSPF, from Canada as a result of the confusion surrounding the elimination of the "pricebreak" system.

EFFECTIVE DATE: August 16, 1980.

FOR FURTHER INFORMATION CONTACT: Carol M. Harvey, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, FAS, Room 6624, South Building, Department of Agriculture, Washington, D.C. 20250 (202) 447–5270. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Carol M. Harvey.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant". Further, it has been determined by Rolland E. Anderson, Director, Dairy, Livestock and Poultry Division, FAS, that good cause exists for not postponing the effective date of these final rules until 30 days after publication in the **Federal Register** (5 U.S.C. 553). This situation exists because the first change made herein is simply for purposes of clarification and the second change requires immediate implementation if it is to provide importers affected with the opportunity to make importations during 1980. More specifically, since it will take several weeks before allocations can actually be made, if an additional month must elapse before the rule authorizing such allocations can take effect, it would be very near the end of the 1980 quota year.

With respect to the second change, it has been determined after review of the documents previously submitted by the concerned importers as specified in § 6.26(b)(5)(ii) of the proposed rule that the minimum base-period importation required for license eligibility shall be 5,000 pounds rather than the 10,000 pounds provided in the proposed rule.

The proposed rule amending Import Regulation I was published in the **Federal Register** on May 20, 1980. A 30-day public comment period ended on June 21, 1979. Written comments were received from only a few entities.

Discussion of Comments

Two comments dealt with the proposal to eliminate Canada from participation in the "Other Countries" category in Group III(a) of Appendix I. It was proposed that this be done by amending the definition of "Other Countries" in § 6.21(t) in order to bring it into line with Presidential Proclamation 4708. After considering both comments the Department has decided to finalize the proposal. It should be noted, however, that under the provisions of Section 6.30(a), Canada will not be excluded from being a source country under Group III(a) Appendix I in the event of a country of origin adjustment under that category.

Three comments were received concerning the proposal to authorize the allocation of nonhistorical quota shares to traditional importers of above pricebreak Other Cheese, NSPF, from Canada—one positive, two negative. The negative comments addressed the "fairness" of granting traditional importers of above pricebreak Other Cheese, NSPF, from Canada a nonhistorical license for 1980 from Appendix I.

In the judgment of the Department there are three reasons which suggest that this resolution is eminently fair. First, Revision 6 of Import Regulation I established an August 1–November 1 application period for licenses to import items during the year following the year in which application was made. Revision 6 remained in effect until December 21, 1979, the effective date for the present regulation found in Revision 7. Importers who imported exclusively above the pricebreak were not covered by Revision 6 and thus were not required to apply for a license to import until Revision 7 became effective, almost two months after the last day for the submission of applications for 1980 licenses to import items in Appendix I. Second, since these same importers had never before been exposed to the licensing system, they have no real knowledge of the fact that the proposed rules published in October were designed to bring them within the licensing system. And third even if an importer was aware of the license application period because of importations above as well as below the pricebreak, it would have been virtually impossible to know before the end of the application period that there would be no Appendix II quota for Other Cheese, NSPF, from Canada and that, therefore, as of 1980 such cheese could only be imported with a nonhistorical license. The first authoritative indication to this effect did not appear until Presidential Proclamation 4708 was published on December 13, 1979. As with Revision 7 of Import Regulation I, this occurred weeks after the last day for making application for 1980 licenses.

Importers of Other Cheese, NSPF, from Canada affected by the second change should take note of the fact that there will be a 30-day application period beginning August 16, 1980. All documents required (if not already submitted) under the provisions of § 6.26(b)(5)(i) for 1980 nonhistorical quota entitlement for Other Cheese, NSPF, from Canada must be postmarked no later than (31 days after publication in the **Federal Register**). Licenses will be issued as soon as possible after the end of this application period.

Accordingly 7 CFR, Part 6—Subpart

ACTION: Final rule.

on this final action. Due to the possibility that Mediterranean fruit fly

Federal Register on July 29, 1980 (45 FR 50318–50324) and became effective on

Expressway, then northwesterly on Foothill Expressway to its intersection

interstate movement pursuant to a certificate if, among other things, it had

Accordingly 7 CFR, Part 6—Subpart Section 22 Import Quotas, § 6.21 and § 6.26 are amended as follows:

§ 6.21 [Amended]

1. Section 6.21(t) is amended by deleting the words "Appendix 1 or Appendix 2" and inserting in lieu thereof the words "part 3 of the Appendix to the Tariff Schedules of the United States."

§ 6.26 [Amended]

2. Section § 6.26(b) is amended by adding a new paragraph (5) to read as follows:

* * * * *

(b) * * *

(5) Notwithstanding any other provision of this regulation, a person who is not eligible for a historical license in excess of one percent of the total quota for an article in Group V of Appendix 1 from a country which has a Group V quota in Appendix 1, but has no such quota in Appendix 2, will be eligible to obtain a nonhistorical license to enter a quota share of such article, if such person (i) submits to the licensing authority (a) documents required under paragraph (b)(2)(i) and (ii) of § 6.25, and (b) documents indicating the importation of 5,000 pounds or more of such article free of quota during the period July 1, 1978 through June 30, 1979, and (ii) had submitted previously either (a) Customs forms 7501 and 7505, as requested by the Department on August 16, 1979 (44 FR 47969), or (b) an application for a historical quota share for an article in Group V of Appendix 1: *Provided*, That, the allocation of such nonhistorical quota shares will not reduce the size of the nonhistorical quota shares previously allocated for 1980. All submissions required under § 6.26(b)(5)(i) must be postmarked no later than (31 days after publication in the Federal Register) to be eligible for a 1980 nonhistorical quota share.

(Sec. 3, Pub.L. 80-897, 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub.L. 96-39, 93 Stat. 288, 272 (A.U.S.C. 1202 note); Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202))

Signed this 12 of August, 1980.

Thomas R. Saylor,

Acting Administrator.

[FR Doc. 80-24842 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-10-M

Animal and Plant Health Inspection Service

7 CFR Part 331

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Plant Pest Act this document amends the Mediterranean fruit fly regulations by expanding the area listed as a regulated area in Santa Clara County in California; by allowing regulated articles originating in regulated areas in California to move to Hawaii from such regulated areas without a certificate or limited permit only if not moved through any nonregulated areas; by changing a methyl bromide treatment for avocado from 4 hours to 2½ hours; and by providing an ethylene dibromide treatment for Calamondin orange, kumquat, lime, and pomelo. These actions are necessary as emergency measures for the purpose of preventing the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States, and for allowing the interstate movement of certain regulated articles under conditions that in most cases would not cause damage to the regulated articles and that would not cause the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATE: Effective date of amendments August 15, 1980. Written comments concerning this final rule must be received on or before October 14, 1980.

ADDRESS: Written comments should be submitted to H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the possibility that Mediterranean fruit fly could be spread artificially to noninfested areas of the United States, situations exit requiring immediate action to better control the spread of this pest. Also, a situation exists requiring immediate action to allow the interstate movement of certain regulated articles under conditions that in most cases would not cause damage to the regulated articles and that would not cause the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Written Comments

Interested persons are invited to submit written comments concerning the final rule. Comments should bear a reference to the date and page numbers of this issue of the **Federal Register.** All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

Background

The Mediterranean fruit fly, *Ceratitis capitata* Wiedeman, is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. It can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. Its short life cycle permits the rapid development of serious outbreaks.

Because of infestations of the Mediterranean fruit fly found in California in areas in Los Angeles County and Santa Clara County, emergency Mediterranean fruit fly regulations were published in the

Federal Register on July 29, 1980 (45 FR 50318-50324) and became effective on that date. For the reasons explained below it is necessary to amend these regulations on an emergency basis pursuant to sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee).

Santa Clara County

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the regulations restrict the interstate movement from the regulated areas in Los Angeles County and Santa Clara County in California of articles designated as regulated articles.

Based on trapping surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has spread beyond the outer perimeter of the area in Santa Clara County previously designated as a regulated area. Therefore, in order to prevent the further spread of the Mediterranean fruit fly it is necessary as an emergency measure to amend § 331.1-2(c) of the regulations (7 CFR 331.1-2(c)) to expand the regulated area in Santa Clara County to cover the following area in which the Mediterranean fruit fly now occurs:

That portion of Santa Clara County bounded by a line beginning at a point where State Highway 237 intersects Interstate 680, the southerly on Interstate 680 to its intersection with U.S. Highway 101, then southerly on U.S. Highway 101 to its intersection with Capitol Expressway (G-21), then westerly on Capitol Expressway (G-21) to its intersection with Almaden Expressway (G-8), then southerly on Almaden Expressway (G-8) to its intersection with Branham Lane, then southwesterly on Branham Lane to its intersection with Camden Avenue, then northwesterly on Camden Avenue to San Thomas Expressway (G-4), then northwesterly on San Thomas Expressway (G-4) to its intersection with Campbell Avenue, then westerly on Campbell Avenue to Prospect Road, then west on Prospect Road to its intersection with Stelling Road, then north on Stelling Road to its intersection with Stevens Creek Boulevard, then west on Stevens Creek Boulevard to its intersection with Foothill Boulevard, then north on Foothill Boulevard to Foothill Expressway, then north on Foothill Expressway to its intersection with Juniper Serra Freeway, then northwesterly on Juniper Serra Freeway to its intersection with El Monte Road, then northeasterly on El Monte Road to its intersection with Foothill Expressway, then northwesterly on Foothill Expressway to its intersection with San Antonio Road, then northerly on San Antonio Road to its intersection with U.S. Highway 101, then due north on an imaginary line from said intersection to San Mateo-Santa Clara County line, then easterly along the San Mateo-Santa Clara County line to the Alameda-Santa Clara County line, then easterly along the Alameda-Santa Clara County line to its intersection with an imaginary line projected due south to a point where Zanker Road and State Highway 237 intersect, then northeasterly on State Highway 237 to the point of beginning.

Movement to Hawaii

Prior to amendment by this document, the provisions in § 331.1-3 of the regulations (7 CFR 331.1-3) allowed a regulated article originating in a regulated area in a State to be moved interstate from such regulated area only if moved pursuant to a certificate or limited permit, or if moved to Hawaii without moving through any other State. Under the regulations a certificate or limited permit may be issued to allow the movement of a regulated article based on certain determinations necessary to establish the absence of a risk of spreading the pest to noninfested areas. It was intended to allow a regulated article originating in a regulated area to move to Hawaii without a certificate or limited permit because Hawaii is already infested with the Mediterranean fruit fly and it does not appear that the introduction of additional Mediterranean fruit flies would have any significant effect on the infestation in Hawaii. However, it was not intended that a regulated article originating in a regulated area be allowed to move without a certificate or limited permit from a regulated area to a nonregulated area as part of an interstate movement to Hawaii. This would present a significant risk of spread of the Mediterranean fruit fly from a regulated area to noninfested areas. In order to prevent this risk, it is necessary to amend § 331.1-3(b)(1) of the regulations on an emergency basis to allow regulated articles originating in a regulated area to move to Hawaii without a certificate or limited permit only if moved to Hawaii without moving through any nonregulated area.

Treatments

It is further necessary, based on emergency situations to amend § 331.1-9 of the regulations (7 CFR 331.1-9) which sets forth treatments for certain regulated articles. Under the regulations a regulated article would be eligible for interstate movement pursuant to a certificate if, among other things, it had been treated in accordance with § 331.1-9 of the regulations, and would be eligible for interstate movement pursuant to a limited permit if it were moving under certain conditions for such treatment.

It was specified in § 331.1-9(l) of the regulations that treatment for avocados shall include fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 4 hours at 21°C. (70°F.) or above. The 4 hour time period was in error and should have been a 2½ hour time period. Based on research, it has been determined that it is only necessary to fumigate avocados with such methyl bromide treatment for 2½ hours in order to destroy the pest. Therefore, the time period should be changed from 4 hours to 2½ hours. This change is necessary as an emergency measure in order to avoid possible damage to fruit caused by unnecessary treatment.

It was also specified in § 331.1-9(2) of the regulations that treatments for fruits of bitter melon, citrus citron, grapefruit, lemon, mandarin orange (tangerine), and orange shall be as follows:

"Fumigation with ethylene dibromide (EDB) at normal atmospheric pressure.

Dosage as follows:

Fruit load in chamber	Dosage of EDB in g/m³ for 2 hrs.	
	15.5°-20.5°C. (60°-69°F.)	21°C. or above (70°F. or above)
25 percent or less	10 g	8 g
More than 25 percent but less than 50 percent	12 g	10 g
50 percent or more	14 g	12 g

Required post-treatment aeration: Forced circulation in the fumigation chamber for ½ hour following treatment and then placed in a well ventilated area."

This treatment was specified for the listed fruits based on a finding that it would be adequate to destroy the Mediterranean fruit fly in most cases without damage to the fruit. It has now been determined that fruit of Calamondin orange, kumquat, lime, and pomelo should be added to the list in said § 331.1-9(2). Based on research, it appears that this treatment would also be adequate to destroy the pest, in most cases without damage to such fruits. These fruits should be added to the list on an emergency basis in order to relieve unnecessary restrictions and to allow the interstate movement of such fruits in those instances where the risk

of spreading the pest to noninfested

point where Zanker Road and State

recommendations and information

7 CFR Part 919

obligations which are now accruing,

Cotton Section, Price Support and Loan

of spreading the pest to noninfested areas can be eliminated.

Accordingly, the Mediterranean fruit fly regulations, which, as noted above, became effective on July 29, 1980, are amended as follows:

1. The description for the regulated area in Santa Clara County in California in § 331.1–2(c) of the regulations (7 CFR 331.1–2(c)) is amended to read as follows:

§ 331.1–2 Regulated areas.

* * * * *

(c) * * *

California

* * * * *

Santa Clara County. That portion of Santa Clara County bounded by a line beginning at a point where State Highway 237 intersects Interstate 680, then southerly on Interstate 680 to its intersection with U.S. Highway 101, then southerly on U.S. Highway 101 to its intersection with Capitol Expressway (G–21), then westerly on Capitol Expressway (G–21) to its intersection with Almaden Expressway (G–8), then southerly on Almaden Expressway (G–8) to its intersection with Branham Lane, then southwesterly on Branham Lane to its intersection with Camden Avenue, then northwesterly on Camden Avenue to San Thomas Expressway (G–4), then northwesterly on San Thomas Expressway (G–4) to its intersection with Campbell Avenue, then westerly on Campbell Avenue to Prospect Road, then west on Prospect Road to its intersection with Stelling Road, then north on Stelling Road to its intersection with Stevens Creek Boulevard, then west on Stevens Creek Boulevard to its intersection with Foothill Boulevard, then north on Foothill Boulevard to Foothill Expressway, then north on Foothill Expressway to its intersection with Juniper Serra Freeway, then northwesterly on Juniper Serra Freeway to its intersection with El Monte Road, then northeasterly on El Monte Road to its intersection with Foothill Expressway, then northwesterly on Foothill Expressway to its intersection with San Antonio Road, then northerly on San Antonio Road to its intersection with U.S. Highway 101, then due north on an imaginary line from said intersection to San Mateo-Santa Clara County line, then easterly along the San Mateo-Santa Clara County line to the Alameda-Santa Clara County line, then easterly along the Alameda-Santa Clara County line to its intersection with an imaginary line projected due south to a point where Zanker Road and State Highway 237 intersect, then northeasterly on State Highway 237 to the point of beginning.

§ 331.1–3 [Amended]

2. The words "nonregulated area" are inserted in lieu of the words "other State" in § 331.1–3(b)(1) of the regulations (7 CFR 331.1–3(b)(1)).

§ 331.1–9 [Amended]

3. The reference to "4 hours" in § 331.1–9(a) of the regulations (7 CFR 331.1–9(1)) is changed to "2½ hours."

4. The list of fruits in § 331.1–9(b) of the regulations (7 CFR 331.1–9(2)) is amended to read as follows: "Bitter melon, Calamondin orange, citrus citron, grapefruit, kumquat, lemon, lime, mandarin orange (tangerine), orange, and pomelo:"

(Sections 105 and 106, 71 Stat. 32 and 33; 7 U.S.C. 150dd, 150ee; 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 12th day of August 1980.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services, U.S. Department of Agriculture.

[FR Doc. 80–24834 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 265]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 17–23, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 17, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 12, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.565 Lemon Regulation 265.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 17, 1980, through August 23, 1980, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 13, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–25079 Filed 8–14–80; 12:06 pm]

BILLING CODE 3410–02–M

7 CFR Part 919

Peaches Grown in Mesa County, Colo.; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and a rate of assessment for the 1980–81 fiscal period, to be collected from handlers to support activities of the Administrative Committee which locally administers the Federal marketing order covering peaches grown in Colorado.

DATES: Effective July 1, 1980, through June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under Marketing Order No. 919 (7 CFR Part 919), regulating the handling of peaches grown in Mesa County, Colorado. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Administrative Committee established under this marketing order and upon other information. It is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60–day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). This order requires that the rate of assessment for a particular fiscal year shall apply to all assessable peaches handled from the beginning of such year which began July 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, new § 919.219 is added to read as follows (§ 919.219 expires June 30, 1981, and will not be published in the annual Code of Federal Regulations):

§ 919.219 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Administrative Committee during the period July 1, 1980, through June 30, 1981, will amount to $1,000.

(b) The rate of assessment for said period payable by each handler in accordance with § 919.41 is fixed at $0.0133334 per cwt. of peaches.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 12, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–24812 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980–Crop Rice Supplement]

1980—Crop Rice Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) final loan and purchase availability dates, (2) maturity dates, (3) loan and purchase rates, (4) premiums and discounts, and (5) location differentials, under which Commodity Credit Corporation (CCC) will extend price support to producers on 1980–crop rice. This rule is needed to satisfy statutory requirements and will enable eligible rice producers to obtain loans and purchases on their eligible 1980–crop rice.

EFFECTIVE DATE: August 15, 1980.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3750 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, Grain, Oilseeds, Rice and Cotton Section, Price Support and Loan Division, ASCS, P.O. Box 2415 Washington, D.C. 20013, 202/447–7923. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option will be available upon request from George H. Schaefer, Production Adjustment Division, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." Also for "improving USDA Regulations" (43 FR 50988), initiation of review of the regulations contained in 7 CFR 1421.325–.328 for need, currency, clarity, and effectiveness will be made within the next five years. The next review will take into consideration problems, issues, etc., which are experienced in program administration during the intervening period.

A notice of proposed rulemaking was published in the **Federal Register** on October 23, 1979, 44 FR 61047, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1980 crop of rice. Such determinations included determining loan rates, premiums, and discounts for grades, classes, other qualities, location differentials and other provisions as may be needed to carry out the program. Interested persons were given until December 24, 1979, to submit recommendations, views, and comments. Twelve responses were received concerning the loan and purchases level rates. Three respondents stated that the announced 1980 target price and loan level would be satisfactory. Four responses indicated that the target price and loan and purchase rate should be higher, while four others proposed total discontinuance. One respondent recommended elimination of class and quality differentials.

The loan and purchase rate for 1980–corp rice is required by Section 101h(2) of the Agricultural Act of 1949, as amended, to bear the same ratio to the 1979 crop loan and purchase rate of $6.79 per hundredweight as the 1980 crop established price of $9.49 per hundredweight bears to the 1979 crops established price of $9.05 per hundredweight. The established price ratio is 1.0486 ($9.49 divided by $9.05). This ratio is applied to the 1979 crop loan and purchase rate of $6.79 per

hundredweight and equals to $7.12 per

time to time, adjust such discounts as CCC determines appropriate to reflect

REA, in its effort to provide the best,

"Improving Government Regulations,"

hundredweight and equals to $7.12 per hundredweight.

The program title and number from the "Catalog of Federal Domestic Assistance" is Commodity loan and Purchases, 10.051. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto, and the 1978 and Subsequent Crops Rice Loan and Purchase Program Regulations, and any amendments thereto, in Part 1421, are further supplemented, as stated herein, for the 1980 crop of rice. Accordingly, the regulations in 7 CFR 1421.325 through 1421.328 and the title of the subpart are revised, as provided below, effective as to the 1980 crop of rice. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1980 Crop Rice Loan and Purchase Program

Sec.
1421.325 Purpose.
1421.326 Availability.
1421.327 Maturity of loans.
1421.328 Loan and purchase rates and premiums and discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101(h), 401, 91 Stat 940, as amended (7 U.S.C. 1441(h) and 1421).

Subpart—1980 Crop Rice Loan and Purchase Program

§ 1421.325 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the General Regulations Governing Price Support for 1978 and Subsequent Crops, as amended, and the 1978 and Subsequent Crops Rice Loan and Purchase Programs Regulations, as amended, apply to loans and purchases for 1980–crop rice.

§ 1421.326 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1980 crop of eligible rice on or before March 31, 1981.

(b) *Purchases.* Producers desiring to offer eligible rice not under loan for purchase must execute and deliver to the county ASCS office prior to April 30, 1981, a purchase agreement (Form CCC–614) indicating the approximate quantity of 1980–crop rice they will sell to CCC.

§ 1421.327 Maturity of Loans.

Loans mature on demand but not later than April 30, 1981.

§ 1421.328 Loan and purchase rates and premiums and discounts.

(a) *Farm storage loans.* The loan rate for farm storage rice shall be $7.12 per hundredweight for any class. The settlement rate shall be the applicable basis rate specified in paragraph (c) of this section, adjusted in accordance with the provisions of this section and §§ 1421.311 and 1421.22.

(b) *Warehouse storage loans and purchases.* The loan rate for rice stored modified-commingled and identity-preserved in an approved warehouse shall be the applicable basic rate specified in paragraph (c) of this section, adjusted as provided in paragraphs (e) and (f) of this section. The rate for loans on rice stored commingled in an approved warehouse and for settlement for modified-commingled and identity-preserved loans and purchases shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in accordance with the provisions of this section and §§ 1421.311 and 1421.22.

(c) *Basic rates.* The basic rate per 100 pounds of rice shall be computed as follows: Multiply the milling yield (in pounds per hundredweight) of whole kernels by the applicable loan value for whole kernels (as shown in the table below according to class), and round the result to the nearest hundredth. Similarly, multiply the difference between the total milling yield and the whole kernels yield (in pounds per hundredweight) by the applicable loan value for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of the two computations to obtain the basic loan and purchase rate per 100 pounds of rice and express such rate in dollars and cents.

Loan Rates for Whole Kernels and Broken Rice

[In cents per pound]

Rough rice class	Whole kernels	Broken rice
Long grains	12.76	4.25
Medium grains	11.01	4.25
Short grains	11.01	4.25

(d) *Premium.* The basic rate determined under paragraph (c) of this section shall be adjusted for Grade U.S. No. 1 by the following premiums:

	Cents per 100 lbs
Grade U.S. No. 1	8

(e) *Discounts.*—(1) *Grade.* The basic rate determined under paragraph (c) of this section shall be adjusted for grades below U.S No. 2 by the following discounts:

	Cents per 100 lbs
Grade U.S. No. 3	15
Grade U.S. No. 4	30
Grade U.S. No. 5	50

(2) *Smut damage.* The rate for rice evidencing smut damage shall be further adjusted by the following discounts:

Percent smut damage	Cents per 100 lbs
Trace	0
0.1 to 1.0	5
1.1 to 2.0	10
2.1 to 3.0	15
3.1 percent and over	25

(f) *Location differentials.* For rice produced in areas specified below, discounts for location (to adjust for transportation costs of moving rice to an area where competitive milling facilities are available) shall be applied to the basic rate determined under paragraph (c) of this section: *Provided, however,* That if such rice is transported and stored in a rice producing area where no location differential is applicable, no discount for location shall be applied.

Differential Table

[Dollars per hundredweight]

Production areas	Discount rice
State of Florida	3.23
States of North Carolina and South Carolina	3.25
Counties of Lafayette, Little River, and Miller, Ark.; Bowie, Tex.; McCurtain, Okla.; and Bossier Parish, La	1.33
Imperial County, Calif., and adjacent counties in Arizona and California	3.26
Counties of Marion, Pike, and St. Charles, Mo	2.26

(g) *Other.* Rice that (1) contains in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) is sour, shall not be eligible for loan. However, in the event that such rice is delivered in satisfaction of loan obligations to CCC, such rice will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity office for settlement purposes. CCC will, from time to time, adjust such discounts as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C. on August 6, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80–24808 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–05–M

Rural Electrification Administration

7 CFR Part 1701

File With for Bulletin 345–66, REA Specification for Subscriber Carrier Systems, PE–64, to Slightly Relax the Signal to Noise Ratio Under Some Input Conditions

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to issue a "File With" for REA Bulletin 345–66 to slightly relax the signal to noise ratio under some input conditions. REA maintains a continuing effort to provide the most cost effective service to rural America through the review of its specifications. This relaxation will not noticeably degrade service and will result in cost reductions for REA borrowers.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3917. The Final Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA hereby amends Appendix A to issue a "File With" for REA Bulletin 345–66, REA Specification for Subscriber Carrier Systems, PE–64, to permit an S/N ratio of 30dB with an input of 0 to –30dBm. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified not significant.

REA, in its effort to provide the best, most cost-effective telecommunications services possible to rural America has made a slight reduction in permissible signal to noise ratio for subscriber carrier systems when subjected to a limited range of input levels. This reduction will not noticeably degrade service while permitting cost reductions in the equipment involved.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final action are impracticable and contrary to the public interest; and good cause is found for making this final action effective immediately.

Copies of the "File With" are available upon request from the address above.

Dated: August 6, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80–24550 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–15–M

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins, to provide for a revision of REA Bulletin 62–1, "Transmission Line Manual," and has renamed the bulletin "Design Manual for High Voltage Transmission Lines." Changes in the 1977 edition of the National Electrical Safety Code necessitated the revisions which now bring the bulletin into conformance.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Lee A. Belfore, Chief, Transmission Standards Branch, Engineering Standards Division, Rural Electrification Administration, Room 1269–S, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–5117. The Final Impact Statement covering this publication is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA Bulletin 62–1, "Design Manual for High Voltage Transmission Lines," is revised pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.).

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044. "Improving Government Regulations," and has been classified "not significant."

The last formal revision of REA Bulletin 62–1 was dated September 1972. The number of significant changes in the 1977 edition of the National Electrical Safety Code necessitated this revision which brings the publication into conformance. Since no other documents exist to replace the bulletin, REA did not consider any other options than revision as it is necessary to keep standards up to date. A Notice of Proposed Rulemaking was published in the **Federal Register** on January 22, 1980, Volume 45, Number 15, pages 4358 and 4359. Comments received consisted of requests for copies of the draft.

Dated: August, 8, 1980.

Joe S. Zoller,

Assistant Administrator—Electric.

[FR Doc. 80–24833 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–15–M

Food Safety and Quality Service

7 CFR Parts 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899

Freedom of Information; Availability of Records to the Public

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document establishes procedures for obtaining Food Safety and Quality Service (FSQS) records under the Freedom of Information Act (FOIA) in accordance with departmental regulations issued pursuant to the Act. The departmental regulations, as implemented by the regulations in this part, govern the availability of records of the FSQS. This document also reserves Parts 2891–2899 of Title 7 of the Code of Federal Regulations for further agency-wide administrative provisions.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Linda A. Wood, Office of the Executive Secretariat, Policy and Program Planning Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2109. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final action has been reviewed under USDA procedures established in

Secretary's Memorandum 1955 to

One comment suggested that a single

cases, be advised of the nature of the

5. *Time limits for responses.*

A fifth comment suggested that the

The following regulations are the FSQS's implementation of the

Government Printing Office,

Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Background

On February 22, 1980, the Department published in the **Federal Register** (45 FR 11815–11816) a proposed rule to establish procedures for obtaining Food Safety and Quality Service (FSQS) records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, in accordance with departmental regulations issued pursuant to the Act.

The FOIA requires each Federal agency, upon receipt of a request for records from any person which (a) reasonably describes such records, and (b) is made in accordance with published rules stating procedures to be followed, to make the records promptly available, except to the extent that requested records or parts of them may be covered by one of the FOIA's nine exemptions. The Act further requires agencies to make available for public inspection and copying certain records, including final agency opinions, orders, statements of policy, administrative staff manuals and instructions to staff.

The Department has published regulations implementing the FOIA (7 CFR Part 1, Subpart A). In addition to setting out the rules under which the Department's records will be made available to the public, they also provide (7 CFR 1.4) that each agency of the Department shall promulgate regulations setting forth information concerning:

1. The location and hours of operation of the Agency's FOIA office;
2. The availability of indexes and supplements thereto of certain agency actions which have not been published in the **Federal Register**;
3. The title and mailing address of the agency official authorized to receive requests for records and to make determinations regarding whether to grant or deny requests;
4. The title and mailing address of the official of the agency who is authorized to receive appeals from denials of requests and to make determinations regarding whether to grant or deny such appeals; and
5. Fees charged for providing records pursuant to the FOIA.

Comments

The FSQS received four letters in response to the February 22, 1980, proposed rule—three letters from trade associations and one from an individual food processor. The letters included seven separate issues which are individually addressed below.

1. *Need for a single USDA FOIA request system.*

One comment suggested that a single USDA system for handling FOIA requests would be better since each Agency would end up with a different system and that would make it difficult for requesters to determine which agency has the information sought and what procedures to follow in making a request.

Under the current decentralized system for administration of the FOIA, each of the USDA agencies is required by Department regulations (7 CFR 1.4) to publish its own FOIA regulations for the purpose of informing the public how to obtain access to agency records. Any decision concerning changing the existing system by, for example, establishing a central receiving office for FOIA requests, must be made at the Department level and is not a matter which is appropriately addressed by agencies publishing their FOIA regulations in accordance with present Department requirements. Information concerning the functions of USDA agencies is available to interested persons from the USDA Government and Public Affairs Office. This information should assist individuals in determining where to send requests. There should be only slight variances in FOIA regulations among USDA agencies since all agency regulations incorporate by reference the Department's FOIA regulations.

2. *Fee schedule.*

A second comment suggested that a fee schedule for file searches should not be implemented since, at present, there is only a duplication charge of ten cents per page for providing copies of agency records.

The FOIA mandates that each Federal agency (Department) establish its own uniform fee schedule for processing FOIA requests to include both search fees and charges for duplication of material (5 U.S.C. 552(a)(4)(A)). The fee schedule mentioned at § 2890.6 of the proposed rule incorporates by reference the USDA fee schedule at 7 CFR Part 1, Subpart A, Appendix A, which went into effect Department-wide some years ago. Search fees are charged only when requested records cannot be located readily. Since these non-routine searches are rarely required in order to locate records, the typical FOIA request, when material provided exceeds 30 pages, involves the assessment of only a duplication fee of ten cents per page.

3. *Deleted information.*

A third comment suggested that § 2890.5(c) of the proposed rule, which discusses the deletion of information from a document released to a requester, should be changed to state that the requesting party will, in all such cases, be advised of the nature of the deleted information and the statutory grounds for the deletion.

Section 2890.8 of the proposed rule incorporates by reference the Departmental requirement that requesters be given the reasons for any denial of access to information (7 CFR 1.5). In addition, this agency's FOIA office has always made it a practice to explain the nature of withheld information, to give reasons for withholding, and to insert the number of the applicable exemption in the place of information which has been segregated and deleted from a requested document.

4. *Confidential information.*

A fourth comment suggested that § 2890.5(a)(3) of the proposed rule, which discussed discretionary releases of exempt material, should be changed to state that records which include trade secrets or confidential commercial information cannot be subject to discretionary release, and, further, that the firms whose business data has been requested will, in all cases, be consulted before a determination is made whether to disclose the data.

The Department regulations, which also govern releases of records by FSQS, already reflect the limitations on discretionary releases (7 CFR 1.11(b)). However, for the sake of clarity, the proposed rule will be changed to state that the coordinator or designee has the authority to "make discretionary releases of exempt records, except where disclosure is specifically prohibited be Executive Order, statute, or applicable regulations."

Concerning the matter of notifying and consulting with firms whose data has been requested, neither the law nor the Department regulations require that subjects of FOIA requests be notified, although the FOIA staff routinely contacts and consults with subject firms when a question arises concerning the nature or significance of any data. Statutory time constraints for responses, however, often make it impossible, particularly in cases involving the records of numerous companies, to consult with each subject company. In addition, such consultation is usually unnecessary for the purpose of making release determinations because the types of commercial data most often requested fall into categories concerning which there are already established FOIA positions (e.g., product formulations are routinely considered to be trade secrets and exempt from disclosure). For these reasons, § 2890.5(a)(3) will not be further changed to require consultation with firms or individuals who are the subjects of FOIA requests.

5. *Time limits for responses.*

A fifth comment suggested that the FOIA coordinator should not be permitted to extend the statutory 10-day time limit for responding to FOIA requests (§ 2890.5(a)(2) of the proposed rule); nor should the Administrator be permitted to extend the statutory 20-day time limit for responding to administrative appeals from denials of access to agency records (§ 2890.7(b)(1) of the proposed rule).

Extension of statutory time limits for responding to FOIA requests and appeals is authorized both by the Act and by implementing Department regulations (5 U.S.C. 552(a)(6)(B) and 7 CFR 1.4). This extension must be not more than 10 working days, which can be applied either at the initial level or at the administrative appeals level, or can be divided between initial and appellate reviews (7 CFR 1.8(c)). Title 7 CFR 1.8 sets out the unusual circumstances under which extensions of time are authorized.

6. *Waiver of fees.*

A sixth comment suggested that the agency should not be able to discretionarily reduce or waive search and/or duplication fees for groups claiming to be acting in the public interest in requesting access to agency records.

Both the FOIA and implementing Department regulations require the waiver of fees in the public interest (5 U.S.C. 552(a)(4)(A) and 7 CFR 1.10). Sections 2890.5(a)(4) and 2890.7(b)(3) merely implement 7 CFR 1.10 and 7 CFR, Part 1, Subpart A, Appendix A, which provide the circumstances under which documents may be furnished without charge or at a reduced charge.

7. *Request log.*

The final comment suggested that FSQS and other agencies should maintain a log which is open to the public indicating what requests have been received and from whom, the dates received, and the status of responses.

The keeping of a request log, although necessary for practical reasons, is not required by the FOIA nor by Department regulations, and the matter of log-keeping, therefore, need not be addressed in FOIA regulations. A synopsis of the request log maintained by the FSQS FOIA staff is prepared weekly. These synopses are available for review at any time by members of the public.

Options Considered. Since publication of agency FOIA regulations is required by the Freedom of Information Act and USDA regulations, there are no practical alternatives to implementing these regulations.

The following regulations are the FSQS's implementation of the Department's requirements under the provisions of the FOIA. Since the FSQS has not yet promulgated an agency-wide administrative provisions' section in the Code of Federal Regulations, this document will also reserve Parts 2891–2899 for further agency-wide use.

In consideration of the above, Parts 2890–2899 of 7 CFR are recodified under a new Subchapter F for agency-wide use. Parts 2891–2899 are reserved and Part 2890 is added to read as follows:

Subchapter F—Food Safety and Quality Service Administrative Provisions

Part
2890 Freedom of Information.
2891–2899 [Reserved.]

PART 2890—FREEDOM OF INFORMATION

Sec.
2890.1 Scope and purpose.
2890.2 Published materials.
2890.3 Index.
2890.4 Facilities for inspection and copying.
2890.5 Requests for records.
2890.6 Fee schedule.
2890.7 Appeals.
2890.8 Agency response to requests.

Authority: 5 U.S.C. 552; 42FR 35625, 35626, 35631.

§ 2890.1 Scope and purpose.

These regulations are issued pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), and in accordance with the directives of the Department of Agriculture regulations in Part 1, Subpart A, of this title. The availability of records of the Food Safety and Quality Service (FSQS), and the procedures by which the public may request such information, shall be governed by this Act and by these Department regulations as implemented and supplemented by the regulations in this part.

§ 2890.2 Published materials.

Rules and regulations of FSQS relating to its regulatory responsibilities are continuously published and made available to the public in the **Federal Register**, and codified in Chapter XXVIII, Title 7 and Chapter III, Title 9 of the Code of Federal Regulations. FSQS also issues numerous publications relating to agency programs which implement the laws listed in the Delegations of Authority, 7 CFR 2.15(a) of this title. Most of these publications are available free from the USDA Publications Division, Office of Governmental and Public Affairs, or at established rates from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 2890.3 Index.

Pursuant to the regulations in 7 CFR 1.4(b), FSQS will maintain and make available for public inspection and copying an index providing information regarding the materials required to be published or made available under the Freedom of Information Act (5 U.S.C. 552(a)(2)). Quarterly publication of these indexes is unnecessary and impracticable, since the material is voluminous and does not change often enough to justify the expense of quarterly publication. The Agency shall provide copies of any index, upon request, at a cost not to exceed direct cost of duplication.

§ 2890.4 Facilities for inspection and copying.

Facilities for public inspection and copying of the material described in §§ 2890.2 and 2890.3 of this part will be provided by FSQS pursuant to 7 CFR 1.4(a) in a reading area, on business days between the hours of 8:15 a.m. and 4:45 p.m., upon request to the Freedom on Information Coordinator or designee at the following address:

Freedom of Information Act Coordinator (FOIA), Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Copies of such material may be obtained in person or by mail.

§ 2890.5 Requests for records.

(a) The FOIA Coordinator of FSQS or designee is authorized to receive requests and to exercise the authority under 7 CFR 1.4(c) to (1) make determinations to grant or deny such requests, (2) extend the 10-day deadline, (3) make discretionary releases of exempt records, except where disclosure is specifically prohibited by Executive Order, statute, or applicable regulations, and (4) make determinations regarding the charging of fees pursuant to the established schedule.

(b) Requests for FSQS records or information shall be made in writing in accordance with 7 CFR 1.3, and submitted to the FSQS Freedom of Information Act Coordinator at the following address:

Freedom of Information Act Coordinator (FOIA Request), Food Safety and Quality Service U.S. Department of Agriculture, Washington, DC 20250.

The submitter shall identify each record with reasonable specificity as prescribed in 7 CFR 1.3. Initial requests for records customarily released by FSQS may be made orally, but in certain instances, the Coordinator in his/her

V 45 A G 15 80 UMI

discretion, may deem it necessary to require a written submission from the requester.

(c) In exercising his/her authority under 7 CFR 1.4(c) to grant and deny requests, the Coordinator or designee will comply with subsection (b) of the Freedom of Information Act (5 U.S.C. 552(b)), as amended, which requires that any reasonably segregable portion of a document shall be provided to a person requesting such document after deletion of any portions within the scope of the request for which an exemption is being claimed under the Act. Therefore, unless the disclosable and nondisclosable portions are so inextricably linked that it is not reasonably possible to separate them, the document will be released with the nondisclosable portions deleted. The Coordinator or designee may exercise discretion as limited by 7 CFR 1.11 to release the entire document, or to make only a minimum number of deletions.

§ 2890.6 Fee schedule.

Departmental regulations provide for a schedule of reasonable standard charges for document search and duplication. See 7 CFR 1.10. Fees to be charged are set forth in 7 CFR Part 1, Subpart A, Appendix A.

§ 2890.7 Appeals.

(a) If the request for information, or for a waiver of search and/or duplication fees is denied, in whole or in part, the Freedom of Information Act Coordinator or designee will set forth in the letter of response the grounds for any denial of access and offer the requesting party an opportunity to file an administrative appeal from the denial, pursuant to 7 CFR 1.3(e). The appeals should be filed in writing within 45 days of the date of denial (departmental regulations, 7 CFR 1.5(a)(3)) and should be addressed as follows:

Administrator, Food Safety and Quality Service, (FOIA Appeal), U.S. Department of Agriculture, Washington, DC 20250.

(b) The Administrator of FSQS is authorized under 7 CFR 1.4(d) to (1) extend the 20-day deadline, (2) make discretionary releases, and (3) make determinations regarding the charging of fees.

§ 2890.8 Agency response to requests.

(a) The response to Freedom of Information requests and appeals by the officials named in §§ 2890.5 and 2890.7 of this part shall be governed by and made in accordance with 7 CFR 1.5 and the regulations in this part.

(b) Requests for records and information may be submitted to field stations. The field station shall immediately notify the FOIA Coordinator or designee by telephone. Unless the FOIA Coordinator or designee orally authorizes a release of the requested records, the field station receiving the request shall transmit the request directly to the FOIA Coordinator for a response. For purposes of compliance with the statutory time limit, the request will be considered as having been received on the date of its arrival in the office of the Coordinator or designee.

(c) Any person whose request for records has been granted may inspect and copy such records (or copies) at the office listed in § 2890.4 of this part in accordance with the provisions of that section as well as § 2890.6, relating respectively to time and fees. Copies may also be obtained by mail.

PARTS 2891—2899 [RESERVED]

(5 U.S.C. 552; 42 FR 35625, 35626, 35631)

Done at Washington, D.C., on: August 7, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-24813 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Evergreen International Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Immigration and Naturalization Service adds a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone: (202) 633-3048.

EFFECTIVE DATE: July 22, 1980.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of Immigration and Naturalization Service entered into agreement with the following named carrier on the date indicated to guarantee the passage through the United States in immediate and continuous transit aliens destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR 238: Evergreen International Airlines, Inc. Effective date: July 22, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit*, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Evergreen International Airlines, Inc."

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228 (d))

This amendment is effective July 22, 1980 as to Evergreen International Airlines, Inc.

Dated: August 11, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-24674 Filed 8-14-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

9 CFR Parts 318 and 381

Voluntary Meat and Poultry Plant Quality Control Systems

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is amending the Federal meat inspection regulations

and the poultry products inspection regulations to permit an official meat or poultry establishment to submit its plans for a total plant quality control system (QC) for evaluation by the Food Safety and Quality Service (FSQS). If the Administrator of FSQS deems the system to be adequate and to result in the preparation of meat and poultry products in conformity with requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, he will approve the system. The rule also provides for the approval of a partial quality control program in connection with the preparation of individual products or processes, or in connection with part of an operation designed to meet a particular requirement, such as determination of net weight. Provisions are also included for the manufacturing and the test marketing of experimental products.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3840. The Final Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-mentioned individual.

SUPPLEMENTARY INFORMATION:

Significance

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

Background

The Proposal

On September 14, 1979, the Department published in the **Federal Register** (44 FR 53528-53534) a document proposing to permit an official meat or poultry establishment, which has voluntarily developed a total plant quality control system or partial quality control program, to submit its plans and information on such system or program to the Administrator of FSQS for approval. The closing date for receipt of comments was November 13, 1979. However, a notice was published in the **Federal Register** (44 FR 65403) on November 13, 1979, extending the closing date to December 13, 1979.

The proposal contained provisions for the (1) application for total plant quality control or partial plant quality control, (2) evaluation and approval of total plant quality control or partial plant quality control, (3) termination of approval of total plant quality control or partial plant quality control, and (4) use of a uniform QC logo or symbol on products produced in a plant with an approved QC system. Each of these parts of the proposal is discussed below:

(1) Application for total plant and partial plant quality control.

In order to inform the Department adequately of the establishment's proposed QC system and provide adequate assurances so that the system would function in accordance with the applicable statute and regulations, the proposed general requirements for making application for the Department's approval of a total plant QC system would include:

a. Submission of a letter from the owner or operator of the official establishment to the Administrator of FSQS for the public record stating:

(i) The company's basis and purpose for seeking approval of its QC system and willingness to adhere to the requirements of the system as approved by the Department.

(ii) That all the establishment's data, analyses, and other information generated by its QC system will be available to Department personnel at all times.

(iii) That plant QC personnel will have authority to halt production or shipment of product in cases where other corrective measures have been ineffective.

(iv) That the establishment owner, operator, or appropriate designee will be available for consultation regarding the plant's QC system any time Department personnel find it necessary.

b. If an establishment has one or more full-time persons with primary duties relating to the quality control system, the submission of an organizational chart indicating that such personnel ultimately report to an establishment official whose responsibilities are independent of and not predominantly production.

c. A list identifying those Parts and sections of the Federal meat inspection regulations and those Subparts and sections of the poultry products inspection regulations which are applicable to the operations of the establishment applying for approval of a QC system. This list shall also identify which QC system or part thereof will serve to maintain compliance with the applicable regulations.

d. Detailed information concerning the manner in which the QC system will function. Such information should include, but not necessarily be limited to, questions of raw material control, the critical check or control points, the nature and frequency of tests to be made, the nature of charts and other records that will be used, the nature of deficiencies the system is designed to identify and control, the process limits at which corrective action will be taken, and the nature of such corrective action.

The general requirements for making application for approval of a partial QC program would include the information specified in item (1)(d) immediately above.

(2) Evaluation and approval of total plant and partial plant quality control.

As proposed, the plant's application for approval of a total plant QC system or a partial QC program would be evaluated by the Administrator of FSQS. If it were to be determined by the Administrator that the total plant QC system or partial QC program would—if carried out as presented—result in finished products being in full compliance with all applicable rules and regulations, the Administrator would approve it and plans would be made for implementation. If the application were denied, the applicant would be informed of the basis for the denial and would be given an opportunity to reapply.

(3) Termination of approval of a total plant QC system or partial plant QC program.

The Administrator would terminate approval of a plant's QC system or program if the establishment is found to have distributed adulterated or misbranded product in commerce. In such cases, opportunity would be provided the plant owner or operator to present views to the Administrator within 30 days of the date of termination and a hearing would be afforded, upon request, in those instances where there is a conflict as to the facts. Termination would also occur if the establishment fails to correct problems in the QC system or program after notice has been given by the Administrator. Prior to such termination, opportunity would be provided the plant owner or operator to present views within 30 days of the date of notice, and a hearing would be afforded, upon request, in those instances where there is a conflict as to the facts.

After termination, an application and request for approval of the same or a modified total QC system would not be evaluated by the Department for at least 6 months from the termination date, or for at least 2 months from the termination date in the case of a partial QC program. All facts, data, and information generated during the 6-month period, or 2-month period in the case of a partial QC program, must be included in the new application,

especially such facts, data, and

manufactured products even though

With these developments, there was

procedures primarily involve the use of

the process. Both can meet the objective

assume the inspection responsibility for

especially such facts, data, and information showing that the problem causing the earlier termination has been rectified.

(4) Use of a uniform QC logo or symbol.

The proposal made a provision for use of a uniform QC logo or symbol as part of the product labeling. Companies utilizing an approved total plant QC system would be permitted to use this logo on the labeling of their product. Consumers would thereby be provided with a means of identifying products produced under an approved QC system.

The major objectives of the proposed rule were to:

1. Permit the Department's Meat and Poultry Inspection Program to take advantage and make use of newer technology and plant QC systems.

2. Increase availability and reliance on objective information to augment the continued on-site inspection by the Department's food inspectors.

3. Streamline the regulatory process in line with Administration policies.

4. Shift some of the emphasis from inspection of end products to controls at critical points in the process where significant variation can occur that affects the end product.

5. Establish a base of experience to be drawn upon to assist in determining future directions for regulatory reform.

Development of Federal Meat and Poultry Procedures for Processed Products

In the early part of this century, Congress saw a need for a regulatory inspection program that would assure safe and wholesome meat and meat products for consumers and facilitate the marketing of such wholesome meat and meat products. Therefore, legislation was enacted and a program was developed based on the needs of the public at that time. Government inspectors were stationed at packinghouses to sort out and inspect certain livestock and carcasses and parts thereof. They were also responsible for inspecting the manufacture of processed products of such carcasses, even though there were relatively few products of this type (mainly, formulated sausages with relatively few ingredients). This regulatory inspection program proved to be very effective in fulfilling the statutory objectives. Every animal and its carcass and parts were inspected before and after slaughter (ante-mortem and post-mortem inspection, respectively, which is still performed today on every animal). Inspection also applied to operations involving manufactured products even though every single piece of sausage or retail cut of meat was not individually inspected. Instead, the inspectors would supplement their examinations of samples of the products with examinations of the various manufacturing operations in the plant to make certain they were in order.

Transition Era

In the period immediately following the second world war, national economic growth, advanced technology, industry competition, and other social changes caused a significant evolution in the nature and type of meat and meat food products prepared and marketed. Each year more meat products reaching the consumer were composed of complex blends of ingredients—some of which were technologically synthesized.

During this time, however, the Government's regulatory techniques remained essentially unchanged. As additional inspectors were hired to meet industry growth, the inspection program began to rely more on laboratory analysis to confirm the wholesomeness of finished products. However, the laboratory analyses were used mainly as a check on the inspection program rather than as a tool for monitoring a meat plant's effectiveness in manufacturing products in compliance with the Government's requirements.

In the meantime, data indicated that public health problems from diseased animals were being well controlled. Industry, as well as the Government, was responsible for the disease-free and wholesome product reaching consumers. Meatpackers realized they could not survive at the expense of jeopardizing the public's health.

Modern Technology Era

In the 1950's the post-war trends intensified. There were rapidly growing scientific knowledge and technology, growth in population, expansion of market areas and development of international trade, keener competition, increasing production costs, and a growing consumer interest in consistent and uniform goods and services of all kinds, including meat and poultry products. Consumers came to expect, for example, that a package of a particular brand of hotdogs had the same basic characteristics of appearance, taste, aroma, and texture as the last package purchased. Marked changes began to appear in the meat and poultry industry. Firms began to modernize their plants, and many began to specialize in slaughtering, canning, manufacturing sausage, processing ham, etc.

With these developments, there was an apparent need for more effective production control mechanisms—in modern-day terminology generally called "process quality control." The term "quality contol" (QC) is used as though it has a number of meanings. For example, it may be used in reference to controlling the appearance and taste of products or the finished products requirements, such as moisture content, or to controlling the production process. It more correctly should be used to refer to a method or system of controlling the quality of a process within certain specifications. By the sixties, some meat and poultry processors were designing QC systems specifically for controlling the production process, thereby providing a consistent and uniform product at a predicted cost, as well as one meeting Government regulatory requirements.

Thus, firms were no longer relying entirely on the Department's regulatory system as a product control mechanism and as a means of aiding equitable competition. They found that designing their own QC systems was cost effective as well as an efficient means of assuring compliance with the Department's regulatory requirements.

Status of the Department's Regulatory Efforts

Despite the dramatic changes in the meat and poultry industry, the basic techniques of inspection have remained essentially the same, as the various legislative changes had left the underlying inspection law virtually unchanged.[1] However, there has been an increasing need to rely on methods other than direct physical inspection of products in the face of industry growth (new plants requiring new inspectors), the vast number of new and highly complex products being developed, the advent of computerized formulation, the use of vegetable protein products, the growing stresses on Government laboratory capabilities resulting from the need to detect pesticide and drug residues, antibiotics and other potentially toxic substances, and increasing budget constraints.

During the past few years, the inspection program has been able to develop some new procedures that have increased inspector efficiency. These

[1] In 1967, Congress enacted the Wholesome Meat Act (Pub. L. No. 90-201, 81 Stat. 584), which made a number of changes in the existing law, particularly regarding Federal-State relationships, but which substantially preserved the inspection requirements contained in Title I of the Federal Meat Inspection Act. One year later, the Poultry Products Inspection Act (Pub. L. 90-492, 82 Stat. 791) was similarly amended.

procedures primarily involve the use of statistical sampling. Reliable information can be obtained from samples to control the production process. Sampling schemes can be designed to provide a reliable method for determining whether the lot of finished product is wholesome and otherwise not adulterated and should be passed. For example, with a prescribed sample size from a given lot of battered and fried chicken, an inspector can determine that the lot of battered and fried chicken does not exceed the Government standard of 30 percent batter.

These statistically valid sampling and examination schemes have modified or supplemented many inspection procedures which relied heavily on sight, smell, and taste to determine if a product was wholesome and unadulterated. Moreover, these more objective schemes have minimized the inconsistencies and problems arising from the more subjective inspection approaches.

Synopsis of Quality Control (QC) Concept

With respect to this rulemaking, the concept of QC is to control the production process in order to provide for a consistent and uniform finished product at a predicted cost as well as to conserve resources. A complementary benefit is a way to assure compliance with the Department's inspection regulations. QC can be applied either to the entire food production system of the establishment (i.e., a total plant QC system) or limited to a specific process or product (i.e., partial QC program). In every production process (including meat and poultry production) certain kinds of variations will occur. Factors such as protein, fat, and moisture content, and texture, flavor and color are controllable within certain limits but differences do exist in the finished products. Decisions must be made concerning the limits for each factor. For example, a company may be producing hamburger which is to contain no more than 30 percent fat. A target level of less than 30 percent fat is set, followed by the development of sampling schedules and analytical limits. Then production methods and process control procedures are established to assure that the hamburger is within the 30 percent fat specification. The target level that is set will depend upon how closely the processor can control the production process. One processor might have to aim at 27 percent fat while another might aim at 29 percent because of differences in their abilities to control the process. Both can meet the objective of no more than 30 percent fat.

Under a QC system, "on line" checks are made at key points in the production process. The points are significant in the sense that any unwarranted variation at such a point will generally result in the finished product not conforming to predetermined requirements. The information obtained at these points enables the processor to make adjustments or corrections to the process as necessary, generally long before output quality has been adversely affected. Even when this cannot be accomplished, it allows the processor to isolate the small portion of product that is affected in order not to jeopardize the whole lot.

In using such approaches and establishing targets, sampling plans, and limits, distinctions must be made between controllable and uncontrollable factors. The science of mathematical statistics provides the means to measure and deal with variability. In a production system, such as the one used in the manufacture of meat and poultry products, variations which are uncontrollable, natural, expected, and quantifiable will result in random fluctuations of sample results around some central point (which may also be the target). Knowing the uncontrollable variations and the extent of their fluctuation, a control chart can be designed and used to identify fluctuations due to controllable causes. Those causes can then be eliminated. Corrections can serve the many purposes discussed earlier in this document, namely assuring a consistent quality level, uniform product characteristics, production cost control, and avoidance of the risks of repercussions from the Department's regulatory mechanisms.

Since more and more establishments now use effective QC systems, there is tremendous potential for the Department to use the data and information generated by these systems in order to more efficiently and expeditiously carry out its inspection responsibilities with no loss in effectiveness.

Cost Savings To Be Achieved by Implementing the Quality Control Concept

The potential benefit of total plant quality control to the Department can be measured by expected gains in efficiency. The increase in efficiency can be viewed as either person-years of inspection gained or person-years of inspection avoided. The first represents the case where program growth (new plants requiring inspection) is static while the latter represents the ability to assume the inspection responsibility for additional plants without additional cost.

The draft impact analysis contained projections of expected net benefits to the Department based on a number of assumptions. Included in these assumptions were efficiency gains of 30 and 60 percent in the assumed expected participation rates for various plant sizes. These assumptions were combined with information about average inspection person-years for each size group. The assumed participation was 100 medium to very large processing plants during a 5-year period; no participation was assumed from small or very small plants, those with annual production of 0.5 to 3.0 million pounds, and those with less than 0.5 million pounds, respectively. At the time, it was thought that small plants would not participate in total QC to any significant degree because of implementation costs and other difficulties. Further, since most small plants have traditionally been subject to "patrol" inspection (groups of small plants subject to a single inspection assignment for efficiency), they did not appear to offer much potential for further productivity gain.

Subsequent to the issuance of the proposal, the total QC approach was implemented in a cross-section of pilot plants, including small plants. The small pilot plant experience demonstrated the feasibility of providing departmental assistance for the implementation of total QC in small plants. Although experience is still very limited, it appears that a trained USDA processing specialist may be able to assist as many as 26 small plants per year.

The initial success of total QC in the pilot plant experience suggests that inspection efficiency, beyond that already achieved with patrol inspection, may be enhanced. This would be particularly true in situations where all plants in a given patrol participate in total QC.

Refining the assumed participation rate to include small plants is also reasonable and proper considering the significance of inspection program growth. As mentioned earlier, the prospects for expansion of workload are essentially related to the assumption (designation) of State inspection program responsibilities. Nearly all State inspected plants would fall into the small plant category and could represent a doubling in the number of such plants currently under Federal inspection. The significance of total QC as a means of cost avoidance is underscored by the possibility that designation of all the State inspection

the written QC plans and procedures while maintaining product quality in

program responsibilities could require an additional 800 Federal inspectors, even if only "patrol" inspection procedures were available to the Department. However, the total QC approach could likely provide enough increased efficiency to the Federal inspection program, particularly in view of the more long-run nature of prospective designation activity, to handle this potential program growth without increasing the inspection force as much as would be necessary without QC systems or programs. That could potentially represent $15 million in annual cost avoidance.

Including small plants in the projections from the draft impact analysis seems appropriate now that pilot plant experience has been gained. Assuming that 10 percent of the small and very small plants participate (the rate for very large plants was 15 percent), the cumulative efficiency impact of total QC for inspection of these plants could range from 74 to 148 inspection person-years (30 and 60 percent efficiency) and represent a benefit of $1.4 to $2.7 million over the 5-year period. Similarly, the 5-year cumulative inspection benefits for medium to very large plants (as developed in the draft impact analysis) is estimated to range from 147 to 293 person-years representing $2.7 to $5.4 million in inspection benefits.

In summary, implementation of total quality control can represent potential efficiency gains of roughly $4 to $8 million over a 5-year period. Expressed alternatively, total QC could provide for a $15 million annual cost avoidance potential if fully implemented in small plants in the absence of State inspection programs.

In addition to the above costs savings to the Department as a result of widespread implementation of QC, any costs incurred by participating plants are expected to be negligible when compared with expected total QC benefits. Although some participants may have to make expenditures for equipment and/or services to implement total QC, most of the expected early participants have already incurred those costs in establishing their own total QC systems. Those systems are expected to be readily adaptable to the requirements of this rule. For other plants, including small plants, the participation costs are minimal (the analyses of these costs are clarified in the final economic analysis for this rule, which may be obtained from the office identified previously herein).

Quality control is a profit-oriented management tool. It provides the information necessary to consistently produce a uniform, quality product at least cost. This action allows the information generated by that management tool to be used by inspectors to verify compliance with inspection requirements and reduces the plant's risk of incurring unnecessarily high costs caused by undetected process failures and subsequent Department compliance actions. A properly designed total QC system minimizes the occurrence of a process failure, indicates a failure without delay, and provides the information needed to quickly locate and correct the cause of the failure. A total QC system benefits the plant by reducing the risk of production delays, the need to reprocess and/or relabel large volumes of product and the likelihood of product recall and condemnation.

Quality control has already played an important role in the success of large national processors. These processors are heavily dependent on QC for the proper control of products produced at their typically large and complex plants. QC has enabled them to target production costs closely, thereby overcoming the marketing cost obstacles presented by national distribution, and to establish a competitive market price. To the extent that this action further enhances QC, it can also have an enhancing effect on the profitability and competitive position of those plants in comparison with those without QC.

Options Considered

Several options were considered before proceeding with the final rule.

Option 1 would continue the current Federal inspection program utilizing voluntary "partial" quality control programs for plants wishing to participate in such programs. This option would not provide for the efficiency gains possible with a total plant quality control approach.

Option 2 would permit implementation of a total plant voluntary quality control system in processing plants as an adjunct to traditional inspection methods. This allows an inspector to utilize a plant's quality control records, together with regular inspection checks and tests, to determine compliance with Federal meat and poultry inspection regulations. Current legislation permits such an option.

Option 3 would adopt a mandatory total plant quality control system. However, a voluntary total quality control system cannot be converted to a mandatory program without enabling legislation and there are no present plans to seek such legislation.

Option 2 was selected for the reasons stated herein.

Comments

The Department received a total of 1,550 written comments from interested individuals and organizations. The comments were divided into the following categories along with the number received:

1. Individuals	1,416
2. USDA Inspectors	64
3. Members of a Union Affiliated with the American Federation of Government Employees (AFGE)	25
4. Private Industry Representatives	20
5. Industry Trade Associations	9
6. Individuals Affiliated with Universities	4
7. Members of Congress	3
8. State Government Representatives	3
9. Employees of Processing Plants	2
10. Unions or Associations not Affiliated with AFGE	2
11. Consumer Organizations	2

Of the 1,416 comments from individuals, 1,135 were submitted on one of six form letters bearing a total of 5,180 signatures.

Fourteen comments were considered generally positive toward the proposal by suggesting that the concept is sound and necessary, and that it will allow the regulatory policies and procedures to keep abreast with technology. Some contained suggestions or made other points which were also raised by other commenters and which are identified and discussed below.

Twelve comments were considered neither positive nor negative. They discussed advantages and disadvantages of quality control in general without specifically addressing the merits of the proposal.

On January 16, 1980, the objectives of the proposal and comments received from the public were discussed with the Secretary's National Advisory Committee on Meat and Poultry Inspection. The Committee is comprised of representatives from the scientific community, State governments, industry, and consumer groups. Although the Committee did not make a specific recommendation, the Administrator of FSQS viewed the individual comments as beneficial and encouraging.[2]

The remaining comments were considered negative toward the proposal and raised a number of issues identified and discussed below:

1. *Freedom of Information.* During the comment period, 16 comments from industry and from persons affiliated with universities expressed concern that

[2] A transcript of the Committee's views is available for public review in the office of the Regulations Coordination Division, Room 2637, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

the written QC plans and procedures submitted by participating plants would be subject to disclosure, in whole or in part, pursuant to requests under the Freedom of Information Act (FOIA), 5 U.S.C. 552. Moreover, the same concern was voiced by some of the plants initially volunteering to participate in the Agency's pilot plant test studies which began November 5, 1979, and are still continuing in some plants.

The primary purpose of the FOIA is to facilitate release of information contained in government records. However, recognizing that release of certain information requested could cause potential harm to businesses and individuals, FOIA exempts particular commercial and financial information from mandatory release by government agencies. See 5 U.S.C. 552 (b)(4). Much of the material submitted by participative plants would appear to come within this exemption.

It should be noted at the outset that certain information and material about a plant's QC system may exist but would not need to be submitted to the Administrator of FSQS for review and evaluation as a part of the application and approval process. These include intra-plant, intra-company, and intra-corporate QC instructions to employees, position descriptions, data and information relating to customer complaints, specific laboratory methods, information on quality cost programs, quality cost improvement programs, any annual quality plan, and records of audits of the QC system done by an independent consultant or firm.

The material that must be submitted to the Administrator of FSQS by a plant seeking approval of its QC system includes, but is not limited to: recipes for product; specific methods, tests and procedures to examine and control raw materials; in-process critical tests, observations and evaluations; finished product critical tests; finished product specifications; sanitation specifications; sampling plans, including size, frequencies, targets, tolerances, and limits; methods for verifying certain labeling claims (such as "Declared Count"); employee training programs; equipment calibration program; and control charts, graphs, and data.

The material submitted is not standard for each company, but varies because of differences in the nature and cost of such things as raw materials, methods of preparation, variations unique to the equipment, finished product specifications, and overall manufacturing costs.

Quality control systems operated by individual businesses are ultimately for the purpose of maximizing profitability while maintaining product quality in keeping with company policy and requirements, and may also satisfy regulatory requirements. Thus each and every aspect of a company's quality control system in some manner relates to costs and profits. Quality control departments and/or individuals in these companies must show their management the nature and extent of the financial benefits of the QC system. If such information were released under an FOIA request, the nature and degree of a processor's vulnerability to competition could be determined. This could be possible even to a point of knowing whether or not the reason for the vulnerability is due to such things as the inability to obtain the right type of raw materials, because of costs related to equipment, labor, energy, and transportation.

Therefore, the Department's view is that although each request for information under the FOIA will be considered separately, most material required to be submitted to FSQS under the voluntary meat and poultry plant QC system would include trade secrets or confidential commercial or financial information which is privileged or confidential and therefore exempt from mandatory disclosure under the FOIA.

In recognition of the importance of this matter, however, the Department has considered the possibility of returning all copies of material concerning a plant's QC system to the plant or its designated representative after review and approval. Under either arrangement, the material concerning a plant's QC system would have to be readily available and accessible to the Administrator of FSQS or his designee at all times.

It appears that such options are possible but very impracticable for either FSQS or the plant for at least two reasons. First, the FSQS staff personnel at headquarters or regional offices frequently receive telephone inquiries concerning problems or other matters of significance about a particular QC system or program. In the overwhelming majority of cases, such calls cannot be responded to until the staff person receiving the call refers to a copy of the material concerning a plant's approved QC system. If a copy of such material were not on file in the headquarters or regional office, these calls could not be responded to until a copy of the material was made available. This could be cumbersome and time consuming, and in some cases could cause retention of product or even cessation of production until an answer to the inquiry was provided. In any case, this would not appear to serve the plant or the Agency's interest.

A second concern is that of maintaining the integrity of the QC system. Since the Department would not possess a copy, a system would be necessary to prevent the substitution of pages that had not been previously approved by the Administrator of FSQS. Such a system would be time consuming and expensive to operate, and would likely cause communication problems when updating or revising of the system is attempted.

In view of the above, the Department has determined that at the present time it would not adopt a policy that would allow maintaining copies of material concerning a plant's QC system only at the plant or with a designated representative.

With respect to this overall issue, the Department has determined that information submitted by plants in connection with this regulation includes trade secrets or confidential commercial or financial information which is privileged or confidential and therefore exempt from mandatory disclosure under the FOIA. Moreover, release of any such information would inhibit plants from voluntarily participating in a QC program.

2. *Mandatory Quality Control.* The possibility of this voluntary QC rulemaking eventually being made mandatory was expressed as a concern in 14 comments including those from industry, trade organizations and the North Carolina Department of Agriculture.

The Department is committed to continually evaluating all methods used in carrying out its inspection responsibilities. Some changes, such as the way poultry slaughter inspection is conducted, which have recently been instituted, result in substantial manpower savings to the Department with no loss in effectiveness of inspection. While the commitment to find new and better ways to conduct inspection exists, the voluntary total plant QC system cannot be converted to a mandatory program without amending the present Federal Meat Inspection Act and Poultry Products Inspection Act, respectively.

The General Accounting Office report, *A Better Way for the Department of Agriculture to Inspect Meat and Poultry Processing Plants*, dated December 9, 1977, did recommend that the Secretary seek legislative authority to require mandatory total plant QC. The Department has considered that recommendation but has determined to hold in abeyance any immediate effort to seek amendments to the existing Acts

to provide authority requiring mandatory total plant QC systems. This

information and education programs to promote understanding of its programs,

the amount of waste (if any), the amount of connective tissue present, the color

Products Inspection Act (PPIA). Section 6 of the FMIA (21 U.S.C. 606) provides in

inspection, or the authority and responsibility of the Department's

completion of the studies to determine the appropriate substance of a final rule.

to provide authority requiring mandatory total plant QC systems. This decision is based upon the Department's knowledge of and experience with the industry; the experience of the Department in fulfilling the obligations under the Acts designed to assure that meat and poultry products are safe, wholesome and truthfully labeled; and the limits of the data currently available on the operation of total plant QC systems.

3. *Labeling Logo.* The proposal would have allowed the use of a logo or symbol on the labeling of products to indicate that the products were produced by a plant operating under a QC system approved by the Administrator of FSQS. There were 137 comments expressing concern about the use of the logo. They spanned most groups of interested parties responding to the proposal, including individual consumers, FSQS food inspectors, the inspector's union, industry, trade organizations, persons affiliated with industry, and consumer groups. Some individual consumers as well as people affiliated with universities were concerned because they appeared to misunderstand the proposed use of the logo, in that they believed that the logo would be used in lieu of the requisite inspection legend which states "U.S. Inspected and Passed" or "Inspected for Wholesomeness by U.S."

Industry commenters opposed use of the logo on two bases. First, there was the argument that a logo would not have the prestige of the requisite inspection legend; and second, that the meaning a logo would have to consumers could be discriminatory to those plants not desiring to participate in a total QC system and therefore not entitled to use the logo. Most industry commenters generally expressed the opinion that the logo could be misinterpreted as an indication of superior product quality and that as such it would be untruthful and confusing to consumers.

Whether or not the logo would gain the acceptance and respect enjoyed by the inspection legend would depend on the success of the QC system and the public's understanding of it. Whether or not the use of two separate official USDA marks or devices would confuse consumers appears to be conjecture. However, the Department is aware that some consumers do not understand the distinction between other markings which are currently used by the Department, such as the meat quality grade marking "U.S. Choice," and the Federal inspection mark "U.S. Inspected and Passed." Over the years, the Department has continued to offer information and education programs to promote understanding of its programs. Those efforts will continue.

However, the labeling logo was proposed with the expectation that establishments with FSQS approved total plant QC systems would desire to communicate that fact to their customers.

Under the Federal meat and poultry products inspection Acts and the regulations thereunder, establishments participating in the QC program would be permitted to advise consumers of their products of such participation through some form of labeling technique or logo, as long as it is not false and misleading.

The Department believes that the proliferation of company devised labeling techniques or logos would be confusing to consumers, and further, that any Department-sponsored education program would be ineffective to eliminate such confusion.

Therefore, the Department believes that a standard QC logo is not only appropriate, but necessary to avoid confusion among consumers concerning the products being purchased. It should be emphasized, however, that the logo itself is not required to be used, but may be voluntarily used by participating companies.

Therefore, after considering this matter and the factors previously discussed, the Department has determined to retain the proposed provisions for the labeling logo.

4. *Terminology.* Six comments questioned the appropriateness of the terminology "quality control" in connection with the proposed rule. These comments were from consumer groups, the FSQS food inspector's union, and trade organizations.

There have been a number of terms used in the development of more formal and systematic controls for manufacturing in general. However, during this developmental period the term most commonly used in everyday conversation, in technical conferences, and in literature, sales and marketing information has been "quality control."

The Department's evaluation and understanding is that the proposed term has two major meanings within the discipline. First, it is used to refer to the relative attributes or characteristics of a product. Second, it is used in referring to the effectiveness of control over a production process to assure uniformity and predictability of the characteristics of a finished product.

An example of the first meaning might be a particular brand and type of ham which possess qualities thought of by the consumer as being desirable, such as the amount of waste (if any), the amount of connective tissue present, the color and texture of the meat, and so forth. An example of the second meaning could be the degree of control in manufacturing the ham to assure that the same muscles are always used in the right proportions, that the muscles are always trimmed the same way, that the connective tissue is adequately removed, that the curing solution added is carefully controlled to assure proper preservation and uniform appearance of the finished product, that the cooking process assures product finished to the same degree of doneness, and the chilling and packaging procedures do not vary so that surface dehydration or color deterioration is not excessive. These factors, and others, must be controlled so that there are minimal differences from ham to ham and lot to lot, in order to build customer confidence that the product is always the same.

Therefore, these two major meanings of "quality control" are generally recognized and accepted in academia, by the American Society for Quality Control and its members, and in the industrial arena. Even though "quality control" is the more universally used and accepted terminology, other terms are used in industry, such as "Product Performance," "Product Integrity," "Quality Assurance" and "Process Control."

Some companies or individuals make distinctions between "quality control" and "quality assurance." In such cases, the prior term is usually used to refer to the actual in-plant control of a manufacturing process while the latter usually refers to an auditing function that assures the in-plant control is functioning effectively. In other situations the terms quality control and quality assurance are used interchangeably.

Under the circumstances, the Department has determined that the importance of the terminology used is related to the clarity of meaning and purpose. The term "quality control," as used in connection with this rule, refers only to the effectiveness of manufacturing controls and assurance that products are not adulterated or misbranded (that is, the second meaning and example cited above). Thus, the term "quality control" is retained in this rule.

5. *Continuous Inspection.* Acknowledged and discussed in the preamble to the proposal was a question of whether or not the proposed changes in inspection methods would be an abdication of the Secretary's responsibilities under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). Section 6 of the FMIA (21 U.S.C. 606) provides in part that "* * * the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment * * * and said inspectors shall mark, stamp, tag or label as 'Inspected and passed' all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as 'Inspected and condemned' all such products found adulterated * * *."

A narrow interpretation of the above language could mean that a departmental inspector must personally and literally inspect (by some method which the Act does not prescribe) every frankfurter, package of luncheon meat, pork chop, etc., before it could bear the "Inspected and Passed" wording, and further that a departmental inspector must personally and literally place every label, mark, stamp, or tag on each such item. This language has not been so narrowly interpreted in the administration of the Act. To the contrary, the Department has exercised some discretion regarding its methods of inspection, particularly with regard to processed products with complex formulations. The Department has adhered, however, to the principle that Federal inspectors make the determinations as to which products are adulterated and misbranded and which are not, and that the marks of Federal inspection are placed on the products by the inspectors or by establishment employees under that degree of supervision by the inspectors necessary to assure the marks are properly applied only to products eligible therefor.

Similar provisions regarding inspection are contained in section 6 of the PPIA, although the Secretary has slightly more discretion under this Act with respect to the extent of inspection of "further processing" of poultry products than he has under the FMIA with respect to meat food products.

There were 392 comments that indicated that the proposed rules could not be considered continuous inspection as prescribed in the cited provisions of the Federal Meat Inspection Act and Poultry Products Inspection Act. The comments came from individuals, FSQS food inspectors and the inspector's union.

The Department has again carefully evaluated this matter. It is important to reiterate to consumers of meat and poultry products that this rule does not reduce the Department's authority and responsibility under continuous inspection, or the authority and responsibility of the Department's inspector to carry out inspection requirements. It does not reduce the Department's authority and responsibility to remove adulterated or misbranded product from the food chain or to deal with any unscrupulous operator.

6. *Reopening the "comment period".* Since publishing the proposed rulemaking, the Food Safety and Quality Service of the Department has been engaged in testing total plant quality control concepts on a pilot basis in certain cooperating plants. As of July 1, 1980, those who have or are cooperating include: Peter Eckrich Company, Chicago, Illinois; The Kroger Company, Salem, Virginia; Saluto Foods, Montgomery, Alabama; Tyson's Foods, Monnett, Missouri; Safeway Stores, Stockton, California; S. Clyde Weaver, East Petersburg, Pennsylvania; Edwards Sausage Company, Lawrenceburg, Kentucky; Berks Packing Company, Reading, Pennsylvania; Portiontrol Foods, Mansfield, Texas; Equity Meat Corp., North Baltimore, Ohio; Von's Grocery Company, El Monte, California. Others indicating a definite interest include: Armour Foods, Fort Madison, Iowa; Cudahy Co., Denver, Colorado; and Rudy's Farm Company, Florence, Alabama. Eight comments from industry representatives requested that the comment period on the proposal be reopened after all the plant studies have been completed.

The objectives of the plant studies are to:

a. Determine the extent of industry interest.

b. Identify and evaluate the nature of industry concerns.

c. Refine the specifics actually needed in a written QC system.

d. Provide additional experience in preparing audits of inspection procedures for FSQS personnel.

e. Gain greater insight into the degree of inspection efficiency than was available.

f. Gain deeper insight into the nature and extent of training necessary for FSQS food inspectors.

g. Develop the logistics and a regimentation for evaluating, approving, implementing and monitoring total plant quality control systems.

As the above indicates, the objectives of the plant studies relate to the most effective and efficient means of establishing and maintaining a program, and not to adding new information relating to the suitability of the QC concept. Thus, the Department need not delay this rulemaking until the completion of the studies to determine the appropriate substance of a final rule.

7. *Less Consumer Protection.* Some 144 comments, including those from individual consumers, consumer groups, FSQS food inspectors, and the inspector's union expressed concern about a possible reduction in consumer protection. The comments also expressed views that the consumer would be better served and tax money better spent by increasing the current FSQS inspection force and remaining with the current "on-site" inspection. It was also suggested that Federal inspection personnel must maintain full authority over all phases of inspection with full authority to retain, reject or condemn any quantity of product, facilities or equipment which is deficient or not satisfactory. Many of these comments offered the view that the adoption of the quality control concept would not provide the consumer with the clean, healthful and unadulterated meat product to which said consumer has become accustomed.

A crucial concern of the Department is that consumer protection not be lowered or jeopardized by the quality control program. The Department intends to ensure that such a consequence will not occur. In plants volunteering for the program, all data and information generated by the plant's quality control system will be available to the Department's inspection personnel pursuant to the establishment's approved QC system. Thus, the Department's food inspectors will actually have additional information available for use in carrying out the inspection responsibilities of assuring consumers safe, wholesome and truthfully labeled products. Since this additional data and information will now be available to the inspectors, they will no longer need to personally generate as much data and information as is now necessary. Thus, there exists the potential for increased efficiency in inspection resources for the Department.

Based on the Department's knowledge and experience with partial quality control programs, the experience of the test plant studies, and the experiences of other government agencies with the quality control concept, the Department believes that this voluntary quality control program will be more efficient than the present system of processing inspection, with no lowering of consumer protection.

8. *Recordkeeping.* One attribute of a QC system is the records maintained by the plant and their availability. These records will show the nature and type of checks done at various critical control points throughout the process, the

V 45 A G 1 5 1 8 0 0 UMI

findings of those checks, and other complementary material—such as charts and graphs. The scope and intent of such records will vary significantly from plant to plant based on numerous variables such as size of plant, number of employees, types of products, type of equipment and its capability, and the volume of production. The proposed rule did not specify the scope and extent of records that would be needed for voluntary participation in the quality control program.

Ten comments from FSQS food inspectors and the industry expressed concern that recordkeeping requirements could be excessive, burdensome and costly. The Department acknowledges that such an inference could be drawn. As indicated above, however, while some recordkeeping will be necessary to ensure the continuing effectiveness of a plant's QC system, the Department will not insist on recordkeeping in a QC system beyond that necessary to demonstrate the effective administration of that system. In some cases, the usual records may be adequate. In others, modification of existing records or additional records may be needed. However, such records will most likely be as beneficial to the plant's management as to the Department. In accordance therewith, the provisions concerning recordkeeping contained in the final rule have been clarified to assure that the records agreed to be available to Department personnel under the QC system will be maintained to enable the Department to monitor compliance.

9. *Uniform Approval and Administration.* Three comments were received from industry which expressed concern that a decentralized system of reviewing, approving and administering the quality control program could lead to inconsistent and conflicting policies and procedures. This, the comments indicated, would confuse and frustrate the industry, and would make it extremely difficult for the larger processors to operate in multiple regions and areas. The Department recognized this as a potential matter of interest to the industry and discussed it in the preamble of the proposed regulation.

While eventual decentralization to the regional level for handling some aspects of the program could occur, the Department is initially committed to central control. Any decentralization will be considered only after suitable guidelines and criteria have been developed and a suitable audit system has been devised to assure a sound, uniform and consistent manner for reviewing, approving, administering, and auditing the QC systems.

10. *New product test-marketing.* It is common in the industry to test market new products on a limited scale and in carefully selected locations before company commitments are made to go into full scale manufacturing and broad-based marketing. In most cases, modifications in the product and/or process occur as a result of the test-marketing data and experience. Also, in some cases, company commitments necessitate the purchase and installation of expensive equipment, and even in a few cases the expansion or modification of existing buildings, or erecting new structures. In many other cases, decisions are made to shelve a product after the test-marketing.

The intent of the Department's proposed rule was that a formal quality control system be approved for all phases of the processing, for all products in a plant, and for all supporting functions, such as sanitation, pest control, and so forth.

A trade organization in one comment raised the question of how new experimental products could be test-marketed if a detailed quality control procedure must be approved even though the product and production process may have not been finalized.

Many parts of a plant's QC system are general, such as sanitation, pest control, employee welfare and training, and maintenance of the facilities. Even for new product development, all of these parts of a manufacturing plant's support system would remain intact and functional. In view of this, and recognizing that modifications may be required in the development of a new product, the Department agrees that a special procedure should be provided for such cases. The final rule, published hereafter, contains provisions permitting (with certain limitations) the manufacture of a new product for up to 6 months in a plant for which total quality control has been approved.

Although a product is new, the processor must still detemine the objectives for any particular test production run. The objectives will include a formula for the new product, a processing procedure, and what the key points will be for controlling production runs to assure the product meets specifications. This information is conveyed to plant employees responsible for conducting the production runs. The same information could be provided the Department's food inspector.

In view of the special need, provision is made for the processor to convey the information to the Department's inspector prior to initiating production runs. If the inspector determines that labeling for the new product has been approved by the appropriate officials of FSQS, and that the method for controling the production runs will assure that the product meets all Federal requirements, he may allow production of new products (not reformulation of old ones) for test-marketing for up to 6 months. By the end of the 6-month period, the processor must have a quality control procedure approved by the Administrator in order to continue production of the new product under a total QC system.

The Department believes the procedure will provide adequate flexibility to the processor for the production and test marketing of new products, while affording the public and the Department the benefits and the protection provided by the QC system.

11. *Reduce inspection overtime and upgrading quality of inspection.* Under current laws and policies, the cost of Federal mandatory inspection of meat and meat food products and poultry and poultry products is required to be borne by the United States, except the cost for overtime and holiday work. Many plants work more than 8 hours per shift, and others conduct some operations requiring inspection during holidays. In these cases, FSQS bills the plant for reimbursement at the current rate of $15.44 per hour of additional inspection service rendered. An approximate average annual cost for a processing plant is $3,000 per year, with some plants paying as much as $48,000 per year.

With respect to the above, and because there are some industry concerns about the quality of inspection rendered, the Department received six comments from industry personnel stating that the charges for this additional inspection time should be reduced or eliminated—coupled with more efficient use of the Department's food inspectors—and that the quality of inspection rendered should be upgraded.

One of the goals of the total plant quality control program is to improve efficiency of inspectional resources—including use of personnel. The Department recognizes that achieving efficiencies could be slow initially, but will be realized as experience is gained. To the extent that a QC system or program does make inspection more efficient, there may be a reduction in the amount of overtime work required. However, since inspection is required by law and plants receiving overtime inspection must bear the costs of overtime work, if overtime is needed.

those costs to inspected plants cannot be eliminated.

The Department believes that any shortcomings in the quality of inspection that might now exist can be improved with the development of this QC program, and with training and education, experience, good communications between the Agency and industry, and finally with effective supervision.

12. *Impact on small business.* Some 23 comments from trade organizations and academia expressed concern about the impact of this program on small business. Some commenters indicated a fear they would be "squeezed out." Other commenters stated that the need to designate a plant employee as responsible for QC records and the sampling and testing of products would present serious problems to small plants with limited numbers of employees. In addition, inquiry was made about the Department's definition of "small business."

The principles and procedures for QC are as applicable and beneficial to small processors as to large ones. In many cases, QC systems in small plants can be more efficiently administered due to more simple organization structures and more direct means of communicating.

Moreover, contrary to the impression that some people have that the term "quality control" requires highly trained technicians working in expensive laboratories, a plant QC system can be rather simple and inexpensive, and still be effective.

The Department is aware that, in many cases, the small processor does not have the variety of raw materials or production options available to the large processor, must rely on product quality, production costs, and in some cases distribution advantages in order to effectively compete, and cannot afford the expensive laboratory equipment and professional quality control staff which many large processors use with their "in process" controls. However, any measurements necessary in the operation of a QC system can be made by regular plant employees with relatively little training. Moreover, inexpensive analytical equipment is available and can be operated by the regular employees. Use of such equipment is usually fast, economical, and adequate for the purpose. Suppliers to the meat and poultry industry, particularly those engaged in selling non-meat and non-poultry ingredients such as spices and flavorings, often make analytical help available as well.

In developing this rule, the Department has recognized the need to consider its impact and effect on the small processor. In the past, the Department has assisted many small processors in implementing microbiological monitoring of their sanitation programs without employing a microbiologist; determining fat and moisture content of frankfurters and bologna without expensive laboratory equipment or chemists; and controlling the count of product units in a container by periodic samples and charting results. In testing total plant QC in one very small plant, the Department provided direct assistance in doing an analysis of the plant operations, identifying and recommending techniques that could be employed by the plant, preparing the written QC system, and implementing that system. The Department will provide the same type of assistance to small processors in the future to assure they will not be squeezed out.

Moreover, a Small Plant QC Guidebook is being prepared and will be ready for distribution shortly. Using the Guidebook with a minimal amount of further assistance, a plant owner or operator could develop the basic framework of a total plant QC system. Copies of the Guidebook may be requested now, for mailing as soon as it is finished, from the FSQS Information and Legislative Services Division, Outreach Branch, U.S. Department of Agriculture, Washington, D.C. 20250.

It should be noted that small plants already have some sort of "control" program. While it may not be formal, in most cases, it will require only minimal effort to comply with requirements for the Department's approval. Entering into the voluntary total plant quality control program may mean an additional expense to the plant. However, as noted above, this expense will be minimal and will vary depending on how elaborate or refined the plant desires the QC system to be. In any case, the program is strictly voluntary.

The Department has not formally defined "small business" with respect to this rulemaking, except for the purpose of doing an economic impact analysis. That definition included plants producing 3 million pounds or less of product per year. The definition of a small business used by the Small Business Administration is one with 500 or fewer employees. Neither definition would seem appropriate for this program.

Rather than define the term "small business" for this regulation, the Department has determined that it will provide assistance to all plants requesting it to the extent resources allow. This will be in keeping with the commitment that small processors will not be injured because they did not understand the Department's policy and requirements for a quality control system.

13. *Concern with plant records unrelated to health, safety, and labeling matters.* One comment from industry raised the issue, which is related to one earlier discussed, of the meaning of the terminology "quality control." The commenter was concerned that the Department would regulate nutritional quality and sensory factors such as taste, aroma, appearance, and size by establishing specific requirements for specific products. That is not the objective of the proposed quality control program. The purpose for submission of a total plant QC system for the Department's approval is to provide a basis to determine how and to what extent the QC system meets regulatory requirements, and provide insight into the scope of the plant's methods, procedures, and specifications. The Department would not require, for example, that information relating to sensory or nutritional quality factors be included in a QC system except in cases where product covered by the program bears labeling claims of nutrient content.

14. *Business capriciously damaged.* Three comments from academia expressed concern about the likelihood of business reputations being capriciously damaged or plants being shut down due to unusual human error or political motivation.

The principal source of this concern seemed to have emanated from the provisions in the proposed regulation outlining circumstances under which approval of a plant's QC system or program could be terminated. It is true that approval of a plant's QC system or programs will have to be terminated if the plant fails to effectively administer the system. It is also true that no matter how good and just the reasons, there could be disagreements between the Department and the plant concerning the adequacy of the basis for any termination.

The proposal addressed this matter and prescribed procedures for withdrawing approval of a total QC system or partial QC program. Terminating approval does not mean that the official grant of inspection will also be automatically withdrawn. In addition, procedures prescribed for terminating approval of the plant's QC system or program will include an opportunity for a hearing, upon request, in those instances where there is a conflict as to the facts concerning the adequacy of the basis for any termination. The Department, therefore,

concludes that the procedures provide

and location. In addition, the proposal

comply with its provisions. Moreover,

participated extensively in the design of the training program for inspectors and

and yet render timely, flexible and cost-effective decisions.

25. *More industry freedom.* There was

concludes that the procedures provide the establishment with adequate opportunity to present its view in such matters and that the safeguards against defamation are reasonable.

15. *Expedient and efficient procedures for terminating approval of a quality control system or program.* One comment from the American Federation of Government Employees (AFGE) indicated that the procedures in the proposal for terminating approval of a plant's QC system or program were too cumbersome and time consuming, and could jeopardize consumer protection.

The proposal provided two provisions for terminating approval. Both are retained in this final rule. First, in the event adulterated or misbranded product is found by the Administrator to be distributed in commerce, approval may be *immediately terminated* pending final disposition of the matter after opportunity for a hearing on any disputed issue of fact. In the Department's view, this procedure is expedient and efficient while assuring a reasonable degree of fairness by providing for redress. Additionally, the Department believes that this basis for terminating approval should necessarily be extended to those situations where it is determined that adulterated or misbranded product is found to have been prepared for commerce, even though the product has not yet been distributed in commerce. The final rule, therefore, provides for termination of approval in the event that adulterated or misbranded product is *either* prepared for *or* distributed in commerce.

The second provision establishes a procedure to be used in the event problems arise in the effectiveness of the plant's QC system or program and inadequate correction of problems occur (adulteration or misbranding not involved). In such cases, the owner or operator of the establishment will receive a letter from the Administrator of FSQS or his designee, identifying the ineffectiveness and/or problems and giving the owner or operator 30 days to remedy them. If after 30 days the ineffectiveness and/or problems are not remedied, approval will be terminated. Since adulteration or misbranding is not involved, the Department has concluded that more stringent actions are not immediately necessary and that allowing a plant the opportunity to improve its performance under its QC system or program will not jeopardize the consuming public.

16. *"Approved list" of plants.* The proposal indicated that upon approval and implementation of a plant's total QC system, press information would be released identifying the plant's name and location. In addition, the proposal stated that a current list of plants having approved QC systems would be maintained and available to the public.

One comment expressed the concern that plants not having approved QC systems, or having had such approval and later having had it terminated, could cause those plants to be looked upon unfavorably by present or potential customers.

Developing and operating an effective total plant QC system is newsworthy and the public has a right to be advised. Issuing press information serves that purpose. Maintaining a list of plants having approved total plant QC systems and making it available to the public will also serve the same purpose. Moreover, if information concerning the names of plants having approved total plant QC systems were requested under the FOIA, the Department would have to release such information. Consequently, a list of names of approved QC plants and their locations will be developed and made available to the public.

17. *Accurate economic impact analysis.* Five comments challenged the accuracy of the draft economic impact analysis done in connection with the proposal. These originated with the FSQS food inspectors' union, consumer groups and the industry.

The presentation of information in the draft impact analysis concerning the costs that might be incurred by a plant (in the footnotes of the tables rather than the text) apparently confused several commenters. The draft impact analysis was based on an estimate that 100 small plants would be in the program at the end of 5 years, and an estimate that the total additional costs to small plants would be approximately $15,000 over that period. Thus, $15,000 divided by 100 plants is $150, and that divided by 5 years is $30. Such proration did leave open the opportunity to draw an incorrect inference that the total cost for one plant would only be $30. The Department's best estimate for one plant is $1,600. That is, the estimated initial cost of $1,000 plus $150 per year maintenance cost. This matter is being clarified in the Final Impact Analysis prepared in connection with this final rule.

18. *QC may increase the total cost to the national food system.* Twelve comments from consumers, consumer groups, the American Federation of Government Employees, members of academia and trade organizations stated that the Department should not adopt the proposed rule solely to reduce tax expenditures if there is an equal or greater expenditure of monies by business (and ultimately consumers) to comply with its provisions. Moreover, the commenters indicated that since the economic impact analysis done in connection with the proposal did not evaluate the economics from this scope, there should be an economic impact study to determine its potential or expected cost or savings to the consumer, the industry, the food inspector's union, and the Department of Agriculture.

The primary goal of the voluntary total plant quality control program is not to reduce expenditures but to improve efficiency at the current level of funding and in furthering regulatory reform. The program is voluntary and would not be adopted by a plant if its costs outweighed its benefits. However, the Department is aware of a number of companies that have effective total plant QC systems, and will maintain them for their own benefit. In most cases, these companies also incorporate procedures to assure compliance with regulatory requirements. The Final Impact Analysis indicates the economic impact to industry should be minimal. Therefore, it follows that there would be minimal increased consumer costs that would result from the adoption of the voluntary total plant quality control program.

19. *Lack of formal guidelines for inspectors.* One comment from a Department food inspector indicated that inspectors need well defined and published standards or guidelines in order to monitor all aspects of the total plant QC system; and that until these are provided, QC systems cannot be adequately evaluated.

There are a number of ways the Department intends to deal with these concerns. First, in participating plants, specific instructions will be developed for inspectors to use in carrying out their inspection responsibilities. Second, each FSQS Meat and Poultry Inspection Regional Office has competent staff personnel who will evaluate the operations of plants. Third, as discussed earlier in this preamble, the Department has developed a training program for its inspectors and supervisors who would be responsible for plants having approved total plant QC systems. The training program takes into consideration the principles of quality control, as well as a number of technical subjects such as principles of food microbiology. Its development involved extensive discussions and evaluations by the scientists and key Department administrative officials. Moreover, the Department's expert consultant—hired to conduct quality control seminars for the Department's technical specialists—

participated extensively in the design of the training program for inspectors and supervisors. As the program develops, modifications will be made as necessary. The Department believes these measures are more than adequate to initiate and administer the program.

20. *Availability of plant representative.* The wording in the proposed regulation that an establishment person must be available to the Department's food inspector for consultation "at all times" was of concern to one trade association.

The intent of the wording was to alert the industry that one person must be responsible for a plant's overall QC system. That person must be available to the inspector for consultation in the event the inspector encounters some unexpected but serious problem in the plant, or is encountering difficulty in understanding a lack of administration of the QC system by plant personnel, or finds it necessary to question any change in plant practices or procedures.

The implication of the comment was that food inspectors might find a need to call the "responsible person" out of bed at night, or on weekends, holidays, etc., when plant manufacturing was not occurring. The Department does not believe that FSQS food inspectors would act in such a manner, but if one did, first line supervisors would intervene. However, in order to assure that a responsible plant official is available in multishift operations, the plant owner or operator should designate a "responsible person" for each shift.

21. *Qualifications of personnel.* Two comments expressed the belief that the qualifications of the Department's food inspectors and supervisors should be equivalent to those of their industry counterparts; and that the redefinition of the food inspectors responsibilities and its effect on General Schedule (GS) rating and pay scale must be addressed.

The Department's information indicates that overall its inspection personnel are on par with those in industry, and believes the inspection personnel are competent and capable. The Department recognizes, however, that special knowledge and skills will be needed in connection with the QC program, and as previously discussed, special training will be provided to inspectors and supervisors assigned to plants with total plant QC systems.

22. *"De facto" partner with industry.* One comment from a trade association raised the question of whether or not a Federal regulatory agency could serve as a "de facto partner" in quality control for hundreds of plants across the Nation and yet render timely, flexible and cost-effective decisions.

One of several capabilities of a plant's QC system is to satisfy regulatory requirements. The Department's inspection responsibility is to be sure that legal requirements are met. There appears to be no conflict of interest in such a relationship between the Department and industry. Both can benefit. Under such arrangement, the Department will not be any less able to render timely, flexible and cost-effective decisions, but can in fact improve in those areas.

23. *Endless testing.* One commenter expressed concern that FSQS could insist on large testing efforts in order for a plant to gain approval for its QC system, and then subsequently decide that such testing should be maintained long beyond the time necessary to achieve the purpose for which it was originally needed.

It is true that in cases where there is doubt or question, plants interested in the total quality control system could be requested to submit data demonstrating that the quality control procedures are effective. Beyond that, any good QC system will generate sufficient data to demonstrate that things are in "control," and that the Department's regulatory requirements are being met. Under these circumstances, the generation of data would not be necessary.

24. *Food inspector support.* Two commenters alleged that Department food inspector support for the total plant quality control system was minimal, and recommended that further support be developed since the success of the program depended in large part upon the attitude and cooperation of those in-plant inspectors.

Also, in these two comments there appeared to be concern about the potential for retaliatory action by food inspectors against plants contemplating or in fact participating in the quality control program. The Department believes that such consequences are unlikely to result from the adoption of QC systems and programs. During the months this program has been developing, inspectors have been informed of the goals and objectives of the Department's effort, the reasons for it, and the benefits to individual employees and the inspection cadre as a whole which should result from QC. The Department's inspection force is now demonstrating considerable interest in QC. In the past, inspectors have shown their integrity by supporting and administering new initiatives and the Secretary has confidence that will occur with QC.

25. *More industry freedom.* There was a suggestion in one comment that plants could develop their own QC systems as desired and if successful, would eliminate the need for review and monitoring by the Department.

This suggestion contemplated that the Department should establish a policy to allow plants to develop and implement quality control systems without prior approval and that the Department could institute a method for spot-checking the plants to determine whether or not the quality control system is adequate and effective. The suggestion implies that the plants could and would develop and implement QC systems that adequately satisfy regulatory requirements.

The Department's experience with partial QC programs has not shown the feasibility of such an approach, even if there were no other constraints. In many cases the submitters are convinced that their QC programs are more than adequate. Upon further review by the Department, some QC programs are found to be inadequate. Moreover, total plant QC would be a new experience. In order for the Department to assure adequate consumer protection, it is essential that the Administrator evaluate the total plant QC system or parital QC program prior to approval and implementation.

28. *Use of AQL's.* One comment indicated the Agency should develop Accepted Quality Level (AQL) programs for food inspectors to use for various products instead of the total plant quality control system proposed.

This comment suggests that sampling and examination (or analysis) of a finished product is preferable—and in some way assures good manufacturing practices—to "process control" backed up by occasional finished production examination and analysis. The Department has extensive experience with AQL programs which have in fact been very useful and beneficial. However, the Department has found that controlling a production process at key control points, thereby "preventing" problems (as a QC system can), can be far more effective and efficient than AQL programs.

The Final Rule

After reviewing the comments received, the Department has determined that the provisions of the proposal should be adopted for the (1) application for total plant and partial plant quality control, (2) evaluation and approval of total plant and partial plant quality control, (3) termination of total plant and partial plant quality control, and (4) use of a uniform QC logo or symbol on products produced in a plant

V 45 AG 15 80 UMI

with an approved QC system. In addition, a new provision is included in the final rule so that a plant with an approved total QC system can produce a new product for test-marketing for up to 6 months without prior submission of a quality control procedure for that product. Under this special procedure, the plant will submit adequate data to the inspector-in-charge so that he can determine that the label has been approved for the new product and that the processor's method for controlling the process and product will assure that all Federal requirements are met.

Editorial changes have been made in the final rule to coincide with the stated conventional terminology, and eliminate the abbreviations of quality control. The term "poultry food product" as used in the proposal has been modified to "poultry product" so that the regulations would apply to this larger class of product. This was the Department's original intent.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS: REINSPECTION AND PREPARATION OF PRODUCTS

Therefore, § 318.4 of the Federal meat inspection regulations (9 CFR 318.4) is amended by changing the section heading and the Table of Contents, by rewording the second and third sentences of paragraph (b), and by adding new paragraphs (c), (d), (e), (f), and (g) to read as follows:

§ 318.4 Preparation of products to be officially supervised; responsibilities of official establishments; plant operated quality control.

* * * * *

(b) * * * In order to carry out this responsibility effectively, the operator of the establishment shall institute appropriate measures to assure the maintenance of the establishment and the preparation, marking, labeling, packaging and other handling of its products strictly in accordance with the sanitary and other requirements of this subchapter. The effectiveness of such measures will be subject to review by the Department.

(c) *Applying for Total Plant Quality Control.* Any owner or operator of an official establishment preparing meat food product who has a total plant quality control system or plan for controlling such product, after ante-mortem and post-mortem inspection, through all stages of preparation, may request the Administrator to evaluate it to determine whether or not that system is adequate to result in product being in compliance with the requirements of the Act and therefore qualify as a U.S. Department of Agriculture (USDA) Total Plant Quality Control Establishment. Such a request shall, as a minimum, include:

(1) A letter to the Administrator from the establishment owner of operator stating the company's basis and purpose for seeking an approved quality control system and willingness to adhere to the requirements of the system as approved by the Department; that all the establishment's data, analyses, and information generated by its quality control system will be maintained to enable the Department to monitor compliance and available to Department personnel; that plant quality control personnel will have authority to halt production or shipping of product in cases where the submitted quality control system requires it; and that the owner or operator (or his/her designee) will be available for consultation at any time Department personnel consider it necessary.

(2) In the case of an establishment having one or more full-time persons whose primary duties are related to the quality control system, an organizational chart showing that such people ultimately report to an establishment official whose quality control responsibilities are independent of or not predominantly production responsibilities. In the case of an establishment which does not have full-time quality control personnel, information indicating the nature of the duties and responsibilities of the person who will be responsible for the quality control system.

(3) A list identifying those Parts and sections of the Federal meat inspection regulations which are applicable to the operations of the establishment applying for approval of a quality control system. This list shall also identify which part of the quality control system will serve to maintain compliance with the applicable regulations.

(4) Detailed information concerning the manner in which the system will function. Such information should include, but not necessarily be limited to, questions of raw material control, the critical check or control points, the nature and frequency of tests to be made, the nature of charts and other records that will be used, the length of time such charts and records will be maintained in the custody of the official establishment, the nature of deficiencies the quality control system is designed to identify and control, the parameters or limits which will be used, and the points at which corrective action will occur and the nature of such corrective action—ranging from least to most severe: *Provided,* That, subsequent to approval of the total plant quality control system by the Administrator, the official establishment may produce a new product for test marketing provided labeling for the product has been approved by the Administrator, the inspector in charge has determined that the procedures for preparing the product will assure that all Federal requirements are met, and the production for test marketing does not exceed 6 months. Such new product shall not be produced at that establishment after the 6-month period unless approval of the quality control system for that product has been received from the Administrator.

(d) *Applying for Partial Quality Control.* Any owner or operator of an official establishment preparing meat food products who has a quality control program for a product, operation, or a part of an operation, may submit it to the Administrator and request a determination as to whether or not that program is adequate to result in product being in compliance with the requirements of the Act. Such a request shall, as a minimum, include:

(1) A letter from the establishment official responsible for quality control stating the objective of the program, and that all data and information generated by the program will be maintained to enable the Department to monitor compliance and available to Department personnel.

(2) Detailed information concerning raw material control, the critical check or control points, the nature and frequency of tests to be made, the charts and records that will be used, the length of time such charts and records will be maintained in the custody of the official establishment, the limits which will be used and the points at which corrective action will occur, and the nature of the corrective action—ranging from the least to the most severe.

(e) *Evaluation and Approval of Total Plant Quality Control or Partial Quality Control.* (1) The Administrator shall evaluate the material presented in accordance with the provisions of paragraph (c) or (d) of this section. If it is determined by the Administrator on the basis of the evaluation, that the total quality control system or partial quality control program will result in finished products controlled in this manner being in full compliance with the requirements of the Act and regulations thereunder, the total quality control system or partial quality control program will be approved and plans will be made for implementation under departmental supervision.

(2) In any situation where the system or program is found by the Administrator to be unacceptable, formal notification shall be given to the applicant of the basis for the denial. The applicant will be afforded an opportunity to modify the system or program in accordance with the notification. The applicant shall also be afforded an opportunity to submit a written statement in response to this notification of denial and a right to request a hearing with respect to the merits or validity of the denial. If the applicant requests a hearing and the Administrator, after review of the answer, determines the initial determination to be correct, he shall file with the Hearing Clerk of the Department the notification, answer and the request for hearing, which shall constitute the complaint and answer in the proceeding, which shall thereafter be conducted in accordance with Rules of Practice which shall be adopted for this proceeding.

(3) The establishment owner or operator shall be responsible for the effective operation of the approved total plant quality control system or partial quality control program to assure compliance with the requirements of the Act and regulations thereunder. The Secretary shall continue to provide the Federal inspection necessary to carry out his responsibilities under the Act.

(f) *Labeling Logo.* Owners and operators of official establishments having a total plant quality control system approved under the provisions of paragraph (c) of this section, may only use, as a part of any labeling, the following logo. Any labeling bearing the logo and any wording of explanation with respect to this logo shall be approved as required by Parts 316 and 317 of this subchapter.

(g) *Termination of Total Plant Quality Control or Partial Quality Control.*

(1) The approval of a total plant quality control system or a partial quality control program may be terminated at any time by the owner or operator of the official establishment upon written notice to the Administrator.

(2) The approval of a total plant quality control system or partial quality control program may be terminated upon the establishment's receipt of a written notice from the Administrator under the following conditions:

(i) If adulterated or misbranded meat food product is found by the Administrator to have been prepared for or distributed in commerce by the subject establishment. In such case, opportunity will be provided to the establishment owner or operator to present views to the Administrator within 30 days of the date of terminating the approval. In those instances where there is conflict of facts, a hearing, under applicable Rules of Practice, will be provided to the establishment owner or operator to resolve the conflict. The Administrator's termination of approval shall remain in effect pending the final determination of the proceeding.

(ii) If the establishment fails to comply with the quality control system or program to which it has agreed after being notified by letter from the Administrator or his designee. Prior to such termination, opportunity will be provided to the establishment owner or operator to present views to the Administrator within 30 days of the date of the letter. In those instances where there is a conflict of facts, a hearing, under applicable Rules of Practice, will be provided to the establishment owner or operator to resolve the conflict. The Administrator's termination of quality control approval shall remain in effect pending the final determination of the proceeding.

(3) If approval of the total plant quality control system or partial quality control program has been terminated in accordance with the provisions of this section, an application and request for approval of the same or a modified total plant quality control system will not be evaluated by the Administrator for at least 6 months from the termination date, or for at least 2 months from the termination date in the case of a partial quality control program.

(Secs. 5, 6, 21, 202, and 407 34 Stat. 1260, as amended, 21 U.S.C. 605, 608, 621, 642, and 677; 42 FR 35625, 35626, 35631)

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Further, § 381.145 of the poultry products inspection regulations (9 CFR 381.145) is amended as follows:

1. The paragraph designation "(c)" would be deleted and the present text of that paragraph (c) would be added to the end of paragraph (b) of that section.

2. New paragraphs (c), (d), (e), (f), and (g) would be added to read as follows:

§ 381.145 Poultry products and other articles entering or at official establishments; examination and other requirements.

* * * * *

(c) *Applying for Total Plant Quality Control.* Any owner or operator of an official establishment preparing poultry product who has a total plant quality control system or plan for controlling such products, after ante-mortem and post-mortem inspection, through all stages of preparation, may request the Administrator to evaluate it to determine whether or not that system is adequate to result in product being in compliance with the requirements of the Act and therefore qualify as a U.S. Department of Agriculture (USDA) Total Plant Quality Control Establishment. Such a request shall, as a minimum, include:

(1) A letter to the Administrator from the establishment owner or operator stating the company's basis and purpose for seeking an approved quality control system and willingness to adhere to the requirements of the system as approved by the Department; that all the establishment's data, analyses, and information generated by its quality control system will be maintained to enable the Department to monitor compliance and available to Department personnel; that plant quality control personnel will have authority to halt production or shipping of product in cases where the submitted quality control systems require it; and that the owner or operator (or his/her designee) will be available for consultation at any time Department personnel consider it necessary.

(2) In the case of an establishment having one or more full-time persons whose primary duties are related to the quality control system, an organizational chart showing that such people ultimately report to an establishment official whose quality control responsibilities are independent

of or not predominantly production

(1) A letter from the establishment official responsible for quality control

(3) The establishment owner or operator shall be responsible for the

the approval. In those instances where

Administrator Hazel R. Rollins' decision

As indicated in the Notice, the Oregon

of or not predominantly production responsibilities. In the case of a small establishment which does not have full-time quality control personnel, information indicating the nature of the duties and responsibilities of the person who will also be responsible for the quality control system.

(3) A list identifying those Subparts and sections of the poultry products inspection regulations which are applicable to the operations of the establishment applying for approval of a quality control system. This list shall also identify which part of the system will serve to maintain compliance with the applicable regulations.

(4) Detailed information concerning the manner in which the system will function. Such information should include, but not necessarily be limited to, questions of raw material control, the critical check or control points, the nature and frequency of tests to be made, the nature of charts and other records that will be used, the length of time such charts and records will be maintained in the custody of the official establishment, the nature of deficiencies the quality control system is designed to identify and control, the parameters of limits which will be used and the points at which corrective action will occur, and the nature of such corrective action—ranging from the least to most severe. *Provided,* That subsequent to approval of the total plant quality control system by the Administrator, the official establishment may produce a new product for test marketing provided labeling for the product has been approved by the Administrator, the inspector in charge has determined that the procedures for preparing the product will assure that all Federal requirements are met, and the production for test marketing does not exceed 6 months. Such new product shall not be produced at that establishment after the 6-month period unless approval of the quality control system for that product has been received from the Administrator.

(d) *Applying for Partial Quality Control.* Any owner or operator of an official establishment preparing poultry products who has a quality control program for a product, operation, or a part of an operation, may submit it to the Administrator and request a determination as to whether or not that program is adequate to result in product being in compliance with the requirements of the Act. Such a request shall, as a minimum, include:

(1) A letter from the establishment official responsible for quality control stating the objective of the program, and that all data and information generated by the program will be maintained to enable the Department to monitor compliance and available to Department personnel.

(2) Detailed information concerning raw material control, the critical check or control points, the nature and frequency of tests to be made, the charts and records that will be used, the length of time such charts and records will be maintained in the custody of the official establishment, the limits which will be used and the points at which corrective action will occur; and the nature of the corrective action—ranging from the least to the most severe.

(e) *Evaluation and Approval of Total Plant Quality Control or Partial Quality Control.* (1) The Administrator shall evaluate the material presented in accordance with the provisions of paragraph (c) or (d) of this section. If it is determined by the Administrator, on the basis of the evaluation, that the total quality control system or partial quality control program will result in finished products controlled in this manner being in full compliance with the requirements of the Act and regulation thereunder, the total quality control system or partial quality control program will be approved and plans will be made for implementation under departmental supervision.

(2) In any situation where the system or program is found by the Administrator to be unacceptable, formal notification shall be given to the applicant of the basis for the denial. The applicant will be afforded an opportunity to modify the system or program in accordance with this notification. The applicant shall also be afforded an opportunity to submit a written statement in response to this notification of denial and a right to request a hearing with respect to the merits or validity of the denial. If the applicant requests a hearing and the Administrator, after review of the answer, determines the initial determination to be correct, he shall file with the Hearing Clerk of the Department the notification, answer and the request for hearing, which shall constitute the complaint and answer in the proceeding, which shall thereafter be conducted in accordance with Rules of Practice which shall be adopted for this proceeding.

(3) The establishment owner or operator shall be responsible for the effective operation of the approved total plant quality control system or partial quality control program to assure compliance with the requirements of the Act and regulations thereunder. The Secretary shall continue to provide the Federal inspection necessary to carry out the responsibilities of the Act.

(f) *Labeling Logo.* Owners and operators of official establishments having a total plant quality control system approved under the provisions of paragraph (c) of this section, may only use, as a part of any labeling, the following logo. Any labeling bearing the logo and any wording of explanation with respect to this logo shall be approved as required by Subparts M and N of this Part.

(g) *Termination of Total Plant Quality Control or Partial Quality Control.* (1) The approval of a total plant quality control system or a partial quality control program may be terminated at any time by the owner or operator of the official establishment upon written notice to the Administrator.

(2) The approval of a total plant quality control system or partial quality control program may be terminated upon the establishment's receipt of a written notice from the Administrator under the following conditions:

(i) If adulterated or misbranded poultry product is found by the Adminstrator to have been prepared for or distributed in commerce by the subject establishment. In such case, opportunity will be provided to the establishment owner or operator to present views to the Administrator within 30 days of the date of terminating the approval. In those instances where there is a conflict of facts, a hearing, under applicable Rules of Practice, will be afforded to the establishment owner or operator, if requested, to resolve the conflict, The Administrator's termination of approval shall remain in effect pending the final determination of the proceeding.

(ii) If the establishment fails to comply with the quality control system or program to which it has agreed after being notified by letter from the Administrator or his designee. Prior to such termination, opportunity will be provided to the establishment owner or operator to present views to the Adminstrator within 30 days of the date of the letter. In those instances where there is a conflict of facts, a hearing, under applicable Rules of Practice, will be afforded to the establishment owner or operator, if requested, to resolve the conflict. The Administrator's termination of quality control approval shall remain in effect pending the final determination of the proceeding.

(3) If approval of the total plant quality control system or partial quality control program has been terminated in accordance with the provisions of this section, an application and request for approval of the same or a modified total plant quality control system will not be evaluated by the Administrator for at least 6 months from the termination date, or for at least 2 months from the termination date in the case of a partial quality control program.

(Secs. 7, 11(b), 14, 16 and 22, 71 Stat. 441, as amended, 21 U.S.C. 456, 460(b), 463, 465, and 467d; 42 FR 35625, 35626, and 35631)

Done at Washington, D.C., on: August 12, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-24832 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-DM

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-19]

Governor's Recommendation To Increase Retail Price Margin for Motor Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of ERA approval of Governor's recommendation.

SUMMARY: The Economic Regulatory Administration (ERA) announces Administrator Hazel R. Rollins' decision to adopt recommendations by Governor Victor Atiyeh of Oregon to increase the fixed cents per gallon price markup for retail sales of motor gasoline (retail price margin) by Oregon retail dealers by .7 cent per gallon to reflect inflation as measured by the GNP deflator and to provide for automatic adjustments of Oregon's retail margin when the national retail margin is adjusted for inflation. Accordingly, Administrator Rollins is ordering that the Oregon retail price margin be permanently set at 2.5 cents per gallon higher than the national retail price margin, so that the existing differential between the Oregon retail price margin and the national retail price margin will be maintained automatically whenever ERA raises the national retail price margin to reflect inflation.

EFFECTIVE DATE: June 15, 1980.

FOR FURTHER INFORMATION CONTACT:

Lynn Frank, Director, Oregon Department of Energy, Room 102, Labor and Industries Building, Salem, Oregon 97310, (503) 378-4040.

William Webb (Office of Public Information), Economic Regulatory Administrator, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055.

Yvonne Allen, Economic Regulato ɣ Administration, Room 4126, 2000 M Street, NW., Washington, D.C. 20461, (202) 252-5155.

SUPPLEMENTARY INFORMATION: On June 24, 1980, ERA published a Notice inviting comments on Governor Atiyeh's recommendation that ERA increase the Oregon retail price margin to reflect inflation, and that ERA provide hereafter for automatic increases in the Oregon retail price margin whenever ERA raises the national retail price margin to reflect inflation ("the Notice", 45 FR 43845, June 30, 1980). In the Notice, we explained Governor Atiyeh's recommendation and indicated that copies of a retail price analysis submitted by Governor Atiyeh in support of his recommendation would be available to the public. No comments were received with regard to Governor Atiyeh's proposal. ERA believes for the following reasons that an adjustment to the Oregon retail price margin of .7 cent per gallon, an amount equal to ERA's June 15, 1980 increase to the national retail price margin to reflect inflation as measured by the GNP deflator, is appropriate, and that in the future a differential of 2.5 cents per gallon should be maintained between the Oregon retail price margin and the national retail price margin.

As indicated in the Notice, the Oregon retail price margin was first increased to a level greater than the prevailing national retail price margin by Governor Atiyeh on June 19, 1979, pursuant to authority then delegated to the Governors of the States under 10 CFR 212.93. In connection with that increase of 2.5 cents per gallon, Governor Atiyeh provided ERA with a retail price analysis supporting his conclusion that, in accordance with the requirements of the existing regulations, the increase was cost justified by local economic conditions and that it furthered the objectives of the EPAA.

As further indicated in the Notice, on December 15, 1979, Governor Atiyeh made an additional adjustment to the Oregon retail price margin of .7 cent per gallon, in response to an equivalent increase in the national retail price margin to reflect inflation as measured by the GNP deflator. Thus, the 2.5 cent differential between the Oregon retail margin and the national retail margin, first established by Governor Atiyeh in June, 1979, has been preserved.

On May 19, 1980, the ERA amended 10 CFR 212.93 to provide that the ERA Administrator, instead of the Governor, may, upon the recommendation of the Governor of a State, increase the fixed cents per gallon markup for all or some of the retailers or reseller-retailers in the State. Accordingly, Governor Atiyeh submitted a recommendation to the ERA Administrator on June 13, 1980, requesting the ERA to approve an increase of .7 cent per gallon in the Oregon retail price margin, effective June 15, 1980. In his recommendation, the Governor indicated that his recommendation came in response to ERA's announcement of an increase in the national retail price margin of .7 cent per gallon, effective June 15, 1980, to reflect inflation, and his determination, based upon the economic factors set forth in his June 1979 retail price analysis, that the existing 2.5 cents per gallon differential between the Oregon margin and the national margin should be maintained. Accordingly, Governor Atiyeh also requested ERA to provide for automatic increases in the Oregon retail price margin whenever the national retail price margin is adjusted to reflect inflation.

ERA believes that the cost justification set forth in Governor Atiyeh's retail price analysis of 1979 demonstrates a continuing need based on Oregon's local economic conditions to maintain this differential. The ERA Administrator has therefore decided to adopt Governor Atiyeh's recommendation of a .7 cent per gallon

increase in the Oregon retail price margin, effective retroactively to

a subsidiary to perform services for its subsidiaries that the bank holding

restrictions of section 23A of the Federal Reserve Act. (12 U.S.C. 371c)

Requiring the prior application by a bank has made the suspension

in no way restricts or otherwise affects existing rights

new animal drug application (NADA)

increase in the Oregon retail price margin, effective retroactively to June 15, 1980, the date on which an equivalent increase was made to the national retail price margin to reflect inflation.

In addition, ERA believes that the 2.5 cent differential between Oregon's retail price margin and the national retail price margin should be maintained for the foreseeable future. Therefore, the ERA Administrator has also decided to adopt Governor Atiyeh's recommendation that the Oregon retail price margin be automatically increased by amounts equal to any future increases in the national retail price margin to reflect inflation, by permanently setting the Oregon retail price margin at a level 2.5 cents per gallon higher than the prevailing national retail price margin.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, it is hereby ordered, effective June 15, 1980, that:

In the State of Oregon the fixed cents per gallon mark-ups described in 10 CFR 212.93(a)(2) shall be 2.5 cents higher than the mark-ups otherwise provided in that section.

Issued in Washington, D.C., August 11, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-24659 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y, Docket No. R-0322]

Bank Holding Companies; Operations Subsidiaries

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: This interpretation provides that a bank holding company may form a subsidiary to perform services for its subsidiaries that the bank holding company could perform directly through a division or department.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason, Senior Attorney (202/452–3564), or Jennifer J. Johnson, Senior Attorney (202/452–3584), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: 12 CFR Part 225 is amended by adding a new § 225.141 to read as follows:

§ 225.141 Operations subsidiaries of a bank holding company.

In orders approving the retention by a bank holding company of a 4(c)(8) subsidiary, the Board has stated that it would permit, without any specific regulatory approval, the formation of a wholly-owned subsidiary of an approved 4(c)(8) company to engage in activities that such a company could itself engage in directly through a division or department. (*Northwestern Financial Corporation*, 65 Federal Reserve Bulletin 566 (1979).) Section 4(a)(2) of the Act provides generally that a bank holding company may engage directly in the business of managing and controlling banks and permissible nonbank activities, and in furnishing services directly to its subsidiaries. Even though section 4 of the Act generally prohibits the acquisition of shares of nonbanking organizations, the Board does not believe that such prohibition should apply to the formation by a holding company of a wholly-owned subsidiary to engage in activities that it could engage in directly. Accordingly, as a general matter, the Board will permit without any regulatory approval a bank holding company to form a wholly-owned subsidiary to perform servicing activities for subsidiaries that the holding company itself could perform directly or through a department or a division under section 4(a)(2) of the Act. The Board believes that permitting this type of subsidiary is not inconsistent with the nonbanking prohibitions of section 4 of the Act, and is consistent with the authority in section 4(c)(1)(C) of the Act, which permits a bank holding company, without regulatory approval, to form a subsidiary to perform services for its *banking* subsidiaries. The Board notes, however, that a servicing subsidiary established by a bank holding company in reliance on this interpretation will be an affiliate of the subsidiary bank of the holding company for the purposes of the lending restrictions of section 23A of the Federal Reserve Act. (12 U.S.C. 371c)

The Board has issued this interpretation pursuant to its statutory authority under sections 4(a)(2) and 5(b) of the Bank Holding Company Act, 12 U.S.C. 1843(a)(2) and 1844(b).

By order of the Board of Governors of the Federal Reserve System, August 7, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-24718 Filed 8-14-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Delegation of Authority To Suspend Time Deposit Withdrawal Penalties for Disaster Areas

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC supervised banks are required to impose a penalty on a depositor for the withdrawal of a time deposit before maturity. Under current procedures, designated FDIC staff may suspend this penalty upon application from a bank for depositors who have suffered disaster-related losses in presidentially-declared disaster areas. FDIC is amending its regulations to permit the suspension of the penalty without requiring an application by a bank.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429 (202-389-4324).

SUPPLEMENTARY INFORMATION: Under the regulations of the Federal Deposit Insurance Corporation ("FDIC", 12 CFR 329.4(d)) and the Depository Institutions Deregulation Committee (12 CFR 1204.103), FDIC supervised banks are required to impose minimum penalties on depositors for the withdrawal of time deposits before maturity. By a delegation from the Board of Directors of the FDIC, the Director of FDIC's Division of Bank Supervision, or his delegate, may suspend this penalty when a depositor has suffered a disaster-related loss in an area that has been declared a disaster area by presidential order. (12 CFR 303.11(a)(11)). This delegation, however, may not be exercised until a bank has applied for suspension of the penalty.

Requiring the prior application by a bank has made the suspension procedure awkward and slow to respond to presidentially-declared disasters. To expedite FDIC's response to major disasters, the FDIC is amending its regulations to remove the requirement that a bank apply for a suspension before any action may be taken.

Under the amendment, the Director of FDIC's Division of Bank Supervision, or his delegate, may permit FDIC-supervised banks to waive the penalty for the early withdrawal of deposit. This waiver may be given only if the President of the United States declares an area a major disaster area or an emergency area pursuant to section 301 of the Disaster Relief Act (42 U.S.C. 5141) and Executive Order No. 11795 of July 11, 1974. Any waiver will be limited to depositors who suffer disaster- or emergency-related losses in the officially designated disaster or emergency area. Normally, any suspension of the penalties will be retroactive to the date of the disaster and will remain in force for a period of six months; however, the suspension may be for a longer or shorter period depending on the particular case.

As was the procedure under the previous delegation, any suspension will permit depositors to withdraw, without penalty, all or part of their time deposits prior to maturity, with the consent of the bank. The suspension, being for the benefit of depositors, will apply whether or not a bank is actually located in a disaster area. Depositors seeking early withdrawal will be required to submit proof of loss occasioned by the particular disaster, absent actual knowledge of loss by a bank official.

Since the amendment is merely a change in internal FDIC operating procedures, it will have no effect on any insured bank. In particular, it will not affect the recordkeeping, reporting requirements, or competitive status of banks. (If elimination of the need for an application by a bank is viewed as having an effect on banks, it is a beneficial effect since it eliminates what may otherwise be viewed as a burden or restriction.) Therefore, FDIC has determined that a cost-benefit analysis (including a small bank impact statement) regarding the change is unnecessary.

The requirements of sections 553(b) and 553(d) of title 5 of the United States Code (5 U.S.C. 553 (b, d)) for public notice and comment and for deferred effective date were not followed in connection with the promulgation of the amendment, because this amendment involves internal FDIC procedures and in no way restricts or otherwise affects existing rights.

12 CFR Part 303 is amended by deleting § 303.11(a)(11) and adding a new § 303.13(k) as follows:

§ 303.11 [Amended].

1. In § 303.11 paragraph (a)(11) is deleted and reserved.

2. Section 303.13 is amended by adding a new paragraph (k) as follows:

§ 303.13 Other delegations of authority.

* * * * *

(k) *Suspension of time deposit withdrawal penalties for disaster areas.* The Board of Directors has delegated to the Director of the Division of Bank Supervision, or, where confirmed in writing by the Director of the Division of Bank Supervision, to the appropriate Regional Director, the authority to suspend the penalties contained in § 329.4(d) of the regulations of the FDIC (12 CFR 329.4(d)) and § 1204.103 of the regulations of the Depository Institutions Deregulation Committee (12 CFR 1204.103) and to allow FDIC supervised banks to permit the early withdrawal of time deposits, without penalty, if both of the following conditions are met:

(1) The President of the United States declares an area a major disaster area or an emergency area pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order No. 11795 (July 11, 1974).

(2) The waiver is limited in effectiveness to depositors suffering disaster- or emergency-related losses in the officially designated disaster or emergency area.

(Sec. 9 "Seventh" and "Tenth", 64 Stat. 881 (12 U.S.C. 1819 "Seventh" and "Tenth"))

Dated: August 11, 1980.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-24727 Filed 8-14-80; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 555

Chloramphenicol Drugs for Animal Use; Chloramphenicol Oral Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Michael Gordon, Inc., providing for safe and effective use of a chloramphenicol oral solution for treating dogs for certain bacterial infections caused by organisms susceptible to chloramphenicol. The regulations are also amended to add the firm to the list of sponsors of approved NADA's.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Michael Gordon, Inc., P.O. Box 18091, San Francisco, CA 94118, filed an NADA (65–484) providing for use of chloramphenicol oral solution for treating dogs for bacterial pulmonary infections, urinary tract infections, enteritis, and infections associated with canine distemper that are caused by organisms susceptible to chloramphenicol.

This product conforms to the requirements for certification and conditions of marketing of chloramphenicol oral solution which are codified in 21 CFR 555.110c. Approval is based on submission of certain non-proprietary information and results of a crossover blood level study demonstrating bioequivalence to an approved oral solution.

Under 21 CFR 514.1(b)(9) an exemption from the submission of some of the information required by 21 CFR 514.1(b)(8) has been applied to this NADA.

The Bureau of Veterinary Medicine has determined, pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Michael Gordon, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD

20857, from 9 a.m. to 4 p.m., Monday

Dated: August 8, 1980.

Specialty Supply Co. from the list of

20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drug (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 555 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Michael Gordon, Inc., P.O. Box 18091, San Francisco, CA 94118	049047

(2) * * *

Drug labeler code	Firm name and address
049047	Michael Gordon, Inc., P.O. Box 18091, San Francisco, CA 94118.

PART 555—CHLORAMPENICOL DRUGS FOR ANIMAL USE

2. In Part 555, § 555.110c is amended by revising paragraph (c)(2) to read as follows:

§ 555.110c Chloramphenicol oral solution

* * * * *

(c) * * *

(2) *Sponsor.* See 000010, 000196, 010271, 012518 and 049047 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective August 15, 1980.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)))

Dated: August 8, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-24665 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510 and 558

Tylosin; New Animal Drugs for Use in Animal Feeds

AGENCY: Food and Drug Administration

ACTION: Final rule

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for J & R Specialty Supply Co. providing for a change of sponsor from Dean Specialty Supply Co. The NADA provides for use of a 5- and 10-gram-per-pound tylosin premixes for making complete swine feeds.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: J & R Specialty Supply Co., 310 Second Ave., SW., P.O. Box 506, Waseka, MN 56093, is sponsor of supplemental NADA 96–780 submitted on its behalf by Elanco Products Co. The supplement provides for the change of sponsor from Dean's Specialty Supply Co. to J & R Specialty Supply Co. The NADA provides for use of a premix containing 5 or 10 grams of tylosin (as tylosin phosphate) per pound for making complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of the original NADA relies on safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to support this NADA has been authorized by Elanco. This action, the change of sponsor of an NADA, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the Bureau of Veterinary Medicine's proposed supplemental approval policy (December 23, 1977, 42 FR 64367), approval of this action did not require a reevaluation of the safety and effectiveness data in the parent application.

J & R Specialty Supply Co. has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval, to delete Dean's Specialty Supply Co. from the list of sponsors, and to include J & R Specialty Supply Co. in the list of sponsors.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by deleting the entry for Dean's Specialty Supply Co. from paragraph (c)(1) and the entry for 024817 from paragraph (c)(2), and adding a new sponsor entry alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
J & R Specialty Supply Co., 310 Second Ave., SW., P.O. Box 506, Waseca, MN 56093	049768

(2) * * *

Drug labeler code	Firm name and address
049768	J & R Supply Co., 310 Second Ave., SW., P.O. Box 506, Waseca, MN 56093.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by revising paragraph (b)(16) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(16) To 049768: 5 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. August 15, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 7, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-24673 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 540

Sterile Benzathine Penicillin G Suspension; Penicillin Antibiotic Drugs for Animal Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations for sterile benzathine penicillin G suspension to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data. These conditions of use were classified as effective as a result of a National Academy of Science/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. In lieu of certain effectiveness data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The NAS/NRC (the Academy) review of this product was published in the **Federal Register** of August 26, 1970 (35 FR 13589). In that document, the Academy concluded, and FDA concurred, that the product was probably effective for treating infections in cattle, sheep, swine, dogs, and turkeys when such infections are caused by pathogens sensitive to the antibiotic.

That annoucement was published to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Wyeth Laboratories, Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101, responded to the notice by submitting an NADA (55–009V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product for the treatment of certain infections in dogs and horses caused by organisms susceptible to the antibiotic. The application was approved by a regulation published in the **Federal Register** of July 24, 1974 (39 FR 26890). The regulation reflecting this approval amended the regulations to establish a new § 135b.98 (21 CFR 135b.98), recodified at 21 CFR 540.255a. The section did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data required for approval by § 514.111(a)(5)(ii)(*a*)(*4*) of the new animal drug regulations. In lieu of those data, approval of applications for such products may be obtained if bioequivalency or similar data are submittd as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.255a by adding after paragraph (c)(3)(i), (ii), (iii), and (iv) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 540.255a Sterile benzathine penicillin G suspension.

* * * * *

(c) * * *

(3) *Conditions of use.* (i) * * * [1]

(ii) * * * [1]

(iii) * * * [1]

(iv) * * * [1]

Effective date. This regulation is effective August 15, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency and safety information.

Dated: August 8, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-24664 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Modification of the Procedure for Partial Filling of Prescriptions for Schedule II Controlled Substances

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This rule permits the partial filling of prescriptions for Schedule II controlled substances and extends the current 72 hour time limit to a period of 60 days, if the prescriptions are written for patients in Long Term Care Facilities. This action was initiated upon request from various pharmacy professionals and organizations that current regulations be modified to permit pharmacies to partially fill prescriptions for Schedule II controlled substances issued to patients in Long Term Care Facilities (LTCF). This rule should reduce the health care costs to such patients by limiting the amounts of controlled substances which might otherwise accumulate at Long Term Care Facilities and still provide DEA sufficient accountability information to monitor against diversion.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 I Street, Northwest, Washington, D.C. 20537, telephone number (202) 633–1321.

SUPPLEMENTARY INFORMATION: On April 3, 1980, the Administrator of the Drug Enforcement Administration issued a Notice of Proposed Rulemaking (45 FR 24199, April 9, 1980) to modify existing regulations to permit the partial filling of Schedule II controlled substances prescriptions provided that they be issued to patients in Long Term Care Facilities.

The Notice called for responsive comments and objections to be submitted to DEA on or before May 12, 1980. DEA received a total of seven submissions in response to the Notice.

The State of Pennsylvania, Department of Health and the American Society of Hospital Pharmacists and

four other commentors supported the proposed modification. The State of Rhode Island, Department of Health objected that the rule would encourage practitioners to issue fewer prescriptions for larger amounts of controlled substances, and would weaken the effect of regulations of the state of Rhode Island which work to monitor the filling of prescriptions for Schedule II controlled substances.

The DEA carefully considered the objections submitted by the Rhode Island Department of Health. DEA does not intend to burden the effectiveness of existing state regulations which have been established to monitor the prescribing and dispensing of Schedule II controlled substances. In all cases, the more stringent law or regulation is applicable and DEA does not feel that the implementation of this proposed modification would reduce the effectiveness of existing state regulations.

The State of North Carolina, Department of Human Resources submitted a responsive comment in support of this proposed rule and recommended that DEA state in the final rule that the total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. The DEA has accepted this suggestion, and has incorporated it into this Final Rule.

Two commentors submitted suggestions which DEA considered and accepted in part. These comments suggested: (1) Extending the 60 day time limitation for refills; (2) permitting oral authorizations if followed by a written prescription; and (3) eliminating the requirement of a notation on the prescription authorizing partial filling. DEA rejects the first two suggestions but accepts the third and issues this Final Rule absent such requirement.

No further comments or objections were received, nor were there any requests for a hearing.

Therefore, pursuant to the authority vested in the Administrator by the Controlled Substances Act (21 U.S.C. 801 *et seq.)* and by regulations of the Department of Justice, the Administrator hereby orders that 21 CFR Part 1306 be amended:

(1) By redesignating paragraphs (e) through (g) of § 1306.02 as paragraphs (f) through (h), and by adding a new paragraph (e) to read as follows:

§ 1306.02 Definitions.

* * * * *

(e) A "Long Term Care Facility" (LTCF) means a nursing home, retirement care, mental care or other facility or institution which provides extended health care to resident patients.

* * * * *

(2) by revising § 1306.13 as follows:

In § 1306.13, the existing paragraph is designated as paragraph (a), and the following paragraph (b) and (c) are added:

§ 1306.13 Partial filling of prescriptions.

* * * * *

(b) Prescriptions for Schedule II controlled substances written for patients in Long Term Care Facilities (LTCF) may be filled in partial quantities, to include individual dosage units. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed and the identification of the dispensing pharmacist. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions, for patients in a LTCF, shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.

(c) Information pertaining to current Schedule II prescriptions for patients in a LTCF may be maintained in a computerized system if this system has the capability to permit:

(1) Output (display or printout) of the original prescription number, date of issue, identification of prescribing individual practitioner, identification of patient, identification of LTCF, identification of medication authorized (to include dosage form strength and quantity), listing of partial fillings that have been dispensed under each prescription and the information required in § 1306.13(b).

(2) Immediate (real time) updating of the prescription record each time a partial filling of the prescription is conducted.

(3) Retrieval of partially filled Schedule II prescription information is the same as required by § 1306.22(b) (4) and (5) for Schedule III and IV prescription refill information.

Dated: August 7, 1980.

Peter B. Bensinger,

Administrator.

[FR Doc. 80-24726 Filed 8-14-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 803 and 888

[Docket No. R-80-749]

Sections 8 and 23 Housing Assistance Payments Programs—Amendment of Fair Market Rent Schedules, Existing Housing; Correction

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Correction of final rule.

SUMMARY: In FR Doc. R-80-749 appearing at page 19868 in the Federal Register of Wednesday, March 26, 1980, HUD amended the schedules that set forth the Fair Market Rents (FMRs)/ Section 23 and Section 8 for Existing Housing and for Mobile Home Spaces under the Housing Assistance Payments Programs (pages 19869 through 20023). The amended schedules contained several errors. For fourteen housing market areas, the proposed Fair Market Rents were republished instead of the revised rents. The Fair Market Rents established for Mobile Home Spaces in fifteen market areas were inadvertently omitted from the schedule, and the Fair Market Rent for Mobile Home Spaces applicable to San Luis Obispo County, California was listed incorrectly under the San Francisco Area Office jurisdiction instead of that of the Los Angeles Area Office. These errors, applicable to selected housing market areas, are corrected by revision of Title 24, Part 803, Schedule B, and Part 888, Schedule B and Schedule D, as set forth below.

EFFECTIVE DATE: September 15, 1980, retroactive to March 29, 1980 only for purposes of computing annual rent adjustments in accordance with regular procedures and the PHA administrative fees.

FOR FURTHER INFORMATION CONTACT: Ellis V. St. Clair, Economist, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410, 202-755-5816. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The corrections provided for herein respond to comments submitted on earlier publications of Fair Market Rent Schedules. Moreover, it is imperative that the corrections become effective as soon as possible in order to facilitate the provision of urgently needed rental assistance to owners of existing housing units assisted under these programs.

Therefore, the Secretary finds that prior notice and public procedure on these corrections would be unnecessary, impracticable and contrary to the public interest.

A Finding of Inapplicability of Environmental Impact is available for public inspection in the Office of the Rules Docket Clerk, Room 5218, Dept. of Housing & Urban Development.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

(Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., August 8, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Accordingly, Title 24, Part 803, Schedule B and Part 888, Schedule B and Schedule D are amended as set forth below.

1. The FMRs listed below hereby supersede those listed in part 803, schedule B and part 888, schedule B published in the **Federal Register** on Mar. 26, 1980:

U.S. Department of Housing and Urban Development Section 8 and 23 Housing Assistance Payments Programs

Schedule B.—*Fair Market Rents for Existing Housing (Including Housing Finance and Development Agencies Program)*

	Bedrooms				
	0	1	2	3	4
Region 5					
Chicago, Ill. area office—non-SMSA: Jefferson County, Ill.	170	225	275	300	340
Columbus, Ohio area office—non-SMSA:					
Harrison County, Ohio	138	169	199	230	261
Gallia County, Ohio	138	169	199	230	261
Indianapolis, Ind. area office—non-SMSA: Knox County, Ind	163	182	219	231	269
Region 6					
Dallas, Tex. area office—non-SMSA: Bryan-College Station, Tex.: Brazos County, Tex	202	230	270	310	351
Little Rock, Ark. area office—non-SMSA:					
Cleburne County, Ark	138	169	199	230	261
Fulton County, Ark	138	169	199	230	261
Independence County, Ark	138	169	199	230	261
Izard County, Ark	138	169	199	230	261
Sharp County, Ark	138	169	199	230	261
Stone County, Ark	138	169	199	230	261
Van Buren County, Ark	138	169	199	230	261
Region 8					
Denver, Colo. regional/area office—non-SMSA: Garfield County, Colo	220	268	315	362	410
Region 9					
Los Angeles, Calif. area office—non-SMSA: Coconino County, Ariz	199	237	312	379	429

2. The FMRs listed below are hereby added to part 888, schedule D published in the **Federal Register** on Mar. 26, 1980:

Schedule D.—*Fair Market Rents for Mobile Home Spaces (Section 8 Existing Housing Program)*

	Wide space	
	Single	Double
Region 1		
Boston, Mass. area office—non-Metro State: New Hampshire	73	80
SMSA:		
Lawrence-Haverhill, Mass.-N.H	86	92
Lowell, Mass.-N.H	86	92
Hartford, Conn. area office—SMSA:		
Bristol Conn	90	90
Norwalk Conn	105	105
Stamford Conn	105	105
Waterbury Conn	90	90
Region 2		
New York, N.Y area office—SMSA:		
Nassau-Suffolk, N.Y	116	148
New York City, N.Y.-N.J	120	120
Poughkeepse, N.Y	110	110
Newark, N.J. area office—SMSA:		
New York City, N.Y.-N.J	120	120
Newark, N.J	140	145
Philadelphia, Pa.-N.J	130	130
Region 3		
Philadelphia, Pa. area office—SMSA.		
Harrisburgh, Pa.-N.J	76	76
Philadelphia, Pa.-N.J	130	130

3. The FMR listed in part 888, schedule D for region 9, San Francisco area office, pertaining to San Luis Obispo County is hereby deleted and the correct listing for San Luis Obispo County under the Los Angeles, Calif. area office is added as follows:

	Wide space	
	Single	Double
Region 9		
Los Angeles, Calif. area office—Exception County: San Luis Obispo	109	136

(Prepared by HUD—EMAD (CO), May 27, 1980.)

[FR Doc. 80-24639 Filed 8-14-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 231

Colorado River Irrigation Project, Arizona; Revision of Rates and Procedures

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The purpose of the Final Rule is to increase the four power rate schedules (§ 231.51 Rate Schedule No. 1—Residential Rate, § 231.52 Rate Schedule No. 2—Commercial Rate, § 231.53 Rate Schedule No. 3—Irrigation Pumping Rate and § 231.54 and Rate Schedule No. 4—Street and Area Lighting). The rate increase is necessary to provide operation and maintenance funds, a reserve fund and funds for repayment of Government appropriations. There has been a continuous inflation rate of 9 to 12 percent in the cost of material and labor during the past year and in October, 1980 the purchased power rates from Department of Energy will be increased and Arizona Public Service increased their power rates on February 1, 1980 subject to refund if it is not approved by the Federal Energy Regulatory Commission.

The projected operating revenues for 1980 are $4,078,600 and the projected operating expenses are $4,253,200, this leaves a deficit of $174,600. To eliminate this deficit and place the Power Unit on a sound financial basis it is necessary to increase the power rates an average of 6.6 percent. The residential rates would increase an average of 5.8%, commercial rates 7.0%, Irrigation Rates 8.3% and Street and Private area Lights 3.2%. These rates have been figured as closely as possible to reflect the cost of service provided to each class of customer.

DATE: These revisions shall become effective September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Vernon M. Hughes, Bureau of Indian Affairs, Colorado River Indian Agency, Parker, Arizona 85344, Telephone Number 602–669–2187.

SUPPLEMENTARY INFORMATION: Beginning on Page 43219 of the Thursday, June 26, 1980 **Federal Register**, Volume 45, No. 125 there was published a proposed rule. All interested persons were given until August 1, 1980 to submit comments regarding the proposed rule. No comments were received regarding the proposed rule.

The principal author of this document is Vernon M. Hughes, Bureau of Indian Affairs, Colorado River Indian Agency, Route 1, Box 9C, Parker, Arizona 85344.

(Section 3.1, 10 BIAM: Section 2, 49 Stat. 1039; 54 Stat. 422; 5 U.S.C. 301.)

Part 231, Subchapter U, Chapter 1, of Title 25, of the Code of Federal Regulations is amended as follows:

1. Section 231.51 Revised to read as follows:

§ 231.51 Rate Schedule No. 1—Residential.

(a) *Application of Schedule.* This schedule applies to electrical service required for residential purposes in individual private dwellings and in individualy metered apartments delivered through one meter to a customer at one premises either urban or rural, for domestic use only. The electrical service is to be used on the customer's own premises only and must not be resold.

(b) *Type of Service.* Single phase, 60 cycle, 120/240 volts.

(c) *Monthly Rate.* (1) $7.67 for the first 100 kilowatt-hours or less. (2) 5.7 cents per kilowatt-hour for the next 300 kilowatt-hours. (3) 5.0 cents per kilowatt-hour for the next 800 kilowatt-hours. (4) 4.0 cents per kilowatt-hour for all additional kilowatt-hours.

(d) *Fuel Cost Adjustment.* An adjustment shall be added to each kilowatt-hour used equal to the estimated average Purchased Power Adjustment (rounded to the nearest $.0001) paid by the Project to the Project's power supplier.

2. Section 231.52 Revised to read as follows:

§ 231.52 Rate Schedule No. 2—Commercial Rate.

(a) *Application of Schedule.* This schedule applies to electrical service required by commerical, industrial and off-reservation irrigation pumping, for all uses when such service is supplied at one point of delivery and measured through one meter. The electrical service is to be used on the customer's own premises only and must not be resold.

(b) *Type of Service.* Single or three phase, 60 cycle, at one standard voltage (120/240, 120/208, 270/480 or 480 volts).

(c) *Monthly Rates.* (1) $7.67 for the first 100 kilowatt-hours. (2) 5.6 cents per kilowatt-hour for the next 900 kilowatt-hours. (3) 4.7 cents per kilowatt-hour for the next 4,000 kilowatt-hours. (4) 3.7 cents per kilowatt-hour for all additional kilowatt-hours.

(d) *Demand Charge.* (1) No charge for the first 5 kilowatts. (2) $3.30 per kilowatt for all billing demand over 5 kilo-watts.

(e) *Minimum Charge.* (1) $9.81 per month or $3.30 per kilowatt of billing demand for billing demands over 5 kilowatts or the amount specified in the contract, whichever is greater, except where the Officer in Charge determines that the customer's requirements are of a distictly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with the current month equal to twelve (12) times the highest monthly minimum computed for the same twelve (12) month period.

(f) *Billing Demand.* The highest 15 minutes integrated demand in kilowatts occurring during the month or the demand specified in a contract, whichever is greater.

(g) *Fuel Cost Adjustment.* An adjustment shall be added to each kilowatt-hour used equal to the estimated average Purchased Power Adjustment (rounded to the nearest $.0001) paid by the Project to the Project's power supplier.

3. Section 231.53 Revised to read as follows:

§ 231.53 Rate Schedule No. 3—Irrigation Pumping Rate.

(a) *Application of Schedules.* This schedule applies to electrical service required for pumping of irrigation water, for irrigation systems located on the reservation, when such service is supplied at one point of delivery and consumption is measured through one meter and is approved by the Officer in Charge. Use must be limited to the customer's premises and must not be sold.

(b) *Type of Service.* Single or three phase, 60 cycle at one standard voltage (120/240, 120/208, 270/480 or 480 volts).

(c) *Monthly Rate.* (1) Energy Charge. 2.2 cents per kilowatt-hour. (2) Demand Charge. $2.00 per kilowatt of billing demand. (3) Minimum Charge. $2.00 per kilowatt of billing demand or contract demand whichever is the greater.

4. Section 231.54 Revised to read as follows:

§ 231.54 Rate Schedule No. 4—Street and Area Lighting.

(a) *Application of Schedule.* This rate schedule applies to service lighting public streets, alleys, thoroughfares, public parks, school yards, industrial areas, parking lots and similar areas where dusk-to-dawn service is desired. The Project will own, operate and maintain the lighting system, including normal lamp and globe replacement.

(b) *Monthly Rate.*

Lamps	Per Lamp Metered	Per Lamp Unmetered	KWH/MO
(1) 175 Watts, Mercury Vapor, (Approximately 6,500 Lumens)	5.90	7.10	61
(2) 250 Watt, Mercury Vapor, (Approximately 10,000 Lumens)..	7.45	9.05	88
(3) 400 Watt, Mercury Vapor, (Approximately 18,000 Lumens)..	10.10	12.90	140

(c) *Minimum Term of Service.* The minimum term of service will be twelve (12) months, payable in advance. This advance payment may be waived by the Officer in Charge.

(d) *Installation Charges.* The customer will be required to pay the total installation cost including labor and material as determined by the Officer in Charge. Ownership of all facilities will remain with the Project.

(e) *Fuel Cost Adjustment.* An adjustment shall be added to each kilowatt-hour used equal to the estimated average Purchased Power Adjustment (rounded to the nearest $.0001) paid by the Project to the Project's power supplier.

Note.—The Assistant Secretary—Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A–107.

W. P. Ragsdale,

Assistant Area Director

[FR Doc. 80-24807 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1913

Access to Employee Exposure and Medical Records; Corrections

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; corrections.

SUMMARY: On May 23, 1980, OSHA published two documents in the **Federal Register** relating to access to employee exposure and medical records: (1) Access to Employee Exposure and Medical Records (FR Doc. 80–15389; 45 FR 35212); and (2) Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records (FR Doc. 80–15390; 45 FR 35284). This notice lists corrections to these documents, which are intended to correct typographical errors.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA, Office of Public Affairs, Third Street and Constitution Avenue NW., Room N–3641, Washington, DC 20210. (202–523–8151).

SUPPLEMENTARY INFORMATION:

I. **Federal Register** Document 80–15389, appearing at 45 FR 35212, is corrected as follows:

1. On page 35213, column 1, line 31, change "information" to "protection."

2. On page 35214, column 2, line 26, change "record" to "records."

3. On page 35215, column 2, line 42, change "access" to "assess."

4. On page 35217, column 1, line 3, change "additon" to "addition."

5. On page 35219, column 3, line 16, change "the" to "The."

6. On page 35220, column 3, line 67, change "proceding" to "proceeding."

7. On page 35223, column 2, line 36, change "and" to "an."

8. On page 35223, column 2, line 64, change "and" to "an."

9. On page 35223, column 3, line 2, change "or" to "of."

10. On page 35225, column 2, line 15, change "maganese" to "manganese."

11. On page 35225, column 3, line 54, change "Dr. Silvertein" to "Dr. Silverstein."

12. On page 35227, column 3, line 40, change "direct" to "detect."

13. On page 35228, column 2, line 31, change "needs to" to "needs of."

14. On page 35228, column 3, line 12, change "disgnoses" to "diagnoses."

15. On page 35232, column 2, line 22, change "physical" to "physical."

16. On page 35232, column 3, line 27, change "promulation" to "promulgation."

17. On page 35236, column 3, line 17, change "emplyees'" to "employees'."

18. On page 35237, column 1, line 20, change "possibilty" to "possibility."

19. On page 35238, column 2, line 62, change "AFC–CIO" to "AFL–CIO."

20. On page 35241, column 1, line 14, change "consent" to "content."

21. On page 35241, column 3, line 25, change "identificable" to "identifiable."

22. On page 35241, column 3, line 33, change "identifers" to "identifiers."

23. On page 35242, column 3, line 12, change "physcian" to "physician."

24. On page 35243, column 1, line 27, change "rcord" to "record."

25. On page 35245, column 1, line 52, change "Eudcation" to "Education."

26. On page 35246, column 2, line 44, change "emphasized" to "emphasizes."

27. On page 35248, column 2, line 37, change "no" to "not."

28. On page 35248, column 3, line 28, change "recognizes" to "recognize."

29. On page 35250, column 3, line 4, change "in" to "is."

30. On page 35251, column 1, line 52, delete the comma after "personally."

31. On page 35253, column 2, line 8, change "cite" to "cited."

32. On page 35253, column 3, line 2, change "feasibility" to "feasible."

33. On page 35258, column 2, line 36, change "records" to "record."

34. On page 35259, column 3, line 52, change "simultaneouly" to "simultaneously."

35. On page 35259, column 3, line 69, change "exisiting" to "existing."

36. On page 35260, column 2, line 61, change "Similarily" to "Similarly."

37. On page 35260, column 3, line 15, change "on" to "in."

38. On page 35260, column 3, line 60, change "enterests" to "interests."

39. On page 35261, column 1, line 52, change "encapacitated" to "incapacitated."

40. On page 35261, column 1, line 59, change "legallly" to "legally."

41. On page 35262, column 1, line 58, change "if" to "of."

42. On page 35263, column 1, line 41, change "stricyly" to "strictly."

43. On page 35263, column 2, line 48, change "recognized" to "recognize."

44. On page 35270, column 1, line 28, change "stardard" to "standard."

45. On page 35271, column 1, line 7, change "suggest" to "suggests."

46. On page 35271, column 1, line 21, change "ARMA" to "AMRA."

47. On page 35273, column 3, line 51, change "acess" to "access."

48. On page 35274, column 1, line 53, change "of" to "or."

49. On page 35276, column 1, line 27, change "given" to "give."

50. On page 35277, column 2, § 1910.20(a), line 38, change the semi-colon to a comma.

51. On page 35278, column 3, § 1910.20(d)(1)(ii)(A), line 38, change "mathmematical" to "mathematical."

52. On page 35280, column 3, Appendix B to § 1910.20, line 57, change "124.247" to "124,247."

53. On page 35281, column 2, § 1910.1001(j)(6)(ii), line 56, delete the word "the."

54. On page 35282, column 3, a line consisting of five asterisks should be inserted between line 49, "1910.20(h)," and line 50, "18. Section 1910.1018 is amended by."

55. On page 35282, column 3, line 51, change "paragraphs" to "paragraph."

56. On page 35283, column 1, § 1910.1018(q)(4)(iv), line 3, insert the word "forth" between "set" and "in."

57. On page 35283, column 1, line 16, change "paragraphs" to "paragraph."

58. On page 35283, column 1, § 1910.1025 (n)(4)(ii), line 29, change "(2)-(i)" to "(g)-(i)."

59. On page 35283, column 1, line 40, change "paragraphs" to "paragraph."

60. On page 35283, column 2, line 7, change "paragraphs" to "paragraph."

61. On page 35283, column 2, line 28, change "amened" to "amended."

62. On page 35283, column 2, line 29, change "paragraphs" to "paragraph."

63. On page 35283, column 2, line 29, insert a comma following "(k)(3)(ii)."

64. On page 35283, column 2, line 51, change "paragraphs" to "paragraph."

65. On page 35283, column 2, line 51, insert a comma following "(p)(3)(ii)."

66. On page 35283, column 3, line 7, change "paragraphs" to "paragraph."

67. On page 35283, column 3, line 8, insert a comma after "VI, D."

68. On page 35283, column 3, § 1910.1045 (q)(4)(ii), line 20, change "(q)-(i)" to "(g)-(i)."

69. On page 35283, column 3, line 60, change "paragraphs" to "paragraph."

70. On page 35283, column 3, line 60, insert a comma after "(q)(3)(ii)."

71. On page 35283, column 3, line 64, change "§ 1910.151" to "§ 1990.151."

II. **Federal Register** Document 80–15390 appearing at 45 FR 35284 is corrected as follows:

1. On page 35285, column 3, line 3, change "invonvenience" to "inconvenience."

2. On page 35286, column 1, line 32, change "orginally" to "originally."

3. On page 35286, column 2, line 15, change "Birdbord" to "Bridbord."

4. On page 35286, column 2, line 16,

originally printed in the March 10, 1980, **Federal Register** (45 FR 15450). The

of publication. Therefore, in accordance

Action Program. Regional Offices and

4. On page 35286, column 2, line 16, change "eplicitly" to "explicitly."
5. On page 35289, column 1, line 59, change "particularly" to "particularity."
6. On page 35293, column 1, line 47, change "personnally" to "personally."
7. On page 35293, column 2, line 2, change "prefessional" to "professional."
8. On page 35293, column 2, line 66, change "construes" to "construe."
9. On page 35293, column 2, line 67, change "treats" to "treat."
10. On page 35295, column 1, § 1913.10(b)(7), line 29, change "enployees" to "employees."
11. On page 35297, column 1, § 1913.10(l)(1), line 35, change the period to a comma.

(Sec. 6(b), 8(c) and 8(g), 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); the Secretary of Labor's Order 8–76 (41 FR 25059) and 29 CFR Part 1911)

Signed at Washington, DC, this 8th day of August, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-24590 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Approval of Supplement To Puerto Rico State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice approves the supplement revising the approved Puerto Rico development schedule in 1952.383 which revises the dates in the developmental schedule for steps (a)–(m) and adds scheduling for on–site consultation regulations, the laboratory, poster, the boiler and elevator program, and staffing for consultation, laboratory, boilers, and elevators.

EFFECTIVE DATE: August 12, 1980.

FOR FURTHER INFORMATION CONTACT: John Smith, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N–3613, Washington, D.C. 20210, (202) 523–8081.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Tile 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the **Federal Register** (42 FR 43628), of the approval of the Puerto Rico plan and adoption of Subpart FF of Part 1952 containing the approval decision and description of the plan, including the development schedule in § 1952.383.

Description of Supplement: This supplement revises the dates in the developmental schedule in § 1952.383 for steps (a)-(m) and adds scheduling for on-site consultation regulations, the laboratory, posters, the boiler and elevator program, and staffing for consultation, laboratory, boilers, and elevators.

A copy of this supplement, along with the approved plan, may be inspected and copied during business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Ave., NW., Room N–3613, Washington, D.C. 20210.

Office of Regional Administrator, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

Department of Labor, Occupational Safety and Health Administration, Prudencio Rivera Martinez Building, 505 Munoz Rivera Avenue, Hato Rey, Puerto Rico 00918.

Public Participation: Under § 1953.2(c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Commonwealth's supplement described above is consistent with commitments made in the approved plan which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Puerto Rico plan supplement described above is hereby approved under Subpart B of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In addition, Subpart FF of 29 CFR Part 1952 is hereby amended to reflect these approved revisions and additions to § 1952.383. As amended § 1952.383 reads as follows:

§ 1952.383 Developmental schedule.

(a) Position descriptions of State plan personnel by March, 1978.
(b) Public information program (private sector), one year after plan approval.
(c) Analysis for inspection scheduling (private sector), March 1980.
(d) Submit administrative regulations, September, 1978.
(e) Affirmative action plan by July, 1980.
(f) File and promulgate standards, March, 1978.
(g) Adopt the Field Operations Manual, April, 1980.
(h) Adopt management information system, January, 1980.
(i) Internal training schedule, April, 1980.
(j) Employer, employee training schedule, August, 1978.
(k) Public information program (government sector), February, 1980.
(l) Analysis for inspection scheduling (government sector), June, 1980.
(m) Implementation of public employee program, October, 1978.
(n) On-site consultation regulations, March, 1979.
(o) Laboratory, August, 1980.
(p) Posters, February, 1978.
(q) Boiler and Elevator Program, June, 1980.
(r) Staffing on Board for consultation, laboratory, boiler and elevators, February, 1980.

Signed at Washington, D.C. this 5th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-24619 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1228

Urban Park and Recreation Recovery Act of 1978; Local Recovery Action Program

AGENCY: Heritage Conservation and Recreation Service, U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: This document is an amendment to the final rule and is published to extend the deadline for the use of Preliminary Action Programs under the Urban Park and Recreation Recovery Program (Title X of the National Parks and Recreation Act of 1978, Pub. L. 95–625). The final rule was originally printed in the March 10, 1980, **Federal Register** (45 FR 15456). The amendment is necessary due to the fact that on March 1, 1980, the Administration recommended no more funding for the program. Most communities then stopped work for a period of three months on their recovery action programs. This extension, therefore, will allow communities to make up for the lost time.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Soller, Division of Urban Programs, Heritage Conservation and Recreation Service, 440 G Street, NW., Room 310, Box P, Washington, D.C. 20243, (202) 343–5971.

SUPPLEMENTARY INFORMATION: The proposed rescission of funds from the Urban Park and Recreation Recovery Program's FY 1980 budget and uncertainty about funding in FY 1981 caused a great amount of confusion on the part of communities participating in the Urban Park and Recreation Recovery Program (UPARR). The proposed rescission had the affect of stopping implementation of the UPARR Program for a period of three months, since the grant issuing process was suspended during the period of time the rescission was under consideration. During this period of time, there was uncertainty as to whether the program would survive. Congress' decision of July 8, 1980 (Pub. L. 96–304), which resolved the rescission question, allowed for continuation of the program.

Because of the uncertainty of the future of the UPARR Program during the time a rescission was being considered, and due to the limited time and budgets of many participating communities, work was frequently postponed on Recovery Action Programs, the planning program required of any jurisdiction for participation in the program.

Under current regulations, until October 1, 1980, the planning requirement could be satisfied with an approved Preliminary Action Program. After October 1, 1980, no rehabilitation or innovation grant was to have been awarded without an approved Recovery Action Program on file with HCRS. This regulation extends the October 1, 1980 deadline three months, the period of interruption in the program caused by the rescission consideration.

It has been determined that because it should notify applicant jurisdictions immediately that they have this three month extension, it is impracticable and contrary to the public interest to publish this revision as a notice of proposed rulemaking, or to delay the effective date for this provision beyond the date of publication. Therefore, in accordance with the exception provided for in the Administrative Procedure Act in 5 U.S.C. 553(b)(B) and d(e), this amendment is published as a final rule effective immediately.

(Catalog of Federal Domestic Assistance 15.417)

Statement of Applicability

This amendment does not affect the existing A–95 review procedures for the Urban Park and Recreation Recovery Program as outlined in OMB Circular No. A–95: Administrative Note No. 10.

Statement of Significance

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Authorship Statement

The author of this document is Mr. Chris Soller of the Heritage Conservation and Recreation Service, (202) 343–5971.

Dated: August 11, 1980.

Meg Maguire,

Deputy Director, Heritage Conservation and Recreation Service.

In consideration of the foregoing, 36 CFR Part 1228 is amended as follows:

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

1. Section 1228.10 is amended to read as follows:

§ 1228.10 General requirements.

Any eligible jurisdiction or discretionary applicant desiring to apply for a grant must develop, submit and have approved a local Action Program. The Action Program must be submitted to the appropriate Heritage Conservation and Recreation Service Regional Office where it will be evaluated and approved. This is a necessary requirement which must precede the awarding of any rehabilitation or innovation grant. Until January 1, 1981, this requirement may be satisfied with an approved Preliminary Action Program. The Preliminary Action Program must include a firm commitment by the local government to complete and adopt a full Action Program within one year of approval of the Preliminary Action Program. After January 1, 1981, no rehabilitation or innovation grant will be awarded without an approved Recovery Action Program on file with the appropriate Regional Office. Communities are required to submit four (4) copies of the Action Program. Regional Offices and their States are:

Northeast Region

Federal Office Bldg. Room 9310, 600 Arch Street, Philadelphia, Pennsylvania 19106.
Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

Southeast Region

75 Spring Street, Atlanta, Georgia 30303.
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands.

Lake Central Region

Federal Building, Ann Arbor, Michigan 48107.
Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Mid-Continent Region

Denver Federal Center, P.O. Box 25387, Denver, Colorado 80225.
Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

Pacific Southwest Region

450 Golden Gate Avenue, San Francisco, California 94102.
American Samoa, Arizona, California, Guam, Hawaii, and Nevada.

Northwest Region

Federal Building, 914 Second Avenue, Seattle, Washington 98174.
Idaho, Oregon and Washington.

South Central Region

5000 Marble Avenue, N.E., Albuquerque, New Mexico 87110.
Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Alaska Area Office

1011 East Tudor, Suite 297, Anchorage, Alaska 99503.

2. Section 1228.15 is amended to read as follows:

§ 1228.15 Preliminary action program.

During an initial interim period, the Action Program requirements, as described in §§ 1228.11, 1228.12 and 1228.13 may be satisfied by local governments' submission of a Preliminary Action Program. The initial interim period shall end on January 1, 1981. Communities are required to submit four (4) copies of the Preliminary Action Program.

(Sec. 1007(a) and (b) of Title 10 National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 2506)

[FR Doc. 80-24849 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-10-M

ENVIRONMENTAL PROTECTION

Arkansas plan January 29, 1980 (45 FR

Dated: August 6, 1980.

Massachusetts 02203; Public Information

authorized by Section 8(a) of the Federal

Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1569-1]

Approval of Conditionally Approved Elements in the Arkansas Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve elements of the State Implementation Plan (SIP) revisions for Arkansas, which were conditionally approved on January 29, 1980, (45 FR 6569). These revisions were submitted by the Governor on December 10, 1979 to fulfill the requirements of Part D of Title I of the Clean Air Act, as amended in 1977, with regard to nonattainment areas.

When originally submitted, certain portions of the SIP contained minor deficiencies which the State agreed to correct by a specified deadline. The deadline committed to was December 15, 1979. The EPA received the required documentation according to schedule and has evaluated the State's submittal. A notice of receipt was published on April 7, 1980 announcing receipt of the material and that the conditional approval was to be continued pending EPA's final action on the submission.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief Implementation Branch, U.S. EPA Region VI, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Introduction

On July 31, 1979 (at 44 FR 44904), EPA published a notice of proposed rulemaking on revisions to the Arkansas SIP. Under that notice the Agency discussed the SIP in detail and described the deficiencies of the SIP pursuant to Part D of the Act and the General Preamble, which was published in the April 4, 1979 issue of the **Federal Register** (at 44 FR 20372) and supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 5376), and November 23, 1979 (44 FR 67182).

In response to the proposed rulemaking notice dated July 31, 1979, (44 FR 44904), the State committed to correct the deficiencies and submit their corrections by December 15, 1979.

EPA took final action to conditionally approve certain elements of the Arkansas plan January 29, 1980 (45 FR 6569).

A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979).

The conditional approvals required the State to submit a final compliance date which would demonstrate attainment as expeditiously as practicable for all applicable stationary sources of volatile organic compounds (VOC) and a definition of lowest achievable emission rate (LAER) consistent with the definition of LAER contained in Section 171(3) of the Act. These submittals were required to be submitted by December 15, 1979 in order to satisfy the conditional approval.

The State submitted a final compliance date of June 1, 1981 for VOC sources covered by State regulation, and a modified definition of LAER consistent with the definition contained in section 171(3) of the Act. These items were received on December 10, 1979. The EPA published a notice of receipt in the **Federal Register**, on April 7, 1980 45 FR 2373.

The EPA has evaluated the State's submittal and has determined the conditions are fully met. Therefore, EPA is withdrawing conditional approval, and is fully approving this portion of the SIP.

PUBLIC COMMENTS: The public was given the opportunity to comment on the substance and schedules of the conditioned items in the proposed rulemaking of July 31, 1979 (44 FR 44904). There were no comments specific to the Arkansas SIP.

EPA finds that good cause exists for making this rule immediately effective. In the notice of final rulemaking concerning the Arkansas SIP (45 FR 6569, January 29, 1980), EPA imposed certain conditions which the State had to meet before full approval could be promulgated. The State has now met those conditions.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: August 6, 1980.

Douglas M. Costle,

Administrator.

1. Section 52.170(c) (7) and (8) is added as follows:

§ 52.170 Identification of Plan.

* * * * *

(c) * * *

(7) Revisions to Arkansas Regulation 4.5(a) for the "Control of Volatile Organic Compounds" showing a final compliance date of June 1, 1981, was submitted by the Arkansas Governor on December 10, 1979.

(8) A modification to the definition for lowest achievable emission rate (LAER), consistent with the definition contained in Section 171(3) of the Act, was submitted by the Arkansas Governor on December 10, 1979.

§ 52.174 [Reserved]

2. Section 52.174 Compliance Schedules is hereby revoked and reserved.

§ 52.177 [Reserved]

3. Section 52.177 Review of New Sources and modifications is hereby revoked and reserved.

[FR Doc. 80-24691 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1571-3]

Approval and Promulgation of Implementation Plans—N.H.; Receipt of Implementation Plan Revisions: Regulating the Operation of Major New and Modified Sources of Air Pollution

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice of receipt of submittal to satisfy condition of plan approval.

SUMMARY: This notice is to announce the receipt of State Implementation Plan (SIP) revisions for New Hampshire. The revisions were submitted on July 8, 1980 to satisfy a condition of EPA's approval of New Hampshire's Attainment Plan SIP revisions, which were required under Part D of Clean Air Act. New Hampshire's submittal amends Regulation No. 16, *Requirement for statewide permit system regulating the operation of new and existing sources of air pollution.*

DATES: See Supplementary Information.

ADDRESSES: Copies of the New Hampshire submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and the Air Resources Agency, Health and Welfare Bldg., Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Arnie Leriche, Air Branch, EPA Region I, Room 1903, JFK Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: EPA published a Final Rulemaking Notice in the **Federal Register** on April 11, 1980 (45 CFR 24869), conditionally approving New Hampshire's Attainment Plan SIP revisions submitted on May 29 and November 6, 1979.

The revision was submitted to comply with the requirements of Part D of the Clean Air Act by implementing new measures for controlling air pollution which are designed to achieve attainment of the primary and secondary National Ambient Air Quality Standards by December 31, 1982. However, EPA's conditional approval was based on a commitment by the state to meet several conditions, one of which specified that by July 1, 1980 the state must amend its regulations to assure that proposed new sources must be in compliance with federal as well as state regulations and standards and that legally binding offsets are secured by the time the proposed source is to commence operation.

New Hampshire has submitted SIP revisions amending its regulations. EPA is presently reviewing the state's submittal to determine compliance with Clean Air Act requirements, and intends to publish a rulemaking notice in the **Federal Register** by September 1, 1980.

Date: August 7, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-24806 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 169

[FRL 1536-5]

Amendment to Regulations for Books and Records of Pesticide Production and Distribution

AGENCY: Office of Enforcement, Environmental Protection Agency (EPA or the Agency).

ACTION: Final rule.

SUMMARY: This document contains final regulations which impose certain recordkeeping requirements upon producers of pesticides, and devices, as authorized by Section 8(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA or the Act). This rule adds new recordkeeping requirements to those currently required to be kept by producers who manufacture pesticides and devices for export. It also extends the recordkeeping requirements to producers who manufacture active ingredients used in producing pesticides.

EFFECTIVE DATE: October 14, 1980.

FOR FURTHER INFORMATION CONTACT: John J. Neylan III, Office of Enforcement, Pesticides and Toxic Substances Enforcement Division (EN-342), EPA, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-1212.

SUPPLEMENTARY INFORMATION:

Background:

The Federal Pesticide Act of 1978, Pub. L. 95-396, 92 Stat. 819, September 30, 1978, substantially amended the FIFRA. The terms "Producer" and "Produce" as found in Section 2(w) were expanded to include the manufacturer of, and the manufacturing of active ingredients used in producing pesticides. This amendment extends the recordkeeping requirements to producers of pesticide active ingredients. Section 17(a) of the FIFRA was modified so that pesticides, devices, and active ingredients used in producing pesticides, which are destined for export must now bear certain minimal labeling. The producers of such products are now subject to both FIFRA Sections 7 (establishment registration) and 8 (books and records). In addition, unless a pesticide is registered under Section 3 or sold under Section 6(a)(1), it cannot be exported without being in violation of the Act unless, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that the pesticide is not registered and therefore cannot be sold in the United States. This amendment also sets forth new recordkeeping requirements for exporters of pesticides, devices, and pesticide active ingredients.

Comments on the proposed rules, published for comment on April 24, 1980 (45 FR 27780), were received from 10 sources. These comments are available for public inspection at the Office of Enforcement, Pesticides and Toxic Substances Enforcement Division, EPA, Rm. 3624, 401 M Street, S.W., Washington, D.C. 20460.

After consideration of all comments received, EPA has made several, relatively minor, changes to Part 169. Both the relevant comments and the changes to the rule are discussed below.

Comments

General.—One commenter stated that EPA's roster of pesticide active ingredients is inflated by the presence of substances with no genuine pesticidal activity, such as magnesium sulfate, sodium carbonate and silicon dioxide.

This commenter may be addressing the publication entitled *Acceptable Common Names and Chemical Names for the Ingredient Statement on Pesticide Labels.* This publication lists the correct names of chemicals which *might* be used as active ingredients. Therefore, it would be inappropriate to remove any of these names, even though in some cases most of their uses are non-pesticidal. In any event, because a chemical is listed in that publication does not imply that the producer is automatically required to keep books and records in accordance with these rules. As mentioned in the Preamble to the proposed rule for books and records, producers subject to this rule will be identified through an amendment to FIFRA Section 7's Establishment Registration regulations (40 CFR Part 167).

Maintenance of Records.—One commenter suggested that requiring the name of the delivering carrier for pesticides received and the name of the originating carrier for pesticides shipped was duplicative since the information could be gotten from the shipper's records.

The Agency does not agree. One purpose of this record keeping is to provide a means for tracing violative shipments such as when the Agency is requesting a product recall. Names of both incoming and outgoing carriers may then be important. Besides, most company shipment and receipt records would now have information on who the carrier was. The requirement should, therefore, not be burdensome.

Two comments were received concerning the need to keep a record of statements from foreign purchasers of unregistered pesticides in which the purchaser acknowledges the registration status of the pesticides. One commenter felt the process was time consuming and harmful to the country's competitive position. This commenter also felt it was duplicative of the reporting requirements of FIFRA Section 7. The other commenter did not disagree with the record keeping requirement, just the need to secure the record before exporting the product.

The Agency believes these comments are more appropriately addressed to the Export Policy Statement which was proposed on July 18, 1979. The requirement that a foreign purchaser

sign a statement in which the unregistered status of the exported pesticide is acknowledged is a statutory requirement of FIFRA Section 17(a)(2). In order to be certain that foreign purchasers (and exporters) adhere to this requirement, EPA requires that the acknowledgement statement be obtained before the shipment. This is in no way duplicative of the pesticide production reporting requirement under FIFRA Section 7, since that requirement asks for total production reporting for all domestic and exported pesticides.

Two commenters felt the requirements for records on disposal of pesticides were duplicative of the recently published hazardous waste management rules promulgated under the Resource Conservation and Recovery Act (RCRA) (45 F.R. 33063, May 19, 1980).

The Agency agrees with these comments to some extent. At the present time, not all pesticides and pesticide active ingredients are covered by these RCRA rules. Nevertheless, this rule has been changed so that pesticides regulated under RCRA will not regulated by this rule also. However, until disposal of a pesticide or pesticide active ingredient is covered by RCRA, records of its disposal will have to be maintained in accordance with § 169.2(i).

One commenter felt that the Agency too broadly interpreted the statute when it required a record be kept of "*any* factual information *coming to the attention of* the producer regarding unreasonable adverse effects * * * by any pesticide or pesticide active ingredients * * * " (Emphasis added). Further, the commenter felt it placed the registrant/producer in the position of being twice liable for the same omission: First, failure to make the proper submission of known unreasonable adverse effects to EPA, and second, failure to keep a record of the item.

The Agency has deleted this record keeping requirement since there is already a reporting requirement for information of this nature [See 43 FR 37611, August 23, 1978 and 44 FR 40716, July 12, 1979].

Inspection.—One commenter objected to the scope of EPA's inspection authority, as detailed in § 169.3, in that it went beyond the authority of FIFRA Section 8(b).

The Agency does not agree. This same comment was raised in response to the 1974 regulations and was answered in the response to comments in the Preamble to those regulations (39 FR 33499, September 18, 1974). Briefly, it is the Agency's belief that Congress would not have authorized the Agency, under Section 8(a), to require producers to keep records "necessary for the effective enforcement of this Act," if these records were not reviewable. Therefore, it is the Agency's position that any records required under Section 8(a) may be inspected.

One commenter suggested that the availability for inspection and copying of the information required by § 169.2(d)(2) be limited to proceedings described in Section 10 of FIFRA. This commenter was concerned with the confidentiality of their customer lists.

The Agency may require information on consignees of pesticides, devices, or pesticide active ingredients for purposes other than contemplated by FIFRA Section 10, for example, where monitoring a product recall. Therefore, this comment is rejected.

Conclusion.—As the preceding discussion shows, relatively few changes in the proposed regulations were necessary and those changes were minor. Therefore, this regulation does not require reproposal under 5 U.S.C. 553(b).

Effective Date: This regulation is effective October 14, 1980.

Regulatory Analysis: EPA has determined that this amended rule does not require a Regulatory Analysis under Executive Order 12044.

Statutory Review: In accordance with Section 25 of FIFRA, this final rule was submitted to the U.S. Department of Agriculture (USDA) and the FIFRA Scientific Advisory Panel (SAP) for review. No comments were received from USDA. The SAP determined that these rules were administrative/procedural in nature; therefore, they waived scientific review.

Regulatory Review: Section 2(d)(8) of Executive Order 12044 requires that a plan for evaluating the regulation after its issuance be developed. The Agency's plan for evaluation of this rule calls for a public comment period on the effects of the regulation five years from the date of promulgation of this rule. A determination will be made at that time, based on an evaluation of the comments as to whether modification of the rule is necessary.

(Sections 8(a) and 25(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136f, 136w)).

Dated: August 7, 1980.

Douglas M. Costle,

Administrator.

PART 169—BOOKS AND RECORDS AND PESTICIDE PRODUCTION AND DISTRIBUTION

It is proposed to amend 40 CFR Part 169 to read as follows:

Sec.
169.1 Definitions.
169.2 Maintenance of records.
169.3 Inspection.

Authority: Secs. 8 and 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Pesticide Act of 1978 (92 Stat. 829, 89 Stat. 751).

§ 169.1 Definitions.

Terms used in this part shall have the meanings set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, as used in this part, the following terms shall have the meanings set forth below:

(a) *Amount of pesticide or active ingredient.* The term "amount of pesticide or active ingredient" means the weight or volume of the pesticide or active ingredient used in producing a pesticide expressed as weight for solid or semi-solid products and as weight or volume of liquid products.

(b) *Batch.* The term "batch" means a quantity of a pesticide product or active ingredient used in producing a pesticide made in one operation or lot or if made in a continuous or semi-continuous process or cycle, the quantity produced during an interval of time to be specified by the producer.

(c) *Device.* The term "device" means any device or class of device as defined by the Act and determined by the Administrator to be subject to the provisions of the Act.

(d) *Inability.* The term "inability" means the incapacity of any person to maintain, furnish or permit access to any records under this Act and regulations, where such incapacity arises out of causes beyond the control and without the fault or negligence of such person. Such causes may include, but are not restricted to acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather, but in every case, the failure must be beyond the control and without the fault or negligence of said person.

(e) *Producer.* The term "producer" means the person, as defined by the Act, who produces or imports any pesticide or device or active ingredient used in producing a pesticide.

§ 169.2 Maintenance of records.

All producers of pesticides, devices, or active ingredients used in producing pesticides subject to this Act, including pesticides produced pursuant to an experimental use permit and pesticides, devices, and pesticide active ingredients produced for export, shall maintain the following records:

(a) Records showing the product name, EPA Registration Number, Experimental Permit Number if the pesticide is produced under an Experimental Use Permit, amounts per batch and batch identification (numbers, letters, etc.) of all pesticides produced. In cases where the product is an active ingredient used in producing a pesticide or where the product is a pesticide which is not registered, is not the subject of an application for registration, or is not produced under an Experimental Use Permit, the records shall also show the complete formula. The batch identification shall appear on all production control records. These records shall be retained for a period of two (2) years.

(b) Records showing the brand names and quantities of devices produced. These records shall be retained for a period of two (2) years.

(c) Records showing the following information regarding the receipt, by the producer, of all pesticides, devices, and active ingredients used in producing pesticides:

(1) Brand name of the pesticide or device, or common or chemical name of the pesticide active ingredient;

(2) Name and address of shipper;

(3) Name of delivering carrier;

(4) Date received; and

(5) Quantities received.

These records are not intended to cover receipt of pesticides used for in-plant maintenance, extermination, or sanitation programs, etc. Shipping and receiving documents such as invoices, freight bills, receiving tickets, etc., which provide the required information will be considered satisfactory for the purposes of this section. These records shall be retained for a period of two (2) years.

(d) Records showing the following information regarding the shipment of all pesticides, devices, and active ingredients used in producing pesticides:

(1) Brand name of pesticide or device, or the common or chemical name of the pesticide active ingredient;

(2) Name and address of consignee;

(3) Where the pesticide is produced pursuant to an experimental use permit (FIFRA section 5), a special exemption (section 18), or a special local need (section 24), the information required under these sections and any regulations promulgated thereto regarding the distribution of such pesticides;

(4) Name of originating carrier;

(5) Date shipped or delivered for shipment; and

(6) Quantities shipped or delivered for shipment.

Such records are required regardless of whether any shipment or receipt of shipment is between plants owned or otherwise controlled by the same person. Shipping and receiving documents such as invoices, freight bills, receiving tickets, etc., which provide the required information will be considered satisfactory for purposes of this section. These records shall be retained for a period of two (2) years.

(e) Inventory records with respect to the types and amounts of pesticides or pesticide active ingredients, or quantities of devices in stock which he has produced. These records may be disposed of when a more current inventory record is prepared.

(f) Copies of all domestic advertising of the restricted uses of any pesticide registered for restricted use which the producer caused to have prepared, including any radio or television scripts for all such pesticides. These records shall be retained for a period of two (2) years.

(g) Copies of all guarantees given pursuant to section 12(a)(2)(C) of the Act. These records shall be retained for a period of one (1) year after expiration of the guarantee.

(h) In the case of all pesticides, devices, and active ingredients used in producing pesticides intended solely for export to any foreign country:

(1) Copies of the specification or directions of the foreign purchaser for the production of such pesticides, devices, or pesticide active ingredients;

(2) Copies of labels or labeling required to comply with section 17(a)(1) of the Act; and

(3) For any pesticide other than a pesticide registered under section 3 or sold under section 6(a)(1) of the Act, copies of a statement signed by the foreign purchaser of the pesticide acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold for use in the United States under this Act. These foreign purchaser acknowledgement statements must be obtained for the first shipment of a particular product to a particular purchaser for each importing country, once annually.

These records shall be retained for a period of two (2) years after expiration of the contract.

(i) Records on the method of disposal (burial, incineration, etc.) date or dates of disposal, location of the disposal sites, and the types and amounts of pesticides or pesticide active ingredients disposed of by the producer or his contractor. With regard to the disposal of containers accumulated during production, the Agency will consider satisfactory a statement, attested to by a responsible firm official, describing in general terms the method and location of disposal, e.g., all containers are taken periodically to a certain site. Records of deviations from normal practice must be maintained. In addition, any records on the disposal of pesticides or pesticide active ingredients and/or containers specified pursuant to section 19 of the Act and any regulations promulgated thereto shall also be maintained. The above requirements apply to those products bearing label instructions for disposal and to any other products specified under any regulations promulgated pursuant to section 19. These records shall be retained for twenty (20) years or may be forwarded after three (3) years to the Environmental Protection Agency Regional Administrator for maintenance. Notwithstanding these record keeping requirements, whenever any producer of pesticides or pesticide active ingredients is complying with a rule promulgated under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA) (Pub. L. 94–580, 90 Stat. 2795, October 21, 1976), for the handling or disposal of hazardous wastes, as defined by RCRA or any regulations promulgated thereunder, such producer will no longer be required to maintain records in accordance with this subsection.

(j) Records of any tests conducted on human beings whether performed by the producer himself or authorized and/or paid for by the producer. Such records shall include: The names and addresses of subjects tested, dates of tests, types of tests, written consent of subjects to test, and all information and instructions given to the subjects regarding the nature and purpose of the tests and of any physical and mental health consequences which were reasonably foreseen therefrom, and any adverse effects of the test on the subjects, including any such effects coming to the attention of the producer after completion of the tests. These records shall be retained for twenty (20) years or may be forwarded after three (3) years to the Environmental Protection Agency Regional Administrator for maintenance.

(k) Records containing research data relating to registered pesticides including all test reports submitted to the Agency in support of registration or in support of a tolerance petition, *all* underlying raw data, and interpretations and evaluations thereof, whether in the possession of the producer or in the possession of the independent testing facility or laboratory (if any) which performed such tests on behalf of the producer. These records shall be

retained as long as the registration is valid and the producer is in business.

§ 169.3 Inspection.

(a) *Producers.* Any producer of any pesticide, device, or active ingredient used in producing a pesticide which is subject to this Act shall, upon request of any officer or employee of the Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to and to copy all records required to be maintained by this part, including records in the possession of an independent testing facility or laboratory which performed tests on behalf of the producer. Such inspection will be conducted in accordance with procedures detailed in section 8(b) of the Act.

(b) Distributors, carriers, dealers, etc. Any distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide, device, or active ingredient used in producing a pesticide which is subject to this Act, shall, upon request of any officer or employee of the Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to and copy all records showing the delivery or holding of such pesticide, device, or active ingredient used in producing a pesticide, including the quantity, the date of shipment and receipt, and the name and address of the consignor and consignee, and any guarantee received pursuant to section 12(b)(1) of the Act.

(c) *Confidentiality.* Any record which is subject to the regulations under this part, and which may be confidential, shall be treated in accordance with the provisions of section 10 of the Act. The availability to the public of information provided to, or otherwise obtained by, the Administrator under this Part shall be governed by Part 2 of this chapter.

(d) *Inability.* (1) In the event of the inability of any person to produce records containing the information required to be maintained, furnished for inspection, or given access to, all other records and information regarding the same shall be provided.

(2) Where no such inability exists and any such person fails to give access to and permit copying of such records as required, such failure shall be deemed a refusal to keep records required or a refusal to allow the inspection of any such records or both.

[FR Doc. 80-24794 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1575-4; PP 7F1907/R267]

Oxamyl; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[methylcarbamoyl)oxy]-1-thiooxamimidate) in or on cottonseed at 0.2 part per million (ppm). This regulation was requested by E. I. du Pont de Nemours. This regulation will permit the maximum permissible level for residues of oxamyl on cottonseed.

EFFECTIVE DATE: Effective on August 15, 1980.

ADDRESS: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, (202-426-2635).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** on March 21, 1977 (42 FR 15361) that E. I. du Pont de Nemours and Company, Wilmington, DE 19898 had filed a pesticide petition (PP 7F1907). The petition proposed that 40 CFR 180.303 be amended to establish a tolerance for residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[methylcarbamoyl)oxy]-1-thiooamimidate) in or on cottonseed at 0.2 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat feeding oncogenicity study and a two-year dog feeding study with no-observed-effect levels (NOEL) of 50 ppm and 100 ppm, respectively; a three-generation rat reproduction study with a NOEL of 50 ppm; and a rat teratogenicity study, which was negative at 300 ppm (highest level tested). Based on the two-year chronic rat feeding/oncogenicity study with a 50 ppm NOEL and using the safety factor of 100, the acceptable daily intake (ADI) for humans is 0.025 milligrams (mg)/kilogram (kg) of body weight (bw)/day. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerance at levels ranging from 0.1 ppm to 10 ppm and the proposed tolerance does not exceed the ADI.

Desirable data that are lacking from the petition are a second oncogenicity study and a second teratology study. In a letter of February 8, 1980, the petitioner indicated that the oncogenicity study would be submitted to the Agency about the third quarter of 1980, and that the teratology study is scheduled to be initiated in March 1980 and completed in late 1980.

Although the evaluation of the oncogenicity potential of oxamyl is not complete, it is concluded, that based on the available data, that the risks are acceptable since the absence of an oncogenic potential is adequately shown in the two-year rat feeding/oncogenic studies.

The metabolism of oxamyl is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of oxamyl nor are there any other relevant considerations involved in establishing the tolerance. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.2 ppm established by amending 40 CFR 180.303 will protect the public health. It is concluded therefore, that the tolerance be established as set forth below.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting "cottonseed" in the table in § 180.303 to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Cottonseed	0.2
* * * * *	

Any person adversely affected by this regulation may, on or before September 15, 1980, file written objections with the Hearing Clerk, EPA, Room M-3708 (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 15, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-25001 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 79-143]

Connection of Terminal Equipment to the Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: The Commission is correcting errors in Figures 68.306(d) and 68.310(j) which appear in Part 68 of the Commission's rules and regulations. The rules The First Report and Order which concerned registration of and direct connection of customer provided equipment to the telephone network. The First Report and Order was published in the **Federal Register** on March 31, 1980 at 45 FR 20830.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William J. von Alven, Common Carrier Bureau, (202) 632-6440.

Released: July 31, 1980.

SUPPLEMENTARY INFORMATION:

In the matter of revision of Part 68 of the Commission's rules to Permit Connection of Telephone Equipment, Systems and Protective Apparatus to Certain Private Line Services.

1. Two drawings were inadvertently left out of the First Report and Order in the above entitled matter, FCC 80-88, published in the **Federal Register** dated March 31, 1980 at 45 FR 20830. See attachment for corrections in § 68.306(d) and § 68.310(j).

Federal Communications Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

1. Figure 68.306(d) should be added to appear just after paragraph (d)(4)(iii) of 68.306.

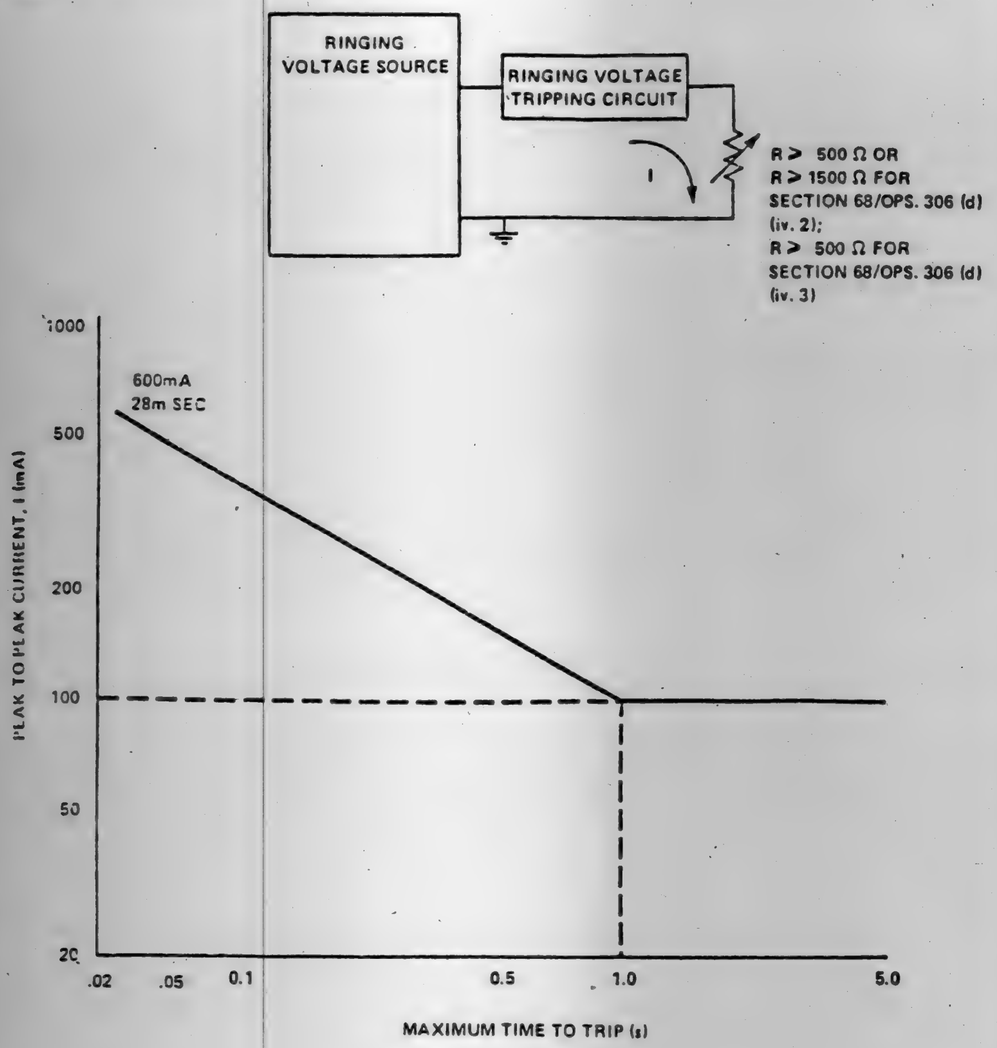

RINGING VOLTAGE TRIP CRITERIA

Fig. 68.306(d)

2. Figure 68.310(j) should be added to appear just after figure 68.310(g).

REQUIRED TERMINATION FOR CONNECTIONS TO NONREGISTERED EQUIPMENT:

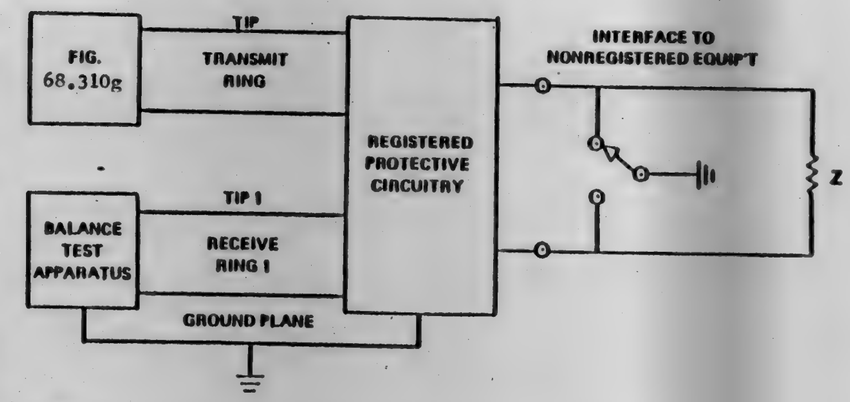

NOTE:

– Z – SELECTED SO THAT THE REFLECTED IMPEDANCE AT TIP 1 AND RING 1 IS 600 ohms.
– CONFIGURATION SHOWN IS FOR MEASUREMENT OF RECEIVE PAIR.

Fig. 68.310(j)
4 Wire

[FR Doc. 24948 Filed 8-14-80; 8:45 am]
BILLING CODE 6712-01-C

INTERSTATE COMMERCE COMMISSION

depositing a copy in the Office of the

Ronald L. Perry, Refuge Manager,

inclusive. Shooting hours will be from ½ hour before sunrise until noon.

Planet Ranch Road. (4) Up to two (2) does per hunter are permitted for the

before sunrise to ½ hour after sunset only.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Rev. S.O. No. 1381]

Indiana Interstate Railway Co., Inc. Authorized To Operate Over Tracks Leased From the State of Indiana

Decided August 8, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Revised Service Order No. 1381.

SUMMARY: This order amends Revised Service Order No. 1381 by extending its expiration date until 11:59 p.m., September 30, 1980. Revised Service Order No. 1381 authorizes Indiana Interstate Railway Company, Inc. to operate over tracks leased from the State of Indiana, and this extension will permit the Commission time to act on Indiana Interstate's authority application filed July 28, 1980.

EFFECTIVE DATE: 11:59 p.m., July 31, 1980, and continuing in effect until 11:59 p.m., September 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTARY INFORMATION: Upon further consideration of Revised Service Order No. 1381 (44 FR 35227 and 41637), and good cause appearing therefor:

§ 1033.1381 [Amended]

It is ordered, That, § 1033.1381 *Indiana Interstate Railway Company, Inc. authorized to operate over tracks leased from the State of Indiana,* Revised Service Order No. 1381 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

[e] *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1980, unless modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24789 Filed 8-14-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Certain National Wildlife Refuges in Arizona, California and New Mexico; Hunting

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of migratory game birds on certain National Wildlife Refuges is compatible with the objectives for which the area were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Arizona, California and New Mexico.

DATE: Effective on August 15, 1980 from September 1, 1980 through January 31, 1981.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Albert W. Jackson, Area Office Manger, U.S. Fish and Wildlife Service, 2953 West Indian School Road, Phoenix, AZ 85017. Telephone: 602–241–2487.

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, P.O. Box AP, Blythe, CA 92225. Telephone: 714–922–2129.

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, CA 92363. Telephone: 714–326–3853.

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, AZ 85364. Telephone: 602–783–3400.

LeMoyne B. Marlett, Refuge Manager, Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, NM 88201. Telephone: 505–622–6755.

Ronald L. Perry, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, NM 87801. Telephone: 505–835–1828.

Ronald L. Perry, Refuge Manager, Sevilleta National Wildlife Refuge, P.O. Box 1246, Socorro, NM 87801. Telephone: 505–835–1828.

SUPPLEMENTARY INFORMATION:

General

Hunting of migratory game birds on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps available at the above addresses. Vehicular travel is restricted to designated roads and trails.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operations, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Listed migratory game bird species may be hunted on the following refuges in accordance with applicable state regulations:

Arizona and California

Cibola National Wildlife Refuge

Mourning and white-winged doves.

Arizona First season: Mourning doves and white-winged doves from September 1 through September 28, 1980 inclusive. Shooting hours will be from ½ hour before sunrise until noon.

Second season: Mourning doves only from November 28, 1980 through January 8, 1981 inclusive. Shooting hours will be from noon to sunset.

California: Mourning doves and white-winged doves in accordance with the California State regulations and special refuge regulations. First season: September 1 through September 30, 1980. Second season: November 15 through December 4, 1980 inclusive.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards from any farm worker. Hunting is also prohibited within 50 yards of any road or levee. (3) Vehicles are prohibited from driving across farm fields or through any undefined trail or road. All off-road vehicles are prohibited. (4) In Arizona, both Zone I and Zone III are closed to hunting. (5) Construction of pits or permanent blinds is prohibited. (6) Camping overnight on the refuge is prohibited. (7) Possession of all handguns and all .22 caliber rimfire firearms is prohibited. (8) Hunting in the floodplain (between the levee and river) is prohibited.

Havasu National Wildlife Refuge

Mourning doves and White-winged doves.

Arizona: Topock Marsh and Topock Gorge: Mourning doves from September 1 through October 20, 1980. White-winged doves from September 1 through September 28, 1980.

Bill Williams Unit: First season: Mourning doves and white-winged doves from September 1 through September 28, 1980. Shooting hours will be from ½ hour before sunrise until noon.

Second season: Mourning doves only from November 28, 1980 through January 8, 1981 inclusive. Shooting hours will be from noon to sunset.

California: Mourning doves and white-winged doves in accordance with California State regulations and special refuge regulations. First season: September 1 through September 30, 1980. Second season: November 15 through December 4, 1980 inclusive.

Special conditions: (1) Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation. (2) Hunting at Pintail Slough will be permitted only on Fridays, Saturdays, and Sundays. Pintail Slough is comprised of all refuge lands north of the north dike. (3) Hunting at the Bill Williams Unit is only permitted on refuge land which lies south of the Planet Ranch Road. (4) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game. (5) Neither hunters nor dogs may enter areas closed to hunting to retrieve game. (6) Pits may not be dug, and permanent blinds may not be constructed. Hunters may not have possessory rights to any blinds. Temporary blinds may be made of native dead vegetation. Any materials brought on the refuge for blind construction must be removed at the end of each hunt.

Imperial National Wildlife Refuge

Arizona: Mourning doves only in accordance with Arizona State regulations and special refuge regulations from November 28, 1980 through January 8, 1981 inclusive.

California: Mourning doves and white-winged doves in accordance with California State regulations and special refuge regulations. Second season only: November 15 through December 4, 1980 inclusive.

Special conditions: (1) In both Arizona and California, hunting will be only during the second (last) segment of the hunting season. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Pits and/or permanent blinds are prohibited.

New Mexico: Bitter Lake National Wildlife Refuge

Mourning and white-winged doves and teal ducks.

Special conditions: The refuge is open to public access in accordance with New Mexico State regulations and special refuge regulations listed. (1) Steel (iron) shot shotgun ammunition only may be used for the taking of doves on the South Refuge Unit (Area C) during any period when a duck or waterfowl season runs concurrently with a dove season. (2) Steel (iron) shot shotgun ammunition only may be used for the taking of teal ducks on the South Refuge Unit (Area C), and it will not be permissible to possess shotgun ammunition containing other than steel (iron) shot in this unit during any waterfowl season. (3) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (4) Pits and/or permanent blinds are prohibited. (5) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Bosque del Apache National Wildlife Refuge

Mourning and white-winged doves.

Special conditions: The refuge is open to public access in accordance with New Mexico State regulations and special refuge regulations from 1 hour before sunrise to ½ hour after sunset only.

Sevilleta National Wildlife Refuge

Mourning and white-winged doves and teal ducks.

Special conditions: The refuge is open to public access in accordance with New Mexico State regulations and special refuge regulations listed. (1) No camping is permitted. (2) Parking will be limited to areas as posted and designated on hunt map. (3) There will be no entry to the hunt area earlier than 2 hours before sunrise. (4) Pits and/or permanent blinds are prohibited. (5) All hunters must be out of the hunt area by 2 hours after shooting hours. (6) Fires of any type are prohibited. (7) Unloaded firearms that are dismantled or cased may be transported through the closed area over posted routes of travel.

The provisions of these special regulations supplement the regulations which govern on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11929 and OMB Circular A–107.

Albert W. Jackson,

Area Manager, Fish and Wildlife Service, Phoenix, Ariz.

August 7, 1980.

[FR Doc. 80-24724 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-55-M

V 45 A G 15 80 UMI

Proposed Rules

Federal Register
Vol. 45, No. 160
Friday, August 15, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 427

[Amdt. No. 3]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Oat Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for oat crop insurance effective with the 1981 and succeeding crop years. This proposed rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 14, 1980, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR 427.1, and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically discussed in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing this proposed rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant".

On Monday, October 22, 1979, the Federal Crop Insurance Corporation (FCIC) published the Oat Crop Insurance Regulations (7 CFR Part 427) in the **Federal Register** (44 FR 60701) as a final rule prescribing procedures for insuring oats effective with the 1980 crop year.

In accordance with the provisions of 7 CFR 427.1, an Appendix "B" listed the counties where such insurane was available (appearing at 44 FR 60708). This Appendix "B" was updated to include counties approved for the 1980 crop year by the Board of Directors of the Corporation in Amendment No. 1 appearing at 44 FR 75373, published on Thursday, December 20, 1979.

Additional counties have been approved by the Board of Directors effective for the 1981 crop year, necessitating revisions and reissuance of Appendix "B" as Amendment No. 3 below.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue Appendix "B" as Amendment No. 3 which will supersede Amendment No. 1 (44 FR 75373) to 7 CFR Part 427 Oat Crop Insurance Regulations effective with the 1981 crop year and which shall remain in effect until amended or superseded, to read as follows:

Appendix "B"

Counties Designated for Oat Crop Insurance—7 CFR Part 427

In accordance with the provisions of 7 CFR 427.1, the following counties are designated for oat crop insurance:

California

Modoc

Illinois

Bureau
Carroll
Henry
Jo Daviess
Ogle
Stephenson

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Poweshiek
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Michigan

Isabella
Kent
Lapeer
Montcalm

Minnesota

Anoka
Becker
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago
Clay
Cottonwood
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Houston
Isanti
Jackson
Kanabec
Kandiyohi
Kittson
Lac qui Parle
LeSueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
Otter Tail
Pennington
Pine
Pipestone
Polk
Pope
Red Lake
Redwood
Renville
Rice
Rock
Roseau
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Montana

Phillips
Valley

Nebraska

Boyd
Cedar
Dakota
Dixon
Knox
Pierce
Wayne
Thurston

New York

Cayuga
Genesee
Wayne

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McLean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ranson
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Oregon

Klamath

Ohio

Coshocton
Holmes
Lorain
Stark

Pennsylvania

Berks
Chester
Crawford
Cumberland
Dauphin
Northumberland
Perry

South Dakota

Aurora
Beadle
Bon Homme
Brookings
Brown
Brule
Buffalo
Campbell
Charles Mix
Clark
Clay
Codington
Davison
Day
Deuel
Douglas
Edmunds
Faulk
Grant
Gregory
Hamlin
Hand
Hanson
Harding
Hughes
Hutchinson
Hyde
Jerauld
Kingsbury
Lake
Lincoln
Lyman
McCook
McPherson
Marshall
Miner
Minnehaha
Moody
Potter
Roberts
Sanborn
Spink
Sully
Tripp
Turner
Union
Walworth
Yankton
Ziebach

Wisconsin

Barron
Brown
Buffalo
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Door
Dunn
Eau Claire
Fond du Lac
Grant
Green
Green Lake
Iowa
Jackson
Jefferson
Juneau
Kenosha
Kewaunee
La Crosse
Marathon
Marquette
Monroe
Oconto
Outagamie
Pepin
Pierce
Polk
Portage
Racine
Richland
Rock
St. Croix
Sauk
Shawano
Sheoygan
Trempealeau
Vernon
Walworth
Washington
Waukesha
Waupaca
Waushara
Winnebago
Wood

(Secs 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1501, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Dated: August 8, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by: Roland Wentzel, *Acting Manager.*

[FR Doc. 80–24725 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–08–M

Commodity Credit Corporation

7 CFR Part 1435

Price Support for 1980 Crop; Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture gives notice that he is considering a proposal to support prices to domestic producers of 1980 crop sugar beets and sugarcane either through purchase agreements (USDA's preferred option) made by the Commodity Credit Corporation (CCC) with sugar processors, or by nonrecourse loans made by CCC to sugar processors (USDA's alternative option).

The proposed price support programs would be implemented under existing statutory authorities and would provide continuation of price support coverage for sugar beet and sugarcane producers which would not otherwise exist.

DATE: Comments on the proposed action must be received on or before August 29, 1980, to be assured of receiving consideration.

ADDRESS: Mail comments to Sugar Branch, Procurement and Sales Division, ASCS–USDA, Room 5768, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Laurence E. Ackland, Sugar Branch, 202–447–5647. The Draft Impact Analysis detailing the options considered in developing this proposed rule and the impact of implementing each option is published in its entirety below in "Supplementary Information."

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classfied significant.

Section 301 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447), provides the Secretary of Agriculture with discretionary authority to make price support available for 1980 crop sugar beets and sugarcane. Section 401(b) of the Act (7 U.S.C. 1421(b)) requires, in the case of any commodity for which price support is discretionary, that specified factors be taken into consideration in determining whether a price support operation shall be undertaken and the level of such support.

The discretionary authority and specified factors cited are the same as were applicable to the price support program established for the 1979 crops of sugar beets and sugarcane (44 FR 45596). These factors are detailed for the 1980 crop price support proposal in the Draft Impact Analysis, which presents three options for the 1980 crop:

1. Price support for producers of sugar beets and sugarcane achieved through a purchase agreement program.

2. Price support for producers of sugar beets and sugarcane through a nonrecourse loan program.

3. No price support.

The purchase agreement program proposed as the preferred option would include the following major provisions:

(1) The basic purchase rates for raw cane sugar and for refined beet sugar are calculated to support sugar beet and sugarcane prices at 43 percent of the estimated July 1980 parity prices.

(2) The purchase rate for refined beet

receive if it simply forfeited the

so, what type of program to offer.

World consumption during 1979/80 is

continuing to exceed production, stocks

prices. Data for 1969 through 1978

(2) The purchase rate for refined beet sugar would reflect the long-term relationship (1.10 to 1.00) between refined beet sugar net selling prices and raw cane sugar prices. After adjustment to reflect the proper price relationship, the estimated average 1980 crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of the sugar would be added to make up the basic purchase rate for refined beet sugar.

(3) Regional purchase rates for sugar and specified minimum support prices for sugar beets and sugarcane would apply to the 1980 crop. Such purchase and price support rates would be based on the estimated average costs of transporting 1980 crop sugar from the processing region to destination.

(4) Payment by participating processors to producers of less than the required minimum support price per ton of sugar beets or sugarcane because of an existing marketing custom or practice would not be permitted.

(5) Purchase agreements would be issued and serviced by State and county ASCS offices.

The loan program presented as an alternative option would be patterned after the 1979 crop nonrecourse loan program and would include the following major provisions and changes:

(1) Loan rates would be the same as the purchase rates previously described for a purchase agreement program. Loan rates and price support rates would be established regionally and would be identical to the regional rates described for a purchase agreement program. Processors, however, would be required to pay interest on the principal of the loan even upon forfeiture of loan collateral. The latter modification would be made because of the treatment of interest charges under most contracts between independent processors and growers. Most such contracts provide that interest costs (and in certain instances, transportation costs) must be borne entirely by the processor, while the grower payment is based on a percentage of net proceeds without regard to interest costs. If interest is not charged upon forfeiture, these types of contracts sometimes result in a situation where it is more financially desirable for the processor to forfeit sugar, rather than to redeem and pay interest, even when the market price for sugar is more than adequate to cover the principal and interest on the loan. Thus, when forfeiture occurs, there is no interest cost for the processor to absorb, while in the latter situation the interest charge may reduce the net return to the processor to such an extent that it would be below what the processor would receive if it simply forfeited the commodity. The converse is true, however, of net returns received by the grower, i.e., redemption and sale in the market would result in higher returns to the grower than would forfeiture. To this extent, then, the economic interests of the processor and the grower are not completely parallel. The charging of interest upon forfeiture, however, would largely eliminate this anomalous situation.

(2) Under the 1979 crop program a processor could, with prior permission of the loan making office, substitute as loan collateral other sugar of the same or a subsequent crop which was located in a different storage facility. A 1980 crop loan program would eliminate this provision. The frequent removals of loan collateral before replacement collateral could be verified as being in place have, at times, jeopardized CCC's security interest. Since the concept of substitution of loan collateral was originated in order to permit processors to market sugar to the best locational advantage, it is now believed that the Department would better achieve this goal under a loan program by permitting processors to obtain new loans, after the normal loan availability period, to "replace" redeemed loan quantities. Processors would also be permitted to reoffer sugar that had been redeemed from CCC loan. Under these procedures, processors could continue to market to best advantage without having to reduce quantities under CCC loan.

The Draft Impact Analysis, in its entirety, follows.

Draft Impact Analysis

Date: July 25, 1980.

Contact: Laurence E. Ackland.

Agency: USDA–ASCS, Procurement & Sales Division, Rm 5764–S, Washington, D.C. 20250.

Phone: (202) 447–5647.

I. Title: 1980 Crop Sugar Price Support Program for Sugar Beets and Sugarcane

II. Nature of Proposed Action, Groups Impacted & Duration

A. *Consideration.* Whether to have a 1980 sugar price support program, and if so, what type of program to offer.

B. *Groups impacted.* Groups impacted. Groups directly impacted include sugarcane and sugar beet producers and processors. Those indirectly impacted include consumers, manufacturers of artificial sweetners, refiners and foreign sugar exporters.

C. *Duration.* Program provisions would be effective for the 1980 crop year.

III. Purpose and Need for the Action

A. *Legal basis for the consideration.* Section 301 of the Agricultural Act of 1949, as amended, provides the Secretary of Agriculture discretionary authority to offer a price support program for sugar. Section 401(b) of the Act (7 U.S.C. 1421(b)) requires that, whenever a commodity price support program is discretionary, prior consideration be given to the following eight factors in determining whether a price support operation shall be undertaken and the level of such support:

1. The supply of the commodity in relation to the demand therefor.
2. The price levels at which other commodities are being supported.
3. The availability of funds.
4. The perishability of the commodity.
5. The importance of the commodity to agriculture and the national economy.
6. The ability to dispose of stocks acquired through a price-support operation.
7. The need for offsetting temporary losses of export markets.
8. The ability and willingness of producers to keep supplies in line with demand.

Each of these factors will be analyzed in the following sections.

B. *Goals.* The goal of the 1980 program would be to contribute toward balance between maintenance of a domestic production base and adequate supplies of sugar and products containing sugar.

C. *World Situation/Outlook.* World stocks are down from record levels and further reductions may occur. Estimated world production for crop year 1979–80 will total around 85.4 million metric tons (mmt.) (raw value)—7.1 mmt. below the record level set during 1977–78 (Table 1).

Table 1.—*World Production, Consumption, and Ending Stocks (Raw Value), 1977–78—1980–81*

Crop year (September–August)	Production			Total consumption	Total ending stocks	Ending stocks as a percent of consumption (percent)
	Cane	Beet	Total			
	(In million metric tons)					
1977–78	57.5	35.0	92.5	85.6	31.0	36.21
1978–79	55.2	35.2	90.4	89.4	32.0	35.79
1979–80 (estimated)	52.0	33.4	85.4	91.0	26.4	29.01
1980–81 (projected)	54.0	33.0	87.0	89.0	24.4	27.40

World consumption during 1979/80 is expected to exceed world production by about 5.6 mmt. Final stocks will probably represent about 29 pecent of global consumption requirements. This stock-to-consumption ratio would be substantially lower than the record high level of 36 percent for 1978–79. A further decline is projected for 1980–81. The intermediate term outlook is for a leveling of production with global consumption increasing 2 to 3 mmt. per year. With world consumption continuing to exceed production, stocks will continue to decline.

D. *United States (U.S.) Situation/Outlook.* The U.S. is the sixth largest producer of sugar in the world—producing an annual average of 6.3 million tons of sugar for the period 1973–1979, or about 6.7 percent of world production (Table 2). U.S. production during that time ranged from a low of 5.7 million tons in 1974 to a high of 7.25 million tons in 1975. Production from the 1980 crop is expected to total about 6.0 million tons.

Table 2.—*Domestic Production, Imports and Consumption, 1973–80*

[Production is on a crop year basis, imports and consumption are on calendar year basis—1,000 short tons raw value]

	Production			Imports			Consumption	
	Cane	Beet	Total	Foreign	Territories	Total	Total	Per capita
Year:								
1973	2,794	3,216	6,020	5,329	79	5,408	11,429	101.5
1974	2,793	2,916	5,709	5,770	157	5,927	10,495	96.5
1975	3,233	4,019	7,252	3,882	96	3,978	10,302	90.2
1976	3,036	3,895	6,931	4,656	203	4,861	10,893	94.8
1977	2,952	3,108	6,060	6,138	102	6,240	11,099	95.7
1978	2,816	3,289	6,105	4,683	52	4,735	10,889	93.1
1979 [1]	2,931	2,884	5,815	5,026	47	5,073	10,756	91.1
1980 [2]	2,993	3,007	6,000	4,710	90	4,800	10,600	89.0

[1] Preliminary. [2] Estimate.

NOTE.—During 1973–79, domestic consumption averaged about 10.8 million tons per year. Therefore, the U.S. relied on imports for about 42 percent of its annual sugar requirements. The U.S. is the largest sugar importer from the world free market. Thus, the U.S. has a long-range interest in supporting a viable domestic sugar industry. The small quantity of sugar exported by the U.S. is generally refined sugar with specialized applications, for which the demand remains stable.

E. *Background of sugar price support program.* A price support program removes some of the uncertainty from the industry by providing producers and processors assurance that they have a market for and return from their product, while avoiding CCC accumulation of large inventories.

Loans/purchase agreements are made for 9 month periods and would be available until 3 months after completion of processing. Perishability is not a serious problem because, under proper storage conditions, sugar can be stored for more then 18 months with little or no deterioration in quality. Should the Commodity Credit Corporation (CCC) acquire stocks, sales programs are available for their orderly disposition.

IV. *Options Considered*

A. *Listing of options for 1980 sugar price support program.* 1. *Nonrecourse loan program*—a. National average loan rate (raw cane sugar) 14.50 cents/pound.

b. National average loan rate (refined beet sugar) 16.87 cents/pound. (Interest is charged to processor whether the loan is redeemed or forfeited.)

2. *Purchase agreement program.*—a. National average purchase rate (raw cane sugar) 14.50 cents/pound.

b. National average purchase rate (refined beet sugar) 16.87 cents/pound.

3. *No program.*

B. *Background.* Rates under Options 1 and 2 are sufficient to provide price support to both sugar beet and sugarcane producers at approximately 43 percent of estimated July 1980 parity levels ($25.01 and $19.78 per net ton of average quality sugar beets and sugarcane, respectively). This equals the percentage level of support for 1979 crop sugar beets and sugarcane. The 1980 support levels for other major commodities will range from 39.8 percent for soybeans to 80 percent for milk.

The spread between refined beet sugar (16.87 cents/pound) and raw cane sugar rates (14.50 cents/pound) is based on the relationship between refined beet sugar net selling prices and raw sugar prices. Data for 1969 through 1978 indicate that the net selling price for refined beet sugar averaged 110 percent of the price for raw cane sugar. Accordingly, the net selling price guaranteed by the 1980 crop refined beet sugar loan or purchase rate would be 15.95 cents per pound, which is 110 percent of 14.50 cents per pound (the proposed loan or purchase rate for raw sugar), plus 0.92 cents per pound for estimated fixed marketing expenses.

Net selling price is determined by deducting fixed marketing expenses from the gross selling price. Fixed marketing expenses include insurance, taxes, advertising, sales promotion, salaries, storage warehousing, handling, and other related costs. The price support level proposed for 1980 crop sugar beets would, therefore, be achieved by setting the refined beet sugar loan or purchase rate at 16.87 cents per pound.

All loan or purchase and price support rates would vary regionally, based on estimated average transportation costs between processing regions and normal market destinations. Proposed rates are shown in Appendix Tables 1 & 2.

V. Expected Impacts

A. *Impact on main purpose and need.* Supply-use projections for the U.S. sugar industry during crop year 1980 indicate market prices will substantially exceed price support loan or purchase levels proposed under Option 1 (nonrecourse loans) and Option 2 (purchase agreements) raw cane sugar. Thus, price support programs under Options 1 and 2 would not be likely to result in CCC accumulation of stocks, but would still guarantee the domestic industry a market for its output should volatile world market prices drop below domestic support levels.

An analysis of the differences in net returns to independent sugarcane processors between Options 1 and 2 under alternative scenarios for program participation is shown in Table 3. The analysis assumes that processors must bear the entire cost of loan interest and transportation. In cases where processors borrow commercially, their returns would be less than shown but the effect on sale or forfeiture to CCC would be unchanged since such loans must be repaid regardless of the disposition of the sugar.

Under Case 1 (no program market price assumed in Table 3, a 1980

F. *Environmental impact assessment.*

Table 1.—*Calculation of Proposed 1980 Regional Loan/Purchase Rates for Raw Cane Sugar and Refined Beet Sugar (Cent/Pound)—Continued*

PART 1435—SUGAR

Under Case 1 (no program participation), net returns would be identical between the loan and purchase agreement price support programs. Under Case 2 (initial program participation with processors eventually deciding to sell on the open market), participants in the purchase agreement program would receive the same return as in Case 1, while participants in the loan program would have the additional expense of an interest charge. Under Case 3 (program participation with delivery of stocks to CCC), both options would result in reduced returns compared with Case 1 or 2. However, processor returns under the purchase agreement program would still exceed those under the loan program by the amount of the interest charge.

Table 3.—*Differences in Net Returns to Independent Processors Between Options 1 (Nonrecourse Loan Program) and 2 (Purchase Agreement Program) Under Alternative Scenarios for Program Participation*

[In cents per pound]

Item	Option 1—Loan program	Option 2—Purchase agreement program
Case 1.—No Program Participation		
1. Market price [1]	15.91	15.91
2. Gross return to processor [2]	6.76	6.76
3. Less transportation costs [3]	¢ –.77	¢ –.77
4. Net return to processor	5.99	5.99
Case 2.—Program Participation With Processors Eventually Deciding To Sell on Option Market		
1. Market price	16.91	16.91
2. Gross return to processor	6.76	6.76
3. Less transportation costs	–.77	–.77
4. Less interest charge [4]	–1.26	
5. Net return to processor	4.74	5.99
Case 3.—Program Participation With CCC Acquiring Stocks		
1. Loan/purchase rate	14.50	14.50
2. Gross return to processor	5.80	5.80
3. Less interest charge	–1.26	
4. Net return to processor	4.56	5.80

[1] Market price assumed for this example.
[2] Based on assumption that processor's share is 40 percent of delivery price.
[3] Derivation of estimate is in Appendix Table 1.
[4] CCC loan interest based on current 11.5 percent annual rate. No interest for commercial borrowing assumed under either program.

NOTE.—Under Option 3 (no price support program), net returns would equal those under the Case 1 scenario for Options 1 and 2 as long as the market price did not fall below the market price assumed under Case 1. However, the volatility of world markets would create more uncertainty for the domestic sugar industry and processors would have no protection in prices fell drastically.

B. *Cost impacts.* Since the 1980 market price for sugar is expected to exceed the market price assumed in Table 3, a 1980 sugar price support program would be noninflationary.

C. *Other significant economic impacts.* Section 22 of the Agricultural Adjustment Act of 1933, as amended, empowers the President to regulate importation of commodities whenever he finds that such importation renders or tends to render ineffective or materially interferes with the price support or stabilization programs relating to farm commodities. Thus, Option 3 (no price support program) would require that the present Section 22 fee mechanism be terminated when no longer needed in connection with price support programs for prior year crops.

D. *Significant social impacts.* Program options considered in this analysis are not expected to have any health, safety, nutritional, civil rights or institutional impacts.

E. *Distribution of impacts.* Appendix Table 1 lists the major domestic sugar producing areas. All would be affected.

Table 4.—*Estimated Budget Outlays for fiscal year 1981 (1,000 Dollars)*

	Purchase agreement	Loan program	No program
Beginning loans	$102,004	$102,004	$102,004
Loans made	0	225,120	0
Repaid	–102,004	–283,173	102,004
Net outlay	–102,004	–58,053	–102,004
Ending loans	0	[1]43,951	0
Acquisitions by CCC (loan purchase)	0	0	0

[1] Would be repaid in FY 1982.

F. *Environmental impact assessment.* The options considered in this statement would have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

VI. USDA and Other Federal Cost

Funds necessary to provide a 1980 sugar price support program are available under the statutory borrowing authority of CCC. Currently, about $8 billion of the $20 billion CCC authorization remains available.

Neither Option 2 (purchase agreements) nor Option 3 (no price support program) would likely result in net CCC outlays for the 1981 fiscal year (FY). However, Option 1 (nonrecourse loans) would likely result in FY 1981 outstanding loans of about $44 million which would be repaid in FY 1982. No acquisitions are likely under either option. Table 4 summarizes budget outlays under the various options during FY 1981.

VII. *Sunset Review.* In compliance with Secretary's Memorandum Number 1955 and "Improving USDA Regulations" (43 FR 50988), it is determined after review of these and related regulations contained in 7 CFR 1435 for need, currency, clarity, and effectiveness that no changes be proposed at this time.

VIII. *Public Comment.* Public comment will be solicited by press release and Notice of Proposed Determination published in the **Federal Register**. Comments and recommendations, including those on any of the regulations outlined in Section VII, will be evaluated and incorporated in the Final Impact Statement.

Approved:
Howard W. Hjort,
Director of Economics, Policy Analysis and Budget.

Table 1.—*Calculation of Proposed 1980 Regional Loan/Purchase Rates for Raw Cane Sugar and Refined Beet Sugar (Cent/Pound)*

Processing region and type of sugar	Regional August transportation costs [1]	Adjustment factor [2]	Regional August loan/purchase rate [3]
Raw cane sugar:			
Louisiana	0.44	0.39	14.83
Florida	.68	.09	14.59
Texas	.68	–.11	14.39
Hawaii	.68	–.11	14.39
Puerto Rico	1.53	–.76	13.74
Weighted national average	.77		14.50

Table 1.—*Calculation of Proposed 1980 Regional Loan/Purchase Rates for Raw Cane Sugar and Refined Beet Sugar (Cent/Pound)—Continued*

Processing region and type of sugar	Regional August transportation costs [1]	Adjustment factor [2]	Regional August loan/purchase rate [3]
Refined beet sugar:			
1. Michigan and Ohio	.76	.83	17.70
2. Minnesota and E½ North Dakota	1.72	–.13	16.74
3. NE⅓ Kansas; NW¼ of Colorado, Nebraska, and SE¼ of Wyoming	1.99	–.40	16.47
4. SE¼ of Colorado and Texas	1.78	–.19	16.68
5. Montana and NW¼ of Wyoming	1.84	–.25	16.62
6. Idaho east of Owyhee County with east boundary extending north, and, Utah	1.94	–.35	16.52
7. Idaho west of Owyhee County with east boundary extending north; Oregon and Washington	1.94	–.35	16.52
8. Arizona and Colorado	1.00	.59	17.46
Weighted national average [4]	1.59		16.87

[1] For the beet sugar regions the cost of transporting sugar to destination was derived from 1979 estimated costs increased (1) by 1.4 percent to adjust 7.6 percent increase used previously to 9.0 percent (2) then by 9.0 percent to arrive at 1980 crop estimated costs.
[2] Calculated by subtracting regional transporting cost from the weighted national average transporting cost.
[3] Calculated by adding the algebraic difference, whether positive or negative, to the basic (weighted national average) rate for refined beet sugar or raw cane sugar.
[4] Weighted on the basis of estimated sugar production in each processing region.

Appendix Table 2.—*Regional Support Prices to Producers Based on National Average Loan/Purchase rates of 14.50 Cents Per Pound of Raw Can Sugar and 16.87 Cents Per Poind of Refined Beet Sugar*

Region	Support prices (dollars per net ton)
Sugarcane:	
Louisiana	18.82
Florida	20.65
Texas	(1)
Hawaii	(2)
Puerto Rico	(3)
Sugar beets:	
Region:	
1	23.06
2	25.09
3	24.68
4	25.00
5	24.91
6	24.76
7	24.76
8	26.17

[1] Derived by multiplying 8.624 cents times the average pounds of cane sugar (raw value) recovered per ton from sugarcane delivered to the processors by all producers, and adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane.
[2] When the delivery point is at the mill, the amount determined by multiplying 9.4974 cents times the total pounds of cane sugar (raw value) recovered per ton from the sugarcane delivered to the processor the individual producer. When delivery point is to trucks in the field, 7.3389 cents is the multiplication factor.
[3] Determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico.

In the interest of obtaining information which will assist the Secretary in establishing the provisions of a price support program for 1980 crop suguar beets and sugarcane, it is requested that respondents to this invitiation for comments give careful consideration to all of the matters discussed above and to the general provisions of the proposed rule following below, which is presented for the option preferred by the Department.

This regulation has been determined significant under the USDA criteria implementing Executive Order 12044.

I have determined that it would be impracticable and contrary to the public interest to comply with the Department's requirement that 60 days be allowed for public comment on this proposal. The proposed action, if implemented, should not unduly delay the availability of loans to those producing areas where harvest and processing of the 1980 crop has already started. Therefore, the closing date for comments is August 29, 1980.

Prior to taking final action, the Department of Agriculture will give consideration to comments submitted in writing within the comment period. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5761—South Building, 14th Street and Independence Avenue, S.W., Washington, D.C. (7 CFR 1.27(b)).

In consideration of the foregoing, it is proposed to amend 7 CFR Part 1435 by adding a new Subpart—Price Support Purchase Agreement Program for 1980 Crop Sugar Beets and Sugarcane—to read as follows:

PART 1435—SUGAR

Subpart—Price Support Purchase Agreement program for 1980 Crop Sugar Beets and Sugarcane

Sec.
1435.76 General statement.
1435.77 Administration.
1435.78 Definitions.
1435.79 Level and method of support and purchase agreement rates.
1435.80 Elgibility requirements.
1435.81 Availability, disbursement, and maturity of purchase agreement.
1435.82 Quantity for purchase agreement.
1435.83 Delivery to CCC and settlement.
1435.84 Processor storage agreement.
1435.85 Micellaneous provisions.
1435.86 Applicable forms.

Authority: Secs. 301–303 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 et seq., 1421 et seq.).

Subpart—Price Support Purchase Agreement Program for 1980 Crop Sugar Beets and Sugarcane

§ 1435.76 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1980 crop of sugar beets and sugarcane. The Commodity Credit Corporation (CCC) will offer purchase agreements to processors under which processors may elect to sell sugar to CCC upon maturity of the agreements. Only eligible sugar which is in eligible storage shall be accepted for delivery.

§ 1435.77 Administration.

(a) The Procurement and Sales Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, Commodity Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as KCCO and MFO respectively) and designated Agricultural Stabilization and Conservation State and county committees (referred to as State and county committees).

§ 1435.78 Definitions.

(a) "1980 crop" means domestic sugar beets and sugarcane, the substantial portion of which is harvested in the areas indicated below during the following periods:

Sugar producing area	Harvesting period
Sugar beets:	
All States, excluding California and Arizona.	Sept.–Nov. 1980.
California, excluding the southern area.	July 1980–June 1981.
Southern California [1]	Mar.–Sept. 1980.
Arizona-Lowland Area	Apr.–Aug. 1980.
Arizona-Upland Area	Sept. 1980–Jan. 1981.
Sugarcane:	
Puerto Rico	Calendar year 1980.
Hawaii	Calendar year 1980.
Florida	Oct. 1980–May 1981
Texas	Oct. 1980–May 1981
Louisiana	Oct. 1980–Jan. 1981.

[1] Southern California includes the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles lying south of the San Gabriel Mountains.

(b) "Eligible producer" means the owner of a portion or all of the sugar beets or sugarcane, including share rent landowners, at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar, refined cane sugar, raw cane sugar, sugarcane syrup or edible molasses which is (1) processed by a processor from domestically produced sugar beets or sugarcane, and which is (2) not contaminated and does not contain chemicals or other substances poisonous to man or animals.

(d) "Processor" means a person who (1) commercially processes sugar beets into refined sugar or sugarcane into raw sugar, cane syrup or edible molasses; (2) is a commercial refiner of raw cane sugar cooperatively owned by its raw cane sugar processors, or (3) is a processor of sugarcane into raw cane sugar who is also a refiner.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing ninety-six degrees by the polariscope.

(f) "Sugar beets or average quality" means sugar beets containing 15.45 percent sucrose.

(g) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 13.97 percent sucrose in normal juice; and (2) for Louisiana, sugarcane containing 13.01 percent sucrose in normal juice of 78.96 percent purity.

(h) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

§ 1435.79 Level and method of support and purchase agreement rates.

(a) *Level of support.* Prices to domestic producers of 1980 crop sugar beets and sugarcane will be supported at average levels estimated to be approximately 43 percent of the parity prices for sugar beets and sugarcane as of July 1980. The general support prices for sugar beets and sugarcane are as specified in § 1435.80(b).

(b) *Method of support.* The support to domestic producers of 1980 crop sugar beets and sugarcane will be made available through purchase agreements with eligible processors.

(c) *Purchase agreement rates.* The basic (weighted average) rates for the 1980 crop shall be 16.87 cents per pound for refined beet sugar and 14.50 cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in refined cane sugar, sugarcane syrup and edible molases.

(d) *Locational differentials.* (1) The purchase agreement rate applicable to sugar shall be the rate specified in paragraph (d) (2) and (3) of this section for the region in which such sugar was processed: *Provided,* That in the case of refined or specialty sugar made from raw cane sugar the rate shall be the appropriate regional rate applied to the cane sugar raw value equivalent of the refined or specialty sugar.

(2) The processing regions and applicable purchase agreement rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio	17.70
2—Minnesota and the eastern half of North Dakota	16.74
3—Northeastern quarter of Colorado; northwestern quarter of Kansas; Nebraska; and the southwestern quarter of Wyoming	16.47
4—Southeastern quarter of Colorado; and Texas	16.68
5—Montana and the northwestern quarter of Wyoming	16.62
6—That part of Idaho east of the eastern boundary of Owyhee county and of such boundary extended northward; and Utah	16.52
7—That part of Idaho west of the eastern boundary of Owyhee county and of such boundary extended northward; Oregon; and Washington	16.52
8—Arizona and California	17.46

(3) The processing regions and applicable purchase agreement rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but delivered to CCC on the mainland of the United States the applicable rate shall be 14.50 cents per pound:

Region	Cents per pound
Florida	14.59
Louisiana	14.83
Texas	14.39
Hawaii	14.39
Puerto Rico	13.74

§ 1435.80 Eligibility requirements.

(a) The maximum quantity of sugar which is eligible to be offered by a processor under the 1980 Price Support Purchase Agreement Program is that quantity of domestic production which is equivalent to the quantity processed by the processor from that part of the 1980 crop grown by eligible producers. Such sugar must be processed and owned by the eligible processor (or jointly owned by eligible processor and eligible producer) offering the sugar.

(b) Eligible processors for the 1980 crop are those who, as a condition for obtaining a purchase agreement, agree to pay to all eligible producers who deliver to them for processing sugar beets and sugarcane of average quality in the following locations, not less than:

(1) For sugar beets in the regions described in paragraph (d)(2) of this section, the following rates per net ton: Region 1, $23.06: *Provided,* That, if (i) the sugar extracted by a processor from 1980 crop sugar beets yields, on the average, less than 230.76 pounds per net ton of beets delivered and accepted by the processor or (ii) the processor's net return on by-products per net ton of beets delivered and accepted by the processor averages less than $6.26 per net ton, the required minimum price support rate per net ton of sugar beets may be adjusted. The adjusted rate will be determined by (A) multiplying $.1678 (the purchase agreement rate per pound less $.0092 considered as fixed marketing costs) times the average pounds and hundredths of pounds of sugar extracted per net ton, (B) adding thereto the net return to the processor on by-products per net ton of sugar beets delivered and accepted, and (C) multiplying the result times 53.1 percent.

Region 2, $25.09.
Region 3, $24.66.
Region 4, $25.00.
Region 5, $24.91.
Region 6, $24.76.
Region 7, $24.76.
Region 8, $26.17.

(2) For sugarcane in Florida, $20.65 per net ton;

(3) For sugarcane in Louisiana, $18.82 per net ton;

(4) For sugarcane in Texas, the amount determined by multiplying 8.624 cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane.

(5) For sugarcane in Hawaii, the amount determined by multiplying the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer times (i) 9.4974 cents where the delivery point is at the mill, or (ii) 7.3389 cents where the cane is delivered by loading into trucks in the field; and

(6) For sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico: *Provided, however,* That the foregoing prices may be adjusted for sugar beets or sugarcane of nonaverage quality on the method agreed upon by the producer and processor.

§ 1435.81 Availability, disbursement, and maturity of purchase agreement.

(a) *Obtaining price support.* To obtain price aupport on eligible sugar, an eligible processor must file a request with the State committee of the State where he is headquartered and must execute a purchase agreement as prescribed by CCC. Such request must be filed no later than 90 calendar days after the processor completes processing the 1980 crop.

(b) *Maturity of purchase agreements.* (1) Purchase agreements will mature on the last day of the ninth calendar month following the month in which approved. (2) Whenever the maturity date falls on a weekend or Federal holiday, the date shall be extended to the next workday.

§ 1435.82 Quantity for purchase agreement.

Purchase agreements shall not be approved for more than the quantity which an eligible processor certifies is eligible and available. A processor's total purchase agreement quantity may not exceed his total eligible storage capacity less ineligible sugar in storage.

§ 1435.83 Delivery to CCC and settlement.

(a) The maximum quantity of sugar acceptable to CCC which a processor may deliver to CCC may be less than, but shall not exceed, that portion of the quantity approved on the purchase agreement which is in storage space acceptable to CCC.

(1) Sugar acceptable to CCC is limited to (i) refined beet or cane sugar which is dry and free flowing, without excessive sediment, and free of objectionable color, flavor and odor; (ii) raw cane sugar with acceptabale grain size which does not have excessive color or moisture; and (iii) sugarcane syrup or edible molasses which has acceptable color and flavor.

(2) Storage space acceptable to CCC is limited to that space which is determined by CCC between the time of receipt or processors notice of intent to deliver and the maturity date of the purchase agreement to be, under terms acceptable to CCC, both qualified and available for the storage of sugar owned by CCC.

(b) A processor who delivers to CCC shall give notice of intent to sell to CCC no later than 30 days prior to maturity of the purchase agreement. At that time, the processor shall furnish to CCC complete information as to the storage locations where delivery to CCC is proposed and, for each location, the quantity proposed for delivery to CCC. The processor shall also furnish such production records as CCC considers necessary to satisfy the quantity limitations of § 1435.80(a).

(c) After notification by CCC of the acceptable storage locations and quantities, but not later than the purchase agreement maturity date, the processor shall, for such portion of the quantity acceptable to CCC which the processor elects to deliver to CCC, provide CCC with warehouse receipts which transfer title for the delivered sugar to CCC.

(d) Disbursement for purchases will be made by sight drafts drawn on the account of CCC.

§ 1435.84 Processor storage agreement.

(a) The processor shall agree (1) to maintain sugar delivered to CCC in the eligible storage where delivered as long as deemed necessary by CCC, and (2) to remove and physically deliver loan collateral in accordance with written instructions from CCC.

(b) CCC shall make monthly storage payments to the processor for the time the processor stores the commodity for CCC after delivery. The storage payment rate shall not exceed $.000833 per pound, per month.

§ 1435.85 Miscellaneous provisions.

(a) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any subterfuge or device whatsoever.

(b) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, Part 13 of this title, shall be applicable to the program.

(c) *Liens.* Waivers of liens or encumbrances on the sugar delivered to CCC must be obtained which will fully protect the interest of CCC. A lienholder, in lieu of waiving a prior lien on sugar, may execute with CCC a Lienholder's Subordination Agreement (Form CCC–864) in which the Lienholder's security interest is subordinated to the rights of CCC.

(d) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in Part 780 of this title.

(e) *Records and inspection thereof.* ASCS shall reserve the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by ASCS to determine compliance with the requirements of this subpart. Such books, records, accounts and other written data shall be retained by the processor for not less than 3 years.

(f) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain a purchase agreement to which he is not entitled, will subject the person making such certification to liability under applicable Federal civil and criminal statutes.

(g) *Handling payments and collections not exceeding three dollars.* In order to avoid unreasonable administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon his request. Deficiencies of $3 or less including interest, may be disregarded unless demand for payment is made by CCC.

(h) *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a purchase payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in Part 707 of this title—Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.86 Applicable forms.

The CCC forms for use in connection with this program will be made available by the State committee.

Signed at Washington, D.C. on August 11, 1980.

Dale E. Hathaway,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 80-24580 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-05-M

V 45 AG 15 80 UMI

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Bulletin 385–4, Form 397b, Design Specifications for Trunk Carrier Systems, and 397c, Design Specifications for Subscriber Carrier Systems

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue revised Bulletin 385–4, Forms 397b and c. This revision will update documents which are nine and seven years old, respectively, to reflect advances in technology thus permitting REA borrowers to provide the best, most cost-effective service possible.

DATE: Public comments must be received by REA no later than October 14, 1980.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3917. The Draft Impact Analyses describing the options considered in developing this proposed rule and the impact of implementing each option is available from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA proposed to revise REA Forms 397b and c, Design Specifications for Trunk and Subscriber Carrier Systems. This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044, and has been classified not significant.

REA, in an effort to aid REA borrowers in providing the best, most cost-effective telecommunications service to rural America is revising REA Forms 397b and c to reflect advances in technology.

Copies of the draft bulletin are available from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: August 7, 1980.

John H. Arnesen,

Assistant Administrator-Telephone.

[FR Doc. 80-24641 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 154

[Docket No. RM78–4]

Compensation Provisions for Curtailment Plans; Notice of withdrawal of a proposed rulemaking and termination of a Docket

Issued August 7, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Withdrawal of a Proposed Rulemaking and Termination of Docket No. RM78–4.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby gives notice that the proposed rulemaking in Docket No. RM78–4 has been terminated. In Docket No. RM78–4, the Commission issued on November 30, 1977 (42 FR 62018, Dec. 8, 1977) a Notice of Proposed Rulemaking entitled "Proposal by the Federal Energy Regulatory Commission Relating to the Incorporation of Compensation Provisions in Curtailment Plans." On August 4, 1980, the Commission acted in several individual curtailment cases involving the compensation issue thereby making continuation of the rulemaking in Docket No. RM78–4 unnecessary.

EFFECTIVE DATE: August 4, 1980.

FOR FURTHER INFORMATION CONTACT: Auburn L. Mitchell, Office of Opinions and Review, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8283.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24758 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 79N–0176]

Stomach Acidifier Drug Products for Over-the Counter Use; Notice of Proposed Rulemaking; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: In FR Doc. 79–32107 appearing at page 60316 in the Federal Register of Friday, October 19, 1979 (44 FR 60316), the following correction is made: On page 60319, in the third column, in the seventh line of § 310.540(c), "presented" should read "represented."

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

Dated: August 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-24364 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 346

[Docket No. 80N–0050]

Anorectoral Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 80–15334, appearing at page 35576 in the issue for Tuesday, May 27, 1980, make the following correction:

On page 35677, in the middle column, in the next to last paragraph, in the seventh line, the comments deadline is incorrectly printed as "August 18, 1980". The correct comments closing date is "August 25, 1980".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1960

[Docket No. F–002]

Basic Program Elements for Federal Employee Occupational Safety and Health Programs

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: Executive Order 12196, issued to provide direction for the implementation of Section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 668), directs the Secretary of Labor to issue a set of basic program elements to assist the various Federal agencies in carrying out their responsibilities under the Act. In order to provide occupational safety and health protection for Federal employees, Section 19 imposes on the head of each Federal agency the responsibility to "establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under Section 6." This document proposes to revise 29 CFR Part 1960 to reflect the requirement of E.O. 12196 and to carry out the Secretary's responsibilities under Sections 19 and 24 of the Act.

DATES: Comments should be submitted on or before September 15, 1980.

ADDRESS: Comments should be sent to: Docket Officer, Docket No. F–002, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Broderick, OSHA, U.S. Department of Labor, Washington, D.C. 20210. Telephone: (202) 376–3005

SUPPLEMENTARY INFORMATION: On March 12, 1980, a draft revision of Part 1960 was submitted to a task group of the Federal Advisory Council on Occupational Safety and Health (FACOSH) for consideration. On March 21 and March 28, 1980, the draft proposal of Part 1960 was submitted by the task group to all members of FACOSH for consideration and advice. This proposal was prepared after the Agency's full consideration of the views and advice of FACOSH. On May 21, 1980, in accordance with Section 1–401(c) of E.O. 12196, the Secretary of Labor submitted this proposed revision to the Office of Management and Budget (OMB). OMB, on June 17, 1980, distributed the proposal to selected agencies for comment. By this publication, OSHA is soliciting comments from interested persons. Comments received pursuant to this publication may be reviewed at the Docket Office, Room S–6212, U.S. Department of Labor, Washington, D.C. 20210.

Public Participation: Interested persons are hereby given until September 15, 1980, to submit comments, views and arguments. These comments are to be submitted to the Docket Officer, Docket No. F–002, Room S–6212 U.S. Department of Labor, Washington, D.C. 20210. Although the public participation and comment requirements of both the Administrative Procedure Act (5 U.S.C. 553(a)(2)) and Executive Order 12044, (Improving Government Regulations) do not apply to this proposal because this document deals with matters related to agency management or personnel, OSHA is nevertheless publishing this proposed rule in order to solicit the widest possible comment from interested persons. However, in order to issue the final rule as early as possible before the October 1, 1980, effective date of E.O. 12196, a 30-day public comment period as provided in the Administrative Procedure Act is being allowed instead of the 60-day comment period provided in E.O. 12044.

Authority: This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third and Constitution Avenue, N.W., Washington, D.C. 20210. Accordingly, pursuant to Sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614, 29 U.S.C. 668, 673), Secretary of Labor's Order No. 8–76 (41 FR 25059), and Executive Order 12196, it is proposed to delete 29 CFR Part 1960 and substitute in lieu thereof the following.

Signed at Washington, D.C., this 11th day of August, 1980.

Eula Bingham,

Assistant Secretary of Labor.

PART 1960—BASIC PROGRAM ELEMENTS FOR FEDERAL EMPLOYEE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS AND RELATED MATTERS

Subpart A—General

1960.1 Purpose and scope.
1960.2 Definitions.
1960.3–.5 [Reserved]

Subpart B—Administration

1960.6 Designation of agency safety and health officials.
1960.7 Financial management.
1960.8 Agency responsibilities.
1960.9 Supervisory responsibilities.
1960.10 Employee responsibilities and rights.
1960.11 Evaluation of occupational safety and health performance.
1960.12 Dissemination of occupational safety and health program information.
1960.13–.15 [Reserved]

Subpart C—Standards

1960.16 Compliance with OSHA standards.
1960.17 Alternate standards.
1960.18 Supplementary standards.
1960.19 Emergency standards.
1960.20 Conflicting standards.
1960.21–.24 [Reserved]

Subpart D—Inspection and Abatement

1960.25 Qualifications of safety and health inspectors and agency inspections.
1960.26 Conduct of inspections.
1960.27 Representatives of officials in charge and representatives of employees.
1960.28 Reports of unsafe or unhealthful working conditions.
1960.29 Accident investigation.
1960.30 Abatement of unsafe or unhealthful working conditions.
1960.31 Inspections by OSHA.
1960.32–.33 [Reserved]

Subpart E—General Services Administration and Other Federal Agencies

1960.34 General provisions.
1960.35 [Reserved]

Subpart F—Occupational Safety and Health Committees

1960.36 General provisions.
1960.37 Committee organization.
1960.38 Committee certification.
1960.39 Agency responsibilities.
1960.40 Establishment committee duties (responsibilities).
1960.41 National committee duties (responsibilities).
1960.42–.45 [Reserved]

Subpart G—Allegations of Discrimination

1960.46 Agency responsibility.
1960.47 Employee reports of discrimination.
1960.48 Investigation procedures.
1960.49–.53 [Reserved]

Subpart H—Training

1960.54 Training of top management officials.
1960.55 Training of supervisors.
1960.56 Training of safety and health specialists.
1960.57 Training of safety and health inspectors.
1960.58 Training of collateral duty safety and health personnel.
1960.59 Training of occupational safety and health committee members.
1960.60 Training of employees and employee representatives.
1960.61 Training assistance.
1960.62–.65 [Reserved]

Subpart I—Recordkeeping and Reporting Requirements

1960.66 Purpose, scope and general provisions.
1960.67 Record of log of federal occupational injuries and illnesses.
1960.68 Supplementary record of federal occupational injuries and illnesses.
1960.69 Annual summaries of federal occupational injuries and illnesses.
1960.70 Annual summaries of federal occupational property damage incidents.

1960.71 Reporting of serious incidents.
1960.72 Location and utilization of records and reports.
1960.73 Access to records by Secretary.
1960.74 Retention of records.
1960.75 Identification of reporting units.
1960.76 Agency annual reports.
1960.77 [Reserved]

Subpart J—Evaluation of Federal Occupational Safety and Health Programs

1960.78 Purpose of scope.
1960.79 Self-evaluations of occupational safety and health programs.
1960.80 Secretary evaluations of agency occupational safety and health programs.
1960.81–.83 [Reserved]

Subpart K—Field Federal Safety and Health Councils

1960.84 Purpose.
1960.85 Role of the Secretary.
1960.86 Establishing councils.
1960.87 Objectives.
1960.88 Membership.
1960.89 Organization.
1960.90 Participation.
1960.91 Operating procedures.
1960.92–.99 [Reserved]

Authority: Secs. 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614, 29 U.S.C. 668, 673); Secretary of Labor's Order No. 8–76 (41 FR 25059); E.O. 12196.

Subpart A—General

§ 1960.1 Purpose and scope.

(a) Section 19 of the Occupational Safety and Health Act (the Act) contains special provisions to assure safe and healthful working conditions for Federal employees. Under that section, it is the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6 of the Act. The Secretary of Labor (the Secretary), under section 19, is to report to the President certain evaluations and recommendations with respect to the programs of the various agencies; and under section 24 of the Act, is to develop and maintain an effective program of collection, compilation and analysis of occupational safety and health statistics. The role of the General Services Administration in this area stems from its duties as the Government's principal landlord and from its specific safety and health responsibilities under 41 CFR Part 101, Subchapter D, Federal Property Management Regulations.

(b) Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, issued February 26, 1980 prescribes additional responsibilities for the heads of agencies, the Secretary, and the General Services Administration. Among other duties, the Secretary is required to issue basic program elements with which the heads of agencies are to comply in operating their safety and health programs. The purpose of this part is to issue these basic program elements. The basic program elements are designed to ensure that agency heads retain the flexibility necessary to implement their programs in a manner consistent with their respective missions, sizes, and organizations. Upon the request of an agency head, and after consultation with the Federal Advisory Council on Occupational Safety and Health (FACOSH), the Secretary may approve alternate program elements.

(c) Under Executive Order 12196, the Secretary is required to perform various services for the agencies, including consultation, training, recordkeeping, inspections, and evaluations. Agencies are encouraged to seek such assistance from the Secretary as well as advice on how to comply with the basic program elements and operate effective occupational safety and health programs. Upon the request of an agency, the Office of Federal Agency Safety and Health Programs will review proposed agency plans for the implementation of program elements.

(d) Section 19 of the Act and the Executive Order require specific opportunities for employee participation in the operation of agency safety and health programs. The manner of fulfilling these requirements is set forth in part in these program elements. These requirements are separate from but consistent with Federal Service Labor Management Relations Statute (5 U.S.C. 71) and regulations dealing with labor-management relations within the Federal Government.

(e) Executive Order 12196 and these basic program elements apply to all agencies of the Executive Branch. They apply to all employees except military personnel. They apply to all working conditions except those involving uniquely military equipment, systems, and operations.

(f) Protection of employees of private contractors is assured under the other provisions of the Act, not under Section 19. No provisions of the Executive Order or of this part shall be construed in any manner to relieve Federal contractors or their employees of any rights or responsibilities under the provisions of the Act, including compliance activities conducted by the Department of Labor or other appropriate authority.

(g) Federal employees who work in establishments of private employers are covered by their agencies' occupational safety and health programs. Although an agency may not have the authority to require abatement of hazardous conditions in a private sector workplace, the agency head must assure safe and healthful working conditions for his/her employees. This shall be accomplished by administrative controls, personal protective equipment, or withdrawal of Federal employees from the private sector facility to the extent necessary to assure that the employees are protected.

§ 1960.2 Definitions.

(a) The term "Act" means the Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.).

(b) The term "agency" for the purposes of this part means an Executive Department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Executive Branch of the Government. By agreement between the Secretary of Labor and the head of an agency of the Legislative or Judicial Branches of the Government, these regulations may be applicable to such agencies.

(c) The term "agency liaison" means an agency person appointed with full authority and responsibility to represent the occupant agency management with the official in charge of a facility or installation such as a GSA Building Manager. This liaison is the agency person who has authority to obligate agency funds for correction of conditions.

(d) The term "building manager" means the person who manages one or several buildings under the authority of Federal agency. For example, a building manager may be the GSA person who manages building(s) for GSA.

(e) As used in Executive Order 12196, the term "consultation with representatives of the employees thereof" shall include such consultation, conference, or negotiation with representatives of agency employees as is consistent with the Federal Service Labor Management Relations Statute (5 U.S.C. 71), or other collective bargaining arrangement. As used in this part, the term "representative of employees" shall be interpreted with due regard for any obligation imposed by the aforementioned statute and any other collective bargaining arrangement that may cover the employees involved.

(f) The term "Designated Agency Safety and Health Official" means the individual who is responsible for the management of the safety and health program within an agency, and is so designated or appointed by the head of the agency pursuant to § 1960.6 and the provisions of Executive Order 12196.

(g) The term "employee" as used in this part means any person employed or otherwise suffered, permitted, or required to work by an "agency" as the latter term is defined in paragraph (b) of this section.

(h) The term "establishment" means a single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate "establishment." Typically, an "establishment" as used in this part is referred to as a field activity, regional office, area office, installation, or facility.

(i) The term "uniquely military equipment, systems, and operations" is interpreted as *excluding* from the scope of the order the *design* of Department of Defense equipment and systems that are unique to the national defense mission, such as military aircraft, ships, submarines, missiles, and missile sites, early warning systems, military space systems, artillery, tanks, and tactical vehicles; and *operations* that are uniquely military such as field maneuvers, naval operations, military flight operations, associated research test and development activities, and actions required under emergency conditions as declared by the President or Secretary of Defense with notification to the Secretary of Labor. The term, as interpreted, does not exclude from the scope of the Order, Department of Defense workplaces and operations comparable to those of industry in the private sector such as: vessel, aircraft, and vehicle repair, overhaul, and modification (except for equipment trials); construction; supply sevices; civil engineering or public works; medical services; and office work.

(j) The term "incidence rates" means the number of injuries and illnesses, or lost workdays, per 100 full-time workers. Rates are calculated as

$$\frac{N \times 200{,}000}{EH}$$

N = number of injuries and illnesses, or number of lost workdays.
EH = total hours worked by all employees during a month, a quarter, or a calendar year.
200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

(k) The term "inspection" means a comprehensive survey of a workplace in order to detect safety and health hazards, performed during the regular work hours of the agency, except as special circumstances may require.

(l) The term "lost workday cases" means injuries and illnesses which involve days away from work and/or days of restricted work activity. "Lost workdays—away from work" means the number of workdays (consecutive or not) on which the employee would have worked but could not because of an occupational injury or illness. "Lost workdays—restricted work activity" means the number of workdays (consecutive or not) on which, because of injury or illness:

(1) The employee was assigned to another job on a temporary basis;

(2) The employee worked at a permanent job less than full time, or

(3) The employee worked at a permanently assigned job but could not perform all duties normally connected with the job.

(m) The term "representative of management" means a supervisor or management official as defined in the applicable labor-management relations program covering the affected employees.

(n) The term "medical treatment" includes treatment administered by a physician, or by registered professional personnel under standing orders of a physician, for an occupational injury or illness which does not result in days away from work or days of restricted work activity. "Medical treatment" does not include first aid treatment, even though provided by a physician or registered professional personnel. For further details and specific examples of what is considered first aid treatment versus medical treatment, see OSHA 2014, Recordkeeping and Reporting Guidelines for Federal Agencies.

(o) The term "recordable occupational injuries or illnesses" means any occupational injuries or illnesses which result in:

(1) Occupation-related deaths regardless of the time between injury and death, or the length of illness;

(2) Nonfatal occupational illnesses, or

(3) Nonfatal occupational injuries which involve one or more of the following: days away from work or days of restricted work activity; loss of consciousness; restriction of work or motion; transfer to another job; or medical treatment (other than first aid).

(p) The term "reporting unit" means an establishment, except as otherwise agreed between the agency and the Office of Federal Agency Safety and Health Programs, U.S. Department of Labor, as provided in section 1960.75.

(q) The term "Safety and Health Inspector" means a safety and health specialist or other person authorized pursuant to Executive Order 12196, section 1–201(g), to carry out inspections for the purpose of Subpart D of this part, a person having equipment and competence to recognize safety and/or health hazards in the workplace.

(r) The term "Safety and Health Official" means an individual who manages the safety and health program at organizational levels below the Designated Agency Safety and Health Official.

(s) The term "Safety and Health Specialist" means a person or persons meeting the Office of Personnel Management standards for such occupations as Safety Manager/Specialist GS–018, Safety Engineer GS–803, Fire Protection Engineer GS–804, Industrial Hygienist GS–690, Fire Protection Specialist/Marshal GS–081, Health Physicist GS–1306, or equally qualified military, agency, or nongovernment personnel. The agency head shall be responsible for determination and certification of equally qualified personnel.

(t) The term "workplace" means the the individual and actual physical location where the agency's work or operations are performed.

§§ 1960.3–1960.5 [Reserved]

Subpart B—Administration

§ 1960.6 Designation of agency safety and health officials.

(a) The head of each agency shall designate an official with sufficient authority and responsibility to represent effectively the interest and support of the agency head in the management and administration of the agency occupational safety and health program. This Designated Agency Safety and Health Official shall be of the rank of Assistant Secretary, or of equivalent rank. There shall be sufficient headquarters staff, with the necessary training and experience, reporting directly to the Designated Agency Safety and Health Official, to carry out the responsibilities under this part.

(b) The Designated Agency Safety and Health Official shall assist the agency head in establishing:

(1) An agency occupational safety and health policy and program to carry out the provisions of section 19 of the Act, Executive Order 12196, and this part;

(2) An organization, including provision for the designation of safety and health officials at appropriate levels, with an adequate budget and staff to implement the occupational safety and health program at all operational levels;

(3) A set of procedures that ensures effective implementation of the agency policy and program as required by section 19 of the Act, Executive Order 12196, and the program elements of this part, considering the mission, size, and organization of the agency;

(4) Goals and objectives for reducing and eliminating occupational accidents, injuries, and illnesses;

(5) Plans and procedures for evaluating the agency's occupational safety and health program effectiveness at all operational levels, and

(6) Priorities with respect to the factors which cause occupational accidents, injuries, and illnesses in the agency's workplaces so that appropriate corrective actions can be taken.

(c) The Designated Agency Safety and Health Official shall assure that safety and health officials are designated at each appropriate level with sufficient authority and responsibility to plan for and provide funds for necessary safety and health staff, equipment, materials, and training required to ensure implementation of an effective occupational safety and health program.

§ 1960.7 Financial management.

(a) The head of each agency shall ensure that the agency budget submission includes appropriate financial resources to effectively implement and administer the agency occupational safety and health program.

(b) The Designated Agency Safety and Health Official, management officials in charge of each establishment, safety and health officials at all appropriate levels, and other management officials shall be responsible for planning, requesting resources, implementing, and evaluating the occupational safety and health program budget in accordance with the regulations of the Office of Management and Budget Circular A–11 (§§ 13.2(f) and 13.5(f)) and other relevant documents such as OMB Bulletin 79–14.

(c) Occupational safety and health program budgets *shall* include funding for:

(1) Sufficient personnel to implement and administer the program at all levels, including necessary administrative costs such as training, travel, and personal protective equipment;

(2) Abatement of unsafe or unhealthful working conditions related to agency operations or facilities;

(3) Safety and health sampling, testing, and diagnostic and analytical tools and equipment, including laboratory analyses;

(4) Any necessary contracts to identify, analyze, or evaluate unsafe or unhealthful working conditions and operations;

(5) Program promotional cost such as publications, posters, or films;

(6) Technical information, documents, books, standards, codes, periodicals, and publications, and

(7) Medical surveillance programs for employees.

§ 1960.8 Agency responsibilities.

(a) The head of each agency shall furnish to each employee employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.

(b) The head of each agency shall comply with the Occupational Safety and Health Administration standards applicable to the agency and with all related rules, regulations, and orders issued by the Secretary of Labor.

(c) The head of each agency shall develop, implement, and evaluate an occupational safety and health program in accordance with the requirements of section 19 of the Act, Executive Order 12196, and the basic program elements prescribed in this part.

(d) The head of each agency shall acquire, maintain, and require the use of approved personal protective equipment, approved safety equipment, and other devices necessary to protect employees.

§ 1960.9 Supervisory responsibilities.

Employees who exercise supervisory functions shall, to the extent of their authority, furnish employees employment free from recognized hazards that are causing or are likely to cause death or serious physical harm. They shall also comply with the occupational safety and health standards applicable to their agency and with all rules, regulations, and orders issued by the head of the agency with respect to the agency occupational safety and health program.

§ 1960.10 Employee responsibilities and rights.

(a) Each employee shall comply with the standards, rules, regulations, and orders issued by his/her agency in accordance with section 19 of the Act, Executive Order 12196, and this part which are applicable to his/her own actions and conduct.

(b) Employees shall use safety equipment, personal protective equipment, and other devices provided by the agency and necessary for their protection.

(c) Employees shall have the right to report unsafe and unhealthful working conditions to appropriate officials.

(d) Employees shall be authorized official time to participate in the activities provided for in section 19 of the Act, Executive Order 12196, this part, and the agency occupational safety and health program.

§ 1960.11 Evaluation of occupational safety and health performance.

Each agency head shall ensure that any performance evaluation of a management official in charge of an establishment, a supervisory employee, or other management official, measures that employee's performance in meeting requirements of the agency occupational safety and health program, taking into consideration any applicable rules of the Office of Personnel Management or other appropriate authority. The recognition of superior performance in discharging safety and health responsibilities by an individual or group should be encouraged and noted.

§ 1960.12 Dissemination of occupational safety and health program information.

(a) Copies of the Act, Executive Order 12196, program elements published in this part, details of the agency's occupational safety and health program, and applicable safety and health standards shall be made available upon request to employees or employee representatives for review.

(b) A copy of the agency's written occupational safety and health program shall be made available to each supervisor and to employee representatives.

(c) Each agency shall post and keep posted a notice or notices informing employees of the provisions of the Act, Executive Order 12196, and the agency occupational safety and health program under this part. The Department of Labor will furnish a uniform poster to agencies. Each agency shall add to this uniform poster, or include in its notice or notices, the following items: (1) details of the agency's procedures for reports by employees of unsafe or unhealthful working conditions, and allegations of discrimination or reprisal due to participation in safety and/or health activities; (2) the location where employees may obtain information about the agency's occupational safety and health program, including specific agency occupational safety and health standards, and (3) relevant information about any agency safety and health committees. Such notice or notices shall be posted by the agency in each establishment in a conspicuous place or places where notices to employees are customarily posted. Such notices shall not be altered, deface, or covered by other material, and shall be kept up to date. Agencies may also convey the information required by this paragraph to employees by other means, provided that such dissemination is in accordance with this paragraph.

(d) Agency heads shall promote employee awareness of occupational safety and health matters through their ordinary information channels, such as newsletters, bulletins and handbooks.

§§ 1960.13–1960.15 [Reserved]

Subpart C—Standards

§ 1960.16 Compliance with OSHA standards.

Each agency shall comply with all occupational safety and health standards issued under section 6 of the Act, or with alternate standards issued pursuant to this subpart.

§ 1960.17 Alternate standards.

An agency head may determine it necessary to apply an alternate standard, and shall, after consultation with employees or their representatives, and/or with appropriate occupational safety and health committees, notify the secretary and request approval of such alternate standards.

(a) Any request for an alternate standard shall be transmitted to the Secretary by the head of the agency.

(b) Any such request for an alternate standard shall not be approved by the Secretary unless it provides equivalent or greater protection for affected employees. Any such request shall include:

(1) A statement of why the agency cannot comply with the OSHA standard or wants to adopt an alternate standard;

(2) A description of the alternate standard;

(3) A demonstration that the alternate standard provides equivalent or greater protection for the affected employees;

(4) A description of interim protective measures afforded employees until a decision is rendered by OSHA, and

(5) A summary of written comments, if any, from interested employees, employee representatives, and occupational safety and health committees, where established.

§ 1960.18 Supplementary standards.

(a) An agency head shall adopt such supplementary standards as necessary and appropriate for application to working conditions of agency employees for which there exist no appropriate OSHA standards. The agency head shall notify the Secretary of the subject matter of such standard when the development of the standard begins.

(b) The agency head shall notify the Secretary of adoption of a supplementary standard and transmit a copy of any supplementary standard adopted, where OSHA has not issued an applicable standard under section 6 of the Act.

(c) Upon request of the Secretary, the agency head shall make available to the Secretary any written comments on the supplementary standard from interested employees, employee representatives, and occupational safety and health committees, as well as other background material.

§ 1960.19 Emergency standards.

(a) In addition to emergency temporary standards issued under section 6 of the Act, an agency head shall adopt or develop any other emergency temporary occupational safety and health standards when such action is deemed necessary to protect employees from grave dangers. The authorized representatives of the employees, the occupational safety and health committee (where established), and the Office of Federal Agency Safety and Health Programs shall be informed of such action.

(b) The head of each agency shall initiate appropriate procedures under § 1960.17, or § 1960.18 to convert any emergency temporary standard to a standard which provides permanent protection for the employees.

§ 1960.20 Conflicting standards.

(a) Where employees of different agencies engage in joint operations, and/or primarily report to work or carry out operations in the same establishment, the standards adopted under §§ 1960.17, 1960.18, or 1960.19 of the host agency shall govern.

(b) There may be situations where the head of an agency is additionally required to comply with standards issued by a Federal authority other than OSHA. Such standards may conflict with the agency occupational safety and health standards applicable under this subpart. For example, standards issued by the General Services Administration pertaining to space for which it has assigned responsibility, pursuant to its statutory authority to conserve and protect such property, may create a conflict with the standards adopted pursuant to this part. (GSA standards pertain to certain aspects of fire safety and sanitation, as well as levels of illumination, security, heating, cooling, and gas consumption for government vehicles.) In cases where such conflicts occur, the head of the agency shall inform the other Federal authority and the Secretary of Labor, so that joint efforts to resolve the issues may be undertaken.

§§ 1960.21–1960.24 [Reserved]

Subpart D—Inspection and Abatement

§ 1960.25 Qualifications of safety and health inspectors and agency inspections.

(a) Executive Order 12196 requires that each agency utilize as inspectors "personnel with equipment and competence to recognize hazards." Inspections shall be conducted by inspectors qualified to recognize, evaluate, and to recommend abatement techniques for hazards of the working environment to which assigned. Safety and health specialists as defined in § 1960.2(s), with experience and/or up-to-date training in occupational safety and health hazard recognition, evaluation, and abatement techniques, are considered as meeting the qualifications of safety and health inspectors. For those working environments where there are less complex hazards, such safety and health specializations as cited above may not be required, but inspectors in such environments shall have sufficient documented training and/or experience in the safety and health hazards of the workplace involved to recognize, evaluate, and recommend abatement techniques for those particular hazards. All inspector personnel must be provided the equipment necessary to conduct a thorough inspection of the workplace involved.

(b) Agency heads shall authorize safety and health inspection personnel, and labor organization and/or safety and health committee members who possess essential expertise, to aid them in evaluating the safety and health aspects of working conditions while conducting an inspection.

(c) Each agency which has workplaces containing information classified in the interest of national security shall provide access to safety and health inspectors who have obtained the appropriate security clearance.

(d) All areas and operations of each workplace, including office operations, shall be inspected at least annually. Additional announced and unannounced inspections shall be conducted at all workplaces where there is an increased risk of accident, injury, or illness due to the nature of the work performed. Sufficient unannounced inspections shall be conducted by the

agency to ensure identification and abatement of hazardous conditions.

(e) When situations arise involving multiple agencies' responsibilities for conditions affecting employee safety and health, coordination of inspection functions is encouraged.

(f) Inspections which meet the requirements of this subpart may be conducted by nonagency personnel having the appropriate test equipment and the required degree of competence, when the Designated Agency Safety and Health Official or designee deems it appropriate to employ such personnel from other Federal agencies or through an appropriate contracting procedure.

§ 1960.26 Conduct of inspections.

(a) *Preparation.* (1) Prior to commencement of the inspection, the Safety and Health Inspector shall review all available relevant information which pertains to the workplace to be inspected, including complaints, injury and illness records, previous inspection reports, and reports of unsafe and unhealthful working conditions.

(2) The Safety and Health Inspector shall determine in advance, where possible, the actual work procedures and conditions to be inspected, in order to have the proper equipment available to conduct an effective inspection.

(b) *Inspection.* (1) For the purpose of assuring safe and healthful working conditions for employees of agencies, the head of the agency or Designated Agency Safety and Health Official shall authorize safety and health inspectors: to enter without delay, and at reasonable times, any building, installation, facility, construction site, or other area, workplace, or environment where work is performed by employees of the agency; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any agency employee, and/or any agency supervisory employee, and/or any official in charge of an establishment.

(2) The Safety and Health Inspector shall, at the beginning of the inspection, contact the management official in charge of the workplace, inform that official of the inspection procedures, and invite the official or the representative thereof to witness the inspection.

(3) The inspector shall meet the employee representatives involved, inform them of inspection procedures, and invite them to accompany the inspector. If there are no authorized representatives of employees, the inspector shall consult with a reasonable number of employees during the walkaround.

(4) The inspector shall limit the inspection party to a size which will not disrupt either the inspection or the operations of the workplace.

(5) When hazards are observed, they shall be sufficiently documented regarding type of hazard and location. Documentation may include photographs, measurements, diagrams, interviews with employees, and personal and/or environmental air samples.

(6) When, in the opinion of the inspector, it is necessary to conduct personal monitoring (sampling) of employees' work environments, the inspector shall have the authority to place reasonable and necessary personal monitoring devices, e.g., noise dosimeters and air sampling pumps, upon the person of employees for periods determined by the inspector to be necessary for complete and effective sampling of the environment.

(7) Upon request of the inspector, the employer shall require employees to wear personal environmental monitoring devices for relevant sampling procedures during the inspection.

(8) Whenever and as soon as it is concluded on the basis of an inspection that a danger exists which could reasonably be expected to cause death or serious physical harm immediately, the inspector shall inform the affected employees and official in charge of the workplace of the danger. The official in charge of the workplace, or a person empowered to act for that official, shall undertake immediate abatement and the withdrawal of employees not necessary for abatement of the dangerous conditions. In the event the official in charge of the workplace needs assistance to undertake full abatement, that official shall promptly contact the Designated Agency Safety and Health Official and other responsible agency officials, who shall assist the abatement effort. Safety and health committees shall be informed of all relevant actions, as shall representatives of the employees.

(c) *Closing Conference.* At the conclusion of an inspection, the Safety and Health Inspector shall confer with the official in charge of the workplace or that official's representative, and with an appropriate representative of the employees of the establishment, and informally advise them of any apparent unsafe or unhealthful working conditions disclosed by the inspection. During such conference, the official in charge of the workplace and the employee representative shall be afforded an opportunity to bring to the attention of the Safety and Health Inspector any pertinent information regarding conditions in the workplace.

(d) *Written reports and notices of unsafe or unhealthful working conditions.* (1) The inspector shall, in writing, describe with particularity the procedures followed in the inspection and the findings which form the basis for the issuance of any Notice of Unsafe or Unhealthful Working Conditions.

(2) Each agency shall establish a procedure for the prompt issuance of a Notice of Unsafe or Unhealthful Working Conditions. Such notices shall be issued not later than 30 days after completion of the inspection. If such notice cannot be issued within 30 days, the officials noted (see 3 below) shall be notified of the reasons for the delay. Such procedure shall include the following: (i) notices shall be in writing and shall describe with particularity the nature of the unsafe or unhealthful working condition, including a reference to the standard or other standard or other requirement involved; (ii) the notice shall fix a reasonable time for the abatement of the unsafe or unhealthful working condition, and (iii) a copy of the notice shall be sent to the official in charge of the workplace, the employee representative who participated in the closing conference, and/or the safety and health committee of the workplace, if any.

(3) Upon receipt of any notice of an unsafe or unhealthful working condition, the official in charge of a workplace shall immediately post such notice, or copy thereof, unedited, except for reason of national security, at or near each place an unsafe or unhealthful working condition referred to in the notice exists or existed. In addition, a notice shall be posted if any special procedures are in effect. Where, because of the nature of the workplace operations, it is not practicable to post the notice at or near each such place, such notice shall be posted, unedited, except for reason of national security, in a prominent place where it will be readily observable by all affected employees. For example, where workplace activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. The official in charge of a workplace shall take steps to ensure that the notice is not altered, defaced, or covered by other material.

(4) Each notice of an unsafe or unhealthful working condition, or a copy thereof, shall remain posted until the unsafe or unhealthful working condition has been abated, or for three working days, whichever is later. A copy of the notice will be permanently filed at the establishment and made available to the Secretary upon request.

§ 1960.27 Representatives of officials in charge and representatives of employees.

(a) Safety and health inspectors shall be in charge of inspections and may interview any employee in private if the inspector deems it necessary. A representative of the official in charge of a workplace and a representative of employees shall accompany the Safety and Health Inspector during the physical inspection of any workplace, both to aid the inspection and to provide such representatives with more detailed knowledge of any existing or potential unsafe or unhealthful working conditions. Additional representatives of the official in charge and additional representatives of employees may accompany the Safety and Health Inspector if it is determined that such additional representatives will further aid the inspection. A different representative of the agency official in charge and a different representative of employees may be allowed to accompany the Safety and Health Inspector during each different phase of an inspection. Members of the certified safety and health committee may accompany the inspector.

(b) Safety and health inspectors shall be authorized to deny the right of accompaniment under this section to any person whose participation interferes with a fair and orderly inspection. With regard to facilities classified in the interest of national security, only persons authorized to have access to such facilities shall be allowed to accompany a Safety and Health Inspector in such areas.

(c) Safety and health inspectors shall consult with employees concerning matters of occupational safety and health to the extent deemed necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring to the attention of the Safety and Health Inspector any unsafe or unhealthful working condition which the employee has reason to believe exists in the workplace.

§ 1960.28 Reports of unsafe or unhealthful working conditions.

(a) The purpose of employee reports is to inform agencies of the existence of unsafe or unhealthful working conditions. This section provides guidance in establishing a channel of communication between agency employee and those with responsibilities for safety and health matters, e.g., their supervisor, the Designated Agency Safety and Health Official, safety and health committees (where established), the head of the agency, or the Secretary of Labor. These channels of communication are intended to assure prompt analysis and response to reports of unsafe or unhealthful working conditions in accordance with the requirements of Executive Order 12196. Since many safety and health problems can be eliminated as soon as they are identified, the existence of a formal channel of communication shall not preclude immediate corrective action by an employee's supervisor in response to oral reports of unsafe or unhealthful working conditions where such action is possible. Nor should an employee be required to await the outcome of such an oral report before filing a written report pursuant to the provisions of this section.

(b) A report under this part is not a grievance. However, nothing in this section is intended to interfere in any way with the prior, simultaneous, or subsequent use by any employee of the grievance procedures available to the employees of an agency, pursuant to the Federal Service Labor-Management Relations statute which makes a negotiated grievance procedure the exclusive means of resolving grievances (5 USC 7121).

(c) Any employee or representative of employees, who believes that an unsafe or unhealthful working condition exists in any workplace where such employee is employed, shall be authorized to request an inspection of such workplace by making a report of the unsafe or unhealthful working condition to an appropriate agency Safety and Health Official, for this purpose. The report shall be reduced to writing either by the person submitting the report or, in the case of a verbal notification, by the person designated to receive the reports in the workplace. Any such report shall set forth the grounds for the report and shall contain the name of the employee or representative of employees. Upon the request of the person making such report, the Designated Agency Safety and Health Official or that official's designee for this purpose shall not disclose the name of such person, or the names of individual employees referred to in the report, to anyone other than authorized representatives of the Secretary of Labor. In the case of imminent danger situations, employees shall make reports by the most expeditious means available.

(d) *Reports received by the agency.* (1) Each written report of an unsafe or unhealthful working condition shall be recorded on a log maintained by the agency's designated Safety and Health Official or that official's designee at the establishment. If any agency finds it inappropriate to maintain a log of written complaints at the establishment level, it may avail itself of procedures set forth in § 1960.72.

(2) A sequentially numbered case file, coded for identification, shall be assigned for purposes of maintaining an accurate record of the report and the response thereto. As a minimum, each establishment's log shall contain the following information: date, time, code/reference/file number, location of condition, brief description of the condition, classification (imminent danger, serious or other), and date and nature of action taken.

(3) Executive Order 12196 requires that agency inspections be conducted within 24 hours for imminent danger conditions, within three working days for potentially serious conditions, and within 20 working days for other than serious safety and health risk conditions. The employee submitting the report of unsafe or unhealthful condition shall be notified in writing of the inspection results not later than 30 days after the completion of the inspection. If such notice cannot be issued within 30 days, the employee shall be notified of the reasons for the delay and given a date by which the employee may reasonably expect to receive the notice, which shall include plans for abating any hazards discovered during the inspection. The notification shall include a statement of the employee's right to request review by the certified safety and health committee. An agency's investigation report, if any, shall be made available to the Secretary or the Secretary's authorized representative on request.

(4) When an agency has established occupational safety and health committees which meet the requirements of Executive Order 12196, an employee or employee representative, if substantially dissatisfied with an agency's response to a report of a unsafe or unhealthful condition, may submit a request for review to the appropriate safety and health committee.

(e) *Reports received by the Secretary of Labor.* (1) Agency safety and health programs must have provisions for responding to employees' reports of unsafe or unhealthful working conditions and the Secretary encourages employees to use those agency procedures as the most expeditious means of achieving abatement of hazardous conditions. It is recognized, however, that despite the existence of such procedures, employee reports may be received directly by the Secretary.

(2) When such reports are received directly from an employee or employee representative, the Secretary shall, where a certified safety and health committee has been established, forward the report to the agency for investigation. Where there is no certified safety and health committee, the Secretary may initiate an inspection or other appropriate action.

(3) When the Secretary determines that an inspection is warranted in response to an employee's or employee representative's report of unsafe or unhealthful working conditions, the Secretary shall observe the same response times as required of the agencies under the Executive Order and paragraph (d)(3) of this section.

§ 1960.29 Accident investigation.

While all accidents should be investigated, the extent of such investigation shall be reflective of the seriousness of the accident. In any case, each incident which results in a fatality, or the hospitalization of five or more employees, or property damage of $100,000 or more shall be investigated to determine the causal factors involved. Except to the extent necessary to protect employees and the public, evidence at the scene of an accident shall be left untouched until inspectors have an opportunity to examine it. The investigative report of the incident shall include appropriate documentation on data, time, location, description of operation, description of accident, photographs, interview of employees and witnesses, measurements, and other pertinent information. A copy of the investigation report shall be forwarded to the official in charge of the workplace, the appropriate safety and health committee, and the exclusive employee representative, if any. The investigation report shall be made available to the Secretary or his authorized representative upon request.

§ 1960.30 Abatement of unsafe or unhealthful working conditions.

(a) The agency shall ensure the prompt abatement of unsafe and unhealthful conditions. Where a Notice of an Unsafe or Unhealthful Working Condition has been issued, abatement shall be within the time set forth in the notice.

(b) The procedures for correcting unsafe or unhealthful working conditions shall include a follow-up to the extent necessary, to determine whether the correction was made. If, upon the follow-up, it appears that the correction was not made, or was not carried out in accordance with an abatement plan submitted pursuant to paragraph (c) of this section, the official in charge of the establishment and the appropriate safety and health committee shall be notified of the failure to abate.

(c) The official in charge of the establishment shall promptly submit an abatement plan to the Designated Agency Safety and Health Official, if in the judgment of the establishment official the abatement of an unsafe or unhealthful working condition will not be possible within 30 working days. Such plan shall contain an explanation of the circumstances of the delay in abatement, a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect employees from being injured as a result of the unsafe or unhealthful working condition. A copy of the plan shall be sent to the safety and health committee, where established, and, if no committee exists, to the representative of the employees. Any changes in an abatement plan will require the submission of a new plan in accordance with the provisions of this section.

(d) When a hazard cannot be abated without assistance of the General Services Administration or other Federal lessor agency, the occupant agency shall act with the lessor agency to secure abatement. Procedures for coordination with the General Services Administration are contained in subpart E.

§ 1960.31 Inspections by OSHA.

The Secretary of Labor or the Secretary's authorized representatives are authorized to conduct, when the Secretary deems necessary, announced or unannounced inspections of agency workplaces in the following situations:

(a) Where an agency has not established occupational safety and health committees in accordance with subpart F of this part, or where established committees have been decertified;

(b) In response to a request from half the membership of record of any certified safety and health committee;

(c) As an integral part of OSHA's evaluation of an agency's safety and health program in accordance with subpart J; of this part, and

(d) In response to an employee's report of an imminent danger situation where neither the agency nor the appropriate safety and health committee has responded to the employee.

The Secretary's inspectors or evaluators are authorized: to enter without delay, and at reasonable times, any building, installation, facility, construction site, or other area, workplace, or environment where work is performed by employees of the agency; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employement, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any employee, any supervisory employee, and/or any official in charge of an establishment. OSHA inspections shall follow the general format set forth for agency inspections in other applicable parts of this subpart.

§§ 1960.32–1960.33 [Reserved]

Subpart E—General Services Administration and Other Federal Agencies

§ 1960.34 General provisions.

Within six months of the effective date of this part, the Secretary of Labor and the Administrator of the General Services Administration (GSA) shall initiate a study of conflicts that may exist in their standards concerning Federal buildings, leased space, products purchased or supplied, and other requirements affecting Federal employee safety and health. Both agencies shall establish and publish a joint procedure for resolving conflicting standards. All other Federal agencies that have authority for purchasing equipment, supplies, and materials, and for controlling Government space, as well as the leasing of space, shall also be subject to the requirements of this subpart, including publication of a procedure for resolving conflicting standards.

(a) In order to assist agencies in carrying out their duties under section 19 of the Act, Executive Order 12196, and this part, the Administrator or the Administrator's designee shall:

(1) Furnish, upon an agency's request, owned or leased space which:

(i) Has had a pre-occupancy inspection to identify recognized hazards or violations of OSHA standards and

(ii) Meets any special requirements pertaining to safety and health considerations submitted by the requesting occupant agency;

(2) Repair, renovate, or alter, upon an agency's request, owned or leased space in a planned and controlled manner to reduce or eliminate, whenever possible, any hazardous exposure to the occupant agency's employees;

(3) Accompany, upon request, the Secretary or the Secretary's designee on any inspection or investigation of a facility subject to the authority of the General Services Administration. Requests made for this purpose shall, whenever possible, be made at the GSA regional level in order to facilitate prompt assistance;

(4) Investigate, upon an official agency request, reports of unsafe or unhealthful conditions within the scope of GSA's responsibility. Such investigation, when requiring an on-site inspection, shall be completed within 24 hours for imminent danger situations, within three working days for potentially serious conditions, and within 20 working days for other safety and health risk conditions;

(5) Abate unsafe or unhealthful conditions disclosed by reports, investigation, or inspection within 30 calendar days or submit to the occupant agency's designated liaison official an abatement plan. Such abatement plan shall give priority to the allocation of resources to bring about prompt abatement of the conditions. (GSA shall publish procedures for abatement of hazards in the Federal Property Management Regulations—41 CFR 101);

(6) Establish an occupancy permit program which will regulate the types of activities and occupancies in facilities in order to avoid incompatible groupings, e.g., chemical or biological laboratories in office space. GSA shall seek to consolidate Federal laboratory operations in facilities designed for such purposes;

(7) Ensure that agency safety and health problems still outstanding are resolved prior to renegotiation of leases, and

(8) Ensure that GSA or other Federal lessor agencies' building managers maintain a log of reports of unsafe or unealthful conditions submitted by tenants to include: date of receipt of report, action taken, and final resolution.

(b) *Product safety.* Agencies such as GSA, DOD, and others which procure and provide supplies, equipment, devices, and material to be available for use by other agencies shall establish and maintain a product safety program which:

(1) Ensures that items procured will allow user agencies to use such products for the purpose intended and comply with OSHA standards or NIOSH criteria without modification, work method alterations, or additional personal protective equipment;

(2) Requires that products meet the applicable safety and health requirements of Federal law and regulations issued thereunder;

(3) Ensures that in providing hazardous material such material will be labelled to alert users, shippers, and storage or emergency personnel to basic information concerning flammability, toxicity, compatibility, first aid procedures, and normal as well as emergency procedures;

(4) Ensures availability of appropriate safety, rescue, and personal protective equipment to supply user agencies. The writing of Federal procurement specifications will be coordinated by GSA with OSHA/NIOSH as needed to assure purchase of approved products;

(5) Ensures that products recalled by the manufacturer, either voluntarily or by order from a regulatory authority, are removed from inventory. Each recall notice or order shall be forwarded to all agencies which have ordered such product from or through the procuring/supplying Federal agency, e.g., GSA, DOD, etc.;

(6) Includes preparation of FEDSTD 313, Material Safety Data Sheets (MSDS), involving all interested agencies in review to keep the standard current. MSDS provided by agencies or contractors shall meet the requirements of FEDSTD 313 and be furnished to DOD for filing and distribution.

(c) In order to assist agencies in carrying out their duties under section 19 of the Act, Executive Order 12196, and this part, the DOD will operate and maintain an automated system to distribute copies of MSDS to all agencies or their establishments as requested.

(d) All Federal agencies shall use MSDS provided by DOD when purchasing hazardous materials (as defined by FEDSTD 313) from commercial sources, and shall require MSDS from the supplier upon delivery of the material.

§ 1960.35 [Reserved]

Subpart F—Occupational Safety and Health Committees

§ 1960.36 General provisions.

(a) The occupational safety and health committees described in this subpart are organized and maintained basically to monitor and assist an agency's safety and health program. These committees assist agencies to maintain an open channel of communications between employees and management concerning safety and health matters in agency workplaces. The committees provide a method by which employees can utilize their knowledge of workplace operations to assist agency management to improve policies, conditions, and practices.

(b) Agencies may elect to establish safety and health committees meeting the minimum requirements contained in this subpart. When such committees are not established or have been decertified, the Secretary is authorized by section 1–401 (i) of Executive Order 12196 to conduct unannounced inspections of agency workplaces when the Secretary determines them necessary.

§ 1960.37 Committee organization.

(a) For agencies which elect to utilize the committee concept, safety and health committees shall be formed at both the national level and, for agencies with field or regional offices, at appropriate levels within the agency.

(1) The national level committee shall represent the major headquarters units where agency safety and health policy is formulated and implemented. The principal function of national committees shall be to monitor and assist in agency safety and health policy.

(2) Committees at other appropriate levels shall be organized at agency establishments or groupings of establishments consistent with the mission, size and organization of the agency and its collective bargaining configuration. The agency shall form committees at the lowest practicable local level. The principal function of the establishment (or local) committees is to monitor and assist in the execution of the agency's safety and health policies and program at the workplaces within their jurisdiction. Any dispute regarding appropriate levels shall be resolved by the Secretary after consultation with the agency involved.

(3) Any agency electing to utilize safety and health committees under Executive Order 12196 and this subpart shall establish committees in all agency establishments or groupings of establishments and these committees shall effectively cover all employees.

(b) Committees shall have equal representation of management and nonmanagement employees, who shall be members of record.

(1) Management members shall be appointed in writing by the person empowered to make such appointments.

(2) Where employees are not represented by collective bargaining arrangements, nonmanagement members of establishment level committees shall be determined through procedures devised by the agency, which provide for effective representation of employees. Nonmanagement members of the national level committee shall be selected through procedures devised by the agency and organizations having local collective bargaining agreements anywhere in the agency.

(3) Where employees are represented by collective bargaining arrangements, nonmanagement members of both national and establishment level committees shall be determined in accordance with the terms of such arrangements.

(c) Committee members shall serve overlapping terms. Such terms shall be of at least two years duration except when the committee is initially organized.

(d) The committee chairperson shall be nominated from among the committee's members and shall be elected by the committee members. Management and nonmanagement members shall alternate in this position. Maximum service time as chairperson shall be two consecutive years.

(e) Committees shall meet regularly, at least quarterly. Special meetings shall be held as necessary.

(1) Adequate advance notice of committee meetings shall be furnished to employees.

(2) Each meeting shall be conducted pursuant to a prepared agenda.

(3) Written minutes of each committee meeting shall be maintained and distributed to each committee member, and made available to employees and to the Secretary upon request.

§ 1960.38 Committee certification.

(a) Upon forming such committees, agencies shall submit information to the Secretary concerning:

(1) the existence, name of chairperson, location, and coverage, in terms of establishments and population, of such committees, certifying to the Secretary that such committees meet the reqirements of this subpart, and

(2) other data as the Secretary deems necessary to carry out specified duties under this part.

(b) If, upon investigation, the Secretary determines that the operations of a committee do not meet the requirements of this subpart, the Secretary shall notify the agency and identify the deficiencies to be remedied. If the deficiencies are not satisfactorily corrected within 90 days, the committee shall not be deemed a committee under Executive Order 12196 and this part.

§ 1960.39 Agency responsibilities.

(a) Agencies shall make available to committees all agency information relevant and necessary to their duties, except where prohibited by law. Examples of such information include the agency's safety and health policies and program, human and financial resources availble to implement the program, accident, injury, and illness data, epidemiological data, Material Safety Data Sheets, inspection reports, abatement plans, and internal and external evaluation reports.

(b) Agencies shall provide all committee members appropriate training as required by subpart H of this part.

§ 1960.40 Establishment committee duties (responsibilities).

(a) The safety and health committee is an integral part of the safety and health program and helps ensure effective implementation of the program at the establishment level.

(b) An establishment committee formed under this subpart shall, except where prohibited by law:

(1) Monitor and assist the safety and health program at establishments under its jurisdiction and make recommendations to the official in charge on the operation of the program;

(2) Monitor findings and reports of workplace inspections to ensure that appropriate corrective measures are implemented;

(3) When requested by the agency Safety and Health Official, or when the committee deems it necessary for effective monitoring of agency establishment inspection procedures, participate in inspections of the establishment;

(4) Review internal and external evaluation reports concerning the establishment safety and health program;

(5) Review procedures for handling safety and health suggestions and recommendations from employees;

(6) When requested by the agency Safety and Health Official, or when the committee deems it necessary, comment on standards proposed pursuant to the provisions of subpart C of this part;

(7) Monitor the level of resources allocated and spent on the establishment safety and health program, and

(8) Review management responses to reports of hazardous conditions, safety and health program deficiences, and allegations of discrimination. If half the members of record on the committee are not substantially satisfied by the response, they may request the Secretary to conduct an appropriate investigation or inspection.

§ 1960.41 National committee duties (responsibilities).

National committees established under this subpart shall, except where prohibited by law:

(a) Monitor performance of the agency safety and health program and make policy recommendations to the head of the agency on the operation of the program;

(b) Monitor and assist with the development and operation of the agency's establishment committees. As appropriate, monitor and review: reports of inspections; internal and external evaluation reports; agency safety and health training programs; proposed agency standards; agency plans for abating hazards, and responses to reports to hazardous conditions, safety and health program deficiencies, and allegations of discrimination, and

(c) Monitor the resources allocated to the entire agency safety and health program.

§ 1960.42—1960.45 [Reserved]

Subpart G—Allegations of Discrimination

§ 1960.46 Agency responsibility.

The head of each agency shall assure that no person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to section 19 of the Act, Executive Order 12196, and this part, or has participated in or is about to participate in any such proceeding, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by section 19 of the Act, Executive Order 12196, or this part. These rights include, among others, the right of an employee to choose not to perform his or her assigned task because of a reasonable apprehension of health risk or serious injury coupled with a reasonable belief that no less drastic alternative action is available.

§ 1960.47 Employee reports of discrimination.

Any employee who believes that he or she has been subjected to discriminatory action by an agency official may file a report in accordance with established agency procedures. Upon finding by the agency head that the provisions of this subpart have been violated, the employee shall be afforded all appropriate relief including rehiring or reinstatement of the employee to his or her former position with back pay.

§ 1960.48 Investigation procedures.

(a) Each agency shall establish a procedure for the investigation of such allegations of discrimination. These allegations shall be investigated by properly qualified personnel at the organizational level above that responsible for taking the alleged discriminatory action.

(b) The agency shall provide review procedures, which involve safety and health committees where established, for use by complainants dissatisfied with the initial agency determination regarding the allegations.

(c) Employees filing allegations of discrimination shall be advised in writing of the agency's initial determinations and any determinations regarding subsequent review.

(d) Occupational safety and health committees, where established, shall be advised of agency activity regarding allegations of discrimination and any agency determinations thereof.

(e) Upon request, agency officials shall provide copies of discrimination investigation findings, if any, to the Secretary.

§§ 1960.49–1960.53 [Reserved]

Subpart H—Training

§ 1960.54 Training of top management officials.

Each agency shall provide top management officials with orientation and other learning experiences which will enable them to manage the occupational safety and health programs of their agencies. Such orientation should include coverage of section 19 of the Act, Executive Order 12196, the requirements of this part, and the agency safety and health program.

§ 1960.55 Training of supervisors.

(a) Each agency shall provide occupational safety and health training for supervisory employees to include: supervisory responsibility for providing and maintaining safe and healthful working conditions for employees, the agency occupational safety and health program, section 19 of the Act, Executive Order 12196, this part, occupational safety and health standards applicable to the assigned workplaces, agency proocedures for reporting hazards, agency procedures for reporting and investigating allegations of discrimination, and agency procedures for the abatement of hazards, as well as other appropriate rules and regulations.

(b) This supervisory training shall include introductory and specialized courses and materials which will enable supervisors to recognize and eliminate, or reduce, occupational safety and health hazards in their working units. Such training shall also include the development of requisite skills in managing the agency's safety and health program within the work unit, including the training and motivation of subordinates toward safe and healthful work practices.

§ 1960.56 Training of safety and health specialists.

(a) Each agency shall provide occupational safety and health training for safety and health specialists through courses, laboratory experiences, field study, and other formal learning experiences to prepare them to perform the necessary technical monitoring, consulting, testing, inspecting, designing, and other tasks related to program development and implementation, as well as hazard recognition, evaluation and control, equipment and facility design, standards, analysis of accident, injury, and illness data, and other related tasks.

(b) Agency heads shall be responsible for implementing career development programs for their safety and health specialists to enable staff to meet present and future program needs of the agency.

§ 1960.57 Training of safety and health inspectors.

Each agency shall provide training for safety and health inspectors with respect to appropriate standards, and the use of appropriate equipment and testing procedures necessary to identify, evaluate, and suggest means of abating hazards during or following their assigned inspections, as well as preparation of reports and other documentation to support the inspection findings.

§ 1960.58 Training of collateral duty safety and health personnel.

Within six months after July 1, 1980, or on appointment of an employee to a collateral duty position, each agency shall provide training for collateral duty safety and health personnel commensurate with the scope of their assigned safety and health responsibilities. Collateral duty assignments vary from agency to agency and establishment to establishment. They may include such responsibilities as: hazard recognition; evaluation and control; reporting and recordkeeping, and program administration and promotion.

§ 1960.59 Training of occupational safety and health committee members.

Within six months after July 1, 1980, or on appointment of an employee to a committee, each agency shall provide training for all members of certified occupational safety and health committees commensurate with the scope of their assigned occupational safety and health responsibilities. Such training shall include: the agency occupational safety and health program; section 19 of the Act; Executive Order 12196; this part; agency procedures for the reporting of and abatement of hazards; agency procedures for reporting and investigating allegations of discrimination; the recognition of hazardous conditions or environments; identification and use of occupational safety and health standards, and other appropriate rules and regulations.

§ 1960.60 Training of employees and employee representatives.

(a) Each agency shall provide appropriate safety and health training for employees including specialized job safety and health training appropriate to the work performed by the employee, for example: clerical; printing; welding; crane operation; chemical analysis, and computer operations. Such training also shall inform employees of the agency occupational safety and health program, with emphasis on their rights and responsibilities.

(b) Agency heads shall provide occupational safety and health training for employees of the agency who are representatives of employee groups, such as labor organizations which are recognized by the agency. This training shall include both introductory and specialized courses and materials that will enable such groups to function appropriately in ensuring safe and healthful working conditions and practices in the workplace and enable them to effectively assist in conducting workplace safety and health inspections. Nothing in this paragraph shall be construed to alter training provisions provided by law, Executive Order, or collective bargaining arrangements.

§ 1960.61 Training assistance.

(a) After the effective date of Executive Order 12196, the Secretary shall conduct such orientation as the Secretary deems reasonable and necessary, for designated Safety and Health Officials which will enable them to manage the occupational safety and health programs of their agencies. Such orientation shall include coverage of section 19 of the Act, Executive Order 12196, and the requirements of this part.

(b) Upon request and with

(e) The provisions of this subpart are

completed in the detail required by the

the employer becomes aware of the

(d) Each Federal agency shall post a

§ 1960.75 Identification of reporting units.

(b) Upon request and with reimbursement, the Department of Labor shall provide each agency with training materials to assist in fulfilling the training needs of this subpart, including resident and field training courses designed to meet selected training needs of agency safety and health specialists, safety and health inspectors, and collateral duty safety and health personnel. These materials and courses in no way reduce each agency's responsibility to provide whatever specialized training is required by the unique characteristics of its work.

(c) In cooperation with OPM, the Secretary of Labor will develop guidelines and/or provide materials for the safety and health training programs for high-level managers, supervisors, members of committees, and employee representatives.

§§ 1960.62-1960.65 [Reserved]

Subpart I—Recordkeeping and Reporting Requirements

§ 1960.66 Purpose, scope and general provisions.

(a) The purpose of this subpart is to establish uniform requirements for the collection and compilation by agencies of occupational safety and health data, for proper evaluation and necessary corrective action and to assist the Secretary in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The term incident as hereinafter used in this subpart, shall include all injuries, illnesses and property damage accidents.

(b) In order to perform his duties under section 19 of the Act and Executive Order 12196, particularly with respect to providing the President with current information about the Federal agency safety and health program, it is necessary that the Secretary be promptly informed of serious incidents involving agency employees as provided in Section 1960.71. Assistance to agencies in the investigation of such incidents is available pursuant to the provisions of Executive Order 12196.

(c) Each agency shall utilize the information collected through its management information system to identify unsafe and unhealthful working conditions, and to establish program priorities.

(d) The Department of Labor shall provide Federal agencies with the forms and instructions for meeting the recordkeeping and reporting requirements specified in §§ 1960.67, 1960.68, 1960.69 and 1960.70.

(e) The provisions of this subpart are not intended to discourage agencies from utilizing recordkeeping and reporting forms which contain a more detailed breakdown of information than the forms provided by the Department of Labor.

(f) Information required to be submitted to the Department of Labor by this subpart may be submitted on media processable by electronic data processing equipment provided that such media comply with the requirements of the Office of Federal Agency Safety and Health Programs, U.S. Department of Labor.

(g) Information concerning occupational injuries, illnesses or accidents which, pursuant to statute or Executive Order, must be kept secret in the interest of national defense or foreign policy, shall be recorded on separate forms. Such records shall not be submitted to the Department of Labor, but may be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses and accidents.

§ 1960.67 Record or log of federal occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all recordable occupational injuries and illnesses of each establishment.

(b) Within six working days after receiving information on a recordable occupational injury or illness, appropriate information concerning such injury or illness shall be entered on the record or log. For this purpose, OSHA Form No. 100F, or its equivalent, shall be used and shall be completed in the detail required by that form and the instructions constained therein.

(c) As a minimum, any occupational injury or illness reported by an employee on a Form CA–1 or CA–2 (except first aid cases) to the Office of Worker's Compensation Programs, Department of Labor, shall be considered recordable on the log.

§ 1960.68 Supplementary record of federal occupational injuries and illnesses.

In addition to the record or log of Federal occupational injuries and illnesses provided for under Section 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that a recordable occupational injury or illness has occurred. For this purpose, OSHA Form No. 101F, or its equivalent, shall be completed in the detail required by the form and the instructions therein.

§ 1960.69 Annual summaries of federal occupational injuries and illnesses.

(a) Each Federal agency, on a calendar year basis, shall compile an annual summary of occupational injuries and illness for each reporting unit listed and submitted pursuant to § 1960.75. The summaries shall be based on the record or log of Federal occupational injuries and illnesses maintained pursuant to § 1960.67. OSHA Form No. 102F shall be used for this purpose, and shall be completed in the form and detail required by that form and the instructions contained therein.

(b) Each agency shall furnish the Department of Labor with a copy of its annual summaries compiled on the basis of reporting unit no later than 45 calendar days after the close of the calendar year.

§ 1960.70 Annual summaries of Federal occupational property damage incidents.

(a) Each Federal agency, on a calendar year basis, shall compile an annual summary of Federal occupational property damage incidents for each reporting unit. OSHA Form No. 102FF shall be used for this purpose, and shall be completed in the form and detail required by that form and the instructions contained therein.

(b) Each annual summary of Federal occupational property damage incidents shall be completed and forwarded to the Department of Labor no later than 45 calendar days after the close of the calendar year.

§ 1960.71 Reporting of serious incidents.

(a) Within 8 hours after the occurrence of an employment accident, the head of the Federal agency shall report by telephone or telegraph to the Office of Federal Agency Safety and Health Programs:

(1) Any occupational injury which is fatal to one or more employees;

(2) Any occupational incident which results in the hospitalization of five or more employees;

(3) Any occupational illness which results in death;

(4) Any occupational property damage accident which results in $100,000 or more;

(5) Any occupational incident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees.

Accidents not immediately reportable, but which result in death within six months of the date of the accident, shall be reported within 8 hours of the time the employer becomes aware of the death.

(b) The report shall relate the circumstances of the incident, names of individuals involved, any actions taken by the agency, the number of fatalities, and/or injuries and illnesses and the extent of any injuries. The Secretary may require such additional information in writing or otherwise, as he deems necessary.

§ 1960.72 Location and utilization of records and reports.

(a) The provisions of this section, dealing with the availability of information compiled pursuant to this subpart, are designed to guide agencies in providing agency employees and their representatives with the basic information necessary to assure that they can actively participate in an agency safety and health program. The provisions of this section are also designed to encourage agencies to allow agency safety and health inspectors to have direct access to the accident, injury and illness records of the establishments they are inspecting in order that they may better carry out their duties pursuant to subpart D of this part.

(b) The log and supplementary records required by §§ 1960.67 and 1960.68 shall be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain these records at a place other than at each establishment, such agency shall ensure that there is available at each establishment a copy of these records. These records shall be complete and as current as possible; in no case shall more than 45 days elapse after the recording of an illness or injury occurring in an establishment and the availability of the records reflecting that injury or illness at that establishment.

(c) For:

(1) Agencies engaged in activites such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, the log and supplementary records, or copies thereof, may be maintained at a place to which employees report each day.

(2) Personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., the long and supplementary records, or copies thereof, may be maintained at the base from which personnel operate to carry out their activities.

(d) Each Federal agency shall post a copy of the annual summary of Federal occupational injuries and illnesses for an establishment, as compiled pursuant to §§ 1960.67 or 1960.69, at such establishment, no later than 45 calendar days after the close of the calendar year, or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary shall be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency shall take necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

(e) The head of each agency shall make provisions to ensure access to establishment log and annual summary of records, to establishment Occupational Safety and Health Committees, and to that establishment's employees, former employees and employee representatives.

(f) Agency safety and health inspectors shall also have access to accident, injury and health records maintained under this subpart and in accordance with the provisions of § 1960.26(a)(1).

§ 1960.73 Access to records by Secretary.

The records required to be maintained under the provisions of this subpart shall also be available and made accessible to the Secretary or his authorized representative (including personnel of the National Institute for Occupational Safety and Health). The Secretary or his authorized representative shall request access to such records from the head of the agency prior to examination.

§ 1960.74 Retention of records.

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for five years following the end of the calendar year to which they relate, at any location including a Federal record retention center, to which the Secretary or his authorized representative would have reasonable access. In addition, records required by OSHA standards shall be retained in accordance with those standards.

§ 1960.75 Identification of reporting units.

(a) Each Federal agency shall submit the following information to the Department of Labor, ATTN: Office of Federal Agency Safety and Health Programs, no later than January 1, 1981 and at such other times as changes occur:

(1) A list of the names and addresses of each Federal reporting unit which will be covered in the records and reports required by this subpart.

(2) A brief description of any differences between an agency's internal recordkeeping and reporting system and the recordkeeping and reporting system provided by this subpart, including differing forms.

(b) Any Federal agency created or reorganized after January 1, 1981 shall submit the above information within sixty working days of commencement of operations as a new entity.

§ 1960.76 Agency annual reports.

(a) The Act and E.O. 12196 require all Federal agency heads to submit to the Secretary an annual report on their agency's occupational safety and health program, containing such information as the Secretary prescribes.

(1) Each agency shall submit to the Secretary by April 1 of each year a report describing the agency occupational safety and health program of the previous calendar year, and objectives for the current year. The report shall include a summary of the agency's self-evaluation findings as required by § 1960.78(b).

(2) The Secretary shall furnish guidelines to agency heads by January 1 of each year concerning the preparation of this report.

(3) The agency reports shall be used in the preparation of the Secretary's report to the President and in selecting winners of the annual President's Safety Awards.

(b) The Secretary shall submit to the President by October 1 of each year a summary report of the status of the occupational safety and health of Federal employees, based on agency reports, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

§ 1960.77 [Reserved]

Subpart J—Evaluation of Federal Occupational Safety and Health Programs

§ 1960.78 Purpose and scope.

(a) The purpose of this subpart is to establish a comprehensive program for the evaluation of Federal employee occupational safety and health

V 45 A G 15 80 UMI

programs. This subpart includes the responsibilities of agency heads in conducting self-evaluations of the effectiveness of thier occupational safety and health programs, and the responsibilities of the Secretary in evaluating the extent to which each agency head has developed and implemented agency programs in accordance with the requirements of Executive Order 12196 and this part.

(b) Agency heads shall develop and implement a program for evaluating the effectiveness of their agency's occupational safety and health program. Agency self-evaluations shall be conducted annually, and a summary report submitted to the Secretary.

(c) The Secretary shall conduct a comprehensive evaluation of each Federal agency's occupational safety and health program. Evaluations shall be conducted on a regular schedule to determine the performance levels of each agency's program. The Secretary shall submit to the President each year a summary report of the status of the occupational safety and health of Federal employees; Department of Labor evaluations, together with agency responses, of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving agency's performance.

§ 1960.79 Self-evaluations of occupational safety and health programs.

(a) Agency heads shall develop and implement a program of annual self-evaluations to determine the effectiveness of thier occupational safety and health programs. The self-evaluations are to include annual qualitative assessments of the extent to which their agency safety and health programs are:

(1) Developed in accordance with the requirements set forth in Executive Order 12196 and this part and,

(2) Implemented effectively in all agency field activities.

(b) Each agency self-evaluation program shall have established scheduling procedures which ensure that all Field activities are evaluated at least every three years. Field activities which demonstrate a high potential for lost workday injuries and illnesses shall have comprehensive annual evaluations. Field activities are considered to have a high potential for injuries or illnesses when:

(1) Incidence rates for injuries or illnesses are higher than the government average; or

(2) Employees are routinely exposed to toxic chemicals, biological agents, and/or radiological operations, or

(3) Employees perform activities in high hazard operations; for example, warehousing sites, machine shops, construction activities, printing plants, maintenance areas, and wood-working shops.

(c) Agency self-evaluation programs shall be conducted through independent visits by safety and health professionals, that is, by professionals outside the jurisdiction of the agency official responsibile for management of establishments being evaluating.

(d) Agency heads shall utilize the results of their self-evaluations and evaluations conducted by the Secretary in determining priorities for allocation of human and financial resources during each annual budget cycle.

§ 1960.80 Secretary evaluations of agency occupational safety and health programs.

(a) In accordance with section 1–401(h), the Secretary shall develop a comprehensive program for evaluating an agency's occupational safety and health program. To accomplish this, the Secretary shall conduct:

(1) A complete and extensive evaluation of all elements of an agency's occupational safety and health program on a regular basis;

(2) Special studies of limited areas of an agency's occupational safety and health program as deemed necessary by the Secretary, and

(3) Field reviews and scheduled inspections of agency workplaces as deemed necessary by the Secretary.

(b) The Secretary shall develop and distribute to Federal agencies detailed documentation on the Department of Labor's evaluation program. The documentation shall include, but is not limited to:

(1) The major program elements included in a complete and extensive evaluation of an agency's occupational safety and health program;

(2) The methods and factors used to determine the effectiveness of each element of an agency's program;

(3) The factors used to define "large" or "high hazard" Federal agencies of establishments;

(4) The procedures for conducting evaluations including field visits and scheduled inspections, and

(5) The reporting format for agency heads in submitting annual summaries of their self-evaluation programs.

(c) The Secretary shall annually evaluate "large" or "high hazard" Federal agencies. "Small" and "low hazard" Federal agencies shall be evaluated at least once every three years.

(d) Prior to the initiation of an agency evaluation, the Department of Labor will review the annual agency self-evaluation summary report. If additional pertinent information and documentation are needed to explain the agency's evaluation program the Secretary will request this in writing from the agency head. Such information shall be submitted to the Secretary within 30 days of the receipt of the request.

(e) The Secretary will develop an "Occupational Safety and Health Program Evaluation Plan" before the initiation of the evaluation of an agency. The plan will define the type, content, and extent to which each program element is to be reviewed, as well as covering administrative concerns—budget, staffing, organization placement of the safety and health function, and on-site visits. Evaluation scheduling, employee participation, personnel and security considerations, hours of operation, and other factors deemed necessary to facilitate the desired evaluations shall be considered in the plan.

(f) To facilitate the evaluation process and to insure full understanding of the procedures to be followed and the support required from the agency, the Secretary, or the Secretary's representative, shall conduct an opening conference with the agency head. At the opening conference, the Secretary's authority and evaluation plan will be explained to the agency head.

(g) The agency evaluation shall be completed no later than 90 calendar days from the date of the opening conference.

(h) A report of the evaluation must be submitted to the agency head by the Secretary no later than 45 calendar days from the date of the closing conference.

(i) Agency heads shall respond to the evaluation report within 60 calendar days of receipt of the report.

(j) The Director of the Office of Federal Agency Safety and Health Programs and the agency's designated safety and health official are to report jointly to FACOSH on the Secretary's evaluation of the agency's progress.

§§ 1960.81–1960.83 [Reserved]

Subpart K—Field Federal Safety and Health Councils

§ 1960.84 Purpose.

(a) Executive Order 12196 provides that the Secretary shall "facilitate the exchange of ideas and information throughout the Government about occupational safety and health."

(b) Consistent with this objective, the Secretary will continue to sponsor and/or provide guidance for those Field

Federal Safety and Health Councils now established and in operation, and establish new field councils as necessary. The field councils will consist primarily of qualified representatives of local area Federal field activities whose duties pertain to occupational safety and health, and also of representatives of recognized local labor organizations, or other civilian employee organizations, at local area Federal field activities. For the purpose of this subpart the definition of field activity will be provided by each agency.

§ 1960.85 Role of the Secretary.

(a) The Secretary shall maintain liaison with agency heads to ensure that they encourage their field activities to participate actively in field council programs. To ensure maximum participation, the field councils' annual reports to the Secretary shall provide descriptions of the degree of Management and employee participation by the defined Federal field activities. The Secretary shall annually furnish each agency head with a report consolidating the information received as to the participation of the agency's several field installations in field council activities.

(b) The Secretary shall provide leadership and guidance and make available necessary equipment, supplies, and staff services to the Field Federal Safety and Health Councils to assist them in carrying out their responsibilities. The Secretary shall also provide consultative and technical services to field councils. These services shall involve aid in any phases of developing and planning programs; and in sponsoring, conducting or supporting safety and health training courses.

§ 1960.86 Establishing councils.

(a) Those field councils established and in operation prior to the effective date of this subpart will continue to function without interruption provided they are operating in accordance with the provision of their charter and this subpart.

(b) The Secretary may establish a council in any area where ten or more Federal establishments totaling 300 or more employees are located within an area having a radius of 50 miles. In any such area where there is no council already established, a field representative of the Secretary may, upon his own initiative or at the request of any establishment within the area, contact representatives of all establishments within the area and coordinate their efforts to organize a field council.

(c) After a new council has been organized, officers elected, and articles of organization drafted and accepted by the council membership, a formal request for recognition as a field council shall be sent to the Secretary. Upon approval of the Articles of Organization, a charter will be issued.

(d) At the first general meeting of the council, committees should be appointed and the cooperation of all participants should be solicited to aid the functioning of committees and the successful accomplishment of the council's objectives.

§ 1960.87 Objectives.

The basic objective of field councils is to accomplish the greatest possible reduction in the incidence, severity and cost of occupational accidents, injuries, and illnesses in the Federal Government. Field councils shall act on behalf of the Secretary or his designees on occupational safety and health activities in carrying out within their respective geographic areas the following functions:

(a) To act as a clearinghouse on information and data on occupational accidents, injuries, and illnesses and their prevention.

(b) To plan, organize and conduct field council meetings or programs which will give technical advice and information on occupational safety and health to representatives of participating agencies and employee organizations.

(c) To promote improvement of safety and health programs and organizations in each Federal agency represented or participating in council activities.

(d) To promote coordination, cooperation, and sharing of resources and expertise to aid agencies with inadequate or limited resources. These objectives can be accomplished in a variety of ways. For example, field councils could organize and conduct training programs for employee representatives, collateral duty and professional safety and health personnel, coordinate or promote programs for courtesy inspections, or, on request, conduct evaluations of the agencies' safety and health programs.

(f) To evaluate the safety and health problems peculiar to local conditions and facilitate solutions to these problems through council activities.

(g) To provide Federal Executive Boards, Federal Executive Associations, labor union organizations and other employee representatives with information on the administrative and technical aspects of safety and health programs.

(f) To develop a cooperative relationship with local community leaders by informing them of the existing functions and objectives of the council and by calling on them for support and participation in council meetings and activities.

§ 1960.88 Membership.

(a) Each field council shall consist of representatives of local Federal activities appointed by their respective activity heads as members or alternates. Such agency representation shall include both management and employee representatives. Activity heads should consult any appropriate certified agency occupational safety and health committees regarding selection of these representatives. Representatives shall be selected form individuals in the following categories:

(1) Federal occupational safety and health professionals.

(2) Related federal professionals, or collateral duty personnel. This includes persons employed in professions or occupations related to or concerned with safety and health of employees.

(3) Representatives of recognized Federal labor or other employee organizations. This category of membership includes representatives of recognized local labor organizations, if any, or other employee organizations representing civilian employees in each Federal field activity comprising the field council. Appointment of these members for attendance at meetings or participation in field council activities shall be by their respective activity heads after consultation with appropriate employee representatives or certified agency safety and health committees.

(4) Representatives from non-Federal organizations. Associate membership may be granted to any non-Federally employed person who has demonstrated interest in occupational safety and health. An associate member has no voting rights and may not hold any office.

(b) A primary objective of the field council is to facilitate an exchange of ideas and information with respect to health and safety. Accordingly, no maximum limitation shall be imposed by a council on itself, in regard to the numbers of personnel in any of the above categories that may be members and/or attend meetings and/or participate in field council activities.

(c) All officially designated members and representatives or their alternates shall have voting privileges and serve without additional compensation.

§ 1960.89 Organization.

(a) Field council officers shall include as a minimum, a chairperson, vice

chairperson, and secretary. Officers shall be elected for a one or two-year

(4) Agency heads shall appoint official non-management members of the field

where identifiable, and to the appropriate OSHA Regional Office.

Washington, D.C. 20216, (202) 523–8515. (These are not toll-free numbers.)

Floor, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106,

Of these agencies invited to comment, OSM received comments from the

chairperson, and secretary. Officers shall be elected for a one or two-year term on a calendar year basis by a majority vote of the members of record. Election of officers shall be held at least 60 days before the beginning of a calendar year. The election may be conducted at a regularly scheduled meeting or by letter ballot.

(b) Each council shall notify the appropriate OSHA Regional Office and the Office of Federal Agency Safety and Health Programs of the name, agency address, and telephone number of each newly elected official.

(c) Each council shall have an Executive Committee consisting of all elected officers, chairpersons of appointed committees and the immediate past chairperson of the field council.

(d) In addition to the Executive Committee, each council shall have either a membership committee, a program committee and a finance committee, or a council official designated responsibility in these areas. Additional committees may be appointed by the chairperson for specific purposes as warranted.

§ 1960.90 Participation.

(a) Federal agency heads shall ensure that each field activity having responsibility for the safety and health of agency employees is officially represented and actively participates in the programs of these councils. Agency heads shall ensure that such official representation includes the opportunity for active participation by employee organizations or representatives.

(1) Where certified occupational safety and health committees as described in Subpart F exist, employee members of the committees shall designate one individual for official appointment to field councils by the activity head.

(2) Where employees are represented through collective bargaining arrangements, but no committee exists, non-management members of field councils shall be designated by the exclusive bargaining representative for official appointment to field councils by the activity head.

(3) Where some employees in an activity are represented through collective bargaining units and others are not, the agency head shall solicit nominations from the labor union(s) or other employee organization(s) with collective bargaining status and from employees not represented through collective bargaining and shall select one of the nominees for official appointment as the employee representative on the field council.

(4) Agency heads shall appoint official non-management members of the field councils.

(b) Each activity shall appoint two voting members (with designated alternates), one representing management and one representing employees. The field council annual report shall reflect the participation in council meetings by appointed field activity voting members or their alternates.

(c) Field activity participation at meetings requiring travel in excess of 100 miles (one way) is encouraged but not required.

(d) Regarding travel to meetings, travel funds shall be made available equally to management and employee representation.

§ 1960.91 Operating procedures.

(a) The Executive Committee of each council shall meet at least 45 days before the beginning of each calendar year to approve an annual program for the council designed to accomplish the objectives and functions stated in § 1960.87. In addition, the Executive Committee shall meet periodically to ensure that the meetings and other activities of the council are being conducted as outlined in the council schedule.

(b) The council program shall include at least four meetings or activities per year dealing with occupational safety and health issues.

(c) Each field council shall submit to the Secretary or his designee by March 15 of each year a report describing the activities and programs of the previous calendar year and plans for the current year. In addition, the report shall address the participation of local agencies including representatives' attendance. The Office of Federal Agency Safety and Health programs, OSHA, shall furnish guidelines to field councils concerning the preparation of this report.

(d) Upon determination that a council is not operating in accordance with its charter and the provisions of this subpart, and after consultation with appropriate OSHA regional officials, the Secretary shall revoke the council's charter. Upon revocation of a charter, the council shall surrender all its government property to the appropriate OSHA regional official. Any continuing or future organization in the same geographical area shall not use the title Field Federal Safety and Health Council, or any derivation thereof, unless formally rechartered by the Secretary. Notification of revocation of a council's charter shall be sent to the chairperson, where identifiable, and to the appropriate OSHA Regional Office.

§§ 1960.92–1960.99 [Reserved]

[FR Doc. 80-24617 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2520 and 2530

Rules and Regulations for Reporting and Disclosure and Minimum Standards for Employee Pension Benefit Plans; Individual Benefit Reporting and Recordkeeping for Single Employer Plans

Correction

In FR Doc. 80–22911, appearing at page 51231, in the issue of Friday, August 1, 1980, make the following corrections:

(1) On page 51231, in the preamble under the heading designation of "**SUMMARY**" in the third column, the twenty-third line down, correct "employment" to read "employer".

(2) On page 51236, the first column, the third full paragraph down designated as number "4", the twelfth line down, correct "administration" to read "administrator".

(3) On page 51237, in the middle column, the third paragraph down, designated as "(ii)", the last line, correct "but" to read "not".

BILLING CODE 1505-01-M

---

29 CFR Parts 2520 and 2530

Rules and Regulations for Reporting and Disclosure and Minimum Standards for Employee Pension Benefit Plans; Individual Benefit Reporting and Recordkeeping for Single Employer Plans

AGENCY: Department of Labor.

ACTION: Proposed rule; correction.

SUMMARY: This document makes minor corrections in a document containing proposed regulations concerning individual benefit reporting to pension plan participants (and, in some cases, their beneficiaries), and individual benefit recordkeeping under the Employee Retirement Income Security Act of 1974 (the Act). (45 FR 51231, August 1, 1980)

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C., 20210, (202) 523–9595, or Ronald D. Allen, Pension and Welfare Benefit Programs, U.S. Department of Labor,

Washington, D.C. 20216, (202) 523–8515. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: FR Doc. 80–22911, appearing at page 51231 in the Federal Register for August 1, 1980, is corrected as follows:

At page 51232 in the second column, under the preamble, heading designated as "B. Background", in the eighth line of the second paragraph, delete the first word "other";

At page 51236, in the second column, under the preamble heading designated as "G. Proposed Regulation", in the second line, correct "2520.105–11" to read "2520.105–2" and in the fourth line, "2530.209–9" to read "2530.209–2";

At page 51239, in § 2520.105–2, in the second column, under the regulation paragraph designated "(h) Manner of furnishing individual benefit reporting documents", in the next to last line, insert the words "or beneficiary" between "such participant" and "of the document".

Signed at Washington, D.C. this 12th day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-24721 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Oklahoma Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Disclosure of comments on the Oklahoma Program from Federal Agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106, Telephone: (816) 374–3920.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4728.

Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859.

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the permanent regulatory program submitted by Oklahoma for his review on February 28, 1980. See the March 6, 1980, **Federal Register** (45 FR 14599–14600), April 25, 1980, **Federal Register** (45 FR 27954, 27955) and the June 18, 1980, **Federal Register** (45 FR 41158–41160). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Oklahoma program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Oklahoma program:

Department of the Agriculture:
- Soil Conservation Service
- Forest Service
- Agricultural Stabilization and Conservation Service
- Science and Education Administration

Advisory Council on Historic Preservation

Department of Labor:
- Mine Safety and Health Administration

Environment Protection Agency

Water Resources Council

Department of Energy

Department of the Interior:
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service
- Fish and Wildlife Service
- National Park Service
- Geological Survey

U.S. Army Corps of Engineers

Of these agencies invited to comment, OSM received comments from the following offices:

Department of the Interior:
- Bureau of Land Management
- Fish and Wildlife Service
- Heritage Conservation and Recreation Service
- Bureau of Mines
- National Park Service
- Water and Power Resources Services
- Geological Survey

Environmental Protection Agency

Department of Energy

Department of Labor
- Mine Safety and Health Administration

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: August 11, 1980.

R. Bruce Carroll,

Acting Assistant Director, State and Federal Programs.

[FR Doc. 80-24539 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Iowa Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Disclosure of comments on the Iowa program from Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 502(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Ave., Kansas City, Missouri 64106, Telephone (816) 374–3920.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone (202) 343–4728.

Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50312.

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke, Assistant Regional

These comments are available for review and copying during business

SUPPLEMENTARY INFORMATION: On Friday, August 15, 1980, at 11:00 a.m.,

regard to particulate matter, sulfur dioxide, carbon monoxide, and ozone in

amended, the Environmental Protection Agency (EPA) published in the Federal

deadlines for submittal which are specified in this notice. The restrictions

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone (816) 374–3920.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the permanent regulatory program submitted by Iowa for his review on February 28, 1980. See the March 6, 1980, **Federal Register** (45 FR 14598–14599), April 25, 1980, **Federal Register** (45 FR 27953–27954) and the June 18, 1980, **Federal Register** (45 FR 41164–41166). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Iowa program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Iowa program:

Department of Agriculture
- Soil Conservation Service
- Forest Service
- Agricultural Stabilization and Conservation Service
- Science and Education Administration

Advisory Council on Historic Preservation
Department of Labor Mine Safety and Health Administration
Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service
- Fish and Wildlife Service
- National Park Service
- Geological Survey

U.S. Army Corps of Engineers

Of these agencies invited to comment, OSM received comments from the following offices:

Bureau of Mines
- Soil Conservation Service
- Fish and Wildlife Service
- Heritage Conservation and Recreation Service
- National Park Service

Mine Safety and Health Administration
Geological Survey
Environmental Protection Agency
Iowa State Historical Department
Department of Energy

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: August 11, 1980.

R. Bruce Carroll,

Assistant Director State and Federal Programs.

[FR Doc. 80–24035 Filed 8–14–80; 8:45 am]

BILLING CODE 4310–05–M

---

30 CFR Ch. VII

Pennsylvania Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM announces a public meeting and reopens the public comment period on Pennsylvania's program for fifteen days for comments on the anthracite provision in that program.

DATES: The public meeting discussed below will be held on August 15, 1980, at 11:00 a.m. All comments must be received by 4:00 p.m. on September 2, 1980.

ADDRESSES: Comments should be submitted to Patrick B. Boggs, Regional Director, Region I, Office of Surface Mining, 950 Kanawha Blvd., East Charleston, West Virginia 25301. Copies of the Pennsylvania program are available in the Administrative Record for review and copying during normal business hours at the OSM locations listed below. Copies of the Pennsylvania program are available at Commonwealth of Pennsylvania locations as listed in the July 11, 1980, **Federal Register** (45 FR 46820–46826).

Office of Surface Mining, Region I, 950 Kanawha Blvd., East Charleston, West Virginia 25301, Telephone: (304) 344–2331.

Office of Surface Mining, Department of the Interior, Room 153, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–4728.

The public meeting discussed below will be held at 11:00 a.m. on July 15, 1980, at the Fulton Bank Building, Tenth Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240 (202) 343–4225.

SUPPLEMENTARY INFORMATION: On Friday, August 15, 1980, at 11:00 a.m., OSM will hold a public meeting on the anthracite provisions of the proposed Pennsylvania permanent regulatory program. The meeting requested by the Commonwealth of Pennsylvania will be attended by Clifford Jones, Secretary, Pennsylvania Department of Environmental Resources, Walter N. Heine, Director, Office of Surface Mining, members of the state legislature, and members of the coal industry. The purpose of the meeting is to discuss the anthracite provisions of the Pennsylvania permanent regulatory program. In accordance with the Department of the Interior's guidelines on ex parte communication (44 FR 54444–54445, September 19, 1979), OSM is announcing the meeting, will place a summary of the meeting in the Administrative Record, and is seeking public comment on the anthracite provisions of the Pennsylvania program. The meeting will take place at 11:00 a.m. on August 15, 1980, in the Fulton Bank Building, Tenth Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Dated: August 13, 1980.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 80–24949 Filed 8–13–80; 3:13 pm]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1571–2]

Approval and Promulgation of State Implementation Plans; Notice of Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to discuss in part the results of the Environmental Protection Agency's (EPA's) review of a proposed revision to the New York State Implementation Plan for the Niagara Frontier area (Erie and Niagara Counties) and to invite public comment on EPA's proposed conditional approval. The Clean Air Act, as amended, requires that the State Implementation Plan applicable to an area not in attainment of a national ambient air quality standard be revised by January 1, 1979 to provide for attainment of the standard. The revision received from New York State is intended to meet this requirement with

regard to particulate matter, sulfur dioxide, carbon monoxide, and ozone in designated portions of the Niagara Frontier. Today's action, however, only addresses the revision's approvability with regard to attainment of the particulate matter national ambient air quality standards; on April 29, 1980 (45 FR 28371) a separate rulemaking action was published by EPA in the **Federal Register** to propose conditional approval of the revision's provisions for attainment of the sulfur dioxide, carbon monoxide, and ozone standards.

DATES: Comments must be submitted on or before October 14, 1980.

ADDRESS: Copies of the SIP revision are available for inspection at the following locations:

Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

Erie County Department of Environment and Planning, 95 Franklin Street, Buffalo, New York 14202.

Niagara County Health Department, 5467 Upper Mountain Road, Lockport, New York 14094.

Erie & Niagara Counties Regional Planning Board, Northtown Plaza, 3103 Sheridan Drive, Amherst, New York 14426.

New York State Department of Environmental Conservation, Region 9, 584 Delaware Avenue, Buffalo, New York 14202.

Copies of the "reasonably available control technology" technical support docket are available for inspection at the Environmental Protection Agency, Public Information Reference Unit and Region II offices, and New York State Department of Environmental Conservation, Region 9 and Division of Air Offices, addresses specified above.

Written comments should be sent to: Charles S. Warren, Regional Administrator, Environmental Protection Agency—Region II, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency—Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the requirements of Section 107(d) of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) published in the **Federal Register** (44 FR 5119, January 25, 1979) a list of the attainment status designations with respect to each national ambient air quality standard for every area within New York State. These designations represent revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the **Federal Register** at 43 FR 8962. The reader is referred to the January 25, 1979 **Federal Register** for a detailed description of the nonattainment designations for the Niagara Frontier. In summary, all or a part of the Niagara Frontier Air Quality Control Region (AQCR) is designated as not meeting national ambient air quality standards for particulate matter (both primary and secondary standards), sulfur dioxide (primary standards only), carbon monoxide, and ozone.

The 1977 Amendments to the Clean Air Act added Part D to Title I of the Act. This new Part requires that for each area within a state designated as not meeting a national ambient air quality standard, a revision to the State Implementation Plan (SIP) must be adopted by the State and submitted for approval to EPA by January 1, 1979. The SIP revision is to provide for attainment of the contravened standard by no later than December 31, 1982 or, or ozone and carbon monoxide, under certain conditions specified by the Act, by no later than December 31, 1987.

The required content of the SIP revisions mandated by the Clean Air Act is described in Part D and, more generally, in Section 110(a) of the Act. These requirements are further discussed and elaborated upon in a "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas" published in the April 4, 1979 issue of the **Federal Register** at 44 FR 20372. The reader is referred to this **Federal Register** notice for a complete discussion of SIP revision requirements; these are not repeated in great detail in this notice.

The reader is also referred to several supplements to this April 4, 1979 notice which were published in the **Federal Registers** of July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182). Among other things, these notices discuss conditional approval of SIPs. EPA proposes to conditionally approve a plan where there are minor deficiencies and a state provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on items to be conditionally approved and on the deadlines for submittal which are specified in this notice. The restrictions on new major stationary source construction, also discussed in a July 2, 1979 **Federal Register** notive (44 FR 38583 and 44 FR 38471), will not apply where conditional approvals are granted unless a state fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

II. Background

In accordance with the provisions of Section 174 of the Clean Air Act, in a March 28, 1978 letter, the Governor of the State of New York designated the Erie & Niagara Counties Regional Planning Board (ENCRPB) as having primary responsibility for preparing the SIP revision for the Niagara Frontier. The ENCRPB then drew up a Memorandum of Understandin which delineated the responsibilities of other state and local governmental agencies that were given specific roles in the development of the SIP. These other governmental agencies are the New York State Department of Environmental Conservation NYSDEC), the New York State Department of Transportation (NYSDOT), the Erie County Department of Environment and Planning (ECDEP), the Niagara County Health Department (NCHD) and the Niagara Frontier Transportation Committee (NFTC). The State itself assumed responsibility for providing technical support to involved agencies, for developing stationary source emission control regulations, for carrying out new source reviews, and for developing other programs encompassing areas beyond the traditional role of local governments.

On May 25, 1979 the Governor of the State of New York formally adopted a SIP revision intended to meet the Clean Air Act's requirements for those portions of the Niagara Frontier designated as not meeting a national ambient air quality standard. The document, which was submitted on May 31, 1979, is entitled, "New York State Air Quality Implementation Plan, Niagara Frontier, Erie and Niagara Counties," May 1979. In addition, on May 23, 1979, June 13, 1979, June 18, 1979, July 25, 1979, August 10, 1979, September 26, 1979, October 1, 1979, November 13, 1979, November 14, 1979, November 27, 1979, January 3, 1980 and May 1, 1980 (2 documents) the State submitted to EPA additional information for inclusion in its SIP revision proposal. Notice of EPA receipt of the proposed SIP revision was announced in the **Federal Register** on June 28, 1979 at 44 FR 37681.

The proposed SIP revision document submitted by the State addresses

attainment of primary air quality standards for particulate matter by

requirements on traditional (i.e., non-fugitive dust) sources and to commit

Table 1.—*Predicted Effectiveness of Various Control Strategies in Reducing the Annual Geometric Mean Total Suspended Particulate Matter Concentration at the PS–4 Monitoring Location in Lackawanna, N.Y.*[1]

defined RACT as the lowest emisson limitation that a particular source is

The proposed SIP revision document submitted by the State addresses attainment of national ambient air quality standards for particular matter, sulfur dioxide, ozone, and carbon monoxide. This notice, however, deals with the SIP revision's approvability with regard to only the particulate matter standards; a separate **Federal Register** proposal dealing with the SIP's provisions for attainment of the sulfur dioxide, ozone, and carbon monoxide standards was published on April 29, 1980 at 45 FR 28371. The April 29 proposal did not deal with particulate matter because EPA's review of the plan revision had uncovered some apparent discrepancies in the data which had been used in the particulate matter control strategy adequacy demonstration. This data and its effect on the demonstration of attainment of the particulate matter primary national ambient air quality standards were subsequently reevaluated by EPA and the State and the results of this reevaluation are discussed in Section III.B of this notice. Now that this effort is completed, EPA can publish today's notice of proposed rulemaking discussing its findings and proposed action on those aspects of the SIP revision dealing with particulate matter control.

The air quality standard attainment strategies for particulate matter, as contained in the proposed SIP revision for the Niagara Frontier may be summarized as follows:

—The control of by-product coke oven emissions, to be accomplished as a result of compliance with a revised regulation, 6 NYCRR (New York Code of Rules and Regulations) Part 214, By-Product Coke Oven Batteries.
—The control of fugitive and confined emissions from basic oxygen fornaces and blast furnace casting operations, to be accomplished as a result of compliance with a new regulation, 6 NYCRR Part 216, Iron and/Steel Processes.
—The continued enforcement of existing State regulations for the control of particular matter emissions.
—The development and implementation of strategies to control fugitive dust.

It should be noted that the last group of strategies, directed at the control of fugitive dust sources, is not in legally enforceable forms; it is, rather, a program of study culminating at a later time in the development of actual enforceable limitations. The State is committed to enforce these emission limitations so as to provide for attainment of primary air quality standards for particulate matter by December 31, 1982.

III. Plan Content and Review

This section describes the content of the proposed SIP revision for the Niagara Frontier, evaluates it with respect to each of the major criteria used by EPA to determine approvability, and discusses the deficiencies found by EPA through its evaluation and corrective actions which should be undertaken by the State in order to make its SIP revision fully approvable. However, as stated previously, this notice addresses the proposed revision only with regard to its provisions for attainment of the particulate matter standards; it does not deal with its provisions for attainment of sulfur dioxide, carbon monoxide, and ozone standards. These were addressed in a previously published **Federal Register** notice of proposed rulemaking.

A. SIP revisions shall be adopted by the state after reasonable notice and public hearing

The proposed SIP revision was adopted by the Governor of the State of New York on May 25, 1979 and formally submitted to EPA on May 31, 1979. A public hearing was held, after 30 days of notice, on April 5, 1979 at the Erie County Public Library Auditorium in Buffalo, New York. The State has provided documentation to identify that the necessary notices, public hearings and adoptions were carried out in such a manner as to be found acceptable to EPA.

B. The SIP revisions shall demonstrate that both primary and secondary national ambient air quality standards for particulate matter will be attained within the nonattainment area as expeditiously as practicable, but for primary standards no later than December 31, 1982

1. Primary Standards

EPA's policy with regard to demonstrating attainment of particulate matter primary standards in a non-rural area where fugitive dust causes or contributes to standard violations is discussed in the April 4, 1979 "General Preamble" (44 FR 20372). Two options were available to the State in developing its plan revision:

- to promulgate a collection of legally enforceable strategies providing for attainment of the standards by December 31, 1982, or
- to promulgate "reasonably available control technology" (RACT) requirements on traditional (i.e., non-fugitive dust) sources and to commit to study and develop control requirements for non-traditional sources of particulate matter.

The State has provided a demonstration, based on the results of a diffusion modeling analysis, that the primary standards for particulate matter will be attained by 1982 in those portions of the Niagara Frontier area currently not attaining these standards. Table 1 shows the reductions expected to be achieved as a result of the implementation of specific strategies listed therein. However, without the expected reductions from fugitive dust controls, attainment of the standards is not demonstrated. Since this strategy was not submitted by the State in an enforceable form, such reductions are not assured. Nevertheless, it should be noted that the State has provided adequate commitment to a schedule for study, adoption, and implementation of the non-traditional source measures. Therefore, as detailed in Section III.D of this notice, EPA must review the State's submission on the basis of whether or not the regulations submitted by the State provide for RACT on traditional sources.

Furthermore, EPA found that, while the diffusion model utilized was technically valid, certain discrepancies existed in the attainment demonstration data base. EPA found that the diffusion model was based on emissions inputs which underestimated true emission levels (both "base year" (1975) and "projection year" (1982)) and were overly optimistic in their estimate of emission reductions expected to occur in the future. EPA believes that this resulted from the use of uncertain emission factors and the fact that the State's regulations intended to deal with the existing air quality problem may not, as a result of enforceability problems, be as effective in reducing emissions as the model assumes them to be. However, as illustrated by Table 1, after developing "corrected" model inputs and rerunning the model, EPA found that changing the emission factors used in the analysis would not change the total reduction predicted by the State. Still, ambiguities and other enforceability problems present in the regulatory language have to be corrected to provide for consistency between assumptions made in model inputs and expected emission levels resulting from enforcement of the regulations. EPA's findings in this regard are found in Section III.D of this notice.

Table 1.—*Predicted Effectiveness of Various Control Strategies in Reducing the Annual Geometric Mean Total Suspended Particulate Matter Concentration at the PS-4 Monitoring Location in Lackawanna, N.Y.*[1] *(1975 to 1982)*

Strategy	NYS estimate		EPA estimate	
	Reduction (μg/m³)	Percent	Reduction (μg/m³)	Percent
Control of by-product coke oven emissions (revised Part 214)	24.7	39	26.0	41
Control of Basic oxygen furnaces and blast furnaces (Part 216)	5.1	8	11.2	17
Continued enforcement of existing regulations [2]	3.2	5	2.3	4
Fugitive dust controls (not in regulatory form):				
● Paving and cleaning of private roadways and parking lots	9.6	15	7.6	12
● Cleaning of public streets	3.9	7	3.1	5
● Stockpile controls	15.9	25	12.7	20
● Covers for trucks hauling loose materials	0.8	1	0.6	1
Total	63.2	100	63.5	100

[1] This monitor experienced the highest reading in the Niagara Frontier area (1975 level—142-4 μg/m³).
[2] Includes scheduled phase-out of facilities, reduced automobile emissions and enforcement of process and boiler emission limitations.

2. Secondary Standards

The State has requested an 18-month extension for the submittal of a SIP revision to demonstrate attainment of the secondary standard for particulate matter in the Niagara Frontier area. Section 110(b) of the Clean Air Act provides for such an extension. according to EPA policy (44 FR 20372, April 4, 1979), if a state demonstrates that the installation of reasonably available control technology on traditional stationary sources located in the secondary standard nonattainment area will not be sufficient to bring about attainment, then the state may be granted an extension of up to 18 months to the plan revision submittal date. The proposed SIP revision contains the required analysis and EPA proposes to find it adequate and to approve the request for an 18-month extension, until July 1, 1980, for submittal of the required plan revision. As of the date of publication for this notice, the submittal has not been received.

C. The SIP Revision Shall Require Reasonable Further Progress in the Period Before Attainment, Including Regular, Consistent Reductions Sufficient To Assure Attainment by the Required Date

As regards attainment of the primary ambient air quality standards, the State has presented tables and graphs depicting the change in emissions which will occur over time as the plan is implemented. However, these analyses are predicated on the enforcement of certain regulatory revisions which EPA has found to be deficient (see Section III.D of this notice). Nevertheless, if the conditions on approval proposed in today's notice are met by the State, this will serve to correct these deficiencies and validate the State's analyses. As such, EPA considers the plan to be acceptable in meeting this requirement. Also, since the State has requested, and EPA proposes to approve, an 18-month extension for submission of a plan revision to address attainment of the secondary standard for particulate matter, a reasonable further progress demonstration toward attainment of this standard is not required at this time.

D. The SIP Revision Shall Provide for Implementation of All Reasonably Available Control Measures as Expeditiously as Practicable Insofar as Is Necessary To Assure Reasonable Further Progress and Attainment by the Required Date

This subsection discusses in detail each of the regulations and strategies intended to reduce particulate matter to levels commensurate with the attainment of air quality standards in the Niagara Frontier area. In reviewing the control strategies, EPA has identified several specific problems. These are concerned with enforceability and the requirement to adopt reasonably available control technology.

Enforceability is an important consideration. If emission limitations are not fully enforceable, the emission reductions assumed in demonstrating attainment of national ambient air quality standards may no longer be valid (see Section III.B of this notice) and the proposed SIP revision may no longer be approvable. Deficiencies of this nature are discussed in Sections III.D.1.a(1) and III.D.2.a of this notice.

Additionally, as discussed in the introductory material to Section III.B of this notice, in the absence of enforcable fugitive dust strategies, the State's regulations must provide for the application of reasonably available control technology on stationary sources in order to be approved. EPA has defined RACT as the lowest emisson limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. EPA articulated its definition of RACT in a December 9, 1976 memorandum from Roger Strelow, Assistant Adminstrator for Air and Waste Management, to Regional Administrators, Regions I–X, on "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas" and in the "Workshop on Requirements for Non-attainment Area Plans—Compilation of Presentations" (OAQPS No. 1.2–103, revised edition April 1978). Therefore, depending on site specific considerations, such as space or other constraints, RACT can differ for similar sources.

EPA believes that the burden of demonstrating that a regulation represents RACT rests with the State. Although EPA has not specified uniform RACT standards for the iron and steel industry, the industry judged to have the most significant impact on particulate matter primary standard nonattainment in the Niagara Frontier, it has collected data which reflects the emission limitations achieved by various iron and steel sources applying control technology. This data is available for review in the rulemaking docket on this notice at the addresses cited under "Address" at the beginning of this notice. Where a state proposes regulations which are not technically supported by EPA's data, the state must submit adequate data supporting its proposal as representing RACT. Such information has not been submitted by New York State. EPA has outlined the RACT related deficiencies in the State's regulations in Sections III.D.1.a(2) and III.D.2.b of this notice.

1. Part 214—By-Product Coke Oven Batteries

Revised 6 NYCRR Part 214, "By-Product Coke Oven Batteries," is intended to regulate emissions of particulate matter from this source. The regulation contains specific particulate matter emission limitations for coke pushing and transport to the quench tower and waste heat stack. It also contains specific limitations on visible emissions from the charging of coal, coke pushing and transport, the waste heat stacks, the oven doors and the topside of the battery.

Along with revised Part 214, New York State has submitted as part of its proposed SIP revision two adminstrative orders entered into by the New York State Department of Environmental

Conservation and the Bethlehem Steel

180 days of the regulation's effective

as a means of guaranteeing the

enforcing the SIP with regard to this

(g) Mass Emissions Testing Methods

—Ninety percent of the opacity

Conservation and the Bethlehem Steel Corporation. The two orders establish compliance schedules for the by-product coke oven batteries at Bethlehem Steel's Lackawanna, New York plant and are intended to bring the facilities into compliance with the revised Part 214 (except to the extent that the orders grant variances from the revised requirements). It should be noted that both Part 214 and the administrative orders serve to revise the compliance deadline incorporated in the currently approved SIP provisions beyond July 1, 1979. EPA has previously expressed, both to the State and to the Bethlehem Steel Corporation, its finding that these orders do not qualify as delayed compliance orders under Section 113(d) of the Clean Air Act. Therefore, as articulated in the **Federal Register** of April 4, 1979 at 44 FR 20372 (Section II.B.3, pages 20373, 20374), EPA cannot approve such compliance date extensions. Also, as discussed in Subsection III.D.1(b) of this notice, EPA is proposing to disapprove these orders. On this basis, in its enforcement of the SIP, including the collecton of penalties, EPA will not be bound by he consent decree entered into by Bethlehem Steel Corporaton and NYSDEC.

It should be further noted that Part 214, as discussed in today's notice, is a revision to an existing regulation, which is a part of the New York SIP currently in effect. In accordance with EPA's interpretation of the Clean Air Act, as articulated in the April 4, 1979 **Federal Register** at 44 FR 20372, the control requirements contained in the revised Part 214, not being inconsistent with the presently approved Part 214, do not supersede or replace the requirements of the existing regulation until the affected sources come into compliance with these new requirements. Instead, the existing requirements of Part 214 will remain as an enforceable provision of the SIP and will co-exist with the new requirements. The present emisson control requirements are to be retained in order to ensure that the affected sources do not operate without adequate emission controls while they are moving toward compliance with (or possibly challenging) the new requirements of Part 214. Failure of a source to meet an applicable existing regulatory requirement may result in appropriate enforcement action being taken, including the assessment of noncompliance penalties.

a. Part 214 Deficiencies

(1) Enforceability Issues

(a) Section 214.1, "Compliance"

Section 214.1, "Compliance," requires a source affected by Part 214 to be in compliance with its provisions within 180 days of the regulation's effective date. Alternately, a later date for compliance may be established by an order of the Commissioner of the NYSDEC. It is indicated in the proposed SIP revision that such orders will be necessary with respect to the three companies in New York State which operate by-product coke oven batteries. As indicated earlier, the State has already submitted to EPA administrative orders applicable to one of the companies; no orders applicable to the other two have been submitted as yet.

Because of their effect on the attainment and maintenance of ambient air quality standards, such enforcement orders must be formally submitted and approved as SIP revisions. Therefore, with respect to any future orders, or modifications to existing orders, issued under Section 214.1 of Part 214, EPA will not be bound by any agreement between the source and the State unless the agreements provisions, if otherwise acceptable, are incorporated into the SIP through a formal SIP revision process.

(b) Section 214.2(b), "Coke pushing and transport to quench tower"

Section 214.2(b), "Coke pushing and transport to quench tower," requires the installation of equipment to control emissions from coke pushing and transport operations to a level which represents "best available control technology" (BACT). However, it also provides specific emission limitations which EPA believes do not represent BACT. Therefore, because the reference to BACT conflicts with the emission limits proposed, EPA recommends that the State review its intent in this regard.

Of major concern to EPA with regard to Section 214.2(b) is that it only specifies mass and visible emission limits on the stack discharge from the exhaust system. Since in its regulation the State has failed also to address residual fugitive emissions (leaks from or poor capture efficiency of the exhaust system), EPA believes that the State did not adequately represent the control strategy identified in its SIP revision, which assumes a certain level of emissions capture as well as control of captured emissions. Because of the regulatory structure chosen, it would be advantageous for an affected source to minimize the quantity of captured emissions since the regulatory limitation only applies to these emissions. It is possible that the State intended to associate the BACT requirement with the capture efficiency of the exhaust system. However, in view of the flexibility inherent in an interpretation of BACT, such a requirement is considered neither clear nor enforceable as a means of guaranteeing the necessary emissions capture. This issue, which also impacts on the issue of RACT, is further discussed in Subsection III.D.1.a(2)(b) of this notice.

(c) Section 214.6, "Oven door maintenance"

Section 214.6, "Oven door maintenance," establishes coke oven door maintenance procedures and work practices. However, insofar as EPA interprets the visible emission standard for coke oven doors incorporated in § 214.4(a) as the overriding requirement, the maintenance procedures and work practices contained in § 214.6 are considered only as secondary considerations. Compliance with a coke oven door maintenance provisions of § 214.6 shall not be construed to alleviate the requirement for compliance with a visible emissions standard of § 214.4(a). EPA intends to apply this interpretation unless otherwise advised by the State during the comment period. If the State indicates that this interpretation is erroneous, EPA may have to reevaluate the basis for its proposed conditional approval.

(d) Section 214.8, "Inspection Methods"

Section 214.8, "Inspection Methods," describes the methods and procedures to be used to determine compliance with the visible emission limitations in Part 214.

- Section 214.8(a) presents a method for determining compliance with the visible emission standard of § 214.2(a), related to emissions from charging operations. EPA considers that this method is not defined in a sufficient manner. The method does not address the procedure for dealing with an obscured charge or other interruptions to the observations being made of a series of charges. For example, it is necessary to clarify whether an inspector may use readings taken before and after the obscured charge or other interruption, if such readings are otherwise consecutive. In this regard, EPA proposes to condition its approval of this SIP revision on State adoption of an acceptable inspection method to include a procedure for data aggregation and reduction of discontinuous visible emission observations made of coke oven charging operations. The State must adopt and submit these revisions to EPA by January 1, 1981.
- In addition, it is not clear to EPA how the visible emission standard inspection procedures described in § 214.8(a) should be applied to dry coal charging systems. Nevertheless, the State has indicated that its intent is to apply the standard in § 214.2(a) to dry coal-charged batteries. Therefore, in

enforcing the SIP with regard to this provision as it apples to conveyor type dry coal charging systems, EPA will read visible emissions only from the charging holes, offtake piping, charging buggy, drop sleeves, the interface between the charging buggy and the conveyor, the conveyor system, and any other equipment associated with the charging operation subsequent to the coal feed to the conveyor. Further, EPA intends to follow this procedure whether the conveyor system is charging the battery with wet or dry coal.

- Section 214.8(e) provides a method for determining compliance with the opacity standard of § 214.3(b) for the waste heat stack emissions. EPA considers that this method is inadequately defined in that it does not specify the procedure for aggregation and reduction of recorded values. An acceptable data reduction must be consistent with the aggregate three minute exception in the regulation. In this regard, EPA proposed to condition its approval of this SIP revision on the adoption of revisions fully describing the procedures comprising the test method. The State must adopt and submit these revisions to EPA by January 1, 1981.

(e) Section 214.9, "Exemptions"

Section 214.9, "Exemptions," provides for variances from the generally applicable emission limitations of Part 214. These variances may be granted for any one of three reasons, none of which are air quality related. However, with respect to any variances issues under § 214.9 of Part 214, EPA will not view an agreement between the source and the State as altering the SIP unless the agreement's provisions are incorporated into the SIP through a formal SIP revision process. Such a revision, in order to be approved by EPA, must consider air quality impacts.

(f) Section 214.10, "Definitions"

The definition of the end of pushing and the beginning of transport, found in § 214.10 (b) and (c) respectively, refer to the point in time when the ram begins to retract. EPA notes that a visible emissions observer frequently may not be able to observe the ram itself on batteries equipped with pushing emission controls. To the extent that it is necessary to determine this point in time, EPA, in its enforcement of the SIP, will consider the pushing period to end and the transport period to begin when the quench car begins to move, unless otherwise advised by the State during the comment period. If the State indicates that this interpretation is erroneous, EPA may have to reevaluate the basis for its proposed conditional approval.

(g) Mass Emissions Testing Methods

Part 214 contains no procedures for determining compliance with its particulate matter mass emission standards. The State has indicated that these are included in 6 NYCRR Part 202, "Emissions Testing, Sampling and Anayltical Determinations," but the procedures referenced therein are general in nature and do not specify necessary adaptations for testing coke making processes. Information regarding testing coke making sources may be found in the rulemaking docket. Consequently, EPA proposes to condition its approval of this SIP revision on State adoption of adequate test procedures. The State must adopt and submit to EPA acceptable test procedures by January 1, 1981.

(2) RACT Issues

(a) Section 214.2(a), "Charging"

Section 214.2(a), "Charging" requires visible emissions from charging coal to coke ovens to be limited to a total of 150 seconds of visible emissions of any opacity for five consecutive charges. In addition, the inspection procedure set forth in Section 214.8(a) would allow the reading from one charge in a set of twenty to be discarded. EPA has reviewed charging emissions data gathered at a number of batteries over several years and has concluded that a limitation of 20 to 25 sec of any visible emission per charge averaged over four to seven charges is technology that is reasonably available. Supporting data for this determination may be found in the rulemaking docket. In this regard, EPA proposes to condition its approval of this SIP revision on State adoption of an acceptable visible emissions standard for coke oven charging operations. The State must adopt and submit these revisions to EPA by January 1, 1981.

(b) Section 214.2(b), "Coke pushing and transport to quench tower"

As discussed in Section III.D.1.a(1)(b) of this notice, capture of pushing emissions by the required control equipment is essential to the effectiveness of the State's control strategy. This regulation does not provide adequate assurance that residual fugitive emissions will be captured. Equipment presently available to control coke pushing emissions is capable of capturing a high percentage of these emissions. EPA has concluded after reviewing visible emissions data gathered on pushing emission controls that a high degree of capture is reasonably achievable and will be provided for if one of the following fugitive emissions opacity standards is met:

—Ninety percent of the opacity observations taken at 15-second intervals are less than 20% opacity. This can be averaged over some number of consecutive pushes, e.g., four to six.

—The cumulative time that visible emissions exceed 20% opacity per push is less than six seconds, measured by a stopwatch. This can be averaged over some number of consecutive pushes e.g., four to six.

Supporting data for this determination may be found in the rulemaking docket.

Therefore, EPA proposes to condition its approval of this SIP revision on State adoption of an acceptable fugitive emissions opacity standard, including applicable inspection methods, for coke oven batteries during pushing and transport operations. The State must adopt and submit this revision to EPA by January 1, 1981.

Further, EPA finds that the mass emission limitations for coke pushing expressed in § 214.2(b) are RACT for pushing controls currently available, except sheds. The emission limitations expressed in the state's regulation are not appropriate for pushing emission control sheds because sheds typically operate continuously and at much higher gas flow rates than mobile scrubber cars or hoods with land-based controls. EPA has determined that a standard consistent with reasonably available shed technology is 0.10 lb/ton of coke pushed. Supporting data for this determination may be found in the rulemaking docket. EPA notes that no coke plant operator has yet proposed to install a cokeside shed in the Niagara Frontier. However, for a variety of technological and economic factors, sheds appear to be reemerging as a favorable control technology choice. Therefore, EPA is proposing to condition its approval of this SIP revision on State adoption of an emission limitation specific to pushing emission control shed exhausts. The State must adopt and submit this revision to EPA by January 1, 1981.

(c) Section 214.3(a), "Wet quench tower"

Section 214.3(a), "Wet quench tower," requires the installation of baffles on all wet quench towers and the use of makeup water meeting standards for total dissolved solids and total suspended solids which remain to be specified. EPA has determined that there is a linear relationship between the quality of water used to quench incandescent coke and the quantity of emissions generated by the coking process. EPA has reviewed data available to it on the use of clean quench

water and believes that limiting actual

As mentioned earlier, the proposed

reduction on the basis of six minute

- Section 216.1, "Particulate

industry, EPA believes that the State's

(oxygen blow), tapping, and fluxing

water and believes that limiting actual quench water to a maximum of 1300 mg/l total dissolved solids (TDS) or limiting quench tower sump make-up water to about 750 mg/l TDS is reasonably available control technology. EPA also notes that the State might have chosen to regulate quench tower emissions by setting a mass emission standard applicable to such emissions. However, emission tests on such sources are difficult to perform due to source configuration. Nevertheless, such an approach would also be acceptable provided specific test procedures, applicable to each individual source of this type in the State, were developed also. Based on a review of available data, EPA believes that a standard of 0.6 to 0.75 lb/ton of coke would be consistent with reasonably available quench tower emissions control technology. Supporting data for this determination may be found in the rulemaking docket. Therefore, EPA is proposing to condition its approval of the proposed revision on adoption of an acceptable limitation on the quality of water used for quenching of coke or mass emission standard applicable to quench tower emissions which must include specific test procedures applicable to each individual source of this type in the State. The State must adopt and submit this revision to EPA on or before January 1, 1981.

(d) Section 214.8, "Inspection Methods"

Sections 214.8(c) and (d) provided methods for determining compliance with the visible emission standards of § 214.4(a) and (b), respectively, regarding emissions from coke oven doors, charging hole lids and battery offtake piping. These methods provide for determining the percentage of leaks based on the total number of doors, lids, or offtakes on the battery. However, EPA believes that the allowable leakage rates for doors, lids and offtakes can only be considered RACT when the compliance calculation is based upon the total doors, lids or offtakes associated with operating ovens and not the total doors, lids or offtakes on the battery irrespective of oven operational status. Therefore, EPA proposes to condition its approval of this SIP revision on State adoption of inspection methods which include only operating ovens in determining compliance with visible emission standards for coke oven doors, charging hole lids and battery offtake piping emissions. The State must adopt and submit these revisions to EPA by January 1, 1981.

b. Administrative Orders Issued to Bethlehem Steel

As mentioned earlier, the proposed SIP revision contains two administrative orders entered into by the NYSDEC and the Bethlehem Steel Corporation. One addresses coke oven batteries 3, 4, 5, 6, 7, and 8 and the other addresses coke oven battery 9. In its review of these orders, EPA found that they suffer from the same deficiencies as noted in Part 214. In view of the numerous deficiencies, the orders, as well as the regulation, will have to undergo extensive revision. Rather than restate the deficiencies recurring in the orders, the reader is referred to Section III.D.1 of this notice. Because of these deficiencies, EPA proposes to disapprove these orders as part of the SIP. EPA disapproval would have the effect of not incorporating the orders into the provisions of the SIP but would not result in application of the Clean Air Act funding or growth limitations, insofar as the plan revision is found consistent with Part D requirements. The State is, nevertheless, encouraged to develop suitable timetables for compliance with Part 214, as revised in response to EPA's final rulemaking, for the Bethlehem Steel Corporation and resubmit these for EPA approval as SIP revisions.

EPA also notes that the orders contain the following additional problems, beyond those duplicated from the regulation, which must be corrected prior to resubmission to EPA for approval:

(1) Issues Concerning Both Orders

• Both orders contain a paragraph c.X.C indicating that, if provisions of the orders are violated as a result of "equipment malfunction, maintenance, repair or the start-up, alteration or shut-down of process operations and air cleaning devices," the State will utilize enforcement discretion "consistent with its policy." The paragraphs refer to unarticulated State policy which has not been submitted as part of any SIP revision proposal. EPA cannot approve provisions based on unwritten State policy.

• Both orders contain an Attachment C, "Procedures for Observations of Visible Emissions from Coke Ovens." Its provisions vary from those of Part 214 as follows:

—Paragraph (2), "Pushing Emission Control Systems, Coke Oven Transport Emissions and Underfire Stacks," provides for the use of EPA Reference Method 9 to determine compliance of underfire, i.e., waste heat, stacks with the visible emission standard. Since the standard contains an aggregate three minutes exception and Method 9 provides for data reduction on the basis of six minute averages, this method is inappropriate.

—Paragraph (3), "Doors," requires a single observer to apply the test procedure identified. Since it would require an individual to observe both sides of the battery during the same time interval, this requirement is inappropriate.

(2) Issues Concerning The Order Addressing Coke Oven Battery 9 Only

• Paragraphs c.III.B.7 and c.V.A.5 do not provide a final date by which emissions from coke oven doors and offtake piping must achieve compliance with applicable visible emission limitations of Part 214. Since one objective of the SIP is attainment of the primary particulate matter ambient standard by December 31, 1982, a final compliance date, consistent with the SIP control strategy time frame, is necessary for approvability as a SIP revision.

• Paragraphs c.I.C, c.I.D, c.II.E, and c.V.C provide a variance mechanism for relaxing visible emission standards applicable to charging, pushing and offtake piping emissions points after air pollution control equipment is installed and operating. Such "discretionary authority" cannot be approved as a SIP revision; however, the State can submit such variances, on a case-by-case basis, for EPA approval as SIP revisions.

• Paragraph c.III.B does not require compliance with the standard for door leaks and paragraph c.V.A.5 does not require compliance with the limitation on battery offtake piping visible emissions, contained in Part 214. Any such variance must be accompanied by an impact analysis in order to be approvable as a SIP revision. Further, since EPA does not regard the limitations for doors and offtake piping contained in the administrative order to be consistent with RACT, a justification for the variances, based on distinctive factors affecting the RACT determination for these sources, would also have to be submitted in order for EPA to approve this revision.

2. Part 216—Iron and/or Steel Processes

6 NYCRR Part 216, "Iron and/or Steel Processes," establishes particulate matter mass and visible emission limitations for iron and steel processes, including those involving blast furnaces, basic oxygen furnaces, and electric arc furnaces. The following is a discussion of the deficiencies EPA found with this regulation during its review of the proposed SIP revision.

a. Enforceability Issues

(1) Section 216.1, "Particulate emissions"

• Section 216.1, "Particulate emissions," requires blast furnaces and basic oxygen furnaces to be in compliance with their respective particulate matter mass emission limitation within 180 days of the regulation's effective date. Alternately, a later date for compliance may be established by an order of the Commissioner of the NYSDEC.

Because of their effect on the attainment and maintenance of ambient air quality standards, such enforcement orders must be formally submitted and approved as SIP revisions. Therefore, with respect to any future orders issued under Section 216.1(c) of Part 216, EPA will not be bound by any agreement between the source and the State unless the agreement's provisions, if otherwise acceptable, are incorporated into the SIP through a formal SIP revision process.

• Sections 216.1(a) and 216.1(b) set particulate emission standards for "confined" iron and/or steel processes on the date when an application for a permit to construct was recevied by the Commissioner of the NYSDEC. These paragraphs provide for allowable particulate emissions of 0.15 gr/dscf and 0.050 gr/dscf, respectively. Under § 216.(b) a source owner would be subject to the more stringent emission standard if ". . . an application for a Permit to Construct was received by the Commissioner after July 1, 1973 * * *." These provisions represent the emission limits previously applicable, under Part 212, to all iron and steel process sources which were not subject to process weight based emission limitations. (Note.—Prior to adoption of Part 216, the State had regulated emissions from these sources under Part 212, "Process and Exhaust and/or Ventilation Systems," a general process source regulation.) It is EPA's understanding that the State interprets these provisions to be based on the date that the latest permit to construct application was submitted, including applications for permits to install or modify control equipment. EPA will apply this same interpretation in its enforcement of the SIP, unless otherwise advised by State during the comment period. If the State indicates that this interpretation is erroneous, EPA may have to reevaluate the basis for its approved conditional approval.

As previously mentioned, prior to the adoption of Part 216, the State had regulated blast furnace casthouse emissions and basic oxygen furnace (BOF) primary stack emissions and secondary fugitive emissions under existing Part 212. In promulgating a separate Part 216 for the iron and steel industry, EPA believes that the State's intent was to transfer existing emission limitations applicable to such sources into a separate specific regulation, which would represent the control requirements reflected in the SIP's control strategy.

Section 216.1(c) is intended to establish control requirements for fugitive emissions from blast furnace casthouses and primary and secondary (fugitive emissions from basic oxygen furnaces. However, by specifying the limitation as a maximum concentration permitted at the outlet of the control equipment and not including a requirement related to the capture efficiency of the exhaust system, the State has not conformed the regulation to the control strategy identified in the SIP revision document. This deficiency is further exacerbated by the absence in Section 216.2 of a visible emission limitation on residual fugitive emissions and provisions, in Sections 216.2(c), for "equivalent opacity limitations." Because of this regulatory structure, it would be advantageous for an affected source to minimize the quantity of emissions captured by the emissions control system.

Section 212.7, "Opacity of emissions limited," provides a firm limitation an opacity of emissions from regulated sources. However, under Part 216, blast furnace casthouse and basic oxygen furnace shop emissions are not subject to a firm opacity standard but, rather, are addressed on the basis of an equivalent opacity, to be assigned by the State at the time compliance with mass emission standards is demonstrated.

The State's procedure for assigning equivalent opacities remains unarticulated beyond its definition of equivalent opacity in Section 200.1(v) EPA is concerned that a procedure which allows the assignment of equivalent opacities may result in costly, time consuming retesting efforts each time a violation of the opacity standard is documented. EPA believes that the procedure for assigning equivalent opacities should establish performance requirements which, if not met, would be considered a violation of regulatory requirements. In any case, any "equivalent opacity" assignments, in order to be recognized by EPA, must be submitted and approved as SIP revisions.

Further, with regard to basic oxygen furnaces shops, the State has chosen to implement a strategy, defined as "Strategy 19," specifically calling for the installation of "additional fixed or moveable hoods" to control BOF fugitive emissions resulting from the lancing (oxygen blow), tapping, and fluxing operations. It is EPA's understanding that, although § 216.1(c) does not specifically refer to either fugitive or stack emissions, the State's intention was to regulate primary stack emissions during all parts of the BOF process cycle and regulate fugitive emissions generated only by the lancing, tapping and fluxing operations. Additionally, other operations which occur in the BOF shop building and give rise to fugitive emissions, such as hot metal and scrap charging, teeming, hot metal transfer, reladling, steel ladle alloying and deskulling, are not intended to be controlled under § 216.1(c) except to the extent that such emissions may inadvertently be partially captured by either the BOF vessel(s) primary Hood(s) or any secondary emissions control system installed for the purpose of controlling fugitive emissions due to lancing, tapping and fluxing.

EPA believes that, the State's intent notwithstanding, the language of § 216.1(c) fails to require owners or operators of BOFs to carry out Strategy 19. That is, the regulation could, under some interpretations, be complied with by operating the primary hood and capturing any small fraction of emissions resulting from lancing, tapping and fluxing. Under such an interpretation, Section 216.1(c) does not require any "additional fixed or moveable hoods" to be constructed to operated to contain such emissions. EPA believes that such additional hooding is necessary to provide significant capture of fugitive emissions from BOF operations and thus be consistent with "Strategy 19," regardless of whether the captured emissions are sent to the primary control device or to a separate secondary one. Of even more concern is the possibility that the language in § 216.1(c) allows a source operator to be in compliance and avoid any additional control of emissions by showing that his uncontrolled roof monitor emissions meet the 0.050 gr/dscf limit. Such an interpretation is inconsistent with "Strategy 19" since application of the standard roof monitor emissions would permit emissions which the strategy purports to control. Further, direct measurement of roof monitor emissions and gas flows is an extremely complex undertaking which is subject to considerable speculation as to its accuracy and precision. EPA has promulgated a method for sampling roof monitor emissions from primary aluminum plant pot rooms subject to new source performance standards, Reference Method 14, 40 CFR Part 60, Appendix A. However, this method

V 45 AG 1580 UMI

requires the enclosure of the roof monitor, ducting its emissions to the atmosphere, and sampling in the duct by normal stationary source techniques with better defined error limits than methods used for direct measurement of roof monitor emissions. Generally, the enclosure of BOF roof monitors is a substantial undertaking which may be considered as part of a permanent control option but is not favored as a temporary measure to facilitate testing. The principal point, though, is that application of the 0.05 gr/dscf standard to roof monitor, as well as stack emissions is inconsistent with the State's control strategy for BOF shops.

These issues, which also impact on the RACT determination, are further discussed in Subsection III.D.2.b(1) and III.D.2.b(2) of this notice.

(2) Mass Emissions Testing Methods.

Part 216 contains no procedures for determining compliance with its particulate matter mass emission standards. The State has indicated that these are included in 6 NYCRR Part 202, "Emissions Testing, Sampling and Analytical Determinations," but the procedures referenced therein are not specific to iron or steel proceses. It is specifically noted that the mass emission limitation for particulate matter, incorporated in Section 216.1(c), is not clear as to the time period over which compliance will be determined. EPA interprets that the standard intends to require compliance at any time during which any of the operations listed (lancing, tapping, or fluxing) is in progress. Further, to clarify this requirement, EPA recommends that the State provide a definition of lancing, tapping, and fluxing. EPA, therefore, proposes to condition its approval of this SIP revision on State adoption of adequate test procedures. The State must submit to EPA acceptable test procedures by January 1, 1981.

b. RACT Issues

As discussed in Subsection III.D.2.a(1) of this notice, capture of fugitive emissions from blast furnace casthouses and BOF operations is essential to the effectiveness of the State's control strategy for these sources.

(1) Blast Furnace Casthouse Emissions

EPA believes that RACT for blast furnace casthouses must reflect a high emissions capture rate. EPA does not believe that Section 216.1(c) requires the application of RACT because, in its present form, it fails to ensure adequate emission capture.

Under provisions of Part 216, the State is requiring the installation of an exhaust system to "capture and contain" emissions from the iron notch and trough area; requiring the collected emissions to be cleaned to an allowable outlet grain loading of 0.010 gr/dscf; and establishing an equivalent opacity for systems tested and found in compliance with the mass standard. EPA interprets the term "exhaust system" to mean, at a minimum, a local or canopy hood which is mechanically evacuated, and is situated and operated so as to capture emissions from the trough and notch during every cast at a given furnace.

EPA recognizes that this regulatory approach would be consistent with RACT if adequate capture of emissions were ensured in practice. The outlet grain loading limitation of 0.010 gr/dscf does represent reasonably available control technology, based on data which is available in the rulemaking docket. However, whether a resulting control system, under the State's approach, will represent RACT would depend upon its initial and continued performance, i.e., upon the casthouse roof monitor opacity levels staying within the demonstrated capacity of the taphole system.

Several factors are critical in determining whether the State's regulatory strategy will provide for RACT control. For each individual blast furnace, the installed system must provide adequate draft to capture emissions but not excessive draft which draws in dilution air. This will be influenced by such factors as hood location and the occurrence of cross drafts. EPA believes that the State's regulation must provide for capture but not excessive draft. Adequate capture, consistent with RACT performance, may require building repairs or modifications to prevent cross-drafts from interfering with emissions capture, the enclosing of building open spaces, and the installation of partitions or air curtains within the casthouse. Further, capture performance is not time-limited. The evacuation system should be capable of operating at capacity throughout the cast. RACT level control includes capture of casthouse fugitive fume during all casts at any individual furnace. Control device sharing by more than one blast furnace is not RACT if uncontrolled casts would occur when more than one blast furnace is casting because the control device cannot handle all of the casting emissions simultaneously.

EPA, therefore, proposes to condition its approval of this SIP revision on State adoption of regulatory revisions to provide either a limitation on casthouse fugitive emissions opacity or performance criteria for proposed control system approval, including the extent and duration of emissions capture. The State must adopt and submit this revision to EPA by January 1, 1981.

Incorporating of control system performance criteria into the SIP, however, will not serve as approval of any specific control proposal for an individual furnace. All equivalent opacities assigned under Part 216 must be submitted as SIP revisions.

(2) Basic Oxygen Furnace Emissions

Beyond the factors discussed in Subsection III.D.2.a(1) of this notice, EPA believes that the State had not adequately provided for RACT on basic oxygen furnace emissions because it did not regulate emissions generated by other operations in the process cycle, e.g., charging.

Hot metal charging is a large source of particulate matter emissions. Since this operation occurs with the vessel in the turned down position, most of the emissions generated escape primary hood capture and may be emitted through the roof monitor. In developing its control strategy, the State determined that technology for controlling charging emissions was insufficiently demonstrated to be required of BOF operators. The State, however, provided that the BOF operators in the region would have to commence operation of charging emission controls after April 1, 1982, "if necessary and reasonably available."

Although the State claims technology doesn't exist or is not demonstrated for control of charging emissions, it did not submit any documentation for this assertion. EPA considers the State's conclusion to be incorrect. EPA considers technology to control charging emissions, either separately or in combination with other BOF fugitive emissions, to be demonstrated and reasonably available. Data illustrating the performance of BOF fugitive emissions control systems which control charging emissions is included in the rulemaking docket.

In addition, EPA believes that the State's failure to provide § 216.1(c) for the control of all fugitive emissions resulting from operation of the BOF vessel represents a relaxation of the control requirements for these emissions from previous requirements under Part 212.

All of the problems relating to the capture and control of emissions from BOF operation are compounded by the absence of a limitation in § 216.2 on the opacity of emissions from the BOF shop, as previously discussed (See Subsection III.D.2.a(1)). Under the State's construction, § 216.1(c) limits particulate mass emissions from basic oxygen furnace lancing, tapping and fluxing and §216.2(c) provides for the assignment of equivalent opacities to sources in compliance with requirements of § 216.1(c). As discussed in section III.D.2.a(1) of this notice, the procedure set forth by §§ 216.1(c) and 216.2(c) would conceivably encourage a source to minimize its capture of emissions.

EPA has reviewed visible emissions data from BOF shops with fugitive emissions control and has concluded that reasonably available control technology will be achieved if one of the following fugitive emission opacity standards is met:

—Visibe emissions are less than 20 to 30 percent opacity, except for a cumulative period not to exceed three minutes per consecutive sixty minutes. Readings would be taken at 15-second intervals and those readings exceeding the standard would be totaled to determine if the 3 minute exception has been exceeded.

—Visible emissions are less than 20 to 30 percent opacity, calculated on a moving two or three minute average basis. Readings would be taken at 15-second intervals.

Supporting data for this determination may be found in the rulemaking document.

Furthermore, for those emissions that would be captured and exhausted through a gas cleaner under the provisions of Part 216, as written, EPA does not believe that the outlet allowable concentration of 0.050 gr/dscf represents the performance of reasonably available control technology. (Note: As a related issue, EPA finds it unclear from the language in § 216.1(c) whether the concentration standard applies, in some flow-weighted senses to overall lancing, tapping, and fluxing emissions, or to the emissions of each operation separately—see discussion in Subsection III.D.2.a(2)). EPA has reviewed data from BOF shops, with and without fugitive emissions controls, and has concluded that reasonably available primary emissions control devices on BOF vessels can produce outlet grain loadings of 0.030 gr/dscf. Support for this conclusion includes test data from one of the two BOF shops in the Niagara Frontier. Separate secondary or fugitive emissions control systems retrofitted to existing furnaces can perform to a level of 0.010 gr/dscf. Data to support these figures may be found in the rulemaking docket.

Therefore, EPA is proposing to condition its approval of this SIP revision on State adoption of regulatory revisions to include the following:

- Capture and cleaning of BOF fugitive emissions from all operations including charging emissions.
- Installation of control equipment to capture and clean all BOF fugitive emissions from all opertions including charging emission.
- Mass emission standards for primary and secondary control devices which represent reasonably available control technology application.
- Visible emissions limitations reflecting reasonably available control technology application.

The State must submit these revisions to EPA by January 1, 1981.

(3) Sinter Plant Windbox and Discharge End Mass Emissions

The State's regulation for iron and steel processes, Part 216, does not include specific standards for sinter plants. Therefore, sinter plant emissions would be regulated under the general emission limits of Sections 216.1(a) and (b). These paragraphs provide for allowable particulate emissions of 0.15 gr/dscf and 0.050 gr/dscf, respectively.

EPA does not believe that the State's provisions for limiting emissions from sintering windboxes and discharge ends represent RACT. EPA has reviewed test data available to it for these emissions resources and has concluded that the following emission limits are achievable through the use of reasonably available control technology:

—0.02 to 0.035 gr/dscf from the outlet of the control device on the sinter plant windbox emissions.

—0.01 to 0.02 gr/dscf from the outlet of the control device on the sinter plant discharge end emission.

Supporting date for this determination may be found in the rulemaking document.

Therefore, EPA is conditioning its approval of this SIP revision on State adoption and submittal of revised mass emission limitations, representing RACT, for these emission sources, by January 1, 1981.

(4) Hot Automatic Scarfing—Mass Emissions.

Emissions from automatic scarfing machines are not specifically limited under the State's regulation for iron and steel processes, Part 216. Therefore, as with sintering emission, discussed above, emissions from automatic scarfers would be regulated under the general standards set forth in Section 216.1(a) and (b), 0.15 gr/dscf and 0.050 gr/dscf, respectively. The State's SIP projects, for 1982, the operation of three scarfing machines in the nonattainment area, two at Bethlehem Steel and one at Republic Steel. Under the State's proposed SIP regulations, the scarfers at Bethlehem Steel would be allowed to emit 0.15 gr/dscf and the one at Republic Steel 0.050 gr/dscf.

EPA has examined the scarfing emissions test data available to it and has concluded that the State's submittal does not provide for the application of RACT on scarfing machines. EPA believes that a standard of 0.022 gr/dscf, measured only during the scarfing operation, or a standard of 0.005 gr/dscf, continuously measured, is achievable through the use of reasonably available control technology. Support data for this determination may be found in the rulemaking document. Therefore, EPA is conditioning its approval of this SIP revision on State Adoption and submittal of a revised mass emissions limitation, representing RACT, for these emissions sources, by January 1, 1981.

(5) Electric Arc Furnaces

It is EPA's understanding that there are no steel industry electric arc furnaces with any substantial impact on the primary nonattainment area. Therefore, EPA is not addressing the question of whether mass emission and opacity limits in Part 216 are RACT for electric arc furnaces. This should not be construed as providing approval of Part 216 provisions with respect to RACT for electric arc furnace emission control systems.

3. Part 200—General Provisions

6 NYCRR Part 200, "General Provisions," contains definitions of the terms used in State regulations, including definition of "by-product coke oven battery" and "iron and/or steel processes." Such sources are affected by the requirements of 6 NYCRR Parts 214 and 216. A clear definition of the affected source is central to the enforceability of any regulation. As discussed in this subsection, EPA has determined that the definitions of "by-product coke oven battery" and "iron and/or steel processes" are deficient.

• Section 200.1(j), "By-product coke oven battery," provides a general designation of the equipment comprising the coke manufacturing process. In order to clarify what occurs in the process, the present definition must include a reference to the destructive distillation of coal and separation of gaseous and liquid distillates from the carbon residue or coke. To clarify which operations and equipment are covered under this definition, the following activities and equipment should specifically be mentioned: coal handling and preparation, hot coke transfer separation and cleaning of distillates, coal preheaters, fuels, and operating equipment including jumper pipes, pushing machines, door machines,

mud trucks and quench cars.

Further, it should be noted that EPA

apparent discrepancy results from the fact that Part 212 had been previously

improvements. Consequently, EPA proposes to approve the proposed SIP

In view of the State's commitment for

The State has committed to "offset"

2. Intergovernmental Involvement and Consultation

mud trucks and quench cars.
Further, it should be noted that EPA interprets the reference to control equipment to include oven patching equipment, door hoods, sheds and other hoods, either movable or stationary and with or without water sprays. The definition should be modified to include these systems. Also, because there may still be confusion regarding battery identification, particularly if two batteries share a common charging system, the definition must be sensitive to this issue. For example it could include a list of all existing batteries, including identification of the operator, plant, and other pertinent information.

• Section 200.1(dd), "Iron and/or steel processes," provides a list of processes commonly associated with or necessary to the production of iron or steel. However, item 3, "Sintering processes exluding iron-ore beneficiating processes," must be clarified. Because iron-ore beneficiating covers a wide variety of operations which may occur at any point between the mine mouth and the blast furnace, this term must be narrowed to include (and, therefore, exclude from the definition of "iron and/or steel processes") only operations occurring prior to iron-ore agglomeration, such as washing, screening, crushing, blending, and materials handling. Operations such as agglomeration, including sintering, and handling of agglomerated materials, should be included in the definition of "iron and/or steel processes."

EPA proposes to condition its approval of this SIP revision on State adoption of an acceptable definition of "by-product coke oven batteries" and clarification to the exclusion of iron-ore beneficiating processes. The State must adopt and submit these revisions to EPA by January 1, 1981.

4. Part 212—Processes and Exhaust and/or Ventilation Systems

Part 212, "Processes and Exhaust and/or Ventilation Systems," contains general limits applicable to process sources for which there are not specific regulations. When revisions to existing regulations or new regulations are promulgated to cover specific processes previously covered by Part 212, it is therefore necessary for the State to amend this Part by exempting those processes covered by the revised or new specific regulation. Such a step was taken with regard to the sources addressed by the regulations discussed in this notice.

However, in its review of the State's SIP revision submittal, EPA noted that Part 212 had been revised to a greater extent than indicated by the State. This apparent discrepancy results from the fact that Part 212 had been previously revised by the State without incorporation of these revisions into the SIP. Therefore, EPA and the State currently are enforcing different versions of Part 212. While, in order to correct this situation, the State has recently submitted as a SIP revision this regulation in its entirety, only those revisions to Part 212 exempting those processes covered by revised or new regulations are being addressed by EPA in this notice. EPA proposes to find these specific revisions to Part 212 acceptable.

5. Control of Fugitive Dust Emissions

The State has submitted a plan of study and commitment to implement fugitive dust controls. The following four control strategies are addressed in a generic fashion in the SIP revision:

—Paving and Cleaning of Private Roadways and Parking Lots
—Cleaning of Public Streets
—Stockpile Controls
—Covers for Trucks Hauling Loose Materials

The State's primary standard attainment demonstration is generally premised on an 85% reduction in fugitive dust emissions. Included is a commitment to implement fugitive dust strategies (not necessarily those evaluated in the SIP revision submittal) providing this level of control. EPA policy states that, in the case of fugitive dust (non-traditional source) controls, submission of a schedule for further study resulting in development of enforceable requirements is acceptable for approval (44 FR 20372, April 4, 1979), as long as traditional (i.s., stationary) sources are subject to RACT requirements. The conditions proposed in Sections III.D.1, 1, and 3 of this notice are directed at this issue.

E. The SIP Revisions Shall Include an Accurate, Current Inventory of Emissions That Have an Impact on the Nonattainment Area, and Provide for Annual Updates To Indicate Emissions Growth and Progress in Reducing Emissions From Existing Sources

1. General

The emissions inventory data contained in the proposed SIP revision for the Niagara Frontier area is not broken down in sufficient detail to satisfy EPA requirements. Such a breakdown is necessary in order for the impact of control strategy implementation to become readily apparent. However, throughout the proposed SIP revision, the State has committed itself to inventory improvements. Consequently, EPA proposes to approve the proposed SIP revision on the condition that by July 1, 1981 the State submit to EPA additional emission inventory data for the baseline year and projected attainment year in a format equivalent to that presented in the EPA document, *Workshop on Requirements for Nonattainment Area Plans*, April 1978.

The proposed SIP revision contains a list of point sources along with their current and projected future emissions. Area source emissions are also summarized by major source category and growth factors are identified; in general, minimal area source growth is projected. Although a number of discrepancies in the particulate matter inventories were identified by EPA in its review of the plan, they were found not to have any effect on the attainment demonstration (see Section III.B of this notice for a further discussion of this issue). Therefore, in view of the State's commitment to improve the data base, EPA proposes to find these inventories acceptable. However, the State should not lose sight of the need for continued attention to inventory improvement, especially for the steel manufacturing category.

2. Annual Reporting

The State has agreed to provide annual reports to EPA on progress made in adopting control measures, growth of new and modified major sources of air pollution, changes in emissions as required to track reasonable further progress, progress in updating the emission inventories and the results of ongoing air quality studies related to the plan.

EPA finds that the State's commitment with regard to Annual Reporting is acceptable.

3. Data Base Consistency

The following assumptions are worthy of note and it is recommended that the State review their validity through the follow-up programs just discussed:

—A general decline in economic activity is projected by the State. If State and federal efforts to encourage economic development are successful, this assumption will require reassessment and may result in a SIP revision.
—The area source "growth projections" used in development of the emissions inventory are based on population projections inconsistent with recent State-certified area-wide planning progam data, i.e., as used in the "208 program;" they are, however, consistent with the population projections believed applicable at the time of plan development.

In view of the State's commitment for inventory improvements, EPA proposes not to condition its approval of the plan revision on this issue, but calls upon the State to integrate the updated information in its emission inventory improvements as well as its follow-up studies.

F. The SIP Revision Shall Expressly Quantify the Emissions Growth Allowance, if Any, That Will Be Allowed To Result From New Major Sources or Major Modifications of Existing Sources, Which May Not Be so Large as to Jeopardize Reasonable Further Progress Toward Attainment by the Required Date. The SIP Revision Shall Require Preconstruction Review Permits for New Major Sources and Major Modifications of Existing Sources, To Be Issued in Accordance With Section 173 of the Act

In order to assure that emission increases from new stationary sources or modifications of existing stationary sources will not exceed the projected "growth allowance" incorporated in the reasonable further progress demonstration discussed in Section III.C of this notice, the State has submitted procedures providing for the "offsetting" of emissions from major sources or modifications and for the tracking of all minor and area source emission changes. The emission "offsets" will be required in accordance with a new State regulation, 6 NYCRR Part 231, "Major Facilities." Also, the State has provided adequate commitment to submit emission offset applications and supporting material to EPA as SIP revisions.

This regulation requires new major sources and major source modifications located in or significantly impacting a nonattainment area to offset new emissions by providing reductions at existing sources beyond those available from control strategies in the SIP and to meet "lowest achievable emission rate" (LAER) control technology. In addition, the regulation requires that any other major sources owned or operated by the same "person" and located in the State be in compliance or meeting the requirements of an approved compliance schedule.

A major source is defined as one having allowable emissions of 50 tons per year, 1000 pounds per day, or 100 pounds per hour of particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, or volatile organic compounds. A major modification is defined as a change to an existing source causing allowable emissions to increase by these amounts for the specified pollutants.

The State has committed to "offset" all major source emission growth and tracking minor and area source emission growth against the annual emissions accommodated for in the reasonable further progress demonstrations discussed under Section III.C of this notice. If minor and area source growth exceeds these annual emission allowances, the State will require new major sources and major modifications to obtain emission reductions not already relied upon in the plan so as to provide for reasonable further progress toward attainment of standards.

On this basis, EPA proposes to find that this requirement was adequately addressed by the State.

G. The SIP Revisions Shall Provide Identification and Commitment of the Necessary Resources To Carry Out the Part D Provisions of the Plan

These requirements were adequately addressed by the State. In its SIP revision, New York State has presented the necessary identification of and commitment to the financial and manpower resources needed to carry out the plan and its associated future studies.

H. The SIP Revisions Shall Provide Evidence of Public, Local Government, and State Legislative Involvement and Consultation

1. Public Participation and Consultation

A public participation program carried out by the Erie and Niagara Counties Regional Planning Board, the lead planning agency designated by the Governor pursuant to Section 174 of the Clean Air Act, is described in the proposed SIP revision. This public participation program made use of press conferences, public meetings and information exchange with civic, labor and interest groups. The proposed SIP indicates that all of these methods were used during its preparation and will continue to be used in the future if it has to be revised. The proposed SIP revision also contains evidence that the public is actively involved, through an intensive effort comprised of monthly progress meetings and ad-hoc meetings on special issues, in the planning process and that there is consultation, including appropriate feedback, with those affected by the issues. EPA finds that this program is, and continues to be, effective and, on this basis, proposes to find the plan acceptable in meeting this requirement.

2. Intergovernmental Involvement and Consultation

The State has identified that the lead planning agency is carrying out the meassures necessary to satisfy this requirement. Principally, this is evidenced by the membership of local governmental officals and others on a Technical Advisory Committee on plan preparation, membership on the Erie and Niagara Counties Regional Planning Board and membership on the Niagara Frontier Transportation Committee, all of which played a major role in the development of the plan revision. In addition, special meetings were held during its preparation to brief various governmental bodies on the proposed SIP's content. Again, EPA finds this program effective and, therefore, proposes to find that this requirement was satisfactorily fulfiled.

I. The SIP Revisions Shall Provide an Identification and Brief Analysis of the Air Quality, Health, Welfare, Economic, Energy, and Social Effects of the Plan Provisions Chosen and the Alternatives Considered and a Summary of the Public Comments on the Analysis

The proposed plan revision for the Niagara Frontier includes a report, *Assessment of Air Pollution Control Strategies: Economic, Social, and Energy Impacts*, intended to fulfill this requirement. EPA proposes to find that this requirement was adequately addressed.

J. The SIP Revisions Shall Provide Written Evidence That the State and Other Governmental Bodies Have Adopted the Necessary Requirements in Legally Enforceable Form, and Are Committed to Implement and Enforce the Appropriate Elements of the SIP

As discussed in Sections III.D and III.F of this notice, with the exception of certain revisions to Part 212, "Process and Exhaust and/or Ventilation Systems," the State has submitted the required stationary source control regulations in legally enforceable form. Therefore, EPA is proposing to find this aspect of the proposed SIP revision acceptable. This proposed finding by EPA is based in part on the fact that those revisions to Part 212, which are discussed in this notice and are unadopted, only serve to exempt source categories from requirements of Part 212 provisions when they are regulated under other, more specific, regulations.

EPA otherwise also finds this element to be generally acceptable in that the plan has been officially adopted by the Governor and includes commitments by responsible agencies to implement the

activities for which they are responsible. In the case of local government responsibility, resolutions are included in the plan. As noted earlier, the "fugitive dust" strategies contained in the proposed SIP are in unenforceable form. The impact of EPA's policy on this issue is discussed in Section III.D of this notice.

IV. Unfulfilled Requirements

As explained in the earlier discussion of "conditional approval" EPA will conditionally approve a plan revision if it contains minor deficiencies and if the State provides adequate assurances that it will submit corrections by specified deadlines. Accordingly, EPA proposes to conditionally approve the New York State plan revision for the Niagara Frontier, if, during the comment period, the State commits to correct the deficiencies discussed in Section II of this notice and summarized below. The appropriate subsection number is references after each proposed condition.

(1) On or before January 1, 1981 the State must adopt and submit to EPA a revised Section 214.8, "Inspection Methods," of 6 NYCRR Part 214 so as:

- to provide a procedure for data aggregation and reduction of discontinous visible emission observations made of coke oven charging operations.
- to provide a procedure for aggregation and reduction of waste heat stack opacity data.

Subsection III.D.1.a(1)(d)).

(2) On or before January 1, 1981 the State must adopt and submit to EPA adequate test procedures for determining compliance of coke making equipment with the particulate matter mass emission standards contained in 6 NYCRR Part 214 (Subsection III.D.1.a(1)(g)).

(3) On or before January 1, 1981 the State must adopt and submit to EPA a revised § 214.2(a), "Charging," of 6 NYCRR Part 214 so as to provide an acceptable visible emissions standard for coke oven charging operation (Subsection III.D.1.a(2)(a)).

(4) On or before January 1, 1981 the State must adopt and submit to EPA a revised § 214.2(b), "Coke pushing and transport to quench tower," of 6 NYCRR Part 214 so as to provide:

- a fugitive emissions opacity standard for coke oven batteries during pushing and transport operations; and
- a mass emission limitation specific to pushing emission control sheds exhausts.

(Subsection III.D.1.a(2)(b)).

(5) On or before January 1, 1981 the State must adopt and submit to EPA a revised § 214.3(a), "Wet quench tower," of 6 NYCRR Part 214 so as to provide an acceptable limitation on the quality of water used for quenching of coke or a mass emission standard, which must include specific test procedures applicable to each individual source of this type in the State. (Subsection III.D.1.a(2)(c)).

(6) On or before January 1, 1981 the State must adopt and submit to EPA revised §§ 214.8(c) and 214.8(d) in § 214.8, "Inspection Methods," of 6 NYCRR Part 214 so as to provide for inclusion of only operating ovens in determining compliance of coke oven batteries with visible emission standards for doors, charging hole lids, and offtake piping emissions (Subsection III.D.1.a(2)(d)).

(7) On or before January 1, 1981 the State must submit to EPA adequate test procedures for determining compliance of steel and iron process equipment with the particulate matter mass emission standards contained in 6 NYCRR Part 216, "Iron and/or Steel Processes" (Subsection III.D.2.a(2)).

(8) On or before January 1, 1981 the State must adopt and submit to EPA a revised 6 NYCRR Part 216 so as to provide either a limitation on casthouse fugitive emissions opacity or performance criteria for approval of proposed control systems for casthouse emissions (Subsection III.D.2.b(1)).

(9) On or before January 1, 1981 the State must adopt and submit to EPA a revised 6 NYCRR Part 216 so as to provide for:

- capture and cleaning of all BOF fugitive emissions, including charging operations;
- installation of control equipment to capture and clean all BOF fugitive emissions;
- mass emission limitations for primary and secondary control devices representing reasonably available control technology; and
- visible emission limitations reflecting reasonably available control technology.

(Subsection III.D.2.b(2))

(10) On or before January 1, 1981 the State must adopt and submit to EPA a revised 6 NYCRR Part 216 so as to provide for mass emission limitations for sinter plant windbox and discharge end emissions reflecting reasonably available control technology (Subsection III.D.2.b(3)).

(11) On or before January 1, 1981 the State must adopt and submit to EPA a revised 6 NYCRR Part 216 so as to provide for mass emission limitations for automatic scarfing machine emissions reflecting reasonably available control technology (Subsection III.D.2.b(4)).

(12) On or before January 1, 1981 the State must adopt and submit to EPA a revised 6 NYCRR Part 200, "General Provision," § 200.1(j), "By-product coke oven battery," to provide for an acceptable definition of coke oven batteries, and Section 200.1(dd), "Iron and/or steel processes," to provide clarification to the exclusion of iron-ore beneficiating processes (Subsection III.D.3).

(13) On or before July 1, 1981 the State must submit to EPA additional emission inventory data for the baseline year and projected attainment year indicated in the SIP revision document. Such data shall be in a format equivalent to that presented in the EPA document, *Workshop on Requirements for Nonattainment Area Plans*, April 1978 and shall be generated, in part, as a result of the emissions inventory improvement programs identified in the plan (Subsection III.E.1).

V. Public Comment

Interested persons are invited to comment on any element of the subject revision and on whether or not the proposed New York State Implemenation Plan revision meets Clean Air Act requirements. Comments received on or before October 14, 1980 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 908, New York, New York 10007.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110, 172, and 301 of the Clean Air Act, as amended, to advise the public that comments may be submitted on whether the proposed revision to the New York State Implementation Plan should be approved or disapproved.

Dated: July 22, 1980.

(Secs. 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-24786 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

---

40 CFR Part 60

[FRL 1417-2]

Alternate Method 1 to Reference Method 9 of Appendix A—Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar; Addition of an Alternate Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA proposed Alternate Method 1 to Reference Method 9 on July 1, 1980, 45 FR 44329. Due to numerous requests EPA is extending the comment period 60 days to September 25, 1980.

DATES: Comments on this proposed Alternate Method must be received on or before September 25, 1980.

ADDRESS: Comments should be submitted to Arthur W. Dybdahl, Chief, Remote Sensing Section, National Enforcement Investigations Center, Environmental Protection Agency, P.O. Box 25227, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT:
Arthur W. Dybdahl, 303/234-5306.

Dated: August 5, 1980.

Richard D. Wilson,

Assistant Administrator, Enforcement.

[FR Doc. 80-24757 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 358 (Sub-1)

Change of Policy, Railroad Contract Rates (Standards and Procedures)

AGENCY: Interstate Commerce Commission.

ACTION: Postponement of due date for filing comments in proposed rulemaking.

SUMMARY: This proceeding involves proposed standards for railroad contract rates. On April 29, 1980 (45 FR 28281) we requested comments by June 13, 1980. The comment date has been postponed twice previously (45 FR 39317, June 10, 1980, and 45 FR 47172, July 14, 1980) because of pending relevant legislation and currently is August 27, 1980. The Arizona Public Service Company and the Salt River Project Agricultural Improvement and Power District have requested an extension until the new legislation is enacted. At the present time, the status of the legislation is uncertain, but it clearly will not be enacted by August 27. We are therefore extending the comment due date until September 15, 1980.

DATES: Comments are now due September 15, 1980.

FOR FURTHER INFORMATION CONTACT:
Richard B. Felder (202) 275-7693.

Decided: August 11, 1980.

By the Commission, Robert C. Gresham, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24798 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

Notices

transmission facilities. Tri-State has

record will be made of the meetings and

Tower Building, Rock Island, Illinois

Notices

Federal Register
Vol. 45, No. 160
Friday, August 15, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Average Minimum Value of Donated Foods for the Period July 1, 1980, Through June 30, 1981

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

Pursuant to Section 6(e) and 17(h) of the National School Lunch Act, as amended, and the regulations governing the Donation of Foods (7 CFR Part 250) and Cash in Lieu of Commodities (7 CFR Part 240), notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 210) and per lunch and supper under the Child Care Food Program (7 CFR Part 226), shall be 15.50 cents for the period July 1, 1980 through June 30, 1981. This value was derived by applying the annual percentage change in a three-month simple average value of the Price Index Used in Schools and Institutions for March, April, and May of 1979 and for March, April, and May of 1980 (from 230.9 in 1979 to 228.5 in 1980). The Index, prescribed in section 5(b) of Pub. L. 95–627, is computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry, and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics.

The major reason that this rate is lower than had earlier been anticipated is that meat prices which comprise about half of the index, are considerably at a lower level than they were a year ago.

While the level of assistance under existing legislation is set at 15.50 cents, legislation is being considered by the Congress, which, if enacted, would reduce the rate to 13.50 cents per lunch for School Year 1981. Immediate action will be taken to issue a subsequent notice in accordance with the terms and conditions stated in the legislation, upon enactment.

(Catalog of Federal Domestic Assistance Nos. 10.555 and 10.558)

Effective Date: This notice shall be effective as of July 1, 1980.

Dated: 12 August 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-24816 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Lomex Prospecting Los Padres National Forest, San Luis Obispo County; Notice of Intent To Prepare an Environmental Impact Statement

The USDA—Forest Service will prepare an Environmental Impact Statement in response to a proposal submitted by Lomex Corporation to prospect for uranium in the Los Padres National Forest.

Lomex Corporation currently holds several mining claims in the La Panza area of the Forest and the proposed exploratory work is authorized by the Mining Law of 1872, as amended, and constitutes the assessment work required under Section 314, Title III of the Federal Land Policy and Management Act of 1976. Mining activities on public domain are authorized by Federal statute, not by Forest Service special use permits, leases or easements. The authority of the responsible official is to review and make recommendations on the operating plan as provided under the Federal Code of Regulations, Title 36, Chapter II, Part 252.

Preparation of the Environmental Impact Statement will begin with a scoping of the major issues and concerns significant to the decision. All individuals, organizations, Federal, State and local agencies who may be interested in or affected by the decision will be invited to participate in this process.

The first public meeting will be held at Santa Margarita Community Hall, Tuesday, August 26, 1980, 7:00 p.m., Santa Margarita, California.

It is anticipated that the Draft Environmental Impact Statement will be available for public review in January 1981, with a final Environmental Impact Statement to be prepared by April 1981.

Written comments, suggestions and questions concerning the proposed action should be sent to Stephen P. Horne, Forest Cultural Resources Coordinator, Los Padres National Forest, 42 Aero Camino, Goleta, California 93017.

Erwin N. Ward,

Deputy Forest Supervisor.

August 8, 1980.

[FR Doc. 80-24700 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Intent To Prepare Environmental Impact Statement and To Hold Public Scoping Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with a possible loan guarantee commitment to Tri-State Generation and Transmission Association, Inc. (Tri-State), 12076 Grant Street, Denver, Colorado 80241, for the construction of certain generation and related transmission facilities. In connection with the proposed Tri-State Project, REA also intends to hold public scoping meetings on September 15 to September 18, 1980, to aid in the Federal decisionmaking process by identifying issues and concerns to be addressed in the EIS.

Tri-State and REA have been and are exploring all viable alternatives for meeting the increasing power requirements of Tri-State's member electric distribution cooperatives as described in REA Bulletin 20–21:320–21, including (a) new generation, (b) no project, (c) conservation measures, (d) purchase power from other utilities, (e) shared generating units with other utilities, (f) alternative sites for the generating plant and transmission line, (g) alternative fuels, and (h) alternative methods of generation.

Tri-State is investigating possible siting areas within and adjacent to its service area for a site capable of supporting an ultimate 1500 MW coal-fired generating plant and related transmission facilities. Tri-State has tentatively identified four preferred sites, one located near the town of Hemingford, Nebraska and the others located near the towns of Douglas, Rawlings, and Buffalo, Wyoming. Tri-State's present preferred alternative consists of the construction of one 350 MW coal-fired generating unit and its associated transmission facilities initially, with the anticipation of adding subsequent generating units when needed. Other major facilities associated with this alternative could include, depending on the selected site, rail access for coal deliveries; truck access if coal reserves are close to the site; a water storage reservoir and/or water pipeline; environmental protection systems including a cooling system, wastewater and sewage treatment, control of sulfur dioxide, nitrogen oxides and particulates; a sludge and ash waste disposal system either on or off-site; and other ancillaries.

Public scoping meetings will be held in order to obtain public input and comments concerning the need for the project, sites and route locations, potential project and site alternatives, significant issues that should be addressed in the EIS, and other matters concerning the proposed construction. A representative of REA will act as chairperson for said meetings, and other involved Federal and State agencies are invited to send representatives. The schedule for the meetings is as follows:

Date: September 15, 1980.
Location: Jefferson Memorial Community Center, 3rd and Spruce, Rawlings, Wyoming.
Time: Starting at 7 P.M.
Date: September 16, 1980.
Location: Church Hall, Church of St. John the Baptist, East, Synder and Lobbin Ave., Buffalo, Wyoming.
Time: Starting at 7 P.M.
Date: September 17, 1980.
Location: Converse County High School Auditorium, Hamilton St., Douglas, Wyoming.
Time: Starting at 7 P.M.
Date: September 18, 1980.
Location: Congressional Church, United Church of Christ, 620 Cheyenne Ave., Hemingford, Nebraska.
Time: Starting at 7 P.M.

REA encourages the public to attend these public scoping meetings and provide their input. Any person, group or governmental entity which desires to make its comments, questions and/or recommendations in writing may do so either at the meetings or by writing to Joe S. Zoller, Assistant Administrator-Elecric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meetings and comments will be responded to in the EIS.

REA's potential financing assistance to Tri-State will be subject to, and release of funds thereunder will be contingent upon, REA's arriving at a satisfactory conclusion with respect to environmental effects. Final action will be taken only after compliance with the EIS procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 11th day of August 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-24699 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-15-M

Eastern Iowa Power & Light Cooperative; Final Environmental Impact Statement

The Rural Electrification Administration (REA) is hereby giving notice that a Final Environmental Impact Statement (FEIS), Louisa Generating Station, Louisa and Muscatine Counties, Iowa-Mississippi River, dated June 1980, was prepared by the Corps of Engineers and made available to the public through the Environmental Protection Agency's July 11, 1980, **Federal Register** Notice.

The Corps of Engineers assumed lead agency responsibility for the preparation of the Environmental Impact Statement for this project. REA participated in the preparation of this Environmental Impact Statement as a Cooperating Agency in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, and in connection with a request for a loan guarantee commitment from the Rural Electrification Administration for Eastern Iowa Power and Light Cooperative of Wilton, Iowa. This loan guarantee commitment is planned to assist in obtaining financing for a 4.6 percent undivided ownership interest in the 650 MW coal-fired steam electric Louisa Generating Station and associated transmission facilities being constructed by Iowa-Illinois Gas and Electric Company.

Additional information may be secured by request submitted to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Individual copies of the Final Environmental Impact Statement are available upon request addressed to District Engineer, U.S. Army Engineer District, Rock Island, Attention: Planning and Reports Branch, Clock Tower Building, Rock Island, Illinois 61201. The Final Environmental Impact Statement may be examined during regular business hours at: (1) The address of the COE office given above, (2) the Musser Public Library, 304 Iowa Street, Muscatine, Iowa 52761, (3) the Wapello Public Library, 119 North Second Street, Wapello, Iowa 52653, (4) the offices of Eastern Power and Light Cooperative, 600 East Fifth Street, Wilton, Iowa 52778, and (5) the U.S. Department of Agriculture, REA, Power Supply Division, Room 5829, 14th and Independence Avenue SW., Washington, D.C.

Final REA action with respect to this matter (including any release of funds) may be taken after 30 days, but only after REA has reached satisfactory conclusions with respect to environmental effects and after requirements set forth in the National Environmental Policy Act of 1969 are met.

Dated at Washington, D.C., this 7th day of August 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-24821 Filed 8-14-80; 8:45 am]

BILLING CODE 3410-15-M

Seminole Electric Cooperative, Inc., Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared an Environmental Assessment (EA) and based upon this Assessment REA made a Finding of No Significant Impact (FONSI) in connection with Seminole Electric Cooperative, Inc.'s, proposed modification of Seminole Units 1 and 2 transmission facilities.

The proposed modifications to the transmission facilities will be located in Section 35, Range 22 East, Township 14, in Marion County, Florida. The modifications include construction of a 230 kV switching station and a slight rerouting of the incoming transmission line to the Silver Springs North Switching Station to provide for an improved interconnection plan between the Seminole Plant and the bulk transmission system in the Ocala area.

Seminole prepared a Borrower's Environmental Report (BER) concerning the proposed modification. Based on this BER and other support documents REA prepared an EA. REA's independent evaluation of the project and the above-mentioned documents leads it to conclude that approval of the subject modification does not represent a major Federal action that will significantly affect the quality of the human

environment and in accordance with Sections IV B and IV D.1 of REA Bulletin

George W. Ashworth, Assistant Director, Weapons Evaluation and Control Bureau

Dated at Washington, D.C., August 8, 1980.

Joseph J. Saunders,

three separate time periods. The review has disclosed dumping margins on

variety of sizes. They are provided for in item 652.4200 of the Tariff Schedules of

	Percent margin

environment and in accordance with Sections IV B and IV D.1 of REA Bulletin 20–21: 320–21, REA has made a finding of no significant impact.

Various alternatives to the proposed project have been considered by Seminole and REA. The alternatives include no action, alternative connection points and alternative routes. It has been determined that the most economical and environmentally acceptable alternative is the proposed project.

REA has also determined that the proposed project will not adversely impact any threatened or endangered species, important farmlands, archeological and historical resources, wetlands, and floodplains.

Copies of REA's FONSI and EA, and Seminole's BER may be reviewed in the office of the Director, Room 5827, South Agriculture Building, Power Supply Division, Rural Electrification Administration, Washington, D.C. 20250, and East Busch Blvd., Suite 108, Tampa, Florida 33612.

Dated at Washington, D.C., this 7th day of August 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration

[FR Doc. 80-24822 filed 8-14-80; 8:45 am]

BILLING CODE 3410-15-M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: U.S. Arms Control and Disarmament Agency.

ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: July 29, 1980.

FOR FURTHER INFORMATION CONTACT: Hazel Wyatt, Personnel Officer, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, (202) 632–2034.

The following are the names and present titles of the individuals appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency. Each individual will serve a one year renewable term beginning on the effective date of this notice. Specific Performance Review Boards will be established as needed from this register.

George W. Ashworth, Assistant Director, Weapons Evaluation and Control Bureau
Roger G. Booth, Chief, Advanced Technology Division, Multilateral Affairs Bureau
A. M. Christopher, Deputy Assistant Director, Weapons Evaluation and Control Bureau
David M. Clinard, Assistant Director, International Security Programs Bureau
Norman G. Clyne, Executive Secretary
Thomas D. Davies, Assistant Director, Multilateral Affairs Bureau
Maurice Eisenstein, Chief, Technology Transfer Group, Weapons Evaluation and Control Bureau
Lawrence E. Finch, Deputy Assistant Director, Multilateral Affairs Bureau
Edmund S. Finegold, Chief, Arms Transfer Division, Weapons Evaluation and Control Bureau
R. Lucas Fischer, Chief, Regional Division, International Security Program Bureau
Charles C. Flowerree, U.S. Ambassador to the Committee on Disarmament
Thomas Graham, Jr., General Counsel
James T. Hackett, Administrative Director
Thomas A. Halsted, Public Affairs Adviser
Alfred J. Hartzler Deputy Chief, Office of Operations Analysis
Betty Jane Jones, Chief, International Relations Division, Multilateral Affairs Bureau
B/G John R. Lasater, Senior Military Adviser
Alfred Lieberman, Chief, Office of Operations Analysis
Margot Mazeau, Assistant General Counsel
Joerg H. Menzel, Chief, Nuclear Safeguards Division, Non-Proliferation Bureau
James Montgomery, Counselor
Robert E. Morrison, Intelligence Adviser
Alan F. Neidle, Deputy Assistant Director, Multilateral Affairs Bureau
James M. Pope, Deputy Public Affairs Adviser
Robert S. Rochlin, Deputy Assistant Director, Non-Proliferation Bureau
Philip G. Schrag, Deputy General Counsel
Owen J. Sheaks, Chief, Nuclear Energy Division, Non-Proliferation Bureau
James P. Timbie, Deputy Assistant Director, International Security Programs Bureau
Charles N. Van Doren, Assistant Director, Non-Proliferation Bureau
Richard L. Williamson, Chief, Nuclear Exports Division, Non-Proliferation Bureau

August 11, 1980.

John H. Murphy,

Acting Administrative Director.

[FR Doc. 80-24686 Filed 8-14-80; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Dockets 38223 and 38221]

Evelyn A. Lipkin v. Pan American World Airways, Inc., and Dan Moritz Jacobson v. Pan American World Airways, Inc.; Assignment of Proceeding

These proceedings are hereby assigned to Administrative Law Judge Henry M. Switkay. Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., August 8, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-24760 Filed 8-14-80; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Federal Role in the Administration of Justice

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will occur on September 16, 1980 in Hearing Room 1 of the Maritime Commission, 1100 L Street NW., Washington, D.C. An executive session not open to the public may be convened at any appropriate time before or during the hearing.

The purpose of the hearing is to collect information within the jurisdiction of the Commission, particularly concerning the role of the Federal government in the administration of justice.

The Commission is an independent bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Dated at Washington, D.C., August 12, 1980.

Arthur S. Flemming,

Chairman.

[FR Doc. 80-24829 Filed 8-14-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Racing Plates (Aluminum Horseshoes) From Canada; Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of results of administrative review of antidumping finding.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada. The scope of the review is limited to the only known producer—the Canadian Racing Plate Co.—and to three separate time periods. The review has disclosed dumping margins on shipments during two of the time periods (October 1, 1976 through September 30, 1977 and December 1, 1978 through November 30, 1979) and no imports of the racing plates during the third period (December 1, 1979 through January 31, 1980). (The period October 1, 1977 through November 30, 1978 was covered by a master list issued prior to January 1, 1980, and the issue of the Department of Commerce's obligation to conduct administrative review for entries, unliquidated as of January 1, 1980 and covered by such a master list, is under review.) As a result of the review, the Department has preliminarily decided to assess dumping duties equal to the calculated margins on shipments occurring during the periods for which margins have been found. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Linda L. Pasden, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4106).

SUPPLEMENTARY INFORMATION:

Procedural Background

On February 27, 1974, a dumping finding with respect to racing plates (aluminum horseshoes) from Canada was published in the **Federal Register** as Treasury Decision 74–77 (39 FR 7579). On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce (hereinafter referred to as "the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511–12) a notice of intent to conduct administrative review of all outstanding dumping findings. As required by Section 751 of the Tariff Act of 1930 (hereinafter referred to as the "Act"), the Department has conducted an administrative review of the finding on racing plates (aluminum horseshoes) from Canada.

Scope of the Review

Imports covered by this review are racing plates (aluminum horseshoes) used on race horses, polo, jumping, hunting, and other performing horses, as differentiated from pleasure and work horses; are made of aluminum, may have cleats or caulks and come in a variety of sizes. They are provided for in item 652.4200 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one Canadian producer or exporter of racing plates to the United States. That firm is the Canadian Racing Plate Co. Limited.

The review covers all time periods, up to the anniversary date of the finding, during which shipments by the Canadian Racing Plate Co. Limited may have been made and for which duties remain unassessed. There are three such time periods:

October 1, 1976–September 30, 1977
December 1, 1978–November 30, 1979
December 1, 1979–January 31, 1980

Statutory values were calculated and a master list issued for the period October 1, 1977 through November 30, 1978. The issue of the Department's obligation to conduct administrative review of entries, unliquidated as of January 1, 1980 and covered by this or other master lists, is under review. Liquidation has been suspended pending disposition of the issue.

United States Price

In calculating United States price the Department has used purchase price, as defined in Section 772(b) of the Act, since all sales by the Canadian Racing Plate Co. were made to unrelated purchasers. Purchase prices are ex-factory and are derived from the United States delivered price with deductions for U.S. and Canadian inland freight, brokerage charges and U.S. duty. No other deductions have been made.

Foreign Market Value

In calculating foreign market value, the Department has used home market price, as defined in Section 773(a)(1)(A) of the Act, since the Canadian Racing Plate Co. Limited sold such or similar merchandise in Canada in sufficient quantities to provide an adequate basis for comparison. Canadian Racing Plate Co. Limited sold 41 percent of its total production in the home market during the time periods involved. The home market prices are based upon the ex-factory packed price. No adjustments were made or claimed.

Results of Review

As a result of our comparison of United States price to foreign market value, I preliminarily determine that the following weighted average margins existed:

	Percent margin
October 1, 1976–September 30, 1977	6.11
December 1, 1978–November 30, 1979	62.66
December 1, 1979–January 31, 1980	(1)

[1] No sales in the United States.

Individual statutory values may vary from the percent stated above. Appraisement instructions will be issued directly to the Customs Service.

Interested parties may submit written comments on this preliminary determination on or before September 15, 1980 and may request disclosure and/or a hearing on such determination on or before September 2, 1980. Absent any comment, this determination shall become final on or before September 19, 1980.

The Department shall assess, and the U.S. Customs Service shall collect, duties on all unliquidated entries entered during the time periods involved, in amounts equal to the size of the calculated margins. Further, as required by § 353.48(b) of Commerce Regulations, a cash deposit based upon the margin on the last known shipments by the Canadian Racing Plate Co. Limited, that is, 62.66 percent of the entered value, will be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of the final determination. This latter requirement shall remain in effect until publication of the results of the next administrative review.

This administrative review and notice are in accordance with Section 751(a)(1) of the Act (93 Stat. 175, 19 U.S.C. 1675(a)(1)) and § 353.53 of Commerce Regulations (19 CFR 353.53, 45 FR 8206).

John D. Greenwald,

Deputy Assistant Secretary, Import Administration.

August 12, 1980.

[FR Doc. 80-24823 Filed 8-14-80; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate

with the Director, Statutory Import

article is intended to be used in studying

causative agents of human Schistosome

Forbes Blvd., Suite 100, Tucson AZ

Importers and Retailers' Textile

the textile and apparel industry and

with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00338. Applicant: University of California, San Diego, Department of Chemistry, B–014, La Jolla, CA 92903. Article: Rare Gas Halide Laser, Model TE–861. Manufacturer: Lumonics, Canada. Intended use of Article: The article is intended to be used as part of a laser system which will be used to explore the dynamics and mechanisms of several chemical processes in liquid solutions. This instrumentation will provide increased sensitivity, enhanced specificity and greater time resolution for determining molecular structure, kinetics, and dynamics on the time scale of a picosecond. Specific applications will include:

(1) Detailed measurements of the molecular dynamics of reactions to solution;

(2) Elucidation of intramolecular relaxation and primary photochemistry in molecules which undergo significant distortion in excited electronic states;

(3) Structural changes arising from the interaction of CO, O_2, and other ligands with hemoglobin and small model compounds;

(4) Dynamics of nucleic acid polymers and the interaction of fluorescent probes with DNA and RNA; and

(5) The study of the primary events of photosynthesis, including light harvesting, energy transfer and photooxidation-reduction in plant chloroplasts and bacterial reaction centers.

The article will also be used to train students in the use of the laser and related instrumentation in the courses: Chemistry 199-Senior Research and Chemistry 200-Graduate Research. Application received by Commissioner of Customs: June 23, 1980.

Docket No. 80–00339. Applicant: University of Utah Research Institute, Purchasing Department, 420 Chipeta Way, Suite 100, Salt Lake City, Utah 84108. Article: NMR Spectrometer, Model CXP 200 and Accessories. Manufacturer: Bruker Physik AG, West Germany. Intended use of article: The article is intended to be used in studying organic polymers, fossil fuels and other complex organic solids. Investigations will be undertaken to better understand and elucidate the structure and/or conformation of organics in the solid state. Application received by Commissioner of Customs: June 16, 1980.

Docket No. 80–00340. Applicant: Ellis Hospital, 1101 Nott Street, Schenectady, N.Y. 12308. Article: Linear Accelerator, G2800B Therac 6/Neptune. Manufacturer: Atomic Energy of Canada Limited, Canada. Intended use of article: The article is intended to be used for the study of the responses of malignant disease (tumor) to different modalities separately and in combination. The objectives pursued in the course of these investigations are two-fold: (a) ascertainment of the efficacy of specific treatment modalities for malignant tumors and (b) assessment and elimination of complications arising from such modalities. The article will also be used in the teaching of patient management in the various disciplines particularly those being treated by radiation therapy. Application received by Commissioner of Customs: June 16, 1980.

Docket No. 80–00341. Applicant: The University of Iowa, Department of Physics and Astronomy, Iowa City 52242. Article: Electrical Flight Grapple Fixture. Manufacture: SPAR Aerospace Limited, Canada. Intended use of article: The article is a piece of space flight hardware which attaches to the Plasma Diagnostics Package (PDP) so that the PDP can be picked up, manipulated and operated by the Remote Manipulator System (RMS) of the Space Transportation System. The instrumentation is suitable for measuring the plasmas waves, and fields that exist in the ambient ionosphere, and that result from preturbations induced by the motion of the large-sized Orbiter through the magnetized plasma, from "inteference" due to the Orbiter/Space lab operation systems and from modifications to the ionosphere induced by the injection of molecules into the plasma by the Orbiter cooling, reaction control and propulsion systems. Application received by Commissioner of Customs: June 16, 1980.

Docket No. 80–00342. Applicant: LaGuardia Community College, 31–10 Thompson Avenue, Long Island City, N.Y. 11101. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in a research project which involves an intrastructural study of the cercarial causative agents of human Schistosome Dermatitis. The organisms to be studied are the free living cercariae of the trematode parasites *Trichobilharzia physellae* and *Austrobilharzia veriglandis*. Various tissues of two species will be studied including the tegument, musculature, pre and postacetabular glands, digestive tract and excretory systems. The ultrastucture of the cells comprising these tissues will be investigated. Particular attention will be paid to those materials which will eventually come in contact with human skin, i.e., the outer tegument (glycocalyx), secretory products of the glands and excretory products. In addition, the article will be used as part of the Research Techniques Practicum, a one-term course designed to provide the student with selected basic research techniques necessary to pursue a specific line of research. Application received by Commissioner of Customs: June 16, 1980.

Docket No. 80–00343. Applicant: Polytechnic Institute of New York, 33 Jay Street, Brooklyn, N.Y. 11201. Article: NMR Spectrometer, Model FX–90Q(II) and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in research program in the general areas of bio-inorganic, organic, physical and polymer chemistry. Principle usage will involve ^{13}C with significant interest in other nuclei such as ^{15}N, ^{19}F and ^{31}P while less than 25% of the total usage will involve ^{1}H as the magnetic species. The research projects being conducted will involve studies of:

(1) Modified Polystyrene for Polymer Blends,

(2) Reorientational and Collisional Relaxation Processes,

(3) Modified Cycloamyloses as Efficient Enzyme Models,

(4) Ring Contraction Rearrangements in Substituted Nitrocyclohexenes,

(5) ^{13}C NMR of metal Complexes with Ligands Containing Energetically Low Lying π Systems,

(6) Borate Interaction with Sugars in Anomeric and Furanose-Pyranose Equilibrium,

(7) Molecular Geometry of Microbial Polyaccharides,

(8) Conformational Properties of Polymers with Mesogenic side Groups, and

(9) ^{31}P-NMR of Phosphine Derivatives.

In addition, the article will be used in the following formal laboratory courses: Organic Chemistry Laboratory, Physical Chemistry Laboratory, Instrumental Methods Laboratory, and Polymer Laboratory. Application received by Commissioner of Customs: June 18, 1980.

Docket No.: 80–00105. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson AZ 85705. Article: Replacement of Klystron, Model VRT 2124B6. Manufacturer: Varian Associates of Canada, Canada. Intended use of Article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: June 25, 1980.

Docket No.: 80–00332. Applicant: Ohio University, Department of Chemistry, Athens, Ohio 45701. Article: NMR Spectrometer, Model FX–90Q(II) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used for studies of samples derived from research programs in the general areas of organic, inorganic, physical, environmental and analytical chemistry and biochemistry. The following research projects will make use of FT–NMR spectrometer:

(1) Polymerization of fulvenes,

(2) Structural studies of coals,

(3) Development of an HPLC/FT–NMR interface,

(4) Metal complexes of functionalized polymers,

(5) Role of carbene intermediates in thermal reactions of acetylenes, and allenes,

(6) Effect of antioxidants on chemical carcinogenesis and the oxidation of polycyclic hydrocarbons, and

(7) Interactions of histone proteins with SV–40 DNA.

Pulsed fourier transform NMR spectra will be obtained on at least the following nuclei: ^{1}H, ^{13}C ^{19}F, ^{31}P, ^{33}S, ^{117}Sn and ^{119}Sn, in various molecules as required for the different projects. Chemical shifts coupling constants and Nuclear Overhauser Effects will be used to obtain structural information on a wide variety of molecules. In addition, the measurement of T_1, T_1 and T_2 relaxation times will be performed on projects involving the study of synthetic polymers and biopolymers. The article will also be used in the course Chem 695 (Research and Thesis) and Chem 895 (Doctoral Research and Dissertation) for educational purposes. Application received by Commissioner of Customs: July 21, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–24741 Filed 8–14–80; 8:45 am]

BILLING CODE 3510–25–M

Importers and Retailers' Textile Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Importers' and Retailers' Textile Advisory Committee will be held on September 3, 1980 at 10:30 a.m. in Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377–5078.

Dated: August 12, 1980.

Arthur Garel,

Director, Office of Textiles and Apparel.

[FR Doc. 80–24738 Filed 8–14–80; 8:45 am]

BILLING CODE 3510–25–M

Management-Labor Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on September 3, 1980 at 1:30 p.m. in Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, International Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5078.

Dated: August 12, 1980.

Arthur Garel,

Director, Office of Textiles and Apparel.

[FR Doc. 80–24740 Filed 8–14–80; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration, Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meetings, which are open to the public, will convene on Wednesday, September 3, 1980, at 1:30 p.m., reconvene on Thursday, September 4, 1980, at 9 a.m., and adjourn both days at approximately 5 p.m.; on Friday, September 5, 1980, reconvene at 8:30 a.m., but adjourn at approximately 12 noon.

ADDRESS: The meetings will take place at the Sheraton-Crest Inn, 111 East First Street, Austin, Texas.

FOR FURTHER INFORMATION CONTACT:
Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 338–2815.

Dated: August 12, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24628 Filed 8-14-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton Textile Products From Macau

August 12, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Deducting from the 1980 level established for Category 333/334/335 carryforward yardage of 4,657 dozen used during the twelve-month period which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 26, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which concerns textile products, produced or manufactured in Macau, provides, among other things, for designated percentage increases in certain specific category ceilings for carryforward during the agreement year. Carryforward is an amount borrowed from the level of restraint applicable to the affected category in the succeeding agreement year and, to the extent used, is deducted from that succeeding year's level. Pursuant to the terms of the bilateral agreement, the import level for combined category 333/334/335 is being reduced to account for carryforward used during the previous agreement period in the amount of 4,657 dozen. The adjusted twelve-month level will be 75,997 dozen.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT:
Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5423).

SUPPLEMENTARY INFORMATION: On January 30, 1980, a letter dated January 25, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (45 FR 6828), which established import restraint levels for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Macau, and exported to the United States during the twelve-month period which began on January 1, 1980. In the letter published below the Commissioner of Customs is directed in accordance with the bilateral agreement to reduce the twelve-month level of restraint previously established for combined category 333/334/335 to the 75,997 dozen. This level has not been adjusted for any imports after December 31, 1979. It will be so adjusted for the period which began on January 1, 1980 and extends through the effective date of this action.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 12, 1980.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On January 25, 1980, the Chairman of the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, of cotton textile products in combined categories 333/334/335, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on August 18, 1980, the twelve-month level established for combined categories 333/334/335 to the amount indicated:

Category	Adjusted 12-mo level of restraint (dozen)[2]
333/334/335	75,997

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the Government of Portugal and with respect to the imports of cotton textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-24730 Filed 8-14-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975. As amended between the Governments of the United States and Portugal concerning textile products from Macau, which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carry forward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 15, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 13, 1980 and May 30, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 40200 and 45 FR 36467) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 7340

Flatware, Plastic, Picnic
7340–00–170–6374
7340–00–205–3167
7340–00–205–3342
(Requirements for GSA National Capital Region)

Class 8465

Strap, Webbing, Nylon, Waist with Lower Back Pad, LC–2
8465–01–075–8164

C. W. Fletcher,

Executive Director.

[FR Doc. 80-24699 Filed 8-14-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1980 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 17, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to sumbit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 2090

Weight, Canvas Bag
2090–00–845–9150

C. W. Fletcher,

Executive Director.

[FR Doc. 80-24697 Filed 8-14-80; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Amendments to the Plywood Contract of the Chicago Board of Trade Having Major Economic Significance

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, section 12, 92 Stat. 871 (1978), has determined that the proposed amendments set forth below to the Plywood Contract submitted by the Chicago Board of Trade, are of major economic significance. The proposed amendments to the Plywood Contract change each regulation which contains the term "Plywood" or "Plywood Shipping Certificate" to read "Western Plywood" or "Western Plywood Shipping Certificate", respectively and in addition, alter the pricing basis and delivery procedures of the Plywood Contract.

The amendment to the Plywood Contract are printed below, showing deletions in brackets and additions italicized:

1604.01 Unit of Trading—the unit of trading for *Western* Plywood shall be a [fifty foot box car with a nine foot or wider door loaded to full visible capacity] *lot* of 36 *double* banded units of 66 pieces each (2,376 pieces, 76,032 square feet). Bids and offers may be accepted in [box car lots] *a lot (36 double banded units of 66 pieces each)* or multiples thereof.

1606.01 Price Basis—All prices of *Western* Plywood shall be basis FOB [Portland, Oregon,] *regular mill or warehouse* in multiples of ten cents (10¢) per one thousand square feet. Contracts shall not be made on any other price basis.

1636.01A New Plywood Standard, PS 1–74—Upon the effective date of PS 1–74, and thereafter, Plywood meeting the amended standards and certified under these standards will be an acceptable shipment against all outstanding contracts. [In addition, Plywood meeting either standards and certified under either standards may be shipped in satisfaction of all Plywood Shipping Certificates registered, outstanding and delivered prior to April 1, 1975.] Only Plywood meeting the current standard may be shipped against *Western* Plywood Shipping Certificates registered, outstanding and delivered after April 1, 1975.

1644.01 Certificate Format—The following form of *Western* Plywood Shipping Certificate shall be used:

BOARD OF TRADE OF THE CITY OF CHICAGO WESTERN PLYWOOD SHIPPING CERTIFICATE FOR DELIVERY IN SATISFACTION OF CONTRACT FOR [BOXCAR] LOT OF WESTERN PLYWOOD. This certificate not valid unless registered by the Registrar of the Board of Trade of the City of Chicago.

(Shipper) _____

(Mill or warehouse location) _____

Shipper shall assess a premium charge of $1.65 for each day a *Western* Plywood Shipping Certificate is outstanding starting the day after date of registration by Registrar and continuing through the business day following receipt of loading orders.

Premium charges must be paid every three months after date of registration or registration shall be cancelled on request of issuer.

For value received and receipt of this document properly endorsed and lien for payment of premium charges and upon payment of freight in accordance with the provisions of Regulation 1680.01(d), the undersigned Shipper, regular for delivery under the Rules and Regulations of the Board of Trade of the City of Chicago hereby agrees to delivery [into a boxcar] 2,376 panels (76,032 square feet) of Plywood conforming to the standards of the Board of Trade of the City of Chicago and ship said Plywood in accordance with orders of lawful owner of this document and in accordance with Rules and Regulations of the Board of Trade of the City of Chicago.

1649.01 Billing—[All loadings of Plywood against Plywood Shipping Certificates shall be FOB sellers' boxcars. Shipment shall be via railroad and shipper shall prepay freight to owner's declared destination in Minnesota, Iowa, that portion of Missouri in Western Trunk Line Territory, or in the continental United States east of the Mississippi River, charging owner the lowest lawful carload freight rate from Portland, Oregon, to owners' declared destination that is applicable based on established industry weights.]

All loadings of Plywood against Western Plywood Shipping Certificates shall be basis free on board (FOB) railcar or truck at the mill or warehouse stated on the certificate. If not otherwise specified, shipment shall be via railroad with seller providing boxcar and seller shall prepay freight to owner's declared destination, charging the owner the lowest applicable carload rate from the shipper's mill or warehouse to the owner's declared destination based on established mill or

warehouse weights of the Plywood in

loading orders will be shipped no later

following the day each car is loaded, the

rate from the shipper's mill or warehouse to the owner's declared

aspects with the May 20, 1975 conversion formula as amended

DEPARTMENT OF DEFENSE

warehouse weights of the Plywood in effect at time of shipment. If owner elects to take delivery via truck, owner shall provide truck.

1680.01 Loading and Shipping of *Western* Plywood against *Western* Plywood Shipping Certificates—

(f) Shipper may elect to have shipment made from regular shipping plants or warehouses other than his own. The shipper shall remain fully and directly responsible to the owner for complete conformity of such shipments to the provisions of the shipping certificate, the futures contract, and the Rules and Regulations of the Board of Trade.

(1) In the case of rail shipments, if the shipper elects to pass its obligation to another regular shipping location, the cost freight to the owner will be the lower of cost of freight from the shipping point designated on the shipping certificate to designation or the cost of freight from the actual shipping point to destination. In the event the actual cost of freight is less than the prepaid cost of freight, the shipper passing its obligation to another regular shipping location shall return to owner, not later than the eleventh business day following the business day on which loading orders are filed, the difference between the prepaid and actual cost of freight.

(2) In the case of truck shipments if the shipper elects to pass his obligation to another regular shipping location and the cost of freight from the actual shipping point to buyer's final destination exceeds the cost of freight from the shipping point designated on the shipping certificate to destination, the buyer and seller shall agree on a just compensation for the additional freight by 3 p.m. Chicago time on the business day following the business day on which loading orders were received. If no agreement can be reached, the shipper shall at his expense bring the Plywood to the location named on the shipping certificate for pickup by the buyer.

(g) [The shipper shall have loaded on track ready for railroad pickup, either at his own regular shipping plants or warehouses, or at the regular shipping plants or warehouses of other regular shippers, by 4:00 p.m. of the tenth business day following the business day on which loading orders are filed, all loading orders filed up to a maximum of 30% of the total number of a shipper's certificates outstanding and those yet unshipped against any prior loading orders. Additional loading orders which cumulatively exceed 30% up to a maximum of 70% of a shipper's total number of certificates outstanding and those yet unshipped against prior loading orders will be shipped no later than 5 business days following the completion of shipments against the first 30% of a shipper's total certificates outstanding and those yet unshipped against prior loading orders. Where several loading orders are filed on the same business day, shipper shall endeavor, to the maximum practical extent, to accord equitable treatment to all such loading orders when complying with the foregoing formula. In no instance will shipment extend beyond 20 business days from the date of the receipt of each loading order.]

(g) Shipper shall adhere to the following schedule in providing for the loading and departure of Plywood shipments against cancelled Western Plywood Shipping Certificates, either at his own regular shipping mill or warehouse, or at the regular mill or warehouse of another regular shipper.

(1) By 4:00 p.m. on the tenth business day following the business day on which loading orders are filed, all loading orders filed upon to a maximum of 30% of the total number of a shipper's certificates outstanding and those yet unshipped against any prior loading orders.

(2) By 4:00 p.m. on the fifth business day following the completion of shipments against the first 30% of a shipper's total certificates outstanding and those yet unshipped against prior loading orders, additional loading orders which cumulatively exceed 30% up to a maximum of 70% of a shipper's total number of certificates outstanding and those yet unshipped against prior loading orders.

(3) By 4:00 p.m. of the fifth business day following the completion of shipments against the first loading orders, additional loading orders which cumulatively exceed 30% up to a maximum of 70% of a shipper's total number of certificates outstanding and those yet unshipped against prior loading orders.

(4) Where several loading orders are filed on the same business day, shipper shall endeavor, to the maximum practical extent, to accord equitable treatment to all such loading orders when complying with the foregoing schedule.

Shipper's obligation under this paragraph (g) shall be:

(a) in the case of rail delivery, to have Plywood loaded on track ready for railroad pickup; or

(b) in the case of truck delivery, to specify shipping interval so that the last day of such interval adheres to the above schedule.

(h) [Shipper shall provide the owner, not later than noon of the business day following the day each car is loaded, the date, the point of origin, car number and exact railroad routing of said car. Shipper shall furnish a copy of the bill of lading to the owner within five business days.]

In the case of a shortage of boxcars at the shipper's location, the shipper should deliver the Plywood to the owner's declared destination, by any means available, charging the owner the lowest applicable rail carload rate from the shipper's mill or warehouse to the owner's declared destination based on established mill or warehouse weights of the Plywood in the effect at time of shipment and per Regulation 1680.01(f). Shortage of boxcars does not excuse the shipper for failure to perform.

(i) Shipper shall be liable for any monetary damages sustained by owner by reason of shipper's failure to perform in accordance with the provisions of this Regulation 1680.01, and may also be subject to penalties determined by the Board of Trade [A shortage of boxcars shall not excuse the shipper for failure to perform.] Owner shall be liable for monetary damages sustained by shipper, and subject to penalties, by reason of owner's failure to perform in accordance with this Regulation. Damages and Penalties are to be determined by the Arbitration Committee, or, if the parties do not agree to arbitration, then by the Plywood Committee on the basis of a hearing.

(1) [When loading against Plywood Shipping Certificates that were exchanged for 69,120 square feet certificates, a Regular Shipper may load a 50 ft. car with 36 units of 60 pieces each plus 12 units of 18 pieces each for a total of 2,376 pieces.

If the Shipper elects to load in this manner the owner must be notified prior to loading, and a discount of 50¢ per 1,000 square feet must be credited to the account of the owner.]

1680.02 Loading and Shipment of Plywood by Rail.

(a) If certificate owner has declared rail delivery, loading of Plywood against Western Plywood Shipping Certificates shall be in boxcars furnished by the seller. Each boxcar shall be a fifty foot boxcar with a nine foot or wider door.

(b) Certificate owner shall furnish detailed shipping instructions including a declared destination and routing for each car to be shipped when he files loading orders with shipper. Owner may change the declared destination or routing of any car at any time prior to loading of said car.

(c) Shipper shall prepay freight to owner's declared destination, charging the owner the lowest applicable carload rate from the shipper's mill or warehouse to the owner's declared destination based on established mill weights of the Plywood in effect at that time.

(d) Shipper shall provide the owner, not later than noon on the business day following the day each car is loaded, the date, the point of origin, car number and exact railroad routing of said car. The shipper shall furnish a copy of the bill of lading to the owner within seven business days.

1680.03 Loading and Shipment of Plywood by Truck—

(a) If certificate owner has declared truck delivery, loading of Plywood against Western Plywood Shipping Certificate shall be FOB trucks furnished by the buyer. Trucks must be flatbed trucks and be in compliance with the rules of the appropriate governmental body to transport Plywood.

(b) By 3:30 p.m. Chicago time on the business day following the day on which a shipping certificate is cancelled and surrendered, shipper shall notify certificate owner of the shipping interval of five consecutive business days. the first day of such interval may be no earlier than the sixth business day following notification of such interval. If, pursuant to Regulation 1680.01 (f) or (i), shipper has shipment made from regular shipping plants or warehouses other than his own, he shall notify certificate owner of this together with notification of shipping interval.

(c) If trucks sufficient to completely load Plywood to be shipped do not arrive at shipping plant or warehouse ready to be loaded within such interval, owner shall pay shipper a penalty of $100 per certificate for each business day between the last day of the specified interval and arrival of sufficient trucks at shipping point. If trucks arrive within the specified interval, and between the hours of 8 a.m. and 3 p.m. local time, loading shall begin immediately upon arrival of trucks.

(d) Shipper shall furnish each truck driver with a statement certifying time of arrival, beginning of loading and completion of loading. Shipper shall sign statement and the truck driver shall sign statement leaving two copies with the shipper. The truck driver's copies shall then be endorsed by both the truck driver and the owner upon arrival at destination. Owner shall keep one copy and the truck driver the other.

1681.01 Conditions of Regularity—

(10) [The Shipper must comply in all aspects with the May 20, 1975 conversion formula as amended November 18, 1975.]

No warehouse shall be deemed suitable to be declared regular if its location, accessibility, tariffs, insurance rates or other qualifications shall depart from uniformity to the extent that its receipt as tendered in satisfaction of futures contracts will unduly depress the value of futures contracts or impair the efficacy of futures trading in this market, or if the warehouseman operating such warehouses engages in unethical or inequitable practices, or if the warehouseman fails to comply with any laws, Federal or State, or Rules and Regulations promulgated under those laws.

(11) The shipper shall provide to the Exchange the established weights for each mill or warehouse and a full explanation of how those weights are determined. The shipper shall be responsible for showing that the mill or warehouse weights meet its standards on request from the Exchange. The shipper is to notify the Exchange when current average weights of any mill or warehouse are greater (lesser) than 7.5 percent of established weights in effect at that time.

1685.01 Application for Declaration of Regularity—

Conditions of Regularity

1. The shipper must:

(5) provide to the Exchange the established weights of each mill or warehouse and an explanation of how those weights are determined. The shipper shall be responsible for showing that the mill or warehouse weights meet its standards on request from the Exchange. The shipper is to notify the Exchange when current average weights of any mill or warehouse are greater (lesser) than 7.5 percent of established weights in effect at that time.

Any person interested in submitting written data, views, or arguments on these rules should send his comments by September 15, 1980 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C., on August 12, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-24814 Filed 8-14-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Carlyle Lake and Lake Shelbyville, Ill.

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of intent to prepare a draft environmental impact statement for Carlyle Lake and Lake Shelbyville, Ill.

SUMMARY: *1. Proposed Action:* The proposed action is to prepare a Draft Environmental Impact Statement for the Carlyle Lake and Lake Shelbyville, Illinois, General Investigation study concerning the construction and operation of hydroelectric power plants at these facilities. These measures will be evaluated to determine the feasibility of dependable power.

2. Alternatives: Alternatives will include run of the river hydropower, fluctuating pool levels, changing the height of the existing dam, and no action. These alternatives will include viewing the power facilities as individual sites and as a system including both sites operated in conjunction with each other.

a. Public Involvement Program: The public involvement program began with the notification of the initiation of the study to Federal, state, and local governments and agencies in February 1980. The initial public meeting, to be held August 1980, is two-fold: first, to obtain information from the public regarding their views and concerns and second, to begin the scoping process as outlined by the Council of Environmental Quality (29 November 1978).

b. Significant Issues: Significant issues addressed in the Draft Environmental Impact Statement will include water quality, the preservation of wildlife habitat, historical and archeological sites, water releases and its impact on downstream flow, endangered species, and an analysis of the effects on the environment regarding the economically justified alternatives.

c. Lead Agency and Cooperating Agency Responsibilities: The St. Louis District Army Corps of Engineers is the lead agency responsible for the preparation of the Draft Environmental Impact Statement. Agencies actively participating in the planning process are the U.S. Fish and Wildlife Service and the Illinois Department of Conservation. Coordination will be initiated and maintained with other Federal, state and local agencies.

d. Environmental Review and

FR Doc. 79-37052 (44 FR 74764) December

SYSTEM MANAGER(S) AND ADDRESS:

P.O. Box 1211, Baltimore, MD 21203. Decentralized segments-Partial records

CONTESTING RECORD PROCEDURES:

The agency's rules for access to

SYSTEM LOCATION:

d. Environmental Review and Consultation Requirements: The completed Draft Environmental Impact Statement will be circulated to the general public (i.e., those who have expressed interest), as well as to the appropriate local, state, and Federal agencies and representatives of environmental groups. This Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. Scoping Meeting: The scoping process will be initiated in conjunction with the initial public meeting. This scoping process will continue throughout the duration of the study effort, as it is to be incorporated into the total planning process.

5. Draft Environmental Impact Statement Preparation: The Draft Environmental Impact Statement is tentatively scheduled to be completed in 1983.

ADDRESS: Questions concerning the proposed action and the Draft Environmental Impact can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 Tucker Boulevard, North, St. Louis, Missouri 63101.

Dated: August 4, 1980.

Robert J. Dacey,

Colonel, CE, District Engineer.

[FR Doc. 80-24639 Filed 8-14-80; 8:45 am]

BILLING CODE 3710-GS-M

Defense Investigative Service

Privacy Act of 1974; Corrections to Systems of Records

AGENCY: Defense Investigative Service.

ACTION: Notice of change of address for system of records.

SUMMARY: The Defense Investigative Service has moved from the Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20314, to Buzzard Point, 1900 Half St., S.W., Washington, D.C. 20324, and proposed to correct the addresses listed in the nineteen (19) systems it maintains subject to the Privacy Act 1974. The specific address changes are set forth below.

FOR FURTHER INFORMATION CONTACT: Juanita E. Morey, Assistant Record Manager, Defense Investigative Service/D0243, Telephone: 693-5013.

SUPPLEMENTARY INFORMATION: The Defense Investigative Service systems of records notices inventory subject to the Privacy Act of 1974 Pub. L. 93-579 (5 U.S.C. 552a) have been published to date in the **Federal Register** as follows:

FR Doc. 79-37052 (44 FR 74764) December 17, 1979

The proposed corrections are not within the purview of the provisions of 5 U.S.C. 552a(0) of the Act which requires the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 11, 1980.

Amendments

SYSTEM NAME:

V1-01 Privacy and Freedom of Information Request Records

SYSTEM LOCATION:

Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W. Washington, D.C. 20324.

* * * * *

NOTIFICATION PROCEDURE:

Requests should be addressed to the SYSMANAGER. The full name, date, and place of birth, Social Security Number and the approximate date of earlier requests are necessary for retrieval of information. Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W. Washington, D.C. 20324 may be visted by personnel making inquiries regarding this system. A check of personal identification will be required of all vistors making inquiries for personal records.

* * * * *

SYSTEM NAME:

V1-02 DIS Personnel Locator System

SYSTEM LOCATION:

Primary System-Administrative Division, Director for Management and Resources, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

Decentralized Segments-Field units including centers.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Division, Defense Investigative Service, 1900 Half St., S.W. Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V2-01 Inspector General Complaints

SYSTEM LOCATION:

Inspector General, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

Written request for information should contain the full name of the individual, current address and telephone number, and the identity of the DIS element with which affiliated. Visits are limited to the Information and Legal Affairs Office.

For personal visits, a check of personal identification will be required.

* * * * *

SYSTEM NAME:

V4-01 Civilian Employee Personnel Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203, and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief Civilan Personnel Branch, P.O. 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-02 Optional Personnel Management Records (OPMR)

SYSTEM LOCATION:

Primary System-Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203. Decentralized segments-Partial records are maintained at staff directorates, district headquarters, operational centers and field offices (see DoD appendix for addresses).

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-04 Civilian Applicant Records

SYSTEM LOCATION:

Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-05 Military Personnel Management Information System (MILPERS)

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-06 Civilian Personnel Management Information System (CPMIS).

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-07 Adverse Action Grievance Files and Administrative Appeals.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records, contesting contents, and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-08 EEO Complaints.

SYSTEM LOCATION:

Primary System: Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203. Decentralized Segments at Districts DIS Headquarters and centers by EEO Counselors.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

RECORDS ACCESS PROCEDURES:

Requests from individuals for access to centralized records should be addressed to Defense Investigative Service, Director of Personnel and Security, 1900 Half St., S.W., Washington, D.C. 20324. Written requests for information should contain the full name of the individual, current address and telephone number, and the name of the individual that appears on the desired file. Visits are limited to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324. For personal visits, a check of personal identification will be required. Access to decentralized segments (counseling records) by individuals concerned may be obtained locally.

CONTESTING RECORD PROCEDURES:

DIS rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-09 Merit Promotion Plan Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Civilian Personnel Branch, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-10 Military Reserve Personnel Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-11 Retired Military Personnel Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-12 Security Clearance Records.

SYSTEM LOCATION:

Primary System: Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203. Decentralized Segments at Districts DIS Headquarters and centers by EEO Counselors.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel and Security, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

RECORDS ACCESS PROCEDURES:

Requests from individuals for access to centralized records should be addressed to Defense Investigative Service, Director of Personnel and Security, 1900 Half St., S.W., Washington, D.C. 20324. Written requests for information should contain the full name of the individual, current address and telephone number, and the name of the individual that appears on the desired file. Visits are limited to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324. For personal visits, a check of personal identification will be required. Access to decentralized segments (counseling records) by individuals concerned may be obtained locally.

CONTESTING RECORD PROCEDURES:

DIS rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-13 Separation Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-14 Suggestion Files.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-15 Training Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-16 Travel Orders.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-17 Travel Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-18 Voluntary Leave Transfer Program Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4-19 Work Measurement Records.

SYSTEM LOCATION:

Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203 and Civilian Personnel Division, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324 and Chief, Civilian Personnel Branch, Defense Investigative Service, P.O. Box 1211, Baltimore, MD 21203.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V4–10 Incentive Awards.

SYSTEM LOCATION:

Civilian Personnel Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St., S.W., Washington, D.C. 20324.

* * * * *

SYSTEM NAME:

V5–01 Investigative Files System

SYSTEM LOCATION:

Defense Investigative Service, Investigative Files Division, P.O. Box 1211, Baltimore, MD 21203 has primary control over the system and is responsible for the maintenance of completed investigative records. The Special Investigations Center, 1900 Half St. SW., Washington, D.C. 20324 maintains limited categories of these records, DIS operational centers; District Offices; Field Offices; Resident Agencies, and various DIS headquarters staff elements originate and have temporary control over portions of records.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Requests should be addressed to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. The full name, date and place of birth, and social security account number are necessary for retrieval of information. More information or a notarized statement verifying the identity of requesters may be required. Information and Legal Affairs Office, 1900 Half St. SW., Washington, D.C. 20324 may be visited by personnel making inquiries regarding this system. A check of personal identification will be required of all visitors making such inquiries.

* * * * *

SYSTEM NAME:

V5–02 Defense Central Index of Investigations (DCII)

SYSTEM LOCATION:

Central Facility: Information Services Division, Personnel Investigations Center, P.O. Box 1211, Baltimore, MD 21203.

Remote Terminal Locations: Crime Records Directorate, U.S. Army Criminal Investigations Command, 2301 Chesapeake Avenue, Baltimore, MD 21222. Air Force of Special Investigations, Bolling AFB, Washington, D.C. 20332. Naval Investigative Service Headquarters, Hoffman Building 1, 2461 Eisenhower Ave., ATTN Code 30, Alexandria, VA 22331. Defense Industrial Security Clearance Office, P.O. Box 2499, Columbus, OH 43216 (DISCO). U.S. Army Investigative Records Repository, Bldg. 4452, Fort Meade, MD 20755. DIS Personnel Investigations Center, P.O. Box 1211, Baltimore, MD 21203. U.S. Army Central Personnel Clearance Facility, Bldg., 4452, Fort Meade, MD 20755. Defense Intelligence Agency, Room 2B535, ATTN RSS–3A, Pentagon, Washington, D.C. 20301. HQ Air Force Security Clearance Office, Room 5D–460, Pentagon, Washington, D.C. 20330. Office of Personnel Management, Division of Personal Investigations, Investigative Support Branch, Boyers, PA 16016.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Information required: Full name and all maiden and alias names under which files may be maintained and personal identifiers listed under RETRIEVABILITY. Note, Social Security Account Numbers may be necessary for positive identification of certain records. Office which may be visited: Information and Legal Affairs Office, 1900 Half St. SW., Washington, D.C. 20324. Proof of Identity: Check of personal documents.

* * * * *

SYSTEM NAME:

V5–03 National Agency Check (NAC) Case Control System (NCCS)

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Information required: Full name and all maiden or alias names under which files may be maintained. Personal identifiers which include date and place of birth, social security number and last four digits of military service number. Office which may be visited: Information and Legal Affairs Office, 1900 Half St. SW., Washington, D.C. 20324. Proof of Identity: Routine check of personal documents.

* * * * *

SYSTEM NAME:

V5–04 Defense Case Control System (DCCS)

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Information required: Full name and all maiden or alias names under which files may be maintained. Personal identifiers which include date and place of birth, social security number and last four digits of military service number. Office which may be visited: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Proof of Identity: Routine check of personal documents.

* * * * *

SYSTEM NAME:

V5–05 Subject and Reference Locator Records

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Requests should be addressed to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. The full name, date and place of birth, social security account number, military service numbers are required and the name and location of the post, base, or station and periods of assignment or employment so that a thorough search can be conducted. A notarized statement verifying the identity of requestors is required. Information and Legal Affairs Office, Defense Investigative Service, Washington, D.C. 20324 may be visited by personnel making inquiries regarding this system. A check of personal identification will be required of all visitors making such inquiries.

* * * * *

SYSTEM NAME:

V6–01 Personnel Security Files

SYSTEM LOCATION:

Primary System—Defense Investigative Service, Security Division, 1900 Half St. SW., Washington, D.C. 20324. Decentralized System—Partial records are maintained at working locations as a part of the Optional Personnel Management Record System described separately in this notice.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Security Division, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Information regarding the primary system may be obtained from: Security Officer, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Record access procedures:

Access to the decentralized records may be obtained at any time. Requests for access to the primary system from individuals should be addressed to: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Written requests for information should contain the full name of the individual, current address and telephone number. Visits are limited to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. For personal visits a check of personal documents will be conducted.

* * * * *

SYSTEM NAME:

V6–02 Special Compartmented Intelligence (SCI) Access File

SYSTEM LOCATION:

Security Division, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Security Division, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

NOTIFICATION PROCEDURE:

Information may be obtained from SYSMANAGER: Security Division, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324. Written requests for information should contain the full name of the individual, current address and telephone number. Visits are limited to Information and Legal Affairs Office, Defense Investigative Service, 1900 Half St. SW., Washington, D.C. 20324

* * * * *

[FR Doc. 80–24763 Filed 8–14–80; 8:45 am]
BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Intent To Prepare Environmental Impact Statement—Near-Term Acquisition of Away-From-Reactor (AFR) Spent Fuel Storage Facilities

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) pertaining to the proposed acquisition by the Department of Energy (DOE) of facilities for the near-term storage of spent nuclear fuel from commercial power reactors.

SUMMARY: DOE announces its intent to prepare an EIS, in accordance with Section 102(2)(C) of the NEPA, to provide environmental input into the choice of alternatives for providing the AFR storage capacity that will be required prior to the time a new spent fuel storage facility could be built and licensed. By proposing to acquire existing commercial AFR facilities, the U.S. Government plans to implement its announced Spent Fuel Storage Policy under which the U.S. Government would offer to accept title to domestic spent fuel and limited amounts of foreign commercial power reactor spent fuel and charge the fuel owner a fee for the services rendered by the Government. Facilities which could allow DOE to meet this need are located at West Valley, New York; Morris, Illinois; and Barnwell, South Carolina. The implementation of the Spent Fuel Policy is dependent on the Congressional approval of pending legislation to provide DOE with the necessary authority.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so. Written comments or suggestions which would assist DOE in identifying significant environmental issues and the appropriate scope of the EIS are requested. No public scoping meeting has been scheduled. However, DOE will consider the need for such a meeting after consideration of written comments received in response to this Notice of Intent. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, and hearings held at the appropriate locations. Comments on the draft will be solicited and will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the environmental impact statement may be submitted to: Mr. Michael J. Lawrence, Director, ATTN: DEIS for NTAFR, Office of Transportation and Fuel Storage, U.S. Department of Energy, Washington, D.C. 20545.

For general information on DOE's EIS process contact: NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, ATTN: Mr. Richard P. Smith, Room 4G–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585 (202)–252–4610.

DATE: Written comments postmarked on or before September 15, 1980, will be considered in the preparation of the EIS. Comments postmarked after that date will be incorporated to the extent practical.

Background Information

Spent fuel removed from a nuclear power reactor contains unfissioned nuclear fuel together with radioactive fission products. On April 7, 1977, President Carter announced that the U.S. would indefinitely defer reprocessing of spent fuel to recover the

unfissioned fuel while the U.S. and other

Policy is subject to the approval of

350 MTU of fuel. Morris could be

3. The risk of exposing the public to

existing AFR facilities (inadequate

1980, will be carefully considered in the

unfissioned fuel while the U.S. and other countries evaluate alternative fuel cycles and processes which may reduce risks of nuclear weapons proliferation. Most nuclear power plants were designed with reprocessing in mind and have limited spent fuel storage capacity.

In October 1977, DOE announced a Spent Fuel Policy for nuclear power reactors. Under this policy, as approved by the President, U.S. utilities could transfer spent fuel to the U.S. Government in exchange for payment of a fee. The U.S. Government also would be prepared to accept a limited amount of spent fuel from foreign sources when such action would contribute to meeting nonproliferation goals. Under the new policy, spent fuel transferred to the U.S. Government would be delivered to a U.S. Government-owned storage site at the user's expense. In February 1979 DOE submitted the Spent Nuclear Fuel Act of 1979 to Congress. The Act would give DOE authority to acquire or construct storage capacity, to accept fuel for storage and disposal, and to establish and collect a charge for providing these services.

The Department has developed a NEPA implementation plan for the AFR storage program based on the "tiered" approach, which is designed to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review. Under this approach, general matters are covered in generic EIS's. Subsequent narrower EIS's or environmental assessments (EA's) incorporate by reference the analysis of general issues and concentrate only on the issues specific to the subsequent decision.

The proposed Federal policy of offering AFR storage to utilities and foreign governments was the subject of the "Final Environment Impact Statement U.S. Spent Fuel Policy" (DOE/EIS–0015) issued by DOE in May 1980. This generic study concluded that the environmental and public health effects attributable to storage of fuel over the full range of alternatives considered are relatively small compared with available resources or background exposure of the population from natural radiation sources.

Following publication of the final generic EIS, the Department of Energy has made the decision to implement the U.S. Spent Fuel Policy (announced in October 1977) by the U.S. Government offering to accept title to domestic spent fuel and limited amounts of foreign commercial spent power reactor fuel and charging the fuel owner a fee for the services rendered by the Government. The implementation of the Spent Fuel Policy is subject to the approval of authorizing legislation by Congress. DOE will continue to support the enactment of such legislation and will pursue activities to support the implementation of the Spent Fuel Policy. This Record of Decision was published in the **Federal Register** by DOE on July 17, 1980 (45 FR 47903).

The environmental impacts of spent fuel handling and storage also were examined generically by the U.S. Nuclear Regulatory Commission (NRC) with a view toward developing long-range policy. The results of their study were published on August 1979 as the "Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG–0575). The NRC staff concluded that new storage capacity, in addition to that which will be available in existing reactor basins, is needed in order to avoid reactor shutdowns. They also determined that storage of spent fuel in water pools (either at the reactors or at AFR facilities) has an insignificant effect on the environment.

The next step in the "tiered" approach to the NEPA process is an EIS on the proposed acquisition of facilites to meet near-term storage demands. In response to a Congressional directive, in March 1980 DOE published a report entitled "Department of Energy Study on Spent Nuclear Fuel Storage" (DOE/SR–0004) which describes the near-term need for AFR storage capacity and the way the need could be met. As noted in that report, since it is not possible to build and license a new AFR before about 1989, DOE is considering the acquisition of existing commercial facilities which are capable of storing spent fuel. Three existing commercial facilities that are considered reasonable alternatives were designed and built to reprocess fuel. Reprocessing has been indefinitely deferred; however, the facilities have capacity to store spent fuel. The three facilities are the following:

Allied General Nuclear Services (AGNS)-Barnwell Nuclear Fuel Plant (BNFP). Located at Barnwell, South Carolina, and owned by Allied General Nuclear Service. The existing storage pool, which has never been used, could receive and store 400 metric tons of uranium (MTU) in spent fuel. The storage capacity could be increased by "reracking" (use of storage racks of a different design or arrangement than those considered in the original design) to 1750–2250 MTU capacity.

General Electric (GE)-Morris Facility. Located at Morris, Illinois, and owned by General Electric. About 350 MTU of fuel currently is in storage, and additional space is available for about 350 MTU of fuel. Morris could be reracked to a total capacity of 1100 MTU, giving an available capacity of 750 MTU.

Nuclear Fuel Services (NFS)-Western New York Nuclear Service Center (WNYNSC). Located at West Valley, New York, and owned by Nuclear Fuel Services. This plant is a reprocessing facility that was operated between 1966 and 1972. Although the fuel reprocessing operations are shutdown, the fuel storage pool contains about 165 MTU of fuel and has additional space for about 85 MTU. Preliminary studies by DOE indicate that WNYNSC could possibly be reracked to provide up to 1500 MTU capacity.

Storage of spent fuel in any of the AFR facilities would only be temporary until a repository is available for the ultimate disposal of the spent fuel. Current DOE projections show the repository beginning operations in the late 1990's.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the EIS and to solicit comments and suggestions for consideration in its preparation. This EIS will examine the environmental consequences that would result if the Federal Government were to acquire any or all of the three facilities and use them for storage of spent fuel. In the event that DOE is authorized to implement its spent fuel policy, the results of analysis to be presented in the near-term EIS will be considered by DOE in deciding how to proceed.

In addition, the EIS wil analyze the impact of not providing AFR capacity to satisfy the projected near-term AFR storage requirements but rather delaying implementation of the program until new construction can be completed. Department decisions for which this EIS will provide environmental input are: (i) acquisition of one or more of the existing commercial facilities, (ii) adaptation of facilities through reracking, and (iii) submission of licensing applications to NRC to operate facilities as AFR facilities.

Identification of Environmental and Socioeconomic Issues: As a minimum, the issues listed below will be analyzed during preparation of the EIS (the list is intended neither to be all inclusive nor a predetermination of impacts):

1. The effects on the environments of the AFR storage facilities that would result from modifying the fuel storage racks to increase storage capacities.
2. The exposure of the public to radiation as a result of routine releases of radioactivity from operation of AFR storage facilities.
3. The risk of exposing the public to radiation as a result of accidents at the AFR facilities.
4. The occupational radiation exposure of employees of the AFR facilities.
5. The risks to the public and to employees from accidents not involving radioactivity.
6. The effects on the public of transportation of spent fuel to and from the AFR facilities under normal circumstances and as a result of accidents.
7. The effects of nonradiological effluents on the environs of the facilities.
8. The probable and maximum lengths of time that interim storage in AFR water basins will be necessary or desirable and the environmental consequences thereof.
9. Compatibility with other activities ongoing or planned for the site of AFR facilities (such as interference with the waste solidification project at West Valley, New York).

Alternatives Including Proposed Action: The following alternatives will be included in the EIS:

1. "AGNS–GE–NFS" Alternative—Acquired rerack, and use all existing private facilities (AGNS, GE, NFS) for spent fuel storage.
2. "AGNS–GE" Alternative—Acquire, rerack, and use GE and AGNS.
3. "AGNS–NFS" Alternative—Acquire, rerack, and use AGNS and NFS.
4. "GE–NFS" Alternative—Acquire, rerack, and use GE and NFS.
5. "AFNS Only" Alternative—Acquire, rerack, and use AGNS only.
6. "GE Only" Alternative—Acquire, rerack, and use GE only.
7. "NFS Only" Alternative—Acquire, rerack, and use NFS only.
8. "No Action" Alternative—a. No near-term AFR storage capacity is provided. Program implementation is delayed until a new AFR is available.

b. No near-term or long-term AFR storage capacity.

The EIS will analyze the impact of measures which could reduce AFR storage demand, such as transshipping of fuel to another site where space is still available and more closely packing fuel assemblies in the reactor basins.

Among alternatives not considered in detail are reprocessing (as a matter of national policy), permanent disposal rather than interim storage (waste repository not available in near-term), interim storage in a new AFR storage facility (not available in near-term), reactor shutdown (as a matter of national policy), Government storage facilities (not licensed), no reracking at existing AFR facilities (inadequate capacity to meet demand).

Comments and Scoping

Public input concerning issues of U.S. spent fuel storage policy and programs has been received through review and comments on the "Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG–0575), August 1979, and on the "Final Environmental Impact Statement U.S. Spent Fuel Policy" (DOE/EIS–0015), May 1980. Because of this previous public involvement, no public scoping meeting for the subject EIS has been scheduled. All interested parties are invited to submit written comments or suggestions to be considered by DOE in preparation of this EIS. Attached is a preliminary draft outline for the proposed EIS which can serve as the basis for comments. DOE will consider the need for a scoping meeting after consideration of written comments on this Notice of Intent.

Upon completion of the Draft EIS, its availability will be announced in the **Federal Register**, public comments will again be solicited, and hearings will be held in the appropriate locations. Those persons not desiring to submit comments or suggestions now, but who would like to receive a copy of the draft EIS for review and comment when it is issued should notify Mr. Lawrence at the above address.

Copies of the documents currently planned to be used in the preparation of the EIS are available for inspection at:

Public Reading Room, FO1, room 6A–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC
Albuquerque Operations Office, National Atomic Museum, Kirkland Air Force Base East, Albuquerque, New Mexico
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee
Richland Operations Office, Federal Building, Richland, Washington
Energy Information Center, 111 Pine Street, San Francisco, California
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina

All comments to M. J. Lawrence postmarked on or before September 15, 1980, will be carefully considered in the preparation of the EIS. Comments postmarked after that date will also be incorporated to the extent practical.

Dated at Washington, D.C., this 6th day of August 1980.

For the United States Department of Energy.

Ruth Clusen,

Assistant Secretary for Environment.

Near-Term Away-From-Reactor (AFR) Spent Fuel Storage Facilities Acquisition EIS (NT/AFR EIS)—Draft Annotated Outline

Foreword

Why this environmental impact statement (EIS) has been prepared and how it relates to other recent reports including the following:

1. DOE/EIS–0015, Final Environmental Impact Statement, U.S. Spent Fuel Policy, May 1980.
2. NUREG–0575, Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel, August 1979.
3. DOE/SR–0004, Department of Energy Study on Spent Nuclear Fuel Storage, March 1980.
4. DOE/NE–0007, Proposed Rulemaking on the Storage and Disposal of Nuclear Waste, April 1980.
5. DOE/EIS–0046–D, Draft Environmental Impact Statement, Management of Commercially Generated Radioactive Waste, April 1979.

I. Summary

II. Need for Action

A. Background:

1. Policy
2. Previous Action
3. Purpose of NT/AFR EIS

B. Need for Spent Fuel Storage Capacity:

1. Domestic Spent Fuel—The salient points are discussed briefly in this section and in more detail in Appendix A. The basis for the capacity projections will be identified.

1.1 Planning base case (assumptions are maximum pool expansion at reactors, no transshipment between reactor sites, and maintenance of full core reserve [FCR] in reactor storage basins).

1.2 Low case (same as base case except that transshipment is assumed).

1.3 High case (same as base case except that pool expansion at reactors is assumed to occur only to the extent that is currently planned).

2. Foreign Spent Fuel: The three fuel delivery schedules identified in the Foreign EIS (DOE/EIS–0015, Vol. 3) will be discussed, including the amount of fuel involved and the implications regarding nonproliferation issues.

C. AFR Capacity Required (Domestic and Foreign): The range of required AFR capacity as a function of time for domestic and foreign spent fuel will be presented and a base case will be established.

III. Proposed Action and Alternatives

A. Potential Storage Options and Availability of AFR Storage Facilities:

1. Existing Commercial Facilities: Existing commercial facilities will be discussed briefly in this section and in greater detail in Appendix B. A brief description of each facility and capacity option, schedule of availability of each option, and estimated cost of reracking will be given. Other nuclear fuel cycle facilities in each region also will be discussed.

1.1 Allied General Nuclear Services—Barnwell Nuclear Fuel Plant (AGNS–BNFP),

1.2 General Electric—Morris Facility (GE-Morris),

1.3 Western New York Nuclear Services Center—Nuclear Fuel Services (NFS).

2. New AFR Spent Fuel Storage Facilities: Only water basin storage will be considered in this section and will be discussed briefly. Water basin storage will be discussed in greater detail in Appendix E.

3. Other Means to Provide AFR Storage Capacity Not Considered as Near-Term Alternatives: This section will briefly discuss other ways of providing AFR capacity which are not appropriate as near-term alternatives. More detailed discussion of this subject is included in Appendix F.

B. Alternatives: Of the eight alternatives to be considered in this EIS, the first seven involve the acquisition and use of one of more existing private facilities after reracking to the following capacities: AGNS-Barnwell—Reracked capacity, 2250 MTU; GE-Morris—Available capacity after rerack, 750 MTU; NFS-West Valley—Available capacity after rerack, 1500 MTU.

The program preferred by the DOE is to acquire two or more of these facilities. Alternatives 1 through 4 would satisfy this preference: 1. AGNS-Barnwell, GE-Morris, and NFS-West Valley, 4500 MTU; 2. AGNS-Barnwell and GE-Morris, 3000 MTU; 3. AGNS-Barnwell and NFS-West Valley, 3750 MTU; 4. GE-Morris and NFS-West Valley, 2250 MTU; 5. AGNS-Barnwell, 2250 MTU; 6. GE-Morris, 750 MTU; 7. NFS-West Valley, 1500 MTU.

For all alternatives listed above, the following will be determined for the high-, low-, and base-case capacity demands:

a. Date of available near-term capacity.

b. Shortfall of available capacity.

c. Shortfall of available capacity minimized by actions in the following order:

- Transshipment (intra- and/or inter-utility).
- Reduced acceptance of foreign fuel.
- Utilities' loss of reserve storage capacity.

—Reactor years without full core reserve capacity.

—Reactor years without discharge capability.

•Acceptance of no foreign fuel (except in case of national emergency) and reactor shutdown.

8. "No Action" Alternative: a. No near-term AFR storage capacity provided and program implementation delayed until a new AFR facility becomes available. b. Spent fuel storage program never implemented and no AFR capacity provided by U.S. Government. This alternative will be discussed briefly here and reference will be made to the detailed analysis in the Generic Spent Fuel Storage EIS (DOE/EIS–0015).

IV. Affected Environment and Environmental Consequences

The environmental impacts of the alternatives will be discussed briefly in this section and in greater detail in Appendix C.

A. Affected Environment: The affected environment will be summarized here for each alternative.

B. Environmental Consequences of Alternatives: The environmental consequences of each of the alternatives in Section III will be identified for each of the following categories:

1. Rerack Modification.
2. Operation: (Composite facilities and transportation effects for both normal and accident situations.)
3. Decontamination and Decommissioning (D&D): (Composite facilities and transportation effects.)
4. Capacity Shortfalls (Consequences of high and low cases).
5. Resource Commitment: (Composite facilities and transportation impacts.)
6. Safeguards and Sabotage.
7. Cumulative Impacts.

C. Mitigating Measures.

V. List of Preparers

VI. List of Agencies, Organizations, and Persons To Whom Copies of the Statement are Sent

Index

Glossary

APPENDICES

Appendix A: Demand for Domestic Spent Fuel Storage Capacity

The demand projections will be based primarily on DOE/NE–0002, Spent Fuel Storage Requirements—The Need for Away-From-Reactor Storage, January 1980.

1. At-Reactor (AR) Storage Basin:
1.1 Current Capacity
1.2 Expansion Options:
• Utility planned expansion
• DOE estimated maximum fuel pool expansion
• Regulatory and institutional considerations
1.3 Reserve Capacity:
• Full Core Reserve (FCR)
• Discharge Capacity (DC)
2. AFR Capacity Needed:
2.1 AFR capacity needed to maintain FCR
2.2 AFR capacity needed to maintain DC

A discussion of the economics of replacement power will be included for both cases.

3. Methods for Reducing the Required Storage Capacity:
3.1 Transshipment (intra- and/or inter-utility):
• Current status
• Cask availability
• Regulatory and institutional considerations
• Current plans
• Maximum possible
3.2 Extended Fuel Cycles

Appendix B: Facility Description and Expected Availability

This appendix will provide a description of each facility and capacity option considered in this EIS. The discussion will include the information needed to analyze adequately the environmental effects resulting from the use of each facility at the different capacity options. Other nuclear fuel cycle facilities in the region will be described briefly.

1. Allied General Nuclear Services—Barnwell Nuclear Fuel Plant (AGNS–BNFP)
2. General Electric—Morris Storage Facility (GE-Morris)
3. Western New York Nuclear Services Center—Nuclear Fuel Services (NFS)

The following section identifies the outline that will be followed for each facility described above.

X Introduction

X.1 Site Description:
X.1.1 Facility Location
X.1.2 Local Demography
X.1.3 Land use
X.1.4 Water Use (optional)
X.1.5 Geology and Seismicity
X.1.6 Hydrology
X.1.7 Meteorology
X.1.8 Ecology
X.2 Transportation Network
X.3 History
X.4 Current Status and Availability
X.5 Facility Description:
X.5.1 Facility Design
X.5.2 Pool Cooling and Cleanup
X.5.3 Radwaste Treatment
X.5.4 Ventilation and Off-Gas Systems
X.5.5 Auxiliary Systems
X.6 Facility Operation:
X.6.1 Spent Fuel Receiving
X.6.2 Spent Fuel Handling (emplacement in storage racks)
X.6.3 Cask Cleanup and Shipment Offsite
X.6.4 Handling Rates
X.6.5 Employment Requirements
X.6.6 Resource Commitments
X.6.7 Facility Effluents
X.6.8 Facility Decontamination and Decommissioning
X.7 Storage Capacity Options:
X.7.1 Near-term
X.7.2 Mid-term (to include new pools and dry storage where applicable—refer to Appendix G)
X.8 Scheduling and Licensing Considerations (to include the influence of possible future activities)
X.9 Other Nuclear Fuel Cycle Facilities in Region

Appendix C: Environmental Effects of Each Facility

In this appendix, the environmental effects of each capacity option listed in Appendix B will be described. This appendix and Appendix D (Environmental Effects of Transporting Spent Fuel) will form the building blocks for assessing environmental impacts. These two appendices will be comprehensive enough to support the needed site-specific action.

1. Effects of Rerack Modifications (where applicable)
2. Operations:
2.1 Radiological Effects:
2.1.1 Normal Operation:
2.1.1.1 Summary of Assumptions, Siting, Meteorology, and Population Distribution
2.1.1.2 Release of Radioactive Material
2.1.1.3 Dose Commitment
2.1.1.4 Health Effects

2.1.1.5 Effects on Biota Other Than Man
2.1.2 Accidents
2.1.3 Safeguards—Discussion of facility safeguards and sabotage will be tiered to the generic EISs.
2.2 Other Effects:
2.2.1 Socioeconomic Impacts—The following effects will be identified for the maximum year:
2.2.2 Non-radiological Effluents
2.2.3 Accidental Deaths
2.2.4 Occupational Injury
2.3 Decontamination and Decommissioning:
2.3.1 Decontamination and Decommissioning Scenario
2.3.2 Radiological Effects

Appendix D: Environmental Effects of Transporting Spent Fuel

1. Transporting Radioactive Material in the United States

The logistics of transporting radioactive material will be discussed in general for the reader who is not familiar with how radioactive material is shipped. The role of shippers and carriers will be emphasized, along with their responsibilities. Transportation effects will be referenced to other environmental documentation to the extent possible.

1.1 Applicable Regulations:
1.1.1 Organizations and their Responsibilities
1.1.2 Packaging Requirements
1.1.3 Vehicle Safety
1.1.4 Routing
1.1.5 Handling
1.1.6 Safeguards
1.2 Packaging:
1.2.1 Type B (general description)
1.2.2 Cask Descriptions
1.2.3 Cask Inventories
1.2.4 Resource Commitments
1.3 Assessment Methodology:
1.3.1 Normal Impacts (radiological and other)
1.3.2 Accident impacts (radiological and other)
2. Scenario Descriptions and Impacts
2.1 Radiological Impacts During Normal Conditions
2.2 Radiological Impacts During Accident Conditions
2.3 Other Impacts of Transportation During Normal Conditions (pollutants, dust, heat generation)
2.4 Other impacts of Transportation during Accident Conditions (injuries and deaths)
3. Physical Protection (Safeguards)
4. Decontamination and Decommissioning of Transportation Equipment

Appendix E. New AFR Spent Fuel Storage Facility

Water basin storage will be considered in this appendix based upon a DOE conceptual design.

1. Facility Description
2. Licensing and Construction Considerations

Appendix F: Potential Spent Fuel Storage Options

1. Dry Storage:
1.1 Existing Commercial Facilities
1.2 Cask Storage
1.3 New Facilities

Dry well storage as identified in *Spent Unreprocessed Fuel (SURF) Facility Evaluation Plan for the Alternative Storage Concepts* (RHO–DC–501) will be considered as well as other dry storage methods.

2. Government Facilities: Government Facilities which might possibly be adapted for storage of commercial spent fuel will be discussed.
3. Double Tier Racking
4. Pin Consolidation and Storage
5. Scheduling and Licensing Considerations: The availability of the facilities and techniques listed above will be related to near-term AFR storage requirements.

[FR Doc. 80–24890 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Requirement of Development and Submission of Annual Fuel Substitution Plans by Federal Agencies

AGENCY: Economic Regulatory Administration, Department of Energy, and Office of Management and Budget.

ACTION: Federal agencies annual fuel substitution plan.

Notice: Pursuant to the provisions of Section 1–302(a) of Executive Order 12217, dated June 18, 1980, all affected Executive Agencies are required to present annually to the Director of the Office of Management and Budget (OMB), through the Secretary of Energy (DOE), plans and cost estimates for the conversion from oil or gas use to alternate fuel use by electric powerplants (powerplants) and major fuel-burning installations (MFBIs) under their jurisdiction.

DOE is required to provide Federal agencies guidance and a schedule for completion of Annual Fuel Substitution Plans. In recognition of the brief period of time available to the agencies before they must complete their fiscal year 1982 budget requests, the following guidance will apply to the initial annual plan.

Initial Annual Plan (Fiscal Year 1982)

Each agency owning or operating powerplants or MFBIs as defined in 10 CFR 500.4 and 500.5 of the DOE regulations implementing the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C.A. § 8301 *et seq.*) (FUA) will complete and submit by September 1, 1980, an initial fuel substitution plan as a basis for its fiscal year 1982 budget request. The plan will be submitted to DOE. After review, DOE will transmit each plan to OMB. Each such plan will identify and describe fuel use conversions and replacements incorporated within the agency's fiscal year 1982 budget requests, including project descriptions and justifications.

Specifically this initial plan, shall, at a minimum, include (1) identification of powerplants and MFBIs, by location, fuel type and size, owned or operated by the affected agency if such information has not already been provided to DOE in the "Federal Facilities Powerplant and MFBI Survey, DOE Form 5020.1"; (2) identification, by unit, of fuel substitution projects planned for inclusion in the agency's fiscal year 1982 budget; and (3) justification for each project, including timing and funding details.

Subsequent Annual Plans (after fiscal year 1982)

Proposed guidelines describing the requirements for preparation and submission of Phase Two Annual Fuel Substitution Plans after the initial (fiscal year 1982) plan will be published in the near future. After consideration of comments received, final guidelines will be published in the **Federal Register.**

OMB and DOE will review the plans and the specific projects noted therein, and will respond to the agencies concerning any recommended changes to the plans. Each agency is required to include in its budget requests the funds needed to carry out the requirements of the Executive Order so that OMB may give special consideration to funding proposed conversions within overall fiscal constraints. The Department of Energy will perform general oversight, and is responsible for obtaining compliance in the development and implementation of the plans.

Where to Submit: Each agency is required to submit three copies of its initial Annual Fuel Substitution Plan by September 1, 1980, to Mr. Walter A. Romanek, Chief, Federal Facilities Branch, Office of Fuels Conversion, ERA, DOE, 2000 M Street NW., Room 3214, Washington, D.C. 20461, phone (202) 653–4262.

FOR FURTHER INFORMATION CONTACT:

Walter A. Romanek (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–4262.

Mark Arnold (Energy Conservation & Regulation Branch), Office of Management and Budget, New Executive Office Building, Room 8013, Washington, D.C. 20503, (202) 395–4525.

G. Randolph Comstock (Office of General Counsel), Department of Energy, Room 6G–087, 1000 Independence Avenue, SW.,

Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., August 7, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conservation, Economic Regulatory Administration.

[FR Doc. 80–24686 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Proposed Contract Award

AGENCY: Department of Energy.

ACTION: Notice of proposed contract award.

SUMMARY: In accordance with Department of Energy (DOE) Procurement Regulations, Title 41, Subpart 9–1.5409, published in the **Federal Register** on January 11, 1979 (44 FR 2556), DOE gives public notice that a contract award, recognizing the existence of potential organizational conflicts of interest, is in the best interests of the United States.

FOR FURTHER INFORMATION CONTACT:

Priscella Thomas, Office of Procurement Operations, Room 209, 400 First Street, NW., Washington, D.C. 20585, (202) 376–4691.

Enver Masud, Office of Utility Systems, 2000 M Street NW., Washington, D.C. 20461, (202) 653–3886.

Notice: U.S. Department of Energy.

Findings, Mitigation, and Determination

Upon the basis of the following findings and determination, the proposed contract described below is being awarded recognizing the existence of potential organizational conflicts of interest pursuant to the authority of 41 CFR 9–1.5409(a)(3).

Findings

1. The Department of Energy (DOE), Office of Utility Systems in the Economic Regulatory Administration is currently conducting a study of electric power system reliability. The completed study will be presented to the Congress in response to Section 209 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

2. Because of the time constraints imposed by PURPA, it is necessary to utilize experience gained by Systems Control, Inc. (SCI) under seperate contracts with DOE to perform certain additional studies and analyses.

3. In accordance with 41 CFR 9–1.5405, SCI provided a statement disclosing relevant information concerning its interests related to the work performed for the agency and bearing on whether it has possible organizational conflicts of interest (1) with respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

4. Based on an evaluation of the facts contained in the disclosure statement, that is, the clientele of SCI includes energy concerns as defined by Section 601(b) of PL 95–91, it has been determined that SCI may have potential organizational conflicts of interest with regard to the work required by the Office of Utility Systems, in accordance with 41 CFR 9–1.5409(a).

5. Because SCI has the exclusive capability to perform the work for the Office of Utility Systems within the time constraints, it is neither feasible nor desirable to disqualify SCI from award pursuant to 41 CFR 9–1.5409(a)(1). Furthermore, it is not possible to avoid the potential organizational conflicts of interest by the inclusion of appropriate conditions in the resulting contract, pursuant to 41 CFR 9–1.5409(a)(2).

Mitigation

Critiques of the work will be obtained from independent sources from within DOE and from outside sources. The SCI report together with the reports of several other contractors will be evaluated and utilized by DOE to prepare a Final Report for delivery to the Congress. The final conclusions and recommendations will be solely those of DOE.

Determination

In light of the above Findings and Mitigation, and in accordance with 41 CFR 9–1.5409(a)(3), the proposed contract award is in the best interests of the United States.

Dated: August 8, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80–24684 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Resource Applications National Petroleum Council Subcommittee on Emergency Preparedness; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

NAME: Subcommittee on Emergency Preparedness of the National Petroleum Council.

DATE AND TIME: Monday, September 8, 1980, 9:30 a.m.

PLACE: Madison Hotel, Mount Vernon Room, 15th and M Streets, N.W., Washington, D.C.

CONTACT: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202–252–5187.

PURPOSE OF PARENT COMMITTEE: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

TENTATIVE AGENDA: Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of issues bearing on emergency preparedness planning.

Discuss an organizational structure for the study.

Discuss a timetable for completion of the study.

Discuss any other matters pertinent to the overall assignment from the Secretary.

Public Comment (10 minute rule).

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

TRANSCRIPTS: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 8, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80–24767 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement"

under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the U.S.-Korean Agreement for Cooperation involves approval of contractual arrangements for the assignment of uranium enrichment services held by U.S. utilities necessary to support services 1,900 Megawatts electrical. The power reactors involved are Korean Electric Power Company Nuclear Units 11 and 12, and the utilization of uranium enrichment services will commence in fiscal years 1987 and 1988 respectively.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into this subsequent arrangement will not be inimical to the common defense and security. It has furthermore been determined that the assignment of these enrichment services complies with the provisons of Pub. L. 96–280 permitting the supply of additional low enriched uranium under international agreements for cooperation in the civil uses of nuclear energy.

This subsequent arrangement will take effect no sooner than September 2, 1980.

For the Department of Energy.

Dated: August 11, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80–24768 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–JA–274, to Japan, 60 grams of Uranium enriched to 0.38 percent in U–235, 60 grams of Uranium enriched to 0.81 percent in U–235, and 60 grams of Uranium enriched to 1.12 percent in U–235. These materials are to be used for ultra-centrifuge development for uranimum enrichment.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 2, 1980.

For the Department of Energy.

Dated: August 11, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Nuclear and Technical Programs.

[FR Doc. 80–24769 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale of 9.555 grams of normal uranium to the University of Saskatchewan for use as standards for calibration of equipment. This contract is designated as S–CA–297.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 2, 1980.

For the Department of Energy.

Dated: August 11, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Nuclear and Technical Programs.

[FR Doc. 80–24770 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–FC–80–005; OFC Case Nos. 56400–9073–01–12; 56400–9073–02–12; 56400–9073–03–12]

Availability of Tenative Staff Determination; Shell Oil Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff determination.

SUMMARY: On January 25, 1980, Shell Oil Company (Shell or the Company) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order granting a permanent fuels mixture exemption for each of three new major fuel burning installations (MFBIs) from certain provisions of the Powerplant and Industrial Fuel use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in new MFBIs. The petition was filed in accordance with 10 CFR Part 500, *et seq.*, implementing the provisions of FUA (Interim Rule). ERA published Final Rules relating to new facilities on June 6, 1980, (45 FR 38276 and 38302) which became effective August 5, 1980.

The MFBIs for which the petition is filed are three identical field erected boilers identified as Boilers EPP–NCR–BLR–1, –2, and –3 (Boilers No. 1, No. 2, and No. 3) to be installed at Shell's new olefins plant located in its manufacturing complex at Norco, Louisiana. Each boiler has a design heat imput rate of 820 million Btu's per hour and is rated at 600,000 pounds of steam per hour. Each boiler has a design capability of burning coal, petroleum, and a mixture of pyrolysis pitch and pyrolysis gas-oil.

In its petition, Shell proposed to burn a mixutre of pyrolysis pitch (a liquid residue by-product of its naphtha and gas-oil catalytic cracking units) and pyrolysis gas-oil in each of the three boilers. Shell contended that the pyrolysis pitch is an "alternate fuel" because it is an unavoidable waste by-product of refinery operations that is commercially unmarketable by reason of its quality. The pyrolysis gas-oil Shell proposes to use is a distillate fuel oil (gas-oil) from its catalytic cracking unit. It is a blend stock that has a lower Btu heat content and heavier gravity rating than commercial grade No. 2 fuel oil.

Shell stated that when its new olefins plant is operating at its normal design specification rate, producing products and the byproduct, pyrolysis pitch, at anticipated volumes, the amount of petroleum (gas-oil) used in the proposed fuels mixture will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of each boiler. The Company submitted a duly authorized certification to that effect for each unit.

ERA accepted Shell's petition for a permanent fuel mixture exemption for each boiler on February 26, 1980. Notice of that acceptance and a statement of the reasons contained in the petition for requesting the exemptions were published in the **Federal Register** on March 3, 1980, (45 FR 13803), commencing a 45-day public comment period pursuant to Section 701 of FUA.

During this period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting written comments and for requesting a public hearing closed on April 17, 1980. A public hearing was not requested. One letter in support of Shell's petition for the fuels mixture exemptions was received from the Manager, Government Contols Coordination, Atlantic Richfield Company.

ERA staff has reviewed the information contained in the record of this proceeding to date. A Tentative Staff Determination has been made recommending that ERA issue an order that would grant the requested permanent exemptions to use a fuel mixture of pyrolysis pitch and pyrolysis gas-oil in each of the three boilers.

A public file containing a copy of the Tentative Staff Determination and other documents and supporting material on this proceeding is available for inspection upon request at: ERA Room B-110, 2000 M Street, NW., Washington, D.C., Monday-Friday, 8 am.-4:30 pm.

ERA will issue a final order, in accordance with Sections 501.68 and 503.38 of the final rules, granting or denying the petition for a permanent fuels mixture exemption for each boiler within six months after the public comment period provided for in this notice has closed, unless ERA extends the period. Notice of any extension, together with a statement of the reasons therefore, will published in the **Federal Register**.

DATES: Written comments on the Tentative Staff Determination and requests for a hearing are due on or before August 29, 1980.

ADDRESSES: Fifteen copies of written comments, and any requests for a public hearing, shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Docket Number ERA-FC-80-005 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653-4226.

Edward J. Peters, Jr., Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128-A, Washington, D.C. 20461, Phone (202) 653-3645.

James Renjilian, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G-087, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION:

Concurrent with its petition for a permanent fuel mixture exemption for each boiler, Shell petitioned ERA for a temporary public interest exemption for each of three boilers to burn distillate fuel oil (gas-oil) in each boiler for 18 months during "initial start-up" of the new plant so that the "alternate fuel," pyrolysis pitch, an unavoidable, commercially unmarketable, waste by-product of the production process, could become fully available for use in a fuel mixture with gas-oil. ERA determined that this petition was incomplete and was not acceptable as filed. The Company was notified of this action by letter dated February 26, 1980.

Shell also requested ERA to classify the pyrolysis pitch to be produced by its olefins catalytic cracking unit at Norco, Louisiana, as an alternate fuel pursuant to § 507.4(e), which excludes from the definition of petroleum any liquid, solid, or gaseous waste by-product of refinery operations which is commercially unmarketable by reason of its quality or quantity.

For the purpose of the requested classification, the ERA staff assessed the commercial marketability of pyrolysis pitch under the criteria prescribed for both an industrial operation (Section 500.2 of the Interim Rule) and for a refinery operation (Section 507.4(e) of the Interim Rule), which more strictly requires additional evidence of unmarketability.

Shell described pyrolysis pitch as a black, dense, viscouse semi-liquid by-product which is the highest boiling fraction of the cracking operations from which olefins are produced. By weight, it is 93.3 percent carbon, 6.1 percent hydrogen and small amounts of oxygen and sulfur. It has a high heating value of 17,500 Btu's per pound, a viscosity, SSF/210F of 400—1,800 and a specific gravity of 1.1.

The Company presented evidence of its extensive efforts to market this by-product blended with several different blend stocks and provided a list of 69 potential customers that were contacted during its marketing efforts. Shell also furnished the results of tests made of different blends of the by-product in its search for new marketable applications of the waste by-product.

Upon review and analysis of the information furnished in connection with testing and marketing efforts and after verifying those efforts, with prospective customers selected on a random basis, it was concluded that, because of its poor quality, incompatibility with most other hydrocarbons, viscosity, and poor performance in handling and use, pyrolysis pitch was unmarketable by reason of its quality. Accordingly, ERA determined that the pyrolysis pitch to be produced at the Norco plant should be excluded from the definition of petroleum, under the provisions of Section 507.4(e) of the Interim Rule, thus permitting it to be classified an alternate fuel. On April 22, 1980, Shell was notified by letter of this classification.

In its petition for fuels mixture exemptions, Shell demonstrated to the satisfaction of ERA that:

(1) It proposes to use a mixture of petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

If fuel mixture exemption is granted, ERA may not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of primary energy sources of the installation.

In addressing the eligibility and evidentiary requirements in § 505.28(a) and (c)(4) of the Interim Rule, Shell stated that it proposed to use a mixture of pyrolysis pitch and pyrolysis gas-oil as the primary source of energy in boilers No. 1, No. 2, and No. 3. Shell's petition did not propose the use of natural gas in any of the three boilers.

Shell stated that, when the olefins plant is operating at its normal design specification rate, the amount of gas-oil used in the proposed fuel mixture will not exceed 25 percent of the total annual Btu heat input of the primary energy source of each boiler. Shell submitted a duly authorized certification to that effect for each unit. Shell estimated that beginning in January 1982, when the plant is in normal operation, each boiler will annually use 219,000 barrels of net liquid fuel equivalent (NLFE) barrels of petroleum (gas-oil) in a fuel mixture with 684,000 NFFE barrels of alternate fuel (pyrolysis pitch). The percentages of the total annual Btu heat input of each unit attributable to gas-oil and pyrolysis pitch at these rates of use are 24 percent and 76 percent, respectively.

Prior to such time, to achieve this normal operating rate for each boiler with the proposed fuel mixture, some additional gas-oil is needed for use in each boiler for boiler. ERA staff are persuaded that this additional gas-oil would not exceed the minimum percentage of the total Btu heat input of the primary energy sources of the unit needed to maintain reliability of operation of the units. Consistent with maintaining a reasonable level of fuel efficiency, the additional amounts of gas-oil required during this time for each boiler will be:

	Boiler -1	Boiler -2	Boiler -3
9/1/80 to 8/31/81			
Distillate fuel oil*	549	549	445
Pyrolysis pitch**	91	91	91
Percentage of total Btu heat input from pyrolysis pitch	14	14	17
9/1/81 to 12/31/81			
Distillate fuel oil	123	123	123
Pyrolysis pitch	92	92	92
Percentage of total Btu heat input from pyrolysis pitch	43	43	43

*Fuel volumes are shown in thousands of net liquid fuel equivalent (NLFE) barrels containing 5,960,000 Btu's per barrel.

**Volumes represents average volumes for the period which will increase to over 75 percent of the total fuels mixture for each boiler by January 1, 1982.

As the plant moves into the full operating mode, producing products and by-products, all available pyrolysis pitch residue will be utilized in a mixture with pyrolysis gas-oil for use as the primary energy source in boilers No. 1, No. 2, and No. 3 until in January 1982, when the olefins plant reaches normal operating mode and gas-oil in the fuels mixture will represent less than 25 percent of the total annual Btu heat input of each boiler.

Based on its review and analysis, the ERA staff has tentatively determined that Shell has demonstrated that, pursuant to section 212(d) of the Act and the applicable Interim Rule, it is eligible for the requested permanent fuel mixture exemption for each of these three new boilers and that, pursuant to 10 CFR 507.4(e), the pyrolysis pitch to be produced at this site is a commercially unmarketable by-product of its refining operations.

Therefore, ERA's staff recommends that ERA issue an order granting Shell the requested permanent exemptions from the prohibitions of Title II of the Act to enable it to burn a mixture of pyrolysis pitch and gas-oil in boilers No. 1, No. 2, and No. 3, provided that the amount of gas-oil in the fuels mixture with pyrolysis pitch to be used in each unit, after the first commencement of normal plant production in January 1982, does not exceed 25 percent of the total annual Btu heat input of each boiler.

This recommendation takes into account the purposes for which the minimum percentage of gas-oil provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operations consistent with maintaining a reasonable level of fuel efficiency. Therefore, should these exemptions be granted, ERA will not exclude from the definition of primary energy source any fuel that is used for such purposes, as ignition, start-up, testing, flame stabilization and control of each boiler.

The staff further recommends that under the terms and conditions of this order, the Company be permitted to use the amounts of gas-oil in a mixture with pyrolysis pitch necessary to start, test, and debug each installation and to produce the process steam needed to obtain and maintain a reliable stream of pyrolysis pitch from the catalytic cracking unit to be used in the fuels mixture for each of the three subject boilers.

On the basis of the environmental analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, in consultation with the Office of the General Counsel, DOE has concluded that the granting of these exemptions will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Recommended Terms and Conditions: Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon the information furnished by Shell, and upon the results of ERA staff analysis, the ERA staff has tentatively determined and recommends that any order granting the exemptions described above should, pursuant to Section 214 of the Act, be subject to the following terms and conditions:

(1) Shell will provide ERA with a compliance plan setting forth a complete schedule of milestones for the full completion and start-up of the plant within thirty (30) days of the date of this order. If, as the work on the plant progresses, a completion date is missed or it appears that such milestone will be delayed for more than thirty (30) days, Shell shall report such occurrence to ERA giving the reasons therefore and an appraisal of the effect, if any, the delay will have on the final completion of the plant and compliance with this order;

(2) Shell must make effective use of each of the fuel conservation measures identified in the Fuels Decision Report submitted as part of its petition for exemptions and shall operate each new installation with a maximum excess air of 10 percent and equip each boiler with the most effective control system available for controlling excess air;

(3) Shell shall evaluate the feasibility of installing an automatic system at the facility to control parameters such as excess air and boiler operation to insure maximum boiler efficiency. Shell shall indicate the results of such study in accordance with the requirements of item (10) below;

(4) Shell must notify Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act) Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461, in writing of the commencement of the use of distillate fuel oil in each boiler subject to this order;

(5) Distillate fuel oil (gas-oil) may be used as a primary energy source in a fuel mixture in boiler EPP-NCR-BLR-1 in an amount not to exceed 549,000 net liquid fuel equivalent (NLFE) barrels containing 5,960,000 Btu's per barrel from September 1, 1980 to August 31, 1981, and in an amount not to exceed 123,000 NLFE barrels from September 1, 1981, for start-up and testing of the unit and providing process steam to establish the reliable production of the pyrolysis pitch (residue) in sufficient quantity to become the primary energy source of the proposed fuels mixture to be used during the normal operating mode;

(6) Distillate fuel oil (gas-oil) may be used as a primary energy source in a fuel mixture in boiler EPP-NCR-BLR-2 in an amount not to exceed 549,000 net liquid fuel equivalent barrels containing 5,960,000 Btu's per barrel from September 1, 1980 to August 31, 1981, and in an amount not to exceed 123,000 NLFE barrels from September 1, 1981 to December 31, 1981 for start-up and testing the unit and providing process steam to establish the reliable production of the pyrolysis pitch (residue) in sufficient quantity to become the primary energy source of the proposed fuel mixture to be used during the normal operating mode;

(7) Distillate fuel oil (gas-oil) may be used as a primary energy source in a fuel mixture in boiler EPP-NCR-BLR-3 in an amount not to exceed 445,000 net liquid fuel (NLFE) barrels containing 5,960,000 Btu's per barrel from September 1, 1980 to August 31, 1981, and in an amount not to exceed 123,000 NLFE barrels from September 1, 1981 to December 31, 1981, for start-up and testing the unit and to provide process steam to establish the reliable production of the pyrolysis pitch (residue) in sufficient quantity to become the primary energy source of the proposed fuel mixture to be used during the normal operating mode;

(8) No later than January 31, 1982,

[OFC Case No. 63002-9102-01-12, 63002-

Based upon ERA's review and

materials on this proceeding is available

has been made which recommends that

3214, 2000 M Street, NW, Washington,

(8) No later than January 31, 1982, Shell will submit to ERA, at the address given in item (4) above, a duly executed certification that, from the commencement of the use of distillate fuel oil (gas-oil) through August 31, 1981, and that from September 1, 1981, to December 31, 1981, the amount of distillate fuel oil used in each boiler did not exceed the amounts stated in items (5)–(7) above;

(9) Pursuant to the reporting requirements of 10 CFR 503.3(g) of the Final Rules, Shell will submit an annual report to the ERA at the address given in item (4), not later than January 31, of each year, beginning in 1983, containing a duly executed certification that the amount of distillate fuel oil (gas-oil) used in each subject boiler did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of each boiler; and

(10) In addition, Shell will include in the report required under item (8) above and in its subsequent annual reports:

(a) Identification of the actual quantities of pyrolysis pitch (residue) (in NLFE barrels) and distillate fuel oil (gas-oil) (in NLFE barrels) used during the year in each boiler as well as the heating value (in Btu's) of those fuels. The percentage will be calculated on a Btu basis. The following format for quantities will be used for each boiler:

Fuel Type	Amount Used Barrels	BTU Equivalent	Percentage of Annual Fuel Consumption

(b) Identification of any new fuel conservation measures, including the installation of an electrical turbogenerator, employed at the site during the year, estimate of fuels savings achieved, and assessment of the effectiveness of the conservation measures in energy savings.

The Tentative Staff Determination does not constitute a decision by ERA to grant the requested exemptions. Such a determination, in accordance with 10 CFR 501.66 shall be based on the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, D.C., on August 8, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24669 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

[OFC Case No. 63002-9102-01-12, 63002-9102-02-12; Docket No. ERA-FC-80-009]

Availability of Tentative Staff Determination; Hooker Chemicals & Plastics Corp.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of availability of tentative staff determination.

SUMMARY: February 8, 1980, Hooker Chemicals & Plastics Corp. (HCPC) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting two major fuel burning installations (MFBIs) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.),* which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBIs. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR Part 500, *et seq.* (Interim Rules). ERA published Final Rules relating to New Facilities on June 6, 1980 (45 FR 38276 and 38302) which became effective August 5, 1980.

The MFBIs for which the petition was filed are two identical field-erected boilers (identified as Boilers No. 1 and No. 2) installed at the Niagara Energy-From-Waste Plant in Niagara Falls, New York. Each boiler has a design heat input rate of 407 million Btu's per hour with a steam generating capacity of 300,000 pounds per hour and is capable of burning refuse derived fuel (RDF), coal and hydrogen in a mixture with No. 6 fuel oil and natural gas as its primary energy source.

HCPC requested a permanent fuel mixture exemption for each of the two MFBIs in order to use a mixture of coal, RDF and small amounts of hydrogen with not more than 25 percent petroleum and natural gas. RDF will be the primary alternate fuel and coal will be used as a backup alternate fuel.

ERA accepted the petition March 7, 1980, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the **Federal Register** on March 12, 1980 (45 FR 15975). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. During this period, interested persons were also afforded an opportunity to request a public hearing. The period expired April 28, 1980. Four comments were received by ERA, all endorsing HCPC's petition for permanent fuel mixture exemptions. No hearing was requested.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Determination has been made recommending that ERA issue an order which would grant the requested permanent exemptions to use a mixture of RDF, coal, small amounts of hydrogen, No. 6 fuel oil and natural gas in which the amount of No. 6 fuel oil and natural gas would not exceed 25 percent of the total annual Btu heat input of the primary energy source of each of the two MFBIs.

ERA will issue a final order, in accordance with Sections 501.68 and 503.38 of the Final Rules, granting or denying the petition for permanent exemptions from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register.**

DATES: Written comments on the Tentative Staff Determination and requests for a hearing are due on or before August 29, 1980.

ADDRESSES: Fifteen copies of written comments, and any requests for a public hearing, shall be submitted to the Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW, Washington, DC 20461. Docket Number ERA-FC-80-009 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Constance L. Buckley, Chief, New MFBI Branch, Office Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, D.C. 20461, Phone (202) 653-3679.

Douglas F. Mitchell, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G-087, Washington, D.C. 20585, Phone: (202) 252-2967.

Terri L. Hamrick, Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3207, Washington, D.C. 20461, Phone (202) 653-3675.

The public file containing a copy of the Tentative Staff Determination and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW, Washington, DC, Monday through Friday, 8:00 am–4:30 pm.

SUPPLEMENTARY INFORMATION: ERA published Interim Rules on May 15 and 17, 1979 (10 CFR, Parts 500 *et seq.*) (44 FR 28530 and 44 FR 28950) to implement provisions of Title II of FUA. ERA published Final Rules relating to new facilities on June 6, 1980 (45 FR 38276 and 45 FR 38302) which became effective August 5, 1980. Title II of FUA prohibits the use of natural gas or petroleum in certain new MFBIs unless an exemption for such use has been granted.

Hooker Chemicals and Plastics Corp. (HCPC) installed at its Niagara Energy-From-Waste Facility in Niagara Falls, New York, two new identical field-erected boilers. Each unit has the design heat input rate of 407 million Btu's per hour with a steam generating capacity of 300,000 pounds per hour and is capable of burning refuse derived fuel (RDF), coal, small amounts of hydrogen, No. 6 fuel oil, and natural gas.

On February 8, 1980, in accordance with Section 505.28 of the Interim Rules, HCPC filed a petition with ERA requesting permanent fuels mixture exemptions for the two subject units in order to burn a mixture of coal, RDF and small amounts of hydrogen, with not more than 25 percent petroleum (No. 6 fuel oil) and natural gas. HCPC has certified that the total amount of No. 6 fuel oil and natural gas proposed to be used in each of the two units will not exceed 25 percent of the total annual Btu heat input of the primary energy source of each of the two units.

HCPC states that RDF will be the primary fuel consumed at the facility. Coal is intended to be used as a back-up fuel when RDF is unavailable or cannot be fired in the units, and oil is intended as a secondary back-up fuel. A small amount of natural gas will be used to ignite the oil, when the use of oil is necessary. Finally, the boilers will consume a small amount of waste hydrogen gas from chemical operations at the HCPC complex. The use of hydrogen gas and natural gas at the facility will be negligible. In order to maintain continuous, reliable operation of the facility, and to satisfy the energy needs of its chemical production complex, HCPC proposes to use a mixture of the foregoing fuels as the primary energy source at the facility.

ERA's staff has reviewed the information contained in the record of this proceeding to date. Based upon that review, a Tentative Staff Determination has been made which recommends that an order be issued which would grant permanent fuel mixture exemptions for Boilers No. 1 and No. 2 to use an RDF/coal/hydrogen/No. 6 fuel oil/natural gas fuels mixture in each unit, provided that the amount of petroleum and natural gas used in each unit does not exceed 25 percent of the total annual Btu heat input of the primary energy source of each unit.

This tentative determination also takes into account the purposes for which the minimum percentage of petroleum and natural gas provided by a fuels mixtures exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Therefore, should this exemption be granted, ERA will not exclude from the definition of primary energy source any fuel used for the purposes of unit ignition, start-up, testing, flame stabilization, and control of Boilers No. 1 and No. 2.

This recommendation is based upon the petitioner's demonstration pursuant to Sections 212(d) (A) and (B) of the Act that he proposes to use a mixture of RDF, coal, small amounts of hydrogen, No. 6 fuel oil and natural gas as the primary energy source in the units and that the amount of No. 6 fuel oil and natural gas to be used will not exceed 25 percent of the total annual Btu heat input of the primary energy source of each unit.

On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, with consultation from the Office of the General Counsel, DOE has concluded that the granting of this exemption will not be a major federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Recommended Terms and Conditions: ERA's staff also has tentatively determined and recommends that any order granting the exemption described above should, pursuant to Section 214 of the Act, be subject to the following terms and conditions:

1. The amount of petroleum and natural gas used in Boilers No. 1 and No. 2 shall not exceed 25 percent of the total annual Btu heat input of the primary energy source for each of the units.

2. In accordance with the reporting requirement in Section 503.38(g) of the Final Rules, HCPC will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW, Washington, DC 20461, each year on the anniversary of the effective date of the exemption, containing the following:

(a) A certification that the amount of petroleum and natural gas used in Boilers No. 1 and No. 2 did not exceed 25 percent of the total annual Btu heat input of the primary energy source of each unit. The certification must be executed by a duly authorized representative of HCPC.

(b) Identification of the actual quantities of coal and RDF (in tons), and petroleum (in Bbls), and hydrogen and natural gas (in Mcf) used in each of the two boilers, as well as the higher heating value (in Btus per lb., per Mcf) of those fuels. The following report format will be used for each unit:

Fuel type	Amount used (tons) (MCF)	Btu equivalent	Percent of annual fuel consumption

The Tentative Staff Determination does not constitute a decision by ERA to grant the exemptions requested. Such a decision shall, in accordance with Section 501.68 of the Final Rules, be based on the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, DC on August 8, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24683 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 50653-2490-01-82, 50653-2490-01-82]

Consolidated Edison Co. of New York, Inc.; Powerplant and Industrial Fuel Use Act of 1978; Notice of Intention To Proceed With Prohibition Order Proceedings

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of its intention to proceed with the pending prohibition order proceedings relating to two powerplants, Arthur Kill 20 and 30, owned by Consolidated Edison Company of New York, Inc. (Con Edison) and located at New York, New York.

Pursuant to sections 301(b) and 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, proposed prohibition orders for Arthur Kill 20 and 30 were issued by

ERA on August 22, 1979, and published

[ERA Case NO. 50653-2500-01-82, 50653-

Decision. If a hearing is requested, the

develop a comprehensive siting policy

are required by section 301(b) of FUA

accrue to its customers as a result of the

ERA on August 22, 1979, and published in the **Federal Register** on August 29, 1979 (44 FR 169).

Description of Prohibition Order Proceedings

In accordance with § 501.51 of the implementing FUA regulations applicable to existing powerplants (Regulations), 10 CFR Part 501, publication of the proposed prohibition orders commenced an initial public comment period, during which period Con Edison was given an opportunity to challenge ERA's initial finding that Arthur Kill 20 and 30 had the technical capability to burn an alternate fuel (coal) as a primary energy source. During this period the utility was required to furnish ERA with evidence bearing upon the other statutory findings which ERA must make prior to the issuance of any final prohibition order. The utility must also identify, during this period, any exemptions for which the powerplants may qualify, but the recipient of a proposed order need not, during this period, submit evidence attempting to demonstrate entitlement to an exemption.

The publication of this notice of intention to proceed commences a second three-month period during which Con Edison may present evidence to demonstrate that the powerplants would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second three-month comment period ERA will, if it intends to issue a final prohibition order, prepare and publish a Notice of Availability of a Tentative Staff Decision concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by section 301(b) of FUA, are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of section 701(d) of FUA and § 501.33 of the Regulations afford any interested person an opportunity to request a public hearing on a proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must make their request, in writing, no later than 45 days after publication of the Notice of Availability of the Tentative Staff Decision. If a hearing is requested, the hearing will be held in accordance with Subpart C of 10 CFR Part 501. Interested persons may also submit written comments during this 45 day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued, based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Orders

During the initial comment period, comments on the proposed prohibition orders to Arthur Kill 20 and 30 were received from Con Edison, the Public Service Commission of the New York State Department of Public Service (PSC), the New York City Group of the Atlantic Chapter of the Sierra Club (NYC Sierra Club), the NYC Clean Air Campaign, Inc., the president of the Borough of Staten Island and the assemblyman from the 60th District, Staten Island. All of these comments will be fully addressed in ERA's tentative staff decision.

Con Edison states in its comments that it is in complete agreement with the basis purposes of FUA. Con Edison indicates that ERA's proposed prohibition orders to Arthur Kill 20 and 30 are consistent with its energy strategy and has its full support. Further, it states that Arthur Kill,20 and 30 were designed for coal as the primary energy source. The costs associated with its reconversion back to coal burning are acceptable, in view of the reduction in use of imported oil and the substantial economic benefits that will accrue to its customers as a result of the use of coal at these powerplants.

The PSC recommends in its comments that orders to Arthur Kill 20 and 30 be issued promptly and the plants be converted to coal as soon as possible as long as environmental requirements can be met. The PSC comments that in 1979 about 90 percent of Con Edison's installed generating capacity was oil-fired, a proportion far exceeding the national average. The PSC's position in favor of the conversion is based in part on its interest in holding fuel cost increases to a minimum and in diminishing the State's dependence on imported oil.

The NYC Sierra Club submitted comments which neither support nor oppose the proposed orders. The comments focus on (1) the need to develop a comprehensive siting policy before any final prohibition orders are issued, (2) the role that the generic environmental impact statement on FUA should play in the issuance of proposed and final prohibition orders, (3) considerations of the environmental impacts of the proposed orders and (4) the need of the New York City public for complete and centrally located access to all available information on Federal and State activities relating to the conversion.

The comments received from the NYC Clean Air Campaign, Inc., the president of the Borough of Staten Island and the assemblyman from the 60th District, Staten Island, all opposed the proposed prohibition orders primarily for environmental reasons.

During this comment period, neither Con Edison nor any other interested person submitted any information contrary to ERA's initial finding that Arthur Kill 20 and 30 had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with § 501.51 of the Regulations, Con Edison also submitted evidence relating to the other findings that ERA is required to make under section 301(b) of FUA. During this period Con Edison did not identify or indicate that Arthur Kill 20 and 30 would qualify for any exemption (temporary or permanent) under FUA.

For further information contact:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461 (202) 653–4055.

Robert L. Davies, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3002, Washington, D.C. 20461 (202) 653–3649.

Elmer Lee, Existing Powerplants Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3308, Washington, D.C. 20461 (202) 653–3726.

Edward L. Lublin, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G–087, Washington, D.C. 20585 (202) 252–2967.

Issued in Washington, D.C., August 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24680 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case NO. 50653-2500-01-82, 50653-2500-02-82]

Consolidated Edison Co. of New York, Inc.; Powerplant and Industrial Fuel Use Act of 1978; Notice of Intention To Proceed With Prohibition Order Proceedings

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of its intention to proceed with the pending prohibition order proceedings relating to two powerplants, Ravenswood 30N and 30S, owned by Consolidated Edison Company of New York, Inc. (Con Edison) and located at New York, New York.

Pursuant to Sections 301(b) and 701(b) of the Powerplant and Industrial Fuel Use act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, proposed prohibition orders for Ravenswood 30N and 30S were issued by ERA on August 22, 1979, and published in the **Federal Register** on August 29, 1979 (44 FR 169).

Description of Prohibition Order Proceedings

In accordance with § 501.51 of the implementing FUA regulations applicable to existing powerplants (Regulations), 10 CFR Part 501, publication of the proposed prohibition orders commenced an initial public comment period, during which period Con Edison was given an opportunity to challenge ERA's initial finding that Ravenswood 30N and 30S had the technical capability to burn an alternate fuel (coal) as a primary energy source. During this period the utility was required to furnish ERA with evidence bearing upon the other statutory findings which ERA must make prior to the issuance of any final prohibition order. The utility must also identify, during this period, any exemptions for which the powerplants may qualify, but the recipient of a proposed order need not, during this period, submit evidence attempting to demonstrate entitlement to an exemption.

The publication of this notice of intention to proceed commences a second three-month period during which Con Edison may present evidence to demonstrate that the powerplants would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second three-month comment period ERA will, if it intends to issue a final prohibition order, prepare and publish a Notice of Availability of a Tentative Staff Decision concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by section 301(b) of FUA, are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of Section 701(d) of FUA and § 501.33 of the Regulations afford any interested person an opportunity to request a public hearing on a proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must make their request, in writing, no later than 45 days after publication of the Notice of Availability of the Tentative Staff Decision. If a hearing is requested, the hearing will be held in accordance with Subpart C of 10 CFR Part 501. Interested persons may also submit written comments during this 45 day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued, based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register.** Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Orders

During the initial comment period, comments on the proposed prohibition orders to Ravenswood 30N and 30S were received from Con Edison, the Public Service Commission of the New York State Department of Public Service (PSC), the New York City Group of The Atlantic Chapter of the Sierra Club (NYC Sierra Club) and the NYC Clean Air Campaign, Inc. All of these comments will be fully addressed in ERA's tentative staff decision.

Con Edison states in its comments that it is in complete agreement with the basic purposes of FUA. Con Edison indicates that ERA's proposed prohibition orders to Ravenswood 30N and 30S are consistent with its energy strategy and have its full support. Further, it states that Ravenswood 30N and 30S were designed for coal as the primary energy source with oil as a standby fuel. The costs associated with its reconversion back to coal burning are acceptable, in view of the reduction in use of imported oil and the substantial economic benefits that will accrue to its customers as a result of the use of coal at these powerplants.

The PSC recommends in its comments that orders to Ravenswood 30N and 30S be issued promptly and the plants be converted to coal as soon as possible as long as environmental requirements can be met. The PSC comments that in 1979 about 90 percent of Con Edison's installed generating capacity was oil-fired, a proportion far exceeding the national average. The PSC's position in favor of the conversion is based in part on its interest in holding fuel cost increases to a minimum and in diminishing the State's dependence on imported oil.

The NYC Sierra Club submitted comments which neither support nor oppose the proposed orders. The comments focus on (1) the need to develop a comprehensive siting policy before any final prohibition orders are issued, (2) the role that the generic environmental impact statement on FUA should play in the issuance of proposed and final prohibition orders, (3) considerations of the environmental impacts of the proposed orders and (4) the need of the New York City public for complete and centrally located access to all available information on Federal and State activities relating to the conversion.

The comments received from the NYC Clean Air Campaign, Inc., opposed the proposed prohibition orders primarily for environmental reasons.

During this comment period, neither Con Edison nor any other interested person submitted any information contrary to ERA's initial finding that Ravenswood 30N and 30S had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with § 501.51 of the Regulations, Con Edison also submitted evidence relating to the other findings that ERA is required to make under Section 301(b) of FUA. During this period Con Edison did not identify or indicate that Ravenswood 30N and 30S would qualify for any exemption (temporary or permanent) under FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B–110, Washington, D.C. 20461, (202) 653–4055.

Robert L. Davies, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3002, Washington, D.C. 20461, (202) 653–3649.

Elmer Lee, Existing Powerplants Branch, Office of Fuels Conversion, Economic

Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3308, Washington, D.C. 20461 (202) 653–3726.

Edward L. Lublin, Office of General Counsel, Department of Energy, Forrestal Building, Room 6C–087, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., August 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24661 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

Hawn Brothers; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective Date: July 7, 1980.

COMMENTS: On or before September 15, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767–7745.

SUPPLEMENTARY INFORMATION: On July 7, 1980, the Office of Enforcement of the ERA executed a Consent Order with Hawn Brothers of Corpus Christi and Venus Oil Company of San Antonio. Under 10 C.F.R. § 205.199J(b), the Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Hawn Brothers, with its office located in Corpus Christi, Texas and Venus Oil Company of San Antonio are firms engaged in crude oil production, and are subject to the Mandatory Petroleum Price and Allocation Regulations at 10 C.F.R., Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Hawn Brothers and Venus Oil Company entered into a Consent Order, the significant terms of which are as follows:

1. The initial period covered by the audit was September 1, 1973 through December 31, 1977 and was extended through March 31, 1980 in order to resolve any additional overcharges that might have occurred subsequent to the original audit period. It included all sales of crude oil which were made during the period.

2. Hawn Brothers allegedly misapplied the provisions of 10 C.F.R. Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Hawn Brothers and Venus Oil Company have agreed to a settlement in the amount of $70,000. The negotiated settlement was determined to be in the public interest as well as the best interests of DOE and Hawn Brothers and Venus Oil Company.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with the Consent Order.

5. The provisions of 10 C.F.R. § 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Hawn Brothers and Venus Oil Company agree to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $70,000 on or before August 6, 1980. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition. The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. § 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 C.F.R. § 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. § 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Hawn Brothers Consent Order." We will consider all comments we received by 4:30 p.m., local time, on September 15, 1980. You should identify any information or data which, in you opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. § 205.9(f).

Issued in Dallas, Texas on the 6th day of August, 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-24679 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

Orange and Rockland Utilities, Inc.; Powerplant and Industrial Fuel Use Act of 1978; Notice of Intention To Proceed With Prohibition Order Proceedings

[ERA Case No. 52181-2629-04-82, 52181-2629-05-82]

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of its intention to proceed with the pending prohibition order proceedings relating to two powerplants, Lovett 4 and 5, owned by Orange and Rockland Utilities, Inc. (Orange and Rockland) and located at Tompkins Cove, New York.

Pursuant to sections 301(b) and 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, proposed prohibition orders for Lovett 4 and 5 were issued by ERA on October 24, 1979 and published in the **Federal Register** on October 29, 1979 (44 FR 210).

Description of Prohibition Order Proceedings

In accordance with § 501.51 of the implementing FUA regulations applicable to existing powerplants (Regulations), 10 CFR Part 501, the proposed prohibition orders commenced an initial public comment period, during which period Orange and Rockland was given an opportunity to challenge ERA's initial finding that Lovett 4 and 5 had the technical capability to burn an alternate fuel (coal) as a primary energy source. During this period the utility was required to furnish ERA with evidence bearing upon the other statutory findings which ERA must make prior to the issuance of a final prohibition order. The utility must also identify, during this period, any exemptions for which the powerplants may qualify, but the recipient of a proposed order need not, during this period, submit evidence attempting to demonstrate entitlement to an exemption.

The publication of this notice of intention to proceed commences a second three-month comment period during which Orange and Rockland may present evidence to demonstrate that the powerplants would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second three-month period ERA will, if it intends to issue a final prohibition order, prepare and publish a Notice of Availability of a Tentative Staff Decision concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by Section 301(b) of FUA, are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of Section 701(d) of FUA and § 501.33 of the Regulations afford any interested person an opportunity to request a public hearing on a proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must make their request, in writing, no later than 45 days after publication of the Notice of Availability of the Tentative Staff Decision. If a hearing is requested, the hearing will be held in accordance with Subpart C of 10 CFR Part 501. Interested persons may also submit written comments during this 45 day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued, based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Orders

During the initial comment period, comments on the proposed prohibition orders to Lovett 4 and 5 were received from Orange and Rockland and from residents of Orange and Rockland Counties. Letters from 139 local citizens supported the proposed orders, stating that the burning of coal in Lovett powerplants 4 and 5 will result in fuel oil savings for the United States and reduce the cost of electricity to the consumer. One commenter opposed coal burning at Lovett 4 and 5 primarily because of its potential adverse impacts on the environment and the financial cost of converting and maintaining the units on coal. These comments will be fully addressed in ERA's tentative staff decision.

Orange and Rockland submitted comments which support the proposed orders, provided the reconversion of Lovett 4 and 5 can be accomplished without the imposition of unnecessary and unreasonable regulatory requirements and that Orange and Rockland has the full support of interested Federal and State regulatory agencies. Orange and Rockland also maintains that reconversion of Lovett 4 and 5 can be accomplished in an environmentally acceptable and economically feasible manner.

During this period, neither Orange and Rockland nor any other interested person submitted any information contrary to ERA's initial finding that Lovett 4 and 5 had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with § 501.51 of the Regulations, Orange and Rockland also submitted evidence relating to the other findings that ERA is required to make under section 301(b) of FUA, and identified those exemptions for which Lovett 4 and 5 may qualify. The temporary exemptions authorized by Section 311 of FUA which Orange and Rockland identified are (1) lack of alternate fuel supply, site limitations and inability to comply with applicable environmental requirements; (2) public interest; and (3) reliability of service. In addition, Orange and Rockland identified the following permanent exemptions for which Lovett 4 and 5 may qualify as authorized by section 312 of FUA: (1) lack of alternate fuel supply, site limitations, and inability to comply with applicable environmental requirements; (2) State or local requirements; (3) certain fuel mixtures containing natural gas or petroleum; and (4) intermediate load.

For further information contact:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW, Room B–110, Washington, D.C. 20461, (202) 653–4055.

Robert L. Davies, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW, Room 3002, Washington, D.C. 20461, (202) 653–3649.

Elmer Lee, Existing Powerplants Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW, Room 3308, Washington, D.C. 20461, (202) 653–3726.

Marilyn Ross, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G–087, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., August 6, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-24682 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

Payne, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: July 29, 1980.

COMMENTS BY: September 15, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone: 214–767–7745.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone: 214–767–7745.

SUPPLEMENTARY INFORMATION: On July 29, 1980, the Office of Enforcement of the ERA executed a Consent Order with Payne, Inc., of Oklahoma City, Oklahoma. Under 10 CFR 205.199J(b) a Consent Order which involves a sum of less than $500,000 or more in the aggregate excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Payne, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Payne, Inc. effective as of the date of its execution by the DOE and Payne, Inc.

I. The Consent Order

Payne Inc. (Payne) is a firm engaged in the production of crude oil and is subject ot the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Payne, the Office of Enforcement, ERA and Payne entered into a Consent Order, the significant terms of which are as follows:

1. During the period September 1, 1973 through January 31, 1980, Payne allegedly sold crude oil above allowable prices specified at 10 CFR Part 212, Subpart D.

2. Payne and the DOE have agreed to a settlement of $440,000. Beginning with the first day of August 1980, Payne shall refund $75,000 per month for five months and shall refund $65,000 on the sixth month. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and Payne.

3. The Consent Order constitutes neither an admission by Payne that ERA regulations have been violated nor a finding by the ERA that Payne has violated ERA regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Payne agrees, to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA arising out of the transactions specified in I.1. above, the sum of $440,000 in the manner specified in I.2. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. The funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers of offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification of the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation "Comments on the Payne Inc. Consent Order." We will consider all comments we received by 4:30 p.m., local time September 15, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 7th day of August, 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-24771 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Office of Hearings and Appeals; Week of June 9 Through June 13, 1980

During the week of June 9 through June 13, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Acomi Corp., Marblehead, Mass., DEA–0373, DES–0373, motor gasoline

Acomi Corporation (Acomi) filed an Appeal and an Application for Stay which, if granted, would result in the modification of an Order issued by the DOE Economic Regulatory Administration, Region I, on April 10, 1979 which assigned Atlantic Richfield Company and Getty Oil Company to supply motor gasoline to Acomi during the months of April and May 1979. In considering the request, the DOE found that the April 10 Order was issued pursuant to an April 4, 1979 Decision and Order of the Office of Hearings and Appeals, which granted Acomi's earlier Application for Stay. The Appeal and Application for Stay were dismissed because the April 4 Decision and Order which underlay the April 10 Order was subsequently rescinded in a Supplemental Order issued on September 19, 1979.

Aztex Energy Co., Cities Service Co., Knoxville, Tenn., Tulso, Okla., BEA–0336, BEA–0342, BED–1068, motor gasoline

Aztex Energy Company (Aztex) and Cities Service Company (Cities) filed Appeals from a Temporary Assignment Order which the Economic Regulatory Administration Office of Petroleum Operations (OPO), Region IV, issued on March 21, 1980, pursuant to the provisions of 10 C.F.R. § 205.39. Aztex also filed a Motion for Discovery in which the firm requested permission to depose the Acting Director of OPO Region IV. The Temporary Assignment Order directed Murphy Oil Corporation and Cities each to supply motor gasoline to Sexton Oil Company (Sexton) during a sixty-day period beginning on March 24, 1980 and had the effect of temporarily replacing Aztex as a base-period supplier of Sexton. In considering the Appeals, the DOE determined that the April 17, 1980 Decision and Order which stayed the Temporary Assignment Order contained a thorough discussion of the issues raised in the firms' Appeals and that nothing subsequently added to the record in the case warranted a modification of the conclusions reached in that Decision. Accordingly, the Appeals were granted and the Temporary Assignment Order rescinded. The DOE also determined that an investigation of the underlying factual basis for the Temporary Assignment Order was no longer necessary to enable Aztex to fashion an effective administrative appeal since this Decision and Order granted Aztex's Appeal. The Motion for Discovery was therefore dismissed.

Batla, Raymond, Jr., Wash., D.C. BFA–0357, freedom of information

Raymond J. Batla, Jr. filed an Appeal from a denial by the Director, Division of FOI and Privacy Acts Activities, Department of Energy, of a request for information which he had submitted under the Freedom of Information Act (FOIA), seeking copies of the Economic Regulatory Administration Enforcement Manual (Enforcement Manual). In considering the Appeal, the DOE found as an initial matter that subsection (a)(2)(C) of the FOIA was not intended to function as an exemption to the FOIA's mandatory disclosure requirement. The DOE also found that certain deleted portions of the Enforcement Manual were not protected from disclosure under Exemption 2 because their audit instructions were so general in nature that their release would not aid firms in circumventing DOE regulations. Accordingly, the DOE determined that these portions of the Enforcement Manual must be disclosed. With respect to the portions of the Enforcement Manual legitimately withheld under Exemption 2, the DOE found that the public interest in disclosure is outweighed by the public interest in effective enforcement of the price regulations to be served by maintaining the confidentiality of certain sensitive audit practices.

Exxon Co., U.S.A. Wash., D.C., BEA–0265, motor gasoline

Exxon Company, U.S.A (Exxon) filed an Appeal of a February 5, 1980 Order for the Redirection of Product issued by the Region IV Office of Petroleum Operations in Atlanta, Georgia. The Redirection Order required Exxon to supply 12,480 gallons of motor gasoline to Keystone Cargo Gas (Keystone), a retail service station in Keystone Heights, Florida, for the month of January 1980. Exxon contended that the Order was deficient because it failed to demonstrate that Keystone satisfied the criteria for issuance of such an Order pursuant to 10 C.F.R. § 211.107(c) and that, even if the Order were warranted, Exxon was neither a logical nor appropriate supplier of the supplementary volumes of motor gasoline.

The DOE determined that the Redirection Order contained an adequate factual and legal basis for its issuance and concluded that the Region IV Office of Petroleum Operations had not erred in its choice of Exxon to supply Keystone. In addition, the DOE suggested that in future Redirection and Assignment Order proceedings, the Regional Offices more thoroughly apprise the affected parties of the factors considered and the sequence of processing each type of application and that those Offices supply upon request monthly summaries of each category of order indicating total volumes and numbers issued by the Region and the volumes and numbers of orders received by each supplier.

Hogan & Hartson, Wash., D.C., BFA–0356, fredom of information

Hogan & Hartson filed an Appeal from a partial denial by the Director, Division of Petroleum Price Regulations, Office of Regulations and Emergency Planning Economic Regulatory Administration, of a Request for Information concerning certain aspects of the DOE's crude oil reseller regulation which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the Director has properly withheld the documents under Exemption 5 since they were recommendatory predecisional intra-agency documents whose release would be contrary to the public interest in unfettered discussions regarding proposals for improvements in existing regulations. In addition, the DOE found that the Director's descriptions of the withheld documents were adequate and that appellant's arguments concerning the adequacy of the DOE's search were premature since the Director's determination was only a partial departmental response limited to documents from the Division's own files.

Marathon Oil Co., Findlay, Ohio, DEA–0621, thru 0624; BEA–0008, thru 0016; BEA–0049 motor gasoline

Marathon Oil Company filed thirteen Appeals of Orders for the Redirection of Product which were issued to the firm by the Region IV Office of Petroleum Operations pursuant to 10 C.F.R. § 211.107(c). In considering the Appeals, the DOE determined that the Orders did not include adequate findings concerning the unavailability of motor gasoline in the applicants' marketing areas or the efforts of the applicants to obtain motor gasoline from sources other than their normal base-period suppliers. Accordingly, the Appeals were remanded to the Region IV Office of Petroleum Operations for further consideration consistent with the principles discussed in the Decision.

Rural Legal Services of Tennessee, Inc., Oak Ridge, Tenn., BFA–0338, freedom of information

Rural Legal Services of Tennessee, Inc., filed an Appeal from a partial denial by the Oak Ridge Operations Office, Department of Energy, of a request for information which it had submitted under the Freedom of Information Act, seeking copies of three affirmative action plans submitted to the Department by a DOE contractor. In considering the Appeal, the DOE found as an initial matter that the provisions of Exemption 4 which protect sensitive proprietary date are at least as broad as the provisions of the Trade Secrets Act and that therefore the DOE need not consider the applicability of Exemption 3, which exempts from mandatory disclosure under the FOIA information specifically protected by statute. The DOE also found the certain deleted portions of the affirmative action plans which concerned the contractor's work force at its DOE facilities, should be disclosed. The DOE also determined that the Oak Ridge Operations Office properly withheld certain other information concerning the contractor's promotion goals for minority and female employees and pay ranges for all the firm's employees because release of that data could cause substantial competitive injury to the contractor by damaging employee morale.

Science Management Corp., Landover, Md., BFA–0354 freedom of information

The Science Management Corporation filed an Appeal from a partial denial by the DOE Office of Procurement Operations of a request for information that the firm had submitted under the Freedom of Informaiton Act seeking a copy of a winning technical proposal for a DOE contract. In considering the Appeal, the DOE found that the explanation of the Office of Procurement Operations withholding portions of the

requested information pursuant to Exemption 4 was conclusory and inadequate. Accordingly, the matter was remanded to that Office with instructions to release the withheld portions of the proposal or to provide an adequate explanation of why any deleted information is properly exempt from mandatory disclosure.

Requests for Exception

Aminoil U.S.A., Inc., Wash., D.C. BXE–0678, crude oil

Aminoil U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. In order to provide the firm with an incentive to continue its production activities, the DOE granted an extension of exception relief to permit Aminoil U.S.A., Inc. to sell at upper tier ceiling prices 49.924 percent of the crude oil produced and sold for the benefit of the working interest owners from the California State Lease 392, Lower Main Zone, during the period from March 1, 1980 through August 31, 1980.

Energy Cooperative, Inc., Wash., D.C., DEE–2816, crude oil

Energy Cooperative, Inc. (ECI) filed an Application for Exception from the provisions of C.F.R. § 211.65 in which the firm sought to purchase up to 25,000 barrels per day of crude oil under the DOE Crude Oil Buy/Sell Program during the period April through September 1979. In considering the request, the DOE found that exception relief was necessary to alleviate the gross inequity being experienced by agricultural and other rural customers of ECI's regional cooperatives because of ECI's lack of access to sufficient quantities of reasonably priced crude oil for its refinery. Accordingly, exception relief was granted permitting ECI to purchase 3,316,829 barrels of crude oil under the Buy/Sell Program for the period April through September 1979. Important issues discussed in the Decision and Order are whether refiner-sellers had adequate notice of ECI's exception request and whether an exception proceeding was an appropriate procedure for resolving ECI's crude oil supply difficulties.

Gas 'N' Save, Inc., Findlay, Oh., BEO–0765, motor gasoline

Gas 'N' Save, Inc. filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base-period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to submit any evidence to document its claim that it would experience a gross inequity in the absence of exception relief. The DOE also determined that the firm had failed to establish its contention that in the absence of an increase in its base-period allocation, large trucks would be unable to purchase adequate supplies of motor gasoline in the Gas 'N' Save market area. Accordingly, exception relief was denied.

Go-c-us, Kennewick, Wash., BEO–0803, motor gasoline

Go-c-us filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base-period allocation of motor gasoline. In considering the request, the DOE determined that in the absence of exception relief the firm would remain a viable business entity. The DOE also determined that Go-c-us leased the outlet subsequent to the establishment of the updated base period and concluded that the firm should have had no reason to believe that it would receive additional quantities of motor gasoline. Finally, the DOE determined that the owner of the station was not entitled to transfer to the Go-c-us outlet the volumes assigned to a station which he formerely operated.

Jeff Davis Service Co., Richmond, Va., BEO–1021, motor gasoline

Jeff Davis Service Co. filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base-period allocation of motor gasoline. In considering the request, the DOE found that the capital expenditures for the purchase of certain automotive repair and service equipment which the firm made in March and April, 1979 were not of a kind which would be expected to result in increased sales of motor gasoline. In addition, the DOE found that Jeff Davis Service had failed to demonstrate that it is experiencing a serious financial hardship attributable to the DOE motor gasoline allocation regulations. Accordingly, exception relief was denied.

John's Exxon Service, Stockton, California, BRO–0702, motor gasoline

John's Exxon Service filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the firm sought an increase in its base-period allocation of motor gasoline. In considering the request, the DOE determined that the firm leased the outlet and invested in inventory and equipment for the outlet after the establishment of the updated base period. The DOE therefore concluded that the firm should have had no reason to believe that it would receive additional quantities of motor gasoline. Accordingly, exception relief was denied.

Supplemental Order

Commonwealth Oil Refining Company, Inc., San Antonio, Texas, BEX–0059, crude oil

The Commonwealth Oil Refining Company, Inc. (Corco) filed a Motion to Strike Supplemental Comments filed by Texaco, Inc. (Texaco) in opposition to a Proposed Decision and Order granting exception relief to Corco. In its Motion, Corco argued that the Supplemental Comments were unauthorized and untimely, since they were not explicitly authorized by DOE regulations and since they were submitted after the deadline for the filing of Statements of Objection. Corco also contended that Texaco's Supplemental Comments violated the terms of a prior Stipulation of Protective Order and a Protective Order subsequently issued by the DOE. In considering the Motion, the DOE found that the availability of new information after the deadline for filing Statements of Objections constituted good cause for authorizing the Texaco submission and for an extension of time. The DOE further found that ambiguities in the Stipulation of Protective Order precluded a finding that Texaco had violated either the Stipulation or the subsequent DOE Protective Order. Accordingly, the Corco Motion was denied.

Interim Orders

Eagle Oil Company, Waurika, Oklahoma, BEN–0026, gasohol

Eagle Oil Company filed a Motion for an Interim Order, requesting immediate implementation of exception relief which the DOE tentatively granted the firm in a Proposed Decision and Order issued on January 31, 1980. That Proposed Decision and Order had tentatively granted Eagle an additional allocation of unleaded gasoline for use in its gasohol program upon a finding that such exception relief was necessary to prevent the firm from suffering a gross inequity under the DOE regulatory program. In response to Eagle's Motion, the DOE issued an Interim Order which immediately implements a portion of the proposed exception relief pending a final decision on Eagle's Application for Exception. The DOE found that there was a reasonable probability that exception relief would ultimately be granted and that the financial harm to Eagle in the absence of immediate relief outweighed any harm that might accrue to other persons from approval of interim relief.

Red Rock Petroleum Co., Inc., Oklahoma City, Oklahoma, BEN–0337; gasohol

Red Rock Petroleum Company, Inc. filed a Motion for an Interim Order, requesting immediate implementation of the exception relief which the DOE tentatively granted the firm in a Proposed Decision and Order issued on March 28, 1980. That Proposed Decision and Order had tentatively granted Red Rock an additional allocation of unleaded gasoline for use in its gasohol program. However, the DOE found that, in view of substantial objections raised by proposed suppliers, Red Rock failed to demonstrate that the proposed determination is likely to be issued in final form without modifications or that the firm would suffer serious harm in the absence of the Interim Order. Accordingly, the DOE denied Red Rock's Motion for an Interim Order.

Protective Order

The following firm filed an Application for Protective Orders. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firms. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Name, Location, and Case No.

Pennzoil Co., Tosco Corp., Washington, D.C., BEJ–0091

Petition Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base-period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted.

Name, Location, and Case No.

State Line Marina, Lambertville, MI, BEO–0525

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base-period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Location, and Case No.

Classic Arco, Pittsburgh, PA, BEO–0549
Destin Gulf Service, Destin, FL, BEO–0571
Don Gay Mobil Service, Salinas, CA, BEO–0823
Leesburg Road Exxon, Columbia, SC, BEO–0046
New Jersey Bell Telephone Co., Newark, NJ, BEE—0118
One Stop Gulf, Havre de Grace, MD, DEE—4926
Sandy Oil Co., Sandy, OR, BEO–0659

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Gas World No. 2, BEE–0808
Graves Enterprises, Inc., BEE–0921
Independent Distributing Service, BEE–1072
Lenawee Fuels, Inc., DEE–7897
Mobil Oil Corp., BED–0294
Office of Enforcement, GRS–0277
Perrine Oils, BEE–0846
Quik Stop Food Stores, Inc., BED–0978
Radiant Oil Co. of Tampa, Inc., DSG–0069
Reed Oil Company, DEE–6866, DES–6866, DST–6866
Self Enterprises, Inc., BEE–0490
United Refining Co., BES–0361

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Thomas L. Wieker,

Deputy Director, Office of Hearings and Appeals.

August 8, 1980.

[FR Doc. 80–24685 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed; Week of June 23 Through June 27, 1980

During the week of June 23 through June 27, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR § 205.194 on or before September 4, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All request to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Thomas L. Wieker

Acting Director, Office of Hearings and Appeals.

August 7, 1980.

Art Gordon Chevron, San Mateo, Calif., BRO–1245, Motor Gasoline.

On June 24, 1980, Art Gordon Chevron, 2009 El Camino Real, San Mateo, California 94403 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 12, 1980.

In the PRO the Western District found that during April 15, 1980 to May 16, 1980, the firm committed pricing violations amounting to $2,463.63 in connection with the sale of motor gasoline in the State in California.

Atlantic Richfield Co., Los Angeles, Calif., BRO–1247, Crude Oil.

On June 20, 1980, The Atlantic Richfield Company (ARCO), 515 South Flower Street, Los Angeles, California 90017 filed a Notice of Objection to a Proposed Remedial Order which the DOE Special Counsel issued to the firm on May 15, 1980.

In the PRO the Special Counsel found that ARCO improperly computed the costs of import fees and duties in calculating increased product costs under the refiner price rules in 10 CFR, Part 212, Subpart E between August 20, 1973 and December 31, 1977. ARCO is charged with overstating its increased costs of crude oil by 57.6 million in violation of 10 CFR 212.82, 212.83, and 212.126(b).

Buchanan Shell, Inc., Pittsburg, Calif., BRO–1250, Motor Gasoline.

On June 24, 1980, Buchanan Shell, Inc., 1315 Buchanan Rd., Pittsburg, California 94565 filed a Notice of Objection to a proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on June 11, 1980.

In the PRO the San Francisco District found that during August 1, 1979 to November 13, 1979, the firm charged prices for motor gasoline in excess of the legally allowable maximum price specified in 10 CFR Part 212. Furthermore, the firm refused to make its records available for inspection by DOE officials as specified by 10 CFR 210.92(b).

According to the PRO the Buchanan Shell, Inc. violation resulted in $2,588.37 of overcharges.

Decota's Redhill Union 76, San Anselmo, Calif., BRO–1246, Motor Gasoline.

On June 24, 1980, Decota's Redhill Union 76, 930 Sir Francis Drake Blvd., San Anselmo, California 94960 filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on June 11, 1980.

In the PRO the San Francisco District Office found that during August 1, 1979 to November 13, 1979, the firm charged prices for motor gasoline in excess of the legally allowable maximum specified in 10 CFR Part 212. Furthermore, the firm refused to make its records available for inspection by DOE officials as provided in 10 CFR 210.92(b).

According to the PRO the Decota's Redhill Union 76 violation resulted in $809.43 of overcharges.

Fred Hartmann's, Hayward, Calif., BRO–1248, Motor Gasoline.

On June 24, 1980, Fred Hartmann's Chevron, 505 A Street, Hayward, California 94541 filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on June 11, 1980.

In the PRO the San Francisco District Office found that during April 19, 1980 to May 19, 1980, the firm engaged in business practices in violation of 10 CFR 210.62(d), as well as charging prices for motor gasoline which exceeded the legal maximum under 10 CFR Part 212.

According to the PRO the Fred Hartmann's Chevron violation resulted in $802.21 of overcharges.

Gene's Chevron, San Anselus, Calif., BRO–1251, Motor Gasoline.

On June 24, 1980, Gene's Chevron, 101 Redhill Avenue, San Anselus, California 94960 filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on June 11, 1980.

In the PRO the San Francisco District Office found that during August 1, 1979 to November 13, 1979, the firm charged prices for motor gasoline in excess of the maximum legally allowable specified in 10 CFR Part 212. Furthermore, the firm refused to make its records available for inspection by DOE officials as provided by 10 CFR 210.92(b).

According to the PRO the Gene's Chevron violation resulted in $2,045.43 of overcharges.

Telum, Inc., Salt Lake City, Utah, BRO–1244, Motor Gasoline.

On June 23, 1980, Telum, Inc., 3227 North Canyon Road, Provo, Utah 84601 filed a Notice of Objection to a Proposed Remedial Order which the DOE Rocky Mountain District Office of Enforcement issued to the firm on May 28, 1980.

In the PRO the Rocky Mountain District found that during December 1, 1973 to April 30, 1974, Telum, Inc. sold middle distillate

fuel to Salt River Project at prices in excess of the maximum lawful selling prices allowed by the applicable regulations during the audit period.

According to the PRO the Telum, Inc. violation resulted in $302,692.69 of overcharges.

Wolfe's Union Service, Hayward, Calif., BRO–1249, Motor Gasoline.

On June 24, 1980, Wolfe's Union Service, 28250 Hesperian Blvd., Hayward, California 94541 filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on June 11, 1980.

In the PRO the San Francisco District Office found that during August 1, 1979 to November 13, 1979, the firm charged prices for motor gasoline in excess of the legally allowable maximum price specified in 10 CFR Part 212. Furthermore, the firm refused to make its records available for inspection by DOE officials as specified by 10 CFR 210.92(b).

According to the PRO the Wolfe's Union Service violation resulted in $886.65 of overcharges.

[FR Doc. 80-24687 Filed 8-14-80; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of June 23 Through June 27, 1980

During the week of June 23 through June 27, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Fried, Frank, Harris, Shriver & Kampelman, Washington, D.C., BFA–0372, freedom of information.

On May 29, 1980, Fried, Frank, Harris, Shriver & Kampelman filed an Appeal from a partial denial issued to the firm by the Director, Division of Petroleum Price Regulations, Office of Regulations and Emergency Planning, of the ERA of a request for information that the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the document at issue fell within Exemption 5 and that its release would be contrary to the public interest. Accordingly, the Appeal was denied.

Barbara Rother Hedges, Washington, D.C., BFA–0371, freedom of information.

Barbara Rother Hedges filed an Appeal from a denial by the Deputy Assistant Administrator for Enforcement of the ERA of a request for three revisions of the ERA Enforcement Manual which she sought pursuant to the Freedom of Information Act. In considering the Appeal, the DOE found that the documents that were initially withheld under Exemption 2 and 10 C.F.R. § 552(a)(2)(C) should be released to the public.

Craig D. Miller, Washington, D.C., BFA–0368, freedom of information.

Craig D. Miller appealed from a denial by the Disclosure Officer of the Office of Special Counsel of a request for information that Mr. Miller had submitted pursuant to the Freedom of Information Act. In considering the Appeal, the DOE found that the Disclosure Officer acted correctly in withholding 209 documents pursuant to Exemption 5. The DOE also found, however, that portions of four documents consisted of reasonably segregable factual material which should be released and that disclosure of a portion of a fifth document would not be contrary to the public interest.

Charles Varon, San Francisco, Calif., BFA–0364 Freedom of Information.

Charles Varon filed an Appeal from a denial by the DOE Region IX FOI Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that an adequate search of DOE records had not been conducted and remanded the case to conduct a further search.

Petition for Special Redress

Genico Distributors, Inc., Austin, Tex., BSG–0024, BST–0024, crude oil

Genico Distributors, Inc. filed a Petition for Special Redress and an Application for Temporary Stay in which it requested that the Office of Hearings and Appeals grant a temporary stay and conduct a review of an April 25, 1980 subpoena *duces tecum* issued to the firm by the Dallas Office of Special Investigations of the Department of Energy. In considering the firm's Petition, the Office of Hearings and Appeals noted that the DOE procedural regulations provide at 10 C.F.R. § 205.8(b)(6) that there is no administrative appeal of a subpoena. Consequently, the DOE found that it would not be appropriate for the Office of Hearings and Appeals to review the Genico subpoena in the absence of a compelling showing by the applicant that extraordinary circumstances exist. The DOE found that the petitioner's contentions that extraordinary circumstances existed were without merit. Accordingly, the firm's Petition for Special Redress was dismissed, and its Application for Temporary Stay was denied.

Request for Exception

B & B Oil Co., Spokane, Wash., DEE–5854, motor gasoline

B & B Oil Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE issued a Proposed Decision and Order in which it found that exception relief was necessary to prevent B & B from experiencing a serious financial hardship as a result of the DOE motor gasoline allocation regulations. Subsequent to the issuance of the proposed determination, Amoco Oil Company, B & B's base period supplier, filed a Statement of Objections in which it claimed that it did not have a source of motor gasoline in B & B's market area to satisfy the terms of the Proposed Decision. Upon review of the record, the DOE concluded that Amoco had failed to substantiate its claim that it could not fulfill its increased supply obligations. Specifically, the DOE noted that Amoco could make spot market purchases on behalf of B & B. Accordingly, Amoco's Statement of Objections was denied and exception relief was granted to B & B.

Connecticut General Life Insurance Co., Hartford, Conn., DEE–7899, motor gasoline

Connecticut General Life Insurance Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the firm's request, the DOE found that exception relief was appropriate in order to enable the firm to supply, through its own retail outlet, its van pool vehicles with product before selling the remainder of its allocation to employees for use in their personal vehicles. The DOE found no basis, however, for increasing the outlet's allocation. Accordingly, the firm was granted an exception from the provisions of 10 C.F.R. § 210.62 in order to permit it to reserve each month those volumes of gasoline necessary for use in its van pool program, and to supply those volumes to its vans on a preferred basis.

Dearborn Stove Co., Garland, Tex., BEE–0883, test procedures

Dearborn Stove Company filed an Application for Exception from the provisions of 10 C.F.R., Part 430, Appendix O in which it requested that it not be required to perform energy efficiency and consumption tests on certain types of vented home-heating equipment which it manufactures. In considering the firm's request, the DOE found that the test procedures applicable to Dearborn's vented home heating equipment yielded inaccurate and unrepresentative estimates of the products' actual energy efficiency, thereby imposing a gross inequity on the firm. Accordingly, the Dearborn exception request was granted.

Hardell Corp., Hagerstown, Md., DEE–4499, No. 2 hearing oil

Hardell Corporation filed an Application for Exception from the reporting requirements set forth in Form EIA–9 ("No. 2 Heating Oil Supply/Price Monitoring Report") in which the firm sought to be relieved of any obligation to prepare and submit Form EIA–9. In considering the request, the DOE found that the firm was not being adversely affected by the reporting requirements of Form EIA–9 and that any burden which Hardell might encounter in completing the form was not significantly different from that encountered by other firms which have also been selected to file Form EIA–9. The DOE also found that Hardell had failed to demonstrate that the burden of providing the requested data exceeded the benefits which would be realized from the information. Accordingly, exception relief was denied.

Joe's Auto Service Center, St. Cloud, Fla., DEE–7672, Motor Gasoline.

Joe's Auto Service Center filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate either that an increase in its sales was attributable to a significant alteration in its ongoing business practices, or that the firm would be adversely affected by the denial of exception relief. Accordingly, exception relief was denied.

Koch Industries, Inc., Wichita, Kans., BXE–0687, Crude Oil.

Koch Industries, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Koch Industries, Inc. to sell 100 percent of the crude oil produced from the Sink Draw No. 1 lease at Upper Tier Ceiling prices.

Miramar Shell, Miramar, Fla., BEO–0018, Motor Gasoline.

On September 26, 1979, Miramar Shell filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm would not be significantly adversely affected in the absence of exception relief. Accordingly, the firm's exception request was denied.

Rainbow Car Wash, Madison, S. Dak., DEE–6044, Motor Gasoline.

Rainbow Car Wash filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its base period allocation of motor gasoline was unreflective of the firm's actual level of purchases. Accordingly, exception relief was denied.

SmithKline Clinical Laboratories, Inc., Waltham, Mass., DEE–5436, Motor Gasoline.

SmithKline Clinical Laboratories, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period volume of motor gasoline. In considering the request, the DOE found that the firm had not shown that it was unable to purchase surplus gasoline. The DOE also determined that the denial of SmithKline's request would not endanger the public health of the citizens of New England. Accordingly, exception relief was denied.

Townsend Full Service, Woodward, Okla., BEO–1077, motor gasoline.

Townsend Full Service filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that although an anomalous event did occur during the base period, the firm is able to realize a reasonable profit from the operation of its outlet. Accordingly, exception relief was denied.

TRW, Inc., Redondo Beach, Calif, BEO–0474, motor gasoline.

On August 22, 1979, TRW, Inc. (TRW) filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the operation of the DOE regultory program. Accordingly, exception relief was denied.

Wagoner Gas & Oil, Inc., W. Newton, Pa., DEE–4837, motor gasoline.

Wagoner Gas & Oil, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in the base period allocation of several gasoline retail outlets which Wagoner owns and operates. In considering the request, the DOE found that the firm failed to demonstrate that these outlets would be adversely affected to a significant degree. Accordingly, exception relief was denied.

Welsh Oil Inc., Gary, Ind., BEE–0360, gasohol.

Welsh Oil, Inc. filed an Application for Exception in which it sought an increase in its base period allocation of unleaded motor gasoline for the express purpose of enabling the firm to produce and market gasohol. In a March 7, 1980 Proposed Decision and Order, the DOE tentatively concluded that the firm had satisfied the criteria specified in *American Agri-Fuels Corp.*, 4 DOE ¶ 81,139 (1979), and proposed exception relief of 450,000 gallons of unleaded motor gasoline per month to be supplied by the Phillips Petroleum Company, Welsh's base period supplier. Phillips filed a Statement of Objections to the Proposed Decision in which it contended that the assignment of additional unleaded motor gasoline to Welsh was contrary to the policy objectives of the Emergency Petroleum Allocation Act of 1973, specifically, the promotion of energy conservation and the equitable distribution of refined petroleum products among all regions of the United States. The DOE found that the approval of exception relief would actually promote conservation of petroleum products and that Phillips had failed to show that exception relief for Welsh would create a regional imbalance in the supply of unleaded motor gasoline. The DOE also found that Welsh's proposed exception relief should be reduced to reflect the firm's actual operations. Consequently, exception relief which provided Welsh with an additional 150,000 gallons of unleaded motor gasoline per month to be supplied by Phillips during the period July 1980 through June 1981 was granted.

Western Oil of Nebraska, Inc., Grand Island, Nebr., BEO–0982, motor gasoline.

Western Oil of Nebraska, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to alleviate a gross inequity which the firm was experiencing as a result of the operation of DOE mandatory petroleum allocation regulations. Accordingly, exception relief was granted. An important issue discussed in the Decision and Order is the division of a firm's base period allocation of motor gasoline when portions of that firm are purchased by two separate and discrete entities.

Request for Temporary Exception

National Oil Jobbers Council, Washington, D.C., BEL–0052, Gasohol.

National Oil Jobbers Council filed an Application for Temporary Exception in which it requests temporary exception from the DOE pricing regulations for purposes of determining the product cost of gasohol (10 CFR § 212.92). In considering the Application, the DOE determined that marketers which blend gasohol may include the cost of the ethanol portion of the gasohol in determining their maximum allowable selling prices for gasohol. The exception request was therefore granted.

Requests for Stay

Little America Refining Co., Inc., Washington, D.C., BES–1064, Crude Oil.

Little America Refining Company, Inc., filed an Application for Stay from the requirement that it purchase entitlements in June 1980 as a result of the issuance of the April Entitlements Notice. (10 CFR § 211.67). In considering the Application, the DOE determined that Little America had met the requirements necessary for approval of the stay. The stay request was therefore granted.

Panasonic Co., Secaucus, N.J., BES–0077, Test Procedures.

Panasonic Company filed an Application for Stay from the requirement that it perform energy efficiency and consumption tests on its small-capacity refrigerators, Model No. NR–202 in accordance with the provisions of 10 CFR, Part 430. In considering the application, the DOE found that Panasonic was unable to perform the tests in the manner specified in Part 430. Accordingly, stay relief was granted which permits Panasonic to modify the test procedures applicable to its small-capacity refrigerators.

Supplemental Order

McDowell Exxon, Art's Chevron, Richard Thompson Chevron, Tom's Union, Hal Abel Chevron, John de Laveaga's Chevron, Britton Chevron, Marina Chevron, Ralph Mitchell's Hilltop Chevron, Smith's Chevron, BRX–0064, Motor Gasoline.

On June 4, 1980 and June 9, 1980, Notices of Objection to Proposed Remedial Orders were filed on behalf of certain retailers of motor gasoline. Counsel for those retailers requested that the objection proceedings be consolidated with the proceedings already consolidated in *Weber's Chevron Service*, 5 DOE ¶ , BRS–0058 (June 6, 1980). For the reasons set forth in that decision, the request was granted.

Interim Order

Diamond Shamrock Corp., Amarillo, Tex., BEN–0774, Gasohol.

Diamond Shamrock Corporation filed an Application for Exception from the provisions of 10 CFR Parts 211 and 212. The firm requested that it be allowed to market gasohol as a separate category and grade of motor gasoline for the purposes of Part 212 and that it be allowed to exclude the alcohol portion of the gasohol which it markets from the calculation of its allocable supply of motor gasoline under Part 211. The DOE determined that the relief should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Hadley Car Wash, DEE–6225, Whittier, CA.
James P. Burns, DEE–3641, Virginia Beach, VA.
Murrayair Ltd, BEO–0414, Hilo, HI.
Rainbow Standard SVC., BEO–0524, Kansas City, KS.
Tiny's Freeway Sta., BEO–0770, Tulsa, OK.
Valley West Amoco, Inc., BEO–0671, West Des Moines, IA.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, and Case No.

Bearsch's Penn Jersey Auto Store & Car Care Center, DES–5447; DST–5447.
Bonnie McKay, DEE–6433.
Cibro Pet. Products, Inc., BEE–1036.
Dean-O of Georgia, Inc., DEE–6295.
Dunlap-Swain, DEE–5236.
Energy Cooperative, Inc., BSG–0025.
Gary Energy Corp., BEA–0343.
Gasamat Oil Corp. of Colorado, BEE–1048.
Gulf Energy Ref. Corp., BEA–0060; BEA–0061.
Heine Petroleum, Inc., BEE–0981.
IGC Vista Petroleums, Inc., BED–0059; BEE–0638.
J. C. Brown Oil Co., Inc., DEE–7392.
Kansas City-East Union Auto/Truck Stop, DEE–3622.
Metro Oil Co., Inc., DES–3257; DST–3257.
Oak Manor Standard, DEE–6853.
Par Mar Oil Co., BSG–0010.
Petro-Pantry, DEE–2377; DES–2377; DST–2377.
Richard Partridge, DEE–6772.
Richards Oil Co., BEE–1157.
Richmond—Kill Svc. Cntr., DEE–7946.
School Board of Seminole County, BEE–1163.
T. F. Barry Oil Svc., BEE–1000
Thorton Oil Corp., DES–2140.
Tweedel & Van Buren Oil Co., BEE–0998.
Van's Exxon, BEE–0079.
Vinny's Svc. Sta., DEE–7947.
Yucaipa Car Wash and Automotive, DEE–4910.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf report system.

Dated: August 7, 1980.

Thomas L. Wieker,

Deputy Director, Office of Hearings and Appeals.

[FR Doc. 24688 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1570–8]

Consumer Affairs Program in Compliance With Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs"

AGENCY: Envionmental Protection Agency.

ACTION: Feasibility study to consider automating complaint handling.

SUMMARY: To carry out the requirement for effective response to complaints that is included in Executive Order 12160, the Administrator's Special Assistant for Consumer Affairs has asked EPA's Management Information Data Systems Division to study the advisability of automating consumer complaint handling. The purpose of the study is to determine whether and in what manner data to a central computer for later review by the Agency's management and the public, for consideration in making policy and setting priorities. On June 9, 1980, in the final notice of adoption of a Consumer Affairs Program, EPA announced that by August 15, 1980, new procedures would be proposed for processing complaints. A more detailed notice of such a proposal is now under Agency review and will be published with a request for comments in the near future.

FOR FURTHER INFORMATION CONTACT:
Rhea L. Cohen, Consumer Affairs Coordinator, Office of Public Awareness (A–107), Environmental Protection Agency, Washington, D.C., 20460. Telephone (202) 755–0700.

Charles Rogers,

Acting Director, Office of Public Awareness.

[FR Doc. 80-24570 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1571–5; OPTS–51104]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–73—Septmeber 13, 1980; PMN 80–175—September 16, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–775–8050.

FOR FURTHER INFORMATION CONTACT:
Rick Green, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202/426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at leaset 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms.

In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In adition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconformity description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due noice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will reivew confidentiality claims for chemical identity, use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under **"DATES"**, submit to the Document Control Officer TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51104]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 8, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–173.

Close of Review Period. October 13, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Manufacturing site—East-North central region, U.S. Standard Industrial Classification Code—285.

Specific Chemical Identity. Claimed confidential. Generic name provided: Polyester of: Adipic acid, phthalic anhydride, trimethylol propane, ethylene glycol, and diethylene glycol.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential. The substance will be used in an open use that will release less than 50 kilograms (kg) of the substance to the environment per year. The use may involve potential exposure to skin and eyes.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	50,000	50,000
2nd year	50,000	150,000
3d year	100,000	300,000

Occupational exposure

Activity	Exposure route	Maximum exposed	Maximum duration		Concentration ppm	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation and dermal.	8	24	72	0–1	1–10

Physical/Chemical Properties.

	Polymer solution	Dried polymer
Solid content	68.4 pct	
Density	1.10 g/ml	1.30 g/ml.
Solubility in water		0.01 g/100ml.
Number average molecular weight.	3300 to 3400	
Weight average molecular weight.	8500 to 8700	
Flash point (closed cup).	0 °F	Over 212 °F.
Hydroxyl value	26 mg KOH/g	
Acid number	3.9 mg KOH/g	
Viscosity	250 to 350 cps	
Elemental analysis		
		Percent C=59.76.
		Percent H=7.06.
		Percent O=33.18.
Chemical oxygen demand.	1,830,000 Hgo_n/g.	

Toxicity of Raw Materials.

Phthalic anhydride. The oral LD_{50} in rats is 800–1,600 mg/kg. The Threshhold Limit Value (TLV) is less than 25 mg/m^3. Phthalic anhydride is a potent skin, eyes, and upper respiratory irritant and can cause skin and possibly pulmonary sensitization.

Ethylene glycol. Low in acute oral toxicity. The LD_{50} in rats is 5.50 ml/kg.

Diethylene glycol. The single dose oral LD_{50} for rats is 14.8 ml/kg. It is not irritating to the eyes or skin, and it is not readily absorbed through the skin.

Adipic acid. Slightly toxic on acute or chronic exposures in rabbits and rats.

Trimethylol propane. Essentially non-toxic and is neither a primary skin irritant nor skin sensitizer. The oral LD_{50} in rats is 14.7 g/kg (non-toxic), the dermal LD_{50} in rabbits is over 10 g/kg (non-toxic).

Ethyl acetate. The TLV for ethyl acetate is 400 ppm. Over exposure may cause severe irritation to eyes with moderate irritation to the skin. The oral LD_{50} in rats is 5.6 g/kg.

Acetone. The toxicity by ingestion of acetone for animals is low. The lethal and narcotic doses for rabbits is 10 and 7 ml/kg, respectively. The TLV is 1,000 ppm.

Environmental Release/Disposal. The

submit to the Document Control Officer

Corp., Chemical Div., P.O. Box 2668,

provided: Annual sales—$100,000,000–

Environmental Release/Disposal. The manufacturer states that the substance will release less than 50 kg of the substance to the environment per year. Each reactor at the manufacturing plant is equipped with an exhaust and fume condenser. The effluent (air borne) is also treated by an exhaust fume scrubber. Scrubber water goes to biological treatment lagoons with a sixty-day retention period. Sludge is transported by state licensed carriers to a state licensed landfill.

PMN 80–175.

Close of Review Period. October 16, 1980.

Manufacturer's Identity. McCloskey Varnish Co. of the West, 5501 E. Slauson, Los Angeles, CA 90040. (Parent Co.: McCloskey Varnish Co., Philadelphia, PA 19136)

Specific Chemical identity. Alkyd resin polymer, fatty acid, and urethane modified.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Industrial enamels (80%) and industrial primers (20%).

Production Estimates. The manufacturer estimates that between 8,000 to 40,000 kg of the PMN substance will be produced during the first year.

Physical/Chemical Properties.

Solids—74 to 76 pct.
Viscosity—Z4 to Z6.
Acid values (solids)—45 to 53.
Color—10 maximum.
Weight/gal.—8.7 to 8.8 lb.

Toxicity Data. None submitted.

Occupational Exposure. The submitter states that 4 persons may be exposed to the substance, 3 hours per day, 4 to 20 days a year during the manufacturing process.

Environmental Release. The submitter claims that less than 10 kilograms of the substance per year will be released to the environment.

[FR Doc. 80-24705 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1571-6; OPTS-51109]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–171—September 14, 1980; PMN 80–176—September 19, 1980; PMN 80–177—September 19, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentially for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51109]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 11, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–171.

Close of Review Period. October 14, 1980.

Manufacturer's Identity. Union Camp Corp., Chemical Div., P.O. Box 2868, Savannah, GA 31402.

Specific Chemical Identity. Claimed confidental. Generic name provided: Polyester of adipic and phthalic anhydride, propanediol 1,2 an alkylene diol, and octyl alcohol.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. PVC plasticizer.

Production Estimates. Claimed confidental.

Physical/Chemical Properties.

Specific gravity 25°C/25°C—1.03 to 1.04.
Viscosity, Cts at 25°C—200 to 900.
Flash Point, °F (COC)—>400.
Color, Gardner—2+ to 4.
Acid Value—3 maximum.
Saponification value—394 minimum.
Hydroxyl value—35 maximum.
Estimated molecular weight—600–1,000.
Solubility in water—Negligible.

Toxicity Data. The manufacturer claims that esters generally have low toxicity. No other data submitted.

Occupational exposure.

Activity	Exposure route	Maximum exposed	Maximum duration		Consentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Dermal	6	2	12	0–1	mg/m²

Environmental Release/Disposal. Manufacture:

Media—Amount/duration of chemical released (lb/yr).
Air—Less than 10. 24 hours/day; 6 days/year.
Water—100 to 1,000.
Land—Less than 10. 12 hours/day; 6 days/year.

Diatamaceous earth saturated with the product will be disposed of according to Resources Conservation Recovery Act (RCRA) regulations. The water of reaction is sent to the water treatment system before being discharged to the receiving stream. The treatment system meets the requirements of the State of Ohio and consist of oil separator followed by oxidation and activated sludge decomposition of the organics.

PMN 80–176.

Close of Review Period. October 19, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Annual sales—$100,000,000–$499,000,000. Manufacturing site—Middle Atlantic region, U.S. Standard Industrial Classification Code—2891.

Specific Chemical Identity. Oxirane, polymer with methyl oxirane, 1,1'-methylenebis(4-isocyanatocyclohexane) and (2-hydroxyethyl)-2-propenoate.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Coating.

Production Estimates. Between 2,000–3,000 kilograms for first three years.

Physical/Chemical Properties.

Viscosity—800 cps (1800 mPa.s).
Flash point (set a flash)—80° F.
Weight/gal—9.1 lb. (1.09kg/l).

Toxicity Date. None submitted.

Exposure. The manufacturer claims that during manufacture, one to two workers would be exposed to potential dermal contact for 4 hour per day, 5 days/year. This would occur during blending and packaging.

Environmental Release. The submitter states that the substance will be used in radiation curable 100% reactive coating formulations. The coating will be applied via automatic dispensing equipment, such as a roll coater or a curtain coater, on a moving web. The coated part then immediately moves into a curing unit, after which the substance is part of a completely crosslinked matrix.

PMN 80–177.

Close of Review Period. October 19, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Annual sales—$100,000,000–$499,000,000. Manufacturing Site—Middle Atlantic region, U.S. Standard Industrial Classification Code—2891.

Specific Chemical Identity. Oxirane, polymer with methyl oxirane, 1,3-diisocyanatomethylbenzene, and (2-hydroxyethyl)-2-propenoate.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Coating formulations.

Production Estimates. The submitter estimates that between 3,000 and 6,000 kilograms per year will be manufactured for the first three years.

Physical/Chemical Properties.

Color—Clear.
Percent solids by weight—100 percent.
Weight by gallon—8.9–9.1.
Viscosity—300–500 cps Brookfield RVT. Spindle #2 at 50 rpm.
Cure speed—1 pass 150 ft/min/1–300 watt lamp.
Flash point—>184° F.

Toxicity Data. None submitted.

Exposure. Exposure to the PMN substance in liquid form may occur during blending and packaging in which 1–2 workers may have dermal contact for 4 hours per day, 5 days per year.

Environmental Release. During use. The manufacturer states that the substance will be used in radiation curable 100% reactive coating formulations. The coating will be applied via automatic dispensing equipment, such as a roll coater or a curtain coater, on a moving web. The coated part then immediately moves into a curing unit, after which the substance is part of a completely crosslinked matrix.

[FR Doc. 80-24706 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1572-4; OPTS-51110]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice

announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–170—September 14, 1980; PMN 80–181—September 19, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460, 202–426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Rm. E–447, Office of Peticides and Toxic Substances, 401 M St., SW, Washington DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51110]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 11, 1980.

Douglas G. Bennerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–170.

Close of Review Period. October 13, 1980.

Importer's Identity. Akron Chemical Co., 255 Fountain St., Akron, OH 44304.

Specific Chemical Identity; Zinc dibutyl dithiocarbamate dibutylamine complex.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Room temperature accelerator in rubber vulcanizing process.

Import Estimates. Importer states volume of import will range between 1,000–10,000 pounds per year.

Physical/Chemical Properties.

Molecular weight—603.4.
Specific gravity—1.088–1.092.
Vapor pressure—Low.
Viscosity—Syrupy liquid.
Evaporation rate—Low.
Flash point—66° C.

Toxicity Data. The importer states that there are no specific data on the toxicity of the complex ZBUDX, but regards the substance to be moderately toxic. Data on related substance: Zinc dibutyl dithiocarbamate (mice)—1,000 mg/kg maximum tolerated oral dose. Dibutylamine, oral LD_{50} (rats)—550 mg/kg.

The importer states that in a single patch test, the complex ZBUDX gave no indication of irritative or dermatitic properties.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 80–181.

Close of Review Period. October 19, 1980.

Importer's Identity. Diamond Shamrock Corp., 1100 Superior Ave., Clevland, OH 44114.

Specific Chemical Identity. Benzenemethanaminium, *ar*-bromoethenyl-*N,N,N*-trimethylchloride (or sulfate), polymer with diethenlybenzene, diisopropenylbenzene, and 2-methyl-1,3-butadiene.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Recovery of uranium from uranium mine tailings.

Import Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	4,000	55,000
2nd year	49,000	65,000
3rd year	96,000	210,000

Physical/Chemical Properties.

Matrix—Crosslinked polystyrene.
Functional groups—$N(CH_3)_3$ (Type 1 quat. ammonium).
Physical form—Red-brown translucent beads.
Sphericity—Minimum 95 percent.
Optical aspect—Minimum 90 percent intact beads.
Specific gravity (H_20=1)—1.2 $C1^-$ form; 1.3 SO_4= form.
Particle size—0.30–1.00 mm for fixed bed operation; 0.40–0.80 mm or 0.75–1.00 mm for fluidized bed operation.

Toxicity Data. No data were submitted.

Environmental Release/Exposure. Diamond Shamrock Corp. states that processing or repacking of the PMN substance in the United States will not be required, and therefore occupational exposure to the PMN substance is nil. Further, Diamond Shamrock Corp. state that since uranium mill operations are regulated by the Nuclear Regulatory Commission (NRC) occupational exposure and environmental release are covered by the NRC. (Title 10, CFR, Section 20)

[FR Doc. 80-24707 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1572–7; OPTS–51111]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–182—September 21, 1980; PMN 80–186—September 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: George Bagley, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–426–3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51111]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604).

Dated: August 11, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–182.

Close of Review Period. October 21, 1980

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturing site—East-north central region, U.S.

Standard Industrial Classification Code—286 "Industrial Organic Chemicals".

Specific Chemical Identity. Claimed confidential. Generic name provided: Alkanedioic acids mixed alkanolamines salt.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. No data were submitted.

Toxicity Data.

Acute oral LD_{50} (rats)—6.81 ml/kg.

Primary skin irritation test (rabbits)—Index=2.42.

Acute eye irritations (rabbits—Nonirritant.

Exposure.

Activity	Exposure route	Maximum exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Vapors/skin	2		5	1–10	1–10
Processing	Vapors/skin	2		60	1–10	1–10
Use	Intended skin contract.	NA		250	>100	

The use will involve exposure to non-chemical industrial workers on a continuous or very frequent exposure during working hours with intended skin contact and a potential for eye contact.

Environmental Release/Disposal. The manufacturer states that the PMN substance will be used in an open use that will release more than 5,000 kilograms (kg), but less that 50,000 kg per year to the environment and that there will be a release to the environment as an industrial waste stream to a publicly owned treatment works (POTW).

PMN 80–186.

Close of Review Period. October 28, 1980. Manufacturer's Identity. Eli Lilly & Co., 307 East McCarty St., Indianapolis, IN 46285.

Specific Chemical Identity. N-Methyl-2,4-dinitro-*N*-phenyl-6-(trifluoromethyl) benzeneamine.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Captive intermediate.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Melting point—84.0–85.5° C.

Solubilities:

Acetone—lg/ml.

Dimethylsulfoxide—0.5 g/ml.

Ethanol—0.05 g/ml.

Toxicity Data.

Oral toxicity, LD_{50} (rats)—>500 mg/kg.

Dermal toxicity, LD_{50} (rabbits)—>500 mg/kg.

Dermal irritation (rabbit)—Slight.

Eye irritation (rabbit)—Slight.

Inhalation toxicity, LD_{50} (rat)—>0.14 mg/L actual.

Exposure. The manufacturer states that two people will be involved in the manufacturing process of the PMN substance and that exposure to the substance will be negligible.

Environmental Release/Disposal. Release to the environment of the PMN substance will be incidential; disposal will be by incineration.

[FR Doc. 80-24704 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1572-6; PF-198]

Certain Pesticide Chemicals; Notice of Filing of Food Additive and Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals on raw agricultural commodities and food.

ADDRESS: Written comments and inquiries should be directed to the: Designated Product Manager (PM), Registration Division (TS–767), Office of Pesiticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the Agency. The comments are to be identified by the document control number "[PF–198]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of certain pesticide chemicals on certain raw agricultural commodities and food in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP OF2368. Pennwalt Corp., Decco-Tiltbelt Div., P.O. Box 120, Monrovia, CA 91016. Proposes that 40 CFR 180.200 be amended by establishing a tolerance for the residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the raw agricultural commodity kiwifruit (post-harvest) at 20 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography with an electron capture detector. (PM–21, Eugene Wilson, Rm. E–349, 202–755–1806)

PP OF2369. Pennwalt Corp., Decco-Tiltbelt Div. P.O. Box 120, Monrovia, CA 91016. Proposes that 40 CFR 180.129 be amended by establishing a tolerance for residues of the fungicide *O*-phenyl-phenol and its sodium salt in or on the raw agricultural commodity kiwifruit (post-harvest) at 20 ppm. The proposed analytical method of determining residues is gas chromatography with a flame ionization detector. (PM–21).

PP OF2385. Mobay Chemical Corp., Agricultural Chemicals Div., 1140 Connecticut Avenue, Suite 604, Washington, D.C. 20036. Proposes to amend 40 CFR 180.349 by establishing tolerances for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate in or on the raw agricultural commodities: corn, fresh (including sweet) at 0.01 ppm; corn grain (including field and popcorn); at 0.01 ppm; and corn forage and fodder at 0.5 ppm. The proposed analytical method for determining residues is gas liquid chromatography with a thermionic flame ionization detector. (PM–21),

PP OF2375. Shell Oil Co., Suite #200, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036. Proposes that 40 CFR 180.379 be amended by establishing tolerances for the residues of the insecticide cyano (3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity soybeans at 0.05 ppm. The proposed analytical method for determining residues is by gas chromatography and combined gas chromatography/mass spectroscopy. (PM-17, Franklin D.R. Gee, Rm. E–341, 202–426–9417)

FAP OH5268. Shell Oil Co., proposes that 40 CFR 193 be amended by establishing a regulation permitting residues of the insecticide cyano in or on the commodity soybean hulls at 0.1 ppm. (PM–17)

(Secs. 408(d)(1), 209(b)(5); 68 Stat. 512, 72 Stat. 1786;) (7 U.S.C. 135), (21 U.S.C. 348))

Dated: August 8, 1980.

Douglas D. Campt,

Director Registration Division Office of Pesticide Programs.

[FR Doc. 80-24710 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50496; FRL 1572-5]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

3125–EUP—165. This experimental use permit allows the use of 162.5 pounds of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite, beta-4(chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazol-1-ethanol on fresh grapes to control powdery mildrew and black rot. A total of 290 acres are involved. The program is authorized only in the States of California, New York, Oregon, and Washington. The experimental use program is effective from July 16, 1980 to December 31, 1982. A temporary tolerance for the residues of the fungicide has been established.

3125–EUP–169. This experimental use permit allows the use of 185 pounds of the above named fungicide on fresh apples to control powdery mildrew and cedar apple rust. A total of 185 acres are involved. The program is authorized in the States of California, Colorado, Oregon, Pennsylvania, Utah, Virginia, Washington, and West Virginia. The program is effective from July 18, 1980 to December 31, 1982. A temporary tolerance for the residues of the fungicide on apples has been established. This permit and the one above have been issued to Mobay Chemical Corporation, Agriculture Chemicals Division, P.O. Box 4913, Kansas City, Mo 64120. (PM 21, Eugene Wilson, Rm. E–349, 202/755–1806).

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St. SW, Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended, (7 U.S.C. 136))

Dated: August 8, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24711 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50493; FRL 1572-2]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

11683–EUP–2. This experimental use permit allows the use of 11,160 pounds of the herbicide dimethylamine salt of 2,4-dichlorophenoxyacetic acid in or on lakes and reservoirs under the jurisdiction of the Water and Power Resources Service, U.S. Department of Interior and the U.S. Army Corps of Engineers to evaluate control of Eurasian watermilfoil.

11683–EUP–3. This experimental use permit allows the use of 13,485 pounds of herbicide 2,4-dichlorophenoxyacetic acid, butoxyethanol ester in or on lakes and reservoirs under the jurisdiction of the Water and Power Resources Service, U.S. Department of Interior and the U.S. Army Corps of Engineers, to evaluate control of the Eurasian watermilfoil.

This program and the one above are both authorized only in the following locations: Lake Seminole, Florida-Georgia; Robert S. Kerr Reservoir, Oklahoma; Fort Cobb Reservoir, Oklahoma, and Banks Lake, Washington.

Both programs are effective from July 10, 1980 to Feburary 28, 1982. A temporary tolerance and a food additive tolerance for residues of the active ingredient in or on the raw agricultural commodities fish (edible flesh) and various crops and crop groupings have been established under the provisions of the Federal Food, Drug, and Cosmetic Act. A food additive tolerance for residues of the active ingredient in potable water in connection with these experimental use permits has been established under the Federal Food, Drug, and Cosmetic Act. (PM 23, Richard F. Mountfort, Rm. E–351, 202/755–1397).

8730–EUP–10. Herculite Products, Inc., 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 0.705 pounds of insecticide (*Z,Z*)-3-,13-octadecadien-1-ol acetate on peach trees to evaluate control of the peachtree borer. A total of 300 acres are invovled. The program is authorized only in the State of Georgia. The experimental use permit is effective from June 7, 1980 to June 7, 1981. A temporary exemption from the requirements a of tolerance for residues of (*Z,Z*)-3-,13-octadecadien-1-ol acetate on peaches has been established. (PM 17, Franklin D. R. Gee, Rm. E–341, 202/428–9417)

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PMN), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460. Inquiries regarding these permits should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made available for inspection from 8 a.m. to 4 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended (7 U.S.C. 136))

Dated: August 11, 1980.

[PP 8G2130/T264; FRL 1571-7]

any authorized officer or employee of

International Building, Dallas, Texas

2. The discharger is not in compliance

II. Nature of Discharges From Offshore

Dated: August 11, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24713 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[PF 112A; FRL 1571-8]

Mobay Chemical Corp.; Filing of Pesticide Petition; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Mobay Chemical Corp. has submitted a request for an amendment to pesticide petition number PP 8F2116. This amendment proposes to increase the tolerance in or on the raw agricultural commodity sugar beet (tops) from "0.4" to "0.5" part per million (ppm), and to establish a tolerance for sugar beet (roots) at 0.02.

ADDRESS: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-343, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller (202-426-9458).

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of November 2, 1978 (43 FR 51132) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120 had filed a pesticide petition (PP 8F2116) proposing to amend 40 CFR 180.315 by establishing a tolerance for the residues of the insecticide *O, S*-dimethyl phosphoramidothioate in or on the raw agricultural commodities peppers at 2.0 ppm; sugar beet (roots) at 0.02 ppm; and sugar beet (tops) at 0.4 ppm.

Mobay has submitted an amendment proposing to amend the petition by increasing the proposed tolerance on sugar beet (tops) from "0.4" to "0.5" ppm. The proposed analytical method for determining residues is by gas chromatographic procedure using a cesium bromide thermionic detector.

(Sec. 408(d)(1), 68 Stat. 512; 7 U.S.C. 135)

Dated: August 8, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24715 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[PP 8G2130/T264; FRL 1571-7]

Propylene; Renewal of a Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary exemption from the requirement of a tolerance for residues of the plant growth regulator propylene in or on the raw agricultural commodity sugar beets.

ADDRESS: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-359, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor (202-426-2196).

SUPPLEMENTARY INFORMATION: On November 28, 1978, the EPA issued a notice that published in the **Federal Register** (43 FR 55462) that The Great Western Sugar Co., Agricultural Research Center, 11939 Sugarmill Road, Longmont, CO 80501 had filed a pesticide petition (PP 8G2130). The petition requested that an exemption from the requirement of a tolerance be established for residues of propylene in or on the raw agricultural commodity sugar beets. This temporary exemption from the requirement of a tolerance expired October 20, 1978.

The Great Western Sugar Co. has requested a one-year renewal of the temporary exemption to permit the marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that renewal of the temporary exemption will protect the public health. Therefore, the temporary exemption is renewed on the condition that the plant growth regulator be used in accordance with the following provisions:

1. The total amount of the plant growth regulator must not exceed the amount authorized in the experimental use permit; and

2. The Great Western Sugar Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA of the Food and Drug Administration.

This temporary exemption expires on August 30, 1981. Residues in or on sugar beets after expiration of this temporary exemption will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the experimental use permit and the temporary exemption. This temporary exemption may be revoked if the experimental use premit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary.

(Sec. 408(j), 68 Stat. 561; 21 U.S.C. 136a(j))

Dated: August 11, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24716 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1572-8]

Draft General NPDES Permits and Public Hearings for Oil and Gas Operations in Portions of the Gulf of Mexico; Fact Sheet

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permits and Public Hearings.

SUMMARY: The Regional Administrator of Region VI has tentatively decided to issue three general NPDES permits for certain dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These general NPDES permits will establish effluent limitations, standards, prohibitions, and other conditions on discharges from oil and gas facilities. The facilities to be covered by these permits are located in the Gulf of Mexico seaward of the inner boundary of the Territorial Seas off the States of Louisiana and Texas, and west of 87°40' West, Longitude exclusive of certain potentially productive or unique biological areas identified in Part III B and in the draft general NPDES permits.

DATES: Comments must be received by September 29, 1980.

ADDRESSES: Comments should be sent to the Regional Administrator, Region VI, U.S. Environmental Protection Agency, 1201 Elm Street, First International Building, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Callahan, Administrative Branch, Region VI, U.S. Environmental Protection Agency, 1201 Elm Street, First International Building, Dallas, Texas 75270. Telephone: (214) 767-2765).

Fact Sheet and Supplementary Information

I. Background

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of "general permits" to categories of dischargers. See 40 CFR 122.59 (45 FR 33447, May 19, 1980). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures.

The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a georgraphic area that:

1. Involve the same or substantially similar types of operations;

2. Discharge the same types of wastes;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring requirements; and

5. In the opinion of.the Director, are more appropriately controlled under a general permit than under individual permits.

Violation of a condition of a general permit consititutes a violation of the Clean Water Act and subjects the discharger to the penalties specified in section 309 of the Act.

Any owner or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request no later than 90 days after publication by EPA of the final general permit in the **Federal Register.** The Director may require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for oil and gas facilities covered by a general permit unless it can be clearly demonstrated that inclusion under the general permit inappropriate. The Director may consider the issuance of individual permits when:

1. The discharge(s) is a significant contributor of pollution;

2. The discharger is not in compliance with the terms and conditions of the general permit;

3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;

5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or

6. The requirements listed in the previous paragraphs are not met.

B. Oil and Gas Operations in the Gulf of Mexico

In Region VI, there are currently over 2,000 dischargers operating in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. To date, only three dischargers have received a final NPDES permit; another nine draft permits have been public noticed. Those permits are for facilities operating in the Flower Gardens lease blocks in the Gulf of Mexico, an area excluded from these draft general permits. Although applications for permits have been received from most of facilities, a lack of resources and higher priorities have precluded EPA from processing those applications. For some time EPA's efforts have been focused on industrial dischargers considered major contributors of pollution and on industrial discharges located near population centers.

Because these offshore facilities have not been issued permits, they are not in compliance with the Act and may be subject to enforcement actions, including citizen suits under section 505 of the Act. Furthermore, in the absence of permits, there are currently no discharge limitations, and no reporting or monitoring requirements applicable to these dischargers.

The large number of existing unpermitted facilities operating in the Gulf of Mexico has prompted EPA to formulate these draft general permits for public review and comment. If issued, these permits will enable these facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a large number of dischargers. The issuance of these draft general permits is warranted by the particular administrative and environmental conditions in the Gulf of Mexico. Other areas of the Outer Continental Shelf may require different permitting strategies and different permit conditions for offshore oil and gas facilities.

II. Nature of Discharges From Offshore Oil and Gas Facilities

The Offshore Subcategory of the Oil and Gas Extraction Point Source Category includes facilities engaged in the production, field exploration, drilling, well production, and well treatment within the oil and gas extraction industry which are located seaward of the inner boundary of the Territorial Seas.

Operations within the Offshore Subcategory can be divided into distinct phases: exploration and production. Exploratory operations involve drilling to determine the nature and extent of potential hydrocarbon reserves. Exploratory drilling operations are of short duration at a given site, involve a small number of wells, and are generally conducted from mobile drilling units. These include units with traditional ship's hulls or semi-submersible craft—essentially a floating platform with submerged hulls which support a unit above water.

Production operations involve development drilling and the actual recovery of hydrocarbons from underground geologic formations. Production platforms are usually fixed for long periods of time with as many as 20 to 40 wells drilled from a single platform.

The discharges from offshore operations can be divided into distinct categories:

A. Drilling Fluids

Drilling fluid is defined as any fluid sent down the hole, including drilling muds, gelling compounds, weighting agents, and any speciality products, from the time a well is begun until final cessation of drilling in that hole. Generally, two basic types of muds, water-based and oil-based muds, are used in drilling. Water-based muds are usually mixtures of fresh water or sea water with clays. Oil-based muds (invert emulsion muds or oil emulsion muds) are mixtures of diesel oil and clays with water or brine emulsified in the oil.

Drilling fluids are used in both exploration and production drilling to maintain hydrostatic pressure control in the well, lubricate the drilling bit, and remove drill cuttings from the well. Oil-based muds are used for special drilling requirements such as tightly consolidated subsurface formations, water sensitive clays, and shales. Specific needs of a drilling program may also require the addition of additives to the drilling fluids.

V 45 A G 15 80 0 UMI

B. Drill Cuttings

Drill cuttings are mineral particles generated by drilling into subsurface geologic formations. Drill cuttings are carried to the surface of the well with the circulation of the drilling fluids and separated from the fluids on the platform by solid separation equipment (screens and shakers).

C. Producted Water ("Formation Water" or "Brine")

Produced water includes water and suspended particulate matter, brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations. Produced waters are primarily generated during the production phase of oil and gas operations with the amount generated dependent upon the method of recovery and the nature of the formation. Geologic formations contain different oil-water or gas-water mixtures which are produced at different times:

1. In some formations, water is produced with the oil and gas in the early stages of production;
2. In others, water is not produced until the formation has been significantly depleted; and
3. In still others, water is never produced.

D. Produced Sands

Produced Sands include sands and other solids removed from the produced waters.

E. Deck Drainage

Deck drainage includes all waste resulting from platform washings, deck washings, tank cleaning operations, and run-off from curbs, gutters, and drains including drip pans and work areas.

F. Sanitary Wastes

Sanitary wastes include human body waste discharges from toilets and urinals.

G. Domestic Wastes

Domestic wastes include materials discharged from sinks, showers, laundries, and galleys.

H. Cooling water

Cooling water means once-through, non-contact cooling water.

I. Desalinization Unit Discharge

Desalinization unit discharge means any wastewater associated with the process of creating fresh water from seawater.

III. Conditions in the Draft General Permits

A. Geographic Areas of Draft General Permits

The three draft general permits noticed today are applicable to most dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, 40 CFR Part 435, operating in existing lease areas in the Gulf of Mexico. There are three separate draft general permits for three general permit areas:

1. Lease blocks located seaward of the respective outer boundaries of the Territorial Seas off the States of Louisiana and Texas and west of 87°40' West Longitude, LESS AND EXCEPT lease blocks identified in Part III B of the draft general permit;
2. Lease blocks located landward of the outer boundary of the Territorial Seas off the State of Louisiana, LESS AND EXCEPT lease blocks identified in Part III B of the draft general permit; and
3. Lease blocks located landward of the outer boundary of the Territorial Seas off the State of Texas, LESS AND EXCEPT lease areas identified in Part III B of the draft general permit.

These draft general permits do not authorize discharges into any body of water landward of the inner boundary of the Territorial Seas or any wetlands adjacent to such waters. Areas leased by the Bureau of Land Management during the terms of these permits and which are located within the general permit areas will be covered by these general permits.

Certain lease blocks or lease areas containing potentially productive or unique biological communities are specifically excluded from these draft general permits. The excluded lease blocks or lease areas are listed in Part III B below and Part III B of each draft general permit.

To determine the potential for degradation of the marine environment within the general permit area, EPA has relied heavily on the Environmental Impact Statements (EIS) developed by the Bureau of Land Management (BLM), particularly the draft and final EIS for Lease Sales A 62 and 62. BLM has determined that exploration and development activities may cause harm to productive and unique biological communities located in areas of topographical relief and hard bottoms. BLM further identified four types of biological stipulations to protect these communities from adverse impacts of the discharges of oil and gas facilities. Since the permit conditions described in these draft general permits do not specify limitations similar to those recommended by BLM, EPA has decided to identify certain productive or unique biological areas and exclude, for the purpose of further evaluation, these areas from the general permit area and subsequently coverage by these draft general permits.

In addition to the EIS prepared by BLM, the Agency reviewed an EIS prepared by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Services and requested recommendations from the National Oceanographic and Atmospheric Administration (NOAA). Since no EIS has been developed for the Territorial Seas of the States of Texas and Louisiana, the Agency reviewed the following publications:

BLM's Fish and Wildlife Service

1. Mississippi Deltaic Plain Region Ecological Characterization,
2. An Ecological Characterization Study of the Chenier Plain Coastal Ecosystem of Louisiana and Texas,
3. Drafts for a Ecological Characterization Study of the Texas Coastal Ecosystem on the Gulf of Mexico, and
4. Nesting Colonies of Seabirds and Wading Birds, Coastal Louisiana, Mississippi, and Alabama.

Since less information is available on, lease areas within the Territorial Seas off the States of Louisiana and Texas comments are specifically requested to further identify potentially productive or unique biological communities in these areas.

B. Excluded Areas and Request for Comments

The following tables list the lease blocks from these draft general permits:

Lease Areas Seaward of the Outer Boundary of the Territorial Seas

Lease Area	Bank Name	Lease Block
South Padre Island	Sebree Bank	1070, 1071, 1084
North Padre Island	Mysterious	A 83, A 84
	Black Fish Ridge	A 72, A 61
	Dream	A 40, A 41
Mustang Island	Southern	A 9, A 16
Mustang Island East Addition	Hospital	A 136
	North Hospital	A 117
	Aransas	A 117, A 118
	South Baker	A 95
	Baker	A 62
	Big and Small Dunbar	A 54, A 55, A 56
High Island South Addition	Stetson Bank	A 502, A 513
	Claypile Bank	A 447, A 464
	Applebaum Bank	A 590, A 591
	Coffee Lump	A 521, A 546
	Flower Gardens	A 573, A 596
High Island East Addition South Extension	29 Fathom Bank	A 329
	Coffee Lump	A 340, A 341, A 358, A 359 A 360, A 361
	East and West Flower Gardens	A 351 - A 355 A 361 - A 368 A 373 - A 390 A 394 - A 403
	28 Fathom Bank	A 391, A 392, A 371
East Breaks	Flower Gardens	173, 217
West Cameron South Addition	Bright Bank	650, 657, 656, 660, 661
	28 Fathom Bank	653
	29 Fathom Bank	590, 591
East Cameron South Addition		379
Garden Banks	Geyer Bank	
	Elver Bank	
	Alaminos Bank	
	Flower Gardens	95 - 97 133 - 136 138 - 140 177 - 180

Lease Area	Bank Name	Lease Block

C. Expiration Dates

least 180 days prior to the

necessary to comply with the safety

Lease Area	Bank Name	Lease Block
Vermillion South Addition	Sonnier Rock	305
	Bouma Bank	383, 384, 385, 393, 392
	Razak Bank	404, 405
	Sidner Bank	411, 412
		408, 409, 410
South Marsh Island South Addition	Alderdice	171, 172, 177, 178
	Parker Bank	202, 203, 194, 195
Eugene Island South Addition	Fishnet Bank	335, 336, 355, 356
	Alaminos Bank	390, 329, 228, 327
Ship Shoal South Addition	Ewing Bank	335, 336, 337, 338 351, 350
South Timbalier South Addition	Daphis Bank	317, 314, 315, 316
West Delta South Addition	Sachett Bank	148

Lease Blocks Landward of the Outer Boundary of the Territorial Seas Off the State of Louisiana

Lease Area	Site Name	Offshore Block
Eugene Island Area	Point Au Fer Shell Reef	13, 14, 15 16
		9, 10
South Pass Area	Cockler Point	41
		20, 22, 29, 30

Lease Areas Landward of the Outer Boundary of the Territorial Seas Off the State of Texas

Coatal Area	Bay Area	Seaward of Bolivar Peninsula Galveston Island
Galveston Bay	East Bay Basin	East Bay
		Bolivar Roads
		Rollover Pass

BILLING CODE 6560-01-C

C. Expiration Dates

The final general permits will be issued for two-year terms. Athough NPDES permits may be issued for up to five-year terms, the Regional Administrator has for several reasons decided that only two-year term permits should be issued at this time. First, as discussed in section G of this notice, the Regional Administrator has concluded that oil and gas facilities operating under the limited scope of these permits will not cause significant degradation of the marine environment. The information available, at this time however, does not warrant the same conclusions of no significant degradation of the marine environment for operations over and extended period of time. Second, within the next two years, the Agency anticipates both that new information on the effects of oil and gas operations will be available and that new regulations specifying additional technology-based and section 403(c) ocean discharge limitations will be promulgated. Reevaluation of the conditions contained in these permits at the end of the two-year terms is therefore appropriate.

D. Notification by Permittees

Part I E of each draft general permit requires each operator of a lease block within the general permit area to notify the Regional Administrator in writing of the commencement and termination of discharges from their facilities. This written notificaiton must include the owner or operator's legal name and address, lease block number, or if none, the name assigned to the lease area, and the number and type of facilities located within the lease block or area. Failure to provide this written notification means that the facility is not authorized to discharge under the general permit. Notification is not required for movements of exploratory rigs within the general permit areas.

40 CFR 122.53(b) requires any person who is proposing a new discharge to submit a permit application at least 180 days before the date on which the discharge is to commence. Although these draft permits require notification of commencement and final cessation of activities within the general permit area, individual permit applications are not required to be submitted by persons discharging within the general permit area. Consequently, with respect to those operators, the Regional Administrator is now waiving the requirement contained in 40 CFR 122.53(b) that as new dischargers, those operators submit permit applications at least 180 days prior to the commencement of discharge.

E. Technology-Based Effluent Limitations

The Clean Water Act requires all dischargers to meet effluent limitations based on the technological capacity of dischargers to control the discharge of their pollutants. Section 301(b)(1)(A) requires the application of "Best Practicable Control Technology currently available" (BPT). On April 13, 1979, EPA promulgated final effluent limitations guidelines establishing BPT for the Offshore Subcategory (40 CFR Part 435). These limitations have been incorporated into these draft general permits.

The BPT limitations guidelines restrict the concentration of oil and grease in produced waters to a monthly average of 48 mg/l and a daily of 72 mg/l. However, because these permits require monthly monitoring, a monthly average cannot be calculated and only the daily maximum (72 mg/l) is incorporated into the permits (see 40 CFR Part 435 for more detailed explanation). Although technology-based limitations usually limit the total mass of pollutants which may be discharged, the variable nature of the flow of produced waters requires the use of concentration limits.

BPT effluent limitations guidelines require no discharge of free oil in all other discharges associated with the drilling operations (deck drainage, drilling fluids, drill cuttings, and well treatment fluids.) The term "no discharge of free oil" means that a discharge does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR Part 435).

Although the BPT limitation requires that in sanitary wastes from facilities housing ten or more persons maintain the concentration of chlorine be maintained as close to 1 mg/l as possible, these permits provide that any facility using an approved marine sanitation device that complies with section 312 of the Act shall be in compliance with the permit limitations.

F. Other Discharge Limitations

In addition to the BPT limitations guidelines promulgated under 40 CFR 435, the permits incorporate several other provisions. The discharge of oil-based drilling fluids and halogenated phenol compounds is prohibited. The facility operator is also required to minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of Occupational Safety and Health Administration and United States Geological Survey. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. This restriction is imposed because detergents disperse and emulsify oil thereby enhancing toxicity and making the detection of a discharge of oil more difficult. This restriction is imposed because detergents disperse and emulsify oil thereby enhancing toxicity and making the detection of a discharge of oil more difficult. These limitations have been established pursuant to sections 402 and 403 of the Act.

G. Ocean Discharge Criteria

The Ocean Discharge Criteria, section 403 of the Act, requires that the environmental impact of discharges including potential degradation of marine waters be determined prior to the issuance of an NPDES permit. Section 403(c) further requires EPA to promulgate guidelines to determine degradation and specifies the factors to be considered in deriving necessary permit limits. EPA has proposed ocean discharge guidelines (45 FR 9548, February 12, 1980), but final guidelines have not been promulgated. Until such final guidelines are promulgated, section 403(a)(1) provides that a permit may be issued if it is determined to be in the "public interest". On November 14, 1979, EPA published notice of its interim policy for implementing section 403 (44 FR 65752). In relevant part, this notice provides that:

> • • • pending promulgation of final ocean discharge guidelines, the criteria set forth in section 403(c) of the Act are to be considered and applied in the issuance, reissuance or review of all NPDES permits for ocean dischargers. In addition, except where circumstances make it inappropriate to do so, the ocean dumping criteria in 40 CFR Part 227 are to be applied to the fullest extent possible before issuing, reissuing, or reviewing any such NPDES permits.

These draft general permits for oil and gas facilities operating in the Gulf of Mexico are issued based on the determination of "public interest" and in accordance with the interim policy for implementing section 403. Recognizing the need for pollution control in the Gulf of Mexico and the priority given to energy related issues, EPA has determined that it is in the public interest to issue these draft general permits.

In accordance with the 403(c) interim policy, EPA has conducted a review of the available literature to address the potential degradation of the marine

environment. Based on this review, the Regional Administrator has concluded that operations under the terms of this permit will not cause unreasonable degradation of the marine environment. However, this conclusion is predicated on the exclusion of productive and unique biological areas from the general permit area and the two-year authorization to discharge. The record supporting this determination including a summary of available literature is available for inspection and copying.

These permits are, in effect, interim permits. The Agency, through a Drilling Muds and Formation Waters Task Force, is undertaking a significant research effort to determine the toxicity of drilling muds and formation waters. This effort will produce information on the potential for environmental degradation from the discharges of oil and gas facilities. Additionally, the Agency has recently entered into a consent decree requiring EPA to promulgate new source performance standards for the offshore subcategory. *Natural Resources Defense Council* v. *EPA* No. 79-3442 (D.C.C., filed Dec. 21, 1979). Subsequent permits will incorporate any additional ocean discharge or technology-based limitations resulting from these efforts.

EPA's interim policy is to apply the ocean dumping criteria wherever appropriate. The primary aspect of the ocean dumping criteria, as they relate to the discharges from oil and gas facilities, is compliance with the "Limiting Permissible Concentration" (LPC). The LPC defined for the liquid phase of a material is:

(a) That concentration of a constituent which after allowance for initial mixing (dispersion or diffusion after four hours) does not exceed applicable marine water quality criteria, or when there are no applicable marine water quality criteria,

(b) That concentration of waste in the receiving water which, after allowance for initial mixing will not exceed a toxicity threshold defined as 0.01 of a concentration shown to be acutely toxic to appropriate sensitive marine organisms in a bioassay.

(c) If there is reasonable scientific evidence on a specific waste material to justify the use of an application factor other than 0.01 an alternative application factor shall be used.

The LPC defined for the suspended particulate and solid phase of a material means that concentration which will not cause unreasonable acute or chronic toxicity or sublethal adverse effects based on bioassay results using appropriate sensitive marine organisms for the suspended particulate phase, or appropriate benthic marine organisms in the case of the solid phase; or which will not cause accumulation of toxic materials in the human food chain. The bioassay used in both of the definitions for liquid phase and particulate or solid phase LPC's is defined as the lethal concentration for fifty percent (LC_{50}) of the test organisms.

After a review of the available literature and careful consideration of the general permit areas, EPA has determined that it is inappropriate to incorporate the LPC in these draft general permits. The information available to the Agency at this time indicates that the discharges from oil and gas facilities have a potential for significant impact on benthic marine communities, and in certain cases, the application of an LPC may be appropriate. However, the effects on benthic communities of the Gulf of Mexico should be minimized by the exclusion of potentially productive or unique biological communities from these general permit areas (Part III B). In addition, the two-year term of these draft permits and the difficulty of determining LPC's for the numerous facilities subject to this permit, make use of the LPC inappropriate in these permits. One aspect of the Drilling Muds and Formation Waters Task Force is investigation of the possibility of deriving LPC's for generic classes of drilling muds. The results of the Task Force will be incorporated in subsequent permits.

G. Monitoring and Enforcement

These draft general permits require dischargers to monitor the monthly concentration of oil and grease in produced water discharges and the chlorine in sanitary waste discharges. In addition, monthly monitoring of the produced water flow rate is required. Monthly volume estimates are required for drilling fluids, drill cuttings, deck drainage, produced sand, and well treatment fluids. Discharge Monitoring Reports (DMR's) must be submitted annually. A chemical inventory of all materials added down the well must be maintained and all records retained for three years.

H. State Certification

Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Section 401 requires that States certify that Federally-issued permits are in compliance with State law.

Two of these permits are for operations within the Territorial Seas off the States of Louisiana and Texas. EPA is requesting State officials to review and provide appropriate certification of these two draft general permits pursuant to 40 CFR 124.53.

I. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. In the 1978 amendments to section 311, Congress clarified the relationship between this section and discharges permitted under section 402 of the Act. It was the intent of Congress that routine discharges permitted under section 402 be excluded from section 311. Discharges permitted under section 402 are not subject to section 311 if they are:

1. In compliance with a permit under section 402 of the Act;
2. Resulting from circumstances identified, reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Act, and subject to a condition in such permit; or
3. Continuous or anticipated intermittent discharges from a point source identified in a permit or permit application under section 402 of this Act; which are caused by events occurring within the scope of the relevant operating or treatment systems.

In order to clarify the relationship between permitted discharges and section 311 discharges, EPA has compiled the following list which it considers to be discharges regulated under section 311 rather than under a section 402 permit:

1. Discharges from a platform or structure on which oil or water treatment equipment is not mounted;
2. Discharges from burst or ruptured pipelines, manifolds, pressure valves or atmospheric tanks;
3. Discharges from uncontrolled wells;
4. Discharges from pumps or engines;
5. Discharges from oil gauging or measuring equipment;
6. Discharges from pipeline scraper, launching, and receiving equipment;
7. Spills of diesel fuel during transfer operations;
8. Discharges from faulty drip pans;
9. Discharges from well heads and associated valves;
10. Discharges from gas-liquid separators; and
11. Discharges from flare lines.

J. Other Legal Requirements

The Endangered Species Act requires that each Federal Agency shall ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their habitats. Since endangered species determinations have been made and incorporated into Environmental Impact Statements (EIS) for each Lease Sale conducted in the Gulf of Mexico, EPA has determined that a request for consultation with the Secretary of Interior is not necessary.

Because New Source Performance Standards have yet to be issued for the Offshore Oil and Gas Subcategory, the Agency is not required to prepare an EIS for the issuance of these general permits. The public is referred, however to the EIS's prepared by the Department of Interior as part of the leasing process. The EIS for Lease Sale Number 62 and A62, the most recent sale, is on file with these permits for public inspection.

Public Notice of Formulation of Draft General NPDES Permits and Public Hearings on the Draft General NPDES Permits

The Regional Administrator of Region VI has tentatively decided to issue three general NPDES permits for certain dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, subject to certain effluent limitations, standards, prohibitions, and other conditions necessary to carry out the provisions of the Act. The three draft general permits cover facilities located in the following areas:

1. Permit No. TX0085642 covers lease blocks located seaward of the respective outer boundaries of the Territorial Seas off the States of Louisiana and Texas and west of 87° 40' West Longitude, less and except lease blocks indentified in Part III B of the draft general permit;
2. Permit No. LA0060224 covers lease blocks located landward of the outer boundary the Territorial Seas, off the State of Louisiana, less and except lease blocks identified in Part III B of the draft general permit; and
3. Permit No. TX0085651 covers lease blocks located landward of the outer boundary of the Territorial Seas off the State of Texas, less and except lease areas identified in Part III B of the draft general permit.

The Regional Administrator or a Presiding Officer designated by her will conduct Public Hearings on each of the above draft general permits:

1. The Hearing on Permit Nos. TX0085642 and LA0060224 will be held on October 1, 1980 at the Council Chambers, City Hall, 1300 Perdido, New Orleans, Louisiana and will be begin at 7:00 p.m. and continue until all interested persons have been heard.
2. The Hearing on Permits No. TX0085651 and TX0085642 will be held on October 2, 1980 at County Courthouse, Jury Assembly Room, 722 21st Street, Galveston, Texas and will begin at 7:00 p.m. and continue until all interested persons have been heard.

These draft general permits are based on the administration record. Among other documents, the administrative record required by 40 CFR 124.9, consists of the draft general permits and a fact sheet (published today) describing the reasons for the terms of the conditions of the draft general permits.

The administrative record (with the exception of material readily available at EPA, Region VI, or published material which is generally available) is on file in the Administrative Branch, EPA Region VI at the above address and may be inspected and copied (at a charge of $.20 per copy sheet) at any time between 8:30 A.M. and 4:00 P.M., Monday through Friday. Copies of the draft general permits and other available information may be obtained by writing to the above address.

Interested persons may submit comments on the draft general permits and administrative record to the Regional Administrator at the above address no later than September 29, 1980. The purpose of the Public Hearing is to receive comments from interested persons and the public on these draft general permits. All persons who believe that any of the conditions of the draft general permits is not appropriate or that the tentative decision to prepare these draft general permits is not appropriate have an obligation to raise all reasonably ascertainable issues and submit all arguments and factual grounds supporting their position, including all supporting material, at the close of the comment period. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already a part of the administrative record in these proceedings, or consist of State or Federal and regulations. EPA documents of general applicability or other generally available reference materials.

In accordance with 40 CFR 124.12, the following is a summary of the procedures which shall be followed at the Public Hearings:

1. The Presiding Officer shall have authority to open and conclude the Hearing and to maintain order; and
2. Any persons appearing at such a hearing may submit oral or written statements and data concerning the draft general permit.

Following the Public Hearings and the close of the comment period, EPA will consider the issuance of final general permits. All comments timely submitted by interested persons in response to this notice, and statements and other evidence properly submitted at the Public Hearings will be considered by the Regional Administrator in the formulation of her final decision with respect to these draft general permits. Any person who submits timely written comments will receive notice of the Regional Administrator's final decision. Any interested person may request, by the close of the comment period, that the Regional Administrator exercise her discretion to use the non-adversarial panel procedures of Subpart F of the Consolidated Permit regulations (45 FR 33290, May 19, 1980) to process these draft general permits. Any such request must meet the requirements of 40 CFR 124.114.

Dated: August 8, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region VI.

[FR Doc. 80-24883 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[PW-22; FRL 1572-1]

Rohm & Haas Co.; Withdrawal of Food Additive and Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Rohm and Haas has submitted withdrawals for a pesticide petition (PP 9F2146) and a food additive petition (FAP 9H5200) for the use of the fungicide indar (4-butly-4*H*-1,2,4-triazole) and its metabolites containing the triazole moiety.

ADDRESS: Eugene M. Wilson, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-349, Environmental Protection Agency, 401 M St., SW, Washington DC 20460

FOR FURTHER INFORMATION CONTACT: Eugene Wilson (202-755-1806).

SUPPLEMENTARY INFORMATION: On December 14, 1978, the EPA gave notice (43 FR 54830) that Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, had filed a food additive petition (FAP 9H5200) and a pesticide petition (PP 9F2146). The food additive petition proposed establishment of a regulation permitting the residues of the fungicide indar (4-butyl-4*H*-1,2,4-triazole) and its metabolites containing the triazole moiety in or on the commodity wheat with a tolerance limitation of 8.0 ppm resulting in the food wheat bran. The pesticide petition proposed establishment of tolerances for the above fungicide and its metabolites in or on the raw agricultural commodities wheat and wheat straw at 2.0 ppm; meat, fat, meat byproducts of cattle, goats, hogs, horses, sheep, milk, eggs, and poultry at 0.5 ppm.

Rohm and Haas have withdrawn these petitions without prejudice to future filing in accordance with the regulations (40 CFR 121.52) pertaining to Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)).

Dated: August 11, 1980.

[PP 9G2240/T258; FRL 1571-4]

This temporary exemption expires July 7, 1981. Residues in or on the above

March 1980: Environmental Law Institute, 1346 Connecticut Avenue

Appendix VI sets forth official corrections which have been called to

policies, 6) consideration of national interests, and 7) other features. Comments

Dated: August 11, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24714 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP 50470A; FRL 1572-3]

Rohm & Haas Co., Experimental Use Permit; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Rohm & Haas Co. has requested an amendment to an experimental use permit issued in the **Federal Register** on April 17, 1980 (45 FR 26126).

ADDRESS: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-359, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

: FOR FURTHER INFORMATION CONTACT: Robert J. Taylor (202-755-2196).

SUPPLEMENTARY INFORMATION: On April 17, 1980 a notice appeared in the **Federal Register** on page 26126 that EPA had issued an experimental use permit to Rohm and Haas Co., Philadelphia, PA 19105. Six States were inadvertantly omitted from the permit. Rohm & Haas has submitted an amendment to include the following States: Florida, Michigan, New York, North Dakota, South Dakota, and Wisconsin. The experimental use permit is amended to read:

"707-EUP-83. This experimental use permit allows the use of 20,000 pounds of the herbicide oxyflouroben on soybeans to evaluate control of weeds. A total of 72,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnestoa, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from June 5, 1980 to June 5, 1981. A temporary tolerance for residues of the active ingredient in or on soybean has been established."

(Sec. 5, 92 Stat. 819 (7 U.S.C. 136))

Dated: August 11, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24712 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[PP 9G2240/T258; FRL 1571-4]

(Z,Z)-3, 13-Octadecadien-1-ol Acetate; Temporary Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary exemption from the requirement of a tolerance has been issued for the active ingredient of the insecticide (*Z,Z*)-3,13-octadecadien-1-ol acetate in or on peaches when used as a pheromone to control the Peachtree borer.

ADDRESS: Franklin D. R. Gee, Product Manager (PM) 17, Rm. E-341, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee at (202-426-9417).

SUPPLEMENTARY INFORMATION: Herculite Products, Inc., 1107 Broadway, New York, N.Y. 10010 has been issued a temporary exemption from the requirement of a tolerance for the insecticide (*Z,Z*)-3,13-octadecadien-1-ol acetate in or on peaches when used as a pheromone to control the Peachtree borer.

This temporary exemption is to permit the marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit (8730-EUP-10) which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80-104, 61 Stat. 163, as amended by Pub. L. 92-561, 86 Stat. 975, Pub. L. 94-140, 89 Stat. 754, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported show that the exemption is adequate to cover residues resulting from the proposed experimental use and that such exemption will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the insecticide to be used will not exceed the quantity authorized by the experimental use permit.

2. Herculite Products, Inc. will immediately notify EPA of any findings from the experimental use that have a bearing on safety. The company will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of EPA or the Food and Drug Administration (FDA).

This temporary exemption expires July 7, 1981. Residues in or on the above raw agricultural commodity after expiration of this temporary exemption will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and the temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j))

Dated: August 8, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-24717 Filed 8-14-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1473-1]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of August 4, 1980 to August 8, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from August 15, 1980 and will end on September 29, 1980. The 30-day review period for final EIS's as calculated from August 15, 1980 will end on September 15, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to

March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 4, 1980 to August 8, 1980 the 30-day review period will be calculated from August 15, 1980. The review period will end on September 15, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 4, 1980 to August 8, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: August 12, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of August 4 Through 8, 1980

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Kake Small Boat Harbor Navigation Improvement, Alaska, August 7: Proposed are navigation improvements for the Kake Small Boat Harbor on Kupreanof Island, Alaska. Three alternative plans are considered. Plan A would develop an 8.6 acre moorage basin, construct two rubble mound breakwaters and create a 2 acre staging area. Plan B would consist of the mooring basin and staging area and would also include the use of a composite rubble mount/sheet pile breakwater system. Plan C would develop a 9 acre moorage basin, a 2 acre staging area and a single 1,100 foot long breakwater at Portage Cove. The cooperating agency is DOI. (Alaska District.) (EIS Order No. 800576.)

Draft

Maline Creek Water Resources Investigation, St. Louis County, Mo., August 7: Proposed is a flood control plan for Maline Creek in St. Louis County, Missouri. The selected plan involves: (1) 8 detention sites, (2) 3.29 miles of channel widening, (3) 5.05 miles of low level flood walls, (4) 3.31 miles of low level levee, (5) 77 acres of clearing, (6) 5 bridge replacements, (7) 2 bridge improvements, (8) construction of 18 aquatic habitat structures, (9) 5 fish ponds, (10) acquisition of 340 acres of floodplain for open space, and (11) 10 miles of recreational trails. 517 alternatives are considered. (St. Louis District.) (EIS Order No. 800577.)

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.

National Oceanic and Atmospheric Administration

Final

Louisiana Coastal Resources Program, CZM, Louisiana, August 8: Porposed is the Louisiana State Coastal Resources Program. The program provides for: 1) application of a new set of comprehensive state coastal policies, 2) implementation of a new coordinated permit system, 3) procuedures to insure deep water port and governmental activities are consistent with the guidelines, 4) management of unique coastal areas, 5) procedures to assure that Federal government activities are consistent with program policies, 6) consideration of national interests, and 7) other features. Comments made by: AHP, USDA, DOC, HUD, DOI, DOT, EPA, FERC, GSA, COE, DOD, groups, individuals and businesses. (EIS Order No. 800580.)

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Dr. Carlos Stern, Deputy for Environment and Safety, Department of the Air Force, Room 4C885, Pentagon, Washington, D.C. 20330, (202) 697-9297.

Final

Beale AFB, Operation of the Pave Paws Radar System, Yuba County, Calif., August 5: Proposed is the operation of the Pave Paws Radar System at the Beale Air Force Base in Yuba County, California. The purpose of the System is to detect, track, and provide early warning of sea-launched ballistic missiles. A secondary purpose of the System is to assist the USAF Spacetrack System by traking objects that are orbiting the earth. With the Pave Paws in operation, older radars at three other locations would be retired. Comments made by: EPA, COE, HEW, DOI, DOC, State and local agencies, groups, individuals and businesses (EIS Order No. 80057.)

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697-3689.

Draft Supplement

Oceana NAS/Fentress Landing Field (DS-2), Virginia, August 6: Proposed is the continued implementation of the Master Jet Base Oceana Air Installation Compatible Zone study by planning and development of MCON proposals to acquire additional restrictive easements over land that lies within Accident Potential Zones and/or high Noise Zones adjacent to both the Naval Air Station Oceana in Virginia Beach and Auxiliary Landing Field Fentress in Chesapeaks, Virginia. (EIS Order No. 800583.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585, (202) 252-4600.

Final

Great Plains Gasification Project, Adoption, Mercer County, Wyo., August 8: Proposed is the awarding of loan guarantee for the construction of a coal gasification facility in Mercer County, Wyoming. Also planned is the construction of a 365 mile pipeline to transport the synthetic gas to Thief River Falls, Minnesota, for further distribution. The final EIS adopts a DOE final EIS, No. 780062, filed 1-20-78 and an FERC draft supplement, No. 780396, filed 4-20-78. Comments made by: DOI, AHP, HEW, STAT, EPA, COE, DOE, State agencies, groups and businesses. (EIS Order No. 800582.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Daniel Sullivan, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007, (212) 264-1858.

Draft

Director for Environmental Projects, Nuclear

Office of Environment and Safety, U.S.

Draft

Highlands and Highland Falls WWT Facilities, Orange County, N.Y., August 5: Proposed is the awarding of a grant for the construction of wastewater treatment plants for the Town of Highlands and the Village of Highland Falls in Orange County, New York. The preferred alternative would involve the construction of a sewage treatment plant at Mine Dock Road which would serve the Town, and the upgrading and expansion of the existing Cragston plant which would serve the Village. Also recommended is the establishment of a septic tank management district to serve homes outside the sewered core area. (EIS Order No. 800574).

Contact: Mr. Eujene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2157.

Draft

Rural Lake Waste Treatment Study 1, Crystal Lake, Benzie County, Mich., August 7: Porposed is a waste treatment system for the Crystal Lake Area in Benzie County, Michigan. It is recommended that the existing wastewater treatment plants in the area should be replaced, but that complete abandonment of on-site systems is unjustified. This action would involve: 1) construction of new sewers and a new rotating biological contractor treatment plant; 2) sewer system evaluation survey and rehabilitation of some existing sewers; 3) design and implementation of a small waste flow district; 4) site-specific analyses of existing on-site systems; 5) repair and replacement of on-site systems; and 6) cluster systems or other off-site treatment in some sections. (EIS Order No. 800578.)

Nuclear Regulatory Commission

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555, 301–492–8446.

Final

Gas Hills Uranium Project, Operation, Natrona, Fremont County, Wyo., August 8: Proposed is the issuance of a source material license to be issued to Union Carbide Corporation for the operation of the Gas Hills Uranium Project in Natrona County, Wyoming. The project will involve: 1) the operation of an acid leach, ion-exchange and solvent-extraction uranium ore processing mill, and 2) the construction and operation of a heap leach facility. Five alternatives are considered. (NUREG–0702) Comments made by: EPA, DOI, FERC, USDA, COE, State and Local agencies. (EIS Order No. 800581).

Tennessee Valley Authority

Contact: Dr. Mohamed T. El-Ashry, Director of Environmental Quality, Tennessee Valley Authority, Forestry Building, Norris, Tennessee 37828, (615) 632–6450 FTS 856–6450.

Draft

Coal Gasification Project, Murphy Hill Site, Marshall County, Ala.: Proposed is the construction and operation of a commercial-scale coal gasification demonstration plant at the Murphy Hill site in Marshall County, Alabama. The plant would be capable of processing up to 20,000 tons of coal a day into a medium-Btu product gas, which would be: 1) methanated to produce substitute natural gas, 2) made available to produce liquid chemicals or gasoline, and 3) used for industrial fuel gas. Alternative sites and gasification technologies are considered. (EIS Order No. 800573.)

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

CA–101 Improvement, Redwood Valley Area, Mendocino County, Calif., August 4, 1980. Proposed is improvement of CA–101 located in the Redwood Valley Area of Mendocino County, California. The improvements would begin 0.2 mile north of CA–20 and end 4.3 miles north of Forsythe Creek for a total of 5.3 miles. The facility would be upgraded to a 4-lane freeway/expressway. In addition to no action, three alignment/design alternatives are considered. The cooperating agencies are the State of California and COE. (EIS Order No. 800572.)

Final

Banfield Transitway Project, Multnomah County, Oregon, August 7, 1980. Proposed is the Banfield Transit Project which will include a Light Rail Transit Line (LRT) and improvements to the Banfield Freeway in Multnomah County, Oregon. The LRT will consist of high-quality trunk line 14.9 miles long extending from 11th Avenue in downtown Portland to the City of Gresham. The line will be served by 29 transit stations and an expanded bus system. Improvements to the Banfield Freeway will include: 1) reconstruction between I–5 and 33rd Avenue including an additional lane between 37th and 16th Avenue, 3) widening between 33rd St. and I–205, and 4) ramp metering. The cooperating agency is the State of Oregon. (FHWA–OR–EIS–78–3–F) (UMTA–OR–23–9001) Comments made by: DOE, DOI, EPA, State and Local Agencies, Groups and Businesses. (EIS Order No. 800579.)

EIS Filed During the Week of Aug. 4 Through 8, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
		Supple	Oceana NAS/Fentress Landing Field (F–2)	800583	Aug. 6, 1980	USN
Alabama	Marshall	Draft	Coal Gasification Project, Murphy Hil Site	800573	Aug. 5, 1980	TVA
Alaska		Draft	Kake Small Boat Harbor Navigation Improvement	800576	Aug. 7, 1980	COE
California	Mendocino	Draft	CA–101 Improvement, Redwood Valley Area	800572	Aug. 4, 1980	DOT
	Yuba	Final	Beale AFB, Operaton of the Pave Paws Radar System.	800575	Aug. 5, 1980	USAF
Louisiana		Final	Louisiana Coastal Resources Program, CZM	800580	Aug. 8, 1980	DOC
Michigan	Benzie	Draft	Rural Lake Waste Treatment Systems, Case Study 1.	800578	Aug. 7, 1980	EPA
Missouri	St. Louis	Draft	Maline Creek Resources Investigation	800577	Aug. 7, 1980	COE
New York	Orange	Draft	Highlands and Highland Falls WWT Facilities	800574	Aug. 5, 1980	EPA
Oregon	Multnomah	Final	Banfield Transitway Project	800579	Aug. 7, 1980	DOT
Wyoming	Fremont	Final	Gas Hills Uranium Project, Operation	800581	Aug. 8, 1980	NRC
	Mercer	Final	Great Plains Gasification Project, Adoption	800582	Aug. 8, 1980	DOE
	Natrona	Final	Gas Hills Uranium Project, Operation	800581	Aug. 8, 1980	NRC

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Waiver extension	Date review terminates
Environmental Protection Agency					
Mr. Daniel Sullivan, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007, (212) 264–1858.	Town of Highlands and Village of Highland Falls WWT Facilities, Orange County, New York.	Draft 800574	Aug. 15, 1980	Extension	Oct. 20, 1980.

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Waiver extension	Date review terminates
Department of the Interior					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20423, (202) 343–3891.	Cape Lookout General Mgmt. Plan and Wilderness Study, North Carolina.	Draft 800548	Aug. 1, 1980	Extension	Oct. 13, 1980.

Appendix III.—*EIS's filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in Federal Register	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in Federal Register	Correction
None.				

[FR Doc. 80–24620 Filed 8–14–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 80–53]

U.S. Gulf/North Europe Discussion, Agreement No. 10178–1; Order To Show Cause

An agreement (No. 10178–1) to extend the expired U.S. Gulf/North Europe Discussion Agreement has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

Agreement No. 10178 was approved on March 25, 1976, for a period ending March 1, 1978, and provided for the discussion of mutual problems by seven ocean carriers (Proponents) serving various trades between the U.S. Gulf and the United Kingdom, the Republic of Ireland, the Scandinavia-Baltic area and the Bayonne/Hamburg range.[1] Agreement No. 10178–1 would modify the basic agreement by extending its expiration date to March 1, 1983. No comments or protests were received in response to **Federal Register** notices published on February 1, 1978 and April 21, 1980.

The instant agreement permits the regular exchange of information concerning cargo trends and availability, frequency, quality and quantity of carrier services in the subject trades, equipment utilization (including intermodals equipment) and group consultations with shippers and port authorities. Proponents state that such an arrangement is necessary because: (1) It provides a forum for them to assess the overall structure and needs of their trades and devise means to serve these needs; (2) it is consistent with discussion agreements which the Commission has previously approved; and (3) the regulatory structure of the Gulf/North European trades is chaotic at the present time.

It is true that the Commission has approved a number of discussion agreements, but it is equally true that several such agreements have been disapproved.[2] Each is judged on its own

[1] The parties to the present extension amendment are: Combi Line; Thomas and Jas. Harrison Limited; Lykes Bros. Steamship Co., Inc.; Sea-Land Service, Inc.; Seatrain International, S.A.; and, United States Lines, Inc. Atlantic Gulf Service, AB, was a party to Agreement No. 10178, but not a signatory to the present agreement. Not all of these carriers serve the entire geographic area encompassed by the Agreement.

[2] See, for example, the conditional disapproval of the Puerto Rico and U.S. Virgin Islands/Haiti and Jamaica Discussion Agreement, No. 10277 on September 28, 1977; the denial of extensions of the U.S. Europe Discussion Agreement, No. 10022, on September 21, 1977; and the North Atlantic Discussion Agreement, No. 9969, on July 10, 1978.

merits in light of prevailing competitive circumstances.

Proponents' allegation that the regulatory structure of the Gulf/North European trades is chaotic was supported by a reference to several pending FMC agreements. It is claimed that an extension of Agreement No. 10178 is required in order for the proponents of these pending agreements to keep their proposals alive. However, two of the cited agreements have since been approved and one has been withdrawn. Since Agreement No. 10178–1 was initially filed, the Commission has approved the Gulf European Freight Association Agreement No. 10270, which permits ratemaking in the trade between U.S. Gulf ports and ports in the Bordeaux-Hamburg range and Scandinavia. Proponents are also party to several rate or conference agreements in the trade areas covered by Agreement No. 10178–1 which grant them authority to deal with the specific problems of their respective trade areas.

Carriers do not require express section 15 authority to conduct preliminary discussions leading to the filing of a proposed agreement. Hence, the presence of other pending or soon-to-expire agreements in a trade does not warrant approval of a separate discussion agreement. In such circumstances, a discussion agreement would be substantively superfluous, potentially confusing, and, for that reason, contrary to the public interest. *See Far East Conference/Pacific Westbound Conference (Agreement Nos. 8200–1, et al.),* 19 S.R.R. 245, 250–251 (1979); *Rates on U.S. Government Cargoes,* 11 F.M.C. 283, 286 (1967); *Agreement No. 8765—Order to Show Cause,* 9 F.M.C. 333, 335–336 (1966). If the instant agreement is intended to encompass activities which extend beyond the development of specific action agreements, that intention is at best vaguely stated, and this factor alone may warrant disapproval.

Although Proponents have claimed that incursions in the trade by Baltic Shipping Company, a state-controlled carrier of the Soviet Union, justifies the proposed agreement, the Ocean Shipping Act of 1978 (Pub. L. 95–283), now provides them with direct administrative remedies for combating unfair pricing by controlled carriers.

Because Agreement No. 10178–1 is vaguely stated and potentially superfluous, it will be disapproved as contrary to the public interest unless Proponents are able to show cause to the contrary.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, and in accordance with § 502.66 of the Commission's rules (46 CFR 502.66), the Respondents listed in Appendix A are ordered to show cause why Agreement No. 10187–1 should not be disapproved because it is vaguely stated and potentially superfluous; and

It is further ordered, That this proceeding is limited to the submission of affidavits of fact and memoranda of law. Should any party believe an evidentiary hearing is required, that party must submit a request for such hearing accompanied by a detailed statement of the particular facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed no later than November 10, 1980; and

It is further ordered, That this Order be published in the **Federal Register** and a copy served upon each Respondent; and

It is further ordered, That Respondents file affidavits of fact and memoranda of law in accordance with the second ordering paragraph hereof, no later than September 22, 1980, with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, in an original and 15 copies; and

It is further ordered, That the Commission's Bureau of Hearing Counsel be a party to this proceeding. Reply affidavits and a memorandum of law shall be filed by Hearing Counsel no later than October 20, 1980; and

It is further ordered, That a rebuttal memorandum and affidavits responding to the memorandum and affidavits of Hearing Counsel shall be filed by the Respondents no later than November 3, 1980; and

It is further ordered, That any other person with an interest in this proceeding may file a petition for leave to intervene in accordance with § 502.72 of the Commission's rules (46 CFR 502.72)

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A

Combi Line, c/o Biehl & Co., Inc., 416 Common Street, New Orleans, Louisiana 70130.

Thomas and Jos. Harrison Limited, c/o Philips-Parr, Inc., 1642 International Trade Mart, New Orleans, Louisiana 70130.

Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Sea-Land Service, Inc., P.O. Box 900, Edison, New Jersey 08817.

Seatrain International, S.A., Port Seatrain, Weehawken, New Jersey 07087.

United States Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

[FR Doc. 80-24624 Filed 8-14-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Previling Rate Advisory Committee will be held on:

Thursday, September 4, 1980.
Thursday, September 11, 1980.
Thursday, September 18, 1980.
Thursday, September 25, 1980.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory committee, Romm 1340, 1900 E Street, NW., Washington, D.C. 20415 (202)632–9710).

Dated: August 6, 1980.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 80-24759 Filed 8-14-80; 8:45 am]

BILLING CODE 6325-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 11, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and FMC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 2, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests an extension-without-change clearance of Form 336, Report of Overseas Telecommunications Circuit Traffic. Form 336 is required by Section 43.61 of the Commission's Rules and Regulations. Common Carriers engaged in furnishing telecommunications service between the United States and overseas points must file this form annually. The FCC estimates respondents will number nine and that reporting burden will average 30 hours per response.

The FCC requests an extension-without-change clearance of Form 349-L, Application for an FM Booster Station License. Form 349-L is required by Section 325(a) of the Communications Act of 1934, as amended, and Section 73.3536 of the FCC Rules and Regulations. The form is used by applicants applying for an FM Broadcast Booster Station. FM radio broadcast stations whose signals the booster station will rebroadcast. A license for an FM broadcast translator station may ber issued to any qualified individual, organized group of individuals, broadcast licensee, or local civil government body. The FCC estimates approximately one application will be received annually and that 3 hours will be required to complete the application.

The FCC requests an extension-without-change clearance of Form 349-P, Application for Authority to Construct or Make Changes in an FM Booster Station. Form 349-P is required by Sections 73.3533 and 73.3538 of the Commission's Rules and Regulations. The form is used by applicants applying for authority to construct or make changes in an FM Booster Station. FCC estimates one application will be received annually and that 14 hours will be required to complete the application.

The FCC requests an extension-without-change clearance of Form 403, Application for Radio License or Modification Thereof Under Parts 21, 23, or 25. Form 403 is filed by applicants for a radio station license or modification of a station license. The FCC estimates approximately 6,000 applications are received annually and that each application will require 5 hours to complete.

The FCC requests an extension-without-change clearance of Form 610–B, Application for Amateur Club or Military Recreation Station License. Form 610–B is required by Parts 1.922, 97.41, and 97.47 of the Commission's Rules and Regulations. The applcation is used to apply for a amateur radio club or military recreation station license. The FCC estimates approximately 1,500 applications are received annually and that 5 minutes are required to complete the application.

The FCC requests an extension-without-change clearance of Form 714, Supplement to Application for New or Modified Radio Station Authorization Form 714 must be filed as a supplement to applications for construction of antenna's, except as a broadcase, when the antenna exceeds specifications in the Commission's Rules. Sections 17.4(f), 81.31(b), 81.32(b), 95.37(a), 97.45(a), and 99.13(a) of the Commission's Rules and Regulations require the use of this form. The FCC estimates approximately 117 applications are received annually and that one and one-half minutes are required to complete the application.

The FCC requests an extension-without-change clearance of "Travelers Information Station" applications. The Travelers Information Station is a radio station within the local government radio service in the Public Safety Radio Services Group. Applicants file on Forms 400 and 425, required by Section 90.119 of the Commission's Rules and attach supplemental data required by Section 90.242. The Travelers Information Station is intended to be a source of localized information pertinent only to the traveler in the immediate proximity of the station. Sites of such stations are intended to be air, train and bus terminals, public parks and historical sites, interstate highway interchanges, bridges and tunnels. The types of noncommercial voice information proposed to be transmitted by Travelers Information Stations are arrivals and departures at terminals and availability of parking areas and for other locations general announcement of the availability and location of services such as lodging, rest stops, service stations and descriptions of local points of interest, etc. The FCC estimates approximately 40 applications are received annually and that the average to furnish the information will average 8 hours.

Federal Maritime Commission

The FMC requests an extension-without-change clearance of General Order 15 (46 CFR Part 533), Filing of Tariffs by Terminal Operators, which requires every person performing marine terminal services in connection with common carriers by water to file with the Commission a schedule or tariff showing all its rates, charges, rules and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities. The information furnished on the tariff or schedule is used by the FMC to fulfill its regulatory responsibility by keeping informed of the practices, rates and charges instituted by terminal operators, and by keeping the public informed of such practices. The FMC estimates that there is a universe of

V. 45 AUG 15 1980 UMI

approximately 520 respondents, each filing 12 tariff pages per year, with an average reporting burden of 15 minutes per page.

The FMC requests an extension-without-change of Form FMC–12, Application for Admission to Practice before the Federal Maritime Commission, pursuant to Paragraph 502.27, FMC Rules of Practice and Procedure (General Order 16). The FMC's rule requires persons not attorneys at law to apply for admission to practice before the Commission. The fee for filing this application is $10. The data submitted on Form FMC–12 is used by the Commission to determine whether an applicant possesses the necessary legal, technical or other qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission. The FMC estimates that there are approximately 35 applicants per year and that time to complete the application averages one hour.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 80-24825 Filed 8-14-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Neurological Device Section of the Respiratory and Nervous System Devices Panel

Date, time, and place. September 26, 9 a.m., Room 1409, 200 C St., SW., Washington, DC.

Type of meeting and contact person. Closed committee deliberations, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; open public hearing, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 4 p.m.; Robert F. Munzner (HFK–430), Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Closed committee deliberations. The Committee will discuss a premarket approval application for an implanted neurological device to relieve pain. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested persons are encouraged to present information pertinent to sleep-monitoring devices, neurosurgical fragmentation and aspiration devices or implanted neurological stimulators to the contact person. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the contact person by September 19, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also in indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss a premarket approval application for an implanted neurological device to relieve pain; classification of sleep monitoring and assessment devices; discussion of premarket approval application guidelines for implanted neurological stimulators; and review of new data regarding neurosurgical aspiration and fragmentation devices.

Applications for reimbursement. Must be received by September 5, 1980.

Each public advisory committee meeting listed above may have as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above. The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work. Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, whether orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Administrative Proceedings Staff (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commerical or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy, investigatory files compiled for law enforcement proposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meeting listed above should be sent to Ronald Wylie (HFE–90), Officer of Consumer Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Hearing Clerk as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call Ronald Wylie at 301–443–2932.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meeting announced in this notice in the docket for this notice.

Dated: August 8, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-24535 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Antimicrobial Panel

Date, time, and place. September 21 and 22, 10 a.m., Bethesda Marriott Hotel, Bethesda, MD (September 21), Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (September 22).

Type of meeting and contact person. Open public hearing, September 21, 10 a.m. to 11 a.m.; open committee discussion, September 21, 11 a.m. to 4:30 p.m., September 22, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD–512), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6057.

General function of the Committee. The Committee reviews and evaluates data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before September 17, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Applications for reimbursement. Must be received by September 4, 1980.

Miscellaneous Internal Drug Products Panel

Date, time, and place. September 28 and 29, 9 a.m., Chevy Chase Holiday Inn, Chevy Chase, MD (September 28), Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (September 29).

Type of meeting and contact person. Open committee discussion, September 28, 9 a.m. to 4:30 p.m.; September 29, 8 a.m. to 9 a.m.; open public hearing, September 29, 9 a.m. to 10 a.m.; open committee discussion, September 29, 10 a.m. to 3 p.m.; John R. Short (HFD–510), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6156.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before September 22, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Applications for reimbursement. Must be received by September 8, 1980.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the

beginning of the open portion of a

(1) Correct the heading to read as set

1. 09–20–0106 "Specimen Handling for

Bureau plans to award a contract for the

prevent unauthorized use or disclosure

of the Department's Privacy Act system

beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Administrative Proceedings Staff (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meetings listed above should be sent to Ronald Wylie (HFE–90), Office of Consumer Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Hearing Clerk as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call Ronald Wylie at 301–443–2932.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: August 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-24405 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-03-M

C. R. Bard, Inc.; Premarket Approval of USCI Gruntzig Dilaca™ Coronary Artery Balloon Dilatation Catheter

Correction

In FR Doc. 80–21465, appearing in the issue of Friday, July 18, 1980, on page 48254, make the following corrections:

(1) Correct the heading to read as set forth above;

(2) In the preamble, under the heading of "SUMMARY", the sixth line down is corrected to read: "USCI® Gruntzig Dilaca™";

(3) Also in the preamble, under "Supplementary Information", the fourth line down under this heading, correct "USCI®" to read "USCI®" and in the fifth line under the same heading correct "Gruntzig Dilaca" to read "Gruntzig Dilaca™"

BILLING CODE 1505-01-M

Public Health Service

Privacy Act of 1974; New Routine Uses to Notices of Systems of Records

AGENCY: Department of Health and Human Services, Public Health Service.

ACTION: Notification of proposal to add three (3) routine uses to each of three (3) systems of records which are maintained by the Center for Disease Control.

SUMMARY: In accordance with requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to add three routine uses to each of three systems of records maintained by the Center for Disease Control's Bureau of Laboratories and Bureau of Epidemiology. PHS invites interested persons to submit comments on the proposed routine uses on or before September 15, 1980.

DATES: The Center for Disease Control will adopt the proposed routine uses without further notice unless PHS receives comments within the 30-day comment period which would result in a contrary determination.

ADDRESS: Comments should be addressed to: Director, Center for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Room 2050, 1600 Clifton Road, Atlanta, Georgia 30333. Comments received will be available for inspection from 8:00 a.m.–4:30 p.m., Monday through Friday in Room B–68, Building 1, 1600 Clifton Road, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Sara S. Owens, Privacy Act Coordinator, Center for Disease Control, 1600 Clifton Road, Room B–68, Atlanta, Georgia 30333, (404) 329–3121.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services, Center for Disease Control, proposes to add three routine uses to each of the following Privacy Act System Notices, as discussed below.

1. 09–20–0106 "Specimen Handling for Testing and Related Data" HHS/CDC/BL. The programs of the Bureau of Laboratories are established in part to provide laboratory services to assist in the diagnosis and control of diseases. The Bureau provides reference and typing center services, as related to clinical laboratory procedures, for national and international organizations. The Bureau processes reference diagnostic specimens from throughout the nation and the world, and makes approximately 1.8 million different determinations on these specimens. Results of these tests and related data comprise a major system of records within the CDC. The Center contemplates contracting for computer services to enhance the automated system currently used for this system of records. There are also plans to award a contract to evaluate the effectiveness of the reference diagnostic services. In addition, research conducted under contract will include collection of data from individuals who participate in various studies designed to evaluate the effectiveness of preventive and curative health measures, including the evaluation of immunization projects.

2. 09–20–0107 "Dengue and Schistosomiasis Research Studies" HHS/CDC/BL. The Bureau of Laboratories conducts epidemiologic studies for the evaluation of control measures for tropical diseases such as dengue and schistosomiasis. The collection of specimens and data from study participants will be performed under contract during some of the studies. Laboratory services related to these diseases are, to a large extent, provided by the CDC San Juan Laboratories in Puerto Rico. The Bureau plans to award a contract to assess the quality and effectiveness of these laboratory services. In addition, the Bureau intends to obtain contractor services for the development of software programs to be used on computers at the CDC San Juan Laboratories to monitor the effects of dengue and schistosomiasis control programs. To perform the keyboarding and programming services, the contractor will have access to a duplicate tape of each of the disease data files.

3. 09–20–0136 "Epidemiologic Studies and Surveillance of Disease Problems" HHS/CDC/BE. The Bureau of Epidemiology conducts a variety of research relating to various diseases and other health problems. Patient care patterns, disease managment and duration of disease are potentially high risk factors which routinely require thorough investigation and analysis. The

Bureau plans to award a contract for the purpose of collecting data on prior care patterns and disease status of selected groups of patients in order to develop risk profiles of persons for whom preventive activities may be targeted. The contractor will collect and analyze data pertaining to individual patients after developing and field testing the data forms. The Bureau also plans to award a contract to assess the effectiveness and quality of its epidemiology program activities, including the disease reporting mechanmisms and data processing operations.

The three systems of records discussed above are used by epidemiologists and researchers in determining epidemic causes, family groupings of diseases, and geographical locations of specific diseases. Laboratory data are used in part to determine the drug resistance of specific organisms. Further, the collection of individual case histories, including epidemiological, medical, and laboratory information is essential in virtually all epidemic investigations. These data serve as the basis for analyses that lead to understanding the etiology of disease occurrence and subsequent prevention and control. The contract proposals discussed above are compatible with such purposes in that they provide needed services in support of the research efforts and disease prevention and control activities.

The Privacy Act of 1974 allows the disclosure of information without the consent of the individual for "routine uses", that is, disclosure for purposes which are compatible with the purposes for which the data are collected. Currently, the "routine uses" sections of the three Privacy Act systems of records do not contain provisions for disclosing individually identifiable data to contractors for the kinds of services discussed above. Accordingly, CDC proposes to add to each of the three systems the following routine uses:

A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

"To individuals and organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review."

"The Department contemplates that it will contract with a private firm for the purposes of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records."

Each contractor is required to assure that each of its employees knows the prescribed rules of conduct and is aware that he/she can be subject to criminal penalties for violations of the Privacy Act. In conformance with Part 6, ADP Systems Security, of the Department ADP Systems Manual, the computerized records must be safeguarded to ensure the security and confidentiality of the personal data. Similarly, the contractor must apply appropriate physical and administrative safeguards to protect manual files in accord with the agency's safeguarding standards.

The three system notices to which these proposed routine uses would apply are republished in their entirety below to include both the routine uses and a statement under "System Location" to provide for the location of records at contractor sites. These notices will be further updated to reflect the Department's new name, and to incorporate other minor changes, at the time of the 1980 annual publication of all of the Department's Privacy Act system notices.

Dated: August 7, 1980.

Jack N. Markowitz,

Acting Director, Office of Management.

09–20–0106

SYSTEM NAME:

Specimen Handling for Testing and Related Data—HEW/CDC/BL.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Laboratories, Scientific Services, Bldg. 4—Room 35, CDC, Atlanta, GA 30333.

Hepatitis Laboratories Division, Room 123, 4402 North 7th St., Phoenix, Ariz. 85014.

A list of current contractors is available by writing to the System Manager listed below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients whose specimens have been submitted to CDC for testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of diagnostic tests—microbiology, clinical chemistry, hematology and pathology.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 301 (42 U.S.C. 241).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to

directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

A record may be disclosed for a research purpose, when the Department (a) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

To individuals and organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

The Department contemplates that it will contract with a private firm for the purposes of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original Form—file folders; microfilm copies—computer storage.

RETRIEVABILITY:

Test results returned to submitter. Used between specialty units for research purposes; and for epidemiological investigations for epidemic causes, prevention, family groupings of diseases, and geographical location of specific diseases; also, used by epidemiologists and researchers in determining drug resistance of specific organisms. Retrievable by: name or designated number furnished by the submitter, CDC identifying number, microfilm number.

SAFEGUARDS:

Restrictive use of the terminal; without knowledge of computer access codes, no one can obtain specific patient information. Microfilm is stored in locked cabinet. For computerized records, safeguards, established in accordance with HEW/ADP System Security Manual, Part 6, are used.

RETENTION AND DISPOSAL:

Number years held at CDC: 5. How destroyed: Shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Laboratories, Bldg. 1—Room 1007, CDC, Atlanta, GA 30333, and Director, Hepatitis Laboratories Division, Room 123, 4402 North 7th Street, Phoenix, Ariz. 85014.

NOTIFICATION PROCEDURE:

To determine if a file exists, write the Director, Bureau of Laboratories, Building 1, Room 1007, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study, if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of or access to a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity. (These notification and access procedures are requirements of the Department Regulations, 45 CFR, and Part 5b.6.)

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested. This procedure is in accordance with Department Regulations, (45 CFR, Part 5b.7).

RECORD SOURCE CATEGORIES:

Approved Public Health Laboratories, Federal Medical Facilities, some private physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–20–0107

SYSTEM NAME:

Dengue and Schistosomiasis Research Studies—HEW/CDC/BL.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

San Juan Laboratories, San Juan, Puerto Rico.

A list of current contractors is available by writing to the System Manager listed below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals living in Puerto Rico.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic and health behavioral information on individuals in study community.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 301 (42 U.S.C. 241).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information transferred to Puerto Rico Health Department.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b), Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

A record may be disclosed for a research purpose, when the Department (a) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring: (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same condition, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

To individuals and organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

The Department contemplates that it will contract with a private firm for the purposes of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

IBM punch cards and computer listings.

RETRIEVABILITY:

Epidemiological studies for the evaluation of schistosomiasis and dengue control. Special statistical analyses are performed on information. Retrievable by code number.

SAFEGUARDS:

Under lock and key—only researchers have availability. For computerized records, safeguards, established in accordance with HEW/ADP System Security Manual, Part 6, are used.

RETENTION AND DISPOSAL:

Number years heald at CDC: 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Laboratories, Building 1, Room 1007, San Juan Laboratories, San Juan, Puerto Rico.

NOTIFICATION PROCEDURE:

To determine if a file exists, write the Director, Bureau of Laboratories, Building 1, Room 1007, Center for Diease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration, (2) name of study; if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of or access to a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity. (These notifications and access procedures are requirements of the Department Regulations, 45 CFR, Part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Part 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333. Reasonably identify the record and specify the information to be contested. This procedure is in accordance with Department Regulations, (45 CFR, Part 5b.7).

RECORD SOURCE CATEGORIES:

Directly from participants in the studies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–20–0136

SYSTEM NAME:

Epidemiologic Studies and Surveillance of Disease Problems—HEW/CDC/BE.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Epidemiology, Center for Disease Control, Bldg. 1, Room 5009, Atlanta, Georgia 30333.

A list of current contractors is available by writing to the System Manager listed below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with reported diseases and other preventable conditions of public health significance; also included are control group participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case reports, line listings, hand sort cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Sec. 301 (42 U.S.C. 241).

1. Introduction and biographical

in the northern portion of the Yuma

HRA–6A Northern Mohave Mountains-

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be disclosed to Health Departments and other public health or cooperating medical authorities.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Departmental Regulations (45 CFR, part 5b) Appendix B, Item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

A record may be disclosed for a research purpose, when the Department (a) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

To individuals and organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

The Department contemplates that it will contract with a private firm for the purposes of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes or file folders, lockable cabinets.

RETRIEVABILITY:

By name of individual identification number.

SAFEGUARDS:

Personnel screening during working hours; secured building with guard after working hours.

RETENTION AND DISPOSAL:

Record copy of study reports maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed by program official. Personal identifiers may be deleted from records when no longer needed in the study as determined by the system manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Epidemiology, Center for Disease Control, Bldg. 1—Room 5009, Atlanta, Georgia 30333.

NOTIFICATION PROCEDURE:

To determine if a file exists, write the Director, Bureau of Epidemiology, Building 1, Room 5009, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration; (2) name of study if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of or access to a child's incompetent persons record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity. (These notification and access procedures are requirements of the Department regulations, 45 CFR, Part 5b.6.)

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).

RECORD SOURCE CATEGORIES:

Individuals, private physicians, State and local health departments, and other health providers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-24691 Filed 8-14-80; 8:45 am]

BILLING CODE 4110-86-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Coos Bay District Multiple Use Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579, and 43 CFR Part 1780, that a meeting of the Coos Bay District Multiple Use Advisory Council will be held on Thursday, September 18, 1980 at 9 a.m. at the Neighborhood Facility Building, 250 Hull Street, Coos Bay, Oregon.

Agenda for the meeting will include:

1. Introduction and biographical sketch of members.
2. Discussion of the function of the council.
3. Briefing and discussion of Coos Bay District programs.
4. Development of a 10-year Timber Management Plan to include, but not be limited to discussion of 9 alternatives analyzed in the South Coast and Curry Sustained Yield Units Timber Management Environmental Impact Statement.
5. Discuss potential for committees.
6. Election of officers.
7. Arrangements for next meeting.

This meeting will acquaint the Council with the Coos Bay District so that it can offer advice and make recommendations to the District Manager relative to Coos Bay District programs.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement musty notify the District Manager at the Coos Bay District Office, 333 South Fourth, Coos Bay, OR 97420 by September 11, 1980. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: August 8, 1980.

Paul M. Sanger,

District Manager.

[FR Doc. 80-24755 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona Off-Road Vehicle Designations Designations; Designation Order Az-050-8001

AGENCY: Bureau of Land Management.

ACTION: Notice of off-road vehicle designation decisions.

DECISION: Portions of the public lands in southern Mohave County and northern Yuma County administered by the Yuma District are designated for: intensive use, limited use, and as closed to off-road motorized vehicle use. These designations are made in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR Part 8340.

The affected lands include 529,760 acres in the Havasu Resource Area south of Interstate 40 and 222,000 acres in the northern portion of the Yuma Resource Area. These designations are based on land use decisions made in the 1975 Management Framework Plans for the Havasu and La Paz Planning Units, the Parker Strip Activity Plan and the Buckskin Mountains-Cactus Plain Habitat Management Plan. In addition to the public participation and review involved in the formulation of these plans, public participation was solicited through two public mailings and four open houses, specifically on the Off-Road Vehicle (ORV) Designations. Comments from the public were important in developing these final ORV designations.

These designations are effective as of this date. Under 43 CFR 4.21, an appeal of this designation may be filed within 30 days with the Interior Board of Land Appeals.

Summation.

A. *Intensive Use Areas.* Areas which are designated as intensive use areas comprise approximately 640 acres. These areas were chosen after inventories revealed relatively low resource values.

B. *Limited Designation.*

1. *Travel Limited to Existing Roads and Trails.*

This designation was chosen to give maximum resource protection on approximately 481,855 acres while allowing most existing uses to continue with a minimum of controls.

2. *Travel Limited to Designated Roads and Trails.*

This designation has been adopted for the Parker Strip (HRA 27) and the Blythe Intaglio Area (YRA 3) which include approximately 13,985 acres. It is slightly more restrictive, since certain roads within the boundaries are closed to motorized vehicles.

3. Travel Limited to Existing Roads and Trails With Seasonal Closure

This hybrid designation is designed to give protection to desert bighorn sheep during the critical lambing season. In these areas (approximately 21,760 acres) vehicular travel is limited to existing roads and trails except during the period of January 15th to April 15th when the area is closed to all motorized vehicles.

C. *Closed.* Approximately 11,520 acres are proposed for vehicular closure.

SPECIFIC AREAS

HRA-1 Communication Site. Closed.
HRA-2 Communication Site. Closed.
HRA-4 Interstate 40 South. Existing Roads and Trails.
HRA-5 Buck Mountains. Existing Roads and Trails.
HRA-6A Northern Mohave Mountains-Needles Peak. Existing Roads and Trails with Seasonal Closure.
HRA-6B Central Mohave Mountains. Existing Roads and Trails with Seasonal Closure.
HRA-6C Southern Mohave Mountains. Existing Roads and Trails Aubrey Hills. Closed.
HRA-8A Standard Wash-Mohave Springs Mesa. Existing Roads and Trails.
HRA-8B Lake Havasu City Perimeter. Existing Roads and Trails.
HRA-9 Bill Williams Mountains. Existing Roads and Trails with Seasonal Closure.
HRA-10 Bill Williams River North. Existing Roads and Trails.
HRA-11 Black Peak Consolidated Sand Dunes Research Natural Area. Closed.
HRA-12 Planet Peak. Existing Roads and Trails.
HRA-13 Bouse Consolidated Sand Dunes Research Natural Area. Closed.
HRA-14 Midway South. Existing Roads and Trails.
HRA-15 Cactus Plain. Existing Roads and Trails.
HRA-16 Buckskin Mountains. Existing Roads and Trails.
HRA-17 The Mesa North. Existing Roads and Trails with Seasonal Closure.
HRA-18 Giers Mountain. Existing Roads and Trails with Seasonal Closure.
HRA-19 Mesa South-Mineral Hill. Existing Roads and Trails.
HRA-21 Eastern Buckskin Mountains. Existing Roads and Trails.
HRA-22 Whipple Mountains. Existing Roads and Trails.
HRA-23 Gibraltar Mountain. Existing Roads and Trails with Seasonal Closure.
HRA-24 Copper Basin Wash Sand Dunes. Intensive Use Area.
HRA-25 Chemehuevi Wash. Existing Roads and Trails.
HRA-26 Topock Gorge Vicinity. Existing Roads and Trails.
HRA-27 Parker Strip, AZ & CA. Designated Roads and Trails.
HRA-28 Parker 400 Course. Limited to Participants of Permitted Events on Day of Events.
HRA-29 Bowmans Wash. Intensive Use Area.
YRA-1 North La Posa Plain. Existing Roads and Trails.
YRA-1A North La Posa Plain Environmental Study Area. Closed.
YRA-1B North La Posa Plain. Closed due to unexploded military ordnance.
YRA-2 South La Posa Plain. Existing Roads and Trails
YRA-2A South La Posa Plain. Closed due to unexploded military ordnance.
YRA-3 Blythe Intaglio Area. Designated Roads and Trails.
YRA-3A Blythe Intaglio Site. Closed.
YRA-4 Ripley Intaglio Area. Existing Roads and Trails.
YRA-4A Ripley Intaglio Site. Closed.

These designations are effective as of this date and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these

designations is available for inspection at the offices listed below.

ADDRESS: For further information about these designations, contact any of the following Bureau of Land Management Offices:

District Manager, Yuma District Office, P.O. Box 5680, 2450 4th Avenue, Yuma, AZ 85364, (602) 726–6300.
Area Manager, Yuma Resource Area, P.O. Box 5680, 2450 4th Avenue, Yuma, AZ 85364, (602) 726–6300.
Area Manager, Havasu Resource Area, P.O. Box 685, 2049 Swanson Avenue, Lake Havasu City, AZ 86403, (602) 855–8017.

Dated: August 7, 1980.

H. M. Bruce,
District Manager.

[FR Doc. 80–24702 Filed 8–14–80; 8:45 am]
BILLING CODE 4310–84–M

[Serial No. I–15354A]

Idaho; Proposed Withdrawal Continuation

August 8, 1980.

The Bureau of Land Management has filed a statement of justification for continuation of an existing Public Water Reserve Withdrawal. The Bureau desires to continue the withdrawal in its entirety for a period of 20 years. The continuation would be made pursuant to the authority contained in Section 204(L) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2754; 43 U.S.C. 1714). The following described land is included in the proposed continuation:

Boise Meridian, Idaho

(I–15354A)
Public Water Reserve 107
Secretarial Order of Interpretation No. 169
T. 14 S., R. 26 E.
Sec. 18, NW¼NE¼, NE¼NW¼.

The area described aggregates 80 acres in Cassia County, Idaho

The land is segregated from operation of the public land laws, including location for non-metalliferous minerals under the mining laws. It is otherwise open to the mining and mineral leasing laws. No change in the segregative effect of the withdrawal or use of the lands is proposed.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given than an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer within 30 days of the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before September 15, 1980.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for, and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communication in connection with this sponsored withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Vincent S. Strobel,
Chief, Branch of L&M Operations.

[FR Doc. 80–24729 Filed 8–14–80; 8:45 am]
BILLING CODE 4310–84–M

Montrose District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Montrose District Grazing Advisory Board will be held on September 16 and 17, 1980. On September 16, the meeting will convene at 10:00 a.m. in the conference room of the Bureau of Land Management Office, Highway 550 South, Montrose, Colorado. On September 17, the meeting will convene at 8:00 a.m. at the same place.

On September 17 attendees will travel to the Log Hill Allotment within the Uncompahgre Basin Resource Area to review the results of the 1979 prescribed burn and seeding treatment.

The agenda for the meeting will include: (1) undate on the implementation of the Range Management Program in the Uncompahgre Basin Resource Area; (2) update on the status of the Gunnison Basin Grazing Environmental Statement; (3) a status report on the soil-vegetative inventory method and planning schedule in the San Juan Resource Area; (4) a review of range improvement projects being constructed in FY 80 and proposed for development during FY 81; (5) the expenditures of advisory board funds for range improvements; (6) a discussion of the Public Rangelands Improvement Act Stewardship Program and suggestions on implementation within the District; and (7) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 and 11:00 a.m. on September 16, 1980, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81401, by September 12, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Persons desiring to make the tour on September 17 should furnish their own transportation.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

R. S. Schmidt,
Acting District Manager.

[FR Doc. 80–24701 Filed 8–14–80; 8:45 am]
BILLING CODE 4310–84–M

Sacramento River Land Management Plan; Off-Road Vehicle Use Designations

Notice is hereby given that the following ORV use designations are being made to protect the natural and cultural values of lands in and adjacent to the Sacramento River, known as Jellys Ferry, Paynes Creek, Chinese Rapids, Todd Island and Foster Island parcels.

The public has been involved in the bureau's planning process and in the development of the Sacramento River Plan which provided for the initial decisions on this designation. These designations will apply to off-road vehicles as defined in 43 CFR 8340.0–5A. This action is in compliance with 43 CFR 8342.2 designation procedures for off-road vehicles and the Sacramento River Land Management Plan, Management Guideline 7 (off-road vehicle use will be either prohibited or limited to designated roads and trails).

These designations are effective August 15, 1980. The areas involved are signed and maps showing the designation areas are available at the Redding District Office of the Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002.

The following areas shall be designated as "limited areas and trails": "Limited areas and trails" are designated areas and trails where the use of off-road vehicles is subject to restrictions deemed appropriate by the authorized officer. Restrictions may limit the number or types of vehicles allowed, dates and times of use, and similar matters. Limited areas and trails may be designated for special or intensive use, including, but not limited to, organized events, and may be subject to but not limited to, rules set forth at 43 CFR Subpart 8341.2.

A. *Jellys Ferry.*—This 65 acre parcel is situated on the east bank of the Sacramento River at the crossing of the Jellys Ferry Road Bridge. Vehicle use will be limited to the surfaced access road and parking areas. The legal description is the S½ of all public lands within Section 34, with approximately .32 miles of river frontage in T. 29 N., R. 3 W., Mount Diablo Meridian.

B. *Paynes Creek-Sacramento River.*—This 2,227-acre parcel is located about one mile northeast of Bend, which is six miles northeast of Red Bluff. The legal description encompasses all public lands within Sections 10, 11, 12, 13, 14, 15, and 22, T. 28 N., R. 3 W., M.D.M. The vehicle use will be limited to routes which are identified on maps and on the ground with posts or other delineation systems.

The following areas shall be dsignated as "closed areas and trails": "Closed areas and trails" are designated areas and trails where the use of off-road vehicles is permanently or temporarily prohibited.

A. *Chinese Rapids.*—This nine-acre parcel is located about one mile to the east of Bend, at river mile 254 on the Sacramento River in Section 28, Lot 8, T. 28 N., R. 3W., M.D.M.

B. *Todd Island.*—This 236-acre parcel is located in the Sacramento River at river mile 236.8, all public lands within Sections 7 and 18, T. 26 N., R. 2 W., M.D.M., approximately 1½ miles southwet of Dairyville.

C. *Foster Island.*—This 210-acre parcel is located in the Sacramento River at river mile 210.4, all public lands within Sections 14 and 15, T. 23 N., R. 2 W., M.D.M., about 5½ miles east of the town of Kirkwood and six miles east of Interstate 5.

The public lands within the designated areas will remain open to other resource and recreation uses. Any person who violate or fails to comply with the vehicle closure is subject to arrest as prescribed in 43 CFR 8340.0–7. Penalties for violations may be a fine of not more than $1,000.00 or imprisonment for not longer than 12 months, or both.

Terry W. Woosley,
Acting District Manager.

[FR Doc. 80–24731 Filed 8–14–80; 8:45 am]
BILLING CODE 4310–84–M

Socorro District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 that a field tour for the Socorro District Grazing Advisory Board will be held on Thursday, September 11, 1980.

The tour will begin at 8:30 a.m from the Socorro District Office at 198 Neel Avenue NW, Socorro, New Mexico.

The tour will consist of an inspection of range improvements and sites for proposed improvements on several allotments in the Jornada Resource Area in eastern Socorro County. The group will eat lunch at noon on the west bank of the Rio Grande just east of San Antonio, New Mexico. The site is just to the north of Highway 380. Following lunch, the board will hold a short business meeting at the site to consider the following topics:

1. Discussion of Fiscal Year 1981 range improvement projects.
2. An update on the Section 8 consultations and the resulting range decisions in the East Socorro Area.
3. An update on the Stewardship Program.
4. Arrangements for the next meeting.

The tour is open to the public. Persons wishing to attend should provide their own transportation and a sack lunch.

Summary minutes of the business meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Arlen P. Kennedy,
District Manager.

[FR Doc. 80–24730 Filed 8–14–80; 8:45 am]
BILLING CODE 4310–84–M

[INT FEIS–80–24]

Royal Gorge Grazing Management; Availability of Final Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental impact statement on grazing management in the Royal Gorge Resource Area. The proposal includes implementing 76 new grazing plans or allotment management plans (AMPs) and continue present management on 1 AMP. Less intensive grazing management would be applied to 278 allotments and livestock grazing would be eliminated on 13 additional allotments.

The environmental impact statement analyzes the impacts that would result from management of livestock grazing and additional range improvement projects such as fences, livestock watering facilities, and vegetation treatment. The proposal is scheduled for implementation over a 5-year period.

Copies of the final or draft statement are available for inspection at the following locations:

Bureau of Land Management, Room 2063, Interior Building, 18th and C Streets, NW, Washington, D.C. 20240 (Phone: 202–343–6011).
Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202 (Phone: 303–837–4481).
Bureau of Land Management, Canon City District Office, 3080 East Main, Canon City, Colorado 81212 (Phone: 303–275–7494).
Bureau of Land Management, Royal Gorge Resource Area, 9th and Royal Gorge Blvd., Canon City, Colorado 81212 (Phone: 303–275–7578).

Public Libraries

Canon City Public Library, 5th and Macon, Canon City, Colorado 81212.
Conservation Library, Denver Public Library, 1357 Broadway, Denver, Colorado 80206.

County Courthouses

Fremont County, Canon City, Colorado 81212.
Chaffee County, Salida, Colorado 81201.

Single copies of the final statement can be obtained from the District Manager, Canon City District Office; or the State Director, Colorado State Office, at the address listed above.

Written comments on the adequacy of the final environmental impact statement should be submitted by September 29, 1980, to the State Director, Bureau of Land Management, 1600 Broadway, Denver, Colorado 80202.

V 45 A G 15 80 UMI

Dated: August 7, 1980.

Marlyn V. Jones,

Acting State Director.

[FR Doc. 80-24682 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Proposed Allocations of Water From the Central Arizona Project to Indian Tribes; Public Hearings

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of public hearings.

SUMMARY: Pursuant to the announcement made by the Department of the Interior in the **Federal Register** of August 8, 1980 (45 FR 52938), the Department will hold public hearings to receive comments and additional information from the State of Arizona, Indian tribes and the general public on the proposals of the Secretary of the Interior to allocate 309,810 acre-feet of water from the Central Arizona Project (CAP) to Indian tribes..

Along with other conditions, this allocation would be made with the stipulation that in times of project water supply shortages, the Indian CAP supply would be reduced on a proportional basis with the municipal and industrial water supplied by the project. The action proposed would adjust allocations made previously by the Department.

As part of these proposed allocations, the Department also has considered the possible use of wastewater effluent to substitute for a portion of the Indian CAP allocation, the relationship of Indian CAP supplies to the tribes' finally adjudicated *Winters* rights, and the non-Indian CAP water supply.

PURPOSE: The public hearings are intended to provide potential users of project water and the general public in the project area with opportunities to examine fully the proposed allocations and to comment on them. They also will provide the Secretary with additional information on which to base his final allocations.

DATES: The public hearings will be held from 1–5 p.m. and 7–9 p.m. on these dates and at these locations:

City	Hearing date	Request to testify	Location
Phoenix	Sept. 17, 1980.	Sept. 15, 1980.	Adams Hotel, Hopi Rooms A & B, Central Ave. & Adams.
Casa Grande	Sept. 18, 1980.	Sept. 15, 1980.	City Council Chambers, 300 East Fourth St.
Tucson	Sept. 16, 1980.	Sept. 12, 1980.	Community Center, 260 South Church Ave.

All persons wishing to present oral testimony must submit a request to June Gibbons, Arizona Project Office, Water and Power Resources Service, 201 North Central Avenue, Phoenix, Arizona 85073; Telephone (602) 261–4901, prior to the date noted above. Oral presentations will be limited to 15 minutes, and all witnesses are urged to submit written copies of their testimony for the record. Lengthy presentations should be summarized orally and the full text submitted for the record.

ADDRESSES: The administrative record relied upon in making these proposed allocations will be available for inspection at the following locations:

Arizona Projects Office, Water and Power Resources Service, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, Arizona 85073 (602) 261–3106

Bureau of Indian Affairs, Phoenix Area Office, 3030 North Central Avenue, Phoenix, Arizona 85012 (602) 261–2305

Office of the Field Solicitor, U.S. Department of the Interior, Suite 2080, Valley Center, 201 North Central Avenue, Phoenix, Arizona 85073 (602) 261–4756.

This administrative record can be inspected by the public during regular business hours, and arrangements can be made to have specified portions copied upon payment of reasonable charges.

SUPPLEMENTAL INFORMATION: Interested persons may also submit written comments, suggestions or objections regarding these proposed allocations to the Associate Solicitor for Energy and Resources, U.S. Department of the Interior, Washington, D.C. 20240. All relevant comments and materials received before October 7, 1980, will be considered.

FOR FURTHER INFORMATION CONTACT:

Mary Reardon, Office of the Assistant Secretary—Land and Water Resources, Room 6619, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343–6308

June Gibbons, Arizona Projects Office, Water and Power Resources Service, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, Arizona 85073 (602) 261–4901

Dated: August 11, 1980.

Clyde O. Marts,

Acting Secretary.

[FR Doc. 80-24685 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-10-M

Water and Power Resources Service

Draft Environmental Statement on the Proposed Reauthorization of the Central Valley Project, California; Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed "Reauthorization of the Central Valley Project and the Coordinated Operating Agreement for the Central Valley Project and the State Water Project in California." The statement (INT DES 80–47) was transmitted to the Environmental Protection Agency on July 29, 1980.

The statement also deals with the proposed Coordinated Operating Agreement for the Central Valley Project (CVP) and the State Water Project (SWP). It discusses the projected environmental impacts of (1) alternatives uses of the uncontracted water supplies of the presently authorized CVP, (2) the execution of a CVP–SWP coordinated operating agreement, (3) the construction of certain works related to fish and wildlife and to Delta water quality, and (4) reauthorization of the CVP for Sacramento-San Joaquin River Delta Water quality, and fish and wildlife purposes.

Water and Power Resources Service will hold public hearings at the following locations and times to receive comments on the draft statement from interested individuals, organizations, and agencies:

1. In Bakerfield, California, on Wednesday, September 17, 1980, starting at 7 p.m. in Banquet Rooms A and B, Ramada Inn, at 2620 Pierce Road.

2. In Fresno, California, on Thrusday, September 18, 1980, starting at 7 p.m. in the Apollo Room, Hacienda Inn, at 2550 West Clinton Avenue.

3. In Stockton, California, on Monday, September 22, 1980, starting at 7 p.m. in Room B. Holiday Inn, at 221 North Center Street.

4. In Corcord, California, on Wednesday, September 24, 1980, starting at 7 p.m. in the Board Room of the Contra Costa County Water District at 1331 Concord Avenue.

5. In Redding, California, on Thursday, September 25, 1980, starting at 7 p.m. in the Sierra Room Red Lion Inn, at 1830 Hilltop Drive.

6. In Sacramento, California, on Monday, September 29, 1980, in the Maui/Kona Rooms, Holiday Inn North, at 1900 Canterbury Road.

Each hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact the Regional Environmental Quality Officer, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825 (telephone (916) 484–4792).

Requests for scheduling of oral presentations will be accepted until 4 p.m., Sepetmber 12, 1980. Requests to speak can also be made at the registration desk at the hearings. Insofar as practicable, speakers will be scheduled according to the time preferences indicated in their requests.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending on the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Regional Environmental Quality Officer (address given above) through October 10, 1980, for inclusion in the hearing record. Please label comments submitted by mail as "Public Hearing" comments on the draft statement.

Copies of the draft statement are available for public examination at the Mid-Pacific Regional Office of the Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825. Single copies of the statement may be obtained without charge by writing to the Regional Director, Water and Power Resources Service, at the address given above for the Mid-Pacific Regional Office.

Dated: August 12, 1980.

Clifford I. Barrett,

Assistnat Commissioner of Water and Power Resources Service.

[FR Doc. 80-24754 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–19816 appearing at page 45382 in the issue for Thursday, July 3, 1980, make the following correction:

On page 45400, in the middle column, in the paragraph "MC 138322 (Sub-25F)" filed by "BHY Trucking, Inc.", in the 11th line, the state abbreviation "MN" should be "NM".

BILLING CODE 1505-01-M

[Docket No. AB–1 (Sub-No. 91F)]

Chicago & North Western Transportation Co.—Abandonment Between Hopkins and Norwood, Minn.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided July 22, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad known as the Hopkins-Norwood line extending from railroad milepost 19.6 near Hopkins to railroad milepost 51.3 near Norwood, a distance of 31.7 miles, in Hennepin and Carver Counties, MN, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from July 22, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment was issued to Chicago and North Western Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer or financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective September 29, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24804 Filed 8-14-80; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of

Rule 240(c)(4) of the special rules and

NORTH & SOUTH LINES, INC.

(12) *linoleum and congoleum floor*

and east of U.S. Hwy 25, and those in

MA, MI, MN, MS, MO, NE, NH, NJ, NY,

Pabst, Houston County, GA, (51) *shoes,*

Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(c) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: August 6, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC–F 14446F, filed July 17, 1980.

NORTH & SOUTH LINES, INC. (North) (1610 South Main Street, Harrisonburg, VA 22801)—Control and Merger—HARTMANS, INCORPORATED (Hartmans) (833 Chicago Avenue, Harrisonburg, VA 22801).

Representatives: John R. Sims, Jr. and John L. Boyd, Jr., 915 Pennsylvania Bldg, 425 13th Street, N.W., Washington, DC 20004.

North seeks authority to acquire control of Hartmans and for merger of the operating rights and property into North for ownership, management, and operation. Robert E. Plecker who controls North through ownership of all of its capital stock, seeks to acquire control of Hartmans through this transaction.

The operating rights to be acquired by North are contained in Hartmans' certificates issued in MC–112696 and sub-numbers thereunder which authorize the transportation as follows: A. Regular routes, (1) *shoes, leather, rubber heels and soles, and supplies and equipment* used in a shoe factory, (a) between Harrisonburg, VA, and Boston, MA, and (b) between Gettysburg, PA, and Dillsburg, PA, (2) *leather,* from Luray, VA, and Winchester, VA, (3) *brooders and brooder supplies and air conditioning equipment,* from Harrisonburg, VA, to Brookline, MA, (4) *refrigerator show cases,* from Trenton, NJ, to Harrisonburg, VA, and (5) *general commodities,* usual exceptions, between Harrisonburg, VA, and Philadelphia, PA. B. Irregular routes, (1) *general commodities,* usual exceptions, from Baltimore, MD, to Harrisonburg, VA, (2) *burlap bags,* from Harrisonburg, VA, to Baltimore, MD, and Philadelphia, PA, (3) *petroleum products,* in containers, from Philadelphia, PA, to Staunton, Harrisonburg, Mount Jackson, and Winchester, VA (4) *empty petroleum products containers and used gasoline station equipment,* from Winchester, Mount Jackson, Harrisonburg, and Staunton, VA, to Philadelphia, PA, (5) *empty gas cylinders,* from Harrisonburg, VA, to Baltimore, MD, (6) *petroleum fuel oil,* in bulk, in tank vehicles, from Richmond, VA, to Franklin, WV, (7) *coal,* from Independence, Blaine, and Piedmont, WV, and Pottsville, PA, to Harrisonburg, VA, (8) *oil,* from Bayonne, NJ, to Waynesboro and Covington, VA, (9) *anti-freeze and alcohol,* from Carneys Point, NJ, to Waynesboro and Covington, VA, (10) *auto parts and acessories,* from Baltimore, MD, and Philadelphia and York, PA, to Waynesboro and Covington, VA, (11) *new furniture,* from Harrisonburg, VA, to points in VA, MD, PA, NY, and CT, (12) *linoleum and congoleum floor coverings and rugs,* from East Walpole, MA, to Alexandria, Danville, Kenbridge, Norfolk, Richmond, Roanoke, Lynchburg, Harrisonburg, and Petersburg, VA, Bluefield, Charleston, Huntington, and Logan, WV, and Johnson City and Bristol, TN, (13) *lumber,* from Rainelle, Erwin, and Cass, WV, to Harrisonburg, VA, (14) *mill machinery,* from New York, NY, and Paterson, NJ, and Philadelphia, PA, to Warwick, RI, and Waynesboro, VA, (15) *textile manufacturers' supplies, and mill machinery, and cotton piece goods, silk rayon, silk rayon piece goods, burlap, cotton bags, and bagging,* between Griffin, GA, and Waynesboro, VA, (16) *cotton piece goods, silk rayon, silk and rayon piece goods, rayon products, rayon cord, burlap, cotton bags, and bagging, textile manufacturers' supplies, and bagging,* (1) from Wayneboro, VA, to points in MA and RI, and (2) from West Warwick, RI, to Waynesboro, VA, (17) *twine,* in truckload lots, from Philadelphia, PA, to Harrisonburg, VA, (18) *firebrick and brick binder,* from Clearfield and Woodland, PA, to Harrisonburg, VA, (19) *farm machinery, paints, spray materials, and chemicals,* used in the manufacture of spray materials, from Baltimore, MD, to points in Rockingham County, VA, (20) *seed,* from points in Rockingham County, VA, to Baltimore, MD, (21) *fertilizer and fertlizer materials,* from Baltimore, MD, to Dayton, VA, (22) *such general merchandise as is dealt in by farmers' corporative stores,* from Baltimore, MD, to Harrisonburg, Elkton, Bridgewater and Timberville, VA, (23) *canned goods,* from Bridgewater, VA, to Baltimore, MD, Johnstown, and Philadelphia, PA, Charleston, Huntington, Mabscott, Logan and Bluefield, WV, points in VA and WV within 50 miles of Logan and Bluefield, and DC, (24) *canned fruits and vegetables,* (1) from Bridgewater, VA, to New York, NY, and (2) from Bridgwater, VA, to points in NC west of U.S. Hwy 301, east of U.S. Hwy 25, and those in SC west of U.S. Hwy 1, (25) *cream, condensed milk, and whole milk,* from Columbus and Orleans, IN, to Alexandria and Harrisonburg, VA, and DC, (26) *empty containers* for cream, condensed milk, and whole milk, from Alexandria and Harrisonburg, VA, and DC, to Columbus and Orleans, IN, (27) *hay and grain,* from Harrisonburg, VA, and points in VA within ten miles of Harrisonburg, to Leaksville, Reidsville, and Roxboro, NC, and points in NC within 25 miles of Reidsville and Roxboro, (28) *flour,* from Fort Defiance and Mount Crawford, VA, to points in that part of NC west of U.S. Hwy 301 and east of U.S. Hwy 25, and those in SC west of U.S. Hwy 1, (29) *cotton seed meal,* from Kershaw, SC, to Harrisonburg, Elkton, Bridewater, and Timberville, VA, (30) *corn meal,* from Lynwood, VA, to Birmingham, AL, (31) *eggs and poultry,* from Harrisonburg, VA, to DC, (32) *dressed poultry,* from Broadway and Harrisonburg, VA, to points in DE, MD, NJ, NY, PA, VA, MA, CT, RI, ME, VT, NH, and DC, (33) *brooders, poultry watering equipment, metal feeders, brooderette air conditioning units, venticones, and egg baskets,* from Harrisonburg, VA, to Henderson, TX, and points in AR, GA, and OK, (34) *brooders, brooder equipment and supplies,* from Harrisonburg, VA, to points in MD and PA, (35) *coops, boxes and crates,* (1) from Weyers Cave, VA, to points within two miles thereof, to points in NC, SC, and GA, and (2) from Weyers Cave, VA, and points within two miles thereof, to points in CT, MA, RI, OH, and IN, (36) *poultry house equipment,* from Harrisonburg, VA, to points in NY, CT, MA, and RI, (37) *leather,* (1) from Luray, VA, to Winchester, VA, and (2) from Luray, VA, to Worcester, Lynn, Haverhill, Marlboro, Brockton, Whitman, and North Abington, MA, (38) *shoes, leather, rubber heels and soles, and supplies and equipment* used in a shoe factory, (1) between Winchester, VA, Hagerstown, MD, and Gettysburg, Dillsburg, Lancaster, York, and Littletown, PA, on the one hand, and, on the other, Harrisonburg, VA, and Boston, MA, (2) from Harrisonburg, VA, and Boston, MA, to Worcester, Malden, and Athol, MA, New York, NY, Baltimore, MD, and Lynchburg, VA, (3) from Boston, MA, to East Berlin, PA, (4) (except commodities in bulk in tank vehicles), from Boston, MA, to Elizabethtown, PA, and (5) from Littlestown, PA, to Taneytown, MD, (39) *brooders, brooder supplies, and air-conditioning equipment,* from Harrisonburg, VA, to Brookline, MA, and points on Hwy 1 between Philadelphia, PA, and New Haven, CT (not including Philadelphia), points on U.S. Hwy 5 between New Haven, CT, and Springfield, MA, and points on U.S. Hwy 20 from Springfield, MA, to junction U.S. Hwy 20 and 9, and points on U.S. Hwy 9 from junction U.S. Hwy 9 and 20 to Brookline, MA, (40) *poultry growers' equipment,* from Harrisonburg, VA, to points in LA, TX, ME, FL, AL, and MS, (41) *frozen foods, poultry and poultry byproducts, in vehicles equipped* with temperature-control devices, from Harrisonburg, Timberville, and Winchester, VA, to points in AL, AR, CT, DE, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, VA, WV, WI, points in ME on and south of ME Hwy 25, including Portland, ME, and DC, (42) *unfinished shoes,* from Elizabethtown, PA, to Boston, MA, (43) *finished shoes,* from East Berlin, PA, to Gettysburg, PA, (44) *boxes,* from New Oxford, PA, to Bridgewater, Dayton, Harrisonburg, Hinton, and Timberville, VA, (44) *turkey rolls, and turkey rolls and dressed poultry* moving in mixed loads in the same vehicle at the same time, in vehicles equipped with mechanical refrigeration, from Bridgewater, VA, to points in AL, AR, CT, DE, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VT, WV, WI, points in that part of ME on and south of ME Hwy 25, and DC, (45) *shoes, leather, heels, soles, uppers and supplies and equipment* used in a shoe factory, (1) between Boston, ME, and the plant site of Gettysburg Shoe Co., in Camp Hill, PA, (2) betwen the plant site of Gettysburg Shoe Co., in Camp Hill, PA, and Dillsburg, PA, and (3) (except commodities in bulk) between Boston, MA, on the one hand, and, on the other, points in Lancaster County, PA (except Lancaster, PA), and points in Carroll, Washington, and Frederick Counties, MD, (46) *frozen foods,* (1) from Martinsburg, WV, to points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VT, VA, points in ME on and south of ME Hwy 25, including Portland, ME, and DC, restricted: shipments destined to points in GA, NC, and SC are limited to those originating at the plant site and warehouse of the Casco-Berkeley Corp., at Martinsburg, WV, (2) from the facilities of Kitchens of Sara Lee, Inc., at or near Deerfield, IL, to points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, WV, and DC, restricted to the transportation of shipments originating at the above-described origins and destined to the above-described destinations, (3) from the facilities of Morton Food Division, Continental Baking Co., at Crozet, VA, to points in MD, KY, IN, MI, OH, WV, ME, NH, VT, WI, NY, IL, VA, MN, CT, DE, NJ, MA, PA, RI, and DC, restricted to the transportation of traffic originating at the above-named origin and destined to the indicated destination points, (47) *prepared flour mixes and frosting mixes,* from Chelsea, MI, to points in CT, ME, MD, MA, NH, RI, VA, and DC, (48) *prepared flour mixes and frosting mixes,* from Chelsea, MI, to points in NY, NJ, and PA, (49) *malt beverages,* from Pabst, Houston County, GA, to Lynchburg, VA, (50) *empty bottles, containers, kegs, pallets, and skids,* from Lynchburg, VA, to Pabst, Houston County, GA, (51) *shoes,* from Boston, MA, and Gettysburg, PA, to the facilities of Consolidated Shoe Company in Campbell County, VA, near Lynchburg, VA, (52) *plastic film,* in vehicles equipped with mechanical refrigeration, from Grottoes, VA, to points in CT, MD, MA, NJ, NY, PA, and RI, (53) *material, equipment, and supplies* (except commodities in bulk) used in processing poultry, from points in the United States in and east of FL, GA, TN, MO, IA, and WI, to the facilities of Shenandoah Valley Poultry Co., Inc., and Shen-Mar Food Products Corporation in Rockingham County, VA, (54) *foodstuffs* (except in bulk), from the facilities of Rich Products Corporation at or near Murfreesboro, TN, to points in DE, FL, GA, IL, IN, IA, KY, MD, MI, MN, NJ, NY, NC, OH, PA, SC, VA, WV, WI, and DC, restricted to traffic originating at the named origin and destined to the destinations indicated above, (55) *frozen foodstuffs,* from Seabrook, NJ, to points in IL, IN, KS, MI, MO, PA, OH, and VA, (56) *malt beverages and wine,* from Pabst, GA, and Newark and Secaucus, NJ, to points in Rockingham County, VA, and MC–112696 (Sub-No. E1), to transport *frozen foods,* (1) from Baltimore, MD, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, SC, TN, and WI, and (2) from Martinsburg, WV, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, and WI.

North operates as a motor common carrier in interstate or foreign commerce pursuant to certificate No. MC 28038 and sub-numbers thereunder.

Impediment: Authorization and approval of this transaction is conditioned upon the prior receipt by the Commission of an affidavit from Robert E. Plecker, the sole stockholder of North, stating that he is the person in control of applicant and that he joins in this application. (Hearing site: Washington, DC.)

Note.—An application for temporary authority has been filed.

MC–F 14450F, filed July 25, 1980.

RAY BELLEW & SONS, INC. (Bellew) (7810 Almeda-Genoa Rd., Houston, TX 77075)—Purchase (portion)—HOUSTON FREIGHTWAYS, INC. (Houston) (9010 Clinton Drive, P.O. Box 607, Houston, TX 77547).

Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101.

Bellew seeks authority to purchase a portion of the interstate operating rights of Houston. Ray Bellew and Helen L. Bellew, who control, Bellew, seek authority to acquire control of said rights through the transaction.

V 45 AG 15 80 UMI

Bellew is purchasing that portion of the operating rights contained in Houston's certificate in MC–143209, which authorizes the transportation as a motor common carrier, over irregular routes, as follows: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (2) *Machinery and equipment* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulpur and its products, and *materials and supplies* (not including sulphur) used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction, plant (including refining, manufacturing, and processing plant) sites or storage sites; and (3) *Machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells: (a) Between points in TX within 150 miles of Palestine, TX, including Palestine, TX. (b) Between points in TX within 150 miles of Monahans, TX, including Monahans, TX. (c) Between points in TX within 200 miles of Sundown, TX, including Sundown, TX. (d) Betweeen points in the TX territories specified in the three paragraphs next above, on the one hand, and, on the other, points in LA, NM, and AR. (e) Between points in KS and OK, on the one hand, and, on the other, points in TX. Restriction: The authority described immediately above is not to be utilized in connection with other authority described herein for the performance of through operations between points in OK, on the one hand, and, on the other, points in AR. (f) Between points in KS and OK. (g) Between points in KS and OK, and that part of NM bounded by a line beginning at the NM–TX State line, near Bronco, TX, and extending along U.S. Highway 380 through Gladiola, NM, to junction NM Highway 18, thence along NM Highway 18 through Lovington, NM, to Hobbs, NM, thence along U.S. Highway 62 to Carlsbad, NM, thence along U.S. Highway 285 to the NM–TX State line, and thence along the NM–TX State line to point of beginning, including points on the indicated portions of the highway specified. The commodities described in (1), above, between Kansas City, MO, on the one hand, and, on the other, points in OK, TX, and that part of NM described in (g) above. The commodities described in (3), above, between points in OK and AR, and between Kansas City, MO, on the one hand, and, on the other, points in KS, OK, TX, and that part of NM described in (g), above.

Houston is retaining that portion of its lead certificate which authorizes the transportation of *iron and steel articles*, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Houston, TX, to points in TX.

Impediment: The authority being sold duplicates to a certain extent the authority beging retained by Houston *Iron and Steel articles* from Houston, TX, falls within 150 miles of Palestine, TX.

Bellew presently holds no authority from the Interstate Commerce Commission. It is commonly controlled with Ray Bellew, Inc., which holds authority under MC 52727. (Hearing site: Houston, TX.)

Note.—An application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24797 Filed 8-14-80; 8:45 am]

BILLING CODE 7035-01-M

[Forty-Third Revised Exemption No. 129]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–E, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company Reporting Marks: ASAB
Boston and Maine Corporation Reporting Marks: BM
Chicago, Milwaukee, St. Paul and Pacific Railroad Company Reporting Marks: MILW
Chicago, West Pullman & Southern Railroad Company Reporting Marks: CWP
Columbus and Greenville Railway Company Reporting Marks: CAGY
Delaware and Hudson Railway Company Reporting Marks: DH
Green Mountain Railroad Corporation Reporting Marks: GMRC
Illinois Terminal Railroad Company Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company Reporting Marks: LNAC
Manufacturers Railway Company Reporting Marks: MRS
Maryland Midland Railway Company Reporting Marks: MMID
Missouri-Kansas-Texas Railroad Company Reporting Marks: MKT
Missouri Pacific Railroad Company Reporting Marks: CEI–MI–MP–TR
New Hope and Ivyland Railroad Company Reporting Marks: NHIR
North Stratford Railroad Corporation Reporting Marks: NSRC
St. Louis-San Francisco Railway Company Reporting Marks: SLSF*
St. Louis Southwestern Railway Company Reporting Marks: SSW
Southern Pacific Transportation Company Reporting Marks: SP
Southern Railway System Reporting Marks: SOU–CG–NS–SA

Effective August 1, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., July 30, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-24790 Filed 8-14-80; 8:45 am]

BILLING CODE 7035-01-M

[Twelfth Revised Exemption No. 141]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To All Railroads:

It appearing, That the railroads named herein own numerous plain gondola cars less than 61-ft.; that under present conditions, there are surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, ICC-RER No. 6410–E, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB," and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Aberdeen and Rockfish Railroad Company Reporting Marks: AR
Atlantic and Western Railway Company Reporting Marks: ATW
Bessemer and Lake Erie Railroad Company Reporting Marks: BLE
Chicago, West Pullman & Southern Railroad Company Reporting Marks: CWP
Columbus and Greenville Railway Company Reporting Marks: CAGY
Consolidated Rail Corporation Reporting Marks: BCK-CNJ-CR-DLW-EL-ERIE-LV-NH-NYC-PE-PAE-PC-PCA-PRR-RDG-TOC-RR
East St. Louis Junction Railroad Company Reporting Marks: ESLJ
Illinois Terminal Railroad Company Reporting Marks: ITC
Lousiana Midland Railway Company Reporting Marks: LOAM
Maryland and Delaware Railroad Company Reporting Marks: MDDE
Octoraro Railway, Inc. Reporting Marks: OCTR
The Pittsburgh and Lake Erie Railroad Company Reporting Marks: PLE
Southern Railway Company Reporting Marks: SOU
St. Louis-San Francisco Railway Company Reporting Marks: SLSF*
Wisconsin and Southern Railroad Company Reporting Marks: WSOR*
Upper Merion and Plymouth Railroad Company Reporting Marks: UMP

Effective August 1, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., July 30, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-24791 Filed 8-14-80; 8:45 am]

BILLING CODE 7035-01-M

*Addition

---

*Additions.

[Notice No. 191]

Assignment of Hearings

August 7, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to pubish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 148418 (Sub-1F), Mountain High Shipping, Inc., now assigned for hearing on September 3, 1980, at Denver, CO in the Division 2, Court of Appeals 1927 Stout Street.
MC 61592 (Sub-465F), Jenkins Truck Line, Inc., now assigned for hearing on September 16, 1980, at Chicago, IL, in Room 280, 219 S. Dearborn Street, Everett McKinley Dirksen Bldg.
MC 35358 (Sub-45F), Berger Transfer & Storage, Inc., now assigned for hearing on September 17, 1980, at Chicago, IL, in Room 1221, Everett McKinley Dirksen Bldg.
MC 144330 (Sub-70F), Utah Carriers, Inc., now assigned for hearing on September 10, 1980, at Division 2, Court of Appeals, 1927 Stout Street, Denver, CO.
MC 95876 (Sub-291F), Anderson Trucking Service, Inc., now assigned for hearing on September 22, 1980, at Chicago, IL, in Room 204A, 219 S. Dearborn St., Everett McKinley Dirksen Bldg.
MC 147167F, T. C. Spires, Inc., now assigned for hearing on September 24, 1980, at Cincinnati, OH, in Room No. 50071, 5th Floor, 550 Main Street, Federal Building.
MC 102616 (Sub-1007F), Coastal Tank Lines, Inc., now assigned for hearing on September 24, 1980, in Room 204A, 219 S. Dearborn St., Everett McKinley Dirksen Bldg., and September 25–26, 1980, at Chicago, IL, in Room No. 280, 219 S. Dearborn St., Everett McKinley Dirksen Bldg.
MC 133541 (Sub-8F), McKibben Motor Service, Inc., now assigned for hearing on September 29, 1980, at Cincinnati, OH, in Room No. 9017, Federal Building, 550 Main Street.
MC 119441 (Sub-50F), Baker Hi-way Express, Inc., now assigned for hearing on October 1, 1980, at Cincinnati, OH, in Room No. 9017, Federal Building, 550 Main Steet, and October 2–3, 1980, in Room No. 8017, Federal Building, 550 Main Street.
MC 124151 (Sub-13F), Vanguard Transportation, Inc., now being assigned for hearing on September 10, 1980, (1 day), at New York, N.Y., location of hearing room will be designated later.
MC 143775 (Sub-72F), Paul Yates, Inc., assigned for hearing on September 25, 1980, is cancelled, the hearing remains as assigned September 30, 1980 (2 days), at Los Angeles, CA, location of hearing room will be by subsequent notice.
MC 35628 (Sub-429F), Interstate Motor Freight System, now assigned for hearing on September 15, 1980, at Pittsburgh, PA, is cancelled and reassigned for Prehearing Conference on September 22, 1980 (1 week), at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 10343 (Sub-37F), Churchill Truck Lines, Inc., now being assigned for continued hearing on September 8, 1980 (3 days), at Dallas, TX; September 11, 1980 (2 days), at Fort Smith, AR; September 15, 1980 (3 days), at Little Rock, AR; September 18, 1980 (2 days), at Memphis, TN; September 22, 1980 (3 days), at St. Louis, MO; September 25, 1980 (2 days), at Kansas City, MO, and November 17, 1980 (3 days), at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 145459 (Sub-9F), Thermo Transport, Inc., now assigned for hearing on September 3, 1980, at (1 day), at Boston, MA, in Room No. 501, 150 Causeway.
MC 140829 (Sub-313F), Cargo, Inc., now being assigned for hearing on September 4, 1980 (2 days), at Boston, MA in Room No. 501, 150 Causeway.
MC 98727 (Sub-2F), R.V.J., Inc., now assigned for hearing on September 8, 1980 (1 week), at Boston, MA, in Room No. 501, 150 Causeway.
MC 85811 (Sub-12F), Amsco Transportation, Inc., now assigned for hearing on September 16, 1980, at Kansas City, MO, is postponed to September 29, 1980 (2 days), at Kansas City, MO, location of hearing room will be designated later.
MC 730 (Sub-446F), Pacific Intermountain Express, Company, now being assigned for hearing on September 17, 1980 (3 days), at Albuquerque, NM, location of hearing room will be designated later.
MC 143402 (Sub-2F), John Hensal Trucking, Inc., now being assigned for hearing on September 22, 1980 (5 days), at Tulsa, OK, location of hearing room will be designated later.
MC 30319 (Sub-151F), Southern Pacific Transport Company of Texas and Louisiana, now being assigned for continued hearing on September 29, 1980 (10 days), and October 10, 1980, at Fort Smith, AR, location of hearing room will be designated later.
FD 29254, Somerset Railroad Corporation, construction and operation of a line of railroad in Niagara County, NY, now being assigned for hearing on October 15, 1980 (8 days), at Lockport, NY, location of hearing room will be designated later.
FD 29187 (Sub-1F), Providence and Worchester Company—Control—of Vermont & Massachusetts Railroad Company, now being assigned for hearing on October 1, 1980 (1 day) at Boston, MA, location of hearing room will be designated later.
MC 126473 (Sub-41F), Harold Dickey Transport, Inc., now being assigned for hearing on September 17, 1980 (3 days), at Chicago, IL, in Room 1221, Everett McKinley Dirksen Bldg.

MC 35358 (Sub-45F), Berger Transfer & Storage, Inc., is transferred to Modified Procedure.
MC 29079 (Sub-147F), Brada Miller Freight System, Inc., now being assigned for hearing on October 29, 1980, at the Office of the Interstate Commerce Commission, at Washington, D.C.
MC 117940 (Sub-348F), Nationwide Carriers, Inc., now being assigned for hearing on September 25, 1980 (2 days), at Los Angeles, CA, location of hearing room will be designated later.
MC 117940 (Sub-348F), Nationwide Carriers, Inc., now being assigned for hearing on September 25, 1980 (2 days), at Los Angeles, CA, location of hearing room will be designated later.
MC 133315 (Sub-5F), Asbury System, now assigned for hearing on September 29, 1980 (1 day), at Los Angeles, CA, at the Los Angeles County Courthouse, 111 North Hill Street.

Note.—Report to Room 203 for hearing room assignment.

MC 14236F, Graves Truck Line, Inc.—purchase—Stewart Motor Freight, Inc., now assigned for hearing on September 16, 1980 (9 days), at Salina, KS, location in a hearing room to be later designated.
MC 53965 (Sub-168F), Graves Truck Line, Inc., now being assigned for hearing on September 16, 1980 (9 days), at Salina, KS, in a hearing room to be later designated.
No. MC 53965 (Sub-No. 156F), Graves Truck Line, Inc., now assigned for hearing on September 16, 1980 (9 days), at Salina, KS, in a hearing room to be later designated.
MC 124078 (Sub-975F), Scherman Trucking Co., now assigned for hearing on September 9, 1980 (1 day), at New Orleans, LA., is transferred to Modified Procedure.
MC 125433 (Sub-281F), F–B Truck Line Company, application is dismissed.
MC 114274 (Sub-71F), Vitalis Truck Lines, Inc., application is dismissed.
MC 52861 (Sub-73F), Wills Trucking, Inc., is transferred to Modified Procedure.
MC 119974 (Sub-82F), L. C. L. Transit Company, now assigned for hearing on September 15, 1980 (1 week), at Chicago, IL, will be held in Room 350, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 119700 (Sub-55F), Steel Haulers, Inc., now assigned for hearing on July 28, 1980 at Kansas City, MO, is canceled and application is dismissed.
MC 133019 (Sub-2F), Triangle Transportation, Inc., application is dismissed.
MC 140629 (Sub-326F), Cargo, Inc., application is dismissed.
MC 148009 (Sub-1F), Manhattan Collision Specialists, Inc., d.b.a. Manhattan Ave., now assigned for hearing on September 11, 1980, at New York, NY, is transferred to Modified Procedure.
MC 38481 (Sub-19F), Farruggio's and Philadelphia Auto Express, Inc., is transferred to Modified Procedure.
MC 124679 (Sub-105F), C. R. England and Sons, Inc., is transferred to Modified Procedure.
MC 140829 (Sub-343F), Cargo, Inc., application is dismissed.
MC 140829 (Sub-292F), Cargo, Inc., application is dismissed.
MC 146078 (Sub-9F), Cal-Ark, Inc., application is dismissed.
MC 119176 (Sub-22F), The Squaw Transit Company, application is dismissed.
MC 143059 (Sub-98F), Mercer Transportation Company, application is dismissed.
MC–C–10564, Hudson Transit Lines, Inc. v. Peter Pan Bus Lines, Inc., now assigned for hearing on September 11, 1980 (2 days), at New York, NY, in a hearing room to be later designated.
No. 37186F, Alaska Building Maintenance v. Sea-Land Services, Inc., now assigned for Prehearing Conference on July 29, 1980, at Anchorage, Alaska, is postponed indefinitely.
No. 37186F, Alaska Building Maintenance v. Sea-Land Services, Inc., now assigned for hearing on July 30, 1980, at Anchorage, Alaska, is postponed indefinitely.
MC 7698 (Sub-15F), Fowler & Williams, Inc., is transferred to Modified Procedure.
No. 37338, South Carolina Public Service Authority v. Clinchfield Railroad Company, et al., now assigned for hearing on August 28, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
I&S M–30261, Increased Commuter Fares, De Camp Bus Lines, July 1980, now assigned for hearing on September 9, 1980 (4 days), at New York, NY, in a hearing room to be later designated.
MC 96992 (Sub-17F), Highway Pipeline Trucking Co., now assigned for hearing on September 3, 1980 (3 days), at Houston, TX, in a hearing room to be later designated.
MC 123272 (Sub-37F), Fast Freight, Inc., now assigned for hearing on September 3, 1980, at Chicago, IL, is transferred to Modified Procedure.
MC 105289 (Sub-84F), Graff Trucking Company, Inc., is transferred to Modified Procedure.
MC 143739 (Sub-33F), Shurson Trucking Co., Inc., now assigned for hearing on September 10, 1980, at Kansas City, MO, is canceled and application dismissed.
MC 147422F, Jeffrey M. Kornacker, d.b.a. K Transport Co., now assigned for hearing on September 4, 1980 (2 days), at Chicago, IL, will be held in Room No. 1669, Everett McKinley Dirksen Building, 219 S. Dearborn Street.
MC 143059 (Sub-95F), Mercer Transportation Co., now assigned for hearing on September 8, 1980 (2 days), at Chicago, IL, will be held in Room 3619, 226 South Dearborn Street.
MC 143059 (Sub-108F), Mercer Transportation Co., now assigned for hearing on September 10 , 1980 (3 days), at Chicago, IL, will be held in Room 3619, 226 South Dearborn Street.
MC 142207 (Sub-28F), Brannan Systems, Inc., now assigned for hearing on September 3, 1980 (3 days), at New Orleans, LA, will be held in Room No. 648, F. Edward Hebert Federal Building, 600 South Street.
MC 114552 (Sub-224F), Senn Trucking Company, now assigned for hearing on September 8, 1980 (1 day), at New Orleans, LA, will be held in Room No. 648, F. Edward Hebert Federal Building, 600 South Street.
MC 124078 (Sub-975F), Schwerman Trucking Co., now assigned for hearing on September 9, 1980 (1 day), at New Orleans, LA, will be held in Room No. 648, F. Edward Hebert Federal Building, 600 South Street.
MC 148078 (Sub-1F), Beau Parrish Express Co., Inc., now assigned for hearing on September 10, 1980 (3 days), at New Orleans, LA, will be held in Room No. 648, F. Edward Hebert Federal Building, 600 South Street.
MC 730 (Sub-477F), Pacific Intermountain Express Co., is transferred to Modified Procedure.
MC 138732 (Sub-31F), Osterkamp Trucking, Inc., now assigned for Prehearing Conference on September 30, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 94201 (Sub-179F), Bowman Transportation, Inc., now assigned for Prehearing Conference on October 15, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 2860 (Sub-191F), National Freight, Inc., now assigned for hearing on October 15, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 1824 (Sub-105F), Preston Trucking Company, Inc., now assigned for hearing on October 27, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 113855 (Sub-501F), International Transport, Inc., now assigned for hearing on October 28, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 146448 (Sub-7F), C & L Trucking, Inc., now assigned for hearing on October 30, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 18459 (Sub-13F), Britton Motor Service, Inc., is transferred to Modified Procedure.
MC 114569 (Sub-349F), Shaffer Trucking, Inc., is transferred to Modified Procedure.
MC 143829 (Sub-2F), Scalea's Airport Service, Inc., is transferred to Modified Procedure.
MC 147431F, M.L.D. and Sons Industries, is transferred to Modified Procedure.
AB–43 (Sub-63F), Illinois Central Gulf Railroad Company abandonment near Port Gibson and Crosby and Harriston and Fayette, Mississippi, now assigned for hearing on September 23, 1980 (9 days), at Fayette, MS, in a hearing room to be later designated.
AB–43 (Sub-38F), Illinois Central Gulf Railroad Company abandonment near Rosedale and Greenville, in Washington and Bolwar Counties, Mississippi, now assigned for hearing on November 3, 1980 (5 days), at Rosedale, Ms, in a hearing room to be later designated.
MC 121489 (Sub-16F), Nebraska-Iowa Xpress, Inc., now assigned for hearing on September 8, 1980, at Denver, CO., is transferred to Modified Procedure.
MC 2229 (Sub-227F), Red Ball Motor Freight, Inc., now assigned for hearing on September 22, 1980, at Kansas City, MO, is transferred to Modified Procedure.
MC 147273 (Sub-3F), Kenneth Shafer, d.b.a. K & T Hot Short Service, is transferred to Modified Procedure.
MC 107403 (Sub-1200F), Matlack, Inc., now assigned for continued hearing on September 17, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 2835 (Sub-43F), Adirondack Transit Lines, Inc., now assigned for hearing on September 15, 1980, at Plattsburgh, NY, is postponed to December 9, 1980 (4 days) at Plattsburgh, NY, in a hearing room to be later designated.
MC 115331 (Sub-510F), Truck Transport Inc., now assigned for hearing on September 8, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 64373 (Sub-11F), Clarkson Bros. Machinery Haulers, Inc., now assigned for hearing on September 17, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 29079 (Sub-144F), Brada Miller Freight System, Inc., Now assigned for hearing on September 24, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 28088 (Sub-46F), North & South Lines, Inc., now assigned for hearing on September 30, 1980, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 116859 (Sub-26F), Clark Transfer, Inc., now assigned for hearing on October 6, 1980, at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 115703 (Sub-13F), Kreitz Motor Express, Inc., now assigned for hearing on October 8, 1980, at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 144122 (Sub-51F), Carretta Trucking, Inc., now assigned for hearing on September 10, 1980 (1 day), at New York, NY, is postponed indefinitely.
MC 118318 (Sub-44F), Ida-Cal Freight Lines, Inc., now assigned for hearing on September 11, 1980, at Boise, Idaho, is postponed indefinitely.
MC 127278 (Sub-6F), Pacific Van & Storage Co., Inc., now assigned for hearing on October 6, 1980 (2 days), at Los Angeles, CA, at the Los Angeles County Courthouse, 111 North Hill Street.
MC 141443 (Sub-25), John Long Trucking, Inc., now assigned for hearing on October 2, 1980, at Los Angeles, CA, at the Los Angeles County Courthouse, 111 North Hill Street.
MC 127278 (Sub-6F), Paul Yates, Inc., now assigned for hearing on September 30, 1980 (1 week), at Los Angeles, CA, at the Los Angeles County Courthouse, 111 North Hill Street.
MC 118159 (Sub-343F), National Refrigerated Transport, Inc., now assigned for hearing on September 8, 1980, at Tampa, FL, in Suite 901, State Office Building, 1313 North Tampa Street.
MC 118159 (Sub-364F), National Refrigerated Transport, Inc., now assigned for hearing on September 9, 1980, at Tampa, FL, in Suite 901, State Office Building, 1313 North Tampa Street.
MC 128273 (Sub-326F), Midwestern Distribution, Inc., now assigned for hearing on September 10, 1980, at Tampa, FL, at the Holiday Inn Central, 11 West Fortune Street.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–24805 Filed 8–14–80; 8:45 am]

BILLING CODE 7035–01–M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Application)

August 12, 1980.

These applications for long-and-short-haul or aggregate-of-intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. by September 2, 1980.

Long-and-Short-Haul

No. 43852, Trans-Continental Freight Bureau, Agent (No. 551), reduced rates on iron and steel articles, from Minnequa, CO, to stations in Idaho, Oregon and Washington. Rates to be published in its Tariff ICC TCFB 3001–B. Grounds for relief—motor carrier competition.

Aggregate-of-Intermediates

No. 43851, Trans-Continental Freight Bureau, Agent (No. 550), reduced rates on iron and steel articles, from Minnequa, CO, to stations in Idaho, Oregon and Washington. Rates to be published in its Tariff ICC TCFB 300–B. Grounds for relief—maintenance of depressed rates to meet motor carrier competition without use of such rates as factors in constructing combination rates.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–24708 Filed 8–14–80; 8:45 am]

BILLING CODE 7035–01–M

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

August 12, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before September 2, 1980.

No. 43853, Southwestern Freight Bureau, Agent (No. B–79), increased rates on roofing and building materials, in carloads, from Southwesterm to Southern stations, as published in Supplement 47 to its Tariff ICC SWEB 4693, scheduled to become effective September 3, 1980. Grounds for relief—additional revenue to offset increased operating costs.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–24709 Filed 8–14–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Transfer Proceedings; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before September 4, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before September 15, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

MC–FC–78394. On reconsideration, by decision of July 7, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Commission approved the transfer to Jur Corporation d.b.a. Rajor, Franklin, TN, of Permits

MC–129862 (Sub-Nos. 1, 2, 3, 4, 5, 11, 12, 15, 17, and 19), issued April 9, 1975, November 4, 1974, February 10, 1977, August 26, 1975, November 26, 1975, March 9, 1977, February 27, 1978, February 24, 1978, September 26, 1978, and December 21, 1978, respectively, to Rajor, Inc., Franklin, TN, authorizing operations, over irregular routes, as follows:

MC 129862 (Sub-1): *Plumbing fixtures and supplies* and *air-conditioning and heating units*, (except articles which, because of size, shape or weight, require the use of special equipment or special handling), from St. Louis, MO, Port Huron, MI, Philadelphia, Greensburg, and York, PA, Braintree, MA, Houston, TX, East St. Louis, IL, and Fort Smith, AR, to points in AZ, CA, and NV; and *returned shipments* of the above-specified commodities, from points in AZ, CA, and NV, to St. Louis, MO, Port Huron, MI, Philadelphia, Greensburg, and York, PA, Braintree, MA, Houston, TX, East St. Louis, IL, and Fort Smith, AR. *Plumbing fixtures and supplies*, from Kohler, WI, Spartanburg, SC, and Camden, NJ, to points in AZ, CA, and NV, with no transportation for compensation on return except as otherwise authorized. *Air-conditioning units*, from Maspeth, Long Island, NY, to points in AZ, CA, and NV, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with York Division of Borg-Warner, of York, PA.

MC 129862 (Sub-2): (1) *Electronic instruments and components, tables and stands* for electronic instruments and components, and *toys and games*, other than coin-operated, from Greeneville and Jefferson City, TN, to Dallas, TX, Pasco and Seattle, WA, San Francisco and Torrance, CA, Denver, CO, Phoenix, AZ, Portland, OR, and Salt Lake City, UT, with no transportation for compensation on return except as otherwise authorized. Between Greeneville and Jefferson City, TN, on the one hand, and, on the other, Nogales, AZ. (2) *Equipment, materials, and supplies* used in the manufacture and production of the commodities in (1) above (except commodities in bulk, in tank vehicles), from Los Angeles and Long Beach, CA, and points in San Francisco, San Mateo, Alameda, and Contra Costa Counties, CA, to Greeneville and Jefferson City, TN. Restriction: The operations authorized in part (2) above is restricted to transportation in foreign commerce only. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the Magnavox Company, Inc., of Fort Wayne, IN.

MC 129862 (Sub-3): (1) *Running gears, hitches*, and *fenders* used for mobile homes, motor homes, trailers and recreational vehicles, from Anaheim and Los Angeles, CA, Tiffin, OH, and Dayton, OR, to points in the United States (except AL and HI and with no service to CA when shipments originate at Los Angeles and Anaheim); and (2) *Components, materials, and supplies* used in the manufacture, production, and assembly of the commodities described in (1) above, from points in the United States (except AK and HI), to Anaheim, and Los Angeles, CA, Tiffin, OH, and Dayton, OR. (3) *Electric and gas refrigerators* for mobile homes, motor homes, and trailers, and *parts* for such refrigerators, from Baltimore, MD, Elizabeth, NJ, Elkhart, IN, Dayton, OR, and Los Angeles and Anaheim, CA, to points in the United States (except AL and HI and with no service to CA when shipments originate at Los Angeles and Anaheim), with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized hereinabove are limited to a transportation service to be performed under a continuing contract, or contracts, with Essick Manufacturing Division of A-T-O, Inc. (4) *Outdoor advertising metal poster panels, school furniture, lockers, portable filing cabinets, crane cabs, crane cab components, farm and construction machinery cabs and components* for farm and construction machinery cabs, from Tiffin, OH, to points in the United States (except AK and HI); and (5) *Components, materials, and supplies* used in the manufacture, production, and assembly of the commodities described in (4) above, from points in the United States (except AK and HI), to Tiffin, OH. Restriction: The operations authorized in (4) and (5) above are limited to a transportation service to be performed under a continuing contract, or contracts, with Tiffin Metal Products Division of A-T-O, Inc. (6) *Concrete mixers, mortar mixers, machines used for applying concrete, mortar, plaster, fireproofing and similar materials, road rollers, saws, motors, commercial air cooling systems and their pads*, and *air make-up heating and cooling equipment*, from Los Angeles, CA, and Elizabeth, NJ, to points in the United States (except AK and HI); and (7) *Components, materials, and supplies* used in the manufacture, production and assembly of the commodities described in (6) above, from points in the United States (except AK and HI), to Los Angeles, CA, and Elizabeth, NJ. (8) *Air coolers* and *air make-up heating and cooling equipment*, from Little Rock, AR, to points in the United States (except AK and HI); and (9) *Components, materials, and supplies* used in the manufacture, production, and assembly of the commodities described in (8) above, from points in the United States (except AK and HI), to Little Rock, AR. (10) *Machinery parts*, from Los Angeles, CA, to Little Rock, AR, and Elizabeth, NJ, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized in (6) through (10) above are limited to a transportation service to be performed under a continuing contract, or contracts, with Essick Manufacturing Division of A-T-O, Inc. (11) *Fire extinguishers* (charged and not charged) portable hand and wheeled, *fire extinguisher compounds, brass fire hose nozzles, brass fire hose couplings, brass valves and fittings, brass castings, brass fire engine accessories and equipment*, and *fire hose*, from Ranson and Charles Town, WV, and Charlottesville, VA, to points in the United States (except AK and HI); and (12) *Components, materials, and supplies* used in the manufacture, production, and assembly of the Charlottesville, VA. (13) *Fire hose* (with or without brass nozzles), *brass hose couplings* and *brass valves*, from North Bergen, NJ, to points in the United States (except AK and HI); and (14) *Components, materials, and supplies* used in the manufacture, production, and assembly of the commodities described in (13) above, from points in the United States (except AK and HI), to North Bergen, NJ. Restriction: The operations authorized in (11) through (14) above are limited to a transportation service to be performed under a continuing contract, or contracts with Badger-Powhatan-Blaze Buard Division of A-T-O, Inc. Restriction: The operations authorized herein are restricted against the transportation of commodities in bulk, in tank vehicles.

MC 129862 (Sub-4): *Air conditioning and heating units, component parts*, and *materials and supplies* utilized in the manufacture, sale, and distribution of the described commodities (except commodities in bulk and those which by reason of size or weight require the use of special equipment), between Madisonville, KY, on the one hand, and, on the other, points in AR, CA, and NV. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with York Division of Borg-Warner Corporation, of York, PA.

MC 129862 (Sub-5): *Athletic, gymnastic, aquatic and sporting goods, parts, and accessories* of the foregoing commodities, *adhesives rubber tire treads, hardware, advertising material*, and *materials, equipment and supplies* utilized in the manufacture, sale, and distribution of the described commodities, from Santa Ana, CA, to Arlington and Houston, TX, Atlanta, Decatur, and Griffin, GA, Birmingham and Mobile, AL, Bridgeton, MO, Edison and Maywood, NJ, Elk Grove Village and River Grove, IL, Nashville, TN, New Orleans, LA, Shelby, OH, and Tampa, FL, with no transportation for compensation on return except as otherwise authorized. From points in TX, and points in and east of MN, IA, MO, AR, and LA, to Santa Ana, CA, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are subject to the following conditions: The authority granted herein is restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with AMF Volt, Inc., of Santa Ana, CA.

MC 129862 (Sub-11): *Athletic, gymnastic, aquatic*, and *sporting goods, parts and accessories* for the foregoing commodities, *adhesives, rubber, tire treads, hardware, advertising materials* and *materials, equipment and supplies* utilized in the manufacture, sale and distribution of the described commodities, from Santa Ana, CA, to points in and east of Minnesota, IA, NE, KS, OK, and TX, with no transportation for compensation on return except as otherwise authorized. *Aquatic equipment and accessories* and *game and sporting goods balls*, from ports of entry on the United States-Republic of Mexico Boundary line of Brownsville, El Paso, and Laredo, TX, to Chicago and Elk Grove Village, IL, and Maywood, NJ, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with AMF Voit, Inc.

MC 129862 (Sub-12): *Air conditioning* and *heating units* (except commodities which by reason or size or weight require the use of special equipment), from Jonesville, MI, Madisonville, KY, and York, PA, to points in CO, FL, GA, NM, OR, TX, UT, and WA, with no transportation for compensation on return except as otherwise authorized. From Jonesville, MI, to points in AZ, CA, and NV, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with York Division of Borg-Warner Corporation of York, PA.

MC 129862 (Sub-15): *Electronic instruments* and *components, tables and stands* for electronic instruments and *components*, and *toys and games* (except those which are coin operated), from Greeneville and Jefferson City, TN, to points in FL, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with The Magnavox Company, of Fort Wayne, IN.

MC 129862 (Sub-17): *Air conditioning and heating units* (except commodities which by reason of size or weight require the use of special equipment), from Hopkinsville, KY, and Newark, DE, to points in AZ, CA, CO, FL, LA, NV, NM, OR, TX, UT, and WA. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract(s) with York Division of Borg-Warner Corporation, of York, PA.

MC 129862 (Sub-19): *Air conditioning and heating units* (except commodities which because of size or weight require the use of special equipment), from points in Davidson County, TN, to points in AZ, CA, CO, FL, LA, MT, NE, NV, ND, OR, SD, UT, and WA. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract(s), with Heil-Quaker Corporation, of LaVergne, TN. Application for temporary authority has been filed under 49 U.S.C. 11349. Applicants' representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24801 Filed 8-14-80; 8:45 am]

BILLING CODE 7035-01-M

American Motors Corp., et al.; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Motors Corporation, 27777 Franklin Road, Southfield, MI 48034.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) American Motors (Canada) Limited, 350 Kennedy Road South, Brampton, Ontario L6V 2M3.
(b) American Motors International Sales Corporation, 27777 Franklin Road, Southfield, MI 48034.
(c) American Motors Pan American Corporation, 27777 Franklin Road, Southfield, MI 48034.
(d) American Motors Sales Corporation, 27777 Franklin Road, Southfield, MI 48034.
(e) AM General Corporation, 14250 Plymouth Road, Detroit, MI 48232.
(f) Canadian Fabricated Products Limited, 1172 Erie Street, Stratford, Ontario.
(g) Coleman Products Company, Highway 141 at Main Street, P.O. Box 261, Coleman, Wisconsin 54112.
(h) Evart Products Company, 601 W. 7th Street, Evart, MI 49631.
(i) Holmes Foundry Limited, 200 Exmouth Street, P.O. Box 970, Sarnia, Ontario N7T 7K2.
(j) Jeep Corporation, 27777 Franklin Road, Southfield, MI 48034.
(k) Jeep International Corporation, 27777 Franklin Road, Southfield, MI 48034.
(l) Jeep of Canada Limited, Kennedy Road South, Brampton, Ontario L6V 2M3.
(m) Mercury Plastics Company, 34501 Harper, Mt. Clemens, MI 48043.
(n) Michigan City Fabricators, Inc., 515 West Ireland Road, South Bend, Indiana 46614.
(o) Wheel Horse Products, Inc., 515 West Ireland Road, South Bend, Indiana 46614.
(p) Wheel Horse Sales, Inc., 515 West Ireland Road, South Bend, Indiana 46614.
(q) Windsor Plastics, Inc., 601 North Congress Avenue, Evansville, Indiana.

1. Parent corporation: *American Standard Inc.*, a Delaware corporation having its principal place of business at 40 West 40th Street, New York, NY 10018.

2. Wholly-owned subsidiaries which will participate in the operations, and the addresses of their respective principal offices are:

(a) A–S Energy, Inc., a Texas corporation, having its principal place of business at 1700 West Loop South, Suite 1490, Houston, Texas 77027.
(b) A–S Salem Inc., a Delaware corporation, having its principal place of business at 40 West 40th Street, New York, New York 10018.
(c) American Standard Credit Inc., a Delaware corporation, having its principal place of business at 2301 N.E. Adams Street, Peoria, Illinois 61639.

Amstan Trucking Inc., a Delaware corporation, having its principal place of

business at 40 West 40th Street, New York, New York 10018.
(e) The Mosler Safe Company, a New York corporation, having its principal place of business at 1561 Grand Boulevard, Hamilton, Ohio 45012.
(f) Stafford-Lowdon, Inc., a Delaware corporation, having its principal place of business at 2727 West 7th Street, Fort Worth, Texas 76107.
(g) WABCO Ltd., a Delaware corporation, having its principal place of business at P.O. Box 2050, Hamilton, Ontario, Canada.
(h) WABCO Standard Export Ltd., a Delaware corporation, having its principal place of business at 40 West 40th Street, New York, New York 10018.

1. Parent corporation and address of principal office: Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Capstan Transportation Co., 109 North Broad Street, Lancaster, OH 43130.
(b) Gas Transport, Inc., P.O. Box 1323, Parkersburg, WV 26101.
(c) Plastics, Inc., 224 Ryan Avenue, St. Paul, MN 55165.
(d) Moldcraft, Inc., 3920 Buena Vista Avenue, Baltimore, Maryland 21211.
(e) Hocking Valley Leasing Company, 109 North Broad Street, Lancaster, Ohio 43130.
(f) Keenan Oil Company, 2350 Seymour, Cincinnati, OH 45212.
(g) The Phoenix Glass Company, 9th & Washington, Monaca, PA 15061.
(h) Amerock Corporation, 4000 Auburn Street, Rockford, IL 61101.

1. Parent corporation and address of principal office: Consolidated Foods Corporation, a Maryland corporation, 135 South La Salle Street, Chicago, Illinois 60603.

2. Wholly-owned subsidiaries which will participate in the operations, and the addresses of their respective principal offices.

(a) Aris Isotoner Gloves, Inc., 417 Fifth Avenue, New York, New York 10016.
(b) Bloch & Guggenheimer, Inc., 34–02 Review Avenue, Long Island City, New York 11101.
(c) Booth Fisheries Corporation, Two North Riverside Plaza, Chicago, Illinois 60606.
(d) Bryan Foods, Inc., P.O. Box 1177, West Point, Mississippi 39773.
(e) Chef Pierre, Inc., P.O. Box 1009, Traverse City, Michigan 49684.
(f) Electrolux Corporation, 2777 Summer Street, Stamford, Connecticut 06905.
(g) The Fuller Brush Company, Westport Addition, P.O. Box 729, Great Bend, Kansas 67530.
(h) Gallo Salame, Inc., 250 Brannon Street, San Francisco California 94107.
(i) Idaho Frozen Foods Corporation, P.O. Box 128, Twin Falls, Idaho 83301.
(j) Kitchens of Sara Lee, Inc., 500 Waukegan Road, Deerfield, Illinois 60015.
(k) Hollywood Brands, Inc., 100 South Poplar, Centralia, Illinois 62801.
(l) The Lawson Company, 210 Broadway East, Cuyahoga Falls, Ohio 44222.
(m) Lyon's Restaurants, Inc., 1165 Triton Drive, Foster City, California 94404.
(n) Oxford Chemicals, Inc., 5001 Peachtree Industrial Blvd., Chamblee, Georgia 30341.
(o) Oxford Services, Inc., 1445 Marietta Blvd., NW., Atlanta, Georgia 30318.
(p) Popsicle Industries, Inc., 110 Route 4, P.O. Box 200, Englewood, New Jersey 07631.
(q) PYA/Monarch, Inc., 2818 White Horse Road, P.O. Box 1569, Greenville, South Carolina 29602.
(r) Robert Bruce, Inc., "C" and Westmoreland Street, Philadelphia, Pennsylvania 19134.
(s) Shasta Beverages, Inc., 26901 Industrial Boulevard, Hayward, California 94545.
(t) Sirena, Inc., 10333 Vacco Street, South El Monte, California 91733.
(u) Twin Rivers Transportation Company, P.O. Box 394, Deerfield, Illinois 60015.
(v) Tyco Industries, Inc., 540 Glen Avenue, Moorestown, New Jersey 08057.
(w) Union Sugar Company, 100 Pine Street, Suite 2575, San Francisco, California 94111.

1. Parent corporation and address of principal office: Chromalloy American Corporation, 120 South Central Avenue, St. Louis, Missouri 63105.

2. Wolly owned subsidiaries which will praticipate in the operations, and address of their respective principal offices:

(a) A & M Fleeting & Towing, Inc., P.O. Box 159, Vacherie, LA 70090.
(b) Airport Service, Inc., 851 E. Cerritos Ave., Anaheim, CA 92805
(c) American Transit Corp., 120 S. Central, St. Louis, MO 63105.
(d) American Universal Insurance Co., 144 Wayland Ave., Providence, RI 02704.
(e) Assurers' Service, Inc., 144 Wayland Ave., Providence, RI 02704.
(f) Barclay Manufacturing, Inc., 1013 S. Council St., Muncie, IN 47302.
(g) Brewer Barge Lines, Inc., 6821 Piccadilly, Houston, TX 77061.
(h) Brewer Marine Services, Inc., 6821 Piccadilly, Houston, TX 77061.
(i) Brewer Towing Company, 6821 Piccadilly, Houston, TX.
(j) Centor Center, Inc., 120 S. Central Ave., St. Louis, MO 63105.
(k) The Centor Company, 120 S. Central Ave., St Louis, MO 63105.
(l) Chromalloy Electronics Corp., 12421 W. Olympic Blvd., Los Angeles, CA 90064.
(m) Chromalloy Finance, 120 S. Central Ave., St. Louis, MO 63105.
(n) Chromalloy Pharmaceutical, Inc. 1034 S. Brentwood, St. Louis, MO.
(o) Chromalloy Trucking & Transportation, Inc., 2564 Harley Drive, Maryland Heights, MO 63043.
(p) E.R.K. Manufacturing, Inc., 1085 S.U.S.I. Stuart, FL 33494.
(q) Environment Energy Consultants, Inc., 1034 S. Brentwood, St. Louis, MO.
(r) Evco Marine, Inc., 6821 Piccadilly Houston, TX 77061.
(s) F.M.S. Transportation, Inc., 2564 Harley Dr. Maryland Heights, MO 63043.
(t) Gas Turbine Corporation, 4430 Director Dr. San Antonio, TX 78220.
(u) Hausman Bus Parts, Inc., 2323 S. Archer Ave., Chicago, IL 60616.
(v) Hou-Tex Barge Co., 6821 Piccadilly, Houston, TX 77061.
(w) Industrial Applications International, Inc., 32400 Aurora Rd., Solon, OH 44139.
(x) Industrial Test Labs, Inc., 2350 S. 7th St., St., Louis, MO 63104.
(y) Intercom Sales Co. Inc., 7183 Construction Ct., San Diego, CA 92121.
(z) Island Terminal Co., 1830 Dock St., Memphis, TN 38101.
(aa) Jeffcon of Texas, Inc., 200 Valley Forge, Port Arthur, TX 77640.
(bb) Jefferson Construction Co., Inc., P.O Box 3641, 200 Valley Forge, Port Arthur, TX 77640.
(cc) Kelmac Trucking, Inc., 7720 Fordey Ave., St. Louis. MO 63147.
(dd) M.V.B.L. Terminal, Foot of Rutger St., St. Louis. MO 63104.
(ee) Madison Service Corp., 166 S. Fair Oaks Ave., Madison. WI 53704.
(ff) McBride's Express, Inc., East Route 316, Mattoon. IL 51938.
(gg) Mead Johnson Terminal Corp., 1830 W. Ohio St., Evansville, IN 47704.
(hh) Missouri River Barge Lines, Inc., 4550 W. 109th St., Overland Park, KS 66207.
(ii) Namour Towing Co., 120 S. Central, St. Louis. MO 63105.
(jj) National Seating Co., P.O. Box 906 555 Park Ave., East Mansfield, OH 44901.
(kk) Orange Coast Sightseeing Company, 851 E. Cerritos Ave., Anaheim, CA 92805.
(ll) The Puro Co., Inc., 2801 Locust St. St. Louis, MO 63103.
(mm) Sabine Towing & Transportation Co., Inc. P.O. Box 1528, Groves, TX 77619.
(nn) The Saval Group, Inc., 22 Batterymarch St. Boston, MA 02109.
(oo) Maurice H. Saval, Inc., 22 Batterymarch St., Boston, MA 02109.
(pp) Security Barge Line, Inc., P.O. Box 4927, Greenville, MS 38701.
(qq) Sturm Machine Co., 1305 Main St., Barboursville, WV 25504.
(rr) Swiss Albe, Inc., P.O. Box 788, 4 Broad St., Norwalk, CT 06852.
(ss) Texas Motor Coaches, Inc., 710 Davis St. P.O. Box 959, Grand Prairie, TX 75051.
(tt) Trans-Gulf Forwarders, Inc., 120 S. Central Ave., St. Louis, MO 63105.
(uu) Transit Service Corp., 120 S. Central Ave., St. Louis, MO 63105.
(vv) Valley Barge Line Co., 120 S. Central Ave., St. Louis, MO 63105.
(ww) The Valley Line Co., 120 S. Central Ave., St. Louis, MO 63105.
(xx) Valley Line Supply & Equipment Company, 120 S. Central Ave., St. Louis, MO 63105.
(yy) Valley Terminal Co., Mehring Way & Carr Streets, Cincinnati, OH 45203.
(zz) Vicksburg Towing Co., Inc., P.O. Box 4950, Greenville, MS 38701.

1. Parent corporation and address of principal office: Dayco Corporation, 333 West First Street, Dayton, Ohio 45402.

2. Wholly-owned subsidiaries and divisions which will participate in the operations, and address of their respective principal offices:

(a) Allen Industries, Inc., 143 Indusco Court, Troy, Michigan 48084.
(b) Brigga Rubber Products Co., 3 Bellecor Drive, New Castle, Delaware 19720.

(c) Cadillac Plastic & Chemical Company, 1221 Bowers Street, Birmingham, Michigan 48012.
(d) Colonial Rubber Works, Inc., 150 South Connell Avenue, Dyersburg, Tennessee 38024.
(e) Custom Coated Products, 1280 Glendale-Milford Road, Cincinnati, Ohio 45215.
(f) Dayflex Company, 333 West First Street, Dayton, Ohio 45402.
(g) Electric Hose & Rubber Company, 3100 Maricamp Road, Ocala, Florida 32670.
(h) Flexible Hose & Duct Company, Newtown Industrial Commons, Friends Lane, Newtown, Pennsylvania 18940.
(i) Flexible Metal Hose Mfg. Co., 777 West 16th Street, Costa Mesa, California 92627.
(j) Frisch Manufacturing Division, 1400 Wabansia Avenue, Chicago, Illinois 60622.
(k) L. E. Carpenter and Company, 170 North Main Street, Wharton, New Jersey 07885.
(l) Louis H. Hein Company, 1151 Matsons Ford Road, West Conshohocken, Pennsylvania 19428.
(m) Seward Luggage Manufacturing Company, 434 High Street, Petersburg, Virginia 23803.
(n) Standard Coated Products, Hazleton, Pennsylvania.
(o) TFE Industries, 148 Parkway Avenue, kalamazoo, Michigan 49007.

1. Parent corporation and address of principal office: Ergon, Inc., 202 East Pearl St., Jackson, MS 39201.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Big Valley Towing, Inc., 202 E. Pearl St., Jackson MS 39201.
(b) Clarco Pipe Line Company, 202 E. Pearl St., Jackson, MS 39201.
(c) Ergon Environmental Services, Inc., 202 E. Pearl St., Jackson, MS 39201.
(d) Ergon's General Store, Inc., 202 E. Pearl St., Jackson, MS 39201.
(e) Ergon Trucking, Inc., 202 E. Pearl St., Jackson, MS 39201.
(f) Magnolia Marine Transport Company, 202 E. Pearl St., Jackson, MS 39201.
(g) Miller Oil Purchasing Company, 202 E. Pearl St., Jackson, MS 39201.
(h) Mobile Bulk Terminal, Inc., 202 E. Pearl St., Jackson, MS 39201.
(i) Service Gas and Pipeline Company, 202 E. Pearl St., Jackson, MS 39201.

1. Parent corporation and address of principal office: Fruehauf Corporation, 10900 Harper Avenue, Detroit, Michigan 48213.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

a. Fruehauf Finance Company, a Michigan corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
b. Fruehauf Rental Equipment, Inc., a Delaware corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
c. The Mercer Co., a Delaware corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
d. Transport Acceptance Corporation, a Delaware corporation, 1422 Lebanon Road, Nashville, Tennessee 37210.
e. Fruehauf International Limited, a Delaware corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
f. Fruekel, Inc., a Michigan corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
g. Fruehauf International Sales Corporation, a Delaware corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
h. Jacksonville Shipyards, Inc., a Florida corporation, 750 East Bay Street, Jacksonville, Florida 32202.
i. Electro Lube Devices, Inc., a Florida corporation, 16 North Georgia Street, Jacksonville, Florida 32202.
j. JAX Development Company, a Florida corporation, 750 East Bay Street, Jacksonville, Florida 32202.
k. JAX Regency Company, a Florida corporation, 750 East Bay Street, Jacksonville, Florida 32202.
l. JAX St. Johns, Inc., a Florida corporation, 750 East Bay Street, Jacksonville, Florida 32202.
m. Fruehauf Europe, Inc., a Michigan corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
n. Kelsey-Hayes Company, a Delaware corporation, 38481 Huron River Drive, Romulus, Michigan 48174.
o. Maryland Shipbuilding & Drydock Company, Inc., a Maryland corporation, 2900 Childs Street, Baltimore, Maryland 21226.
p. Paceco, Inc., a California corporation, 2320 Blanding Avenue, Alameda, California 94501.
q. Rentco International Corporation, a Delaware corporation, 10900 Harper Avenue, Detroit, Michigan 48213.
r. Trailer Rentals, Inc., a Tennessee corporation, 1422 Lebanon Road, Nashville, Tennessee 37210.

1. The parent corporation and address of the principal office is: H. P. Hood Inc., 500 Rutherford Avenue, Boston, MA 02129.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices are:

(a) Clearfield Cheese Company, P.O. Box 120, Curwensville, PA 16833.
(b) Reed Candy Co., Crossroads of Commerce, Rolling Meadows, IL 60008.
(c) Clearfield Transportation Company, Inc., P.O. Box 313, Clinton, MO 64735.

1. *Parent.* Kidde, Inc. ("Kidde") and the address of its principal office is 9 Brighton Road, Clifton, NJ 07015.

2. *Wholly-owned Subsidiaries which May Participate in the Operations, and Addresses of Their Respective Principal Offices:*

Atlantic Fabricators of New Jersey, Inc., 9 Brighton Road, Clifton, NJ 07015
Brighton Properties, Inc., 9 Brighton Road, Clifton, NJ 07015
Fenwal International Incorporated, 400 Main Street, Ashland, MA 01721.
Firemaster, Inc., 435 Forbes Boulevard, South San Francisco, CA 94080.
Globe Security Systems, Inc., 2503 Lombard Street, Philadelphia, PA 19146.
Globe Systems, Inc., 2503 Lombard Street, Philadelphia, PA 19146.
E. J. Burke Security Systems, Inc., 2503 Lombard Street, Philadelphia, PA 19146.
Globe Protection, Inc., 2503 Lombard Street, Philadelphia, PA 19146.
Globe Security Services, Inc., 2503 Lombard Street, Philadelphia, PA 19146.
Globe Security Systems Co., 2503 Lombard Street, Philadelphia, PA 19146.
Industrial Security Services, Inc., 2503 Lombard Street, Philadelphia, PA 19146.
Inter-State Bureau of Investigation, Inc., Inter-State Building, 725 Deepdene Road, Baltimore, MD 21210.
Inter-State Detective Agency, Inc., 407 South Dearborn Street, Chicago, IL 60605.
Interstate Security Service, Inc., 77 Milltown Road, East Brunswick, NJ 08816.
Interstate Security Services, North, Inc., 77 Milltown Road, East Brunswick, NJ 08816.
Interstate Security Services, Inc. (Conn.), 77 Milltown Road, East Brunswick, NJ 08816.
Interstate Service Corporation, 407 South Dearborn Street, Chicago, IL 60605.
Merit Protective Service, Inc., 501 St. Paul Place—Suite 903, Baltimore, MD 21202.
Mutual Laboratories, Inc., 407 South Dearborn Street, Chicago, Il 60605.
Southern Security Devices, Inc., 1206 West Peachtree Street, NW, Atlanta, GA 30309.
Southern Security Services, Inc., 1206 West Peachtree Street, NW, Atlanta, GA 30309.
Merchants Patrol, Incorporated, 1206 West Peachtree Street, NW, Atlanta, GA 30309.
6. H. Sparks, Inc., 9625 Tulip Street, Philadelphia, PA 19135.
Grove International Corporation, 1565 Buchanan Trail East (Rt. 16), Shady Grove, PA 17256.
Kidde Consumer Durables Corp., 2 Bala Cynwyd Plaza, 333 East City Line Avenue, Bala Cynwyd, PA 19004.
Amico, Inc., 105 Sylvania Place, South Plainfield, NJ 107080.
LCA Holding, Inc., 9 Brighton Road, Clifton, NJ 07015.
Deena Products Co., Route 51, PO Box 158, Arlington, KY 42021.
Dura Steel Products Co., 13901 South Carmenita Road, Santa Fe Springs, CA 90670.
Fashion, Inc., 311 Sunshine Road, Kansas City, KA 66115.
Ram Corporation, Inc., 311 Sunshine Road, Kansas City, KA 66115.
Fuhry, Inc., 1125 Ivanhoe Road, Cleveland, OH 44110.
Gailstyn Sutton, Inc., 105 Sylvania Place, South Plainfield, NJ 07080.
Keystone Lamp Mfg. Co., RD 4, Slatington, PA 18080.
Fulton Manufacturing Co., Inc., PO Box 38, Walnutport, PA 18088.
Mobilite, Inc., 100 Engineers Road, Hauppauge, NY 11787.
Richard Mfg. Co., 4505 Bandini Boulevard, Los Angles, CA 90040.
Vigon Lighting, Inc., 201 West Carob Street, Compton, CA 90220.
Kim Lighting, Inc., 16555 East Cale Avenue, City of Industry, CA 91748.

Marvin Electric Manufacturing Company, 6100 South Wilmington Avenue, Los

Lansdale Transistor & Electronics, Inc., 3600 West Osborn Road, Phoenix AZ 85019.

4. Lucca Packing Company of California, 380 Harbor Way, South San Francisco,

20. Philips High Fidelity Laboratories, Ltd., a Delaware corporation, 1700 Magnavox

1. Parent corporation and address of principal office: Peavey Company, 730

2. Wholly-owned subsidiaries which will participate in the operations, and

Marvin Electric Manufacturing Company, 6100 South Wilmington Avenue, Los Angeles, CA 90001.
Devine Lighting, Inc., 6100 South Wilmington Avenue, Los Angeles, CA 90001.
Piedmont Moulding Corporation, 2203 Industrial Boulevard, Conyers, GA 30207.
Rexair Inc., 230 7th Street, Cadillac, MI 49601.
Shadeco, Inc., 4202 Old Bethlehem Pike, Telford, PA 18969.
Spartus Corporation, 3856 Oakton Street, Skokie, Il 60076.
Spartus Export Sales Corporation, 3850 Oakton Street, Skokie, IL 60076.
Whiteway Manufacturing Co., 1736 Dreman Avenue, Cincinnati, OH 45223.
J. W. Lighting, Inc., 750 Almeda-Genoa Road, Houston, TX 77045.
Vanity Fair Industries, Inc., 260 Bethpoage-Spagnoli Road, Melville, NY 11747.
Kidde Export Corporation, 675 Main Street, Belleville, NJ 07109.
Kidde Holdings, Inc., 9 Brighton Road, Clifton, NJ 07015.
American Desk Manufacturing Company, 49th Street and West Avenue G, Temple, TX 76601.
American Desk International Corporation, 49th Street and West Avenue G, Temple, TX 75601.
Associated Testing Laboratories, Inc., Northwest Industrial Park, Burlington, MA 01803.
Bayless Stationers, Inc., 5111 West Washington Boulevard, Los Angeles, CA 90016.
Bright Star Industries, Incorporated, 600 Getty Avenue, Clifton, NJ 07015.
Circle Steel Corporation, Circle Park, Taylorville, IL 62568.
Cook Pump Company, 1407 West 12th Street, Coffeyville, KN 67337.
Craig Systems Corporation, 360 Merrimack Street, Lawrence, MA 01842.
Craig Systems International Corporation, 360 Merrimack Street, Lawrence, MA 01842.
Dura Corporation, 28711 Northwestern Highway, Southfield, MI 48076.
Dura International Corporation, 28711 Northwestern Highway, Southfield, MI 48076.
Switches International Inc., 28711 Northwestern Highway, Southfield, MI 48076.
Jacuzzi Inc., 11511 New Benton Highway, Little Rock, AR 72201.
Jacuzzi Domestic International Sales Corp., 11511 New Benton Highway, Little Rock, AR 72201.
The Jade Corporation, 3063 Philmont Avenue, Huntingdon Valley, PA 19006.
Javelin Electronics, Inc., 6357 Arizona Circle, Los Angeles, CA 90045.
Kidde Acquiring Corp., 9 Brighton Road, Clifton, NJ 07015.
Cosco, Inc., 2525 State Street, Columbus, IN 47201.
CSO, Inc., 2525 State Street, Columbus, IN 47201.
Sunset Cosco, Inc., 6000 East Slauson Avenue, City of Commerce, CA 90040.
Kidde Consultants, Inc., 1020 Cromwell Bridge Road, Baltimore, MD 21204.
KCI International, Inc., 1020 Cromwell Bridge Road, Baltimore, MD 21204.
OSM International, Inc., 1020 Cromwell Bridge Road, Baltimore, MD 21204.
Lansdale Transistor & Electronics, Inc., 3600 West Osborn Road, Phoenix AZ 85019.
Manlift, Inc., 8510 Golden State Boulevard, Selma, CA 93662.
High Rider Equipment Company, 8510 Golden State Boulevard, Selma, CA 93662.
McKinney Manufacturing Company, 820 Davis Street, Scranton, PA 18505.
National Crane Corporation, 11200 North 148th Street, Waverly NB 68462.
Newport Plastics Corporation, Derby Road, Newport, VT 05855.
SRM Business Services, Inc., 44th at Sheridan Road, Tulsa, OK 74145.
McQuiddy Office Designers, Inc., 110 Seventh Avenue North, Nashville, TN 37202.
Ross Martin Company of Delaware, Inc., 44th at Sheridan Road, Tulsa, OK 74145.
Scott-Rice Co. of Delaware, Inc., 3717 South Sheridan, Tulsa, OK 74145.
South Texas Equipment Company, Inc., 1495 North Post Oak Road, Houston, TX 77001.
Toledo Commutator Co., Inc., 1101 South Chestnut Street, Owosso, MI 48867.
Tose, Inc., 424 West 4th Street, Bridgeport, PA 19405.
Victor United, Inc., 2900 North Rockwell Street, Chicago, IL 60618.
Nissen Corporation, 320 27th Avenue, SW., Cedar Rapids, IA 52406.
Professional Nurses Bureau, 6430 Sunset Boulevard, Suite 610, Los Angeles, CA 90028.
Universal Gym Equipment, Inc., 930 27th Avenue SW., Cedar Rapids, IA 52406.
W. K. 26, Inc., 9 Brighton Road, Clifton, NJ 07015.
K & S Mfg. Co., Inc., 808 Bluemound Road, Fort Worth, TX 76131.
K & S Industries, Inc., 808 Bluemound Road, Fort Worth, TX 76131.
W. K. 41, Inc., 9 Brighton Road, Clifton, NJ 07015.
Input Output, Inc., 8009 Harwin Drive, Houston, TX 77036.
Kidde Merchandising Equipment Group, Inc., 100 Bidwell Road, South Windsor, CT 06074.
Total Limited, 9 Brighton Road, Clifton, NJ 07015.
Treher-Montague, Inc., 322 North 7th Street, Allentown, PA 18105.
W. D. Byron & Sons, Inc., Williamsport, MD 21795.

1. Parent corporation and address of principal office: McAuley Oil Company, 666 East Ocean Boulevard, Suite 1104, Long Beach, California 90800.

2. Wholly-owned subsidiary which will participate in the operations, and address of its principal office: VTS TRUCKING, 2676 Orange Avenue, Signal Hill, California 90806.

Parent Corporation & Principal Office. National Can Corporation, 8101 West Higgins Road, Chicago, Illinois 60631.

Wholly-Owned Subsidiaries and Their Respective Principal Offices:

1. Apache Container Corporation, 1230 Grey Fox Road, St. Paul, Minnesota 55112.
2. Clermont Fruit Packers, Star Route, Hudson, New York 12534.
3. Dura-Bernardin, Inc., 7300 South Narragansett Avenue, Bedford Park, Illinois 60638.
4. Lucca Packing Company of California, 360 Harbor Way, South San Francisco, California 94080.
5. M–H Packaging Systems, Inc., 3178 Spruce Street, Little Canada, Minnesota 55117.
6. National Food Ingredient Company, 4830 South Christiana, Chicago, Illinois 60632.
7. Packaging System, Inc., 751 North Hilltop Drive, Itasca, Illinois 60143.
8. NCC Foods Corporation, 1657 Rollins Road, Burlingame, California 94010.

1. Parent corporation: North American Phillips Corporation, 100 East 42nd St., New York, NY 10017.

2. Wholly owned subsidiaries:

1. Advance Transformer Company, an Illinois corporation, 2950 North Western Avenue, Chicago, Illinois 60618.
2. Airpax International Sales Corporation, a Maryland corporation, 100 East 42nd Street, New York, New York 10017.
3. Alliance Manufacturing Company, Inc., an Ohio corporation, 1630 Lake Park Boulevard, Alliance, Ohio 44601.
4. Amperex Electronic Corporation, a Delaware corporation, Providence Pike, Slatersville, Rhode Island 02876.
5. Amperex Electronics Industries, Inc., a Delaware corporation, George Washington Highway, Smithfield, Rhode Island.
6. Dialight Corporation, a Delaware corporation, 203 Harrison Place, Brooklyn, New York 11237.
7. Anchor Brush Company, Inc., a Delaware corporation, 625 South Railroad Street, Montgomery, Illinois 60538.
8. Chicago Magnet Wire Corp., an Illinois corporation, 901 Chase Avenue, Elk Grove Village, Illinois 60007.
9. C.P.D., Inc., a Texas corporation, 8611 West Carpentar Freeway, Dallas, Texas 75247.
10. Kulka Electric Corp., a New York corporation, 520 South Fulton Avenue, Mount Vernon, New York 10550.
11. Mepco/Electra, Inc., a Delaware corporation, Columbia Road, Morristown, New Jersey 07960.
12. Norelco Service, Inc., a Delaware corporation, 100 East 42nd Street, New York, New York 10017.
13. North American Philips Controls Corporation, a Delaware corporation, Cheshire Industrial Park, P.O. Box 768, Cheshire, Connecticut 06410.
14. The Magnavox Company, a Delaware corporation, 1700 Magnavox Way, Fort Wayne, Indiana 76804.
15. Baker, Knapp & Tubbs, Inc., a North Carolina corporation, 416 Merchandise Mart, Chicago, Illinois 60654.
16. LaSalle-Deitch Company, Inc., a Delaware corporation, 640 Industrial Parkway, Elkhart, Indiana 46514.
17. Magnavox CATV Systems, Inc., a Delaware corporation, 133 West Seneca Street, Manlius, New York 13104.
18. Magnavox Consumer Electronics Company, a Delaware corporation, 1700 Magnavox Way, Fort Wayne, Indiana 46804.
19. Magnavox International, Inc., a Delaware corporation, 1700 Magnavox Way, Fort Wayne, Indiana 46804.
20. Philips High Fidelity Laboratories, Ltd., a Delaware corporation, 1700 Magnavox Way, Fort Wayne, Indiana 46804.
21. Magnavox Government and Industrial Electronics Company, a Delaware corporation, 1313 Production Road, Fort Wayne, Indiana 46804.
22. The Selmer Company, a Delaware corporation, 640 Industrial Parkway, Elkhart, Indiana 46514.
23. North American Philips Lighting Corporation, a Delaware corporation, Bank Street, Hightstown, New Jersey 08520.
24. Lustra Lighting Corporation, a Delaware corporation, 180 Manor Road, East Rutherford, New Jersey 07073.
25. Norelco Lighting Supply Company, a Delaware corporation, Bank Street, Hightstown, New Jersey 08520.
26. Verd-A-Ray Corporation, a Delaware corporation, 615 Front Street, Toledo, Ohio 43605.
27. Philips Broadcast Equipment Corp., a Delaware corporation, 99 Jericho Turnpike, Jericho, New York 11753.
28. Philips Business Systems, Inc., a Delaware corporation, 175 Froehlich Farm Boulevard, Woodbury, New York 11797.
29. Philips Electronics, Inc., a Delaware corporation, 100 East 42nd Street, New York, New York 10017.
30. Philips Electronic Instruments, Inc., a Delaware corporation, 750 South Fulton Avenue, Mt. Vernon, New York 10550.
31. Philips Test and Measuring Instruments, Inc., a Delaware corporation, 400 Crossways Park Drive, Woodbury, New York 11797.
32. Philips Elmet Corporation, a Delaware corporation, Lisbon Road, Lewiston, Maine 04340.
33. Philips Medical Systems, Inc., 710 Bridgeport Avenue, Shelton, Connecticut 06484.
34. Philips Roxane, Inc., a Delaware corporation, 2621 North Belt Highway, St. Joseph, Missouri 64506.
35. Herman H. Smith, Inc., a New York corporation, 812 Snediker Avenue, Brooklyn, New York 11207.
36. Thompson-Hayward Chemical Company, a Delaware corporation, 5200 Speaker Road, Kansas City, Kansas 66106.
37. Consumer Products Division, Philips Park, Bokum Road, Box 500, Essex, Connecticut 06426.
38. North American Philips Controls Division, Cheshire Industrial Park, P.O. Box 768, Cheshire, Connecticut 06410.
39. Ohmite Manufacturing Company Division, 3601 Howard Street, Skokie, Illinois 60076.
40. Philips Laboratories Division, 345 Scarborough Road, Briarcliff Manor, New York 00510.

Parent corporation & address: Pacific Coast Building Products, Inc., 3001 Eye Street, 2nd Floor, P.O. Box 160488, Sacramento, California 95816.

Wholly-owned subsidiaries.

Discomart, Inc., d.b.a. Pacific Lumber & Supply, 1140 West Bonanza Road, Las Vegas, Nevada 89101.
Glass Mountain Block, Inc., 355 Greg Street, Sparks, Nevada 89431.
Glass Mountain Block, Inc., 2524 Highway 50 East, Carson City, Nevada 89701.

1. Parent corporation and address of principal office: Peavey Company, 730 Second Avenue South, Minneapolis, Minnesota 55402.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

a. Peavey Delaware Limited, 730 Second Avenue South, Minneapolis, Minnesota 55402.
b. Peavey International, Inc., 730 Second Avenue South, Minneapolis, Minnesota 55402.
c. M&R Distributing Company, P.O. Box E, West Highway 30, Grand Island, Nebraska 68801.
d. Wheelers Distributing Co., P.O. Box E, West Highway 30, Grand Island, Nebraska 68801.
e. U.S. Floor Systems, Inc., P.O. Box 18425, Highway No. 70 at Ebenezer Road, Raleigh, North Carolina 27609.

(1) Parent corporation and address: RHM Holdings (USA), Inc., 700 Oak Street, Winnetka, Illinois 60093.

(2) Wholly-owned subsidiaries which will participate in the operations and address of their respective principal office:

(a) RHM Food Products, Inc., 700 Oak Street, Winnetka, Illinois 60093.
(b) Indian Summer, Inc., 631 East Walnut Street, Evansville, Indiana 47713.
(c) The Red Wing Company, Inc., 196 Newton Street, Fredonia, New York 14063.
(d) RHM Macaroni, Inc., 700 Oak Street, Winnetka, Illinois 60093.
(e) Alfonso Gioia & Sons, Inc., 89 Canal Street, Rochester, New York 14601.
(f) Gioia Macaroni, Inc., 1700 Elmwood Avenue, Buffalo, New York 14240.
(g) Dante Food Products Company, Inc., 1700 Elmwood Avenue, Buffalo, New York 14240.
(h) Piscitello Macaroni Company, Inc., 1700 Elmwood Avenue, Buffalo, New York 14240.
(i) Ravarino and Freschi, Inc., 4651 Shaw Boulevard, St. Louis, Missouri 63110.
(j) Merlinos Major Italian Food Company, Inc., 8247 South 194th Street, Kent, Washington 98031.

1. Parent corporation and address of principal office: Rockwell International Corporation, 600 Grant Street, Pittsburgh, PA 15219.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Wescom, Inc., 8245 South Lemont Road, Downers Grove, Illinois 60515.
(b) MGD Graphic Systems, Inc., 3100 South Central Avenue, Chicago, Illinois 60650.
(c) Amforge, Inc., 1220 W. 119th Street, Chicago, Illinois 60643.

1. Parent corporation and address of principal office: Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94105.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective prinicpal offices:

(a) Louis Heller, Inc., 1766 El Camino Real, Burlingame, CA 94010.
(b) Southern Pacific International, One California Street, Suite 2760, San Francisco, CA 94111.

1. Parent corporation and address: The Sperry and Hutchinson Company, 330 Madison Avenue, New York, New York 10017.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Bigelow-Sanford, Inc., P.O. Box 3069, Greenville, South Carolina 29602.
(b) Buck Creek Industries, Inc., Suite 100, 5800 Building, Eastgate Center, Chattanooga, Tennessee 37411.
(c) Daystrom Furniture, Inc., Sinai Road, South Boston, Virginia 24592.
(d) The Gunlocke Company, Inc., Wayland, New York 14592.
(e) Homecrest Industries, Inc., Box 350, Route 1, Wadena, Minnesota 56482.
(f) Sperry and Hutchinson Furniture, Inc., One Plaza Center, P.O. Box HP3, High Point, North Carolina 27261.

1. Parent corporation and address: TRW Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. Aertech Industries, 825 Stewart Drive, Sunnyvale, California 94086.
b. Control Concepts, Inc., Terry Drive, Newton Industrial Commons, Newton, Pennsylvania 18940.
c. ESL Inc., 495 Java Drive, Sunnyvale, California 94086.
d. Nelson Export Corporation, 28th Street & Toledo Avenue, Lorain, Ohio 44055.
e. C. E. Niehoff & Co. of Canada, Ltd., 55 Brydon Drive, Rexdale, Ontario, Canada.
f. Optron International, Inc., 1201 Tappan Circle, Carrollton, Texas 75006.
g. Ramsey Corporation, P.O. Box 513, St. Louis, Missouri 63166.
h. Sherwood Refractories Inc., 16601 Euclid Avenue, Cleveland, Ohio 44112.
i. SMP Inc., 29501 Clayton Avenue, Wickliffe, Ohio 4092.
j. TRW Canada Ltd., 250 University Avenue, Toronto 110, Canada.
k. TRW Colorado Electronics, Inc., One Space Park, Redondo Beach, California 90278.
l. TRW Components International Inc., One Space Park, Redondo Beach, California 90278.
m. TRW Controls Corporation, 5610 Parkersburg, Houston, Texas 77036.
n. TRW Datacom Inc., 10880 Wilshire Boulevard, Los Angeles, California.
o. TRW Electronic Supply Co., Inc., 414 North 13th Street, Philadelphia, Pennsylvania 19108.

p. TRW Resistive Products Inc., Newton

1. Parent corporaiton—City Products Clearview Way, San Mateo, California

(s) Drott Manufacturing Corporation, P.O. Box 1087, Wausau, Wisconsin

M.C.C. 141 (1956) [that a party which holds authority pursuant to 49 U.S.C.

considered is a shipper's immediate and

p. TRW Resistive Products Inc., Newton Industrial Park, Christ Church, Barbados, West Indies.
q. TRW Satellite Communications Inc., 3313 Memorial Parkway S.W., Huntsville, Alabama 35801.
r. TRW Subsea Petroleum Systems, Inc., 9800 Town Park, Houston, Texas 77036.

1. Parent corporation and address of principal office: Tumac Lumber Co., Inc., 806 S.W. Broadway, Portland, Oregon 97205.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Tumac Export Sales Co., 806 S.W. Broadway, Portland, Oregon 97205.

(b) Al Disdero Lumber Co., P.O. Box 42247, 1504 S.E. Woodward Street, Portland, Oregon 97242.

(c) K/D Cedar Supply Co., Inc., 22008 Meekland Avenue, Hayward, California 94541.

(1) Parent corporation and address of principal office: United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230.

(2) Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Alside, Inc., P.O. Box 2010, Akron, Ohio 44309.

(b) USS Novamont, Inc., 600 Grant Street, Pittsburgh, Pennsylvania 15230.

1. Parent corporation: Vaughan & Sons, Inc., P.O. Box 1001, San Antonio, Texas 78294.

2. Wholly owned subsidiaries which will participate in the operations:

Alamo Lumber Company P.O. Box 1001, San Antonio, Texas 78294.

Best Transport, Inc., P.O. Box 1001, San Antonio, Texas 78294.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24788 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

Binghamton Brick Co., et al.; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

(1) Parent corporation and address: The Binghamton Brick Co., Inc., P.O. Box 1256, Binghamton, New York 13902.

(2) Wholly-owned subsidiary (ownership 100%): Champlain Brick Company, P.O. Box 267, Hemstreet Park, Mechanicville, New York 12118.

1. Parent corporaiton—City Products Corporation, 1700 South Wolf Road, Des Plaines, Illinois 60018.

2. Wholly-owned subsidiaries of City Products Corporation which will participate in the operations and addresses of their respective principal offices:

A. Coast-to-Coast Stores (Central Organization), Incorporated, 10801 Red Circle Drive, Minnetonka, Minnesota 55343.

B. Huffman-Koos Co., Route 4 at Main Street, North Hackensack, New Jersey 07661.

C. T. G. & Y. Stores Co., 3815 North Santa Fe, Oklahoma City, Oklahoma 73125.

D. Vons Grocery Co., 10150 Lower Azusa Road, El Monte, California 91731.

E. White Stores, Inc., 3910 Call Field Road, Wichita Falls, Texas 76308.

3. Divisions of City Products Corporation which will participate in the operations and addresses of their respective principal offices:

A. American Furniture, 105 North Oregon Street, El Paso, Texas 79901.

B. Barker Bros., 818 West Seventh Street, Los Angeles, California 90017.

C. Ben Franklin, 1700 South Wolf Road, Des Plaines, Illinois 60018.

D. Colby's Home Furnishings, 1001 Skokie Boulevard, Northbrook, Illinois 60062.

1. Parent Corporation and Address of Principal Office: Carrier Corporation, Delaware Corporation (a subsidiary of United Technologies), of Carrier Tower, 120 Madison Street (P.O. Box 4800), Syracuse, New York.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Carrier International Corporation, Town of DeWitt, New York, P.O. Box 4806, Syracuse, New York 13221, Delaware Corporation.

(b) Elliott Overseas Corporation, North Fourth Avenue, Jeannette, Pennsylvania 15644, Delaware Corporation.

(c) Ideal Electric Company, 330 E. First Street, Mansfield, Ohio 44903, Ohio Corporation.

(d) Inmont Corporation, 1133 Avenue of the Americas, New York, New York 10036, Delaware Corporation.

(e) Jenn-Air Corporation, 3035 N. Shadeland Avenue, Indianapolis, Indiana 46226, Delaware Corporation.

(f) Spectrol Electronics Corporation, 17070 East Gale Avenue, City of Industry, California 91745, Delaware Corporation.

1. Parent corporation and address of principal office: Dalgety, Inc., 3055 Clearview Way, San Mateo, California 94402.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

a. The Martin-Brower Company, 1111 East Touhy Avenue, Des Plaines, Illinois 60018.

b. Dalgety Foods, Inc., 909 Blanco Circle, Salinas, California 93902.

1. Parent corporation and address of principal office: Tenneco Inc., 1010 Milam Street, (P.O. Box 2511), Houston, Texas 77001.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Tenneco Oil Company, 1010 Milam Street, (P.O. Box 2511), Houston, Texas 77001.

(b) Operators, Inc., 16630 Imperial Valley Drive, Suite 147, Houston, Texas 77060.

(c) B & M Oil, Inc., P.O. Box 1243, Nashville, Tennessee 37202.

(d) Blue Flame Gas Corporation, Gal-Ham Building, Bluffton, Indiana 46714.

(e) Direct Oil Corporation, Highway 31, (P.O. Box 1243), Nashville, Tennessee 37202.

(f) Marlin Drilling Co., Inc., Park Tower South, 1333 West Loop South, Suite 780, Houston, Texas 77027.

(g) Mitchell Supreme Fuel Company, 532 Freeman Street, Orange, New Jersey 07050.

(h) Petro-Tex Chemical Corporation, 8600 Park Place Boulevard, (P.O. Box 2584), Houston, Texas 77001.

(i) Q–S Petroleum, Inc., P.O. Box 1243, Nashville, Tennessee 37202.

(j) TLC Oil Company, 92 Walnut Street, (P.O. Box 1867), Hartford, Connecticut 06101.

(k) Red Diamond Oil, Inc., P.O. Box 443, Pickens, South Carolina 29671.

(l) Tennessee Gas Transmission Company, 1010 Milam Street, (P.O. Box 2511), Houston, Texas 77001.

(m) East Tennessee Natural Gas Company, Kingston Pike, (P.O. Box 10245), Knoxville, Tennessee 37919.

(n) Midwestern Gas Transmission Company, 1100 Milam Building, (P.O. Box 2511), Houston, Texas 77001.

(o) Tennessee Gas Pipeline Company, Tenneco Building, (P.O. Box 2511), Houston, Texas 77001.

(p) J. I. Case Company, 700 State Street, Racine, Wisconsin 53404.

(q) Case Power & Equipment Limited, 700 State Street, Racine, Wisconsin 53404.

(r) David Brown Tractors (Canada), Ltd., 17 Vickers Road, Islington, Ontario M9B 1C2, Canada.

(s) Drott Manufacturing Corporation, P.O. Box 1087, Wausau, Wisconsin 54401.

(t) Pryor Foundry, Inc., P.O. Box 549, Pryor, Oklahoma 74361.

(u) Tenneco Automotive, 108 Wilmont Road, Suite 400, Deerfield, Illinois 60015.

(v) Monroe Auto Equipment Company, International Drive, Monroe, Michigan 48161.

(w) Speedy Muffler King, Inc., 108 Wilmot Road, Suite 300, Deerfield, Illinois 60015.

(x) Walker Manufacturing Company, 1201 Michigan Boulevard, Racine, Wisconsin 53402.

(y) The Mechanex Corporation, 3773 South Jason Street, Englewood, Colorado 80110.

(z) Packaging Corporation of America, 1603 Orrington Ave., Evanston, Illinois 60204.

(aa) Tennessee River Pulp & Paper Company, P.O. Box 33, Counce, Tennessee 38326.

(bb) Tenneco Chemicals, Inc., Park 80, Plaza West–1, Saddle Brook, New Jersey 07662.

(cc) Tenneco Chemicals, Foam Division, West 100 Century Road, Paramus, New Jersey 07652.

(dd) Tenneco Chemicals, Organics Division, P.O. Box 365, Piscataway, New Jersey 08854.

(ee) Tenneco Chemicals, Polymers & Plastics Division, P.O. Box 365, Piscataway, New Jersey 08854.

(ff) Newport News Shipbuilding and Dry Dock Company, 4101 Washington Avenue, Newport News, Virginia 23607.

(gg) Greenville Metal Manufacturing, Inc., 4101 Washington Avenue, Newport News, Virginia 23607.

(hh) Newport News Industrial Corporation, 230 41st Street, Newport News, Virginia 23607.

(ii) Tenneco West, Inc., 201 New Stine Road, (P.O. Box 9380), Bakersfield, California 93309.

(jj) Cal-Date Company, 201 New Stine Road, (P.O. Box 9380), Bakersfield, California 93309.

(kk) California Almond Orchards, Inc., 201 New Stine Road, (P.O. Box 9380), Bakerfield, California 93309.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24817 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-FC-78394]

JUR Corp. d.b.a. Rajor, Inc., and Rajor, Inc.; Authority To Transfer Operating Rights

Decided: July 23, 1980.

The principal expressed in *O'Neill—Control—Sugar Transport, Inc.*, 70 M.C.C. 141 (1956) [that a party which holds authority pursuant to 49 U.S.C. 10928 is a carrier for purposes of determining jurisdiction under 49 U.S.C. 10926] is overruled.

William J. Monheim for petitioners.

By the Commission:

By petition filed March 15, 1980, applicants seek reconsideration of the decision of the Commission, Motor Carrier Board, dated January 18, 1980, which dismissed the application for lack of jurisdiction under 49 U.S.C. 10928.

Applicants seek authority to transfer the operating rights of transferor, set forth in Permits MC–129862 and sub-numbered proceedings thereunder to transferee. Transferee is a non-carrier. However, Jimmy V. Randolph participates in the control of transferee and in the control of California Express, Ltd. which holds temporary authority in MC–145779 (Sub-Nos. 1TA and 2TA).

The Motor Carrier Board dismissed the application relying upon *O'Neill—Control—Sugar Transport, Inc.* 70 M.C.C. 141 (1956) (*O'Neill*), which states that temporary authorizations granted pursuant to 49 U.S.C. 10928 make a party a "carrier" for purposes of 49 U.S.C. 11343. The Motor Carrier Board determined that the applicants had not shown that the combined gross revenues of carrier applicants did not exceed $300,000 for a period of 12 consecutive months ending not more than six months preceding the date of the agreement covering the proposed transaction, and therefore, the proposed transfer was not within the exemption found at 49 U.S.C. 11343(d)(1).

In *O'Neill* the Commission, Division 4, stated that Sugar Transport, Inc., which held a TA pursuant to former section 210a(a) (now section 10928), at the time the transfer application was filed, was a carrier. Since Sugar Transport, Inc. was determined to be a carrier and O'Neill held certificated authority, and the carriers were not within the exemption provided by former section 5, the transaction fell under former section 5 of the Interstate Commerce Act (now 49 U.S.C. 11343–44). The Division approved the control application and stated that the approval would extend to Sugar Transport, Inc., should it acquire permanent status as a carrier upon grant of operating authority in another proceeding.

The changing emphasis by this Commission upon promoting competition and a free economic environment, requires that we reevaluate when a company becomes a carrier for purposes of determining jurisdiction under 49 U.S.C. 10926.

In granting an application filed under 49 U.S.C. 10928 (TA), the only factor considered is a shipper's immediate and urgent need for the service. The Commission does not consider common control or dual operations in this type of proceeding. When granted, the TA is specific in nature; it does not confer any of the rights confirmed in a Certificate of Public Convenience and Necessity or a Permit. The TA holder may not serve points in a commercial zone which are outside the corporate area named. It may not tack the TA operating rights with any other rights to provide a through or a joint line service. The TA may not be leased, sold, or transferred. In the case of a passenger carrier, the TA does not confer the incidental charter rights which are inherent in a permanent authority. Continued effectiveness of the TA is dependent upon the filing of the permanent authority application, and the TA expires upon a grant or denial of that permanent authority application.

By considering a TA holder a carrier for jurisdictional purposes we place the party in the position of illegal common control because the Rules and Regulations Governing Motor Carrier Temporary Authorities under section 10928 make no provision for considering or applying section 11343, prior to institution of, or during operations under, the TA. Additional considerations at the time of the TA application are unduly burdensome at a time when we are endeavoring to promote competition and ease motor carrier entry requirements.

A change in the current policy will help the small company enter the market place, and bring into conformity the enforcement of our rules. Therefore, a party holding only temporary authority under 49 U.S.C. 10928 will not be defined as a "carrier" for the purposes of determining the applicability of 49 U.S.C. 10926 under the exemption set forth at 49 U.S.C. 11343(d)(1), and the transfer rules at 49 CFR Part 1132.

We find:

The transferee holds no authority from this Commission. Transferee's affiliate, California Express Ltd., holds only temporary operating authority, issued pursuant to 49 U.S.C. 10928 and is not considered a carrier. Therefore, the transaction is subject to provisions of 49 U.S.C. 10926 rather than section 11343–44.

Under section 10926(1) a motor carrier's permit may be transferred upon compliance with the Commission's transfer regulations at 49 CFR Part 1132. The transfer complies with the Commission's transfer regulations at 49 CFR Part 1132 and transferee is fit, willing and able to both (a) perform the service authorized under the transferred

operating rights and (b) conform with the provisions of the Interstate Commerce Act (49 U.S.C. Subtitle IV).

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

(1) The transfer application is granted and—upon compliance with the conditions stated below—transferee may begin operations under the transferred authority.

(2) The Commission's records will be changed to reflect that applicants consummated this transfer on the 20th day after the effective date of this decision, unless applicants notify the Commission's Office of Proceedings and Bureau of Accounts, in writing, of any failure to consummate as soon as it is discovered, or unless petitions for reconsideration are filed in the manner described in the attached Notice.

(3) Transferee may begin operations under the transferred authority after transferee has notified the appropriate Commission offices, in writing, of its compliance with the applicable statutory and regulatory provisions governing insurance, tariffs, and designation of agents. (*See* 49 U.S.C. 10927, 10761–62, and 10330; *accord* 49 CFR Parts 1043, 1044, and 1300–1310.)

(4) This decision shall be effective September 4, 1980, and transferee may begin operations as soon thereafter as it has complied with the requirements of paragraph 3. However, the transaction may not be consummated until after any petitions for reconsideration have been disposed of. If—by the 20th day after this decision's service date—no petitions for reconsideration have been filed, then the transaction may be consummated at that time.

(5) Notice of this approval will be simultaneously published in the **Federal Register.**

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Trantum dissenting with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Trantum (Dissenting)

Although there is only a questionable chance of harm associated with exempting TA "operators" from our acquisition requirements, I believe the Commission's decision is in error. Aside from exempting this specific transaction, the majority's decision establishes that a TA "operator," serving shippers under the regulatory umbrella, is not a "carrier."

49 U.S.C. 10928, states that "the Interstate Commerce Commission may grant a motor carrier * * * temporary authority to provide transportation." This Section is contained in the subchapter concerned with the licensing of *carriers* (other than railroads and ferries). In addition, section 10521(a) states that:

> the Interstate Commerce Commission has jurisdiction over transportation by motor carrier and the procurement of that transportation to the extent that passenger, property, or both, are transported by motor carrier * * *

No differentiation is made between permanent authority and temporary authority in the above references to motor carriers—or the definitions found in section 10102.

The General Counsel concluded in his memorandum No. 78–300 that TA operators are carriers as defined by former section 5 of the Interstate Commerce Act; section (13) stated that "the term 'carrier' means * * * a motor carrier subject to part II" and section 210a(c) provided that "transportation service rendered under such temporary authority shall be subject to all applicable provisions of this part (Part II) and to the rules, regulations, and requirements of the Commission thereunder."

There is simply no place in the Interstate Commerce Act, or the Motor Carrier Act of 1980, that identifies a motor "operator" under a temporary authority as anything but a carrier. The Commission's unwarranted narrowing of the definition of "carrier" is an inappropriate effort to exempt this type of transaction.

Appendix A

Subject to the conditions specified above, this decision authorizes the transfer of the transferor's operating authority set forth in Permits MC–129862 (Sub-Nos. 1, 2, 3, 4, 5, 11, 12, 15, 17, and 19), issued April 9, 1975, November 4, 1974, February 10, 1977, August 26, 1975, November 26, 1975, March 9, 1977, February 27, 1978, February 24, 1978, September 26, 1978, and December 21, 1978, respectively, authorizing operations as over irregular routes, as follows:

MC 129862 (Sub-1): *Plumbing fixtures and supplies* and *air-conditioning and heating units,* (except articles which, because of size, shape or weight, require the use of special equipment or special handling), from St. Louis, Mo., Port Huron, Mich., Philadelphia, Greesburg, and York, Pa., Braintree, Mass., Houston, Tex., East St. Louis, Ill., and Fort Smith, Ark., to points in Arizona, California, and Nevada; and *Returned shipments* of the above-specified commodities, from points in Arizona, California, and Nevada, to St. Louis, Mo., Port Huron, Mich., Philadelphia, Greensburg, and York, Pa., Braintree, Mass., Houston, Tex., East St. Louis, Ill., and Fort Smith, Ark. *Plumbing fixtures and supplies,* from Kohler, Wis., Spartanburg, S.C., and Camden, N.J., to points in Arizona, California, and Nevada, with no transportation for compensation on return except as otherwise authorized. *Air-conditioning units,* from Maspeth, Long Island, N.Y., to points in Arizona, California, and Nevada, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with York Division of Borg-Warner, of York, Pa.

MC 129862 (Sub-2): (1) *Electronic instruments and components, tables and stands* for electronic instruments and components, and *toys and games,* other than coin-operated, from Greeneville and Jefferson City, Tenn., to Dallas, Tex., Pasco and Seattle, Wash., San Francisco and Torrance, Calif., Denver, Colo., Phoenix, Ariz., Portland, Oreg., and Salt Lake City, Utah, with no transportation for compensation on return except as otherwise authorized. Between Greeneville and Jefferson City, Tenn., on the one hand, and, on the other, Nogales, Ariz. (2) *Equipment, materials, and supplies* used in the manufacture and production of the commodities in (1) above (except commodities in bulk, in tank vehicles), from Los Angeles and Long Beach, Calif., and points in San Francisco, San Mateo, Alameda, and Contra Costa Counties, Calif., to Greeneville and Jefferson City, Tenn. Restriction: The operations authorized in part (2) above is restricted to transportation in foreign commerce only. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with The Magnavox Company, Inc., of Fort Wayne, Ind.

MC 129862 (Sub-3): (1) *Running gears, hitches,* and *fenders* used for mobile homes, motor homes, trailers and recreational vehicles, from Anaheim and Los Angeles, Calif., Tiffin, Ohio, and Dayton, Oreg., to points in the United States (except Alaska and Hawaii and with no service to California when shipments originate at Los angeles and Anaheim); and (2) *Components, materials, and supplies* used in the manufacture, production, and assembly

of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to Anaheim, and Los Angeles, Calif., Tiffin, Ohio, and Dayton, Oreg. (3) *Electric and gas refrigerators* for mobile homes, motor homes, and trailers, and *parts* for such refrigerators, from Baltimore, Md., Elizabeth, N.J., Elkhart, Ind., Dayton, Oreg., and Los Angeles and Anaheim, Calif., to points in the United States (except Alaska and Hawaii and with no service to California when shipments originate at Los Angeles and Anaheim), with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized hereinabove are limited to a transportation service to be performed under a continuing contract, or contracts, with Essick Manufacturing Division of A-T-O, Inc. (4) *Outdoor advertising metal poster panels, school furniture, lockers, portable filing cabinets, crane cabs, crane cab components, farm and construction machinery cabs and components* for farm and construction machinery cabs, from Tiffin, Ohio, to points in the United States (except Alaska and Hawaii); and (5) *Components, materials, and supplies* used in the manufacture, production, and assemply of the commodities described in (4) above, from points in the United States (except Alaska and Hawaii), to Tiffin, Ohio. Restriction: The operations authorized in (4) and (5) above are limited to a transportation service to be performed under a continuing contract, or contracts with Tiffin Metal Products Division of A-T-O, Inc. (6) *Concrete mixers, mortar mixers, machines* used for applying concrete, mortar, plaster, fireproofing and similar materials, *road rollers, saws, motors, commercial air cooling systems and their pads,* and *air make-up heating and cooling equipment,* from Los Angeles, Calif., and Elizabeth, N.J., to points in the United States (except Alaska and Hawaii); and (7) *Components, materials, and supplies* used in the manufacture, production and assembly of the commodities described in (6) above, from points in the United States (except Alaska and Hawaii), to Los Angeles, Calif., and Elizabeth, N.J. (8) *Air coolers* and *air make-up heating and cooling equipment,* from Little Rock, Ark., to points in the United States (except Alaska and Hawaii); and (9) *Components, materials, and supplies* used in the manufacture, production, and assembly of the commodities described in (8) above. From points in the United States (except Alaska and Hawaii), to Little Rock, Ark. (10) *Machinery parts,* from Los Angeles, Calif., to Little Rock, Ark., and Elizabeth, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized in (6) through (10) above are limited to a transportation service to be performed under a continuing contract, or contracts, with Essick Manufacturing Division of A–T–O, Inc. (11) *Fire extinguishers* (charged and not charged) portable hand and wheeled, *fire extinguisher compounds, brass fire hose nozzles, brass fire hose couplings, brass valves and fittings, brass castings, brass fire engine accessories and equipment,* and *firehose,* from Ranson and Charles Town, W. Va., and Charlottesville, Va., to points in the United States (except Alaska and Hawaii); and (12) *Components, materials, and supplies* used in the manufacture, production, and assembly of the Charlottesville, Va. (13) *Fire hose* (with or without brass nozzles), *brass hose couplings* and *brass valves,* from North Bergen, N.J., to points in the United States (except Alaska and Hawaii); and (14) *Components, materials, and supplies* used in the manufacture, production, and assembly of the commodities described in (13) above, from points in the United States (except Alaska and Hawaii), to North Bergen, N.J. Restriction: The operations authorized in (11) through (14) above are limited to a transportation service to be performed under a continuing contract, or contracts with Badger-Powhatan-Blaze Buard Division of A–T–O, Inc. Restriction: The operations authorized herein are restricted against the transportation of commodities in bulk, in tank vehicles.

MC 129862 (Sub-4): *Air conditioning and heating units, component parts,* and *materials and supplies* utilized in the manufacture, sale, and distribution of the described commodities (except commodities in bulk and those which by reason of size or weight require the use of special equipment), between Madisonville, Ky., on the one hand, and, on the other, points in Arizona, California, and Nevada. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with York Division of Borg-Warner Corporation, of York, Pa.

MC 129862 (Sub-5): *Athletic, gymnastic, aquatic and sporting goods, parts, and accessories* of the foregoing commodities, *adhesives, rubber tire treads, hardware, advertising material,* and *materials, equipment and supplies* utilized in the manufacture, sale, and distribution of the described commodities, from Santa Ana, Calif., to Arlington and Houston, Tex., Atlanta, Decatur, and Griffin, Ga., Birmingham and Mobile, Ala., Bridgeton, Mo., Edison and Maywood, N.J., Elk Grove Village and River Grove, Ill., Nashville, Tenn., New Orleans, La., Shelby, Ohio, and Tampa, Fla., with no transportation for compensation on return except as otherwise authorized. From points in Texas, and points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Santa Ana, Calif., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are subject to the following conditions: The authority granted herein is restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with AMF Volt, Inc., of Santa Ana, Calif.

MC 129862 (Sub-11): *Athletic, gymastic, aquatic,* and *sporting goods, parts and accessories* for the foregoing commodities, *adhesives, rubber, tire treads, hardware, advertising materials* and *materials, equipment and supplies* utilized in the manufacture, sale and distribution of the described commodities, from Santa Ana, Calif., to points in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, with no transportaiton for compensation on return except as otherwise authorized. *Aquatic equipment and accessories* and *game and sporting goods balls,* from ports of entry on the United States-Republic of Mexico Boundary line of Brownsville, El Paso, and Laredo, Tex., to Chicago and Elk Grove Village, Ill., and Maywood, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with AMF Voit, Inc.

MC 129862 (Sub--2): *Air conditioning* and *heating units* (except commodities which, by reason of size or weight require the use of special equipment), from Jonesville, Mich., Madisonville, Ky., and York, Pa., to points in Colorado, Florida, Georgia, New Mexico, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. From Jonesville, Mich., to points in Arizona, California and Nevada, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized

V 45 A G 15 80 UMI

herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with York Division of Borg-Warner Corporation of York, Pa.

MC 129862 (Sub-15): *Electronic instruments* and *components, tables and stands* for electronic instruments and *components,* and *toys and games* (except those which are coin operated), from Greeneville and Jefferson City, Tenn., to points in Florida, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with The Magnavox Company, of Fort Wayne, Ind.

MC 129862 (Sub-17): *Air conditioning and heating units* (except commodities which by reason of size or weight require the use of special equipment), from Hopkinsville, KY, and Newark, DE to points in Arizona, California, Colorado, Florida, Louisiana, Nevada, New Mexico, Oregon, Texas, Utah, and Washington. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract(s) with York Division of Borg-Warner Corporation, of York, PA.

MC 129862 (Sub-19): *Air conditioning and heating units* (except commodities which because of size or weight require the use of special equipment), from points in Davidson County, TN, to points in Arizona, California, Colorado, Florida, Louisiana, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah and Washington. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract(s), with Heil-Quaker Corporation, of LaVergne, TN.

[FR Doc. 80-24802 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

[AB 10(SDM)]

Norfolk & Western Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Norfolk and Western Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 10(SDM). The Commission on August 1, 1980, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 10 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24795 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29372F]

Oklahoma, Kansas & Texas Railroad Co.—Acquisition and Operation—Over Chicago, Rock Island & Pacific Railroad Co.

Oklahoma, Kansas and Texas Railroad Company (DKT) represented by Mr. W. A. Thie, 701 Commerce Street, Dallas, TX 75202, hereby give notice that on the 2nd day of June, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing it to operate on an interim basis those certain lines of railroad owned by the Chicago, Rock Island and Pacific Railroad Company (Rock Island).

Applicant is seeking to acquire and operate the following lines of the Rock Island:

I. Main line (A) Herington-Ft. Worth line, a distance of 439.5 miles in Dickinson, Marion, Butler, Harvey, Sedgwick, and Sumner Counties, KS; Grant, Garfield, Kingfisher, Canadian, Grady, Stephens, and Jefferson Counties, OK; Montague, Wise, and Tarrant Counties, TX, including assignment of Trustee's right of use of FWD trackage between Purina Junction and Tower 55 in Ft. Worth. (B) Ft. Worth-Dallas line, a distance of 34 miles in Tarrant and Dallas Counties, TX. (C) Herington-Topeka line, a distance of 81.8 miles in Dickinson, Morris, Wabaunsee, and Shawnee Counties, KS.

II. Branch lines (A) The El Reno-Oklahoma City line, a distance of 16.9 miles in Canadian and Oklahoma Counties, OK. (B) the Salina Branch line, a distance of 27.4 miles in Dickinson County, KS, together with an assignment of the right of use over the line of the Union Pacific Railroad Company, extending for a distance of 20.0 miles in Salina County, KS, and including assignment of right of use over the AT&SF tract (0.4 mile) in Abilene. (C) the Atchison Branch line, a distance of 111.6 miles from Topeka to Atchison, KS, via St. Joseph, MO, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route. (D) the Ponca City line, a distance of 26.1 miles at North Enid, OK, on the southern Division main line to Billings. (E) the part of the Mangum Branch line from Chickasha, to Anadarko, thence south on the Anadarko line to Richards Spur, a distance of 42.8 miles.

Applicant is also seeking to acquire the operating rights of the Rock Island in the following jointly operated properties: (A) Rock Island rights of use of the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, KS, and (B) Rock Island right to interchange with and use the properties of the Great Southwest Railroad Company located in Grand Prairie, TX.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in either support or opposition to such application in the form of verified statements are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423 and the aforementioned counsel for applicant on or before August 25, 1980. Any interested party is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application. No replies will be sanctioned.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24800 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

[Service Order No. 1344; I.C.C. Order No. 65; Amdt. No. 3]

Rerouting Traffic; All Railroads

To: All Railroads;

Upon further consideration of I.C.C. Order No. 65, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 65 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., September 30, 1980, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., July 31, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 30, 1980.
Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-24793 filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

[Exception No. 1 to Service Order No. 1464]

Railroad Car Service Orders; All Railroads

Pursuant to the authority vested in the Railroad Service Board in 49 U.S.C. 10304–10305 and 11121–11126, the following exception to Service Order No. 1464 is authorized.

This exception applies only to flat and gondola cars bearing the reporting marks, RI and ROCK, loaded with surplus material, scrap rail, iron and wrecked cars of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (RI) from those portions of the former RI system which are without rail service as provided by interim operators.

These cars will not be subject to car hire charges while on foreign lines. Cars will be billed to be returned empty to the RI via reverse of loaded route, or to a location (specified by the RI) where cars will be accepted short of origin.

The bills of lading and waybills shall bear the following endorsement:

"Car hire charges are waived on this shipment and this car is to be returned empty to RI via reverse of loaded route, or to [*station*], authority of Exception No. 1 to Service Order No. 1464."

Effective 12:01 a.m., July 31, 1980.

Expires 11:59 p.m., August 31, 1980, unless modified, amended or vacated by order of this Commission.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

Joel E. Burns,

Chairman, Railroad Service Board.

[FR Doc. 80-24794 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

[ExParte No. 241; Rule 19; Second Revised Exemption No. 173]

All Railroads; Car Service Rules

Upon further consideration of Revised Exemption No. 143 issued January 24, 1979.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 143 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire at 11:59 p.m., August 24, 1980.

This amendment shall become effective July 31, 1980.

Issued at Washington, D.C., July 29, 1980.
Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-24792 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-0-M

[Ex Parte No. 241; Rule 19; Second Revised Exemption No. 173]

Consolidated Rail Corp., et al.; Exemption Under Mandatory Railroad Car Service Orders

To all Railroads:

It appearing, That the railroads named herein own numerous plain gondola cars, 61-ft. in length or longer; that under present conditions, there are surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, 61-ft. in length or longer, described in the Official Railway Equipment Register, ICC–RER No. 6410–E, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB," which are 61-ft. in length or longer, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Consolidated Rail Corporation
Reporting Marks: BCK–CNJ–CR–DLW–EL–ERIE–LV–NH–NYC–PE–PAE–PC–PCA–PRR–RDG–TOC–RR
Southern Railway System
Reporting Marks: SOU–CG–NS–SA–TAG
St. Louis-San Francisco Railway Company [1]
Reporting Marks: SLSF

[1] Addition.

Effective August 1, 1980, and continuing in effect until 11:59 p.m., August 24, 1980.

Issued at Washington, D.C., July 30, 1980.
Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-24803 Filed 8-14-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Reallocation of Funds Under Title II–D of The Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Reallocation of Funds Under Title II–D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the redistribution of funds reallocated under Title II–D of CETA.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5014, Washington, D.C. 20213, Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: The Department of Labor has determined to provide the following CETA prime sponsors the amounts indicated of reallocated Title II–D funds. The Department of Labor reviewed the operations of these prime sponsors and determined that the prime sponsors needed and will be able to effectively utilize the amounts indicated prior to the end of Fiscal Year 1980.

Title II–D

Region I

None

Region II

None

Region III

Centre County, Pennsylvania—$25,000
Fayette County, Pennsylvania—$160,000
Beaver County, Pennsylvania—$45,000
Lancaster County, Pennsylvania—$125,000
Lycoming/Clinton Consortium, Pennsylvania—$100,000
BOS, Pennsylvania—$283,576

Region IV

None

Region V

Montgomery/Preble Consortium, Ohio—$42,528

V 45 AG 15 80 UMI

Region VI

Central Arkansas Consortium—$250,000
City of Baton Rouge, Louisiana—$250,000
Jefferson Parish, Louisiana—$150,000
Hidalgo/Willacy Consortium, Texas—$377,110

Region VII

Topeka/Shawnee Consortium, Kansas—$31,100
City of Wichita, Kansas—$70,000
Davenport/Scott Consortium, Iowa—$60,000
City of Omaha, Nebraska—$91,200

Region VIII

None

Region IX

Long Beach City, California—$321,000
Placer County, California—$171,800
American Samoa—$165,500
Santa Clara County, California—$170,000

Region X

Anchorage, Alaska—$300,000
Clark County, Washington—$144,064
City of Portland, Oregon—$152,467
Multnomah/Washington, Oregon—$109,777

Signed at Washington, D.C., this 31st day of July 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-24628 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-30-M

Reallocation of Funds Under Title II–D of The Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of Funds Reallocated Under Title II–D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the reallocation of Title II–D funds in the amounts and from the prime sponsors indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5014, Washington, D.C. 20213, Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: The Department of Labor determined, by reviewing actual enrollments with planned enrollments and rates of expenditures, that the CETA programs listed below were underutilizing available funds. The prime sponsors were provided with an opportunity to increase their performance before a final decision was made with respect to reallocation. The respective Governors, the general public and other prime sponsors were advised of the proposed reallocation of funds in the May 30, 1980, **Federal Register.**

At the end of 30 days from the date of notice to the prime sponsors, the Department again reviewed the prime sponsors' enrollments. The Department found, in the case of the prime sponsors listed below, that the amount of funds indicated for each prime sponsor could not effectively be utilized by the prime sponsor prior to the end of Fiscal Year 1980. As a result, the Department took final reallocation actions with respect to these prime sponsors. Prime sponsors which were listed in the May 30, 1980, **Federal Register,** and which are not listed below, were found to have improved their performance to the point where no reallocations were required.

Title II–D

Region I

None

Region II

None

Region III

Bucks County, Pennsylvania—$738,576

Region IV

Hillsborough County, Florida—$79,910
Balance of State, Florida—$240,100
Gwinnett County, Georgia—$31,356
City of Charlotte, North Carolina—$45,920
Balance of State, Tennessee—$421,383
Seminole County—$37,666

Region V

Columbus/Franklin Consortium, Ohio—$42,528

Region VI

Oklahoma City Consortium—$250,000
Tulsa Consortium, Oklahoma—$150,000
City of Dallas, Texas—$351,000
North Texas State Regional Consortium—$58,308
Permian Basin Consortium, Texas—$217,802

Region VII

Linn County, Iowa—$48,400
Woodbury County, Iowa—$102,800
Kansas City/Wyandotte Consortium, Kansas—$101,100

Region VIII

None

Region IX

Stanislaus County, California—$299,490
Shasta County, California—$52,280
Ventura County, California—$1,300,000
Arizona Balance of State—$800,000
Hawaii Balance of State—$336,601

Region X

Balance of State, Oregon—$444,064

Signed at Washington, D.C., this 31st day of July 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-24627 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-30-M

Voluntary Reallocation of Funds Under Title II–D of The Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of the Voluntary Reallocation of Funds Under Title II–D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the voluntary reallocation of Title II–D funds in the amount and from the prime sponsor indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5014, Washington, D.C. 20213, Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: The prime sponsors listed below advised the Department of Labor that it had excess funds available under Title II–D of its Fiscal Year 1980 CETA grant and that it would be unable to effectively utilize these funds prior to the end of Fiscal Year 1980. It further advised that it was agreeable to the voluntary reallocation of these funds.

The Department of Labor Regional Office in Seattle determined that the prime sponsor had made every effort to utilize the available funds. However, the prime sponsor has been unable to recruit a sufficient number of individuals which meet the required eligibility requirements. The Governor, the general public and other prime sponsors were provided with 30 days notice to provide comments to the Regional Office regarding the reallocation of these funds.

BOS—Oregon—$262,244

Signed at Washington, D.C., this 31 day of July 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-24626 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-30-M

Comprehensive Employment and Training Act (CETA) Wage Adjustment Index; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice, correction.

SUMMARY: This notice promulgates a correction to the CETA wage adjustment index for Fiscal Year 1981 as required under Section 122(i)(3) of the Comprehensive Employment and Training Act, and published in the **Federal Register** dated May 15, 1980. The index is to be used by CETA prime sponsors for planning purposes only. A final CETA wage adjustment index for 1981 will be published in the **Federal Register** prior to October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, Telephone (202) 376–6254.

SUPPLEMENTARY INFORMATION: The wage adjustment index issued May 15, 1980, for Fiscal Year 1981 planning purposes, did not take into consideration the Federal minimum wage rate increase for 1981. Therefore in accordance with 29 CFR 676.26–1(c)(3) of the CETA regulations, the average annual wage rate for PSE participants in Fiscal Year 1981 shall not be adjusted below the level of $7,665. The figure of $7,665 shall be used for planning purposes instead of any figure under $7,665 contained in the **Federal Register** publication under the column "Average Wage."

Dated: August 8, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-24782 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-30-M

[Docket No. M-80-70-M]

Carey Salt; Petition for Modification of Application of Mandatory Safety Standard

Carey Salt, 1800 Carey Boulevard, Hutchinson, Kansas 67501, has filed a petition to modify the application of 30 CFR 57.19–124 (wire ropes) to its salt mine located in Reno County, Kansas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The standard requires that hoist ropes be cut in a certain fashion, and then reinstalled, at least once a year.

2. Petitioner states that in the Carey Salt Mine, a factory-installed socket is superior to a field-installed socket because petitioner has neither the experience nor facilities to make a socket installation.

3. Petitioner's modification involves using a factory-installed socket that is inspected daily. The hoist rope near the socket is cleaned and greased weekly; the hoist rope is tested in a non-destructive manner twice yearly; and a new hoist rope is installed approximately every four years.

4. Petitioner states the above modification offers the same protection as does the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 8, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24779 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-72-M]

Homestake Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754, has filed a petition to modify the application of 30 CFR 57.4–27 (fire extinguishers for mobile equipment) to its Homestake Mine located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The standard requires the operator to provide suitable fire extinguishers on all self-propelled mobile equipment.

2. Petitioner requests that battery-powered rail-mounted locomotives be excluded from this standard because:

(a) The only combustible material on the locomotive is the battery-cell to cable-grid insulation and the plastic jars which contain battery cells. If this material catches fire, a standard fire extinguisher is useless because the equipment must be flooded with water, and

(b) A fire extinguisher would have to be mounted in the already cramped locomotive cab.

3. Petitioner states that, unless a special stored-pressure extinguisher were used, locomotive vibration would cause dry chemicals in fire extinguishers to settle and cake, making the units inoperable. A stored-pressure extinguisher in the close proximity of a locomotive would diminish miner safety.

4. For the above reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 8, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24780 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

Mine Safety and Health Administration

[Docket No. M-80-109-C]

Consolidation Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Maitland Mine located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. Entries at the mine were driven more than 50 years ago and timbers were used for most of the roof support. These timbers have deteriorated, resulting in numerous mine falls which have left the return air courses virtually impassible and extremely hazardous to travel and examine.

2. These falls have had no effect on the velocity or quantity of air passing through the return aid courses.

3. The return airways are not designated as return escapeways.

4. As an alternate method to travelling these hazardous return air courses, petitioner proposes to: a. Establish two monitoring air stations and maintain each station and its approach in safe condition;

b. Conduct examinations daily of air quality, quantity and direction by means approved by the Secretary;

c. Record the date, time and results of each examination in a book at each station as well as in a book to be kept

on the surface and made available to all

of 30 CFR 57.21–90, the petitioner

[Docket No. M-80-82-M]

e. All drills, undercutters and

and with all methane liberating

[Docket No. M-80-84-M]

on the surface and made available to all interested parties;

d. Not allow methane or other harmful, noxious, or poisonous gases to accumulate in these return air courses in excess of legal limits. An immediate investigation will be conducted if an increase in methane of 0.5 per centum above the last reading is detected or the air quality at any of the checking points indicates a reduction of air quantity of 10 percent.

5. Petitioner states that the proposed alternative method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24638 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-87-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-90 (gassy mines—illumination) to its Cote Blanche Mine located in St. Mary Parish, Lousiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-90, the petitioner proposes to apply 30 CFR 57.21-90 only to areas beyond the last open crosscut of the petitioner's mine. The petitioner claims that the safety of miners is equally secured by applying the mandatory safety standard only to areas beyond the last open crosscut.

4. A number of safeguards are listed as follows: a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all mingers on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

5. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24629 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-82-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-52 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-52, the petitioner proposes to permit "dead-ends" to be abandoned subject to monitoring. Should any dead-ends result from the devleopment of the mine, all abandoned dead-ends would be barricaded against entry by personnel. They would be examined by qualified persons within two hours before any workers, other than the examiners, enter a dead-end entry. Should a non-barricaded dead-end entry exceed 18 feet in depth, it will be ventilated by auxiliary fans.

4. A number of safeguards are listed as follows: a. A minimum of eight methan monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

5. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less than the same measure of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated August 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24630 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-85-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-78 (gassy mines—equipment) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that is mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-78, the petitioner proposes to use non-permissible equipment beyond the last open crosscut provided monitoring is integrated with equipment operation and with all methane liberating operations. Drills and undercutters will be maintained in permissible condition.

4. Loading, hauling, scaling and explosive-placing activities will not be carried out where a methane concentration exceeds 1.0 percent.

5. The petitioner claims that application of the standard without the requested changed would cause a diminution of miner safety.

6. A number of safeguards are listed as follows: a. A minimum of eight methane monitor sensing devcies will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by undergrounds sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

7. The petitioner alleges that in conjuction with other requested modifications, the proposed modification will guarantee miners no less than the same measure of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 5, 1980.

Frank A. White,

Director, Office Standards, Regulations and Variances.

[FR Doc. 80-24631 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-84-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-59 (gassy mines—ventilation) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-59, the petitioner proposes that qualified persons conduct a pre-shift examination of the return air before any workers enter the mine, and of the working areas within two hours before any workers other than the examiners leave the fresh air area of the mine to enter the working areas.

4. The petitioner states that the safety of workers would be enhanced by sampling and analysis performed while workers remain in fresh air, but within a time period more proximate to the time when the workers would enter the working areas.

5. A number of safeguards are listed as follows: a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a

working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted entries where drilling or undercutting is in progress.

6. The petitioner alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less and, in fact, an even greater degree of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24632 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-74-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-10 (gassy mines—fire prevention and control) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-10, the petitioner proposes to permit smoking in designated, controlled enclosed areas located outside of any known gassy zones. At the beginning of each shift, miners would leave all cigarettes at the designated smoking areas. An electric nonportable device would be provided in the smoking area for lighting the cigarettes. An automatic methane monitor would be located in each smoking area to warn the miners if the methane concentration in the area reaches 1.0 percent.

4. A number of safeguards are listed as follows: a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted entries where drilling or undercutting is in progress.

5. The petitioner contends that a total ban on smoking in the mine is impossible to enforce even with any reasonable program of irregular personnel searches. The petitioner alleges that controlled smoking zones will greatly diminish the potential for uncontrolled smoking in the mine, and that the controlled smoking zones actually will provide miners with an even greater degree of protection than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24633 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-75-M]

Domtar Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Domtar Industries, Inc., Sifto Salt Division, P.O. Box 7212, Montreal, Canada, H3C 3M3 has filed a petition to modify the application of 30 CFR 57.21-12 (gassy mines—fire prevention and control) to its Cote Blanche Mine located in St. Mary Parish, Louisiana, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petitioner is mining domal salt. Rooms and pillars are large, and the strata is relatively impermeable to gas.

2. The petitioner states that its mine is less prone to blowouts (gas outbursts) than any other domal type salt mine declared gassy, both in numbers and magnitude of blowouts. Blowout cavities are oriented vertically, and they can be identified and avoided. Blowout avoidance has been demonstrated to be particularly successful at the petitioner's mine.

3. As an alternative to the application of 30 CFR 57.21-12, the petitioner poroposes to monitor for methane gas prior to the creation of an ignition source and at thirty (30) minute intervals during the existence of this ignition source.

4. A number of safeguards are listed as follows: a. A minimum of eight methane monitor sensing devices will be located in the mine. At least one of these will be placed to effectively monitor any area to be blasted.

b. Blasting will be done by a competent person with all miners on the surface.

c. Before reentering the mine, monitors located on the surface will provide miners with verification of blast effectiveness and of methane concentrations detected by underground sensors. In addition, competent persons will monitor exhaust air from the mine. Mine crews and nonpermissible equipment will not enter active workings if the methane concentration is 1.0 percent or more.

d. All mobile equipment, either permissible or nonpermissible, taken past the last open crosscut shall have a working methane monitor installed, with both visible and audible warnings.

e. All drills, undercutters and personnel carriers beyond the last open crosscut shall be maintained in a permissible condition.

f. Nonpermissible equipment will not be permitted in entries where drilling or undercutting is in progress.

5. The petition alleges that in conjunction with other requested modifications, the proposed modification will guarantee miners no less protection than that afforded by the standard.

Request for Comments.

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 5, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variance.

[FR Doc. 80-24634 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-73-M]

Homestake Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754, has filed a petition to modify the application of 30 CFR 57.11-4 (portable rigid ladders) to its Homestake Mine located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. Petitioner requests that the use of standard hook ladders be allowed in all stoping operations at the mine as an alternative to complying with the standard.

2. The horizontal cut-and-fill method is presently used at the mine to produce a major percentage of the ore.

3. Access into the stope is usually made from the level above by means of steel ladders supported from the walls of the raise.

4. These fixed ladders are removed from below as the stope progresses upward, and the distance between the bottom of the fixed ladder and the broken ore is spanned by use of a ten foot steel ladder that is attached to the fixed steel ladder by two steel hooks and a safety chain.

5. As the broken rock is removed by the slusher, the hooks are advanced downward on the rungs of the fixed ladder.

6. The bottom of the hook ladder cannot be anchored to the broken rock as the pile is constantly being removed, but the ladder is firmly anchored at the top.

7. Petitioner states that application of the standard would create a safety hazard and that the proposed alternative method outlined above will provide the same or greater protection to the miners affected than that afforded by the standard.

Request for Comments

Person interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24637 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-80-106-C]

Jim Walter Resources, Inc. and Thyssen Mining Construction, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., in conjunction with Thyssen Mining Construction, Inc., P.O. Box 149, Brookwood, Alabama 35444, has filed a petition to modify the application of 30 CFR 77.1911 (ventilation of slopes and shafts) to the Brookwood Mines Numbers 4, 5, and 7 located in Tuscaloosa County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The summary of the petitioner's statements follows: 1. Eight shafts will be sunk to depths averaging between 1,700 and 2,300 feet, with a finished diameter of approximately 22 feet using the "V Mole" technique. All shafts will be used for ventilation purposes.

2. The "V Mole" technique is a vartical full face drill cutting at 23 feet diameter with the cuttings falling through an existing 5 foot pilot hole to the underground workings below where they will be disposed of by conveyors or other means.

3. All electrical components and cables will be of a type approved by MSHA.

4. Methane monitors with sensors in strategic positions will be mounted on the machine cutting off the main power supply should the methane content of the air rise above the mandatory limit.

5. Petitioner states that sufficient ventilation will be created by this type of drilling. A five foot diameter pilot hole will be connected from the surface directly to the underground workings. The existing exhaust fan will produce a pressure differential of approximately 5" of water gauge between the top and bottom of the pilot hole. With an unregulated access to the return airway, quantities in excess of 60,000 c.f.m. will travel through the 5 foot pilot shaft.

6. Ventilation would be regulated such that an environment could be achieved in the shaft that would be compatible to the manpower and dilute any methane encountered to an acceptable level. A regulator will be installed on the return side of the shaft bottom to create a minimum quantity of 9.000 c.f.m. of fresh air in the shaft.

7. The air quantity will be measured daily and recorded in a book approved by the Secretary.

8. Petitioner states that a mechanical ventilation system will not be necessary because the negative pressure naturally produced by the mine fan at the bottom of the pilot hole will provide more than adequate quantities of air.

9. Petitioner states that the alternative method outlined above will at all times provide the same or greater protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 15, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 6, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-24635 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

Proposed Construction and Operation of Expanded Approval and Certification Center—Dallas Pike Area, Ohio County, W. Va.; Finding of no significant environmental impact and availability of environmental assessment

AGENCY: Mine Safety and Health Administration, Department of Labor, (MSHA).

ACTION: Notice—Finding of No Significant Environmental Impact and Availability of Environmental Assessment.

SUMMARY: The purpose of this notice is to announce a determination by MSHA under the National Environmental Policy Act (NEPA), and Council on Environmental Quality (CEQ) and Department regulations implementing NEPA, that the planned construction and operation of an expanded Approval and Certification Center in Dallas Pike Area, Ohio County, West Virginia will have no significant impact on the environment; and to announce the availability of an environmental assessment concerning the project.

FOR FURTHER INFORMATION CONTACT: Roy L. Bernard, Director of Technical Support, MSHA, Room 917, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. 22203, telephone (703) 235–1580. The environmental assessment is available for public inspection and copies may be obtained at this address.

SUPPLEMENTARY INFORMATION: In accordance with NEPA, and CEQ and Department regulations, MSHA has conducted an environmental assessment as part of the planning process for the construction and operation of an expanded Approval and Certification Center (A&CC) in the Dallas Pike Area, Liberty-Triadelphia District, Ohio County, West Virginia. Commencement of the project is authorized by the bill providing for appropriations for the Departments of Labor and Health, Education and Welfare and related agencies for Fiscal Year 1980 (H.R. 4389) as adopted by Pub. L. 96–123. The project constitutes an expansion of MSHA's existing A&CC, which has been in operation since 1977 performing testing and evaluation of mining equipment, devices and materials.

In assessing the potential environmental impact of this project, MSHA has considered the following factors, as set forth in the Department's NEPA regulations, 29 CFR 11.11(c) (45 FR 51187, August 1, 1980): present use and characteristics of the site; area population density and makeup; the adequacy of and impact on community facilities and services, including water, sanitary sewage and waste disposal, energy resources and utilities, traffic and roadway systems, public transportation, health services, schools, recreational facilities, fire and police protection, and business and community development policy; potential impact on air and water quality, noise levels, land use patterns, and soil quality (drainage and soil erosion); and potential impact on natural systems and resources, including rivers and streams, forests, wetlands, floodplains, wilderness areas, and places or species designated for preservation. After carefully considering these factors as they apply to the A&CC project, it is determined that the project will have no significant impact on the environment and that an environmental impact statement is not required. The environmental assessment is available for public inspection and copies may be obtained at the Office of the Director of Technical Support, MSHA, at the above address.

Dated: August 8, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 80-24781 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-43-M

Office of Federal Contract Compliance Programs

PFG & Sons Builders and Contractors, Inc., Chicago, Ill.; Debarment

On June 3, 1980, for violation of Executive Order 11246, as amended, the Secretary of Labor ordered that:

PFG & Sons Builders and Contractors, Inc.'s present Government contracts and subcontracts and Federally-assisted construction contracts and subcontracts be cancelled, terminated or suspended, and that PFG be declared ineligible for further contracts and subcontracts and for extensions or modifications of existing contracts and subcontracts until it satisfies the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's implementing regulations issued pursuant thereto.

The sanctions are applicable to PFG, its officers, subsidiaries and divisions, all purchasers, successors, assignees, and transferees.

A copy of the Secretary of Labor's Decision and Final Administrative Order, a June 3, 1980 Errata to it clarifying the Decision's scope, and the Recommended Decision of the Administrative Law Judge, are attached.

Dated: August 8, 1980.

Ray Marshall,

Secretary of Labor.

In the matter of U.S. Department of Housing and Urban Development, Complainant, and PFG & Son Builders and Contractors, Inc., Respondent, Docket No. EO–78–2–CC.

Decision and Final Administrative Order of the Secretary of Labor

Preliminary Statement

This matter arises under Executive Order 11246, as amended (hereinafter referred to as the Order), which prohibits employment discrimination based on race, color, religion, sex, or national origin by Government contractors and subcontractors and Federally-assisted construction contractors and subcontractors. The Order also imposes affirmative action obligation on such contractors to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion sex or national origin. The Secretary of labor and the Director of Federal Contract Compliance Programs (hereinafter referred to as OFCCP) are responsible for issuance and enforcement of regulations under the Order, found at 41 CFR Chapter 60.

This is an action brought by the Department of Housing and Urban Development and the Department of Labor against PFG & Son Builders and Contractors, Inc., (hereinafter referred to as Respondent) for violation of the Order and the rules and regulations issued pursuant thereto. Complainants prayed that Respondent be preliminarily and permanently enjoined from failing and refusing to comply with the requirements of the Order and the rules and regulations issued pursuant thereto; and for a recommended decision providing that all of Respondent's Federal contracts and subcontracts and Federally-assisted construction contracts and subcontracts shall be cancelled, and that Respondent and its successors shall be ineligible for the award of any contracts or subcontracts awarded in whole or part with Federal funds, and shall be declared ineligible for extensions or other modifications of any existing Government contracts and subcontracts, or Federally-assisted contracts and subcontracts until Respondent has satisfied the Director of OFCCP that Respondent is in compliance with the provisions of Executive Order 11246 and the rules, regulations, and orders issued thereunder.

On February 17, 1975 Respondent entered into a contract with the

sponsors of the Near West Side Construction project in Chicago, Illinois, for the rehabilitation of a multifamily housing project, a Federal Housing Administration Project. Resondent agreed, by signing the contract, to be bound by the terms and conditions of the Order and the provisions of the Chicago Plan. On February 28, 1978, Complainants issued and served on Respondent an Administrative Complaint pursuant to the Order, and the rules and regulations issued pursuant thereto. Service was accomplished by the U.S. Postal Service on March 8, 1978 by certified mail. No answer was filed by Respondent.

On May 18, 1978, the Administrative Law Judge issued an Order to Show Cause. By the Order, Respondent was directed to show cause why a recommended decision should not issue. Respondent did not respond to the show cause order.

On July 3, 1978, the Administrative Law Judge filed a Recommended Decision and Order in the case finding the Respondent in default for its failure to answer the Administrative Complaint and for failure to respond to the Order to Show Cause. The Recommended Order would cancel, terminate, and suspend all of Respondent's Federal contracts and subcontracts, or contracts and subcontracts where Federal financial assistance is involved. Further, if adopted, the Order would render Respondent ineligible for any contracts or subcontracts, or extensions or modifications of existing contracts or subcontracts funded in whole or in part by federal funds from any agency of the United States, until Respondent has satisifed the Director of OFCCP that it is in compliance with the Order, and the rules, regulations, and orders issued thereunder or under any superseding Executive Order.

In the Recommended Decision and Order the Administrative Law Judge did not grant Complainant's prayer for an injunction against Respondent's failure and refusal to comply with the Order. He reasoned that Section 209(a)(2) of the Order provides that injunctive actions shall be instituted by the Department of Justice in a United States district court. Therefore, he concluded, such relief is not authorized or appropriate in an administrative proceeding.

On October 5, 1978 President Carter issued Executive Order 12086 which consolidated the Executive Order functions of eleven (11) Federal agencies into the Department of Labor effective October 8, 1978. the Department of Housing and Urban Development was one of these agencies. Prior to the consolidation the Regulations provided, in pertinent part, that when a hearing was conducted by an agency, the hearing officer was to make a recommendation to the head of the agency as to what sanctions should be imposed on a contractor or subcontractor. The head of the agency was to make a final decision which had to be approved by the Director of OFCCP.

The Regulations promulgated after consolidation provide that the Administrative Law Judge is to recommend findings, conclusions, and a decision to the Secretary of labor who is to make the Final Administrative Order (41 CFR Parts 60–30.27 and 60–30–30). The regulations, however, did not provide for those instances when a proceeding had been instituted by a compliance agency before consolidation, but which was not concluded until after consolidation had been effectuated.

In the instant case, the Deputy Assistant Secretary for Fair Housing and Equal Opportunity concurred in the Recommended Decision and Order of the Administrative Law Judge on August 1, 1978—prior to consolidation. However, the Recommended Decision and Order, and a certified copy of the record was not transmitted to the Director of OFCCP for his approval until March 2, 1979.

At the time of this transmittal, the regulations in effect provided, and they continue to provide, no role for the Director of OFCCP in the issuance of a final Administrative Order. Rather, this function, as noted above, belongs to the Secretary of Labor. It is for that reason that I, as Secretary of Labor, am issuing this Administrative Order.

Ruling on Decision

I have reviewed the entire record in this matter, and I find no prejudicial error in the Recommended Decision. I adopt the Recommended Decision of the Administrative Law Judge, including the recommended finds of fact and conclusions of law.

Ruling on Complainant's Exception

Complainant prayed, *inter alia*, for an order enjoining Respondent from failing and refusing to comply with the Order and the implementing regulations, including the Chicago Plan, so long as the Respondent is subject to the Order and such regulations. The Administrative Law Judge did not grant Complainant's prayer for injuctive relief against Respondent on the grounds that Section 209(a)(2) requires that injunctive actions be instituted by the Department of Justice in a United States district court. Therefore, he concluded, such relief is unauthorized in an administrative proceeding. Complainant filed an exception to this portion of the Administrative Law Judge's Recommended Decision.

If the Administrative Law Judge's Recommended Order is adopted, Respondent would be declared ineligible for all future Federally-involved contracts and subcontracts and all its current Federally-involved contracts and subcontracts would be cancelled, terminated and suspended until Respondent has satisfied the Director of OFCCP that it is in compliance with the Order and the implementing regulations.

Complainant has failed to show that the Recommended Order is not adequate. It is difficult to understand why an Order enjoining the Respondent to comply with the order and implementing regulations while it is subject to the Order and such regulations is necessary if all Respondent's current contracts have been cancelled, terminated and suspended and it has been declared ineligible for future contracts.

Accordingly, Complainant's Exception is hereby denied.

Conclusion and Administrative Order

I hereby order, in accordance with sections 209(a) (5) and (6) of the Order and 41 CFR 60–1.26 and 60–30.30, that:

Respondent's present Government contracts and subcontracts and Federally-assisted construction contracts and subcontracts be cancelled, terminated or suspended and that Respondent be declared ineligible from further contracts and subcontracts, and from extensions or modifications of any existing contracts and subcontracts, until such time that it can satisfy the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's regulations issued pursuant thereto.

The sanctions invoked herein shall be applicable to Respondent, its officers, subsidiaries and divisions and all purchasers, successors, assignees and transferees.

Signed at Washington, D.C., this 3rd day of June, 1980.

Ray Marshall,

Secretary of Labor.

In the matter of U.S. Department of Housing and Urban Development, Complainant, and PFG & Sons Builders and Contractors, Inc., Respondent, Docket No. EO–78–2–CC.

Errata

The Decision and Final Administrative Order of the Secretary of Labor in this case is corrected as follows:

At page 6 *"Ruling on Decision"*, second sentence, to read: "I adopt the recommended

findings of fact and conclusions of law of the Administrative Law Judge."

the definition at 41 CFR 60–1.3, in that, it entered into a contract agreement on

11. In the Chicago, Illinois area, any contract or subcontract exceeding $500,000

employment; Part II, nondiscrimination in employment by Government contractors; and

States District Court. It is concluded that such relief is not authorized or appropriate in

Issued at Washington, D.C., on July 3, 1978.

James W. Mast,

findings of fact and conclusions of law of the Administrative Law Judge."

Signed at Washington, D.C., this 3d day of June, 1980.

Ray Marshall,

Secretary of Labor.

July 3, 1978.

United States of America Before the Department of Housing and Urban Development and the Department of Labor, Office of Federal Contract Compliance

In the matter of: PFG & Son Builders and Contractors, Inc., Respondent, *Christopher H. Hartenau* and *Betty Kaufman*, Attorneys for the Department of Housing and Urban Development, *Carin Ann Clauss*, Solicitor of Labor, *James D. Henry*, Associate Solicitor, *Louis G. Ferrand, Jr.*, Counsel for Civil Rights, and *Sheila Berman*, Attorney, for the Department of Labor, *Mr. Peter Gerson*, President of Respondent for Respondent, Docket No. EO–78–2–CC.

Recommended Decision

On February 28, 1978, the Department of Housing and Urban Development, herein the Department, and the Department of Labor, herein Labor, issued and served on Respondent an Administrative Complaint pursuant to Executive Order 11246, as amended, 3 C.F.R. 339, *et seq.*, herein E.O. 11246, and the Rules and Regulations of Labor, herein the Rules, 41 C.F.R. Chapter 60. Service was accomplished by the U.S. Postal Service on March 8, 1978, by certified mail. No answer was filed by Respondent.

On May 16, 1978, the undersigned issued an Order to Show Cause. By the Order, Respondent was directed to show cause why a recommended decision should not issue. Service was accomplished on Respondent by the U.S. Postal Service on January 24, 1978. Respondent did not respond to the show cause order.

By the Rules 41 C.F.R. 60–30.7(a), Respondent was required to answer the Administrative Complaint by March 29, 1978, twenty days from receipt of the Complaint. Respondent failed to comply. Further, Respondent failed to respond to the Order to Show Cause. There has been no claim that there are reasons which should excuse the failures to answer or respond. Under the circumstances, Respondent is determined to be in default; it is concluded that issuance of a recommended decision is appropriate under 41 CFR 60–30.7 (b) and (c), in that, Respondent is deemed to have admitted the allegations of the Complaint, and to have waived its right to a hearing.

Accordingly, on the entire record, I make the following:

Findings of Fact

1. Respondent PFG & Son Builders and Contractors, Inc. is a construction company which has, at all times pertinent hereto, maintained and continues to maintain a place of business and employment at 850 West 119th Street, Chicago, Illinois 60643.

2. Respondent is engaged in the business of the construction of buildings and other improvements to real property.

3. At all times pertinent hereto, Respondent was a contractor and subcontractor within the definition at 41 CFR 60–1.3, in that, it entered into a contract agreement on February 17, 1975 with the sponsors of the Near West Side Construction project in Chicago, Illinois for the rehabilitation of a multifamily housing project, a Federal Housing Administration Project, in which it agreed through signing, to be bound by the terms and conditions of Executive Order 11246, as amended, and the provisions of the Chicago Plan. The contract exceeded $650,000 in value.

4. The construction project was referenced in the contract, *supra*, as Federal Housing Administration (FHA) Project No. 071–35244. FHA Project 071–35244 is a project undertaken pursuant to Section 221(d)(4) of the National Housing Act, 12 U.S.C. 1701 *et seq.*, a program of mortgage insurance. Application for mortgage insurance on the project was initially made pursuant to Section 220 of the National Housing Act at which time the Project Number was 071–32072.

5. As a non-exempt contractor and subcontractor, Respondent was, during its work on the rehabilitation project, subject to Section 202(1) of Executive Order 11246 which provides in pertinent part that:

"(t)he contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin."

6. As a non-exempt contractor and subcontractor, Respondent was, during its work on the Project, also subject to Sections 202(2)–(7) of Executive Order 11246.

7. Section 202(4) of Executive Order 11246 provides that:

"The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor."

8. Section 202(5) provides that:

"The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders."

9. The Sections of Executive Order 11246 which are referenced in Paragraph 7–10, *supra*, were included in Respondent's contract, *supra*, under the heading "FHA Form No. 2554," "Supplementary Conditions of the Contract for Construction," Article 2.

10. Section 301 of Executive Order 11246 provides that all non-exempt Federally assisted construction contracts and subcontracts must include the provisions of Section 202 of the Executive Order if they are financed or insured in whole or in part with Federal funds, "together with such additional provisions as the Secretary (of Labor) deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations."

11. In the Chicago, Illinois area, any contract or subcontract exceeding $500,000 for a federally-assisted construction project is subject to the requirements of the Chicago Plan.

12. The Near West Side Construction Project, which exceeded $650,000 in value, was subject to the Chicago Plan.

13. At all times pertinent hereto, Respondent has been and continues to be a Federally assisted construction contractor within the meaning of Executive Order 11246, and is now, and at all material times has been, subject to the contractual obligations imposed on Federally assisted construction contractors and subcontractors by Executive Order 11246 and the implementing regulations issued thereunder including the requirements of the Chicago Plan.

14. On February 20, 1975, representatives of Respondent attended a preconstruction conference at which a representative of the Department reminded them of Respondent's obligation to submit Monthly Manpower Utilization Reports to the Department.

15. Respondent failed to submit such Monthly Manpower Utilization Reports after September 1975, in violation of Section 202 of Executive Order 11246; the Chicago Plan, and regulations at 41 CFR 60–1.7 and 24 CFR 130.50.

16. Despite a specific March 1, 1976 letter request from the Office of Federal Contract Compliance Programs, Respondent failed to produce *inter alia* the following information at a compliance review conducted by representatives of the Department on April 6, 1976:

(a) Payroll records for the period of July 1, 1975 to February 29, 1976;

(b) A listing of Respondent's non-federally involved construction projects from July, 1975 to February, 1976;

(c) Monthly Manpower Utilization Reports for October 1975 through February 1976.

17. Respondent's failure to provide the information listed in Paragraph 18, *supra*, violated its contractual commitments pursuant to Section 202 of the Executive Order, the Chicago Plan and regulations at 41 CFR 60–1.7 and 24 CFR 130.50.

18. Pursuant to 41 CFR 60–1.20(b), upon finding deficiencies in Respondent's affirmative action compliance program, the Deparetment made efforts to secure through conciliation and persuasion, voluntary compliance by Respondent with Executive Order 11246 and the rules, regulations and orders promulgated thereunder. These efforts were unsuccessful.

Summary

E.O. 11246, which issued September 24, 1965, established as public policy the requirement of equal employment opportunity on Federal and Federally assisted contracts. As stated in Executive Order 11375 (1975) which amended E.O. 11246:

"It is the policy of the United States Government to provide equal opportunity in Federal employment and in employment by Federal contractors on the basis of merit and without discrimination because of race, color, religion, sex, or national origin."

E.O. 11246 has three main subdivisions, Part I, nondiscrimination in Government employment; Part II, nondiscrimination in employment by Government contractors; and Part III, nondiscrimination provisions in Federally assisted construction contracts. This action is initiated under Part II. Effectuation of E.O. 11246 in such situations involving Federal construction contracts has been implemented by a series of plans for equal employment opportunity which were promulgated pursuant to E.O. 11246. These plans established procedures and requirements of compliance with E.O. 11246. The Chicago Plan involved in this case is such a plan.

Each Federal agency was assigned responsibility for application and enforcement of E.O. 11246 under procedures and supervision of Labor. This responsibility included investigation, preliminary determination, voluntary conciliation and compliance, and administrative adjudication of such cases. All procedures under E.O. 11246 were, of course, to be pursuant to Rules promulgated by Labor. The procedures contemplated by the Rules and the consolidation were controlling, and were complied with in this case.

The essential elements and issues of a case under Part II of E.O. 11246 are: (1) Whether Respondent is a contractor within the meaning of E.O. 11246; (2) whether Respondent had discriminated in employment or has violated the equal opportunity clause of the contract; (3) whether there has been a good faith effort by the Department to resolve the violation by informal and reasonable conciliation or compliance under 41 CFR 60.1.24(c)(2); and (4) whether the sanctions authorized by Section 209 of E.O. 11246 should be imposed.

Respondent, as contractor of the sponsors on the Near West Side Construction project, was to provide materials and services on construction work at the project. As such, Respondent was a contractor within the meaning of 41 CFR 60.1.3(h). Where the project was funded by Department insured funds, Respondent was required to comply with E.O. 11246 and the Chicago Plan. When Respondent failed to provide the Department with information required to be furnished under E.O. 11246, the Chicago Plan, and Respondent's contract, the elements of a violation of E.O. 11246, the Chicago Plan and the equal opportunity clause of Respondent's contract were established.

The Department engaged in "efforts to secure through conciliation and persuasion, voluntary compliance by [respondent] with Executive Order 11246 and the rules, regulations and orders promulgated thereunder. These efforts were unsuccessful." In the absence of any claim or evidence to the contrary, this is deemed sufficient to meet the requirements of § 60.1.24(c)(2), both as to sufficiency of effort and reasonableness and applicability of requirements, sought by conciliation.

In its proposed order, the Department requests an injunction against Respondent's failure and refusal to comply with the requirements of E.O. 11246. Although E.O. 11246 does provide for injunctive at of Section 209(a)(2), the Executive Order requires that injunctive actions be instituted by the Department of Justice in a United States District Court. It is concluded that such relief is not authorized or appropriate in an administrative proceeding. Accordingly, the request is denied.

The administrative proceeding is limited to the imposition of sanctions authorized in Section 209(a) (5) and (6) of E.O. 11246. These include cancellation of contracts under (5) and exclusion from further contracts under (6). Neither subsection normally contemplated permanent termination or exclusion where Respondent can establish that compliance has been achieved and will be maintained. Thus, in appropriate cases, it is relevant to consider prospectively the requirements of compliance based on the violations established by litigation. since the present case is based on default, the requirements of compliance are concluded to be those included in the Conciliation Agreement provided in solicitation of the voluntary compliance previously referred to. These are stated generally as compliance with E.O. 11246, the Chicago Plan, and Respondent's contracts implementing the Chicago Plan, including complying with the reporting requirements. Since any compliance will be based on adjudicated findings of violations and an order, compliance should contemplate notice to employees and applicants for employment of these findings.

Conclusions of Law

1. This Department has jurisdiction of this action under Sections 208 and 209 of 11246, 41 CFR 60–1.26 and 41 CFR Part 60–30.

2. E.O. 11246 and the Chicago Plan bid conditions applied to Respondent's work on the Near West Side construction project and to its other work in the Chicago Plan area.

3. Respondent violated E.O. 11246 and the provisions of its contract implementing the Chicago Plan bid conditions by failing to make adequate good faith efforts to meet its goal for minority employment on the Near West Side construction project.

4. Respondent violated the provisions of E.O. 11246 and its contract implementing the Executive Order and the Detroit Plan by failing to provide the Department with validly requested information.

5. The Department and HEW exerted adequate efforts toward achieving Respondent's voluntary compliance with E.O. 11246 and the Detroit Plan Bid Conditions.

Recommended Order

It is ordered that all Federal contracts and subcontracts, or contracts and subcontracts where Federal financial assistance is involved, with Respondent PFG & Son Builders and Contractors, Inc. are cancelled, terminated and suspended. It is further ordered the Respondent PFG & Son Builders and Contractors, Inc. shall be ineligible for any contracts or subcontracts, or extensions or modifications of existing contracts or subcontracts funded in whole or in part by Federal funds from any agency of the United States, until Respondent PFG & Son Builders and Contractors, Inc. has satisfied the Director of the Office of Federal Contract Compliance that is is in compliance with the provisions and requirements of Executive Order 11246, and the rules, regulations, and orders, issued thereunder or under any superseding Executive Order.

Issued at Washington, D.C., on July 3, 1978.

James W. Mast,

Chief Administrative Law Judge, Department of Housing and Urban Development, Rm. 7150, Washington, D.C. 20410.

United States of America before the Department of Housing and Urban Development and the Department of Labor, Office of Federal Contract Compliance

In the matter of: PFG & Son Builders and Contractors, Inc., Respondent, Docket No. EO–78–2–CC.

Certificate

I certify that on July 3, 1978, I filed the record of the hearing including the Recommended Decision, Findings of Fact, Conclusions of Law, Recommended Order, records and exhibits in the above case with the Secretary of the Department of Housing and Urban Development, Patricia Roberts Harris, Washington, D.C.

Issued at Washington, D.C. on July 3, 1978.

James W. Mast,

Chief Administrative Law Judge, Department of Housing and Urban Development, Rm. 7150, 451 Seventh Street, S.W., Washington, D.C. 20410.

United States of America before the Department of Housing and Urban Development and the Department of Labor, Office of Federal Contract Compliance

In the matter of: PFG & Son Builders and Contractors, Inc., Respondent, Docket No. EO–78–2–CC.

Errata

The Recommended Decision in this case is corrected as follows:

1. At page 8, numbered paragraph 4 to read, "Respondent violated the provisions of E.O. 11246 and its contract implementing the Executive Order and the Chicago Plan by failing to provide the Department with validly requested information."

2. At page 8, numbered paragraph 5 to read, "The Department exerted adequate efforts toward achieving Respondent's voluntary compliance with E.O. 11246 and the Chicago Plan bid conditions."

Issued at Washington, D.C. on January 24, 1979.

James W. Mast,

Chief Administrative Law Judge, Department of Housing and Urban Development, Rm. 7150, 451 Seventh Street, S.W., Washington, D.C. 20410.

[FR Doc. 80–24784 Filed 8–14–80; 8:45 am]

BILLING CODE 4510–27–M

S.T.C. Construction Co., Cherry Hill, N.J.; Debarment

On June 24, 1980, for violation of Executive Order 11246, as amended, the Secretary of Labor ordered that:

S.T.C. Construction Company's present Government contracts and subcontracts and Federally-assisted construction contracts and subcontracts be cancelled, terminated or suspended,

and that S.T.C. be declared ineligible for

On May 22, 1979 Administrative Law

Thereafter, on October 23, 1978 the

are not applicable. In addition, the last

contradicts Respondent's assertions of

purposes of investigation to ascertain

and that S.T.C. be declared ineligible for further contracts and subcontracts and for extensions or modifications of existing contracts and subcontracts until it satisfies the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's implementing regulations issued pursuant thereto.

The sanctions are applicable to S.T.C., its officers, subsidiaries and divisions, all purchasers, successors, assignees, and transferees.

A copy of the Secretary of Labor's Decision and Final Administrative Order and the Recommended Decision of the Administrative Law Judge are attached.

Dated: August 8, 1980.

Ray Marshall,

Secretary of Labor.

In the matter of U.S. Department of Housing and Urban Development, Complainant, and S.T.C. Construction Company. Respondent. Docket No. 77–OFCCP–5.

Decision and Final Administrative Order of The Secretary of Labor

Preliminary Statement

This matter arises under Executive Order 11246, as amended (hereinafter referred to as the Order), which prohibits employment discrimination based on race, color, religion, sex, or national orgin by Government contractors and subcontractors and Federally-assisted construction contractors and subcontractors. The Order also imposes affirmative action obligations on such contractors to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. The Secretary of Labor and the Director of the Office of Federal Contract Compliance Programs (hereinafter referred to as OFCCP) are responsible for issuance and enforcement of regulations under the Order, found at 41 CFR Chapter 60.

On June 28, 1977 the Department of Housing and Urban Development (HUD) initiated an enforcement proceeding under the Order against S.T.C. Construction Company (hereinafter referred to as Respondent) alleging violation of the "Camden Plan" and Executive Order 11246 through, *inter alia*, its failure to furnish requisite records in connection with a HUD investigation to ascertain compliance with its contract with the Housing Authority of the Borough of Collingswood, New Jersey (Low Income Housing Project NJ 79–1).

On May 22, 1979 Administrative Law Judge (ALJ) Rhea M. Burrow, after a hearing, issued a Recommended Decision and Order in this case. The conclusion of the Administrative Law Judge was that Respondent was subject to Executive Order 11246, as amended, and the Camden Plan Bid Conditions and that it violated its contractual obligations and the Order by failing and refusing to provide timely access to pertinent records, by failing to submit monthly manpower Utilization Reports and by failing to submit required certifications from its subcontractors. The Administrative Law Judge ordered that Respondent cease and desist from refusing to furnish all required information relating to its Federal and Federally-assisted contracts and subcontracts now and in the future. Further, his Recommended Order concluded that sanctions for past transgressions or violations not now be imposed, so long as in any new contract or contracts upon which the company may bid that it satisfy the Director of the Government Agency and the Director of OFCCP that it is and has been in compliance.

On October 5, 1978, President Carter issued Executive Order 12086 which consolidated the Executive Order functions of eleven (II) Federal agencies into the Department of Labor as of October 8, 1978. The Department of Housing and Urban Development was one of these agencies. Prior to the consolidation, the regulations provided, in pertinent part, that when a hearing was conducted by an agency, the hearing officer was to make a recommendation to the head of the agency as to what sanctions should be imposed on a contractor or subcontractor. The head of the agency was to make a final decision which had to be approved by the Director of OFCCP.

The Regulations promulgated after consolidation provide that the Administrative Law Judge is to recommend, findings, conclusions, and a decision to the Secretary of Labor, who is to make the Final Administrative Order (41 CFR Parts 60–30.27 and 60–30.30). The regulations, however, did not provide for those instances when a proceeding had been instituted by a compliance agency before consolidation, but which was not concluded until after consolidation had been effectuated.

In the instant case, the Administrative Law Judge issued his Recommended Decision and Order on May 22, 1978. However, no action was taken by the Department of Housing and Urban Development before October 8, 1978. Thereafter, on October 23, 1978 the Acting Assistant Secretary for Fair Housing and Equal Opportunity transmitted the record in this case to the Director of OFCCP.

At the time of this transmittal, the regulations in effect provided, and continue to provide, no role for the Director of OFCCP in the issuance of a Final Administrative Order. Rather, this function, as noted above, belongs to the Secretary of Labor. It is for this reason that I, as Secretary of Labor, am issuing this Decision and Final Administrative Order.

Findings

I have reviewed the entire record. Based on that review, I accept and adopt the Findings of the Administrative Law Judge, except for Findings 10 and 12.

Rulings On Exceptions

Complainant's Exception 1

Complainant excepts to the admission of testimony by the ALJ at the May 9, 1978 hearing in contravention of the ALJ's earlier ruling that no testimony would be allowed, and in spite of the fact that Respondent failed in its response to the Motion for Summary Judgment to specify the matters it proposed to raise and the hearing.

The exception is denied.

The AJL stated that he would hear testimony at the May 9, 1978 hearing in order for him to decide what sanctions he should recommend. (Transcript, at page 57.) He would not hear testimony as to whether a violation had occurred or whether Respondent was at that time in compliance. (Transcript, at page 55.) There is nothing in the Order or the Regulations which render this action by the ALJ erroneous. Rather, the Regulations are very flexible and provide the ALJ with a great deal of latitude in accepting testimony. For example, the first sentence of 41 CFR 60–30.18 reads, "Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence shall be applied." The ALJ had the authority to hear the testimony, despite his previous ruling.

Complainant's Exception 2

Complainant excepts to the admission of testimony at the May 8, 1978 hearing which was irrelevant and outside the scope of the Complaint and Motion for Summary Judgment.

The exception is denied.

As noted in the above discussion of Complainant's Exception 1, the ALJ is given great latitude in the admission of evidence, and formal rules of evidence are not applicable. In addition, the last sentence of 41 CFR 60–30.18 reads, "The Administrative Law Judge *may* exclude evidence which is immaterial, irrelevant, and unduly repetitious." (Emphasis added) Since the ALJ *may* exclude such evidence, it is implied that the ALJ also may allow such evidence to be introduced.

Complainant's Exception 3

Complainant excepts to the rejection by the ALJ of evidence on the subject of Respondent's cooperation and compliance.

The exception is denied.

In its exception Complainant states that in Findings 10 and 12 the ALJ concluded that Respondent was "currently in compliance with all requirements and there was no discrimination involved in the contract at issue." I do not read the ALJ's decision to say that. Rather in item 10(b) he states, "There has been no discriminatory violations alleged or demonstrated as to any of his Government contracts." In item 10(c) he states, "Discrimination is not alleged or involved as to the current contract in issue in this proceeding." I do not think that these two statements constitute a conclusion that there was no discrimination—only that it was not in issue.

The fact that it was not an issue was freely admitted by the Government. Transcript, at pages 43, 55.

Further in the exception, Complainant discusses two memoranda and accompanying analysis concerning the hiring of minorities by Respondent. However, I see no indication that the Government had ever attempted to formally introduce them into evidence. Finally, in this exception Complainant refers to the ALJ's refusal of testimony concerning the Government's difficulty in obtaining evidence from Respondent. The record indicates that the Government alluded to difficulty the Government had in obtaining information during settlement negotiations. However, it was stated that it was not relevant to whether or not Respondent had complied with the Executive Order and whether or not it ought to be debarred. Transcript, at page 74. It appears contradictory for the Government to state during the hearing that evidence is irrelevant and then except to the fact that the ALJ did not admit it.

Complainant's Exception 4

Complainant excepts to the failure of the ALJ to give appropriate weight to undisputed evidence in the record which contradicts Respondent's assertions of good faith, cooperation, and compliance.

The exception is granted.

The ALJ stated "* * * there is good reason to believe a bona fied (sic) effort will be made by him (Mr. Whalen, S.T.C. President) to assure personal compliance as well as compliance by STC with the Order and regulations now and in the future." (Recommended Decision at 7)

Complainant, in its exception, outlines various facts which cast doubt on the ALJ's conclusion.

I do not believe that the facts, as presented in the record to me, warrant the prediction that Respondent will cooperate in the future and comply with the Order and regulations. Respondent ignored its reporting obligations under the Executive Order and regulations promulgated pursuant thereto. Neither Mr. Whalen, the President, nor Mr. Parkinson, who represented himself as the company's "EEO Representative" was present at a compliance review at the construction site—a meeting which had been arranged in writing and confirmed by telephone. A show cause notice addressed to Mr. Whalen was also ignored.

I therefore conclude that the ALJ erred when he opined that there was a good reason to believe S.T.C. would comply in the future.

Complainant's Exception 5

Complainant excepts to the failure of the ALJ to recommend any sanctions against Respondent, after violations of the Order and the implementing regulations were admitted as charged.

The exception is granted.

The ALJ concluded in his Findings 10 and 12 that there were circumstances that lend credence to the Respondent's argument that the imposition of the sanctions would be a harsh and inequitable penalty. In his Recommended Order, the Judge concludes that no sanction for past transgressions or violations should be imposed.

I find that the Administrative Law Judge erred in his finding that the imposition of sanctions would be a harsh and inequitable penalty and that he erred in his Recommended Order that no sanctions be imposed.

Achievement of the purposes of Executive Order 11246 depends on the Government's ability to monitor compliance with the Order and its implementing regulations. The Respondent contractor agreed as part of its contract that it would provide required reports and would provide access to its books and records for purposes of investigation to ascertain compliance.

The ALJ found, and indeed the Respondent admitted, that it did not provide required reports, failed to have requested documents available for the compliance review, failed to respond to the Show Cause Notice and the followup letter of intent to recommend sanctions issued by HUD.

It is appropriate to impose sanctions where a clear violation of the Executive Order has occurred and impairment of the Government's monitoring and enforcement of the Order has resulted.

Complainant's Exception 6

Complainant excepts to the limitation in the Recommended Order of the reporting requirements to Federal and Federally-assisted contracts and subcontracts.

The exception is granted.

Pursuant to the "Camden Plan" and the reporting requirements agreed to by contractors, information on the composition of each contractor and subcontractor workforce must be submitted by the Respondent on non-Federal construction work within the Camden Plan area as well as its Federal and Federally-assisted construction work.

Conclusion and Administrative Order

I hereby order, in accordance with sections 209(a) (5) and (6) of the Order and 41 CFR 60–1.26 and 60–30.30, that:

Respondent's present Government contracts and subcontracts and Federally-assisted construction contracts and subcontracts be cancelled, terminated or suspended and that Respondent be declared ineligible for further contracts and subcontracts, and from extensions or modifications of any existing contracts and subcontracts, until such time that it can satisfy the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's regulations issued pursuant thereto.

The sanctions invoked herein shall be applicable to Respondent, its officers, subsidiaries, and divisions and all purchasers, successors, assignees and transferees.

Signed at Washington, D.C., this 24th day of June, 1980.

Ray Marshall,

Secretary of Labor.

Certificate of Service

I hereby certify that on June 24, 1980, a copy of the foregoing Decision and Administrative Order of the Secretary of Labor, was mailed, postage prepaid, to the following:

Mr. James D. Henry, Associate Solicitor for Civil Rights, U.S. Department of Labor,

V 45 A G 15 80 UMI

Room N2414, 200 Constitution Avenue, NW., Washington, D.C. 20210.
Mr. Louis G. Ferrand, Jr., Counsel for Civil Rights, Office of the Solicitor, U.S. Department of Labor, Room N2414, 200 Constitution Avenue, NW., Washington, D.C. 20210.
Ms. Barbara Sullivan, Division of Civil Rights, Office of the Solicitor, U.S. Department of Labor, Room N2414, 200 Constitution Avenue, NW., Washington, D.C. 20210.
Mr. Thomas F. McGuire, Counselor at Law, 300 Kings Highway East, Haddenfield, New Jersey 08033.
Mr. Christopher H. Hartenau, Attorney, U.S. Department of Housing and Urban Development, Room 10500, 410 Seventh Street, SW., Washington, D.C. 20410.
Ms. Carin Ann Clauss, Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.Bruce A. Cohen.

U.S. Department of Labor, Office of Administrative Law Judges

In the matter of *United States Department of Housing and Urban Development*, Plaintiff, v. *S.T.C. Construction Company*, Defendant.

Case No. 77–OFCCP–5.

Christopher H. Hartenau, Esquire, Room 2051, U.S. Department of Housing and Urban Development, Washington, DC 20410, Louis C. Ferrand, Jr., Esquire, Counsel for Civil Rights, U.S. Department of Labor, Room N 2414, 200 Constitution Avenue, NW., Washington, DC 20210, Barbara J. Sullivan, Esquire, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210,
For the Plaintiff: William C. O'Brien, Esquire, 300 Kings Highway East, Haddonfield, New Jersey 08033, Thomas F. McGuire, Esquire, 300 Kings Highway East, Haddonfield, New Jersey 08033.
For the Defendant: Before: Rhea M. Burrow, Administrative Law Judge.

Recommended Decision

This is a motion for summary judgment brought by the United States Department of Housing and Urban Development, hereinafter referred to as HUD, and the United States Department of Labor, Office of Federal Contract Compliance Programs, referred to as OFCCP, Plaintiffs, pursuant to 41 CFR 60–30.8 and 41 CFR 60–30.23 [1] of the Rules of Practice for Administrative proceedings, against the S.T.C. Construction Company, Defendant, to enforce the contractural obligations relating to equal opportunity imposed on the defendant pursuant to Executive Order 11246, as amended (30 FR 134303) and the Secretary of Labor's implementing regulations. The Plaintiff's motion is predicated on the ground that there is no genuine issue as to any material fact regarding the Defendant S.T.C. Construction Company's failure to comply with its obligations under Executive Order 11246, as amended and the Secretary of Labor's implementing regulations.

At a hearing on May 9, 1978 on the Plaintiff's motion for summary judgment the Defendant admitted the charges stated in the motion but was permitted to introduce testimony as to extenuating circumstances connected with its failure to produce required information in this case.

Having considered the complaint, answer, motion for summary judgment, memorandum, and oral testimony and argument at the aforesaid hearing the undersigned finds:

(1) This court has jurisdiction of the action under Sections 208 and 209 of Executive Order 11246, 41 CFR 60–1.26, and 41 CFR Part 6030.

(2) The Defendant S.T.C. Construction Company was at all times material herein a Government contractor, and as such agreed to comply with Executive Order 11246, as amended, and all implementing regulations issued thereunder (Executive Order, § 202.4). Plaintiffs Secretary of Housing and Urban Development, the Secretary of Labor and Director of the Office of Federal Contract Compliance are responsible for issuance and enforcement of regulations under Executive Order 11246 found at 40 CFR Part 60.

(3) The Defendant is a federally assisted construction contractor by virtue of its participation in a contract of sale dated April 15, 1976, valued at over $3 million with the Housing Authority of the Borough of Collingswood, New Jersey for development of a low rent housing project which is partially financed with federal funds.

(4) Pursuant to Executive Order 11246, during August 1976, the Plaintiff, HUD, after giving two weeks notice and identifying the records sought to be inspected, attempted to conduct a review of affirmative action compliance on the contract at Defendant STC's place of business and employment located at 231 East Marlton Pike, Cherry Hill, New Jersey. The Defendant failed and refused to provide timely access to pertinent records requested as a part of the compliance review and deprived the Government of a crucial mechanism for monitoring and enforcing STC's compliance with its contract. The failure by defendant to furnish timely access to its records is a violation of its contractual obligations under 202 (4) and (5) of the Order, 41 CFR 60–1.7(a)(3) and 60–1.43, as well as its duties under the contractual opportunity clause at 41 CFR 60–1.4(b).

(5) The Defendant STC failed to submit Monthly Manpower Utilization Reports for itself or any of its subcontractors from the effective date of its Contract of Sale on April 15, 1976 to June 28, 1977, the date of filing of the Administrative Complaint. These reports indicate the racial and ethnic composition of contractor's workforce on each federally assisted construction project and are contractually required to be filed on a monthly basis by all federally assisted construction contractors in areas covered by imposed plans such as the Camden Plan (41 CFR Part 60–10) pursuant to rules established by the Director of OFCCP.[2]

(6) Defendant, STC failed to submit to Plaintiff signed and completed copies of the Imposed Plan Bid Conditions containing affirmative action commitments for all federal construction contractors in the Camden Plan Area as defined in 41 CFR 60–10 and required to be filed by STC and all of its subcontractors with contracts over $10,000 prior to bid openings. 41 CFR 60–10.21(a).

(7) Plaintiff notified the Defendant STC on August 17, 1976 that it had 30 days in which to show cause why enforcement proceedings should not be instituted against the company or submit the required documents sought on compliance review. A meeting was also set for September 2, 1976 to discuss STC's position. There was no response to the show cause notice letter nor did the Defendant attend the scheduled meeting. The Defendant also ignored a subsequent letter warning that a request for imposition of sanctions had been forwarded to HUD central office. In short, STC never contacted HUD with respect to compliance with the Executive Order at any time from the date of the compliance review to the date of the filing of the administrative complaint.

(8) The Defendant in its answer raised the argument that it compiled an affirmative action plan evidenced by letters to trade unions and subcontractors setting out STC's nondiscrimination policy which was sent to "OAEC." The organization was not identified but in any event is shown to have been an agency of the state and had no authority or responsibility for enforcing Executive Order 11246. Further, it was not responsive to the charge that STC failed to supply HUD with the documentation it had properly sought and requested. Such response obviously fails to raise a bona fide genuine issue of a material fact and this was admitted at the hearing on the motion for summary judgment.

(9) The Defendant STC's other explanation for noncompliance with Plaintiff's requests is that one of its executive employees who was designated to provide the requested information failed to do so.

The requirements of the Executive Order and the regulations are imposed on the contractor, not on its employees and it is the contractor's duty to see that the company's obligations are complied with by whatever means are necessary. Here, there was no attempt made to comply with HUD's discovery requests even when the Defendant had been notified of the delinquency. The answer does not raise a genuine bona-fide issue as to a material fact in controversy for failure to comply with discovery request.

The Secretary of Labor has provided for administrative and judicial enforcement of Executive Order 11246 (41 CFR 60–1.26), and hearing rules for administrative enforcement (41 CFR Part 30). These rules provide, inter alia, for Motions for Summary Judgment (41 CFR 60.23a). Recommended Decisions by an Administrative Law Judge after a hearing (41 CFR 60–30.27), the filing by the parties of exceptions to Recommended Decisions (41 CFR 60–30.28), and for a Final Administrative Order which may provide appropriate sanctions and remedies.

There is no challenge to the validity of the Order and regulations and it is well established that they have the force and effect of law. The Secretary of Labor has established lawful reporting and recordkeeping requirements pursuant to §§ 202(5), 203(a) and 301 of Executive Order 11246 which obligate federal contractors and federally assisted construction contractors to maintain and produce certain documents to facilitate enforcement of the Order. These requirements have the force and effect of law. *U.S.* v. *New Orleans Public Service, Inc. (NOPSI)*, 553 F. 2d 459 (5th Cir. 1977), petition for rehearing denied 559 F. 2d 30 (1977), petition for cert. pending; *U.S.* v. *Mississippi Power and Light Co.*, 553 F. 2d 480 (5th Cir. 1977), petition for rehearing denied 559 F. 3d (1977), petition for cert. pending; *Contractor's Ass'n of Eastern Pennsylvania* v. *Secretary of Labor*, 442 F. 2d 159 (3d Cir. 1971), cert. denied 404 U.S. 854.

(10) While good cause, cognizable under the law is not shown or alleged to exist for Defendant's failure to make, maintain, and make available to the Plaintiff its records for inspection and monitoring as to whether the Defendant has an acceptable affirmative action program which confirmed with the requirements of Executive Order 11246, amended, and the implementing regulations, there were circumstances that lend credence to Defendant's argument that the imposition of the sanction of cancellation or termination of the company's contracts would be a harsh and inequitable penalty. Some background information elicited at the hearing on May 9, 1978 indicates:

(a) William Francis Whalen, owner and President of the Defendant Company has been performing Government construction contracting since 1967 and is currently performing such contracting work.

(b) There has been no discriminatory violations alleged or demonstrated as to any of his Government contracts.

(c) Discrimination is not alleged or involved as to the current contract in issue in this proceeding.

(d) In this proceeding STC is charged with having failed to furnish requisite records to the Government as outlined in paragraphs 4, 5, and 6 above and it has admitted that it failed to do so.

(e) During 1976, Mr. Whalen, owner and President of STC was indicted on a felony charge and subjected to two lengthly trials, one in July 1976 resulting in a hung jury, and, a retrial beginning about November 1976 eventuating in his acquittal. Because of the adverse publicity bonding security for his STC Construction and Government projects had to be rearranged. In the fight for his own personal survival and STC Construction Company financial survival, the stress created domestic difficulty eventuating in a divorce proceeding. Despite the adverse problems and circumstances the work on the project herein involved was satisfactorily completed. Mr. Whalen has asked that his overall performance and record since 1967 to the present be considered along with his adverse personal circumstances with reference to any penalty or sanction provisions provided under the Order. The unusual stress situation that was thrust upon him in 1976, is urged as an atypical circumstance that does not require the usual penalty.

(11) The purpose of the regulations in 41 CFR Part 60–1 is to achieve the aims of Parts II, III, and IV of Executive Order 11246 for the promotion and insuring of equal opportunity for all persons without regard to race, color, religion, sex or national origin, employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts. There has been no discriminatory violation alleged nor has any surfaced for consideration in this proceeding.

What is involved is the Defendant's refusal to furnish records to the Plaintiff in order to enable the Government to ascertain whether STC was in compliance with the Act. This is required by Section 202(5) of the Order which provides: "The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. (Underscoring supplied). Also, see 41 CFR 60–1.43.

Obviously such a requirement is essential to monitor and ascertain compliance of employers with their Government contracts.

Executive Order 11246, as amended, Section 202(6) provides, inter alia, that non compliance with any of the Secretary of Labor's rules, regulations, or orders may lead to the cancellation, termination, or suspension of the Government contractor's present contracts and its being declared ineligible for further contracts.

Therefore, I conclude that the Defendant, STC's refusal to furnish the requisite records in connection with the Government's investigation to ascertain compliance with the contract was a violation of the Order and Secretary of Labor's regulations for which sanctions may be imposed. Further, Plaintiff's motion for summary judgment is warranted and is hereby granted.

(12) Of course, apart from any discriminatory violation, which is not shown to exist in this case, the Secretary of Labor must and does have power to enforce regulations designed to enforce proper monitoring and ascertainment of violations. The purpose is to punish those who without cause refuse to furnish requisite information and records, thereby hindering the Government from assuring equal opportunity for all persons regardless of race, color, sex, or national origin and to deter others from the same or similar violations. Because of the circumstances in this particular case and testimony elicited from Respondent Whalen at the hearing that he has except for the incidents heretofore reported complied with all of his Government contracts since 1967 and is currently in compliance, that there is good reason to believe a bona fide effort will be made by him to assure personal compliance as well as compliance by STC with the Order and regulations now and in the future. Based on the entire record I recommend that the following Order designed to remedy the violations be issued.

Recommended Order

It is hereby ordered that STC Construction Company cease and desist from refusing to furnish all required information relating to its federal and federally assisted contracts and sub-contracts, now and in the future. Further, that sanction for past transgression or violation not now be imposed so long as any new contract or contracts which the company may bid that it satisfy the Director of the Government agency and the Director of Federal Contract Compliance Programs that it is and has been in compliance with and will fulfill the provisions of Executive Order 11246 and the rules, regulations and Orders issued thereunder.

Dated: May 22, 1978, Washington, D.C.

Rhea M. Burrow,
Administrative Law Judge.

[FR Doc. 80–24783 Filed 8–14–80; 8:45 am]
BILLING CODE 4510–27–M

[1] 41 CFR 60–30.23(a) provides:
At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the respondent, the Government may move with or without supporting affidavits for a summary judgment upon all claims or any part.

[2] See, U.S. Department of Labor, Employment Standards Administration "Operations Manual: Contract Compliance in Construction" (August 30, 1976) Chapter IV: 11B(3).

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80–63]

Exemption From the Prohibitions for Certain Transactions Involving the Enterprise Company Employees' Profit-Sharing Trust Located In Beaumont, Tex. (Exemption Application No. D–1430)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt the sale for cash by the Enterprise Company Employees' Profit Sharing Trust (the Plan) to Jefferson-Pilot Publications, Inc. (the Purchaser), a party in interest because it is the parent company of the employer whose employees are covered by the Plan, of the following Plan assets: (1) An option to purchase 53 shares of common stock of Cushing Newspapers, Inc., (2) a promissory note of Richard N. Hammell, and (3) three residential mortgage notes.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 27, 1980, notice was published in the **Federal Register** (45 FR 43502) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions

of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Purchaser, trustees of the Plan and the Enterprise Company. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. One public comment was received which did not relate to the transactions for which exemptive relief was proposed, but rather concerned the distribution of retirement benefits from the Plan. No requests for a hearing were received by the Department. The Department has reviewed the entire application and the comment that was received and has determined to grant the proposed exemption.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406 (a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash by the Plan to the Purchaser of the following Plan assets: (1) an option to purchase 53 shares of common stock of Cushing Newspapers, Inc., (2) a promissory note of Richard N. Hammell, and (3) three residential morgages. The amount to be paid for the option is $102,298, provided that the amount received by the Plan is not less than the fair market value on the date of sale. The price to be paid for the note and the mortgages will be based on a 10% yield basis provided the amount received by the Plan is not less than the fair market value on the date of sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 8th day of August 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-24827 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–62]

Exemption From the Prohibitions for Certain Transactions Involving the Angus, Ltd., Employee Benefit and Profit-Sharing Plan and the Creative Dining Food Systems, Inc., Employee Benefit and Profit Sharing Plan Located in Raleigh, N.C. (Exemption Application Nos. D–1059 and 1238)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the sales of certain parcels of real property by the Angus, Ltd., Employee Benefit and Profit Sharing Plan (Angus Plan) to D–E–W Foods Corporation (DEW), a party in interest, and by the Creative Dining Food Systems, Inc., Employee Benefit and Profit Sharing Plan (CDFS Plan), which is the successor to the Angus Plan, to Cutown (Curacao), Inc. (Cutown), an unrelated party, followed by a leasing of the real property by Cutown to Creative Dining Food Systems, Inc. (CDFS).

EFFECTIVE DATE: October 1, 1976, as to the sale by the Angus Plan to DEW; January 13, 1978, as to the sale by the CDFS Plan to Cutown.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 17, 1980, notice was published in the **Federal Register** (45 FR 41090) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in applications filed on behalf of CDFS. The notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the notice to interested persons requirement as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

These applications were filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the October 1, 1976 sales by the Angus Plan to DEW of a 1.11 acre parcel and a .97 acre parcel, both located on Brownsboro Road in Winston-Salem, North Carolina, for $90,000 and $40,000, respectively, and to the January 13, 1978 sale by the CDFS Plan to Cutown of a 1.03 acre parcel located on University Parkway in Winston-Salem for $65,000, provided such amounts were not less than the fair market values of the parcels at the times of the sales.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 8th day of August, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-24828 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

American Motors Sales Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 25, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 25, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of August 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Motors Sales Corp.—Kansas City Zone (workers).	Overland Park, KS	7/25/80	7/21/80	TA-W-9942	Clerical positions.
Dana Corp. (UAW)	Lima, OH	7/24/80	7/24/80	TA-W-9943	Drive shafts and universal joints for heavy-duty trucks.
Detroit Window Products (workers)	Detroit, MI	7/24/80	7/18/80	TA-W-9944	Aluminum prime windows and stormwindows.
Kay Towers Antenna Co. (IUE)	Valley Forge, PA	7/21/80	7/9/80	TA-W-9945	Electronic accesories TV antennas.
Knapp King-Size Corp., Derry Shoe Co. Division (workers).	Derry, NH	7/30/80	7/28/80	TA-W-9946	Manufacture men's shoes.
Reichhold Chemical Inc. (workers)	Chestwold, DE	7/30/80	7/28/80	TA-W-9947	Handle plant waste.
United Kellering Co. (workers)	Canton, MI	7/7/80	6/28/80	TA-W-9948	Automotive dies.
Valeron Corp.—Modco Tool Division (workers)	Oak Park, MI	7/24/80	7/15/80	TA-W-9949	Automotive cutting.
Wagner Electric Corp. (workers)	Sevierville, TN	7/7/80	6/23/80	TA-W-9950	Signal flashers, circuit breakers for auto industry.
Cargotainer (UAW)	Adrian, MI	7/29/80	7/23/80	TA-W-9951	Cargo containers.
Illinois Tool Works Inc.—Deltar Division (company).	Frankfort, IL	7/24/80	7/18/80	TA-W-9952	Engineered fastners and components used in automotive assembly.
Linden Products Co., Division of Ferro Corp. (workers).	Linden, TN	7/17/80	7/12/80	TA-W-9953	Body hardware—various car parts.
Logerfo Bros. (workers)	New York, NY	7/24/80	7/14/80	TA-W-9954	Riding apparel.
McGregor Sportswear (workers)	New York, NY	6/17/80	5/28/80	TA-W-9955	Men's sportswear.
Radio Corporation of America (IBEW)	Findley, OH	7/22/80	7/17/80	TA-W-9956	Integrated circuits.
Solix Sportswear Corp. (workers)	New York, NY	7/29/80	7/23/80	TA-W-9957	Jackets.
Star Cedar Products (workers)	Forks, WA	6/13/80	6/9/80	TA-W-9958	Manufacture cedar shakes.
Swank Refractories Co.—Wellsville Plant (union).	Wellsville, OH	7/9/80	7/7/80	TA-W-9959	Ladle brick and gunning mix.
Allentown Manufacturing (workers)	Allentown, PA	6/27/80	6/23/80	TA-W-9960	Clothing.
Ford Motor Co.—Detroit Industrial Engine Plant (company).	Detroit, MI	5/20/80	5/15/80	TA-W-9961	Marine and industrial engines.
Geneva Rubber Co. (URW)	Geneva, OH	7/30/80	7/20/80	TA-W-9962	Molded rubber parts for autos.
Hirsch Manufacturing Corp. (workers)	Allentown, PA	6/27/80	6/23/80	TA-W-9963	Clothing.
Kaiser Steel Corp., Eagle Mt. Mine—Pellet Plant (workers).	Eagle Mt., CA	6/16/80	6/9/80	TA-W-9964	Pellets.
Knit-Wits Manufacturing (workers)	Allentown, PA	6/27/80	6/23/80	TA-W-9965	Clothing.
Midwest Plating and Chemical Corp. (workers).	Kokomo, IN	7/29/80	7/24/80	TA-W-9966	Electroplating.
Modern Metal Processing Inc. (workers)	Williamston, MI	7/29/80	7/24/80	TA-W-9967	Bumpers.
Unique Chemical and Color Corp. (workers)	Paterson, NJ	6/27/80	6/24/80	TA-W-9968	Finishing chemicals and dyes.
Gad Cartage Company (teamsters)	Dearborn, MI	7/7/80	7/2/80	TA-W-9969	Service—hauls steel to auto industry.
Gathen Ind., Inc. (workers)	Roseville, MI	7/30/80	7/24/80	TA-W-9970	Pressed steel dies.
General Electric-Niles-Mahoning Glass Plant (IUE).	Niles, OH	7/30/80	7/25/80	TA-W-9971	Production press glass.
National Twist Drill and Tool Division (workers).	Rochester, MI	7/30/80	7/22/80	TA-W-9972	Makes cutting equipment for autos.
Republic Steel Corp., Buffalo District Sales Office (workers).	Amherst, NY	7/23/80	7/18/80	TA-W-9973	Carbon and alloy hot rolled steel bars.
Republic Steel Corp., Central Alloy District, Basic Steel Plant (USWA).	Canton, OH	7/23/80	7/18/80	TA-W-9974	Raw and hot rolled carbon, alloy and stainless steel.
Republic Steel Corp., Central Alloy District, Massillon, Ohio Plant (USWA).	Massillon, OH	7/23/80	7/18/80	TA-W-9975	Hot rolled carbon, alloy, and stainless steel bars.
Republic Steel Corp., Enduro Division, Canton South Plant (union).	Canton, OH	7/23/80	7/18/80	TA-W-9976	Stainless steel plate and sheet and special metals.
Republic Steel Corp., Union Drawn Division (USWA).	Massillon, OH	7/23/80	7/18/80	TA-W-9977	Cold finished carbon, alloy, and stainless steel bars.
Elgin, Joliet & Eastern Railway Co., Gary Division (workers).	Gary, IN	6/17/80	7/31/80	TA-W-9978	Transportation of steel.
Flamingo Fashions, Inc. (workers)	Hialeah, FL	7/14/80	7/18/80	TA-W-9979	Children's tops.
Marlette Coatings (workers)	Marlette, MI	7/29/80	8/5/80	TA-W-9980	Car parts.
Midwest Rubber Co. (workers)	Deckerville, MI	7/29/80	8/5/80	TA-W-9981	Automotive rubber and plastic products.
Moeller Construction Co. (workers)	Romeo, MI	7/18/80	8/6/80	TA-W-9982	Residential construction.
N & M Handbag, Inc. (workers)	Walnut Ridge, AR	7/29/80	8/6/80	TA-W-9983	Handbags.
Robertson Shake Mill (workers)	Litsell, WA	5/13/80	7/17/80	TA-W-9984	Shingles and shakes.
Thompson Steel Inc. (workers)	Roseville, MI	7/29/80	8/5/80	TA-W-9985	Cold rolled stripped steel.
Blonder Tongue Laboratories, Inc. (IBEW)	Lakewood, NJ	7/23/80	7/18/80	TA-W-9986	TV reception equipment for subscription TV.
Chamberlin Products (workers)	Akron, IN	7/29/80	7/25/80	TA-W-9987	Automotive wiring systems.
Jackson Steel Service, Inc. (workers)	Jackson, MI	7/31/80	7/29/80	TA-W-9988	Steel sales and make brakes, etc., exhaust systems.
Kraft Systems (workers)	Vista, CA	7/31/80	7/23/80	TA-W-9989	Industrial engineers.
Northern Die and Mold Co. (workers)	Bay City, MI	7/28/80	7/18/80	TA-W-9990	Plastic injection molds for the automotive industry.
Norton Laboratories, Inc. (workers)	Lockport, NY	7/29/80	7/7/80	TA-W-9991	Custom molding of plastics.
Pantasote, Inc. (URW)	London, OH	7/28/80	7/25/80	TA-W-9992	Custom injection molding for automotive parts.
Quinault Cedar Products (workers)	Neilton, WA	5/15/80	5/8/80	TA-W-9993	Cakes.
Taylor Machine Products (workers)	Taylor, MI	7/31/80	7/24/80	TA-W-9994	Machine operators and truck drivers.
American Gage & Manufacturing, Co. (MESA)	Wauseon, OH	7/29/80	7/21/80	TA-W-9995	Two wheel handcarts, appliance dolleys, and farm jacks.
Herman International Industries, Inc. (workers).	Bolivia, TN	8/1/80	7/22/80	TA-W-9996	Outside rearview auto mirrors.
Huntington Alloys, Inc. (workers)	Huntington, WV	7/29/80	7/24/80	TA-W-9997	Wrought high-nickel alloy and welding products.
Kaiser Aluminum (company)	Mobile, AL	7/31/80	7/29/80	TA-W-9998	Alum. transport tanks for gas line.
Modern Plastics Corp. (workers)	Benton Harbor, MI	5/27/80	5/22/80	TA-W-9999	Various auto parts and plastic moldings.
Modine Manufacturing Co. (workers)	Trenton, MO	7/29/80	7/24/80	TA-W-10,000	Automobile radiators.
Muskin Corporation (UFWU)	Wilkes-Barre, PA	6/13/80	5/8/80	TA-W-10,001	Above ground swimming pool parts.
Steel Slitting Co., Inc. (workers)	Elwood, In	7/28/80	7/23/80	TA-W-10,002	Process steel.
United Manufacturing Co. (workers)	Mt. Clemens, MI	7/28/80	7/24/80	TA-W-10,003	Seat belts.
HUB Material Co. (workers)	Boston, MA	4/15/80	4/22/80	TA-W-10,004	Watch parts.
KENCO Plastic, Inc. (UFCW)	Owensboro, KY	6/13/80	6/11/80	TA-W-10,005	Plastic auto parts, fire extinguishers, appliances.
Kingston Krome (workers)	Kingston, MI	5/20/80	5/13/80	TA-W-10,006	Chrome trim for cars and trucks.
Lawnlee Co., Inc. (USWA)	Portland, TN	7/29/80	7/24/80	TA-W-10,007	Aluminum patio furniture, ladders.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Melling Forging Co. (UAW)	Lansing, MI	7/28/80	7/25/80	TA-W-10,008	Automotive steering assembly components, transmission spray units, and clutch assembly parts.
Palmer Supplies Co. of Cincinnati (company)	Cincinnati, OH	7/31/80	7/25/80	TA-W-10,009	Raw material distributor.
Quanex Corp., Fabricating Division (USWA)	Shelby, OH	7/28/80	7/24/80	TA-W-10,010	Automotive exhaust systems.
Robinson Transformer Co. (IBEW)	Robinson, IL	7/28/80	7/22/80	TA-W-10,011	Transformers for stereos, electric organs, and computers.
Uniroyal, Inc. (URW)	Opelika, AL	7/15/80	7/10/80	TA-W-10,012	Tires.
Asmeron, Inc., Ameron Steel & Wire Division (USWA).	Etiwanda, CA	7/28/80	7/23/80	TA-W-10,013	Rebar, pipe rod, construction wire, fabric wire products, converter rod, and billets.
Atlantic Steel Co. (USWA)	Atlanta, GA	7/31/80	7/28/80	TA-W-10,014	Wire products, nails, angles, flats rounds, rebar.
Budd Co. (UAW)	Clinton, MI	7/31/80	7/10/80	TA-W-10,015	Disc brakes.
Como Plastics (workers)	Columbus, IN	7/29/80	7/21/80	TA-W-10,016	Custom molded plastic parts.
Freeland Industries (workers)	Dearborn, MI	7/31/80	7/29/80	TA-W-10,017	Built racks for rims and chrome for auto's.
Pennwault Corp., Lucidol Division (workers)	Geneseo, NY	7/29/80	7/20/80	TA-W-10,018	Organic peroxide.
Surburban Ford Sales (IAMAW)	Arnold, MO	7/11/80	7/9/80	TA-W-10,019	Automotive dealership.
Tel-X Corp. (workers)	Farmington, MI	7/31/80	7/25/80	TA-W-10,020	Automotive prototype.
Wagner Industries, Inc. (IBEW)	Wabash, IN	7/31/80	7/28/80	TA-W-10,021	Electrical wiring harness components parts for auto industries.
Briggs-Stramon (Lock & Key Division) (workers).	Glendale, WI	7/25/80	7/18/80	TA-W-10,022	Lock and key for American-made cars.
D.A.B. Industries, Inc. (workers)	Bellefontaine, OH	7/28/80	7/25/80	TA-W-10,023	Rod and main engine bearings.
Falcon Coat & Suit Co. (workers)	Richmond Hill, NY	7/10/80	7/4/80	TA-W-10,024	Ladies coats and suits.
Four Star Corp. (UAW)	Cadillac, MI	7/25/80	7/22/80	TA-W-10,025	Drip moldings for auto trims.
General Motors Corp., GM Parts Division (workers).	Pontiac, MI	7/29/80	7/21/80	TA-W-10,026	Distribution of service parts.
Levi Strauss & Co. (ACTWU)	Rock Island, TN	7/25/80	7/14/80	TA-W-10,027	Production of boys shirts.
Maida Development Co. (workers)	Hampton, VA	7/10/80	7/8/80	TA-W-10,028	Capacitors.
Precision Spring Corp. (workers)	Canton Township, MI	7/28/80	7/24/80	TA-W-10,029	Engine and transmission rings, clips, and valve springs.
Precision Spring Corp. (workers)	Detroit, MI	7/28/80	7/24/80	TA-W-10,030	Engine and transmission rings, clips, and valve springs.

[FR Doc. 80-24778 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7330]

Homer Laughlin China Co.; Negative Determination Regarding Application for Reconsideration

By letter of July 9, 1980, the International Brotherhood of Pottery and Allied Workers requested administrative reconsideration of the Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing institutional china at plants #6, #7, and #8 of the Homer Laughlin China Company, Newell, West Virginia. The determination was published in the **Federal Register** on June 6, 1980, (45 FR 38176).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that one of Homer Laughlin's customers who imports institutional china was not given adequate consideration in the Department's notice of determinations.

The Department's review showed that workers at plants #6, #7, and #8 of the Homer Laughlin China Company, Newell, West Virginia, did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey showed that the responding customers increased their purchases of institutional china from Homer Laughlin and other domestic manufacturers in 1979 compared to 1978.

The Department does not agree with the union's claim. This customer reduced purchases from Homer Laughlin in 1979; however, Homer Laughlin increased production and sales of institutional china in that year. While the customer in question reduced its purchases from Homer Laughlin and may have increased its imports, it represented only an insignificant percentage of Homer Laughlin's sales in 1979 and 1980.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 8th day of August 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-24773 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6832]

Brown Shoe Co.; Negative Determination Regarding Application for Reconstruction

By an application dated July 1, 1980, counsel for the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at the St. Louis, Missouri Warehouse of Brown Shoe Company. The determination was published in the **Federal Register** on June 27, 1980 (45 FR 43488).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The counsel for the petitioner claims that by focussing on 1979 and the first quarter of 1980, the Department was too restrictive, failing to give appropriate weight to increasing import effects on Brown Shoe's decision to close the warehouse. The counsel also claims that the Department failed to give appropriate weight to unspecified

Brown's customers of women's shoes, who switched to imports and that the Department failed to consider a Brown Shoe Company letter of March 28, 1980, ascribing increased import penetration as a substantial cause for closing the warehouse.

A review of the case file indicates that the workers failed to meet the "contributed importantly" test of Section 222 of the Trade Act of 1974. The Department's survey of customers indicated that most customers which decreased purchased of woman's dress shoes from Brown in 1979 and the first quarter of 1980, did not increase purchase of imported women's dress shoes during the same period and most surveyed customers which increased import purchases in 1979 and the first quarter of 1980 also increased purchases from other domestic sources during the same period. The Department focussed on developments in 1979 and the first quarter of 1980, because under the Act, no certification could cover layoffs which occurred more than one year prior to the date of the petition which was January 9, 1980. The Department's survey of the Brown Warehouse's customers indicated a decreasing reliance on imports. Finally, in its investigation the Department did take into account the company's position that imports were a factor in the Warehouse's closing.

Conclusion

After review of the application and the invested file, I conclude that there has been no error or misinterpretation of fact or misrepresentation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 8th day of August 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-24774 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8631]

Phoenix Forging Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 23, 1980 in response to a worker petition received on June 11, 1980 which was filed by the Boilermakers Local 1506 on behalf of workers and former workers producing pipe flanges, tank flanges, transition pipe connectors and commercial forgings at Phoenix Forging Company, Catasaugua, Pennsylvania.

The Notice of Investigation was published in the **Federal Register** on June 27, 1980 (45 FR 43494–5). No public hearing was requested and none was held.

In a letter dated July 16, 1980 the petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 8th day of August 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-24775 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8609-11, 8614]

General Motors Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on June 9, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers at the component parts plants of General Motors Corporation listed in the appendix.

In order to determine if increased imports contributed importantly to production and employment declines at General Motors Corporation component parts plants, the Department sought to determine the degree to which each facility was integrated into the production of General Motors cars, trucks, vans, and general utility vehicles which have been subject to import injury. Where substantial integration was established the Department considered imports of "like or directly competitive" cars, trucks, vans and general utility vehicles in determining import injury to workers producing component parts at the plants.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 18 of General Motors Corporation's car and truck assembly plants (TA–W–6783, 6917, 6999–7000, 7009, 7015–16, 7059, 7071, 7073–76, 7078–82). Workers at these plants are engaged in production of one or more of the following car or truck lines: mid-size, standard and luxury/specialty cars, pick-up trucks, vans, and general utility vehicles.

During the course of the investigation, it was established that each of the component parts plants listed in the appendix produced a significant proportion of its output for use in the GM car and truck lines which have been subject to import injury.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with mid-size, standard and luxury/specialty automobiles, vans, utility vehicles and pick-up trucks produced at final assembly plants of General Motors Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers at the component parts plants listed in the appendix. In accordance with the provisions of the Act, I make the following certification:

"All workers of the component parts plants of General Motors Corporation listed in the appendix who became totally or partially separated from employment on or after the impact date listed in the appendix are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 8th day of August 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

Appendix

TA–W	Plant and location	Impact date
8609	Fisher Body Division, Mansfield, Ohio.	December 1, 1979
8610	AC Spark Plug Division, Milwaukee Operations, Oak Creek, Wis..	January 1, 1980
8611	Rochester Products Division, Rochester, N.Y..	December 1, 1979
8614	Delco-Remy Division, Meridian, Miss..	May 1, 1980

[FR Doc. 80-24776 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8779]

Mogadore Patterns Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 16, 1980 in response to a worker petition received on May 30, 1980 which was filed on behalf of workers and former workers producing patterns for tire molds at Mogadore Patterns, Inc., Akron, Ohio.

The Notice of Investigation was published in the **Federal Register** on June 27, 1980 (45 FR 43496–8). No public hearing was requested and none was held.

In a letter dated July 28, 1980 the petitioners requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 8th day of August 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-24777 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-28-M

MERIT SYSTEMS PROTECTION BOARD

[Docket No. Cons. 80–1]

Extension of Time To File Amicus Briefs, Disciplinary Actions Based on Off-Duty Misconduct Cases

AGENCY: Merit Systems Protection Board.

ACTION: Notice of extension of time to file amicus brief in Board proceedings.

SUMMARY: On July 18, 1980 by notice published in the **Federal Register** (45 FR 48290), the Boad announced the opportunity for all interested parties to file amicus briefs in a consolidated action captioned "In Re Off-Duty Misconduct Cases, MSPB Docket No. Cons. 80–1." Additionally, the Board set forth several issues to be addressed and identified a number of court decisions relevant to those issues. It was further requested that in order to receive consideration the briefs be submitted to the Board on or before August 18, 1980.

Since this notice was published the Board has received a number of requests to extend the time for filing. One such request submitted by the Office of Personnel Managment was granted, extending the time for its filing until September 8, 1980. The Board has determined, however, that rather than continuing to grant such requests on an individual basis, it would be more efficient to generally extend the time for filing. Accordingly, the Board hereby extends the time for filing amicus briefs in this aciton to September 8, 1980. Any parties desiring to file responsive briefs must do so by September 17. Briefs and responses may be submitted by mailing or delivering them to the address listed below.

ADDRESS: Office of the Secretary, Merit Systems Protection Board, Room 226, 1717 H Street, NW, Washington, D.C. 20419, (202) 632–4525.

Issued on August 12, 1980 at Washington, D.C. by Order of the Board.

Ronald P. Wertheim,

Member.

[FR Doc. 80-24772 Filed 8-14-80; 8:45 am]

BILLING CODE 6325-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomy; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomy.
Date and time: September 24, 8:30 am–5 pm.
September 25, 8:30 am–5 pm.
Place: Sacramento Peak Observatory, Sunspot, N. Mex.
Type of Meeting: Open.
Contact person: Dr. William E. Howard, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, DC 20550.
Summary Minutes: May be obtained from the contact person at the above stated address.
Purpose of Committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.
Agenda:

September 24, 1980

A.M. I. Introductory Remarks
II. Minutes of Previous Meeting
III. Short Status Reports
IV. Discussion of the Budget
V. Status of the Astronomy Survey Committee Deliberations
VI. Galactic and Extragalactic Program Report
P.M. VII. Astronomy Research Section Topics
VIII. Sacramento Peak Observatory Review

September 25, 1980

IX. Status of Dark Sky Site Survey
A.M. X. Astronomy Centers Section Topics
XI. Prioritization of Astronomy Initiatives Plan
XI. Prioritization of AID (continued)
P.M. XII. Discussion of Problems in Astronomy
XIII. Critique of Meeting.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24748 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Information Science and Technology; Meeting

In accordance with the Federal Advisory Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Information Science & Technology.
Date and time: September 4 and 5, 1980, 9 a.m. to 4 p.m. each day.
Place: Room 540, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.
Type of Meeting: Part Open—Open 9/4—9:00 a.m. to 4:00 p.m.—Closed 9/5—9:00 a.m. to 4:00 p.m.
Contact Person: Mrs. Darcey Higgins, Room 1250, National Science Foundation, Washington, D.C. 20550. Telephone: 202/357–9572. Persons planning to attend should notify Mrs. Higgins by August 28, 1980.
Summary Minutes: May be obtained from the Contact Person, at the above stated address.
Purpose of Committee: To provide advice, recommendations, and oversight concerning support for activities related to the Foundation's program in information science and technology.
Agenda:

Open—September 4, 1980

Welcome and Introductory Remarks
Review of the Division of Information Science and Technology Activities for FY 1980
Working Group on Information Technology: discussion of Meeting and Report
Organizational Locus of IST
Miscellanea
Open Public Participation

Closed—September 5, 1980

Review and comparison of declined proposals (and supporting documentation) with the successful awards under the division of Information Science and Technology, including review of peer review materials and other privileged material.

Reason for closing: the meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants.

Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24744 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Ship Operations of the Advisory Committee for Ocean Sciences.

Date and time: September 17, 1980—9:00 A.M. to 5:00 P.M., September 18, 1980—9:00 A.M. to 5:00 P.M.

Place: National Science Foundation, Washington, DC 20550, Room 642.

Type of Meeting: Closed.

Contact: Ms. Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 357–7837.

Purpose of ad hoc subcommittee: To provide OFS expert advice concerning ship operations support requested by major oceanographic institutions.

Agenda: Detailed review and evaluation of proposals for support of oceanographic ships.

Reason for Closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information, institutional financial data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24747 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Acquisition and Maintenance of the Advisory Committee for Ocean Sciences.

Date and time: September 24, 1980—8:30 A.M. to 5:00 P.M., September 25, 1980—8:30 A.M. to 5:00 P.M.

Place: National Science Foundation, Washington, DC 20550, Room 642 and 643.

Type of meeting: Closed.

Contact person: Ms. Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 357–7837.

Purpose of ad hoc subcommittee: To provide OFS expert advice concerning support of specific equipment items requested by major oceanographic institution.

Agenda: Detailed review and evaluation of proposals for support of permanent shipboard scientific installations and improvements for basic ship operations.

Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information, institutional financial data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24750 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Oceanographic Instrumentation and Shipboard Technicians of the Advisory Committee for Ocean Sciences.

Date and Time: September 30, 1980, 9 a.m. to 5 p.m.; October 1, 1980, 9 a.m. to 5 p.m.

Place: National Science Foundation, Washington, DC 20550, Room 321 and 642.

Type of Meeting: Closed.

Contact Person: Ms. Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 357–7837.

Purpose of Ad Hoc Subcommittee: To provide OFS expert advice concerning technical support and scientific instrumentation requested by major oceanographic institutions.

Agenda: Detailed review and evaluation of propsals for support of oceanographic instrumentation and shipboard technicians.

Reason for Closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information, institutional financial data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24750 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Policy Research and Analysis, Subcommittee on Environment, Energy, and Resources; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis, Subcommittee on Environment, Energy, and Resources.

Date and Time: September 5, 1980—9:00 a.m. to 4:30 p.m.

Place: Room 642, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Ms. Sharon Dyer, Division of Science Resources Studies, Directorate for Scientific, Technological, and International Affairs, Room L–611, National Science Foundation, Washington, DC 20550. Telephone (202) 634–4666. Anyone who plans to attend should contact Ms. Dyer by September 2, 1980.

Summary Minutes: May be obtained from the contact person, Ms. Dyer, at the above address.

Purpose of Committee: To provide advice, recommendations, and oversight concerning program emphases and directions of the EER Group in the Division of PRA.

Agenda: Friday, September 5, 1980:

9:00 a.m.—Plenary Session 10:00 a.m.—Review of PRA/EER intramural client analytic support and extramural research activities 1:15 p.m.—Goals and directions of PRA/EER Programs

Each of the EER program managers will describe his intramural and extramural activities. A general discussion of ongoing EER mission activities will follow these presentations.

Emphasis will be given to a consideration of ways to broaden the base of EER/S&T activities in the performer reviewer community.

4:30 p.m.—Adjournment

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24745 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Council Steering Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Steering Committee of the NSF Advisory Council.

Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date and Time: September 3, 1980—9:00 a.m. to 5:00 p.m.

Type of Meeting: Open.

Contact Person: Ms. Jeanne Hudson, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550, Telephone 202/357–9433.

Purpose of Steering Committee: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.

Summary Minutes: May be obtained from the contact person at above stated address.

Agenda: To review with cognizant NSF staff the issues being studied by the four task groups and other issues of general concern.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24743 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

Task Group No. 9 Advisory Council; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group No. 9 of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Date: Friday, September 12, 1980.

Time: 9:00 a.m. to 5:00 p.m.

Type of Meeting: Open.

Contact Person: Mr. Ronald R. La Count, NSF Liaison, Task Group No. 9 of NSF Advisory Council, National Science Foundation, Room 615, 1800 G Street, N.W., Washington, D.C. 20550 Telephone (202) 357–9450.

Purpose of Task Group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary Minutes: May be obtained from the contact person at above stated address.

Agenda: The Task Group is asked to study and review available information on multinational research projects including such issues as financial support, governance, quality/quantity of research output, cost-effectiveness, etc.; and to discuss advantages/disadvantages of multinational support for the next generation telescope, accelerator and the Ocean Margin Drilling Program.

Dated: August 12, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-24746 Filed 8-14-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 413A]

Duke Power Co.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Duke Power Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. for the Catawba Nuclear Station, Unit 1. The current holder of the construction permit is Duke Power Company.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in Mecklenburg County, North Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 1.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Cosntruction Permits and Facility Licenses and Availability of Applicants's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the **Federal Register** on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. presented to the Attorney General for consideration or who desires additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before October 7, 1980.

Dated at Bethesda, Md., this 30th day of July, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3 Division of Licensing.

[FR Doc. 80-24004 Filed 8-7-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Metropolitan Edison Co., Jersey Central Power and Light Co., Pennsylvania Electric Co.; Availability of Draft Programmatic Environmental Impact Statement for Decontamination of Three Mile Island Nuclear Station, Unit 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Programmatic Environmental Impact Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed decontamination and disposal of radioactive wastes resulting from the March 28, 1979, accident at Three Mile Island Nuclear Station, Unit 2, located in Dauphin County, Pennsylvania, is

available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and in the local public document rooms at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126, and at the York College of Pennsylvania, Country Club Road, York, Pennsylvania 17405. The Draft Statement is also being made available at the Pennsylvania State Clearinghouse, Governor's Budget Office, Intergovernmental Reglations Division, P.O. Box 1323, Harrisburg, Pennsylvania 17120, and at the Tri-County Regional Planning Commission, Shore Drive Office Center, Building No. 2, Suite 221, 2001 N. Front Street, Harrisburg, Pennsylvania 17102. Requests for copies of the Draft Programmatic Environmental Impact Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Programmatic Environmental Impact Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Statement (local agencies may obtain these documents upon request). Comments are due by October 6, 1980. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and in the local public document rooms. Upon consideration of comments submitted with respect to the Draft Programmatic Environmental Impact Statement, the Commission's staff will prepare a Final Programmatic Environmental Impact Statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Programmatic Environmental Impact Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Three Mile Island Program Office. A related document which may be of interest is NUREG–0698, "NRC Plan for Cleanup Operations at Three Mile Island Unit 2." This NRC Plan defines the functional role of the NRC in the cleanup operations at Three Mile Island Unit 2 to assure that agency regulatory responsibilities and objectives will be fulfilled. Copies will be provided upon request as described above.

Dated at Bethesda, Maryland, this 11th day of August 1980.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,

Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 80-24461 Filed 8-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 44 and 27 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

The amendments modify paragraph 4.5.1.b and add a new paragraph 4.5.1.f to the TS Surveillance Requirements for the Safety Injection (SI) tanks to authorize a change in the location where samples are taken when SI tank level increases are routinely made.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated July 14, 1980, (2) Amendment Nos. 44 and 27 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items, (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of August 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-24735 Filed 8-14-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OH 941–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Information Relevant To Ensuring That Occupational Radiation Exposures at Uranium Mills Will Be as Low as Is Reasonably Achievable" and is intended for Division 8, "Occupational Health." It is being developed to provide design criteria and administrative practices acceptable to the NRC staff for maintaining occupational exposures as low as is reasonably achievable in uranium mills.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 15, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 6th day of August 1980.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 80-24734 Filed 8-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulartory Commission (the Commission) has issued Amendments Nos. 85, 85, and 82 to Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55, respectively, issued to Duke Power Company (the licensee), which revised the Station's common Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. These amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications for Unit No. 2 by exending on a temporary basis the allowable period of inoperability of the "2B" High Pressure Injection Pump through August 15, 1980. This action was due to a potential power shortage in the Duke Power Company service area.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 31, 1980, (2) Amendments Nos. 85, 85, and 82 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-24733 Filed 8-14-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–320 OLA]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2)

Modification of Order

I

Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the Licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressured water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the Licensee's authority to operate the facility was suspended and the Licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements were imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11282). These requirements, in the form of proposed Technical Specifications, would modify the facility operating license so as to:

(1) define operating parameters for the current safe, stable, long-term cooling mode for the facility (defined as the recovery mode), and delete all other permissible operating modes so as to assure that operation of the facility in other than the stable shutdown condition of the recovery mode is precluded;

(2) impose functional, operability, redundancy and surveillance requirements as well as safety limits and limiting conditions with regard to those structures, systems, equipment and components necessary to maintain the facility in the current safe, stable shutdown condition and to cope with foreseeable off-normal conditions;

(3) prohibit venting or purging or other treatment of [the approximately 57,000 curies of krypton-85 in] the reactor building atmosphere, the discharge of water decontaminated by EPICOR–II system, and the treatment and disposal of high-level radioactively contaminated water in the reactor building, until each of these activities has been approved by the NRC,[1] consistent with the Commission's Statement of Policy and Notice of Intent to Prepare a Programmatic Environmental Impact Statement (44 FR 67738).

On the basis of the public health, safety, and interest, the requirements of the proposed Technical Specifications, attached to the February 11, 1980 Order, were made effective immediately. Under the terms of the Order, the proposed formal license amendment incorporating these proposed Technical Specifications will become effective on the expiration of the period specified in the Order, during which the Licensee or any other

[1] By Memorandum and Order, dated June 12, 1980, the Commission gave the approval contemplated by this restriction insofar as necessary for the Licensee to conduct a purging of the TMI–2 containment in accordance with procedures approved by the NRC. CLI–80–25. This activity was completed on July 11, 1980.

person whose interest may be affected may request a hearing or, in the event a hearing is requested and granted, on the date specified in an order made following the hearing or other disposition of such proceeding.

Several requests for a hearing have been filed in connection with the Order. These requests are pending before an Atomic Safety and Licensing Board established to rule on such requests and to preside over the proceeding in the event that a hearing is ordered. It is expected that, during the pendency of this matter, a number of changes in the proposed Technical Specifications may become necessary as the plant status continues to evolve as a result of ongoing decontamination and maintenance efforts. This Modification of Order addresses the first such change as discussed below.

II

Following the March 28, 1979 accident at TMI–2, it became apparent that the preferred cooling modes for the reactor included the use of a significant amount of plant equipment (e.g. condensate booster pumps and circulating water pumps) that did not have access to back-up power supplies. This was also true for the plant modifications proposed to provide alternate methods of core cooling. Therefore, in order to provide back-up power capability to these core cooling systems, two additional balance-of-plant (BOP) diesel generators and a separate external 13.2 kv transmission line were installed at the site. These provided sources of power in addition to the 230 kv lines and the onsite emergency diesels which were available before the March 28, 1979 accident. Operability requirements for these additional BOP diesel generators and the 13.2 kv transmission line were included in paragraph 3.8.1.1 of the proposed Technical Specifications which were imposed pursuant to the Director's Order of February 11, 1980.

By letter, dated April 28, 1980, the Licensee requested NRC approval of proposed design changes which would allow the removal of the two BOP diesel generators and the 13.2 kv transmission line. The proposed changes would utilize the same combustion turbines, located in the proximity of Three Mile Island, that now provide the back-up power source via the 13.2 kv line. Under this proposal, the 230 kv grid system would be utilized instead of the 13.2 kv line (via the 115 kv grid system). This new configuration means re-energizing a portion of the 230 kv grid system (that which normally feeds offsite power to TMI) by use of the combustion turbines. This eliminates the need to switch to other sources and can be accomplished well before any need for restoration of motive power would exist. The onsite emergency diesels, which could, if necessary, provide an adequate source of power, will continue to be available.

It has been determined that the Licensee's proposal would provide an overall upgrade in loss-of-offsite-power protection as compared to that afforded by the approved existing system. This upgrade is realized in the following ways: (1) unlimited versus limited capacity; (2) operator action consists of coordination with system dispatcher only versus also dispatching operators to man the BOP diesels; (3) proven reliability of the 230 kv grid and its components versus the unproven non-Class 1E diesel generators; and (4) familiarity with existing equipment versus new equipment never tested/operated in the actual mode required given loss of offsite power. (This is due to the fact that no testing is allowed which could even possibly provide a perturbation in the core cooling function.) As a consequence, the immediate need for the two BOP diesel generators and the 13.2 kv transmission lines found present in the Director's February 11, 1980 Order has been eliminated. The Staff's safety assessment of this matter is set forth in the concurrently issued Safety Evaluation. This evaluation concluded, in material part, that the modification does not involve a significant hazards consideration and that there is reasonable assurance that the health and safety of the public will not be endangered by operation in the modified manner.

It was further determined that the modification does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. In light of this determination, it was concluded that the instant action is insignificant from the standpoint of environmental impact and, pursuant to 10 C.F.R. § 51.5(d)(4), that an environmental impact statement or environmental impact appraisal need not be prepared herewith.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, it is ordered that:

(1) Effectively immediately, the requirements imposed by the Director's Order of February 11, 1980 are modified by revision of paragraph 3.8.1.1 of the proposed Technical Specifications attached thereto to delete subparts (c) and (d) and to make corresponding revisions in explanatory portions of that paragraph as set forth in Attachment A hereto.

The formal license amendment incorporating the proposed Technical Specifications, as modified, must await the outcome of the prospective hearing requested pursuant to the February 11, 1980 Order or other disposition of that matter. For further details with respect to this action, see (1) Letter to B. J. Snyder, NRC, from R. C. Arnold. Met. Ed/GPU, "Technical Specification Change Request No. 22," dated April 28, 1980; (2) Letter to J. T. Collins, NRC, from R. F.Wilson, Met. Ed/GPU, requesting removal of the two BOP diesel generators, dated March 4, 1980; (3) Letter to R. C. Arnold, Met. Ed, from J. T. Collins, NRC, granting approval of the concept for removal of the BOP diesel generators, dated March 28, 1980; (4) Letter to J. L. Collins, NRC, from R. F. Wilson, Met. Ed/GPU, requesting removal of 13.2 kv power line, dated March 28, 1980; and (5) the Director's Order of February 11, 1980. All of the above documents are available for inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C., and at the Commission's Local Public Document Rooms at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Street, Harrisburg, Pennsylvania 17126 and of the York College of Pennsylvania, County Club Road, York, Pennsylvania.

Dated at Bethesda, Maryland, August 11, 1980.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-24732 Filed 8-14-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP) Subcommittee: Results of Reviews of Petitions Requesting Changes in the List of Articles Eligible for Duty-Free Treatment Under the GSP

This publication describes results of the 1979 annual review of petitions requesting changes in the list of imported articles eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP). The GSP is provided for in the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). The review was conducted pursuant to regulations codified at 15 CFR Part 2007.

Results of the review were implemented as of March 30, 1980, by Executive Order No. 12204 of March 27, 1980 (45 FR 20740). The disposition of the petitions accepted for review by the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) is set forth in Annex I of this notice. Petitions that remain pending are listed in Annex II.

Ann Hughes,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

Annex 1

Case Reviews Completed

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences			
78-7	137.79	Jicamas	Government of Colombia	Petition Granted
78-7	137.81	Yams	Government of Colombia	Petition Granted
78-8	138.35	Frozen yucca	Government of Costa Rica	Petition Granted
78-9	140.45	Split peas	Deco-Swiss Dehydration Co., Ltd., Israel	MFN Duty-fre treatment granted 1/1/80
78-14	148.65	Papaya, prepared or preserved	Government of Panama, Government of Peru	Petition Granted
78-16	168.42	Slivovitz, not over 1 gal., not over $9 per gallon	Government of Yugoslavia	Petition Granted
78-17	168.54	Slivovitz, not over 1 gal., over $9 but not over $13 per gal.	Government of Yugoslavia	Petition Granted
78-17	168.57	Slivovitz, not over 1 gal., over $13 per gal.	Government of Yugoslavia	Petition Granted
78-18	168.59	Slivovitz, over 1 gal., not over $9 per gal.	Government of Yugoslavia	Petition Granted
78-18	168.61	Slivovitz, over 1 gallon, over $9 per gal.	Government of Yugoslavia	Petition Granted
78-19	169.58	Imitations of brandy and other spirituous beverages, not over 1 gal.	Government of Yugoslavia	Petition Granted
78-19	169.59	Imitations of brandy and other spirituous beverages, over 1 gal.	Government of Yugoslavia	Petition Granted
78-20	176.17	Coconut oil	Trust Territory of the Pacific Islands, Government of Malaysia	Petition Granted
78-21	176.29	Olive oil in containers weighing under 40 lb.	Government of Argentina, Government of Turkey	Petition Granted

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex 1 (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
78-22	183.05	Other edible preparations, nspf, including bioprotein of fish origin for human use	Government of Uruguay	Petition Granted
78-23	184.7540 or 184.7540 pt.	Other animal feeds or Hydrolized fish protein for livestock	Government of Uruguay	Petition Denied
78-24	192.17	Miniature (spray) carnations	Dominican Republic Center for Export Promotion, Dominican Republic, Government of Panama, Government of Singapore	Petition Granted
78-24	192.21	Other fresh cut flowers, excluding roses	Dominican Republic Center for Export Promotion, Dominican Republic, Government of Panama, Government of Singapore	Petition Granted
78-29	315.25	Unstranded cordage of vegetable fibers	Exporcorda-Exportadora de Cordoarias, Lda., Portugal	Petition Granted
78-30	315.30	Cordage of vegetable fibers, under 3/16 inch in diameter	Exporcorda-Exportadora de Cordoarias, Lda., Portugal	Petition Granted
78-31	315.40	Cordage of vegetable fibers, over 3/16 but under 3/4 inch in diameter	Exporcorda-Exportadora de Cordoarias, Lda., Portugal	Petition Denied
78-32	315.55	Cordage of vegetable fibers, 3/4 inch or over in diameter	Exporcorda-Exportadora de Cordoarias, Lda., Portugal	Petition Granted

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 A G 15 80 UMI

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
78-36	337.72	Certain silk-blended fabrics, not jacquard-figured	Government of India	Petition Granted
78-38	356.25	Coated fabrics of vegetable fibers	Floctex Industries, Ltd., Israel	Petition Granted
78-39	356.40	Coated fabrics of man-made fibers	Floctex Industries, Ltd., Israel	Petition Granted
78-43	363.02	Sheets and pillowcases of vegetable fibers other than cotton	Government of Colombia, Government of Lesotho	Petition Granted
78-63	365.15	Handmade lace furnishings over $50 per pound	Government of Lesotho	Petition Granted
78-64	365.25	Machine-made lace furnishings made on a Leavers machine, 12 points or finer	Government of Lesotho	Petition Granted
78-65	365.29	Machine-made lace furnishings made on a Leavers machine, not 12 points or finer	Government of Lesotho	Petition Granted
78-71	365.72	Burnt-out lace furnishings, other than of man-made fibers	Government of Lesotho	Petition Granted
78-72	365.76	Hand-joined lace	Government of Lesotho	Petition Granted
78-91	372.60	Silk mufflers, not knit, valued over $5 per dozen	Government of India	Petition Granted
78-92	372.65	Other silk mufflers	Government of India	Petition Granted
78-93	373.22	Men's and boys' silk neckties	Government of India	Petition Denied
78-97	382.72 pt. 2/	Other womens', girls', or infants' silk wearing apparel	Government of India	Petition Denied
78-110	522.21	Acid-grade fluorspar	Fluorspar Co. of Kenya, Ltd., Kenya	Petition Granted

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

2/ TSUSA items 382.7264 through 382.7282.

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
78-119	670.58	Latch needles	Government of Brazil	Petition Granted
78-141	705.82	Seamless rubber or plastic surgical and medical gloves	The Ansell Corp., Wilmington, De., Government of Malaysia	Petition Granted
79-1	107.30	Pork, prepared or preserved, not boned and cooked and packed in airtight containers	Government of Romania	Petition Denied
79-2	107.35	Pork, prepared or preserved, boned and cooked and packed in airtight containers	Government of Romania	Petition Denied
79-3	121.30	Calf and kip upper leather	Government of Argentina	Petition Granted
79-4	121.62	Goat and kid leather, other than fancy	Florsheim Shoe Co., Chicago, Il.	Petition Granted
79-5	121.60	Goat and kid leather, fancy	Florsheim Shoe Co., Chicago, Il., Government of India	Petition Denied
79-7	138.50 or 138.5060 pt.	Other vegetables or Frozen artichoke hearts	Government of Chile	Petition Denied
79-9	144.10	Fresh mushrooms	Industrias Internacionales de Alimentos, S.A., Dominican Republic	Petition Denied
79-12	147.98	Fresh mangoes, entered Nov. 1 to April 30	Lincoln Diversified Systems, Inc., Chicago, Il.	Petition Granted
79-23	206.65	Wood blinds	Miramar Corporation, Ltd., Taipei, Taiwan	Petition Granted
79-35	386.5040	Cotton sleeping bags	Noam-Urim, Israel	Petition Denied
79-37	407.8518 or 407.8518 pt.	Other anti-infective agents or Amoxicillin trihydrate	Plantex/Ikapharm, Ltd., Israel	Petition Denied

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 AG 15 80 UMI

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
79-38	407.8555 or 407.8555 pt.	Antidepressants, tranquilizers, and other psychotherapeutic agents or Amitriptyline	Plantex/Ikapharm, Ltd., Israel	Petition Denied
79-40	432.15	Certain pesticides	Makhteshim Chemical Works, Ltd., Israel	Petition Granted
79-41	532.22	Other mosaic tiles	Government of Colombia, Guatemala Export Promotion Center, Government of Malaysia, Stylex, S.A., Honduras	Petition Granted on part of TSUS no.
79-42	532.24	Glazed mosaic tiles	Guatemala Export Promotion Center, Government of Mexico, Government of Malaysia	Petition Denied
79-43	532.27	Other mosaic tiles	Government of Colombia, Guatemala Export Promotion Center	Petition Denied
79-45	533.66	Non-bone or subporcelain chinaware	Government of Romania	Petition Denied
79-46	542.31	Glass weighing over 16 oz. but not over 28 oz. per sq. ft. measuring not over 40 united inches	Government of the Philippines, Government of Romania	Petition Denied
79-47	542.33	Glass weighing over 16 oz. but not over 28 oz. per sq. ft. measuring over 40 but not over 60 united inches	Government of the Philippines, Government of Romania	Petition Denied
79-48	542.35	Glass weighing over 16 oz. but not over 28 oz. per sq. ft. measuring over 60 but not over 100 united inches	Government of the Philippines, Government of Romania	Petition Denied
79-49	542.37	Glass weighing over 16 oz. but not over 28 oz. per sq. ft., measuring over 100 united inches	Government of Romania	Petition Denied

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
79-50	542.42	Glass weighing over 28 oz. per sq. ft., not over 2-2/3 sq. ft. in area	Government of Romania	Petition Denied
79-51	542.44	Glass weighing over 28 oz. per sq. ft., over 2-2/3 but not over 7 sq. ft. in area	Government of Romania	Petition Denied
79-52	542.46	Glass weighing over 28 oz. per sq. ft., over 7 but not over 15 sq. ft. in area	Government of Romania	Petition Denied
79-53	542.48	Glass weighing over 28 oz. per sq. ft., over 15 sq. ft. in area	Government of Romania	Petition Denied
79-54	544.31	Tempered glass	Government of the Philippines	Petition Granted
79-55	546.52	Other glassware valued not over $0.30 each	Allen Lewis Manufacturing Co., Inc., Denver, Co.	Petition Denied
79-56	546.54	Other glassware valued over $0.30 but not over $1.00 each	Allen Lewis Manufacturing Co., Inc., Denver, Co.	Petition Denied
79-61	646.25	Brads, or nails of iron or steel under 1 inch in length and under 0.065 inches in diameter	Government of India	Petition Denied
79-62	646.92	Other locks and padlocks	Government of Colombia, Government of Mexico	Petition Granted
79-63	650.01	Knives without their handles	Government of Colombia	Petition Granted
79-64	650.17	Knives with rubber or plastic handles	Government of Brazil	Petition Granted
79-65	650.92	Other scissors and shears valued over $1.75 per dozen	Government of India	Petition Denied
79-66	650,90	Pinking shears valued over $30 per dozen	Marks International Inc., Newton, Ma.	Petition Granted

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 A G 15 80 UMI

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
79-67	662.30	Other weighing machinery and scales	Government of Argentina, Government of Mexico	Petition Granted
79-68	680.92	Gray-iron awning or tackle pulleys, not over 2½ inches in diameter	Newborn Brothers & Company, Inc. Columbia, Md.	Petition Granted
79-69	685.21pt.	Solid-state (tubeless) radio receivers for motor-vehicles	Government of Korea	Petition Denied
79-71	715.33	Other clocks valued over $10 each	Government of Korea	Petition Denied
79-72	725.01	Upright pianos, except grand pianos	Government of Korea	Petition Granted
79-73	727.12	Furniture of unspun vegetable fibers, excluding rattan	Guatemala Export Promotion Center, Government of Mexico, Government of Nicaragua, Government of Thailand, Government of Yugoslavia, Interplet, Zagreb, Yugoslavia	Petition Granted on part of TSUS no.
79-74	745.70	Slide fasteners not over 4 cents each	Government of Brazil	Petition Granted
79-75	745.72	Slide fasteners over 4 cents each	Government of Brazil	Petition Denied
79-76	745.74	Slide fastener parts	Government of Brazil	Petition Denied
79-77	760.15	Felt-tip and similar tip marking pens	Drafton, Ltd., Israel	Petition Granted

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences			
78-165	731.20	Fishing reels, valued not over $2.70 each	American Fishing Tackle Manufacturers Association, Chicago, Il., Tackle Representative Association, Chicago, Il.	Petition Denied
78-166	731.22	Fishing reels, valued over $2.70 but not over $8.45 each	American Fishing Tackle Manufacturers Chicago, Il., Tackle Representative Association, Chicago, Il.	Petition Granted
79-78	642.1630	Steel wire rope	Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, Washington, D.C.	Petition Denied
79-79	708.47	Eyeglass frames and mountings	Optical Manufacturers Association, Arlington, Va.	Petition Denied
79-80	737.9535 or 737.9535 pt.	Inflatable toys or Toy balloons	Association of American Toy Balloon Manufacturers, Washington, D.C.	Petition Denied
79-81	771.4212	Film, strips and sheets of polyvinyl chloride	Plastics Import Action Committee, New York, N.Y.	Petition Denied

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 A G 1 5 8 0 UMI

Annex I (Continued)

Case Review Completed Continued

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action taken
	C. Petitions to subdivide TSUS items currently designated as eligible articles for the Generalized System of Preferences			
79-82	121.55 pt.	Water buffalo leather, not fancy	Florsheim Shoe Company, Chicago, Il., Import Leather, Inc., Exeter, N.H.	Petition Denied
79-83	145.65	Litchi or longan nuts	East Impex San Francisco, Ca.	Petition Granted
79-84	682.60 pt.	Other coils and inductors	General Electric Company, Bridgeport, Ct.	Petition Denied
79-84	682.60 pt.	Other coils and inductors for motors and generators	Coilcraft, Gary, Il.	Petition Denied
79-85	688.44	Electrical articles using pre-programmed digital integrated circuits to produce sound	Calfax, Inc., New York, N.Y.	Petition Granted
79-86	735.20 pt.	Racquetball rackets	Wilson Sporting Goods Co., River Grove, Il.	Petition Withdrawn
79-87	740.11	Rope-style necklaces and neck chains almost wholly of gold	Israel Export Institute, Israel	Petition Granted to be effective 3/31/81
79-87	740.12	Mixed link-style necklaces and neck chains, almost wholly of gold	Israel Export Institute, Israel	Petition Granted to be effective 3/31/81
79-87	740.13	Other necklaces and neck chains, almost wholly of gold	Israel Export Institute, Israel	Petition Granted to be effective 3/31/81
79-87	740.14	Other jewelry of precious metals, other than necklaces and neck chains	Israel Export Institute, Israel	Petition Granted to be effective 3/31/81
79-87	740.15	Other jewelry, other than chief value of precious metals	Israel Export Institute, Israel	Petition Granted to be effective 3/31/81
79-88	741.50 pt.	Plastic beaded curtains	Alanco Industries, Inc., New York, N.Y.	Petition Denied

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex II

Case Reviews Pending

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
78-24	192.18	Roses	Dominican Republic Center for Export Promotion, Dominican Republic, Government of Panama
78-122	687.58	Other electronic tubes	Government of Argentina
78-123	687.5825	Transistors, with a dissipation rating of less than 1 watt	Government of Malaysia, Government of Singapore
78-124	687.5827	Transistors, with a dissipation rating of 1 watt or greater	Government of Malaysia, Government of Singapore
78-125	687.5831	Integrated circuits, monolithic linear	Government of Malaysia
78-126	687.5836	Integrated circuits, bipolar, transistor-transistor logic	Government of Malaysia
78-127	687.5837	Integrated circuits, bipolar, emitter-coupled logic	Government of Malaysia
78-128	687.5839	Integrated circuits, bipolar, other	Government of Malaysia
78-129	687.5843	Other integrated circuits of metal oxide silicon	Government of Malaysia
78-130	687.5846	Other integrated circuits, other than of metal oxide silicon	Government of Malaysia
78-131	687.5853	Integrated circuits, other than monolithic	Government of Malaysia
78-132	687.5854	Photo-sensitive diodes and rectifiers, solar cells	Government of Malaysia
78-132	687.5856	Photo-sensitive diodes and rectifiers, other	Government of Malaysia
78-133	687.5859	Zener diodes and rectifiers	Government of Malaysia
78-134	687.5861	Microwave diodes and rectifiers	Government of Malaysia
78-135	687.5862	Diodes and rectifiers, thyristors	Government of Malaysia
78-136	687.5866	Diodes and rectifiers, with a maximum current of .500 amperes or less	Government of Malaysia
78-137	687.5867	Diodes and rectifiers, other	Government of Malaysia
78-138	687.5868	Mounted piezo-electric crystals	Government of Singapore
78-139	687.5886	Other, including parts not specifically provided for, or electronic tube mounts	Government of Singapore

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex II

Annex II

Annex II

Case Reviews Pending

(Continued)

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
79-6	130.45	Oats, hulled or not hulled	Government of Colombia
79-8	141.8860	Other vegetables, including tender cactus	Herdez USA Corp., Vernon, California
79-10	146.7550	Berries, prepared or preserved, including frozen blackberries	Government of Chile
79-11	147.77	Grape must	Government of Argentina
79-13	148.44	Green olives, packed in airtight containers	Hazayith of Israel
79-14	148.50	Olives, pitted or stuffed	Hazayith of Israel
79-15	148.56	Olives, otherwise prepared or preserved	Hazayith of Israel
79-16	148.60	Fresh papaya	Government of Panama
79-17	170.10	Cigar wrapper tobacco, not stemmed	Government of Nicaragua, Cigar Association of America, Inc., Washington, D.C.
79-18	170.15	Cigar wrapper tobacco, stemmed	Cigar Association of America, Inc., Washington, D.C.
79-19	170.64	Bidis (Indian-style cigarettes)	Government of India
79-20	170.66	Cigars and cheroots, valued over 15 cents each	Government of Mexico, Government of Nicaragua
79-21	175.36	Poppy seed	Government of Romania
79-22	141.8860	Other vegetables, including pre-cooked rice	Government of Colombia
79-24	307.68	Yarns of wool or hair, handspun and hand-dyed	Manos del Uruguay, Montevideo, Uruguay
79-25	315.80	Jute cordage, not bleached, colored or treated, with singles yarn under 720 yards per pound	Government of India, Government of Bangladesh
79-26	315.85	Jute cordage, not bleached, colored or treated, with singles yarn 720 yards or over per pound	Government of Bangladesh
79-27	315.90	Jute cordage, bleached, colored or treated, with singles yarn under 720 yards per pound	Government of Bangladesh, Government of India
79-28	315.95	Jute cordage, bleached, colored or treated, with singles yarn 720 yards or over per pound	Government of Bangladesh
79-29	337.40	Silk fabric, jacquard-figured, degummed, bleached, or colored	Government of Thailand

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex II

Case Reviews Pending

(Continued)

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
79-30	355.81	Vinyl-coated fabrics	Government of Korea
79-31	360.15	Floor coverings, hand-inserted pile, valued over 66-2/3 cents per square foot	Pande Cameron & Company, N.Y., N.Y., Government of Bangladesh, Government of India, Government of Turkey, Manos del Uruguay, Montevideo, Uruguay
79-32	361.44	Wool floor coverings woven, not made on a power-driven loom, valued over 30 cents per square foot	Manos del Uruguay, Montevideo, Uruguay
79-33	364.22	Hand-woven mohair tapestries	Government of Lesotho
79-34	385.45	Bags and sacks of vegetable fibers, except cotton, not bleached, or colored	Government of Bangladesh
79-36	389.6260	Nylon sleeping bags	Noam-Urim, Israel
79-39	427.88	Ethyl alcohol for non-beverage use	Government of Argentina
79-44	533.22	Fine-grained earthenware over $12 per set	Government of Romania
79-57	610.3265	Spiral-welded steel pipe, over 16 inches in outside diameter	Grand Bahama Steel & Pipe Company, Ltd., Freeport, Bahamas
79-58	618.02	Unwrought aluminum, other than alloys	Government of Romania
79-59	618.06	Other aluminum alloys	Government of Romania
79-60	624.0330	Unwrought lead, alloyed	Government of Mexico

[FR Doc. 80-24752 Filed 8-14-80; 8:45 am]
BILLING CODE 3190-01-C

SECURITIES AND EXCHANGE

By the Commission.

Stockholder, Address, and Percentage of

TENNESSEE VALLEY AUTHORITY

Involvement of State and Regional A-95 would accomplish little. Another

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Panacolor, Inc.; Order of Suspension of Trading

July 14, 1980.

It appearing to the Securities and Exchange Commission that Panacolor, Inc. has failed to file with the Commission its Annual Report on Form 10–K for the year ending December 31, 1979 and its most recent Quarterly Report on Form 10–Q for the period ended March 31, 1980 and that, as a result, there is a lack of current adequate and accurate public information about the operations and financial condition of Panacolor, Inc., the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Panacolor, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:30 a.m. on July 14, 1980 through July 23, 1980.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80–24694 Filed 8–14–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. LA–319]

Liberty Oil Corp.; Order of Suspension of Trading

August 4, 1980.

It appearing to the Securities and Exchange Commission that there is insufficient information currently available to the public regarding the amount of common stock outstanding and the identity of the controlling shareholders of Liberty Oil Corporation, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Liberty Oil Corporation.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. on August 4, 1980 through August 13, 1980.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80–24731 Filed 8–14–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 05/05–0147]

Bando-McGlocklin Investment Co., Inc.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102(1980)), by Bando-McGlocklin Investment Co., Inc., 13555 Bishops Court, Brookfield, Wisconsin 53055 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and shareholders are:

Name, Title, and Percent of Ownership

Richard Van Eerden, director—8.33 [1]
Salvatore Bando, president, treasurer, and director—8.33 [1]
Jon McGlocklin, executive vice president, secretary, and director—8.33 [1]
George Schonath [2], investment adviser——Bando-McGlocklin Enterprises, Inc.—25

The Applicant proposes to begin operations with a capitalization of approximately $1,150,000 to primarily make loans to manufacturers and wholesalers secured by a first mortgage on real estate not to exceed eighty percent (80%) of the value of the real estate. The purpose of the loan shall be to finance the acquisition or expansion of real estate and to refinance existing real estate which will create funds to be used for working capital. The Applicant may render management consulting services to small business concerns.

Bando-McGlocklin Enterprises, Inc., owns more than ten percent (10%) of the shares of the Applicant. The stockholders and the percentage each owns is as follows:

[1] The shares stated as owned by Richard Van Eerden, Salvatore Bando and Jon McGlocklin are the shares of the Applicant owned by Bando-McGlocklin Enterprises, Inc. Salvatore Bando, Jon McGlocklin and Van Eerden & Associates, Inc., are the stockholders of Bando-McGlocklin and Van Eerden & Associates, Inc., are the stockholders of Bando-McGlocklin Enterprises, Inc. Richard Van Eerden is the sole stockholder of Van Eerden & Associates, Inc.

[2] George Schonath is a self-employed consultant doing business as Corporate Alternatives, a sole proprietorship.

Stockholder, Address, and Percentage of Stock Owned

Jon McGlocklin, 13555 Bishops Court, Brookfield, WI 53005—33⅓
Salvatore Bando, 13555 Bishops Court, Brookfield, WI 53005—33⅓
Van Eerden & Associates, Inc., 13555 Bishops Court, Brookfield, WI 53005—33⅓

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than August 29, 1980, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 5, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–24622 Filed 8–14–80; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Charlotte, North Carolina, will hold a public meeting at 2:00 p.m., Wednesday, September 10, 1980 and 9:00 a.m., Thursday, September 11, 1980, at Bur-Mil Club, Owl Roost Road, off U.S. Highway 220 North, Greensboro, North Carolina, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Larry D. Cherry, District Director, U.S. Small Business Administration, 230 Tryon Street, Suite 700, Charlotte, North Carolina 28202, (704) 371–6561.

Dated: August 11, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80–24621 Filed 8–14–80; 8:45 am]

BILLING CODE 8025–01–M

TENNESSEE VALLEY AUTHORITY

Implementation of Procedures on the National Environmental Policy Act

AGENCY: Tennessee Valley Authority.

ACTION: Final procedures implementing the National Environmental Policy Act.

SUMMARY: On November 29, 1978, the Council on Environmental Quality (CEQ) promulgated uniform procedures for implementing the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* (1976). 43 FR 55,978–56,007 (1978) (hereinafter all references to CEQ's procedures will be to the parts of the Code of Federal Regulations where they are codified). CEQ requested Federal agencies to adopt procedures implementing and supplementing its procedures. The Tennessee Valley Authority (TVA) has adopted the following amendments to its internal procedures in response to CEQ.

FOR FURTHER INFORMATION CONTACT: Mohamed T. El-Ashry, Ph.D., Director, Environmental Quality Staff, Tennessee Valley Authority, Norris, Tennessee 37828.

SUPPLEMENTARY INFORMATION: TVA has adopted the following amendments to its internal procedures implementing NEPA. TVA Code IX Environmental Quality. TVA's existing procedures were published on February 14, 1974, and appear at 39 FR 5671 (1974). These procedures, as amended, provide interagency guidance for compliance by TVA with NEPA. TVA published for comment on July 6, 1979, its proposed amendments (44 FR 36,679 (1979)). During the development of its proposed and final amendments, TVA consulted with CEQ in accordance with 40 CFR 1507.3(a)(1979) and CEQ had no objections to TVA's amendments.

Comments

TVA received 18 sets of comments on its proposed amendments. These comments fall within the following general categories:

1. Request to include state and regional A–95 clearinghouses in the NEPA review process.
2. The need to increase or decrease public involvement in TVA's NEPA review process.
3. Questions concerning the number and type of actions TVA proposed as categorical exclusions.
4. Objections to internally scoping an environmental impact statement (EIS) without public involvement.
5. Miscellaneous comments pertaining to the proposed format of the procedures.

Involvement of State and Regional A–95 Clearinghouses

Several A–95 clearinghouses requested more direct input into and involvement in TVA's NEPA review procedures. It has always been TVA's practice to coordinate closely with clearinghouses in its NEPA review process and the input received in the past has been valuable to TVA in its decisionmaking. It is TVA's intention to continue this practice and the amendments have been revised to expressly provide for this. Specifically, sections 5.3.4 (Finding of No Significant Impact), 5.4.5 (DEIS Transmittal and Review), 5.4.7 (FEIS Transmittal), and 5.7.2 (Private Applicants) have been revised to expressly include A–95 clearinghouses.

Public Involvement

Striking the appropriate balance between increased public involvement in the NEPA process and avoiding unnecessary delays is difficult. Both are objectives of CEQ's procedures. *See* 43 FR 55,978–90 (1978). TVA believes that public involvement in the NEPA process is essential. Therefore, the amendments have been revised to expressly state that TVA intends to encourage and actively seek public participation in its NEPA review process (§ 5.7.16).

With regard to public involvement in the preparation of EIS's, the adopted scoping process procedure (§ 5.4.3) will ensure that the public is given an opportunity to participate meaningfully in the assessment of major actions significantly affecting the quality of the human environment. TVA believes that public involvement at this early stage is essential in order to ensure that any divergent views regarding the environmental consequences of such actions are appropriately considered at the outset.

Some commenters stated that public involvement in the process of preparing environmental assessments would unduly complicate the NEPA process, increase paperwork, and generate delays. Nevertheless, TVA believes that public input may be beneficial in specific instances, and the final procedures reflect TVA's intention to seek public involvement in this process when it is appropriate (§§ 5.3.2, 5.3.4, 5.7.16).

The proposed amendments (§ 6.4.2) included a 15-day public comment period to allow public input into the scope of each environmental assessment prepared. Public reaction to this proposal was mixed. One commenter criticized it because it deviated from CEQ's procedures and he believed it would accomplish little. Another commenter pointed out that establishing a uniform 15-day comment period may not permit interested persons sufficient time to evaluate actions in all instances. In the interim since TVA proposed its amendments, it has gained experience in implementing this provision and concurs that flexibility is needed in this area. The final procedures have, therefore, been revised to state that the type of and format for public involvement would be selected as appropriate to best facilitate timely and meaningful public input into EA process (§ 5.3.2).

The final procedures also provide for public review of Findings of No Significant Impact in certain instances (§ 5.3.4). A public comment period of 30 days is provided, and all public comments received will be considered before a decision is made on whether or not to proceed with the proposed action.

Categorical Exclusions

In its efforts to reduce delay in the NEPA process, CEQ requested agencies to develop categories of actions which do not individually or cumulatively have a significant impact on the quality of the human environment and, therefore, require the preparation of neither and EIS nor an EA. 40 CFR 1507.3(b)(1979). TVA concurs with this approach which continues the format established in TVA's prior procedures (39 Fed. Reg. 5672 (1974)).

The categories listed in TVA's procedures, as amended, are those which TVA has determined will not normally have a significant impact on the environment (§ 5.2). This determination is premised upon TVA's experience in both assessing and implementing the listed categories in its prior procedures.

Several commenters objected to categorically excluding certain activities from the requirement to prepare an EA. Of these comments, most objected to the categorical exclusion of uranium exploration activities including hydrologic investigations. Beginning in 1972, TVA prepared detailed, individual environmental evaluation prior to undertaking uranium exploration activities in particular states. Those evaluations documents identified the procedures that would be followed and the precautions taken to ensure that the exploration activities would not result in significant environmental impacts. Ultimately, TVA prepared a generic environmental assessment for this class of actions which was completed on April 14, 1977.

This generic EA evaluated in detail the methods used in uranium exploration and the associated

environmental impacts. Included in this EA was a set of detailed guidelines for the protection of the environment. These guidelines form the basis for requirements and restrictions which are imposed on all exploration contractors to ensure that no significant environmental impacts result from exploration activities in which TVA is involved.

These restrictions require, among other things, reclamation and revegetation of disturbed land, the use of existing roads and trails when feasible, the reclamation of any new trails or roads in coordination with the appropriate local authorities or private landowners, and limitations on the disturbance of surface water sources. The document further prohibits exploration activities in certain specified areas such as National or state parks, wilderness areas, and state wildlife refuges.

The EA concluded that if exploration activities are carried out consistent with the guidelines and restrictions set forth in the EA, no significant environmental impacts would be expected to result. For these reasons, TVA has decided to retain uranium exploration as a categorical exclusion (§ 5.2.21). Of course, if there are unusual circumstances associated with exploration of a particular area, TVA would prepare an individual environmental assessment consistent with these procedures (§ 5.2).

The listed categories certainly do not reflect every type of action which would be appropriately treated as a categorical exclusion. Those listed reflected only the types of actions which, in TVA's experience in implementing NEPA, have been encountered frequently and which were determined to be appropriately treated as categorical exclusions. Other activities which are determined to normally have no associated significant environmental impacts will be treated as if categorically excluded and handled accordingly (§ 5.3.5).

TVA recognizes that a specific action within a category may, due to extraordinary circumstances, pose a greater risk of impact. In such a case, TVA would prepare an EA as provided in section 5.2. This is consistent with CEQ's regulations. 40 CFR 1508.4 (1979).

Scoping Process

In response to comments stating that public scoping of EIS's should be utilized to obtain input in the preparation of every EIS, section 5.4.3 of the procedures has been changed to state that the scoping process will normally consist of interagency scoping and public scoping. The reference to interagency or internal TVA scoping has been deleted. TVA agrees that public input into the evaluation of any actions which are the subject of an EIS would generally be beneficial and believes that the adopted scoping process strikes the correct balance to achieve the dual goals of appropriate public participation and efficient and effective Federal decisionmaking.

Miscellaneous Comments

One commenter criticized the proposed amendments because they had, to a large extent, paraphrased CEQ's procedures. It is TVA's intention that its procedures be in a form which provides clear and understandable direction to its various offices of what is required to properly evaluate proposed actions and to comply with NEPA. To the extent that the phraseology of CEQ's regulations, in certain instances, best accomplishes this, TVA has adopted CEQ's phraseology. Paraphrasing has been avoided to the extent possible in the final version of TVA's amendments.

Finally, one commenter pointed out that adopting a Limited Categorical Exclusion provision conflicted with CEQ's request that all agencies use similar terminology. 40 CFR 1508.1 (1979). TVA concurs and has deleted this provision in its final version of the amendments.

Tennessee Valley Authority's Procedures for Compliance With the National Environmental Policy Act

Table of Contents

Title

1. Purpose
2. Policy
3. Abbreviations
4. Definitions
5. Procedures
5.1 Action Formulation and NEPA Determination
5.2 Categorical Exclusions
5.3 Environmental Assessments
5.4 Environmental Impact Statement
5.5 Mitigation Commitment Identification, Auditing, and Reporting
5.6 Emergency Action
5.7 Miscellaneous Procedures

Environmental Review Procedure

1. *Purpose.*—These procedures provide guidance for compliance by the Tennessee Valley Authority (TVA) with the National Environmental Policy Act, 42 U.S.C. 4321, et seq. (1976) (NEPA) and other applicable guidelines, regulations, and Executive Orders implementing NEPA. It is intended to incorporate the concepts and implement the policies in the regulations promulgated by the Council on Environmental Quality (CEQ) at 40 CFR Parts 1500–1508 (43 FR 55978–56007 [1978]).

2. *Policy.*—TVA, to the fullest extent possible, incorporates environmental considerations into its decision-making processes. In carrying out this policy, these procedures assure that actions are viewed in a manner to encourage productive and enjoyable harmony between man and the environment. Commencing at the earliest possible point, and continuing through implementation, appropriate and careful consideration of the environmental aspects of proposed actions is built into the decision-making process in order that adverse environmental effects may be avoided or minimized.

3. *Abbreviations:*

3.1 CEQ—The Council on Environmental Quality.

3.2 EA—Environmental Assessment.

3.3 EIS—Environmental Impact Statement—D-Draft; F-Final.

3.4 NEPA—National Environmental Policy Act.

3.5 TVA—The Tennessee Valley Authority.

4. *Definitions.*—Unless otherwise inconsistent with the context in which they appear or unless otherwise expressly defined, all terms herein shall be given the same meaning as set forth in CEQ's currently effective regulations (see CEQ Regs. part 1508).

5. *Procedures:*

5.1 *Action Formulation and NEPA Determination.*—Each office within TVA is responsible for integrating environmental considerations into its planning and decision-making process at the earliest possible time in order to ensure that potential environmental effects are appropriately considered to avoid potential delays and to minimize potential conflicts. Environmental analyses are to be included in or circulated with and reviewed at the same time as other planning documents. This responsibility is to be carried out in accordance with the environmental review procedures contained herein.

The General Manager and Board of Directors are the major decision points within the Agency for TVA's principal programs likely to have a significant effect on the quality of the human environment. The alternatives considered by the General Manager and the Board of Directors shall be encompassed by the range of alternatives discussed in relevant environmental documents and the General Manager and the Board of Directors shall consider the alternatives described in relevant EIS's.

At the earliest possible time the office proposing to initiate an action will initially propose the level of environmental review required for a specific action. An action will be in one of the following categories:

Procedure

Categorical Exclusion—5.2
Environmental Assessment—5.3
Environmental Impact Statement—5.4

5.2 *Categorical Exclusions.*—The categories of actions listed in this section are those which do not normally have, either individuall or cumulatively, a significant impact on the quality of the human environment and require neither the preparation of an EA nor an EIS. The office proposing to initiate an action shall determine in consultation with the

Environmental Quality Staff whether or not the proposed action is categorically excluded. An action which would normally qualify as a categorical exclusion shall not be so classified if: (1) the proposed action could have a potentially significant impact on an endangered species, wetland or floodplain, cultural or historical resource, or other environmentally significant resource; or (2) substantial controversy over the significance of the environmental impacts associated with the proposed action has developed.

Categorical exclusion actions are:

1. Routine operation, maintenance, and minor upgrading of existing TVA facilities.
2. Technical and planning assistance to State and local organizations.
3. Establishment of environmental quality monitoring programs and field monitoring stations.
4. Procurement activities.
5. Personnel actions.
6. Contracts for the sale, purchase, or interchange of electricity.
7. Accounting, auditoring, financial reports, and disbursement of funds.
8. Communication, transportation, computer service, and other office services.
9. Activities related to the promotion and maintenance of employee health.
10. Activities of TVA's Equal Employment Opportunity staff.
11. Preliminary planning, studies, or reviews consisting of only paperwork.
12. Minor research, development, and joint demonstration projects.
13. Visitor reception.
14. Property protection, law enforcement, and other legal activities.
15. Emergency preparedness.
16. Minor non-TVA activities on TVA property authorized under license, permit, and covenant agreements, including utility crossings, encroachments, agricultural uses, rental of structures, and sale of miscellaneous structures and meterials from TVA land.
17. Sale or abandonment of minor tracts of land or landrights.
18. Transmission line relocation, tap ins, or modifications or substation alterations due to conflicts such as new highway projects and projects requiring acquisition of small amounts of additional substation property or transmission line right of way easements.
19. Construction and operation of communication facilities (*i.e.*, powerline carrier, insulated overhead ground wire, VHF radio, and microwave).
20. Purchase and lease purchases of stepdown facilities by TVA directly served customers.
21. Exploration for uranium, including hydrologic investigations.
22. Backslope agreements involving properties on which TVA holds an interest between operators and other adjacent mining companies.
23. Permits under section 26a of the TVA Act for minor structures, boat docks, and shoreline facilities.
24. Administrative actions consisting solely of paperwork.
25. Development of minor TVA public use areas and stream access points.
26. Preliminary onsite engineering and environmental studies for future power generating plants and other energy-related facilities.
27. Actions which were the subject of an EA which concluded that the category of such actions should be treated as a categorical exclusion.

5.3 *Environmental Assessments:*

5.3.1. *Purpose and Scope.*—An EA will be prepared for any appropriate action not qualifying as a categorical exclusion. An EA is not necessary if it has been determined that an EIS will be prepared.

5.3.2. *Public Participation in EA Preparation.*—The initiating office, in consultation with the Environmental Quality Staff and other interested offices, may request public involvement in the preparation of the EA. The type of and format for public involvement would be selected as appropriate to best facilitate timely and meaningful public input into the EA process.

5.3.3. *EA Preparation.*—The initiating office is responsible for the preparation of the EA. The EA will include the identification and, as appropriate, discussion of questions and concerns raised during the public input period, if any. The EA will include brief discussions of the need for the proposed action, reasonable alternatives, the environmental impacts of the proposed action and alternatives, and a listing of the agencies and persons consulted. The EA will briefly provide sufficient data and analysis for determining whether to prepare as EIS or a Finding of No Significant Impact. The EA will be reviewed by the Environmental Quality Staff and other interested offices. After completion of the review, the Environmental Quality Staff will, in consultation with the Office of the General Counsel, make one of the following determinations: (1) the action does not require the preparation of an EIS, (2) the action will require the preparation of an EIS, or (3) the EA is incomplete or the decision will be deferred until a later stage in the planning process. Environmental mitigation measures committed to in the EA will be implemented as described in § 5.5 (Mitigation Commitment Identification, Auditing, and Reporting).

5.3.4. *Finding of No Significant Impact.*—If it is concluded, based on an EA, that a proposed action does not require the preparation of an EIS, the initiating office will prepare a Finding of No Significant Impact and transmit it to the Environmental Quality Staff for approval on the merits and the Office of General Counsel for legal sufficiency.

Appropriate notice of Findings of No Significant Impact shall be made available to the public.

In the following circumstances, the Environmental Quality Staff, in consultation with the Office of General Counsel and the initiating office, will make a Finding of No Significant Impact available for public review and comment (including, if appropriate, State and regional A–95 clearinghouses) for a period of time (normally 30 days) before a final determination is made as to whether or not to prepare an EIS and before the proposed action may begin:

1. The proposed action is, or is closely similar to, an action listed in § 5.4.1.
2. TVA has previously announced that the proposed action would be the subject of an EIS.
3. The nature of the proposed action is one without precedent.

5.3.5. *Generic EAs.*—For any class of actions not described in § 5.2 (Categorical Exclusions), the initiating office may prepare a generic EA. The EA will be prepared, reviewed, and approved as would any other EA. Upon completion of review, the Environmental Quality Staff, in consultation with the Office of General Counsel, will determine whether or not the class of actions may normally be treated as if listed in 5.2 as a categorical exclusion.

5.4 *Environmental Impact Statements:*

5.4.1. *Purpose and Scope.*—The following actions normally will require an environmental impact statement:

1. Large water resource development and water control projects;
2. New nuclear-powered generating plants;
3. New coal-fired generating plants;
4. New pumped-storage plants;
5. Addition of new navigation locks;
6. Uranium mining and milling complexes;
7. Port facilities;
8. Any major action, the environmental impact of which is expected to be highly controversial; and
9. Any other major action which will have a significant effect on the quality of the human environment.

An EIS should include an analysis of the proposed action; alternatives thereto, including the no action alternative; and probable environmental impacts associated with the proposed action and the alternative actions. The scope and detail of the EIS should be reasonably related to the scope and the probable environmental impacts of the proposed action and alternative actions (*see* CEQ Regs. § 1502.10).

5.4.2. *Lead and Cooperating Agency Determinations.*—As soon as possible after the decision is made to prepare an EIS, the Environmental Quality Staff, in consultation with the initiating office and the Office of General Counsel, shall consider requesting other Federal, State, or local agencies to participate in the preparation of the EIS as lead, joint lead (*see* CEQ Regs. § 1501.5), or cooperating agencies (*see* CEQ Regs. § 1501.6). If TVA is requested to participate in the preparation of another Federal agency's EIS, TVA will consider whether and to what degree TVA should participate. All decisions involving TVA participation with another agency in preparation of an EIS will be made by the General Manager or a designee.

5.4.3. *Scoping Process.*—As soon as possible after the decision to prepare an EIS is made, the initiating office in consultation with the Environmental Quality Staff will organize a scoping committee to tentatively define action alternatives, probable environmental issues, and a schedule for EIS preparation. The scoping committee will consist of representatives of the Environmental Quality Staff, the initiating office, the Office of General Counsel, and other interested or affected offices.

The scoping process will normally consist of interagency scoping to coordinate action with and obtain inputs from other interested

agencies and public scoping to obtain input from interested members of the general

offices for their final approval. The Environmental Quality Staff will, in

Environmental mitigation measures committed to in the FEIS will be identified

significant supplementary information is

requesting party of the information or studies

commence until 30 days after notice of

agencies and public scoping to obtain input from interested members of the general public. The Environmental Quality Staff, in consultation with the scoping committee, will determine the need, nature, and format for the various scoping sessions. Session types and format will be selected to facilitate timely and meaningful public input into the EIS process.

As soon as practicable in the scoping process, the initiating office will prepare and the Environmental Quality Staff in consultation with the Office of General Council will review and make available a Notice of Intent to Prepare an EIS. This notice should briefly describe the action, alternatives thereto, and potential environmental impacts associated with the action. In addition, those issues which have tentatively been determined to be insignificant and which will not be discussed in detail in the EIS should be identified. If appropriate, the scoping process should be described and, if a scoping meeting will be held, where and when the meeting is to occur. The notice should identify the person in TVA who can supply additional information about the actions and to whom comments should be sent. There will normally be a public input period of 30 days from the date of publication of the Notice of Intent in the **Federal Register** to allow other interested agencies and the public an opportunity to review the action alternatives and probable environmental issues identified by the scoping committee. On the basis of input received, the Environmental Quality Staff in consultation with the scoping committee, may determine what, if any, additions or modification in the scoping process or schedule are required and establish the scope of the EIS.

At the close of the scoping process, the Environmental Quality Staff, in consultation with the scoping committee, will identify the following EIS components: (1) key action alternatives; (2) significant environmental issues to be addressed in detail; (3) probable nonsignificant environmental issues that should be mentioned but not addressed in detail; (4) lead and cooperating agency assignments, if any; (5) related environmental documents; and (6) other environmental review and consultation requirements.

5.4.4. *DEIS Preparation.*—Based on information obtained and decisions made during the scoping process, the initiating office, in consultation with the Environmental Quality Staff and other interested offices, will prepare the Preliminary DEIS using an appropriate format (see CEQ Regs. § 1502.10). The Preliminary DEIS will be circulated by the initiating office to the Environmental Quality Staff, Office of General Counsel, and other interested offices for review and comment. All reviewing offices will, as soon as practicable, and normally within 30 days, supply comments concerning the Preliminary DEIS to the initiating office, the Environmental Quality Staff and the Office of General Counsel. These comments will include lists of agencies, A–95 contacts, groups and individuals (both proponents and opponents, if any, of the proposed action) who should receive a copy of the DEIS. After the preliminary DEIS is revised, the initiating office will transmit it to other interested offices for their final approval. The Environmental Quality Staff will, in consultation with the Office of General Counsel, review the document and will transmit it to the General Manager for approval.

5.4.5. *DEIS Transmittal and Review.*—Upon notification of approval from the General Manager, TVA will transmit the DEIS and appropriate notices to the Environmental Protection Agency (EPA) and other interested Federal, State, and local agencies (including State and regional A–95 clearinghouses). The Citizen Action Office will coordinate overall DEIS distribution and will maintain a master list of those who receive it. The length of the DEIS public comment period, normally no less than 45 days from publication of the notice of availability in the **Federal Register**, will be determined by the scoping committee. Copies of an EIS are normally provided free of charge unless the quantity, volume of demand, or the costs of distribution are unreasonable.

At any time in the DEIS process, the initiating office, in consultation with the Environmental Quality Staff and other interested offices, may provide for additional public involvement to supplement DEIS preparation. The type of and format for public involvement would be selected as appropriate to best facilitate timely and meaningful public input into the EIS process.

5.4.6. *FEIS Preparation.*—At the close of the DEIS public review period, the Environmental Quality Staff will, in consultation with the initiating office and other interested offices, determine the need for the preparation of a FEIS. If the requisite changes in the DEIS are limited to making minor factual corrections and explaining why the comments received do not warrant further response, an Errata Sheet containing only DEIS comments, responses, and factual corrections in the DEIS may be prepared by the initiating office. If other more extensive modifications are required, the initiating office will, in consultation with the Environmental Quality Staff and other interested offices, prepare a Preliminary FEIS utilizing an appropriate format (see CEQ Regs. § 1502.10). The Errata Sheet or Preliminary Final EIS will be prepared and circulated by the initiating office to the Environmental Quality Staff, Office of General Counsel, and other interested offices for review and comment. All reviewing offices will supply written comments concerning the Errata Sheet or Preliminary Final EIS to the initiating office with copies to the Environmental Quality Staff and Office of General Counsel.

The initiating office, with the advice and assistance of the Environmental Quality Staff, will review all comments received and modify, as appropriate, the Errata Sheet or the Preliminary FEIS. After the Errata Sheet or Preliminary FEIS is revised, the initiating office will transmit it to other interested offices for their final approval. The Environmental Quality Staff will, in consultation with the Office of the General Counsel, review the document and will transmit it to the General Manager for approval along with a list of environmental commitments made in the EIS.

Environmental mitigation measures committed to in the FEIS will be identified and implemented as described in section 5.5 (Mitigation Commitment Identification, Auditing, and Reporting).

5.4.7. *FEIS Transmittal.*—Upon notification of approval from the General Manager, TVA will transmit the FEIS and appropriate notices to EPA and other Federal, State, and local agencies (including State and regional A–95 clearinghouses) to whom copies of the DEIS were sent. The FEIS will also be sent to every person and organization to whom copies of the DEIS were sent or from whom comments were received.

5.4.8. *Record of Decision.*—After release of the FEIS, a Record of Decision shall be prepared by the General Manager or a designee. The record shall state what the decision was, what alternatives were considered, and which alternative(s) was considered to be environmentally preferable and the alternatives' associated environmental considerations (which may include a discussion of measures to be taken to mitigate adverse environmental impacts); (see CEQ Regs. § 1505.2), and monitoring reporting, and administrative arrangements. Records of decision will be made publicly available.

5.4.9. *Revisions and Supplements.*—If significant new information concerning action modifications, alternatives, or probable environmental effects becomes available, TVA will make such information available to the public. The initiating office shall consider preparing a revision or a supplement to any environmental document. The Environmental Quality Staff will, in consultation with the initiating office, Office of General Counsel, and other interested offices determine the method of making such information available to the public. If a formal administrative record is required for any action to be approved by the Board of Directors and if an EIS Supplement is prepared with respect to the proposed action, the EIS Supplement will be made a part of the administrative record.

5.4.10. *Adoption of Another Federal Agency's EIS.*—Whether or not TVA participated in its preparation, TVA may adopt another Federal agency's EIS if TVA determines that the other agency's EIS adequately assesses the TVA action. The Environmental Quality Staff shall determine whether the adopted EIS is still generally available. This determination may be based on consultation with other agencies and consideration of such factors as project size and initial date of issuance of the adopted EIS. If the adopted EIS is available, TVA will circulate its written finding that the adopted statement meets the standards for an adequate EIS, advise that copies of the EIS will be sent to any person or agency who so requests, and make the adopted statement available for public examination.

If the adopted EIS is not generally available, TVA will circulate its written finding that the adopted statement is an adequate EIS along with either the adopted EIS or a summary thereof (see CEQ Regs. § 1502.12).

If TVA decides to adopt another agency's EIS in whole or part, but determines that

significant supplementary information is needed, the Environmental Quality Staff will determine whether the adopted EIS is still generally available. If the EIS is still available, TVA will circulate only the TVA Supplement as a draft and final supplement, advise that copies of the adopted EIS will be sent to any person or agency who so requests, and make the adopted statement available for public examination. If the EIS is not generally available, TVA will circulate its supplement along with either the adopted EIS or a summary thereof (see CEQ Regs. § 1502.12).

5.5 *Mitigation Commitment Identification, Auditing, and Reporting.*—All measures which are planned to minimize or mitigate expected significant environmental impacts shall be identified in the EIS or EA. Each such commitment will be tentatively assigned by the initiating office to the appropriate responsible office and such assignments shall be transmitted to the Environmental Quality Staff and the affected offices. The initiating office should consult with the assigned offices to resolve assignment conflicts, to identify supporting offices, and to determine schedules for commitment resolution as necessary. The initiating office will report to the Environmental Quality Staff the status of commitment resolution. The Environmental Quality Staff will ensure that commitments are met and will, as it deems appropriate, audit commitment resolution.

5.6 *Emergency Action.*—Because of unforeseen situations or emergencies, or through inadvertence, or for other reasons, some of the steps outlined in these procedures may be consolidated, modified, or omitted. The Environmental Quality Staff and the Office of the General Counsel shall be promptly notified and asked to approve any such consolidation, modification, or omission, and may do so if such change would conform to legal requirements and substantially comply with the intent of these procedures. The Environmental Quality Staff, in consultation with the Office of the General Counsel, will consult with CEQ when appropriate before such changes are approved.

5.7 *Miscellaneous Procedures:*

5.7.1 *Proposals for Legislation.*—Proposals for Congressional legislation significantly affecting the quality of the human environment will require the preparation of an EIS (see CEQ Regs. § 1506.8).

5.7.2 *Private Applicants.*—In those cases when private applicants or other non-Federal entities propose to undertake an action that will require TVA's approval or involvement, and which is not covered under a categorical exclusion, the contacted office will as soon as possible notify the Environmental Quality Staff of the proposed action. Each office will maintain information to advise potential applicants of studies or other data that may be required in connection with applications, and will take reasonable steps to publicize accessibility of such information. The office charged with the responsibility of initiating action upon the applicant or requesting party's request, will in consultation with the Environmental Quality Staff, when practicable, advise the applicant or requesting party of the information or studies (including the preparation of environmental documents, if necessary) that will be required in order for TVA to fulfill its responsibilities hereunder. The applicant or requesting party must provide to TVA sufficient information to allow an accurate determination of the environmental impacts of the proposed action. TVA may require that this information be submitted in the form of a written environmental report. If TVA is required to make investigations or otherwise incur additional expenses, the applicant may be charged for TVA's service. The Environmental Quality Staff, in consultation with the Office of General Counsel, will also determine the need to consult early with appropriate Federal, State, and local agencies (including State and regional A–95 clearinghouses); Indian tribes; and other interested persons regarding TVA's involvement in or approval of the applicant's proposed action and, where appropriate, should commence such consultation at the earliest practicable time.

5.7.3. *Outside Agency EIS Review.*—The Environmental Quality Staff, in consultation with other interested offices, will review EIS's within TVA's jurisdiction, special expertise, or authority submitted to TVA by other Federal agencies. The Environmental Quality Staff will prepare responses to such statements and will, after coordination with the Office of General Counsel, transmit such responses to the initiating agency (see CEQ Regs. §§ 1503.2 and 3).

5.7.4. *Supplemental Instruction.*—The Environmental Quality Staff, in consultation with interested offices and with the concurrence of the Office of General Counsel, may issue supplemental or explanatory instructions to these procedures.

5.7.5. *Modifications of These Procedures.*—The assignments to offices in these procedures can be modified by agreement of the offices involved or by instructions from the General Manager.

5.7.6. *Tiering.*—An initiating office may consider tiering the environmental review of a proposed action. Tiering involves coverage of general matters in broader environmental documents and subsequent narrower analyses need only incorporate by reference the broader analyses (see CEQ Regs. § 1508.28).

5.7.7. *Combining Documents.*—Any environmental document may be combined with any other document to reduce duplication and paperwork.

5.7.8 *Applicability to Ongoing Actions.*—These procedures shall not apply to those actions which have been approved under applicable procedures prior to the effective date of these procedures or for which an EA or a DEIS has already been prepared. No environmental documents need be redone by reason of the adoption of these revised procedures.

5.7.9 *Consolidation of Reviews.*—Review of proposed actions under these procedures may be consolidated with other reviews where such consolidation would reduce duplication or increase efficiency.

5.7.10 *Commencement of Action.*—Except in emergency circumstances, an action for which an EIS has been approved should not commence until 30 days after notice of availability for the final statement has been published in the **Federal Register** or 90 days after a notice of availability of the DEIS has been published in the **Federal Register**, whichever is later.

5.7.11 *Documents.*—The Environmental Quality Staff shall keep on file all final and approved environmental documents.

5.7.12 *Substantial Compliance.*—Minor deviations from these procedures will be permitted. But in all respects substantial compliance must be achieved. Flexibility is key to implementing these procedures and reviewing proposed actions.

5.7.13 *Reducing Paperwork and Delay.*—These procedures are to be interpreted and applied with the aim of reducing paperwork and the delay associated with both assessment and implementation of a proposed action. In this regard, data and analyses shall be commensurate with the importance of associated impacts. Less important material should be summarized, consolidated, or referenced.

5.7.14 *Office Responsible for NEPA Compliance Efforts.*—The Director of the Environmental Quality Staff is designated as that person responsible for overall review of TVA's NEPA compliance efforts.

5.7.15 *Status Reports.*—Information or status reports on EIS's and other related NEPA compliance activities and documents may be obtained by writing the Director, Environmental Quality Staff, Tennessee Valley Authority, Norris, Tennessee 37820.

5.7.16 *Public Participation.*—TVA's policy is to encourage public participation in all of its decisionmaking. The policy is implemented through various mechanisms. TVA has open meetings of the Board of Directors. These Board meetings are widely publicized and include a question and answer session between the public and the Board of Directors. TVA has established a Citizen Action Office whose responsibility it is to seek to maximize to the extent practicable the interchange of ideas between TVA and the public in the full range of TVA activities. In addition, TVA has set up a "Citizen Action Line" which allows members of the public to call in on toll-free lines to ask questions and make suggestions or comments to TVA. In line with TVA's broad policies, TVA intends to encourage and actively seek public participation in its NEPA review process. The type of and format for public participation will be selected as appropriate to best facilitate timely and meaningful public input into the review process.

W. F. Willis,

General Manager, Tennessee Valley Authority.

[FR Doc. 80-24011 Filed 8-14-80; 8:45 am]

BILLING CODE 8120-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 160
Friday, August 15, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1-4
Federal Energy Regulatory Commission	5, 6
Federal Home Loan Bank Board	7
Federal Maritime Commission	8
Federal Reserve System	9
Legal Services Corporation	10
Securities and Exchange Commission	11

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 9:00 p.m. on Friday, August 8, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider certain matters which it determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Cantwell F. Muckenfuss, III, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), required its consideration on less than seven days' notice to the public.

The Board met in closed session to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Mission State Bank & Trust Company, Mission, Kansas, which was closed by the Kansas State Bank Commissioner on August 8, 1980; (2) accept the bid for the transaction submitted by Mission State Bank, a newly-chartered State bank; (3) approve a resulting application of Mission State Bank for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in the closed bank, for consent to establish the sole office (facility) of The Mission State Bank & Trust Company as a branch of the resultant bank, and for consent to exercise full trust powers; (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (5) appoint a liquidator for such of the assets of the closed bank as were not purchased by Mission State Bank.

In considering the matters in a closed session, the Board determined, by the same majority vote, that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 11, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1538-80 Filed 8-13-80; 11:35 am]
BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 11, 1980, the Board of Directors of the Federal Deposit Insuance Corporation determined, on motion of Chairman Irvine H. Sprague, seconded by Mr. Lewis G. Odom, Jr., acting in the place and steed of Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), the Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

A request by First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania for a waiver of Section 6.5 of the Credit Agreement between First Pennsylvania Bank N.A. and the Federal Deposit Insurance Corporation.
Memorandum proposing the establishment of a checking account for the receipt and disbursement of funds involved in the operation of San Luis Rey Downs, Inc., a property acquired by the Corporation in connection with the receivership of United States National Bank, San Diego, California.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: August 11, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1539-80 Filed 8-13-80; 11:35 am]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(b)(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 11, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Bank of Manhattan, a proposed new bank, to be located at the northeast corner of the intersection of 33rd Street and Sepulveda Boulevard in the Manhattan Village Shopping Center, Manhattan Beach, California, for Federal deposit insurance.
Memorandum regarding the submission of periodic reports by First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.
Request by First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania and First Pennsylvania Corporation, Philadelphia, Pennsylvania, for waiver of certain reporting requirements.

The Board further determined, by that same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 11, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1540-80 Filed 8-13-80; 11:35 am]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:15 p.m. on Tuesday, August 12, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider the application of Bank of Manhattan, a proposed new bank, to be located at the northeast corner of the intersection of 33rd Street and Sepulveda Boulevard in the Manhattan Village Shopping Center, Manhattan Beach, California, for Federal deposit insurance.

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: August 12, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1545-80 Filed 8-13-80; 3:21 pm]
BILLING CODE 6714-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 53312-53313, August 11, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 13, 1980.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket Number, and Company
CAM-5—RM80-42, Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes.
M-10—RA80-48, Alfred M. Rousseau (Rousseau's Texaco).

Kenneth F. Plumb,
Secretary.
[S-1534-80 Filed 8-12-80; 4:17 pm]
BILLING CODE 6450-85-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 53312-53313, August 11, 1980).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING 10 a.m., August 13, 1980.

CHANGE IN THE MEETING: The following items have been added:

Item Number, Docket Number, and Company
CAP-16—E-8187, E-8700, ER79-216, Boston Edison Company.
CAP-19—Securities and Exchange Docket No. 70-6273, Blackhawk Coal Company.

Kenneth F. Plumb,
Secretary.
[S-1535-80 Filed 8-12-80; 4:19 pm]
BILLING CODE 6450-85-M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 53632, August 12, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING 10 a.m., August 15, 1980.

PLACE: 1700 G street NW., board room sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Application for Permission to Convert from a Federal Mutual to Federal Stock Form—Oakland Federal Savings & Loan Association, Oakland, California.
Application for Permission to Convert from a State Mutual to State Stock Form—Denison Savings & Loan Association of Denison, Denison, Texas.
Application for Permission to Convert from a North Carolina Chartered Mutual to the Stock Form—United Savings & Loan Association of Mount Airy, Mount Airy, North Carolina.
Application for Permission to Convert from a Federal Mutual to Federal Stock Form—Freedom Federal Savings & Loan Association of High Point, High Point, North Carolina.
Application for Bank Membership—Ware Savings Bank, Ware, Massachusetts.
Regulation on Service Corporation Investment Authority.
Regulation on Mutual Savings Banks.
Regulation on Amendments Relating to Change in Control.
Regulation on Mutual Capital Certificates.

Announcement is being made at the earliest practicable time.

No. 374, August 13, 1980.
[S-1541-80 Filed 8-13-80; 2:53 pm]
BILLING CODE 6720-01-M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., August 20, 1980.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement Nos. 9718-7, 9731-8, 9835-5, 9975-7, 10116-4, 10274-1 Japanese Space Chartering and Pooling Agreements.
2. Docket No. 80-5—Dynamic International Freight Forwarders, Inc., Independent Ocean Freight Forwarder License Application and Possible Violation of Section 44, Shipping Act, 1916—Consideration of the Record.
3. Informal Docket No. 699(I)—Gladish & Associates v. Sea-Land Service, Inc.—Review of Settlement Officer's decision.
4. Special Docket No. 724—Application of Sea-Land for benefit of Star-Kist Foods, Inc.—Consideration of the Record.

Portion closed to the public:

1. Docket No. 80-45—Agreement Nos. 10386, as Amended, 10388, 10382, as Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Petition for Stay of June 30, 1980 Order.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523-5725.
[S-1533-80 Filed 8-12-80; 4:16 pm]
BILLING CODE 6730-01-M

9

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 20, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary agenda: Because of its routine nature, no substantive discussion of the following

item is anticipated. This matter will be

Issued: August 12, 1980.

provisions of Section 16(b) of the Act certain acquisitions and dispositions of stock by a

information, please contact Dianne E.

item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed Interpretations of Regulation B (Equal Credit Opportunity) relating to credit scoring. (Proposed earlier for public comment; docket No. R–0203)

Discussion Agenda:

1. Alternatives relating to Federal Reserve fleet pursuant to implementation of the Monetary Control Act.
2. Proposed delay of the mandatory effective date of amendments to Regulation Z (Truth in Lending) concerning computation of annual percentage rates.
3. Proposed policy concerning bank holding company participation in financial futures, forward and standby contracts.
4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 12, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–1538–80 Filed 8–12–80; 4:42 pm]

BILLING CODE 6210–01–M

10

LEGAL SERVICES CORPORATION.

(Committee on Appropriations and Audit)

TIME AND DATE: 9 a.m.–5 p.m., Thursday, August 21, 1980.

PLACE: Bolton Valley Resort, King George Room, third floor, Bolton, Vermont.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of the June 9, 1980 Meeting.
3. Discussion of Budget Modifications Procedures.
4. Third Quarter Budget Review for Fiscal Year 1980.
5. Status of the Fiscal Year 1981 Budget.
6. Fiscal Year 1982 Budget Request.
7. Status of Unexpended Investment Income.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, telephone (202) 272–4040.

Issued: August 12, 1980.

Dan J. Bradley,

President.

[S–1537–80 Filed 8–12–80; 4:45 pm]

BILLING CODE 6820–35–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 18, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, August 19, 1980, at 10:00 a.m. An open meeting has been scheduled for Thursday, August 21, 1980, at 10:00 a.m. (See 45 FR 53492, August 13, 1980, for previously noticed items on the open meeting agenda.)

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioner Evans, as Duty Officer, determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 19, 1980, at 10:00 a.m., will be:

Subpoena enforcement action.
Settlement of injunctive actions.
Formal order of investigation.
Access to investigative files by Federal, State, or Self-Regulatory authorities and litigation matter.
Freedom of Information Act appeals.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Regulatory matters regarding financial institutions.
Freedom of Information Act appeal and confidential treatment request.
Litigation matter.

The additional matters on the open meeting scheduled for Thursday, August 21, 10:00 a.m., will be:

1. Consideration of whether to issue a release announcing the adoption of amendments to Rule 16b–3 under the Securities Exchange Act of 1934 that would exempt from the short-swing profit recovery provisions of Section 16(b) of the Act certain acquisitions and dispositions of stock by a director or officer upon the exercise of an employee stock option. For further information, please contact Michael R. Kargula at (202) 272–2573.
2. Consideration of whether to issue the following four releases as part of the integrated disclosure program: (a) a release announcing the adoption of amendments to Form 10–K, Rule 14a–3, Rule 14c–3, and Regulation S–K to revise and restructure the annual report; (b) a release announcing the adoption of Form S–15 for registration under the Securities Act of 1933 of securities issued in certain business combination transactions; (c) a release requesting comments on three proposed new forms to be used to register offerings of securites under the Securities Act; and (d) a release requesting comments on proposed amendments to Form 10–Q. For further information, please contact John J. Huber at (202) 272–2589.
3. Consideration of whether to adopt a general revision of Articles 3 and 5 of Regulation S–X, and related amendments to Article 12 of Regulation S–X, Rules 14a–3 and 14c–3 of the proxy rules, and the creation of a new Item 12 of Regulation S–K. For further information, please contact Arthur J. Schmeiser at (202) 272–2133.
4. Consideration of whether to adopt amendments to existing rules which establish uniform instructions governing the periods to be covered by financial statements included in (1) most registration and reporting forms filed with the Commission under the Securities Act of 1933 and the Securities Exchange Act of 1934, and (2) annual reports to security holders furnished pursuant to the proxy rules; the amendments also permit companies filing registration statements under the Securities Act of 1933 to present interim financial information in the same degree of detail as is presently required in a Form 10–Q under the Securities Exchange Act of 1934. For further information, please contact Lawrence C. Best at (202) 272–2130.
5. Consideration of whether to affirm action, taken by the Duty Officer, granting access to non-public Commission documents to Barbara S. Thomas, Esquire, in connection with her nomination for the position of Commissioner, For further information, please contact Myrna Siegel at (202) 272–2430.
6. Consideration of whether to affirm action, taken by the Duty Officer, granting waivers from certain of the provisions of the Commission's Conduct Regulation in connection with the temporary employment of Edward V. O'Gara, Jr. For further information, please contact Myrna Siegel at (202) 272–2430.
7. Consideration of whether to adopt Rule 465 under the Securities Act of 1933, and related amendments to the registration statement forms for certain investment companies and to the Commission's Rules of Organization and Program Management, to permit most post-effective amendments filed by open-end management investment companies and unit investment trusts to become effective automatically without affirmative action on the part of the Commission or it staff. For further information, please contact Dianne E. O'Donnell at (202) 272–2115 or Kathleen A. Jackson at (202) 272–2118.
8. Consideration of whether to grant the application of Leasco Corportion ("Leasco") for an order, pursuant to Sections 6(c) and 6(e) of the Investment Company Act of 1940 (the "Act"), subject to certain conditions and exceptions, exempting Leasco from all provisions of the Act. For further information, please contact Christopher Townsend at (202) 272–3035.
9. Consideration of whether to amend the Commission's rules relating to general organization to delegate to the Director of the Division of Investment Management the authority to process registration statements pertaining to constracts funded by or through the general assets or separate accounts of insurance companies. For further information, please contact William L. Strickland at (202) 272–2057.
10. Consideration of whether to issue a release setting forth interpretations of Rules 17Ad–1 through 17Ad–7, the turnaround rules, applicable to all registered transfer agents. for further information, please contact Lisa Gessow Michelson at (202) 272–2895 or Thomas V. Sjoblom at (202) 272–2910.
11. Consideration of a rulemaking petition filed by the Columbia Transfer Company, pursuant to Rule 4(a) of the Commission's Rules of Practice, seeking to have the Commission adopt a rule requiring all registered transfer agents and trust companies to place a restrictive legend on certificates of securities issued in unregistered offerings. For further information, please contact Lisa Gessow Michelson at (202) 272–2895 or Philip L. Sbarbaro at (202) 272–2911.
12. Consideration of whether to adopt a proposed amendment to Securities Exchange Act Rule 19d–1 to exempt national securities exchanges from having to provide the Commission with notice of uncontested summary disciplinary actions involving infractions of floor decorum regulations. For further information, please contact Susan M. Wilk at (202) 272–2824.

The following additional item will be considered at the closed meeting on Thursday, August 21, 180, following the 10:00 a.m. open meeting:

Freedom of Information Act appeal and confidential treatment request.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For furhter information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marsha McHarg at (202) 272–2468.

August 13, 1980.

[S–1542–80 Filed 8–13–80; 2:54 pm]

BILLING CODE 8010–01–M

V
4
5

A
G

1
5

8
0
UMI

federal register

Friday
August 15, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Illinois: IL80–2072

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA79–5124	June 29, 1979.
CA79–5125	June 29, 1979.
Florida:	
FL79–1110	July 20, 1979.
FL80–1075	June 20, 1980.
Georgia:	
GA79–1148	Nov. 16, 1979.
GA79–1149	Nov. 23, 1979.
GA80–1066	Apr. 25, 1980.
Iowa:	
IA80–4046	Aug. 8, 1980.
New Hampshire:	
NH80–2057	Aug. 1, 1980.
New York:	
NY80–3035	Apr. 25, 1980.
NY80–3036	Apr. 25, 1980.
Ohio:	
OH80–2024	July 11,1980.
OH80–2028	Aug. 1, 1980.
OH80–2044	July 7, 1980.
OH80–2048	July 11, 1980.
OH80–2052	July 7, 1980.
Pennsylvania:	
PA79–3000	Jan. 25, 1979.
PA79–3012	May 18, 1979.
PA80–3029	Apr. 25, 1980.
PA80–3038	May 23, 1980.
Rhode Island:	
RI80–2054	July 18, 1980.
Tennessee:	
TN79–1104	June 29, 1979.
TN79–1146	Nov. 16, 1979.
TN80–1063	Mar. 21, 1980.
TN80–1067	Apr. 25, 1980.
TN80–1078	June 13, 1980.
Wisconsin:	
WI80–2043	June 27, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Connecticut:	
CT79–2010 (CT80–2073).	Apr. 6, 1979.
CT79–2011 (CT80–2074).	Apr. 6, 1979.
Illinois: IL79–2068 (IL80–2061).	Aug. 24, 1979.
Kansas: KS79–4090 (KS80–4069).	Oct. 5, 1979.
Kentucky: KY79–1145 (KY80–1089).	Nov. 16, 1979.
Maine: ME79–2042 (ME80–2069).	May 4, 1979.
Michigan:	
MI79–2012 (MI80–2062).	May 4, 1979.
MI79–2013 (MI80–2063).	May 4, 1979.
MI79–2014 (MI80–2064).	May 4, 1979.
MI79–2015 (MI80–2065).	May 4, 1979.
MI79–2017 (MI79–2067).	May 4, 1979.
New Hampshire: NH78–2100 (NH80–2058).	Oct. 6, 1978.
Virginia: VA 78–3100 (VA80–3052).	Dec. 8, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 18th day of August 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

UMI 0 8 5 1 G A 5 4 V

NEW DECISION

STATE: Illinois COUNTY: Macon
DECISION NO.: IL80-2072 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (including residential construction projects)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.26	.90	1.04		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS & STONEMASONS; BLOCKLAYERS, POINTERS, CAULKERS, AND CLEANERS	13.60	.65	1.00		
CARPENTERS:					
Residential:					
All housing units not to exceed three (3) levels (including level below ground)	9.735	.65	.75		.08
Building:					
Carpenters	13.905	.65	.75		.08
CEMENT MASONS	13.95	.65	.575		
ELECTRICIANS:					
Residential:					
Work includes single family dwellings, duplexes, row houses, town houses, garden houses, and walk-up apartment buildings not to exceed 12 units	9.52	.55	3%+.50		.35%
Building	14.65	.55	3%+.50		.35%
GLAZIERS	11.34	.45	.50		
IRONWORKERS:					
East of Decatur	13.15	.75	1.25		.08
Remainder of County	13.70	.55	1.05		.08
LABORERS:					
Residential	8.45	.65	.75		.05
Building:					
Unskilled	12.05	.65	.90		.05
Semi-skilled	12.25	.65	.90		.05
Skilled	12.40	.65	.90		.05
PAINTERS:					
Brush and Roller	12.55	.80	.50		
Spray over quart cup	13.30	.80	.50		
PLASTERERS	14.17	.65	.575		
PLUMBERS & STEAMFITTERS:					
Residential:					
Work includes all housing not to exceed 12 units and not to exceed three (3) levels	11.34	.50	1.27		.15

DECISION NO. IL80-2072 (cont'd) Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building	$16.20	.50	1.27		.15
ROOFERS	13.68	.70	.60		.02
SHEET METAL WORKERS:					
Residential	9.58	.75	.83+a		.08
Building	14.33	.75	.83+a		.08
TILE SETTERS, MARBLE MASONS, TERRAZZO WORKERS	13.60	.65	1.00		.10
TRUCK DRIVERS:					
CLASS I	12.275	.85	41.00b		
CLASS II	12.675	.85	41.00b		
CLASS III	12.875	.85	41.00b		
WELDER - rate for craft					

FOOTNOTES:
a. 3% of gross earnings to SASMI
b. per week per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

MODIFICATIONS P. 1

DECISION NO. CA79-5124 - Mod. #2
(44 FR 38123 - June 29, 1979)
San Diego County, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Brush, Paint Burner	$ 14.26	1.23	1.43	.75	.07
Brush (Swing Stage), Spray	14.51	1.23	1.43	.75	.07
Paperhanger, Spray (Swing Stage)	14.76	1.23	1.43	.75	.07
Sandblaster; Sandblaster (Swing Stage); Iron, Steel and bridge painter (Swing Stage); Iron, Steel and bridge painter Spray (Swing Stage)	15.26	1.23	1.43	.75	.07
Iron, Steel and bridge painter (groundwork); Iron, steel and bridge painters, Spray (groundwork); Riggers, climbing steel; Brush, climbing steel and bridge; Spray, climbing steel and bridge	15.01	1.23	1.43	.75	.07
Steeplejack	15.91	1.23	1.43	.75	.07

DECISION NO. CA79-5125 - Mod. #1
(44 FR 38127 - June 29, 1979)
San Diego County, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$12.53	.71	$1.55	.80	.07
Piledrivermen	12.69	.71	1.55	.80	.07
Millwrights; Pnematic Nailer; Hardwood Floorlayers	12.81	.71	1.55	.80	.07
Drywall Installers	13.45	.71	1.55	.80	.07
Painters:					
Brush	14.26	1.38	1.43	.75	.07
Spray; Swing Stage, brush	14.51	1.38	1.43	.75	.07
Paperhangers; Spray, swing stage	14.76	1.38	1.43	.75	.07

MODIFICATIONS P. 2

DECISION NO. FL79-1110 - MOD. #6
(44 FR 42858 - July 20, 1979)
Dade County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$13.09	.55+.10	.65		.06
BOILERMAKERS	12.75	1.275	1.10		.04
IRONWORKERS	12.05	.98	1.00		.10
LABORERS (Permit value $500,000 and over):					
Air Tool Operators; Mason Tenders; Mortar Mixers; and Pipelayers	7.90	1.02	.50		
Plasterers' Tenders	8.08	1.02	.50		
Unskilled	7.80	1.02	.50		
LABORERS (Permit value up to $500,000):					
Air Tool Operators; Mason Tenders; Mortar Mixers; and Pipelayers	6.15	1.02	.50		
Plasterers' Tenders	6.33	1.02	.50		
Unskilled	6.05	1.02	.50		
MILLWRIGHTS	11.72	.65	.70		.10
PAINTERS:					
Brush	10.15	.55	.60		.07
Tapers; Paperhangers	10.05	.55	.60		.07
Spray; Sandblasters	10.65	.55	.60		.07
PILEDRIVERS	11.00	.65	.70		.10

DECISION NO. FL80-1075 Mod. #2
(45FR 41831 - June 20, 1980)
Duval county, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	11.75	1.275	1.10		.04
SHEET METAL WORKERS	11.50	3% + .91	.96		.12

MODIFICATIONS P. 3

DECISION #GA79-1148 - Mod. #5 (44 FR 66135 - November 16, 1979) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters & Soft floor layers	$10.50	.55			.05
Cement masons	8.75				
Millwrights	11.10	.55			.05
Piledrivermen	10.75	.55			.05
Plasterers	8.75				
DECISION #GA79-1149 - Mod. #4 (44 FR 67307 - November 23, 1979) Richmond County, Georgia					
CHANGE:					
Sheet metal workers	$10.65				.04
DECISION #GA80-1066 - Mod. #3 (45 FR 28062 - April 25, 1980) Clayton, DeKalb, & Fulton Counties, Georgia					
CHANGE:					
Asbestos workers	$12.30	.65	.90		.10
ADD:					
Elevator Constructor's Helpers	7.02	.895	.69	a + b	.03

MODIFICATIONS P. 4

DECISION NO. IA80-4046 - MOD. #1 (45 FR - August 8, 1980) Building Johnson County, Iowa	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$12.50	.55	.55		.08
Piledrivermen	13.00	.55	.55		.08

MODIFICATIONS P. 5

Decision #NH80-2057 Modification #1 (45 FR 51411-Aug. 1, 1980) Rockingham and Strafford Counties, New Hampshire	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Truck Drivers					
Class 1	6.41	.80	.50	a	
Class 2	6.64	.80	.50	a	
Class 3	6.87	.80	.50	a	

Class 1-Two axle equipment
Class 2-Three axle equipment including low beds
Class 3-Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote: a Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calender week in which the holiday falls; reports for work the last day assigned prior to the holiday and the the first assigned following the holiday).

MODIFICATIONS P. 6

DECISION NO. NY80-3035 - Mod. 1
(45 FR 28040 - April 25, 1980)
Broome & Chenango Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	13.83	.90	.93		.06
Boilermakers	13.50	1.175	10%		.03
Carpenters:					
Broome County and Chenango County (Twps. of Afton and the Southwest portion of Greene starting at a line at the Northwest corner of Greene Twp. and in a straight line going Southeast to the Northern boundaries of the Village of Greene and extending in a straight line to the Western boundary line of Coventry Twp., then south to the Broome County line					
Carpenters and Soft Floor Layers (Building)	10.86	.55	.70		.07
Millwrights and Piledrivermen (Building)	11.11	.55	.70		.07
Chenango County (Remainder of County)					
Carpenters, Dockbuilders, Millwrights, and Piledrivermen	11.20	.80	1.15	.55	.05
Electricians:					
Chenango County (New Berlin and Sherburne)					
Electricians	13.05	.80	3%+.60		.07
Cable Splicers	14.25	.80	3%+.60		.07
Broome County and Chenango County (Remainder of County)					
Electricians	12.51	.89	3%+.52	1.00	.05
Cable Splicers	14.26	.89	3%+.52	1.00	.05
Glaziers	9.97	.45	.65		.03
Ironworkers:					
Chenango County (Twps. of Smyrna, Sherburne, New Berlin, Columbus, Plymouth, North and Norwich)					
Structural, Ornamental, Reinforcing, Rodmen, Riggers, Machinery Movers, and Stone Derrickmen	12.17	1.11	1.02		.04
Sheeter	12.42	1.11	1.02		.04
Sheeter, Bucker-up	12.295	1.11	1.02		.04

UMI 0 8 5 1 G A 5 4 V

MODIFICATIONS P. 7

DECISION NO. NY80-3035 - Mod. 1 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Building					
Broome County and Chenango County (Remainder of County)					
All Classes of Common Laborers & Wreckers, Mason Tenders, Scaffold Builders, Bootmen Working in Concrete, Hod Carriers, Mortor Mixer (Hand or Machine), Asphalt Levelers, Vibrator Operator, Sewer Pipe Layer, Tunnel Laborer, Rockmen & Driller, Powderman, Pneumatic Tool Operators with 3/4" Bits and Over	9.68	.80	.80		
Painters:					
Broome County, Chenango County (Remainder of County)					
Brush	8.95	.45	.50		
Spray Epoxy	10.20	.45	.50		
Bridges	10.42	.45	.50		
Structural Steel, Spray, Steeple Jack	9.95	.45	.50		
Epoxy	9.20	.45	.50		
Swing Chair, Swing Scaffold, Roll over 10" and Sandblasting	9.45	.45	.50		
Sheet Metal Workers					
Broome County	12.42	3%+.60	.80		.11
Sprinkler Fitters	14.52	.85	1.20		.08

MODIFICAITONS P. 8

DECISION NO. NY80-3036 - Mod #2
(45 FR 28064 - April 25, 1980)
Onondaga County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers:					
Structural, Ornamental, Machinery Mover & Rigger, Fence Erector, Reinforcing	12.38	.77	1.70		.10
Sheeter	12.63	.77	1.70		.10
Sheeter, Bucker-up	12.50	.77	1.70		.10
Marble, Tile & Terrazzo Workers	11.06	.75	1.06		
Marble, Tile & Terrazzo Finishers	9.80	.75	1.06		
Painters:					
Boatswain Chair	11.92	.80	.88		.05
Bridge	12.37	.80	.88		.05
Swing	11.82	.80	.88		.05
Brush, Roller, & Wallcovering	11.17	.80	.88		.05
Structural Steel	11.77	.80	.88		.05
Sandblasting	12.02	.80	.88		.05
Spray, Epoxy	11.67	.80	.88		.05
Taping	11.42	.80	.88		.05

MODIFICATIONS P. 9

DECISION NO. OH80-2024 - Mod. #1
(45 FR 47047 - July 11, 1980)
Mahoning & Trumbull Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$14.68	1.20	1.40		.03

DECISION NO. OH80-2028 - Mod. #1
45 FR 51416 - August 1, 1980)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

CHANGE:					
Electricians:					
Lake Co.:					
Commercial Construction	15.13	.95	3%+.70		.2%
Ashtabula Co. (Rem. of Co.):					
Residential Construction	8.10	1.00	3%		.002%
Line Construction:					
Lake Co.:					
Cable Splicers; Equipment Operators; & Linemen	15.13	.95	3%+.70		½%
Groundmen	9.83	.95	3%+.70		½%

DECISION NO. OH80-2044 - Mod. #1
(45 FR 45806 - July 7, 1980)
Adams, Allen, Ashland, Auglaize, Brown, Butler, Carroll, Champaign, Clark, Clermont, Clinton, Columbiana, Coshocton, Crawford, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Gallia, Geauga, Greene, Hamilton, Hancock, Hardin, Henry, Highland, Holmes, Huron, Knox, Lawrence, Licking, Logan, Madison, Marion, Medina, Meigs, Mercer, Miami, Montgomery, Morrow, Muskingum, Ottawa, Paulding, Perry, Pickaway Pike, Preble, Putnam, Richland, Ross, Sandusky, Scioto, Seneca, Shelby, Tuscarawas, Union, Van Wert, Warren, Wayne, Williams, Wood, & Wyandot Counties, Ohio

MODIFICAITONS P. 10

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers:					
Crawford, Delaware, Fairfield, Fayette, Franklin, Hardin, Knox, Licking, Madison, Marion Morrow, Muskingum, Perry, Pickaway, Ross, & Union Cos.	$15.67	.85	.90		.02
Boilermakers:					
Allen, Ashland, Auglaize, Crawford, Darke, Defiance, Delaware, Erie, Fulton, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Shelby Union, Van Wert, Williams, Wood, & Wyandot Cos.	14.30	1.175	1.50		.28
Carroll, Coshocton, Geauga, Holmes, Medina, Tuscarawas, & Wayne, Cos.	14.68	1.20	1.40		.03
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:					
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon), & Wayne (Twps. of Milton & Chippewa) Cos.	14.42	1.02	.80		.02
Carpenters:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.	12.42	.75	1.25		.05
Brown, Butler, Clermont, Clinton, Hamilton, & Warren Cos.	14.30	.90	1.10		.075
Cement Masons:					
Medina (except Twps. of Litchfield, Chatham, Homer, Harrisville & Spencer) Co.	13.69	.70	1.00		.02
Electricians:					
Adams, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Scimto), & Scioto Cos.	14.00	.50	3%+.60	1.00	.04
Geauga (Rem. of Co.) Co.	15.13	.95	3%+.70		.2%
Medina (Rem. of Co.), & Wayne (N½) Cos.	14.77	.74	3%+.74		.2%
Meigs Co.	13.50	.50	3%+1.00	1.50	.04

MODIFICATIONS P. 11

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator Constructors:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, & Warren Cos.	14.32	1.195	.82	e&f	.035
Ashland, Champaign, Clark, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Hardin, Holmes, Knox, Licking, Logan, Madison, Marion, Morrow, Muskingum, Perry, Pickaway, Richland, Ross, Shelby, Tuscarawas, & Union Cos.	14.40	1.195	.82	e&f	.035
Fulton, Hancock, Henry, Ottawa, Sandusky, Seneca, Wood, & Wyandot Cos.	$15.23	1.195	.96	e&f	.035
Ironworkers:					
Adams (W½), Brown, Butler (S½), Clermont, Clinton (S. of a line drawn from Blanchester to Lynchburg), Hamilton, Highland (exclu. E. 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), & Warren (S½) Cos.:					
Reinforcing	14.33	1.00	1.60		.02
Crawford (Area between lines drawn from where hwy 598 & 30 meet thru N. Liberty to the N. border & from said Hwy junction point due W. to the border), Defiance (S. of a line drawn from where Rt. 66 meets the N. Line thru Independence to the E. Co. border), Erie (W. 1/3), Fulton, Hancock, Hardin (N. of a line drawn from Maysville to a point 4 miles S. of the N. line on the E. line), Henry, Huron (W. of a line drawn from the N. Border thru Monroeville & Willard), Ottawa, Putnam (E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), Sandusky, Seneca, Williams (E. of a line drawn from Pioneer thru Stryker to the S. border), Wood & Wyandot (Area N. of Rte. #30) Cos.	15.26	1.06	1.68		.09

MODIFICATIONS P. 12

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Delaware, Fairfield, Franklin, Madison, Pickaway, & Union Cos.	$11.30				
Painters:					
Adams, Highland, Pike, & Scioto Cos.:					
Brush; Exterior Bldgs. under 40 ft.; Paper or Wall Covering; Taping & Washing	12.95		.80		.03
Floor Sanding; Power Tools; Rollers; & Swing Stage	13.45		.80		.03
Burning; Sandblasting; Spray; & Steamcleaning	13.95		.80		.03
Piledrivermen:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.	12.74	.75	1.25		.05
Brown, Butler, Clermont, Clinton, Hamilton, & Warren Cos.	14.30	.90	1.10		.075
Pipefitters; Plumbers; & Steamfitters:					
Allen, Auglaize, Hardin, Mercer Shelby, & Van Wert Cos.	14.75	.60	.90		.05
Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte. #38 not inclu. city of London) Marion, Perry, Pickaway, Ross, & Union Cos.	15.42	1.07	.95		.07
Roofers:					
Adams, Gallia, Lawrence, Meigs, Muskingum, Pike & Scioto Cos.	13.50		.65		
Laborers:					
Columbiana Co.:					
Carpenter Tenders; General Laborers	10.75	.70	.90		.10

MODIFICATIONS P. 13

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brick Handlers; Men Mixing Cement for Cement Finishers; Mortar Mixer Machine Op.; Mortarmen for Masons & Plasterers; Scaffold Builders; Tenders for Brick Masons, Plasterers, Stone Masons, & Tile Setters	$10.92	.70	.90		.10
Acetylene Burners; Air Blow Pipe; Air Pump; Air Spades; Air Tampers; All Power Driven Tools; Chipping Hammers; Concrete Saw; Jackhammers; Laborers Operating Concrete Busters; Panel Cleaning Machine Operators; Pipelayer & Tenders Working in Ditches or Tunnels & Hand Spikers on Railroads, & Laborer Handling Concrete for Test or Working with Tar, Acid, & Creosote; Power Buggy; Power Saw; Sandblaster; Scuba Divers; Vibrators; & Welders	10.95	.70	.90		.10
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building & Construction Laborers; Carpenter Tenders; Concrete Handler; Finisher Tenders; Guard Rail Erectors; Tool Cribmen; & Utility Construction Laborers	11.91	.70	.90		.10
Air & Power Driven Tools; Bottom Men; Burner on Demolition Work; Caisson Workers; Cofferdam Workers; Creosote Workers; Form Setters; Hod Carrier; Laser Beam Set Up Men; Mason Tenders; Mortar Mixers; Mucker; Pipelayers; Plasterers' Tenders; Powder Men & Dynamite Blasters; Scaffold; Swinging Scaffold; & Tunnel Laborers	12.11	.70	.90		.10

MODIFICATIONS P. 14

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gunnite Operator	$12.51	.70	.90		.10
Line Construction:					
Geauga (excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.) Co.:					
Cable Splicers; Equipment Ops. & Linemen	15.13	.95	3%+.70		½%
Truck Drivers (Winch) Groundman; Groundman	9.83	.95	3%+.70		½%
Medina (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), & Wayne (Northern ½ of Co.) Cos.:					
Linemen	14.77	.74	3%+.74		½%
Cable Splicers	15.82	.74	3%+.74		½%
Equipment Operators	11.08	.74	3%+.74		½%
Truck Drivers; Groundman	7.39	.74	3%+.74		½%
ADD:					
Truck Drivers:					
Allen, Auglaize, Defiance, Hancock (S. ½), Hardin, Logan, Mercer, Paulding, Putnam, Shelby, Union, & Van Wert Cos.:					
Low Boys	9.60	31.00a	11.00a		
Tenders	8.60	31.00a	11.00a		

MODIFICATIONS P. 15

DECISION NO. OH80-2048 - Mod. #1 (45 FR 47045 - July 11, 1980) Lucas County, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$14.30	1.175	1.50		.28
Elevator Constructors:					
Elevator Constructors	15.23	1.195	.95	a + b	.035
Helpers	70%JR	1.195	.95	a + b	.035
Ironworkers	15.26	1.06	1.68		.09
DECISION NO. OH80-2052 - Mod. #1 (45 FR 45834 - July 7, 1980) Statewide, Ohio					
CHANGE:					
Bricklayers & Stonemasons:					
Athens County	13.00	.80	1.00		.05
Medina (Rem. of Co.), Portage, Summit & Wayne (Twps. of Milton & Chippewa) Cos.:					
Bricklayers	14.42	1.02	.80		.02
Carpenters & Piledrivermen:					
Adams, Fayette, Gallia, Highland, Jackson, Lawrence, Meigs, Pike, Ross, & Scioto Cos.:					
Carpenters	12.68	.75	1.25		.05
Piledrivermen	12.97	.75	1.25		.05
Allen, Auglaize, Champaign, Clark, Coshocton, Delaware, Fairfield, Franklin, Guernsey, Hardin, Holmes, Knox, Licking, Logan, Madison, Marion, Mercer, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Putnam, Union, Van Wert, & Wyandot Cos.:					
Carpenters	12.72	.85	1.00		.04
Piledrivermen	13.37	.85	1.00		.04
Athens, Hocking, Vinton & Washington Counties:					
Carpenters	12.72	.85	1.00		.04
Piledrivermen	13.37	.85	1.00		.04

MODIFICATIONS P.16

DECISION NO. OH80-2052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters	$14.30	.90	1.10		.075
Piledrivermen	14.30	.90	1.10		.075
Darke, Greene, Miami, Montgomery, Preble & Shelby Cos.:					
Carpenters	12.65	1.00	1.40		.07
Piledrivermen	12.65	1.00	1.40		.07
Cement Masons:					
Ashtabula, Brown, Butler, Clermont, Columbiana, Defiance, Erie, Hamilton, Highland, Huron, Mahoning, Medina, Ottawa, Paulding, Portage, Sandusky, Seneca, Stark, Summit, Trumbull, Warren & Williams Cos.	13.18	.70	.70		.02
Cuyahoga, Fulton, Geauga, Hancock, Henry, Lake, Lorain, Lucas, Putnam, & Wood Cos.	13.83	.70	.70		.02
Remaining Counties	12.63	.70	.70		.02
Electricians:					
Adams, Jackson (All but Coal, Jackson, Liberty, Milton & Washington Twps.), Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union) & Scioto Cos.	14.00	.50	3%+.60	1.00	.04
Ashtabula Co. (All but Colebrook, Orwell, Wayne, Williamsfield & Windsor Twps.)	14.70	1.00	3%+1.00		.5%
Athens, Meigs, Monroe, Morgan, Noble, Vinton (East of Clinton, Elk & Swan Twps.) & Washington Cos.	13.50	.50	3%+1.00	1.50	.04
Geauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.), & Lake Cos.	15.13	.95	3%+.70		.2%

MODIFICATIONS P. 17

DECISION NO. OH80-2052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Medina (Rem. of Co.), Portage (exclu. Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, & Windham), Summit, & Wayne (Rem. of Co.) Cos.	$14.77	.74	3%+.74		.2%
Ironworkers:					
Adams (W½), Brown, Butler (S½), Clermont, Clinton (S. of a line drawn from Blanchester to Lynchburg), Hamilton, Highland (exclu. E 1/5 & portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall) & Warren (S½) Cos.:					
Reinforcing	14.33	1.00	1.60		.02
Crawford (Area between lines drawn from where hwy 598 & 30 meet thru N. Liberty to the N. border & from said hwy junction point due W. to the border), Defiance (S. of a line drawn from where Rte. 66 meets the N. line thru Independence to the E. Co. border), Erie (W 1/3), Fulton, Hancock, Hardin (N. of a line drawn from Maysville to a point 4 miles S. of the N. line on the E. line), Henry, Huron (W. of a line drawn from the N. border thru Monroeville & Willard), Lucas, Ottawa, Putnam (E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), Sandusky, Seneca, Williams (E. of a line drawn from Pioneer thru Stryker to the S. border), Wood, & Wyandot (Area N. of Rte. #30) Cos.	15.26	1.06	1.68		.09

MODIFICATIONS P. 18

DECISION NO. OH80-2052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Adams, Highland, Jackson, Pike & Scioto Cos.:					
Brush	$13.95		.80		.03
Spray	14.95		.80		.03
Plumbers & Steamfitters:					
Allen, Auglaize, Hardin, Mercer, Shelby & Van Wert Cos.	14.75	.60	.90		.05
Delaware, Fairfield, Franklin, Hocking, Licking, Madison (Rem. of Co.), Marion, Perry, Pickaway, Ross & Union Cos.	15.42	1.07	.95		.07
Laborers:					
Zone 1:					
Group I	12.38	.70	.90		.10
Group II	12.505	.70	.90		.10
Group III	12.58	.70	.90		.10
Group IV	12.73	.70	.90		.10
Group V	13.03	.70	.90		.10
Zone 2:					
Group I	11.20	.70	.90		.10
Group II	11.325	.70	.90		.10
Group III	11.40	.70	.90		.10
Group IV	11.55	.70	.90		.10
Group V	11.85	.70	.90		.10
Zone 3:					
Group I	10.77	.70	.90		.10
Group II	10.895	.70	.90		.10
Group III	10.97	.70	.90		.10
Group IV	11.12	.70	.90		.10
Group V	11.42	.70	.90		.10
Power Equipment Operators:					
Zone 2:					
Class A	14.68	1.11	1.25		.15
Class B	14.58	1.11	1.25		.15
Class C	13.54	1.11	1.25		.15
Class D	13.07	1.11	1.25		.15
Class E	10.38	1.11	1.25		.15
Zone 3:					
Class A	13.94	1.11	1.25		.15
Class B	13.82	1.11	1.25		.15
Class C	12.78	1.11	1.25		.15
Class D	12.35	1.11	1.25		.15
Class E	9.49	1.11	1.25		.15

UMI 0 8 5 1 G A 5 4 V

MODIFICATIONS P. 19

DECISION NO. OH80-2052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Zone I:					
Class I	$10.75	34.00a	30.00a	b&c	
Class II	10.90	34.00a	30.00a	b&c	
Class III	11.25	34.00a	30.00a	b&c	
Class IV	11.25	34.00a	30.00a	b&c	
Zone II:					
Class I	11.22	28.00a	21.00a		.05
Class II	11.27	28.00a	21.00a		.05
Class III	11.32	28.00a	21.00a		.05
Class IV	11.42	28.00a	21.00a		.05
Class V	11.69	28.00a	21.00a		.05
Class VI	11.52	28.00a	21.00a		.05
Line Construction:					
Geauga (Excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.), & Lake Cos.:					
Cable Splicers; Equipment Ops. & Linemen	15.13	.95	3%+.70		4%
Truck Drivers (Winch) Groundman; Groundman	9.83	.95	3%+.70		4%
Medina (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), Portage (Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro & Suffield Twps.), Summit, & Wayne (Northern ½ of Co.) Cos.:					
Lineman	14.77	.74	3%+.74		4%
Cable Splicers	15.82	.74	3%+.74		4%
Equipment Operators	11.08	.74	3%+.74		4%
Truck Drivers; Groundman	7.39	.74	3%+.74		4%

MODIFICATIONS P. 20

DECISION NO. PA79-3000 - MOD. #9 (44 FR 5625 - January 25, 1979)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin & Potter Counties, Pennsylvania					
CHANGE:					
Ironworkers:					
Structural, Ornamental & Reinforcing					
Zone 2	$12.905	1.34	1.36		.03
Zone 1					
Reinforcing	9.70	.785	.1415		.01
Line Construction					
Zone 1					
Lineman	15.40	.45	3%		3/8%
Winch Truck Op.	10.78	.45	3%		3/8%
Truck Drivers	10.01	.45	3%		3/8%
Groundman	9.24	.45	3%		3/8%
Zone 3					
Lineman, Dynamite man, heavy equipment op.	12.37	.55	3%		3/8%
Winch Truck op.	8.68	.55	3%		3/8%
Groundman	8.30	.55	3%		3/8%
Plumbers (Bridge-drain pipe) Allegheny, Washington, Greene, Armstrong	13.98	1.00	1.60		.07

MODIFICATIONS P. 21

DECISION NO. PA79-3012 - MOD. NO. 8 (44 FR 29253 - May 18, 1979)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Berks, Bradford, Carbon, Columbia, Cumberland Dauphin, Juniata, Lackawanna Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties, Pennsylvania					
CHANGE:					
Ironworkers:					
Structural, Ornamental and Reinforcing Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry Snyder, Union and York Counties, Pennsylvania	$12.905	1.34	1.36		.03

MODIFICATIONS P. 22

DECISION NO. PA80-3029 - MOD. #3 (45 FR 28069 - April 25, 1980)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lebanon County, Pennsylvania					
CHANGE:					
Carpenters	$11.86	.60	.70		.05
DECISION NO. PA80-3038 - MOD. #2 (45 FR 35148 - May 23, 1980) Lancaster County, Pennsylvania					
CHANGE:					
Carpenters	11.86	.60	.70		.05
Ironworkers	12.905	1.34	1.36		.03
Piledrivermen	11.97	2.63	1.40	d	.13

UMI 0 8 0 5 1 G A 5 4 V

MODIFICATIONS P. 23

DECISION NO. RI80-2054 - Mod. #1
(45 FR 48451 - July 18, 1980)
Statewide, Rhode Island

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Building Construction:					
Cement Masons; Plasterers:					
Remainder of State:					
Cement Masons	$12.35	.90	.75		
Roofers:					
Composition, Waterproofers	12.15	.75	.70		
Slate, Tile, Precast Concrete	12.35	.75	.70		
Add:					
Building Construction:					
Truck Drivers:					
Dump & Two Axle Equipment Drivers	9.64	.9925	1.00		
Trailer & Three Axle Equipment Drivers	9.72	.9925	1.00		
Low Bed Trailers 24 Ton Rated Cap. & Over; I Beam Trailers; Specialized Earth Moving Equipment - Euclid Type	9.97	.9925	1.00		
Euclid Type Equipment Over 35 Ton Capacity	10.22	.9925	1.00		

MODIFICATIONS P. 24

DECISION #TN79-1104 - Mod. #6
(44 FR 38137 - June 29, 1979)
Hamilton, Marion, Polk, & Rhea Counties, Tennessee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers, Stone masons, Cement masons, & Plasterers:					
Polk County Only	$10.50				
Carpenters, Carpet layers, & Floor layers	10.93	.57	.58		.08
Elevator Constructors:					
Mechanics	11.46	1.195	.95	a + b	.035
Helpers	8.02	1.195	.95	a + b	.035
Ironworkers:					
Structural & Ornamental	10.56	.50	.50		.02
Reinforcing	10.42	.50	.50		.02
Lathers	10.93	.57	.58		.08
Millwrights	11.38	.57	.58		.08
Piledrivermen	11.055	.57	.58		.08

DECISION #TN79-1146 - Mod. #3
(44 FR 66147 - November 16, 1979)
Davidson County, Tennessee

CHANGE:					
Millwrights	$12.65		.30		.11

DECISION #TN80-1063 - Mod. #2
(45 FR 18655 - March 21, 1980)
Carter, Greene, Hawkins, Johnson, Sullivan, Unicoi, & Washington Counties, Tennessee

CHANGE:					
Elevator Constructors:					
Mechanics	$10.56	1.195	.95	a + b	.035
Helpers	7.39	1.195	.95	a + b	.035

MODIFICATIONS P. 25

DECISION #TN80-1067 - Mod. #3
(45 FR 28071 - April 25, 1980)
Shelby County, Tennessee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stone masons	$12.50	.63	.30		.15
Electricians:					
Wiremen & Electronic technicians	13.73	.95	3% + .50		½ of 1%
Cable splicers	13.83	.95	3% + .50		½ of 1%
Marble, Tile, & Terrazzo workers	9.91	.53	.36		.05

DECISION #TN80-1078 - Mod. #2
(45 FR 40465 - June 13, 1980)
Anderson, Knox, Monroe, & Roane Counties, Tennessee

CHANGE:					
Elevator Constructors:					
Mechanics	$10.56	1.195	.95	a + b	.035
Helpers	7.39	1.195	.95	a + b	.035

MODIFICATIONS P. 26

DECISION NO. WI80-2043 MOD. #2
(45 FR 43649 - June 27, 1980)
Statewide, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Zone 10-Ashland, Bayfield, Burnett, Douglas, Iron, Sawyer, & Washburn Cos.	13.56	5%	7%	11%	1%

SUPERSEDEAS DECISION

STATE: Connecticut COUNTIES: *See below
DECISION NUMBER: CT80-2073 DATE: Date of Publication
Supersedes Decision No.: CT79-2010 dated April 6, 1979 in 44 FR 20913
DESCRIPTION OF WORK: Building, Residential, Highway, and Heavy (excluding tunnel construction) Construction Projects

*Fairfield, Litchfield and Windham Counties

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Fairfield Co.; Litchfield Co., Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, & Thomaston; Windham Co.: Ashford, Chaplin, Eastford, Hampton, Scotland & Windham	$14.04	.85	1.46		
Litchfield Co.: Canaan, Colbrook, Norfolk, N. Canaan, & Salisbury; Windham Co.: Woodstock	11.95	1.04	1.40		.01
Windham Co.: Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling & Thompson	12.18	1.45	1.33		
BOILERMAKERS	13.50	1.175	1.35		.03
BRICKLAYERS: Cement Masons; Finishers; Marble Masons; Plasterers; Stonemasons; Terrazzo Workers; Tile Setters (Building Construction): Fairfield Co.: Ansonia, Derby, & Shelton	10.80	.75	.75		
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Stratford, & Trumbull	10.98	.75	.75		
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport, & Wilton	11.05	.75	.75		
Fairfield Co.: Darien & Stamford	11.47	.83	.25		

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (cont'd) Fairfield Co.: Greenwich	$11.78	.80	.95		
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newtown Redding, & Sherman; Litchfield Co.: Bridgewater, Kent, New Milford, & Roxbury	10.95	.75	.75		
Litchfield Co.: Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester,	10.85	.75	.75		
Windham Co.	11.05	.75	.75		
Litchfield Co.: Plainville, Plymouth, Prospect Thomaston, Watertown, & Woodbury	10.90	.75	.75		
BRICKLAYERS (Heavy & Highway Construction): Except Towns of Darien, Greenwich, & Stamford	10.90	.80	.75		b
Darien & Stamford	11.32	.80	.25		b
Greenwich	10.65	.80	.95		b
CARPENTERS; Millwrights; Piledrivermen, & Soft Floor Layers (Building Construction): Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	12.00	.90	.65	c	v
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, Greenwich, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, & Wilton	11.80	.90	.65		.10

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (cont'd) Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, & Woodbury: Commercial	$11.55	.90	.65		.10
Residential	10.20	.90	.50		.10
Litchfield Co.: Harwinton, Plymouth, Thomaston, & Watertown	12.00	.90	.65		.05
Windham Co.	12.00	.90	.65		.03
CARPENTERS (Heavy & Highway Construction): Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	11.70	.90	.65	f	.05
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newton, Norwalk, Wilton, Redding, Ridgefield, Sherman, Stamford, & Litchfield Co.: Remainder of Co.	11.70	.90	.65	f+.70	.10
Litchfield Co.: Harwinton, Thomaston, & Watertown	11.70	.90	.65	f	.05
Windham Co.	11.70	.90	.65	f	.03
ELECTRICIANS: Fairfield Co.: Norwalk (E. of Five Mile River), Weston, Westport Building Construction	12.45	1.10	3%+.45	6%	½%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newton, Redding,					

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (cont'd): Ridgefield, Shelton, Sherman, Stratford, & Trumbull; Litchfield Co.: Bridgewater & New Milford Building Construction	12.45	1.10	3%+1.05		½%
Fairfield Co.: Darien, Greenwich, New Canaan, Stamford, and that portion of Norwalk lying west of the five mile river	12.75	6%+e	6½%	10%	½%
Litchfield Co.: Plymouth Building Construction	12.50	1.07	3%+.65		½%
Windham Co.: Building Construction	13.05	1.50	3%+1.60		½%
Litchfield Co.: Rem. of Co.	11.70	1.22	3%+.60	g	1/8%
ELEVATOR CONSTRUCTORS	10.79	.895	.69	a+b+i	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.55	.895	.69	a+b+i	.025
GLAZIERS: Fairfield Co.: Greenwich	12.20	.66	1.66	.67	.01
Fairfield Co.: Rem. of Co.; & Litchfield Co.	9.83	.95	.47	j	.01
Windham Co.	11.81	.84	.55	k	
IRONWORKERS: Ornamental; Reinforcing; Structural; and Precast concrete erection	14.75	1.03	1.45	1	.10
LATHERS: Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport, & Wilton	10.60	.50	.40		.01
Fairfield Co.: Greenwich, New Canaan, Norwalk & Stamford	10.01	.50	.20	.75	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, & Sherman; Litchfield Co.:					

UMI 0 8 5 1 G A 5 4 V

Page 5

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS: (Cont'd)					
Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford, N. Canaan, Plymouth, Roxbury, Thomaston, Torrington, Warren, Washington, Watertown, & Woodbury	$10.60	.50	.50		.01
Litchfield Co.: Barkhamsted, Colebrook, New Hartford, Norfolk, & Winchester; Windham Co.: Chaplin, Hampton, Scotland & Windham	11.15	.50	.40		.01
Windham Co.: Danielson	9.99	.65	.75		.01
LINE CONSTRUCTION:					
Fairfiled Co.: Darien, Greenwich, New Canaan, Stamford, & that portion of Norwalk, W. of Five Mile River					
Railroad Construction					
Lineman	10.71	6%	9½%	10%	.02+½%
Dynamite Man	9.53	6%	9½%	10%	.02+½%
Boring Machine Operator	9.32	6%	9½%	10%	.02+½%
Compressor Operator	8.67	6%	9½%	10%	.02+½%
Driver Groundman	8.14	6%	9½%	10%	.02+½%
Groundman	7.28	6%	9½%	10%	.02+½%
Underground Railroad Construction					
Linemen	13.26	6%	9½%	10%	.02+½%
Equipment Operator	12.20	6%	9½%	10%	.02+½%
Dynamite Man & Transitman	11.80	6%	9½%	10%	.02+½%
Mechanic	11.54	6%	9½%	10%	.02+½%
Heavy Driver Groundman	10.87	6%	9½%	10%	.02+½%
Driver Groundman	10.21	6%	9½%	10%	.02+½%
Groundman	9.68	6%	9½%	10%	.02+½%
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.					

Page 6

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (cont'd)					
Utility Work and Railroads					
Lineman, Cable Splicer, & Dynamite Man	12.50	.70	3%+.75	p	
Heavy Equipment Operator	11.35	.70	3%+.75	p	
Equipment Operator, Tractor Trailer Driver, Field Mechanic	10.69	.70	3%+.75	p	
Material Man	10.58	.70	3%+.75	p	
Groundman Truck Driver	9.58	.70	3%+.75	p	
Groundman, Experienced	8.59	.70	3%+.75	p	
Groundman, Inexperienced	7.64	.70	3%+.75	p	
Commercial Rates:					
Lineman	11.92	.70	3%+.75	p	
Equipment Operator	11.19	.70	3%+.75	p	
Driver Groundman	8.87	.70	3%+.75	p	
Traffic Control, Illumination & Maintenance:					
Lineman & Cable Splicer	10.48	.70	3%+.75	p	
Groundman Truck Driver	8.03	.70	3%+.75	p	
Equipment Operator	8.96	.70	3%+.75	p	
Groundman, experienced	7.20	.70	3%+.75	p	
MARBLE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norfolk, Stamford, & Westport	8.45	1.26	1.54	1.00	
MARBLE SETTERS' HELPERS; Terrazzo Workers' Helpers; & Tile Setters					
Fairfield Co.: Rem. of Co.: Litchfield Co.; Windham Co.	8.75	.50	.65		
PAINTERS:					
Bridge:					
Structural Steel	14.20				
Spray	17.70				
Sandblasting or Power Tools	15.20				
Fairfield Co.: Greenwich					
Brush; Structural Steel; Paperhangers; Tapers	11.00	.20	.75	.30	
Spray	16.50	.20	.75	.30	

Page 7

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (cont'd)					
Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford, and Trumbull					
Brush	$10.55	.50	.65	r	
Spray	13.05	.50	.65	r	
Taper	11.05	.50	.65	r	
Fairfield Co.: Darien, Stamford, New Canaan, Norwalk, Weston, Westport, & Wilton					
Brush	10.80	.50	.75	.30	.01
Roller, Paperhangers, Tapers, Epoxy	11.30	.50	.75	.30	.01
Spray	14.00	.50	.75	.30	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sandy Hook, & Sherman; Litchfield Co.: New Milford					
Brush	11.60	.50	.50	r	
Steel	12.90	.50	.50	r	
Paperhangers; Tapers	11.60	.50	.50	r	
Epoxy	14.00	.50	.50	r	
Residential	9.85	.50	.50	r	
Spray	17.40	.50	.50	r	
Fairfield Co.: Byram					
Brush	10.65	.65	1.13	.50	.05
Spray	11.65	.65	1.13	.50	.05
Steel & Swing Stage & Boatswain Chair	12.175	.65	1.13	.50	.05
Drywall Taper	11.45	.65	1.13	.50	.05
Fairfield Co.: Monroe & Shelton					
Brush	12.25	.50	1.00	s	.01
Hand Roller; Paperhangers	12.75	.50	1.00	s	.01
Structural Steel, epoxy, polyester	13.25	.50	1.00	s	.01
Spray	16.25	.50	1.00	s	.01

Page 8

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (cont'd)					
Windham Co.: Willimantic & Windham					
Brush; Tapers	$11.00	.60	.70		.01
Paperhangers	11.50	.60	.70		.01
Riding Steel; Steamcleaning; Sandblasting; Tanks; Towers; & Hazardous Work	11.58	.60	.70		.01
Spray	14.00	.60	.70		.01
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford, New Field, N. Canaan, Plymouth, Salisbury, Sharon, Terryville, Torrington, Warren, Winchester, & Winsted					
Brush; Roller; Taping	10.85	1.10	.80		
Spray; High	13.50	1.10	.80		
Epoxy	10.45	1.10	.80		
Paperhanging	11.35	1.10	.80		
Windham Co., except Willimantic & Windham					
Brush	11.11	.50	.70		.01
Paperhangers	12.06	.50	.70		.01
Sign	12.06	.50	.70		.01
Taping	12.06	.50	.70		.01
Roller	11.61	.50	.70		.01
Structural Steel	11.91	.50	.70		.01
Spraying oil paint	14.26	.50	.70		.01
Spraying epoxy	16.79	.50	.70		.01
PLUMBERS:					
Windham Co.: Windham	12.26	1.10	1.39		.15
PLUMBERS: STEAMFITTERS:					
Fairfield Co.: Greenwich	11.43	75	.80	.91	.06
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, & Trumbull	11.54	.75	.70	4%	.01
Fairfield Co.: Georgetown, Norwalk, S. Norwalk, Weston, Westport, & Wilton	11.40	.75	.80	.36	.02

UMI 0 8 5 1 G A 5 4 V

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; STEAMFITTERS (Cont'd)					
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding Ridgefield, & Sherman; Litchfield Co.: Bridgewater & New Milford	13.40	.75	.80	.70	.02
Fairfield Co.: Darien, New Canaan & Stamford	11.75	.75	.80	4%	.02
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Falls Village, Goshen, Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Winchester, & Winstead	11.60	.75+.13	.70	t	.05
Litchfield Co.: Bethlehem, New Preston, Plymouth (incl. Terryville), Roxbury, Thomaston, Washington, Watertown, & Woodsbury	11.60	.75+.13	.70	t	.05
Windham Co., except Windham	14.77	.80	1.00	u	.10
ROOFERS: Fairfield Co.; Litchfield Co.: Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, & Woodbury	12.65	1.35	.50		
Litchfield Co.: Bantam, Canaan, Colebrook, Cornwall, Cornwall Bridge, E. Canaan, Falls Village, Gaylordsville, Goshen Lakeside, Litchfield, Marbledale, Morris, New Hartford, New Preston, Norfolk, Northfield, Oakville, Prequabuch, Pine meadow, Pleasant Valley,					

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (cont'd) Plymouth, Riverton, Salisbury, Sharon, S. Kent, Taconic, Terryville, Thomaston, Torrington, Washington Depot, Watertown, W. Cornwall, W. Goshen, Winchester Center, & Winsted; Windham Co.					
Composition	11.45	.575	.85	.55	
Slate & Tile	9.80	.575	.85	.55	
SHEET METAL WORKERS: Fairfield Co.; Litchfield Co.;	11.50	1.28	1.04		.02
Windham Co.	11.30	.70	.86		.05
SPRINKLER FITTERS	12.15	.75	1.05		.08
STEAMFITTERS: Windham Co.: Windham	10.77	1.36	1.31		.13
TILE SETTERS' HELPERS: Fairfield Co.: Darien, Greenwich, Stamford, Norfolk, & Westport	7.90	.50	1.27		

DECISION NO. CT80-2073

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 7 paid holidays: A, C, D, E, F, Decoration Day & Good Friday.
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D, and E.
e. $7.50 per day
f. 3 paid holidays: B, C, and D.
g. The last 4 regular working hours prior to Christmas shall be paid half day.
h. 6 paid holidays: A through F
i. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day.
l. The last 4 hours on Christmas Eve is a paid half day, if employee has worked 5 consecutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
n. 1% of the gross electrical labor payroll.
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays.
q. 1 paid holiday: ½ day pay on Labor Day.
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday.
s. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the last working day before Christmas and Good Friday paid half day.
u. 1 paid holiday: D and four hours for the day after Thanksgiving
w. Employer contributes $100.00 per year to the apprenticeship and training fund
y. 3% of gross earnings to SASMI

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Building Construction) Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver & Setting Stone	$13.67	1.10	1.10	a	.15
Dragline; Forklift - over 5' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, motive power or operation); Koehring scooper loader and/or hoe; master mechanic; shovel; & tower crane	13.53	1.10	1.10	a	.15
Maintenance engineer	13.41	1.10	1.10	a	.15
Central mix operator; Coleman loader and screening plant or similar equipment; combination hoe and loader over ¼ yd; Conveyors - regardless of motive power; Front end loader 3 cy. up to 7 cy.; Joy drill limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; pumpcrete machine; rock boring machine; vibratory hammer; welder & well digger	13.09	1.10	1.10	a	.15
Asphalt Spreader	12.83	1.10	1.10	a	.15
Bulldozer; Carry-all Operators; Grader; & Scraper pan	12.75	1.10	1.10	a	.15

Page 13

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd)					
Combination hoe and loader machine; concrete mixer - 5 bags and over; Front end loader under 3 cy.; powerstone spreader	$12.69	1.10	1.10	a	.15
Air and steam valve	11.78	1.10	1.10	a	.15
Compressor; generator; pump and well point; welding machine	11.65	1.10	1.10	a	.15
Fork lift not over 4'; & Steam Jenny	12.56	1.10	1.10	a	.15
Mechanical Heater	11.46	1.10	1.10	a	.15
Roller	12.43	1.10	1.10	a	.15
Dinky machine; power pavement breaker	12.23	1.10	1.10	a	.15
Fireman (High Pressure)	11.20	1.10	1.10	a	.15
Oiler	10.62	1.10	1.10	a	.15
Crane with boom, excluding jib, over 150' - $.25 extra.					
Crane with boom, excluding jib over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	8.65	.60	.80		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.90	.60	.80		.10

Page 14

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (cont'd)					
Air track operators; block paver; curb setters	9.15	.60	.80		.10
Blasters	9.40	.60	.80		.10
LABORERS (Building Construction):					
Laborer	8.65	.60	.80		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast erectors	8.90	.60	.80		.10
Air track operators, block pavers; and curb setters, sandblasters, wagon drill operators	9.15	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.60	.80		.10
Bottom man	9.15	.60	.80		.10

Page 15

DECISION NO. CT80-2073

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Heavy and Highway)					
CLASS 1	$13.70	1.10	1.10	a	.15
CLASS 2	13.51	1.10	1.10	a	.15
CLASS 3	13.11	1.10	1.10	a	.15
CLASS 4	12.87	1.10	1.10	a	.15
CLASS 5	12.68	1.10	1.10	a	.15
CLASS 6	12.45	1.10	1.10	a	.15
CLASS 7	12.19	1.10	1.10	a	.15
CLASS 8	11.09	1.10	1.10	a	.15
CLASS 9	11.22	1.10	1.10	a	.15
CLASS 10	11.66	1.10	1.10	a	.15
CLASS 11	12.10	1.10	1.10	a	.15
CLASS 12	10.65	1.10	1.10	a	.15
CLASS 13	11.58	1.10	1.10	a	.15
CLASS 14	7.05	1.10	1.10	a	.15
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					

CLASSIFICATIONS: POWER EQUIPMENT OPERATORS

CLASS 1: Erecting and handling structural steel; front end loader (7 cy. or over).
CLASS 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; koehring loader (scooper) master machine
CLASS 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; Post hole digger; well digger; & hammer (vibratory); central mix; combination hoe & loader (over ¼ yd.)
CLASS 4: Asphalt spreader
CLASS 5: Front end loader (3 yds. or over); Grader; power stone spreader; combination hoe and loader.
CLASS 6: Asphalt roller; bulldozer; carryall; maintenance engineer; concrete mixer (5 bags and over); Welder
CLASS 7: Front end loader (under 3 yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine

Page 16

DECISION NO. CT80-2073

CLASSIFICATIONS: POWER EQUIPMENT OPERATORS

CLASS 8: Compressor; pump
CLASS 9: Firemen (high pressure)
CLASS 10: Well point system
CLASS 11: Compressor battery
CLASS 12: Oiler
CLASS 13: Batch plant; bulk cement plant
CLASS 14: Track backhoe oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Survey Crew					
Chief of Party	$11.65	1.10	1.10	a	.15
Ass't Chief of Party	10.81	1.10	1.10	a	.15
Instrument Man	9.97	1.10	1.10	a	.15
Rodman & Chainman	7.43	1.10	1.10	a	.15
TRUCK DRIVERS (Building, Heavy, and Highway Construction)					
CLASS 1	9.26	1.04	1.10	a	
CLASS 2	9.36	1.04	1.10	a	
CLASS 3	9.46	1.04	1.10	a	
CLASS 4	9.41	1.04	1.10	a	
CLASS 5	9.51	1.04	1.10	a	
CLASS 6	9.56	1.04	1.10	a	

CLASSIFICATIONS: TRUCK DRIVERS

CLASS 1: Two axle trucks; helpers
CLASS 2: Three axle trucks; two axle ready mix
CLASS 3: Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4: Three axle ready-mix
CLASS 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailer (including Euclids)
CLASS 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

UMI 0 8 5 1 G A 5 4 V

SUPERSEDEAS DECISION

STATE: Connecticut COUNTIES: See Below
DECISION NUMBER: CT80-2074 DATE: Date of Publication
Supersedes Decision CT79-2011 dated April 6, 1979 in 44 FR 20921
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy (excluding tunnel construction) and highway construction.

*Hartford, Middlesex, New Haven, New London, and Tolland Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Hartford Co.: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, E. Hartford, W. Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, S. Windsor, W. Hartford, Wethersfield & Windsor; Middlesex Co.; New Haven Co.; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lume Salem, Sprague, & Waterford; & Tolland Co.: Andover, Bolton, Columbia Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon, & Willington	$14.04	.85	1.46		
Harford Co.: E. Granby, Enfield, Granby, Hartland, Suffield, & Windsor Locks; Tolland Co.: Somers, Stafford, & Union	11.95	1.04	1.40		.01
New London Co.: Griswold, Ledyard, Lisbon, N. Stonington, Preston, Stonington, & Voluntown	12.18	1.45	1.33		
BOILERMAKERS	13.50	1.175	1.35		.03
BRICKLAYERS: Cement Masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers, & Tile setters (Building Construction):					

DECISION NO. CT80-2074

BRICKLAYERS (Building Construction) (cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hartford Co.: Avon, Bloomfield, Burlington, Enfield, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rock Hill, Simsbury, S. Windsor, Suffield, Thompsonville, W. Hartford, Wethersfield, Windsor, Windsor Locks, Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	11.05	.75	.75		
Hartford Co.: Berlin, New Britain, Newington, & Southington; New Haven Co.: Meriden, Wallingford, Cheshire (North of Route 68)	10.98	.75	.75		
Hartford Co.: Canton	10.85	.75	.75		
Middlesex Co.: & New London Co.	11.05	.75	.75		
New Haven Co.: Bethany, Branford, E. Haven Guilford, Hamden, Madison, New Haven, N. Brandford, N. Haven, Orange, W. Haven, Woodbridge, Rem. of Milford & Cheshire	11.05	.75	.75		
New Haven Co.: Ansonia, Derby, Oxford, Seymour, & Southbury	10.80	.75	.75		
Hartford Co.: Bristol, & Plainville, New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, Waterbury, & Wolcott	10.90	.75	.75		

DECISION NO. CT80-2074

BRICKLAYERS (Building Construction) (cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
New Haven Co.: Milford (West of Indian River to the Orange Town line)	$10.98	.75	.75		
BRICKLAYERS (Heavy and Highway Construction)	10.90	.80	.75	b	
CARPENTERS: MILLWRIGHTS; PILEDRIVERMEN, RESILIENT FLOOR LAYERS (Building Construction) Hartford Co.: Hartford, West Hartford, Avon, Farmington, Simsbury, Bloomfield, Windsor, East Granby, Granby, Windsor Locks, Suffield, Enfield, East Windsor, South Windsor, East Hartford, Manchester, Glastonbury, Rocky Hill, Wethersfield, Hartland, Tolland Co.: Stafford, Somers, Tolland, Ellington, Bolton, Vernon	11.85	.90	.65		.10
Hartford Co.: New Britain, Newington, Berlin, Southington, Plainville, Burlington, Canton, Bristol; New Haven Co.: Meriden, Wallingford, New Haven, East Haven, Branford, Guilford, Madison, North Branford, North Haven, Hamden, West Havon, Orange (east of Orange Center Road and North of Route 1; also North of Route 1 and east of the Oyster River), Cheshire, Waterbury, Wolcott, Middlebury, Southbury, Naugatuck, Prospect, Bethany, Beacon Falls, Woodbridge, Middlesex Co.	12.00	.90	.65		.05

DECISION NO. CT80-2074

CARPENTERS (Building Construction) (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
New Haven Co.: Milford, Oxford, Derby, Seymour, Ansonia, Orange (that part south of Route 1 and West of the Oyster River	$12.00	.90	.65	c	e
New London Co.: Tolland Co.: Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover	12.00	.90	.65		.03
CARPENTERS (Heavy & Highway Construction): New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rt #1 & W. of the Oyster River), Oxford, & Seymour	11.70	.90	.65	f	e
Hartford Co.: Bloomfield, E. Hartford, Elmwood, Enfield, Glastonbury, Granby, Manchester, Newington, Rocky Hill, Wethersfield, Windsor; Tolland Co.: Bolton, Ellington, Somers, Stafford, Tolland, & Vernon	11.45	.90	.65	f	.10
New London Co.: Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, & Willington	11.70	.90	.65	f	.03
ELECTRICIANS: New Haven Co.: Milford	12.45	1.10	3%+1.05		kl
Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville, & Southington	12.95	1.07	3%+.65		kl
Hartford Co.: Suffield, & Enfield (portion of Thompsonville West of George Washington Road & North of Hazard Ave)	12.28	.85	3%+.40	h	.03

UMI 0 8 5 1 G A 5 4 V

Page 5

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (cont'd):					
Hartford Co.: Hartland; New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, & Wolcott	$11.70	1.22	3%+.60	h	1/8%
Hartford Co: Rem. of Co.; Middlesex Co.: Cromwell, Middlefield, Middletown, & Portland; New London Co.: Bozrah, Colchester, Franklin, Lisbon, Montville, N. Stonington, Norwich, Griswold, Lebanon, Ledyard (except Submarine Base), Preston, Salem, Sprague, Stonington, Voluntown, & Tolland Co.	13.05	1.50	3%+1.60		4%
Middlesex Co.: Rem. of Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville, Southington, New Haven Co.: Rem. of Co.; New London Co.: Fishers Island, Sound Old Lyme, Groton, Waterford, & Ledyard (Submarine Base Only)	12.95	1.07	3%+.65		4%
ELEVATOR CONSTRUCTORS	10.79	.895	.56	a+b+j	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.55	.895	.56	a+b+j	.025
GLAZIERS: New Haven Co., Except Wallingford	9.83	.95	.47	k	.01
Hartford Co.; Middlesex Co.; New Haven, Wallingford; New London Co.; & Tolland Co.	11.81	.84	.55	l	
IRONWORKERS: Ornamental; Reinforcing; Structural & Precast concrete erection	14.75	1.03	1.45	m	.10

Page 6

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS: Hartford Co.: Bristol, Southington, New Haven, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury, & Wolcott	$10.60	.50	.50		.01
Hartford Co.: Avon, Berlin, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, S. Windsor, W. Hartford, Windsor, & Windsor Locks; Middlesex Co.: Cromwell, E. Haddam, E. Hampton, Middlefield, Middletown, & Portland; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lisbon, Lyme, Salem, Sprague, & Waterford; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield, & Vernon	9.90	.50	.30		.01
Hartford Co.: Broad Brook, Enfield, Hazardville, Melrose, Suffield, Thompsonville, & Warehouse Point; Tolland Co.: Crystal Lake, N. Somers, Somers, Stafford Springs, Strafford-ville, & Union	10.85		.25		.01
Middlesex Co.: Chester, Clinton, Deep River, Durham, Essex, Haddam,					

Page 7

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (cont'd): Killingworth, Old Saybrook, & Westbrook; New Haven Co.: Ansonia, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven, & Woodbridge	$10.00	.75	.50		.01
LINE CONSTRUCTION:					
Linemen	11.92	.70	3%+.75	o	
Equipment Operators	11.19	.70	3%+.75	o	
Driver Groundman	8.87	.70	3%+.75	o	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile Setters' Helpers	8.75	.50	.65		
PAINTERS:					
Bridge; Structural Steel Sandblasting or power tools	14.20				
	15.20				
Spray	17.70				
New Haven Co.: Milford (up to Gulf Street)					
Brush	10.55	.50	.65	p	
Taping	11.05	.50	.65	p	
Spray	13.05	.50	.65	p	
Hartford Co.: Avon Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W. Simsbury, Wethersfield, Windsor, & Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Coventry, Ellington, Hebron,					

Page 8

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd): Mansfield, Rockville, Strafford, Somers, Tolland, Union, Vernon, & Willington					
Brush; Tapers	$11.00	1.20	1.10		
Paperhangers	11.50	1.20	1.10		
Riding Steel; Steamcleaning; Sandblasting; Tank; Towers; & Hazardous Work	11.58	.95	.70		
Spray	14.00	.95	.70		
Hartford Co.: Berlin, Bristol, E. Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Plainville, Plantsville, Southington, & Unionville; New Haven Co.: Cheshire, Guilford, Madison, Meriden, & Wallingford; Middlesex Co.: Chester, Clinton, Cromwell, Deep River, Durham, E. Haddam, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Killingworth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook, & Westbrook					
Brush, Roller; Taping	10.85	1.10	.80		
Spray	13.50	1.10	.80		
Epoxy	10.45	1.10	.80		
Paperhanging	11.35	1.10	.80		
Work over 60' & Boatswain chair; Open Steel	16.28	.80	.45		
Swing Stage 40 - 60'	11.85	.80	.45		
New Haven Co.: Ansonia, Beacon Falls, Derby, Oxford, & Seymour					
Brush	12.25	.50	1.00	q	.01
Hand roller; Paperhangers	12.75	.50	1.00	q	.01

UMI 0 8 5 1 G A 5 4 V

Page 9

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd):					
Structural Steel, epoxy polyester	$13.25	.50	1.00	q	.01
Spray	16.25	.50	1.00	q	.01
New Haven Co.: Bethany, Branford, E. Haven, Hamden, Milford, (S. on Gulf Street & N. on North Street), New Haven, Orange, W. Haven, Woodbridge, & Woodmont					
Brush; Sandblastong	10.70	.50	.60		.02
Tapers	11.05	.50	.60		.02
Paperhangers	11.20	.50	.60		.02
Spray	13.25	.50	.60		.02
Structural Steel	11.20	.50	.60		.02
New Haven Co.: Middlebury Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	9.20	.50	.70		
Paperhangers & Tapers	9.45	.50	.70		
Spray	14.18	.50	.70		
New London Co.: Colchester, E. Lyme, Montville, New London, Norwich, Stonington					
Brush	11.11	.60	.70		.01
Paperhangers	12.06	.60	.70		.01
Sign	12.06	.60	.70		.01
Taping	12.06	.60	.70		.01
Roller	11.61	.60	.70		.01
Structural Steel	11.91	.60	.70		.01
Spraying oil paint	14.26	.60	.70		.01
Spraying epoxy	16.79	.60	.70		.01
PLUMBERS:					
Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, E. Enfield, Farmington, Glastonbury, Granby,					

Page 10

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (cont'd):					
Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor Locks, Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Strafford, Storrs, Tolland, Union Vernon, & Wellington					
Brush, Tapers	$11.00	1.20	1.10		
Paperhangers	11.50	1.20	1.10		
Spray	14.00	1.20	1.10		
Hazardous work	11.58	1.20	1.10		
PLUMBERS & STEAMFITTERS New Haven Co.: Milford	11.74	.75	.70	.46	.01
Hartford Co.: Southington; Middlesex Co.: Durham; New Haven Co.: Cheshire, Meriden, & Wallingford	12.85	.75	.80	r	.03
Hartford Co.: Berlin, Bristol, E. Berlin, Kensington, New Britain, Newington, & Plainville	11.03	.75	.70	s	.03
Middlesex Co.: Clinton, Killingworth, S. Westbrook; New Haven Co.: Branford, Derby, E. Haven, Orange, W. Haven, & Woodbridge	11.70	.75	.70	t	.02
Middlesex Co.: Essex, Ivoryton, Old Saybrook, & Saybrook; New London Co.: Bozrah, Colchester,					

Page 11

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS (cont'd) E. Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown, & Waterford	$14.77	.80	1.00	u	.05
New Haven Co.: Ansonia, Beacon Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour; New Haven Co.: Middlebury, Southbury, S. Britain, Waterbury, & Wolcott	11.60	.88	.70	v	.05
Hartford Co.: Hartland	11.60	.88	.70	v	.05
ROOFERS: New Haven Co.: Ansonia, Beacon Falls, Bethany, Brandford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, N. Branford, N. Haven, Orange, Oxford, Seymour, Union City, W. Haven, & Woodbridge	12.65	1.35	.50		
Hartford Co.; Middlesex Co.; New Haven Co.: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; New London Co.; & Tolland Co.					
Composition	11.45	.575	.85	.55	
Slate, Tile	10.95	.575	.85	.55	
SHEET METAL WORKERS	12.05	.70	.86		.05
SPRINKLER FITTERS	12.15	.75	1.05		.08
STEAMFITTERS: Hartford, Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington,					

Page 12

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS (cont'd): Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Wellington	$11.57	1.36	1.31		.13

UMI 0 8 5 1 G A 5 4 V

DECISION NO. CT80-2073

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 7 paid holidays A through F, and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday
c. 4 paid holidays: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D, and E.
e. $100.00 per year
f. 3 paid holidays: B, C, and D.
h. The last 4 regular working hours prior to Christmas shall be a paid half day.
i. 6 paid holidays: A through F
j. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day.
l. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day.
m. The last 4 hours on Christmas Eve is a paid half day, if employee has worked 5 consecutive days prior to Christmas Eve.
n. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
o. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays.
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday.
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holiday: D
v. 2 paid holidays: B, D, & half day paid holiday the Friday after Thanksgiving, and the last working day before Christmas, & Good Friday paid half day

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Building Construction)					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver & Setting Stone	$13.67	1.10	1.10		.15
Dragline; Forklift - over 5' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, motive power or operation); Koehring scooper loader and/or hoe; master mechanic; shovel; & tower crane	13.53	1.05	.95		.15
Maintenance engineer	13.41	1.05	.95		.15
Central mix operator; Coleman loader and screening plant or similar equipment; combination hoe and loader over ½ yd; Conveyors - regardless of motive power; Front end loader 3 cy. up to 7 cy.; Joy drill limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; pumpcrete machine; rock boring machine; vibratory hammer; welder & well digger	13.09	1.05	.95		.15
Asphalt Spreader	12.83	1.05	.95		.15
Bulldozer; Carry-all Operators; Grader; & Scraper pan	12.75	1.05	.95		.15

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd)					
Combination hoe and loader machine; concrete mixer - 5 bags and over; Front end loader under 3 cy.; powerstone spreader	$12.69	1.05	.95		.15
Air and steam valve	11.78	1.05	.95		.15
Compressor; generator; pump and well point; welding machine	11.65	1.05	.95		.15
Fork lift not over 4'; & Steam Jenny	12.56	1.05	.95		.15
Mechanical Heater	11.46	1.05	.95		.15
Roller	12.43	1.05	.95		.15
Dinky machine; power pavement breaker	12.23	1.05	.95		.15
Fireman (High Pressure)	11.20	1.05	.95		.15
Oiler	10.62	1.05	.95		.15
Crane with boom, excluding jib, over 150' - $.25 extra.					
Crane with boom, excluding jib over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	8.65	.60	.80		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operatsd vibratory compactor operators; Mason tendors; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.90	.60	.80		.10

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (cont'd)					
Air track operators; block paver; curb setters	9.15	.60	.80		.10
Blasters	9.40	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.60	.80		.10
Bottom man	9.15	.60	.80		.10
LABORERS (Building Construction):					
Laborer	8.65	.60	.80		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast erectors	8.90	.60	.80		.10
Air track operators, block pavers; and curb setters, sandblasters, wagon drill operators	9.15	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.65	.60	.80		.10
Bottom man	9.15	.60	.80		.10

UMI 0 8 5 1 G A 5 4 V

Page 17

DECISION NO. CT80-2074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Heavy and Highway)					
CLASS 1	$13.70	1.10	1.10	a	.15
CLASS 2	13.51	1.10	1.10	a	.15
CLASS 3	13.11	1.10	1.10	a	.15
CLASS 4	12.87	1.10	1.10	a	.15
CLASS 5	12.68	1.10	1.10	a	.15
CLASS 6	12.45	1.10	1.10	a	.15
CLASS 7	12.19	1.10	1.10	a	.15
CLASS 8	11.09	1.10	1.10	a	.15
CLASS 9	11.22	1.10	1.10	a	.15
CLASS 10	11.66	1.10	1.10	a	.15
CLASS 11	12.10	1.10	1.10	a	.15
CLASS 12	10.65	1.10	1.10	a	.15
CLASS 13	11.58	1.10	1.10	a	.15
CLASS 14	7.05	1.10	1.10	a	.15
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					

CLASSIFICATIONS: POWER EQUIPMENT OPERATORS

CLASS 1: Erecting and handling structural steel; front end loader (7 cy. or over).
CLASS 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; koehring loader (scooper) master machine
CLASS 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; Post hole digger; well digger; & hammer (vibratory); central mix; combination hoe & loader (over ¼ yd.)
CLASS 4: Asphalt spreader
CLASS 5: Front end loader (3 yds. or over); Grader; power stone spreader; combination hoe and loader.
CLASS 6: Asphalt roller; bulldozer; carryall; maintenance engineer; concrete mixer (5 bags and over); Welder
CLASS 7: Front end loader (under 3 yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine

Page 18

DECISION NO. CT80-2074

CLASSIFICATIONS: POWER EQUIPMENT OPERATORS

CLASS 8: Compressor; pump
CLASS 9: Firemen (high pressure)
CLASS 10: Well point system
CLASS 11: Compressor battery
CLASS 12: Oiler
CLASS 13: Batch plant; bulk cement plant
CLASS 14: Track backhoe oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Survey Crew					
Chief of Party	$11.65	1.10	1.10	a	.15
Ass't Chief of Party	10.81	1.10	1.10	a	.15
Instrument Man	9.97	1.10	1.10	a	.15
Rodman & Chainman	7.43	1.10	1.10	a	.15
TRUCK DRIVERS (Building, Heavy, and Highway Construction)					
CLASS 1	9.26	1.04	1.10	a	
CLASS 2	9.36	1.04	1.10	a	
CLASS 3	9.46	1.04	1.10	a	
CLASS 4	9.41	1.04	1.10	a	
CLASS 5	9.51	1.04	1.10	a	
CLASS 6	9.56	1.04	1.10	a	

CLASSIFICATIONS: TRUCK DRIVERS

CLASS 1: Two axle trucks; helpers
CLASS 2: Three axle trucks; two axle ready mix
CLASS 3: Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4: Three axle ready-mix
CLASS 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and semi-trailer (including Euclids)
CLASS 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Winnebago
DECISION NO.: IL80-2061 DATE: Date of Publication
Supersedes Decision No.: IL79-2068, dated August 24, in 44 FR 49827
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

Winnebago County Illinois Residential Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.90	.85	.90		.07
BOILERMAKERS	13.05	1.05+40	1.00	5%	.03
BRICKLAYERS	13.60	.65	1.20		.01
CARPENTERS & SOFT FLOOR LAYERS	13.26	.65	1.47		
CEMENT MASONS	11.78	.55	1.00		
ELECTRICIANS: No Limit on Units	6.65	.50	3%+.80		½%
IRONWORKERS: Structural, Ornamental and Reinforcing	13.25	.75	1.875		.10
LABORERS	11.40	.65	.80		.035
LATHERS	11.79	.55	.60		
MARBLE SETTERS, TERRAZZO WORKERS & TILE SETTERS	11.45	.55	.70		
PAINTERS	10.95	.55			
PLASTERERS	11.23	.55	1.00		
PLUMBERS & STEAMFITTERS	15.41	.65	.95		.10
ROOFERS	13.35	.55			
SHEET METAL WORKERS	14.05	.65	1.42		.09
TRUCK DRIVERS - 2 and 3 Axle	12.00	.55	1.00		
WELDERS - Rate for Credit					
POWER EQUIPMENT OPERATORS:					
CLASS I	13.95	1.20	1.20	.70	.05
CLASS II	12.65	1.20	1.20	.70	.05
CLASS III	11.50	1.20	1.20	.70	.05
CLASS IV	10.25	1.20	1.20	.70	.05

DECISION NO. IL80-2061 PAGE 2

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Asphalt Plant, Asphalt Spreader, Auto-Grad, Batch Plant, Benoto (Requires two engineers), Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe Front End Loader Machine Compressor & Throttle Valve, Concrete Breaker (Truck Mounted), Conveyor, Concrete Paver, Concrete Placer, Concrete Tower, Cranes (all), Derricks (all), Grader, Elevating, Grouting Machines, Highlift Shovels or Front End Loader 2½ yd. & over, Hoists, One, Two & Three Drum Hoists, Two Tugger One Floor, Hydraulic Boom Truck, Locomotives (all), Motor Patrol, Pile Drivers & Skid Rig, Post-Hole Digger, Pre-Stress Machine, Pump Cretes Dual Ram (requiring frequent lubrication & water), Pumpcretes, Squeeze Cretes - Screw type Pumps, Gypsum Bulker & Pump, Rock Drill (Self-Propelled), Rock Drill (truck mounted), Scoops - Tractor Drawn, Slip Form Paver, Straddle Buggies, Tournapull, Tractor with Boom & Side Boom, Trenching Machines
CLASS II - Boilers, Bulldozers, Broom all Power Propelled, Concrete Mixer (2 bag & over), Conveyor Portable, Forklift Truck, Greaser Engineer, Highlift Shovels or Front End Loaders under 2½ yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (All), Steam Generators, Stone Crushers, Tractors, (All), Winch Trucks with "A" Frame
CLASS III - Air Compressor - Small 125 & under (1 to 5 not exceed a total of 300 ft.), Air Compressor - large over 125, Combination - Small Equipment Opr., Generators under & over 50 KW, Heaters, Mechanical Pumps over 3" (1 to 3 not to exceed a total of 300 ft.), Pumps, Well Points, Welding Machine (2 through 5), Winches, 4 Small Electric Drill Winches
CLASS IV - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 0 8 5 1 G A 5 4 V

SUPERSEDEAS DECISION

STATE: KANSAS COUNTIES: RILEY & GEARY
DECISION NO: KS80-4069 DATE:
Supersedes Decision No. KS79-4090 dated October 5, 1979, 44 FR 57628
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden-type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$10.00				
Carpenters	6.88				
Electricians	7.16				
Laborers:					
common	4.72				
form setter	4.50				
mason tender	4.50				
Painters	7.63				
Plumbers	13.51	.92	.60		.05
Roofers	6.00				
Sheet metal workers	5.00				
Truck drivers	4.50				
Power Equipment Operators:					
air compressor	4.00				
backhoe	6.00				
bulldozer	6.00				
concrete saw	4.30				
grader	6.00				
loader	5.50				
scraper	6.00				
shovel	5.38				
tractor	6.00				
trenching machine	4.50				

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Warren
DECISION NUMBER: KY80-1089 DATE: Date of Publication
Supersedes Decision Number KY79-1145, dated November 16, 1979, 44 FR 66139
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not including single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.70	.75	1.25		
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	10.45	.45	.40		
CARPENTERS & SOFT FLOOR LAYERS	9.30	.55	.55		.05
CEMENT MASONS & PLASTERERS	11.50				.01
ELECTRICIANS & CABLE SPLICERS	11.00	.50	3%		4of1%
ELEVATOR CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a+b+c	.035
Helpers	9.53	1.195	.82	a+b+c	.035
GLAZIERS	10.50	.60	.50	a	.02
IRONWORKERS	12.20	.80	.80		.12
LATHERS	10.20		.30	.90	.01
LINE CONSTRUCTION:					
Linemen, Line Truck, Hole Digger, & Cable Splicers	11.50		3%		4of1%
Groundmen - Truck Drivers with Winch	9.775		3%		4of1%
Groundmen - truck drivers	9.20		3%		4of1%
MARBLE, TERRAZZO, & TILE FINISHERS	9.65				
MILLWRIGHTS	12.75	.55	.85		.05
PAINTERS:					
Brush & Roller	9.80	.40	.50		.10
Spray Work, Drywall Finishers	10.45	.40	.60		.10
Structural Steel, Swing Stage & Chair, & Motor Stage	10.70	.40	.60		.10
Paperhangers	10.95	.40	.60		.10
Sandblasting	11.20	.40	.60		.10
PILEDRIVERMEN	9.55	.55	.55		.05
PIPEFITTERS	14.56	.80	1.55		.11
PLUMBERS	14.42	1.05	1.40		.15
ROOFERS	9.25	.60	.45	.26	
SHEET METAL WORKERS	12.88	1.563	1.47		.16
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY80-1089

FOOTNOTES:

a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day

b. Vacation Pay credit - Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service

c. Friday after Thanksgiving

LABORERS:					
GROUP 1	8.30	.40	.70		
GROUP 2	8.45	.40	.70		
GROUP 3	8.80	.40	.70		

GROUP 1 - General Laborers; Wrecking Labor on Buildings, Clearing right-of-way and Building site; Carpenters Tenders; Truck Spotters and Dumpers; Axe and Cross Cut Saw Filer; Concrete Pudlers and Form Strippers

GROUP 2 - All Power Driven Tools; Hod carriers; Mason Tenders; Finisher Tenders; Mortar Mixers; Jack Hammers; Vibrators; Wagon Drill; Core Drill; Test Drill; Well Drill; Concrete Pump Machine; Tunnel Boring Machine; Men in Tunnel and Crib Ditch Work; Signal Men; Riprap Rock Setters and Handlers; Asphalt Rakers; Tampers and Smoothers; Pipelayers; Grout Pump Men; Chain Saw; Pipe Clearing; Doping and Wrapping; Swampers and straight Cable Hooking; Cement Guns; Grade Checkers Machine Excavating; Batch Plant Scale Man; Sand Hog Free Air; Sand Hog Compressed Air; cutting Torch Man on Salvage Work; Road Form Setters; Brick Slingers; Hand Spikers; Power Buggy; Handling of Creosote Material; Sandblasters; Curing of Concrete and apply hardner; Air and Gas Tampers; concrete Saw; Power Posthole Diggers and Green cut Men on Concrete Work

GROUP 3 - Powermen; Blasters

DECISION NO. KY80-1089

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

CLASS A - Auto Patrol, Batcher Plant, Bituminous Paver, Cableway, Central Compressor Plant, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Pump, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Operator, Dredge Engineer, Elevating Grader and all types of Loaders, Hoe Type Machine, Hoist (1-drum when used for stack or chimney construction or repair), Hoisting Engine (2 or more drums), Locomotive, Motor Scraper, Carry-all Scoop, Bulldozer, Heavy Duty Welder, Mechanic, Orangepeel Bucket, Pile Driver, Power Blade, Motor Grader, Roller (bituminous), Scarifer, Shovel, Tractor Shovel, Truck Crane, Winch Truck Push Dozer, Highlift, Forklift (regardless of lift height and except when used for masonry construction), all types of Boom Cats, Core Drill, Hopto, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradall, Hoist, Hyster, Pumpcrete, Ross Carriers, Boom, Tail Boom, Rotary Drill, Hydro Hammer, Mucking Machine, Rock Spreader attached to Equipment, Scoopmobile, KeCal Loader, tower Cranes (French, German and othe. Types), Hydrocrane, Backfiller, Gurries, Sub-grader;

CLASS B - All Air Compressors (over 900 cu. ft. per min.), Bituminous Mixer, Joint Sealing Machine, Concrete Mixer (under 21 cu. ft.), Form Grader, Roller (Rock), Tractor (50 hp and over), Bull Float, Finish Machine, Cutboard Motor Boat, Flexplain, Fireman, Boom Type Tamping Machine, Truck Crane Oiler, Greaser on Grease Facilities Servicing Heavy Equipment, Switchman or Brakeman, Mehcanic Helper, Whirley Oiler, Self-Propelled Compactor, Tractair and road widening) Trencher and Farm Tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for Hoisting any building hoist), Forklift (when used for masonry construction), well points, Grout Pump, Throttle-valve Man, Tugger, Electric Vibrator Compactor;

CLASS C - Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Roller (earth), Tamping machine, Tractors (under 50 hp), Vibrator, Oiler, Concrete Saw, Burlap and Curing Machine, Hydro-seeder, Power form Handling Equipment, Deckhand Steersman, Hyraulic Post Driver, Drill Helper

Page 4

DECISION NO. KY80-1089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Truck Tender	8.86	.525c	.50c	d	
DRIVER, 3 tons and under, Greaser, Tire, changer, & Mechanic Helper	8.98	.525c	.50c	d	
Driver, over 3 Tons, Semi-Trailer or Pole Trailer, Dump Truck, Tandem Axle, Farm Tractor when used to pull Building Material or Equipment;	9.09	.525c	.50c	d	
Driver, Concrete Mixer Trucks (all types, Hauling only jobsites);	9.16	.525c	.50c	d	
Driver, Euclid & other Heavy Earth Moving Equipment and Low Boy, Winch Truck and A-Frame & Mono-rail Truck when used to Transport Building Materials	9.26	.525c	.50c	d	

FOOTNOTES:

c. Employer contributes to employees whose names appear on the payroll and have been employed a minimum of 20 work days within any 90 consecutive day period

d. Vacation and pay equal to 40 hours to any employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contracts clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Maine COUNTY: Cumberland
DECISION NO.: ME80-2069 DATE: Date of Publication
Supersedes Decision No.: ME79-2042, dated May 4, 1979, in 44 FR 26434
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.30	.50	.50		.02
CARPENTERS	6.86				
CEMENT MASONS	9.30	.50	.50		.02
ELECTRICIANS	11.60	.65	3%+.25		.02
GLAZIERS	5.91				
IRONWORKERS	10.65	1.15	1.35		.04
LABORERS	7.17	.75	1.10		.10
MILLWRIGHTS	9.35	.65	.70		.03
PAINTERS	5.70				
PLUMBERS/PIPEFITTERS	10.80	.70	1.00		.02
ROOFERS	6.60				
SHEET METAL WORKERS	6.30				
TRUCK DRIVERS:					
2 AXLE	4.39				
3 AXLE	4.75				
POWER EQUIPMENT OPERATORS:					
PAVER	5.58				
ROLLER	5.32				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as proveded in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See below
DECISION No. MI80-2062 DATE: Date of Publication
Supersedes Decision No. MI79-2012 dated May 4, 1979 in 44, FR 26435
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories) and Heavy (excluding Bridge Airport and Sewer) Construction Projects.

COUNTIES: Alcona, Alpena, Charlevois, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.60	1.05	1.78		.02
BOILERMAKERS	13.065	1.28	1.30		.03
BRICKLAYERS:					
Mason County:					
Bricklayers; Stonemasons; Marble-Tile Workers, Cement Masons & Plasterers	8.70	.65	.35		
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	10.795	.80	.75		
Marble Masons	10.15	.80	.50		
Terrazzo & Tile Workers	9.85	.80	.50		
Platerers	12.22	.80	1.00		.03
Remaining Counties					
Bricklayers; Stonemasons; Plasterers-Marble Workers	11.85	.85	.25		.03
Terrazzo & Tile Workers	11.29	.85	.25		.03
CARPENTERS:					
Mason. Muskegon & Oceana Counties					
Carpenters	12.44	.75	.90		.10
Millwrights	13.30	.60	.80		.05
Piledrivers	11.70	.60	.80		.04
Remaining counties					
Carpenters & Soft Floor Layers	10.91	.75	.90		.03
Millwrights	11.66	.75	.90		.03
Piledrivers	11.36	.75	.90		.03
CEMENT MASONS:					
Muskegon & Oceana Counties	9.30	.70	.75		.02
Remaining Counties	11.40	.85	.25		.03
ELECTRICIANS:					
Charlevoix, Grand Traverse Leelanau & Emmet (except Wawatan Township) Counties and (Grant, Freesoil, and Meade Townships) in mason County	12.85	.75	.65		.1 of 1%

DECISION No. MI80-2062 Page 2

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Muskegon. Oceana and the Remainder of Mason Counties	$13.16	.75	9%		.03
Remining Counties & (Wawatan Township) in Emmet County:					
Electrical Contractors $35.000 and below	11.35	.75	3%+.30		.1 of 1%
Electrical Contracts in excess of $35,000	13.30	.75	3%+.30		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle:					
Elevator Constructor	11.21	.745	.56	a	.025
Elevator Constructor Helpers	70%JR	.745	.56	a	.025
ELEVATOR CONSTRUCTORS:					
Remainder of Counties:					
Elevator Constructors	10.88	.89	.69	a	.02
Elevator Constructors Helpers	70%JR	.89	.69	a	.02
GLAZIERS:					
Emmet & Muskegon Counties Charlecoix, Grand Traverse, Leelanau, Mason, & Oceana Counties	10.25	.70	.35	3%	
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda and Preque Isle Counties:					
Structural and Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	.98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
Remaining Counties	13.08	6%	8%		.10
LATHERS:	8.85	.64	.10	.50	.01
Grand Traverse County	11.78	1.06	.30		.01
Muskegon County	12.22	1.06	.30		.01
PAINTERS:					
Alcona and Oscoda Counties					
Brush	10.15	.55	.80		.02
Spray	11.00	.55	.80		.02

UMI 0 8 5 1 G A 5 4 V

Page 3

DECISION No. MI80-2062

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Grand Traverse and Leelanau Counties and that portion of Charlevoix County lying South of and Straight line drawn from Charlevoix (city) to Elmira					
Brush	$10.27	.60	.25		.02
Spray	10.92	.60	.25		.02
Tapers	10.87	.60	.25		.02
Mason County	8.75				
Muskegon & Oceana Counties					
Brush, Tapers	8.00				
Paper Hangers	8.25				
Spray & Sandblast	8.50				
Remainder of Charlevoix County and Remaining Counties					
Brush & Drywall	10.95				
Spary - Commercial	11.70				
PLUMBERS & STEAMFITTERS:					
Alcona and Oscoda Counties	11.34	.85	.60	1.80	
Alpena, Montmorency & Presque Isle Counties	14.51	.45	.80		
Mason, Muskegon & Oceana Counties	12.05	1.19	1.46		
Remaining Counties	14.15	.75	.50		.03
ROOFERS:					
Mason, Muskegon & Oceana Counties	9.95	.67		.20	.01
Remainder of Counties: Composition, Damp & Waterproofers	11.05	.75	.53		.06
SHEET METAL WORKERS:					
Charlevoix, Emmet, Grand Traverse and Leelanau Counties	13.99	.75	.53		.06
Mason, Muskegon & Oceana Counties	11.40	.77	.95	.67	.02
Remaining Counties	12.86	.80	1.00		.03
SPRINKLER FITTERS	14.30	.85	1.20		.08

Page 4

DECISION No. MI80-2062

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Alcona, Alpena, Montmorency Oscoda & Presque Isle Counties Regular Truck Driver	$ 9.40	b31.00	b37.00	.50	
8 cu. yds. and over Euclid Type Bottom & End Dump	9.50	b31.00	b37.00	.50	
	9.70	b31.00	b37.00	.50	
Charlevoix, Emmet, Grand Traverse and Leelanau Counties Regular Truck Driver	8.55	b28.00	b20.00	c	
8 cu. yds, and over	8.65	b28.00	b20.00	c	
Semi-Driver	8.75	b28.00	b20.00	c	
Muskegon & Oceana Counties	7.06	b21.00			

Welder receive rate prescribed for craft to which welding is incidental.

FOOTNOTES:

A. Employer contributes 8% of regular Hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 6% contribution for more than 5 years-plus 7 paid Holidays-New Years Day, Memorial Day, Independence Day, Thanksgiving Day, Day after Thanksgiving & Christmas Day.

b. Per week; Per Employee & Dental & Optical

c. Paid vacation computed at a 40 hour week at straight time as follows: one year or more - one week; three years or more - two weeks; eight years or more - three weeks; and 7 Paid Holidays provided employee has been in service of employer 20 days or more and worked the full scheduled day prior to and after the holiday - New Years Day, Memorial Day, Independance Day, Labor Day, Thanksgiving Day, and the Friday after Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

Page 5

DECISION No. MI80-2062

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Mason County					
Group 1	$ 7.75	.75	.50		.04
Group 2	7.90	.75	.50		.04
Group 3	8.20	.75	.50		.04
Group 4	8.15	.75	.50		.04
Muskegon and Oceana Counties					
Group 1	8.46	.75	.50	.55	.04
Group 2	8.61	.75	.50	.55	.04
Group 3	8.71	.75	.50	.55	.04
Group 4	8.96	.75	.50	.55	.04
Remaining Counties					
Group 1	7.35	.65	.35	.55	.04
Group 2	7.50	.65	.35	.55	.04
Group 3	7.95	.65	.35	.55	.04

LABORERS:

Mason County
Group 1 - Building And Heavy Construction Laborers
Group 2 - Plaster and Mason Tenders; Mortar Mixers; Material Mixers; All power Tools; Vibrator; Chain saw; Nozzleman; Green Cut Concrete
Group 3 - Jackhammer; Acetylene Torch; Windlass and Tugger Operators; swing Scaffold Chimneys; Tower, Crane Scaffold; Rock Crusher
Group 4 - Pipelayers or Crock Layers in Buildings

Muskegon and Oceana Counties
Group 1 - All Construction Laborers on Building on Heavy Construction Pumps and well Wheels
Group 2 - Plasterer tender; Material Mixers; Operators of Portable Mixers; Air, Electric or Gasoline Tools; Mortar Driver Buggies; Swing Scaffold
Group 3 - Jackhammer Operator, Crocklayers & Caisson workers in Buildings
Group 4 - Top men on Chimney or Towers over 30' in Height

Remaining Counties:
Group 1 - Building and Heavy Construction Laborers
Group 2 - Mortar Mixer; Material Mixers; (hand or machine); Vibrator Operators; Operators of Concrete Mixers; Chipping Hammer; Concrete Breakers (90 lb. hammer or less); Tamping Machine (air, gas or electric); Sandblasters; Operator or Motor Driven Buggies; Plaster Mixer; Plasterers Tenders
Group 3 - Cement Gun Nozzleman

Page 6

DECISION No. MI80-2062

LC - ZONE II

LINE CONSTRUCTION: ZONE 11	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technician	$12.50	.45	3%+4%	a+5%	.5%
Cable Splicer	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator; Tractor Operator Groundman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman; Distribution Line					
Truck Driver Operator-Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTES:

7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

UMI 0 8 5 1 G A 5 4 V

Page 7

DECISION No. MI80-2062

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.00	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		.05

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower crane, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swingin) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

Page 8

DECISION No. MI80-2062

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION ALCONA, ALPENA, MONTMORENCY OSCODA & PREQUE ISLE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	.05

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D Hoisting operator
CLASS E Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.90	.95	1.50		.05
CLASS B	13.65	.95	1.50		.05
CLASS C	13.15	.95	1.50		.05
CLASS D	12.00	.95	1.50		.05
CLASS E	10.75	.95	1.50		.05
CLASS F	9.55	.95	1.50		.05

CLASS A- Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane, dozer, loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6" or over
CLASS E - Air compressor, welder, generatorc-conveyors
CLASS F - Oiler & Fireman

Page 9

DECISION No. MI80-2062

MICH-9-PEO-U-2-2

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (selfpropelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity or smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator 2 or more - 300 amp. or lamger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps),concrete paver (1 drum 1/2 cu. yd. or larger wagon drill (multiple),elevator (other than passenger), concrete breaker (self-propelled or truck mounted - include compressmr)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day or diesel powered - excluding submersiblm pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION No. MI80-2063 DATE: Date of Publication
Supersedes Decision No. MI79-2013, dated May 4, 1979 in 44 FR 26439
DESCRIPTION OF WORK: Building (Does not include single family homes and apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction Projects.

COUNTIES: Alger, Baraga, Chippewa, Dicknson. Gogebic Houghton, Keweenaw, Mackinac Marquette & Ontonagon	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chippewa & Mackinac Counties	$12.60	1.05	1.78		.02
Gogebic & Ontonagon Counties	12.80	.50	.75		
Remainder of Counties	12.36	.95	.50	1.00	.10
BOILERMAKERS	13.065	1.28	1.30	2.00	.03
BRICKLAYERS:					
Alger & Marquette Counties: Bricklayers, Stonemasons, Plasterers, & Marble-Tile-Terrazo Workers	11.41	.75	.60		.02
Chipeewa & Mackinac Counties: Bricklayers, Stonemasons, Platerers, Tile & Terrazo Workers	11.41	.75	.60		.02
Remainder of Counties: Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers	11.41	.75	.60		.02
CARPENTERS:					
Carpenters & Soft Floor Layers	11.94	.75	.90		.02
Millwrights	13.59	.75	.90		.02
Piledrivermen	11.14	.60	.80		.02
CEMENT MASONS:					
Alger & Marquette Counties	10.91	.75	.60		.02
Chippewa & Mackinac Counties	10.91	.75	.60		.02
Remainder of Counties	10.91	.75	.60		.02
ELECTRICIANS:					
Dickinson County: Contracts $50,000 or more & all Industrial Work	11.46	.60	3%+1.00		.5%
Contracts less than $50,000	10.09	.60	3%+1.00		.5%
Alger & Marquette Counties: Contracts over $50,000	12.55	.45	3%+1.00		½ of 1%
Contracts over $50,000 or less	10.92	.45	3%+1.00		½ of 1%

UMI 0 8 5 1 G A 5 4 V

DECISION No. MI80-2063 Page 2

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Chippewa & Mackinac Counties	$11.75	.75	3%+1.00	11%	15.00p/m
Gogebic County	12.13	4%	7%		2%
Remainder of Counties:					
Contracts $45,000 & over	11.19	.60	3%+1.00		¼ of 1%
Contracts up to $45,000	8.40	.60	3%+1.00		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Contructors	12.13	1.04	.69	a	.035
Helpers	70%JR	1.04	.69	a	.035
IRONWORKERS	12.20	.80	1.15	2.00	.04
PAINTERS:					
Dickinson County:					
Commercial & Industrial	8.95		.75		
Alger & Marquette Counties					
Brush	11.00	.60			.05
Glaziers	11.00	.60			.05
Bridges, Water Tanks, Radio & TV	13.25	.60			.05
Chippewa & Mackinac Counties:					
Commercial-Industrial & Sign Painter	9.55			1.50	
Taper-Hand	10.05			1.50	
Steel	12.05			1.50	
Glaziers	8.35			1.50	
Baraga, Houghton, Keweenaw & the northern portion of Ontonagon County:					
Brush, Paperhangers, Tapers and Glaziers	9.10				
Spray & Sandblasting	9.65				
Gogebic County & the Remainder of Otonagon County:					
Brush, Paerhangers	6.00				
Spray	6.00				
	6.50				

Page 3

DECISION No. MI80-2063

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAM FITTERS	$14.03	.70	.80		.02
ROOFERS	11.05	.70	.50		
SHEET METAL WORKERS	10.47	.81	.99	1.50	.05
SPRINKLERS FITTERS	14.30	.85		1.20	.08
TRUCK DRIVERS:					
Truck Driver-Regular	10.04	b31.00	b27.00		
Heavy Duty, Double Axle & Semi	10.17	b31.00	b27.00		
Euclid	10.40	b31.00	b27.00		

FOOTNOTES:

a. 7 paid Holidays-New Year's Day-Memorial Day- Independence Day-Labor Day Thanksgiving Day-Day after Thanksgiving & Christmas Day plus employer contributes 8% of Regular Hourly Rate to vacation pay credit for employee who has worked in business more than 5 years & 6% for employees in business less than 5 years

b. Per Week; Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

DECISION No. MI80-2063 Page 4

Welders receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years.

b. Per Week; Per Employee

LABORERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
Class A	$ 9.70	.75	.50		.04
Class B	9.80	.75	.50		.04
Class C	10.10	.75	.50		.04
Class D	10.25	.75	.50		.04

LABORERS

CLASS A: General Construction Laborers

CLASS B: Chipping Hammer; Concrete Mixers; Green Cutting (air, electric or gas); Material Mixers (hand or machine; Motor driven buggies; Mortar Mixers; Sand Blasters; Tamping Machines; Vibrator operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzleman; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work, Tunnels and Shafts - muckers, caisson workers, miners, drillers, blasters.

DECISION No. MI80-2063 Page 5

LC ZONE 11

LINE CONSTRUCTION: ZONE 11	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technician	$12.50	.45	3%+4%	a+5%	.5%
Cable Splicer	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator Tractor Operator Groundman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groumdman; Distribution Line Truck Driver Operator Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman:	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgivng Day; Day after Thanksgiving Day; and Independence Day.

Page 6

DECISION No. MI80-2063

MICH-7-PEO-1-2-SE-U

POWER EQUIPMENT OPERATORS: BUILDING HEAVY & UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.95	.95	1.50	11%	.02
CLASS B	8.86	.95	1.50	11%	.02
CLASS C	8.34	.95	1.50	11%	.02
CLASS D	7.74	.95	1.50	11%	

CLASS A - Regular equipment operator, crane, dozer, front end loader, job mechanic
CLASS B - Air Track Drill, boom truck concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine trencher, winches, well points and freeze systems
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, guard post driver, mulching pumps under 6" welders
CLASS D - Oiler, fireman heater operator

POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS 1 - Operator	$ 8.95	.80	1.00	10%	.02
CLASS 2 - Compressor & Welder	7.95	.80	1.00	10%	.02
CLASS 3 - Oiler & Fireman	7.05	.80	1.00	10%	

SUPERSEDEAS DECISION

STATE: Michigan — COUNTY: Marquette
DECISION No. MI80-2064 — DATE: Date of Publication
Supersedes Decision No. MI79-2014 dated May 4, 1979 in FR 26442
DESCRIPTION OF WORK: Residential Construction Projects of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.36	.95	.50	1.00	.10
BOILERMAKERS	13.065	1.28	1.30	2.00	.03
BRICKLAYERS & STONEMASONS	11.41	.75	.60		.02
CARPENTERS & SOFT FLOOR LAYERS	8.20	.60	.80		.02
CEMENT MASONS	10.91	.75	.60		.02
ELECTRICIANS	8.95	.45	3%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	12.13	1.04	.69	a+b	.035
Helpers	70%JR	1.04	.69	a+b	.035
IRONWORKERS	12.20	.80	1.15	2.00	.04
LABORERS:					
Laborers	9.70	.75	.50		.04
Chipping Hammers; Concrete Mixers, Green Cutter (Air, Electric or Gas), Material Mixers, Mortar Mixers, Motor driven buggy Opr., sandblasters, Tamping machines, vibrator Oprs.,	9.80	.75	.50		.04
MILLWRIGHTS	13.59	.75	.90		.02
PAINTERS:					
Brush & Glaziers	11.00	.60			.05
PILEDRIVERMEN	11.14	.60	.80		.02
PLASTERERS	11.41	.75	.60		.02
PLUMBERS & STEAMFITTERS	14.03	.70	.80		.02
ROOFERS	11.05	.70	.50		
SHEET METAL WORKERS	10.47	.81	.99	1.50	.05
SPRINKLER FITTERS	14.30	.85	1.20		.08
TILE-MARBLE & TERRAZZO WORKERS	11.41	.75	.60		.02
TRUCK DRIVERS:					
Regular	10.04	b31.00	b27.00		
Heavy Duty, double axle and semi	10.17	b31.00	b27.00		
Euclid type equipment	10.40	b31.00	b27.00		

DECISION No. MI80-2064

Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipmnet Operators Regular Equipment Operator Crane, Dozer, Front End Loaders Job Mechanic	$9.95	.95	1.50	11%	.02
Air Track Drill, Boom Truck Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pump, 6" andover, Pumcrete Belt Crete, Squeeze crete, Sweeping Machine, Trencher Winches, Well Points and Freeze Systems	8.86	.95	1.50	11%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

PAID HOLIDAYS: (WHERE APPLICABLE)

A New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day & G-Christmas Day

FOOTNOTES:

a. 7 paid holidays; A through G

b. Employer contributes 8% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week, Per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Michigan — COUNTIES: See Below
DECISION No. MI80-2065 — DATE: Date of Publication
Supersedes Decision No.MI79-2015, dated May 4, 1979 in 44 FR 26443
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding, Bridge, Airport and Sewer,) Construction Projects

COUNTIES: Allegan, Berrien Calhoun, Clinton, Eaton Ingham, Jackson & Kalamazoo	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien County	$14.63	.80	1.00		
Remaining Counties	12.60	1.05	1.78		.02
BOILERMAKERS	13.065	1.28	1.30	2.00	.03
BRICKLAYERS & STONEMASONS:					
Allegan County (Casco, Clyde Ganges and Lee Townships) and Berrien County	12.35	.95	1.05		
Allegan County (Allegan, Cheshire, Gun Plain, Martin, Otsego, Trowbridge, Valley, and Watson Townships) and Kalamazzo County	11.41	1.15	.35		.09
Allegan County (Remainder)	10.80	.75	.35		.04
Calhoun County and Bellevue, Carnel, Kalamo, and Walton Townships in Eaton County	13.30	.85	.75		
Clinton and Hingham (except Onondaga, Leslie, Bunker Hill and Stockbridge Townships) Counties and the remainder of Eaton County	13.70		1.10		.01
Jackson County and remainder of Ingham County	14.25	1.10	.80		
CARPENTERS:					
Berrien County (chickaming, New Buffalo and Three Oaks Townships)	14.55	1.05	.82		.15
Clinton, Eaton (except Bellevue, Walton, Kalamo and Vermontville Townships), Ingham & Jackson Counties	13.22	.75	.90		.05
Remaining Counties and the remainder of Berrien and Eaton Counties	11.99	.75	.90		.10

UMI 0 8 5 1 G A 5 4 V

DECISION MI80-2065 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Kalamazoo County: Calhoun Co; Allegan Co., (Twps of Allegan, Cheshire, Gunn Plain, Martin, Otsego, Trowbridge, Valley & Watson)	$10.77	1.15	.35		.02
Allegan County (Casco, Ganges & Lee Townships) and Berrien County	11.50	.95	1.05		.02
Remainder of Allegan County	9.72	.70	.75		.02
Remainder of Counties	10.40	.60	.50		.02
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Leighton Townships	12.85	.75	3%+.35		.01
Allegan County (Remainder) and Kalamazzo County	13.58	.75	9½%		.01
Berrien County	13.79	4.8%	7%		.5%
Calhoun County and Sunfeild, Vermontville, Kalamo, Bellevue Eaton and Brookfield townships in Eaton County	13.70	.75	9%		.01
Clinton and Ingham (except Onondaga, Leslie, Stockbridge and Bunker Hill Townships) Counties and the remainder of Eaton County	13.87	.75	1.50		.5%
Jackson County	13.07	1.00	.70	10%	.26
Remainder of Ingham County	13.07	1.00	.70	10%	.26
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazzo, and Calhoun Counties:					
Constructor	10.81	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Berrien County:					
Constructor	13.26	1.195	.82	a	.035
Helper	70%JR	1.195	.82		

DECISION MI80-2065 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Eaton, Ingham & Jackson Counties:					
Constructor	$12.41	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
GLAZIERS:					
Kalamazoo, Calhoun & So. Part of Allegan Cos.	11.75		.15		
Clinton, Eaton, Ingham Jackson Counties	9.64	.55	.70		.02
IRONWORKERS:					
Berrien County	13.00	1.00	2.13		.03
Clinton, Ingham & Jackson Cos. Structural & Ornamental	13.90	9%	17%	18%	.09
Fence Erectors	11.59	9%	17%	18%	.09
Reinforcing	12.08	.98+.50	19%	19%	.12
Remaining Counties	13.08	6%	8%		.10
LATHERS:					
Ingham & Jackson Counties	13.02	1.06	.30		.01
Calhoun County	12.22	1.06	.30		.01
MARBLE TILE & TERRAZO WORKERS					
Allegan Co. (Gun Plain Otsego, Trowbridge Valley, Allegan, Cheshire, Martin and Watson Townships) and Kalamazoo County	10.75	.90			.05
Remainder of Allegan Co.	10.05	.75	.35		
Clinton, Ingham (except Onondaga, Leslie, Bunker Hill, and Stockbridge Townships) and Eaton (except Kalamo, Carmel, Bellevue, and Walton Townships) Counties	12.68		1.10		
Calhoun co. & Bellevue, Carmel, Kalamo & Walton Twps. in Eaton County					
Marble Setters	13.30	.85	.75		
Tile & Terrazzo Workers	10.52	.85	.35		
Jackson County and the Remainder of Ingham County					
Tile & Terrazzo Workers	12.82	1.10	.80		
Marble Setters	14.25	1.10	.80		

DECISION No. MI80-2065 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Allegan Co. (Northern Portion					
Brush	$10.30	.50	.25		.02
Spray	11.05	.50	.25		.02
Allegan County (S,E.½) and Kalamazoo County					
Brush; Drywall Taping; Pan Roller	10.45		.40		
Swing Stage: Structural Steel	11.10		.40		
Spray	11.35		.40		
Berrien County:					
Brush	11.60				
Structural Steel 12% of scale					
Calhoun County:					
Brush; Roller	10.35		.25		
Clinton, Eaton & Ingham Counties					
Brush and Roller & Tapers	13.00	.65	.40		.0025
Structural Steel	13.40	.65	.40		.0025
Spray & Sandblasting	13.75	.65	.40		.0025
Jackson County:					
Brush & Roller	12.10	1.01	1.35	1.15	50.00p/y
Spray	12.60	1.01	1.35	1.15	50.00p/y
Drywall Taper	12.35	1.01	1.35	1.15	50.00p/y
PLASTERERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien Tounty	11.75	.95	1.05		
Remainder of Allegan County and Remaining Counties	12.22	.80	1.00		.03
PLUMBERS:					
Allegan County (Northern Tier Townships)	12.09	.60+.15	.90		.05
Allegan County (Remainder) and Kalamazoo County	11.71	.60	.86		

DECISION No. MI80-2065 Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (CONT'D)					
Berrien County (except of Niles and vicinity)	$13.04	1.22	.90		
City of Niles and Cicinity in Berrien County	13.58	.75	.95		.10
Calhoun County and Bellevue, Olivet, Hastings and Char Charlotte in Eaton County	14.36	1.56	1.50		
Clinton and Ingham Counties and Sunfeild, Roxand, Oneida, Delata and Windsor Townships in Eaton County	13.11	.75	1.25		
Jackson County	13.05	.87+.30	1.10		.02
ROOFERS:					
Jackson County					
Composition	10.65	.94	.65	1.05	.10
Slate & Tile	11.68	.94	.65	1.05	.10
Allegan County					
Built-Up	8.65	.90	.35	1.20	
Slate, Tile & Asbestos	8.90	.90	.35	1.20	
Calhoun and Kalamazoo Counties:					
Composition	12.20			.35	
Slate, Tile & Asbestos	12.45			.35	
Clinton, Eaton and Ingham Cos.	10.20		.70	.70	
SHEET METAL WORKERS:					
Berrien County	12.88	.75	.615		.07
Remaining counties	14.30	1.14	1.51		.08
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chickming, New Buffalo and Three Oaks Townships), Calhoun, Kalamazoo Counties and Bellevue, Vermontville, Kalmo and Walton Townships in Eaton County	9.70	.60	.80		.01
Clinton and Hingham Counties and remainder of Eaton County	11.34	.75	.80		.01
Jackson county	13.22	.75	.80		.01
Chickaming, 3 Oaks & New Buffalo Twps. in Berrien Cos.	13.00	.65	1.00		.05

DECISION No. MI80-2065 Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$14.61	.85	1.20		.08
TRUCK DRIERS:					
Allegan, Berrien and Kalamazoo Counties:					
8 cu yds. & under	8.84	b24.00	b22.00		
8 cu yds. & over	9.00	b24.00	b22.00		
Low Boys Semis	9.11	b24.00	b22.00		
Calhoun County	7.95	b21.00	b12.00	.20	
Less than 8 cu. yds.	7.95	b21.00	b12.00	.20	
8 cu. yds. and over; Semi Tandem	8.05	b21.00	b12.00	.20	
Clinton, Eaton and Ingham Cos. 8 cu yds. & under	8.61	b31.00	b37.00	c	
Truck Drivers on dump trucks 8 cu. yds. Capacity and over pole trailers	8.71	b31.00	b37.00	c	
Low boys drivers; Double bottom drivers	8.81	b31.00	b37.00	c	
Jackson County	5.95	b24.00	b22.00		
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION No. MI80-2065 Page 7

PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years, 6% contribution for more than 5 years, plus 7 paid holidays - A through G

b. Per week, Per employee

c. One year's service, one week vacation; 3 years service, two weeks vacation

DECISION No MI80-2065 Page 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Allegan, Berrien, Calhoun and Kalamazoo Counties					
GROUP 1	$ 9.10	.75	.50	.55	.04
GROUP 2	9.25	.75	.50	.55	.04
GROUP 3	9.35	.75	.50	.55	.04
GROUP 4	9.60	.75	.50	.55	.04
Clinton, Eaton and Ingham Counties					
GROUP 1	8.75	.65	.35	a	.04
GROUP 2	8.83	.65	.35	a	.04
GROUP 3	8.89	.65	.35	a	.04
GROUP 4	9.04	.65	.35	a	.04
GROUP 5	8.99	.65	.35	a	.04
GRPUP 6	9.11	.65	.35	a	.04
GROUP 7	9.365	.65	.35	a	.04
Jackson County					
GROUP 1	9.48	.65	.35	.88	.04
GROUP 2	9.98	.65	.35	.88	.04

LABORERS:

Allegan, Berrien, Calhoun and Kalamazzo Counties
Group 1 - All construction laborers on buildings and Heavy Construction Pumps and Well Wheels
Group 2 - Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds
Group 3 - Jackhammer Oprs., Crocklayers & Caisson Workers in Building
Group 4 - Top men on Chimney or Towers over 30' in height

Clinton, Eaton and Igham Counties
Group 1 - Building Laborers
Group 2 - Mortar Mixers, hand or machine
Group 3 - Plasterer Tenders; Portable concrete mixer Opr., (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; concrete saw; Signal men and top men
Group 4 - Tunnel men; concrete shovelers; Car pushers, etc.
Group 5 - Windlass Operator (on caisson work)
Group 6 - Crock Layers (or pipe layers); Caisson workers; Tunnel muckers
Group 7 - Tunnel Miners

Jackson County
Group 1- General Laborer
Group 2- Jackhammer and Acetylene Torch

FOOTNOTE:
a. - 5.00 per day

DECISION No. MI80-2065 Page 9

LC ZONE I

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWNSHIPS IN INGHAM COUNTY					
Linemen - Technician	$14.38	1.50	9%		½%
Cable Splicer	15.00	1.50	9%		½%
Combination Equipment Oprs. & Groundman	11.52	1.50	9%		½%
Combination Driver & Groundmen	10.84	1.50	9%		½%
Groundman	9.98	1.50	9%		½%

LC ZONE II

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: ZONE II REMAINING COS: & THE REMAINDER OF INGHAM COS.					
Lineman; - Technician	$12.50	.45	3%+4%	a+5%	.5%
Cable Splicer	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Oprs., Tractor Oprs., Groundman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Opr., Groundman; Distribution Line					
Truck Driver Operator - Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman:	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION MI80-2065 Page 10

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		.05

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D- Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater operator

DECISION No. MI80-2065 Page 11

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION CLINTON, INGHAM & JACKSON COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	.05

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140" or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.90	.95	1.50		.05
CLASS B	13.65	.95	1.50		.05
CLASS C	13.15	.95	1.50		.05
CLASS D	12.00	.95	1.50		.05
CLASS E	10.75	.95	1.50		.05
CLASS F	9.55	.95	1.50		.05

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane, dozer, loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6" or or over
CLASS E - Air compressor, welder, generators-convoyors
CLASS F - oiler & Fireman

Page 12

DECISION No. MI80-2065

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION CALHOUN, CLINTON, EATON INGHAM & JACKSON COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe, calmshell, trencher (over 8" digging capacity), mechanic, endloader (over 1¼ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION No. MI80-2065 Page 13

MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
COUNTIES: Genesee, Lapeer, Saginaw, St. Clair & Shiawassee
DECISION NUMBER MI80-2067
DATE: Date of Publication
Supersedes Decision Number MI79-2017 dated May 4, 1979 in 44 FR 26455
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family Homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$13.85	1.61	1.69		.07
Remainder of Counties	12.60	1.05	1.78		.02
BOILERMAKERS	13.065	1.28	1.30	2.00	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee	12.45	.80	1.30		
Saginaw County	12.77	1.05	.95		
St. Clair County	9.75	1.30	1.10		
CARPENTERS:					
Saginaw County & Remaining Cos.	8.37	.60	.80		.02
St. Clair	12.78	1.00	11%	11%	.04
CEMENT MASONS:					
Genesse & Shiawassee Cos.	10.80	.70	.75		.02
Lapeer County	11.10	.80	1.30		
Saginaw County	12.07	1.05	.95		
St. Clair County	9.09	1.30	1.10		
ELECTRICIANS:					
Genesee, Lapeer & Shiawassee Cos.	7.28	.40	3%+.75		.02
Saginaw Cos.	9.33		3%+.15		½ of 1%
St. Clair County	14.40	1.65	3%+1.20		.05
ELEVATOR CONSTRUCTORS:					
St. Clair County					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Remainder of Counties					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.	9.64	.55	.70		.02
Saginaw County	9.15		.50	.25	.01
St. Clair County	9.77	.55	.65		
IRONWORKERS:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	.98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Saginaw County					
Laborers; Mortar Mixers (Hand)	$ 9.49	.65	.35		.04
Plaster Mixers & Tenders	9.69	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos.					
Laborers	10.44	.75	.85		.04
Air, Gas & Electric Tool Oprs.	10.59	.75	.85		.04
Mortar Mixers	10.69	.75	.85		.04
Crock or Pipelayers	10.79	.75	.85		.04
St. Clair County					
Laborers; Mason Tenders	11.13	.65	.35		.04
Mortar Mixers	11.25	.65	.35		.04
Air, Gas & Electric Tool Oprs.	11.38	.65	.35		.04
Crock & Pipelayers	11.48	.65	.35		.04
LATHERS:					
Saginaw & Genesee Cos.	13.02	1.06	.30		.01
MARBLE TILE & TERRAZZO WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	11.70	.80	1.30		
Saginaw County	12.20				
St. Calir County:					
Marble Masons	13.38	1.00	1.40		
Terrazzo Workers	12.42	1.00	1.40		
Tile Setters	12.88	1.00	1.40		
PAINTERS:					
Genesee & Eastern ½ of Counties: West of Hwy. #53 inLapeer	10.70	.50	.70		10.00p/mo
St. Clair Co; & East of Hwy. #53 in Lapeer County	14.28	.65	.90		.01
Saginaw County	9.95		.35		.02
Western ½ of Shiawassee Cos.	13.00	.65	.40		.0025
PLASTERERS:					
Saginaw County	11.29	.88	.20		
Genesee & Shiawasee Cos.	12.22	.80	1.00		.03
Lapeer County	11.35	.80	1.30		
St. Clair County	9.30	1.30	1.10		
PLUMBERS:					
Genesee, Lapeer & Shiawassee Cos.	14.44	1.17	1.70		.03
Saginaw County	12.87	1.09	1.50	1.25	.02
St. Clair County	12.00	1.25	1.60	1.90	.07

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
St. Clair County					
Regular Engineer	$12.49	.95	1.50	11%	.05
Regular Crane Operator	12.86	.95	1.50	11%	.05
Remainder of Counties					
Regular Equipment Operator: Scraper, Dozer; Grader, Front End Loader	12.80	.95	1.50		.05
Bob Cat & Similar Type Equip.,	11.65	.95	1.50		.05
air compressors; Gmerators	10.25	.95	1.50		.05
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.	12.25	.60	.60		
St. Clair County	9.95				
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Cos.,	10.65	.79	1.20	1.00	
Saginaw County	12.86	.80	1.00		.03
St. Clair County	11.305	1.81	1.73	1.24	.12
SOFT FLOOR LAYERS:					
St. Clair County	11.49	1.00	7%	8%	.03
Remainder of County	11.34	.60	.80		.01
SPRINKLER FITTERS	14.61	.85	1.20		.08
TRUCK DRIVERS:					
Genesee. Lapeer, & Shiawassee Cos.,	9.60	b32.50	b37.00		
Saginaw County					
Truck drivers	9.40	b31.00	b37.00	.50	
8 Cubic yards & over	9.50	b31.00	b37.00	.50	
Euclid Type Equipment	9.70	b31.00	b37.00	.50	
St. Clair County					
Truck Drivers	11.05	b32.50	b37.00		
Semi Trucks	11.20	b32.50	b37.00		

FOOTNOTES:

a. 7 paid Holidays - New Year's Day - Memorial Day - Independence Day - Labor Day - Thanksgiving Day - Day after Thanksgiving - Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee plus $3.00 for dental & optical - H&W - T/D in Saginaw County, only

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: New Hampshire
COUNTIES: Hillsboro & Merrimack
DECISION NUMBER: NH80-2056
DATE: Date of Publication
Supersedes Decison No. NH78-2100, dated October 6, 1978 in 43 FR 46466
DESCRIPTION OF WORK: Building & Heavy Construction Projects

HILLSBORO COUNTY

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.81	1.20	1.10		.01
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, AND TILE SETTERS	9.89	1.01	.89		.01
CARPENTERS:					
Pelham:					
Carpenters & Soft floor Layers	11.95	1.00	1.00		.07
Millwrights	12.90	1.00	1.00		.10
Greenville:					
Carpenters & Soft Floor Layers	12.20	.75	1.00		.07
Millwrights	12.90	1.00	1.00		.10
Remainder of County:					
Carpenters & Soft Floor Layers	9.98	.65	.70		.03
Piledrivermen & Millwrights	10.83	.65	.70		.03
ELECTRICIANS:					
Pelham	12.37	.75	3%+.60		.02
Remainder of County	12.25	.65	3%		.03
ELEVATOR CONSTRUCTORS:					
Constructors	12.81	1.045	.82	a+b	.035
Helpers	8.97	1.045	.82	a+b	.035
GLAZIERS	9.47	.77	.69		.03
IRONWORKERS:					
Structural, Ornamental & Reinforcing	11.05	1.15	1.20		.02
LINE CONSTRUCTION:					
Linemen	9.34	.70	3%+.50	d	3/8of1%
Equipment Operator	8.74	.70	3%+.50	d	3/8of1%
Groundman	6.36	.70	3%+.50	d	3/8of1%
Driver Groundman	7.38	.70	3%+.50	d	3/8of1%
PAINTERS:					
Brush	9.10	.50			
Paperhangers	9.35	.50			
Spray & Sandblasting	10.60	.50			
Open Structural steel	10.35	.50			
Enclosed Structural Steel & Steeple Jack	9.60	.50			

Page 2

DECISION NO. NH80-2056

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND STEAMFITTERS:					
Hudson and Pelham	12.62	1.10	1.10		.02
Remainder of County	12.40	.83	.65		.02
ROOFERS:					
Roofers	7.80				
SHEET METAL WORKERS	10.72	.80	.80		.02
SPRINKLER FITTERS	12.06	.75	1.05		.08

Page 3

DECISION NO. NH80-2056

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.81	1.20	1.10		.01
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYER, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS & TILE SETTERS	9.89	1.01	.89		.01
CARPENTERS & SOFT FLOOR LAYERS	9.98	.65	.70		.01
Millwrights & Piledrivers	10.83	.65	.70		.03
ELECTRICIANS:					
Hookset	12.25	.65	3%		.03
Remainder of County:					
Gen. Contracts $400,000 & over	11.75	.80	3%+.50		.02
General Contracts less than $400,000	8.05	.80	3%+.50		.02
ELEVATOR CONSTRUCTORS:					
Constructors	12.81	1.045	.82	a+b	.035
Helpers	8.97	1.045	.82	a+b	.035
GLAZIERS	9.47	.77	.69		.03
IRONWORKERS - Structural, Ornamental and Reinforcing	11.05	1.15	1.20		.02
LINE CONSTRUCTION:					
Linemen	9.34	.70	3%+.50	d	3/8of1%
Equipment Groundman	8.74	.70	3%+.50	d	3/8of1%
Groundman	6.36	.70	3%+.50	d	3/8of1%
Driver Groundman	7.38	.70	3%+.50	d	3/8of1%
PAINTERS:					
Brush	9.10	.50			
Open Structural Steel Work	10.35	.50			
Enclosed structural Steel Work & Steeplejack	9.60	.50			
Paperhangers	9.35	.50			
Spray & Sandblasting	10.60	.50			
PLUMBERS AND STEAMFITTERS	12.40	.83	.65		.02
ROOFERS	7.80				
SHEET METAL WORKERS	10.72	.80	.80		.02
SPRINKLER FITTERS	12.06	.75	1.05		.08

Page 4

DECISION NO. NH80-2056

Welders - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas

FOOTNOTES:

a. Employer contributes 6% basic hourly rate for 5 years or more of service or 8% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.

b. Holidays: A through F

c. Holidays: A through F: Washington's Birthday, Christmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday

d. Holidays: B through F, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday

e. Holidays: B, C, and E provided employee works the day before and after each holiday

Page 5

DECISION NO. NH80-2056

LABORERS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers	8.07	.75	1.10		.10
Plasterers' Tenders	8.24	.75	1.10		.10
Pipelayers, Fence & Guard Rail Erectors	8.36	.75	1.10		.10
Pneumatic Tool Ops., Pavement Breakers, Drillers, Chipping Gun Op., Chipping Gun Op., Powdermen & Blasters	8.65	.75	1.10		.10
All other Pneumatic Tool Ops. on Boiler and Stack Work	9.11	.75	1.10		.10
Heavy Construction					
Laborers and Pipelayers	7.67	.60	.80	e	.10
Pneumatic Tool Op., Drillers, Concrete Vibrators, & Electric Chipping Machines	8.17	.60	.80	e	.10
Blasterers and Powdermen	8.42	.60	.80	e	.10

UMI 0 8 5 1 G A 5 4 V

Page 6

DECISION NO. NH80-2056 NH-1-PEO R

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	10.75	.95	.75	a	.05
CLASS 2	10.50	.95	.75	a	.05
CLASS 3	10.30	.95	.75	a	.05
CLASS 4	9.525	.95	.75	a	.05
CLASS 4	9.50	.95	.75	a	.05
CLASS 6	8.70	.95	.75	a	.05
CLASS 7	8.90	.95	.75	a	.05
CLASS 8	11.75	.95	.75	a	.05
CLASS 9	11.25	.95	.75	a	.05

CLASS 1 - Shovel, Crane, Dragline, Derrick, Backhoe, Elevator with Chicago Boom, Gradall, Elevating Grader, Front End Loader 6 yds. and over, Cherry Picker, Pile Driving Rigs, Concrete Road Pavers, all three Drum Hoisting and Trenching Machines
CLASS 2 - Rotary Drill with Mounted Compressor, Compressor House (3-6 comepressors), Rock and Earth Boring Machines excluding McCarthy and similar Drills, Graders, 4 yds. and over Front End Loader, Two Drum Hoists, High Fork Lifts with Capacity of 15' & over, Scrapers, Sonic Hammer, Vibratary Hammer
CLASS 3 - Bulldozers, Push Cats, Scrapers (tractor drawn), Asphalt Paver, Front End Loader 3/4 yds. to 4 yds., Well Driller, Mechanics, Pumpcrete Machines, Concrete Pumps and Similar Type Pumps, Engineer or Fireman on High Pressure Boiler (on job), Self Loading Batch Plant, Well Point Operators including installing, Engineer-in-charge of Power Grease Truck, all Automatic Elevators permanent or Temporary operated manually or by remote controls
CLASS 4 - Single Drum Hoist, Self powered Roller, Self Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, Front End Loaders under 3/4 yds., McCarthy and similar Drills, Batch Plant not Self Loading, Bulk Cement Plants Self-Propelled Material Spreaders, A-Frame Trucks, Fork Lifts up to 15'
CLASS 5 - Compressor 315 Cubic ft. and over, (one or two), Pumps (4 inches & over total discharge) when total discharge is over 12 inches, Classification 3 will be paid, Tractor (without blade or Bucket) Drawing Roller Compactors or other Machines
CLASS 6 - Compressors (up to 315 cubic feet) Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines (when 3 or more heaters or Welding Machines are used on one Job, classification 4 rate will be paid), Conveyor Oiler including Helpers on Grease Trucks and Grease Trucks with Hand Greasing Equipment
CLASS 7 - Oilers on Truck Cranes and Gradalls
CLASS 8 - Cranes with boom lengths of 200 feet or more
CLASS 9 - Crane with boom length of 150 feet or more

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; e-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, Veterans Day, Washington's Birthday and Columbus Day.

Page 7

DECISION NO. NH80-2056 NH 2-PEO-2-3-S

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	10.48	.95	75	a	.05
CLASS 2	10.19	.95	.75	a	.05
CLASS 3	9.96	.95	.75	a	.05
CLASS 4	9.33	.95	.75	a	.05
CLASS 5	8.965	.95	.75	a	.05
CLASS 6	8.36	.95	.75	a	.05
CLASS 7	11.05	.95	.75	a	.05

CLASS 1 - Shovels, Crawler & Truck Crane, Derricks, Backhoes, Trenching Machines, Elevating Graders, Gradalls, Piledrivers, Concrete Pavers, Engineers on Site Processing Plant, Dragline, Clamshell, Cableways
CLASS 2 - Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors) Rock and earth Boring Machine (excluding McCarthy and similar drills), Grader, Front End Loader (4 yds. or over)
CLASS 3 - Bulldozer, Push Cats, Scraper (Self propelled or tractor drawn), Self-Powered Asphalt Paver. (Front End Loader 3/4 to 4 yds.), Mechanics, Well driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job) Self-loading Batch Plant (on job), Well Point Operators
CLASS 4 - Hoists, Conveyors, Self-powered Rollers and Compactors, Self-propelled Material Spreaders, Self-powered Concrete Finishing Machine Mixers (2 bag with skip), Front End Loader (Under 3/4 yd.), McCarthy & similar Drills, Batch Plant (not a self-loading), Bulk Cement Plant
CLASS 5 - Compressor (315 C.F. or over-one or two), Pump 4" or over, Tractor without blades, Drawing Sheeps-foot, Rubber Roller or other type Compactor including Machines for Pulverizing and aerating Soil
CLASS 6 - Compressor (up to 315 C.F.), Small Mixers with skip, Oiler Pumps up to 4", Grease Truck, Power Heaters, Welding Machines (when 3 or more Welding Machines Class 4 rate applied), A-Frame, Forklifts, (Where grease truck contains powered grease equipment, engineer in charge shall be paid Class 3 rate)
CLASS 7 - Crane with boom length of 200 feet or more including jib

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Veteran's Day and Columbus Day

Page 8

DECISION NO. NH80-2056

POWER EQUIPMENT OPERATORS MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.41	1.18	1.15	a	.03
CLASS 2	13.36	1.18	1.15	a	.03
CLASS 3	13.29	1.18	1.15	a	.03
CLASS 4	13.29	1.18	1.15	a	.03
CLASS 5	12.23	1.18	1.15	a	.03
CLASS 6	11.22	1.18	1.15	a	.03
CLASS 7	9.97	1.18	1.15	a	.03
CLASS 8	9.97	1.18	1.15	a	.03
CLASS 9	10.54	1.18	1.15	a	.03

Booms over 150' including jib-additional $.25 per hour
Booms over 185' including jib-additional $.50 per hour
Booms 220' including jib-additional $.75 per hour
Booms over 275' including jib-additional $1.00 per hour

CLASS 1 - Power Shovel, Crane, Truck Crane, Derrick, Cherry Picker, Pile Driver, 2 or more Drum Machine, Lighter, Derrick Boat, Trenching Machine, Mechanical Hoists, Pavement Breaker, Cement Concrete Paver, Dragline, Hoisting Engine, Pumpcrete Machine, Elevating Grades, Shovel Dozer (except when pushing) Front End Loader, (except when pushing) Backhoe, Gradall, Cableway, Boring Machine, Rotary Drill Post Hole Hammer, Post Hole Digger, Fork Lift
CLASS 2 - Swinger Engine
CLASS 3 - Sonic or Vibratory Hammer, Grader, Scraper (over 21 yds. struck), Tandem Scraper Concrete Pump, Bulldozer, scraper (21 yds. or less)
CLASS 4 - Portable Steam Boiler, Portable Steam generator, Roller, Tractor, Mechanic (maintenance), Concrete Mixer with Side Loader
CLASS 5 - Assistant Engineer (fireman)
CLASS 6 - Pump, Compressor, Welding Machine, Heater (power driven), Valve Controlling Permanent Plant (air or steam), Wellpoint System, Auger (powered by independent engine and attached to pile driver), Hydraulic Saw, Generator, Lighting Plant, Syphon, Pulsometer, Concrete Mixer
CLASS 7- Oiler (other than truck crane and gradall)
CLASS 8 - Oiler on Scow
CLASS 9 - Oiler on Truck Crane and Gradall

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F; Washington's Birthday, Patriots Day, Columbus Day; & Veteran's Day; Provided the employee has worked 3 days during the week in which which the holidays falls and is available for work the days preceding the holidays.

Page 9

DECISION NO. NH80-2056 NH -TD-1-2-3-L

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education, and or Appr. Tr.
CLASS 1	6.41	.80	.50	a	
CLASS 2	6.64	.80	.50	a	
CLASS 3	6.87	.80	.50	a	

CLASS 1 - Two Axle Equipment
CLASS 2 - Three Axle Equipment including Low Beds
CLASS 3 - Special Earth Hauling Equipment other than Conventionnl Type on the road Truck and Semitrailers Trailer Dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; c-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

UMI 0 8 5 1 G A 5 4 V

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: THE INDEPENDENT CITIES OF CHESAPEAKE, HAMPTON NEWPORT NEWS, NORFOLK, PORTSMOUTH AND VIRGINIA BEACH

DECISION NO.: VA80-3052 DATE: DATE OF PUBLICATION

Supersedes Decision No. 78VA-3100 dated December 8, 1978 in 43 FR 57794

DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters; tunnels; rest areas which include building structures; railroad construction; and paving associated with building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$ 4.44				
CARPENTERS, STRUCTURE	7.39				
CARPENTER HELPER, STRUCTURE	5.00				
CONCRETE FINISHER	5.61				
CONCRETE FINISHER HELPER	4.37				
ELECTRICIAN	11.05	.60	8%	a	1%
FIREMAN	6.10				
FORM SETTER	5.00				
GUARDRAIL/FENCE ERECTOR	4.50				
IRON WORKER, REINF.	7.75				
IRON WORKER, REINF. HELPER	4.75				
IRON WORKER, STRUCTURAL	9.90				
LABORER, UNSKILLED	3.69				
LANDSCAPE WORKER	3.55				
MASON, STRUCTURE	5.00				
MECHANIC	6.45				
PAINTER	6.75				
PAINTER, BRIDGE	7.46				
PILE DRIVER LEADSMAN	7.29				
PIPE LAYER	4.43				
ASPHALT DISTRIBUTOR OPERATOR	4.75				
ASPHALT PAVER OPERATOR	4.98				
BACKHOE OPERATOR	5.25				
BULLDOZER OPERATOR	5.41				
BULLDOZER OPERATOR (UTILITY)	5.50				
CONCRETE FINISH MACHINE OPERATOR	4.83				
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	5.87				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	8.18				
FORM GRADER OPERATOR	4.32				
LOADER OPERATOR (2 YDS. & UNDER)	4.83				
LOADER OPERATOR (OVER 2 YDS.)	5.00				
MOTOR GRADER OPERATOR (FINE GRADE)	5.95				

[FR Doc. 80-24446 Filed 8-14-80; 8:45 am]

BILLING CODE 4510-27-C

DECISION NO. VA80-3052

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MOTOR GRADER OPERATOR (ROUGH GRADE)	5.67				
OILER GREASER	5.33				
PILE DRIVER OPERATOR	8.30				
POWER TOOL OPERATOR	3.95				
ROLLER OPERATOR (ROUGH)	4.38				
ROLLER OPERATOR (FINISH)	4.49				
SCRAPER PAN OPERATOR	4.59				
STABILIZER OPERATOR	4.35				
TRACTOR OPERATOR (UTILITY)	4.09				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	3.04				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.00				
TRUCK DRIVER (MULTI-REAR AXLE)	3.86				
TRUCK DRIVER (SINGLE-REAR AXLE)	3.40				

Unlised classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR. 5.5 (a(1)(ii)).

FOOTNOTE:

a. Two hours off with pay on State and National Election Days.

federal register

Friday
August 15, 1980

Part III

Department of Agriculture

Food and Nutrition Service

Food Stamp Workfare Demonstration Project

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 282

[Amendment No. 175]

Amendments to the Demonstration Research and Evaluation Projects; Food Stamp Workfare Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This rulemaking amends the Workfare Demonstration Project rules issued November 28, 1978 in the **Federal Register** (43 FR 55334) by the Departments of Agriculture and Labor, as joint administrators of this project. Section 17(b)(2) of the Food Stamp Act of 1977 as amended, was amended by Pub. L. 96–249 (94 Stat. 357, May 26, 1980) to extend the operation of the project through the fiscal year ending September 30, 1981, and further to provide for 50 percent Federal reimbursement of administrative costs associated with operation of the project. The amendment also directs the Secretary of Agriculture to designate at least one pilot project to implement a ten-day food stamp work registration job seeking period in lieu of the current thirty-day period.

EFFECTIVE DATE: The funding provision of Pub. L. 96–249 (§ 282.10(i)) is effective as of May 26, 1980. Other amended provision are effective immediately upon publication.

COMMENT PERIOD: Comments must be received on or before October 14, 1980 to be assured of consideration.

ADDRESS: Comments should be submitted to: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written comments will be open to public inspection at the Office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street, S.W., Washington, D.C., Room 672.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division, U.S. Department of Agriculture, Room 658, 500 12th Street, S.W., Washington, D.C. 20250, Telephone: (202) 447–8325.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 and under Department of Labor (DOL) procedures as specified in 44 FR 5576 to implement Executive Order 12044, and has been classified not significant.

Bob Greenstein, Administrator for the Food and Nutrition Service, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because the Workfare Demonstration Project is due to expire at the end of fiscal year 1981 and adequate time is needed for implementation and evaluation of project sites prior to the expiration date. For these reasons, the Secretary of Labor is also waiving the Department's regulation at 29 CFR 2.7 which states that it is DOL's policy to use proposed rulemaking procedures when issuing its regulations.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited on or before October 14, 1980, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

The Departments of Agriculture and Labor published regulations pertaining to the Administration of the Workfare Demonstration Project in the November 28, 1978 **Federal Register**. Under this project, qualifying food stamp registrants at selected pilot sites are required to perform work in a public service capacity, in exchange for the coupon allotment to which they are normally entitled.

Under the 1977 Food Stamp Act, the Secretary was authorized to establish 14 project sites, one urban and one rural in each of the seven administrative regions of the Food and Nutrition Service. Following the initial application period early in 1979 and a subsequent reopening of applications in September of that year, seven projects are now operational. Original authorizing legislation did not provide any Federal funds for administrative costs incurred by the political jurisdictions in operating Workfare projects. During the application periods the absence of operational funding was cited by responding political jurisdictions as a major factor in their decision not to submit an application. The total authorized complement of 14 sites was not achieved.

In order to provide a more adequate test of the Workfare concept, the Congress has authorized an extension of the test program through September 30, 1981. To further increase the number of project sites, the Congress also authorized Federal funding for 50 percent of project administrative costs to the political jurisdictions administering the pilot projects. This new funding authority, where none existed before, would apply to costs incurred by existing projects as of the date of enactment of the law. Project sites selected under the extending authority will be funded as negotiated in the grant agreement following site selection. The legislative history stresses that selection of the 14 sites is to be based upon uniform criteria and that the original seven sites will enjoy no special status, but should be judged on a par with all other project applicants. House Rept. No. 96–788, 96th Cong., 2d Sess., Feb. 27, 1980, p. 147.

Although the Departments are expected to adhere to the statutory directive for 14 projects, with one urban and one rural project in each Food and Nutrition Service region, the legislative history indicates that if in a given region this distinction cannot be achieved, two acceptable sites of the same type (e.g. two rural or two urban) can be selected to conduct Workfare projects during the extended period.

The 1977 legislation authorizing the Workfare projects required that the project design include a 30-day job seeking period under the food stamp work registration requirement (see 7 CFR 273.7) before eligible food stamp participants referred to the jobs component administrator of the project could be scheduled for assignment to job sites. Public Law 96–249 amends the 1977 legislation to require that the 30-day job seeking period be reduced to 10 days in at least one site. The Departments are concerned that changing one of the parameters of the project design in mid-course could affect the soundness of the results of the study on Workfare, and accordingly will limit use of the 10-day job seeking period to one site.

Therefore, Part 282 of Title 7 of the Code of Federal Regulations is amended to read as follows:

PART 282—DEMONSTRATION, RESEARCH AND EVALUATION PROJECTS

In § 282.10, changes are made as follows:

§ 282.10 Workfare Demonstration Project.

* * * * *

1. Paragraph (a) (*Authority*) is amended by adding the words ", as amended," after "Subsection 17(b)(2) of the Act".

2. Paragraph (d)(1)(iii) is amended to read as follows:

* * * * *

(d) * * *

(1) * * *

(iii) He or she has been unable to secure a job in the private sector after 30 days from the date of initial registration for work as required in § 273.7(a). Household members becoming exempt from work registration during this 30 day period shall not be required to participate in Workfare until such exemption ends, the member reregisters and 30 days lapse. An exception to the 30-day job seeking period will be made in one project designated by the Secretary of Agriculture. Under this exception, for Workfare purposes, the duration of time from the initial registration for work as required in § 273.7(a) until the time that the participant is eligible to be scheduled for a Workfare assignment will be reduced from 30 to 10 days; and

3. A new paragraph (i) is added to read as follows:

* * * * *

(i) *Funding* (1) Workfare sponsors will be reimbursed by the Department of Agriculture for 50 percent of all approved administrative costs involved in project operation. Such payments will be made on the basis of an approved budget and the negotiated grant agreement.

(2) Funding for project operations by the Department of Agriculture to a State food stamp agency shall be limited to the payment of coupon allotments to which food stamp households are otherwise entitled and of administrative costs attributable to normal food stamp program operations under the appropriate administrative formula. Food stamp administrative costs of the State food stamp agency at sites where a Workfare project is being operated (except as provided in paragraph (i)(3) of this section) are covered under normal certification and work registration activities.

(3) The cost of data compilations, such as the monthly report, required specifically of the Workfare sponsor or the State food stamp agency at the direction of the evaluation contractor (i.e., the contractor selected to evaluate the Workfare Demonstration Project) shall be fully reimbursed.

(91 Stat. 958 as amended—94 Stat. 357 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10551 Food Stamp)

Dated: July 8, 1980.

Carol Tucker Foreman,

Assistant Secretary of Agriculture.

Dated: August 7, 1980.

Ernest G. Green,

Assistant Secretary of Labor.

[FR Doc. 80–24561 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program; Demonstration Research, and Evaluation Projects

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of Intent to Solicit Applications for the Food Stamp Workfare Demonstration Project.

SUMMARY: On November 28, 1978, 43 FR 55334, the Department published in the **Federal Register** final rulemaking and a Notice of Intent for the Food Stamp Workfare Demonstration Project which was mandated by subsection 17(b)(2) of the Food Stamp Act of 1977. Under this project food stamp work registrants are required to perform work in a public service capacity in exchange for the coupon allotment to which their household is otherwise normally entitled.

A Notice of Intent was published on June 13, 1980 (45 FR 40094) advising the public of the extension of the Food Stamp Workfare Demonstration Project by Act of Congress (Pub. L. 96–249, 94 Stat. 357, May 26, 1980) for an additional year of project operations, and the addition of Federal funds to reimburse 50 percent of the operating costs incurred by the sponsoring political jurisdiction. We are today publishing final rulemaking and this Notice of Intent reopens the application period for 30 days.

DATE: Applications must be postmarked no later than September 15, 1980 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. (202) 447–8325.

SUPPLEMENTARY INFORMATION: The Departments of Agriculture and of Labor are today publishing Final Rulemaking in the **Federal Register** to implement the workfare amendments contained in the Food Stamp Act Amendments of 1980, and to reopen the application process for project sponsors. Applications should be mailed to: Claire Lipsman, Director, Program Development Division, United States Department of Agriculture, Room 658, 500 12th Street, S.W., Washington, D.C. 20250.

Dated: August 18, 1980.

David de Ferranti,

Associate Administrator.

[FR Doc. 80–24560 Filed 8–14–80; 8:45 am]

BILLING CODE 3410–30–M

federal register

Friday
August 15, 1980

Part IV

Environmental Protection Agency

Premanufacture Review Program; Proposed Processor Requirements

V 45 A G 15 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS-80009; FRL 1533-6]

Premanufacture Review Program; Proposed Processor Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this notice, EPA is proposing a rule to require persons to submit notices under section 5 of the Toxic Substances Control Act (TSCA) when they process for a nonexempt commercial purpose those substances exempt from the TSCA Inventory and the Premanufacture Review Program. Section 5 requires persons to submit notices on new chemical substances and significant new uses of chemical substances. The Agency is proposing this processor notification rule to prevent the processing of exempt substances for TSCA commercial purposes without EPA review for risk to humans or the environment. This rule supplements the section 5 rules proposed on January 10 and October 16, 1979.

DATES: Written comments must be submitted by October 14, 1980. Public meetings-by-request: October 22 and 23, 1980—Washington, D.C.

ADDRESSES: All comments should bear the identifying notation OPTS–80009 and be addressed to: Document Control Officer, Office of Pesticides and Toxic Substances (TS–793), Rm. 447E, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

After written comments are submitted EPA officials responsible for developing this proposal will be available to meet upon request with persons interested in discussing specific issue raised by this proposal. These public meetings-by-request will be held on Wednesday, October 22 and Thursday October 23, 1980, 1–5 pm in Room 2126 at EPA, Waterside Mall, 401 M Street, S.W., Washington, DC. Persons interested in participating should call the Industry Assistance Office (800–424–9065 or, in Washington 554–1404).

FOR FURTHER INFORMATION CONTACT: John Ritch, Director, Industry Assistance Office (TS–799), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, Toll free (800–424–9065), Washington, DC (554–1404).

SUPPLEMENTARY INFORMATION: This proposed rule is part of the section 5 proposed rulemaking under TSCA which was published in the **Federal Register** of January 10, 1979 (44 FR 2242) and reproposed in part by publication in the **Federal Register** of October 16, 1979 (44 FR 59764). The schedule for promulgation of this rule is as follows. In the summer of 1980 EPA will publish the Draft Economic Impact Analysis of the section 5 program, which will include an economic analysis of this processor reporting rule and its major alternatives. The Agency intends to make the rule final as part of the larger section 5 program in the fall of 1980, after comments on the economic analysis and its implications for this rule have been received and considered.

TSCA Inventory

The following review of EPA's Inventory and proposed section 5 rules will place this processor notification proposal in perspective. The Inventory reporting regulations (40 CFR Part 710) were promulgated under the authority of section 8(a) and (b) of TSCA (90 Stat. 2003; 15 U.S.C. 2601 et seq.). These regulations were published in the **Federal Register** of December 23, 1977 (42 FR 64572), and were clarified in the **Federal Register** of March 6, 1978 (43 FR 9254), April 17, 1978 (43 FR 16178), and May 15, 1979 (44 FR 28558). These regulations and clarifications implemented the Initial and Revised Inventory reporting schemes.

Reporting for the Initial Inventory was limited to persons who manufactured or imported in bulk chemical substances for a commercial purpose between January 1, 1975 and 30 days after publication of the Initial Inventory, the effective date of premanufacture notification under section 5 of TSCA. The Initial Inventory was published on June 1, 1979, and premanufacture notification under section 5 became effective on July 1, 1979. Reporting for the Revised Inventory began on July 1, 1979 and was limited to persons who processed or used a chemical substance for a commercial purpose after January 1, 1975, and persons who imported a chemical substance as part of a mixture or article for a commercial purpose after January 1, 1975. "Commercial purposes" includes the purposes of distribution in commerce and use as an intermediate under (40 CFR 710.2 (p) and (U) (42 FR 64572, 64576) and proposed § 720.2 (44 FR 2242, 2264)). "Process," "process for commercial purposes," and "processor" are defined in 40 CFR 710.2(t) through (v), (42 FR 64572, 64576), and include the preparation of a chemical substance or mixture in the same or a different form or physical state from that in which it was received. Persons were encouraged to report for the Revised Inventory those chemical substances not included on the Initial Inventory.

Although the Revised Inventory reporting period extended from July 1, 1979 through December 31, 1979, EPA announced that substances imported as part of a mixture or article, processed, or used for the first time after December 31, 1979 could be reported when such activity began, until 30 days after publication of the Revised Inventory (44 FR 28558, 28561). This announced policy is not affected by the rule proposed here.

Exempt Substances Under TSCA

The Inventory rules did not permit reporting of certain chemicals, including those not within the definition of "chemical substances" under TSCA section 3(2)(B) (i.e., substances used only as pesticides, tobacco and tobacco products, specified nuclear materials, foods, food additives, drugs, cosmetics, or devices under 40 CFR 710.2(h)). Byproducts (substances manufactured with no commercial purpose) and chemicals manufactured solely in small quantities for research and development could not be reported for the Initial Inventory under 40 CFR 710.4(c)(3) and (d)(2). In addition, EPA did not permit reporting of chemical substances which were manufactured or imported only prior to January 1, 1975, unless they were processed after that date under 40 CFR 710.4(c)(4). These chemicals which were excluded from Inventory reporting are collectively referred to in this notice as "exempt substances" or "substances manufactured for an exempt purpose." The terms also include substances which would be granted exemptions from section 5 notification under proposed 40 CFR 720.15 (44 FR 2268) because they are being manufactured or imported solely for test marketing purposes.

EPA considers those substances which were previously manufactured or imported solely for an exempt purpose to be subject to TSCA when they are processed for a nonexempt commercial purpose. The term "nonexempt commercial purpose" includes those purposes for which a section 5 notice must be submitted and is identical in coverage with the term "commercial purpose" as defined above. The term "nonexempt commercial purpose" is to be contrasted with "exempt purposes" and is used in this notice to clarify that commercial activity for an exempt purpose is excluded from section 5 notice requirements. EPA provided that substances manufactured or imported for undifferentiated commercial purposes, both for exempt and nonexempt commercial purposes, as well as substances processed for nonexempt purposes, could be reported for the Inventory in 42 FR 64585–87 Comments 37–55 and 44 FR 2242, 2246.

Premanufacture Notice Provisions

The notification requirements of section 5 apply to any person who, after July 1, 1979, manufactures or imports in bulk for a nonexempt commercial purpose a substance that is not on the Inventory. EPA issued an interim policy concerning submission of notices, published in the **Federal Register** of May 15, 1979 (44 FR 28564), pending promulgation of the proposed section 5 rules. The Agency has stated that notice requirements for chemical substances imported for a commercial purpose as part of a mixture are to be effective 30 days after publication of the Revised Inventory under 40 CFR 710.3(b)(2) Note.

I. Proposed Processor Notification Rule

A. Substance of Proposed Rule

This rule would further implement the statutory directive in section 5 of TSCA that all new chemicals manufactured or imported for a nonexempt commercial purpose, or processed for a significant new use, undergo section 5 review. After the proposed rule is in effect, no person could process for a nonexempt commercial purpose a substance previously manufactured (or imported in bulk or as part of a mixture) for an exempt purpose, unless the person had submitted a notice in accordance with TSCA section 5. This requirement would supplement, but in no way supplant, the basic requirement under section 5(a)(1) that persons who intend to manufacture or import a new chemical substance for a nonexempt commercial purpose must submit a notice. The proposed processor notification requirement would apply only to those chemicals to be processed for a nonexempt commercial purpose which were previously manufactured or imported for an exempt purpose or were manufactured or imported only before January 1, 1975 and not processed after that date. The rule would apply both to processors who originally manufactured or imported the substance and to processors other than the original manufacturer or importer.

The proposed rule would cover nonexempt commercial processing of exempt substances domestically manufactured or imported in bulk or as part of a mixture. The Agency has not determined whether to apply section 5 requirements to new substances imported as part of an article and for the present will continue its current policy and not mandate notices for these substances. The Agency requests comments on whether it should require notification for the nonexempt commercial processing of chemical substances originally imported as part of an article.

The Agency proposes this processor notification rule to close a gap in its regulatory scheme which would allow "exempt" chemical substances to be processed for a TSCA commercial purpose without section 5 review. Without such a rule, persons could process for a TSCA commercial purpose an exempt substance, such as a byproduct or research and development (R&D) chemical, which was not on the Inventory and had never been reviewed for its risk to humans or the environment. Persons could also process exempt substances, such as pesticides and food additives, for a TSCA commercial purpose without prior health or environmental review of the specific exposures resulting from the proposed new uses. This rule would require a notice before the substance could be processed, thus ensuring that the Agency can evaluate the health and environmental risks of the substance.

The Agency does not intend to impose notice requirements on persons who process exempt substances for nonexempt commerical purposes either for research and development or for test marketing pursuant to TSCA section 5(h)(1) or (3). For example, if a person intended to process a byproduct which was not on the Inventory for commercial research and development or test marketing as a cleanser, he would not be required to submit a section 5 notice. Instead, a person in this situation would merely be required to follow EPA's proposed requirements for chemical substances undergoing research and development or test marketing (see proposed §§ 720.14 and 720.15; 44 FR 2242, 2267). Appropriate changes will be made in the proposed requirements to relieve persons of the responsibility for a section 5 notice when they process exempt substances for nonexempt commercial purposes either for R&D or for test marketing.

B. Effective Date

The processor notification rule is expected to be promulgated with the final section 5 rules in fall 1980. The exact date that it will become effective has yet to be determined, but EPA will give advance notice to the public as soon as the date is known.

Processor notification as outlined in this proposed rule will not be mandatory until the final rule is promulgated. However, because the Revised Inventory reporting period will close before processor notification is mandatory, there will be a short period during which persons who process exempt substances for a nonexempt commercial purpose cannot report these substances for the Revised Inventory and are not required to submit section 5 notices under a final processor notification rule. Processors who wish to process exempt substances for nonexempt purposes during this period should contact the manufacturers of these substances to allow the manufacturers to submit section 5 notices. Of course, a processor may submit a notice for the manufacturer if both sign the required certification statement. Any section 5 submitted prior to the promulgation of the section 5 rules are to be submitted in accordance with the guidelines outlined by the Agency on May 15, 1979 (44 FR 28564).

In any event, persons will be required to submit section 5 notices if they intend to process exempt substances for nonexempt commercial purposes after the promulgation of the section 5 rules. EPA will provide sufficient advance notice of the effective dates of mandatory processor notice submittal. Appropriate instructions will be issued to permit notice submittal in advance of the effective date of the requirements to accommodate persons who wish to commence processing shortly after the effective date of the notification requirement. This is necessary because under this scheme TSCA would prohibit persons from processing a substance within the 90–day period after the submittal of a section 5 notice. Accordingly, if a processor were not allowed to submit a notice until the effective date of the requirement, he would not be able to commercialize the substance for a TSCA commercial purpose between the effective date and at least 90 days after the effective date of the rule.

EPA requests comments on this effective date proposal.

C. Statutory Authority

This rule is proposed under sections 5(a)(1) and 5(a)(2) of TSCA. Section 5(a)(1)(A) requires submission of a notice at least 90 days before the manufacture or importation of a new chemical substance for nonexempt commercial purposes. Section 5(a)(1)(B) imposes a similar notice requirement prior to the manufacturing, importing, or processing of any chemical substance for a "significant new use." Section 5(a)(2) states that EPA may determine by rule that a use is a significant new use upon consideration of all relevant factors, including: (1) the projected volume of manufacturing and processing, (2) the extent to which a use

changes the type or form of exposure to humans or the environment, (3) the extent to which a use increases the magnitude and duration of exposure, and (4) the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal under TSCA sections 5(a)(2)(A) through (D) of TSCA.

EPA believes that sections 5(a)(1)(A) and (B) and section 5(a)(2) authorize the reporting requirements for processors who also manufacture or import the chemical substances that they intend to process. EPA interprets these sections to require submittal of a notice if a person initially manufactures a substance for an exempt purpose, but later intends either to process the substance for a nonexempt purpose, or to distribute it to another person who he knows intends to process it for a nonexempt commercial purpose. The Agency has determined that nonexempt commercial processing of exempt substances is a significant new use of these substances (see discussion below). Therefore under the provisions of premanufacture reporting and significant new use rules, EPA is authorized to require notices from manufacturers or importers who either process exempt substances for nonexempt purposes or knowingly distribute exempt substances to other persons for nonexempt processing. EPA believes that Congress intended nonexempt commercial processing of exempt substances to be reviewed by the Agency under section 5. In §720.10(a)(3) and (b)(2) of the January proposal, EPA proposed that manufacturers and importers of R&D or test marketing substances must submit notices before undertaking distribution in commerce or use for nonexempt commercial purposes. None of the commenters offered negative comments on this provision.

EPA believes that sections 5(a)(1)(B) and 5(a)(2) authorize the reporting requirements for persons who did not manufacture or import the chemical substances they intend to process. EPA has evaluated the nonexempt commercial processing of exempt substances and has determined that, based upon an assessment of the factors set forth in section 5(a)(2), the transition of chemicals from exempt manufacture or import to nonexempt commercial processing is a "significant new use" under TSCA.

According to section 5(a)(2)(A), EPA must consider the projected volume of manufacturing and processing of a chemical substance before deciding that a use of that substance is a significant new use. When an exempt substance is to be processed for the first time for nonexempt purposes, the volume of manufacturing and processing of the chemical substance for uses subject to TSCA will by definition increase. In addition, the total volume of manufacturing and processing for nonexempt and exempt purposes will increase unless manufacture and processing for exempt purposes declines as processing for nonexempt purposes increases.

Sections 5(a)(2)(B) and (C) require EPA to consider the type, form, magnitude, and duration of exposure related to significant new uses. Processing for a nonexempt purpose also may significantly increase the type, form, magnitude, or duration of exposure to the substance. Many chemicals manufactured for exempt purposes are regulated under other statutes or are used in controlled situations in which exposures are restricted or closely monitored. For example, chemicals used in foods, food additives, drugs, cosmetics, or devices are subject to specific use restrictions and warning labels under the Federal Food, Drug, and Cosmetic Act. Pesticide products are registered and approved for particular uses and with appropriate restrictions under the Federal Insecticide, Fungicide, and Rodenticide Act. Further, some pesticide products are used by or under the control of persons who are required to be specially trained in their use and disposal.

Other exempt chemicals are manufactured only in small quantities solely for purposes of research and development. To be exempt, these chemicals must be used under the supervision of technically qualified individuals under EPA's proposed definition (40 CFR 720.2, 44 FR 2265). Moreover, under TSCA section 5(h)(3), persons engaged in experimentation, research, or analysis of the exempt R&D chemical substance must be notified of any risks to health that the manufacturer, processor, or EPA has reason to believe may be associated with the product. Finally, commercial processing of chemicals manufactured only prior to January 1, 1975 may increase the magnitude or duration of exposure of the chemical to humans or the environment. This exposure may increase because the chemical probably will not have been the subject of recent commercial activity.

The restrictions that are imposed upon many of the chemical substances manufactured and processed for exempt purposes do not apply when the chemicals are processed for nonexempt commercial purposes. Thus when these substances are processed for nonexempt purposes, often they are not subject to any restrictions upon the type, form, magnitude, or duration of exposure, and there may be no requirement that the products be labeled or used according to instructions designed to mitigate risks to health or the environment. In addition, persons who process, distribute, or use the substances (or products containing them) may have no reason to suspect that they should limit exposures to the substances.

Section 5(a)(2)(D) requires EPA to consider the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of chemical substances related to a significant new use. EPA believes that the reasonably anticipated manner and methods of processing, distribution in commerce, and disposal of substances may change when they are processed for nonexempt commercial purposes and placed in commerce. This is because processing may no longer be subject to established restrictions under other laws; the substances may be distributed to a significantly larger number and variety of persons; and disposal of the particular substance or products containing them may be unregulated.

For all these reasons, EPA has determined that the change from a TSCA-exempt use to a TSCA use constitutes a "significant new use." In passing section 5, Congress intended for EPA to review new chemical substances before they result in exposure to humans and the environment. Consistent with this intent, the notification requirements should apply to chemical substances originally manufactured for exempt purposes before they are processed for nonexempt commercial purposes.

D. Processor Reporting

In the January 10, 1979 proposed section 5 rules, EPA recognized that a substance initially manufactured or imported for a purpose exempt from TSCA could be distributed in commerce or used by the original manufacturer or importer for a purpose which fell within the scope of TSCA and the section 5 notification program. The Agency believed that such an activity should be preceded by the filing of a section 5 notice and that the original manufacturer of the substance was the appropriate person to file such a notice. In January 1979 EPA proposed that manufacturers or importers be required to submit notices before they either distributed in commerce or used an R&D or test marketing substance in a manner inconsistent with the exemption. (Proposed 40 CFR 720.10(a)(3) and (b)(2) (44 FR 2242, 2266) and Support Document: Premanufacture Notification Requirements and Review Procedures, pp. 15–19 (January 1979)). The preamble noted that EPA was exploring various reporting requirements for those exempt substances processed for the first time for nonexempt commercial purposes after the expiration of the Revised Inventory reporting period. One alternative mentioned was the development of significant new use rules under section 5(a)(2) to require reporting by manufacturers, importers, and processors (44 FR 2246). The rule proposed in this notice would replace proposed § 720.10(a)(3) and (b)(2).

Section 720.11 of the January proposal would have provided that persons who only processed such substances would not be subject to the notification requirement; further, as was noted in § 720.11, the filing of a notice by a person other than the manufacturer or importer would have been invalid (44 FR 2242, 2266). The proposed rule would change this approach to allow processor reporting as outlined in this proposal.

EPA proposed in January that, if the manufacturer or importer requested, the processor could prepare and submit the form to EPA as the agent of the manufacturer or importer under proposed § 720.11 (44 FR 2242, 2266). However, EPA also recognized that in some cases the manufacturer or importer would not know whether a customer intended to process his product for a TSCA use and that the processor would not want others to be aware of his commercial processing under TSCA. The proposal did not suggest any mechanism for the processor to file a notice independent of the manufacturer or importer. It did state that EPA was exploring the use of section 5(a)(2) to provide for processor reporting and that it was attempting to define the responsibilities of a processor who did not also manufacture or import the substance (44 FR 2242, 2246).

Comments on the January proposal from a number of industry and environmental groups took strong exception to EPA's proposal not to allow processors to submit section 5 notices. Commenters argued that there was no basis in the statutory framework for denying processors the right to file a notice on their own behalf. All commenters on this subject urged processor section 5 notification, and a majority pointed out a particular need for such notification when an exempt substance was processed for a nonexempt commercial purpose.

EPA's proposal to rely primarily upon manufacturers and importers to report new substances was based on its belief that the manufacturer or importer in many cases would have more complete knowledge of the necessary information, including the health and environmental effects of the substance and the range of possible uses. As a general rule, the processor would have better knowledge of his own processing techniques and perhaps his end uses of the substance, but he might have significantly less complete knowledge of its health and environmental effects and possibly its specific chemical identity.

EPA still believes that manufacturer or importer reporting is preferable to processor reporting. As planned, the proposed rules will continue to require the submittal of a notice by the manufacturer or importer prior to manufacture or import of a new chemical substance. Filing of a section 5 notice by processors is proposed only where the manufacturer or importer of an exempt substance, at the time of distribution of a particular quantity of the chemical, did not know that the chemical was to be processed for a nonexempt commercial purpose. The Agency is proposing this reporting because it now believes that it has adequate mechanisms to fill any data gaps in processor notices. First, EPA can use a variety of means to obtain additional information on the substance from the manufacturer or importer who will be identified on the notice. EPA invites comments on impacts on confidentiality if EPA contacts manufacturers or importers. Second, when EPA has specific concerns about certain uses of the substance, or lacks sufficient information, it can require further reporting on the substance under sections 8(a) or 8(d) or section 5(a)(2) to obtain information on other uses and exposures as they occur.

E. Alternatives to Processor Notices

EPA has considered several alternatives to the section 5 processor requirement described in this proposal. These alternatives were considered primarily for the reduced reporting burden they impose on industry.

First, EPA could require processor reports under section 8(a) rather than under sections 5(a)(1) and 5(a)(2). Such a rule would require submission of a notice on commencement of nonexempt commercial processing. Section 8 notices could require significantly less information. Section 8 notices might require only company name, contact person, chemical identity, amount processed, an estimate of consumer and worker exposure, a description of the categories of use, any health and safety data, and the name of the supplier of the substance. EPA would not add the substance to the Inventory when processing began but might impose a significant new use rule that would require notices from those who would process the substance at a greater volume or for purposes other than the use proposed in the processor notice. The alternative of section 8(a) notices would also reduce the number of persons affected by such a rule as a section 8(a) requirement may not be applied to a "small processor." This alternative is therefore less costly to industry than the alternative proposed.

However, if a notice were submitted under section 8(a), EPA could not take action under sections 5(e) and 5(f) during the review period. It is more difficult to take actions under TSCA sections 6 and 7 than under sections 5(e) or 5(f). A section 8(a) requirement could therefore reduce the number of persons subject to the rule, limit information requirements, provide little advance notice, and restrict EPA's ability to act on the chemical. Chemicals reported under such a rule would not be added to the TSCA Inventory until a section 5 notice was submitted by a manufacturer or importer of the substance.

Second, the Agency could require section 5 notification for substances of special concern and section 8(a) notification (as outlined under alternative 1) for the remainder of exempt substances which are processed for a nonexempt commerical purpose. This approach would employ the alternative of section 8 notification for the nonexempt commercial processing of the majority of exempt substances. EPA would also require section 5(a)(2) notification for the nonexempt commercial processing of certain exempt chemicals based on particular concerns over the toxicity or exposures caused by nonexempt commercial processing. The significant new use rule would designate chemicals by categories based on toxicity or exposure and would establish which processors would report and when they would report. Information requirements for chemicals subject to the significant new use rule would be very similar to the data requirements proposed in October 1979 for section 5 notices.

This alternative would place very significant burdens on EPA resources. To attempt a rulemaking on each category of chemicals would be very time consuming, to say nothing of the task of selecting which chemicals and categories would be subject to significant new use notification. The Agency believes that resource constraints make this alternative impracticable. Moreover, chemicals in

V 45 A G 15 80 UMI

the designated categories might never be used for TSCA purposes, and this would render the exercise useless. Again, because EPA would receive little information on the majority of chemicals reported, risk assessment would necessarily be limited.

Third, the Agency has considered the option of not requiring reporting prior to processing of an exempt substance for a nonexempt commercial purpose. No processor notices would be submitted under this alternative. However, EPA would attempt to prohibit the processing of exempt substances for a nonexempt commercial purpose. Under this approach, EPA would rely on the terms of section 5(a)(1)(A) and the prohibitions of section 15(2) to restrict the nonexempt processing of substances that were exempt from notice requirements at the time of manufacture or import.

EPA does not favor this approach for several reasons. As stated above, EPA believes that Congress did not intend exempt substances not on the Inventory to be processed for nonexempt commercial purposes prior to EPA review. Allowing such a gap to exist would be contrary to the stated purposes of the Act.

Enforcement of TSCA in this area would be very complex without a processor reporting rule. Section 15(1) states that it is unlawful to fail or refuse to comply with any requirement prescribed by section 5 or any rule promulgated thereunder. Without a processor notification rule promulgated under section 5, persons who process exempt substances for nonexempt commercial purposes would be under no compulsion to notify the agency of their processing and could not be penalized for doing so without EPA notification.

Section 15(2) makes it unlawful for a person to use for a commercial purpose a chemical substance that he knew or had reason to know was manufactured or processed in violation of section 5. The nonexempt commercial processing of an exempt substance without EPA notification does not violate section 5 if there is no separate processor rule. In addition, because the chemical may be processed and sold several times before it reaches the user, it may be very difficult to ascertain whether the user was aware of any earlier TSCA violation. Therefore, this alternative is fraught with enforcement difficulties.

Even if nonexempt commercial processing of chemicals manufactured for exempt purposes were not subject to EPA notification under TSCA, it would be in the best interests of manufacturers, importers, and processors to submit section 5 notices for the commercial processing of exempt substances. Where the manufacturer or importer processes an exempt substance for a nonexempt commercial purpose and later decides to manufacture or import the substance for a nonexempt commercial purpose, he would have to submit a notice before manufacture or import. By submitting a notice before nonexempt commercial processing, the manufacturer or importer could proceed to manufacture or import the substance for nonexempt purposes after it clears section 5 review without the potential delay of a later notice submittal. If the processor is not the manufacturer or importer and the manufacturer becomes aware of the intended nonexempt commercial processing, the manufacturer would be required to halt distribution for the nonexempt purpose and submit a notice. Finally, by filing a section 5 notice for the chemical at the time of initial processing, the processor will be able to avoid future interruptions in supply and possible shutdown at a later stage in the commercialization of the chemical if the manufacturer learns of the processing and fails to submit a notice.

The EPA encourages comment on these and other alternatives.

F. One-time Processing of R&D and Test Marketing Substances for Nonexempt Commercial Purposes

As proposed, the rule would require a section 5 processing notice for all exempt substances that are processed for a nonexempt commercial purpose, including those initially manufactured or imported solely in small quantities for research and development or for test marketing. EPA is considering whether to exclude from processor notification those substances manufactured or imported for R&D or test marketing that a person intends to process and use up on a one-time or limited basis solely as an alternative to disposal.

In various contacts with EPA, manufacturers and processors have inquired how the Agency might treat the following situation: A substance is manufactured in small quantities for R&D, or under a test marketing exemption. At a later time a person in possession of a quantity of the substance (either the original manufacturer or another to whom it was distributed) determines that the substance does not have characteristics that justify further manufacture, import, processing, or distribution in commerce. In some cases, the substance may be useless for any commercial purpose and would be disposed of. In other cases, however, the substance may have a nonexempt commercial use which allows the person to recover all or part of the costs for the substance. It is this one-time processing with which EPA is concerned.

EPA believes that substances manufactured solely in small quantities for R&D or for test marketing may belong in a separate category from other exempt substances. Other exempt substances will almost always have their former exempt use as an alternative to disposal and will not be subject to the economic pressures forcing one-time processing. For example, a substance manufactured as a pesticide, food, or drug may fail in a nonexempt commercial use, but will still have its primary use as a pesticide, food, or drug as an alternative. Byproducts, on the other hand, because they are already produced without a commercial intent per se during the manufacture of another substance, will not be under the same economic pressures which make one-time processing desirable. For these substances, it is unlikely that there will be any one-time processing for a nonexempt commercial purpose. However, a substance manufactured or imported for R&D or for test marketing may have a nonexempt commercial use as the sole alternative to disposal, and processing on a one-time or limited basis to "use up" the substance is much more likely to occur.

The question EPA must answer is whether this "using up" of a substance for which the manufacturer, importer, or processor does not intend a long-range, commercial future should be subject to any notification, or notification under TSCA section 5, or the more limited reporting requirements of section 8(a). EPA recognizes that if section 5 notification costs are too high, the potential processor may choose disposal. This would serve neither EPA's nor industry's purposes.

Several arguments can be made for allowing processing for this use without EPA notification. First, use of the substance may be more beneficial to the environment than disposal. Second, if notification costs are greater than the benefits of one-time processing, the processor may suffer an increase in overall costs. Third, it may not be desirable to add a substance to the Inventory if it will immediately lose its commercial status. Rather, if other TSCA uses are later discovered by the current manufacturer or others, it may be more appropriate for EPA to review the substance at that time, when more information is available.

However, there is a strong argument for mandatory EPA notification. The "using up" of the substance may involve significant exposure to humans and the environment. EPA is therefore considering limited section 8 reporting only for those substances that (1) were manufactured or imported for R&D or test marketing and (2) are processed for a nonexempt commercial purpose in quantities over 500 pounds solely as an alternative to disposal because the substances have no long range commercial future. Commercial processing of these substances in amounts of less than 500 pounds would have no notification requirements. Substances might be said to have no long range commercial future when it would not be economically practicable at the time of processing to purchase or manufacture the substance again for any use.

Reporting under this scheme would be pursuant to section 8, rather than section 5, and would require only minimal data. For these substances, EPA is considering requiring company name, contact person, chemical identity, amount processed, estimated number of consumers or workers exposed, a description of the categories of use, and name of the supplier of the substance. Persons processing substances for R&D pursuant to proposed § 720.14 (44 FR 2242, 2267) and who have received information on health risks from the manufacturer or importer under proposed § 720.14 would submit such data with the notice. The notice would be submitted 90 days before processing could begin. Because these substances are processed on a one-time basis, EPA believes it would be inappropriate to add these substances to the Inventory.

Comments are invited on all aspects of this possible requirement. The Agency requests information on the factual situations in which this notification requirement would apply. Comments should identify as many examples as possible from the commenter's commercial experience. The Agency particularly requests comments on the appropriateness of 500 pounds as the cutoff. Commenters should address the necessity of a 500-pound limit as opposed to a larger or smaller cutoff and provide support for any alternatives suggested.

Comments are also solicited on the content and phrasing of the requirement that these substances have "no long range commercial future." They should focus on the number of R&D and test marketing substances that fit this category. Comments should state in detail the criteria used by industry to determine that a substance has no long range commercial future which would justify further manufacture or purchase. Each commenter should include specific examples from company history.

G. Integration of Processor Reporting with the Resource Conservation and Recovery Act

There may be some processors of byproducts (a chemical substance produced with no commercial purpose) for a nonexempt commercial purpose who also will be subject to regulation under Subtitle C ("Hazardous Waste Management") of the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. sec. 6901 et seq.). For the processing of a substance to be covered both by this proposed processor notification rule and by Subtitle C, a number of conditions would have to be met. First, the substance would have to be produced originally without a commercial purpose and could not be on the TSCA Inventory. It also would have to be intended for processing for a commercial purpose (as defined under TSCA) and this processing would have to involve "treatment" (as defined by section 1004(34) of RCRA). Finally, the substance would have to be a "hazardous waste" as defined in 40 CFR 261.3.

In the final RCRA regulations published on May 19, 1980 (45 FR 33065), EPA has chosen not to apply RCRA requirements to the actual use, reuse, recycling or recovery of hazardous wastes. RCRA requirements do apply to the transportation and storage of sludges as defined in 40 CFR 260.10(a)(63), and wastes listed in 40 CFR §§ 260.31 and 260.32 which are destined for use, re-use, recycling or recovery. See 40 CFR 261.6. If this policy is retained, there would be no dual coverage of these activities under RCRA and TSCA. However, the Agency may later decide to apply RCRA requirements to these activities (45 FR 33094). If the Agency finds that it would be undesirable to require persons conducting these activities to report under TSCA, it may wish to exempt them from reporting. The following discussion addresses the issues that may be raised by dual coverage if the Agency extends RCRA to cover these processors of byproducts.

There are two scenarios in which a facility treating a byproduct which is a hazardous waste under RCRA may fall under TSCA. First, if such a facility treats a byproduct containing a new chemical substance and the facility extracts the new chemical substance for sale in commerce, it would be processing the exempt substance (the byproduct) for a nonexempt commercial purpose. However, in this case the facility also would be the manufacturer of the new chemical substance and thus would be required to submit a notice under TSCA section 5(a)(1)(A) (even if there is no processor notification rule). Second, if the facility treats a byproduct containing a new chemical substance and processes the byproduct to produce another chemical (not a new substance) for distribution in commerce, it would be required to notify EPA under this proposed rule as a processor. Although EPA believes that the number of substances in this category probably is quite small, the Agency is not sure whether it should require this second category of processors to submit notices under this rule.

TSCA coverage of these RCRA facilities may be troublesome. Requiring section 5 notices 90 days prior to commencement of processing may be a disincentive to the recycling of byproducts. It also may be difficult to identify the chemical constituents of byproducts or to determine whether new chemical substances are present. However, this problem may be present with regard to all byproducts. Facilities which recycle or recover byproducts which are hazardous wastes may in the future be subject to facility and permit requirements under section 3004 and 3005 of RCRA. See 40 CFR 261.6 and 45 FR 33094. The types of requirements which facilities may have to meet are set forth in 40 CFR Parts 122, 124, 264 and 265.

On the other hand, TSCA gives EPA a broad spectrum of powers and responsibilities. The Agency has significant responsibility to protect both humans and the environment from "unreasonable risks" and to protect both workers and members of the general public who are exposed to chemical substances. In particular, section 5 notification permits EPA to review new chemical substances in a way that is not authorized by RCRA. Also, application of TSCA in these situations appears to be consistent with EPA's duties under both section 9 of TSCA and section 1006 of RCRA, which require the Agency to avoid duplication and to coordinate its implementation of the various statutes that it administers. The notice required by TSCA will not require resubmission of any information already submitted to the Agency under RCRA or any other Act it administers.

As proposed, this processor notification rule would require reporting by facilities treating hazardous wastes when the wastes they treat are byproducts and are processed for a nonexempt commercial purpose. The Agency solicits comments on the implications of requiring these treaters of hazardous wastes under RCRA to submit section 5 notices under TSCA.

III. Processor Notification Procedures

III. Processor Notification Procedures

A. Determination of Reporting Responsibilities

1. *Chemical identity known.* If a person wishes to process for a nonexempt commercial purpose a substance manufactured for an exempt purpose, he may do so without submitting a section 5 notice if the substance appears on the TSCA Inventory. A person may ascertain whether a chemical is on the Inventory by examining the Inventory and, through a "bona fide" search, ask EPA whether a generic name covering the chemical appears in the confidential section of the Inventory under proposed § 720.12(b) (44 FR 2242, 2286). If the chemical is not on the Inventory, a notice would be required before nonexempt commercial processing of an exempt substance could occur.

If the manufacturer or importer of an exempt substance wishes to process the substance for a nonexempt purpose, he would be required to submit the notice. If the manufacturer or importer of an exempt substance provides the substance to another person who he knows at the time of distribution will commercially process the substance for a nonexempt purpose, the manufacturer or importer would be required to submit a notice.

The processor who did not manufacture or import the substance would be required to submit the section 5 notice himself unless the manufacturer or importer submits it or the processor submits a notice jointly with the manufacturer or importer. EPA believes the second alternative of manufacturer submission would ensure a more complete notice because the manufacturer has greater experience with the chemical. Of course, a notice with little or no data might make supplemental reporting and followup more probable. In a joint submission, manufacturers and processors could send their sections directly to EPA to preserve confidentiality. The Agency invites comments on the validity of EPA's assumption that manufacturers' or importers' knowledge about these chemicals is greater than processors'.

A somewhat special case arises for those processors who do not find the chemical they wish to process on the Inventory and are unable to determine that the chemical was manufactured or imported for an exempt purpose. The Agency proposes that these persons report and provide an explanation of any basis for a belief that the substance was manufactured or imported for an exempt purpose. Comment is invited on this potential requirement. Processors would not be allowed to knowingly report substances which did not appear on the Inventory because the manufacturer or importer failed to report the substances in violation of TSCA sections 5 or 8.

In any event, the processor could not begin nonexempt commercial processing unless and until the substance had completed section 5 review. If nonexempt commercial processing took place prior to completion of the review process, this would constitute a violation of TSCA section 15, subjecting the violator to the penalties detailed in section 16.

2. *Chemical identity unknown.* EPA assumes that cases will arise in which the processor does not know the specific chemical identity of the substance he intends to process but knows that it is an exempt substance not on the inventory. In these cases, EPA proposes that the processor obtain the specific chemical identity from the manufacturer or supplier and submit it to EPA in the processor notice. The Agency requests comments on the extent to which such contacts by themselves may reveal confidential information to the manufacturer or supplier. When the manufacturer or supplier does not wish to reveal the specific chemical identity to the processor, EPA proposes that the manufacturer report the specific chemical identity directly to the Agency in conjunction with the processor's notice. EPA solicits comments on the desirability of joint reporting for specific chemical identity or for any other notice information and how condifentiality could be handled. If the manufacturer or importer refuses to cooperate, the Agency would require reporting of the identity through its supplemental reporting authority under proposed § 720.50(b) (44 FR 2242, 2277).

If the potential processor is unaware of both the chemical identity and whether the chemical appears on the Inventory, the processor would obtain the chemical identity from the manufacturer or importer as outlined above. If the manufacturer or importer refused to assist the processor, EPA would use section 8 to require reporting of the chemcial identity and would inform the processor whether a processor notice was required. Of course, submitting a joint notice is one alternative that will always be available.

If these persons are also unable to determine whether the substance was originally manufactured or imported for an exempt purpose, EPA is considering having such persons report any basis for a belief that the chemical was manufactured or imported for an exempt purpose when they request EPA assistance in reporting chemical identity. The Agency is also considering how it might aid processors by requiring the manufacturer or importer to inform processors that the chemcial they are providing was manufactured or imported for an exempt purpose. EPA solicits comments addressing the authority for a requirement of this type, how it might be implemented, and how it might be framed so as not to reveal confidential data.

The Agency requests estimates of the number of cases in which processors do not know the chemical identity of the substance they are processing. Any estimate should identify the data on which it is based.

B. Information Required To Be Submitted

EPA is proposing that processor notices contain the information proposed for section 5 notices on January 10, 1979 as modified by the proposal of October 16, 1979.

In addition to these requirements, the processor would be required to submit the following information:

(1) The name of the supplier of the substance (i.e., the person who manufactured, imported, or sold the substance, if different from the submitter).

(2) The names of future suppliers of the substance (e.g., the original supplier, other manufacturers or importers, or future manufacturers of importers of the substance).

(3) Where the submitter was not the manufacturer but intends to manufacture the substance, descriptions of the intended manufacturing process, to the extent it is known or reasonably ascertainable.

(4) The amount of the chemical to be processed.

(5) If the chemical substance was manufactured for R&D under proposed § 720.14, any information on health or environmental risks which the submitter received under § 720.14(a)(2) or evaluated under § 720.14(c).

These additional requirements would give EPA information comparable to what it would have under a manufacturer's notice submission. The requirements are authorized by TSCA sections 5(d) and 8(a) (2) and are necesary to estimate the total amount to be processed and the number of individuals who are or will be exposed. Such information will also enable EPA to gather other relevant information when necessary. The Agency does not believe these additional requirements are burdensome or costly.

It should be noted that where data have already been sumbitted on the substance to EPA or any other government agency, the submitter may merely reference these data rather than resubmit them under proposed § 720.23(c)(2) (44 FR 2242, 2272). The Agency believes this may be particularly helpful for submissions on chemicals previously manufactured as pesticides, foods, food additives, drugs, cosmetics, devices, or specified nuclear materials.

The Agency believes that a processor notice form may be necessary to simplify reporting by persons subject to this rule. This form would be based on the proposed manufacturer's notice form published in the **Federal Register** of October 16, 1979 (44 FR 59764, 59788), and modified to reflect the information requirements proposed above. The certification statement would also be recorded to apply to processors. Comments are requested on the necessity for a separate form and on the portions of the form that will need to be changed for processors.

When the final section 5 reporting rule is promulgated, EPA will clarity any minor differences between requirements for processors and for other persons who submit section 5 notices. Persons are invited to submit comments on the portions of the section 5 rules as proposed in January and October which should be modified to cover processors' notices.

C. EPA Review of Processor Notices

EPA intends to review a processor notice submitted under this proposed rule in the same manner as a notice submitted under section 5(a)(1)(A) within the 90-day period provided by TSCA. EPA would begin by reviewing the information submitted in the notice. In some cases, the Agency would request the supplemental reporting of information from the manufacturer under proposed § 720.50 (44 FR 59764, 59784).

This information may be important for the following reasons. First, the manufacturer may have additional health and safety studies on the substance. Second, the manufacturer may possess additional information on other commercial uses subject to TSCA. Third, EPA may need information on the method of manufacture and on exposures that might occur during manufacture. Persons are referred to EPA's proposed rules on supplemental reporting under proposed 40 CFR 720.50 and 720.51 (44 FR 59764, 59785–87). Comments are invited on any changes that should be made to these sections to cover supplmental reporting by these manufacturers.

EPA will review the substance according to section 5, may extend the notice period under section 5(c), and may regulate the substance during the notice period under sections 5(e) or 5(f). EPA may also take followup action for the substance through a reporting requirement under sections 5(a)(2) or 8.

Under section 5(g) of TSCA, if EPA does not take action under TSCA sections 5, 6, or 7 on a notice submitted under section 5(a)(1)(B), the Agency must publish a **Federal Register** notice before the expiration of the review period stating the reasons why it did not take action. EPA is proposing this processor reporting rule under the joint authority of sections 5(a)(1)(A), 5(a)(1)(B), and 5(a)(2). Because processor notices will be very similar to notices submitted under section 5(a)(1) prior to initial manufacture or import, EPA is considering whether a 5(g) notice should be issued and, if so, what it should contain. The Agency invites comments on how section 5(g) should apply to these processor notices.

After the review period expires, the submitter may commence processing unless EPA has taken affirmative action to prohibit it. Under this proposal the processor would submit a notice to EPA when he began to process, analogous to the notice of commencement of manufacture; EPA would then add the substance to the Inventory. EPA may impose followup reporting requirements so as to be informed of changes in use and exposure that might be of concern to the Agency. EPA also is considering followup requdirements under a significant new use rule or section 8 authority that would require the processor-submitter or other persons to report changes from the uses and exposures reported in the processor notice. The Agency requests comments regarding the need for such followup and how it might be implemented.

IV. Enforcement Policy

EPA's basic policy concerning enforcement of the Inventory reporting and section 5 notification requirements was originally stated in 40 CFR 710.3 of the Inventory rules (42 64572, 64577), and discussed further in EPA's proposed section 5 rules (44 FR 2242) and the May 15, 1979 notice concerning publication of the Initial Inventory (44 FR 28558). This policy addresses when and against whom the Agency will take enforcement action under sections 15(1) and 15(2) of TSCA. TSCA section 15(1) makes it unlawful for a person to fail or refuse to comply with the notification requirements of section 5, while section 15(2) makes it unlawful for a person to use for a commercial purpose any substance that he knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5.

Promulgation of the processor notification rule will not affect the previously stated enforcement policy as it relates to manufacturers and importers of chemical substances. That policy remains as follows:

(1) The notification requirements of TSCA section 5(a)(1)(A) for manufacturers and importers in bulk of new chemical substances began on July 1, 1979, 30 days after publication of the Initial Inventory. These requirements apply to all chemical substances not on the Initial Inventory.

(2) The notification requirements of TSCA section 5(a)(1)(A) will not be applied to importers of chemical substances as part of a mixture until 30 days after publication of the Revised Inventory.

After these deadlines, manufacturers and importers of substances not in compliance with section 5 will be held in violation of TSCA section 15(1) and subject to appropriate enforcement action under TSCA sections 16 and 17.

EPA intends to permit continued importation of substances as part of an article without Agency review. Prior to the publication of the Revised Inventory, EPA also does not intend to apply section 15(2) to processors or users.

The processor notification rule does, however, affect the Agency's enforcement policy as it relates to processors and users of chemical substances beginning 30 days after publication of the Revised Inventory. After this date, section 15(2) will be applied to any person who processes a *nonexempt* chemical substance for a *nonexempt* commercial purpose.

After the effective date of the final processor notification rule, EPA will also apply sections 15(1) and 15(2) to processors of *exempt* substances for *nonexempt* commerical purposes. To be processed in compliance with TSCA after the effective date, such a substance must have undergone section 5 review. EPA will give sufficient advance notice of the effective date to ensure that industry is aware of its TSCA responsibilities.

The final processor rules will be promulgated after the Revised Inventory reporting period has ended. There is therefore an interim period during which persons who process exempt substances for a nonexempt commercial purpose cannot report these substances for the Revised Inventory and are not required to submit section 5 notices under a final

processor notification rule. Processors of

manufacturer or importer submit the

disclosed that 617 or 82.7 percent of the

The estimated costs include the costs

including confidentiality costs, the total

v. Importance of confidentiality for the

processor notification rule. Processors of these substances should contact the manufacturers of the exempt substances, so that the manufacturers can submit section 5 notices according to the guidelines issued by the Agency published in the **Federal Register** of May 15, 1979 (44 FR 28564). By having manufacturers submit section 5 notices before the effective date of the processor reporting rule, processors face minimal interruption of commercial activity. Upon promulgation of the final rule, EPA will strictly enforce the prohibition against processing until review of the section 5 notices has been completed.

As noted above, persons who only use chemical substances for a commercial purpose and do not process or manufacture them are not themselves subject to the section 5 premanufacture notification requirement. However, 30 days after publication of the Revised Inventory, and prior to promulgation of the final processor notification rule, EPA will apply TSCA section 15(2) to users of chemical substances *manufactured* for a *nonexempt* commercial purpose. (If this nonexempt substance were processed before use, the Agency would still apply section 15(2) to the users.) After promulgation of the final processor notification rule, EPA also will apply TSCA section 15(2) to users of chemcial substances that were initially manufactured for an *exempt* purpose and then later processed for a *nonexempt* purpose.

V. Economic Impact Analysis

A. Persons Who Must Submit Notices

Any person who intends to process for a nonexempt commercial purpose a new chemical substance that was originally manufactured or imported for an exempt commercial purpose will be required to ensure that a section 5 notice has been submitted at least 90 days before he intends to begin processing. The term "exempt substance" has been defined previously in this notice to include chemicals manufactured or imported as pesticides, foods, food additives, drugs, cosmetics, devices, byproducts, chemicals manufactured or imported before January 1, 1975, or chemicals manufactured for R&D or test marketing. If the substance is processed other than for these purposes, a notice must be submitted, and it is proposed that the processor ensure that a section 5 notice is submitted.

The requirement that a section 5 notice be submitted does not necessarily mean that processors will always submit the notice. As outlined above, the processor also could have the manufacturer or importer submit the notice or submit a joint notice with the manufacturer or importer. Thus, the requirement of notification will not always fall on processors, but may be split or fall solely on the manufacturer or importer. Further, the requirement of submitting this section 5 notice only falls once and subsequent processors, manufacturers, or importers will not be required to submit such a notice again for the same chemical.

Arthur D. Little, Inc. has estimated that over 50 percent of the chemical firms in the U.S. only process or formulate chemicals and do not manufacture chemicals. (*Impact of TSCA Proposed Premanufacturing Notification Requirements,* December 1978 (p. II–2).) However, EPA does not assume that firms that only process will bear the burden of complying with the proposed section 5 requirements. First, some manufacturers or importers will process their own exempt chemicals for a nonexempt commercial purpose. Second, only select groups of processors may be affected by the requirement to any significant degree. It may be expected, for example, that R&D and pesticide substances will be processed more frequently for nonexempt commercial purposes than other types of exempt substances.

The Agency solicits comment on how it might be able to better identify the persons who will be subject to reporting under this proposed rule.

B. Number of Chemical Substances Subject to Notification

The number of chemical substances that will be subject to notification each year under this proposed rule is difficult to estimate. To determine this number, one would have to know the number of chemicals manufactured for the exempt purposes enumerated under the rule, and how many of these chemicals are processed for a nonexempt commercial purpose each year before they are manufactured or imported for a nonexempt commercial purpose. It is reasonable to assume that the number of exempt substances processed for a nonexempt commercial purpose is less than the total number of exempt substances.

One indication of the number of substances that might be subject to notification under this rule is provided by comparing lists of exempt chemicals with substances reported for the TSCA Inventory. A comparison of a list of 1,452 active pesticide ingredients with the TSCA Inventory revealed that 688 or 47.4 percent of the ingredients are listed on the Inventory. A similar comparison of a list of 734 inert pesticide ingredients disclosed that 617 or 82.7 percent of the substances appear on the Inventory.

R&D and test marketing substances are also expected to be subject to notification under the proposed rule with some degree of frequency. When a chemical is to be commercially marketed, quantities manufactured or imported for R&D may well be processed for a nonexempt commercial purpose before the chemical is imported or manufactured for a nonexempt commercial purpose. It is also estimated that 1,000 to 2,000 new R&D chemicals are manufactured each year, although the number that are commercially marketed for nonexempt purposes is apparently smaller.

Substances manufactured for foods, food additives, drugs, or cosmetics are not likely to be processed frequently for TSCA purposes, due to their specialized application and chemical formulas. The same is likely to be true for chemicals manufactured as source materials, special nuclear materials, or byproduct materials as defined by the Atomic Energy Act of 1954. There are no lists of chemical substances used for FFDCA or nuclear purposes that are both readily computer searchable and compatible with the TSCA Inventory. There are no lists of chemical substances manufactured solely as byproducts or manufactured or imported only prior to January 1, 1975. It is difficult to predict how often these exempt substances might be processed for a nonexempt commercial purpose.

Overall this processor requirement will probably reduce the number of notices submitted by manufacturers and importers. A number of substances manufactured or imported for exempt purposes will eventually be manufactured or imported for nonexempt commercial purposes and thereby subject to section 5 notification. If these substances are processed for nonexempt commercial purposes and reported to EPA, they will appear on the Inventory and no notification would be required when they are subsequently manufactured for nonexempt commercial purposes.

C. Costs of Proposed Option

As part of the effort to evaluate the economic effects of the Agency's general section 5 notice requirements, EPA had a contractor, Arthur D. Little, Inc. (ADL) prepare unit costs for completing and submitting the section 5 form proposed on October 16, 1979 (EPA Contract No. 68–01–4717). The rule being proposed here will require processors to use a similar form; therefore, the unit costs of preparing and submitting the processor form should be very similar.

The estimated costs include the costs of preparing the section 5 form and the attachments (except for voluntary attachments), but do not include the costs of responding to supplemental reporting requirements that may be incurred for some section 5 submissions. The report of the contractor's findings, entitled "Estimated Costs of Preparation and Submission of Reproposed Premanufacture Notice Form" (EPA 560/12–79–005) is a part of the record for this present rulemaking and is available from EPA's Industry Assistance Office.

1. *Cost estimation methodolgy.* For developing the unit cost estimates, the contractor did the following:

(1) Identified specific information elements required by the forms.

(2) Designed worksheets based on these information elements to obtain estimates of time requirements.

(3) Completed these worksheets using contractor personnel with experience in chemical engineering, chemistry, data analysis, and toxicology.

(4) Assimilated the information from worksheets; developed estimated ranges of time required to complete the forms.

(5) Multiplied these time estimates by estimated labor rates to obtain total direct labor costs.

(6) Interviewed selected chemical companies to obtain their time and cost estimates for completing the forms.

(7) Compared the chemical companies' estimates for time and cost with the contractor's estimates.

2. *Estimated costs.* The estimated cost range for the form, not including the costs of asserting and substantiating claims of confidentiality, is $1,155 to $8,925 per chemical substance. EPA believes this cost range will apply to most substances submitted for section 5 review whether submitted by a chemical manufacturer or processor; however, it is conceivable that certain chemicals, for example very low or high volume substances, will fall below or above the range. Thus, the cost range should not be regarded as reflecting the absolute cost limits for a section 5 submission.

The major cost elements in making a section 5 submission appear to be the requirements to retrieve, organize, and submit health and safety data and the requirement to submit a block diagram. The cost of submitting this information is discussed in more detail later in this section.

The costs of asserting and substantiating claims of confidentiality, if claims are made, are estimated to range from $900 to $6,400. EPA does not regard the $900 figure as an absolute lower limit and expects that many companies will be able to comply with the requirements for much less. Thus, including confidentiality costs, the total cost of a section 5 submission is estimated from $2,000 to $15,300.

The cost of asserting and substantiating claims of confidentiality is presented separated from the costs of completing and submitting the section 5 form because to a certain extent, they are not affected by the form per se. Rather, confidentiality costs are determined largely by provisions in TSCA itself, the Freedom of Information Act (FOIA), and EPA's general rules regarding the treatment of confidential information under 40 CFR Part 2.

3. *Breakdown of section 5 form costs.* The following Table I is a detailed breakdown of the costs estimated by ADL.

Table I.—*Total Cost Estimates for Completion of Section 5 Form*

Component	Cost
Part I: General Information	$275–$2,100
Part II: Human exposure and environmental releases:	
Sec. A: Industrial sites controlled submitter	275–2,100
Sec. B: Industrial sites controlled by others	0–1,200
Sec. C: Consumer exposure	0–800
Part II Total	275–4,100
Part III: List of Attachments:	
Sec. A: Physical/chemical properties	150–600
Sec. B: Health and environmental effects data	300–1,400
Part III Total	450–2,000
Part IV: Federal Register Notice	75–300
Clerical Costs—All Sections	80–400
Total	1,155–8,925

4. *Variables influencing costs of section 5 submissions.* The cost ranges for completing and submitting the section 5 form are wide, reflecting the extreme variations in the types of companies and chemicals which may be subjected to these requirements. In developing these unit cost estimates the contractor assumed that the range is a function of the following variables:

Company-Related Variables

i. Company size.
ii. Degree of diversification.
iii. Organizational style.
iv. Level of technical resources.
v. Importance of confidentiality to company's new product development strategy.

Chemical Substance-Related Variables

i. Apparent toxicity.
ii. Anticipated distribution, use, exposure.
iii. Complexity of production process.
iv. Complexity of composition of chemical substances.
v. Importance of confidentiality for the substances in question.

The Agency invites comments on the cost estimates presented in this report, as well as on the methodology and assumptions used.

D. Costs of Alternatives

In developing this proposed rule, EPA considered three other alternatives. As stated above, these are: (1) section 8(a) reporting with a reduced reporting requirement; (2) section 8(a) reporting for most substances and section 5 notification for special categories of substances; and (3) no processor reporting.

Using the methodological foundation developed by ADL in its preliminary study of the economic impacts of proposed PMN regulations and notice requirements, EPA's contractor for the in-depth study of these regulations, ICF, Inc., performed a preliminary cost analysis of these three alternatives.

The costing methodology used by ADL in its analysis of the PMN form proposed on October, 16, 1979 was used as a basis for costing these alternatives. This methodology was outlined in section C(1) above. In summary, in order to estimate the cost of completing these alternatives, estimates were first made of the number of hours necessary to complete such requirements. It is expected that complying with these alternatives will involve clerical, technical, and managerial personnel. To estimate the total cost of completing a notice under these alternatives, average hourly wage rates by labor category were mutliplied by the respective number of hours needed to complete the required notice. The cost of asserting and substantiating claims of confidentiality may be a separate cost of complying with each of these alternatives, and is estimated in section V.C.2. of this notice. A support document containing the costing methodology for these alternatives entitled "Cost Estimations of Alternative Processor Notification Requirements" is available on request from EPA. Contact the Industry Assistance Office, whose address is listed at the beginning of this notice.

It should be noted that these cost estimates are preliminary. The complete methodology and complete explanation of how the final cost estimates were derived will be provided when the economic impact of the processor rule and the section 5 proposal are proposed in the summer of 1980.

1. *Section 8(a) reporting for processors.* Under this alternative, processors would provide EPA with the company name, contact person,

chemical identity, amount processed, chemical properties data and health and

note (1) the timing of each activity, (2)

(1) USEPA—OPTS. "Proposed

(1) For a purpose excluded from the

when it imposes a requirement to report

chemical identity, amount processed, information on consumer and worker exposure, a description of the categories of use, and name of the supplier of the substance, as well as physical and chemical properties data and health and safety data. Table II provides the estimated hours and the average wage rate as well as the estimated cost of complying with this alternative.

Table II.—*Cost of Submitting a Section 8(a) Notice*

Labor category	Estimated hours to complete alternative 1 notice		Average wage rate	Estimated cost of complying with alternative 1	
	Minimum	Maximum		Minimum	Maximum
Clerical	4.87	19.97	$10	$48.70	$199.70
Technical	18.50	133.00	25	462.50	3,325.00
Managerial	4.25	18.50	50	212.50	925.00
Total cost				723.70	4,449.70

The total cost of submitting a section 8(a) notice as outlined here ranges from $723.70 to $4,449.70

2. *Section 8(a) reporting and section 5 reporting.* This alternative involve either section 8(a) notification, as outlined under alternative 1, or section 5 notification depending on EPA's categorization of the substance. Section 5 notification requirements would be reserved for substances of particular concern based on toxicity or exposure.

The cost of complying with these options has been presented above. The cost of filing a section 8(a) notice would range from $723.70 to $4,449.70. The cost of filing a section 5 notice ranges from $1,155 to $8,925. For a breakdown of the estimated hours and wage rates for completing each type of notice, see Tables I and II above.

3. *No processor reporting.* Because this alternative does not require processors to submit notices prior to the nonexempt commercial processing of exempt substances, there is no cost to industry for submitting notices.

E. Economic Impacts and Conclusion

The economic impacts of this proposed rule will depend on how many processors will be covered, and how many notices they will submit. Data or data estimates, in both areas are not currently available. However, the Agency is performing an economic impact analysis of all premanufacture notification rules and forms, including the requirement for processor notification.

In its economic impact analysis, ICF, Inc., the economics contractor, will discuss the tradeoffs between alternative processor notification rules. The alternatives are analyzed in terms of the following categories:

1. *Out-of-pocket expenditures.* This category includes the direct cost of filling out the form and the cost of contacting a supplier for additional information on a substance.

2. *Time delays.* ICF will estimate the significance of the expected delay in getting a processed substance into commerce.

3. *Disclosure.* This category involves the risk of disclosing processing intentions and depends to a large extent on conclusions regarding confidentiality.

4. *Risk of adverse determinations.* This category is related to the amount of regulatory authority granted under each alternative. A processor, faced with the possibility of having his substance heavily regulated, may be discouraged from processing, and this would represent an added burden to industry.

5. *Uncertainty.* Relative uncertainty regarding EPA discretion in implementing a processor rule is evaluated across the alternatives.

The final assessment of the economic impacts of a processor reporting rule hinges on the impacts of other section 5 provisions, i.e., confidentiality, supplemental reporting, etc. Therefore, the economic impacts of a processor reporting rule will be assessed as part of the analysis of the general section 5 rulemaking. This analysis should be completed by summer of 1980.

VI. Comments and Public Meetings

The Agency requests that each commenter identify any chemicals which would have required notification under this proposed rule. Although this is obviously not a prerequisite to the submission of comments, it will provide an important information base so that EPA can better assess the impacts of the proposed rule. A brief history of the R&D, manufacturing, and processing of each chemical listed should be included as well as a description of the persons (manufacturer, processor) involved at each stage. This brief history should note (1) the timing of each activity, (2) the amounts of the chemical involved, (3) the type of exempt chemical involved, and (4) any subsequent commercial manufacture of the chemical subject to TSCA.

EPA also invites estimates on the number of such notices that would be received per year under this rule. Any estimate should be accompanied by a full explanation of the methodology and of the assumptions, variables, and data on which it is based.

Because this proposal is based in part on the January 10, 1979 proposal, and because the Agency has received many comments on aspects of this proposal covered by the January and October proposals, EPA is allowing a 60-day comment period. Do not resubmit comments on the January 10 and October 16, 1979 proposed rules and forms. When EPA promulgates the final rules, the comments on this notice will be evaluated with the comments on the January and October proposals.

After written comments are submitted, EPA officials responsible for developing this proposal will be available to meet upon request with persons interested in discussing specific issues raised by the proposal. These public meetings-by-request will be held on Wednesday, October 22 and Thursday, October 23, 1–5 p.m., in room 2126 at EPA, Waterside Mall, 401 M Street, S.W., Washington, D.C. Persons interested in participating should call the Industry Assistance Office (800–424–9065 or, in Washington, 554–1404). All meetings will be transcribed and entered in the official public record.

VII. Public Record

EPA has established a public record for this rulemaking (docket number OPTS 050002) that is available for inspection in the OPTS Reading Room from 9:00 a.m. to 5:00 p.m., on working days (Room 447E, 401 M Street, S.W., Washington, D.C. 20460). This record includes all of the information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes all of the categories of information listed in the January 10, 1979 Notice of Proposed Rulemaking (44 FR 2263) and the October 16, 1979 Notice of Proposed Rulemaking (44 FR 59764). In particular, the record has been supplemented with the following documents:

(1) USEPA—OPTS. "Proposed Processor Requirements: Notice of Proposed Rulemaking."

(2) USEPA—OPTS. [Cost Estimations of Alternative Processor Notification Requirements: Contract No. 68–01–1878.]

The docket of the record that details its specific contents to date is available in the OPTS Reading Room. EPA welcomes comments on any additional material that should be part of the record to date. EPA will identify the complete rulemaking record on or before the date of promulgation of these requirements, as prescribed by TSCA section 19(a)(3).

Note.—Under Executive Order 12044, Improving Government Regulations, EPA must determine whether a proposed regulation is "significant" and therefore subject to the requirements of the order. On May 29, 1979, EPA published a report on how it will implement the order (44 FR 30988). Consistent with the order and EPA's report, the Agency has reviewed the proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979) and the rules that are proposed in this **Federal Register** notice. EPA has determined that they are "major significant" regulations, as that term is defined in the Agency's report (44 FR 30989–90). EPA will issue them in accordance with the requirements of the report concerning internal Agency development and review, public participation, economic analysis, and consideration of other regulatory impacts and alternatives.

EPA intends to evaluate the benefits and costs of this processor notification rule within 5 years after its promulgation, as part of its evaluation plan for the larger section 5 rule. (Secs. 5, 8, and 14 of the Toxic Substances Control Act (15 U.S.C. 1604, 2607, and 2613.))

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

It is proposed that proposed Part 720 be amended as follows:

1. In proposed § 720.10 by further proposing to revoke and reserve paragraphs (a)(3) and (b)(2) and add a new paragraph (c) to read as follows:

§ 720.10 Persons who must report.

(a) * * *

(3) [Reserved]

* * * * *

(b) * * *

(2) [Reserved]

* * * * *

(c) Pursuant to the authority of TSCA section 5(a)(1) and (2), persons must admit a notice under the provisions of this Part if they intend to process for a commercial purpose a new chemical substance that was originally manufactured or imported in bulk or as part of a mixture.

(1) For a purpose excluded from the definition of chemical substance under TSCA section 3(2) (including use as a pesticide; tobacco or any tobacco product; specified nuclear material; food, food additive, drug, cosmetic, or device); or

(2) Under any exemption of TSCA section 5(h), or §§ 720.14 or 720.15; or

(3) Only prior January 1, 1975; or

(4) As a byproduct as defined in § 720.2.

2. In proposed § 720.11(b) by further proposing to revise paragraph (b) and the "Note" at the end of the section to read as follows:

§ 720.11 Persons not subject to premanufacture notification requirements.

* * * * *

(b) Except as provided by § 720.10(c), any person who intends only to process or use a new chemical substance for commercial purposes.

Note.—Unless the notice is filed by a processor under § 720.10(c), a notice is invalid under § 720.34(b) if filed by a person other than a manufacturer or importer.

3. In proposed § 720.12 by further proposing to add paragraphs (b)(3) and (c) to read as follows:

§ 720.12 Chemical substances for which premanufacture notice must be submitted.

* * * * * * *

(b) * * *

(3) A person who wishes to establish a bona fide intent to process a chemical substance and who does not possess the data specified in paragraph (b)(2) (iii) or (iv) of this section must submit (i) a statement certifying that he does not possess these data and (ii) an explanation of why he does not possess these data.

(c)(1) If a person proposes to process a chemical substance as provided in § 720.10(c) and wishes to ascertain whether the chemical substance is on the inventory, but does not know the chemical identity of the substance he proposes to process, the person must attempt to obtain the chemical identity directly from the manufacturer, importer, processor, supplier, and anyone from whom he received the substance.

(2) If the person who proposes to process the substance is unable to obtain the chemical identity of the substance from these persons, he should comply with § 720.12(b)(1) through (3) and supply evidence of his attempts to ascertain the chemical identity. EPA may issue a reporting requirement under section 8(a) of the Act to obtain the chemical identity from a manufacturer, importer, or processor. EPA will follow the procedures outlined in § 720.50(b) when it imposes a requirement to report chemical identity.

(3) When the manufacturer, importer, or processor informs EPA of the chemical identity of the substance under paragraph (c)(2) of this section, EPA will provide the chemical identity to the person who proposes to process the substance unless the person providing the chemical identity claims the chemical identity confidential pursuant to this Part. If the chemical identity is claimed confidential by the person providing the chemical identity to EPA, EPA will follow the procedures under § 720.12(b) (4) through (7). EPA will provide a final response to an inquiry under these procedures within 45 days after the Agency's receipt of the chemical identify under paragraph (c) of this section.

4. In proposed § 720.20 by further proposing to add paragraph (f)(5) to read as follows:

§ 720.20 General provisions.

* * * * *

(f) * * *

(5) If EPA receives a notice which does no include the chemical identity of the substance from a person who intends to process the substance, and the notice indicates that the submitter has attempted without success to obtain the chemical identity, EPA may issue a supplemental reporting requirement under § 720.50(b) to obtain this information from the manufacturer, importer, or processor of the chemical substance. In such cases, the notification period will begin when EPA is able to identify the new substance.

* * * * *

5. By proposing to add a new § 720.24 to read as follows:

§ 720.24 Chemical substances processed for a commercial purpose.

(a) The provisions of this subpart C apply to each person who is required to submit a notice under § 720.10(c).

(b) A person subject to § 720.10(c) must use the Processor Notice Form. He must provide the information described in § 720.22 and requested in the form and not designated "optional," insofar as such information is known to or reasonably ascertainable by him. In addition, in accordance with § 720.23, the processor must append to the form any test data in his possession or control and descriptions of other data concerning the environmental and health effects of the substance.

(c) In addition, persons who are required to submit notices under § 720.10(c) must submit the following data:

V 45 AG 15 80 UMI

(1) The name of the person(s) who manufactured or imported the substance (if different from the submitter).

(2) Future sources of the substance, if any.

(3) Where the submitter intends to manufacture the substance and descriptions of the intended manufacturing process, to the extent it is known to or reasonably ascertainable.

(4) The amount of the chemical to be processed.

(5) All information in the possession or control of the submitter pursuant to § 720.14(a)(2) or (d).

6. In proposed § 720.34 by revising paragraph (b)(1)(vii) to read as follows:

§ 720.34 Deficiencies in the premanufacture notice.

* * * * *

(b) Invalid notice.[1] * * *

(vii) Except as specifically authorized by § 720.10(c), submittal of a premanufacture notice by someone other than the person who intends to manufacture or import the chemical substance, or his designated agent;

* * * * *

7. In proposed § 720.50 by revising paragraph (b) to redesignate the existing proposed text of paragraph (b) as paragraph (b)(1) and adding a new paragraph (b)(2) to read as follows:

§ 720.50 Reporting requirements under section 8(a) and section 5 of the act.

* * * * *

(b) Manufacturer or importer of an unknown reactant.

(1) If EPA receives a premanufacture notice from a person who identifies the new chemical substance as a product of a reaction which includes at least one unknown reactant, and if the person demonstrates that he has attempted to obtain information concerning the identity of the reactant from the manufacturer or importer of the reactant, EPA may require the manufacturer or importer of the unknown reactant(s) to report its identity or composition to EPA.

(2) If EPA receives a notice pursuant to § 720.10(c) that does not contain the chemical identity, and if the person demonstrates that he has attempted to obtain information concerning the chemical identity from the manufacturer, importer, or processor of the substance, EPA may require the manufacturer, importer, or processor of the chemical substance to report its identity to EPA.

[FR Doc. 80-24682 Filed 8-14-80; 8:45 am]
BILLING CODE 6560-01-M

federal register

Friday
August 15, 1980

Part V

Department of Labor

Mine Safety and Health Administration

Pattern of Violations

V 45 A G 15 80 UMI

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 104

Pattern of Violations

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth criteria for identifying mines which have a pattern of violations of mandatory health or safety standards which are of such nature as could have significantly and substantially contributed to the cause and effect of mine health or safety hazards pursuant to § 104(e) of the Federal Mine Safety and Health Act of 1977. Under section 104(e), the Secretary of Labor is directed to make such rules as he deems necessary to establish such criteria. This proposed rule also sets forth the procedures MSHA would follow to issue a notice to an operator that such a pattern exists at its mine.

DATES: Comments must be received by October 14, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, 4015 Wilson Boulevard, Arlington, Virginia 22203, Telephone (703) 235–1910.

SUPPLEMENTARY INFORMATION:

Rulemaking Authority

Section 104(e) of the Federal Mine Safety and Health Act of 1977 directs the Secretary of Labor to issue a notice to an operator if it has a pattern of violations of mandatory health or safety standards in coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards (hereinafter "pattern of violations"). Section 104(e)(4) directs the Secretary of Labor to make such rules as he deems necessary to establish criteria for determining when such a pattern of violations exists.

Section 508 of the Act authorizes the Secretary of Labor to issue such regulations as he "deems appropriate to carry out any provision of this Act."

Pursuant to sections 104(e) and 508, the Secretary of Labor is commencing rulemaking by the publication of this proposed rule and a solicitation for public comment.

Legislative History and Purpose

When Congress strengthened existing mine safety and health protection by enacting the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164 (Act), it was particularly concerned about the problem of the mine operator who has a history of persistent violations of mandatory health and safety standards. The enforcement mechanisms of the Mine Act's predecessor legislation (the Federal Coal Mine Health and Safety Act of 1969 and the Metal and Nonmetallic Mine Safety Act of 1966) had not always been effective in dealing with these situations. Correcting the larger underlying problems which were evidenced by recurrent individual violations was a major concern of Congress when it passed the new legislation. As one means to address these problems, Congress added a new section (104(e)), which authorized the Department of Labor to deal with mines that have developed a "pattern of violations." In adding the pattern of violations provision Congress explicitly expressed its intent in the Senate Committee Report, which states:

> The Committee's intention is to provide an effective enforcement tool to protect miners when the operator demonstrates his disregard for the health and safety of miners through an established pattern of violations. S. Rep. No. 181, 95th Cong., 1st Sess. 32 (1977).

The Senate Committee recognized that numerous mining disasters in both the coal and the metal/nonmetal industries demonstrated an inadequacy in existing law and existing mine safety and health programs.

The legislative history emphasizes in the committee reports and floor debates that section 104(e) is primarily designed as an enforcement mechanism to be used against serious and repeat offenders, particularly those habitual violators who have not responded to other efforts to bring their mines into compliance with health and safety standards.

Although section 104(e) does not define "pattern of violations," the legislative history gives some general guidance on the kinds of situations to which the provision should apply. The Senate Committee stated its intent that:

> A pattern may be established by violations of different standards, as well as by violations of a particular standard. Moreover, while the Committee considers that a pattern is more than an isolated violation, a pattern does not necessarily mean a prescribed number of violations of predetermined standards nor does it presuppose any element of intent or state of mind of the operator. S. Rep. No. 181, 95th Cong., 1st Sess. 33 (1977).

After setting forth this general guidance, Congress authorized the Secretary of Labor to formulate specific criteria which would be broad enough to encompass the varied mining activities within the Act's coverage. The Secretary was granted wide discretion in establishing these criteria, and Congress further recognized that since the pattern of violations provision was new and still untried, that the criteria might need to be modified as experience with the provision increased.

Criteria For Determining a Pattern of Violations

Under the proposed rule, available data which reflect each mine's overall safety and health record during a review period would be compiled from inspection records and other relevant sources. These data are already being used to implement other provisions of the Federal Mine Safety and Health Act and would be adapted to implement section 104(e). Data would be reviewed as often as necessary but no less frequently than once each year. A notice that a pattern of violations exists may be issued whenever circumstances warrant.

Typically, a pattern of violations would be exemplified either by an unusually large number of violations which are of such nature as could have significantly and substantially contributed to the cause and effect of a mine safety or health hazard (hereinafter "significant and substantial violations") and little or no indication of improved compliance after a period of time, or by a worsening trend of significant and substantial violations which indicates a greater than normal risk of either a disaster or individual accidents, injuries or illnesses. Under the proposed rule, the pattern of violations may include violations of many unrelated safety and health standards or it may involve violations of one standard or a few particular categories of safety and health standards (for example, ventilation, roof control, haulage, noise, etc.). In many cases where a pattern of violations would be found to exist, there would be a history of withdrawal orders for significant and substantial violations which have not induced the mine operator to improve safety and health practices.

Congress intended for the criteria to be flexible. Although under the proposed rule a pattern would be based on a mine's record of "significant and substantial" violations, factors other than the mere number of such violations would be considered. The proposed criteria, therefore, include both quantitative and qualitative factors. The factors set out in the proposed regulation to be considered in applying the criteria would serve as guidelines, but would not prevent MSHA from applying a particular criterion on the basis of other factors. Additionally, depending on the individual situation, the weight given to a particular criterion or factor may vary. The determination that a pattern exists at a particular mine would not be made mechanically, but would be a documented judgment based on the relevant facts and circumstances, including the enforcement history and overall safety and health conditions at the mine. Each determination would be in writing and would set forth the reasoning used to arrive at the determination.

Procedures

If a pattern notice is issued to an operator, any subsequent inspection which reveals another significant and substantial violation will result in the issuance of a withdrawal order until the violation is abated. There will be a sequence of withdrawal orders upon the subsequent finding of any significant and substantial violation until a complete inspection of the mine reveals no significant and substantial violation.

Although a pattern of violations notice which is subsequently followed by withdrawal orders would provide a strong incentive for the affected operator to correct an already existing pattern, it is clear that Congress intended for this sanction, insofar as possible, to prevent such a critical situation. Realizing that a pattern of violations will lead to severe consequences, chronic violators would be induced to comply with the spirit as well as the letter of the law. The thrust of the entire Act is to protect the health and safety of miners, which is most effectively accomplished when serious underlying problems are addressed before they reach crisis proportions.

Initial screening procedures, which would include examination of inspection records, would be used to identify mines which may be developing a pattern of violations. Although not required by the proposed rule, MSHA may as a matter of policy, alert affected mine operators that this initial screening has identified that operator's mine as a potential recipient of a pattern notice, which may be issued unless the mine's compliance record is adequately improved before the District Manager makes a determination to issue a notice that a pattern of violations exists at the mine.

After the initial screening, the criteria would be applied to each of the mines which has been so identified. If this further analysis indicates that a pattern of violations exists at any of the mines under consideration, MSHA would send to the affected operator and miners' representative a letter stating MSHA's intent to issue a pattern notice. This letter of intent would specify the basis for MSHA's proposed action and would give the operator 15 calendar days to review the documents upon which the determination is based, to submit additional information and to submit a written request to confer with the District Manager. If the operator submits such a request, issuance of the pattern notice may be stayed for a reasonable period of time, to be determined by the District Manager, to allow for this informal review and conference.

If the operator does not respond within the alloted time, a pattern notice would be issued promptly. If the operator responds, but the additional information does not indicate a valid reason to defer the issuance of a pattern notice, the notice would be issued. However, if the additional information indicates that a pattern notice should not be issued at this time, the operator would be so notified. In each of these cases, the notification would state the specific reasons and data supporting whatever determination was made.

Executive Order 12044

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's final guidelines implementing the Executive Order (44 FR 5570, January 28, 1979).

Drafting Information

The principal persons responsible for drafting this document are: Vernon R. Denton, James R. Horton, Nancy S. Hyde, and Inga A. Watkins.

Dated: August 11, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

1. It is proposed to add a new Subchapter Q, Part 104 to Chapter I, Title 30 Code of Federal Regulations as set forth below:

SUBCHAPTER Q—PATTERN OF VIOLATIONS

PART 104— PATTERN OF VIOLATIONS

Sec.

104.1 Scope and purpose.
104.2 Definitions.
104.3 Identification of mines developing a potential pattern of violations.
104.4 Criteria for determining when a pattern of violations exist.
104.5 Procedures for issuance of notice.

Authority: Secs. 104(e) and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173, 83 Stat. 803 as amended by Pub. L. 95–164, 91 Stat. 1301, 1299 (30 U.S.C. 814(e), and 957).

§ 104.1 Scope and purpose.

This part sets forth the criteria and procedures the Mine Safety and Health Administration (MSHA) will follow in making a determination as to whether there is a pattern of violations of mandatory health or safety standards in a mine which are of such nature as could have significantly and substantially contributed to the cause and effect of mine health or safety hazards (pattern of violations). In making a determination, MSHA will only consider violations occurring after March 8, 1978.

§ 104.2 Definitions.

As used in this Part:

(a) "MSHA" means the United States Department of Labor, Mine Safety and Health Administration.

(b) "Significant and substantial violations" means violations of mandatory health or safety standards which are of such a nature as could have significantly and substantially contributed to the cause of effect of mine safety or health hazards. Only violations for which a citation or withdrawal order was issued and which have become final before the Federal Mine Safety and Health Review Commission shall be considered in the application of the criteria.

(c) "Pattern of violations" means a pattern of violations of mandatory health or safety standards in a coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards.

(d) "Review period." A review period for all underground mines shall consist of at least three months. A review period for surface mines shall consist of at least six months.

(e) "Similar size" means classified by MSHA to be within the same category with respect to the annual hours worked at metal/nonmetal mines and the annual tonnage of coal mines as set forth below.

(1) Size of metal/nonmetal mine.

Annual hours worked at mine:

10,000 and under
Over 10,000 to 20,000
Over 20,000 to 30,000

Over 30,000 to 60,000
Over 60,000 to 100,000
Over 100,000 to 200,000
Over 200,000 to 300,000
Over 300,000 to 500,000
Over 500,000 to 700,000
Over 700,000 to 1 million
Over 1 million

(2) Size of coal mine.

Annual tonnage of mine:

15,000 and under
Over 15,000 to 30,000
Over 30,000 to 50,000
Over 50,000 to 100,000
Over 100,000 to 200,000
Over 200,000 to 300,000
Over 300,000 to 500,000
Over 500,000 to 800,000
Over 800,000 to 1.1 million
Over 1.1 million to 2 million
Over 2 million

As used in paragraphs (e) (1) and (2) of this section, the terms "annual tonnage" and " annual hours worked" means tonnage produced and hours worked in the previous calendar year or in the case of a mine opened or owned less than one full calendar year the tonnage and hours worked prorated to an annual basis.

(f) "Similar type" means mines which are classified by MSHA to be within the same category with respect to the type of operation as set forth below:

Metal and Nonmetallic Types of Operations

Open pit
Other surface (sand, gravel)
Crushed stone (and dimension)
Dredge
Mills
Underground

Coal Mines—Types of Operations

Underground
Surface
Preparation plants not part of underground or surface operations

(g) "Related standards" means mandatory safety or health standards which are within the same subpart of section of the Code of Federal Regulations or which are designed to protect miners from the same or a similar hazard.

§ 104.3 Identification of mines developing a potential pattern of violations.

(a) MSHA will compile objective data to document the operator's overall safety and health record, including violations of mandatory safety and health standards. The data will be classified into categories which collectively reflect both the enforcement activity and management practices at each mine during three-month periods for underground mines and six-month periods for surface mines as set forth below:

(1) Total number of Section 104(a) citations for significant and substantial violations.

(2) Comparative number of significant and substantial violations in successive inspections.

(3) Total number of Section 104(d) citations and orders for unwarrantable failure violations.

(4) Total number of Section 104(b) withdrawal order for failure to obate significant and substantial violations.

(5) Total number of Section 107(a) imminent danger orders which resulted from significant and substantial violations.

(6) Total number of recurring significant and substantial violations of the same or related standards.

(7) Total number of violations of regulations concerning the submittal of reports or plans, examinations, and training of personnel.

(8) Operator's accident/injury/illness/fatality incidence rate.

(9) Inspector's statements for citations and orders involving significant and substantial violations.

(10) Total number of inspection days.

(b) The data will be reviewed as often as necessary but no less frequently than once each year and will be used to bring to the District Manager's attention those mines which warrant consideration to determine whether a pattern of violations exists or is developing. The information from any one or any combination of the above categories may be sufficient to bring a particular mine to the attention of the District Manager. The data will undergo further screening and analysis, including review by a committee appointed by the District Manager which shall be called the District Review Committee. The District Review Committee shall consist of a minimum of three persons selected by the District Manager, at least one of whom shall be a Subdistrict Manager or senior level supervisor and the remainder of whom shall be representatives of the Secretary of Labor with no less than 2 years of experience. The District Review Committee will consider both quantitative and qualitative factors as set forth in the criteria in § 104.4 of this part to make a recommendation to the District Manager as to whether a pattern of violations exists at a particular mine.

(c) Each criterion shall be evaluated both individually and in relation to the others to determine if there is a pattern of violations at a mine. A determination that a pattern of significant and substantial violations exists at a mine may be made on the basis of affirmative findings with respect to any one or any combination of the criteria or upon consideration of all of the criteria as a whole. The weight to be given to a particular criterion may vary with the individual facts and circumstances of each case.

§ 104.4 Criteria for determining when a pattern of violations exist.

To determine whether a pattern of violations exists at a particular mine, MSHA shall consider the following criteria:

(a) There has been a chronic recurrence of significant and substantial violations at the mine during one or more review periods. Generally, in applying this criterion, MSHA shall consider but is not limited to the following factors:

(1) Whether the average number of significant and substantial violations cited per inspection day was at or above the 90th percentile for all mines of similar size and type. This factor shall be applied as follows: All the mines in a particular size and type category shall be ranked numerically, based on each mine's average number of significant and substantial violations cited per inspection day. The mines with the highest numbers in this ranking have the most significant and substantial violations cited per inspection day, compared to other mines of similar size and type. If a mine is within the highest 10 percent of all the mines of similar size and type when ranked according to average number of significant and substantial violations cited per inspection day, this mine may be considered to have a chronic recurrence of significant and substantial violations during the review period.

(2) Whether the average number of significant and substantial violations cited per inspection day was at or above the 75th percentile for all mines of similar size and type and has increased since a previous review period. This factor shall be applied as follows: All mines in a particular size and type category shall be ranked numerically based on each mine's average number of significant and substantial violations cited per inspection day. If a mine is within the highest 25 percent of all the mines of similar size and type when ranked in this manner, and the average number of significant and substantial violations cited per inspection day has increased since a previous review period, this mine may be considered to have a chronic recurrence of significant and substantial violations during the review period.

(3) Whether a disproportionate number of the significant and substantial violations cited per inspection day were violations of the same or a related standard. The number may be considered disproportionate if more than 25 percent of the significant and substantial violations are violations of the same or a related standard.

(b) Enforcement mechanisms of the Federal Mine Safety and Health Act of 1977 other than section 104(a) citations have been utilized during one or more review periods at the mine to address the safety or health hazards that could have been created by significant and substantial violations cited during a review period. Generally, in applying this criterion, MSHA shall consider, but is not limited to the following factors:

(1) Whether any withdrawal orders were issued pursuant to section 104(d)(1) of the Federal Mine Safety and Health Act of 1977 and whether any section 104(d)(2) orders were issued.

(2) Whether there were any § 107 imminent danger orders issued which resulted from violations of the same or related standard as any of the significant and substantial violations cited during a review period.

(c) The history of accidents, injuries, illnesses and fatalities at the mine during one or more review periods indicates that the significant and substantial violations cited at the mine have had an impact on the overall safety and health of the miners. Generally, in evaluating this criterion, MSHA shall consider but is not limited to the following factors:

(1) Whether the incident rate or severity measure has been above the national average.

(2) Whether there were any accidents, injuries, illnesses or fatalities of the type which the violated standards were designed to prevent.

(d) The management at the mine has demonstrated poor safety or health practices or a lack of a general commitment to effectively protecting the safety and health of the miners during one or more review periods. Generally, in evaluating this criterion, MSHA shall consider, but is not limited to the following factors:

(1) The degree of good faith the operator demonstrated in attempting to achieve rapid compliance after receiving the citations for the significant and substantial violations as evidenced by such things as:

(i) Extraordinary efforts to achieve abatement of the violation within the time given; or

(ii) Utilization of all available resources and personnel to abate the violation as rapidly as possible; or

(iii) Utilization of a method of abatement which was likely to prevent the recurrence of the violation.

(2) The gravity of the significant and substantial violations as evidenced by such things as:

(i) The probability of occurrence of the events the cited standards were directed against; or

(ii) The types of injuries or illnesses that could be expected to result from the events the cited standards were directed against; or

(iii) The number of people who would be affected if the events occurred.

(3) The degree of negligence of the operator with respect to the significant and substantial violations.

(4) Whether there have been recurrent violations of standards or regulations concerning requirements for the submittal of reports or plans, the conduct of preshift or on shift examinations or qualifications and training of personnel.

(5) Whether there were any citations changed to withdrawal orders for failure to abate significant and substantial violations.

(6) What resources the operator devoted to mine safety and health.

(e) There were no extenuating circumstances at the mine beyond the management's control during the review periods which strongly mitigate affirmative findings with respect to any of the above criteria.

§ 104.5 Procedures for issuance of notice.

(a) When the District Manager makes a preliminary determination that a particular mine has a pattern of violations, the District Manager shall inform the operator and the miner's representative in writing (certified mail, return receipt requested or personal service) of MSHA's intent to issue a notice that a pattern of violations exists at that mine. The letter of intent shall specify the basis for the determination and shall give the operator and representative of miners 15 calendar days after receipt of the letter of intent to provide additional information for consideration, review all documents upon which the determination is based, and submit a written request for a conference with the District Manager.

(b) Upon written request by the operator or representative of miners during the 15-calendar-day period, the District Manager shall arrange for a conference to be held as expeditiously as possible. The operator and representative of miners shall be invited to attend any conference held pursuant to this section.

(c) After a conference is held or additional information is submitted, the District Manager will notify the operator in writing either (1) that a pattern of violations exists, or (2) that a notice of pattern will not be issued at this time. In either case, the District Manager will state the reasons for the determination, which shall be the final determination of MSHA.

(d) If the operator does not make a request to review the documents, submit additional information or have a conference within the allotted time, the operator shall be notified in writing, pursuant to section 104(e) of the Act, that a pattern of violations exists at its mine effective immediately upon receipt of notification.

(e) The operator shall post all letters of intent and notices on the mine bulletin board.

[FR Doc. 80-24614 Filed 8-14-80; 8:45 am]
BILLING CODE 4510-43-M

V 4 5 A G 1 5 8 0 UMI

V 45 AG 15 80 UMI

federal register

Friday
August 15, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Obtaining Crude Oil for the Strategic Petroleum Reserve by Exchange of Naval Petroleum Reserves Crude Oil and Other Means

DEPARTMENT OF ENERGY

Regulatory Administration, Room B210,

B. Alternative Proposal No. 2: Adding the

capacities at the Bryan Mound, Texas,

rate of at least 100,000 B/D beginning in

due to the possibility that, pursuant to

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-23]

Obtaining Crude Oil for the Strategic Petroleum Reserve by Exchange of Naval Petroleum Reserves Crude Oil and Other Means

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing alternative amendments to the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, to establish procedures for obtaining crude oil for storage in the Strategic Petroleum Reserve (SPR) by exchange of Naval Petroleum Reserves (NPR) crude oil and other means. The first alternative proposal would establish a new provision in the allocation regulations authorizing DOE to require the fifteen so-called major refiners and other refiners with refining capacities in excess of 175,000 barrels per day to supply crude oil for storage in the SPR in exchange for NPR crude oil. This proposal also would authorize DOE to compensate the refiner delivering oil to the SPR in cash.

The second proposal would amend the current crude oil Buy/Sell Program regulations to add the United States Government to the Buy/Sell List as a buyer of crude oil to be stored in the SPR, thereby increasing the total sales obligations of the refiner-sellers for an allocation period. Each refiner-seller would have the option of discharging its sales obligation by a sale to the SPR only, to small refiners only, or to both. Under this alternative DOE would elect to compensate a refiner-seller delivering oil to the SPR by exchanging a quantity of NPR oil or by making a cash payment to the refiner-seller. Additional provisions relating to these general alternatives are also proposed.

DATES: Written comments are due by September 15, 1980, 4:30 p.m. Hearing Dates: Los Angeles hearing, August 27, 1980; Washington, D.C. hearing, September 4, 1980. Requests to speak by 4:30 p.m., August 20, 1980, for the Los Angeles hearing; August 28, 1980, for the Washington, D.C. hearing.

ADDRESSES: Requests to speak at the Washington, D.C. hearing, and all comments should be sent to Office of Public Hearing Management, Economic Regulatory Administration, Room B210, Docket No. ERA-R-80-23, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak at the Los Angeles hearing should be sent to Department of Energy, Region IX, Attn: Carey Osborn, 333 Market Street, San Francisco, California 94111, (415) 764-7029.

HEARING LOCATIONS: Washington, D.C. hearing: Room 2105, 2000 M Street, N.W., Washington, D.C. Los Angeles hearing: Room 207, Los Angeles Convention Center, 1201 Figuero, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Hearing Procedures), Economic Regulatory Administration, Room B210, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3971

William Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street NW., Washington, D.C. 20461 (202) 653-4055

Josette Maxwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202D, 2000 M Street NW., Washington, D.C. 20461 (202) 653-3256

Robert G. Bidwell, Jr. (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street NW., Washington, D.C. 20461 (202) 653-3459

Harry A. Jones (Strategic Petroleum Reserve Office), Room 410, 1726 M Street NW., Washington, D.C. 20461 (202) 634-5510

Craig S. Bamberger (Office of General Counsel—Strategic Petroleum Reserve), Department of Energy, Room 5E-064, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-2900

Samuel M. Bradley or Jeffrey D. Stoermer (Office of General Counsel—Petroleum Regulations), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-6754 or 252-6911

Peter M. Frank (Office of General Counsel—Naval Petroleum Reserve), Department of Energy, Room 6447, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 633-8683

SUPPLEMENTARY INFORMATION:

I. Background
- A. Strategic Petroleum Reserve
- B. Naval Petroleum Reserves
- C. Use of Naval Petroleum Reserves Crude Oil in the Strategic Petroleum Reserve

II. Alternative Proposed Amendments
- A. Alternative Proposal No. 1: Allocation of Crude Oil For the Strategic Petroleum Reserve Through Exchange of Naval Petroleum Reserves Crude Oil or Regulated Sale
- B. Alternative Proposal No. 2: Adding the Strategic Petroleum Reserve as a Buyer to the Buy/Sell List
- C. Exchange Ratio for Naval Petroleum Reserves Crude Oil

III. Proposed Special Temporary Relief for Small Refiners Dependent on Naval Petroleum Reserves Oil

IV. The Entitlements Program

V. Request for Additional Comments
- A. Delivery of Naval Petroleum Reserves Crude Oil to Participating Refiners
- B. Legal Issues

VI. Written Comment and Public Hearing Procedures
- A. Written Comments
- B. Public Hearings

VII. Procedural Requirements

I. Background

A. Strategic Petroleum Reserve

The Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 42 U.S.C. section 6231 *et seq.*, signed into law on December 22, 1975, authorized the creation of the SPR. The objective of the SPR is to provide for the storage of substantial quantities of petroleum in order to diminish U.S. vulnerability to the effects of a severe energy supply interruption, and to permit the U.S. to carry out its obligations under the Agreement on an International Energy Program.

An SPR Plan, which includes detailed proposals for development of the SPR, was transmitted to the Congress as Energy Action No. 10 on February 16, 1977, and became effective on April 18, 1977. Subsequently, to accelerate the development schedule, Plan Amendment No. 1 was transmitted to the Congress by the Federal Energy Administration (FEA), a predecessor agency of the Department of Energy, as Energy Action No. 12 on May 25, 1977, and became effective on June 20, 1977. Plan Amendment No. 2, which authorized expansion of the SPR to one billion barrels, was transmitted to the Congress by the DOE as Energy Action DOE No. 2 on May 18, 1978, and became effective on June 13, 1978. Plan Amendment No. 3, setting forth the method of withdrawal and distribution of the SPR oil, was transmitted to the Congress as Energy Action DOE No. 5 on October 21, 1979, and became effective on November 15, 1979.

The SPR's storage facilities are being developed and filled in three phases. Phase I involves the construction of facilities to utilize existing storage capacity of approximately 248 million barrels (MMB) at five salt dome sites located in the Gulf Coast areas of Louisiana and Texas. Phase I construction is now essentially complete. Phase II construction goals include the expansion of the storage

capacities at the Bryan Mound, Texas, and West Hackberry and Bayou Choctaw, Louisiana, sites by a total of 290 MMB. This expansion, which is still under development, will create new caverns through the process of solution mining ("leaching"). The new leached caverns will result in an additional 160 MMB of capacity at West Hackberry and an additional 120 MMB of capacity at Bryan Mound; an existing 10 MMB cavern will be acquired at Bayou Choctaw. Facilities installed at the West Hackberry and Bryan Mound sites during Phase I will be modified and used for the solution mining of the additional underground storage capacity. Phase III, which currently is unfunded, will involve development of additional storage capacity of approximately 200 MMB, although the sites to be developed have not yet been selected.

DOE began filling the SPR storage facilities in 1977. Some 91.7 MMB of crude oil now are stored at three SPR sites: West Hackberry (2.9 MMB of sweet crude oil and 27.0 MMB of sour crude oil); Bayou Choctaw (28.5 MMB of sour crude oil); and Bryan Mound (31.8 MMB of sweet crude oil). Another 1.5 MMB are in pipelines or terminals. By the end of September 1979, the SPR had an operational capability to withdraw oil from these three sites for distribution at a rate of approximately one million barrels per day (MMB/D). Upon the complete filling of the storage capacity developed in Phases I and II, the withdrawal ("drawdown") and distribution capability at the five SPR storage sites will increase to about 3.5 MMB/D.

Amendment No. 1 to the SPR Plan called for storage of 500 MMB by December 22, 1980. Oil acquisition for the SPR was suspended in 1979, however, to avoid placing excessive upward pressures on oil prices or disrupting domestic crude oil supply availability in a period of unstable world oil market conditions. Consequently, the SPR's current crude oil inventory would serve only as a limited response to a near term supply interruption.

Congressional concern that the amount of crude oil currently stored in the SPR is inadequate was recently expressed in Title VIII of the Energy Security Act (ESA), Public Law 96-294 (June 30, 1980). Section 801 of the ESA amended section 160 of the EPCA by directing the President to immediately undertake and continue crude oil acquisition, transportation, and oil injection activities at a level sufficient to assure that crude oil storage in the SPR will be increased at a minimum average rate of at least 100,000 B/D beginning in fiscal year 1981. No further amendment to the SPR Plan is necessary to implement this mandated resumption of fill of the SPR, regardless of the type or source (foreign or domestic) of oil acquired for storage. This requirement to fill the SPR will cease when the storage level reaches the amount set forth in the SPR Plan. That level, which presently is set by the terms of the SPR Plan at one billion barrels, may be changed by an amendment to the plan in accordance with the procedures of the EPCA.

B. Naval Petroleum Reserves

The Naval Petroleum Reserves (NPR) were established by executive order between 1912 and 1924. There are three Reserves which currently produce crude oil: Elk Hills and Buena Vista, both in Kern County, California, and Teapot Dome, Natrona County, Wyoming. The Elk Hills Reserve is by far the largest, with proven reserves in excess of one billion barrels of crude oil. Until 1976 the Reserves were used almost exclusively for Department of Defense activities. Production from the Reserves, with the exception of a brief period during World War II, was minimal, being limited to that necessary to test, conserve, and maintain the fields. Production was temporarily increased, pursuant to a Congressional joint resolution, to 65,000 barrels per day (B/D) for a limited period in 1944-1945 for the purpose of meeting crucial petroleum needs for our war effort.

Upon passage of the Naval Petroleum Reserves Production Act of 1976 (NPR Act), Pub. L. 94-258 (10 U.S.C. section 7420 *et seq.)*, the NPR was required to produce crude oil at the maximum efficient rate for at last six years (until April 5, 1982) at these three locations. By following this Congressional requirement, the Federal Government's share of production from the NPR has increased to approximately 132,000 B/D.

The largest portion of the NPR production, at the Elk Hills Reserve, has been sold by the Government through competitive bidding since 1976. Most of this production is currently marketed and refined on the West Coast. For the current contract period, February 1 to August 1, 1980, the Elk Hills crude oil was sold to ten "small" refiners,[1] five other refiners, and three trading companies.

It is estimated that from 99,000-132,000 B/D will be available from the NPR for filling the SPR. The variance is due to the possibility that, pursuant to the NPR Act, DOE may continue to set aside 25 percent of the Government's share of NPR production for purchase by small refiners (those without adequate sources of crude oil and whose refineries have a refining capacity of under 45,000 B/D).

C. Use of NPR Crude Oil in the Strategic Petroleum Reserve

The SPR Plan originally concluded that use of NPR oil to fill the SPR would not offer advantages over the competitive procurement of imported and domestic oil. At that time it was anticipated that sufficient crude oil for the SPR could be most efficiently obtained through competitive procurement. Today, however, considering the uncertain world crude oil market and the rapid escalation of world oil prices, the expenses and administrative complexities of utilizing the NPR oil for the SPR are less significant when compared to the current costs of competitively procuring imported crude oil. In addition, the Federal Government's share of NPR oil could now provide, in this period of uncertain and increasingly expensive crude oil supplies, an assured and continuous source of crude oil for a large portion of the SPR fill requirements.

The statutory basis for use of NPR oil for filling the SPR, either by means of direct transportation and storage or through exchange, is contained in the EPCA, as amended by the ESA, and the NPR Act, also amended by the ESA.

Section 160(a) of the EPCA as originally enacted provided in part as follows:

> The Secretary is authorized, for the purposes of implementing the Strategic Petroleum Reserve Plan * * * to place in storage, transport, or exchange (1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law. * * *

Section 802 of the ESA added a new subsection (d) to section 160 of the EPCA requiring that unless the SPR storage activities are maintained at an average rate of 100,000 B/D, the Government may not sell or otherwise dispose of its share of crude oil from the Elk Hills Reserve except to fill the SPR directly or by exchange for other oil, with certain specified exceptions. The exceptions are: (1) amounts of production set aside for small refiners as provided under the existing provisions of the NPR Act (10 U.S.C. 7430(d)), (2) minimal amounts necessary for reservoir protection, and (3) production for national defense requirements under the NPR Act (10 U.S.C. 7422(b)(2)),

[1] For purposes of NPR sales contracts, a "small" refiner is one which has a refining capacity of 45,000 B/D or less. Under the EPAA, however, a "small" refiner is one which has a refining capacity of 175,000 B/D or less.

limited to a period of no more than nine

34,000 barrels a day. Even though there

mitigate any market distortions which

limited to a period of no more than nine months. Additionally, the ESA further provides that the President would be relieved of these requirements to continue storage of oil in the SPR and to use NPR oil for purposes of SPR storage, during certain emergency situations. First, a temporary exemption from these requirements is provided in the event of a drawdown of the SPR, as permitted under section 161 of the EPCA. Second, the President is given discretion to request an exemption from the fill requirements if he finds that compliance with those requirements significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the International Energy Program.

Section 201(11) of the NPR Act, 10 U.S.C. 7430(k), as amended by the ESA, states the following regarding use of NPR oil in the SPR:

(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

(a) place that petroleum in the Strategic Petroleum reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231–6246); or

(b) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.

In light of these authorities the NPR crude oil may be used to fill the SPR in two ways: (1) direct physical transportation of the crude oil production from the NPR sites to the SPR sites, or (2) exchange of the NPR crude oil for other crude oil which would be delivered to the SPR sites.

However, the first option, the direct physical transportation of NPR oil to the SPR, is not considered viable to any substantial degree at this time. Great difficulties are involved in the direct transportation of NPR crude oil form Elk Hills, California (where more than 95% of NPR production originates) to the SPR storage facilities on the Gulf Coast. Facilities generally do not exist on the West Coast to accommodate the shipment of substantial quantities of NPR oil to docks and then by tanker to the Gulf Coast. There also is inadequate common carrier pipeline capacity to handle shipments of this oil to the Gulf Coast. The estimated maximum capacity of existing common carrier pipelines to ship from Elk Hills to the Gulf Coast is 34,000 barrels a day. Even though there are plans to expand the pipeline capacity to approximately 40,000 barrels a day, it is estimated that no more than 20,000 barrels a day of excess capacity could be available for shipment of NPR oil to the Gulf Coast, and that use of the pipeline for shipping NPR oil might require displacing other shipments.

The second option, obtaining crude oil for the SPR by exchanging NPR crude oil, therefore is the more practicable alternative. The Defense Fuel Supply Center (DFSC) of the Department of Defense is preparing, on behalf of DOE, a solicitation for competitively-conducted exchanges of NPR oil for oil be delivered to the SPR. However, because the efforts of the DFSC may not produce satisfactory offers of sufficient volumes of crude oil, we have determined that an amendment to the petroleum allocation regulations is needed to authorize DOE to provide for the exchange of NPR crude oil to assure the filling of the SPR at the optimum rate.

Statutory support for requiring refiners to deliver crude oil to the SPR in exchange for NPR crude oil is contained in the Emergency Petroleum Allocation Act of 1973 (EPAA), Pub. L. 93–159, as amended, 15 U.S.C. section 751 *et seq.* The President has the authority under the EPAA to allocate all crude oil or refined products produced in or imported into the United States, in specified amounts and at specified prices, in furtherance of the EPAA objectives. Section 4(b)(1)(F) of the EPAA states that one of the objectives of the EPAA is the "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices . . . among all users." Permitting the SPR to receive its equitable share of U.S. oil, domestic as well as imported, serves this objective.

As discussed above, the objective of the SPR is to provide for the storage of substantial quantities of petroleum in order to diminish the United States' vulnerability to the effects of a severe supply interruption. Thus, resumption of filling of the SPR clearly would further the EPAA objective of protecting public health, safety and welfare, and the national defense. See EPAA section 4(b)(1)(A).

Further, storage in the SPR of crude oil obtained by means of exchange for NPR crude oil would assure continued filling of the SPR during a period of uncertainty in the world market, while avoiding pressures on world oil prices which might result from exclusive reliance on Government purchases of crude oil for the SPR directly in the world market. Thus, such exchanges, which could mitigate any market distortions which might result from competitive bidding for NPR oil, would be consistent with the objective, recognized both in EPAA section 4(b)(1)(I) and in EPCA section 160(b)(4), of minimizing the impact of Government interference on market forces.

II. Alternative Proposed Amendments

A. Alternative Proposal No. 1: Allocation of Crude Oil for the Strategic Petroleum Reserve Through Exchange of Naval Petroleum Reserves Crude Oil or Regulated Sale

1. Refiners required to supply oil to the Strategic Petroleum Reserve
2. Determination of exchange/sale obligations
3. Methods of discharging exchange/sale obligations
4. Credit for oil supplied to the Strategic Petroleum Reserve outside the regulatory program
5. Exchange notices
6. Crude oil types required for the Strategic Petroleum Reserve

1. Refiners Required To Supply Oil to the Strategic Petroleum Reserve

This proposed amendment would establish a new section 211.68 in Part 211 to require specified refiners (termed "exchange partners") to supply crude oil suitable for storage in the SPR in exchange for NPR crude oil. As discussed in more detail below, in lieu of delivering NPR crude oil to an exchange partner, the DOE could elect to compensate an exchange partner in cash. The group of refiners to be designated as exchange partners would consist of the fifteen so-called major integrated refiners that are currently classified as refiner-sellers (as defined in § 211.62) for the Buy/Sell Program and other refiners with refining capacity in excess of 175,000 B/D (the so-called large independent refiners).

We believe this group of refiners is best suited to act as exchange partners with the United States Government to ensure that sufficient quantities of suitable crude oil are made available for filling the SPR. In contrast to small refiners, these refiners generally have access to many diverse sources of crude oil supplies and the experience in purchasing, trading and transporting large quantities of crude oil which would enable them to efficiently furnish suitable crude oil for the SPR and receive NPR crude oil in exchange. Moreover, to the extent that the proposed regulation provides for the *exchange* of approximately equal volumes of crude oil, and given the ability of these refiners to obtain crude supplies, the net crude oil supply

position of the participating refiners should not be adversely affected, as long as crude oil supply exceeds crude oil consumption. Thus, the provision would not conflict with the EPAA objective of protecting the crude oil supply and competitive viability of independent refiners. Finally, we are not proposing to include small refiners or resellers in the class of exchange partners because we believe that to expand the number of exchange partners further would affect our ability to consummate the exchange/sale transactions efficiently.

We will consider limiting the group of exchange partners to the 15 major refiners, or to only the 15 major refiners and certain large independent refiners, provided that the comments submitted during this proposed rulemaking and other information available to us demonstrate that some or all of the large independent refiners would be adversely affected if they were included as exchange partners. Comments on this issue might include data regarding such refiners' relative access to foreign and domestic crude oil supplies, ability to refine or exchange NPR oil, or sufficiency of access to pipelines, tankers, or other modes of transportation for the purpose of delivering crude oil to the SPR facilities.

2. Determination of Exchange/Sale Obligations

We are proposing that each exchange partner's exchange/sale obligation would be equal to its proportionate share of all designated exchange partners' total runs to stills during the period August 1979 through July 1980. This base period should be of sufficient duration to eliminate any short-term aberrations in the runs to stills data, and yet recent enough to provide an accurate indication of present relative access to crude oil supplies and, thus, ability to enter into exchange transactions. We will consider alternative methods of calculating exchange partners' exchange/sale obligations, including the use of a different fixed base period or a 12-month rolling base period. Comments are requested as to whether any of these alternative proposed methods of prorating exchange/sale obligations among the designated exchange partners would be preferable.

3. Methods for Discharging Exchange/Sale Obligations

The proposed regulation specifies several methods by which the exchange partners could be required, at the option of DOE, to discharge their exchange/sale obligations. These methods include a voluntary or mandatory exchange of NPR crude oil,[1] and a mandatory sale. One or more of these methods could be selected by DOE for any exchange period. Each Exchange Notice would specify which method or methods DOE had selected to impose for that exchange period.

a. *Voluntary Exchange Offers*

One method for discharging obligations that DOE could elect for any exchange period would provide a period during which voluntary exchange offers would be entertained by DOE. The Exchange Notice for that period would specify that for the 15 days following publication of the Notice, any of the refiners designated in the Notice as exchange partners could submit an exchange offer to DOE. Such an offer would, at a minimum, specify the type or types of crude oil offered to the SPR, the respective volumes of each type of crude oil offered, a proposed delivery schedule, and a ratio for determining the volume of NPR oil that the offeror would be given in exchange. DOE could accept any such exchange offer during the 30 days following the publication of the Exchange Notice. If an exchange offer were accepted by DOE, and a contract were executed, the exchange partner would be considered as having discharged its exchange/sale obligation for that exchange period to the extent of the volume of oil actually delivered to the SPR.[2]

In the event voluntary exchange offers are permitted for an exchange period, but such offers do not result in DOE acceptances of crude oil of sufficient quality or quantity, then each exchange partner would be given notice to that effect, and the mandatory exchange or sale provisions of the proposed regulation, as discussed below, would apply.

b. *Mandatory Exchange or Sale*

If voluntary exchange offers are not permitted for any exchange period, or if such offers result in insufficient exchanges, then each exchange partner would be required to deliver to the SPR the quantity of crude oil equal to its exchange/sale obligation for that period. In exchange for crude oil delivered to the SPR, each exchange partner would receive a volume of NPR crude oil determined by the ratio provided in the allocation regulations.

Due to potential logistical problems during some exchange periods, including temporary pipeline space limitations and inadequate access to dock and terminal facilities, it may not always be practicable for all exchange partners to deliver their exchange/sale obligations in a timely fashion, especially since some exchange partner's obligations may be quite small. Moreover, if competitive exchange or sale transactions are successful in acquiring a large volume of oil for the SPR, the additional volume of oil needed for the SPR through mandatory exchange or sale transactions, when divided among the remaining exchange partners, may be so small as to make it infeasible to accept separate deliveries. Therefore, we are proposing alternative authority for DOE to direct certain exchange partners to deliver suitable crude oil in specified quantities, whether such quantities would be equal to or more or less than the exchange partner's exchange/sale obligation for that period. In directing a particular exchange partner to deliver oil to the SPR, DOE would consider which exchange partner or partners would be best able to consummate delivery of the type of oil needed. In the event a particular exchange partner were directed to deliver a quantity of oil to the SPR in any exchange period in excess of its exchange/sale obligation for that period, the exchange partner would receive a credit in that amount against its exchange/sale obligation for the next exchange period. Conversely, if an exchange partner were not directed to deliver oil to the SPR in an exchange period, its unsatisfied obligation would be added to its obligation for the next exchange period. As an alternative to carrying forward such debits and credits into succeeding exchange periods, we are proposing that the regulation should simply require exchange partners that were not directed to deliver oil to the SPR during an exchange period to reimburse the exchange partners that delivered oil to the SPR by sales or trades of crude oil in the volumes owed by the non-delivery exchange partner.

As an alternative to exchanging NPR oil, we are also proposing that DOE could elect to compensate an exchange

[1] The volume of NPR crude oil available for regulated exchange (whether voluntary or mandatory) during an exchange period should be equal to the volume of the Federal Government's share of NPR production for the period, reduced by the volume (if any) of crude oil set aside for small refiners for that period, and further reduced by the volume of NPR crude oil previously committed to exchanges negotiated for that period as a result of DFSC solicitations.

[2] Moreover, so as to assure there is no disincentive for refiners to enter into exchanges or sales pursuant to the forthcoming DFSC solicitation, we are proposing with respect to each of the alternatives under consideration that refiners that have entered into exchanges or sales for delivery of oil to the SPR other than pursuant to the proposed rule shall be considered to have discharged any obligation under a regulation adopted in this proceeding to the extent of the volume of oil actually delivered to the SPR.

partner by making a cash payment for the oil delivered to the SPR equal to the weighted average landed cost of the exchange partner's crude oil imports in the month of delivery.[3] Due to the two-month delay in the reporting of crude oil costs to ERA, such cost would have to be estimated at the time of the exchange and adjusted to the actual cost in the second month following the month of delivery. We specifically request comments on, and would adopt if supported by the record, alternative methods for establishing the compensation in a regulated sale. For example, would it be appropriate to provide that the compensation would be equal to the weighted average landed cost of *all* exchange partner's crude oil imports during the exchange period, or the weighted average delivered cost to all refiners of uncontrolled *domestic* crude oil during the exchange period? Under each of these alternatives, should the period for establishing the compensation be the entire exchange period or only the month in which the transaction occurs? Finally, should the Government pay the actual cost of the crude oil delivered to the SPR?

Under any of these options, any exchange partner would be allowed to trade its exchange/sale obligations with any firm (including a non-exchange partner) prior to the beginning of or during the exchange period with the approval of DOE. However, the proposed regulation provides that such transactions would not relieve the exchange partner of its obligation in the event the other firm fails to perform.

It is anticipated that at times additional minor adjustments might be necessary to equalize a particular exchange transaction. For example, under a mandatory exchange the exchange ratio might be based partially on estimated costs or values, with appropriate adjustment to reflect actual costs or values not able to be made until after deliveries have been completed. In such cases, we are proposing that DOE could make such adjustments by means of a cash payment to the exchange partner or by directing the exchange partner to make a cash payment to DOE, if DOE determines that it is impracticable to make such adjustments by delivering or receiving additional quantities of crude oil.

4. Credit for Oil Supplied to the SPR Outside the Regulatory Program

We also are proposing that any exchange partner that delivers oil to the SPR after July 1, 1980, in a sale or exchange, other than pursuant to this rule would receive a barrel-for-barrel credit against any exchange/sale obligation it might have under the regulatory program proposed in this notice. If a delivery takes place before the first exchange period begins, the credit would be applied first against the exchange/sale obligation of that first exchange period. If a delivery takes place during an exchange period, then the credit would be applied first against the exchange/sale obligation of that exchange period. In either case, any unused credit would be applied to the succeeding exchange period(s).

5. Exchange Notices

In general, the proposed regulation provides that DOE may issue periodic Exchange Notices requiring the refiners described above to deliver crude oil to the SPR. An Exchange Notice would be published in the **Federal Register** at least 20 days prior to the beginning of the exchange period and would remain in effect until the end of the exchange period, unless amended by the publication of a Supplemental Exchange Notice. The Exchange Notice would specify the quality and total quantity of crude oil to be delivered to the SPR storage sites during the "exchange period," the exchange ratio for the NPR crude oil, special terms and conditions applicable to the exchange transactions, the "exchange/sale obligation" of each exchange partner, and the method or methods by which the exchange/sale obligations must be discharged.

The proposed regulation contemplates an exchange period of six months. We specifically request comments, however, as to whether the exchange period should be longer or shorter. If the comments submitted during this rulemaking and other information available to us indicate that the exchange period should be of a different duration, then we will adopt such a period in the final rule.

To facilitate the scheduling of crude oil deliveries to the SPR under a mandatory exchange, we are proposing that each exchange partner that is required to deliver oil to the SPR submit a proposed delivery schedule no later than 15 days after publication of the Exchange Notice. If, however, DOE will be entertaining voluntary exchange offers for an exchange period, then the proposed delivery schedule need not be submitted to DOE until 15 days after DOE has notified the exchange partners that the voluntary exchanges will be insufficient for the SPR's needs and that mandatory exchange or sale transactions will be required. Comments are specifically requested as to whether a 15-day period is sufficient to prepare and submit a proposed delivery schedule. The proposed delivery schedule would list, for each proposed delivery date, the types of oil to be delivered, the relative volumes of each oil type, and the preferred DOE terminal [4] be preferred for delivery. DOE will consider submissions of proposed delivery schedules on a "first-come, first-served" basis. All ship nomination and acceptance procedures must be in accordance with then-current port manuals of the SPR receiving terminals. Exchange partners will be notified by DOE within five days of DOE's receipt of their proposed schedules, whether the proposed schedules have been accepted or rejected in whole or in part. If a proposed schedule is unacceptable, in whole or in part, whether because of prior commitments for the date selected or because of other incompatibilities, DOE will explain the reasons for the rejection, and in some cases, will also suggest alternative dates, volumes, and/or types of oil for delivery.

[3] The maximum volume of NPR oil that would be available for exchange in any allocation period would be 132,000 B/D. However, in order to fulfill the mandate of the recently-enacted ESA, or to achieve other policy objectives, the SPR fill requirements may exceed the volume of NPR oil available for exchanges. Thus, to the extent that the Government is not able to purchase this excess volume of oil in competitive procurement, the volume of crude allocated to the SPR would exceed the volume of NPR oil available for exchanges, and the Government would compensate refiners for these additional volumes in cash.

[4] DOE currently has access to three marine terminals for purposes of receiving tanker deliveries for the SPR. The locations, types of oils accepted, and specifications are as follows:

Tanker discharge terminals	Terminal storage (MBbl)	Draft (ft)	LOA (ft)	Beam (ft)	Maximum (Dwt)
Sunoco Terminals, Inc., Nederland, Tex. (Type I—Sour) (Type II Through V—Sweet)	1,200	39½ [1] 36	1,000	144	130,000
Seaway Terminal, Freeport, Tex. (Type II through V—Sweet)	800	37	750	107	[5] 63,000
DOE Terminal, St. James, La. (Type I—Sour)	1,600	[2] [6] 41 [1] 53	940	[3]	100,000

[1] Airdraft.
[2] Terminal permission required for less than 32M Dwt; maximum at Dock No. 1 is 50,000 Dwt.
[3] Fresh.
[4] Subject to possible further draft limitation at Mississippi River entrance, which is dependent on flood and silting conditions.

When DOE has notified the exchange partner that its proposed delivery schedule is acceptable, the exchange partner will become obligated to make delivery as set forth in that schedule. Timely delivery will be within a five-day "window"; that is, delivery taking place as much as two days before or two days after the date specified in the delivery schedule will be considered timely.

Every ninety days an accounting will be made to ensure that each exchange partner has not received a volume of NPR crude oil in excess of that volume (as adjusted by the exchange ratio) of oil which it has delivered to the SPR. Each exchange partner will have the responsibility of coordinating its deliveries of oil to the SPR with its receipts of NPR oil to achieve a balance at least every ninety days.

6. Crude Oil Types Required for the SPR

We anticipate that one or more of five different types of crude oil would be required for delivery to the SPR. These types, and their gravity and sulfur characteristics, are as follows:

Type	API Gravity (°API)	Total Sulfur (wt. %) Max.
I	30–36	1.99
II	40–45	.25
III	30–36	.50
IV	34–40	.25
V	36–41	.50

A sixth type, with a gravity in the range of 26–30 °API and with a maximum acceptable sulfur content of 1.25%, currently is not expected to be required. The only crude oil currently meeting the specifications of the sixth type is Alaska North Slope crude oil. Comments are invited, however, as to what quantities, if any, of Alaska North Slope crude oil might be offered for delivery to the SPR. The actual types and relative volumes of each type of crude oil to be delivered to the SPR, as well as the storage sites to which the oil is to be delivered, would be announced for each exchange period in the Exchange Notice for that period.

Because we anticipate that the value of the NPR oil will not always be the same as the value of the oil delivered to the SPR in exchange, an exact barrel-for-barrel exchange will not always be possible. Therefore, we are proposing alternative exchange ratios to be used to determine the volume of NPR crude oil which will be deemed equivalent in value to one barrel of each type of crude oil delivered to the SPR. A discussion of proposed alternative exchange ratios is set forth below.

B. Alternative Proposal No. 2: Adding the Strategic Petroleum Reserve As A Buyer to the Crude Oil Buy/Sell List

Under this alternative proposal, we would amend the definition of refiner-buyer in section 211.62 and add a new paragraph to the current Buy/Sell Program regulations set forth in section 211.65 to provide that the Strategic Petroleum Reserve would be added to the Buy/Sell List as an eligible buyer of allocated crude oil for storage in the SPR. The total sales obligation of the refiner-sellers for each six-month allocation period would be increased by the volume of crude oil allocated on the Buy/Sell List for the SPR. Thus, each refiner-seller's sales obligation under the Program would consist of a portion of the total "purchase opportunity" of the SPR. A refiner-seller could satisfy its sales obligation by selling oil to the SPR, to small refiners, or to both. A refiner-seller delivering oil to the SPR could be compensated in cash, as compensation is currently provided for under the Buy/Sell Program regulations, or alternatively, by delivery of NPR crude oil in exchange.

As is the case currently under the Buy/Sell Program regulations, DOE (as a "buyer") would negotiate with refiner-sellers during the twenty-day period following publication of the Buy/Sell Notice. As a result of such negotiations, DOE might obtain part or all of its allocation for that period, and would compensate the refiner-seller in cash or in NPR oil. If, however, at the end of that 20-day period DOE had not negotiated crude oil purchases or exchanges sufficient to satisfy its total allocation, then DOE could direct a refiner-seller to deliver oil to the SPR under § 211.65(j)(3) of the current Buy/Sell Program regulations. In such a directed transaction, any refiner-seller not compensated in cash in accordance with the current Buy/Sell price rule would be compensated by a delivery of NPR crude oil in a volume determined in accordance with the exchange ratio proposed in this rulemaking.

Under the amendments being proposed, the Buy/Sell Notice would include, in addition to the items currently published in the Notice, several new provisions relating to the SPR. The Buy/Sell Notice would specify the relative volumes of the SPR's total allocation for which compensation would be made in cash and in kind (by delivery of NPR crude oil). The Notice would also specify the exchange ratio for the NPR crude oil applicable to directed deliveries, special terms and conditions applicable to the exchange transactions, and the types and relative quantities of crude oil required for the SPR.

The different types of crude oil expected to be required for the SPR and the proposed alternative ratios to be used in exchanges of NPR crude oil are discussed in Parts II–A(6) and II–C, respectively.

For the reasons discussed under the first alternative proposal, we are also proposing under this alternative that any refiner-seller that delivers crude oil to the SPR after July 1, 1980, in a sale or exchange, other than pursuant to this rule, will receive a barrel-for-barrel credit against its total allocation obligation for the applicable allocation period in which crude oil is allocated to the SPR.

C. Exchange Ratio for NPR Crude Oil

The alternative proposals contemplate exchange transactions involving the exchange of NPR crude oil for other crude oil delivered to the SPR. As previously mentioned, we anticipate that the quality, and hence the value, of the oils exchanged will not always be equal. Therefore, we are proposing three alternative methods of calculating the exchange ratio for determining the number of barrels of a given type of NPR crude oil the Government would deliver to a refiner in exchange for each barrel of a given type of crude oil delivered to the SPR.

The first alternative method proposed would define the exchange ratio in terms of refiners' actual acquisition costs for crude oil that is similar in quality to the crude oils being exchanged. The numerator of the ratio under this proposed method would be the estimated weighted average delivered cost to all refiners in the month of the exchange of all generic imported and uncontrolled domestic crude oils that meet the specifications of the type of oil being delivered to the SPR. We request comments on whether we should use the estimated average delivered cost of such crude oils to the refiner who is supplying the oil for the SPR rather than the cost to all refiners. In either case, the ratio would be adjusted before the end of the second month following the month of the exchange to reflect any differences

it would be appropriate to provide

V. Request for Additional Comments

he submitted by 4:30 p.m. September 5

between the actual and the estimated costs.

We request comments on whether we should adopt the average landed cost of crude oil in the Gulf Coast to determine the numerator of the exchange ratio. One concern we have is with the effect of transportation costs on the accuracy of the exchange ratio. Average landed costs in the Gulf Coast might be the most accurate estimate of the cost to refiners of oil delivered to the SPR. On the other hand, this information is not currently collected by DOE. We request comments on the availability of such data and how important transportation costs are.

The denominator of the ratio would be the average of the two highest posted prices for uncontrolled crude oil similar to the NPR oil being exchanged. No posted price would be used in computing the average unless an actual purchase had been consummated at that price. The prices used would be those in effect at the time the NPR oil is to be delivered to the exchange partner. However, if subsequent to the delivery of the NPR oil a price is posted having a retroactive effect to the date of delivery, and if that price would be one of the two highest posted prices, then that price would be used in the computation of the ratio and appropriate adjustments would be made. For the Elk Hills and Buena Vista oil, DOE would designate at least three fields in which oil of like quality is produced, and then compute an average of the two highest posted prices in each of these fields. For the Teapot Dome oil, DOE would compute an average of the two highest posted prices produced in the State of Wyoming. This distinction is proposed due to the fact that comparable postings are more numerous for Elk Hills and Buena Vista oil than for Teapot Dome oil.

The second alternative method proposed would basically result in barrel-for-barrel exchanges of NPR oil for oil delivered to the SPR, with certain adjustments for quality (based on sulfur and gravity differences). Generally speaking, sulfur and gravity are indicative of crude oil worth and value. Therefore, we are proposing under this alternative that adjustments be made for differences in sulfur and gravity between the NPR crude oil and the crude delivered to the SPR. We are proposing that differentials of $0.05 per barrel per 0.1 (one-tenth) degree API gravity and $0.10 per barrel per 0.1 (one-tenth) percent sulfur be established as adjustment factors. Comments are specifically requested as to whether the differentials proposed here properly account for quality differences in crude oils. We will consider adopting other differentials, including formulas for computing differentials, and will consider permitting differential factors to be negotiated between the Government and exchange partners.

Comments are also requested as to whether we should adjust the barrel-for-barrel exchanges for differences in transportation or location of the NPR crude oil and the crude oil delivered to the SPR. We will consider adopting transportation and location adjustment factors, if supported by the record.

Under this proposal, the Government could elect to effect sulfur and gravity differential adjustments by transfer of crude oil instead of by cash payments. If the Government elects to deliver additional crude oil to an exchange partner to account for higher quality crude oil delivered to the SPR (lower sulfur or higher API gravity), in lieu of a cash payment, the quantity of the additional delivery would be based upon the total value of the differential adjustments for sulfur and gravity, divided by the value of NPR crude oil. We are proposing that the value of NPR crude oil be based upon the average of the two highest posted prices for uncontrolled crude oil similar to the NPR oil being exchanged, as described in alternative 1 above.

If the Government elects to accept additional crude oil from an exchange partner to account for lower quality crude oil delivered to the SPR (higher sulfur or lower API gravity), in lieu of a cash payment, the quantity of the additional crude oil will be based upon the total value of the differential adjustments for sulfur and gravity, divided by the value of the crude oil delivered to the SPR. We are proposing that the value of the crude delivered to the SPR be calculated according to one of the methods described in alternative 1 above, with respect to the numerator of the exchange ratio.

We request comments on the advisability of using other values for the NPR crude oil or crude oil delivered to the SPR in the formulas for computing additional quantities to be transferred to account for quality differentials. We will consider adopting in the final rule alternative methods for computing these values or for computing the additional quantities involved.

The third alternative method proposed would define the exchange ratio in terms of relative crude oil values imputed from refinery product yield and wholesale product price data in a given base period. The numerator of the ratio would be the imputed value of the crude oil type being delivered to the SPR. This value would be computed by multiplying the average yield of various products (naphtha, distillate, gas oil, and residuum) from that crude type, expressed as a volumetric percentage, times the average wholesale price for each product. The denominator of the ratio would be the imputed value of the NPR crude oil type being exchanged. This value would be computed in the same manner as the value of the crude oil delivered to the SPR. Under this alternative, we propose using a rolling base period for determining the yield and price data. The base period would be the month in the previous year corresponding to the month of delivery. However, we will consider adopting in the final rule a fixed base period or a provision for periodically changing the base period.

III. Proposed Special Temporary Relief for Refiners Dependent Upon NPR Crude Oil

If most of the NPR crude oil from the Elk Hills Reserve is exchanged for purposes of acquiring oil for the SPR, certain small refiners located in California might experience a supply loss which they might not be able to replace. Our preliminary review of runs to stills data reported under the Entitlements Program indicates that approximately 50 percent of NPR production in 1978 and 1979 was processed by single-refinery small refiners located in the Elk Hills vicinity. These data further indicate that NPR oil constituted approximately 30 percent of these small refiners' runs to stills during 1978 and 1979.

This Entitlements Program data, however, does not provide a completely accurate picture of these small refiners' dependence on NPR oil. Because of a provision in the Entitlements Program regulations (10 CFR section 211.67(g)), applicable to exchanges involving domestic crude oil, generally speaking, a refiner is deemed to retain any domestic crude oil given up in exchange. For example, if a refiner purchased NPR crude oil but traded it to another refiner for imported crude oil, the original owner of the NPR oil would report it for the purposes of the Entitlements Program, even though the second refiner actually ran the imported crude oil received in the trade. Therefore, we are unable to determine exactly how much NPR crude oil has been physically run in these small refiner refineries. In addition, we do not know the extent to which these small refiners might have access to crude oil supplies other than the NPR crude oil.

However, on the basis of the available data, we have tentatively concluded that it would be appropriate to provide temporary relief through the Buy/Sell Program to these firms that incur a supply loss due to the withdrawal by the Government of NPR oil from the market. Accordingly, we are proposing to add a new subparagraph (c)(2)(iv) to the Buy/Sell Program regulations in section 211.65, which provides for allocations to any small refiner which is able to demonstrate that: (1) its refinery has processed an amount of NPR crude oil in excess of five percent of that refinery's runs to stills during the preceding allocation period; (2) its refinery has incurred or will incur at least a fifty percent loss of its supply of such crude oil due to the Government's crude oil acquisition program for the SPR; (3) it has exhausted any opportunity to obtain NPR crude oil under the NPR Act small refiner set-aside for the period for which an allocation is sought; (4) its refinery cannot reasonably be expected to replace its lost supplies of NPR oil; and (5) its projected runs to stills for its refinery will be less than ERA's estimate of the national utilization rate for all refiners.

We specifically request detailed comments that provide evidence of special hardship, if any, that would arise in the event most NPR oil is exchanged to acquire oil for the SPR. If we are not convinced of the need for special relief, firmly supported by detailed evidence of dependence on NPR oil and lack of access to other crude oil supplies, then we will not adopt in our final rule the proposed provision for temporary relief.

IV. The Entitlements Program

In the SPR Plan, the Federal Energy Administration (FEA), a predecessor agency of DOE, stated its intention to allow the Federal Government to obtain the entitlements benefits for using imported crude oil to fill the SPR to the same extent that refiners receive such benefits for processing imported crude oil. Accordingly, FEA amended its regulations under the EPAA to provide that suppliers of imported crude oil to the SPR would be paid partly in entitlements, thus reducing the Government's cost for the imported crude oil stored in the SPR to the weighted average cost of all crude oil to refiners. *See* 42 FR 21761 (April 29, 1977).

Section 805 of the ESA discussed above directs the President to amend the Entitlements Program regulations, no later than August 29, 1980, so as effectively to allocate lower tier crude oil to the Government for purposes of acquiring oil to store in the SPR. We will soon issue a final rule amending the Entitlements Program to implement these provisions of the ESA.

V. Request for Additional Comments

A. Delivery of Naval Petroleum Reserves Crude Oil To Participating Refiners

Under either of the alternative proposals, the Government would have to apportion in some manner deliveries of the NPR production among those refiners participating in exchange transactions. Such an apportionment could take the form of a daily delivery of NPR oil to each participating firm. It might be operationally more practicable, however, to plan the apportionment over a longer period of time so that all or a major part of NPR production in a given day or period of days would be delivered to a single participating firm or a small number of firms.

We anticipate that refiners participating in exchanges with the Government for NPR oil would be permitted to exchange, trade or sell any NPR crude oil that it receives in an exchange. In the case of such third party transactions it may be most practicable for the Government to deliver the NPR oil directly to the third party rather than to the participating refiner. It is expected, however, that before delivery to such third party could be effected, the Director, Naval Petroleum Reserves in California, would have to receive notice from the participating refiner of the specifics of the transaction at least ten days before the date of delivery.

Comments are specifically invited on the manner in which NPR crude oil should be distributed among the participating refiners, special features which the Government should implement to facilitate delivery of NPR oil to refiners participating in exchanges and, in particular, procedures to facilitate exchanges between refiners participating in exchanges governed by the regulations proposed in this rulemaking and other firms.

B. Legal Issues

Potentially affected refiners are invited to comment on any legal issues or problems they foresee in the proposal. Such comments should be clearly labelled as comments on legal matters and separable from other comments so as to expedite their review by the Office of General Counsel.

VI. Written Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the proposals set forth in this notice of proposed rulemaking. Written comments should be submitted by 4:30 p.m., September 5, 1980, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation, "Allocation of Crude Oil for the SPR." Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Reading Room, 5B–138, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The dates and places for the hearings are indicated in the "Dates" and "Addresses" sections of this preamble. All hearings will convene at 9:30 a.m. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

If you have any interest in the proposals in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation at a hearing by 4:30 p.m. on the dates indicated in the "Dates" section of this preamble, and to the addresses indicated in the "Addresses" section of this preamble. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m. on August 22, 1980, for the Los Angeles hearing, and before September 1, 1980, for the Washington, D.C. hearing. You will be required to bring one hundred copies of your statement to the address indicated in the "Addresses" section of this preamble for requests to speak at the hearing concerned before 4:30 p.m., August 26, 1980, for the Los Angeles hearing, and September 3, 1980, for the Washington, D.C. hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule

B. Section 7 of the FEA Act

provide for the storage of substantial

V 45 AG 15 80 UMI

their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. They will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at a hearing to the address indicated above for requests to speak at that hearing before 4:30 p.m. on the day before the hearing. If you wish to ask a question at a hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of each of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Reading Room, Room 5B–138, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of a hearing from the reporter.

VI. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, as amended), we are referring this rule to the Federal Energy Regulatory Commisison (FERC) for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission has until the close of the public comment period to make that determination.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of this notice was sent to the EPA that he does not foresee the proposed rule as having unfavorable impacts on the quality of the environment beyond those addressed in the Environmental Impact Statements prepared to date on the SPR. The EPA Administrator has reserve the right to make additional comments in accordance with the EPA's duties and responsibilities under section 309 of the Clean Air Act.

C. National Environmental Policy Act

On June 6, 1980, the Assistant Secrtary for Environment determined after consultation with the Office of General Counsel that today's proposals if adopted would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et. seq.*)

D. Executive Order 12044

Executive Order 12044 "Improving Government Regulaitons" (43 FR 12661, March 24, 1978) requires agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. In section 2(c), the ORder recognizes that there are some instances where an agency may appropriately determine that it is necessary to provide for a shorter time period. In accordance with paragraph 12 of DOE's implementing procedures, DOE Order 2030.1 "Procedures for the Development and Analysis of Regulations, Standards, and Guidelines" (44 FR 1032, January 3, 1979), the 60–day comment period has been waived by the Secretary in light of the following public interest considerations and short-term statutory deadline.

As previously discussed in this preamble, the objective of the SPR is to provide for the storage of substantial quantities of petroleum in order to diminish the United States' vulnerability to the effects of a severe supply interruption, including the danger to national security and the Nation's freedom of action in world affairs. Acquisition of crude oil for storage in the SPR clearly must be resumed in order to fulfill this objective. Moreover, Congress has recently mandated in the Energy Security Act that crude oil acquisition for the SPR be immediately resumed so that oil is stored in the SPR at a rate of at least 100,000 B/D by October 1, 1980. Considering the uncertain world oil market and the rapid escalation of world oil prices, the use of NPR oil to acquire oil for the SPR appears to be the most practicable and expeditious method of achieving the SPR objective and meeting the statutory deadline, while at the same time avoiding undue pressures on the world oil market. Inasmuch as competitively-conducted exchanges of NPR oil for oil to be delivered to the SPR may not produce satisfactory offers of sufficient volumes of oil, an amendment to the petroleum allocation regulations is needed to provide DOE with the requisite authority to require such exchanges.

Since it is in the public interest to resume the filling of the SPR at the earliest possible time and Congress has directed that a storage rate of 100,000 B/D be achieved by October 1, 1980, the Secretary has determined that adherence to the normal 60-day public comment period would result in unacceptable days in acquisition of oil for the SPR. We are, however, providing for a 30-day period for public comment, which period is consistent with the minimum public comment period required by section 501(b) of the DOE Act.

The Executive Order also requires that a regulatory analysis be prepared for all significant regulations which are likely to have a major impact. For the reasons supporting the waiver of the 60-day comment period, the Secretary has waived the requirement for a regulatory analysis.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy aDministration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal REgulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 8, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Alternative Proposal No. 1: Acquisition of Crude Oil for the Strategic Petroleum Reserve By Exchange of Naval Petroleum Reserves Crude Oil and Other Means.

§ 211.62 [Amended]

1. Section 211.62 is amended by adding the definitions of "Naval Petroleum Reserves (NPR)" and "NPR crude oil" in proper alphabetical order to read as follows:

* * * * *

"Naval Petroleum Reserves (NPR)" means Naval Petroleum Reserve Number 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912; Naval Petroleum Reserve Number 2 (Buena Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912; Naval Petroleum Reserve Number 3 (Teapot Dome), located in Natrona County, Wyoming, established by Executive Order of the President, dated April 30, 1915.

"NPR crude oil" means crude oil produced from the Naval Petroleum Reserves.

* * * * *

2. Part 211 is amended by adding a new section 211.68 to read as follows:

§ 211.68 Allocation of Crude Oil for the Strategic Petroleum Reserve Through Exchange of NPR crude oil and other means.

(a) *Definitions.* For purposes of this section, the following definitions apply:

"Exchange partner" means any refiner that is a refinerseller as defined in § 211.62 of this chapter and any other refiner that is not a small refiner as defined in § 211.62 of this chapter.

"Exchange period" means a consecutive six-month calendar period. The first exchange period shall be established by DOE in the first exchange notice.

(b) *Required delivery of crude oil to the Strategic Petroleum Reserve.* For the purpose of meeting the storage needs of the Strategic Petroleum Reserve, DOE may direct one or more exchange partners to deliver to the Strategic Petroleum Reserve crude oil of one or more suitable types in quantities determined in accordance with paragraph (e) of this section, in exchange for NPR crude oil, *Provided, however,* That in lieu of delivering NPR crude oil to the exchange partner, DOE may compensate any such partner in cash in accordance with paragraph (c)(2)(iii) of this section.

(c) *Discharge of exchange/sale obligations.* The DOE may specify in the Exchange Notice one or more of the methods set forth in paragraphs (c)(1) and (c)(2) of this section for discharging exchange/sale obligations for each exchange period:

(1) *Voluntary exchange offers.*—(i) *Submission of exchange offers.* If so stated in the Exchange Notice for any exchange period, during the 15 days following the publication of the Exchange Notice any exchange partner may submit an exchange offer to DOE. Such an exchange offer shall specify the type or types of crude oil offered to be delivered to the Strategic Petroleum Reserve, the respective volumes of each type of crude oil offered, the week or weeks during which such crude oil is offerd to be delivered, the terminal or terminals of the Strategic Petroleum Reserve to which such crude oil is to be delivered, and the ratio for determining the volume of NPR crude oil that the offeror would receive in exchange.

(ii) *Acceptance of exchange offers.* At any time during the 30 days following the publication of the Exchange Notice, DOE may accept any voluntary exchange offer submitted in accordance with paragraph (c)(1)(i) of this section. The exchange/sale obligation of any exchange partner whose offer is accepted by DOE shall be reduced to the extent of the volume of oil actually delivered to the Strategic Petroleum Reserve pursuant to such offer.

(iii) *Voluntary exchanges insufficient.* In the event voluntary exchange offers of crude oil of sufficient quality and quantity are not accepted for any exchange period, then DOE shall so notify the exchange partners and the exchange/sale obligations shall be discharged in accordance with paragraph (c)(2) of this section.

(2) *Mandatory exchange or sale.*—(i) *Delivery of oil to the Strategic Petroleum Reserve.* Each exchange partner shall deliver to the Strategic Petroleum Reserve the quantity of crude oil equal to its exchange/sale obligation for that period; *Provided, however,* That DOE may direct certain exchange partners to deliver suitable crude oil to the Strategic Petroleum Reserve in specified quantities, whether such quantities are equal to or more or less than the exchange partner's exchange/sale obligation for that period. In directing an exchange partner to deliver crude oil to the Strategic Petroleum Reserve, DOE shall consider the factors specified in paragraph (h)(2) of this section and the relative capabilities of the exchange partners to consummate delivery of the type of oil needed.

(ii) *Direct exchange for NPR oil.* Each exchange partner making delivery of oil to the Strategic Petroleum Reserve under paragraph (c)(2) of this section shall be entitled to receive at the lease automatic custody transfer units a volume of NPR crude oil in exchange determined by multiplying the volume of crude oil delivered to the Strategic Petroleum Reserve by the exchange ratio specified in paragraph (f) of this section, unless DOE elects to compensate any such exchange partner under paragraph (c)(2)(iii) of this section.

(iii) *Compensation by means other than direct exchange for NPR oil.* For any exchange period DOE may make a cash payment to any exchange partner making delivery of oil to the Strategic Petroleum Reserve under paragraph (c)(2)(i) of this section, in an amount equal to the estimated weighted average landed cost of [that exchange partner's] [all exchange partners'] [imported crude oil] [domistic crude oil the first sale of which is exempt from the provisions of Part 212 of this Chapter] for the month in which the exchange occurs, such estimated cost to be adjusted to the actual cost in the second month following the month in which the exchange occurs, in lieu of a direct exchange for NPR crude oil under paragraph (c)(2)(ii) of this section.

(d) *Exchange Notices.* Whenever the DOE determines to allocate crude oil for the Strategic Petroleum Reserve under this section, the DOE shall issue an Exchange Notice at least 20 days prior to the beginning of the exchange period. The Exchange Notice shall specify the total quantity of crude oil to be delivered to the Strategic Petreoleum Reserve; the relative quantities of each type of crude oil and the specifications of each such type; the exchange/sale obligation of each exchange partner; the exchange ratio for NPR crude oil; which method or methods of discharging exchange/sale obligations will be required for that exchange period under paragraph (c) of this section; and any other special terms or conditions applicable to exchange transactions for that exchange period.

(e) *Exchange partners' exchange/sale obligations.*—(1) *Total exchange obligation.* The total exchange/sale obligation for each exchange period shall be that quantity of crude oil which the DOE determines should be acquired

for the Strategic Petroleum Reserve for that exchange period by means of the regulated exchange or sale transactions provided for in this section. The total exchange/sale obligation shall be published in the Exchange Notice for each exchange period.

(2) *Calculation of exchange/sale obligation of each exchange partner.* (i) The DOE shall compute an exchange/sale obligation for each exchange partner for each exchange period as provided in paragraph (e)(3) of this section.

(ii) With DOE's approval part or all of any exchange partner's exchange/sale obligation may be traded to any other firm any time prior to the beginning of or during the exchange period. Any such trade, however, shall not relieve the exchange partner of its obligation in the event the other firm fails to perform.

(3) *Computation of exchange/sale obligation.* (i) The exchange/sale obligation for each exchange partner shall consist of that exchange partner's fixed percentage share as calculated under paragraph (e)(3)(ii) of this section multiplied by the total exchange/sale obligation for all exchange partners.

(ii) An exchange partner's fixed percentage share is its proportionate shre of the total runds to stills of all exchange partners reported during the period from August 1, 1979 through July 31, 1980.

(4) *Credit for oil supplied through non-regulated exchange or sale.* For each barrel of crude oil an exchange partner delivers to the Strategic Petroleum Reserve after July 1, 1980, in a sale or exchange other than pursuant to this rule, the exhange partner shall receive a one-barrel credit against its excnange/sale obligation for the first or current exchange period. Any unused credit shall be applied to the next exchange period.

(5) [Alternative 1: *Carryover adjustments.* To the extent the volume of crude oil actually delivered to the Stategic Petroleum Reserve by any exchange partner in any exchange period is more or less than the volume of that partner's exchange/sale obligation for that period, that exchange partner's exchange/sale obligation for the succeeding exchange period shall be increased or decreased.]

[Alternative 2: *Adjustments among exchange partners.* If any exchange partner is directed to supply crude oil to the Strategic Petroleum Reserve in any exchange period under paragraph (c)(2)(i) of this section in an amount in excess of its exchange/sale obligation for that period then such exchange partner shall be reimbursed in the amount of such excess by means of sales or trades of crude oil by those exchange partners that have not been directed to fully satisfy their exchange/sale obligations for that period.]

(f) *Exchange ratio for NPR crude oil defined.*

[Alternative Proposal 1: (1) *Numerator.* The numerator of the ratio shall be the estimated weighted average delivered cost, to all refiners for the month in which the NPR crude oil is to be delivered to the exchange partner, of all generic imported crude oils and domestic crude oils the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter meeting the specifications of the type of crude oil being delivered to the Strategic Petroleum Reserve, such estimated cost to be adjusted to the actual cost in the second month following the month in which the exchange occurs.

(2) *Denominator.* (1) For purposes of an exchange of NPR crude oil from Reserve Number 3 (Teapot Dome), the denominator of the ratio shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this Chapter of like quality produced in the State of Wyoming.

(ii) For the purposes of an exchange of NPR crude oil from Reserves Number 1 (Elk Hills) or Number 2 (Buena Vista), the denominator of the ratio shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this Chapter of like quality produced from each of at least three fields to be designated by DOE.

(iii) The posted prices used shall be those in effect at the time the NPR crude oil is to be delivered to the exchange partner. However, if subsequent to the delivery of the NPR crude oil any price is posted having a retroactive effective date encompassing the delivery date, then the exchange ratio shall be adjsuted accordingly. No posted price shall be used in the computation unless an actual purchase has been completed at that price.]

[Alternative Proposal 2: (1) *Barrel-for-barrel exchange.* Crude oil delivered to the Strategic Petroleum Reserves shall be exchanged barrel-for-barrel with NPR crude oil.

(i) An adjustment shall be made for differences in API gravity between the crude oil delivered to the Strategic Petrolieum Reserve and the NPR crude oil. For each 0.1 (one-tenth) degree API gravity that crude delivered to the Strategic Petroleum Reserve is below or above the API gravity of the NPR crude oil being exchanged, a cash payment equal to five cents per barrel shall be made to or from the DOE, respectively.

(ii) An adjustment shall be made for differences in sulfur content between the crude oil delivered to the Strategic petroleum Reserve and the NPR crude oil. For each 0.1 (one-tenth) percent sulfur content that crude oil delivered to the Strategic Petroleum Reserve is above or below the sulfur content of the NPR crude oil being exchanged, a cash payment equal to ten cents per barrel shall be made to or from the DOE, respectively.

(iii) Additional adjustments to account for differences in location and transportation of crude oil delivered to the Strategic Petroleum Reserve and NPR crude oil being exchanged may be made.

(2) *Payment in kind.* The DOE may require that payment for adjustments be made in crude oil of equal value in lieu of cash payments. For crude oil payments, the quantity of crude oil to be transferred to or from the DOE shall be based upon the total value of all adjustments, divided by the value of a barrel of crude oil delivered to the Strategic Petroleum Reserve (for payments made to the DOE), or the value of a barrel of NPR crude oil being exchanged (for payments made by the DOE).

(i) For purposes of computing the value of crude oil delivered to the SPR, the value shall be the estimated weighted average delivered cost, to all refiners for the month in which the NPR crude oil is to be delivered to the exchange partner, of all generic imported crude oils and domestic crude oils the first sale of which is exempt from the ceiling price limitations of part 212 of this chapter meeting the specifications of the type of crude oil being delivered to the Strategic Petroleum Reserve, such estimated cost to be adjusted to the actual cost in the second month following the month in which the exchange occurs.

(ii) For purposes of computing the value of NPR crude oil being exchanged:

(A) For purposes of an exchange of NPR crude oil from Reserve Number 3 (Teapot Dome), the value shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this Chapter from the ceiling price limitations of Part 212 of this Chapter of like quality produced in the State of Wyoming.

(B) For the purposes of an exchange of NPR crude oil from Reserves Number 1 (Elk Hills) or Number 2, (Buena Vista), the value shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this Chapter of like quality produced from each of at least three fields to be designated by DOE.

(iii) The posted prices used shall be those in effect at the time the NPR crude oil is to be delivered to the exchange partner. However, if subsequent to the delivery of the NPR crude oil any price is posted having a retroactive effective date encompassing the delivery date, then the exhange ratio shall be adjusted accordingly. No posted price shall be used in the computation unless an actual purchase has been completed at that price.]

[Alternative Propsal 3: The numerator of the ratio shall be computed by multiplying, for the oil type delivered to the Strategic Petroleum Reserve, the average percentage yield per volume of naphtha, distillate, gas oil, and residuum times the wholesale price for each such product during the month of the previous year corresponding to the month of delivery. The denominator of the ratio shall be computed by multiplying, for the NPR oil type being exchanged, the average percentage yield per volum of naphtha, distillate, gas oil, and residuum ties the average wholesale price for each such product during the month of the previous year corresponding to the month of delivery.]

(g) *Post-delivery adjustments.* In any exchange transaction, if, subsequent to the time deliveries are completed, adjustments to the volumes of crude oil received and delivered by DOE are necessary to equalize the transaction, and DOE finds it impracticable to deliver or receive additional crude oil, DOE may provide such adjustments by making a cash payment to the exchange partner or by directing the exchange partner to make a cash payment to DOE.

(h) *Delivery of oil to the Strategic Petroleum Reserve.* (1) When exchange/sale obligations are required to be discharged in accordance with paragraph (c)(2) of this section, each exchange partner (unless DOE directs certain exchange partners to deliver schedule to DOE at the address specified in the Exchange Notice as soon as practicable, but no later than 15 days after publication of the Exchange Notice. If, however, the Exchange Notice permits the submission of voluntary exchange offers for that exchange period under paragraph (c)(1) of this section, then the proposed delivery schedule shall be submitted no later than 15 days after DOE has notified the exchange partners that voluntary exchanges are insufficient and that exchange/sale obligations are to be discharged by means of mandatory exchange/sale transactions, in accordance with paragraph (c)(2) of this section. The proposed delivery schedule shall list, for each proposed delivery date, the types of oil to be delivered, the relative volumes of each oil type, and the exchange partner's preference regarding the terminal to which the oil is proposed to be delivered.

(2) DOE shall consider each proposed delivery schedule submitted under paragraph (h)(1) of this section in the order received and shall notify each exchange partner within five days of receipt of the proposed schedule whether the proposed schedule has been accepted or rejected in whole or in part. All ship nomination and acceptance procedures shall be in accordance with any then-current port manual of the relevant receiving terminal of the Strategic Petroleum Reserve. In determining whether to accept or reject a proposed delivery schedule, DOE shall consider the Strategic Petroleum Reserve's dock and terminal availability and capacity and prior delivery commitments. In its notice rejecting a proposed schedule in whole or in part DOE shall explain its reasons for the rejection and may propose alternative dates, volumes, and/or types of oil which would be appropriate for delivery. To account for daily receipt capabilities at the various terminals, DOE shall in all cases specify the terminal to which a particular shipment shall be delivered.

(3) Upon notice by DOE of acceptance of an exchange partner's delivery schedule, the exchange partner shall be obligated to make delivery of the type and volume of crude oil scheduled on the date scheduled, plus or minus two days. Within five days of receipt of a DOE notice rejecting an exchange partner's delivery schedule, the exchange partner shall submit an alternative proposed delivery schedule to DOE. If such proposed delivery schedule is unacceptable, DOE may specify the delivery schedule.

(4) Each exchange partner shall coordinate its deliveries of oil to the Strategic Petroleum Reserve with its receipts from the NPR in a manner such that at the end of the first 90 days of each exchange period, and again at the end of each exchange period, the exchange partner has not received a volume of NPR crude oil that is greater, multiplied times the exchange ratio, than the volume of crude oil it has delivered to the Strategic Petroleum Reserve.

Alternative Proposal No. 2: Amendments to the Crude Oil Buy/Sell Program to Required Exchange of Naval Petroleum Reserves Crude Oil for Crude Oil to be Stored in the Strategic Petroleum Reserve

§ 211.62 [Amended]

1. Section 211.62 is amended by revising the definition of "refiner-buyer" and by adding the definitions of "Naval Petroleum Reserves" and "NPR crude oil" in proper alphabetical order to read as follows:

* * * * *

"Naval Petroleum reserves (NPR)" means Naval Petroleum Reserve Number 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912; Naval Petroleum Reseve Number 2, (Buena Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912; Naval Petroleum Reserve Number 3 (Teapot Dome), located in Natrona County, Wyoming, established by Executive Order of the President, dated April 30, 1915.

"NPR crude oil" means crude oil produced from the Naval Petroleum Reserves.

* * * * *

"Refiner-buyer" means any small refiner which is determined to be eligible for an allocation of crude oil pursuant to § 211.65 of this subpart. Refiner-buyer shall also mean the United States Government when crude oil is allocated for the Strategic Petroleum Reserve pursuant to § 211.65(1) of this subpart.

2. Section 211.65 is amended by adding a new paragraph (1) to read as follows:

§ 211.65 Method of allocation.

* * * * *

(l) *Special provisions governing allocation of crude oil for the Strategic Petroleum Reserve and exchanges of NPR crude oil.*—

(1) *Provisions applicable to allocations of oil for the Stategic Petroleum Reserve.* Except as otherwise provided in this paragraph (1), only the provisons of paragraphs (e) through (h), (i)(2) through i(5), and (j)(3) of this section shall apply to the allocation of crude oil for the Strategic Petroleum Reserve.

(2) *Allocation of crude oil for the Strategic Petroleum Reserve.* For any allocation period the Strategic Petroleum Reserve may be assigned an allocation of suitable grade and quality crude oil in such quantities as DOE determines should be acquired for

V 45 AG 15 80 UMI

storage in the Strategic Petroleum Reserve for that allocation period by means of the regulated exchange or sale transactions provided for in this section.

(3) *Buy/Sell notice.* The buy/sell notice specified in paragraph (g) of this section shall also specify the relative volumes of crude oil allocated to the Strategic Petroleum Reserve for which DOE will compensate refiner-sellers by cash payments in accordance with paragraph (i)(4) of this section and by exchange of NPR oil; the relative quantities of each type of crude oil to be delivered to the Strategic Petroleum Reserve and the specifications of each such type; the exchange ratio for NPR crude oil applicable to directed deliveries; and any other special terms or conditions applicable to sale or exchange transactions with the Strategic Petroleum Reserve for that allocation period.

(4) *Discharge of allocation obligations to the Strategic Petroleum Reserve and method of payment*—(i) *Negotiated transactions.* In negotiated transactions specified in paragraph (g)(1) of this section, DOE may compensate any refiner-seller who delivers oil to the Strategic Petroleum Reserve by means of a negotiated exchange of NPR oil, in lieu of cash payment as provided in paragraph (i)(4) of this section.

(ii) *Directed transactions.* Each refiner-seller directed to deliver oil to the Strategic Petroleum Reserve under paragraph (j)(3) of this section that is not compensated in cash under paragraph (i)(4) of this section shall receive a volume of NPR crude oil in exchange determined by multiplying the volume of crude oil delivered to the Strategic Petroleum Reserve by the exchange ratio provided in paragraph (1)(5) of this section.

(iii) *Credit for oil supplied through competitive exchange or sale.* Any refiner-seller which delivers crude oil to the Strategic Petroleum Reserve after July 1, 1980, in a sale or exchange other than pursuant to this rule, shall receive a barrel-for-barrel credit against its total allocation obligation for the first or current allocation period in which crude oil is allocated to the Strategic Petroleum Reserve. Any unused credit shall be applied against the allocation obligation in the next allocation period in which crude oil is allocated to the Strategic Petroleum Reserve.

(5) *Exchange ratio for NPR crude oil defined.*

[Alternative Proposal 1: (A) *Numerator.* The numerator of the ratio shall be the estimated weighted average delivered cost, to all refiners for the month in which the NPR crude oil is to be delivered to the refiner-seller, of all generic imported crude oils and domestic crude oils the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter meeting the specifications of the type of crude oil being delivered to the Strategic Petroleum Reserve. In the second month following the month in which the exchange occurs, such estimated costs shall be adjusted to the actual costs.

(B) *Denominator.* (*1*) For purposes of an exchange of NPR crude oil from Reserve Number 3 (Teapot Dome), the denominator of the ratio shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter of like quality produced in the State of Wyoming.

(*2*) For the purposes of an exchange of NPR crude oil from Reserves Number 1 (Elk Hills) or Number 2 (Buena Vista), the denominator of the ratio shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter of like quality produced from each of at least three fields to be designated by DOE.

(*3*) The posted prices used shall be those in effect at the time the NPR crude oil is to be delivered to the refiner-seller. However, if subsequent to the delivery of the NPR crude oil any price is posted having a retroactive effective date encompassing the delivery date, then the computation of the exchange ratio shall be adjusted accordingly. No posted price shall be used in the computation unless an actual purchase has been completed at that price.]

[Alternative Proposal 2: (A) *Barrel-for-barrel exchange.* Crude oil delivered to the Strategic Petroleum Reserve shall be exchanged barrel-for-barrel with NPR crude oil.

(*1*) An adjustment shall be made for differences in API gravity between the crude oil delivered to the Strategic Petroleum Reserve and the NPR crude oil. For each 0.1 (one-tenth) degree API gravity that crude oil delivered to the Strategic Petroleum Reserve is below or above the API gravity of the NPR crude oil being exchanged, a cash payment equal to five cents per barrel shall be made to or from the DOE, respectively.

(*2*) An adjustment shall be made for differences in sulfur content between the crude oil delivered to the Strategic Petroleum Reserve and the NPR crude oil. For each 0.1 (one-tenth) percent sulfur content that crude oil delivered to the Strategic Petroleum Reserve is above or below the sulfur content of the NPR crude oil being exchanged, a cash payment equal to ten cents per barrel shall be made to or from the DOE, respectively.

(*3*) Additional adjustments to account for differences in location and transportation of crude oil delivered to the Strategic Petroleum Reserve and NPR crude oil being exchanged may be made.

(B) *Payment in kind.* The DOE may require that payment for adjustments be made in crude oil of equal value in lieu of cash payments. For crude oil payments, the quantity of crude oil to be transferred to or from the DOE shall be based upon the total value of all adjustments, divided by the value of a barrel of crude oil delivered to the Strategic Petroleum Reserve (for payments made to the DOE, or the value of a barrel of NPR crude oil being exchanged for payments made by the DOE).

(*1*) For purposes of computing the value of crude oil delivered to the Strategic Petroleum Reserve. The value shall be the estimated weighted average delivered cost, to all refiners for the month in which the NPR crude oil is to be delivered to the refiner-seller, of all generic imported crude oils and domestic crude oils the first sale of which is exempt from the ceiling price limitations of Part 212 of this chapter meeting the specifications of the type of crude oil being delivered to the Strategic Petroleum Reserve, such estimated cost to be adjusted to the actual cost in the second month following the month in which the exchange occurs.

(*2*) For purposes of computing the value of NPR crude oil being exchanges:

(*i*) For purposes of an exchange of NPR crude oil from Reserve Number 3 (Teapot Dome), the value shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this Chapter of like quality produced in the State of Wyoming.

(*ii*) For the purposes of an exchange of NPR crude from Reserve Number 1 (Elk Hills) or Number 2 (Buena Vista), the value shall be the average of the two highest posted prices for domestic crude oil the first sale of which is exempt from the ceiling price limitations of Part 212 of this Chapter of like quality produced from each of at least three fields to be designated by DOE.

(*3*) The posted prices used shall be those in effect at the time the NPR crude oil is to be delivered to the refiner-seller. However, if subsequent to the delivery of the NPR crude oil any price is posted having a retroactive effective date encompassing the delivery date, then the exchange ratio shall be adjusted accordingly. [No posted price shall be used in the computation unless an actual purchase has been completed at that price.]

[Alternative Proposal 3: The Numerator of the ratio shall be computed by multiplying, for the crude oil type delivered to the Strategic Petroleum Reserve, the average percentage yield per volume of naphtha, distillate, gas oil, and residuum times the wholesale price for each such product during the month of the previous year corresponding to the month of delivery. The denominator of the ratio shall be computed by multiplying, for the NPR crude oil type being exchanged, the average percentage yield per volume of naphtha, distillate, gas oil, and residuum times the average wholesale price for each such product during the month of the previous year corresponding to the month of delivery.]

Additional Proposal: Amendments to the Crude Oil Buy/Sell Program To Provide for a Special Allocation of Crude Oil to Refiners Experiencing a Loss of NPR Crude Oil

Section 21.65 is amended by adding a new subsection (iv) to paragraph (c)(2) to read as follows:

§ 211.65 Method of allocation.

* * * * * *

(c) *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency allocations.*

(2) *Emergency allocations.* (i) * * *

(iv) *Special allocation due to loss of supply of NPR crude oil.*—(A) *Eligibility.* Any small refiner may apply to ERA for a special allocation of crude oil with respect to one or more of its refineries if: (*1*) the refiner has processed in the refinery for which an allocation is sought a volume of NPR crude oil in excess of five percent of such refinery's crude oil runs to stills during the allocation period prior to the period for which an allocation is sought: (*2*) the refinery has incurred or will incur, during the period for which an allocation is sought, at least a fifty percent loss of its supply of NPR crude oil for such refinery due to the exchange of such NPR oil for oil delivered to the Strategic Petroleum Reserve; (*3*) the refiner has exhausted any opportunity to obtain NPR crude oil under 10 U.S.C. 7430(d), during the period for which an allocation is sought; (*4*) the refinery as a result of the loss of its supply of NPR crude oil projects that the crude oil runs to stills for such refinery during the period for which an allocation is sought will be less than the national utilization rate (as used in paragraph (c)(2)(iii) of this section) for all refiners during the second month prior to the period for which an allocation is sought; and (*5*) the refiner cannot reasonably be expected to replace its lost supplies through its own efforts.

(B) *Allocation.* In the event ERA determines that a small refiner is eligible for a special allocation with respect to one or more of its refineries, ERA may assign a maximum allocation for the eligible refinery or refineries for one or more months equal to the volume of NPR crude oil which has been lost for that period, except that no small refiner may receive a special allocation of crude oil for any of its refineries for more than two allocation periods.

[FR Doc. 80-24591 Filed 8-14-80; 8:45 am]
BILLING CODE 6450-01-M

V 45 AG 15 80 UMI

V
4
5

A
G

1
5

8
0
UMI

register

federal

Friday
August 15, 1980

Part VII

Department of the Interior

Fish and Wildlife Service

Leon Springs Pupfish, Listing as Endangered With Critical Habitat; McKittrick Pennyroyal, Proposed Determination as a Threatened Species and Determination of Critical Habitat; Review on 18 Species of Foreign Reptiles

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing of Leon Springs Pupfish as Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Leon Springs pupfish (*Cyprinodon bovinus*), to be Endangered with Critical Habitat in Diamond Y Spring and its outflow stream Leon Creek in Pecos County, Texas. This is the only known wild population of this species. This action is being taken due to the decline of the population and alteration of its habitat. Decline in the population has resulted from the hybridization with a closely related species of pupfish (*Cyprinodon variegatus*) which was introduced into Leon Creek. This rule provides the full protection of the Endangered Species Act, as amended to the Leon Springs pupfish.

DATES: This rule becomes effective on September 15, 1980.

ADDRESSES: Questions concerning this action may be addressed to: Director, (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to the rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species Suite 500, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife, Washington, D.C. (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Leon Springs pupfish was proposed as Endangered with Critical Habitat on August 15, 1978. Subsequently, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. In order to bring the Service in compliance with the amendments, the Critical Habitat portion of the original proposal was withdrawn March 6, 1979 (FR 44 12382–12384). Critical Habitat for the Leon Springs pupfish was reproposed on May 16, 1980 (FR 45 32350–32353). A public meeting was held in Fort Stockton, Texas, on June 13, 1980.

The Leon Springs pupfish was discovered in 1851 from Leon Springs, approximately 8 miles west of Fort Stockton, Texas. Since that time, Leon Springs has been radically modified (diverted, dammed, and poisoned) and ceased flowing in 1958 due to excessive groundwater removal. The pupfish disappeared from this locality prior to 1938 and was thought to be extinct. In 1965 the species was rediscovered by W. L. Minckley and W. E. Barber from Diamond Y Spring, located approximately 9 miles north of Fort Stockton, Texas.

The species is a small (1.5 inches in length) robust fish varying in body color from dusky gray to iridescent blue. Sexes can be readily distinguished by shape, color, and lateral markings. The Leon Springs pupfish inhabits highly saline habitat preferring quiet waters near the edges of shallow pools with a minimal growth of vegetation. Male pupfish guard small territories in shallow waters, where the females are attracted by courtship behaviors, spawning takes place, and eggs are deposited. Pupfish do much of their feeding from the bottom mud or from vegetation consuming invertebrates, detritus, diatoms, and vascular plants. The population of Leon Springs pupfish existing in Diamond Y Spring and its outflow stream seems to be in good condition with summer densities reaching more than 3 fish per square yard in shallow open habitats.

Much of the original habitat of this species was destroyed by diversion of water for irrigation, impoundment construction, and the desiccation of spring flows caused by excessive pumping of the underground aquifer. Currently, the single remaining pupfish habitat is threatened by oil pollution, diminishing spring flows, and the release of harmful exotic fishes.

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) states: "General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification or curtailment of its habitat or range;
(2) Overutilization for commercial, sporting, scientific, or educational purposes;
(3) Disease or predation;
(4) the inadequacy of existing regulatory mechanisms; or
(5) other natural or man-made factors affecting its continued existence."

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

The Leon Springs pupfish was historically known only from Leon Springs, Leon Creek, and Diamond Y Spring, located west and north of Fort Stockton, Texas. The diversion of spring waters for irrigation and the excessive removal of ground water was responsible for the drying of Leon Springs and the upper portion of Leon Creek. Presently, this species is limited to Diamond Y Spring and its outflow into Leon Creek, approximately a 4 mile stretch of permanent aquatic habitat, which is threatened by several habitat and environmental disturbances.

The findings from recent studies and available literature and summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the Leon Springs pupfish, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The present habitat of the Leon Springs pupfish is surrounded by an active oil and gas field. A refinery is located approximately 500 yards upstream of the main spring head that supplies permanent water to the pupfish habitat. In the past oil spills have occurred in this area and have caused considerable fish mortality. Although oil companies have taken actions to minimize leakage of petroleum and waste products into Diamond Y Spring and Leon Creek, the potential for substantial oil spills still exist.

The pumping of groundwater in Pecos County, Texas, has resulted in the desiccation of several springs and has reduced the discharge from Diamond Y and associated springs supporting Leon Creek. If underground water supplies continue to be removed at excessive rates or are otherwise altered, the wild Leon Springs pupfish population and its essential natural habitat could be destroyed.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* State laws concerning endangered species of Texas prohibit the taking of this pupfish, but do not provide mechanisms to encourage habitat protection. Listing the Leon Spring pupfish would require Federal agencies to review their actions prior to the commitment of resources to assure that their proposals would either conserve listed species or are not likely to jeopardize the continued existence of listed species or both.

5. *Other natural of man-made factors affecting its continued existence.* The sheepshead minnow (*Cyprinodon variegatus*), which is closely related to the Leon Springs pupfish, was released into Leon Creek in 1974. This introduction resulted in the widespread hybridization between *Cyprinodon variegatus* and *Cyprinodon bovinus*, threatening the genetic purity of the Leon Springs pupfish. A carefully supervised fish poisoning program and intensive selective seining efforts successfully removed all exotic sheepshead minnows and hybrids from Diamond Y Spring and Leon Creek by August of 1978. Although the present Leon Springs pupfish population seems to be genetically pure, many areas of its habitat are readily accessible and still vulnerable to the release of harmful exotics.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants. Comments received on the original proposal and the reproposal of Critical Habitat are summarized below. A total of six comments were received, three from the State of Texas, two from conservation organizations, and one from the Rio Grande Fishes Recovery Team.

The Texas Department of Highways and Public Transportation recommended that the state-owned right-of-way plus 400 feet on each side of Texas Highway 18 be excluded so as not to jeopardize the possible future widening or reconstruction of Texas Highway 18 with Federal funds. The Texas Department of Water Resources requested a copy of the environmental assessment and expressed their reservations concerning the proposed actions and requested no action be taken until appropriate State agencies had commented on the environmental assessment. They felt that no action should be taken until they have assurances that the proposed designations do not adversely affect water use. The Texas Parks and Wildlife Department responded for Governor Brisco and agreed with the proposal for the Leon Springs pupfish. Two conservation organizations, the Lone Star Chapter of the Sierra Club and the New York Zoological Society supported the Endangered status and Critical Habitat for the Leon Springs pupfish. The Rio Grande Fishes Recovery Team supported the listing for the Leon Springs pupfish and Critical Habitat as proposed.

Discussion and Conclusions

The concern expressed by the Texas Department of Highways and Public Transportation and the Texas Department of Water Resources addresses the Designation of Critical Habitat on their activities. The Service foresees no significantly impact on their activities. Actually, there may be many kinds of actions which can be carried out within the Critical Habitat of the Leon Springs pupfish which would not be expected to adversely affect the species. Indeed, no activity is automatically excluded. This point is poorly understood by much of the public. There is widespread and erroneous belief that a Critical Habitat designation is somewhat akin to the establishment of a wildlife refuge and automatically closes an area to most uses. A Critical Haibitat designation applies only to Federal agencies, and is an official notification to these agencies that their responsibilities under section 7 of the Endangered Species Act are applicable in a certain area.

The Service wishes to emphasize that it will work in close cooperation with any agency to minimize impacts of the present rule on future developments in the Diamond Y Springs and Leon Creek area. No automatic limitations are imposed by a designation of Critical Habitat. It does, however, assist Federal agencies in insursing that their actions are not likely to jeopardize the continued existence of the species.

During the extensive public comment period and associated meeting, no Federal activities were pinpointed which would be affected by such a designation. In addition, Federal agencies which were contacted were unable to identify any adverse impacts.

After a thorough review and consideration of all the information available, the Director has determined that the Leon Springs pupfish is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in section 4(a) of the Act, as specified in the proposal of August 15, 1978 (FR 43 36117–36120). Listing as Endangered and determination of Critical Habitat will provide this species with necessary protection to ensure its survival.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that the entire known range of the species under consideration should be designated as Critical Habitat. This species occupies an extremely restricted range, and is, therefore, highly susceptible to changes in habitat. The Critical Habitat area designated is an area on which are those evolutionary, ecological, behavioral, and physiological features essential to the conservation of the species. The physical and biological features of this habitat are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes that economic and other impacts of this action are not significant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this action.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any rule which determines Critical Habitat be accompanied by a brief description and evaluation of those activities which in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for these species.

The petroleum production operations in the vicinity of Diamond Y Spring and Leon Creek could potentially affect the Leon Springs pupfish through an accidental oil spill or indirect modification of the underground water supply. These potential adverse impacts can be eliminated or minimized by implementing appropriate preventive measures. Oil companies involved have been receptive to recommendtions concerning the protection of the Leon

V 45 AG 15 80 UMI

Springs pupfish habitat and the Service plans to encourage continued cooperation.

The land surrounding Diamond Y Spring and Leon Creek is also used for cattle grazing. However, the saline water from the springs is unsuitable for livestock consumption and the Leon Springs pupfish habitat is rarely disturbed by cattle. If it were to occur in the future excessive groundwater pumping in the vicinity of the proposed Critical Habitat for agriculture or other purposes could be detrimental to the pupfish by reducing or eliminating spring flow.

No Federal agency has jurisdiction in the Critical Habitat area, nor should any current or proposed Federal project affect the Leon Springs pupfish population.

Federal agencies (U.S. Department of Energy and Environmental Protection Agency) regulating the petroleum industry would be required to enter into section 7 consultation if an action they license or authorize might affect the Critical Habitat. At this time the petroleum companies are not planning to construct new gas pipelines or other developments that would require Federal permits.

The proposed Critical Habitat for the Leon Springs pupfish is as follows: Diamond Y Spring and its outflow stream, Leon Creek; from the head of Diamond Y Spring downstream in Leon Creek to a point 1 mile northeast of the Texas Highway 18 crossing, approximately 10 miles north of Fort Stockton, Texas. This watercourse is located in sections 506, 507, 508, 509, 552, and 553 of the Garcia, Montez, and Duran Land Grant in Pecos County, Texas.

Effect of the Rule

Section 7(a) of the Act provides: (1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to section 4 of this Act. (2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant Subsection (h) of this section. In fulfilling the requirements of this paragraph, each agency shall use the best scientific and commercial data available. (3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Leon Springs pupfish, but also insure that their actions are not likely to result in the destruction or adverse modification of their Critical Habitat. Private activity will not be affected by the rule unless it involves a taking under section 9 of the Endangered Species Act. Other activities affecting the habitat will be impacted only if there is Federal involvement in those activities. No significant modifications to projects with Federal involvement are presently foreseen.

With respect to the Leon Springs pupfish all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 and 17.23, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the **Federal Register** of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23 and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

The Service will review the status of the Leon Springs pupfish to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention, and whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, or other appropriate international agreements.

National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. James D. Williams, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

§ 17.11 [Amended]

1. Section 17.11 is amended by adding, in alphabetical order, the following to the list of animals.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
Pupfish, Leon Springs	*Cyprinodon bovinus*	U.S.A. (Texas)...	Entire	E		17.95(e)	NA

§ 17.95 [Amended]

2. Section 17.95(e), Fishes, is amended by adding Critical Habitat of the Leon Springs pupfish after that of the Alabama cavefish as follows:

Leon Springs Pupfish

(Cyprindon bouinus)

Texas, Pecos County. Diamond Y Spring and its outflow stream, Loen Creek; from the head of Diamond Y Spring downstream in Leon Creek to a point 1 mile northeast of the Texas Highway 18 crossing, approximately 10 miles north of Fort Stockton.

Leon Springs Pupfish

Pecos County, Tex.

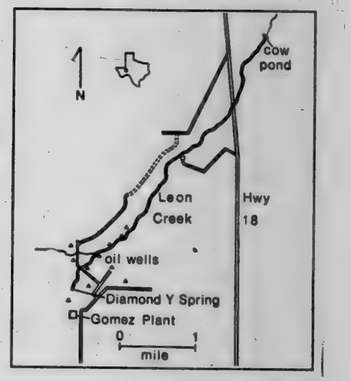

Dated: August 12, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-24719 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-55-M

showing species for cultivation in rock

habitat if undertaken, or may be

could be destabilized by foot traffic. If

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule To Determine Hedeoma apiculatum (McKittrick Pennyroyal) To Be a Threatened Species and To Determine Its Critical Habitat

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Hedeoma apiculatum* W. S. Stewart (McKittrick Pennyroyal), a native plant of Texas and New Mexico, to be a Threatened species and to determine its Critical Habitat. The number of existing individuals of this species is estimated to be less than 950 and their reproductive potential appears to be low. The populations occurring on Federal lands are threatened by the gradual destruction of habitat through long-term overuse or through park development (trails, campsites, etc.). The single known population on private land is potentially threatened by any major change in land use. This proposal would allow some Federal protection provided by the Endangered Species Act of 1973, as amended. The Service seeks comment on this species.

DATE: Comments from the public must be received by November 13, 1980. Comments from the Governors of Texas and New Mexico must be received by November 13, 1980. A public meeting on this proposal will be held at the Carlsbad Public Library, Halaqueno Park, Carlsbad, New Mexico on August 27, 1980, at 7 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 703–235–2771.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Fifth Floor, Arlington, Va.

SUPPLEMENTARY INFORMATION:

Hedeoma apiculatum W. S. Stewart (McKittrick Pennyroyal), a member of the mint family, was first collected in 1882, but remained undescribed until 1939. A long-lived perennial herb, this plant forms dense tufts of leaves from woody rootstocks and stands 10.0 to 15.0 cm in height. Its showy, pink flowers are solitary or in two to three flower clusters, two (2) cm in length, and as with most mints, the flowers are axillary and crowded towards the apex (Irving, in press).

Endemic to open, limestone rock surfaces and outcrops in canyons and along streamways in the Guadalupe Mountains of Texas and New Mexico at elevations above 1600 meters, this species is particularly vulnerable to disturbance (Riskin, 1974; Brown and Lowe, 1977). The surrounding vegetation is sparse and offers no protection. The substrate in which these plants are found consists mostly of sand caught in rock fissures and in weathered pockets of limestone (U.S.D.A., 1974), thus there exists no natural protection. The continued existence of this plant and the fragile habitat in which it occurs are being threatened by trampling, area development and other factors. This rule proposes to determine *Hedeoma apiculatum* to be Threatened and if made final would implement the protection provided by the Endangered Species Act of 1973, as amended. The following paragraphs further discuss the actions to date involving this plant, the threats to the plant, and effects of the proposed action.

Background

In the June 24, 1977, **Federal Register** (42 FR 32373–32381), the Service published a final rule under 50 CFR Part 17 detailing the regulations to protect Endangered and Threatened plant species. This rule established prohibitions and a permit procedure to grant exceptions, under certain circumstances, to be prohibitions. These regulations would offer protection to *Hedeoma apiculatum*.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Summary of Factors Affecting the Species

Subsection 4(a) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in that subsection. These factors and their application to *Hedeoma apiculatum* (McKittrick Pennyroyal) are as follows:

Hedeoma Apiculatum

Populations of *H. apiculatum* in Guadalupe National Park and adjacent Lincoln National Forest are relatively well protected from major modification or destruction of habitat. The administration of Guadalupe National Park recognizes the fragile nature of the park's plant and animal communities (U.S. Department of Interior, 1973) and has implemented some protective management strategies. Moreover, a U.S. House of Representatives committee report recommended that there be close cooperation between the Forest Service and the National Park Service in preserving the environmental resources of the North McKittrick Canyon and other canyons in the Lincoln National Forest (U.S. Department of Interior, 1973). Yet, the populations of *H. apiculatum* are potentially threatened. Existing trails allow access to most of the localities of *H. apiculatum* and as trail users increase there is the danger of destruction of the local habitat. The plants are easily dislodged and the cummulative impact of hikers leaving the trail and climbing over the ledges and boulders that support colonies of *H. apiculatum* could be devastating to the small and slowly reproducing populations. Moreover, the showy and distinctive plants of *H. apiculatum* are highly visible from the trails and could be subject to increasing pressures from taking.

A number of new trail alignments are planned within the range of *H. apiculatum*. these do not appear to threaten the known localities and may actually reduce visitor pressure in some areas. However, Guadalupe National Park is a relatively new park and in all likelihood will attract an increasing number of visitors in the years ahead. During 1979 the park experienced approximately 29,000 backcountry user days compared to 26,258 user days in 1978. Trail counts of hikers into the South McKittrick biological area, a locality of *H. apiculatum*, totaled 323 in 1978 and more than 520 in 1979. Future increases, as well as the contruction of additional trails, shelters or camping areas to accomodate them, could potentially threaten the survival of *H. apiculatum*.

Dr. Robert Irving, a botanist at the University of Nebraska at Omaha, has noted that some small populations in the South McKittrick fork have disappeared since the late 1960's. This could be due to human disturbance, flooding or a combination of both threats.

The population on private ranch land could potentially be threatened by increased grazing or major changes in land use.

1. *Overutilization for commercial, sporting, scientific or educational purposes.* Although no evidence exists, there is the potential of taking this

showing species for cultivation in rock gardens or for other purposes.

2. *Disease or predation (including grazing).* Grazing has occurred on the privately.owned site for this species. This grazing does not appear to threaten the species.

3. *Inadequacy of existing regulatory mechanisms. Hedeoma apiculatum* is not protected by State law. Existing Federal Regualtions in 36 CFR 2.25 and 36 CFR 261.9 prohibit takings of this species in the Lincoln National Forest and the Guadalupe Mountains National Park, however, these regulations are difficult to enforce in a comprehensive fashion. guadalupe Mountains National Park recognizes the fragile nature of this plant and its habitat and has implemented some protective management strategies. The endangered Species Act will offer added protection for the species.

4. *Other natural or manmade factors affecting its continued existence.* Any human pressure on this species may exaggerate the possibility of small populations going extinct through natural population fluctuations. The restricted distribution of *Hedeoma apiculatum* and the small numbers of known individuals will intensify any adverse impacts. In addition to man-induced threats, field work between 1966 and 1979 indicates that periodic and severe floods can reduce the populations of *H. apiculatum* in streambeds. Any potential disturbance is likely to have a severe impact on this species; reproductive potential is low and few young plants have been observed in the wild.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Subsection 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation.

Any activity which would result in increased trampling or disturbance of the fragile substrate where *Hedeoma apiculatum* occurs would probably adversely modify the Critical Habitat. The long term solution on how to best protect *Hedeoma apiculatum* may be to greatly reduce the human traffic in the area where this plant occurs. In this respect, Critical Habitat designation may effect Federal activities by prohibiting the development of new trails in areas where the plant occura, relocating old trails, or other steps by the National Park Service and the Forest Service to protect this species.

Critical Habitat for *Hedeoma apiculatum* is being determined to include the three areas in Texas where the three largest and best known populations of this species occur. Critical Habitat is not being proposed for the smallest population in Guadalupe Mountains National Park, the population in Lincoln National Forest or for the population located on private land. These three populations were not included in Critical Habitat at this time because they are very small populations which are not well studied or understood at the present, in contrast to the three larger populations which are being proposed as Critical Habitat. These populations maybe proposed as Critical Habitat when they are better known. Therefore, the Critical Habitat delineated does not necessarily include the entire area necessary for the survival of *Hedeoma apiculatum* throughout its range, and modifications of this Critical Habitat may be proposed in the future.

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulations (to determine whether a species is endangered or threatened) is proposed, the Secretary shall also by regualtion, to the maximum extent prudent; specify any habitat of such species which is then considered to be Critical Habitat.

In addition, the section 4 regulations of February 27, 1980, (45 FR 13007–13026) state that:

If the Director determines that the designation of Critical Habitat is not prudent, he will state the reasons for such determination in the proposed and final rules listing a species.

There are fewer than 10 individuals in the population at Pine Top in Guadalupe Mountains National Park. The population in Lincoln National Forest is located on a fragile talus slope which could be destabilized by foot traffic. If the exact locality of these populations were published in the **Federal Register** and in local newspapers, *Hedeoma apiculatum* might be additionally threatened by taking and vandalism. The population in Eddy County, New Mexico, is located on private property and is afforded no current Federal protection. Section 9 of the Endangered Species Act does not restrict the taking of Endangered or Threatened plants and publication of Critical Habitat maps may make these populations more vulnerable. After management and recovery plans have been developed for this plant and after these populations are better known, Critical Habitat may be beneficial and may also be proposed for these three additional populations.

Subsection 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes that economic and other impacts of this action are not significant in the foreseeable future. As previously stated, only minimal impacts upon the National Park Service and the Forest Service are expected. The Fish and Wildlife Service has notified and is working with the U.S. Forest Service and the National Service, the two agencies which have jurisdiction over the land and water under consideration in this proposed action. The U.S. Forest Service, National Park Service, other Federal agencies, and other interesed or organizations were requested to submit information on economic or other impacts of the proposed action and this information was utilized in completing this analysis. The Service will prepare a final impact analysis prior to the time of final rulemaking. The Service's draft economic impact analysis was used as part of the bais for the Service's decision as to whether or not to exclude any areas from Critical Habitat for *Hedeoma apiculatum*.

Effects of this Proposal

In addition to the effects discussed above, the effects of this proposal would include, but would not necessarily be limited to, those mentioned below.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This proposed rule requires Federal agencies to satisfy their statutory obligations with respect to this species, that is, as a proposed Threatened Species, agencies are required under section 7(a)(3) to confer with the Service on any action that is likely to jeopardize the species. If

published as a final rule, this action would require Federal agencies to insure concerned governmental agencies, the scientific community, industry, private North Glebe Road, Arlington, Virginia, and may be examined by appointment

2. Also, the Service proposes to

SUMMARY: Notice is hereby given that

published as a final rule, this action would require Federal agencies to insure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of this species, and to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary.

The Act and implementing regulations published in the June 24, 1977, Federal Register set forth a series of general trade prohibitions and exceptions which apply to all endangered plant species. All of those prohibitions and exceptions also apply to any Threatened plant species, excluding seeds of cultivated plants treated as Threatened, unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations which pertain to Threatened plants are found at 50 CFR 17.71 and are summarized below.

With respect to *Hedoeoma apiculatum* all prohibitions of section 9(a)(2) of the Act, as implemented by 50 CFR 17.71, would apply except for certain exemptions with respect to seeds. These prohibitions, in part, would make it illegal for any persons subject to the jurisdiction of the United States to import or export, transport in interstate of foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act of 50 CFR 17.72 also provides for the issuance of permits to carry out otherwise prohibited activities involving Threatened species, under certain circumstances.

If listed as Threatened under the Act, the Service will review this species to determine whether it shoudl be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

Public Comments Solicited

The Director intends that the rule finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

1. Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal.
2. The location of any other populations of *Hedeoma apiculatum* and the reasons why any habitat of this species should or should not be deermined to by Critical Habitat as provided for by the Act.
3. Additional information concerning the range and distribution of this species.
4. Current or planned activities in the subject and the probable impacts of such activities on the area designated as Critical Habitat.
5. The foreseeable economic and other impacts of the Critical Habitat designation on Federal activities.

Final promulgation of this rule on *Hedeoma apiculatum* will take into consideration the comments and any additional informaation received by the Director, and such communications may lead him to adopt a final rule that differs from this proposal.

Public Meeting

The Service hereby announces that a public meeting will be held on this proposed rule. The public in invited to attend this meeting and to present opinions and information on this proposed rule. Specific information to the public meeting is set out below:

Place: Carlsbad Public Library, Halaqueno Park, Carlsbad, New Mexico.
Date: August 27, 1980.
Time: 7:00 p.m.
Subject: Threatened Status, for *Hedeoma apiculatum.*

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rule whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Envrionmental Policy Act of 1969 (40 CFR Parts 1500–1508).

This proposal is being published under the authority contained in the endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* 87 Stat. 884, 92 Stat. 3751, 93 Stat. 1225). The authors of this proposed rule are Barry S. Mulder and Ms. Rosemary Carey, Washington Office of Endangered Species (703–235–2760). Dr. Robert s. Irving, University of Nebraska, Omaha, Nebraska, prepared the status report on this species.

References Cited

Brown, D. E. and C. H. Lowe, 1977. Map, Biotic communities of the Southwest (scale 1; 1,000,000). Rocky Mountain Forest and Range Exp., Sta U.S.D.A. Forest Service.

Irving, R. S. In Press. Systematics of *hedeoma* (Labiatae). SIDA

Risking, D. 1974. Report submitted to the National Park Service: The Rare and Endangered flora of Guadalupe Mountains National Park, Texas.

U.S. Department of Agriculture, Soil Conservation Service. 1974. General Soil Map, Culberson Co., Texas.

U.S. Department of the Interior, National Park Service. 1973. Master Plan, Guadalupe Mountains National Park, Texas.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.12 by adding, in alphabetical order, the following to the list of plants:

§ 17.12 Endangered and threatened plants.

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Labiatae-Mint family:						
Hedeoma apiculatum	McKittrick pennyroyal.	U.S.A. (TX, NM)	T		17.96(a)	NA

2. Also, the Service proposes to amend 17.96(a) by adding the Critical Habitat of *Hedeoma apiculatum* after that of the Erysimum capitatum var. angustatum (Contra Costa wallflower) as follows:

Species

Hedeoma apiculatum

McKittrick Pennyroyal

Texas, Culberson County; 3 areas in Guadalupe Mountains National Park; 85 acres in Devil's Den Canyon; 60 acres above Turtle Rock on McKittrick Ridge and 180 acres in South McKittrick Canyon.

1. Devil's Den Canyon: from the 5,400 foot contour on the canyon floor (1.1 KM n.w. of Pratt Lodge) and along the sides of the canyon south-westward following the 6,000′ contour on the north side of the canyon (beginning at Texas coordinates 19,892 m E., 39,169 m N.) and the 6,200′ contour on the south side (beginning at Texas coordinates 19,699 m E., 38,651 m N.) to approximately the 6,000′ elevation point of the canyon floor.

2. Above Turtle Rock on McKittrick Ridge: high ridge surrounding unnamed peak 2.65 km southwest of Pratt Lodge and located 19,073 m E., 36,439 m N. on the Texas coordinate system. The boundaries defined approximately by the 6,800′ contour on the southeast, southwest, and northeast and by the 7,400′ contour on the northeast. The 7,400′ contour connected to the 6,800′ contour by a line passing through Texas coordinates 18,699 m E., 36,530 m N., and 18,781 m E., 36,854 m N. on the southwest and coordinates 19,145 m E., 36,819 m N., and 19,000 m E., 36,952 m N. on the northeast.

3. South McKittrick Canyon: from the 5,400′ on the canyon floor (2.2 km southwest of Pratt Lodge) and along the sides of the canyon southwesterly following the 5,800′ contour on the northside of the canyon (beginning at Texas coordinates 20,169 m E., 36,434 m N.) and the 6,200′ contour on the south side of the canyon (beginning at Texas coordinates 20,289 m E., 36,121 m N.) to the 5,800′ elevation point of the canyon floor.

McKittrick Pennyroyal

Culberson, Texas

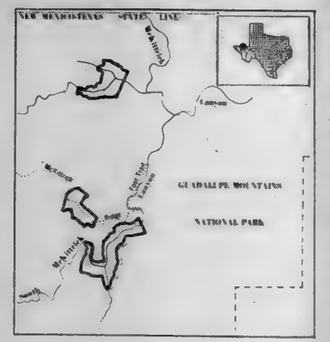

Dated: August 12, 1980.
Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 80-24720 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Review of 18 Species of Foreign Reptiles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service has evidence on hand to warrant a review of the status of 18 species of foreign reptiles to determine whether they should be proposed for listing as Endangered or Threatened species under provisions of the Endangered Species Act of 1973, as amended. The common and scientific names, and ranges, are provided in the table below. The threats which are believed to be causing declines of these species are: habitat destruction, the introduction of non native predators, exploitation as a source of human food (mainly local), and overcollection; these threats are briefly discussed below.

DATES: Comments and materials relating to the status of these species should be submitted by November 13, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washingtong, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr. Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The species which are included in this notice of review are:

Common name	Scientific name	Range
Serpent Island gecko	*Cyrtodactylus serpensinsula*	Mauritius.
Acklins ground iguana	*Cyclura nlevi nuchalis*	Bahamas.
Allen's Cay iguana	*Cyclura cychlura inornata*	Bahamas.
Andros Island ground iguana	*Cyclura cychlura cychlura*	Bahamas.
Cuban ground iguana	*Cyclura nubila*	Cuba, Cayman Islands.
Exuma Island iguana	*Cyclura-cychlura figginsi*	Bahamas.
Jamaican iguana	*Cyclura collei*	Jamaica.
Mayaguana iguana	*Cyclura carinata-bartschi*	Bahamas.
Turks and Caicos iguana	*Cyclura carinata-carinata*	Turks and Caicos Islands.
Watling Island ground iguana	*Cyclura nlevi nlevi*	Bahamas.
White Cay ground iguana	*Cyclura nlevi cristata*	Bahamas.
Gray's monitor lizard	*Varanus grayi*	Philippines.
Hierro giant lizard	*Gallotia simonyi*	Canary Islands.
Aruba island rattlesnake	*Crotalus unicolor*	Venezuela.
Asiatic box turtle	*Cuora trifasciata*	Hong Kong, People's Republic of China.
Central American river turtle	*Dermatemys mawei*	Belize, Mexico, Guatemala.
Chinese big-headed turtle	*Platysternon megacephalum*	Hong Kong, People's Republic of China.
Lar Valley Viper	*Vipera latifi*	Iran.

A brief description of these species and their problems is as follows:

Serpent Island gecko: This lizard is restricted to Round Island where it is rare and Serpent Island where it is considered very rare; both islands are near Mauritius. Predation from feral animals and habitat destruction are the chief causes of its decline (Honegger, 1979).

Bahama species of Cyclura: All these species are listed in the International Union for the Conservation of Nature and Natural Resources (IUCN) Red Data Book as being of concern (Honegger, 1979). The main threats to their continued survival include habitat destruction for resort development and the introduction of feral animals, particularly mongooses and dogs, which prey upon the iguanas, especially the young and juveniles, and destroy nests. Introduced goats may compete for food (these species are vegetarian) and humans kill them for food or malicious "sport". Nearly all these iguanas have very small ranges; many are limited to a single island. Discussions of the threats to these species are contained in Honegger (1979), Carey (1975), and Auffenberg (1975, 1976a).

Cuban ground iguana: This species occurs on Cuba and Isla de Pinos and in the Cayman Islands. There are 3 subspecies: *C.n. caymanensis* (only one colony on Cyaman Brac), *C.n. lewisi* (less than 50 individuals on Grand Cayman Island, and *C.n. nubila* in Cuba and adjacent islands and cays. The threats to these iguanas are similar to those of the Bahama *Cyclura* (Honegger, 1979).

Turks and Caicos Iguana: The same threats which apply to the Bahama *Cyclura* also apparently apply to this species (Honegger, 1979). It is found on most of the islands in the Turks and Caicos group.

Jamaican iguana: The following is taken from Woodley (1980) who has reviewed the history and status of this species:

> For a hundred years, they were only known to survive on the Goat Islands but, after the introduction of the mongoose and the interference consequent on the Second World War, that population became extinct in about 1948. But iguanas had, after all, survived on the mainland; in the Hellshire Hills. Hog-hunters have been catching occasional specimens up to 1978 and one of these, killed in 1969, was obtained by the author and positively identified. It is unlikely that the Jamaican Iguana, already very rare, will survive the proposed development of the Hellshire Hills.

Gray's monitor lizard: The following is from Auffenberg (1979a) who has reviewed the history and status of this species:

> Until 1976 Gray's monitor lizard was known to science only by two museum specimens, neither of which gave any data more precise than "Luzon". In 1975 the author discovered a third which identified an area on Luzon, and in 1976 he went to the Philippines and found this large monitor, which some scientists had thought might be extinct, widely distributed in forests in southern Luzon. But large areas of these forests have been and continue to be destroyed, and with them go the monitor's habitat. Also local people hunt it for meat. The author discusses the ecology and distribution of the monitor and urges that a new national park be created.

Additional information on this lizard may be found in Auffenberg (1979b, 1976b).

Hierro giant lizard: This species is known only from the Canary islands (Hierro Island; extinct on Salmor Rock). Not more than 50 individuals are believed to remain. Predation and overcollection by scientists have been implicated in its decline (Honegger, 1978). In addition, a stone breaking plant had been proposed near the last known population (in 1979).

Aruba island rattlesnake: According to Honegger (1979), the habitat of this rattlesnake is shrinking as a result of increasing human activity. Collection may also be contributing to its decline.

Asiatic box turtle and Chinese big-headed turtle: These species are consumed in China where they are believed to enhance sexual performance; prices in Hong Kong markets may reach U.S. $100 for a large specimen. Habitat destruction may be impacting these species in the People's Republic of China (information supplied by Mr. George R. Campbell).

Lar Valley viper: Andren and Nilson (1979) have reviewed the biology of this species and state:

> *Vipera latifii* Mertens, Darevsky & Klemmer, a recently described viper from northern Iran, is in severe need of conservation. Its range is restricted to unique, alpine Lar Valley, which in a few years will be used as a huge water reservoir. Observations on the biology of *Vipera latifii* are given. Sympatric amphibians and reptiles show ecotypic adaptations.

Central American river turtle: This large river turtle is found only in the coastal lowlands of southern Mexico, northern Guatemala, and Belize. It is hunted extensively for its meat and has been seriously depleted throughout much of its range. According to Alvarez del Toro et al. (1979), this exploitation could lead to its extinction. Additional information on its biology is contained in Smith and Smith (1979) and Iverson and Mittermeier (1980).

Because of the information outlined above, the U.S. Fish and Wildlife Service believes that there are sufficient data to conduct a review of the status of these foreign reptiles to determine whether protection under provisions of the Endangered Species Act of 1973, as amended, may be warranted. The Service is therefore soliciting any additional information, reports, or published literature which may aid in this decision.

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703/235–1975).

Literature Cited

Alvarez del Toro, M., R. A. Mittermeier, and J. B. Iverson. 1979. River turtle in danger. Oryx. Nov. pp. 170–173.

Andren, C. and G. Nilson. 1979. *Vipera latifii* (Reptilia, Serpentes, Viperidae) an Endangered viper from Lar Valley, Iran, and remarks on the sympatric herpetofauna. J. Herpetol. 13:335–341.

Auffenberg, W. 1975. The dragon isles: West Indian rock iguanas. Bahamas Nat. 1(1): 2–7.

Auffenberg, W. 1976a. Bahamas rock iguanas, part two. Bahamas Nat. 2(1): 9–16.

Auffenberg, W. 1976b. First description of an adult *Varanus grayi*. Copeia 1976: 586–588.

Auffenberg, W. 1979a. A monitor lizard in the Philippines. Oryx. June pp. 39–46.

Auffenberg, W. 1979b. Research on monitor lizards. Tigerpaper 4(4):20–21.

Carey, M. 1975. Iguanas on the rocks. Animal Kingdom 78(2):15–20.

Honegger, R. E. 1978. Threatened amphibians and reptiles in Europe. Council of Europe, Nature and Environment Ser. No. 15, p. 79.

Honegger, R. E. (ed) 1979. Amphibia and Reptilia. IUCN Red Datas Book, Vol. 3, Morges, Switzerland.

Iverson, J. B. and R. A. Mittermeir. 1980. *Dermatemys mawei*. Cat. Amer. Amphib. Rept. 237.1–237.4.

Smith, H. B. and R. B. Smith. 1979. Synopsis of the herpetofauna of Mexico. Volume VI. Guide to Mexican turtles, Bibliographic addendum III. John Johnson Publ., N. Bennington, Vt.

Woodley, J. D. 1980. Survival of the Jamaican iguana, *Cyclura collei*. J. Herpetol. 14;45–49.

Dated: August 4, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-24722 Filed 8-14-80; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
August 15, 1980

Part VIII

Department of Energy

Economic Regulatory Administration

Mandatory Petroleum Price Regulations; Tertiary Incentive Program; Proposed Changes and Public Hearing

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-25]

Mandatory Petroleum Price Regulations; Amendments to Tertiary Incentive Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing several changes to the Tertiary Incentive Program ("incentive program") set forth at 10 CFR 212.78 of the Mandatory Petroleum Price Regulations. One proposal would change the definition of "recoupable allowed expenses" to permit recovery of "inhouse" expenses otherwise allowed by the regulation so long as such expenses do not exceed the price that would have been paid in an arm's-length transaction. Currently, expenses are recoverable only if they are incurred in an arm's-length transaction and for fair market value. Another proposal would require producers to report "prepaid expenses." A third proposal would revise the requirement that producers submit an annual opinion concerning the accuracy of their monthly producer and project reports. The final proposal would exclude injected hydrocarbons as an allowed expense for miscible fluid flooding projects.

DATES: Comments by October 10, 1980, 4:30 p.m.; Requests to speak at hearing by September 9, 1980, 4:30 p.m.; Hearing date: September 16, 1980, 9:30 a.m.

ADDRESSES: All comments to Office of Public Hearings Management, Economic Regulatory Administration, Room B-210, Docket No. ERA-R-80-*25*, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak to Economic Regulatory Administration, Office of Public Hearings Management, Room B-210, Docket No. ERA-R-80-*25*, 2000 M Street, N.W., Washington, D.C. 20461, Attn: Karene Walker.

Hearing Location: Room 2105, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearings Management, Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, (202-653-3974

William L. Webb (Office of Public Information), Room B-110, 2000 M Street, N.W., Washingon, D.C. 20461, (202) 653-4055

Douglas Harnish (Office of Reguations and Emergency Planning), Economic Regulatory Administration, Room 7302-G, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3202

Eugene Glass (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3379

Ira Mayfield (Resource Applications) Department of Energy, Room 3334, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8395

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence avenue, S.W., Washington, D.C. 20585, (202) 252-6739

SUPPLEMENTARY INFORMATION:

I. *Introduction*
II. *Proposals*
A. *In-House Expenses*
B. *Prepaid Expenses*
C. *Annual CPA Opinion*
D. *Injected Hydrocarbons*
III. *Comment Procedures*
IV. *Procedural Requirements*

I. Introduction

On August 21, 1979, we amended 10 CFR 212.78 to establish the incentive program under which producers presently can recover some of the cost they incur as a result of their participation in enhanced oil recovery ("EOR") projects, (44 FR 51148, August 30, 1979) This program permits producers to sell at market prices crude oil that would otherwise be subject to lower tier or upper tier ceiling price limitations. However, the "tertiary incentive revenue" (that is, the additional revenue that results from selling crude oil at the market price) from such sales may not exceed seventy-five percent of the money that a producer has spent on certain expenses associated with EOR projects.

We recently adopted a number of changes to the incentive program. On June 6 we issued a final rule to exclude from the calculation of a producer's tertiary incentive revenue the amount of windfall profit tax attributable to the additional revenue that a producer receives as a result in the incentive program. (45 FR 40106, June 13, 1980) In the preamble to that rule we also discussed the issue of "prepaid expenses", that is, expenses for goods or services which will not be used in connection with an EOR project until sometime after payment is made. In a final rule issued July 7, 1980, we simplified the reporting requirements with respect to qualified producers that have an interest in only one EOR project and recover their recoupable allowed expenses only from sales of crude oil produced from the property on which that EOR project is located. (45 FR 47622, July 15, 1980)

In this rulemaking, we are proposing to modify several of the limitations that apply to the recovery of allowed expenses. We recognize that today's proposals, along with the recent amendments discussed above, may cause some producers to conclude that the incentive program will be subject to frequent change and further limitation. We also recognize that there must be a relatively high degree of certainty in the incentive program to encourage the type of commitment necessary for EOR projects. We wish to assure producers that they can rely on the basic framework of the incentive program and that we do not intend to propose further changes to the program. In this regard, we do not view the proposals discussed below as major revisions or limitations of the incentive program.

II. Proposals

A. *In-House Expenses.* The current definition of recoupable allowed expenses provides that a producer must incur an expense in an arm's-length transaction and for fair market value in order to recover that expense under the incentive program. The purposes behind these requiements were to prevent the recovery of artifically inflated expenses and to facilitate the auditing of EOR projects. We understand, however, that frequently it is more efficient and economical for the producer to use "in-house" goods and services (that is, goods and services provided from within the firm) rather than obtaining such goods and services from outside sources. Thus, the arms-length transaction requirement may actually be working to increase the amount of expenses that a producer recovers under the program.

We have reviewed this aspect of the incentive program and have determined that a producer should be permitted to recover the cost of an "in-house" good or service if that cost is no greater than the price that the producer would pay an outside source for the same good or service. Accordingly, we are proposing to amend the definition of recoupable allowed expenses to permit the recovery of such "in-house" costs. We also are proposing to delete the reference to fair market value since we believe this concept to be an integral part of an arm's-length transaction. To ensure that this proposed modification does not unduly complicate our auditing efforts, we also are proposing to amend the

incentive program's reporting and recordkeeping requirements to require the identificaion of any "in-house" expenses and the maintenance of records as to what the price of the good or service associated with that expense would have been in an arms-length transaction.

B. *Prepaid Expenses.* In the preamble to the June 6 final rule we stated that the incentive program does not prohibit the recovery of prepaid expenses. At the same time, however, we noted that use of a good or service in connection with an EOR project is a condition subsequent to the recovery of its expense. To have effective enforcement of this condition we need to have a general overview of a producer's situation with respect to prepaid expenses. Accordingly, we are proposing that a producer file an annual report concerning its prepaid expenses.

This annual prepaid expenses report would require a producer to identify which of the allowed expenses that it reported previously in the monthly producer report, were prepaid. For purposes of this report, prepaid expenses would be defined as the expenses for any injectant or fuel which is used after September 30, 1981, the expenses for any item for which federal tax deduction (including depreciation) would be properly allocable to the period after September 30, 1981, or the expenses (in the aggregate) for all other items that are to be used after September 30, 1981. We are proposing this definition of prepaid expenses since it is essentially the same as the definition of prepaid expenses for purposes of the Windfall Profit Tax and, thus, should reduce the administrative burden on producers that must comply with the requirements of both the incentive program and the Windfall Profit Tax. A producer also would be required to identify any good or service for which it reported a prepaid expense, the date on which it intended to use that good or service, and the date on which it actually used that good or service. We specifically request comments on the appropriateness of the proposed definition of, and the level of reporting on, prepaid expenses. A producer would continue to file these annual reports until it had reported the actual use of all the goods or services for which it had reported prepaid expenses. In addition, the producer would be required to maintain a copy of the contract for, or documentary proof of the purchase of, any goods or services for which it had reported prepaid expenses.

C. *Annual CPA Opinions.* The incentive program requires annual opinions by certified public accountants concerning the accuracy of the monthly producer and project reports. These opinions currently must be submitted by January 31 of each year. We have been informed that in many instances it will be impossible for a certified public accountant to issue such an opinion by January 31 due to the timing of the audit for a particular producer or project. Accordingly, we are proposing to require the submission of the annual CPA opinions within 120 days of the close of the fiscal year for the producer or project to which it relates.

D. *Injected Hydrocarbons.* Currently, the incentive program does not prohibit a producer engaged in a miscible fluid flooding project from recovering as an allowed expense the cost of injected hydrocarbons, such as natural gas and liquefied petroleum gases. We do not believe that injected hydrocarbons should be an allowed expense since the producer usually can recover the cost therefor by recovering the injected hydrocarbons from the oil bearing formation and selling them. Accordingly, we are proposing to amend the Appendix to § 212.78 to exclude injected hydrocarbons from the allowed expenses for miscible-fluid flooding projects. This change would be applicable to any expenses incurred or paid on or after the issusance of this notice. Of course, a producer still could request an order from ERA designating injected hydrocargons as an additional allowed expense pursuant to § 212.78(e)(3).

III. Comment Procedures

A. *Written Comments.* You are invited to participate in this proceeding by submitting data, views or arguments with respect to the proposals set forth in this notice of proposed rulemaking. Comments should be submitted by 4:30 p.m., October 10, 1980, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Amendments to the Incentive Program". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearings.* 1. *Procedure for Request to Make Oral Presentation.* The times and places for the hearings are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

If you have any interest in the proposals in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation at a hearing by 4:30 p.m., September 9, 1980. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., September 12, 1980. You will be required to bring one hundred copies of your statement to the address indicated in the "Addresses" section of this preamble for requests to speak at the hearing concerned before 4:30 p.m. on the day before the hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. They will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any peson making a statement at a hearing to the address indicated above for requests to speak at that hearing before 4:30 p.m. on the day before the hearing. If you wish to ask a question at a hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will

determine whether the question is

1032, January 3, 1979) require that a

with subsection (h)(1)(i) of this section

subsections (h)(1)(i) and (h)(2)(i) of this

determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room 5B–180, 1000 Independence Avenue SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

IV. Procedural Requirements

A. *Section 404 of the DOE Act.* Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, as amended), we are referring this rule to the Federal Energy Regulatory Commission (FERC) for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission has until the close of the public comment period to make that determination.

B. *Section 7 of the FEA Act.* Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 785 *et seq.*, Pub. L. 93–275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of this notice was sent to the EPA Administrator. The EPA Administrator informed the ERA that he does not foresee as the result of the implementation of today's proposed actions an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. *Executive Order 12044.* Executive Order 12044 (43 FR 12661, March 23, 1978) and DOE's implementing procedures in DOE Order 2030 (44 FR 1032, January 3, 1979) require that a regulatory analysis be prepared for all significant regulations which are likely to have a major impact. We have determined that on the basis of the criteria set forth in these orders today's proposals will not have a major impact. Accordingly, no regulatory analysis has been proposed for these proposals.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., August 8, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 212.78 [Amended]

1. 10 CFR 212.78(c) is amended by revising the definition of "recoupable allowed expenses" to read as follows:

"Recoupable allowed expenses" means, with respect to a particular producer, the allowed expenses that are attributable to that producer; provided that such expenses are incurred in an arm's-length transaction or do not exceed the price that the producer would have paid in an arm's-length transaction and further provided that such expenses have been paid and reported pursuant to subsction (h) of this section.

2. 10 CFR 212.78(h)(1)(ii) is revised to read as follows:

* * * * *

(h)* * *

(1)* * *

(ii) *Annual CPA opinion.* Within 120 days of the close of each fiscal year that ends after December 31, 1980, of a particular qualified producer, such qualified producer shall submit to DOE an opinion by a certified public accountant attesting that during the course of his annual audit nothing has come to his attention that cause him to believe that the reports submitted by such qualified producer in accordance with subsection (h)(1)(i) of this section are inaccurate.

* * * * *

(h)* * *

(2)* * *

(ii) *Annual CPA opinion.* Within 120 days of the close of each fiscal year that ends after Dedember 31, 1980 for a particular prooject, the quaoified producers with respect to such project shall submit to DOE an opinion by a certified public accountant attesting that during the course of his annual audit nothing has come to his attention that causes him to believe that the reports with respect to that project submitted during the prior calendar year in accordance with subsection (h)(2)(ii) of this section are inaccurate.

4. 10 CFR 212.78(h) is amended by the addition of a new subparagraph (5) to read as follows:

* * * * *

(h)* * *

(5)(i) *Annual prepaid expenses report.* By January 31 of each year after 1980, a qualified producer shall file with DOE a report in which the producer shall certify to DOE (A) which of the expenses that it had reported previously to DOE pursuant to subsction (h)(1)(i) of this section were prepaid expenses; (B) the goods or services for which it incurred and paid such prepaid expenses; (C) the dates on which it intends to use goods or services; and (D) the dates on which it actually uses such goods or services. A producer shall file an annual prepaid expenses report each year until it has reported that it has actually used all the goods and services for which it incurred and paid a prepaid expense. For purposes of this subsection, a prepaid expense is (—) an expense for any injectant or fuel used after September 30, 1981, (*2*) an expense for any item for which IRS would allocate the deductions (including depreceiation) to the period after September 30, 1981, or (*3*) the expenses (in the aggregate) for all other items that are to be used after September 30, 1981.

(ii) *Recordkeeping requirements.* A qualified producer must maintain records that contain a copy of any contract for, or documentary evidence of the purchase of, any good or service for which the producer has reported a prepaid expense.

5. 10 CFR 212.78(h) is amended by the addition of a new subparagraph (6) to read:

* * * * *

(h) * * *

(6) *In-house expenses.* In complying with the reporting requirements of subsections (h)(1)(i) and (h)(2)(i) of this section, a qualified producer shall indicate whether an expense is incurred in an arm's-length transaction. If an expense is not incurred in an arm's-length transaction, the producer must prepare and maintain records that contain information concerning what the price of the good or service associated with that expense would have been in an arm's-lenth transaction and the basis for that information.

6. Paragraph 4.a of the Appendix to 10 CFR 212.78 is revised to read:

4. *Miscible Fluid Flooding.*—a. The costs of injected fluids (excluding hydrocarbons) and additives for use at the project site.

[FR Doc. 80–24753 Filed 8–14–80; 8:45 am]

BILLING CODE 6450–01–M

V 45 AG 15 80 UMI

federal register

Friday
August 15, 1980

Part IX

Department of Energy

Economic Regulatory Administration

Maximum Lawful Selling Price for Unleaded Gasoline; Further Notice of Proposed Rulemaking and Public Hearing

DEPARTMENT OF ENERGY

Street, NW., Washington, D.C. 20461,

as the refiner deems appropriate. Thus,

capacity and is a misuse of petroleum

May 15, 1973, will not be required to use

octane ratings in order to use leaded

DEPARTMENT OF ENERGY
Economic Regulatory Administration
10 CFR Part 212
[Docket No. ERA-R-80-26]

Maximum Lawful Selling Price for Unleaded Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Further notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes alternative amendments and a public hearing regarding several methods for imputing the May 15, 1973 selling price for unleaded gasoline. Specifically, DOE propose a uniform imputed selling price for 87 octane (R+M)/2 unleaded gasoline. In addition, DOE proposes several alternative methods of pricing unleaded gasoline with higher than 87 octane (R+M)/2. One proposal is to allow refiners to treat all grades of gasoline as separate product categories and, therefore, allocate increased costs between the grades as the refiner deems appropriate. Another proposal is to allow an octane adjustment for octane higher than 87 octane (R+M)/2.

Finally, a technical amendment, to the unleaded gasoline production incentive is proposed.

DATES: Written comments due October 14, 1980.

Hearing dates: Los Angeles, California, September 5, 1980; Washington, D.C., September 11, 1980.

Requests to speak by 4:30 p.m., August 29, 1980, for Los Angeles hearing; September 3, 1980, for Washington, D.C. hearing.

ADDRESSES: All comments and requests to speak at the Washington, D.C. hearing should be submitted to the Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-*26*, Department of Energy, Room 2313, 2000 "M" Street, NW, Washington, D.C. 20461, (202) 653-3751.

Requests to speak at Los Angeles hearing to Terry Osborn, 333 Market Street, Region IX, San Francisco, California 94105, (415) 764-7027.

Hearing locations: Los Angeles hearing: Los Angeles, Convention Center, 1201 South Figueroa Street, Room 202, Los Angeles, California 90015; Washington, D.C. hearing: Room 2105, 2000 "M" Street, NW, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055.
Lorraine Hall (Public Hearings Office), Economic Regulatory Administration, Room B-210, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3971.
Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3220.
William Mayo Lee or William Funk (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754 or 252-6736.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendments
III. Written Comments and Public Hearings Procedures
IV. Procedural Requirements

I. Background

Generally, under the current price regulations the maximum lawful price refiners may charge for unleaded gasoline is the May 15, 1973 selling price of unleaded gasoline plus increased product and non-produce costs. In addition, refiners are permitted to recoup additional increased costs on gasoline pursuant to the gasoline "tilt" rule in § 212.83(c) and the unleaded gasoline production incentive in § 212.83(j).

If a refiner did not sell unleaded gasoline on May 15, 1973, or 30 days prior thereto, as was the case for most refiners, the maximum lawful selling price for unleaded gasoline is calculated using an imputed May 15, 1973 selling price determined pursuant to § 212.112(b)(1). This imputed selling price is the weighted average selling price charged for leaded gasoline on May 15, 1973 of the same or nearest octane as the unleaded gasoline currently sold, plus one cent. The additional one cent is intended to reflect the additional cost associated with producing unleaded gasoline.

Pursuant to § 212.83(c)(1)(i)(B) refiners may designate different types and grades of gasoline as separate categories within the product category gasoline, provided such types and grades have consistently and historically been designated as such by the refiner and not disapproved by the DOE. In some instances, DOE has not disallowed refiners treating new grades of unleaded gasoline as separate product categories.

The current rules permit each individual refiner to allocate increased costs to specific categories of gasoline as the refiner deems appropriate. Thus, a refiner, which treats a single grade unleaded gasoline with an octane rating of 90 (R+M)/2 as a separate product category has the pricing flexibility under the present rules to allocate as much increased costs to the 90 octane (R+M)/2 unleaded gasoline as the refiner believes the market will allow.

In addition, refiners are permitted to increase the amount of costs which may be passed through in gasoline price increases to reflect increased production of unleaded gasoline (44 FR 69594, Dec. 3, 1979). The increased costs are permitted refiners which produce more unleaded gasoline than the national average or than they refined in the corresponding month in 1978.

On June 4, 1979, DOE issued a notice of proposed rulemaking (44 FR 32622, June 6, 1979) regarding the price rules for unleaded gasoline. In the Notice DOE proposed to amend § 212.112(b)(1) to delete the "same or nearest octane number" provision and to require that the imputed May 15, 1973 selling price for unleaded gasoline be computed using the weighted average price charged for all types and grades of leaded gasoline. After evaluating the comments received concerning this issue, DOE continued the rulemaking with respect to this rule. For a discussion of the comments see 44 FR 69595, December 3, 1979.

The purpose of this Notice is to propose various amendments to the unleaded gasoline pricing rules intended to encourage the increased production of unleaded gasoline with efficient octane ratings. DOE believes the current rules may encourage refiners to produce unleaded gasoline with a higher octane rating than is necessary for operating the current automobile fleet, which results in the use of more crude oil and other petroleum feedstocks than would otherwise be necessary. This is because the "same or nearest octane number" provision used in imputing the May 15, 1973 selling price for higher priced unleaded gasoline encourages refiners to produce gasoline with an octane number "closer" to the octane of the leaded premium gasoline they sold on May 15, 1973 than to the lower priced regular leaded gasoline they sold on that date. Accordingly, unleaded octane ratings tend to be higher than necessary. A second anomaly caused by the "same or nearest octane" rule occurs when firms produced only a subregular grade leaded gasoline on May 15, 1973, and are required to use the May 15, 1973 selling price of that subregular grade to impute unleaded May 15, 1973 selling prices. Thus, the "same or nearest octane" rule is wasteful of refining capacity and is a misuse of petroleum resources. Accordingly, DOE proposes to remove these anomolies and to encourage production of unleaded gasoline with the most efficient octane ratings for the current automobile fleet and discourage the production of unleaded gasoline with octane ratings that are not efficient.

Because the primary purpose of this rulemaking proceeding is to ascertain what changes, if any, are needed to the DOE price rules to encourage the production of unleaded gasoline with octane ratings most appropriate for the American automobile fleet, commenters should address which parts, if any, of the alternative amendments proposed they support and which they oppose. DOE reserves the right to adopt all or parts of any of the various proposed amendments.

There is a fundamental distinction between the primary proposals described in Part II. The establishment of separate product categories for new grades of gasoline is a method of allocating allowable increased costs. The imputed May 15, 1973 selling price and octane adjustment proposals, however, do not have to be justified on the basis of refiners' actual costs. Thus, the proposals to establish the May 15, 1973 selling price and octane adjustment on the basis of octane ratings could result in a change in refiners' current margins. For example, under the current rules the unleaded margin is the margin of the "same or nearest octane" leaded gasoline sold on May 15, 1973 plus one cent. The proposed rules would base the unleaded margin for 87 octane (R+M)/2 unleaded gasoline on the margin for 89 octane (R+M)/2 leaded gasoline sold on May 15, 1973 and would increase the margin for higher grades. Conversely, permitting refiners to change their product categories to reflect new grades of gasoline is a method of allocating increased costs already incurred by the refiner and in itself would not change refiners' margins.

DOE believes its proposal to change the margin (*i.e.*, imputed May 15, 1973 selling price) for desirable grades of unleaded gasoline will provide refiners an economic incentive to produce gasoline of such octane levels. In addition, by deleting the "same or nearest octane" provision in the current rules, refiners will not be encouraged to produce unleaded gasoline with octane ratings "closer" to their historic premium leaded gasoline sold in May 15, 1973, in order to benefit from the higher margin recouped on it on May 15, 1973. Also, refiners which sold only a subregular grade of leaded gasoline on May 15, 1973, will not be required to use that selling price to impute a May 15, 1973 selling price for unleaded gasoline.

The proposal to allow refiners to treat new grades of unleaded gasoline as separate product categories will increase refiners' pricing flexibility between various grades of gasoline and thus increase competition for various grades of unleaded gasoline. Accordingly, DOE believes if refiners are permitted to allocate increased cost to grades of unleaded as they deem appropriate, refiners will increase their production of grades of unleaded gasoline more compatible with motorists' needs.

II. Proposed Amendments

A. Optional Calculation of Imputing a May 15, 1973, Selling Price

DOE proposes to amend the price rules to give all refiners the option of imputing a May 15, 1973 selling price and octane adjustment for unleaded gasoline as described in Section B below. By treating all refiners in a similar manner, whether or not they sold unleaded gasoline on May 15, 1973, all refiners will have the same economic incentives to produce unleaded gasoline.

Specifically, DOE is proposing that beginning on the date of the final rules, if any, are adopted, firms which sold unleaded gasoline on May 15, 1973 selling price for unleaded gasoline pursuant to the rules set forth in Section 212.112(b). In the alternative DOE is proposing that such refiners be required to impute the May 15, 1973 selling price for unleaded gasoline.

DOE solicits comments on whether refiners will elect to impute a May 15, 1973 selling price for unleaded gasoline under the various alternative methods proposed or continue to use the actual selling price. Specifically, refiners, which sold unleaded gasoline in May 1973, should submit data documenting what the May 15, 1973 selling price would be under the proposed methods of imputing the May 15, 1973 unleaded selling price. Comments are requested on the suitability of these options for refiners that intend to change octane levels.

B. Methods of Imputing the May 15, 1973, Selling Price for All Grades of Unleaded Gasoline

Currently refiners impute the May 15, 1973 selling price for unleaded gasoline using the May 15, 1973 weighted average selling price of leaded gasoline of the "same or nearest octane," plus one cent. DOE believes the current rule may be encouraging the production of unleaded premium gasoline with unduly high octane ratings in order to use leaded premium prices charged on May 15, 1973 to impute the May 15, 1973 selling price. Conversely, the production of unleaded gasoline with octane ratings only slightly higher than regular leaded gasoline is discouraged because the current rule requires that the imputed selling price for such unleaded gasoline be calculated on the basis of the lower octane regular leaded gasoline. Also, firms that produced a subregular leaded gasoline are at a price disadvantage compared to other unleaded refiners.

1. Imputed May 15, 1973, Selling Price for 87 Octane (R+M)/2 Unleaded Gasoline

DOE proposes that the imputed May 15, 1973 selling price for the EPA minimum specification 87 octane (R+M)/2 unleaded gasoline be based on the May 15, 1973 selling price for 89 octane (R+M)/2 leaded gasoline sold by the refiner on May 15, 1973, plus the current allowable one cent markup. DOE believes most refiners sold 89 octane (R+M)/2 leaded gasoline on May 15, 1973 and, therefore, it would be an appropriate base price for imputing minimum octane unleaded base prices. DOE solicits comments on the advisability of permitting firms to use the May 15, 1973 selling price of 89 octane (R+M)/2 leaded gasoline as the selling price for 87 octane (R+M)/2 unleaded gasoline.

Refiners that did not sell 89 octane (R+M)/2 leaded gasoline on May 15, 1973 would use the May 15, 1973 selling price of the leaded gasoline of the nearest octasne to 89 sold by the refiner, plus one cent, and adjust it upwards or downwards by one half cent an octane to reach 89 octane (R+M)/2 to impute the May 15, 1973 unleaded selling price for 87 octane (R+M)/2 unleaded gasoline. For example, a firm that only sold 86 octane (R+M)/2 leaded gasoline for 33 cents on May 15, 1973, would impute a May 15, 1973 selling price of 35.5 cents for 87 octane (R+M)/2 unleaded gasoline.

a. (89 (R+M)/2 − 86 (R+M)/2 = 3 octane ratings).

b. (3 octane ratings times .5 cent = 1.5 cents).

c. (33 cents + 1 cent + 1.5 cents = 35.5 cents).

Conversely, a firm that only sold 90 octane (R+M)/2 leaded gasoline for 36 cents on May 15, 1973, would impute a May 15, 1973 selling price of 36.5 cents for 87 octane (R+M)/2 unleaded gasoline.

a. (90 (R+M)/2 − 89 (R+M)/2 = 1 octane ratings).

b. (1 octane rating times .5 cent = .5 cent).

c. (36 cents + 1 cent − .5 cent = 36.5 cents).

DOE requests comments on what grades of leaded gasoline were sold by refiners on May 15, 1973.

2. *Octane Adjustment For Unleaded Gasoline Greater Than 87 Octane (R+M)/2.*

DOE proposes the following alternative methods of computing the adjustment to the imputed May 15, 1973 selling price of 87 octane (R+M)/2 unleaded gasoline to impute the May 15, 1973 selling price of higher octane unleaded gasoline. Generally, each proposal permits refiners an octane adjustment for each octane rating the unleaded gasoline is greater than 87 octane (R+M)/2. Refiners which sell an unleaded gasoline with an octane rating less than 87 octane (R+M)/2 will receive no increment or decrement. The octane rating of unleaded gasoline with a fractional octane rating of .5 or less shall be rounded to the lower whole number while fractions above .5 may be rounded to the next whole octane.

With respect to each of the octane adjustment proposals, DOE proposes that firms not be permitted an adjustment for octane improvements above 91 octane (R+M)/2. Thus, a refiner which sells 93 octane (R+M)/2 unleaded gasoline would only be permitted an adjustment equal to that permitted for 91 octane (R+M)/2. DOE solicits comments on the advisability of limiting the octane adjustment to octane increases between 87 and 91 octanes (R+M)/2 and, specifically, whether an unleaded gasoline with an octane higher than 91 octane (R+M)/2 is necessary for the current automobile fleet.

Primary Proposal: The adjustment would equal one half cent (.5 cent) for each octane rating (R+M)/2 the unleaded gasoline is greater than 87 octane (R+M)/2.[1] This adjustment is based on the estimated increased cost of producing higher grades of unleaded gasoline. For example, a refiner which sold 89 octane (R+M)/2 leaded gasoline on May 15, 1973 for 35 cents per gallon and currently sells unleaded gasoline with an octane rating of 91 (R+M)/2 would impute a May 15, 1973 selling price for unleaded gasoline of 38 cents per gallon.

a. (91 (R+M)/2 − 87 (R+M)/2 = 4 octane ratings).

b. (.5 cent x 4 octane ratings = 2 cents).

c. (35 cents + 1 cent + 2 cents = 38 cents).

DOE solicits comments on the advisability of requiring firms that sell unleaded gasoline with less than 87 octane (R+M)/2 rating to reduce the base price by .5 cent times each octane rating the unleaded gasoline is less than 87 octane (R+M)/2.

DOE invites comments, documented with financial data, regarding the appropriateness of using a one half cent increment to reflect increased unleaded octane ratings greater than 87 octane (R+M)/2. Moreover, DOE seeks information regarding the octane ratings of unleaded gasoline firms would sell, or foresee selling, if these amendments are adopted or if the regulation remains unchanged.

Alternative 1: The cents per gallon adjustment for octane ratings greater than 87 octane (R+M)/2 would equal the difference between the May 15, 1973 selling price of the highest and lowest octane leaded gasoline divided by the difference between the octane rating (R+M)/2 of the highest and lowest octane leaded gasoline sold by the individual refiner on May 15, 1973 to a class of purchaser. In most instances on May 15, 1973, leaded premium gasoline was 93 octane (R+M)/2 and the price spread between regular and premium gasoline was 2 cents at wholesale and 4 cents at retail. For example, a refiner that sold regular (89 octane) and premium (93 octane) leaded gasoline at retail at 35 cents and 39 cents, respectively, on May 15, 1973, would impute a May 15, 1973 retail selling price of 40.0 cents per gallon for unleaded gasoline with a 91 octane rating.

a. (93 (R+M)/2 − 89 (R+M)/2 = 1 octane ratings).

b. (39 cents − 35 cents = 4 cents).

c. (4 cents/4 octane ratings = 1.0 cent per octane rating).

d. (91 (R+M)/2 − 87 (R+M)/2 = 4 octane ratings).

e. (4 octane ratings x 1.0 cent = 4.0 cents).

f. (35 cents + 1 cent + 4.0 cents = 40.0 cents).

As an option within this alternative, DOE proposes that the leaded prices at one specific level of distribution, such as retail or the refinery gate, or the weighted average price of all sales, instead of for each class of purchaser, be used to calculate the adjustment. Thus, in lieu of computing the increment for each class of purchaser only one calculation would be made and that amount would be used to impute the May 15, 1973 unleaded selling price for every class of purchaser. For instance, in the above example, the imputed May 15, 1973 selling price to each class of purchaser would be the selling price of 89 octane (R+M)/2 leaded gasoline on May 15, 1973 to that class of purchaser, plus 1 cent, plus 4.0 cents. Rather than calculating the adjustment separately for each class of purchaser purchasing unleaded gasoline higher than 87 octane (R+M)/2, a single adjustment would be used.

Alternative 2: The adjustment would be based on a graduated scale with the fixed cents per gallon for each additional octane rating increasing as the octane rating increases over 87 octane (R+M)/2. That is, the fixed cents per gallon increase would be permitted to reflect each specific octane rating greater than 87 octane (R+M)/2. A graduated scale such as the following would be adopted. This would more truly reflect actual nonlinear costs to increase unleaded octane, but ignores the counterproductive effect of unnecessarily increasing the octane of unleaded gasoline beyond the point of automotive needs.[2]

	Incremental increase for each octane greater than 87 (R+M)/2 (in cents)	Total cents permitted for octane increases at corresponding amount
Total octane increase:		
1	.50	.50
2	.55	1.05
3	.60	1.65
4	.65	2.30
5	.70	3.00

Thus, a refiner that sold 89 octane (R+M)/2 leaded gasoline for 35 cents on May 15, 1973, would impute a May 15, 1973 selling price of 38.3 cents per gallon for 91 octane unleaded gasoline.

a. (91 (R+M)/2−87 (R+M)/2=4 octane ratings)

b. (4 octane ratings=2.30 cents)

c. (35 cents+1 cent+2.3 cents=38.3 cents)

DOE solicits comments, documented with financial data, on what the incremental cents per gallon per octane rating should be and if at some point the cents per gallon octane rating should become constant or decrease. In other words, DOE wants to know the exact cost of making each octane improvement in unleaded gasoline.

C. New Grades of Unleaded Gasoline

The provision in § 212.83(c)(1)(i)(B) which permits refiners to treat separate types and grades of gasoline as distinct products is based on the refiners' having "consistently and historically" done so and on notification of DOE. Consequently, there is a disincentive for refiners to introduce new grades of unleaded gasoline because refiners may not automatically treat such grades of unleaded gasoline as separate product categories. Thus, refiners are denied the pricing flexibility that results from being allowed to treat new grades of gasoline as separate product categories and, thereby, apportion increased costs to the new grade of gasoline as they deem appropriate.

DOE proposes to amend § 212.83(c)(1)(i)(B) to delete the "consistently and historically differentiated by the refiner" clause and the notification provision. In the alternative, DOE proposes to amend the provision and permit new categories to be established for new grades of unleaded gasoline with octane ratings above 87 octane (R+M)/2.

DOE believes either proposal will encourage the production of unleaded gasoline with more efficient octane ratings. This is because firms that introduce new grades of unleaded gasoline will automatically be permitted the pricing flexibility to apportion increased costs to the new grades as the refiner deems appropriate.

D. Unleaded Gasoline Production Incentive

Pursuant to § 212.83(j) refiners are currently permitted to increase the amount of costs which may be allocated to gasoline to reflect increases in unleaded gasoline production. The rule, "unleaded gasoline production incentive," which was adopted effective December 1, 1979, (44 FR 69594, December 3, 1979), is intended to encourage the production of unleaded gasoline. The provisions of the rule which establish the incentive, however, do not refer to the "bankability" or "sequence of recoupment" of increased costs derived from the incentive. Currently, the pass-through of the incentive is included in the "H" factor. Therefore, to clarify that recouped increased costs derived from the incentive may be "banked" and the exact order of recoupment, DOE proposes to amend the price formula to include the incentive in the "A" factor. By removing the incentive from the "H" factor, where its "bankability" and "sequence of recoupment" are not clear, and adding it to the "A" factor, DOE believes many uncertainties regarding the treatment of the incentive will be resolved.

III. Written Comments and Public Hearing Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by the date indicated in the "Dates" section of this notice and should be identified on the outside envelope and on the document with the docket number ERA–R–80–*26* and the designation: "Price Rules for Unleaded Gasoline." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for Request to Make Oral Presentation*—If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may request an opportunity to make an oral presentation by 4:30 p.m. on August 29, 1980, for the Los Angeles hearing and September 9, 1980, for the Washington, D.C. hearing. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be notified before 4:30 p.m. on September 4, 1980, for the Los Angeles hearing and September 10, 1980, for the Washington, D.C. hearing, and are requested to submit one hundred copies of your statement to the hearing location by 8:30 on the morning of the hearing.

2. *Conduct of the Hearing*—We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The DOE or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of a cancellation or changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact the DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

IV. Procedural Requirements

A. Section 7 of the FEA Act

As required by section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The Administrator requested that certain questions be asked of commenters and those questions are incorporated in this preamble. In addition, the Administrator commented that:

"While we are encouraged that DOE is reviewing this aspect of the pricing rules, we ae concerned that DOE has never followed through on the commitment to regulate the retail price differential between leaded and unleaded gasoline. Differentials have steadily been rising, with the self-service differential currently over five cents. Spot market wholesale prices appear to be reflecting adequate relative supplies of unleaded to leaded, and hence low spot wholesale differentials. This may be due in part to the success of the unleaded production incentive. Yet retail marketing practices are still creating high differentials, which can lead to fuel switching and the loss of billions of dollars invested in emission controls."

[1] See *Regulatory Analysis* for discussion of the one half cent adjustment.

[2] See *Regulatory Analysis* for discussion of the graduated scale.

V. 45 A. G. 15 80 UMI

After reviewing the proposal to which the Administrator refers, DOE determined that the economic impact of establishing a maximum retail price differential between leaded and unleaded gasoline could cause supply disruptions and adversely affect market conditions. Moreover, DOE does not believe, and EPA does not suggest, that retail price differentials are caused by or result from DOE's regulations. Rather EPA suggests that retail marketing practices create the differentials even in an adequate supply environment. Lundberg explains this phenomenon as resulting from retail price competition using regular leaded gasoline as the "fighting" grade. Lundberg suggests, however, that, as has already occurred on the West Coast, as unleaded gasoline becomes the dominant gasoline, it will become the "fighting" grade, lowering the differential. *See, Lundberg Letter,* July 18, 1980. In light of our commitment to phased decontrol, we believe it would be inappropriate to create a new retail price differential regulation with little more than a year remaining of our authority for such a regulation.

B. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*, Pub. L. 95–91), we have referred this proposed rule, concurrently with the issuance hereof to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission will have until the scheduled close of the public comment period on the proposal to make such a determination.

C. Executive Order No. 12044

A regulatory analysis as required for proposed rulemakings pursuant to Executive Order 12044 entitled "Improving Government Regulations" (43 FR 12861, March 24, 1978) and DOE's implementing procedures, is being prepared by DOE. The proposed regulatory analysis is available at DOE's Office of Public Information, Room B–210, 2000 "M" Street, N.W., Washington, D.C. You are invited to comment on the proposed regulatory analysis. A summary of the proposed regulatory analysis is set forth below.

1. *Summary of Regulatory Analysis*—Most authorities agree that the optimal mix of unleaded gasoline would be two grades, with one of the grades at 3 octanes above the minimum grade required by the Environmental Protection Agency (EPA). Estimates are that, if 25 percent of unleaded gasoline were produced at the higher octane level, this mix would satisfy the needs of that portion of the unleaded automobile fleet that is perceived as performing unsatisfactorily using regular unleaded gasoline (87 octane (R+M)/2).

Relatively few refiners were selling unleaded gasoline on May 15, 1973, which was adopted as the base price date for gasoline. Thus, all other refiners must impute a selling price for unleaded gasoline using the May 15, 1973 selling price of leaded gasoline with the same or nearest octane, plus one cent. The maximum allowable price is then derived by adding increased costs allocated to all gasoline to the unleaded grade.

Most refiners imputing a selling price for unleaded gasoline produced a regular leaded grade of gasoline rated at 89 octane (R+M)/2, which for purposes of the DOE price regulations is closest in octane to the 87 octane (R+M)/2 unleaded grade required by EPA. However, a few refiners were marketing a leaded grade with a lower octane than 89 octane (R+M)/2, which is commonly referred to as "subregular," and that price was required to be the basis for imputing a base price for the minimum octane unleaded grade. We are aware of one refiner that was marketing only a premium leaded grade in May 1973 and, therefore, was able to impute a selling price from that higher priced product.

One of the proposed changes to the regulations would either allow or require all refiners, including those with May 15, 1973 actual base prices, to impute a selling price for a minimum grade of 87 octane (R+M)/2 unleaded gasoline using the base price of 89 octane (R+M)/2 leaded gasoline, plus one cent. This would remove any disparities caused because some refiners are required to impute unleaded gasoline May 15, 1973 selling prices while others use their actual May 15, 1973 selling prices. Although DOE has been informed of the existence of price disparities caused by the current regulations, we do not have sufficient data to calculate the effect of this proposal for purposes of the Draft Regulatory Analysis.

A second proposal also would permit refiners to impute a price for 87 octane (R+M)/2 unleaded gasoline equal to the May 15, 1973 selling price of 89 octane (R+M)/2 leaded gasoline but would include, in addition, a fixed or sliding octane adjustment to allow for increases in octane of unleaded gasoline above the EPA required minimum grade. Each of the options under this proposal would increase the refiner's margin for producing an unleaded gasoline with a higher octane than the minimum grade. However, each of the proposed options would cause potential price increases that are less than those that would occur if refiners produced a high octane unleaded gasoline solely to achieve a base price imputed from the May 15, 1973 selling price of premium leaded gasoline. The production by all refiners of an unnecessarily high octane unleaded gasoline to take advantage of the present "same or nearest octane" provision would result both in increased costs, due to greater production costs associated with higher octane unleaded, and a possible reduction in the overall supply of unleaded gasoline because of the loss of unleaded gallonage that results from the reforming necessary to achieve the higher octane.

A third proposal would allow refiners to allocate increased costs to different types and grades of gasoline whether or not they historically marketed the grades or priced them differently. This amendment would permit refiners to assign increased costs from the total increased cost pool, which includes costs associated with increasing the octane of unleaded gasoline, as they deem appropriate. Since there would be no increase in the refiner's margin or total profit if this proposal were to be selected, there is no additional cost to the consumer. The proposal does allow refiners to apply more increased costs to one type or grade of unleaded gasoline than to another. It is possible that a large portion of these costs would be allocated to the higher octane unleaded.

D. National Environmental Policy Act

At present the environmental consequences, if any, of the proposals in this Notice are being evaluated. The requirements of the National Environmental Policy Act will be satisfied before any final rules are issued pursuant to this Notice.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, DOE proposes to amend Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below:

Issued in Washington, D.C., August 8, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Primary Proposal

1a. Section 212.83(c)(1)(i)(B) is revised to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.*

* * *

(1) Allocation of increased costs incurred in the period "t"—

* * * * *

(i) * * *

(B) Notwithstanding any other provision of this Subpart, for purposes of this section, a refiner may designate as categories within the product gasoline different types (unleaded gasoline as differentiated from leaded gasoline) and grades (differentiated by octane number) of gasoline. In apportioning the total amount of increased costs allocable to gasoline among categories of gasoline, a refiner may apportion amounts of increased costs to a particular category of gasoline in whatever amounts it deems appropriate.

* * * * *

Alternative Proposal

1b. Section 212.83(c)(1)(i)(B) is revised to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.* * * *

(1) Allocation of increased costs incurred in the period "t"—

* * * * *

(i) * * *

(B) Notwithstanding any other provision of this Subpart, for purposes of this section, a refiner may designate as categories within the product gasoline different types (unleaded gasoline as differentiated from leaded gasoline) and grades (differentiated by octane number), if the categories so designated by the refiner represent discrete gasoline types and grades that have been consistently and historically differentiated by that refiner. Beginning ————, 1980, all grades of unleaded gasoline [Alternative: add clause "with octane (R+M)/2 greater than 87 (R+M)/2") may be designated as separate categories. In apportioning the total amount of increased costs allocable to gasoline among categories of gasoline, a refiner may apportion amounts of increased costs to a particular category of gasoline in whatever amounts it deems appropriate.

* * * * *

Primary Proposal

2a. Section 212.83(c)(2)(iii)(C) *The "A" factor* is revised in the definition of "A_i" to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.*

* * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(C) *The "A" factor.* * * *

"A_i" is, for i=1, i=2, i=3, and i=4, the sum of the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 in the period "t." "A_i" also includes the increased costs of crude oil and purchased products attributable to the covered product or products of the type "i" incurred through December 31, 1975 and not passed through as of January 31, 1976, and not recovered in sales of that product through the period "t." Notwithstanding the foregoing provisions of this paragraph, beginning March 1, 1979, for the product i=3, "A_i" shall be at least 100% (one hundred percent) of "A_i^T," plus the sum of "A_i^S," and "A_i^R,"; but may, at the option of the refiner concerned, be up to 110% (one hundred ten percent) of "A_i^T," plus the sum of "A_i^S," and "A_i^R." Beginning December 1, 1979, (Alternative: Beginning ————, 1980) "A_i" shall include the unleaded gasoline production incentive found in § 212.83(j).

* * * * * * *

Primary Proposal

3a. Section 212.83(c)(2)(iii)(G) *The "H" factor* is revised to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.* * * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(G) *The "H" Factor.*

H_i^u= For i=1, i=2, and i=4, the portion, if any, of the total dollar amount available in the period "u" for inclusion in price adjustments to the product of the type "i" that pursuant to paragraphs (d) or (e) of this section the refiner elects to include in prices of gasoline for the period "u" (in which case "H_i" shall be subracted); for "i"=3, the portion, if any, of the total dollar amount available in the period "u" for inclusion in price adjustments to No. 2 oils, aviation jet fuel, or general refinery products that pursuant to paragraphs (d) or (e) of this section the refiner elects to include in the price of gasoline for the period "u" (in which case "H_i" shall be added).

* * * * *

Primary Proposal

4a. Section 212.112(b)(1) is revised to read as follows:

§ 212.112 Unleaded gasoline.

* * * * *

(b) * * *

(1) For purposes of determining the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973 in order to calculate the "maximum allowable price" as defined in § 212.82 a refiner shall use a price not in excess of either:

(i) The weighted average price at which 89 octane (R+M)/2 leaded gasoline was lawfully priced by it in transactions with the class of purchaser on May 15, 1973, computed in accordance with the provisions of § 212.83(a), plus 1 cent per gallon, plus an octane adjustment equal to one half cent (.5 cent) times each octane (R+M)/2 the unleaded gasoline is greater than 87 octane (R+M)/2. (Alternative: add sentence "No octane adjustment is permitted for octanes greater than 91 octane (R+M)/2.") If a firm did not sell 89 octane (R+M)/2 leaded gasoline on May 15, 1973, the firm shall use the May 15, 1973 selling price of the nearest octane gasoline sold by the firm on May 15, 1973, adjusted by one half cent (.5 cent) times each octane rating the gasoline was above or below 89 (R+M)/2, as the May 15, 1973 selling price for 89 octane (R+M/2 leaded gasoline; or,

(ii) The weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, computed in accordance with the provisions of § 212.83(a); (Alternative: Delete clause (ii)) and,

* * * * *

Alternative Proposals

4b. Section 212.112(b)(1) is revised to read as follows:

§ 212.112 Unleaded gasoline.

* * * * *

(b) * * *

(1) For purposes of determining the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973 in

order to calculate the "maximum allowable price" as defined in § 212.82 a refiner shall use a price not in excess of either:

(i) The weighted average price at which 89 octane (R+M)/2 leaded gasoline was lawfully priced by it in transactions with that class of purchaser on May 15, 1973, computed in accordance with the provisions of § 212.83(a), plus 1 cent per gallon, plus an octance adjustment for each octane (R+M)/2 the unleaded gasoline is greater than 87 octane (R+M)/2. (alternative: add sentence "No octane adjustment is permitted for octanes greater than 91 octane (R+M)/2.") The octane adjustment for each octane shall equal the difference between the May 15, 1973 selling price of the highest and lowest octane (R+M)/2 leaded gasoline divided by the difference between the octane (R+M)/2 of the highest and lowest octane leaded gasoline sold by the individual refiner to the particular class of purchaser on May 15, 1973;

(alternative: in lieu of class of purchaser use a specific level of distribution such as refinery gate or retail).

(ii) Or, the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, computed in accordance with the provisions of § 212.83(a); (Alternative: delete clause (ii)) and,

4c. Section 212.112(b)(1) is revised to read as follows:

§ 212.112 Unleaded gasoline.

* * * * *

(b) * * *

(1) For purposes of determining the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973 in order to calculate the "maximum allowable price" as defined in § 212.82 a refiner shall use a price not in excess of either:

(i) The weighted average price at which 89 octane (R+M)/2 leaded gasoline was lawfully priced by it in transactions with that class of purchaser on May 15, 1973, computed in accordance with the provisions of § 212.83(a), plus 1 cent per gallon, plus an octane adjustment to reflect the total number of octanes the unleaded gasoline is greater than 87 octane (R+M)/2. The octane adjustment shall be as follows:

	Incremental increase for each octane greater than 87 (R+M)/2 (in cents)	Total cents permitted for octane increases of corresponding amount
Total octane increase:		
1	.50	.50
2	.55	1.05
3	.60	1.65
4	.65	2.30
5	.70	3.00

(ii) Or, the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, computed in accordance with the provisions of § 212.83(a); (Alternative: delete clause (ii)) and,

[FR Doc. 80-24831 Filed 8-14-80; 8:45 am]

BILLING CODE 6450-01-M

federal register

Friday
August 15, 1980

Part X

Federal Trade Commission

Trade Regulation Rule; Labeling and Advertising of Home Insulation

FEDERAL TRADE COMMISSION

1979, which barred any trade regulation

testing under the Department of

calibration materials for such testing; (2)

1.201 to consider both the effects of thin-

under the ASTM R-value test

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule; Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Notice of effective date of rule, and of a stay of the effect of the representative thickness testing and television advertising disclosure requirements of the rule.

SUMMARY: The Federal Trade Commission has announced the effective date of a final rule concerning the labeling and advertising of home insulation (16 CFR Part 460). At the same time, the Commission has temporarily stayed the effective date of § 460.6 of the rule, which requires that insulation R-values be determined by "representative thickness" testing, until such time as thick calibration materials for such testing are made available from the National Bureau of Standards. The Commission also has temporarily stayed §§ 460.10, 460.18, 460.19 and Appendix B of the rule, which specify requirements for insulation advertising, insofar as they apply to television advertisements, pending the initiation and completion of further rulemaking proceedings concerning affirmative disclosure requirements for television advertisements.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Background

A. *History.* On August 31, 1979, the Commission promulgated a trade regulation rule on the labeling and advertising of home insulation.[1] The Commission announced in that notice that the effective date of the rule would be November 30, 1979.[2]

On November 7, 1979, the Commission announced its determination to delay the effective date until December 31, 1979.[3] Thereafter, on December 17, 1979, the Commission announced that the rule would not become effective before at least March 16, 1980.[4] That announcement was occasioned by Congressional action on November 16, 1979, which barred any trade regulation rules promulgated by the Commission after August 30, 1979, from becoming effective until March 16, 1980, unless authorizing legislation for the Commission was enacted before that date.[5] Through a series of additional continuing resolutions passed by the Congress after November 16, 1979, the restrictions on implementation of Commission trade regulation rules were extended through May 31, 1980. At that time, the restriction on implementation of the home insulation rule was rescinded.

The Commission's prior announcements postponing the effective date of the rule were also occasioned by the following series of events.

On August 31, 1979, several members of the mineral wool insulation industry filed a petition for review of the rule in the United States Court of Appeals for the Tenth Circuit.[6] On September 28, 1979, these manufacturers also filed a petition with the Commission for a stay of the representative thickness testing and television advertising disclosure provisions of the rule pending appeal.[7] Following these filings, the Commission's staff became engaged in consultations with various parties, including industry representatives and the National Bureau of Standards (NBS), in an attempt to achieve a fair and workable resolution of the representative thickness testing issue. The stay of the rule which was announced by the Commission on November 7, 1979 was designed to provide the staff with an opportunity to complete the on-going consultations on representative thickness testing.[8]

Following these consultations, NBS proposed an enforcement bulletin in which it recommended that manufacturers of mineral wool batts and blankets be allowed to test thin product samples until thick calibration samples, designed for representative thickness testing, are available from NBS.[9] NBS made this recommendation after it consulted with interested industry members and reviewed available literature—including recent results of testing under the Department of Commerce's National Voluntary Laboratory Accreditation program (NVLAP)—concerning the effects of thin-sample testing and the present feasibility of representative thickness testing of mineral wool batts and blankets. The NBS enforcement bulletin, related correspondence between NBS and the Commission, and other material relevant to representative thickness testing developed after the rulemaking record of this proceeding closed on September 22, 1978, were placed on the record of this proposed stay proceeding[10] and made available for review by the public during a comment period concerning a proposal made by the Commission to stay the representative thickness testing requirement. This other material includes, *inter alia,* technical information provided by the mineral wool manufacturers and other interested parties, relevant portions of the transcript of the Congressional hearings in which questions were raised concerning representative thickness testing, and correspondence between the Commission and members of the industry, the public, and the Congress relating to the issue of representative thickness testing.[11]

Following this process of consultation on the representative thickness testing issue, the Commission and the mineral wool manufacturers agreed to ask the Tenth Circuit to remand the rule to the Commission. On January 4, 1980, the Court approved the joint stipulation of the mineral wool petitioners and the Commission, and remanded the rule to the Commission for further proceedings.[12]

Under the Court's order remanding the rule, the Commission must reconsider issues relating to the representative thickness testing and television advertising disclosure requirements of the rule. The Commission must provide all interested parties with notice and an opportunity for hearings, submissions, and presentations, including cross-examination and rebuttal, in accordance with Sections 1.7–1.20 of the Commission's Rules of Practice, concerning:[13] (1) whether representative thickness testing of mineral wool batts and blankets is feasible at this time, absent standard

[1] 44 *Fed Reg.* 50218 (1979).
[2] *Id.*
[3] 44 *Fed Reg.* 64402 (1979).
[4] 44 *Fed Reg.* 73017 (1979).
[5] *Id.*
[6] *Johns-Manville Corp. v. FTC,* No. 79–1955 (10th Cir., filed Aug. 31, 1979).
[7] Petition To Federal Trade Commission For Stay Of The Effective Date Of "Representative Thickness" Testing Provision Of Home Insulation Rule And The Mandatory Television Advertising Disclosure Portions Of The Rule (September 28, 1979). F.T.C. File No. 215–59.
[8] 45 *Fed Reg.* 37674 (1980).
[9] Letter of November 19, 1979, to Michael Pertschuk, Chairman, Federal Trade Commission, from Ernest Ambler, Director, National Bureau of Standards, with attached proposed Enforcement Bulletin, W–35.
[10] The record of the stay proceeding is found in category "W" in FTC File No. 215–59. Documents on that record cited in this notice are referred to by their document number, *e.g.,* "W–1", "W–30".
[11] *Supra,* note 9.
[12] *Johns-Manville Corp. v. FTC,* No. 79–1955 (10th Cir., filed Aug. 31, 1979), Order of January 4, 1980. W–12.
[13] *Id.*

calibration materials for such testing; (2) whether present thin-sample testing of mineral wool batts and blankets produces an unfair or deceptive overstatement of their claimed R-values; (3) the disclosure requirements of the rule as they apply to television advertising; and (4) such other matters as the Commission deems appropriate.

B. *Issues.*

1. *Representative Thickness Testing.* With respect to the issue of representative thickness testing, paragraph 2 of the stipulation provides that the Commission can dispense with hearings, submissions, and presentations, including cross-examination and rebuttal, if it decides to allow testing of mineral wool batts and blankets pursuant to the enforcement bulletin issued by NBS, or one agreeable to petitioners.[14] The NBS enforcement bulletin would allow testing of samples at 150 percent of the present one-inch NBS primary standards, or, for materials of 1.5 inch thickness or less, at the full thickness, until NBS has made available thick standard calibration samples designed for representative thickness testing.[15] The National Bureau of Standards has recently reaffirmed its commitment to make these thick standard calibration samples available by January of 1981.[16]

In proposing to stay the representative thickness testing requirement, the Commission carefully considered NBS's findings and recommendations concerning the effects of thin-sample testing and the present feasibility of representative thickness testing. The Commission also weighed the prospects for attempting to resolve the representative thickness testing issue through further rulemaking. Under the terms of the Court's remand order, the Commission may not implement the representative thickness testing requirement before NBS calibration materials are available without first conducting further rulemaking under the Commission's trade regulation rulemaking requirements [16 CFR 1.7–1.20] to consider both the effects of thin-sample testing and the feasibility of representative thickness testing in the absence of thick standard calibration materials.[17]

Despite the evidentiary basis for representative thickness testing found in the rulemaking record and relied upon by the Commission in promulgating a representative thickness testing requirement last August, the Commission stated that it had become increasingly clear since promulgation of the rule that the question of representative thickness testing raises extraordinarily complex, and controversial, technical and scientific issues.[18] It also had become clear that the insulation industry, the thermal testing community, and relevant governmental agencies are still conducting research in this area and could not themselves yet agree on the essentially technical questions of the effects of thin-sample testing and the present feasibility of representative thickness testing.[19] In these circumstances, the Commission was uncertain whether further rulemaking proceedings could satisfactorily resolve these issues. In addition, such rulemaking would be time-consuming and might not be completed before the time that standard calibration materials are available from NBS for representative thickness testing. In that event, further rulemaking would provide little, if any, benefit to the consuming public.

For these reasons, the Commission tentatively decided not to propose further rulemaking on the representative thickness testing controversy at this time. Instead, the Commission proposed that the representative thickness testing requirement be stayed temporarily until standard calibration materials are available from NBS.[20]

Although the remand order of the Court covers the testing requirements of the rule only as they apply to mineral wool batts and blankets,[21] the Commission believed that, in the interests of fairness and uniformity, all products should be subject to the same standard. Therefore, the Commission proposed to stay the representative thickness testing requirements on an industrywide basis.[22] During the period of the stay, testing of samples could be performed either at representative thickness or at the thickness(es) allowed under the ASTM R-value test procedures referenced in the rule. The Commission stated that it would rescind the stay when thick calibration samples designed for representative thickness testing become commercially available to the industry.

The Commission determined that the representative thickness testing requirement is severable under the rule. Further, the Commission stated its belief that it has the inherent discretion to issue a temporary stay of the representative thickness testing requirement of the rule. However, the Commission also believed that it would benefit from the views of interested parties on whether a temporary stay of the representative thickness testing requirement is in the public interest before making a final decision on this proposed stay.[23]

2. *Television Advertising Disclosures.* The rule requires, among other things, that insulation advertisers make certain affirmative disclosures in any advertisement or other promotional material which contains claims relating to R-value, price, thickness, product comparison, or energy savings. The rule also requires that the prescribed affirmative disclosures be made clearly and conspicuously, and defines the meaning of clear and conspicuous disclosure in the context of television advertisements.

The Tenth Circuit's order remanding the rule to the Commission requires the Commission to reopen the rulemaking record concerning the television advertising disclosure requirements.[24] The Court's order states that the Commission must provide an opportunity for full hearing and presentations, including cross-examination and rebuttal, in the reopening of the rulemaking record. Therefore, in light of the remand order, the Commission proposed to conduct further rulemaking proceedings on the television advertising disclosure requirements of the rule.[25]

The Commission determined that these requirements are severable under the rule. Further, the Commission stated its belief that it has the inherent discretion to issue a temporary stay of the television advertising disclosure requirements of the rule, pending completion of the rulemaking proceedings. However, the Commission also believed that it would benefit from the views of interested parties before

[14] *Id.* The petitioners and the Commission have filed with the Tenth Circuit an agreement stating that the proposed temporary stay of § 460.6 is equivalent to issuance of the NBS enforcement bulletin and satisfies the requirements of Paragraph 2 of the Stipulation.
[15] *Id.* NBS may not actually be making available what are known as "standard reference materials," but, in any event, it will make available a material that will permit industry members to perform representative thickness testing in an accurate manner.
[16] Letter of January 17, 1980, to Albert H. Kramer, Director, Bureau of Consumer Protection, Federal Trade Commission, from Jack E. Snell, Director, Office of Energy Programs, National Engineering Laboratory, National Bureau of Standards, W–37.
[17] *Supra* note 12.
[18] 45 *Fed. Reg.* at 37673.
[19] *Id.*
[20] *Id.* at 37674–75.
[21] *Supra,* note 12.
[22] 45 *Fed. Reg.* at 37675.
[23] *Id.*
[24] *Supra,* note 12.
[25] 45 *Fed. Reg.* at 37674–75.

making a final decision on this proposed

testing error associated with

comments represented the views of five

the impetus to promptly resolve the

research is necessary to substantiate

The Commission recognizes that a

making a final decision on this proposed stay.[26]

C. *Public Comments on Proposed Stays.* The Commission invited written public comments on its proposals to stay the representative thickness testing requirement, pending the availability of thick standard calibration samples, and to stay the television advertising disclosure requirements, pending completion of further rulemaking proceedings. In the invitation to comment, the Commission announced that, upon review of the comments received, it would determine whether to make the proposed stays effective. The Commission further announced that, if it decided to stay the representative thickness testing and the television advertising disclosure requirements of the rule, it would make effective all other portions of the rule, following reasonable advance notice, if Congressional restrictions on implementation of pending Commission rules were not in effect at that time. In that event, the Commission stated that the effective date would be published in the **Federal Register** with sufficient advance notice to all industry members who have compliance obligations under the rule.[27]

II. Analysis of the Comments

A total of twenty-six (26) comments were submitted. Several of the commenters addressed issues that are not relevant to the proposed stays. They requested exemptions from coverage of the rule,[28] or raised other arguments about various requirements in the rule.[29] Only twenty-one (21) comments directly addressed the proposed stays.

A. The Representative Thickness Testing Requirement

In requiring representative thickness testing, the Commission relied on record evidence that R-values derived from thin-sample testing are misleading because they fail to reflect the non-linear relationship between thickness and R-values,[30] and that the margin of testing error associated with representative thickness testing is within acceptable limits despite the unavailability of standard calibration materials from NBS.[31]

In proposing the stay, the Commission tentatively concluded that the most appropriate course of action would be to implement the rule without requiring representative thickness testing until calibration materials become available. This conclusion was based on new evidence submitted by NBS, evidence which cast doubt on the magnitude of the thickness effect and of the testing error associated with representative thickness testing. NBS reviewed data and literature not available during the rulemaking proceeding, and concluded that the thickness effect ranges between 2 and 10 percent, and that the testing error associated with representative thickness testing is as high as 6 percent.[32] Thus, according to NBS, the overstatement of R-value caused by extrapolation from the results of thin-sample testing is of approximately the same magnitude as the testing error associated with testing thick samples without calibration materials.

The only trade association that commented was the Society of the Plastics Industry, Inc., representing sellers of cellular plastics insulation products. Trade associations for other industry segments did not submit comments. These other segments include sellers of insulation products such as cellulose, urea formaldehyde foam, aluminum foil, mineral wool, perlite and vermiculite.

Eight (8) comments supported the need for the Commission to implement the rule now even without requiring representative thickness testing.[33] These comments represented the views of five (5) mineral wool companies, three (3) cellulose companies, the Environmental Group, and the U.S. Department of Energy.

A few commenters disputed the contention that representative thickness testing could not be conducted without standard calibration materials from NBS.[34] Lastly, several commenters argued that the Commission should not make the rule effective without the representative thickness testing requirement for one or more of the following reasons: (1) thin-sample testing yields misleading R-values;[35] (2) to do so would unfairly discriminate against products which do not exhibit a thickness effect;[36] (3) it would destroy

---

[26] *Id.*

[27] *Id.*

[28] The Celotex Corporation, W–119; National Manufactured Housing Federation, Inc., W–122; National Association of Home Builders, W–127; The Society of the Plastics Industry, Inc., W–131; Manufactured Housing Institute, Inc., W–140; Indiana Manufactured Housing Association, Inc., W–142. These exemption requests will be dealt with separately.

[29] Dow Chemical Company, W–118; Applegate Insulation Systems, Inc., W–124; National Association of Home Builders, W–127; Southern California Gas Company, W–128; Brick Institute of America, W–130; Owens-Corning Fiberglas Corp., W–134; Brouk Co., W–136.

[30] Statement of Basis and Purpose for Trade Regulation Rule on Labeling and Advertising of Home Insulation (hereinafter cited as "Statement of Basis and Purpose"), 44 *Fed. Reg.* 50216, 50226 (1979).

[31] *Id.* at 50228. However, the Commission acknowledged the lack of standard calibration materials as a shortcoming, and encouraged their rapid development. *Id.*

[32] Letter of November 19, 1979, to Chairman Pertschuk from Dr. Ernest Ambler, Director, National Bureau of Standards, W–35.

[33] Environmental Group, W–132; Johns-Manville Corp., CertainTeed Corp., and Rockwool Industries, Inc., W–133; Owens-Corning Fiberglas Corp., W–134; Thermo Products of Florida, Inc., W–135; Rock Wool Manufacturing Co., W–137; Rhode Island Energy Corp., W–139; Cellin Manufacturing, Inc., W–141; and U.S. Department of Energy, W–143.

The Environmental Group suggested that, if the Commission implements the rule while staying the representative thickness testing requirement, it will be necessary for it also to stay other provisions which prohibit extrapolation of R-values. One such provision prohibits installers from multiplying the R-value by the number of inches installed to determine the total R-value. Environmental Group, W–132. The Commission does not believe that it is necessary for it to stay these additional provisions. The installer should base the total R-value disclosure on the R-values listed on the label, so it is not necessary to stay that provision. The only additional such provision in the rule is the prohibition against making per inch R-value claims. The Commission believes that it should not stay that provision because such claims will perpetuate the consumer's belief that R-values are linear, and thus would interfere with the effectiveness of the rule after the stay of the representative thickness testing requirement is lifted.

[34] Ganey Industries, Inc., W–120; Roy & Sons, Inc., W–123; Geoscience, Ltd., W–125; Alfol, Inc., W–138. However, these commenters offered no additional evidence to dispute the NBS conclusions that standard calibration materials are necessary to calibrate equipment used to conduct tests according to ASTM C–518 and to verify results of tests conducted according to ASTM C–177 or ASTM C–236 so that testing error can be eliminated. In fact, the only technical data submitted to the Commission which was not reviewed by NBS was a report recently prepared by Oak Ridge National Laboratory. *Infra*, note 39. That report draws no conclusions concerning the magnitude of thick sample testing error in general. It does conclude that the thick sample testing error of the Dynatech guarded hot plate used in the study was plus or minus 3 percent. *Id.* at 20, 49.

[35] Applegate Insulation Systems, Inc., W–124 (without representative thickness testing, Commission legitimizes false R-value claims); Geoscience, Ltd., W–125 (old procedures result in excessive R-value claims); National Association of Home Builders, W–127 (Commission has already found that R-values based on thin-sample tests are false). *But cf.* Environmental Group, W–132 (far better to give consumers information based on thin-sample testing than to give them no information at all); Johns-Manville Corp., CertainTeed Corp., and Rockwool Industries, Inc., W–133 (representative thickness testing without calibration materials is unreliable and would mislead public); Owens-Corning Fiberglas Corp., W–134 (representative thickness testing without calibration samples would deceive public); Rockwool Manufacturing Co., W–137 (consumer needs the protection of the provisions of the rule not being stayed.)

[36] The Monticello Group, W–121 (not in their interests to stay representative thickness testing because expanded polystyrene has nearly linear R-value); Geoscience Ltd., W–125 (old procedure of claiming excessive R-values stifles competition); Monsanto Company, W–129 (proposed stays discriminate in favor of manufacturers who cannot comply with stayed provisions); Alfol, Inc., W–138 (proposed stay unfair to multi-panel foil manufacturers who must test under ASTM C–236). *But cf.* The Celotex Corp., W–119 (there is a strong need for early implementation of the rule even without representative thickness testing);

Footnotes continued on next page

the impetus to promptly resolve the technical problems associated with representative thickness testing;[37] (4) it would unfairly discriminate against products, like multi-panel foil insulations, which must be tested at greater thicknesses.[38]

It is important to note, however, that none of the commenters submitted additional data which disputes the NBS conclusions. The only additional technical information submitted to the Commission was a report recently issued by Oak Ridge National Laboratory (ORNL).[39] The report was prepared for the Department of Energy, based on a study ORNL conducted to obtain and evaluate full-thickness thermal performance data on mineral fiber batt insulation. ORNL reported that it had measured a thickness effect of approximately eight (8) percent in the R–11 fiberglass batts it tested and of approximately seven (7) percent in the R–19 fiberglass batts it tested.[40] However, the report recommends that a further study should be undertaken to confirm the results of its study that R-values obtained by extrapolation from thermal resistance measurements on thin samples of insulation are greater than R-values obtained by full-thickness testing,[41] thus conceding that further research is necessary to substantiate this preliminary finding.

The Commission has given serious consideration to each of the comments received, and believes that it should implement the rule while staying the representative thickness testing requirement, for the following reasons.

First, in regard to the argument that thin sample testing will yield misleading R-values, the Commission now believes, based on new evidence, including the NBS analysis and comments received, that the thickness effect may not be as great as the evidence on the rulemaking record indicated. The best evidence now available indicates that the thickness effect may range from two (2) to ten (10) percent. It also indicates that the testing error associated with testing at representative thickness without thick standard calibration materials may be plus or minus six (6) percent, significantly greater than was indicated on the rulemaking record.[42] This testing error for representative thickness testing is of approximately the same magnitude as the error caused by extrapolation of R-values from the results of thin-sample testing.[43]

Second, in response to the argument that a stay would unfairly discriminate against those products which do not exhibit a thickness effect, the Commission notes that the stay of the representative thickness testing requirement will apply to all types of insulation. All low density insulations exhibit some thickness effect; the difference in thickness effects between different insulation products is a matter of degree.[44]

The Commission recognizes that a stay of the representative thickness testing requirement will leave temporarily unremedied one source of competitive injury. Sellers of those types of insulation that demonstrate the largest thickness effect will be permitted to continue overrating the R-value of their products to a limited degree. However, in light of the remand order, the only alternative to a stay of the representative thickness testing requirement would be to delay indefinitely the implementation of the entire rule. This latter action would, in the Commission's view, have competitive effects much more serious than those associated with a stay of representative thickness testing. Without the rule, responsible industry members, who presently base their R-value claims on recognized tests and follow sound quality control procedures, would be forced to compete with less responsible firms, who could inflate their R-value claims or fail to test for R-value. Similarly, without any rule, industry members would be under no obligation to make R-value claims that account for factors that are known to affect R-value.[45] Further, insulation industry members would be able to make exaggerated claims of fuel savings to be gained from insulation purchases, without any reasonable basis for the claims. Thus, while a stay of the representative thickness testing requirement does not eliminate the competitive injury caused by current thin-sample testing practices, implementation of the remainder of the rule will call a halt to numerous other practices that produce serious

---

Footnotes continued from last page

Environmental Group W–132 (further delay of the rule harms achievement of national energy policy goals, limits the extent to which energy use reduction takes place, and perpetuates consumer ignorance and waste); Thermo Products of Florida, Inc., W–135 (consumer and insulation industry drastically need the rule even without representative thickness testing); Cellin Manufacturing Inc., W–141 (although stay of representative thickness testing benefits mineral fiber producers over small businessmen, consumers and nation's energy conservation effort, rest of rule should be implemented for the benefit of the common good).

[37] The Society of the Plastics Industry, Inc., W–131.

[38] Alfol, Inc., W–138. However, unlike mass insulations, the thermal resistance of reflective foil insulations is not provided by the material itself. Rather, the insulating ability is provided by installing the foil adjacent to an air space, significantly increasing the thermal resistance of the airspace. *Supra*, note 30 at 50219. The only manner in which the R-value of multi-panel foil insulations can be measured is by tests of the actual multi-panel foil system conducted under ASTM C–236. For this reason, a stay of the representative thickness testing requirement does not affect the testing requirement for multi-panel foil systems.

[39] R. P. Tye *et al.*, "An Experimental Study of Thermal Resistance Values (R-Values) of Low-Density Mineral-Fiber Building Insulation Batts Commercially Available in 1977," ORNL/TM–7286, published April, 1980. W–27. A copy of this report was placed on the stay record and was available for public inspection during the comment period.

[40] *Id.* at 47.

[41] *Id.* at 51. One of the authors of the report has submitted a comment on the proposed stay of the representative thickness testing requirement. He explains that Oak Ridge National Laboratory has developed a mathematical model, based on thermal performance tests, which might be used to calculate accurately the R-values of thick insulation from results of tests conducted on only one to two inch samples. Although he concedes that the model needs verification, he suggests that, if the model proves to be valid, it could be used as an alternative to representative thickness testing. Oak Ridge National Laboratory, W–126.

[42] Round robin test results on thick samples using representative thickness testing techniques varied by only 3 or 4 percent. Statement of Basis and Purpose, *supra* note 30, at 50226. That amount is much less than the range of 12 percent which NBS has now concluded exists.

[43] *See* text accompanying notes 32, 39–41, *supra*. Examples of the interaction between the thickness effect and the testing error on mineral wool batts and blankets at R–11 and R–19 are set forth for purposes of illustration.

For an R–11 batt with a 5% thickness effect, the actual R-value will be 10.5. Factoring in the testing error of plus or minus 6%, the tested R-value could range between 9.8 and 11.1.

For an R–19 batt with a thickness effect of 5%, the actual R-value, taking account of the thickness effect, will be 18.1. Factoring in a testing error of plus or minus 6%, the tested R-value could range between 17 and 19.1.

[44] *E.g.*, Tye, M/809; "Discussion on Experiments to Separate the 'Effect of Thickness' from Systematic Equipment Errors in Thermal Transmission Measurements," by C. M. Pelanne, Johns-Manville Research & Development Center, presented at the ASTM C.16.00 Thermal Insulation Conference, October 22–25, 1978, Tampa, Florida, W–21; "Experimental Determination of the Thickness Effect in Fibrous Insulations," by Marion Hollingsworth, Jr., Scientist, Research & Development Division, Building Research Laboratory, Owens-Corning Fiberglas Corporation, presented at the ASTM Thermal Insulation Conference, October 22–25, 1978, Tampa, Florida, W–24; Letter of October 15, 1979, to Sen. Wendell Ford, Chairman Consumer Subcommittee of Senate Committee on Commerce Sciences Transportation, from R. P. Tye, Senior Scientist Materials and Systems Evaluation, Dynatech R/D Co., plus attached comments on MIMA statements, W–75.

[45] For example, urea-based foam insulation manufacturers could make inflated R-value claims that do not reflect the substantial adverse effect that shrinkage has on that product's R-value, and unfairly compete against manufacturers of other products on the basis of those claims. Likewise, manufacturers of loose-fill products would be able to make R-value claims that do not reflect the adverse effect of settling on those product R-values.

V 45 A G 15 80 UMI

competitive inequities in the home insulation market.[46]

Third, the argument that implementation of the rule in the absence of the representative thickness testing requirement will destroy the impetus to promptly resolve the technical problems associated with representative thickness testing is not persuasive. The Commission is convinced, in light of repeated public commitments from NBS,[47] that the stay of the representative thickness requirement of the rule will be short and that NBS will meet its January 1981 schedule for making thick standard calibration materials available. In fact, the Commission believes that implementation of the rule will provide additional impetus to NBS to meet the promised January, 1981 deadline.

Fourth, the Commission believes that a stay of the representative thickness testing requirement will not unfairly discriminate against products like multi-panel foil insulations, which must be tested at their full system thickness. Manufacturers of multi-panel foil insulations will have to test their products under ASTM C–236 as they are actually used, regardless of the Commission's decision regarding the representative thickness testing requirement. That type of testing is the only manner in which the R-value of that multi-panel foil insulation can be determined.[48]

Although the Commission still is committed to representative thickness testing as the best and most accurate measure of the R-value of home insulation, it believes that it is in the public interest to implement the rule while temporarily staying the representative thickness testing requirement. Notwithstanding the fact that thin-sample testing may result in some consumers being misled to a limited degree regarding the insulating ability of a particular product, the Commission has concluded that the potential deception that may occur due to a limited overstatement of R-values is clearly outweighed by the consumers' need for the best information now available to enable them to compare products and make the most cost-effective purchases of home insulation.

Moreover, the Commission believes, and many commenters recognized, that consumers will reap substantial benefits from immediate implementation of the other requirements of the rule. The rule will ensure that all manufacturers conduct R-value tests on their products, using standardized test procedures. It will ensure that claimed R-values are reduced to take into consideration factors, such as shrinkage and settling, which affect R-value, and that disclosure of R-value is made in a manner which is understandable and useful to consumers. In the absence of the rule, consumers will continue to be denied access to R-value information that is disclosed in a uniform manner based on standardized tests. Disclosure of R-value information through labeling, fact sheets, advertisements and other promotional material will allow consumers to begin to understand how insulation works and how to purchase insulation, and thus, to purchase insulation based on R-value rather than on thickness. The rule will ensure that savings claims are substantiated and that consumers will be properly informed of factors which can affect the amount of savings they may realize.[49] These protections are especially necessary during this period of tax credits and other government sponsored incentives [50] presently operative in the insulation market. These incentives can be fairly characterized as spurring consumer purchases in this market as well as inducing consumer confidence in the performance of insulation products.

The Commission now believes that the thickness effect may be significantly smaller and that the testing error may be larger than was indicated by the rulemaking record. The Commission recognizes that the factual issues of the precise magnitudes of the thickness effect and testing error are unresolved at this time. However, the Commission continues to believe that these issues cannot be resolved prior to the time when the thick calibration materials become available from NBS and moot the controversy.

After carefully weighing the strong benefits to consumers and competitors from prompt implementation of the rule against the limited potential overstatement of R-value that may occur in the absence of a representative thickness testing requirement, the Commission concludes that the public interest is best served by implementation of the rule while temporarily staying the representative thickness testing provision.

B. The Television Advertising Disclosure Requirements

None of the commenters opposed the stay of the television advertising disclosure requirements. the few who addressed the issue argued that it was important that consumers have the benefits and protection of the other provisions of the rule as quickly as possible.[51]

The Commission believes that a temporary stay of the television advertising disclosure requirements will not seriously affect the effectiveness of the rule or the benefits to consumers from early implementation of the other provisons of the rule. Additionally, the disclosures required on labels, in fact sheets and in other types of advertisements will provide consumers with essential pre-purchase information which will allow them to make cost effective insulation purchases during the period of time when further rulemaking proceedings consider the television advertising disclosure requirements.

III. Conclusion

In accordance with the foregoing, the Commission hereby stays Section 460.6 of the rule, which requires that R-values be determined by representative thickness testing, until such time as thick calibration materials for such testing are made available by NBS. The Commission also stays Sections 460.10, 460.18, 460.19 and Appendix B of the rule, which specify requirements for insulation advertising, insofar as they apply to television advertisements, pending the initiation and completion of further rulemaking proceedings concerning the affirmative disclosure requirements for television advertisements. All other provisions of 16 CFR Part 460 will take effect on September 29, 1980.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc 80-24830 Filed 8-14-80; 8:45 am]

BILLING CODE 6750-01-M

[46] *See* Statement of Basis and Purpose, *supra* note 30 at 50221–25.

[47] *Supra*, note 10. NBS has also assured DOE that it intends to make standard calibration materials available by January, 1981. U.S. Department of Energy, W–143.

[48] *Supra*, note 38.

[49] See Statement of Basis and Purpose, *supra* note 30 at 50221–35.

[50] These incentives include the tax credit for purchases of insulation authorized by the National Energy Act and the Residential Conservation Service Program under the National Energy Conservation and Policy Act. The tax credit program for energy conservation purchases is in effect only through 1985.

[51] The Celotex Corp., W–119; Environmental Group, W–132; Thermo Products of Florida, Inc., W–135; Rock Wool Manufacturing Co., W–137.

federal register

Friday
August 15, 1980

Part XI

Nuclear Regulatory Commission

Functional Criteria for Emergency Response Facilities; Request for Comments and Notice of Workshops

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Functional Criteria for Emergency Response Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The NRC staff is developing guidance for an acceptable method for providing the emergency response facilities needed to implement the plans for coping with emergencies that are required by § 50.34 and Appendix E of 10 CFR Part 50. Development of this guidance is motivated by the experience from the accident at the Three Mile Island nuclear power plant and the recommendations resulting from the investigations of the accident. The proposed functional criteria of the four elements of the emergency response facilities, the Safety Parameter Display (SPDS), the Technical Support Center (TSC), the Emergency Operations Facility (EOF), and the Nuclear Data Link (NDL) are contained in the document NUREG–0696, "Functional Criteria for Emergency Response Facilities." The staff is now soliciting public comment on these functional criteria and the schedule for implementation discussed below.

DATES: Comment period expires: September 29, 1980.

ADDRESSES: Written comments or suggestions should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. A copy of the functional criteria (NUREG–0696, "Functional Criteria for Emergency Response Facilities") is also available for inspection at the same address. Requests for single copies at no cost should be made in writing to the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–9530).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–7581).

SUPPLEMENTARY INFORMATION: The investigations of the accident at the Three Mile Island Unit 2 nuclear power plant identified the need for extensive improvements in emergency preparedness at nuclear power plants. Areas identified as deficient and in need of improvement included the organization of personnel to control, manage, assess, support and coordinate activities both on and off the site during emergency situations; the facilities for these personnel; the availability of information needed to assess and manage the reactor, other sources of radioactivity and the actual and potential radiological consequences; and the provisions for disseminating accurate and timely information, warnings and instructions to local and state agencies, the affected population and the public in general. An acceptable method of providing emergency response facilities is proposed in NUREG–0696, "Functional Criteria for Emergency Response Facilities." These proposed facilities include a Technical Support Center (TSC) and an Emergency Operations Facility (EOF) which are dedicated areas for the management, assessment, support and coordination of accident situations. Also included with these facilities is a Safety Parameter Display which monitors the safety status of the plant and the Nuclear Data Link which transmits critical plant variables to the NRC headquarters.

Background

The current requirements for emergency preparedness are contained in Appendix E to 10 CFR Part 50, "Emergency Plans for Production and Utilization Facilities," which was published in December 1970 and amended in January 1973. In conjunction with this rule, the Commission developed a document entitled "Guide to the Preparation of Emergency Plans for Production and Utilization Facilities," to help applicants establish adequate emergency plans. More complete guidance for an acceptable method for complying with this regulation, including general guidance for emergency facilities, is contained in Revision 1 of Regulatory Guide 1.101 "Emergency Planning for Nuclear Power Plants," published in March 1977.

As part of the responsibilities of the NRC and FEMA under the Atomic Energy Act, as amended, and the President's statement of December 7, 1979, the staffs of the two agencies have jointly prepared NUREG–0654 (FEMA–REP–1) "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" which was published in January 1980 for interim use and comment. The purpose of NUREG–0654 is to provide a common reference and interim guidance for state and local governments, nuclear facility operators, the NRC, FEMA, and other federal agencies in the development and review of state and local government and licensee emergency plans and preparedness, including emergency support facilities. The NRC also published (44 FR 75167) a proposed revision to its emergency planning regulations including Appendix E to 10 CFR Part 50. The proposed revision to the regulations includes a specific requirement for emergency support facilities. On June 16, 1980, the Commission issued a Statement of Policy (45 FR 41738) as further guidance to Boards and the staff that current operating license applications should be measured against the regulations as augmented by the requirements, including requirements for emergency support facilities, listed in NUREG–0694 "TMI-Related Requirements for New Operating Licensees."

Bases for the Functional Criteria

These proposed emergency facilites are needed because effective emergency response requires the establishment of dedicated areas for the management, assessment, support and coordination of potential or actual accident situations. To reduce congestion and confusion, the use of the control room should be limited to direct control of the plant. However, a nearby area designated as the Technical Support Center (TSC) is proposed to accommodate the technical personnel who support control room functions, evaluate and diagnose plant conditions and manage and coordinate other emergency response functions related to the plant. A second area, designated as the Emergency Operations Facility (EOF) is proposed to provide a planned, organized control focal-point for the coordination of onsite and offsite activities. The EOF is to be located offsite and equipped to function as the center for the licensee's management, control and assessment of all activities related to an emergency having potential or actual environment consequences. A primary function of the EOF would be the analysis of plant effluent, meteorological conditions, offsite radiation releases and offsite dose projections.

In addition to these facilities, two associated functions are proposed. The first is directed to the ability of the reactor operators to readily monitor the safety status of the plant. The investigators of the TMI accident criticized the design of nuclear power plant control rooms and questioned the ability of operators to quickly and correctly interpret the multitude of alarms, indicators, and other information that are currently installed in control rooms. As an aid to the operators in monitoring the status of the plant during normal operation transients and accident a Safety Parameter Display System (SPDS) is proposed which would provide a continuous concise display of critical plant variables. This display would be provided in the TSC and the EOF.

The second associated function is that of the NRC in accident situations. In addition to sending personnel to the site if an incident occurs, information is required by the NRC headquarters staff to monitor the licensee's actions, provide advice and be prepared, in extreme circumstances, to direct that some actions be taken. In order to accomplish this function, information concerning the status of the plant, radiation releases and meteorology would be required to be transmitted to the NRC. A proposed method of providing this information is through an acquisition, transmission, and display system designated as the Nuclear Data Link. The NDL would condition, process, and transmit a limited set of critical data from each plant for display at the NRC Operations Center in Bethesda, Maryland.

All of these elements of the emergency support facilities (the SPDS, TSC, EOF, and NDL) are interrelated and should be designed as an integrated system. The separate elements have some common and overlapping functions and all require information and data on the past or current status of the core, the plant, and the actual or potential release of radioactivity. The means of acquiring, processing, transmitting, and displaying this information and data is a major portion of the functional criteria that affects the design and integration of the individual elements. Therefore, the functional criteria for all elements have been provided in one document.

The staff also proposed the following implementation schedule. All licensees and applicants would submit to the NRC, by January 1, 1981, or prior to issuance of an operating license, whichever is later, a description of the design of the emergency response facilities; a schedule for the design, installation and construction of the facilities and proposed Technical Specifications for the Limiting Condition of Operation and Surveillance of these facilities. These emergency response facilities would be operational, but not necessarily meet the design criteria for associated instrumentation, by April 1, 1982, or prior to issuance of an operating license, whichever is later. The design criteria for associated instrumentation is specified in the proposed Revision 2 to Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." The emergency response facilities would meet the design criteria of Revision 2 to Regulatory Guide 1.97 as specified for the guide. The currently proposed implementation schedule for Revision 2 to Regulatory Guide 1.97 is that it will be applied to all plants issued operating licenses after June 1982 and to all other plants by June 1, 1983.

Dated at Bethesda, Md., this 11th day of August 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-24947 Filed 8-14-80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 50

Functional Criteria for Emergency Response Facilities; Workshops

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshops for review of proposed functional criteria for emergency response facilities.

SUMMARY: The NRC staff is developing guidance for an acceptable method for providing the emergency response facilities needed to implement the plans for coping with emergencies that are required by paragraph 50.34 and Appendix E of 10 CFR Part 50. The proposed functional criteria of the four elements of the emergency response facilities, the Safety Parameter Display (SPDS), the Technical Support Center (TSC), the Emergency Operations Facility (EOF), and the Nuclear Data Link (NDL) are contained in the document NUREG–0696, "Functional Criteria for Emergency Response Facilities." The staff is now soliciting public comment on these functional criteria and the schedule for their implementation and will hold three workshops to present, explain, and discuss the proposed criteria (For the solicitation of public comment, see another notice document published elsewhere in this issue).

DATES: August 19—Valley Forge, Pennsylvania. August 20—Chicago, Illinois. August 22—Atlanta, Georgia.

ADDRESSES: The workshops will be held from 8:30 a.m. to 5:00 p.m. at the following locations:

August 19—The Sheraton-Valley Forge, Valley Forge, Pennsylvania.
August 20—O'Hare Hilton, O'Hare Airport, Chicago, Illinois.
August 22—The Stadium Hotel, 450 Capitol Ave., SE., Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone: 301/492–7581).

SUPPLEMENTARY INFORMATION: Agenda for Emergency Response Facility Workshop.

Introduction

Purpose and scope of the meeting
Background and basis for proposed criteria

Presentation of Proposed Emergency Response Facilities

Safety Parameter Display
Technical Support Center
Nuclear Data Link

Discussion, Questions and Comments

Location and habitability of the TSC and EOF
Reliability, surveillance and limiting conditions of operation
Separation and independence of data acquisition system Role of the NDL
Individual statements or comments by participants and public
Concluding Statement by NRC

Dated at Bethesda, Maryland this 6th day of August 1980.

Roger J. Mattson,

Director, Division of Safety Technology, U.S. Nuclear Regulatory Commission.

[FR Doc. 80-25027 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

Reader Aids

Federal Register

V.
45
1
5
1980
A
G
UMI

Reader Aids

Federal Register

Vol. 45, No. 160

Friday, August 15, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538	1
51539-51754	4
51755-52138	5
52139-52354	6
52355-52768	7
52768-53074	8
53074-53436	11
53437-53800	12
53801-54008	13
54009-54298	14
54299-54710	15

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231)..... 52139
12230..... 51167
12231..... 52139
12232..... 53437

Proclamations:
4776..... 51539
4777..... 53075
4778..... 53439
4779..... 53441
4780..... 53443
4781..... 53445

Administrative Orders:

Presidential Determinations:
No. 80-25 of August 8, 1980..... 54299

Memorandums:
July 31, 1980..... 51169-51174

5 CFR

Ch. XIV..... 51541
297..... 52769
410..... 51755
581..... 53447

Proposed Rules:
339..... 53481
359..... 51214
432..... 53481
752..... 53481
831..... 53481
930..... 53485

6 CFR

705..... 51175
706..... 51541, 52769

7 CFR

2..... 52355
6..... 54301
210..... 51175
245..... 52770
272..... 53448
273..... 53448
282..... 54638
301..... 51176
319..... 53449
331..... 51755, 53450, 54302
722..... 51755
908..... 52356, 53801, 54063
910..... 51177, 52771, 54304
916..... 53450
917..... 51179, 53450
919..... 54305
921..... 51180
922..... 53451
924..... 51180
926..... 52772
946..... 52141
948..... 51182
958..... 52141
967..... 52143
993..... 54064
1137..... 51542
1421..... 53801, 54305
1427..... 53077
1446..... 51756
1701..... 54307
2853..... 51757
2890..... 54307
2891..... 54307
2892..... 54307
2893..... 54307
2894..... 54307
2895..... 54307
2896..... 54307
2897..... 54307
2898..... 54307
2899..... 54307

Proposed Rules:
29..... 51572
272..... 51216, 53792
273..... 51216, 53066, 53792
301..... 52816
404..... 51573
427..... 54346
431..... 53486
722..... 52817
800..... 52339
910..... 53487
985..... 51818
1001..... 54066
1435..... 54347
1464..... 51579
1701..... 54354
1492..... 52342
1990..... 51818
2858..... 51217
2871..... 51217

8 CFR

238..... 54310
264..... 52143

Proposed Rules:
Ch. I..... 51832
214..... 51580

9 CFR

78..... 52772
92..... 52773
318..... 54310
381..... 54310

Proposed Rules:
94..... 52818
317..... 53002
318..... 51832
381..... 53002

10 CFR

110..... 51184
212..... 52112, 54325
430..... 53488
445..... 51763

456.....53434
500.....53682
501.....53682
504.....53682
1050.....53972

Proposed Rules:
2.....53972
50.....54662
205.....51833
211.....54662
212.....54069, 54688, 54694
378.....51581
430.....53714
456.....53422
500.....53368
503.....53366
504.....53368
505.....53368
506.....53368
799.....54264

11 CFR
100.....52356
110.....52356

12 CFR
7.....53080
201.....52144, 54009
220.....53452
225.....54326
265.....54011
303.....54326

Proposed Rules:
Ch. I.....52166
Ch. II.....51581
205.....54070
303.....52819
309.....52819
525.....52173
541.....52173, 52177
545.....52173, 52177
561.....52177
563.....52173, 52177

13 CFR

Proposed Rules:
101.....51763, 53081
108.....53835

14 CFR
39.....51543–51546, 52357, 53081, 53084, 53086, 54012–54014
71.....51546, 53086–53090, 54015, 54027, 54028
73.....54028
91.....51547
97.....52358
121.....51547
127.....51547
135.....51547
201.....53453
207.....53358
208.....53363
211.....53453
212.....53364
214.....53365
241.....53366
374a.....53453
375.....51838
385.....53454

Proposed Rules:
Ch. I.....53161, 53162
39.....53162, 54071, 54072
45.....53163
71.....51587–51590, 52396, 53163, 54072–54080
73.....51591
75.....52396, 54081
121.....53316
135.....53316
207.....53486
208.....53488
212.....53488
214.....53488
255.....52820

15 CFR
17a.....54028
373.....54031
378.....53090

Proposed Rules:
19.....51592

16 CFR
13.....52776, 52778, 53455
305.....53340
436.....51763, 51765
455.....52750
460.....54702
1019.....53036

Proposed Rules:
13.....51593, 51596
239.....51838
441.....53839
705.....51218

17 CFR
Ch. I.....54032
7.....51520

Proposed Rules:
1.....51598
4.....51600

18 CFR
2.....53091, 53099
154.....53091
270.....53091, 53099
271.....53099
277.....53116
290.....54033
282.....52359
292.....52779
375.....53456

Proposed Rules:
2.....54354
154.....54354
260.....54082
271.....51219, 54085
273.....51219, 54085
274.....51219, 54085
301.....51614

19 CFR
353.....52780
355.....54035

Proposed Rules:
Ch. I.....51490
177.....54085
207.....54086

20 CFR
Ch. III.....53806
404.....52078
416.....52078

Proposed Rules:
Ch. II.....51615

21 CFR
172.....51766
175.....51184
176.....51767
193.....51768, 53457, 53458, 54035
510.....54327, 54328
520.....52781
540.....54329
555.....54327
558.....53457, 54328
884.....51185, 51186
1306.....54329

Proposed Rules:
Ch. II.....51832, 52397
101.....53023
310.....54354
346.....54354
600.....52821
606.....52821
610.....51226
660.....51226

22 CFR

Proposed Rules:
Ch. II.....53164–53182

23 CFR
657.....52365
658.....52365

Proposed Rules:
625.....51720
652.....51720
663.....51720

24 CFR
200.....54198
203.....51769, 51770
207.....51769, 51771
213.....51771
220.....51769, 51770
221.....51770, 51771
222.....51770
226.....51770
235.....51770, 53806
265.....54204
279.....51510
571.....51518
590.....52762
803.....54330
869.....52371
885.....51186
888.....54330
1710.....52144

Proposed Rules:
570.....51227
804.....54087
805.....54087
841.....54087
865.....51228
866.....51615
886.....51228
888.....51228
889.....51229

25 CFR

Proposed Rules:
171.....53164
172.....53164
173.....53164
177.....53164
182.....53164
231.....54331

26 CFR
1.....52373, 52782
26.....53123
26a.....51771
48.....52800
54.....52782

Proposed Rules:
1.....52399, 52824
14.....52824
26.....51840

27 CFR

Proposed Rules:
Ch. I.....51496
5.....54087
13.....54087
19.....52407, 54087
70.....52407
170.....54087
173.....54087
186.....54087
194.....54087
195.....54087
196.....54087
197.....54087
200.....54087
201.....54087
211.....54087
212.....54087
213.....54087
231.....54087
240.....52407, 54087
245.....52407
250.....52407, 54087
251.....54087
252.....54087
270.....52407
275.....52407

28 CFR
0.....52145
42.....54036
31.....53772

Proposed Rules:
Ch. I.....51506, 51832
16.....52183
50.....52183

29 CFR
11.....51187
40.....51192
102.....51192
1625.....51547
1910.....54333
1913.....54333
1952.....51775, 53457, 54334
1999.....51187
2520.....51446
2550.....51194

Proposed Rules:
Ch. XIV.....51229
1960.....54355
2520.....51231, 52824, 54370
2530.....51231, 52824, 54370
2550.....51231, 51840

30 CFR
Ch. VII.....51547, 52834
211.....53128
762.....52375
800.....52306
801.....52306
805.....52306
806.....52306
807.....52306
808.....52306

Proposed Rules:
Ch. VII.....52407, 52408, 53180, 53839, 54371, 54372
104.....54656
250.....52408, 53840
700.....52410
701.....52410
715.....53183
732.....53489
784.....51240
816.....53183
817.....51240, 53183
884.....53489
924.....53841
926.....53489

31 CFR
341.....53
346.....53

32 CFR
763.....51776
853.....52800
888d.....52145

33 CFR
117.....51550
161.....53135
164.....54037
165.....53158
175.....54042
207.....51551, 51555
401.....52376

Proposed Rules:
117.....51617, 51618

34 CFR
64.....353412, 53414
709.....53788

Proposed Rules:
100.....52052, 53841
797.....54000

36 CFR
1228.....54334

Proposed Rules:
7.....51618
1202.....51843

37 CFR
304.....51197

38 CFR
17.....53807
21.....51777
36.....53807

39 CFR

Proposed Rules:
111.....51846

40 CFR
35.....51484, 53382
51.....52676
52.....51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336
81.....53147, 54052
86.....53400
122.....52149
124.....52676
180.....51200, 51781, 51782, 53477, 53478, 54053, 54340

Proposed Rules:
6.....53187
35.....53187
52.....51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372
60.....54385
61.....53842
80.....54090
81.....52841
162.....52628, 54094
164.....52628
167.....52184
169.....52184
180.....51854
408.....52411
410.....52185
717.....51855
720.....54642

41 CFR
Ch. 101.....51201, 53149
3.....53806

Proposed Rules:
101–17.....52842

42 CFR
Ch. I.....53806
Ch. III.....53806
Ch. IV.....53806
57.....51201, 51205
58.....51209, 51556
405.....51783
455.....51559

Proposed Rules:
51.....53492
72.....51241
460.....53189
461.....53189

43 CFR
4100.....53154
8351.....51740

Proposed Rules:
2560.....52303

Public Land Orders:
5741.....53155
5742.....51787
5743.....51787
5744.....51788
5745.....52382
5746.....52382

44 CFR
64.....52383
65.....51212, 51788, 52384
67.....51213, 51559, 51789, 51796
205.....53334, 53956
322.....53479

Proposed Rules:
6.....51426
67.....51855–51858, 52416, 52417, 52422, 52427

45 CFR
Subtitle A.....53806
Ch. II.....53806
Ch. III.....53806
Ch. XIII.....53806
64.....53412
151.....53996
185.....54004
121i.....52130
121o.....52130
121p.....52130
121q.....52130
121r.....52130
801.....52800
1050.....53155
1060.....51561
1480.....52782

Proposed Rules:
121q.....52136
190.....51243

46 CFR
30.....52386
61.....52386
151.....52386

Proposed Rules:
93.....54095

47 CFR
Ch. I.....52389
13.....52154
22.....52149
68.....52151, 54341
73.....51561–51563, 52152, 52800, 52801, 53156, 53818, 53821
74.....51563
76.....52153
81.....52154
83.....52154
87.....52154
90.....51811
97.....51564

Proposed Rules:
Ch. I.....51251
2.....51251, 51252, 53843
15.....51251
21.....51252
22.....53843
73.....51624, 52843, 52845, 52846, 52848, 53843
74.....51252
90.....53843, 53844
94.....51252

48 CFR

Proposed Rules:
9.....51253

49 CFR
1.....54054
571.....51569, 52365, 53157
840.....54055
941.....52389
1002.....51213, 52158, 52802
1003.....51213, 52158
1033.....51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A.....51213, 52158
1056.....51213, 52158
1062.....51213, 52158
1100.....51213, 52158
1120A.....53827
1130.....51213, 52158
1150.....51213, 52158
1309.....52161
1310.....52161

Proposed Rules:
Ch. X.....53846
171.....54097
173.....54097
178.....54097
398.....51625
571.....51626, 51628
1039.....54111, 54385
1080.....53190
1102.....51858
1116.....52186

50 CFR
17.....52803, 52807, 53968, 54678
18.....54056
26.....52391
32.....52392, 52393, 54057–54060, 54344
285.....53479
611.....53831
652.....53480
653.....52810
661.....53832

Proposed Rules:
13.....52849
17.....52849, 53495, 54111, 54112, 54682, 54685
20.....53982
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254, 53500, 53847
655.....51254
661.....51861, 54113

V 45 AG 15 80 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

Rules Going Into Effect Today

ENERGY DEPARTMENT

Economic Regulatory Administration—

47671 7–16–80 / Mandatory petroleum allocation level for mail hauling; assignments and adjustments to firms

FEDERAL COMMUNICATIONS COMMISSION

46409 7–10–80 / Stations on land in the maritime services and Alaska—public fixed stations and stations on shipboard in the maritime services; amending the Commission's rules to implement the provisions of Chapter 4 of the 1974 safety convention pertaining to radio equipment required on compulsorily fitted vessels

Rules Going Into Effect Saturday, August 16, 1980

INTERIOR DEPARTMENT

Fish and Wildlife Service—

47352 7–14–80 / Endangered and threatened wildlife and plants; endangered status for the black rhinoceros

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 14, 1980

V 45 A G 15 80 UMI

8–18–80
Vol. 45 No. 161
Pages 54711–55136

federal register

Monday
August 18, 1980

Highlights

55086 **Grant Requirements** OMB releases uniform requirements for grants to State and local governments; effective immediately (Part V of this issue)

54791 **Grant Programs—Energy** CSA contemplates funding 25 two-year grants for activities related to low-income and elderly energy consumer advocacy; proposals by 9–29–80

54867 **Grant Program—Health** HHS/HDSO announces availability of grant funds for Special Project Grant Programs, Projects of National Significance in Developmental Disabilities; apply by 9–5–80

55010 **Federal Buildings and Facilities** ATBCB proposes minimum standards for accessibility and usability of Federal and federally funded buildings by physically handicapped persons; comments by 10–17–80 (Part III of this issue)

54784 **Electronic Games** FCC amends computing device rules by clarifying which electronic games are exempt from certification

54778 **Broadcasting** FCC proposes inquiry relating to Radio Operator Licensing Program; comments by 11–14–80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

54741 **Natural Gas** DOE/FERC publishes order denying rehearing and revoking amendments made by Order No. 80, a rule to expand the scope of incremental pricing; effective 8–1–80

54733 **Natural Gas** DOE/FERC releases final regulations governing determination of alternative fuels for essential agricultural users; effective 8–11–80

55126 **Continental Shelf** Interior/GS revises certain requirements of Outer Continental Shelf Order Nos. 1, 2, 5, and 7 for the Gulf of Mexico, Pacific, Gulf of Alaska and the Atlantic; effective 9–15–80 (Part VIII of this issue)

54873 **Oil Shale Leasing Program** Interior/BLM calls for nominations of technologies; comments by 10–14–80

54938 **Chemicals** EPA request comments by 10–2–80 on presumption that N-trichloromethylthio-4-cyclohexene-1,2-dicarboximide (captan) exceeds certain risk criteria (Part II of this issue)

55066, 55083 **Air Pollution Control** EPA proposes to revise criteria upon which existing primary and secondary carbon monoxide standards are based; comments by 11–10–80; hearings on 10–2 and 10–10–80 (2 documents) (Part IV of this issue)

54773 **Air Pollution Control** EPA proposes to approve revisions to District of Columbia State Implementation Plan; comments by 9–17–80

54875 **Mount St. Helens' Eruptions** Interior/WPRS issues notice of possible deferment of construction payments

54757 **Medicare** HHS/HCFA clarifies definition and reimbursement of hospital intensive care type units; effective for provider cost reporting periods after 10–1–80

55134 **Gasoline** EPA publishes final rule on controls applicable to gasoline refiners by amending lead phase-down regulations; revocation of unleaded gasoline production requirement is effective on 8–6–80 (Part IX of this issue)

54935 **Sunsine Act Meetings**

Separate Parts of this Issue

54938 **Part II, EPA**
55010 **Part III, ATBCB**
55066 **Part IV, EPA**
55086 **Part V, OMB**
55118 **Part VI, USDA, FGIS**
55122 **Part VII, HHS, PHS**
55126 **Part VIII, Interior/GS**
55134 **Part IX, EPA**

Contents

Federal Register
Vol. 45, No. 161
Monday, August 18, 1980

Agency for International Development
RULES
54751 Personnel regulations
Procurement:
54755 Equal employment opportunity clearances of contractors; requirements and procedures

Agricultural Marketing Service
RULES
54724 Pears, plums, and peaches grown in California
54725 Prunes (dried) produced in California

Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation; Federal Grain Inspection Service.

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
55010 Accessible design standards for Federal agencies; minimum guidelines and requirements

Arts and Humanities, National Foundation
NOTICES
Meetings:
54911, 54912 Humanities Panel (2 documents)

Census Bureau
NOTICES
Surveys, determinations, etc.:
54788 Manufacturing area; annual

Civil Aeronautics Board
NOTICES
54787 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
54787 Alaska Airlines Subpart Q restriction removal proceeding (subsidy limitation)
54787 Chicago-Albany/Oklahoma City/Syracuse/Tulsa Subpart Q proceeding

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
54788 Connecticut
54788 Maine
54788 Washington

Civil Rights Office, Education Department
NOTICES
54793 Elementary and secondary schools and institutions of higher education; Civil Rights Act Title VI lead agency status

Coast Guard
RULES
Anchorage regulations:
54754 New York
54755 Vermont
PROPOSED RULES
Merchant marine officers and seamen:
54776 Temporary licenses and endorsements
NOTICES
Committees; establishment, renewals, terminations, etc.:
54920 Chemical Transportation Advisory Committee

Commerce Department
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.

Community Services Administration
NOTICES
Grants; availability, etc.:
54791 Energy advocacy initiative; low income and elderly consumers

Customs Service
NOTICES
54931 Reimbursable services; excess cost of preclearance operations

Defense Department
See Engineers Corps; Navy Department.

Economic Regulatory Administration
NOTICES
Motor gasoline; multiple allocation fractions; applications, etc.:
54793 Vickers Petroleum Corp.

Education Department
See also Civil Rights Office, Education Department.
NOTICES
Meetings:
54792 Federal Impact Aid Program Review Commission

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission.

Engineers Corps
PROPOSED RULES
Administrative procedures:
54770 Shipping safety fairways, Gulf of Mexico

Environmental Protection Agency
RULES
55134 Lead phase-down regulations; controls applicable to gasoline refiners
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
54772 Washington
Air quality standards; national primary and secondary:
55066, 55083 Carbon monoxide; proposed rule and hearing (2 documents)
Air quality surveillance, ambient:
54772 Delaware; State and local air monitoring stations

54773 District of Columbia; State and local air monitoring stations
54773 Maryland; State and local air monitoring stations
NOTICES
Air quality implementation plans; approval and promulgation:
54852, 54853 Prevention of significant air quality deterioration (PSD); nonapplicability (3 documents)
54851, 54956 Prevention of significant air quality deterioration (PSD); permit approvals (4 documents)
Pesticide programs:
54938 Captan, products containing; rebuttable presumption against registration and continued registration
Pesticides; emergency exemption applications:
54857 Fenvalerate
54858 2,4-D
Toxic and hazardous substances control:
54854, 54855 Premanufacture notices receipts (2 documents)

Federal Aviation Administration
RULES
Airworthiness directives:
54728 Airbus Industrie
54730 AVCO Lycoming (2 documents)
54725 Beech
54731 Bendix
54732 DeHavilland
54732 Gulfstream American
54729 Mitsubishi Heavy Industries, Ltd.
54733 Transition areas
PROPOSED RULES
54766 Aircraft identification and registration marking, size requirements; correction
54766 Terminal control areas
54766 Terminal control areas; informal airspace; meetings
NOTICES
Meetings:
54921, 54922 Aeronautics Radio Technical Commission (4 documents)

Federal Communications Commission
PROPOSED RULES
54778 Commercial radio operators; installation, maintenance, and repair of transmitting equipment; license requirements
Communications equipment:
54784 Radio frequency devices; electronic games exempted from certification; clarification
Radio broadcasting:
54786 Financial reporting requirements; extension of time
NOTICES
Hearings, etc.:
54859 Tehachapi Broadcasting et al.; correction

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
54720 Barley; interim
54722 Oats
54723 Sugar beets; interim
54711 Sweet corn
54717 Wheat; interim

Federal Emergency Management Agency
RULES
Flood insurance; special hazard areas; map corrections:
54760, 54762 California (3 documents)
54761 Colorado
54763 Illinois
54761 Maryland
54763, 54764 Pennsylvania (3 documents)
PROPOSED RULES
Flood elevation determinations:
54774 New Mexico
54776 North Carolina; correction
54775 Ohio
54774 Texas

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
54733 Curtailment rules; determination of alternative fuels for essential agricultural users
54741 Incremental pricing; coverage for all industrial end-users not exempt, and surcharges; rehearing denied
NOTICES
54851 Ethics in Government; post-employment conflict of interest; waiver
Hearings, etc.:
54813 Algonquin Gas Transmission Co.
54809 Baker, Richard G.
54809 Bartman, James S.
54809 Class, Harold M.
54809 Cleveland Electic Illuminating Co.
54813 Columbia Gulf Transmission Co. et al.
54796 Columbia Gas Transmission Corp.
54813 Conoco Inc.
54814 Conrad, Ralph W.
54814 Consolidated Edison Co. of New York, Inc.
54814 Consolidated Gas Supply Corp.
54815 Dayton Power & Light Co.
54815 Donofrio, F. Allen
54815 Dowd, A. Joseph
54816 Equitable Gas Co.
54809 Florida Power & Light Co.
54816 Gehman, Robert E.
54808 Gunnison, Miss., et al.
54816 Heist, Robert B.
54851 High Island Offshore System
54810 Hirst, William H.
54816 Interstate Power Co.
54843 Kansas Gas & Electric Co.
54810 Kansas Power & Light Co.
54843 Locust Ridge Gas Co.
54804 Midwestern Gas Transmission Co.
54843 Mississippi River Transmission Corp.
54804 Montana-Dakota Utilities Co.
54844 Napa County and Napa County Flood Control & Water Conservation District
54805 Northwest Pipeline Corp. (2 documents)
54815 O'Donovan, Mary M.
54806 Oroville-Wyandotte Irrigation District
54845 Panhandle Eastern Pipe Line Co.
54811 Phelps Dodge Corp.
54812 Reesman, James R.
54845 Robidoux, Henry
54845 Schleicher, Ernest W.

54846 Smith, Floyd J.
54846 Smith, Jesse I., et al.
54812 Southland Oil Co.
54807 Texas Gas Transmission Corp. (2 documents)
54846 Trailblazer Pipeline Co. et al.
54846 Transcontinental Gas Pipe Line Corp.
54847 Turlock Irrigation District
54808, 54847–54849 United Gas Pipe Line Co. (5 documents)
54849 Utah Power & Light Co.
54846 Valero Interstate Transmission Co.
54806 Vermont, Saxon Industries Inc. et al.
54850 Vessels Gas Processing Co.
54850 Werts, Raymond E.
54812 Wisconsin Power & Light Co.
54850 Wise, Robert L.
54812 Wolff, Thomas P.
Natural Gas Policy Act of 1978:
54797, 54817, 54827 Jurisdictional agency determinations (3 documents)
54844 Jurisdictional agency determinations; Mobile Producing Texas & New Mexico Inc. et al.

Federal Grain Inspection Service
RULES
55118 Grain standards; general revision; correction

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
54923 Columbia, S.C.; intent to prepare
54922 Monroe and Dade Counties, Fla.; intent to prepare
54922 Roosevelt and Curry Counties, N. Mex.; intent to prepare

Federal Home Loan Bank Board
NOTICES
54935 Meetings; Sunshine Act (3 documents)

Federal Railroad Administration
NOTICES
Petitions for exemptions, etc.:
54923 Little Rock & Western Railroad Co.

Federal Reserve System
NOTICES
Applications, etc.:
54859 American Financial Services, Inc.
54860 Augusta Financial Corp.
54860 Bankshares of Hawley, Inc.
54861 Barnes Investment Corp.
54861 Bradley Bancorp
54861 Central Bancorporation, Inc.
54859 Citicorp et al.
54861 Citizens Northern Co., Inc.
54862 Combanks Corp. and Great American Banks, Inc.
54862 Cumberland Financial Services, Inc.
54862 Dewco Agency Co.
54862 F&M Bancorporation, Inc.
54863 First Lakefield Bancorporation, Inc.
54863 Houston United Bancshares, Inc.
54863 Kiowa Bancorporation, Inc.
54863 Lincoln S.B. Corp.
54863 Mid America Bancshares, Inc.
54864 Oilton Bancshares, Inc.
54864 Peachtree Bancshares, Inc.
54864 Trust Co. of Georgia

Fine Arts Commission
NOTICES
54791 Meetings

Fish and Wildlife Service
NOTICES
54871, 54872 Endangered and threatened species permits; applications (3 documents)

Geological Survey
NOTICES
Authority delegations:
55126 Conservation Division Chief; oil and gas and sulfur operations in OCS, etc.

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See also Health Care Financing Administration; Human Development Services Office; Public Health Service; Social Security Administration.
RULES
54765 Child day care requirements; correction
NOTICES
54869 Hospitals and health facilities activities; lead agency status

Health Care Financing Administration
RULES
Medicare:
54757 Hospital intensive care units; definition and reimbursement requirements
PROPOSED RULES
Medicare:
54774 Reimbursement; limitation based on "prudent buyer" concept
NOTICES
Medicare:
54864 Home health agency costs per visit, schedule of limits; correction

Historic Preservation, Advisory Council
NOTICES
Historic and cultural properties:
54869 Mountain Home Historic Complex, Tenn.; proposed construction at VA Medical Center; availability of comments
54870 Meetings

Housing and Urban Development Department
NOTICES
Authority delegations:
54870 Honolulu Area Office (Region IX); Acting Deputy Area Manager
54871 Houston Service Office; Acting Service Office Supervisor; order of succession
54870 Los Angeles Area Office (Region IX); Acting Area Manager; order of succession
54870 San Francisco Regional Office (Region IX); Acting Regional Administrator et al.; order of succession

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
54867 Developmental disabilities; special project grant program-projects of national significance

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
54872 Ak-Chin water supply project, Arizona

Interior Department
See Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office; Water and Power Resources Service.

Internal Revenue Service
NOTICES
Meetings:
54932 Art Advisory Panel
54932 Senior Executive Service Performance Review Board; membership

International Development Cooperation Agency
See also Agency for International Development.

International Trade Administration
NOTICES
Meetings:
54790 President's Export Council

Interstate Commerce Commission
NOTICES
Motor carriers:
54878 Finance applications
54875, 54876 Permanent authority applications (2 documents)
54879, 54880 Temporary authority applications (2 documents)
Water carriers:
54879 Temporary authority applications

Justice Assistance, Research and Statistics Office
RULES
54752 Hearing and appeal procedures

Justice Department
See also Justice Assistance, Research and Statistics Office.
PROPOSED RULES
Nondiscrimination:
54770 Sex discrimination in federally assisted education programs and activities; extension of time

Land Management Bureau
NOTICES
Coal management program:
54874 Kaiparowits Plateau, Utah; coal development and transportation study; inquiry
54873 Oil shale leasing program, prototype; technology nominations; Colo., Utah, and Wyo.
Withdrawal and reservation of lands, proposed, etc.:
54872, 54873 Oregon (2 documents)

Management and Budget Office
NOTICES
54918 Agency forms under review
54866 Grants to State and local governments; uniform requirements (OMB A-102)
Meetings:
54920 National Agenda for the Eighties, President's Commission

National Credit Union Administration
NOTICES
54935 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
54790 New England Fishery Management Council
54790, 54791 South Atlantic Fishery Management Council (2 documents)

National Park Service
PROPOSED RULES
54771 Rights-of-way; principles and procedures

National Transportation Safety Board
NOTICES
54935 Meetings; Sunshine Act

Navy Department
RULES
Navigation:
54753 USS *Dallas;* compliance with COLREGS; exemption

Nuclear Regulatory Commission
RULES
Practice rules:
54725 Adjudicatory licensing proceedings, procedural assistance; correction
NOTICES
Applications, etc.:
54913 Duke Power Co.
54915 Florida Power & Light Co.
54914 Honeywell Defense System
54915 Indiana & Michigan Electric Co.
54915 University of California Regents
54913 Virginia Electric & Power Co.
Environmental statements; availability, etc.:
54916 Union Carbide Corp., Gas Hills Uranium Mill, Wyo.
Meetings:
54914 Reactor Safeguards Advisory Committee
Rulemaking petitions:
54916 Eckert, Seamans, Cherin & Mellott; denial

Public Health Service
RULES
Health maintenance organizations:
55122 Federal financial assistance; grant awards, loans, and loan guarantees, etc.

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
54924, 54925 Applications; exemptions, renewals, etc. (3 documents)

Pipeline safety:
54930 Champlin Petroleum Co.; gas transportation; petition waiver
54930 Columbia Gas Transmission Corp; gas transportation; petition waiver

Social Security Administration
RULES
Supplemental security income:
54742 State supplementary payments; cost-of-living increases to recipients; limitations on State costs for hold-harmless States

Surface Mining Office
RULES
Surface coal mining and reclamation enforcement operations:
54752 Permanent regulatory program; incorporation by reference expiration dates

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
54932 V-1982 series

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
54934 Honolulu, Hawaii; National Memorial Cemetery of the Pacific

Water and Power Resources Service
NOTICES
54875 Mount St. Helens ash fallout zone; deferral of construction payments

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
54911, 54912 Humanities Panel, September meetings (2 documents)

CIVIL RIGHTS COMMISSION
54788 Connecticut Advisory Committee, 9-18-80
54788 Maine Advisory Committee, 9-9-80
54788 Washington Advisory Committee, 9-6-80

COMMERCE DEPARTMENT
International Trade Administration—
54790 President's Export Council, Export Expansion Subcommittee, 9-4-80
National Oceanic and Atmospheric Administration—
54790 New England Fishery Management Council's Scientific and Statistical Committee, 9-10-80
54790, 54791 South Atlantic Fishery Management Council, 8-26 through 8-28 and 9-23 through 9-25-80 (2 documents)

EDUCATION DEPARTMENT
54792 Commission on the Review of the Federal Impact Aid Program, 9-18 and 9-19-80

FINE ARTS COMMISSION
54791 Meeting, 9-3-80

HISTORIC PRESERVATION ADVISORY COUNCIL
54869 Protection of Historic and Cultural Properties, 8-28-80

MANAGEMENT AND BUDGET OFFICE
54920 President's Commission for a National Agenda for the Eighties, Panel II (American Economy), 8-25-80

NUCLEAR REGULATORY COMMISSION
54914 Reactor Safeguards Advisory Committee, Structural Engineering, 9-2-80

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
54766 Informal Airspace, 9-6-80
54922 Radio Technical Commission for Aeronautics (RTCA) Executive Committee, 9-11-80
54921 Special Committee 133—Airborne Weather and Ground Mapping Pulsed Radar Equipment, 9-16 through 9-18-80
54921 Special Committee 139—Airborne Equipment Standards for Microwave Landing System (MLS), 9-3 through 9-5-80
54921 Special Committee 141—FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications Equipment, 9-9 and 9-10-80

TREASURY DEPARTMENT
Internal Revenue Service—
54932 Art Advisory Panel, 9-17 and 9-18-80

HEARINGS

ENVIRONMENTAL PROTECTION AGENCY
55083 National ambient air quality standard for carbon monoxide, proposed revision, 10-2 and 10-10-80

V 45 A G 18 80 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
401 54711
418 54718
419 54720
427 54722
430 54723
437 54711
800 55118
801 55118
802 55118
917 54724
993 54725

10 CFR
2 54725

14 CFR
39 (8 documents) 54725–54732
71 54733
Proposed Rules:
Ch. I 54766
45 54766
71 54766

18 CFR
281 54733
282 54741

20 CFR
416 54742

22 CFR
220 54751
221 54751
222 54751

26 CFR
18 54752
Proposed Rules:
42 54770

30 CFR
700 54752
785 54752
816 54752
817 54752,
820 54752

32 CFR
706 54753

33 CFR
110 (2 documents) 54754, 54755
Proposed Rules:
209 54770

36 CFR
Proposed Rules:
14 54771
1190 55010

40 CFR
80 55134
Proposed Rules:
50 (2 documents) 55066, 55083
52 54772
58 (3 documents) 54772, 54773

41 CFR
7–12 54755

42 CFR
110 55122
405 54757
Proposed Rules:
405 54774

44 CFR
70 (9 documents) 54760–54764
Proposed Rules:
67 (4 documents) 54774–54776

45 CFR
71 54765

46 CFR
Proposed Rules:
11 54776

47 CFR
Proposed Rules:
13 54778
15 54784
73 54786
81 54778
83 54778
87 54778

Rules and Regulations

Federal Register
Vol. 45, No. 161
Monday, August 18, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401, 437

Canning and Freezing Sweet Corn Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring canning and freezing sweet corn effective with the 1981 crop year. This final rule combines provisions from previous regulations for insuring sweet corn in a shorter, clearer, simpler document which will make the program more effective administratively. This rule is promulgated under the authority of the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** on Thursday, May 1, 1980 (45 FR 29056–29057), prescribing procedures for insuring canning and freezing sweet corn crops effective with the 1981 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new part 437 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring sweet corn crops effective with the 1981 crop year to be known as 7 CFR Part 437 Canning and Freezing Sweet Corn Insurance.

All previous regulations applicable to insuring sweet corn crops, as found in 7 CFR 401.101–401.111, and 401.156 (as found at 43 FR 14638), will not be applicable to 1981 and succeeding canning and freezing sweet corn crops but will remain in effect for FCIC canning and freezing sweet corn insurance policies issued prior to 1981. It has been determined that combining all previous regulations for insuring canning and freezing sweet corn crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 437 provides (1) for a premium adjustment table which provides up to 50 percent premium discount for good insuring experience and premium increases for unfavorable insuring experience, which replaces the present premium discount system, (2) that any premium not paid by the termination date will be increased by a 9 percent charge, with a 9 percent simple interest applying to any balance at the end of each subsequent 12-month period thereafter, (3) that the 15-day period for submitting a notice of damage or loss be changed to 30 days, and the 60-day period for filing a claim be eliminated, (4) that there be three coverage level options in each county, with the imposed level being provided on the actuarial table and the conversion level being the one closest to the present level for the county, and (5) that the termination date for indebtedness is March 31.

In addition, § 437.5 of the Canning and Freezing Sweet Corn Crop Insurance Regulations titled "Good Faith Reliance on Misrepresentation" increases the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation wherein the Manager of the Corporation (FCIC) is authorized to take action to grant relief.

The Canning and Freezing Sweet Corn Insurance Regulations provide a December 31 cancellation date for all canning and freezing sweet corn producing counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date in order to afford farmers an opportunity to examine them before the cancellation date.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1981 crop year.

In addition, there is hereby added to the final rule an Appendix "B" which lists the counties where canning and freezing sweet corn crop insurance is available in accordance with the provisions of 7 CFR 437.1, which states in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties where such insurance shall be offered.

In compliance with the Secretary's Memorandum No. 1955, the review of these regulations contained in 17 CFR 437.1 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of June 1, 1985.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.156, with such regulations as are contained therein remaining in effect for FCIC sweet corn policies issued for crop years prior to 1981, and issues a new Part 437 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 437) to be known as the Canning and Freezing Sweet Corn Crop Insurance Regulations for the 1981 and Succeeding Crop Years, to read as follows:

PART 437—SWEET CORN CROP INSURANCE

Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.

437.1 Availability of Sweet Corn Insurance.
437.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
437.3 Public notice of indemnities paid.
437.4 Creditors.
437.5 Good faith reliance on misrepresentation.
437.6 The contract.
437.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

§ 437.1 Availability of Sweet Corn Insurance.

Insurance shall be offered under the provisions of this subpart on sweet corn in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which sweet corn insurance will be offered.

§ 437.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sweet corn which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 437.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 437.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankrupty, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 437.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sweet corn insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 437.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of duly executed applications for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the sweet corn crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 437.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the sweet corn crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1978 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a canning and freezing sweet corn contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Sweet Corn Insurance Policy for the 1981 and succeeding crop years, and the Appendix to the Sweet Corn Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19—— and Succeeding Crop Years

Sweet Corn Crop Insurance Contract

Contract Number———
Identification Number ———
Name and Address———
Zip Code ———
County ———
State ———
Type of Entity ———
Applicant is over 18 Yes—— No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the sweet corn planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.
Level Election——— Price Election———

Example: For the 19—— Crop Year Only (100% Share)

Location farm No.	Guarantee per acre*	Premium per acre**	Practice

*Your guarantee will be on a unit basis (acres x per acre guarantee x share)
**Your premium is subject to adjustment in accordance with section 5(c) of the policy

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNITL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following sweet corn insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(SIGNATURE OF APPLICANT) ———
(CODE NO./WITNESS TO SIGNATURE)——
(DATE)———, 19——
ADDRESS OF OFFICE FOR COUNTY: ——
PHONE ———
LOCATION OF FARM HEADQUARTERS: —
PHONE———

Sweet Corn Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. CAUSES OF LOSS. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

(c) In addition to the causes of loss not insured against listed in section 1(b) above, the Corporation shall consider as uninsured any loss of production resulting solely from acreage not being timely harvested, unless the Corporation determines that, due to unusual weather conditions, a substantial percentage of contracted acreage in the area was ready for harvest at the same time. The uninsured loss of production resulting from failure to timely harvest will be appraised and counted as production by the Corporation as tons of sweet corn which were available for timely harvesting.

2. CROP AND ACREAGE INSURED. (a) The crop insured shall be canning and freezing sweet corn which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre, and which is grown under a contract executed with a processor by the date established by the Corporation for reporting acreage: *Provided,* That an instrument in the form of a "lease" under which the insured grower retains possession of the land on which the sweet corn is grown and which provides for delivery of the sweet corn under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a processor contract under which the insured has the interest in the crop.

(b) The acreage insured for each crop year shall be that acreage planted to sweet corn on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to replant to sweet corn and such acreage was not replanted, (4) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (5) of volunteer sweet corn, (6) planted to a type or variety of sweet corn not established as adapted to the area or shown as noninsurable on the actuarial table, (7) planted with another crop, or (8) planted for the development or production of hybrid seed or for experimental purposes.

3. RESPONSIBILITY OF INSURED TO REPORT ACREAGE AND SHARE. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of sweet corn planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. PRODUCTION GUARANTEES, COVERAGE LEVELS, AND PRICES FOR COMPUTING INDEMNITIES. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre (ears and husks) shall be in tons as shown on the county actuarial table and the guarantee for any unharvested acreage shall be reduced 20 percent.

5. ANNUAL PREMIUM. (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

(d) Any amount of premium for an insured
The Corporation reserves the right to provide
acreage for which consent has been given to

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity: *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. INSURANCE PERIOD. Insurance on insured acreage shall attach at the time the sweet corn is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) harvest, (c) September 20, or (d) total destruction of the insured sweet corn crop: *Provided, however,* That if any acreage is not timely harvested, insurance shall be deemed to have ceased when the acreage should have been harvested, as determined by the Corporation, *unless* the Corporation determines that, due to unusual weather conditions, a substantial percentage of contracted acreage in the area was ready for harvest at the same time.

7. NOTICE OF DAMAGE OR LOSS. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sweet corn on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to sweet corn. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire sweet corn crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) In addition to the notices of loss required in section 7, written notice shall be given the Corporation at the office for the county (1) no later than 48 hours after harvesting of the sweet corn has been discontinued on a unit, or (2) before harvest would normally start if any acreage on a unit is not to be harvested. If such notice is not given, the Corporation shall appraise the tons of unharvested production, and if there is insufficient evidence upon which to base an appraisal, the appraisal on such acreage shall be the production guarantee.

(e) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(f) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. CLAIM FOR INDEMNITY. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sweet corn on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sweet corn on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sweet corn to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production. Appraised production to be counted shall include: (1) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before harvest of sweet corn becomes general in the current crop year to any other crop insurable on such acreage (excluding small grains normally maturing for harvest in the following calendar year), (2) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (3) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (4) only the appraisal in excess of 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of sweet corn becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. MISREPRESENTATION AND FRAUD. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. TRANSFER OF INSURED SHARE. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. RECORDS AND ACCESS TO FARM. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sweet corn produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. LIFE ON CONTRACT: CANCELLATION AND TERMINATION. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State	Cancellation Date	Termination Date for Indebtedness
All States	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the

provisions of subsections (a), (b), and (c) of

corn crop on such land shall be considered as

provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—

Additional Terms and Conditions

1. MEANING OF TERMS. For the purposes of sweet corn crop insurance:

(a) "Actual table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sweet corn insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the sweet corn crop is normally grown and shall be designated by the calendar year in which the sweet corn crop is normally harvested.

(d) "Harvest" means the removal of the ears and husks from the stalks and the delivery thereof to the processor; sweet corn used for any purpose other than for canning and freezing shall be considered as unharvested.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county acturial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sweet corn crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the sweet corn crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of sweet corn in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sweet corn crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. ACREAGE INSURED. (a) The Corporation reserves the right to limit the insured acreage of sweet corn to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of sweet corn.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. IRRIGATED ACREAGE. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. ANNUAL PREMIUM. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. CLAIM FOR AND PAYMENT OF INDEMNITY. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sweet corn acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sweet corn is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. SUBROGATION. The Insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. TERMINATION OF THE CONTRACT. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. COVERAGE LEVEL AND PRICE ELECTION. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. ASSIGNMENT OF INDEMNITY. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. CONTRACT CHANGES. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"—

Counties Designated for Canning and Freezing Sweet Corn Insurance—7 CFR Part 437

In accordance with the provisions of 7 CFR 437.1, the following counties are designated for canning and freezing sweet corn crop insurance:

Minnesota: Renville

Wisconsin: Dodge, Fond du Lac, Green Lake, Waushara

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant impact specifically on area and community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on March 14, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: August 7, 1980.

Approved by:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-25006 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 418

[Amdt. No. 2]

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the Wheat Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for wheat crop insurance effective with the 1981 and succeeding crop years. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATES: This interim final rule is effective August 18, 1980. Comment Date: The Federal Crop Insurance Corporation, however, is soliciting public comment on the action for a period of 60 days following publication. Written comments, data, and opinions on this interim final rule must be submitted not later than October 17, 1980, to be sure of consideration.

ADDRESS: Written comments on this interim final rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR 418.1, and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically covered in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing this interim final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant".

Everett S. Sharp, the Acting Manager, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim final action because there is not sufficient time to conduct a public comment period before this amendment is required to be placed on file in the office for the county in order to be effective for the 1981 crop year.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim final action are impracticable and contrary to the public interest; and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document,

and this interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the Federal Register as soon as possible.

On Friday, June 1, 1979, the Federal Crop Insurance Corporation (FCIC) published the Wheat Crop Insurance Regulations (7 CFR Part 418) in the Federal Register at 44 FR 31599–31610.

In accordance with the provisions of 7 CFR 418.1 of such regulations, FCIC published by Amendment No. 1 to such regulations a listing of counties where wheat crop insurance is otherwise authorized to be offered (44 FR 72090, December 13, 1979) effective for the 1980 crop year as an Appendix "B" to these regulations.

Additional counties have been approved by the Board of Directors effective for the 1981 crop year, necessitating revision and reissuance of Appendix "B".

The Federal Crop Insurance Corporation hereby solicits public comments on this interim final rule for a period of 60 days.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

The review date for this action has been established as October 22, 1980.

Final Rule

PART 418—WHEAT CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Appendix "B" to 7 CFR Part 418 Wheat Crop Insurance Regulations effective with the 1981 and succeeding crop years, which supersedes Amendment No. 1 (44 FR 72090), to read as follows:

Appendix B

Counties Designated for Wheat Crop Insurance—7 CFR 418

In accordance with the provisions of 7 CFR 418.1, the following counties are designated for wheat crop insurance:

Alabama

Autauga, Lawrence, Marengo, Monroe, Mobile

Arizona

Cochise, Graham, Maricopa, Pinal, Yuma

Arkansas

Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Miller, Mississippi, Poinsett, Pulaski, St. Francis

California

Butte, Colusa, Fresno, Imperial, Glenn, Kern, Kings, Madera, Merced, Modoc, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Tulare, Yolo

Colorado

Adams, Arapahoe, Baca, Cheyenne, Elbert, Kit Carson, Larimer, Lincoln, Logan, Morgan, Phillips, Prowers, Sedgwick, Washington, Weld, Yuma

Florida

Burke, Jefferson, Macon, Okaloosa, Washington

Georgia

Houston

Idaho

Ada, Bannock, Benewah, Bingham, Bonneville, Camas, Canyon, Caribou, Cassia, Elmore, Franklin, Fremont, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Oneida, Power, Teton, Twin Falls

Illinois

Adams, Alexander, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Dewitt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Iroquois, Jackson, Jasper, Jefferson, Jersey, Kane, Kankakee, Lake, Lawrence, Livingston, Logan, McDonough, McLean, Macon, Macoupin, Madison, Marion, Mason, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Tazewell, Union, Vermilion, Wabash, Washington, Wayne, White, Will

Indiana

Adams, Allen, Bartholomew, Benton, Blackford, Boone, Carroll, Cass, Clark, Clay, Clinton, Daviess, Decatur, De Kalb, Delaware, Dubois, Elkhart, Fayette, Fountain, Franklin, Fulton, Gibson, Grant, Greene, Hamilton, Hancock, Harrison, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jefferson, Jennings, Johnson, Knox, Kosciusko, Lake, Lagrange, La Porte, Lawrence, Madison, Marion, Marshall, Miami, Montgomery, Morgan, Newton, Noble, Orange, Owen, Parke, Pike, Porter, Posey, Pulaski, Putnam, Randolph, Ripley, Rush, St. Jospeh, Shelby, Sullivan, Spencer, Starke, Steuben, Tippecanoe, Tipton, Union, Vanderburgh, Vermillion, Vigo, Wabash, Warren, Warrick, Washington, Wayne, Wells, White, Whitley

Iowa

Davis, Des Moines, Fremont, Harrison, Lee, Mills, Monona, Pottawattamie

Kansas

Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Cowley, Crawford, Decatur, Dickinson, Doniphan, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Franklin, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jackson, Jefferson, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Leavensworth, Lincoln, Linn, Logan, Lyon, McPherson, Marion, Marshall, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosha, Ness, Norton, Osage, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, Wichita, Wilson, Woodson

Kentucky

Ballard, Christian, Hardin, Hickman, Webster

Louisiana

E. Carroll

Maryland

Caroline, Carroll, Cecil, Dorchester, Frederick, Kent, Queen Annes, Washington

Michigan

Allegan, Bay, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Livingston, Midland, Monroe, Montcalm, Saginaw, St. Clair, St. Joseph, Sanilac, Shiawassee, Tuscola, Washtenaw

Minnesota

Becker, Big Stone, Blue Earth, Brown, Carver, Chippewa, Clay, Cottonwood, Dakota, Dodge, Douglas, Faribault, Freeborn, Goodhue, Grant, Kandiyohi, Kittson, Lac qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Mahnomen, Marshall, Meeker, Mower, Nicollet, Norman, Olmsted, Otter Tail, Pennington, Polk, Pope, Red Lake, Redwood, Renville, Rice, Roseau, Scott, Sibley, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Waseca, Washington, Wilkin, Wright, Yellow Medicine

Mississippi

Bolivar, Calhoun, Coahoma, Humphreys, Leflore, Lowndes, Noxubee, Quitman, Sharkey, Sunflower, Tallahatchi, Tate, Tunica, Washington

Missouri

Adair, Andrew, Atchison, Audrain, Barton, Bates, Boone, Buchanan, Butler, Caldwell, Callaway, Cape Girardeau, Carroll, Cass, Chariton, Clark, Clay, Clinton, Cooper, Dade, Daviess, De Kalb, Dunklin, Franklin, Gentry, Harrison, Henry, Holt, Howard, Jackson, Jasper, Johnson, Knox, Lafayette, Lawrence, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Osage, Pemiscol, Perry, Pettis, Pike, Platte, Ralls, Randolph, Ray, St. Charles, St. Clair, Saline, Scotland, Scott, Shelby, Stoddard, Sullivan, Vernon, Warren

Montana

Big Horn, Blaine, Carbon, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Glacier, Golden Valley, Hill, Judith Basin, Liberty, McCone, Musselshell, Petroleum, Phillips, Ponders, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone

Nebraska

Adams, Banner, Box Butte, Boyd, Butler, Cass, Chase, Cheyenne, Clay, Dawes, Deuel, Dodge, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Gosper, Greely, Hall, Hamilton, Harlon, Hayes, Hitchcock, Jefferson, Johnson, Kearney, Keith, Kimball, Lancaster, Lincoln, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Polk, Red Willow, Richardson, Saline, Saunders, Scotts Bluff, Seward, Sheridan, Thayer, Valley, Washington, Webster, York

New Mexico

Curry, Luna

New York

Cayuga, Genesee, Livingston, Wayne

North Carolina

Northampton, Pasquotank, Perquimans, Rowan, Scotland

North Dakota

Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, La Moure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, Williams

Ohio

Allen, Ashland, Auglaize, Butler, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Greene, Hancock, Hardin, Henry, Highland, Holmes, Huron, Knox, Licking, Logan, Lorain, Lucas, Madison, Marion, Medina, Mercer, Miami, Montgomery, Morrow, Ottawa, Paulding, Pickaway, Preble, Putnam, Richland, Ross, Sandusky, Seneca, Shelby, Stark, Union, Van Wert, Warren, Wayne, Williams, Wood, Wyandot

V 45 A G 18 80 0 UMI

Oklahoma

Alfalfa	Jackson
Beaver	Kay
Beckham	Kingfisher
Blaine	Kiowa
Caddo	Logan
Canadian	Major
Cimarron	Mayes
Comanche	Noble
Cotton	Nowata
Craig	Osage
Custer	Ottawa
Delaware	Pawnee
Dewey	Payne
Ellis	Texas
Garfield	Tillman
Grady	Wagoner
Grant	Washington
Greer	Washita
Harmon	Woods
Harper	Woodward
Hughes	

Oregon

Gilliam	Sherman
Jefferson	Umatilla
Klamath	Union
Linn	Wallowa
Malheur	Wasco
Morrow	Wheeler

Pennsylvania

Adams	Franklin
Berks	Lancaster
Chester	Lebanon
Crawford	Northumberland
Cumberland	Perry
Dauphin	York

South Dakota

Aurora	Harding
Beadle	Hughes
Bennett	Hutchinson
Bon Homme	Hyde
Brown	Jerauld
Brule	Jones
Buffalo	Kingsbury
Campbell	Lake
Charles Mix	Lyman
Clark	McPherson
Codington	Marshall
Corson	Mellette
Day	Miner
Deuel	Perkins
Dewey	Potter
Douglas	Roberts
Edmunds	Spink
Faulk	Stanley
Grant	Sully
Gregory	Tripp
Haakon	Walworth
Hamlin	Ziebach
Hand	

Tennessee

Coffee	Lake
Crockett	Lauderdale
Dyer	Obion
Hardin	Robertson
Henry	

Texas

Baylor	Dickens
Carson	Fannin
Castro	Fisher
Collin	Floyd
Collingsworth	Foard
Colorado	Gray
Cooke	Grayson
Cottle	Hale
Dallam	Hansford
Deaf Smith	Hartley
Denton	Howard
Hutchinson	Randall
Jones	Runnels
Knox	Sherman
Lipscomb	Stonewall
Martin	Swisher
Moore	Tom Green
Ochiltree	Wilbarger
Oldham	Williamson
Parmer	

Utah

Box Elder	Salt Lake
Cache	Utah
Davis	Weber

Washington

Adams	Klickitat
Asotin	Lincoln
Benton	Okanogan
Columbia	Spokane
Douglas	Walla Walla
Franklin	Whitman
Garfield	Yakima
Grant	

Wisconsin

Washington

Wyoming

Goshen	Platte
Laramie	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,

Acting Manager.

Dated: August 6, 1980.

[FR Doc. 80-24959 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 419

[Amdt. No. 2]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the Barley Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for barley crop insurance effective with the 1981 and succeeding crop years. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: This interim final rule is effective August 18, 1980. Comment date: The Federal Crop Insurance Corporation, however, is soliciting public comment on the action for a period of 60 days following publication. Written comments, data, and opinions on this interim final rule must be submitted not later than October 17, 1980, to be sure of consideration.

ADDRESS: Written comments on this interim final rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR § 419.1, and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically covered in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing this interim final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant".

Everett S. Sharp, the Acting Manager, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim final action because there is not sufficient time to conduct a public comment period before this amendment is required to be placed on file in the office for the county in order to be effective for the 1981 crop year.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim final action are impracticable and contrary to the public interest; and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

On Tuesday, June 19, 1979, the Federal Crop Insurance Corporation (FCIC) published the Barley Crop Insurance Regulations (7 CFR Part 419) in the **Federal Register** at 44 FR 35195.

In accordance with the provisions of 7 CFR 419.1 of such regulations, FCIC published by Amendment No. 1 to such regulations a listing of counties where barley crop insurance is otherwise authorized to be offered (44 FR 72093, December 13, 1979) effective for the 1980 crop year as an Appendix "B" to these regulations.

Additional counties have been approved by the Board of Directors effective for the 1981 crop year, necessitating revision and reissuance of Appendix "B."

The Federal Crop Insurance Corporation hereby solicits public comments on this interim final rule for a period of 60 days.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

The review date for this action has been established as October 22, 1980.

Final Rule

PART 419—BARLEY CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Appendix "B" to 7 CFR Part 419 Barley Crop Insurance Regulations effective with the 1981 and succeeding crop years, which supersedes Amendment No. 1 (44 F.R. 72093), to read as follows:

Appendix B

Counties Designated for Barley Crop Insurance—7 CFR 419

In accordance with the provisions of 7 CFR 419.1, the following counties are designated for barley crop insurance:

Arizona

Graham	Pinal
Maricopa	Yuma

California

Butte	Monterey
Colusa	Sacramento
Fresno	San Benito
Glenn	San Joaquin
Kern	Solano
Kings	Stanislaus
Madera	Sutter
Merced	Tulare
Modoc	Yolo

Colorado

Boulder	Morgan
Larimer	Weld

Idaho

Ada	Jefferson
Bannock	Jerome
Benewah	Kootenai
Bingham	Latah
Bonneville	Lewis
Camas	Lincoln
Canyon	Madison
Caribou	Minidoka
Cassia	Nez Perce
Elmore	Oneida
Franklin	Owyhee
Fremont	Power
Gooding	Teton
Idaho	Twin Falls

Maryland

Caroline	Frederick
Carroll	Kent
Cecil	Queen Annes
Dorchester	Washington

Minnesota

Becker	Otter Tail
Big Stone	Pennington
Chippewa	Polk
Clay	Pope
Douglas	Red Lake
Grant	Roseau
Kittson	Stevens
Mahnomen	Swift
Marshall	Traverse
Norman	Wilkin

Montana

Big Horn	Musselshell
Blaine	Petroleum
Carbon	Phillips
Cascade	Pondera
Chouteau	Prairie
Custer	Richland
Daniels	Roosevelt
Dawson	Rosebud
Fallon	Sheridan
Fergus	Stillwater
Gallatin	Teton
Garfield	Toole
Glacier	Treasure
Golden Valley	Valley
Hill	Wheatland
Judith Basin	Wibaux
Liberty	Yellowstone
McCone	

North Caroline

Rowan

North Dakota

Adams	Cass
Barnes	Cavalier
Benson	Dickey
Billings	Divide
Bottineau	Dunn
Bowman	Eddy
Burke	Emmons
Burleigh	Foster
Golden Valley	Ramsey
Grand Forks	Ransom
Grant	Renville
Griggs	Richland
Hettinger	Rolette
Kidder	Sargent
La Moure	Sheridan
Logan	Sioux
McHenry	Slope
McIntosh	Stark
McKenzie	Steele
McLean	Stutsman
Mercer	Towner
Morton	Traill
Mountrail	Walsh
Nelson	Ward
Oliver	Wells
Pembina	Williams
Pierce	

Oregon

Gilliam	Sherman
Jefferson	Umatilla
Klamath	Union
Linn	Wallowa
Malheur	Wasco
Morrow	Wheeler

Pennsylvania

Adams	Franklin
Berks	Lebanon
Chester	Northumberland
Cumberland	York
Dauphin	

South Dakota

Beadle	Sully
Brookings	Grant
Brown	Gregory
Brule	Hamlin
Buffalo	Hand
Campbell	Harding
Charles Mix	Jerauld
Clark	Kingsbury
Codington	Lake
Day	McPherson
Deuel	Marshall
Edmunds	Miner
Faulk	Roberts
Spink	Ziebach

Utah

Cache	Utah
Davis	Weber
Salt Lake	

Washington

Adams	Klickital
Asotin	Lincoln
Columbia	Spokane
Franklin	Walla Walla
Garfield	Whitman
Grant	

Wyoming

Big Horn	Park
Goshen	Washakie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Approved by:

Everett S. Sharp,

Acting Manager.

Dated: August 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80-24956 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 427

[Amdt. No. 2]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Oat Crop Insurance Regulations effective with the 1981 crop year by changing the cancellation and termination for indeptedness dates in certain states to allow for the insuring of fall-seeded oats. The current regulations include cancellation and termination for indebtedness dates for spring-seeded oats only. This amendment will permit the insuring of both spring and fall-seeded oats in certain states and is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: August 18,1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The Final Impact Statement describing options considered in developing this final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** on Thursday, May 8, 1980 (45 FR 30445–30446), prescribing procedures for-insuring fall-seeded oats in certain states by changing the cancellation and termination for indebtedness dates.

The current regulations for insuring oats include cancellation and termination dates applicable to insuring spring-seeded oats only. The Board of Directors of the Federal Crop Insurance Corporation has approved the addition of oats as an insurable crop in several counties where fall-seeded oats are produced. This amendment is necessary to allow the insuring of fall-seeded oats with the proper cancellation and termination for indeptedness dates.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed amendment, but none were received. Therefore, the amendment as contained in the proposed rule is hereby issued as a final rule to be in effect starting with the 1981 crop year.

In compliance with the Secretary's Memorandum No. 1955, the review of these regulations contained in 7 CFR Part 427 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of October 22, 1984.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends subsection 12(c) of 7 CFR § 427.7 of the Oat Crop Insurance Regulations, effective with the 1981 and succeeding crop years.

§ 427.7 The application and policy.

* * * * *

12. *Life of contract; Cancellation and terminations.* * * *

(c) Following are the cancellation and termination dates:

State and county	Cancellation date	Termination date for indebtedness
Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.	June 30	Oct. 10.
California:		
Modoc and Siskiyou Counties.	Dec. 31	Mar. 31.
All other California counties.	June 30	Oct. 10.
Oklahoma and Texas	Apr. 30	Sept. 15.
All other States	Dec. 31	Mar. 31.

* * * * *

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

This action will not have a significant impact specifically on area and community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on March 14, 1980.

Approved by:

Everett S. Sharp,

Acting Manager.

Dated: August 7, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 80-25005 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 430

[Amdt. No. 2]

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the Sugar Beet Crop Insurance Regulations by updating the list of counties approved by the Board of Directors of the Federal Crop Insurance Corporation for sugar beet crop insurance effective with the 1981 and succeeding crop years. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATES: Date: This interim final rule is effective August 18, 1980. Comment date: The Federal Crop Insurance Corporation, however, is soliciting public comment on the action for a period of 60 days following publication. Written comments, data, and opinions on this interim final rule must be submitted not later than October 17, 1980, to be sure of consideration.

ADDRESS: Written comments on this interim final rule should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Actions of this kind were anticipated under the provisions of 7 CFR § 430.1, and were generally considered in the Final Impact Statement (FIS) prepared for that action. However, for actions related to the action covered by the original FIS, but which were not specifically covered in the analysis, an addendum has been added to cover the new issue.

Thus, the amended FIS describing the options considered in developing this interim final rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant."

Everett S. Sharp, the Acting Manager, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim final action because there is not sufficient time to conduct a public comment period before this amendment is required to be placed on file in the office for the county in order to be effective for the 1981 crop year.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim final action are impracticable and contrary to the public interest; and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

On Tuesday, June 19, 1979, the Federal Crop Insurance Corporation (FCIC) published the Sugar Beet Crop Insurance Regulations (7 CFR part 430) in the **Federal Register** at 44 FR 35201.

In accordance with the provisions of 7 CFR 430.1 of such regulations, FCIC published by Amendment No. 1 to such regulations a listing of counties where sugar beet crop insurance is otherwise authorized to be offered (44 FR 72094, December 13, 1979) effective for the 1980 crop year as an Appendix "B" to these regulations.

Additional counties have been approved by the Board of Directors effective for the 1981 crop year, necessitating revision and reissuance of Appendix "B."

The Federal Crop Insurance Corporation hereby solicits public comments on this interim final rule for a period of 60 days.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

The review date for this action has been established as October 22, 1980.

Final Rule

PART 430—SUGAR BEET CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Appendix "B" to 7 CFR Part 430 Sugar Beet Crop Insurance Regulations

effective with the 1981 and succeeding crop years, which supersedes Amendment No. 1 [44 FR 72094], to read as follows:

Idaho

Ada	Franklin
Bannock	Jerome
Bingham	Minidoka
Bonneville	Owyhee
Canyon	Power
Cassia	Twin Falls
Elmore	

Kansas

Finney	Sherman
Grant	Stanton
Kearny	Wallace

Michigan

Bay	Saginaw
Huron	Tuscola
Midland	

Minnesota

Chippewa	Norman
Clay	Polk
Faribault	Redwood
Grant	Renville
Kandiyohi	Swift
Kittson	Traverse
Lac qui Parle	Wilkin
Marshall	Yellow Medicine

Montana

Big Horn	Richland
Carbon	Rosebud
Custer	Stillwater
Dawson	Treasure
Prairie	Yellowstone

Nebraska

Box Butte	Scotts Bluff
Morrill	

North Dakota

Cass	Richland
Grand Forks	Traill
McKenzie	Walsh
Pembina	Williams

Ohio

Hancock	Putnam
Henry	Sandusky
Lucas	Wood
Ottawa	

Oregon

Malheur

Utah

Box Elder	Salt Lake
Cache	Utah
Davis	Weber

Washington

Adams	Grant
Benton	Yakima
Franklin	

Wyoming

Big Horn	Park
Goshen	Washakie

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Appendix "B"

Counties Designated for Sugar Beet Crop Insurance—7 CFR 430

In accordance with the provisions of 7 CFR 430.1, the following counties are designated for sugar beet crop insurance:

California

Butte	Monterey
Colusa	Sacramento
Fresno	San Benito
Glenn	San Joaquin
Imperial	Solano
Kern	Stanislaus
Kings	Sutter
Madera	Tulare
Merced	Yolo

Colorado

Adams	Morgan
Boulder	Phillips
Kit Carson	Sedgwick
Larimer	Weld
Logan	Yuma

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A-40.

This action will not have a significant effect specifically on area or community development; therefore, review as required by OMB Circular A-95 is inapplicable.

Approved by the Board of Directors on July 14, 1980.

Dated: August 6, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-24800 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 917

[Plum Reg. 16, Amdt. 2]

Fresh Pears, Plums, and Peaches Grown in California; Grade Requirements for Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment relaxes grade requirements for shipments of California plums during the period August 14, 1980, through May 31, 1981. Such shipments must grade U.S. No. 1, except that an additional tolerance of 17 percent is allowed for internal discoloration not considered serious. Such action recognizes the current and prospective marketing situation for California plums and is consistent with the composition of the crop.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: *Findings.* This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This amendment is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Plum Commodity Committee and upon other information. This action would tend to effectuate the declared policy of the act.

The committee reports that recent high temperatures caused some internal discoloration of plums grown in the production area. At the beginning of the season, the committee estimated the 1980-81 plum crop at slightly more than 12 million packages. The revised estimate indicates that the 1980-81 crop may now approximate 10.7 million packages. Approximately 90 percent of the 1980-81 plum crop has been packed. Therefore, the committee has recommended that the U.S. No. 1 grade requirement currently in effect be relaxed by permitting an additional tolerance of 17 percent for internal discoloration not considered serious.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of plums grown in California.

In § 917.453 (Plum Regulation 16; 45 FR 33596, 47115) paragraphs (a) and (b) are amended to read as follows:

§ 917.453 Plum Regulation 16.

(a) During the period August 14, 1980, through May 31, 1981, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) of this section, unless such plums grade U.S. No. 1 with an additional tolerance of 17 percent for internal discoloration not considered serious damage in addition to the tolerances permitted for defects by such grade: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(b) During the period August 14, 1980, through May 31, 1981, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1 with additional tolerances of 10 percent for defects, other than internal discoloration, not considered serious damage, and 17 percent for internal discoloration not considered serious damage,

(2) Any lot of packages or containers of Autumn Queen, Casselman, Empress, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW-1, Swali Rosa, and 42-26 (Freedom) plums unless such plums grade U.S. No. 1: *Provided,* That an additional tolerance of 17 percent is permitted for defects caused by internal discoloration not considered serious damage and: *Provided further,* That, healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated, August 13, 1980, to become effective August 14, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-25056 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 993

Dried Prunes Produced in California; Expenses of the Prune Administrative Committee and Rate of Assessment for the 1980-81 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1980-81 crop year to be collected from handlers to support activities of the Committee which locally administers the Federal marketing order covering California dried prunes.

EFFECTIVE DATES: August 1, 1980 through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller (202) 447-5053.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the **Federal Register** (U.S.C. 553), as the order requires that the rate of assessment for a particular crop year shall apply to all assessable dried prunes handled from the beginning of such year which begins August 1. To enable the Committee to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further public comments. The regulation has not been classified "significant" under USDA criteria for implementing the Executive Order. An Impact Analysis is available from J. S. Miller (202) 447-5053.

The expenses and assessment rate for the 1980-81 crop year follow:

§ 993.331 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Prune Administrative Committee during the 1980-81 crop year, will amount to $201,600.

(b) The rate of assessment for said year, payable by each handler in accordance with § 993.81, is fixed at $1.26 per ton of salable prunes.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: August 13, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 80-25057 Filed 8-15-80; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Procedural Assistance in Adjudicatory Licensing Proceedings; Correction

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final Rule; Correction.

SUMMARY: The Commission corrects a typographic error in a document (45 FR 49535, July 25, 1980) amending 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings," which added a new paragraph (c) in § 2.750. The Commission corrects paragraph (c), page 49537, first column, by inserting the footnote indicator "1" after the last word in paragraph (c). (§ 2.750(c)).

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas F. Dorian, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: (301)-492-8690).

Dated at Washington, DC this 12th day of August 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-25017 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 75-CE-12-AD, Amdt. 39-3878]

Beech Model 18 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 75-27-09, Amendments 39-2482 and 39-2591, applicable to wing structure of Beech 18 Series airplanes. This revision requires additional inspections and clarifies the AD in respects that have been questioned. This revision is necessary because cracking at previously unconsidered sites can jeopardize safety and because clarification will simplify future compliance effort.

EFFECTIVE DATE: August 21, 1980.

ADDRESSES: Beech Aircraft Corporation's Service Bulletins 64–15, 64–16, 64–17, and 66–10, applicable to this AD, may be obtained from Beech Aircraft Corporation, Commercial Service Department, 9709 East Central Wichita, Kansas 67201. Maintenance information published by manufacturers of wing reinforcement straps, applicable to this AD, may be obtained as follows:

Manufacturer	Instructions
Aerospace Products, Inc., 5536 Satsuma Ave., North Hollywood, CA 91601.	Number 1869, dated May 1980.
Airline Training, Inc., P.O. Box 22833, Ft. Lauderdale, Florida 33335.	Section 7, Document 7132, dated August 1974.
Canadian Aerocon, Ltd., Attn: Mr. Dave Saunders, 2450 Derry Road East, Mississauga, Ontario, Canada L5S1B2.	Maintenance Manual Supplement, dated July 1973.
The Dee Howard Company, P.O. Box 17300, San Antonio, TX 78217.	Service Bulletin SB 18–2, Rev. A dated July 1980.
Hamilton Aviation, P.O. Box 11746 Tucson, AZ 85734.	Document D4–74, dated July 1974.
Jourdan Aircraft, 11001 E. 59th Street, Raytown, MO 64133.	Service Bulletin SB 18–1, dated July 1980.

A copy of the above publications is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ross R. Spencer, Aerospace, Engineer, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942–4219, FTS 752–6683.

SUPPLEMENTARY INFORMATION: Existing AD 75–27–09, Amendments 39–2482 and 39–2591, requires certain inspections, replacements, repairs, and reports concerning wing structure of Beech "18" airplanes. Subsequent to the above AD issuance, questions arose concerning various aspects of this rather complex AD, and cracks where found at locations were inspection is not required.

A crack was detected at wing station (WS) 60 in the lower cap of the front wing spar of an airplane that was undergoing heavy maintenance, and there is an approximately equal likelihood for similar cracking at WS 62. While a Dee Howard strap was being removed for routine inspection of another airplane, a crack at about WS 38 grew until fracture of the strap occurred, and there is equal likelihood for such cracking anywhere along the entire length of the strap. Special inspections for cracks at the above locations in wing and strap components are necessary for safety. Accordingly, Paragraph (A) of the following revised AD will require such inspections within 75 hours time-in-service after August 22, 1980. In the same revised AD, the existing AD is clarified in respects that have been questioned.

An existing SD is ordinarily superseded by a new AD when changes like the foregoing are made. In this instance, numerous publications refer to AD 75–27–09 by that number, and the (approximetly 30) facilities which are authorized to perform the required X-ray inspections are identified. In view of the above factors, revision is deemed preferable to supersedure in this instance. Paragraphs (A), (B) and (C) of the existing AD show that straps must be installed by May 5, 1976, unless total time-in-service is extremely low or unless a program is started for repetitive replacement of wing structure components. The May 5, 1976, "deadline" was not fully observed, and a relaxatory October 1, 1980, deadline is now imposed. Time criteria are no longer given because all airplanes are believed to exceed the criteria. The repetitive replacement program is no longer mentioned because the airplane manufacturer has never provided related parts, and all owners will undoubtedly continue to prefer the less expensive strapping option. Resulting requirements concerning strap installations appear in Paragraph (F) of the following revised AD. Paragraph (D) of the existing AD requires incorporation of small or large provisions for inspection access, but only the large ones are suitable for inspection of the new WS 60 site. Additional access provisions have sometimes been found necessary during X-ray inspection. All needs concerning inspection access provisions are specified in Paragraph (B) of the following revised AD. Paragraphs (E), (F), (G) and (K) of the existing AD require repetitive inspections. These requirements are restated in Paragraph (C) of the following revised AD. The restatement includes additional sites as previously discussed, specific (rather than general) reference to strap maintenance publications, and clarification of criteria that have been questioned.

Paragraphs of the existing AD not mentioned above are restated without substantive change in the following revised AD.

The FAA has determined that there is an immediate need for a regulation to require inspections for cracking in wing structure and any repairs found necessary during inspection so as to assure safe operation of the affected airplanes.

Since a situation exists that requires immediate adoption of this regulation, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39–2482 (41 FR 1046 through 1053), AD 75–27–09 of § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as amended by Amendment 39–2591 (41 FR 17876 and 17877) is further amended by complete restatement as follows:

75–27–09 *Beech* Amendments 39–2482, 39–2591, and 39–3878. Applies to all Beech 18 series airplanes including military counterparts and other counterparts approved by Supplemental Type Certificates (STCs), regardless of the category or categories of airworthiness certification.

Compliance: Required as indicated. To prevent possible failure of wing structure, accomplish the following for the left and for the right sides of each affected airplane.

(A) Within 75 hours' time-in-service after August 22, 1980, either accomplish Subparagraphs (A)1. through (A)2., below, or accomplish Subparagraphs (C)2. through (C)9., below.

1. Unless previously accomplished, if Dee Howard STC SA832SW or SA1581SW center section strap is installed, inspect for cracking of the strap in accordance with Dee Howard Service Bulletin SB18–2, either "no" revision or Revision A. Alternatively, to inspect for said cracking, remove paint (other than zinc-chromate primer) from strap portions specified below, apply 68 foot-pounds torque to strap tensioning nuts, then load wings in accordance with Subparagraph (C)6., below, and then use penetrant materials as specified by Subparagraph (C)8., below. During the latter inspection, examine all portions of the underside, forward edge, and aft edge of the strap that are accessible while the strap is installed.

2. Unless previously accomplished or unless a crack detector is used as specified by Subparagraph (C)1., below, inspect for cracking of wing structure at wing station (WS) 60 and 62 sites in accordance with Paragraph (C), below, except that removal of steel straps is unnecessary if satisfactory results are achieved without said removal.

Note.—After one-time inspection(s) as specified above, the same sites must be repetitively inspected along with others as required by Paragraph (C), below.

(B) At the time of the next inspection of wing structure that is required by this directive, unless previously accomplished, incorporate inspection access provisions in accordance with Figure 2,[1] below, or a Federal Aviation Administration (FAA)-approved equivalent. If additional access provisions are necessary for inspection of sites specified by reports per Subparagraph (C)7., below, follow instructions from Beech Aircraft Corporation, and incorporate these provisions.

(C) Inspect wing structure and strap components as follows:

1. Conduct repetitive inspections at times which do not exceed the following:

Hours time-in-service			
Airplane configurations	Initial inspection	Inspection interval	Applicable subparagraphs
Strapped	At time strap is installed.	[1]1,800	(C)2 through (C)9.
Not strapped	1,500, total	500	(C)3 through (C)9.
		100	(C)8 at WS 73, 81, 90.

[1] Upon operator's request, FAA Maintenance Inspector may extend this interval (or 3,600-hour interval specified below) by not more than 100 hours to permit compliance at an inspection period established for the operator. If crack detector system is installed, maintained, and used as specified by STC SA1151CE through SA1155SCE or other STC which refers to this subparagraph, the 1,500-hours interval becomes 3,600 hours.

2. Temporarily remove steel straps and inspect strap components for corrosion, fretting, cracking, and other defects in accordance with the applicable STC holder's instructions as follows:

STC holder	Instructions
Aerospace Products, Inc., 5536 Satsuma Ave., North Hollywood, CA 91601.	Number 1869, dated May 1980.
Airline Training, Inc., P.O. Box 22833, Ft. Lauderdale, Florida 33335.	Section 7, Document 7132, dated August 1974.
Canadian Aerocon, Ltd., Attn: Mr. Dave Saunders, 2450 Derry Road East, Mississauga, Ontario, Canada L5S1B2.	Maintenance Manual Supplement, dated July 1973.
The Dee Howard Company, P.O. Box 17300, San Antonio, TX 78217.	Rev. A, Service Bulletin SB 18–2, dated July 1980.
Hamilton Aviation, P.O. Box 11746, Tucson, AZ 85734.	Document D4–74, dated July 1974.
Jourdan Aircraft, 11001 E. 59th Street, Raytown, MO 64133.	Service Bulletin SB 18–1, dated July 1980.

3. Inspect the front spar of the wing center section and outer wing panel at sites and by methods specified below.

[1] Figures 1–4 filed as part of the original document with the Office of the Federal Register.

Wing station (WS) and site [1]	Method [2]
32—Tip of welds at wing splice plate, fore and aft surfaces of cap.	Visual, X-ray and either magnetic particle or penetrant.
43 to 45—Tip of weld around cluster upper surface of cap.	Visual and either magnetic particle or penetrant.
46—Outboard ends of splice in cap, upper and lower surface of cap.	Visual, X-ray and either magnetic particle or penetrant.
57, 64, 63 and 81—Tips of welds at gussets upon surface of cap.	Do.
60 and 62—Tips of welds as shown in Figure 4.	X-ray.
61—Lower surface of spar cap below tube cluster, as seen from wheel well.	Visual and either magnetic particle or penetrant.
90—Tips of welds at clevis tangs, upper and lower surface.	Visual, X-ray and either magnetic particle or penetrant.
90U—.....do	Do. X-ray.
102 and 111—Tips of welds as shown in Figure 4.	

[1] 90U is in upper spar cap. All other sites are in lower spar cap. WS 57 and 64 need not be separately X-rayed if these sites are shown by WS 60 and 62 radiographs. Refer to figures of this AD for more detailed information.

[2] A tube (not isotope) source is required for X-raying unless otherwise requested and authorized under Paragraph (H), below.

4. Temporarily remove steel straps, inspection access covers and other equipment as necessary to eliminate interference with required inspections. Also, drain inboard fuel tanks prior to X-rays WS 60 and 62 sites.

5. Temporarily or permanently install metallic type, wire or "hose" clamps squarely around the spar cap (existing clamps, etc., may be used) as necessary to provide two X-ray beam alignment indicators near WS 32, 73, and 81 sites, and near WS 57, and 64 sites if the latter are to be separately X-rayed. Each indicator must be at least one inch from the nearest inspection site, at least two inches from the companion indicator, and perceptible in the related radiograph.

6. Taking only one radiograph at a time, accomplish X-ray inspection in accordance with MIL-STD-453 or 00453A and the following instructions:

(a) Use steel "MIL-STD" penetrameters of sizes specified by figures of this directive except at WS 90U and 62 sites where no penetrameter is required. Secure penetrameters to source-side surface of the spar cap, except film-side placement is permitted at WS 102 and 111 sites if access does not allow source-side placement.

(b) At each site, use GAF 800, DuPont NDT–65, Kodak AA, or equivalent film, sandwiched between lead screens of 0.005–inch thickness. Additionally, at WS 60, 62, and 111 sites, use a second film in multi-film technique which provides film speed ratio of Kodak M/Kodak AA. With each film pact, use small identification symbols for at least the site (e.g., LWS 81, RWS 90U, LWS 60A, ets.), date, and airplane registration number. Position each film pack close to the site, using figures of this directive for guidance. Note: It is advisable to secure a "back-up" lead plate of 0.12-inch thickness at all sites, especially where film is beneath the spar cap.

(c) Load the wing by applying an upward force at the junction of the number 10 wing rib and the lower forward spar cap of the outer wing panel. Use lumber or other material along and under the rib so as to distribute the force. Apply force equal to the sum of half of the weigth of any fuel in outboard wing tanks, plus the weight of fixtures such as lumber, plus 75 to 100 pounds.

(d) After the wing is loaded, ascertain that the X-ray source is secured against the upper wing skin for WS 60 and 62 sites and approximately 36 inches from the film at all other sites, at chordwise and spanwise angles specified by Figure 3 of this directive.

(e) Ascertain that neither the air plane nor the source will be moved by wind or other influences, and expose the film so as to obtain 1.5 to 2.8 radiographic density near inspection sites specified in Figure 4 of this directive. Use the same kinds of film and exposure time for WS 62 sites as for WS 60 sites.

(f) Retake any radiograph which evidences unsharpness, missed or obscured site, improper density, improper beam alignment, or in which at least two penetrameter holes are not perceptible.

Note.—Beam alignment indicators are either structural features such as top and bottom tangs, or indicators specially installed. The latter will appear as thin ellipses, the thinner being closest to the site.

7. Using a low power magnifying device, examine each radiograph under viewing conditions which show penetrameter holes. Look for evidence of corrosion pitting and transverse cracking in unwelded spar cap material. Pay particular attention to unwelded spar cap material adjacent to discontinuities such as screw holes, corrosion pits, and tips and edges of welds. Submit a report to maintenance facility accomplishing the AD showing the location of each indication of cracking and corrosion pitting in unwelded spar cap material.

8. After sites are cleaned, inspect by visual and either penetrant or magnetic particle methods, using materials and procedures as specified below. Inspect for cracking, external corrosion pitting, and holes through spar caps. Pay particular attention to locations specified by the X-ray report. Prior removal of original finish is not necessary, but paint applied in service must be removed unless it is a brittle finish.

(a) Conduct visual inspection while wing is flexed by applying and relieving a 75 to 100 pound upward force near the wing tip. Use flashlight or other illumination and low power magnifying device for visual inspection.

(b) Conduct penetrant inspection, if this method is used, while the wing is flexed as for visual inspection. Use materials shown by the penetrant manufacturer's publications to be eligible for detection of fatigue cracks in steel tubing. Strictly follow the penetrant manufacturer's instructions.

(c) Conduct magnetic inspection, if this method is used, while the wing is either flexed as for visual inspection or loaded as for X-ray inspection. Position Magnaflux Corporation Y–5 or YM–5 yoke or equivalent equipment so that magnetic flux will parallel

V 45 AG 18 80 UMI

the spanwise centerline of the spar cap. Strictly follow instructions published by the equipment manufacturer for detection of fatigue cracks in steel tubing.

9. Keep all radiographs at an accessible location apart from the airplane.

(D) Within three (3) days after discovery, send a written report to FAA on Form 8330-2, or equivalent, showing the length and location of each crack and the location of corrosion or other adverse condition discovered during inspections required by this directive. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

(E) Obtain (unless previously done) and follow the cognizant (aircraft or strap, as appropriate) manufacturer's instructions for repair and/or cntinued service of each defect that is found during inspections required by this directive. If continued service with corroded wing structure has been previously authorized, field comparison of old and new radiographs must show that no subsequent deterioration has occurred, or remaining strength must be re-evaluated by the aircraft manufacturer.

(F) Within 200 hours' time-in-service after January 5, 1976, but prior to the next flight after October 1, 1980, unless previously accomplished, incorporate an STC-approved strap installation which reinforces the lower forward cap between at least left and right wing stations 181.

Note.—Eligible strap installations are SA643CE with SA1206CE, SA832SW with SA895SW, SA1581SW with SA1582SW, SA2000WE, SA982EA, SA814SO, SA1533WE with SA2737WE, SA1192WE with SA3229WE, SA3009WE, SA3010WE, SA3021WE, and any future STC that includes a notation that refers to this directive.

(G) Aircraft may be flown in accordance with FAR 21.197 to a location where alterations and inspections required by this directive can be performed.

(H) Alternate methods of compliance with this directive must be approved by the Chief, Aircraft Certification Program, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209 telephone (316) 942-4219.

(I) X-ray inspections herein required must be accomplished by:

1. A certificated repaired station holding a "limited airframe—Beech 18 series aircraft—wing and center section spar X-ray inspections" rating and

2. Either a certificated mechanic or repairman in the employ of the above repair station, who is currently authorized to accomplish said X-ray inspections pursuant to a letter of authorization issue by the FAA GADO or FSDO having certificate authority over that repair station.

(J) The authorized person performing any X-ray inspection required by this AD shall, in addition to the information required by FARs 43.9 and 91.173, list the date of the letter of authorization under which he performed said inspection in the aircraft maintenance records specified in FAR 91.173(a)(2).

Currently effective Beech Aircraft Corporation's Service Bulletin 64-15, 64-16, 64-17 and 66-10 and Strap STC-Holders' Publications consider this subject but this AD takes precedence in any conflicting detail.

This AD supersedes AD 64-1-01, Amdt. 810 of Part 507 and any other amendments applicable to said AD, AD 64-21-03 (Amdt. 812 of Part 507 and any other amendments applicable to said AD). Amdt. 64-21-03 (Amdt. 812 of Part 507 and any other amendments applicable to said AD, AD 73-18-04 (Amdt. 39-1708 and any other amendments applicable to said AD and AD 75-09-18 (Amdt. 39-2241 and any other amendments applicable to said AD).

Amendment 39-2462 became effective January 5, 1976.

Amendment 39-2591 became effective May 3, 1976.

This amendment becomes effective August 21, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89, Federal Aviation Regulations (14 CFR Sec. 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in this docket. A copy may be obtained by writing to John L. Fitzgerald, Jr., Attorney, Office of the Regional Counsel, Room 1558, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-5446.

Issued in Kansas City, Missouri, on August 4, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80-24672 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 17906; Amdt. 39-3891]

Airbus Industrie (AI) Type A300 Airplanes, All Models; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires periodic inspection for cracks in wing slat closing plate assemblies of Airbus Industrie (AI) Type A300 arirplanes, and modification or replacement thereof as appropriate. The AD is needed to prevent in-flight loss of a closing plate which could jeopardize persons and property on the ground, and safety of flight by interfering with proper operation of the airplane's high-lift devices.

DATE: Effective September 17, 1980. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Airbus Support Division, Avenue Lucien Servanty, Boite Postale 33, 31700 Blagnac, France.

A copy of each service bulletin is contained in the Rules Docket, Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: A. Astorga, Acting Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Chief, Policy Standards Section, AWS-111, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-8192.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring periodic inspection for cracks in wing slat closing plate assemblies an Airbus Industrie (AI) Type A300 airplanes, all models, was published in the **Federal Register** at 43 FR 20818. The proposal was prompted by reports of cracks in hinges and spring strut attachment brackets of No. 1 L.H. and R.H. wing slat closing plates on Airbus Industrie Type A300 airplanes, and in-flight loss of one closing plate occurring. In-flight detachment of a slat closing could endanger persons and property on the ground, and could jeopardize safe operation of the airplane by interfering with normal operation of the airplane's high-lift devices. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued which requires repetitive visual inspections, and modification as necessary, of No. 1 L.H. and R.H. wing slat closing plate assemblies on Airbus Industrie (AI) Type A300 airplanes, all models, until modified in accordance with AI Service Bulletin No. A300-57-065.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One comment was received requesting that the repetitive inspection interval for closing plates found uncracked be increased from 800 cycles to 1,400 cycles. This request is based on low anticipated crack growth rates and the results of initial inspections already accomplished which have not revealed significant discrepancies. The larger inspection interval would also conform to a regularly scheduled maintenance period for these aircraft. The FAA agrees with this request and paragraph (a) of the AD is being revised accordingly. Also, paragraph (c)(3) has been reworded for ease of reading and a new paragraph has been added concerning an FAA-approved equivalent to the manufacturer's service instructions.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie (AI). Applies to Type A300 airplanes, all models, certificated in all categories, not incorporating AI Modification No. 1909/AI Service Bulletin No. A300-57-065, dated December 15, 1977.

Compliance required as indicated, unless already accomplished.

To prevent in-flight loss of wing slat closing plates, accomplish the following: (a) Within the next 20 flights after the effective date of this AD, or prior to accumulation of 800 flights since new, whichever occurs later, and at intervals thereafter not exceeding 1,400 flights, except as provided in paragraph (b) of this AD, since the previous inspection, until modified in accordance with AI Service Bulletin No. A300-57-065, dated December 15, 1977, or an FAA-approved equivalent, visually inspect No. 1 L.H. and R.H. wing slat closing plate assemblies for cracks in the piano hinges, for failure of rivets, and for cracks or distortion at spring strut attachment lugs, in accordance with Accomplishment Instructions, subparagraph 2.A., Inspection, of AI Alert Service Bulletin No. A300-57-063, Revision No. 1, dated September 5, 1977, or an FAA-approved equivalent.

(b) If, during any inspection required by paragraph (a) of this AD, piano hinge cracks of less than 2.0 inches in length are found, verify that the pin of the piano hinge is complete and correctly installed and repeat the inspection required by paragraph (a) of this AD, within the next 600 flights and at intervals thereafter not exceeding 800 flights since the previous inspection, or, alternatively, proceed as prescribed in paragraph (c) of this AD.

(c) If, during any inspection required by this AD, hinge rivet failures, piano hinge cracks of 2.0 inches in length or greater, or cracks or distortion of the spring strut attachment brackets are found, before further flight, except that the airplane may be flown in accordance with FAR §§ 21.197 and 21.199 to a place where the work can be performed, accomplish the following: (1) Incorporate the modification specified in AI Service Bulletin No. A300-57-065, dated December 15, 1977, or an FAA-approved equivalent;

(2) For hinge rivet failures, and for hinge cracks of or greater than 2.0 inches in length, replace rivets or replace hinge, as appropriate, in accordance with subparagraph 2.C., Replacement of Cracked Hinges, of AI Service Bulletin No. A300-57-063, Revision No. 1, dated September 5, 1977, or an FAA-approved equivalent; and

(3) For cracks or distortion of the spring strut attachment brackets, replace the closing plate with a serviceable plate of the same part number in accordance with applicable portions of paragraph 2, Accomplishment Instructions, of AI Alert Service Bulletin No. A300-57-063, Revision 1, dated September 5, 1977, or an FAA-approved equivalent.

(d) For purposes of this AD, one flight is one takeoff and landing cycle.

(e) For purposes of this AD, an FAA-approved equivalent may be approved by the Chief, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective September 17, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on August 8, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-24855 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 20594, Amdt. 39-3892]

Mitsubishi Heavy Industries, Ltd., Model MU-2B Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspection and replacement, as necessary, of critical components of the nose landing gear strut assemblies on certain Mitsubishi Heavy Industries, Ltd., Model MU-2B airplanes. This AD is needed to prevent fatigue damage and subsequent structural failure of the nose landing gear strut assembly.

DATE: Effective September 2, 1980. Compliance schedule—as indicated in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from:

Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan or,

Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. The document may also be examined in Room 7321, Federal Aviation Administration, Pacific-Asia Region, Engineering and Manufacturing District Office, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC-210, Pacific-Asia Region, Federal Aviation Administration, P.O. Box 50109, Honolulu, Hawaii 96850, Telephone: (808) 546-8650 or 546-8658, or C. Chapman, Acting Chief, Technical Standards Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8374.

SUPPLEMENTARY INFORMATION: There have been reports of cracks on the nose landing gear strut assembly on the Mitsubishi Heavy Industries Model MU-2B-20 airplane which could cause structural failure of the nose landing gear. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires magnetic particle inspection and replacement as necessary of the critical components of the nose landing gear strut assembly on certain Mitsubishi Heavy Industries Model MU-2B-20 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Mitsubishi Heavy Industries, Ltd. Applies to Models MU-2B-10, -15, -20, -25, and -26, Serial Numbers 005 through 347 (except Serial Numbers 313 and 321) and Models MU-2B-30, -35, and -36, Serial Numbers 501 through 696 (except Serial Numbers 652 and 661), certificated in all categories. This AD does not apply to MU-2B series airplanes having serial numbers with the suffix "SA."

Compliance is required as indicated.

To prevent fatigue damage of the nose landing gear strut assembly, accomplish the following:

(a) Within the next 200 hours time in service after the effective date of this AD, unless already accomplished within the last 100 hours time in service, and thereafter at intervals not to exceed 200 hours time in

service, inspect the critical components of the

EFFECTIVE DATE: August 18, 1980. Compliance is required as set forth in

and Manufacturing Branch, Federal Aviation Administration, Eastern Region,

International Airport, Jamaica, New

nut is less than 15 ft.-lbs., the engine

service, inspect the critical components of the NLG strut assembly, Part Numbers 010A-39131 or 030A-39111, for cracks in accordance with the instructions contained in Mitsubishi MU-2 Service Bulletin No. 181, dated July 12, 1979 (hereinafter referred to as the Service Bulletin), or an FAA-approved equivalent. Specific affected strut assemblies by part and dash numbers are listed in the Service Bulletin. Airplanes equipped with new outer cylinder assemblies, axle assemblies, and trunions that are identified by "SP" markings need not comply with the repetitive inspection requirements of this AD.

(b) If a crack is discovered during any inspection required by paragraph (a) of this AD, replace the defective part with a new part of the same part number in accordance with the instructions contained in the Service Bulletin, or an FAA-approved equivalent, and continue repetitive inspections as required by paragraph (a) of this AD.

(c) If an equivalent means of compliance is used in complying with paragraphs (a) and (b), that equivalent must be approved by the Chief, Engineering and Manufacturing District Office, Federal Aviation Administration, Pacific-Asia Region, P.O. Box 50109, Honolulu, Hawaii 96850.

Note.—All persons affected by this directive who have not already received the applicable service bulletin from the manufacturer may obtain a copy upon request to Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan, or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901. The service bulletin may also be examined at FAA, Pacific-Asia Region, Room 7321, 300 Ala Moana Blvd., Honolulu, Hawaii 96850, and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

This amendment becomes effective September 2, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on August 8, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-24656 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-EA-15, Amdt. 39-3881]

AVCO Lycoming VO, TVO-435 and VO, IVO, TVO, and TIVO-540 Series Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule issues an amendment and revision to AD 80-04-04, applicable to AVCO Lycoming VO, TVO-435, VO, IVO, TVO and TIVO-540 aircraft engines. AD 80-04-04 concerns an inspection for torque of the crankshaft flange to transmission drive coupling attaching bolt nuts. This rule changes the required torque value from 25 foot pounds to 15 foot pounds, the former value having been an error. It also changes some words for clarification purposes, as well as the number of the service bulletin. The inspection with the higher torque value applied would result in unnecessary cases of loose bolts and further unnecessary disassembly and inspection.

EFFECTIVE DATE: August 18, 1980. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: E. Manzi, Propulsion, section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Because of the need to inform owners and operators of the error in torque value as soon as possible, this rule was disseminated as an airmail airworthiness directive under date of March 13, 1980. Since the same situation still exists and requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by revising and amending AD 80-04-04 to read as follows:

AVCO Lycoming: Applies to all VO and TVO-435 series engines and to all VO, IVO, TVO and TIVO-540 series engines.

To prevent possible failure of the crankshaft flange bolts perform the following, unless already accomplished:

(a) Within the next 50 hours in service after effective date of this AD, engines that have accumulated 550 hours or more time in service since new or overhaul must have the engine crankshaft flange to transmission drive coupling attaching bolt nuts checked for 15 ft.-lbs. torque measured in the tightening direction. If the torque on any attaching bolt nut is less than 15 ft.-lbs., the engine crankshaft flange and the helicopter transmission drive coupling flange must be inspected for cracks, fretting, galling, or for any metal transfer from one surface to its mating surface. Remove from service any crankshaft or drive coupling which shows such deficiencies. Prior to returning the engine to service accomplish the following:

(1) Remove and discard all flange bolts. Measure all bolt holes in the crankshaft flange and repair if necessary in accordance with the requirements of AVCO Lycoming Service Instruction No. 1209B or equivalent procedure approved by Chief, Engineering & Manufacturing Branch, FAA Eastern Region.

(2) Install replacement bolts in accordance with AVCO Lycoming Service Instruction No. 1209B paragraph 5 or equivalent procedure approved by Chief, Engineering & Manufacturing Branch, FAA Eastern Region.

Those engines which showed no such deficiencies or whose attaching bolt nut torques measured 15 ft.-lbs. may be returned to service, but the torque of the crankshaft flange attaching bolt nuts must be measured every 600 hours in service thereafter or until compliance with paragraphs (a)(1) and (a)(2) of this AD is accomplished.

Effective date. This amendment is effective August 18, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on August 1, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24655 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-EA-13; Amdt. 39-3880]

Airworthiness Directives; AVCO Lycoming T10-540-S1AD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to AVCO Lycoming T10-540-S1AD type aircraft engines. It requires repetitive checks of the throttle for stiffness or seizure, and replacement where necessary of the turbo-charger wastegate valve or cable assembly. It appears that seizure of the wastegate valve and cable assembly have resulted in power losses and unscheduled landings.

EFFECTIVE DATE: August 18, 1980. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: I. Mankuta, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Because of the seriousness of the air safety hazard, known owners and operators of the Piper PA-32RT-300T and PA-32R-301T airplanes with the subject engines installed were notified by telegram under date of March 10, 1980, of the substance of this amendment. Since the same situation still exists, it requires the immediate adoption of this regulation, and it is therefore found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by adding the following new Airworthiness Directive:

AVCO Lycoming: Applies to Lycoming Model T10-540-S1AD engine with serial numbers thru S/N L-6991-61A except: S/Ns L-5253-61A, L-5616-61A, L-5641-61A, L-5691-61A, L-5808-61A, L-5823-61A, L-5878-61A, L-5909-61A, L-5967-61A, L-5970-61A, L-6160-61A, L-6183-61A, L-6451-61A, L-6669-61A, L-6671-61A, L-6775-61A, L-6840-61A, L-6860-61A, L-6861-61A, L-6886-61A, L-6887-61A, L-6888-61A, L-6900-61A Thru L-6905-61A, L-6915-61A Thru L-6921-61A, L-6930-61A Thru L-6940-61A, L-6979-61A Thru L-6988-61A and L-6990-61A; installed in Piper PA-32RT-300T and PA-32R-301T aircraft.

Compliance is required prior to each flight after receipt of this directive until a new transition wastegate assembly P/N LW16858 is installed.

To prevent loss of engine power control due to seized throttle movement, accomplish the following:

1. Prior to each flight check the throttle movement for stiffness or binding as follows:

a. Release the throttle friction lock in the cockpit.

b. Move the throttle from idle to full open and back to idle.

c. If the throttle movement is stiff or binds, replace any wastegate valve or cable assembly with a new assembly in accordance with Lycoming S/B 448.

2. An alternative method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Eastern Region.

The checks in this AD may be accomplished by the pilot. Any corrective action required by this AD must be accomplished by a person authorized by FAR 43.3.

Piper special advisory Telex SA-32RT-300T/32R-301-1 dated February 8, 1980, and Lycoming Service Bulletin No. 448 pertain to this subject.

This AD is effective on August 18, 1980, and was effective upon receipt for all recipients of the letter dated March 17, 1980, which concerned this subject.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on August 1, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24660 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80-EA-33; Amdt. 39-3886]

Bendix D-2000 and D-2200 Magnetos; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Bendix D-2000 and D-2200 magnetos. The subject matter is related to that found in AD 79-18-06. This AD requires an inspection to determine whether there has been distortion of the distrubutor block bore due to tightening of the four center magneto screws; it also requires permanent removal of the screws. The distortion can cause magneto housing interference with a possible failure of the magneto.

EFFECTIVE DATE: August 21, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Bendix Service Bulletins may be acquired from the manufacturer at the Electrical Components Division, Sidney, New York 13838.

FOR FURTHER INFORMATION CONTACT: A. T. Farrar, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Since the publication of AD 79-18-06 which relates to this problem, it has been determined that some red nameplate magnetos have failed the limits established by the AD. Further, it appears that all magnetos should have the four center cover screws removed, as these appear to be a possible source of distortion for any magneto. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by adding the following new Airworthiness Directive:

Bendix: Applies to Bendix D-2000 and D-2200 series magnetos installed on 4, 6, or 8 cylinder reciprocating engines.

To preclude the loss of ignition, accomplish the instructions shown in the following sections of Bendix Service Bulletin No. 605A or an FAA approved equivalent, within the next fifty hours' time in service after the effective date of this AD unless previously accomplished.

a. Service Bulletin Section 2, Housing Distortion Check:

1. For red nameplate magnetos with serial numbers above 25000.

2. For any magneto, regardless of serial number, which has operated with the four center cover screws installed after compliance with AD 79-18-06.

b. Service Bulletin Section 4, Installation of Cover Sealing Kit and Cover Decals.

c. Service Bulletin Section 5, Identification After Compliance.

d. Make an engine log book entry of compliance, including magneto serial number.

Equipment inspections and procedures must be approved by the Chief of the Engineering and Manufacturing Branch, AEA-210, Federal Aviation Administration (FAA) Eastern Region. As permitted by FAR 21.197, aircraft may be flown to a base where maintenance required by this Airworthiness Directive can be accomplished.

Effective Date: This amendment is effective August 21, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of

Transportation Regulatory Policies and

DeHavilland: Applies to all DHC-7 series

Issued in Jamaica, New York, on August 7,

within then next 25 hours in service after the

Avenue, Aurora, Colorado 80010;

Since this regulatory action involves an

Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Jamaica, New York, on August 7, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24671 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-EA-20; Amdt. 39-3885]

DeHavilland DHC-7; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to DeHavilland DHC-7 type airplanes and requires repetitive inspections of the main landing gear upper lock strut assembly for cracks. This results from findings of the failure of the landing gear, possibly being attributable to lock failures.

EFFECTIVE DATE: August 21, 1980. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: L. Lipsius, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There has been a report of a DHC-7 having an accident when the right main gear folded during a landing roll-out after failure of the lock strut. The rule requires a dye penetrant or eddy test inspection followed by daily visual inspections. Upon incorporation of DeHavilland Modification No. 7/1838, the inspections may be discontinued. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by adding the following new Airworthiness Directive:

DeHavilland: Applies to all DHC-7 series airplanes certificated in all categories.

To prevent possible retraction of the main landing gear due to failure of the main landing gear upper lock struts, accomplish the following:

(a) Within 10 hours in service after receipt of this AD, unless already accomplished, conduct a one-time inspection of the unpainted area as noted in paragraph (b) for cracks using eddy current technique or dye penetrant methods with at least a 4-power glass, or equivalent.

(b) Chemically remove paint around the strut within a 1-inch band below the boss on each main landing gear upper lock strut assembly, P/N Menasco 15709-5, where the spring-loaded cable attaches.

(c) Visually inspect the area noted in paragraph (b) for cracks each day at intervals not to exceed 24 hours, after receipt of this AD, using at least a 4-power glass.

(d) If a crack is found, the upper lock strut must be replaced before further flight with a part of the same part number or equivalent, inspected and found airworthy in accordance with either method prescribed in paragraph (a) or equivalent. Continue to inspect in accordance with paragraph (c). Refer to DeHavilland Maintenance Manual PSM 1-7-2, Chapter 32-10-16.

(e) Report positive findings, including crack length, to the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, within 5 days of inspection. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

(f) Compliance with this airworthiness directive may be discontinued following incorporation of DeHavilland Modification No. 7/1838 in DeHavilland Service Bulletin No. 7-32-21, Revision A, dated May 2, 1980.

(g) Equivalent inspection procedures and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(h) The aircraft may be flown in accordance with FAR 21.197, with the landing gear locked in the full extended position, to a base where the inspection or part replacement can be performed.

(i) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance times specified in this AD.

Effective Date: This amendment is effective August 21, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Jamaica, New York, on August 7, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24670 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-EA-26; Amdt. 39-3882]

Gulfstream American—Models G-164B, 164C, and 164D; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive (AD), applicable to Gulfstream American G-164B, C, and D type airplanes. It requires an inspection for elongation of the aileron cable attachment holes in the bellcrank assembly. This deficiency results from a possible improper press fit of the bushings in the assembly, and could result in dislodgment of the bushing. The deficiency could cause a loss of flight control of the airplane.

EFFECTIVE DATE: August 18, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Gulfstream American Service Bulletins may be acquired from the manufacturer at P.O. Box 147, Elmira, New York 14902.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by adding the following new Airworthiness Directive.

Gulfstream American: Applies to Gulfstream Models G-164B S/N 1B thru 656B, G-164C S/N 1C thru 44C, and G-164D S/N 1D thru 16D. Compliance is required as indicated, unless already accomplished.

To detect elongation of the aileron cable attach holes and to eliminate the possibility of bushings becoming dislodged from the aileron bellcrank, accomplish the following within then next 25 hours in service after the effective date of this AD.

a. For airplanes that have not been altered in accordance with the original issue of Gulfstream American AG-CAT Service Bulletin No. 75, comply with the inspection and alteration specified in the bulletin, Revision A, Parts A, B and C, or an approved equivalent.

b. For airplanes that have already been altered in accordance with the original issue of the bulletin, accomplish the alteration specified in the bulletin, Revision A, Part D, or an approved equivalent.

c. Equivalent inspections, alterations, and replacement parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

d. Upon request, with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective date: This amendment is effective August 18, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, 49, U.S.C. 1655(c); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Jamaica, New York, on August 1, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-24667 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ARM-02]

Establishment of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes 700 foot and 1,200 foot transition areas at Pembina, North Dakota to provide controlled airspace for aircraft executing the new VOR runway 33 standard instrument approach procedure developed for the Pembina Municipal Airport, Pembina, North Dakota.

EFFECTIVE DATE: 0901 G.m.t., October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Robert E. Greene, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On Thursday, April 17, 1980, the FAA published for comment (45 FR 26079) a proposal to establish a 700' and 1,200' transition area at Pembina, North Dakota. The only comments received as a result of this circular expressed no objections.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (FAR's) establishes 700' and 1,200' transition areas at Pembina, North Dakota, to provide controlled airspace for aircraft executing the new VOR runway 33 standard instrument approach procedure developed for the Pembina Municipal Airport, Pembina, North Dakota.

Drafting Information

The principal authors of this document are Robert E. Greene, Operations, Procedures and Airspace Branch, Air Traffic Divsion, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., October 30, 1980, as follows:

By amending Subpart G, § 71.181 (45 FR 445) so as to establish the following transition areas to read:

That airspace extending upward from 700' above the surface within a 6.5-mile radius of the Pembina Municipal Airport (latitude 48°56'43" N., longitude 97°14'31" W.); and within 2 miles each side of Pembina VORTAC (latitude 48°52'09" N., longitude 97°07'00" W.) 310° radial extending from the 6.5-mile radius area to 8 miles southeast of Pembina Municipal Airport; and that airspace extending upward from 1,200' above the surface beginning at latitude 49°00'00" N., longitude 97°30'00" W.; to latitude 48°48'00" N., longitude 97°30'00" W., to latitude 48°16'30" N., longitude 98°40'00 W.; to latitude 48°08'30"N., longitude 98°32'00" W.; to latitude 48°07'00"N., longitude 98°12'00" W.; to latitude 48°31'00" N., longitude 97°14'30" W. excluding portions outside the United States, Minnesota and the Grand Forks, North Dakota 1,200' transition area.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colo., on August 5, 1980.

Arthur Varnado,

Director, Rocky Mountain Region.

[FR Doc. 80-24668 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 281

[Docket No. RM79-40; Order No. 55-B]

Natural Gas Curtailment; Final Regulations Governing the Determination of Alternative Fuels for Essential Agricultural Users and Finding of No Significant Impact

August 11, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Regulations and Finding of No Significant Environmental Impact.

SUMMARY: The Commission is amending Part 281 of its regulations by amending Subparts B and C that prescribe which fuels the Commission has determined to be economically practicable and reasonably available as a substitute for the essential agricultural use of natural gas and how certain essential agricultural users of natural gas must change their priority 2 entitlements for those volumes of gas for which there is an alternative fuel. The rule applies only to: (1) Essential agricultural use establishments that have requested from any direct supplier, over 300 Mcf of natural gas per day as a priority 2 entitlement; and (2) new boilers with a capacity of 300 Mcf per day, except diesel engines and turbines that can only use distillate fuels as a substitute for natural gas. The application of the rule is limited to the use of coal or residual fuel oil as alternative fuels.

This rule is promulgated under section 401(b) of the Natural Gas Policy Act of 1978 which restricts the protection from curtailment afforded under the Act by excluding from that protection any gas applied to essential agricultural uses, where there are other economically practicable and reasonably available fuels for those uses.

Essential agricultural users, local distribution companies and interstate

V 45 A G 1 8 0 UMI

pipelines must revise their priority 2 entitlements only to the extent there have been changes from the previous year. Any changes must be reported by August 31, 1980. Under the final rule interstate pipelines will receive sufficient information from customers in the next six weeks to be able to amend their indices of entitlement to reflect the changes in priority 2 entitlements. Revised indices must be filed by October 1, 1980.

The Commission has also made a finding that adoption of the final rule will have no significant environmental impact.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol St. NE., Washington, D.C. 20426, (202) 357–8455.

The Federal Energy Regulatory Commission (Commission) adopts final regulations that implement section 401(b) of the Natural Gas Policy Act of 1978 (NGPA) by establishing a generic alternative fuel determination for essential agricultural users and by updating filing requirements for natural gas curtailment plans that are affected by priority 2 (essential agricultural) uses of natural gas.

I. Background

On June 3, 1980, the Commission issued a notice of proposed rulemaking (the "June 3 notice") in this proceeding (45 FR 39283, June 10, 1980). The notice proposed implementation of a final rule pursuant to section 401(b) of the Natural Gas Policy Act (NGPA), to replace the interim rule promulgated by Order No. 55 on October 26, 1979.

Order No. 55 established that alternative fuel determinations under section 401(b)[1] would be made generically rather than case-by-case.[2] In that rule the Commission determined that, for the 1979–1980 heating season, only coal and residual fuel oil were reasonably available and economically practicable for essential agricultural users with requirements exceeding 300 Mcf per day. In addition, new boilers with a capacity in excess of 300 Mcf per day were deemed to have alternative fuel capability.

In the June 3 notice, the Commission proposed a final rule retaining the procedural features of the interim rule. The notice further provided that residual oil and coal would be determined to be reasonably available and economically practicable as alternative fuels. The Commission indicated that although the rule would be considered final, it would be subject to future amendment as circumstances might require.[3]

The statute requires that a rule implementing section 401(b) be made only after consultation with the Secretary of Agriculture. The Commission has consulted with the Department of Agriculture and its comments have been placed in the public files of this proceeding. In addition, a representative of the Department of Agriculture served as a member of the panel designated by the Chairman of the Commission to conduct a public hearing on the proposed rule.

The Commission appreciates the efforts of the Department of Agriculture in developing a full and sound decisional record and providing the Commission with comments and advice that have been given careful consideration. However, we must reject the position of one commentor who argued that the views of the Department of Agriculture must be accommodated unless they are clearly erroneous. No legal authority was cited for this "clearly erroneous" test. The Commission, not the Department of Agriculture, is ultimately responsible for implementing section 401(b). The statutory requirement for consultation is not synonymous with a joint rule fully agreed upon by both the Commission and the Secretary of Agriculture.

Upon consideration of the comments received in this proceeding as well as the record in the interim rule, the Commission has determined to adopt the rule proposed in the June 3 notice as a final rule, with certain minor changes. Residual fuel oil and coal will continue to be viewed as reasonably available and economically practicable alternatives to natural gas. Aside from technical changes, the only change from the proposed rule is that the proposal to exempt small users on the basis of *peak* day requirements will be deleted. The provision of the interim rule exempting small users with requirements of 300 Mcf per day will be retained. By the deletion of the word "peak" from the 300 Mcf per day limitation as proposed, the Commission intends that the 300 Mcf per day limitation be implemented in the same manner as was done during the past year.

II. Discussion of the Major Issues

A. Introduction

The issues raised in the comments on the proposed rule are in large part the same as those raised concerning the interim rule. The Commission has reviewed them but is not persuaded that it should change the positions expressed in Order No. 55. To the extent the issues are the same, the explanations given in Order No. 55 also apply to the arguments presented in the present proceeding.

B. Economic Practicability

The most difficult issues facing the Commission in this rulemaking is how to interpret the Congressional phrase "economically practicable alternative." The Congress established a special priority for agricultural users of natural gas in order, the Statement of Managers states, "to prevent unnecessary increases in the cost of food in this country." Congress provided that the Commission could deny this priority to users with an economically practicable alternative. Again, consistent with Congress basic concern about increases in the cost of food and fiber, the Statement of Managers states that the intention was not to require agricultural gas users to switch to a "high cost alternative."

Some agricultural users who want to protect their priority 2 classification would translate "economic practicability" into a simple test of comparing natural gas prices with prices of possible substitute fuels. They would say the substitute fuel is economically practicable only if it is equal to or less than the price of natural gas. Other essential agricultural users, however, suggest that a substitute fuel may be economically practicable so long as its price is within some reasonable range of the price of natural gas.

To industrial process and feedstock users, interested in keeping priority 2 as small as possible because their requirements are curtailed immediately before those in priority 2, "economic practicability" represents the other extreme on the spectrum of construction. They note that § 402 (the NGPA priority 3 protection for essential industrial process and feedstock users) also imposes an alternative fuel test. It, too, is based on economic practicability (and reasonable availability). The Statement of Managers indicates that in the context of § 402 economic practicability means the "economic feasibility" standard of the Federal Power Commission ("FPC") under extraordinary relief proceedings seeking waiver from curtailment. The advocates of this position do not articulate a specific test for determination of "economic feasibility." However, they appear to seek to limit the test to the economic feasibility of installing conversion facilities to use a fuel other than natural gas. To this end, the cost of the alternative fuel itself would be irrelevant. Cost of conversion would control.

Under the test proposed by the industrial process and feedstock users, substitute liquid fuel,[4] at any price, would be economically practicable for any essential agricultural user with installed alternative fuel capability. Some would go beyond this to say alternative fuel would also be economically practicable for additional essential agricultural users if the cost of conversion were "economically feasible."

As this brief summary indicates the statutory term "economically practicable" is not clear on its face, and the Commission must construe it and shall do so in a manner which will best comply with the overall statutory scheme embodied in Title IV of the NGPA. The Commission does not believe the proposed construction of either side gives consideration to the full intent of Congress. Numerous aspects of energy costs affect food prices in this country in a complex way. A precise estimate of the impact of using an alternative fuel would require a determination or not only the increase in energy cost but also the extent to which other production factors (*e.g.* capital and labor) could be substituted. We would also have to know how much of the increased cost could be passed through to consumers considering the elasticities of demand. This can be done with precision only on a facility-by-facility basis. The Commission first proposed a procedure along these lines for purposes of implementation of the interim rule. 44 FR 26894 (May 9, 1979). There was near unanimous opposition to such case-by-case analysis and decisionmaking. The required data submissions by essential agricultural users appeared burdensome. There was also concern that individual determinations would unduly delay implementation of the alternative fuel rule.

As part of finding some meaningful but workable operational definition of "economically practicable" the Commission has the difficult task of interpreting the terms "unnecessary increases in food costs," and "high cost alternatives". Even with precise facility-specific measures of output cost impacts as a result in the change in the cost of energy inputs, the Commission would still have to determine if the increases were "unnecessary" or the alternative fuel was "high cost."

With this legislative context in mind, we now consider how the various potential constructions of the alternative fuel exemption would affect the priority 2 classification established by Title IV. The position that any fuel more expensive than natural gas is not economically practicable, based on the data contained in this record, would result in no liquid fuel qualifying as an alternative fuel. Except for those few uses of coal, agricultural users would be given priority 2 treatment for all their requirements and the alternative fuel exemption would be largely meaningless. We do not believe Congress intended the alternative fuel rule to be so limited as to be illusory. Certainly, if the intent of the Congress was to limit alternative fuels to those that cost less than gas, it could have reached the result with simpler and clearer language.

Liquid fuel prices exceeded natural gas prices when the Natural Gas Policy Act was passed. (Appendix A; June 3 notice, Appendices A and B, Charts 2–3.) A major concern leading to passage of Title I of the NGPA was the need to increase domestic production of natural gas. The shortage in natural gas supplies had manifested itself in natural gas curtailments every year since the beginning of the 1970's and curtailment was projected for the winter heating season 1978–1979.[5] In sum, at the time the NGPA was passed all liquid fuel prices including those to agricultural users exceeded natural gas prices, and natural gas customers including essential agricultural users were experiencing curtailment. It was in this context that Congress said use of an alternative fuel should not cause "unnecessary increases in the cost of food in this country." Read in this light, the agricultural users are actually advocating that the alternative fuel rule must be construed to reduce their energy costs. Specifically, if economic practicability were measured as "equal to or less than natural gas costs" all essential agricultural users would have been entitled to priority 2 because all liquid fuels exceeded natural gas prices when the NGPA was passed.[6] Subsequent price increases in liquid fuels would be irrelevant. Thus, they could have substituted natural gas (even if liquid fuel prices remained constant). This would have *reduced* their energy costs. If such were the intent, why would Congress have expressed concern about unnecessary *increases*? Some users might suggest that only increases above fuel oil prices in effect when the NGPA was passed give rise to the "economic practicability" bar. However, these essential agricultural users fail to recognize that such a rule, in the face of decreased curtailment, could also lead to a reduction in the cost of energy.

The Commission is unable to accept a construction which implies that Congress was unmindful that fuel is only one of many costs involved in the cost of food. It is equally unable to accept a construction which ignores the level of curtailment—which is directly related to the amount of alternative fuel required and therefore to the energy cost component of food.[7] In reaching this conclusion we are aware that Congress admonished against requiring the switch to high cost alternatives. However we do believe this language must be given meaning in the context of the impact that use of high cost fuel would have on the cost of food, and after projected curtailment levels have been factored in.

The economic feasibility test, advocated by process and feedstock users, yields a result as extreme, albeit opposite, as the result advocated by the agricultural users. It would have all essential agricultural users with

---

[1] Section 401(a) of the NGPA provides that essential agricultural uses of natural gas may not be curtailed except to the extent necessary to meet high priority uses. Section 401(b), however, provides that the curtailment status of section 401(a) shall not apply to those essential agricultural users for which the Commission, in consultation with the Secretary of Agriculture, determines that an alternative fuel is reasonably available and economically practicable.

[2] The Commission had earlier proposed a case-by-case approach. The overwhelming response to the Notice of Proposed Rulemaking favored a generic procedure. The Commission accepted the arguments that a generic rather than a case-by-case procedure is persuasive, and Order No. 55 resulted. (See discussion below.)

[3] As indicated in Order No. 55, any changes, would, if possible, not be made during any winter heating season.

We recognize that a rule which may be changed due to changing circumstances makes long term planning more difficult. However, the NGPA is a new statute. It has created a new program and imposes a new alternative fuel test which the Commission believes requires consideration of circumstances, as they exist from time to time, for its proper implementation.

[4] At least one essential process and feedstock user recognizes the potential economic disruption its construction could visit upon essential agricultural users. PGC suggests synthetic fuels might not be considered economically practicable because of the cost. However, PGC fails to explain how cost of fuel would be applied in its economic feasibility test. (Hearing transcript, June 30, 1980, p. 138.)

[5] Indeed, the record in this proceeding shows that curtailment was approximately 20% in the winter heating season 1978–1979.

[6] We also note that to the extent essential agricultural users were using alternative fuels they were incurring, in certain situations, additional costs associated with handling the alternative fuel.

[7] Some commentors suggest that the additional cost of handling alternative fuel is also relevant. We agree that there may indeed be additional costs. However, we lack record data that under the present circumstances there have been substantial increases in handling costs of alternative fuels.

installed capability [8] excluded from priority 2. Such a test ignores the cost of fuels in its entirety. We believe Congress intended to create a preference for agricultural users when it passed § 401. Use of the economic feasibility test would return most essential agricultural users to their pre-NGPA curtailment priority. It would render § 401 virtually meaningless.

A determination of "unnecessary increases" in costs requires discretion which is best exercised in light of prevailing circumstances. It requires a balancing of the economic risks a particular construction would have upon the various users of natural gas. Given the present situation we believe we should consider the extent to which agricultural users of natural gas are likely to be curtailed. The level of curtailment has decreased for the past several winter heating seasons.

Annual Natural Gas Curtailments

[April through the following March]

Year	Volume (in MMcf) [1]
1976–77	3,853,886
1977–78	3,655,279
1978–79	3,128,952
1979–80	1,606,474
1980–81 (projected)	1,242,770

[1] Excludes pipeline to pipeline curtailments. Source: Form 16's of major interstate pipelines.

Our present projections indicate approximately 8% curtailment for the 1980–1981 winter heating season. This means that the amount of time an essential agricultural user which will lose priority 2 classification will have to use an alternative fuel, because of inability of pipelines to serve all customers, is likely to be small. On an annual basis, deliveries for residential, commercial and firm industrial users (roughly corresponding to curtailment priorities one, two and three) range between 70 and 75 percent of total deliveries to end-users.[9] The remainder are below priority 3 and generally serve various categories of boiler fuel requirements. Thus, it is unlikely that for this winter heating season process and feedstock users will experience significant curtailment caused by supply shortages. Therefore the alternative fuel question is reduced to a question of whether agricultural boilers should be given a preference over other industrial boilers. We believe agricultural users with No. 2 oil and propane as their only alternatives should be given such a preference over other boiler users but users with other alternative fuels should not.

No. 2 oil is the most expensive of the alternative liquid fuels. Its price almost doubled in 1979. We cannot predict the rate of increase in 1980.[10] However, under the circumstances, we believe the risk of additional increases in No. 2 oil prices is an unnecessary one to impose upon essential agricultural users. These considerations lead the Commission to decline to exercise its discretion to determine No. 2 oil to be an economically practicable alternative.

Propane prices appear to be generally higher than those of No. 2 oil. The same considerations lead the Commission to decline to find propane to be an economically practicable fuel.

The question of the economic practicability of low sulphur No. 6 oil is more difficult. The data show it is generally less expensive than No. 2 oil but more expensive than high sulfur No. 6 oil. For the years 1976–1979 Monthly Energy Review data indicates the price differential between low sulphur No. 6 and No. 2 fuel oil relative to the natural gas price shows that low sulphur No. 6 was 27% to 40% less expensive than No. 2 oil. The Form 423 data indicates these differentials are 21% to 30%. [Appendix A hereto.] The data also indicates that No. 6 oil has not increased in price as rapidly as No. 2 oil, and the gap between the prices of No. 2 and low sulphur No. 6 is widening.[11] We must also be mindful that curtailment levels are decreasing. These factors lead us to conclude that treating low sulphur No. 6 as an alternative fuel would impose a lesser economic risk on essential agricultural users. Accordingly, we believe that low sulphur No. 6 is economically practicable. It follows that high sulphur No. 6 is also economically practicable.

We realize that this rule does not apply to existing facilities which have not installed alternative fuel capability. Some persons have argued that the result of this rule is to create a preference for those users which have not chosen to install alternative fuel capability. We do not deny that such a preference is reflected in our rule. But we believe imposition of conversion costs could cause unnecessary increases in food costs in the face of current gas supply projections. Therefore, we believe this preference is outweighed by the increases in costs that could be associated with conversion.

C. Reasonable Availability

As indicated in the June 3 notice, recent data published by DOE indicate that stocks for both residual and distillate fuel oil have been well above the level usually considered acceptable. Many agricultural users, however, argue that our nation's reliance on imported oil makes supplies subject to sudden disruptions. Supplies are also said to be affected by such unpredictable factors as the weather, curtailment levels, oil prices, conservation, and changes in the economy. Consequently, these persons argue, neither distillate nor residual oil may be considered reasonably available. Instead of relying on present fuel inventories, they say, the Commission must consider the projected availability of these fuels. Others say that finding fuel oil reasonably available would be inconsistent with the fuel oil displacement program expressed in FERC Order Nos. 30 [12] and 30–A [13] as well as with the goal of minimizing our dependence on foreign oil.

We do not find these arguments persuasive. Neither the statute nor the Statement of Managers qualifies the term "reasonably available" with references to long-term availability. Moreover, Congress clearly intended to protect essential industrial process and feedstock users from curtailment, albeit in a priority lower than agricultural users. In our view, it is implausible to conclude that Congress intended to expose these process and feedstock users to curtailment when alternative fuel is available to agricultural users simply because these fuels might become unavailable at some time in the future.

Our determination that liquid fuel oil is reasonably available for essential agricultural users does not conflict with the oil displacement program or the goal

[8] The economic feasibility test may exclude additional essential agricultural users if the installation of alternative fuel capability is determined to be economically feasible. Such determinations could inordinately delay implementation of the alternative fuel rule.

[9] "Future Gas Consumption of the United States," Gas Requirements Committee, published by the University of Denver Research Institute. Volume 6, December 1975, Table A–5 and "Supplement to Volume 6," September 1976, Table 3; See also American Gas Association *Gas Facts* (1978), Tables 64 and 69.

[10] We wish to clarify that the inclusion of price data for January 1980 in the Notice of Proposed Rulemaking was solely for the purpose of providing the public with all the information available to the Commission at the time the notice was issued. However, the Commission does not believe it is appropriate to evaulate and project on the basis of data from a single month. Moreover, the Commission does not believe it is appropriate to compare monthly data with annual data because of seasonal and other short term price variability.

[11] In reaching this conclusion we are not unaware of the price increases in low sulphur No. 6 oil in January 1980. (June 3 notice, Appendix A) However, we do not believe it is appropriate to base decisions on data for only one month.

[12] Docket No. RM79–34, May 17, 1979 (44 FR 30323, May 25, 1979).

[13] Docket No. RM79–34, September 12, 1979 (44 FR 54472, September 20, 1979).

of reducing our dependence on foreign oil. The oil displacement program had at the time of adoption a two-fold basis: shortage of residual fuel oil and No. 2 oil as well as a need to reduce dependence on foreign oils. The Commission is considering continuation of the rule. Continuation of the oil displacement rule, in light of current circumstances, may appropriately be based solely on the need to reduce dependence on foreign oil. Moreover, it is highly unlikely that this rule will alter the total amount of gas and oil consumed in this country. At issue here is only the question of whether certain agricultural users or other industrial users will be required to utilize the alternative fuel.

United Gas Pipeline Company (United) urges that determinations of reasonable availability be made by means of "a relief mechanism whereby any customer actually deprived of alternate fuel would obtain relief from its supplying pipeline or distributor." United does not provide details concerning how such a plan would work. In any event, determining the availability of fuels by means of individual requests for relief would have the same disadvantages as the case by case approach to section 401(b), which we have considered previously and rejected.[14] In dismissing United's proposal as a rule of general applicability, we express no view on whether or not such an approach would be considered appropriate for an individual pipeline as a result of a petition for relief under section 502(c).

There was no significant debate on the availability of coal on a national level to those capable of using it.[15]

Based upon the record, we find that coal and residual fuel oil are reasonably available fuels within the meaning of section 401(b).[16]

D. Adequacy of Data

The Commission has studied data from Form 423 and EIA data in connection with this rulemaking. The public data were summarized in the June 3 notice and public comment on these data solicited. Comments indicate that these sources may reflect large users who may enjoy lower prices than certain essential agricultural users. Nobody however, has suggested an alternate source of data that more accurately measures costs to essential agricultural users. Nor is it apparent that data more directly focused on agricultural consumers would suggest different policy outcomes from those suggested by the Form 423 and EIA data.

Other comments indicate individual users have experienced prices that exceed those prices summarized in our June 3 notice. This is to be expected with any data set that is a composite of various reports from various sources. It does not however mean that the data are inappropriate for the general use made of them by the Commission. We have used the best data available and sought improved data. Even with more precise generic data of the sort advocated by some commentors, as we have previously stated, a highly accurate evaluation of impacts can be made only in a case-by-case determination, not in a rule of general applicability. Considering the inherent generality implied by a generic approach, we believe that the available data are adequate and the comments do not persuade us that further search for more precise generic series would be cost-effective.

E. New Boilers

Some commentors object to our exclusion of new boilers which are presumed to have alternative fuel capability. However, a contrary rule would remove incentives to install alternative fuel capability. This would not be sound public policy, and there is no indication that Congress intended such a result.

We are aware that the curtailment priority treatment by this Commission is not the only factor that may enter into a decision concerning alternative fuel capability on a new or replacement boiler. However, where an adjustment request established that the sole reason for installation of such capacity would be the operation of our rule, we believe it would be appropriate to consider the cost of such additional facilities and whether the incurring of such cost would cause unnecessary increases in the cost of food.

Several commentors oppose using the nameplate rated capacity to exempt boilers below 300 Mcf per day from an alternative fuel test. Some also object to using 16 hours as a measure of the capacity (expressed in MMBtu per hour). It is argued that boilers frequently are not used at full capacity and may be used for periods more or less than 16 hours.

We realize that actual use is not necessarily the same as nameplate rating and that boilers operate for periods other than 16 hours. Nevertheless, the use of nameplate capacity is an objective, verifiable, and administratively practicable method for excluding boilers below a certain size from operation of § 281.304(b) of the rule, which applies only to new boilers. Furthermore, it is often considered inefficient to limit a boiler's operation to 8 hours a day. Thus, 16 hours was selected as a reasonable, practical, middle ground.

F. Adjustments

A rule of general applicability cannot anticipate and accommodate every peculiar fact situation confronted by each person subject to the rule. We also realize that some users' actual experience will differ from the generalizations upon which the rule is base.[17] The impact of the rule on a particular user may give rise to a situation which warrants adjustment relief. Procedures for adjustments are available under 18 CFR 1.41.

In addition to the comments concerning regional availability and practicability of various fuels, a number of persons urged that the rule should provide for special problems faced by certain industries. Central Florida Gas Corporation, for instance, urges special protection for seasonal agricultural users against heavy curtailment at the height of their seasonal use. National Grain and Feed Association alleges that use of fuel oil in grain drying contaminates the grain because grain drying is a direct flame application. Likewise, National Milk Producers Federation says that use of fuel oil in mild processing results in an inferior product.

Our notice invited comment on the need and advisability of regional determinations of economical practicability and reasonable availability. Some persons advocated regional determinations. However, they provided little supporting data. Upon consideration of the available published data and the views and comments provided us, we do not believe an adequate basis exists for a regional rule at this time. One difficulty is the availability of regional data in the detail that could be desirable. For example, the inventory data published by the Economic Regulatory Administration shows availability on a national basis with reference to the "estimated minimum acceptable level," but ERA does not provide regional estimates of

[14] *See* Notice of Proposed Rulemaking, Docket No. RM79–40, August 29, 1979.

[15] One person alleges that coal is not reasonably available in California. The rule itself does not provide for circumstances that may affect individuals in certain regions. Unique circumstances are appropriately addressed in an adjustment proceeding.

[16] Since we have not been able to find that distillate fuel oil and propane are economically practicable, we need not determine whether they are reasonably available.

[17] For example, we are aware that the record indicates the cost of fuels to individual users differs from the costs published in the June 3 notice.

minimum acceptable levels. Our

plan" is revoked. The phrase is now

Filing and service dates for 1980

553 of the Administrative Procedure Act

minimum acceptable levels. Our experience with curtailment cases suggests that to collect sufficient data to implement a rule based on regional considerations or tailored to individual industries would be a major task. We do not believe such a delay in implementing section 401(b) in order to implement a regional plan would be warranted by the likely advantages relative to a national rule.

G. Periodic Reconsideration of the Rule

A number of persons noted that conditions of price and availability can change rapidly and cannot be accurately predicted over a long period of time. Some urged the Commission to reevaluate frequently any rule adopted. Others suggested that a series of interim rules would be preferable. Several persons urged the Commission to adopt a methodology that would be useful indefinitely without requiring periodic review. Still others noted that deep curtailments are not anticipated for the approaching heating season and urged the Commission not to adopt any rule until further data could be obtained.

The NGPA was enacted in 1978. We do not believe that our duties under that law permit further delay in promulgating a final rule under section 401(b). Moreover, for reasons previously discussed, we have decided not to adopt a fixed formula for determining when alternative fuels are reasonably available and economically practicable.

Accordingly, we will endeavor to reconsider the rule adopted herein as changed circumstances may require, even though it is established as a final rule. We will also attempt, to the maximum extent practicable, to implement any required changes in time to allow adequate planning for future heating seasons. In any event, we do not anticipate changing the rule before the end of the 1980–1981 winter heating season.

H. The impact of this rule on other provisions in the NGPA.

Title II of the NGPA excludes from incremental pricing those essential agricultural users which do not have alternative fuel. The term is defined as fuel which is economically practicable and reasonably available. NGPA Section 206(b)(2). The Commission expects to issue a notice of proposed rulemaking in a separate docket in the near future which will seek comment on the appropriate alternative fuel test for purposes of incremental pricing. A number of people have commented in this proceeding (Docket No. RM79–40) concerning the application of this rule to incremental pricing. The Commission has not addressed the question of incremental pricing in this docket and will not do so. Rather it will reach a determination on the appropriate alternative fuel rule for Section 206(b) following further rulemaking proceedings.

Similarly, many persons have commented that the alternative fuel test for Section 402 is also one of economic practicability and reasonable availability. They urge that the same test must be applied to Section 401 and 402. However the Commission has just recently taken referral of the rule proposed by the Economic Regulatory Administration for implementation of Section 402. See Docket No. RM80–67. No rule has yet been issued establishing a priority 3 for essential industrial users and process users. Such a rule must be adopted by ERA before the Commission implements the Section 402 alternative fuel rule. Accordingly, the meaning of the alternative fuel rule in Section 402 is not before the Commission at this time, and it would be inappropriate to attempt to construe its meaning in the context of this discussion of Section 401.

I. The Environmental Assessment

In an environmental assessment of the proposed rule, Staff concluded that the effects of the rule on air quality would be insignificant and the effects on agricultural costs of production would be small. The assessment was made available to the public in the Commission's Office of Public Information and comments were invited.

Staff's environmental assessment is predicated on the assumption that curtailments will be no worse than in the 1976–1979 heating season. Certain persons object to the use of the 1978–1979 curtailment levels and argue that the 1976–1977 levels, or even 100 percent curtailment, should be assumed. We do not agree. As shown in the table below, the 1976–1977 year was a watershed for curtailment, and included the coldest winter in fifty years. Although the 1978–1979 heating season is not the year of highest curtailment, nonetheless, substantial curtailment did occur that year as well, certainly signficantly more curtailment than occurred during the 1979–1980 year or than is projected for 1980–1981.

Annual Natural Gas Curtailments

[April through the following March]

Year	Volume (in MMcf) [1]
1973–74	1,399,444
1974–75	2,209,002
1975–76	3,130,260
1976–77	3,853,886
1977–78	3,655,279
1978–79	3,128,952
1979–80	1,606,474
1980–81 (projected)	1,242,770

[1] Excludes pipeline to pipeline curtailments. Source: Form 16's of major interstate pipelines.

Moreover, several of the problems experienced by pipelines during 1976–1977 have been mitigated by the construction of additional pipeline capacity and by the development of more storage facilities. Finally, the passage of the NGPA has made significant volumes of additional supply available to the interstate market, at least in the near term. The suggestion that analysis of the proposed rule should be based on 100 percent curtailment of natural gas bears no relation to anything that is likely to occur in the reasonably foreseeable future. The curtailment level experienced during the 1978–1979 winter is an appropriate assumption to include in the environmental analysis.

National Council of Farmers Cooperatives incorrectly alleges that Staff failed to consider the effect on nonagricultural users of finding that no alternative fuel is economically practicable and reasonably available. Staff considered this alternative (Environmental Assessment at 19–20) and concluded that under such a rule, nonagricultural users could be more severely effected than agricultural users would be under the proposed rule.

Based on Staff's environmental assessment, the Commission finds that the rule adopted herein does not constitute a major federal action significantly affecting the environment.

J. Other Issues

Two persons requested that the rule be clarified to indicate that priority 2 status may be retained for those users of natural gas for which an agricultural user cannot use alternative fuels, even though the user has the ability to use alternative fuel for other uses at the same establishment. The interim rule was so clarified.[18] The rule adopted herein retains those features of the interim rule not specifically amended.

IV. Section-by-Section Summary of the Amendments

Definitions and cross references (§ 281.203). Section 281.203(a)(17), which defines "currently effective curtailment

[18] Order No. 55–A, Docket No. RM79–40, Order Denying Rehearing, February 19, 1980, at 5–6.

plan" is revoked. The phrase is now self-explanatory because the March 1, 1979 date is no longer relevant in describing existing plans.

Tariff filing requirements (§ 281.204). Section 281.204(b)(3) provides that the index of entitlements shall not include the volumes of natural gas for which the essential agricultural user has the ability to use an alternative fuel as determined under Subpart C. Under the interim rule, each interstate pipeline was required to amend its index of entitlements to remove from the priority 2 classification and place in an appropriate priority of service category "any volumes of natural gas included in any index of entitlements that is effective on October 31, 1979 (or on November 30, 1979, if the pipeline elects to file tariff sheets under paragraph (a)(2) of this section)." Under this final rule, a pipeline is required to amend its index of entitlements "pursuant to paragraph (b)(2)" to remove from the priority 2 classification and place in an appropriate priority of service categtory any volumes of natural gas for which the user has an ability to use alternative fuel if such volumes are included in any index of entitlements that is effective on or after October 31, 1979.

A new § 281.204(b)(4) is added to provide an optional deadline for revising indexes of entitlement in 1980 to accommodate alternate fuel capabilities. Notwithstanding anything in paragraph (b)(2) (periodic update of the index of entitlements), a pipeline may elect to file its revised index of entitlements on November 1, 1980, with a proposed effective date December 1, 1980, if the pipeline files with the Commission's Secretary by October 1, 1980 a written notice of its decision to file its revised index on November 1, 1980, and also continues its existing index in effect until December 1, 1980.

Filing and documentation (§ 281.211). Section 281.211(b)(1)(ii)(D) is amended to provide that a request for classification of any essential agricultural requirement as a priority 2 entitlement shall include, with respect to any agricultural user to which Subpart C (alternative fuel determinations) applies, the data and calculations necessary to determine alternative fuel volumes under § 281.304.

Section 281.211 is amended to provide that for years subsequent to 1979, the data required by this paragraph must be filed only to the extent that there has been a change in essential agricultural requirements. This amendment makes it clear that changes resulting in reduced agricultural requirements must be filed, as well as requests for changes reflecting increased requirements.

Filing and service dates for 1980 (§ 281.216). Section 281.216 is amended by designating the existing paragraph [19] as paragraph (a) and by adding a new paragraph (b) to provide that if the pipeline elects to file its revised index of entitlements on November 1, 1980, under § 281.204(b)(4), the Data Verification Committee shall submit its report by October 23, 1980.

Definitions (§ 281.303). Section 281.303(a) of the interim rule defined "ability to use" an alternative fuel as meaning that an essential agricultural use establishment had, on August 29, 1979, the installed physical capability to use the alternative fuel and used that alternative fuel, in any amount, at any time after 1973, for an essential agricultural use. The final rule amends this definition by inserting the phrase "or thereafter acquired" after "on August 29, 1979." A similar change is made in § 281.304(a)(2).

Section 281.303(h) defined "essential agricultural requirements" to mean volumes of natural gas certified by the Secretary of Agriculture and calculated in accordance with 7 CFR 2900.4. This section is clarified by adding the words "and § 281.208(b) of this Part" to the end of the sentence.

Filing of amendments to essential agricultural requirements and priority 2 entitlements (§ 281.305). Under Order No. 55, this section provided for filing amendments to priority 2 entitlements to reflect alternative fuel volumes. Since that process has been completed, § 281.305 (a), (b)(2), (c), and (d) are no longer necessary and are deleted. The section is now entitled "General Rule." Existing paragraph (b)(1) is revised and made the general rule. It provides that any essential agricultural user subject to this subpart that has requested from any direct supplier priority 2 classification for volumes for any essential agricultural use establishment shall reduce its essential agricultural requirements calculated under § 281.208 to reflect the exclusion of volumes of natural gas for which its essential agricultural establishment has alternative fuel volumes under § 281.304.

V. Effective Date

These regulations are being issued effective immediately. The Commission finds good cause to waive the 30-day delay in the effective date under section 553 of the Administrative Procedure Act. In order that the interstate pipelines have sufficient opportunity to amend the indices of entitlements by the winter season, data on alternative fuels must be requested and transmitted to the pipelines in the next few weeks. In a curtailment situation, permitting priority 2 natural gas to be used this winter by essential agricultural users that are able to use an alternative fuel, as defined in § 281.303, could jeopardize the availability of natural gas to process and feedstock users that do not have the ability to use alternative fuels.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 281, Chapter I of Title 18, Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission. Chairman Curtis voted present.

Kenneth F. Plumb,
Secretary.

[19] Contemporaneously with the Notice of Proposed Rulemaking issued in this proceeding on June 3, 1980, the Commission issued a rule in Docket No. RM79–15 adding a new § 281.216(a). The rule provides that under Subpart B filing and service dates for 1980 shall be the same as for 1979, notwithstanding anything to the contrary in § 281.212(d) or § 281.213(c).

§ 281.203 [Amended]

1. Section 281.203(a)(17) is revoked.

2. Section 281.204 is amended in paragraph (b) by revising second sentence of paragraph (b)(3) and by adding a new paragraph (b)(4), to read as follows:

§ 281.204 Tariff filing requirements.

* * * * *

(b) * * *

(3) * * * Each interstate pipeline shall amend its index of entitlements pursuant to paragraph (b)(2) of this section to remove from the priority 2 entitlements and place in an appropriate priority of service category any such volumes or natural gas included in any index of entitlements that is effective on or after October 31, 1979.

(4) Notwithstanding paragraph (b)(2) of this section, a pipeline may elect to file its revised index of entitlements on November 1, 1980 with a proposed effective date of December 1, 1980, if the pipeline:

(i) Files with the Secretary no later than October 1, 1980, a written notice of its decision to file its revised index of entitlements on November 1, 1980; and

(ii) Continues the effectiveness of its existing index of entitlements filed under this subpart B until December 1, 1980.

* * * * *

§ 281.211 [Amended]

3. Section 281.211 is amended by revising paragraph (b)(1)(ii)(D) and by

revising the first sentence of paragraph

§ 281.216 [Amended]

§ 281.304 [Amended]

18 CFR Part 282

economic judgments that Congress

argument can be made that Order No. 80

revising the first sentence of paragraph (b)(4)(ii), to read as follows:

* * * * *

(b) *Priority 2.* * * *

(1) *Essential agricultural users.* * * *

(ii) * * *

(D) Includes with respect to any essential agricultural user to which Subpart C applies the data and calculations necessary to determine alternative fuel volumes under § 281.304.

* * * * *

(4) *Subsequent request.* * * *

(ii) For years subsequent to 1979, the data required by this paragraph must be filed only to the extent that there has been a change in essential agricultural requirements.

* * * * *

§ 281.216 [Amended]

4. Section 281.216 is amended by designating the existing paragraph as paragraph (a) and by adding paragraph (b) to read as follows:

(a) * * *

(b) The Data Verification Committee shall submit its report not later than October 23, 1980, if the pipeline has elected under § 281.204(b)(4) to file its revised index of entitlements on November 1, 1980.

§ 281.303 [Amended]

5. Section 281.303 is amended by adding in paragraph (a) the words "or thereafter acquired" between "1979," and "the", and by adding at the end of paragraph (h) the words "and § 281.208(b) of this Part."

§ 281.304 [Amended]

6. Section 281.304(a)(2) is amended by adding the term "or thereafter acquired," between "1979" and the word "the".

7. Section 281.305 is revised to read as follows:

§ 281.305 General Rule.

Any essential agricultural user subject to this subpart that has requested from any direct supplier priority 2 classification for volumes for any essential agricultural use establishment shall reduce its essential agricultural requirements calculated under § 281.208 to reflect the exclusion of volumes of natural gas for which its essential agricultural establishment has alternative fuel volumes under § 281.304.

Appendix A.[1]—*Comparison of Selected Fuel Price Data, FPC Form No. 423 versus Monthly Energy Review, 1976—January 1980*

Type of fuel	FPC form No. 423 price data [1]					Monthly energy review price data [2]				
	1976	1977	1978	1979	Jan. 1980	1976	1977	1978	1979	Jan. 1980
	Cents per MMBtu									
Fuel Oil:										
No. 2	235.1	264.3	271.9	402.1	564.4	226.4	257.3	268.2	403.1	537.2
Low Sulfur No. 6	207.1	229.1	225.1	320.2	453.3	193.6	221.3	216.8	322.4	466.5
High Sulfur No. 6	168.7	199.9	186.7	264.7	361.4	165.9	195.2	186.1	261.5	349.6
All No. 6	195.9	220.4	212.3	299.7	423.5	182.8	210.4	202.7	297.0	417.7
Cost: All Grades	84.8	94.7	111.6	122.4	128.7	(3)	(3)	(3)	(3)	(3)
Natural Gas	103.4	130.0	143.8	175.4	194.8	97.2	131.9	154.1	201.8	237.3
	Actual price difference (fuel oil and coal versus natural gas)									
Fuel Oil:										
No. 2	131.7	134.3	128.1	226.7	369.6	129.2	125.4	114.1	201.3	299.9
Low Sulfur No. 6	103.7	99.1	81.3	144.8	258.5	96.4	89.4	62.7	120.6	229.2
High Sulfur No. 6	65.3	69.1	42.9	89.3	166.6	68.7	66.3	32.0	59.7	112.3
All No. 6	92.5	90.4	68.5	124.3	228.7	85.6	78.5	48.6	95.2	180.4
Cost: All Grades	(16.6)	(35.3)	(32.2)	(53.0)	(66.1)	(3)	(3)	(3)	(3)	(3)
	Price difference ratio [4] (fuel oil and coal versus natural gas)—ratio									
Fuel Oil:										
No. 2	1.274	1.033	.891	1.292	1.897	1.329	.951	.740	.998	1.264
Low Sulfur No. 6	1.003	.762	.565	.826	1.327	.992	.678	.407	.598	.966
High Sulfur No. 6	.632	.538	.298	.509	.855	.707	.460	.208	.296	.473
All No. 6	.895	.695	.476	.709	1.174	.881	.595	.315	.472	.760
Cost: All Grades	(.160)	(.272)	(.224)	(.302)	(.339)	(3)	(3)	(3)	(3)	(3)

[1] As reported in DOE/EIA Energy Data Report entitled *Cost and Quality of Fuels for Electric Utility Plants* (Annual summary data 1976–1979) and Monthly Report for January 1980. Note: All prices are delivered prices to steam electric plants. Prices paid for No. 6 fuel oil include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

[2] Fuel oil prices are reported on FEA Form P302–M–1, "Petroleum Industry Monthly Report for Product Prices." Natural Gas Prices are those paid by industrial customers of major interstate pipeline companies as reported on FPC Form No. 11, "Natural Gas Pipeline Company Monthly Statement."

[3] The price data for coal is the same as shown under FPC Form No. 423 price data.

[4] Mathematically the price difference ratio is $P_R = P_1/P_2$; Where P_R = the price of fuel oil or coal and P_1 = the price of natural gas. The ratio indicates the percent difference between natural gas and alternate fuel prices. For example in January 1980 electric utilities reported that in that month they paid 1.897 times more (189.7 percent) for No. 2 fuel oil than they paid for natural gas. As determined in Docket No. RM79–40 NOPR issued June 3, 1980, corrected for clerical/typographical error.

[FR Doc. 80–25004 Filed 8–15–80; 8:45 am]

BILLING CODE 6450–85–M

18 CFR Part 282

[Docket No. RM80–10]

Incremental Pricing; Order Denying Rehearing and Revoking Amendments Made by Order No. 80

Issued: August 1, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Denying Rehearing and Revoking Amendments Made by Order No. 80.

SUMMARY: On June 5, 1980, the Consumer Energy Council of America filed a petition for rehearing of Order No. 80, raising a single issue—whether the legislative veto provisions of section 202 of the Natural Gas Policy Act of 1978 (NGPA) are constitutional. In this order denying rehearing, the Commission finds that sound administrative practice requires it to presume the constitutional validity of all provisions of the NGPA. Nevertheless, since the constitutional issue raised here has not yet been spoken to by the Supreme Court, the Commission notes that it is possible that the legislative veto of section 202 could eventually be held to be invalid. In view of this potential, the Commission also acts in this order to revoke the amendments made by Order No. 80, on the basis that the underlying premise of its decision to promulgate the order would no longer apply without the legislative veto mechanism.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Tom S. Runge, Office of the Chairman, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8335.

Stephen Melton, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8467.

In Order No. 80, issued on May 6, 1980, the Commission promulgated a rule in this docket and submitted it to Congress as required by section 202(c) of the Natural Gas Policy Act of 1978 (NGPA). That rule would have expanded the scope of incremental pricing from its present coverage of industrial boiler fuel facilities to include "any industrial facility which is within a category defined by the Commission." The rule proposed to Congress would have extended the incremental pricing program "to all industrial users except those specifically exempted." (Order No. 80 at 6)

In Order No. 80, the Commission did not "second-guess the social and economic judgments that Congress made in enacting Title II." (Order No. 80 at 5) On the contrary, it saw its role as a more limited one, *i.e.*, it brought "its technical expertise to bear on the design of a workable Phase II rule that [could] best advance the purposes set by Congress." (*Id.*) The Commission believed, however, that in the last analysis the Congress had reserved to itself the question "whether this Phase II submittal meets adequately the social and economic goals of the incremental pricing program or, indeed, whether those goals are still appropriate." (*Id.*)

On May 6, 1980, the Commission transmitted the rule to Congress. On May 20, 1980, the House of Representatives passed a Resolution of Disapproval (H. Rep. 655),[1] which under the language of section 202 of the NGPA makes the rule ineffective.

On June 5, 1980, the Consumer Energy Council of America, *et al.* ("CECA"), filed a timely petition for rehearing of Order No. 80. In that petition, CECA raises a single issue—whether the legislative veto provision of section 202 is constitutional.[2] On July 8, 1980, the Commission granted rehearing solely for the purpose of further consideration.

We recognize that the constitutional issue concerning the validity of the legislative veto mechanism is one which has not been decided by the Supreme Court of the United States, and is one on which there is great diversity of view both within the Federal government and among legal scholars. Nevertheless, it was, at the time order 80 was promulgated and today remains, our view that sound administrative practice requires that presumption of constitutional validity of the statutes entrusted to this Commission for implementation.[3]

If section 202(c) of the NGPA containing the Congressional review and legislative veto mechanism is eventually held to be invalid, an argument can be made that Order No. 80 would take effect at the expiration of 90 days after the 30-day Congressional review period. This is CECA's position. In view of this potential (a matter squarely presented to us in this application for rehearing), the Commission has examined the underlying premise of its decision to prescribe Order No. 80 in its present form. As we noted in Order No. 80, many commenters suggested that no section 202 rule, or the narrowest possible section 202 rule, be prescribed. We refused to entertain these arguments, stating:

> The Commission believes that it was neither requested nor authorized to second-guess the social and economic judgments that the Congress made in enacting Title II. The role of the Commission under Section 202 is more limited. Instead, the Commission is instructed to bring its technical expertise to bear on the decision of a workable Phase II rule that can best advance the purposes set by the Congress. It is up to the Congress to decide whether this Phase II submittal meets adequately the social and economic goals of the incremental pricing program or indeed, whether those goals are still appropriate. (Order No. 80, p. 5)

Clearly, if section 202(c)'s Congressional review provisions are constitutionally invalid, then our premise for refusing to consider these arguments, namely that it "is up to Congress to decide whether this Phase II submittal meets adequately the social and economic goals of the incremental pricing program", is equally invalid, and cannot be the basis for such refusal. If the Commission refused to consider material arguments made in the course of the rulemaking because of this faulty premise, then Order No. 80 cannot be the product of reasoned decisionmaking and the Commission is neither authorized nor required to place it in effect. Thus this question seems largely academic at this point, and Order No. 80 cannot take effect under its terms at the conclusion of the 90-day period which follows the conclusion of the 30-day Congressional review period.

As previously pointed out, the Commission has not yet independently evaluated whether the Phase II rule meets the social and economic goals of the Title II incremental pricing program.

But we question whether the marketplace should be left exposed to the potential of significant disruption should the courts not share this view of the law. We think such an exposure to be most inadvisable. Hence, we propose to adopt an administrative course which should remove this jeopardy.

Moreover, if the Commission were to make that independent social and

[1] This is the only instance where Congress has exercised its veto in relation to the incremental pricing progam.

[2] CECA raises this issue by requesting the Commission to strike the following language from the Order:

". . . if neither House of Congress passes a Resolution of Disapproval of the regulations transmitted to them in this Order within 30 days of Congressional review, as determined in accordance with section 507(b) of the NGPA . . . ." (Order No. 80, p. 93)

Petitioners apparently believe that the elimination of this language could make the rule effective in accordance with its remaining terms.

[3] See *Califano* v. *Sanders*, 430 U.S. 99, 109 (1976); *Ostereich* v. *Selective Board*, 393 U.S. 233, 242, (1968) (Justice Harlin concurring in the result); *Buckeye Industries, Inc.* v. *Secretary of Labor*, 587 F.2d 231 (5th Cir. 1979); and *Speigel, Inc.* v. *Federal Trade Commission*, 540 F.2d 287 (7th Cir. 1976).

economic evaluation—and we stress that we have not made it previously and do not make it here today—we believe as an initial matter that we might well have very serious reservations as to the wisdom of making the Phase II rule effective. As we pointed out in Order No. 80, there are serious questions of general social and economic policy that deserve to be addressed. For example, we noted in the order that the rule there prescribed did not appear to be capable of carrying out the market ordering function of incremental pricing.[4]

Moreover, we note that the rule in its present form [5] might be an imperfect instrument for sheltering high-priority users from the economic impacts of rapidly increasing natural gas prices. Perhaps a better mechanism can be devised but if so, we were not able to discover it in the strict statutory period for implementation of incremental pricing.

In order to fairly make a broader judgment on the social and economic desirability of the rule as a sheltering device, or as a market-ordering device, the Commission would also have to consider and weigh much more imponderable and possibly contervailing factors—for example, the possibility that these fairly minimal savings to millions of high-priority users will be more than offset, in a broad social and political sense, by the significant surcharges and the increased costs of required reporting and accounting measures that would be imposed on the natural gas users subject to the Phase II rule.

A related and equally difficult social policy judgment that should properly be made by the Commission—if the Congress cannot constitutionally make it by way of the section 202(c) legislative veto—is whether the projected savings for high-priority users in annual gas costs might not be largely offset, in a strictly monetary sense, by increased prices for consumer goods possibly caused by passed-on Phase II incremental pricing surcharges.

These imponderables, and the other major social and economic issues raised by Order No. 80, simply must be assessed, and a reasoned judgment reached upon them, before the rule takes effect. The House of Representatives made a judgment to reject this proposal after consideration of these and other social and economic issues. The Commission has not made and does not today attempt an independent evaluation of them.

Moreover, such an evaluation in the future would be aided by an opportunity to judge the implementation of the Phase I over the coming months and the accompanying opportunity to address and resolve any administrative problems that may be encountered.

This seems to us the wiser administrative course of action, one that would minimize the risk of economic dislocations to the industrial sector and avoid adding at this time further recessionary pressures on American industry. It is the administrative course which we would choose, if the choice were ours to make.

In order to assure that an opportunity to evaluate Phase I, and the impacts of Phase II as proposed in the event section 202(c) is held invalid, the Commission will exercise its authority under sections 201 and 202 to amend the rule under section 201 to revoke the amendments made by Order No. 80. Revocation will permit the Commission in the future to carefully weigh these considerations and if appropriate prescribe a Phase II rule which it finds to be in the public interest.

The Commission's authority to amend is clear. Section 201 directs the Commission to prescribe an incremental pricing rule applicable to industrial boiler fuel facilities, and authorizes the Commission "from time to time" to amend the rule. Section 202 requires the Commission to amend the 201 rule to expand its applications to such other categories of industrial facilities as it may define. The amendment required by section 202 to the section 201 rule is part of the section 201 rule. Thus, the amendment may, by the terms of section 201, be amended "from time to time." By the terms of 202(a)(2), the amendment required by section 202 and all amendments "applicable to facilities to which the amendments required by this section applies (other than technical and clerical amendments)" are subject to the Congressional review procedure in section 202(c), if those procedures are constitutionally valid. However, the amendment made by this order will have legal effect only if section 202(c) is invalid. Moreover, if section 202(c) is invalid, then the Congressional review procedure it sets out is inoperative. The amendment shall, in this event, take effect immediately on issuance without submission to either House of Congress.[6]

The Commission orders: (A) The petition for rehearing is denied.

(B) The amendments made by Order No. 80 (45 FR 31622, May 13, 1980) to the Commission's regulations are revoked, effective on issuance of this order

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24131 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[4] Order No. 80, pp. 57–66.

[5] As Order No. 80 pointed out, at p. 71, sheltered high-priority users would, on the average, probably be spared a total of about $.14 per Mcf of purchased gas. For the average household using natural gas for heating or cooking purposes, this translates into a savings of about $18 per year.

[6] It is similarly clear, if section 202(c) is invalid, that there is no requirement that Order No. 80 be made effective at any particular time or at all. Section 202(a)(1) requires the Commission, within 10 months after the enactment of the NGPA, to "prescribe" an amendment to the rule under section 201. However, under section 202(a)(2), the amendment prescribed "shall take effect only as provided in subsection (c) [of section 202]." If section 202(c) is invalid, the statutory mechanism for placing the rule in effect no longer exists, and the Commission is not required to place Order No. 80 in effect.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Pass Along of Federal Supplemental Security Income Benefit Cost-of-Living Increases to Recipients of State Supplementary Payments; Limitations on State Costs for Hold-Harmless States

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations provide the rules we will use to implement the pass-along provisions of the social security amendments enacted October 21, 1976 (section 2 of Pub. L. 94–585). Generally, these provisions require that States that supplement the Federal SSI benefit "pass along" Federal cost-of-living increases to individuals who are eligible for State supplementary payments. In order to meet this requirement, States that make supplementary payments on or after June 30, 1977, must agree to continue making these payments and to keep them at certain levels. If a State does not agree, or if the State agrees but does not keep the payments at the required levels, the State shall be determined by the Secretary to be ineligible for Medicaid reimbursement under title XIX of the Social Security Act. However, the State will not be found to be out of compliance because it did not keep its payments at the required level if it maintains its total annual expenditures for State supplementary payments. Another provision, known as the "preservation of hold-harmless provision," protects certain States

(currently Hawaii, Massachusetts, and Wisconsin) from an increase in their State expenditures when they pass along cost-of-living increases in Federal SSI benefits.

In these regulations, we describe (1) the requirements that States must meet under the "pass-along" amendments, (2) the general content of the agreements between the States and the Secretary, and (3) the basis for our finding that a State is not in compliance and the effect of this finding on the State. In addition, we (1) remove the parenthetical phrase in the definition of State supplementary payments that refers to burn-outs, utility turn-offs, etc., because it is no longer necessary, and (2) amend the regulations on hold-harmless protection so that they provide protection for "passing along" Federal cost-of-living increases.

EFFECTIVE DATE: These final regulations shall be effective August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Clara B. Powell, Legal Assistant, Office of Operational Policy and Procedures, Office of Regulations, Social Security Administration, Baltimore, Maryland 21235 (301) 594–7459.

SUPPLEMENTARY INFORMATION: On March 27, 1979, these rules were published in the **Federal Register** (44 FR 18238) as a Notice of Proposed Rulemaking (NPRM) with a 60-day comment period. We received a total of 12 comments that we discuss following our discussion of the provisions of the regulations.

Which States Must Comply With The Provisions

If a State makes supplementary SSI payments on or after June 30, 1977, the State must comply with the provisions of section 1618 of the Social Security Act (the pass-along amendment). Generally, this section requires that States have in effect an agreement with the Secretary to continue to make supplementary payments at least at the same levels as the supplementary payment levels in effect in December 1976. If the State did not make supplementary payments in December 1976, the levels that the State must maintain are the levels for the first month after December 1976 in which the State makes supplementary payments. If a State does not meet these requirements, the State shall be determined by the Secretary to be ineligible for Medicaid reimbursement. However, a State with an agreement will not be found to be out of compliance because it did not maintain its payment levels if its total expenditures for supplementary payments in the 12-month period beginning with each effective date of Federal SSI cost-of-living increases are at least equal to the State's total expenditures for supplementary payments in the immediately preceding 12-month period.

Purpose of the Amendment

The purpose of the pass-along amendments is to encourage States to pass along to individuals who are eligible for State supplementary payments under the SSI program the amount of the Federal cost-of-living increase. Some States have not done this in the past. Instead, when Congress enacted cost-of-living increases in the Federal SSI benefit amount, some States would reduce the levels of the State supplementary payments by amounts up to the amount of the Federal increase. The SSI beneficiaries in these States would receive the same or slightly more in Federal/State benefits as before the increase, and therefore would not receive all the additional money provided by the Federal cost-of-living increase.

We are adding new §§ 416.2095–416.2098 to the SSI regulations. These provisions describe (1) the scope and substance of the requirements that States must meet under the pass-along amendments, (2) the general content of the agreements between the States and the Secretary, (3) the conditions for meeting the pass-along requirements, and (4) the basis for our finding that a State is not in compliance and the effect of this finding on the State. We also are making a technical change in § 416.2001(a) that defines "supplementary payments," a term used in the pass-along amendments, and amending § 416.2080 to give full protection to hold-harmless States in passing along Federal SSI cost-of-living increases.

State Supplementary Payments That Are Covered by the Pass-Along Requirements

The pass-along requirements apply to the type of payments described in section 1616(a) of the Act. These payments are known as optional supplementary payments. The law states that these payments must be made (1) in cash, (2) by a State or political subdivision, (3) on a regular basis, (4) to individuals who are eligible, or would be eligible except for their income, for Federal SSI benefits under title XVI of the Social Security Act, (5) as assistance based on need, and (6) in supplementation of Federal SSI benefits, as determined by the Secretary.

The pass-along requirements also apply to State supplementary payments made under section 212 of Pub. L. 93–66 and § 416.2001(c) of the regulations. These payments are known as mandatory minimum supplementary payments. They are available only to individuals who received aid for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI (AABD) of the Social Security Act.

Optional or mandatory minimum supplementary payments may be administered by the State or by the Federal government at the State's option. The pass-along requirements apply whether the State or the Federal government administers the payments. They also apply whether the person who receives those payments receives both a Federal SSI benefit and a State supplementary payment or, because of his or her income, receives only a State supplementary payment. The pass-along requirements apply to the latter type of payment, known as "supplement-only payments," because they are specifically referred to in the description of supplementary payments in section 1616(a) of the Act and because they are required under the formula for mandatory minimum supplements under section 212 of Pub. L. 93–66. A person who has countable income and receives a supplement-only is in the same relative financial position as a person who receives both the Federal SSI benefit and a State supplementary payment. The pass-along requirements do not apply to vendor payments, interim assistance payments, or payments made under other Federal programs such as title IV, XIX, or XX of the Social Security Act. None of these payments is a supplementary payment of the type described in section 1616(a) of the Act or section 212 of Pub. L. 93–66. Vendor payments are not made directly to the individual but rather to the vendors of goods and services provided to the individual. Benefits under other titles and interim assistance payments are not made in supplementation of Federal SSI benefits.

State Agreement With the Secretary and Conditions for Compliance

In § 416.2096, we discuss the State agreement with the Secretary. Basically, the State must have an agreement with the Secretary to continue making supplementary payments and maintain these payments at least at the same levels in effect in December 1976. If a State that has entered into an agreement does not maintain these levels, but does make total State supplementary payments (that is, total expenditures) in the 12-month period beginning with the date of Federal cost-of-living increase that are at least equal to the total

requiring each individual's December

Therefore, to maintain its payment level,

either (1) the individual would be

payments made in the preceding 12-month period, we shall consider that the State has complied with its agreement with the Secretary.

In § 416.2096, we have added a discussion of the conditions for compliance with the pass-along requirement by a State that did not maintain payment levels or total expenditures during a relevant 12-month period. The conditions include a provision that if a State's total expenditures during a relevant 12-month period are less than its total expenditures in the immediately preceding 12-month period (a "shortfall"), a State may make up the shortfall by increasing its total expenditures within the 12-months following the relevant period. For example, a State's expenditures in the period July 1982 through June 1983 totalled $3,000,000. In the preceding 12-month period (July 1981 through June 1982) the State's total expenditures were $3,090,000. Thus, $3,090,000 is the amount the State should have expended during the period July 1982 through June 1983. Therefore, the State must spend $90,000 in the following 12-month period over the required total expenditures for that period in order to be considered to have complied with the pass-along requirement during July 1982 through June 1983. The $90,000 used to make up the shortfall in the period July 1982 through June 1983 will be treated as an expenditure in that period only. Further total expenditures for the period July 1983 through June 1984 will be the actual total expenditures less $90,000.

As an alternative, § 416.2096 also includes the condition that the State may restore each of the payment levels that it failed to maintain retroactively to the beginning of the 12-month period in question and make a single retroactive benefit payment to each of the affected beneficiaries. Therefore, if the only alternative open to a State were to try to meet the total expenditures test, it would have to greatly overspend to make sure it did not suffer a shortfall. Since we do not believe that this was what the Congress intended as evidenced in the legislative history of the pass-along provisions, we have provided special provisions to permit a State to make retroactive adjustments.

We believe these rules recognize the intent of the pass-along provision which, in effect, allows a State to either maintain payment levels or maintain total expenditures. The legislative history of the provision notes that the pass-along provision will not require a State to spend more for supplementary benefits but only prevents a State from reducing its expenditures when Federal SSI benefits are raised. Because of the various factors that affect actual benefit payments during a 12-month period, it is virtually impossible for a State to precisely meet in a current period total expenditures for the preceding 12-month period. For example, a State's total expenditures are affected by a reduction in total number of beneficiaries, increases in beneficiaries' incomes that cause reductions in benefit payment amounts, changes in beneficiaries' payment levels due to changes in living arrangements, and refunds of overpayments by beneficiaries. Therefore, even if a State budgeted for expenditures in a 12-month period (or increased some of its supplementary payment levels) with the intent to maintain its total expenditures, these factors, as experience has shown, could cause a State to fall short in meeting the expenditures test of compliance during any particular period. Moreover, whether a State has met the expenditures test for a particular 12-month period can only be ascertained after that period.

In addition, because States were required to make fiscal decisions and set their payment levels without the benefit of final regulatory guidelines, and recognizing the administrative burden that would result if States were required to make retroactive adjustments to its expenditures or payment levels for a 3-year period, we have provided a special rule for correcting noncompliance with respect to the 36-month period ending June 30, 1980. Under this rule, excess State expenditures during any of the 12-month periods from July 1977 through June 1981 measured against total expenditures in the period July 1976 through June 1977 may be balanced (or offset) against shortfalls in any of the 12-month periods from July 1977 through June 1980. This rule is being given limited application because of the reasons stated. With the publication of the regulations, the basis for continuance of this exception will no longer exist.

In a recent court case *Reichenthal* v. *Harris,* U.S. District Court (E.D. NY), No. 79 C 1632, involving the pass along of cost-of-living increases to New York recipients of State supplements, the Court noted the absence of regulations, and discussed noncompliance with the pass-along requirement as well as the severity of terminating a State's Medicaid funding for noncompliance. In this regard, the Court indicated that under regulations interpreting the pass-along provisions we may find compliance if reasonable efforts were made to comply and the shortfall in expenditures was *de minimus.* Further, substantial compliance could also be found in light of subsequent over-expenditures.

Accordingly, the foregoing policies are also in response to public comments discussed below and the views expressed in the *Reichenthal* opinion.

State Supplementary Payment Level

In § 416.2097, we define the supplementary payment level as the amount of the State supplementary payment that an individual in each payment category would have received for December 1976 if the individual had no countable income. States must maintain these levels to comply with the pass-along requirements.

For example, the Federal SSI benefit amount in June 1977 for an individual having no income was $167.80 per month. If a State made a $50 optional supplementary payment per month to the individual in this situation, he or she would receive a total payment of $217.80 per month under the SSI program. In July 1977, the Federal cost-of-living increase was $10 and the Federal SSI benefit amount was increased to $177.80 per month. A State would maintain the level of its supplementary payment to this individual if the State continued to make a $50 supplementary payment per month above the Federal SSI benefit level. Thus, the individual would receive a total payment of $227.80 per month under the SSI program, and the Federal cost-of-living increase of $10 per month would be passed along to him or her.

This is the only definition of supplementary payment level that would carry out the intent of the statute. If we defined the supplementary payment level as the total amount of the Federal and State payments before the Federal cost-of-living increase (in our example, $217.80 per month), the States could do exactly what Congress enacted section 1618 to discourage them from doing. When the Federal benefit increased, the State could decrease its supplementary payment and the total Federal plus State level still would be maintained. However, the SSI beneficiary would not receive the added money that he or she should receive from the Federal cost-of-living increase and there would be no pass-along.

Also, it would be contrary to the intent of the statute if we defined the "level" that must be maintained in terms of the amount of the State supplementary payment that the particular individual received (rather than the amount the State paid to individuals in that category who had no countable income). A definition

requiring each individual's December 1976 payment to be maintained would not accommodate changes in current countable income. Further, it would not give pass-along protection to individuals who become eligible for SSI payments after December 1976. The definition of State supplementary payment level in the regulations will allow for changes in actual payments to individual beneficiaries because of changes in their income.

Some examples follow that show what will happen to SSI benefits after a cost-of-living increase under these rules. For these examples, the Federal SSI standard payment amount is $168 before the cost-of-living increase and $178 after the increase. The State supplementary payment level is $50.

	Federal SSI cost-of-living increases	
	Before	After
Example 1		
Receipt of Federal SSI benefits, no outside income:		
Income	0	0
Federal benefits	$168	$178
State supplementary payment	50	50
Total	218	228
Example 2		
State supplement only, countable income $195 remains constant:		
Income	195	195
Federal benefits	0	0
State supplementary payment	23	33
Total	218	228
Example 3		
State supplement only, countable income title II benefit $195 (title II benefit is increased by same percentage as SSI following a cost-of-living increase):		
Income (title II)	195	208
Federal SSI	0	0
State supplementary payment	23	20
Total	218	228

We have already explained Example 1. Where an individual is receiving a Federal SSI benefit and has no outside income, the State maintains its supplementary payment level by continuing to pay $50 per month. The same principle would apply if the individual did have income, but not enough to reduce the Federal SSI benefit to zero.

Example 2 and Example 3 show what happens when an individual has enough income to offset the entire Federal SSI benefit but not the State supplementary payment as well. These are the State "supplement only" cases. In these situations, the State must again maintain a level of payment $50 above the increased Federal level, i.e., to a total of $228. In Example 2, the individual's outside income has not increased. Therefore, to maintain its payment level, the State must increase its supplementary payment by $10.

However, Example 2 is not the typical case. Most individuals who receive only a State supplementary payment do so because they also receive title II social security benefits. These benefits are automatically increased by increases in the cost-of-living. Example 3 shows that if the title II benefits rise by $13, the State can maintain its supplementary level up to $228 while actually reducing the State payment by $3. Since there are far more Example 3 cases than Example 2 cases, we believe that the States generally can maintain their payment levels for the individuals receiving only State supplementary payments and at the same time can reduce their total expenditures.

State Compliance with the Pass-Along Requirements

In § 416.2098, we discuss what we will require that the States do to show that they are complying with the pass-along rules. Generally, a State must keep records and provide information about (1) its supplementary payment levels in December 1976 and following months, (2) its total expenditures for supplementary payments in the 12-month period beginning July 1976 through June 1977 and following 12-month periods, and (3) its advance estimates of the total State supplementary payment expenditures in each 12-month period covered by the agreement. If a State is not complying with the pass-along rules, the State shall be determined by the Secretary to be ineligible for reimbursement under title XIX of the Social Security Act beginning with the first quarter it fails to comply.

Provision for "Hold-Harmless" States

The Congress also provided, in section 2(b) of Pub. L. 94–585, that certain States, referred to as hold-harmless States, shall be able to pass along Federal increases in SSI payments to beneficiaries without increasing a State's fiscal liability. The States currently protected by this provision are Hawaii, Massachusetts, and Wisconsin.

Because of this provision in Pub. L. 94–585, we have changed the regulations in § 416.2080 to allow the disregard of the amount of any Federal SSI benefit increase becoming effective after June 30, 1977, in the formula for determining fiscal liability. In almost all cases, these States are permitted to pass on the increases entirely at Federal expense whether the individual is receiving a Federal SSI benefit plus a State supplement or is receiving the State supplement only. In the latter case, either (1) the individual would be receiving Federal SSI benefits except that he or she had other income that prevented payment of the Federal SSI benefit, or (2) the increase would enable the individual to become eligible for Federal SSI benefits. For hold harmless purposes, payments will be counted in the period when paid regardless of whether any of the payments are credited to the immediately preceding 12-month period for purposes of determining the State's compliance with the pass-along requirements under the rules in § 416.2096.

Change in Definition of State Supplementary Payments

We have changed the definition of "State supplementary payments" in § 416.2001(a) to delete the parenthetical phrase in § 416.2001(a)(2) that refers to payments for burn-outs, utility turn-offs, etc. We do not believe that inclusion of these payments in the definition is appropriate for pass-along purposes. These payments were included previously to make sure that they were not counted as income. At that time, State supplementary payments were the only State payments based on need that were excluded from countable income. Since section 1612(b)(6) of the Social Security Act now specifically excludes from countable income any payments (regular or not) made by a State or locality based on need, specific mention of those payments as State supplementary payments is no longer necessary.

Discussion of Comments

On March 27, 1979, these rules were published in the **Federal Register** (44 FR 18238) as an NPRM with a 60-day comment period. We received 12 comments on the Notice of Proposed Rule Making, 7 from States, 3 from groups providing legal aid for the elderly, 1 from a senior citizen action coalition, and 1 from an attorney on behalf of several States. The comments and suggestions we received are summarized as follows:

1. Support for the Regulations

Comment: One group wrote to give support to the regulations.

Response: This comment requires no response.

2. Purpose of Amendment

Comment: One commenter argued that we understand the effect on the pass-along amendment by saying in the preamble that the purpose of the amendment is to encourage States to pass along the Federal increase. The commenter suggested that the law

"requires," not "encourages," the States to pass along the increases.

Response: As provided in section 1618 of the Social Security Act and in § 416.2098 of the regulations, a State is required to comply with pass-along provisions only if it wishes to be eligible for Medicaid reimbursement.

3. Levels of Supplementary Payments Not Set by State

Comment: One group complained that the pass-along provisions do not apply to a State whenever the optional supplementary payment levels are set by a political subdivision rather than by the State.

Response: The statutory requirement that a State agree to maintain the levels of its supplementary payments presupposes the State's authority to control the levels of payments. Therefore, a provision (§ 416.2095(b)(5)(i)) was included in the regulations that would exempt from the mandatory pass-along requirement those supplementary payments made by a political subdivision where the levels of the political subdivision's payments are not set by the State.

4. "Total State Expenditures"

Comment: One State official suggested that the phrase "total State expenditures for supplementary payments" as used in § 416.2098(b)(1), and defined in § 416.2098(b)(2), be interpreted to include the Federal "hold-harmless" contribution.

Response: The commenter's interpretation is correct. However, since § 416.2080 indicates that the Federal contributions are considered a share of "State supplementary payments," we do not believe any change in the wording of these sections is required.

Comments: Another State official argued that the regulations in § 416.2098(b) interpret the law too strictly by requiring that a State maintain its total expenditures for supplementary payments "in" the 12-month period. The commenter believed that a reasonable interpretation of the law would be maintenance of total expenditures "for" the 12-month period. Several commenters stated that the regulations should be modified to allow for post-year end adjustments in total State expenditures and objected to our "prohibiting retroactive adjustments."

Response: The regulation has been revised to provide for post-year-end adjustments.

Comment: Another State official suggested that the regulations are not clear as to how the "annual expenditures test" would operate. The official noted that in § 416.2098(b) total State expenditures are payments made "in" the 12-month periods, whereas in § 416.2098(a)(2) payments can be made "for" the periods. The same commenter suggested a 5 percent tolerance in meeting the total expenditures test or that the State be allowed to count total expenditures "for" a period.

Response: We believe we have addressed the commenter's concerns by providing for post-year-end adjustments.

5. "State Supplementary Payment Levels"

Comments: One commenter recommended that the language in § 416.2095(a)(2) be amended to include "supplementary payments at the December 1976 level." One commenter stated that the statute requires the State to maintain its supplementary payments rather than levels and that under no circumstances is a State required to increase its supplementary payments. Another commenter objected to "forcing States to increase need levels."

Response: Section 416.2095(a)(2) refers to § 416.2096 that includes the suggested language regarding maintenance of supplementary payments at the December 1976 level. In reference to the comment concerning statutory provisions, section 1618 requires that a State agree to maintain the levels of its supplementary payments as distinguished from the individual supplementary payment amounts. This requirement to maintain payment levels can result in an increase or decrease in the actual payment amount, depending on the individual's countable income. The State supplementary payment level, however, must remain fixed at whatever it was in December 1976, unless the State voluntarily raises it. The whole concept of SSI (unlike the former programs it replaced) is based on uniform benefit amounts, not individually budgeted grants.

Comment: One commenter objected to the "application of the pass-along requirements to mandatory minimum supplementary levels."

Response: The law is specific as to the applicability of the pass-along provisions to mandatory minimum supplements. We cannot change this requirement by regulations.

6. Variations Based on Living Arrangements

Comment: One commenter argued that our treating each optional State supplement payment variation based on living arrangements as a separate supplementary payment level is an example of a general failure of the proposed regulations to expand upon the legislation to cope with the complexity of federally administered State supplementary payments.

Response: This regulatory provision reflects the statutory requirement that States continue their supplementary payments at the December 1976 levels. These levels correspond to the payment variations chosen by the State.

7. "State Supplement-Only" Cases

Comments: One commenter stated that the regulations indicated that the instances in which "State Supplemental Program only" cases arise are not typical. That State had 20.6 percent of its cases in that category. Several commenters argued that the statute does not require that the pass-along provisions apply to "State supplement-only" cases. Some acknowledge that this may be a possible interpretation. Some believe that States that chose of supplement the basic SSI benefit are being penalized because of the effect of the pass-along amendment on State supplement-only cases. Others say that the regulations would improperly compel States to increase payments in State supplement-only cases. One commenter stated that a disparity exists in our regulations in that we indicate in one section that States must maintain a minimum supplementary payment level, while in another we declare that this level is before the consideration of the cost-of-living increase which means increased exenditures in all State supplement-only cases.

Response: In the preamble to the NPRM published on March 27, 1979 (44 FR 18238), we merely pointed out that State supplement-only cases where the person's income remained constant (i.e., the person is not receiving title II Social Security benefits) are not typical cases. Where an individual receives only a State supplement under the SSI program and also receives a title II benefit, the State can likely maintain its payment level while actually reducing the State payment. Therefore, in the aggregate, State supplement-only cases would not ordinarily require additional State expenditures, and inclusion of these cases under the pass-along provisions does not penalize the States.

With respect to the applicability of the statute to State supplement-only cases, section 1618 of the Social Security Act provides the pass-along requirements apply to "* * * any State which makes supplementary payments of the type described in section 1616(a) * * *." The description of the payments in section 1616(a) includes those made "* * * to individuals who are receiving benefits under this title or who would but for their income be eligible to receive benefits under this title * * *."

Therefore, section 1618 necessarily applies to "State supplement-only" cases and the regulations implement the mandate of the law. Payments in State supplement-only cases may increase or decrease—depending on changes in the amount of the individual's income. These fluctuations in payments result from the requirement that the States maintain levels, not payments. Payment levels need never increase as a result of the pass-along requirement.

8. Vendor Payments

Comments: Several commenters suggested that the regulations be modified to permit inclusion of vendor payments as part of a State's total expenditures. One commenter argued that not including vendor payments in total annual expenditures is harmful to the SSI program and unrealistic because vendor payments are made to meet living arrangements for individuals who are in no way capable of managing their own financial affairs. The commenter further pointed out that the Keys Amendment, Pub. L. 94–566, October 20, 1976, excludes vendor payments from countable income in the SSI program. Another commenter asserted that our regulations are in conflict with the Keys Amendment. Still another commenter objected to sanctions being taken from Medicaid funds.

Response: Although the Keys Amendment changed the income exclusion for "assistance based on need" to include vendor payments (section 1612(b)(6)), it did not change the definition of State supplementary payment (section 1616(a)). It is not possible to include vendor payments in State supplementary payments because section 1618 of the Social Security Act refers to supplementary payments as described in section 1616(a). Since vendor payments are not paid to the individuals who are receiving SSI benefits, as provided in section 1616(a), they are not "supplementary payments" within the meaning of the Act. Therefore, they cannot be included in determining "total State expenditures for supplementary payments."

For this same reason, States are not required to agree to continue to make vendor payments or to maintain any particular level with respect to them.

The withholding of Medicaid funds as a result of a State's noncompliance with the pass-along provisions is specifically required by section 1618.

9. Raising Need Levels

Comment: One commenter argued that the regulations effectively require an increase in combined Federal-State need levels in all SSI related cases and could increase the overall caseload by making new cases eligible for State financial assistance.

Response: This increase in need levels stems from the statutory requirement that State maintain the levels of their supplementary payments when the Federal levels are increased. The Federal cost-of-living increases reflect rising costs and need levels, and section 1618 encourages the State to pass along the Federal increases. There are many factors in the economy that will affect the number of people who will be eligible for SSI payments and State supplementary payments. Other sources of income rise to help offset inflation, i.e., title II social security benefits, increased wages, and retirement and pension benefits. However, for those persons whose other income is low enough to permit payment of a State supplementary payment, the law and implementing regulations are designed to reduce the likelihood that those individuals, whether current or potential recipients, will have to become accustomed to a lower life style.

10. Requesting Records

Comment: One commenter recommended that § 416.2098(b) include language that stipulates that the Department will not request State supplementary payment Records for inspection with regard to those States that enter into an agreement with SSA to administer the State's supplementary payments.

Response: We agree with this recommendation and § 416.2098(b) has been revised to reflect this change.

11. Noncompliance

Comment: One commenter stated that it is not clear in § 416.2098(c) what month would be "the first month that the State does not comply" if a State elects the total expenditures option.

Response: The "first month that a State does not comply" in this context means the first month that a State does not maintain its supplementary payments at levels at least equal to the December 1976 levels. Under the statute, a State must agree to maintain its December 1976 levels, but will not be found to be out of compliance if it maintains total expenditures. Therefore, if a State fails to satisfy either of the provisions in the law, the noncompliance begins with first month the State fails to keep the terms of the agreement with Secretary, i.e., fails to maintain December 1976 levels.

Comments: One commenter wanted to know what the guidelines are for determining noncompliance, i.e., time table and methods, and another wanted the regulations expanded to include a section detailing exactly how noncompliance can be corrected.

Resonse: Guidelines for determining and correcting noncompliance, including time limits, are provided in §§ 416.2096–416.2098.

12. Special Payment Amount

Comment: One commenter pointed out that the SSI program has never raised the $25 standard in institution cases.

Response: The Federal benefit rates for persons in certain medical treatment facilites ($25 for eligible individuals) are set by section 1611(e)(1)(B). Section 1617 of the Social Security Act, which provides for cost-of-living increases in SSI benefits does not apply to the benefit amounts in section 1611(e)(1)(B). A legislative change would be necessary to increase the $25 amount and legislative proposals to do so have been unsuccessful. These regulations do not directly concern the $25 payments.

13. Alternative Ways of Complying With the Statute

Comment: One group argued that we have construed the statute in such a way that a State has two alternative ways of complying with the Act—either (1) by maintaining the December 1976 levels of benefits, or (2) by maintaining the same total expenditures in a current year as the year before. The group argued further that the application of this interpretation would seriously undermine congressional intent. Another commenter took the opposite position by suggesting that we do not make it clear that the States have an option to maintain total expenditures or maintain all supplementary payment levels at the December 1976 levels.

Response: The statute requires the State to agree to maintain its December 1976 supplementary payment levels, but then provides that the Secertary shall not find that a State has failed to maintain its payment levels if it maintains its total annual expenditures. Thus, the statute is structured to provide a specific undertaking in the agreement, but two alternative methods of complying. As long as a State has agreed to maintain its supplementary payment levels but instead maintains total expenditures, the Secretary will not find it to be out of compliance. Moreover, the legislative history of the statute clearly states that it is not intended to require a State to increase its total expenditures.

Comment: One commenter suggested that the regulations are silent on the issue as to whether a State could switch back and forth between the two methods of complying. The commenter

asked whether, if a State were to switch back and forth, it would be required to make retroactive adjustments to all supplementary payment levels based on the 1976 levels.

Response: There is nothing in the law or regulations that would prevent a State from changing its method of complying with the pass-along requirements from year to year. The choice would be for the State to make taking a number of factors into consideration, such as whether the caseload is increasing or decreasing. If a State were to change from maintaining total expenditures to maintaining payment levels, all payment levels for that year would have to be set at least as high as the State's December 1976 levels. The State, in effect, would be passing through to all current beneficiaries all intervening Federal cost-of-living increases.

14. Regulations in Conflict With State Agreements

Comment: One commenter suggested that the regulations are inconsistent with the pass-through agreements that have been or are in the process of being executed by the States. The commenter stated that one of the matters agreed to in the course of the negotiations was that the States would be free under the agreement to utilize any method they chose, including the income disregard method, to comply with the pass-through requirements.

Response: SSA never agreed to a proposal that would allow States to utilize any method not provided by the law to comply with the pass-through requirements.

Summary of Changes Made in Final Rules

We have made several policy and clarifying changes in these final regulations from the rules proposed on March 27, 1979 (44 FR 18238). A summary of these changes follows:

(1) As a result of public comments and the opinion of the U.S. District Court in the case of *Reichenthal* v. *Harris* (E.D. NY, May 22, 1980) we are expanding § 416.2096 to provide for post-year-end adjustments that will allow States to meet the pass-along requirements.

(2) We are adding an example to § 416.2097(e) to illustrate how we arrive at the optional supplementary payment level for per diem based grant amounts.

(3) As a result of public comments, we are making substitutions in the language of § 416.2098(a)(2) to make that section fully consistent with the statutory definition of the total expenditures test.

(4) Also, as a result of public comments, we are changing § 416.2098(b) to show that the State need not maintain records about its supplementary payment levels and total 12-month expenditures in those instances where the Secretary administers the payments.

(5) In § 416.2098(c) we are clarifying the provision that any State that does not have an agreement in effect shall be determined by the Secretary to be ineligible for payments under title XIX of the Act. We also provide more specific guidance describing when ineligibility begins.

(6) We are adding § 416.2098(d) to provide for the issuance of a timely notice to a State concerning its potential noncompliance, and advising the State of available corrective actions.

Accordingly, the rules with these changes and editorial changes are adopted as shown below.

(Secs. 1102, 1601, 1616, 1618, and 1631(d) of the Social Security Act, as amended; 49 Stat. 647 as amended; 86 Stat. 1465, 86 Stat. 1474, as amended; 90 Stat. 2901; 86 Stat. 1476; (42 U.S.C. 1302, 1381, 1382e, 1382g, 1383(d)(1); sec. 401 of Pub. L. 92–603, as amended by section 504 of Pub. L. 94–566; and sec. 2 of Pub. L. 94–585)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: August 7, 1980.

Herbert R. Doggette, Jr.,

Acting Commissioner of Social Security.

Approved: August 12, 1980.

Nathan J. Stark,

Acting Secretary of Health and Human Services.

Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. In § 416.2001, paragraph (a)(2) is revised to read as follows:

§ 416.2001 State Supplementary payments; general.

(a) *State supplementary payments; defined.* * * *

(2) Regularly, on a periodic recurring, or routine basis of at least once a quarter; and

* * * * *

2. In § 416.2080, paragraphs (c), (d), (e)(1), and (f) are revised to read as follows:

§ 416.2080 Limitation of fiscal liability of States.

* * * * *

(c) *State fiscal protection.* Except as provided in paragraph (e) of this section, the provisions of paragraphs (a) and (b) of this section apply only to that portion of the State supplementary payments made by the Secretary on behalf of a State under an agreement for any month that does not exceed, in the case of any individual (or couple), the difference between—

(1) The adjusted payment level as defined in § 416.2085 under the appropriate approved State plan(s) as in effect for January 1972; and

(2) An amount equal to—

(i) The benefits paid for the current month under title XVI; plus

(ii) Any income not excluded under Subpart K of this part; less

(iii) The amount of any cost-of-living increase in Federal benefits under section 1617 of the Social Security Act (or any general increase enacted by law in the dollar amounts referred to in section 1617) becoming effective after June 30, 1977.

(d) *Unprotected payments.* Except as provided in paragraph (e) of this section, the State shall make entirely at State expense that portion of the State supplementary payment that is, in the case of any individual, more than the difference between (1) the State's January 1972 adjusted payment level and (2) the Federal benefit plus income counted under Federal eligibility rules and less the amount of any cost-of-living or general increase in the Federal benefits becoming effective after June 30, 1977.

(e) *Credits and debits.* For purposes of determining the extent of protected payments where State supplementary payments are paid at varying levels, to the extent that payments above the adjusted payment level do not exceed the difference by which variations in payment levels (variant payment levels) are established below the adjusted payment level, payments count toward the amount of a State's fiscal liability protection. This provision is explained as follows:

(1) The variant payment levels must be both above and below the adjusted payment level. The variant payment level is the sum of the Federal benefit plus income counted under Federal eligibility rules; less the amount of the cost-of-living and general increases in the Federal benefits becoming effective after June 30, 1977; plus the State supplementary payment.

* * * * *

(f) *Fiscal limit not applicable.* The limitation on the fiscal liability provision does not apply to any State supplementary payments, that are made to individuals or couples within any category for which the adjusted payment level is less than, or equal to the Federal monthly benefit rate (excluding the cost-of-living and general increases in the Federal benefits becoming effective after June 30, 1977) for an eligible individual or eligible

couple as specified in §§ 416.410 and 416.412. Further, the provisions of paragraph (a) of this section do not apply to the amount of any State supplementary payment that results from the application of additional income exclusions specified by the State in its agreement with the Secretary (see § 416.2025(c)). In addition, the provisions of paragraph (a) of this section do not apply with respect to supplementary payments to any individual (or couple) who—

(1) Is not required to be included in the agreement administered by the Secretary (see § 416.2010(a)); and

(2) Would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972.

3. Subpart T of Part 416 is amended by adding new §§ 416.2095 through 416.2098 to read as follows:

§ 416.2095 Pass-along of Federal cost-of-living increases.

(a) *General.* This section and the three that follow describe the rules for passing along the cost-of-living increases in the Federal SSI benefit to recipients of State supplementary payments.

(1) Section 416.2095(b) indicates when the pass-along rules apply to State supplementary payments.

(2) Section 416.2096 describes the basic pass-along rules. The States must have an agreement to "pass along" cost-of-living increases in Federal SSI benefits. A State passes along an increase when it maintains (rather than decreases) the levels of all its supplementary payments after a Federal cost-of-living increase has occurred. Generally, a pass-along of the increase permits recipients to receive an additional amount in combined benefits equal to the Federal cost-of-living increase. A State can change its payment levels if it meets an annual expenditures test.

(3) Section 416.2097 explains how to compute a supplementary payment level.

(4) Section 416.2098 discusses what information the States must provide to the Secretary concerning their supplementation programs so that the Secretary can determine whether the State is in compliance. That section also discusses the basis for findings of noncompliance and what will occur if a State is found out of compliance.

(b) *When the pass-along applies.* (1) The pass-along requirements apply to all States (and the District of Columbia) that make supplementary payments after June 29, 1977, and wish to participate in the Medicaid program.

(2) The pass-along requirements apply to both optional supplementary payments of the type described in § 416.2001(a) and mandatory minimum supplementary payments as described in § 416.2001(c), whether or not these State supplementary payments are Federally administered.

(3) The requirements apply to State supplementary payments for both recipients who also receive Federal SSI benefits and recipients who, because of countable income, receive only a State supplementary payment.

(4) The requirements apply to State supplementary payments for recipients eligible for a State supplementary payment on or after June 30, 1977.

(5) Supplementary payments made by a State include payments made by a political subdivision (including Indian tribes) where—

(i) The payment levels are set by the State; and

(ii) The payments are funded in whole or in part by the State.

§ 416.2096 Basic pass-along rules.

(a) *State agreements to maintain supplementary payment levels.* In order to be eligible to receive Medicaid reimbursement, any State that makes supplementary payments on or after June 30, 1977, must have in effect an agreement with the Secretary. In this agreement—

(1) The State must agree to continue to make the supplementary payments; and

(2) The State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels (or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments). The Secretary will find that the State has met this requirement if the State complies with the conditions in either paragraph (b) or (c) of this section. The Secretary will consider a State to have made supplementary payments on or after June 30, 1977, unless the State furnishes evidence to the contrary that is satisfactory to the Secretary.

(b) *Meeting the pass-along requirement—Supplementary payment levels.* (1) We shall consider a State to have met the requirements for maintaining its supplementary payment levels (described in § 416.2097) for a particular month or months if the supplementary payment levels have not been reduced below the levels in effect in December 1976 (or if a State first makes supplementary payments after December 1976, the levels in effect the first month the State makes supplementary payments).

(2) If a State reduced its supplementary payment levels for a month or months within any 12-month period beginning with the effective date of a Federal cost-of-living increase, we shall consider the State to meet the requirement to maintain its supplementary levels if—

(i) Within 12 months after the relevant 12-month period, the State restores the levels retroactively; and

(ii) The State makes a single retroactive benefit payment to each of the beneficiaries eligible for the retroactive payment.

(c) *Meeting the pass-along requirement—Total expenditures.* (1) If a State does not meet the conditions in paragraph (b) of this section, we shall consider a State to have met the requirement for maintaining supplementary payment levels for a particular month or months if total State expenditures for supplementary payments in the 12-month period within which the month or months fall, beginning on the effective date of a Federal cost-of-living increase, are at least equal to the total State expenditures for supplementary payments in the 12-month period before the Federal cost-of-living increase.

(2) If total State expenditures in the relevant 12-month period are less than the total expenditures in the preceding 12-month period (a "shortfall"), we also shall consider a State to have met the requirement for maintaining supplementary payment levels for the relevant 12-month period if within the following 12 months the State increases its total expenditures by an amount at least equal to the amount of the shortfall in the relevant 12-month period. The increased amount up to the amount needed to correct the shortfall shall be deemed to be an expenditure in the relevant 12-month period.

(3) Exception for 12-month periods ending before July 1980: If a State does not meet any of the conditions in paragraph (b) or (c) (1) and (2) of this section, we shall consider a State to have met the maintenance of supplementary payment levels requirement before July 1980 under the following conditions—

(i) Total State expenditures in each of the 12-month periods ending June 30, 1978, June 30, 1979, or June 30, 1980, at least equal total State expenditures in the 12-month period ending June 30, 1977; or

(ii) Total State expenditures in one or more of the 12-month periods equals the total State expenditures in the 12-month period ending June 30, 1978, June 30, 1979, June 30, 1980, or June 30, 1981, exceeded total expenditures in the 12-

Sec.

month period ending June 30, 1977, and the excess amount when apportioned to the expenditures in the 12-month period or periods in which the State had a shortfall, makes up the shortfall so that the total State expenditures for each of the three 12-month periods equals the total State expenditures in the 12-month period ending June 30, 1977.

(4) Total State expenditures for supplementary payments are the State's total payments for both mandatory minimum and optional supplementary payments in the appropriate 12-month period less the amount of any payments recovered and other adjustments made in that period. Total State expenditures do not include State administrative expenses, interim assistance payments, vendor payments, or payments made under other Federal programs, such as title IV, XIX, or XX of the Social Security Act.

(5) Adjustments in total State supplementary payments made afer the expiration of the relevant 12-month period for purposes of meeting total State expenditures under paragraph (c) of this section shall be considered a State expenditure in the relevant 12-month period only for purposes of the pass-along requirement. For purposes of § 416.2080, which discusses the rules for limitation on fiscal liability of States (hold harmless), these retroactive adjustments are State expenditures when made and shall be counted as a State expenditure in the fiscal year in which the adjustments are made.

§ 416.2097 Supplementary payment levels.

(a) *General.* The supplementary payment level is the total State payment for December 1976 that a State provides an eligible individual (or couple) with no countable income in excess of the Federal SSI benefit for December 1976. We compute supplementary payment levels according to rules described in pararaphs (b)–(e) of this section. When applying these rules to States that did not make supplementary payments in December 1976, we base the supplementary payment level on the payment for the first month after December 1976 in which a State makes supplementary payments.

(b) *Mandatory minimum supplementary payment level.* The mandatory minimum supplementary payment level is a recipient's December 1973 minimum income level plus any State increases prior to January 1977, less any reductions made at any time after December 1973 due to changes in special needs or circumstances, less the December 1976 Federal standard payment amount.

(c) *Optional supplementary payment level for flat grant amounts.* The optional supplementary payment level for flat grant amounts is the total amount that an eligible individual (or couple) with no countable income received for December 1976 in excess of the Federal SSI benefit for December 1976. If the State varied its payment levels for different groups of recipients (e.g., paid recipients different amounts based on eligibility categories, geographic areas, living arrangements, or marital status), each variation represents a separate supplementary payment level.

(d) *Optional supplementary payment level for individually budgeted grant amounts.* The optional supplementary payment level for individually budgeted grant amounts is the amount that the State budgeted for December 1976 in excess of the December 1976 Federal SSI benefit for an eligible individual (or couple) having the same needs and no countable income.

(e) *Optional supplementary payment level for per diem based grant amounts.* The optional supplementary payment level for a particular calendar month for per diem grant amounts is the total dollar amount that the State would have paid to an eligible individual (or couple) with no countable income for that month at rates in effect for December 1976 (number of days in the calendar month multipled by the December 1976 per diem rate plus any December 1976 personal needs allowance) in excess of the December 1976 Federal SSI benefit.

Example:

DECEMBER 1976

$6.90	per diem rate.
×31	days in month.
$213.90	
+34.00	personal needs allowance.
$247.90	
−167.80	Federal SSI benefit.
$80.10	State Supplementary level.

APRIL 1977

$6.90	per diem rate.
×30	days in month.
$207.00	
+34.00	personal needs allowance.
$241.00	
−167.80	Federal SSI benefit.
$73.20	State Supplementary level.

The 31-day month level to be maintained is $80.10; the 30-day month level to be maintained is $73.20.

§ 416.2098 Compliance with pass-along.

(a) *Information regarding compliance.* Any State required to enter into a pass-along agreement with the Secretary shall provide appropriate and timely information to demonstrate to the Secretary's satisfaction that the State is meeting the pass-along requirements. The information shall include—

(1) The State's December 1976 supplementary payment levels, any subsequent supplementary payment levels, and any change in State eligibility requirements. If the State made no supplementary payments in December 1976, it shall provide information about the first month in which it makes supplementary payments; and

(2) The total State expenditures for supplementary payments in the 12-month period beginning July 1976 through June 1977, in each subsequent 12-month period, and in any other 12-month period beginning on the effective date of a Federal SSI cost-of-living increase. The State shall also submit advance estimates of its total supplementary payments in each 12-month period covered by the agreement.

(b) *Records.* Except where the Secretary administers the payments, the State shall maintain records about its supplementary payment levels and total 12-month expenditures for supplementary payments and permit inspection and audit by the Secretary or someone designated by the Secretary.

(c) *Noncompliance by the States.* Any State that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement with the Secretary in effect, shall be determined by the Secretary to be ineligible for payments under title XIX of the Act. A State does not have an agreement in effect if it has not entered into an agreement or has not complied with the terms of the agreement. Ineligibility shall apply to total expenditures for any calendar quarter beginning after June 30, 1977, for which a State has not entered into an agreement. A State that enters into an agreement but does not maintain its payment levels or meet the total expenditures test, in a particular 12-month period, shall be determined by the Secretary not to have an agreement in effect for any month that the State did not maintain its payment levels during that particular 12-month period. The State shall then be ineligible for title XIX payments for any calendar quarter containing a month for which an agreement was not in effect. If a State first makes supplementary payments beginning with a month after June 1977, ineligibility shall apply to any calendar quarter beginning after the calendar quarter in which the State first makes payments.

(d) *Notices to States about potential noncompliance.* Within 90 days after the end of the relevant 12-month period, the Secretary shall send a notice to any State that has not maintained its supplementary payment levels and that appears not to have maintained its total expenditures during the period. The notice will advise the State of the available methods of compliance and the time within which corrective action must be taken in order to avoid a determination of noncompliance. If the State fails to take the corrective action, the Secretary shall make a timely determination of noncompliance.

[FR Doc. 80-24862 Filed 8-15-80; 8:45 am]
BILLING CODE 4110-07-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Parts 220, 221, 222

Personnel Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: Pursuant to Section 401 of the International Development and Food Assistance Act of 1978, Pub. L. 95–424, 92 Stat. 956, as amended by section 503 of the International Development Cooperation Act of 1979, Pub. L. 96–53, 93 Stat. 378, the President on May 1, 1979, submitted to the Congress regulations affecting the personnel system of the Agency for International Development. On May 4, 1979, the regulations were published as a proposed rule in the **Federal Register** at 44 FR 26726.

Pursuant to section 401, the regulations could not become effective until after the end of the 90-day period beginning on the date of submission to the Congress, i.e., May 1, 1979, and could not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations. Since neither House adopted a resolution of disapproval within the 90-day period, the regulations became effective on October 1, 1979.

DATE: Effective as of October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Miller, Office of the General Counsel (202) 632–8277.

Dated: August 5, 1980.

Norman L. Holmes,

General Counsel.

Accordingly Parts 220, 221 and 222 are added to 22 CFR Chapter II to read as follows:

PART 220—GENERAL PROVISIONS

Sec.

220.01 Statement of authority.
220.02 Purpose.
220.03 Definitions.
220.04 Position management.

Authority: Sec. 401, International Development and Food Assistance Act of 1978, Pub. L. 95–424, 92 Stat. 956, as amended by sec. 503, International Development Cooperation Act of 1979, Pub. L. 96–53, 93 Stat. 1378.

§ 220.01 Statement of authority.

This subchapter of Chapter II is promulgated pursuant to section 401 of the International Development and Food Assistance Act of 1978, October 6, 1978, Pub. L. 95–424, 92 Stat. 956, 22 U.S.C. 2385a, and section 625 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2385.

§ 220.02 Purpose.

The purpose of this subchapter is to extend the Foreign Service personnel system to all employees of the Agency for International Development (A.I.D.) in the United States and abroad who are responsible for planning and implementing A.I.D.'s overseas development programs and activities, so that those persons will have significant overseas experience or understanding of the overseas development process. An extended application of the Foreign Service personnel system within A.I.D. is intended to ensure that—

(a) The employees of A.I.D. effectively serve the interests of the United States, both in the United States and abroad;

(b) A.I.D.'s personnel system can better adjust to frequently changing program and work-force composition requirements;

(c) A framework is provided to meet the particular requirements of A.I.D., including the need to have personnel serve overseas and meet language and technical skill requirements; and

(d) All employees who work in the United States and abroad within a single structure of positions, and in common endeavor to plan, carry out and directly support A.I.D.'s overseas program, may be brought within a single personnel system.

§ 220.03 Definitions.

(a) "A.I.D." means the Agency for International Development, or any successor agency primarily responsible for administering programs under part I of the Foreign Assistance Act of 1961, as amended.

(b) "Administrator" means the Administrator of A.I.D.

§ 220.04 Position Management.

(a) Under such regulations as he may prescribe, the Administrator may, notwithstanding the provisions of Chapter 51 of title 5 of the United States Code, classify positions in A.I.D., both abroad and in the United States, that he designates as Foreign Service positions to be occupied by Foreign Service employees of A.I.D., and establish such positions in relation to the grades provided for the Foreign Service of the United States: *Provided,* That such actions shall be carried out in a manner consistent with the purposes of this Subchapter and with the principles of position classification established in Chapter 51 of title 5 of the United States Code.

(b) As of the effective date of this Subchapter, each position in A.I.D. shall be reviewed and redesignated, if necessary, as to the service in which the incumbent should serve. A position shall be designated as a General Schedule position rather than a Foreign Service position only if the position is in the United States, and if it is determined (1) that the functions of such position are primarily of a clerical, administrative or program support character and can be performed without significant overseas experience or understanding of the overseas development process; or (2) that such position requires continuity of incumbency and specialized knowledge and skill to the extent that it is not practicable for incumbents of such position to be assigned abroad. Any person aggrieved by the designation made pursuant to this subsection of a position in which he or she is serving may appeal the designation to the Administrator. Such designation shall remain in effect pending the appeal provided for herein and pending any other appeal an employee may make, and shall be set aside only if arbitrary or capricious.

(c) A position designated as a Foreign Service position in accordance with paragraph (b) of this section which becomes vacant may be occupied thereafter only by a Foreign Service employee: *Provided, however,* That at any time when the number of non-Foreign Service employees filling positions in A.I.D.'s headquarters office in the United States which are designated as Foreign Service positions does not exceed 10 per centum of the number of such positions, such a position, when it becomes vacant, may, at the discretion of the Administrator, be filled by a non-Foreign Service employee.

(d) A position designated as General Schedule in accordance with paragraph (b) of this section may be temporarily designated Foreign Service whenever the Administrator deems it advisable in order to administer properly the rotation policies provided for in § 221.02 of this

subchapter: *Provided,* That only vacant General Schedule positions may be so redesignated.

(e) In furtherance of the policy of this Subchapter, as provided in § 220.02, to the extent consistent with law, regulation, and staffing and promotion policies generally applicable to AID employees, the Administrator shall encourage employees who are not in the Foreign Service, who serve or wish to serve in positions designated as Foreign Service positions, and who are qualified for appointment in the Foreign Service, to convert to the Foreign Service.

PART 221—EMPLOYMENT

Sec.
221.01 Employment in the Foreign Service.
221.02 Tours of assignment.

Authority: Sec. 401, International Development and Food Assistance Act of 1978, Pub. L. 95–424, 92 Stat. 956, as amended by Sec. 503, International Development Cooperation Act of 1979, Pub. L. 96–53, 93 Stat. 378.

§ 221.01 Employment in the Foreign Service.

The limitation in paragraph (2) of section 625(d) of the Foreign Assistance Act of 1961, as amended, regarding periods of assignment in the United States shall be extended to allow initial assignments in the United States for a period not to exceed three years for the purpose of carrying out any of the functions under the Foreign Assistance Act.

§ 221.02 Tours of assignment.

(a) Pursuant to such regulations as he may prescribe, the Administrator shall establish tours of assignment for A.I.D.'s Foreign Service employees.

(b) Subject to section 933 of the Foreign Service Act of 1946, as amended, regarding mandatory leave in the United States, the Administrator shall, by such regulations as he may prescribe, establish policies for rotation between assignments, including transfers among positions whether in the United States or abroad.

PART 222—MISCELLANEOUS PROVISIONS

Sec.
222.01 Implementing regulations.
222.02 Construction.
222.03 Effective date.

Authority: Sec. 401, International Development and Food Assistance Act of 1978, Pub. L. 95–424, 92 Stat. 956, as amended by Sec. 503, International Development Cooperation Act of 1979, Pub. L. 96–53, 93 Stat. 378.

§ 222.01 Implementing regulations.

(a) notwithstanding the provisions of this Subchapter, existing rules and regulations of or applicable to employment in A.I.D., to the extent not inconsistent with the provisions of this Subchapter, shall remain in effect until revoked or until modified or superseded by implementing regulations promulgated in accordance with the provisions of paragraph (b) of this section.

(b) The Administrator may prescribe such administrative, implementing regulations as are necessary and desirable in order to carry out the provisions of this Subchapter (and such authority may be delegated as he deems necessary). Such implementing regulations may not revoke, suspend, supersede, or otherwise modify this Subchapter.

§ 222.02 Construction.

If any provision of this Subchapter or the application of any provision to any circumstance or persons shall be held invalid, the validity of the remainder of this Subchapter and the applicability of such provision to other circumstances or persons shall not be affected thereby.

§ 222.03 Effective date.

This subchapter shall become effective on October 1, 1979.

[FR Doc. 80–25003 Filed 8–15–80; 8:45 am]
BILLING CODE 4710–02–M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

28 CFR Part 18

LEAA Administrative Review Procedure Regarding Oral Hearings

AGENCY: Office of Justice Assistance, Research, and Statistics (OJARS), Law Enforcement Assistance Administration (LEAA), National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS).

ACTION: Final rule.

SUMMARY: OJARS is adopting an amendment to its hearing and appeal procedures, that will require all oral hearings to be held in Washington, D.C. unless the hearing officer determines that the hearing can be conducted in a more expeditious manner in another location. Because the travel and per diem costs associated with a grant denial or termination hearing are so substantial, convening the hearings in Washington will result in a significant savings to OJARS and LEAA and will reduce administrative costs.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, OJARS, Office of General Counsel, (202) 724–6235.

SUPPLEMENTARY INFORMATION: OJARS received only two comments on the proposed rule published on June 27, 1980. 45 FR 43436. Both commenters expressed concern that the proposal would have a "chilling effect" on distant applicants who had a bonafide appeal. In light of the hearing officer's authority to convene the hearing in a location other than Washington, D.C. if that would result in a "more expeditious" hearing, we do not believe the amendment will inhibit any appellant's ability to fully and fairly present its case.

In addition, as noted in the preamble to the proposed rule, an appellant's witness' testimony can still be presented by affidavit, response to interrogatories, or deposition, even if the witness is unable to attend the hearing in person.

Accordingly, 28 CFR 18.51 is amended by deleting paragraphs (b) and (c); relettering (d)–(f) as (c)–(e) and adding a new (b) to read as follows:

§ 18.51 General rules.

* * * * *

(b) All oral hearings requested under this part shall be held in Washington, D.C., unless the hearing examiner decides that the hearing could be conducted in a more expeditous manner in another location.

(c) *Expedition.* * * *
(d) *Rights of parties.* * * *
(e) *Participation.* * * *

Robert F. Diegelman,
Assistant Administrator, Office of Planning and Management.

[FR Doc. 80–24892 Filed 8–15–80; 8:45 am]
BILLING CODE 4410–18–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 785, 816, 817 and 820

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) Department of the Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement is amending the incorporation by reference expiration dates of 30 CFR 700, 785, 816, 817 and 820 as they appear in 45 FR 8240, February 6, 1980. This action is being taken as a result of the Office of the Federal Register publishing at 44 FR 18630–18631, March 28, 1979, amended procedures for the approval and maintenance of incorporations by reference.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce R. Fye, (202) 343–5447.

SUPPLEMENTARY INFORMATION: On March 28, 1979, the Office of the Federal Register published at 44 FR 18630–18631, amended procedures for the approval and maintenance of incorporations by reference. As a result of this action OSM's incorporation by reference material was scheduled to expire on July 1, 1980, unless an extension was approved by the Director of the Office of the Federal Register.

On June 19, 1980, the Acting Director of the Office of the Federal Register, approved the material OSM submitted for incorporation by reference in 30 CFR Chapter VII for one year effective July 1, 1980.

Dated: August 11, 1980.

Walter N. Heine,
Director, Office of Surface Mining, Reclamation and Enforcement.

Amendments to Regulations

30 CFR is amended as follows:

PART 700—GENERAL

(Secs. 102, 201, 304, 405, 407, 412, 501, 510, 512, 516, 517, 520, 523, 527, 528, 529, 701, 708, 719, Pub. L. 95–87, 91 Stat. 448, 449, 454, 462, 466, 467, 480, 483, 486, 495, 498, 503, 510, 513, 514, 515, 516, 521, 526, (30 U.S.C. 1202, 1211, 1224, 1235, 1237, 1242, 1251, 1260, 1262, 1265, 1266, 1267, 1270, 1273, 1277, 1278, 1291, 1298, 1309))

§ 700.5 [Amended]

1. In § 700.5 the last sentence of the definition "Anthracite" is amended to read: * * * "The Director's approval of this incorporation by reference expires on July 1, 1981."

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

(Secs. 102, 201, 501(b), 503, 504, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 517, 519, 527, 529, 701, and 711, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1261, 1263, 1264, 1265, 1266, 1267, 1269, 1277, 1279, 1291, 1301))

2. In § 785.17(b)(1)(i), the last sentence is amended to read:

§ 785.17 [Amended]

* * * * *
(b) * * *
(1) * * *
(i) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

3. In § 785.19(e)(i)(B), the last sentence is amended to read:

§ 785.19 [Amended]

* * * * *
(e) * * *
(i) * * *
(B) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

(Secs. 102, 201, 501, 503, 504, 508, 515, 517, 519, 701, 717, and 719 of Pub. L. 95–87, 91 Stat, 448, 449, 467, 470, 471, 478, 486, 498, 501, 516, 526, (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1258, 1265, 1267, 1269, 1291, 1307, 1309))

4. In § 816.49(a)(5), the last sentence is amended to read:

§ 816.49 [Amended]

(a) * * *
(5) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

5. In § 816.65(e)(2), the last sentence is amended to read:

§ 816.65 [Amended]

* * * * *
(e) * * *
(2) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

6. In § 816.85(c)(2), the last sentence is amended to read:

§ 816.85 [Amended]

* * * * *
(c) * * *
(2) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

(Secs. 102, 201, 501, 503, 504, 507, 508, 515, 516, 517, 519, 701, 717, and 719, Pub. L. 95–87, 91 Stat. 448, 449, 467, 470, 471, 474, 478, 495, 498, 501, 516, 526, (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1257, 1258, 1266, 1267, 1269, 1291, 1307, 1309))

7. In § 817.49(a)(5), the last sentence is amended to read:

§ 817.49 [Amended]

(a) * * *
(5) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

8. In § 817.65(e)(2), the last sentence is amended to read:

§ 817.65 [Amended]

* * * * *
(e) * * *
(2) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

9. In § 817.85(c)(2), the last sentence is amended to read:

§ 817.85 [Amended]

* * * * *
(c) * * *
(2) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

PART 820—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—ANTHRACITE MINES IN PENNSYLVANIA

(Secs. 102, 201, 501, 503, 504, 529, Pub. L. 95–87, 91 Stat, 448, 449, 467, 470, 471, 514, (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1279))

10. In § 820.11 (d), the last sentence is amended to read:

§ 820.11 [Amended]

* * * * *
(d) * * * The Director's approval of this incorporation by reference expires on July 1, 1981.

[FR Doc. 80–25075 Filed 8–15–80; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that U.S.S. *Dallas* (SSN 700) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that U.S.S. *Dallas* (SSN 700) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: July 23, 1980.

FOR FURTHER INFORMATION CONTACT:

Rulemaking in the Federal Register

Lake Champlain near the Town of

Dated: July 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Lieutenant Commander Charles Stanley Prentace, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Alexandria, Virginia 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that U.S.S. *Dallas* (SSN 700) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that U.S.S. *Dallas* (SSN 700) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3 are equally applicable to U.S.S. *Dallas* (SSN 700).

Moreover, it has been determined, in accordance with CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. The third Table One of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
•	•	•
USS JACKSONVILLE	SSN 699	
USS DALLAS	SSN 700	3.5
•	•	•

2. The Table Three of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
•	•	•	•	•	•	•	•	•
USS JACKSONVILLE	SSN 699	—	—	—	—	—	—	—
USS DALLAS	SSN 700	—	—	—	4.1	6.5	3.4	1.7 below.
•	•	•	•	•	•	•	•	•

(EO 11964 and 33 U.S.C. 1605)

Effective Date. The effective date of this amendment will be July 23, 1980.

Dated: July 23, 1980.

Edward Hidalgo,
Secretary of the Navy.

[FR Doc. 80-25047 Filed 8-15-80; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CCGD3-80-1A]

33 CFR Part 110

Special Anchorage Area, Oyster Bay, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This rule implements the request of the Incorporated Village of Centre Island, Oyster Bay, New York, by designating a Special Anchorage Area in Oyster Bay Harbor at Oyster Bay, New York. The designation will enhance navigational safety by reducing congestion in adjacent special anchorages and by providing charted indication (by depiction on appropriate charts) to passing vessels that unlighted vessels or vessels not sounding fog signals may be present in the anchorage

EFFECTIVE DATE: September 17, 1980.

FOR FURTHER INFORMATION CONTACT:
Commander Peter T. Muth, Project Manager, Chief, Port Safety Branch, Coast Guard District Three (mps), Marshall Hall, Room 108, governors Island, New York 10004, (212–668–7179). Working hours 8 a.m. to 4:30 p.m. Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 31, 1980, the Coast Guard published a notice of Proposed Rulemaking in the **Federal Register** concerning this amendment (45 FR 20982). Interested persons were given until May 16, 1980 to submit comments. No comments have been received. The proposed rule is therefore adopted without change and is set forth below.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Lieutenant William St. J. Chubb, Port Safety Officer, Third Coast Guard District, and Lieutenant Thomas J. Donlon, Project Attorney, Third Coast Guard District Legal Office.

In consideration of the foregoing Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.60 (u-3) to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(u-3) *Harbor of Oyster Bay, New York, Moses Point to Brickyard Point.* That portion of the waters of the Harbor of Oyster Bay enclosed by a line beginning at Moses Point on Centre Island at latitude 40° 53′ 11″ N., longitude 73° 31′ 14″ W.; thence to latitude 40° 53′ 02″ N., longitude 73° 31′ 22″ W.; thence to latitude 40° 53′ 02″ N., longitude 73° 32′ 00″ W.; thence to Brickyard Point on Centre Island at 40° 53′ 06″ N., longitude 73° 32′ 00″ W.; thence following the shoreline to the point of beginning.

Note.—The anchoring of vessels and placement of temporary moorings in anchorage areas described in paragraphs (u), (u-2), and (u-3) of this section will be under the jurisdiction of the local Harbormaster appointed in accordance with Article 12 of the Village Ordinance of the Village of Centre Island, New York.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6 (g)(1)(B), 80 Stat 937, (49 U.S.C. 1655 (g)(1)(B)); 49 CFR 1.46 (c)(2); 33 CFR 105 (g))

Dated: July 23, 1980

W. E. Caldwell,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 80-24612 Filed 8-15-80; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 110

[CCGD3-80-2A]

Shelburne Bay, VT.; Special Anchorage Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule implements the request of the Town of Shelburne, Vermont by designating a special anchorage area in Shelburne Bay in Lake Champlain near the Town of Shelburne. The designation will enhance navigational safety by reducing congestion in adjacent special anchorages and by providing charted indication (by depiction on appropriate charts) to passing vessels that unlighted vessels or vessels not sounding fog signals may be present in the anchorage.

EFFECTIVE DATE: September 17, 1980,

FOR FURTHER INFORMATION CONTACT:
Commander Peter T. Muth, Project Manager, Chief, Port Safety Branch, Third Coast Guard District(mps), Marshall Hall, Room 108, Governors Island, New York 10004, (212–668–7179). Working hours are 8 AM to 4:30 PM Monday through Friday.

SUPPLEMENTARY INFORMATION: On May 5, 1980, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** concerning this amendment (45 FR 29593). Interested persons were given until June 19, 1980 to submit comments. Only one comment was received, and it favored the proposal. The proposed rule is therefore adopted without change and is set forth below.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Lieutenant Commander William St. J. CHUBB, Port Safety Officer, Third Coast Guard District, and Lieutenant Thomas J. DONLON, Project Attorney, Third Coast Guard District Legal Office.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.8 (c–2) to read as follows:

§ 110.8 Lake Champlain, N.Y., and Vt.

* * * * *

(c–2) *Shelburne Bay Allen Hill to La Platte River.* That portion of the waters of Shelburne Bay west of the line from a point at Allen Hill at latitude 44°24′35″N., longitude 73°14′14″W.; to a point near the mouth of the La Platte River at latitude 44°24′03″N., longitude 73°14′05″W.

Note.—The anchoring of vessels and placement of temporary moorings in the anchorage area described in paragraph (c–2) of this section are administered by the Harbormaster appointed by the Town of Shelburne, Vermont.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937, (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2); 33 CFR 1.05–1(g))

Dated: July 28, 1980.

R. I. Price,
Commander, Third Coast Guard District.

[FR Doc. 80-25076 Filed 8-15-80; 8:45 am]
BILLING CODE 4910-14-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Part 7–12

[AIDPR Notice 81–1]

Revision to Procedures for EEO Clearances of Contractors

AGENCY: Agency for International Development (AID).

ACTION: Final rule.

SUMMARY: The Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor has assumed full responsibility for preaward clearance and monitoring of contractor compliance with Equal Employment Opportunity (EEO) requirements. In recognition of this, the AID Procurement Regulations (AIDPR's) are being amended to specify EEO clearance requirements, and procedures for obtaining EEO clearance.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. J. Michael Kelly, CM/SD/POL, International Development Cooperation Agency, AID, Washington, D.C. 20523. Telephone: (703) 235–9107.

PART 7–12—LABOR

Subpart 7–12.8 is revised as follows:

Subpart 7–12.8—Equal Opportunity in Employment

Sec.

7–12.805–50 Administration by AID.
7–12.805–51 Introduction.
7–12.805–52 EEO clearance requirements.
7–12.805–53 Clearance procedures.

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 424, as amended (22 U.S.C. 2381).

§ 7–12.805–50 Administration by AID.

§ 7–12.805–51 Introduction.

Executive Order 12086 consolidated the compliance responsibility for equal employment opportunity programs, which had previously been assigned to selected, designated compliance agencies, in the Department of Labor. The Department of Labor assumed full responsibility for verification of contractor's compliance with EEO requirements. Since there is no longer a compliance officer in AID, contracting officers will now obtain verification of

contractor compliance directly from the cognizant Regional Office of Federal Contract Compliance Programs (OFCCP) in accordance with the procedures in § 7–12.805–53.

§ 7–12.805–52 EEO clearance requirements.

(a) *General.* AID will not award a contract to a firm or institution unless it complies with EEO requirements.

(b) *Contracts for $1,000,000 or more.* For contracts with an estimated total value over the life of the contract of $1,000,000 or more, formal verification of compliance shall be obtained from the cognizant regional OFCCP in accordance with the procedures in paragraphs (a), (b), and (d) of § 7–12.805–53.

(c) *Contracts over $10,000, but less than $1,000,000.* Contracts with an estimated total value over the life of the contract of more than $10,000, but less than $1,000,000 do not require formal verification of compliance from OFCCP. Compliance shall be determined in accordance with the procedures in paragraphs (a), (c), and (d) of § 7–12.805–53.

(d) *Contract amendments.* Any amendment which increases the total estimated value of a contract to $1,000,000 or more, or any amendment which is itself $1,000,000 or more, requires formal verification of compliance from the cognizant regional OFCCP, i.e., the regional office responsible for the geographic area where the work is to be performed, in accordance with the procedures in § 7–15.805–53(b). For other amendments, the method of verification of compliance is at the discretion of the contracting officer (see § 7–12.805–53 (c) and (d)(3)); formal verification is not required.

§ 7–12.805–53 Clearance procedures.

(a) *General.* (1) A completed and signed Representations, Certifications, and Acknowledgements (AID Form 1410–13), and a satisfactory Minority and Women Representation on Overseas Team Agreement, as required by AID Form 1410–13, are required for all AID contracts over $10,000. The Representations, Certifications, and Acknowledgements (Reps. and Certs.) and (when applicable) the Minority and Women Representation on Overseas Team Agreement (O/S Team Agreement) must be reviewed by the contracting officer when received to determined that they have been completed and signed as required, and are acceptable. Acceptable Reps. and Certs. and O/S Team Agreement are the first step in the EEO clearance process.

(2) If the Reps. and Certs. or O/S Team Agreement are not deemed acceptable on technical grounds (e.g. incomplete, not signed, etc.) the contracting officer must decide if they can be made acceptable within a reasonable period by corrective action on the part of the offeror, or if the fault is such that it renders the offer non-responsive. In the first case, necessary corrective action should be taken; in the second case, negotiations with the non-responsive offeror will be terminated. If the Reps. and Certs. or O/S Team Agreement raise questions concerning EEO compliance, and this would be the basis for finding the offeror non-responsive, the matter must be referred to OFCCP regardless of the estimated value of the contract; only OFCCP may make determination of non-compliance with EEO requirements.

(b) Contracts for $1,000,000 or more. Contracts and amendments with an estimated value of $1,000,000 or more must have OFCCP verification of EEO compliance before award (see § 7–12.805–52). This verification shall be obtained by:

(1) Getting completed, signed, Reps. and Certs. and (when applicable) the O/S Team Agreement from the offeror (see § 7–12.805–53(a)).

(2) Contacting the cognizant Regional OFCCP for verification of EEO compliance.

(i) OFCCP may require 30 days lead time for verification if a compliance study is required. This should be considered in the procurement planning process.

(ii) The contracting officer may make initial inquiry to OFCCP by telephone, and telephone verification of EEO compliance may be used in making an award; however, the inquiry and verification must be confirmed in writing.

(iii) The following information is normally required by OFCCP:

(A) The offeror's full name and address;

(B) Name, title, address, and telephone number of a contact person for the prospective contractor;

(C) A description of the type of organization (university, nonprofit, etc.) and its ownership (private, foreign, state, etc.).

(D) Names and addresses of organizations in joint venture (if any); names and addresses of subcontractors (if any).

(E) Type of procurement (new contract— RFP or IFB, amendment, etc.) and estimated dollar amount, and term.

(F) Copy of approved Reps. and Certs. and O/S Team Agreement. In the initial contact with OFCCP, the contracting officer and OFCCP should mutually determine what information is to be included in the written verification request. In the event that OFCCP reports that the offeror is not in compliance, negotiations with the offeror shall be terminated.

(c) Contracts over $10,000, but less than $1,000,000. Contracts and amendments within this range do not require formal verification by OFCCP (see § 7–12.805–52). The method used to verify compliance is at the discretion of the contracting officer. The contracting officer may rely on the documentation submitted by the offeror (the Reps. and Certs. and O/S Team Agreement—see § 7–12.805–53(a)), unless he or she is aware of some reason to doubt the documentation submitted. In case of doubt, then an informal check with OFCCP should be made. In the event that evidence of non-compliance is developed, the contracting officer must contact OFCCP for confirmation of EEO status; only OFCCP may determine non-compliance with EEO requirements. If OFCCP confirms non-compliance, negotiations with the offeror contractor shall be terminated.

(d) Documentation for the contract file.

(1) Every contract file must contain completed signed Reps. and Certs. and (when applicable) the O/S Team Agreement. The file must clearly show that these documents have been reviewed and accepted by the contracting officer. If the Reps. and Certs. or O/S Team Agreement were revised to make them acceptable (see § 7–12.805–53(a)), the file must show what changes were required and certify that the changes were made.

(2) For contracts or amendments of $1,000,000 or more, the file must contain:

(i) A record of the initial contact with OFCCP, specifying the name, address, and telephone number of the person contacted, a summary of the information presented, and the advice given by OFCCP;

(ii) A copy of the written follow-up request for EEO compliance verification to OFCCP; and

(iii) A copy of the compliance verification from OFCCP.

(3) For contracts or amendments over $10,000 but less than $1,000,000, the file must contain a memorandum from the contracting officer stating that the contractor is considered in compliance with EEO requirements, and giving the basis for this statement (see § 7–12.805–53(c)).

(4) Documentation in the event of non-compliance. In the event that OFCCP determines that a prospective contractor is not in compliance, a copy of OFCCP's

written determination, and a summary of resultant action taken (termination of negotiations, notification of offeror and project officer, negotiation with next offeror in competitive range, re-solicitation, etc.) will be placed in the contract file for any contract which may result, together with other records related to unsuccessful offers, and retained for at least six months following award.

Authority: This AIDPR Notice is issued pursuant to 41 CFR 7–1.104–4.

Dated: August 7, 1980.

John F. Owens,

Deputy Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 80–24961 Filed 8–15–00; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Definition and Reimbursement of Hospital Intensive Care Type Units

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This amendment to the Medicare regulations clarifies the requirements for the reimbursement of hospital "special care units" and substitutes the term "intensive care type unit" for that term wherever it appears in regulations. The current regulation has been misinterpreted by some hospitals as applying to units that furnish a level of care that is less than that furnished in the traditional intensive care unit. The revised regulation makes clear that only those units furnishing a level of care equivalent to that furnished in intensive care units qualify for the separate reimbursement specified in 42 CFR 405.452(d)(8).

EFFECTIVE DATE: Effective for provider cost reporting periods beginning on or after October 1, 1980.

FOR FURTHER INFORMATION CONTACT: William Goeller (301) 597–1802.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v) of the Social Security Act provides that the Secretary may establish, by regulations, the methods to be used in determining the reasonable costs of hospital services furnished to Medicare beneficiaries. Reimbursement to providers is based on costs actually incurred in furnishing services to beneficiaries.

This section of the law is implemented by regulations at 42 CFR 405.452. These regulations initially specified that the costs of furnishing routine services would be determined by an averaging method. The Secretary, at his discretion, decided at the time that this averaging method was both equitable and administratively feasible and that it took into account the fact that cost of care varies from patient care area to patient care area, and from patient to patient.

Under this method, reimbursement to providers for the costs of furnishing routine services was calculated by adding together the costs of routine services in all patient care areas of the hospital, deriving an average cost per diem and multiplying that per diem by the Medicare beneficiary utilization rate.

However, in 1972, the Secretary decided (again at his discretion) to amend the regulations at 42 CFR 405.452 to remove from the calculation of routine services costs, the costs incurred in furnishing care in special care units. This was done because the program recognized that the costs of furnishing care in these special care units were significantly higher, due to need for greater staffing and more specialized equipment, than the costs associated with other patient care areas, including intermediate or subintensive care units. Thus, incorporation of these higher costs with general routine costs would unfairly skew the calculation.

Since HEW's adoption of the special care unit reimbursement policy in 1972, we have maintained and intended that only those units furnishing a level of care that is equivalent to intensive care should be reimbursed separately as special care units. In our view, a subintensive or intermediate level of care is only part of the spectrum of general routine care, as are pediatric care, orthopedic care, and the like, and should be reimbursed by combining the reasonable costs of the care furnished in these intermediate or subintensive units with the reasonable costs of care in other general routine areas. Many patients in general routine areas receive more intensive care than other patients. For example, patients in traction or in pediatric units generally receive more care than routine appendectomy patients with no complications. Yet, the costs of these various types of care are all included in the routine cost center, and the calculation of an average per diem cost takes into account the fact that some patients receive more care than others. We believe that to separately compute cost of care by degree of illness would lend itself to more and more fragmentation of the costs—a result that could significantly increase the complexity of reimbursement, without necessarily effecting more accurate reimbursement.

Several Provider Reimbursement Review Board and Federal court decisions have addressed the issue of whether intermediate or subintensive care units are special care units for reimbursement purposes, and the conclusions reached have varied widely. These decisions reflect a lack of uniformity of understanding as to what constitutes a special care unit. Thus, it has become necessary to define more clearly what special care units are and to state under what circumstances a separate computation will be used in determining Medicare reimbursable costs in these units. That is the purpose of this regulation.

Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking (NPRM) was published on May 16, 1979 (44 FR 28768). The proposed rule provided specific criteria that a unit must meet in order to qualify as a special care unit for reimbursement purposes. Those criteria were:

(i) The unit must be in a hospital;

(ii) The unit must be physically and identifiably separate from other areas and units in the hospital. There cannot be a sharing of space or nursing services between the unit and other patient care areas or ancillary service areas;

(iii) There must be specific written policies that include criteria for admission to, and discharge from, the unit;

(iv) Registered nursing care must be furnished constantly on a continuous 24-hour basis. The staffing may not be decreased during night shifts, weekends, or periods when it is commonly decreased in other patient care areas;

(v) There must be a minimum of 12 scheduled hours of direct patient nursing care per patient day. This would not include any time spent performing administrative duties for the unit, nor would it include care furnished by aides and orderlies;

(vi) A minimum of 6 hours of direct patient care per patient day must be furnished by registered nurses; and

(vii) The unit must be permanently equipped with the life-saving equipment necessary to treat the critically ill patients for whom it is designed.

The NPRM also solicited comments on whether the admission and discharge policies for special care units must be consistent with the standards set by Professional Standards Review

Organizations (PSROs) and be approved by PSROs in advance.

Discussion of Major Comments

Comments on the NPRM were received from Medicare intermediaries and providers, from a few major provider chain organizations, and from major health care organizations such as the American Hospital Association, the Federation of American Hospitals and the American Nurses' Association. A summary of the major comments and our responses follow. In discussing the responses and in the final regulation, we use the term "intensive care type units", which is more descriptive than "special care units". We believe that this term more accurately reflects the type of unit that qualifies for separate reimbursement under the regulations.

1. Some commenters suggested that the proposed regulation should recognize subintensive or intermediate care units as distinct treatment modalities qualifying for separately computed reimbursement.

We realize that hospital care encompasses a broad spectrum, from the care of the very ill to the care of the patient well enough to be discharged home, and that subintensive and intermediate care units have become an accepted part of medical practice. Our current policy only differentiates between two major segments of that spectrum—general routine care and intensive type care. Intermediate care, as well as orthopedic care, pediatric care, self care, and the like, are included in general routine care.

If separate reimbursement were allowed for intermediate or subintensive care units, arguments would be made for separate reimbursement of still other levels of care. Separately computing the costs of care by degree of illness in this way would lend itself to more and more fragmentation of costs—a result that could significantly increase the complexity of reimbursement, without necessarily effecting more accurate reimbursement because while Medicare utilization may be greater at some levels, it will necessarily be lower at others.

In addition, before separate reimbursement could be made for some of these units, definitions including certain objective criteria, would need to be developed. However, these levels of care may not be the same in all hospitals, so that if HCFA were to attempt to develop a definition for subintensive or intermediate care units, it would also have to define all levels of routine care used by hospitals. This would be an extremely difficult task and result in constant disagreements because similarly termed levels of care may not represent the same level in every hospital.

In contrast to the difficulty and complexity of computing reimbursement based on multiple levels of care, experience has shown that the current system, which recognizes the two major levels of care, general routine and intensive type care, is administratively feasible. In addition, the method of computing a per diem cost for general routine care by the averaging method accurately reflects the costs of the various types of care that individual hospitals furnish, and will include any increased costs that are associated with intermediate or subintensive care units.

2. Some commenters objected to the criterion that the intensive care type unit must be physically and identifiably separate from general patient care areas, other special care inpatient hospital units, and ancillary service areas. Some commenters also suggested that rural hospitals be granted an exception to this requirement.

We are amending this criterion to state that the unit must be physically and identifiably separate from general routine patient care areas, including intermediate and subintensive care units and ancillary services areas. Thus, an intensive care type unit need not be separate from other intensive care type units in order to satisfy the regulation. While there cannot be a concurrent sharing of nursing staff between intensive care type units and other units, two or more intensive care type units may share the same nursing staff, in which case the units may be considered as one single intensive care type unit for reimbursement purposes. This would be the case, for example, where there is a combined coronary care unit/intensive care unit (CCU/ICU).

However, where there is no concurrent sharing of staff, but only a sharing of support areas such as supply rooms or conference room, each unit will be considered as an individual intensive care type unit, provided that costs can be identified for each unit. Float nurses (nurses who work in different units on an as-needed basis) can be utilized in the intensive care type unit. Where possible, these nurses should be assigned for full eight hour shifts, but a nurse's time may be split between two or more units during the same shift where fluctuation of the hospital's census dictates that this is the most effective use of nursing personnel. Where a nurse's time is split between units, then the costs must be allocated to the appropriate units depending upon the time spent in those units. The hospital must maintain adequate records to support the allocation. If such records are not available, then the costs must be allocated to the general routine services cost areas.

Two commenters also suggested that rural hospitals be granted an exception to this requirement, especially regarding the concurrent sharing of staff. We do not believe that such an exception would be appropriate from the standpoint of cost allocation, particularly with respect to the proper allocation of staff costs. Extensive recordkeeping by the hospital, as well as extensive monitoring by the intermediary, would be necessary, with no assurance that costs would be accurately allocated to the different cost centers.

We are also concerned about the quality of care which would be furnished to a patient in a situation where staff was required to monitor patients in intensive care type units and other units at the same time. Patients are admitted to intensive care type units because they are seriously ill and require careful and continuous care. The intensive nature of this care would be compromised if the nursing staff were required to provide care at the same time to patients in other areas and units as well.

In addition, the criteria that are contained in this regulation have already been revised in light of actual hospital practices as discussed in the comments received on the Notice of Proposed Rulemaking. In particular, we no longer require that each intensive care type unit be physically and identifiably separate from other intensive care type units, or that there be constant staffing at the same level 24 hours of every day. Also, we have made specific provisions for a hospital's use of float nurses. We believe that these changes that apply to all hospitals, urban as well as rural, respond to the concerns expressed by the commenters that the requirement of physical separation as stated in the Notice of Proposed Rulemaking was too rigid.

3. Many commenters objected to the constant staffing requirement as not being cost effective. They argued that providers should be allowed to decrease staffing on nights and weekends, and when utilization is low.

We agree that most patient care activity such as medical procedures, testing, doctor rounds, and the like, is conducted on the day shifts during the normal workweek, and we believe providers should be allowed to decrease staffing when patient care activity is decreased. The same level of staffing is not required on nights and weekends as

during the normal workweek and, therefore, we are eliminating this requirement. This conclusion is consistent with our understanding of medical practice and the comments we received, and the elimination of the requirement will have no adverse effect on the quality of patient care.

4. Many commenters objected, because of potential increased costs, to the requirements that there be 12 hours of nursing care per patient day and 6 hours of direct registered nursing care per patient day. They argued that hospitals will be forced to increase staffing to meet these requirements. In addition, the commenters indicated that our data supporting these requirements was inconclusive and not well grounded.

We have again reviewed the data supporting the requirement for 6 hours of direct registered nursing care per patient day and agree that it should be deleted.

We have retained the overall nursing care staffing requirement by stating that there must be a minmimum ratio of one nurse to every two patients per patient day. Included in the calculation of this nurse/patient ratio are registered nurses, licensed vocational nurses, licensed practical nurses and nursing assistants who provide patient care. Not included are general support personnel such as ward clerks, custodians and housekeeping personnel. We relied on data obtained from the survey of Critical Care Nursing Practice, 1979, conducted for the American Association of Critical Care Nurses by Arthur P. Little, Inc., and Opinion Research Corporation, in arriving at this nurse/patient ratio and believe that the data indicates that the requirement is a reasonable standard for intensive care type units.

5. Several commenters indicated that PSRO involvement is not necessary with respect to approval of admission and discharge policies for intensive care type units. One commenter also recommended that HCFA prepare a regulation that would require a hospital to determine, subject to PSRO approval, which patients require an intensive level of care on the basis of their medical needs.

We agree that PSRO involvement is not specifically necessary with respect to admission and discharge policies. Under the law, PSROs are responsible for assuring that health services that are reimbursed under the Medicare, Medcaid and Maternal and Child Health and Crippled Children's programs are medically necessary, meet professionally recognized standards of care, and are appropriately furnished in the most economical settings. While some PSROs do not review every case admitted to an intensive care type unit, they are responsible for review of the overall quality and appropriateness of care furnished in hospitals, including that furnished in intensive care type units. Where necessary, PSROs work with hospitals in identifying problems that may exist with respect to utilization of special care units and may participate in the development of revised policies.

In addition, the PSRO Hospital Review Regulations (42 CFR Part 466) already require that PSRO criteria specify clinical indications of the necessity for hospital admission and continued stay. Therefore, an additional regulation is not needed.

6. Some commenters objected to the criterion that an intensive care type unit be permanently equipped with life-saving equipment.

We are amending this criterion by eliminating the word "permanently" so that units may qualify as intensive care type units if they have portable equipment readily available for immediate use.

7. Several commenters objected to the criteria, particularly with regard to staffing, as being arbitrary and suggested that HCFA adopt a more flexible approach overall.

As a result of comments received, we have eliminated certain requirements that were in the proposed regulation, and revised others.

We believe that the revised criteria reasonably describe widely accepted characteristics of intensive care type units. The specific purpose of these criteria is to eliminate confusion and misunderstanding as to the definition of an intensive care type unit and to enable intermediaries to verify when a unit qualifies for separately computed reimbursement as an intensive care type unit. Therefore, clarity and definitive application to a variety of settings are primary objectives. However, we have also tried to reflect currently accepted standards of hospital practice and administration in the development of these criteria.

It would also not be possible, as was suggested by one commenter, to recognize the same beds alternatively as either general routine or special care, depending upon the daily needs of the hospital and patients. Beds which alternate from one category to another cannot be reimbursed on two different bases under our regulations, since it is not possible to apply current cost accounting procedures to the cost of such beds.

8. Several commenters objected to the 24-hour continous registered nurse requirement.

We believe that registered nursing care is absolutely essential due to the critical state of patients in intensive care type units. Therefore, we have retained the requirement that, at a minimum, one registered nurse be present in this unit at all times.

9. Several commenters stated that the proposed regulation would act to increase costs, because intermediate care units would be eliminated resulting in patients being kept in intensive care units longer.

We do not agree that intermediate care units will be eliminated as a result of this regulation. Hospitals make decisions as to the types and levels of care they will offer based on patient needs. Just as intensive care units existed before Medicare recognized separate reimbursement for these units, hospitals will retain intermediate and subintensive care units if these are deemed necessary for quality patient care. There is no firm evidence to indicate either that the quality of care would improve if HCFA allowed separate reimbursement for imtermediate or subintensive care units or that the quality of care will decline if separate reimbursement is not permitted. We will monitor closely the impact of this regulation, however, and will consider further changes in the reimbursement process if it is demonstrated that the regulation has had a detrimental impact on the quality of patient care.

We also wish to emphasize that, just because a unit does not meet the definition of an intensive care type unit does not mean that the Medicare program will not reimburse for the care furnished in that unit. Rather, the costs of care furnished in that unit are reimbursed with other general routine service costs.

As indicated in comment No. 1, general routine care includes a broad spectrum of care. Due to the many different levels of care, an averaging procedure has been adopted to compute the costs of general routine care. We believe the average per diem, which includes the costs of intermediate or subintensive care units, is an accurate measure of a hospital's general routine costs, since it is based on the actual costs incurred by the hospital in furnishing a broad spectrum of care. If the costs of intermediate or subintensive care units are higher than other routine service costs, then the combination of these higher costs with other general routine costs will increase the average per diem cost for general routine care. Thus, the method of average per diem reimbursement is responsive to differences in the types of care

V 45 AG 1980 UMI

furnished by hospitals, and provides an accurate way of determining the reasonable cost of services furnished.

42 CFR Part 405 is amended as set forth below:

§ 405.430 [Amended]

1. § 405.430 (b)(1), (b)(2), (b)(3), (b)(5), (b)(6), (b)(9), and § 405.452 (b)(1), (b)(2), and (d)(7), the words "other special care inpatient hospital units" are changed to "other intensive care type inpatient hospital units".

2. Section 405.452 is amended by revising paragraphs (d)(8), (d)(10), (e)(2)(ii) and (e)(3)(iii) and (e)(3)(iv) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(d) *Definitions.* * * *

(8) *Average cost per diem for hospital intensive care type units.* Average cost per diem for intensive care units, coronary care units; and other intensive care type inpatieht hospital units as defined in subparagraph (10) of this paragraph means the amount computed by dividing the total allowable costs for routine services in each (see paragraph (b)(1) of this section), or the aggregate (see paragraph (b)(2) of this section), of these units by the total number of inpatient days of care rendered in each or the aggregate of these units.

* * * * *

(10) *Intensive care type inpatient hospital unit.* To be considered an intensive care type inpatient hospital unit, the unit must furnish services to critically ill patients. (Examples of intensive care type units include, but are not limited to, intensive care units, trauma units, coronary care units, pulmonary care units, and burn units. Excluded as intensive care type units are postoperative recovery rooms, postanesthesia recovery rooms, maternity labor rooms, and subintensive or intermediate care units.) The unit must also meet the following conditions:

(i) The unit must be in a hospital;

(ii) The unit must be physically and identifiably separate from general routine patient care areas, including subintensive or intermediate care units, and ancillary service areas. There cannot be a concurrent sharing of nursing staff between an intensive care type unit and units or areas furnishing different levels or types of care. However, two or more intensive care type units that concurrently share nursing staff can be reimbursed as one combined intensive care type unit if all other criteria are met. Float nurses (nurses who work in different units on an as-needed basis) can be utilized in the intensive care type unit. If a float nurse works in two different units during the same eight hour shift, then the costs must be allocated to the appropriate units depending upon the time spent in those units. The hospital must maintain adequate records to support the allocation. If such records are not available, then the costs must be allocated to the general routine services costs areas;

(iii) There must be specific written policies that include criteria for admission to, and discharge from, the unit;

(iv) Registered nursing care must be furnished on a continuous 24-hour basis. At least one registered nurse must be present in the unit at all times;

(v) A minimum nurse-patient ratio of one nurse to two patient per patients day must be maintained. Included in the calculation of this nurse/patient ratio are registered nurses, licensed vocational nurses, licensed practical nurses, and nursing assistants who provide patient care. Not included are general support personnel such as ward clerks, custodians and housekeeping personnel; and

(vi) The unit must be equipped, or have available for immediate use, life-saving equipment necessary to treat the critically ill patients for which it is designed. This equipment may include, but is not limited to, respiratory and cardiac monitoring equipment, respirators, cardiac defibrillators, and wall or canister oxygen and compressed air.

(e) *Application.* * * *

(2) *Departmental Method.* * * *

(ii) *For cost reporting periods starting after December 31, 1971.* The following illustrates how apportionment based on the average cost per diem for general routine services, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential) and each intensive care type unit and apportionment of the cost of ancillary services on the ratio of beneficiary charges to total charges applied to cost by department would be determined for cost reporting periods starting after December 31, 1971, under the Departmental Method, using only inpatient data:

(3) *Combination Method.* * * *

(iii) *Combination Method for cost reporting periods beginning after December 31, 1971.* The following illustrates how apportionment based on the average cost per diem for general routine services, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential) and the aggregate of the intensive care type units and apportionment of the cost of ancillary services on the basis of the ratio of total beneficiary ancillary charges to total patient ancillary charges (excluding delivery room charges) applied to the cost of all such ancillary services (excluding delivery room costs) would be determined for cost reporting periods beginning after December 31, 1971, under the Combination Method using only inpatient data.

* * * * *

(iv) *Using cost finding for cost reporting periods ending after June 30, 1973.* Use of the Combination Method of apportionment for cost reporting periods ending after June 30, 1973, and starting before July 1, 1979, necessitates cost finding as specified in § 405.453(d)(3) to determine the division of the provider's total costs among general routine care, routine care in intensive care type units, renal dialysis, delivery room and labor room, the aggregate of all other ancillary services, and nonallowable activities.

* * * * *

(Secs. 1102, 1814(b), 1861(v), and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395f(b), 1395x(v) and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: August 7, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-24857 Filed 8-15-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY AGENCY

[Docket No. FEMA-5687]

44 CFR Part 70

National Flood Insurance Program; Letter of Map Amendment for Napa County, Calif.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Napa County, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Napa County, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060205 Panels 0410A and 0430A, published August 22, 1979 in 44 FR 49269, indicates that Parcel One, being Lot 1, Map of North Napa, Napa County, California, as recorded in Book 417, Page 457, in the Office of the Recorder, Napa County, California, is partially within the Special Flood Insurance Area.

Map No. H & I 060205 Panels 0410A and 0430A is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on February 1, 1980. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24992 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-5712]

44 CFR Part 70

National Flood Insurance Program; Letter of Map Amendment for the City of Aurora, Colo.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Aurora, Colorado. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Aurora, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 080002 Panel 0015A, published on October 23, 1979, in 44 FR 61024, indicates that Lots 3 through 9, Block 6; Lots 1, 2, 30, 31, and 37, Block 7; and Lots 7, 8, 17 through 30, and 32 through 41, Block 14, Mission Viejo Subdivision, Filing Number 11; Lots 14 through 17, 19 through 27, and 30 through 35, Block 4; and Lots 12 through 28, Block 5, Mission Viejo Subdivision, Filing Number 12; and Tract A, Aurora, Colorado, recorded as Reception Number 1706654 in Book 33, Pages 59 and 60; Reception Number 1754662 in Book 35, Page 17; and Reception Number 1793397 in Book 2887, Pages 69 through 72, respectively, in the Office of the Recorder, Arapahoe County, Colorado, are within the Special Flood Hazard Area.

Map No. H & I 080002 Panel 0015A is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on June 1, 1978. These properties are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24993 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-5712]

44 CFR Part 70

National Flood Insurance Program; Letter of Map Amendment for the Unincorporated Area of Washington County, Md.

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Washington County, Maryland. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further

technical review of the Flood Insurance Rate Map for the Unincorporated Area of Washington County, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 240070, Panel No. 0085A, published on October 23, 1979, in 44 FR 61010, indicates that Lot No. 29, Section B, Spring Valley Wooded Estates, Unincorporated Area of Washington County, Maryland, as recorded in Liber 663, Page 64, in the Office of the Clerk of the Circuit Court of Washington County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240070, Panel No. 0085A, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on May 1, 1978. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: June 23, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24979 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-3976]

44 CFR Part 70

Letter of Map Amendment for City of Napa, Calif., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Napa, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Napa, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060207 Panel 0005B, published on March 27, 1979 in 44 FR 18194, indicates that a 83.53 acre tract of land; a 2.14 acre tract of land; Parcel One, being Parcels D and E on Map No. 2022, and Parcel Two, being Parcel X on Map No. 2099; Parcels A through C, Map of the Lands of Howard C. Gammon; Parcels One through Four; and Lake Park-Unit One, Napa, California, as recorded in Volume 1078, Page 96; as Document No. BD1392 in Book 855, Page 704; as Document No. CB4381 in Volume 1015, Page 793; as Document No. CB7604 in Volume 1021, Page 492; as Document No. CG6661 in Volume 1106, Pages 38 and 39; and Book 8 of Maps, Page 92, respectively, in the Office of the Recorder, Napa County, California, is partially or totally within the Special Flood Hazard Area.

Map No. H & I 060207 Panel 0005B is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on September 5, 1979, with the exception of that portion of Parcels A through C, Map of the Lands of Howard C. Gammon, which are outside the existing levee. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator).

Issued: August 7, 1980

Gloria M. Jimenez

Federal Insurance Administrator.

[FR Doc. 80-24995 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-3976]

Letter of Map Amendment for City of Napa, Calif., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Napa, California. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the city of Napa, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080)

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060207 Panel 0005B, published on March 27, 1979 in 44 FR 18194 indicates that Edgewater Subdivision and Lots 3 through 5, River Glen, recorded as Map Number 3145 in Book 12 of Maps, Pages 16 and 17; and Map Number 1797 in Book 9 of Maps, Pages 28 and 29, respectively, in the Office of the Recorder, Napa County, California, are within the Special Flood Hazard Area.

Map No. H & I 060207 Panel 0005B is hereby corrected to reflect that Lots 1 through 17 and 43 through 121, and Parcels, A, B, and P, Edgewater Subdivision; and Lot 5, River Glen, are not within the Special Flood Hazard Area identified on September 5, 1979. These properties are in Zone C.

In addition, Lots 18 through 42, Edgewater Subdivision, with the exception of the areas designated for Drainage and Maintenance District Easement on the recorded plat map cited above, and the western portions of Lots 3 and 4, River Glen, which are protected by the levee along the Napa River, are not within the Special Flood Hazard Area identified on September 5, 1979. These properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator.)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24998 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5333]

Letter of Map Amendment for Village of Libertyville, Ill., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Village of Libertyville, Illinois. It has been determined by the Federal Insurance Adminstrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Village of Libertyville, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirment to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170377, Panel No. 0005B, published on August 20, 1979, in 44 FR 48683 indicates that the existing structure located on the South 501.0 feet of the West 510.50 feet of the East 1,860.30 feet of the North East Quarter of Section 8, Township 44 North, Range 11, East of the 3rd Principal Meridian, Village of Libertyville, Lake County, Illinois, recorded as Document No. 1992771, in the Office of the Recorder of Lake County, Illinois, is located within the Special Flood Hazard Area.

Map No. 170377, Panel No. 0005B, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on January 16, 1980. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24997 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

---

44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for Township of Tinicum, Bucks County, Pa., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the

V45 A G 18 80 UMI

Township of Tinicum, Bucks County, Pennsylvania. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Tinicum, Bucks County, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 420205, Panel No. 0005B, puplished on October 23, 1979, in 44 FR 61012, indicates that Lot No. 44–007–048–4, Township of Tinicum, Bucks County, Pennsylvania, as recorded in Deed Book 2140, Page 0701, in the Office of the Recorder of Deeds of Bucks County, Pennsylvania, is located within the Special Flood Hazard Area.

Map No. H & I 420205, Panel No. 0005B, is hereby corrected to reflect that the Service Building and Mobile Unit Nos. 14, 15, 16, 30A and 30B, located on the above-mentioned Lot, are not within the Special Flood Hazard Area identified on February 1, 1979. The structures are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–24998 Filed 8–15–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Township of Tinicum, Bucks County, Pa., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list includes the Township of Tinicum, Bucks County, Pennsylvania. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Tinicum, Bucks County, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410, (202) 755–6570 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620 toll free.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 420205 Panel No. 0005B, published on October 23, 1979 in 44 FR 61012, indicates that Lot No. 44–009–011, Township of Tinicum, Bucks County Pennsylvania, as recorded in Deed Book 1177, Page 0583, in the Office of the Recorder of Deeds of Bucks County, Pennsylvania, is located within the Special Flood Hazard Area.

Map No. H & I 420205, Panel No. 0005B, is hereby corrected to reflect that dwelling and two-story shop situated 40 feet to the rear of the dwelling, located on the above-mentioned Lot, are not within the Special Flood Hazard Area identified on February 1, 1979. The structures are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–24999 Filed 8–15–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA–5712]

Letter of Map Amendment for Township of Tinicum, Bucks County, Pa., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Township of Tinicum, Bucks County, Pennsylvania. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Tinicum, Bucks County, Pennsylvania, that certain property is not within the Special Flood Hazard Area identified on February 1, 1979. The structures are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–25000 Filed 8–15–80; 8:45 am]

BILLING CODE 6718–03–M

property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6570 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 420205, Panel No. 0005B, published on October 23, 1979, in 44 FR 61012, indicates that the properties listed below, which are all located in the Township of Tinicum, Bucks County, Pennsylvania, are located within the Special Flood Hazard Area. The properties and their official recordation information are as follows:

Lot No. 44–008–012, as recorded in Deed Book 2116, Page 1181.
Lot No. 44–009–010, as recorded in Deed Book 0886, Page 0330.
Lot No. 44–009–014, as recorded in Deed Book 1835, Page 0415.
Lot No. 44–009–015, as recorded in Deed Book 1220, Page 0462.
Lot No. 44–009–016, as recorded in Deed Book 1136, Page 0263.
Lot No. 44–007–047, as recorded in Deed Book 1484, Page 0283.
Lot No. 44–009–009, as recorded in Deed Book 0893, Page 0504.

Map No. H & I 420205, Panel No. 0005B, is hereby corrected to reflect that the structures located on the above-mentioned Lots, are not within the Special Flood Hazard Area identified on February 1, 1979. The structures are in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–25000 Filed 8–15–80; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 71

HHS Day Care Regulations; Correction

AGENCY: Office of the Secretary, HHS.

ACTION: Final rules: Correction.

SUMMARY: This document corrects the final HEW Day Care Regulations (now HHS Day Care Regulations) in 45 FR 17870, March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Warren Master, Director, Office of Policy Development, Office of Human Development Services, Room 736E, Hubert H. Humphrey Bldg., 200 Independence Avenue SW., Washington, D.C. 20201, (202) 245–6275.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare (HEW) Day Care Regulations, now the Department of Health and Human Services (HHS) Day Care Regulations, were published in final in the **Federal Register** on March 19, 1980. We are making technical corrections to these final rules. These corrections are needed in order to extend the effective date regarding group composition to day care homes as well as to day care centers. To do this we are modifying 45 CFR 71.66(b) by adding a reference to § 71.24 where appropriate and the phase "or homes" where appropriate.

45 CFR 71.66 appearing on page 17885 is corrected to read as follows:

§ 71.66 Effective date.

These regulations are effective on October 1, 1980 except that—

(a) The training requirements in § 71.12 and § 71.32, and the requirements in § 71.36 and § 71.40 that day care homes inform parents about and refer them to health and social services, will become effective on April 1, 1981; and

(b) For any State, the October 1, 1980 effective date of the group composition requirements at § 71.24 and § 71.44 may be extended for not more than two years upon a showing satisfactory to the Secretary that substantial numbers of HEW funded children are receiving care in centers or homes that meet group composition requirements less stringent than the requirements in § 71.24 and § 71.44 and that additional time is needed to meet those requirements within the State. The showing must—

(1) Be made to the Secretary by the State agency by October 1, 1980; and

(2) Include detailed information about the group composition requirements currently being met by the centers or homes within the State;

(3) Indicate the number of HEW funded children who are receiving care in centers or homes that do not comply with the group composition requirements in § 71.24 and § 71.44;

(4) Estimate the time necessary to fully meet those requirements in centers or homes caring for HEW funded children within the State; and

(5) Include a schedule for a gradual phase-in of the requirements.

Dated: August 8, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

Approved: August 12, 1980.

Nathan J. Stark,

Acting Secretary.

[FR Doc. 80–24858 Filed 8–15–80; 8:45 am]

BILLING CODE 4110–92–M

History

Noah's Ark Restaurant, 1500 South 5th

fuel consumption impacts of the

Proposed Rules

Federal Register
Vol. 45, No. 161
Monday, August 18, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. 1

Proposed Sacramento, California Terminal Control Area; Informal Airspace Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meeting, proposed Sacramento, California, terminal control area.

SUMMARY: The Federal Aviation Administration (FAA) will hold an Informal Airspace Meeting for the purpose of discussing a plan by the FAA to establish a Group II Terminal Control Area (TCA) at Sacramento, California.

DATE: The meeting will be held on Saturday, September 6, 1980, 9:00 a.m.

ADDRESS: Little Theatre, American River College, 4700 College Oak Drive, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Mr. Eddie Lewis, Chief, Terminal Radar Approach Control (TRACON), 5839 22nd Street, Rio Lindo, California 95673; telephone (916) 922–9511 or Mr. Richard Morrison, AWE–532, Air Traffic Division, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009; telephone (213) 536–6182.

SUPPLEMENTARY INFORMATION: The purpose of the Informal Airspace Meeting is to offer all persons likely to be affected by the proposed TCA the opportunity to present their views, and to assist the FAA in the preparation of an airspace action that will accomplish the improved safety objectives with the least impact on the airspace users.

No formal minutes or transcripts will be taken, however, anyone may submit written comments before or during the meeting which will be made a matter of record if they so desire. This action will not prevent interested persons from submitting comments later in response to a Notice of Proposed Rulemaking (NPRM) in the event the item is formally proposed.

A detailed written description of the draft TCA configuration is available by contacting the persons listed under "FOR FURTHER INFORMATION CONTACT * * *"

Issued in Los Angeles, Calif., on August 6, 1980.

H. C. McClure,
Acting Director, Western Region.

[FR Doc. 80-24785 Filed 8-15-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 45

[Docket No. 20424; Notice No. 80–11]

Size of Registration Marks

Correction

In FR Doc. 80–22843 appearing on page 50810 in the issue of Thursday, July 31, 1980; on page 50813, first column, § 45.22, fifth line of paragraph (b), "21.19(g)" should read "21.191(g)".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 18605/80–AWA–10]

Alteration of Group II Terminal Control Area; St. Louis, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reconfigure the Group II Terminal Control Area (TCA) at St. Louis, Mo., which first became effective on January 1, 1974. This action would: (1) Add airspace to accommodate a proposed new arrival procedure to Runways 12 and 30; and (2) remove from the TCA a large segment of airspace.

DATES: Comments must be received on or before October 2, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 18605/80–AWA–10, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The docket for this action may be examined at the office of the Regional Air Traffic Division, 601 E. 12th Street, Kansas City, Mo. 64106, or at the FAA, Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: James King, Airspace and Procedures Branch, Air Traffic Division, Central Region (ACE–500), Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106; (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before October 2, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Headquarters rules dockets for examination by interested persons.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18605/80–AWA–10." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

History

As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety in the National Airspace System, St. Louis was a candidate for Group I designation and possible expansion of the designated TCA airspace. Consequently, the St. Louis TCA was reviewed in depth. The goal was to provide the most safe and efficient configuration for all airspace users. Aspects that were considered included noise abatement, costs to users, safety for passengers and aircraft, and the safe and efficient use of airspace.

The review disclosed that Group I designation would not be necessary. The analysis also disclosed that a high level of safety can be maintained in that area while at the same time reducing the amount of airspace in the TCA. Concurrently, the FAA was developing a new concept for arrival procedures to increase airspace use capability.

Accordingly, this proposed action would reconfigure parts of the TCA, reducing the overall TCA airspace. The reduction would provide greater flexibility to aircraft wishing to avoid TCA airspace. Also, it is necessary to propose an expansion of portions of TCA airspace to accommodate proposed new arrival procedures to Runways 12 and 30. This expansion would insure that turbojet operations would continue to be contained within TCA airspace and the high level of safety provided by the TCA would not be reduced.

After experience is gained with the revised TCA configuration, consideration will be given to proposing any modifications that appear necessary. Any future modifications that may be proposed would be thoroughly coordinated with airspace users.

The proposal contained in this notice was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. An extensive publicity effort was made to invite all interested persons to participate in a meeting held on April 24, 1980. Invitations were extended to all fixed-base operators and pilots in the local area. Notice of the meeting was also given through radio, telephone, mail, and posting announcements. As a result of the meeting, adjustments to the TCA configuration were developed and are reflected in this notice. Another informal airspace meeting will be held on Tuesday, September 9, 1980, at 7 p.m. at Noah's Ark Restaurant, 1500 South 5th Street, Charles, Mo. The purpose of that meeting is to discuss this proposed alteration of the St. Louis, Mo., TCA. Notice of that meeting was published in the **Federal Register** on July 3, 1980 (45 FR 45305). Invitations were extended to all fixed-base operators and pilots in the local area and notice was given through radio, telephone, mail, and posting announcements. An additional opportunity for public participation is provided by this notice to insure full consideration of public concerns at every stage of the rulemaking process.

Local Benefits

The modifications of the Group II TCA, as proposed in this notice, would: (1) Provide greater accessibility to aircraft wishing to avoid TCA airspace at the outer rings; and (2) accommodate sufficient airspace for new arrival procedures, thereby reducing delays and consequently fuel consumption. All turbojet arrival and departure profiles would be contained within TCA airspace for air safety purposes with the TCA having a minimum impact on aircraft not required to be under ATC due to this proposed action.

Economic Impacts

The costs of modifying the St. Louis TCA are being considered as part of the regulatory decisions being made. Since all turbine-powered, IFR aircraft will continue to be contained in the TCA as reconfigured, there will be no change in economic effect for those flights. Uncontrolled aircraft will have a larger amount of airspace in which to conduct their activities and therefore will have an increased degree of flexibility to plan their flights to use more economic routes or altitudes. Any adverse economic impact that may now exist will be the same or reduced as available airspace is increased for traffic not operating within the TCA.

The existing TCA configuration as compared to the proposed configuration demonstrates no change in impacted airports, number of operations, the number of airports receiving diverted traffic, the distance in air miles or ground miles flown by diverted traffic, the number of aircraft expected to relocate or divert due to the TCA, the special use operations conducted within the core area of the TCA or other segments of the TCA and adjacent airspace, and no change in operational procedures at adjacent airports.

Environmental Impacts

An environmental assessment has been prepared which addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the proposed altered TCA. It concludes that those impacts would not significantly affect the quality of the human environment. That assessment is in both the Regional and Washington dockets for public comments.

The Proposed TCA

The FAA is proposing an amendment to Subpart K of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter certain lateral and vertical dimensions of the St. Louis, Mo., TCA. The original St. Louis TCA became effective on January 1, 1974.

The FAA considered raising the ceiling of the St. Louis TCA to 12,500 feet. That action would have made the TCA abut airspace where regulations require an operable transponder and altitude encoding equipment for operations above 12,500 feet.

Analysis of St. Louis airspace showed no operational problems that justified an expansion of the TCA above 8,000 feet MSL at this time. In fact, the review indicated that the size of the TCA could be reduced at the outer rings. Further, the analysis showed that additional airspace is required for radar vectors and separation to accommodate new arrival procedures for Runways 12 and 30.

Accordingly, the airspace description for the TCA action proposed in this notice was developed by the FAA, Central Region, in consultation with affected users to minimize the potential adverse impacts of the proposal. Several planning meetings with key representatives of general aviation user groups were held to assess the existing TCA configuration and proposed modifications to that configuration. The modifications were concurred in by all planning participants as well as by the Missouri Pilots Association. Local representatives of the Missouri Air National Guard, McDonnell Douglas Aircraft, Aircraft Owners and Pilots Association, and the Air Transport Association have stated no serious objections to the proposal. The elimination of the outer segments from TCA airspace will not derogate safety or the efficient use of airspace.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) by amending the St. Louis, Mo., TCA to read as follows:

Subpart K-Terminal Control Areas

§ 71.401 Designation.

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

St. Louis, Mo., Terminal Control Area

Primary Airport

St. Louis International Airport (lat. 38°44'54"., long. 90°21'47"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius arc of the St. Louis International Airport ASR Antenna (lat. 38°44'25"N., long. 90°22'14"W.), excluding that airspace within a 2-mile radius arc of the Creve Coeur Airport (lat. 38°43'35"N., long. 90°30'35"W.).

Area B. That airspace extending upward from 2,000 feet MSL to and including 8,000 feet MSL within a 10-mile radius arc of the St. Louis International Airport ASR Antenna, excluding Area A and excluding the area south of the Foristell VORTAC 093° radial.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius arc of the St. Louis International Airport ASR Antenna, and that area which lies south of the Foristell VORTAC 093° radial which is contained within the 10-mile radius arc of the St. Louis International Airport ASR Antenna, excluding Areas A and B, and excluding the area within and underlying Area E.

Area D. That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL between the 15-mile and 20-mile radii arcs of the St. Louis International Airport ASR Antenna, excluding an area bounded on the east by a line 5 miles northwest of and parallel to the St. Louis International Airport Runway 24 ILS localizer northeasterly course, counterclockwise to a line 8 miles south of and parallel to the St. Louis International Airport Runway 12R ILS localizer northwesterly course, and excluding an area bounded on the south by a line 5 miles south of and parallel to the St. Louis International Airport Runway 6 localizer southwesterly course, counterclockwise to a line 8 miles north of and parallel to the St. Louis International Airport Runway 30L ILS localizer southeasterly course.

Area E. That airspace extending upward from 3,600 feet MSL to and including 8,000 feet MSL within a 15-mile radius arc of the St. Louis International Airport ASR Antenna, bounded on the northwest by the Troy VORTAC 229° radial, and on the west by a line extending from lat. 38°35'00"N., long. 90°12'00"W., to lat. 38°10'00"N., long. 90°07'00"W.

Area F. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL in two areas: (1) Within 8 miles of each side of the St. Louis International Airport Runway 12R ILS localizer northwesterly course extending outward from the 15-mile radius arc to the 25-mile radius arc of the St. Louis International Airport ASR Antenna; and (2) Within 8 miles of each side of the St. Louis International Airport Runway 30L ILS localizer southeasterly course extending outward from the 15-mile radius arc to the 25-mile radius arc of the St. Louis International Airport ASR Antenna.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

Note. The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation prepared for this action is contained in the Washington and Regional dockets. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *."

Issued in Washington, D.C. on August 13, 1980.

R.J. Van Vuren,

Director, Air Traffic Service.

BILLING CODE 4910-13-M

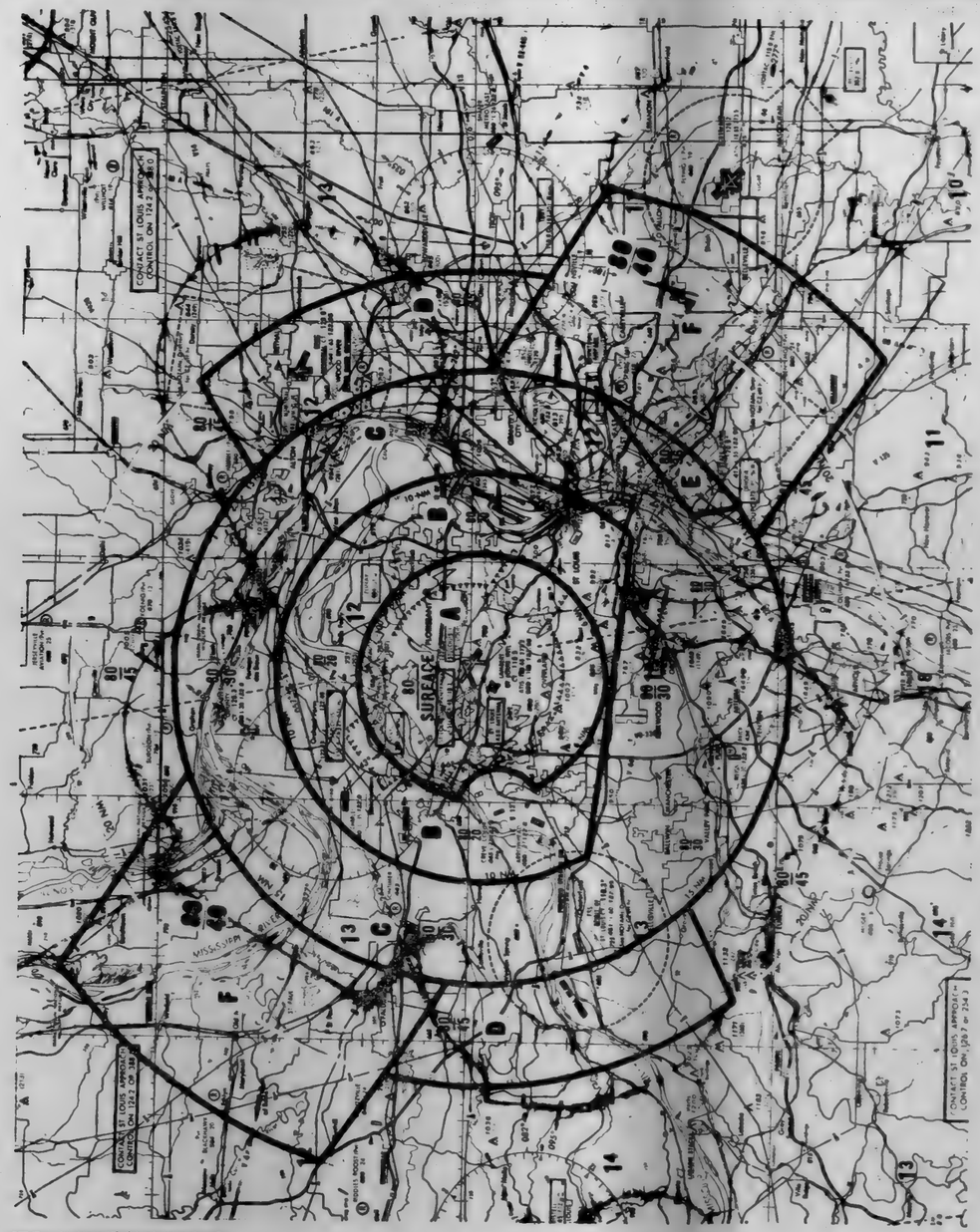

[FR Doc. 80-25080 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-C

V 45 A G 18 80 0 UMI

DEPARTMENT OF JUSTICE

28 CFR Part 42

Federal Financial Assistance; Nondiscrimination on the Basis of Sex in Education Programs; Extension of Comment Period

AGENCY: Department of Justice.

ACTION: Extension of time for filing public comments on proposed rules and requests for comments.

SUMMARY: The Department of Justice proposed to add a new regulation for nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from federal financial assistance. These rules were intended to implement Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 *et seq.*, which prohibits (with certain exceptions) sex discrimination in federally assisted education programs or activities.

The proposed rules and requests for comments were published in the Federal Register on June 17, 1980, at 45 FR 41001–41012, and parties were given 60 days from that date in which to file comments. The Department has recently been asked by several interested groups to extend the comment period. We believe that an extension would be useful since it will allow the public to prepare more thoughtful and complete comments without unduly delaying the publication of the final rules.

DATES: Comments should be received on or before September 19, 1980.

ADDRESS: Comments must be submitted to: Drew S. Days III, Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20530, phone (202) 633–2151. Comments received in response to this notice will be available for public inspection in Room 412, 521 12th Street, NW., Washington, D.C., between 9:00 a.m. and 5:30 p.m. Monday through Friday, except on Federal holidays, until the proposed rule is published in final form.

FOR FURTHER INFORMATION CONTACT: Ms. Stewart B. Oneglia, Director, Office of Coordination and Review, Civil Rights Division, Department of Justice, Washington, D.C. 20530, phone: (202) 724–6758.

Stewart B. Oneglia,

Director, Office of Coordination and Review, Department of Justice.

August 13, 1980.

[FR Doc. 80-24880 Filed 8-15-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 209

Administrative Procedures; Shipping Safety Fairways, Gulf of Mexico

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish shipping safety fairways in the Gulf of Mexico to relax the absolute prohibition on structures. The amendment if adopted would allow the district engineers to permit certain temporary structures within a fairway.

DATE: Comments must be received by September 30, 1980.

ADDRESS: HQDA, DAEN–CWO—N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Decker at (504) 838–2255 or Mr. Ralph T. Eppard at (202) 272–0200.

SUPPLEMENTARY INFORMATION: Department of the Army Permits are required for the construction of any structure in or over any navigable water of the United States pursuant to Section 10 of the River and Harbor Act of 1899. This authority was extended to artificial islands and fixed structures located on the Outer Continental Shelf (OCS) by the OCS Lands Act as amended September 18, 1978, (92 Stat. 635; 43 U.S.C. 1333(e)). Pursuant to these authorities shipping safety fairways were established in the Gulf of Mexico under 33 CFR 209.135. The Corps, in effect, established the fairways by denying permits for structures within certain designated lanes after extensive negotiations with navigation and shipping interests, oil companies and conducting public hearings. In accordance with this position on structures within a fairway, the Corps has traditionally prohibited placing cables, chains and anchors used by drilling rigs from extending into a fairway. Recent leases issued for oil and gas activities on the OCS are located in greater depths than earlier lease areas and, in some cases, are within fairways. Production of oil and gas on the OCS is normally accomplished by drilling multiple wells directionally from strategically located platforms. Due to the cost to design, fabricate, and install these structures, companies normally drill several wells using floating or semisubmersible drilling rigs to determine whether there are sufficient hydrocarbons to justify installation of a platform and to select the optimum locations for platforms and production facilities. Through companies drilling exploratory wells from floating or semisubmersible rigs in these lease areas are not allowed to place any structure within the fairways, occasionally they do need to place the rig as close as possible to the fairway boundaries to allow directional drilling to areas under the fairway. The anchors from a semisubmersible drilling rig are normally placed in a circular pattern on the bed of the Gulf with each anchor approximately 2500 feet from the rig. The amount of anchor line (chain or cable) lying on the botton of the Gulf and the depth from the water surface to any point on the line depends on the total depth of water and distance from the rig. Several oil companies have now expressed their interest in placing semisubmersible or floating rigs close to the fairway boundaries.

Based on the increased depth of water and the resultant depth of anchor lines if allowed to enter a fairway at or below a controlled depth, the Corps is of the opinion that the regulations should be amended.

The conditions contained in this draft proposal would allow the temporary drilling rigs to be situated adjacent to the fairways only where the water depth is sufficient to maintain a minimum of 250 feet of clearance over the anchor chains or cables within the fairway boundaries. The drilling rigs must be sufficiently separated along a fairway boundary and may not bc situated across the fairway from another rig to provide needed operating area for vessels in emergency situations. In addition to the restrictions outlined in the following draft proposal, the district engineer will consider such factors as the expected or seasonal weather conditions, the size and types of vessels using the area and input provided by navigation and shipping interests to assure the structure will not unduly interfere with navigation. It should be emphasized that the decision on whether to permit these structures must be determined by the district engineer on a case-by-case basis.

Accordingly, the Corps of Engineers proposes to amend 33 CFR 209.135 with respect to paragraph (b) Permits, as set forth below. It should be noted that we are also making an editorial change to paragraph (b) to form subparagraphs (1), (2), and (3). Subparagraphs (1) and (3) remain unchanged and are reprinted only for clarity. Subparagraph (2) would be this proposed change. Therefore, it is proposed to amend § 209.135 by revising paragraph (b) to read as follows:

§ 209.135 Shipping safety fairways and anchorage areas, Gulf of Mexico

* * * * *

(b) Permits.

(1) Department of the Army permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403) and (92 Stat. 635; 43 U.S.C. 1333(e)) for work or structures in the Gulf of Mexico in coastal waters and the waters covering the Outer Continental Shelf. The Deprtment of the Army will grant no permits for the erection of structures in the area designated as fairways, since structures located therein would constitute obstructions to navigation. Exception: The temporary placement of anchors may be allowed by these regulations.

(2) The Department of the Army may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met.

(i) The installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and under no condition be allowed to remain over 90 days.

(ii) Drilling rigs must be at last 500 feet from any fairway boundary or whatever distance necessary to insure that minimum clearance over an anchor line within a fairway would be 250 feet.

(iii) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 250 feet from the surface, within the fairway.

(iv) Drilling rigs may not be placed closer than 2 nautical miles of any other drilling rig situated along a fairway boundary, and not closer than 5 nautical miles to any drilling rig located on the opposite side of the fairway.

(v) The permittee must notify all concerned Federal agencies of the dates (commencement and completion) the anchors will be in place to insure maximum notification to mariners.

(vi) Navigation aids or danger markings must be installed as requireed by the U.S. Coast Guard.

(3) The Deprtment of the Army will grant permits for the erection of structures within an area designated as an anchorage area, but the number of structures will be limited by spacing, as follows: The center of a structure to be erected shall be not less than two (2) nautical miles from the center of any existing structure. In a drilling or production complex, associated structures shall be close together as practicable having due consideration for the safety factors involved. A complex of associated structures, when connected by walkways, shall be considered one structure for the purposes of spacing. A vessel fixed in place by moorings and used in conjunction with the associated structures of a drilling or production complex, shall be considereed an attendant vessel and its extent shall include its moorings. When a drilling or production complex includes an attendant vessel and the complex extends more than five hundred (500) yards from the center of the complex, a structure to be erected shall be not closer than two (2) nautical miles from the near outer limit of the complex. An underwater completion installation in an anchorage area shall be considered a structure and shall be marked with a lighted buoy as approved by the United States Coast Guard.

* * * * *

(30 Stat. 1151, 33 U.S.C. 403) and (92 Stat. 635; 43 U.S.C. 1333(e)).

Note.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under EO 12044, Improving Government Regulations (43 FR 12661, 24 March 1978), or an environmental impact statement under the National Environmental Policy Act.

Date: August 11, 1980.

Forrest T. Gay, III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 80-24808 Filed 8-15-80; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 14

Right-of-Way Regulations

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to Propose Rulemaking.

SUMMARY: On July 11, 1980, the National Park Service published interim right-of-way regulations in the Federal Register (45 FR 47092) and alerted the public of its intent to revise these regulations.

This document provides additional notice to the public of the Service's intent to promulgate revised right-of-way regulations which will provide a process for the review, consideration, and approval or disapproval of requests for rights-of-way across all areas of the National Park System.

DATES: Written comments, suggestions or objections will be accepted until September 17, 1980.

ADDRESS: Comments should be directed to:
Division of Ranger Activities and Protection, National Park Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Maureen Finnerty, Division of Ranger Activities and Protection, National Park Service, Telephone: (202) 343–5607 or 4874.

SUPPLEMENTARY INFORMATION: These regulations will establish procedures for the granting of rights-of-way authorized at the discretion of the Secretary of the Interior, for rights-of-way authorized by individual park legislation, and for rights-of-way issued because of a right held. These regulations must ensure compliance with the right-of-way authorities found in 16 U.S.C. 5, 79 and 23 U.S.C. 317. They will also have to reflect the additional factor that Congress has now specifically stated that activities inconsistent with national park values and purposes shall not be authorized in areas of the National Park System "except as may have been or shall be directly and specifically provided by Congress." *See* section 101(b) of the Act of March 27, 1978 (16 U.S.C. 1a–1, 92 Stat. 166).

These regulations may be drafted narrowly just to ensure compliance with the right-of-way authority mentioned above. Or, they may be written more broadly to cover such issues as: Access by necessity, private reserved access, right-of-way authorizations in individual statutes, and regulating inholdings and utility easements through right-of-way regulations. The National Park Service is proposing that these regulations, whether drafted narrowly or broadly, address both the direct and indirect effects of granting rights-of-way across units of the National Park System. The National Park Service is seeking early public involvement in the preparation of these regulations. Accordingly, interested persons may submit written comments, suggestions or objections on this subject to the address noted above.

The National Park Service has determined that the regulations it is proposing to promulgate are significant in accordance with Part 14 of Title 43 of the Code of Federal Regulations. This determination of significance is based on the fact that these regulations may have regionwide or local impacts on State and local governments, and on other programs of the Department or other Federal agencies.

A determination on the need for a regulatory analysis has not been made in accordance with Part 14 of Title 43 of the Code of Federal Regulations. Public comment is invited on whether the potential economic consequences of the rule require this analysis. The Department of the Interior has

determined that a regulatory analysis is

revision will be further based on a final

ADDRESSES: The Washington submittal

Dated: August 6, 1980.

Phildelphia, Pa. 19106, Phone Number:

DATE: Comments due September 17, 1980

determined that a regulatory analysis is required for rules which are likely to have a substantial economic effect on the entire economy or on an individual, region, industry or level of government. The criteria for this analysis are as follows: (1) The rule will have an annual economic effect of $100 million or more; or (2) even though the economic effect of the rule will be less than $100 million, the potential economic effect of the rule on the economy or an individual region, industry or level of government is sufficiently major as to require formal analysis to assure that the objectives of the rule are achieved with minimum burden.

It has also been determined that the proposed action may have potential for significant environmental impact. An environmental assessment will therefore be prepared as part of the process of preparing the regulations.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 80-25058 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1574-3]

Availability of Implementation Plan Revision for State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and advance notice of proposed rulemaking.

SUMMARY: EPA announces today that information and additional revisions to the State Implementation Plan (SIP) have been submitted by the State in fullfillment of conditions on the approval of the Washington Part D SIP revision. Specific conditions governing EPA's final rulemaking were published June 5, 1980 (45 FR 37821).

The public is invited to submit written comments to the record which will be held open for a period of thirty (30) days.

A Notice of Proposed Rulemaking describing the revisions and the action that EPA intends to take regarding them will be published in the **Federal Register** after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due by September 17, 1980.

ADDRESSES: The Washington submittal may be examined during normal business hours at the following locations:

Central Docket Section (#10A-79-1), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Washington, Department of Ecology, 4224 Sixth Avenue S.E., Row Six, Bldg. #4, Lacey, Washington 98503.

COMMENTS SHOULD BE ADDRESSED TO:

Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT:

Richard F. White, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1226, FTS 399-1226.

SUPPLEMENTARY INFORMATION:

On June 5, 1980 EPA published in the **Federal Register** (45 FR 37821) final rulemaking on the Part D revision to the Washington SIP. In this action EPA approved revisions to the State's General Source Regulations, Volatile Organic Compound Regulations and Non-attainment Plans based on the conditions that the State submit adquate information to correct the deficiencies by July 31, 1980. The State responded on July 31, 1980 by submitting (1) copies of those revised sections of the Washington Administrative Codes (WAC), Chapters 173-400 and 173-490, (2) a new regulation governing civil sanctions under the Washington Clean Air Act, WAC-173-402, (3) revisions to non-attainment plans and (4) documentation that the rules were adopted in accordance with the requirements of 40 CFR 51.4.

The purpose of this notice is to call the public's attention to the fact that these rules have been formally submitted to EPA and are available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the proposed rules and thus participate in this rulemaking activity.

A more detailed description of the proposed Washington SIP revisions will be published in the **Federal Register** at a later date as part of a Notice of Proposed Rulemaking.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: August 6, 1980.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 80-25073 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 58

[FRL 1574-8]

Approval and Promulgation of State Implementation Plan; Delaware; State and Local Air Monitoring Stations (SLAMS)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Delaware's State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air Quality Surveillance; Plan content.

DATES: Comments due on or before September 17, 1980.

ADDRESSES: Comments on this modification should be directed to: Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH10), Air, Toxics & Hazardous Materials Division, EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pa. 19106. Attn: AH500DE.

Copies of the materials submitted by the State of Delaware and comments received on this proposal may be examined during normal business hours at: U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Curtis Building, Air Programs Branch, Philadelphia, Pa. 19106. Attn: Patricia Sheridan.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Paparella, U.S. EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pa. 19106. Phone Number: 215-597-8184.

SUPPLEMENTARY INFORMATION:

In a May 10, 1979, **Federal Register** notice, EPA required that by January 1, 1980, States shall adopt a revision to their plan which meets the requirements of 40 CFR Part 58, Subpart C, § 58.20. On January 4, 1980, the State of Delaware submitted a revision to their State Implementation Plan concerning compliance with these Federal monitoring regulations. EPA has reviewed the State's submittal and finds that it meets the requirements of Part 58.

The public is invited to submit to the address stated above comments on whether the above listed modifications should be approved as a revision to the Delaware State Implementation Plan.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulations not subject to the procedural requirements of Executive Order 12044.

This Notice of Proposed Rulemaking is issued under the Authority of Section 319 of the Clean Air Act as amended.

(42 U.S.C. §§ 7401-642)

Dated: July 22, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25067 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 58

[FRL 1575-2]

Approval and Promulgation of State Implementation Plan; Maryland: State and Local Air Monitoring Stations (SLAMS)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Maryland's State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, § 58.20, Air Quality Surveillance; Plan content.

DATE: Comments due September 17, 1980.

ADDRESSES: Comments on this modification should be directed to: Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH10), Air, Toxics & Hazardous Materials Division, EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pa. 19106. Attn: AH500MD.

Copies of the materials submitted by the State of Maryland and comments received on this proposal may be examined during normal business hours at: U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Curtis Building, Air Programs Branch, Philadelphia, Pa. 19106. Attn: Patricia Sheridan.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Paparella, U.S. EPA, Region III, 6th & Walnut Streets, Curtis Building, Phildelphia, Pa. 19106, Phone Number: 215-597-8184.

SUPPLEMENTARY INFORMATION:

In a May 10, 1979, **Federal Register** notice, EPA required that by January 1, 1980, States shall adopt a revision to their plan which meets the requirements of 40 CFR Part 58, Subpart C, § 58.20. On December 20, 1979, the State of Maryland submitted a revision to their State Implementation Plan concerning compliance with these Federal monitoring regulations. EPA has reviewed the State's submittal and finds that it meets the requirements of Part 58.

The public is invited to submit to the address stated above comments on whether the above listed modifications should be approved as a revision to the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of Proposed Rulemaking is issued under the Authority of Section 319 of The Clean Air Act as amended.

(42 U.S.C.7401-642)

Dated: July 22, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25055 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 58

[FRL 1575-1]

Approval and Promulgation of State Implementation Plan; District of Columbia: State and Local Air Monitoring Stations (SLAMS)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to District of Columbia's State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air Quality Surveillance; Plan content.

DATE: Comments due September 17, 1980

ADDRESSES: Comments on this modification should be directed to: Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH10), Air, Toxics & Hazardous Materials Division, EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pa. 19106. Attn: AH500DC.

(Copies of the materials submitted by the District of Columbia and comments received on this proposal may be examined during normal business hours at: U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Curtis Building Air Programs Branch, Philadelphia, Pa. 19106. Attn. Patricia Sheridan.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Paparella, U.S. EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pa. 19106. Phone Number: 215-597-8184.

SUPPLEMENTARY INFORMATION:

In a May 10, 1979, **Federal Register** notice, EPA required that by January 1, 1980, States shall adopt a revision to their plan which meets the requirements of 40 CFR Part 58, Subpart C § 58.20. On December 4, 1979, the District of Columbia submitted a revision to their State Implementation Plan concerning compliance with these Federal monitoring regulations. EPA has reviewed the States submittal and finds that it meets the requirements of Part 58.

The public is invited to submit to the address stated above comments on whether the above listed modifications should be approved as a revision to the District of Columbia State Implementation Plan.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have review this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This Notice of Proposed Rulemaking is issued under the Authority of Section 319 of The Clean Air Act as amended.

(42 U.S.C. 7401-642)

Dated: July 22, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25088 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Reimbursement on the Basis of Prudent Practices; Decision to Develop Regulations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The proposed regulation would clarify the rules governing Medicare reimbursement of reasonable costs, by explicitly stating that providers must apply sound management principles to their day-to-day business transactions, thus assuring that their actual operating costs do not exceed what a prudent and cost-conscious business manager would have incurred for similar transactions. While current regulations (42 CFR 405.451) provide that Medicare payment of a provider's reasonable costs is intended to meet the costs actually incurred, a limit applies where a particular institution's costs are found to be substantially out of line with other institutions in the same area which are similar in size, scope of services, utilization, and other relevant factors, or the costs are otherwise not reasonable. This limitation has been interpreted in various program manuals and instructions as a "prudent buyer" concept. The proposed amendment would explain the "prudent buyer" concept in the regulations. The intent of this change is to clarify HCFA's existing authority to disallow costs that are unreasonable.

The Department of Health and Human Services has classified the proposed regulation as policy significant. We do not plan to conduct a regulatory analysis.

FOR FURTHER INFORMATION CONTACT: William Goeller, Health Care Financing Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 301-597-1802.

Dated: August 10, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80-24861 Filed 8-15-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5882]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Alvin, Brazoria County, Tex.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

The proposed zones and base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at the Office of the City Engineer, 216 West Sealy Street, Alvin, Texas 77511.

Send comments to: The Honorable Allen Gray, Mayor, 216 West Sealy Street, Alvin, Texas 77511.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410 (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of Alvin, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

There zones and base flood elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation [1]
Mustang Bayou	Route 35	38
	Backwater area between Tovrea Road, Route 35, Old Galveston Road, and Mustang Bayou.	39

[1] National Geodetic vertical datum.

Proposed Special Flood Hazard Areas for the annexed areas are located throughout the perimeter of the City.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 21, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-24980 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5880]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Gallup, McKinley County, N. Mex.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevation as described below.

The proposed zones and base flood elevation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevation are available for review at the Office of the Mayor, City Hall, Gallup, New Mexico.

Send comments to: The Honorable F. Wayne Lewis, Mayor, City of Gallup, P.O. Box 1270, Gallup, New Mexico 87301.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, DC 20410 (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevation for the City of Gallup, New Mexico, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zones and base flood elevation, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation [1]
Puerco River	Upstream of the U.S. Route 666 crossing.	6489
Bread Springs Wash	Upstream of the Atchison Topeka and Santa Fe crossing.	6466

[1] National Geodetic vertical datum.

The proposed Special Flood Hazard Area for the annexed area is located in the vicinity of the Gallup Industrial Park between Interstate 40 and the Puerco River.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: July 15, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-24982 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5879]

National Flood Insurance Program; Proposed Zone Designations for the Village of Lexington, Richland County, Ohio

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood zone designations are available for review at 44 West Main Street, Lexington, Ohio.

Send comments to: Mr. Charles Pscholka, Village Administrative Director, Village of Lexington, 44 West Main Street, Lexington, Ohio 44904.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, National Flood Insurance Program, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6570 or toll free line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zone designations for the Village of Lexington, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designations are:

Zone A along the tributary west of Lexington Ontario Road from Clear Fork Mohican River to Lexington Stream Corners Road.

Zone A along the Clear Fork Mohican River from the northern corporate limits to the Baltimore and Ohio Railroad.

Zone A in an area north of U.S. Route 42 and east of the cemetery.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: July 15, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-24983 Filed 8-15-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5841]

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Burlington, Alamance County, North Carolina, previously published at 44 FR 42711 on June 25, 1980.

EFFECTIVE DATE: June 25, 1980 (published in **Federal Register**).

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800 424-8872). (In Alaska and Hawaii call Toll Free Line (800 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Burlington, Alamance County, North Carolina previously published at 44 FR 42711 on June 25, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

The elevation for Servis Creek just upstream of lower Hopedale Road (S.R. 1700) should be 540 NGVD.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
North Carolina	City of Burlington, Alamance County.	Servis Creek	Just upstream of lower Hopedale Road (S.R. 1700)	*540

(National Flood Insurance act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127)

Issued: August 4, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-24691 Filed 8-15-80; 8:45 am]
BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 11

[CGD 79-173]

Temporary Licenses and Endorsements

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would provide for the issuance of licenses in temporary grades of third mate and third assistant engineer and for endorsements of certain licenses authorizing the holders to serve temporarily in the grade next higher than the grade in which the license is issued, other than as Master or Chief Engineer. The reduced requirements of these regulations may be authorized by the Commandant, U.S. Coast Guard under emergency conditions when licensed officers are not available in sufficient numbers to man all the vessels required to meet the needs of commerce, and it is reasonable to provide for the licensing of officers for such emergency purposes. This proposed rule is necessary in order that vessels may be manned by officers who are considered sufficiently qualified, under such emergency conditions but who might not otherwise be considered as fully qualified under non-emergency conditions.

DATES: Comments must be received on or before October 2, 1980.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/24) (CGD 79-173), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7 a.m. and 5 p.m., Monday through Thursday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC-24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR D. E. Struck, c/o Commandant (G-MVP/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. (202) 426-6259. Normal office hours are 7 a.m. to 5 p.m., Monday through Thursday.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD-79-173) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination at the Marine Safety Council address noted above. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be beneficial.

Drafting Information

The principal persons involved in drafting this proposal are: LCDR Daniel E. Struck, Project Manager, Office of Merchant Marine Safety, and LCDR Jack Orchard, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Coast Guard has the administrative responsibility for establishing requirements and procedures for the licensing of persons who are deemed sufficiently qualified to serve as licensed officers on merchant vessels. On March 17, 1966 the Coast Guard published temporary licensing procedures (Part 11 of Title 46, CFR) at 31 FR 4517 in response to a serious problem precipitated by the sudden increase in the number of active vessels needed to carry cargoes from U.S. ports due to the Vietnam conflict. The Coast Guard determined, in 1966, that definite shortages or potential shortages in the availability of licensed officers below the grades of Master and Chief Engineer existed. At the termination of the conflict the Coast Guard determined that the emergency measures were no longer necessary, so the regulations were removed in 1976.

In the event of a national emergency in the future requiring a sudden increase in the amount of cargo carried from U.S. ports, it is anticipated that a shortage of licensed officers below the grades of Master and Chief Engineer would exist. Although emergency licensing regulations could be issued at the time of a national emergency, the Coast Guard believes that confusion and delays may be avoided by publication of the regulations before the need for them arises. Furthermore, early publication affords the Merchant Marine and other interested parties the opportunity to familiarize themselves with the regulations.

The temporary license and endorsements contemplated under these regulations will only be issued when considered necessary by the Commandant. Once the Commandant has determined that a shortage of qualified personnel exists and has published a notice in the **Federal Register** announcing that temporary licenses and endorsements may be issued, applicants will be evaluated by the Officer in Charge, Marine Inspection.

Applicants must meet the requirements set forth in Part 10 of this chapter except that the proposed regulations would modify certain requirements in subparts 10.05 and 10.10. Service time for Temporary Third Mate and for Temporary Third Assistant Engineer licenses would be reduced from 36 months to 24 months. These proposed regulations also provide for endorsements on a regular license authorizing the holder to serve in a temporary capacity in the grade next higher than the grade of the regular license, but subject to any other limitations placed on the regular license. The service requirement for temporary endorsements would be reduced to 6 months and examination for the higher grade would not be required. Endorsements to serve in a temporary capacity higher than the grade of the regular license would apply only to the holder of a regular third mate, third assistant engineer, second mate, and second assistant engineer license.

Temporary licenses would be valid for 5 years and would not be renewable. Temporary endorsements would be valid for the period of the regular license and could be continued for one renewal of the regular license that was held subsequent to obtaining the temporary endorsement. When the need for additional licensed officers no longer exists the Commandant would publish the date, in the **Federal Register**, after which temporary licenses or endorsements would not be issued. Temporary licenses and endorsements issued prior to the termination date would remain valid for periods of 12 and 6 months respectively. This provision of the proposed regulations would provide sufficient time for officers to convert their temporary licenses or endorsments to regular licenses.

This proposal has been evaluated under the Department of Transportation's "Regulatory Policies and Procedures" (February 26, 1979, 44 FR 11034), and is considered to be a nonsignificant rulemaking. The expected impact is so minimal that a draft evaluation is not warranted. This determination is based upon a finding that the economic consequences of this action are negligible. The proposed regulations would simply establish procedures for the issuance of temporary licenses and endorsements to regular licenses. This proposal will help to avoid delays and confusion to members of the shipping industry who may be confronted with the task of providing additional licensed personnel on merchant ships in the event of a national emergency.

In consideration of the foregoing, the Coast Guard proposes to add a new Part 11 to Title 46, Code of Federal Regulations as follows:

PART 11—TEMPORARY LICENSES AND ENDORSEMENTS

Sec.

11.01-1 Purpose.
11.01-3 Applicability.
11.01-5 Duration of temporary licenses and endorsements.
11.01-7 Conversion to a regular license.
11.01-9 Temporary third mate; ocean steam or motor vessels.
11.01-11 Temporary third mate; coastwise steam or motor vessels.
11.01-13 Temporary third assistant engineer; steam vessels.
11.01-15 Temporary third assistant engineer; motor vessels.
11.01-17 Temporary endorsements.

Authority: R.S. 4438, as amended (46 U.S.C. 224); R.S. 4440, as amended, (46 U.S.C 278); R.S. 4441, as amended, (46 U.S.C. 229); R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416).

§ 11.01-1 Purpose.

These regulations allow the Commandant of the Coast Guard to compensate for shortages in the numbers of licensed officers created by an increase in the level of merchant vessel commerce during a national emergency.

§ 11.01-3 Applicability.

(a) These regulations apply to:

(1) Applicants for a license to serve as a "temporary third mate" or a "temporary third assistant engineer"; or

(2) Holders of regular licenses as second and third mates and second and third assistant engineers who apply for a temporary endorsement to their regular license which allows them to serve in the next higher grade.

(b) Once the Commandant has determined that a shortage of licensed officers exists as the result of a national emergency, applications will be accepted for temporary licenses and temporary endorsements. The Commandant will publish in the **Federal Register** the commencement date for issuance of these documents. All applicants must comply with the provisions of Part 10 of this chapter except to the extent that the requirements in subparts 10.05 and 10.10 are modified by this part.

§ 11.01-5 Duration of temporary licenses and endorsements on regular licenses.

(a) Temporary licenses issued under the provisions of this part shall be valid for a period of 5 years from the date of issuance unless sooner canceled by the Commandant. Temporary licenses shall not be renewed.

(b) The temporary endorsements placed on regular licenses to permit service in the grade next higher shall be valid for the period of the regular license unless sooner canceled by the Commandant. The temporary endorsement may be continued upon the first renewal of the regular license that was held subsequent to obtaining the temporary endorsement.

(c) Issuance of temporary licenses and endorsements may be terminated by the Commandant, on a date to be published in the **Federal Register**, when the shortage of licensed officers no longer exists. In order to allow for their conversion to regular licenses, temporary licenses will remain valid for

12 months after the termination date, and temporary endorsements will remain valid for 6 months after the termination date.

§ 11.01-7 Conversion to a regular license.

A holder of a temporary license or endorsement must comply with all of the service and examination requirements as set forth in Part 10 of this chapter in order to obtain a regular license.

§ 11.01-9 Temporary third mate of ocean steam or motor vessels.

In lieu of the service requirements of subparagraph (a)(1) of § 10.05-33 of this chapter, an applicant may apply and be examined for a license as a temporary third mate of ocean steam or motor vessels after having served 24 months in the deck department of ocean or coastwise steam or motor vessels of 1000 gross tons or over. At least 4 months of this service must have been as able seaman, boatswain, or quartermaster, while holding a certificate as able seaman.

§ 11.01-11 Temporary third mate of coastwise steam or motor vessels.

In lieu of the service requirements of subparagraph (a)(1) of § 10.05-35 of this chapter, an applicant may apply and be examined for a license as a temporary third mate of coastwise steam or motor vessels after having served 24 months in the deck department of ocean or coastwise steam or motor vessels. At least 4 months of this service must have been as able seaman.

§ 11.01-13 Temporary third assistant engineer; steam vessels.

In lieu of the service requirements of subparagraph (a)(1) of § 10.10-21 of this chapter, an applicant may apply and be examined for a license as temporary third assistant engineer of steam vessels after having served 24 months in the engine department of steam or motor vessels. At least 12 months of this service must have been as fireman, oiler, watertender or junior engineer on steam vessels, while holding a certificate as a qualified member of the engine department.

§ 11.01-15 Temporary third assistant engineer; motor vessels.

In lieu of the service requirements of subparagraph (a)(1) of § 10.10-23 of this chapter, an applicant may apply and be examined for a license as a temporary third assistant engineer of motor vessels after having served 24 months in the engine department of steam or motor vessels. At least 12 months of this service must have been as oiler or junior engineer on motor vessels, while holding a certificate as a qualified member of the engine department.

§ 11.01-17 Temporary endorsements.

A holder of a regular license as a second or third mate of ocean or coastwise steam or motor vessels, or as a second or third assistant engineer, who has served for a period of six months at sea in the capacity and under the authority of the regular license, may be granted a temporary endorsement allowing the holder to serve in a temporary capacity in the next higher grade, subject to any other limitations on the regular license. (This modifies the standards contained in the following sections of this chapter: 10.05-25(a)(1), 10.05-27(a)(1), 10.05-29(a)(1), 10.05-31(a)(1), 10.10-13(a)(1), 10.10-15(a)(1), 10.10-17(a)(1), and 10.10-19(a)(1)). The temporary endorsement is granted by the Officer in Charge, Marine Inspection, without examination (this modifies the standards contained in § 10.05-45 and 10.10-04 of this chapter).

(R.S. 4438, as amended (46 U.S.C. 224); R.S. 4440, as amended, (46 U.S.C. 278); R.S. 4441, as amended, (46 U.S.C. 229); R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416)).

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

August 13, 1980.

[FR Doc. 80-25084 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 81, 83, and 87

[Gen. Docket No. 20817; FCC 80-481]

An Inquiry Relating to the Commission's Radio Operator Licensing Program

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rule making.

SUMMARY: This action proposes to eliminate the requirement that all installation, maintenance and repair of transmitting equipment in the AM, FM, and TV broadcast services be accomplished only by the holder of a First Class Radiotelephone Operator License. Many persons believe that as station licensees are ultimately responsible for the technical performance of their stations, they should not be required to employ technicians who have been examined and licensed by the Commission, but should be able to employ any qualified person.

DATES: Comments must be submitted by November 14, 1980, with reply comments by December 15, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Vernon P. Wilson or Roy E. Kolly, Field Operations Bureau, (202) 632-7240, or Charles B. Goldfarb, Broadcast bureau (202) 632-6460.

SUPPLEMENTARY INFORMATION:

Adopted: August 1, 1980.

Released: August 18, 1980.

By the Commission: Chairman Ferris issuing a separate statement.

1. In this Notice, the Commission proposes to discontinue the issuance of new and renewed First Class Radiotelephone Operator Licenses, and to eliminate the requirement for licensing by examination of operators who perform installation, maintenance, and technical supervision of the operation of transmitting equipment at AM, FM, non-commercial educational FM, and TV Broadcast Stations, and TV and FM Broadcast Translator Stations.[1] It is proposed that the Commission's rules be modified to allow individuals performing any technical duties at Broadcast stations to hold any class of commercial radio operator license, including the Restricted Radiotelephone Operator Permit,[2] and that the broadcast station licensees be fully responsible for determining the competence of employees responsible for all transmission system technical activities at their stations.

[1] This Further Notice of Proposed Rule Making will not address the operator requirements of other stations in the broadcast auxiliary services licensed under Part 74 of the FCC Rules. Instead, these stations will be dealt with in a future proceeding. While we realize some temporary anomalies may result (i.e., less complex transmitters in the auxiliary services having more stringent operator requirements than complex AM, FM, and TV transmitters) we will allow this to happen because to correct the anomalies now would delay this rule making and the public interest benefits that we expect to result. Since the transmission equipment for FM and TV translators is similar to that used in the regular broadcast services, we believe the same maintenance operator licensing requirements should be applicable.

[2] No oral or written examination is required to obtain this permit. Applicants are required to certify in writing that they have a need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language that can be readily translated into English; are familiar with the treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understand that it is their responsibility to keep currently familiar with all such provisions. (47 U.S.C. 13.22(h))

History of This Docket

2. This Notice is part of a larger ongoing proceeding that is addressing the matter of Commission licensing of commercial radio operators in all services, broadcast and non-broadcast, directed primarily to the radiotelephone operator class of license. (Notice of Inquiry, released June 7, 1976, FCC 76-746, 41 FR 22981; Notice of Proposed Rulemaking released August 4, 1977, FCC 77-528, 42 FR 40939).[3]

3. The *First Report and Order* in this proceeding reduced the requirement for duty operators at AM and FM broadcast stations, except those AM stations with critical directional antennas, to the holder of any class of commercial operator license, including the Restricted Radiotelephone Operator Permit, in lieu of the Radiotelephone Third Class Operator Permit endorsed for broadcast operation. (Released January 5, 1979, FCC 78-871, 44 FR 1733, 70 FCC 2d 2371.)

4. The *Second Report and Order* authorized both AM stations with critical directional antennas and TV stations to employ operators holding any class of operator license for routine operating duties as long as the station has in its employ at least one first class operator. Stations electing to use lesser grade operators for routine operating duties must designate the first class operator as chief operator whose responsibilities include, among other things, review of operating logs, conducting station technical inspections, performance or supervision of all installation, maintenance and adjustments of the transmitting system, and continuing training and supervision of the lesser grade operators in the performance of their operating duties. The *Second Report and Order* further provided that the rquired employment of a first class operator, for all stations at which a chief operator must be designated, should be full time, or whatever less than full time the licensee determines is necessary to keep the station's technical operation in compliance with FCC rules. (Released November 16, 1979, FCC 79-721, 44 FR 66816)

5. It was stated in the *Second Report and Order* that other matters contained in this overall proceeding would be considered in the near future by means of a Further Notice of Inquiry, Further Notice of Proposed Rulemaking, or a Report and Order, as may be appropriate.

[3] In the Notice of Inquiry, more than 500 parties filed formal and informal comments. One reply comment was filed.

Comments

6. Of the more than 500 comments and reply comments filed in response to the Notice of Inquiry, 341 addressed the question of whether the Radiotelephone First Class Operator License requirement should be retained for personnel performing installation, maintenance, repair, and technical supervision of AM, FM, and TV transmitting equipment. These comments and reply comments revealed diverse points of view. Assigning commenters to broad categories, those favoring or opposing retention of the requirement were distributed as follows:

	Favor retention	Oppose retention
Holders of first- or second-class licenses	95	1
Station managers and licensees	48	46
Groups, organizations, and multiple licensees	15	2
Consulting engineers	4	3
Others (unlicensed or interest not identifiable)	30	95

7. Among the commenters favoring retention of the licensing requirement was the National Association of Broadcasters, which includes in its membership thousands of broadcasters. However, among the individual broadcast station licensees and managers who commented, an equal number favored and opposed retention. Typical of broadcaster comments in favor of retaining the first class operator license requirement was that of Morris H. Blum, President of Annapolis Broadcasting Corporation (WANN), an owner-licensee of 31 years, who said "While it can be argued that a licensee can, without undue trouble, find technically proficient unlicensed persons to maintain the station's technical equipment and consequently, the Commission's operational requirements under its rule, we would prefer to employ full-time licensed service operator who has, at the very least, demonstrated some degree of technical knowledge and ability by passing a required examination."

8. The general contention of those broadcast station licensees and managers opposed to retention was that persons holding a first class license have not necessarily proved that they possess any practical technical expertise, whereas many technically competent persons do not hold FCC operator licenses. They feel that since the Commission holds the station licensees responsible for the proper operation of the station, they should be free to employ any person they believe to be technically competent to meet the needs of that particular station.

Discussion of the Comments

9. The commenters provided arguments for and against retention of the first class license requirement, but did not provide empirical support for their positions. Predictably, licensed technicians argued that the license provided proof of competence; non-licensed technicians disagreed. Also, not surprisingly, large market broadcasters tended to favor licensing; small market broadcasters tended to favor its elimination.

10. In many small markets licensed technicians are scarce and broadcasters with limited revenues object to paying what they consider artificially high salaries to licensed technicians when, in their opinion, qualified nonlicensed technicians are available. The claim that existing Commission rules requiring broadcasters to meet technical standards, and the imposition of sanctions upon those who fail to meet these rules, will provide sufficient incentive for the broadcasters to hire competent technical help.

11. Large market stations, on the other hand, operate in a different environment. Station revenues tend to be substantially greater in these markets and there is generally a greater supply of licensed technicians. Because licensed technicians are not scarce, mere possession of a license is not sufficient for a technician to command a high salary. Practical experience is also necessary. In fact, large market stations generally hire only technicians with several years' broadcast experience (usually in small market stations), at relatively higher pay. Therefore any special salary compensation that possession of the license might convey is a smaller share of the total salary (and also of station revenues). As a result, many broadcasters in large markets find that, even if the license does not guarantee competence, it does act as a screening device that reduces the number of job applicants in a well-supplied market, thereby reducing the broadcasters' search costs without unduly increasing the cost of salaries.

12. The comments suggest that there are both benefits and costs associated with the current operator licensing procedures. To the extent that the license examination measures technical competence, it is a useful screening device that reduces the likelihood that human error will result in poor broadcast signal quality or interference. At the same time, the licensing process imposes costs. There are administrative

costs to the Commission and higher salary costs to stations in geographic regions with a shortage of licensed operators. Most significantly, costs are imposed if the license examination does not accurately measure technical competence and knowledge in the FCC operating rules, procedures, and standards—the costs of excluding competent technicians who are not skilled at taking written examinations [4] and of licensing individuals who can pass a written examination but do not have the necessary technical skills to install, maintain, repair, and supervise operation of transmitting equipment.

13. This discussion of the comments suggests that the following key questions must be answered:

A. Does FCC examination of operators who perform transmitter installation, service, and maintenance, and who train and instruct lower grade operators, contribute to the operation of broadcast stations within FCC technical standards?

If the answer is "no", then it is not in the public interest to require examinations since they impose costs but do not provide benefits.

If the answer is "yes", then ask question "B".

B. Are there other forces—including competitive market forces, the Commission's technical rules and standards, and sanctions against errant stations—that can effectively assure that broadcast stations will be operated within the FCC's technical standards without the need for examinations.

If the answer is "yes", then the examinations represent a costly and unnecessary restriction that is not in the public interest.

If the answer is "no", then continuing the examination of operators would be in the public interest.

The Georgia Tech Study

14. Subsequent to the close of the comment period, the final report of the Broadcast Regulation Tradeoff Study,[5] which was prepared for the Commission by the Communications Technology Group of the Electronics Technology Laboratory at the Georgia Institute of Technology, was released. This study addressed, for AM, FM, and TV services, the relationship between signal quality and interference potential and the various Commission activities designed to monitor and regulate signal quality. Of particular interest in the instant matter are the analysis, conclusions, and recommendations pertaining to the examination and licensing of operators employed in the broadcast industry. Pertinent portions of the report are attached as Appendix A.[6]

15. The Georgia Tech study relied in part on an informal telephone survey that was not scientifically designed and its findings cannot be considered definitive. Though limited, it is a systematic investigation of the effectiveness of the various Commission activities relating to broadcast signal quality, and as such may provide useful information that can be used as a basis for decision making.

16. FCC operator license examinations will contribute to the operation of broadcast stations within FCC technical standards only if they accurately gauge the applicant's technical competence to install, service, and maintain transmitter equipment. The Georgia Tech study indicates that, at present, possession of a first class operator license does not assure such technical competence. There are many relevant references in the study (see, for example, Appendix A, paragraphs 3–6), including the concise statement, in paragraph 16, that

> * * * the examination for maintenance and repair should be more relevant and meaningful. The validity of the present examination process in measuring competence is questionable.

17. The Georgia Tech study never directly addresses the question of whether a license examination could be constructed that accurately measures technical competence. However, the study suggests, at paragraph 4, that

> the additional requirement of practical experience, education, and a service record included in the licensing process would improve the qualifications of licensed operators.

How these additional factors could be included in the licensing process is not addressed.

18. With respect to the question of other forces operating to assure broadcast station operation within Commission technical standards, the Georgia Tech report identifies a number of existing mechanisms, including the reliability of available broadcast equipment, station licensing procedures, and a variety of Commission activities such as equipment authorization, transmitter system operation regulations, monitoring and inspection activities, and violation notices and sanctions placed on station licensees for failing to meet Commission standards. (See Appendix A, paragraphs 6, 7, and 11.) In addition, the Georgia Tech study suggests that competitive market forces tend to operate to assure signal quality control.

19. The Georgia Tech study notes, however, that competitive market forces may not exist to curb interference problems. As is stated in paragraph 9:

> In the technical area of interference control, there does appear to be some advantage of operator licensing. Interference, although manifested as a lack of quality at a listener or viewer's receiver, is not necessarily subject to the same competitive forces as transmitted signal quality. For example, it is entirely possible that a given broadcaster may maintain a high quality signal to his audience, but a spurious emission from his broadcast equipment could disrupt or reduce the quality of another broadcaster or even another radio service. In the extreme, it is even possible that a given broadcaster could be motivated to deliberately interfere.
>
> Notwithstanding these possible advantages of controlling interference by requiring use of licensed operators, our assessment did not reveal a strong relationship. It is highly probable that in those instances where interference has occured, the cause may be attributed to other factors such as equipment reliability. Moreover, our results indicate that the present overall level of signal quality is remarkably high.

20. Where the station has an incentive to produce interference through deviate operation, it is not apparent that operator licensing requirements will protect the public. For a station to purposely cause interference (or to fail to correct inadvertent interference) both the station licensee and the technical operator must cooperate. There is no *a priori* reason to expect a licensed operator to be any more honest than an unlicensed operator unless the former faces a credible threat of loss of license if caught improperly maintaining or operating transmitting equipment. The Commission has never imposed such a penalty upon an operator licensee in broadcasting, on the assumption that the station licensee bears final and total responsibility for all station activity. In this situation it is not obvious that licensing of operators will provide an incentive for interference control.

21. With respect to operator licensing, the Georgia Tech study concludes with the following recommended alternatives:

1. Reduce the current operator licensing program for broadcast operation to a registration program and eliminate the requirements for examinations, or

2. Alter the current licensing program so that only individuals who perform broadcast maintenance or repair must pass a relevant and meaningful examination of their abilities.

The first alternative is a direct outcome of the apparent lack of strong correlation between broadcast technical signal quality and use of licensed operators. The suggested registration process without technical examination should meet the Communications Act requirements and should permit reasonable allocation of responsibility.

The second alternative is presented primarily in recognition of the possibility that non-technical factors may indicate a need for certified operators and the fact that the broadcast industry as a whole may wish the Commission to continue to certify the minimum competence of operators. (Paragraphs 13, 15, 16)

22. The study adds a *caveat* concerning a potential transitional period after delicensing is introduced.

If the first alternative identified above is implemented, it is expected that there may be some transient effects observed in small market areas. In such areas there may be a tendency on the part of some station owners to hire anyone, qualified or not, to operate or maintain their station. Part of the motivation for this would be to lower personnel cost, but it is expected that an equilibrium will be reached between the cost of having problems and the cost of not having problems.

23. It is difficult to predict the likely incidence of the scenario suggested by the Georgia Tech study—that some stations might initially try to take advantage of delicensing by hiring inexpensive, but incompetent, technical help, but eventually will recognize the costs associated with the resultant technical problems and thus hire competent staff. Station licensee response to the relaxation of technical licensing requirements in the *First* and *Second Reports and Orders* in this proceeding [7] might provide, at best, limited anecdotal evidence.[8] We therefore invite comment, particularly empirical evidence, on the good and bad effects that have occurred as a result of:

1. The relaxation of the rules to permit the routine operation of any AM, FM, or TV broadcast transmitter by persons who have not been examined by the Commission, and

2. The recent rule changes permitting the employment of chief operators on a "less than full-time" rather than on a "full-time" basis.

24. The Commission has recently issued a Notice of Proposed Rulemaking [9] concerning broadcast station license renewal procedures that proposed, among other things, to employ random, in-depth investigations of stations, including field audits. These audits would cover station compliance with technical and non-technical rules. It is expected that these random audits would place increased pressure on station licensees to abide by all Commission regulations and, as such, would provide incentives for stations to hire competent technical staffs to assure compliance with the Commission's technical rules. The need for operator licensing may therefore be diminished.

Analysis and Conclusions

25. There is evidence that the current First Class operator license examination may fail to accurately measure technical competence to install, maintain, repair, and supervise operation of AM, FM, and TV transmitting equipment. It is clearly impractical for the Commission to test applicants directly on transmitting equipment—i.e., to require applicants to make repairs, etc., in the presence of examiners. The Georgia Tech study recommendation to include a requirement of practical experience, education, and a service record in the licensing process appears to be the next best solution, but this too is fraught with difficulties. Standards are difficult to develop and monitor. Anyone familiar with interpreting resumes knows the uncertainty that they offer if follow-up contacts are not possible. The Commission could scarcely handle administratively reliance on letters of reference.[10]

26. Even if an effective license examination procedure could be constructed, there appear to be a number of other forces—especially other Commission imposed rules, requirements, and potential sanctions—that may render technical operator licensing largely redundant. Since such licensing imposes costs, but primarily provides redundant benefits, it appears to be in the public interest to now eliminate the operator requirements to the maximum extent the Communications Act will allow.

Procedural Issues

27. If the proposed rule modifications are adopted, the Commission would no longer conduct examinations for, or continue to issue, the First Class Radiotelephone license, as it would no longer be required of any operator. Individuals currently holding First Class licenses would continue to hold them, but upon application for renewal they would be issued Radiotelephone Second Class license documents. Holders of any class of commercial operator license, including the Restricted Radiotelephone Operator permit, would be allowed to install, maintain, repair, and technically supervise AM, FM, and TV transmitting equipment. Station licensees would continue to be responsible for all aspects of station operations. The proposed modifications to Parts 13, 73, and 74 of the Commission rules are presented in Appendix B.

28. The Commission is aware that some current employment contracts and personnel procedures require employees to hold First Class licenses and that compensation is sometimes dependent upon the class of license held. In many cases these requirements or standards stem from existing Commission rules; changes in these rules would render the need for such requirements obsolete. In any case, contracts, personnel procedures, and compensation standards could be modified readily to take into account experience or training or to substitute specific task requirements for employees' license status. Also, these are simply matters of distributing income between employees and employers and therefore should not be relevant to the public interest unless they will affect the quality of broadcast service offered. There may be transition and other unanticipated costs imposed upon some individuals by the rule changes, however, and therefore comments from affected parties are solicited.

29. Further information concerning this Notice of Proposed Rule Making can be obtained from Roy Kolly or Vernon Wilson, telephone (202) 632–7240, or Charles B. Goldfarb (202) 632–6460, FCC, Washington, D.C. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, the proceeding is governed

---

[4] This cost may fall disproportionately on minority technicians who have received practical training and experience with telecommunications systems in the armed forces, but who for social or other reasons may be unable to fare well on written examinations.

[5] By R. W. Rice, E. E. Donaldson, F. E. Grambling, H. H. Jenkins, D. K. Kelly, R. W. Moss, and J. L. Wood. Georgia Tech Project A–2073, Contract FCC–0243, March 1979.

[6] For ease of reference, the excerpts from the Georgia Tech study in Appendix A have been assigned paragraph numbers and these are referred to in this Notice. These paragraph numbers do not appear in the text of the original report.

[7] See paragraphs 3 and 4, *supra*.

[8] The Field Operations Bureau has initiated a 90-day survey to compare compliance of stations that have implemented the relaxed operator rules produced in the *Second Report and Order* with those that have not implemented them. It may be impossible to extract useful data from this survey as no comparative data exist for the period prior to the *Second Report and Order*, and we won't know how stations in each of these groups behaved before the rule change. This matter is open for further comment in this proceeding and will continue to receive Commission attention during the comment period.

[9] Notice of Proposed Rule Making, adopted June 4, 1980, FCC 80–327.

[10] Individual employers, on the other hand, with a limited number of job applicants, could handle such job screening functions quite efficiently.

by the interim policy of the Commission on *ex parte* contacts.

30. A summary of procedures in the interim policy is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

31. It provides, in pertinent part, that an *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. Each such written *ex parte* communication is to be sent to the Secretary's office to be placed in the public docket file. If an individual wants to discuss a pending rule making with a Commissioner or a staff member, the individual should make arrangements for a meeting, or, if a meeting is impossible, a telephone call. The individual must prepare, and bring with him/her, a memorandum summarizing the points to be discussed. If the discussion must be held over the telephone, the summary memorandum must be sent in advance. The memorandum and any update thereof will be placed in the public docket file. Spontaneous *ex parte* communications should not take place.

32. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

33. Interested persons desiring to submit comments, proposals and recommendations pertaining to the above matter may do so on or before November 14, 1980. Replies to such comments, proposals or recommendations may be submitted on or before December 15, 1980. All relevant and timely filed comments will be considered.

34. Pursuant to § 1.419 of the Commission's Rules, an original and 5 copies of all statements, briefs or comments filed in response to this Notice shall be furnished to the Commission.

35. In an effort to obtain the widest possible response to this proceeding, informal comments (without extra copies) will be accepted. Such informal comments should specifically reference this proceeding.

36. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C. 20554.

37. Authority for this action is contained in Sections 4(i), 303(i), and 303(r) of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Excerpts From Georgia Institute of Technology Report

Operator Education and Selection

1. Broadcast stations are comprised of a fairly complex array of electronic equipment. The proper operation and maintenance of station equipment to provide quality service which meets or exceeds FCC requirements is largely dependent upon the qualifications of station personnel. Some station operations (running tape recorders, program editing, etc.) may be adequately performed by inexperienced, unlicensed personnel under the proper supervision of the primary station operator. Generally, however, the hour-by-hour operation and servicing of the station equipment must be under the control of an operator with considerable technical expertise. Although experience is a major contributing factor to operator technical knowledge, the educational background of station personnel is a governing factor which strongly influences personnel qualifications for station operation and maintenance.

2. A number of schools offer courses related to the educational needs of operator/maintenance personnel in the broadcast industry. A number of comments are pertinent to the type of courses offered. First, the course contents and objectives range from those concerned with basic electronic fundamentals through FCC license qualifications to those which prepare a student for a primarily non-technical career in public broadcasting. Second, the courses range in length from 6 weeks to 3 years.

3. Third, many of the courses appear to be directed solely to preparing a student for FCC license qualification. This is not surprising since there are no educational requirements for station operators, only FCC licensing requirements. This could be a possible weakness in establishing station operator requirements if the examination material is not kept up to date and/or is not of sufficient depth and breadth to assure a certain level of technical competence and knowledge by those persons receiving licenses.

4. Although not a requirement or prerequisite for station operators, education is an obvious factor in the selection and hiring of personnel because the mere obtaining or holding of a license does not automatically assure that an operator is technically qualified to assume the operation and maintenance responsibilities of a station. A student could pass an examination via a crash "memory" type course directed to FCC licensing exam preparation, and/or the examination could be compromised through repetitive offerings if the subject material were not changed. It is thus possible that a person could become a licensed operator without having a sound background in technical principles and practices. The process of selecting and hiring operators appears to vary considerably with station size for a number of reasons. Smaller stations typically have lower pay scales, less job security, and fewer job related benefits than the larger stations and hence tend to have greater difficulty in hiring and retaining qualified personnel. The larger stations apparently have little difficulty in obtaining experienced license operators and generally have a small turnover of personnel. This is undoubtedly due to job stability, working conditions and benefits, and pay scales. Also, some of the larger stations sponsor "continuing education" programs for station operators. Indications are that the larger stations are highly in favor of the FCC licensing program, which serves as a screening process for potential employees, but the additional requirement of practical experience, education, and a service record included in the licensing process would improve the qualifications of licensed operators.

5. Additional information was obtained from an informal telephone survey of broadcasters. This survey was not scientifically designed, and no attempt was made to select statistically valid samples or to preclude broadcaster biases. Nevertheless, the resulting opinions are significant and when related to other independent indicators yield useful general characteristics. Some of the more significant salient trends are as follows:

Operators with only a background oriented toward passing the various FCC license exams do not typically perform well in jobs requiring technical skills,

Military training in electronics has frequently been mentioned as a good background for operators who perform technical maintenance tasks,

The large stations in the larger markets actively seek individuals who have an electronics background, a first class radiotelephone license, and two or three years of experience in small stations where they have had major responsibilities for all aspects of station operation,

Both market size and geographical factors influence the availability of competent technical personnel, and

The negative influences of geography are more evident than the positive influences, and the negative influences fall most heavily upon the small stations in the small market areas.

Conclusions: Operator Licensing

6. Based on our assessment of the interrelationships between quality and interference and the operator licensing program, it is not evident that operator licensing is needed to ensure use of adequately skilled personnel in commercial broadcasting. Our technical analysis of quality and interference factors has shown that there are situations, although relatively few in number, in which the stations's operator can influence interference or signal quality, but the present concern is with the impact of the license held by the operator upon station performance. Our assessment is that the license's impact is minimal for the following reasons: (1) A review of the currently available broadcast equipment and the design philosphies behind that equipment indicates that reliability and high performance were design goals, and that in general, these objectives have been met in the major equipment lines. Thus, proper operation with respect to quality and interference is not the result of an extremely delicate balance of a host of technical parameters under the control of the station's operator; and (2) the technical analysis of Chapters 5 and 6 has identified areas where the operator may influence quality and interference problems. Few such areas of any significance have been found, and for the ones identified, it is not evident that a license examination would contribute to the reduction or elimination of such problems.

7. Typically, the technical staff in large market stations is highly trained and motivated by market pressures to maintain a high level of signal quality. In the absence of operator licensing, competition in the labor markets and market competition would act to provide the mix and levels of skills which broadcast stations need. The minimum manpower skills would ultimately be dictated by the station performance criteria and as demanded by commercial advertisers. Minimum station performance requirements are likely to continue to be imposed on broadcasters by the FCC and by market forces regardless of whether operating personnel are licensed or not. The broadcasters necessarily impose corresponding performance requirements on their operating personnel, and they would have to do so regardless of whether or not personnel are licensed. Operator licensing, not being contingent upon performance measures, makes only short lived, if any contributions to station operation. Equivalent personnel skills would be forthcoming by other means: voluntary self training, on-the-job training, etc. It may be concluded that the technical service rendered by the commercial broadcast industry is not highly dependent on the FCC's operator licensing program.

8. One tendency of the operator licensing requirement is to restrict the supply of labor in commercial broadcasting and hence to increase labor costs which will be passed on (indirectly) to the public. Any impact the licensing requirements might have on raising skill levels over and above those that are required by the broadcasters themselves are of little demonstrable value to the general public. It can be concluded that from the viewpoint of technical signal quality the operator licensing requirements provides no increase in public service, and even ignoring the direct cost to the FCC to maintain the requirements, operator licensing has a public cost reflected in some incremental supply (advertiser) costs for market goods and services.

9. In the technical area of interference control, there does appear to be some advantage of operator licensing. Interference, although manifested as a lack of quality at a listener or viewer's receiver, is not necessarily subject to the same competitive forces as transmitted signal quality. For example, it is entirely possible that a given broadcaster may maintain a high quality signal to his audience, but a spurious emission from his broadcast equipment could disrupt or reduce the quality of another broadcaster or even another radio service. In the extreme, it is even possible that a given broadcaster could be motivated to deliberately interfere. Notwithstanding these possible advantages of controlling interference by requiring use of licensed operators, our assessment did not reveal a strong relationship. It is highly probable that in those instances where interference has occurred, the cause may be attributed to other factors such as equipment reliability. Moreover, our results indicate that the present overall level of signal quality is remarkably high.

10. There are special interest groups which gain from the FCC operator requirements. These include profit making technical schools which depend on the FCC licensing requirement to recruit students. Inexperienced operators probably command a wage premium because they are licensed. Broadcasters can possibly avoid some training costs which might otherwise have to be incurred to impart needed technical skills to employees. These are largely transfer payments when the individuals in these groups are viewed simply as members of the larger group, the general public. The purpose of the licensing requirement, however, is not to serve these special small segments of the public particularly in light of fact that the gains of any such groups are ultimately felt as an unnecessary and uncompensated net cost to the general public.

11. It should also be noted that, to some extent, operator licensing serves a function which is redundant with the functions of other FCC programs. For instance operator licensing, like equipment authorization, and transmitter system operation regulations, helps prevent quality problems from occurring. Monitoring and inspection deter and detect transmission problems, some of which at least may be due to inadequately trained or supervised personnel. Violation notices and sanctions also tend to deter operator-induced problems as well as others. Thus the quality-enhancement function served by operator licensing is also served by other FCC programs, which have decidely more direct impacts on moderating transmission problems.

Recommendations: Operator Licensing

12. Based on results of the broadcast tradeoff study and the conclusions summarized earlier, the following actions are recommended with regard to proposed rules concerning use of licensed operators for broadcast operation. As noted previously these recommendations arise from evaluation of signal quality and interference. Other considerations could complement or contradict these recommendations.

13. The general trend of Docket No. 20617 to relax operator requirements in the broadcast service is consistent with our findings. We recommend that this deregulatory trend be followed since no clear evidence exists to support stronger and more rigid requirements. Specifically, we recommend the following alternatives:

1. Reduce the current operator licensing program for broadcast operation to a registration program and eliminate the requirements for examinations, or

2. Alter the current licensing program so that only individuals who perform broadcast maintenance or repair must pass a relevant and meaningful examination of their abilities.

14. Both alternatives appear to be consistent with the Communications Act of 1934. This Act requires that individuals who operate broadcast stations be licensed, but it does not indicate the depth and degree of comeptence certification.

15. The first alternative is a direct outcome of the apparent lack of strong correlation between broadcast technical signal quality and use of licensed operators. The suggested registration process without technical examination should meet the Communications Act requirements and should permit reasonable allocation of responsibility.

16. The second alternative is presented primarily in recognition of the possibility that non-technical factors may indicate a need for certified operators and the fact that the broadcast industry as a whole may wish the Commission to continue to certify the minimum competence of operators. It is our view that, with regard to technical signal quality, the principal benefit is to be gained by licensing those individuals who deal directly with broadcast station maintenance, repair, and installation. These activities have potentially the greatest impact on signal quality and interference. Routine station operation should not require competence certification by examination. However, it must also be emphasized that the examination for maintenance and repair should be more relevant and meaningful. The validity of the present examination process in measuring competence is questionable. In many cases it appears only to measure individual persistence in memorization rather than indicate attained competence.

17. If the first alternative identified above is implemented, it is expected that there may be some transient effects observed in small market areas. In such areas, there may be a tendency on the part of some station owners to hire anyone, qualified or not, to operate or maintain their station. Part of the motivation for this would be to lower personnel cost, but it is expected that an equilibrium will be reached between the cost of having problems and the cost of not having problems.

18. In summary the combination of the above two recommended alternatives along with the underlying justifications suggest the following: (1) routine station operation can be satisfactorily carried out by other than licensed operators, and technical signal quality will not be significantly degraded; (2) the present classification of licensed operators (first, second, third, etc.) and the corresponding examination of competence (if any) do not significantly impact technical signal quality; and (3) a licensing program for broadcast operators should either be based on registration without examination for any class of license, or be based on registration without examination for routine station operation and a meaningful operator license for maintenance, repair, and critical adjustment of broadcast transmitters.

V 45 AG 1 8 0 UMI

Appendix B

1. It is proposed to amend the operator requirement rules for TM, FM, non-commercial educational FM, and TV Broadcast Station to include the following provisions:

(a) Present operator requirement rules for AM, FM, Non-commercial Educational FM and TV stations (Sections 73.93, 73.265, 73.565, and 73.661) would be deleted in their entirety. All broadcast operator requirements would be uniform and included in a rule common to all stations in Part 73, Subpart H.

(b) The revised operator requirement rule would indicate that all technical installation, maintenance, and technical supervision of broadcast transmitting apparatus could be performed by an operator holding any class of commercial operator license or permit. The station licensee would be fully responsible for establishing the employment requirements for all operators who perform routine operating duties and technical maintenance of transmitting equipment.

(c) FCC Rules Part 13 would delete the category of First Class Radiotelephone Operator License and all examination requirements for such licenses. No new licenses of this class would be issued. Holders of existing First Class Radiotelephone Operator Licenses, when applying for renewal, would be issued Second Class Radiotelephone Operator Licenses.

(d) Each broadcast station licensee would be required to designate one person holding any class of FCC commercial operator license or permit as the station's chief operator with duties and responsibilities as prescribed for chief operators under the existing rules. This operator must be either employed on a full-time or less than full-time basis. However non-directional AM stations licensed to operate with 10,000 watts or less power, and all FM stations, may engage the services of a chief operator on a part-time contract basis.

(e) Existing requirements for transmission system inspections would be retained in a separate rule section under the title of "Transmission system inspection." (Existing inspection and technical measurement requirements, and technical log rules are beyond the scope of this proceeding, and no changes in such rules are being proposed.)

2. It is proposed to amend the operator requirement rules for TV and FM Broadcast Translator stations as follows:

(a) All operator duties in connection with the installation, inspection and maintenance of translator station transmission equipment may be performed by any person holding a commercial operator license or permit. The station licensee must have full responsibility for determining the qualifications of operators to perform technical duties.

3. It is proposed to amend the operator requirement rules for broadcast experimental and developmental stations by specifying operators holding Second Class Radiotelephone Operator Licenses in lieu of First Class Radiotelephone Operator Licenses as duty operators.

4. No changes are to be made in the operator requirement rules for other broadcast auxiliary stations. The frequency bands used by the broadcast auxiliary stations are either shared with or are adjacent to bands used by non-broadcast services (private radio, common carrier, CARS, marine, etc.), and the transmitting equipment is similar in design and operation to that used by the non-broadcast services. Until such time as the Commission determines in this proceeding the appropriate operator licensing requirement for persons who maintain non-broadcast and non-compulsory radio transmitting equipment, the present operator requirements for the broadcast auxiliary services will be continued.

Separate Statement of Chairman Charles D. Ferris

August 1, 1980.

Re Proposed Deregulation of First Class Radiotelephone Operator Licensing Program.

This proposal is a major step forward in our ongoing effort to re-examine all of our licensing programs. We need to determine whether our licensing programs of commercial radio operators are necessary in a communications market that responds to a wide-range of pressures, of which we are only one.

Today we seek a final round of comments on whether our First Class Radiotelephone Operator Licenses are an effective or necessary means of insuring that the technical performance of broadcast stations meet our requirements. It appears that the government may be able to remove itself from this process without any adverse impact.

Broadcast licensees, after all, must be as concerned about keeping their audience tuned in as they are in keeping the FCC satisfied with their technical performance. And our rules provide for significant penalties if they do not meet the technical parameters we set.

Further, it is not even clear that the tests we use are the most accurate way to determine the technical competence of operators. These tests do not account for experience and common sense, and they may even be susceptible to "cramming" at the last minute. Broadcasters may well be able to devise their own testing procedures that are far more relevant to their own, and the public's, needs.

[FR Doc. 80-24957 Filed 8-15-80; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 15

[Gen. Docket No. 80-439; RM-3673; FCC 80-482]

Amending Computing Devices Rules Clarifying Which Electronic Games Are Exempted From Commission Certification

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The Commission has adopted an NPRM in response to a Petition for Rule Making (RM 3673) filed by the Toy Manufacturers of America, Inc. The proposed rule would allow self-contained, non-video electronic games with generated main timing frequencies of less than 500 kHz to be exempted from FCC Certification. This would clarify the current categories of devices that are exempted from certification.

DATES: Comments must be received on or before September 22, 1980, and Reply Comments must be received on or before October 7, 1980.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Garlan, Office of Science and Technology, 202-653-8121; Mr. Douglas D. Rohall, Office of Science and Technology, 202-632-7073.

SUPPLEMENTARY INFORMATION:

[Gen Docket No. 80-439; RM-3673; FCC 80-482]

Notice of Proposed Rule Making

Adopted: August 1, 1980.

Released: August 12, 1980.

In the matter of amendment of Part 15 (Computing Devices Rules) to Clarify Which Electronic Games are Exempted from Commission Certification.

By the Commission:

1. On September 18, 1979, the Commission adopted a First Report and Order on Technical Standards for Computing Equipment.[1] In this proceeding, portions of Part 2 and Part 15 of the Commission's Rules and Regulations were revised and amended. These new regulations attempted to reduce the interference potential to radio communications of electronic computing equipment by imposing minimum technical standards for such electronic devices or systems.

2. On March 27, 1980, the Commission adopted an Order Granting in Part Reconsideration of the First Report and Order—Technical Standards for computing Equipment [2] after receiving thirteen timely petitions requesting partial reconsideration of the aforementioned First Report and Order.

3. On May 6, 1980, the Toy Manufacturers of America, Inc. (TMA) filed a Petition for Reconsideration of the March 27th Order. The petition was considered a Petition for Rule Making and was placed on Public Notice on May 28, 1980. No comments were received in response to the Public Notice, although a letter from Dash-Straus Associates submitted data verifying the claims made in the TMA request.

4. TMA's petition seeks to exempt from FCC certification certain categories of non-video games, claiming that § 15.834(a) is too vague in its definition of "hand held" games and as presently written does not adequately define the exempted devices so that TMA is not sure as to exactly which devices must be certificated. In lieu of the present "self-contained, hand held" criteria, TMA proposes to precisely define that category of products which will be exempted from certification. TMA requests that all non-video, electronic games with a generated timing frequency of 500 kHz or less be exempted from FCC certification.

5. TMA believes that since personal calculators and digital watches are exempted because of their low potential for causing interference, low-power electronic games that have electomagnetic radiation charactericitics similar in nature to the above devices, should have a similar exemption provision. TMA chose the generated timing frequency as the limiting critieria since no devices with clock rates, the rate at which the synchronizing mechanism updates function execution or the rate of the timing frequency, below 500 kHz demonstrated any appreciable interference radiation. TMA feels that exemption from certification should be based on a device's technical potential for causing interference and not on size related terms such as "hand held."

6. TMA proposes that the 500 kHz timing frequency be used as the limiting criteria for the following reasons. No device with a timing frequency below 500 kHz emitted significant levels of radiation. The level of radiation of most such devices was actually 20 dB below the Commission's requirements.[3] TMA points out further that most of the simple electronic games have clock rates below 500 kHz, hence the fundamental frequency falls below the AM Broadcast Band, and cannot be driven above such rates due to physical limitations inherent in their technology. Moreover, it is only games with more advanced technological design resulting in clock rates above 500 kHz—i.e. in the 1 MHz to 4 MHz range, that emit significant levels of radiation which require careful testing to insure that interference will not result.

7. This Notice sets forth a proposal in response to TMA's Petition for Rule Making. Given in Appendix A, this proposal would exempt all self-contained, non-video devices with a generated timing frequency of 500 kHz or less. As an alternative approach, we may also consider exempting from certification electronic games or toys that have a total power consumption of less that ½ watt.[4]

We request interested parties to comment on the merits or deficiencies of either or both of these two alternatives, or some combination thereof. Specific issues to address are the clarity of the definitions, the likely impact on the marketplace, and the chosen cutoff limits of 500 kHz or ½ watt, particularly in light of the fact that toys are currently being designed with clock rates greater than 500 kHz. The ½ watt power limit is based on the assumption that there is very little energy to be radiated and thus cause interference. Comments on this alternative proposal are requested. In addition, it has been suggested that the line of demarcation be set at 495 kHz instead of 500 kHz to keep the maritime distress and calling band (495–505 kHz) free of interference for international safety reasons. We would like to request comments on this suggestion. Also, we request comment on the desirability of applying these limits to hand-held and desk top calculators.

8. Notice is given of proposed rule making in this matter. Any interested person may participate in this proceeding by filing comments by September 22, 1980. Reply comments may be filed October 7, 1980.

Comments and reply comments may be addressed to the issues and proposals set forth in the Notice and to other issues as the participants believe are relevant and necessary to the resolution of these matters. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, providing that such information or writing indicating the nature and source of such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. For further information concerning this Notice, contact Mr. Herman Garlan, FCC, Office of Science and Technology, RF Devices Branch, Washington, D.C. 20554, telephone (202) 653-8121; or Mr. Douglas D. Rohall, FCC, Office of Science and Technology, Technical Planning Staff, Washington, D.C. 20554, telephone (202) 632-7073. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to members of the Federal Communications Commission in this proceeding must be disclosed in the public docket file. A summary of the Commission's procedure governing *ex parte* contacts in rulemaking proceedings is available from the Commission's Consumer Assistance Office, FCC Washington, D.C. 20554, (202) 632-2700.

10. Authority for the proposed amendments is contained in Sections 3, 4(i), and 301-303 of the Communications Act of 1934, as amended. Pursuant to § 1.415 of the Commission's Rules, an original and five (5) copies of all comments, reply comments, and other pleadings and submissions shall be furnished to the Commission. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

1. The text of § 15.834(a)(1) is revised to read as follows:

[1] First Report and Order in Docket 20780, Adopted September 18, 1979, Released October 11, 1979, (44 FR 59530, October 16, 1979).

[2] Order Granting in Part Reconsideration of First Report and Order in Docket 20780, Adopted March 27, 1980, Issued April 9, 1980, (45 FR 24154, April 9, 1980).

[3] These measurements were performed by Dash-Straus Associates of Malden, Massachusetts and were submitted by TMA in their Petition for Rule Making.

[4] This exemption would not apply to toys or other devices that emit radiation for communication or control purposes such as radio-controlled vehicles. These devices must still comply with Part 15, Subpart D and any other applicable sections of the Commission's Rules and Regulations.

§ 15.834 Class B computing device: compliance requirement.

(a) The following Class B computing devices which are manufactured after January 1, 1981, shall be certificated by the Commission pursuant to Subpart J of Part 2 of this Chapter.

(1) electronic games or toys, including video coin operated games, but excluding self-contained units that do not use a TV receiver for display and that employ digital logic that generates a main timing frequency not in excess of 500 kHz.

(2) personal computers as defined in § 15.4(q) of this Part, excluding desk top and hand held calculators and digital clocks and watches.

(3) peripherals, terminals, etc. that are capable of being attached to a personal computer.

[FR Doc. 80-25007 Filed 8-15-80; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 80-190; RM- 3630]

Amendment of Form 324, Annual Financial Report of Broadcast Stations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order extending comment time.

SUMMARY: Action taken herein extends the comment and reply comment dates in the proceeding to revise FCC Form 324, the Annual Financial Report of Broadcast Stations (BC Docket No. 80-190). The Broadcast Financial Management Association requested this extension in order to obtain input from discussions to be held at its mid-September National Conference.

DATES: Comments must be filed on or before October 9, 1980, and reply comments on or before November 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alan Stillwell, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

Adopted: July 31, 1980.

Released: August 8, 1980.

By the Chief, Policy and Rules Division:

1. On April 24, 1980, (45 FR 35370, May 27, 1980) the Commission adopted a *Notice of Proposed Rulemaking* looking toward the revision of FCC Form 324, the Annual Financial Report of Networks and Licensees of Broadcast Stations. Comments on this matter are presently due by September 15, 1980, and reply comments by November 14, 1980.

2. The Broadcast Financial Management Association (BFM) has asked the Commission to extend the time for filing comments in this proceeding to October 9, 1980. In requesting this extension, BFM states that it will hold discussions concerning draft comments at its National Conference in mid-September. They anticipate that it will require an additional three weeks to revise the draft and put it in final form for submission to the Commission.

3. We think these comments would be useful in developing a full record and are, therefore, granting the additional time requested. In order to provide sufficient time for replies to all comments, we are also extending the date for filing reply comments by two weeks to November 28, 1980.

4. Accordingly, it is ordered, That the above request for an extension of filing time is granted and the date for filing comments is extended to October 9, 1980 and for reply comments to November 28, 1980.

5. This action is taken pursuant to Section 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-24056 Filed 8-15-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 45, No. 161

Monday, August 18, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 80-8-65]

Alaska Airlines Subpart Q Restriction Removal Proceeding (Subsidy Limitation)

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (Order 80-8-65).

SUMMARY: The Board is instituting the *Alaska Airlines Subpart Q Restriction Removal Proceeding* (Subsidy Limitation) and is proposing to remove a restriction in Alaska's certificates which limits the total subsidy payable for the transportation of mail under section 406 of the Act. The proceeding is being processed under the expedited procedures of Subpart Q of the Board's Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board removing the certificate restrictions shall file, and serve upon all persons listed below, no later than September 15, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38017 which we have entitled the *Alaska Airlines Subpart Q Restriction Removal Proceeding (Subsidy Limitation).* They should be addressed to the Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

In addition, copies of such filings should be served on Alaska Airlines, the Alaska Transportation Commission, the United States Postal Service and the Mayors of the following Alaska cities: Cordova, Yakutat, Gustavus, Petersburg and Wrangell.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Krevor, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-8-65 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-8-65 to that address.

By the Civil Aeronautics Board: August 12, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-25046 Filed 8-15-80; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended August 8, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed: 8-8-80.

Docket No. 38580.

Description: Cayman Airways Limited, c/o Roy Nerenberg, 1825 K Street, NW., Suite 720, Washington, D.C. 20006. Application of Cayman Airways Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Regulations requests a foreign air carrier permit for foreign air transportation of persons, property and mail in scheduled operations between a point or points in Belize and the terminal point Miami, Florida, to be performed pursuant to a wet lease agreement with Belize Airways, Ltd. Answers to the Application may be filed by September 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-25045 Filed 8-15-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-8-60]

Chicago-Albany/Oklahoma City/Syracuse/Tulsa; Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (80-8-60)

SUMMARY: The Board is instituting the *Chicago-Albany/Oklahoma City/Syracuse/Tulsa; Subpart Q Proceeding* and is proposing to grant unrestricted authority to Trans World in these markets and to United in the Chicago/Rockford-Tulsa/Oklahoma City markets under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than September 15, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESS: Objections to the issuance of a final order should be filed in Docket 38587 which we have entitled the *Chicago-Albany/Oklahoma City/Syracuse/Tulsa Subpart Q Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filing should be served upon Trans World

Airlines and United Air Lines' the

Maine Advisory Committee; Agenda

DEPARTMENT OF COMMERCE

Major Group 24—Lumber and Wood

Electric housewares and fans.

Major Group 34—Fabricated Metal Products

Airlines and United Air Lines' the Governors of Illinois, New York, and Oklahoma; the mayors of Chicago, Albany (New York), Oklahoma City, Syracuse and Tulsa; the Tulsa Parties; and the airport managers of Chicago O'Hare Airport, Albany County Airport (New York), Will Rogers World Airport (Oklahoma City), Syracuse Hancock International Airport, and Tulsa International Airport.

FOR FURTHER INFORMATION CONTACT: Donna Stright, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5215.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–8–60 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–8–60 to that address.

By the Bureau of Domestic Aviation: August 12, 1980.

Phyllis t. Kaylor,

Secretary.

[FR Doc. 80-25044 Filed 8-15-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on September 18, 1980, at the Lord Cromwell Motor Inn, Route 72, exit 21, Cromwell, Connecticut 06416.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss and set a date for the Stamford, Connecticut forum, concerning the civil rights issue in Stamford.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24053 Filed 8-15-80; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on September 9, 1980, at The Maine Teachers Association Building, Civil Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is discussion of priorities and planning of activities for the coming year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-24054 Filed 8-15-80; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m., and will end at 3:00 p.m., on September 6, 1980, at the Federal Building, Room 752, West 920 Riverside Avenue, Spokane, Washington 99201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss follow-up to the Committee's report, Competing in the Marketplace: A Look at Minority Business Enterprises in the State of Washington.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1980.

Thomas L. Neumann,

Advisory, Committee Management Officer.

[FR Doc. 80-24055 Filed 8-15-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Surveys in Manufacturing Area; Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to initiate or to continue the annual surveys listed below for the year 1980 and for each year thereafter under the authority of title 13, United States Code, sections 182, 224, and 225. These surveys, most of which have been conducted for many years, are significant in the manufacturing area. On the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public and industry and are not available from nongovernmental or other governmental sources.

The establishments covered by these surveys directly account for the bulk of all manufacturing employment. The information to be developed from these surveys is necessary for an adequate measurement of total industrial production. Government agencies need data on the output of these industries. Manufacturers in the industries involved, as well as their suppliers and customers and the general public, have requested such data in the interest of business efficiency and stability.

These surveys, if conducted, shall begin not earlier than October 17, 1980.

Most of the following commodity or product surveys provide data on shipments and/or production; some provide data on stocks, unfilled orders, orders booked, consumption, etc. Reports will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. These surveys have been arranged under major group headings based on the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

Major Group 20—Food and Kindred Products

Confectionery.

Major Group 22—Textile Mill Products

Broadwoven goods finished
Narrow fabrics.
Yarn production.
Knit fabric production.

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Men's and Boys' Outerwear.
Women's and Children's Outerwear.
Underwear and Nightwear.
Brassieres, corsets, and allied garments.
Gloves and mittens.

Major Group 24—Lumber and Wood Products, Except Furniture

Hardwood plywood.
Softwood plywood.
Lumber.

Major Group 26—Paper and Allied Products

Pulp, and detailed grades of paper and board.

Major Group 28–Chemicals and Allied Products

Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.
Sulfuric acid.

Major Group 29—Petroleum Refining and Related Industries

Asphalt and tar roofing and siding products.

Major Group 30—Rubber and Miscellaneous Plastics Products

Rubber.
Plastics products.

Major Group 31—Leather and Leather Products

Shoes and slippers (by method of construction).

Major Group 32—Stone, Clay, and Glass

Consumer, scientific, technical, and industrial glassware.
Fibrous glass.

Major Group 33—Primary Metal Industries

Steel mill products.
Insulated wire and cable.
Magnesium mill products.
Nonferrous castings.

Major Group 34—Fabricated Metal Products Except Ordnance, Machinery, and Transportation Equipment

Commercial steel forgings.
Steel power boilers.
Selected heating equipment.
Metal cans.

Major Group 35—Machinery, Except Electrical

Internal combustion engines.
Tractors, except garden tractors.
Farm machines and equipment.
Mining machinery and mineral processing equipment.
Refrigeration and air-conditioning equipment, including warm air furnaces.
Computers and office and accounting machines.
Pumps and compressors.
Selected industrial air pollution control equipment.
Construction machinery.
Anti-friction bearings.

Major Group 36—Electrical Machinery, Equipment, and Supplies

Radios, televisions, and phonographs.
Motors and generators.
Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products, including telephone and telegraph apparatus.
Electric housewares and fans.
Electric lighting fixtures.
Major household appliances.

Major Group 37—Transportation Equipment

Aircraft propellers.

Major Group 38—Professional, Scientific, and Controlling Instruments; Photographic and Optical Goods; Watches and Clocks

Selected instruments and related products.
Atomic energy products and services.

The following survey represents an annual supplement of a monthly survey and will cover the same establishments canvassed monthly. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected monthly.

Major Group 32—Stone, Clay, and Glass

Glass containers.

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Major Group 20—Food and Kindred Products

Flour milling products.

Major Group 22—Textile Mill Products

Broadwoven fabric (gray).
Consumption of wool and other fibers, and production of tops and noils.
Carpet and rugs.

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Sheets, pillowcases, and towels.

Major Group 25—Furniture and Fixtures

Mattresses and bedsprings.

Major Group 26—Paper and Allied Products

Converted flexible packaging products.

Major Group 28—Chemicals and Allied Products

Phosphatic fertilizer materials.
Paint, varnish, and lacquer.

Major Group 30—Rubber and Miscellaneous Products

Plastics bottles.

Major Group 32—Stone, Clay, and Glass

Glass containers.
Refractories.
Clay construction products.
Flat glass.

Major Group 33—Primary Metal Industries

Nonferrous castings.
Iron and steel foundries.
Aluminum producers and importers.
Titanium ingot, mill products, and castings.
Copper controlled materials.

Major Group 34—Fabricated Metal Products Except Ordnance, Machinery, and Transportation Equipment

Plumbing fixtures.
Steel shipping drums and pails.
Closures for containers.

Major Group 35—Machinery, Except Electrical

Construction machinery.
Metalworking machinery.

Major Group 36—Electrical Machinery, Equipment, and Supplies

Fluorescent lamp ballasts.
Electric lamps.

Major Group 37—Transportation Equipment,

Complete aircraft anf aircraft engines, except military.
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts.
Truck trailers.

The annual survey of manufactures will collect general statistical data such as total value of shipments, shipments by product class, employment, payroll, workhours, capital expenditures, cost of materials consumed, gross book value of assets, retirements, and depreciation of fixed assets, rental payments, supplemental labor costs, information on the quantity of fuels used, etc. This survey, while conducted on a sample basis, will cover all manufacturing industries, including data on plants under construction but not yet in operation.

A survey of research and development (R&D) activities will be conducted. The major data to be obtained in this survey will include total R&D expenditures by source of funds, the number of scientists and engineers employed, the amounts spent for pollution abatement and energy R&D, and, for comparative purposes, the total net sales and receipts and the total employment of the company.

A survey of shipments to the Federal Government is planned to provide information on the impact of Federal procurement on selected industries and geographic areas by Federal Government agencies.

The annual survey on oil and gas will canvass the industry which provides most of the fuel produced in the United States as well as a substantial portion of the hydrocarbon raw material requirements of many industries. The survey will collect information on exploration, development, and production costs; sales volumes and values; drilling activity; and assets in the crude petroleum and natural gas industry.

The annual survey of pollution abatement expenditures is designed to collect from manufacturers the total expenditures by industry and

geographic area to abate pollutant emissions. The survey covers current operating costs, capital expenditures, and assets by industry to reduce pollution in its air, water, or solid form. It will also obtain the costs recovered from abatement activities and quantities of pollutants abated.

The survey of plant capacity will obtain information such as the amount of time a plant is in operation; operating rates as related to preferred levels and practical capacity; the value of production and other statistics for actual, preferred, and practical capacity operating levels; and the reasons for operating at less than capacity. The survey will be done on a sample basis and will cover all manufacturing industries.

Copies of the proposed forms will be made available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of these proposed surveys should be submitted in writing to the Director of the Bureau of the Census on or before October 17, 1980.

Dated: August 12, 1980.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 80-25082 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Subcommittee on Export Expansion of the President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Expansion of the President's Export Council will be held on Thursday, September 4, 1980, at 10:00 a.m. in Room 4830, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The President's Export Council (PEC) was established by Executive Order 11753 of December 20, 1973, extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976 and Executive Order 12110 of December 28, 1978. The PEC was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Subcommittee has been formed to make recommendations to the PEC on matters related to U.S. policies, practices and procedures which assist or inhibit the expansion of U.S. exports in the areas of finance, taxation, disincentives, transportation and documentation, as well as broader economic policies affecting the competitiveness of U.S. exports. The Subcommittee is composed solely of members of the Council.

The Subcommittee meeting agenda is as follows:

1. Opening remarks of the Chairman.
2. Report of the Working Group on Export Credit.
3. Status of PEC recommendations on taxation of Americans working abroad.
4. Discussion of Subcommittee's proposed activities report to the PEC.
5. Concluding remarks of the Chairman.

The meeting is open to the public at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

For further information, contact Mr. Brant W. Free, PEC Subcommittee on Export Expansion, Room 4312, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3575. Minutes of the meeting may be obtained from Mr. Free.

Dated: August 12, 1980.

David Biltchik,

Acting Assistant Secretary for International Economic Policy, U.S. Department of Commerce.

[FR Doc. 80-25050 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee, which will meet to discuss the groundfish interim plan; data and plan for lobster; value of a reduction of variability in catch and abundance as an objective; reports on Council meetings; minutes of previous meeting, as well as new and old business.

DATES: The meeting which is open to the public will convene on Wednesday, September 10, 1980, at approximately 10 a.m., and will adjourn at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the University of Connecticut, Marine Advisory Service, Building 24, Avery Point, Groton, Connecticut.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Building, Five Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: August 13, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25083 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting With Partially Closed Session Amendment

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will now conduct a public meeting with a partially closed session. Therefore, the public meeting notice previously published in the **Federal Register** (Volume 45, No. 143, July 23, 1980, pages 49120-49121) is hereby amended to allow for this partially closed session in accordance with section 552b(c)(6) of title 5, United States Code.

DATES: August 26-28, 1980.

ADDRESS: Council Headquarters, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Meeting Agendas follow:

Council—(open meeting) August 26-28, 1980 (1:30 p.m. to 5 p.m. on August 26; 8:30 a.m. to 5 p.m. on August 27; 8:30 a.m. to noon on August 28).

Agenda: discuss decision elements for Snapper-Grouper Fishery Management Plan (FMP); review status of Swordfish FMP; discuss Billfish FMP; update FMP activities as appropriate and discuss election of officers.

Council—(closed session) August 28 (1:30 p.m. to 5 p.m.)

Agenda: Closed Session—Conduct personal interviews and discuss potential candidates for the Council Executive Director position.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on August 12, 1980, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552(c)(6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting are open to the public.

Dated: August 13, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25085 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will conduct a series of meetings.

DATE: September 23-25, 1980.

ADDRESS: The meetings will take place at the Holiday Inn, 2600 A1A, Melbourne, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Meeting Agendas follow:

Council— (open meeting) September 23-25, 1980 (1:30 p.m. to 5 p.m., on September 23; 10:30 a.m. to 5 p.m., on September 24; 8:30 a.m. to 12 noon on September 25).

Agenda: Open Session— Final decisions on Billfish and Snapper-Grouper Fishery Management Plans (FMP's); review status of ongoing FMP's, and discuss other management /administrative matters as necessary.

Council— (closed session) September 24, 1980 (8:30 a.m. to 10:30 a.m.)

Agenda: Closed Session— Discuss employee evaluations as well as other personnel matters. Only Council members and staff relevant to these discussions will be allowed to attend the closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Council, formally determined on August 12, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 522(c)(6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting are open to the public.

Dated: August 13, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25084 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON FINE ARTS

Meeting

The Commission of Fine Arts will close a portion of its next meeting scheduled for Wednesday, September 3, 1980, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss personnel matters and budget estimates, under authority of Section 522b2, 6, and 9(b) of Title 5, U.S.C. This is an amendment to notice of meeting dated July 31, 1980. (45 FR 52257, August 6, 1980)

Inquires should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. August 12, 1980.

Charles H. Atherton,

Secretary.

[FR Doc. 80-25010 Filed 8-15-80; 8:45 am]

BILLING CODE 6330-01-M

COMMUNITY SERVICES ADMINISTRATION

Energy Consumer Advocacy

AGENCY: Community Services Administration.

ACTION: Notice of proposed 1981-82 CSA energy advocacy initiative.

SUMMARY: CSA is proposing to fund approximately 25 two-year grants at an estimated $75,000 per year for activities related to low-income and elderly energy consumer advocacy. (See catalogue of Federal Domestic Assistance; 49.014, "Emergency Energy Conservation Services.") This Notice describes the type of proposals which will be considered by CSA and the application process that is to be followed.

DATE: Proposals must be received by CSA by September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Rufus Bradford, Community Services Administration, 1200-19th Street, NW., Washington, D.C. 20506, Telephone (202) 632-6503, Teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: This Initiative is being carried out pursuant to the Stipulation and Agreed Order in the case *Simer v. Olivarez* (U.S. District Court—Northern Illinois No 796390—April 25, 1980). That Order, with reference to the CSA Energy Advocacy Initiative, provides that CSA will fund low-income and elderly energy consumer advocacy activities for a two year period commencing in FY 1980 as follows:

"a. 4 million dollars shall be granted to local groups to fund advocacy efforts on behalf of elderly and/or low-income persons with regard to energy issues affecting them, subject to the following requirements:

1. Grants for groups shall average $75,000 per year and at least four groups so funded will be advocacy groups which are not being funded by CSA as energy advocates as of the date of this Order.

2. In selecting which applicants are to receive funds CSA shall give preference to those applicants which can show a demonstrated capability in the following areas, and which propose in their work programs the conduct of activities in these areas: (a) energy availability and access to energy sources, including customer service issues; (b) energy costs and local, state, or federal energy regulatory policies; (c) impact of energy problems on basic necessities such as housing, food, transportation, including building performance standards; and (d) impact of energy conservation, weatherization, and alternative energy development policies on elderly and/or low-income persons.

3. Grantees must utilize at least fifty (50) percent of any grant under this program to contract with existing legal programs serving low-income people as authorized under 42 U.S.C.A. 3001 or 45 U.S.C.A. 2701 or Title XX of the Social Security Act. This 50% legal component may be waived only for those grantees who currently have on staff full time

attorneys working exclusively on energy

recommendations are to include

Title VI delegations of authority and for

DEPARTMENT OF ENERGY

attorneys working exclusively on energy advocacy or for those grantees that can show in writing a commitment from a practicing legal service program serving consumers for the availability and use of a full time attorney/paralegal for two years for energy advocacy".

The purpose of the waiver described in 3 above is to avoid duplication of funding or services in cases of those grantees who, in carrying out the legal intervention activities emphasized in the Stipulation and Agreed Order, have made adequate provision for access to needed legal services from other sources. Applicants who have made such arrangements which they feel are adequate for the carrying out of their work program should request a waiver, which will be considered as a part of the review of their proposal for funding.

Work Program

Given the nature of the Energy Advocacy Initiative, CSA suggests that applicants, in addition to proposing a work program that addresses the requirements of 2(a) thru (d) of the Stipulation quoted above, discuss the following elements in their proposals:

1. Discussion of the specific cases of legal intervention in which the applicant proposes to engage under the work program, including the goals of such intervention, the hoped-for results, and how they will affect the poor and the elderly, including any on going activities of this nature. Examples of such activity include participation in administrative or rule making proceedings, rate hearings and the like, as well as judicial proceedings.

2. Assessment of the energy advocacy needs which the applicant feels are most pressing for the poor and the elderly in the applicant's State, with a description of the manner in which the applicant proposes to address those needs through its work program, in terms of specific goals, objectives, and strategies. It would be useful, in this context, to describe the extent of State compliance with Sections 111 and 113 of the Public Utilities Regulatory Policies Act (PURPA), and whether and to what extent the objectives of the advocacy project will include the attainment of consumer protective structures or regulations with regard to the customer service issues enumerated in those sections.

3. Description of how the applicant in its work program relates or proposes to relate to Community Action Agencies and other low income groups at the local level, including how and to what extent such agencies and groups participate in the setting of priorities for the project; and describing any non-legal intervention activities which the applicant in conjunction with such organization proposes to undertake.

Examples of non-legal activities include community organization, education, participation in State Plan development for the Home Energy Assistance Program or local emergency planning, or consultation and assistance in the removal of barriers to the uses of alternative energy technologies.

4. Description of the applicant's experience, if any, in energy or other advocacy programming for the poor, and of ways the applicant's activities have lead to changes in laws, regulations, procedures, or institutional behavior affecting the poor and the elderly.

Support To Energy Advocacy Grantees

Applicants should be aware that the Community Services Administration will also be providing support grants to the National Consumer Law Center to provide training and technical assistance to funded advocacy projects, including the sum of $500,000 for an expert witness and consultant fund; and to the Citizen Labor Energy Coalition Foundation for specific training and assistance in community organization and coalition building.

Application Process: Grantees will be selected by the national office of the Community Services Administration, Office of Community Action. However, grants will be made at the Regional level. In addition, grantees will be monitored by the Region pursuant to close policy direction and consultation from CSA Headquarters. It may be that additional funds will become available to support this program activity. In that event the total number of grants could be increased by five or ten and the size of each grant increased by ten to fifteen percent. Applicants should use the application process found at 45 CFR 1067.40. Applying for a grant under Title II, Section 221, (22)(a), and 231 of the Economic Opportunity Act of 1964 as amended. All interested applicants must follow "CSA procedures for the Project Notification and Review System" (A–95) as outlined in 45 CFR 1067.10.

Applications should be forwarded to: Rufus Bradford, Energy Programs, Community Services Administration, 1200—19th Street, N.W.—Room 334, Washington, D.C. 20506, Telephone (202) 632–6503.

It is suggested that you use registered, return-receipt mail and allow sufficient time to assure that this deadline is met.

Reporting Requirements

Financial and project progress report will be submitted quarterly in the manner and format outlined in 45 CFR 1050, Subpart H and Subpart J respectively.

(Sec. 602, 78 Stat 530; 42 U.S.C. 2942)

Richard J. Rios,

Director.

[FR Doc. 80–24742 Filed 8–15–80; 8:45 am]

BILLING CODE 6315–01–M

DEPARTMENT OF EDUCATION

Commission on the Review of the Federal Impact Aid Program

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979, will hold a business meeting on September 18, 1980 through September 19, 1980, in Washington, D.C. The meeting will be open to the general public, and all interested persons are invited to attend. Notice of the meeting is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: September 18–19, 1980. The Commission will meet at 9:00 a.m. and continue until business is completed.

ADDRESS:

September 18, 1980—Rayburn House Office Building, Room 2257, Independence Ave. & So. Capitol St., Washington, D.C. 20515.

September 19, 1980—Education Department Building (FOB–6), 400 Maryland Ave., S.W., Room 3000, Washington, D.C. 20202.

TENTATIVE AGENDA: The Commission members will consider recommendations and other Commission business.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036, tel. no. (202) 653–5817.

Authority and Function: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95–961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Pub. L. 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

Records: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, N.W., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C. on the 13th day of August, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80–25049 Filed 8–15–80; 8:45 am]

BILLING CODE 4000–01–M

Office for Civil Rights

Title VI of the Civil Rights Act of 1964; Lead Agency Status for Elementary and Secondary Schools and Institutions

AGENCY: Department of Education.

ACTION: Announcement of Title VI Lead Agency Status for Elementary and Secondary Schools and Institutions of Higher Education.

SUMMARY: Notice is hereby given that by operation of law, under the Department of Education Organization Act, Pub. L. 96–88, Section 509, all Federal interagency agreements in force on May 4, 1980, the effective date of the Act, which delegated to the Department of Health, Education, and Welfare (HEW) certain compliance responsibilities under Title VI of the Civil Rights Act of 1964, with regard to elementary and secondary schools and institutions of higher education, apply to the Department of Education (ED). Under these agreements and the Department of Education Organization Act, ED is now the lead agency for Title VI compliance rather than HEW.

SUPPLEMENTARY INFORMATION:

The agencies and subject areas for which HEW was the lead agency under Title VI delegations of authority and for which ED became the lead agency on May 4, 1980 are as follows:

Agency	Subject area	Effective date of delegation*
Agriculture	Higher Education	Feb. 7, 1967.
Atomic Energy Commission (Dept. of Energy).	Elementary and Secondary Schools.	June 22, 1966.
	Higher Education	Apr. 22, 1966.
ACTION	Elementary and Secondary Schools.	Mar. 22, 1966.
	Higher Education	Mar. 22, 1966.
Agency for International Development.	Higher Education	Mar. 30, 1966.
Department of Commerce.	Higher Education	Nov. 5, 1966.
Department of Defense.	Elementary and Secondary Schools.	June 2, 1966.
	Higher Education	Apr. 14, 1966.
General Services Administration.	Elementary and Secondary Schools.	June 22, 1966.
	Higher Education	June 13, 1966.
Department of Housing and urban Development.	Elementary and Secondary Schools.	June 22, 1966.
	Higher Education	May 26, 1966.
Department of the Interior.	Elementary and Secondary Schools.	June 22, 1966.
	Higher Education	June 13, 1966.
National Endowment for the Arts/National Endowment for the Humanities.	Elementary and Secondary Schools.	June 8, 1976.
	Higher Education	June 8, 1976.
National Science Foundation.	Elementary and Secondary Schools.	June 22, 1966.
	Higher Education	Apr. 26, 1966.
Office of Economic Opportunity (Community Services Administration).	Elementary and Secondary Schools.	July 23, 1966.
	Higher Education	Apr. 22, 1966.
Office of Emergency Planning.	Elementary and Secondary Schools.	June 22, 1966.
	Higher Education	Mar. 30, 1966.
Department of State.	Higher Education	July 23, 1966.
Department of Transportation.	Higher Education	Aug. 3, 1966.
Tennessee Valley Authority.	Higher Education	Apr. 22, 1966.
Veterans Administration.	Elementary and Secondary Schools.	Jan. 17, 1969.
	Higher Education	
Law Enforcement Assistance Administration.	Higher Education	Sept. 24, 1970.
National Aeronautics and Space Administration.	Higher Education	Mar. 15, 1966.
Small Business Administration.	Elementary and Secondary Schools.	June 22, 1966.

*With the exception of the General Services Administration agreement, which provided for a retroactive effective date, the effective date is the date the delegation was accepted by HEW.

Dated: August 11, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80–25030 Filed 8–15–80; 8:45 am]

BILLING CODE 4000–02–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Vickers Petroleum Corp.'s Application for Permission To Use Multiple Allocation Fractions.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of issuance of order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on August 8, 1980, a Decision and Order was issued pursuant to the provisions of 10 CFR 205.90 *et seq.*, and § 211.10(b) denying Vicker's Petroleum Corporation's January 25, 1980 request for permission to use multiple allocation fractions. The request, if granted, would have permitted Vickers to use separate allocation fractions for the distribution of motor gasoline in each of seven (7) proposed marketing subsystems.

A copy of the Decision and Order, with proprietary information deleted, is attached.

FOR FURTHER INFORMATION REGARDING THIS ORDER, PLEASE CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104–I, 2000 M Street NW., Washington DC 20461, Telephone: (202) 653–3701.

Joel M. Yudson, Office of General Counsel, Room 6A–127, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 8th day of August 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Economic Regulatory Administration Decision and Order

August 8, 1980.

To: Vickers Petroleum Corporation, Post Office Box 2240, Wichita, Kansas 67201.

Subject: Application to Use Multiple Allocation Fractions—Case No. 80–004.

I. Introduction

On January 25, 1980, Vickers Petroleum Corporation (Vickers) filed an application with the Department of Energy's (DOE) Economic Regulatory Administration (ERA) for permission to use multiple allocation fractions pursuant to 10 CFR 211.10(b). The request, if granted, would permit Vickers to use a separate allocation fraction for the distribution of motor gasoline in each of its seven (7) proposed marketing subsystems.

II. Legal Authority

Vickers' application is being processed in accordance with 10 CFR 205.90 *et seq.*, and Section 211.10(b).

III. Background

Vickers, a small and independent refiner as those terms are defined in 10 CFR 211.62, owns and operates a refinery at Ardmore, Oklahoma with a DOE certified capacity of 64,100 barrels per day. In addition, Vickers markets motor gasoline which it both produces and purchases in a 19 state area in the central continental United States. The firm sells gasoline at the retail level through wholly-owned subsidiaries operating approximately [proprietary information deleted] service stations and at the wholesale level to branded and non-branded independent marketers. Vicker's maintenance of its gasoline marketing activities depends upon the purchase of gasoline for resale in order to supplement its own refinery production. According to Vickers' application, the motor gasoline which it produces in its Ardmore refinery accounts for approximately [proprietary information deleted] percent of the gasoline which it sells. The remaining [proprietary information deleted] percent is purchased from other firms.

IV. Vickers' Contentions

Vickers asserts that the requirement that it maintain a uniform firm-wide allocation fraction has resulted in frequent and severe supply shortages since the updating of the motor gasoline base period.[1] In its submission Vickers requests permission to establish the following seven (7) distribution subsystems for motor gasoline, which generally conform to state boundaries:

(1) The subsystem which includes the States of Iowa, Kansas, Minnesota, Missouri (excluding the St. Louis metropolitan area), Nebraska, and Oklahoma (hereinafter referred to as the Central subsystem);

(2) The subsystem which encompasses the State of Arizona;

(3) The subsystem which encompasses the State of Colorado;

(4) The subsystem which encompasses the State of Wisconsin;

(5) The subsystem which includes the State of Illinois and the St. Louis, Missouri metropolitan area (hereinafter referred to as the St. Louis subsystem);

(6) The subsystem which includes the States of Alabama, Arkansas, Indiana, Kentucky, Louisiana, and Tennessee; and

(7) The subsystem which encompasses the States of New Mexico and Texas.

Vickers contends that its proposed subsystems are independent and therefore meet the standards to which the DOE adheres in considering applications for relief of this type. Specifically, Vickers has referred to the standards set forth in *Shell Oil Company*, 3 FEA Para. 80,557 (January 22, 1976). The firm has provided the following combination of factors which it believes form a basis upon which its request should be granted:

(i) The subsystems operate in widely disparate geographical areas.

(ii) The sources of supply for each subsystem are separate. The Ardmore refinery provides Vickers with nearly all of the motor gasoline which it distributes in the Central subsystem. Product is distributed to the Central subsystem through the Williams Brothers Pipeline System and by truck hauls from the refinery. None of Vickers' other six subsystems receive gasoline produced at the Ardmore facility. Vickers utilizes exchange agreements with several other refiners, purchases from base period suppliers, and acquisitions on a spot basis on the open market to supply motor gasoline to them.

(iii) The great distance between many of Vickers' subsystems creates difficulties in shipping gasoline from one area to another to compensate for supply imbalances. Vickers has difficulty supplying its base period customers outside the Central subsystem directly from the Ardmore refinery because moving gasoline by truck is costly and they are not served by the Williams Brothers Pipeline System.

(iv) Vickers has taken all possible steps to meet its supply obligations through exchange agreements. Although the firm has attempted to improve its supply position through the acquisition of surplus product it has been unable to pass through the full amount of the increased costs due to the Petroleum Price Regulations and existing market conditions. This produces a situation in which Vickers is incurring a loss on each gallon which it purchases and resells.

Vickers contends that in determining a single allocation fraction it is unreasonable that it be required to include in its allocable supply[2] each month relatively small quantities of spot market gasoline which may be available at times in a particular marketing area because such volumes cannot feasibly be exchanged to any other area. Thus the firm is effectively prevented from acquiring additional supplies of gasoline for resale. However, if Vickers is permitted to maintain separate allocation fractions for each of its proposed distribution subsystems there would be no need to shift such small amounts of gasoline between regions to equalize supplies.

Finally, Vickers makes a broad allegation that approval of its application would be consistent with the national energy objectives enunciated in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA), while denial of its application would be inconsistent with these objectives.[3]

V. Comments Received to Vickers' Application

On February 28, 1980, the ERA gave notice of the pendency of Vickers' application to use multiple allocation fractions. See 45 FR 13,186, February 28, 1980. Two firms filed written comments, Gas Mart Company (Gas Mart) and Key Oil Company (Key). Gas Mart purchases the majority of the gasoline which it sells from Vickers. Key's predominant supplier, Parks Oil Company, purchases a significant amount (??? percent) of its total motor gasoline base period entitlement from Vickers. Since both Key and Gas Mart sell gasoline in more than one of Vickers' proposed distribution sybsystems they oppose Vickers' request primarily because it would create difficulties for them, as small wholesale purchasers, to maintain a uniform allocation fraction in their respective marketing systems.

VI. Analyses And Findings

The ERA recently published a notice in the **Federal Register** describing the criteria which are applicable to applications requesting the use of multiple allocation fractions under 10 CFR 211.10(b).[4] In the Criteria we reviewed the standards which the FEA applied in *Shell Oil Company*, supra., to evaluate whether such an application should be approved. These factors are:

(1) The relative location of the marketing area to be included in computing each separate allocation fraction;

(2) The source of supply for each such area;

(3) The method used in transportion the product to each area;

(4) The availability of transporting facilities and the cost of transporting product, either

(a) between such areas, or

(b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area; and

(6) The degree to which transfers or exchanges of like product with other products have been in the past or could reasonably be arranged.

The ERA intends to continue to utilize the standards set forth in *Shell Oil Company*, supra. We are also concerned with the type of information and standards described below.

(i) An applicant should indicate whether product is available for acquisition on the open market, i.e., surplus and spot markets. A firm generally is required to demonstrate that it cannot improve its supply situation through the purchase of product on the open market. If such product is available to the applicant, then the applicant would not be entitled to relief unless it makes a further showing that its purchase of such product would be impractical or inconsistent with the objectives of the allocation program. The purchase of surplus product may be demonstrated to be impracticable on financial grounds. However, showing that the available surplus product is expensive is not sufficient to justify a finding of impracticability, the applicant must show that it would be unable to recover the costs of purchased product for the period of the multiple allocation fractions, or that it would experience financial difficulties if it had to purchase product to maintain a single allocation fraction. Such a demonstration must be supported by data; mere allegations or conclusions are not sufficient.

(ii) An applicant must demonstrate that it is impracticable to transport or exchange product from one subsystem to another. If financial impracticability is asserted, the showing required would be similar to that required to demonstrate that the purchase of surplus product would be financially impracticable. As with other elements of impracticability, the burden of demonstrating financial impracticability rests upon the applicant.

(iii) An applicant that is a refiner must demonstrate that it is impractical and burdensome for it to increase production of the product and thereby alleviate any supply imbalances.

(iv) An applicant should demonstrate that the competitive viability of the class of independent marketers would not be jeopardized in the regions in which the applicant's allocation fraction would be reduced if relief is granted. In this connection, an applicant should also furnish the DOE its expected allocation fractions with and without relief, for each region in which a separate fraction is requested.

(v) The applicant should show that the circumstances justifying relief are likely to continue during the entire period for which relief is requested.

Despite the allegations made, Vickers' submission to the DOE fails to adequately support its factual contentions, contains inadequate material to support its general legal conclusions, and contains no substantiating financial data which would indicate that Vickers is unable to recover the costs of purchased spot market product.

Vickers, for example, erroneously contends that it would be infeasible to expect it to supply motor gasoline from its Ardmore refinery to marketing areas outside the Central subsystem. Transporting product between the refinery and Vickers' retail outlets in Dallas, Texas is not only feasible but can be accomplished quite readily in view of the fact that they are located within 110 miles of each other.

It would also appear that Vickers is capable of supplying motor gasoline produced at its Ardmore refinery to its retail stations in the St. Louis subsystem. Vickers admits that the Williams Brothers Pipeline has terminals both at Palmyra and St. Charles, Missouri. The St. Charles terminal is about 10 miles from the St. Louis metropolitan area and therefore is easily accessible to Vickers' retail stations located there. Vickers' outlets in central Illinois are not more than 150 miles from either terminal, not an inordinately long distance.

We are unable to accept Vickers' contention that there is no direct supply capability from the Ardmore refinery to its retail stations in the Wisconsin subsystem which are located in the Milwaukee area. The Williams Brothers Pipeline System has a terminal facility within 90 miles, located at Chicago, Illinois. It may be inconvenient to transport gasoline by truck from the Chicago terminal to Milwaukee but it is not burdensome.

Although Vickers contends that the motor gasoline production from the Ardmore refinery is committed to supply purchasers in the Central subsystem, it is not unreasonable to expect Vickers to alter its historical distribution patterns on a short-term basis to relieve any supply shortages. Therefore, we have determined that the St. Louis, Texas/New Mexico, and Wisconsin subsystems are not sufficiently independent of the Central subsystem to constitute separate motor gasoline distribution systems.

Vickers has also submitted data which indicates that its stations in Arizona and the western part of the Texas/New Mexico subsystem procure a substantial portion of their motor gasoline supplies from Navajo Refining Company (Navajo). Thus, Vickers could conceivably arrange with Navajo to divert gasoline from one area to the other in order to compensate for any supply shortfalls. The Arizona stations also obtain gasoline by pipeline from California pursuant to an exchange agreement with Mobil Oil Corporation (Mobil). There has been no showing that Vickers would not be able to modify that arrangement so that, if necessary; its Dallas stations could be furnished gasoline via Mobil pipeline from the firm's Beaumont, Texas refinery. For these reasons, we have concluded that the Arizona and Texas/New Mexico subsystems are not sufficiently independent to constitute separate distribution systems.

However, the mere demonstration that all of part or Vickers' proposed subsystems are independent of one another does not, in and of itself provide the basis for the approval of relief from the requirement to maintain a single allocation fraction. In *Shell Oil Company*, supra, the FEA noted that "The policy of maintaining a single allocation fraction will be outweighed only to the extent that it is truly impracticable and burdensome to do so in particular situations." In this connection Vickers has failed to demonstrate that the procedures which it has utilized in the past are inadequate to relieve any temporary shortages which it may experience.

Vickers has made no showing whatsoever that it has been adversely affected to any substantial extent as a result of the alleged supply problems which it is experiencing or that it would be infeasible to maintain a single allocation fraction from the sources of supply which are currently available. The firm admits, and material submitted in support of its application confirm, that Vickers has been able to arrange exchanges of motor gasoline with nine other refiners which collectively supply six of its distribution subsystems. Vickers has indicated that it has occasionally transferred gasoline between subsystems by means of truck transport and barge. Moreover, Vickers has not demonstrated that surplus motor gasoline is currently in short supply in any of its marketing regions or that it will have difficulty obtaining product in the near future.

Vickers has given no indication of the extent to which it has been unable to recover the costs associated with either purchasing available surplus product or delivering volumes of gasoline by truck, rail or barge between regions. For example, Vickers could have provided the DOE with data which demonstrates that if it purchased motor gasoline on the surplus market and applied the allowable cost increases permitted it by the regulations, its retail prices would not be competitive or that it will incur operating losses. It should be noted that the costs of surplus motor gasoline purchased for resale would be distributed among all of Vickers stations and not borne exclusively by outlets in a given area.

Vickers contends that the regulatory requirement to maintain a single allocation fraction restricts it from increasing its sales of gasoline through purchases on the surplus market. In our view, purchasing available surplus product is a means of mitigating the adverse impact of supply imbalances on a firm. The mere fact that a firm could sell more gasoline in a particular marketing area through such purchases if it is permitted to use separate allocation fractions does not mean that the firm is suffering an undue burden.

There is no basis for Vickers' assertion that the denial of its request is inconsistent with the broad objectives of the EPAA. When the Congress adopted the EPAA, it specified nine general objectives which the regulations promulgated thereunder were to be designed to accomplish. Recognizing that these goals would not always be mutually compatible, the Congress stated that they should be reached "to the maximum extent practicable" (Section 4(b)(1)) and thereby provided the DOE with the discretion to weigh and balance these objectives in formulating and implementing the regulatory program required by the EPAA. One of the principle objectives outlined in the EPAA is the allocation of refined petroleum products in an equitable manner throughout all areas of the U.S. A nationwide allocation fraction for motor gasoline is essential in order to achieve that objective. Despite its allegations, Vickers has not convincingly demonstrated that the denial of its request would substantially frustrate any policy objectives set forth in Section 4(b)(1) of the EPAA. Although Vickers has demonstrated its inability to produce sufficient motor gasoline supplies to meet the entirety of its base period supply obligations results in certain inconveniences, the firm has made no showing that the impact of § 211.10(b) on Vickers is so severe as to result in a serious financial hardship or so disproportionate from its general impact on other firms. Moreover, if the DOE were to grant Vickers' request without a substantial showing that it is truly impractical and burdensome to maintain a single allocation fraction, that action could result in market distortions and Vickers may have an unwarranted competitive advantage over those firms which must continue to employ a single fraction.

We are not pursuaded by Vickers' contention that a situation exists in which it is experiencing severe supply shortages. To the contrary, according to information provided by Vickers and data which the firm has submitted to DOE on Form EIA–25, *Prime Suppliers' Monthly Report*, during the period of March 1979 through July 1980 Vickers' allocation fraction has been below in only three months, July, August, and December 1979. Indeed, during that seventeen month period Vickers' allocation fraction has been at least on eleven occasions.

Based on the considerations set forth above, the ERA has concluded that Vickers has failed to make a compelling showing that it is truly impracticable and burdensome to maintain a single, uniform allocation fraction and that to do so is inconsistent with the objectives of the Mandatory Petroleum Allocation Program.

VII. Order

This order is issued pursuant to the provisions of 10 CFR 205.90 *et seq.*, and § 211.10(b).

It is, therefore, ordered that:

(1) The application filed by Vickers Petroleum Corporation for permission to use multiple allocation fractions be and hereby is denied.

(2) In accordance with the provisions of 10 CFR Part 205, an aggrieved party may file an

V 45 AG 18 80 UMI

appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

(3) Communications, other than appeals, regarding this directive should be referred to Charles R. McCrea, Chief, Gasoline Allocation Branch, Allocated Products Division, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461, telephone number (202) 653-3701.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FOOTNOTES]

[1] On February 22, 1979, Activation Order No. 1, Standby Petroleum Product Allocation Regulations, was adopted, 44 FR 11202 (February 28, 1979). In that order, ERA activated certain portions of the Standby Petroleum Product Allocation Regulations in order to update the base period for motor gasoline allocation from the 1972 base period to the corresponding month of the period July, 1977, to June 30, 1978, and implemented the updated base period for an initial period of March, April, and May 1979. Subsequently, on May 1, 1979, ERA issued an Interim Final Rule, 44 FR 26712 (May 4, 1979), which superseded the Activation Order. Under the Interim Rule, the updated base period for motor gasoline allocation was designated as the corresponding month of the period November 1977 through October 1978. The updated base period was permanently established by the final rule, 44 FR 42549 (July 19, 1979).

[2] The term "allocable supply" is defined in 10 CFR 211.10(b)(1).

[3] The objectives are:

* * * Protection of public health, safety, and welfare * * * and the national defense;

Maintenance of all public services * * *;

Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities * * *;

Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve nonbranded independent marketers, and branded independent marketers;

The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refineries, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of, fuels, and for required transportation related thereto;

Economic efficiency; and

Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms. (EPAA, Section 4(b)(1).)

[4] See *Department of Energy Criteria Applicable to Requests for Multiple Allocation Fractions*, 45 FR 50383 (July 29, 1980).

[FR Doc. 80-25002 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-464]

Columbia Gas Transmission Corp.; Notice of Application

August 12, 1980.

Take notice that on July 28, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-464 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing 64 additional points of delivery to existing wholesales customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct the following 64 tap facilities for the following customers:

Columbia Gas of Kentucky, Inc.: 2 taps for residential service—Estimated annual usage of 300 Mcf.

Columbia Gas of Maryland, Inc.: 1 tap for commercial service—Estimated annual usage of 7,500 Mcf.

Columbia Gas of Ohio, Inc.: 39 taps for residential service, 2 taps for commercial service, 4 taps for industrial service, 1 tap for combined residential, commercial and industrial service—Estimated annual usage of 44,342 Mcf.

Columbia Gas of Pennsylvania, Inc.: 2 taps for residential service—Estimated usage of 300 Mcf.

Columbia Gas of Virginia, Inc.: 1 tap for residential service—Estimated annual usage of 150 Mcf.

The Dayton Power and Light Company: 4 taps for residential service, 2 taps for commerical service, 2 taps for combined residential and commerical service—Estimated annual usage of 6,287 Mcf.

Shenandoah Gas Company: 1 tap for residential service—Estimated annual usage of 2,108 Mcf.

West Ohio Gas Company: 1 tap for residential service—Estimated annual usage of 120 Mcf.

Applicant asserts that the additional volumes to be provided through these new points of delivery would be within Applicant's currently authorized level of sales.

It is stated that the total cost of the new interconnections would be $41,030 which cost would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the cerificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25033 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Volume 256]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 12, 1980.

JD NO	JA DR?	API NO	SEC D WELL NAME	FIELD NAME	PROD PURCHASER
				KANSAS CORPORATION COMMISSION	
•CHAMPLIN PETROLEUM COMPANY					
0047062	K-79-1699	1500700000 108	RECEIVED: 07/18/80 JAI KS DAVIS RANCH B NO 1	AETNA	0.0 CITIES SERVICE GAS C
				MICHIGAN DEPARTMENT OF NATURAL RESOURCES	
•ARBUCKLE CORP		2109100000 102	RECEIVED: 07/18/80 JAI MI AMERICAN AGGREGATES #1-11	GREEN OAK 11	165.0 MICHIGAN BEANLESS TU
•FINDERS OIL & GAS CO		2105533101 102	RECEIVED: 07/18/80 JAI MI CUNNINGHAM #1-20	PARADISE 20 A 26N-10W MANISTEE 30 T22N R16W	165.0 CONSUMERS POWER CO 83.0 CONSUMERS POWER CO
0047063		2110133047 102	JOHNSON ET AL #3-25		
0047064					
				OKLAHOMA CORPORATION COMMISSION	
•AL MCCORD INC			RECEIVED: 07/21/80 JAI OK REA - ANDERSON 1 - 16	MENO - RINGWOOD	111.0 PIONEER GAS PRODUCTS
0047159	03562	3509321363 103			
•AMAREX INC			RECEIVED: 07/21/80 JAI OK MARIE SMITH #1	SW EL RENO	200.0 MICHIGAN WISCONSIN P
•ARCO OIL AND GAS COMPANY		3501700000 103	RECEIVED: 07/21/80 JAI OK OSCAR MEYER #1	SOUTH DOUGLAS	30.5 ARCO OIL AND GAS CO-
•ARGONAUT ENERGY CORPORATION		3504721636 102	RECEIVED: 07/21/80 JAI OK BALTS #2	S W RICE	211.0 PANHANDLE EASTERN PI
•BERRY PETROLEUM CORP		3502320375 103	RECEIVED: 07/21/80 JAI OK BECKHAM #10-1	BOUNER TREND	150.0 UNION TEXAS PETROLEU
•BILLY E BATTERFIELD		3509321650 103	RECEIVED: 07/21/80 JAI OK AMHOUSE NO 1	NORTH WEST LOMTON	10.0 ARKLA OIL CO
•CLARK RESOURCES INC		3503100000 106	RECEIVED: 07/21/80 JAI OK RUDD #2-1	SOONER TREND	66.2 PANHANDLE EASTERN PI
•DAMSON OIL CORP		3507322208 103	RECEIVED: 07/21/80 JAI OK SHERWILL 1	SOUTH BLOOMINGTON	42.0 ARKANSAS LOUISIANA G
•DAMSON OIL CORPORATION		3505500000 103	RECEIVED: 07/21/80 JAI OK BURNETT 2-22	SOUTH BLOOMINGTON	5.0 ARKANSAS LOUISIANA G
•DYCO PETROLEUM CORPORATION		3505520380 108	RECEIVED: 07/21/80 JAI OK BRYANT UNIT #1-21	REYDON	2000.0 EL PASO NATURAL GAS
•GEORGE RODMAN INC		3512920383 103	RECEIVED: 07/21/80 JAI OK CHANCE NO 1	CEDARDALE	66.7 NATURAL GAS PIPELINE
•JONES EXPLORATION CO		3515320093 103	RECEIVED: 07/21/80 JAI OK ZUMWALT NO 1	WILDCAT	0.0
•MEMBOURNE OIL CO		3511721967 103	RECEIVED: 07/21/80 JAI OK DAVIS #5 5604	COHO (TONKAWA)	30.0 PHILLIPS PETROLEUM C
•MUSTANG PRODUCTION CO,		3500721580 103	RECEIVED: 07/21/80 JAI OK PETTUS #1-1	S FAY	100.0 OKLAHOMA GAS & ELECT

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047160	03581	3501120938	103		TULSA ROYALTIES #1	SQUAW CREEK	90,0	OKLAHOMA GAS & ELECT
*OIL & GAS PRODUCTION CO					RECEIVED: 07/21/80 JA: OK			
8047172	03408	3505920722	103		SOUNER #1		0,0	DELMI GAS PIPELINE C
*OKLAHOMA PETROLEUM MANAGEMENT CORP					RECEIVED: 07/21/80 JA: OK			
8047141	03112	3511920966	103		HANSEN NO 1	NE MOUNT HOPE	36,5	COLORADO GAS COMPRES
8047140	03108	3511920984	103		HANSEN NO 2	NE MOUNT HOPE	36,5	COLORADO GAS COMPRES
*ONG EXPLORATION INC					RECEIVED: 07/21/80 JA: OK			
8047163	03132	3500721289	103		MULBERRY #1-A	LAVERNE	150,0	MICHIGAN-WISCONSIN P
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 07/21/80 JA: OK			
8047161	03390	3504939901	108		HART UNIT UG-20	GOLDEN TREND	1,0	WARREN PETROLEUM CO
*RED BUD OIL CORP					RECEIVED: 07/21/80 JA: OK			
8047149	07511	3511121728	103		BINGHAM #1	OKMULGEE	60,0	PHILLIPS PETROLEUM C
*ROBERT E EBERLY SR					RECEIVED: 07/21/80 JA: OK			
8047147	03704	3501100000	102		EBERLY AND MEADE WEELY #1-10	SQUAW CREEK	330,0	
*SABINE CORP					RECEIVED: 07/21/80 JA: OK			
8047139	03279	3504300000	108		CRAIG NO 1-15	SE TRAIL	17,0	PHILLIPS PETROLEUM C
*SAMSON RESOURCES COMPANY					RECEIVED: 07/21/80 JA: OK			
8047146	01369	3506120192	103		MAYES UNIT NO 1 = MIDDLE ATOKA	KINTA	13,0	ARKANSAS LOUISIANA G
*SERVICE DRILLING CO					RECEIVED: 07/21/80 JA: OK			
*8047144	02369	3510120352	102		BARNES #1-36		20,0	TENNESSEE GAS PIPELI
8047148	03726	3506120268	102		JOHNSON #2-17	WEST STIGLER	145,0	DELMI GAS PIPELINE C
*SOUTHLAND ROYALTY CO					RECEIVED: 07/21/80 JA: OK			
8047156	04497	3513921208	103		JAMES #1-29	CAPLE	125,0	NORTHERN NATURAL GAS
8047157	04498	3513921208	103		JAMES #1-29	CAPLE	100,0	NORTHERN NATURAL GAS
8047173	04509	3509321589	103		PAINTON #1-11		175,0	MICHIGAN WISCONSIN P
*STEVE JERNIGAN					RECEIVED: 07/21/80 JA: OK			
8047158	04499	3501721173	103		LOUBEN NO 18-1		146,0	
*TENNECO OIL COMPANY					RECEIVED: 07/21/80 JA: OK			
8047168	02661	3504350092	108		A L SPANGLER UNIT #1	PUTNAM	11,9	WESTERN FARMERS ELEC
8047167	02686	3505300000	108		MELKA UNIT #1	WAKITA TREND	16,3	CITIES SERVICE GAS C
*TEXACO INC					RECEIVED: 07/21/80 JA: OK			
8047170	01099	3507321884	103		LINCOLN NORTH UNIT 32-2	SOONER TREND	250,0	PANHANDLE EASTERN PI
8047165	01064	3507321882	103		LNU O/A TR-30 #4	SOUNER TREND	100,0	PANHANDLE EASTERN PI
8047164	01097	3507321919	103		LNU OIA TR 31 #2	SUONER TREND	45,0	PANHANDLE EASTERN PI
8047169	01057	3504921004	103		PVPU TR 2 #5	PAULS VALLEY	40,0	LONE STAR GAS CO
*WORLD EXPLORATION CORP					RECEIVED: 07/21/80 JA: OK			
8047142	06872	3511121631	103		LEGGETT B	OKMULGEE	10,0	PHILLIPS PETROLEUM C
8047143	06873	3511100000	103		LEGGETT D	OKMULGEE	5,0	PHILLIPS PETROLEUM C
**********								
WEST VIRGINIA DEPARTMENT OF MINES*								
**********								
*APPALACHIAN EXPLORATION & DEVEL INC					RECEIVED: 07/18/80 JA: WV			
8047098		4708100498	103		BEAVER COAL COMPANY A-33	TOWN	30,0	COLUMBIA GAS TRANSMI
8047097		4708105030	103		BEAVER COAL COMPANY A-34	TOWN	25,0	COLUMBIA GAS TRANSMI
8047096		4708100509	103		BEAVER COAL COMPANY A-46	SLAB FORK	45,0	COLUMBIA GAS TRANSMI
8047095		4708100518	103		RALEIGH COUNTY COMMISSION #1	TOWN	25,0	COLUMBIA GAS TRANSMI
*ASHLAND EXPLORATION INC					RECEIVED: 07/18/80 JA: WV			
8047092		4703903508	103		BEDFORD LAND NU 16 088471	PAINT CREEK FIELD	110,0	COLUMBIA GAS TRANSMI
*BOMBER GAS & OIL CO					RECEIVED: 07/18/80 JA: WV			
8047094		4701302951	108		JACKSON E SNIDER #8	PLEASANTS	10,6	CONSOLIDATED GAS SUP
*COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 07/18/80 JA: WV			
8047132		4709901613	103		GLENMAYES CO 820570	W VA FIELD AREA B	28,0	COLUMBIA GAS TRANSMI

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047131		4709901614	103		GLENMAYES CO 820571	W VA FIELD AREA B	28,0	COLUMBIA GAS TRANSMI
8047130		4709901615	103		GLENMAYES CO 820572	W VA FIELD AREA B	42,0	COLUMBIA GAS TRANSMI
8047134		4709901609	103		GLENMAYES CO 820573	W VA FIELD AREA B	28,0	COLUMBIA GAS TRANSMI
8047133		4709901610	103		GLENMAYES CO 820576	W VA FIELD AREA B	35,0	COLUMBIA GAS TRANSMI
8047111		4708100481	103		MCCREERY COAL CO 820041	WVA FIELD AREA C	28,0	COLUMBIA GAS TRANSMI
8047121		4708100403	103		MCCREERY COAL CO 820475	W VA FIELD AREA C	35,0	COLUMBIA GAS TRANSMI
8047120		4708100404	103		MCCREERY COAL CO 820476	W VA FIELD AREA C	3,6	COLUMBIA GAS TRANSMI
8047113		4708100434	103		MCCREERY COAL CO 820477	WVA FIELD AREA C	20,0	COLUMBIA GAS TRANSMI
8047114		4708100413	103		MCCREERY COAL CO 820479	WVA FIELD AREA C	40,0	COLUMBIA GAS TRANSMI
8047117		4708100408	103		MCCREERY COAL CO 820482	WVA FIELD AREA C	13,0	COLUMBIA GAS TRANSMI
8047116		4708100409	103		MCCREERY COAL CO 820483	WVA FIELD AREA C	74,0	COLUMBIA GAS TRANSMI
8047119		4708100405	103		MCCREERY COAL CO 820485	WVA FIELD AREA C	38,0	COLUMBIA GAS TRANSMI
8047115		4708100411	103		MCCREERY COAL CO 820486	WVA FIELD AREA C	50,0	COLUMBIA GAS TRANSMI
8047118		4708100406	103		MCCREERY COAL CO 820487	WVA FIELD AREA C	51,0	COLUMBIA GAS TRANSMI
8047081		4708100410	103		MCCREERY COAL COMPANY 820484	W VA FIELD AREA C	45,0	COLUMBIA GAS TRANSMI
8047112		4708100455	103		MCCREERY COAL LAND 820590	WVA FIELD AREA C	28,0	COLUMBIA GAS TRANSMI
8047110		4709901603	103		TCO MINERAL TRACT NO 1 820529	WVA FIELD AREA B	49,0	COLUMBIA GAS TRANSMI
8047135		4709901604	103		TCO MINERAL TRACT NO 1 820530	WVA FIELD AREA B	49,0	COLUMBIA GAS TRANSMI
8047128		4709901621	103		TCO MINERAL TRACT NO 1 820574	W VA FIELD AREA B	28,0	COLUMBIA GAS TRANSMI
8047129		4709901616	103		TCO MINERAL TRACT NO 1 820575	W VA FIELD AREA B	28,0	COLUMBIA GAS TRANSMI
*CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 07/18/80 JA: WV			
8047083		4700196700	103		JAMES F BAYERS 12300	WEST VIRGINIA OTHER A-85	0,0	GENERAL SYSTEM PURCH
*E A BALLENGEE CO					RECEIVED: 07/18/80 JA: WV			
8047108		4708502454	108		DAVIS #1	THOMAS J DAVIS	0,4	CONSOLIDATED GAS SUP
*HARMON GAS CO					RECEIVED: 07/18/80 JA: WV			
8047080		4704320295	108		C B BRAGG #1	UNION DISTRICT	2,9	PENNZOIL CO
*J & J ENTERPRISES INC					RECEIVED: 07/18/80 JA: WV			
8047093		4700100889	103		B-120 BAR-889	PLEASANTS	16,9	CONSOLIDATED GAS SUP
*KEY OIL COMPANY					RECEIVED: 07/18/80 JA: WV			
8047109		4707300814	103		B K MCCULLOUGH #1	LAFAYETTE	18,0	
*NRM PETROLEUM CORPORATION					RECEIVED: 07/18/80 JA: WV			
8047122		4709702000	103		A J BURNER #2	RT FORK OF MIDDLE FORK R	0,0	COLUMBIA GAS TRANSMI
8047126		4709701938	103		D ROWAN #2	MIDDLE FORK RIVER	0,0	COLUMBIA GAS TRANSMI
8047106		4709702025	103		FANELLY #1	MIDDLE FORK RIVER	0,0	COLUMBIA GAS TRANSMI
8047125		4709701953	103		L L MOSS #19	MIDDLE FORK RIVER	0,0	COLUMBIA GAS TRANSMI
8047105		4709702033	103		LEE #1	BUCKHANNON RIVER	0,0	COLUMBIA GAS TRANSMI
8047127		4708300276	103		ROESSING #1	MIDDLE FORK RIVER	0,0	COLUMBIA GAS TRANSMI
8047123		4709701989	103		RUDY ROWAN #1	MIDDLE FORK RIVER	0,0	COLUMBIA GAS TRANSMI
8047124		4709701987	103		WILLA REED #1	MIDDLE FORK RIVER	0,0	COLUMBIA GAS TRANSMI
*PETROLEUM DEVELOPMENT CORP					RECEIVED: 07/18/80 JA: WV			
8047084		4704122538	103		JOSEPH WORKMAN #1	ROANOKE	35,0	CONSOLIDATED GAS SUP
*R M ADKINS TRUSTEE FOR MCCOMAS					RECEIVED: 07/18/80 JA: WV			
8047082		4701100063	108		JOHNSON & BLEDSOE #1 GPA 1003-1007	GUYAN = TRACE	2,9	PENNZOIL CO
*TRIO PETROLEUM CORP					RECEIVED: 07/18/80 JA: WV			
8047107		4702102873	103		HEATER NO 1	ASPINALL-FINSTER	20,0	CONSOLIDATED GAS SUP
8047102		4702102874	103		HEATER NO 2	ASPINALL-FINSTER	20,0	CONSOLIDATED GAS SUP
8047101		4702102876	103		MCPHERSON B NO 1	ASPINALL-FINSTER	20,0	CONSOLIDATED GAS SUP
8047100		4702102877	103		MCPHERSON B NO 2	ASPINALL-FINSTER	20,0	CONSOLIDATED GAS SUP
8047099		4702102890	103		MCPHERSON NO 1	ASPINALL-FINSTER	20,0	CONSOLIDATED GAS SUP
*UNION DRILLING INC					RECEIVED: 07/18/80 JA: WV			
8047089		4709701986	103		BILLY & OLIVE REGER #1 = 1523	UNION DISTRICT	0,0	COLUMBIA GAS TRANSMI
8047090		4709701971	103		DWIGHT CARPENTER #1 = 1535	MEADE DISTRICT	0,0	COLUMBIA GAS TRANSMI

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047087		4709702005	103		PLODA DINGER #1=1675	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8047086		4709702006	103		PLODA DINGER #2 = 1488	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8047091		4709701967	103		GLENN U BUYLES #1 = 1518	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8047088		4709701901	103		MAUDE M LEWIS PRICE #1 = 1493	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8047085		4709702009	103		MAZIE ERVIN #1 1477	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8047079		4709701932	103		OLEN CARPENTER #1 = 1926	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
•WACO OIL AND GAS CO INC					RECEIVED: 07/10/80 JA: WV			
8047104		4702135740	103		CARSON #38	ELLIS	20.0	COLUMBIA GAS TRANSMI
8047103		4702103575	103		WHITING #6A	GILMER STATION	5.0	CONSOLIDATED GAS SUP
**********								
** U.S. GEOLOGICAL SURVEY = METAIRIE,LA								
**********								
•AMOCO PRODUCTION CO					RECEIVED: 07/10/80 JA: LA 3			
•8047061 GO=1206		1771540262	102		OCS=G=2928 #A=2	SOUTH TIMBALIER	1825.0	TRUNKLINE GAS CO
•GULF OIL CORPORATION					RECEIVED: 07/10/80 JA: LA 3			
8047059 GO=1227		1771540304	102		OCS G=3336 WELL #D=0D	SOUTH TIMBALIER	900.0	TEXAS EASTERN TRANS
•OCEAN PRODUCTION CO					RECEIVED: 07/10/80 JA: LA 3			
8047060 GO=1237		1771540057	102		OCS=G=072 #3B	SOUTH PELTO 20 FIELD	850.0	TRANSCONTINENTAL GAS
•CHANDLER & ASSOCIATES INC					RECEIVED: 07/10/80 JA: CO 5			
8047075 CC 1292=0		0510382590	103		FORK UNIT #10=11=1=2 X	N DOUGLAS CREEK	80.0	NORTHWEST PIPELINE C
**********								
** U.S. GEOLOGICAL SURVEY = CASPER,WY								
**********								
•FUEL RESOURCES DEVELOPMENT CO					RECEIVED: 07/10/80 JA: CO 5			
8047076 CC 1290=0		05103062&8	102		0=27=3=101=8	CATHEDRAL	80.0	
•FALCON=COLORADO EXPLORATION INC					RECEIVED: 07/10/80 JA: MT 5			
8047071 M=1300=0		2507121683	103		#1=28 MAVENCAMP	SWANSON CREEK	14.3	MONTANA=DAKOTA UTILI
•MIDLAND& GAS CORPORATION					RECEIVED: 07/10/80 JA: MT 5			
8047078 M=1112=0		2507121373	108		0213 FEDERAL 1=0213	BOWDOIN	22.0	KANSAS=NEBRASKA NATU
•BROWNLIE WALLACE ARMSTRONG & BANDER					RECEIVED: 07/10/80 JA: ND 5			
8047068 ND 1305=0		3305300862	102		FEDERAL #3=44	MONDAK	7.5	MONTANA DAKOTA UTILI
8047067 ND 1306=0		3305300867	102		FEDERAL 24=31	MONDAK	7.5	MONTANA=DAKOTA UTILI
8047070 ND 1302=0		3305300883	102		FEDERAL 29=42	MONDAK	7.5	MONTANA=DAKOTA UTILI
8047069 ND 1303=0		3305300887	102		FEDERAL 7=33	MONDAK	14.5	MONTANA=DAKOTA UTILI
•GAS PRODUCING ENTERPRISES INC					RECEIVED: 07/10/80 JA: UT 5			
8047074 UC1293=0		4304730450	103		NBU 46=26B 30450	NATURAL BUTTES UNIT	42.0	COLORADO INTERSTATE
8047073 UC 1294=0		4304730453	103		NBU 50=19B 30453	NATURAL BUTTES UNIT	37.0	COLORADO INTERSTATE
8047072 UC 1295=0		4304730467	103		NBU 65=25B 30467	NATURAL BUTTES UNIT	97.0	COLORADO INTERSTATE
•BURTON/HAWKS INC					RECEIVED: 07/10/80 JA: WY 5			
8047077 W=1253=0		4901320935	102		NO 25=1 EAST ANTELOPE FEDERAL	EAST ANTELOPE	900.0	
•DEVON CORPORATION					RECEIVED: 07/10/80 JA: WY 5			
8047066 W=257=0		4903721693	103		FEDERAL 1=24	UNDESIGNATED=SEVENMILE G	700.0	NORTHWEST PIPELINE C

OTHER PURCHASERS

8047061 FLORIDA GAS TRANSMISSION CO
8047144 DELHI GAS PIPELINE CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission, on or before September 2, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-85-M

UMI 8081 GA 545V

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD NO	JA	APPLICANT	WELL NAME	ORIG. FERC VOL. NO.	DATE PUB. IN FEDERAL REGISTER	R: Revision or redetermination by Juris. Agency C: Correction to prior Fed. Reg. notice
79-11860	USGS(NM)	Southland Royalty Co	DAVIS #2A	52	7-26-79	R: 103 Denied Rec'd 6-30-80
79-14421	WV	Consolidated Gas Supply	C M HICHMAN 12346	67	8-24-79	R: 108 Approved Rec'd 7-11-80
79-14487	WV	Consolidated Gas Supply	BEACH & ARNOLD 12278	67	8-24-79	R: 108 Approved Rec'd 4-15-80
79-14498	WV	Consolidated Gas Supply	E MAXWELL 12385	67	8-24-79	R: 108 Approved Rec'd 7-11-80
79-14499	WV	Consolidated Gas Supply	L J AYERS 12313	67	8-24-79	R: 108 Approved Rec'd 7-11-80
79-15188	WV	Consolidated Gas Supply	L M STOUT 12257	68	8-24-79	R: 108 Approved Rec'd 4-15-80
79-15254	WV	Consolidated Gas Supply	R DENNIS 11999	68	8-24-79	R: 108 Approved Rec'd 4-15-80
79-15257	WV	Consolidated Gas Supply	BOONE COUNTY COAL 12353	68	8-24-79	R: 108 Approved Rec'd 4-15-80
79-15262	WV	Consolidated Gas Supply	I W STUTTLER 12063	68	8-24-79	R: 108 Approved Rec'd 4-15-80
79-15264	WV	Consolidated Gas Supply	R V McCUE 12268	68	8-24-79	R: 108 Approved Rec'd 7-01-80
79-15189	WV	Consolidated Gas Supply	FITTRO - GERRARD 12486	69	8-24-79	R: 108 Approved Rec'd 7-14-80
79-18812	WV	Pennzoil Co	PENNZOIL CO #A-5D	84	9-28-79	C: 102 Approved
79-19983	WV	Pennzoil Co	R G LINN #1	87	10-02-79	R: 108 Approved Rec'd 3-13-80
79-21403	OK	Phillips Petroleum Co	WILDS A-1	94	10-16-79	C: 102 Approved
79-21938	AR	T L James & Co	NATURAL RESOURCES NO 1	96	10-29-79	C: 102 103 Approved
79-21939	AR	T L James & Co	NATURAL RESOURCES NO A-1	96	10-29-79	C: 102 103 Approved
79-21940	AR	T L James & Co	NATURAL RESOURCES NO C-1	96	10-29-79	C: 102 103 Approved
79-21941	AR	T L James & Co	NATURAL RESOURCES NO D-1	96	10-29-79	C: 102 103 Approved
80-00618	LA	McCormick Oil & Gas	U HOSS SUE HAMNER NO 1	100	10-29-79	C: 103 Approved
80-03848	UT	Bowers Oil & Gas	BOWERS STATE #1-36	117	11-30-79	R: 102 Approved Rec'd 4-07-80
80-09193	WV	Lasco Production Co	FIRE WELL #14	133	1-23-80	R: 108 Approved Rec'd 4-15-80
80-09265	USGS(LA)	Chevron USA, Inc	OCS G-2164 #A-2	133	1-23-80	C: 107 Approved
80-13987	PA	J & J Enterproses Inc	BLAIR S BEATTY #1 CLE-553	151	3-04-80	C: 103 Denied
80-14466	WV	NRM Petroleum Corp	R HARRIS #1	152	3-06-80	R: 108 Approved Rec'd 7-17-80
80-15729	USGS(LA)	ONG Producing Co	A-1452	160	4-02-80	C: 102 Approved
80-16020	NM	Consolidated Oil & Gas	MONTOYA 1-M	160	4-02-80	R: 103 Approved Rec'd 5-02-80
80-17452	OH	Atlas Energy Group	YOUST NO 1-#1144	165	4-10-80	C: Applicant; Purchaser (Columbia Gas)
80-18726	OK	Samson Resources Co	BYRD UNIT NO 1	168	4-10-80	C: 102 103 Approved
80-18861	USGS(NM)	Yates Petroleum Corp	EXXON KU FEDERAL COM #1	168	4-10-80	C: 103 Approved
80-18862	USGS(NM)	Yates Petroleum Corp	RIO PECOS KO FEDERAL #1	168	4-10-80	C: 103 Approved
80-20045	OK	Mobil Oil Corp	WARDEN #1 (17E) UNIT - #2	171	4-10-80	C: 103 Approved
80-20052	OK	Mobil Oil Corp	RALSTIN (29) UNIT - #2	171	4-10-80	C: 103 Approved
80-20053	OK	Mobil Oil Corp	OLA (66) UNIT - #2	171	4-10-80	C: 103 Approved
80-20066	OK	Mobil Oil Corp	EWING #1 (7A) UNIT - #2	171	4-10-80	C: 103 Approved

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD NO	JA	APPLICANT	WELL NAME	ORIG. FERC VOL. NO.	DATE PUB. IN FEDERAL REGISTER	R: Revision or redetermination by Juris. Agency C: Correction to prior Fed. Reg. notice
80-20067	OK	Mobil Oil Corp	CLINKENBEARD (7) UNIT - #2	171	4-10-80	C: 103 Approved
80-20498	WV	Fuel Resources Inc	W HARPER #1	173	4-10-80	C: 103 Denied
80-20499	WV	Fuel Resources Inc	D CARR #1	173	4-10-80	C: 103 Denied
80-20500	WV	Fuel Resources Inc	C WHITE #1	173	4-10-80	C: 103 Denied
80-20942	OK	Mobil Oil Corp	FITZGERALD (110) UNIT - #2	174	4-18-80	C: 103 Approved
80-21686	OK	Mobil Oil Corp	THRALL (5) UNIT - #2	176	4-23-80	C: 103 Approved
80-21687	OK	Mobil Oil Corp	KIRVIN (69) UNIT - #2	176	4-23-80	C: 103 Approved
80-21688	OK	Mobil Oil Corp	WHITE (17) UNIT - #2	176	4-23-80	C: 103 Approved
80-21806	OK	Phillips Petroleum Co	SWAGSU NO 119	176	4-23-80	C: Well Name
80-21889	WV	W H Mosser	MULLINEX #3	176	4-23-80	C: Well Name
80-22035	OH	Oxford Oil Co	HOSTICA COMMUNITY #1	177	4-16-80	C: Well Name
80-22470	TX	Flag-Redfern Oil Co	CONNELL C NO 1	178	4-16-80	C: 108 Approved
80-22663	PA	Union Drilling Co	A F BEEMER 556	178	4-16-80	R: 103 Denied Rec'd 5-08-80
80-22719	OK	Crouch Petroleum Co	GRIFFIS #1	179	4-18-80	R: 103 Denied Rec'd 4-22-80
80-22721	OK	Amoco Petroleum Co	BURROWS GAS UNIT D#1	179	4-18-80	R: 108 Denied Rec'd 4-22-80
80-23236	OK	Mustang Production	MARTIN #1-7	180	4-21-80	C: 103 Approved
80-23255	OK	Samson Resources Co	GREGG UNIT #1	180	4-21-80	C: 102 Approved
80-23952	NM	Amerada Hess Corp	STATE We A #4	181	4-21-80	C: Well Name
80-24578	WV	Eastern American Energy	OPHA WOLFE #1	183	4-29-80	C: 103 Approved
80-25099	LA	Marathon Oil Co	CVSU MOC BODCAW #7	185	5-08-80	C: Rec'd 4-08-80
80-27418	OK	Amerada Hess Co	E VELMA WB SIMS SD UN #425	191	5-23-80	C: Well Name
80-27731	LA	Sun Oil Co	VUC STATE NELSON ET AL #13	191	5-23-80	C: 103 Approved
80-29208	OK	Buttes Resources Co	LEAMON #1	199	5-16-80	C: 103 Approved
80-31431	USGS(LA)	Sun Oil Co	OCS G-1023 #B-14E	203	5-22-80	C: 103 Denied
80-31571	TX	Chevron USA, Inc	J W YOUNG #2	204	5-23-80	C: Well Name
80-35032A	KS	Benson Mineral Group Inc	FAIRLEIGH #1	214	6-12-80	C: Control Number; 108 Approved
80-35032B	KS	Benson Mineral Group Inc	FAIRLEIGH #1 (ENCHANCED REC.)			C: Control Number; 108 ER Denied
80-36004	OK	El Paso Natural Gas Co	FRANCIS #1	217	6-25-80	R: 108 Denied Rec'd 8-04-80
80-41088	TX	Travellers Oil Co	CARPENTER "C" #1	234	7-18-80	C: 103 Approved
80-43302	TX	Kadane Oil Co	BRATCHER-HAGSDALE UNIT #2	242	7-31-80	C: Well Name

[FR Doc. 80-25032 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-C

[Docket No. CP79-161]

Midwestern Gas Transmission Co.; Notice of Petition To Amend

August 12, 1980.

Take notice that on July 23, 1980, Midwestern Gas Transmission Company (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-161 a petition to amend the order issued September 25, 1979, in said docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the term of its resale of volumes of natural gas purchased from TransCanada PipeLines Ltd. (TransCanada) and Great Lakes Gas Transmission Company (Great Lakes) to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and Natural Gas Pipeline Company of America (Natural) and also to add an additional point of delivery for sales to Tennessee at Niagara, New York, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order of September 25, 1979, authorized it to sell to Tennessee, Northern and Natural up to 350,000 Mcf per day of imported natural gas purchased by Petitioner from TransCanada and Great Lakes and up to a total quantity of 132,000,000 Mcf for a term up to and including October 31, 1980.

Petitioner proposes herein to extend the term of resale of gas to Tennessee, Northern and Natural to October 31, 1981. Petitioner further proposes to operate an additional delivery point for sales to Tennessee only at the existing interconnection of the facilities of TransCanada and Tennessee at Niagara Falls, New York, for delivery to Tennessee of up to 80,000 Mcf per day. Petitioner states the price that it would charge Tennessee for volumes which may be delivered at the said proposed additional delivery point would be the price per Mcf paid by Petitioner to TransCanada plus $.01 per Mcf. Petitioner asserts that volumes delivered at the proposed delivery point would be in lieu of and not in addition to equal volumes to which Tennessee would be otherwise entitled to receive under the present authorization.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25034 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-475]

Montana-Dakota Utilities Co.; Notice of Application

August 12, 1980.

Take notice that on August 1, 1980, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP80-475 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and for permission and approval to abandon certain natural gas facilities on its interstate natural gas transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate pipeline and compressor facilities necessary to purchase and process new reserves from the western North Dakota area. It is stated that additional daily volumes of gas to be handled require enlargement of pipeline capacity between Sidney, Montana, and the Cabin Creek Compressor Plant. Moreover, Applicant states that it has recently started purchasing gas from Koch Hydrocarbon Company (Koch) which has informed Applicant that a new processing plant becoming operational in August 1980 would also significantly increase the volumes available.

Although it is asserted that Koch's plant would have the capacity to delivery 50,000 Mcf per day upon completion, Applicant has designed its proposed facilities for construction in two stages. Applicant states that the facilities to be constructed in 1980 would be able to handle 30,000 Mcf from Koch, while those scheduled to be constructed in 1981 would allow the taking of the full 50,000 Mcf from the Koch plant. It is contended that limited manpower, economic constraints, and possible inclement weather preclude the construction of all facilities proposed during the balance of 1980.

Applicant states that the facilities proposed for 1980 construction are approximately 10.3 miles of 12¾-inch O.D. loopline between its Morgan Creek Compressor Station and Glendive in Dawson County, Montana, and approximately 14.3 miles of 12¾-inch O.D. natural gas transmission loopline beginning in Fallon County, Montana, and terminating at the Cabin Creek Compressor Station in Wilbaux County, Montana.

In conjunction with increasing the capacity of the system between Morgan Creek and Cabin Creek, Applicant also proposes to abandon and remove approximately 23.5 miles of 8⅝-inch O.D. pipeline beginning in Fallon County, Montana, and terminating in Dawson County, Montana, which is in very poor condition and has a bad leak history. Applicant reports that the entire 23.5 miles of loopline would not be replaced in 1980, resulting in a shortened loop line and low terminal pressure at the Cabin Creek Compressor Station. Since gas at the lower pressure must be injected to storage, Applicant also proposes to construct additional loopline in 1981 to allow gas to free flow to storage.

It is stated that the facilities proposed for 1981 construction are 23.9 miles of 12¾-inch O.D. transmission loop line from a point in Dawson County, Montana, to a point in Richland County, Montana, an additional 18.8 miles of 12¾-inch O.D. loopline between Glendive, Wilbaux County, Montana, and Cabin Creek in Dawson County, Montana, the replacement of 4.1 miles of 8-inch and 12-inch pipeline with 16-inch O.D. pipeline from Glendive north terminating in Dawson County, and the addition of 800 horsepower of compression to the Morgan Creek Compressor Station, Dawson County, Montana, to raise the total installed horsepower to 3400. The 1981 facilities would allow the Morgan Creek to Cabin Creek line section to transport 82,300 Mcf to the Cabin Creek Station and put the gas at the Cabin Creek Station under sufficiently high pressure to permit the free flow of gas to storage, Applicant states.

Applicant further states that it proposes to remove and retire in 1981 approximately 0.3 mile of 8⅝-inch O.D. and 3.7 miles of 12¾-inch O.D. transmission line in Dawson County, Montana.

Applicant states that the proposed new pipeline facilities would be designed for 1000 psig operation but would not operate higher than the maximum allowable operation pressure for the old line. Applicant estimates the total cost of construction to be $9,173,600 which would be financed through internally generated funds and/or short term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25035 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP78-434]

Northwest Pipeline Corp.; Notice of Petition To Amend

August 12, 1980.

Take notice that on July 21, 1980, Northwest Pipeline Corporation (Petitioner), 315 East Second South Street, Salt Lake City, Utah 84111, filed in Docket No. CP78-434 a petition to amend the order issued March 13, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the sale to, and exchange with, Mountain Fuel Supply Company (Mountain Fuel), of natural gas from additional wells and acreage in Uintah County, Wyoming, all as more fully set forth in the petition to amend.

It is stated that the order issued March 13, 1979, in Docket No. CP78-434 authorized Petitioner to deliver up to 1,000 Mcf of natural gas per day to Mountain Fuel at a point near the Amoco-Gulf #1 well located in Section 2, Township 14 North, Range 121 West, Uintah County, Wyoming. Petitioner states that it was also authorized to sell to Mountain Fuel up to 25 percent of the volumes so delivered. Mountain Fuel redelivers such volumes to Petitioner, less the volumes that Mountain Fuel redelivers such volumes to Petitioner, less the volumes that Mountain Fuel purchased, at an existing point of interconnection between Mountain Fuel and Applicant in Section 21, Township 18 North, Range 111 West, Sweetwater County, Wyoming.

Petitioner indicates that the sale and exchange authorized by the order of March 13, 1979, commenced on April 11, 1979. Petitioner says that since then additional volumes of natural gas have become available to it from 5 wells in Uintah County, Wyoming. According to Petitioner, it has acquired an interest in 3 wells in the Yellow Creek Unit, the Amoco-Gulf #2, Amoco-Gulf #3 and Amoco-Anschutz #1, which are subject to the May 30, 1978, gas purchase contract with Chevron. On April 1, 1980, and June 2, 1980, this contract was amended to add acreage encompassing the Gulf-Grace Herman Federal #1-12 well and the Evanston Townsite Unit C-1 well, it is asserted.

Petitioner states that on February 7, 1980, and June 19, 1980, Petitioner and Mountain Fuel amended a gas purchase, transportation, and exchange agreement between them dated June 22, 1978, so that production purchased by Petitioner from the new wells would be subject to the agreement.

Petitioner proposes to sell and exchange natural gas from the additional acreage pursuant to the amended gas purchase, transportation and exchange agreement. In addition, Applicant proposes to use additional mutually agreed upon delivery points to Mountain Fuel as necessary from time to time to deliver to Mountain Fuel any additional volumes, up to 1,000 Mcf of gas per day, acquired by Petitioner in the area subject to the agreement.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the peoceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25036 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-456]

Northwest Pipeline Corp.; Notice of Application

August 12, 1980.

Take notice that on July 21, 1980, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84111, filed in Docket No. CP80-456 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional compressor unit at its existing North Douglas Creek Compressor Station in Rio Blanco County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is in the process of constucting pipeline interconnections among its Rangely Area gathering systems in order to enhance operational flexibility and production reliability in those systems. Upon completion of these gathering system interties, Applicants states, it intends to utilize its North Douglas Creek Compressor Station as a central location to compress the volumes of gas produced in three gathering systems,

namely, North Douglas Creek, Philadelphia Creek and East Douglas Creek. The existing small, skid-mounted rental compressor units in the above-mentioned Philadelphia Creek and East Douglas Creek gathering systems would be retained in place as back-up units until no longer necessary to ensure uninterrupted production from those systems, it is asserted. Applicant further asserts that when no longer needed, the Philadelphia Creek and East Douglas Creek compressor units would be removed pursuant to budget-type authorization.

Applicant states that the current deliverability from the North Douglas Creek, Philadelphia Creek and East Douglas Creek gathering systems is approximately 13,000 Mcf per day. Applicant also states that there are 75 wells in the three systems which have been drilled and which would be connected during 1980 and 1981. The estimated additional deliverability attributable to these wells would be approximately 6,800 Mcf per day by the end of 1980 and 11,700 Mcf per day by the end of 1981, it is said. Because of this increased deliverability, Applicant asserts, it would need the capability to compress up to 19,800 Mcf per day by early 1981 and 22,400 Mcf per day by late 1981 at its North Douglas Creek Compressor Station. Applicant further asserts that future development in the three gathering areas would be sufficient to maintain an average deliverability of approximately 20,000 Mcf per day over the next ten years.

In order to produce efficiently and deliver into Applicant's main lines the volumes of gas which would be available from the said interconnected gathering systems, Applicant asserts, it would need additional compression at its North Douglas Creek Compressor Station. Accordingly, Applicant proposes to construct and operate a permanent 1,650 horsepower compressor unit in a compressor building, complete with appurtenances, located inside the perimeter fencing of the existing North Douglas Creek Compressor Station site.

The estimated cost of the proposed facilities is $2,050,500 which cost would be financed from funds on hand or from short-term borrowing which would be repaid from funds generated under a permanent form of financing, it is said.

Any persons desiring to be heard or to make any protest with reference to said application should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25037 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2088]

Oroville-Wyandotte Irrigation District; Notice Granting Intervention

August 12, 1980.

The Oroville-Wyandotte Irrigation District (Licensee) filed on November 23, 1979 an application for amendment of its license for the existing South Fork Project No. 2088. The Licensee seeks authorization to construct a 90-inch diameter penstock, an outdoor-type powerhouse, and a switchyard adjacent to the powerhouse. Public notice of the application was given on June 11, 1980 with July 11, 1980 as the last day for interested parties to file comments, protests, or petitions to intervene.

On July 2, 1980 the State of California Department of Fish and Game filed a petition to intervene in order to protect its interests in the fishery, wildlife, and recreational resources of the affected area. On July 8, 1980 Pacific Gas and Electric Company filed a petition to intervene in order to protect its contractual interests in the output of Project No. 2088. No response to either petition has been received.

Intervention by the petitioners appears to be in the public interest.

Pursuant to § 375.302 of the Commission's regulations, 45 Fed. Reg. 21216 (1980), amending 18 CFR 3.5(a) 1979, as promulgated by Federal Energy Regulatory Commission rulemaking RM78-19 (issued August 14, 1979), the Petitioner is permitted to intervene in this proceeding subject to the Commission's rules and regulations under the Federal Power Act, 16 U.S.C. 791(a)-825(r). Participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25038 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2905]

State of Vermont, Saxon Industries Inc. and Citizens Utilities Co.; Notice Granting Intervention

August 12, 1980.

The Attorney General, Saxon Industries Inc. (Saxon) and Citizens Utilities Company (Citizens), filed a petition to intervene in the proceeding, upon the application filed on January 18, 1979 by Vermont Public Power Supply System Inc. (VPPSS) for a preliminary permit to be known as the Missisquoi Project No. 2905 to be located on the Missisquoi River in Franklin and Orleans Counties, Vermont.

The Attorney General contends in his petition that the proposed project will have an impact on the people of the State of Vermont, on the river, and on the environment of the area. Moreover, the project will impose various State regulatory responsibilities on Vermont.

Saxon is a corporation in Vermont which owns a paperboard plant and associated dam and hydropower facilities on the Missisquoi River in Sheldon Springs, Vermont. Saxon contends in its petition that: The proposed project will materially interfere with their Sheldon Springs, hydroelectric facilities which will in turn adversely affect their paperboard manufacturing operations.

Citizens contends in its petition that the proposed project will result in the inundation of a hydroelectric plant located by Phelps Falls which is owned and operated by Citizens. Additionally, the proposed project would adversely affect Citizens property and water rights on Jay Branch and Big Falls and other locations on the Missisquoi River.

No response to the Attorney General, Saxon, or the Citizens' petitions to intervene was filed with the Commission.

Intervention in these applications for a preliminary permit by the Attorney General, Saxon, and the Citizens appears to be in the public interest.

Pursuant to § 375.302 of the Commission's regulations, 45 FR 21216 (1980), *amending* 18 CFR 3.5(a) (1979), the above named petitioners are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)-825(r). Participation of the Intervenors shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene. The admission of the Intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25040 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-441]

Texas Gas Transmission Corp.; Notice of Application

August 12, 1980.

Take notice that on July 7, 1980, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301. filed in Docket No. CP80-441 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a meter station and related facilities in Clay County, Indiana, and for permission and approval to abandon the Brazil Sales Meter Station and related facilities located in Clay County, Indiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and remove the Brazil Sales Meter Station and related facilities located on Applicant's Brazil line (South Spur) approximately one mile southwest of Brazil, Clay County, Indiana. It is stated that the station is a point of delivery to Terre Haute Gas Company (Terre Haute), an existing resale gas customer, and that the station has physically deteriorated to the point that replacement is deemed advisable.

Applicant further proposes to construct and operate a dual three-inch meter run station and related facilities on Applicant's Martinsville-Brazil six-inch pipeline in Clay County, Indiana, in order to replace the meter station which Applicant proposes to abandon. Applicant asserts that the new facility would provide Applicant and Terre Haute with increased operating flexibility and allow Applicant to operate the Brazil Line (South Spur) at a lower pressure. It is stated that the relocation of the sales meter station would not result in an increase in Terre Haute's existing contract demand or quantity entitlement.

Applicant estimates that the facilities to be abandoned have a salvage value of $1,400.31. Applicant further estimates that the cost of the proposed new facilities would be $22,400, which would be financed by cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25041 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-467]

Texas Gas Transmission Corp., Notice of Application

August 12, 1980.

Take notice that on July 28, 1980, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP80-467 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its Arketex No. 3 Sales Meter Station and approximately 333 feet of related pipeline located in Clay County, Indiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that the subject sales meter station has been used as a delivery point for the sale of natural gas to the Arketex Ceramic Corporation pursuant to an industrial sales contract between Applicant and Arketex dated March 1, 1966. Applicant proposes to abandon the meter station and appurtenant facilities as the last delivery of natural gas at this delivery point was in June 1976. It is asserted that the plant has since been closed and the property sold with no future sales of natural gas anticipated.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to

V 45 A G 1 8 8 0 UMI

the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25042 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-454]

Town of Gunnison, Miss. Applicant and Texas Gas Transmission Corp., Respondent; Notice of Application

August 12, 1980.

Take notice that on July 18, 1980, the Town of Gunnison, Mississippi (Applicant), Town Hall, Gunnison, Mississippi 38746, filed in Docket No. CP80-454 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Texas Gas Transmission Corporation (Texas Gas) to establish physical connection of its transportation facilities with the proposed facilities of, and sell natural gas to, Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Texas Gas has two 26-inch lines, one 30-inch line, and one 36-inch gas transmission line in Washington County, Mississippi. Applicant requests connection to any one of these lines approximately 12 miles east of its corporate limits. This connection, together with the proposed distribution system, would consist of approximately 15.2 miles of lines, it is stated.

Applicant asserts that this connection is necessary to provide its citizens and businesses with natural gas. The maximum daily requirement and total annual system demand are estimated to be as follows:

Maximum Day Requirement

Year	Residential	Mcf	Small commercial	Mcf	Total Mcf
1981	275	275	3	45	320
1982	285	285	3	45	330
1983	295	295	3	45	340

3 Year Total System Demand and Consumption

End of year	Residential	Small commercial	Total annual Mcf
1981	22,830	4,520	27,350
1982	24,640	4,520	29,160
1983	25,940	4,520	30,460

Applicant estimates that the proposed gas system would cost $600,000.00 which cost would be met through bonds sold to the Farmers Home Administration.

The proposed time to commence selling gas is 1 year from the date of approval by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 11, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25043 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-466]

United Gas Pipe Line Co.; Notice of Application

August 12, 1980.

Take notice that on July 28, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-466 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a natural gas transportation service for Trunkline Gas Company (Trunkline, all as more full set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to transport up to 1,000 Mcf per day for the account of Trunkline, pursuant to an October 24, 1978, transportation agreement. Applicant further states that the service has never been implemented and that it and Trunkline have cancelled the October 24, 1978, agreement. Applicant proposes to abandon the service because the source of gas originally contemplated to be transported has been depleted.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve, to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25039 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1913]

Richard G. Baker; Filing

August 7, 1980.

Take notice that on August 1, 1980 Richard G. Baker (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24934 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1910]

James S. Bartman; Filing

August 7, 1980.

Take notice that on August 1, 1980, James S. Bartman (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24935 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1914]

Harold M. Class; Filing

August 7, 1980.

Take notice that on August 1, 1980, Harold M. Class (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.

Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24936 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-580]

Cleveland Electric Illuminating Co.; Filing

August 7, 1980.

The filing company submits the following:

Take notice that on August 1, 1980, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 30 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on August 1, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with ▯▯ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24937 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-581]

Florida Power & Light Co.; Filing

August 7, 1980.

The Filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on August 1, 1980 tendered for filing a document entitled "Exhibit I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service."

FPL states that under the Exhibit, FPL will transmit power and energy for the City of Homestead (Homestead) as is required by Homestead in the implementation of its interchange agreement with the City of Vero Beach.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Exhibit be made effective immediately. FPL states that copies of the filing were served on the Director of Utilities of the City of Homestead.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules

of Practice and Procedure (18 CFR 1.8

Vice President, Pennsylvania Electric

[Docket No. ER80-559]

of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24938 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1921]

William H. Hirst; Filing

August 7, 1980.

Take notice that on August 1, 1980, William H. Hirst (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.
Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24939 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-559]

Kansas Power & Light Co.; Filing

August 7, 1980.

The filing Company submits the following:

Take notice that The Kansas Power & Light Company (KPL) on July 29, 1980, tendered for filing proposed new increased Schedules of Rates and Charges for Wholesale Service—Rural Electric Cooperatives and for Wholesale Service—Municipalities to supersede and replace those rate provisions of KPL's contract rate schedules presently in effect and on file with the Commission which relate to seventeen (17) wholesale cooperative customers and forty-one (41) wholesale municipal customers of KPL located in the State of Kansas, as follows:

Wholesale cooperative customer	Rate schedule	Superseding and replacing
1. Ark Valley Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 6 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 148.
2. Brown-Atchison Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 149.
3. Butler Rural Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 150.
4. C. & W. Rural Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 151.
5. Coffey County Rural Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 152.
6. D. S. & O. Rural Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 153.
7. Doniphan Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 4 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 154.
8. Flint Hills Rural Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 155.
9. Kaw Valley Electric Cooperative Company, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 156.
10. Leavenworth-Jefferson Electric Cooperative, Inc	Schedule RCW-80	Supplement No. 6 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 157.
11. Lyon County Electric Cooperative, Inc	Schedule RCW-80	Supplement No. 4 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 158.
12. Nemaha-Marshall Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 159.
13. Ninnescah Rural Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 4 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 160.
14. P. R. & W. Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 161.
15. The Smoky Hill Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 162.
16. Smoky Valley Electric Cooperative Association, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate schedule No. 163.
17. Twin Valley Electric Cooperative, Inc	Schedule RCW-80	Supplement No. 3 Schedule RCW-79 (Revised) in KPL's FERC Rate Schedule No. 164.

Wholesale full requirements municipal customer	Rate schedule	Superseding and replacing
1. City of Morrill	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 121.
2. City of Seneca	Schedule WSM-80	Schedule MHW-63 or Schedule WSM-79 (Revised), whichever is applicable to KPL's FERC Rate Schedule No. 126 as of the effective date thereto of Schedule WSM-80.
3. City of Waterville	Schedule WSM-80	Schedule MHW-63 or Schedule WSM-79 (Revised), whichever is applicable to KPL's FERC Rate Schedule No. 128 as of the effective date thereto of Schedule WSM-80.
4. City of Scranton	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 129.
5. City of Wathena	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 147.
6. City of Goff	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 165.
7. City of Netawaka	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 166.
8. City of Muscotah	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 167.
9. City of Severance	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 171.
10. City of Altamont	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 172.
11. City of Marion	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 173.
12. City of Oswego	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 174.

Wholesale full requirements municipal customer	Rate schedule	Superseding and replacing
13. City of Enterprise	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 175.
14. City of Chapman	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 176.
15. City of Eudora	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 178.
16. City of DeSoto	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 179.
17. City of Axtell	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 180.
18. City of Robinson	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 181.
19. City of Hillsboro	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 188.
20. City of Reserve	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 190.
21. City of St. Marys	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 195.
22. City of Vermillion	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 196.
23. City of Alma	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 197.
24. City of Centralia	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 198.
25. City of Elwood	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 200.
26. City of Troy	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 201.
27. City of Toronto	Schedule WSM-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 203.

Wholesale partial requirements municipal customer	Rate schedule	Superseding and replacing
1. City of Herington	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 177.
2. City of Horton	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 182.
3. City of Clay Center	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 183.
4. City of Wamego	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 184.
5. City of Sabetha	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 185.
6. City of Minneapolis	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 186.
7. City of Sterling	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 187.
8. City of Holton	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 189.
9. City of Lamed	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 191.
10. City of Ellinwood	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 192.
11. City of Stafford	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 193.
12. City of Osage City	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 194.
13. City of Lindeborg	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 198.
14. City of St. John	Schedule WTU-80	Schedule WSM-79 (Revised) in KPL's FERC Rate Schedule No. 202.

The proposed changes would increase revenues from jurisdictional sales and service by $4,578,079 based on the twelve-month period ending May 31, 1981. The changes embodied in the new Schedules of Rates and Charges include revised rates for Capacity Charges and Energy Charges.

KPL states that under its presently effective rates therefor its rate of return on the allocated cost of service to wholesale cooperative customers is 6.684%. Such rates of return on allocated cost of service to the wholesale full requirements municipal customers is 7.289%, and to the wholesale partial requirements municipal customers is 10.053%. The increased annual revenues would result in rates of return of 10.214% on the cooperative class of wholesale service, 10.221% on the full requirements municipal class of service and 10.218% on the partial requirements municipal class of service based on the twelve-month period ended May 31, 1981. The most recent adjustment in rates for KPL's wholesale customers was in 1979.

Copies of the filing were served upon KPL's seventeen wholesale cooperative customers and forty-one wholesale municipal customers and upon the State Corporation Commission of the State of Kansas.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24940 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-140]

Phelps Dodge Corp.; Application for Adjustment

August 7, 1980.

On July 29, 1980, Phelps Dodge Corporation filed with the Federal Energy Regulatory Commission an Application for Adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301 *et seq.*) wherein the applicant seeks relief from certain incremental pricing regulations found in the Interim Rule in Docket No. RM80-16, issued on December 27, 1978 (45 FR 21, January 2, 1980).

The Applicant states that it is a direct industrial customer, consuming natural gas purchased from El Paso Natural Gas Company in industrial applications subject to Phase I incremental pricing. The Applicant has also acquired supplies of natural gas for fuel oil displacement and such "self-help" gas is being transported by El Paso and intrastate pipelines in Texas under Part 282 of the Commission's regulations and a Certificate of Eligible Use of Natural Gas to Displace Fuel Oil, issued November 6, 1979, by the Economic Regulatory Administration pursuant to CFR Part 595, in Docket No. 79-CERT-095.

Under the Interim Rule in Docket No. RM80-16, these "self-help" volumes were required to be included in the calculation of daily volumes and prorated as such between exempt and non-exempt uses in the incremental pricing program. The final order in Docket No. RM80-16, Order No. 86, issued May 8, 1980, modified the rule on "self-help" supplies to permit the designation of these supplies to non-exempt uses in certain circumstances set forth in § 282.207(c)(i)-(iii). The Applicant claims that it may now designate self-help volumes to specific end uses under Order No. 86, and so it now seeks an adjustment which would authorize a refund of the incremental surcharges collected by El Paso under the proration methodology set in the Interim Rule, which surcharges are not collectible under the Final Rule in Order No. 86.

with the Commission and are available

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to be heard or to protest this adjustment shall file a petition to intervene or protest in accordance with the provisions of § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All petitions to intervene or protest shall be filed with the Secretary of the Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426, and must be filed within 15 days after publication of this notice in the Federal Register. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make the protestant a party to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24941 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1916]

James R. Reesman; Filing

August 7, 1980.

Take notice that on August 1, 1980, James R. Reesman (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.
Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24942 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-54]

Southland Oil Co. and VGS Corp.; Filing of Petition for Review Under 42 U.S.C. 7194

August 7, 1980

Take notice that Southland Oil Company, VGS Corporation on June 20, 1980 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 21, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 5142, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24943 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-583]

Wisconsin Power & Light Co.; Filing

August 7, 1980

The filing Company submits the following:

Take notice that on August 1, 1980, Wisconsin Power and Light Company (WPL) tendered for filing a revised Wholesale Power Agreement dated January 29, 1980, between the Columbus Rural Electric Cooperative and WPL. WPL states that this Agreement will supersede an existing Wholesale Power Agreement dated October 29, 1973 previously designated as WPL Rate Schedule FPC No. 103.

WPL requests a proposed effective date of March 31, 1980 and, therefore, requests waiver of the notice requirements of the Commission's regulations. WPL states that a copy of the revised Wholesale Power Agreement and the filing have been provided to the Columbus Electric Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24944 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1916]

Thomas P. Wolff; Filing

August 7, 1980.

Take notice that on August 1, 1980, Thomas P. Wolff (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.
Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24945 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-20]

Algonquin Gas Transmission Co.; Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

August 11, 1980.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on July 31, 1980, tendered for filing 53rd Revised Sheet No. 10, and in the alternative Substitute 53rd Revised Sheet No. 10, and 2nd Revised Sheet No. 10–B to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that these sheets are being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. The rates as shown on Sheet No. 10 reflect the following: (i) an adjustment to amortize the June 30, 1980 balances in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account 191) and (ii) an adjustment to reflect higher purchased gas costs to be charged by its supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), to Algonquin Gas proposed to be effective August 1, 1980, under Texas Eastern's Fifty-fourth Revised Sheet No. 14D; Sheet No. 10–B reflects Projected Incremental Pricing Surcharges for the period September, 1980 through February, 1981.

Algonquin Gas states that 53rd Revised Sheet No. 10 and Substitute 53rd Revised Sheet No. 10 synchronize with alternate tariff sheets 52nd Revised Sheet No. 10 and Substitute 52nd Revised Sheet No. 10, which were filed as part of Algonquin Gas' motion on July 28, 1980, to place its suspended Docket No. RP80–72 rates into effect on August 1, 1980 and to comply with the Commission directive in Docket No. RP80–72 that revised rates be filed to eliminate the cost of facilities not in service by June 30, 1980.

Algonquin Gas requests that the Commission accept for filing effective September 1, 1980, 2nd Revised Sheet No. 10–B and in the alternative either 53rd Revised Sheet No. 10 or Substitute 53rd Revised Sheet No. 10 whichever Algonquin Gas states will synchronize with whichever superseded sheet is accepted by the Commission pursuant to Algonquin Gas' July 28, 1980 motion, i.e., either 52nd Revised Sheet No. 10 or Substitute 52nd Revised Sheet No. 10.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24897 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP74-81 and RP74-82]

Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Settlement Conference

August 11, 1980.

An informal settlement conference in the above referenced proceeding will be held August 21, 1980, at 10:00 a.m. in Room 8402 at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All interested parties are invited to attend to discuss settlement of all issues.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24898 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. OR80-3]

Conoco Inc.; Petition for an Order of Exemption

August 7, 1980.

Take notice that on June 5, 1980, Conoco Inc. (Conoco) tendered for filing a petition, pursuant to Section 5(f)(2)[1] of the Outer Continental Shelf Lands Act, as amended, (the Act), for an order exempting certain facilities jointly owned by Conoco and others from the requirements of Section 5(f)(1) of the Act. Conoco states that it jointly owns with Arco Oil & Gas Company and Getty Oil Company a crude oil gathering system, operated by Conoco, which serves the West Cameron Block 66 Field, Gulf of Mexico and which transports a mixed stream of oil, water and low pressure gas to the Gibbstown (Louisiana) Separation, Treating and Storage Facility located on the Intercoastal Canal.

The pipeline system presently serves four platforms in the West Cameron Block 66 Field. Active field development is progressing and additional production platforms will be added to the system. All of platforms in the field either now produce or are expected to produce water and low pressure gas in association with oil into the pipeline system.[2]

The pipeline system consists of a 10¾" OD (10" nominal) main line that extends from the West Cameron Block 66A Platform to Gibbstown. Two 8⅝" OD (8" nominal) feeder lines connect the B and D platforms to the main 10" line. The C platform is connected to the system by a 6⅝" OD (6" nominal) line which extends from the platform to an underwater side connection on the 8⅝" line serving the B platform.

Each platform has or will have two types of oil production: high pressure and low pressure wells. The high pressure oils production is separated from its associated gas by platform separators. This gas is sold to Tennessee Gas Pipeline Company. The oil and part of the produced water enter the oil pipeline system. The full well stream, oil, water and associated gas, from the low pressure wells enter the oil pipeline system and the combined streams flow to Gibbstown.

At Gibbstown, the products of the 10" pipeline are separated, treated and stored. The gas is compressed and sold to Tennessee Gas Pipeline Company, while the produced water is injected into disposal wells. The treated oil in storage is sold and loaded into barges. According to the petitioner, the oil coming to Gibbstown is not at pipeline quality before it is separated and treated.

The pipeline owners are currently negotiating to sell an undivided interest in the pipeline system to Sonat Exploration Company and others (Sonat Group) for transportation of their crude from East Cameron Blocks 45 and 46. The Sonat Group's production and the anticipated increases in the pipeline owners production from the West

[1] 43 U.S.C. § 1334(f)(2).

[2] Conoco holds no Natural Gas Act § 7(c) certificate of public convenience and necessity with respect to these facilities.

Cameron Block 66 Field and East Cameron Block 47 are reasonably expected to require substantially all of the excess capacity of the system.

Conoco states that Section 5(f)(1) of the Act appears to require the pipeline owners to provide access to owner and nonowner shippers on the Gibbstown Gathering System. Conoco, on behalf of the pipeline owners, petitions the Federal Energy Regulatory Commission for an order exempting the Gibbstown Gathering system from the access requirements of section 5(f)(1) of the Act in accordance with Section 5(f)(2) of the Act. Section 5(f)(2) provides:

The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or separated, dehydrated, or otherwise processed.

Conoco states that the Gibbstown Gathering System falls under this definition as a pipeline which feeds into a facility were oil and gas are separated, dehydrated and processed, and as such it is entitled to the exemption above stated.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1100.70 and 1100.38 of the Commission's Rules of Practice and Procedure for Oil Pipeline Matters (49 CFR 1100.70, 1100.38). All such petitions or protests should be filed on or before September 10, 1980. Protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25899 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1919]

Ralph W. Conrad; Filing

August 8, 1980.

Take notice that on August 1, 1980, Ralph W. Conrad (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Director, Pennsylvania Electric Company ("Penelec"), Public Utility.
Senior Vice President, Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24919 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-584]

Consolidated Edison Co. of New York, Inc.; Filing

August 11, 1980.

The filing Company submits the following:

Take notice that Consolidated Edison Company of New York, Inc. (Con Edison) on August 4, 1980, tendered for filing as a rate schedule an executed agreement dated July 3, 1980 between Con Edison and Public Service Electric and Gas Company (PSE&G). The proposed rate schedule provides for the interruptible transmission of power and energy by Con Edison.

The rate schedule provides for a transmission charge of 2.0 mills per kilowatt-hour for the energy transmission each hour.

Con Edison requests waiver of the notice requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective July 8, 1980 in accordance with the anticipated utilization by the parties.

Con Edison states that a copy of its filing was served on PSE&G.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24900 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-22 (PGA80-5)]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

August 11, 1980.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on August 1, 1980 tendered for filing, pursuant to Sections 12 (PGA clause), 12A (Incremental Pricing Surcharges), 13 (Research, Development and Demonstration Cost Adjustment) and 14 (Louisiana First Use Tax Adjustment) of the General Terms and Conditions of its tariff revisions to its FERC Gas Tariff, Third Revised Volume No. 1. The revisions, shown on Twenty-Second Revised Sheet No. 16 and Third Revised Sheet No. 72-C, provide for Consolidated's semi-annual PGA to be effective September 1, 1980.

Consolidated has included in its filing:

(a) Rate changes from pipeline suppliers in the amount of $21.6 million;

(b) Rate changes from producers suppliers in the amount of $12.6 million;

(c) A rate change to reflect a surcharge of 15.54¢ per dekatherm to recoup amounts accumulated in Account 191, Unrecovered Purchased Gas Costs; and,

(d) A rate change to reflect a Louisiana First Use Tax Adjustment of (0.41¢) to flow through overcollections.

Additionally, consolidated stated that the rates contained on Twenty-Second Revised Sheet No. 16 reflect old pipeline production (production from wells drilled prior to January 1, 1973, on leases acquired prior to October 8, 1979) on a cost-of-service basis and new pipeline production priced pursuant to the Natural Gas Policy Act of 1978. In past filings Consolidated has filed alternative tariff sheets including old pipeline production priced pursuant to the NGPA, and those tariff sheets have been rejected (Consolidated Gas Supply Corp., Docket No. RP79-22, order issued January 30, 1979). Consolidated has petitioned for court review of the Commission's orders rejecting its tariff sheets based on NGPA treatment of old pipeline production.

The filing in this proceeding on the basis of the inclusion of old pipeline production on a cost-of-service basis is without prejudice to Consolidated's position that old pipeline production is entitled to NGPA treatment and the outcome of the court proceedings. Consolidated has omitted the alternative filing to avoid the burden of Commission rejection of a tariff sheet, to be followed by another application for rehearing and petition for court review. Consolidated reserves its right to make collections based on NGPA treatment for old pipeline production.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24901 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-572]

Dayton Power & Light Co.; Filing

August 11, 1980.

The filing company submits the following:

Take notice that on July 28, 1980, Dayton Power and Light Company (DPL) submitted for filing Modification No. 1 to the Interconnection Agreement between DPL and Cincinnati Gas and Electric Company (CG&E). Modification No. 1 revises the Conservation Energy Schedule of the Interconnection Agreement.

DPL further submits that it is not feasible to estimate the transactions or revenues under the revised Conservation Energy Schedule. Accordingly, no estimates have been submitted.

A copy of this filing has been sent to CG&E and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before September 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24902 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1915]

F. Allen Donofrio; Filing

August 8, 1980.

Take notice that on August 1, 1980, F. Allen Donofrio (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Director, Pennsylvania Electric Company ("Penelec"), Public Utility.
Senior Vice President, Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24906 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1920]

Mary M. O'Donovan; Filing

August 8, 1980.

Take notice that on August 1, 1980, Mary M. O'Donovan (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.
Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24914 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1816]

A. Joseph Dowd; Filing

August 8, 1980.

Take notice that on July 24, 1980, A. Joseph Dowd (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Director, Applalachian Power Company, Electric Utility.
Secretary, Cardinal Operating Company, Electric Utility.
Vice President, Columbus and Southern Ohio Electric Company, Electric Utility.
Vice President, Indiana & Michigan Electric Company, Electric Utility.
Vice President and Director, Kentucky Power Company, Electric Utility.
Vice President and Director, Kingsport Power Company, Electric Utility.
Vice President, Michigan Power Company, Electric Utility.
Vice President and Director, Ohio Power Company, Electric Utility.
Vice President, Wheeling Electric Company, Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24898 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-126]

Equitable Gas Co.; Application and Rate Filing

August 11, 1980.

Take notice that on July 31, 1980, Equitable Gas Company ("Applicant"), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. RP80-126, an application pursuant to Section 7(c) of the Natural Gas Act and Section 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing: (1) Applicant to make firm service deliveries to New Jersey Natural Gas Company ("New Jersey") for resale for its residential and commercial customers, and to make optional service deliveries to New Jersey for its general system sales, all in Morris, Monmouth, Ocean, and Cape May Counties, New Jersey; and (2) the operation and use of existing delivery points with Texas Eastern Transmission Corporation for delivery of natural gas to New Jersey by pipeline displacement; and Applicant filed in Docket No. RP80-126, pursuant to Section 4 of the Natural Gas Act and § 154.62 of the Commission's regulations for the establishement of initial rates for the gas to be sold to New Jersey by Equitable under a new Rate Schedule GS-2 (to become effective November 1, 1980) pursuant to firm service and optional basis contract; and (2) the inclusion of Purchased Gas Adjustment Clause in Equitable's GS-2 Rate Schedule, in conformance with § 154.38 of the Commission's regulations.

Equitable states that compes of this filing have been served on New Jersey Natural Gas Company, the Pennsylvania Public Utility Commission, and the New Jersey Board of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *August 29,* 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commisison and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24904 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1912]

Robert E. Gehman; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert E. Gehman (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Treasurer, Metropolitan Edison Company ("Met-Ed"), Public Utility.
Treasurer, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24922 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1909]

Robert B. Heist; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert B. Heist (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Secretary, Metropolitan Edison Company ("Met-Ed"), Public Utility.
Secretary, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24921 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-68]

Interstate Power Co.; Application

August 11, 1980.

Take notice that on August 5, 1980, Interstate Power Company (Applicant) filed an application with this Commission seeking an order pursuant to Section 204 of the Federal Power Act for authorization to issue short-term promissory notes and/or commercial paper, not to exceed an aggregate of $40 million outstanding at any one time, to be issued on or before December 31, 1981 and to mature not later than December 31, 1982. Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

Applicant states that the requested authorization will provide additional funds for its 1980-81 construction expenditures estimated to be $63,591,000 and will enable it to maintain cash working funds at normal levels.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C., 10426, petitions to intervene or protests in accordance with the requirements of the Commission's

rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24910 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 255]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued August 11, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
*GAB DEVELOPMENT CORP					RECEIVED: 07/17/80 JAI LA			
8046968	80-2525	17073208?3	108		PHILLIPS #1 #153713	MONROE	1.0	MID LOUISIANA GAS CO
8046967	80-2526	17073208?4	108		PHILLIPS #2 #153714	MONROE	4.6	MID LOUISIANA GAS CO
8046966	80-2527	17073208?5	108		PHILLIPS #3 #153715	MONROE	5.3	MID LOUISIANA GAS CO
8046965	80-2528	17111210?3	108		RUBERSON #1 #153603	MONROE	3.2	MID LOUISIANA GAS CO
8046969	80-2522	17111210?8	108		SMITH #1 #153204	MONROE	7.8	MID LOUISIANA GAS CO
8046970	80-2523	17111210?9	108		SMITH #2 #153205	MONROE	10.0	MID LOUISIANA GAS CO
8046969	80-2524	17111210?0	108		SMITH #3 #153206	MONROE	2.1	MID LOUISIANA GAS CO
*GLENDA PETROLEUM CORP					RECEIVED: 07/17/80 JAI LA			
8047025	80-2619	17111206?3	108		EXXON 14 NO 3 S/N 147914	MONROE	20.0	MID LOUISIANA GAS CO
8047026	80-2620	17111206?4	108		EXXON 14-4 S/N 147915	MONROE	17.0	MID LOUISIANA GAS CO
8047002	80-2624	17111205?9	108		M G MODGE A-1 S/N 147372	MONROE	19.0	MID LOUISIANA GAS CO
8047001	80-2625	17111205?0	108		M G MODGE A-2 S/N 147373	MONROE	21.0	MID LOUISIANA GAS CO
8047000	80-2626	17111205?1	108		M G MODGE A-3 S/N 147374	MONROE	22.0	MID LOUISIANA GAS CO
8046999	80-2627	17111205?0	108		MINERAL LANDS #A-1 S/N 147079	MONROE	13.0	MID LOUISIANA GAS CO
8046998	80-2628	17111205?1	108		MINERAL LANDS #A-2 S/N 147080	MONROE	14.0	MID LOUISIANA GAS CO
8046997	80-2629	17111205?2	108		MINERAL LANDS #A-3 S/N 147081	MONROE	16.0	MID LOUISIANA GAS CO
8047023	80-2621	17111205?8	108		RABUN HEIRS NO 2 S/N 147360	MONROE	22.0	MID LOUISIANA GAS CO
8047006	80-2622	17111205?8	108		RABUN HEIRS NO 5 S/N 147535	MONROE	19.0	MID LOUISIANA GAS CO
8047003	80-2623	17111205?9	108		RABUN HEIRS NO 6 S/N 147536	MONROE	17.0	MID LOUISIANA GAS CO
*GREAT SOUTHERN OIL & GAS CO INC					RECEIVED: 07/17/80 JAI LA			
8046943	80-2634	17001207?1	103		ARLEY BARKER ET AL NO 1	CROWLEY	130.0	CONOCO INC
*GRECIAN GAS CO					RECEIVED: 07/17/80 JAI LA			
8046957	80-2537	17073213?8	108		GUTHRIE ESTATE #1	MONROE	14.0	PETRO-LEWIS FUNDS IN
8046956	80-2538	17073213?9	108		GUTHRIE ESTATE #2	MONROE	14.0	PETRO-LEWIS FUNDS IN
8046955	80-2539	17073213?0	108		GUTHRIE ESTATE #3	MONROE	14.0	PETRO-LEWIS FUNDS IN
8046954	80-2540	17073213?1	108		GUTHRIE ESTATE #4	MONROE	14.0	PETRO-LEWIS FUNDS IN
*HADDOX PETROLEUM CO INC					RECEIVED: 07/17/80 JAI LA			
8046961	80-2532	17111217?8	108		BROWN-MEEKS #2	MONROE	10.3	MID LOUISIANA GAS CO
8046959	80-2534	17073211?1	108		INABNET B #1	MONROE	7.9	MID LOUISIANA GAS CO
8046960	80-2533	17073211?2	108		INABNET B #2	MONROE	7.9	MID LOUISIANA GAS CO
*JIM V HADDOX					RECEIVED: 07/17/80 JAI LA			
8046962	80-2531	17111217?0	108		BROWN-MEEKS #1	MONROE	7.8	MID LOUISIANA GAS CO
8046963	80-2530	17073202?1	108		INABNET #2	MONROE	8.7	MID LOUISIANA GAS CO
8046964	80-2529	17073202?3	108		INABNET #4	MONROE	8.7	MID LOUISIANA GAS CO
*JOHN D CLAY EXPLORATION INC					RECEIVED: 07/17/80 JAI LA			
8047057	80-2631	17021205?2	103		VUA OLINKRAFT A NO 1	NORTH GRAYSON	80.3	LOUISIANA INTRASTATE
*R D LANKFORD JR & LEN DRLG CO					RECEIVED: 07/17/80 JAI LA			
8046941	80-2520	17111218?7	108		MC GOUGH #3	MONROE	15.0	UNITED GAS PIPE LINE
8046942	80-2519	17111218?6	108		MCGOUGH #4	MONROE	15.0	UNITED GAS PIPE LINE
8046940	80-2521	17111218?8	108		MCGOUGH #6	MONROE	15.0	UNITED GAS PIPE LINE

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046944	80-2517	17067218?9	108		TENSAS DELTA #10	MONROE	15.0	UNITED GAS PIPE LINE
8046943	80-2518	17067218?0	108		TENSAS DELTA #11	MONROE	15.0	UNITED GAS PIPE LINE
8046972	80-2516	17067218?8	108		TENSAS DELTA #9	MONROE	15.0	UNITED GAS PIPE LINE
*MAY PETROLEUM INC					RECEIVED: 07/17/80 JAI LA			
8047056	80-2632	17055201?1	103		L MIDBYP RA SUA MC MCCONNELL #1 (1*	DUBON	567.0	TRANSCONTINENTAL PIP
*MID LOUISIANA GAS COMPANY					RECEIVED: 07/17/80 JAI LA			
8046984	80-2456	17111218?8	103		MLGC FEE GAS #788	MONROE	66.6	MID LOUISIANA GAS CO
8047008	80-2440	17111218?6	103		MLGC FEE GAS #816	MONROE	33.6	MID LOUISIANA GAS CO
8047006	80-2441	17111219?7	103		MLGC FEE GAS #817	MONROE	55.8	MID LOUISIANA GAS CO
8046990	80-2448	17111219?9	103		MLGC FEE GAS #819	MONROE	75.6	MID LOUISIANA GAS CO
8046988	80-2450	17111219?1	103		MLGC FEE GAS #821	MONROE	30.6	MID LOUISIANA GAS CO
8046987	80-2451	17111219?2	103		MLGC FEE GAS #822	MONROE	66.6	MID LOUISIANA GAS CO
8046986	80-2452	17111219?3	103		MLGC FEE GAS #823	MONROE	52.8	MID LOUISIANA GAS CO
8046985	80-2453	17111219?8	103		MLGC FEE GAS #828	MONROE	36.9	MID LOUISIANA GAS CO
8046989	80-2449	17111219?0	103		MLGC FEE GAS #830	MONROE	59.9	MID LOUISIANA GAS CO
8046983	80-2455	17111219?6	103		MLGC FEE GAS #836	MONROE	68.0	MID LOUISIANA GAS CO
8046982	80-2456	17111219?7	103		MLGC FEE GAS #837	MONROE	63.6	MID LOUISIANA GAS CO
8046981	80-2457	17111219?8	103		MLGC FEE GAS #838	MONROE	60.8	MID LOUISIANA GAS CO
8046980	80-2458	17111219?9	103		MLGC FEE GAS #839	MONROE	25.1	MID LOUISIANA GAS CO
8046996	80-2442	17111219?0	103		MLGC FEE GAS #840	MONROE	42.4	MID LOUISIANA GAS CO
8047030	80-2460	17111219?1	103		MLGC FEE GAS #841	MONROE	40.4	MID LOUISIANA GAS CO
8047029	80-2461	17111219?2	103		MLGC FEE GAS #842	MONROE	25.2	MID LOUISIANA GAS CO
8047028	80-2462	17111219?9	103		MLGC FEE GAS #843	MONROE	55.2	MID LOUISIANA GAS CO
8047027	80-2463	17111219?0	103		MLGC FEE GAS #844	MONROE	25.2	MID LOUISIANA GAS CO
8047026	80-2464	17111219?1	103		MLGC FEE GAS #845	MONROE	52.8	MID LOUISIANA GAS CO
8046995	80-2443	17111219?3	103		MLGC FEE GAS #847	MONROE	48.0	MID LOUISIANA GAS CO
8046994	80-2444	17111219?7	103		MLGC FEE GAS #848	MONROE	40.0	MID LOUISIANA GAS CO
8046993	80-2445	17111219?8	103		MLGC FEE GAS #849	MONROE	22.0	MID LOUISIANA GAS CO
8046992	80-2446	17111219?9	103		MLGC FEE GAS #850	MONROE	49.2	MID LOUISIANA GAS CO
8046991	80-2447	17111219?0	103		MLGC FEE GAS #851	MONROE	54.0	MID LOUISIANA GAS CO
8047031	80-2459	17111220?8	103		MLGC FEE GAS #860	MONROE	66.0	MID LOUISIANA GAS CO
*PRINCE PRODUCTION CO					RECEIVED: 07/17/80 JAI LA			
8047038	80-2490	17111212?3	108		EXXON 87	MONROE	8.0	GAS TRANSPORTATION C
8046950	80-2544	17111217?1	108		FEE 105 NO 1	MONROE	7.9	UNITED GAS PIPE LINE
8046949	80-2545	17111217?2	108		FEE 105 NO 2	MONROE	7.9	UNITED GAS PIPE LINE
8046948	80-2546	17111217?5	108		FEE 105 NO 3	MONROE	7.9	UNITED GAS PIPE LINE
8047037	80-2491	17111216?8	108		FEE 68 #1	MONROE	3.4	UNITED GAS PIPELINE
8047036	80-2492	17111217?0	108		FEE 68 #2	MONROE	3.5	UNITED GAS PIPELINE
8047035	80-2493	17111216?9	108		FEE 69 #1	MONROE	12.0	UNITED GAS PIPELINE
8046951	80-2543	17111217?3	108		FEE 69 #2	MONROE	12.0	UNITED GAS PIPE LINE
8047012	80-2367	17067212?7	108		GEORGIA PACIFIC A #1	MONROE	7.8	UNITED GAS PIPELINE
8047040	80-2498	17067213?0	108		GEORGIA PACIFIC A #10	MONROE	7.8	UNITED GAS PIPELINE
8047022	80-2557	17067213?1	108		GEORGIA PACIFIC A #11	MONROE	7.8	UNITED GAS PIPELINE
8047021	80-2558	17067213?2	108		GEORGIA PACIFIC A #12	MONROE	7.8	UNITED GAS PIPELINE
8047020	80-2559	17067212?3	108		GEORGIA PACIFIC A #13	MONROE	7.8	UNITED GAS PIPELINE
8047019	80-2560	17067212?4	108		GEORGIA PACIFIC A #14	MONROE	7.8	UNITED GAS PIPELINE
8047018	80-2561	17067212?5	108		GEORGIA PACIFIC A #15	MONROE	7.8	UNITED GAS PIPELINE
8047051	80-2552	17067213?7	108		GEORGIA PACIFIC A #16	MONROE	7.8	UNITED GAS PIPELINE
8047007	80-2553	17067213?3	108		GEORGIA PACIFIC A #17	MONROE	7.8	UNITED GAS PIPELINE
8047005	80-2554	17067213?4	108		GEORGIA PACIFIC A #18	MONROE	7.8	UNITED GAS PIPELINE
8047040	80-2555	17067213?8	108		GEORGIA PACIFIC A #19	MONROE	7.8	UNITED GAS PIPELINE
8047011	80-2568	17067212?8	108		GEORGIA PACIFIC A #2	MONROE	7.8	UNITED GAS PIPELINE

VOLUME 255 PAGE 003

JC NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047039	80-2556	1706721318	108		GEORGIA PACIFIC A #20	MONROE	7.8	UNITED GAS PIPELINE
8047010	80-2569	1706721289	108		GEORGIA PACIFIC A #3	MONROE	7.8	UNITED GAS PIPELINE
8047034	80-2494	1706721311	108		GEORGIA PACIFIC A #6	MONROE	7.8	UNITED GAS PIPELINE
8047033	80-2495	1706721312	108		GEORGIA PACIFIC A #7	MONROE	7.8	UNITED GAS PIPELINE
8047032	80-2496	1706721291	108		GEORGIA PACIFIC A #8	MONROE	7.8	UNITED GAS PIPELINE
8047050	80-2497	1706721313	108		GEORGIA PACIFIC A #9	MONROE	7.8	UNITED GAS PIPELINE
8047017	80-2562	1706721315	108		GEORGIA PACIFIC B #1	MONROE	7.8	UNITED GAS PIPE LINE
8047016	80-2563	1706721328	108		GEORGIA PACIFIC B #3	MONROE	7.8	UNITED GAS PIPE LINE
8047015	80-2564	1706721314	108		GEORGIA PACIFIC B #4	MONROE	7.8	UNITED GAS PIPE LINE
8047014	80-2565	1706721329	108		GEORGIA PACIFIC B #6	MONROE	7.8	UNITED GAS PIPE LINE
8047013	80-2566	1706721330	108		GEORGIA PACIFIC B #7	MONROE	7.8	UNITED GAS PIPELINE
8047043	80-2304	1711121634	108		GRAYLING #1	MONROE	13.5	UNITED GAS PIPELINE
8046976	80-2312	1711121658	108		GRAYLING #10	MONROE	13.5	UNITED GAS PIPELINE
8046975	80-2313	1711121659	108		GRAYLING #11	MONROE	13.5	UNITED GAS PIPELINE
8046974	80-2314	1711121662	108		GRAYLING #12	MONROE	13.5	UNITED GAS PIPELINE
8046973	80-2315	1711121669	108		GRAYLING #13	MONROE	13.5	UNITED GAS PIPELINE
8047042	80-2305	1711121637	108		GRAYLING #2	MONROE	13.5	UNITED GAS PIPELINE
8047041	80-2306	1711121639	108		GRAYLING #3	MONROE	13.5	UNITED GAS PIPELINE
8047009	80-2307	1711121640	108		GRAYLING #4	MONROE	10.3	UNITED GAS PIPELINE
8046971	80-2308	1711121643	108		GRAYLING #5	MONROE	13.5	UNITED GAS PIPELINE
8046979	80-2309	1711121644	108		GRAYLING #6	MONROE	13.5	UNITED GAS PIPELINE
8046978	80-2310	1711121656	108		GRAYLING #7	MONROE	13.5	UNITED GAS PIPELINE
8046977	80-2311	1711121657	108		GRAYLING #9	MONROE	13.5	UNITED GAS PIPELINE
8046947	80-2547	1707320909	108		MO PAC RAILROAD CO #1	MONROE	4.3	P & G GATHERING SYST
8046946	80-2548	1707320912	108		MO PAC RAILROAD CO #2	MONROE	4.3	P & G GATHERING SYST
8047036	80-2549	1707320914	108		MO PAC RAILROAD CO #3	MONROE	4.3	P & G GATHERING SYST
8047053	80-2550	1707320913	108		MO PAC RAILROAD CO #4	MONROE	4.3	P & G GATHERING SYST
8047052	80-2551	1707320918	108		MO PAC RAILROAD CO #5	MONROE	4.3	P & G GATHERING SYST
8047048	80-2499	1706721128	108		TENBAR DELTA E #1	MONROE	84.2	UNITED GAS PIPE LINE
8047047	80-2500	1706721165	108		TENBAR DELTA E #2	MONROE	16.4	UNITED GAS PIPE LINE
8047046	80-2501	1706721166	108		TENBAR DELTA E #3	MONROE	16.4	UNITED GAS PIPE LINE
8047045	80-2502	1706721205	108		TENBAR DELTA E #4	MONROE	16.4	UNITED GAS PIPE LINE
8047044	80-2503	1706721206	108		TENBAR DELTA E #5	MONROE	16.4	UNITED GAS PIPE LINE
*RELIANCE TR-JV					RECEIVED: 07/17/80 JAI LA			
8046952	80-2542	1711122138	103		M D GREEN #1	MONROE	35.0	TEXAS GAS TRANSMISSI
8046953	80-2541	1711122284	103		M D GREEN #3	MONROE	40.0	TEXAS GAS TRANSMISSI
*RELIANCE TRUST					RECEIVED: 07/17/80 JAI LA			
8046950	80-2535	1711122108	108		OLINKRAFT #35	MONROE	43.0	TEXAS GAS TRANSMISSI
*BANNER DRILLING & SERVICE INC					RECEIVED: 07/17/80 JAI LA			
8047038	80-2530	1703121089	103		MOBB RA SU 21 MALONE #1	MOLLY	650.0	LOUISIANA INTRASTATE
*THE STONE OIL CORPORATION					RECEIVED: 07/17/80 JAI LA			
8047053	80-2533	1705320587	102		MARIE REDD NO 1	ANDRUS COVE	1277.0	
MICHIGAN DEPARTMENT OF NATURAL RESOURCES								
*DART OIL & GAS CORPORATION					RECEIVED: 07/16/80 JAI MI			
8046718		2103500000	102		CALVERT #2-31 (33,033)	WINTERFIELD 29 FIELD	20.0	CONSUMERS POWER CO
8046719		2111300000	102		POHL #6-36 (33,813)	AETNA	20.0	CONSUMERS POWER CO
*MGW DEVELOPMENT CO					RECEIVED: 07/16/80 JAI MI			
8046717		2102500000	102		GERALD AND HAZEL HEIBLER 1-16	LEE 16C FIELD	480.0	MICHIGAN GAS UTILITI
MONTANA BOARD OF OIL & GAS CONSERVATION								
*WESTERN NATURAL GAS COMPANY					RECEIVED: 07/15/80 JAI MT			

VOLUME 255 PAGE 004

JC NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046782	5-80-118	2504121386	108		EEN 1-29 T-33N R-14E	FREDND	22.0	NORTHERN NATURAL GAS
8046784	5-80-117	2504121838	108		KAERCHER 1-19 T-32N R-14E	TIGER RIDGE	1.0	NORTHERN NATURAL GAS
8046785	5-80-115	2504121106	108		KAPKA 1-13 T-32N R-14E	TIGER RIDGE	4.0	NORTHERN NATURAL GAS
8046786	5-80-116	2504121987	108		KAPKA 5-24 T-32N R-14E	TIGER RIDGE	14.0	NORTHERN NATURAL GAS
8046787	5-80-120	2504121984	108		KAPKA 6-24 T-32N R-14E	TIGER RIDGE	4.0	NORTHERN NATURAL GAS
8046783	5-80-119	2504121984	108		STATE 1-36 T-33N R-13E	FREDND	12.0	NORTHERN NATURAL GAS
OKLAHOMA CORPORATION COMMISSION								
*ANSON CORPORATION					RECEIVED: 07/16/80 JAI OK			
8046737	04374	3501721830	102		BRISCOE #1-28	S GEARY	0.0	MICHIGAN-WISCONSIN P
*ANSON CORPORATION					RECEIVED: 07/16/80 JAI OK			
8046770	04520	3501520838	103		BAR D #1-36	E EARLEY	547.0	DELHI GAS PIPELINE C
*ANADARKO PRODUCTION COMPANY					RECEIVED: 07/16/80 JAI OK			
8046738	03671	3513921213	102		BAKER M NO 1 WELL	NORTH RICHLAND CENTER	184.0	PANHANDLE EASTERN PI
8046764	04962	3500721562	102		PFEIFER A NO 1 (LOWER MORROW)	MOCANE	1005.0	PANHANDLE EASTERN PI
*ARCO OIL AND GAS COMPANY					RECEIVED: 07/16/80 JAI OK			
8046728	00974	3500721362	103		EVERETT WHISENHUNT COMB #3	LAVERNE	109.5	MICHIGAN WISCONSIN P
*ARCO OIL AND GAS COMPANY					RECEIVED: 07/16/80 JAI OK			
8046756	03967	3504721640	102		C FRANCIS VOSKUHL #1	SOUTH DOUGLAS	36.5	ARCO OIL & GAS CO
8046776	03968	3504721661	102		CHARLES N KRIPPES #1	SOUTH DOUGLAS	73.0	ARCO OIL & GAS CO
*BETTIS BOYLE & STOVALL					RECEIVED: 07/16/80 JAI OK			
8046726	00638	3506320761	103		CHRIS PEARSON #3	N W GERTY	70.0	TRANSOK PIPELINE CO
*CEJA CORP					RECEIVED: 07/16/80 JAI OK			
8046742	04326	3504700000	108		CAMPBELL NO 1	HUNTER	9.0	ARKANSAS LOUISIANA G
8046741	04325	3504700000	108		HOOVER NO 1	NORTHWEST HUNTER	0.0	ARKANSAS LOUISIANA G
*CHASE EXPLORATION CORP					RECEIVED: 07/16/80 JAI OK			
8046785	00904	3507180840	103		MILLER #1-28 (CO#1)	UNNAMED	28.4	CITIES SERVICE GAS C
*CLYDE H BECKER					RECEIVED: 07/16/80 JAI OK			
8046722	04450	3507100000	102		GROBE NO 2	(NORTH NEWKIRK) UNNAMED	0.0	GARFIELD GAS GATHERI
8046723	04451	3507100000	102		THOMAS NO 1	(NORTH NEWKIRK) UNNAMED	0.0	GARFIELD GAS GATHERI
*CLYDE H BECKER					RECEIVED: 07/16/80 JAI OK			
8046773	04449	3506900000	102		GROBE NO 1	(NORTH NEWKIRK) UNNAMED	0.0	GARFIELD GAS GATHERI
*COBTON ENERGY INC					RECEIVED: 07/16/80 JAI OK			
8046791	04328	3510921285	103		LOAPMAN #3	DELAWARE CHILDRESS	2.0	PRODUCTION OIL CORP
*CROUCH PETROLEUM COMPANY					RECEIVED: 07/16/80 JAI OK			
8046730	04216	3505500000	108		BYROM 1-C 035-56444	BLOOMINGTON	1.8	DAMSON OIL CORP
*DEMCO OIL & GAS COMPANY					RECEIVED: 07/16/80 JAI OK			
8046735	04518	3507121682	103		FRANKLIN #1	UNNAMED	76.8	CHASE EXPLORATION CO
8046736	04519	3507121683	103		PATTEN #1	UNNAMED	1250.0	CHASE EXPLORATION CO
*EAGLE PETROLEUM CORP					RECEIVED: 07/14/80 JAI OK			
8046729	04193	3507322108	103		CHURCH #1	BOOMER TREND	58.8	PHILLIPS PETROLEUM C
*EAGLE PETROLEUM CORP					RECEIVED: 07/16/80 JAI OK			
8046757	04195	3507322125	103		MOORE #1	BOOMER TREND	347.5	PHILLIPS PETROLEUM C
*F C D LTD					RECEIVED: 07/16/80 JAI OK			
8046753	02951	3504721367	103		BODEB 1-7	EAST ENID	10.0	GRACE PETROLEUM CORP
8046752	02953	3509321979	103		PUZZELL 1-13	RINGWOOD	108.0	AMINOIL USA INC
*FALCON PETROLEUM COMPANY					RECEIVED: 07/16/80 JAI OK			
8046739	03714	3500700000	102		CLENNEY NO 1	WILDCAT (SOUTH BALKO)	401.0	TRANSWESTERN PIPELINE
8046740	03715	3500700000	102		SCHUSTER NO 1	WILDCAT (SOUTH BALKO)	274.0	TRANSWESTERN PIPELIN
*GEODYNE RESOURCES INC					RECEIVED: 07/16/80 JAI OK			
8046779	01865	3504721548	103		HELBERG 34-1	N E ENID	22.6	CHAMPLIN PETROLEUM C

UMI 0 8 8 1 G A 5 4 V

VOLUME 255 PAGE 005

JO NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
•GEORGE P POST DBA POST PETROLEUM CO			RECEIVED: 07/16/80 JA: OK			
8046744	03699	3511920981 103	OLSON #1	NORTH EAST WAYNOKA	368.0	PANHANDLE EASTERN PI
•HANOVER MANAGEMENT CO			RECEIVED: 07/16/80 JA: OK		60.8	PRODUCERS GAS CO
8046732	04487	3504520680 102	MIXSON #1		60.8	PRODUCERS GAS CO
8046732	04487	3504520680 103	MIXSON #1			
•MORAN BROS INC			RECEIVED: 07/16/80 JA: OK			
8046724	00115	3501900000 108	BADLER NO 2	NORTH MEALDON	18.0	AMINOIL USA INC
•MORAN BROS INC			RECEIVED: 07/16/80 JA: OK			
8046726	00116	3501900000 108	BADLER NO 1	NORTH MEALDON	18.0	AMINOIL USA INC
•NOVA ENERGY CORPORATION			RECEIVED: 07/16/80 JA: OK			
8046731	04246	3509120817 102	DOEBELI #1-16	WEST MINCO	1460.0	MICHIGAN WISCONSIN P
•OKLAHOMA PETROLEUM MANAGEMENT CORP			RECEIVED: 07/16/80 JA: OK			
8046755	03110	3511920983 103	KATZ NO 1	N E MOUNT HOPE	36.5	COLORADO GAS COMPANY
•PRODUCTION OIL CORP			RECEIVED: 07/16/80 JA: OK			
8046760	04593	3510521858 103	MALBELL LM-100-VII	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046746	04588	3510521855 103	MALBELL LM-101-VII	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046762	04596	3510521853 103	MALBELL LM-103-VII	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046747	04587	3510521861 103	MALBELL LM-104-VI	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046777	04591	3510521854 103	MALBELL LM-105-VI	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046750	04584	3510521857 103	MALBELL LM-106-VI	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046759	04592	3510521847 103	MALBELL LM-107-IX	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046748	04585	3510521846 103	MALBELL LM-108-IX	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046769	04598	3510521849 103	MALBELL LM-109-XX	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046761	04595	3510521850 103	MALBELL LM-110-IX	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046778	04590	3510521852 103	MALBELL LM-111-IX	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046745	04589	3510521836 103	MALBELL LM-89-IV	NORTHCHILDERS	16.4	CITIES SERVICE GAS C
8046763	04597	3510521835 103	MALBELL LM-90-IV	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046748	04586	3510521843 103	MALBELL LM-91-IV	NORTH CHILDERS	1042.5	CITIES SERVICE GAS C
8046765	04598	3510521836 103	MALBELL LM-98-VII	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046768	04594	3510521839 103	MALBELL LM-99-VII	NORTH CHILDERS	16.4	CITIES SERVICE GAS C
8046781	04148	3510521795 103	JOE STEWART 5	NORTH CHILDERS FIELD	16.4	CITIES SERVICE GAS C
8046743	04161	3510521710 103	JOE STEWART 8	NORTH CHILDERS FIELD	16.4	CITIES SERVICE GAS C
•RED BUD OIL CORP			RECEIVED: 07/16/80 JA: OK			
8046766	07512	3511122155 108	BINGMAN #2	OKMULGEE	30.0	PHILLIPS PETROLEUM C
•ROBERT E EBERLY SR			RECEIVED: 07/16/80 JA: OK			
8046780	03148	3513100000 103	31-11 STONER	WEST DACONA	0.0	MICHIGAN-WISCONSIN P
•SEARCH DRILLING CO			RECEIVED: 07/16/80 JA: OK			
8046734	04415	3500721604 103	SEABO #1	B GRAY	183.0	NORTHERN NATURAL GAS
•SOUTHERN UNION EXPLORATION COMPANY			RECEIVED: 07/16/80 JA: OK			
8046756	04309	3513520075 102	MANKINS #1	WILDCAT	730.0	ARKANSAS LOUISIANA G
•SOVEREIGN EXPLORATION CO			RECEIVED: 07/16/80 JA: OK			
8046733	04349	3500721610 103	SOVERIGN #1 BOURQUIN	UNALLOCATED	100.0	DELMI GAS PIPELINE C
•TENNECO OIL COMPANY			RECEIVED: 07/16/80 JA: OK			
8046727	00868	3501120935 103	MURRAY 2-25	OKEENE NW	365.0	DELMI GAS PIPELINE C
•WALKER & WITMROW INC			RECEIVED: 07/16/80 JA: OK			
8046721	04527	3501721264 103	ALBERT KRUGER 36-1	N W RICHLAND	73.0	CONOCO INC
8046720	04526	3501721228 103	BERNEY #36-1	N W RICHLAND	73.0	PHILLIPS PETROLEUM C
•WALKER & WITMROW INC			RECEIVED: 07/16/80 JA: OK			
8046774	04525	3501700000 103	HELEN OGLE #31-1	N W RICHLAND	182.0	CONOCO INC
8046773	04524	3501721320 103	LOUISE MACH #13-1	YUKON	292.0	CONOCO INC
8046772	04523	3501721266 103	SMITH #12-2	YUKON	264.0	CONOCO INC
8046771	04521	3501721291 103	TREDWAY #18-8	YUKON	219.0	DELMI GAS PIPELINE C

VOLUME 255 PAGE 006

JO NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
•WOMLD EXPLORATION CORP			RECEIVED: 07/16/80 JA: OK			
8046767	03701	3511121631 103	LEGGETT A	OKMULGEE	20.0	PHILLIPS PETROLEUM C
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
**********						
•ALFRED E KNOBLER			RECEIVED: 07/18/80 JA: WV			
8046851		4704302118 103	TROY ADKINS K-94	LAUREL	68.8	COLUMBIA GAS TRANSMI
•ALLEGHENY & WESTERN ENERGY CORP			RECEIVED: 07/18/80 JA: WV			
8046793		4703501484 107	JOHN J PFOST FARM #9	WASHINGTON	8.0	COLUMBIA GAS TRANSMI
8046796		4703501482 107	JOHN J PFOST FARM WELL NO 7	WASHINGTON	18.0	COLUMBIA GAS TRANSMI
•APPALACHIAN EXPLORATION & DEVEL INC			RECEIVED: 07/18/80 JA: WV			
8046807		4700501390 108	SHONK LAND COMPANY #2	SHERMAN	9.1	CONSOLIDATED GAS SUP
•BILL L DEAN SPECIAL RECEIVER			RECEIVED: 07/18/80 JA: WV			
8046837		4703900941 108	P M CHAFINS TWN #1	KERMIT	10.2	COLUMBIA GAS TRANSMI
8046835		4703900939 108	MILLER & MARVEY TWN #2	KERMIT	10.2	COLUMBIA GAS TRANSMI
8046836		4703900940 108	P M MARVEY TWN #3	KERMIT	10.2	COLUMBIA GAS TRANSMI
•CENTRAL GAS CO			RECEIVED: 07/18/80 JA: WV			
8046830		4708504404 103	E HALL #2	CAIRO	21.6	CONSOLIDATED GAS SUP
8046832		4708504450 103	P LEMON #4	MACFARLAN	85.2	CONSOLIDATED GAS SUP
8046831		4708504406 103	P LEMON #3	MACFARLAN	21.6	CONSOLIDATED GAS SUP
8046833		4708504496 103	P PRIBBLE HEIRS #10	MACFARLAN	0.0	CONSOLIDATED GAS SUP
•CHABE PETROLEUM			RECEIVED: 07/18/80 JA: WV			
8046819		4706102686 103	BRUFFEY #2	VANDALIA	30.0	
8046818		4706102569 103	HARDMAN #1	VANDALIA	30.0	
8046820		4706102860 103	MCCUE #2	VANDALIA	30.0	
•CHESTERFIELD CORP			RECEIVED: 07/18/80 JA: WV			
8046841		4709701396 108	SUDER #1 - UPS-1396-OD	UNION	3.6	PETRO-LEWIS CORP
•COLUMBIA GAS TRANSMISSION CORP			RECEIVED: 07/18/80 JA: WV			
8046891		4705900012 103	COTIGA DEVELOPMENT 820563	N VA FIELD AREA B	19.0	COLUMBIA GAS TRANSMI
8046815		4703902846 103	DAVID WARD 663 820510	N VA FIELD AREA A	34.0	COLUMBIA GAS TRANSMI
8046816		4703902849 103	DAVID WARD 820513	N VA FIELD AREA A	58.0	COLUMBIA GAS TRANSMI
8046883		4705500076 103	JAMES T MCCREERY COMPANY 820593	N VA FIELD AREA C	21.0	COLUMBIA GAS TRANSMI
8046817		4705500067 103	MCCREERY COAL COMPANY 820478	N VA FIELD AREA C	79.0	COLUMBIA GAS TRANSMI
8046881		4705500069 103	MCCREERY COAL COMPANY 820481	N VA FIELD AREA C	20.0	COLUMBIA GAS TRANSMI
8046882		4705500074 103	MCCREERY COAL LAND 820591	N VA FIELD AREA C	45.0	COLUMBIA GAS TRANSMI
8046884		4705500075 103	MCCREERY COAL LAND 820592	N VA FIELD AREA C	45.0	COLUMBIA GAS TRANSMI
8046887		4705900881 103	MINGO-WYOMING COAL 820370	N VA FIELD AREA B	91.0	COLUMBIA GAS TRANSMI
8046888		4705900882 103	TURKEY CREEK D&G 820367	N VA FIELD AREA B	12.0	COLUMBIA GAS TRANSMI
8046889		4705900887 103	TURKEY CREEK D&G 820368	N VA FIELD AREA B	100.0	COLUMBIA GAS TRANSMI
8046890		4705900888 103	TURKEY CREEK D&G 820369	N VA FIELD AREA B	36.0	COLUMBIA GAS TRANSMI
8046885		4705900877 103	TURKEY CREEK D&G 820437	N VA FIELD AREA B	120.0	COLUMBIA GAS TRANSMI
8046886		4705900878 103	TURKEY CREEK D&G 820438	N VA FIELD AREA B	9.7	COLUMBIA GAS TRANSMI
8046893		4705900924 103	TURKEY CREEK D&G 820039	N VA FIELD AREA B	198.0	COLUMBIA GAS TRANSMI
8046892		4705900914 103	W M BROBOM ET AL 820566	N VA FIELD AREA B	22.0	COLUMBIA GAS TRANSMI
•COLUMBIA GAS TRANSMISSION CORP			RECEIVED: 07/17/80 JA: WV			
8046894		4708100108 108	COAL RIVER MIN NO 8 (806256)	BALD KNOB	18.6	COLUMBIA GAS TRANSMI
8046895		4703900676 108	ELIZABETH TWAXTON 806877	KENNA 8 W	23.0	COLUMBIA GAS TRANSMI
8046938		4703902373 108	GOLDIE GLASS 809530	KENNA	33.0	COLUMBIA GAS TRANSMI
8046899		4703902123 108	HELEN COLLINS 809636	ST ALBANS	25.0	COLUMBIA GAS TRANSMI
8046895		4705900631 108	JOHN D KENNEDY 808922	MATEWAN	30.0	COLUMBIA GAS TRANSMI
8046901		4703902182 108	MCCORMICK HEIRS NO 8 809638	CHARLESTON	18.5	COLUMBIA GAS TRANSMI
8046900		4703902155 108	RUSSELL LANHAM NO 4 809637	CHARLESTON	20.0	COLUMBIA GAS TRANSMI
8046898		4705900634 108	SCOTT SIMPKINS 808853	MATEWAN	50.0	COLUMBIA GAS TRANSMI

VOLUME 255 PAGE 007

JD NO	JA DAT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046897		4703903183	108		STARKEY NO 1 820329	CHARLESTON	30.0	COLUMBIA GAS TRANSMI
*CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 07/17/80 JAI WV						
8046927		4703301030	103		ANITA B GOFF 12275	N VA OTHER A03772	23.0	GENERAL SYSTEM PURCH
8046920		4703301708	103		ANITA B GOFF 12500	N VA OTHER A03772	25.0	GENERAL SYSTEM PURCH
8046918		4700100689	108		BURTON LEVICHI 11918	N VA OTHER A03772	18.0	GENERAL SYSTEM PURCH
8046906		4700501246	103		CHAS NAT BANK 12323	PINEVILLE FIELD AREA A30	76.0	GENERAL SYSTEM PURCH
8046909		4700501247	103		CHAS NAT BANK 12324	PINEVILLE FIELD AREA A30	48.0	GENERAL SYSTEM PURCH
8046921		4703301247	103		EMORY J HUTTER 12287	N VA OTHER A03772	35.0	GENERAL SYSTEM PURCH
8046923		4703301230	103		B W WASHBURN 12491	N VA OTHER A03772	55.0	GENERAL SYSTEM PURCH
8046911		4700100900	103		GLADLYN MCDERMITT 12317	N VA OTHER A03772	87.0	GENERAL SYSTEM PURCH
8046910		4700100711	108		GUY D YOUNG 11933	N VA OTHER A03772	14.0	GENERAL SYSTEM PURCH
8046925		4703301213	103		J B GUSMAN 12467	N VA OTHER A03772	42.0	GENERAL SYSTERM PURC
8046929		4701900272	108		JEFFREY MANUFACTURING 11908	N VA OTHER A03772	20.0	GENERAL SYSTEM PURCH
8046908		4700100897	103		JOSEPH L CAMPBELL 12347	N VA OTHER A03772	24.0	GENERAL SYSTEM PURCH
8046919		4703301919	103		LILLIE GIFFORD 12530	N VA OTHER A03772	35.0	GENERAL SYSTEM PURCH
8046909		4700100833	103		LINDSAY-BRYANT 12343	N VA OTHER A03772	24.0	GENERAL SYSTEM PURCH
8046924		4703301221	103		LOEMAN MAXWELL 12471	N VA OTHER A03772	23.0	GENERAL SYSTEM PURCH
8046922		4703301235	103		MEELEY-JACKSON 12469	N VA OTHER	24.0	GENERAL SYSTEM PURCH
8046907		4700100987	103		RISSA M BOWERS 12401	N VA OTHER A03772	23.0	GENERAL SYSTEM PURCH
8046926		4703301173	103		VIRGINIA RAYMOND 12423	N VA OTHER A03772	60.0	GENERAL SYSTEM PURCH
8046906		4701702442	103		W R MAXWELL 12259	N VA OTHER A03772	24.0	GENERAL SYSTEM PURCH
8046928		4702100345	103		W G BENNETT 12574	N VA OTHER A03772	24.0	GENERAL SYSTEM PURCH
*DEWARD GAS & OIL CO		RECEIVED: 07/15/80 JAI WV						
8046843		4708502639	108		DEEM #1	DEWARD DEEM FARM	0.8	CONSOLIDATED GAS SUP
*DILS OIL & GAS CO		RECEIVED: 07/15/80 JAI WV						
8046836		4710701006	108		SHERMAN DILS #1	WILLIAMS DISTRICT	3.0	CONSOLIDATED GAS SUP
*DOMAN & ASSOCIATES INC		RECEIVED: 07/15/80 JAI WV						
8046854		4703321984	103		J DENNISON #2 KL 223	TENMILE	30.0	CONSOLIDATED GAS SUP
8046853		4703321973	103		J DENNISON K-L-215	TENMILE	30.0	CONSOLIDATED GAS SUP
8046852		4703321928	103		JOHN DOLAN #1 K E B	CLARK	20.0	CONSOLIDATED GAS SUP
*EMPIRE STATE GAS CO		RECEIVED: 07/15/80 JAI WV						
8046812		4704302354	108		MOLLIE & JESSE COURTS #16	CARROLL DISTRICT	1.8	PENNZOIL CO
8046810		4704302352	108		MOLLIE & JESSE COURTS #8	CARROLL DISTRICT	1.8	PENNZOIL CO
8046811		4704302353	108		P B JOHNSON #10	CARROLL DISTRICT	1.8	PENNZOIL CO
8046813		4704302355	108		P B JOHNSON #11	CARROLL DISTRICT	1.8	PENNZOIL CO
8046814		4704302356	108		P B JOHNSON #13	CARROLL DISTRICT	1.8	PENNZOIL CO
8046829		4704322346	108		R B & CHARLIE BUTCHER #1	CARROLL DISTRICT	1.0	PENNZOIL CO
8046828		4704322347	108		R B & CHARLIE BUTCHER #2	CARROLL DISTRICT	1.0	PENNZOIL CO
8046827		4704322348	108		R B & CHARLIE BUTCHER #3	CARROLL DISTRICT	1.0	PENNZOIL CO
8046826		4704322349	108		R B & CHARLIE BUTCHER #4	CARROLL DISTRICT	1.0	PENNZOIL CO
8046808		4704302350	108		R B & CHARLIE BUTCHER #5	CARROLL DISTRICT	1.0	PENNZOIL CO
8046809		4704302351	108		R B & CHARLIE BUTCHER #6	CARROLL DISTRICT	1.0	PENNZOIL CO
*FOX DRILLING CO INC		RECEIVED: 07/15/80 JAI WV						
8046800		4700101854	103		A THORN #1(47-001-1234)	BELINGTON	35.0	COLUMBIA GAS TRANSMI
8046802		4700101248	103		AUVIL #1A(47-001-1242)	BELINGTON	50.0	COLUMBIA GAS TRANSMI
8046801		4700101255	103		C POE #1C(47-001-1255)	BELINGTON	45.0	COLUMBIA GAS TRANSMI
8046805		4700101232	103		D BOBLEY #3(47-001-1232)	BELINGTON	50.0	COLUMBIA GAS TRANSMI
8046804		4700101233	103		D BOBLEY #4(47-001-1233)	BELINGTON	50.0	COLUMBIA GAS TRANSMI
8046799		4700101235	103		E LOAR #1(47-001-1235)	BELINGTON	30.0	COLUMBIA GAS TRANSMI
8046806		4703501483	107		JOHN J PFOST FARM #8	WASHINGTON	8.0	COLUMBIA GAS TRANSMI
8046803		4700101236	103		RANDOLPH #1(47-001-1236)	BELINGTON	45.0	COLUMBIA GAS TRANSMI
*GARVIN ROSS WHARTON		RECEIVED: 07/17/80 JAI WV						

VOLUME 255 PAGE 008

JD NO	JA DAT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8046902		4700700876	108		PERRINE NO 6	MEATERS	3.0	EQUITABLE GAS CO
*GREAT BASINS PETROLEUM CO		RECEIVED: 07/17/80 JAI WV						
8046930		4704700877	108		NORFOLK & WESTERN RAILWAY CO	SANDY RIVER DISTRICT	11.9	CONSOLIDATED GAS SUP
*HARMON GAS CO		RECEIVED: 07/15/80 JAI WV						
8046824		4704320868	108		M P LOVEJOY HEIRS #1	JEFFERSON DISTRICT	2.8	PENNZOIL CO
8046825		4704320313	108		MINNIE F ADKINS HEIRS #1	UNION DISTRICT	3.0	PENNZOIL CO
8046822		4704320881	108		ROBERT LOVEJOY #1	JEFFERSON & UNION DISTRI	2.4	PENNZOIL CO
8046823		4704320879	108		W M CONOR #1	JEFFERSON DISTRICT	2.9	PENNZOIL CO
*HOLLY NESTOR		RECEIVED: 07/15/80 JAI WV						
8046879		4701300332	108		MOLLIE KEITH HEIRS GAS CO #1	WASHINGTON DISTRICT	7.2	CONSOLIDATED GAS SUP
8046880		4701300398	108		WEARS GAS COMPANY #1	WASHINGTON DISTRICT	10.2	CONSOLIDATED GAS SUP
*J & J ENTERPRISES INC		RECEIVED: 07/15/80 JAI WV						
8046855		4701722507	103		JJ-2-82 DDD-2507	NEW MILTON	40.0	COLUMBIA GAS TRANSMI
8046856		4701722529	103		K-31-81 DDD-2529	WEST UNION	40.0	COLUMBIA GAS TRANSMI
8046857		4701722583	103		K-8-81 DDD-2583	CENTRAL	40.0	COLUMBIA GAS TRANSMI
*J C BAKER AND SON INC		RECEIVED: 07/17/80 JAI WV						
8046914		4700701398	103		A B CAMPBELL HEIRS #829	SALTLICK DISTRICT	17.0	CONSOLIDATED GAS SUP
8046913		4700701405	103		CAMPBELL HEIRS #840	SALTLICK DISTRICT	15.0	CONSOLIDATED GAS SUP
8046918		4700701400	103		EVA BARRETT #831	SALTLICK DISTRICT	18.0	CONSOLIDATED GAS SUP
*J S PRIDEMORE & R M ADKINS		RECEIVED: 07/15/80 JAI WV						
8046821		4704320026	108		A R SAMSON #1	JEFFERSON DISTRICT	7.4	PENNZOIL CO
*JAMES P SCOTT		RECEIVED: 07/15/80 JAI WV						
8046848		4704102562	103		HUNTER BENNETT #2 (8-271)	MACKERS CREEK	26.0	CONSOLIDATED GAS SUP
*P-J RESOURCES		RECEIVED: 07/15/80 JAI WV						
8046802		4701702293	108		P-J RESOURCES MULLIGAN-A 47017-2293	CENTRAL STATION	9.0	CONSOLIDATED GAS SUP
*PETROLEUM DEVELOPMENT CORP		RECEIVED: 07/15/80 JAI WV						
8046878		4704102547	103		F PUMPHREY #1-8	ROANOKE	57.0	CONSOLIDATED GAS SUP
8046839		4701702535	103		OPAL GRIBBLE #1	SOUTHWEST	78.0	COLUMBIA GAS TRANSMI
*QUAKER STATE OIL REFINING CORP		RECEIVED: 07/15/80 JAI WV						
8046847		4701702699	108		JOSEPH FREEMAN #15	WEST UNION DISTRICT	20.1	PENNZOIL CO
*RAY RESOURCES DIV OF FLYING DIAMOND		RECEIVED: 07/15/80 JAI WV						
8046834		4708703243	108		E R SEAMAN #602	REEDY	0.6	COLUMBIA GAS TRANS
8046877		4703903520	108		FALLING ROCK 8157-(123)	BIG SANDY	3.5	PENZOIL UNITED INC
*ROCKWALL PETROLEUM CO		RECEIVED: 07/15/80 JAI WV						
8046846		4704102746	103		FRYE #3	BUCK RUN	25.0	COLUMBIA GAS TRANSMI
*SOUTHEASTERN GAS COMPANY		RECEIVED: 07/15/80 JAI WV						
8046861		4701100649	108		AIDE & SARGENT #P-34	GRANT	0.7	COLUMBIA GAS TRANS C
8046865		4704302399	108		P G JOHNSON ET UX #2	SHERIDAN	4.1	PENNZOIL CO
*SOUTHWESTERN DEVELOPMENT COMPANY		RECEIVED: 07/17/80 JAI WV						
8046903		4710500399	108		BUNNER WELL	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046932		4710500248	108		E C MILLS WELL	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046931		4710500187	108		J M MILLS WELL	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046933		4710500256	108		WILLIAM DAWSON WELL #1	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046934		4710500264	108		WILLIAM DAWSON WELL #2	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046935		4710500269	108		WILLIAM DAWSON WELL #3	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046936		4710500280	108		WILLIAM DAWSON WELL #4	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
8046937		4710500305	108		WILLIAM DAWSON WELL #5	CAIRO-MUNDAY	0.0	CONSOLIDATED GAS SUP
*SPARTAN GAS COMPANY		RECEIVED: 07/15/80 JAI WV						
8046849		4701100612	103		JAMES PARKINS 1-8-209	GRANT	7.5	COLUMBIA GAS TRANSMI
8046850		4710920799	108		POCAHONTAS LAND CORP NO 4-8-189	BARKERS RIDGE	12.0	CONSOLIDATED GAS SUP
8046862		4710900802	108		POCAHONTAS LAND CORP NO 5-8-190	BARKERS RIDGE	6.0	CONSOLIDATED GAS SUP
*STERLING DRILLING & PROD CO INC		RECEIVED: 07/15/80 JAI WV						

The above notices of determination

VOLUME 235 PAGE 009

JC NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8046664		4701501660	103 ALOI #13 BDP 8142	BUFFALO DISTRICT	60.4	EQUITABLE GAS CO
8046663		4701501661	103 ALOI #16 BDP 8143	BUFFALO DISTRICT	60.4	EQUITABLE GAS CO
*STERLING DRILLING & PROD CO INC			RECEIVED: 07/17/80			JAI WV
8046916		4701501658	103 ALOI #13 BDP 8140	BUFFALO DISTRICT	15.1	EQUITABLE GAS CO
8046917		4701501659	103 ALOI #14 BDP8141	BUFFALO DISTRICT	73.8	EQUITABLE GAS CO
8046913		4701501737	103 ALOI 37 BDP 8272	BUFFALO DISTRICT	16.9	EQUITABLE GAS CO
*STONEHILL GAS CO INC		4703202287	103 RECEIVED: 07/15/80	UNION	80.0	CONSOLIDATED GAS SUP
8046845			CHILDERS #1			JAI WV
*SWEETLAND LAND AND MINERAL CO		4704302225	106 RECEIVED: 07/19/80	CARROLL	0.7	PENNZOIL CO
8046859		4704302226	106 CLARKSON #3 GPA 1061	CARROLL	0.7	PENNZOIL CO
8046674		4704302223	106 EVANS #1 GPA	CARROLL	1.1	PENNZOIL CO
8046672		4704302219	106 EVANS #2 GPA 1061	CARROLL	1.1	PENNZOIL CO
8046666		4704302218	106 GRUMING #1 GPA 1061 ITEM	CARROLL	1.1	PENNZOIL CO
8046669		4704302442	106 JESSIE SMITH #1 GPA 1061 ITEM	CARROLL	0.9	PENNZOIL CO
8046667		4704302428	106 LUCAS #1 GPA 1061 ITEM 12	CARROLL	0.7	PENNZOIL CO
8046656		4704302427	106 NIDA #1 GPA 1061 ITEM 15	CARROLL	1.5	PENNZOIL CO
8046675		4704302426	106 NIDA #2 GPA 1061 ITEM 15	CARROLL	5.4	PENNZOIL CO
8046676		4704302424	106 QUEEN #1 GPA 1061	CARROLL	5.4	PENNZOIL CO
8046660		4704302430	106 QUEEN #2 GPA 1061	CARROLL	5.4	PENNZOIL CO
8046673		4704302425	106 SWEETLAND - BRANCH #3 GPA 1061	CARROLL	5.4	PENNZOIL CO
8046670		4704302420	106 SWEETLAND - BRANCH #4 GPA 1061	CARROLL	5.4	PENNZOIL CO
8046668		4704302443	106 WEWOODALL #1 GPA 1061	CARROLL	5.4	PENNZOIL CO
8046671		4704302421	106 RECEIVED: 07/19/80 JAI WV			
*TEXAS INTERNATIONAL PET CORP		4706700391	102 ANNA P BRYAN ETAL #1	JEFFERSON	65.0	EQUITABLE GAS CO
8046796						
8046797		4701900376	102 HAMPDEN CORP ET AL #1	MOUNTAIN COVE	65.0	EQUITABLE GAS CO
8046788		4706700427	102 HEATLE DEMOCRAFT #1	GRANT	65.0	EQUITABLE GAS CO
8046795		4706700393	102 MAXELL MALCOMB #1	JEFFERSON	65.0	EQUITABLE GAS CO
8046790		4706700405	102 OLIVE CULPEPPER ETAL #1	GRANT	65.0	EQUITABLE GAS CO
8046798		4706700465	102 VICTORIA JACOBS #2	GRANT	65.0	EQUITABLE GAS CO
8046792		4706700466	102 VICTORIA JACOBS #3	GRANT	65.0	EQUITABLE GAS CO
8046791		4706700461	102 VICTORIA JACOBS #4	GRANT	65.0	EQUITABLE GAS CO
8046789		4706700800	102 VICTORIA JACOBS UNIT #1	GRANT	65.0	EQUITABLE GAS CO
*UNION DRILLING INC			RECEIVED: 07/19/80 JAI WV			
8046840		4709701970	103 JAMES PHIPPS #1 - 1517	MEADE DISTRICT	0.0	COLUMBIA GAS TRANS C
*UNITED OPERATING COMPANY			RECEIVED: 07/19/80 JAI WV			
8046844		4701702568	103 GOLDIE WILSON 1-8	CABIN RUN	0.0	CONSOLIDATED GAS SUP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 2, 1980.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24894 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

V 45 A G 18 80 UMI

[Volume 257]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 11, 1980.

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION							
*ADA OIL EXPLORATION CORP				RECEIVED: 07/22/80 JA: TX			
8047373	13515	4217900000	108	ANNIE SHEPARD #1 (828577	WEST PANHANDLE	13.4	PHILLIPS PETROLEUM C
*ADOBE OIL & GAS CORPORATION				RECEIVED: 07/22/80 JA: TX			
8047536	14961	4247531894	103	BARSTOW #18-1 (NEW)	BARSTOW SCOTT CHERRY CAN	330.0	TRANSWESTERN PIPELIN
*ALICE SNEED WEST TRUST				RECEIVED: 07/22/80 JA: TX			
8047546	15026	4231300000	108	JAMES A PUMLBERG A	MADISONVILLE (SUB-CLARK8	8.2	LONE STAR GAS CO
*ALPAR RESOURCES INC				RECEIVED: 07/22/80 JA: TX			
8047630	15507	4221130920	103	ARRINGTON 3-53	HEMPHILL	360.0	EL PASO NATURAL GAS
8047229	06698	4239330279	103	MCMORDIE #1-129	ST CLAIR	180.0	PIONEER NATURAL GAS
*AMARILLO OIL COMPANY				RECEIVED: 07/22/80 JA: TX			
8047190	01073	4239330257	103	FLOWERS B #2-5 (075645)	MENDOTA NW (GRANITE WASH	210.0	PIONEER NATURAL GAS
*AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED: 07/22/80 JA: TX			
8047549	15027	4203931303	103	A B MARSHALL NO 1	WILDCAT - FIELD NAME PEN	730.0	
8047660	15733	4204731853	103	BAILES-PARMENTER-JONES #6	BAILES	44.0	
8047506	14695	4203130787	103	REED D #2	CREDO (WOLFCAMP)	18.0	PHILLIPS PETROLEUM C
8047661	15734	4204731931	103	ROBALYNNE BAILES #1	BAILES	30.0	
8047662	15735	4204731764	103	ROBALYNNE BAILES #2	BAILES	10.0	
*AMOCO PRODUCTION CO				RECEIVED: 07/22/80 JA: TX			
8047766	10308	4220330615	102	BRUNE-BURNETT B NO 1	BLOCKER (COTTON VALLEY)	436.0	UNITED GAS PIPELINE
8047384	14269	4238330658	103	BURNETT BROTHERS NO 11	CARTMAGE (COTTON VALLEY)	436.0	UNITED GAS PIPE LINE
8047767	10335	4207330336	102	D B BRUNO II NO 1	NEW BUMERFIELD	436.0	UNITED GAS PIPELINE
8047469	14497	4223300000	108	E E WATKINS A R/A A #1	PANHANDLE	4.8	SKELLY OIL CO
8047474	14502	4223300000	108	E E WATKINS A R/A A #14	PANHANDLE	4.8	SKELLY OIL CO
8047475	14503	4223300000	108	E E WATKINS A R/A A #15	PANHANDLE	4.8	SKELLY OIL CO
8047476	14505	4223300000	108	E E WATKINS A R/A A #16	PANHANDLE	4.8	SKELLY OIL CO
8047470	14498	4223300000	108	E E WATKINS A R/A A #2	PANHANDLE	4.8	SKELLY OIL CO
8047471	14499	4223300000	108	E E WATKINS A R/A A #3	PANHANDLE	4.8	SKELLY OIL CO
8047472	14500	4223300000	108	E E WATKINS A R/A A #4	PANHANDLE	4.8	SKELLY OIL CO
8047473	14501	4223300000	108	E E WATKINS A R/A A #8	PANHANDLE	4.8	SKELLY OIL CO
8047478	14510	4223300000	108	E E WATKINS A R/A B #10	PANHANDLE	4.8	SKELLY OIL CO
8047479	14511	4223300000	108	E E WATKINS A R/A B #12	PANHANDLE	4.8	SKELLY OIL CO
8047480	14512	4223300000	108	E E WATKINS A R/A B #13	PANHANDLE	4.8	SKELLY OIL CO
8047481	14513	4223300000	108	E E WATKINS A R/A B #19	PANHANDLE	4.8	SKELLY OIL CO
8047482	14515	4223300000	108	E E WATKINS A R/A B #22	PANHANDLE	4.8	SKELLY OIL CO
8047483	14516	4223300000	108	E E WATKINS A R/A B #23	PANHANDLE	4.8	SKELLY OIL CO
8047484	14518	4223300000	108	E E WATKINS A R/A B #26	PANHANDLE	4.8	SKELLY OIL CO
8047485	14519	4223300000	108	E E WATKINS A R/A B #27	PANHANDLE	4.8	SKELLY OIL CO
8047477	14509	4223300000	108	E E WATKINS A R/A B #6	PANHANDLE	4.8	SKELLY OIL CO
8047486	14520	4223300000	108	E E WATKINS B #1	PANHANDLE	7.0	SKELLY OIL CO
8047494	14528	4223300000	108	E E WATKINS B #11	PANHANDLE	7.0	SKELLY OIL CO
8047495	14529	4223300000	108	E E WATKINS B #13	PANHANDLE	7.0	SKELLY OIL CO

VOLUME 257 PAGE 002

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047496	14530	4223300000	108	E E WATKINS B #14	PANHANDLE	7.0	SKELLY OIL CO
8047497	14532	4223300000	108	E E WATKINS B #16	PANHANDLE	7.0	SKELLY OIL CO
8047498	14533	4223300000	108	E E WATKINS B #17	PANHANDLE	7.0	SKELLY OIL CO
8047499	14534	4223300000	108	E E WATKINS B #18	PANHANDLE	7.0	SKELLY OIL CO
8047500	14535	4223300000	108	E E WATKINS B #19	PANHANDLE	7.0	SKELLY OIL CO
8047487	14521	4223300000	108	E E WATKINS B #3	PANHANDLE	7.0	SKELLY OIL CO
8047488	14522	4223300000	108	E E WATKINS B #4	PANHANDLE	7.0	SKELLY OIL CO
8047489	14523	4223300000	108	E E WATKINS B #5	PANHANDLE	7.0	SKELLY OIL CO
8047490	14524	4223300000	108	E E WATKINS B #6	PANHANDLE	7.0	SKELLY OIL CO
8047491	14525	4223300000	108	E E WATKINS B #7	PANHANDLE	7.0	SKELLY OIL CO
8047492	14526	4223300000	108	E E WATKINS B #8	PANHANDLE	7.0	SKELLY OIL CO
8047493	14527	4223300000	108	E E WATKINS B #9	PANHANDLE	7.0	SKELLY OIL CO
8047558	15167	4223300000	108	E J MOORE #4	PANHANDLE	0.8	SKELLY OIL CO
8047557	15166	4223300000	108	E J MOORE #9	PANHANDLE	0.4	SKELLY OIL CO
8047648	15669	4220330649	102	G C KNACKSTEDT #1	BLOCKER/COTTON VALLEY/	436.0	UNITED GAS PIPELINE
8047403	14376	4223300000	108	G C PITCHER A #10	PANHANDLE	12.0	SKELLY OIL CO
8047402	14378	4223300000	108	G C PITCHER A #13	PANHANDLE	12.0	SKELLY OIL CO
8047401	14379	4223300000	108	G C PITCHER A #14	PANHANDLE	12.0	SKELLY OIL CO
8047400	14380	4223300000	108	G C PITCHER A #15	PANHANDLE	12.0	SKELLY OIL CO
8047382	14371	4223300000	108	G C PITCHER A #2	PANHANDLE	12.0	SKELLY OIL CO
8047381	14372	4223300000	108	G C PITCHER A #3	PANHANDLE	12.0	SKELLY OIL CO
8047380	14373	4223300000	108	G C PITCHER A #5	PANHANDLE	12.0	SKELLY OIL CO
8047405	14374	4223300000	108	G C PITCHER A #6	PANHANDLE	12.0	SKELLY OIL CO
8047404	14375	4223300000	108	G C PITCHER A #9	PANHANDLE	12.0	SKELLY OIL CO
8047422	14390	4217900000	108	J A HOOD #10	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047421	14391	4217900000	108	J A HOOD #11	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047420	14392	4217900000	108	J A HOOD #12	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047399	14382	4217900000	108	J A HOOD #2	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047398	14383	4217900000	108	J A HOOD #3	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047397	14384	4217900000	108	J A HOOD #4	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047396	14385	4217900000	108	J A HOOD #5	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047395	14386	4217900000	108	J A HOOD #6	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047394	14387	4217900000	108	J A HOOD #7	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047423	14389	4217900000	108	J A HOOD #9	PANHANDLE	1.7	PHILLIPS PETROLEUM C
8047419	14393	4217900000	108	J M SAUNDERS #1	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047411	14402	4217900000	108	J M SAUNDERS #10	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047418	14396	4217900000	108	J M SAUNDERS #2	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047417	14395	4217900000	108	J M SAUNDERS #3	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047416	14396	4217900000	108	J M SAUNDERS #4	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047415	14398	4217900000	108	J M SAUNDERS #6	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047414	14399	4217900000	108	J M SAUNDERS #7	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047413	14400	4217900000	108	J M SAUNDERS #8	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047412	14401	4217900000	108	J M SAUNDERS #9	PANHANDLE	1.5	PHILLIPS PETROLEUM C
8047627	15551	4220330484	102	JOHN HARRISON JR A NO 1	NE WOODLAWN (COTTON VALL	55.0	EAST TEXAS INDUSTRIA
8047692	15869	4229330639	103	LUTIE M GEX B WELL #2	MAMMOTH CREEK NORTH	436.0	NORTHERN NATURAL GAS
8047672	15769	4231530909	102	MARGARET KILLEEN #1	WOODLAWN NE (TRAVIS PEAK	180.0	EAST TEXAS INDUSTRIA
8047632	15601	4213533065	103	MIDLAND FARMS AV NO 6	PASKEN (WOLFCAMP NORTH)	4.0	PIONEER NATURAL GAS
8047566	15182	4243532135	103	MORRISS BROS D NO 2	WHITEHEAD (STRAWN)	287.0	LONE STAR GAS CO
8047631	15598	4211531261	103	MYRTLE E BARROW NO 2	GIN NORTH (8000)	14.0	PHILLIPS PETROLEUM C
8047410	14404	4217900000	108	O E BINKLEY B #3	PANHANDLE	0.5	PHILLIPS PETROLEUM C
8047409	14405	4223300000	108	R C WARE A #1	PANHANDLE	2.1	SKELLY OIL CO
8047425	14411	4223300000	108	R C WARE A #10	PANHANDLE	2.1	SKELLY OIL CO

VOLUME 257 PAGE 003

FIELD NAME	JA DKT	API NO	SEC D WELL NAME	PROD	PURCHASER
PANHANDLE	06858	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06912	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06913	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06914	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06906	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06907	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06909	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06910	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06915	4223300000	108	2.1	SKELLY OIL CO
PANHANDLE	06924	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06916	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06917	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06932	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06933	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06931	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06927	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06928	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06929	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06934	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	06933	4223300000	108	2.0	SKELLY OIL CO
PANHANDLE	07926	4221930842	103	12.1	CELANESE CHEMICAL CO
MEDLACO SOUTH (6000)					SOUTH MEDLACO GAS UNIT NO 22
BLOCKER (COTTON VALLEY)	16841	4220330633	102	436.0	UNITED GAS PIPELINE
BLOCKER (COTTON VALLEY)	15216	4220330943	102	436.0	TEJAS GAS CORP
PANHANDLE	14448	4223300000	108	0.0	SKELLY OIL CO
PANHANDLE	14445	4223300000	108	0.0	SKELLY OIL CO
PANHANDLE	14436	4223300000	108	0.0	SKELLY OIL CO
PANHANDLE	14437	4223300000	108	0.0	SKELLY OIL CO
PANHANDLE	14438	4223300000	108	0.0	SKELLY OIL CO
PANHANDLE	14439	4223300000	108	0.0	SKELLY OIL CO
PANHANDLE	14447	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14455	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14456	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14457	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14458	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14459	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14460	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14461	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14462	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14463	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14449	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14450	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14451	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14452	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14453	4223300000	108	355	SKELLY OIL CO
PANHANDLE	14454	4223300000	108	355	SKELLY OIL CO
PANHANDLE	15187	4223300000	108	355	SKELLY OIL CO
PANHANDLE	15191	4211333118	103	7.5	PHILLIPS PETROLEUM C
GOLDSMITH N (SAN ANDRE	15970	4215330484	103	0.0	PHILLIPS PETROLEUM C
HANDFORD UPPER MORROW				202.0	NORTHERN NATURAL GAS
PANHANDLE EAST	15610	4217900000	108	10.3	COLTEXO CORP
CARRIE KILLGREN (MORROW	06319	4235330271	103	0.0	NORTHERN NATURAL GAS
GOLDSMITH NORTH (SAN AND	06858	4235330000	108	7.5	PHILLIPS PETROLEUM C
GOLDSMITH N (SAN ANDRES	14962	4235731637	103	0.0	PHILLIPS PETROLEUM C
HANDFORD UPPER MORROW	15970	4219330484	103	202.0	NORTHERN NATURAL GAS
PANHANDLE EAST	15610	4217900000	108	10.3	COLTEXO CORP
CARRIE KILLGREN (MORROW	06319	4235330271	103	0.0	NORTHERN NATURAL GAS

VOLUME 257 PAGE 004

FIELD NAME	JA DKT	API NO	SEC D WELL NAME	PROD	PURCHASER
ENNA	06858	4200331877	103	4.0	EL PASO NATURAL GAS
PANHANDLE (HUTCHINSON)	15612	4223300000	108	0.0	PANHANDLE PRODUCING
PANHANDLE WEST	15613	4223300000	108	14.0	PANHANDLE PRODUCING
PANHANDLE WEST	15614	4223300000	108	11.0	PANHANDLE PRODUCING
TILLERY (CANYON UPPER)	10444	4211300486	108	0.0	ARCO OIL & GAS CO
PANHANDLE WEST	15611	4223300000	108	2.0	PANHANDLE EASTERN PI
HUNT BAGGETT (STRAWN)	15015	4211933068	103	110.0	NORTHERN NATURAL GAS
WELLON SPRINGS (TRAVIS P		4218300000	103	400.0	UNITED GAS PIPE LINE
COWDEN NORTH		4211333167	103	100.0	ANDCO PRODUCTION CO
STEGCOTT		4211330230	102	0.0	PALO DURO PIPELINE C
STEGCOTT		4210130230	103	0.0	PALO DURO PIPELINE C
TROPORO (DEVONIAN)		4210332078	103	41.0	PSP GAS PRODUCTS INC
BARON LIME (12800)				0.0	BUCKNER GAS CO
BARON LIME (12800)				0.0	BUCKNER GAS CO
CHARLINE (FORNEY 4C)		4235731497	103	1100.0	TRANSCONTINENTAL GAS
CHARLINE (FORNEY 4)		4235731637	103	700.0	TRANSCONTINENTAL GAS
CHARLINE (FORNEY 4)				700.0	TRANSCONTINENTAL GAS
JACK COUNTY REGULAR (GAS		4225731074	103	10.0	CITIES SERVICE OIL C
		4220732086	103		
DONIE (PETTIT) FIELD		4220732086	108	112.0	TEXAS UTILITIES FUEL
PINE PRAIRIE N (WOODBINE		4237100000	103	430.0	MORGAN CO
CORPUS CHRISTI WEST (110		4235900000	103	365.0	UNITED GAS PIPELINE
CORPUS CHRISTI WEST (110		4235931215	102	365.0	UNITED GAS PIPELINE
CORPUS CHRISTI WEST (110		4235931251	102	365.0	UNITED GAS PIPELINE
OIN (HIGH)		4235900000	103	0.0	PHILLIPS PETROLEUM C
DOVE CREEK (CANYON D)		4211330822	103	180.0	NORTHERN NATURAL GAS
HOPE (WILCOX 9930)		4248130668	103	810.0	LOVACA GATHERING CO
ZYBACH MORROW		4228500000	102	805.0	COLORADO INTERSTATE
MITTIE (MARBLE FALLS)		4220330820	102	14.0	LONE STAR GAS CO
MITTIE (MARBLE FALLS)		4200300000	108	0.0	LONE STAR GAS CO
PANHANDLE HUTCHINSON		4223300000	108	0.0	PHILLIPS PETROLEUM C
PANHANDLE HUTCHINSON		4223300000	108	0.0	PHILLIPS PETROLEUM C
PANHANDLE HUTCHINSON		4223300000	108	0.0	PHILLIPS PETROLEUM C
PANHANDLE HUTCHINSON		4223300000	108	0.0	PHILLIPS PETROLEUM C
FLOWERS/CANYON/		4243300000	108	0.3	CITIES SERVICE OIL C
ROUND TOP/CANYON SAND/		4215130421	103	20.0	LONE STAR GAS CO
HOWARD-GLASSCOCK/GLORIET		4228731201	103	0.0	PHILLIPS PETROLEUM C

VOLUME 257 PAGE 005

JD NO	JA DKT	API NO	SEC D WELL NAME	PROD	PURCHASER
0047186	06858	4200331877	103	4.0	EL PASO NATURAL GAS
0047633	15612	4223300000	108	0.0	PANHANDLE PRODUCING
0047636	15613	4223300000	108	14.0	PANHANDLE PRODUCING
0047637	15614	4223300000	108	11.0	PANHANDLE PRODUCING
0047852	10444	4211300486	108	0.0	ARCO OIL & GAS CO
0047634	15611	4223300000	108	2.0	PANHANDLE EASTERN PI
*ART MACHIN & ASSOCIATES INC	14831	4218300000	103	400.0	UNITED GAS PIPE LINE
0047527	14831				
*BARUCH-FOSTER CORP	15329	4211333167	103	100.0	ANDCO PRODUCTION CO
0047560	15329				
*BAB ENTERPRISES PRODUCTION CO	05746	4210130230	102	0.0	PALO DURO PIPELINE C
0047186	05746	4210130230	103	0.0	PALO DURO PIPELINE C
0047569	15196	4210332078	103	41.0	PSP GAS PRODUCTS INC
*BEN J TAYLOR	14962			0.0	BUCKNER GAS CO
0047537	14962			0.0	BUCKNER GAS CO
*BILL FORNEY INC	13450	4235731497	103	1100.0	TRANSCONTINENTAL GAS
0047393	13450	4235731637	103	700.0	TRANSCONTINENTAL GAS
0047731	16430			700.0	TRANSCONTINENTAL GAS
*BRIDWELL OIL CO	08634	4225731074	103	10.0	CITIES SERVICE OIL C
0047861	08634	4220732086	103		
*BUTYES RESOURCES CO	11092	4220732086	108	112.0	TEXAS UTILITIES FUEL
0047827	11092	4237100000	103	430.0	MORGAN CO
*CAMPBELL & MEDRICK	11383	4235900000	103	365.0	UNITED GAS PIPELINE
0047890	11383	4235931215	102	365.0	UNITED GAS PIPELINE
*CANUS PETROLEUM INC	12864	4235931251	102	365.0	UNITED GAS PIPELINE
*0047280	12661				
*0047280	12864				
*0047288	12397	4235900000	103	0.0	PHILLIPS PETROLEUM C
*CENTEX OIL & GAS INC	15168	4211330822	103	180.0	NORTHERN NATURAL GAS
0047559	15168				
*CHAMPLIN PETROLEUM COMPANY	14650	4248130668	103	810.0	LOVACA GATHERING CO
0047502	14650				
*CICO OIL & GAS CO	11024	4228500000	102	805.0	COLORADO INTERSTATE
0047278	11024				
*CIG EXPLORATION INC	17907	4243330820	102	14.0	LONE STAR GAS CO
0047757	17907	4200300000	108	0.0	LONE STAR GAS CO
*COASTAL STATES GAS PROD CO	16183	4200300000	108	0.0	PHILLIPS PETROLEUM C
0047727	16183				
0047728	16183				
*COLLINS OIL AND GAS CO	03975	4223300000	108	0.0	PHILLIPS PETROLEUM C
0047186	03975	4223300000	108	0.0	PHILLIPS PETROLEUM C
0047191	03977	4223300000	108	0.0	PHILLIPS PETROLEUM C
0047192	03978	4223300000	108	0.0	PHILLIPS PETROLEUM C
0047190	03976	4223300000	108	0.0	PHILLIPS PETROLEUM C
*CONOCO INC					
0047253	10259	4243300000	108	0.3	CITIES SERVICE OIL C
0047180	06007	4215130421	103	20.0	LONE STAR GAS CO
0047179	05863	4228731201	103	0.0	PHILLIPS PETROLEUM C

VOLUME 257 PAGE 005

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047312	12842	4232300000	108		N J CHITTIM NO 3810 02082	BACATOSA (SAN MIGUEL #1	0.4	LOVACA GATHERING CO
8047254	10117	4200300000	108		WEST FUHRMAN-MASCHO UNIT (21220) 0	FUHRMAN-MASCHO	0.7	PHILLIPS PETROLEUM C
8047255	10052	4200300000	108		WEST FUHRMAN-MASCHO UNIT #83	FUHRMAN-MASCHO	0.3	PHILLIPS PETROLEUM C
8047182	06079	4213332643	103		WIGHT UNIT NO 123	COWDEN NORTH	5.0	AMOCO PRODUCTION CO
8047181	06066	4213300000	108		WIGHT UNIT NO 99 20661	COWDEN NORTH	0.5	AMOCO PROD CO
8047181	06066	4213300000	103		WIGHT UNIT NO 99 20661	COWDEN NORTH	0.5	AMOCO PROD CO
*CRYSTAL OIL & LAND CO					RECEIVED: 07/22/80 JAI TX			
8047628	15353	4236530984	103		SOL JERNIGAN C 4			
8047652	15715	4236530983	103		SOL JERNIGAN C 5	PANOLA	8.0	UNITED GAS PIPELINE
8047653	15716	4236530952	103		SOL JERNIGAN C 6	PANOLA	7.0	UNITED GAS PIPELINE
8047629	15354	4236530951	103		SOL JERNIGAN C 7	PANOLA	7.0	UNITED GAS PIPELINE
*D D HOUTCHENS					RECEIVED: 07/22/80 JAI TX	PANOLA	11.0	UNITED GAS PIPELINE
8047665	14474	4208730183	103		MISCHKAEMPER B LA			
*D K G INC					RECEIVED: 07/22/80 JAI TX	PANHANDLE EAST	0.0	EL PASO NATURAL GAS
8047541	14985	4224531216	102		DISHMAN-LUCAS NO 1			
*DAVID FASKEN					RECEIVED: 07/22/80 JAI TX	PANNETT WEST (8900) FIEL	180.0	TEXAS EASTERN TRANSM
8047235	07787	4216531427	102		FASKEN & BOECKER 215 NO 6			
*DAVIS OIL COMPANY					RECEIVED: 07/22/80 JAI TX	MANFORD (SAN ANDRES)	0.0	PHILLIPS PETROLEUM C
8047732	16496	4208730877	102		TEXAS TRACT 209 #1			
*DELTA DRILLING CO					RECEIVED: 07/22/80 JAI TX	APPLING N (7550)	324.0	CHANNEL INDUSTRIES G
8047238	07753	4210500000	108		BEAN #1			
8047240	07742	4210500000	108		BEAN C #1	OZONA SOUTHWEST (CANYON)	10.5	NORTHERN NATURAL GAS
8047239	07750	4210500000	108		BEAN 26 #2	OZONA (CANYON)	11.0	NORTHERN NATURAL GAS
8047237	07754	4210500000	108		HENDERSON A #1	OZONA (CANYON)	17.6	NORTHERN NATURAL GAS
8047236	07756	4210500000	108		MCDONALD 18 #1	OZONA (CANYON)	19.8	NORTHERN NATURAL GAS
*DENHART & DAVIS					RECEIVED: 07/22/80 JAI TX	OZONA (CANYON)	13.4	NORTHERN NATURAL GAS
8047342	14986	4208331251	103		J P MARTIN NO 1-A			
*DIAMOND SHAMROCK CORPORATION					RECEIVED: 07/22/80 JAI TX	COLEMAN COUNTY REGULAR (	10.8	
8047610	15525	4236730994	103		CLARK NO 1			
8047604	15500	4236731042	103		COOMER NO 1	GRANT	1.0	SOUTHWESTERN GAS PIP
8047602	15495	4236730953	103		DUNLAP NO 1	RENO	22.0	SOUTHWESTERN GAS PIP
8047603	15499	4236731034	103		E B SMITH A NO 1	RENO	31.8	SOUTHWESTERN GAS PIP
8047605	15501	4236731133	103		NEWSOM NO 1	GRANT	8.0	SOUTHWESTERN GAS PIP
8047601	15494	4236730919	103		SMITH NO 1	RENO	96.0	SOUTHWESTERN GAS PIP
8047600	15493	4236730859	103		SPRINGFIELD NO 1	RENO	61.4	SOUTHWESTERN GAS PIP
*DOUGLAS PETROLEUM CONSULTANTS INC					RECEIVED: 07/22/80 JAI TX	RENO	39.0	SOUTHWESTERN GAS PIP
8047286	11730	4231100000	102		ROOS #1			
*EL PASO NATURAL GAS COMPANY					RECEIVED: 07/22/80 JAI TX	CAMPANA BM (1500)	100.0	TEXAS EASTERN TRANSM
8047724	16173	4200710318	108		MCDOWELL #7			
*ENBERCH EXPLORATION INC					RECEIVED: 07/22/80 JAI TX	PANHANDLE EAST	17.8	EL PASO NATURAL GAS
8047649	15692	4212731823	103		EALEN BRAY C NO 2			
8047576	15223	4232130908	103		STATE TRACT 171 NO 4	PENA CREEK	130.0	J R MANILTON
8047663	15739	4220300000	108		M T COOK NO 1	MATAGORDA BAY B	509.0	LONE STAR GAS CO
*ESTATE OIL & GAS CORP					RECEIVED: 07/22/80 JAI TX	WHELAN	21.0	TEXAS EASTERN GAS PI
8047759	18188	4220330582	102		EDWIN L FEIST GAS UNIT NO 1 79582	LANSING NORTH (TRAVIS-PE	602.0	TEJAS GAS CORP
8047758	18097	4220330490	102		JOHN K KEASLER NO 1 79373	LANSING NORTH (TRAVIS PE	370.0	TEJAS GAS CORP
*EXXON CORPORATION					RECEIVED: 07/22/80 JAI TX			
8047543	14987	4226130458	103		C M ARMSTRONG 47F 083372	CANDELARIA (9600)	146.0	NATURAL GAS P/L CO O
8047580	15333	4216531593	103		EXXON FEE EUBANKS C WELL NO 9	ROBERTSON N (CLEARFORK 7	16.0	PHILLIPS PETROLEUM C
8047699	15903	4239300000	108		FLOWERS-LIBTON #1	MENDOTA NW	16.6	TRANSWESTERN PIPE LI
8047521	14796	4200331817	103		FULLERTON (CLEARFORK) UT #1917	FULLERTON	49.0	PHILLIPS PETROLEUM C
8047640	15619	4210300000	108		J B TUBB A/C 1 #42	SAND HILLS (MCKNIGHT)	12.5	EL PASO NATURAL GAS

VOLUME 257 PAGE 006

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047638	15617	4210300000	108		J B TUBB A/C 1 #1	SAND HILLS	4.2	EL PASO NATURAL GAS
8047641	15621	4210300000	108		J B TUBB A/C 1 #98	SAND HILLS (MCKNIGHT)	10.7	EL PASO NATURAL GAS
8047642	15622	4210300000	108		J B TUBB A/C 1 #99	SAND HILLS (MCKNIGHT)	8.7	EL PASO NATURAL GAS
*8047501	14580	4210332035	103		J B TUBB A/C 1 WELL #185U	SAND HILLS (JUDKINS)	641.0	EL PASO NATURAL GAS
8047360	15169	4210332071	103		J B TUBB A/C 2 #103	SAND HILLS (JUDKINS)	12.0	EL PASO NATURAL GAS
8047643	15623	4210300000	108		J B TUBB A/C 2 #24	SAND HILLS (JUDKINS)	9.1	EL PASO NATURAL GAS
8047639	15618	4210300000	108		J B TUBB A/C 1 #27	SAND HILLS (MCKNIGHT)	5.5	EL PASO NATURAL GAS
8047307	14707	4210332067	103		J B TUBB C 020	SAND HILLS (JUDKINS)	48.0	EL PASO NATURAL GAS
8047644	15624	4247330289	103		KATY GAS FIELD UNIT 1 WELL 46	KATY (FIRST WILCOX)	1095.0	AMOCO GAS CO
8047645	15625	4247330301	103		KATY GAS FLD CONSOLIDATED UT WELL *	KATY (V)	2190.0	UNITED TEXAS TRANSMI
8047738	17246	4224730885	103		MRS A M K BASS 39-D (09376)	KELSEY DEEP (ZONE 20-J L	36.0	TRINKLINE GAS CO
8047738	17246	4224730885	102		MRS A M K BASS 39-D (09376)	KELSEY DEEP (ZONE 20-J L	36.0	TRINKLINE GAS CO
8047739	17247	4224730885	103		MRS A M K BASS 39-F (09371)	KELSEY DEEP (ZONE 18-E M	465.0	TRUNKLINE GAS CO
8047739	17247	4224730885	102		MRS A M K BASS 39-F (09371)	KELSEY DEEP (ZONE 18-E M	465.0	TRUNKLINE GAS CO
8047290	12234	4203730012	108		MRS E M WELDER 41-D 04258	MEYSER (5400 NO 1)	3.9	TENNESSEE GAS PIPELI
8047606	15508	4242700000	108		N R MONTALVO #34 03065	SUN	16.4	TENNESSEE GAS PIPELI
*8047691	15648	4203931396	103		PLEDGER GAS FIELD UNIT WELL 46	PLEDGER (FRIO 6500-6800)	4600.0	UNITED TEXAS TRANSMI
8047590	15334	4216531537	103		ROBERTSON (CLEARFORK) UNIT #7402	ROBERTSON N (CLEARFORK 7	29.0	PHILLIPS PETROLEUM C
8047570	15201	4204730711	103		SANTA FE RANCH 43-D (07816)	SANTA FE (C-22)	30.0	NATURAL GAS P L CO O
8047700	15907	4219500000	108		SP & KK JACKSON B #2	MANGFORD	10.0	NORTHERN NATURAL GAS
8047701	15908	4242100000	108		TEXAS HUGOTON GU 14 #1	TEXAS HUGOTON	18.2	TRANSWESTERN PIPE LI
8047702	15909	4242100000	108		TEXAS HUGOTON GU-19 #2	TEXAS HUGOTON	6.1	TRANSWESTERN PIPE LI
8047270	09163	4213132897	103		V KOHLER A 121 06096	VIGO (QUEEN CITY NO 1)	40.0	TENNESSEE GAS PIPELI
*FRANK GABB					RECEIVED: 07/22/80 JAI TX			
8047197	00568	4238300000	103		J B PETTIT #2 RRC NO 01962	SPRABERRY (TREND) AREA	41.7	EL PASO NATURAL GAS
*G C HERRMANN CO					RECEIVED: 07/22/80 JAI TX			
8047251	10516	4217900000	108		HARRAH A WELL #7	PANHANDLE	1.8	KERR-MCGEE CORP
*GARY D TURNER DBA TURNER PROPERTIES					RECEIVED: 07/22/80 JAI TX			
8047466	14478	4208100000	103		TURNER PROPERTIES JAMESON NO 2	BLOODWORTH N (CANYON 565	0.0	SUN GAS CO
*GAS PRODUCING ENTERPRISES INC					RECEIVED: 07/22/80 JAI TX			
8047608	15511	4237530668	103		MASTERSON 83-10 RD	WEST PANHANDLE (RED CAVE	6.0	COLORADO INTERSTATE
8047609	15512	4237530673	103		MASTERSON 83-11 RD	WEST PANHANDLE (RED CAVE	21.0	COLORADO INTERSTATE
8047664	15741	4237530670	103		MASTERSON 83-12 RD	WEST PANHANDLE (RED CAVE	7.0	COLORADO INTERSTATE
8047668	15742	4237530675	103		MASTERSON 83-14 RD	WEST PANHANDLE (RED CAVE	9.0	COLORADO INTERSTATE
8047607	15510	4237530669	103		MASTERSON 83-9 RD	WEST PANHANDLE (RED CAVE	13.0	COLORADO INTERSTATE
*GAS WEST					RECEIVED: 07/22/80 JAI TX			
8047260	08724	4242100000	108		BIVINS #1-13	TEXAS HUGOTON	6.8	PHILLIPS PETROLEUM C
*GENERAL CRUDE OIL COMPANY					RECEIVED: 07/22/80 JAI TX			
8047730	16232	4229131227	102		MUBERT GREBBETT NO 1	RAYWOOD SOUTH	175.0	NATURAL GAS PIPELINE
*GETTY OIL COMPANY					RECEIVED: 07/22/80 JAI TX			
8047654	13718	4243330925	103		FLOWERS CANYON SAND UNIT #165	FLOWERS (CANYON SAND)	6.0	CITIES SERVICE CO
8047655	13719	4243330934	103		FLOWERS CANYON SAND UNIT #166	FLOWERS (CANYON SAND)	1.0	CITIES SERVICE CO
8047656	13722	4210300000	103		NORTH MCELROY UNIT WELL NO 3245	MCELROY	32.0	PHILLIPS PETROLEUM C
8047592	15376	4210300000	103		NORTH MCELROY UNIT WELL NO 3261	MCELROY	43.0	PHILLIPS PETROLEUM C
8047657	15723	4210300000	103		NORTH MCELROY UNIT WELL NO 4153	MCELROY	10.7	PHILLIPS PETROLEUM C
8047593	15377	4210300000	103		NORTH MCELROY UNIT WELL NO 4160	MCELROY	6.0	PHILLIPS PETROLEUM C
8047594	15378	4210300000	103		NORTH MCELROY UNIT WELL NO 4413	MCELROY	11.0	PHILLIPS PETROLEUM C
8047650	15693	4247531767	107		UNIVERSITY 27-19 NO 1	WILDCAT	1043.0	EL PASO NATURAL GAS
*GIFFORD MITCHELL & WISENBAKER					RECEIVED: 07/22/80 JAI TX			
8047676	15808	4249530891	103		BLACK KETTLE #2	CHEYENNE (CAPITAN)	13.0	EL PASO NATURAL GAS
8047677	15809	4249530928	103		BLACK KETTLE #3	CHEYENNE (CAPITAN)	9.0	EL PASO NATURAL GAS
8047678	15810	4249530932	103		BLACK KETTLE #4	CHEYENNE (CAPITAN)	26.0	EL PASO NATURAL GAS

VOLUME 257 PAGE 007

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
				RECEIVED: 07/22/80			
0047570	15811	4208330035	103	BLACK KETTLE 66	CHEYENNE (CAPITAN)	10.0	EL PASO NATURAL GAS
0047580	15812	4208330000	103	BLACK KETTLE 65	CHEYENNE (CAPITAN)	11.0	EL PASO NATURAL GAS
0047601	15813	4208330089	103	BLACK KETTLE 67	CHEYENNE (CAPITAN)	7.0	EL PASO NATURAL GAS
0047603	15815	4208330082	103	BLACK KETTLE 68	CHEYENNE (CAPITAN)	9.0	EL PASO NATURAL GAS
0047602	15816	4208330069	103	LITTLE WOLF 61	CHEYENNE (CAPITAN)	21.0	EL PASO NATURAL GAS
0047604	15817	4208330086	103	LITTLE WOLF 63	CHEYENNE (CAPITAN)	3.0	EL PASO NATURAL GAS
0047605	15818	4208330007	103	LITTLE WOLF 64	CHEYENNE (CAPITAN)	37.0	EL PASO NATURAL GAS
0047607	15819	4208330020	103	LITTLE WOLF 66	CHEYENNE (CAPITAN)	22.0	EL PASO NATURAL GAS
0047606	15820	4208330021	103	LITTLE WOLF 67	CHEYENNE (CAPITAN)	5.0	EL PASO NATURAL GAS
0047608	15821	4208330030	103	LITTLE WOLF 68	CHEYENNE (CAPITAN)	5.0	EL PASO NATURAL GAS
*GOLDKING PRODUCTION COMPANY	14710	4240131198	103	LINDSEY NO 1	MULCAH (ORETA 4900)	188.0	HOUSTON PIPELINE CO
				RECEIVED: 07/22/80			
*GRACE PETROLEUM CORPORATION		4240330386	107	C A STEIN #1	WILDCAT	274.0	ARKANSAS-LOUISIANA G
0047371	13561	4226931039	103	V C DENNISON #1	AMARGOSA 2200	146.0	NATURAL GAS PIPELINE
0047384	14094	4227732463	103	STELZIG-ZWERNEMAN 13	LUCKY RIDGE SW (CONSL 5I	150.0	NATURAL GAS PIPELINE
0047372	13559						
*GRELLING INVESTMENTS		4250730095	108	FUENTE ET AL NO 1-7431	CEBOLLA (DEL MONTE) FIEL	138.0	LOVACA GATHERING CO
0047871	09100						
*GULF ENERGY PRODUCING COMPANY		4238332133	103	MART RANCH 0867-1	NW MENDOTA (DOUGLAS LOWE	14.0	
0047380	14438	4238332004	103	MART RANCH 0867-2	MAGON WHEEL (PENN)	90.0	BRAZOS FUEL CO
0047378	08030	4238332005	103	MART RANCH 0867-3	MAGON WHEEL (PENN)	0.0	TEXAS UTILITIES FUEL
0047196	00130	4208900000	108	HUMBERTO GONZALEZ #1	KEYSTONE COLBY	0.0	TEXAS UTILITIES FUEL
*GULF OIL CORPORATION				RECEIVED: 07/22/80	RED DEER CREEK (GRANITE	16.0	TENNESSEE GAS PIPELI
0047668	15725	4249330698	103	P M CHAMBERS 0466	NW MENDOTA (DOUGLAS LOWE	14.0	
0047658	15726	4247331035	103	HUTCHINGS STOCK ABBN W	MAGON WHEEL (PENN)	23.0	CADOT CORP
0047659	15726	4247331084	103	HUTCHINGS STOCK ABBN W	MAGON WHEEL (PENN)	74.0	CADOT CORP
0047667	15744	4240331049	103	KEYSTONE CATTLE CO NO	KEYSTONE (COLBY)	222.0	CADOT CORP
0047664	15743	4240331004	103	KEYSTONE CATTLE COMPANY	KEYSTONE COLBY	181.0	CADOT CORP
0047670	15747	4233330068	103	MARIAN OSBORNE NO 3-26	RED DEER CREEK (GRANITE	194.0	TRANSWESTERN PIPE LI
0047530	15708	4250330972	103	MARIAN CUELLAR ET AL NO	NW MENDOTA (LOGO)	7.0	TENNESSEE GAS PIPELI
0047660	15720	4235330697	103	OSBORNE NO 1-26	NW MENDOTA/LOWER DOUGLAS	17.0	
*H & L OPERATING COMPANY		4219300000	105	DEITZ #1	RECEIVED: 07/22/80		
0047371	15803			NO 1 ALICE - RRC RULE	HANDFORD (MORROW UPPER)	365.0	NORTHERN NATURAL GAS
*H E FEDERER		4219300000	103		RECEIVED: 07/22/80		
0047610	15913			C G HOOKS ET AL #5		880.0	MICHIGAN WISCONSIN P
*H V RIXEN		4228100000	108		RECEIVED: 07/22/80		
0047222	08163			A G LONGENBAUGH #1 (TR	HOOKS (SHALLOW)	6.0	TRUNKLINE GAS CO
*HAIMAN OIL & REFINING CO		4220130770	102	A G LONGENBAUGH #3 (TR	RECEIVED: 07/22/80		
0047360	13233	4220130862	102	A G LONGENBAUGH #5 (TR	CYPRESS (Y-11)	75.0	TRUNKLINE GAS CO
0047362	13230	4220130888	102		CYPRESS (Y-12)	75.0	TRUNKLINE GAS CO
*HARRISON INTERESTS LTD				RECEIVED: 07/22/80	CYPRESS (Y-2)	75.0	TENNESSEE GAS PIPELI
0047714	16003	4210332357	102	NO 13 UNIVERSITY LAND	HOWARD CREEK (PENN)	110.0	
0047744	17363	4210332251	102	NO 2 JOE P BEAN #28600	PIKES PEAK DRAW (CANYON)	70.0	
0047744	17363	4210332251	103	NO 2 JOE P BEAN #28600	PIKES PEAK DRAW (CANYON)	70.0	
0047715	16015	4210332333	102	NO 8 UNIVERSITY LAND 2	HOWARD CREEK (PENN)	110.0	
*HARRY E NELSON				RECEIVED: 07/22/80	HOWARD CREEK (PENN)	110.0	
0047765	19297	4216730287	102	HOWARD BOYLES ET AL NO	ALBOA (TEX HIBB 6)	280.0	LO-VACA GATHERING CO
*HENRY PETROLEUM CORP				RECEIVED: 07/22/80			
0047872	00071	4231731981	103	EVERTS #1	SPRABERRY (TREND AREA)	6.0	BETTY OIL CO

VOLUME 257 PAGE 008

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
				RECEIVED: 07/22/80			
*HIGHLAND RESOURCES INC		4216130460	103	DHA MCMICHAEL GAS UNIT	TEAGUE TOWNSITE (COTTON	369.0	
0047550	15066			RECEIVED: 07/22/80			
*HNG OIL COMPANY		4243331060	103	BROWN 79 #3 74095	BANYER (CANYON)	193.0	INTRATEX GAS CO
0047611	15514	4243331061	103	FIELDS 19 #4 65058	BANYER (CANYON)	11.0	INTRATEX GAS CO
0047617	16164	4243331065	103	GALBREATH 78 #2 80066	BANYER (CANYON)	480.0	INTRATEX GAS CO
0047612	15513	4243332108	103		BANYER (CANYON)	336.0	INTRATEX GAS CO
				RECEIVED: 07/22/80			
0047531	14910	4250330568	103	HEIN UNIT #1 73805	LA PERLA (WILCOX LOWER)	13.0	DELHI GAS PIPELINE C
0047718	16166	4243331020	108	KIRBY 1 #2 65326	BANYER (CANYON)	14.0	INTRATEX GAS CO
0047719	16167	4243330694	108	KIRBY 103 #1 59058	BANYER (CANYON)	5.0	INTRATEX GAS CO
0047613	15516	4243330793	108	KIRBY 103 #2 80064	BANYER (CANYON)	5.0	INTRATEX GAS CO
0047720	16168	4243330794	108	KIRBY 104 #1 59756	BANYER (CANYON)	10.0	INTRATEX GAS CO
0047721	16169	4243330850	108	KIRBY 2 #1 60457	BANYER (CANYON)	13.0	INTRATEX GAS CO
0047722	16170	4243330794	108	LANCASTER 134 #1 59735	BANYER (CANYON)	2.0	INTRATEX GAS CO
0047723	16171	4243330852	108	LANCASTER 185 #1 60870	BANYER (CANYON)	2.0	INTRATEX GAS CO
0047703	15086	4243330646	108	MAYFIELD 33 #2 56031	BANYER (CANYON)	80.0	INTRATEX GAS CO
0047704	15900	4243330136	108	MAYFIELD 39 #1 57069	BANYER (CANYON)	14.0	INTRATEX GAS CO
0047705	15901	4243330259	108	MAYFIELD 40 #2 57708	BANYER (STRAWN NORTH)	20.0	INTRATEX GAS CO
0047706	15902	4243330236	108	MAYFIELD 41 #2 57070	BANYER (CANYON)	20.0	INTRATEX GAS CO
0047707	15903	4243330461	108	MAYFIELD 43 #2 57071	BANYER (STRAWN NORTH)	3.0	INTRATEX GAS CO
0047695	15800	4243330193	108	MORRIS 61 #1 54358	HOLMAN RANCH W (PENN)	3.0	INTRATEX GAS CO
0047696	15801	4243330170	108	MORRIS 63 #1 53606	BANYER (CANYON)	7.0	INTRATEX GAS CO
0047697	15802	4243330156	108	MORRIS 64 #1 54633	BANYER (CANYON)	6.0	INTRATEX GAS CO
0047698	15803	4243330174	108	MORRIS 66 #1 54636	BANYER (CANYON)	20.0	INTRATEX GAS CO
0047700	15898	4243330434	108	REINHARDT 6 #1 57071	BANYER (STRAWN NORTH)	7.0	INTRATEX GAS CO
0047701	15899	4243330363	103	REINHARDT 6 #2 57071	BANYER (CANYON)	180.0	INTRATEX GAS CO
0047694	15517	4243332088	103	SAWYER 142 #2 60067	BANYER (CANYON)	180.0	INTRATEX GAS CO
0047710	15907	4243330040	108	SERAPIO VELA HEIRS #1	ROLETA (6900)	351.0	HOUSTON PIPE LINE CO
0047711	15908	4243331064	108	SERAPIO VELA HEIRS #2	ROLETA (6900)	351.0	HOUSTON PIPE LINE CO
0047712	15909	4243330904	108	SHURLEY 147 #1 53813	BANYER (CANYON)	21.0	INTRATEX GAS CO
0047725	16172	4243330693	108	SHURLEY 147 #2 60078	BANYER (CANYON)	2.0	INTRATEX GAS CO
0047615	15518	4243332147	103	SHURLEY 186 #1 60078	BANYER (CANYON)	14.0	INTRATEX GAS CO
0047552	15044	4227731857	103	SIMMONS 71 #1 59330	BANYER (CANYON)	5.0	INTRATEX GAS CO
0047551	15069	4247531817	103	STEWART 3 #2 61690	BIG VALLEY (CHERRY CANYO	45.0	INTRATEX GAS CO
				TEXAS STATE A #1 25495	PITZER B (ORLANDO)	140.0	CLAJON GAS CO
				TEXPEL 103 #1 28375	PITZER B (ORLANDO, WEST)	22.0	CLAJON INC
0047553	15901	4243330186	108	VANDERSTUCKEN 70 #1 53	BANYER (CANYON)	20.0	INTRATEX GAS CO
0047713	16002	4243330002	108	VANDERSTUCKEN 80 #2 61	BANYER (CANYON)	5.0	INTRATEX GAS CO
0047616	15519	4243332138	103	WALLACE 64 #3 62031	BANYER (CANYON)	90.0	INTRATEX GAS CO
0047726	16173	4243331390	108	WALLACE 90 #1 70565	BANYER (CANYON)	14.0	INTRATEX GAS CO
0047617	15520	4243332107	103	WYATT 56 #2 80966	BANYER (CANYON)	175.0	INTRATEX GAS CO
*MOLLY ENERGY INC	12223			RECEIVED: 07/22/80			
0047292		4223900000	103	MCDOWELL #1-T	WESTHOFF RANCH (6770)	130.0	UNITED GAS PIPE LINE
*HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 07/22/80			
0047673	15776	4221930901	103	EVELYN TURNER ESTATE NO	MONTE CHRISTO NORTH (F-1	436.0	SOUTH TEXAS NATURAL
*HUISACHE OPERATING CO				RECEIVED: 07/22/80			
0047900	14714	4224930540	102	R G PIERCE #4 UNIT	MALDEMAN B	70.0	TRUNKLINE GAS CO
*INDIAN WELLS OIL CO				RECEIVED: 07/22/80			
0047773	19720	4223531414	102	RICHEY 8451	PRODANOT (CANYON SAND)	73.0	NORTHERN NATURAL GAS
0047770	19737	4223531346	102	RICHEY 8451	PRODANOT (CANYON SAND)	53.0	NORTHERN NATURAL GAS
0047772	19730	4223531412	102	RICHEY 42 1	PRODANOT (CANYON SAND)	90.0	NORTHERN NATURAL GAS
0047771	19738	4223531418	102	RICHEY 5341	PRODANOT (CANYON SAND)	0.0	NORTHERN NATURAL GAS

V 45 AG 18 80 UMI

VOLUME 257 PAGE 008

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8047769	19736	4223331387	102		RICHEY 33=1	PRODANDY (CANYON SAND)	110.0	NORTHERN NATURAL GAS
=INEXCO OIL COMPANY					RECEIVED: 07/22/80 JA: TX			
8047275	11464	4221530867	103		SW ROYALTY CO NO 1	GUADALUPE	900.0	FLORIDA GAS TRANSMIS
8047275	11464	4221530867	102		SW ROYALTY CO NO 1	GUADALUPE	900.0	FLORIDA GAS TRANSMIS
=INTEGRAL ENERGY CORP					RECEIVED: 07/22/80 JA: TX			
8047510	14715	4238130018	102		STATE TRACT 303 WELL #3=U	OYSTER LAKE N (1700)	91.2	DOW CHEMICAL CO
=J CLEO THOMPSON					RECEIVED: 07/22/80 JA: TX			
8047332	14914	4210300000	108		MAGNOLIA NO 11 = 04212	MC ELROY FIELD	11.0	PHILLIPS PETRO CO
=J CLEO THOMPSON & JAMES CLEO THOMPS					RECEIVED: 07/22/80 JA: TX			
8047674	15780	4200300000	103		WEST MEANS UNIT TRACT 6 WELL 1	MEANS	0.0	PHILLIPS PETROLEUM C
=J D BURKE					RECEIVED: 07/22/80 JA: TX			
8047716	16120	4217500000	108		F O MARSHALL I=I 37023	MARSHALL (2700)	8.9	UNITED GAS PIPE LINE
=J M HUBER CORPORATION					RECEIVED: 07/22/80 JA: TX			
8047204	05211	4223300000	108		STATE B NO 17	PANHANDLE	0.3	GETTY OIL CO
8047203	05190	4223300000	108		STATE B NO 6	PANHANDLE	0.3	GETTY OIL CO
=J W SNIDER					RECEIVED: 07/22/80 JA: TX			
8047273	09040	4217900000	108		JOHNSON ESTATE 11=176	PANHANDLE=GRAY COUNTY	4.9	PIONEER NATURAL GAS
8047259	08764	4217900000	108		JOHNSON ESTATE 2=175	PANHANDLE=GRAY COUNTY	4.9	PIONEER NATURAL GAS
8047258	08773	4217900000	108		JOHNSON ESTATE 8=176	PANHANDLE=GRAY COUNTY	4.9	PIONEER NATURAL GAS
=JENNINGS EXPLORATION CO					RECEIVED: 07/22/80 JA: TX			
8047753	17697	4250731175	102		VESTRING ET AL NO 2=T	CEBOLLA (BRACERO BEG A)	73.0	LOVACA GATHERING CO
8047754	17698	4250731175	102		VESTRING NO 2=C 83700	CEBOLLA (DEL MONTE BEG A	103.0	LOVACA GATHERING CO
=JOSEPH G GIBSON					RECEIVED: 07/22/80 JA: TX			
8047293	12184	4224730861	103		A K EAST FEE NO 11=L	BLACK DIAMOND	33.0	
8047293	12184	4224730861	102		A K EAST FEE NO 11=L	BLACK DIAMOND	33.0	
=KERR=MCGEE CORPORATION					RECEIVED: 07/22/80 JA: TX			
8047578	15263	4229530307	103		C E MARTIN WELL NO 1	SOUTHWEST LIPSCOMB = (CL	90.3	PHILLIPS PETROLEUM C
8047579	15264	4229530486	103		EPPS UNIT 463 WELL NO 1	SOUTHWEST LIPSCOMB (CLEV	46.5	PHILLIPS PETROLEUM C
8047737	017030	4221131106	102		JOHN VISE NO 1	BRISCOE CHERT	0.0	NORTHERN NATURAL GAS
8047580	15265	4229530271	103		LOTZ WELL NO 1	SOUTHWEST LIPSCOMB (CLEV	91.2	PHILLIPS PETROLEUM C
8047581	15266	4229530308	103		ROYER WELL NO 1	SOUTHWEST LIPSCOMB (CLEV	96.4	PHILLIPS PETROLEUM C
=KEY PRODUCTION COMPANY					RECEIVED: 07/22/80 JA: TX			
8047572	15203	4210330402	102		JOHN HENDERSON 1 ID=83073	ALPINE (TRAVIS PEAK)	0.0	ARKANSAS LOUISIANA G
=KIMBALL PRODUCTION COMPANY					RECEIVED: 07/22/80 JA: TX			
8047561	15171	4248131212	103		WIEBE BROS NO 1	LISSIE (WILCOX 9600)	140.0	SEAGULL PIPELINE COR
=MALLARD EXPLORATION INC					RECEIVED: 07/22/80 JA: TX			
8047673	15781	4210332052	103		J B TUBB STATE NO 8	SAND HILLS (MCKNIGHT)	370.0	WARREN PETROLEUM CO
=MARTIN OIL & GAS CO					RECEIVED: 07/22/80 JA: TX			
8047762	18507	4205100000	102		PIWONKA #2	CALDWELL (AUSTIN CHALK)	0.0	MAYNARD OIL CO
=MAY PETROLEUM INC					RECEIVED: 07/22/80 JA: TX			
8047248	10625	4229530616	102		CHARLES BROWN #1 (ID UNASSIGNED)	MAY (BASAL MORROW)	730.0	NORTHERN NATURAL GAS
8047248	10625	4229530616	103		CHARLES BROWN #1 (ID UNASSIGNED)	MAY (BASAL MORROW)	730.0	NORTHERN NATURAL GAS
=MCMORAN = TRANSCO EXPLORATION CO					RECEIVED: 07/22/80 JA: TX			
8047739	16853	4213133926	102		WELDER HEIRS 1=213	DEJAY (WILCOX 8175) FIEL	0.0	
=MCMORAN EXPLORATION CO					RECEIVED: 07/22/80 JA: TX			
8047755	17659	4235531393	102		STATE TRACT 342 WELL NO 2	RED FISH BAY NORTH (D=1)	1200.0	UNITED GAS PIPE LINE
=MELLON ENERGY CO					RECEIVED: 07/22/80 JA: TX			
8047556	15165	4232130883	103		STEWART SAVAGE ET AL NO 1 ID #80458	WADSWORTH (SAVAGE)	275.0	DOW CHEMICAL CO
=MESA PETROLEUM					RECEIVED: 07/22/80 JA: TX			
8047745	17572	4270630133	102		GALVESTON 102=L WELL #1 ST	GALVESTON 102=L (MIOCENE	0.0	UNITED TEXAS TRANSMI
8047746	17573	4270630146	102		GALVESTON 102=L WELL #2	GALVESTON 102=L (MIOCENE	0.0	UNITED TEXAS TRANSMI
8047747	17574	4270630150	102		GALVESTON 102=L WELL #3	GALVESTON 102=L (MIOCENE	0.0	UNITED TEXAS TRANSMI

VOLUME 257 PAGE 010

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
=MENBOURNE OIL COMPANY					RECEIVED: 07/22/80 JA: TX			
8047671	15751	4229530664	103		BRADFORD A #1	BRADFORD (TONKAWA)	3.0	TRANSWESTERN PIPELIN
8047223	08167	4233730797	103		BROWNIE #1 ID #78669	ELLIS RANCH (CLEVELAND)	70.0	DIAMOND SHAMROCK COR
=MGF OIL CORP					RECEIVED: 07/22/80 JA: TX			
8047591	15391	4231732071	103		MCMURRY NO 1	SULPHUR DRAW (DEAN 8790)	15.0	
=MITCHELL ENERGY CORPORATION					RECEIVED: 07/22/80 JA: TX			
8047582	15269	4249731869	103		C P SMITH #3 18414	ALVORD (ATOKA CONGLOMERA	85.0	
8047583	15271	4249731618	103		H V BENEDICT #2 19447	PARK SPRINGS (CONGL)	30.0	
8047584	15098	4249731497	103		JOE MOTSENBOCKER #2 83232	BOONSVILLE (BEND CONGL G	45.0	
8047577	15233	4229330451	103		L O NETTLES #1	POKEY E (COTTON VALLEY)	150.0	
8047283	12571	4236731576	102		MINERAL WELLS C OF C #1 82436	LAKE MINERAL WELLS (4000	800.0	NATURAL GAS PIPELINE
8047369	13527	4236731566	102		SARA J HOWARD #2=C 82433	LAKE MINERAL WELLS (4000	800.0	NATURAL GAS PIPELINE
8047522	14010	4249731264	103		TCWB #22 17160	CAP YATES (CONSOLIDATED	26.0	NATURAL GAS PIPELINE
=MOBIL OIL CORP					RECEIVED: 07/22/80 JA: TX			
8047584	13275	4236530917	103		FRED KYLE UNIT WELL NO 2	CARTHAGE (COTTON VALLEY)	851.6	
=MORMAC OIL & GAS CO					RECEIVED: 07/22/80 JA: TX			
8047741	17320	4212731804	102		FROST NATIONAL BANK NO 1	J F B (OLMOS 4100)	44.0	LOVACA GATHERING CO
8047523	14016	4212731804	102		MARVIN G KROPF NO 1	J F B (OLMOS 4100)	365.0	LOVACA GATHERING CO
=NATOMAS NORTH AMERICA INC					RECEIVED: 07/22/80 JA: TX			
8047201	04729	4248300000	102		BEEF CATTLE COMPANY NO 1	WHEELER RAN (HUNTON)	0.0	EL PASO NATURAL GAS
8047201	04729	4248300000	103		BEEF CATTLE COMPANY NO 1	WHEELER RAN (HUNTON)	0.0	EL PASO NATURAL GAS
=NEWHALL LAND & FARMING CO					RECEIVED: 07/22/80 JA: TX			
8047620	15541	4241330812	103		D W SPENCE #1	JAN=JERRYE SE (CANYON RE	720.0	NORTHERN NATURAL GAS
8047620	15541	4241330812	102		D W SPENCE #1	JAN=JERRYE SE (CANYON RE	720.0	NORTHERN NATURAL GAS
=NP ENERGY CORP					RECEIVED: 07/22/80 JA: TX			
8047359	13311	4225530691	103		LETBINGER/BUTTON #1	KENEDY EAST FIELD (LULIN	144.0	UNITED GAS PIPELINE
8047278	11063	4246931188	103		JOHNSON #1	NURSERY B FIELD	0.0	INTRASTATE GATHERING
=NRM PETROLEUM CORPORATION					RECEIVED: 07/22/80 JA: TX			
8047467	14491	4241300000	103		MERTZ #1 81840	MERTZ=MAMILL (STRAWN) FI	830.0	INTRATEX GAS CO
8047468	14492	4241300000	103		MERTZ A #1 81839	MERTZ=MAMILL (STRAWN) FI	368.0	INTRATEX GAS COMPANY
=PARAFFINE OIL CORP					RECEIVED: 07/22/80 JA: TX			
8047760	18234	4224930555	103		HERBERT SMITH NO 1 71594	BEN BOLT (5600)	363.0	SEAGULL PIPELINE COR
8047760	18234	4224930555	102		HERBERT SMITH NO 1 71594	BEN BOLT (5600)	363.0	SEAGULL PIPELINE COR
8047734	16632	4246931885	102		KEERAN NO 2	KEERAN (6880)	183.0	FLORIDA GAS TRANSMIS
=PARKER & PARSLEY INC					RECEIVED: 07/22/80 JA: TX			
8047585	15286	4238930838	103		MUTT A WELL NO 1	SPRABERRY (TREND AREA)	15.0	EL PASO NATURAL GAS
=PAUL E CAMERON JR INC					RECEIVED: 07/22/80 JA: TX			
8047260	09409	4248100000	102		M B BADGER #1	BERNARD EAST (CLODINE)	368.0	TRUNKLINE GAS CO
=PENNZOIL PRODUCING COMPANY					RECEIVED: 07/22/80 JA: TX			
8047176	02903	4235504654	108		J C INGRAM NO D 1	AGUA DULCE	0.0	UNITED GAS PIPELINE
=PETROLEUM CORPORATION OF TEXAS					RECEIVED: 07/22/80 JA: TX			
8047202	04777	4243531045	103		WEBB MILL #8 ID #76276	WHITEHEAD (STRAWN)	188.0	NORTHERN NATURAL GAS
=PHILLIPS PETROLEUM COMPANY					RECEIVED: 07/22/80 JA: TX			
8047352	13162	4223300000	108		COCKRELL E NO 1	PANHANDLE MUTCHINSON	1.2	GETTY OIL CO
8047351	13163	4223300000	108		COCKRELL E NO 3	PANHANDLE MUTCHINSON	1.2	GETTY OIL CO
8047350	13165	4223300000	108		COCKRELL E NO 7	PANHANDLE MUTCHINSON	1.8	GETTY OIL CO
8047353	13149	4223300000	108		COCKRELL RANCH NO 100	PANHANDLE MUTCHINSON	0.4	GETTY OIL CO
8047354	13150	4223300000	108		COCKRELL RANCH NO 102	PANHANDLE MUTCHINSON	2.5	GETTY OIL CO
8047365	13181	4223300000	108		COCKRELL RANCH NO 104	PANHANDLE MUTCHINSON	9.6	GETTY OIL CO
8047340	13117	4223300000	108		COCKRELL RANCH NO 8	PANHANDLE MUTCHINSON	8.0	GETTY OIL CO
8047305	12973	4223300000	108		COCKRELL RANCH NO 25	PANHANDLE MUTCHINSON	5.0	GETTY OIL CO
8047304	12976	4223300000	108		COCKRELL RANCH NO 27	PANHANDLE MUTCHINSON	9.5	GETTY OIL CO

VOLUME 257 PAGE 011

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
0047358	13118	4223300000	106	COCKRELL RANCH NO 3	PANHANDLE HUTCHINSON	3.0	GETTY OIL CO
0047359	13119	4223300000	106	COCKRELL RANCH NO 44	PANHANDLE HUTCHINSON	3.0	GETTY OIL CO
0047355	13161	4223300000	106	COCKRELL RANCH NO 5	PANHANDLE HUTCHINSON	1.0	GETTY OIL CO
0047360	13166	4223300000	106	COCKRELL RANCH NO 60	PANHANDLE HUTCHINSON	3.0	GETTY OIL CO
0047348	13177	4223300000	106	COCKRELL RANCH NO 61	PANHANDLE HUTCHINSON	3.0	GETTY OIL CO
0047347	13178	4223300000	106	COCKRELL RANCH NO 62	PANHANDLE HUTCHINSON	7.0	GETTY OIL CO
0047344	13179	4223300000	106	COCKRELL RANCH NO 63	PANHANDLE HUTCHINSON	3.0	GETTY OIL CO
0047349	13180	4223300000	106	COCKRELL RANCH NO 64	PANHANDLE HUTCHINSON	14.0	TRANSWESTERN PIPELIN
0047345	13670	4223900000	106	KIOWA CREEK TONKAWA		160.0	EL PASO NATURAL GAS
0047333	13531	4211903670	106	GOLDSMITH (6000)	GOLDSMITH ADOBE UNIT #18-06 (18713)	0.3	GETTY OIL CO
0047313	13069	4223300000	106	MARVEY UNIT NO 0536	PANHANDLE HUTCHINSON	0.3	GETTY OIL CO
0047321	13057	4223300000	106	MARVEY UNIT NO 0548	PANHANDLE HUTCHINSON	0.3	GETTY OIL CO
0047360	13102	4223300000	106	MARVEY UNIT 03801	PANHANDLE HUTCHINSON	0.3	GETTY OIL CO
0047323	13036	4223300000	106	MARVEY UNIT 03502	PANHANDLE HUTCHINSON	0.3	GETTY OIL CO
0047324	13037	4223300000	106	MARVEY UNIT 03503	PANHANDLE HUTCHINSON	0.3	GETTY OIL CO
0047328	13043	4223300000	106	MARVEY UNIT 03504	PANHANDLE HUTCHINSON	1.0	GETTY OIL CO
0047356	13144	4223300000	106	MARVEY UNIT 04401	PANHANDLE HUTCHINSON	4.0	GETTY OIL CO
0047363	13184	4223300000	106	MARVEY UNIT 04402	PANHANDLE HUTCHINSON	7.0	GETTY OIL CO
0047320	13058	4223300000	106	MARVEY UNIT 04403	PANHANDLE HUTCHINSON	4.0	GETTY OIL CO
0047310	13060	4223300000	106	MARVEY UNIT 04417	PANHANDLE HUTCHINSON	4.0	GETTY OIL CO
0047317	13061	4223300000	106	MARVEY UNIT 04427	PANHANDLE HUTCHINSON	7.0	GETTY OIL CO
0047316	13071	4223300000	106	MARVEY UNIT 04441	PANHANDLE HUTCHINSON	0.3	GETTY OIL CO
0047306	12957	4249503443	106	JENKINS NO 4 (03335)	KEYSTONE (DEVONIAN)	3.0	DID RICHARDSON GASOL
0047301	14142	4223300000	106	JOHNSON J NO 16	WEST PANHANDLE	80.0	EL PASO NATURAL GAS
0047306	14175	4223300000	106	JOHNSON J NO 36	PANHANDLE HUTCHINSON	80.0	EL PASO NATURAL GAS
0047332	13084	4205300000	106	JORDAN D NO 37	PANHANDLE CARSON	0.3	GETTY OIL CO
0047331	13076	4223300000	106	JORDAN D NO 39	PANHANDLE HUTCHINSON	0.7	GETTY OIL CO
0047333	13077	4223300000	106	JORDAN D NO 5	PANHANDLE HUTCHINSON	1.0	GETTY OIL CO
0047337	13145	4217900000	106	JORDAN D NO 7	PANHANDLE HUTCHINSON	15.0	GETTY OIL CO
0047315	13730	4249530278	106	LEOPOLD A NO 4	HALLEY (YATES)	0.4	EL PASO NATURAL GAS
0047193	04843	4200102025	106	MCCABE NO 42 (21555)	PANHANDLE GRAY	8.0	NORTHERN NATURAL GAS
				N PEMBROOK 8 UN 8602 (03933)	BRABERRY (TREND AREA)		
0047301	13966	4240101391	106	N PEMBROOK BRA UNIT NO	BRABERRY (TREND AREA)	1.8	NORTHERN NATURAL GAS
0047512	14722	4240101415	106	N PEMBROOK BRABERRY UNI	BRABERRY (TREND AREA)	0.6	NORTHERN NATURAL GAS
0047511	14723	4240101690	106	N PEMBROOK BRABERRY UNI	BRABERRY (TREND AREA)	2.0	NORTHERN NATURAL GAS
0047516	14725	4213520060	106	NORTH PENWELL UNIT #47	PENWELL	6.0	EL PASO NATURAL GAS
0047378	13731	4213507265	106	NORTH PENWELL UNIT NO 2	PENWELL	0.4	EL PASO NATURAL GAS
0047375	13733	4213507279	106	NORTH PENWELL UNIT NO 3	PENWELL	4.1	EL PASO NATURAL GAS
0047374	13732	4213507279	106	NORTH PENWELL UNIT NO 9	PENWELL	1.0	EL PASO NATURAL GAS
0047379	13572	4213504440	106	NORTH PENWELL UNIT 116	PENWELL	2.0	EL PASO NATURAL GAS
0047515	14727	4213507233	106	P DYER NO 2	N PANHANDLE	18.0	EL PASO NATURAL GAS
0047647	13679	4223300000	106	PETER 2 NO 2	CARTHAGE	305.0	
0047291	12224	4239530660	102	PHIL-PAMPA UNIT NO 1012	PANHANDLE GRAY	4.0	GETTY OIL CO
0047336	13134	4217900000	106	PHIL-PAMPA UNIT NO 107	PANHANDLE GRAY	2.5	GETTY OIL CO
0047337	13133	4217900000	106	PHIL-PAMPA UNIT NO 1104	PANHANDLE GRAY	5.0	GETTY OIL CO
0047308	12922	4217900000	106	PHIL-PAMPA UNIT NO 1403	PANHANDLE GRAY	1.0	GETTY OIL CO
0047300	12927	4217900000	106	PHIL-PAMPA UNIT NO 1427	PANHANDLE GRAY	1.0	GETTY OIL CO

VOLUME 257 PAGE 012

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
0047303	13028	4217900000	106	PHIL-PAMPA UNIT NO 1502	PANHANDLE GRAY	0.8	GETTY OIL CO
0047302	13052	4217900000	106	PHIL-PAMPA UNIT NO 1902	PANHANDLE GRAY	2.6	CITIES SERVICE CO
0047301	13033	4217900000	106	PHIL-PAMPA UNIT NO 1903	PANHANDLE GRAY	5.5	CITIES SERVICE CO
0047335	13135	4217900000	106	PHIL-PAMPA UNIT NO 2501	PANHANDLE GRAY	11.0	GETTY OIL CO
0047346	13136	4217900000	106	PHIL-PAMPA UNIT NO 3502	PANHANDLE GRAY	0.6	GETTY OIL CO
0047345	13138	4217900000	106	PHIL-PAMPA UNIT NO 3503	PANHANDLE GRAY	1.0	GETTY OIL CO
0047343	13140	4217900000	106	PHIL-PAMPA UNIT NO 4401	PANHANDLE GRAY	2.0	GETTY OIL CO
0047342	13141	4217900000	106	PHIL-PAMPA UNIT NO 5A10	PANHANDLE GRAY	0.3	GETTY OIL CO
0047311	12912	4217900000	106	PHIL-PAMPA UNIT NO 7-12	PANHANDLE GRAY	2.6	GETTY OIL CO
0047356	13142	4217900000	106	PHIL-PAMPA UNIT NO 7-7	PANHANDLE GRAY	10.0	GETTY OIL CO
0047347	13143	4217900000	106	PHIL-PAMPA UNIT NO 8-9	PANHANDLE GRAY	0.8	GETTY OIL CO
0047310	12914	4217900000	106	PHIL-PAMPA UNIT NO 07-05	PANHANDLE GRAY	0.2	GETTY OIL CO
0047341	13142	4217900000	106	PHIL-PAMPA UNIT 9-06	PANHANDLE GRAY	2.6	GETTY OIL CO
0047365	14102	4217900000	106	SOUTH COMDEN UNIT NO 8A16 (19870)	COMDEN SOUTH	4.0	ODESSA NATURAL GAS C
0047373	15210	4213533174	103	TIMME E T NO 1	PANHANDLE HUTCHINSON	1.0	GETTY OIL CO
0047330	13085	4223300000	106	TIMME E T NO 2	PANHANDLE HUTCHINSON	7.8	GETTY OIL CO
0047329	13087	4223300000	106	TIMME E T NO 3	PANHANDLE HUTCHINSON	4.0	GETTY OIL CO
0047328	13088	4223300000	106	TIMME E T NO 5	PANHANDLE HUTCHINSON	3.7	GETTY OIL CO
0047327	13089	4223300000	106	TIMME E T NO 6	PANHANDLE HUTCHINSON	1.0	GETTY OIL CO
0047325	13090	4223300000	106	TURNER-KENT A NO 36	PANHANDLE HUTCHINSON	2.0	GETTY OIL CO
0047390	14007	4200304585	106	UNIV ANDREWS NO 91 (21903)	EMBAR (PERMIAN)	12.3	EL PASO NATURAL GAS
0047539	14975	4200304585	106	UNIVERSITY ANDREWS NO 67 (01870)	PANHANDLE HUTCHINSON	0.8	EL PASO NATURAL GAS
0047307	12948	4223300000	106	WHITTENBURG 077	PANHANDLE HUTCHINSON	10.0	EL PASO NATURAL GAS
0047294	11080	4223300000	106	WHITTENBURG NO 61	PANHANDLE HUTCHINSON	1.0	EL PASO NATURAL GAS
0047295	11081	4223300000	106	WHITTENBURG NO 73	PANHANDLE HUTCHINSON	1.8	EL PASO NATURAL GAS
0047296	11077	4223300000	106	WHITTENBURG NO 83	PANHANDLE HUTCHINSON	0.1	EL PASO NATURAL GAS
0047297	11063	4223300000	106	WHITTENBURG 82 NO 5	PANHANDLE HUTCHINSON	11.7	DELHI GAS PIPELINE C
#1778 OIL CO & DALLAS		PROD INC		RECEIVED: 07/22/80 JAI			
0047520	14855	4207330168	105	LITTLE NO 1	WHITE OAK CREEK (TRAVIS	100.0	NATURAL GAS PIPELINE
#POLK & PATTON INC				RECEIVED: 07/22/80 JAI			
0047568	15171	4236731464	105	BOBBY FREDIEU	TOYO (BEND CONGLOMERATE	60.0	LONE STAR GAS CO
0047545	15000	4223732400	105	GRACE MAXTHORNE NO 1	WILDCAT (JACK COUNTY REG	160.0	LONE STAR GAS CO
0047546	15009	4223732801	105	LENORA FRANKLIN NO 1	WILDCAT (JACK COUNTY REG	100.0	NATURAL GAS PIPELINE
0047563	15175	4236733118	105	OZELLA BAILY	TOYO (BEND CONGLOMERATE		
#R H ENGELKE				RECEIVED: 07/22/80 JAI			
0047503	014687	4246031622	102	A P SCHIFFBAUER ETAL NO	VICTORIA NORTH (16600)	73.0	TENNESSEE GAS PIPELI
0047505	14669	4246031627	102	WARREN BALL #2	WILDCAT	100.0	
0047500	014688	4246031617	102	WARREN BALL NO 1	VICTORIA NORTH (13300)	18.3	TENNESSEE GAS PIPELI
#R L KIRKWOOD JR				RECEIVED: 07/22/80 JAI			
0047756	17461	4217900000	102	JEANETTE B BLUNTZER ND	ENKE (8950) FIELD	0.0	UNITED GAS PIPE LINE
#RAMSEY & GARRAWAY				RECEIVED: 07/22/80 JAI			
0047834	04826			MORSE J B #2 41369	EAST PANHANDLE	19.0	COLTEXO CORP
#RAL OIL COMPANY				RECEIVED: 07/22/80 JAI			
0047516	14736	4211531264	103	GREEN NO 1 #8830	ACKERLY (OEAN SAND)	80.0	TEXACO INC
0047517	14745	4249531038	103	BEALY & SMITH 00 #8285	DARMER NE (PENN)	56.0	EL PASO NATURAL GAS
0047514	14963	4249531055	103	BEALY & SMITH 00-A NO	DARMER NE (PENN)	42.3	EL PASO NATURAL GAS
0047518	14764	4210332230	103	UNIVERSITY 13-F, NO 1	BLOCK 47 (ORLUIAN)	40.0	
0047519	14760	4238331201	103	UNIVERSITY 22 #3 #8782	DARMER (SAN ANDRES)	20.0	
0047535	14944	4200331857	103	UNIVERSITY 44 NO 1 #853	EMMA (STRAWN)	20.0	
0047520	14770	4250330822	103	UNIVERSITY 8-E #1 #8758	BARNHART	16.0	

V45 AG 18 80 UMI

VOLUME 257 PAGE 013

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER	
*SAM P HENDERSON				RECEIVED: 07/22/80				
*0047366	14063	4807731178	103	BARNER BROS NO 7				
*BEELY OIL CO				RECEIVED: 07/22/80	DILLARD BN (8870)		0.3	TEXAS UTILITIES FUEL
0047360	14016	4240731389	103	PEARL MOUSH 81322	BOONSVILLE (BEND CONGL 8		144.0	LONE STAR GAS CO
*SHELL OIL CO				RECEIVED: 07/22/80				
0047242	06552	4210130604	103	BIG MINERAL CREEK	BIG MINERAL CREEK (8 800		48.0	UNION TEXAS PETROLEU
0047109	01540	4250130657	103	DENVER UNIT 7537	HASSON		16.8	SHELL OIL CO
0047243	06551	4216531214	103	FLANAGAN UNIT 107	FLANAGAN (CLEAR FORK UPP		1.0	PHILLIPS PETROLEUM C
0047257	10772	4242731841	103	JUDD ESTATE-STATE NO 5	LACOSTA (VICKSBURG 2 SW		100.0	TENNESSEE GAS PIPELI
0047247	10681	4250131602	105	DUNBY SAN ANDRES UNIT	DUNBY		0.6	AMOCO PRODUCTION CO
*BOWIE NATURAL RESOURCES CO				RECEIVED: 07/22/80				
0047599	15480	4220300000	106	H MORDEN GAS UNIT WELL	WOODLAWN W (HUBERT)		16.0	MISSISSIPPI RIVER TR
*SOUTHLAND MINERALS CO				RECEIVED: 07/22/80				
0047564	15176	4220731700	103	BANGER MINS #7	SIERRA VISTA (BLOCK A)		66.0	TEXAS EASTERN TRANSM
*SOUTHLAND ROYALTY CO				RECEIVED: 07/22/80				
0047424	14834	4238331351	103	UNIVERSITY 1 61	SPRABERRY TREND AREA		20.0	EL PASO NATURAL GAS.
*SUN OIL COMPANY (DELAWARE)				RECEIVED: 07/22/80				
0047742	017383	4242731320	102	FROST NATL BANK IND EX			37.0	TRANSCONTINENTAL GAS
0047743	17324	4242731319	102	FROST NATL BANK IND EX			146.0	
*TAMBE OIL & CATTLE CO				RECEIVED: 07/22/80				
0047392	13741	4240900000	106	E G HUTCHINS WELL NO 3	KERMIT FIELD		1.0	PHILLIPS PETROLEUM C
*TANA OIL & GAS CORP				RECEIVED: 07/22/80				
0047383	14306	4221300000	103	MIDALGO-VILLACY #1 051	CITRUS CITY (7800)		800.0	TENNESSEE GAS PIPELI
*TAURUS OIL CORP				RECEIVED: 07/22/80				
0047250	10066	4222130313	103	H PETREY #1 (NUMBER AP	MORGAN MILL (MARBLE FALL		110.3	
*TAYLOR BROTHERS OIL CO				RECEIVED: 07/22/80				
0047690	13930	4248130813	103	MITCH & MITZIE NO 3 (PR	TEXAS - HUBOTON		73.0	PHILLIPS PETROLEUM C
*TEX OPERATING CO				RECEIVED: 07/22/80				
0047576	15812	4245331178	103	TEXAS RICE LAND NO 1	LOVELLS LAKE (PRIO 1 778		23.0	TEXAS EASTERN TRANSM
*TENNECO OIL COMPANY				RECEIVED: 07/22/80				
0047866	08467	4200331640	103	BITLER #1	PULLERTON		9.0	PHILLIPS PETROLEUM C
0047233	08463	4217900000	106	BOWERS A & C #1-C	PANHANDLE		0.1	PHILLIPS PETROLEUM C
0047267	08464	4217900000	106	BOWERS A & C #2-C	PANHANDLE		0.1	PHILLIPS PETROLEUM C
0047177	03927	4239330026	103	CHAMBERS 2-4	MENDOTA NW		0.1	PHILLIPS PETROLEUM C
0047176	03928	4239330032	103	CHAMBERS 3-3	MENDOTA NW (GRANITE WASH		312.0	PIONEER NATURAL GAS
0047376	13640	4250131366	103	PRENTICE CLEARFORK UNI	PRENTICE CLEARFORK (6700		360.0	PIONEER NATURAL GAS
0047241	07302	4242731391	102	T B BLICK ESTATE NO 67	HINDE (VICKSBURG 21)		3.5	AMOCO PRODUCTION CO
*TEXAS ENERGY EXPLORATION INC				RECEIVED: 07/22/80			1100.0	TENNESSEE GAS PIPELI
0047351	15713	4233731088	103	DONALD - A #1	TOM BRAHAM (2700)		30.0	VALLEY GAS TRANSMISS
*TRAVELERS OIL CO GOV PROJECT				RECEIVED: 07/22/80				
0047224	08128	4217900000	103	CHAPMAN #1 04813	THOMAS (2200)		7.4	SHELL OIL CO
0047186	06540	4223300000	106	DOUBLE FIVE #2 RRC #01	MELOUNE W (7800 A)		0.1	AMOCO PRODUCTION CO
0047187	06545	4223300000	106	DOUBLE FIVE #3 RRC #01	NORTH PANNIN		144.0	AMOCO PRODUCTION CO
0047221	08136	4223300000	106	DOUBLE FIVE #4 RRC #01	BEAR GRASS (COTTON VALLE		165.0	UNITED TEXAS TRANSMI
0047217	06550	4223300000	106					
0047216	06551	4223300000	106	HUBELBY A #1 03351			14.0	AMOCO PRODUCTION CO
0047220	06547	4223300000	106	LUGINBYHL A #3 RRC #01	LOVELLAND UNIT WELL #21		6.0	AMOCO PRODUCTION CO
0047210	06546	4223300000	106	LUGINBYHL A #6 RRC #00	LOVELLAND UNIT WELL #22		0.1	AMOCO PRODUCTION CO
0047214	06548	4223300000	106	MCILROY #1 RRC #02409	LOVELLAND UNIT WELL NO 2			
0047215	06553	4223300000	106	MCILROY #2 RRC #02409				
0047213	06556	4223300000	106	MCILROY #5 RRC #02409				
0047212	06555	4223300000	106	MOLLIE #1 RRC #00925				
0047211	06559	4223300000	106	MOLLIE #3 RRC #00925				
0047210	06557	4223300000	106	MOLLIE #5 RRC #00925				
0047200	06618	4223300000	106	MOLLIE #6 RRC #00925				
0047231	06617	4223300000	106	MOLLIE #7 RRC #00925				
0047230	06611	4223300000	106	VENTURE #1 RRC #01550				
0047209	06613	4223300000	106	VENTURE #11 RRC #01550				
0047207	06614	4223300000	106	VENTURE #13 RRC #01550				
0047206	06615	4223300000	106	VENTURE #4 RRC #01550				
0047205	06616	4223300000	106	VENTURE #5 RRC #01550				
0047232	06617	4223300000	106	VENTURE #6 RRC #01550				
*TRAVIS M DAVIS GAS ACCOUNT				VENTURE #7 RRC #01550				
0047524	14021	4210900000	106	VENTURE #9 RRC #01550				
*TREK PETROLEUM INC				RECEIVED: 07/22/80				
0047262	08617	4210300000	106					
0047263	08615	4210300000	106	RECEIVED: 07/22/80				
*U S RESOURCES INC								
0047555	15138	4228730386	103	BART #1				
0047276	08605	4228730282	102	BARNETT #1				
*UNION OIL COMPANY OF CALIF				RECEIVED: 07/22/80				
0047183	06109	4246730403	103	ELLA YORK 102 #13				
*UNITED CO				RECEIVED: 07/22/80				
0047240	10899	4207900000	103	WRIGHT ESTATE #6				
*UV INDUSTRIES INC				RECEIVED: 07/22/80				
0047200	01531	4242500000	106	MAYER RANCH 6				
*W A MONCRIEF JR				RECEIVED: 07/22/80				
0047224	06704	4233731220	103	J M RANCH NO 8				
0047284	06712	4236730697	103	MONCRIEF RANCH NO 2				

VOLUME 257 PAGE 014

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER	
*THE ARD DRILLING COMPANY INC				RECEIVED: 07/22/80				
0047268	04739	4807731688	103	O WRIGHT 6 WELL NO 2	LEVELLAND (SAN ANDRES)		33.8	EL PASO NATURAL GAS
*THE DOW CHEMICAL COMPANY				RECEIVED: 07/22/80				
0047533	016536	4228931684	102	CLEMENS E W #2	CARANCAHUA CREEK NW (658		385.0	FLORIDA GAS TRANSMIS
*THE SUPERIOR OIL COMPANY				RECEIVED: 07/22/80				
0047729	16226	4228931398	102	P DOBOTIK GAS UNIT 1 NO				
0047730	16227	4228931396	103	P DOBOTIK GAS UNIT 1 NO	WORD N (EDWARDS)		1300.0	
*TODD & SANDERS INC				RECEIVED: 07/22/80	WORD N (EDWARDS)		1300.0	
0047351	15713	4233731088	103	DONALD - A #1	NEWPORT B (BEND CONGL)		60.0	LONE STAR GAS CO
*TRAVELERS OIL CO GOV PROJECT				RECEIVED: 07/22/80				
0047224	08128	4217900000	103	CHAPMAN #1 04813	PANHANDLE-GRAY COUNTY		0.1	
0047186	06540	4223300000	106	DOUBLE FIVE #2 RRC #01	PANHANDLE-HUTCHINSON COU		2.0	PHILLIPS PETROLEUM C
0047187	06545	4223300000	106	DOUBLE FIVE #3 RRC #01	PANHANDLE-HUTCHINSON COU		2.0	PHILLIPS PETROLEUM C
0047221	08136	4223300000	106	DOUBLE FIVE #4 RRC #01	PANHANDLE-HUTCHINSON COU		2.0	PHILLIPS PETROLEUM C
0047217	06550	4223300000	106		PANHANDLE-GRAY COUNTY		0.6	PHILLIPS PETROLEUM C
0047216	06551	4223300000	106	HUBELBY A #1 03351	PANHANDLE-HUTCHINSON COU		3.5	PHILLIPS PETROLEUM C
0047220	06547	4223300000	106	LUGINBYHL A #3 RRC #01	PANHANDLE-HUTCHINSON COU		1.0	
0047210	06546	4223300000	106	LUGINBYHL A #6 RRC #01	PANHANDLE-HUTCHINSON COU		30.7	PHILLIPS PETROLEUM C
0047214	06548	4223300000	106	MCILROY #1 RRC #02409	PANHANDLE-HUTCHINSON COU		30.7	PHILLIPS PETROLEUM C
0047215	06553	4223300000	106	MCILROY #2 RRC #02409	PANHANDLE-HUTCHINSON COU		30.7	PHILLIPS PETROLEUM C
0047213	06556	4223300000	106	MCILROY #5 RRC #02409	PANHANDLE-HUTCHINSON COU		30.7	PHILLIPS PETROLEUM C
0047212	06555	4223300000	106	MOLLIE #1 RRC #00925	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047211	06559	4223300000	106	MOLLIE #3 RRC #00925	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047210	06557	4223300000	106	MOLLIE #5 RRC #00925	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047200	06618	4223300000	106	MOLLIE #6 RRC #00925	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047231	06617	4223300000	106	MOLLIE #7 RRC #00925	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047230	06611	4223300000	106	VENTURE #1 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047209	06613	4223300000	106	VENTURE #11 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047207	06614	4223300000	106	VENTURE #13 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047206	06615	4223300000	106	VENTURE #4 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047205	06616	4223300000	106	VENTURE #5 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047232	06617	4223300000	106	VENTURE #6 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
*TRAVIS M DAVIS GAS ACCOUNT				VENTURE #7 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
0047524	14021	4210900000	106	VENTURE #9 RRC #01550	PANHANDLE-HUTCHINSON COU		1.0	PHILLIPS PETROLEUM C
*TREK PETROLEUM INC				RECEIVED: 07/22/80				
0047262	08617	4210300000	106		HANSFORD (UPPER MORROW)		16.0	NORTHERN NATURAL GAS
0047263	08615	4210300000	106	RECEIVED: 07/22/80				
*U S RESOURCES INC					ARMEN (GLORIETA)		3.6	WARREN PETROLEUM CO
0047555	15138	4228730386	103	BART #1	ARMEN (GLORIETA)		3.6	WARREN PETROLEUM CO
0047276	08605	4228730282	102	BARNETT #1				
*UNION OIL COMPANY OF CALIF				RECEIVED: 07/22/80				
0047183	06109	4246730403	103	ELLA YORK 102 #13	SIDDINGS (AUSTIN CHALK)		190.0	P&P GAS PRODUCTS INC
*UNITED CO				RECEIVED: 07/22/80	SIDDINGS (AUSTIN CHALK)		490.0	P&P GAS PRODUCTS INC
0047240	10899	4207900000	103	WRIGHT ESTATE #6	SIDDINGS (AUSTIN CHALK)		800.0	P&P GAS PRODUCTS INC
*UV INDUSTRIES INC				RECEIVED: 07/22/80				
0047200	01531	4242500000	106	MAYER RANCH 6	VAN		0.8	VAN PLANT UNIT
*W A MONCRIEF JR				RECEIVED: 07/22/80				
0047224	06704	4233731220	103	J M RANCH NO 8	LEVELLAND (SAN ANDRES)		0.0	EL PASO NATURAL GAS
0047284	06712	4236730697	103	MONCRIEF RANCH NO 2				
					MAYER RANCH		13.2	LOVACA GATHERING CO
					HEATHERFORD (STRAWN)		800.0	SOUTHWESTERN GAS PIP
					HEATHERFORD (STRAWN)		77.0	SOUTHWESTERN GAS PIP

The above notices of determination with paragraph 1.8 and 1.10 of the of this application are on file with the

VOLUME 257 PAGE 015

JD NO	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8047227	42383311658 103	MONCRIEF RANCH NO 3	WEATHERFORD (STRAWN)	361.0	SOUTHWESTERN GAS PIP
8047228	42383311698 103	MONCRIEF RANCH NO 4	WEATHERFORD (STRAWN)	1000.0	SOUTHWESTERN GAS PIP
8047229	42383311708 103	MONCRIEF RANCH NO 5	WEATHERFORD (STRAWN)	371.0	SOUTHWESTERN GAS PIP
*M E EDWARDS JR		RECEIVED: 07/22/80			
8047250	42233306618 103	WILLIAM WELL NO 1	PANHANDLE HUTCHINSON COU	96.0	PANHANDLE PRODUCING
*WARREN PETR CO A DIV OF GULF OIL CO		RECEIVED: 07/22/80			
8047270	42103300000 108	J J TUBB A TR A NO 1	BAND MILLS (JUDKINS)	0.0	EL PASO NATURAL GAS
8047275	42103300000 108	J J LEA ET AL TR A 661	LEA RAN ANDRES	3.0	EL PASO NATURAL GAS
8047276	42103300000 108	W N MADDELL ET AL TR B 671	BAND MILLS MCKNIGHT	1.0	EL PASO NATURAL GAS
8047285	42103300000 108	W N MADDELL TR 1 336	DUNE	1.0	EL PASO NATURAL GAS
8047286	42103300000 108	W N MADDELL TR 1 457	DUNE	3.0	EL PASO NATURAL GAS
8047287	42103300000 108	W N MADDELL TR 3 1060	DUNE	1.0	EL PASO NATURAL GAS
8047288	42103330808 108	W N MADDELL TR 3 1060	DUNE	1.0	EL PASO NATURAL GAS
*RAY A MILLS		RECEIVED: 07/22/80			
8047500	42383313858 103	UNIVERSITY 11 66	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
8047521	42383313828 103	UNIVERSITY 11 67 WELL	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
8047522	42383313808 103	UNIVERSITY 11 68	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
8047523	42383313308 103	UNIVERSITY 15 62	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
8047524	42383313768 103	UNIVERSITY 15 63	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
8047525	42383313748 103	UNIVERSITY 15 64	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
*PAYMAN M BUCHANAN		RECEIVED: 07/22/80			
8047526	42383313768 103	UNIVERSITY 15 65	FARMER (SAN ANDRES)	10.0	NORTHERN NATURAL GAS
*WINDSOR OIL COMPANY		HYDER NO 1		328.0	LONE STAR GAS CO
8047196	42383731289 103	RECEIVED: 07/22/80	MALES (4050)		
*WORLD PRODUCERS INC		M B MCKNIGHT #5		8.0	WARREN PETROLEUM CO
8047140	42103300000 108	RECEIVED: 07/22/80	SAND HILLS MCKNIGHT		
8047141	42383731597 102	CHARLES L JR ALLISON NO 1			
8047142	42383731612 102		MOBY DICK (CONGL)	300.0	NATURAL GAS PIPELINE
8047143	42383731600 102		MOBY DICK (CONGL)	300.0	NATURAL GAS PIPELINE
8047144	42383731594 102		MOBY DICK (CONGL)	300.0	NATURAL GAS PIPELINE
8047145	42383731595 102		MOBY DICK (CONGL)	300.0	NATURAL GAS PIPELINE
*BRIGHT E COWDEN		RECEIVED: 07/22/80			
8047567	42383730769 103	LILLIAN #1-A	BRAZOS EAST (MARBLE FALL	15.0	NORTHERN GAS PRODUCT
*ZINN PETROLEUM CO		RECEIVED: 07/22/80			
8047264	42482530803 103	ZINN - GARA BATOT #2	RAGSDALE (1100)	40.0	TRANSCONTINENTAL GAS
8047264	42482530803 102	ZINN - GARA BATOT #2	RAGSDALE (1100)	40.0	TRANSCONTINENTAL GAS

JD NO	JA DKT	OTHER PURCHASERS	VOLUME NO 1257
8047199	COLTEXO CORP		
8047200	YENNGASCO GAS GATH CO		
8047202	YENNGASCO GAS GATH CO		
8047209	YENNGASCO GAS GATH CO		
8047307	PANHANDLE EASTERN PIPELINE CO		
8047308	CITIES SERVICE CO		
8047501	ODESSA NATURAL CORP		
8047550	LONE STAR GAS CO		
8047597	TEXAS UTILITIES FUEL CO		
8047691	HOUSTON PIPELINE CO		

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC Control Number (JD NO) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24885 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-585]

Kansas Gas & Electric Co.; Proposed Tariff Change

August 11, 1980.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company on August 4, 1980 tendered for filing proposed changes in its FERC Electric Service Tariff No. 101.

Kansas Gas and Electric Company states that the filing is Peaking Power Service which provides electric power and accompanying energy to be supplied to Western Power Division of Central Telephone & Utilities Corporation (WPD) as Kansas Gas and Electric Company will purchase this power and accompanying energy from The Empire District Electric Company.

Copies of the filing were served upon WPD and the Utilities Division of the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24912 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-127; TA80-2-60]

Locust Ridge Gas Co.; Change in Rates

August 11, 1980.

Take notice that on July 31, 1980, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 the following tariff sheets to be effective September 1, 1980:

Third Revised Sheet No. 1A.
Second Revised Sheet No. 21B.
Second Revised Sheet No. 21C.
Original Sheet No. 21D.
Original Sheet No. 21E.
Original Sheet No. 21F.

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a revision in Locust Ridge's Purchased Gas Adjustment (PGA) clause. The overall effect of the filed for adjustments to Locust Ridge's G-1 sales rate is an increase of $0.033.

Locust Ridge requests waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on September 1, 1980.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24913 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-25 (PGA 80-3, IPR80-3, LFUT 80-2, AP80-2, TT80-2 and STR80-2)]

Mississippi River Transmission Corp.; Rate Change Filing

August 11, 1980.

Take notice that on July 31, 1980, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Seventy-Sixth Revised Sheet No. 3A and Second Revised Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of September 1, 1980 is proposed. Mississippi states that these tariff sheets reflect rate adjustments as follows:

(1) A PGA rate adjustment in accordance with Paragraph 17 of the General Terms and Conditions of Mississippi's Tariff which reflects increases in the current cost of gas purchased from pipeline and producer suppliers;

(2) A PGA rate adjustment which reflects recovery of gas costs which have accumulated in the deferred purchased gas cost account since the date of its last effective semi-annual PGA filing;

(3) A Louisiana First Use Tax (LFUT) rate adjustment in accordance with Paragraph 19 of the General Terms and Conditions of Mississippi's Tariff;

(4) An Advance Payment tracking adjustment pursuant to Article IV of the Stipulation and Agreement at Docket No. RP78-77;

(5) A Transportation and Compression tracking adjustment pursuant to Articles V and VI of the Stipulation and Agreement at Docket No. RP78-77;

(6) A Storage Loss Amortization tracking adjustment pursuant to Article VII of the Stipulation and Agreement at Docket No. RP78-77, and

Mississippi states that the base tariff rates set forth on Seventy-Sixth Revised Sheet No. 3A are based upon the provisions of the Stipulation and Agreement at Docket No. RP78-77, which was approved by Commission letter order dated December 11, 1979.

Mississippi states that copies of its filing has been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington,

Well name or unit	API well No.	Jurisdictional agency

[Project No. 3220]

recreational complex and (2) public transportation to and within the Lake

Regulations thereunder (18 CFR 157.7(g)) so as to authorize a waiver of the single

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24915 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-95]

Mobil Producing Texas & New Mexico, Inc., et al.; Petition

Issued: August 11, 1980.

In the matter of Mobil Producing Texas & New Mexico Inc.; Section 108 NGPA Determination; State of New Mexico, State of Texas, and United States Geological Survey; Notice of motion to amend petition of Mobil Producing Texas & New Mexico Inc. to reopen final well category determinations and request for withdrawal.

Take notice that on June 26, 1980, Mobil Producing Texas and New Mexico Inc. (MTM), successor to Mobil Oil Corporation (Mobil), Nine Greenway Plaza, Suite 2700, Houston, Texas 77046, filed with the Federal Energy Regulatory Commission (Commission) a Motion to Amend Petition of MTM to Reopen Final Well Category Determinations and Request for Withdrawal.

MTM filed a petition to reopen Final Well Category Determinations and Request for Withdrawal on May 13, 1980. The petition was noticed by the Commission on June 4, 1980.

An internal review of the Petition and Notice has revealed that several wells were erroneously listed. Accordingly, MTM, by its Motion to Amend, seeks to delete such wells, hereinafter described, from such Petition and to note a typographical error in the June 4, 1980 notice.

The wells listed below are in fact Section 103 wells rather than Section 108 wells and are to be deleted from the Exhibits to the Petition and Notice, to wit:

Well name or unit No.	API well No.	Jurisdictional agency
North Central Levelland Unit No.:		
318	42-219-32520	Railroad Commission of Texas.
319	42-219-32521	Do.
320	42-219-32516	Do.
321	42-219-32517	Do.
322	42-219-32514	Do.
323	42-219-32522	Do.
324	42-219-32518	Do.
325	42-219-32519	Do.
East Mallet Unit No.:		
112	42-079-30270	Do.
113	42-219-31296	Do.
114	42-219-31294	Do.

MTM further submitted that the following well is individually metered and continues to qualify as a Section 108 well and should be deleted from the Exhibits to Petition and Notice, to wit:

Railroad Commission of Texas, 42-495, J. B. Walton Unit.

The Commission's notice of the petition to reopen dated June 4, 1980 lists on page 3 of Exhibit "A" one well as New Mexico Oil Conservation Commission Division, API Well No. 30-025-11522, Langlie Mattix Queen *#14.* Said well should be properly listed as the Langlie Mattix Queen *#4.*

MPTM proposes to refund monies with interest, to those purchasers if any, who have paid for volumes of gas sold from such wells at the applicable Section 108 price upon the Commission's approval of reopening and withdrawal.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 18, 1980 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24916 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3220]

Napa County and Napa County Flood Control and Water Conservation District; Application for Major License

August 7, 1980.

Take notice that an application was filed on June 18, 1980, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by Napa County and Napa County Flood Control & Water Conservation District (Applicant) for Major License for the proposed Putah Creek Power Project, FERC No. 3220, to be located on Putah Creek in Napa County, California. Correspondence with the Applicant on this matter should be addressed to: Mr. Harry D. Hamilton, Director of Public Works and District Engineer, Napa County, 1127 First Street, Napa, California 94558 and Mr. Daniel F. Gallery, Attorney, 928 Jay Building, Sacramento, California 95814. Applicant proposes to install a hydroelectric powerplant immediately downstream of the Monticello Dam, an irrigation-storage dam owned by the Water and Power Resources Service (WPRS); the WPRS reservoir, created by the impoundment of Putah Creek and known as Lake Berryessa, contains 1.6 million acre-feet of gross storage capacity between the streambed and the spillway crest elevation 440. The project would use one of two existing WPRS's steel penstocks (7'6" in diameter and approximately 130' long) installed in the dam for the passage of water.

The proposed project would consist of: (1) a reinforced concrete powerhouse to contain two Francis-type turbine-generator units with a total rated capacity of 10 MW; (2) an underground 1,700-foot long, 115 kV transmission line, to connect to an existing Pacific Gas and Electric Company transmission line via; (3) an outdoor-type substation to contain the main power transformers. Applicant estimates the powerplant would be capable of producing an annual generation of 49.55 million kWh, and proposes to sell the project energy to the California Department of Water Resources for municipal purposes. The water, discharged through the powerhouse, would continue to flow downstream on Putah Creek for about five miles into Lake Solano, created by WPRS's Putah Creek diversion dam.

The estimated total cost of the project is $11,600,000 (January 1982 prices).

The project would be located within a recreational area which has been developed by WPRS and State and County agencies. Applicant, however, has proposed to enhance the existing recreational services by providing: (1) a visitor center for the Lake Berryessa

recreational complex and (2) public transportation to and within the Lake area.

Competing Applications.—This application was filed as a competing application to Solano Irrigation District's application for the Monticello Power Plant Project No. 2780 on the Putah Creek under 18 CFR 4.33 *as amended,* 44 FR 61328 (October 25, 1979), and, therefore, since time has expired under the notice for Project No. 2780, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *September 22, 1980.* The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24917 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-13]

Panhandle Eastern Pipe Line Co.; Petition To Amend

August 8, 1980.

Take notice that on July 11, 1980,[1] Panhandle Eastern Pipe Line Company (Petitioner), 3000 Bissonnet Avenue, Houston, Texas 77001, filed in Docket No. CP79-13 a petition to amend the order issued April 26, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) so as to authorize a waiver of the single project cost limitation for two projects constructed under the budget-type certificate, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the cost report filed with the Commission on June 9, 1980, which pertains to construction under the budget-type certificate issued in the instant docket on April 26, 1979, reflects an overrun of $130,281 on the Lerado Compressor Station and $29,923 on the Wellsford Compressor Station of the individual project limitation of $500,000 as set forth in § 157.7(g)(iii) of the Regulations which pertains to such field compression facilities constructed under budget authorization. Petitioner asserts that such cost overruns were the result of higher than anticipated costs of material, contract labor and miscellaneous expenses.

Accordingly, Petitioner requests that the single project limitation of § 157.7(g)(iii) of the Regulations be waived with respect to the two said individual projects.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24918 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The application was initially tendered for filing on July 11, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until July 21, 1980; thus the filing was not complete until the latter date.

[Docket No. ID-1911]

Henry Robidoux; Filing

August 8, 1980.

Take notice that on August 1, 1980, Henry Robidoux (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24909 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1907]

Ernest W. Schleicher; Filing

August 8, 1980.

Take notice that on August 1, 1980, Ernest W. Schleicher (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President-Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24905 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1922]

Robert Lee Kerr; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert Lee Kerr (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24906 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1923]

Robert Lee Kerr; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert Lee Kerr (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24907 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1924]

Robert Lee Kerr; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert Lee Kerr (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24908 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

rate schedule, and a net decrease of 2.7¢ per Mcf in the commodity rate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24910 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1925]

Robert Lee Kerr; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert Lee Kerr (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24911 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1926]

Robert Lee Kerr; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert Lee Kerr (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24912 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1922]

Floyd J. Smith; Filing

August 8, 1980.

Take notice that on August 1, 1980, Floyd J. Smith (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President-Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.
Senior Vice President-Director, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24907 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No 719]

Jesse I. Smith and Two Rivers, Inc.; Application for Transfer and Amendment of Minor License

August 8, 1980.

Take notice that Jesse I. Smith (Licensee) and Two Rivers Inc. (Two Rivers) filed on May 29, 1980, a joint application [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for transfer and amendment of license for the Trinity Project, FERC Project No. 719. The project is located on Phelps and James Creeks in Chelan County, Washington. Correspondence with the Applicants should be directed to: Mr. Jesse I. Smith, Lake City Mobile Home Park, 12730 Lake City Way N.E., Seattle, Washington 98125.

The Trinity Project consists of diversion dams on Phelps and James Creeks, flumes and pipelines, a 240-kW generating unit located inside a mine shop building, and a nearby residence. Approval of the application would remove the residence and the surrounding 1 acre of land from the project and transfer the remaining project works to Two Rivers.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before September 19, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24911 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP78-58]

South Texas Natural Gas Gathering Co. (Now Valero Interstate Transmission Co.; Informal Settlement Conference

August 11, 1980.

Take notice that on August 26, 1980 at 10:00 a.m. there will be an informal conference of all interested persons for the purpose of continued settlement discussions in these proceedings. The meeting place for the conference will be at the offices of the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Room 3401, Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24924 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. CP79-80, et al.]

Trailblazer Pipeline Co., et al.; Commission Action

August 8, 1980.

At the conclusion of the oral presentation on August 5, 1980, the Commission entered two procedural orders with respect to the Trailblazer proceeding, Docket Nos. CP79-80, *et al.*, (Tr. pp. 243–245):

1. Staff is directed to file and serve on all parties, not later than August 20, 1980, a detailed response (including any suggested alternative) to the applicants' June 9, 1980, rate proposal and to the modification of that proposal described to the Commission during the oral presentation on August 5.

2. All parties are required to file and serve on all other parties, not later than August 20, 1980, a specific statement of those issues of material fact in dispute as legally require a hearing and those issues of policy or other issues as may legally require a hearing, and a separate statement of those issues of policy or other issues which, as opposed to lawful requirements, deserve a hearing as a predicate to Commission action.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24925 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. TA80-2-29]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

August 11, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on August 1, 1980 Third Substitute Eighteenth Revised Sheet No. 12, Third Substitute Eighteenth Revised Sheet No. 15 and Second Revised Sheet No. 16 to Second Revised Volume No. 1, and Third Substitute Twenty-Fourth Revised Sheet No. 121 to original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective September 1, 1980, reflect a net increase of 55.5¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S–2 rate schedules, a net increase of 55.7¢ per dt in the commodity charge under the ACQ rate schedule, and a net decrease of 2.7¢ per dt in the delivery charge of the X–20 rate schedule.

Transco states that these changes have been computed in accordance with the tracking provisions contained in the General Terms and conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under the PGA clause (Section 22) amounts to an increase of 58.2¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S–2 and ACQ rate schedules. The tracking rate change to reflect curtailment credits (Section 20) is a decrease of 0.2¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S–2 and X–20 rate schedules. The tracking rate change for Louisiana First Use Tax (Section 25) is a decrease of 2.5¢ per dt in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S–2, ACQ and X–20 rate schedules.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24926 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3136]

Turlock Irrigation District; Application for Exemption for Small Conduit Hydroelectric Facility

August 7, 1980.

Take notice that on July 7, 1980, Turlock Irrigation District filed an application, under Section 30 of the Federal Power Act (Act) [16 USC 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Upper Dawson Power Plant, FERC Project No. 3136, would be located on the Main Canal, just upstream of the Dawson Lake which is part of the Turlock Irrigation System in Stanislaus County, California. Water is diverted into Maine Canal from the Tuolumne River at LaGrange Dam, LaGrange, California. Correspondence with the Applicant should be directed to Mr. Ernest Geddes, General Manager, Turlock Irrigation District, P.O. Box 949, Turlock, California 95380.

Purpose of Project.—Project energy would be used to meet present and anticipated loads within the Applicant's electric system.

Estimated Cost.—The cost of the project is estimated by the Applicant to be $9,528,000.

Project Description.—The proposed project would consist of a powerhouse containing a single generating unit with a rated capacity of 4,000 kW and appurtenant facilities. The power plant would utilize an effective head of 18 feet, would be remotely monitored and controlled from the Applicant's control center in Turlock, and would produce approximately 15.9 million kilowatt-hours of energy per year.

Agency Comments.—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 19, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-24927 Filed 8-15-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-447]

United Gas Pipe Line Co.; Application

July 31, 1980.

Take notice that on July 11, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-447 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon various field compression and related metering and appurtenant facilities, for the 12-month period commencing November 13, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's salable capacity or service from that authorized prior to the filing of the instant application.

Applicant requests new budget-type authorization for construction and abandonment in the total amount of $5,000,000 with no individual project to exceed $750,000. Applicant states it seeks a waiver of the Commission's rules which set a total authorization limit of only $3,000,000 because of the inflationary trend of construction costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make protestants parties to

unnecessary for Applicant to appear or

party in any hearing therein must file a

having a 15-foot maximum height and an

appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24828 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-461]

United Gas Pipe Line Co.; Application

August 8, 1980.

Take notice that on July 24, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-461 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the Raccourci Compressor Station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant herein proposes to abandon its Raccourci Compressor Station, Lafourche Parish, Louisiana, which consists of four solar units. Applicant states that because of diminished gas supply, the compressor facility is no longer useful in the operation of Applicant's transmission system.

Applicant submits that the proposed abandonment would have no adverse impact on its existing system and would not affect Applicant's existing customers. It is further stated that disposition of material and equipment after the proposed abandonment is not known at the present time.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24829 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-462]

United Gas Pipe Line Co.; Application

August 8, 1980.

Take notice that on July 24, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-462 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the Hattiesburg Compressor Station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant herein proposes to abandon its Hattiesburg Compressor Station, Perry County, Mississippi, which consists of two 550 horsepower units. Applicant states that because of diminished gas supply, the compressor facility is no longer useful in the operation of Applicant's transmission system.

Applicant submits that the proposed abandonment would have no adverse impact on its existing system and would not affect Applicant's existing customers. It is further stated that disposition of material and equipment after the proposed abandonment is not known at the present time.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24830 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-460]

United Gas Pipe Line Co.; Application

August 8, 1980.

Take notice that on July 24, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-460 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation of a farm tap on Applicant's Erath-Weeks Island Junction line in Iberia Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install a farm tap on its Erath-Weeks Island Junction 30-inch line located in Iberia Parish, Louisiana, in order to enable Entex, Inc. (Entex), a local distributor, to provide gas service for the residence of J. Dorice LeLeux. Applicant states that in a letter of commitment dated May 9, 1980, LeLeux granted Applicant a right-of-way and easement to construct the Erath-Weeks line in exchange for Applicant's agreement that upon LeLeux's request, it would install a tap on the line for gas service to the principal dwelling.

It is stated the estimated cost of the proposed tap, $1,200, would be financed with available funds.

Applicant asserts that implementation of the proposed farm tap service would not require an increase in its allocation to Entex and would enable Entex to provide residential gas service in satisfaction of Applicant's herein described service commitment.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24831 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 596]

Utah Power & Light Co.; Application for a New Major License

August 7, 1980.

Take notice that the Utah Power & Light Company (Applicant) filed on April 7, 1975, and most recently revised on April 25, 1980, an application for a new major license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the constructed Olmsted Hydroelectric Project, FERC No. 596, located on the Provo River, in Utah County, Utah, near the Cities of Orem and Provo, Utah. The project affects lands of the United States, within the Uinta National Forest. The original license for Project No. 596 expired on October 20, 1975.

Correspondence concerning the application should be directed to: Mr. Sidney G. Baucom, Senior Vice President and General Counsel, Utah Power & Light Company, Box 899, Salt Lake City, Utah 84110, with copies to Sam F. Chamberlain, Esquire, Utah Power & Light Company, Box 899, Salt Lake City, Utah 84110, and to Mr. Lee S. Sherline, Leighton and Sherline, Suite 803, 1701 K Street, N.W., Washington, D.C. 20006.

Project Description—the run-of-the-river Olmsted Hyrdoelectric Project consists of: (1) a concrete diversion dam having a 15-foot maximum height and an 80-foot length, including a 62-foot long spillway having a crest elevation of 5,176.16 USGS topped by variable height stop log flashboards; (2) a pond with negligible storage capacity and a normal water surface elevation of 5,183 USGS; (3) a screened water intake structure 104 feet in length along the right bank leading to; (4) a 4.91-mile long, 8½-foot diameter steel or concrete gravity pipeline including (a) a Taintor gate control and screening structure (b) a siltation structure (c) two siphons and (d) a siphon spillway leading to; (5) a wood and/or concrete lined tunnel 950 feet long, 13 feet wide, and 10 feet high opening into; (6) a concrete and steel "pressure box" structure 50 feet long, 50 feet wide, and 60 feet high with trash screens and four Taintor gates connecting to; (7) three 730-foot long steel penstocks varying in diameter from 60 to 48 to 54 inches and a 730-foot long, 6-foot diameter steel penstock; (8) a concrete, brick, and steel powerhouse containing three 2,400-kW generating units and a 5,500-kW generating unit; (9) a tailrace 800 feet long; (10) electrical facilities conecting to a 44-kV switchyard; and (11) appurtenant facilities.

Minimum recreational use is made of the project because of the steep, almost inaccessible terrain. The Applicant does not propose the installation of any recreational facilities at the project.

Purpose of Project—All power generated by the project is and will continue to be incorporated into the Applicant's inerconnected system.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *September 19, 1980*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *Jan. 19, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), *as amended* 44 FR 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to

the procedures specified in §1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *September 19, 1980.* The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24932 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-136]

Vessels Gas Processing Co.; Application for Staff Adjustment

August 11, 1980.

Take note that on July 14, 1980, the Vessels Gas Processing Company (Vessels) filed an application for an adjustment of § 271.1105 of the Commission's regulations. The application of Vessels was filed under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*, and §§ 1.41, 270.202(d) and 271.1106 of the Commission's regulations. Vessels is located at Suite 1220, 600 South Cherry Street, Denver, Colorado 80222.

Vessels operates natural gas gathering and processing facilities. On January 1, 1974, Vessels entered into a processing and purchase agreement with the Colorado Interstate Gas Company (CIG). Under the agreement, CIG purchases residue gas delivered at the tailgate of Vessels' processing plant in Adams County, Colorado. The residue gas is purchased by Vessels at the wellhead. Vessels pays the maximum lawful price of NGPA section 102 or 105 for most of this gas.

Under the gas purchase agreement between Vessels and CIG, the price per Mcf to be paid by CIG to Vessels for the residue gas is equal to 120 percent of the weighted average price per Mcf paid by Vessels at the wellhead. Vessels submits that the 120 percent factor was intended to permit Vessels to recover its costs of purchasing the wellhead gas and of gathering, compressing and processing gas for delivery to CIG, and its capital investment in certain gathering, compression and processing facilities.

According to vessels, the Commission's regulations preclude Vessels from charging CIG more than the applicable, maximum lawful prices of sections 102 and 105 of the NGPA; in other words, Vessels contends, it presently may not collect the full price allowed under the 1974 gas purchase agreement with CIG for the residue gas. Vessels submits that it is the exclusion of § 271.1105(b)(2) of the Commission's regulations that prevents Vessels from collecting the full contract price.

Section 271.1105 implements section 110(a)(2) of the NGPA, which provides an increase in the otherwise applicable, maximum lawful prices of the NGPA, for production-related costs allowed by the Commission. The Commission, under § 271.1105(b)(2) does not allow an add-on for production-related costs to the maximum lawful price of section 105 of the NGPA.

Vessels maintains that the exclusion of § 271.1105(b)(2) creates a special hardship, inequity and unfair distribution of burdens because Vessels would be denied the right to collect its contract price. Without an adjustment from § 271.1105, alleges Vessels, it will be forced to terminate its service to CIG and future attempts to develop and to gather new supplies of gas will be severely limited.

The procedures applicable to the conduct of this proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. *See,* Order No. 24, issued March 22, 1979.

Any person desiring to be heard or to protest Vessels' application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 22, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Vessels' application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24933 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1906]

Raymond E. Werts; Filing

August 8, 1980.

Take notice that on August 1, 1980, Raymond E. Werts (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Comptroller Director, Metropolitan Edison Company ("Met-Ed"), Public Utility.
Comptroller, Pennsylvania Electric Company ("Penelec"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1980. Protests will be considered in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24920 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1917]

Robert L. Wise; Filing

August 8, 1980.

Take notice that on August 1, 1980, Robert L. Wise (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Pennsylvania Electric Company ("Penelec"), Public Utility.
Vice President, Metropolitan Edison Company ("Met-Ed"), Public Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed or before September 4, 1980. Protests will be considered in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24923 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

Conduct of Employees; Waiver of Post-Employment Conflict of Interest

Section 737.17 of the regulations under the Ethics in Government Act of 1978, as amended (Pub. L. 95-521, hereinafter referred to as the "Act"), authorizes the Chairman of the Federal Energy Regulatory Commission to waive the post-employment restrictions of the Act for a former employee with outstanding qualifications in a scientific, technological, or other technical discipline in connection with a particular matter which requires such qualifications, where it has been determined that such a waiver would serve the national interest.

It has been established to my satisfaction that Michael J. Sotak, who will shortly be vacating the position of Chief, Environmental Evaluation Branch, Division of Pipeline Certificates, Office of Pipeline and Producer Regulation, has outstanding scientific and technical qualifications concerning the biology and fisheries of the Alaskan arctic ecosystem and pipeline routing and construction, and that it will serve the national interest for him to assume the responsibilities of Vice President, Environmental Affairs, for the Northwest Alaskan Pipeline Company.

The Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, *et seq.*, mandates expeditious construction of the Alaska Natural Gas Transportation System (ANGTS).

Both the U.S. Senate and House of Representatives have recently reaffirmed that the ANGTS should be built. The resolution, approved by the Senate on June 27, 1980, and by the House on July 1, 1980, states that "it is the sense of the Congress that the System remains an essential part of securing this Nation's energy future and, as such, enjoys the highest level of Congressional support for its expeditious construction and completion by the end of 1985." Most recently, on July 17, 1980, the Canadian government, in announcing its final approval for commencement of construction of the lower half of the ANGTS, published a letter (received on that date) from President Carter to Prime Minister Trudeau reiterating U.S. commitments to complete construction of the entire system by the end of 1985.

Northwest Alaskan can complete this project only if it secures the best available technical talent. Mr. Sotak's knowledge of the Alaskan project and the environmental concerns associated with the route, his primary training in biology and fisheries research, and his leadership of an environmental organization at the FERC equip him uniquely with the experience necessary to coordinate environmental activities for the Alaska Natural Gas Transportation System. During the past six years, he has developed working relationships with many state, Federal, and local officials as well as environmental organizations. The environmental problems to be encountered by this project are unique and, if not properly considered, could cause significant delays, serious and irreparable damage to the environment, and/or substantial cost overruns.

In addition, since Mr. Sotak will be responsible for all environmental affairs related to the ANGTS and since the Office of the Federal Inspector will coordinate all government actions, the Federal Inspector, by letter dated August 4, 1980, has concurred with the decision to provide this waiver.

I therefore certify that in the case of Michael J. Sotak the national interest would be served by his participation as Vice President of Environmental Affairs for the Northwest Alaskan Pipeline Company, and that pursuant to 5 C.F.R. 737.17, after consultation with the Director, Office of Government Ethics, hereby waive the provisions of subsections (a) and (b) of Title 18 U.S.C. 207 which may be applicable to Mr. Sotak by reason of his employment at the Federal Energy Regulatory Commission.

Dated: August 11, 1980.

Charles B. Curtis,

Chairman.

[FR Doc. 80-24904 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-57]

High Island Offshore System; Order Rejecting Late Filed Petition for Review of Staff Rejection of Tariff Filing

Issued: August 8, 1980.

On February 1, 1980, High Island Offshore System (HIOS) filed a Petition for Review of the rejection of HIOS' tariff filing of November 30, 1979, by the Director of the Office of Pipeline and Producer Regulation (OPPR). The letter of rejection by OPPR was issued December 21, 1979, in accordance with the authorities delegated under § 3.5(f)(2)(ii) of the Commission's Rules of Practice and procedure.

An appeal from this delegated action taken by Commission Staff is subject to the provisions of § 1.7(d) of the Commission's Rules of Practice and Procedure. HIOS, in fact, notes that § 1.7(d) is controlling for purposes of review, but misstates the appropriate period for which appeal is timely. Contrary to HIOS' claim that its appeal within thirty days of notice is timely, § 1.7(d) allows appeal within thirty days of the action. No request for waiver of this requirement has been made by HIOS, nor does the Commission, on its own motion, have reason to waive this requirement concerning timely appeal of Staff actions. Furthermore, we are satisfied that the Director's letter order was correct on the merits for the reasons stated in that letter order.

Therefore, since the Petition was not timely filed, the Commission by this order rejects HIOS Petition.

The Commission Orders:

The late filed Petition for Review by HIOS on February 1, 1979 is bereby rejected.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24900 Filed 8-15-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1573-5]

Approval of PSD Permit to General Motors Corp., Wentzville, Mo.

Notice is hereby given that on May 14, 1980, the Environmental Protection Agency (EPA) issued a conditional permit to General Motors Corporation for approval to construct a new facility in Wentzville, Missouri under the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

This facility consists of an automobile assembly plant and coal-fired steam generating unit to supply the process heat and space heating and cooling needs for the assembly plant.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this permit is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of

today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In this case, the appropriate court is the Eighth Circuit Court of Appeals. A petition for review must be filed with this court on or, before October 17, 1980.

The permit and background information are available for public inspection at: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 80-25015 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1574-1]

Determination of Nonapplicability of PSD; Regulations to Ralston Purina Co., Kansas City, Mo.

Notice is hereby given that on September 18, 1979, EPA formally determined that the addition of an oil-fired boiler and a grain dryer at the Ralston Purina Company facilities located in Kansas City, Missouri, is not subject to the review requirements under the regulations for the Prevention of Significant Air Quality Deterioration (PSD) (40 CFR 52.21) nor the review requirements for sources locating in non-attainment areas, the Emission Offset Interpretative Ruling (44 FR 3282). This determination is based on EPA findings that the modification's potential emissions of particulates or volatile organic compounds (the non-attainment pollutants) will not exceed 100 tons-per-year and that potential emissions of other pollutants regulated under the Clean Air Act will not exceed 250 tons-per-year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce the requirements.

In this case, the appropriate court is the Eighth Circuit Court of Appeals. A petition for review must be filed with this court on or before October 17, 1980.

The determination and related background information are available for public inspection at: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 80-25022 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1573-6]

Nonapplicability to PSD Regulations To Rockwell International, Atchison, Kans., et al.

Notice of Non-applicability of PSD regulations to Rockwell International, Atchison, Kansas; Derby Refing Company, Wichita, Kansas; H. B. Reed & Company, Incorporated, La Cygne, Kansas; Mobil Oil Corporation, Augusta, Kansas; Iowa Beef Processors Incorporated, Holcomb, Kansas; Getty Refining and Marketing Company, El Dorado, Kansas; CRA, Incorporated, Coffeyville, Kansas; Blacktop Construction Company, Osage County, Kansas.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that construction proposals by the above companies are not subject to the review requirements of the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21)

On March 10, 1980, the EPA issued a non-applicability determination to Rockwell International for the proposed addition of an electric arc furnace at its facility in Atchison, Kansas. The furnace addition will not significantly increase potential emissions of any pollutant regulated under the Clean Air Act.

On March 26, 1980, the EPA issued a non-applicability determination to Derby Refining Company for modifications to its Wichita, Kansas refinery. The proposed modifications include the addition of a carbon monoxide boiler and a new fluid catalytic cracking unit. The modifications will not significantly increase potential emissions of any regulated pollutant.

On April 1, 1980, the EPA issued a non-applicability determination to H. B. Reed & Company, Incorporated for its proposed coal boiler slag processing facility in La Cygne, Kansas. The proposed facility does not have the potential to emit 250 tons per year of any regulated pollutant.

On April 16, 1980, the EPA issued a non-applicability determination to Mobil Oil Corporation for the proposed addition of a Claus sulfur recovery unit at its refinery in Augusta, Kansas. The sulfur recovery unit will not significantly increase potential emissions of any regulated pollutant.

On May 6, 1980, the EPA issued a non-applicability determination to Iowa Beef Processors, Incorporated for its proposed new facility near Holcomb, Kansas. The proposed facility does not have the potential to emit 250 tons per year of any pollutant regulated under the Clean Air Act.

On May 12, 1980, the EPA issued a non-applicability determination to Getty Refining and Marketing Company for its proposal to replace two existing process heaters with two new heaters at its refinery in El Dorado, Kansas. This replacement will not contribute to a net significant increasae in emissions from the refinery.

On June 18, and June 26, 1980, the EPA issued non-applicability determinations to CRA, Incorporated for proposed modifications at its refinery in Coffeyville, Kansas. The modifications are a reboiler project and the addition of a new 150,000-barrel storage tank. Neither of these qualifies as a "Major modification."

On June 19, 1980, the EPA issued a non-applicabiity determination to Blacktop Construction Company for its proposed asphalt plant in Osage County, Kansas. The proposed plant does not have the potential to emit 250 tons per year of any regulated pollutant.

Under Section 307(b)(1) of the Clean Air Act, judicial review of any of these determinations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In these cases, the appropriate court is the Tenth Circuit Court of Appeals. A petition for review must be filed with this court on or before October 17, 1980.

The determinations and related background information are available for public inspection at: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 80-25020 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1573-4]

Nonapplicability to PSD Regulations to Yonker Construction Co., Grimes, Iowa, et al.

Notice of non-applicability of PSD regulations to Yonker Construction Company, Grimes, Iowa; American Can Company, Des Moines, Iowa; Deere and Company, Waterloo, Iowa, Davenport, Iowa, Dubuque, Iowa; Amoco Oil Company, Sugar Creek, Missouri; Interstate Quarries, Lebanon, Missouri; New Era Construction Company, Inc., Sullivan, Missouri; Simpco Stone, Moberly, Missouri; Prestolite Battery Division, Manchester, Iowa; Royal Asphalt, Inc., Kansas City, Missouri; Johnson Brothers Corporation, Keokuk, Iowa; AMAX, Molybdenum Division, Fort Madison, Iowa; Martin-Marietta Aggregate, Independence, Missouri, Dallas County, Iowa; Associated Electric Coop., Inc., Randolph County, Missouri; Ash Grove Cement Company, Springfield, Missouri; Missouri Petroleum Products, Poplar Bluff, Missouri; Ozark Asphalt Company, West Plains, Missouri; St. Louis Metropolitan Sewer District, St. Louis, Missouri; Chemplex Company, Clinton, Iowa; Howard Construction Company, Sedalia, Missouri; Rochester Products, General Motors Corp., Sioux City, Iowa.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that construction proposals by the above companies are not subject to the review requirements of the Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21).

On February 20, 1980, the EPA issued a non-applicability determination to Yonker Construction Company for its proposed asphalt plant near Grimes, Iowa. This determination was based on EPA findings that the asphalt plant does not have the potential to emit 250 tons per year of any pollutant regulated by the Clean Air Act.

On March 6, 1980, the EPA issued a non-applicability determination to the Molybdenum Division of AMAX for its proposed tungsten processing facility in Fort Madison, Iowa. This detemination was based on EPA findings that the proposed facility does not have the potential to emit 250 tons per year of any regulated pollutant.

On March 6, 1980, the EPA issued a non-applicability determination to American Can Company for its proposed addition of a flexographic printing press to its Des Moines, Iowa facility. This determination was based on EPA findings that the proposed addition does not have the potential to emit 250 tons per year of any regulated pollutant.

On March 6, 1980, the EPA issued a non-applicability determination to Martin-Marietta Aggregates for its proposed portable limestone processing plant in Independence, Missouri. The proposed plant does not have the potential to emit 250 tons per year of any regulated pollutant.

On March 19, 1980, the EPA issued a non-applicability determination to Deere & Company for the addition of an electric foundry furnace to its facilities in Waterloo, Iowa. A second determination was issued to Deere & Company on May 5, 1980 for the addition of custom and touch-up paint booths at its Davenport and Dubuque, Iowa facilities. The PSD regulations do not apply to any of these modifications because none will significantly increase potential emissions of any regulated pollutant.

On March 28, 1980, the EPA issued a non-applicability determination to Associated Electric Cooperative, Inc., for the proposed addition of a coal preparation plant at the Thomas Hill Power Plant in Randolph County, Missouri. The proposed modification will not significantly increase potential emissions of any regulated pollutant.

On May 5, 1980, the EPA issued a non-applicability determination to Martin-Marietta Aggregates for its proposal to construct a sand and gravel facility in Dallas County, Iowa. The PSD regulations do not apply because emissions from the proposed facility will be of a fugitive type.

On May 15, 1980, the EPA issued a non-applicability determination to Amoco Oil Company for the proposed addition of a boiler to its refinery in Sugar Creek, Missouri. The boiler does not have potential emissions for any regulated pollutant of 100 tons per year, which is the cutoff level for refineries.

On June 19, 1980, the EPA issued a non-applicability determination to Ash Grove Cement Company for its proposed rock crushing plant near Springfield, Missouri. The PSD regulations do not apply because emissions are of a fugitive type.

On June 19, 1980, the EPA issued a non-applicability determination to Interstate Quarries for its proposed quarry operation near Lebanon, Missouri. Emissions from this source are of a fugitive type.

On June 19, 1980, the EPA issued non-applicability determinations to Missouri Petroleum Products, New Era Construction Co., and Ozark Asphalt Co., for proposed asphalt plants near Poplar Bluff, Sullivan, and West Plains, Missouri, respectively. None of the proposed plants have the potential to emit 250 tons per year of any regulated pollutant.

On June 19, 1980, the EPA issued a non-applicability determination to Simpco Stone for its proposed rock crushing plant near Moberly, Missouri. The PSD regulations do not apply because emissions are of a fugitive type.

On June 19, 1980, the EPA issued a non-applicability determination to St. Louis Metropolitan Sewer District for the LeMay Sewage Treatment Plant, which does not have the potential to emit 250 tons per year of any regulated pollutant.

On June 19, 1980, the EPA issued a non-applicability determination to Prestolite Battery Division of Eltra Corporation for its proposed lead oxide production system in Manchester, Iowa. The proposed facility does not have the potential to emit 250 tons per year of any regulated pollutant.

On June 20, 1980, the EPA issued a non-applicability determination to Chemplex Company for its proposed modification of its facility in Clinton, Iowa. The modification will not increase potential emissions of any regulated pollutant by more than 250 tons per year.

On June 20, 1980, the EPA issued a non-applicability determination to Johnson Brothers Corporation for its proposal to expand throughput at its coal transfer facility near Keokuk, Iowa. The proposed modification will not increase potential emissions (excluding fugitive emissions) of any regulated pollutant by 250 tons per year.

On June 23, 1980, the EPA issued non-applicability determinations to Royal Asphalt, Inc. and Howard Construction Company for proposed asphalt plants in Kansas City and near Sedalia, Missouri, respectively. Neither of these plants has the potential to emit 250 tons per year of any regulated pollutant.

On June 24, 1980, the EPA issued a non-applicability detrmination to Rochester Products for its proposed carburetor-testing facility in Sioux City, Iowa. The proposed facility does not have the potential to emit 250 tons per year of any regulated pollutant.

Under Section 307(b)(1) of the Clean Air Act, judicial review of any of these determinations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In these cases, the appropriate court is

282 man-hours per year during the first three

1979. Notice of availability of the Initial

After receipt, EPA has 90 days to

published the Initial Inventory on June 1,

complying with other applicable

In these cases, the appropriate court is the Eight Circuit Court of Appeals. A petition for review must be filed with this court on or before October 17, 1980.

The determinations and related background information are available for public inspection at: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 23019 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51113; FRL 1576-1]

1-Amino-4-Substituted-9, 10-Dihydro-9, 10-Dioxo-2-Anthracenesulfonic Acid, Monosodium Salt; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Premanufacturing Review Divison (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/428-3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy pubished in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 28, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51113]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 12, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-187

Close of Review Period.—October 28, 1980.

Manufacturer's Identity.—Claimed confidential.

Specific Chemical Identity.—Claimed confidential. Generic name provided: 1-Amino-4-substituted-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid, monosodium salt.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use.—Dye.

Production Estimates.—Claimed confidential.

Physical/Chemical Properties.—Physical form: Powder.

Toxicity Data:

Acute oral LD_{50} (rat)—>5.0 g/kg.

Primary dermal irritation (rabbit)—Negative.

Eye irritation (rabbit)—Nagative.

Exposure.—The submitter states that the manufacturing operation will require one worker per shift. Exposure will not exceed 282 man-hours per year during the first three years of manufacture.

Customer exposure will not exceed 8 man-hours per week. The manufacturer estimates that 10 customers will purchase the PMN substance.

Environmental Release/Disposal.—Manufacture. The raw materials are completely reacted and there are no byproducts produced. After isolation and filtration, the product is dried and package. Process water is sent to a treatment plant. Nothing is released to the atmosphere or sent to solid waste dumps. In the dyeing process, 90-95% of the dye is exhausted on the fiber. The remainder in the dyebath would become part of the effluent from the plant as would water from washing operations.

[FR Doc. 80-25024 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51112; FRL 1576-2]

Bisphenol A-Epoxy Resin, 1,4-Butanediol, Para Amino Benzoic Acid, and Phthalic Anhydride Polymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by October 3, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-8816.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy Published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before October 3, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51112]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: August 12, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-189.

Close of Review Period. November 2, 1980.

Manufacturer's Identity. Inmont Corp., 5935 Milford Ave., Detroit, MI 48210.

Specific Chemical Identity. Bisphenol A-expoxy resin, 1,4-butanediol, para amino benzoic acid, and phthalic anhydride polymer.

The following summary is taken from data submitted by the manufacturer in the PMN.

Uses. Automotive primer (90%); appliance enamel (10%).

Production Estimates	added by the proposed unit. In addition,	combustion engines as additions to the

Significant Air Quality Deterioration

FOR FURTHER INFORMATON CONTACT:

growing season in Suffolk County with

Production Estimates

	Kilogram per year	
	Minimum	Maximum
First year	40,000	50,000
Second year	80,000	100,000
Third year	120,000	150,000

Physical/Chemical Properties

Molecular weight	5000
Acid number	65–75
Hydroxyl number	10–15
Weight, lb/gal	10.4

Toxicity Data. No data were submitted.

Exposure. The manufacturer claims that there will be no exposure of workers and of users to the substance.

Environmental Release. The submitter claims that the manufacturing and processing of the PMN substance will be in a closed system and that there will be no release of the PMN substance to the environment.

[FR Doc. 80-25023 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[Region VII; FRL 1573-3]

Approvals of PSD Permits to Anheuser-Busch, Inc., St. Louis, Mo., Muscatine Power and Water Department, Muscatine, Iowa, Meredith Corp., Des Moines, Iowa, Union Electric Co., St. Louis County, Mo., St. Charles County, Mo.

Notice is hereby given that the Environmental Protection Agency (EPA) has issued construction permits under the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21) to Anheuser-Busch, Inc., Muscatine Power and Water Department, Meredith Corp., and Union Electric Company.

On September 18, 1979, the EPA formally approved Anheuser-Busch's plans to modify and construct additions to the grain handling systems at its St. Louis, Missouri plant. The PSD permit was issued based on the Tier I requirements of the PSD regulations, and the permit requires that the state-issued construction permit will not be revised in a manner which would no longer limit the emissions from the proposed modification to 50 tons per year.

On January 24, 1980, the EPA formally approved Muscatine Power and Water Departments proposal to construct new 166 megawatt coalfired steam-electric generating unit at its power plant in Muscatine, Iowa. The PSD permit requires that reductions in sulfur dioxide emissions from existing units are greater than sulfur dioxide emissions to be added by the proposed unit. In addition, sulfur dioxide and particulate matter emissions from the proposed unit must be limited to the lowest achievable emission rate.

On April 2, 1980, the EPA formally approved Meredith Corporation's proposal to install a new rotogravure printing press at its magazine printing plant in Des Moines, Iowa. The PSD permit requires that the emissions of volatile organic compounds shall not exceed ten percent of the solvent used for any calendar month.

On May 15, 1980, the EPA formally approved Union Electric Company's proposal to add three 55 megawatt oil-fired combustion turbines to its Meramec power plant in St. Louis County, Missouri and to add two 55 megawatt oil-fired combustion turbines to its Sioux power plant in St. Charles County, Missouri. The PSD permit limits emissions of sulfur dioxide, nitrogen oxides, carbon monoxide, and particulate matter from the proposed units.

Under Section 307(b)(1) of the Clean Air Act, judicial review of any of the above actions is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In these cases, the appropriate court is the Eighth Circuit Court of Appeals. A petition for review must be filed with this court on or before October 14, 1980.

Copies of the permits and related information are available for public inspection upon request at the following location: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 80-25014 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[Region VII; FRL 1573-6]

Approval of PSD Permit to Colorado Interstate Gas Co.; Kearney County, Kans.

Notice is hereby given that on September 27, 1979, the Environmental Protection Agency (EPA) issued a permit to Colorado Interstate Gas Company, giving approval to construct five 1475 horsepower natural gas-fires internal combustion engines as additions to the Hugoton Field Compressor Station Number 4 in Kearney County, Kansas. This permit was issued under the Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) and requires that each engine shall be operated to control the emissions of nitrogen dioxide (NO_2), and total nitrogen oxides (NO_x), to less than 1.5 grams per horsepower-hour, and 15.0 grams per horsepower-hour, respectively.

This permit and a previous PSD permit to Colorado Interstate Gas for different engines dated June 20, 1979, were revised on February 22, 1980. The revision allowed for an extension to performance test schedules and the continued operation of compressor drive White CG–14, while the stacks on existing electric generator drives Worth EG–1 through 4 and existing compressor drives are raised. It has been determined that neither of these permit modifications has any significant environmental or other impact.

Under Section 301(b)(1) of the Clean Air Act, judicial review of this permit is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In this case, the appropriate court is the Tenth Circuit Court of Appeals. A petition for review must be filed with this court on or before October 14, 1980.

Copies of the permit are available for public inspection upon request at the following location: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 80-25015 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[Region VII; FRL 1573-7]

Approval of PSD Permit to Sunflower Electric Cooperative, Inc., Holcomb, Kans.

Notice is hereby given that on May 19, 1980, the Environmental Protection Agency (EPA) issued a permit to Sunflower Electric Cooperative, Incorporated under the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

The subject facility is a new 348 megawatt (gross) coal-fired steam-electric generating unit to be located near Holcomb, Kansas.

The permit places emission limitations on nitrogen oxides, particulate matter, sulfur dioxide, and carbon monoxide.

Under Section 307(b)(1) of the Clear Air Act, judicial review of this permit is avilaible *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In this case, the appropriate court is the Tenth Circuit Court of Appeals. A petition for review must be filed with this court on or before *October 14, 1980.*

The permit and related background information are available for public inspection at: U.S. Environmental Protection Agency, Air and Hazardous Materials Division, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: August 6, 1980.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 80-25002 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180485; FRL 1575-7]

New York State Department of Environmental Conservation; Issuance of Specific Exemption To Use Fenvalerate To Control Colorado Potato Beetle on Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the New York State Department of Environmental conservation (hereinafter referred to as the "Applicant") to use fenvalerate (Pydrin) for the control of the Colorado potato beetle on 29,500 acres of potatoes in thirteen counties in New York. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 15, 1980.

ADDRESS: Jack E. Housenger, Registration Division (TS–767), Rm: E–107, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATON CONTACT: Jack Housenger, (202/426–0223) at the above address.

SUPPLEMENTARY INFORMATION: The Colorado potato beetle is a significant economic pest of commercially produced potatoes in New York State. both the larvae and the adults feed on leaves of potato plants. This feeding may result in defoliation of the vines which prevents development of tubers or greatly reduces yield.

The beetle emerges from its overwintering site in early to mid-May, usually coinciding with or preceding emergence of the potato sprouts. An at-planting application of aldicarb has been effective in controlling the beetles and first brood larvae in the spring and early summer. Control with aldicarb usually lasts until the first or second week in July. However, in March 1980, after discovering residues of aldicarb in several wells in Suffolk County on Long Island, the use of aldicarb in that county was banned. The Applicant states that loss of this use poses a great threat to the potato industry and agriculture of Suffolk County.

Although azinphosmethyl, phosmet, carbaryl, methamidiphos, methoxychlor, parathion, carbofuran, endosulfan, monocrotophos, phorate, and phosalone are registered for use on potatoes to control this pest, the Applicant claims that these pesticides are either ineffective or unsatisfactory for Colorado potato beetle control due to pesticidal resistance.

Growers in Suffolk County are expected to use in at-planting treatment of phorate in place of the usual aldicarb treatment. However, its effectiveness remains questionable, and growers fear that bettles will defoliate emerging plants too quickly to protect them with registered foliage sprays. To insure that this does not in fact happen, the Applicant requested the use of Pydrin (fenvalerate) alone and/or tank-mixed with oxamyl as early foliage sprays to protect rapidly growing foliage from adult beetle attack.

The Applicant proposed to use fenvalerate, manufactured under the trade name Pydrin, at a rate of 0.2 pound active ingredient (a.i.) per acre per application, using ground or air equipment, observing a 7-day pre-harvest interval. Applications will be made in the counties of Albany, Columbia, Dutchess, Nassau, Orange, Putnam, Rennselaer, Rockland, Schenectady, Suffolk, Ulster, Wayne, and Westchester.

The Applicant further requested that Pydrin applications alone or tank-mixed with oxamyl be allowed for the entire growing season in Suffolk County, with a maximum of 14 applications; also, that Pydrin applications be allowed in upstate New York to control the first and second brood of Colorado potato beetle, with a maximum of 6 applications.

Since EPA had not yet received the necessary scientific information concerning the oxamyl/fenvalerate tank mix and the need for a pesticide was immediate, EPA granted the specific exemption for use of fenvalerate alone. New York has the option of requesting an amendment to the specific exemption granted for fenvalerate to include the tank mixture.

EPA has determined that residues of fenvalerate in or on potatoes and in milk or meat would not be expected to exceed 0.02 part per million (ppm) as a result of the proposed use. This residue level has been judged to be adequate to protect the public health. Since fenvalerate is highly toxic to bees and aquatic vertebrates and invertebrates, appropriate restrictions have been imposed. This use of fenvalerate is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Pydrin, manufactured by Shell Chemical Company, may be applied;
2. Pydrin may be applied at a rate of 0.2 pound a.i. per acre;
3. A maximum of fourteen applications of fenvalerate may be made in Suffolk County and a maximum of six applications may be made in the other counties named above;
4. No application will be made within seven days of harvest;
5. A maximum of 29,500 acres in New York may be treated;
6. A maximum of 63,400 pounds a.i. of fenvalerate may be used;
7. Applications will be made with air or ground equipment;
8. Spray mixture volumes of 35–125 gallons of water will be applied by ground equipment. A minimum of 3 gallons of water will be applied by aerial equipment;
9. Applications will be made by State-certified applicators or persons under their direct supervision;
10. Fenvalerate is toxic to aquatic organisms. It must be kept out of any

body of water. It may not be applied where runoff is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

11. Fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Buffer zone (feet) application height/method	Fenvalerate (application rate—lbs/acre)			
	(0.05)	(0.1)	(0.2)	(0.4)
2 ft/ground spray:				
Freshwater	100	290	300	500
Saltwater	(1)			
8ft/aerial spray: [2]				
Freshwater	450	750	1,200	1,900
Saltwater				
15 ft/aerial spray: [3]				
Freshwater	850	1,400	2,300	3,600
Saltwater				
35 ft/aerial spray: [4]				
Freshwater	2,000	3,300	5,200	5,200
Saltwater				

[1] Marine organism toxicity is low.
[2] For spraying low crops, such as celery or lettuce.
[3] For spraying taller crops, such as maturing corn.
[4] For spraying trees of even height, as in orchards.

NOTE.—Mist blowers shall be treated as aerial spray—35 R.

It is recommended that pesticide applications be made when wind speeds are between 2 and 5 miles per hour. No pesticide applications are to be made when wind speeds exceed 10 miles per hour. Applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills;

12. Fenvalerate is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which economically significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

13. Potatoes treated according to the above provisions will not have residues of fenvalerate in excess of 0.02 ppm.Residues of fenvaluate in meat and milk will not exceed 0.02 PPM. Potatoes with residues of fenvalerate which do not exceed 0.02 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

14. Root crops other than potatoes may not be planted for 12 months after the last application. No other crop may be planted for 60 days after the last application;

15. The EPA will be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption; and

16. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1981.

(Sec. 18 as amended (92 Stat. 819 (7 U.S.C. 136))

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-25028 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180479; FRL 1575-8]

North Dakota and South Dakota Department of Agriculture; Issuance of Specific Exemptions To Use 2,4-D To Control Annual and Perennial Broadleaf Weeds in Millet

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the North and South Dakota Department of Agriculture (hereafter referred to as "North Dakota," and "South Dakota," or the "Applicants") to use 2,4-D amine to control broadleaf weeds in 80,000 acres of millet in North Dakota and 25,000 acres of millet in South Dakota. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: North Dakota's specific exemption expires on August 1, 1980; South Dakota's exemption expires on September 1, 1980.

ADDRESS: Libby Welch, Registration Division (TS-767), Rm: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Libby Welch, (202/426-0223) at the above address.

SUPPLEMENTARY INFORMATION: Millets are minor crops grown for grain and forage. Of at least five different groups of millets grown in the United States, foxtails and proso are the primary ones grown in North Dakota, proso in South Dakota. According to the Applicants, approximately 99 percent of the millet is harvested for grain and the major commercial use for the grains is in birdseed mixtures. Proso millet can also be foraged or cut and dried for hay. Foxtail millet hay and ground grain can be fed to livestock. Broadleaf weeds, such as redroot pigweeds, Kochia, and wild mustard, are of primary concern to millet growers. Until recently there were no EPA-registered pesticides for control of broadleaf weeds in millets. A tolerance has recently been established for residues of atrazine in or on millet. However, atrazine is not effective on perennial broadleaf weeds and may limit farmers' rotational crop practices. 2,4-D will control both annual and perennial broadleaf weeds. North Dakota has estimated a loss valued at $700,000 and South Dakota at $80,000 if broadleaf weeds are not controlled.

The Applicants proposed to make a single application of 0.50 pound dimethylamine salt of 2,4-D per acre on a maximum of 80,000 acres of millet in North Dakota and 25,000 acres in South Dakota. State-certified commercial applicators and growers using air and ground equipment will make the applications.

2,4-D is a widely used broadleaf weed herbicide and tolerances have been established on foods that make up approximately 80 percent of the total average human diet. EPA has determined that millet grain and straw residue levels of 2,4-D not in excess of 0.1 part per million (ppm) and 10 ppm, respectively, are adequate to protect the public health and that this use should not exceed these levels. The proposed use is not expected to pose an unreasonable hazard to the environment.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met.

Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until August 1, 1980 in South Dakota and September 1, 1980 in North Dakota, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Use of EPA-registered dimethylamine salt of 2,4-D which is appropriately labeled for the intended means of application (ground or air) is authorized;

2. 2,4-D will be applied at a maximum rate of one-half pound active ingredient per acre. A maximum of one application may be made;

3. A maximum of 80,000 acres may be treated in North Dakota, 25,000 acres in South Dakota may be treated;

4. A maximum of 40,000 pounds active ingredient may be applied in North Dakota; 12,500 pounds in South Dakota may be applied;

5. Applications may be made by air or ground equipment;

6. All applications will be made by State-certified commercial applicators or by growers;

7. No application will be made within four weeks of heading time;

8. All applications shall be made only in situations where the weed problem is serious and substantial crop losses are imminent;

9. EPA has determined that residues resulting from this use will not exceed 0.1 ppm in or on millet grain and 10 ppm in or on straw. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

10. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

11. Precautions must be taken to minimize or avoid spray drift to non-target areas;

12. The EPA will be immediately informed of any adverse effects resulting from the use of this pesticide in connection with these exemptions; and

13. North and South Dakota shall each be responsible for assuring that all of the provisions of its specific exemption are met, and each must submit a report summarizing the results of this program. South Dakota's report is due by December 1, 1980; North Dakota's report is due by February 1, 1981.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Program.

[FR Doc. 80-25025 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 80-354, File No. BPH-790214AG; BC Docket No. 80-355, File No. BPH-790808AD]

Peter E. Baird, et al.; Applications for New FM Station Construction Permit; Consolidated Hearing

Correction

In FR Doc. 80-23348 appearing on page 51651 in the issue of Monday, August 4, 1980, in the heading above, the first Docket No. was printed incorrectly and should have appeared as set forth above.

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

American Financial Services, Inc.; Proposal To Continue To Engage in Insurance Activities

American Financial Services, Inc., Miltona, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in a community with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary bank in Miltona, Minnesota, and the geographic area to be served is Miltona, Minnesota, and surrounding areas within 12 miles of Miltona. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 8, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24888 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act 912 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 4, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (insurance activities; Ohio; Pennsylvania; Kentucky and West Virginia) to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc. in the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. to the extent permissible under applicable state insurance laws and regulations. The new activity will be offered in the previously approved service area for the office in Columbus, Ohio which covers the entire States of Ohio, Pennsylvania, Kentucky and West Virginia.

B. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (mortgage banking insurance; Louisiana) to engage through a subsidiary Carruth Mortgage Corporation, in the following activities: Mortgage banking activities, including

acting as insurance agent with respect to the sale of credit life insurance and/or mortgage redemption insurance. Such activities will be conducted at a *de novo* office to be located in Shreveport, Louisiana and will serve the Shreveport, SMSA. Comments on this application must be received by September 5, 1980.

C. *Federal Reserve Bank of Atlanta.* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Pan American Bancshares, Inc., Miami, Florida (mortgage banking activities, Florida): to engage, through its subsidiary, Bancshares Properties, Inc., in originating and servicing loans and other extensions of credit secured by real estate mortgages for the account of others, and from time to time funding loans for warehousing until purchased by others. These activities will be conducted from an office in Miami, Florida, serving the entire state of Florida. Comments on this application must be received by September 7, 1980.

D. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

University Bancorp, Inc., Kansas City, Missouri (financing activities; Missouri): to engage in the following activities; making or acquiring, for its account or for the account of others, business loans and extensions of credit. The geographic scope of the activities will be the metropolitan area of Kansas City, Missouri. Such activities will be conducted at offices in the following locations: 850 Main Street, Kansas City, Missouri 64105. Comments on this application must be received by September 8, 1980.

E. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. This notice corrects a previous Federal Register notice (FR Doc. 80–23231) appearing at page 51283 of the issue for Friday, August 1, 1980.

First International, Bancshires, Inc., Beverly Hills, California (finance activities; Texas): to engage through its subsidiary First International Financial Corporation, in making or acquiring for its own account or for the account of others, secured loans such as would be made by a finance company. These activities would be conducted from an office in Houston, Texas, serving the State of Texas. Comments on this application must be received by August 25, 1980.

2. This notice corrects a previous Federal Register notice (FR Doc. 80–23231) appearing at page 51283 of the issue for Friday, August 1, 1980.

First International Bancshares, Inc., Beverly Hills, California (leasing activities, Texas): to engage through its subsidiary First International Financial Corporation, in leasing personal property in conformity with 12 C.F.R. § 225.4(a)(6)(i). These activities will be conducted from an office in Dallas, Texas, serving the State of Texas. Comments on this application must be received by August 25, 1980.

F. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California (industrial loan, financing, and insurance activities; California); to engage, through its subsidiary, Security Pacific Finance Money Center Inc., in financing and industrial loan corporation activities, including making, acquiring and servicing loans and other extensions of credit, selling and issuing investment certificates; and acting as agent for the sale of credit-related life, accident and health, and property insurance. These activities would be conducted from offices in Huntington Beach, Laguna Hills, Los Angeles, and Pasadena, California, serving the State of California.

2. Security Pacific Corporation, Los Angeles, California (financing and insurance activities; California): to engage through its subsidiary, Security Pacific Finance Business Center Inc., in making or acquiring loans and other extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring or consumer finance company; and acting as broker or agent for the sale of credit-related life, accident and health insurance. These activities would be conducted from an office in Pasadena, California, serving the State of California.

G. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24867 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

Augusta Financial Corp.; Proposed Insurance Activities

Augusta Financial Corporation, Augusta, Wisconsin, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to operate a general insurance agency in a community of less than 5,000 population.

Applicant states that the activities would be performed from offices of Applicant's subsidiary, Peoples State Bank of Augusta in Augusta, Wisconsin, and the geographic areas to be served are Augusta and Bridge Creek, Wisconsin. Such acitivities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writting and received by the Secretary, Board of Govenors of the Federal Reserve System, Washington, D.C. 20551, not later than September 8, 1980.

Board of Govenors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24872 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

Bankshares of Hawley, Inc.; Formation of Bank Holding Company

Bankshares of Hawley, Inc., Hawley, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 89 percent or more of the voting shares of State Bank of Hawley, Hawley, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24868 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

Barnes Investment Corp.; Proposed Retention of Barnes Insurance Agency

Barnes Investment Corporation., Barnes, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its general insurance agency, Barnes Insurance Agency, Barnes, Kansas, a community with a population not exceeding 5,000.

Applicant states that it would engage in general insurance activities, consisting of the sale of life, health, fire and casualty, and crop-hail insurance. These activities would be performed from offices of Applicant's subsidiary in Barnes, Kansas, and the geographic areas to be served are Washington, Clay, Riley and Marshall Counties, Kansas. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 8, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24869 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

Bradley Bancorp; Formation of Bank Holding Company

Bradley Bancorp, Columbus, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.39 percent of the voting shares (less directors' qualifying shares) of Columbus Bank and Trust Company, Columbus, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 8, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24870 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

The Central Bancorporation, Inc., Acquisition of Bank

The Central Bancorporation, Inc., Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Peoples Bank, Nelsonville, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-24885 Filed 8-15-80; 8:45 am]

BILLING CODE 6210-01-M

Citizens Northern Co., Inc.; Formation of Bank Holding Company

Citizens Northern Company, Inc., Elkhart, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens Northern Bank of Elkhart, Elkhart, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. An person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24876 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Combanks Corp. and Great American Banks, Inc.; Acquisition of Bank

Combanks Corporation, Winter Park, Florida, and Great American Banks, Inc., North Miami, Florida, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 49 percent of the voting shares of First Marine Banks, Inc., Riviera Beach, Florida, a bank holding company with one subsidiary bank, First Marine Bank and Trust Company of the Palm Beaches, Riviera Beach, Florida. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24875 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Cumberland Financial Services, Inc.; Proposed Continuation of General Insurance Activities

Cumberland Financial Services, Inc., Edina, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance activities in a town with a population of less than 5,000. These activities would be performed from offices of Applicant in Edina, Minnesota, and the geographic area to be served is approximately a ten mile radius of Cumberland, Wisconsin. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 8, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24871 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Dewco Agency Co.; Proposed Retention of General Insurance Activities

Dewco Agency Co., Timber Lake, South Dakota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue its general insurance activities.

Applicant states that the proposed subsidiary would continue to engage in general insurance activities in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Timber Lake, South Dakota, and the geographic areas to be served are all of Dewey County and portions of Ziebach and Carson Counties all in South Dakota. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 8, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 8024870 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

F & M BanCorporation, Inc.; Formation of Bank Holding Company

F & M BanCorporation, Kaukauna, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98.6 percent of the voting shares of F & M Bank of Appleton, Appleton, Wisconsin, a proposed new bank, and 80 percent or more of the voting shares of Farmers and Merchants Bank, Kaukauna, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System. August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24886 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

First Lakefield BanCorporation, Inc.; Formation of Bank Holding Company

First Lakefield BanCorporation, Inc., Lakefield, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88.95 percent or more of the voting shares of First Trust Bank of Lakefield, Lakefield, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 8, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System. August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24873 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Houston United Bancshares, Inc.; Formation of Bank Holding Company

Houston United Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Houston United Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24883 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Kiowa Bancorporation, Inc.; Formation of Bank Holding Company

Kiowa Bancorporation, Inc., Kiowa, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Kiowa, Kiowa, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24882 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Lincoln S.B. Corp.; Formation of Bank Holding Company

Lincoln S.B. Corp., Lincoln, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 75 percent or more of the voting shares of State Bank of Lincoln, Lincoln, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24880 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Mid America Bancshares, Inc.; Formation of Bank Holding Company

Mid America Bancshares, Inc., Wichita, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by merging with Seneca Bancshares, Inc., Wichita, Kansas, and thereby acquiring 98 percent (less directors' qualifying shares) of the voting shares of the Bank of Mid America, Wichita, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24874 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Oilton Bancshares, Inc.; Formation of Bank Holding Company

Oilton Bancshares, Inc., Oilton, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93.9 percent or more of the voting shares of First State Bank, Oilton, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 8, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24884 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Peachtree Bancshares, Inc., Formation of Bank Holding Company

Peachtree Bancshares, Inc., Atlanta, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Peachtree Bank and Trust Company, Atlanta, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24881 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

Trust Co. of Georgia; Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the First National Bank of McDonough, McDonough, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.
Cathy L. Petryshyn,
Assistant Secretary of the Board.
[FR Doc. 80-24882 Filed 8-15-80; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit

AGENCY: Health Care Financing Administration (HCFA), HHS.
ACTION: Correction to final notice.

SUMMARY: This document makes certain revisions to the final notice of the Medicare schedule of limits on home health agency costs per visit that was published in the **Federal Register** on June 5, 1980 (45 FR 38014).

FOR FURTHER INFORMATION, CONTACT: Alton Cobb, 301-594-9773.

SUPPLEMENTARY INFORMATION:

In FR Doc. No. 80-17085, published on June 5, 1980, the following corrections are made:

1. On page 38018, column 3, under "Schedule of Limits" change the chart in the example as follows:

Type of visit	Visits	Limit	Adjusted limit	
Skilled nursing	5,000	42.67	50.08	$250,400
Physical therapy	1,000	42.42	49.79	49,790
Home health aide	1,000	32.26	37.86	37,860
Aggregate cost limit				338,050

2. On pages 38019-38021, "Table III, SMSA Constituent Counties" should be revised as follows. There were several errors in the table as printed on June 5, 1980; in addition, the format and spacing made accurate reading of the locations difficult. Therefore, we are reprinting the entire table in clearer form for the convenience of users.

Table III.—*SMSA Constituent Counties*

SMSA/NECMA	County
Abilene, TX	Callahan.
	Jones.
	Taylor.
Akron, OH	Portage.
	Summit.
Albany, GA	Dougherty.
	Lee.
Albany-Schenectady-Troy, NY	Albany.
	Montgomery.
	Rensselaer.
	Saratoga.
	Schenectady.
Albuquerque, NM	Bernalillo.
	Sandoval.
Alexandria, LA	Grant.
	Rapides.
Allentown-Bethlehem-Easton, PA-NJ	Warren, NJ.
	Carbon, PA.
	Lehigh, PA.
	Northampton, PA.
Altoona, PA	Blair.
Amarillo, TX	Potter.
	Randall.
Anaheim-Santa Ana-Garden Grove, CA	Orange.
Anchorage, AK	Anchorage.
Anderson, IN	Madison.
Ann Arbor, MI	Washtenaw.
Anniston, AL	Calhoun.
Appleton-Oshkosh, WI	Calumet.
	Outagamie.
	Winnebago.
Asheville, NC	Buncombe.
	Madison.
Atlanta, GA	Butts.
	Clayton.
	Cherokee.
	Douglas.
	Cobb.
	Fayette.
	Forsyth.
	DeKalb.
	Henry.
	Newton.
	Fulton.
	Paulding.
	Gwinnett.
	Rockdale.
	Walton.
Atlantic City, NJ	Atlantic.

Table III.—*SMSA Constituent Counties*—Continued

SMSA/NECMA	County
Augusta, GA-SC	Columbia, GA.
	Richmond, GA.
	Aiken, SC.
Austin, TX	Hays.
	Travis.
	Williamson.
Bakersfield, CA	Kern.
Baltimore, MD	Anne Arundel.
	Baltimore.
	Baltimore City.
	Carroll.
	Harford.
	Howard.
Baton Rouge, LA	Ascension.
	East Baton Rouge.
	Livingston.
	West Baton Rouge.
Battle Creek, MI	Barry.
	Calhoun.
Bay City, MI	Bay.
Beaumont-Port Arthur-Orange, TX	Hardin.
	Jefferson.
	Orange.
Billings, MT	Yellowstone.
Biloxi-Gulfport, MS	Hancock.
	Harrison.
	Stone.
Binghampton, NY-PA	Broome, NY.
	Tioga, NY.
	Susquehanna, PA.
Birmingham, AL	Jefferson.
	St. Clair
	Shelby.
	Walker.
Bismarck, ND	Burleigh.
	Morton.
Bloomington, IN	Monroe.
Bloomington-Normal, IL	McLean.
Boise City, ID	Ada.
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH.	Essex, MA.
	Middlesex, MA.
	Norfolk, MA.
	Suffolk, MA.
	Plymouth, MA.
	Rockingham, NH.
Bradenton, FL	Manatee.
Bridgeport-Stamford-Norwalk-Danbury, CT.	Fairfield.
Brownsville-Harlingen-San Benito, TX	Cameron.
Bryan-College Station, TX	Brazos.
Buffalo, NY	Erie.
	Niagara.
Burlington, NC	Alamance.
Caguas, PR	Caguas.
	Gurabo.
	San Lorenzo.
Canton, OH	Carroll.
	Stark.
Cedar Rapids, IA	Linn.
Champaign-Urbana-Rantoul, IL	Champaign.
Charleston-North Charleston, SC	Berkeley.
	Charleston.
	Dorchester.
Charleston, WV	Kanawha.
	Putnam.
Charlotte-Gastonia, NC	Gaston.
	Mecklenburg.
	Union.
Chattanooga, TN-GA	Catoosa, GA.
	Dade, GA.
	Walker, GA.
	Hamilton, TN.
	Marion, TN.
	Sequatchie, TN.
Chicago, IL	Cook.
	DuPage.
	Kane.
	Lake.
	McHenry.
	Will.
Cincinnati, OH-KY-IN	Dearborn, IN.
	Boone, KY.
	Campbell, KY.
	Kenton, KY.
	Clermont, OH.
	Hamilton, OH.
	Warren, OH.
Clarksville-Hopkinsville, TN-KY	Montgomery, KY.
	Christian, TN.

Table III.—*SMSA Constituent Counties*—Continued

SMSA/NECMA	County
Cleveland, OH	Cuyahoga.
	Geauga.
	Lake.
	Medina.
Colorado Springs, CO	El Paso.
	Teller.
Columbia, MO	Boone.
Columbia, SC	Lexington.
	Richland.
Columbus, GA-AL	Russell, AL.
	Chattahoochee, GA.
	Columbus City, GA.
Columbus, OH	Delaware.
	Fairfield.
	Franklin.
	Madison.
	Pickaway.
Corpus Christi, TX	Nueces.
	San Patricio.
Dallas-Fort Worth, TX	Collin.
	Dallas.
	Denton.
	Ellis.
	Hood.
	Johnson.
	Kaufman.
	Parker.
	Rockwall.
	Tarrant.
	Wise.
Davenport-Rock Island-Moline, IA-IL	Henry, IL.
	Rock Island, IL.
	Scott, IA.
Dayton, OH	Greene.
	Miami.
	Montgomery.
	Preble.
Daytona Beach, FL	Volusia.
Decatur, IL	Macon.
Denver-Boulder, CO	Adams.
	Arapahoe.
	Boulder.
	Denver.
	Douglas
	Gilpin.
	Jefferson.
Des Moines, IA	Polk.
	Warren.
Detroit, MI	Lapeer.
	Livingston.
	Macomb.
	Oakland.
	St. Clair.
	Wayne.
Dubuque, IA	Dubuque.
Duluth-Superior, MN-WI	St. Louis, MN.
	Douglas, WI.
Eau Claire, WI	Chippewa.
	Eau Claire.
Elkhart, IN	Elkhart.
Elmira, NY	Chemung.
El Paso, TX	El Paso.
Enid, OK	Garfield.
Erie, PA	Erie.
Eugene-Springfield, OR	Lane.
Evansville, IN-KY	Gibson, IN.
	Posey, IN.
	Vanderburgh, IN.
	Warrick, IN.
	Henderson, KY.
Fargo-Moorhead, ND-MN	Clay, MN.
	Cass, ND.
Fayetteville, NC	Cumberland.
Fayetteville-Springdale, AR	Benton
	Washington
Flint, MI	Genesee.
	Shiawassee.
Florence, AL	Colbert
	Lauderdale.
Fort Collins, CO	Larimer.
Fort Lauderdale-Hollywood, FL	Broward.
Fort Myers-Cape Coral, FL	Lee.
Fort Smith, AR-OK	Crawford, AR.
	Sebastian, AR.
	LeFlore, OK.
	Sequoyah, OK.
Fort Wayne, IN	Adams.
	Allen.
	Dekalb.
	Wells.

Table III.—*SMSA Constituent Counties*—Continued

SMSA/NECMA	County
Fresno, CA	Fresno.
Gadsden, AL	Etowah.
Gainesville, FL	Alachua.
Galveston-Texas City, TX	Galveston.
Gary-Hammond-East Chicago, IN	Lake.
	Porter.
Grand Forks, ND-MN	Grand Forks, ND.
	Polk, MN.
Grand Rapids, MI	Kent.
	Ottawa.
Great Falls, MT	Cascade.
Greeley, CO	Weld.
Green Bay, WI	Brown.
Greensboro-Winston-Salem-High Point, NC.	Davidson.
	Forsyth.
	Guilford.
	Randolph.
	Stokes.
	Yadkin.
Greenville-Spartanburg, SC	Greenville.
	Pickens.
	Spartanburg.
Hamilton-Middletown, OH	Butler.
Harrisburg, PA	Cumberland.
	Dauphin.
	Perry.
Hartford-New Britian-Bristol, CT	Harford.
	Middlesex.
	Tolland.
	Litchfield.
Honolulu, HI	Honolulu.
Houston, TX	Brazoria.
	Fort Bend.
	Harris.
	Liberty.
	Montgomery.
	Waller.
Huntington-Ashland, WV-KY-OH	Boyd, KY.
	Greenup, KY.
	Lawrence, OH.
	Cabell, WV.
	Wayne, WV.
Huntsville, AL	Limestone.
	Madison.
	Marshall.
Indianapolis, IN	Boone.
	Hamilton.
	Hancock.
	Hendricks.
	Johnson.
	Marion.
	Morgan.
	Shelby.
Iowa City, IA	Johnson.
Jackson, MI	Jackson.
Jackson, MS	Hinds.
	Rankin.
Jacksonville, FL	Baker.
	Clay
	Duval.
	Nassau
	St. James.
Janesville-Beloit, WI	Rock.
Jersey City, NJ	Hudson.
Johnson City-Kingsport-Bristol, TN-VA	Carter, TN.
	Hawkins, TN.
	Sullivan, TN.
	Unicoi, TN.
	Washington, TN.
	Bristol City, VA.
	Scott, VA.
	Washington, VA.
Johnstown, PA	Cambria.
	Somerset.
Kalamazoo-Portage, MI	Kalamazoo.
	VanBuren.
Kankakee, IL	Kankakee.
Kansas City, MO-KS	Johnson, KS.
	Wyandotte, KS.
	Cass, MO.
	Clay, MO.
	Jackson, MO.
	Platte, MO.
	Ray, MO.
Kenosha, WI	Kenosha.
Killeen-Temple, TX	Bell.
	Coryell.

Table III.—*SMSA Constituent Counties*—Continued

SMSA/NECMA	County
Knoxville, TN	Anderson.
	Blount.
	Knox.
	Loudon.
	Sevier.
	Union.
Kokomo, IN	Howard.
	Tipton.
La Crosse, WI-MN	Houston, MN.
	La Crosse, WI.
Lafayette, LA	Lafayette.
	St. Martin.
Lafayette-West Lafayette, IN	Clinton.
	Tippecanoe.
Lake Charles, LA	Calcasieu.
Lakeland-Winter Haven, FL	Polk.
Lancaster, PA	Lancaster.
Lansing-East Lansing, MI	Clinton.
	Eaton.
	Ingham.
Laredo, TX	Webb.
Las Cruces, NM	Dona Ana.
Las Vegas, NV	Clark.
Lawrence-Haverhill, MA-NH	Essex, MA.
	Rockingham, NH.
Lawton, OK	Comanche.
Lewiston-Auburn, ME	Androscoggin.
Lexington-Fayette, KY	Bourbon.
	Clark.
	Fayette.
	Jessamine.
	Scott.
	Woodford.
Lima, OH	Allen.
Lincoln, NE	Lancaster.
Little Rock-North Little Rock, AR	Lonoke.
	Pulaski.
	Saline.
Longview-Marshall, TX	Gregg.
	Harrison.
Los Angeles-Long Beach, CA	Los Angeles.
Louisville, KY-IN	Clark, IN.
	Floyd, IN.
	Harrison, IN.
	Jefferson, KY.
	Oldham, KY.
Lubbock, TX	Lubbock.
Lynchburg, VA	Amherst.
	Bedford.
	Campbell.
	Lynchburg City.
Macon, GA	Bibb.
	Houston.
	Jones.
	Monroe.
	Peach.
Madison, WI	Dane.
Manchester, NH	Hillsborough.
Mansfield, OH	Richland.
Mayaguez, PR	Mayaguez.
Medford-Ashland, OR	Jackson.
Melbourne-Titusville-Cocoa-Palm Bay, FL	Brevard.
Memphis, TN-AR-MS	Crittenden, AR.
	Shelby, TN.
	Fayette, TN.
	Tipton, TN.
	DeSoto, MS.
Merced, CA	Merced.
Miami, FL	Dade.
Middlesex-Somerset-Hunterdon, NJ	Middlesex.
	Somerset.
	Hunterdon.
Milwaukee, WI	Milwaukee.
	Ozaukee.
	Washington.
	Waukesha.
Minneapolis-St. Paul, MN-WI	Anoka.
	Carver.
	Chisago.
	Dakota.
	Hennepin.
	Ramsey.
	Scott.
	Washington.
	Wright.
	St. Croix, WI.
Mobile, AL	Baldwin.
	Mobile.
Modesto, CA	Stanislaus.
Monmouth-Ocean, NJ	Monmouth.
	Ocean.
Monroe, LA	Ouachita.
Montgomery, AL	Autauga.
	Elmore.
	Montgomery.
Muncie, IN	Delaware.
Muskegon-Norton Shores-Muskegon Heights, MI	Muskegon.
Nashua, NH	Hillsborough.
Nashville, TN	Cheatham.
	Davidson.
	Dickson.
	Robertson.
	Rutherford.
	Sumner.
	Williamson.
	Wilson.
New Bedford-Fall River, MA	Bristol.
New Haven-West Haven-Waterbury-Meriden, CT	New Haven.
New London-Norwich, CT	New London.
New Orleans, LA	Jefferson.
	Orleans.
	Plaquemines.
	St. Bernard.
	St. Charles.
	St. James.
	St. John the Baptist.
	St. Tammany.
New York, NY-NJ	Bergen, NJ.
	Bronx, NY.
	Hudson, NJ.
	Kings, NY.
	Nassau, NY.
	New York, NY.
	Passaic, NJ.
	Putnam, NY.
	Queens, NY.
	Richmond, NY.
	Rockland, NY.
	Suffolk, NY.
	Westchester, NY.
Newark, NJ	Essex.
	Morris.
	Sussex.
	Union.
	Warren.
Norfolk-Virginia Beach-Portsmouth, VA	Chesapeake City.
	Norfolk City.
	Portsmouth City.
	Suffolk City.
	Virginia Beach City.
Oakland, CA	Alameda.
	Contra Costa.
Odessa, TX	Ector.
Oklahoma City, OK	Canadian.
	Cleveland.
	Logan.
	Oklahoma.
	Pottawatomie.
Omaha, NE-IA	Douglas, NE.
	Sarpy, NE.
	Pottawattamie, IA.
Orlando, FL	Orange.
	Osceola.
	Seminole.
Owensboro, KY	Daviess.
Oxnard-Simi Valley-Ventura, CA	Ventura.
Pascagoula-Moss Point, MS	Jackson.
Pensacola, FL	Escambia.
	Santa Rosa.
Peoria, IL	Peoria.
	Tazewell.
	Woodford.
Philadelphia, PA-NJ	Burlington, NJ.
	Camden, NJ.
	Gloucester, NJ.
	Philadelphia, PA.
	Bucks, PA.
	Chester, PA.
	Delaware, PA.
	Montgomery, PA.
Phoenix, AZ	Maricopa.
Pittsburgh, PA	Allegheny.
	Beaver.
	Washington.
	Westmoreland.
Pittsfield, MA	Berkshire.
Portland, ME	Cumberland.
	York.
Portland, OR-WA	Clackamas, OR.
	Multnomah, OR.
	Washington, OR.
	Clark, WA.
Poughkeepsie, NY	Dutchess.
Providence-Warwick-Pawtucket, RI	Bristol.
	Kent.
	Newport.
	Providence.
	Washington.
Provo-Orem, UT	Utah.
Pueblo, CO	Pueblo.
Racine, WI	Racine.
Raleigh-Durham, NC	Durham.
	Franklin.
	Johnston.
	Orange.
	Wake.
Reading, PA	Berks.
Redding, CA	Shasta.
Reno, NV	Washoe.
Richland-Kennewick-Pasco, WA	Benton.
	Franklin.
Richmond-Petersburg, VA	Charles City County.
	Chesterfield.
	Colonial Heights City.
	Hanover.
	Henrico.
	Hopewell City.
	Petersburg City.
	Prince George.
	Richmond City.
Riverside-San Bernardino-Ontario, CA	Riverside.
	San Bernardino.
Roanoke, VA	Botetourt.
	Roanoke.
	Roanoke City.
Rochester, NY	Genesee.
	Livingston.
	Monroe.
	Ontario.
	Orleans.
	Wayne.
Rockford, IL	Boone.
	Winnebago.
Sacramento, CA	El Dorado.
	Placer.
	Sacramento.
Saginaw-Bay City-Midland, MI	Bay.
	Midland.
	Saginaw.
St. Cloud, MN	Benton.
	Stearns.
St. Joseph, MO	Andrew.
	Buchanan.
St. Louis, MO-IL	Clinton, IL.
	Jersey, IL.
	Madison, IL.
	St. Clair, IL.
	Franklin, MO.
	St. Charles, MO.
	St. Louis, MO.
	St. Louis City, MO.
Salem-Gervais, OR	Marion.
	Polk.
Salinas-Seaside-Monterey, CA	Monterey.
Salt Lake City-Ogden, UT	Davis.
	Salt Lake.
	Weber.
San Angelo, TX	Tom Green.
San Antonio, TX	Bexar.
	Comal.
	Guadalupe.
San Diego, CA	San Diego.
San Francisco-Oakland, CA	Marin.
	San Francisco.
	San Mateo.
San Jose, CA	Santa Clara.
San Juan-Bayamon, PR	Bayamon.
	Canovanas.
	Carolina.
	Catano.
	Guaynabo.
	Loiza.
	Rio Grande.
	San Juan.
Santa Barbara-Santa Maria-Lompoc, CA	Santa Barbara.
Santa Cruz, CA	Santa Cruz.
Santa Rosa-Petaluma, CA	Sonoma.
Sarasota, FL	Manatee.
	Sarasota.
Scranton-Wilkes-Barre, PA	Columbia.
	Lackawanna.
	Luzerne.
	Wyoming.
Seattle-Everett, WA	King.
	Snohomish.
Sharon, PA	Mercer.
Sheboygan, WI	Sheboygan.
Sherman-Denison, TX	Grayson.
Shreveport, LA	Bossier.
	Caddo.
Sioux City, IA-NE	Woodbury, IA.
	Dakota, NE.
Sioux Falls, SD	Lincoln.
	Minnehaha.
South Bend-Mishawaka, IN	St. Joseph.
Spokane, WA	Spokane.
Springfield, IL	Sangamon.
Springfield, MO	Greene.
Springfield-Chicopee-Holyoke, MA-CT	Hampden, MA.
	Hampshire, MA.
	Tolland, CT.
Springfield, OH	Clark.
Stamford-Norwalk, CT	Fairfield.
Steubenville-Weirton, OH-WV	Jefferson, OH.
	Brooke, WV.
	Hancock, WV.
Stockton, CA	San Joaquin.
Sumter, SC	Sumter.
Syracuse, NY	Cayuga.
	Madison.
	Onondaga.
	Oswego.
Tacoma, WA	Pierce.
Tallahassee, FL	Gadsden.
	Leon.
Tampa-St. Petersburg, FL	Hillsborough.
	Pasco.
	Pinellas.
Terre Haute, IN	Clay.
	Vigo.
Texarkana, TX-Texarkana, AR	Bowie, TX.
	Miller, AR.
Toledo, OH	Fulton.
	Lucas.
	Wood.
Topeka, KS	Shawnee.
Trenton, NJ	Mercer.
Tucson, AZ	Pima.
Tulsa, OK	Creek.
	Osage.
	Rogers.
	Tulsa.
	Wagoner.
Tuscaloosa, AL	Tuscaloosa.
Tyler, TX	Smith.
Utica-Rome, NY	Herkimer.
	Oneida.
Vallejo-Fairfield-Napa, CA	Napa.
	Solano.
Vineland-Millville-Bridgeton, NJ	Cumberland.
Visalia-Tulare-Porterville, CA	Tulare.
Waco, TX	McLennan.
Washington, DC-MD-VA	District of Columbia.
	Calvert, MD.
	Charles, MD.
	Frederick, MD.
	Montgomery, MD.
	Prince Georges, MD.
	Alexandria City, VA.
	Arlington, VA.
	Fairfax, VA.
	Fairfax City, VA.
	Falls Church City, VA.
	Loudoun, VA.
	Manassas City, VA.
	Manassas Park City, VA.
	Prince William, VA.
Waterloo-Cedar Falls, IA	Black Hawk.
Wausau, WI	Marathon.
West Palm Beach-Boca Raton, FL	Palm Beach.
Wheeling, WV-OH	Ohio, WV.
	Marshall, WV.
	Belmont, OH.
Wichita, KS	Butler.
	Harvey.
	Sedgwick.
Wichita Falls, TX	Archer.
	Wichita.
Williamsport, PA	Lycoming.
Wilmington-Newark, DE-MD	New Castle, DE.
	Cecil, MD.
Worcester, MA	Worcester.
York, PA	York.
Youngstown-Warren, OH	Mahoning.
	Trumbull.
Yuba City, CA	Sutter.
	Yuba.

Table III.—*SMSA Constituent Counties*—Continued

SMSA/NECMA	County
Knoxville, TN	Anderson.
	Blount.
	Knox.
	Union.
Kokomo, IN	Howard.
	Tipton.
La Crosse, WI	La Crosse.
Lafayette, LA	Lafayette.
Lafayette-West Lafayette, IN	Tippecanoe.
Lake Charles, LA	Calcasieu.
Lakeland-Winter Haven, FL	Polk.
Lancaster, PA	Lancaster.
Lansing-East Lansing, MI	Clinton.
	Eaton.
	Ingham.
	Ionia.
Laredo, TX	Webb.
Las Cruces, NM	Dona Ana.
Las Vegas, NV	Clark.
Lawrence, KS	Douglas.
Lawton, OK	Comanche.
Lewiston-Auburn, ME	Androscoggin.
Lexington-Fayette, KY	Bourbon.
	Clark.
	Fayette.
	Jessamine.
	Scott.
	Woodford.
Lima, OH	Allen.
	Auglaize.
	Putnam.
	Van Wert.
Lincoln, NE	Lancaster.
Little Rock-North Little Rock, AR	Pulaski.
	Saline.
Long Branch-Asbury Park, NJ	Monmouth.
Longview, TX	Gregg.
	Harrison.
Lorain-Elyria, OH	Lorain.
Los Angeles-Long Beach, CA	Los Angeles.
Louisville, KY-IN	Clark, IN.
	Floyd, IN.
	Bullitt, KY.
	Jefferson, KY.
	Oldham, KY.
Lubbock, TX	Lubbock.
Lynchburg, VA	Amherst.
	Appomattox.
	Campbell.
	Lynchburg, City.
Macon, GA	Bibb.
	Houston.
	Jones.
	Twiggs.
Madison, WI	Dane.
Manchester-Nashua, NH	Hillsboro.
	Merrimack.
Mansfield, OH	Richland.
Mayaguez, PR	Anasco.
	Hormigueros.
	Mayaguez.
McAllen-Pharr-Edinburg, TX	Hidalgo.
Melbourne-Titusville-Cocoa, FL	Brevard.
Memphis, TN-AR-MS	Crittenden, AK.
	DeSoto, MS.
	Shelby, TN.
	Tipton, TN.
Miami, FL	Dade.
Midland, TX	Midland.
Milwaukee, WI	Milwaukee.
	Ozaukee.
	Washington.
	Waukesha.
Minneapolis-St. Paul, MN-WI	Anoka, MN.
	Carver, MN.
	Dakota, MN.
	Chisago, MN.
	Hennepin, MN.
	Ramsey, MN.
	Scott, MN.
	Washington, MN.
	Wright, MN.
	St. Croix, WI.
Mobile, AL	Baldwin.
	Mobile.
Modesto, CA	Stanislaus.
Monroe, LA	Ouachita.
Montgomery, AL	Autauga.
	Elmore.
	Montgomery.
Muncie, IN	Delaware.
Muskegon-Norton Shores-Muskegon Heights, MI	Muskegon.
	Oceana.
Nashville-Davidson, TN	Cheatham.
	Davidson.
	Dickson.
	Sumner.
	Robertson.
	Rutherford.
	Wilson.
	Williamson.
Nassau-Suffolk, NY	Nassau.
	Suffolk.
New Bedford-Fall River, MA	Bristol.
New Brunswick Perth Amboy-Sayreville, NJ	Middlesex.
New Haven-West Haven-Waterbury-Meriden, CT	New Haven.
New London-Norwich, CT	New London.
New Orleans, LA	Jefferson.
	Orleans.
	St. Bernard.
	St. Tammany.
New York, NY-NJ	Bronx, NY.
	Kings, NY.
	New York, NY.
	Putnam, NY.
	Queens, NY.
	Richmond, NY.
	Rockland, NY.
	Westchester, NY.
	Bergen, NJ.
Newark, NJ	Essex.
	Morris.
	Somerset.
	Union.
Newport News-Hampton, VA	Hampton City.
	Williamsburg City.
	Newport News City.
	Glouster.
	York.
	James City.
	Poquoson.
Norfolk-Virginia Beach-Portsmouth, VA-NC	Chesapeake City, VA.
	Norfolk City, VA.
	Portsmouth City, VA.
	Suffolk City, VA.
	Virginia Beach City, VA.
	Currituck, NC.
Northeast Pennsylvania, PA	Lackawanna.
	Luzerne.
	Monroe.
Odessa, TX	Ector.
Oklahoma City, OK	Candian.
	Cleveland.
	McClain.
	Oklahoma.
	Pottowatomie.
Omaha, NE-IA	Pottawattamie, IA.
	Douglas, NE.
	Sarpy, NE.
Orlando, FL	Orange.
	Osceola.
	Seminole.
Owensboro, KY	Daviess.
Oxnard-Simi Valley-Ventura, CA	Ventura.
Panama City, FL	Bay.
Parkersburg-Marietta, WV-OH	Washington, OH.
	Wirt, WV.
	Wood, WV.
Pascagoula-Moss Point, MS	Jackson.
Paterson-Clifton-Passaic, NJ	Passaic.
Pensacola, FL	Escambia.
	Santa Rosa.
Peoria, IL	Peoria.
	Taxewell.
	Woodford.
Petersburg-Colonial Heights-Hopewell, VA	Colonial Heights City.
	Dinwiddie.
	Hopewell City.
	Petersburg City.
	Prince George.
Philadelphia, PA-NJ	Burlington, NJ.
	Camden, NJ.
	Gloucester, NJ.
	Bucks, PA.
	Chester, PA.
	Delaware, PA.
	Montgomery, PA.
	Philadelphia, PA.
Phoenix, AZ	Maricopa.
Pine Bluff, AR	Jefferson.
Pittsburgh, PA	Allegheny.
	Beaver.
	Washington.
	Westmoreland.
Pittsfield, MA	Berkshire.
Ponce, PR	Juana Diaz.
	Ponce.
	Villalba.
Portland, ME	Cumberland.
	Sagadahoc.
	York.
Portland, OR-WA	Clackamas, OR.
	Multnomah, OR.
	Washington, OR.
	Clark, WA.
Poughkeepsie, NY	Dutchess.
Providence-Warwick-Pawtucket, RI	Bristol.
	Kent.
	Providence.
	Washington.
	Newport.
Provo-Orem, UT	Utah.
Pueblo, CO	Pueblo.
Racine, WI	Racine.
Raleigh-Durham, NC	Durham.
	Orange.
	Wake.
Rapid City, SD	Pennington.
	Meade.
Reading, PA	Berks.
Reno, NV	Washoe.
Richland-Kennewick, WA	Benton.
	Franklin.
Richmond, VA	Charles City
	Chesterfield.
	Coochland.
	Hanover.
	Henrico.
	New Kent Co.
	Powhatan.
	Richmond City.
Riverside-San Bernardino-Ontario, CA	Riverside.
	San Bernardino.
Roanoke, VA	Botetourt.
	Roanoke.
	Craig.
	Roanoke City.
	Salem City.
Rochester, MN	Olmstead.
Rochester, NY	Livingston.
	Monroe.
	Ontario.
	Orleans.
	Wayne.
Rockford, IL	Boone.
	Winnebago.
Sacramento, CA	Placer.
	Sacramento.
	Yolo.
Saginaw, MI	Saginaw.
St. Cloud, MN	Benton.
	Sherburne.
	Stearns.
St. Joseph, MO	Andrew.
	Buchanan.
St. Louis, MO-IL	Clinton, IL.
	Madison, IL.
	Monroe, IL.
	St. Clair, IL.
	Franklin. MO.
	Jefferson, MO.
	St. Charles, MO.
	St. Louis, MO.
	St. Louis City, MO.
Salem, Or	Marion.
	Polk.
Salinas-Seaside Monterey, CA	Monterey.
Salt Lake City-Ogden, UT	Davis.
	Salt Lake.
	Tooele.
	Weber.
San Angelo, TX	Tom Green.
San Antonio, TX	Bexar.
	Comal.
	Guadalupe.
San Diego, CA	San Diego.
San Francisco-Oakland, CA	Alameda.
	Contra Costa.
	Marin.
	San Francisco.
	San Mateo.
San Jose, CA	Santa Clara.
San Juan, PR	Bayamon.
	Carolina.
	Canovanas.
	Catano.
	Guaynabo.
	Loiza.
	San Juan.
	Toa Baja.
	Trujillo Alto.
Santa Barbara-Santa Marie-Lompoc, CA	Santa Barbara.
Santa Cruz, CA	Santa Cruz.
Santa Rosa, CA	Sonoma.
Sarasota, FL	Sarasota.
Savannah, GA	Bryan.
	Chatham.
	Effingham.
Seattle-Everett, WA	King.
	Snohomish.
Sherman-Denison, TX	Grayson.
Shreveport, LA	Bossier.
	Caddo.
	Webster.
Sioux City, IA-NE	Woodbury, IA.
	Dakota, NE.
Sioux Falls, SD	Minnehaha.
South Bend, IN	Marshall.
	St. Joseph.
Spokane, WA	Spokane.
Springfield, IL	Menard.
	Sangamon.
Springfield, MO	Christian.
	Greene.
Springfield, OH	Champaign.
	Clark.
Springfield-Chicopie-Holyoke, MA	Hampden.
	Hampshire.
Steubenville-Weirton, OH-WV	Jefferson, OH.
	Brooke, WV.
	Hancock, WV.
Stockton, CA	San Joaquin.
Syracuse, NY	Madison.
	Onondaga.
	Oswego.
Tacoma, WA	Pierce.
Tallahassee, FL	Leon.
	Wauluilla.
Tampa-St. Petersburg, FL	Hillsborough.
	Pasco.
	Pinellas.
Terre Haute, IN	Clay.
	Sullivan.
	Vermillion.
	Vigo.
Texarkana, TX-AR	Little River, AR.
	Miller, AR.
	Bowie, TX.
Toledo, OH-MI	Monroe, MI.
	Fulton, OH.
	Lucas, OH.
	Ottawa, OH.
	Wood, OH.
Topeka, KS	Jefferson.
	Osage.
	Shawnee.
Trenton, NJ	Mercer.
Tucson, AZ	Pima.
Tulsa, OK	Creek.
	Mayes.
	Osage.
	Rogers.
	Tulsa.
	Wagoner.
Tuscaloosa, AL	Tuscaloosa.
Tyler, TX	Smith.
Utica-Rome, NY	Herkimer.
	Oneida.
Vallejo-Fairfield-Napa, CA	Napa.
	Solano.
Vineland-Millville-Bridgeton, NJ	Cumberland.
Waco, TX	McLennan.
Washington, DC-MD-VA	DC.
	Charles, MD.
	Montgomery, MD.
	Prince Georges, MD.
	Alexandria City, VA.
	Arlington, VA.
	Fairfax City, VA.
	Fairfax, VA.
	Falls Church City, VA.
	Loundon, VA.
	Prince William, VA.
	Manassas City, VA.
	Manassas Park City, VA.
Waterloo-Cedar Falls, IA	Black Hawk.
West Palm Beach-Boca Raton, FL	Palm Beach.
Wheeling, WV-OH	Belmont, OH.
	Marshall, WV.
	Ohio, WV.
Wichita, KS	Butler.
	Sedgwick.
Wichita Falls, TX	Clay.
	Wichita.
Williamsport, PA	Lycoming.
Wilmington, DE-NJ-MD	New Castle, DE.
	Cecil, MD.
	Salem, NJ.
Wilmington, NC	Brunswick.
	New Hanover.
Worchester-Fichburg-Leominster, MA	Worchester.
Yakima, WA	Yakima.
York, PA	Adams.
	York.
Youngstown-Warren, OH	Mahoning.
	Trumbull.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a) and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: August 8, 1980.

Robert F. Sermier,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 80-24880 Filed 8-15-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

[Program Announcement No. 13631.801]

Special Project Grant Program-Projects of National Significance in Developmental Disabilities

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of availability of grant funds for the special project Grant Program-Projects of National Significance in Developmental Disabilities.

SUMMARY: The Administration on Development Disabilities (ADD) announces that applications will be accepted for grants under the Special Project Grant Program-Projects of National Significance authorized by Title I, Section 145 of the Developmentally Disabled Assistance , and Bill of Rights Act, Pub. L. 95-602, (42 U.S.C. 6001). Regulations applicable to this program include the Administration on Developmental Disabilities general regulations, 45 CFR Part 1385, and the regulations governing Discretionary Grant Programs (45 CFR Part 1387).

DATE: Closing date for receipt of applications is September 5, 1980.

Scope of this Announcement

This program announcement covers only projects of national significance authorized under the Special Project Grants Program of the Developmentally Disabled Assistance and Bill of Rights Act, Pub. L. 95-602, and encompasses only those projects that relate to the Developmental Disabilities Protection and Advocacy Systems.

Program Purpose

The Special Projects Grant Program, as authorized in Section 145(a) of Pub. L. 95-602, enables the Administration on Developmental Disabilities to award grants for a variety of purposes, among which are:

1. To demonstrate how to establish programs which will expand or improve services to developmentally disabled persons
2. To increase public awareness and public education programs
3. To demonstrate services for economically disadvantaged developmentally disabled persons
4. To gather and disseminate information.

For the purposes of this program announcement, these projects must:

(1) Be designed to have a direct impact on Developmental Disabilities State Protection and Advocacy systems throughout the country; and

(2) Involve activities to be conducted in a number of sites in various parts of the country as part of a unified program.

Program Goal and Objective

All States and Territories participating in the Basic State Formula Grant Program have systems designed to protect and advocate for the rights of persons with development disabilities. Staff of Protection and Advocacy Systems must deal with a wide variety of programs and issues, including legal matters on behalf of the developmentally disabled persons whom they serve. May of the systems

need information in the most

project costs. The non-Federal share of

conducted by a panel of experts in the

stated purposes and objectives as stated

evidenced by the time date stamp or

need information in the most expenditious manner possible on relevant laws, court decisions, as well as guidance on legal matters in order to protect their clients' rights to services.

The purpose of these projects is to provide back-up specialized knowledge, legal expertise, and support to State Protection and Advocacy Systems that will enhance and strengthen their capabilities to engage in outreach to minority, institutionalized, geographically isolated and other hard-to-reach persons with developmental disabilities. Specifically, the objectives for these projects are:

1. To provide State Protection and Advocacy Systems with the necessary legal and technical information that will assist them in assuring the rights of institutionalized, minority and other under-served and under-involved persons with developmental disabilities; and

2. To provide technical information to State Protection and Advocacy systems to enable them to overcome obstacles to reaching underserved, traditionally separated, and isolated persons with developmental disabilities.

Eligible Applicants

Applications may be made by public or private non-profit organizations experienced in the provision of legal services and which have particular expertise in areas relevant to the rights of developmentally disabled persons. Applicants must have legal and technical expertise specifically related to the civil rights of institutionalized developmentally disabled persons as well as the rights of developmentally disabled members of racial and ethnic minority groups affirmed in Title VI of the Civil Rights Act.

Available Funds

The Administration on Developmental Disabilities expects to award two or three projects of national significance under this announcement. The size of each grant is expected to range from $150,000 to $200,000 for one (1) year.

Special Consideration for Funding

It is anticipated that one grant will be awarded to an applicant located in the Western half of the United States, and one to an applicant located in the Eastern half. The Commissioner may waive this criterion in favor of high quality and demonstrated ability to implement the objectives for these projects.

Grantee Share of Project

Grantees will be required to provide at least ten (10) percent of the total project costs. The non-Federal share of the projects may be in the form of cash or in-kind contributions. Please refer to HHS regulation 45 CFR Part 74, Administration of Grants (see 38 FR 26274, September 19, 1973) which is included in the application kit.

The Application Process

Availability of Application Forms

Application for a grant under the Special Project Grant Programs must be submitted on standard forms provided for this purpose. Application kits which contain the prescribed application form, project description, and related information may be obtained by contacting: Division of Management Services, Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services, Room 3166H, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Attention: 13631.801. Telephone: (202) 472-7236.

Application Submission

Completed applications should be submitted to: Director, Division of Grants and Contract Management, Office of Human Development Services, Room 1740, North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

The application shall be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award including the regulations for Special Project Grants-Projects of National Significance.

One signed original and two copies of the grant application, including all attachments must be submitted.

In addition, concurrently, one (1) copy of the application is to be submitted to the applicant's State Planning Council for review and comment and one (1) copy should be submitted to the appropriate DHHS Regional Office for review and comment. (Addresses for the DHHS Regional Offices are included in the application kit.)

A-95 Notification Process

Projects of National Significance are exempt from the A-95 Clearinghouse requirements.

Application Consideration

The Commissioner determines the final action to be taken with respect to each grant application.

Applications received by the closing date which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation conducted by a panel of experts in the specific area being addressed or closely related program areas.

The Commissioner's decision takes into account the Special Eligibility Considerations outlined in the Project Description in addition to recommendations resulting from the competitive review by the panel members, the comments by the State Planning Council, and the Administration on Developmental Disabilities' Regional Program Directors, as well as any other persons qualified to give advice.

The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project period for which support is contemplated. After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants will be notified in writing of that decision.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. *Quality of the application.*—Quality of the application (20 points). The description of the purposes and objectives of the grant activities, the major tasks to be accomplished, and difficulties likely to be encountered are clearly stated and show that the applicant has a thorough understanding of State Protection and Advocacy Systems. Some specific factors that must be addressed include the roles and reponsibilities of the Protection and Advocacy systems relative to legal and civil rights of developmentally disabled persons and their service needs; the capabilities of and problems encountered by Protection and Advocacy sytems in fulfilling such roles and responsibilities; and the rights of developmentally disabled persons.

2. *Technical approach and methodology.*—Technical approach and methodology (30 points). The proposed procedures and methodology for the project should be of high quality and technically sound. The methodology should be consistent with the project's stated purposes and objectives as stated in this announcement and show how the anticipated results of the project will be clearly and systematically achieved. Timetables for completion of the project should be definitive and realistic. Applications should also include a discussion of how the procedures and results of the project will be evaluated.

3. *Qualifications.*—Qualifications (30 points). The application should identify all project staff, including curriculum vitae, their role in the project, level of time equivalents, and the position of project staff within the total organization of the applicant agency. Project staff should have general expertise relative to the developmental disabilities population and their legal and civil rights, and demonstrated capability related to assuring the rights of institutionalized and minority persons with developmental disabilities. Applications should be accompanied by letters of support from agencies and organizations whose interests and/or responsibilities are relevant to the purposes of the proposed project.

4. *Relevance of project objectives to program goals.*—Relevance of project objectives to program goals (10 points). The objectives of the project should be clearly delineated. The discussion of the objectives should articulate the relevance of the project objectives to the objectives of this grant announcement.

5. *Budget.*—Budget (10 points). The proposed budget should be realistic, reasonable, and include a *justification* in terms of the project activities. If project costs are not within the range described in the program announcement, sufficient explanation should be provided to justify the discrepancies. Applications should include discussions of the feasibility and propriety of continuing the project after Federal funding ends, and plans for securing financial support, if appropriate.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is September 5, 1980.

Applications may be mailed or hand delivered to the receiving office. Hand delivered applications will be accepted during the work hours of 9:00 a.m. to 5:00 p.m. An application will be considered to have arrived by the closing date if:

1. The application was sent by registered or certified mail no later than September 5, 1980, as evidenced by the U.S. Postal Service;

2. The application is sent by mail and received on or before the closing date in the Department of Health and Human Services or the Office of Human Development Services mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom; or

3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business September 5, 1980 in any case.

Late Applications

Late applications will not be accepted and applicants will be notified accordingly.

(Catalog of Federal Domestic Assistance Program Number: 13,631, Special Project Grants, DD)

Dated: August 8, 1980.

Evelyn Provitt,

Commissioner on Developmental Disabilities.

Approved: August 13, 1980.

Kathryn Morrison,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 80-25016 Filed 8-15-80; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

Title VI of the Civil Rights Act of 1964; Lead Status for Compliance Relating to Hospitals and Other Health Facilities

AGENCY: Department of Health and Human Services.

ACTION: Announcement of Lead Agency Status for Title VI Compliance Activities Relating to Hospitals and Other Health Facilities.

Notice is hereby given that by operation of law under the Department of Education Organization Act, Pub. L. 96-88, section 509, all Federal interagency agreements in force on May 4, 1980, the effective date of the Act, which delegated to the Department of Health, Education, and Welfare (HEW) certain compliance responsibilities under Title VI of the Civil Rights Act of 1964 with regard to hospitals and other health facilities are deemed to refer and apply to the Department of Health and Human Services (HHS).

Accordingly, HHS now has lead agency responsibility for the delegated Title VI compliance activities relating to hospitals and other health facilities under agreements entered into with the following Federal agencies:

Agency	Effective date of delegation [1]
Department of Agriculture	Feb. 7, 1967.
Department of Commerce	Feb. 14, 1967.
Department of Defense	Sept. 20, 1979.
Department of Housing and Urban Development.	May 13, 1966.
Atomic Energy Commission (Department of Energy).	Mar. 25, 1966.
General Services Administration	June 25, 1966.
Law Enforcement Assistance Administration.	Sept. 24, 1970.
National Science Foundation	Apr. 11, 1966.
Office of Economic Opportunity (Community Services Administration).	Mar. 25, 1966.
Office of Emergency Planning (Federal Emergency Management Agency).	Mar. 25, 1966.
Small Business Administration	Apr. 29, 1966.
Veterans Administration	Mar. 31, 1966.

[1] With the exception of the General Services Administration agreement which provided for a retroactive effective date, the effective date is the date the delegation was accepted by HEW.

Dated: July 28, 1980.

Patricia Roberts Harris,

Secretary, Department of Health and Human Services.

[FR Doc. 80-25029 Filed 8-15-80; 8:45 am]

BILLING CODE 4110-12-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Comment Regarding Mountain Home VA Medical Center, Tennessee; Meeting

Pursuant to Section 106 of the National Historic Preservation Act, Section 2(b) of Executive Order 11593 and § 800.6(d) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), a panel of the Council met on July 14 and 15, 1980, to consider a series of undertakings proposed by the Veterans Administration at Mountain Home VA Medical Center, Johnson City, Tennessee, which would have an adverse effect on the Mountain Home Historic Complex, a property determined eligible for inclusion in the National Register of Historic Places. The undertakings proposed for Mountain Home include the provision of educational space for the Medical College of East Tennessee State University, the construction of a clinical addition, the construction of a 208-bed domicile, an exchange of land with the Johnson City Memorial Hospital, and the development of a master plan. At the meeting, the Council panel adopted comments which have been transmitted to the Honorable Max Cleland, Administrator of the Veterans Administration.

This notice, pursuant to § 800.6(d)(5) of the Council's regulations, is to inform those interested that copies of these comments are available upon request from the Executive Director, Advisory Council on Historic Preservation, Suite

430, 1522 K Street NW., Washington, DC

Street, NW., Washington, D.C. 20005

as Acting Area Manager, Los Angeles

Golden Gate Avenue, Box 36003, San

designation of Acting Deputy Regional

DEPARTMENT OF THE INTERIOR

430, 1522 K Street NW., Washington, DC 20005 (202–254–3495).

Robert R. Garvey, Jr.,

Executive Director.

August 12, 1980.

[FR Doc. 80-24683 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-10-M

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on August 28, 1980, at 7:30 p.m., a public information meeting will be held at the Savannah Civic Center, Orleans Square, corner of Montgomery and Liberty Streets, Savannah, Georgia.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of National, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed Harry S Truman Parkway, an undertaking licensed by the U.S. Army Corps of Engineers and the U.S. Coast Guard that will affect the Savannah Historic District and the Savannah Victorian Historic District, properties included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting.

1. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
2. A description of the undertaking and an evaluation of its effects on the properties by the Savannah District Corps of Engineers.
3. A statement by the Georgia State Historic Preservation Officer.
4. Statements from local officials, private organizations, and the public on the effect of the undertaking on the properties.
5. A general question period.

Speakers should limit their statement to five minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation 1522 K Street, NW., Washington, D.C. 20005 (202–254–3495) Attention: Mr. Don L. Klima.

Robert R. Garvey, Jr.,

Executive Director.

August 12, 1980.

[FR Doc. 80-24682 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–80–611]

Honolulu Area Office, Region IX (San Francisco); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Acting Deputy Area Manager, Honolulu Area Office, Region IX.

SUMMARY: The designation of an individual to serve as Acting Deputy Area Manager, Honolulu Area Office, for a period of 60 days.

FOR FURTHER INFORMATION CONTACT: Alfred J. DeMartini, Acting Regional Counsel, U.S. Department of Housing and Urban Development, Region IX, 450 Golden Gate Avenue, Box 36003, San Francisco, California 94102.

Designation of Acting Deputy Area Manager, Honolulu Area Office, Region IX

Patricia M. Jones, Special Assistant/EIDP Program, is hereby designated to serve as the Acting Deputy Area Manager of the Honolulu Area Office, Region IX, with all the powers, functions and duties redelegated or assigned to Deputy Area Managers. This designation shall remain in effect for 60 days following the effective date of this document.

Effective Date: April 21, 1980.

(Delegation effective May 4, 1962, 27 FR 4319; Interim Order II, 31 FR 815, January 21, 1966)

J. P. Sabella,

Acting Regional Administrator, Region IX, San Francisco.

[FR Doc 80-24673 Filed 8-15-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D–80–613]

Los Angeles Area Office, Region IX Order of Succession; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designating of Acting Area Manager, Los Angeles Area Office; order of succession.

SUMMARY: An updating of the designation of officials who may serve as Acting Area Manager, Los Angeles Area Office, Region IX.

Designation of Acting Area Manager, Los Angeles Area Office, Region IX:

The officers appointed to the following listed positions in the Los Angeles Area Office, Region IX, are hereby designated to serve as Acting Area Manager, Los Angeles Area Office, during the absence of the Area Manager with all the powers, functions, and duties redelegated or assigned to the Area Manager: *Provided,* That no officer is authorized to serve as Acting Area Manager unless all other officers whose titles precede his in this designation are unable to act by reason of absence or there is a vacancy in the said listed position:

1. Deputy Area Manager for Operations
2. Deputy Area Manager for Management
3. Director, Housing Division
4. Director, Community Planning & Development Division
5. Area Counsel

This designation supersedes the designation effective on August 1, 1979, published at 44 FR 54551, September 20, 1979.

(Delegation effective October 1, 1970, published at 36 FR 3389, February 23, 1971)

This designation is effective on June 16, 1980.

John J. Tuite,

Area Manager, Los Angeles Area Office, Region IX, San Francisco.

[FR Doc. 80-24675 Filed 8-15-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D–80–612]

Office of the Regional Administrator San Francisco Regional Office, Region IX; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Acting Regional Administrator and Acting Deputy Regional Administrator; order of succession.

SUMMARY: The Regional Administrator, Region IX, is updating the designation of officials who may serve as Acting Regional Administrator and Acting Deputy Regional Administrator for the San Francisco Regional Office, Region IX, during the absence of the Regional Administrator and Deputy Regional Administrator.

FOR FURTHER INFORMATION CONTACT: Alfred J. DeMartini, Acting Regional Counsel, U.S. Department of Housing and Urban Development, Region IX, 450 Golden Gate Avenue, Box 36003, San Francisco, California 94102.

Designation of Acting Regional Administrator, Region IX, San Francisco

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Regional Administrator, Region IX, San Francisco, during the absence of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence or there is a vacancy in the said listed position:

1. Deputy Regional Administrator
2. Regional Counsel
3. Director, Office of Regional Community Planning and Development
4. Director, Office of Regional Housing
5. Director, Office of Regional Fair Housing and Equal Opportunity
6. Director, Office of Regional Administration

Designation of Acting Deputy Regional Administrator, Region IX, San Francisco

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Deputy Regional Administrator, Region IX, San Francisco, during the absence of the Deputy Regional Administrator, with all the powers, functions and duties redelegated or assigned to the Deputy Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Deputy Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence: *Provided, further,* That in the absence of both the Regional Administrator and Deputy Regional Administrator, if any of the officers listed below are serving as Acting Regional Administrator by virtue of the designation published concurrently herewith, the next officer in the order listed below shall serve as Acting Deputy Regional Administrator:

1. Regional Counsel
2. Director, Office of Regional Community Planning and Development
3. Director, Office of Regional Housing
4. Director, Office of Regional Fair Housing and Equal Opportunity
5. Director, Office of Regional Administration

These designations supersede and cancel the designation of Acting Regional Administrator effective November 10, 1977 (42 FR 60615); the designation of Acting Deputy Regional Administrator effective May 1, 1979 (44 FR 49794); and any supplemental designations, published or unpublished, that may be in effect prior to the date of this document.

(Delegation effective May 4, 1962, 27 FR 4319; Interim Order II, 31 FR 815, January 21, 1966)

This document is effective on June 20, 1980.

J. P. Sabella,

Acting Regional Administrator, Region IX, San Francisco.

[FR Doc. 80-24974 Filed 8-15-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D–80–610]

Houston Service Office; Office of the Service Office Supervisor; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of line of succession.

SUMMARY: The Service Office Supervisor is designating Officials who may serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor.

EFFECTIVE DATE: The designation is effective immediately.

SUPPLEMENTARY INFORMATION: Each of the officials appointed to the following positions is designated to serve as Acting Service Office Supervisor during the absence of, of vacancy in the position of, the Service Office Supervisor, with all the powers, functions, and duties redelegated or assigned to the Service Office Supervisor; Provided, that no official is authorized to serve as Acting Service Office Supervisor unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position: 1. Deputy Supervisor (Development), 2. Deputy Supervisor (Management).

(Delegation of Authority by the Secretary effective October 1, 1970: 36 FR 3389, February 23, 1971)

Designated: April 4, 1980.

Irving Statman,

Area Manager, Dallas Area Office, Region VI (Fort Worth).

Thomas J. Armstrong,

Regional Administrator, Region VI (Fort Worth).

[FR Doc. 80-24972 Filed 8-15-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Notice of Receipt of Application

Applicant: Ringling Brothers & Barnum & Bailey Combined Shows, Washington, D.C. 20016.

The applicant requests a permit to import in foreign commerce seven captive-bred Asian elephants (*Elephas maximus*) from Mr. Hermann Ruhe of Alfeld-Leine, West Germany for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–6874. Interested persons may comment on this application on or before September 15, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 5, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-25051 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Notice of Receipt of Application

Applicant: International Crane Foundation, Baraboo, WI 53913.

The applicant requests a permit to import one wild-caught Siberian white crane (*Grus leucogeranus)* held in captivity at the Ube Zoo, Ube City, Japan for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–6879. Interested persons may comment on this application on or before September 15,

1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 7, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-25052 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Notice of Receipt of Application

Applicant: Oklahoma City Zoo, 2101 NE 50th, Oklahoma City, OK 73111.

The applicant requests a permit to import 3 male and 3 female captive bred and born Round Island geckos (*Phelsuma quentheri*)from the United Kindgom for the enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6788. Interested persons may comment on this application on or before September 15, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 6, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-25053 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement (EIS) on the Ak-Chin Water Supply Project

AGENCY: Department of the Interior, Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs intends to prepare an environmental impact statement on a proposal to develop and construct a well field, power system, and water delivery system to meet the emergency irrigation water requirements of the Ak-Chin Indian Community, Pinal County, Arizona. This notice is being published pursuant to the requirements of the National Environmental Policy Act (NEPA) regulations (40 CFR 1501.7). A schedule for scoping meetings and a deadline for accepting written comments have not been established. Written comments or suggestions may be submitted in lieu of or in addition to participation at the meetings. Those wishing to do so may send them to: Area Director, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011, Attn: Real Property Management.

FOR INFORMATION CONTACT: For information concerning public meetings, the proposed action or the environmental impact statement, please contact: James R. Crowther, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011, Telephone: (602) 241-2275; (FTS) 8-261-2275.

SUPPLEMENTARY INFORMATION: Authorized by Public Law 95-328 of July 28, 1979, the Ak-Chin Water Supply Project is to provide water and settle all claims for water that the Ak-Chin Indian Community has against the United States. It is intended to meet the Community's emergency water needs through phased delivery of water for irrigation on the reservation including groundwater from nearby Federal lands which could result in the annual withdrawal of 85,000 acre feet of water. The delivery of groundwater shall continue until augmented or replaced by a permanent water supply.

The project will require the drilling of a well field on Federal lands and the construction of a power supply system and water delivery system traversing a combination of Federal and non-Federal lands. Alternatives to be considered include alternate water supply areas, alternate energy sources, alternate water conveyance systems, alternate conveyance routes, and the "no action" alternative.

The Bureau of Indian Affairs is the lead Federal agency for the EIS, which will be compiled under contract with an Architectural-Engineering consultant. An Interagency Environmental Committee composed of representatives from the Office of Environmental Project Review, U.S. Geological Survey, Bureau of Land Management, Water and Power Resources Service, and the Fish and Wildlife Service has been established to assist in the NEPA process.

Public hearings were held during December 1979, on the Ak-Chin Indian Reservation, and at the BIA Phoenix Area Office. Coordination with Federal, state and local agencies and the public will continue throughout preparation of the EIS. Scoping meetings at dates and times to be announced, as well as additional public meetings, will be held as necessary to ensure that the full range of issues will be identified prior to compilation of the draft EIS.

The draft environmental statement will be prepared by early 1981 and will be available for public and agency review following its publication. Public hearings will also be held after the draft environmental statement is circulated for comments.

Dated: August 8, 1980.

M. W. Babby,

Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 80-25013 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[OR 10729]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 5481 on February 5, 1975, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 36 S., R. 6 W.,
Sec. 3, SW¼.

The area described contains 160 acres in Josephine County, Oregon.

The purpose of the withdrawal is to protect a site used for storage of superior tree clones produced at the Sprague Tree Seed Orchard. The land is currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before September 22, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 22, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351. 16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 5, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-25008 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-84-M

[OR 6920]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing land withdrawal made by Public Land Order 5372 on July 30, 1973, be continued in its entirety for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The withdrawn land is described as follows:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 8 S., R. 6 W.,
Sec. 33, W½NW¼.

The area described contains 80 acres in Polk County, Oregon.

The purpose of the withdrawal is to protect the scientific, educational, and research values of the Little Sink Research Natural Area. The land is currently segregated from location and entry under the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before September 22, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before September 22, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 5, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-25009 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-84-M

Call for Oil Shale Technology Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations of technologies to be applied and the general geographic area of application under the renewed prototype oil shale leasing program in Colorado, Utah, and Wyoming.

SUMMARY: On May 27, 1980, the Under Secretary of the Interior announced a decision to expand the Department's prototype oil shale program by leasing up to four additional tracts. The goals of the prototype program are:

To provide a new energy source to the Nation by stimulating development of commercial oil shale technology by private industry;

To insure the environmental integrity of the affected areas and at the same time to develop a full range of environmental safeguards and restoration techniques for incorporation into the planning for a mature oil shale industry;

To permit an equitable return to all parties in the development of the public resource; and

To develop management expertise in the leasing and supervision of oil shale development as a basis for future administrative procedures.

The Under Secretary announced that the additional prototype tracts considered for lease will be selected, in part, on the basis of these goals.

He also directed that recommendation of tracts should relate to technologies or development concepts planned for those tracts. He stated:

"The tract or tracts ultimately chosen to be leased must be designed and located so as to provide us with the broader experience envisioned under the program. The (Department) should review the technologies presently being employed or proposed to be employed in the existing prototype leases and all other oil shale projects and recommend which technologies should be encouraged in the additional leasing. The tract or tracts to be offered for sale should be delineated so as to invite bids for those companies that plan to use the technology or technologies which I decide * * * should be encouraged with the

limited new prototype leasing * * *. I can

Salt Lake City, Utah: September 8, 1980;

of construction charges which, if paid,

INTERSTATE COMMERCE

limited new prototype leasing * * *. I can stipulate at this time that from among the up to four tracts which may be leased, at least one will be delineated to encourage multi-mineral development."

The purpose of this call is to give the public an opportunity to identify technologies which should be developed within the Prototype Program and to indicate the *general* geographic areas where the technologies proposed will be applied. The technologies or development concepts proposed by industry will play a role in developing the tract selection criteria described by the Under Secretary in his May 27 decision. Ultimate selection of tracts for leasing will be based on nominations, environmental considerations, potential resource recovery, oil shale resources data, proposed development technology (including multi-minerals development), socioeconomic impacts, land use planning, and State preferences.

Drilling operations for resource definition within specific areas of interest may be conducted by interested parties under the regulations of the appropriate Federal land management agency. Because of the possible necessity to identify tracts for land use planning early in 1981, it may not be possible to begin a drilling program for tract nomination purposes during the 1981 season.

Upon completion of the development of the tract delineation and tract selection criteria and their publication in the **Federal Register**, the Department of the Interior will issue a call for nomination of specific tracts for prototype oil shale leasing on or about January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Brock Short or Craig Hall, Bureau of Land Management (530), Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (202) 343–7722.

SUPPLEMENTAL INFORMATION: This notice is the first step in the continuation of the Department of the Interior's Prototype Oil Shale Leasing Program. Nominations of technologies to be commercially demonstrated and the *general* area suitable for such technology will be accepted by the Bureau of Land Management for a period of 60 days from the date of this notice.

The nomination should contain the following information:

1. Name, legal address, telephone number of the nominator.

2. A recommendation of the technology proposed in developing the tract. This description need not be exhaustive, but should provide the Government an accurate understanding of the technological approach proposed. An assessment of technical and environmental readiness of the proposed technology as it will be employed for field application should be a part of this description.

3. The quantity and quality of the mineral resource required by the proposed technology and preliminary plans to effect maximum utilization of the resource, including multi-minerals development, should such potential be present.

4. The *general* geographic area in which land considered suitable for application of the proposed technology is located. By "general geographic area," it is meant a description which is no more specific than a township(s).

5. A discussion of the need for Federal land to apply the nominated technology and an assessment of the likelihood of the technology being tested without Federal lands availability.

6. Discussions of the need for acreage beyond the present allowable maximum of 5,120 acres may be submitted for informational purposes of the Department of the Interior. This additional need may be for off-site support facilities, off-site disposal areas, or to provide an adequate resource base to insure commercial viability.

7. Other information which should be submitted shall include, but need not be limited to, water and power requirements, transportation needs, personnel needs during development phase and during production, plans for mitigation of socioeconomic impacts, and any other general information which could aid the Government in decisionmaking in the technology selection process.

DATE: Nominations should be submitted in triplicate, not later than October 14, 1980.

ADDRESS: Send nominations to: Director (530), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

Dated: August 12, 1980.

Daniel P. Beard,

Acting Assistant Secretary for Land and Water Resources.

[FR Doc. 80-24851 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Availability of Kaiparowits Coal Development and Transportation Study

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Bureau of Land Management has released and made available for public review and comment a study of coal development and transportation on the Kaiparowits Plateau in southern Utah, and has scheduled public meetings to discuss the findings of the study.

DATES: Comments by October 15, 1980.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Attention: John Stephenson, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. *Single copies* of the study may be obtained from the Public Affairs Staff, Bureau of Land Management, Telephone (801) 524–4227, at the address listed above and from the Office of Public Affairs, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240, Telephone (202) 343–5717.

FOR FURTHER INFORMATION CONTACT: John Stephenson, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, Telephone (801) 524–5645, or Walter Rewinski, Office of Coal Management, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240, Telephone (202) 343–6821.

SUPPLEMENTARY INFORMATION: The Kaiparowits Coal Development and Transportation Study identifies and analyzes major environmental and socio-economic impacts of coal production and transportation from the Kaiparowits Plateau in Southern Utah on National Parks, National Forests, public lands, and State lands. Three levels of coal production are analyzed in the study: A low production level of five million tons per year, a medium production level of 54 million tons per year and a high production level of 84 million tons per year. Transportation of coal by truck, coal slurry pipeline, and rail along various alternative routes is also analyzed in the study.

The Kaiparowits Coal Development and Transportation Study was undertaken to identify the effects of coal mining and transportation on the Kaiparowits Plateau in advance of receiving, and acting upon, specific coal mining or transportation proposals. The study is a planning tool designed to help guide Federal and State land managers in making future land management decisions. The study is intended to present potential impacts objectively and makes no value judgments about the desirability of coal development or the acceptability of impacts.

Public meetings will be held as follows to discuss the findings of the study:

Salt Lake City, Utah: September 8, 1980; 7 p.m., Room 1310, University Club Building, 136 East South Temple.

Cedar City, Utah: September 9, 1980; 7 p.m., Bureau of Land Management District Office Conference Room, 1579 North Main Street.

Kanab, Utah: September 10, 1980; 7 p.m., Kanab Elementary School Auditorium, 55 West 100 North.

Page, Arizona: September 11, 1980; 8:15 p.m., Page Townhouse, Public Meeting Room, 605 South Navajo Drive.

Flatstaff, Arizona: September 12, 1980; 7 p.m., Coconino County Health Department Auditorium, 2500 North Fort Valley Road.

August 12, 1980.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 80-24854 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-84-M

Water and Power Resources Service

Ash Fallout From Mount St. Helens Eruptions; Possible Deferment of Construction Payments Due the United States

The Water and Power Resources Service has received inquiries as to the possibility of deferring the construction payments that will become due from contracting entities located within the Mount St. Helens ash fallout zone. Preliminary reports on the eruptions thus far indicate substantial loss to certain crops in some affected areas, incidences of equipment failure due to abrasive quality of the ash, and major cleanup costs. It appears that several months, at least, will be required to measure the full impacts of the volcanic eruptions.

The Act of September 21, 1959 (73 Stat. 584) provides the Secretary of the Interior authority to defer the payment of construction charges which, if paid, would impose an "undue burden" on the water users. It is the responsibility of the applicant organization to demonstrate that "undue burden" does exist. This will involve the presentation of financial data and a possible audit of the applicant's records. For irrigation applicants, such relief will, in most instances, be made available only after crop returns and farm expenses data are available at the end of the irrigation season.

If a deferment is deemed appropriate, then a formal supplemental contract will be required. That contract may not lengthen the repayment period beyond that authorized for the project, nor may it reduce the total obligation payable under existing repayment arrangements.

The Regional Director, Boise, Idaho, has been delegated the authority to take final action on any deferments requested because of the Mount St. Helens eruptions and to approve the form of deferment contracts. (Secretary's Order 3055, dated July 22, 1980, redelegated by the Commissioner of Water and Power Resources on August 4, 1980.)

Criteria for deferment applications and deferment contracts are being developed. A copy will be furnished on written request, following final approval which is anticipated about August 25.

Any proposed draft contracts will be made available for public review. Thereafter, a 30-day period will be allowed for receipt of written comments from the public. Negotiating meetings, if any, will be open to the public, and advance notice will be furnished to anyone requesting it. Requests for copies of any contracts or notices of meetings must be in writing. Written requests or telephone inquiries may be directed to the following:

Office	Mailing address	Telephone contact
Columbia Basin Project Office	Project Manager, Water and Power Resources Service, P.O. Box 815, Ephrata, WA 98823.	Mr. William Hewitt, Chief Water and Land Operations Division; (509) 754–4611.
Yakima Project Office	Project Superintendent, Water and Power Resources Service, P.O. Box 9686, Yakima, WA 98909.	Mr. William Gray, Project Superintendent (509) 575–5848.
Regional Office, Pacific Northwest Region.	Regional Director, Water and Power Resources Service, Attn: Code 440, 550 W. Fort St, Box 043, Boise, ID 83724.	Ms. Cathy Kent, Repayment Contract Assistant, Division of Water, Power, and Lands (208) 334–1161.

Dated: August 12, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-24850 Filed 8-15-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP4-009]

Motor Carriers; Permanent Authority Decisions

Decided: July 28, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant

supplies used in the manufacture and furniture), and (2) *materials, equipment,*

Mendota Rd., West St. Paul, MN 55118.

may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Eaton not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 41136 (Sub-29F), filed July 25, 1980. Applicant: FLEET CARRIER CORPORATION, 525 South Blvd., Pontiac, MI 48053. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 109397 (Sub-517F), filed July 25, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 121006 (Sub-6F), filed July 28, 1980. Applicant: GADSDEN TRUCK LINE, INC., 1708 Mt. Aion Ave., Gadsden, AL 35901. Representative: George C. Hawkins, 315 South 5th St., Gadsden, AL 35901. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 123797 (Sub-6F), filed July 21, 1980. Applicant: ATLANTIC INTERSTATE MESSENGERS, INC., 201 Henry St., Stamford, CT 06904. Representative: John R. Sims, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20003. Transporting *shipments weighing 100 pounds or less,* in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 130976F, filed July 24, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. As a broker, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 145396 (Sub-5F), filed July 22, 1980. Applicant: BOYCE HOWARD, d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front St., Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 148126 (Sub-3F), filed July 23, 1980. Applicant: E.W.L. TRUCKING, INC., 2055 John's Dr., Glenview, IL 60025. Representative: Paul J. Maton, 10 South LaSalle St., Suite 1620, Chicago, IL 60603. Transporting *shipments weighing 100 pounds or less,* in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 150496 (Sub-2F), filed July 24, 1980. Applicant: P.A.M. TRANSPORT, INC P.O. Box 188, Tontitown, AR 72770. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

[FR Doc. 80-24618 Filed 8-15-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4-010]

Motor Carriers; Permanent Authority Decisions

Decided: August 1, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler Eaton and Liberman. Member Liberman not participating

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

FF 407 (Sub-3F), filed July 23, 1980. Applicant: PROFIT BY AIR, INC., P.O. Box 388, Valley Stream, NY 11582. Representative: Edward D. Greenberg, 1054 31st St. NW., Washington, DC 20007. To operate in interstate commerce, as a *freight forwarder,* transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving in express service, between points in the U.S.

MC 10457 (Sub-6F), filed July 28, 1980. Applicant: BURGGRABE TRUCK LINES,S INC., Old Hwy 40, Warrenton, MO 63383. Representative: Kerry L. Hart (same address as applicant). Transporting (1) *dairy farm equipment, peening machines, tanks, and industrial cleaning equipment,* (except commodities requiring special equipment), and (2) *material and supplies* used in the manufacture and distribution of the commodities in (1), between the facilities of Zero Manufacturing Company at or near Washington and Berger, MO, on the one hand, and, on the other, St. Louis and Kansas City, MO.

MC 10457 (Sub-7F), filed July 28, 1980. Applicant: BURGGRABE TRUCK LINES, INC., Old Hwy 40, Warrenton, MO 63383. Representative: Kerry L. Hart (same address as applicant). Transporting (1) *manufactured vinyl and leather goods,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of manufactured vinyl and leather goods, between Washington, MO, on the one hand, and, on the other, points in St. Louis and Kansas City, MO.

MC 13547 (Sub-11F), filed July 24, 1980. Applicant: LEONARD BROTHERS TRANSPORT COMPANY, INC., 1528 West 9th St., Kansas City, MO 64101. Representative: Joe M. Lock (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, and the facilities of Our Own Hardware Company, at or near Ottawa, KS.

MC 60066 (Sub-20F), filed July 28, 1980. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul St., Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *such commodities as are dealt in by manufacturers of medical, surgical, and hospital supplies,* between points in Custer, Platte, and Phelps Counties, NE, Litchfield County, CT, Cook County, IL, De Kalb County, GA, Queens County, NY, Morris, Middlesex, Somerset and Hudson Counties, NJ, on the one hand, and, on the other, points in the U.S. (except HI).

MC 78787 (Sub-54F), filed July 28, 1980. Applicant: PACIFIC MOTOR TRUCKING COMPANY, a corporation, P.O. Box 990, Burlingame, CA 94010. Representative: John MacDonald Smith, Southern Pacific Bldg., 1 Market Plaza, Rm. 813, San Francisco, CA 94105. Transporting *motor vehicles,* between points in the U.S., under continuing contract(s) with General Motors Corporation, of Troy, MI.

MC 109376 (Sub-22F), filed July 25, 1980. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Nancy J. Johnson, 103 East Washington St., P.O. Box 218, Crandon, WI 54520. Transporting (1) *lumber and wood products* (except furniture), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in WI and MI, on the one hand, and, on the other, points in the U.S.

MC 125687 (Sub-21F), filed July 28, 1980. Applicant: EASTERN STATES TRANSPORTATION PA., INC., 1060 Lafayette St., York, PA 17045. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, DC 20005. Transporting (1) *paper and paper products,* (a) from Erie and Lock Haven, PA, and Oswego, NY, to points in CT, ME, MA, NH, RI, and VT, (b) from Erie and Lock Haven, PA, to points in NJ and NY, and (c) from Oswego, NY, to points in PA and NJ, and points in Norfolk, Suffolk and Westchester Counties, NY; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), in the reverse directions.

MC 126346 (Sub-42F), filed July 28, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P. O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. Transporting *agricultural tractors* and *parts and attachments* for agricultural tractors, between points in the U.S., under continuing contract(s) with Belarus Machinery, Inc., of Milwaukee, WI.

MC 126346 (Sub-43F), filed July 30, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P. O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *clay, concrete, glass or stone products,* between points in the U.S., under contract(s) with Wausau Tile Inc., of Wausau, WI.

MC 128246 (Sub-62F), filed July 30, 1980. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P. O. Box A.D., Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *meat, meat products, meat byproducts, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 134477 (Sub-422F), filed July 24, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NH, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC.

MC 135007 (Sub-84F), filed July 28, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 136407 (Sub-31F), filed July 28, 1980. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives) between points in the U.S., under continuing contract(s) with King Soopers Discount, Division of Dillon Co., Inc., of Denver, Co.

MC 144616 (Sub-10F), filed July 28, 1980. Applicant: TRUCKS, INC., P.O. Box 79113, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Transporting *meat, meat products,* and *meat byproducts* and *articles distributed by meat packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk and hides), from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to those points in the U.S. in and west of MT, WY, CO, OK, AR, and LA.

MC 145107 (Sub-2F), filed July 30, 1980. Applicant: FRANCIS P. CONATY, d.b.a. WILMINGTON DELIVERY SERVICE, 806 Seville Ave., Wilmington, DE 19809. Representative: Bayard Marin, 1112 King St., Wilmington, DE 19801. Transporting *general commodities*

(except commodities in bulk, and classes A and B explosives), between

is published in the **Federal Register.** Failure seasonable to oppose will be

those with impediments) upon compliance with certain requirements

thereunder. Rice is affiliated with Figol Distributors Limited, a motor common

Secretary, Interstate Commerce Commission, Washington, D.C., and also

Macon, GA 30201. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA

(except commodities in bulk, and classes A and B explosives), between points in the U.S., under continuing contract(s) with E. I. du Pont de Nemours & Co., Inc., of Wilmington, DE.

MC 145437 (Sub-18F), filed July 28, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *wearing apparel,* and (2) *materials, equipment, and supplies* used in the manufacture, sale or distribution of wearing apparel, between Minneapolis, MN and Memphis, TN, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Munsingwear, Inc. and Vassarette, a division of Munsingwear, Inc., of Minneapolis, MN.

MC 149367 (Sub-1F), filed July 22, 1980. Applicant: TRAFIC SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting *plastic articles, rubber articles, and paint,* between points in the U.S., under continuing contract(s) with Teknor Apex Company, of Pawtucket, RI.

MC 150716 (Sub-1F), filed July 18, 1980. Applicant: J. R. S. LEASING CHARTER, INC., 9445 South 51st Ave., Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. *Contract carrier,* transporting (1) *food products,* and (2) *materials, equipment and supplies* used in the manufacture and distribution olf the commodities in (1) above, between points in the U.S., under continuing contract(s) with Golden Grain Macaroni Company, of San Leandro, CA.

[FR Doc. 80-24815 Filed 8-15-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonable to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(c) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication (August 18, 1980) except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant [except those with impediments) upon compliance with certain requirements which will be set forth in a notifiation of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: August 12, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (In MC-F-14447F, Board member Taylor dissenting. Boychuks' Transport Ltd. is insolvent and operating at a loss. Not financially fit.)

MC-F-14447F, filed July 18, 1980. BOYCHUKS' TRANSPORT LTD. (Boychuks) (P.O. Box 6298, Station "C", Edmonton, Alberta, Canada T5B 4K6)—CONTROL AND PURCHASE—WAITE'S TRANSPORT LTD. (Waite's) (220 37th Avenue, NE, Calgary, Alberta, Canada T2E 2L9). Representatives: Richard S. Mandelson, 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, CO 80264, and Donald R. Brown, Box 9300, 39th Floor, Bow Valley Square 2, 205 5th Avenue, SW, Calgary, AB T2P 2W5. Boychuks seeks authority to purchase the capital stock of Waite's Rice Truck Lines (Rice) (P.O. Box 395, Black Eagle, MT 59414), which controls Boychuks through stock ownership, and John S. Rice, Mary M. Rice, J. Michael Rice, Patricia R. Rice, M. Kathleen Rice, Rosemary A. Waters, and Patrick W. Rice, individually and as a trustee, and Daniel Rice, as trustee, who control Rice through stock ownership, seek to acquire concurrent control of Waite's through the transaction. Simultaneously with that transaction, the operating rights of Waite's will be acquired by Boychuks. The interstate operating rights of Waite's which Boychuks is acquiring are contained in Certificate No. MC-142690, which authorizes the transportation, as a motor common carrier, over irregular routes, of *explosives,* between the part of entry on the international boundary line between the United States and Canada, at Sweetgrass, MT, on the one hand, and, on the other, Sweetgrass, MT. Certificate to expire July 24, 1983. Boychuks has been granted authority to operate as a motor common carrier in MC-146840 (Sub-No. 1). Rice is authorized to operate as a motor common carrier pursuant to certificates issued in MC-52465 and sub-numbers thereunder. Rice is affiliated with Figol Distributors Limited, a motor common carrier pursuant to certificates issued in MC-134574 and sub-numbers thereunder. Rice is also affiliated with Transystems, Inc., which has been granted authority in MC-F-14105F, to operate as a motor common carrier. Transystems has also been authorized to operate as a motor contract carrier in MC-144872 and sub-numbers thereunder.

Note.—In MC-F-14391F, Rice Truck Lines seeks authority to continue in control of Boychuks upon the institution by Boychuks of operations, in interstate or foreign commerce, as a motor common carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25070 Filed 8-15-80; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 43]

Motor Carrier Temporary Authority Applications

August 7, 1980.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 8958 (Sub-36TA), filed November 29, 1979, and published in the **Federal Register** issue of February 19, 1980, and republished as corrected this issue. Applicant: THE YOUNGSTOWN CARTAGE COMPANY, 825 West Federal St., Youngstown, OH 44501. Representative: Philip J. Cianciolo (same as applicant). *Common carrier* over irregular routes, transporting *Steel reinforcing bars and accompanying bar chairs, bar spacers, bar ties, bar supports, clips, screened chairs, stirrup, tie chairs or bar chairs or spacers combined not to exceed 10% of aggregate weight,* between Strongsville, OH and points in KY, for 180 days. An ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corporation, Bethlehem, PA 18016. Send protest to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106. The purpose of this republication to show the correct scope of this authority.

MC 148589 (Sub-2TA), filed January 9, 1980, and published in the **Federal Register** issue of June 16, 1980, and republished as corrected this issue. (Second Correction.) Applicant: STOREY TRUCKING CO., INC., P.O. Box 126, Henegar, AL 35978. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. *Contract,* irregular: *Boiler cleaning compounds (liquid and dry), plasticizer, coloring, wall paper pulp,* from the facilities of Alco Chemical Corp., at Chattanooga, TN to the facilities of Alco Chemical Corp., at Santa Fe Springs, CA, Chicago, IL, Detroit, MI, Arlington, TX, and Dallas, TX for 180 days, under continuing contract(s) with Alco Chemical Corp., 909 Mueller Drive, Chattanooga, TN 37406. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alco Chemical Corp., 909 Mueller Drive, Chattanooga, TN 37406. Send protests to: Mabel E. Holston, ICC, Room 1616—2121 Building, Birmingham, AL 35203. The purpose of this republication is to show the origin points as previously omitted.

MC 149229 (Sub-2TA), filed January 22, 1980, and published in the **Federal Register** issue of March 19, 1980, and republished as corrected this issue. Applicant: JOYCLIFF TRUCK LEASING COMPANY, INC., 2010 Joycliff Circle, Macon, GA 30201. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract,* irregular: (1) *Articles dealt in by janitorial supply houses* (except in bulk); and (2) *materials and supplies used in the manufacture of janitorial supplies (except in bulk),* (1) from Macon, GA to points in AL, AR, FL, IN, KY, LA, MS, NY, NC, PA, SC, TN, TX, VA and WV and (2) from destination states named in (1) above to Macon, GA, for 180 days. Under a continuing contract(s) with Southern Chemical Products Company. Supporting shipper(s): Southern Chemical Products Company, Inc., 430 Lower Boundary Street, Macon, GA 31202. Send protests to: Regional Authority Center, P.O. Box 7520, Atlanta, GA 30357.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24885 Filed 8-15-80; 8:45 am]
BILLING CODE 7035-01-M

Water Carrier Temporary Authority Applications

The following were filed with the Region 6. Petition for Reconsideration is to be filed, on or before September 4, 1980 with the Regional Office below. Replies to petition may be filed within 20 days of the date petition is filed. Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

By decision entered July 17, 1980, Regional Motor Carrier Board 6 granted applicant 180 days authority as follows: W-1327 (Sub-6-ITA), filed July 9, 1980. Applicant: THE GREAT SNAKE LAKE FUN & TRANSPORTATION CO., d.b.a. "The Whatever". P.O. Box 1587, White Salmon, WA 98672. Representative: William Kellum, P.O. Box 1587, White Salmon, WA 98672. *Passengers,* in special and charter operations, by water, by self-propelled vessel, on the Inland Waters of the United States; the Columbia River, the Willamette River, and the Lower Snake River, involving the navigation system between Vancouver, WA and Lewiston, ID; and between Vancouver, WA and Astoria, OR; and between Vancouver, WA and Wilsonville, OR. Beginning in Clarkston, WA to Clover Island, Kennewick, WA; thence to the port of Umatilla, OR, The Dalles, OR; Hood River, OR; Cascade Locks, OR ending at Vancouver, WA. Beginning at Vancouver, WA to Cascade Locks, OR; Bingen, WA; Hood River, OR; The Dalles, OR; Umatilla, OR; Clover Island, Kennewick, WA and ending at Clarkston, WA. Beginning at

the Quay near the interstate bridge in Vancouver, WA, on the Columbia River to Bonneville Dam thence to Cascade Locks, OR thence to White Salmon-Bingen, WA returning to the Quay in Vancouver, WA. Beginning at the Quay near the interstate bridge in Vancouver, WA on the Columbia River to Astoria, OR and returning to the Quay in Vancouver, WA. Beginning at the Quay near the interstate bridge in Vancouver, WA on the Columbia River to the confluence with the Willamette River to Oregon City thence to Champoeg Park returning to the Quay in Vancouver, WA Supporting shipper: Mid Columbia Visitors Council, Box 1376, White Salmon, WA 98672.

W-1328 (Sub-6-1TA), filed August 4, 1980. Applicant: ALASKA TOUR & MARKETING SERVICE, INC., d.b.a. EXPLORATION CRUISE LINES, Suite 312 Park Place Bldg., 6th & Univ., Seattle, WA 98101. Representative: Edward G. Lowry III, the Bank of Calif. Center, Seattle, WA 98164. *Passengers and baggage in cruise service* from, to and between points and ports (1) in WA, OR, ID on the Columbia, Willamette and Snake Rivers and tributaries; and (2) in Mexico, CA, OR, WA, AK and British Columbia, Canada on Pacific Ocean and/or San Francisco Bay, Sacramento and Stockton Rivers and Deltas, Puget Sound, and other U.S. inland waters, for 180 days. Supporting shippers: Atlas Travel, Inc., 4038 128th S.E., Bellevue, WA; Princess Tours, Inc., 1800 4th & Blanchard Bldg., Seattle, WA 98119; Automobile Club of Washington, d.b.a. AAA World Wide Travel Agency, 330 Sixth Ave. N., Seattle, WA 98109.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-24864 Filed 8-15-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-48

The following applications were filed in Region I. Send protests to Regional Authority Center, Interstate Commerce Commission, 150 Causeway St.—Rm. 501, Boston, MA 02114.

MC 145108 (Sub-No. 1-8TA), filed August 1, 1980. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: (1) *Insulating material, fertilizer compounds, lead, silicate, litharge, sublimed lead, lead peroxide, zine oxide;* and (2) *Materials, equipment, and supplies used in the manufacture and sale of the commodities named in* (1) *above (except commodities in bulk in tank vehicles),* (1) From points in TX, To points in CA, NE, IA, MN, WI, IL, OH, and NY; and (2) From Joplin, MO, To points in TX, NY, IN, PA, CA, MN, WI, and NE, Supporting shipper(s): Eagle Picher Industries, Inc., P.O. Box 550, "C" and Porter Steets, Joplin, MO.

MC 148127 (Sub-9TA), filed August 4, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, Post Office Box 5078, Manchester, New Hampshire 03108. Representative: Neal R. Michaud, Post Office Box 5078, Manchester, New Hampshire 03108. *Fleece, canvas, non-woven textiles, vinyl, adhesives, shoe-making machinery, corrugated boxes, footwear and various accessories and articles related to footwear* from points in the U.S. to points in CT and PA with destination points restricted to the facilities of U.S. Sports on the one hand, and, on the other points in PA and CT to points in the U.S. with origins restricted to the facilities of U.S. Sports.

MC 143127 (Sub-1-18TA), filed August 4, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo, (same address as applicant). (1) *Medical supplies and equipment,* and (2) *materials, supplies, and equipment* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk), between points in the United States in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Cobe Laboratories, Inc., 1201 Oak St., Lakewood, CO 80215.

MC 105940 (Sub-1-1TA), filed August 1, 1980. Applicant: SAFEWAY TRUCKING CORPORATION, Building 221, Elizabeth Port Authority Marine Terminal, Mc Lester St., Elizabeth, NJ 07201. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs (except in bulk),* between Waco, TX, on the one hand, and, on the other, points in LA, MS, AR, MO, KS, NE, OK, NM, AZ, and CO. Supporting shipper(s): Texas Distribution Center, Inc., 7900 Mars Drive, Waco, TX 76710.

MC 51430 (Sub-1-1TA), filed August 1, 1980. Applicant: SAN-DEE TRUCKING CORP., 19-41 Chapel Street, Newark, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Beer and Soda,* and *materials and supplies* used in the manufacturing, packaging and sales thereof, except in bulk between Newark and Hammonton, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, and RI. Supporting shipper(s): L. A. Piccirillo, Inc., and J. D. Beverage Corp., 19 Chapel Street, Newark, NJ 07105.

MC 151417 (Sub-1-1TA), filed August 1, 1980. Applicant: HAUL TRANSPORT, INC., 2 Dew Lane, Canton, MA 02021. Representative: Albert E. Winemiller, 2 Dew Lane, Canton, MA 02021. *General Commodities* between points in MA and Providence County, RI, on the one hand, and, on the other, points in the United States. Supporting shipper: United Liquors, Ltd., 99 Rivermoor Street, West Roxbury, MA 02132.

MC 71593 (Sub-1-12TA). Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: David W. Swenson, 1608 E. Second Street, Scotch Plains, NJ 07076. *Dental, medical, hospital and surgical supplies* from

points within Middlesex County, NJ to Menlo Park, CA.

MC 151421 (Sub-1-1TA), filed August 1, 1980. Applicant: FAK CO., INC., 14 Bowser Road, New Brunswick, NJ 08901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Electrical devices, and materials, equipment, and supplies used in the manufacture and sale of electrical devices,* between Long Island City and Astoria, NY and Georgetown, SC, on the one hand, and, on the other, Atlanta, GA; Chicago, IL; Dallas, TX; Miami, FL; Georgetown, Los Angeles and San Francisco, CA; and Portland, OR. Supporting shipper(s): Eagle Electric Manufacturing Co., Inc., 4531 Court Square, Long Island City, NY 11101.

MC 147717 (Sub-1-3TA), filed July 30, 1980. Applicant: S.M.D. INDUSTRIES, 46 Skiff St., Hamden, CT 06517. Representative: Walter L. Weart, Registered Practitioner, Road & Sea Trans. Service, Inc., 548 Anita St., Des Plaines, IL 60016. *Pulp, paper or allied products S.T.C.C. No. 26; between Baltimore, Howard, Anne Arundel and Harford Counties, MD and points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, VA, NC, SC, GA and FL. Supporting shipper(s): Camp Manufacturing, Sheaffer Eaton Division of Textron, Inc., 3010 Nueman Avenue, Baltimore, MD 21230.*

MC 146119 (Sub-1-3TA), filed July 30, 1980. Applicant: WINSTON COACH CORP., 1650 Sycamore Avenue, Bohemia, NY 11716. Representative: Sidney J. Leshin, Esq., 575 Madison Avenue, New York, NY 10022. *Passengers* in nonscheduled, special operations, beginning and ending at points in the Counties of Nassau and Suffolk, NY and extending to points in NY, NJ, CT, MA, RI, DC, VA, FL, TX, LA, WY, KY, TN, MI and NE. There are nine (9) supporting shippers.

MC 143575 (Sub-1-1TA), filed August 4, 1980. Applicant: CENTRAL TRANSIT LINES, INC., 115 Passaic Street, Rochelle Park, NJ 07662. Representative: Chandler L. van Orman, Wheeler & Wheeler, 1729 H Street NW., Washington, DC 20006. *Passengers and their baggage* in special or charter operations between New York City and Westchester and Nassau Counties, NY, on the one hand, and, on the other, Atlantic City, NJ. Supporting shipper: Alexander's Travel Service, Inc., 31 West 34th St., New York City, NY 10001.

MC 85130 (Sub-1-1TA), filed August 4, 1980. Applicant: BRADLEY'S EXPRESS, INC., 130 Bodwell Street, Avon, Massachusetts 03233. Representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, New Jersey 07006. *Wearing apparel, on hangers and in cartons,* and *department store merchandise* moving in mixed loads with wearing apparel on hangers and in cartons, between points in New Jersey, Massachusetts and Rhode Island, restricted to traffic originating at or destined to the facilities of Outlet Department Stores. Supporting shipper(s): Outlet Department Stores, 176 Weybosset St., Providence, RI 02902.

MC 133590 (Sub-1-2TA), filed August 4, 1980. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Irregular routes, plastic and plastic articles* from the facilities of Superior Plastic Products Corp. at Cumberland, RI, to Tracy, CA, Memphis, TN, Chicago, IL, Norfolk, VA, and Mechanicsburg, PA, under continuing contract(s) with Superior Plastic Products Corp.

MC 146479 (Sub-1-4TA), filed August 4, 1980. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, New York 10528. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Alcoholic beverages* and *wine* (except commodities in bulk) from Hammondsport and Brooklyn, NY, to Lafayette, New Orleans, and Shreveport, LA. Restriction: restricted to shipments destined to the facilities of Magnolia Liquor Lafayette, Inc.

MC 123408 (Sub-1-4TA), filed August 4, 1980. Applicant: FOOD HAULERS INC., 600 York Street, Elizabeth, New Jersey 07207. Representative: Philip J. Harter, 1101 Connecticut Avenue, NW., Washington, D.C. 20036. *Contract carrier:* irregular routes, transporting *frozen food products* from the facility of Celentano Brothers Inc. at or near Verona, New Jersey to all points in the State of Florida. Supporting shipper: Celentano Brothers Inc., 225 Bloomfield Avenue, Verona, New Jersey 07044.

MC 59640 (Sub-1-8TA), filed August 4, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier:* irregular routes: (1) *Chemicals, acids, drugs, medicines, toilet preparations, shampoo, animal feeds, sugar, and printed matter* (except commodities in bulk), (2) *Equipment, materials and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above (except commodities in bulk): (1) Between points in CA, GA, IL and TX, and (2) Between points in NJ, on the one hand, and, on the other, points in NY and Henderson, NV. Supporting shipper: Hoffmann-LaRoche, Inc., 340 Kingsland Street, Nutley, NJ 07110.

MC 8973 (Sub-1-2TA), filed August 4, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Petroleum products,* and *plastic materials, in containers,* between Chicago and Calumet City, IL, and Hammond, IN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX; and CA. Supporting shipper: Cosoeh Oil & Chemical Co., Dallas, TX.

MC 151434 (Sub-1-1TA), filed August 4, 1980. Applicant: AERO WAREHOUSE CORPORATION, Fox Hill Industrial Park, P.O. Box 97, Mountain Lakes, NJ 07046. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract,* irregular routes, *electronic machines and components thereof,* and *materials and supplies* used in the manufacture and sales thereof, except commodities in bulk between NJ on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. Under a continuing contract with Burroughs Corporation. Supporting shipper: Burroughs Corporation, 801 Jefferson Road, Parsippany, NJ 07054.

MC 3730 (Sub-1-1TA), filed August 4, 1980. Applicant: SUN TRANSPORTATION, INC., 40 Pullman Street, Worcester, MA 01606. Representative: Russell S. Callahan, P.O.Box 1606, Brockton, MA 02403. *Alcoholic and malt beverages and wines* (except in bulk), from Baltimore, MD, Baltimore County, MD, points in NJ and NY to the facilities of (1) Brockton Wholesale Beverage Co., Inc. d.b.a. Premium Beverage Company, Worcester, MA and to the facilities of (2) Brockton Wholesale Beverage Co., Inc. d.b.a. Coastal Beverage Company, Brockton, MA. Supporting shipper: Brockton, Wholesale Beverage Co., Inc., 20 North Montello Street, Brockton, MA 02403.

MC 151433 (Sub-1-1TA), filed August 4, 1980. Applicant: ZILA's TRANSPORTATION CO., INC., 55 Caven Point Road, Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Lube oils, in bulk, in tank vehicles,* from Marcus, and Philadelphia, PA to Elizabeth, and East Rutherford, NJ. Supporting shipper(s): United States Printing Inc., 343 Murray Hill Parkway,

East Rutherford, NJ 07073 and Borne

owned or operated by Toys 'R' Us: (3)

Inc., 900 Secaucus Rd., Secaucus, NJ

or near Rousses Point, NY, Swanton

their Commercial Zones; (3) from pts. in

D. Stone (same as applicant). *Paint and*

East Rutherford, NJ 07073 and Borne Chemical Co., 632 South St., Elizabeth, NJ 07207.

MC 115352 (Sub-1–1TA), filed August 4, 1980. Applicant: R. H. REDIKER TRANSPORT, LTD., P.O. Box 30, Blebe, Quebec, Canada Job 1 E O. Representative: John P. Monte, P.O. Box 568, Barre, Vermont 05641. *Stone* from the facilities of Rock of Ages Corporation and Rock of Ages Building Granite Corporation in the State of New Hampshire, on the one hand, and, on the other, ports of entry located on the international boundary line between the United States and Canada at or near Highgate Springs and Derby Line, Vermont. Supporting shipper: Rock of Ages Corp. and Rock of Ages Building Granite Corp., Barre, VT 05641.

MC 147074 (Sub-1–9TA), filed July 2, 1980. Republication: Originally published July 16, 1980, page 47736. Purpose of republication is to amend scope of application. Applicant: E Z FREIGHT LINES, 70 Gould Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Trailer parts and supplies* between Illinois, on the one hand, and, on the other points in the United States except AK and HI. Supporting shipper: Royal Truck and Trailer, 1950 W. 43rd Street, Chicago, IL 60609.

MC 133841 (Sub-1–5TA), filed August 5, 1980. Applicant: DAN BARCLAY, INC., P.O. Box 428, 362 Main St., Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Iron and steel articles,* between Perth Amboy, NJ, on the one hand, and, on the other, points in the states of AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI. Supporting shipper(s): Raritan River Steel Company, 225 Elm Street, P.O. Box 309, Perth Amboy, NJ 08862.

MC 143236 (Sub-1–7 TA), filed August 5, 1980. Applicant: WHITE TIGER TRANSPORTATION CO., INC., 40 Hackensack Ave., Kearny, NJ 07032. Representative: Brock Adams, 1919 Pennsylvania Ave., N.W., Suite 850, Washington, DC 20006. (1) *Air pollution equipment,* consisting of aluminum tubes, sheeting and extrusions, used to prevent evaporation losses of volatile organic compounds, in straight or mixed shipments, from the facilities of Mayflower Vapor Seal Corporation at Little Ferry, NJ, to points in the United States (except AK and HI); (2) *Such commodities as are sold in toy stores,* between points in and east of MN, IA, NE, CO, OK and TX, restricted to traffic originating at or destined to facilities owned or operated by Toys 'R' Us; (3) *Commodities as dealt in by retail department stores,* including materials, supplies and equipment (except in bulk), from the facilities of Gotham Distribution Corp., at Jersey City, NJ, to the facilities of Famous-Barr Co., at St. Louis, MO; (4) *Stack corrosion and emission control inhibitors,* in vehicles equipped with mechanical refrigeration, and equipment and supplies used in conjunction with such commodities, from the facilities of Apollo Chemical Co., at Whippany, NJ, to points in AR, GO, GA, MN, MI, OH, TN and VA; (5) *Drugs, medicines, toilet preparations, cleaning, scouring and washing compounds, foodstuffs, chemicals* (except in bulk), in vehicles equipped with temperature control, between the facilities of Alberto-Culver Company, at Melrose Park, IL, on the one hand, and, on the other, points in MD, MA, NJ, NY, OH and PA; (6) *Beer* and related meterials and equipment, used in the sale or brewing of beer (except in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Anheuser-Busch, Inc. or its distributors, at St. Louis, MO, Columbus, OH, and Newark, NJ, on the one hand, and, on the other, points in CT, DE, IA, MA, MO, NH, NJ, NY, OH, PA and RI. (7) *Swimming pool parts and accessoriess,* between the facilities of Hayward Manufacturing Co., at Elizabeth, NJ, and points in AL, FL, GA and MO; (8) *Swimming pool parts and accessories,* from the facilitiles of Hayward Manufacturing Co., at Elizabeth, NJ, to points in IN, MI and OH; (9) *Beer* and materials and equipment used in the sale and brewing of beer, between the facilities of Anheuser-Busch, Inc., at Jacksonville and Tampa, FL, and points in CT, DE, MA, MD, NC, NH, NJ, NY, OH, PA, SC and VA; (10) *Paint* and commodities used in the manufacture and sale thereof (except in bulk), between Union, NJ and points in FL; (11) *Such commodities as are sold in toy stores* and materials used in the sale and distribution thereof, between the facilities of Leasure Lines, Inc., at Secaucus, NJ and points in the United States (except AK and HI); Supporting shippers: (1) Anheuser-Busch companies, Inc., 721 Pestalozzia St., St. Louis, MO 63118, (2) Apollo Technologies, One Apollo Dr., Whippany, NJ 07981; (3) Hayward Manufacturing Co., 900 Fairmount Ave., Elizabeth, NJ 07201; (4) International Paint, 1585 Morris Ave., Union, NJ 07083; (5) Mayflower Vapor Seal Corp., 16 Industrial Ave., Little Ferry, NJ 07643; (6) Toys 'R' Us, Inc., 395 W. Passaic Ave., Rochelle Pk., NJ 07662; (7) Leisure Lne, Inc., 900 Secaucus Rd., Secaucus, NJ 07094; (8) Alberto-Culver Company, Melrose Park, IL 07601.

MC 144568 (Sub-1–1TA), filed August 5, 1980. Applicant: S.W. TRANSPORT, INC., 61 Lake Street, Rouses Point, NY 12979. Representative: Donald E. Cross, 918—16th Street, N.W., Washington, DC 20006. *Contract carrier,* irregular routes: *Aluminum products, and iron and steel articles,* bvetween points in Clinton County, NY, on the one hand and on the other, points in AL, CT, GA, IL, KY, MA, ME, NC, NH, NJ, PA, RI, SC, TN, VA, VT, and WV, under continuing contract with Pole-Lite Industry, Inc., Champlain, NY, Supporting shipper(s): Pole-Lite Industry, Inc., Route 11, P.O. Box 266, Champlain, NY 12919.

MC 381 (Sub-1–1TA), filed August 5, 1980. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Iron powder, and materials, equipment, and supplies used in the manufacture and sale of iron powder* (except commodities in bulk in tank vehicles), between Gallatin, TN and Riverton, NJ, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper(s): Hoeganaes Corporation, River Road & Taylors Lane, Riverton, NJ 08077.

MC 151445 (Sub-1–1TA), filed August 5, 1980. Applicant: DUO TRUCKING CORP., 901 Castle Rd., Secaucus, NJ 07094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General commodities, in containers,* (1) Between points in the New York, NY Commercial Zone; and (2) Between points in the New York, NY Commercial Zone, on the one hand, and, on the other, points in the states of NY, NJ, CT, MA, PA, DE, and MD (restricted to shipments having prior or subsequent movement via water). Supporting shipper(s): Seatrain Lines, Inc., Port Seatrain, Weehawken, NJ 07087; Seatrain Pacific Services, 150 Meadowland Parkway, Suite 200, Secaucus, NJ 07094; Gdynia America Line, One Word Trade Center, Suite 3557, New York, NY 10048; "K" Line—Kerr Corp., 90 Washington St., New York, NY 10006; Rohde & Liesenfeld, Inc., One World Trade Center, Suite 8345, New York, NY 10048.

MC 151335 (Sub-1–2TA), filed August 5, 1980. Applicant: H D H TRUCKING, INC., 1172 Smithfield Road, North Smithfield, RI 02895. Representative: A. Joseph Mega, 175 Forbes Street, East Providence, RI 02915. *Contract,* irregular. *Cement pipe and raw materials and supplies used in the manufacture thereof* from the international border at

or near Rousses Point, NY, Swanton, VT, Derby Line, VT, to all points in the United States on and East of US Highway 55. Also *defective and refused pipe and raw materials and supplies used in the manufacture of cement pipe* from all points in the United States on and East of US Highway 55 to the International border at Rousses Point, NY, Swanton, VT, Derby Line, VT. Supporting shipper: Bristol-Myers Products Co., Hillside, NJ 07207.

MC 48409 (Sub-1–1TA), filed August 4, 1980. Applicant: MAHON'S EXPRESS, 67 Jabez Street, Newark, NJ 07105. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Freight, all kinds,* between Jersey City and Newark, NJ, on the one hand, and, on the other, Ellenville, Kingston, Liberty, Monticello, and Poughkeepsie, NY. Supporting shipper(s): F. W. Woolworth Co., 162 W. Chelten Ave., Philadelphia, PA 19144.

The following applications were filed in Region 2, send protests to: ICC Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 117384 (Sub-II–2TA), filed July 31, 1980. Applicant: DAVIDSON BROTHERS, R.D. #3, Bellefonte, PA 16823. Representative: J. Bruce Walter, P.O. Box 1146, 410 N. 3rd St., Harrisburg, PA 17108. (1)*Metal and metal products* and (2) *materials, equipment and supplies* used in the production, storage and distribution of such commodities between the facilities of Cerro Metal Products, Centre County, PA, on the one hand, and, on the other, Newark, CA, pts. in NE, OK, KS and TX and pts. in the US in and east of WI, IL, KY, TN, MS and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cerro Metal Products, R.D. #3, Bellefonte, PA 16823.

MC 94265 (Sub-II–17TA), filed August 1, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs,* from Memphis, TN to pts. in AL, DC, DE, FL, GA, MD, NJ, NY, NC, PA, VA, and WV, for 270 days. Supporting shipper: Mid-South Refrigerated Warehouse Co., P.O. Box 14623, Memphis, TN 38114.

MC 94265 (Sub-II–16TA), filed August 1, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Rt. 460 W., Windsor, VA 23487. Representative: Olin C. Cooper, Jr. (same as applicant). *Clothing and items used in the manufacture thereof;* (1) between Paris, TX, Memphis, TN, Burlington, NJ, and Hamilton, AL and pts. in their Commercial Zones; (2) between Hominy, OK and Minneapolis, MN and pts. in their Commercial Zones; (3) from pts. in NC, SC, GA, and TN to Minneapolis, MN. Restricted to the transportation of traffic originating at or destined to the facilities of Munsingwear, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Munsingwear, Inc., 718 Glenwood Ave., Minneapolis, MN 55405.

MC 151414 (Sub-II–1TA), filed July 31, 1980. Applicant: AMERICAN TRAILS, INC., 1700 Walnut St., Philadelphia, PA 19103. Representative: H. Neil Garson, 3251 Old Lee Hwy., Suite 400, Fairfax, VA 22030. *Passengers and their baggage, in the same vehicle with passengers in special and charter operations* beginning and ending at pts. in the Phila. Commercial Zone and extending to Atlantic City, NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 23 supporting shippers. Their statements may be examined at the Regional Phila. ICC Office, Phila., PA.

MC 108631 (Sub-II–3TA), filed August 1, 1980. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd., at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Malt beverages* between the facilities of the Schaefer Brewing Company in Fogelsville, Lehigh County, PA on the one hand, and, on the other, points in the New York, NY commercial zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: F & M, Schaefer Brewing Co., P.O. Box 2568, Allentown, PA 18001.

MC 116763, (Sub-II–26), filed August 1, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *General commodities* (except commodities in bulk, in tank vehicles, used household furniture, commodities the transportation of which because of size or weight require the use of special equipment, automobiles, trucks and buses as described in the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and explosives), between points in the U.S. in and east of MN, IA, MO, OK and TX, for 270 days. An underlying ETA seeks 120 days authority. Restricted to the transportation of traffic originating at or destined to the facilities used by Sunbelt Manufacturing. Supporting shipper: Sunbelt Mfg., 2511 Dalworth, Grand Prairie, TX 75050.

MC 61825 (Sub-II–9 TA), filed August 1, 1980. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Applicant's representative: John D. Stone (same as applicant). *Paint and paint materials,* from Baltimore, MD to points in FL and Atlanta, GA. An underlying ETA seeks 120 days authority. Supporting shipper: Coatings Division, Dutch Boy, Inc., 2325 Hollins Ferry Rd., Baltimore, MD 21230.

MC 128905 (Sub-II–3 TA), filed August 1, 1980. Applicant: ZERKLE TRUCKING CO., 2400 Eighth Ave., Huntington, WV 25703. Representative: N. W. Bowen, Jr., 2400 Eighth Ave., Huntington, WV 25703. *Contract Carrier, Irregular Route, General commodities,* except commodities in bulk, household goods as defined by the Commission, Class A and B explosives, and those requiring special equipment, between points and places in the US, except HI. Supporting shipper: Midwest Corp., P.O. Box 271, Charleston, WV 25321.

MC 146878 (Sub-II–3 TA), filed July 31, 1980. Applicant: SOUTHLAND TRANSPORTATION, INC., P.O. Box 7760, Ben Franklin Stn., Washington, DC 20044. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General Commodities (in containers),* between Savannah, GA, on the one hand, and points in that part of Tennessee east of the Tennessee River and on and west of U.S. Hwy 27. An underlying ETA seeks 120 days authority. Supporting shipper: United States Line, 27 Commerce Dr., Cranford, NJ 07016.

MC 151439 (Sub-II–1 TA), filed August 4, 1980. Applicant: DONALD E. BUSSERT, Rt. #2, Amanda, OH 43102. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. (1) *Malt beverages, bottled mineral waters,* and *related advertising matter,* from Pabst, GA, Evansville, IN, Peoria, IL, Newport, KY, Detroit and Frankenmuth, MI, St. Louis, MO, Eden, NC, Fulton, NY, Allentown and Latrobe, PA, LaCross and Milwaukee, WI to Athens, Lorain, Scioto and Ross Counties, OH. (2) *Glass and metal containers, pallets,* and *packaging materials* on return for 270 days. Supporting shipper(s): PICO Wholesale Co., Inc., Glouster, OH, and Kerr Wholesale Co., Kerr Beverage Co., Kerr Distributing Co., Inc., Athens, OH 45701.

MC 138438 (Sub-II–16TA), filed August 4, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Malt beverages,* from Newark, NJ and Pabst, GA, and their respective commercial zones, to Baltimore, MD, and its commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Terminal Distributors, 7670

V 45 AG 1 8 0 UMI

Canton Center Drive, Baltimore, MD 21224.

Note.—Dual operations may be involved.

MC 1291 (Sub-II–2TA), filed July 30, 1980. Applicant: ALUMINA TRANSPORT CORP., 6600 W. Broad St., Richmond, VA 23261. Representative: Peter A. Greene, 900 17th St., NW, Washington, DC 20006. Contract: *Barite in bulk,* by water vessel, from Castle Island, AK to Houston, TX and New Orleans, LA via the Panama Canal, for 180 days. The Philadelphia Regional Motor Carrier Board approved the authority sought for 180 days commencing September 1, 1980. Protests should be submitted to the Philadelphia Regional Office within 20 days from date of publication. Supporting shipper: Chromalloy Corp., 2620 Fountainview, Suite 400, Houston, TX 77057.

MC 145203 (Sub-II–2TA), filed July 8, 1980. Applicant: REITZEL TRUCKING CO., INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Auto parts, and equipment, material supplies used in the manufacture of auto parts (except commodities in bulk)* between Geneva, OH, on the one hand, and, on the other, pts. in WI, PA, MI, IN, and IL, for 270 days. Supporting shipper: Advanced Technology Corp., P.O. Box 69, Geneva, OH 44041.

MC 117574 (Sub-II–5TA), filed August 6, 1980. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. *General Commodities (except those of unusual value, Class A & B Explosives, household goods as defined by the Commission and commodities in bulk),* between the facilities of E. I. du Pont de Nemours & Co., at or near Towanda, PA and Horseheads, NY. for 270 days. Supporting shipper: E. I. du Pont de Nemours & Co., Transportation Distribution Dept., 1007 Market St., Wilmington, DE 19898.

Note.—A copy of the application will be mailed upon request.

MC 123744 (Sub-II–10TA), filed August 6, 1980. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Refractories and materials and supplies used in the manufacture of refractories,* between the facilities of North American Refractories Company, at or near Bonne Terre, MO, on the one hand, and, on the other, pts. in the US in and east of ND, SD, NB, KS, OK, and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: North American Refractories Co., 900 Hanna Building, Cleveland, OH 44115.

MC 148668 (Sub-II–1TA), filed August 6, 1980. Applicant: AVANTI EXPRESS, INC., 4341 Wood St., Wheeling, WV 26003. Representative: Jeremy C. McCamic, 56 14th St., Wheeling, WV 26003. *(a) Iron and aluminum pipe fittings, not plated, N.O.I.B.N.; (b) Forged steel tools No. IBN 55–60–65,* from Wheeling, WV to Council Bluffs, IA, Dallas, TX, Daingerfield, TX, Denver, CO, Harahan, LA, Houston, TX, Kansas City, MO, Liberty, TX, Los Angeles, CA, Phoenix, AZ, Portland, OR, San Francisco, CA, Seattle, WA, Tuscon, AZ, Tulsa, OK, and Vernon, CA for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Picoma Industries, Inc., P.O. Box 488, Picoma Rd., Martins Ferry, OH 43935. Warwood Tool Co., P.O. Box 6357, N. 19th St., Wheeling, WV 26003.

MC 107012 (Sub-II–72TA), filed August 4, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). (1) *Dried, silk and plastic flowers and foilage; dried, silk and plastic flower arrangements; and* (2) *decorations, accessories, supplies and materials used in the manufacture, assembly and distribution of the commodities named in (1) above,* from Bolivar, MO to points in AR, IA, KS, NE, GA, IN, TX, IL, MN and WI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Teters Floral Products Co., 1425 Lillian Ave., Bolivar, MO 65613.

Note.—Common control may be involved.

MC 151438 (Sub-II–1TA), filed August 4, 1980. Applicant: MID AMERICA TRANSPORT CO., 6041 Benore Rd., Toledo, OH 43613. Representative: Keith D. Warner, 5732 West Rowland Rd., Toledo, OH 43613. *Contract; irregular: steel, steel products and materials used in manufacturing and preparation for transportation thereof* between pts. in IL, IN, KY, MI, and OH under contracts with Heidtman Steel Products, Inc., Enterprise Metal Services, Inc., Stateline Steel Corp., and Bedford Steel Processing, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Heidtman Steel Products, Inc., 5601 Enterprise Blvd., Toledo, OH 43612. Enterprise Metal Services, Inc., 1038 Matzinger Rd., Toledo, OH 43612. Stateline Steel Corp. 630 Lavoy Rd., Erie, MI 48133. Bedford Steel Processing, Inc., 640 Lavoy Rd., Erie, MI 48133.

MC 151437 (Sub-II–2–TA), filed August 4, 1980. Applicant: MOUNTAIN TRUCKING CO., INC., Port Amherst, P.O. Drawer 5308, Capitol Station, Charleston, WV 25311. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Contract Carrier, Irregular route, Portable standby power units, materials, supplies and equipment* used in their manufacture, between South Charleston, WV, on the one hand, and, on the other, points in the US in and east of the States of WI, IL, MO, OK and NM, under contract with NEPCO, Incorporated for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): NEPCO, Incorporated, Charleston Ordnance Center, South Charleston, WV 25303.

MC 136343 (Sub-II–13–TA), filed August 4, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *(1) Brakes and parts thereof, pumps and parts thereof, castings, racks, agricultural implements and parts thereof, and (2) materials, equipment, and supplies used in the manufacture, sale, or distribution of the commodities in (1) above,* between the facilities of New York Air Brake Company, Watertown, NY, on the one hand, and, on the other, pts. in the U.S. east of the states of MT, WY, CO, and NM for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: New York Air Brake Company, Starbuck Avenue, Watertown, NY 13601.

MC 151437 (Sub-II–1–TA), filed August 4, 1980. Applicant: MOUNTAIN TRUCKING CO., INC., P.O. Drawer 5308, Capitol Station, Charleston, WV 25311. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Contract Carrier, Irregular route, Engine transmissions and parts thereof, materials, supplies and equipment used in their repair and manufacture, between Grundy, VA; Jackson, KY; Marietta, Strasburg and Steubenville, OH and South Charleston, SV and points in KY, MI, OH, and WV under contract with Ray C. Call, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Ray C. Call, Inc., Charleston Ordnance Center, South Charleston, WV 25303.

MC 9071 (Sub-II–1TA), filed July 7, 1980. Applicant: DAVID STEINMAN, d.b.a., N. STEINMAN TRUCKING CO., S. Washington Ave. & River St., Scranton, PA 18503. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *General Commodities* (except Classes A & B Explosives, Household Goods as defined by the Commission and Commodities in Bulk) serving

Gouldsboro, Wayne City, PA, as an off route point in connection with applicant's authorized regular routes. Restricted against the transportation of shipments originating at or destined to Gouldsboro, PA, for 270 days. Applicant intends to interline at Gouldsboro, PA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Gilchrist Trucking, Inc., 105 N. Keyser Ave., Old Forge, PA 18518.

MC 138438 (Sub-II–17TA), filed August 7, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Wooden poles,* between all pts. in and east of WI, IL, MO, AR, and LA, restricted to the transportation of shipments originiating at or destined to the facilities owned, operated or utilized by Escambia Treating Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Escambia Treating Company, P.O. Box 17108, Pensacola, FL 32522.

Note.—Dual operations may be involved.

MC 94265 (Sub-II–18TA), filed August 7, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs,* (1) from Minneapolis, Eden Prairie and Wells, MN to pts. in DE, DC, FL, GA, MD, NC, PA, SC, TN, VA and WV; and (2) from Greenville and Taylors SC to pts. in DE, DC, FL, GA, MD, NC, PA, SC, TN, VA and WV. Supporting shipper(s): Golden Valley Foods, Inc., 7214 Washington Ave. S., Eden Prairie, MN 55344.

MC 151267 (Sub-2–1TA), filed August 5, 1980. Applicant: KETRAN, INC., 624 Main St., Moosic, PA 18507. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Contract, irregular, *Coal, coal ash, coal cinders, coal fines and coal silt,* in bulk, between the facilities of Keon Coal Co., Inc. in Carbon, Lackawanna, Luzerne, Schuylkill, Susquehanna, Wayne and Wyoming Counties, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY and PA, for 270 days. An underlying ETA seeks 120 days.. Supporting shipper(s): Keon Coal Company, Inc., P.O. Box 808, Pittston, PA 18640.

MC 151420 (Sub-2–1TA), filed August 1, 1980. Applicant: ECKERT TRUCKING, INC., 1090 E. Springettsbury Ave., York, PA 17405. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Contract carrier, irregular routes, *iron and steel articles, aluminum articles and materials, equipment and supplies used in the manufacture, sale, distribution or transportation of the above commodities* (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Metal Purchasing Co., Inc., of New York, NY. Supporting shipper(s): Metal Purchasing Co., Inc., 501 West 30th St., New York, NY 10001.

MC 125335 (Sub-2–14TA), filed August 1, 1980. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Alcoholic beverages,* from the Counties of Dearborn, IN; Franklin, KY; Armstrong, PA; and Coffee, TN, to points in FL. Supporting shipper: Schenley Distillers, Inc., 36 East 4th Street, Cincinnati, OH.

MC 150179 (Sub-2–2TA), filed August 4, 1980. Applicant: LOGISTICS, INC., 6242 Executive Blvd., P.O. Box 638, Dayton, OH 45402. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular: Corn starch,* in bags from Indianapolis, IN and Dayton, OH to points in IL, IN, KY, MD, MI, NJ, NY, PA, VA, and WV under contract(s) with Cargill, Inc., of Dayton, OH for 270 days. Supporting shipper(s): Cargill, Inc., 3201 Needmore Rd., Dayton, OH 45414.

MC 151103 (Sub-2–1TA), filed August 4, 1980. Applicant: LARLEE LEASING, INC., 524 N. Wayne Ave., Cincinnati, OH 45215. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. *Liquid Asphalt,* in bulk, in tank vehicles from Ashland Oil Refinery Facilities at or near Catlettsburg, KY to Lockland, OH for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jim Walter Corporation, P.O. Box 22601, Tampa, FL 33622.

MC 151416 (Sub-2–1TA), filed July 31, 1980. Applicant: GABION CONSTRUCTION, INC., Governors Lane Blvd., Box 43A, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Contract; irregular: *gabions, materials and supplies (except in bulk), used in the manufacture thereof,* between Williamsport, MD, and its commercial zone, on the one hand, and on the other, points in the U.S. (Except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maccaferri Gabions, 950 Third Avenue, New York, NY 10022.

MC 4963 (Sub-2–16TA), filed August 5, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same address as above). *Glass containers* between Shelby and Mt. Vernon, OH, on the one hand, and, on the other, points in the States of AL, GA, IL, IN, IA, KY, ME, MD, MI, MO, NH, NJ, NY, PA, SC, TN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chattanooga Glass Co., 400 W. 45th St., Chattanooga, TN 37410.

MC 150861 (Sub-2–1TA), filed August 4, 1980. Applicant: ROGER W. JUNKINS, Route 1, Box 330H, Keyser, WV 26726. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. *Coal,* from Maysville, Armstrong County, PA, to Front Royal, Warren County, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Unionvale Coal Co., P.O. box 346, Ligonier, PA 15658.

MC 151327 (Sub-II–1TA), filed August 4, 1980. Applicant: KABAT EXPRESS, INC., 1944 Scranton Rd., Cleveland, OH 4411. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254. Contract, irregular, *Protective coatings, sealants, and weatherproofing products used for building construction and maintenance, and adhesives, and above products used by manufacturers of such products as insulating glass units, autos, trucks, mobile homes, appliances, and prefabricated buildings, (except in bulk, in tank vehicles); and materials, equipment and supplies used in the manufacture and distribution of above commodities* on return, between the facilities of Tremco, Inc., Cleveland, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Tremco, Inc., 10701 Shaker Blvd., Cleveland, OH 44104.

MC 138000 (Sub-II–19TA), filed July 31, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Tread rubber* from Athens, GA, and its commercial zone, to Winchester, VA, and its commercial zone, for 180 days. An underlying ETA seeks 90 days' authority. Supporting shipper(s): Duncan Bros. Tire Company, 130 Millwood Avenue, Winchester, VA 22601. Oliver Tire and Rubber Co., P.O. Box 1827, Athens, GA 30601.

MC 138000 (Sub-2–18TA), filed July 31, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Canned goods,* from Haddock, GA, including its commercial zone, to points in and east of WI, IL, TN, KY and MS, for 180 days. An underlying ETA seeks 90 days' authority. Supporting

MS, MO, NC, OH, OK, PA, SC, TX and *products and forest products* between

shipper(s): Cherokee Products Company, Highway 22, Haddock, GA 31033.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 3. SEND PROTESTS TO ICC, REGIONAL AUTHORITY CENTER, P.O. BOX 7600, ATLANTA, GA 30357.

MC 75840 (Sub-3–9TA), filed August 7, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Guy H. Postell, Postell & Hall, P.C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *General Commodities (except those of unusual value), Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* Between points in LA within the area bounded by a line drawn from New Orleans along Interstate Hwy 10 to the LA–MS State line, then along the LA–MS State line to the junction of the AR–LA–MS State line at or near Milikin, LA, then along the AR–LA State line to junction US Hwy 167 at or near Junction City, AR, then along US Hwy 167 to junction US Hwy 71 at or near Alexandria, LA, then along US Hwy 71 to junction US Hwy 190 at or near Krotz Springs, LA, then along US Hwy 190 to junction LA Hwy 30 at or near Baton Rouge, then along LA Hwy 30 to junction LA Hwy 74 at or near St. Gabriel, then along LA Hwy 74 to junction with LA Hwy 75 at or near St. Gabriel, then along LA Hwy 75 to junction LA Hwy 22 at or near Darrow, then along LA Hwy 22 to junction LA Hwy 44 at or near Burnside, then along LA Hwy 44 to Reserve, then along the Mississippi River to the point of beginning at New Orleans, LA (except service is not authorized at any point located on the boundry highways along which the boundry line has been drawn), on the one hand, and, on the other, points in AL, AR, GA, MS, NC, OH, SC, TN, and WV, restricted against the transportation of traffic to or from any point located in the territory embraced in (B), Paragraphs (1) thru (6) below; (b)(1) between junction US Hwy 70 and AR Hwy 11, Fordyce and Stuttgart, AR, those points in AR on US Hwy 79 between Fordyce and Stuttgart, AR, and those in AR on AR Hwy 11 between Stuttgart, AR, and junction US Hwy 70 and AR Hwy 11; (2) between Little Rock and Lake Village, AR, Greenville, MS, those points in AR on US Hwy 65 between Little Rock and Lake Village, AR, and those in AR and MS on US Hwy 82 between Lake Village, AR, and Greenville, MS; (3) between Little Rock and Wilmont, AR, and those points in AR on US Hwy 165 between Wilmont, AR, and junction US Hwy 165 and US Hwy 65 near Dermott, AR; (4) between Little Rock, Pine Bluff, Hamburg, Crossett, Warren, and Monticello, AR, Bastrop, LA, those points in AR on AR Hwy 81 between Pine Bluff and Hamburg, AR, those in AR on US Hwy 82 between Hamburg and Crossett, AR, those in AR on AR Hwy 15 between Warren and Pine Bluff, AR, and those in AR on AR Hwy 4 between Warren and Monticello, AR; (5) between Little Rock, Eudora, and Lake Village, AR, and those points in AR on US Hwy 65 between Lake Village and Eudora, AR; (6) between Bastrop, New Orleans, Monroe, and Ferriday, LA, those points in LA on US Hwy 165 between Bastrop and Monroe, LA, those in LA on LA Hwy 15 between Monroe and Ferriday, LA, and those in LA on US Hwy 61 between the LA–MS State line and New Orleans, LA; (7) between points in (1) through (6) above, on the one hand, and, on the other, points in AL, AR, GA, MS, NC, OH, SC, TN, and WV. NOTE: The operating authorities in (1) through (6) above may be tacked or joined together at common points for providing a through service. The purpose of this application is merely to eliminate an existing gateway. No additional territory is involved.

MC 115654 (Sub-3–18TA), filed August 8, 1980. Applicant: TENNESSEE CARTAGE CO., INC. P.O. Box 23193, Nashville, TN 37202. Representative: Jackie Hastings (same address as applicant). *Non-dairy products, frozen desserts, and materials and supplies used in the manufacture thereof,* between Lebanon, TN on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, Kansas City, KS, and that part of MI on and south of MI Hwy 21. Supporting Shipper: Farm Foods, 156 Drakes Lane, Summertown, Tennessee 38483.

MC 148241 (Sub-3–1TA), filed August 8, 1980. Applicant: W. D. HODGE, d/b/a/ INDEPENDENT TRANSFER, Route 1, Box 183, Sumter, SC 29150. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Lumber,* between Sumter, SC, on the one hand, and, on the other, points in GA, NC, TN, and VA. Supporting Shipper: Korn Industries, Inc., P.O. Box 100, Sumter, SC 29150.

MC 116014 (Sub-3–1TA), filed August 8, 1980. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Representative: Harry Ross, 58 S. Main St., Winchester, KY 40391. *Insulation and insulation materials* from points in Kankakee County, IL and Fulton County, IN to points in KY on and east of Interstate Hwy. 75. Supporting shipper: Rose Incorporated, 84 Brink Ave., Winchester, KY 40391.

MC 121600 (Sub-3–4TA), filed August 7, 1980. Applicant: AVERITT EXPRESS, INC., P.O. Box 7342, Nashville, TN 37210. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *General Commodities (except household goods as defined by the Commission and Classes A & B explosives)* between points in Knox, Overton and Putnam Counties, TN, on the one hand, and on the other, points in the US. Applicant proposes to tack this authority with all of its existing authority and to interline at any point in the US. Supporting shippers: there are 17 supporting shipper statements attached to this application, that can be examined in the ICC Regional Office, Atlanta, GA.

MC 145220 (Sub-3–4TA), filed August 7, 1980. Applicant: IREDELL MILK TRANSPORTATION, INC., Route 5, Box 242, Mooresville, NC 28115. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. (1) *Vegetable oils, in bulk, in tank vehicles,* between Charlotte, NC and points in its commercial zone, on the one hand, and, on the other, points in TX, and those in that part of the US in and east of LA, AR, MO, IL, and WI, and (2) *pickle relish, in bulk, in tank vehicles,* from Green Bay, WI and Louisville, KY and points in their commercial zones, to Greenville, SC and points in its commercial zone. Supporting shipper: The C. F. Sauer Company, 2000 W. Broad Street, Richmond, VA 23220.

MC 138157 (Sub-3–26TA), filed August 7, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. Southwest Motor Freight, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. *Carpeting* from Columbus, GA to points in KS and CO. RESTRICTION: Restricted to traffic originating at the facilities of Columbus Mills, Inc. Supporting shipper: Columbus Mills, Inc., P.O. Box 1560, Columbus, GA, 31902.

MC 146114 (Sub-3–1TA), filed August 7, 1980. Applicant: RICKY SOWDER, d.b.a., RICKY SOWDER TRUCK SERVICE, P.O. Box 242, Savannah, TN 38372. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Wooden beverage cases, wooden chips, waste fuel and shavings, and materials and supplies used in the manufacture of wooden beverage cases,* between the facility of Tennessee-Pacific Corporation, at Savannah, TN, on the one hand, and, on the other, points, in AL, AR, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NC, OH, OK, PA, SC, TX and WV. Supporting shipper: Tennessee-Pacific Corporation, P.O. Box 10, Savannah, TN 38372.

MC 149218 (Sub-3–10TA), filed August 7, 1980. Applicant: SUNBELT EXPRESS, INC., U.S. Hwy 78, W., Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Paper and paper products,* (1) from LaGrange, GA to Terre Haute, Indianapolis and Richmond, IN, and Springfield and Pinkneyville, IL; and (2) Riegelwood, NC to LaGrange, GA. Supporting shipper: SPC Company, 1707 Shorewood Drive, La Grange, GA 30240.

MC 159263 (Sub-3–1TA), filed August 8, 1980. Applicant: HILL'S TRUCK LINE, INC., P.O. Box 1697, Wilson, NC 27893. Representative: Ralph McDonald, Attorney at Law, Post Office Box 2246, Raleigh, NC 27602. *Iron and steel articles* from the facilities of Peden Steel Company at Raleigh and Nashville, NC to points in the states of AL, FL, GA, LA, MS, OH, SC, VA, and WV. Supporting shipper(s): Peden Steel Company, 1850 North Boulevard, Raleigh, NC 27611.

MC 107515 (Sub-3–46TA), filed August 6, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Richard M. Tettelbaum, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such commodities as are dealt in or used by manufacturers and distributors of textiles and textile products (except in bulk)* from points in the US in and east of MS, AL, GA, NC, VA, MD, PA and NY to Los Angeles, CA and points in its commercial zone. Supporting shipper: There are 10 statements in support of this application which may be examined at the Regional ICC office in Atlanta, GA.

MC 2934 (Sub-3–7TA), filed August 6, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, Indiana 46032. *Office furniture, steel shelving and checkout counters* from Kalamazoo, Michigan to AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper: Borroughs, Division of Lear Siegle, Inc., 3002 N. Burdick, Kalamazoo, Michigan 49007.

MC 140176 (Sub-3–4TA), filed August 6, 1980. Applicant: POWELL TRUCKING CO., INC., P.O. Box 346, Sumrall, MS 39482. Representative: Fletcher W. Cochran, 1338 Gause Blvd., Suite 245, P.O. Box 741, Slidell, LA 70459. *Contract carrier:* irregular: *Lumber, lumber products and forest products* between Livingston Parish, LA on the one hand and on the other, the 48 states, under a continuing contract with Crown Zellerbach Corporation, Holden, LA. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 109708 (Sub-3–9TA), filed August 7, 1980. Applicant: INDIAN RIVER TRANSPORT COMPANY, INC., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Spent brewers yeast in tank vehicles,* from Perry, GA to Jacksonville, FL. Supporting Shipper: Anheuser Bush Inc., P.O. Box 18017, Jacksonville, FL.

MC 144740 (Sub-3–1TA), filed August 6, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same address as applicant). *Contract carrier;* irregular routes; *general commodities, except in bulk,* between points in the U.S. (except AK and HI), under a continuing contract with Whitman's Pet, an IC Industries Co. Supporting shipper: Whitman's Pet, an IC Industries Co., 9701 Roosevelt Blvd., Philadelphia, PA 19114.

MC 151476 (Sub-3–1TA), filed August 1, 1980. Applicant: CHARLES E. REED, P.O. Box 547, Long Lane, Franklin, TN 37064. Representative: James Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219. *Lard, edible tallow, shortening, blended from animal fat or fats with vegetable oil or oils, shortening, vegetable oil, cooking or salard oils, margarine, except in bulk,* from facilities and warehouses owned or leased by Bunge Edible Oil Corporation at Bradley, IL and at Chattanooga, TN to all points in the states of AL, GA, IL, KY and TN. Supporting shipper: Bunge Edible Oil Corporation, Box 192, Kankakee, IL 60901.

MC 119777 (Sub-3–15TA), filed August 7, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. (1) *Plastic articles* and (2) *Materials, equipment and supplies (except in bulk), used in the manufacture, distribution or installation of (1) above,* between the facilities of Marathon Plastics, Incorporated at or near Litchfield, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Marathon Plastics Incorporated, c/o H & W Industries, 200 Part Place, Booneville, MS 38829.

MC 107515 (Sub-3–48TA), filed August 7, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Richard M. Tettelbaum, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such commodities as are dealt in or used by manufacturers and distributors of textiles and textile products (except in bulk)* (1) from facilities of Topson Downs, Inc., Los Angeles, CA to Atlanta, GA; Chicago, IL; and North Bergen, NJ; and (2) from points in VA, NC, SC, and the New York, NY commercial zone to facilities of Topson Downs, Inc., Los Angeles, CA. Supporting shipper: Topson Downs, Inc., 830 E. 14th Place, Los Angeles, CA 90021.

MC 10101 (Sub-3–4TA), filed August 5, 1980. Applicant: BLAZER EXPRESS, INC., Rt. 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract:* Irregular: *(1) Plastic bottles and (2) materials and supplies used in the manufacture and distribution of plastic bottles;* (1) from Mauldin, SC to pts. in GA, NC, TN, VA, and WV, and (2) from pts. in the destination states in (1) above to Mauldin, SC. Supporting shipper: Sewell Plastics, Inc., P.O. Box 5619, Station B, Greenville, SC 29606.

MC 107515 (Sub-3–45TA), filed August 7, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby; Richard M. Tettelbaum, 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Such commodities as are dealt in or used by manufacturers and distributors of textiles and textile products (except in bulk)* between facilities of Koval Stone, Inc. and Pacific Fabric Printers, Inc., Los Angeles, CA, on the one hand, and, on the other, points in TX, AR, MS, AL, FL, GA, SC, NC, VA, MD, PA, NY, NJ, and MA. Supporting shipper: Koval Stone, Inc. and Pacific Fabric Printers, Inc., 5164 Alcoa Avenue, Los Angeles, CA 90058.

MC 151474 (Sub-3–2TA), filed August 7, 1980. Applicant: LINNEL TOURS, P.O. Box 881, Roswell, GA 30077. Representative: Lindwood S. Long, (same as above). *Passengers and their baggage, in special and charter operations,* from points in GA to points in the U.S., excluding HI. Supporting shipper: Brandon International Tours, Inc., 817 W. Peachtree St., Atlanta, GA 30308 and Roswell Travel Service, Inc., P.O. Box 989, Roswell, GA 30077.

MC 151480 (Sub-3–1TA), filed August 7, 1980. Applicant: SUNBELT EXPRESS, INC., 727 W. Sidney Avenue, Florence, SC 29501. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Lumber, lumber mill products,*

building materials, and forest products, Representative: John R. Frawley, Jr.,

equipment), between points in

compounds, de-icing proprietory, at or near Houston, TX; Chicago, IL;

LINE, INC., 4215 Thurman Rd., P.O. Box

building materials, and forest products, between points in GA, NC, SC, and VA, on the one hand, and, on the other, points in the U.S. in and east of OH, KY, TN, and MS. There are 12 statements in support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 56679 (Sub-3–20TA), filed August 6, 1980. Applicant: BROWN TRANSPORT CORP., 352 Univeriaty Ave., SW, Atlanta, GA 30310. Representative: David L. Capps, P.O. Box 6985, Atlanta, GA 30315. *Paper and paper products,* between Oswego, NY, on the one hand, and, on the other, points in FL, GA, NC, SC, AL, and TN. Supporting shipper: Hammermill Paper Company, P.O. Box 1440, 1540 E. Lake Rd., Erie, PA. 16533.

MC 150235 (Sub-3–6TA), Filed August 5, 1980. Applicant: POWELL TRUCKING COMPANY, INC., Route 3, Box 13, Sumrall, Mississippi 39482. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Mississippi 39205. *Iron and steel* between Forrest County, MS on the one hand and, on the other, points in Harris County, TX. Supporting shipper: Mississippi Tank Company, Inc., 3000 W. 7th St., Hattiesburg, MS 39401.

MC 151477 (Sub-3–1TA), Filed August 5, 1980. Applicant: APOLLO FOREST TRANSPORTATION CO., P.O. Box 737, 6843 Goodson Road, Union City, GA 30291. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Contract: (1) Lumber and lumber products (except in bulk, in tank vehicles) and (2) materials, equipment and supplies used or useful in the manufacture and sale of lumber and lumber products (except in bulk, in tank vehicles) between points in the US (except AK and HI) under a continuing contract with Apollo Forest Products, Union City, GA. Supporting shipper: Apollo Forest Products, Inc., 6843 Goodson Road, Union City, GA 30291.

MC 115793 (Sub-3–2TA), Filed August 5, 1980. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620, Lenoir, North Carolina 28645. Representative: C. Douglas Woods (same address as applicant). *Tile and such commodities as are dealt in and used by wholesale and retail stores (except materials and supplies in bulk),* from KY and TN to all points in North Carolina. Supporting shipper: Paul A. Killian Tile Co., Hwy. 70–A Conover, North Carolina 28613.

MC 151456 (Sub-3–1TA), Filed August 6, 1980. Applicant: HAROLD GENTRY, d.b.a. Bumper To Bumper Wrecker Service, P.O. Box 598, Pinson, AL 35126. Representative: John R. Frawley, Jr., Attorney at Law, 5506 Crestwood Blvd., Birmingham, AL 35212. *Motor vehicles and trailers (except trailers designed to be transported by passenger vehicles, mobile homes and transportation by truckway service);* between Jefferson County, AL on the one hand, and, on the other all points in the U.S. Supporting shipper: There are thirteen supporting shippers whose statements may be examined at the Atlanta Regional Office.

MC 150221 (Sub-3–5TA), Filed August 6, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Contract* carrier: Irregular. *Unfinished rayon velvet, rayon yarn, boxes, machinery, and machine parts,* between Manchester, CT and points in its commercial zone, on the one hand, and, on the other, Pendleton, SC and points in its commercial zone. Supporting shipper: Cheney Brothers Southern, Inc., 250 Depot Street, Pendleton, SC 29670.

MC 31675 (Sub-3–10TA) filed August 5, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Garland V. Moore (same as above). *Paper, paper articles and pulpboard,* from Florence, SC to points in and east of MN, IA, MO, OK, and TX. Supporting shipper(s): South Carolina Industries, Old Georgetown Road, P.O. Box 4000, Florence, SC 29502.

MC 144843 (Sub-3–1TA), filed August 5, 1980. Applicant: GRACE DISTRIBUTION SERVICES, INC., P.O. Box 308, Duncan, SC 29334. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Contract carrier,* irregular routes, *general commodities, except household goods as defined by the Commission, Classes A and B explosives and commodities which because of size or weight require the use of special equipment* between all points in the U.S. *(except AK and HI) under a continuing contract or contracts with Chemed Corporation of Cincinnati, Ohio. Supporting Shipper: Chemed Corporation, 1200 DuBois Tower, Cincinnati, Ohio 45202.*

MC 151190 (Sub-3–1TA), filed August 6, 1980. Applicant: QUICK-WAY CARRIERS, INC., P.O. Box 8, Lascassas, TN 37130. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *General Commodities (except those of unusual value, classes A & B explosives, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment),* between points in Rutherford County, TN, on the one hand, and points in the U.S. on the other. Supporting Shipper(s): Approximately 7 supporting shippers.

MC 52704 (Sub-3–8TA), filed August 5, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representatives: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Wearing apparel,* from Roanoke, AL to Memphis, TN. Supporting Shipper: Terry Manufacturing Co., Inc., Roanoke, AL 36274.

MC 106863 (Sub-3–1TA), filed August 5, 1980. Applicant: BACON MOTOR EXPRESS, INC., P.O. Box 11207, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Contract carrier:* irregular: *Bakery goods NOIBN other than frozen, cereal foods preparations cooked, shredded not compressed, fiberboard boxes, boxes, potato chips, bags—crumbs or meal cracker, cones, ice cream NOIBN* from Columbus, GA to points in AL, AR, FL, GA, IN, KY, LA, MO, MS, NC, SC, TN, VA, WV under a continuing contract with Sunshine Biscuits, Inc., Supporting Shipper: Sunshine Biscuits, Inc., Bordentown Ave. & Jernee Mill Rd., P.O. Box 7, Sayreville, NJ 08872.

MC 19537 (Sub-3–2TA), filed August 5, 1980. Applicant: CLARK TRUCK LINE, 628 Carnation, Tupelo, MS 38801. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Common,* regular: *General Commodities, with the usual exceptions,* between the plantsite of The Peoploungers, Inc. at or near Nettleton, MS, on the one hand, and, on the other, Tupelo, MS and Memphis, TN. Applicant proposes to tack with existing authority MC–19537 and subs thereunder and interline at Tupelo, MS and Memphis, TN. Supporting shipper: The Peoploungers, Inc., P.O. Drawer "J", Nettleton, MS 38858.

MC 150619 (Sub-3–2TA), filed April 6, 1980. Applicant: ROTH & SONS, INC., Route 8, Box 31, Jacksonville, FL 32224. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Telephone Reels, empty,* from points in FL to Norcross, GA. Supporting Shipper: Southern Bell Telephone & Telegraph Co., 1300 Herbert St., Port Orange, FL.

MC 141774 (Sub-3–1TA), filed August 6, 1980. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *(1) Alcohol anti-freeze proprietory compounds, de-icing proprietory, windshield washer solvent, petroleum and petroleum products, additives, agricultural chemicals, containers and enclosures* from points in Montgomery County, AL to points in FL, GA, MS, TN, KY, AR, and LA; and *(2) Materials, equipment and supplies as are used in the manufacture, sale and distribution of the commodities named in (1) above* from points in FL, GA, MS, TN, KY, AR, and LA to points in Montgomery County, AL. Supporting shipper: Kinpak, Incorporated; P.O. Box 3594; Montgomery, AL 36109.

MC 118831 (Sub-3–5TA), filed August 6, 1980. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, North Carolina 27264. Representative: Ben H. Keller, III (same address as applicant). *Liquid Chemicals, in bulk, in tank vehicles* from Port St. Joe, FL to Spartanburg County, SC. Supporting shipper: Unisphere Chemical Corporation, P.O. Box 18390, Spartanburg, SC 29318.

MC 115311 (Sub-3–8TA), filed August 6, 1980. Applicant: J & M TRANSPORTATON CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872 Atlanta, GA 30301. *Alcoholic Beverages and materials, supplies and equipment used in the production and distribution of alcoholic beverages (except commodities in bulk)* between Schenley, PA; Lawrenceburg, IN; Frankfort, KY and Tullahoma, Tan on the one hand; and, on the other, points in the State of FL restricted to traffic originating at or destined to the facilities of Schenley Distillers, Inc. Supporting shipper: Schenley Distiller, Inc., 36 East Fourth Street, Cincinnati, OH 45202.

MC 144827 (Sub-3–9TA), filed August 6, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. Transporting *Grocery products (except in bulk)* from A. E. Staley Manufacturing Co. facilities at Grand Prairie, TX, to Memphis, TN and Atlanta, GA. Supporting shipper: A. E. Staley Manufacturing Company, 2200 East Eldorado St., Decatur, IL 62521.

MC 146646 (Sub-3–24TA), filed August 6, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *(1) New Furniture (2) Materials, equipment and supplies used in the manufacture and distribution of commodities in (1) above* Between the facilities of S. K. Products, Corp. located at or near Houston, TX; Chicago, IL; Clifton, NJ; Atlanta, GA; and apoints in and east of MN, IA, KS, OK, and LA. Supporting shipper: S. K. Products, Corp., 5355 Bucknell Drive, SW., Atlanta, GA 30336.

MC 151453 (Sub-3–1TA), filed August 6, 1980. Applicant: HERMAN O. ALBRITTON TRUCKING, Route 1, Box 219, Butler, GA 31006. Representative: Herman O. Albritton (same address as above). *Fluorescent or H.I.D. lighting fixtures and or parts* from Gibson-Metalux Corp. plants in Americus, GA and Eufaula, AL to AL, AZ, AR, CA, CO, CT, DE, FL, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. Supporting shipper: Gibson-Metalux Corp., P.O. Box 1207, Americus, GA.

MC 151395 (Sub-3–1TA), filed July 31, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Bread making compounds and cooking oils (except in bulk),* from the facilities of Anderson Sales Company, Inc., at or near Atlanta, GA, to Denver, CO, and to points in FL, MA, MO, NJ, NC, OK, PA, SC and TX, and (2) *Materials equipment and supplies used in the manufacture or distribution of commodities named in above (except in bulk),* from Denver, CO, and points in FL, MA, MO, NJ, NC, OK, PA, SC and TX to the facilities of Anderson Sales Company, Inc., at or near Atlanta, GA. Supporting shipper: Anderson Sales Company, Inc., 3515 Zip Industrial Blvd., SW., Atlanta, GA 30354.

MC 151393 (Sub-3–1TA), filed July 30, 1980. Applicant: MILLERS BEND CARRIERS, INC., 1135 Hwy. 231 No., P.O. Box 197, Wetumpka, AL 36092. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading issued by ABC-TNT/Acme Fast Freight, a freght forwarder as defined in Section 10102(8) of the Interstate Commerce Act,* between points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, KY, LA, MS, MO, MT, NJ, NY, NC, OH, OR, PA, SC, TN, TX, UT, VA, WA, and WI. Supporting shipper: ABC-TNT/Acme Fast Freight, 2110 Alhambra Ave., Los Angeles, CA 90031.

MC 151395 (Sub-3–2TA), filed July 31, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thruman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parway, Atlanta, GA 30345. (1) *Traffic marking paints,* from the facilities of Prismo Universal Corporation at or near East Point, GA, Marble Falls, TX, and Montgomery and Pennsdale, PA, to points in the U.S. (except AK and HI), and (2) *materials and supplies used in the manufacture and distribution of traffic marking paints,* from points in the U.S. (except AK and HI), to the facilities of Prismo Universal Corporation at or near East Point, GA, Marble Falls, TX and Montgomery and Pennsdale, PA. Supporting shipper: Prismo Universal Corporation, P.O. Box 98068 (2675 Martin St.), East Point, GA 30344.

MC 144790 (Sub-3–2TA), filed July 29, 1980. Applicant: HOWARD HERLEE LISK, d.b.a. HOWARD LISK, Route 1, Box 166, Wadesboro, NC 28170. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Feldspar and sand mixture, in bulk, in tank vehicles,* from points in Spartanburg County, SC, to points in that part of the US in and east of TX, OK, MO, IL, and WI. Supporting shipper: Spartan Minerals Corporation, A subsidiary of Lithium Corporation of America, P.O. Box 520, Pacolet, SC 29372.

MC 144082 (Sub-3–5TA), filed August 1, 1980. Applicant: Dist/Trans Multi-Services, Inc., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as above). *Contract carrier,* irregular routes; *Such commodities as are dealt in, distributed or used by retail department stores and mail order merchandisers,* from Charlotte and Statesville, NC to Columbus, OH restricted to service performed under a continuing contract or contracts with J.C. Penney Company, Inc. of New York, NY. Supporting shipper: J.C. Penny Company, Inc., 1301 Ave. of the Americas, New York, NY 10019.

MC 151411 (Sub-3–1TA), filed July 31, 1980. Applicant: DON HOLLAND & ASSOCIATES, INC., P.O. Box 1228, Lexington, NC 27292. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Contract carrier:* irregular: *Plastic film or sheeting printed or not printed, tublar form, folded flat in rolls or diameter not less than 3 inches,* from the facilities of Southern Film Extruders, Inc., High Point, NC to points in AL, AK, CT, DE, FL, GA, IL, IN, IA, KY, LA, MD, ME, MA, MN, MS, MI, MO, NJ, NH, NY, NC, OH, PA, RI, SC, TN, VA, VT, WI, WV, under a continuing contract with Southern

Film Extruders, Inc. Supporting shipper: Southern Film Extruders, Inc., 2327 English Rd., High Point, NC 27260.

MC 145220 (Sub-3–3TA), filed July 28, 1980. Applicant: IREDELL MILK TRANSPORTATION, INC., Route 5, Box 242, Mooresville, NC 28115. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *White oil, in bulk, in tank ge a1u3.137vehicles,* from Whiting, IN and points in its commercial zone, to Charlotte, NC. Supporting shipper: Standard Chemical Products Division Henkel Corporation, P.O. Box 34428, Charlotte, NC 28234.

MC 135885 (Sub-3–13 TA), filed May 20, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. *(1) Paper and paper articles and (2) equipment, materials and supplies used in the manufacture, sale and distribution of commodities described in (1) above (except commodities in bulk and those requiring special equipment)* between the facilities of Westvaco Corp., Bag Division, at or near New Orleans, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, MO MS, NE, NC, NM, PA, OH, OK, SC, TN, TX, WI and WV. Supporting shipper: Westvaco Corp., Bag Division, 1400 Annunciation St., New Orleans, LA 70130.

MC 151447 (Sub-3–1 TA), filed August 5, 1980. Applicant: BUCK EXPRESS, DIVISION OF ROGERS PICK UP & DELIVERY SERVICE, 601 Echo Lane, Woodstock, GA 30188. Representative: Danny H. Rogers, 601 Echo Lane, Woodstock, GA 30188. *Cleaning chemicals (except chemicals in bulk),* from Cobb County GA to all points in SC. Supporting shipper: ATCO Manufacturing, Marietta, GA.

THE FOLLOWING PROTESTS WERE FILED IN REGION 4. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION, COMPLAINT AND AUTHORITY BRANCH, P.O. BOX 2980, CHICAGO, IL 60604

MC 111812 (Sub-4–8 TA), filed August 1, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks, P.O. Box 1233, Sioux Falls, SD 57117. *Such commodities as are dealt in or used by retail stores,* between points in the U.S. Supporting shipper: Ardan, Inc., 2320 Euclid, Des Moines, IA 50310.

MC 144822 (Sub-4–2 TA), filed August 1, 1980. Applicant: WINTZ MOTOR FREIGHT, INC., P.O. Box 43098, 656 Pelham Boulevard, St. Paul, MN 55164. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Common, regular. *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) Between Chicago, IL and points in its commercial zone and St. Louis, MO and points in its commercial zone, from Chicago over Interstate Hwy 55 to St. Louis and return over the same route; (2) Between St. Louis, MO and points in its commercial zone and Memphis, TN and points in its commercial zone, from St. Louis over Interstate Hwy 55 to Memphis and return over the same route; (3) Between Memphis, TN and points in its commercial zone and Oklahoma City, OK and points in its commercial zone, from Memphis over Interstate Hwy 40 to Oklahoma City and return over the same route serving the intermediate points of Little Rock, Russellville, and Ft. Smith, AR and points in their commercial zone; (4) Between St. Louis, MO and points in its commercial zone and Oklahoma City and points in its commercial zone, from St. Louis over Interstate Hwy 44 to Oklahoma City and return over the same route, serving the intermediate point of Tulsa, OK and points in its commercial zone; (5) Between Little Rock, AR and points in its commercial zone and Dallas/Ft. Worth, TX and points in their commercial zones, from Little Rock over Interstate Hwy 30 to Dallas/Ft. Worth and return over the same route serving the off-route point of Texarkana, TX and points in its commercial zone; (6) Between Dallas/Ft. Worth, TX and points in their commercial zones and Houston, TX and points in its commercial zone, from Dallas/Ft. Worth over Interstate Hwy 45 to Houston and return over the same route; (7) Between Oklahoma City, OK and points in its commercial zone and Kansas City, MO and points in its commercial zone, from Oklahoma City over Interstate Hwy 44 to junction of US Hwy 71, then over US Hwy 71 to Kansas City and return over the same route; (8) Between St. Louis, MO and points in its commercial zone and Little Rock, AR and points in its commercial zone, from St. Louis over US 67 to Little Rock and return over the same route, as an alternate route for operating covenience only.

Note.—Applicant intends to tack sought authority with other presently held authority and to interline. There are 46 supporting shippers.

MC 135152 (Sub-4–11TA), filed August 1, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030. *Containers, container ends, and closures,* from Cleveland, OH to all points in IL, MI, NJ, NY, WV and TN. Supporting shipper(s): Davies Can Company, 30301 Carter Road, Solon, OH 44139.

MC 144655 (Sub-4–3TA), filed August 4, 1980. Applicant: ARCTIC TRANSPORT, INC., 4750 West Main, Fargo, ND 58102. Representative: William J. Gambucci, Suite M–20, 400 Marquette Avenue, Minneapolis, MN 55401. *Contract,* Irregular: (1) *Commercial freight trailers and parts and accessories therefor,* from the facilities of Comet Corp. located at or near Spokane, WA and Albion, IN to points in the U.S. (except AK and HI); and (2) *Materials, supplies and related parts used in the manufacture of commercial freight trailers,* from points in the U.S. (except AK and HI) to the facilities of Comet Corp. located at or near Spokane, WA and Albion, IN. Restricted to the transportation of traffic under a contract(s) with Comet Corp. Supporting shipper(s): Comet Corporation, North 3808 Sullivan Road, Spokane, WA 99216.

MC 114829 (Sub-4–3TA), filed August 4, 1980. Applicant: GENERAL CARTAGE COMPANY, INC., West Route 30, Rock Falls, IL 61071. Representative: Bernard J. Kompare, Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. *Contract;* irregular; *Corrugated paper containers and sheets,* from the facilities of Stone Container Corp., located at Liberty, MO, to the facilities of Stone Container Corp., located at Mishawaka, IN, under contract(s) with Stone Container Corp. Underlying ETA seeks 120 days authority. Supporting shipper(s): Stone Container Corp., 360 N. Michigan Ave., Chicago, IL 60601.

MC 120618 (Sub-4–2TA), filed August 1, 1980. Applicant: SCHALLER TRUCKING CORPORATION, 5700 W. Minnesota, Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main Street, Speedway, IN 46224. 1. *Empty bins and scrap aluminum* from points in IN, MI and OH to Massena, NY. 2. *Aluminum castings, auto parts, and empty bins* from Massena, NY to points in IN, MI, and OH. Supporting shipper(s): Central Foundry, Division of GM Corporation, 77 West Center Street, Saginaw, MI 48605.

MC 146976 (Sub-4–2TA), filed August 1, 1980. Applicant: FOREWAY TRANSPORTATION, INC., 6633 Lake Michigan Drive, Allendale, MI 49401. Representative: D. Richard Black, Jr., Black, Hall & Nicewander, 7810 Cottonwood Drive, Jenison, MI 49428. *Foundry and metal working materials and products and supplies used in the production and distribution of the above described commodities (except in each instance commodities in bulk),* between points in CT, DE, DC, IL, IN, KY, MD, MA, MI, MN, NJ, NY, OH, PA, TN, VA, WV, and WI. Supporting shipper(s): Dependable Products, Inc., 3660 Roger B. Chafee Drive SE, Grand Rapids, MI 49508.

MC 150527 (Sub-4–5TA), filed Aug. 1, 1980. Applicant: TLX, INC., P.O. Box 2278, Hessville, IN 46323. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Furnaces, house heating, hot air,* from Plymouth, MN to all points in U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Shipper: Mammoth Division—Lear Seigler, Inc., 13120–B County Road 6, Minneapolis, MN 55441.

MC 136247 (Sub-4–1TA), filed Aug. 4, 1980. Applicant: WRIGHT TRUCKING, INC., 409 17th Street SW, Jamestown, ND 58401. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Meats, meat products and meat byproducts and articles distributed by meat packinghouses,* from the facilities of Held Beef Industries, Inc., at West Fargo, ND, to points in the U.S. (except AK and HI). An underlying ETA seeks 120 days authority. Supporting shipper: Held Beef Industries, Inc., Stockyard Road, West Fargo, ND 58078.

MC 29555 (Sub-4–2), filed August 4, 1980. Applicant: BRIGGS TRANSPORTATION CO., N–400 Griggs-Midway Building, St. Paul, MN 55104. Representative: Winston W. Hurd (same address as applicant). General commodities, except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading, serving points in WI on and south of WI Hwy. #29 and U.S. Hwy. #12 between Hudson and Wausau, WI and on and west of U.S. #51 from Wausau, WI to the WI–IL State Line except points in the counties of Vernon, Crawford, Richland, Grant, Iowa, Rock and Lafayette. Also serving points in southeastern MN on and west of U.S. #61 between St. Paul, MN and La Crescent, MN and on and west of MN Hwy. #26 to the IA–MN State Line in the following counties: Dakota, Goodhue, Wabasha, Winona, Houston, Fillmore, Mower, Freeborn, Steele, Dodge and Olmsted, in conjunction with applicant's regular route authority with tacking and interlining intended. 204 supporting shippers.

MC 145394 (Sub-4–2TA), filed August 1, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* Irregular; *Adhesives, automotive supplies, castings, chemicals, containers, iron and steel articles, machinery and parts, tires and rubber products* between Murphy-Kullens Warehouses, Inc., at Freeport and Rockford, IL, and points in IA, IN, IL, MN, and WI. Restricted to transportation performed under a continuing contract with Murphy-Kullens Warehouses, Inc. An underlying ETA seeks 120 days authority. Supporting Shipper: Murphy-Kullens Warehouses, Inc., 500 South Independence Avenue, Rockford, IL 61102.

MC 151448 (Sub-4–1TA), filed August 5, 1980. Applicant: BERNS TRANSPORTATION, INC., 4585 South Harding St, Indianapolis, IN 46217. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian St., Indianapolis, IN 46204. *Drugs, medicines, cosmetics, plastic boxes, weed-killing compounds and animal or poultry feed supplements, and materials and supplies used in the manufacturing and production of commodities above, and rejected and/or damaged shipments of the commodities named above,* except commodities in bulk, between the plantsites and warehouse storage facilities utilized by Eli Lilly Company at or near Clinton, Indianapolis, and Lafayette, IN, and Omaha, NE, on the one hand, and, on the other, points in IA, IL, MN, ND, NE, and SD. Supporting shipper: Eli Lilly & Company, P.O. Box 618, Indianapolis IN 46206.

MC 151481 (Sub-4–1TA), filed August 4, 1980. Applicant: GOBEL FREIGHT LINES, INC., 120 W. Madison St., Chicago, IL. Representative: Edward H. Instenes, 128½ Plaza East, P.O. Box 676, Winona, MN 55987. *Such articles as are dealt in by wholesale and retail grocery stores,* from the Chicago, IL commercial zone as defined by the Interstate Commerce Commission to the facilities of Gateway Foods, Inc. at or near LaCrosse, WI. Supporting shipper: Gateway Foods, Inc., Box 871, LaCrosse, WI 54601.

MC 118202 (Sub-4–7TA), filed July 30, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: Stephen F. Grinnell, 1000 First National Bank Building, Minneapolis, MN 55402. *Such commodities as are dealt in by weight loss centers,* (1) from Horsham, PA, Wilmington, DE, Cincinnati, OH, Cherry Hill and Port Reading, NJ to Sparks, NV; (2) from Sparks, NV to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA, WI and WY. An underlying ETA seeks 120 days authority. Supporting shipper: Nutri/System Weight Loss Medical Center, Inc., 7425 Old York Rd., Melrose Park, PA 19126.

MC 151432 (Sub-4–1), filed August 4, 1980. Applicant: VERNON MARTELL, 2434 Hillview Avenue, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58502. *Contract* Irregular *Building Materials, Lumber, Roofing Materials and Wood Products,* between points in the U.S. for the account of Missoula Forest Products, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Missoula Forest Products, Inc., 1702 Johnson Street, Missoula, MT 59806.

MC 138144 (Sub-4–3TA), filed August 4, 1980. Applicant: FRED OLSON CO., INC., 6022 W. State St., Milwaukee, WI 53213. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Such commodities as are manufactured or distributed by manufacturers of buildings; building sections and panels; and, equipment materials and supplies,* from points in the U.S. to points in WI. 3 Supporting Shipper.

MC 52473 (Sub-No. 4–2), filed August 5, 1980. Applicant: BEHNKE, INC., 77 South Monroe Street, Battle Creek, MI 49017. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Contract, irregular; *Plastic articles and iron and steel articles* from Battle Creek, MI to various points in IN, OH, and IL under contract(s) with United Steel & Wire Company of Battle Creek, MI. An underlying ETA seeks 120 days authority. Supporting shipper: United Steel & Wire Co., 27 Fonda St., Battle Creek, MI 49016.

MC 148705 (Sub-No. 4–5TA), filed August 4, 1980. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by products and articles dealt in by meat packinghouses* from points in MN, IA, Omaha and Fremont, NE and Sioux Falls, SD to New Orleans, LA and Gulfport, MS. Supporting shipper: Weinstein International Corporation, 5738 Olson Highway, Minneapolis, MN 55422.

Kansas City, MO. Supporting shipper:

Company, Inc. of Kawkawlin, MI, and

between facilities of Capitol

MT State Hwy 200, then via MT State

MC 148705 (Sub-No. 4–6TA), filed August 4, 1980. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by products and articles dealt in by meat packinghouses;* from South St. Paul, Newport and Buffalo Lake, MN and Sioux City, IA to Oakland, Los Angeles, San Francisco, San Diego, Lan Lorenzo and Sacramento, CA; Portland, OR and Seattle, WA. Supporting shipper: Weinstein International Corp., 5738 Olson Highway, Minneapolis, MN 55422.

MC 149284 (Sub-4–2TA), filed August 5, 1980. Applicant: MARION D. DAY d.b.a. DAY'S EXPRESS, 1942–7th Street, Columbus, IN 47201. Representative: Stephen M. Gentry, 1502 Main St., Speedway, IN 46224. *Automobile parts and supplies* from the facilities of Arvin Industries, Inc. at or near Indianapolis, IN to points in CA, MA, NJ and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Arvin Industries, Inc., 13th and Cottage Aves., Columbus, IN 47201.

MC 140744 (Sub-4–3TA), filed August 5, 1980. Applicant: ARCTIC AIR TRANSPORT, INC., 731 East Main Street, Mondovi, WI 54755. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Menomonie, WI and points within 90 miles thereof. Applicant intends to interline with other carriers at interchange points of Minneapolis and St. Paul, MN and LaCrosse and Eau Claire, WI. An underlying ETA seeks authority for 120 days. 38 supporting shippers.

MC 108393 (Sub-4–7TA), filed August 5, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Illinois 60521. Representative: Thomas B. Hill (same as applicant). *Contract* Carrier, irregular *Such merchandise, equipment and supplies, sold, used or distributed by a manufacturer of cosmetics, toilet preparations and jewelery (except commodities in bulk, in tank vehicles)* between Glenview, IL on the one hand, and, on the other Milwaukee, WI, St. Louis, MO, Minneapolis, MN, Des Moines, IA, Memphis, TN, Omaha, NE, Green Bay, WI, Appleton, WI, Waterloo, Cedar Rapids and Dubuque, IA. From Corinth, MS to Morton Grove, IL, and Glenview, IL. From Morton Grove, IL to Kansas City, MO. Supporting shipper: Avon Products, Inc., Nine West Fifty Seventh Street, New York, New York 10019.

MC 114055 (Sub-4–1TA), filed August 5, 1980. Applicant: RAY KOLNIK, d.b.a. RAY KOLNIK TRUCKING, Route 1, Prairie View Road; Walworth, WI 53184. Representative: Attorney Joseph E. Ludden, 324 Exchange Building, P.O. Box 1567, La Crosse, WI 54601. Contract, irregular; *Malt beverages* from La Crosse, WI, St. Paul, MN, Newport, KY, Evansville, IN, Belleville, IL, and Frankenmuth, MI to Montgomery, IL and Joliet, IL *Bottle caps (Crowns), bottles, glass* from Chicago, IL and its commercial zone, Plainfied, IL, Gurnee, IL, Streator, IL and Dolton, IL to La Crosse, WI and St. Paul, MN. An underlying ETA seeks 120 days authority. Supporting shipper: G. Heileman Brewing Company, 100 Harborview Plaza, La Crosse, WI 54601.

MC 58954 (Sub-4–1TA), filed August 5, 1980. Applicant: McNAMARA MOTOR EXPRESS, P.O. Box 4005; Kalamazoo, MI 49003. Representative: Ms. Carol Brigance, P.O. Box 4005, Kalamazoo, MI 49003. Common; regular; *General Commodities except commodities transported in bulk.* From, to, or between the following points or described area: Serving points within Boone County, IL as off route points in conjunction with carriers regular route authority. An underlaying ETA seeks 120 days authority. Supporting shipper: The Chrysler Corporation, P.O. Box 1976, Detroit, Michigan 48288.

MC 142383 (Sub-4–1TA), filed August 5, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th St., Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). *Contract,* irregular; *Such commodities as are dealt in by food business houses* (except commodities in bulk), from points in IL, IN, IA, KS, KY, MI, MO, MN, NY, OH, and PA and Omaha, NE, Bayonne and Newark, NJ and Salisbury, MD and points in their commercial zones to LaCrosse, WI and points in its commercial zone, under a continuing contract with Gateway Foods, Inc. Supporting shipper: Gateway Foods, Inc., 1637 St. James St., LaCrosse, WI 54601.

MC 128837 (Sub-4–17TA), filed August 5, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Adhesives, sealant and related materials* used in the manufacture, sale and distribution of such articles, between Louisville, KY on the one hand, and on the other, Aurora, IL, Cleveland, OH, Kansas City, MO and Kansas City, KS. Supporting shipper: Loctite Corporation, 705 N. Mountain Rd., Newington, CT 06111.

MC 151367 (Sub-4–1TA), filed August 5, 1980. Applicant: RANGE CAB & CORMIER SERVICE, 912 Putnam Street, Wakefield, MI 49968. Representative: Joel L. Massie, Sturgul, Massie & McKenzie, 200 South Sophie Street, Messemer, MI 49911. *Passengers and baggage in charter operations* from Wakefield, MI to and from, Minneapolis and Duluth, MN; Green Bay, Milwaukee; Mayfield, Madison and Marshfield, WI; Chicago, IL and points between. Supporting shippers: Adult Activity Center, P.O. Box 523, Wakefield, MI 49968; Wakefield Sports Club, Wakefield, MI 49968; Indianhead Ski Corporation, Indianhead Road, Wakefield, MI 49968.

MC 151347 (Sub-4–3TA), filed August 5, 1980. Applicant: EAST POINT EXPRESS, INC., 3716 N. Racine, Chicago, IL 60613. Representative: Steven Gross, 221 N. LaSalle St., Suite 1148, Chicago, IL 60601. *Contract:* irregular; *Such commodities as are dealt in by a manufacturer and distributor of starch and corn syrup;* between points in the U.S., except AK and HI. Restricted to transportation to or from the facilities of the Hubinger Company under a continuing contract(s) with the Hubinger Company. An underlying ETA seeks 120 days authority. Supporting shipper: Hubinger Company, 601 Main St., Keokuk, IA.

MC 6031 (Sub-4–2TA), filed August 4, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract;* irregular; *metal articles,* (1) between points in the Chicago, IL and Milwaukee, WI Commercial Zones; and (2) from points in the Chicago, IL Commercial Zone to points in WI; under continuing contract(s) with Joseph T. Ryerson & Son, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Joseph T. Ryerson & Son, Inc., 500 South 88th St., Milwaukee, WI 53214

MC 146229 (Sub-4–1TA), filed August 4, 1980. Applicant: VIRGIL SCHMIDT, d.b.a. SCHMIDT TRUCKING, Route 2, box 207, Standish, MI 48658. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Pulleys and pulley parts and accessories, materials, and supplies used in the manufacture and distribution of pulleys* between points in MI and points in NC, restricted to shipments originating at or destined to the facilities of Peters Manufacturing Company, Inc. of Kawkawlin, MI, and Peters Carolina, Inc. of Mebane, NC, or to shipments originating from a contract painting source destined for delivery to any customer plant in MI. Supporting shipper: Peters Carolina, Inc., 1415 Dogwood Way, Mebane, NC 27302; Peters Manufacturing Company, Inc., 2768 Huron Road, Kawkawlin, MI 48631.

MC 147039 (Sub-4–6TA), filed August 4, 1980. Applicant: TRANSPORTATION SERVICES, INC., 21055 West Road, Trenton, MI 48183. Representative: Danny C. Hay/Clarence Herr, P.O. Box 42131, Detroit, MI 48121. *Automotive parts, materials, accessories, and supplies used in the manufacture of automotive parts and automotive vehicles* between Laredo, TX on the one hand, and, on the other, CA, FL, GA, KY, IL, IN, MN, MO, NJ, and VA. Supporting shipper: Ford Motor Company, Rotunda Drive at Southfield, Dearborn, MI 48121.

MC 119726 (Sub-4–2TA), filed August 5, 1980. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. (1) *Containers, container closures, glassware, paper, packaging products, container components, scrap materials and absorbents,* and (2) *such commodities* as are dealt in or used by manufacturers and distributors of the commodities named in (1) above (except commodities in bulk, in tank vehicles and those because of their size or weight require the use of special equipment), between points in the U.S. (except AK and HI). Supporting shippers: There are 24 supporting shippers.

MC 147478 (Sub-4–1TA), filed August 5, 1980. Applicant: COYOTE TRUCK LINES, INC., P.O. Box 201, Hayti, SD 57241. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Feed ingredients* from Dawson, Mankato, Minneapolis, St. Paul, MN; Nebraska City and Weeping Water, NE; Sioux City, IA; and points in their Commercial Zones to points in ND, MT and SD. Supporting shipper: Peavey Co. 730, 2nd Ave. S., Minneapolis, MN.

MC 87966 (Sub-4–4TA), filed August 5, 1980. Applicant: ELEVELD CHICAGO FURNITURE SERVICE INC., 4020 W 24th Street, Chicago, IL 60623. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Store fixtures and store equipment; equipment, materials, and supplies used in the manufacture, distribution and sale of store fixture and store equipment, except commodities in bulk,* between facilities of Capitol Construction Co., division of the Capitol Companies, Inc. at Clearwater, FL and points in contiguous U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Capitol Construction Co., division of the Capitol Companies, Inc., 1920 Sherwood Street, Clearwater, FL 33518.

MC 151422 (Sub-4–1TA), filed August 4, 1980. Applicant: MINN–DAK TRANSPORT, INC., P.O. Box 98, Audubon, MN 56511. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. *Meat, meat products, dairy products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificated, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)* from the facilities utilized by Held Beef Industries at or near West Fargo, ND to points in AL, AR, AZ, CA, FL, GA, ID, IL, IN, KS, LA, MI, MN, MO, OH, OK, OR, PA, SC, TN, TX, WA, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Held Beef Industries, Stockyards Road, West Fargo, ND 58078.

MC 111496 (Sub-4–4TA), filed June 11, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Common carrier,* regular routes: *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between Fargo, ND and Portland, OR, serving the intermediate points of Seattle, Spokane, and Tacoma, WA, and Beach, Bismarck, Dickinson and Jamestown, ND, from Fargo via I Hwy 94 to junction I Hwy 90, then over I Hwy 90 to junction I Hwy 5, then via I Hwy 5 to Portland and return over the same route; between Kalispell, MT and Portland, OR, serving the intermediate point of Spokane, WA, from Kalispell, via U.S. Hwy 2 junction U.S. Hwy 95, then via U.S. Hwy 95 to ID State Hwy 53, then via ID State Hwy 53 to the ID/WA State line, then Washington State Hwy 290 to Spokane, then via U.S. Hwy 395 to junction U.S. Hwy 730, then via U.S. Hwy 730 to junction I Hwy 80N, then via I Hwy 80N to Portland and return over the same route; between Wolf Point, MT and Beach, ND, serving no intermediate points, from Wolf Point via MT State Hwy 13W to junction MT State Hwy 13, then via MT State Hwy 13 to junction MT State Hwy 200, then via MT State Hwy 200 to junction MT Hwy 200S, then via MT State Hwy 200S to U.S. Hwy 10, then via U.S. Hwy 10 to Beach and return over the same route. Supporting shippers: There are 77 supporting shippers.

Note.—Applicant proposes to tack the authority sought with its authority in MC 111496 and Subs thereto, and proposes to interline with other carriers.

MC 44770 (Sub-4–2TA), filed June 13, 1980. Applicant: MIDLAND LINES, INC. (Zephyr Lines Division) 1216 Currie Ave., Minneapolis, MN 55403. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Passengers and their baggage, and express and newspapers in the same vehicle with passengers,* (1) between Frederick, WI and Grantsburg, WI over WI Hwy 48, serving all intermediate points; (2) between Grantsburg, WI and Siren, WI, over WI Hwy 70, serving all intermediate points; and (3) between Amery, WI and junction U.S. Hwy 63 and Polk County Hwy J, over Polk County Hwy J, serving no intermediate points, for operating convenience only. Supporting shipper: Burnett General Hospital Grantsburg, WI 54840.

Note.—Applicant intends to tack this authority with that held in MC 44770 (Sub-15). Applicant also seeks authority to interline at Minneapolis and St. Paul, MN; Ironwood, MI; and Ashland, Rice Lake, and Spooner, WI.

MC 111496 (Sub-4–3TA), filed May 15, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Common carrier:* Regular routes: *General commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, Between Williston, ND and Billings, MT, serving the intermediate points of Glendive and Miles City, MT. From Williston over U.S. Hwy 85 to junction ND Hwy 200, then over ND Hwy 200 to junction MT Hwy 200, then over MT Hwy 200 to junction MT Hwy 16, thence over MT Hwy 16 to junction I Hwy 94, to junction I Hwy 90 then over I Hwy 90 to Billings, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. There are 27 shippers. Their statements may be examined at the Regional office listed.

Note.—Applicant proposes to tack the authority sought with its authority in MC 111496 and subs thereto, and proposes to interline with other carriers.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 5. SEND PROTESTS TO: CONSUMER

ASSISTANCE CENTER, INTERSTATE COMMERCE COMMISSION, POST OFFICE BOX 17150, FORT WORTH, TX 76102.

MC 200 (Sub-5–36TA), filed August 6, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. BOX 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). *Air cleaners, filters, and mufflers, and materials, supplies, and equipment used in the manufacture, distribution, and installation thereof,* between Adair County, MO; Livingston County, MO; Adams County, IL; Lee County, IL and points in the U.S. Supporting shipper: Donaldson Company, Inc., 1400 W. 94th St., P.O. Box 1299, Minneapolis, MN 55440.

MC 5227 (Sub-5–6TA), filed August 5, 1980. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 228 N. Phillips Avenue, Sioux Falls, SD 57101. *Beverages* from points in the commercial zone of Janesville, WI, to points in MN, SD, and ND. Supporting shipper; King Cola North Central, Inc., 138 North Avenue, Heartland, WI 53029.

MC 34231 (Sub-5–1), filed August 6, 1980. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Robert L. Winsky (same address as applicant). *Fire sprinkler systems and parts, accessories, materials and supplies utilized in the installation, manufacture, and operation of fire sprinkler systems (except in bulk)* between Kansas City, KS commercial zone and all points in the United States (except AK and HI). Supporting shipper: National Fire Sprinkler Corporation 501 Sunshine Road, Kansas City, KS 66115.

MC 67485 (Sub–5–1TA), filed August 6, 1980. Applicant: TEXAS TEX-PACK EXPRESS, INC., P.O. Box 9325, San Antonio, TX 78204. Representative: Austin L. Hatchell, Lanham Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. common, regular; *General Commodities (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* moving in express service, to, from or between all points along the routes as shown: Between Houston and Junction, serving all intermediate points: From Houston over Interstate Highway 10 to Junction, and return over the same route. Between Dallas and Laredo, serving all intermediate points: From Dallas over Interstate Highway 35 to Laredo, and return over the same route. Between San Antonio and Corpus Christi, serving all intermediate points: From San Antonio over Interstate Highway 37 to Corpus Christi, and return over the same route. Between Eagle Pass and Moore, serving all intermediate points: From Eagle Pass over U.S. Highway 57 to Moore, and return over the same route. Between Houston and Laredo, serving all intermediate points: From Houston over U.S. Highway 59 to Laredo, and return over the same route. Between Dallas and Brownsville, serving all intermediate points: From Dallas over U.S. Highway 77 to Brownsville, and return over the same route. Between Round Rock and Hearne, serving all intermediate points: From Round Rock over U.S. Highway 79 to Hearne, and return over the same route. Between Hillsboro and Laredo, serving all intermediate points: From Hillsboro over U.S. Highway 81 to Laredo, and return over the same route. Between Brownsville and Leakey, serving all intermediate points: From Brownsville over U.S. Highway 83 to Leakey, and return over the same route. Between Junction and Eden, serving all intermediate points: From Junciton over U.S. Highway 83 to Eden, and return over the same route. Between Gatesville and Coolidge, excluding service to Gatesville or any intermediate point between Gatesville and McGregor, serving all intermediate points from McGregor to Coolidge: From Gatesville over U.S. Highway 84 to Coolidge, and return over the same route. Between Goldthwaite and Mullin, serving all intermediate points: From Goldthwaite over U.S. Highway 84 to Mullin, and return over the same route. Between Eden and Victoria, serving all intermediate points: From Eden over U.S. Highway 87 to Victoria, and return over the same route. Between Houston and Sanderson, serving all intermediate points: From Houston over U.S. Highway 90 to Sanderson, and return over the same route. Between Seguin and Belmont, serving all intermediate points: From Seguin over Alternate U.S. Highway 90 to Belmont, and return over the same route. Between San Antonio and Corpus Christi, serving all intermediate points: From San Antonio over U.S. Highway 181 to Corpus Christi, and return over the same route. Between Gonzales and Mullin, serving all intermediate points: From Gonzales over U.S. Highway 183 to Mullin, and return over the same route. Between Brady and Hearne, serving all intermediate points: From Brady over U.S. Highway 190 to Hearne, and return over the same route. Between Del Rio and Carrizo Springs, serving all intermediate points: From Del Rio over U.S. Highway 277 to Carrizo Springs, and return over the same route. Between Lampasas and Brownsville, serving all intermediate points, including Hidalgo: From Lampasas over U.S. Highway 281 to Brownsville, and return over the same route. Between Brady and the intersection of U.S. Highway 283 and F. M. Road 504, serving all intermediate points: From Brady over U.S. Highway 283 to its intersection with F. M. Road 504, and return over the same route. Between Junction and Giddings, serving all intermediate points, including Butler and McDade: From Junction over U.S. Highway 290 to Giddings, and return over the same route. Between Junction and Brady, serving all intermediate points: From Junction over U.S. Highway 377 to Brady, and return over the same route. Between Rocksprings and the intersection of U.S. Highway 377 and State Highway 41, serving all intermediate points: From Rocksprings over U.S. Highway 377 to its intersection with State Highway 41, and return over the same route. Between Waco and Hearne, serving all intermediate points: From Waco over State Highway 6 to Hearne, and return over the same route. Between Kosse and Eddy, serving all intermediate points: From Kosse over State Highway 7 to Eddy, and return over the same route. Between Corpus Christi and the intersection of State Highway 9 and U.S. Highway 281 near Three Rivers, serving all intermediate points: From Corpus Christi over State Highway 9 to its intersection with U.S. Highway 281, and return over the same route. Between Fredericksburg and Zapata, serving all intermediate points: From Fredericksburg over State Highway 16 to Zapata, and return over the same route. Between Llano and Goldthwaite, serving all intermediate points: From Llano over State Highway 16 to Goldthwaite, and return over the same route. Between San Marcos and the intersection of State Highway 21 and F.M. 141 near Dime Box, serving all intermediate points: From San Marcos over State Highway 21 to its intersection with F.M. 141, and return over the same route. Between Hillsboro and Blooming Grove, serving all intermediate points: From Hillsboro over State Highway 22 to Blooming Grove, and return over the same route. Between Comfort and Mountain Home, serving all intermediate points: From Comfort over State Highway 27 to Mountain Home, and return over the same route. Between Georgetown and Fort McKavett, serving all intermediate points: From Georgetown over State Highway 29 to Fort McKavett, and return over the same route. Between Dawson and the intersection of State Highway 31 and U.S. Highway 84 near Waco, serving all intermediate points: From Dawson over State Highway 31 to its intersection with U.S. Highway 84, and return over the same route. Between Gregory and Holiday Beach, serving all intermediate points: From Gregory over State Highway 35 to Holiday Beach, and return over the same route. Between Cameron and Gatesville, serving all intermediate points including North Fort Hood, excluding service to Gatesville, except for the purpose of interline with other carriers: From Cameron over State Highway 36 to Gatesville, and return over the same route. Between Hunt and Ingram, serving all intermediate points: From Hunt over State Highway 39 to Ingram, and return over the same route. Between Mountain Home and the intersection of State Highway 41 U.S. Highway 377, serving all intermediate points: From Mountain Home over State Highway over State Highway 41 to its intersection with U.S. Highway 377, and return over the same route. Between Corpus Christi and Freer, serving all intermediate points: From Corpus Christi over State Highway 44 to Freer, and return. Between Seguin and the intersection of State Highway 46 and State Highway 16 near Pipe Creek, serving all intermediate points: From Seguin over State Highway 46 to its intersection with State Highway 16, and return over the same route. Between Brownsville and Port Isabel, serving all intermediate points: From Brownsville over State Highway 48 to Port Isabel, and return over the same route. Between Temple and Rosebud, serving all intermediate points: From Temple over State Highway 53 to Rosebud, and return over the same route. Between Uvalde and Rocksprings, serving all intermediate points: From Uvalde over State Highway 55 to Rocksprings, and return over the same route. Between Bastrop and Brady, serving all intermediate points: From Bastrop over State Highway 71 to Brady, and return over the same route. Between Kenedy and Fowlerton, serving all intermediate points: From Kenedy over State Highway 72 to Fowlerton, and return over the same route. Between San Marcos and Karnes City, serving all intermediate points: From San Marcos over State Highway 80 to Karnes City, and return over the same route. Between Carrizo Springs and Dilley, serving all intermediate points: From Carrizo Springs over State Highway 85 to Dilley, and return over the same route. Between Temple and Bastrop, serving all intermediate points: From Temple over State Highway 95 to Bastrop, and return over the same route. Between Charlotte and Waelder, serving all intermediate points: From Charlotte over State Highway 97 to Waelder, and return over the same route. Between Cotulla and Fowlerton, serving all intermediate points: From Cotulla over State Highway 97 to Fowlerton, and return over the same route. Between Port Isabel and the intersection of State Highway 100 and U.S. Highway 77 near Olmito, serving all intermediate points: From Port Isabel over State Highway 100 to its intersection with U.S. Highway 77, and return over the same route. Between Combes and Mission, serving all intermediate points: From Combes over State Highway 107 to Mission, and return over the same route. Between San Marcos and Karnes City, serving all intermediate points: From San Marcos over State Highway 123 to Karnes City, and return over the same route. Between Sabinal and Concan, serving all intermediate points: From Sabinal over State Highway 127 to Concan, and return over the same route. Between Kingsville and the intersection of State Highway 141 and U.S. Highway 281, serving all intermediate points: and return over the same route. From Kingsville over State Highway 141 to its intersection with U.S. Highway 281, and return over the same route. Between Lockhart and Martindale, serving all intermediate points: From Lockhart over State Highway 142 to Martindale, and return over the same route. Between Waco and Groesbeck, serving all intermediate points: From Waco over State Highway 164 to Groesbeck, and return over the same route. Between Hillsboro and Groesbeck, serving all intermediate points except those between Coolidge and Groesbeck: From Hillsboro over State Highway 171 to Groesbeck, and return over the same route. Between Jourdanton and Kerrville, serving all intermediate points: From Jourdanton over State Highway 173 to Kerrville, and return over the same route. Between Linn-San Manuel and Port Mansfield, serving all intermediate points, including San Perlita: From Linn-San Manuel over State Highway 186 to Port Mansfield, and return over the same route. Between the intersection of State Highway 195 and U.S. Highway 183 and the intersection of State Highway 195 and U.S. Highway 81, via Florence, serving all intermediate points: From the intersection of State Highway 195 and U.S. Highway 183 over State Highway 195 to its intersection U.S. Highway 81, and return over the same route. Between Beeville and Refugio, serving all intermediate points: From Beeville over State Highway 202 to Refugio, and return over the same route. Between Randolph A.F.B. over State Highway 218 to Live Oak, and return over the same route. Between Bluffton and Buchanan Dam, serving all intermediate points: From Bluffton over State Highway 261 to Buchanan Dam, and return over the same route. Between Corpus Christi and Chapman Ranch, serving all intermediate points: From Corpus Christi over State Highway 286 to Chapman Ranch, and return over the same route. Between Gonzales and Bastrop, serving all intermediate points. From Gonzales over State Highway 304 to Bastrop, and return over the same route. Between Belton and McGregor, serving all intermediate points: From Belton over State Highway 317 to McGregor, and return over the same route. Between the intersection of State Highway 320 and State Highway 7 near Chilton and the intersection of State Highway 320 and State Highway 53 near Barclay, serving all intermediate points: From the intersection of State Highway 320 and State Highway 7 over State Highway 320 to its intersection with State Highway 53, and return over the same route. Between Freer and Benavides, serving all intermediate points: From Freer over State Highway 339 to Benavides, and return over the same route. Between Red Oak and the intersection of State Highway 342 and U.S. Highway 77, serving all intermediate points: From Red Oak over State Highway 342 to its intersection with U.S. Highway 77, and return over the same route. Between San Benito and Rio Hondo, serving all intermediate points: From San Benito over State Highway 345 to Rio Hondo, and return over the same route. Between Laredo and Skidmore, serving all intermediate points: From Laredo over State Highway 359 to Skidmore, and return over the same route. Between Gregory and Port Aransas, serving all intermediate points: From Gregory over State Highway 361 to Port Aransas, and return over the same route. Between San Marcos and Wimberley, serving all intermediate points: From San Marcos over F. M. Road 12 to Wimberley, and return over the same route. Between Fentress and the intersection of F. M. Road 20 and State Highway 71 near Bastrop, serving all intermediate points: From Fentress over F. M. Road 20 to its intersection with State Highway 71, and return over the same route. Between Crystal City and Brundage, serving all intermediate points: From Crystal City over F. M.

Road 65 to Brundage, and return over the same route. Beteen Chapman Ranch and Bishop, serving all intermediate points: From Chapman Ranch over F. M. Road 70 to Bishop, and return over the same route. Between Coolidge and Prairie Hill, serving all intermediate points: From Coolidge over F. M. Road 73 to Prairie Hill, and return over the same route. Between San Antonio and Seguin, serving all intermediate points: From San Antonio over F. M. Road 78 to Seguin, and return over the same route. Between Panna Maria and the intersection of F. M. Road 81 and State Highway 123, serving all intermediate points: From Panna Maria over F. M. Road 81 to its intersection with State Highway 123, and return over the same route. Between Luling and Red Rock, serving all intermediate points: From Luling over F. M. Road 86 to Red Rock, and return over the same route. Between Progreso and the intersection of F. M. Road 88 and State Highway 186, serving all intermediate points: From Progreso over F. M. Road 88 to its intersection with State Highway 186, and return over the same route. Between Harlingen and the intersection of F. M. Road 106 and State Highway 345 east of Rio Hondo, serving all intermediate points: From Harlingen over F. M. Road 106 to its intersection with State Highway 345, and return over the same route. Between Moody and Eddy, serving all intermediate points: From Mody over F. M. Road 107 to Eddy, and return over the same route. Between Artesia Wells and Catarina, serving all intermediate points: From Artesia Wells over F. M. Road 133 to Catarina, and return over the same route. Between Gregory and Woodsboro, serving all intermediate points: From Gregory over F. M. Road 136 to Woodsboro, and return over the same route. Between Charlotte and Campbellton, serving all intermediate points: From Charlotte over F. M. Road 140 to Campbellton, and return over the same route. Between Giddings and the intersection of F. M. Road 141 and State Highway 21 near Dime Box, serving all intermediate points: From Giddings over F. M. Road 141 to its intersection with State Highway 21, and return over the same route. Between Sabinal and Vanderpool, serving all intermediate points: From Sabinal over F. M. Road 187 to Vanderpool, and return over the same route. Between Asherton and Brundage, serving all intermediate points: From Asherton over F. M. Road 190 to Brundage, and return over the same route. Between Elm Mott and Milford, serving all intermediate points: From Elm Mott over F. M. Road 308 to Milford, and return over the same route. Between Vanderpool and Camp Wood, serving all intermediate points: From Vanderpool over F. M. Road 337 to Camp Wood, and return over the same route. Between Birome and the intersection of F. M. Road 339 and State Highway 164 east of Mart, serving all intermediate points: From Birome over F. M. Road 339 to its intersection with State Highway 164, and return over the same route. Between Rosebud and Kosse, serving all intermediate points: From Rosebud over F. M. Road 413 to Kosse, and return over the same route. Between Waco and Chilton, serving all intermediate points: From Waco over F. M. Road 434 to Chilton, and return over the same route. Between Belton and Heidenheimer, serving all intermediate points: From Belton over F. M. Road 436 to Heidenheimer, and return over the same route. Between Temple and Belfalls, serving all intermediate points: From Temple over F. M. Road 438 to Belfalls, and return over the same route. Between Killeen and Florence, serving all intermediate points: From Killeen over F. M. Road 440 to Florence, and return over the same route. Between Moore and Tarpley, serving all intermediate points: From Moore over F. M. Road 462 to Tarpley, and return over the same route. Between Utopia and Bandera, serving all intermediate points: From Utopia over F. M. Road 470 to Bandera, and return over the same route. Between San Antonio and Natalia, serving all intermediate points: From San Antonio over F. M. Road 471 to Natalia, and return over the same route. Between Florence and Bartlett, serving all intermediate points: From Florence over F. M. Road 487 to Bartlett, and return over the same route. Between La Villa and Lyford, serving all intermediate points: From La Villa over F. M. Road 491 to Lyford, and return over the same route. Between Donna and the intersection of F. M. Road 493 and State Highway 186 north of Hargill, serving all intermediate points: From Donna over F. M. Road 493 to its intersection with State Highway 186, and return over the same route. Between Pontotoc and Bend, serving all intermediate points: From Pontotoc over F. M. Road 501 to Bend, and return over the same route. Between Lohn and the intersection of F. M. Road 504 and U.S. Highway 283 north of Brady, serving all intermediate points: From Lohn over F. M. Road 504 to its intersection with U.S. Highway 283, and return over the same route. Between San Benito and Laguna Vista, serving all intermediate points: From San Benito over F. M. Road 510 to Laguna Vista, and return over the same route. Between Sandia and the intersection of F. M. Road 534 and F. M. Road 3162, serving all intermediate points: From Sandia over F. M. Road 534 to its intersection with F. M. Road 3162, and return over the same route. Between Cedar Creek and Rosanky, serving all intermediate points: From Cedar Creek over F. M. Road 535 to Rosanky, and return over the same route. Between San Saba and Lampasas, serving all intermediate points: From San Saba over F. M. Road 580 to Lampasas, and return over the same route. Between Lometa and Bend, serving all intermediate points: From Lometa over F. M. Road 581 to Bend, and return over the same route. Between Bee Cave and Round Rock, serving all intermediate points, including Lakeway: From Bee Cave over F. M. Road to Round Rock, and return over the same route. Between Mirando City and the intersection of F. M. Road 649 and State Highway 359, serving all intermediate points: From Mirando City over F. M. Road 649 to its intersection with State Highway 359, and return over the same route. Between Roma-Los Saenz and Fronton, serving all intermediate points: From Roma-Los Saenz over F. M. Road 650 to Fronton, and return over the same route. Between Italy and Frost, serving all intermediate points: From Italy over F. M. Road 667 to Frost, and return over the same route. Between McQueeney and New Braunfels, serving all intermediate points: From McQueeney over F. M. Road 725 to New Braunfels, and return over the same route. Between Rio Grande City and Rachal, serving all intermediate points: From Rio Grade City over F. M. Road 755 to Rachal, and return over the same route. Between New Berlin and the intersection of F. M. Road 775 and Interstate Highway 10, serving all intermediate points: From New Berlin of F. M. Road 775 to its intersection with Interstate Highway 10, and return over the same route. Between Red Rock and the intersection of F. M. Road 812 and U.S. Highway 183 near Austin, serving all intermediate points: From Red Rock over F. M. Road 812 to its intersection with U.S. Highway 183, and return over the same route. Between Fort McKavett and the intersection of F. M. Road 864 and State Highway 29, serving all intermediate points: From Fort McKavett over F. M. Road 864 to its intersection with State Highway 29, and return over the same route. Between Stinton and Rockport, serving all intermediate points: From Stinton over F. M. Road 881 to Rockport, and return over the same route. Between Troy and the intersection of F. M. Road 935 and U.S. Highway 77 near Chilton, serving

all intermediate points: From Troy over F. M. Road 935 to its intersection with U.S. Highway 77, and return over the same route. Between Buda and the intersection of F. M. Road 967 and Interstate Highway 35, serving all intermediate points: From Buda over F. M. Road 967 to its intersection with Interstate Highway 35, and return over the same route. Between Austin and Webberville, serving all intermediate points: From Austin over F. M. Road 969 to Webberville, and return over the same route. Between Granger and Georgetown, serving all intermediate points: From Granger over F. M. Road 971 to Georgetown, and return over the same route. Between the intersection of F. M. Road 972 and Interstate Highway 35 north of Georgetown and the intersection of F. M. Road 972 and State Highway 95 south of Bartlett, serving all intermediate points: From the intersection of F. M. Road 972 and Interstate Highway 35 over F. M. Road 972 to its intersection with State Highway 95, and return over the same route. Between Manor and Del Valle, serving all intermediate points: From Manor over F. M. Road 973 to Del Valle, and return over the same route. Between Waco and Aquilla, serving all intermediate points: From Waco over F. M. Road 993 to Aquilla, and return over the same route. Between Lasara and the intersection of F. M. Road Road 1015 and F. M. Road 1422, serving all intermediate points: From Lasara over F. M. Road 1015 to its intersection with F. M. Road 1422, and return over the same route. Between La Gloria and Linn-San Manuel, serving all intermediate points: From La Gloria over F. M. Road 1017 to Linn-San Manuel, and return over the same route. Between Eagle Pass and El Indio, serving all intermediate points: From Eagle Pass over F. M. Road 1021 to El Indio, and return over the same route. Between Utopia and the intersection of F. M. Road 1050 and U.S. Highway 83, serving all intermediate points: From Utopia over F. M. Road 1050 to its intersection with U.S. Highway 83, and return over the same route. Between Reagan Wells and the intersection of F. M. Road 1051 and U.S. Highway 83, serving all intermediate points: From Reagan Wells over F. M. Road 1051 to its intersection with U.S. Highway 83, and return over the same route. Between Katemcy and the intersection of F. M. Road 1222 and U.S. Highway 87, serving all intermediate points: From Katemcy over F. M. Road 1222 to its intersection with U.S. Highway 87, and return over the same route. Between Troy and the intersection of F. M. Road 1237 and State Highway 36, serving all intermediate points: From Troy over F. M. Road 1237 to its intersection with State Highway 36, and return over the same route. Between Bynum and Abbott, serving all intermediate points: From Bynum over F. M. Road 1242 to Abbott, and return over the same route. Between Pipe Creek and the intersection of F. M. Road 1283 and F. M. Road 471, serving all intermediate points. From Pipe Creek over F. M. Road 1283 to its intersection with F. M. Road 471, and return over the same route. Between Aquilla and the intersection of F. M. Road 1304 and Interstate Highway 35, serving all intermediate points: From Aquilla over F. M. Road 1304 to its intersection with Interstate Highway 35, and return over the same route. Between San Antonio and La Vernia, serving all intermediate points: From San Antonio over F. M. Road 1346 to La Vernia, and return over the same route. Between Monte Alto and the intersection of F. M. Road 1422 and F. M. Road 491, serving all intermediate points: From Monte Alto over F. M. Road 1422 to its intersection with F. M. Road 491, and return over the same route. Between Penitas and the intersection of F. M. Road 1427 and U.S. Highway 83, serving all intermediate points: From Penitas over F. M. Road 1427 to its intersection with U.S. Highway 83, and return over the same route. Between the intersection of F. M. Road 1431 and the State Highway 29 and the intersection of F. M. Road 1431 and U.S. Highway 281, via Kingsland, serving all intermediate points: From the intersection of F. M. Road 1431 and State Highway 29 over F. M. Road 1431 to its intersection with U.S. Highway 281, and return over the same route. Between Jonestown and Cedar Park, serving all intermediate points: From Jonestown over F. M. Road 1431 to Cedar Park, and return over the same route. Between Schertz and the intersection of F. M. Road 1518 and U.S. Highway 87, serving all intermediate points: From Schertz over F. M. Road 1518 to its intersection with U.S. Highway 87, and return over the same route. Between the intersection of F. M. Road 1604 and the U.S. Highway 87 and the intersection of F. M. Road 1604 and Interstate Highway 10 east of San Antonio, via Somerset, serving all intermediate points: From the intersection of F. M. Road 1604 and U.S. Highway 87 over F. M. Road 1604 to its intersection with Interstate Highway 10 east of San Antonio, and return over the same route. Between Manchaca and the intersection of F. M. Road 1626 and Interstate Highway 35, serving all intermediate points: From Manchaca over F. M. Road 1626 to its intersection with Interstate Highway 35, and return over the same route. Between Alcoa and the intersection of F. M. Road 1786 and U.S. Highway 79, serving all intermediate points: From Alcoa over F. M. Road 1786 to its intersection with U.S. Highway 79, and return over the same route. Between Hutto and the intersection of F. M. Road 1825 and Interstate Highway 35, serving all intermediate points: From Hutto over F. M. Road 685 and F. M. Road 1825 to the intersection of F. M. Road 1825 and Interstate Highway 35, and return over the same route. Between Mendoza and Dale, serving all intermediate points: From Mendoza over F. M. Road 1854 to Dale, and return over the same route. Between West and the intersection of F. M. Road 2114 and F. M. Road 933, serving all intermediate points: From West over F. M. Road 2114 to its intersection with F. M. Road 933, and return over the same route. Between Rockdale and Alcoa, serving all intermediate points: From Rockdale over F. M. Road 2116 to Alcoa, and return over the same route. Between Devine and D'Hanis, serving all intermediate points: From Devine over F. M. Road 2200 to D'Hanis, and return over the same route. Between Sunrise Beach and the Intersection of F. M. Road 2233 and State Highway 71, serving all intermediate points: From Sunrise Beach over F. M. Road 2233 to its intersection with State Highway 71, and return over the same route. Between Llano and Tow, serving all intermediate points: From Llano over F. M. Road 2241 to Tow, and return over the same route. Between Lake Victor and the intersection of F. M. Road 2340 and U.S. Highway 281, serving all intermediate points: From Lake Victor over F. M. Road 2340 to its intersection with U.S. Highway 281, and return over the same route. Between Carrizo Springs and El Indio, serving all intermediate points: From Carrizo Springs over F. M. Road 2644 to El Indio, and return over the same route. Between Kingsland and the intersection of F. M. Road 2900 and F. M. Road 2233, serving all intermediate points: From Kingsland over F. M. Road 2900 to its intersection with F. M. Road 2233, and return over the same route. Between Corpus Christi and Padre Island, serving all intermediate points: From Corpus Christi over Park Road 22 to Padre Island, and return over the same route. Between Lake Hills and the intersection of Park Road 37 and State Highway 16, serving all intermediate points: From Lake Hills over Park Road 37 to its intersection with State Highway 16, and return over the same route. Between

Port Aransas and the intersection of Park Road 53 and Park Road 22, serving all intermediate points: From Port Aransas over Park Road 53 to its intersection with Park Road 22, and return over the same route. Between Port Isabel and South Padre Island, serving all intermediate points: From Port Isabel over Park Road 100 to South Padre Island, and return over the same route. Between New Berlin and the intersection of a Local Road and Interstate Highway 10 approximately five miles northwest, serving all immediate points: From New Berlin over a Local Road to its intersection with Interstate Highway 10 approximately five miles northwest and return over the same route. Applicant intends to interline with other carriers.

Restriction: Restricted to the transportation of shipments having no single article, piece or package weighing in excess of 100 pounds and would have a total weight of 500 pounds or less per shipment. There are 12 supporting shippers.

MC 75320 (Sub-5–3TA), filed August 5, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Common,* Regular. *General commodities (except those of unusual value, Classes A and B explosives, houshold goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving all points in OH and IN as off-route points in connection with carrier's authorized regular-route operations. Supporting shippers: 79.

MC 75320 (Sub-5–4TA), filed August 5, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Common,* Regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving all points in OH and IN as off-route points in connection with carrier's authorized regular-route operations. Supporting shippers: 79.

MC 96769 (Sub-5–2TA), Filed August 6, 1980. Applicant: LIBERTY TEX-PACK EXPRESS, INC., Suite 508, 1499 Regal Row, Dallas, TX 75247. Representative: Austin L. Hatchell, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *Common,* regular. *General Commodities (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* moving in express service, to, from or between all points along the routes as shown: (1) Between Dallas, TX and Celina, TX as follows: From Dallas, TX over State Hwy. 289 to Celina, TX and return over the same route. (2) Between Celina, TX and Pilot Point, TX as follows: From Celina, TX over F. M. Road 455 to Pilot Point, TX and return over the same route. (3) Between Pilot Point, TX and Whitesboro, TX as follows: From Pilot Point, TX over State Hwy. 99 to Whitesboro, TX and return over the same route. (4) Between Whitesboro, TX and Honey Grove, TX as follows: From Whitesboro, TX over U.S. Hwy. 82 to Honey Grove, TX and return over the same route. (5) Between Dallas, TX and Denison, TX as follows: From Dallas, TX over U.S. Hwy. 75 and I.H. 35E to Denison, TX and return over the same route. (6) Between Dallas, TX and Mt. Pleasant, TX as follows: From Dallas TX over U.S. Hwy. 67 and I.H. 30 to Mt. Pleasant, TX and return over the same route. (7) Between Greenville, TX and Paris, TX as follows: From Greenville, TX over State Hwy. 24 to Paris, TX and return over the same route. (8) Between Greenville, TX and Bonham, TX via Leonard, TX, as follows: From Greenville, TX over U.S. Hwy. 69 to Bonham, TX via Leonard, TX and return over the same route. (9) Between Dallas, TX and Marshall, TX as follows: From Dallas, TX over U.S. Hwy. 80 and I. H. Hwy. 20 to Marshall, TX and return over the same route. (10) Between Longview, TX and Gilmer, TX as follows: From Longview, TX over F. M. Road 1403 to Gilmer, TX and return over the same route. (11) Between Gilmer, TX and Atlanta, TX as follows: From Gilmer, TX over State Hwy. 155 to Atlanta, TX and return over the same route. (12) Between Daingerfield, TX and Ore City, TX as follows: From Daingerfield, TX over U.S. Hwy. 259 and its intersection with State Hwy. 155 to Ore City, TX and return over the same route. (13) Between Daingerfield, TX and Linden, TX as follows: From Daingerfield, TX over State Hwy. 11 to Linden, TX and return over the same route. (14) Between (a) Linden, TX and Marshall, TX (b) Carthage, TX and Garrison, TX via Tenaha, TX as follows: (a) From Linden, TX over U.S. Hwy. 59 to Marshall, TX via Tenaha, TX and return over the same route; and (b) From Carthage TX over U.S. Hwy. 59 to Garrison, TX via Tenaha, TX and return over the same route. (15) Between Longview, TX and Carthage, TX as follows: From Longview, TX over State Hwy. 149 to Carthage, TX and return over the same route. (16) Between Carthage, TX and Henderson, TX as follows: From Carthage, TX over U.S. Hwy. 79 to Henderson, TX and return over the same route. (17) Between Beckville, TX and the intersection with U.S. Hwy. 79 as follows: From Beckville, TX over F. M. Road 124 to the intersection with U.S. Hwy. 79 and return over the same route. (18) Between Wills Point, TX and Henderson, TX as follows: From Wills Point, TX over State Hwy. 64 to Henderson, TX and return over the same route. (19) Between Mineola, TX and Tyler, TX as follows: From Mineola, TX over U.S. Hwy. 69 to Tyler, TX and return over the same route. (20) Between Tyler, TX and Kilgore, TX as follows: From Tyler, TX over State Hwy. 31 to Kilgore, TX and return over the same route. (21) Between Troup TX and Gladewater, TX via Kilgore, TX as follows: From Troup, TX over State Hwy. 135 to Gladewater, TX via Kilgore, TX and return over the same route. (22) Between (a) Kilgore, TX and Longview, TX and (b) between Henderson, TX and Mt. Pleasant, TX as follows: (a) From Kilgore, TX over U.S. Hwy. 259 to Longview, TX and return over the same route, and (b) From Henderson, TX over U.S. Hwy. 259 to Mt. Pleasant, TX and reutrn over the same route. (23) Between Mt. Enterprise, TX and Garrison, TX as follows: From Mt. Enterprise, TX over F. M. Road 95 and U.S. Hwy. 84 to Garrison, TX and return over the same route. (24) Between Timpson, TX and Center, TX as follows: From Timpson, TX over State Hwy. 87 to Center, TX and return over the same route. (25) Between (a) Tenaha, TX and San Augustine, TX, (b) between Bronson, TX and Jasper, TX; and (c) between Kirbyville, TX and Silsbee, TX as follows: (a) From Tenaha, TX over U.S. Hwy. 96 to San Augustine, TX and return over the same route; (b) From Bronson, TX over U.S. 96 to Jasper, TX and return over the same route; and (c) From Kirbyville, TX over U.S. 96 to Silsbee, TX and return over the same route. (26) Between San Augustine, TX and Milam, TX as follows: From San Augustine, TX over State Hwy 21 to Milam, TX and return over the same route. (27) Between Milam, TX and Bronson, TX as follows: From Milam, TX over State Hwy. 87 and F. M. Road 184 to Vronson, TX and return over the same route. (28) Between Jasper, TX and Newton, TX as follows: From Jasper, TX over U.S. Hwy. 190 to Newton, TX and return over the same route. (29) Between Newton, TX and Kirbyville, TX via Bleakwood, TX as follows: From Newton, TX over State Hwy. 87 to Kirbyville, TX via Bleakwood, TX and return over the same route. (30) Between Kountze, TX and Nome, TX as follows: From Kountze, TX over State Hwy. 326 to Nome, TX and return over the same route. (31) Between Silsbee, TX and Kountze, TX as follows: From Silsbee, TX over State Hwy. 327 to Kountze, TX and return over the same route. (32) Between Paris, TX and Texarkana, TX as follows: From Paris, TX over U.S. Hwy. 82 to Texarkana, TX and return over the same route. (33) Between Pittsburg, TX and Paris, TX as follows: From Pittsburg, TX over U.S. Hwy. 271 to Paris, TX and return over the same route. (34) Between Clarksville, TX and Bogata, TX as follows: From Clarksville, TX over State Hwy. 37 to Bogata, TX and return over the same route. (35) Between Pittsburg, TX and Commerce, TX as follows: From Pittsburg, TX over State Hwy. 11 to Commerce, TX via Sulphur Springs, TX. (36) Between Honey Grove, TX and Greenville, TX, as follows: From Honey Grove, TX over State Hwy. 34 to Greenville, TX, Serving only the intermediate point of Wolfe City, TX, coordinating the service with existing services and interlining with other carriers at appropriate interline points. (37) Between Mt. Pleasant, TX and Texarkana, TX, serving the intermediate points of Omaha, Naples and Maud, TX as follows: From Mt. Pleasant over U.S. Hwys. 271 and 67 to Texarkana and return over the same route. (38) Between (a) Wolfe City, TX and Honey Grove, TX and (b) between Greenville, TX and Terrell, TX as follows: From (a) Wolfe City, TX over State Hwy. 34 to Honey Grove, TX and return over the same route; and (b) Greenville, TX over State Hwy. 34 to Terrell, TX and return over the same route. (39) Between Quinlan, TX and Point, TX as follows: From Quinlan, TX over F. M. 35 to Point, TX and return over the same route. (40) Between Greenville, TX and Mineola, TX as follows: From Greenville, TX over U.S. 69 to Mineola, TX and return over the same route. (41) Between Ladonia, TX and Cooper, TX as follows: From Ladonia, TX over F. M. 64 to Cooper, TX and return over the same route. (42) Between Petty, TX and Paris, TX as follows: From Petty, TX over F. M. 137 to Paris, TX and return over the same route. (43) Between Honey Grove, TX and Petty, TX as follows: From Honey Grove, TX over U.S. 82 to Petty, TX and return over the same route. (44) Between Mineola, TX and Winnsboro, TX as follows: From Mineola, TX over State Hwy. 37 to Winnsboro, TX and return over the same route. (45) Between Emory, TX and Sulphur Springs, TX as follows: From Emory, TX over State Hwy. 19 to Sulphur Springs, TX and return over the same route. (46) Between Quitman, TX and Sulphur Springs, TX as follows: From Quitman, TX over State Hwy. 154 to Sulphur Spring, TX and reutrn over the same route. (47) Between Alba, TX and Quitman, TX as follows: From Alba, TX over State Hwy. 182 to Quitman, TX and return over the same route. (48) Between (a) Van, TX and Tyler, TX and (b) Tyler, TX and Troup, TX as follows: From (a) Van, TX over State Hwy. 110 to Tyler, TX and return over the same route; and (b) Tyler, TX over State Hwy. 110 to Troup, TX and return over the same route. (49) Between Tyler, TX and Chandler, TX as follows: From Tyler, TX over State Hwy. 31 to Chandler, TX and return over the same route. (50) Between Kilgore, TX and Price, TX as follows: From Kilgore, TX over State Hwy. 42 to Price, TX and return over the same route. (51) Between Henderson, TX and Overton, TX as follows: From Henderson, TX over State Hwy. 323 to Overton, TX and return over the same route. (52) Between its intersection with U.S. Hwy 271 near Overton, TX and Big Sandy, TX as follows: From the intersection with U.S. Hwy. 271 near Overton, TX over State Hwy. 155 to Big Sandy, TX and return over the same route. (53) Between its intersection with State Hwy. 149 and Lakeport, TX as follows: From the intersection with State Hwy. 149 over State Hwy. 322 to Lakeport, TX and return over the same route. (54) Between Carthage, TX and Panola, TX as follows: From Carthage, TX over U.S. Hwy. 79 to Panola, TX and return over the same route. (55) Between Marshall, TX and DeBerrry, TX as follows: From Marshall, TX over F.M. 31 to DeBerry, TX and return over the same route. (56) Between Marshall, TX and its intersection with F.M. 134 near Karnack, TX as follows: From Marshall, TX over State Hwy. 43 and its intersection with F.M. 134 near Karnack, TX and return over the same route. (57) Between Karnack, TX and Jonesville, TX as follows: From Karnack, TX over F.M. 134 to Jonesville, TX and return over the same route. (58) Between Karnack, TX to Uncertain, TX as follows: From Karnack, TX over an unnumbered County Road to Uncertain, TX and return over the same route. (59) Between Marshall, TX and Waskom, TX as follows: From Marshall, TX over U.S. Hwy. 80 to Waskom, TX and return over the same route. (60) Between Marshall, TX and Waskom, TX as follows: From Marshall, TX over Interstate Hwy. 20 to Waskom, TX and return over the same route. (61) Between Waskom, TX and Panola, TX as follows: From Waskom, TX over F.M. 9 to Panola, TX and return over the same route. (62) Between Marshall, TX and its intersection with F.M. 134 near Jonesville, TX as follows: From Marshall, TX over F.M. 1998 and its intersection with F.M. 134 near Jonesville, TX and return over the same route. (63) Between Marshall, TX and Gilmer, TX as follows: From Marshall, TX over State Hwy. 154 to Gilmer, TX and return over the same route. (64) Between Gladewater, TX and Pittsburg, TX as follows: From Gladewater, TX over U.S. Hwy. 271 to Pittsburg, TX and return over the same route. (65) Between Longview, TX and Lone Star, TX as follows: From Longview, TX over U.S. Hwy 259 to Lone Star, TX and return over the same route. (66) Between Pittsburg, TX and Daingerfield, TX as follows: From Pittsburg, TX over State Hwy. 11 to Daingerfield, TX and return over the same route. (67) Between Queen City, TX and Bloomburg, TX as follows: From Queen City, TX over F.M. 74 to Bloomburg, TX and return over the same route. (68) Between Atlanta, TX and Bivins, TX as follows: From Atlanta, TX over State Hwy. 43 to Bivins, TX and return over the same route. (69) Between Linden, TX and Bivins, TX as follows: From Linden, TX over F.M. 1841 to Bivins, TX and return over the same route. (70) Between Center, TX and Shelbyville, TX as follows: From Center, TX over State Hwy. 87 to Shelbyville, Texas and return over the same route. (71) Between Center, TX and Haslam, TX as follows: From Center, TX over State Hwy. 7 to Haslam, TX and return over the same route. (72) Between Tenaha, TX and Haslam, TX as follows: From Tenaha, TX over U.S. Hwy. 84 to Haslam, TX and return over the same route. (73) Between Paxton, TX and Center, TX as follows: From Paxton, TX over F.M. 699 to Center, TX and return over the same route. (74) Between (a) Texarkana, TX and Corley, TX and (b) Omaha, TX and Mt. Pleasant, TX as follows: From (a) Texarkana, TX over U.S. Hwy. 67 to Corley, TX and (b) Omaha, TX over U.S. Hwy. 67 to Mt. Pleasant, TX and return over the same route. (75) Between Como, TX and Dike, TX as follows: From Como, TX over F.M. 69 to Dike, TX and return over the same route. (76) Between the intersection of F.M. 1537 and State Hwy. 19 and the intersection of F.M. 1537 and F.M. 69 as follows: From the intersection of F.M. 1537 and State Hwy. 19 over F.M. 1537 to its intersection with F.M. 69, south of Dike, TX and return over the same route. (77) Between New Boston, TX and Corley, TX as follows: From New Boston, TX over State Hwy. 8 to Corley, TX and return over the same route. (78) Between Paris, TX and Arthur City, TX as follows: From Paris, TX over U.S. Hwy. 271 to Arthur City, TX and return over the same route. (79) Between

V 45 AG 18 80 UMI

Arthur City, TX and Chicota, TX as follows: From Arthur City, TX over F.M. 197 to Chicota, Texas and return over the same route. (80) Between Bonham, TX and Ivanhoe, TX as follows: From Bonham, TX over F.M. 273 to Ivanhoe, TX and return over the same route. (81) Between Bonham, TX and its intersection with F.M. 1396 as follows: From Bonham, TX over State Hwy. 78 to its intersection with F.M. 1396 and return over the same route. (82) Between the intersection of F.M. 1396 and State Hwy. 78 and the intersection of F.M. 1396 and F.M. 273 as follows: From the intersection of F.M. 1396 and State Hwy. 78 over F.M. 1396 to its intersection with F.M. 273, just south of Ivanhoe, TX and return over the same route. (83) Between the intersection with State Hwy. 78 and F.M. 1753 to Ravena, TX as follows: From the Intersection with State Hwy. 78 over F.M. 1753 to Ravena, TX and return over the same route. (84) Between Denison, TX and Pottsboro, TX as follows: From Denison, TX over F.M. 120 to Pottsboro, TX and return over the same route. (85) Between Leonard, TX and Bells, TX as follows: From Leonard, TX over U.S. Hwy. 69 to Bells, TX and return over the same route. (86) Between Whitewright, TX and Ector, TX as follows: From Whitewright, TX over F.M. 898 and F.M. 3297 to Ector, TX and return over the same route. (87) Between Savoy, TX and its intersection with F.M. 898 as follows: From Savoy, TX over F.M. 1752 to its intersection with F.M. 898 and return over the same route. (88) Between Greenville, TX and McKinney, TX as follows: From Greenville, TX over U.S. Hwy. 380 to McKinney, TX and return over the same route. (89) Between Rockwall, TX and its intersection with State Hwy. 78 near Lavon, TX as follows: From Rockwall, TX over State Hwy. 205 and its intersection with State Hwy. 78 near Lavon, TX and return over the same route. (90) Between the intersection with State Hwy. 205 and its intersection with U.S. Hwy. 380 near Farmersville, TX as follows: From the intersection with State Hwy. 205 and its intersection with U.S. Hwy. 380 over State Hwy. 78 near Farmersville, TX and return over the same route. (91) Between Lavon, TX and Caddo Mills, TX as follows: From Lavon, TX over F.M. 6 to Caddo Mills, TX and return over the same route. (92) Between Royce City, TX and Josephine, TX as follows: From Royce City, TX over F.M. 1717 to Josephine, TX and return over the same route. (93) Between Alba, TX and Yantis, TX as follows: From Alba, TX over F.M. 17 and F.M. 514 to Yantis, TX and return over the same route. Applicant intends to interline with other carriers. Restriction: Restricted to the transportation of shipments having no single article piece or package weighing in excess of 100 pounds and which have a total weight of 500 pounds or less per shipment. Supporting shippers: 24.

MC 98572 (Sub-5–1TA), filed August 6, 1980. Applicant: SOUTHEAST TEX-PACK EXPRESS, INC., P.O. Box 47960, Dallas, TX 75247. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Common; regular. *General commodities (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* moving in express service, to, from or between all points along the routes as shown: Between Dallas, Texas and Waxahachier, Texas as follows: From Dallas over U.S. Hwy. 77 and IH 35 N. to Waxahachie, Texas and return over the same route. Between Waxahachie, Texas and Ennis, Texas as follows: From Waxahachie over U.S. Hwy. 287 to Ennis, Texas and return over the same route. Between Ennis, Texas and Richland, Texas; and between Fairfield, Texas and Galveston, Texas as follows: From Ennis, Texas over U.S. Hwy. 75 and return over the same route; from Fairfield, Texas over U.S. Hwy. 75 to Galveston, Texas and return over the same route. Between Richland, Texas and Mexia, Texas as follows: From Richland, Texas over U.S. Hwy. 14 to Mexia, Texas and return over the same route. Between Mexia, Texas and Fairfield, Texas as follows: From Mexia, Texas over U.S. Hwy. 84 to Fairfield, Texas and return over the same route. Between Dallas, Texas and Jacksonville, Texas as follows: From Dallas, Texas over U.S. Hwy. 175 to Jacksonville, Texas and return over the same route. Between Jacksonville, Texas and Alto, Texas as follows: From Jacksonville, Texas over U.S. Hwy. 69 to Alto, Texas and return over the same route. Between Alto, Texas and Nacogdoches, Texas as follows: From Alto, Texas over State Hwy. 21 to Nacogdoches, Texas and return over the same route. Between Nacogdoches, Texas and Lufkin, Texas as follows: From Nacogdoches, Texas over U.S. Hwy. 59 to Lufkin, Texas and return over the same route. Between Lufkin, Texas and Kountze, Texas as follows: From Lufkin, Texas over U.S. Hwy. 69 to Kountze, Texas and return over the same route. Between Kountze, Texas and Silsbee, Texas as follows: From Kountze, Texas over State Hwy. 327 to Silsbee, Texas and return over the same route. Between Silsbee, Texas and Beaumont, Texas as follows: From Silsbee, Texas over U.S. Hwy. 96 to Beaumont, Texas and return over the same route. Between Houston, Texas and Orange, Texas as follows: From Houston, Texas over U.S. Hwy. 90 to Orange, Texas and return over the same route. Between Beaumont, Texas and Port Arthur, Texas as follows: From Beaumont, Texas over State Hwy. 347 to Port Arthur, Texas and return over the same route. Between Orange, Texas and Port Arthur, Texas as follows: From Orange, Texas over State Hwy. 87 to Port Arthur, Texas and return over the same route. Between Beaumont, Texas and Port Arthur, Texas as follows: From Beaumont, Texas over U.S. Hwy. 69 to Port Arthur, Texas and return over the same route. Between Port Arthur, Texas and Winnie, Texas as follows: From Port Arthur, Texas over State Hwy. 73 to Winnie, Texas and return over the same route. Between Winnie, Texas and Anahauc, Texas as follows: From Winnie, Texas over State Hwy. 65 and F.M. Road 124 to Anahauc, Texas and return over the same route. Between Houston, Texas and Madisonville, Texas, serving all intermediate points as follows: From Houston, Texas over U.S. Hwy. 75 and I.H. 45 to Madisonville, Texas, and return over the same route. Between Houston, Texas and Palestine, Texas, serving all intermediate points including Conroe, New Waverly, Huntsville, Trinity, Groveton, Crockett, Pennington and Lovelady, Texas as follows: From Houston, Texas over U.S. Hwy. 75, I.H. 45 and U.S. Hwy. 287 to Palestine and return over the same routes. Between Corsicana, Texas and Athens, Texas as follows: From Corsicana, Texas over State Hwy. 31 to Athens, Texas and return over the same route. Between Kemp, Texas and Rosser, Texas as follows: From Kemp, Texas via State Hwy. 274 to its intersection with F.M. Road 148 to Scurry, Texas, then from Scurry, Texas via State Hwy. 34 to Rosser, Texas and return over the same route. Between Rosser, Texas and Trinidad, Texas as follows: From Rosser, Texas, via State Hwy. 34, F.M. Road 148 and State Hwy. 274 to its intersection with State Hwy. 31 at Trinidad, Texas and return over the same route. Between Trinidad, Texas and Mabank, Texas as follows: From Trinidad, Texas via State Hwy. 31 to Malakoff, Texas and then via State Hwy. 198 to Mabank, Texas and return over the same route. Between Athens, Texas and Murchison, Texas as follows: From Athens, Texas via State Hwy. 31 to Murchison, Texas, and return over the same route. Between Corsicana, Texas and Purdon, Texas as follows: From Corsicana, Texas via State Hwy. 22 to its intersection with F.M. Road 1839 to Emhouse, Texas, then from Emhouse, Texas via F.M. Road 1126 to Barry, Texas, via State Hwy. 22 to Blooming Grove, Texas, then from Blooming Grove, Texass via F.M. Road 55 to its intersection with State Hwy. 31, then to its intersection with F.M. Road 3194 to Purdon, Texas, then from Purdon, Texas via F.M. Road 3194 and State Hwy. 31 to Corsicana, Texas. Between Mexia, Texas and Shiloh, Texas as follows: From Mexia, Texas via F.M. Road 39 to Shiloh, Texas and return over the same route. Between Palestine, Texas and Tucker, Texas as follows: From Palestine, Texas via State Hwy. 19 to Montalba, Texas, then from Montalba, Texas via F.M. Road 321 to its intersection with F.M. Road 645 at Tennessee Colony, Texas, then F.M. Road 645 to Tucker, Texas, then U.S. Hwy. 79 to Palestine, Texas. Between Palestine, Texas and Neches, Texas as follows: From Palestine, Texas via U.S. Hwy. 79 to Neches, Texas and return over the same route. Between State Hwy. 294 and Slocum, Texas as follows: From State Hwy. 294 from its intersection with U.S. Hwy. 287 to Slocum, Texas and return over the same route. Between Jacksonville, Texas and Mount Selman, Texas as follows: From Jacksonville, Texas via U.S. Hwy. 69 to Mount Selman, Texas and return over the same route. Between Jacksonville, Texas and New Summerfield, Texas as follows: From Jacksonville, Texas via U.S. Hwy. 79 to New Summerfield, Texas and return over the same route. Between F.M. Road 1129 and Roane, Texas as follows: From R.M. Road 1129 from its intersection with State Hwy. 31 to Roane, Texas and return over the same route. Between five miles north of Rusk, Texas to Gallatin, Texas as follows: From an unnumbered road approximately five (5) miles north of Rusk, Texas, on U.S. Hwy. 69 to Dialville, Texas, then from F.M. Road 22 at its intersection with U.S. Hwy. 69 to its intersection with State Hwy. 110 serving the intermediate points of Turney, Texas and Gallatin, Texas, then via State Hwy. 110 and U.S. Hwy. 94 to Rusk, Texas. Between Rusk, Texas and Sacul, Texas as follows: From Rusk, Texas, via U.S. Hwy. 84 and State Hwy. 204 to Reklaw, Texas and Sacul, Texas and return over the same route. Between Nacogdoches, Texas and Appleby, Texas as follows: From Nacogdoches, Texas via U.S. Hwy. 59 to Appleby, Texas and return over the same route. Between Nacogdoches, Texas and Martinsville, Texas as follows: From Nacogdoches, Texas via State Hwy. 7 to Martinsville, Texas and return over the same route. Between Nacogdoches, Texas and Melrose, Texas as follows: From Nacogdoches, Texas via State Hwy. 21 to Melrose, Texas and return over the same route. Between Buffalo, Texas and Jewett, Texas as follows: From Buffalo, Texas via U.S. Hwy. 79 to Jewett, Texas and return over the same route. Between Centerville, Texas and Marquez, Texas as follows: From Centerville, Texas via State Hwy. 7 to Marquez, Texas and return over the same route. Between Crockett, Texas and Kennard, Texas as follows: From Crockett, Texas via State Hwy. 7 to Kennard, Texas and return over the same route. Between Lufkin, Texas and Wells, Texas as follows: From Lufkin, Texas via U.S. Hwy. 69 to Wells, Texas and return over the same route. Between Madisonville, Texas and Normangee, Texas as follows: From Madisonville, Texas, via State Hwy. 21 and F.M. Road 39 to Normangee, Texas and return over the same route. Between Madisonville, Texas and Midway, Texas as follows: From Madisonville, Texas via State Hwy. 21 to Midway, Texas and return over the same route. Between Woodville, Texas and Chester, Texas as follows: From Woodville, Texas via State Hwy. 287 to Chester, Texas and return over the same route. Between Hillister, Texas and Spurger, Texas as follows: From Hillister, Texas via F.M. Road 1013 to Spurger, Texas and return over the same route. Between Silsbee, Texas and Kountze, Texas as follows: From Silsbee, Texas via F.M. Road 418 to Kountze, Texas and return over the same route. Between Silsbee, Texas and Fred, Texas as follows: From Silsbee, Texas via F.M. Road 92 to Fred, Texas and return over the same route. Between Silsbee, Texas and Honey Island, Texas as follows: From Silsbee, Texas via F.M. Road 418 and F.M. 1293 to Honey Island, Texas and return over the same route. Between Spring, Texas and Tomball, Texas as follows: From Spring, Texas via F.M. Road 2920 to Tomball, Texas and return over the same route. Between Liberty, Texas and the intersection with U.S. Hwy. 90 as follows: From Liberty, Texas via State Hwy. 146 to its intersection with F.M. road 162, then to its intersection with F.M. Road 770, then to its intersection with U.S. Hwy. 90. Between Winnie, Texas and Hamshire, Texas as follows: From Winnie, Texas via State Hwy. 73 and State Hwy. 124 to Hamshire, Texas and return over the same route. Between State Hwy. 61 and U.S. Hwy. 90 as follows: From State Hwy. 61 from its intersection with I.H. 10 to its intersection with U.S. Hwy. 90 and return over the same route. Between Galveston, Texas and Port Bolivar, Texas as follows: From Galveston, Texas via I.H. 45 and State Hwy. 87 to Port Bolivar, Texas and return over the same route. Between the intersection of I.H. 45 and Arcadia, Texas as follows: From the intersection of I.H. 45 and State Hwy. 6 to Arcadia, Texas and return over the same route. Between Dallas, Texas and Ennis, Texas as follows: From Dallas, Texas over I.H. 45 to Ennis, Texas and return over the same route. Between Beaumont, Texas and Sour Lake, Texas as follows: From Beaumont, Texas via State Hwy. 105 to Sour Lake, Texas and return over the same route. Between Port Arthur, Texas and Sabine Pass, Texas as follows: From Port Arthur, Texas via State Hwy. 87 to Sabine Pass, Texas and return over the same route. Between Beaumont, Texas and Fannett, Texas as follows: From Beaumont, Texas via State Hwy. 124 to Fannett, Texas and return over the same route. Between State Hwy 22 and Barry, Texas as follows: From State Hwy. 22 from its intersection with F.M. Road 1839 to Barry, Texas and return over the same route. Between Conroe, Texas and Montgomery, Texas as follows: From Conroe, Texas via State Hwy. 105W to Montgomery, Texas and return over the same route. Between Conroe, Texas and Security, Texas as follows: From Conroe, Texas via State Hwy. 150E to Security, Texas and return over the same route. Restriction: restricted to the transportation of shipments having no single article, piece or package weighing in excess of 100 pounds and which have a total weight of 500 pounds or less per shipment. 25 supporting shippers. Applicant intends to interline.

MC 99427 (Sub-5–3TA) filed August 6, 1980. Applicant: ARIZONA TANK LINES, INC., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *PBSY Cotton seed oil and crude cotton seed oil, in bulk,* from Pinal County, AZ to points in CA, and points in CA to Pinal County, AZ. Supporting shipper: Casa Grande Oil Mil, P.O. Box 959, Casa Grande, AZ 85222.

MC 107496 (Sub-27TA) filed August 6, 1980. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. *Lubricating and cutting oils and solvents, in bulk,* from points in MI, OH, IL to South Bend, IN. Supporting shipper: Lubri-Service Corporation, P.O. Box 1283, South Bend, IN 46624.

MC 119493 (Sub-5–35TA) filed August 6, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Building and construction*

materials and materials and supplies

NM, ND, OK, MI, UT and WY.

commodities in bulk and those requiring

Meredith Corp., 5701 S.W. Park Avenue

Materials, Inc., 12222 E. 60th St. South

U.S. Hwy. 77 to its junction with the KS

materials and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk) between Lenexa, Kansas on the one hand, and points in AL, AR, CO, GA, IL, IA, KS, LA, MS, MO, NE, OK, SD, TN, TX, & UT on the other hand. Supporting shipper: Harvey L. Sein, President, Steel Benders, Inc., 15550 W. 108th St., Lenexa, KS 66219.

MC 119493 (Sub-5–36TA) filed August 6, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Household, sporting, and recreational equipment and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk)* between: Celina, OH; Los Angeles, CA; and Ponca City, OK on the one hand and: Points in the U.S. (except AK & HI) on the other hand. Supporting shipper: Huffy Corporation, 3305 N. 14th St., Ponca City, OK 74501.

MC 135797 (Sub-5–60TA) filed August 6, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Building materials,* between Chico, CA and points in and east of ND, SD, CO, NE, KS, OK and TX. Restricted to traffic originating at or destined to the facilities of Sierra Pacific Industries. Supporting shipper: Sierra Pacific Industries, P.O. Box 600, Chico, CA 95927.

MC 146078 (Sub-5–14TA), filed August 4, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Television sets; recorders (tape or wire); household appliances; and parts and accessories utilized in the manufacture and distribution or use of television sets; recorders and household applicances,* from the facilities of General Electric Company in Little Rock, AR, to all points in TX, OK, LA, MS, and NM. Supporting shipper: General Electric Company, 6901 Lindsey Road, Little Rock, AR 72206.

MC 147196 (Sub-5–6TA), filed August 5, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA 70150. Contract; Irregular: *Drilling Mud Treating Compounds and Petroleum Oil Additives (except Commodities in Bulk)* from the facility of Amoco Chemicals Corporation, Houston and Texas City, TX to all points in the states of CO, LA, NM, ND, OK, MI, UT and WY. Supporting shipper: Amoco Chemicals Corporation, 3815 Dacoma Street, Houston, TX 77018.

MC 147196 (Sub-5–7TA), filed August 5, 1980. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA 70150. Contract; Irregular: *Iron and Steel Pipe, Casings, Fittings and Accessories* from the facilities of Davidson Oil Country Supply, Boling, Houston and Liberty, TX to all points in the states of KS, LA, NM, OK, CO, NE and WY. Supporting shipper: Davidson Oil Country Supply, 126 North Point, Suite 146, Houston, TX 77060.

MC 150578 (Sub-5–9TA), filed August 6, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: S. Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Store fixtures, furnishings, and materials, equipment and supplies used in the manufacturing, sale or distribution thereof,* between Kaufman County, (Terrell) TX, and points in the states of OH, PA, NJ, IN, IL, CA, SC, CO, IA, MD, MI, MN, UT, WI, NC, AZ, NM, GA, TN, KY and VA. Supporting shipper(s): Maytax, Inc., P.O. Box 729, Terrell, TX 75160.

MC 150645 (Sub-5–3TA), filed August 6, 1980. Applicant: TILEWAYS, INC., 7834 Hawn Freeway, Dallas, TX 75217. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. Contract; irregular: *Clay glazed tile and materials and supplies used in the installation thereof* from Webb County (Laredo), TX to all points in the U.S. Supporting shipper(s): Elit Corp., P.O. Box 17669, Dallas, TX 75217.

MC 151118 (Sub-5–4TA), filed August 6, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. A. (1) *Household appliances and television sets and (2) equipment, materials and supplies used in the manufacture, sale and distribution of commodities described in (1) above (except commodites in bulk and those requiring special equipment)* between the facilities of General Electric Co. at Louisville and Applicance Park, KY, on the one hand, and, on the other points in AL, AR, GA, MO, MS, and TN. B. (1) *Electric motors and electric equipment and (2) equipment, materials and supplies used in the manufacture, sale and distribution of commodities described in (1) above (except commodities in bulk and those requiring special equipment)* between the facilities of General Electric Co. at Jonesboro, AR, on the one hand, and, on the other points in the U.S. in and east of MN, IA, MO, AR, LA, and TX, and those in CA. Supporting Shipper(s): General Electric Co., 101 Gee Street, Jonesboro, AR 72401; General Electric Co., Building 40248, Appliance Park, Louisville, KY 40225.

Note.—Dual Operations may be involved.

MC 151446 (Sub-5–1TA), filed August 5, 1980. Applicant: CHARLES R. HEYL, d.b.a. C. R. H. Delivery, 2539 Bremerton, St. Louis, MO 63144. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Paper and envelopes,* from St. Louis, MO to points in IL on and south of Interstate Hwy. 80. Supporting shippers: There are seven supporting shippers.

MC 151455 (Sub-5–1TA), filed August 6, 1980. Applicant: T&T TRUCKING INC., 351 Attucks St., St. Louis, MO. 63122. Representative: Charles L. Thornton (same as applicant). Contract; Irregular. *General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in practices of motor common carriers of household goods, 17 M.C.C. 467 and liquids in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,* between Vinita Park, MO. and points in MN, IA, KS, OK, AR, TX, KY, TN, GA, WV, VA, IL, IN, OH, PA, MJ, NY, and WI. Supporting shipper: Champion Envelope Midwest Corp. 1828 Walton Rd. Vinita Park, MO 63114.

MC 145904 (Sub-5–4TA), filed July 11, 1980. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Roger D. Herman, P.O. Box 152, Waterloo, IA 50704. *Such commodities as are dealt in by wholesale and retail grocery stores, (except in bulk),* from the facilities utilized by Hunt-Wesson Foods, Inc., at Shakopee, MN to points in IA, restricted to shipments originating at the named origin and destined to the named state. Supporting shipper: Hunt-Wesson Foods, Inc., P.O. Box 127, Rossford, OH 43460.

MC 200 (Sub-5–39TA), filed August 7, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Magazines, magazine parts, catalogs, catalog parts, and printing paper,* between Polk County, IA and points in AZ, CA, and NV. Supporting shipper: Meredith Printing, div. of Meredith Corp., 5701 S.W. Park Avenue, Des Moines, IA 50321.

MC 531 (Sub-5–9TA), filed August 8, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road (P.O. Box 14048), Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). *Liquid Chemicals, in bulk, in tank vehicles,* from Dighton, MA, to all points in the U.S. (except AK and HI). Supporting shipper: ICI Americas, Inc., Wilmington, DE 19897.

MC 100449 (Sub-5–3TA), filed August 8, 1980. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Data processing materials and supplies* from the facilities of Continental Forms, Inc. at Arlington, TX to points in AL, GA, IA, IL, KS, LA, MO, MN, NE, NM, OK and WI. Supporting shipper: Continental Forms, Inc., Box 1448, Arlington, TX 76010.

MC 113651 (Sub-5–23TA), filed August 8, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Bldg. No. 210B, 7363 Pacific St., Omaha, NE 68114. Common; Irregular. *Meats, meat by-products, and animal feed ingredients,* between points in IN, KY, MI, OH, TN, WI, on shipments moving on the Bill of Ladings of Trans World Meat Corp., Cedar Rapids, IA. Supporting shipper: Trans World Meat Corp., 411 First Ave., SD, Suite 308, Cedar Rapids, IA 52406.

MC 117765 (Sub-5–12TA), filed August 8, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). Common; Irregular. *Non-frozen Foodstuffs, in containers,* from Olivia, MN to AL, AR, CO, KS, KY, LA, MS, MO, NE, NM, OK, TN and TX. Supporting shipper: Owatonna Canning Co., Owatonna, MN 55060.

MC 119493 (Sub-5–37TA), filed August 7, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Building and construction materials and materials and supplies used in the manufacturing and distribution thereof (except commodities in bulk)* between Oklahoma City and Tulsa, OK on the one hand and points in AL, AR, CO, GA, IL, IA, IN KS, KY, LA, MO, MS, NE, NM, TN and TX on the other hand. Supporting shipper: David L. Stacy, General Manager, Cherokee Building Materials, Inc., 12222 E. 60th St. South, Tulsa, OK 74145.

MC 119990 (Sub-5–2TA), filed August 7, 1980. Applicant: MERCHANTS DELIVERY CO., 1212 East 19th Street, Kansas City, MO 64108. Representative: David W. Howard, 601 West 47th Street, Kansas City, MO 64112. *General commodities (except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading)* from Kansas City, MO and its commercial zone to points within the following described area: Points in KS in that area bounded by a line beginning at the intersection of U.S. Hwy 81 and the KS–NE State line; then southerly along U.S. Hwy 81 to junction KS Hwy 61; then along KS Hwy 61 to junction KS Hwy 96; then along KS Hwy 96 to junction Interstate 235; then along Interstate 235 to junction Interstate 35; then along Interstate 35 to the KS–OK State line; then along the KS–OK State line to its junction with U.S. Hwy 77, then along U.S. Hwy 77 to its junction with the KS–NE State line; then along the KS–NE State line to the point of beginning, including points on the described boundary lines and the commercial zones of any such points on the described boundaries and the commercial zones of any points in the described area. No service shall be provided in the transportation of packages or articles weighing separately more than 100 pounds or in the aggregate more than 750 pounds from one consignor at one location to one consignee at one location on any one day. Supporting shipper: Western Electric Company, 1111 Woods Mill Road, Ballwin, MO 63013; Warner Lambert, 1350 Estes Avenue, Elk Grove Village, IL 60007; Amway Corporation, 6141 McDonald Avenue, Des Moines, IA 50313.

MC 119990 (Sub-5–3TA), filed August 7, 1980. Applicant: MERCHANTS DELIVERY CO., 1212 East 19th Street, Kansas City, MO 64108. Representative: David W. Howard, 601 West 47th Street, Kansas City, MO 64112. *General commodities (except Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading)* from Kansas City, MO and its commercial zone to points within the following described area; Points in KS and MO in that area bounded by a line beginning at the intersection of U.S. Hwy 77 and the KS–NE State line; then southerly along U.S. Hwy 77 to its junction with the KS–OK State line; then along the KS–OK State line to its junction with the OK–MO State line; then southerly along the OK–MO State line to the MO–AR State line; then along the MO–AR State line to the junction with U.S. Hwy 63; then northerly along U.S. Hwy 63 to its junction with the IA–MO State line; then along the IA–MO State line to the MO–NE State line; then southerly along the MO–NE State line to its junction with the KS–NE State line; then along the KS–NE State line to the point of beginning, including points on the described boundary lines and the commercial zones of any such points on the described boundaries and the commercial zones of any points in the described area. No service shall be provided in the transportation of packages or articles weighing separately more than 100 pounds or in the aggregate more than 750 pounds from one consignor at one location to one consignee at one location on any one day. Supporting shipper: Western Electric Company, 1111 Woods Mill Road, Ballwin, MO 63013; Warner Lambert, 1350 Estes Avenue, Elk Grove Village, IL 60007; Amway Corporation, 6141 McDonald Avenue, Des Moines, IA 50313.

MC 124813 (Sub-5–16TA), filed August 8, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Posts, poles and treated lumber* from New Brighton, MN, to points in IA, IL, NE, ND, SD, and WI. Supporting shipper: Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, MO 64116.

MC 126930 (Sub-5–3TA), filed August 8, 1980. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Building Materials* between Galveston County, TX, on the one hand; and on the other, points in TX, NM, OK, AR, LA, MS, MO, TN, KY, KS, CO, NE, SD, ND, MN, MI, IA, IL, OH, AL, WI, IN and WY. Supporting shipper: Board of Trustees of the Galveston Wharves, P.O. Box 328, Galveston, TX 77553.

MC 128087 (Sub-5–1TA), filed August 8, 1980. Applicant: JOHN N. JOHN, III, INC., P.O. Box 921, 1000 West Second Street, Crowley, LA 70526. Representative: John N. John, III, P.O. Box 921, 1000 West Second Street, Crowley, LA 70526. *Non-edible flour, in 100 lb. packages,* from Port Allen, LA, to

points in AL, AR, MS, and TX. Supporting shipper: John E. Koerner & Co., Inc., P.O. Box 52054, New Orleans, LA 70152.

MC 128273 (Sub-5–19TA), filed August 8, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Coffee (except commodities in bulk, in tank vehicles)* from the facilities utilized by ACLI International, Inc., (1) at or near New Orleans, LA, to points in the United States (except AK, HI, KY, LA, MN, OH, TN, TX and WI), and (2) at or near Miami, FL, Baltimore, MD, New York, NY, Philadelphia, PA, and/or Laredo, TX, to points in the United States (except AK and HI). Supporting shipper: ACLI International, Inc., 300 Magazine St., New Orleans, LA 70130.

MC 135797 (Sub-5–61TA), filed August 8, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *Canned and preserved foodstuffs*, from Markham, WA; Aberdeen, WA and Portland, OR to the facilities of Heinz USA at or near Tracy, CA and Stockton, CA, and in each case, restricted to traffic originating at the named origins and destined to the named destination points. Supporting shipper: Heinz, USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 136275 (Sub-5–1TA), filed August 8, 1980. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Blvd., El Paso, TX 79922. Representative: Dann L. Drewry, 777 Executive Blvd., El Paso, TX 79922. *Fly-ash, in bulk in pneumatic equipment*, (1) From Amarillo, TX to points in NM and points in El Paso County, TX and (2) From Pueblo, CO to points in NM and points in Ector, El Paso and Midland County, TX. Supporting shippers: Darold R. Tabor, Inc., Pueblo, CO and Panhandle Flyash Inc., El Paso, TX.

MC 141865 (Sub-5–10TA), filed August 8, 1980. Applicant: ACTION DELVIERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract: Irregular. *Paper, printed wrapping paper, paper bags, adhesives and ink* between points in the U.S. Supporting shipper: Dixico Inc., Box 225116, Dallas TX 75265.

MC 142508 (Sub-5–36TA), filed August 8, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Pauss, Post Office Box 37096, Omaha, NE 68137. *Cleaning Compounds, Lubricants, Anti-Static Fabric Softeners, Coffee Filters, Chemical Dispensing Systems, and Spray and Agitation Cleaners (except in bulk in tank vehicles)* from San Jose, CA and Garland, TX to points in the contiguous United States. Supporting shipper: Economics Laboratory, Inc., Osborn Bldg., St. Paul, MN 55102.

MC 143383 (Sub-5–3TA), filed August 8, 1980. Applicant: DALE E. NICHOLSON, P.O. Box 97, Potosi, MO 63664. Representative: Dale E. Nicholson, (same address as applicant). *Lead, zinc and copper concentrates, in bulk*, from the facilities of Ozark Lead Co. at or near Corridon, MO to Glover, MO. Restricted to traffic having a subsequent movement by rail. Supporting shipper: Ozark Lead Company, Sweetwater, MO 63680.

MC 144393 (Sub-5–1TA), filed August 8, 1980. Applicant: BORDER DISTRIBUTING COMPANY, P.O. Box 4423, El Paso, TX 79914. Representative: Mr. Gene Crutcher, P.O. Box 4432, El Paso, TX 79914. (1) *Foodstuffs, Meat By-Products and Cattle Hides, in refrigerated equipment*, from El Paso County, TX, to points in AZ, CA, CO, ID, KS, NV, NM OK, OR, TX, UT, WA and the Commercial Zone of Kansas City, MO and (2) *Wooden Products, other than furniture*, from El Paso County, TX to the Commercial Zones of Phoenix, AZ and Lodi and Los Angeles, CA. Supporting shippers: (7).

MC 144603 (Sub-5–12TA), filed August 8, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *General commodities (except classes A & B explosives, commodities of unusual value, household goods and those requiring use of special equipment)* from Oakland, CA to Memphis, TN, Atlanta, GA, St. Louis, MO, Philadelphia, PA, Chicago, IL, Bayonne, NJ, Cleveland, OH, Houston TX and Dallas TX, as well as their commercial zones. Restricted to traffic tendered to Golden State Cooperative Association. Supporting shipper: Golden State Cooperative Association, 2211 Wood Street, Oakland, CA.

MC 145240 (Sub-5–2TA), filed August 8, 1980. Applicant: L. D. BRINKMAN TRUCKING CORPORATION, 520 N. Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. Contract: irregular: *(1) Household and appliances and parts and accessories for household appliances (2) television sets, recorders (tape or wire); and accessories for television sets and recorders* from the facilities of General Electric in Little Rock, AR to all points in the State of TX. Supporting shipper(s): General Electric Company, 6901 Lindsey Rd., Little Rock, AR 72206.

MC 146504 (Sub-5–3TA), filed August 7, 1980. Applicant: LEO TRUCKING CO., INC., P.O. Drawer F, Poteau, OK 74953. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Cement*, from the facilities of Foreman Cement Co., at or near Foreman, AR, to the facilities of George Ollie's Lumber Co., Inc. at or near Poteau, Panama, Stigler, Spiro, Pocola, and Sallisaw, OK. Supporting shipper: George Ollie's Lumber Co., Inc., 300 Front Street; Poteau, OK 74953.

MC 147492 (Sub-5–1TA), filed August 8, 1980. Applicant: MEL MOTOR EXPRESS, INC., P.O. Box 29058, New Orleans, LA 70189. Representative: James T. Harmon, III, P.O. Box 29058, New Orleans, LA 70189. *Paper, Paper Products, and Materials, Equipment, and Supplies used in their manufacture*, between New Orleans, LA and points in AL, AR, MS, OH, MO, TN, TX, SC, NC, GA, VA, IL, and WI. Restrictions: Restricted to traffic moving in connection with the facilities of or for the account of Lengsfield Brothers, Inc. and restricted against bulk. Supporting shipper: Lengsfield Brothers, Inc., 1101 Tchoupitoulas St., New Orleans, LA 70130.

MC 150496 (Sub-5–8TA), filed August 8, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri, P.O. Box 188, Tontitown, AR 72770. *Such commodities as are dealt in or used by home improvement centers and materials, equipment and supplies*, from points in AL, AR, CA, FL, GA, IL, IN, KY, LA, MS, MN, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WI to the facilities of Arkansas Tile & Terrazzo Co., M & M Tile, Inc. and/or Ozark Floor Company, Inc. in AR, MS, MO and OK. Supporting shippers: Arkansas Tile & Terrazzo Co., Inc., 4711 Grand Ave., Ft. Smith, AR 72904; M & M Tile, Inc., Box 46, Tontitown, AR 72770 and Ozark Floor Company, Inc., 928 N. College Ave., Fayetteville, AR 72701.

MC 150578 (Sub-5–10TA), filed August 8, 1980. Applicant: STEVENS TRANSPORT, A DIVISION OF STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Alcoholic beverages and wines in packages.* Between Dorchester County, SC and points in TX. Supporting shipper(s): Julius Scheps Wholesale Liquor, Inc., 2305 Canton Street, Dallas, TX 75220.

MC 151176 (Sub-5–1TA), filed August 8, 1980. Applicant: EDD EUBANKS TRUCKING CO., P.O. Box 204 (Hwy 25 N), Dexter, MO 63841. Representative: Edd Eubanks, P.O. Box 204 (Hwy 25 N), Dexter, MO 63841. Contract; Irregular. *Automotive air and oil filters, and parts therefor* between Dexter, MO and Missouri Pacific Railroad piggy back ramps in Popular Bluff, MO, and St. Louis, MO, and Memphis, TN, and Illinois Central Gulf Railroad piggy back ramp in Dyersburg, TN. Applicant intends to interline. Supporting shipper: Campbell Filter Company, Box 400, Dexter, MO 63841.

MC 151485 (Sub-5–1TA), filed August 8, 1980 Applicant: DOUBLE–JAY ENTERPRISES, INC., Rt. 1, Box 90, Kearney, Mo. 64060. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *(1) Railway Car parts, mounted wheel sets, with or without bearings*, and *(2) materials and supplies used in the manufacture, repair, distribution, or sale of railway car parts*, between the facilities of North American Car Corporation, at or near Kansas City, KS, on the one hand, and, on the other, all points in the United States (except AK and HI). Supporting shipper: North American Car Corporation, 1101 S. 12th St. Kansas City, KS 66101.

MC 151500 (Sub-5–1TA), filed August 8, 1980. Applicant: CUSACK WHOLESALE MEATS, P.O. Box 25111, Oklahoma City, OK 73125. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. Contract; Irregular. *Meat, meat products, meat by-products, and articles distributed by meat packing houses, as described in Section A & C of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and commodities in bulk)*, from Oklahoma City, OK to points in OK, under a continuing contract or contracts with Rath Packing Co., of Waterloo, IA. Supporting shipper: Rath Packing Co., P.O. Box 6520, Moore, OK 73160.

MC 67234 (Sub-5–5TA), filed July 29, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B.W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. *Gambling Equipment, Gambling Materials and Supplies*, including *Money County Machines*, from Las Vegas, NV to Atlantic City, NJ. Supporting shippers(s): Capco Manufacturing 2960 Westwood Drive, #23, Las Vegas, NV.

MC 108207 (Sub-5–19TA), filed July 30, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Candy and confectionery, in vehicles equipped with mechanical refrigeration*, (1) from Hopkins, MN to points in CO on and east of the Continental Divide, KS, MO, and NE on and east of Hwy 183; and (2) from Norwalk, OH to points in AR, LA, MS, TX, and Memphis, TN, restricted to traffic originating at or destined to the facilities of Fannie Farmer Candy Shops, Inc. Supporting shipper: Fannie Farmer Candy Shop, Inc., 325 Blake Rd. No., Hopkins, MN 55343.

MC 110098 (Sub-5–7TA), filed July 29, 1980. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road, Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). *Frozen foods*, from the facilities of DOB Food Products Company at Santa Ana, CA, to points in OK, AR, KS, and MO. Supporting shipper: DOB Food Products Company, 2500 South Red Hill Avenue, Santa Ana, CA 92705.

MC 119493 (Sub-5–29TA), filed July 30, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Scrap batteries, non-ferrous metals, and materials and supplies used in the manufacture, processing, and distribution thereof (except commodities in bulk).* Between: Omaha, NE; Dallas, TX; and Oklahoma City, OK on the one hand, and: AL, AR, IA, IL, IN, KS, KY, LA, MO, MS, NE, OK, TN, and TX on the other hand. Supporting shipper: John Queen, President, Omaha Battery Breakers, Inc.; 7025 Sarpy Ave., Omaha, NE 68147.

MC 119988 (Sub-5–20TA), filed July 30, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., Post Office Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. (1) *Television sets, radios, stereos, tape recorders, record players, antennas* and *electronic equipment* and (2) *materials, equipment and supplies used in the manufacture and distribution thereof (except commodities in bulk)*, between Henderson County, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: The Mathes Company, One Curtis Mathes Parkway, Athens, TX 75751.

MC 124025 (Sub-5–2TA), filed July 29, 1980. Applicant: GLASS TRUCKING COMPANY, a Corporation, P.O. Box 276 (200 Chestnut Street) Newkirk, OK 74647. Representative: C. L. Phillips, room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Contract, Irregular: *Wheat Flour*, from Wichita, KS to Dallas, TX. Supporting shipper: Cereal Food Processors, Inc., P.O. Box 1913, Wichita, KS 67201.

MC 128273 (Sub-5–18TA), filed July 30, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Such commodities as are used or dealt in by manufacturers or distributors of printed matter* between Topeka, KS, on the one hand, and, on the other, points in the United States (except AK and HI). Restricted to the transportation of traffic originating at or destined to the facilities of Macmillan Publishing Co., Inc., and further restricted against the transportation of commodities in bulk, in tank vehicles, and commodities which, because of size or weight, require the use of special equipment. Supporting shipper: Macmillan Publishing Co., Inc., Front & Brown Sts., Riverside, NJ 08370.

MC 133373 (Sub-5–1TA), filed July 29, 1980. Applicant: BRIGGS TRUCK LINE, A. G. Briggs d.b.a., P.O. Box 274, Sidney, IA 51652. Representative: James F. Crosby, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. Contract; Irregular. *Residual oil, in bulk*, from points in KS, to Richardson County, NE, under continuing contract(s) with Carter-Waters Corporation, of Kansas City, MO. Supporting shipper: Carter-Waters Corporation, 2440 West Penway, P.O. Box 19676, Kansas City, MO 64141.

MC 134755 (Sub-5–7TA), filed July 29, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *Foodstuffs (except commodities in bulk)*, from Sherman, TX to: IL, OK, IN, OH, MN, KS, and NM. From Jacksonville, IL to KS, MO, NE, WI, CO, MN, AL, CT, FL, GA, KY, MA, MD, NC, NJ, NY, OH, PA, and TN. Supporting shippers: Anderson Clayton Foods, P.O. Box 226165, Dallas, TX. Shurfine—Central Corporation, 2100 N. Mannheim Road, Northlake, IL 60164.

MC 138469 (Sub-5–18TA), filed July 29, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Attorney at Law, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Such commodities as are dealt in by wholesale and retail grocery and food business houses (except commodities in bulk)* from the facilities of John Sexton & Co. at Dorsey, MD, Indianapolis, IN, Kansas City, KS and Lyons, IL and points in their respective commercial zones to points in FL, GA,

V 45 A G 1 8 8 0 UMI

IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NC, NJ, NY, OH, PA, TN, TX and VA. Supporting shipper: John Sexton & Co. Division of Beatrice Foods Co., 222 South Riverside Plaza, Chicago, IL 60606.

MC 139843 (Sub-5–1TA), filed July 30, 1980. Applicant: VERNON G. SAWYER, P.O. Drawer B, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203. *Clay, Crude or other than Crude Ground (except in bulk in tank vehicles).* From Ripley, MS to all points in the states of AL, AZ, AR, FL, GA, IL, IN, LA, MO, NM, OK, TN, and TX. Supporting shipper: Oil-Dri Corporation of America, 520 No. Michigan AV, Chicago, IL 60611.

MC 140364 (Sub-5–5TA), filed July 29, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 2785, Amarillo, TX 71905. Representative: R. L. Gordon, Manager Transportation, 111 West Clarendon, Phoenix, AZ 85013. Contract, Irregular: *Such commodities as are dealt in by wholesale, retail and chain store grocery and food business houses (except commodities in bulk) and materials, equipment and supplies in the manufacture, sale and distribution of such commodities,* from Fairfield, Oakland and San Leandro, CA to points in ID, OR, UT, and WA. Restricted to the transportation of traffic originating at the facilities of The Clorox Company and its wholly owned subsidiary, The Kingsford Company. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, CA 94603.

MC 141865 (Sub-5–9TA), filed July 30, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continential Life Building, Fort Worth, TX 76102. Contract; Irregular. *Foodstuffs and items sold in a grocery store,* between points in the United States. Supporting shipper: Monarch Food Service, P.O. Box 1403, Des Moines, IA 50322.

MC 142508 (Sub-5–33TA), filed July 29, 1980. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. *Foodstuffs (except in bulk)* from the facilities of Borden, Inc., at Birmingham, AL; Chester and Rockhill, SC; Pine Point, ME, Starkville, MS; and Wellsboro, PA to points in the contiguous United States. Supporting shipper: Borden, Inc., 180 East Broad, Columbus, OH 43215.

MC 145955 (Sub-5–8TA), filed July 30, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meat and packinghouse products.* Between Omaha, NE, on the one hand, and, on the other, Kansas City, MO and Sioux City, IA and their respective Commercial Zones. Supporting shipper: Greater Omaha Packing Co., Inc., 5100 South 26th Street, Omaha, NE 68107.

MC 146055 (Sub-5–2TA), July 29, 1980. Applicant: JOHN H. SCHUEMAN & DENNY SCHUEMAN, d.b.a. DOUBLE "S" TRUCK LINE, 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Bldg., Suite 210B, 7363 Pacific St., Omaha, NE 68114. *Meats, and packing house products,* from the facilities of Dubuque Packing Company at or near Omaha, NE to points in OH, MI, WI, IA, MO, and KS. Supporting shipper: Dubuque Packing Company, 4003 Dahlman Avenue, Omaha, NE 68107.

MC 146829 (Sub-5–1TA), filed July 29, 1980. Applicant: MURRAY TRUCK LINE, INC., P.O. Box 172, Pleasanton, KS. 66075. Representative: Same as applicant. *Steel Pipe and Tubing* from points and places in TX and OK to facilities at Hill City, Plainville, and Hays, KS.; Trenton and Indianola, NE. This authority will be tacked to authority on insulation and insulation materials. Supporting shipper: Northwestern Pump & Supply, Inc., Plainville, KS.

MC 150088 (Sub-5–5TA), filed July 30, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, Phinney, Hallman, Pulley & Coke, 4555 First National Bank Building, Dallas, TX 75202. *Commodities, equipment, materials, and supplies dealt in or used by retail, variety or department stores* from the warehouse and storage facilities utilized by Target Stores Division of Dayton Hudson in Dallas and Fort Worth and points in their commercial zones, to the Target Stores in Austin and Lubbock, TX. [Restricted to the transportation of traffic owned by Target Stores Division of Dayton Hudson and destined to the Target Stores in Austin and Lubbock, TX, and having an immediate prior move by rail or motor common carrier in interstate commerce.] Supporting shipper: Target Stores Division of Dayton Hudson, 7120 Highway 65, Fridley, MN 55432.

MC 150949 (Sub-5–2TA), filed July 29, 1980. Applicant: N.F.I., INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Plastic products and materials* between Malvern, AR on the one hand, and, on the other, all points in the State of TX. Supporting shipper: Western Foam Pak, Inc., a California Corporation, P.O. Box 668.854 Moline, Malvern, AR 72104.

MC 150949 (Sub-5–3TA), filed July 30, 1980. Applicant: N.F.I., INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Thomas F. Sedberry, Lanham, Hatchell, Sedberry & Hoffman, P.O. Box 2165, Austin, TX 78768. *Plastic Containers and Equipment, Materials, and Supplies Used in the Manufacture and Distribution Thereof,* from Houston, TX, to Lawton, OK, Ada, OK, Shawnee, OK; Clovis, NM, Albuquerque, NM, Santa Fe, NM, and Las Cruces, NM. Supporting shipper: Continental Plastic Beverage Bottles—Member of the Continental Group, Inc., 4 Landmark Square, Suite 130, Stamford, CT 06901.

MC 151281 (Sub-5–1TA), filed July 30, 1980. Applicant: DESTINATIONS UNLIMITED, 507 Frenchman Street, New Orleans, LA 70116. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. *Passengers and their baggage in charter service* from New Orleans, Baton Rouge and Lafayette, La. to all points in TX, LA, MS, AL, AR, GA, FL, and TN. Supporting shippers: All American Travel Consultants, Inc., 600 Carondelet, N, New Orleans, LA 70130. St. Petersburg Motor Club AAA, 1211 First Avenue, North, New Orleans, LA. Intre Rep, LTD. 300 Canal St. New Orleans, LA 70140.

MC 151289 (Sub-5–1TA), filed July 29, 1980. Applicant: MINK DELIVERY SERVICE, d.b.a. CITY CARTAGE CO., 1441 No. 11th Street, Omaha, NE 68102. Representative: James F. Crosby, James F. Crosby & Associates, Oak Park Office Building, Suite 210B, 7363 Pacific St., Omaha, NE 68114. *Hazardous waste materials, and reclaimed products,* between points in IN, WI, IL, NM, IA, MO, ND, SD, NE, KS, OK, TX, WY, CO, NM, UT, AZ, and NV. Supporting shippers: E.P.R., Inc., P.O. Box 201, Boys Town, NE 68010; and Environmental Services, Inc., 1521 No. 11th Street, Omaha, NE 68110.

MC 151387 (Sub-5–1TA), filed July 29, 1980. Applicant: VERNON PITTMAN VAN LINES, 9625 Grandview Road, Kansas City, MO 64137. Representative: Vernon Pittman (same address as above). *Household goods,* between points and places in MO, KS, CO, OK, TX, NE, IA, IL, AR, MS, TN, WI, LA, MN, ND, SD, KY, AL, NM, and IN. Supporting shipper: Vernon Pittman Van Lines, 9625 Grandview Road, Kansas City, MO 64137.

MC 151129 (Sub-5–3TA) (Republication), filed June 23, 1980. Applicant: BRONC ENTERPRISES, INC., 14315 West Hardy, Houston, TX 77088. Representative: C. W. Ferebee, 720 N. Post Oak, Suite 230, Houston, TX 77024. *Pipe, Pipe Fittings and Accessories* between the storage facilities of Davidson Oil Country Supply Company, Inc. located within the Commercial zones of Houston and Crowley, TX, Tulsa, and the Port of Catoosa, OK on the one hand and LA, AR, TX, MS, KS, NM, and OK on the other hand. Supporting shipper: Davidson Oil Country Supply Company, Inc., 126 North Point, Suite 122, Houston, TX 77060.

MC 151279 (Sub-5–1TA) (Republication), filed July 15, 1980. Applicant: SAM H. CURNUTT d.b.a., INTER-CITY COURIER, 906 South 12th Street, Longview, TX 75602. Representative: Fred S. Berry, Practitioner, P.O. Box 2147, Longview, TX 75606. *Machinery parts, Earth-moving equipment parts, electric motors and power transmission equipment, and packaged chemicals and lubricants.* Between Panola, Harrison, Camp, Titus, Hopkins, Freestone and Gregg County, TX on the one hand and on the other, Denver, CO, Pittsburg, KS, Kansas City, MO, Peoria, IL, Indianapolis, IN, Memphis, TN and Alexandria, Lafayette, Baton Rouge, New Orleans and Shreveport, LA. Between Ashdown, AR on the one hand and on the other Shreveport, Baton Rouge and New Orleans, LA, Houston, Lufkin, Dallas, Fort Worth, Longview and Wichita Falls, TX. Supporting shipper: Nekoosa Paper Company, Highway 71 South, Ashdown, AR 71822; Darr Equipment Company, FM 1845, Longview, TX 75601; and Continental Can Company, 901 Fisher Road, Longview, TX 75601.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 6. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION, REGION 6 MOTOR CARRIER BOARD, P.O. BOX 7413, SAN FRANCISCO, CA 94120.

MC 151475 (Sub-6–1TA), filed August 6, 1980. Applicant: ARROW CHARTER LINES, INC., Post Office Box 880, Huntington Park, CA 90255. Representative: James H. Lyons, 523 West 6th Street, Suite 1216, Los Angeles, CA 90014. *Passengers and their baggage, in the same vehicle with passengers, in round-trip charter and special operations,* from points in Los Angeles and Orange Counties, CA, to points in AZ, CO, NV, and UT, for 180 days. Supporting shipper: There are 11 supporting shippers. Their statements may be viewed at the Regional Office listed.

MC 125057 (Sub-6–1TA), filed August 1, 1980. Applicant: ANTELOPE VALLEY BUS, INC., 44706 North Yucca Avenue, Lancaster, CA 93534. Representative: James H. Lyons, 523 West 6th Street, Suite 1216, Los Angeles, CA 90014. *Passengers and their baggage, in the same vehicle with passengers, in round-trip charter and special operations,* From points in Ventura and San Bernardino Counties and Los Angeles County, CA, excepting therefrom that portion of Los Angeles County which is described as follows: Bounded on the west and south by the following line: Beginning at the intersection of the northern boundary of Los Angeles County and the Los Angeles Aqueduct; then south along the Los Angeles Aqueduct to the junction of Elizabeth Lake-Pine Canyon Road, located at Lake Hughes, then along Elizabeth Lake-Pine Canyon Road to Palmdale, then east from Palmdale over Avenue Q and Palmdale Boulevard to the junction of California Highway 138 located near Palmdale, then east along California Highway 138 to the junction of the eastern boundary of Los Angeles County located at or near Pinon Hills; bounded on the east by the eastern boundary of Los Angeles County; and bounded on the north by the northern boundary of said County (being that portion of Los Angeles County granted in MC 125057) to points in the States of AZ, CA, CO, ID, MT, NV, NM, OR, SD, UT, WA and WY. For 180 days. Supporting shipper(s): There are 12 supporting shippers. Their statements may be viewed at the regional office listed.

MC 9269 (Sub-6–1TA), filed August 7, 1980. Applicant: BEST WAY MOTOR FREIGHT, INC., 1765 Sixth Ave. South Seattle, WA 98134. Representative: William J. Dahl (same as applicant). *Common Carrier,* regular route: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between Grand Coulee and Mount Tolman Project, WA; from Grand Coulee over WA State Hwy. 155 to junction Manilla Creek Road, then over Manilla Creek Road to Mount Tolman Project, WA, and return over the same route, for 270 days. Applicant proposes to tack the authority sought herein with its regular route at Grand Coulee, WA. Supporting shipper: AMAX INC., Mount Tolman Project, P.O. Box 680, Grand Coulee, WA 99133.

MC 150054 (Sub-6–3TA), filed August 5, 1980. Applicant: J. W. CROWLEY, d.b.a., J. W. CROWLEY & SONS, P.O. Box 533, Dove Creek, CO 81324. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717—17th Street, Denver, CO 80202. *Non-alcoholic beverages and materials, equipment and supplies used in the manufacture, production, distribution of non-alcoholic beverages (except commodities in bulk, in tank vehicles),* from points in AZ, CA, CO, NM, TX and UT to the facilities of Durango Coca-Cola Bottling Company at Durango, CO and Farmington, NM, for 270 days. Supporting shipper: Durango Coca-Cola Bottling Company, 7th & Camino Del Rio, Durango, CO 81301.

MC 138468 (Sub-6–1TA), filed July 31, 1980. Applicant: BI-COUNTY TRUCKING, INC., Rt 1, Box 210, Warden, WA 98857. Representative: Flower & Andreotti, 303 East "D" St., Suite 2, Yakima, WA 98901. *Cement,* from Benton, Franklin and Clark Counties, WA to Gilliam, Morrow and Umatilla Counties, OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: E. R. Feggert, Inc., d.b.a. San Roc Concrete Products, 1285 S. Broadway, Othello, WA 90244.

MC 113678 (Sub-6–7TA), filed Autust 4, 1980. Applicant: CURTIS, INC., CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *General commodities* (except household goods and classes A & B explosives and commodities in bulk) when moving on freight forwarder bills of lading under Part IV of the Interstate Commerce Act, (1) from the facilities of Inter State Express, Inc., located in the New York, NY, and Los Angeles, CA, commercial zones, to points in the United States (except AK and HI) and (2) from the facilities of Inter State Express, Inc., located in the Chicago, IL, commercial zone to points in AZ, CA, CO, ID, MA, MT, NV, NJ, NM, NY, OR, PA, TX, UT, WA, and WY for 270 days. Supporting shipper: Inter State Express, Inc, 120 Apollo St., Brooklyn, NY.

MC 113678 (Sub-6–18TA), filed August 6, 1980. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022 Representative: Roger M. Shaner (same as above). *General commodities* (except household goods and classes A and B explosives) from Western Shippers Association at Hoboken, NJ; and Philadelphia, PA, to Los Angeles & San Francisco, CA; Denver, CO; Jacksonville, Miami, Orlando, and Tampa, FL; Sparks, NV; Portland, OR; Salt Lake City, UT, Seattle, WA, and points in Texas for 270

days. Supporting shipper: Western Shippers Association, 2000 So. 71st Street, Philadelphia, Pennsylvania.

MC 142450 (Sub-6–1TA), filed August 4, 1980. Applicant: DE ANZA DELIVERY SYSTEM, INC., P.O Box 1119, San Jose, CA 95106. Representative James H. Gulseth, Loughran & Hegarty, 100 Bush Street—21st Floor, San Francisco, CA 94104. *Contract carrier.* Irregular routes: *Apparel* between Beno's distribution center in Los Angles, CA on the one hand, and, on the other, Payless Drug Stores in Reno and Stateline, NV for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Beno's, 1515 Santee Street, Los Angeles, CA 90015.

MC 151443 (Sub-6–1TA), filed August 4, 1980. Applicant: EDWARD E. SCHULTZ, d.b.a. ECS TRUCKING, 13471 Mickey Street, Garden Grove, CA 92644. Representative: Edward E. Schultz (same as applicant). *Contract carrier,* Irregular Routes: *Petroleum Products in Packages and empty containers,* between points in the State of CA and points in the States of AZ, CO, NM, NV, OR, TX, UT and WA, for the account of Union Oil Co. of CA, for 270 days. Supporting shipper: Union Oil Co. of CA., P.O. Box 7600, 911 Wilshire Blvd., Los Angeles, CA 90051.

MC 118038 (Sub-6–1TA), filed August 7, 1980. Applicant: EASLEY HAULING SERVICE, INC., P.O. Box 10, Yakima, Washington 98907. Representative Flower & Andreotti, P.S., 303 East "D" Street, Suite 2, Yakima, Washington 98901. *Empty containers and container parts,* between Portland, OR, and Seattle, WA, for 270 days. Supporting shipper: Container Corporation of America, 2800 De La Cruz Blvd., Santa Clara, CA 95050.

MC 151454 (Sub-6–1TA), filed August 4, 1980. Applicant: TOURVISION INC. FIRE MT. TOUR, 3125 N.E. 69th Ave., Portland, Oregon 97213. Representative Gregory R. Matthews (Same address as above). *Passengers and day luggage,* between Portland, OR and points in Cowlitz, Clark and Skamania Counties, WA for 180 days. Supporting shippers: Portland Hilton Hotel, 921 S.W. 6th Ave, Portland, Benson Hotel, 309 S.W. Broadway, Portland, Oregon, 97204; Executive Travel, Ten Southwest Jefferson, Portland, Oregon 97258.

MC 126420 (Sub-6–1TA), filed August 5, 1980. Applicant: FOSS L & T CO., 660 W. Ewing Street, Seattle, Washington 98119. Representative: Donald W. Hearn, 660 W. Ewing Street, Seattle, Washington 98119. *General commodities* (except Class A and B explosives) between points in the commercial zone of Unalaska, AK, restricted to traffic having a prior or subsequent movement by water, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Foss Alaska Line, Inc., Terminal 115, Seattle, WA 98106.

MC 151452 (Sub-6–1TA), filed August 4, 1980. Applicant: HAWK TRANSPORTATION CO., 324 Union St., Oakland, CA 94607. Representative: John W. Elfving, 439 Marin Drive, Burlingame, CA 94010. *General commodities* (Except those of unusual value, Class A & B explosives, household goods, and those requiring special equipment) between the counties of San Diego, Riverside, Los Angeles, Orange, San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Marin, Sonoma, Sacramento, Yolo, Placer, and El Dorado, CA on the one hand, and on the other the counties of Douglas and Washoe, NV from the California border at Stateline, NV to the junctions of Highways 19 and 28, including all points on Highway 28 from the junction to the California border, for 270 days. Supporting shipper(s): There are 8 supporting shippers. Their statements may be examined at the regional office listed.

MC 107227 (Sub-6–1TA), filed August 5, 1980. Applicant: INSURED TRANSPORTERS, INC., 100 Industrial Way, Benicia, CA 94510. Representative: John G. Lyons, 220 Bush Street, Suite 1418, San Francisco, CA 94104. *New automobiles and trucks,* having a prior movement by water, in secondary movements, in truckaway service, from Benicia, CA to points in CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Toyota Motor Sales, Inc., 2055 West 190th Street, Torrance, CA 90509.

MC 149256 (Sub-6–2TA), filed August 6, 1980. Applicant: KEN-WAY TRUCKING, INC., 110 Brannan Street, San Francisco, CA 94107. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of ABC Trans National Transport, Inc. and Acme Fast Freight, Inc., freight forwarders as defined in Section 10102(8) of the Interstate Commerce Act, between points in CA, on the one hand, and points in AZ, NV, OR and WA, on the other hand, for 270 days. Supporting shipper: Acme Fast Freight, Inc., and ABC Trans National Transport, 2110 Alhambra, Los Angeles, CA 90031.

MC 151442 (Sub-6–1TA), filed August 4, 1980. Applicant: LYNNCO LINES, INC., 2302 East Del Amo Blvd., Compton, California 90220. Representative: Jim Van Hosen (same as applicant). (1) *Rubber and Plastic Articles* to be transported between points in Los Angeles and Orange Counties, CA and Boulder, CO and Alburquerque, NM (2) *Machinery and Supplies* to be transported between points in Los Angeles and Orange Counties, CA and the following cities: Chicago, IL, Dallas, TX, Edison, NY, New York, NY, Houston, TX, Miami, FL, Atlanta, GA, Portland, OR, Seattle, WA for 270 days. Supporting shipper(s): There are 8 supporting shippers. Their statements may be examined at the regional office listed.

MC 142686 (Sub-6–13TA), filed August 6, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Sante Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular routes: *Plastic and Paper Articles,* between Redwood City, CA, on the one hand, and, on the other, points in OR and WA, for 270 days. Supporting shipper: Bay Packaging & Converting Co., Inc., 2798 Bay Road, Redwood City, CA 94063.

MC 142686 (Sub-6–14TA), filed August 6, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Sante Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular routes: *Painted Galvanized Steel* from Cucamonga, CA to Midlothian, TX for 270 days. Supporting shipper: Elixir Industries, 17929 S. Broadway, Gardena, CA 90248.

MC 142686 (Sub-6–15TA), filed August 6, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Sante Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular routes: *General Commodities (with usual exceptions) (except in bulk),* Between the facilities of Elixir Industries, plants and facilities at points in the United States on the one hand, and, on the other, points in the United States, for 270 days. Supporting shipper: Elixir Industries, 17925 S. Broadway, Gardena, CA 90248.

MC 44605 (Sub-6–4TA), filed August 5, 1980. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, Utah 84104. Representative: Edward J. Hegarty, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Plastic houseware articles,* from the facilities of Tucker Housewares in Kingman, AZ to Seattle, Tukwila, Tacoma, Spokane, Puyallup, Renton, Bellingham, Federal Way, Bellevue and Everett, WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Tucker Housewares, 4625 Interstate Way West, Kingman, AZ 86401.

MC151472 (Sub-6–2TA), filed August 5, 1980. Applicant: PBI FREIGHT SERVICE, 960 North 1200 West, Orem, UT 84057. Representative: Rick J. Hall, Post Office Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *General commodities* (except livestock, articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment), between points in UT, CA, NV and CO, for the account of Mountain America Shipper's Association, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mountain America Skipper's Association, 48 Post Office Place, Suite 200, Salt Lake City UT 84101.

MC 151441 (Sub-6–1TA), filed August 4, 1980. Applicant: SHAKER MOUNTAIN TRANSPORT, INC., 2550 Purvis Drive, Burbank, CA 91504. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract Carrier,* Irregular routes: *Cheese, butter, and edible salt; chemicals used in processing dairy commodities; and, dairy packaging supplies,* between Bell, CA on the one hand and points in WA, OR, ID, WY, MT, NV, AZ, UT, NM, CO, SD, NE, IA, KS, MO, OK, AR, TX, LA, WI, MN, IL, IN, OH, PA, NY and NJ, on the other hand, for the account of Masson Cheese Corporation, for 270 days. Supporting shipper: Masson Cheese Corporation, 6218 Maywood, Bell, CA 90201.

MC 151471 (Sub-6–1TA), filed August 6, 1980. Applicant: STEINBECKER BROS., INC., P.O. Box 852, Greeley, CO 80632. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Meat and meat products* from points in MO, IA, NE, KS and CO and the facilities of MBPXL Corporation at or near Plainview, TX to the facilities of Denver Meat Co., Inc. at or near San Jose, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Denver Meat Co., Inc., 1400 Parkmoor Avenue, P.O. Box 5310, San Jose, CA 95150 (408) 295–6504.

MC 148737 (Sub-6–4TA), filed August 4, 1980. Applicant: SUNSET EXPRESS CORP., P.O. Box 27153, Salt Lake City, UT 84125. Representative: Carl I. Sundeaus (same as applicant). (1) *Refractories and drilling mud* (except commodities in bulk), from Salt Lake City, UT to the states in and west of AR, IA, LA, MN and MO, and (2) *commodities used in the manufacturing of (1) above* in the reverse direction, for 270 days. Supporting shipper: Rocky Mountain Refractories, Inc., 2436 West Andrew Ave., Salt Lake City, UT 84104.

MC 147528 (Sub-6–3TA), filed August 4, 1980. Applicant: T.A.S. TRUCKING, INC., 2652 Springwood Dr., Meridian, ID 83642. Representative: Dan L. Poole, Elam, Burke, Evans, Boyd and Koontz, P.O. Box 1559, Boise, ID 83701. *Contract Carrier,* irregular routes: *Wood stoves, equipment, materials and supplies used in the manufacture, installation and distribution thereof,* from Longmont, Co. to Boise and Pocatello, ID, for 270 days. Supporting shipper: Terry Kirby, d.b.a. Craft Stoves of Idaho, 5242 Chinden Blvd., Boise, ID 83704.

MC 145999 (Sub-6–3TA), filed August 7, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: James C. Waddell (same address as applicant). (1) *Dolomite, Clay, Talc, Silica, (in bags) and Drywall Joint Treatment and Texture Compounds,* from Newark and Vallejo, CA to points in UT; and (2) *Joint Treatment and Texture Compounds,* from Clearfield, UT to Vallejo, CA, for 270 days. Supporting shipper: Aftex Company, Inc., 507 Green Island Rd. Vallejo, CA 94590.

MC 141804 (Sub-6–69TA), filed August 4, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (address same as applicant). *Foodstuffs and equipment, materials and supplies used in the manufacture, sale and distribution of bakery products,* between all points in the U.S. (except AK & HI). Restricted to traffic originating at or destined to the facilities of Campbell Taggart and its subsidiaries, for 270 days. Supporting shipper: Ray McCreary, Manager, Traffic and Transportation, Campbell Taggart, Inc., P.O. Box 222640, Dallas, TX 75222.

MC 117786 (Sub-6–19TA), filed August 4, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Frozen prepared foods,* from the facilities of or used by Van de Kamp Frozen Foods (a Division of General Host Corp.) in Los Angeles County, CA to points in AZ and NM, for 270 days. Supporting shipper: Van de Kamp Frozen Foods (a Division of General Host Corp.), 13100 Arctic Circle Drive, Santa Fe Springs, CA 90670.

MC 110689 (Sub-6–1TA), filed July 31, 1980. Applicant: AIRWAY TRUCKING CO., 4239 Newton Road, Stockton, CA 95204. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Refractory products such as are used in kiln operations, and equipment, materials and supplies used for manufacturers, sales and distribution or refractory products,* between Monterey County, CA, on the one hand, and, on the other, Gila, Greelee and Pinal Counties, AZ, for 270 days. Supporting shipper: Kaiser Aluminum and Chemical Corporation, 300 Lakeside Drive, Oakland, CA 94643.

MC 148158 (Sub-6–7TA), filed July 31, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW, Washington, DC 20036. *General Commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between the facilities of Nu-Way Shippers Association, Inc., located at or near Chicago, IL., on the one hand, and, on the other, Atlanta, GA, Baltimore, MD, and Salt Lake City, UT, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Nu-Way Shippers Association, Inc., 1440 W. 34th Street, Chicago, IL, 60608.

MC 148158 (Sub-6–8TA), filed July 31, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW, Washington, DC 20036. *General Commodities* (except household goods as defined by the Commission, and Classes A and B explosives), between the facilities of Piggy Back Shippers Association of Florida, Inc., at or near Miami, FL, on the one hand, and, on the other, Albuquerque, NM, Atlanta, GA, Baltimore, MD, Chicago, IL, Cincinnati, OH, Dallas, TX, Kansas City, MO, New York, NY, Jersey City, NJ, Philadelphia, PA, Pocatello, ID, Salt Lake City, UT, and Los Angeles, CA, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Piggy Back Shippers Association of Florida, Inc. 1240 S.E. Tenth Court, Hileah, FL, 33010.

MC 136208 (Sub-6–11TA), filed August 1, 1980. Applicant: CREAGER TRUCKING CO., INC., P.O. Box 308, Yreka, CA. Representative: Donald L. Smith (same address as applicant). *Hollow concrete poles or standards,*

from Everett, WA to CA, restricted to shipments originating at the facilities of Centracon, Inc. for 270 days. Supporting shipper: Centracon, Inc., 1130 Norton Ave., Everett, WA, 98201.

MC 118318 (Sub-6–1TA), filed July 31, 1980. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 63701. *Commodities dealt in by grocery and food business houses,* from points in CA, to points in Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah and Weber Counties, UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Purex Corp., 9300 Rayo Ave., South Gate, CA 90280; Hershey Chocolate Company, 1400 So. Yosemite Ave., Oakdale, CA 95361.

MC 151428 (Sub-6–1TA), filed August 1, 1980. Applicant: J & H TRUCKING, INC., 12425 Telephone, Chino, CA 91710. Representative: Miles L. Kavaller, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Contract carrier,* irregular routes: *Chemicals,* except in bulk from Savannah, GA, Hattiesburg, MS, Severin, NC, Gibbstown and Springfield, NJ, Akron, OH, and Franklin, VA to the facilities of Harwick Chemical Company in Emeryville and Pico Rivera, CA, for 270 days. Supporting shipper: Harwick Chemical Company, 7225 Paramount Boulevard, Pico Rivera, CA 90660.

MC 133037 (Sub-6–3TA), filed August 1, 1980. Applicant: MILE-HI EXPRESS, INC., 1335 East 40th Street, Denver, CO 80205. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs* from Denver, CO and points in its commercial zone to points in San Juan County, NM for 270 days. An underlying ETA seeks 120 days of operating authority. Supporting shipper: Twelve shippers support the application. Their statements may be examined at the Regional Office listed.

MC 139483 (Sub-6–1TA), filed August 1, 1980. Applicant: ALLEN MITCHEK, P.O. Box 512, Sterling, CO 80751. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Corn germ, corn gluten feed and corn gluten meal,* from the facilities of The Great Western Sugar Co., at or near Johnstown, CO, to points in AZ, KS, NE, NM, OK, TX and UT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Great Western Sugar Co., P.O. Box 5308, Denver, CO 80217.

MC 117304 (Sub-6–1TA), filed July 31, 1980. Applicant: DON PAFFILE, d.b.a. PAFFILE TRUCK LINES, 5735 N & S Highway, Lewiston, ID 83501. Representative: Michale J. O'Neill, 1801 'D' Street, Suite 9, Vancouver, WA 98663. *Such commodities as are dealt in by wholesale, retail and chain, food, grocery and hardware business houses,* (1) between points in the states of CA, NV, UT, AZ, (2) between points in the states of CA, NV, UT, AZ, on the one hand, and, on the other, points in the states of OR, WA, ID, and MT for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper(s): There are 10 supporting shippers. Their statements may be examined at the Regional office listed.

MC 151429 (Sub-6–1TA), filed August 1, 1980. Applicant: REMPEL-TRAIL TRANSPORTATION LTD., P.O. Box 5300, Vancouver, BC, Canada, V6B 4B6. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Muriatic acid,* in bulk, in tank vehicles, restricted to shipments in foreign commerce only, from points on the U.S.–Canada international boundary line in MT and ND to points in Dawson, Glacier, Hill, Mussel Shell, and Richland Counties, MT and Williams County, ND for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Saskatoon Chemicals Division of Prince Albert Pulp Co., P.O. Box 1566, Saskatoon, Sask, Canada. S7K 3R3.

MC 59856 (Sub-6–5TA), filed July 31, 1980. Applicant: SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, WY 82601. Representative: John R. Davidson, Room 805 First Bank Building, Billings, MT 59101. *General commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of their size or weight require the use of special equipment, (1) Between Minneapolis and St. Paul, MN and Billings, MT, from Minneapolis and St. Paul over Interstate Hwy 94 to Billings, and return over the same route, serving no intermediate points. (2) Between Minneapolis and St. Paul, MN and Casper, WY from Minneapolis and St. Paul, over Interstate Hwys 35 E and 35 W to their junction with Interstate Hwy 90, then over Interstate Hwy 90 to its junction with WY Hwy 59 at or near Gillette, WY, then over WY Hwy 50 to its junction with WY Hwy 387, then over WY Hwy 387 to its junction with combined Interstate Hwy 25 and U.S. Hwy 87, then over combined Interstate Hwy 25 and U.S. Hwy 87 to Casper, and return over the same routes, serving the intermediate points of Rapid City, SD and Gillette, WY, for 270 days. An underlying ETA seeks 120 days authority. Applicant requests tacking and interline privileges. There are 105 shippers. Their statements may be examined at the Regional office listed.

MC 139380 (Sub-6–1TA), filed August 1, 1980. Applicant: STIDHAM TRUCKING, INC., P.O. Box 308, Yreka, CA 96097. Representative: Donald L. Smith (same address as applicant). *Building & construction materials,* from CA to Jackson and Josephine counties, OR, for 270 days. Supporting shipper(s): Commercial Engineering Corp., 2714 Jacksonville Highway, Medford, OR, 97501; Lumber Products, 753 S. Grape St., Medford, OR, 97501; G. H. Foster, Inc. 2194 Sage Rd., Medford, OR, 97501; Western Roofing Equipment, 1050 Knutson, Medford, OR, 97501.

MC 151412 (Sub-6–1TA), filed July 31, 1980. Applicant: GARY E. STANLEY, NANCY F. HINCKEY and JUANITA A. VARNER, a partnership d.b.a. TALENT ANSWERING & PURCHASING SERVICE, 251 Valley View Road, Talent, OR 97540. Representative: Gary E. Stanley (same address as applicant). (1) *Building materials; cleaning products and washing compounds,* excluding all *flammable liquids;* and *fertilizer* and *planting materials* between points in WA, OR, CA, NV, and AZ for 270 days. Supporting shippers: There are 14 shippers. Their statements may be examined at the Regional Office listed.

MC 151322 (Sub-6–1TA), filed July 31, 1980. Applicant: TAN ENTERPRISES, INC., 182 Gault Way, Sparks, NV 89431. Representative: Bart Tabor (same address as applicant). *Contract carrier,* irregular routes: *steel, rolls of steel wire, gabions, gabions with plastic covering,* from Reno, Nevada to all points in the 48 continental United States, for the account of Terra Aqua Conservation, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Terra Aqua Conservation Co., 4930 Energy Way, Reno, Nevada 89502.

MC 140313 (Sub-6–1TA), filed July 31, 1980. Applicant: VIKING INTERNATIONAL, INC., 1434 S.W. 137th, Seattle, WA 98166. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *General commodities, except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value, and commodities which because of their size and weight require the use of special equipment,* restricted to traffic having a prior or subsequent movement by water from the facilities of the Ports of Seattle and Tacoma, Washington in the Seattle and Tacoma commercial zones to points in OR, WA, CA, MT, ID, NV, UT, AZ, WY, CO, ND, SD, NB, KS, MN, IA, MO, WI, MI, IL, KY, TN, IN, OH, WV, NY, PA, MA, CT, MD, DC, VA and GA, for 270 days. Supporting shipper: Puget Sound Traffic Association, P.O. Box 68927, Riverton Heights Branch, Seattle, WA 98188.

MC 146075 (Sub-6–1TA), filed July 30, 1980. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Place, Wheat Ridge, CO 80214. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *Paint and related commodities* between Houston, TX, and the states of LA and AR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 143775 (Sub-6–23TA), filed July 31, 1980. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *General commodities* (except Classes A & B explosives, commodities in bulk, commodities requiring the use of special equipment, household goods as defined by the Commission and commodities of unusual value), from points in Broome and Chemung Counties, NY, and Lackawanna, Lehigh, Luzerne, Northampton and Wayne counties, PA, to points in AR, LA, and OK, restricted to the transportation of traffic originating at the facilities of or used by Northeastern Pennsylvania Shippers Cooperative Association, for 270 days. Supporting shipper: Donald E. Ubaldini, Northeastern Pennsylvania Shippers Cooperative Association, Inc., Nelson Building, West 8th Street, West Wyoming, PA 18644.

MC 143775 (Sub-6–25TA), filed August 1, 1980. Applicant: PAUL YATES, INC., P.O. Box 1059, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). (1) *Expanded plastics and foam* (except liquid in bulk) and (2) *materials and supplies* used in the manufacture, sale and distribution thereof from Coldwater, MI, and its commercial zone, to points in AL, CA, FL, GA, NC, SC and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Edward Wallack, Voltek Incorporated, 2812 SE Loop 820, Ft. Worth, TX 76140.

MC 144908 (Sub-6–3TA), filed July 31, 1980. Applicant: ZENITH TRANSPORT, LTD., 2381 Rogers Avenue, Coquitlam, B.C., Canada V3K 5Y2. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier:* irregular routes: *Folded paper cartons,* from ports of entry on the International Boundary line in Whatcom County, WA, to points in OR and CA, for 270 days. Supporting shipper: Belkin Packaging Ltd., P.O. Box 8930, Vancouver, B.C. V6B 4P5.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24863 Filed 8-15-80; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

(1) Date: September 2, 1980.
Time: 9:15 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Fellowships for Independent Study and Research in Sociology, Psychology, and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(2) Date: September 2 and 3, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted to the General Research Program for American Studies projects, Division of Research Programs, for projects beginning after December 1, 1980.

(3) Date: September 3, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Political Science and other Area Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(4) Date: September 5, 1980.
Time: 9:15 a.m. to 5:30 p.m.
Room: 911.
Program: This meeting will review applications for Fellowships for Independent Study and Research, Panel 2A in English Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(5) Date: September 5, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in English and American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(6) Date: September 6, 1980.
Time: 9:15 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for Fellowships for Independent Study and Research in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(7) Date: September 8, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in German, Slavic and Classics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(8) Date: September 8 and 9, 1980.
Time: 9:00 a.m. to 5:00 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Program Development and Special Projects, Division of Special Programs, for projects beginning after April 1, 1981.

(9) Date: September 9, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in American and European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(10) Date: September 10, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Comparative Literature and Drama, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(11) Date: September 11 and 12, 1980.
Time: 9:00 a.m. to 5:00 p.m.
Room: 1023.
Program: This meeting will review applications submitted for Program Development and Special Projects, Division of Special Programs, for projects beginning after April 1, 1981.

(12) Date: September 13, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Philosophy and Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(13) Date: September 15, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

(14) Date: September 15 and 16, 1980.
Time: 9:00 a.m. to 5:00 p.m.
Room: 911.
Program: This meeting will review applications submitted for Program Development and Special Projects, Division of Special Programs, for projects beginning after April 1, 1981.

(15) Date: September 15 and 16, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023–1025.
Program: This meeting will review applications submitted for Higher Education/Regional and National grants, Division of Education, for projects beginning after January 1, 1981.
(16) Date: September 17, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Music, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.
(17) Date: September 19, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Religion and Science, Technology, and Human Values, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.
(18) Date: September 22, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Romance Languages, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.
(19) Date: September 24, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in American Studies and Films, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.
(20) Date: September 22, 1980.
Time: 7:00 p.m. to 9:00 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Programs, Division of Public Programs, for projects beginning after January 1, 1981.
(21) Date: September 23, 1980.
Time: 8:30 a.m. to 6:00 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Programs, Division of Public Programs, for projects beginning after January 1, 1981.
(22) Date: September 24, 1980.
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after January 1, 1981.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 80-24950 Filed 8-15-80; 8:45 am]
BILLING CODE 7536-01-M

Humanities Panel: Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506.

(1) Date: September 5, 1980.
Time: 9:15 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Fellowships for Independent Study and Research in Spanish, Latin American, Far Eastern, and Near Eastern Languages and Literature submitted to the Division of Followships and Seminars, for projects beginning after January 1, 1981.
(2) Date: September 8, 1980.
Time: 11:00 a.m. to 6:00 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after January 1, 1981.
(3) Date: September 15 and 16, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted to the General Research Program for Basic Research Interdisciplinary Study projects, Division of Research Programs, for projects beginning after December 1, 1981.
(4) Date: September 9, 1980.
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after January 1, 1981.
(5) Date: September 10, 1980.
Time: 8:30 a.m. to 2:00 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after January 1, 1980.
(6) Date: September 16, 1980.
Time: 7:00 p.m. to 9:00 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after January 1, 1981.
(7) Date: September 17, 1980.
Time: 8:30 a.m. to 6:30 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Programs, Division of Public Programs, for projects beginning after January 1, 1980.
(8) Date: September 17, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.
(9) Date: September 18, 1980.
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023.
Program: This meeting will review applications submitted for the Media Humanities Projects Program, Division of Public Programs, for projects beginning after January 1, 1981.
(10) Date: September 18, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.
(11) Date: September 19, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.
(12) Date: September 22, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 911.
Program: This meeting will review applications submitted by state humanities committee, Division of State Programs, for activity beginning after January 1, 1981.
(13) Date: September 23, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.
(14) Date: September 22, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 807.
Program:-This meeting will review applications submitted for Implementation Grants/Individual Institutions, Division of Education Programs, for projects beginning after January 1, 1981.
(15) Date: September 23, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications submitted for Implementation Grants/Individual Institutions, Division of Education Programs, for projects beginning after January 1, 1981.
(16) Date: September 24, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications submitted for Implementation Grants/Individual Institutions, Division of Education Programs, for projects beginning after January 1, 1981.
(17) Date: September 24, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.
(18) Date: September 24, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 911.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Anthropology and Sociology, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.
(19) Date: September 25, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of Public Programs, for projects beginning after January 1, 1981.
(20) Date: September 25, 1980.
Time: 9:30 a.m. to 5:30 p.m.
Room: 807.
Program: This meeting will review applications for NEH Fellowships, Summer Seminars in Composition and Rhetoric, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

The proposed meetings are for the purose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted my by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9) (B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. MCleary,
Advisory Committee Management Officer.

[FR Doc. 80-24951 Filed 8-15-80; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 84, and 81 to Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55, respectively, issued to Duke Power Company (the licensee), which revised the Station's common Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina.

These amendments were authorized July 16, 1980. They revise the Technical Specifications for Unit No. 2 by extending on an emergency temporary basis the allowable period of inoperability of the "2B" High Pressure Injection Pump by 48 hours. The urgency associated with this action was due to a power shortage in the Oconee service area.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 16, 1980, (2) the Commission's letter to the licensee dated July 17, 1980, (3) Amendments Nos. 84, and 81 to Licenses Nos. DPR–38, DPR—47 and DPR—55, respectively, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhall, South Carolina. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of August 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,
Chief Operating Reactors Branch No. 4 Division of Licensing.

[FR Doc. 80-24967 Filed 8-15-80; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–338]

Virginia Electric and Power Co., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. NPF–4 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 1 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment makes changes to the license as well as the appended Technical Specifications. These changes reflect completion of a required license condition, resolution of generic safety issues and changes requested by the licensee. One license condition is deleted as being satisfied. This relates to the verification of technical specification trip setpoint values for the reactor protection system and the engineered safety features actuation system. The amendment also revises the facility Technical Specifications with respect to the definition for Operability of safety systems, emergency core cooling surveillance requirements, auxiliary feedwater surveillance requirements, addition and deletion of hydraulic snubbers and administrative changes.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action see (1) Virginia Electric and Power Company letters dated September 28, October 13, and December 12, 1978, December 28, 1979, February 25, March 31, May 16, June 2, and July 3, 1980; (2) Amendment No. 19 to Facility Operating License No. NPF–4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

A copy of these items may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 5th day of August, 1980.

For The Nuclear Regulatory Commission.

Robert A. Clark,

Chief Operating Reactors Branch No. 3 Division of Licensing.

[FR Doc. 80-24966 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Structural Engineering; Meeting

The ACRS Subcommittee on Structural Engineering will hold a meeting on September 2, 1980 in room 1046, 1717 H St., NW, Washington, DC to establish the maximum internal pressure the Sequoyah containment can withstand.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, September 2, 1980

8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio G. Igne (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 13, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-24983 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following application(s) for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., N.W., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this day August 12, 1980.

At Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Joseph D. Lafleur,

Acting Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms: Total element	Material in kilograms: Total isotope	End-use	Country of destination
Honeywell Defense System, 07/29/80, 08/06/80, XU08504	Depleted uranium	555,800		Melt, recast and reclaim scrap rod ends and pieces at Eldorado Nuclear.	Canada.

[FR Doc. 80-24985 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–250]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR–31 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of the Turkey Point Plant Unit No. 3 (the facility) located in Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment permits continued operation of the Turkey Point Plant Unit No. 3 for eight and one half equivalent months of operation from January 24, 1980 at which time the steam generators shall be inspected.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 30, 1980, (2) Amendment No. 59 to License No. DPR–31, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 30th day of July, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-24952 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–315]

Indiana & Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR–58, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment (1) revises the surveillance and monitoring requirements for the degraded voltage function, (2) revises the surveillance requirements for onsite power source testing and (3) administratively adds surveillance and monitoring requirements for the motor driven and turbine driven auxiliary feedwater pumps which had been previously inadvertently omitted.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 22 and May 28, 1980, (2) Amendment No. 39 to License No. DPR–58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July, 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 80-24970 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–142–OL (Proposed Renewal of Facility License)]

Regents of the University of California (UCLA Argonaut-Type Research Reactor); Order Rescheduling the Prehearing Conference

August 11, 1980.

On July 21, 1980, this Board issued an Order scheduling a prehearing conference on September 18, 1980. The order also set interim filing dates for the Petitioners, Bridge the Gap, the Applicant, the Regents, and the NRC Staff for filings prior to the prehearing conference.

On August 4, 1980, the Petitioners requested that all dates be extended one week because of the unavailability of key people for the Petitioners on September 18, 1980. The request for additional time recited that the Applicant had no objection to the delay. There was no service on or mention of the NRC Staff. This oversight must be corrected with future filings. The Board ascertained that the Staff had no objection. For good cause stated, the request is granted.

second deviation would require

A prehearing conference will be held in Courtroom No. 324, U.S. Courthouse, 312 No. Spring Street, Los Angeles, California at 9:30 a.m. (local time) on *September 25, 1980.* If Bridge the Gap desires to supplement its' petition, this must be served by August 25, 1980, the response by the Regents must be served by September 9, 1980, and the response by the NRC Staff must be served by September 17, 1980. The participants will be given a further opportunity to explain their positions at the prehearing conference.

The public is invited to attend. No limited appearance statements will be permitted at this conference.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Md. this 11th day of August 1980.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-24088 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-299]

Union Carbide Corp.; Availability of Final Environmental Impact Statement for Gas Hills Uranium Mill in Natrona County, Wyo.

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, a final environmental impact statement has been prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the renewal of Union Carbide Corporation's Source Material License SUA-648. The mill is located in Natrona County, Wyoming. The final environmental impact statement is available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC. The FEIS is also being made available at the State Planning Coordinator, Office of the Governor, 2320 Capitol Avenue, Cheyenne, Wyoming, and to the Fremont County Public Library, 451 North Second, Lander, Wyoming.

The final environmental impact statement is on the proposed renewal of Source Material License SUA-648 (with amendments) issued to Union Carbide Corporation (UCC) for the operation of the Gas Hills Uranium Mill, Docket No. 40-299. The Gas Hills Uranium Mill is an acid-leach, ion-exchange and solvent-extraction uranium-ore processing mill with a design capacity of 500,000 tons (454,000 MT) of ore per year.

The notice of availability of the Draft Environmental Statement (DES) for the Gas Hill Uranium Mill and request for comments from interested persons was published in the **Federal Register** on January 19, 1979 (44 FR 4056). The comments received from the Federal, State, and local agencies and interested members of the public and the NRC staff's responses to these comments have been included as an appendix to the FEIS.

Copies of NUREG-0702 are available to the public for purchase at current rates from NRC to those with deposit accounts with the Superintendent of Documents, U.S. Government Printing Office (see 44 FR 46005, August 1979). To place orders call (301) 492-7333, or write: ATTN: Publications Sales Manager, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 7th day of August, 1980.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 80-24071 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-2-6]

Eckert, Seamans, Cherin & Mellott; Notice of Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is hereby denying a petition for rulemaking (PRM-2-6) submitted by Eckert, Seamans, Cherin & Mellott. The petitioner had requested the Commission to amend its regulations to prescribe time periods for the completion of licensing review by the Commission's regulatory staff and Atomic Safety and Licensing Boards.

FOR FURTHER INFORMATION CONTACT: Bruce A. Berson, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492-7676.

SUPPLEMENTARY INFORMATION: The petition for rulemaking (PRM-2-6) submitted by Eckert, Seamans, Cherin & Mellott, 600 Grant Street, Pittsburgh, Pennsylvania, by letter dated December 29, 1978, requested the Commission to amend its regulation, "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2 to prescribe time periods for completion of licensing review by the Commission's regulatory staff and Atomic Safety and Licensing Boards.

The petitioner stated that:

The timely completion of Commission licensing proceedings is in large measure dependent on (1) the duration of application review by the Regulatory Staff under the immediate direction and control of the Director of Nuclear Reactor Regulation, and (2) the duration of the hearing process controlled by the Atomic Safety and Licensing Boards. The Commission's existing Rules of Practice are silent with regard to the responsibilities of the Regulatory Staff in this regard and only prescribe some time limits for the Atomic Safety and Licensing Boards. In recent years there has been an increasing tendency by the Regulatory Staff to miss, without apparent justification, scheduling commitments, and other evidence of Staff difficulty in properly managing its review function so as to bring it to a conclusion within a reasonable length of time. It is believed that such unnecessary delay on the part of the Regulatory Staff can be attributed in part to the lack of any regulations prescribing time periods for application review. It is therefore submitted that regulations of the type proposed which would prescribe time limitations for Regulatory Staff application review, limitations which could be modified for good cause shown, are needed to insure that the Staff pays more than mere lip service to the Commission's mandate for timely decision making.

The petitioner proposed that a Subpart J—Duration of Commission Review—be added to 10 CFR Part 2 in order to insure the making of both sound and timely licensing decisions by the regulatory staff. Two amendments to existing sections of Part 2 also were proposed by the petitioner with the view of insuring timely completion of the Atomic Safety and Licensing Board hearing process. The text of the proposed Subpart J and the amendments of §§ 2.751a(a) and 2.760 were set out in the petition.

Specifically, petitioner's proposed Subpart J would require the staff to establish an estimated schedule for completion of its safety and environmental reviews within 30 days after an application is docketed. The schedule would have to call for publication of the staff's safety evaluation report and draft environmental statement within 12 months of docketing. The first deviation from the schedule would require the staff to demonstrate good cause in a petition to the Director of Nuclear Reactor Regulation who could authorize an extension of up to 3 months. A second deviation would require Commission approval after a staff showing of good cause; and, upon a showing of extraordinary circumstances, the Commission could grant a third extension. The applicant and any party to the licensing proceeding could file written responses to the staff petitions. The final environmental statement would be published within 60 days after the close of the public comment period specified in the draft environmental statement. Changes from that date would be made in accordance with the procedure outlined above.

The petitioner also proposed amendments to 10 CFR 2.751a and 2.760. These amendments would require an Atomic Safety and Licensing Board to commence hearings within 60 days after publication of the relevant staff documents and render an initial decision within 60 days after the parties' proposed findings of fact and responses thereto were filed. The Commission could grant an extension for issuance of the initial decision upon a showing of good cause by the presiding officer.

A notice of filing of the petition and request for comments by April 6, 1979 was published in the **Federal Register** on February 5, 1979 (44 FR 6994). Four letters of public comment were received. One commenter opposes the petition without providing reasons. A letter from a committee on nuclear technology and law of a state bar association generally supports the petition but maintains that the proposed amendments requiring an Atomic Safety and Licensing Board to schedule hearings and render a decision within specific time periods might be overly specific and inappropriately reduce the Commission's flexibility. Two letters from electric utility companies, citing the cost of unnecessary delays, favor the proposed rule change. The petition and comments are available for public inspection and copying at the NRC Public Document Room at 1717 H Street, N.W., Washington, D.C.

The Commission has carefully considered the petitioner's proposals that time limits be prescribed for (1) completion of environmental and radiological health and safety reviews by the Commission's Regulatory Staff in licensing proceedings and (2) commencement of the hearing and issuance of an initial decision by an Atomic Safety and Licensing Board following the adjudicatory hearing. For the reasons set forth below, the Commisison has determined that the proposals, if adopted, would unduly restrict the necessary discretion of its staff and licensing boards. Therefore, the petition is denied.

The Commission has long recognized that the staff's expertise is central to, and an inherent part of, the execution of the agency's mission. In the context of operating license and construction permit proceedings, the staff subjects the utility's license application to independent radiological health and safety and environmental reviews. The staff's safety and environmental analyses are published in separate reports which are made a part of the record, along with the views of the intervening parties and the license applicant. All of these views are considered by an Atomic Safety and Licensing Board during the adjudicatory hearing it conducts. The Atomic Safety and Licensing Board then renders a decision which can be appealed to the Atomic Safety and Licensing Appeal Board, and, in the Commission's discretion, to the Commission itself. A final agency decision may be appealed to a United States Court of Appeals.

The Commission is responsible for and concerned with efficiency in the Commission's licensing process, and believes that unnecessary or inappropriate delays should be avoided whenever possible. However, of overriding importance is the Commission's statutory responsibility to ensure that the issuance of a license to an applicant will not be inimical to the health and safety of the public and will satisfy the requirements of applicable environmental laws.

The published reports, the product of the staff's environmental and radiological health and safety reviews, are vital to the adjudicatory process and the regulatory scheme. The timing of the publication of these necessary documents will, to a large extent, depend upon the adequacy and completeness of the information the staff possesses at a given time (information usually supplied by the license applicant) and the time required by the staff to analyze that information.[1] Hence schedule changes are often justified.[2]

[1] The Commission notes that its staff strives to issue its safety evaluation report and draft and final environmental statements within 20, 8 and 14 months, respectively, after an application for a construction permit is docketed. The goal is similar in operating license proceedings.

[2] The Commission's proposed amendments to its regulations implementing the National Environmental Policy Act of 1969 provide that its staff will establish a time schedule for any part of its NEPA review process upon request of an applicant and will inform the applicant in writing of the reason for any delay. See proposed 10 CFR 51.15 (45 FR 13739, March 3, 1980).

The Commission believes that as a matter of sound management policy its staff should retain discretion to make reasonable adjustments in its review schedule to account for changed or unforeseen circumstances. Within the past year, the necessity to consider the lessons learned from the accident at Three Mile Island has demonstrated the need for flexibility. Requiring formal Commission or Office Director approval for any schedule change (in the manner suggested by the petitioner) would unnecessarily burden the review process. The Commission has undoubted authority to rectify unreasonable staff delays and a mechanism already exists to promptly bring such cases to the Commission's attention. (See the decision of the Atomic Safety and Licensing Appeal Board in *Offshore Power Systems* (Floating Nuclear Power Plants), ALAB-489, 8 NRC 194 (1978).)

The Commission also believes that the petitioner's proposal to require an Atomic Safety and Licensing Board to commence required hearings and render an initial decision within a time certain unduly restricts the discretion of the Licensing Boards. The Commission recognizes that many proceedings raise novel or especially difficult questions concerning radiological health and safety or the environment. Although the Commission expects its Licensing Boards to render decisions with reasonable expedition, it is not in the public interest to place in jeopardy the quality of these decisions with an undue emphasis on speed. Possible schedule conflicts could also result from the imposition of fixed time schedules. Moreover, the Commission believes that sound management principles should not require presiding officers of Atomic Safety and Licensing Boards to routinely seek Commission approval of time extensions for rendering decisions.

In view of the foregoing, the Commission denies the petition for rulemaking filed by Eckert, Seamans, Cherin & Mellott on December 29, 1978. A copy of the Commission's letter of denial is available for public inspection and copying at the NRC public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Washington, D.C., this 13th day of August, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-25048 Filed 8-15-80; 8:45 am]

BILLING CODE 7590-01-M

DOE/NRC-741 and 741A	Jefferson B. Hill, 395-7340	SSA-0585

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

August 13, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Richard J. Schrimper, 447–6201)

New Forms

Farmer's Home Administration
7 CFR 1944–E, Rural Rental Housing Loan Policies Procedures and Authorizations
FMHA 1944–33, 34, 35, 444–7, 444–27
On Occasion
Private Profit and Non-Profit Organizations, 92,400 Responses; 179,224 Hours
Charles A. Ellett, 395–7340

Farmer's Home Administration
Request for Guarantee—Economic Emergency Loans
FMHA, 2980–25
On Occasion
Lenders in Rural Areas, 5,000 Responses; 7,500 Hours
Charles A. Ellett, 395–7340

Farmer's Home Administration
7 CFR 1944–L, Farmer's Home Administration—Tenant Grievance and Appeals Procedure
On Occasion
Private Profit and Non-Profit Organizations, 10,232 Responses; 554 Hours
Charles A. Ellett, 395–7340

Revisions

Economics, Statistics, and Cooperatives Service
Dry Bean Stocks—New York
Other (See SF–83)
Dry Bean Growers and Dealers, 800 Responses; 133 Hours
Office of Federal Statistical Policy and Standard, 673–7974

Farmer's Home Administration
7 CFR 1930–C, Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients
FMHA 444–29, 1930–8, 7, 8
On Occasion
Private Profit and Non-Profit Organizations, 154,310 Responses; 614,923 Hours
Charles A. Ellett, 395–7340

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michals, 377–3627)

New Forms

National Oceanic and Atmospheric Administration
Marine Recreational Fishing: National Socioeconomic Survey
Single Time
Marine Recreational Fishers, 46,875 Responses; 4,650 Hours
William T. Adams, 395–4814

DEPARTMENT OF DEFENSE

(Agency Clearance Officer—John V. Wenderoth, 697–1195)

Revisions

Departmental and Other
DOD Centralized Applicant Supply System Application Form
DD–2210
On Occasion
Job Applicants, 27,000 Responses; 27,000 Hours
Kenneth B. Allen, 395–3785

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Diane W. Lique, 633–8526)

New Forms

Nuclear Material Transaction Report and Continuation Page [1]

[1] These requests for clearance may be acted upon before the normal 10-day public comment period is up. These forms would be used to collect nuclear materials transaction, balances, and inventory data. The data is necessary for reporting requirements under the U.S./IAEA Agreement and Treaty recently ratified by the Senate and now awaiting the President's signature.

DOE/NRC–741 and 741A
On Occasion
DOE Contractor Handling Nuclear Materials, 20,243 Responses; 25,304 Hours
Jefferson B. Hill, 395–7340
Material Balance Report [1]
DOE/NRC–742
On Occasion
DOE Contractors Handling Nuclear Materials, 2,013 Responses; 3,080 Hours
Jefferson B. Hill, 395–7340
Physical Inventory Listing [1]
DOE/NRC–742C
On Occasion
DOE Contractors Handling Nuclear Materials, 700 Responses; 931 Hours
Jefferson B. Hill, 395–7340
Concise Note [1]
DOE/NRC–740M
On Occasion
oe Contractors Handling Nuclear Materials, 3,000 Responses; 1,500 Hours
Jefferson B. Hill, 395–7340
ADP Transcription Sheet (Internal Project Transfers) [1]
DP–749
On Occasion
DOE Contractors Handling Nuclear Materials, 3,500 Responses; 2,520 Hours
Jefferson B. Hill, 395–7340
Material Activity Schedule [1]
DP–742B
On Occasion
DOE Contractors Handling Nuclear Materials, 23 Responses; 8 Hours
Jefferson B. Hill, 395–7340
Nuclear Material Transfer Receipt [1]
DOE–284
DOE Contractors Handling Nuclear Materials, 1,800 Responses; 396 Hours
Jefferson B. Hill, 395–7340
ADP Transcription Sheet for Inventory Data [1]
DP–733
On Occasion
DOE Contractors Handling Nuclear Materials, 1,050 Responses; 1,344 Hours
Jefferson B. Hill, 395–7340
ADP Transcription Sheet for Inventory Data [1]
DP–733A
On Occasion
DOE Contractors Handling Nuclear Materials, 700 Responses; 931 Hours
Jefferson B. Hill, 395–7340
ADP Transcription Sheet for Concise Notes [1]
DP–734
On Occasion
DOE Contractors Handling Nuclear Materials, 4,400 Responses; 1,100 Hours
Jefferson B. Hill, 395–7340
ADP Transcription Sheet MBR for [1] Data
DP–735
On Occasion
DOE Contractors Handling Nuclear Materials, 600 Responses; 198 Hours
Jefferson B. Hill, 395–7340
ADP Transcription and Continuation Sheets (Nuclear Material Transaction Journal) [1]
DP–740, DP–740A
On Occasion
DOE Contractors Handling Nuclear Materials, 53,813 Responses; 13,996 Hours
Jefferson B. Hill, 395–7340
State Emergency—Action Communications [1]
EIA–197
On Occasion
State Energy Offices, 1 Response; 1 Hour
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Agency Clearance Officer—Joseph J. Strnad, 245–7488)

Revisions

Health Resources Administration
Survey Instrument for Health Planning Performance Evaluation Program
On Occasion
Health Systems Agencies Staff, 40 Responses; 120 Hours
Eisinger, Richard, 395–6880

Reinstatements

Alcohol, Drug Abuse and Mental Health Administration
State Alcoholism Profile Information System
ADAMAAA–0804
Annually
State Alcoholism Authorities, 57 Responses; 570 Hours
Eisinger, Richard, 395–6880
Social Security Administration
Policy Review of State Mental Institution (Social Security)
Representative Payee Program
SSA–9584
On Occasion
Any State Institution Which Serves as Payee for Benefits, 183 Responses; 31 Hours
Barbara F. Young, 395–6880
Social Security Administration
Medical Report—General
SSA–3826
On Occasion
Physicians Who Have Treated or Treat. Appl. for Disabil. Benefits, 750,000 Responses; 375,000 Hours
Barbara F. Young, 395–6880
Social Security Administration
Review of State Mental Institution Representative Payee Program (Social Security) Beneficiary Report
SSA–9585
Other (See SF–83)
Any State Mental Institution Which Serves as Payee for Benefits, 4,000 Responses; 667 Hours
Barbara F. Young, 395–6880

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Agency Clearance Officer—Robert G. Masarsky, 755–5184)

New Forms

Policy Development and Research
Interviewer Quality Evaluation and Control Annual Housing Survey SMSA
AHS–590
Single Time
Households in SMSA's, 6,000 Responses; 1,000 Hours
Office of Federal Statistical Policy and Standard, 673–7974

Extensions

Administration (Office of Assistant Secretary)
Title I Monthly Statement Reconcilement of Insurance Charges
HUD–646
Monthly
HUD Approved Title I Financial Institution, 84,000 Responses; 42,000 Hours
Richard Sheppard, 395–6880

DEPARTMENT OF JUSTICE

(Agency Clearance Officer—Donald E. Larue, 633–3526)

New Forms

Law Enforcement Assistance Administration
Criminal Defense Trainer Needs Assessment and Training Resource Inventory
LEAA (Series 3350)
Single Time
Criminal Defense Trainers, 160 Responses; 80 Hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF LABOR

(Agency Clearance Officer—Paul E. Larson, 523–6341)

New Forms

Employment and Training Administration
Request for State Projections of Future Loan Need
ETA–RC36
Single Time
Sesas, 53 Responses; 80 Hours
Arnold Strasser, 395–6880

Extensions

Employment Standards Administration

Certification of Funeral Director's Burial
Single Time

Seating is extremely limited and will

Providing an opportunity for

each calendar year, the Executive

Issued in Washington, D.C. on August 4,

Certification of Funeral Director's Burial Expenses
LS–265
On Occasion
Funeral Directors, 225 Responses; 56 Hours
Arnold Strasser, 395–6880

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—Bruce H. Allen, 426–1887)

New Forms

Federal Aviation Administration
Application for Airport Solicitation Permit
FAA–1600
On Occasion
Charitable, Religious, and Political Solicitation—National Airport and Dulles Airport, 2,738 Responses; 274 Hours
Hayward, Corinne D., 395–7340
Federal Aviation Administration
Community Noise Survey
NASA Langley ANRD–NEB–1
Single Time
Households Near Denver and St. Louis Airports, 512 Responses; 1,024 Hours
Office of Federal Statistical Policy and Standard, 673–7974

Revisions

Federal Highway Administration
Program Procedural Speed Monitoring Manual (Annual and Quarterly Reporting Requirements)
Annually
State Highway Agencies, 260 Responses; 5,200 Hours
Hayward, Corinne D., 395–7340

ACTION

(Agency Clearance Officer—James B. Lancaster, 254–3172)

New Forms

Youth Employment Support Attitude and Process Evaluation
Single Time
Yes Staff, Youth Participants, Volunteers, 1,775 Responses; 1,443 Hours
Arnold Strasser, 395–6880

ENVIRONMENTAL PROTECTION AGENCY

(Agency Clearance Officer—Mr. Mel Kollander, 287–0747)

New Forms

Pilot Study of Household Pesticide Usage Survey
Single Time
Representative Hoseholds in 3 Pilot States, 600 Responses; 450 Hours
Office of Federal Statistical Policy and Standard, 673–7974
Water Supply Cost Study
Single Time
Drinking Water Utilities, 40 Responses; 320 Hours
Edward H. Clarke, 395–7340

GENERAL SERVICES ADMINISTRATION

(Agency Clearance Officer—John F. Gilmore, 566–1164)

New Forms

Appraisal of Fair Annual Parking Per Space for SLUC
Annually
Contract Appraisers, 1,000 Responses; 4,000 Hours
Kenneth B. Allen, 395–3785

UNITED STATES INTERNATIONAL TRADE COMMISSION

(Agency Clearance Officer—Charles Ervin, 523–0267)

New Forms

Producers' Quarterly Survey—Color TV's and Certain Subassemblies Thereof
Quarterly
U.S. Producers of Color Television Receivers, 56 Responses; 1,120 Hours
Office of Federal Statistical Policy and Standard, 673–7974

VETERANS ADMINISTRATION

(Agency Clearance Officer—R. C. Whitt, 389–2146)

Reinstatements

Service Connected Priority Program
Single Time
Vets. in an Outpatient Clinic, 8,100 Responses; 1,350 Hours
Laverne V. Collins, 395–6880

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–25059 Filed 8–15–80; 8:45 am]
BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties; Meeting

August 12, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of Panel II (The American Economy) of the President's Commission for a National Agenda for the Eighties. The meeting is scheduled for August 25, 1980, from 9:00 a.m. until 4:30 p.m., with a break for lunch. The location of the meeting is 767 Fifth Avenue, New York, New York, in the Public Relations Conference Room.

The purpose of the meeting is to discuss the staff's draft of the panel report.

Seating is extremely limited and will be assigned on a first-come basis. Please call (202) 275–0616 to reserve space.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Pl. NW., Washington, D.C. 20006, (202) 275–0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80–24868 Filed 8–15–80; 8:45 am]
BILLING CODE 3110–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[Commandant Instruction 5420.12E]

Chemical Transportation Advisory Committee

July 30, 1980.

Ref: (a) Federal Advisory Committee Act, Pub. L. 92–463

1. *Purpose.*—This Instruction promulgates the charter for the Chemical Transportation Advisory Committee as required by reference (a).

2. *Directives Affected.*—Commandant Instruction 5420.12D is cancelled.

3. *Objectives.*—The objectives and mission of the Committee are to provide advice and consultation to the Marine Safety Council with respect to the water transportation system for hazardous materials.

4. *Duration.*—Continuing.

5. *Membership.*—The Committee is composed of not more than 40 regular members. An alternate member may be appointed to act in the absence of any specifically designated committee member. Members and alternates are appointed by the Commandant, subject to the approval of the Secretary of Transportation. A committee member shall serve for a term of three (3) years or until a replacement has been appointed by the Commandant. The terms of the members are staggered, with approximately one-third of the terms expiring each year. Not more than 50% of the members with expiring terms may be reappointed. Nonparticipation of any member in the activities of this committee is sufficient reason for the appointment of a replacement member by the Commandant after approval by the Secretary of Transportation.

6. *Committee Officers:*

a. The *Chairman* is appointed by the Commandant. The Committee submits nominations for the chairman to the Commandant at least every three years. The duties of the chairman include:

Providing an opportunity for participation by each member and by public attendees, ensuring adherence to the agenda, maintaining order, conducting each meeting in general accordance with Roberts' Rules of Order, and preparation of any recommendations submitted to the Coast Guard.

b. *Sponsor.*—The Chairman, Marine Safety Council designates a Sponsor for the Committee from the Council membership. The Committee reports to the Sponsor.

c. *Executive Director.*—The Committee has an Executive Director designated by the sponsor to manage Committee affairs. He works with the Chairman, and in his absence, performs his duties.

d. *Executive Secretary.*—The Executive Secretary, Marine Safety Council is the Executive Secretary of the Committee. He maintains Committee records required by current directives on committee management and provides such staff as is necessary.

7. *Meetings.*—The committee meets approximately once each year. Special meetings may be called as necessary. Notice of each meeting is published in the **Federal Register**. All meetings are open to the public, who are permitted to appear before, or file statements with the Committee. The sponsor approves the calling of all meetings and approves all agenda. The sponsor or a designated federal official must be present at each committee meeting. This official has the authority and duty to adjourn the meeting whenever he deems such action to be in the public interest.

8. *Cost.*—Operating expenses are borne by the Committee Sponsor. The annual costs are approximately $5000 and 1 man year. All members serve without compensation (either trvel or per diem) from the Federal Government.

9. *Availability of Records.*—Subject to section 552 of Title 5, United States Code, the records, reports, minutes, agenda, and other documents made available to the Committee are available for public inspection and copying in the offices of the Executive Secretary, Marine Safety Council, Room 2418, 2100 Second Street, S.W., Washington, DC. 20593.

10. *Reports.*—The Executive Director furnishes detailed minutes of each meeting to the Sponsor. The minutes contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued or approved by the Committee. The Chairman and Executive Director certify to the accuracy of the minutes. At the end of each calendar year, the Executive Director prepares a report summarizing all activities, including any pertinent background material. This report is furnished the sponsor and filed with the Library of Congress.

11. *Subcommittee.*—The Chairman may establish subcommittees from among the membership of the Committee, with the approval of the Sponsor. The subcommittee must comply with all regulations applicable to the parent committee.

12. *Filing Date.*—July 30, 1980. This charter expires 30 June 1982.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 80–25061 Filed 8–15–80; 8:45 am]
BILLING CODE 4910–14–M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 139—Airborne Equipment Standards for Microwave Landing System (MLS); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 139 on Airborne Equipment Standards for Microwave Landing System (MLS) to be held on September 3–5, 1980 in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting Held on May 13–15, 1980; (3) Briefing on Impact of the International Civil Aviation Organization (ICAO), All Weather Operations Panel's Eight Meeting; (4) Committee Review of Work Assignments from Previous Meetings; (5) Committee Review of the Third Draft of Minimum Operational Performance Standards for MLS, Sections 3.0 and 4.0; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 4, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80–24844 Filed 8–15–80; 8:45 am]
BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 133—Airborne Weather and Ground Mapping Pulsed Radar Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radar Equipment to be held on September 16–18, 1980 in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Twelfth Meeting Held on July 29–31, 1980; (3) Review Comments Received on Draft Minimum Operational Performance Standards for Airborne Weather and Ground Mapping Pulsed Radar Equipment; (4) Review Draft Minimum Operational Performance Standards for Digital Displays; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 8, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80–24845 Filed 8–15–80; 8:45 am]
BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 141—FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 141 on FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications

Equipment to be held on September 9–10, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Fourth Meeting Held on April 24–25, 1980; (3) Report on Federal Communications Commission and Federal Aviation Administration Coordination Meeting; (4) Review Second Draft of Committee Report; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 8, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-24846 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on September 11, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Approval of Minutes of Meeting Held on July 18, 1980; (2) Special Committee Activities Report for July and August 1980; (3) Chairman's Report on RTCA Administration and Management; (4) Consideration of Establishing New Special Committees; (5) RTCA Report on Discussions with the Society of Automotive Engineers on Electronic Flight Instruments; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on August 12, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-24847 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Monroe and Dade Counties, FLA.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Monroe and Dade Counties, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, Post Office 1079, Tallahassee, Florida 32302, Telephone: (904) 224–8111.

SUPPLEMENTAL INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, is preparing an environmental impact statement (EIS) for a proposal to improve U.S. Route 1 (State Road 5) in Monroe and Dade Counties, Florida. The proposed improvement would involve the reconstruction of existing U.S. Route 1 from State Road S–905 in Monroe County to Card Sound Road in Florida City in Dade County for a distance of approximately 20 miles. Also included in this proposal is the replacement of the existing structures at Jewfish Creek and C–111 canal. Improvements to the corridor are considered necessary to relieve congestion, improve safety, and satisfy the anticipated growth in transportation in the community.

Alternatives under consideration include (1) no-build alternative, (2) four-lane divided highway with a median barrier wall, and (3) four-lane divided highway with a grassed median.

Federal, State, and local agencies have contributed early coordination comments through the A–95 process. There has already been extensive public and agency involvement with this proposed action. Several meetings have already been conducted with State and county environmental agencies. In addition, an interagency meeting was conducted on July 26, 1979 involving the appropriate Federal, State, and local agencies. A series of public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting, involving the appropriate agencies, will be conducted for this proposed action.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 5, 1980.

P. E. Carpenter,

Division Administrator Tallahassee, Florida.

[FR Doc. 80-24708 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Roosevelt & Curry Counties, New Mexico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Roosevelt & Curry Counties, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dewey O. Lonsberry, District Engineer, Federal Highway Administration, 117 U.S. Courthouse, Santa Fe, New Mexico 87501, Telephone: (505) 988–6696; Duane A. Gray, Field Design Engineer, New Mexico State Highway Department, P.O. Box 1149, Santa Fe, New Mexico 87503, Telephone: (505) 983–0554; or Thomas S. Scanlon, Jr., Environmental Program Manager, New Mexico State Highway Department, P.O. Box 1149, Santa Fe, New Mexico 87503, Telephone: (505) 983–0134.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico State Highway Department, will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route 70 (U.S. 70) between Portales and Clovis, New Mexico, as a Connector Primary Demonstration Project. The proposed improvement would involve the reconstruction of the existing U.S. 70 between 1.5 miles southwest of Portales and 5 miles east of Prince Street in Clovis, a distance of approximately 25 miles. Improvements to the corridor are considered necessary to provide adequate capacity for existing and projected traffic demand and incorporate modern design features to provide safety and efficient transportation service.

Alternatives under consideration include (1) taking no action; (2) improving the existing highway; and (3) improving the existing highway plus new relief route alignments in Portales and Clovis. Incorporated into and studied with the various build alternatives will be variations of alignment.

Early coordination letters describing the proposed action and soliciting comments were sent to appropriate Federal, State and local agencies and interested private organizations. Following the transmittal of these letters, as part of the early coordination effort, a meeting was held in November, 1979 with representatives of the above agencies and organizations to solicit their comments and suggestions. A series of public involvement meetings was held in August and December, 1979 and July, 1980 to obtain community comments on the proposed action and the alternatives. In addition, a formal public hearing will be held. Upon completion of the draft EIS, public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: August 6, 1980.

Dewey O. Lonsberry,

District Engineer, Santa Fe, New Mexico.

[FR Doc. 80-24737 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-22-M

Supplemental Environmental Impact Statement; Columbia, S. C.

AGENCY: Federal Highway Administration (FHWA), DOT. Economic Development Administration (EDA).

ACTION: Notice of intent.

SUMMARY: The FHWA in cooperation with EDA is issuing this notice to advise the public that a supplement to Draft EIS FHWA–SC–EIS–79–03–D Proposed Railroad Relocation, Consolidation and grade Crossing Elimination Project will be prepared to include impact analysis of the Palmetto Center Redevelopment Project and analysis of the cumulative impact of both the Palmetto Center and the Railroad Project.

FOR FURTHER INFORMATION CONTACT: Mr. John Cole, EIS Coordinator, U.S. Department of Commerce, 1365 Peachtree Street, NE., Suite 700, Atlanta, Georgia, 30309, Telephone: (404) 881–7667; or Mr. Bill Rice, District Engineer, Federal Highway Administration, 1835 Assembly Street, Suite 758, Columbia, South Carolina 29201, Telephone: (803) 765–5411.

SUPPLEMENTARY INFORMATION: The U.S. Department of Transportation, Federal Highway Administration (FHWA) and the Economic Development Administration (EDA) as Joint Lead Agencies in cooperation with the City of Columbia, South Carolina, intend to prepare a supplement to the above referenced Draft Environmental Impact Statement. The supplement will include information on the Palmetto Center Redevelopment Project described below and the cumulative impacts when considered with the railroad relocation.

The proposal calls for acquisition of 22 parcels in a block with a total of 23 parcels, relocation of existing businesses, clearance of structures and redevelopment of the block. The redevelopment will include: An office building with approximately 400,000 square feet of space; a 300-room hotel; a public and educational component which includes space for a Convention Center; and enclosed landscaped atrium which connects the hotel and the office building, outdoor open space, and space for the University of South Carolina for additional continuing education, meeting, dining, administrative and other support activites; and a parking structure for about 1050 automobiles.

The project boundaries are Main Street (west), Washington Street (south), Sumter Street (east) and Hampton Street (north).

It is now anticipated that funding for this combined project will be sought from the Department of Housing and Urban Development (Community Development Block Grant and Urban Development Action Grant), DOT and EDA and that the project will begin in 1981 and will be completed within three to four years.

A supplement to the Draft Environmental Impact Statement is required to assess the environmental impacts of the Palmetto Center Redevelopment and its cumulative impacts when considered with the Railroad Relocation, Consolidation and Grade Crossing Project. This project requires demolition of structures (two of which may be eligible for the National Register), dislocation of businesses, increased traffic flow and accompanying increases in air quality pollutants.

At this time, the alternatives under consideration are: To carry out the project as planned; move the project to alternate locatons; modifications to the project to reduce the scope of acquisition and relocation; or to take no action.

The FHWA, EDA and the City plan to hold a Scoping Meeting with the Public, Federal, State and Local Agencies for the purpose of identifying the significant environmental isses to be addressed in the EIS. The Scoping Meeting will be held at City Hall in Columbia, South Carolina on September 18, 1980, at 2:30 p.m. in the City Council Chambers.

To ensure that full range of isses related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the EDA (or FHWA) at the address provided above.

Issued on August 8, 1980.

B. G. Cloyd,

Division Administrator, Columbia, South Carolina.

[FR Doc. 80-24728 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS–80–6]

Little Rock & Western Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and Section 211.9, notice is hereby given that the Little Rock and Western Railroad (LR&W) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (82 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the LR&W be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the

statute, to seek an exemption from this twelve hour limitation.

The LR&W seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–80–8, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590.

Communications received before September 26, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d)).

Issued in Washington, D.C. on August 8, 1980.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-24761 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes September 17, 1980.

ADDRESS COMMENTS TO: Docket Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8462–N	M.A.N. Maschinenfabrik, Augsburg-Nurnberg, Hamburg, West Germany.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
8463–N	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
8464–N	Aireseach Manufacturing, Company of Arizona, Phoenix, AZ	49 CFR 178.65, 173.302	To authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
8465–N	Chase Bag Co., Oak Brook, IL	49 CFR 173.182	To authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
8466–N	Atlas Powder Company, Dallas, TX	49 CFR 173.114a(h)(3)	To authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
8467–N	ANF Industrie, Paris, France	49 CFR 173.315	To authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
8468–N	Hedwin Corporation, Baltimore, MD	49 CFR 173.119, 173.125, 173.272, 173.286, 173.346.	To authorize the manufacture, marking, and sale of DOT Specification 34, 5 and 6 gallon polyethylene containers for shipment of certain flammable poison B, and corrosive liquids. (Modes 1, 2, 3.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 1, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24670 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-06-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Trnasportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes September 2, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
1479–X	Rockwell International Corporation, Canoga Park, CA.	1479
2913–X	Department of Energy, Washington, DC.	2913
3126–X	Hercules, Incorporated, Wilmington, DE (See Footnote 1).	3126
3216–X	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	3216
3941–X	Pacific Engineering & Production Company of Nevada, Henderson, NV.	3941
3941–X	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	3941
3941–X	Aerojet Tactical Systems, Sacramento, CA.	3941
4460–X	Ethyl Corporation, Baton Rouge, LA (See Footnote 2).	4460
4612–X	MCB Manufacturing Chemists, Cincinnati, OH.	4612
5038–X	Synthatron Corporation, Parsippany, NJ.	5038
5414–X	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	5414
5493–X	Montana Sulfur and Chemical Company, Billings, MT (See Footnote 3).	5493
5792–X	Stauffer Chemical Company, Westport, CT.	5792
6060–X	Air Products and Chemicals, Inc., Allentown, PA.	6060
6113–X	Boston Gas Company, Boston MA	6113
6117–X	Montana Sulphur and Chemical Company, Billings, MT (See Footnote 4).	6117
6197–X	Boston Gas Company Boston, MA	6197
6349–X	Airco Industrial Gases Murray Hill, NJ.	6349
6392–X	Northern Petrochemical Company Des Plaines, IL.	6392
6416–X	The Dow Chemical Company Pittsburg, CA.	6416
6453–X	General Motors Corporation Detroit, MI.	6453
6484–X	Dow Chemical U.S.A. Midland, MI	6484
6538–X	Wonder Corporation of America Stamford, CT.	6538
6569–X	Bacardi International, Limited Hamilton, Bermuda.	6569
6602–X	Dow Chemical Company Midland, MI.	6602
6670–X	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	6670
6793–X	Hickson & Welch, Ltd. Castleford, England.	6793
6806–X	Analytical Instrument Development, Inc. Avondale, PA.	6806
6864–X	Bacardi International Limited Hamilton, Bermuda.	6864
6898–X	Allied Chemical Corporation Morristown, NJ.	6898
6902–X	Synthatron Corporation Parsipanny, NJ.	6902
6984–X	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	6984
7035–X	Owens-Illinois (Plastic Products Division) Toledo, OH (See Footnote 5).	7035
7218–X	Structural Composites Industries, Inc. Azusa, CA (See Footnote 6).	7218
7277–X	Structural Composites Industries, Inc. Azusa, CA (See Footnote 7).	7277
7503–X	Orval Tank Containers Paris, France.	7503
7640–X	Mauser Packaging Ltd. New York, NY.	7640
7654–X	J. T. Baker Chemical Company Phillipsburg, NJ.	7654
7695–X	Tankcargo Container Leasing, S.A., TCL Geneva, Switzerland.	7695
7701–X	Tankcargo Container Leasing, S.A., TCL Geneva, Switzerland.	7701
7802–X	Bennett Industries Pacoima, CA	7802
7819–X	Tank Cargo Container Leasing, S.A., TCL Geneva, Switzerland.	7819
7820–X	Hugonnet, S.A. Paris, France	7820
7820–X	Tank Cargo Container Leasing, S.A., TCL Geneva, Switzerland.	7820
7820–X	CATU Containers, S.A. Geneva, Switzerland.	7820
7820–X	T. I. C., S.A. Paris, France	7820
7820–X	Eurotainer Paris, France	7820
7820–X	Lowaco, S.A. Geneva, Switzerland	7820
7897–X	Tank Cargo Container Leasing, S.A., TCL Geneva, Switzerland.	7897
7991–X	Union Pacific Railroad Company Omaha, NE.	7991
8013–X	Air Products and Chemicals, Inc. Allentown, PA.	8013
8017–X	Air Products and Chemicals, Inc. Allentown, PA.	8017
8035–X	NL McCullough, NL Industries, Inc. Houston, TX.	8035
8074–X	Matheson Lyndhurst, NJ	8074
8157–X	Born Free Plastics, Inc. Gardena, CA (See Footnote 8).	8157
8162–X	Structural Composites Industries, Inc. Azusa, CA (See Footnote).	8162
5206–P	Boren Explosives Company Sumiton, AL.	5206
6016–P	Kanweld Welding Equipment & Supplies Kankakee, IL.	6016
6614–P	Esbro Chemical Redwood City, CA	6614
6762–P	Schaefer Chemical Products Company Saginew, MI.	6762
6762–P	Oxford Chemicals, Inc. Atlanta, GA	6762
7052–P	Bren-Tronics, Inc. Commack, NY	7052
7052–P	Gearhart Industries, Inc. Fort Worth, TX.	7052
7052–P	Plainview Electronics Corporation Plainview, NY.	7052
7202–P	University of Miami Miami, FL	7202
7938–P	ABC Containerline N.V. Antwerp, Belgium.	7938
8002–P	Compagnie des Containers Reservoirs Paris, France.	8002
8206–P	Copps Industries, Inc. Menomonee Falls, WI.	8206
8207–P	Copps Industries, Inc. Menomonee Falls, WI.	8207
8222–P	Compagnie des Containers Reservoirs.	8222
8324–P	Copps Industries, Inc. Menomonee Falls, WI.	8324
8467–P	Societe Auxiliaire de Transorts et d'Industries Paris, France.	8467

[1] To renew and to authorize an additional high explosive liquid, classed as a Class A explosive.

[2] To delete reference to retesting and substitute visual internal inspection every five years, for metallic sodium portable tanks.

[3] To renew and to accommodate minor appurtenance changes.

[4] To renew and to accommodate minor appurtenance changes.

[5] To authorize poisonous liquids, n.o.s. or compounds, weed killing, and arsenic acid as additional commodities in non-DOT specification 55 gallon polyethylene containers.

[6] Request modification of hydroburst failure mode requirement.

[7] Request modification of hydroburst failure mode requirement.

[8] To authorize shipment of certain corrosive liquids, Class B poisonous liquids, flammable liquids, and organic peroxides in DOT–34 containers.

[9] Request modification of hydroburst failure mode requirement.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on August 4, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24618 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in April 1980. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1479–X	1479	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
2913–X	2913	Department of Energy, Washington, DC.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
3126–X	3126	Hercules, Incorporated, Wilmington, DE (See Footnote 1).	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
3216–X	3216	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
3941–X	3941	Pacific Engineering & Production Company of Nevada, Henderson, NV.	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
3941–X	3941	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
3941–X	3941	Aerojet Tactical Systems, Sacramento, CA.	49 CFR 173.119, 173.125, 173.272, 173.286, 173.346.	To renew and to authorize the manufacture, marking, and sale of DOT Specification 34, 5 and 6 gallon polyethylene containers for shipment of certain flammable poison B, and corrosive liquids. (Modes 1, 2, 3.)
4460–X	4460	Ethyl Corporation, Baton Rouge, LA (See Footnote 2).	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
4612–X	4612	MCB Manufacturing Chemists, Cincinnati, OH.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
5038–X	5038	Synthatron Corporation, Parsippany, NJ.	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
5414–X	5414	E. I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
5493–X	5493	Montana Sulfur and Chemical Company, Billings, MT (See Footnote 3).	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
5792–X	5792	Stauffer Chemical Company, Westport, CT.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
6060–X	6060	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
6113–X	6113	Boston Gas Company, Boston MA	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
6117–X	6117	Montana Sulphur and Chemical Company, Billings, MT (See Footnote 4).	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
6197–X	6197	Boston Gas Company Boston, MA	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
6349–X	6349	Airco Industrial Gases Murray Hill, NJ.	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
6392–X	6392	Northern Petrochemical Company Des Plaines, IL.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
6416–X	6416	The Dow Chemical Company Pittsburg, CA.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
6453–X	6453	General Motors Corporation Detroit, MI.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
6484–X	6484	Dow Chemical U.S.A. Midland, MI	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
6538–X	6538	Wonder Corporation of America Stamford, CT.	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
6569–X	6569	Bacardi International, Limited Hamilton, Bermuda.	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
6602–X	6602	Dow Chemical Company Midland, MI.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
6670–X	6670	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
6793–X	6793	Hickson & Welch, Ltd. Castleford, England.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
6806–X	6806	Analytical Instrument Development, Inc. Avondale, PA.	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
6864–X	6864	Bacardi International Limited Hamilton, Bermuda.	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
6898–X	6898	Allied Chemical Corporation Morristown, NJ.	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
6902–X	6902	Synthatron Corporation Parsipanny, NJ.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
6984–X	6984	E.I. du Pont de Nemours & Company, Incorporated Wilmington, DE.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
7035–X	7035	Owens-Illinois (Plastic Products Division) Toledo, OH (See Footnote 5).	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
7218–X	7218	Structural Composites Industries, Inc. Azusa, CA (See Footnote 6).	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
7277–X	7277	Structural Composites Industries, Inc. Azusa, CA (See Footnote 7).	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
7503–X	7503	Orval Tank Containers Paris, France.	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
7640–X	7640	Mauser Packaging Ltd. New York, NY.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
7654–X	7654	J. T. Baker Chemical Company Phillipsburg, NJ.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
7695–X	7695	Tankcargo Container Leasing, S.A., TCL Geneva, Switzerland.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
7701–X	7701	Tankcargo Container Leasing, S.A., TCL Geneva, Switzerland.	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
7802–X	7802	Bennett Industries Pacoima, CA	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
7819–X	7819	Tank Cargo Container Leasing, S.A., TCL Geneva, Switzerland.	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
7820–X	7820	Hugonnet, S.A. Paris, France	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
7820–X	7820	Tank Cargo Container Leasing, S.A., TCL Geneva, Switzerland.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
7820–X	7820	CATU Containers, S.A. Geneva, Switzerland.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
7820–X	7820	T. I. C., S.A. Paris, France	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
7820–X	7820	Eurotainer Paris, France	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
7820–X	7820	Lowaco, S.A. Geneva, Switzerland	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
7897–X	7897	Tank Cargo Container Leasing, S.A., TCL Geneva, Switzerland.	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
7991–X	7991	Union Pacific Railroad Company Omaha, NE.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
8013–X	8013	Air Products and Chemicals, Inc. Allentown, PA.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To renew and to authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
8017–X	8017	Air Products and Chemicals, Inc. Allentown, PA.	49 CFR 178.65, 173.302	To renew and to authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
8035–X	8035	NL McCullough, NL Industries, Inc. Houston, TX.	49 CFR 173.182	To renew and to authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
8074–X	8074	Matheson Lyndhurst, NJ	49 CFR 173.114a(h)(3)	To renew and to authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
8157–X	8157	Born Free Plastics, Inc. Gardena, CA (See Footnote 8).	49 CFR 173.315	To renew and to authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
8162–X	8162	Structural Composites Industries, Inc. Azusa, CA (See Footnote).	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To renew and to authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
5206–P	EE5206	Boren Explosives Company Sumiton, AL.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
6016–P	EE6016	Kanweld Welding Equipment & Supplies Kankakee, IL.	49 CFR 178.65, 173.302	To authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
6614–P	EE6614	Esbro Chemical Redwood City, CA	49 CFR 173.182	To authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
6762–P	EE6762	Schaefer Chemical Products Company Saginew, MI.	49 CFR 173.114a(h)(3)	To authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
6762–P	EE6762	Oxford Chemicals, Inc. Atlanta, GA	49 CFR 173.315	To authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
7052–P	EE7052	Bren-Tronics, Inc. Commack, NY	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
7052–P	EE7052	Gearhart Industries, Inc. Fort Worth, TX.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
7052–P	EE7052	Plainview Electronics Corporation Plainview, NY.	49 CFR 178.65, 173.302	To authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
7202–P	EE7202	University of Miami Miami, FL	49 CFR 173.182	To authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
7938–P	EE7938	ABC Containerline N.V. Antwerp, Belgium.	49 CFR 173.114a(h)(3)	To authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)
8002–P	EE8002	Compagnie des Containers Reservoirs Paris, France.	49 CFR 173.315	To authorize shipment of sulfur dioxide in a non-DOT specification IMCo type V portable tank. (Modes 1, 2, 3.)
8206–P	EE8206	Copps Industries, Inc. Menomonee Falls, WI.	49 CFR 173.119, 173.125, 173.126, 173.129, 173.132, 173.144, 173.245.	To authorize shipment of various hazardous materials in non-DOT specification IMCO type II portable tanks. (Modes 1, 2, 3.)
8207–P	EE8207	Copps Industries, Inc. Menomonee Falls, WI.	49 CFR 173.262(b)(1), 173.262(b)(2), 173.262(b)(3).	To authorize shipment of not over 62% hydrobromic acid in glass bottles contained in metal cans overpacked in a Specification 12A fiberboard box. (Mode 1.)
8222–P	EE8222	Compagnie des Containers Reservoirs.	49 CFR 178.65, 173.302	To authorize the manufacture, marking, and sale of toroidal pressure vessels similar to DOT Specification 39 for shipment of helium. (Modes 1, 4.)
8324–P	EE8324	Copps Industries, Inc. Menomonee Falls, WI.	49 CFR 173.182	To authorize the manufacture, marking, and sale of a 4 mil bag of low density polyethylene film, 50 pound capacity, for shipment of ammonium nitrate fertilizer. (Modes 1,"2.)
8467–P	EE8467	Societe Auxiliaire de Transorts et d'Industries Paris, France.	49 CFR 173.114a(h)(3)	To authorize shipment of up to 52,000 lbs. of RXL481, classed as a blasting agent in two types of specially designed bulk semi-trailer tanks. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions		
2709–X	DOT–E 2709	Hercules, Incorporated, Wilmington, DE	49 CFR 173.52, 177.834(l)(1)	To authorize the use of non-DOT specification drums for the transportation of a Class A and a Class B explosive liquid. (Mode 1.)
3992–X	DOT–E 3992	Stauffer Chemical Co., Westport, CT	49 CFR 173.314	To authorize the transportation of hydrogen chloride in a DOT Specification 105A600W tank car. (Mode 2.)
3992–X	DOT–E 3992	Union Carbide Corp., Bound Brook NJ	49 CFR 173.314	To authorize the transportation of hydrogen chloride in a DOT Specification 105A600W tank car. (Mode 2.)
4108–X	DOT–E 4108	Liquid Air Corporation, Chicago, IL	49 CFR 173.315(a)	To authorize the transportation of liquefied argon, nitrogen, and oxygen in non-DOT specification cargo tanks insulated with perlite. (Mode 1.)
4291–X	DOT–E 4291	Kerr McGee Chemical Corp., Oklahoma City, OK	49 CFR 173.239a(a)(2)	To authorize the transportation of ammonium perchlorate, an oxidizer, in an aluminum portable tank. (Modes 1, 2.)
4291–X	DOT–E 4291	Pacific Engineering & Production Co. of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize the transportation of ammonium perchlorate, an oxidizer, in an aluminum portable tank. (Modes 1, 2.)
4291–X	DOT–E 4291	United Technologies, Sunnyvale, CA	49 CFR 173.239a(a)(2)	To authorize the transportation of ammonium perchlorate, an oxidizer, in an aluminum portable tank. (Modes 1, 2.)
4400–X	DOT–E 4400	AIRCO Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize the shipment of liquefied hydrogen and pressurized liquid helium in non-DOT specification insulated cargo tanks. (Modes 1, 3.)
4453–P	DOT–E 4453	Atlas Powder Company, Dallas, TX	49 CFR 173.182(c), 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4453–P	DOT–E 4453	Casebier Bulk Transport Co., Inc., Beaver Dam, KY.	49 CFR 173.182(c), 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4453–P	DOT–E 4453	Beaver Explosives, Inc., Edinburg, PA	49 CFR 173.182(c), 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4460–X	DOT–E 4460	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.29(f)(2), 173.206(a), 176.74(c), 176.76(g)(3).	To authorize the transportation of metallic sodium, a flammable solid, in DOT Specification 51 portable tanks. (Mode 3.)
4554–X	DOT–E 4554	B.F. Goodrich Chemical Company, Cleveland, OH.	49 CFR 172.101, 173.315(a)(1)	To authorize the transportation of liquefied ethylene, classed as a flammable gas, in non-DOT specification cargo tanks. (Mode 1.)
5122–X	DOT–E 5122	E.I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.314(c)	To authorize transportation of a certain nonflammable compressed gas in DOT Specification 106A500X and 110A500W multi-unit tank car tanks. (Modes 1, 2.)
5200–X	DOT–E 5200	E.I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.314(c), 179.101–1(a)	To authorize the use of DOT Specification 105A400W and 114A340W tank car tanks for the transportation of certain liquefied compressed gases, flammable and nonflammable. (Mode 2.)
5372–X	DOT–E 5372	Vulcan Materials Company, Wichita, KS	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the transportation of certain flammable and nonflammable gases in modified DOT Specification 3T cylinders.
5372–X	DOT–E 5372	Stauffer Chemical Company, Westport, CT	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the transportation of certain flammable and nonflammable gases in modified DOT Specification 3T cylinders.
5485–P	DOT–E 5485	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)	To become a party to Exemption 5485.
5526–X	DOT–E 5526	MC/B Chemical Company, Norwood, OH	49 CFR 173.119, 173.125, 173.126, 173.129, 173.127, 173.131, 173.132, 173.144, 173.145, 173.147, 173.221, 173.222, 173.223, 173.245, 173.247, 173.248, 173.250a, 173.253, 173.262, 173.263, 173.265, 173.266, 173.267, 173.268, 173.269, 173.272, 173.276, 173.277, 173.278, 173.291.	To authorize transportation of those flammable liquids, liquid organic peroxides, liquid oxidizers, corrosive liquids, or poison B liquids authorized by 49 CFR Part 173 for transportation in DOT Specification 1D or 1K packaging in non-DOT specification glass carboys. (Modes 1, 2.)
5526–X	DOT–E 5526	Allied Chemical Corporation, Moristown, NJ	49 CFR 173.119, 173.125, 173.126, 173.129, 173.127, 173.131, 173.132, 173.144, 173.145, 173.147, 173.221, 173.222, 173.223, 173.245, 173.247, 173.248, 173.250a, 173.253, 173.262, 173.263, 173.265, 173.266, 173.267, 173.268, 173.269, 173.272, 173.276, 173.277, 173.278, 173.291.	To authorize transportation of those flammable liquids, liquid organic peroxides, liquid oxidizers, corrosive liquids, or poison B liquids authorized by 49 CFR Part 173 for transportation in DOT Specification 1D or 1K packagings in non-DOT specification glass carboys. (Modes 1, 2.)
5948–X	DOT–E 5948	Department of Energy, Washington, DC	49 CFR 173.398(c)	To authorize the shipment of radioactive waste materials in ATMX 500 or 600 rail cars. (Mode 2.)
5951–X	DOT–E 5951	Ashland Chemical Co., Columbus, OH	49 CFR 173.314(c)	To authorize the shipment of chlorine and sulfur dioxide, nonflammable gases, in DOT specification 106 type tanks. (Modes 1, 2.)
5972–X	DOT–E 5972	E.I. du Pont de Nemours & Company, Incorporated, Wilmington, DE.	49 CFR 173.119(b), 173.125, 173.128, 46 CFR 98.35.	To authorize the transportation of certain flammable and combustible liquids in non-DOT specification stainless steel portable tanks. (Modes 1, 3.)
6016–X	DOT–E 6016	Strate Welding Supply Co., Inc., Buffalo, NY	49 CFR 173.315(a)	To authorize the shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6113–X	DOT–E 6113	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
6113–X	DOT–E 6113	Utility Propane Company, Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6113–X	DOT–E 6113	Northwest Natural Gas Co., Portland, OR	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6197–X	DOT–E 6197	New Jersey Natural Gas Company, Asbury Park, NJ.	49 CFR 172.101, 173.315(a)(1)	To authorize the use of a non-DOT specification vacuum-perlite insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
6250–X	DOT–E 6250	Department of Defense, Washington, DC	49 CFR 173.69, 173.79, 173.87, 173.92, 173.94, 173.101, 173.102, 176.83, 177.848.	To authorize transportation of partially dis-assembled aircraft with explosive components (ejection seat and canopy related devices) remaining installed in non-DOT specification packaging. (Modes 1, 3.)
6299–X	DOT–E 6299	Minnesota Valley Engineering, New Prague, MN	49 CFR 173.315(a)(1)	To authorize the manufacture, marking, and sale of non-DOT specification portable tanks for use in the transportation of certain nonflammable gases. (Modes 1, 3.)
6526–P	DOT–E 6526	Coastal Chemical Corporation, Greenville, NC	49 CFR 173.353(a)(3), 173.357(b)(1)	To become a party to Exemption 6526. (Modes 1, 2, 3.)
6526–P	DOT–E 6526	Asgrow Florida Company, Plant City, FL	49 CFR 173.353(a)(3), 173.357(b)(1)	To become a party to Exemption 6526. (Modes 1, 2, 3.)
6525–P	DOT–E 6526	Southern Agricultural Insecticides, Inc., Palmetto, FL.	49 CFR 173.353(a)(3), 173.357(b)(1)	To become a party to Exemption 6526. (Modes 1, 2, 3.)
6589–X	DOT–E 6589	Robertshaw Controls Company, Anaheim, CA	49 CFR 173.302(a)(1), 175.3	To authorize the use of a non-DOT specification cylinder for the transportation of compressed air, classed as a nonflammable gas. (Modes 1, 2, 4.)
6614–X	DOT–E 6614	All Pure Chemical Co., Inc., Tracy, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize the transportation of certain corrosive liquids in non-DOT specification polyethylene bottles packed inside a high density polyethylene box. (Mode 1.)
6614–X	DOT–E 6614	Hasa Chemical, Inc., Saugus, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To authorize the transportation of certain corrosive liquids in non-DOT specification ploye thylene bottles packed inside a high density polyethylene box. (Mode 1.)
6614–P	DOT–E 6614	Olsen Chemical Company, Los Angeles, CA	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614–P	DOT–E 6614	Chem-Bright Industries, West Bloomfield, MI	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6629–X	DOT–E 6629	Fenwal Incorporated, Ashland, MA	49 CFR 173.304(a)(1), 173.305(c), 175.3.	To authorize the use of a modified DOT specification 4B cylinder for the transportation of certain gases, or mixtures of gases, or a non-hazardous material and a gas. (Modes 1, 4, 5.)
6629–X	DOT–E 6629	The Boeing Company, Seattle, WA	49 CFR 173.304(a)(1), 173.305(c), 175.3.	To authorize the use of a modified DOT Specification 4B cylinder for the transportation of certain gases, or mixtures of gases, or a non-hazardous material and a gas. (Modes 1, 4, 5.)
6746–X	DOT–E 6746	The Firestone Tire and Rubber Company, Akron, OH.	49 CFR 173.315(a)(1)	To authorize the shipment of anhydrous ammonia, a nonflammable gas, in modified DOT Specification MC–331 portable tanks. (Modes 1, 3.)
6825–X	DOT–E 6825	Lox Equipment Company, Livermore, CA	49 CFR 172.101, 173.314(c)	To authorize the transportation of a liquefied flammable compressed gas in non-DOT specification tank cars. (Mode 2.)
6919–X	DOT–E 6919	Minnesota Gas Company, Minneapolis, MN	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification insulated cargo tanks for the transportation of certain flammable gases. (Mode 1.)
6921–X	DOT–E 6921	Cities Service Company, Tulsa, OK	49 CFR 172.101, 173.315(a)(1)	To authorize the use of a non-DOT specification portable tank for the transportation of a nonflammable gas. (Modes 1, 3.)
6921–X	DOT–E 6921	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)(1)	To authorize the use of a non-DOT specification portable tank for the transportation of a nonflammable gas. (Modes 1, 3.)
7015–P	DOT–E 7015	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.315(a)(1), 172.101	To become a party to Exemption 7015. (Modes 1, 2, 3.)
7015–X	DOT–E 7015	Cities Service Company, Tulsa, OK	49 CFR 173.315(a)(1), 172.101	To authorize the use of non-DOT specification portable tanks for the transportation of a nonflammable gas. (Modes 1, 2, 3.)
7024–X	DOT–E 7024	Burlington Industries, Inc., Burlington, NC	49 CFR 173.249(a)(7)	To authorize the transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers. (Mode 1.)
7071–X	DOT–E 7071	Philip A. Hunt Chemical Corporation, Palisades Park, NJ.	49 CFR 173.245	To authorize polyethylene packagings in a quantity not provided for in the regulations, for the transportation of a certain corrosive liquid. (Modes 1, 2, 3.)
7227–X	DOT–E 7227	Lox Equipment Company, Livermore, CA	49 CFR 172.101, 173.315	To authorize the use of non-DOT specification vacuum insulated portable tanks for the transportation of liquid nitrogen, a nonflammable gas. (Mode 3.)
7257–X	DOT–E 7257	Brewer Chemical Corporation, Honolulu, HI	49 CFR 173.245, 173.249, 173.263	To authorize the transportation of certain corrosive liquids in non-DOT specification portable tanks. (Mode 3.)
7438–X	DOT–E 7438	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354(a)(5)	To authorize the transportation of a Class B poisonous liquid in non-DOT specification cargo tanks. (Mode 1.)
7477–X	DOT–E 7477	Systron Donner Corporation, Berkeley, CA	49 CFR 173.302a(a)(1), 173.304(a)(1), 175.3.	To authorize the use of non-DOT specification seamless aluminum cylinders for the transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4.)
7549–X	DOT–E 7549	Stauffer Chemical Company, Westport, CT	49 CFR 173.245a(a)	To authorize the use of a 316L stainless steel portable tank for the transportation of a certain corrosive material. (Modes 1, 2, 3.)
7605–P	DOT–E 7605	Department of Defense, Washington, DC	49 CFR 173.87, 173.92, 173.101, 173.102, 173.113, 175.3, 176.83, 177.848.	To become a party to Exemption 7605. (Modes 1, 3, 4.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
7607–X	DOT–E 7607	E. I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 172.101, 175.3	To authorize the shipment of hydrogen, a flammable gas, in non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7607–X	DOT–E 7607	Dow Chemical Company, Freeport, TX	49 CFR 172.101, 175.3	To authorize the shipment of hydrogen, a flammable gas, in non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7616–X	DOT–E 7616	Missouri Pacific Railroad Company, Saint Louis, MO.	49 CFR 172.204(a), 172.204(d)	To authorize the carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7636–X	DOT–E 7636	Minnesota Valley Engineering, New Prague, MN	49 CFR 173.304(a), 175.3	To authorize the shipment of certain nonflammable gases in a DOT specification 4L welded cylinder. (Modes 1, 2, 3, 4.)
7641–X	DOT–E 7641	American President Lines, Ltd., Seattle, WA	49 CFR 176.905(c)	To authorize the transportation of motor vehicles having fuel tank one-fourth or less full (ORM–C) aboard cargo vessels with battery cables connected. (Mode 3.)
7674–X	DOT–E 7674	Department of Defense, Washington, DC	49 CFR 174.104(a)	To authorize shipment of a Class A explosive on flat-cars and open-top rail cars. (Mode 2.)
7770–X	DOT–E 7770	Ugine Kuhlmann, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize the transportation of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, 3.)
7772–X	DOT–E 7772	Ugine Kuhlmann, Paris, France	49 CFR 173, Subpart D	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable liquids. (Modes 1, 3.)
7793–X	DOT–E 7793	Hooker Chemical Company, Houston, TX	49 CFR 173.245	To authorize the transportation of a corrosive liquid, which is also a poison, in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8087–X	DOT–E 8087	Union Carbide Corporation, Bound Brook, NJ	49 CFR 173.154	To authorized the transportation of a certain water reactive solid and an oxidizing material in DOT Specification 56 portable tanks. (Mode 1.)
8128–P	DOT–E 8354	Transport International Containers, Paris, France	49 CFR 173.123, 173.315	To become a party to Exemption 8354. (Modes 1, 2, 3.)
8184–P	DOT–E 8184	International Minerals & Chemical Corporation, Allentown, PA.	49 CFR 173.65	To become a party to Exemption 8184. (Modes 1, 2, 3.)
8232–X	DOT–E 8232	Eurotainer, Paris, France	49 CFR 173.315(a)	To authorize the use of a non-DOT specification portable tank for the transportation of certain compressed flammable gases. (Modes 1, 2, 3.)
8246–X	DOT–E 8246	Honeywell Inc., Minneapolis, MN	49 CFR 173.302, 178.36, 178.42	To authorize the transportation of helium and neon gases in non-DOT specification cylinders. (Mode 1.)
8126–N	DOT–E 8354	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable gases and flammable liquids. (Modes 1, 2, 3.)
8195–N	DOT–E 8195	McDonell Douglas Corporation, St. Louis, MO	49 CFR 173, Subpart D, F, H, 173.6(b)(3).	To authorize the use of non-DOT specification metal drums as outside containers in lieu of prescribed DOT specification fiberboard or wood containers for shipments of flammable liquids, corrosive materials, and Class B poisons subject to 49 CFR 173.6(b)(3). (Modes 1, 2, 4, 5.)
8234–N	DOT–E 8234	GM Magyar, S.A., Gray, France	49 CFR 173.119, 173.125, 173.127, 173.128, 173.129, 173.131, 173.132, 173.135, 173.136, 173.141, 173.145, 173.245, 173.247, 173.276, 173.280, 173.295, 173.346, 173.347, 173.349, 173.358, 173.361, 173.362, 173.362a, 173.510, 173.610, 173.655.	To authorize the use of non-DOT specification portable tanks for the transportation of certain flammable, corrosive, combustible, poison B, and ORM–A materials. (Modes 1, 2, 3.)
8264–N	DOT–E 8264	Hercules Incorporated, Wilmington, DE	49 CFR 173.93	To authorize the shipment of certain solid propellant explosives (Class B) and smokeless powders for small arms (flammable solids) in non-DOT specification fiber cans or tubes packed in fiberboard boxes. (Mode 1.)
8265–N	DOT–E 8265	Hercules Incorporated, Wilmington, DE	49 CFR 173.93, 173.197a, 177.838(g).	To authorize shipment of certain solid propellant explosives (Class B) in non-DOT specification fiber tubes packed in telescoping DOT Specification 12B fiberboard boxes, and certain smokeless powders for small arms (flammable solids) in DOT Specification 21C fiber drums packed in fiberboard boxes. (Mode 1.)
8281–N	DOT–E 8281	IMC Chemical Group, Inc., Allentown, PA	49 CFR 173.93	To authorize the transportation of a solid propellant explosive in non-DOT specification polyethylene-lined polypropylene bags and non-DOT specification polyethylene tubes. (Mode 1.)
8282–N	DOT–E 8282	Chevron Chemical Company, San Francisco, CA	49 CFR 173.359	To authorize the transportation of a liquid organic phosphate compound mixture, a flammable and poison B liquid, in DOT Specification 37P 5-gallon steel drum with inside polyethylene liner. (Modes 1, 2.)
8283–N	DOT–E 8283	Allied Chemical Corporation, Morristown, NJ	49 CFR 173.273(a)(4), 174.3	To authorize shipment of stabilized sulfur trioxide in DOT Specification 111A60W2 tank cars equipped with standpipe electrical heaters. (Mode 2.)
8284–N	DOT–E 8284	Allied Chemical Corporation, Morristown, NJ	49 CFR 173.272(a)(i)22, 174.3, 179.202–12(b).	To authorize shipment of oleum in DOT Specification 103AW or 111A100W2 tank cars equipped with safety valves instead of safety vents. (Mode 2.)
8287–N	DOT–E 8287	Rohm & Haas Company, Philadelphia, PA	49 CFR 173.245(a)(16), 173.245(a)(26), 178.19–4(c).	To authorize the shipment of a corrosive liquid in a DOT–6D/2SL composite container or DOT–34 drum equipped with a bung vent. (Modes 1, 2, 3.)

Application No.	Exemption No	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
9269–N	DOT–E 8269	Olin Corporation, East Alton, IL	49 CFR 173.93	To authorize shipment of certain identified solid propellant explosives, Class B, in non-DOT specification cylindrical metal cans overpacked in fiberboard boxes. (Modes 1.)
8305–N	DOT–E 8305	Eldorado Chemical Company, Incorporated, San Antonio, TX.	49 CFR 173.245(a)	To authorize the use of an MC–300 cargo tank for the transportation of certain corrosive materials. (Mode 1.)
8327–N	DOT–E 8327	Dow Chemical Company, Midland, MI	49 CFR 173.245	To authorize the use of a DOT Specification 51 portable tank for the transportation of 4 tertiary butyl catechol, a corrosive liquid. (Modes 1, 2, 3.)
8336–N	DOT–E 8336	Cities Service Company, Tulsa, OK	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize the use of an insulated DOT MC–331 cargo tank for the transportation of a flammable gas. (Mode 1.)
8344–N	DOT–E 8344	All-Sports Supply, Inc., Portland, OR	49 CFR 173.197a	To authorize the transportation of fiberboard boxes containing different brands of smokeless powder without B or E approval of each box. (Mode 1.)
8345–N	DOT–E 8345	International Minerals and Chemical Corporation, Allentown, PA.	49 CFR 173.184	To authorize the transportation of nitrostarch, wet, with not less than 20 percent water in DOT Specification 12H fiberboard boxes lined with polyethylene. (Mode 1.)
8347–N	DOT–E 8347	Fabricated Metals, Incorporated, San Leandro, CA.	49 CFR 173.119(b)	To authorize the use of a DOT Specification 57 steel or stainless steel portable tank not previously authorized for the transportation of certain flammable and combustible liquids. (Mode 3.)
8353–N	DOT–E 8353	Thiokol Corporation, Huntsville, AL	49 CFR 178.252–2(b)	To authorize an alternate closure device in a DOT Specification 56 portable tank used in the transportation of ammonium perchlorate, an oxidizer. (Mode 2.)
8365–N	DOT–E 8365	Berton Pumping and Sewer Service, Incorporated, Forest Park, GA.	49 CFR 173.119(a)(17), 173.245(a)(30), 173.245(a)(31), 178.340–5(a), 178.340–7, 178.342–5, 178.343–5.	To authorize the use of a modified DOT Specification MC–312 or MC–307 cargo tank for the transportation of certain flammable and corrosive liquids. (Mode 1.)
8371–N	DOT–E 8371	Connecticut Bulk Carriers, Inc., Stamford, CT	49 CFR 173.271	To authorize the transportation of a corrosive material in non-DOT specification portable tank lined with baked phenolic resin. (Modes 1, 3.)
Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		EMERGENCY EXEMPTIONS		
EE 3648–X	DOT–E 3648	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain cryogenic liquids in non-DOT specification vacuum insulated cargo tanks constructed according to Section VIII of the ASME Code. (Mode 1.)
EE 6267–P	DOT–E 6267	Sears, Roebuck & Company, Chicago, IL	49 CFR 173.217(a)	To become a party to Exemption 6267. (Modes 1, 2, 3.)
EE 6267–P	DOT–E 6267	McNeil Corporation, Kiefer McNeil Division, Akron, OH.	49 CFR 173.217(a)	To become a party to Exemption 6267. (Modes 1, 2, 3.)
EE 8401–N	DOT–E 8401	ERA Helicopters, Inc., Anchorage, AK	49 CFR 175.3, 175.310(d)	To authorize the carriage of fuel in cargo compartments of passenger-carrying helicopters. (Mode 5.)
EE 8402–N	DOT–E 8402	IBM Corporation, Tarrytown, NY	49 CFR Parts 171–178., Section 173.21, excluded.	To authorize the movement of hazardous wastes from Seymour, Indiana to Calumet City, Illinois. (Mode 1.)
EE 8402–P	DOT–E 8402	Cummins Engine Company, Inc., Columbus, IN	49 CFR Parts 171–178., Section 173.21, excluded.	To become a party to Exemption 8402. (Mode 1.)
EE 8402–P	DOT–E 8402	Chemical Waste Management of Illinois, Calumet City, IL.	49 CFR Parts 171–178., Section 173.21, excluded.	To become a party to Exemption 8402. (Mode 1.)
EE 8405–N	DOT–E 8405	Alaska International Airline, Anchorage, AK	49 CFR 172.101, 173.315(a)(1), 175.3	To authorize a one-time shipment of liquefied nitrogen in a non-DOT specification portable tank. (Mode 4.)
EE 8419–N	DOT–E 8419	Russet Chemical Company, Fort Hall, ID	49 CFR Parts 171–178., Part 107, Appendix B(2), excluded, Section 173.21, excluded.	To authorize the bulk shipment of various class B poisons and debris contaminated therewith in open top motor vehicles covered with polyethylene sheets and tarpaulin. (Mode 1.)
Application No.		Applicant	Regulation(s) affected	Nature of exemption thereof
		Withdrawals		
6932–P		Fauvet-Girel, Paris, France	49 CFR 173.264(b)(4)	To become a party to Exemption 6932. (Modes 1, 3.)
8368–N		Spectrum West Inc., Torrance, CA	49 CFR 173.101	To authorize shipment of small arms ammunition packaged loosely in strong outside containers. (Mode 1.)

Denials

6969–X—Request by Kansas State Dept. of Health & Environmental, Topeka, KA to authorize the air shipment of a transport incubator denied April 30, 1980, as being unnecessary.

6969–X—Request by State of Alaska, Juneau, AK to authorize the air shipment of a transport incubator containing a nonflammable gas denied April 30, 1980, as being unnecessary.

8194–N—Request by Matheson, Lyndhurst, NJ to authorize an alternate method of testing cylinders charged with phosgene for leakage denied April 30, 1980.

8296–N—Request by Allied Engineering Corporation, New York, NY to authorize shipment of vinyl bromide and two low pressure gases in non-DOT specification IMCO type V portable tanks denied April 30, 1980.

8297–N—Request by Equip Rail Company, Washington, DC to authorize shipment of liquid hazardous materials of various classifications in non-DOT specification IMCO type II portable tanks denied April 30, 1980.

8313–N—Request by Osmose Wood Preserving Company, Buffalo, NY to authorize shipment of a poison B liquid, n.o.s., in DOT Specification 57 steel portable tanks denied April 30, 1980.

8343–N—Request by Westerwalder Eisenwerk, Weitefeld, W. Germ. to authorize shipment of various flammable, combustible, and corrosive liquids in non-DOT specification IMCO type II portable tanks denied April 30, 1980.

8358–N—Request by General American Transportation Corporation, Sharon, PA to authorize the manufacture, marking, and sale of non-DOT

specification portable tanks constructed in accordance with ASME Section VIII requirements for shipment of diisobutylamine, classed as a flammable liquid, n.o.s. denied April 30, 1980.

Issued in Washington, DC, on August 5, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24616 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. 80-6w; Notice-1]

Transportation of Natural Gas and Other Gas by Pipeline Petition for Waiver

The Columbia Gas Transmission Corporation has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirement of 49 CFR 192.327(e) that a gas pipeline crossing a navigable river, stream, or harbor must have a minimum cover of forty-eight inches in soil or twenty-four in consolidated rock. Under the proposed waiver, the petitioner would replace Transmission Line MA at its crossing of the Susquehanna River, two miles above the Conowingo Dam in Harford and Cecil Counties, Maryland, with a portion of the crossing exposed without any cover.

According to the petition, the replacement of the existing crossing of the Susquehanna River is part of petitioner's plan to replace sections of its twenty-inch Line MA in Baltimore, Harford, and Cecil counties in Maryland. The existing crossing consists of five separate ten-inch lines which were constructed in 1931 and were laid on the river bottom without trenching or cover. The existing five-line crossing will be replaced by a single twenty-inch line, located adjacent to and downstream from the existing crossing. The existing crossing will be disconnected from all sources of gas and will be abandoned in place.

The proposed replacement crossing will be located approximately two miles upstream of the Conowingo Dam. The reservoir is 3,400 feet wide and up to 100 feet deep at the crossing location. A Maryland Geological Survey report (Geological Survey, Harford County) indicates that the bed of the Susquehanna River in this area is dense rock. Visual observations by petitioners of the riverbanks downstream of the Conowingo Dam at low flow conditions confirm the Geological Survey data. Petitioner calculates flow velocity at normal flow conditions to be approximately 0.43 feet per second, and maximum flooding conditions (taken from the Dam Authority's records) are calculated to be approximately 5.1 feet per second.

Columbia Transmission further stated in its petition that if the waiver is granted, the new crossing will be installed with at least twenty-four inches of cover in consolidated rock for a distance of 100 feet from mean low water line on each side of the reservoir, at which points the water depth is approximately twenty to thirty feet deep. The remaining 3,200 feet of the crosing would be installed without cover by laying pipe on a bed prepared by removing all obstructions potentially damaging to the pipe. The bottom contour would be confirmed by hydrographic survey and inspected by divers before the pipe is lowered into place. The entire underwater portion of the pipeline will be coated with a concrete coating approximately three inches thick.

The petitioner also stated that in its opinion the proposed construction of the pipline without cover will in no way impair the future safe operation of the pipeline, inasmuch as the existing crossing had been similarly installed about fifty years ago and safely operated without incident since then. Additionally, if the requested waiver is granted, petitioner promises to use professional divers to visually inspect the pipe on a regular basis.

The extremely difficult and costly construction procedures required to open a trench in solid rock river bottom at water depths up to 100 feet is one consideration for requesting the waiver. Columbia Transmission's preliminary estimate of the construction costs are: $1,000,000 by the method proposed in the petition for waiver and $2,500,000 if the waiver is not granted. Furthermore, the granting of the waiver would allow the petitioners to minimize the use of explosives and shorten the construction time, thus reducing the environmental impact and lessening the interference with normal uses of the reservoir.

MTB is considering granting the requested waiver from the requirements of 49 CFR 192.327(e) for the following reasons:

1. The marine traffic in the vicinity of the proposed pipeline is not of the type that constitutes a danger to the pipeline.

2. The recorded maximum current flow, as shown by the records at the Conowingo Dam, would not be sufficient to damage the pipeline.

3. There will be a considerable reduction in construction costs.

4. The proposed construction would require less blasting, thereby reducing the potential environmental impact.

5. The proposed three inch coating of concrete on the pipe would furnish the necessary negative buoyancy to hold the pipeline on the bottom and to protect the pipeline from waterborne debris.

6. Based upon the fact that the existing pipeline was installed in a manner similar to the proposed new pipeline and has been in operation for approximately fifty years without any incident of damage, it does not appear that the proposed new pipeline would be any less safe.

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views, or arguments as they may desire. Communications should identify the Docket and Notice numbers and be submitted to: Dockets Branch, Room 8426, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before September 12, 1980 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for inspection at the Dockets Branch, Materials Transportation Bureau, between the hours of 8:30 a.m. to 5:00 p.m., before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR Part 1.53(a), Appendix A of Part 1 and Appendix A of Part 106).

Issued in Washington, D.C., on August 12, 1980.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-25028 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. 79-7W, Notice 1]

Transportation of Natural and Other Gas by Pipeline; Petition for Waiver

The Champlin Petroleum Company has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the cathodic protection requirements to Subpart I of 49 CFR Part 192, requiring the installation of cathodic protection on the Champlin owned gas gathering pipelines in the Wilmington, California, oil fields.

The Champlin Petroleum Company operates approximately 500 oil producing wells in the Wilmington Oil Field, which is located within the boundaries of the city limits of Los Angeles and Long Beach, California. Incidental to the production of oil, a total of approximately 1,600,000 cubic feet a day of natural gas is produced by these wells. This gas is transported from the casing of each well by a Champlin owned gas gathering pipeline that is operated at a vacuum through royalty meters to the pipelines of another company.

Most gas gathering pipelines operate at a positive pressure because the natural gas is generally produced in confined underground reservoirs that are pressurized naturally by geology; however, in the case of the Champlin gas gathering pipelines, the gas is dissolved in the crude oil and has little "natural" pressure. This makes it necessary to remove the gas from the oil at the wellhead by a vacuum gas collection system which maintains a negative pressure, or vacuum, within all of the gas gathering lines.

The Federal regulations in 49 CFR 192.3 define a "gathering line" as a pipeline that transports gas from a current production facility to a transmission line or main. Furthermore, the regulations do not apply to onshore gathering of gas outside of an area within the limits of any incorporated or unincorporated city, town, or village, and, any designated residential or commercial area such as a subdivision, business, or shopping center, or community development. It is because parts of the Wilmington Oil Field lie within the city limits of Los Angeles and Long Beach that Champlin's gathering lines in these incorporated areas are regulated by the provisions of 49 CFR Part 192.

The gas gathering pipelines upstream of the royalty meters are installed entirely on Champlin's property, and do not cross any public areas. The property where the pipelines are installed is entirely fenced to exclude the general public, and is uninhabited except for the Champlin employees that are on the property during working hours. The fencing to exclude the general public is installed under a requirement of local regulatory agencies, and Champlin expects that these local requirements will keep the property in which the gas gathering pipelines are installed permanently uninhabited.

Because of the negative pressure maintained in the gas gathering lines, any opening in a pipeline (e.g., a hole caused by corrosion) would cause air to enter the system rather than a leak of gas to the atmosphere. The gas received at the processing plant to Long Beach is monitored continously for air content, and this monitoring permits early detection of any leak occurring on a Champlin owned gas gathering pipeline.

The majority of the gas gathering lines are installed above ground, but many thousands of feet of bare steel lines are underground. In the event of a leak occurring in the pipe, the system supplying the royalty meter is shut down until the pipeline is repaired. During 1977 and 1978, Champlin states that a total of 12 leaks occurred in the gas gathering pipelines due to external corrosion. These leaks were repaired at a cost of approximately $200 each, or an average of only $1,200 per year. The cost to install cathodic protection on the scattered buried portions of the gas gathering system is estimated to be $290,000 with operating and maintenance costs of $24,000 per year.

MTB is considering granting the requested waiver from the cathodic protection requirements of Subpart I of 49 CFR Part 192 for the following reasons:

1. The general public is excluded by fences from the incorporated, but uninhabited, parts of the cites where the gas gathering pipelines are located.

2. Because the pipelines operate at a negative pressure, any corrosion pits or holes will ingest air into the pipelines rather than exhaust gas; and, with a negative pressure, these gas gathering pipelines cannot rupture due to over pressure.

3. To further insure operating safety, the gas received at the processing plant through this pipeline system is monitored continuously for air content which permits early detection of corrosion holes in the gas gathering pipeline system. Upon confirmation of air at the processing plant, a check of the air content of the various royalty meters is made immediately to determine the exact location of the hole, and the defective pipe section is shut down until repairs are made.

4. The cost to install cathodic protection on the scattered buried portions of the gas gathering system (Champlin estimates $290,000), and the annual operation and maintenance costs of a cathodic protection system (Champlin estimates $24,000) do not appear to have a corresponding safety benefit in view of the inacessibility of the public and the fact that leaks do not release gas during normal operation of the pipelines.

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views, or arguments as they may deire. Communciations should identify the docket and notice numbers and be submitted to the Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before September 19, 1980, will be considered before final action is taken. Late filed comments will be considered so far as practical. All comments will be available for public review at the Dockets Branch of the Materials Transportation Bureau in Room 8426, 400 Seventh Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m.

(49 U.S.C. 1672; 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, D.C., on August 11, 1980.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-25077 Filed 8-15-80; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. No. 80-210]

Reimbursable Services—Excess Cost of Preclearance Operations

August 12, 1980.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with pay period beginning August 24, 1980.

Installation	Biweekly excess cost
Montreal, Canada	$15,984
Toronto, Canada	31,347
Kindley, Field, Bermuda	5,315
Nassau, Bahama Islands	18,844
Vancouver, Canada	20,974
Winnipeg, Canada	1,969
Freeport, Bahama Islands	17,036
Calgary, Canada	9,019
Edmonton, Canada	9,617

Jack T. Lacy,

Comptroller.

[FR Doc. 80-25031 Filed 8-15-80; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: A closed meeting of the Art Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held September 17 and 18, 1980.

FOR FURTHER INFORMATION CONTACT: Tom Hartnett, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5547, Washington, D.C. 20224. Telephone No. 202–566–4427 (Not a toll-free number.)

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Advisory Panel will be held on September 17 and 18, 1980 beginning at 10:00 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal Income, Estate, or Gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

Jerome Kurtz,
Commissioner.

[FR Doc. 80-25011 Filed 8-15-80; 8:45 am]
BILLING CODE 4830-01-M

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of performance review board.

SUMMARY: The members of a Senior Executive Service Performance Review Board for Inspection must be published in the **Federal Register**.

DATE: Performance Review Board effective August 1, 1980.

FOR FURTHER INFORMATION CONTACT: James W. House, RM:P:X, 1111 Constitution Avenue, N.W., Room 1213, Washington, D.C. 20224, Telephone No. 202–566–4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Inspection are as follows: William E. Williams, Chairman, Deputy Commissioner. Leon C. Wigrizer, Inspector General, Department of the Treasury. Lester Stein, Deputy Chief Counsel (Technical).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

William E. Williams,
Deputy Commissioner.

[FR Doc. 80-25012 Filed 8-15-80; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

[Department Circular, Public Debt Series No. 26–80]

Treasury Notes of August 31, 1982 Series V–1982; Auction

August 13, 1980.

1. Invitation For Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,500,000,000 of the United States securities, designated Treasury Notes of August 31, 1982, Series V–1982 (CUSIP No. 912827 KZ 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated September 2, 1980, and will bear interest from that date, payable on a semiannual basis on February 28, 1981, and each subsequent 6 months on August 31 and February 28, until the principal becomes payable. They will mature August 31, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Savings Time, Wednesday, August 20, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 19, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extend required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Tuesday, September 2, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, August 26, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securites are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securites must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of

Sunshine Act Meetings

this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20228. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public annoucement of such changes will be promptly provided.

Gerald Murphy,
Acting Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-25159 Filed 8-15-80; 8:45 am]
BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

National Memorial Cemetery of the Pacific; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement for the National Memorial Cemetery of the Pacific, Honolulu, Hawaii," dated March 1980, has been prepared as required by the National Environmental Policy Act of 1969.

The preferred course of action is to develop the existing National Cemetery as conceptually delineated in a revised master plan study. Elements of this revised conceptual master plan include: an administrative building; garden crypt/columbarium facilities; expanded service facility; and site improvements at the Punchbowl Overlook. There are several additional minor projects, but the above listing is the most significant.

The Veterans Administration is issuing this final Environmental Impact Statement in response to comments received on the original draft EIS dated July 1979, and the Revised Draft EIS dated March 1980. As a result of serious public concern about the parking facility, this element of the master plan was deleted. The revised master plan also eliminates the mini-bus/train element, and reduces the scope of the administration building.

The Final Statement responds to comments received on Revised Draft EIS (closing date for 45 day comment period was May 5, 1980).

The document is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine this report or to request a copy can do so at the following office: Mr. Williard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: August 1, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Associate Deputy Administrator.

[FR Doc. 80-24978 Filed 8-15-80; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 161
Monday, August 18, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

Contents

	Items
Federal Home Loan Bank Board	1,2,3
National Credit Union	4
National Transportation Safety Board	5

1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR Page 53832, August 12, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., August 15, 1980.

PLACE: 1700 G Street NW., Board Room, 6th Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING:

The following items have been added to the agenda for the open meeting:

Request for Extension of Time Within Which to Complete Sale of Conversion Shares.

No. 376, August 14, 1980.

[S-1547-80 Filed 8-14-80; 3:05 pm]
BILLING CODE 6720-01-M

2

FEDERAL HOME LOAN BANK BOARD.

PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 53632.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING 10 A.M., August 12, 1980.

PLACE: 1700 G Street NW., Board Room, 6th Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING:

The following has been changed:

The previously announced time of the Bank Board Meeting, August 15, 1980 at 10 a.m. has been changed to start at 10:30 a.m.

No. 377, August 14, 1980.

[S-1549-80 Filed 8-14-80; 3:26 pm]
BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 21, 1980.

PLACE: 1700 G St. NW., Board Room, 6th Fl., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Limited Facility—Lincoln Federal Savings and Loan Association, Lincoln, Nebraska.

Application for Bank Membership—Monroe Savings Bank, Rochester, New York.

Application for a Commitment to Insure Accounts—Security Savings and Loan Association, Waterbury, Connecticut.

Travel Authorization.

No. 375, August 14, 1980.

[S-1545-80 Filed 8-14-80; 1:59 pm]
BILLING CODE 6720-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, August 21, 1980.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Reimbursement of Agent Members of Central Liquidity Facility.
3. Application of NAFCU Corporate FCU for Agent Membership in the Central Liquidity Facility.
4. Statement of Interpretation and Policy: Flood Insurance (12 CFR pt. 760)—Use of Map Information Facility.
5. Delegation of Authority—mergers.
6. Report on actions taken under delegations of authority.
7. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Order to establish Special Reserve as authorized under Section 116 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (10).
4. Administrative Actions under Section 120 and 207 of the Federal Credit Union Act. Closed pursuant to exemptons (8), (9)(A)(ii), (9)(B) and (10).
5. Proposed Review of NCUA Liquidation and Payout Activities Policies and Procedures and the Related Accounting Systems. Closed pursuant to exemption (2) and (9)(B).
6. Budget submission to the Office of Management and Budget for FY 1982. Closed pursuant to exemption (9)(B).
7. Discussion of Personnel Resources. Closed pursuant to exemption (9)(B).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1544-80 Filed 8-14-80; 1:52 pm]
BILLING CODE 7535-01-M

5

[NM-80-30]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, August 26, and Thursday, August 28, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first six items on the agenda are open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Collision of Coast Guard Cutter BLACKTHORN and U.S. Tankship CAPRICORN, Tampa Bay, Florida, January 28, 1980, and *Recommendations* to the U.S. Coast Guard.
2. *Aircraft Accident Report*—Transamerica, Inc., Lockheed L-188, N8590, Salt Lake City, Utah, November 18, 1979.
3. *Highway Accident Report*—Head-on Collision of a Sedan with a Pickup Truck, U.S. Route 64, near Perry, Oklahoma, February 23, 1980, and *Recommendations* to the Federal Highway Administration, the National Highway Traffic Safety Administration, and the State of Oklahoma.
4. *Special Study*—General Aviation Accidents: Postcrash Fires and How to Prevent or Control Them, and *Recommendations* to the Federal Aviation Administration.
5. *Regulation*—Part 830, Notification and Reporting of Aircraft Accidents or Incidents.
6. *Marine Accident Report*—Collision of U.S. Tankship EXXON CHESTER and Liberian Freighter M. V. REGAL SWORD in the Atlantic Ocean near Cape Cod,

Massachusetts, June 18, 1979, and

Massachusetts, June 18, 1979, and *Recommendations* to the U.S. Coast Guard and the Exxon Company.

7. *Opinion and Order*—Petition of Pierce, Dkt. ME–78; disposition of mariner's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

August 14, 1980.

[S–1548–80 Filed 8–14–80; 3:11 pm]
BILLING CODE 4910–59–M

V 45 A G 18 80 UMI

federal register

Monday
August 18, 1980

Part II

Environmental Protection Agency

Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing Captan

V 45 AG 1 8 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1568-7; OPP-30000/34]

Pesticide Programs; Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing Captan

AGENCY: Office of Pesticide Progams, Environmental Protection Agency (EPA).

ACTION: Notice of rebuttable presumption.

SUMMARY: N-trichloromethylthio-4-cyclohexene-1,2-dicaroximide (captan) has been found to exceed certain risk criteria set forth in 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risks and benefits of this pesticide chemical. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical.

DATE: Rebuttal evidence and other information must be received on or before October 2, 1980.

ADDRESS MATERIAL TO: Document Control Officer, Chemical Information Division (TS-793), Office of Pesticides and Toxic Substances, EPA, Rm. 447, East Tower, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jim Skaptason, Special Pesticide Review Division (TS-791), EPA, Office of Pesticide Programs, Crystal Mall #2, Rm. 711C, 401 M St., SW, Washington, D.C. 20460 (703) 557-7400.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing captan.[1]

Issuance of this RPAR notice means that potential adverse effects associated with the use of captan have been identified. Further examination will determine if they do exist and, if so, whether they are unreasonable.

Issuance of this RPAR notice means that potential adverse effects associated with the use of captan have been identified. Further examination will determine if they do exist and, if so, whether they are unreasonable.

[1] A position document on captan containing an appendix of references, background information and other pertinent material is published with this notice prepared by the Agency.

I. Regulatory Provisions

A. *General.* 40 CFR 162.11, a regulation implementing the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136 *et seq.),* provides that a rebuttable presumption against registration arises if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects specified in 40 CFR 162.11(a)(3). If it is determined that a rebuttable presumption exists, regulations require that the registrant be notified by certified mail and provided an opportunity to submit evidence in rebuttal of the presumption. The public should also be given notice of the bases for the presumption to allow for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria given in § 162.11(a)(3). *A notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration. It may or may not lead to cancellation.* The notice of intent to cancel is issued only after risks and benefits of a pesticide are carefully considered and it is determined the pesticide may generally cause unreasonable adverse effects to humans or the environment.

All registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice. In the case of oncogenicity they are asked to submit information relating to the assessment of oncogenic risks as specified in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (41 FR 21402; May 25, 1976). Registrants and other interested parties may submit data on benefits which they believe would justify registration or continued registration. Any registrant may petition the Agency to voluntarily cancel a current registration pursuant to Section 6(a)(1) of FIFRA.

B. *Rebuttal Criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden or providing:

(1) In the case of a pesticide falling under the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant actue adverse effects" (40 CFR 162.11(a)(4)(i));

(2) In the case of a pesticide falling under the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(4)(ii)); or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" (40 CFR 162.11(a)(4)(iii)).

C. *Benefits Information.* 40 CFR 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence[2] submitted by the registrant, applicants and other interested persons will be considered by the Administrator in determining appropriate regulatory action. Section 162.11(a)(5)(iii) provides specifically that if "benefits appear to outweigh risks," the Administrator may issue a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA. This is to determine whether the registration(s) should be cancelled or application(s) denied. If the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to Section 3(c)(6) or Section 6(b)(1) of the Act, as appropriate." If at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued according to Section 6(c) of the Act.

[2] Registrants or other interested persons desiring to submit benefit information should consider providing data on the following subject, along with any other relevant material:

1. Identification of the pesticide's major uses, including estimated quantities used by crop or other application.
2. Identification of the pesticide's minor uses, including estimated quantities utilized by category such as lawn, garden and household applications.
3. Identification of registered alternative products for the uses in (1) and (2) above, including an estimate of their availability.
4. Determination of the difference in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using substitute pesticides or from employing no other pesticides.
6. If the impacts upon user costs or productivity are significant, a qualitative assessment of the regulations's impact on production of major agricultural commodities and retail food prices of such commodities.

II. Presumptions

Registrations and applications for registration of pesticide products containing captan meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to oncogenicity and mutagenicity. The Agency's basis for concluding that these risk criteria have been met or exceeded is a part of the "Captan: Position Document I" which follows. Copies of attachments to the Position Document not published with this notice are available for public inspection in the Special Pesticide Review Division office. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document as well as requests for access to these files should be directed to Section Head Jim Skaptason, Special Pesticide Review Division (TS-791), EPA, Rm. 711C, Crystal Mall #2, 401 M St. SW., Washington, D.C. 20460 (703/557-7400).

A. *Oncogenicity.* 40 CFR 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a peticide "(i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *." The preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogeris (41 FR 21402, May 25, 1976) states: "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

The Agency has concluded that on the basis of scientific studies and information summarized in the Position Document: (1) All registrations and applications for registration of pesticide products containing captan exceed this risk criterion, (2) a rebuttable presumption exists against new or continued registration of such products.

B. *Mutagenicity.* 40 CFR 162.11(a)(3)(ii)(A) provides that a rebuttable presumption arises if a pesticide "* * * induces mutagenic effects, as determined by multitest evidence."

The Agency has concluded that on the basis of scientific studies and information summarized in the Position Document: (1) All registrations and applications for registration of pesticide products containing captan exceed this risk criterion; and (2) a rebuttable presumption exists against new or continued registration of such products.

III. Additional Grounds for Review

EPA is aware that some data have associated captan with teratogenic, fetotoxic, and hypersensitivity effects. Other data indicate that certain uses of captan may cause significant acute toxicity to aquatic wildlife. These data and analyses currently available relative to these effects are not the bases for the issuance of a rebuttable presumption. The Agency, however, specifically solicits further evidence bearing on these possible adverse effects. All comments, information and related analysis received with respect to these potential adverse effects may serve as a basis for a final decision on registering pesticides containing captan.

IV. Rebuttal Submission Procedures

All registrants and applicants for registration listed following this announcement are being notified by certified mail of the rebuttable presumption against registration and continued registration of their products.

Registrants and applicants for registration have 45 days from the date this notice is sent on or before September 29, 1980, to submit evidence in rebuttal of the presumption. The Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of any extension will appear in the **Federal Register.**

A registrant or applicant for registration may assert a business confidentiality claim covering part or all of the rebuttal information submitted. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures described in 40 CFR Part 2, Subpart B (41 FR 36906; September 1, 1976). If no confidentiality claim accompanies the information, the Agency will place the material in the public comment file where it will be available for public inspection.

If a confidentiality claim is asserted for some of the rebuttal evidence a registrant or applicant should furnish the EPA two copies of the information. The first copy should contain all of the data submitted in rebuttal with information claimed as confidential clearly identified and will be processed as outlined above.

The second copy should be identical to the first except that all information claimed as confidential should be deleted. This second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures outlined above.

V. Duty to Submit Information on Adverse Effects

Registrants are required to submit to EPA any additional information regarding adverse effects on man or the environment which comes to their attention at any time, pursuant to Section 6(a)(2) of FIFRA and 40 CFR 162.8(d). Registrants of captan products who have not done so must immediately submit to EPA any published or unpublished information they possess regarding adverse effects. This includes studies, reports, analyses or reanalyses with respect to any contrary effects in animal species or humans, residues and claimed or verified accidents to humans, domestic animals or wildlife. It is mandatory that each registrant responding to this notice submit written certification to the Agency that all information regarding known adverse effects has been supplied. Registrants should notify EPA of any studies in progress, their purpose, the protocol, approximate completion date and a summary of all results observed to date.

VI. Public Comments and Inspection

Specific comments on the presumptions described in this notice and on the material contained in the Position Document are solicited from the public during the time allowed for submitting rebuttal evidence. In particular, it is requested that any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed be submitted to EPA as soon as possible. Specifically solicited is information on the fate and effects of captan, its impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man. Similarly, any studies or comments on the benefits from the use of captan are requested to be submitted. All comments and information received as well as any other relevant data and associated analysis which come to the attention of the Agency may serve as a basis for final determination under § 162.11(a)(5).

All comments and information should be sent to the Document Control Officer at the address given above. Submissions should be in triplicate if possible to

facilitate inspection by the Agency and others interested in the material. The identifying notation "OPP–30000/34" should be exhibited on all data. Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii).

All written comments and information filed pursuant to this notice (excluding those designated as confidential) will be available for public inspection in the Chemical Information Division office from 8:00 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to inspect Agency files during normal working hours. All of the information received may serve as a basis for final determination pursuant to § 162.11(a)(5). Following the rebuttal period the Agency does not plan to publish in the **Federal Register** a summary of information received.

Cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the **Federal Register**, but rather handled by mail with affected parties. Omissions will be corrected by notice in the **Federal Register**.

Dated: August 6, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

July 22, 1980.

CAPTAN: Position Document 1

Office of Pesticide Programs, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency

CAPTAN

Position Document 1

I. Background
A. *Chemical and Physical Characteristics*
B. Registered Uses
1. General
2. Tolerances
3. Production
4. Usage Data
II. Regulatory History
A. *USDA Actions*
B. *Other Agency Reviews and Findings*
C. *Other Regulatory Actions*
III. Summary of Scientific Evidence to Support Rebuttable Presumption
A. *Oncogenicity*
B. *Mutagenicity*
1. Gene Mutations
a. Bacteria
b. Bacteria with Metabolic Activation
c. Host-and-Fluid Mediated Bacterial Systems
d. Eukaryotic Microorganisms
e. Mammalian Cells in Culture
2. DNA Damage
a. Bacteria
b. Eukaryotic Microorganisms
c. Mammalian Cells in Culture
3. Chromosomal Aberrations
a. Mammalian Cells in Culture
b. Dominant Lethal Tests
c. Heritable Translocation Test
C. *Potential for Human Exposure*
1. Introduction
2. General Population
a. Dietary
b. Nondietary (Dermal & Inhalation)
3. Workers
a. Agricultural
(1) Applicators, Mixers, Loaders and Bystanders
(a) Commercial
(b) Home Gardeners
(2) Harvesters
b. Nonagricultural
IV. Other Relevant Adverse Effects

CAPTAN: Position Document 1

I. Background

A. Chemical and Physical Characteristics

Captan is the accepted common name for N-trichloromethylthio-4-cyclohexene-1,2-dicarboximide. The chemical is also known by the trade names Merpan, Orthocide, Vondcaptan, Vancide-89 and SR–406. It is in the pesticide classification known as dicarboximides. The pesticide acts as a protectant against fungal infestations, and is used extensively as a fungicide on many food crops and plant seeds. It is also used in several nonagricultural applications.

Physically, captan in pure form is an odorless, white, crystalline substance with a melting point of 178°C. The technical grade material is a pungent, yellow to buff, amorphous powder with a melting point of 160°C to 170°C. Its specific gravity is 1.62 as technical grade product and 1.73 in its pure form. The pure substance has a vapor pressure of less than 1×10^{-5} mm Hg at 25°C. It is moderately soluble in many organic solvents including chloroform, benzene and dioxane but practically insoluble (i.e., <0.5 ppm) in water at room temperature. The molecular weight is 300.57 and the empirical formula is $C_9H_8Cl_3NO_2S$. Its structural formula is:

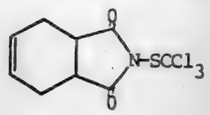

B. Registered Uses

1. General.—Captan was first patented in 1951 by the Standard Oil Development Company (Patent Number 2,553,771). The company again patented the chemical in 1953 (Patent Number 2,653,155). In 1955 Esso was also issued a patent (2,713,058).

There are approximately 600 federally-registered pesticide products containing captan as an active ingredient. These registrations are held by 139 registrants. No federally registered products contain captan as an inert ingredient. There are approximately 100 applications pending for federal registration of state-registered products containing captan as an active ingredient.[1] In accordance with Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 33 additional captan products have been registered in states that have demonstrated that those products are necessary to meet special local needs.

Captan is used as a fungicide: (1) On a wide variety of fruit, vegetable and ornamental crops, some of which are grown on home and garden sites; (2) on numerous plant seeds; (3) on food crop packing boxes; (4) in soil preplanting treatment; (5) on surfaces inside and outside the home; (6) in cosmetics and pharmaceuticals, oil based paints, lacquers, paper, wallpaper paste, plasticizers, polyethylene, vinyl, rubber stabilizer and textiles; (7) in combination with insecticides on food crops, seed treatment and household pets. Pesticide products containing captan are most widely used as wettable powders (50–80% captan) and dusts (7.5—15% captan). Other formulations are commercially available including 4-pound per gallon aqueous suspensions and coated granules.

2. Tolerances.—EPA has established tolerances, for captan residues (40 CFR 180.103) in or on these raw agricultural commodities:

a. Tolerances for Preharvest, Postharvest or Combination Uses:

(1) 100 ppm (parts per million)—beet greens, cherries, lettuce, spinach;

(2) 50 ppm—apricots, celery, grapes, leeks, mangoes, nectarines, green onions, peaches, plums (fresh prunes), shallots;

(3) 25 ppm—apples, avocados, blackberries, blueberries, (huckleberries), cantaloupes, crabapples, cranberries, cucumber, dewberries, eggplants, garlic, honeydew melons, muskmelons, dry bulb onions, pears, peppers, pimentos, pumpkins, quinces, raspberries, rhubarb, strawberries, summer squash, tomatoes, watermelons, wintersquash;

(4) 2 ppm—beet roots, broccoli, brussels sprouts, cabbage, carrots cauliflower, collards, cottonseed, kale, mustard greens, peas, rutabaga roots, soybeans, sweet corn, turnip greens and roots;

(5) 0.25 ppm—taro.

b. Tolerances for the transmission of captan residues to meat, milk, and eggs from feeding cattle or poultry with the following captan-treated commodities or their by-products are:

(1) 100 ppm—almond hulls;

(2) 25 ppm—beans, grapefruit, lemons, limes, oranges, pineapple potatoes, tangerines;

(3) 2 ppm—almonds.

3. Production.—Section 7(c) of FIFRA requires manufacturers and formulators to submit information to EPA on the production, sale, and distribution of pesticide products. This information is confidential and may not be made available to the public under Sections 7(d) and 10 of FIFRA. However, a confidential memorandum summarizing this information (Williams, 1980) has been sent to the Deputy Assistant Administrator for Pesticide Programs.

4. Usage Data.—The agricultural usage data as presented in Table 1 indicate that between 8.5 and 9.7 million pounds of captan were used annually during 1978 and 1979. The nonagricultural (industrial) usage data estimated by the Agency are indicated in Table 2.

[1] Pesticide products formerly registered under state pesticide registration laws and shipped or distributed for sale solely within intrastate commerce are subject to federal pesticide regulations under FIFRA section 3(a) and 40 CFR 162.17(a). Many registrants who had state-registered products have established the intent to obtain federal registration for intrastate use of these products.

Table 1.—*Preliminary Quantitative Usage of Captan in the United States Agriculture*

(1978–79)

Cropsits [1]	Application	Units treated/year [2]	Application rate/treatment [3] (pounds a.i.)	Treatments/year [4]	Quantity a.i./applied [5] (in thousands of pounds)	Percent crop or site treated/year [6]
Pome fruits:						
Apples	Foliage and fruit	165,000 to 168,000 acres	2 to 4/acre	4–6	2,475–2,520	31.7 to 32.3.
Pears	Foliage and fruit	1,900 to 5,500 acre	3/acre	3–4	20–58	1.9 to 5.5.
Stone fruits:						
Cherries	Foliage and fruit	6,400 to 17,200 acres	3/acres	3	58–155	5.1 to 13.8.
Peaches/nectarines, apricots	Foliage and fruit	73,000 to 84,000 acres	3/acre	3	657–756	18.2 to 21.0.
Plums/prunes	Foliage and fruit	10,000 to 26,000 acres	3/acre	2	60–156	6.7 to 17.3.
Other fruits and nuts:						
Almonds	Foliage and fruit	129,000 to 154,000 acres	4/acre	1–2	774–924	35.8 to 42.8.
Grapes	Foliage and fruit	207,000 to 216,000 acres	1.5/acre	2	621–648	29.6 to 30.9.
Lemons/limes	Skirt treatment	7,000 to 9,000 acres	14/acre	1	98–126	7.1 to 9.1.
Strawberries	Foliage and fruit	35,000 to 39,000 acres	1/acre	2–4	210–234	97.2 to 100.0.
Seed treatments:						
Corn (field)	Seed treatment	1.95 to 1.97 billion lbs. seed	0.875 to 0.938 oz. a.i./100 lb. seed.	1	1,102–1,114	100 pct of seed and planted acres.
Corn (sweet)	Seed treatment	9.2 million lbs. seed	0.175 to 0.2 oz. a.i./100 lb. seed.	1	1–1.2	100 pct of seed and planted acres.
Cotton	Seed treatment	273.6 to 276.0 million lbs. seed (plants 10.5 to 10.6 million acres).	2 oz. a.i./100 lb seed.	1	342–345	80.0 to 80.8 pct of seed and planted acres.
Potatoes	Seed treatment	589,000 to 810,000 acres	1.37/acre	1	807–1,110	48.3 to 66.4.
All other field crops	Seed treatment	(7)	(7)	(7)	690–725	(7).
All other vegetables	Seed treatment	(7)	(7)	(7)	286–330	(7).
Vegetables:						
Lettuce	Foliage	13,000 to 53,000 acres	1.5/acre	1	20–80	20.7 to 84.5.
Tomatoes	Foliage and fruit	7,000 to 17,000 acres	3/acre	2	42–102	29.3 to 71.1.
Other vegetables	Foliage and fruit	(7)	(7)48(7)		35–84	(7).
Commercial greenhouses and ornamentals	(7)	(7)	(7)	(7)	45–50	(7).

Table 1.—*Preliminary Quantitative Usage of Captan in the United States Agriculture*

requested for persons with a known

regulations provided for the issuance of

metabolite(s), or degradation product(s)

Table 1.—*Preliminary Quantitative Usage of Captan in the United States Agriculture*

(1978–79)

Cropsite[1]	Application	Units treated/year [2]	Application rate/treatment [3] (pounds a.i.)	Treatments/year [4]	Quantity a.i./applied [5] (in thousands of pounds)	Percent crop or site treated/year [6]
All other agricultural uses (including post-harvest.	(7)	(7)	(7)	(7)	45–50	(7).
Home and Garden	(7)	(7)	(7)	(7)	108–160	(7).
Total					8,494–9,728	

[1] The crops/sites presented are those for which usage data are readily available. All fruit, nut and vegetable data are for preharvest use. [2] Units treated represent annual averages based on available data. Ranges are given for those cases where usage figures are most variable. All units can be expected to vary considerably by year due to changes in incidence and severity of diseases problems. Usage estimates may change once detailed crop/site data are gathered and analyses completed. [3] Rates are average values based on one or more of the following: registration data, product labels, usage data, state recommendations. [4] Number of applications based primarily on usage data indicating incidence of retreatment. [5] Estimates derived based on application rates, units treated and number of treatments. [6] Estimates based on units treated per year and acres grown or estimated quantities of seed (corn, cotton) required to plant acres grown. Estimates can be expected to change once detailed crop/site analyses are completed. [7] Available data can not be reliably broken into more specific site estimates. [8] See Table 4.

Sources: Chevron Chemical Co., Rohm and Haas Co., Stauffer Chemical Co. and labels from federally registered pesticide products.

Table 2.—*Captan Use on Non-Agricultural Sites*[1]

Site	Estimated annual usage level (pounds a.i.) <1,000	1,000–10,000	10,000–50,000	50,000–150,000	Products
Paste				X	Principally wallpaper.
Paint			X		Paints for greenhouses, medical facilities, food packing plants, etc.
Textiles				X	Vinyl-coated fabrics (mattresses, mats, curtains, etc.).
Vinyl	Usage included in textiles				Above uses plus auto vinyl roofs, astroturf, others.
Lacquers	X				Very limited.
Paper	X				Very limited.
Rubber stabilizers	X				Very limited.
Plasticizers			X		Plastic additive.
Polyethylene			X		Garbage bags, pond liners.
Vinyl resins			X		Vinyl precursor.
Packing boxes	Undetermined				
Wood	Little or none				
Surface sprays	Little or none				Mildew control spray additive.

[1] Captan is used to some extent in cosmetics, however usage estimates are not available.

Source: EPA estimates based on a telephone survey of product manufacturers (Fall 1979) and data available from industry studies.

II. Regulatory History

A. USDA Actions

A joint U.S. Department of Agriculture-Department of Health, Education and Welfare statement was published in the **Federal Register** of April 13, 1966, for implementation of a National Research Council recommendation that "The concepts of 'no residue' and 'zero tolerance' as employed in the registration and regulation of pesticides are scientifically and administratively untenable and should be abandoned" (FR 1966). The joint statement specified that registrations of all uses involving a reasonable expectation of small residues on food or feed at harvest should be discontinued as of December 31, 1967 unless data were presented to support a finite tolerance or exemption from a tolerance. Since no such evidence had been provided for the use of captan on gooseberries, cancellation of this use was proposed.

The USDA Pesticide Regulation Division (PRD), issued several regulatory notices from January 10, 1968 to November 22, 1971 concerning safety studies, nonfood use restrictions, cancellation of uses based on "no residue" or "zero tolerances," and one product cancellation.

The PR Notice 68–3 of January 10, 1968 to Manufacturers, Formulators, Distributors and Registrants of Economic Poisons announced that captan uses for seed treatments were classified as nonfood uses (USDA 1968). Therefore, registration of products for these uses was continued in the absence of finite tolerances.

PR Notice 68–5 of January 30, 1968 concerned "no residue" and "zero tolerance" registrations beyond December 31, 1967 (USDA 1968a). This was an extension of registration for uses of captan on asparagus, gooseberries and packing boxes until January 1, 1969. However, the PR Notice 68–8 of April 24, 1968 classified the uses of captan on asparagus and packing boxes as nonfood uses (USDA 1968b). The uses were therefore continued in the absence of data supporting finite tolerances.

PR Notice 69–4, of February 1, 1969, announced that since no evidence was provided to support a finite tolerance of captan on gooseberries the use was cancelled (USDA 1969).

PR Notice 70–8 of March 10, 1970 requested registrants to undertake the additional safety studies necessary to further evaluate captan concerning its carcinogenic and teratogenic potential (USDA 1970). Such tests were to include negative and positive controls. Epidemiological data were also

requested for persons with a known history of high exposure to captan.

The PRD cancelled the registration of Vancide 89RE on November 22, 1971. This was a technical grade product for manufacturing and formulating use. The cancellation action was taken pursuant to Section 4(c) of FIFRA (now superceded by FIFRA Section 6(b) as amended in 1978) due to the registrant's lack of response to the January 8, 1971 notice of intent to cancel.

B. Other Agency Reviews and Findings

The Report of the Secretary's Commission on Pesticides and Their Relationship to Environmental Health by the U.S. Department of Health, Education, and Welfare, reviewed the significance of adverse effects data on a number of pesticides, including captan (Mrak et al., 1969).

The Commission recommended unanimously that human exposure to captan be considered a potential health hazard. The following were among the Commission's findings relating to captan:

(1) It was reported as a cause of dermatitis from apple spraying and allergic dermatitis was demonstrated in agricultural workers;

(2) It produced mutagenic effects in bacteria, human embryonic lung cells and cell lines derived from the kidney of the kangaroo rat;

(3) It induced teratgenic effects in developing chicken embryos; and

(4) It increased tumor incidence in mice, with a significance level of $p = 0.02$.

The Commission specifically recommended: (1) Reducing exposure of the general population from dietary sources of captan pending the completion and evaluation of additional testing of tumorigenicity; (2) minimizing workers' exposure to captan pending completion of safety studies; (3) giving high priority to captan in a testing program for mutagenesis; and (4) restricting captan immediately should it be found to be teratogenic.

Summary results of a National Cancer Institute bioassay of captan for possible carcinogenicity in rats and mice were published in the **Federal Register** (FR 1977). Tumors in the dodenum of mice were associated with captan treatment. There was no convincing evidence that tumors observed in rats were related to captan treatment.

C. Other Regulatory Actions

The United States Department of Labor, Wage and Hour Division, published final rules pertaining to captan in the **Federal Register** (FR 1979). The notice indicated that while current regulations provided for the issuance of waivers permitting employment of 10- and 11-year old minors in hand harvesting of short-season crops, because captan was a suspected carcinogen, no waiver could be issued for minors to harvest captan-treated crops of strawberries or potatoes.

The Environmental Protection Agency's Office of Water Planning and Standards (OWPS) on February 16, 1979 published amendments to the final rule designating captan as a hazardous substance (FR 1979). This action was taken in accordance with the Clean Water Act (CWA) for the control of the discharge of hazardous substances. The OWPS also required that all facilities discharging 10 pounds or more of captan to waters or shoreline report that fact in accordance with Section 311 of CWA. Further, facilities which discharge captan are regulated by CWA Sections 309 and 402 and are required to comply with National Pollutant Discharge Elimination System Permit regulations.

Under 21 CFR 176.170 the FDA has established regulations concerning captan as a component of coatings for paper or paperboard surfaces that contact food. The chemical may be used as a mold- and mildew-proofing agent in such coatings. The amount of captan permitted as a component of the coatings depends on the particular type of food which will contact it. The permissible concentration of captan is established by a determination of the amount of the chemical that can be extracted with certain solvents under certain conditions.

Following an adverse inspection report from the Food & Drug Administration concerning the laboratory testing practices of Industrial Bio-test Laboratories (IBT), the EPA Deputy Assistant Administrator for Pesticide Programs notified all registrants that studies conducted by IBT and used in support of their pesticide registrations must be audited (Johnson, 1977 and 1978). There were 12 such audits completed on May 15, 1979 by registrants of products containing captan. The audits disclosed a large number of IBT testing deficiencies and resulted in the Agency's determination that none of the 12 studies were valid (Auerbach, 1980).

III. Summary of Scientific Evidence To Support Rebuttable Presumption

A. Oncogenicity

40 CFR Section 162.11(a))3)(ii)(A) provides that a "a rebuttable presumption shall arise [that a notice of intent to cancel registration shall be issued] if a pesticide's ingredient(s), metabolite(s), or degradation product(a) * * * induces oncogenic effects in experimental mammalian species or in a man as a result of oral, inhalation, or dermal exposure * * *" Section 162.3(bb) defines the term oncogenic as "the property of a substance or mixture of substances to produce or induce benign or malignant tumor formation in living animals."

The Agency has concluded that all pestcide products containing captan exceed the chronic risk criterion relating to oncogenicity. This finding is based on the studies presented below. In summary, significantly elevated incidences of intestinal and liver tumors were observed in male mice following 20-month and 18-month oral administrations of captan, respectively. Two long-term rat studies resulted in no significantly increased levels of tumors. One rat study and one mouse study were determined to be invalid and therefore cannot be used in evaluation of captan.

Gulf South Research Institute conducted a bioassay for the National Cancer Institute (NCI, 1977) utilizing B6C3Fi mice and Osborn-Mendel rats. The mouse treatment groups consisted of 50 male and 50 female mice per dose level with 10 matched controls per sex. A pooled control group was formed using the matched controls and an additional 70 control animals per sex from other studies being conducted at that time. Captan, at 8,000 and 16,000 ppm, was administered to 35-day-old mice in their diet for 80 weeks. The mice were sacrificed after 11 additional weeks on a control diet. A dose-related increase in the incidence of duodenal tumors (adenomatous polyps and polypoid carcinomas) was seen in both males (pooled controls 0/63, low dose 1/43, high dose 3/46, $p=0.33$) and females (pooled controls 0/68, low dose 0/49, high dose 3/48, $p=0.022$). The rarity of these lesions in this particular strain of mice increases the likelihood that the lesions were caused by the administration of captan. Decreased incidences of hepatomas and lung tumors were also noted in the results of this study. However these observations do not obviate the Agency's concern about the increased duodenal tumors.

Preliminary results from a registrant sponsored (Stauffer Chemical Co. and Chevron Chemical Co.) 2-year mouse study appear to confirm an increased incidence of duodenal tumors among captan-treated mice. However, the Agency has not scientifically evaluated these data or made any conclusions concerning such results (Incomplete Study-Not Referenced).

Innes et al., 1969, administered captan daily to groups of B6C3F2 and B6AKF1 mice. Eighteen males and 18 females were used for each strain, at a dose of 215 mg/kg/day by gavage from the 7th day of age to the 28th day. From the 28th day to the end of the study, captan was administered in the diet at 560 ppm. These same authors reported an increased incidence of hepatomas in males only ($p<0.05$) (Bionetics, 1968). A reanalysis of the data in the Mrak report (1969) using the Mantel-Haenzel method gave a significance level at $p<0.02$ for the hepatomas in males. The tumor incidence among captan-treated females was not significantly elevated. The ability of this study to detect increased tumors was poor, however, since the number of animals was too small, it continued only 18 months, and only one dose level was used (much lower than that in the 1977 NCI mouse study).

The NCI (1977) rat study treatment groups consisted of 50 animals of each sex per dose level and 10 matched controls per sex. An additional 65 animals per sex were used for a pooled control group. The 35-day-old rats were given 8,000 or 16,000 ppm captan in their diet. The high dose level proved to be too toxic and the group was dropped from the study at 18 weeks. A new low dose group was started at 4000 ppm. Twenty-one weeks later the dosage of both groups was halved, resulting in time-weighted average doses of 2,525 and 6,050 ppm for the 80 weeks of treatment. The rats were sacrificed after an additional 33 weeks. No lesions were seen which could be attributed to captan, however the authors reported that: "In rats a positive dose-related trend and a difference between incidences of tumors in high-dose and pooled-control groups were found in females when the data for adrenal cortical adenoma were combined with those for adrenal cortical carcinoma (pooled controls 0/64, low-dose 2/50, high-dose 3/47, $p=0.047$). There was also a positive dose-related trend for the incidence of C-cell adenoma of the thyroid in female rats (pooled controls 1/66, low-dose 1/49, high dose 4/44, $p=0.0035$)."

A study by Hazelton Laboratories (1956) used even fewer animals (10 male and 10 female rats per group) for a 2-year captan feeding study. Substantial mortality occured in many of the groups, including 50% of the control males and 40% of the control females. The high dose group (10,000 ppm) was sacrificed at only 55 weeks, which was insufficient time for tumor development. The medium and low dose groups (5000 and 1000 ppm) were sacrificed at 104 weeks. No tumors that could be associated with captan were seen; however, the ability of this study to detect tumors was very poor due to the small sample size and short term of the high dose testing.

A 15-month mouse study (IBT B9271) and a 2-year rat study (IBT B9267) have been judged invalid by a joint US/Canadian governmental audit (Auerbach, 1980).

B. Mutagenicity

40 CFR Section 162.11(a)(3)(ii)(A) states that "a rebuttable presumption shall arise [that a notice of intent to cancel registration shall be issued] if a pesticide's ingredient(s), metabolite(s), or degradation product(s) * * * induces mutagenic effects, as determined by multitest evidence." Section 162.3(y) defines mutagenicity as "the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations." Section 162.3(1) defines degradation product as "a substance resulting from the transformation of a pesticide by physiochemical or biochemical means."

Human exposure to a mutagen has serious implications. The possible adverse effects to people, especially those of reproductive age, are spontaneous abortions, still births, birth defects in their children, and diseases in the adult life of subsequent generations. Any of these effects could result from exposure of the male and/or female parent to a mutagen. In addition, those exposed can be adversely affected by mutations of the somatic cells.

The primary objective of mutagen testing is to determine whether a chemical has the potential to cause heritable genetic alterations in man. Direct methods for this assessment do not exist. As a consequence, non-human and even non-mammalian tests have been utilized in efforts toward this assessment (DHEW, 1977).

Evidence in both prokaryotic (i.e. bacterial) and eukaryotic (i.e. mammalian) systems indicates that captan is a point (gene) mutagen. This means that captan can interact with DNA of several species to produce mutations in both reproductive and other body cells. There is also evidence that captan can induce chromosomal aberrations in somatic cells of mammals. In addition, available data indicate that captan can damage DNA of both prokaryotic and eukaryotic organisms.

Though not all of the available mutagenicity data are presented in this document, the following representative data support the Agency's conclusion that captan is capable of inducing gene mutations, DNA damage and chromosomal aberrations and therefore meets this risk criterion. Additional mutagenicity data are being sought primarily through registrant compliance with FIFRA Section 3(c)(2)(b) requests (Johnson, 1980).

1. *Gene Mutations* [Data Summarized in Table 3]

Table 3

Reference	Test	Organism	Results	Comments
Gene Mutation: Bacteria				
Bridges et al., 1973	Forward mutation	*Escheichia coli*	+	No metabolic activation.
Bridges et al., 1972	Reverse mutation spot test	*E. coli*	+	No metabolic activation.
Buselmaier et al., 1972	Mouse host-mediated	*Salmonella typhimurium* G46	+	500 mg/kg captan injected.
	Reverse mutation	*Serratia marcescens*	+	Intra peritoneal.
Ficsor et al., 1977	*Reverse mutation:* mouse host-mediated	*S. typhimurium* G46	–	1,000 mg/kg orally, 3 subcutaneous injections, 2,000 mg/kg orally of 500 mg/kg.
	Rat host-mediated	*S. typhimurium* TA 1950	–	
	In vivo mouse blood-urine mediated	*S. typhimurium* G46	–	Urine mediated.
	In vivo rat-blood-mediated	*S. typhimurium* TA 1950	–	
	In vivo Captan mutations assays:	*S. typhimurium* TA 1950	+	
	Captan + rat blood	*S. typhimurium* TA 1950	– (decreased)	
	Captan + rat plasma	*S. typhimurium* TA 1950	+	
	Captan + human blood	*S. typhimurium* TA 1950	– (decreased)	
	Captan + S-9 rat liver microsome fraction	*S. typhimurium* TA 100	+	Revertants/plate 367 without S-9 109 with S-9.

Table 3

Reference	Test	Organism	Results	Comments
Gene Mutation: Bacteria				
Ficsor et al., 1978	Reverse mutation	*S. typhimurium* G46, TA 1530, TA 1950, TA 100	+	Used as positive control in spot and liver suspension assays. S-9 metabolic activation system with TA 100 reduced the mutagenicity.
Gabridge and Legator, 1969	Mouse host-mediated reverse mutation spot test	*S. typhimurium* G46	–	Too few organisms recovered—not well described.
Legator et al., 1969	Reverse mutation spot test	*E. coli*	+	
Marshall et al., 1976	Reverse mutation plate test	*S. typhimurium* TA 1535	+	Approximately ½ as mutagenic after metabolic activation.
McCann et al., 1975	Reverse mutation spot test	*S. typhimurium* TA 1538	–	No metabolic activation used.
		S. typhimurium TA 1535, TA 100, TA 98	+	
Nagy et al., 1975	Reverse mutation spot test	*E. coli* WP 2 try-hcr+	+	"Strong mutagen".
		E. coli WP 2 try-hcr–	+	Do.
Seiler, 1975	Reverse mutation spot test	*S. typhimurium* TA 1535	Inconclusive	Protocol and results not adequately described.
Shirasu et al., 1976	Reverse mutation spot test	E. coli WP 2 try-hcr+	+	
		E. coli WP 2 try-hcr–	+	
		S. typhimurium TA 1535	+	
		S. typhimurium TA 1536, TA 1537, TA 1538	–	
Simmon et al., 1977	Reverse mutation plate test	*E. coli* WP 2 uvr A–	+	
		S. typhimurium TA 1535, TA 100	+	Base pair substitution.
		S. typhimurium TA 1537, TA 1538	–	
Szybalski, 1958	Reverse mutation spot	*E. coli* Sd—4	Inconclusive	No sufficient information to evaluate.
Reference	Assay	Organism	Results	Comments
Gene Mutation: Eukaryotic Microorganisms				
Bignami et al., 1977	Point mutation	*Aspergillus nidulans*	+	No metabolic activations used.
Gene Mutations: Mammalian Cells in Culture				
Arlett et al., 1975	Ouabain resistance induction	Chinese hamster 8AG suspension indefinite treatment.		
		Ouabain, suspension treatment	+	
		Lung fibroblast 8AG and Ouabain, vapor treatment	+	

Gene (point) mutations are alterations which affect single genes. These alterations include base pair substitutions and frameshift mutations as well as other small deletions and insertions. Applicable *in vitro* test systems include both forward and reverse mutations assays in bacteria, yeast, fungi, and mammalian cells in culture. The lower prokaryotic (e.g., bacteria) systems detect only point mutations, while higher eukaryotic systems detect multi-locus deletions as well.

The information available as given below on the mutagenicity of captan has shown that it can cause gene mutations in bacteria, in eukaryotic microorganisms and mammalian cells in culture.

a. Bacteria

As an example of bacterial testing to indicate mutagenicity, many mutants have been isolated which block various steps in histidine biosynthetic pathways of *Salmonella typhimurium*. Among these mutants, a series of tester strains have been used in testing captan which revert by specific mechanisms, e.g., base-pair substitution or frameshift mutations (DHEW, 1977).

Captan has been demonstrated to produce reverse mutations in *Salmonella typhimurium* G46, TA 1535, TA 100, and TA 1950 (Ficsor et al., 1977; Ficsor et al., 1976; Marshall et al., 1976; McCann et al., 1975; Shirasu et al., 1976; and Simmon et al., 1977). Marshall et al., (1976) found a mutagenic response in a plate test with *S. typhimurium* TA 1537. However, Shirasu, et al. (1976) and Simmon et al. (1977) observed no response with this strain. Reverse mutations were also induced in the very sensitive frameshift mutant TA 98 (McCann et al., 1975). Captan appears to be more active, however, in base pair than in frameshift mutation.

Escherichia coli WP 2 has been shown to be susceptible to the mutagenic action of captan. This tryptophan auxotroph was reverted to non-dependence on tryptophan by captan (Nagy et al., 1975; Shirasu et al., 1976; and Simmon et al., 1977).

Bridges et al. (1973), found that captan caused a forward mutation to colicin E 2 resistance in *E. coli* WP 2 uvr A-. A streptomycin dependent strain (SA4–73) and a thymine dependent strain were shown to revert to streptomycin independence and thymine independence (Legator et al., 1969). This effect demonstrated that captan can cause point mutational changes in these strains.

A spot test using various strains of *E. coli* WP 2 was designed to detect volatile mutagenic components of captan (Bridges et al., 1972). Captan impregnated filter paper was placed on the agar surface or on the lid of the petri dish. Approximately equal numbers of mutants were observed in each case, indicating that most of the effect of captan was mediated by a volatile mutagen. The frequency of mutation was increased as the buffer pH increased from 5 to 9 on the filter paper on the lid. The vapor phase mutagen was also demonstrated to be short-lived.

Fewer survivors were observed with an ExrA – strain than with an ExrA + strain when the captan impregnated filter pad was applied to the agar, but not when it was applied to the lid and not in contact with the agar. This indicates that there is a second mutagenic (diffusible) component of captan causing repairable DNA damage. The diffusible component causing the effect was not identified.

b. Bacteria with Metabolic Activation

A number of systems have been developed to simulate the metabolic capabilities of intact mammals. The various metabolic activation systems used can be grouped into three main categories: (1) Whole animals are

Table 4.—Continued

employed to activate the test chemical. The systems most commonly used are the host-mediated assay and the analysis of body fluids for the presence of mutagens. (2) Certain strains of mammalian cells in culture are capable of metabolizing chemicals. These are used as feeder cells for the indicator cells which do not have such metabolizing capabilities. (3) Organ homogenates from mammals are used to metabolize chemicals in an *in vitro* system in the presence of the indicator organism (DHEW, 1977). These bacterial assays employ an exogenous source of matabolic activation in the form of a mammalian liver microsomal preparation. The majority of genetic toxicants must be converted into reactive forms before their effects can be detected.

S–9 liver microsome fractions generally seem to decrease the mutagenicity of captan in microbial assays. Whole blood, but not plasma, also decreases the activity in bacterial systems.

Ficsor et al., (1977) examined the mutagenic activity of captan on *S. typhimurium* TA 100 after incubation with a rat S–9 microsomal fraction and found an approximately 33% reduction in mutagenic activity over the untreated captan assay. Rat S–9 microsomal fraction decreased the mutagenicity of captan by approximately 50% in *S. typhimurium* strains TA 1535 and TA 1537 (Marshall et al., 1976). Decrease in mutagenic activity after treatment of captan with S–9 microsomal fraction was also noted in *S. typhimurium* strains TA 100 and TA 1535 by Simmon et al., (1977).

c. Host-and Fluid-Mediated Bacterial Systems

Host-Mediated Assay In the host-mediated assay, the indicator organism is introducted into the peritoneal cavity or injected into the circulatory system or the testes of the host mammal. The host is then treated with the substance under test, sacrificed, and the test organism removed and examined for mutation induction. A wide range of cellular systems have been used as indicator organisms: *Salmonella, E. coli, Saccharomyces, Neurospora,* mouse lymphoma cells, Chinese hamster cells, mouse ascites cells and human lymphocytes.

Fluid-Mediated Assay. After chemicals are metabolized in an animal, they may be excreted in the urine as breakdown products and/or conjugates of the original substance. Microbial indicators have proven useful for the detection of active mutagens in the urine of animals treated with non-mutagenic precursor substances (DHEW, 1977).

S. typhimurium G46 his- and *Serratia marcescens* a21 leu were injected intraperitoneally in NMRI mice previously injected subcutaneously with 500 mg/kg captan (Buselmaier et al., 1972). After 3 hours, the bacteria were recovered and examined for reverse mutations. Mutagenic responses were seen for both organisms.

Ficsor et al., (1977) performed several host- and fluid-mediated assays with captan using strains of *S. typhimurium.* Four host-mediated assays were performed as described below. None of them evidenced any increase in mutagenic activity attributable to captan. (1) Upjohn strain Suris albino male mice were injected intraperitoneally with strain G46. One group was given captan orally at 1,000 mg/kg and another group was given 500 mg/kg captan subcutaneously at 0, 60, and 120 minutes after injection of the bacteria. The bacteria were recovered and examined for revertants. (2) Sprague-Dawley male rats were injected intraperitoneally with strain TA 1950 and given 2,000 mg/kg captan orally. The bacteria were recovered after two hours and examined for revertants. (3) A spot assay with strain G46 was performed using filter discs dipped in blood or uring from mice treated orally with 250 mg/kg captan. (4) Spot assays with strain TA 1950 were performed by placing 3 drops of blood from rats (after oral or intraperitoneal captan treatments) on the assay agar. Quantitative determinations were performed by incubating blood from each sample with strain TA 1950 before plating.

Fluid-mediated assays were performed with strain TA 1950 using human blood, rat blood, plasma, and saline. When captan was incubated in rat blood, the mutagenicity of captan was inactivated at 500 and 1,000 ug/ml captan, but not at 5,000 and 10,000 ug/ml. Captan was mutagenic in saline, in the absence of rat blood. Rat plasma was inactivated by 20 ug/ml captan, but not 200 ug/ml. The researchers reported that this inactivation could be attributed to captan's reaction with glutathione localized in red blood cells. Human blood inactivated about as much captan as rat blood.

d. Eukaryotic Microorganisms

Captan was examined in a point mutation assay using a haploid strain of *Aspergillus nidulans* (Bignami et al., 1977). 8-azaguanine resistant mutations were reported.

e. Mammalian cells in culture

Captan was used to treat cell cultures of V79–4 Chinese hamster lung fibroblasts (Arlett el al., 1975). Treatment with captan in suspension resulted in no absolute increase in the number of 8-azaguanine resistant colonies per plate. However, both the absolute number of ouabain resistant colonies and the number of variants per survivor were increased by captan at 5 and 10 ug/ml. Exposure to vapor from captan impregnated filter paper resulted in an increase in the number of both 8-azaguanine and ouabain resistant colonies

2. DNA Damage [Data Summarized in Table 4]

Table 4

Reference	Assay	Organism	Results	Comments
DNA Damage: Bacteria				
Bridges et al., 1973	Differential toxicity	*E. coli* WP 2/*E. coli* WP 2 *E. coli* uvr A	+	
Shirasu et al., 1976	....do	*Bacillus subtilus* H 17 rec+/*B. subtilus* M45 rec–	+	
Simons et al., 1977	....do	*B. subtilus* H 17 rec+/*B. subtilus* M 45 rec–	+	
		E. coli W311 pol A+/*E. coli* P3478 pol A–	+	
DNA Damage: Eukaryotic Microorganism				
Bignami et al., 1977	Mitotic crossing over	*A. niduluns*	+	No metabolic activation used.
Fahrig 1973	Mitotic gene conversion	*S. carevisiae*	+	No metabolic activation used.
Seibert et al., 1970	Mitotic gene conversion	*S. carevisiae*	"Weakly converto-genic".	Not reported sufficiently to evaluate.

Table 4 —Continued

Reference	Assay	Organism	Results	Comments
DNA Damage: Mammalian Cells In Culture				
Ahmed et al., 1977	Unscheduled DNA synthesis	SV40-transformed human fibroblast	+	With and without metabolic activation.
Swenberg 1976	Alkaline elution DNA	Chinese hamster lung	+	Without metabolic activation.
			–	With metabolic activation.

DNA repair tests do not measure mutation *per se,* but DNA damage induced by chemical treatment of a cell. Microbial test systems measure this damage as cell killing. Mammalian cell systems—both *in vitro* and *in vivo*—measure the damage to DNA either directly, or as it is being repaired (DHEW, 1977).

Captan has been shown to cause DNA damage in bacteria, eukaryotic microoganisms, and in two mammalian cell lines.

Prokaryotic and Eukaryotic Microorganisms

This test is usually performed as a plate test with the chemical deposited in the center of a lawn of the *E. coli* or *Salmonella typhimurium* tester strains. The killing effects are measured as zones of bacteria growth inhibition and the ratio of the size of the zones between the normal and the repair-deficient strains is a measure of the differential killing effects. The test has also been performed by applying the test substance to one end of two or more streaks of indicator organisms on single petri dish and looking for a differential shortening of the streaks. This allows for the simultaneous use of more than one type of repair-deficient strain on a single plate. This method has been used with *Bacilus subtilis* and *Saccharomyces cerevisiae*

Mammalian cells synthesize DNA only during one stage of the cell cycle. This is referred to as "scheduled DNA synthesis." However, when the cellular DNA is damaged, repair synthesis can occur during the time when scheduled DNA synthesis is not taking place. This "unscheduled DNA synthesis" can be measured in synchronously growing cells as uptake of radioactive thymidine into the cell's DNA. It can be measured in cells in culture, or in meiotic and post-meiotic mouse spermatocytes *in vitro* (DHEW, 1977).

a. Bacteria

Captan was shown to cause differential killing of DNA repair deficient strains of the following bacteria: *E. coli* WP 2 and *E. coli* WP 2 uvrA (Bridges, B. A. et al., 1973), *Bacillus subtilis* H17 rec+/*B. subtilis* M45 rec– (Shirasu et al., 1976; Simmons, et al., 1977), and *E. coli* W311 polA+/*E. coli* P3478 polA–(Simmons, et al., 1977).

b. Eukaryotic Microorganisms

Aspergillus nidulans, diploid strain P, was used for a mitotic segregation assay in which somatic crossing over was attributed to captan treatment (Bignami et al., 1977). R. Fahrig (1973) found gene conversion at two loci, ade 2 and trp 5, in *Saccharomyces cerevisiae* after treatment with captan.

c. Mammalian Cells in Culture

An SV–40 transformed human fibroblast cell line, VA–4, was treated with captan, with and without rat liver S–9 microsome fraction (Ahmed et al., 1977). A significant $p<0.05$) increase in unscheduled DNA synthesis as measured by autoradiography was seen at all treatment levels. However, metabolic activation did not significantly alter the effect of captan.

Swenberg et al. (1976) found an increase in the rate of elution of single-stranded DNA from polyvinyl filters after lysing V79 Chinese hamster lung fibroblast cells treated with captan. No effect was seen when an S–9 microsomal fraction was added with the captan treatment. This indicates that captan can cause breaks in DNA.

3. Chromosomal Aberrations [Data Summarized in Table 5]

Table 5

Reference	Assay	Organism	Results	Comments
Chromosomal Aberrations: In Vitro Cytogenetics				
Legator et al., 1969	Cytogenetic	Human embryo lung cells	+	Dose related response in chromosome breaks.
		Rat kangaroo cells	+	Do.
Tezuka et al., 1978	Cytogenetic	Human fibroblasts	No increase in breaks or gaps. Stickiness dose response seen.	Stickiness may not be related to mutagenicity.
Chromosomal Aberrations: In Vivo Cytogenetics				
Tezuka et al., 1978	Cytogenetic	Wistar rats	–	
Chromosomal Aberrations: Dominant Lethal in Rodents				
Collins, 1972	Dominant lethal	Osborne-Mendel rats	+	
	....do	CBA—J mice	+	
Epstein et al., 1972	....do	ICR/H2 Swiss mice	–	Relatively insensitive test.
Kennedy, 1975	....do	Charles River mice		Not valid.
Simmon et al., 1977	....do	ICR/SIM mice	–	Dosed up to 5 g/kg/day.
Tezuka et al., 1978	....do	C3H and SLC–ICR mice		Not valid.

Chromosomal aberrations involve changes in number and structure and may include the loss or gain of entire chromosomes, chromosome breaks, nondisjunctions, and translocations. Tests for these abnormalities involve searching for chromosomal changes in somatic and germinal cells usually obtained from insects and mammals.

Chromosomal aberrations have been reported in two mammalian cell lines. Of the literature examined so far, *in vivo* tests (which are generally less sensitive than the *in vitro* tests) have not revealed significant indications of mutagenicity of captan with the exception of the dominant lethal test in Osborne-Mendel rats and CBA–J mice (Collins, 1972).

a. Mammalian Cells in Culture.

Mammalian cells in culture can be employed for the assessment of chromosomal effects. Human cells, e.g. fibroblasts and lymphocytes, and Chinese hamster ovary cells with and without metabolic activation have been used. Gross chromosomal abberations such as breaks, gaps, and rearrangements can be readily observed in these systems (DHEW, 1977).

A heteroploid human embroyonic lung cell line, L–132, and a line of rat-kangaroo cells were treated with captan (Legator et al., 1969). Mitosis and DNA synthesis were inhibited. A 36% increase over control levels in chromosome breaks was observed 2 hours after addition of captan at 10 ug/ml to the L–132 line. the increase was 41% at 4 to 5.5 hours and 14% at 24 hours after addition of captan. Infrequent exchange figures were also observed at 24 hours. In the rat-kangaroo line, captan also increased the frequency of cells with chromosome breaks, preferentially in the X chromosome. A dose-response effect was apparent.

Tezuka et al., 1978, treated diploid human fetus fibroblasts with captan at 0.5 to 4 ug/ml captan. Mitosis has inhibited at all dose levels and a dose-dependent increase in cells showing stickiness was seen, statistically significant ($p<0.001$) at the 3 and 4 ug/ml dosage levels. No increase in chromosome gaps or breaks were seen and the stickiness may not have been due to mutagenicity. Since the scoring method was not described, the usefulness of this study was limited.

The scoring criteria were not described for a cytogenetic analysis of bone marrow cell preparations from Wistar rats treated orally at single dose levels of 500, 1,000, or 2,000 mg/kg captan or five consecutive doses of 200, 400, or 800 mg/kg (Tezuka et. al., 1978). No chromosomal effects were reported.

There was a consistent, although statistically nonsignificant, increase in gaps but this may have been due to captan's binding to proteins rather than an effect on DNA.

b. Dominant Lethal Tests

Dominant lethal effects in the mouse or the rat seen as fetal wastage are considered to be indicators of chromosomal mutation produced in germinal cells by mutagenic substances (DHEW, 1977).

(1) Collins Study

Dominant lethal effects attributable to captan were reported in Osborne-Mendel rats and CBA–J mice (Collins, 1972). Captan was given for 5 days by intraperitoneal injection in doses of 2.5, 5.0, and 10 mg/kg/day or by oral intubation in doses of 50, 100, and 200 mg/kg/day to groups of 15 rats and 15 mice. The rats were mated with one virgin female each week for the next 10 weeks. The mice were mated with two virgin females each week for 12 weeks. Caesarean sections were performed on the 13th day of pregnancy for the rats and on the 12th day for the mice.

(a) Results in Rats

Significant increases ($p<0.05$) were found in the mean number of early deaths per pregnancy for those pregnancies sired by rats 4 weeks after the rats were given captan orally at a dose of 100 mg/kg/day. Increased early fetal deaths were also found in pregnancies sired by rats at 1, 2, and 5 weeks after treatment with 200 mg/kg/day captan.

When the litter was considered an experimental unit and affected litters were defined as those with at least one early fetal death, a significant increase ($p<0.05$) in the number of affected litters was seen in the rat test group given 100 mg/kg/day orally and mated after 4 weeks. The other two dose groups showed consistent increases in the numbers of affected litters. In addition, there were significant linear dose-response relationships in affected litters from rats mated 3 and 4 weeks after treatment.

When "affected litters" were defined as those with two or more early deaths, the data showed a significant increase ($p<0.05$) in the number of affected litters for rats given a daily oral dose of 100 mg/kg captan and mated 2 and 5 weeks later, and ($p<0.01$) for rats given a daily dose of 200 mg/kg captan, and mated 1, 2 and 5 weeks later.

(b) Results in Mice

There were also significant increases ($p<0.05$) in the number of early fetal deaths per pregnancy among the potential offspring of mice given 200 mg/kg/day intraperitoneally and mated 4 and 5 weeks later. Similar increases in the number of early deaths per pregnancy were reported among the offspring of mice given 100 mg/kg/day and 200 mg/kg/day orally and mated 1 and 2 weeks later.

The groups of mice given captan at the highest doses showed significant increases ($p<0.01$) in the percentage of litters with 2 or more early fetal deaths for matings on week 5 after intraperitoneal administration and on week 1 for oral administration. Significant linear dose responses were seen for different weeks of mating for all combinations of species and routes: intraperitoneally treated rats mated in weeks 4 and 5; orally treated rats mated in weeks 1 and 2; intraperitoneally treated mice mated in weeks 1–3 and 5–7; and orally treated mice mated in weeks 1–5, 9, and 12.

(2) Simmon Study

Captan, administered at up to 5,000 mg/kg/day in the diet for 7 weeks, did not increase the frequency of dominant lethal mutations in ICR/SIM mice (Simmon et al., 1977). The positive control was administered by intraperitoneal injection.

(3) Epstein and Kennedy Studies

The following dominant lethal tests, although reporting no dominant lethal effects, are inconclusive as to whether captan may cause such an effect. Epstein et al., (1972) used ICR/Ha Swiss mice; however, the test was relatively insensitive (i.e. unable to detect small increased effects) since small group sizes were used and the dosages were low. The study performed by Kennedy (1975) also used a low dosage and additionally had no controls.

(4) Tezuka Study

Tezuka et al., (1978) treated C3H and SLC–ICR mice with 5 daily doses of up to 600 mg/kg/day captan; however there were inconsistencies in reporting these observations. Consequently this study is also inconclusive as to whether captan may cause dominant lethal effects. For example, application of the formula given in the paper for calculation of the percentage of dominant-lethal mutations yielded results that differ from those reported. The protocol was not standard, using only a 6–week post-treatment mating period combined with a 2- to 4-day mating period. This regimen may have allowed the more active males to contribute more females to the experiment which may have biased the results.

c. Heritable Translocation Test

The heritable translocation test and the sex chromosome loss test have the capability of determining the heritability of chromosomal damage. These effects are measured in progeny of animals exposed to chemical mutagens. Thus, these assays can be employed not only as a means of detecting potential mutagens but also for the purpose of assessing risk (DHEW, 1977).

A heritable translocation test was performed by Stanford Research Institute (SRI) (project LSV–3493) for EPA (Simmon et al., 1977). Captan was administered in the diet for 8 weeks at levels of 2,500 ppm to 60 male ICR/SIM mice and 5,000 ppm to 61 male ICR/SIM mice. These males, the 60 negative control males, and the 66 triethylenemelamine-treated positive control males were mated with two females each, except for one low dose and one high dose male that were mated to only one female each. At maturity (10–12 weeks), 200 males were selected from each dose level group and mated to three females each. The females were sacrificed 14 days after mating and the uterine contents were examined for live and dead implants as an indication of sterility. A cytogenetic evaluation was made of meiotic cell preparations from the testes of those males suspected of being a translocate or non-breeder after two or three breedings. One translocation was found in the high dose group which would normally be sufficient to classify captan as positive for heritable translocations; however, one translocation was also seen in the negative control group.

This is the only heritable translocation found in over 1600 negative control males at SRI. This is an acceptable historical spontaneous background rate for heritable translocations, however the presence of the event in this study makes it impossible to evaluate the significance of the heritable translocation in the captan-treated group. In order to resolve this issue it would be necessary to re-run this test, preferably using a larger number of animals.

C. Potential for Human Exposure

1. Introduction

The general population is exposed to captan by eating food which contains captan residues. In addition, agricultural workers, and occasionally bystanders, are exposed to much greater amounts of captan when they are present in fields during or after captan spraying. At present, the Agency has only limited data concerning human exposure to captan. Additional data is being sought, primarily through industry compliance with FIFRA Sec. 3(c)(2)(b) requests (Johnson, 1980), however data from any source is welcome. Until these data are available, Agency assessments of human exposure will be made on a "worst-case" basis.

2. General Population

a. Dietary Exposure. Captan is registered for use on a large number of food crops. Its use is extensive (Table 1) and there are a number of established tolerances for raw agricultural commodities (see Section I.B.2.) The Agency has calculated that a theoretical worst-case dietary exposure would be 0.117 mg of captan/kg of body weight per day [2] (Table 6).

[2] This calculation was based on existing tolerances, the extent of crop treated (see Table 1), and an assumed average daily diet of 1.5 kg for a 60 kg person. However, the Agency anticipates that the actual levels of captan on treated crops will be much lower.

TABLE 6—*Dietary "Worst Case" Exposure Calculations for Captan*

Food commodity or commodity grouping	Food factor (percent diet)	Tolerance (ppm)	Percent of crop treated	Daily intake (mg/1.5kg diet/day)
Almonds	0.03	2.00	[1] 42.8	0.00038
Apples	2.53	25.00	[1] 32.3	0.30645
Apricots	0.11	50.00	[1] 21.0	0.01733
Avocados	0.03	25.00	[2] 100.0	0.01125
Beans	2.04	25.00	[2] 50.0	0.38250
Beet Greens	0.03	100.0	[2] 10.0	0.04500
Beets	0.17	2.00	[2] 100.0	0.00510
Blackberries	0.03	25.00	[2] 100.0	0.01125
Blueberries	0.03	25.00	[2] 100.0	0.01125
Broccoli	0.10	2.00	[2] 50.0	0.00150
Brussel sprouts	0.03	2.00	[2] 50.0	0.00045
Cabbage, sauerkraut	0.74	2.00	[2] 100.0	0.02220
Cantalopes	0.52	25.00	[2] 50.0	0.09750
Carrots	0.48	2.00	[2] 50.0	0.00720
Cauliflower	0.07	2.00	[2] 50.0	0.00105
Celery	0.29	50.00	[2] 50.0	0.10875
Cherries	0.10	100.00	[1] 13.8	0.02070
Collards	0.08	2.00	[1] 50.0	0.00120
Corn, sweet	1.43	2.00	[4] 50.0	0.02145
Cottonseed	0.15	2.00	[4] 80.8	0.00369
Crabapples	0.03	25.00	[2] 100.0	0.01125
Cranberries	0.03	25.00	[2] 50.0	0.01125
Cucumbers, pickes	0.73	25.00	[2] 100.0	0.27375
Dewberries	0.03	25.00	[2] 100.0	0.01125
Eggplant	0.03	25.00	[2] 50.0	0.00563
Garlic	0.03	25.00	[2] 100.0	0.01125
Grapefruit	0.99	25.00	[2] 50.0	0.18563
Grapes, raisins	0.49	50.00	[1] 30.9	0.11355
Honeydew melons	0.03	25.00	[2] 50.0	0.00562
Kale	0.03	2.00	[2] 100.0	0.00090
Leeks	0.03	50.00	[2] 100.0	0.02250
Lemons	0.17	25.00	[1] 9.1	0.00580
Lettuce	1.31	100.00	[1] 84.5	1.66043
Limes	0.17	25.00	[1] 9.1	0.00580
Mangoes	0.03	50.00	[2] 100.0	0.02250
Muskmelons	0.03	25.00	[2] 100.0	0.01125
Mustard Greens	0.06	2.00	[2] 100.0	0.00180
Nectarines	0.05	50.00	[1] 21.0	0.00473
Onions (dry bulb)	0.72	25.00	[2] 100.0	0.27000
Onions, green	0.11	50.00	[2] 50.0	0.04125
Oranges	2.17	25.00	[1] negligible	0.00000
Peaches	0.90	50.00	[1] 21.0	0.14175
Pears	0.26	25.00	[1] 5.5	0.00536
Peas	0.69	2.00	[2] 50.0	0.01035
Peppers	0.12	25.00	[2] 50.0	0.02250
Pimentos	0.03	25.00	[2] 100.0	0.01125
Pineapple	0.30	25.00	[2] 100.0	0.11250
Plums, Prunes	0.13	50.00	[1] 17.3	0.01688
Potatoes	5.43	25.00	[4] 66.4	1.35207
Pumpkin, Squash	0.11	25.00	[2] 100.0	0.04125
Quinces	0.03	25.00	[2] 100.0	0.01125
Raspberries	0.03	25.00	[2] 100.0	0.01125
Rhubarb	0.05	25.00	[2] 50.0	0.00937
Rutabages	0.03	2.00	[2] 100.0	0.00090
Shallots	0.03	50.00	[2] 100.0	0.02250
Soybeans	0.92	2.00	[2] 100.0	0.02760
Spinach	0.05	100.00	[2] 100.0	0.07500
Strawberries	0.18	25.00	[1] 100.0	0.06750

V 45 AG 18 80 UMI

TABLE 6—*Dietary "Worst Case" Exposure Calculations for Captan—Continued*

Food commodity or commodity grouping	Food factor (percent diet)	Tolerance (ppm)	Percent of crop treated	Daily intake (mg/1.5kg diet/day)
Summer Squash	0.03	25.00	[3]100.0	0.01125
Tangerines	0.03	25.00	[3]50.0	0.00563
Taro	0.03	0.250	[3]100.0	0.00011
Tomatoes	2.87	25.00	[1]71.1	0.76539
Turnips	0.05	2.00	[3]100.0	0.00150
Turnip Greens	0.03	2.00	[3]100.0	0.00090
Watermelon	1.43	25.00	[3]100.0	0.53625
Total				7.013256

[1] Based on data as provided to EPA by registrants (table 1).
[2] No usage data available, hence 100 percent assumed.
[3] Based on data estimates made by EPA (table 2).
[4] Includes seed treatment useage which may not be relevant to dietary exposure.

b. Nondietary (Dermal and Inhalation. There are a number of nonagricultural uses of captan. Some of the treated products (e.g., wallpaper paste), are used in substantial amounts (Table 2) in or around domestic dwellings; therefore, people who live or work in areas where captan treated products are present may be exposed to captan residues.

3. Workers

a. Agricultural. (1) Applicators, Mixers, Loaders and Bystanders

(a) Commercial

Michigan farm workers were studied (Oudibier et al. 1974) to determine the extent of their respiratory exposure to captan. These farmers used airblast speed sprayers drawn through the orchards by tractors. Personnel involved with the mixing and spraying procedures wore respirators equipped with filter pads and midget impingers containing ethylene glycol. The latter device was connected to a vacuum source and used to monitor pesticide levels in the breathing zone. After each spray operation the respirator pads and the impingers were analyzed for captan residues. The respirator pad analyses indicated that respiratory exposure was generally greater for mixers (0.8–1.9 μg/min) than sprayers (0.07–0.66 μg/min). although no captan residues were found in the impinger samples the researchers reported difficulties with this sample collection methodology. A number of weaknesses in the published report were identified as follows: (1) No mention of the type of formulation used; (2) No recovery studies reported for the methodology used; (3) No indication of the dates of sample collection or the dates of the analyses; and (4) No detection limit given.

Captan exposure of farm workers in Maryland was studied (Hansen et al., 1978) during 16 separate orchard sprayings using a tractor-drawn, high-pressure sprayer equipped with a single-orifice handgun. Three men were involved in each spraying: The tractor driver, the sprayer operator and the observer. Following each spraying the exposure was determined from captan residues on respirator pads and patches attached to clothing and on orchard foliage.

The average dermal exposure was calculated to be 1.98 mg/person/hr with a maximum of 3.3 mg/person/hr. This was based on an assumed dermal exposed area of 0.294 M^2 when no protective clothing was worn. The amounts of captan residue collected from respirator pads of the tractor driver and sprayer operator averaged 0.032 mg/hr, with the highest concentration sample obtained from any one worker being equivalent to 0.081 mg/hr. The urinalysis data were not reported. The captan residues on orchard foliage will be discussed under Section 2(a)(2).

(b) Home Gardeners

The Agency is also concerned about possible exposure of home gardeners and orchard owners during application of captan. The Agency will solicit further information on this exposure in a FIFRA Section 3(c)(2)(B) letter to registrants.

(2) Harvesters

Hansen et al. (1978) observed that captan residues on fruit diminish with time. The study found that the average captan residue on apples was 190 ppm at 4 hours following application, but then declined to 53 ppm after 14 days. Such information indicates residues of captan diminish following application, which shows that the period between

application and reentry for harvesters may be of concern, as there is no established preharvest interval.

b. Nonagricultural

No information is available to the Agency for evaluating the occupational exposure potential from nonagricultural uses of captan (Table 2). The Agency requests such data in order to evaluate the likelihood of captan exposure to applicators, mixers, loaders and bystanders as well as to those who handle the treated materials.

IV. Other Relevant Adverse Effects

40 CFR 162.11(a)(3)(ii)(B) states that "a rebuttable presumption [that a notice of intent to cancel registration shall be issued] if a pesticide's ingredient(s), metabolite(s), or degradation product(s) * * * produces any other [other than oncogenic or mutagenic effects] or delayed toxic effects in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety."

Captan may produce other chronic or delayed toxic effects to organs and functions of the body including the lungs, central nervous system, hematopoietic system, metabolism, kidneys reproductive systems and others. Currently available data strongly suggest that captan may have teratogenic, fetotoxic and hypersensitivity effects. The Agency is currently seeking more information on these issues. If, upon further evaluation of all the toxicity and exposure data the Agency determines that other such adverse effects are produced by exposure to captan at any level up to a level exceeding possible human exposure (taking into account ample margins of safety), then the Agency will issue a supplemental notice or notices of rebuttable presumption against registration (RPAR)(s).

In addition, a supplemental RPAR may be issued on any of the uses of captan which result in an acute hazard to aquatic species of wildlife as defined in 40 CFR 162.1(a)(3)(i)(B)(3).

Captan Bibliography

Ahmed, F. E.; Hart, R. W.; Lewis, N. J. (1977) Pesticide induced DNA damage and it's repair in cultured human cells. Mutation Research 42(2):161–74

Alnot, M. O.; Lefevre, H.; Pfister, A.; DaLage, C. (1974) Observations preliminaries sur la toxicite et al pouvoir tertogene du Captane chez la ratte Wistar [preliminary observations on toxicity and teratogenicity of captan in Wistar rats]. tr. EPA contract., Societe de Biologie 168(10, 11, 12):1173–1177

Arlett, C. F.; Turnbull, D., Harcourt, S. A.; Lehmann, A. R.; Coella, C. M. (1975) A comparison of 8-azaguanine and ouabain-resistant mutants by radiation, alkalating agents and the fungicide captan in the cells of Chinese hamster in culture. Mutation Research 33(2/3):261–78

Auerbach, J. Memo to Homer Hall dated Jan. 14, 1980. Review of IBT studies on captan.

Bignami, M.; Aulicino, F.; Velcich, A., Carere, A., Morpungo, G. (1977) Mutagenic and recombinogenic action of pesticides in *Aspergillus nidulans*. Mutation Research 46(6):395–402

Bionetics Research Labs. Inc. (1978) Evaluation of Carcinogenic, Teratogenic and Mutagenic Activities of Selected Pesticides and Industrial Chemicals. Vol. 1. Carcinogenic Study (available from NTIS), PB–223 159, August, 1968

Bridges, B. A.; Mottershead, R. P.; Rothwell, M. A.; Green, M. H. L. (1972) Repair-deficient bacterial strains suitable for mutagenicity screening tests with the fungicide captan; Chem.-Biol. Interact. 5(2):77–84.

Bridges, B. A.; Mottershead, R. P.; Colella, C. (1973) Induction of foward mutations to colicin E2 resistance in repair deficient strains of Escherichia coli. Experiments with ultraviolet light and captan. Mutation Research 21(6):303–313

Buselmaier, W.; Rohrborn, G.; Propping, P. (1972) Mutagenitats-Untersuchungen mit Pestiziden in host-mediated assay und mit dem dominated letaltest an der maus [Mutagenicity investigations with pesticides in host-mediated assay and dominant lethal assay tests in mice] tr. EPA contract. Biol. Zentralb. 91(3):311–325

Collins, T. F. X. (1972) Dominant Lethal Assay: I. Captan. Food Cosmetics and Toxicology 10(3):353–361

Epstein, S. S.; Arnold, E.; Andrea, J.; Bass, W.; Bishop, Y. (1972) Detection of chemical mutagens by the dominant lethal assay in the mouse; Toxicology & Applied Pharmacology 23:288–325

Fahrig. R. (1974) Comparative mutagenicity studies with pesticides. International Agency for Research on Cancer. Scientific Publication No. 10 (Chem. Carcino, Essays Proc. Workshop):161–161

Ficsor, G.; Bordas, S.; Muthiani, E.; Wertz, G.; Zimmer, I.; Mammalian host-and fluid-mediated mutagenicity assays of captan and streptozotocin in *Salmonella Typhimurium*. Mutation Research 48:1–16, 1977

Ficsor, G.; Bordas, S.; Stewart, S. J. (1978) Mutagenicity testing of benomyl, methyl-2-benzimidazole carbamate, streptozochin, and n-methyl-n'-nitro-n-nitrosoquanidine in *Salmonella typhimurium in vitro* and in rodent host-mediated assays. Mutation Research 51(1976):151–164

Gabridge, M.G.; Legator, M. S. (1969) A host-mediated microbial assay for detection of mutagenic compounds. Proceedings of the Society of Experimental Biology & Medicine 130:831–34

Hansen, J. D.; Schneider, B. A.; Olive, B. M.; Bates, J. J. (1978) Personnel safety and foliage residue in an orchard spray program using azinphosmethyl and captan. Archives of Environmental Contamination and Toxicology 7:63–71

Hazelton Laboratories. 2-year Rat Study submitted with Pesticide Petition No. 124. 1956. Sponsored by California Spray-Chemical Corp., Stauffer Chemical Co.

Innes, J. R. M.; Ulland, B. M.; Valerio, M. G.; Petrucelli, L; Fisbein, L.; Hart, E. R.; Pallota, A. J.; Bates, R. R.; Falk, H. L.; Gart, J. J.; Klein, M.; Mitchell, I.; Peters, J. (1969) Bioassay of pesticides and industrial chemicals for tumorigenicity in mice: A preliminary note. Journal of the National Cancer Institute 42(6):1101–1114

Johnson, E. L. (1977) Letter to registrants dated Jul. 27 1977. [Request for submission of IBT study data] (directions for and explanation of submission requirements attached)

Johnson, E. L. (1978) Letter to registrants dated Mar. 20, 1978 [Requiring expansion of scope of IBT audits] (instructions entitled: Generic Observations to Guide Audits dated March 20, 1978; attached)

Kennedy, G. L.; Arnold, D. W.; Keplinger, M. L.; (1975) Mutagenicity studies with captan, captafol, folpet and thalidomide., Food, Cosmetics and Toxicology Vol.13:55–61.

Legator, M.; Kelly, F. J.; Green, S.; Oswark, E. J.; Mutagenic Effects of Captan. Ann. N.Y. Acad. Sci.; 106,344–351, 1969

Marshall, T. C.; Dorough, H. W.; Swim, H. E. (1976) Screening of pesticides for mutagenic potential using salmonella typhimurium mutants; Journal of Agriculture & Food Chemistry 24(3):560–563

McCann, J.; Spingarn, N.E.; Kobori, J.; Ames, B.N. (1975) Detection of carcinogens as mutagens: bacterial tester strains with R factor plasmids; Proceedings of the National Academy of Sciences, USA. 72(3):L 979–83

Nagy, Z.; Mile, I.; Antoni, F. (1975) The mutagenic effect of pesticides on E. coli WP2 try. Acta Microbiologica Academiae Scientarum Hungaricas 22(3), 309–314, 1975

National Cancer Institute (1977) Bioassay of captan for possible carcinogenicity. Carcinogenesis Technical Report Series #15, CAS No. 133–06–2 (available from NTIS, PB 273–745)

National Institutes of Health (1977) Bioassay of captan for possible carcinogenicity. Federal Register 42(220) Tues. Nov. 15, 1977, (Sec. 4110–08 pg. 59120)

Oudibier, A.J.; Bloomer, A.W.; Price, H.A.; Welch, R.L. (1974) Respiratory route of pesticide exposure as a potential health hazard. Bulletin of Environmental Contamination and Toxicology 12(1):1–9

Seiler, J.P. (1975) Evaluation of Some Pesticides for Mutagenicity. Proceedings of the European Society of Toxicology. The prediction of chronic toxicity from short term studies 17:398–404

Siebert, D.; Zimmerman, F.K.; Lemperle, E.; Genetic Effects of Fungicides Mutation Research 10:533–543, 1970

Shirasu, Y.; Moriya, M.; Kato, K.; Furuhashi, A.; Kada, T. (1976) Mutagenicity screening of pesticides in the microbial system. Mutation Research 40(1):19–30

Simmon, V.F.; Mitchell, A.D.; Jorgenson, T.A. (1977) *In vivo* and *In vitro* Studies of Selected Pesticides to Evaluate Their Potential as Chemical Mutagens. Stanford Research Institute Final Report Prepared for U.S. EPA, Contract 68–01–2458, 2/77

Simmon, V.F.; Mitchell, A.D.; Jorgenson, T.A. Relationships to Environmental Health:

Simmon, V.F.; Mitchell, A.D.; Jorgenson, T.A. (1977) Evaluation of selected pesticides as chemical mutagens. United States Environmental Protection Agency, Office of Research and Development, Research Triangle Park, North Carolina (available for NTIS, EPA–600/1–77–028)

Swenberg, J.A.; Petzold, G.L.; Harbach, P.R. (1976) In vitro DNA damage/alkaline elution assay for predicting carcinogenic potential. Biochemical Biophysical Research Communications 72(2):732–8

Szybalski, W.; (1958) Special microbiological systems. II. Observations on Chemical Mutagenesis in Microorganisms. Annals of the New York Academy of Sciences 76:475–89

Tezuka, H.; Teramoto, S.; Kaneda, M.; Henmi, R.; Murakami, N.; Shirasu, Y. (1978) Cytogenetic and dominant lethal studies on captan. Mutation Research 57(2):201–207

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1966) Statement for Implementation of the NRC Pesticides Residues Committees; "Report on 'No Residue' and 'Zero Tolerance'. "Federal Register, 4/13/66

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1968) Letter to Manufacturers, Formulators, Distributors and Registrants of Economic Poisons dated Jan. 10, 1968. [Classificaiton of certain chemical use patterns as non-food uses] (PR Notice 68–3)

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1968) Notice to Manufacturers, Formulators, Distributors and Registrants of Economic Poisons dated Jan. 30, 1968. [Extension of certain "no residue" and "zero tolerance" registrations beyond Dec. 31, 1967] (PR Notice 68–5)

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1968) Notice to Manufacturers, Formulators, Distributors and Registrants of Economic Poisons dated Apr. 24, 1968. [Classification of certain chemical use patterns as non-food uses] (PR Notice 68–8)

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1969) Notice to Manufacturers, Formulators, Distributors and Registrants of Economic Poisons dated Feb. 1, 1969. [Proposed cancellation of registration of certain products bearing directions for use on food in the absence of finite tolerances or exemptions] (PR Notice 69–4)

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1970) Notice to Manufacturers, Formulators, Distributors and Registrants of Economic Poisons dated Mar. 10, 1970. [Data needs for certain compounds] (PR Notice 70–8)

U.S. Department of Agriculture, Agricultural Research Service, Pesticide Regulation Division (1971) Notice to Cancellation of Registration Under the Federal Insecticide, Fungicide, and Rodenticide Act, Letter to Cancel Vancide 89 RE dated October 19, 1971.

U.S. Department of Health, Education and Welfare (1969) Report of the Secretary's Commission on Pesticides and their Relationships to Environmental Health: Parts I and II. Washington, D.C.: (available from: U.S. GPO, Washington, D.C.; 1969 0–371–074)

U.S. Department of Health, Education and Welfare (1977) Approaches to Determining Mutagenic Properties of Chemicals: Risk to Future Generations. J. Environ. Pathol. Toxicol. 1:301–352.

U.S. Department of Labor, Wage and Hour Division (1979) Notice of waiver of child labor provisions for agricultural employment of ten and eleven year old minors in hand-harvesting of short season crops: Provisions governing applications for and granting of a waiver, restriction on use of pesticides and other chemicals. Federal Register, 44(80), 24058–24060

U.S. Environmental Protection Agency (1979) Hazardous Substances: Definitions, designations, revocation of regulations, proposed expansion of criteria of designation and proposed determination of reportable quantities. Pages 10266–10284, Federal Register, 44(34), Friday, Feb. 16, 1979

Williams, M. Memo to Edwin L. Johnson dated Jan. 15, 1980. Confidential [Production Data]

BILLING CODE 6560-01-M

PAGE 1

12/03/79 **** PRODUCT SEARCH LISTING **** PAGE 2

FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	NAME AND ADDRESS	
# 000070	RIGO COMPANY, INC. JCT. HWY 14e & 1-71 BUCKNER, KENTUCKY 40010	5022221456
PRODUCT NAME		
001690	KILL-KO FRUIT TREE SPRAY	
001790	KILL-KO SEED TREATER	
001900	KILL-KO FRUIT TREE SPRAY	

REGISTRANT	NAME AND ADDRESS	
# 000088	THE HYPONEX COMPANY, INC. 3980 SAWMILL ROAD COPLEY OH 44321	2166661145
PRODUCT NAME		
000023	BH168 FARMS ROSE & FLOWER SPRAY	

REGISTRANT	NAME AND ADDRESS	
# 000100	CIBA-GEIGY CORP. AGRICULTURAL DIV. P.O. BOX 11422 GREENSBORO, NC 27409	9192027100
PRODUCT NAME		
005537	SPECTRACIDE BRAND ROSE AND FLORAL SPRAY	

**** PRODUCT SEARCH LISTING ****

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	NAME AND ADDRESS	
# 000048	BONIDE CHEMICAL CO. INC. 2 HURT AVE. YORKVILLE NY 13495	3157360231
PRODUCT NAME		
000055	BONIDE FLEA-TICK-LICE POWDER	
000059	BONIDE TREE-TOX FRUIT TREE SPRAY	
000073	NEW BONIDE MANY PURPOSE CONC. SPRAY	
001110	A COMPLETE FRUIT TREE SPRAY	
001122	BONIDE A COMPLETE FRUIT TREE SPRAY	
001125	ROSE SPRAY INSTANT ALL LIQUID	
001131	BONIDE CAPTAN 50% WP	
001167	BONIDE ROSE SPRAY INSTANT ALL LIQUID	

REGISTRANT	NAME AND ADDRESS	
# 000059	BURROUGHS WELLCOME COMPANY ANIMAL HEALTH DIV. PESTICIDE REGULATION 3030 CUMMALLIS ROAD RESEARCH TRIANGLE PARK, NC 27709	9195489911
PRODUCT NAME		
001123	PULVEX ZENA DIP	

**** PRODUCT SEARCH LISTING **** PAGE 3

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 000148	THOMPSON-HAYWARD CHEMICAL COMPANY 5200 SPEAKER ROAD KANSAS CITY KS 66106	91332131331

********** PRODUCT NAME **********
**000657* DE-PESTER SOYBEAN SEED PROTECTANT
**000718* DE-PESTER CAPTAN 5 DUST
**000719* CAPTAN 10 DUST
**000736* DE PESTER CAPTAN SULFUR 10-10 DUST
**000743* DE-PESTER KELTHANE, CAPTAN, SULFUR 3-10-10
**000761* CAPTAN MOLY SOYBEAN SEED PROTECTANT WITH MOLYBDENUM
**000780* DE-PESTER TERRACHLOR-CAPTAN NO 10-10
**010290* T-H 71/2% CAPTAN DUST
**011520* CAPTAN SULFUR 10-25 DUST
**011530* CAPTAN SULFUR 10-50 DUST
**011500* CAPTAN 10 DUST

REGISTRANT	*NAME AND ADDRESS*	
* 000226	TOBACCO STATES CHEMICAL COMPANY PO BOX 12046 LEXINGTON, KY 40580	60623314460

********** PRODUCT NAME **********
**000065* TOBACCO STATES BRAND BLIGHT & INSECT DUST
**000174* TOBACCO STATES BRAND FRUIT & VEGETABLE SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 4

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 000228	RIVERDALE CHEMICAL CO 220 E 17TH ST CHICAGO HEIGHTS IL 60411	3127562010

********** PRODUCT NAME **********
**000090* RIVENDALE LINDANE & CAPTAN SEED TREATMENT

REGISTRANT	*NAME AND ADDRESS*	
* 000239	CHEVRON CHEMICAL COMPANY ORTHO DIVISION 940 HENSLEY STREET RICHMOND CA 94804	4152359300

********** PRODUCT NAME **********
**000533* ORTHO ORTHOCIDE 50 WETTABLE (50% CAPTAN)
**000565* ORTHO TOMATO & VEGETABLE DUST
**000568* ORTHO HOME ORCHARD SPRAY PRODUCT NO. 1567
**000579* ORTHOCIDE 75 SEED PROTECTANT (SLURRY)
**000604* ORTHOCIDE 7.5 DUST * * * CONTAINS 7.5% ORTHOCIDE 406
**000619* ORTHOCIDE 5 DUST
**000677* ISOTOX SEED TREATER (F)
**000680* ORTHOCIDE LINDANE 60-15 SEED PROTECTANT
**000728* ORTHOCIDE 10 DUST
**000729* ORTHOCIDE GARDEN FUNGICIDE
**000788* ORTHOCIDE 15 DUST
**000829* ORTHOCIDE 90 SEED PROTECTANT CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 5

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000239

********** PRODUCT NAME **********
**000912* ORTHOCIDE 65 SEED PROTECTANT
**000987* ORTHOCIDE 75 SEED PROTECTANT M
**000996* ORTHO SOIL & BULB DUST
**010110* ORTHOCIDE 75 SEED PROTECTANT DUST (FUNGICIDE)
**010460* ORTHO SOYBEAN SEED PROTECTANT
**011160* ORTHOCIDE SULFUR 10-25 DUST
**012460* CHEVRON CAPTAN TECHNICAL
**012620* ORTHOCIDE KARATHANE 50-6 WETTABLE
**012830* ORTHO (R) CUSTOM BLEND NO. 5
**013140* ORTHOCIDE (R) MALATHION 75-1 SEED PROTECTANT
**014630* ORTHO CUSTOM BLEND NO. 4
**014700* ORTHOCIDE SULFUR 10-50 DUST
**015220* ORTHO LAWN DISEASE CONTROL
**015400* ORTHOCIDE MALATHION-METHOXYCHLOR 65-1.5-10 SEED PROTECTANT
**016680* ORTHOCIDE SULFUR 15-25 DUST
**016780* ORTHOCIDE SULFUR 15-40 DUST
**018000* ORTHO CUSTOM BLEND NO. 51
**018340* ORTHO WHEAT SEED PROTECTANT (SLURRY)
**018410* ORTHO DRILL BOX WHEAT SEED PROTECTANT
**019300* ORTHOCIDE THIODAN 5-2 DUST
**020130* ORTHOCIDE SULFUR 15-65 DUST
**020580* ORTHOCIDE 80 WETTABLE
**020730* ORTHOCIDE SOIL TREATER X-W
**021370* CHEVRON CAPTAN 90 CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 6

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000239

********** PRODUCT NAME **********
**021390* ORTHO SOYBEAN SEED PROTECTANT (MO)
**021440* ORTHOCIDE DIBROM SEVIN SULFUR 3-3-7.5-25 DUST
**021950* ORTHO DIFOCAP
**022130* ORTHO SOIL TREATER 3 "X"
**022150* ORTHOCIDE POTATO SEED TREATER
**022030* ORTHO SUNFLOWER SEED TREATER
**022580* ORTHOCIDE STREPTOMYCIN 7.5-.01 DUST
**022700* ORTHOCIDE SULFUR 5-50 DUST FUNGICIDE
**022720* ORTHOCIDE SULFUR 7.5-25 DUST FUNGICIDE
**022740* OTHOCIDE BOTRAN 35-35 SEED PROTECTANT
**022910* ORTHOCIDE DIBROM 10-4 DUST
**023070* ORTHOCIDE BOTRAN 10-5 DUST
**023090* ORTHOCIDE BOTRAN 7.5-5 DUST
**023110* ORTHOCIDE DIBROM KELTHANE 5-4-4 DUST
**023150* ORTHOCIDE POTATO SEED PROTECTANT 5.
**023160* ORTHOCIDE POTATO SEED PROTECTANT 10
**023170* ORTHOCIDE METHOXYCHLOR 75-5 SEED PROTECTANT
**023510* CHEVRON CAPTAN TECHNICAL 90%
**023550* ORTHOCIDE METHOXYCHLOR 65-5 SEED PROTECTANT
**023670* CHEVRON FUNGICIDE 45
**023720* ORTHOCIDE-METHOXCHLOR 65-10 SEED PROTECTANT
**023740* ISOTOX SEED TREATER (D)
**023820* ORTHO ORTHOCIDE SOIL TREATEN "X"
**023880* ORTHOCIDE SEED PROTECTANT INTERMEDIATE (90%)

**** PRODUCT SEARCH LISTING **** PAGE 7

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000239

**02396* ORTHOCIDE 92 SEED PROTECTANT CONCENTRATE
**02397* ORTHOCIDE 4 FLOWABLE SEED PROTECTANT
**02405* ORTHOCIDE-MANEB 30-30 SEED PROTECTANT
**02408* ORTHOCIDE BOTRAN 60-20 SEED PROTECTANTS
**02411* ORTHOCIDE 80 CONCENTRATE
**02428* ORTHOCIDE MCB 2-2 FLOWABLE SEED PROTECTANT
**02437* ORTHOCIDE 4 FLOWABLE

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEMICAL GROUP 2152996503
2000 MARKET STREET
PHILADELPHIA, PA. 19103

********** PRODUCT NAME **********

**01845* KOLODUST CAPTAN 50-10 DUST
**01849* NIAGARA CAPTAN 10 DUST
**01859* NIAGARA CAPTAN SULPHUR 10-25 DUST
**01634* NIAGARA CAPTAN 5 DUST, CODE 597
**01849* CAPTAN 7.5 DUST
**01789* NIAGARA CAPTAN 7.5 PARATHION 1 DUST CODE 401
**01935* NIAGARA CAPTAN 5 THIODAN 2 DUST
**01987* NIAGARA CAPTAN 7.5 SEVIN 5 DUST CODE 1519
**02152* CAPTAN SULFUR 10-50 DUST
**02245* NIAGARA CAPTAN 25 PARATHION 7.5 M, P.
**02446* CAPTAN 10 KOLODUST 12 KELTHANE 4 DUST

**** PRODUCT SEARCH LISTING **** PAGE 8

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000279

**02562* CAPTAN 5 SEVIN 5 DUST CODE 31617
**02587* CAPTAN 10 KELTHANE 4 DUST
**02596* CAPTAN 5 SULPHUR 50 DUST
**02963* BOTRAN 6 CAPTAN 10 SULFUR 25 DUST
**02975* CAPTAN TERRACHLOR 10-10

REGISTRANT *NAME AND ADDRESS*

* 000370 GARDEN HOUSE SPRAY COMPANY
PO BOX 459 RT 107
LACONIA NH 03246

********** PRODUCT NAME **********

**00013* CAPTAN SPRAY FOR "ARNOLD" GARDEN HOSE SPRAYER

REGISTRANT *NAME AND ADDRESS*

* 000400 UNIROYAL CHEMICAL
DIVISION OF UNIROYAL, INC. 2033933630
74 AMITY ROAD
BETHANY CT 06525

********** PRODUCT NAME **********

**00093* VITAVAX-300 FUNGICIDE

**** PRODUCT SEARCH LISTING **** PAGE 9

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT *NAME AND ADDRESS*

* 000407 IMPERIAL INC 7122462150
BOX 423
SHENANDOAH IA 51601

********** PRODUCT NAME **********

**00282* IMPERIAL HOME ORCHARD SPRAY
**00290* IMPERIAL CAPTAN 50W
**00314* IMPERIAL POTATO DUST
**00325* IMPERIAL CAPTAN MOLYSLICK SOYBEAN SEED PROTECTANT
**00374* IMPERIAL TOMATO GARD

REGISTRANT *NAME AND ADDRESS*

* 000449 TECHNE CORPORATION
C/O REGULATORY AFFAIRS DEPT, FARMLAND IN8164596637
P. O. BOX 7305
KANSAS CITY, MO 64116

********** PRODUCT NAME **********

**00250* WOODBURY CAPTAN 50W
**00523* G.O.F. GARDNE SPRAY WETTABLE POWDER

REGISTRANT *NAME AND ADDRESS*

* 000471 HENRY FIELD SEED & NURSERY COMPANY 7122462110
407 SYCAMORE STREET
SHENANDOAH, IOWA 51602

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 10

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000471

**00010* HENRY FIELD'S MULTI-PURPOSE SPRAY
**00025* HENRY FIELD'S POTATO DUST

REGISTRANT *NAME AND ADDRESS*

* 000476 STAUFFER CHEMICAL COMPANY
LABELING AND REGISTRATION DEPT 8 8155449000
1200 SOUTH 47TH STREET
RICHMOND CA 94804

********** PRODUCT NAME **********

**00581* STAUFFER CAPTAN FUNGICIDE 50-W
**00586* CAPTAN 5 DUST
**00685* STAUFFER CAPTAN 10 DUST
**00676* STAUFFER CAPTAN 75 SEED TREATER
**00759* STAUFFER CAPTAN DUST- 7.5
**00761* STAUFFER CAPTAN GARDEN SPRAY
**01278* CAPTAN TRITHION 5-2 DUST
**01286* CAPTAN-SULFUR 10-50 DUST
**01287* CAPTAN 80 SPRAY DIP
**01296* CAPTAN METHOXYCHLOR 75-2 SEED PROTECTANT
**01315* STAUFFER CAPTAN TERRACLOR 10-10 SEED PROTECTANT
**01500* CAPTAN-PCNB 10-10 DUST
**01514* CAPTAN-HEXACHLOROBENZENE 40-40 SEED PROTECTANT
**01786* CAPTAN MOLY SOYBEAN SEED PROTECTANT WITH MOLYBDENUM
**01808* CAPTAN 25 SEED PROTECTANT
**01819* CAPTAN 80-WP

UMI 8 1 8 0 8 8 G A 5 4 V

**** PRODUCT SEARCH LISTING **** PAGE 11

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000476

**001830* CAPTAN SEVIN 5-2.5 DUST
**001839* CAPTAN 4 FLOWABLE
**001867* CAPTAN SP 4 FLOWABLE SEED PROTECTANT
**001868* CAPTAN-CYTHION METHOXYCHLOR 70-1.5-5 SEED PROTECTANT
**001881* CAPTAN-PCNB 10-10 GRANULAR
**001918* CAPTAN-CYTHION-METHOXYCHLOR 65-1.5-10 SEED PROTECTANT
**001926* CAPTAN TERRACLOR 30-30 WP SEED PROTECTANT
**001970* STAUFFER CAPTAN 65 SEED PROTECTANT
**001974* CAPTAN SULFUR 5-50 DUST
**001975* CAPTAN SULFUR 7.5-50 DUST
**001977* CAPTAN-TERRACLOR* 30-30 SEED PROTECTANT
**001981* CAPTAN-THIODAN 5-2 DUST
**002036* CAPTAN-LINDANE 12.5-25 SEED PROTECTANT
**002041* CAPTAN 80 SEED PROTECTANT FOR SEED DISEASE CONTROL
**002065* CAPTAN METHOXYCHLOR 70-5 SEED PROTECTANT (DYE ADDED)
**002070* STAUFFER CAPTAN-METHOXYCHLOR 65-10 SEED PROTECTANT
**002077* CAPTAN-THIODAN 7.5-3 DUST
**002079* CAPTAN-MANEB 30-30 SEED PROTECTANT
**002080* CAPTAN-HEXACHLOROBENZENE 20-20 SEED PROTECTANT
**002081* CAPTAN-MANEB 37.5-37.5 SEED PROTECTANT
**002082* CAPTAN-HCB-MANEB 20-20-20 SEED PROTECTANT
**002088* CAPTAN-MANEB 37.5-37.5 PEANUT SEED PROTECTANT
**002090* CAPTAN-MANEB 10-35 SEED PROTECTANT
**002092* CAPTAN THIRAM METHOXYCHLOR 42-42-1.5 SEED PROTECTANT

**** PRODUCT SEARCH LISTING **** PAGE 12

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 000476

**002093* CAPTAN-THIRAM 43-43 SEED PROTECTANT
**002099* CAPTAN TECHNICAL
**002100* CAPTAN 90 DUST BASE
**002102* CAPTAN-METHOXYCHLOR 75-5 SEED PROTECTANT
**002110* CAPTAN TRITHION 5-3 DUST
**002113* CAPTAN-SEVIN 7.5-2.5 DUST
**002114* CAPTAN-DIAZINON 37.5-25 SEED PROTECTANT
**002115* CAPTAN-DIAZINON-LINDANE 33.4-11-16.6 SEED PROTECTAN
**002119* CAPTAN 80 MANUFACTURING CONCENTRATE
**002143* CAPTAN HEXACHLOROBENZENE 40-10 SEED PROTECTANT
**002187* STAUFFER CAPTAN-HEPTACHLOR 55-10 SEED PROTECTANT
**002191* CAPTAN-METHOXYCHLOR 37.5-1.5 FLOWABLE SPR
**002192* CAPTAN 4 FLOWABLE SPR
**002193* STAUFFER CAPTAN 4 FLOWABLE SPND SEED PROTECTANT

REGISTRANT	*NAME AND ADDRESS*	
* 000477	GRO ALL INC. DIVISION OF CENTRAL CHEMICAL CORP. P.O. BOX 918 HAGERSTOWN, MD 21740	3017334700

********** PRODUCT NAME **********

**002254* FARMRITE 10% CAPTAN 6% GUTHION DUST
**002257* FARMRITE 10% CAPTAN DUST
**002258* FARMRITE 5% CAPTAN DUST

**** PRODUCT SEARCH LISTING **** PAGE 13

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 000539	SEARS ROEBUCK & COMPANY SEARS TOWER/DEPT 671/15TH FLOOR SEARS TOWER DEPT. 671/15TH FLOOR CHICAGO IL 60684	3126755423

********** PRODUCT NAME **********

**000076* SEARS FRUIT SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 000554	AGSCO INC BOX 458 GRAND FORKS ND 58201	7017755325

********** PRODUCT NAME **********

**000122* AGSCO DUSTRET-70

REGISTRANT	*NAME AND ADDRESS*	
* 000557	SWIFT AGRICULTURAL CHEMICAL CORP. 30 NORTH LASALLE ST. CHICAGO, IL 60604	3124312542

********** PRODUCT NAME **********

**001767* VIGORO ROSE DUST
**001837* VIGORO FRUIT TREE SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 14

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 000572	ROCKLAND CHEMICAL CO. INC. P.O. BOX 809 CALDWELL, NJ 07006	2015751322

********** PRODUCT NAME **********

**000062* ROCKLAND FRUIT TREE SPRAY
**000185* ROCKLAND GENERAL PURPOSE DUST
**001f6* GENERAL PURPOSE SPRAY
**002147* ROCKLAND MULTI-PURPOSE DUST OR SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 000595	HAVILAND AGRICULTURAL CHEMICAL CO 1845 STERLING NW GRAND RAPIDS, MI 49504	6163647501

********** PRODUCT NAME **********

**000206* HAVILAND CAPTAN 7.5 DUST
**000227* CAPTAN STREPTOMYCIN 7.5-0.01 POTATO SEED PIECE PROTECTANT
**000278* CAPTAN DIAZINON DUST NO. 752
**000282* CAPTAN SEVIN DUST NO. 7.5-5

UMI 8081 GA 54V

REGISTRANT	*NAME AND ADDRESS*	
* 000602	RALSTON PURINA COMPANY CHECKERBOARD SQUARE ST LOUIS MO 63188	3149822356

**** PRODUCT NAME ****

**000183* PURINA FRUIT TREE SPRAY

**000211* PURINA CAP-ZIN FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*	
* 000605	GUARD CHEM COMPANY ONE AVENUE L NEWARK NJ 07105	

**** PRODUCT NAME ****

**000038* GALLCTOX CAPTAN 750 W. P.

**000039* GALLOTOX CAPTAN FP-700R

**000040* GALLOTOX CAPTAN METHOXYCHLOR 75-3

REGISTRANT	*NAME AND ADDRESS*	
* 000635	GROWER SERVICE CORP DIV. OF GROWER SERVICE CORP. HOX 18037 LANSING MI 48901	5173232125

**** PRODUCT NAME ****

**000160* E-Z-FLO FRUIT GUARD (HOME GARDEN USE)

**000190* E-Z-FLO DUST #5-CA

**CONTINUE REGISTRANT 000635

**001940* CAPTAN 7-5 DUST

**002450* E-Z-FLO CAPTAN-STREPTOMYCIN 7.5-.01

**000647* EZ FLO NEW IMPROVED ROSE GUARD

REGISTRANT	*NAME AND ADDRESS*	
* 000727	SUN CHEMICAL CORP PO BOX 70 CHESTER SC 29706	

**** PRODUCT NAME ****

**000021* FACILON AB 818 BACTERIOSTATIC FABRIC

**000022* FACILON AB 1518 BACTERIOSTATIC FABRIC

**000023* FACILON AB 1224 BACTERIOSTATIC FABRIC

**000024* FACILON AB 1024 BACTERIOSTATIC FABRIC

**000025* FACILON AB 818 BACTERIOSTATIC FABRIC

REGISTRANT	*NAME AND ADDRESS*	
* 000746	MFA OIL CO. C/O IMPERIAL INC BOX 423 SHENANDOAH, IOWA 51601	7122462156

**** PRODUCT NAME ****

**000029* M.F.A. GARDEN DUST WITH 4% MALATHION

REGISTRANT	*NAME AND ADDRESS*	
* 000769	WOOL FOLK CHEMICAL WORKS, INC. P.O. BOX 938 FT. VALLEY, GEORGIA 31030	9190255511

**** PRODUCT NAME ****

**002491* SECURITY BRAND PARATHION-CAPTAN PEACH SPRAY

**002499* SECURITY BRAND 7 1/2% CAPTAN PEACH DUST

**002998* SECURITY FAN FRUIT DUST OR SPRAY

**003588* SECURITY BOTRAN CAPTAN PEACH DUST 6-7 1/2

REGISTRANT	*NAME AND ADDRESS*	
* 000802	LILLY CHAS M COMPANY MILLER RD DIV 7737 N.E. KILLINGSWORTH PORTLAND, OR 97218	5032564600

**** PRODUCT NAME ****

**000152* MILLER'S GARDEN CAPTAN

**000158* MILLER'S CAPTAN 50W

**002358* MILLER'S CAPTAN 5D

**002438* MILLER'S CAPTAN 10D

**000433* MILLER ROSE AND FLOWER SPRAY

**000528* MILLER'S ROSE AND FLORAL SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 000829	SOUTHERN AGRICULTURAL INSECTICIDES INC BOX 218 PALMETTO FL 33561	8137223265

**** PRODUCT NAME ****

**002150* SA-50 BRAND 7 1/2% CAPTAN FUNGICIDE DUST

**002360* SA-50 FRUIT SPRAY CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*	
* 000842	ROBINS G S COMPANY 126 CHOUTEAU AVE ST LOUIS MO 63102	3146215155

**** PRODUCT NAME ****

**001090* ROBINS COMBINATION FRUIT SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 000904	MILLER CHEMICAL & FERTILIZER CORP. PRATT-GRABIEL DIVISION BOX 333 HANOVER, PA. 17331	8016848797

**** PRODUCT NAME ****

**001280* FRUIT TREE SPRAY

**003050* CAPTAN 7% DUST-WETTABLE POWDER

**** PRODUCT SEARCH LISTING **** PAGE 19

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 000912	FARMERS UNION CENTRAL EXCHANGE INC PO BOX 43089 ST PAUL MINNESOTA 55164	6124515151

********** PRODUCT NAME **********

**000058* GREENHOUSE FRUIT SPRAY
**000860* GREEN HOUSE TOMATO & GARDEN DUST
**000873* GREENHOUSE BRAND CAPTAN 50 W

REGISTRANT	*NAME AND ADDRESS*	
* 000961	LEBANON CHEMICAL CORPORATION P.O. BOX 180 LEBANON, PENNSYLVANIA 17042	7172731605

********** PRODUCT NAME **********

**000158* LEBANON IMPROVED FRUIT & BERRY SPRAY
**000258* LEBANON ROSE DUST
**002868* NEW ROSE DUST

REGISTRANT	*NAME AND ADDRESS*	
* 001021	MCLAUGHLIN GORMLEY KING CO 8810 TENTH AVE NORTH MINNEAPOLIS,MINNESOTA 55427	6125440341

********** PRODUCT NAME **********

**000610* PYROCIDE PRESSURIZED SPRAY MIX NO. 5927

**** PRODUCT SEARCH LISTING **** PAGE 20

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 001021

**000969* PYROCIDE PLANT SPRAY CONCENTRATE 6852
**010028* PYROCIDE PRESSURIZED PLANT SPRAY MIX NO. 5898
**012928* PYROCIDE INTERMEDIATE 7196

REGISTRANT	*NAME AND ADDRESS*	
* 001022	CHAPMAN CHEMICAL COMPANY BOX 9158 MEMPHIS, TENNESSEE 38109	9013965151

********** PRODUCT NAME **********

**000418* CHAPMAN SOYGRO
**000412* CAPTAN 25 SEED PROT 15% NON-OIL LUBRICANT ADDED SOYBEANS & PEANUT

REGISTRANT	*NAME AND ADDRESS*	
* 001023	UPJOHN COMPANY TUCO DIVISION DIV UPJOHN CO 7171 PORTAGE RD KALAMAZOO MI 49001	6163254000

********** PRODUCT NAME **********

**000049* BOTEC PEANUT SEED PROTECTANT

**** PRODUCT SEARCH LISTING **** PAGE 21

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 001029	AIDEX CORPORATION I-29 & HWY 370 COUNCIL BLUFFS, IOWA 51501	7123662441

********** PRODUCT NAME **********

**000048* SUPER SEED SILK SEED PROTECTANT INSECTICIDE-FUNGICIDE-LUBRICANT

REGISTRANT	*NAME AND ADDRESS*	
* 001063	VALLEY CHEMICAL COMPANY BOX 1317 GREENVILLE MS 38702	

********** PRODUCT NAME **********

**000098* VALCO SEED PROTECTANT FOR SOYBEANS

REGISTRANT	*NAME AND ADDRESS*	
* 001159	SEACOAST LABORATORIES INC 257 HIGHWAY 18 P.O. BOX 157 E BRUNSWICK NJ 08816	2012577772

********** PRODUCT NAME **********

**000078* TWIN LIGHT SPRAYALL FOR FRUIT
**001498* JUST RIGHT FRUIT TREE SPRAY OR DUST

**** PRODUCT SEARCH LISTING **** PAGE 22

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 001191	CAROLINA CHEMICALS INC PO BOX 118 W COLUMBIA SC 29169	8037941230

********** PRODUCT NAME **********

**000336* FLIGHT BRAND PEACH SPRAY PARATHION-CAPTAN 2-2

REGISTRANT	*NAME AND ADDRESS*	
* 001202	PUREGRO COMPANY 1111 W. 6TH STREET LOS ANGELES CA 90017	2134867502

********** PRODUCT NAME **********

**000107* GAVICIDE CAPTAN DUST 10
**000128* GAVICIDE CAPTAN SULFUR DUST 10-50
**000255* PUREGRO CAPTAN DUST 5

REGISTRANT	*NAME AND ADDRESS*	
* 001258	OLIN CORPORATION CHEMICALS GROUP 120 LONG RIDGE ROAD STAMFORD, CT 06904	2033562571

********** PRODUCT NAME **********

**000066* MATHIESON TERRACAP 10-10-DUST

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 001348	SELCO SUPPLY COMPANY COLLINS AVE & R R EATON CO 80615	3034543333

**********PRODUCT NAME**********

**000167* SELCO CAPTAN 7.5% DUST

REGISTRANT	*NAME AND ADDRESS*	
* 001352	CARGILL INC. P.O. BOX 9300 MINNEAPOLIS, MN 55440	6124757439

**********PRODUCT NAME**********

**000011* EVERSHIELD SEED PROTECTANT

**000018* EVERSHIELD C SEED PROTECTANT

REGISTRANT	*NAME AND ADDRESS*	
* 001386	UNIVERSAL COOPERATIVES INC FARM CHEMICAL DIVISION 3001 METRO DR, SUITE 500 MINNEAPOLIS MN 55420	6128540800

**********PRODUCT NAME**********

**000074* UNICO FRUIT SPRAY POWDER

**000213* UNICO 5% CAPTAN DUST

**000214* UNICO 7 1/2% CAPTAN DUST

**000505* UNICO FRUIT SPRAY POWDER A

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 001386

**000538* UNICO 5% SEVIN 7 1/2% CAPTAN DUST

**000564* UNICO ONE PACKAGE FRUIT SPRAY POWDER

**000565* UNICO FRUIT TREE SPRAY TREE-TRELLIS-GARDEN

REGISTRANT	*NAME AND ADDRESS*	
* 001406	FERRO CORP PO BOX 46309 7050 KRICK RD BEDFORD OH 44146	

**********PRODUCT NAME**********

**000020* MICRO-CHEK 12

REGISTRANT	*NAME AND ADDRESS*	
* 001526	ARIZONA AGROCHEMICAL COMPANY CHEMICAL DISTRIBUTORS P.O. BOX 21537 PHOENIX AZ 85036	6022441311

**********PRODUCT NAME**********

**000399* PHOENIX BRAND CAPTAN 10 WITH 50% SULPHUR

**000400* CAPTAN 15

**000401* PHOENIX BRAND CAPTAN 10

**000408* AGRO-CHEM BRAND CAPTAN 15-30% SULFUR

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 001767	PARROTT CHEMICAL COMPANY 16 SUNNYSIDE AVE STAMFORD CT 06902	2033232709

**********PRODUCT NAME**********

**000040* LUCKY STRIKE FORMULA NO. 488 MALCAP

**000041* LUCKY STRIKE CAPTAN 50% WETTABLE POWDER FUNGICIDE FORMULA NO. 86

**000082* LUCKY STRIKE BLACK MAGIC FOR ROSES

REGISTRANT	*NAME AND ADDRESS*	
* 001812	GRIFFIN CORPORATION ATTN. LINDA C. ELLIOT P.O. BOX 1847 VALDOSTA, GEORGIA 31601	9122428635

**********PRODUCT NAME**********

**000158* MAN-CAP

REGISTRANT	*NAME AND ADDRESS*	
* 001871	FARM CRAFT, INC. 8900 S.W. COMMERCIAL STREET TIGARD, OR. 97223	5036391151

**********PRODUCT NAME**********

**000079* FARMCRAFT CAPTAN 7.5/BEVIN 5.0

**000080* FARMCRAFT CAPTAN 7.5/THIODAN 3.0

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 001965	VANDERBILT R T COMPANY INC 33 WINFIELD ST EAST NORWALK CT 06855	

**********PRODUCT NAME**********

**000011* VANCIDE 89

**000032* VANCIDE P-75

**000047* VANCIDE 89 DISPERSION

REGISTRANT	*NAME AND ADDRESS*	
* 001969	PARSONS CHEMICAL BOX 146 GRAND LEDGE MI 48837	5176272167

**********PRODUCT NAME**********

**000085* PARSONS ROSE DUST

**000097* PARSONS SEED CORN PROTECTANT INSECTICIDE

**000100* PARSONS POMATO TOMATO-POTATO DUST SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 002059	VAUGHAN'S SEED COMPANY CHIMNEY ROCK RD BOUND BROOK NJ 08805	

**********PRODUCT NAME**********

**000003* VAUGHAN'S TOMATO & VEGETABLE DUST OR SPRAY

UMI 8 0 8 8 1 G A 5 4 V

**** PRODUCT SEARCH LISTING **** - PAGE 27

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 002124	GRACE W R & COMPANY AGR CHEM C M TIDWELL AGR, CHEMICALS DIV, (ATTN:C, M, TIDWELL)9015222000 PO BOX 277 100 N MAIN ST MEMPHIS TN 38101	

**********PRODUCT NAME**********

**000447* NACO CAPTAN 7.5 DUST

**000779* NACO CAP-COP FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*	
* 002125	SCIENCE PRODUCTS COMPANY INC. 5801 N TRIPP AVENUE CHICAGO, ILLINOIS 60646	3125833171

**********PRODUCT NAME**********

**000013* SCIENCE MULTI-PURPOSE GARDEN-DUST OR SPRAY

**000014* SCIENCE FRUIT-TREE & BERRY SPRAY

**000015* SCIENCE ROSE & FLORAL SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 002169	PATTERSON CHEMICAL COMPANY INC 1400 UNION AVE KANSAS CITY, MO 64101	8168428211

**********PRODUCT NAME**********

**000045* PATTERSON'S FUNGICIDE MULTI-PURPOSE

**000090* PATTERSON'S GARDEN DUST

**** PRODUCT SEARCH LISTING **** PAGE 28

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 002169

**000157* PATTERSON'S ROSE SPRAY FLOWER BOMB

**000159* PATTERSON'S CAPTAN GARDEN SPRAY

**000205* PATTERSON'S TOMATO DUST INSECTICIDE FUNGICIDE

**002466* GREEN-UP FRUIT TREE SPRAY WETTABLE POWER

REGISTRANT	*NAME AND ADDRESS*	
* 002217	PBI-GORDON CORPORATION 300 80 3RD ST KANSAS CITY MO 66118	8133428700

**********PRODUCT NAME**********

**000296* FRUIT TREE SPRAY

**000478* SOYBEAN SEED PROTECTOR

**000481* GORDON'S BOY START = CM WITH 15% SEED LUBE CONTAINS CAPTAN & MOLYBDENU

**000528* GORDON'S ROSE DUST

**000538* RES-Q

**000562* DUAL-PURPOSE RES-Q

**000564* RES-Q-100 SEED DISINFECTANT AND PROTECTANT DUST OR SLURRY

**000565* RES-Q-200 SEED DISINFECTANT AND PROTECTANT DUST OR SLURRY

**000569* GORDON'S CHEMICALS SOYBEAN SEED PROTECTANT WITH SEED LUBE

**** PRODUCT SEARCH LISTING **** PAGE 29

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 002342	KERR-MCGEE CHEMICAL CORP MGM PKG & LABELLING KERR-MCGEE CENTER OKLAHOMA CITY OK 73125	4052701313

**********PRODUCT NAME**********

**000515* PEACH SPRAY CAPTAIN-PARATHION 2-2

**000794* KERR MCGEE SOYBEAN SPECIAL WITH MOLYDENUM

**000814* 5% CAPTAN - 3% TRITHION DUST

**000815* 5% CAPTAN 5% DIAZINON DUST

**000819* 10% CAPTAN-10% SEVIN-6% KELTHANE DUST

**000820* 10% CAPTAN DUST

**000823* 5% CAPTAN 4% MALATHION

**000835* GARDEN & LAWN FUNGICIDE CONTAINS 50% CAPTAN

**000846* 5% CAPTAN DUST

**000858* 10% CAPTAN 6% TRITHION DUST

**000866* 10% CAPTAN-6% GUTHION

REGISTRANT	*NAME AND ADDRESS*	
* 002362	CANSON CHEMICALS INC PO BOX 466 NEW CASTLE IN 47362	

**********PRODUCT NAME**********

**000007* F-T-SEVIN* DIP FOR DOGS

**000554* KITTY FLEA & TICK POWDER

**** PRODUCT SEARCH LISTING **** PAGE 30

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 002393	HOPKINS AGRICULTURAL CHEMICALS RESEARCH,CHEMISTRY & REGULATORY COMPL. 6082220624 537 ATLAS AVE. PO BOX 7532 MADISON, WI 53707	

**********PRODUCT NAME**********

**000108* HOPKINS 7 1/2% CAPTAN DUST

**000170* HOPKINS FRUIT TREE SPRAY

**000187* HOPKINS 25% CAPTAN SEED PROTECTANT 15% NON OIL LUBRICANT ADDED

**000217* DIAZINON-CAPTAN SEED PROTECTANT

**000233* HOPKINS HEPTACHLOR-CAPTAN 25-25 SEED PROTECTANT

**000236* HOPKINS CAPTAN-STREPTOMYCIN 7.5-.01

**000259* HOPKINS 25% CAPTAN SEED PROTECTANT

**000260* HOPKINS CAPTAN-MOLY B SEED PROTECTANT

**000263* HOPKINS DIAZINON-CAPTAN-MOLLY SEED PROTECTANT

**000273* HOPKINS FRUIT TREE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 002459	STEVENS IND INC N MAIN ST PO BOX 272 DANSON GA 31742	9129952111

**********PRODUCT NAME**********

**002243* MASTER BRAND 37.5 CAPTAN - 37.5 MANEB PEANUT SEED FUNGICIDE

UMI 0 8 8 1 G A 5 4 V

**** PRODUCT SEARCH LISTING **** PAGE 31

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 002474	MALCO DIVISION OF WAGNER SEED CO INC 81 SECATOGUE AVENUE FARMINGDALE NY 11735	5162936312

**********PRODUCT NAME**********

**00046* MALCO MULTI-SPRA

REGISTRANT	*NAME AND ADDRESS*	
* 002491	KOOS INC #500 13TH CT KENOSHA WI 53140	

**********PRODUCT NAME**********

**00236* HOLIDAY TOMATO-VEGETABLE DUST

REGISTRANT	*NAME AND ADDRESS*	
* 002749	ACETO CHEMICAL COMPANY INC AGRICULTURE DIV, 126-02 NORTHERN BLVD FLUSHING NY 11368	2128982300

**********PRODUCT NAME**********

**00289* CAPTAN PCNB 30-30 FUNGICIDE SEED PROTECTANT

**00295* CAPTAN 25 SEED PROTECTANT

**** PRODUCT SEARCH LISTING **** PAGE 32

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 002917	CARTER INSEC & CHEMICAL COMPANY INC PO BOX 127 TEACHEY, NC 28464	

**********PRODUCT NAME**********

**00037* CARTER CAROLINA BRAND 7 1/2% CAPTAN DUST

**00055* CARTER CAROLINA BRAND 4% MALATHION 7 1/2% CAPTAN DUST

REGISTRANT	*NAME AND ADDRESS*	
* 002935	WILBUR ELLIS CO. 191 W SHAW AVENUE SUITE #107 FRESNO, CA 93704	2092261811

**********PRODUCT NAME**********

**00330* RED TOP CAPTAN 10 DUST

**00335* RED-TOP CAPTAN 5 DUST

REGISTRANT	*NAME AND ADDRESS*	
* 003090	SANITIZED INC 605 3RD AVE NEW YORK NY 10016	

**********PRODUCT NAME**********

**00013* SANITIZED FOR VINYL

**00053* SANITIZED 116 FOR VINYL

**00054* SANITIZED PD FOR VINYL

**** PRODUCT SEARCH LISTING **** PAGE 33

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 003090

**00055* SANITIZED PDX FOR VINYL

**00091* SANITIZED IF FOR PAINT

**00102* SANITIZED OB

REGISTRANT	*NAME AND ADDRESS*	
* 003325	HST, INCORPORATED D/B/A MIDE INTERNATIONAL P.O. BOX 449 LEON, IA. 50144	

**********PRODUCT NAME**********

**00002* SEEK ROSE AND FLOWER DUST

REGISTRANT	*NAME AND ADDRESS*	
* 003743	SOUTHERN AGRICULTURAL CHEMICALS INC PO BOX 527 KINGSTREE SC 29556	8033546111

**********PRODUCT NAME**********

**00090* CAPTAN 7.5 DUST

**00238* CAPTAN PANATHION 25-7.5 WETTABLE

**00268* APPLE DUST NO. 2

**00269* APPLE DUST NO. 3

**00271* APPLE DUST NO. 5

**00340* ROYAL BRAND HOME ORCHARD SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 34

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 003770	ECONOMY PRODUCTS 1126 NORTH 11TH ST. OMAHA, NE 68102	4023411070

**********PRODUCT NAME**********

**00050* ECONOMY'S MULTI-PURPOSE HOME ORCHARD SPRAY

**00197* MULTI-PURPOSE AGRICULTURAL FUNGICIDE

**00248* SEED QUIK CAPTAN 75 SEED PROTECTANT

**00249* SEED QUIK 50 CAPTAN SEED PROTECTANT

**00267* HOME ORCHARD SPRAY

**00270* CAPTAN-MANEB 10-35 SEED PROTECTANT

**00285* 15% CAPTAN DUST

**00286* 10 CAPTAN 10 POTATO DUST

**00317* SEED/QUIK SEED PROTECTANT AND LUBRICANT

**00318* TOMATO DUST AAA

REGISTRANT	*NAME AND ADDRESS*	
* 003772	MAY SEED AND NURSERY CO. 208 N. ELM STREET SHANANDOAH, IOWA 51603	7122461020

**********PRODUCT NAME**********

**00023* EARL MAY HOME ORCHARD SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 35

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 004183	SMITH-DOUGLASS DIVISION BORDEN CHEMICAL, BORDEN INC. 5100 VIRGINIA BEACH BLVD NORFOLK,VIRGINIA 23501	8044617200

**** PRODUCT NAME ****

**003116* SMITH-DOUGLASS NO. 44 7 1/2% CAPTAN DUST
**001868* NUTRO ROSE AND FLORAL DUST
**001895* NUTRO FRUIT TREE SPRAY
**003008* BORDEN BLACK SPOT & POWDERY MILDEW CONTROL
**004438* BORDEN NUTRO TOMATO VEGETABLE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 004758	PET CHEMICALS INC QUALITY CONTROL DEPARTMENT BOX 456 MIAMI SPRINGS FL 33166	3058871506

**** PRODUCT NAME ****

**000006* HOLIDAY FLEA STOP FOR CATS

REGISTRANT	*NAME AND ADDRESS*	
* 004816	FAIRFIELD AMERICAN CORPORATION A.C.O. INDUSTRIAL SALES DEPT. 3932 SALT ROAD MEDINA, NEW YORK 14103	

**** PRODUCT NAME ****

**000325* NIAGARA NPR INSECTICIDE-FUNGICIDE SPRAY CONCENTRATE BPR-1708A

**** PRODUCT SEARCH LISTING **** PAGE 36

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 004816

**000387* ROSE & FLORAL SPRAY
**000411* BPR INTERMEDIATE CONCENTRATE COD 807,00
**000412* FLEA & TICK INSECTICIDE POWDER JO-20

REGISTRANT	*NAME AND ADDRESS*	
* 004887	STEPHENSON CHEM COMPANY INC BOX 97100 COLLEGE PARK GA 30337	4047620194

**** PRODUCT NAME ****

**000131* STEPHENSON CHEMICALS FRUIT TREE SPRAY CONTAINS MALATHION AND CAPTAN
**000143* STEPHENSON CHEMICALS ROSE & FLORAL DUST
**000153* STEPHENSON CHEMICALS TOMATO DUST

REGISTRANT	*NAME AND ADDRESS*	
* 004931	GOOD-LIFE CHEMICALS INC BOX 687 EFFINGHAM IL 62401	2173423986

**** PRODUCT NAME ****

**000032* GOOD-LIFE FRUIT TREE SPRAY
**000049* CAPTAN + MALATHION FUNGICIDE-INSECTICIDE DUST
**000068* GOOD-LIFE FLOWER GARDEN SPRAY OR DUST
**000129* GOOD LIFE INSIGNIA ROSE & FRUIT SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 37

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 005253	AGRICULTURAL PRODUCTS COMPANY 589 ATWELLS AVE PROVIDENCE RI 02909	4013518612

**** PRODUCT NAME ****

**000812* APCO MULTI PURPOSE DUST OR SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 005535	ADIKES INC J & L 182-12 93RD AVE JAMAICA NY 11423	2127394400

**** PRODUCT NAME ****

**000007* GRO-WELL FRUIT TREE SPRAY
**000013* GRO-WELL FLOWER AND ROSE SPRAY
**000033* GRO-WELL ROSE & GARDEN FUNGICIDE
**000052* GRO-WELL MULTI-PURPOSE DUST OR SPRAY
**000067* GRO-WELL MULTI-PURPOSE DUST SQUEEZE-DUSTER

REGISTRANT	*NAME AND ADDRESS*	
* 005867	BLACK LEAF PRODUCTS COMPANY 667 N STATE ST ELGIN IL 60120	3126974400

**** PRODUCT NAME ****

**000016* BLACK LEAF FRUIT TREE SPRAY

**** PRODUCT SEARCH LISTING **** PAGE 38

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 005867

**000019* ROSE & FLOWER BEAUTY SPRAY
**000077* BLACK LEAF LIQUID FRUIT TREE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 005905	MELENA CHEMICAL CO CLARK TOWER SUITE 3200 5100 POPLAR AVE MEMPHIS TN 38137	9017610050

**** PRODUCT NAME ****

**000252* 70-3 SEED PROTECTANT

REGISTRANT	*NAME AND ADDRESS*	
* 006720	SOUTHERN HILL CREEK PRODUCTS COMPANY INC BOX 1096 TAMPA FL 33601	8136262111

**** PRODUCT NAME ****

**000075* BMCP TTC TURF FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*	
* 006735	TIDE PRODUCTS INC ATTN:M.R. MARSH BOX 1020 EDINBURG, TEXAS 78539	5123834901

**** PRODUCT NAME ****

**000203* TIDE CAPTAN 7.5 DUST

UMI 008 81 GA 54V

**** PRODUCT SEARCH LISTING **** PAGE 39

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
# 007173	CHEMPAR CHEMICAL COMPANY INC 60 EAST 42ND ST. NEW YORK, N.Y. 10016	2126873990

**********PRODUCT NAME**********

**000107* CHEMPAR CAPTAN 90% DUST CONCENTRATE FUNGICIDE

REGISTRANT	*NAME AND ADDRESS*	
# 007401	VOLUNTARY PURCHASING GROUP, INC. P. O. BOX 468 BONHAM, TEXAS 75418	2145835501

**********PRODUCT NAME**********

**000232* FERTI LOME LAWN/FRUIT TREE DISEASE CONTROL

**000237* FERTI LOME IMPROVED FRUIT TREE SPRAY

REGISTRANT	*NAME AND ADDRESS*
# 007501	GUSTAFSON, INC. 6350 LBJ FREEWAY, SUITE 100 DALLAS, TEXAS 75240

**********PRODUCT NAME**********

**000008* CAPTAN 300

**000009* TREAT & GROW SJL SEED PROTECTANTCAPTAN 30%

**** PRODUCT SEARCH LISTING **** PAGE 40

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
# 007794	W. R. GRACE & COMPANY SOUTH CENTRAL REGION, INC. P.O. BOX 35647 TULSA, OK 74135	9186270011

**********PRODUCT NAME**********

**000049* RED BARN CAPTAN-MOLY-B SOYBEAN SEED PROTECTANT WITH MOLYBDENUM

REGISTRANT	*NAME AND ADDRESS*
# 008203	CHIPMAN INC AGENT: ICI UNITED STATES INC. 400 JONES RD. BOX 9100 STONEY CREEK, ONTARIO 19899

**********PRODUCT NAME**********

**000001* GAMMASAN

**000002* CHIPMAN 3-WAY TRIPLE PURPOSE INSECTICIDE - FUNGICIDE SEED TREATMENT

**000010* CHIPMAN I.F. DUAL PURPOSE INSECTICIDE-FUNGICIDE SEED TREATMENT

**000011* AGROBOL S SEED TREATMENT

**000012* GRANOL(R) P-C PEANUT SEED FUNGICIDE AND INSECTICIDE

**000013* GRANOX P-F-M PEANUT AND SOYBEAN SEED FUNGICIDE

**000014* SOYBEAN 3-WAY (MOLY) TRIPLE PUR PLANTER BOX INSECT FUNG SEED PROT

**000016* CHIPMAN D-C-B INSECTICIDE FUNGICIDE SEED TREATMENT

**** PRODUCT SEARCH LISTING **** PAGE 41

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*
# 008222	LING FUANG INDUSTRIES, INC. LING FUANG, IND. P.O. BOX 1207 GARDNERVILLE, NV. 89410

**********PRODUCT NAME**********

**000018* T & C ROSE AND FLOWER GARDEN SQUEEZE DUSTER

**000023* TOWN & COUNTRY MULTI-PURPOSE SOIL & BULB DUST

REGISTRANT	*NAME AND ADDRESS*
# 008242	FRESNO CHEMICAL CORP BOX 10783 HOUSTON TX 77018

**********PRODUCT NAME**********

**000016* FRESNO DRI DIP

REGISTRANT	*NAME AND ADDRESS*	
# 008590	AGWAY INC CHEMICAL DIVISION BOX 4933 SYRACUSE NY 13221	3154776172

**********PRODUCT NAME**********

**000002* CAPTAN-PARATHION 10-20

**000052* CAPTAN 7.5 D

**000071* CAPTAN GUTHION 10-6 D

**000092* AGWAY CAPTAN 5D

**** PRODUCT SEARCH LISTING **** PAGE 42

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 008590

**000098* AGWAY CAPTAN-GUTHION 5-3 D

**000127* CAPTAN-PARATHION 10-3-D

**000132* AGWAY CAPTAN-GUTHION-LEAD 5-1.5-70

**000135* AGWAY CAPTAN-PARATHION 5-1.5D

**000143* CAPTAN LEAD 5-15 D

**000144* CAPTAN SEVIN 10-20 D

**000145* CAPTAN-PARATHION-KELTHANE 10-3-6 D

**000146* CAPTAN 10D

**000156* CAPTAN TRITHION C 10-3-3 D

**000163* CAPTAN-GUTHION-SULFUR 5-3-20 D

**000213* CAPTAN-LINDANE 7.5-.5D

**000216* AGWAY CAPTAN-THIODAN 7.5-3 D

**000283* AGWAY VEGETABLE GARDEN DUST IMPROVED

**000298* CAPTAN-PARATHION M-10-3-3-D

**000381* AGWAY FRUIT SPRAY

**000439* AGWAY DUAL GARDEN ORCHARD SPRAY

**000440* AGWAY PROTECTOR-II

REGISTRANT	*NAME AND ADDRESS*
# 008730	HERCULITE PRODUCTS, INC. 1107 BROADWAY NEW YORK NY 10010

**********PRODUCT NAME**********

**000002* STAPH-CHEK FABRIC (SHEETING)

UMI 8 0 8 8 1 G A 5 4 V

REGISTRANT	*NAME AND ADDRESS*	
* 000867	CLEVELAND CHEMICAL CORPORATION P.O. BOX 820 CLEVELAND, MISSISSIPPI 38732	6018866661

**********PRODUCT NAME**********

**000023* CAPTAN 25 SEED PROTECTANT

REGISTRANT	*NAME AND ADDRESS*	
* 008923	HARDEL LABORATORIES, INC. 714 NORTH YALE AVENUE VILLA PARK, IL. 60181	

**********PRODUCT NAME**********

**000002* PETRX MEDICATED SHAMPOO FOR DOGS AND CATS

**000036* KOZY PET MEDICATED SHAMPOO

REGISTRANT	*NAME AND ADDRESS*	
* 009307	ENCAP PRODUCTS COMPANY P O BOX 278 MOUNT PROSPECT, IL 60056	3125934464

**********PRODUCT NAME**********

000001* ********

**000006* POP-IN FRUIT TREE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 009445	INTER-STATE NURSERIES HAMBURG, IA 51640	

**********PRODUCT NAME**********

**000002* INTER-STATE MULTI-PURPOSE HOME ORCHARD SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 009779	RIVERSIDE CHEMICAL COMPANY TERRA SOUTHERN CORPORATION P.O. BOX 171376/871 RIDGEWAY LOOP RD. MEMPHIS, TENNESSEE 38117	9017678810

**********PRODUCT NAME**********

**000098* RIVERSIDE GRO-BEAN

REGISTRANT	*NAME AND ADDRESS*	
* 010173	DOCKTOR'S LABORATORIES, INC. DANDEE PARK ANDOVER, MA 01810	6174758160

**********PRODUCT NAME**********

**000001* DOCKTOR'S CAT FLEA POWDER

**000002* DOCKTOR'S FLEA & TICK POWDER

REGISTRANT	*NAME AND ADDRESS*	
* 010423	ESSEX CHEMICAL CORPORATION CONSUMER PRODUCT DIVISION CONNAIR ROAD ORANGE, CT 06477	2037950561

**********PRODUCT NAME**********

**000016* ROSE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 010659	OCCIDENTAL CHEMICAL COMPANY BOX 1165 HOUSTON TX 77001	7138401265

**********PRODUCT NAME**********

**000001* OXY POTATO SEED PIECE TREATER

REGISTRANT	*NAME AND ADDRESS*	
* 011287	FOAMSPRAY CHEMICALS INC 10414 HARRY HINES BLVD. DALLAS, TX 75220	

**********PRODUCT NAME**********

**000005* FOAMSPRAY PRODUCTS CAPTAN FLOWABLE

REGISTRANT	*NAME AND ADDRESS*	
* 011450	COUGHLAN PRODUCTS INC 1011 CLIFTON AVE CLIFTON, NEW JERSEY 07013	2017780116

**********PRODUCT NAME**********

**000001* COUGHLAN DE-MOIST MILDEW SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 011656	WESTERN FARM SERVICE, INC. SHELL CHEMICAL COMPANY 1025 CONNECTICUT AVE. SUITE 200 WASH DC 20036	2022963633

**********PRODUCT NAME**********

**000043* CAPTAN SULFUR 10-90 DUST

REGISTRANT	*NAME AND ADDRESS*	
* 011678	MAKHTESHIM BEER SHEVA CHEMICAL WORKS LTD C/O SOLCHEM DIV OF SOLCOOR C/O SOLCHEM INC 415 MADISON AVE NEW YORK NY 10017	2127540966

**********PRODUCT NAME**********

**000001* CAPTAN TECHNICAL FOR MANUFACTURING PURPOSES ONLY

**000002* CAPTAN 80% WETTABLE POWDER

**000008* CAPTAN 83% DUST CONCENTRATE

**000009* CAPTAN 93% DUST CONCENTRATE

**000012* MERPAN 90% DUST CONCENTRATE CAPTAN

**** PRODUCT SEARCH LISTING **** PAGE 47

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 011678
**000014* CAPTAN 83% W. P.
**000015* CAPTAN 80% DUST CONCENTRATE
**000040* ECONOMY'S CAPTAN 50=W

REGISTRANT	*NAME AND ADDRESS*	
* 011682	SIMPLOT, J.R. COMPANY MINERALS AND CHEMICAL DIVISION BOX 810 MOUNTAIN HOME, IDAHO 83647	2083451021

********** PRODUCT NAME **********
**000005* CAPTAN 10 DUST POTATO SEED TREATER
**000006* CAPTAN 5 DUST POTATO SEED TREATER

REGISTRANT	*NAME AND ADDRESS*	
* 015382	KALO LABORATORIES INC 9233 WARD PARKWAY KANSAS CITY, MO 64114	

********** PRODUCT NAME **********
**000002* DOUBLE=NOCTIN
**000013* CAPTAN=DIAZINON SEED PROTECTANT AND LUBRICANT

**** PRODUCT SEARCH LISTING **** PAGE 48

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*
* 018773	TURNER SALES & SUPPLY INC PO BOX 847 TIFTON GA 31794

********** PRODUCT NAME **********
**000001* PEANUT 7 T&P 5 SEED PROTECTANT
**000002* T=S=P 4 WAY FOR SEED DISEASE CONTROL

REGISTRANT	*NAME AND ADDRESS*
* 029964	PIONEER HI=BRED INTERNATIONAL INC 1206 MULBERRY ST DES MOINES IA 50308

********** PRODUCT NAME **********
**000001* CAPTAN 5001 SEED PROTECTANT

REGISTRANT	*NAME AND ADDRESS*
* 032691	CALHIO CHEMICALS INC SHEPARD ROAD=P O BOX 86 PERRY, OH 44081

********** PRODUCT NAME **********
**000001* CAPTAN TECHNICAL

**** PRODUCT SEARCH LISTING **** PAGE 49

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 033955	PBI GORDON CORP ACME DIVISION 300 SOUTH THIRD ST PO BOX 2276 KANSAS CITY, KANSAS 66118	9133428780

********** PRODUCT NAME **********
**000401* ACME ROSE DUST
**000408* ACME FRUIT TREE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 034704	PLATTE CHEMICAL COMPANY 150 SOUTH MAIN FREMONT, NEBRASKA 68025	4027275100

********** PRODUCT NAME **********
**000022* BALCOM CAPTAN 7.5 DUST
**000030* CLEAN CROP CAPTAN 5% POTATO SEED TREATER
**000038* TRIPLE SEED PROTECTANT

REGISTRANT	*NAME AND ADDRESS*
* 040831	FALLS CHEMICALS INC BOX 6326 GREAT FALLS, MT 59406

********** PRODUCT NAME **********
**000089* BEST 4 SERVIS BRAND CAPTAN=75 SEED PROTECTANT
**000093* BEST 4 SERVIS BRAND CAPTAN=50 SEED PROTECTANT

**** PRODUCT SEARCH LISTING **** PAGE 50

12/03/79 FEDERALLY REGISTERED PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 040831
**000117* CAPTAN 5% DUST

REGISTRANT	*NAME AND ADDRESS*
* 042056	TRACE CHEMICALS INC BOX 518 PEKIN,ILLINOIS 61554

********** PRODUCT NAME **********
**000001* HI MOLY/CAPTAN

REGISTRANT	*NAME AND ADDRESS*
* 042057	MORGRO CHEMICAL & ENERGY CORP 145 N. CENTRAL AVE.=P.O. BOX 151048 SALT LAKE CITY,UT 84125

********** PRODUCT NAME **********
**000055* NASCO CAPTAN 7.5 DUST (AN AGRICULTURAL FUNGICIDE

UMI 8081 GAV 54

**** PRODUCT SEARCH LISTING **** PAGE 1

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	NAME AND ADDRESS	
000148	THOMPSON-HAYWARD CHEMICAL COMPANY 5200 SPEAKER ROAD KANSAS CITY KS 66106	9133213131

PRODUCT NAME

- 005206 CAPTAN-BOTRAN 10-5 DUST
- 005218 CAPTAN SULFUR 15-50 DUST

REGISTRANT	NAME AND ADDRESS	
000239	CHEVRON CHEMICAL COMPANY ORTHO DIVISION 940 HENSLEY STREET RICHMOND CA 94804	4152359300

PRODUCT NAME

- 004162 ORTHOCIDE SULFUR 10-50 DUST
- 004173 ORTHOCIDE 50 WETTABLE
- 004199 ORTHOCIDE 50 WETTABLE
- 004208 ORTHOCIDE 10 DUST
- 004217 ORTHOCIDE 15 DUST
- 004219 ORTHOCIDE DIBROM 18-4 DUST
- 004230 ORTHOCIDE-OMITE 5-3 DUST
- 004231 ORTHOCIDE COPPER SULFUR 15-7-40 DUST
- 004232 ORTHOCIDE-BOTRAN SULFUR 10-5-40 DUST
- 004233 ORTHOCIDE BOTRAN SULFUR 10-6-30 DUST
- 004234 ORTHOCIDE-ZINC COPOSIL 10-25 DUST

**** PRODUCT SEARCH LISTING **** PAGE 2

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

CONTINUE REGISTRANT 000239

- 004258 ORTHO DIBROM-OMITE-ORTHOCIDE 4-3-5 DUST
- 005845 ORTHOCIDE SOIL TREATER "X"
- 008631 ORTHOCIDE PCNB 10-20 DUST

REGISTRANT	NAME AND ADDRESS	
000279	FMC CORP. AGRICULTURAL CHEMICAL GROUP 2000 MARKET STREET PHILADELPHIA, PA. 19103	8152996503

PRODUCT NAME

- 003176 CAPTAN 10 SULPHUR 25 DT 2 DUST
- 004014 CAPTAN SULFUR 10-50 DUST
- 004022 CAPTAN 10 DUST
- 004028 KOLODUST CAPTAN 50-10 DUST

REGISTRANT	NAME AND ADDRESS	
000476	STAUFFER CHEMICAL COMPANY LABELING AND REGISTRATION DEPT 1200 SOUTH 47TH STREET RICHMOND CA 94804	4155469000

PRODUCT NAME

- 004087 CAPTAN-SIGNAL SULFUR 15-35 DUST
- 004086 CAPTAN-SIGNAL SULFUR 15-50 DUST

**** PRODUCT SEARCH LISTING **** PAGE 3

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	NAME AND ADDRESS	
000909	COOKE LABORATORY PRODUCTS 4759 S DURFEE AVE PO BOX 877 PICO RIVERA CA 90660	2136927291

PRODUCT NAME

- 006421 COOKE DOUBLE DUTY ROSE SPRAY
- 006642 COOKE FUNGICIDE
- 006644 ROSEDALE'S FUNGI-TAC

REGISTRANT	NAME AND ADDRESS	
001202	PUREGRO COMPANY 1111 W. 6TH STREET LOS ANGELES CA 90017	2134867502

PRODUCT NAME

- 005045 PUREGRO PHOSDRIN CAPTAN 2-6 DUST
- 005089 PUREGRO CAPTAN SULFUR 10-25 DUST

REGISTRANT	NAME AND ADDRESS	
001528	ARIZONA AGROCHEMICAL COMPANY CHEMICAL DISTRIBUTORS P.O. BOX 21537 PHOENIX AZ 85036	6022441311

PRODUCT NAME

- 003793 AGRO-CHEM BRAND CAPTAN 20

**** PRODUCT SEARCH LISTING **** PAGE 4

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	NAME AND ADDRESS	
001871	FARM CRAFT, INC. 8900 S.W. COMMERCIAL STREET TIGARD, OR, 97223	5036391151

PRODUCT NAME

- 008946 FARMCRAFT CAPTAN 5 DUST
- 008947 FARMCRAFT CAPTAN 7.5 DUST
- 008948 FARMCRAFT CAPTAN 7.5-DIAZINON 3 DUST
- 008950 FARMCRAFT CAPTAN 7.5-GUTHION 1.5 DUST
- 008951 FARMCRAFT CAPTAN 7.5-KELTHANE 3
- 008952 FARMCRAFT CAPTAN 7.5-OMITE 4-SEVIN 5
- 008953 FARMCRAFT CAPTAN 7.5-SEVIN 5 DUST
- 008954 FARMCRAFT CAPTAN 7.5-SEVIN 10 DUST
- 008955 FARMCRAFT CAPTAN 7.5/SULFUR 30 DUST
- 008956 FARMCRAFT CAPTAN 7.5-THIODAN 3 DUST
- 008957 CAPTAN 7.5 SEVIN 5 KELTHANE 3
- 008958 FARMCRAFT CAPTAN 7.5 KELTHANE 3/THIODAN 3 DUST

REGISTRANT	NAME AND ADDRESS	
001969	PARSONS CHEMICAL BOX 146 GRAND LEDGE MI 48837	5176272167

PRODUCT NAME

- 003303 PARSONS B-59 SEED BEAN DRILL BOX TREATMENT

REGISTRANT	NAME AND ADDRESS	
002342	KERR-MCGEE CHEMICAL CORP MGR PKG & LABELING KERR-MCGEE CENTER OKLAHOMA CITY OK 73125	4052701313

PRODUCT NAME

**066970* FASCO EFCO FUNGICIDE NO.2

REGISTRANT	NAME AND ADDRESS	
002393	HOPKINS AGRICULTURAL CHEMICALS RESEARCH;CHEMISTRY & REGULATORY COMPL. 537 ATLAS AVE. PO BOX 7532 MADISON, WI 53707	6082220628

PRODUCT NAME

**004581* BEAN SEED PROTECTANT

**004582* BEAN SEED PROTECTANT

REGISTRANT	NAME AND ADDRESS	
002935	WILBUR ELLIS CO. 191 N SHAW AVENUE SUITE #107 FRESNO, CA 93704	2092261811

PRODUCT NAME

**066026* RED-TOP BOTRAN & CAPTAN 10 SULFUR 25 DUST

**066029* RED-TOP CAPTAN 10 DUST

**066053* RED-TOP CAPTAN 10 SULFUR 30 DUST

**098506* RED TOP CAPTAN 7.5 THIODAN 3 DUST

REGISTRANT	NAME AND ADDRESS	
005131	PARKHURST FARM & GARDEN SUPPLY 310 N WHITE HORSE PIKE HAMMONTON NJ 08037	

PRODUCT NAME

**006786* PARKHURST'S GUTHION CAPTAN DUST

**072224* PARKHURST'S ALL PURPOSE DUST OR SPRAY

**072227* PARKHURST'S CAPTAN DUST

**072228* PARKHURST'S MALATHION CAPTAN DUST

REGISTRANT	NAME AND ADDRESS	
005905	HELENA CHEMICAL CO CLARK TOWER SUITE 3200 5100 POPLAR AVE MEMPHIS TN 38137	9017610050

PRODUCT NAME

**003083* HELENA COP-O-CAP

**007872* COP-O-CAP

**007879* CAPTAN 10-WP

REGISTRANT	NAME AND ADDRESS	
006720	SOUTHERN MILL CREEK PRODUCTS COMPANY INC BOX 1096 TAMPA FL 33601	8136262111

PRODUCT NAME

**CONTINUE REGISTRANT 006720

**033684* PATIO ROOT DIP

REGISTRANT	NAME AND ADDRESS	
006735	TIDE PRODUCTS INC ATTN:M.W. MARSH BOX 1020 EDINBURG, TEXAS 78539	5123834901

PRODUCT NAME

**004808* TIDE TREE PAINT

REGISTRANT	NAME AND ADDRESS	
007001	OCCIDENTAL CHEMICAL CO P O BOX 198 LATHROP, CA 95330	2099582511

PRODUCT NAME

**077734* CAPTAN SULFUR 10-25 DUST

**077737* CAPTAN SULFUR 10-50 DUST

REGISTRANT	NAME AND ADDRESS	
007159	DONNEY FERTILIZER COMPANY BOX 378 9447 E IMPERIAL HIGHWAY DONNEY CA 90242	

PRODUCT NAME

**082194* RED STAR VELVET TERRACAP

REGISTRANT	NAME AND ADDRESS	
007413	PENNINGTON GRAIN & SEED INC PO BOX 290 MADISON GA 30650	4043421234

PRODUCT NAME

**102800* PENNINGTON GREEN COAT TREATMENT FOR COTTON

**102811* PENNINGTON GREEN COAT FOR GRAIN TREATMENT

REGISTRANT	NAME AND ADDRESS	
007478	CHEM-PAK COMPANY P.O. BOX 757 SO MIAMI FLA 33143	

PRODUCT NAME

**079844* THYCAP

**080164* LAWN KEEPER

**080184* ORNAMENTAL FLORAL & FOLIAGE PLANT SPRAY

**080194* ORCHID FUNGICIDE WETTABLE

**080204* CURE-A-LAWN

REGISTRANT	NAME AND ADDRESS	
009404	CHASE & COMPANY BOX 1697 SANFORD FL 32771	3053224552

PRODUCT NAME

UMI 0 8 8 1 G A 5 4 V

**** PRODUCT SEARCH LISTING **** PAGE 9

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 009404

**003483* SUNNILAND THREE WAY FUNGICIDE FILE SYMBOL: 9404-EI

REGISTRANT	*NAME AND ADDRESS*	
* 009782	WOODBURY CHEMICAL COMPANY OF HOMESTEAD PO BOX 4319 PRINCETON FL 33032	3052470524

********** PRODUCT NAME **********

**003670* TRI-MIX FUNGICIDE

**061191* CAPTAN 22.5 DUST

REGISTRANT	*NAME AND ADDRESS*	
* 010182	ICI AMERICAS INC. AGRICULTURE CHEMICAL DIV. NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	3025753000

********** PRODUCT NAME **********

**004928* AGROX (R) STRIP

REGISTRANT	*NAME AND ADDRESS*	
* 010371	CAPE CHEMICAL COMPANY 33 N FREDERICK CAPE GIRARDEAU MO 63701	3143343002

********** PRODUCT NAME **********

**007405* CAPE-KIL BEAN & VEGETABLE DUST

**** PRODUCT SEARCH LISTING **** PAGE 10

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 010371

**007406* CAPE-KIL ALL PURPOSE SPRAY M

**008979* DOG FLEA POWDER

REGISTRANT	*NAME AND ADDRESS*	
* 010965	CALIFORNIA DEPT. OF FOOD & AGRICULTURE PESTICIDE REGISTRATION & AGRIC PROD. ROOM A151 1220 N STREET SACRAMENTO CA 95814	9163225130

********** PRODUCT NAME **********

**009981* ANY APPROPRIATE PRODUCT

REGISTRANT	*NAME AND ADDRESS*	
* 010972	CASTLE A L INC PO BOX 877 MORGAN HILL CA 95037	4087793141

********** PRODUCT NAME **********

**065545* CASTLE BRAND DUST CAPTAN 8 10-20

REGISTRANT	*NAME AND ADDRESS*	
* 011093	MASTER NURSERYMEN'S ASSN C/O LEO DUPUICH 1935 BEACH STREET CONCORD, CA. 94519	4156872940

********** PRODUCT NAME **********

**073711* 49'ER BRAND FUNGICID

**** PRODUCT SEARCH LISTING **** PAGE 11

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 011315	FLORIDA EAST COAST FERTILIZER COMPANY 305 SOUTH FLAGLER AVE-DRAWER 8 HOMESTEAD FL 33030	

********** PRODUCT NAME **********

**005418* ANTI-DAMP

REGISTRANT	*NAME AND ADDRESS*	
* 011369	BAKERSFIELD AG CHEM INC RT #1 BOX 858 OILDALE CA 93308	8053999191

********** PRODUCT NAME **********

**008760* BAC CAPTAN 10 SULFUR 25 DUST

**008772* BAC CAPTAN 10% DUST

**008773* BAC CAPTAN 50W

**008783* BOTRAN 6%-CAPTAN 10%-SULPHUR 30%

**008787* BAC BOTRAN 6% CAPTAN 10% SULPHUR 20%

REGISTRANT	*NAME AND ADDRESS*	
* 011656	WESTERN FARM SERVICE, INC. SHELL CHEMICAL COMPANY 1025 CONNECTICUT AVE. SUITE 200 WASH DC 20036	2022963633

********** PRODUCT NAME **********

**005736* EL BLANCO BRAND (CAPTAN-SULFUR 10-50 DUST)

**** PRODUCT SEARCH LISTING **** PAGE 12

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

**CONTINUE REGISTRANT 011656

**005739* CAPTAN 10 DUST

REGISTRANT	*NAME AND ADDRESS*	
* 014775	ASGROW FLORIDA COMPANY PO DRAWER D PLANT CITY FL 33566	8137521177

********** PRODUCT NAME **********

**008724* PROTECTURF WETTABLE

**008730* FUNGICAP 2-4 SPRAY

**008735* DICOFOL-CAPTAN DUST NO. 1 (2% KELTHANE-5% CAPTAN) MU-1

**008767* CAPTAN DUST NO. 2 (7.5% CAPTAN) U-2

REGISTRANT	*NAME AND ADDRESS*	
* 014762	CARUSO FARM SUPPLY 120 N WHITE HORSE PIKE HAMMONTON NJ 08037	

********** PRODUCT NAME **********

**10330* BLUEBERRY-CAPTAN DUST

**10336* CAPTAN PARATHION DUST

UMI 8081 GA 54V

**** PRODUCT SEARCH LISTING **** PAGE 13

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 021275	SPAULDING INC 1921 5TH AVE S ST PETERSBURG FL 33733	8138962611

********** PRODUCT NAME **********

**055547* X-CEL TTC

REGISTRANT	*NAME AND ADDRESS*	
* 029350	HURT CHEMICAL COMPANY ODESSA TX 79760	

********** PRODUCT NAME **********

**003710* OLD PRO FRUIT TREE SPRAY

REGISTRANT	*NAME AND ADDRESS*	
* 035222	SOUTHERN CHEMICALS, INC. 206 N. ELM AVE, BOX 1480 SANFORD, FL 32771	3053225492

********** PRODUCT NAME **********

**071594* ROOTING HORMONE & FUNGICIDE

**071674* CAPTAN 7.5 DUST

**071694* BENOMYL-CAPTAN-STREPTOMYCIN DUST

**071754* TURF FUNGICIDE

**071794* CAMARAN WETTABLE POWDER

**** PRODUCT SEARCH LISTING **** PAGE 14

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 035296	TOXO-SPRAY DUST, INC. 12651 E. LOS NIETOS ROAD SANTA FE SPRINGS, CALIFORNIA 90670	7145231818

********** PRODUCT NAME **********

**005816* CAPTAN 10 DUST

**005820* CAPTAN SULPHUR 10-50 DUST

**005824* TOXO DIBROM-KELTHANE CAPTAN DUST NO. 3-3-10

REGISTRANT	*NAME AND ADDRESS*	
* 037023	KENIC LABS, INC 2530 EMERSON AVE. SOUTH ST. PETERSBURG, FL 33712	

********** PRODUCT NAME **********

**009345* K.L. 7 DUST

**009346* DERMA-KEN DUST

REGISTRANT	*NAME AND ADDRESS*	
* 037177	AFC COMPANY PO BOX 207 EDISON, CA 93220	8053664441

********** PRODUCT NAME **********

**008225* KERNTOX CAPTAN 10D

**** PRODUCT SEARCH LISTING **** PAGE 15

12/03/79 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING CAPTAN

REGISTRANT	*NAME AND ADDRESS*	
* 037043	UNIVERSITY OF HAWAII-CO-OP EXTENSION SERV-ENTOMOLOGY BRANCH HONOLULU, HI 96822	8082354190

********** PRODUCT NAME **********

**008537* CAPTAN (WP)

**008574* CAPTAN(WP)

REGISTRANT	*NAME AND ADDRESS*	
* 038655	N.Y.S. COLLEGE OF AGRIC. AND LIFE SCI CORNELL UNIV ATTENTION:DR.DEWEY ITHACA, NEW YORK 14853	6072563263

********** PRODUCT NAME **********

**104554* NYS-DEWEY-CAPTAN (S AND FORM NOT SPECIFIED) N

CAPTAN "24C" REGISTRANTS

EPA SLN. NO.	REGISTRANT
NJ-760002	Chevron Chem. Co. 940 Hensley Street Richmond, CA. 94804
NJ-760003	Stauffer Chem. Co. Richmond, CA. 94804
CA-760031	Ed. J. Lyng Co. Inc. P.O. Box 3777 Modesto, CA. 95352
MI-770002	E.I. duPont de Nemours Co., Inc. Wilmington, Delaware
SC-770002	E.I. Dupont
MS-770004	E.I. Dupont
VI-77-0005	E.I. Dupont
HI-770005	Pineapple Growers Assc. of Hawaii 1902 Financial Plaza of the Pacific Honolulu, Hawaii 96813
CA-770021	E.I. duPont DeNemours and Co. (INC.)

WA-780066	Gustafson, Inc. 6350 LBJ Freeway Suite 180 Dallas, Texas 75240
CA-780068	Monterey Co. Dept. of Ag. P.O. Box 1370 Salinas, CA. 92901
CA-780101	Stauffer Chem. Co.
CA-780192	Madera Co. Dept. of Ag. 128 S. Madera Ave. Madera, CA. 93637
AL-790001 NC-790001	Stauffer Chem. Co. Westport, Ct. 06880
NC-790001	Stauffer Chem. Co. Westport, Ct. 06880
TX-790003	Gustafson, Inc.
MT-790012	Gustafson, Inc.
ND-790013	Gustafson, Inc.
MS-790013	Valley Chem. Co. P.O. Box 1317 Greenville, Mississippi
NJ-790014	E.I. duPont
OR-790038	Farm Craft Inc. 8900 SW, Commercial Tigard, Oregon 97223 CANCELLED 9-26-79
CA-790083	Madera Co. Dept. of Ag. 128 S. Madera Ave. Madera, CA. 93637

HI-770023	Pineapple Growers Asc. of Hawaii 1902 Financial Plaza of the Pacific Honolulu, Hawaii 96813
OR-770032	Stauffer Chem. Co.
OR-770044	Chevron Chem. Co.
CA-770197	Northrup King Co. P.O. Box 1406 Woodland, CA. 95695
WA-780017	Cargill, INC. P.O. Box 9300 Minneapolis, Minn. 55440
CA-780027	Stanislaus Co. Dept. of Ag. 725 County Center Three Ct. Modesto, CA. 95355
CA-780032	U.S. Forest Service (F.I.D.M.) 630 Sansome Street San Francisco, CA. 94111
GA-780037	Stauffer Chem. Co. Westport, CT. 06880
WA-780065	Gustafson, Inc. 6350 LBJ Freeway Suite 180 Dallas, Texas 75240
WA-780066	Gustafson, Inc. 6350 LBJ Freeway Suite 180 Dallas, Texas 75240

[FR Doc. 80-24428 Filed 8-15-80; 8:45 am]
BILLING CODE 6560-01-C

federal register

Monday
August 18, 1980

Part III

Architectural and Transportation Barriers Compliance Board

Proposed Minimum Guidelines and Requirements for Standards for Accessibility and Usability of Federal and Federally Funded Buildings and Facilities by Physically Handicapped Persons

usability standards enforced under

The ATBCB recognizes the inherent

C. General Information: ABA Standards

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Minimum Guidelines and Requirements for Accessible Design

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Proposed rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board hereby issues its proposed minimum guidelines and requirements (guidelines) for standards for accessibility and usability of Federal and federally funded buildings and facilities by physically handicapped persons. These proposed guidelines are issued pursuant to the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978, amending Rehabilitation Act of 1973. The proposed guidelines provide a basis for the issuance of consistent and improved accessibility and usability standards issued by other agencies under the Architectural Barriers Act of 1968.

DATES: Comments must be received on or before October 17, 1980.

ADDRESS: Send comments to: Charles Goldman, General Counsel, Rulemaking Docket 80–G1, ATBCB, Room 1010, 330 C Street, SW., Washington, D.C. 20202. Comments received will be available for public inspection in Room 1014 from 9 a.m. to 5:30 p.m., Monday through Friday. Copies of the Notice of Proposed Rulemaking (NPRM) and the draft regulatory analysis are available on tape for those with visual impairments. These may be obtained at the above address.

FOR FURTHER INFORMATION CONTACT: Charles Goldman, General Counsel, or Irene Bowen, Attorney (202)245–1801 (Voice or TDD); John Weber, Architect (202)472–3237 (Voice) (202)245–1801 (TDD).

SUPPLEMENTARY INFORMATION:

A. Background

The Architectural Barriers Act of 1968 (Barriers Act or ABA) (Pub. L. 90–480), as amended (42 U.S.C. 4151 *et seq.),* directs four Federal agencies to "prescribe standards for the design, construction, and alteration of (certain Federal and federally-assisted) buildings * * * to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings," The four agencies, the General Services Administration (GSA), the Department of Housing and Urban Development (HUD), the Department of Defense (DoD), and the United States Postal Service (USPS), have issued standards. (GSA: 41 CFR 101–19.6, effective September 2, 1969; HUD: 24 CFR Part 40, effective September 24, 1969; DoD; DoD 4270.1–M, "Construction Criteria," June 1, 1978, paragraphs 5–6: USPS: Postal Contracting Manual, Publication 41, § 18–518.4, 39 CFR 601.100, as amended by handbook RE–4, November 1979.)

Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, established the Architectural and Transportation Barriers Compliance Board (ATBCB or Board), an independent agency charged with insuring compliance with the standards.

The Board consists of the heads of ten Federal agencies plus eleven members appointed by the President from the general public.[1]

In November 1978, Congress enacted the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602. The 1978 Act directs the Board to "establish minimum guidelines and requirements (guidelines) for the standards issued pursuant to the * * * Architectural Barriers Act" by the four agencies listed above. Agencies setting those standards under the Architectural Barriers Act will ultimately publish new standards after the Board adopts the guidelines.

On February 22, 1980, the Board published in the **Federal Register**, at 45 FR 12167, a Notice of Intent to Issue Proposed Rules. The Notice raised thirty-one important issues on which the Board sought public comment before publishing a Notice of Proposed Rulemaking. This Notice is the second step in the rulemaking process toward establishing these guidelines.

The Notice of Intent to Issue Proposed Rules recited the Board's efforts to compile technical information to aid in setting design specifications. Comments were elicited for 45 days on the key issues expected to be addressed in the guidelines.

The Board received one hundred seventeen comments from a cross-section of the public. Disabled persons and their advocacy organizations, universities, building industry orgnizations, Federal and State agencies commented. The Board is using those comments as noted in the preamble and the regulatory analysis as part of the basis of the proposed guidelines. The comments were considered in drafting the proposed guidelines. The comments received in response to the Notice of Intent are available for inspection at 330 C Street, SW., Room 1014, Washington, D.C. 20202 from 9 a.m. to 5:30 p.m., Monday through Friday.

Several of the comments received also highlighted the need for greater research, particularly with respect to accessibility features for communication impaired and visually impaired persons. (Questions 19–28 and 30 of the Notice of Intent) Further research in these areas, as well as others, such as fire doors, will complement the ATBCB's plan to review the guidelines on a regular basis and to incorporate state-of-the-art developments in a timely manner.

The ATBCB has a Technical Standards Committee, comprised of four public members and four Federal members (ABA standard-setting agencies): General Services Administration, United States Postal Service, Department of Housing and Urban Development, and Department of Defense. The Technical Standards Committee met with ATBCB staff for two days on three occasions after the public comment period closed. At these meetings, staff provided the Committee with detailed analyses of various aspects of the Architectural Barriers Act, the administrative rulemaking process, and the nature of the ATBCB minimum guidelines. The meetings were a forum for dialogue between staff and the Committee whereby guidance was given to the staff on the development of the minimum guidelines, including, as well, the indentification of issues to be highlighted for public comment. A detailed briefing of the full Board was conducted on the Committee's and staff's work. Copies of the minutes of all these meetings are available for inspection at ATBCB offices, 330 C Street, SW., Room 1014, Washington, D.C. 20202 from 9 a.m. to 5:30 p.m., Monday through Friday.

These guidelines are the first to be issued by the ATBCB. They contain provisions for the generic (common) elements and features of buildings and facilities. By providing specificity in the guidelines, the ATBCB anticipates that the Architectural Barriers Act standards based on the guidelines will readily permit architects, designers, engineers, users, and public officials to provide maximum accessibility and usability in buildings and facilities. The ATBCB views these guidelines as being the common core for the accessibility and

[1] The agency members are the heads of the Departments of Education; Transportation; Housing and Urban Development; Labor; Interior; Justice; Defense; General Services Administration; Veterans Administration; United States Postal Service. The Act requires at least five of the members from the general public to be physically handicapped.

usability standards enforced under Section 502 of the Rehabilitation Act. This would provide a Government-wide basis for a common understanding of accessibility.

These guidelines themselves do not require accessibility where not otherwise required by the Architectural Barriers Act, *e.g.,* only those residential units required under the Architectural Barriers Act to be accessible must be accessible to disabled persons.

In this connection, it must be noted that in the Notice of Intent, the ATBCB inquired at question 31 whether it should adopt the technical specifications of the "ASNI Standard," the 1979 revision to the American National Standards Institute (ANSI) A117.1 standard, or portions of it, as the basis for its guidelines. Although a number of the commentors thought the ATBCB should adopt the ANSI Standard or use it as a basis for the minimum guidelines, the ATBCB's need to develop the scope and other essential components of guidelines, required to make these guidelines the basis for enforceable standards, was also recognized.

In May 1980, subsequent to the issuance of the ATBCB Notice of Intent, ANSI, a private institute in New York City not connected with the Federal government, published its technical accessibility standard. The standard was reviewed as a possible basis for technical specifications in these guidelines.

However, an effective guideline must also contain scope provisions. The ATBCB wishes to publish a single document containing both scoping and technical provisions. This will facilitate use of the guidelines by the public, including consumers, designers, architects, engineers, and by the ATBCB as it exercises its statutory responsibilities to issue and update the guidelines.

To facilitate comments on the proposed guidelines, the ATBCB has identified each technical provision in the NPRM that is the same as the provision contained in the ANSI A117.1(1980) standard. In addition, the ATBCB has noted those provisions contained in the NPRM that are different from those in the ANSI standard and those that are contained in the NPRM but that are not addressed in the ANSI standard. The technical materials in these guidelines have been drawn from information in the public domain and government publications, whether as a result of the HUD-Syracuse University contract or from other federally sponsored research or State developed standards.

The ATBCB recognizes the inherent right of each of the standard-setting agencies under the Architectural Barriers Act to establish a unique format for the standards based upon the guidelines. Accordingly, the ATBCB has indicated in the general information subpart, § 1190.4(d), that agencies are at liberty to vary the format and that the ATBCB's concern is that the agencies' standards meet the substantive requirements of ATBCB minimum guidelines, regardless of the format of those standards. The ATBCB hopes agencies will follow the format of these guidelines to facilitate consistent compliance efforts.

B. Components

The guidelines are divided into five major components. The initial subpart, General, sets out the purpose, applicability, definitions, relationship of the guidelines to the Architectural Barriers Act standards, other uses, and effect of State or local law on the guidelines. The second subpart relates to processed departures from the guidelines, *i.e.,* waivers and modifications. Other departures from the guidelines are permitted under specific design exceptions. The third subpart enumerates the provisions applicable to new construction, alterations and leased buildings. The fourth subpart contains the pertinent technical provisions. The fifth subpart is reserved but will address special technical provisions applicable to unique elements or types of buildings, *e.g.,* stacks in libraries, hospitals, penal institutions, and residential structures.

The guidelines do not address the ATBCB's authority to ensure the accessibility of public conveyances, including rolling stock. The ATBCB believes any guidelines it may wish to publish on this subject should be considered as it more fully develops its transportation policy.

The ATBCB considered but has decided against including administrative compliance mechanisms at this time in these guidelines. The public should be aware that the ATBCB published Guidance for Compliance System Development in 1978. 41 FR 27191. The ATBCB considers development of a regulatory compliance system a high priority and will be expeditiously moving toward fulfilling that objective after these guidelines are completed. Pending development of a complete regulatory compliance system, the ATBCB will utilize its enforcement process, as well as its general oversight role concerning architectural barriers, to monitor implementation of the guidelines.

C. General Information: ABA Standards; Definitions

Subpart A states that the purpose of the guidelines is to establish a minimum basis for standards under the Architectural Barriers Act so that buildings and facilities subject to the Act can be made readily accessible to persons with disabilities. Section 1190.1.

All buildings and facilities subject to the ABA requirements are open to the public or have potential for employment or residence therein of disabled persons. Possible exceptions to this scope would be hazardous areas of a buildings or facility such as elevator penthouses or pits, and other mechanical areas. Section 11909.2.

As provided in § 1190.2 the guidelines are applicable to all types of buildings, regardless of their use or occupancy. The same technical specifications for new buildings should also apply to existing buildings to be leased by the United States. This is also true for federally-assisted buildings (questions 2, 3, and 12 of the Notice of Intent).

The definitions in the guidelines at § 1190.3 are most important. Close attention should be given these terms. Several of them, such as "equivalent facilitation," "exception," "modification," and "waiver" have never been defined in a public rulemaking process relating to the Architectural Barriers Act. These terms generated considerable discussion in the meetings of the Technical Standards Committee of the ATBCB.

Other particularly vital terms are "alteration," "buildings," "construction," "extraordinary repair" and "structural impracticability." The term "building" in the ABA was the subject of a May 8, 1980, Opinion of the Office of Legal Counsel, U.S. Department of Justice (OLC Opinion). That OLC Opinion held that the Architectural Barriers Act covers those federally-assisted buildings for which standards are authorized, even if they have not actually been imposed. The Architectural Barriers Act does not extend to buildings leased by recipients of Federal grants or loans , where funds were not made available for building, design, construction, or alteration. The OLC Opinion is available as part of the rulemaking docket at the ATBCB offices, 330 C Street, SW., Room 1014, Washington, D.C. 20202, from 9 a.m. to 5:30 p.m., Monday through Friday.

The definitions in the guidelines are intended to be consistent with the terms in revised 36 CFR Part 1150, previously mentioned and the subject of another rulemaking proceeding.

The guidelines provide that, unless

requirements such as new construction — percent or more of the gross floor area in

modification is clearly necessary, 42

thought by designers, builders, and

The guidelines provide that, unless otherwise specified, each of a particular building or facility element or feature is required to comply with the guidelines. Section 1190.6(b).

Question 29 of the Notice of Intent raised the issue of numbers. The majority of the comments were that a reasonable or appropriate number, with a minimum specified, should be provided. The ATBCB is concerned that people could reasonably interpret general phrases like "appropriate number" differently. Accordingly, as a general principle, full accessibility of a feature, space, or element is required. There are specific provisions authorizing less than all of a feature, space or element to be accessible.

The guidelines are written in the imperative mood to indicate the mandatory nature of the provisions and avoid excess verbiage and monotony by having to repeat the word "shall." Use of "shall" or the imperative mood means the provision is mandatory. Section 1190.6(c).

The standards issued by the agencies under the Architectural Barriers Act will be enforced by the ATBCB under 36 CFR Part 1150, Compliance with Standards, Access to and Use of Buildings by Handicapped Persons: Practice and Procedures for Compliance Hearings. Revisions to that regulation were recently proposed. 45 FR 28969. The revised regulation should be issued this year.

The ATBCB intends to enforce these minimum guidelines if a standard under the Architectural Barriers Act, complying with ATBCB guidelines, within 120 days after publication of the final guidelines. Final standards must be issued 120 days after the proposed standards are issued.

The ATBCB hopes that Federal and non-Federal entities will follow the Board's leadership and utilize the provisions of the guidelines as a tool to facilitate accessibility in buildings and facilities to which the Architectural Barriers Act does not apply. Section 1190.5. The obligation to comply with the guidelines is not affected by any State or local law. Section 1190.7. Nor should site conditions, as a general rule, preclude accessibility. Section 1190.8.

D. Waivers and Modifications: Processed Departures From the Guidelines

The Architectural Barriers Act authorizes the head of the standard-setting agency to modify the standards on a case-by-case basis upon application by the head of a department, agency, or instrumentality affected and a determination that such a waiver or modification is clearly necessary. 42 U.S.C. 4156. The 1978 Act authorized the ATBCB to ensure that all waivers are based upon findings of fact and are consistent with the Architectural Barriers Act and Section 502 of the Rehabilitation Act. Pub. L. 95-602, § 118.

It is the view of the ATBCB that the Architectural Barriers Act mandates the standard setting agencies to issue standards to ensure "whenever possible," that physically handicapped persons will have ready access to and use of, buildings and facilities, is a qualified requirement of full access, recognizing some necessarily rare exceptions. Waivers and modifications were not intended to be a major loophole in the requirement for accessibility. S. Rep. No. 538, 90th Cong., 1st. Sess. 4 (1967). In re Compliance Social Security Administration, Birmingham, Alabama (ATBCB Decision of Administrative Law Judge Feb. 1, 1979). OLC Opinion.

Several questions in the Notice of Intent (numbers 15-18) related to the concept of processed departures. Public comment generally supported the concept of waivers and modifications. The comments on question 15 and 16 of the Notice supported cost, practical difficulties, and safety/security as bases for waivers/modifications. These comments are embodied in the provision in § 1190.21. The definitions in § 1190.3 of "structural impracticability" and "equivalent facilitation" become increasingly important here as they are fundamental considerations in granting waivers/modifications.

Public comment differed on the types of criteria to be employed to determine when cost should be considered in the waiver/modification process.

Undue hardship may be the basis of a waiver or modification, *e.g.*, where there is little likelihood accessibility could be achieved without endangering or seriously weakening an existing building or facility or portion of it, or substantially altering an existing building or facility or portion of it.

In response to question 17 of the Notice of Intent, the consensus was that the factors enumerated should not be considered when granting a waiver or modification: type of business in the facility, potential number of disabled people who may visit or be employed in the facility, or nature of the disabilities of persons who may be employed in or visit the facility. The proposed guidelines adhere to this. Section 1190.22.

In discussing future departures from the guidelines and standards based thereon, the ATBCB realized that certain circumstances may merit additional thought by designers, builders, and implementing agencies. These are set forth as additional considerations for modifications in § 1190.23. The ATBCB is attempting to foster creative design by encouraging architects to be innovative, and, at the same time, provide greater accessibility. However, because of the limited experiences in barrier free design it is prudent to monitor such creative thought through the modification process involving new construction to ensure that requisite access is provided by the new techniques. Also, alteration projects are particularly susceptible to the need for modification of accessibility standards. In both circumstances equivalent facilitation must be clearly provided. Structural impracticability also may be considered. Where the accessibility standard can be departed from to provide more or improved access for disabled persons, a modification of the standard may be appropriate. The public must bear in mind that a modification, as defined in proposed § 1190.3, has the effect of maintaining the basic accessibility requirement.

In response to question 18 relating to the process for departures, a wide array of techniques was suggested, ranging from local hearings, to ATBCB review, to peer type review. The proposed guidelines provide for notice and documentation of all requests for waivers and modifications to the Executive Director of the ATBCB. The Executive Director would, within the time stated, indicate his/her comments on the prospective processed departure from a standard based on the guidelines. *See* § 1190.20. This approach is somewhat similar to that proposed in section 307 of S. 2080, the Public Buildings Act of 1980.

The Executive Director may seek review of a waiver or modification that is inappropriate under the mandate to ensure compliance with the accessibility standards. The alleged improper waiver/modification may be challenged under 36 CFR Part 1150. Section 1190.20.

E. Scope: New Construction; Additions; Alterations; Leases

The next subpart enumerates the provisions applicable to new construction, additions, alterations, and leased buildings. Note these provisions are applicable to Federal and federally-assisted buildings to the extent that such structures are subject to the ABA.

For the convenience of designers, specifiers, and the general public, and to follow the pattern of building code type documents, the scoping provisions are set forth in a single provision, subpart C, with paragraphs devoted to particular

requirements such as new construction, § 1190.31; additions, § 1190.32; alterations, § 1190.33; and leased buildings, § 1190.34. These sections contain the quantification and scoping provisions for the technical materials which follow in the next subpart. The two subparts should be read together.

Section 1190.31 contains provisions applicable to new construction. This list is, quite naturally, most extensive since it is easiest to provide accessibility in new structures.

In § 1190.32, the general rule is that if an addition to an existing building is constructed:

(a) The addition itself must comply with new construction standards;

(b) An accessible route must be provided from outside the building through the addition (if necessary, through the existing building);

(c) At least one of each existing building feature, element, or space, *e.g.*, cafeteria, snack bar, library, lounge, must be made accessible, unless one of that feature is accessible in the addition; and

(d) common areas must be made accessible as in (c).

Section 1190.33 relates to the scope of what is required with respect to alterations. Note that all work to an existing building that presents the opportunity to provide increased accessibility, no matter how described, *e.g.*, rehabilitation, renovation, is considered to be an alteration and is subject to the accessibility requirement guidelines. This was strongly supported in public comment on question 5 of the Notice of Intent.

If an element of a building is altered, only that element must be made accessible. For example, if toilet room lavatories are altered, the new lavatories must be accessbile. However, if alternations of single elements, when considered together, became an alteration of a portion of a building, the entire portion must be made accessible. For example, if a number of water closets, lavatories, and toilet accessories in a toilet room are altered, then the toilet room as a whole must be made accessible; or on a larger scale, if all of the rooms of a wing of a building are altered, then the wing must be made accessible. These principles are responsive to public comment on questions 7, 8 and 9 of the Notice of Intent. Section 1190.33.

In certain instances what appears to be "alteration" may be so extensive that it will be classified as "new" construction, thereby necessitating the entire building to be accessible and usable. Section 1190.33. Compare § 1190.31. This occurs when (1) 50 percent or more of the gross floor area is altered or (2) the cost of alteration is 50 percent or more of the full and fair cash value of the building.

In new buildings, all entrances must be accessible. With alterations to existing buildings, the rules are slightly different. Where 50 percent or more of a building is altered, so that the alteration is classified as new construction; at least one entrance, as well as any entrance altered, must be accessible. In any event, whether or not 50 percent of the building is altered, an entrance must be made accessible if any alteration work is performed on that entrance. This is responsive to the comments on question 10 of the Notice of Intent.

Question 11 of the Notice of Intent addressed the issue of vertical access. In §§ 1190.32 and 1190.33 an accessible means of vertical access must be provided for alterations where

(a) Stairs are altered, installed or replaced; or

(b) Power-driven vertical access equipment, *e.g.*, and escalator, is altered, installed, or replaced; or

(c) A floor is added to a building.

In response to question 11 of the Notice of Intent, one-third of the comments favored an elevator being required in all instances cited in the Notice. The remaining two-thirds were mixed, defying simplistic classification.

The ATBCB is not prohibiting the installation of escalators. Rather, where escalators are installed, elevators must also be provided. *See* § 1190.31(f). Only passenger, not freight or service, elevators would be in compliance with the guidelines.

The provisions of the guidelines applicable to leased space are the same as those applicable to federally-owned buildings. In response to its inquiry about balancing the need for accessible space with the fact that accessible space may not be available (question 12 of the Notice of Intent), the ATBCB received comments which were divided on the adequacy of the current GSA approach, which permits awarding of a lease requiring certain enumerated accessibility features. 41 CFR 101-19.604(e), 43 FR 16478, 16480. Many commenters felt that the exception permitted in the leasing process had in essence become the rule, rather than full accessibility actually currently required for initial lease solicitation. The ATBCB recognizes that full accessibility may not always be available in leased buildings. However, the ATBCB believes that the waiver/modification process can address these instances. Section 1190.34. This is more than GSA currently requires in its regulation relating to review of leasing inaccessible sites.

Section 1190.34 requires, consistent with the public comment on question 13 of the Notice of Intent, that an accessible route be provided from the entrance to the leased portion and essential features of the building. This includes the essential building support functions such as the elevator, toilet rooms, and primary entrances, which are located in the leased portion of the building, even if not physically occupied by a Federal agency.

Question 14 of the Notice of Intent inquired about making the common areas of leased buildings accessible. Where such common areas may be justified under 41 CFR Chapter 101 as an essential, valid space requirement, such areas may be required to be accessible. There are, however, other statutes which limit the amount the Government may pay to improve a lessor's property. *See* 40 U.S.C. 278(a), which limits the amount of improvement to 25 percent of the rent for the first year of the lease. This may limit the amount of accessibility in leased space. Also, the lessor may have already leased the common area to another party, *e.g.*, concessionaire for store or cafeteria. Thus, while public comment supported making these areas accessible, there may be very practical problems in terms of justifying the Government's need for this space and/or necessitating a processed departure from the guidelines. These limitations are reflective of the requirement that the standards are applicable to ensure accessibility "whenever possible," *e.g.*, 42 U.S.C. 4152, 4154(a).

When the Government leases an entire building it may be said to require access to and, in fact, control the common areas. Leases of entire structures pose fewer problems in recognizing the need for access to common features as the Government controls the entire building. An example of a bona fide need for access to a common area in a building the Government did not lease completely would be the need for access to a cafeteria in a remotely located structure.

F. Accessibility Specifics

The detailed technical provisions of the guidelines are contained in the fourth subpart. Provisions are made under 21 separate major headings. The technical provisions are contained in Subpart D. Different technical provisions are assigned specific sections. This is for the convenience of designers, specifiers, and the general public and to follow the pattern or building code documents.

There are several issues on which comments were received which the

ATBCB wishes to address. These relate

concluded that such a requirement

telecommunications devices for the deaf

(7) Signage/Identification. The public

guidelines and is available for

Sec.
1190.180 Alarms

ATBCB wishes to address. These relate to provisions for communication impaired persons, questions 19–23 of the Notice, and visually-impaired persons, questions 24–28 of the Notice. The public comment on question 19 of the Notice of Intent supported flashing lights as the best way to inform deaf and hearing impaired persons in case of an emergency. This is embodied in § 1190.180, Alarms.

The public comment on question 23 of the Notice of Intent supported use of the latest technology to eliminate barriers. This will be an area of future research also identified by question 30 of the Notice. In these guidelines signage requirements are included. Section 1190.200.

In responding to questions 24–28, which raised issues relating to the provision of accessibility for visually impaired persons, public comment supported the provision of tactile signage and tactile door handles, as well as warnings at railings or walls surrounding openings. *See* § 1190.190.

The responses also seemed to support the use of contrasting colors as a directional cue for visually impaired persons. However, before mandating this, the ATBCB wants to research this subject further. *See* § 1190.200(b)(3).

In considering the issue of signage/identification there was also discussion concerning utilization of specific shapes to identify particular functions of a building, *e.g.*, triangles to identify ladies' restrooms. This may also be the subject of further research.

The subject of telephones and communication barriers elicited considerable comments. Public comment in response to question 20 of the Notice of Intent was overwhelmingly in favor of requiring TDDs. Concern was raised, however, that the ATBCB seek to ensure that such a requirement, if imposed, can be done practically and will not be frustrated by vandalism.

Public comment strongly supported the policy that telephones should be compatible with hearing aids (questions 20 and 22). This is within § 1190.210 and it is proposed that all public telephones will be so compatible. The ATBCB understands that the cost of such compatibility is minimal.

Comment on question 20 also supported requiring at least one public telephone per bank or that a stated percentage (but at least 1) be equipped with amplifiers. *See* § 1190.210(d).

Question 22 of the Notice of Intent elicited strong public support to require telephones receiving incoming calls from the public be equipped with TDDs. However, upon analysis of the Architectural Barriers Act, ATBCB staff concluded that such a requirement, while it may be an appropriate public policy, is not a component of the design, construction, or alteration of a building or facility. The ATBCB believes that under either Section 501 or 504 of the Rehabilitation Act, 29 U.S.C. 791, 794, such TDDs can be required.

G. Special Technical Provisions

The next subpart, "Special Buildings or Facility Elements," will be developed in future rulemaking. ATBCB expects to interact with the Federal agencies having expertise to develop more specific guidelines for the unique aspects of structures, *e.g.*, with the Department of the Interior on guidelines for accessible parks, the Department of Health and Human Services and Veterans Administration for hospitals, the Department of Housing and Urban Development for residential units.

H. Requests for Comments; Highlighted Issues

The ATBCB is interested in receiving comments on all aspects of the proposed guidelines from all interested parties. The ATBCB is concerned that the provisions are understandable and lead to clear and enforceable standards and accessible buildings in a most effective manner.

The ATBCB in inviting public comment on the proposed guidelines, wishes to highlight certain issues for comment. These issues are set forth below.

(1) Number. While § 1190.6(b) states the general principle that when a number of building elements is provided *each* must be accessible, the guidelines do make certain exceptions which should be examined. *See also* Subpart C.

(a) For example, should the guidelines require that in new buildings all or a lesser number, such as 2, of the entrances (including the principal entrance) should be accessible? Should the number be less when there is a replacement or renovation project involving existing entrances? Section 1190.120.

(b) Under § 1190.150 should all toilet facilities provided in a toilet room be required to be accessible or should the guidelines (and thus the Architectural Barriers Act standards) require only one toilet unit per toilet room be accessible?

(c) What number of parking spaces should be specified by the guidelines for disabled persons? *See* § 1190.60 specifying a percentage and minimum of one space.

(d) In § 1190.210, the guidelines provide that at least one telephone per bank must be equipped with telecommunications devices for the deaf (TDDs). Is that number reasonable?

(e) A related inquiry is how many telephones should be required to have amplifiers. Should the general rule be one per bank with additional requirements for special use buildings such as airports?

(f) and (g) Two other sections, 1190.220 and 1190.230, also contain deviations from the all of a building element rule. In § 1190.220 a percentage of seating spaces has been indicated. Under § 1190.230 a limited number of viewing positions are to be provided based on the capacity of assembly area. Public comment is invited on the reasonableness and adequacy of these provisions of the guidelines.

(2) Alterations. Section 1190.33.

(a) Public comment is invited on the "50 percent criteria"—floor space or full and fair cash value—for treating significant alterations as new construction and thus requiring full access throughout the entire structure.

(b) The ATBCB also highlights the question of whether it should, as a matter of policy, require an accessible means of vertical access where an escalator is contemplated to replace an existing escalator.

(3) Parking. A fundamental question for comment is whether the guidelines should require the standards based upon it to require parking for disabled persons when the Government builds, leases, or funds a building. *See* § 1190.31(b), § 1190.32, § 1190.33(c)(5), and § 1190.34.

(4) Tactile Warnings. Sections 1190.31(o)(2), 1190.70(e)(7), and 1190.190(c)(1) provide for tactile warnings at the edges of streets without curbs, guardrails, planted areas or similar boundary elements. Should this requirement include tactile warnings at curb ramps and vehicular ways? Is this practical or will it cause additional problems?

(5) Hospital Doors. In § 1190.130(c)(4)(i) alternate specifications for front entry doors in acute care hospital patient rooms are provided. These doors are not unattended so independent access is not the issue. The question is whether the latch side clearances should be 1'–6" inches or 2'–0".

(6) Toilet Facilities.

(a) The additional inquiry here is whether the standard should be the same for new and alteration work.

(b) The public should also comment on whether unisex toilets should be permitted (including any qualifications on where, such as at airports or other high use buildings where a disabled person might be accompanied). *See* § 1190.150(a).

(7) Signage/Identification. The public is invited to share its experience with contrasting colors and specific shapes to identify particualr functions. Should these provisions be mandatory in the final guidelines? *See* § 1190.200(b).

(8) Telephones.

(a) The public support for TDDs on public telephones was quite strong. The inquiry is, what is the most effective place for a TDD, an open or a controlled environment? The ATBCB is seeking to ensure that any requirement it may impose can be implemented in a practical manner.

(b) In developing the guidelines' provision relating to telephones, concern was expressed as to the maximum height of the top of the usable or operable part of the telephone. If the part, usually the coin slot, is too high, disabled persons are unable to reach it and thus unable to use the telephone. The guidelines provide that the top of the highest operable part of telephones shall be no higher than 4'–0". The ATBCB is particularly concerned that all of the public be afforded the opportunity to utilize public telephones. ATBCB highlights this provision and invites public comment specifically on the maximum height of the operable parts of telephones.

(9) Historic Buildings. Question 16(d) of the Notice of Intent raised the issue of historic features being a basis for special treatment. The public comment in general recognized the potential need for some (but not blanket) waivers/exceptions. The ATBCB plans to look more closely at this issue, working with the Department of Interior, and examining such concepts as "adaptive use" and "restoration" when evaluated in connection with accessibility. Public comment is invited on the ATBCB's general approach as well as how it plans to address historic buildings.

I. Draft Regulatory Analysis

A draft of a regulatory analysis has been prepared voluntarily. The draft is being published along with the proposed guidelines as Appendix A to this document. A final regulatory analysis will be will be issued at the time the final rule is published. Comments are invited on the draft regulatory analysis.

J. The National Environmental Policy Act

A negative environment declaration, prepared pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332) indicates that the issuance of the minimum guidelines will not have any significant adverse impact on the environment. This document is in the public docket for the guidelines and is available for examination by interested persons during the comment period.

In consideration of the foregoing, it is porposed to add Part 1190 to Title 36 of the code of Federal Regulations to read as set forth below:

The proposed Guidelines are issued under 29 U.S.C. 792 section 502 of the Rehabilitation Act of 1973, as amended.

By vote of the Board, July 18, 1980.

Dated: July 18, 1980.

Max Cleland,

Chairperson, Architectural and Transportation Barriers Compliance Board.

PART 1190—MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Subpart A—General

Sec.
1190.1 Purpose.
1190.2 Applicability: Buildings and facilities subject to guidelines and standards.
1190.3 Definitions.
1190.4 Issuance of Architectural Barriers Act standards by standard-setting agencies.
1190.5 Guidelines: Other uses.
1190.6 Interpretaion of guidelines.
1190.7 Effect of State or local law.
1190.8 Site conditions.
1190.9 Severability.

Subpart B—Waivers and Modifications: Processed Departures

1190.20 Procedures.
1190.21 Factors on which a waiver or modification may be based.
1190.22 Factors on which a waiver or modification may not be based.
1190.23 Modifications: additional requirement.

Subpart C—Scope

1190.30 Scope [Reserved]
1190.31 Accessible buildings and facilities: New construction.
1190.32 Accessible buildings and facilities: Additions.
1190.33 Accessible buildings and facilities: Alterations.
1190.34 Accessible buildings and facilities: Leased.

Subpart D—Technical Provisions

1190.40 Human data.
1190.50 Walks, floors, and accessible routes.
1190.60 Parking and passenger loading zones.
1190.70 Ramps and curb ramps.
1190.80 Stairs.
1190.90 Handrails.
1190.100 Elevators.
1190.110 Platform lifts.
1190.120 Entrances.
1190.130 Doors.
1190.140 Windows.
1190.150 Toilet and bathing facilities.
1190.160 Drinking fountains and water coolers.
1190.170 Controls and operating mechanisms.
1190.180 Alarms.
1190.190 Tactile warnings.
1190.200 Signage.
1190.210 Telephones.
1190.220 Seating, tables, and work surfaces.
1190.230 Assembly areas.
1190.240 Storage.

SUBPART E—Special Building or Facility Elements [Reserved]

Authority: Sec. 502(b)(7), Rehabilitation Act of 1973 (29 U.S.C. 792(b)(7), as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602).

Subpart A—General

§ 1190.1 Purpose.

The purpose of this part is to implement section 502(b)(7) of the Rehabilitation Act of 1973 (29 U.S.C. 792(b)(7)), as amended, which requires the Architectural and Transportation Barriers Compliance Board to establish minimum guidelines and requirements for standards issued under the Architectural Barriers Act of 1968 (42 U.S.C. 4151 *et seq.*), as amended. This part and the standards to be based on it are intended to ensure that certain buildings and facilities financed with Federal funds are so designed, constructed, or altered as to be readily accessible to, and usable by, physically handicapped persons. (This section not in ANSI A117.1 (1980).)

§ 1190.2 Applicability: Buildings and facilities subject to guidelines and standards.

(a) *Definitions.* As used in this section, the term:

(1) "Constructed or altered on behalf of the United States" means acquired by the United States through lease-purchase arrangement, constructed or altered for purchase by the United States, or constructed or altered for the use of the United States.

(2) "Primarily for use by able-bodied military personnel" means expected to be occupied, used, or visited principally by military service personnel. Examples of buildings so intended are barracks, officers' quarters, and closed messes.

(3) "Privately owned residential structure" means a single or multi-family dwelling not owned by a unit or subunit of Federal, state, or local government.

(b) *Buildings and facilities covered.* Except as provided in paragraph (c) of this section, this guideline, and the standards to be issued by the standard-setting agencies to conform to it, apply to any building or facility—

(1) The intended use for which either—

(i) Will require that such building or facility be accessible to the public, or

(ii) May result in employment or residence therein of physically handicapped persons; and

(2) Which is—

(i) To be constructed or altered by or on behalf of the United States;

(ii) To be leased in whole or in part by the United States—

(A) After August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States; or

(B) On or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date;

(iii) To be financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if the building or facility may be subject to standards for design, construction, or alteration issued under the law authorizing the grant or loan; or

(iv) To be constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(c) *Buildings and facilities not covered.* The guidelines and standards do not apply to—

(1) Any privately owned residential structure, unless it is leased by the Federal government on or after January 1, 1977, for subsidized housing programs; or

(2) Any building or facility on a military installation designed and constructed primarily for use by military personnel.

(d) Any covered building or facility, as provided in this section, which is designed, constructed, altered, or leased after the effective date of a standard issued under this guideline which is applicable to the building or facility, shall be designed, constructed, altered, or leased in accordance with the standard. For purposes of this section, any design, construction, alteration or lease for which bids or offers are received before the effective date of the applicable standards, in response to an invitation for bids or requests for proposals, is not subject to the standard. (This section is not in ANSI A117.1 (1980).)

§ 1190.3 Definitions.

As used in this part, the term:

"ATBCB" means the Architectural and Transportation Barriers Compliance Board. (This definition is not found in ANSI A117.1 (1980).)

"Access aisle" means a pedestrian space between elements such as parking spaces, seating, and desks. (This definition is different from the one found in ANSI A117.1 (1980).)

"Accessible" means complying with the specifications and requirements of this part and with any applicable standard issued by a standard-setting agency. (This definition is different from the one found in ANSI A117.1 (1980).)

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility and complying with the space and reach requirements of this part. (Interior-accessible routes may include but are not limited to corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include but are not limited to parking access aisles, curb ramps, walks, ramps, and lifts.) (This definition is similar to the one in ANSI A117.1 (1980).)

"Accessible space" means a space that complies with this part. (This definition is not found in ANSI A117.1 (1980).)

"Addition" means an expansion, extension, or increase in the gross floor area of a building or facility. (This definition is not found in ANSI A117.1 (1980).)

"Agency" means a Federal department, agency or instrumentality, as defined in sections 551(1) and 701(b)(1) of Title 5, United States Code, or an official athorized to represent an agency. (This definition is not found in ANSI A117.1 (1980).)

"Alternation" means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts, and extraordinary repairs. It does not include normal maintenance, reroofing, interior decoration, or changes to mechanical systems. (This definition is not found in ANSI A117.1 (1980).)

"Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 *et seq.* (This definition is not found in ANSI A117.1 (1980).)

"Automatic door" means a door—

(a) Used for human passage and

(b) Equipped with a power-operated mechanism and controls that open and close the door upon receipt of a momentary actuating signal. (This definition is similar to the one in ANSI A117.1 (1980).)

"Building or facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property. (This definition is not found in ANSI A117.1 (1980).)

"Common areas" means those interior and exterior spaces available for use by all occupants and users of a building or facility, exclusive of any spaces that are made available for the use of a restricted group of people or the use of which is restricted to particular functions. (This definition is not found in ANSI A117.1 (1980).)

"Construction" means any erection of a new building or of an addition to an existing building. (This definition is not found in ANSI A117.1 (1980).)

"Cross slope" means the incline that is perpendicular to the direction of travel (see "running slope"). (This definition is similar to the one in ANSI A117.1 (1980).)

"Curb ramp" means a short ramp cutting through a curb or built up to it. (This definition is similar to the one in ANSI A117.1 (1980).)

"Disability" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following bodily systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine. (This definition is different from the one found in ANSI A117.1 (1980).)

"Egress" or "means of egress" means a continuous and unobstructed way of exit travel from any point in a building or facility to an exterior walk or out of a fire zone. It includes all intervening rooms, spaces, or elements. (This definition is similar to the one in ANSI A117.1 (1980).)

"Element" means an architectural or mechanical component of a building, facility, space, or site, *e.g.*, telephone, curb ramp, door, drinking fountain, seating, water closet. (This definition is not found in ANSI A117.1 (1980).)

"Equivalent facilitation" means access or use which is, in terms of performance, dignity, convenience, and independence, at least substantially equal to or better than that required under the guideline or a standard. (This definition is not found in ANSI A117.1 (1980).)

"Essential features" means those elements and spaces that make a building or facility usable by, or serve the needs of, its occupants or users. Essential features include but are not limited to entrances, toilet rooms, and accessible routes. Essential features do not include those spaces that house the major activities for which the building or facility is intended, such as classrooms and offices. (This definition is not found in ANSI A117.1 (1980).)

"Exception" means a special provision in this part or in a standard which indicates an acceptable alternative, under specified circumstances, to a requirement stated directly above the exception. (This definition is not found in ANSI A117.1 (1980).)

"Exectutive Director" means the Executive Director of the ATBCB. (This definition is not found in ANSI A117.1 (1980).)

"Extraordinary repair" means the replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance. (This definition is not found in ANSI A117.1 (1980).)

"Full and fair cash value" means—

(a) The assessed valuation of a building or facility as recorded in the assessor's office of the municipality and as equalized at one hundred percent (100%) valuation; or

(b) If there is no assessed value—

(1) In the case of a building or facility constructed and/or owned by a unit of Federal, State, or local government, the replacement cost; or

(2) In the case of any other building or facility, the fair market value.

Note.—The one hundred percent (100%) equalized assessed value shall be based upon the State's most recent determination of the particular city's or town's assessment ratio. Example: Town X has an assessment ratio of forty percent (40%), and the particular building in question is assessed at $200,000.00. To determine the equalized assessed value of this building, divide $200,000.00 by .40, and the equalized assessed value equals $500,000.00.

(This definition is not found in ANSI A117.1 (1980).)

"Guidelines" means this part. (This definition is not found in ANSI A117.1 (1980).)

"Modification" means an official act in accordance with the provisions of the Architectural Barriers Act to permit design, construction, alteration, or lease of a building without strict compliance with a particular provision of a guideline or standard. (This definition is not found in ANSI A117.1 (1980).)

"Operable part" means a part of equipment or an appliance used to insert or withdraw objects, to activate or deactivate equipment, or to adjust the equipment (*e.g.*, coin slot, push button, handle). (This definition is similar to the one in ANSI A117.1 (1980).)

"Physically handicapped person" means any person who has a disability which substantially limits one or more major life activity, including but not limited to such functions as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (This definition is different from the one found in ANSI A117.1 (1980).)

"Power-assisted door" means a door—

(a) Used for human passage; and

(b) With a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself. (This definition is different from the one found in ANSI A117.1 (1980).)

"Principal entrance" means a main entrance to a building or facility. (This definition is similar to the one in ANSI A117.1 (1980).)

"Ramp" means a walking surface that has a running slope greater than 1:20. (This definition is similar to the one in ANSI A117.1 (1980).)

"Running slope" means the slope that is parallel to the direction of travel (see "cross slope"). (This definition is similar to the one in ANSI A117.1 (1980).)

"Section 502 of the Rehabilitation Act" or "Section 502" means Section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 792, as amended. (This definition is not found in ANSI A117.1 (1980).)

"Shall" denotes a mandatory requirement. (This definition is similar to the one in ANSI A117.1 (1980).)

"Signage" means the display of written, symbolic, tactile, or pictorial information. (This definition is similar to the one in ANSI A117.1 (1980).)

"Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way. (This definition is similar to the one in ANSI A117.1 (1980).)

"Site improvements" means landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and similar site additions. (This definition is similar to the one in ANSI A117.1 (1980).)

"Space" means a definable area, *e.g.*, toilet room, hall, assembly area, parking area, entrance, storage room, alcove, courtyard, or lobby. (This definition is not found in ANSI A117.1 (1980).)

"Standard" means any standard for accessibility issued under the Architectural Barriers Act. (This definition is not found in ANSI A117.1 (1980).)

"Standard-setting agency" means one of the four agencies required to issue standards under the Architectural Barriers Act, *i.e.*, the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service. (This definition is not found in ANSI A117.1 (1980).)

"Structural impracticability" means having little likelihood of being accomplished without removing or altering a load-bearing structural member at an increased cost of 50 percent or more of the value of the element of the building or facility involved. (This definition is not found in ANSI A117.1 (1980).)

"Tactile" means perceptible through the sense of touch. (This definition is similar to the one in ANSI A117.1 (1980).)

"Tactile warning" means a surface texture applied to or built into walking surfaces or other elements to warn visually impaired persons of hazards in the path of travel. (This definition is similar to the one in ANSI A117.1 (1980).)

"Waiver" means an official act in accordance with the Architectural Barriers Act to—

(a) Exempt an entire building or facility from one or more requirements of a standard; or

(b) Exempt an entire building or facility, or any portion of a building or facility, from the requirements of a standard with respect to a specific element or space. (This definition is not found in ANSI A117.1 (1980).)

"Walk" means an exterior pathway or space with a prepared surface intended for pedestrian use and having a slope of 1:20 or less. It includes general pedestrian areas such as plazas and courts. (This definition is similar to the one in ANSI A117.1 (1980).)

§ 1190.4 Issuance of Architectural Barriers Act standards by standard-setting agencies.

(a) These guidelines are the minimum requirements for standards issued under the Architectural Barriers Act by the Administrator of General Services, Secretary of Housing and Urban Development, Secretary of Defense, and Postmaster General.

(b) Each standard-setting agency shall issue proposed standards under the Architectural Barriers Act for public comment within 120 days after the publication of this guideline. Each standard-setting agency shall issue final standards under the Architectural Barriers Act in compliance with these guidelines with 120 days after the publication of the proposed standards.

(c) Standards which conform to or exceed the provisions of the guidelines shall be deemed in compliance with the guidelines.

(d) Each standard-setting agency is encouraged to issue standards which follow the format of these guidelines. However, standards which differ in format from these guidelines but are

V 45 A G 18 80 UMI

otherwise consistent with the guidelines shall be deemed in compliance with these guidelines.

(e) If a standard-setting agency does not issue standards within 240 days after the publication of this guideline, or if any standard-setting agency issues standards which do not comply with the guidelines, the guidelines shall be enforced as that agency's standards, under 36 CFR Part 1150, Compliance with Standards for Access to and Use of Buildings by Handicapped Persons; Practice and Procedures for Compliance Hearings. (This section is not in ANSI A117.1 (1980).)

§ 1190.5 Guidelines: Other uses.

The guidelines may be used by other governmental and nongovernmental entities to make buildings and facilities accessible to, and usable by, physically handicapped persons. (ANSI A117.1 (1980) has a similar provision.)

§ 1190.6 Interpretation of guidelines.

(a) These guidelines shall be liberally construed to carry out the purposes and provisions of the Architectural Barriers Act and Section 502 of the Rehabilitation Act.

(b) Words importing the singular number may extend and be applied to the plural and vice versa. However, unless otherwise specified in the guidelines, each element or space of a particular building or facility shall comply with the guidelines.

(c) Use of the imperative mood, *e.g.*, "provide," means the provision is mandatory. This form is being used to avoid wordiness and monotony but means the same as if the word "shall" had been included. (This section is not in ANSI A117.1 (1980).)

§ 1190.7 Effect of State or local law.

The obligation to comply with this part is not affected by any State or local law. (This section is not in ANSI A117.1 (1980).)

§ 1190.8 Site conditions.

These guidelines are not intended to discourage development of buildings and facilities on sites with extreme conditions, *e.g.*, on slopes, and where full accessibility might be difficult. However, site conditions shall not be used as a justification for noncompliance with this guideline or a standard, except as provided in Subpart B. (This section is not in ANSI A117.1 (1980).)

§ 1190.9 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of these guidelines is declared invalid for any reason, the remaining portions of these guidelines that are severable from the invalid part shall remain in full force and effect. If a part of these guidelines is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications. (This section is not in ANSI A117.1 (1980).)

Subpart B—Waivers and modifications: Processed departures (This subpart is not in ANSI A117.1 (1980).)

§ 1190.20 Procedures.

(a) The head of a standard-setting agency may issue a waiver or modification on a case-by-case basis with respect to a standard issued by that standard-setting agency if—

(1) The head of the agency concerned applies in writing to the head of the standard-setting agency; and

(2) The head of the standard-setting agency—

(i) Provides complete documentation to the Executive Director concerning the application; and

(ii) Provides the Executive Director 20 calendar days from receipt of the documentation in which to comment in writing to the head of the standard-setting agency; and

(3) The head of the standard-setting agency makes a written finding of facts and a written determination that the modification or waiver is clearly necessary.

(b) Nothing in these guidelines shall preclude the Executive Director from instituting compliance procedures under 36 CFR Part 1150 alleging that a waiver or modification is not based upon findings of fact or is inconsistent with the Architectural Barriers Act and Section 502 of the Rehabilitation Act.

§ 1190.21 Factors on which a waiver or modification may be based.

Factors which may be the basis of determination that a waiver or modification is clearly necessary include, but are not limited to, the following:

(a) Safety or Security;

(b) Undue hardship (including such considerations as time, cost, and substantial compliance), where it is clearly evident that a method substituting for a method required by the standard will provide equivalent facilitation;

(c) Limitations imposed by legislation other than the Architectural Barriers Act and Section 502; or

(d) Structural impracticability.

§ 1190.22 Factors on which a waiver or modification may not be based.

A head of a standard-setting agency may not base a waiver or modification on any of the following factors:

(a) Type of occupancy, usage, or business conducted in the building or facility;

(b) Potential number of physically handicapped persons who may be employed in, reside in, or visit the building or facility;

(c) Nature of the disabilities of the persons who may be employed in, reside in, or visit the facility.

§ 1190.23 Modifications: Additional requirements.

A head of a standard-setting agency may grant a modification only if—

(a) Application of the standard would be structurally impracticable;

(b) Improved access or a greater degree of access is provided;

(c) With respect to alteration of an existing building or facility, it is clearly evident that equivalent facilitation is provided; or

(d) With respect to new construction, the head of the standard-setting agency finds that:

(1) An innovative method is proposed to be substituted for a method required by the standard; and

(2) The innovative method can reasonably be expected to provide equivalent facilitation.

Subpart C—Scope

§ 1190.30 Scope. [Reserved]

§ 1190.31 Accessible buildings and facilities: New construction.

Except as otherwise provided in § 1190.50, all new construction of buildings and facilities shall comply with the following minimum requirements:

(a) *Accessible route.* At least one accessible route shall comply with § 1190.50, Walks, Floors, and Accessible Routes, and shall connect an accessible building entrance with:

(1) Transportation facilities located within the property line of a given site, including passenger loading zones, public transportation facilities, taxi stands, and parking;

(2) Public streets and sidewalks;

(3) Other accessible buildings, facilities, elements, and spaces that are on the same site; and

(4) All accessible spaces, rooms, and elements within the building or facility. (ANSI A117.1 (1980) has a similar paragraph.)

(b) *Parking and passenger loading zones:* If any parking is provided, for employees or visitors, or both, each such parking area shall comply with § 1190.60, Parking and Passenger Loading Zones, and the following table:

Total parking in lot	Required minimum number of accessible spaces
1 to 25	1.
26 to 50	2.
51 to 75	3.
75 to 100	4.
76 to 150	5.
151 to 200	6.
201 to 300	7.
301 to 400	8.
401 to 500	9.
501 to 1,000	2 percent of total.
Over 1,000	20 plus 1 for each 100 over 1,000.

(This paragraph is different from the one in ANSI A117.1 (1980).)

If passenger loading zones are provided, at least one passenger loading zone shall comply with § 1190.60, Parking and Passenger Loading Zones. [This paragraph is similar to the one in ANSI A117.1 (1980).)]

(c) *Ramps and Curb Ramps.* If there is an abrupt level or grade change, if the slope is greater than 1:20, and if no other means of accessible vertical access is provided, a ramp or curb ramp shall be provided. If a ramp or curb ramp is provided, it shall comply with § 1190.70, Ramps and Curb Ramps. [This paragraph is similar to the one in ANSI A117.1 (1980).]

(d) *Stairs.* Except as provided in paragraph 1190.30(f)(1), stairs connecting levels that are not connected by an elevator shall comply with § 1190.80, *Stairs.* (This paragraph is similar to the one in ANSI A117.1 (1980).)

(e) *Handrails:* Handrails shall be provided at each ramp and staircase as required in § 1190.70, Ramps and Curb Ramps, and § 1190.80, Stairs, respectively, and shall comply with § 1190.90, Handrails. (This paragraph is similar to the one in ANSI A117.1 (1980).)

(e) *Elevators.* One passenger elevator complying with § 1190.100, Elevators, shall serve each level in all multi-story buildings and facilities. If more than one elevator is provided, each elevator shall comply with § 1190.100, Elevators. (This provision is different from ANSI A117.1 (1980).)

(1) *Exception.* Elevator pits, elevator penthouses, mechanical rooms, piping, or equipment catwalks are excepted from this requirement. (This provision is different from ANSI A117.1 (1980).)

(2) *Exception.* Ramps or platform lifts complying with § 1190.70, Ramps and Curb Ramps, and § 1190.110, Platform Lifts, respectively, may be used in lieu of an elevator. (This provision is not in ANSI A117.1 (1980).)

(g) *Platform lifts.* If the slope is greater than 1:20, and if no other means of accessible vertical access is provided, a platform lift may be provided if there is an abrupt level or grade change. If a platform lift is provided, it shall comply with § 1190.110, Platform Lifts. (This provision is different from ANSI A117.1 (1980).)

(h) *Entrances.* Each entrance to a building or facility shall comply with § 1190.120 Entrances. (This provision is different from ANSI A117.1 (1980).)

(i) *Doors.* Each door shall comply with § 1190.130, Doors. (This provision is different from ANSI A117.1 (1980).)

(j) *Windows.* If windows are intended for occupant operation, at least one window in each accessible space shall comply with § 1190.140, Windows. (This provision is different from ANSI A117.1 (1980).)

(k) *Toilet and bathing facilities.* Each toilet and bathroom facilty shall comply with § 1190.150, Toilet and Bathing Facilities, and shall provide at least one accessible fixture and accessory specified in Pararaph 1190.150(b). In toilet and bathr. om facilities providing multiple fixtures and accessories, at least 2 percent of each type of fixture or accessory shall comply with § 1190.150. (This provision is different from ANSI A117.1 (1980).)

(l) *Drinking fountains and water coolers.* If drinking fountains or water coolers are provided, each shall comply with § 1190.160, Drinking Fountains and Water Coolers. (This provision is different from ANSI A117.1 (1980).)

(m) *Controls and operating mechanisms.* If controls and operating mechanisms are provided, each shall comply with § 1190.170, Controls and Operating Mechanisms. (This provision is different from ANSI A117.1 (1980).)

(n) *Alarms.* If alarms are provided, each shall comply with § 1190.180, Alarms. (This provision is different from ANSI A117.1 (1980).)

(o) *Tactile warnings.* Tactile warnings shall comply with § 1190.190, Tactile Warnings, and shall be provided only at the following locations:

(1) Transit vehicle loading platforms;

(2) Edges of streets without curbs, guardrails, planted areas, or similar boundary elements;

(3) Edges of pools not protected by guardrails, walls, or curbs; and

(4) Doors that lead to hazardous areas.

Tactile warnings shall not be used at emergency exit doors. (This provision is different from ANSI A117.1 (1980).)

(p) *Signage.* (1) The international symbol of accessibility shall comply with paragraph 1190.200(e), Symbol of Accessibility, and shall be used at the following locations:

(i) Parking spaces designated as reserved for the physically handicapped;

(ii) Passenger loading zones;

(iii) Accessible entrances;

(iv) Accessible toilet and bathing facilities.

(2) Informational signing, if provided, shall comply with § 1190.200. (This provision is different from ANSI A117.1 (1980).)

(q) *Telephones.* At each location where public telephones are provided, each telephone shall comply with § 1190.210, Telephones. If banks of two or more telephones are provided, at least one telephone per bank shall have a volume control and at least one telephone per bank shall be equipped with a TDD or with signage directing a user to a TDD that is located in proximity to the bank. (This provision is different from ANSI A117.1 (1980).)

(r) *Seating, tables, and work surfaces.* If fixed seating, tables, and work surfaces are provided, at least 5 percent of each element shall comply with § 1190.220, Seating, Tables, and Work Surfaces. (This provision is different from ANSI A117.1 (1980).)

(s) *Assembly areas.* If assembly areas are provided, accessible viewing positions shall compy with § 1190.230, Assembly Areas, and the following table:

Capacity of assembly space	Number of viewing positions
1 to 25	1.
26 to 50	2.
51 to 75	3.
75 to 100	4.
76 to 150	5.
151 to 200	6.
201 to 300	7.
301 to 400	8.
401 to 500	9.
501 to 1,000	2% of total.
Over 1,000	20 plus 1 for each 100 over 1,000.

(This provision is different from ANSI A117.1 (1980).)

(t) *Storage.* If storage facilities are provided, each such facility shall comply with § 1190.240, Storage. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.32 Accessible buildings and facilities: Additions.

(This provision is not in ANSI A117.1 (1980).)

Each addition to an existing building or facility shall compy with § 1190.31 except as follows:

(a) *Entrances.* If a new addition to a building or facility does not have an

entrance, then at least one entrance in

altered shall comply with the applicable

complying with § 1190.120 Entrances to

entrance, then at least one entrance in the existing building or facility shall comply with § 1190.120, Entrances.

(b) *Accessible route.* If the only accessible entrance to the addition is located in the existing building or facility, then at least one accessible route shall comply with § 1190.50, Walks, Floors, and Accessible Routes, and shall provide access through the existing building or facility to all rooms, elements, and spaces in the new addition.

(c) *Elements, essential features, and common areas.* (1) If an element or space is provided in the existing building or facility and if it is not provided in the addition, at least one of each element or space in the existing building or facility shall be made accessible and shall comply with the appropriate section.

(2) Common areas shall be made accessible if such areas are not provided in the addition, and shall comply with the appropriate Section.

§ 1190.33 Accessible buildings and facilities: Alterations.

(This provision is not in ANSI A117.1 (1980).)

(a) *General.* Alterations to existing buildings or facilities shall comply with the following:

(1) If existing elements, spaces, essential features, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of § 1190.31, Accessible Buildings and Facilities: New Construction.

(2) If stairs or power-driven vertical access equipment (*e.g.*, escalators) are altered, installed, or replaced then a means of accessible vertical access shall be provided that complies with § 1190.70, Ramps and Curb Ramps; § 1190.100, Elevators; or § 1190.110, Platform Lifts.

(3) If alterations are conducted in phases, the total area or costs of the alterations shall be used to calculate the requirements of § 1190.33 (b) and (c) irrespective of the number of phases required to complete the alterations.

(4) If alterations of single elements, when considered together, amount to an alteration of a portion or space of a building or facility, the entire portion or space shall be made accessible.

(b) *Alterations involving less than 50% of the value and floor space.* If the alterations involve the expenditure of less than 50% of the full and fair cash value of the building or facility, *and* if the alterations involve less than 50% of the gross square footage of the building, then each element, feature, or space altered shall comply with the applicable provisions of the guidelines.

(c) *Alterations involving 50% or more of the value and floor space.* If the alterations involve either the expenditure of 50% or more of the full and fair cash value of the building or facility, *or* if the alterations involve 50% or more of the gross square footage of the building, then the entire building or facility shall be brought into compliance with applicable provisions of these guidelines to the following extent:

(1) At least one accessible route shall comply with § 1190.50, Walks, Floors, and Accessible Routes, and § 1190.33(a).

(2) At least one accessible entrance shall comply with § 1190.120, *Entrances.* Additional accessible entrances shall comply with § 1190.33(a)(1).

(3) Vertical access shall comply with §§ 1190.31 (c), (d), (f), and (g), and shall comply with § 1190.70, Ramps and Curb Ramps; § 1190.80, Stairs, § 1190.100, Elevators; and § 1190.110, Platform Lifts.

(4) If provided, at least one toilet facility and at least one bathing facility on each floor shall comply with § 1190.150, Toilet and Bathing Facilities, and shall provide fixtures and accessories in accordance with § 1190.31(k).

(5) If any of the following elements or spaces is provided, each such element or space shall comply with the appropriate requirements for that element or space:

(i) § 1190.60, Parking and Passenger Loading Zones;

(ii) § 1190.160, Drinking Fountains and Water Coolers;

(iii) § 1190.180, Alarms; and

(iv) § 1190.200, Signage. All inaccessible entrances, toilet and bathing rooms, drinking fountains, stairwells, escalators and telephones shall have informational signage directing the user to corresponding accessible facilities.

(v) § 1190.210: Telephones

(vi) § 1190.220: Seating, Tables and Work Surfaces

(vii) § 1190.230: Assembly Areas

(viii) § 1190.240: Storage

§ 1190.34 Accessible buildings and facilities: Leased.

(This provision is not in ANSI A117.1 (1980).)

Buildings or facilities or portions thereof leased by the Federal government shall comply with the requirements of § 1190.31, New Construction; § 1190.32, Additions, and § 1190.33, Alterations. If no fully accessible space is available, space may be leased only if the following conditions are met:

(a) At least one accessible route is provided from an accessible entrance complying with § 1190.120 Entrances to all leased portions of the building or facility and to each essential feature which serves that portion of the building or facility. The accessible route shall comply with the requirements of § 1190.50 Walks, floors, and accessible routes;

(b) Each essential feature of the portion of the building or facility to be leased is accessible and complies with the applicable Sections;

(c) Common areas that are approved space needs of the occupant agency serving the portions of the building or facility to be leased are accessible and comply with the applicable Section.

Subpart D—Technical Provisions

§ 1190.40 Human data.

(a) *General.* This section is the basis for clearances and equipment location required by other sections. (This provision is similar in ANSI A117.1 (1980).)

(b) *Moving wheelchair clearances.* Provide the clearances for a moving wheelchair, as follows:

(1) Minimum clear width for point passage is 2'–8" (815 mm). Maximum length of point passage is 2'–0" (610 mm). (This provision is similar to ANSI A117.1 (1980).)

(2) Minimum clear width for continuous passage is 3'–0" (915 mm). (fig. 4.1). (This provision is similar to ANSI A117.1 (1980).)

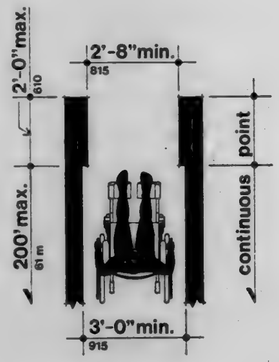

passage 4.1 — scale: 1/4"= 1'-0"

(3) Minimum clear width for two wheelchairs to pass is 5'–0" (1,525 mm). (fig. 4.2). (This provision is similar to ANSI A117.1 (1980).)

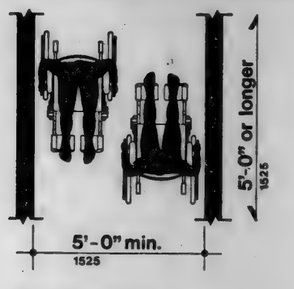

two-way 4.2 — scale: 1/4"= 1'-0"

(4) Minimum clear space to make a 180 degree turn is 5'–0" (1,525 mm) diameter (fig. 4.3) or a T-shaped space (fig. 4.4). (This provision is similar to ANSI A117.1 (1980).)

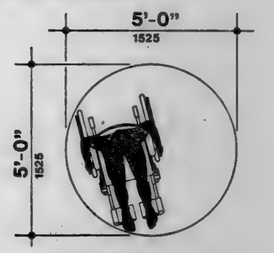

180°/360° 4.3 — scale: 1/4"= 1'-0"

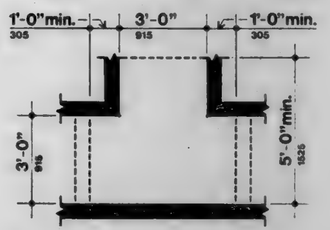

t-turn 4.4 — scale: 1/4"= 1'-0"

(c) *Clear access space.* Provide the following clear floor or ground access space to accommodate a single, stationary occupied wheelchair, where required by other sections:

(1) Clear access space shall be a minimum of 2'–6" by 4'–0" (760 mm by 1,220 mm) (fig. 4.5). (This provision is similar to ANSI A117.1 (1980).)

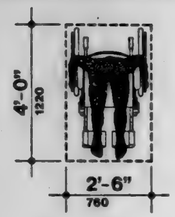

clear access space 4.5 — scale: 1/4"= 1'-0"

(2) Position clear access space for either forward or parallel approach to an object or element as required (figs. 4.6 and 4.7). (This provision is similar to ANSI A117.1 (1980).)

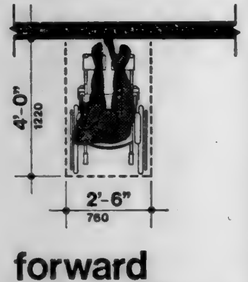

forward approach 4.6 — scale: 1/4"= 1'-0"

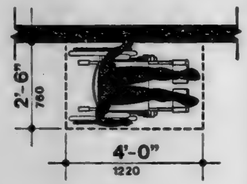

parallel approach 4.7 — scale: 1/4"= 1'-0"

(3) Clear access space may overlap the clear space required under some objects. (This provision is similar to ANSI A117.1 (1980).)

(4) Clear access space shall adjoin or overlap an accessible route or another clear access space for at least one full, unobstructed side. (This provision is similar to ANSI A117.1 (1980).)

(5) If clear access space is confined or restricted on all or part of three sides, provide additional maneuvering space adjoining clear access space (figs. 4.8 and 4.9, 4.10 and 4.11). (This provision is similar to ANSI A117.1 (1980).)

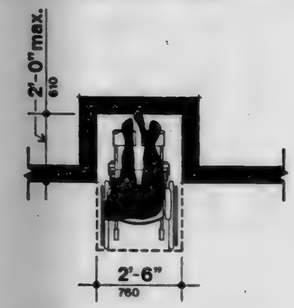

alcove 4.8 — scale: 1/4"= 1'-0"

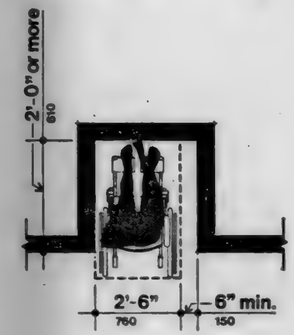

alcove 4.9 — scale: 1/4"= 1'-0"

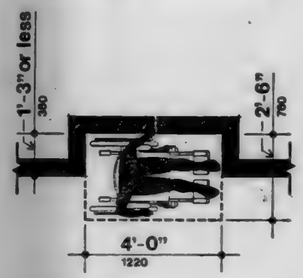

alcove 4.10 — scale: 1/4"= 1'-0"

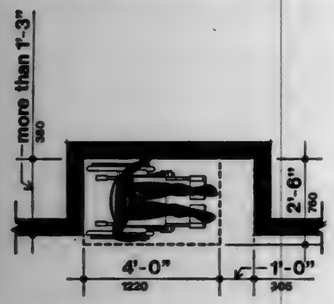

alcove 4. 11
scale: 1/4"= 1'-0"

(6) Clear access space surfaces shall comply with Paragraph 1190.50(i) Walks, floors, and accessible routes. (This provision is similar to ANSI A117.1 (1980).)

(d) *Reach limitations.* Reach limitations are a function of approach in the clear access space:

(1) *Forward reach:* (i) Maximum height of reach for a forward approach shall be 4'–0". (1,220 mm) (fig. 4.12).

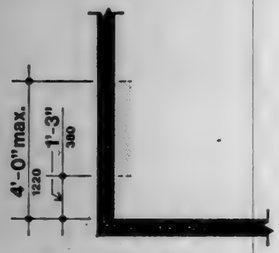

forward reach 4. 12
scale: 1/4"= 1'-0"

(ii) Maximum height of reach for a forward approach at obstructions shall conform with fig. 4.13 and 4.14.

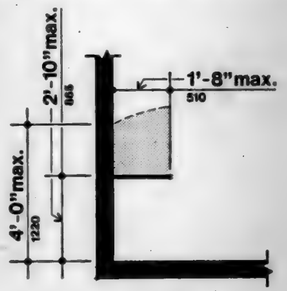

reach over obstacle 4. 13
scale: 1/4"= 1'-0"

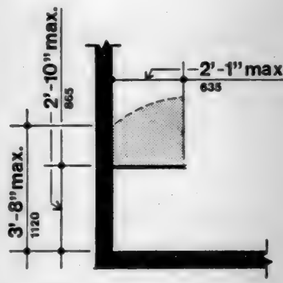

reach over obstacle 4. 14
scale: 1/4"= 1'-0"

(§ 1190.40(a)(1)(i) and (ii) are similar to ANSI A117.1 (1980).)

(2) *Side reach (parallel approach).* (i) Maximum height of reach for a side approach shall be 4'–6" (1,370 mm) (fig. 4.15).

(ii) Minimum height of reach for a side approach shall be 9 in. (230 mm) (fig. 4.12).

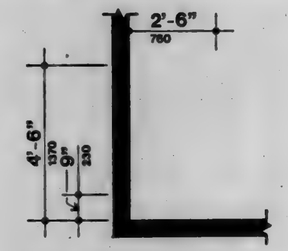

side reach 4. 15
scale: 1/4"= 1'-0"

(iii) Maximum height of reach for a side approach over an obstruction shall conform with fig. 4.16.

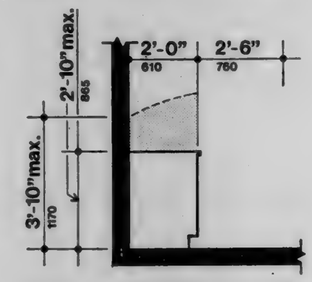

reach over obstruction 4. 16
scale: 1/4"= 1'-0"

(§ 1190.40(a)(2)(i) and (ii) are similar to the ANSI A117.1 (1980).)

(3) To be accessible, special equipment may require measurements different from those provided above and these measurements should be dictated by equipment design. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.50 Walks, floors, and accessible routes.

(a) *General.* Accessible routes required by Subpart C, *Scope,* shall comply with this section. (This provision is similar to ANSI A117.1 (1980).)

(b) *Width.* Provide the minimum clear width for continuous passage and for point passage required by paragraphs 1190.40(b) (1) and (2), (fig. 4.1). Provide maneuvering clearances shown in figs. 5.1 & 5.2 if the accessible route requires a turn around the obstruction. (This provision is similar to ANSI A117.1 (1980).)

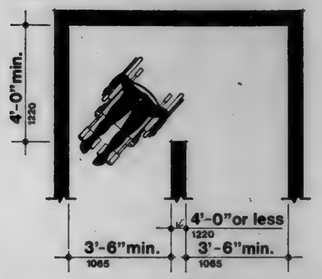

turn 5. 1
scale: 1/4"= 1'-0"

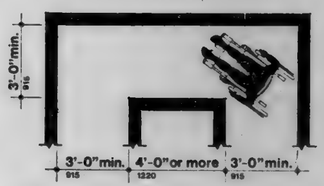

turn 5. 2
scale: 1/4"= 1'-0"

(c) *Protruding objects.* No protruding object shall reduce the minimum clear width for continuous passage of an accessible route or maneuvering space (fig. 5.3). (This provision is similar to ANSI A117.1 (1980).)

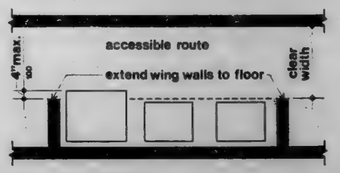

clear width 5. 3
scale: 1/4"= 1'-0"

(1) Objects fixed to wall surfaces shall not project into accessible routes more than 4 inches (100 mm) if mounted with their leading edges between 2'–3" and 6'–8" (685 mm and 2030 mm) above finish floor (figs. 5.4 & 5.5). (This provision is similar to ANSI A117.1 (1980).)

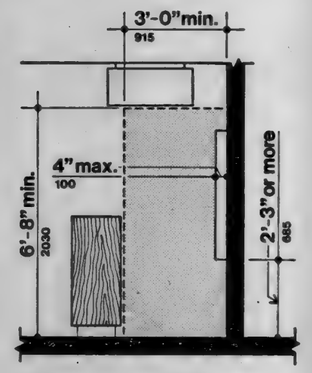

clear width 5. 4
scale: 1/4"= 1'-0"

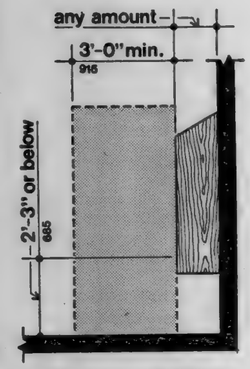

clear width 5. 5
scale: 1/4"= 1'-0"

(2) Free standing objects mounted on posts or pylons may overhang 1'–0" (305 mm) maximum from 2'–3" to 6'–8" (685 mm to 2030 mm) above ground or finished floor surface (figs. 5.6 and 5.7). (This provision is similar to ANSI A117.1 (1980).)

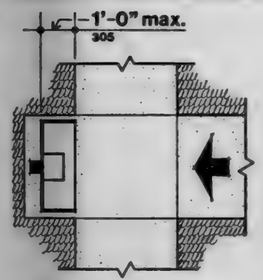

projecting object 5. 6
scale: 1/4"= 1'-0"

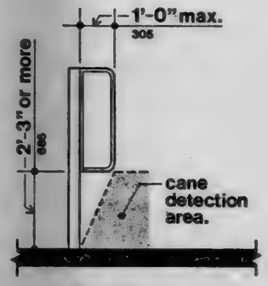

projecting object 5. 7
scale: 1/4"= 1'-0"

(3) Objects mounted below 2'–3" (685 mm) may protrude any distance (figs. 5.8 & 5.9). (This provision is similar to ANSI A117.1 (1980).)

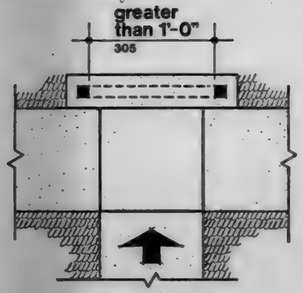

fixed obstruction 5. 8
scale: 1/4"= 1'-0"

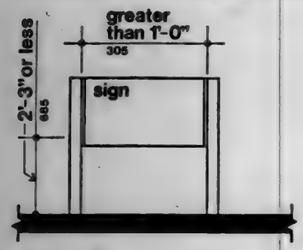

fixed obstruction 5.9
scale: 1/4"=1'-0"

(d) *Passing space.* If an accessible route has less than a 5'–0" (1,525 mm) clear width, provide accessible passing spaces at intervals not exceeding 200 ft. (61 m) unobstructed view. *See* figs. 4.2 and 4.4 for examples of permissible passing spaces. (This provision is similar to ANSI A117.1 (1980).)

(e) *Vertical clearance.* Provide a minimum vertical clearance (headroom) of 6'–8" (2,030 mm) throughout accessible routes. (This provision is similar to ANSI A117.1 (1980).) If vertical clearance is reduced to less than 6'–8", provide a barrier or a tactile warning complying with § 1190.190, Tactile warnings, to warn blind or visually-impaired persons (figs. 5.4 and 5.9 and 5.15) (This provision is not in ANSI A117.1 (1980).)

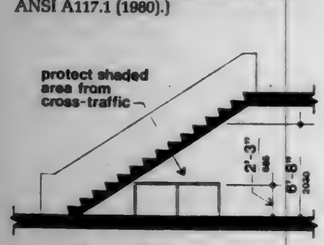

overhead hazard 5.15
scale: 1/8"=1'-0"

(f) *Slope.* Accessible routes with running slopes of 1:20 or greater shall be considered ramps and shall comply with § 1190.70, Ramps and curb ramps. (This provision is similar to ANSI A117.1 (1980).) No cross-slopes on an accessible route shall exceed 1:48. (This provision is different from ANSI A117.1 (1980).)

(g) *Level changes.* All changes in level or grade in accessible routes shall comply with the following:

(1) Up to ¼ inch (6 mm): Vertical without edge treatment (Fig. 5.10).

edge treatment 5.10
scale: full

(2) ¼ inch to ½ inch (6 mm to 13 mm): Beveled with slope not exceeding 1:2 (Fig. 5.11).

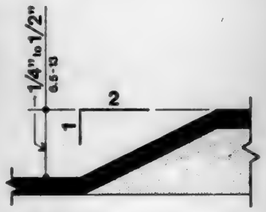

edge treatment 5.11
scale: full

(i) *Exception.* exterior sliding doors may be ¾" beveled and shall comply with § 1190.130(e)(i), *Thresholds.*

(3) Greater than ½ inch (13 mm): Comply with § 1190.70, Ramps and curb ramps; § 1190.100, Elevators; or § 1190.110, Platform Lifts.

(4) Stairs shall not be the sole means of vertical access along an accessible route.

(§ 1190.50(g) is similar to ANSI A117.1 (1980))

(h) *Egress.* Arrange egress so as to be readily accessible from all accessible rooms and spaces. Where fire code provisions require more than one means of egress from any space or room, such means of accessible egress shall also be provided to handicapped persons.

(1) *Exception.* In multiple story buildings and facilities where at-grade egress from each floor is impossible, either of the following is permitted: (i) The provision of approved fire and smoke partitions within each story creating horizontal exits; or

(ii) The provision of areas of refuge approved by agencies having authority for safety, within each floor.

(§ 1190.50(h) is similar to ANSI A117.1 (1980))

(i) *Ground and floor surfaces.* (1) Surface Condition: Surfaces of paving and floors shall be stable, firm, and slip-resistant. Irregular paving and flooring materials that may cause tripping or difficult wheelchair passage because of height differentials are not permitted on accessible routes. (This provision is similar to ANSI A117.1 (1980).)

(2) Drainage: Design accessible routes so that their surfaces will not collect water. Gratings located in accessible routes shall have openings no greater than ½ inch (13 mm) wide in one direction (fig. 5.12).

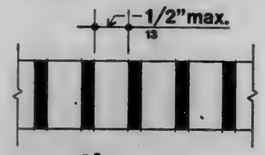

section: grating 5.12
scale: half

Gratings with elongated openings shall be so placed that the long dimension is perpendicular to the predominant route of travel (fig. 5.13). (This provision is similar to ANSI A117.1 (1980).)

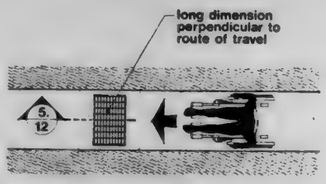

grating orientation 5.13
scale: not-to-scale

(3) Carpeting: If carpet or carpet tile is used on an accessible ground or floor surface, it shall: (i) Be securely attached; (This provision is similar to ANSI A117.1 (1980).)

(ii) Have a firm cushion or pad or no cushion or pad; (This provision is similar to ANSI A117.1 (1980).)

(iii) Have a construction of level loop, textured loop, level cut pile, or level cut/uncut pile; (This provision is similar to ANSI A117.1 (1980).)

(iv) Have a maximum combined thickness of pile, cushion, and backing height of ½ inch (13 mm) (Fig. 5.14); (This provision is different from ANSI A117.1 (1980.) and

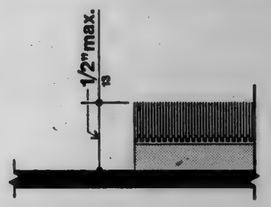

carpet height 5.14
scale: full

(v) Have exposed fastened and edge trim complying with paragraph 1190.50(g), level changes, along the entire length of the exposed edge. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.60 Parking and passenger loading zones.

(a) *General.* Parking and passenger loading zones required to be accessible by Subpart C—Scope shall comply with this section. (This provision is similar to ANSI A117.1 (1980).)

(b) *Location.* Accessible parking spaces and accessible passenger loading zones shall: (1) Be the spaces or zones located closest to the nearest accessible principal entrance on an accessible route; and

(2) If located in a separate building or facility, be on the shortest accessible route to an accessible entrance of the parking facility.

(§ 1190.60(b)(1) and (2) are different from ANSI A117.1 (1980).)

(c) *Accessible parking spaces.* Provide accessible parking spaces that: (1) Are at least 8'–0" (2,440 mm) wide,

(2) Have an adjacent access aisle at least 5'–0" (1,525 mm) wide, and that meets § 1190.50, Walks, floors, and accessible routes;

(3) May share a common access aisle between two parking spaces;

(4) Do not permit parked vehicle overhangs to reduce the clear width of accessible routes; and

(5) Have parking spaces and access aisles with surface slopes not exceeding 1:48 in all directions. (§ 1190.60 (c)(1), (2), (3), (4), (5), and (6) are similar to ANSI A117.1 (1980).)

(d) *Passenger loading zones.* Provide accessible passenger loading zones that: (1) Have an access aisle at least 4'–0" (1,220 mm) wide by 20'–0" (6 m) long adjacent, parallel, and level with the vehicle standing space,

(2) Have curb ramps conforming to § 1190.70, Ramps and curb ramps, if there are curbs between the access aisle and other portions of the accessible route; and

(3) have vehicle standing spaces and access aisles with surface slopes not exceeding 1:48 in all directions. *See* figure 6.2. (§ 1190.60 (d) (1), (2), and (3) are similar to ANSI A117.1 (1980).)

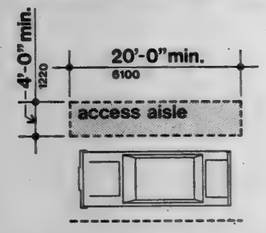

unloading zone 6.2
scale: 1/16"=1'-0"

(e) *Vertical clearance.* Provide minimum vertical clearances of 9'–6" (3.45 m) at accessible parking spaces, at accessible passenger loading zones, and along vehicle access routes to such areas from site entrances. (This provision is not in ANSI A117.1 (1980).)

(f) *Signage.* Signage reserving accessible parking spaces and identifying passenger loading zones and vehicle access routes shall comply with § 1190.200, Signage. Signage shall incorporate the International Symbol of Accessibility and shall not be obscured by a vehicle parked in the space. *See* figure 6.1. (This provision is similar to ANSI A117.1 (1980).)

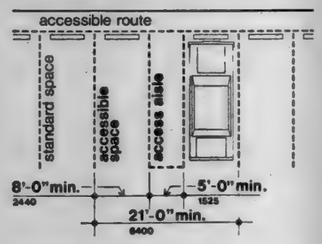

accessible parking 6.1
scale: 1/16"=1'-0"

§ 1190.70 Ramps and curb ramps.

(a) *General.* Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with this section. Provide an accessible ramp or curb ramp whenever an accessible route crosses a level change greater than ½ in. (13 mm), and at all legally established crosswalks. (This provision is different from ANSI A117.1 (1980).)

(b) *Slopes and rise.* Provide the least practical slope for any ramp or curb ramp subject to the following maximums: (1) New Construction requirements: (i) Maxiumum running slope shall not exceed 1:12 (8.3%).

(ii) Maximum rise for any run shall not exceed 2'–6" (760 mm).

(iii) Maximum slopes of adjoining gutters, road surface, or adjoining accessible route shall not exceed 1:20 (fig. 7.8).

(iv) *See* figs. 7.1 and 7.2.

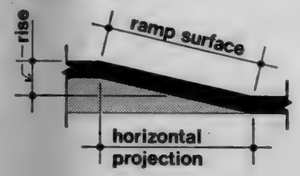

ramp slope 7.1
not to scale

slope	maximum rise		maximum projection	
	in	mm	ft	m
1:12	30	760	30	9
1:16	30	760	40	12
1:20	30	760	50	15

maximum rise & projection 7.2
scale: none

(§ 1190.7 (b)(1)(i), (ii), (iii), and (iv) are similar to ANSI A117.1 (1980))

(2) Existing construction requirements: (i) If space limitations prevent the use of paragraph 1190.70(b)(1) requirements, slopes and rises listed in fig. 7.3 may be used. (This provision is not in ANSI A117.1 (1980).)

slope	maximum rise		maximum projection	
	in	mm	ft	m
1:10 to 1:8	3	75	2	0.6
1:12 to 1:10	6	150	5	1.5

existing facilities 7.3
scale: none

(c) *Width.* Provide a minimum clear width of 3'-0" (915 mm). (This provision is similar to ANSI A117.1 (1980).)

(d) *Cross-slope and surface.* Cross-slope of ramp surfaces shall not exceed 1:48. Ramp surfaces shall conform to § 1190.50, Walks, floors, and accessible routes. (This provision is different from ANSI A117.1 (1980).)

(e) *Curb ramps.* In addition to the requirements of § 1190.70(a) and (b), comply with the following requirements for curb ramps: (1) Provide flared sides if ramps are located where pedestrians may walk across the ramp; flared slope shall not exceed 1:10 (fig. 7.4 and 7.5). Provide a minimum clear width of 4'0" (122 mm) exlcusive of edge protection of flared sides. Where pedestrians will not normally walk accross a ramp, returned curbs may be used (fig. 7.6). (This provision different from ANSI A117.1 (1980).)

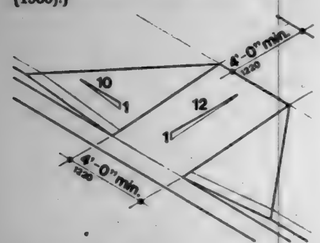

curb ramp
scale: 3/16" = 1'-0"
7.4

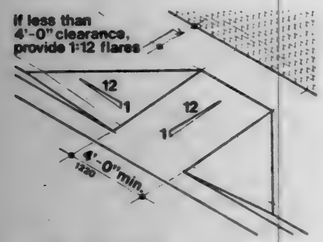

curb ramp
scale: 3/16" = 1'-0"
7.5

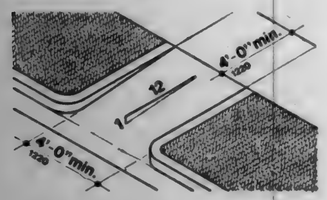

curb ramp
scale: 3/16" = 1'-0"
7.6

(2) Locate built-up curb ramps so that they do not project into vehicular traffic lanes (fig. 7.7). (This provision is similar to ANSI A117.1 (1980).)

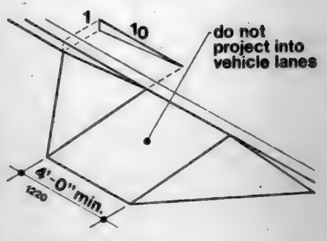

curb ramp
scale: 3/16" = 1'-0"
7.7

(3) Diagonal or corner type curb ramps having returned curbs or well defined edges, shall have such edges parallel to the direction of pedestrian flow (fig. 7.9). Diagonal or corner type curb ramps having flared sides shall have at least a 2'-0" (610 mm) long segment of straight curb located on each side of the curb ramp and within marked crossings (fig. 7.10). (This provision is similar to ANSI A117.1 (1980).)

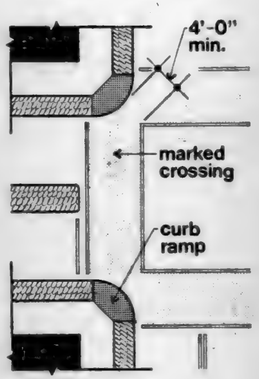

crossing
scale: 1" = 20'-0"
7.9

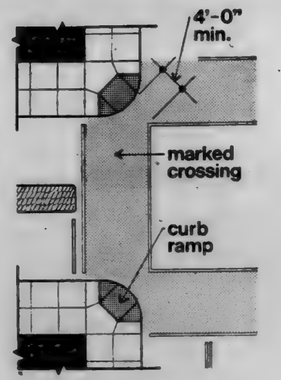

crossing
scale: 1" = 20'-0"
7.10

(4) Curb ramp discharge (top and bottom) shall be to a 4'-0" (1,220 mm) minimum deep clear space (figs. 7.4 and 7.5) Locate bottom discharge entirely within marked crossings, if the marked crossings are provided (figs 7.9, 7.10, 7.11, and 7.12). (This provision is not in ANSI A117.1 (1980).)

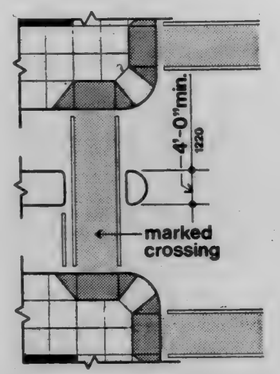

crossing
scale: 1" = 20'-0"
7.11

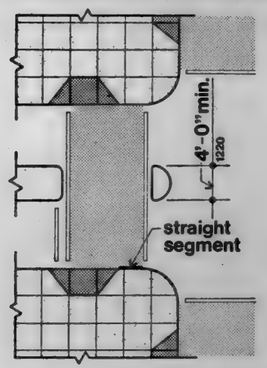

crossing
scale: 1" = 20'-0"
7.12

(5) Locate curb ramps to prevent blockage of discharge areas by parked vehicles. (This provision is similar to ANSI A117.1 (1980).)

(6) Cut any islands through flush with street surfaces or ramp each side to permit crossing. Provide 4'-0" (1,220 mm) long rest area (*see* fig. 7.11 and 7.12). (This provision is similar to ANSI A117.1 (1980).)

(7) Provide tactile warnings complying with § 1190.190, tactile warnings, at: (i) Walks and vehicular intersections without curbs (fig. 7.13) and

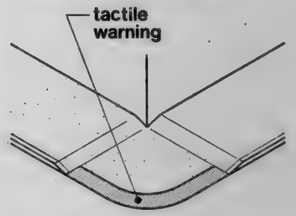

tactile warning
scale: 1" = 20'-0"
7.13

(ii) Curb ramps and associated flares, if any, that are located in pedestrian paths (fig. 7.14).

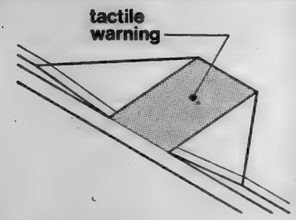

tactile warning
scale: 1/8" = 1'-0"
7.14

(§ 1190.70 (e)(7)(i) and (ii) are similar to ANSI A117.1 (1980))

(8) Curb ramps do not require handrails. (This provision is not in ANSI A117.1 (1980).)

(9) Transitions from ramps to walks and ramps to gutters or streets shall be flush and free of abrupt changes (Fig. 7.). (This provision is not in ANSI A117.1 (1980).)

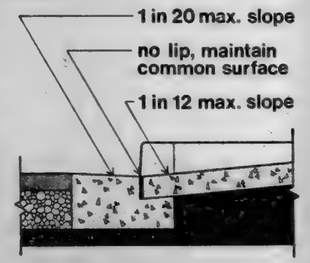

section
scale: 1/2" = 1'-0"
7.8

(f) *Ramps.* In addition to the requirements of paragraphs 1190.70(b) and

(e) Provide the following at all ramps: (1) Provide landings at the top, bottom, and at changes of direction. If ramp runs exceed lengths given in fig. 7.2, provide intermediate landings. (This provision is different from to ANSI A117.1 (1980).)

(i) Landing width shall be at least as wide as the widest ramp run approaching it.

(ii) Minimum landing length shall be 5'-0" (1,535 mm).

(iii) Minimum landing size at direction changes shall be 5'–0" by 5'–0" (1,525 mm by 1,525 mm).

(iv) Landings with doors opening onto them shall comply with § 1190.130, Doors.

(§ 1190.70 (f)(1)(ii)(iii) and (iv) are similar to ANSI A117.1 (1980))

(2) Provide handrails that comply with § 1190.90, Handrails on both sides of any ramp run exceeding a 6–inch (250 mm) rise or a 6'–0" (1,830 mm) horizontal projection (figs. 7.15, 7.16, 7.17, and 7.18). (This provision is similar to ANSI A117.1 (1980).)

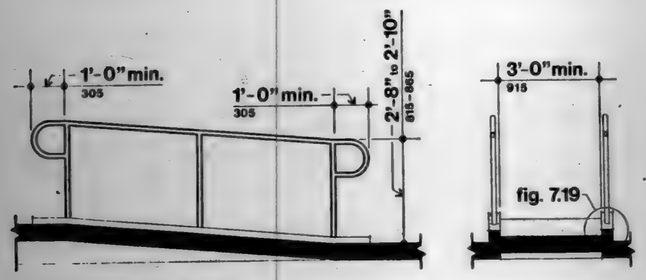

ramp with curb 7.15
scale: 1/4"= 1'-0"

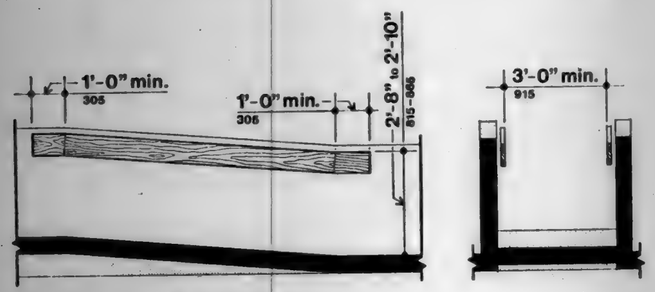

ramp with wall 7.16
scale: 1/4"= 1'-0"

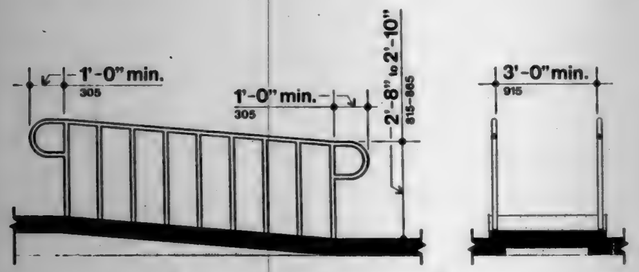

ramp with vertical guard 7.17
scale: 1/4"= 1'-0"

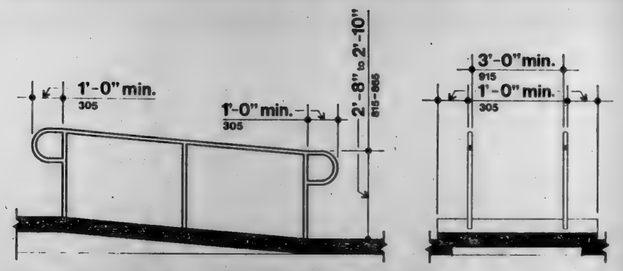

ramp with extended edge 7.18
scale: 1/4"= 1'-0"

(3) Provide curbs, walls, railings, or projecting surfaces at ramps and landings with drop-offs. Minimum curb height shall be 2 inches (50 mm), (fig. 7.19). (This provision is similar to ANSI A117.1 (1980).)

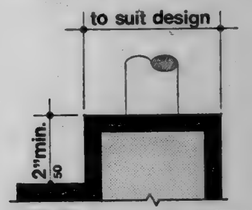

ramp curb 7.19
scale: 3"= 1'-0"

(g) *Exterior condition.* Curb ramps, ramp, and landing surfaces shall comply with paragraph 1190.50(i)(2), *Drainage.* (This provision is similar to ANSI A117.1 (1980).)

§ 1190.80 Stairs.

(a) *General.* Stairs that connect levels that are not connected by an elevator shall comply with this section. (This provision is similar to ANSI A117.1 (1980).)

(b) *Risers.* Provide risers that do not exceed 7 in. (178 mm) in height. Open risers are not permitted (fig. 8.1). (This provision is different from ANSI A117.1 (1980).)

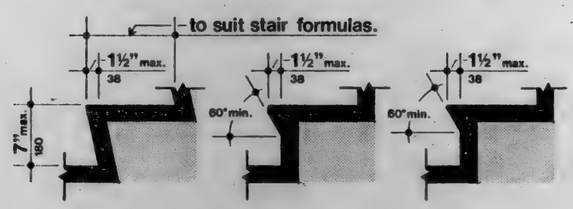

stair risers & nosings 8.1
scale: 3/4"= 1'-0"

(c) *Nosings.* Nosings shall: (1) Not have abrupt undersides (Fig. 8.1);

(2) Project a maximum of 1½ in. (38 mm);

(3) Have a leading edge with a maximum radius of curvature of ½ in. (13 MM); and

(4) Be formed by risers that are sloped, or shall have undersides of the nosings which form an angle not less than 60 degrees from the horizontal (Fig. 8.1).

(§ 1190.80 (c)(1), (2), (3) and (4) are similar to ANSI A117.1 (1980))

(d) *Handrails.* Provide continuous handrails at both sides of strairways. Handrails shall comply with § 1190.90. (This provision is similar to ANSI A117.1 (1980).)

(e) *Exterior condition.* Stair treads and landing surfaces shall comply with § 1190.50(i)(2) *Drainage.* (This provision is similar to ANSI A117.1 (1980).)

§ 1190.90 Handrails.

(a) *General.* Handrails for ramps or stairs required by § 1190.70, Ramps and curbs, and § 1190.80, Stairs, shall comply with this section. (This provision is similar to ANSI A117.1 (1980).)

(b) *Size and spacing.* Provide handrails meeting the following requirements: (1) The cross section for gripping of the handrail shall have a perimeter not greater than 6 inches (150 mm), with a ratio of maximum dimension to minimum dimension of not greater than 1:1.5 (*see* fig. 9.1). (This provision is similar to ANSI A117.1 (1980).)

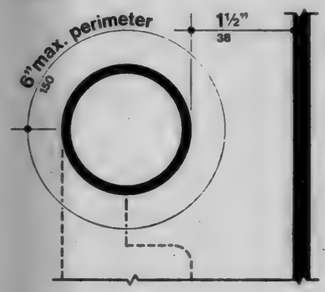

handrail 9.1
scale: half

(2) If handrails are mounted adjacent to wall surfaces or to other surfaces, provide a 1½ inch (38 mm) (minimum/maximum) clear space between wall and handrail (*see* figs. 9.1, 9.2, 9.3, and 9.4). (This provision is similar to ANSI A117.1 (1980).) Freestanding rails located farther thatn 6" (150 mm) from wall or other vertical surfaces are not subject to this provision. (This provision is not in ANSI A117.1 (1980).)

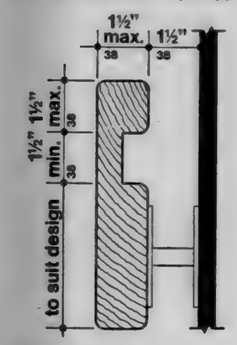

handrail 9.2
scale: 3"= 1'-0"

extension shall in each instance be

(b) *Operation and leveling.* Elevators

reopen the car door and adjacent

(2) Exception. Where existing shaft or

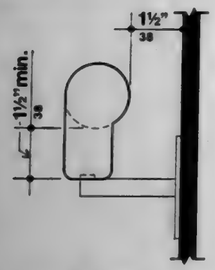

handrail 9.3
scale: 3"=1'-0"

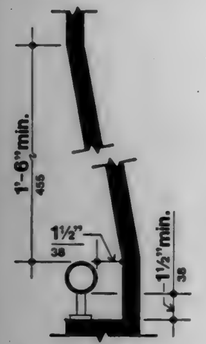

handrail 9.4
scale: 11/2"=1'-0"

(3) Handrails may be mounted in recesses if the recesses comply with fig. 9.4. (This provision is similar to ANSI A117.1 (1980).)

(4) On switchbacks or dogleg ramps or stairs, inside handrails shall be continuous. (This provision is similar to ANSI A117.1 (1980).)

(c) *Handrail projections.* (1) If outside handrails are not continuous, then: (i) at a ramp landing, project handrails parallel with ramp or landing surface for a length or 1'–0" (305 mm) beyond the top and bottom of ramp surfaces (fig. 7.14) (This provision is similar to ANSI A117.1 (1980)); and

(ii) At a stair landing, project handrails at least 1'–0" (305 mm) beyond the top riser and at least 1'–0" (305 mm) plus the depth of one tread beyond the bottom riser. The 1'–0" (305 mm) extension shall in each instance be parallel with the floor (figs. 8.3 and 8.4). (This provision is similar to ANSI A117.1 (1980).)

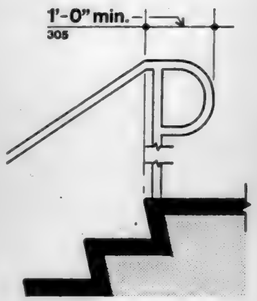

extension 8.3
scale: 1/2"=1'-0"

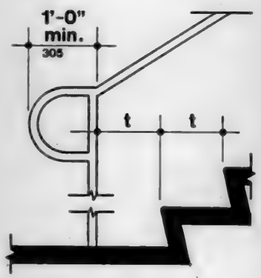

extension 8.4
scale: 1/4"=1'-0"

(iii) *Exception.* Full extension of handrails shall not be required in alterations where such extensions would be hazardous or impossible due to plan configuration. (This provision is not in ANSI A117.1 (1980).)

(2) Do not interrupt gripping surfaces with newel posts, balusters, or other obstructions. (This provision is similar to ANSI A117.1 (1980).)

(d) *Mounting height.* Mount handrails at accessible stairs and ramps at a height of 2'–8" to 2'–10" (813 mm to 864 mm) above stair nosing(s) or ramp surface as applicable (figs. 7.13, 7.14, 7.15, 7.16 and 8.2). (This provision is not in ANSI A117.1 (1980).)

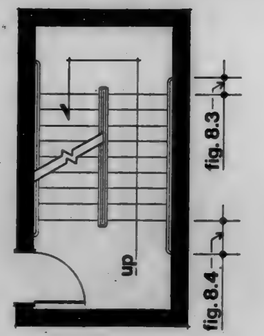

stairway 8.2
scale: 1/8"=1'-0"

(e) *Structural strengths.* Handrails, as installed, shall support a minimum momentary concentrated load applied at the top edge of 200 pounds (900 N) horizontal and 30 percent of that load vertically downward. Where the railing system is installed in public assembly occupancies, the loading shall be increased 50 percent. Test criteria shall be in conformance with *Product Standard for Permanent Metal Railing Systems and Rails for Buildings,* American Society for Testing and Materials, (ASTM) E06.12. Handrails shall not rotate within their fittings. Handrails of material other than metal shall meet the same structural requirements. (This provision is different from ANSI A117.1 (1980).)

(f) *Hazards.* Ends of freestanding handrails shall be either rounded or returned smoothly to floor or post. (*see* paragraph 1190.50(c), *Protruding objects.*) (This provision is similar to ANSI A117.1 (1980).)

§ 1190.100 Elevators.

(a) *General.* (1) Elevators required by Subpart C—Scope shall comply with § 1190.100 and with the *American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, A17.1–1978, and National Elevator Industry, Inc. (NEII) Suggested Minimum Elevator Requirements for the Handicapped, May 1977.* (This provision is different from ANSI A117.1 (1980).)

(2) Freight elevators shall not be considered as meeting the requirements of this section. (This provision is not in ANSI A117.1 (1980).)

(b) *Operation and leveling.* Elevators shall be automatic and shall be provided with a self-leveling feature that will automatically bring the car to the floor landing within a tolerance of ½ inch (13 mm) under normal loading and unloading conditions. The self-leveling feature shall, within its zone, be entirely automatic and independent of the operating device and shall correct for overtravel or under-travel. Maintain car approximately level irrespective of loading conditions. (This provision is similar to ANSI A117.1 (1980).)

(c) *Elevator door operation.* Elevator doors shall be a minimum of 2'–8" wide and shall be automatic. (1) The minimum acceptable time from notification that a car is answering a hall call until the doors of that car start to close shall be as indicated in fig. 10.1. The travel distance shall be established from a point in the center of the corridor or lobby (maximum of 5'–0" (1,525 mm)) directly opposite the farthest hall button to the centerline of the farthest hoistway entrance (fig. 10.2). (This provision is different from ANSI A117.1 (1980).)

distance		time
ft	m	sec
0 to 5	1.5	4
10	3	7
15	4.5	10
20	6	13

door timing 10.1
scale: none

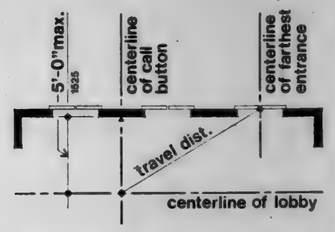

travel distance 10.2
scale: 1/8"=1'-0"

(2) Doors shall remain full open for a minimum of 5 seconds. (This provision is different from ANSI A117.1 (1980).)

(3) Provide doors with a reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car door is obstructed while the door is closing. This reopening device shall also be capable of sensing an object or person in the path of a closing door without requiring contact for activation at a nominal height of 5 inches and 2'–5" (125 mm and 735 mm) above finish floor. Such devices shall remain effective for a period of not less than 20 seconds. After this time, doors may close in accordance with the 1978 edition of ANSI A17.1. (This provision is similar to ANSI A117.1 (1980).)

(d) *Elevator cars.* (1) The minimum floor areas of elevator cars shall comply with figs. 10.3 and 10.4. (This provision is similar to ANSI A117.1 (1980).)

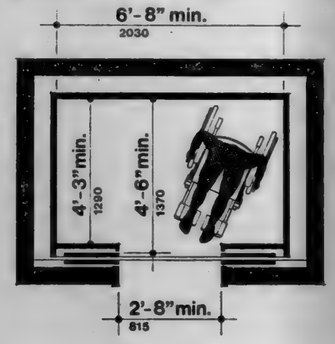

elevator car center opening 10.3
scale: 1/4"=1'-0"

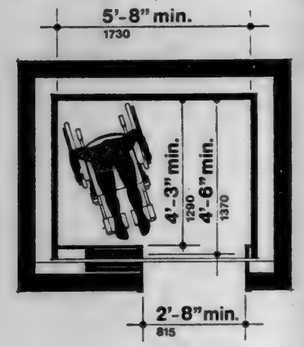

elevator car side opening 10.4
scale: 1/4"=1'-0"

(2) Exception. Where existing shaft or structural elements prohibit strict compliance in alteration work, these dimensions may be reduced by the minimum amount necessary, but in no case shall they be less than 4'–0"x4'–0" (1,220 mm x 1,220 mm) clear minimum car size. (This provision is not in ANSI A117.1 (1980).)

(3) Car floors shall comply with § 1190.50, Walks, floors and accessible route. (This provision is similar to ANSI A117.1 (1980).)

(4) Car controls shall be readily accessible from a wheelchair.

(i) Buttons, exclusive of border, shall be a minimum dimension of ¾in. (19 mm) and shall be raised or flush with the operating panel. (This provision is similar to ANSI A117.1 (1980).)

(ii) Provide a visual signal indicating when each call is registered and answered. (This provision is similar to ANSI A117.1 (1980).)

(iii) Mount the highest floor buttons at a maximum of 4'–0" (1,220 mm) above the floor and the lowest buttons at a minimum of 2'–11" (890 mm) above the floor (fig. 10.5). (This provision is different from ANSI A117.1 (1980).)

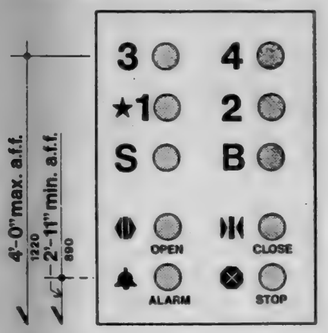

elevator control panel 10.5
scale: 3"=1'-0"

(iv) Group emergency buttons at the bottom of the panel with their centerlines no lower than 2'–11" (890 mm). (This provision is similar to ANSI A117.1 (1980).)

(v) Designate all control buttons by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in figs. 10.5 and 10.6 and as required by ANSI A17.1–1978 and NEII *Suggested Minimum Elevator Requirements for the Handicapped,* May 1977. Place raised designations to the immediate left of the

button to which they apply. Permanently attached, applied plates are acceptable. Locate the call button for the main entry floor in the left-most column and designate it with a raised star as shown. (This provision is similar to ANSI A117.1 (1980).)

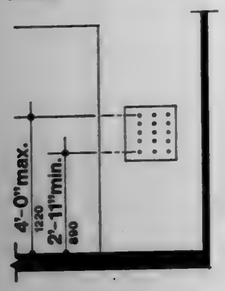

control panel 10.6
scale: 1/4"=1'-0"

(vi) Locate control panels as shown in figs. 10.7 and 10.8.

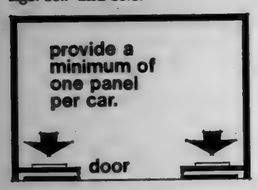

control locations 10.7
scale: 1/4"=1'-0"

control locations 10.8
scale: 1/4"=1'-0"

(e) *Door jamb markings.* Provide floor designation at each hoistway entrance on both jambs and comply with the following: (1) The centerlines of characters shall be located 5'–0" (1,525 mm) above finish floor; and

(2) Characters shall be a minimum of 2 inches (50 mm) high and shall comply with § 1190.200.

(3) Permanently applied plates are acceptable (fig. 10.9).

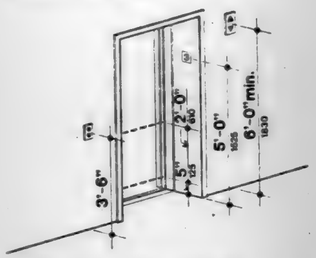

elevator entrance 10.9
scale: 1/4"=1'-0"

(§ 1190.100(e) (1), (2), and (3) are similar to ANSI A117.1 (1980))

(f) *Lobby call buttons.* (1) Call buttons shall: (i) Be mounted with centerlines at 3'–6" (1,065 mm) above finish floor (this provision is similar to ANSI A117.1 (1980));

(ii) Be a minimum of ¾ in. (19 mm) in diameter (this provision is similar to ANSI A117.1 (1980));

(iii) Have visual signals indicating when a call is registered and answered (this provision is similar to ANSI A117.1 (1980));

(iv) Be raised or flush (this provision is not in ANSI A117.1 (1980)); and

(v) Have the button designating "up" mounted on top. (This provision is similar to ANSI A117.1 (1980).)

(2) Objects mounted beneath lobby call buttons shall not project into the elevator lobby more than 4 inches (100 mm) (fig. 10.9). (This provision is not in ANSI A117.1 (1980).)

(g) *Hall lanterns.* Provide a visual and audible signal at each hoistway

entrance to indicate car arrival and its travel direction.

(1) Audible signals shall sound once for the up direction and twice for the down direction, or shall annunciate the words "up" or "down." (This provision is similar to ANSI A117.1 (1980).)

(2) Visual signals shall: (i) Be mounted with their centerlines a minimum of 6'–0" (1,830 mm) above finish floor;

(ii) Have a minimum dimension of 2½ in. (64 mm);

(iii) Distinguish between up and down travel directions; and

(iv) Be visible from the vicinity of call buttons.

(§ 1190.100 (g) (1) and (2) are similar to ANSI A117.1 (1980))

(3) In-car lanterns positioned on car door jambs that comply with § 1190.100 (e)(2) are acceptable. (This provision is similar to ANSI A117.1 (1980).)

(h) *Car position indicator & signal.* Provide a visual car position indicator above the car operating panel or over the car door to show the floor position of the car in the hoistway. As the car passes or stops at a landing, illuminate the floor number and sound an audible signal.

(1) Characters shall be a minimum of ½ in. (19 mm) high and shall comply with § 1190.200, Signage, except for § 1190.200(c)(2).

(2) Provide audible indication of floor position as follows: (i) Audible signals exceeding the ambient noise level by at least 20 decibels loud with a frequency below 1,500 Hz; or

(ii) Automatic verbal announcement.

(§ 1190.100(H) (1) and (2) are similar to ANSI A117.1 (1980))

(i) *Illumination levels.* Illuminate car controls, platform, car threshold, and landing sill to a minimum of 5 footcandles. (This provision is similar to ANSI A117.1 (1980).)

(j) *Intercommunication system.* If provided, emergency intercommunication systems shall comply with ANSI A117.1–1978, NEII *Suggested Minimum Elevator Requirements for the Handicapped,* May 1977, and the following: (1) Locate the highest operable part of the system no higher than 4'–0" (1,200 mm) above car floor (this provision is different from ANSI A117.1 (1980));

(2) Identify the system with raised lettering and symbols complying with § 1190.200 (this provision is similar to ANSI A117.1 (1980));

(3) If system employs a handset, provide a 3'–0" (915 mm) cord; (This provision is different from ANSI A117.1 (1980).)

(4) If system is located in a closed compartment, compartment door hardware shall conform to § 1190.170, Controls and operating mechanisms (this provision is not in ANSI A117.1 (1980)); and

(5) Provide a monetary contact button to allow hearing-impaired individuals to summon assistance. (This provision is not in ANSI A117.1 (1980).)

§ 1190.110 Platform lifts.

(a) *General.* Platform lifts required by Subpart C—Scope, shall comply with this section.

(b) *Requirements.* Platform lifts shall: (1) Accommodate an occupied wheelchair within the space provisions of § 1190.40, Human data;

(2) Facilitate unassisted entry and exit from the lift in accordance with the provisions of § 1190.50, Walks, floors, and accessible routes;

(3) Have accessible controls complying with § 1190.170, Controls and operating mechanisms; and

(4) Satisfy safety requirements of the agency having responsibility for safety of the facility.

(§ 1190.110(b)(1), (2), (3), and (4) are similar to ANSI A117.1 (1980))

§ 1190.120 Entrances.

(a) *General.* Entrances required to be accessible by Subpart C—Scope, shall comply with § 1190.50, Walks, Floors and Accessible Routes; § 1190.120, Entrances; and § 1190.130, Doors. (This provision is different from ANSI A117.1 (1980).)

(b) *Service entrances.* A service entrance is not to be used as the only accessible entrance unless it is the only entrance to the building or facility. (This provision is similar to ANSI A117.1 (1980).)

(c) *Access to elevators.* If elevators are provided, an accessible route shall be provided from the entrance to the elevators. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.10 Doors.

(a) *General.* Doors required to be accessible by Subpart C—Scope, shall comply with this section.

(1) Gates, including ticket gates, shall comply with this section.

(2) In double-leaf doorways, at least one leaf shall comply with this Section and it shall be the active leaf. Automatic doors are excepted from the one leaf provision.

(3) Revolving doors or turnstiles are not accessible doors and shall not be the sole means of access at any accessible entrance or on any accessible route. However, the accessible door shall be immediately adjacent to the turnstile or revolving door.

V45 AG 1 8 80 UMI

(§ 1190.130(a)(1), (2), and (3) are similar to ANSI A117.1 (1980))

(b) *Clear width.* Provide doorways with clear opening of 2'–8" (815 mm) as measured with the door open 90 degrees between the face of the door and the latch side stop (see figs. 13.1, 13.2, and 13.3). Openings deeper than 2'–0" (610 mm) shall be a minimum of 3'–0" (915 mm) wide (see 4.2). (This provision is similar to ANSI A117.1 (1980).)

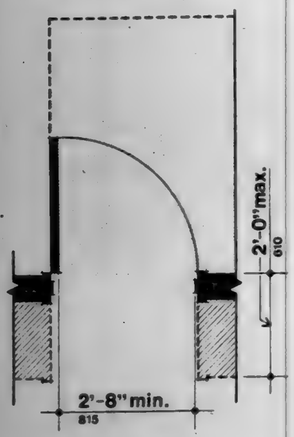

hinged
scale: 3/8"= 1'-0" 13. 1

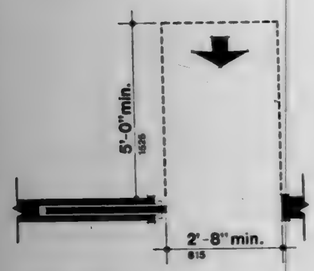

sliding
scale: 3/8"= 1'-0" 13. 2

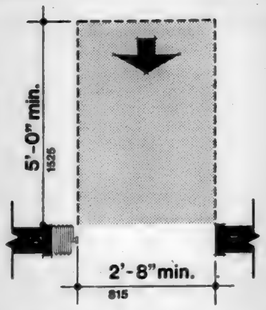

folding
scale: 3/8"= 1'-0" 13. 3

(c) *Maneuvering space.* Provide the following space at all non-automatic and non-power-assisted doors: (1) At doors allowing front approach only, maneuvering space shall be as shown in figs. 13.2, 13.3, and 13.4. (This provision is similar to ANSI A117.1 (1980).)

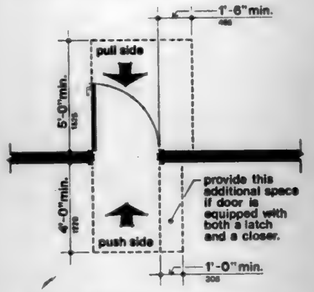

front approach
scale: 1/4"= 1'-0" 13. 4

or

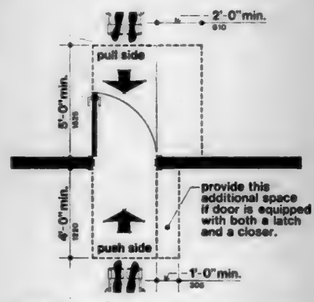

front approach
scale: 1/4"= 1'-0" 13. 4

(2) At doors allowing hinge side approach only, maneuvering space shall be as shown in fig. 13.5. (This provision is similar to ANSI A117.1 (1980).)

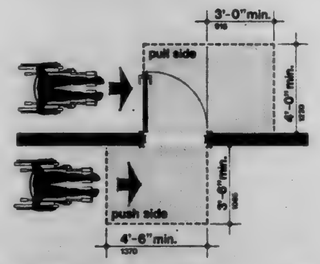

hinge approach
scale: 1/4"= 1'-0" 13. 5

or

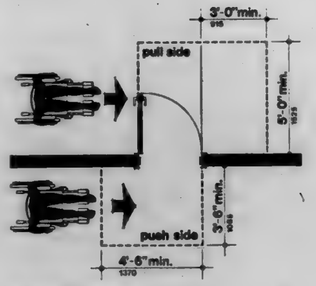

hinge approach
scale: 1/4"= 1'-0" 13. 5

(3) At doors allowing latch side approach only, maneuvering space shall be as shown in fig. 13.6. (This provision is similar to ANSI A117.1 (1980).)

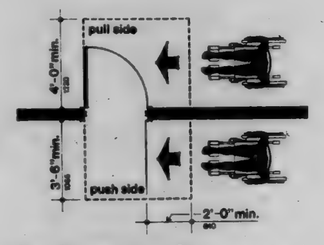

latch approach
scale: 1/4"= 1'-0" 13. 6

(4) The floor or surface area within the required maneuvering space shall be clear and shall comply with § 1190.50(i), *Grounds and floor surfaces.* It shall have a slope in any direction no greater than 1:48. (This provision is similar to ANSI A117.1 (1980).)

(i) *Exception.* (Comment is sought on two alternatives.)

(A) Front approach entry doors to acute care hospital patient bedrooms shall be exempt from the 2'–0" (610 mm) latch side clearance shown in fig. 13.4 if the door is at least 3'–8" (1,120 mm) wide (this provision is different from ANSI A117.1 (1980)); or

(B) Front approach entry doors to acute care hospital patient bedrooms shall be exempt from the 1'–6" (460 mm) latch side clearance shown in fig. 13.4, if the door is at least 3'–8" (1,120 mm) wide. (This provision is different from ANSI A117.1 (1980).)

(d) *Doors in series.* Between any two hinged or pivoted doors in series, provide a minimum of 4'–0" (1,220 mm) plus the width of any door swinging into the space. Opposing doors shall not swing towards each other, into the intervening space (*see* figs. 13.7 and 13.8). (This provision is similar to ANSI A117.1 (1980).)

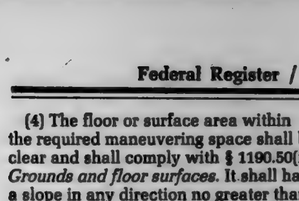

doors in series
scale: 1/4"= 1'-0" 13. 7

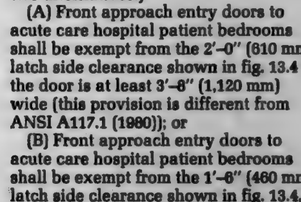

doors in series
scale: 1/4"= 1'-0" 13. 8

(e) *Thresholds.* Raised thresholds, if provided, shall be beveled with a slope not to exceed 1:2 and with heights not exceeding the following: (1) Exterior sliding doors: ¾ in. (19 mm) maximum.

(2) Other doors: ½ in. (13 mm) maximum.

(§ 1190.130(e)(1) and (2) are similar to ANSI A117.1 (1980))

(f) *Hardware.* Provide handles, pulls, latchs, locks and other operating hardware that are easy to grasp with one hand and that do not require twisting of the wrist, tight grasping, or tight pinching to operate. Acceptable designs include, but are not limited to, 1 ever-operated hardware, push-type hardware, and U-shaped handles. Operating hardware shall be exposed and usable from both sides when sliding doors are fully open. Mount no operating hardware higher than 4'–0" (1,220 mm) above finish floor. (This provision is different from ANSI A117.1 (1980).)

(g) *Doors to hazardous areas.* Provide a textured surface on any door handle, knob, pull, or other piece of operating hardware on doors that lead to areas that may prove hazardous to blind people. Such areas may include, but are not limited to, loading platforms, mechanical equipment rooms, stages, and similar spaces. Textured surfaces may be achieved by knurling, roughening, or applying materials on the hand contact surface. Do not texture surfaces on hardware leading to emergency egress or on any doors other than those leading to hazardous areas. (This provision is similar to ANSI A117.1 (1980).)

(h) *Closers and opening forces.* (1) Door closers, if provided, shall have a sweep period so adjusted that from a position of 70 degrees open it will take the door a minimum of 5 seconds to reach a point 3 inches (75 mm) from the door jamb, measured from the leading edge of the door. (This provision is different from ANSI A117.1 (1980).)

(2) Maximum pushing or pulling opening forces for doors shall be as follows: (i) Adjust fire doors for the minimum opening forces permitted by fire label rating requirements.

(ii) Exterior hinged doors: 8.5 1bf (37.8 N)

(iii) Interior hinged doors: 5 1bf (22.2 N)

(iv) Sliding or folding doors: 5 1bf (22.2 N)

(v) Power-assisted doors: comply with § 1190.130(g)(2)(i)(ii)(iii) and (iv) for opening force and Section 10 of ANSI A156.10–1979 for closing force. These forces do not apply to forces required to retract or disengage latch bolts or other door latching devices.

(§ 1190.130 (h)(2)(i), (ii), (iii), (iv) and (v) are similar to ANSI A117.1 (1980).)

(i) *Automatic doors.* If automatic personnel doors are provided;

(1) Comply with *American National Standard for Power-Operated Doors,* ANSI A156.10–1979 (this provision is similar to ANSI A117.1 (1980)); or

(2) Provide custom designed installations utilizing slow opening, low powered automatic doors as described in paragraph 1.1.1 of ANSI A156.10–1979, provided such doors do not open to back check in less than 5 seconds and do not require more than 15 1bf (66.6 N) to stop door movement. (This provision is different from ANSI A117.1 (1980).)

§ 1190.140 Windows.

(a) *General.* Windows required to be accessible by Subpart C—Scope, shall comply with this section. (This provision is different from ANSI A117.1 (1980).)

(b) *Hardware.* Windows shall require less than 5 1bf (22.2N) of pressure to operate. Locks, bolts, cranks, and other window hardware necessary for operation shall comply with § 1190.170, Controls and operating mechanisms. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.150 Toilet and bathing facilities.

(a) *Toilet facilities.* (1) Toilet rooms and bathing facilities required to be accessible by Subpart C—Scope, shall comply with this section (This provision is similar to ANSI A117.1 (1980).)

(2) *Exception.* Where alterations to existing facilities make strict compliance with § 1190.150 structurally impracticable, the addition of one "unisex" toilet per floor complying with § 1190.150(b), *Toilet fixtures and accessories* located adjacent to existing facilities, will be acceptable, in lieu of making existing facilities for each sex accessible. (This provision is not in ANSI A117.1 (1980).)

(3) *Doors.* Doors to toilet facilities shall:

(i) Comply with § 1190.130; and

(ii) Not swing into clear floor space associated with fixtures.

(§ 1190.150 (3)(i) and (ii) are similar to ANSI A117.1 (1980).)

(4) *Clear floor space.* (i) Each accessible toilet room and bathing facility shall have an unobstructed turning space that: (A) Complies with § 1190.40 (b)(4);

(B) Adjoins an accessible route complying with § 1190.50, Walks, floors, and accessible routes; and

(C) May overlap the accessible route and clear floor space at fixture.

(§ 1190.150 (4)(i)(A), (B), and (C) are similar to ANSI A117.1 (1980).)

(ii) *Exception.* In toilet rooms with one water closet, doors in any position may reduce the clear turning space to 2'–8" by 5'–0" (815 mm by 1,220 mm), but shall not reduce any dimension by more than 3½ inches (90 mm) when fully open. (This provision is not in ANSI A117.1 (1980).)

V 45 AG 18 80 UMI

(5) *Signage.* Signage required by Subpart C—Scope, that identifies accessible toilet rooms and bathing facilities shall comply with § 1190.200, Signage. (This provision is not in ANSI A117.1 (1980).)

(b) *Toilet fixtures and accessories.*—(1) *General.* In accessible toilet rooms and bathing facilities, toilet fixtures and accessories shall have access spaces adjoining an accessible route. (This provision is similar to ANSI A117.1 (1980).)

(2) *Water closets.* Accessible water closets shall: (i) be provided with clear access space complying with figures 15.1, 15.2, 15.3 and 15.4 for fixtures not mounted in stalls. Clear access space may be provided to allow either left-handed or right-handed approach. (This provision is similar to ANSI A117.1 (1980).)

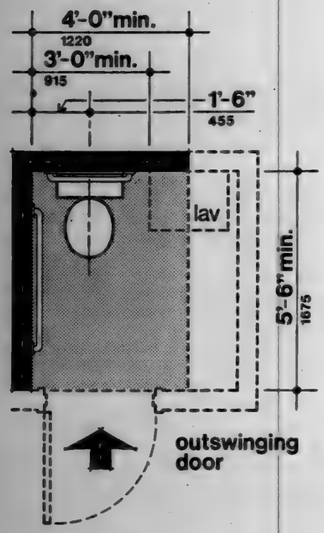

clear floor space 15.1
scale: 1/4"=1'-0"

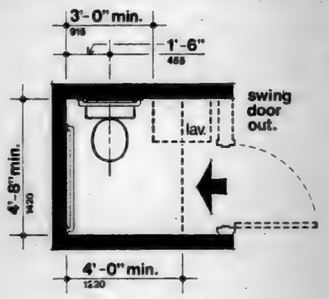

clear floor space 15.2
scale: 1/4"=1'-0"

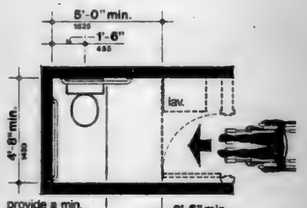

clear floor space 15.3
scale: 1/4"=1'-0"

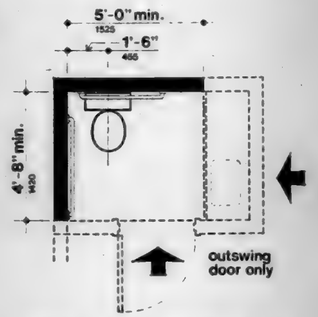

clear floor space 15.4
scale: 1/4"=1'-0"

(ii) Have top of seats mounted 1'–5" to 1'–7" (430 mm to 485 mm) above finish floor (*see* figs. 15.5 and 15.6). (This provision is similar to ANSI A117.1 (1980).) Seats shall not be sprung to return to a lifted position when not in use. (This provision is not in ANSI A117.1 (1980).)

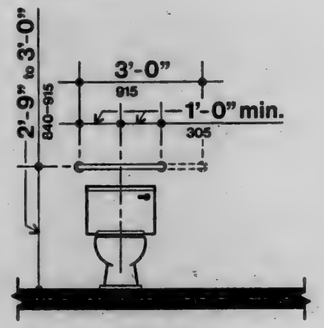

rear wall elevation 15.5
scale: 1/4"=1'-0"

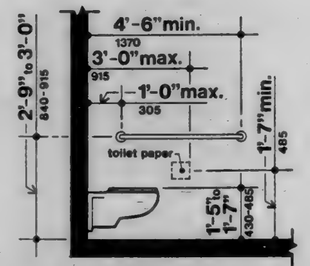

side wall 15.6
scale: 1/4"=1'-0"

(iii) Have automatic or hand-operated flush controls complying with § 1190.170, Controls and operating mechanisms. Mount controls for use from the wide side of access area no higher than 3'–6" (1,120 mm) above the finish floor. (This provision is similar to ANSI A117.1 (1980).)

(iv) Have toilet paper dispensers mounted as shown in fig. 15.6 Do not use dispensers that control delivery or that do not permit continuous paper flow. (This provision is different from ANSI A117.1 (1980).)

(v) Have grab bars mounted as shown in figs. 15.1, 15.2, 15.3, 15.4, 15.5, and 15.6. (This provision is similar to ANSI A117.1 (1980).)

(3) *Toilet stalls.* Accessible toilet stalls shall: (i) Have a water closet compying with § 1190.150 (b)(2). (This provision is similar to ANSI A117.1 (1980).)

(ii) Be of the size and arrangement as shown in fig. 15.7. Stall configuration may be reversed for right or left handed approach. (This provision is similar to ANSI A117.1 (1980).)

(A) *Exception.* Where alteration work makes provision of a fig. 15.7 stall structurally impractical or plumbing fixture code requirements prevent combining existing stalls to provide space, a fig. 15.8 stall may be provided in lieu of a fig. 15.7 stall. (This provision is not in ANSI A117.1 (1980).)

(B) [Reserved]

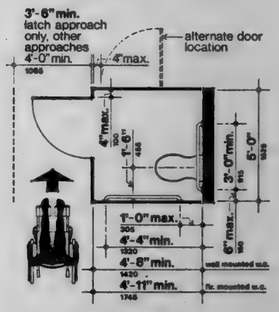

standard stall 15.7
scale: 1/4"=1'-0"

(iii) Have toe clearances at the front partition and at least one side partition of 9 inches (230 mm) above finish floor. If stall depth is greater than 5'–0" (1,525 mm), then toe clearance is optional. (This provision is similar to ANSI A117.1 (1980).)

(iv) Have doors complying with § 1190.130, Doors, and that are outswinging; and have the symbol of access affixed to the outside of door. (This provision is similar to ANSI A117.1 (1980).)

(A) *Exception.* If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 3'–6" (1,070 mm). (This provision is not in ANSI A117.1 (1980).)

(B) [Reserved]

(v) Have grab bars mounted of the length and positioning shown in figs. 15.7, 15.8, 15.9, and 15.10.

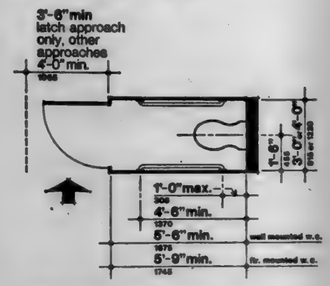

alternate stall 15.8
scale: 1/4"=1'-0"

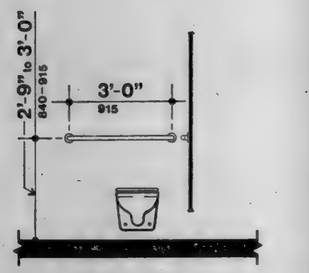

rear wall elevation 15.9
scale: 1/4"=1'-0"

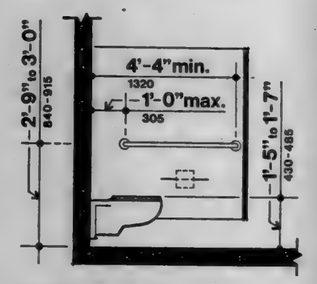

side wall 15.10
scale: 1/4"=1'-0"

(4) *Urinals.* Accessible urinals shall: (i) Be floor mounted stall type or wall-hung with an elongated rim mounted at 1'–5" (430 mm) maximum above finish floor (figs. 15.11 and 15.12) (This provision is similar to ANSI A117.1 (1980).)

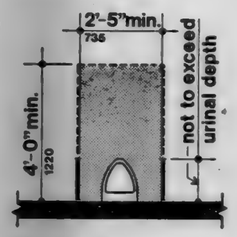

urinal shields 15.11
scale: 1/4"=1'-0"

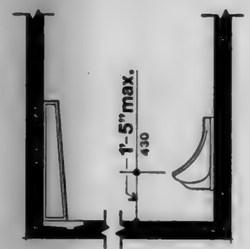

urinals 15.12
scale: 1/4"=1'-0"

(ii) Have a clear access space as provided in fig. 15.11. (This provision is different from ANSI A117.1 (1980).); and

(A) *Exception.* Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with 2'–5" (735 mm) clearance between them. (This provision is different from ANSI A117.1 (1980).)

(B) [Reserved]

(iii) Have automatic or hand-operated controls complying with § 1190.17, Controls and operating mechanisms, and mounted no higher than 3'–6" (1,120 mm) above finish floor. (This provision is similar to ANSI A117.1 (1980).)

(5) *Lavatories and sinks.* Lavatories and sinks shall meet the following requirements: (i) Mount lavatories with the rim or counter height surface no higher than 2'–10" (865 mm) above finish floor. Provide knee clearance of a minimum of 2'–5" (735 mm) between bottom of apron and finish floor. Knee and toe clearance shall comply with figure 15.13. (This provision is different from ANSI A117.1 (1980).)

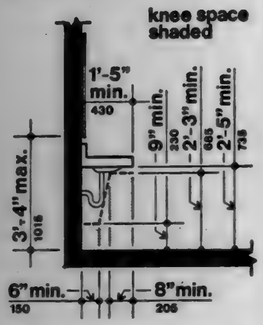

lavatory
scale: 1/4"=1'-0" 15. 13

(ii) Mount sinks with the counter or rim no higher than 2'–10" (865 mm) above finish floor. Provide knee clearance of a minimum of 2'–3" (685 mm) high, 2'–6" (760 mm) wide and 1'–7" (485 mm) deep under the sink. Sink bowls shall be a maximum of 6½ inches (165 mm) deep (fig. 15.14). (This provision is similar to ANSI A117.1 (1980).)

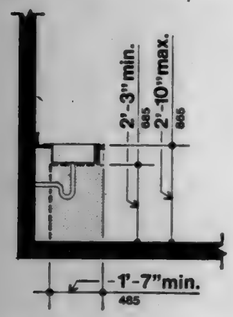

sink
scale: 1/4"=1'-0" 15. 14

(iii) Clear access space permitting front approach shall compy with § 1190.40, Human Data. Clear access space and knee space shall overlap 1'–7" (485 mm) maximum (fig. 15.15). (This provision is similar to ANSI A117.1 (1980).)

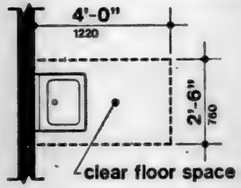

lavatory
scale: 1/4"=1'-0" 15. 15

(iv) Insulate or cover hot water and drain lines. Allow no sharp or abrasive surfaces to remain exposed under accessible lavatories or sinks. (This provision is similar to ANSI A117.1 (1980).)

(v) Acceptable faucet designs include lever-operated, push type, touch-type, and electronically controlled mechanisms that comply with § 1190.170, Controls and operating mechanisms. (This provision is similar to ANSI A117.1 (1980).)

(A) *Exception.* Self-closing valves are permitted at lavatories if the faucet remains open for at least 10 seconds. (This provision is similar to ANSI A117.1 (1980).)

(B) [Reserved]

(6) *Mirrors.* Mount mirrors with the bottom edge of reflecting surface no higher than 3'–4" (1,015 mm) above finish floor (fig. 15.13). (This provision is similar to ANSI A117.1 (1980).)

(7) *Controls, dispensers, receptacles, or other equipment* shall comply with § 1190.170, Controls and operating mechanisms. (This provision is similar to ANSI A117.1 (1980).)

(c) *Bathing facilities.*—(1) *Bathtubs and showers.* Bathtubs or showers shall:

(i) Have clear access space as shown in figs. 15.16 to 15.18 and 15.24 and 15.25;

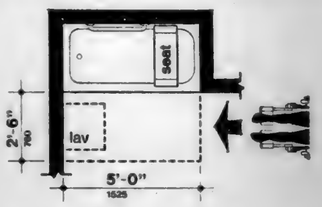

clear floor space
scale: 1/4"=1'-0" 15. 16

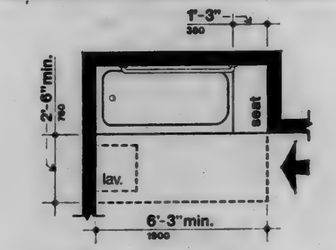

clear floor space
scale: 1/4"=1'-0". 15. 17

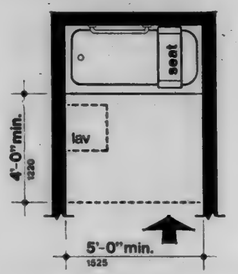

clear floor space
scale: 1/4"=1'-0" 15. 18

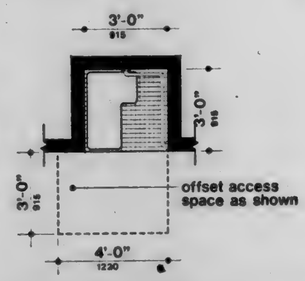

transfer stall
scale: 1/4"=1'-0" 15. 24

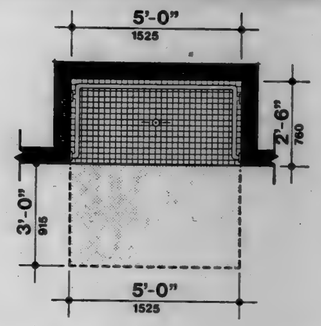

roll-in stall
scale: 1/4"=1'-0" 15. 25

(ii) Have seats provided as shown in figs. 15.16, 15.17, 15.19, 15.20, 15.21, 15.22, 15.23, 15.24, 15.26, and 15.28. Seats and their attachments shall safely support a 250 pound continuous live load without sustaining permanent deflection. Seats shall not slip as mounted during use. In-tub seats may be portable;

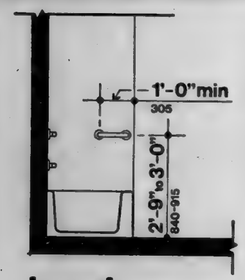

head
scale: 1/4"=1'-0". 15. 21

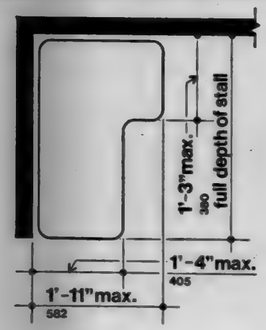

seat
scale: 1/2"=1'-0" 15. 26

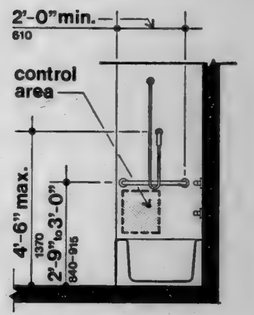

foot
scale: 1/4"=1'-0" 15. 19

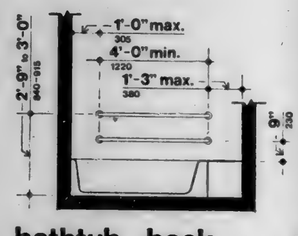

bathtub back
scale: 1/4"=1'-0" 15. 22

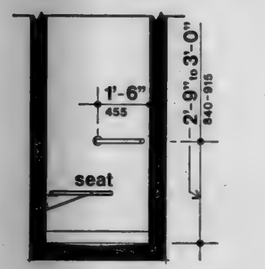

back
scale: 1/4"=1'-0" 15. 28

(iii) Have grab bars mounted of the length and positioning shown in figs. 15.16 to 15.23, and 15.24, 15.25, 15.28 to 15.32;

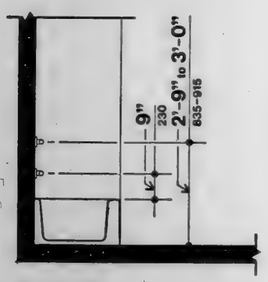

head
scale: 1/4"=1'-0" 15. 23

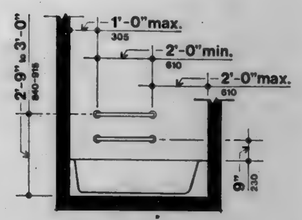

bathtub back
scale: 1/4"=1'-0" 15. 20

seat wall
scale: 1/4"=1'-0" 15. 27

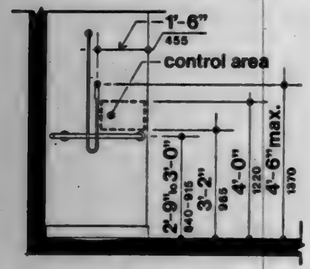

control wall 15.29
scale: 1/4"= 1'-0"

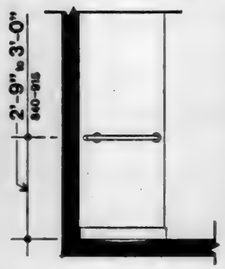

side 15.32
scale: 1/4"= 1'-0"

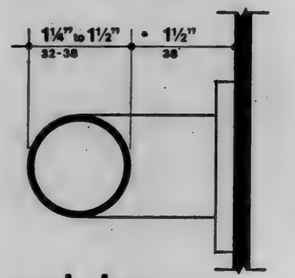

grab bar 15.33
scale: half

side 15.30
scale: 1/4"= 1'-0"

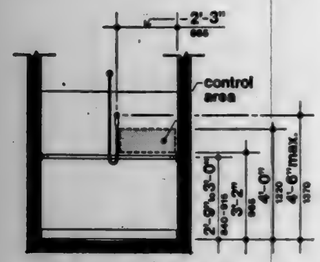

roll-in stall: back 15.31
scale: 1/4"= 1'-0"

(iv) Have faucets and controls complying with § 1190.170, Controls and Operating Mechanisms, located as shown in figs, 15.19, 15.29, and 15.31;

(v) Have a shower spray unit with a flexible hose a minimum of 5'–0" (1,525 mm) long for use as a fixed shower head or as a hand-held shower. (§ 1190.150(c) is similar to ANSI A117.1 (1980).)

(A) *Exception.* In unmonitored facilities where vandalism is a concern, a fixed shower head mounted at 4'–0" (1,200 mm) above the tub bottom may be used in lieu of the hand-held unit. (This provision is not in ANSI A117.1 (1980).)

(B) [Reserved]

(vi) Have enclosures, if provided, that do not obstract transfer from wheelchairs onto seats or into tubs or access to controls from clear access space. Bathtub enclosures shall not have tracks mounted on the bathtub rims. (This provision is similar to ANSI A117.1 (1980).)

(vii) Have no shower curbs or threshholds higher than ½ inch (13 mm) beveled. (This provision is different from ANSI A117.1 (1980).)

(d) *Grab bars.*—(1) *General.* Grab bars for accessible fixtures shall:

(i) Have a diameter or width of the gripping surfaces of a grab bar of 1¼ inches to 1½ inches (32 mm to 38 mm);

(ii) Be mounted adjacent to a wall or partition shall have a 1½ inch (38 mm) clearance between the bar and the mounting surface (fig. 15.33);

(iii) As installed, support a minimum concentrated load of 250 lbf (112N); and

(iv) Not rotate in their fittings.

(§ 1190.150(d)(1) (i), (ii), (iii), and (iv) similar to ANSI A117.1 (1980).)

§ 1190.160 Drinking fountains and water coolers.

(a) *General.* Drinking fountains and coolers required by Subpart C—Scope, shall comply with this Section. (This provision is different from ANSI A117.1 (1980).)

(b) *Clearances.* Drinking fountains and water coolers shall have clear access spaces complying with § 1190.40, Human Data. (This provision is similar to ANSI A117.1 (1980).)

(1) Provide a wall- or post-mounted cantilevered unit with a forward approach access space and a knee space between the underside of the unit and the finish floor of at least 2'–3" (685 mm) high, 2'–6" (760 mm) wide, and 1'–7" (485 mm) deep. *See* figs. 16.1 and 16.2. (This provision is different from ANSI A117.1 (1980).)

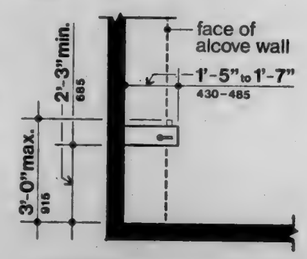

cantilevered 16.1
scale: 1/4"= 1'-0"

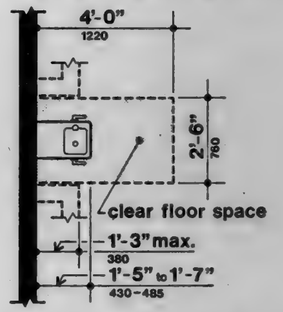

cantilevered 16.2
scale: 1/4"= 1'-0"

(2) Provide free-standing or built-in units not having knee-space with a clear access allowing a parallel approach (*see* figs. 16.3 and 16.4 and 16.5). (This provision is different from ANSI A117.1 (1980).)

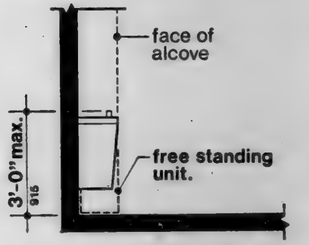

free standing or wall hung 16.3
scale: 1/4"= 1'-0"

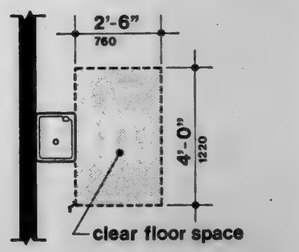

free standing or wall hung 16.4
scale: 1/4"= 1'-0"

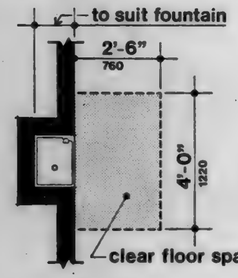

built in 16.5
scale: 1/4"= 1'-0"

(c) Spouts of drinking fountains and water-coolers shall:

(1) Be mounted no higher than 3'–0" (915 mm) above the finish floor to the spout outlet;

(2) Be at the unit front and shall direct water flow trajectory parallel or nearly parallel the front of the unit; and

(3) Direct water flow at least 4 inches (100 mm) above the unit basin to facilitate cup or glass insertion.

(§ 1190.160(c) (1), (2) and (3) are similar to ANSI A117.1 (1980))

(d) *Controls.* Unit controls shall be front mounted or side mounted near the front edge and shall comply with § 1190.170 Controls and Operating Mechanisms. (This provision is similar to 1ANSI A117.1 (1980).)

§ 1190.170 Controls and operating mechanisms.

(a) *General.* Controls and operating mechanisms required to be accessible by Subpart C—Scope, shall comply with this section. (This provision is similar to ANSI A117.1 (1980).1)

(b) *Location requirements.* Controls and operating mechanisms shall adjoin clear access space complying with § 1190.40, Human data. Mount controls and operating mechanisms in compliance with approach direction and reach limitations specified in §§ 1190.40(c), *Clear access space* and 1190.40(d) *Reach limitations. See* figures 17.1 and 17.2. (This provision is similar to ANSI A117.1 (1980).)

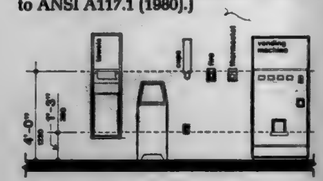

forward approach 17.1
scale: 1/4"= 1'-0"

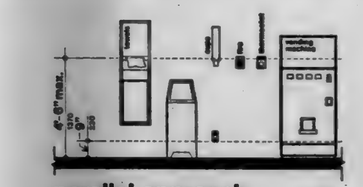

parallel approach 17.2
scale: 1/4"= 1'-0"

(c) *Force.* Control activation shall require no more than 5 lbf (22.2 N) force. (This provision is similar to ANSI A117.1 (1980).)

(d) *Specialized equipment.* If specialized mechanical, electrical, or process equipment has inherent functional requirements which dictate location or force requirements other than those specified in this section, locate the equipment as dictated by its functional requirements. (This provision is not in ANSI A117.1 (1980).)

§ 1190.180 Alarms.

(a) *General.* If alarm systems are provided in the building or facility, they shall comply with this section. (This provision is similar to ANSI A117.1 (1980).)

(b) *Audible alarms.* Audible alarms shall produce a sound pressure level that exceeds ambient room or space noise by 15 decibels or any maximum noise level of 30 second duration by 5 decibels, whichever is greater. (This provision is similar to ANSI A117.1 (1980).)

(c) *Visual and other sensory alarms.* If audible alarms are provided, then provide, in addition, at least one of the following:

(1) A visual alarm device adjacent to each exist sign which flashes in conjunction with audible alarms. (This provision is similar to ANSI A117.1 (1980).)

(2) A flashing exist sign. (This provision is similar to ANSI A117.1 (1980).)

(3) Specialized systems utilizing advanced technology will be considered on a case-by-case basis under § 1190.180(c) (1) and (2). (This provision is not in ANSI A117.1 (1980).) Flash frequency of visual alarms shall not exceed 5 Hz. (This provision is similar to ANSI A117.1 (1980).)

(d) *Pull Stations.* Alarm pull stations shall comply with § 1190.170, controls and operating mechanisms. (This provision is not in ANSI A117.1 (1980).)

§ 1190.190 Tactile Warnings.

(a) *General.* Tactile warnings required by Subpart C—Scope, shall comply with

this section. Within any building, facility, or site textured surfaces used for tactile warnings shall be standardized. (This provision is different from ANSI A117.1 (1980).)

(b) *Ground and floor surfaces.* Tactile warnings on ground and floor surfaces shall:

(1) Contrast textures with surrounding surfaces;

(2) Comply with figure 19.1 when using raised strips or recessed groves;

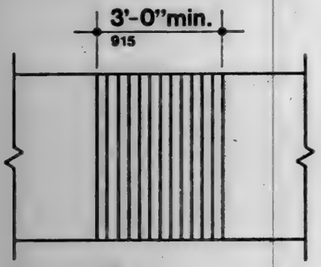

tactile warnings 19.1
scale: 1/4"= 1'-0"

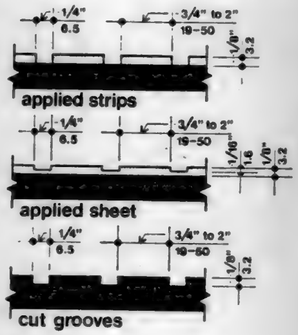

tactile warnings 19.2
scale: 3"= 1'-0"

(3) Not have grooves that are recessed below adjoining surfaces on exterior surfaces; and

(4) Have surfaces, raised strips, or grooves that be made of exposed concrete, rubber, or plastic cushioned materials.

(§ 1190.190 (b) (1), (2), (3) and (4) are similar to ANSI A117.1 (1980).)

(c) *Hazardous areas.* Warn users of a hazardous area by means of a tactile warning if:

(1) A walk crosses or adjoins a frequently used vehicular way if there are no curbs, railings, planted areas, or similar boundary elements to separate the walk and the vehicular way (fig. 19.2); or

(2) The edges of reflecting pools are not protected by railings, walls, or curbs.

(§ 1190.190(c) (1) and (2) are similar to ANSI A117.1 (1980))

(d) *Warnings at stairs.* (Reserved for future definition.) (This provision is different from ANSI A117.1 (1980).)

§ 1190.200 Signage.

(a) *General.* (1) Information and identification of elements and spaces as required by Subpart C—Scope shall comply with §§ 1190.200(b) *Character proportion and contrast* and 1190.200(e) *Symbol of accessibility.* Permanent signage identifying rooms and spaces shall also comply with paragraphs 1190.200(c) *Raised or incised characters* and 1190.200(d) *Mounting location and height.* (This provision is different from ANSI A117.1 (1980).)

(2) *Exception.* The provisions of § 1190.200 (c) and (d) are not mandatory for temporary information on room and space signage. (This provision is not in ANSI A117.1 (1980).)

(b) *Character proportion and contrast.* Letters and numbers on sign systems shall:

(1) Have a width-to-height ratio of between 3:5 and 1:1. (This provision is similar to ANSI A117.1 (1980).)

(2) Have a stroke width-to-height ratio of between 1:5 and 1:10. (This provision is similar to ANSI A117.1 (1980).)

(3) Contrast in value with their backgrounds, preferably light letters on a dark background. (This provision is different from ANSI A117.1 (1980).)

(4) Have a matte finish on a matte finish background. (This provision is not in ANSI A117.1 (1980).)

(c) *Raised or incised character.* Provide numbers and letters that are:

(1) Raised or incised from the background surface 1/32 in. (0.8 mm). Incise or raise symbols or pictographs in this manner;

(2) Between 5/8 in. (16 mm) and 2 in. (50 mm) high;

(3) Sans serif with sharply defined edges; and

(4) If incised, provided with at least a 1/4 inch (6 mm) stroke width.

(§ 1190.220(c) (1), (2), (3), and (4) are similar to ANSI A117.1 (1980))

(d) *Mounting location and height.* Place interior signage in a standardized location througout a building or facility:

(1) Alongside of the door on the latch side, and

(2) Mounted at between 4'6" and 5'6" (1,370 mm and 1,675 mm) above finish floor (fig. 20.3).

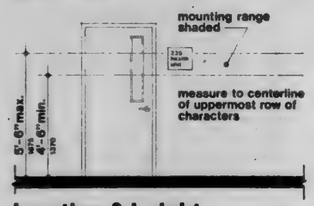

location & height 20.3
scale: 1/4"= 1'-0"

(3) Locate exterior signage at entrances and walks to direct individuals to accessible routes and entrances as required.

(§ 1190.200(d) (1), (2), and (3) are not in ANSI A117.1 (1980))

(e) *Symbol of accessibility.* Identify accessible facilities, as required by Subpart C—Scope, with the International Symbol of Accessiblity. Display as shown in fig. 20.1 and 20.2. Provide symbols of the following minimum dimensions:

Size	*Location*	*Viewing distance*
2½ in. (65 mm)	Interior	Up to 30 ft. (9 m).
4 in. (115 mm)	Interior	Greater than 30 ft. (9 m).
4 in. (115 mm)	Exterior	Up to 60 ft. (18 m).
8 in. (200 mm)	Exterior	Greater than 60 ft. (18 m).

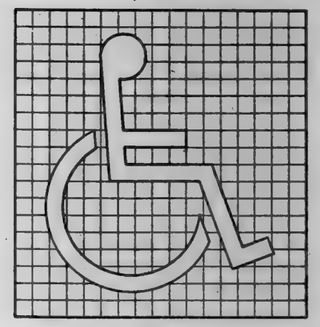

international symbol 20.1
scale: to suit

display condition 20.2
scale: to suit

(This provision is different from ANSI A117.1 (1980))

§ 1190.210 Telephones.

(a) *General.* Public telephones and related equipment required to be accessible by Subpart C—Scope, shall comply with this section. (This provision is similar to ANSI A117.1 (1980).)

(b) *Clear access space.* A clear access space that complies with § 1190.40, Human data, shall be provided at each telephone (figs. 21.1, 21.2, and 21.3). Do not restrict clear access space by installation of bases, fixed seats, or enclosures. (This provision is similar to ANSI A117.1 (1980).)

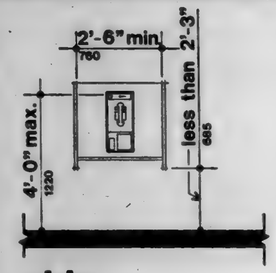

side reach 21.1
scale: 1/4"= 1'-0"

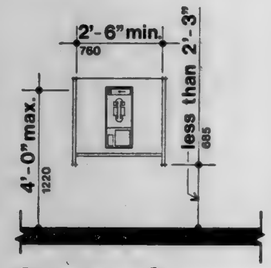

forward reach 21.2
scale: 1/4"= 1'-0"

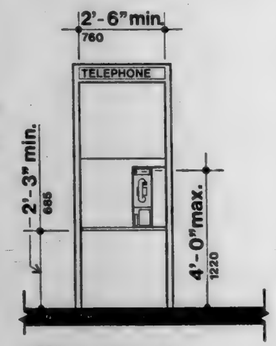

diagonal reach 21.3
scale: 1/4"= 1'-0"

(c) *Equipment characteristics.* Telephone equipment shall:

(1) Have the highest operable control, including, but not limited to dial and coin slot, located at a maximum of 4'-0" (1,220 mm) above the finish floor (figs. 21.4, 21.5, and 21.6). (This provision is different from ANSI A117.1 (1980).)

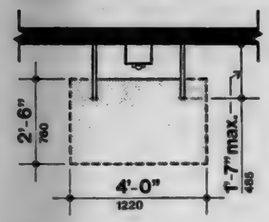

plan 21.4
scale: 1/4"= 1'-0"

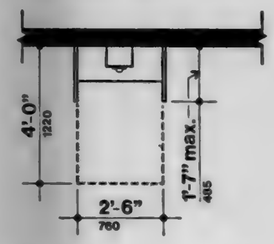

plan 21.5
scale: 1/4"= 1'-0"

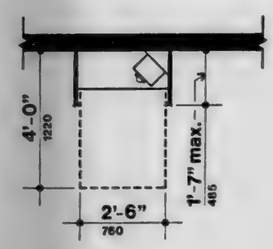

plan 21.6
scale: 1/4"= 1'-0"

(2) Have push button controls, where service to such equipment is available. (This provision is similar to ANSI A117.1 (1980).)

(3) Have a minimum handset cord length of 2'–5" (735 mm). (This provision is similar to ANSI A117.1 (1980).)

(4) Have telephone books, if provided, located in a position usable by a physically handicapped person. *See* § 1190.40, Human data. (This provision is similar to ANSI A117.1 (1980).)

(d) *Equipment for hearing impaired people.* Telephone receivers shall generate a magnetic field in the area of the receiver cap. (This provision is similar to ANSI A117.1 (1980).) Volume controls and TDDs shall be provided in accordance with Subpart C—Scope. (This provision is not in ANSI A117.1 (1980).)

§ 1190.220 Seating, tables, and work surfaces.

(a) *General.* Fixed seating spaces, tables, or work surfaces required to be accessible by Subpart C—Scope, shall comply with this section. (This provision is different from ANSI A117.1 (1980).)

(b) *Clearances.* Seating spaces for people in wheelchairs at tables, counters, or work surfaces shall:

(1) Have a clear access space complying with § 1190.40, Human Data;

(2) Have knee spaces at least 2'–3" (685 mm) high, 2'–6" (760 mm) wide, and 1'–7" (485 mm) deep. Clear access space and knee space may overlap 1'–7"; and

(3) Have table tops or work surfaces mounted between 2'–4" to 2'–10" (710 mm to 865 mm) above finish floor. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.230 Assembly areas.

(a) *General.* Assembly areas required to be accessible by Subpart C—Scope, shall comply with this section. (This provision is different from ANSI A117.1 (1980).)

(b) *Size and location or viewing positions.* Accessible viewing positions shall:

(1) Provide minimum clear areas as shown in figs. 23.1 and 23.2. (This provision is similar to ANSI A117.1 (1980).)

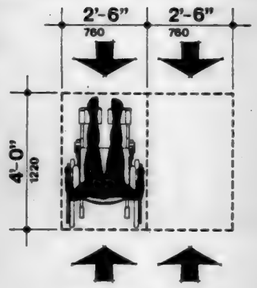

viewing positions 23.1

scale: 1/4"=1'-0"

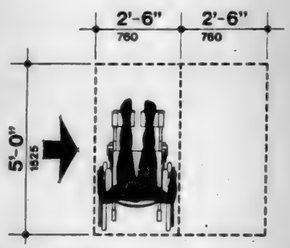

viewing positions 23.2

scale: 1/4"=1'-0"

(2) Accommodate one occupied wheelchair or one portable seat to accommodate persons with crutches or leg braces. (This provision is different from ANSI A117.1 (1980).)

(3) Be in an adjoining configuration if only two positions are provided. Additional positions may be in a single position configuration. (This provision is different from ANSI A117.1 (1980).)

(4) Be an integral part of the seating plan and shall be dispersed throughout the assembly area providing sight lines comparable to those for all seating. (This provision is similar to ANSI A117.1 (1980).)

(i) *Exception.* In alteration work where it is structurally impossible to alter seating locations to disperse seating throughout, seating may be located in collected areas as structurally feasible. Seating must adjoin an accessible route that also serves as a means of emergency egress. (This provision is not in ANSI A117.1 (1980).)

(5) Adjoin an accessible route of emergency egress as required by paragraph 1190.50(h) *Egress.* (This provision is similar to ANSI A117.1 (1980).)

(6) Have surfaces that comply with § 1190.50(i) *Ground and Floor surfaces.*

(c) *Performing areas.* Connect wheelchair viewing positions by an accessible route that complies with § 1190.50, Walks, floors, and accessible routes, to performing areas, including, but not limited to, stages, arena floors, dressing rooms, locker rooms, and other rooms and spaces required for use of the assembly area. (This provision is similar to ANSI A117.1 (1980).)

(i) *Exception.* In alteration work where it is structurally impracticable to alter all performing areas to be on an accessible route, at least one of each type shall be made accessible. (This provision is not in ANSI A117.1 (1980).)

(2) [Reserved]

(d) *Listening systems.* Provide assembly areas with a listening system to assist no fewer than two persons with severe hearing loss. (This provision is different from ANSI A117.1 (1980).)

(1) If the listening system serves individual seats, locate such seats within 50 feet (15 m) of the stage or arena. Such locations shall provide a complete view of the stage or arena. (This provision is similar to ANSI A117.1 (1980).)

(2) Acceptable types of listening systems include, but are not limited to, audio loops and radio frequency systems. (This provision is similar to ANSI A117.1 (1980).)

§ 1190.240 Storage.

(a) *General.* Storage facilities required to be accessible by Subpart C—Scope shall comply with this section.

(1) Provide a clear floor space complying with § 1190.40(d) *Reach limitations. (This provision is similar to ANSI A117.1 (1980).)*

(2) Provide storage space within the reach ranges specified in § 1190.40(d), *Reach limitations.* Mount clothes rods a maximum of 4'–6" (1,370 mm) above finish floor. (This provision is similar to ANSI A117.1 (1980).)

(3) Provide accessible hardware, in conformance with § 1190.170, Controls and operating mechanism.

Subpart E—Special Building or Facility Elements [Reserved]

Appendix A—Draft Regulatory Analysis Proposed ATBCB Minimum Guidelines and Requirements for Accessible Design; Architectural and Transportation Barriers Compliance Board

July 1980.

This analysis should be read in conjunction with the proposed rule and supplementary information as they provide specific details on the issues, explain many of the terms, and present background information on accessibility requirements. The draft analysis does not contain all of the supporting material used by the Board during the development of the rule. Requests for additional copies of the draft regulatory analysis or for an explanation of specific terms can be addressed to the Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Room 1010, Washington, D.C. 20202, ATTN: Charles D. Goldman, General Counsel, or Sally Free (202/245–1801 Voice or TDD).

Comments are welcome on all parts of this draft analysis. Based upon comments received and other information available to the Board, the analysis will be revised at the time of the final rulemaking.

Subpart A—General

I. Purpose and Scope of the Analysis

A. *Purpose.* Executive Order (E.O.) 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), directs each Executive Agency to adopt procedures to improve existing and future government regulations. One of the provisions contained in that Order is that a "regulatory analysis" be prepared to examine and compare alternative approaches to regulating. The basic purpose of the analysis is to provide a decision-oriented document that explains and documents the bases of a regulatory decision through both descriptive and numerical comparisons. The draft regulatory analysis provides the basic background materials and alternatives necessary to allow the public a better opportunity to understand and participate in the selection of the most efficient and effective regulatory approach.

B. *Scope of the Analysis.* The draft regulatory analysis examines the statutory requirements, the alternatives available, and the scope of the guidelines. It specifically addresses the applicability of the guidelines to categories of buildings and facilities covered by the Act, the waiver and modification process, and the scoping requirements including those for new construction, additions, alterations, and leases. The regulatory analysis provides the background information for specific technical provisions of the guidelines including the scope, minimum requirements, and objective of each provision; summarizes relevent Board and public comments; highlights the unresolved and controversial issues; and presents the bases for the recommendations published in the Notice of Proposed Rulemaking (NPRM). Included in the draft analysis is an evaluation of the accessibility requirements for those building elements and site improvements typically contained in or around a public building or facility including horizontally and vertically accessible routes as well as emergency egress requirements; parking and passenger loading zones; ramps and curb ramps; stairs; handrails; elevators; lifts; entrances; doors; windows; toilet and bathing facilities; drinking fountains and water coolers; controls and operating mechanisms; alarms; tactile warnings ; signage; telephones; seating, tables, and working surfaces; assembly area; and storage. Dimensions and resource materials used in the development of the human data requirements are provided to give an understanding of the space and reach needs of the population requiring accessibility. Specific problems regarding those requirements are addressed under the relevant sections. The draft regulatory analysis also identifies the technical and scoping provisions that are similar to the *American National Standard Specification for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People,* ANSI A117.1–1980 (the ANSI Standard), that differ substantially from those provisions in the ANSI Standard, or that are found in the ATBCB guidelines but that are not contained in the ANSI Standard. The comparison was made in response to public comments on Question 31 of the Notice of Intent which asked if the ATBCB should adopt ANSI. Since a number of the commentors endorsed ANSI and found it a viable alternative to be considered in the regulatory process, the regulatory analysis highlights the similarities and differences so that the public can evaluate and compare the two approaches.

Based upon the criteria set forth in E.O. 12044 and from the information available to the Board at the time of publication of the NPRM, it does not appear that the proposed rule will result in any major economic consequences for the general economy, for individual industries, for geographic regions, or levels of government. Because the staff anticipates a number of questions concerning the costs of particular provisions, particularly on those paragraphs regarding the scope requirements, a number of questions have been prepared to request additional information from the standard-setting agencies on specific issues. For example, information is sought from the Department of Defense (DoD), the General Services Administration (GSA), the Department of Housing and Urban Development (HUD), and the United States Postal Service (USPS) to determine if the minimum guidelines will impose any additional costs on the Federal Government beyond those costs which currently exist as a result of agency, state, or private accessibility standards for new construction or alteration projects. Questions such as this one appear in the draft regulatory analysis under the heading "Additional Information Requested" for each section on which the additional information is sought. Responses to these questions from other Agencies and the public are welcomed and encouraged. So that the cost data is usable and comparable, please supply references to all background materials, source documents, and other information that provides the basis for the response. In addition, please refer to the section number, the title, and the question number in answering the questions.

An analysis of the economic consequences of a particular section will be provided in the final regulatory analysis if it appears that cost factors could significantly impact the economy, if it places a specific burden on a particular individual or section of the economy, or it it generates substantial controversy.

II. Applicability and Scope of the Guidelines

A. *Applicability: Buildings and facilities covered.* (1) Intended Use.

NPRM. The minimum guidelines apply to any building or facility (1) the intended use for which either (i) will required that such buildings or facility be accessible to the public, or (ii) may result in employment or residence therein of physically handicapped persons.

Legal Requirements. The Architectural Barriers Act (Public Law 90-480) of August 12, 1968, as amended (42 U.S.C. 4151 *et seq.*), defines "building" to include: any building or facility (other than (A) a privately owned residential structure not leased by the Government for subsidized housing programs and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) *the intended use for which either will require that such building or facility be accessible to the public, or may result in employment or residence therein of physically handicapped persons * * *. (Emphasis added.)*

(*Discussion.* Question 4 of the ATBCB Notice of Intent requested public comment concerning the criteria that should be used in determining if a building is one "intended for use * * * which * * * may result in employment or residence therein of physically handicapped persons." The majority of respondents to this issue believed that all buildings and facilities should be accessible with the possible exception of certain "special use" areas (*e.g.*, mechancial rooms, commercial kitchens). Board discussions reflected similar opinions.

(*Unresolved or Controversial Issues.* None.

Basis for Proposal. Based upon public and Board comments received, it is proposed that if there are buildings or facilities or portions thereof which by definition are not included under the Architectural Barriers Act's definition of building, the exception will be written into the guidelines under the appropriate section. In other cases, a determination will be made under the modification/waiver process.

(2)(i). "to be constructed or altered by or on behalf of the United States"

NPRM. The minimum guidelines define "constructed or altered on behalf of the United States" to mean "acquired by the United States through lease-purchase arrangements, constructed or altered for purchase by the United States, or constructed or altered for the use of the United States."

"Construction" is defined as "any erection of a new building or of an addition to an existing building."

Legal Requirements. A review of the legislative history of the Architectural Barriers Act (ABA), the relevant case law and the common meaning of the word "behalf," and the Federal Government's construction and alteration authority under other statutes indicates that Congress intended to include buildings and facilities constructed or altered by the United States (*i.e.*, with its own work force or through contractors) as well as those buildings and facilities constructed or altered "on behalf of" the United States.

Discussion.—Legislative history of the Architectural Barriers Act. The original Senate bill, S. 222, and the House bill, H.R. 6589, were identical and covered only buildings (A) "constructed *by* the Federal Government, or any department or agency thereof" or (B) "financed * * * with funds provided *by* a grant or loan made by the Federal Government or any department or agency thereof * * *." (Emphasis added.) During the conference on the bills, the legislation was changed to broaden the coverage of the Act to include "constructed or altered *by or on behalf of* the United States" (Architectural Barriers Act of 1968, 42 U.S.C. 4151). (Emphasis added.) This language implies coverage of buildings constructed through contracts to which the United States is not a party.

During the House hearings on the Act, Representative Gray asked Senator Barlett, the author and sponsor of S. 222, whether the language concerning buildings constructed by or on behalf of the Federal Government was "broad enough to take in the wide range of leasing arrangements that the Federal Government has with respect to Federal Government buildings." *Hearings on H.R. 6589 and S. 222 Before the Subcomm. on Public Buildings and Grounds of the House Comm. on Public Works*, 90th Cong., 2d Sess. 6 (1968). Senator Bartlett replied, "I should hope that the regulations of the General Services Administrator would make that abundantly clear. But if there is any doubt, sir, I would favor writing it into the language of the act." The final language of the Act included buildings "to be leased in whole or in part by the United States."

The evolution of the final version of the Act suggests that Congress intended (1) to include not only buildings constructed "by" the United States, but also a second category of buildings built by or on behalf of the United States, and (2) certain leased buildings (a category within the category of buildings constructed or altered by or on behalf of the United States but significant enough to merit clarification). Therefore, "on behalf of" means something other than "by," and it is a concept which includes leases as well as other arrangements.

Government Construction and Alteration Authority. The Public Buildings Act provides that, "No public building shall be constructed except by the (GSA) Administrator * * *" (40 U.S.C. 601). In addition, the Administrator is authorized to alter any building (40 U.S.C. 603). The Administrator's responsibilites under the Act, except for the alteration responsibility, are to be delegated to other agencies when the cost of the project does not exceed $100,000, and may be delegated in other instances (40 U.S.C. 614). The Administrator is authorized to carry out any construction or alteration by contract (40 U.S.C. 609). It is submitted that construction and alteration performed pursuant to these sections clearly would be construction and alteration "by the United States." The Department of Defense and the U.S. Postal Service have similar authority to construct and alter buildings (10 U.S.C. 2661, 2674, 2682; 39 U.S.C. 101, 401, 403, 404; H.R. Rep. No. 1787, 90th Cong., 2d Sess. 4 (1968)).

Furthermore, construction on behalf of the United States should include buildings constructed through purchase contracts. (For instances, a contractor erects a building "for the use of" the United States or to be purchased by the United States (*see* 40 U.S.C. 602a(e) and 356).) This form of acquisition was in existence in 1968 under 40 U.S.C. 356. The purchase contract authority under 40 U.S.C. 602a expired in 1975; it is unclear whether it otherwise continues to exist.

Unresolved or Controversial Issues. As used in § 1190.2 Applicability, how should the term "constructed or altered by * * * the United States" be defined?

Additional Information requested. 1. Each fiscal year, how many buildings and facilities subject to the minimum guidelines are purchased but not altered by the U.S. Government?

DoD————
GSA————
HUD————
USPS————

2. If these buildings and facilities were required to be altered by the U.S. Government to meet the minimum guidelines prior to occupany, what is the estimated annual costs that would be incurred by the Federal Government?

DoD————
GSA————
HUD————
USPS————

3. Each fiscal year, how many buildings and facilities are (a) acquired by the United States through lease-purchase arrangements?; (b) constructed or altered for purchase by the United States?; or (c) constructed or altered for the use of the United States?

DoD (a)————; (b)————
(c)————
GSA (a)————; (b)————
(c)————
HUD (a)————; (b)————
(c)————
USPS (a)————; (b)————
(c)————

4. Based on the annual work plan, the scope provisions of § 1190.33 ALTERATIONS of the NPRM, and the costs presently incurred by the Federal Government to make buildings and facilities accessible, what is the estimated *annual* costs that will be incurred by the U.S. Government to bring

(a) Buildings or facilities acquired by the United States through lease-purchase arrangements into compliance with:

(i) Existing standards?

(ii) The proposed minimum guidelines?

(b) Buildings or facilities constructed or altered for purchase by the United States into compliance with:

(i) Existing standards?

(ii) The proposed minimum guidelines?

(c) Buildings or facilities for the use of the United States in compliance with:

(i) Existing standards?

(ii) The proposed minimum guidelines?

DoD (a)(i)——; (a)(ii)—— (b)(i)——; (b)(ii)——; (c)(i)——; (c)(ii)——
GSA (a)(i)——; (a)(ii)—— (b)(i)——; (b)(ii)——; (c)(i)——; (c)(ii)——
HUD (a)(i)——; (a)(ii)—— (b)(i)——; (b)(ii)——; (c)(i)——; (c)(ii)——
USPS (a)(i)——; (a)(ii)—— (b)(i)——; (b)(ii)——; (c)(i)——; (c)(ii)——

For each of the above questions, please supply any background material, source documents, and any other information that provided the basis for the response.

(2)(ii) To be leased in whole or in part by the United States.

NPRM

The minimum guidelines apply to buildings to be leased in whole or in part by the U.S. (i) after August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the U.S., or (ii) on or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date. The guidelines do not apply to leases by recipients of Federal assistance. (*See* Memorandum for Drew S. Days, III, Assistant Attorney General, Civil Rights Division, Department of Justice, from the Office of Legal Counsel, May 8, 1980, Re: Architectural Barriers Act § 1, 42 U.S.C. 4151.)

Legal Requirements

The authority for leasing space for Federal Agencies is vested in the General Services Administration (GSA). Applicable GSA policies and procedures are found in the "Assignment and Utilization of Space in the Federal Property Management Regulations" (41 CFR 101-17). Under 41 CFR 101-17.102-1(a)(3), GSA performs all functions with respect to assignment and reassignment of space acquired by the Agencies through the leasing process. In specific cases, however, the Administrator of GSA may authorize other Agencies to perform these designated functions (41 CFR, 101-17.102-1).

Under the Economy Act (40 U.S.C. 278(a)), monies may be expended only for those premises occupied by the Government. Where the Government leases only a portion of a building, only that portion may be required to be accessible. The Government has the authority to require that the essential features be accessible and that an accessible route from the entrance to the leased portion of the building and to the essential features be provided. However, the U.S. Government is given no general authority to require an accessible route to other areas open to the public which are not otherwise occupied by a Federal entity, *e.g.*, common areas. Where the U.S. Government leases the entire structure, the Government may require such common areas to be accessible.

The only exception to this regulation is that where such access to common areas has been determined to be a valid space need for the agency (*e.g.*, a cafeteria in an otherwise remote location), then access to that common area can be provided (41 CFR Part 101, Chapter 12 and 18). It should be noted that the practical problem GSA encounters is that the lessor has often (especially in an existing building) leased the common area to another party, such as a shopkeeper or cafeteria operator.

Discussion

Because GSA leases the vast majority of Federal space, discussion by the Board centered on current GSA practices. Under the present GSA policy, the same specifications apply to building and facilities leased by the Federal Government as to those owned by the Government. This policy was supported by the public responses to Question 2 of the ATBCB Notice of Intent in which 22 of 40 respondents stated that the same standards should apply to leased buildings as apply to new construction. Only seven commentors felt that the standards for leased space should be less stringent; most of these cited cost considerations as the reason.

According to GSA, most of its leases are for a portion of a building or facility and do not involve the leasing of the entire building or facility. It is currently GSA's practice to attempt to lease an accessible route to those portions of the existing building it leases. However, GSA's leasing powers are limited, and the agency's leases do not always address such elements as entrances, elevators, and toilet rooms. GSA leases do not provide for access to privately owned spaces such as common areas (e.g., cafeterias) that are open to the public. GSA requires modifications or waivers only in cases where a lease is awarded to a firm other than the one offering the space that most nearly complies with the ANSI A117.1-1961 (R1971) standards; the modification/waiver is required for those leased elements or spaces that are not accessible but would have met the standards if the other space had been chosen (41 CFR 101-19.604(5)). Waivers are not required if accessible space is not available. All waivers must be approved by the Administrator. Public comments in response to Question 12 of the Notice of Intent were divided on GSA's general approach to the leasing of accessible space which permits that only selected requirements be met. Groups and organizations associated with the interests of handicapped persons felt that the Federal Government should foster accessibility and this can most effectively be accomplished by the Government requiring that leased space be accessible. Other groups, including a building code congress, a university, and a municipality, thought the GSA approach was reasonable. Most commentors also believed that the portion of the buildings leased should be made accessible, that an accessible route should be provided, and that common areas should be accessible.

According to GSA, it is not the accessibility requirements that increase cost to the Government in the leasing of a building; it is, instead, the multitude of other Federal requirements, such as those required by the *Occupational Safety and Health Agency* (OSHA), that increase the leasing costs to the Federal Government. As a result of these and

other factors not related to accessibility, GSA, as of January 1980, had a backlog in acquiring space of 10 million square feet. (*See Public Buildings Act of 1979, Hearings before the Senate Committee on Environment and Public Works*, 96th Cong., 2d Sess. 10 (1980).)

Unresolved or Controversial Issues

None.

Additional Information Requested

1. Each fiscal year, (a) how many new leases are entered into by the Federal Government in which the entire building or facility is leased? (b) Please indicate the gross number of square feet involved.

DoD (a)———; (b)———
GSA (a)———; (b)———
HUD (a)———; (b)———
USPS (a)———; (b)———

2. Each fiscal year, (a) how many new leases are entered into by the Federal Government in which a portion of the building or facility is leased? (b) Please indicate the gross number of square feet involved.

DoD (a)———; (b)———
GSA (a)———; (b)———
HUD (a)———; (b)———
USPS (a)———; (b)———

3. Each fiscal year, (a) how many new leases are renewed by the Federal Government in which the entire building or facility is leased? (b) Please indicate the gross number of square feet involved.

DoD (a)———; (b)———
GSA (a)———; (b)———
HUD (a)———; (b)———
USPS (a)———; (b)———

4. Each fiscal year, (1) how many leases are renewed by the Federal Government in which a portion of the building or facility is leased? (2) Please indicate the gross number of square feet involved.

DoD (a)———; (b)———
GSA (a)———; (b)———
HUD (a)———; (b)———
USPS (a)———; (b)———

5. Based on the annual work plan, the scope provisions of Subpart C, and the costs presently incurred by the Federal Government to make buildings and facilities accessible, what is the estimated *annual* cost that will be incurred by the U.S. Government and by the owners of leased buildings and facilities to bring each of the above categories of leased buildings and facilities into compliance (a) with the existing standards? (b) with the proposed minimum guidelines?

DoD: (a)———; (b)———
Owner: (a)———; (b)———
GSA: (a)———; (b)———
Owner: (a)———; (b)———
HUD: (a)———; (b)———
Owner: (a)———; (b)———
USPS: (a)———; (b)———
Owner: (a)———; (b)———

6. In general, is accessible space available for leasing?

DoD———
GSA———
HUD———
USPS———

For each of the above questions, please supply any background material, source documents, and any other information that provided the basis for the response.

(2)(iii) To be financed in whole or in part by a grant or loan made by the United States, if * * *

NPRM

The minimum guidelines apply to those buildings or facilities financed by Federal grants or loans if the law authorizing the grant or loan also authorizes the issuance of standards for design, construction, or alteration, even if, in its discretion, the Agency chooses not to issue or apply such standard.

Legal Requirements

Although the legislative history and the ABA clearly include buildings and facilities to be purchased and to be leased by the Federal Government if such buildings are constructed or altered in accordance with the plans and specifications of the U.S. Congress included no language in the Act that would cover buildings purchased or leased with grant or loan money if that money was not to be used to finance the construction or alteration of the building or facility. Therefore, the guidelines cannot legally require buildings or facilities to be accessible if that money was not to be used to finance construction or alteration of the building or facility.

The Department of Justice has agreed with the Board's opinion that the ABA covers those buildings for which standards are authorized even if they have not actually been imposed; however, Justice found that the Act does not extend to buildings leased by recipients of Federal grants or loans where the funds were not made available for building construction or alteration. (*See* Memorandum for Drew S. Days, III, Assistant Attorney General, Civil Rights Division, Department of Justice, from the Office of the Legal Counsel, May 8, 1980, Re: Architectural Barriers Act §1, 42 U.S.C. 4151.)

The ATBCB Office of the General Counsel has determined that buildings designed, constructed, or altered under the State and Local Assistance Act of 1972, Pub. L. 95–512, 31 U.S.C. 1221 *et seq.* (Revenue Sharing Act), are not to be considered covered by the Architectural Barriers Act. The opinion is based on the uniqueness of the Revenue Sharing Act and is concurred in by the Office of Revenue Sharing of the Office of the Treasury.

Discussion

The phrase "to be financed" is interpreted to include design, construction and alteration. The term "financed" can also encompass non-monetary considerations such as services of Federal personnel, guarantees, and insurance. (*See e.g.*, 29 U.S.C. 1701(a), 29 U.S.C. 276(c), and 29 U.S.C. 3.2(d).)

Unresolved or Controversial Issues

None.

Additional Information Requested

1. Each fiscal year, (a) how many buildings and facilities are financed by Federal grants and loans that are required to meet the accessibility requirements of the minimum guidelines. (b) Please indicate the gross number of square feet involved.

DoD (a)———; (b)———
GSA (a)———; (b)———
HUD (a)———; (b)———
USPS (a)———; (b)———

2. Based on the annual work plan, the scope provisions of Subpart C, and the costs presently incurred by the Federal Government to make buildings and facilities accessible, what is the estimated *annual* cost that will be incurred by:

(a) The U.S. Government to bring these buildings and facilities into compliance with existing standards?

(b) The U.S. Government to bring these buildings and facilities into compliance with the proposed minimum guidelines?

(c) State and local governments and private parties to bring these buildings and facilities into compliance with existing standards?

(d) State and local governments and private parties to bring these into compliance with the proposed minimum guidelines?

DOD (a)———; (b)———; (c)———; (d)———
GSA (a)———; (b)———; (c)———; (d)———
HUD (a)———; (b)———; (c)———; (d)———
USPS (a)———; (b)———; (c)———; (d)———

For each of the above questions, please supply any background material,

source documents, and any other information that provided the basis for the response.

Subpart B—Waivers and Modifications: Processed Departures

NPRM

Waivers and modifications may be issued on a case-by-case basis by the head of each standard-setting agency if the conditions are met which are set forth in Subpart B of the Minimum Guidelines.

Legal Requirements

The Architectural Barriers Act directs the standard-setting agencies "to insure *whenever possible* that physically handicapped persons * * * have ready access to * * * buildings." (Emphasis added.) (42 U.S.C. 4152.) Section 6 of the Act, in addition, authorizes the head of each of the four standard-setting agencies to modify or waive their respective standards if:

1. The application for a waiver and/or modification is made by the head of the concerned department, agency, or instrumentality of the United States;

2. The application is made on a case-by-case basis; and

3. The Administrator or Secretary makes a determination that such a modification or waiver is necessary.

(*See* Architectural Barriers Act, Pub. L. 90–480, of August 12, 1968, as amended, 42 U.S.C., 4151 *et seq.*)

The 1978 amendments to the Rehabilitation Act of 1973 provide the ATBCB with express responsibilities for waivers and modifications:

Section 502(b). It shall be the function of the Board to: (1) insure compliance with the standards prescribed pursuant to the Act * * * including * * * insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section * * *.

Discussion

Because the 1976 Act was amended to include the wording "whenever possible," this phrase should be read in the context of waivers and modifications, standards of access, the purpose of the Act, and other 1976 amendments to the Act. Although the phrase does not have a precise legal definition and has been interpreted by the courts to have a variety of meanings, the phrase, "whenever possible," when read in context with the other amendments to the Act and in light of the Congress' clear intent to strengthen the Act by limiting agency discretion, can only be interpreted to limit the agencies' discretion and to imply narrow grounds for exceptions.

Consultation by the ATBCB staff with representatives from the four Federal standard-setting agencies confirmed that in practice a "waiver to the standard" and "a modification to the standard" have distinct requirements, although the process used to approve waivers and modifications are the same. The following definitions were written based on the four agencies' interpretation of "waiver" and "modifications":

"Modification" means an official act in accordance with the provisions of the Architectural Barriers Act to permit design, construction, alteration, or lease of a building without strict compliance with a particular provision of a guideline or standard.

"Waiver" means an official act in accordance with the Architectural Barriers Act to: (1) Exempt an entire building or facility from all requirements of a standard; or (2) Exempt an entire building or facility, or portion of a building or facility, from the requirements of a standard with respect to a specific element or space.

Defining the term "modification" required the Board to address the concept of "equivalent facilitation." This term had already been addressed to a certain extent by ANSI A117.1 (1961), GSA, and some state codes which permitted modifications where a substitute method achieved equivalent access. In legal briefs filed in connection with various administrative proceedings, it has been the ATBCB's position that the law and the standard require more than mere access for disabled persons. The law mandates that access and use be provided that is substantially equivalent to that afforded able-bodied persons in such respects as ease, convenience, dignity and independence. This interpretation is supported by the legislative history of the Architectural Barriers Act and principles of statutory interpretation. (*See* Memorandum of Points and Authority in Support of Executive Director's Motion for Judgment On The Record, In re Compliance, Union Station, Washington, D.C. 3–77–1, Memorandum of Points and Authorities In Support of the Executive Director's Motion for Partial Summary Judgment, In re Compliance Southeastern Program Center, Birmingham, Alabama, 6–77–2.)

A definition of equivalent facilitation was, therefore, developed to build on this legal interpretation:

"Equivalent facilitation" means access or use which is, in terms of performance, dignity, convenience, and independence, at least substantially equal to or better than that required under the guideline or a standard.

Equivalent facilitation was also addressed in the ANSI A117.1961 (R1971):

In cases of practical difficulty, unnecessary hardship, or extreme differences, administrative authorities may grant exceptions from the literal requirements of this standard or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection are thereby secured. (Emphasis added.)

The ANSI A117.1–1980 does not define or make reference to equivalent facilitation nor does it address the issue of waivers and modifications.

Unresolved or Controversial Issues

None.

Basis for Proposal

The specific situations for a waiver or modification were developed from public comments in response to Questions 15, 16, 17, and 18 of the Notice of Intent, from existing policies regarding waivers and modifications, and from Board discussions. In general, there was consensus that the need for a waiver or modification may arise in the following situations: (1) Safety or security; (2) undue hardships; (3) limitations imposed by legislation other than the Architectural Barriers Act; and (4) structural impracticability. The ATBCB also recognized the need to provide a modification process which would allow designers, builders, and implementing agencies an opportunity to present the Board with alternative methods of providing accessibility that are not specifically contained in the gudelines. It was further recognized that some alteration projects may require special consideration because the application of the standard would be structurally impracticable. As a result of discussions, the Board developed additional requirements for modifications (*See* § 1190.23 and the supplementary information discussion of this topic.)

Subpart C—Scope

§ 1190.31 Accessible Buildings and Facilities: New Construction

NPRM

All new buildings and facilities shall comply with the minimum requirements set forth in § 1190.31

Legal Requirements

The Architectural Barriers Act (Pub. L. 90–480), as amended, directs the standard-setting agencies to "prescribe standards for the design, construction and alterations of buildings * * * to insure whenever possible that

physically handicapped persons will

recommendation to require that all new

vertical access is provided. ANSI simply

Standards Committee, Tuesday, April

GSA (a)———; (b)———

buildings under the category of buildings

physically handicapped persons will have ready access to, and use of, such buildings."

The ABA requires four agencies—the General Services Administration; the Department of Housing and Urban Development; the Department of Defense; and the United States Postal Service—to establish standards for accessibility. Buildings subject to the Act must conform to those standards (42 U.S.C. 4251–4256).

The ATBCB was established by Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, to ensure compliance with standards issued under the Architectural Barriers Act.

The Rehabilitation Act Amendments of 1978, Pub. L. 95–602, amended Section 502 of the Rehabilitation Act of 1973, 29 U.S.C. 792, to read:

(b) It shall be the function of the Board to * * * (7) establish minimum guidelines and requirements for the standards pursuant to * * * the Architectural Barriers Act of 1968 (ABA).

Discussion

It is clear from the legislative history of the Architectural Barriers Act of 1968 (Pub. L. 90–480) that the intent of Congress was to make public buildings meet a high standard of accessibility. The operative language of the Act (42 U.S.C. 4156) requires that certain buildings be designed, constructed, or altered in accordance with the standards set by the three agencies. (The 1978 amendments to the Act added a fourth standard-setting agency: the United States Postal Service.) The sections relating to the establishment of standards (42 U.S.C. 4152–54) *authorized* the three agencies to "prescribe such standards for the design, construction, and alteration of buildings * * * *as may be necessary* to ensure that physically handicapped persons will have ready access to, and use of, such buildings." (Emphasis added.)

In response to a GAO report, *Further Action Needed to Make Buildings Accessible to Handicapped Persons* (July 1975), the Act was amended in 1976 to require agencies to issue standards "to ensure whenever possible that physically handicapped persons will have ready access * * *" (Pub. L. 95–541). This amendment, therefore, eliminated the agencies' discretion to choose not to issue standards. Congress provided the standard-setting agencies and the ATBCB with wide discretion in establishing standards to implement the purpose of the Act.

Public comments, in response to the Board discussions, the 1975 GAO report, ATBCB Notice of Intent Question 4, and research supports the NPRM recommendation to require that all new buildings and facilities be fully accessible. The HUD research report, "The Estimated Cost of Accessible Buildings," found that the cost for designing for accessibility from the beginning, "amounts to less than 1% of the total construction cost." The cost study examples provided in the report underscored the importance of accessibility and found that if a building or facility is designed for accessibility it generally provides improved pedestrian circulation routes for everyone, not just the handicapped, and does not necessarily increase the overall square footage of the building.

Alternatives Considered

The following alternatives were considered by the Board in their discussions concerning the number of particular elements that should be required:

Alternative 1: A number or percentage should be specified;

Alternative 2: The standard should require a "reasonable number" or "appropriate number"; or

Alternative 3: The standard should require a reasonable number or appropriate number and specify a minimum number.

Discussion

The ANSI A117.1–1980 specifications require that if a particular element is required, then at least one accessible element of that particular type is to be provided. It is recommended by the ANSI A117.1 Committee that the administrative authority adopting this standard should specify reasonable numbers or should establish procedures for determining them. Factors which ANSI recommends using to determine the actual number of elements to be provided include:

(1) Population to be served;

(2) Availability to occupants;

(3) Distances and times required to use the accessible elements; and

(4) Provisions of equal opportunity and treatment under law.

The ATBCB guidelines as published in the NPRM and the ANSI specifications are similar except for the following:

(1) Parking spaces: The ATBCB proposes that if parking is provided, the number of accessible parking spaces shall comply with the table provided; ANSI recommends a reasonable number, but always at least one accessible space comply with the appropriate section if parking is provided.

(2) Elevators: The ATBCB proposes to require a pasenger elevator for multi-story buildings unless another means of vertical access is provided. ANSI simply requires that if passenger elevators are provided, each shall comply with the appropriate section. The ATBCB also excepts elevator pits, elevator penthouses, mechanical rooms, and piping or equipment catwalks from the guidelines. Each elevator is required to be accessible in a bank because the typical call or summons technique used in bank operation generally does not discriminate as to which elevator is summoned. In general, it summons the closest elevator traveling in the desired direction. If there were only one elevator per bank that was accessible and this summons technique was employed, it could conceivably result in a situation whereby a handicapped person might have to wait a considerable length of time before the accessible elevator arrived.

(3) Platform Lifts: The ATBCB proposes to permit the use of platform lifts as a means o vertical access; ANSI permits them only if other alternatives are not feasible.

(4) Entrances: The ATBCB proposes that each entrance shall be accessible; ANSI recommends a reasonable number but always at least one of the principal entrances be accessible.

(5) Toilet and Bathing Facilities: The ATBCB proposes that each be accessible; ANSI recommends a reasonable number, but always at least one.

(6) Assembly Areas: The ATBCB proposes that if assembly areas are provided, the number of accessible viewing positions shall comply with the table provided; ANSI recommends only that a reasonable number but no less than two shall comply with the appropriate section if assembly areas are provided. The ATBCB also proposes to require listening systems to assist no fewer than two persons with a severe hearing loss. Listening systems are not mandatory in the ANSI Standard.

(7) Dwelling Units: The ATBCB proposes to reserve this section for future rulemaking; ANSI now recommends specific criteria.

Comments to the ATBCB Notice of Intent Question 29 were divided on the issue of requiring either a "specific number" or a "reasonable number." Consumers generally believed that the "reasonable number" approach would be appropriate. The enforcement organizations, on the other hand, felt that the "reasonable number" approach would be impossible to enforce and it would eventually be the courts that would decide the definition of a "reasonable number." (For additional information on the deliberation of this issue, *see* the Minutes of the Technical Standards Committee, Tuesday, April 29, 1980. pp. 8–9.)

Unresolved or Controversial Issues

a. Should parking facilities be required at all new buildings and facilities?

b. Should each door at each entrance be required to comply with § 1190.130 Doors?

Additional Information Requested

1. Parking and Passenger Loading Zones:

a. Each fiscal year, how many buildings or facilities are constructed by or on behalf of the U.S. Government that do not provide any parking facilities?

b. If parking facilities were required at newly constructed buildings or facilities that would not otherwise provide these spaces, what would be the additional cost per space as proposed by § 1190.60 Parking and Passenger Loading Zones in the NPRM?

DOD (a) ——; (b) ——
GSA (a) ——; (b) ——
HUD (a) ——; (b) ——
USPS (a) ——; (b) ——

2. Elevators:

a. Each fiscal year, how many multi-story buildings or facilities are constructed by or on behalf of the U.S. Government that would require the installation of elevators under the accessibility requirements of the NRPM that would otherwise not be provided?

b. If these elevators are required, what will be the total annual cost by fiscal year to provide these additional elevators?

DoD (a) ——; (b) ——
GSA (a) ——; (b) ——
HUD (a) ——; (b) ——
USPS (a) ——; (b) ——

3. Entrances:

a. Estimate the number of additional entrances that will be required to be accessible as a result of the proposed paragraph § 1190.31(h) Entrances that otherwise would not be made accessible.

b. If these "extra" entrances are required to be accessible, what will be the additional cost per fiscal year to make these entrances accessible?

DoD (a) ——; (b) ——
GSA (a) ——; (b) ——
HUD (a) ——; (b) ——
USPS (a) ——; (b) ——

4. Doors:

a. If each door at each entrance is required to comply with § 1190.130 rather than only one door at each entrance being required to comply, what will be the total cost per fiscal year to make these additional doors accessible?

DoD (a) ——; (b) ——
GSA (a) ——; (b) ——
HUD (a) ——; (b) ——
USPS (a) ——; (b) ——

5. Toilet and Bathing Facilities:

a. What will be the total cost per fiscal year to require that each toilet and bathing facility in a newly constructed building or facility comply with § 1190.150 Toilet and Bathing Facilities?

b. What is the total cost per fiscal year to require that one toilet and bathing facility for each sex per floor in a newly constructed building or facility comply with § 1190.150 Toilet and Bathing Facilities?

DoD (a) ——; (b) ——
GSA (a) ——; (b) ——
HUD (a) ——; (b) ——
USPS (a) ——; (b) ——

Basis for Proposal

It was decided that architects and designers need to be given precise requirements so that they can better anticipate the design requirements of the building. It was also determined that unless specific numbers were incorporated into the standard, enforcement of the standard would be difficult if not impossible. Moreover, without specific numbers, the minimum numbers would be determined on a case-by-case basis, hence destroying any semblance of uniform requirements. the Board considered each element before establishing specific numbers. Building code requirements, costs and existing State and Federal accessibility requirements were relied upon in making the proposal for the NPRM. For information on a specific number or minimum number proposed by the Board, *see* the relevant section of the regulatory analysis.

§ 1190..32 Accessible Buildings and Facilities: Additions

NPRM

Each addition to an existing building or facility shall comply with § 1190.31 New Construction except for the requirements regarding entrances; accessible routes; and elements, essential features, and common areas. These provisions shall comply with § 1190.32 Additions of the minimum guidelines.

Legal Requirements

See § 1190.31 Accessible Buildings and Facilities: New Construction and § 1190.2 Applicability, paragraph (2)(i) "To be Constructed or Altered By or on Behalf of the United States."

Discussion

Based on the expressed intent of Congress to include a wide range of buildings under the category of buildings constructed or altered "on behalf of the United States," the term "building" or "facility" is defined as:

All or any portion of buildings, structures, equipment; roads, walks, parking lots, parks, sites, or other real property or interest in such property.

The definition is further refined by defining "construction" to mean:

Any erection of a new building or *of an addition to* an existing building. [Emphasis added.]

The intent of the Architectural Barriers Act is that as a building or a portion of a building is constructed, the new construction is to be completed in compliance with the applicable standards. The Architectural Barriers Act and its legislative history do not provide any clear guidance as to what extent an existing building or facility must be made accessible when an addition is made to that structure. At one point, Representative Gray, a co-manager of the legislation, suggested that in the case of an addition of an annex to a postal facility, the entire facility should be made accessible. (*House Hearings on H.R. 8589 and S. 222,* Subcomm. on Public Buildings and Grounds of the House Comm. on Public Works), 90th Cong., 1st Sess. 6 (1968). In light of these remarks, the Act may be interpreted to require that the addition must be accessible and comply with the requirements for new construction. Moreover, if elements and spaces are not provided in the addition, essential features such as entrances, accessible routes, and toilet and bathing facilities, and the like must be made accessible in the existing building. However, the Act and the legislative history do not provide any rationale for an interpretation that would require the entire existing building to be made accessible. Public comments to question 7 of the Notice of Intent support this interpretation. The overwhelming majority of respondents believed that the addition should be made accessible in accordance with the minimum guidelines and that common areas and essential features of the existing building should be accessible if these elements and spaces were not also located in the addition.

Unresolved Issues

None.

Basis for Proposal

The legal requirements and legislative history provided the bases for the NPRM. Public comments and Board deliberations were also considered.

§ 1190.33 Accessible Buildings and Facilities: Alterations

NPRM

Alterations to existing buildings and facilities shall comply with § 1190.33 Alterations of the minimum guidelines.

Legal Requirements

The Architectural Barriers Act requires that buildings and facilities altered by the Federal Government or with Federal financial assistance must be altered in accordance with the standards prescribed under the Act. 42 U.S.C. 4151 and 4155. *See also* Regulatory Analysis, § 1190.2: Applicability, paragraph (2)(i) "To Be Constructed or Altered By or On Behalf of the United States."

Discussion

The Architectural Barriers Act and its legislative history clearly demonstrate that the Congress intended the Act to cover alterations to existing buildings and facilities and that is is the Federal Government's responsibility to ensure that alterations to these buildings be barrier free and completed in compliance with the applicable standards. The Act and its legislative history do not provide clear guidance as to the extent other parts of an existing building must be brought into compliance when alterations are made to a portion of the building or facility. The Act also does not provide a definition of what is included or not included under the term "alteration."

It was, therefore, necessary for the Board to define the extent of coverage included within the meaning of alteration. In order to make this determination, the ATBCB examined the scope requirements and definitions of "alteration" used by state and Federal agencies. It was found that compliance for alteration was mandated in one of three ways:

Alternative 1: By definition. That is, specific elements and spaces, if altered, would be required to be brough into compliance.

Alternative 2: By the percentage of the construction cost of the alteration to the building's value. That is, the full and fair cash value of the building or facility would be determined before work commenced and the cost of the alteration would be expressed as a percentage of that value.

Alternative 3: By percentage of the gross square footage of the portion of the building to be altered to the gross square footage of the entire building. That is, it would be similar to alternative 2 except that square footage rather than cost would be the determining factor for compliance.

Each of the alternatives has inherent strengths and weaknesses. Alternative 1, the definition approach, has the weakness that it does not provide a coordinated approach to the accessibility requirements of the building or facility as a whole. Since only the particular element or space being worked on would be corrected during the alteration project, linking features may be omitted and thus even basic accessibility may not be achieved. Its advantages are ease of application and low cost.

Alternatives 2 and 3 are similar in that they provide a coordinated accessibility approach for the entire building or facility. The difficulty with Alternative 2 is that a building's value may be determined prior to design, however, accurate construction costs are available only at the bid opening—this may be too late to change the scope of a particular project.

In addition to defining the extent of coverage for work involving alterations, it was also necessary for the Board to define the term "alteration." To develop this definition, the Board compared the definitions used by a number of Federal and state agencies. Most definitions of alteration included the words, "remodeling," "renovation," "retrofitting," and "rehabilitation." Several included "repairs and maintenance." The concepts of "addition" and "historic preservation" were not included in the definitions because these terms have vastly different implications than alteration. For example, an addition to a building or facility involves new construction as opposed to work taking place within an existing building; historic preservation, on the other hand, includes the constraints of "visual authenticity" as well as structural difficulties that are not usually present in routine alteration work. (*See* the definitions used by New Jersey, Massachusetts, Rhode Island, Illinois, Washington, DoD, HUD, GSA, and USPS.)

Unresolved or Controversial Issues

a. Public comment is invited on the "50 percent criteria"—floor space or full and fair cash value—for treating significant alterations as new construction and thus requiring full access throughout the entire structure.

b. The ATBCB also highlights the question of whether it should, as a matter of policy, require an accessible means of vertical access where an escalator is contemplated to replace an existing excalator.

Alternatives

Based upon a review of the legislative history and the requirements of the Act, the Board determined that the following alternatives or combinations thereof were available in proposing a policy for alteration work:

Alternative 1. All alteration work must comply with the standards.

Alternative 2. The space or area in which the alteration work is completed must be altered to comply with the standards.

Alternative 3. The altered element, space or area, and a path to it must be altered to comply with the standards.

Alternative 4. The entire building must be altered to comply with the standards.

The first alternative would require that if a toilet stall in a toilet facility is remodeled, the stall would have to meet the standards. Using the same example, the second alternative would require that other stalls and possibly the entire toilet facility would have to meet the standards. Under the third alternative, there would have to be an accessible route from an accessible entrance to the stall. The fourth alternative would require the entire building to comply with the standards. The rationale for alternatives 2–4 is that there would be little purpose in having the stall accessible to the physically handicapped if the building itself is not accessible.

Costs

The HUD study "Estimated Cost of Accessible Buildings" found that alteration costs for existing buildings ranged from .1% to over 16% above original construction costs. The cost-estimating procedure and the resulting estimates of this study did not take into account that there would be costs incurred by the alteration even if barriers were not removed. It assumed instead that the alteration work was being undertaken to eliminate architectural barriers and not for any other purpose. In general, the ABA does not require that alterations be made exclusively for the purpose of gaining accessibility; instead, the ACT requires that when alterations are made, then these alterations should be accessible. As a result, the figures in the HUD study may not be realistic. Other studies that were reviewed suffered from similar deficiencies.

Additional Information Requested

1. Based on the annual work plan, the scope provisions of § 1190.33 Alterations and costs presently incurred by the Federal Government, state and local governments, and the private sector to make buildings and facilities accessible, what is the estimated annual cost for accessibility that will be incurred by the U.S. Government, state and local governments, and the private sector if:

(a) Only those elements, spaces, essential features, or common areas altered are brough into compliance with the minimum guidelines?

(b) In addition to (a) above, the space or area in which the alteration work is located must be brough into compliance with the minimum guidelines.

(c) In addition to (a) and (b) above, and accessible path from the entrance to the altered space must be brough into compliance with the minimum guidelines.

(d) In addition to (a), (b), and (c) above, the entire building must be brought into compliance with the minimum guidelines.

DoD (a)———; (b)———; (c)———; (d)———
GSA (a)———; (b)———; (c)———; (d)———
HUD (a)———; (b)———; (c)———; (d)———
USPS (a)———; (b)———; (c)———; (d)———
State and local governments (a)———; (b)———; (c)———; (d)———
Private sector (a)———; (b)———; (c)———; (d)———

For each of the above questions, please supply any background material and documentation that provides the basis for the response. Cost estimates should not include the cost of work that would be required for the alteration if there were not requirements for accessibility.

Basis for Proposal. There was general agreement among those who commented on question 6 of the Notice of Intent that there should be a point at which extensive alterations should trigger a requirement that the entire building be brought into compliance with the standards. It also was recommended by a majority of the public commentors in their responses to question 5 that if alteration work, including work related to maintenance or repair, presents an opportunity to provide accessibility, that work should comply with the standards. In response to question 7 of the Notice of Intent, commentors answered that the altered portion of the building should be accessible and that an accessible route should be provided to the essential features and to the altered portion of the building.

It was also determined, based on the legislative history and the law, that it was legally permissible to set a point at which the extent of alteration is such that it amounted to new construction; defining that point is a policy matter. It is also legally permissible to exclude maintenance work such as cosmetic work from the definition of alteration.

A review of building codes and other accessibility requirements found that both 50% of the floor space and 50% of the full and fair market value are used to require building owners to bring a building into compliance with a standard. (*See* the Uniform Building Code, Southern Building Code, and the New Jersey, Massachusetts, Rhode Island, and Illinois state codes.)

As a result of the above findings, the Board recommends that a policy which combines the various requirements discussed above be used. The proposal in the NPRM uses a combination of the definition and percentage of floor space and costs alternatives to determine the elements and spaces required to be altered to comply with the minimum requirements.

§ 1190.34 Accessible Buildings and Facilities: Leased

NPRM. Buildings or facilities or portions thereof leased by the Federal Government shall comply with the requirements of § 1190.31 New Construction, § 1190.32 Additions, and § 1190.33 Alterations, and with § 1190.34 Leased.

Legal Requirements. See paragraph (2)(ii) "To Be Leased in Whole or in Part by the United States."

Discussion. See paragraph (2)(ii) "To Be Leased in Whole or in Part by the United States."

Basis for Proposal. See paragraph (2)(ii) "To Be Leased in Whole or in Part by the United States."

Subpart D—Technical Revisions

§ 1190.40 Human Data

(a) *General.—Scope.* The space and reach requirements for the physically handicapped specified in § 1190.40 Human Data are based upon the space requirements and reach ranges of an adult seated in a manually operated wheelchair. Because available data indicates a wide variation in physical attributes and abilities among the handicapped population, it is recognized that many persons, particularly those who lack trunk control and those who have severe reach restrictions, may not be able to accomplish all movements and tasks within these ranges. Disabilities which are considered beyond the scope of the minimum guidelines are those of non-physical nature (*e.g.*, learning disabilities and mental retardation). The space and reach ranges of children were not constructed for these guidelines.

Objective. To provide the minimum space and reach requirements necessary for adults who use wheelchairs or walking aids to negotiate a path of travel and to operate controls and equipment located within accessible spaces.

Unresolved or Controversial Issues. Should the minimum guidelines accommodate the manipulation and maneuvering skills of *all* physically handicapped persons living outside of institutions or should the guidelines be limited to the accommodation of specific categories of disabilities?

Basis for Proposal. The technical specifications reflect those used in state codes as well as the research conducted by Dr. Edward Steinfeld while under contract to the Department of Housing and Urban Development (HUD). The provisions of § 1190.40 Human Data are similar to the ANSI A117.1–1980 edition except for § 1190.40(d)(3) of the NPRM which recognizes that some equipment may be required to be placed in a certain location in order for it to function properly and, as a result, may be located outside of the measurement requirements for this section.

(b) *Moving Wheelchair Clearances.* The FHWA report, "Provisions for Elderly and Handicapped Pedestrians: Volume I" (Report No. FHWA–RD—79—1), provides the following static space requirements for a wheelchair:

Length: 83% of all wheelchair models are less than 3'–11" long (1193.8 mm); 55% of all wheelchair models are less than 3'–10" long (1168.4 mm); 33% of all wheelchair models are less than 3'–9" long (1143 mm);

Width: 89% of all wheelchair models are less than 2'–4" wide (711.2 mm); 76% of all wheelchair models are less than 2'–3" wide (685.8 mm); 49% of all wheelchair models are less than 2'–2" wide (660.4 mm).

Because the space requirements for a wheelchair must also take into account dynamic as well as static data, tolerances are needed between the chair's drive rims, the wheelchairs user's hands, and any obstructions adjacent to the path of travel. Although 2'–6" will allow the passage of most wheelchairs, it must also be recognized that wheelchair users cannot travel in a precisely straight line because of such factors as different arm strengths or the need to use one's feet to propel the chair. As a result, most research studies and standards recommend a minimum width of 3'–0" for maneuvering space. Additional information on the characteristics of wheelchairs will be available upon the completion of the Canadian Standards Association (CSA)

V 45 A G 18 80 0 UMI

code on performance, design, and operation of self-powered, folding, multi-purpose wheelchairs (CSA Z–323.1.1). The CSA's Subcommittee on Mobility Aids anticipates the publication of the Standard in the Spring of 1981.

Dr. Edward Steinfeld conducted a number of tests under the HUD contract to determine the wheelchair clearances needed for turning. The tests indicated that the following dimensions were needed:

180° turn: A space 5'0" wide by 6'–6" deep accommodated 91% of the subjects tested.

K-turn: The space required for a K-turn ranged from an area 3'–8" by 4'–0", to an area 5'–0" by 6'–0".

U-turn: The space required for a U-turn around a wall ranged from a 2'–6" by 2'–6" by 2'–6" space (for people who could use their feet for turning movements) to 3'–0" (at the start of the turning movement) by 4'–0" (head of wall) by 3'–6" (at the finish of the turning movement).

L-turn: A minimum corridor width of 3'–0" and a 3'–0" doorway width are needed to accommodate most users.

The "Accessibility Standards" for the State of Illinois, and other research studies illustrate comparable findings. Space requirements for those using walking aids such as crutches, canes, and walkers are similar to those of wheelchairs users.

(c) *Clear Access Space. See* paragraph 1190.40(b), *Moving Wheelchair Clearances* of the draft Regulatory Analysis.

(d) *Reach Limitations.* Dr. Steinfeld tested wheelchairs users, ambulant, and semiambulant people to determine maximum vertical (side) and forward reach. Results of those tests, as reported in the HUD research report, are as follows:

Maximum vertical or side reach: Wheelchair users: 3'–0" to 6'–0"; 89% of those tested could reach 4'–6"; 96% of those tested could reach 4'–0".

Semiambulant and ambulant (standing): < 5'–0" to > 7'–6". Maximum forward reach:

Wheelchair users: 1'–6" to > 3'–6"—88% of those tested could reach a maximum of 3'–3".

Test results for seated semiambulant and ambulant individuals were similar to those of wheelchair users. The lack of trunk balance, restricted head movements, and disabilities of the upper torso severely restrict the reaching capabilities of many persons. Toes hitting a wall prevent maximum forward reach from being achieved. *See also* § 1190.210 Telephones.

§ 1190.50 *Walks, Floors, and Accessible Routes*

(a) *General.—Scope.* Accessible routes are unobstructed, continuous paths and areas that provide clearly marked passageways between elements, spaces, and levels in and around a building or facility. Accessible routes provide adequate passageways between and within interior and exterior accessible elements and spaces, and may include walks and corridors, ramps and curb ramps, stairs, elevators, platform lifts, entrances, doors, means of egress, and access aisles. Escalators do not qualify as an acceptable means of access.

Minimum Number. At least one accessible route shall be provided as required by Subpart C.

Objective. To facilitate the independent and safe movement of pedestrians and wheelchair users around and through buildings and facilities.

Unresolved or Controversial Issues. None.

Basis for Proposal. § 1190.50 Walks, Floors, Accessible Routes, as presented in the NPRM, reflects research conducted by Dr. John Templer at Georgia Institute of Technology while under contract with the Department of Transportation; research conducted by Dr. Edward Steinfeld of Syracuse University while under contract with the Department of Housing and Urban Development; existing state and Federal codes and policies; ANSI A–117.1–1980; public comments in response to questions in the ATBCB Notice of Intent; and Board discussions. One minor difference between the ATBCB NPRM and the ANSI A–117.1–1980 standard concerns cross-slopes: The cross-slope in the guidelines is 1:48 as opposed to 1:50 in ANSI. The ATBCB used 1:48 in order to accommodate typical measurements found elsewhere in the construction industry.

(b) *Width. See* § 1190.40(a), (b), and (c).

(c) *Protruding Objects.* Protruding objects will be detected by a blind or visually impaired person using the cane technique only if they fall within the range detectable by the cane. By the use of the touch technique and the diagonal technique, cane users can identify the location of potentially hazardous objects that have their leading edge mounted no higher than 2'–3" from the ground. *See* HUD, "Accessible Buildings for People with Severe Visual Impairments" (HUD–PDR–404).

(d) *Passing Space. See* § 1190.40(a), (b), and (c).

(e) *Vertical Clearance.* Overhangs cannot be detected by the blind; therefore, a vertical clearance of at least 6'–8" is required. *See* HUD, "Accessible Buildings for People with Severe Visual Impairments."

(f) *Slope.* See § 1190.70 Ramps and Curb Ramps.

(g) *Level Changes.* A number of issues arose concerning the question of vertical access requirements for changes in levels or grades: (1) Must vertical access to various levels in a building or facility be provided by interior means only? There appears to be no reason for disallowing exterior vertical access other than the problems caused by severe climates (*e.g.,* snow, sleet, ice) and by the inconvenience of increased travel times for handicapped users. (*See* § 1190.60(b) of the Regulatory Analysis.) It offers the advantages of being less costly and of providing an alternative to interior vertical access.

(2) Should vertical access between stories be provided by elevator only or are other means permissible? Research is currently underway by the Department of Transportation to determine the safety and usability of ramps and lifts to provide vertical access for level changes of up to one story. Although ramp access is considerably more difficult and time consuming than elevator travel, ramps do appear to be a promising alternative for fire egress requirements. For additional information, *see* § 1190.70 Ramps and Curb Ramps; § 1190.80 Stairs; § 1190.100 Elevators; and § 1190.110 Platform Lifts of the Regulatory Analysis.

(3) If a program is located at grade level, must other levels be accessible? To meet the requirements for program accessibility specified under Section 504 of the Rehabilitation Act, the Federal Government and recipients of Federal financial assistance have located those programs required to be accessible at grade level. This policy decision, however, is not permissible under the Architectural Barriers Act.

(h) *Egress.* Public comments in response to questions in the Notice of Intent and Board discussions focused on two fundamental assumptions: 1. Buildings and facilities that are accessible to handicapped persons should also provide safety facilities that are accessible and usable during an emergency.

2. The level of safety provided handicapped persons should be equivalent to that provided able-bodied persons.

To gain a better understanding of the handicapped person's needs during emergencies and the problems

experienced, the Board relied on the National Bureau of Standards (NBS) Report, NBSIR 80–1965, "Fire and Life Safety for the Handicapped," conference and preparatory workshops reports (February 1980). The NBS Panel on Egress for this study found that research results on fire safety for the handicapped were not readily available; however, the Panel emphasized that this lack of data should not impede the implementation of safety features known to be effective.

The NBS report concludes: 1. People in fire emergencies tend to use routes with which they are familiar.

2. Because the majority of time spent between the sounding of the alarm and escape is spent on evaluting the situation and deciding what to do, it is extremely important to provide effective, unambiguous fire alarms and a readily accessible means of egress.

(3) People with handicaps can evacuate, in some instances, up and down stairs.

Specific barriers identified included: (1) Fire doors and hardware: There is a need for fire doors and hardware with opening and closing characteristics that will enable people in a weakened condition or those with limited coordination to use doors easily and at the same time ensure that closing characteristics and door construction do not compromise the safety of the protected area.

(2) Openings: A minimum of 2'–8" should be provided at door openings.

(3) Dead end corridors: Dead end corridors should be identified and wide enough to allow a wheelchair user turning space.

(4) Floor surfaces: Tripping hazard and surface traction should be minimized.

It is reported that the Life Safety Code, NFPA No. 101–1976, will be revised to cover specific provisions for accessible means of egress for the handicapped including requirements for two areas of refuge located on floors other than those at grade level and that are contiguous with an elevator or stairway. Approval of the Code is expected this year.

A review of the state-of-the art materials and alternatives concerning emergency egress to the handicapped indicates that further research needs to be completed prior to the development of a definitive standard. Specific items identified for additional research include: (1) Criterion for fire safe elevators.

(2) Travel times necessary for handicapped persons to evacuate buildings or facilities or to get to areas of refuge.

(3) Identifying alternative methods of protection during fire emergencies.

(4) Criteria for retrofitting existing buildings.

Until such time as the Life Safety Code, NFPA 101–1976, is revised to include specific egress requirements that are accessible to the handicapped or until such time as additional research is completed, the Board proposes only that: (1) A means of egress be readily accessible from all accessible rooms and spaces;

(2) Egress requirements for the handicapped shall comply with applicable fire code provisions; and

(3) Fire and smoke partitions and/or areas of refuge complying with applicable fire code and safety provisions are permitted in multi-story buildings where at-grade egress for each floor is impossible.

(i) *Ground and Floor Surfaces.* The walking surface is critical to the safe passage of wheelchair users, persons with walking difficulties, and people with visual impairments. Tripping hazards are presented by uneven surfaces, small thresholds, and joints. Slippery surfaces and carpets present similarly hazardous situations. For example, the backing of the carpet, the carpet pad, or the pile can prevent a wheelchair user from traversing a carpeted surface. A textured loop carpet presents another problem; the wheelchair tends to "track" the cut of the carpet making a direct route difficult or impossible. Moreover, the uneven or rough surfaces can cause serious accidents by jolting the wheelchair and causing the person in the chair to be thrown to the ground. Jolting can also result in severe head pain and can aggravate pressure sores.

The majority of the provisions in this section incur no cost penalty and reflect state accessibility code requirements as well as construction industry capabilities. Grating specifications may increase costs slightly due to the closer bar spacing; however, this increase should not be significant in terms of overall cost.

§§ *1190.60 Parking and Passenger Loading Zones*

(a) *General.—Scope.* Parking facilities subject to the minimum guidelines include both interior and exterior parking lots, garages, spaces, and passenger loading zones for both the general public and employees. Street parking is subject to the guidelines only if it is designated as reserved for official use by the Federal Government or if it is the only parking provided. Parking facilities must be accessible for the wheelchair van as well as passenger automobiles.

Minimum Requirements. All parking provided for employees and visitors shall comply with §§ 1190.60.

Objective. To provide parking facilities that are usable by, accessible to, and safe for handicapped persons.

Unresolved or Controversial Issues. Should parking facilities complying with Section 6 be required at all buildings and facilities constructed, altered, or leased by the Federal Government?

Basis for Proposal. § 1190.60 *Parking and Passenger Loading Zones,* as presented in the NPRM, reflects the existing requirements of a number of state and Federal agencies. It is similar to the ANSI A117.1–1980 requirements except for cross slope and vertical clearance. The maximum cross slope for parking facilities in the NPRM is 1:48, a measurement which will accommodate current practices of the construction industry. ANSI provides for a cross slope of 1:50. The vertical clearance for specially adapted vans used by handicapped persons was also included in the ATBCB specifications. Based on the height specifications for high top vans currently in use, the figure 9'–7" was chosen.

(b) *Location.* Because many handicapped persons have limited stamina, move very slowly, or find it too demanding to traverse even a few hundred feet, it is necessary to locate parking spaces as close to an accessible entrance of a building or facility as possible. Controlled experiments with people having walking limitations determined that slow moving people can be expected to travel at a rate of 1 foot/second and that 100 feet is the maximum distance of travel between rest stops for many people with limited stamina. A 300 foot distance, for example, could require a travel time of 5 minutes excluding any time required for resting. For this reason, some standards set a maximum allowable travel distance to an accessible entrance (*e.g.,* U.S. Department of the Army: 100 feet; USPS: 200 feet).

(c) *Accessible Parking Spaces.* Individuals using walking aids and wheelchairs require a greater than normal access aisle in order to fully open the car door and to manipulate ancillary devices such as wheelchairs, crutches and walkers. Excessively sloped spaces and aisles can make it very difficult to open and close a door or to transfer to a wheelchair. However, if the surface is perfectly level, water may not drain and may result in an additional hazard. Furthermore, it is important to provide a clear and accessible aisle in front of the vehicle to

V 45 AG 18 80 UMI

allow a wheelchair user to pass safely; it is difficult for a driver to see wheelchair users travelling behind parked vehicles.

(d) *Passenger Loading Zones.* This paragraph is based on other codes and agency requirements. It is similar to ANSI A117.1–1980.

(e) *Vertical Clearance.* Specially adapted vans for handicapped persons are often too high for parking garages and entrances to facilities. For example, the approximate height of an unmodified van is 6'–9"; if it is modified to accommodate a person seated in a wheelchair, the height is approximately 8'–2".

(f) *Signage. See* § 1190.200 Signage of the Regulatory Analysis.

§ 1190.70 Ramps and Curb Ramps

(a) *General.—Scope.* Ramps and curb ramps include all walks and corridors with slopes greater than 1:20.

Minimum Requirements. Provide a ramp or curb ramp whenever an accessible route crosses a level change greater than ½ inch (13mm) and at all legally established crosswalks.

Objective. To provide safe, continuous vertical access at changes in level or grade on an accessible route for handicapped persons.

Unresolved or Controversial Issues. None.

Basis for Proposal. § 1190.70 Ramps and Curb Ramps, as presented in the NPRM, reflects much of the research conducted by Dr. John Templer of the Georgia Institute of Technology while under contract with the Department of Transportation and that of Dr. Edward Steinfeld of Syracuse University while under contract with the Department of Housing and Urban Development. Many of the requirements specified in § 1190.70 are similar to existing state codes and Federal policies and those forwarded by ANSI. Board discussions and public comments were also considered in the recommendation. The proposed NPRM does not differ significantly from ANSI A–117.1–1980.

(b) *Slopes and Rise.* In order for a ramp or curb ramp to be usable by those confined to wheelchairs and by semi-ambulant and ambulant people, the slope and length of a ramp must be controlled. Research results confirm that wheelchair users, including quadriplegics, are usually able to negotiate a ramp with a slope of 1:20 and a length of less than 40 feet. The HUD research study demonstrated, however, that a number of the wheelchair users tested were unable to manage either the slope or the length of ramps steeper than 1:20 and longer than 40 feet. In fact, almost half of the wheelchair users tested were unable to negotiate a 40 foot ramp sloped at 1:20. Test results also indicated that people with poor stamina or walking difficulties may also have problems with longer or steeper ramps. In addition to the stamina difficulties involved with people using steeper ramps, wheelchair users tend to tip over backwards while ascending steep slopes (especially those greater than 1:10) or to lose control during descent.

The angle between the ramp and the gutter or adjoining surface can also create a considerable problem for a wheelchair user because it can cause the chair to come to an abrupt halt throwing the person out of the wheelchair; therefore, these transitions must be gradual.

(c) *Width. See* § 1190.40 Human Data of the Regulatory Analysis.

(d) *Cross Slope.* The cross slope of the ramp must allow all four wheels of the wheelchair to contact the ramp surface; otherwise a wheelchair may go out of control. Flared sides of curb ramps can also make it difficult for individuals with walking difficulties to negotiate a ramp.

(e) *Curb Ramps.* Some individuals with limited mobility and most wheelchair users cannot negotiate the 6 inch curb located at pedestrian crossings; therefore a curb ramp is necessary. The preferred and recommended locations for curb ramps are the center of the crosswalk of each street corner and at other legal crosswalks. If they are located elsewhere, they may cause conflict and could direct ramp users into moving traffic. A 4'–0" width is necessary to accommodate the path of the wheelchair user in a power-driven chair.

So that blind persons can sense the demarcation between sidewalk and street surfaces, a distinct change in texture between the surface of the sidewalk and the curb ramp is necessary. Continuous curb ramps around corners disorient blind persons and should be avoided.

(f) *Ramps.* Handrails are necessary on all ramps (with the exception of curb ramps) because they are used not only for support but also as a means to propel wheelchairs. However, concern was expressed that the edges of free-standing handrails should be turned down so as not to present a hazard.

(g) *Exterior Conditions. See* § 1190.50 Accessible Route.

§ 1190.80 Stairs

(a) *General.—Scope.* This section includes stairs that connect levels and grades that are not connected by an elevator.

Minimum Number. All stairs that connect levels and grades not connected by an elevator shall comply with this section.

Objective. To design, construct, and alter stairs so that they provide a safe and convenient means of vertical access for people with limited stamina, for individuals with limited leg movements such as those with braces or crutches, and for people with visual impairments and for the blind.

Unresolved or Controversial Issues. Tactile Warnings at the Top of Stairs. One of the major findings of the HUD study "Accessible Buildings for People with Severe Visual Impairments" was that stairs located in the path of travel, especially those leading in a downward direction, present a hazard to those who are blind or have visual impairments. The study strongly recommends that a tactile warning signal be placed at the top of the stairs if they are located directly in the path of travel. Representatives from the State of Illinois, however, reported problems with some warning strips coming loose and becoming tripping hazards. The Board concluded that additional information was needed in this area.

Basis for Proposal. NBS Building Science Series 120, *Guidelines for Stair Safety,* May 1979, summarizes information and research on stair use and safety. § 1190.80 Stairs reflects the conclusions in this report and contains requirements similar to those contained in the more recently developed state and international codes. § 1190.80 Stairs differs from ANSI A–117.1–1980 in that the NPRM prohibits the use of open risers.

(b) *Risers.* It was recognized that many semi-ambulatory people find ramps difficult or impossible to use and, therefore, prefer that stairs be provided in lieu of ramps. It was also recognized that fire stairs do not present many of the problems inherent in stair design because the path of travel on fire stairs is generally in a downward direction. For example, nosings will not cause tripping in the downward direction.

In 1974, Dr. Templer used a laboratory stair treadmill to record and analyze gait rhythms generated by a range of stair conditions. He found that people made the fewest missteps when the risers were between 6.3 inches to 8.9 inches apart and when treads were 7.7 inches to 14.2 inches. Stairs with longer treads were not studied. The NBS study "Guidelines for Stair Safety" further reported that the desirable riser height for interior steps is 7 inches; however, 6 inches was preferable if the stairs were to be used mainly by older or handicapped persons. It was further recommended that the height of exterior steps should be limited to 5 or 6 inches. E. Grandjean, in his 1973 study noted that less energy is expended by people using a stair slope of between 25° and 30°.

The NBS study points out that open risers can divert a user's attention to activity, interesting scenes, or objects behind the stairs. In addition, light patterns resulting from the open risers may also distract a user. The study concludes that "although there appears to be only anecdotal data which relate accident rates to open risers, extrapolation from the data on the rate of visual distraction in stair use suggest that open risers could contribute to stair accidents."

(c) *Nosings.* NBS reports that a common type of accident on stairs involves tripping on the top of the riser during ascent and then falling forward. According to the study, the typical reflex response to such a fall is to thrust the hand forward to brace oneself by grabbing the nearest tread or nosing. Because this maneuver is not always successful, it is extremely important that the edges of each nosing distribute the impact as widely as possible to minimize injury. Extensive observations by Gowings (1961) and Fruin (1971) of pedestrian behavior lead to two conclusions: (1) the nosing should be an integral part of the tread so that it does not separate after prolonged use; and (2) the curvature of the edge should not be too great so that the user's foot will more likely bear on a level surface rather than a sloping surface.

(d) *Handrails.* There was some question as to whether handrails are necessary on both sides of a stair if stairs are wider than 3'–8" because these widths prohibit simultaneous use of both railings. It was noted that some persons may be able to use only one hand or the other, thus railings should be provided on both sides. *See also* § 1190.90 Handrails.

(e) *Stair and Landing Surfaces.* Ambulent and semi-ambulant people who have difficulty maintaining balance, lack coordination, or have restricted gaits are particularly susceptible to slipping and tripping hazards. Slip resistant, stable, and regular surfaces are especially important on stairs. *See also* § 1190.50(i) Ground and Floor Surfaces.

§ 1190.90 Handrails

(a) *General.—Scope.* This section includes handrails provided at stairs and ramps.

Minimum Number. Handrails shall be provided on each side of each interior and exterior ramp and stairway.

Objective. To facilitate independent and safe movement of handicapped persons on stairs and ramps by providing additional stability for the user, support for elderly and physically handicapped persons, a pivot point at corners and doglegs, and a grab bar for support in case of an accident.

Unresolved or Controversial Issues. Should a perimeter formula be used to determine the maximum handrail width or should a width measurement be used?

Basis for Proposal. The NBS Building Science Series 120, Guidelines for Stair Safety, May 1979, provided much of the background information and research used by the ATBCB in developing § 1190.90 *Handrails.* The NPRM differs from ANSI A117.1–1980 on the maximum width of handrails permitted. (For an explanation of this difference, *see* § 1190.90(b)(1) of this section.)

(b) *Size and Spacing. See unresolved or controversial issues* above.

(1) *Cross Section.* The NBS study, *Guidelines for Stair Safety,* reviews a number of research studies that recommend a handrail diameter of 1¾ inches to 2 inches as the most appropriate for easy gripping by an adult population. ANSI, however, chose to use a 1¼ inch to 1½ inch diameter for the gripping surface of the handrail. It was felt by the ANSI Committee that a 2 inch wide handrail did not allow as good a grip as the 1½ inch width for many people. As a result of the specification contained in the ANSI A117.1–1980 standard, a number of letters were submitted by the EO6.12 Subcommittee of the American society of Testing Materials (ASTM) and Dr. George Stein of the Virginia Polytechnic Institute and State University, which indicated that the ANSI sizes were in conflict with industry standards. Based on the NBS research and the desire to coordinate with current industry standards on handrails, the ATBCB decided to propose a handrail standard based on a maximum perimeter of 6 inches which would allow a 2 inch wide handrail.

(2) *Mounting of Handrails.* NBS reports that J. H. Sheldon suggested that the handrail should be sufficiently away from the wall to permit the "grasp reflex" in case of emergency. Teledyne-Brown Engineering in "A Design Guide for Home Safety" recommends that this distance be a minimum of 2½ inches.

(3) *Continuous Handrails.* NBS found that interruptions in the continuity of handrails could be linked to stairway accidents. Although it was also noted that users may exercise greater caution when a handrail is absent, the likelihood of a severe accident increases.

(c) *Handrail Projections.* It is recommended by the NBS study to extend or replace the end portion of the railing so that it terminates in a position on or near the flight but outside of the user's path of travel. The free swinging hand, the wrist, and the pelvic area are the most vulnerable areas to hit on handrail projections for adults whereas the shoulders and face are the most vulnerable for children. ATBCB therefore proposes to require that the ends of freestanding handrails be either rounded or returned smoothly to the floor or the post.

§ 1190.100 Elevators

(a) *General.—Scope.* This section includes passenger elevators serving multi-story buildings and facilities.

Minimum Number. At least one passenger elevator complying with § 1190.100 *Elevators* shall be provided in all new multi-level buildings and facilities and in all additions to existing buildings and facilities having more than one story unless another means of vertical access complying with § 1190.31 New Construction is provided. If an existing building has more than one story, at least one passenger elevator meeting the requirements of the guidelines is required under conditions set forth in § 1190.33 Alterations.

Objective. To insure that people with walking limitations, lack of stamina, difficulties with balance and coordination, reaching difficulties, or a loss of hearing and sight, or who use wheelchairs, can use elevators conveniently and safely and have access to all levels of a multi-story building or facility.

Unresolved or Controversial Issues. See § 1190.31 New Construction, Additional Information Requested and § 11909.33 Alterations, Additional Information Requested.

Basis for Proposal. § 1190.100 Elevators, as presented in the NPRM, reflects research conducted by Dr. Edward Steinfeld of Syracuse University while under contract with the Department of Housing and Urban Development; the National Elevator Industry, Inc. (NEII), "Suggested Minimum Passenger Elevator Requirements for the Handicapped," July (R1977); ANSI A117.1–1978, and other existing standards and codes. The ANSI A117.1–1980 reflects, to a large degree, the NEII publication, and, in addition, duplicates some of the requirements in ANSI A17.1–1978, "Safety Code for Elevators."

(b) *Operation and Leveling.* The HUD study identifies problems associated with leveling (*i.e.,* and elevator floor which is not flush with the building

floor), as a severe problem for people having visual impairments or blind, having poor balance and lacking coordination, having difficulty with moving their heads, or for those using walking aids and wheelchairs. The NPRM is similar to the requirements of NEII and ANSI A117.1–1980.

(c) *Elevator Door Operation.* Dr. Steinfeld measured the rates of travel for different people with disabilities and found that nearly two thirds of those who tested travel at 1.5 feet per second. Over one third of those who used wheelchairs or walking aids traveled at rates of 1 foot per second or less. In order for a handicapped person to travel from the lobby call button to the car answering the hall call, it is necessary for the doors to remain open for several seconds. NEII recommends the following minimum acceptable time from notification that a car is answering a call until the doors of that car start to close:

0 to 5' : 4 seconds.
5 to 10' : 7 seconds.
10 to 15' : 10 seconds.
15 to 20' : 13 seconds.

In addition, the HUD research identified elevators lacking automatic features for reopening the elevator doors without contacting the individual as a severe problem for many handicapped individuals, especially for those who are blind. The NEII minimum requirements suggest that wheelchair and walker manufacturers be required to provide some solid material at 5" and at 2'–5" to ensure door reversal before contact of a door closing in the path of a wheelchair or walker.

(d) *Elevators Cars.* As a result of the research tests conducted under HUD contract, it was determined that wheelchair users are able to use an elevator car with dimensions of 4'–3" by 5'–8" with a clear door opening of 2'–8". In order to provide a clear space within an accessible elevator to allow wheelchair users to make a 180 degree turn, a space 4'–6" wide by 6'–0" deep accommodates most subjects. An ambulance stretcher is 2'–0" by 6'–0". These dimensions are similar to those recommended by NEII.

It was also found as a result of the research that a number of those tested could not reach a control panel higher than 4'–4". The report recommends that the highest control button be placed at 4'–0"; however, it is noted that it may not be possible to locate the highest button at this point in cases where such placement of long panels would put the lowest button below the comfortable reach of ambulant users. In addition, it is recommended in the study that control panels be mounted in the front wall adjacent to the entry. The HUD report suggests that people who have severe reaching limitations may have to use aids such as pointers, extenders, and the like to activitate call and floor buttons if those controls are not within their reach.

Dr. Steinfeld found in his "problem identification matrix" that those persons with severe visual impairments or who are blind found it extremely difficult or impossible to use elevators that did not have controls and features similar to other elevators or that did not identify the direction of the elevator by a signal.

(e) *Door Jamb Markings.* This requirement is similar to that contained in the NEII minimum requirements except that the ATBCB proposes that the characters designating the floor be 2" high as (§ 1190.200(c)(2)) rather than the 2⅛" required by the NEII.

(f) *Lobby Call Buttons.* In addition to the specifications contained in the NEII requirements, recessed buttons are disallowed in the ATBCB proposal and objects mounted beneath the call button may not protrude more than 4" (100 mm). The requirements were added because objects that extended more than 4" prevented access to the buttons for wheelchair users. Recessed buttons were disallowed because persons with upper limb amputations cannot use them.

(g) *Hall Lanterns.* The requirements of this paragraph are similar to those of the NEII.

(h) *Car Position Indicator and Signal.* The requirements of this paragraph are similar to those of the NEII.

(i) *Illumination Levels.* The requirements of this paragraph are similar to those of NEII and ANSI A17.1.

(j) *Intercommunication System:* The requirements of this paragraph are similar to NEII except that the ATBCB proposes to identify the intercommunication system with raised lettering and symbols for usage by the visually impaired and blind; to provide a momentary contact button to enable hearing impaired individuals to summon assistance; and to require door hardware that is accessible for people with strength and coordination limitation.

§ 1190.110 Platform Lifts

(a) *General.*

Scope. Platform lifts, including but not limited to standing lifts, attendant/wheelchair lifts, and wheelchair lifts, which meet the requirements of the minimum guidelines and are an acceptable means of vertical access.

Minimum Number. Provide as required by Subpart C.

Objective. To provide people who have walking limitations, lack stamina, or who use wheelchairs a method of accessibility at changes in level or grade.

Unresolved or Controversial Issues. To date, there are no accepted standards for platform lifts, wheelchair lifts or other mechanical lifting devices. However, the Canadian Standards Association and ANSI A 17 Committee plan to issue separate consensus standards in the near future. The CSA Steering Committee of Lifting, Hoisting, and Related Devices (CSA B–44) plans to publish a safety code for elevating devices for the handicapped in the near future. The scope for the code includes the minimum safety requirements that relate to design, construction, operation, inspection and testing of devices which can be used by the handicapped for vertical access. Platform lifts, stair-chair lifts, and stair platform lifts will be covered by the code.

Basis for Proposal. Significant cost reductions can be achieved, especially during alteration work if a platform lift is allowed. The ATBCB therefore is proposing to permit its use but stresses the need for adequate safety precautions.

(b) *Requirements.* Lifts provide an alternative to ramps and elevators and offer the advantages of reduced space requirements and significant cost reductions. Because these devices are relatively new and not widely used, care should be taken in selecting and installing lifts to insure that the device is safe for users, operators, and those in the vicinity during the time the lift is in use.

§ 1190.120 Entrances

(a) *General.*

Scope. This section includes all entrances to a building or facility.

Minimum Number. Each entrance to a new building or facility shall comply with § 1190.120 Entrances; each entrance in an addition to an existing building shall comply with § 1190.120 Entrances; each entrance that is altered in an existing building shall comply with § 1190.120 Entrances; if no entrances are provided in the addition, then at least one entrance in the existing building or facility shall comply with § 1190.120 Entrances; if additional entrances are required to be accessible by § 1190.33 alterations, they shall comply with § 1190.120 Entrances.

Objective. To provide entrances to a building or facility that are convenient and usable by handicapped persons.

Unresolved or Controversial Issues. See § 1190.31 New Construction.

Basis For Proposal. Dr. Steinfeld identified a number of severe problems concerning entrances: Narrow door openings, high thresholds, stairs, lack of maneuvering space, severe cross slope, and revolving doors or turnstiles. Public comments and Board discussions verified the necessity to provide accessible entrances whenever possible. Although most State codes and Federal requirements require only one accessible entrance, the Board decided for reasons of safety and convenience, that all entrances should comply with this section.

(b) *Service Entrances.* The only accessible entrance cannot be a service entrance because it does not provide dignified and convenient access.

(c) *Access to Elevators. See* § 1190.50 Walks, Floors, and Accessible Routes.

§ 1190.130 Doors

(a) *General.*

Scope. This section includes doors, doorways, gates, thresholds, and hardware.

Minimum Number. Each door shall comply with § 1190.130.

Objective. To provide doors at entrances and exits and within the building or facility that are accessible and usable by handicapped individuals.

Unresolved or Controversial Issues

(1) Doors to hospital patient bedrooms. Should front approach entry doors to acute care hospital patient bedrooms be exempt from the latch side clearance width of 2'–0" or 1'–6" if the door is 3'–8" wide?

(2) Fire Doors. The opening force requirements are particularly important for fire doors. The higher opening forces for fire doors provide the safety requirements necessary to insure adequate pressure to engage latches when necessary (*i.e.,* to prevent fire doors from swinging open under the wind-load factors found in a fire situation). The higher opening forces that provide safety on the one hand also serve as a dangerous barrier for the handicapped. Research conducted by Dr. Steinfeld indicates that a number of handicapped people cannot exert 5 lbf (pound force) to open a door and a majority cannot exert 8 lbf either with one hand or the other to open a door.

Questions have been raised by door and hardware manufacturers as to the benefits and costs of a requirement that would allow only the 5 lbf or 8.5 lbf opening force. Closer manufacturers claim that they are unable to control all conditions affecting the opening force of a door (*e.g.,* orientation, wind speed, inside air pressure) and that the lower opening force requirements would not be effective in closing doors under difficult conditions.

The National Bureau of Standards plans to study this issue and the additional research should supply data on the minimum forces necessary to provide safety performance in the case of a fire and also permit the door to be opened by handicapped persons. Until research on this topic is completed, the Board proposes deleting the door pressure requirements for fire doors from the minimum guidelines. *See* § 1190.31 New Construction, Additional Information.

3. *See also* § 1190.31 New Construction, *Additional Information Requested,* question 4.

Basis for Proposal

The NPRM is based on Dr. Steinfeld's research, published in the HUD series: "Accessible Buildings for People with Walking and Reaching Limitation," "Accessibility for People with Severe Visual Impairments," and "Access to the Built Environment: A Review of Literature." A number of State access codes and building codes were also reviewed by the Board along with research completed by Dr. John Templer.

(b) *Clear Width. See* § 1190.40 Human Data and § 1190.50 Walks, Floors, and Accessible Routes.

(c) *Maneuvering Space.* Dr. Steinfeld reported in the HUD study that the clearances in front and at the latch sides of doors should be based on the approach pattern and direction of the door swing. He recommends in cases where doors swing out into the direction of travel, toward the user, wider corridors are needed and larger spaces at the latch side should be provided. Tests showed that a 2'–0" clearance at the latch side of the door accommodated about 83 percent of those sampled. A 5'–0" clearance in front of the door provided accessibility for 92 percent of the subjects. If the space at the latch side of the door is reduced to 1'–6", only 60 percent of those tested could use the doors. The ANSI A117.1–1980 also uses a 2'–0" clearance at the latch side of the door; however, several State codes use a 1'–6" dimension. *See,* for example, Illinois, New Jersey, Utah, Massachusetts, and Washington. S. O. Brattgard at the University of Goteborg, Sweden, and F. Walter at the Disabled Living Foundation in London, England, have also studied the maneuvering requirements for wheelchair users through doorways. Dr. Steinfeld compared the research recommendations of these studies with his own and found that more than half of the HUD sample population could not use the latch side clearances recommended by Walter. *See* also § 1190.31 New Construction, *Additional Information Requested.*

In cases where doors swing away from the user, narrower corridors can be used. The HUD research reported that if a door is approached from the hinge side or latch side, a corridor width of 3'–6" is required. Space at the latch side is not required. These spaces are based on the requirements for an "L"-turn. *See* § 1190.40 Human Data. If a direct forward approach is used, 5'–0" is required in front of the door with a 1'–0" clearance at the latch side.

(d) *Doors in a Series.* Vestibules between two doors are frequently too small for handicapped person to use, particularly those in wheelchairs. Dr. Templer recommends in the Department of Transportation study, "Development of Priority Accessible Networks," that 4'–0" be used to accommodate the space requirements for a wheelchair. ANSI A117.1–1980 provides similar requirements.

(e) *Thresholds.* The HUD researched recommends that thresholds not be used at interior doorways. At exterior locations, the report states they should not exceed ½ inch in height and that the edges should be beveled. Dr. Templer reports similar findings in his research for the DoT. In the case of exterior sliding doors, a ¾ inch maximum threshold is allowed in order to accommodate the door hardware. ANSI A117.1–1980 provides similar requirements.

(f) *Hardware.* Dr. Templer reports that some elderly and handicapped people find it difficult or impossible to use round doorknobs. The knobs are difficult to grasp and twist especially for those who are upper-limb amputees, quadriplegics or arthritics. ANSI A117.1–1980 provides similar requirements.

(g) *Doors to Hazardous Areas.* The HUD report, "Accessible Buildings for People with Severe Visual Impairments," strongly recommends that standardized tactile warning signals be placed on door openers or doors to hazardous areas. Such hardware should never be placed on emergency exits.

(h) *Closure and Opening Forces. See* § 1190.130(a) *Unresolved or Controversial Issues,* 2, Fire Doors, of this section, and § 1190.31 New Construction, *Additional Information Requested.*

Maximum pushing or pulling opening forces for doors provided in this paragraph are based on tests conducted by Dr. Steinfeld to determine the abilities of people with limitations of strength. Research results demonstrated that fewer than 30% of the wheelchair users tested could exert a maximum

V 45 AG 18 80 UMI

force of up to 10 lbf in all directions. As a result, the report recommends that operating forces for opening doors and windows be as low as technology allows, preferably below 5 lbf.

(i) *Automatic Doors.* The "open" times provided in this section are based on the rates of travel for handicapped persons provided in the HUD research. *See also* § 1190.100(c) *Elevator Door Operation* of the draft analysis.

§ 1190.140 Windows

(a) *General.*

Scope. Windows intended for occupant operation are covered by this section.

Minimum Number. At least one window intended for occupant operation in each accessible space shall comply with this section.

Objective. To provide windows that are usable by handicapped individuals.

Unresolved or Controversial Issues. None.

Basis for Proposal. The pressure requirements are based on the research completed by Dr. Edward Steinfeld, while under contract to HUD. The technical requirements are similar to the ANSI A117.1–1980 edition. State accessibility codes have not yet addressed the subject of accessible windows.

(b) *Hardware. See* § 1190.130(f) *Hardware* and (h) *Closure and Operating Forces* of the Regulatory Analysis.

§ 1190.150 Toilet and Bathing Facilities

(a) *General.*

Scope. Toilet and bathing facilities include, but are not limited to, water closets, urinals, lavatories and sinks, bathtubs and showers, mirrors, grab bars, stalls, and other plumbing fixtures and accessories.

Minimum number. Each toilet and bathing facility provided in newly constructed buildings and facilities shall comply with § 1190.150 if an addition is made to an existing building and it does not provide toilet and bathing facilities in the addition, but they are provided in the existing building, then at least one of those facilities serving the addition shall comply with § 1190.150; and if toilet and bathing facilities are altered in an existing building, then each altered facility shall comply with § 1190.150; or if 50% or more of the value or if 50% or more of the gross floor space of a building or facility is altered then each toilet and bathing facility in the existing building or facility shall comply with § 1190.150.

Exception: Unisex facilities may be provided under the conditions set forth in § 1190.150(a) of the minimum guidelines.

Objective. To provide personal hygiene facilities that have the same privacy and conditions available for the handicapped user as for the able-bodied user and that are located so that the facilities are readily accessible, convenient and usable.

Unresolved or Controversial Issues. None.

Basis for Proposal. § 1190.150 Toilet and Bathing Facilities was based on research by Dr. Steinfeld, state codes, OSHA requirements, and research by Alexander Kira published in his book, *The Bathroom.*

(b) *Toilet Fixtures and Accessories*

(1) *General. See* § 1190.40 Human Data and § 1190.50 Walks, Floors and Accessible Space.

(2) *Water Closets.* People who have difficulty bending or kneeling or who rely on walking aids identify low water closets as a severe problem. On the other hand, water closets that are too high can prevent a wheelchair user from making a transfer. The majority of wheelchair users (75 percent) and walking-aid users (72 percent) participating in the HUD research found that toilet heights (measured to the top of the seat) were most comfortable at 1′–5″ to 1′–7″. These heights reflect the requirements of ANSI A117.1–1980 and most state codes.

Flushing devices are often mounted too low to operate for people who have difficulty bending, or the devices require too much effort to operate. Floor operated flushing devices are extremely difficult for wheelchair users to use. The HUD study recommends that flush controls be located on the wide side of the stall. ANSI A117.1–1980 has a similar requirement.

Board discussions disclosed that handicapped people who have problems with balance and dexterity have a great deal of difficulty with toilet seats that are sprung to return to the upright position and with toilet paper dispensers that do not permit continuous paper flow. The HUD research report recommends that toilet paper dispensers be mounted on the walk closest to the water closet no more than 3′–0″ from the back wall, and between 2′–6″ and 3′–0″ high.

(3) *Toilet Stalls.* Toilet stall dimensions listed in the various codes vary from widths of 3′–0″ to 5′–6″ and include designs for front transfer, side transfer, and diagonal front transfer.

Front Transfer. Dimensions for a front transfer stall are based on ANSI A117.1–1961 (R1971) which required the 3′–0″ stall. The Michigan and BOCA codes require a 3′–6″ for the front transfer. Available information indicates that there is no advantage to the 6″ of added space, and it may, in fact, be detrimental. Reach restrictions may make the 3′–0″ more desirable and safer. In addition, the 3′–6″ represents additional costs. Approximately 40 percent to 50 percent of those who can transfer unassisted, can use a front-transfer stall. Because of its limited use, this width should be restricted to alteration projects. ANSI A117.1–1980 allows the 3′–0″ stall as an alternative.

Side Transfer. The 5′–0″ stall is the standard design for a "side transfer" stall. This stall width can be used by anyone who is able to transfer. ANSI A117.1–1980 uses this dimension, Washington State uses a 4′–6″ width for the side-transfer, and the U.S. Department of the Army uses 5′–6″.

Diagonal Front Transfer. The 4′–0″ stall was developed during the research that was completed under HUD contract. At the present time, it is the Board's understanding that the 4′–0″ width stall is not specified in any code; it is, however, the recommended minimum width provided by the HUD research. All wheelchair users able to complete toilet transfers that participated in the HUD study were able to use the 4′–0″ stall.

(4) *Urinals.* The paragraph, as drafted, reflects the majority of state-developed codes. ANSI A117.1 has similar provisions. The mounting height reflects the requirements of § 1190.40 Human Data in order for it to be convenient for a wheelchair user. The exception clarifying the use of urinal shields was provided in the A&TBCB proposal to allow urinals to be placed on standard mounting centerlines.

(5) *Lavatories and Sinks.* Because toilet room space is often confined, it is difficult to maneuver a wheelchair if lavatories and sinks are mounted so that they protrude into the path of travel. Mounting heights reflect requirements for knee space clearances for wheelchair users. Because wheelchair dimensions vary, it is difficult to specify a lower limit that will accommodate the chair height of all persons. As a result of a survey taken of those wheelchair users participating in the HUD research, it was found that 80 percent of the subjects tested preferred lavatory heights of 2′–8″. *See* also Regulatory Analysis § 11909.40 Human Data; § 1190.50 Walks, Floors, and Accessible Route; and § 1190.170 Controls and Operating Mechanisms. It is also necessary to place drains, traps, and water supply lines as far back and as high as possible so that they do not present an obstruction. Because many wheelchair users have no sensation in their legs, they can receive serious burns from hot water supply lines without being aware of it. It therefore is necessary to insulate the pipes.

(6) *Mirrors.* This section reflects the requirements of § 1190.40 Human Data and most state accessibility codes. It is also similar to ANSI A117.1–1980.

(7) *Controls, Dispensers, Receptacles, or Other Equipment. See* § 1190.170 Controls and Operating Mechanisms and § 1190.40 Human Data.

(c) *Bathing Facilities.*

(1) *Bathtubs and Showers.* (i) *Bathtubs.* According to Alexander Kira, the author of the *Bathroom,* the tub bath is one of the most difficult and hazardous activities for the elderly and the handicapped. He recommends that bathtubs not be fitted with the conventional shower door assemblies because it makes the transfer from the wheelchair to the tub extremely difficult. He also examines the access problems and finds that the most basic issue is how to minimize movements. He finds that it is desirable to arrange the tub so that only one direct horizontal transfer is necessary. The HUD research recommends the use of horizontal grab bars on the three tub walls, an unobstructed floor space of 2′–6″ for parallel access and 4′–0″ for perpendicular access. Controls are recommended to be placed at the foot of the tub.

(ii) *Showers.* Alexander Kira believes that the shower provides a simpler, easier, and safer method than the tub for body cleaning. He recommends a shower stall 3′–0″ by 5′–0″ that has one of the long sides completely open and provides a seat 1′–6″ high by 1′–3″ deep. To provide easy and safe access, he recommends that the entrance curb be eliminated and drainage accommodated by a recessed entrance drain or by recessing the entire floor of the enclosure by providing a slanted floor flush with the room floor. Dr. Steinfeld found that a 2′–10″ wide entry space was sufficient for all users, that a curb in the shower was a definite obstacle, and that grab bars were needed. If an "L" turn is required, the clear space required is 5′–0″ wide by 3′–0″ deep.

(d) *Grab Bars.* The requirements of this section are based on OSHA handrail standards, state codes, and uniformity. Although a 250 lb. figure is used in the guideline, most manufacturers guarantee their products to support 1000 lbs. Research by Dr. Steinfeld and Alexander Kira demonstrated that grab bars are necessary for pulling oneself into position and for sitting and standing up while using toilet and bathing facilities.

§ 1190.160 Drinking Fountains and Water Coolers

(a) *General.—Scope.* This section includes drinking fountains and water coolers.

Minimum Number. All drinking fountains and water coolers provided shall comply with this section.

Objective. To provide accessible, usuable water fountains for handicapped people so that they are able to obtain their required daily fluid intake.

Unresolved or Controversial Issues. None.

Basis for Proposal. Because people in wheelchairs are more likely to have bladder and kidney stones, urinary tract infections, and other problems associated with the kidneys, it is extremely important for wheelchair users to take large quantities of fluid throughout the day to dilute their urine. It is imperative that drinking fountains and water coolers be available. The requirements of this section are based upon § 1190.40 Human Data; § 1190.50 Walks, Floors, and Accessible Route; § 1190.150 Toilet and Bathing Facilities; and § 1190.170 Controls and Operating Mechanisms.

(b) *Clearances.* This section is based on paragraph 5.3: *Protruding Objects.*

(c) *Spouts.* The Board understands that the measurement provided are the most convenient for wheelchair users.

(d) *Controls.* See § 1190.170 Controls and Operating Devices.

§ 1190.170 Controls and Operating Mechanisms

(a) *General.—Scope.* This section includes controls and operating mechanisms such as thermostats, alarm pull stations, window operating devices, light switches, electrical outlets, and the like.

Minimum Number. All controls and operating mechanisms provided shall comply with § 1190.170.

Objective. To provide controls and operating mechanisms that are easily usable and safe for handicappped people.

Unresolved or Controversial Issues. None.

Basis For Proposal. This section is based on § 1190.40 Human Data and § 1190.130(h) *Closers and Opening Forces.* ANSI A117.1–1980 provides similar requirements.

(b) *Location Requirements. See* § 1190.40 Human Data.

(c) *Force. See* paragraph 1190.130(h) *Closers and Operating Forces.* The Illinois standard requires that the force needed to activate controls not exceed 3 lbf. ANSI A117.1–1980 requires 5 lbf.

(d) *Specialized Equipment.* This section permits the installation of controls that require a special location to function properly. It does not permit the use of an inaccessible location because equipment controls require fine manipulation which may be difficult for handicapped persons to use.

§ 1190.180 Alarms

(a) *General.—Scope.* Alarms include audible, visual and sensory emergency signalling systems and devices.

Minimum Number. All alarms provided shall comply with this section.

Objective. To provide prompt warning of fire and other emergencies.

Unresolved or controversial Issues. None.

Basis for proposal. Public comments, Board discussions, current standards, and research by the NBS Panel on Alarm Systems regarding Fire Safety for the Handicapped, by Wheelock Signal, Inc., and by J. K. Penry, M.D., were used in the development of this section.

(b) *Audible Alarms.* Audible alarms must have an intensity and frequency that can attract the attention of individuals who have a partial hearing loss.

(c) *Visual and other Sensory Alarms.* Public comments on visual alarm systems were mixed. The National Association of the Deaf, as well as several state and local organizations and consumers felt that flashing exit signs were an acceptable alternative for warning the hearing imparied of emergencies.

Flashing exit signs, however, were not considered appropriate by the Washington Area Group for the Hard of Hearing because this alternative assumes that exit signs are always visible. Access Design Consultants noted that flashing exit signs will alert only those people in public areas and that these flashing signs are apt to go unnoticed. The Epilephy Foundation stated that flashing exit signs, as well as strobe lights, would have an effect on significant numbers of persons with epilepsy whose seizures are triggered by flashing lights. The detrimental effect of flash rates on epileptics was also confirmed by research performed by Wheelock Signals. Inc. The firm reports:

> Of the total U.S. population, approximately 1%, or 2 million persons, suffer from epilepsy. Approximately 4% of the of the 1%, or 80,000 people, have a form called "Photosensitive" epilepsy in which seizures are triggered by flashing lights.
>
> To date, the findings indicate that the 16 flashes per second range will most likely trigger a seizure in "photosensitive" epileptics. The probability of a seizure reduces as the flash rate decreases. All

available research places the lower limit around 3 to 4 flashes per second. In very rare cases, a seizure may be triggered at a slower flash rate (below 3) but that patient will be extremely disabled and require very special care.

Dr. J. K. Penry, M.D., Chief of the Epilepsy Branch of Neurological Disorders Program, National Institute of Health, confirms that "the peak range of photosensitivity among patients suffering from epilepsy is between 4 and 16 flashes per second." He recommends that flashes or stimuli be paired and have 100 milliseconds between flashes, or in other words, they would be paired flash at 60 times per minute (Electroancephalogr Cl in Neurophysical 39:479489, 1975). It is the opinion of both Dr. Penry and of Wheelock Signals that a flash rate of 1 flash per second is high enough to command attention but below the limit where photosensitive epileptic seizure will result. Gallaudet College, for example, uses high intensity lights which flash once per second for four minutes.

Prior to permitting, or a regular basis, other types of sensory alarms, such as vibrators and variable intensity fans, the Board wishes to have additional research in order to better evaluate their effectiveness.

(d) *Pull Stations. See* § 1190.170 Controls and Operating Mechanisms of the Regulatory Analysis.

§ 1190.190 Tactile Warnings

(a) *General.—Scope.* Tactile warnings used on floor and ground surfaces including surface textures, raised strips, and recessed grooves shall comply with § 1190.190 Tactile Warnings. Informational cueing aids are not inlcuded within the scope of tactile warnings. Tactile warnings used on door hardware are included under § 1190.130 Doors.

Minimum Number. Tactile Warnings shall be provided *only* at those locations specified in paragraph 1190.31(o).

Objective. To provide a standardized system of tactile warnings on walking surfaces that can be immediately perceived by the blind or visually impaired when using the long cane technique and/or by feeling the difference in texture when walking over these surfaces.

Unresolved or Controversial Issues. (i) Tactile warnings at the top of stairs. One of the major findings of the HUD research was that tactile floor warnings of upcoming hazards were very useful for the visually impaired and blind. One of the principal applications recommended in the HUD report for tactile floor warnings was at the top of stairways located directly in a path of travel. Illinois reported however, that tactile warnings at the top of stairs have become tripping hazards in some instances. Until the Board has additional information on this subject, it proposes to reserve this paragraph for future definition.

(ii) Paragraphs 1190.31(o), 1190.70(e)(7), and 1190.190(c)(1) require tactile warnings at the edges of streets without curbs, guardrails, planted areas or similar boundary elements. Dr. Steinfeld recommends that tactile warnings be used at the intersection of pedestrain and vehicular circulation paths if the intersections of walks with streets or other boundaries between pedestrian and vehicular circulation areas are level and flush. He goes on to say that

> in the absence of a formalized use of tactile warning signals, curbs and curb ramps can be used to warn of vehicular traffic hazards in the path of travel. The problem in this case, however, is complicated by the fact that curb ramp installations have been inconsistent and, therefore, have become a hazard in and of themselves.

Should the requirement for tactile warnings include tactile warnings at curb ramps and vehicular ways; or will it cause additional problems?

Basis for Proposal. Dr. Templer's studies, research by Dr. Steinfeld, and Board discussions formed the basis for this section.

(b) *Ground and Floor Surfaces.* Dr. John Templer in his study, "Provisions for Elderly and Handicapped Pedestrians," emphasized that surfaces and textures selected for tactile warning must be easily detected and located where they provide visually impaired people immediate warning of a hazard. The HUD research studies report similar findings. Grooves must be used with caution so as not to present tripping or freezing hazards.

(c) *Hazardous Areas.* Dr. Templer's and Dr. Steinfeld's research studies report that tactile warnings on ground and floor surfaces should be used at the following locations:

(1) Transit vehicle loading platforms,

(2) Edges of streets without curbs, guardrails, planted areas, or similar boundary elements,

(3) Edges of pools not protected by guardrails, walls or curbs.

Both researchers repeatedly emphasize that tactile warnings should never be used at emergency exits.

(d) *Warnings at Stairs. See* Paragraph 1190.190(a) *General*: Unresolved and Controversial Issues, (i).

§ 1190.200 Signage

(a) *General.—Scope.* This section includes requirements for the International Symbol of Access and for informational signing. Written, symbolic, tactile, and pictorial information are within the scope of this section.

Minimum Number. The International Symbol of Accessibility as required by paragraph 1190.200(e) shall be used at all parking spaces designated as reserved for physically handicapped persons; at all passenger loading zones complying with § 1190.60; at all entrances complying with § 1190.120; and at all toilet and bathing facilities complying with § 1190.150 Entrances, toilet and bathing facilities, drinking fountains, stairs, escalators and telephones which do not comply with the minimum guidelines shall have information signing complying with § 1190.200 directing the user to accessible facilities.

Objectives. To identify readily those elements and spaces accessible to the handicapped and to provide informational signing that is easily discernable for the physically handicapped, including the blind, and the able-bodied.

Unresolved or Controversial Issues. The public is invited to share its experience with contrasting colors and specific shapes to identify particular elements and spaces. Should these provisions be mandatory in the final guidelines? *See* paragraph 1190.200(b) *Character Proportion and Contrast.*

Basis for Proposal. The decisions for this section are based on public comments to the ATBCB's Notice of Intent, Questions 25, 26, 27, and 28, and research by Dr. Steinfeld while under contract to HUD.

(b) *Character Proportion and Contrast.* This provision is similar to the ANSI A117.1–1980. Public comments in response to Questions 24–28 of the Notice of Intent supported the use of contrasting colors as a directional cue for the visually impaired. In addition to contrasting colors, the Board considered the utilization of specific shapes to identify particular elements or spaces. The research and available supporting data in this area was insufficient to mandate specific requirements at this time.

(c) *Raised or Incised Characters.* Dr. Steinfeld reports that raised characters are easier to feel than the small sizes and are not as susceptible to maintenance problems as are indented characters which can fill or be filled with dirt, gum, cleaning compounds, and the like. Because only 10 to 15 percent of the blind use braille functionally, Roman and Arabic characters are recommended so that the raised characters can be easily read. The HUD research concludes that a character be raised to 1/32 inch. Braille is raised 0.001 inch; however, a large number of blind individuals also suffer from a loss of the sense of touch (*i.e.*, the diabetic blind and the elderly) and the extra height will provide more definition of the character.

(d) *Mounting Location and Height.* By providing a standardized location for informational signing, a visually impaired or blind person will readily be able to find the information source.

(e) *Symbol of Accessibility.* The International Symbol of Accessibility is used for the purpose of uniformity.

§ 1190.210 Telephones

(a) *General.—Scope.* § 1190.210 Telephones includes all public telephones and related equipment provided at buildings and facilities subject to the minimum guidelines and standards (*see* § 1190.2 *Applicability*).

Minimum Number. All public telephones provided shall comply with the requirements of Subpart C—Scope and § 1190.210 *Telephones.* When a bank (*i.e.*, two or more) of public telephones is provided at a single location at a building or facility, at least one telephone per bank shall have a volume control and at least one telephone per bank shall be equipped with a TDD or with signage directing a user to a TDD that is located in proximity to the bank of telephones.

Objective. To insure public telephones are usable by the physically handicapped including people who are confined to wheelchairs, have reaching limitations, use walking aids, have dexterity or coordination difficulties, are deaf, or are hearing-impaired.

Unresolved or Controversial Issues: (1) How many telephones should be required to have amplifiers? Should the general rule be one per bank with additional requirements for special use buildings such as airports?

(ii) How many telephones should be required to be equipped with telecommunication devices for the deaf (TDD)? What is the most effective location for the TDD, an open or a controlled environment?

(iii) Should public telephones have raised or incised characters so that the blind and the visually-impaired can be provided the location and number of telephones?

(iv) Should the maximum height for the telephone be 4'–0" or 4'–6"?

Basis for Proposal. Prior to 1975, almost all standards, codes, and legislation required the highest operable part of a coin telephone to be a maximum of 4'–0" from the floor. This measurement was based on the measurement for the maximum diagonal or forward reach of a wheelchair user (*i.e.* the reach across the lap) to the telephone coin slot as specified in ANSI A117.1–1961 (R1971). Since 1975, however, the American Telephone and Telegraph Company (AT&T) has promoted the use of a maximum vertical measurement of 4'6" as the highest vertical measurement for any operable part of a telephone. AT&T based this measurement on the ANSI A117.1–1961 specification for the maximum vertical or side reach needed to operate a telephone for a wheelchair user using the side approach to the telephone. As a result of the AT&T recommendation, a number of building codes (*e.g.*, Uniform Building Code, BOCA) and several states have changed their requirements to reflect the 4'–6" measurement. The ANSI A117.1 Committee has also changed their requirement of 4'–0" that was in the 1961 standard to 4'–6" in their 1980 standard.

The 4'–6" measurement, however, does not accommodate those telephone users that have severely restricted reach ranges. The board recognizes that many persons are not able to reach higher than the 4'–0" because of the lack of truck control, spasticity, arthritis, limb amputation, and other reach limitations. The Board furthermore recognizes the critical importance of the telephone as a communication device for the handicapped as well as for others and believes that the 4'–0" measure allows more people to use the telephone. Also taken into consideration by the Board in proposing the 4'–0" requirement was the use of the telephone by children and by people with height restrictions.

The basis for the other paragraphs in this section includes the public comment to the Notice of Intent, Board discussions, and other states' standards and codes. It also reflects the specifications for telephone equipment currently available. This section is similar to the ANSI A117.1–1980 except for the paragraph on maximum height of equipment and the requirement for TDDs. ANSI does not address the latter topic.

(b) *Clear Access Space. See* § 1190.40 Human Data of the Regulatory Analysis. This paragraph is similar to the one contained in ANSI A117.1–1980.

(c) *Equipment Characteristics.* The minimum requirements of this section are based on the requirements specified in other state codes and on problems that have been identified by the handicapped user regarding the operation of telephone equipment. Requirements of this section are similar to the ANSI A117.1–1980 edition except for the requirement regarding maximum height. *See* the above paragraph, *Basis for Proposal*, for a discussion of this issue.

(d) *Equipment for the Hearing Impaired.* According to the 1972 national Census of the Deaf Population, there are 13,400,000 deaf and hearing-impaired persons in the U.S. Of these, 1,767,000 are functionally deaf and can neither hear nor unerstand speech with or without the use of hearing aids. The minimum guidelines address three types of public telephone equipment designed to eliminate communication barriers: (1) Telephone receivers which are compatible with hearing aids; (2) adjustable volume controls; and (3) telecommunication devices for the deaf (TDD).

AT&T, in response to Questions 20 and 22 of the Notice of Intent, reported that the Bell System already provides public telephones compatible with hearing aids. AT&T anticipates that, by the end of 1980, all coin telephones will be compatible with those hearing aids employing induction coils.

The National Center for the Law and the Deaf strongly urged in their comments (Notice of Intent, Question 20) that all public telephones be equipped with adjustable volume controls. The Center said that having a number or percentage of pay phones with volume controls seriously reduces their availability and accessibility to hearing-impaired persons. The Center also noted that an adjustable volume control is a minor alteration to a telephone and that this control can benefit all individuals especially when public phones are located in noisy areas.

The public support in response to Questions 20 and 21 of the Notice of Intent for TDD's to be required on public telephones was quite strong. The National Center for the Law and the Deaf observed that public telephones which are amplified or are compatible with hearing aids remain useless to those with severe or profound hearing loss; only the TDD's can benefit them. The Center reports that TDDs installed in Washington, D.C. and Indianapolis have worked well for the deaf. California legislation requires the Public Utilities Commission to provide TDDs to deaf consumers free of charge. It is also the Board's understanding that the Social Security Administration is instituting a toll fee central number for deaf consumers and that the U.S. Postal Service has installed TDDs in several of its post offices.

The AT&T expressed "great concern" over any requirement for public phones to have TDDs. The Corporation's concern was threefold:

(1) There is no available teletypewriter device durable enough for "a true public environment."

(2) There is no available TDD that can be used with both BAUDOT and ASCII codes to make the TDD useful either commercially, industrially, or domestically; and

(3) There is no available evidence to show that enough deaf persons would use the TDD to justify its expense.

§ 1190.220 Seating, Tables, and Work Surfaces

(a) *General.—Scope.* § 1190.220 Seating, Tables, and Work Surfaces includes all fixed or built-in seating, tables, or work surface.

Minimum Number. Five percent of each element provided shall comply with § 1190.220 Seating, Tables, and Work Surfaces.

Objective. To insure that wheelchair users and people with walking aids have access to the elements provided.

Unresolved or Controversial Issues. Is 5 percent of the total fixed or built-in seating, tables, and work surfaces a reasonable and adequate percentage of these elements to be required?

Basis for Proposal. The majority of public comments received in response to Question 9 of the Notice of Intent replied that the minimum guidelines should require a reasonable number or appropriate number and specify the minimum number. The state codes use various requirements in setting a minimum number including: "at least one," "2 percent," "5 percent," and "all." In light of the Board discussions, the 5 percent figure was chosen.

(b) *Clearances. See* § 1190.40 Human Data, § 1190.150(b)(5) Lavatories and Sinks, § 1190.160 Drinking Fountains and Water Coolers. This paragraph is similar to the one contained in ANSI A117.1–1980.

§ 1190.230 Assembly Areas

(a) *General.—Scope.* § 1190.230 Assembly Areas includes all places of assembly with fixed type seating and all other elements and spaces required for the use of the assembly area including, but not limited to, stages and backstage areas, lobbies, ticket offices, seating, dressing rooms, toilet rooms, and bathing facilities.

Minimum Number. All assembly areas provided shall comply with the requirements of Subpart C—Scope and § 1190.230 Assembly Areas.

Objective. To insure that a minimum number of spaces in assembly areas are accessible and convenient to use by people who are confined to wheelchairs, use walking aids, or have a severe loss of hearing.

Unresolved or Controversial Issues. Under § 1190.31(S) a limited number of viewing positions are to be provided based on the capacity of the assembly area. Public comment is sought on the reasonableness and adequacy of this provision.

Basis for Proposal. In most auditoria or assembly areas, no provision is made for wheelchair users. Generally the only available space for the wheelchair is the aisle which is usually sloped and viewing is not always optimal. Frequently, wheelchair users are denied entrance because the only available location for the wheelchair to occupy blocks fire exits. The minimum number of viewing positions is based on a review of various codes. BOCA, SBCC, Rhode Island, and New Jersey provide a similar table to the one listed in Subpart C—Scope. The Board also recognizes that many handicapped persons attend performances with able-bodied friends and relatives as well as disabled ones; therefore, provisions should be made so that seating can be together.

(b) *Size and Location of Viewing Positions. See* § 1190.40 Human Data. So that the handicapped viewer can have a choice as to his or her viewing position and/or price of ticket, if applicable, the Board proposes that viewing positions be dispersed. This requirement is similar to that of ANSI A117.1–1980.

(c) *Performing Areas.* This section is similar to the provisions of ANSI A117.1–1980 except that the Board recognizes that existing performing areas may be structurally impracticable to alter and therefore the guidelines provide an exception.

(d) *Listening Systems.* In response to Question 23 of the Notice of Intent, a number of people suggested the use of the audio loops and interpreters. The consensus was that technology to meet the communication needs of the hearing impaired was available; however, it is not widely used.

§ 1190.240 Storage

(a) *General.—Scope.* Includes all storage features provided in a building or facility. Cabinets, shelves, closets, and drawers are included within the scope of this section.

Minimum Requirements. All storage facilities provided except those specifically exempted from this requirement by Subpart E—Special Technical Provisions, shall comply with this section.

Objective. To provide storage facilities that can be safely and conveniently used by people confined to wheelchairs, who have reaching limitations, who use walking aids, or who lack stamina or coordination.

Unresolved or Controversial Issues. None.

Basis for Proposal. Requirements are based on § 1190.40 Human Data, § 1190.50: Walks, Floors, Accessible Routes, and § 1190.170 Controls and Operating Mechanisms. This paragraph is similar to the provisions contained in ANSI A117.1–1980.

[FR Doc. 80-24709 Filed 8-15-80; 8:45 am]
BILLING CODE 4110-02-M

federal register

Monday
August 18, 1980

Part IV

Environmental Protection Agency

Carbon Monoxide; Proposed Revisions to the National Ambient Air Quality Standards and Announcement of Public Meetings

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL 1448-6 Docket No. OAQPS 79-7]

Carbon Monoxide; Proposed Revisions to the National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In accordance with Sections 108 and 109 of the Clean Air Act as amended, EPA has reviewed and revised the criteria upon which the existing primary and secondary carbon monoxide standards are based. The revised criteria are being published simultaneously with this notice of proposed rulemaking. The existing primary and secondary standards for carbon monoxide are both currently set at 9 parts per million (ppm), averaged over a period of 8 hours, and 35 ppm averaged over 1-hour, not to be exceeded more than once per year. As a result of the review and revision of the health criteria, EPA proposes to retain the existing primary 8-hour standard at 9 ppm and to lower the primary 1-hour standard to 25 ppm. The change in the 1-hour standard is being proposed because of the more rapid accumulation of blood carboxyhemoglobin in moderately exercising sensitive persons compared to resting individuals. The impact of exercise, which is greater for short-duration exposures, was not considered in the original standard. A secondary or welfare effects standard is not deemed appropriate for this pollutant because environmental effects have only been observed at relatively high carbon monoxide concentrations. Because CO concentrations of such magnitude rarely if ever occur in the ambient air, this notice proposes to rescind the existing secondary standard. Also proposed is a change to a statistical standard rather than the current deterministic standard; i.e., allowable exceedances will be stated as an expected value, not an explicit value. Furthermore, EPA proposes to use a daily interpretation for exceedance of the CO standard, so that exceedances will be determined on the basis of the number of days on which 1- or 8-hour average concentrations are above the standard levels.

During the period between this proposal and final promulgation of the standard, EPA will continue its examination of health and welfare effects information contained in the criteria document and will continue to seek to involve the the public, particularly the most directly affected parties, in the process of reaching a final decision on the air quality standard. One or more public meetings on this proposal will be held between proposal and promulgation and will be announced in a subsequent **Federal Register** notice.

DATE: Comments must be received by November 10,1980.

ADDRESSES: Submit Comments (duplicate copies are preferred) to: Central Docket Section (A–130), Environmental Protection Agency, Attn: Docket No. OAQPS 79–7, 401 M Street, SW., Washington, D.C. 20460.

Docket No. OAQPS 79–7, containing material relevant to this propsoed rulemaking, is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St., SW., Washington, D.C. The docket may be inspected between 8 A.M. and 4 P.M. on weekdays, and reasonable fee may be charged for copying.

Availability of Related Information

Documents generated as a part of this standard review such as the Control Techniques Document, Regulatory Analyses, Exposure Analysis, Environmental Impact Statement and Community Impact Statement can be obtained from: U.S. Environmental Protection Agency Library (MD–35), Research Triangle Park, N.C. 27711, Telephone (919) 541–2777 (FTS 629–2777).

The criteria document is available from: Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711 (Attn: Dr. David McKee).

The criteria document may be requested by calling (919) 541–3746 (FTS 629–3746).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Jones, Strategies and Air Standards Division (MD–12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone (919) 541–5231 (FTS 629–5231).

SUPPLEMENTARY INFORMATION:

Background

On April 30, 1971, the Environmental Protection Agency promulgated in the **Federal Register** (36 FR 8186) National Ambient Air Quality Standards for carbon monoxide. The scientific, technical, and medical basis for these standards is contained in the air quality criteria document for carbon monoxide published by the U.S. Department of Health, Education, and Welfare in March 1970. Both the primary and secondary standards were set at levels of 9 ppm, 8-hour average, and 35 ppm, 1-hour average, neither to be exceeded more than once per year. The preamble to the regulation stated:

> The national primary standard for carbon monoxide, proposed on January 30, 1971, was based on evidence that low levels of carboxyhemoglobin in human blood may be associated with impairment of ability to discriminate time intervals. In the comments, serious questions were raised about the soundness of this evidence. Extensive consideration was given to this matter. The conclusions reached were that the evidence regarding impaired time-interval discrimination had not been refuted and that a less restrictive national standard for carbon monoxide would therefore not provide the margin of safety which may be needed to protect the health of persons especially sensitive to the effects of elevated carboxyhemoglobin levels above 2 percent. It is the Administrator's judgment that attainment of the national standards for carbon monoxide will provide an adequate safety margin for protection of public health and will protect against known and anticipated adverse effects on public welfare.

The evidence cited above concerning impairment of ability to discriminate time intervals is based on work by Beard and Wertheim. As a result of the failure of several researchers to replicate the Beard and Wertheim results, the implications of this evidence for standard setting have changed since the original standard was promulgated. EPA's interpretation of this evidence is discussed elsewhere in this proposed regulation.

Carbon monoxide (CO) is a colorless, odorless, tasteless gas that is generally unreactive with other pollutants or constitutents found in the urban atmosphere. The primary sources of CO emissions are mobile sources, such as automobile, truck, and bus exhausts. Other sources of CO include stationary sources such as primary metal, carbon black, and maleic anhydride industrial facilities.

The reductions in CO emissions required by EPA standards are achieved through Federal and State programs which have been formalized in regulations promulgated under the Clean Air Act. The federal programs provide for reductions in emissions nationwide through the Federal Motor Vehicle Control Program, which involves controls for automobile, truck, bus, motorcycle, and aircraft emissions, and the development of New Source Performance Standards. The state programs provide for additional control

measures through State Implementation Plans in those areas of the country where the federal programs alone do not assure the attainment of air quality standards.

Legislative Requirements Affecting This Proposal

Two sections of the Clean Air Act govern the development of a National Ambient Air Quality Standard. Section 108 (42 U.S.C. 7408) instructs EPA to document the scientific basis (criteria) for the standard, and Section 109 (42 U.S.C. 7409) provides instructions on reviewing criteria and establishing standards.

Air quality criteria are required by Section 108(a)(2) to reflect accurately, upon issuance, the latest scientific information useful in indicating the kind and extent of all identifiable effects on public health or welfare that may be expected from the presence of the pollutant in the ambient air. If in the Administrator's judgment, revised criteria make appropriate the proposal of new or revised standards, such proposal is to occur simultaneously with issuance of the final criteria document.

The primary standard is defined in Section 109(b)(1) as that ambient air quality standard the attainment and maintenance of which in the judgment of the Administrator, based on the published criteria and allowing an adequate margin of safety, is requisite to protect the public health. The secondary standard, as defined in Section 109(b)(2), must specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on the published criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of the pollutant in the ambient air. These adverse welfare effects which are defined in Section 302(h) of the Act include effects on soils, water, crops, vegetation, man-made materials, animals, weather, visibility, hazards to transportation, economic values, personal comfort and well-being, and other factors.

Section 109(b) of the Act specifies that National Ambient Air Quality Standards are to be based on scientific criteria relating to the level that should be attained to adequately protect public health and welfare. Considerations of cost of achieving those standards or the existence of technology to bring about needed reductions of emissions are not germane to such a determination, as the words of the Act and its legislative history clearly indicate. Section 109(d) directs the Administrator to complete a review of all existing standards and criteria before the end of 1980 and at 5-year intervals thereafter and to revise them in whatever manner that review determines is necessary.

Assuring attainment and maintenance of ambient air quality standards is the responsibility of the states. Under Section 110 of the Act, the States are to submit to EPA for approval State Implementation Plans (SIP's) that provide for the necessary legal requirements for sources of the relevant pollutant so as to demonstrate attainment and maintenance of the standards by certain deadlines. In the case of carbon monoxide, numerous urban areas have failed to attain the present standards. In 1977, Congress amended the Clean Air Act by inserting several sections, mostly found in Part D of Title I of the Act as amended, to intensify the effort to attain the CO standard. New deadlines were established, and the states were required to submit revised State Implementation Plans by January 1, 1979, for all "non-attainment areas."

If promulgated, the proposed changes to the CO standard will not modify the attainment dates specified in Section 172 of the Clean Air Act. As explained elsewhere in this preamble, both the 1-hour and 8-hour standards will be restated so that compliance with them will be determined statistically on the basis of a daily interpretation for exceedances. In addition, the numerical value of the 1-hour standard will be decreased.

An analysis of data available from the States indicates that, with regard to State Implementation Plan development under Part 51, the proposed CO standards should have little or no impact on the present attainment status designation of any area. Only 6 designated nonattainment areas in the country now exceed the 1-hour (35 ppm) standard, and all of these are included in the 146 designated nonattainment areas that now exceed the 8-hour (9 ppm) standard. There are no sites that currently exceed the proposed 1-hour (25 ppm) standard that do not also exceed the 8-hour (9 ppm) standard. Therefore, although EPA proposes to decrease the numerical value of the 1-hour standard, this action should not cause the designation of additional nonattainment areas. Since the proposed 1-hour standard (25 ppm) is not effectively as stringent as the 8-hour standard, the 8-hour existing standard, which has been the controlling standard in the past, will remain so, and the decrease of the 1-hour standard will not cause the designation of additional nonattainment areas. If a state already has an adequate plan to meet the existing CO standards, such a plan should be sufficient to meet the proposed standards. The proposed standards will not substantially affect New Source Review Requirements. For these reasons, the states will not be required to file revisions to their implementation plans.

Development of Air Quality Criteria and Summary of General Findings From Review of Air Quality Criteria for Carbon Monoxide

On December 1, 1978 (43 FR 56250), EPA announced that it was in the process of reviewing and updating the 1970 criteria document for carbon monoxide in accordance with provisions of Section 109(d)(1) of the Clean Air Act as amended. In the process of developing the revised criteria document, EPA has provided a number of opportunities for review and comment by organizations and individuals outside the Agency. Two drafts of the criteria document have been made available for external review, and EPA has received a total of approximately 30 written comments on these first and second drafts. Each draft was also the subject of a meeting of the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board and the CASAC CO Subcommittee. Each of these meetings was open to the public, and a number of organizations and individuals have presented both critical review and new information for EPA's consideration.

On the basis of a careful review of scientific information contained in the criteria document[2], EPA prepared a staff paper[3] in which several key areas were identified as major factors to be considered in the possible revision of the CO standards; the Agency presented this paper at a public meeting of the CASAC. These findings, favorably reviewed by the CASAC, are summarized in the following paragraphs.

1. Carbon monoxide is a colorless, odorless gas that is toxic to mammals because of its strong tendency to combine with hemoglobin to form carboxyhemoglobin (COHb). Thus, the oxygen-carrying capacity of the blood is reduced since hemoglobin that has combined with CO in this manner is not available to transport oxygen; furthermore, the presence of COHb inhibits the release of oxygen from the remaining hemoglobin. The resultant hypoxemia (deficient oxygenation of the blood) can have detrimental affects on the cardiovascular, central nervous, pulmonary, and other body systems. The relatively small reductions in the ability of the blood to deliver oxygen to these systems at 5 to 10 percent COHb may be

Description of Adverse Effects

to occlusive arterial disease were caution in interpreting this study

quite critical for persons suffering from cardiovascular diseases or chronic obstructive lung disease.

2. The COHb in an individual's bloostream reflects input from two sources: Endogenous (produced by the metabolic breakdown of hemoglobin and other heme-containing materials) and exogenous (derived from the external environment). The physiologic norm for endogenous COHb levels has been estimated to be rougly in the range of 0.3 to 0.7 percent,[4] but endogenous production may be significantly increased for persons with hemolytic anemias, in women during pregnancy and during menstrual cycle, and in persons taking certain types of drugs. With these exceptions, however, increments significantly above the physiologic norm (i.e., above 1 percent) are assumed to have resulted from exogenous sources such as cigarette smoking (which can produce COHb levels ranging from 2 or 3 percent up to as high as 15 to 17 percent) or community air pollution.

3. Low-level CO exposures (producing group mean COHb levels in the range of 2.7 to 2.9 percent) have been shown to cause aggravation of cardiovascular disease. This aggravation consists of decreased time to onset of pain, both in persons with angina, and in persons with intermittent claudication (lameness) as a result of peripheral vascular disease,[5-7] and is considered to be an adverse effect. The criteria document states that the limited studies on patients having cardiovascular disease suggests that the critical level of COHb is 2.5 to 3.0 percent and the CASAC CO Subcommittee cited 2.7 to 3.0 percent COHb as the critical level at which adverse health effects do occur.[8] Both the critical range suggested by CASAC and that stated in the criteria document are in close agreement with the group mean values reported in the human studies (2.7 and 2.9) that show effects at the lowest COHb concentrations.[5-7]

4. Conflicting results have been obtained in community studies examining the relationship between CO exposure and mortality from myocardial infarction (heart attack) and sudden death due to arteriosclerotic heart disease. Consequently, the possibility of such an association remains in question, and more research is needed to clarify this issue.

5. Relatively low-level CO exposures have been reported to produce effects on the central nervous system such as decrements in vigilance (ability to detect small changes in one's environment that occur at unpredictable times). Effects of CO on vigilance are in considerable dispute, but some evidence suggests that, if relevant variables are controlled, CO exposures at a threshold level of about 4 to 6 percent COHb may produce decrements in vigilance. Decrements in visual function and sensitivity have been reported at COHb levels as low as 4 to 5 percent.

6. Another central nervous system effect, impairment in discrimination of time intervals, has been reported by Beard and Wertheim [1] to result from low-level CO exposures (estimated COHb levels of 2 to 3 percent). Their study provided the basis for the 1971 air quality standard for CO; however, the revised criteria documents states that considerable questions have been raised as to the validity of these observations, with several attempts to replicate these findings having been unsuccessful.

7. CO exposures above 5 percent COHb have been reported to produce an approximately linear decline in the maximal oxygen uptake of healthy individuals undergoing maximal exercise protocols of several minutes' duration. Persons with chronic obstructive pulmonary disease have been reported to exhibit decreased exercise performance following CO exposures producing a group mean COHb level of 4.1 percent.

8. In long-term exposures of pregnant animals to CO, fetal COHb levels have been shown to exceed maternal COHb levels significantly after an uptake lag of a few hours, and fetal elimination of CO upon cessation of exposure was slower than maternal elimination. In several experimental animal studies, pregnant females were exposed to CO; deleterious effects were in general reported in the offspring (e.g., reduced birthweight, increased newborn mortality, and lower behavioral activity levels) even when the mothers were not affected. In human studies, similar effects have been reported in children of mothers who smoked cigarettes during pregnancy. This evidence is discussed in greater detail in a subsequent section of this notice.

9. The only significant effect on vegetation reported for CO levels that approach those that might occur in the ambient air is an inhibition of nitrogen fixation by micro-organisms in the root nodules of legumes. Since the threshold reported for this effect (100 ppm for 3 to 34 days), is well above those CO levels occurring in the ambient environment, it is very unlikely that any damage will occur to vegetation as a result of CO air pollution. Furthermore, compliance with any primary standard likely to result from this rulemaking would insure protection against such damage.

Reported Human Health Effects Levels

Mechanism of CO Toxicity

EPA interpets the existing health effects evidence presented in the criteria document to indicate that the principal mechanism of CO toxicity is through hypoxemia (deficient oxygenation of the blood). This mechanism suggests that adverse effects on the body result from the strong affinity of blood hemoglobin for CO (over 200 times greater than for oxygen), which results in the formation of carboxyhemoglobin (COHb). Thus, the oxygen-carrying capacity of the blood is reduced since hemoglobin that has combined with CO in this manner is not available to transport oxygen; furthermore, the presence of COHb inhibits the release of oxygen from the remaining hemoglobin. Effects on the cardiovascular, central nervous, and pulmonary, and other systems are directly related to this reduction in the ability of the blood to deliver oxygen to these systems.

Some researchers have suggested an alternative mechanism for carbon monoxide toxicity that results from a blocking of the energy flow at the cellular level through the cytochrome system.[2] In discussing some of these studies, members of the CO Subcommittee of the Clean Air Scientific Advisory Committee (CASAC) [8] raised the possibility that the results found by these researchers could be more readily explained on the basis of the test protocols than as an alternative mechanism of toxicity. In several of these studies, animals were exposed to very high CO concentrations (greater than 100,000 ppm) for short periods of time, with the result that the animals died at a total-body COHb level lower than that which would be required if the CO dose had been administered as a lower concentration given over a longer period of time. The CASAC indicated that the hypoxemia mechanism probably provides an adequate explanation of this phenomenon as a manifestation of the "bolus effect", wherein a high concentration inhaled over a short period of time results in a portion of the blood supply that is essentially devoid of oxygen reaching the heart, with life-threatening consequences. Since the CASAC questioned the sufficiency of the information base on which the cytochrome system toxicity mechansim was proposed, EPA has decided to focus this NAAQS review on the hypoxemia mechanism and related COHb levels associated with observed adverse health effects.

Description of Adverse Effects

Cardiovascular System Effects. Angina pectoris is a cardiovascular disease in which mild exercise or excitement produces symptoms of pressure and pain in the chest because of insufficient oxygen supply to the heart muscle. Angina patients who have been exposed to low levels of CO while resting have subsequently exhibited, during exercise, reduced time to onset of angina. Increased duration of the angina attacks has also been reported.

EPA considers such aggravation of angina to be an adverse health effect for several reasons. First, it may result in cardiovascular damage, which is unquantifiable using present technology. Second, aggravation of angina may be the first in a series of progressively more serious symptoms that accompany cardiovascular disease. At low levels of oxygen deprivation, angina patients experience symptoms of chest pain described above. Coronary insufficiency is a more serious symptom that occurs at greater levels of oxygen deprivation. This symptom is sometimes accompanied by changes in enzyme levels and electrocardiographic irregularities. The most serious symptom in this continuum of effects is myocardial infarction. In addition to longer and more intense pain, myocardial infarction is accompanied by irreversible heart damage (death of myocardial cells) as indicated by enzyme level changes and electrocardiographic alterations. Finally, because aggravation of angina may be the first in a series of symptoms that may lead to permanent heart damage, EPA considers aggravation of angina an adverse effect and an indicator that more serious effects may occur in some individuals at the same COHb levels.

Aggravation of angina has been convincingly demonstrated by Anderson et al.[5] and Aronow and Isbell [6] at group mean COHb levels of 2.7 to 2.9 percent, which are lower than those associated with any other measurable adverse effect of CO exposure. In a 1978 study,[10] Aronow reported angina aggravation at COHb levels in the range of about 1.8 to 2.3 percent, but these COHb levels were obtained through a passive smoking exposure regime, with possible confounding factors. The appropriate utilization of this study in the standard-setting process will be discussed in a subsequent section of this notice.

Patients having peripheral vascular disease may also have this condition aggravated by CO exposure. In the one clinical study [7] in which such an effect was examined, 10 persons with intermittent claudication (lameness) due to occlusive arterial disease were exposed to 50 ppm of CO for 2 hours, with subsequent exercise until leg pain occurred. The COHb levels produced by this exposure (group mean of 2.8 percent) significantly decreased the time to onset of pain and cessation of activity.

Another cardiovascular system effect of concern is the possible detrimental effect of increased blood flow that occurs as a compensatory response to CO exposures. This response could result in coronary damage or other vascular effects due to the cardiovascular system being pushed beyond its capabilities. Cardiovascular damage and electrocardiogram abnormalities have been reported in persons who have experienced acute non-fatal CO poisoning (20 percent COHb) or who have been chronically exposed to CO in the workplace. Chronic exposure to average CO levels of 70 ppm, with peak levels of about 300 ppm (no COHb levels reported), has been associated with increased mortality from heart failure in a Japanese population.[11] Some epidemiological studies in Los Angeles [12-14] have suggested that increased mortality from myocardial infarction (death of heart tissue) may be associated with high ambient air concentrations of CO (estimated COHb levels in the range of 8 to 17 percent), but in a similar study Kuller et al.[15] failed to find such a correlation with considerably lower ambient CO levels. Radford [16] evaluated patients admitted to the myocardial infarction research unit at the Johns Hopkins University. While the investigator's diagnoses were consistent with both acute and chronic effects on the myocardium of long-term exposure to CO, the effects observed could not be clearly related to that factor. Therefore, the possibility of an association between CO levels in the ambient air and incidence of myocardial infarction or sudden deaths due to arteriosclerotic heart disease remains in question; more research is needed to clarify this issue.

In a recent epidemiology study, Kurt et al.[17] reported an increase in the number of cardio-respiratory complaints by patients at the emergency room of a Denver hospital on days when the 24-hour mean and maximum 1-hour mean ambient CO concentrations at a nearby monitoring site equalled or exceeded 5 and 11 ppm respectively, as compared to days when the corresponding concentrations were below those levels. In commenting on an early report of this study, however, the CASAC CO Subcommittee [4, 9] expressed the need for caution in interpreting this study because (1) the cardio-respiratory complaints evaluated in the study are inadequate indicators of cardiovascular disease aggravation, (2) the authors did not report any COHb levels for the patients evaluated and (3) the reported single monitoring site near the hospital is inadequate to determine the exposures sustained by the patients.

Central Nervous System Effects. Some studies [18-21] have reported that CO exposures resulting in COHb levels of 1.8–7.6 percent have produced decrements in vigilance (the ability to detect small changes in one's environment that take place at unpredictable times). The effects of CO on vigilance are in considerable dispute, however, since similar studies [22-27] have failed to observe similar effects. EPA's judgment of the evidence is that, if relevant variables are controlled, CO exposures at a threshold level of about 4–6 percent COHb may produce decrements in vigilance. Decrements in visual function and sensitivity have been reported at COHb levels as low as 4 to 5 percent.[28, 29]

EPA considers vigilance and visual function effects to be important since these functions are components of more complex tasks, such as driving, and reduced alertness or visual sensitivity could lead to increased accidents. Several studies discussed in the criteria document [2] suggested that elevated COHb levels adversely affect the performance of complex tasks, and suggestive (but not conclusive) evidence has been reported [30] indicating that a greater proportion of drivers in fatal accidents have COHb levels above 5 percent. Accordingly, the possibility of an interactive effect between alcohol and CO that has been suggested by some experimentation is of particular concern.

Pulmonary Function and Exercise Effects. In its discussion of several studies using sub-maximal exercise for short periods (5 to 60 minutes), the criteria document [2] states that oxygen uptake during work does not appear to be affected even when COHb levels are as high as 15 to 20 percent, although several of these studies have shown that these COHb levels produce increased heart rates. In maximal exercise protocols of several minutes' duration, COHb levels in the range of 5–33 percent have been demonstrated to produce a linear decline in maximal oxygen uptake (and hence work capacity).[2] MacMillan[31] reported that competitive swimmers have impaired performance after travelling to meets along a prescribed 2-hour route in

congested traffic, with average CO levels in expired air reaching 30 ppm (estimated COHb of about 6 percent). These results may, however, reflect interaction with other pollutants since ambient air exposures were examined in this study rather than systematic, controlled exposures to CO.

Although only a few studies have been conducted to examine the effects of CO exposure on persons with chronic obstructive pulmonary disease (e.g., asthma, emphysema, and chronic bronchitis), this group is presumably at high risk to CO exposures. A reduction in oxygen supply due to increased COHb levels could exacerbate existing effects of low oxygen levels caused by impaired respiratory system functioning. Aronow et al.[33] exposed 10 persons with chronic obstructive pulmonary disease (emphysema) to 100 ppm CO for 1 hour, producing a group mean of 4.1 percent COHb. Time to onset of marked dyspnea (difficulty in breathing) was reduced 33 percent during expercise as compared to COHb levels of 1.5 percent. The investigators concluded that the limited exercise performance after CO exposure was probably a cardiovascular limitation rather than a respiratory one.

Fetal Development. In several experimental animal studies that are discussed in the criteria document,[2] pregnant females were exposed to CO, and in general the offspring showed deleterious effects even when the mothers were not affected. For example, Astrup et al.[33] exposed pregnant rabbits to 90 ppm CO continuously for 30 days, with resultant maternal COHb levels of 9 to 10 percent. Birth weights decreased 11 percent and the newborn mortality rate increased to 10 percent from a control value of 4.5 percent. In another study,[34] the offspring of rats exposed to 150 ppm CO throughout gestation (maternal COHb levels of 15 percent) weighed slightly (3 percent) less at birth and failed to gain weight as rapidly after birth. Reduced brain protein levels at birth and lower behavioral activity levels through the preweaning period were observed. In many cases, the deleterious effects have been shown to disappear by adulthood, but the inference that such effects may occur in humans during maturation is of concern with respect to possible impacts on learning and social behavior development.

In the criteria document,[2] there is discussion of some experimental animal studies in which short-term maternal CO exposure resulted in lower COHb levels in the fetus than in the mother; however, in these studies, the fetus was still adversely affected. Longo and Hill[35] examined long-term maternal CO exposures and found that fetal COHb levels exceeded maternal values after an uptake lag of a few hours following initiation of exposure. At equilibrium, fetal COHb levels significantly exceeded maternal values, and fetal elimination of CO after cessation of exposure was slower than maternal elimination. The COHb concentration in human fetal blood has been reported[36] to vary from 0.7 to 2.5 percent (for non-smoking mothers), with the ratio of fetal to maternal COHb levels varying from 0.6 to 1.6.

The biologic effects of CO exposure on fetal tissues during intrauterine development require clarification. The ability of CO to decreased the oxygen transport capacity of maternal and fetal hemoglobin may result in interference in fetal tissue oxygenation during important developmental stages. Whereas a normal adult has reserve capacity and compensatory responses that enable him to handle moderately high COHb levels without irreversible consequences, the fetus may under normal conditions be operating close to critical levels in terms of tissue oxygen supply. Thus, even moderate CO exposures may have a deleterious effect on fetal development.

Some verification of this hypothesis has been suggested in studies examining the impact of maternal smoking on the unborn child, as well as by studies of the impact of altitude on the unborn child. Several studies of have demonstrated that babies born to smoking mothers have reduced birth weight, as do children born at higher altitudes. Some question remains as to the relationship of fetal deaths to maternal smoking, but, in several studies in which data from large population samples were used, investigators concluded that perinatal deaths of infants of mothers who smoke do increase when these data are corrected for other factors affecting perinatal death rates (e.g., maternal age, the number of children previously borne, race, and social status). The causes of this increased perinatal mortality have not been adequately identified.

The effect on surviving children of CO derived from maternal smoking is not well understood. Fedrick et al.[37] reported almost a twofold increase in the incidence of congenital heart disease in the infants of mothers who smoke. British studies[38,39] of large population groups have found highly significant differences in the attainment of reading skills at 7 years of age between the children of mothers who smoked and those who did not. In a follow-up study[40] of these children at 11 years of age, investigators found several months' retardation in general ability, reading, and mathematics in a comparison between the children of mothers who smoked (0.5 pack of cigarettes or more per day; average COHb levels, though not reported, may have been 3 to 4 percent or more) and children of those who did not. While the fact that cigarette smoke contains substances other than CO prevents a direct application of the results of these studies in setting the CO standard, the studies do suggest the need for caution in protecting unborn children from such potentially deleterious effects of CO exposures.

Population Groups Sensitive to Low Levels of CO

On the basis of the criteria document discussion of the principal adverse effects associated with low levels of CO exposure, EPA has concluded that the following groups may be particulary sensitive to exposures of CO: Angina patients, individuals with other types of cardiovascular disease, persons with chronic obstructive pulmonary disease, anemic individuals, fetuses, and pregnant women. While no evidence is presented in the criteria document that healthy children are particularly sensitive to CO, concern exists that they also may be at increased risk to CO exposure because of the increased oxygen requirements that result from their higher metabolism rates.

In EPA's judgment, the available health effects data identify persons with angina and those with other types of cardiovascular disease as the groups at greatest risk from low-level, ambient exposures to CO. The low threshold for persons with angina results from the fact that the angina condition is due to an insufficient oxygen supply to cardiac tissue, so that persons with this condition have an inadequate reserve capacity and an impaired ability to compensate for the effects of CO.

The second group of prime concern consists of individuals suffering from other cardiovascular diseases, such as peripheral vascular disease. While much less information is available concerning the effects of CO on this group, one clinical study by Aronow [7] showed significantly decreased exercise time to onset of leg pain at group mean COHb levels of 2.8 percent for persons with peripheral vascular disease. The two major types of peripheral vascular disease are arteriosclerosis and atherosclerosis. A 1972 National Health Interview Survey [41] estimates that 700,000 persons, or 0.34 percent of the total U.S. population, have

arteriosclerosis. Estimates for atherosclerosis and other types of peripheral vascular disease are not available.

The number of persons who had angina and other types of cardiovascular diseases was estimated by the U.S. National Health Examination Survey (NHES),[42] which during the period 1960 through 1962 examined a sample of the civilian non-institutionalized population of age 18 to 79 years; the purpose of the survey was to obtain information on the prevalence of cardiovascular and other diseases. This survey estimated that 4.5 million persons (4.0 percent of the adult population) had definite or suspected angina pectoris, either with or without myocardial infarction. Thus, angina patients represented a large fraction of the 5.5 million persons (5.0 percent of the adult population) estimated to have definite or suspected coronary heart disease; this category consisted almost entirely of angina and myocardial infarction. The survey also estimated the prevalence rates of definite or suspected coronary heart disease as a function of age; among persons over 55 years old, prevalence rates ranged between 10 and 17 percent for various 5-year age groupings.

In addition, a group of persons probably not identified in this survey would also seem to have cardiovascular problems that place them at risk to CO exposure. Approximately 400,000 persons die each year from sudden cardiac death; of these, nearly 25 percent have had no prior recognized symptoms of heart disease.[43] The results of one survey[44] indicated that nearly 40 percent of the victims of sudden cardiac death had consulted a physician during the month prior to death but had reported symptoms "so vague and inexplicit that coronary heart disease would have been difficult to infer." Therefore, the above NHES estimates may be somewhat low, since most of these persons without any evident symptoms of heart disease would probably not have been detected by the survey examinations.

On the basis of the available effects data, EPA is focusing on angina patients and those with other types of cardiovascular disease as the most sensitive groups. Other groups such as fetuses, anemics, and persons with chronic obstructive pulmonary disease can reasonably be projected to be affected at CO levels possible in ambient air exposures. Individuals with dietary or pathological anemia are probably at greater risk due to reduced oxygen-carrying capacity of their blood. A 1973 National Health Interview Survey [45] estimates that nearly 3.0 million persons (1.4 percent of the U.S. population) suffer from anemia. Persons with hemolytic anemia (who have increased hemoglobin destruction rates) would be particularly at risk because of their increased endogenous production of COHb. The Survey estimates of specific anemias having a hemolytic component range from 90,000 to 230,000 persons (0.04 to 0.11 percent of the U.S. population). Similarly, there are approximately 3.1 million live births per year in the United States or 1.5 percent of the population.[46] About 1 million pregnancies per year occur among women living in the central cities of metropolitan counties, where CO ambient levels tend to be greatest.[47] This latter group, therefore, would be at increased risk to CO exposure. Because of the lack of human data for non-cardiovascular disease groups, however, the potential effects on such persons will be considered in determining the margin of safety for the CO standard.

CO Exposure and Resulting COHb Levels

In developing the proposed standards, it is necessary to make judgments concerning the relationship between ambient carbon monoxide exposure and resulting COHb blood level. The primary factors determining the final level of COHb in individuals are the following: concentration of CO inhaled and duration of exposure, alveolar ventilation rates (which depend on the level of activity), initial COHb level, endogenous CO production, blood volume, hemoglobin concentration, relative affinity constant of hemoglobin for CO and oxygen (O_2), barometric pressure, and relative diffusive capability of the lungs.[48] EPA has chosen to exclude consideration of smokers from the following discussion since the primary source of CO and resulting COHb levels for these individuals is from the intake of tobacco smoke. The contribution of ambient CO exposures to the final COHb level of smokers is relatively insignificant.

When individuals inhale air containing a constant concentration of CO, several hours are required for them to reach a state of equilibrium, at which point the COHb level in the body no longer increases. For a given CO level, the time required to reach equilibrium is influenced by a number of factors, the most important for normal individuals being the level of activity as measured by the alveolar ventilation rate (V_A). At low levels of activity (rest/intermittent light activity, V_A=5–10 L/min), approximately 8–12 hours are needed for equilibrium to be achieved. For moderate walking (3 miles per hour, V_A=20 L/min), the equilibrium level of COHb may be reached in half that time, or around 4–6 hours.

Individuals are generally not, however, exposed to constant concentrations for long periods of time. The non-equilibrium levels of COHb must be determined in order to evaluate the COHb levels associated with alternative 1- and 8-hour average standard levels for CO. Thus, EPA must rely on a model or equation to obtain information on COHb levels resulting from short-term CO exposures.

A model known as the Coburn equation [49] has been developed which permits the calculation of COHb concentration as a function of time, with the physiological factors previously mentioned considered. Peterson and Stewart [49,50] have reported excellent correlation between COHb values measured in both male and female subjects and those predicted by the Coburn equation. In addition, at levels of activity sufficient to increase alveolar ventilation up to 2.5 times above resting levels, they measured COHb levels that were consistent with the theoretical values obtained by use of the Coburn equation. While further experimental verification is needed to demonstrate that the Coburn equation accurately predicts uptake and excretion of CO under a variety of conditions, EPA believes it is the best tool available for estimating the COHb levels that will result from short-term (1- to 8-hour) exposures to ambient CO concentrations. Furthermore, the CASAC agreed that for a given set of physiological factors, the Codburn model predicts with reasonable accuracy the typical COHb levels resulting from specified CO exposures for non-equilibrium situations.[51]

Table 1 presents baseline or nominal estimates of the Coburn model as to the COHb levels expected to be achieved by non-smokers exposed to various constant concentrations of CO for either 1 or 8 hours. This table does not take into account the impact of fluctuating CO concentrations on CO uptake; this impact will be discussed in a subsequent section. A moderate lung ventilation rate, equivalent to a 3 mile-per-hour walk, has been selected as a reasonable estimate of the mean ventilation achieved by individuals with angina or coronary heart disease while exercising. The impact of activity level on rates of COHb accumulation is most apparent for shorter duration exposures. As illustrated in the table, very little difference exists in the COHb levels for

of each study. While the table includes

V 4 5 A G 1 8 8 0 UMI

resting and moderately exercising persons for 8-hour exposures to CO concentrations near the current standard level. Consequently, assumptions regarding exercise levels at the 8-hour averaging time are not as critical in estimating COHb levels as for the 1-hour averaging time.

Table 1.—*Predicted COHb Response to Exposure to Constant CO Concentrations*

[Percent COHb based on Coburn Equation [1]]

CO (ppm)	Exposure time (hours)			
	1		8	
	Intermittent rest/light activity	Moderate exercise	Intermittent rest/light activity	Moderate exercise
7.0	0.7	0.7	1.2	1.2
9.0	.7	.8	1.4	1.5
12.0	.8	1.0	1.8	1.9
15.0	1.0	1.1	2.2	2.4
20.0	1.1	1.4	2.9	3.1
25.0	1.3	1.8	3.6	3.8
35.0	1.8	2.1	4.9	5.2
50.0	2.2	2.8	7.0	7.6

[1] Assumed parameters: $\dot{V}_E$ (Alveolar ventilation rates): intermittent rest/light activity=10/min, moderate activity=20 L/min (equivalent to 3 mph walk on level ground or light industry or housework); Hb (hemoglobin)=15 g/dl. (normal male); altitude=sea level; initial COHb level=0.5 percent (normal level due to endogenous CO production); $\dot{V}_{CO}$ (endogenous CO production rate)=0.007 ml./min (normal); V_b (blood volume)=5500 ml. (normal male); M (relative affinity constant of hemoglobin for CO and O_2)=210; D_L (lung diffusivity for CO)=30 mL/(min-mm Hg) (nominal).

Increased exodgenous CO accumulation rates or endogenous CO production, or both, could result in COHb levels higher than inticated in Table 1 for individuals with anemia, pregnant women, and individuals taking certain tyupes of medication or drugs. For example, because of their reduced hemoglobin (Hb) levels, anemic individuals approach equilibrium levels of COHb more rapidly than those with normal Hb levels, and consequently attain a higher COHb level for a given exposure to CO. Such considerations in selecting a standard with an adequate margin of safety will be discussed below.

Selecting the Level of the Primary Standard

Section 109(b)(1) of the Clean Air Act requires EPA to set primary standards, based on the air quality criteria and allowing an adequate margin of safety, which in the Administrator's judgment are requisite to protect the public health. The legislative history of the Act makes quite clear the Congressional intent to protect sensitive persons who in the normal course of daily activity are exposed to the ambient environment. Air quality standards are to be established with reference to protecting the health of a representative, statistically related, sample of persons comprising the sensitive group rather than a single person in such a group.

EPA's objective in setting the standard levels for the carbon monoxide primary standard is, therefore, to select levels that will reflect an accurate consideration of the existing medical evidence, an adequate assessment of the uncertainties in this evidence, and a reasonable provision for scientific and medical knowledge yet to be acquired, so as to protect sensitive population groups with an adequate margin of safety. The criteria document supports the conclusion that a clear threshold of adverse health effects cannot be identified with certainty for CO or even for COHb levels, which are more directly related to health effects than ambient concentations of CO. Focusing on COHb levels, there is rather a continuum consisting of COHb at which health effects are certain through levels at which scientists can generally agree that health effects have been convincingly shown, and down to levels at which the indications of health effects are less certain and harder to identify. (This does not necessarily mean that there is no threshold, other than zero, for CO; it simply means that no clear threshold can be identified with certainty based on existing medical evidence.) Thus, selecting a standard that takes into account the known continuum of effects is a judgment of prudent public health practice, and does not imply some discrete or exact margin of safety appended to a known threshold.

The uncertainties associated with such a judgment relate to several factors. First, human susceptibility to health effects varies considerably among individuals in the population and EPA cannot be certain that experimental evidence has accounted for the full range of susceptibility. Second, EPA cannot be certain that all effects occurring at low CO levels have been identified or demonstrated. Third, there is variability and uncertainty about the relationship between ambient CO concentrations and elevated COHb levels for different segments of the population and for varying exposure conditions. These and similar sources of uncertainty are discussed more fully below.

The Clean Air Act, as the Administrator interprets it, does not permit him to take factors such as cost of attainment or attainability into account in setting the level of the standard; the standard is to be one that will adequately protect public health. Actual implementation of the standards is reserved primarily to the States under Section 110 of the Act, and therefore a certain degree of flexibility is accorded individual States in determining how to attain the standards in the most economical and practical matter. The Administrator recognizes, however, that controlling CO to very low levels is a task that can have significant impact on economic and social activity.

This recognition causes the Administrator to reject as an option the setting of a zero-level standard as an expedient way of protecting public health without having to decide among uncertainties. Whether or not that option is available under the law, EPA believes that Congress did not intend the Administrator to "take the easy way out" simply because the health evidence supporting a standard above zero is beset with uncertainties. Rather, the uncertainties must be confronted and taken into account. Thus, the decision as to what standard protects public health with an adequate margin of safety must be based on a consideration of the uncertainty that any given level is low enough to prevent adverse health effects and on the relative acceptability of various degrees of uncertainty, given the seriousness of the effects.

In selecting the proper levels for the standard, EPA must make assessments and judgments in the following areas:

1. Identification of the lowest COHb level that medical research to date has convincingly linked to adverse health effects in sensitive persons.
2. Description of the nature and severity of effects against which the standard is to protect.
3. Characterization of the uncertainties in the medical evidence concerning the lowest COHb levels at which sensitive individuals would be affected.
4. Characterization of the sensitive population.
5. Selection of a CO standard level that provides an adequate margin of safety, based on COHb values that could be achieved by sensitive population groups and taking into account the various uncertainties involved.

Reported Effect Levels and Severity of Effects

Table 2 provides a summary of key health effects studies reporting effects due to elevated blood COHb levels. The table is included only as an aid for the following discussion and should be used only in conjunction with qualifying statements made in the criteria document regarding the technical merits of each study. While the table includes studies reporting effects in two of the basic categories described earlier, the selection of a standard will be based primarily on the cardiovascular effect category, as discussed previously.

Table 2.—*Key Studies (Compilation of Effects Reported in Selected Human Studies Examining Carbon Monoxide Exposures)*

CO concentration, ppm	Exposure duration, hours	Percent carboxyhemoglobin, group mean (and range)	Reported effect(s) [1]	Reference(s)
Not reported (passive smoking).	2	1.8 and 2.3	Duration of exercise until onset of angina decreased 22 and 38 percent.	9. Aronow, 1978.
50	2	2.7 (2.5 to 3.0)	Duration of exercise until onset of angina decreased 16 percent.	Aronow and Isbell, 1973.
50	2	2.8 (2.4 to 3.1)	Duration of exercise until onset of leg pain (intermittent claudication) in persons with peripheral vascular disease decreased 17 percent..	7. Aronow et al., 1974.
50	¾	2.9 (1.3 to 3.8)	Duration of exercise until onset of angina decreased 15 percent.	5. Anderson et al., 1973.
150	(a)	3.9 (3.4 to 4.4)	Impairment of ventricular (heart) functioning in anginal patients with coronary heart disease.	51. Aronow et al., 1974.
100	1	4.0 (3.0 to 4.9)	Duration of maximal exercise in 10 healthy nonsmokers decreased 5 percent, with 1 subject exhibiting an electrocardiographic abnormality following CO and exercise.	52. Aronow and Cassidy, 1975.
100	1	4.1	Duration of exercise until marked difficulty in breathing (dyspnea) in persons with emphysema decreased 33 percent.	31. Aronow et al., 1977.
100	¾	4.5 (2.8 to 5.4)	Duration of exercise until onset of angina decreased 15 percent and duration of pain increased 31 percent.	5. Anderson et al., 1973.
42 to 63 (mean 53)	[4]1.5	5.1 (3.8 to 8.0)	Duration of exercise until onset of angina decreased 30 percent after freeway exposure and was still decreased 15 percent 2 hours later.	53. Aronow et al., 1972.
2	[5]2	2.9 (0.6 to 3.9)		

[1] Percentages represent the group mean response.
[2] Intermittent.
[3] Not reported.
[4] Freeway.
[5] After return from freeway.

The present NAAQS for CO is not based on the cardiovascular effect category but, rather, on central nervous system effects. The **Federal Register** notice (36 FR 8186) promulgating the existing standard identified 2 percent as the critical COHb level on the basis of a study by Beard and Wertheim [1] which reported an impairment in discrimination of time intervals in subjects having estimated COHb levels of 2 to 3 percent. The revised criteria document states that considerable questions have been raised as to the validity of these observations and points out that attempts to replicate these findings have been less than satisfactory. As stated previously, EPA has concluded that other central nervous system effects, such as vigilance and visual function decrements, may occur in the range of 4 to 6 percent COHb.

EPA proposes to base its selection of the standard on the evidence regarding the aggravation of angina and other cardiovasular diseases by CO exposures. As discussed previously, EPA considers such aggravation to be an adverse health effect. This effect appears to be more serious than the time discrimination effect on which the present standard is based. Such cardiovascular effects, as exhibited by reduced exercise time to onset of chest pain (angina) or leg pain (peripheral vascular disease), have been reported in three studies at 2- to 4-hour CO exposures that result in group mean COHb levels in the range of 2.7 to 2.9 percent.[5-7] The CASAC CO Subcommittee [8] also suggested that the medical evidence to date best supports the 2.7 to 3.0 percent COHb range as the lowest group mean level convincingly linked to adverse health effects in sensitive persons.

In all three studies, individuals were affected at COHb levels below 2.7 percent, as low as 2.4 percent in one study.[7] In the study by Anderson et al.[5], one individual showed a slight (3 percent) reduction in time to onset of angina at a final COHb level of 1.3 percent. This individual's reported initial COHb value of 0.0 percent, which seems unrealistically low and probably reflects the uncertainty involved in measuring very low COHb levels, raises some question about the validity of this data point.

In 1978, Aronow [10] reported that a lower range (1.8 to 2.3 percent) of group mean COHb resulted in angina aggravation, but these COHb levels were obtained through a passive smoking exposure regime, with possible confounding factors. The criteria document states that "it is possible that in addition to carbon monoxide and nicotine, other components of tobacco smoke, including oxides of nitrogen and hydrogen cyanide, and possibly psychological factors, may have contributed to the decrease in exercise performance." The CO Subcommittee of the CASAC [8] agreed and cautioned EPA not to use this study as the basis for identifying the lowest COHb level that medical research to date has convincingly linked to adverse health effects in sensitive persons. On the basis of these comments, EPA is considering the 1978 Aronow study only as a factor in selecting an adequate margin of safety. In a subsequent section of this preamble, a new human CO exposure study conducted by Dr. Aronow, not available at the time of criteria document publication, is discussed.

Uncertainty Concerning Lowest Effect Levels

While the lowest group mean COHb level convincingly linked to adverse health effects is in the range of 2.7 to 2.9 percent, a clear threshold for adverse health effects has not been established. Several factors make it difficult, if not impossible, to identify the minimum level of COHb associated with adverse health effects. As indicated above, human susceptibility to health effects varies considerably among individuals, and EPA cannot be certain that experimental evidence has accounted for the full range of susceptibility. Indeed, for ethical reasons, clinical investigators have generally excluded from study individuals who may be very sensitive to CO exposures, such as those with myocardial infarction or multiple disease states (e.g., angina and hemolytic anemia). Another factor is that there is an absence of negative clinical CO studies at lower COHb levels; in fact, no clinical studies have been reported for COHb levels lower than those reported in Table 2. In this regard, EPA has funded additional research that will examine aggravation of angina at lower COHb levels than previously tested. Finally, EPA cannot be certain that it has identified all adverse health effects that are related to lower level CO exposures.

V 45 AG 1980 UMI

Potentially Sensitive Populations

Convincing experimental evidence indicates that persons with angina and other cardiovascular diseases are sensitive to low-level CO exposures. In addition, theoretical considerations, animal studies, and evidence from studies of cigarette smokers provide reason to believe that other groups in the population (e.g., fetuses, anemics and visitors to high altitudes) may be sensitive to CO exposure. However, since no human experimental evidence exists that identifies CO effect levels for these other groups, EPA is considering the possible effects of CO on these groups only in its determination of an adequate margin of safety.

1. *Fetuses.* One important area in which animal studies provide information and in which no human data exist is in the effects of CO on the fetus. Studies have shown that, for long-term CO exposures, the animal fetus develops higher COHb concentrations than their pregnant mothers. Detrimental effects on fetal development (reduced birth weight, increased newborn mortality, and behavioral effects) have been observed in experimental animal CO exposure studies and in studies of the effects of maternal smoking on human fetuses. These findings denote a need for caution in assessing possible human fetal effects from CO exposures and in evaluating the margin of safety provided by the CO standard.

2. *Anemic Individuals.* Because of their reduced hemoglobin levels, persons with anemia are expected to attain higher COHb levels than a normal person for a given short-term CO exposure, or attain equilibrium COHb levels more quickly. In addition, certain types of anemia (hemolytic anemia) result in an increased endogenous production of CO, so that increased COHb levels would be expected for a given exogenous CO exposure. Consequently, anemic individuals who also suffer from angina or who are pregnant would seem to represent particularly high-risk categories. Since, however, very little data are available regarding the effects of CO exposure on anemic individuals, EPA is considering such persons only in its determination of an adequate margin of safety.

3. *Visitors to High Altitude Locations.* Hypoxemia can occur at higher altitudes as a result of reduced oxygen pressure in the atmosphere; in addition, an increase in altitude can increase the rate of COHb accumulation in the blood. Normal residents of high-altitude locations appear to have adjusted to the elevation and do not seem to exhibit an interaction between the effects of altitude and CO exposures [55] although the possibility of adverse effects on residents is a factor in setting a standard with an adequate margin of safety. Of greater concern to EPA are those persons with impaired cardiovascular systems who visit high altitude locations and may be adversely affected by the combination of altitude and CO hypoxemia.

CO Uptake Uncertainty

1. *Individual Variation and Dynamic Considerations.* Table 1 presents baseline estimates of the Coburn model as to the COHb levels expected to be achieved by non-smokers exposed to constant CO concentrations for 1 or 8 hours. Uncertainties exist, however, in using these estimates to decide which standard provides an adequate margin of safety. First, even among normal persons variations exist in the physiological parameters used in the Coburn model. These variations are sufficient to produce noticeable deviations from the COHb levels in Table 1 that were predicted using baseline or nominal parameters. Even more substantial variations in these parameters are observed in population groups (such as anemics) that may, for this reason, be more sensitive to CO exposure. Second, predictions based on exposure to constant CO concentrations inadequately represent the response of individuals exposed to widely fluctuating concentrations of CO that typically occur in ambient exposure situations. Ott and Mage [56] investigated this point using an empirically derived CO uptake model to estimate COHb responses as a function of time for actual 1-hour average CO air quality data measured over a 12-month period in San Jose, California. Their calculations indicated that the assumption of a constant CO concentration for an 8-hour averaging time tends to underestimate the COHb response to CO concentrations that are actually fluctuating on a much shorter time scale.

EPA has attempted to represent these uncertainties by preparing a sensitivity analysis using the Coburn model to predict the COHb responses to specific patterns of fluctuating CO concentrations for individuals with physiological parameters different from the baseline values. As explained in a staff analysis paper that has been placed in the docket (OAQPS 79–7, II–A–1), twenty different sets of actual 1-hour average CO air quality data were adjusted to simulate attainment of alternative 8-hour standards. For each of these air quality patterns, the COHb response was evaluated on an hour-by-hour basis by using the Coburn model prediction of the COHb resulting from one hour's exposure as the initial COHb level for the next hour.

Table 3 presents the results of this dynamic simulation of COHb responses to a range of realistic patterns of fluctuating CO concentrations. The baseline case is included for comparison with the estimates given in Table 1 for exposure to constant CO concentrations. In Case 2, the physiological parameters of the individuals all differ from baseline values in the direction that increases the COHb response to CO exposures. The parameters used for this case do not seem unreasonable, since the value of each parameter lies within the range reported in the literature as normal. The choice of these parameters is explained in the staff paper mentioned above (OAQPS 79–7, II–A–1). Case 3 is an individual with hemolytic anemia; the physiological parameters chosen for this case are average values reported for 12 hemolytic anemia patients evaluated by Coburn et al. [48]

Table 3.—*Coburn Model Estimates of COHb Levels Associated With Attainment of Alternative 8-Hour CO Standard Levels* [1] [2]

Standard level, ppm	Maximum COHb levels (percent) predicted on day when annual maximum 8-hour CO concentration occurs, for a range of actual air quality patterns adjusted to simulate attainment of the specified standard		
	Case 1 [3]	Case 2 [4]	Case 3 [5]
7	1.2–1.5	1.6–2.0	1.8–2.2
9	1.4–1.9	2.0–2.6	2.2–2.8
12	1.8–2.4	2.5–3.3	2.8–3.6
15	2.3–3.0	3.0–4.1	3.3–4.4

[1] COHb responses to fluctuating CO concentrations were dynamically evaluated using the Coburn model prediction of the COHb resulting from one hour's exposure as the initial COHb level for the next hour.
[2] Coburn model parameters:
Case 1: As given in table 1, except only $V_A = 10$ L/min.
Case 2: $V_A = 10$ L/min; Hb = 13 g/dL; altitude = sea level; initial COHb = 0.7 percent; $V_{co} = 0.014$ mL/min; $V_b = 3500$ mL; $D_{L_{co}} = 40$ mL/(min-mm Hg); M = 246.
Case 3: $V_A = 10$ L/min; Hb = 9 g/dL; altitude = sea level; initial COHb level = 1.8 percent; 0.030 mL/min; $V_b = 4800$ ml; $D_{L_{co}} = 25$ mL/(min-mm Hg); M = 246.
[3] Baseline or nominal physiological parameters.
[4] High rate of physiological parameters for normal persons (sea level).
[5] Typical hemolytic anemic individual.

It would be desirable to conduct a sensitivity analysis similar to that reported in Table 3 for alternative 1-hour average standards. Since, however, EPA does not have CO air quality data for periods of less than 1-hour, it is not possible to perform a dynamic simulation of COHb responses to CO concentrations that are fluctuating on a time scale less than 1 hour. Consequently, EPA has conducted a sensitivity analysis that simply depicts the variation in estimated COHb responses to the maximum 1-hour CO concentrations permitted by alternative standards for individuals with physiological parameters different from the baseline values. Table 4 presents the results of this analysis for each of the three cases illustrated in Table 3 and the case where an individual has an initial elevated COHb level due to exogenous sources (e.g., passive smoking).

While the upper end of the range of COHb estimates in Tables 3 and 4 indicates the potential that some individuals might achieve COHb levels in the vicinity of the reported effects levels, these tables do not provide information on the possible number of individuals at various COHb levels due to variations in physiological parameters. EPA undertook an analysis to obtain such information, and the results are described in the above mentioned analysis paper (OAQPS 79–7, II–A–1). The analysis assumes that all of the physiological parameters used in the Coburn equation are normally distributed in the sensitive population, with the exception of the alveolar ventilation rate (exercise level). The analysis of alternative 8-hour standards is based on an alveolar ventilation rate of 10 liters per minute (rest/intermittent light activity). For the analysis of alternative 1-hour standards, the alveolar ventilation rate was set at 20 liters per minute (moderate exercise).

With respect to Case 3, EPA estimates the number of cardiovascular and peripheral vascular disease patients who also have hemolytic anemia probably is less than 1,000, compared with an estimated 7,700,000 cardiovascular and peripheral vascular disease patients (based on 1979 population data). This estimate is based on the fact that most cardiovascular patients are over age 40 and on the fact that the vast majority of hemolytic anemic individuals are under 40. Because the group of individuals with cardiovascular or peripheral vascular disease who also have hemolytic anemia is so small, EPA is focusing its decision on protecting the 7,700,000 sensitive individuals with cardiovascular heart or peripheral vascular disease. This reflects EPA's response to the legislative history which calls for the Administrator to use his judgment in identifying and protecting the most sensitive group of citizens but not necessarily the most sensitive individuals in that group.

Table 4.—*Coburn Model Estimates of COHb Levels Associated With Alternative 1-Hour CO Standard Levels*

Standard level	COHb levels (percent) predicted for a range of ventilation rates for exposure to the maximum 1-hour average CO concentration permitted by the specified standard [1]			
	Case 1 [2]	Case 2 [3]	Case 3 [4]	Case 4 [5]
20	1.1–1.4	1.8–2.2	2.7–2.9	2.3–2.6
25	1.3–1.6	2.1–2.6	3.0–3.3	2.6–3.0
35	1.6–2.1	2.7–3.5	3.6–4.1	3.2–3.9

[1] Coburn model parameters are as presented for Table 3, except a range of alveolar ventilation rates is presented. The lower value represents rest/intermittent light activity (V_A=10 L/min) and the higher value represents moderate exercise (V_A = 20 L/min).
[2] Baseline or nominal physiological parameters.
[3] High range of physiological parameters for normal persons (sea level).
[4] Typical hemolytic anemic.
[5] Same as case 2, except assumes initial elevated COHb (1.5%) from external sources.

Case 2 is based on individuals with physiological parameters whose values are in the high range for normal persons, but does not provide information on the number of individuals in the sensitive population that would attain those levels. Table 5 shows the estimated percentage of the sensitive population with COHb greater than, or equal to, the specified final COHb value. It was assumed that the sensitive population was exposed to air quality levels associated with alternative standards shown in the table. In the analysis, twenty different sets of actual 1-hour average CO air quality data were adjusted to simulate attainment of alternative 8-hour standards. The estimates in Table 5 are based on a representative pattern from the group of twenty air quality data sets. The sensitive population considered is that segment of the population having cardiovascular heart disease (CHD) or peripheral vascular disease. The total estimated population in this sensitive group in 1979 was 7,700,000 people. One point to keep in mind is that the estimates shown in Table 5 are based on the assumptions that the entire sensitive population is exposed to air quality levels just meeting the standard and to the representative pattern of 1-hour average CO concentrations. In actuality, only a fraction of the population would be exposed under these conditions and, thus, the number of individuals at high COHb levels would probably be smaller than the estimates given in Table 5.

Table 5.—*Cumulative Percent of Sensitive Persons With COHb > Specified Final COHb Value, When Exposed to Air Quality Associated With Alternative Standards*

[Cardiovascular heart and peripheral vascular disease] [1]

	Dynamic calculation [2]			Static calculation [3]		
	7 ppm, 8 hr	9 ppm, 8 hr	12 ppm, 8 hr	20 ppm, 1 hr	25 ppm, 1 hr	30 ppm, 1 hr
Final COHb (percent): [4]						
2.9			0.01			<0.01
2.7			.2			.01
2.5			6		<0.01	.2
2.3		<0.01	43		.01	4
2.1		.2	89	<0.01	.6	29
1.9	<0.01	13	99	.1	13	73
1.7	.2	73	100	5	61	95
1.5	20	99	100	44	95	100
1.3	89	100	100	91	100	100

[1] Estimated total cardiovascular heart disease and peripheral vascular disease population is 7,700,000.
[2] Assumes all physiological inputs to Coburn equation are normally distributed in the sensitive population.
[3] COHb responses to fluctuating CO concentrations were dynamically evaluated using the Coburn model prediction of the COHb resulting from 1 hour's exposure as the initial COHb level for the next hour. The series of 1-hour CO concentrations used was a representative pattern selected from 20 sets of actual air quality data that just reached the level of the specified 8-hour standard. These results are based on alveolar ventilation rate of 10 L/min (intermittent rest/light activity).
[4] COHb levels calculated on the basis of constant level exposure and an alveolar ventilation rate of 20 L/min (moderate activity).

The results of the analysis indicate that more than 99 percent of the sensitive group (i.e., those individuals with cardiovascular heart or peripheral vascular disease) would not be expected to reach, or exceed, 2.1 percent COHb upon exposure to air quality associated with the proposed standard of 9 ppm, averaged over 8 hours. Approximately 13 percent of the sensitive group could be expected to reach or exceed 1.9 percent COHb if they were exposed to CO levels associated with the proposed 9 ppm, 8-hour standard. The proposed standard of 25 ppm, averaged over 1 hour, provides an approximately equivalent degree of protection.

Case 4 in Table 4 shows that quite high COHb levels are theoretically possible, given a high initial COHb from external sources. As in the above analysis, EPA has estimated how many people are expected to reach such final

COHb levels. The estimates are presented in Table 5. In the analysis, it was assumed that the entire population was given the previous exposure and that the entire population was exposed to alternative 1-hour air quality standard levels. While it is theoretically possible to reach a final COHb of 3.0 percent (see Table 4) for a 25 ppm standard, we have estimated (Docket Reference OAQPS 79–7, II–A–1) that only a very small fraction of the sensitive group (less than .001 percent) would ever experience such an outcome even if these worst-case assumptions are used.

2. *Bolus Effect.* Another factor to be considered in selcting a standard with an adequate margin of safety is the uncertainty relating to adverse health impacts from very short-duration (5 to 10 minutes or less) high-level CO exposures. While the data base is incomplete regarding the mechanism or effect of the peak short-term exposures, the criteria document and the CASAC CO Subcommittee have emphasized the potential seriousness of CO delivered to the body in this manner. The consequence may well be adverse effects separate and, perhaps, more intense than those associated with elevated COHb concentrations, a phenomenon referred to as the bolus effect. While this factor should be considered in establishing an adequate margin of safety for the standard, existing air quality data do indicate that attainment of a longer averaging time standard should limit the magnitude of short-term peak concentrations, as discussed in a subsequent section of this notice. Consequently, the bolus effect, while of concern in selecting a margin of safety, does not appear to be an overriding consideration in this standard selection process.

Pollutant Interactions and Smokers

Few studies have examined the interactions of carbon monoxide with other pollutants. One investigation [57] examining simultaneous exposures of normal and reactive subjects to 0.25 ppm ozone, 0.3 ppm nitrogen dioxide, and 30 ppm CO for 2 hours on 2 successive days detected no consistent lung function changes attributable to exposure. The angina aggravation observed in Aronow's passive smoking study [18] may have been due to interactions between carbon monoxide and other pollutants (e.g., nicotine, hydrogen cyanide, particulates, and nitrogen oxides) contained in the tobacco smoke. The possible interactions between CO and smoke-related pollutants should be considered in determining a margin of safety for the CO standard since persons may, in addition to ambient CO exposures, be exposed in passive smoking situations.

On the other hand, EPA does not propose to consider active smokers in determining the need for a margin of safety for the CO ambient air standard. Little or no evidence exists that would suggest the need for more restrictive national ambient air quality standards to protect smokers from a possible incremental COHb burden from the air. In fact, even in a pristine environment, smokers will have COHb levels ranging from 2 to 17 percent. Furthermore, existing evidence suggests that cigarette smokers, exposed to an environment where CO is at the ambient standard level, are generally exhaling more CO into the air than they are inhaling from that environment. While these individuals are at a definite risk from accelerated incidence of heart and related disease, these risks are principally associated with cigarette smoking, which is generally voluntary, and not with incremental CO levels at or near the standard level.

Choice of the Standard Levels

As discussed above, in EPA's determination of an air quality standard with an adequate margin of safety, the Agency must consider uncertainties regarding the lowest effect levels for aggravation of angina and other cardiovascular diseases and peripheral vascular disease, as well as uncertainties in the uptake of CO by sensitive population groups in its determination of an air quality standard with an adequate margin of safety. Several studies [4–6] have reported aggravation of angina and intermittent claudication by CO exposures producing group mean COHb levels in the range of 2.7 to 2.9 percent, with some individuals exhibiting aggravation as low as 2.4 to 2.5 percent. The sensitivity analysis conducted by EPA indicates that more than 99 percent of the sensitive population (those who suffer from cardiovascular heart or peripheral vascular disease) would be kept below 2.1 percent COHb upon exposure to air quality associated with the standard of 9 ppm, averaged over 8 hours. On the basis of these considerations, EPA proposes to set the 8-hour average National Ambient Air Quality Standard for carbon monoxide at 9 ppm. This standard will be attained when the expected number of days per calendar year with maximum 8-hour average concentrations above 9 ppm is equal to or less than 1, as explained in a subsequent section of this notice.

With regard to the 1-hour average CO standard, EPA has previously recognized that, in setting the existing 35 ppm standard, the Agency failed to consider the influence of light exercise on the aggravation of angina patients' condition when exposed to CO.[58] Tables 1 and 4 illustrate the impact of moderate exercise (walking 3 miles per hour) on uptake of various constant CO concentrations. The CASAC CO Subcommittee indicated that this exercise level represented a reasonable estimate of the mean ventilation rate achieved by individuals with angina and other cardiovascular diseases while exercising.[51]

Comparison of the COHb values in the moderate exercise column of Table 1 for 1-hour CO exposures to the values given for exposure to 9 ppm for 8 hours indicates that a 25 ppm 1-hour average standard would be comparable to the proposed 8-hour standard in terms of COHb protection. The results of the sensitivity analysis shown in Table 5 also indicate that a 25 ppm 1-hour standard would prevent more than 99 percent of the sensitive population from attaining 2.1 percent COHb upon exposure to 25 ppm, averaged over 1 hour. This protection is approximately the same as that provided by the proposed standard of 9 ppm, averaged over 8 hours. The National Academy of Sciences has recommended a 1-hour CO standard approximately 30 percent more stringent than the present (35 ppm) standard.[59] On the basis of the preceding analyses and considerations, EPA proposes to revise the 1-hour standard from 35 to 25 ppm.

Given the various uncertainties referred to above, the COHb levels associated with the 9 ppm, 8-hour and 25 ppm, 1-hour standards do not afford a large degree of protection for sensitive persons exposed at these ambient concentrations. EPA is therefore soliciting comments from the public as to whether the 1-hour and 8-hour standards provide an adequate margin of safety.

In determining the appropriate margin of safety, the Agency has considered the following factors, all of which have been discussed previously and are briefly restated below in no particular order of significance:

(1) The Aronow passsive smoking study,[18] which may indicate a lower threshold of adverse health effects from COHb in spite of the possibly confounding presence of other components of tobacco smoke.

(2) Various uncertainties regarding the lowest adverse health effect levels from CO, including those related to (a) variations in individual susceptibilities; (b) the lack of clinical studies, because of ethical considerations, on very sensitive groups such as those who have

suffered myocardial infarctions, and multiple diseased patients such as those with both angina and hemolytic anemia; (c) the absence of negative clinical studies in the range of lower CO levels; and (d) whether EPA has in fact identified all adverse health effects that are related to low-level CO exposures.

(3) Uncertainties regarding additional potentially sensitive groups, who may have elevated COHb levels because of increased exogenous accumulation rates or endogenous production. These potentially more sensitive groups include (a) fetuses, (b) pregnant women (particularly in the central cities), (c) anemics, (d) visitors to high altitude locations, and (e) persons on certain medications.

(4) Uncertainties regarding the uptake of CO, including those related to (a) the accuracy of the Coburn equation in assessing variations in the population, (b) whether predictions based on exposures to constant levels of CO adequately reflect the widely fluctuating concentrations that occur in ambient exposure situations, and (c) the expected number of sensitive individuals at various COHb levels after exposure to air quality levels associated with alternative standards.

(5) Uncertainty regarding adverse health effects that may result from very short duration high-level CO exposures (the bolus effect).

(6) Possible interactions between CO and other pollutants, especially those encountered in passive smoking situations.

Other Aspects of the Primary Standard

Averaging Time

Selection of the averaging time, form of the standard, and allowed number of exceedances are all key elements in the process of reaching a decision on the CO standard and have a direct effect on the required level of control. The NAAQS's for CO are presently 9 ppm and 35 ppm for 8-hour and 1-hour averaging times, respectively, not to be exceeded more than once per year.

The original 8-hour averaging time was selected primarily because most individuals achieve equilibrium or near-equilibrium levels of COHb after 8 hours of exposure. As mentioned previously, approximately 4–12 hours are required to achieve an equilibrium level of COHb upon continuous exposure to CO. The time to reach equilibrium is influenced primarily by the exercise level of the individual, with shorter times required for greater exercise. Another basis for the 8-hour averaging time is that most people are exposed in approximately 8-hour blocks of time (e.g., work, sleep). With respect to the 1-hour averaging time, the health effects rationale is now stronger than in 1971. Aronow and his coworkers have conducted several studies in which health effects have been reported for persons with cardiovascular disease or chronic obstructive pulmonary disease after 1- to 2-hour exposures. In light of the above considerations, EPA does not propose to change the current 1-hour and 8-hour averaging times for the CO NAAQS. EPA is, however, soliciting public comment as to the necessity of maintaining two separate averaging times for the CO standard.

While the majority of health effects evidence is linked to 1 hour or longer exposures, there is also concern for shorter CO exposure durations. Exposure to much higher CO concentrations (200–2000 ppm) for very short periods of time (a few minutes) may result in significant localized COHb blood levels (bolus effect). Analyses of existing air quality data suggest, however, that attainment of a longer averaging-time standard will limit the magnitude of short-term peak concentrations in the ambient air. For example, air quality data obtained in 1974–1976 at a site in Los Angeles that is 6 meters (m) high and 3 m from the curb of a highway bearing an average traffic load of 25,000 vehicles per day were analyzed to determine, for various averaging times, the peak concentrations that would be expected if the present NAAQS's were just attained. The maximum values actually observed were 46 and 30 ppm for 1- and 8-hour averaging times. Using a two-parameter averaging time model,[60] EPA calculated that attainment of the 8-hour standard would result in peak 5- and 10-minute concentrations of 36 and 29 ppm, respectively. Although this site might not represent the worst possible situation, the analysis does seem to indicate that attainment of longer averaging time standards would tend to limit short-term peaks to levels that would not present a concern with regard to a bolus effect.

Form of the Standard

The current CO standards specify that the hourly average CO concentration must not exceed 40 mg/m^3 (approximately 35 ppm) more than once per year and that the 8-hour average CO concentration must not exceed 10 mg/m^3 (approximately 9 ppm) more than once per year. The limitations of this deterministic (once-per-year) approach were discussed in connection with the proposal of a revised ozone standard (43 FR 26967). A main concern with the present "once-per-year" form of the CO standards is that to maintain such a standard year after year necessitates a zero probability that the second high value will ever exceed the level of the standard. On a practical basis, however, permitting a single exceedance in a year means that there is some possibility of occasionally having two or more exceedances in a particular year. To resolve this logical conflict and to adjust for the effect of missing data, the ozone standard was proposed and promulgated in terms of the expected number of exceedances per calendar year (43 FR 26970, 44 FR 8220). EPA proposes to use this expected exceedances format for the CO standards.

EPA also proposes to use a daily interpretation for exceedances of the CO standard. This approach is consistent with the interpretation of exceedances for the ozone standard (44 FR 8220) and means that exceedances would be counted on the basis of the number of days on which the standard level was exceeded. As in the case of the ozone standards, the use of a daily interpretation is not predicated on the interpretation of the health data. At the same time, the health data do not argue against use of a daily interpretation. Use of such an interpretation, however, constitutes a data reduction step that simplifies daily reporting and reduces the possible impact of a single unusual meteorological event. Thus, exceedances of the 1-hour CO standard will be based upon the number of days with maximum hourly CO averages above the level of the 1-hour standard. The 8-hour standard will also be interpreted in terms of the number of days with 8-hour averages above the level of the 8-hour standard. This topic is treated in more detail in the following discussion of running averages.

Running Averages

The 8-hour CO standard warrants a more detailed discussion because of the complications associated with running averages. Because individual hourly values are available, it is possible to compute an 8-hour average beginning (or ending) with each hour of the year. This fact means that successive 8-hour averages will have 7 hourly values in common. The current CO standard was not explicit on how exceedances of the 8-hour standard level should be counted (36 FR 8187), although the subject of interpreting air quality data was subsequently discussed by EPA.[61]

To avoid any ambiguity in counting exceedances for the 8-hour CO standard and to clarify the computational procedures, EPA proposes that the CO standard include a specific method for

use with the 8-hour standard. For each

- hour through the early morning hours

production of significant health effects, (2)

adequately. EPA interprets the act as

reduce fuel consumption by reducing

ambient carbon monoxide

use with the 8-hour standard. For each hour of the day, there is an 8-hour average that ends at that hour (e.g., for 4:00 p.m. there is an 8-hour average covering the time period 8:01 a.m.–4:00 p.m.). For each day, the highest of these twenty-four 8-hour averages would be considered the daily maximum 8-hour average. If this value exceeds the level of the standard, then an exceedance has occurred on that day. It should be noted that with this method, there is the possibility that two daily exceedances could have common hourly values. For example, the 8-hour average covering 4:01 p.m.–midnight would be assigned to 1 day while the next 8-hour average, from 5:01 p.m.–1:00 a.m., would be assigned to the following day. A third daily exceedance, however, would always be on a third day and, thus, could not overlap either of the other 8-hour averages. In view of the expected exceedances format, this method appears to be a simple and adequate one for handling running averages.

Other alternatives were considered and should be briefly mentioned. One approach is to use all possible 8-hour averages for the year and an hourly interpretation so that more than one exceedance could be counted per day. This approach may be viewed as more consistent with the dosage received by a receptor, but is more stringent than the current form in that exceedances would not have to be non-overlapping. At the extreme, this interpretation could result in eight consecutive exceedances being counted from 8-hour averages that all overlap; therefore, this option was not chosen.

EPA also considered alternatives that would eliminate the possibility of overlapping exceedances by restricting the number of 8-hour averages to only three non-overlapping time periods in a day (e.g., 0:01 a.m.–8:00 a.m., 8:01 a.m.–4:00 p.m., and 4:01 p.m.–midnight). There is no assurance, however, that the maximum 8-hour average will occur during these time periods rather than one of the other twenty-one 8-hour periods that are not used. Another possible option is to select the daily maximum 8-hour average only from those 8-hour periods that are entirely contained within that calendar day. There are seventeen such 8-hour time periods covering the successive intervals: 9:01 a.m.–8:00 a.m., 1:01 a.m.–9:00 a.m., * * *, 4:01 p.m.–midnight. This particular scheme can miss peak 8-hour averages that occur late in the evening (e.g., 5:01 p.m.–1:00 a.m.).

Because of meteorological factors, high 8-hour averages can occur in time periods extending from the evening rush hour through the early morning hours (e.g., 5:01 p.m.–1:00 a.m., 6:01 p.m.–2:00 a.m.). This problem can be alleviated by offsetting the time periods considered so that the daily maximum is selected from the following seventeen 8-hour periods: 3:01 a.m.–11:00 a.m., 4:01 a.m.–noon, * * *, 7:01 p.m.–3:00 a.m. In this approach, the majority of the hours in each 8-hour time period all come from the same day. With this offset, 8-hour time periods from the evening rush hour through the early morning hours are covered. It should be noted that in each of the alternative approaches that would result in non-overlapping exceedances, every hour of the day is included in at least one 8-hour average that is used but there are certain 8-hour periods that are not covered. Comments are invited on the form of the standard and the method for handling running 8-hour averages.

Definition of When the Standard is Attained

EPA proposes to add Appendix I to 40 CFR Part 50 to interpret the standard and to explain how to determine when the standard is or is not being attained. Although this appendix is conceptually identical to Appendix H of the ozone standard (44 FR 8220), there are certain computational differences. In particular, no allowance is made for seasonal monitoring for carbon monoxide and no exclusion of missing values is allowed on the basis of adjacent daily values. The basic adjustment for missing data for CO is to assume that the fraction of missing daily values that would have exceeded the standard level is the same as the fraction of measured values that exceeded the standard level. While ambient CO levels are generally seasonal, the nature of CO emissions makes it possible to exceed the standard level at any time of the year, and therefore EPA does not intend to allow seasonal exclusions for the CO attainment computations.

Significant Harm

Section 303 of the Clean Air Act authorizes the Administrator of EPA to identify, for ambient air populations, exposure levels that constitute "an imminent and substantial endangerment to the health of persons." This language provides the basis for the "significant harm level" referred to in the following discussion.

In commenting on the authority provided in Section 303, the Senate Committee on Public Works [62] stated that

> "emergency authority is necessary to provide for immediate, effective action whenever air pollution agents reach levels of concentration that are associated with (1) the production of significant health effects, (2) incapacitating body damage, or (3) irreversible body damage in any significant portion of the general population. The term 'significant portion' (was) not intended to exclude sensitive elements of society such as asthmatics, but only those groups of particularly susceptible persons for whom other precautionary measures should be taken. Secondly, the emergency situation exists whenever there is any perceptible increase in the mortality rate."

EPA's regulations (40 CFR 51.16) require the adoption by States of contingency plans to prevent ambient pollutant concentrations from reaching specified significant harm levels. The existing significant harm levels for CO were established in 1971 (36 FR 24002) at the following levels and averaging times:

50 ppm—8-hour average
75 ppm—4-hour average
125 ppm—1-hour average

These designations were associated with a 5 to 10 percent blood COHb concentration as the critical range to be avoided. On the basis of EPA's reassessment of the earlier data and assessment of more recent medical evidence, no modifications are being proposed to the existing significant harm designations. EPA has assessed the medical evidence on exposure to higher CO concentrations that could lead to significant harm and has placed this assessment in the docket (OAQPS 79–7) for this proposed rulemaking.

Welfare Effects and the Secondary Standard

Carbon monoxide is a normal constituent of the plant environment; plants can both metabolize and produce CO. This fact may explain the relatively high levels of CO necessary to produce detrimental effects to vegetation. The lowest threshold for significant effects in vegetation has been reported at 100 ppm for 3 to 34 days for an inhibition of nitrogen fixation in legumes. Since CO concentrations of this magnitude are rarely if ever observed in the ambient air, it is very unlikely that any damage to the environment will occur from CO air pollution. Because no standard appears to be requisite to protect the public welfare from any known or anticipated adverse effects from ambient CO exposures, EPA is proposing to rescind the existing secondary standard.

Regulatory, Environmental, and Exposure Impacts

As has been noted, the Clean Air Act specifically requires that National Ambient Air Quality Standards be based on scientific criteria relating to the level that should be attained to protect public health and welfare adequately. EPA interprets the act as excluding any consideration of the cost or feasibility of achieving such a standard in determining the level of the ambient standards. However, in compliance with the requirements of Executive Orders 11821 and 11949 and Office of Management and Budget Circular A–107 and with the provisions of the recently issued Executive Order 12044, EPA has analyzed economic impacts associated with efforts to attain these standards.

Carbon monoxide air pollution is a problem afflicting most urban areas. Mobile sources are the primary cause of the problem; motor vehicles account for nearly 75 percent of the nationwide CO emissions and most high CO monitor readings occur in areas with heavy traffic concentration. Thus, control strategies for attaining the CO ambient air quality standard will have to focus on reducing the emissions from motor vehicles.

Many areas will not be able to attain the CO standard by 1982 and will, therefore, have to institute control strategies for mobile sources. Foremost among these control strategies will be inspection/maintenance (I/M) programs, which will be required in areas that cannot demonstrate attainment by 1982. Transportation control measures (TCM's) which reduce vehicle miles travelled and improve traffic flow to alleviate "hot spot" problems, will also be required in several areas with the most severe problems.

The number of areas in which the proposed standards will not be attained by 1987 depends on a number of factors, including the effectiveness of emission control systems, the effectiveness of I/M programs, growth of vehicle miles travelled (VMT) in urban areas, traffic patterns, and actual air quality values once all monitors meet EPA's siting, instrumentation, and quality assurance criteria. Taking into account all these factors, the number of non-attainment areas in 1987 (assuming no change in the standards in the interim) could range from 2 areas with the most severe problems up to possibly 20 areas. The net cost of implementing I/M programs and TCM's for CO control in response to the proposed standards will amount to approximately $400 million per year, which is in addition to about $2.4 billion required for the CO portion of the Federal Motor Vehicle Control Program.

The CO control measures should have a favorable impact on energy consumption, the savings from which are reflected in the cost given above. I/M programs will possibly have an appreciable impact on fuel economy of repaired vehicles, while TCM's will reduce fuel consumption by reducing miles-travelled and improving traffic flow.

Environmental impacts associated with control of CO emissions have been examined in a document available in docket number OAQPS 79–7. This environmental impact analysis indicates that control strategies required to attain the standard will have minimal adverse impacts on other environmental media.

Finally, EPA has prepared an exposure impact analysis document, which has been placed in docket number OAQPS 79–7. This document provides estimates of the number of person-hours of exposure to CO concentrations in excess of specified values for alternative levels of the standard; these estimates are furnished on a nationwide basis and for specific cities.

Copies of the documents presenting EPA's regulatory analyses in support of the CO standard, the environmental impact statement, and the exposure analysis are available from the U.S. EPA Library at the address given earlier in the Dates and Addresses section of this notice.

Revisions to Part 50 Regulations

In proposing to revise the CO standard, it is necessary for EPA to add Part 50 Appendix I, "Interpretation of the National Ambient Air Quality Standard for Carbon Monoxide"; the reason is that additional guidance is necessary to understand the statistical nature of the revised standard.

Part 51 Regulations and SIP Development

This proposed rule will not result in modification to the existing Part 51 regulations. With regard to SIP development under Part 51, the proposed CO standards should have little impact on the attainment status designation of most areas. However, where sufficient data is available to support a change in designation, either the State or EPA may initiate such a change under the terms of Section 107 of the Clean Air Act after the standard is promulgated. While unlikely, the proposed standard may impact the control strategies needed in some areas. These impacts will need to be analyzed on a case-by-case basis and EPA will provide guidance on this matter when the standards are promulgated. The standards will not substantially affect New Source Review Requirements.

Federal Reference Method

The measurement principle and calibration procedure applicable to reference methods for measuring ambient carbon monoxide concentrations to determine compliance with the standard are not affected by this rulemaking. The measurement principle and the current calibration procedure are set forth in Appendix C of 40 CFR Part 50. Reference methods—as well as equivalent methods—for monitoring carbon monoxide are designated in accordance with 40 CFR Part 53. A list of all methods designated by EPA as reference or equivalent methods for measuring carbon monoxide is available from any EPA Regional Office, or from EPA, Department E (MD–76), Research Triangle Park, N.C. 27711.

Relationship to Existing Monitoring Regulations

The specific requirements for carbon monoxide (CO) monitoring are established in 40 CFR Part 58. These regulations were promulgated on May 10, 1979 (44 FR 27558), and represent significant improvements over the November 1971 SIP monitoring regulations. In particular, the monitoring deficiencies that Part 58 is designed to correct are: untimely or incomplete reporting of monitoring data, collected data of unknown or questionable quality, lack of uniformity in station location, probe siting and related sampling and analysis methods, and the absence of quality assurance programs. The old regulations provided for fixed sites only, and the number of sites was based on population and degree of pollution. Under the new provisions, fixed and movable sites are allowed, but the number and location of stations are determined only after a detailed and comprehensive analysis of air monitoring objectives. Other specific changes made to improve the regulations require the adherence to specified network design and siting criteria and the development and implementation of a quality assurance program.

Under the regulations promulgated on May 10, 1979, each State is required to design a network to measure ambient concentrations of all pollutants for which standards have been established under 40 CFR Part 50. Within each State, the stations making up such networks are to be designated as the State and Local Air Monitoring Stations (SLAMS). The States are responsible for consulting with the Regional Administrator during the network design process to ensure that the design criteria for SLAMS contained in Appendix D to Part 58 are met. At the present time, drafts of these network descriptions are undergoing review by the Regional Offices. The final network design for each State will

V 45 A G 1 8 8 0 UMI

be subject to the approval of the Regional Administrator.

A critical subset of the SLAMS network will be designated as National Air Monitoring Stations (NAMS). For CO, the stations designated as NAMS are needed to assess the overall air quality progress resulting from the emission controls required by the Federal Motor Vehicle Control Program (FMVCP). Two CO NAMS will be required in each urbanized area greater than 500,000 population, with one of these stations located in a peak concentration area such as near major traffic arteries or near heavily travelled streets in downtown areas (microscale). The second CO NAMS will be a neighborhood station and should be located in areas with a stable, high population density and having a high traffic density. Micro-scale stations will generally characterize the peak concentrations usually found near heavily travelled downtown streets (street canyons) and should be representative of several similar source configurations in the urban area. Neighborhood stations should represent the concentration levels which exist over a significant portion of the urban area.

As a part of its assessment of the impact of revising the 1-hour standard, EPA examined the ambient air quality monitoring, data reporting and surveillance provisions promulgated on May 10, 1979 (44 FR 27558) to determine if changes were needed. Based on data available from the States, no revisions to these regulations are warranted. If future ambient data, new sources, changes in emission patterns or other factors should indicate the need for more intensive monitoring in selected areas, the need for revision of the State networks can be identified during the annual review of the SLAMS network required by 40 CFR Part 58, § 58.20.

For additional details on network design and siting, see Appendices D and E of Part 58.

Public Participation

EPA has solicited public comment and critique on draft revisions to the criteria document as well as comments on a draft staff paper [3] that contained a preliminary assessment of the health effects evidence. Comments on the two draft revisions of the criteria document have been considered in the final document, published simultaneously with this proposal. An explanation of how EPA addressed these comments has been placed in docket number OAQPS 79–7.

On May 29, 1979, EPA announced in the **Federal Register** (44 FR 30760) a public meeting of the Science Advisory Board's Clean Air Scientific Advisory Committee (CASAC) to discuss the second draft of the revised criteria document and a draft staff paper [3] describing the major factos that EPA staff recommended be considered in the possible revision of the primary standards. In that notice, EPA also announced the availability of the CO staff paper. The staff paper: (1) Evaluated the critical health effects evidence; (2) described the most sensitive population groups; (3) described the relationship between CO exposure and resulting COHb levels; (4) recommended redefining the standard in a statistical, rather than deterministic, form; and (5) identified either 2.5–3.0 percent COHb or 1.8 percent COHb as the lowest convincingly demonstrated effects level, the lower level being dependent on use of the 1978 Aronow passive smoking study. The CASAC public meeting was held June 14–June 16, 1979; a transcript of the meeting is available in docket number OAQPS 79–7. During the meeting and afterwards, comments were received on the aforementioned issues as well as other topics related to the standard. These comments are summarized below and have been considered in the development of this proposed rulemaking. Because of possible confounding factors such as nicotine and particulates found in cigarette smoke, the CASAC [4] and some industrial groups have strongly advised EPA not use the 1978 Aronow study in selecting the lowest convincingly demonstrated effects level. The CO Subcommittee and CASAC as a whole, with one dissenting opinion, agreed that decreased time to onset of angina was an adverse health effect that had been shown to occur at group mean COHb levels in the range of 2.7 percent to 3.0 percent.[5]

The area of greatest controversy raised during the public review process concerns the significance of the effects reported at COHb levels below 3.0 percent to 4.0 percent. Several automobile manufacturers have maintained that decreased time to onset of pain for angina patients does not necessarily represent an adverse health effect. These groups argue that low-level CO studies have failed to show statistically significant changes in other clinical measures of cardiac function such as systolic time internals. The automotive groups have also stated that other factors such as cold weather, eating a heavy meal, or sitting next to a cigarette smoker may have a greater effect on an individual with angina than ambient CO exposures. As discussed elsewhere in this premable, EPA and the CASAC CO Subcommittee [6] do not agree with this judgment about the significance of the effects demonstrated for individuals with angina or other coronary artery or peripheral vascular disease conditions.

Several industrial groups have noted that effects reported in short-term, high-level exposures may not be the same as effects resulting from long-term, low-level exposures, even if the final COHb levels are identical. While EPA agrees that the manner in which dose is delivered may have an impact on the effects experienced, the Agency does believe that there is currently insufficient evidence to support an alternative mechanism of toxicity for standard-setting purposes.

The exclusion of smokers in selecting a standard with an adequate margin of safety was supprted by CASAC.[6] The CASAC also agreed that, on the basis of available health effects evidence, persons with angina, coronary artery, and peripheral vascular disease were the population groups at greatest risk to low-level ambient CO exposures.[6] Concern was expressed by CASAC that some sensitive population groups might be adversely affected as a result of the combined effects of hypoxemia due to high-altitude exposure and CO exposures. The CASAC stated that this factor should be considered in selecting a CO standard with an adequate margin of safety.[6]

The use of the Coburn model to determine COHb levels resulting from various CO exposures received little criticism during the public review process. CASAC indicated that the Coburn model was the best available tool for predicting COHb levels resulting from CO exposures.[6] The CASAC and other groups have generally supported redefining the standard in a statistical, rather than deterministic, form. The CASAC endorsed EPA's proposal to retain the 1-hour and 8-hour averaging times for the standard.[6] Some industrial groups have commented that the 1-hour standard could be dropped since the 8-hour standard was the controlling one in terms of stringency.

A recent study brought to EPA's attention (Case et al., 1979) [63] suggests that nitrogen oxides may impair oxygen transport through formation of nitrosyl hemoglobin (NOHb) and methemoglobin (MetHb), a form of hemoglobin that is incapable of combining with oxygen. The authors suggest that this mechanism operates in conjunction with both ambient and clinical exposures to CO and, thus, puts into question the findings of studies described in the criteria document. The Case study also questios the validity of COHb measurements made with instruments used in these studies.

On the basis of careful review of the Case article and consultation with the principal author, EPA does not concur with the written views of the author. There is no sound evidence available to document: (1) The extent of nitrosyl hemoglobin (NOHb) or methemoglobin (MetHb) formation either directly or indirectly from nitrogen oxides, (2) the relative accumulation of NOHb and MetHb from various media inputs, (3) the combined impact of COHb and MetHb or NOHb, and (4) the reversibility of MetHb formation relative to COHb. Furthermore, several prominent investigators in the field have expressed their view to EPA that the levels of MetHb and NOHb are negligible in persons exposed to ambient air and to atmospheres in clinical test chambers. EPA does, however, plan additional research in this area and encourages further comment on this topic during the development of this rule.

With regard to the validity of the COHb measurement technique, the statements made in the Case article were apparently based on analysis of an earlier spectrophotometric instrument. In the clinical studies cited in support of the proposed standard, however, the more recently developed CO-Oximeter instrument, which is reported to be accurate to within approximately ±0.1–0.2 percent, was used. Consequently, the above criticism appears to be inapplicable with regard to the accuracy of the reported COHb values.

EPA has recently received an unpublished draft copy of a new carbon monoxide human exposure study conducted by Dr. Wilbert Aronow. In this EPA sponsored study, Dr. Aronow reports a statistically significant decrease in the time to onset of angina for subjects exposed to 50 ppm CO for 1 hour compared to subjects exposed to compressed air. On a group mean basis the final COHb was 2.0 percent after exposure to 50 ppm CO for 1 hour compared with an initial mean COHb value of 1.1 percent prior to CO exposure.

The draft Aronow study has been submitted for publication in a peer-reviewed journal. EPA's current view is that the study should not be considered in this rulemaking, except perhaps as a factor in establishing a margin of safety, unless it has first been peer reviewed within the scientific community and also judged significant to warrant supplementation of the criteria document. EPA is therefore placing the study in the docket (OAQPS–79–7 II–A–2), submitting a copy to CASAC for its review, and is soliciting comments from the general public on the study and the role, if any, it should play in the final rulemaking.

Dated: July 31, 1980.

Douglas M. Costle,

Administrator.

References

1. Beard, R. R., and G. A. Wertheim. Behavioral Impairment Associated with Small Doses of Carbon Monoxide. Am. J. Pub. Health 57: 2012–2022, 1967.

2. U.S. Environmental Protection Agency. Air Quality Criteria for Carbon Monoxide. Preprint. U.S. EPA Publication No. 600/8–79–022.

3. US. EPA. Preliminary Assessment of Adverse Health Effects from Carbon Monoxide and Implications for Possible Modifications of the Standard. (Draft staff paper presented at the meeting of the Clean Air Scientific Advisory Committee, June 14–16, 1979.)

4. Coburn, R. F., W. S. Blakemore, and R. E. Forster. Endogenous Carbon Monoxide Production in Man. J. Clin. Invest. 42: 1172–1178, 1969.

5. Anderson, E. W., R. J. Andelman, J. M. Strauch, N. J. Fortuin, and H. H. Knelson. Effect of low-level carbon monoxide exposure on onset and duration of angina pectoris: A study on 10 patients with ischemic heart disease. Ann. Intern. Med. 79: 46–50, 1973.

6. Aronow, W. S., and M. W. Isbell. Carbon Monoxide Effect on Exercised-Induced Angina Pectoris. Ann. Intern. Med. 79: 392–395, 1973.

7. Aronow, W. S., E. A. Stemmer, and M. W. Isbell. Effect of carbon monoxide exposure on intermittent claudication. Circulation 49: 415–417, 1974.

8. Hovey, Harry H., Jr., Chairman, Clean Air Scientific Advisory Committee (CASAC) Subcommittee on Carbon Monoxide. Memorandum to EPA Administrator. Subject: Findings, Recommendations, and Comments of the Subcommittee on Carbon Monoxide of the Clean Air Scientific Advisory Committee Concerning the Revised Criteria Document for Carbon Monoxide. October 9, 1979.

9. Science Advisory Board's Clean Air Scientific Advisory Committee; Subcommittee on Carbon Monoxide. Transcript of Public Meeting. pp. 67–89. January 30, 1979.

10. Aronow, W. S. Effect of Passive Smoking on Angina Pectoris. N. Engl. J. Med. 299(1): 21–24, 1978.

11. Komatsu, F. A. Type of (Shinshu) Myocardosis Caused by Carbon Monoxide. 15th Conference of the Japanese Medical Association, Vol. 1, p. 343–348, APTIC TR–0835, April 1959.

12. Cohen, S. I., M. Deare, and J. R. Goldsmith. "Carbon Monoxide and Myocardial Infarction," Arch. Environ. Health 19: 510–517, 1969.

13. Goldsmith, J. R., and S. A. Landaw. Carbon monoxide and human health. Science 162: 1352–1359, 1968.

14. Hexter, A. C., and J. R. Goldsmith. Carbon monoxide: Association of Community Air Pollution with Mortality. Science 172: 265–267, 1971.

15. Kuller, L. H., E. P. Radford, D. Swift, J. Perper, and R. Fisher. The Relationship Between Ambient Carbon Monoxide Levels Postmortem Carboxyhemoglobin, Sudden Death and Myocardial Infarction. Arch. Environ. Health 30: 477–482, 1975.

16. Radford, E. P. Study of the Relationship Between Carboxyhemocarbon on Admission to the Subsequent Hospital Course of Patients Admitted to the Myocardial Infarction Research Unit at the Johns Hopkins Hospital. Final Report CRC–APRAC Project No. CAPM–13–69 from Johns Hopkins University School of Hygiene and Public Health to Coordinating Research Council and Environmental Protection Agency. 1975. p. 22.

17. Kurt, T. L., R. P. Mogielnicki, J. E. Chandler, Kurt, T. L., R. P. Mogielnicki, J. E. Chandler, and K. Kirst. Ambient Carbon Monoxide Levels and Acute Cardiorespiratory Complaints: An Exploratory Study. Am. J. Pub. Health 69 (4): 360–363, 1979.

18. Fodor, G. G., and G. Winneke. Effect of Low CO Concentrations on Resistance to Monotony and on Psychomotor Capacity. Staun-Reinhalt. Luft 32: 46–54, 1972.

19. Groll-Knapp, E., H. Wagher, H. Hauck, and M. Haider. Effects of Low Carbon Monoxide Concentrations on Vigilance and Computer-Analyzed Brain Potentials. Staub-Reinhalt. Luft 32: 64–68, 1972.

20. Beard, R. R., and N. Grandstaff. Carbon Monoxide and Human Functions. In: Behavioral Toxicology, B. Weiss and V. G. Laties (eds.). New York, Plenum, 1975, p. 1–26.

21. Horvath, S. M., T. E. Dahms, and J. F. O'Hanlon. Carbon Monoxide and Human Vigilance: A Deleterious Effect of Present Urban Concentrations. Arch. Environ. Health 23: 343–347, 1971.

22. Haider, M., E. Groll-Knapp, H. Holler, M. Neuberger, and H. Stidl. Effects on Moderate CO Dose on the Central Nervous System—Electro-Physiological and Behaviour Data and Clinical Relevance. In: Clinical Implications of Air Pollution Research, A. J. Finkel and W. O. Duel (eds.). American Medical Association, Air Pollution Medical Research Conference, Dec. 5–6, 1974. Publishing Sciences Group, Inc., Action, Mass., 1975. p. 217–232.

23. Winneke, G. Behavioral Effect of Methylene Chloride and Carbon Monoxide as Assessed by Sensory and Psychomotor Performance. In: Behavioral Toxicology: Early Detection of Occupational Hazards, C. Xintaras, B. Johnson, and I. DeGroot (eds.). Department of Health, Education, and Welfare Publication No. (NI0511) 74–126. U.S. Government Printing Office: Washington, D.C., 1974. p. 130–144.

24. Winneke, G., G. G. Fodor, and H.W. Schlipkoter. Effect of Low Level Carbon Monoxide Exposure and Monotony on Vigilance and Vertex Evoked Potentials. Fourth International Congress on Event Related Slow Potentials of the Brain. Hendersonville, N.C., April 4–10, 1976.

25. Christensen, C. L., J. A. Gliner, S. M. Horvath, and J. A. Wagner. Effects of Three Kinds of Hypoxias on Vigilance Performance. Av. Sp. Env. Med. 48(6): 491–496, 1977.

28. Benignus, V. A. and D. A. Otto. Lack of Effects of Carbon Monoxide on Human Vigilance. Percept. Mot. Skills 45: 1007–1014, 1977.

27. Putz, V. R., B. L. Johnson, and J. V. Setzer. Effects on CO on Vigilance Performance: Effects on Low Level Carbon Monoxide on Divided Attention, Pitch Discrimination, and the Auditory Evoked Potential. National Institute for Occupational Safety and Health, Cincinnati, Ohio. 1978. p. 58.

28. McFarland, R. A., F. J. W. Roughton, M. H. Halperin, and J. I. Niven. The Effects of Carbon Monoxide and Altitude on Visual Thresholds. J. Aviat. Med. 15: 381–394, 1944.

29. Halperin, M. H., R. A. McFarland, J. I. Niven and F. J. W. Roughton. The Time Course of the Effects of Carbon Monoxide on Visual Thresholds. J. Physiol. 146: 583–593, 1959.

30. Yabroff, L., E. Myers, V. Fend, N. David, M. Robertson, R. Wright, and R. Braun. The Role of Atmospheric Carbon Monoxide in Vehicle Accidents. Final Report from Stanford Research Institute to Coordinating Research Council on Contract CRD–APRAC, Project CAPM–12–68. 1974. 92 p.

31. U.S. National Research Council Committee on Effects of Atmospheric Contaminants on Human Health and Welfare. Effects of Chronic Exposure to Low Levels of Carbon Monoxide on Human Health, Behavior, and Performance. National Academy of Sciences, Washington, D.C., 1969, p. 55. Unpublished data attributed to Dr. MacMillan.

32. Aronow, W. S., J. Ferlinz, and F. Glauser. Effects of Carbon Monoxide on Exercise Performance in Chronic Obstructive Pulmonary Disease." Am. J. Med. 63: 904–908, 1977.

33. Astrup, P., H. M. Olson, D. Trolle, and K. Kjeldsen. Effect of Moderate Carbon Monoxide Exposure of Fetal Development. Lancet 2: 1220–1222, 1972.

34. Fechter, L. D., and Z. Annau. Toxicity of Mild Prenatal Carbon Monoxide Exposure. Science 197: 680–681, 1977.

35. Longo, L. D., and E. P. Hill. Carbon Monoxide Uptake and Elimination in Fetal and Maternal Sheep. Am. J. Physiol. 232: H324–H330, 1977.

36. Longo, L. D. The Biological Effects of Carbon Monoxide on the Pregnant Woman, Fetus, and Newborn Infant. Am. J. Obstet. Gynecol. 129: 69–103, 1977.

37. Federick, J., E. D. Alberman and H. Goldstein. Possible Teratogenic Effect of Cigarette Smoking. Nature 231: 259, 1971.

38. Davie, R., N. R. Butler, and H. Goldstein. From Birth to Seven. London, Longmans, 1972.

39. Goldstein, H. Factors Influencing the Height of Seven Year Old Children—Results From the National Child Development Study. Hum. Biol. 43: 92, 1972.

40. Butler, N. R. and H. Goldstein. Smoking in Pregnancy and Subsequent Child Development. Br. Med. J. 4: 573, 1973.

41. U.S. Department of Health, Education, and Welfare (DHEW). Prevalence of Chronic Circulatory Conditions: United States, 1972. DHEW Publication No. (HRA) 75–1521. Rockville, Maryland. 1974.

42. U.S. Department of Health, Education, and Welfare, Public Health Service. Coronary Heart Diseases in Adults, United States: 1960–1962. DHEW Publication No. (PHS) 79–1019. Hyattsville, Maryland. December 1975.

43. Lown, Bernard. Sudden Cardiac Death: The Major Challenge Confronting Contemporary Cardiology. Amer. J. Cardiol. 43: 313, 1979.

44. Doyle, Joseph T. Profile of Risk of Sudden Death in Apparently Healthy People. Circulation, Supplement III, Vols. 51 and 52, December 1975.

45. U.S. Department of Health, Education, and Welfare (DHEW). Prevalence of Chronic Conditions of the Genitourinary, Nervous, Endocrine, Metabolic, and Blood and Blood-Forming Systems and other Selected Chronic Conditions: United States, 1973. DHEW Publication No. (HRA) 77–1536. Rockville, Maryland. 1977.

46. U.S. Department of Health, Education, and Welfare (DHEW). Vital Statistics of the United States, 1975, Volume I. DHEW Publication No. (PHS) 78–1113. Hyattsville, Maryland. 1978.

47. Air Quality and Automobile Emission Control. Volume 2. Health Effects of Air Pollutants. A Report by the Coordinating Committee on Air Quality Studies, National Academy of Sciences, and National Academy of Engineering. Prepared for U.S. Senate Committee on Public Works. No. 93–24. September 1974.

48. Corburn, R. F., R. E. Foster, and P. B. Kane. "Considerations of the Physiology and Variables that Determine the Blood Carboxyhemoglobin Concentration in Man. J. Clin. Invest. 44: 1899–1910, 1965.

49. Peterson, J. E., and R. D. Stewart. Absorption and Elimination of Carbon Monoxide by Inactive Young Men. Arch. Environ. Health 21: 165–171, 1970.

50. Peterson, J. E., and R. D. Stewart. Predicting the Carboxyhemoglobin Levels Resulting from Carbon Monoxide Exposures. J. Appl. Physiol. 39(4): 633–638, 1975.

51. Science Advisory Board, Clean Air Scientific Advisory Committee, Subcommittee on Carbon Monoxide. Transcript of Public Meeting, June 14, 1979.

52. Aronow, W. S., J. Cassidy, J. S. Vangrow, H. March, J. C. Kern, J. R. Goldsmith, M. Khemka, J. Pagano, and M. Vawter. Effect of Cigarette Smoking and Breathing Carbon Monoxide on Cardiovascular Hemodynamics on Anginal Patients. Circulation 50: 340–327, 1974.

53. Aronow, W. S., and J. Cassidy. Effect of Carbon Monoxide on Maximal Treadmill Exercise: A Study in Normal Persons. Ann. Intern. Med. 83: 496–499, 1975.

54. Aronow, W. S., C. N. Harris, M. W. Isbell, S. N. Rokaw, and P. Imparato. Effect of Freeway Travel on Angina Pectoris. Ann. Intern. Med. 77: 669–676, 1972.

55. Weiser, P. C., C. G. Morrill, D. W. Dickey, T. L. Kurt, and G. J. A. Cropp. Effects of low-level carbon monoxide exposure on the adaptation of healthy young men to aerobic work at an altitude of 1610 m. In: Environmental Stress: Individual Human Adaptations, L. J. Folinsbee, et al. (eds.). Academic Press, 1978. New York.

56. Ott, W., and D. Mage. Interpreting Urban Carbon Monoxide Concentrations by Means of a Computerized Blood COHb Model. Presented at the 67th Annual Meeting of the Air Pollution Control Association, Denver, Colorado, June 9–13, 1974.

57. Hackney, J. D., W. S. Linn, J. G. Mohler, E. E. Pedersen, P. Breisacher, and A. Russo. Experimental studies on human health effects of air pollutants. II. Four-hour Exposure to Ozone Alone and in Combination with Other Pollutant Gases. Arch. Environ. Health 30: 379–384, 1975.

58. Clean Air Act Oversight—1973. Hearings before the Subcommittee on Public Health and Environment, Committee on Interstate and Foreign Commerce, 93rd Congress, 1st Session, September 10–21, 1973. p. 184.

59. National Academy of Sciences. Guide for Short-Term Exposures of the Public to Air Pollutants—Guide VI—Carbon Monoxide. 1971.

60. Larsen, R. I. A Mathematical Model for Relating Air Quality Measurements to Air Quality Standards. U.S. EPA. Office of Air Programs Publication No. AP–89. 1973.

61. Guidelines for the Interpretation of Air Quality Data with Respect to the National Ambient Air Quality Standards. Guideline Series OAQPS 1.2–008, U.S. EPA, Research Triangle Park, N.C. Resived February 1977.

62. A Legislative History of the Clean Air Amendments of 1970. U.S. Senate Committee on Public Works. Series No. 93–18, Vol. 1. 93rd Congress, 2nd. Session. January 1974.

63. Case, G. D., J. S. Dixon, and J. C. Schooley. Interactions of Blood Metalloproteins with Nitrogen Oxides and Oxidant Air Pollutants. Environmental Research, 20: 43–65, 1979.

EPA proposes to amend Part 50 of Chapter I, Title 40, of the *Code of Federal Regulations* as follows:

§ 50.8 [Revised]

1. Section 50.8 is revised to read as follows:

The levels of the national primary ambient air quality standards for carbon monoxide, measured by a reference method based on Appendix C to this part and designated in accordance with Part 53 of this chapter, or by an equivalent method, are 25 parts per million (28.63 mg/m³) for a 1-hour average concentration and 9 parts per million (10.31 mg/m³) for an 8-hour average concentration. The standards are attained when the expected number of days per calendar year as determined by Appendix I to this part:

(a) With maximum 1-hour average concentrations above 25 parts per million (28.63 mg/m³) is equal to or less than 1, and

(b) With maximum 8-hour average concentrations above 9 parts per million (10.31 mg/m³) is equal to or less than 1.

Appendix I—Interpretation of the Nation Ambient Air Quality Standard for Carbon Monoxide

I. General

This appendix explains the necessary computations for analyzing carbon monoxide (CO) data with respect to the 1-hour and 8-hour standards. The term "exceedance" is used throughout this appendix to describe a daily maximum value above the level of the standard. For the 1-hour standard, an exceedance refers to a daily maximum hourly value above the level of the 1-hour CO standard. For the 8-hour standard, an exceedance refers to a daily maximum 8-hour average above the level of the 8-hour CO standard. A CO value is said to be an exceedance if, after being rounded to the nearest ppm, it is greater than the level of the standard (fractional parts equal to 0.5 should be rounded up).

In general, the average number of exceedances per year must be less than or equal to 1 for each standard. In its simplest form, the number of exceedances at a monitoring site would be recorded for each calendar year and, then, average over the previous calendar years to determine if this average is less than or equal to 1. If data are missing, however, it is necessary first to compute the estimated number of exceedances for each calendar year on the basis of the observed number of exceedances plus an adjustment to account for missing values. The expected number of exceedances is then determined on the basis of the average of these annual estimates.

II. Data Handling Conventions

In order to compute the expected number of exceedances, it is necessary to define what is meant by a valid daily maximum value. It is assumed that hourly average carbon monoxide (CO) measurements are available on a clock-hour basis. The end point of the time period determines the day to which the value is assigned. Time periods ending at midnight are the last time periods of the day. For example, an 8-hour average from 4:01 p.m. to midnight is the last 8-hour average from 5:01 p.m. to 1:00 a.m. is the first 8-hour average of one day, while the 8-hour average of the next day. By this convention, the value is assigned to a day on the basis of when the receptor has accumulated the exposure.

A daily maximum hourly value is the highest of the 24 possible hourly averages for the day. This daily mixmum hourly value is termed "valid" if at least 75 percent of the possible hourly averages were available or if at least one hourly average in the day exceeded the level of the 1-hour standard.

An 8-hour average is considered to be valid if at least 75 percent of the hourly averages for the 8-hour period were available. In the event that only six (or seven) hourly averages were available, the 8-hour average is computed on the basis of the hours available using six (or seven) as the divisor. Hourly values less than the minimum detectable limit should be replaced by one-half the minimum detectable limit for these computations. To ensure that potentially high 8-hour averages are not ignored, an 8-hour average with less than six hourly values will also be considered valid if substitution of one-half the minimum detectable limit for the missing values (and with 8 used as the divisor) results in an average above the level of the 8-hour standard. A daily maximum 8-hour average is the highest of the 24 possible 8-hour averages ending in that day. This daily maximum 8-hour average is considered to be valid if at least 75 percent of the 8-hour averages were valid or if there is at least one valid 8-hour average above the level of the 8-hour standard.

As a final convention, hourly values from the end of 1 year need not be carried over to compute 8-hour averages at the start of the next year. This convention should eliminate potential data processing problems with archived data.

III. Estimating the Number of Exceedances Expected in a Year

Because of practical considerations, a valid daily maximum hourly or 8-hour average may not exist for each day of the year. To account for the possible effect of missing data, an adjustment must be made to the number of exceedances in a calendar year. In this adjustment, the assumption is made that the fraction of mission values that would have exceeded the standard level is identical to the fraction of measured values above this level. This computation is to be made for all National Air Monitoring Stations (NAMS), State and Local Air Monitoring Stations (SLAMS), and all other sites that are scheduled to monitor for an entire year. Because of possible seasonal imbalance, this computation does not apply to Special Purpose Monitors (SPM). The expected number of exceedances for the year is equal to the observed number of exceedances plus the increment associated with the missing data. The following formula must be used for these computations:

$$e = v + [(v/n)*(N-n)] \quad (1)$$

where

e = the estimated number of exceedances for the year
N = the number of days in the year (365 or 366)
v = the observed number of exceedances
n = the number of valid daily values

* Indicates multiplication.

This expected number of exceedances must be rounded to one decimal place (fractional parts equal to 0.05 should be rounded up).

This same formula is applicable for both 1-hour and 8-hour computations. It basically assumes that the fraction of missing values above the standard level is the same as the fraction of measured values above this level. For 1-hour computations, the observed number of exceedances refers to the hourly standard and the number of valid daily values is the number of valid daily maximum 1-hour averages. For computations for the 8-hour standard, exceedances refer to the 8-hour standard and the number of valid daily values is the number of valid daily maximum 8-hour averages.

(42 U.S.C. 7409)

[FR Doc. 80-24607 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 50

[FRL 1567–4 Docket Number OAQPS 79–7]

Proposed Revision of The National Ambient Air Quality Standard for Carbon Monoxide; Public Meeting Schedule

AGENCY: Environmental Protection Agency.

ACTION: To announce public meetings.

SUMMARY: In this issue of the **Federal Register** EPA has proposed revisions to the National Ambient Air Quality Standard for Carbon Monoxide. This notice is to announce public hearings to be held in Washington, D.C., and Denver, Colorado, to receive public comments on the proposed revisions to the standard. All hearings begin at 9:00 a.m.

DATES: Public comments on the proposed revisions must be received by November 10, 1980.

Hearings will be held on October 2, 1980 in Washington, D.C., and on October 10, 1980 in Denver, Colorado.

ADDRESSES: Public comments must be submitted (duplicate copies are preferred) to: Central Docket Section (A–130), Environmental Protection Agency, Attn: Docket No. OAQPS 79–7, 401 M Street, SW, Washington, D.C. 20460.

The hearings will be held in the following locations: Washington Hearing: Environmental Protection Agency, 401 M Street, SW., Room 3906 and 3908, Washington, D.C. Denver Hearing: U.S. Post Office Auditorium, 1823 Stout Street, (Denver, Colorado). For further details contact Mr. Charles

Stevens, telephone (303) 837–5927 (FTS 327–5927).

Individuals making prepared statements at the hearing are encouraged to send written copies of their statements seven days prior to the day of the hearing to the address given below.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Jones, Strategies and Air Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone (919) 541–5231 (FTS 629–5231).

Dated: July 16, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-24608 Filed 8-15-80; 8:45 am]

BILLING CODE 6560-01-M

V 45 A G 18 80 UMI

federal register

Monday
August 18, 1980

Part V

Office of Management and Budget

Uniform Requirements for Grants to State and Local Governments (Circular A–102)

functions. In this case, it may be more

Auditors needing more background on

accompany appraiser, review appraisals

OFFICE OF MANAGEMENT AND BUDGET

Circular A-102; Uniform Requirements for Grants to State and Local Governments

AGENCY: Office of Management and Budget.

ACTION: Final notice.

SUMMARY: This notice transmits a supplement called for by Circular A-102, "Uniform requirements for grants to State and local governments." The supplement summarizes information previously available only in many thousands of pages of law and regulation.

The supplement is part of the Administration's Financial Priorities Program, and adds to OMB's system of guidance for federally assisted programs. It is intended to further streamline the management of Federal aid.

In October 1979, Circular A-102 was revised to add a new Attachment P. The Attachment called upon Federal agencies to move away from the grant-by-grant audits of the past, and called instead for organization-wide audits of financial operations, using the single audit guide. It provided for tests of compliance with major provisions of Federal law and regulation.

This supplement contains those major compliance features. For the first time, it gives auditors at all three levels of government, a manageable list of compliance matters that they are responsible for checking.

OMB developed the supplement in cooperation with the General Accounting Office, grantmaking agencies, and State and local governments. It is intended to meet the needs of all levels of government for tests of compliance with Federal requirements.

EFFECTIVE DATE: This supplement is effective immediately.

FOR INFORMATION RELATED TO SPECIFIC PROGRAMS:

Call the agency contacts listed in the Appendix.

FOR FURTHER INFORMATION CONTACT:

James R. Doyle, Financial Management Branch, Office of Management and Budget, Washington, D.C. 20503, (202) 395-3993.

John J. Lordan,
Chief, Financial Management Branch.

Major Compliance Features of Programs Administered by State and Local Governments

Executive Office of the President, Office of Management and Budget

August 1980.

Foreword

This document supplements the audit provisions of Office of Management and Budget Circular A-102, "Uniform requirements for grants to State and local governments," and the General Accounting Office publication, "Guidelines For Financial And Compliance Audits Of Federally Assisted Programs."

The supplement presents information on the major compliance features of 60 programs that make up over 90% of Federal aid to State and local governments. It summarizes information previously available only in many thousands of pages of agency regulations. It was developed from information provided by Federal grantmaking agencies, and relies on their interpretations of the significant features of their programs.

The use of this document in conjunction with the standard audit guide will make possible a "single audit" of a unit of government that should meet the needs of all users for reliable financial data. It is expected that this will result in a more appropriate sharing of audit responsibilities among the levels of government, and further streamline the intergovernmental audit system.

Most grantees will be receiving assistance through only a few of the programs presented here. Accordingly, the auditor need only select from this document the features applicable to the programs being carried out by the grantee.

When making audits of organizations carrying out programs not included here, the auditor should obtain major compliance information, such as eligibility and matching share, from the grant or loan agreement, the *Catalog of Federal Domestic Assistance*, program regulations, or other available sources.

James T. McIntyre, Jr.,
Director, Office of Management and Budget.

Elmer B. Staats,
Comptroller General of the United States.

Contents

Foreword
Contents
Introduction
Part I—General Features
PART II—Individual Program Features
Department of Agriculture
Department of Commerce
Department of Health and Human Services
Department of Education
Department of Housing and Urban Development
Federal Emergency Management Administration
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Appalachian Regional Commission
Community Services Administration
Environmental Protection Agency
Department of Energy
Department of The Treasury
Appendix I
Inspectors General

Introduction

Background Materials Necessary for the Audit

Since this document supplements the GAO Audit Guidelines,[1] the auditor should be thoroughly familiar with them. Of major importance are the preliminary steps auditors must take, and key reference materials auditors must have at their disposal before starting the audit. Principal among these are copies of the agency regulations, approved budgets and financial reports for the programs. The auditor should also obtain a copy of the governmentwide cost allocation plan and executed copies of grant or loan agreements for the programs.

It is implied in each of the program tests included here that the auditor will have reviewed this background material before making the individual audit tests. The auditor is referred to Chapter 3 of the GAO Audit Guidelines entitled "Planning the Audit", for more details.

Review of Systems and Procedures

Though the compliance features outlined in this document have been kept purposely brief, in some cases they may require detailed, specific tests. There are some observations of a general nature that the auditor should attempt before making any specific tests.

Auditors should first make a review of the systems and procedures the recipient has in place. A suggested approach for doing so is covered in greater depth in *Study of Internal Control* outlined in the GAO Audit Guidelines. In some cases, this early review may disclose inadequacies in the recipient's monitoring and control

[1] Guidelines for Financial and Compliance Audits of Federally Assisted Programs. U.S. General Accounting Office, February 1980.

functions. In this case, it may be more appropriate *how* they satisfy the major compliance features before attempting further detailed steps. In all cases, the auditor should rely on professional judgment.

Part I—General Features

Each Federal aid program carries a number of very important statutory and regulatory requirements to be followed by recipients. Attaching these requirements to Federal programs ensures adherence to broad national policies. Among these are environmental regulations, regulations relating to the rights of individuals and a number of others.

While of major importance, compliance or noncompliance with many of these requirements does not materially affect the grantee's financial status. For this reason, most of these requirements are not included in this document.

Included in this part are compliance features which are generally applicable, but which could have a material affect on financial status.

Not all of these provisions apply to all programs. The auditor should ascertain which ones do apply at the time the audit work plan is developed.

General Compliance Features That Apply to a Number of Federal Assistance Programs—I. Political Activity (Hatch Act (5 U.S.C. 1501–1508) and Intergovernmental Personnel Act of 1970 as Amended by Title VI of Civil Service Reform Act (Pub. L. 95–454 Section 4728))

Federal funds cannot be used for political activity of any kind by any person or organization involved in the administration of federally assisted programs. This general prohibition applies to all Federal programs covered here.

No specific audit steps are provided here. Rather, the auditor should be alert to possible violation of this requirement throughout all phases of the audit.

II. Davis Bacon Act (40 Stat 1494, Mar. 3, 1921, Chap. 411, 40 U.S.C. 276a–276a–5)

a. *General.* All *construction* programs dealt with in this document must follow the provisions of the Davis-Bacon Act. In general, the act requires that all laborers and mechanics employed by contractors or sub-contractors be paid wages not less than those established for the locality of the project by the Secretary of Labor in accordance with the Act. The agency making the award generally incorporates the requirements in its standard terms and conditions. Auditors needing more background on the Davis-Bacon Act will usually find that the recipient has on hand Federal agency publications that give further background. For example, many documents published by the Department of Labor or the Economic Development Administration's *Engineering and Construction Guidelines for the Local Public Works Capital Development and Investment Program*, are good sources of background information.

b. *Suggested Approach.* 1. Determine whether construction contracts and subconstracts contain appropriate provisions that "Davis-Bacon" wages shall be paid.

2. Determine whether the recipient has developed a system to monitor applicable contractors and sub-contractors with respect to payment of "Davis-Bacon" wages. Test grantee's practices and records to evaluate adequacy of its system to assure compliance.

3. If the recipient has not developed such a system, or if the system developed for this purpose has not operated effectively then, on a sampling basis,

(a) Obtain the applicable "local" DOL wage determination from the recipient, the Architect/Engineer (A/E) who is managing the project or the agency Headquarters or Regional Office.

(b) Obtain payroll listings submitted by contractors.

(c) On the basis of the above information, sample compliance by contractors or subcontractors.

For any contractors or sub-contractors that did not comply with the "Davis-Bacon" requirements, estimate the amount of funds involved and provide details in the audit report.

III. Relocation Assistance and Real Property Acquisition Act (Pub. L. 91–646)

a. *General.* A number of Federal aid programs require the physical movement of persons, homes or businesses and/or the acquisition of property. The majority of these programs are administered by DOT and HUD. Some other agencies are involved to a lesser extent.

Recipients are required to follow the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 when families, individuals, or business concerns are displaced by the acquisition of real property for a federally assisted program. Implementing regulations differ somewhat from agency to agency. Recipients are required to carry out certain actions when acquiring property (appraise property, allow owner to accompany appraiser, review appraisals and set price, attempt to negotiate a settlement, etc.) and when relocating occupants of acquired properties (provide assistance in finding replacement housing, assure that replacement housing meets acceptable standards, assure that displacees receive their full benefits, etc.). Recipients are also required to maintain records on each property acquisition and each displacement of an occupant of an acquired property.

b. *Suggested Approach.* 1. Determine whether the recipient has developed a system to comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

2. Review a sample of individual land acquisition and relocation payment records to determine whether the recipient has followed the requirements of the act.

IV. Citizen Participation

a. *General.* A number of programs require input by local citizens in the planning process leading up to the formal application.

The recipient is required to prepare and follow a written citizen participation plan which provides an opportunity for citizens to participate in the development of the application, provides citizens with adequate information concerning program funding and requirements, provides for public hearings to obtain the views of citizens on the substance of the program, and provides an opportunity to submit comments.

b. *Suggested Approach.* 1. Determine whether the recipient has prepared and carried out a citizen participation plan.

2. Review notices and minutes of public hearings and determine whether public hearings were held prior to submission of the application.

3. Review minutes of public hearings and other documentation (letters, reports, newspaper articles, etc.) and note whether citizens articulated their opinions and needs on proposed activities.

4. Review the application file and supporting documentation, such as task force reports or citizen study group reports, and note whether citizens participated in the deliberations leading up to preparation of the application.

Note.—The State and Local Fiscal Assistance Act of 1972 (General Revenue Sharing) levies specific requirements for notifying the public of hearings and budget proposals. This program differs from others in that it does not involve an application. Its citizen participation requirements involve an application. Its citizen participation

requirements involve the entire budget of the recipient, not just a single program. Further, there are statutory requirements for public notices following budget adoption.

If the audit will cover General Revenue Sharing funds, the tests used for that program's citizen participation requirements should be used in lieu of the approach outlined here.

V. Flood Disaster Protection (National Flood Insurance Act of 1968, as amended by Flood Disaster Protection Act of 1973 Pub. L. 93–234)

Some Federal programs cannot fund in areas having flood hazards, unless covered by the National Flood Insurance Program.

Suggested Approach. If located in such an area, the auditor should check whether the recipient has insurance in force. Further, check whether the recipient has some procedures for avoiding routing construction in such areas and procedures for adherence to building codes in these areas as well.

VI. Civil Rights

For those programs which require an audit of compliance with Civil Rights, the auditor should use the tests found under program 21.000 Revenue Sharing at the end of this document.

Part II—Individual Program Features—Department of Agriculture

* * * **10.418 Water and Waste Disposal Systems for Rural Communities**

Authorization: Consolidated Farm and Rural Development Act, Section 306; Pub. L. 92–419; 7 U.S.C. 1926.

Objectives: Grants for water systems, waste systems and combination of both are made under Pub. L. 92–419; to serve rural residents, usually in conjunction with loans to municipalities, cooperatives and community associations. The purpose is to make the cost reasonable for users. Grants are awarded only when it appears that debt service for the eventual system will cost average users too large a percentage of their disposable income.

Other departments, agencies, and State Governments may participate and provide financial and technical assistance jointly to any applicant. Grant funds complement loan funds and are used for construction of water and waste systems.

Major Compliance Features

Uses and Use Restrictions: Installation, repair, improvement, or expansion of rural water and/or waste facilities.

Applicant Eligibility: Municipalities, counties, and other political subdivisions of a State: Districts and authorities; associations, cooperatives, and corporations operated on a not-for-profit basis; Indian tribes on Federal and State reservations and other federally recognized Indian tribes, serving rural areas and cities or towns up to 10,000 population.

Beneficiary Eligibility: Farmers, ranchers, rural residents and other small users in eligible applicant areas as set out above.

Formula and Matching: Grants may not exceed 75% of eligible project costs.

Other Tests: The compliance features apply to both loan and grant funds.

1. In order to evaluate interim financing agreements with local banks: (a) Review specific documentation supporting disbursements and determine if they are legitimate project expenses. (b) if multiple advances are used for grant funds, determine that these advances were disbursed for legitimate project expenses.

2. Evaluate the change orders made to contracts issued by the recipient to see if they were approved by FmHA officials.

3. Examine contractual agreements with consulting engineers, architects, local attorneys and bond counsel. Verify that payments made to such persons are in accordance with agreements and applicable fee schedules.

4. Determine if the file contains statements from contractors, engineers, local counsel and bond counsel showing payments to date, and evidence that all major suppliers and sub-contractors have been paid.

Note.—The Food and Nutrition programs which follow involve functions for State agencies that are different from those of the local agency. For instance, the local agency is usually involved heavily with individual recipients, whereas the State agency usually is not. For this reason, the tests at the State level differ from those at the local level.

The auditor should be especially alert in the Food and Nutrition programs for dual funding, i.e. evidence that the organization operating the program may have billed more than one aid program or grantor organization separately for a single service.

* * * **10.550 Food Distribution (Food Donation Program)**

Authorization: Section 32 of Pub. L. 320, 74th Congress, as amended, 7 U.S.C. 612c; Pub. L. 165, 75th Congress, 15 U.S.C. 713c; Sections 6, 9, and 17 of the National School Lunch Act, as amended, 42 U.S.C. 1755, 1758, 1766; Section 416 of the Agricultural Act of 1949, as amended, 7 U.S.C. 1431; Section 402 of the Mutual Security Act of 1954, as amended, 22 U.S.C. 1922; Section 210 of the Agricultural Act of 1956, 7 U.S.C. 1859; Section 9 of the Act of September 6, 1958, as amended 7 U.S.C. 1431b; Act of September 13, 1960, as amended, 7 U.S.C. 1431 note; Section 709 of the Food and Agriculture Act of 1965, as amended, 7 U.S.C. 1446a–1; Section 13 of the National School Lunch Act, as amended, 42 U.S.C. 1761; Section 8 of the Child Nutrition Act of 1966, 42 U.S.C. 1777; Section 311 of the Older Americans Act of 1965, as amended, 42 U.S.C. 3045f; Section 4 and 5(a) of the Agriculture and Consumer Protection Act of 1973 as amended, 7 U.S.C. 612c note; and 7 U.S.C. 613 note Section 14 of the National School Lunch Act as amended, 42 U.S.C. 1762a; Section 409 and 410(6) of Pub. L. 93–288, 42 U.S.C. 5179–5180.

Objectives: To improve the diets of school children and needy persons in households, on Indian Reservations not participating in the Food Stamp Program, and charitable institutions, the elderly, and other individuals in need of food assistance, and to increase the market for domestically produced foods acquired under surplus removal or price support operations.

Major Compliance Features

Uses and Use Restrictions: Food is made available for distribution to qualifying households, individuals, child feeding programs, schools, charitable institutions, nutrition programs for the elderly, and nonprofit summer camps for children. Households and individuals may not be charged. Donated foods may not be sold, exchanged, or otherwise disposed of without prior, specific approval of the Department. FNS administrative funds must be expended to assist in meeting operating expenses incurred in administering food distribution programs for needy persons in households. These funds may not be used to purchase real property (land or buildings).

Applicant Eligibility: Such State, Trust Territory of the Pacific Islands and Federal agencies that are designated as distributing agencies by the Governor, legislature, or other authority may receive and distribute donated foods. (See below for expansion.)

Formula and Matching Requirements: States and localities are expected to bear the cost of program administration aside from the contribution made by the grant.

Other Tests: A. Local Level.—1. Sample accounts to verify that proceeds from the sale of food containers are used solely for program purposes.

2. Test to insure that eligible participants are not required to make payments in money, materials or services for the receipt of commodities.

3. Compare their food expenditures with the value of commodities received. Check that expenditures do not drop as commodities increase. Compare two years.

4. Test that cash provided to recipients of grants under Title III Older American Act, is used only to purchase US agricultural commodities and other foods of US origin.

5. Test that cash is used only to purchase US agricultural commodities and other foods of US origin. The auditor is advised that the State of Kansas elects to receive only cash (in lieu of commodities).

6. Verify, on a sampling basis, that recipients of donated food do not participate in *both* the Food Stamp and Food Distribution Programs.

7. Test that charges in excess of program needs are used to reduce charges or are returned to contributors.

B. *State Level.* 1. Review accounts to verify that donated foods are distributed only to the following eligible agencies and recipients: (a) Schools participating in the National School Lunch (or Breakfast) Programs (NSLP, SBP) and commodity only schools; (b) charitable institutions, both public and private; (c) nonprofit summer camps for children; (d) Title III Elderly Feeding Programs; (e) Needy Family Programs administered by welfare agencies and Indian Tribal Organizations; (f) state correctional institutions; (g) service institutions which participate in the Summer Food Service Program (SFSP); (h) nonresidential child care institutions; (i) disaster organization; and (j) Commodity Supplemental Food Program.

2. Test that distribution of foods to charitable institutions is made on the basis of the number of needy persons served.

3. Verify that the State agency (SA) on aging, receiving cash in lieu of commodities for elderly feeding programs under Title III, Older American Act, disburses such cash promptly and equitably to subrecipients.

4. In determining whether to request cash in lieu of commodities for the Child Care Food Program (CCFP), verify that the SA considers preference of individual institutions.

5. Review procedures established to ensure that recipients of donated food do not participate in *both* the Food Stamp and Food Distribution Programs.

*** **10.551 Food Stamps**

Authorization: The Food Stamp Act of 1964; Pub. L. 88–525; 78 Stat. 703, 7 U.S.C. 2011–2026 (1964) as amended, Pub. L. 90–91; 81 Stat. 228; Pub. L. 90–552; 82 Stat. 958; Pub. L. 91–116; 83 Stat. 191; Pub. L. 91–671; 84 Stat. 2048; Pub. L. 92–603; 86 Stat. 1329; Pub. L. 93–86; 87 Stat. 247; Pub. L. 93–233; 87 Stat. 947; Pub. L. 93–335; 88 Stat. 291; Pub. L. 93–347; 88 Stat. 340; Pub. L. 93–563; 88 Stat. 1841; Pub. L. 94–44, 89 Stat. 235; Pub. L. 94–182, 89 Stat. 1056; Pub. L. 94–339, 90 Stat. 799; Pub. L. 94–365, 90 Stat. 990; Pub. L. 94–379, 90 Stat. 1111; Pub. L. 94–585, 90 Stat. 2901; Pub. L. 95–59, 91 Stat. 255; Pub. L. 95–97, 91 Stat. 825; Pub. L. 95–113, 91 Stat. 958; Pub. L. 95–348, 92 Stat. 487; Pub. L. 95–400, 92 Stat. 856; Pub. L. 95–458, 92 Stat. 1255; Pub. L. 96–58, 93 Stat. 389; Pub. L. 96–249, 94 Stat. 357.

Objectives: To improve diets of low-income households by supplementing their food purchasing ability. Households receive a free coupon allotment which varies according to household size and income.

Major Compliance Features

Applicant Eligibility: The State or U.S. Territory agency responsible for federally aided public assistance programs.

Beneficiary Eligibility: Households may participate if they are found by local welfare officials to be in need of food assistance. Examples include households that are receiving some form of welfare assistance, or are unemployed, part-time employed, working for low wages, or living on limited pensions. Eligibility is based on family size and income, and their level of resources. Able-bodied adults with certain exceptions, must meet a work registration requirement. College students who are tax dependents of ineligible households are ineligible to participate in the program.

Other Tests: Quality Control: The 1977 Food Stamp Act (the Act) requires State agencies to implement a state-wide Quality Control program to determine if participating households are eligible and receiving the correct coupon allotment. States whose cumulative allotment error rate is less than 5 percent are entitled to increased administrative funding under the Act. Additionally, the 1980 amendments to the Act implement an error rate sanction system under which State agencies will be liable for high error rates. The Quality Control system is designed to determine the error rate in each State. Procedures for implementing the Quality Control system are included in 7 CFR 275.10–275.14, and in FNS Handbooks 310, 311, and 315. Also, each State must have its plan for implementation of the Quality Control system approved by FNS.

For Audits at the State Agency

1. Determine if the State agency has implemented a Quality Control system as directed and approved by FNS.

2. Does the State organizational structure allow Quality Control to function independently of program operations?

3. Using statistical sampling procedures, select a number of cases included in the State agency's most recently completed six-month Quality Control sample. Review the cases and determine if the State agency's conclusions regarding the selected cases were correct. As a result of this review, determine if the State agency's projected error rates for the six-month sample period are correct.

Food Stamp Claims Activity and Security for Audits at the State Agency and/or Project Area

4. Review the status of FNS semi-annual billings to State agencies reflecting food stamp shortages reported on the FNS–250 report. Determine if the State paid FNS for the value of the shortages.

5. Review the status of the State's claims collection activity and determine if claims collected are submitted to FNS.

6. Review the adequacy of security over food stamps and Authorization to Participate (ATP) cards.

7. Review the controls established over and the disposition of food stamps or ATPs returned as undeliverable by the Postal Service.

8. Reconcile the most recently completed FNS–250 report. If the State agency or project area maintains a central coupon storage area, make a physical inventory of the food stamps and reconcile to the FNS–250 report.

* * * **10.553 School Breakfast Program**

Authorization: Section 4 of the Child Nutrition Act of 1966 as amended; Pub. L. 89–642; 80 Stat. 886; 42 U.S.C. 1773; Pub. L. 91–248, 84 Stat. 214, 42 U.S.C. 1773; Pub. L. 91–248, 84 Stat. 214, 42 U.S.C. 1773; Pub. L. 92–32; 85 Stat. 85; 42 U.S.C. 1773; Pub. L. 92–433; 86 Stat. 724; Pub. L. 94–105; 89 Stat. 511; Pub. L. 95–166, 91 Stat. 1337; Pub. L. 95–627, 92 Stat. 3620.

Objectives: To assist states in providing nutritious breakfasts for school children, through cash grants and food donations.

Major Compliance Features

Uses and Use Restrictions: Funds are available to public and nonprofit private schools, of high school grade or under, for breakfasts. Participating schools are reimbursed. The rates of reimbursement are adjusted on a semiannual basis to

reflect changes in the "food away from home" series of the Consumer Price Index. All participating schools must agree to supply free and/or reduced price meals to eligible children on a nonprofit basis.

Applicant Eligibility: State and U.S. Territory agencies or private schools which are exempt from income tax under the Internal Revenue Code.

Beneficiary Eligibility: All children attending schools in which the breakfast program is operating may participate.

Other Tests: A. Local Level.— 1. Test to ensure that procedures used to obtain meal counts yield reliable counts by category. (free, reduced price or paid).

2. Sample accounts to determine that meals counted as free, or at a reduced price, are supported by a properly approved application on file.

3. Review accounts to determine that programs are not subsidizing nonreimbursable activities. (adult meal, a la carte, etc.).

4. Determine, on a fiscal year basis, that reimbursement paid to a School Food Authority does not exceed the lesser of (a) costs or (b) the number of meals times the maximum rate.

B. *State Level.*—The State agency documents the meals served in schools within the State on a form entitled *Report of Child Nutrition Programs* (FNS–10).

Test whether the SA has a system that reserves up to 1% of its funds for special developmental projects (Sections 4 and 11 of National School Lunch Act).

* * * *10.555 National School Lunch Program (School Lunch Program)*

Authorization: National School Lunch Act of 1946 as amended; Pub. L. 79–396; 60 Stat. 230; 42 U.S.C. 1751; Pub. L. 87–823, 76 Stat. 944; 42 U.S.C. 1752; Pub. L. 91–248, 84 Stat. 208, 42 U.S.C. 1752; Pub. L. 92–153; 85 Stat. 419, 420; 42 U.S.C. 1753; Pub. L. 92–433, 86 Stat. 726; Pub. L. 93–150; 87 Stat. 560–564; Pub. L. 93–326; 88 Stat. 286–287; Pub. L. 94–105; 89 Stat. 512–515; Pub. L. 95–166, 91 Stat. 1325–1346; Pub. L. 95–627 92 Stat. 3603–3626.

Objectives: To assist states, through cash grants and food donations, to make the school lunch program available to all school children.

Major Compliance Features

Uses and Use Restrictions: To reimburse participating public and nonprofit private schools, of high school grade or under, including residential child care institutions, for lunches. Participating schools are reimbursed at rates prescribed by States for free and reduced price meals to eligible children.

Applicant Eligibility: State and U.S. Territory agencies, private schools, residential child care centers, and settlement houses which are exempt from income tax. Schools must operate a nonprofit lunch program.

Beneficiary Eligibility: Children of high school grade and under in attendance at participating schools and child care institutions.

Formula and Matching Requirements: Must be matched by $3 for each $1 of Federal funds except that states having income of less than the national average per capita income are allowed to match at a lesser rate. Funds from within the State may include funds derived from State and local tax revenues which are used for food service programs and funds received from children for lunch payments. For the fiscal years beginning October 1, 1977, and following, State revenue (other than revenues derived from the program) appropriated or specifically reserved and used for program purposes (other than salaries and administrative expenses at the State as distinguished from the local level), shall constitute at least 10 percent of the 3 to 1 matching requirement funds for the general cash for food assistance funds for the preceding fiscal year.

The matching requirement is complex. The auditor should check with USDA if necessary. The basic 3 to 1 match relates to Section 4 dollars reimbursed for meals paid. The 10% State match is actually 10% of the 3 to 1 match computed on the total. The 10% can make up part of the 3 to 1 match.

Other Tests: The features are the same as those for the School Breakfast Program.

* * * 10.557 Special Supplemental Food Program for Women, Infants, and Children (WIC Program)

Authorization: Child Nutrition Act of 1966, as amended, 42 U.S.C. 1771 et seq; Pub. L. 92–433; Section 17 of Child Nutrition Act of 1966, as amended; 86 Stat. 729; Pub. L. 94–105; Section 17 of the Child Nutrition Act of 1966, as amended; 89 Stat. 518; Pub. L. 95–627, 92 Stat 3603.

Objectives: To supply supplemental nutritious food and nutrition education, as an adjunct to good health care, to participants identified to be nutritional risks.

Major Compliance Features

Uses and Use Restrictions: State health or comparable agencies, Indian tribes, bands, or intertribal councils, or groups recognized by the Departments of the Interior, or HEW in order to make supplemental foods available to pregnant, postpartum and breastfeeding women, infants, and children up to five years of age through local public or nonprofit private health or welfare agencies. Funds must be expended to purchase supplemental foods for participants or to redeem vouchers issued for that purpose. Twenty percent may be used for State and local agency administrative costs. Only local agencies qualifying under State agency applications may operate WIC programs.

Applicant Eligibility: A local agency is eligible provided: (a) It gives health services free or at reduced cost to residents of low-income areas; (b) it serves a population of women, infants, and children who are a nutritional risk; (c) it has the personnel, expertise, and equipment to perform measurements, tests, and data collection specified for the WIC program; (d) it maintains or is able to maintain adequate medical records; and (e) it is a public or private nonprofit health or welfare agency. All applicants must apply through the responsible State or U.S. Territory agency.

Beneficiary Eligibility: Pregnant, postpartum or breastfeeding women, infants, and children shall be eligible if they are determined by a competent professional on the staff of the local agency to be in need of the special supplemental foods supplied by the program, and they have a family income of less than the State provided or approved income standard.

Formula and Matching Requirements: States and local agencies bear the administrative costs in excess of their administrative funds allocation.

Other Tests: A. *Local Level.*— Determine if the local agency has and is carrying out procedures which effectively verify that:

1. Unissued and issued food vouchers are adequately accounted for and safeguarded.

2. Redeemed food vouchers are being monitored to ensure that costs claimed by vendors are not excessive.

3. Cases of vendor and participant abuse are followed up on, and actions are taken, both to recover missused program funds and to prevent recurrence.

B. *State Level.* Determine if SA has established effective procedures for:

1. Verifying local agency claims for reimbursement.

2. Substantiating that issued food vouchers are reconciled against redeemed food vouchers and that only actual reasonable costs are claimed (one to one reconciliation).

3. Handling cases of theft, loss or embezzlement of food vouchers.

* * * 10.558 Child Care Food Program

Authorization: Section 17 of the National School Lunch Act as amended by Pub. L. 94–105; 89 Stat. 522–525; Pub. L. 95–627, 92 Stat. 3603–3626.

Objectives: To assist states to initiate, maintain or expand nonprofit food service programs for children in non-residential institutions providing child care.

Major Compliance Features

Uses and Use Restrictions: Funds are made available for disbursement to eligible public and nonprofit private organizations including day care centers, settlement houses, recreation centers, family and group day care programs, Headstart Centers, and institutions providing day care services for handicapped children. Disbursement is made on the basis of the number of lunches, suppers, breakfasts and snacks served, using reimbursement rates.

Applicant Eligibility: The State and U.S. Territory Educational Agency or other agency within the State and U.S. Territory. Where that agency is not permitted to disburse funds, the institution may receive funds directly.

Beneficiary Eligibility: Public and nonprofit private organizations including day care centers, settlement houses, recreation centers, family day care programs, Headstart programs, Homestart programs and institutions providing day care services for handicapped children, which are licensed or approved by State, local or Federal authority, or can satisfy Federal interagency day care requirements.

Other Tests: A. *Local Level.*—1. Test to ensure that procedures used to obtain meal counts yield accurate counts by category. (Free, reduced price, or paid.)

2. Sample accounts to determine that meals claimed as free, or at a reduced price, are supported by a properly approved application on file.

3. Sample accounts to determine that meals counted as served to ineligible persons are not claimed for reimbursement.

4. Verify that total reimbursement for meals counted as served to any institution do not exceed the actual cost of meals to the institution, less income to the program.

B. *State Level.*—1. If equipment is acquired with Federal non-food assistance funds, check that the State pays at least 25% of the cost. Some facilities, which are especially needy, may not have to provide any funds at all.

2. Verify that the total reimbursement for meals counted as served to any institution or independent child care center does not exceed the actual cost of meals less income to the program.

3. Determine that start-up funds are provided to finance the administrative expenses only for preprogram operations.

4. Determine that an adequate inventory is maintained for USDA donated commodities.

* * * 10.561 State Administrative Matching Grants for Food Stamp Program

Authorization: Food Stamp Act of 1964, Pub. L. 88–525, 78 Stat. 703, Part 275 of the Food Stamp Program Regulations; Pub. L. 95–113, 91 Stat. 958.

Objectives: To provide aid to State and local governmental agencies for administrative costs incurred to operate the Food Stamp Program.

Major Compliance Features

Uses and Use Restrictions: Administrative costs to operate the Food Stamp Program.

Applicant Eligibility: State welfare agency.

* * * 10.415 Rural Rental Housing Loans

Authorization: Housing Act of 1949 as amended, sections 515 and 521; Pub. L. 89–117; 42 U.S.C. 1485, 1490A.

Objectives: Loans to provide economically designed and constructed rental and cooperative housing and related facilities suited for independent living by rural residents. Loan funds may be used to provide essential related service facilities appropriate for use in connection with the housing, and to buy and improve the land on which the buildings are to be located.

Major Compliance Features

Uses and Use Restrictions: Loans can be used to construct, purchase, improve, or repair rental or cooperative housing. Generally, housing will consist of two or more family units. Loans may not be made for nursing, special care, or institutional-type homes.

Applicant Eligibility: Applicants, which also may receive Federal grants, will be State or local public agencies. Applicants must be able to assume the obligations of the loan, furnish adequate security, and have sufficient income for repayment. They must also have the ability and intention of maintaining and operating the housing for purposes for which the loan is made. Loans may be made in communities up to 10,000 persons and places up to 20,000 persons under certain conditions.

Beneficiary Eligibility: Occupants must be low to moderate income families including senior citizens and handicapped persons.

Other Tests: See the "Other Tests" outlined for program No. 10.418 Water and Waste Disposal Systems (above). The auditor should make the same tests here.

* * * 10.422 Business and Industrial Loans

Authorization: Consolidated Farm and Rural Development Act, as amended, Section 310B, Pub. L. 92–419; 7 U.S.C. 1932.

Objectives: FmHA makes loans to individuals, partnerships, corporations, Indian tribes, and other legal entities which also could receive Federal grants from other bodies and agencies to improve, develop or finance business, industry and employment to improve the economic and environmental climate in rural communities. This could include pollution abatement and control, and the conservation, development, and utilization of water for aquacultural purposes.

Major Compliance Features

Uses and Use Restrictions: This is administered as a guarantee program. However, direct loans may be made at five percent interest to public bodies and Indian tribes to finance community facilities, if not eligible under the Community Facilities Loan Program. Loans to public bodies will be used only to acquire or prepare land for industrial sites, access streets and roads, parking areas, transportation serving the sites, and utility extension; and to construct and equip industrial plants for lease to private businesses. The "credit elsewhere" provision applies, i.e. the recipient has exhausted all other possible sources of credit.

Applicant Eligibility: Applicants for direct loans must be located in cities or rural areas having a population of fewer than 50,000 and adjacent urbanized areas or urbanizing areas with a population density of more than 100 persons per square mile.

Formula and Matching Requirements: A minimum of 10 percent equity is required and all loans must be collateralized.

Other Tests: The following compliance features apply to Business and Industrial Direct loan funds whenever Federal grant funds are made a part of the financing package to eligible applicants.

1. Determine that the "credit elsewhere" test has been documented. (See above).

2. Review appropriate escrow accounts, if used.

• • • 10.423 Community Facilities Loans

Authorization: Consolidated Farm and Rural Development Act, Section 306, Pub. L. 92-419; 7 U.S.C. 1926.

Objectives: Loans are made to public bodies, political and quasi-political subdivisions of State and local governments, nonprofit organizations and to Indian Tribes which could also receive Federal grants for other purposes to provide community facilities for public use. These facilities could include fire and rescue services, transportation, traffic control, community, social, cultural, health and recreational benefits, industrial park sites, access ways and utility extensions.

Major Compliance Features

Uses and Use Restrictions: All facilities financed in whole or in part with FmHA funds shall be for public use.

Applicant Eligibility: Applicants should have the legal authority to obtain the loan, give security and repay the loan, as well as for constructing, operating and maintaining the facility. The applicant should be unable to finance the project from its own resources or through commercial credit.

Beneficiary Eligibility: Rural residents in open country and towns and villages of not more than 10,000 population.

Other Tests: See the "Other Tests" outlined for program No. 10.418 Water and Waste Disposal Systems (above). The auditor should make the same tests here.

Department of Commerce

• • • 11.300 Economic Development—Grants and Loans for Public Works and Development Facilities

Authorization: Public Works and Economic Development Act of 1965; Pub. L. 89-136, as amended; 42 U.S.C. 3131, 3132, 3135, 3141, 3171.

Objectives: The Act authorizes the Secretary of Commerce to make grants for public works, public service or development facilities, including related machinery and equipment.

Major Compliance Features

Applicant Eligibility: States, cities, counties, tribal governments and other political subdivisions, and private or public nonprofit organizations or associations representing a redevelopment area or a designated economic development center are eligible to receive grants and loans. Corporations and associations organized for profit are not eligible.

Beneficiary Eligibility: Unemployed and underemployed persons and/or members of low-income families.

Formula and Matching Requirements: The basic grant may be up to 50 percent of the project cost. Severely depressed areas that cannot match Federal funds may receive supplementary grants to bring the Federal contribution up to 80 percent. Designated Indian Reservations are eligible for 100 percent grants. Additionally, redevelopment areas located within designated economic development districts may, subject to the 80 percent maximum Federal grant limit, be eligible for a 10 percent bonus on grants for public works projects. Long-term (up to 40 years) low interest loans may be made to the applicant when financial assistance is not otherwise available from private lenders or Federal agencies on terms which would permit accomplishment of the project. Although the authority for such loans is continuously available, it is rarely needed.

Other Tests: The auditor should test the following:

1. *Interest Expense During Interim Construction.*

a. The construction period may commence prior to the acceptance of the offer of assistance from EDA. Interest on funds borrowed to finance this construction is allowable. When claimed, the explanation of the construction involved with a computation of the interest is to be shown.

b. Interest on funds borrowed in excess of expected requirements or for the period subsequent to 90 days beyond EDA's date of final acceptance is unallowable.

c. In determining allowable interest on bonds issued for the project, exclude any accrued interest purchased for the period falling within the construction period.

d. To determine the net cost of interest, earnings on the investment of project funds will be deducted from the interest paid or accrued. If the grantee did not invest excess funds, the estimated amount of reasonable interest expected will be deducted from gross interest payable. When an estimated amount of interest earned is deducted an explanation should be provided.

e. Imputed interest is not allowable.

2. *Interest During Development.* The development period is a specified period subsequent to project acceptance during which time the revenues produced are expected to be insufficient to meet interest due on the revenue bonds used to assist in financing the project. These interest expenses may be accepted as project costs only to the extent that the grantee and/or borrower does not have other funds or sources of funds for such interest payments. The allowable amount of development period interest will be determined by EDA. The auditor should question any development period interest for which the auditor is unable to determine the need.

The audit should include sufficient testing to assure proper computation of interest expense. At a minimum, the auditor should examine the following for a sampling of loans obtained: (1) Name of lender; (2) date of loan; (3) principal of loan; (4) interest rate; (5) dates and amounts of repayment; (6) amount of interest paid and/or accrued.

3. *Tandem Projects.* Tandem projects are joint projects which usually receive financial assistance from both EDA and another Federal agency. The projects are so interrelated that one project cannot function usefully without the other. The Department of Commerce has determined that "each of these projects is basically an EDA project in which another Federal agency is authorized to participate and pick up certain costs otherwise payable by EDA." For joint projects, the auditor should contact the cognizant EDA Regional Office to determine if the project is considered a tandem project. The auditor should verify the basis used in determining the costs applicable to each of the sponsoring agencies.

• • • 11.000 Local Public Works Grants

Grants Under Title I of the Public Works Employment Act of 1976 and 1977

Authorization: Public Works Employment Act of 1976 and 1977.

Objectives: The Act authorized the Secretary of Commerce to make grants of up to 100 percent of project costs to any State or local government for local public works projects that will stimulate employment.

Major Compliance Features

Uses and Use Restrictions: Public Works projects, approved by EDA, that will help to stimulate employment.

Beneficiary Eligibility: State and local governments including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Indian tribes, and under Round II the Trust Territory of the Pacific Islands.

Other Tests: The auditor is advised that, except for denials, any dates referred to below are shown on EDA Standard Form ED-1024 or an equivalent form. This form is sent to the recipient from EDA.

1. *Application Submission Date* (receipt)—EDA considers the submission date to be synonymus with the date the prospective grantee's application was received. The EDA application receipt date is recorded in Block 25 of the original application (EDA-101-LPW).

Where EDA determined that the application was incomplete or inadequately prepared, EDA requested that corrected material be sent, and has revised Block 25 of the original application (EDA-101-LPW).

The auditor should question all costs incurred prior to the date EDA approves on the ED-1024, except for those expenses incurred under the "Uniform Relocation Assistance and Real Property Acquistion Policies Act of 1970" as amended.

Furthermore, for LPW II projects originally submitted but denied under Round I, all costs incurred prior to the project resubmission date (3. below) are unallowable except for administration and the expenses for other nonconstruction activities. All construction related activities including renovation, repair, and other improvements are unallowable (see Note D).

2. *Construction* (including demolition and other site preparation activities) renovation, repair, or other improvement costs—Includes all project costs and the costs of architectural and engineering services required to complete and update plans, specifications and estimates where either architectural design or preliminary engineering or related planning has already been undertaken, and where additional architectural and engineering work or related planning is required to permit construction of the project. All other architectural-engineering services are considered to be construction activities and, except as permitted above, are unallowable when performed by public employees for LPW II projects.

The LPW II restriction concerning use of public employees does not apply to Round I (R-1) error projects.

3. *Project Resubmission Date*—The EDA LPW Round II supplemental application receipt date recorded in Block 25 of the supplemental application (Form ED-101-LPW-S).

4. *Project Denial Date*—The date the grantee was notified on Standard Form ED-1026 or equivalent form that its project was denied, or December 23, 1976, whichever date is earlier.

Unallowable Costs

(Pub. L. 94-369 and 95-28).

A. Listed below are unallowable costs for all LPW grants: 1. All costs incurred before the original application submission (EDA receipt) date (see 1. above) except for those expenses incurred under the "Uniform Relocation Assistance Act of 1970 (Pub. L. 91-646).

2. Acquisition of any interest in real property.

3. Maintenance.

4. Interest costs, except where legislatively authorized.

B. Listed below are unallowable costs for LPW II grants only, excluding LPW II Round I error grants:

1. Construction performed directly by public employees.

2. Purchase of raw materials and goods used in LPW projects, which items were not substantially produced or mined in the U.S.

3. Construction (definition 2. above) work performed prior to the date EDA received the grantees resubmission (definition 3. above) of a Round I application resumbmitted under LPW II.

4. Costs incurred in violation of the grant clause requiring a 10 percent set aside for minority enterprise.

C. Listed below are unallowable costs for LPW II Round I error grants only: 1. Construction costs (definition 2. above) incurred prior to the project denial date (definition 4. above) for Round I error projects awarded under LPW II.

• • • 11.423 Coastal Energy Impact Program Loans and Guarantees

Authorization: Coastal Zone Management Act Amendments of 1976, Section 308(D)(1) loans and 308(D)(2) bond guarantees; 16 U.S.C. 1451 et seq; Pub. L. 94-370.

Objectives: To provide financial assistance for public facilities necessary to support increased populations stemming from new or expanded coastal energy activity.

Major Compliance Features

Uses and Use Restrictions: The public facilities eligible include, but are not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatement (including drainage), schools and education, and hospitals and health care.

Applicant Eligibility: Any coastal State which has a management program which has been approved under Section 306, or is making, in the judgment of the Assistant Administrator, satisfactory progress toward the development of a management program which is consistent with the polices set forth in Section 303.

Beneficiary Eligibility: Only units of general purpose local government in the coastal zone (as defined by the Department of Commerce) and State agencies are eligible for CEIP financial assistance.

Formula and Matching Requirements: Up to 100 percent Federal funding.

Other Tests: The auditor should test compliance with the terms and conditions of the loan agreement.

Department of Health and Human Services and Department of Education

• • • 13.224 Community Health Centers (Public Health Service Act, Section 330)

Authorization: Section 330, Public Health Service Act; Pub. L. 95-626, as amended by Title I; Pub. L. 95-83, as amended by Title V; Pub. L. 94-63; 42 U.S.C. 254C; (Previously, Public Health Service Act, Title III, Section 314(e); as amended by Section 3 of the Comprehensive Health Planning and PHS Amendments of 1966; Pub. L. 89-749; Section 2 of the Partnership for Health Amendments of 1967; Pub. L. 90-174; and Title II of the 1970 Amendments to PHS Act; Pub. L. 91-515).

Objectives: To support the development and operation of community health centers which provide primary health services, supplemental health services and environmental health services to medically underserved populations.

Major Compliance Features

Uses and Use Restrictions: Proposals designed to improve the availability, accessibility and organization of health care within medically underserved communities. Services must be provided in accordance with plans of the State comprehensive health planning agency. Funds may be used for acquiring and modernizing existing buildings including the costs of amortizing the principal of and paying the interest on loans. Special purpose equipment in excess of $1,000 requires prior approval.

Applicant Eligibility: State and local governments, any public or nonprofit private agency, institution, or organization. Profit making organizations are not eligible.

Beneficiary Eligibility: Population groups in medically underserved areas.

Formula and Matching Requirements: Applicant must assume part of the project costs determined on a case-by-case basis.

centers which are providing all other

provide the newly required services of

Financial Distress Grants: Amount

• • • 13.232 Maternal and Child Health Services (MCH)

Authorization: Social Security Act, Pub. L. 74–271, Title V, Section 503, 42 U.S.C. 703.

Objectives: To provide financial support to States (1) to extend and improve services (especially in rural areas and in areas suffering from severe economic distress) for reducing infant mortality and improvement of the health of mothers and children, (2) to provide programs of projects which offer reasonable assurance, particularly in areas with concentrations of low income families, of satisfactorily (a) helping to reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with childbearing and of satisfactorily helping to reduce infant and maternal mortality; (b) promoting the health of children and youth of school or preschool age; and (c) promoting the dental health of children and youth of school or preschool age, and (3) for special projects of regional or national significance which may contribute to the advancement of maternal and child health services.

Major Compliance Features

Uses and Use Restrictions: The grants may be used for health services in maternity clinics, to find vulnerable patients early in pregnancy and make available a broad spectrum of diagnostic and specialist consultation services, to provide hospitalization during the prenatal period as well as during labor and delivery, for medical and intensive nursing care for prematurely born and other high-risk infants, visits of public health nurses, support of hospital intensive care units for high-risk newborn infants, well-child clinics, pediatric clinics, promotion of health services and for screening, diagnosis, treatment, correction of defects, and after-care, both medical and dental, for children and youth of school and preschool age, school health programs, dental care for children and pregnant women, family planning, immunizations against preventable diseases, and training of professional personnel. States conduct special clinics for mentally retarded children where diagnostic, counselling, treatment, and followup services are provided. These grants may be used for the provision of health services and the purchase of services and care from hospitals, and other providers. States may also include in their dental care programs of projects research looking toward the development of new methods of diagnosis or treatment, or demonstration of the utilization of dental personnel with various levels of training. Funds may not be used for purchase or construction of buildings; for salaries of personnel paid from other Federal grant funds.

Applicant Eligibility: Formula grants are available to State health agencies. Limited project grants are available to State health agencies and to institutions of higher learning for special projects.

Beneficiary Eligibility: Mothers, infants, and children in need of health care, and trainees in the health professions.

• • • 13.256 Health Maintenance Organizations (HMOs)

Authorization: Title XIII of the Public Health Service Act, Health Maintenance Organizations (42 U.S.C. 300e), as amended by Health Maintenance Organization Amendments of 1976, and Pub. L. 95–559, HMO Amendments of 1978.

Objectives: To stimulate the development and increase the number of various models of prepaid, comprehensive health maintenance organizations and the expansion of federally qualified HMO's.

Major Compliance Features

Uses and Use Restrictions: Feasibility surveys, planning, and initial development projects and initial operation costs.

Applicant Eligibility: (1) *Grants and Loans:* Public and private nonprofit organizations that plan to develop, operate and expand an HMO; (2) *Loans guarantees:* private organizations, including profit-making organizations, that plan to develop or operate and expand an HMO in a medically underserved area; and (3) *Loans and loan guarantees for initial operating costs:* Federally qualified HMOs.

Formula and Matching Requirements: Requires 10 percent matching unless servicing a medically underserved area.

• • • 13.295 Community Mental Health Centers Comprehensive Services Support

Authorization: Community Mental Health Center Amendments of 1975, Title III, Pub. L. 94–63; 42 U.S.C. 2681–2696.

Objectives: To provide comprehensive mental health services through a community mental health center via six grant programs: Staffing, planning grants, grants for initial operations, consultation and education services, conversion grants, and financial distress grants. The comprehensive services which centers must provide are: inpatient, outpatient, day care, and other partial hospitalization services and emergency services; specialized services for the mental health of children; specialized services for the mental health of the elderly; consultation and education services; assistance to courts and other public agencies in screening catchment (service) area residents considered for referral for inpatient treatment in a State mental health facility; follow-up care for catchment area residents discharged from a mental facility; transitional halfway house services for catchment area residents discharged from mental health facilities or who would require inpatient care without such halfway house services; unless there is insufficient need, or the need is otherwise being met, specialized programs for the prevention, treatment, and rehabilitation of alcohol and drug abusers, alcoholics, and drug addicts. Cross catchment area sharing of inpatient services, emergency services, and transitional half-way house services through appropriate arrangements with health professionals and others serving the residents of the catchment area is permitted.

Major Compliance Features

Uses and Use Restrictions: Planning grants to assess area needs for mental health services, design a CMHC program, obtain financial and professional assistance and support for the program and encourage community involvement. Maximum support is $75,000 for 1 year.

Grants for Initial Operations provide up to 8 years of financial support (on a decreasing, deficit basis), grantee must have an acceptable plan for the provision of six initial services (inpatients, emergency, outpatient, screening to courts and other agencies, follow-up and consultation and education) in place within 90 days of the first day of funding, and, within three years following receipt of initial operations funding, the Center must have all twelve services in place. Support for centers in poverty areas is provided at a higher level of funding. Existing centers may opt to continue to receive staffing grant support under former provisions of the CMHC Act, but must provide at least the following six services: inpatient, emergency, outpatient, screening to courts and other agencies, follow-up and consultation and education.

Grants for Consultation and Education Services begin with the fifth year of a center's operation unless the Secretary determines that C&E services could not be provided in the third and fourth year without such a grant. Grants may be made to nonfederally funded centers which are providing all other required services. Conversion grants may be provided for a maximum of 2 years to centers funded under the former Act to enable them to provide additional services mandated by this legislation.

Financial distress grants may be provided for up to 5 years to centers whose original staffing or operations grants have terminated because of statutory limits as to funding period and which demonstrate that without such support they would have significant reduction in quality of services or be unable to provide all required services.

Staffing grants provide funds on a matching basis for salaries of professional and technical personnel providing new services within a community mental health center. Only support for continuation grants is available.

Applicant Eligibility: Eligibility for each program is as follows: Planning: public and nonprofit private entities which have the responsibility for planning and program development for the catchment (service) area and are located in an area which has not been awarded any community mental health center grants.

Initial Operations: Public and nonprofit private community mental health centers, and any public or nonprofit private entity which (a) is providing mental health services, (b) meets requirements in Sections 201 and 206 of Pub. L. 94–63 with respect to the provision and coordination of health services, governing bodies, quality assurance programs, medical records systems, professional advisory boards, etc., and (c) has an acceptable plan for the provision of the required services within the time limits imposed by the authorizing legislation.

Consultation and Education: Ongoing community mental health centers; new CMHC's awarded Initial Operations grants; and public or nonprofit private entities which fulfill requirements of Sections 201 and 206 of Pub. L. 94–63.

Conversion Grants: Current recipient of a staffing grant, a "specialty" grant (alcohol, drug abuse, or Part F children's grant), an initial operations grant or a financial distress grant which demonstrates that there is going to be an operating deficit in one or more of newly required services.

Financial Distress Grants: Current community mental health centers which are terminating their eighth year of staffing, or operations grants which demonstrate a need for further support in order to prevent a significant reduction in the types or quality of services provided or an inability to provide the newly required services of Pub. L. 94–63, Section 201(b).

Staffing: Existing centers may opt to continue to receive staffing grant support under former provision of the CMHC Act. A grantee receiving staffing support must provide at least the following six services: inpatient, emergency, outpatient, screening to courts and other agencies, follow-up, and consultation and education. Services must be provided to individuals of all ages.

Formula and Matching Requirements: Planning Grants: Limited to $75,000 by law.

Initial Operations: Lesser of the following: the amount by which the applicant's anticipated costs of operations exceed the anticipated income for a given year or the Federal share percentage of expenditures for each year of operation. Poverty area (as designated by the Secretary, DHEW): first two years: 90 percent of the projected costs of operation; 80 percent (third year) 70 percent (fourth year) 60 percent (fifth year) 50 percent (sixth year) 40 percent (seventh year) and 30 percent (eighth year). Nonpoverty areas: Federal share on a decreasing basis related to the projected costs of operation: 80 percent (first year) 65 percent (second year) 50 percent (third year) 35 percent (fourth year) 30 percent (fifth and sixth years) and 25 percent (seventh and eighth years).

Consultation and Education: Grantees must be in the fourth year or beyond (unless waived by the Secretary). Amount eligible is lesser of the following: estimated costs of providing consultation and education services in proposed grant year or: $.50 per capita of catchment area population plus the lesser of either $.25 per capita or 50 percent of anticipated receipts for consultation and education (first and second grants); $.50 per capita plus the lesser of $.25 per capita or 25 percent of anticipated receipts (third grant); $.25 per capita plus the lesser of $.25 per capita or 25 percent of anticipated receipts for consultation and education services for poverty areas as determined by the Secretary, DHEW (fourth and succeeding grants); $.125 per capita plus the lesser of 12½ percent of the anticipated receipts for consultation and education services or $50,000 (fourth and succeeding grants for non-poverty areas).

Conversion Grants: Amount eligible is the difference between the estimated expenditures and the estimated income for the one year of support being requested for providing new services required by Pub. L. 94–63.

Financial Distress Grants: Amount available is the lesser of: 90 percent of the percentage ceiling of the last CMHC staffing or operations grant awarded (less any costs of providing consultation and education services during the requested grant year) or amount by which estimated costs exceed anticipated income.

Staffing grants are awarded on the lesser of the amount by which the applicant's anticipated costs exceed the anticipated income or a decreasing percentage basis for a period of 8 years. The Federal share may be up to 75 percent of the eligible salary costs for the first 2 years, 60 percent the 3rd year, 45 percent the 4th year, and 30 percent for the last 4 years. Federal share percentage for areas designated by the Secretary as poverty areas is higher: up to 90 percent of staff costs for the first 2 years, 80 percent for the 3rd year, 75 percent for the next 2 years, and 70 percent for the remaining 3 years.

• • • 13.403 Bilingual Education (Title VII)

Authorization: Bilingual Education Act; Title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, amended by Pub. L. 95–561; 20 U.S.C. 3221–3261.

Objectives: To develop and carry out elementary and secondary school programs, including activities at the pre-school level, to meet the educational needs of children of limited English proficiency.

Major Compliance Features

Uses and Use Restrictions: (1) The establishment, operation, and improvement of programs of bilingual education; (2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of such programs, including adult education programs and preschool programs; (3) the preparation of personnel for bilingual education programs, teacher training including career development opportunities, short-term training institutes, and fellowship for study in the field of training teachers for bilingual education; (4) curriculum and materials development, including assessment and dissemination, (5) planning, and technical assistance for the development of bilingual programs; and (6) desegregation assistance. Federal funds made available under this Title will be used to supplement, not to supplant, existing funds.

Applicant Eligibility: All states including the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of

V 45 AG 18 80 UMI

the Pacific Islands and the Department of the Interior. Grants may be made to a State Education Agency, Local Education Agency (LEA) or agencies, or to an institution of higher education including Junior and Community Colleges, and private nonprofit organizations which apply jointly or after consultation with one or more local education agencies. A nonprofit institution or organization of an Indiam tribe may be eligible when it operates an elementary or secondary school on the reservation and is approved by the Commissioner for the purpose of the Title. For research contracts, public and private educational agencies, institutions, and organizations are eligible.

Beneficiary Eligibility: Non-English speaking children or children with limited English proficiency ages 3 to 18. Children in both public and nonprofit private schools are eligible to participate.

Formula and Matching Requirements: State Education Agencies are allowed up to 5 percent of the amounts awarded to the LEA's during the preceding fiscal year. No formula or matching requirements for other programs.

* * * 13.428 Educationally Deprived Children-Local Educational Agencies (Title I, ESEA-Part A Sub-Part 1—Basic Grants, and Subpart 2—Special Grants)

Authorization: Elementary and Secondary Education Act of 1965; Title I; Pub. L. 89–10 as amended.

Objectives: To expand and improve educational programs to meet the needs of educationally disadvantaged children in low-income areas whether enrolled in public or private elementary and secondary schools.

Major Compliance Features

Uses and Use Restrictions: Primarily for provision of instructional activities to educationally deprived children in areas having a high concentration of children from low-income families. Also includes service activities not available from other sources. Services must supplement, not supplant, those normally provided by State and local educational agencies.

Applicant Eligibility: Departments of Education in states and outlying areas; Bureau of Indian Affairs.

Beneficiary Eligibility: Local School Districts providing supplementary services to educationally deprived children residing in low-income areas.

* * * 13.429 Migrant Education

Authorization: Elementary and Secondary Education Act of 1965 as amended; Pub. L. 89–10 and Pub. L. 89–750 as amended by Pub. L. 95–561; 20 U.S.C. 2761, 2762, 2763.

Objectives: To expand and improve programs to meet the special educational needs of children of migratory agricultural workers or migratory fishers.

Major Compliance Features

Uses and Use Restrictions: Identify and meet specific needs of migrant children through supplementary instruction, health, nutrition, psychological services, cultural development, and prevocational training and counseling.

Applicant Eligibility: State Educational Agencies.

Beneficiary Eligibility: Children of migratory agricultural workers or migratory fishers.

* * * 13.449 Handicapped Preschool and School Programs (Part B, Education of the Handicapped Act)

Authorization: Education of the Handicapped Act, Title VI, Part B; Pub. L. 91–230; as amended by Pub. L. 93–380 and Pub. L. 94–142; as amended by Part D, Section 1341 of the Education Amendments of 1978; 20 U.S.C. 1411–1419.

Objectives: Free, appropriate public education to all handicapped children.

Major Compliance Features

Uses and Use Restrictions: To provide the special education and related services needed to make a free, appropriate, public education available to all handicapped children in the State.

Applicant Eligibility: State education agencies in the 50 states, District of Columbia, Puerto Rico, American Samoa, Northern Mariana Island, Guam, Virgin Island, and Trust Territory of the Pacific Islands, and the Department of the Interior, Bureau of Indian Affairs may apply to the Office of Education for participation in the Part B, EHA program.

Beneficiary Eligibility: Mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, children having specific learning disabilities deaf-blind children or multihandicapped children who require special education and related services are eligible.

Formula and Matching Requirements: There are non-supplanting and excess cost requirements. State funds available to the State for direct and support services must be matched on a program basis. There is no matching requirement for funds distributed to the local educational agency or the intermediate education units.

* * * 13.478 School Assistance in Federally Affected Areas-Maintenance and Operation (Impact Aid/Disaster Aid)

Authorization: Federally Impacted Areas, Titles I and IV, of Pub. L. 81–874, as amended.

Objectives: To alleviate burdens due to the Federal Activity where tax base of a district is reduced through the Federal acquisition of real property; sudden and substantial increase in school attendance as the result of Federal activities; education for children residing on Federal property; or children whose parents are employed on Federal property or in the Uniformed Service.

To provide assistance for the education of children residing with a parent who, at any time during the 3-year period preceding the fiscal year of application, was a refugee meeting requirements of the Migration and Refugee Assistance Act of 1962 provided payment was not made under Section 2(b)(4) of that Act.

To provide major disaster assistance by replacing, repairing damaged or destroyed supplies, equipment or facilities.

Major Compliance Features

Uses and Use Restrictions: For payment of maintenance and operation expenditures. This does not limit nor specify the uses that can be made of funds received by an eligible district, except payments attributable to handicapped children. Limited to free public elementary and secondary education.

Applicant Eligibility: Local educational agencies (LEA) which provide free public elementary or secondary education may apply under the following: Section 2–10 percent of the assessed evaluation of property in school district acquired by the Federal Government since 1938 which caused a continuing financial burden; Section 3–3 percent of total average daily attendance (ADA) or 400 ADA of pupils who either live on Federal property or have a parent who works on Federal property or is on active duty in the uniformed services or 20 percent of children in ADA residing with parents who were in refugee status; Section 4—an increase in ADA in current year directly caused by Federal activities equal to 5 percent of non-Federal ADA of preceding year; Section 7—provides assistance for current school expenditures in cases of certain disasters.

Beneficiary Eligibility: Public elementary and secondary school children.

* * * 13.493 Vocational Education—Basic Grants to States

Authorization: Vocational Education Act of 1963, as amended by Title II of the Education Amendments of 1976, Pub. L. 94–482; 20 U.S.C. 2301 to 2461; 90 Stat. 2168–2213.

Objectives: To assist states in improving planning and in conducting vocational programs on the local level for persons of all ages who desire and need education and training for employment.

Major Compliance Features

Uses and Use Restrictions: For vocational education programs; cooperative vocational education programs; energy education programs; construction of area vocational education school facilities; support of full-time personnel to eliminate sex bias; provision of stipends if necessary due to inadequate funding in other programs; placement services for students who have successfully completed vocational education programs if necessary due to inadequate funding in other programs; industrial arts programs; support services for women who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men; day care services for children of vocational students; vocational education for displaced homemakers and other special groups; construction and operation of residential vocational schools; vocational training through arrangements with private vocational training institutions; and State and local administration costs. Each State must use 80 percent of its allotment under Section 102(a) for these purposes. Each State must also allocate the following minimum portions of their total allotment under Section 102(a) as follows: 20 percent for vocational education for the disadvantaged and for persons who have limited English-speaking ability and for stipends; 15 percent for postsecondary and adult vocational education; and 10 percent for vocational education programs for handicapped persons.

Applicant Eligibility: State Boards for Vocational Education.

Beneficiary Eligibility: Individuals requiring vocational training.

* * * 13.571 Improvement in Local Educational Practice

Authorization: Elementary and Secondary Education Act, Title IV, Part C, 20 U.S.C. 3111.

Objectives: To local educational agencies to improve their educational practices.

Major Compliance Features

Uses and Use Restrictions: Activities that will improve their educational practices, including (1) development and demonstration of activities addressing serious educational problems such as the need for effective programs for children with special needs (e.g., educationally deprived, gifted and talented, and handicapped, children); high rates of children who do not complete secondary school; need of children in nonpublic schools for improved educational services; (2) encouraging development and demonstration of improved means of carrying out programs for educationally deprived children in areas with large concentrations of low-income families; (3) activities to improve achievement of children in basic skills; (4) activities to encourage parental participation; (5) development of programs to diagnose learning problems and methods to assess achievement of children, including those in nonpublic schools; (6) improving school management; professional development programs for teachers, administrators, and other instructional personnel; (7) early childhood and family education programs; (8) expanding education beyond the school building; (9) encouraging innovation and improvement in compensatory education efforts; (10) improving school management. In fiscal year 1980, 5 percent, and in fiscal year 1981 and thereafter, 10 percent of any increase in the funds available over fiscal year 1979 must be used to improve school management and coordinate all resources to improve means of meeting individual needs of every child in the school; 50 percent of such increase must be used to improve compensatory education efforts. Fifteen percent must be spent on special programs or projects for the education of children with specific learning disabilities and handicapped children; and expenditures for programs and projects for non-public school children will be equal to expenditures for public school children.

Applicant Eligibility: Any State or local educational institution.

Beneficiary Eligibility: Beneficiaries include State and local educational agencies.

* * * 13.600 Administration for Children, Youth and Families

Head Start

Authorization: Head start Economic Opportunity and Community Partnership Act of 1974; Pub. L. 93–644, Title V, Parts A–C 42 U.S.C. 2921 et seq. as amended.

Objectives: To provide comprehensive health educational, nutritional, social and other services primarily to preschool economically disadvantaged children and their families so that the children will attain overall social competence.

Major Compliance Features

Uses and Use Restrictions: Ninety percent of the enrollees in a program must come from families whose income is below the poverty guidelines as established by the Office of Management and Budget. Training programs are available for employees of Head Start programs.

Applicant Eligibility: Any local government or private nonprofit agency.

Beneficiary Eligibility: Full-year Head Start programs are primarily for children from age 3 up to the age when the child enters the school system, but may include some younger children. Summer Head Start programs are for children who will be attending kindergarten or elementary school for the first time in the fall. No less than 10 percent of the total enrollment opportunities in Head Start programs in each State shall be available for handicapped children.

***13.624 Rehabilitation Services and Facilities—Basic Support (Basic Support Program)

Authorization: Rehabilitation Act of 1973; Pub. L. 93–112 as amended by Pub. L. 93–516, 94–230, and 95–602; 29 U.S.C. 701, Title I.

Objectives: To provide vocational rehabilitation services to persons with mental and/or physical handicaps. Priority service is placed on needs of those persons with the most severe disabilities.

Major Compliance Features

Uses and Use Restrictions: To cover the costs of providing rehabilitation services which include: Diagnosis, comprehensive evaluation, counseling; training, reader services for the blind, interpreter services for the deaf, and employment placement. Also assist with payment for medical and related services and prosthetic and orthotic devices, transportation to secure vocational rehabilitation services, maintenance during rehabilitation, tools, licenses, equipment, supplies, and other

goods and services; vending stands for handicapped persons including management and supervisory services; and assistance in the construction and establishment of rehabilitation facilities. Services are provided to families of handicapped individuals when such services will contribute substantially to the rehabilitation of such individuals who are being provided vocational rehabilitation services.

Applicant Eligibility: State agencies designated as the rehabilitation agency.

Beneficiary Eligibility: Eligibility for vocational rehabilitation services is based on the presence of a physical and/or mental disability, which for such individual constitutes or results in a substantial handicap to employment, and a reasonable vocational rehabilitation service may reasonably be expected to benefit the individual in terms of employability.

***13.633 Special Programs for the Aging—Title III Parts A and B—Grants for States and Community Programs on Aging

Authorization: Older Americans Act of 1965. Pub. L. 89–73, as amended by Pub. L. 90–42, 91–69, 92–258, 93–29, 93–351, 94–135, and 95–478, Title III Parts A and B; Stat. 36–45, 42 U.S.C. 3021–3025.

Objectives: Support of programs for older persons via statewide planning, and area planning and provision of social services: including multi-purpose senior centers.

Major Compliance Features

Uses and Use Restrictions: To develop or strengthen comprehensive coordinated service systems through a network of designated State agencies on Aging and area agencies on Aging. Of the funds awarded for social services and centers at least $20,000 or 1 percent (whichever is greater) must be used for an ombudsman program on long term care, up to 8.5 percent of the funds awarded may be used for the administration of area plans, at least 50 percent of the funds awarded to area agencies must be used for access, legal and/or in home services. The remaining funds may be used for other services and for the acquisition, renovation, alteration or construction of multipurpose senior centers as described in the above plan.

Applicant Eligibility: All States and territories which have State agencies on Aging designated by the governors.

Beneficiary Eligibility: Older persons, especially low income and minority.

Formula and Matching Requirements: Programs are funded on a Federal, State matching basis as follows: State Agency Administration, 75–25; Administration of Area Plan, 75–25; Social Services and multipurpose senior centers, 90–10 in fiscal year 1979 and fiscal year 1980, and 85–15 in fiscal year 1981. Cash or in-kind resources from non-Federal sources are allowable. The law does not require that the non-Federal share requirement vary from year to year.

***13.635 Special Programs for the Aging—Title III—Part C—Nutrition Services (Aging Programs—Title VII—Nutrition)

Authorization: Older Americans Act of 1965, Pub. L. 89–73, as amended by Pub. L. 90–42, 91–69, 92–258, 93–29, and 93–351, 94–135, and 95–478, Title III Part C, 79 Stat. 218–226, 81 Stat. 106–108, 82 Stat. 1101, 83 Stat. 108–115.

Objectives: To provide older Americans with low cost nutritious meals, and with appropriate nutrition education and other appropriate nutrition services. Meals may be served in a congregate setting or delivered to the home.

Major Compliance Features

Uses and Use Restrictions: Local projects must provide a hot or other appropriate meal at least once per day, five or more days per week to people aged 60 and over and their spouses. Up to 8.5 percent of the funds may be used for the support of services related to the delivery of meals. States may request transfers of funds between grants made for Home Delivered Nutrition Services and Congregate Nutrition Services.

Applicant Eligibility: All States and territories.

Beneficiary Eligibility: Older persons aged 60 and over and their spouses, especially low income and minority.

Formula and Matching Requirements: The nutrition portion of this program is funded on a Federal/State matching basis at a ratio of 90–10 in fiscal year 1979 and 1980, and 85–15 in fiscal year 1981. Cash or in-kind resources from non-Federal resources are allowable. The law does not require that the non-Federal share vary from year to year. The area agency administration portion is funded at a 75–25 ration.

* * *13.642 Social Services for Low Income and Public Assistance Recipients (Social Services)

Authorization: Social Security Act, Title I, Pub. L. 87–543; 42 U.S.C. 301–306; Title IV, Pub. L. 90–248; 42 U.S.C. 602–3; Title XVI, Pub. L. 87–543; 42 U.S.C. 1361–71; Title X, Pub. L. 87–543; 42 U.S.C. 1201–1206; Title XIV, Pub. L. 89–97; 42 U.S.C. 301–306 and 1361–71; Pub. L. 92–512; Title XI, Title XVI; Pub. L. 92–603; 42 U.S.C. 801–5 and 301; Pub. L. 93–647, Title XX, 42 U.S.C.; Pub. L. 95–171.

Objectives: To enable states to provide social services to public assistance recipients and other low income persons directed toward one of the five goals specified in the law.

Major Compliance Features

Uses and Use Restrictions: For the proper and efficient operation of social services programs to enable eligible individuals to become or remain self supporting and self sufficient; to prevent neglect, abuse or exploitation of children and adults; to prevent inappropriate institutional care; and to arrange for institutional care, when appropriate.

Federal funds cannot be used for public education services that are generally available, land acquisition or services provided by institutions to their inmates. There are other restrictions with respect to medical care, room and board, day care services, in-kind matching, donated funds, and cash payments as a service. Fees must be charged for services provided to specified income eligible persons.

Applicant Eligibility: Designated Title XX State agencies in the states and the District of Columbia; for Titles I, IV A, X, XIV, and XVI, State welfare agencies in Guam, Puerto Rico, the Northern Marianas, and the Virgin Islands.

Beneficiary Eligibility: Under Title XX any recipient of Aid to Families with Dependent Children, Supplementary payment recipients or State supplementary payment recipients as well as low income individuals. Individuals whose gross monthly income exceeds 115 percent of the median income are not eligible for Title XX services. For the other titles in the island jurisdictions, any needy person who is, or may become a recipient of financial assistance, i.e., the blind, aged, permanently and totally disabled, or families with dependent children.

Formula and Matching Requirements: Federal funds are used to reimburse the states for 75 percent of social services costs. Family planning services are matched at 90 percent.

* * *13.646 Work Incentive Program (WIN)

Authorization: Social Security Amendments of 1967, Pub. L. 90–248, as amended 81 Stat. 821, 42 U.S.C. 601 et seq; 42 U.S.C. 630; Pub. L. 92–223, 85 Stat. 802, 42 U.S.C. 601 et seq.; 42 U.S.C. 602; Revenue Act of 1971, Pub. L. 92–178, 85 Stat. 497, 26 U.S.C. 31 et seq.; Pub. L. 94–12, 89 Stat. 26 et seq., 26 U.S.C. 50A; Pub. L. 94–401, 90 Stat. 1217, 26 U.S.C. 50A; Tax Reform Act of 1976, Pub. L. 94–455, 90 Stat. 1903, 26 U.S.C. 50A; Revenue Act of 1978, Pub. L. 95–600:

Stat. 2763 et seq., 26 U.S.C. 50A, 50B; Unemployment Compensation Amendments of 1976, Pub. L. 94–566, 90 Stat. 2689, 42 U.S.C. 601 et seq.

Objectives: To move men, women, and out of school youth, age 16 or older from dependency of AFDC grants to economic independence through permanent, productive employment by providing appropriate employment training, job placement and other related services, supplemented by child care and other social services when needed to enable a person to participate or secure employment.

Major Compliance Features

Uses and Use Restrictions: This integrated DOL/HEW program is directed to employable welfare recipients under the program of Aid to Families with Dependent Children (AFDC) who are required for work and training or who volunteer. Employment and training services offered include: (1) On the job training and job placement; (2) placement in public service employment arranged with public and private nonprofit organizations for individuals for whom unsubsidized jobs are not available; (3) work orientation, basic education, skill training, work experience, employment couseling, vocational testing, and other supportive services to improve employability of individuals who lack job readiness. These services are supplemented by social services approved and arranged by a Separate Administrative Unit (SAU) of the State welfare agencies such as (1) child care; (2) family planning; (3) counseling; (4) employment related remedial care and health related services; (5) selected vocational and rehabilitation services. Employers hiring WIN registrants are eligible for a tax benefit which enables them to receive credit of 50 percent of wages up to $6,000 the first year, and 25 percent the second year paid to these individuals within specified limitations.

Applicant Eligibility: DOL's ETA usually designates the State Employment Service agencies for WIN. Social services are provided through a Separate Administrative Unit of the welfare agency. WIN services are available in Puerto Rico, the Virgin Islands, and Guam.

Beneficiary Eligibility: Recipients of Aid to Families with Dependent Children (AFDC) who are required by law to register with WIN or who choose to register voluntarily.

Formula and Matching Requirements: For employment and training agencies, a maximum of 90 percent can be Federal funds with 10 percent non-Federal cash or inkind matching. For welfare agencies, Federal funds are authorized to pay 90 percent of State costs for child care and supportive services, with a 10 percent State matching in cash only.

* * * 13.679 Child Enforcement (Title IV–D)

Authorization: Title IV–D of The Social Security Act, Pub. L. 93–647, 94–46, 94–88, 94–365, 95–30, 95–59 and 95–171; 26 U.S.C. 6305, 6334; 42 U.S.C. 651–662 5 U.S.C. 1673.

Objectives: To enforce the support obligations owed by absent parents to their children, locate absent parents, establish paternity, and obtain child support.

Major Compliance Features

Uses and Use Restrictions: States provide child support enforcement services directly to individuals who are receiving AFDC or to individuals not eligible for AFDC who have applied for such services. AFDC applicants or recipients must have assigned support rights to the State. Non-AFDC individuals must have signed a written application for the service. The State must provide services to locate absent parents, establish paternity and enforce support obligations.

Applicant Eligibility: All states, the District of Columbia, Pureto Rico, Virgin Islands, and Guam. Must be designated the single and separate State Child Support Agency.

Beneficiary Eligibility: The State must provide the service to all applicants for or recipients of Aid to Families with Dependent Children for whom an assignment to the State of Child Support Rights has been made and who are in need of paternity determination or child support enforcement services; and, any other individual who is in need of such services and who has applied to the State Child Support Enforcement Agency.

Formula and Matching Requirements: Seventy-five (75) percent Federal financial participation in the administrative costs incurred by the State pursuant to an approved Title IV–D plan. This includes costs incurred by law enforcement officials pursuant to cooperative agreements with the IV–D agency.

* * *13.714 Medical Assistance Program (Medicaid (Title XIX))

Authorization: Title XIX, Social Security Act as amended; Pub. L. 89–97; Pub. L. 90–248; Pub. L. 91–56; 42 U.S.C. 1396, et seq. Pub. L. 92–223; Pub. Law 92–223; Pub. L. 92–603; Pub. L. 93–66; Pub. L. 93–233.

Objectives: For payments of Medical Assistance on behalf of cash assistance recipients and, in certain States, on behalf of other medically needy, who, except for income and resources, would be eligible for cash assistance.

Major Compliance Features

Uses and Use Restrictions: States must provide for the categorically needy, in- and out-patient hospital services; other laboratory and x-ray services; skilled nursing home services, home health services for persons over 21; family planning services; physicians' services; and early and periodic screening, diagnosis and treatment for individuals under 21. For the medically needy, States are required to provide any seven of these services for which Federal financial participation is available.

Applicant Eligibility: State and local welfare agencies.

Beneficiary Eligibility: Needy persons who are over 65, blind, disabled, members of families with dependent children, and, in some States, persons under age 21 may apply to a State or local welfare agency for medical assistance. Eligibility is determined by the State in accordance with Federal regulations.

Formula and Matching Requirements: Federal funds are available to match State expenditures for medical care provided under the State Plan; the Federal share ranges from 50 percent to 78 percent according to a formula based upon the relation of State per capita income to national per capita income.

* * * 13.808 Assistance Payments—Maintenance Assistance (State Aid) (Maintenance Assistance)

Authorization: Social Security Act of 1935, as amended; Pub. L. 74–271; Titles I, IV—Part A, X, XI, XIV, XVI; 42 U.S.C. 601 et seq, 1301 et seq, 1351 et seq; Pub. L. 88–571; 24 U.S.C. 321 et seq; Pub. L. 95–171; Pub. L. 95–216 (The Social Security Amendments of 1977); Revenue Act of 1978 and Pub. L. 95–600.

Objectives: To set general standards for State administration, to provide the Federal financial share to states for aid to families with dependent children, emergency assistance to families with children, assistance to repatriated U.S. Nationals, and in Guam, Puerto Rico, and Virgin Islands aid to the aged, blind, permanently and totally disabled also, and administration of these welfare programs, and to monitor performance.

Major Compliance Features

Uses and Use Restrictions: Money payments by states—made directly to eligible needy families with dependent children and to needy, aged, blind, or disabled persons in Guam, Puerto Rico,

V 45 AG 18 80 UMI

the Northern Marianas, and the Virgin Islands are to cover cost for food, shelter, clothing, and other items of daily living recognized as necessary by each State's program. Payments in the form of money or vendor payments assist needy families in emergency or crisis situations to avoid destitution or provide living arrangements. Under the AFDC program, payments are also made for care of specified children in foster homes or institutions. Federal funds up to $250 per home may be available for home repairs of a home owned by a recipient.

Under the fully federally-funded repatriation program, money is provided for food, shelter, clothing, medical care (including hospitalization and treatment of mentally ill persons), and transportation to persons who have been returned to the United States because of destitution and who are not eligible for other financial assistance programs.

Funds for State and local administration of programs are for costs of interviewing public assistance applicants for eligibility determination and validation of eligibility; costs of State and local personnel engaged in program direction and management; and other on-going costs and activities related to administering the programs.

Applicant Eligibility: State and local welfare agencies.

Beneficiary Eligibility: Needy families with dependent children deprived of parental support or care, and families with children needing emergency welfare assistance; destitute repatriates; or needy, aged, blind or permanently and totally disabled persons in Guam, Puerto Rico, and the Virgin Islands.

Formula and Matching Requirements: The Federal share for AFDC is based on a State's average monthly payment of $32 per recipient ($100 per child in foster care). Federal funds pay 5/6 of the first $18 of the average payment and then 50 percent to 60 percent of the balance within the Federal average maximum. If it is to the State's benefit, it may use the medicaid formula with no maximum (provided the State has an approved medicaid Plan) which may range from 50 to 83 percent Federal funds. The Federal share of home repairs is 50 percent with a limit of $500 in Federal and State funds for any one home. The Federal share of payments for AFDC and the adult categories in Guam, Puerto Rico, and the Virgin Islands is determined by individual computation and subject to statutory ceilings.

Department of Housing and Urban Development

* * * 14.146 Low Income Housing Assistance Program (Public Housing)

Authorization: Housing Act of 1937, as amended; Pub. L. 75–412; 42 U.S.C. 1401–1435.

Objectives: To provide decent, safe and sanitary housing and related facilities for families of low income through an authorized Public Housing Agency (PHA).

Major Compliance Features

Uses and Use Restrictions: To assist public housing agencies in providing low-income housing by (1) acquiring existing housing from the private market (acquisition); (2) procuring construction by competitive bidding where the public housing agency acts as the developer (conventional); or (3) letting contracts to private developers (turnkey). Annual contributions are made to public housing agencies to provide debt service payments, to assure the low-income character of the projects, and to achieve and maintain adequate operating and maintenance service and reserve funds.

Applicant Eligibility: Public Housing Agencies established by a local government in accordance with State law, authorized public agencies, or Indian tribal organizations are eligible. The proposed program must be approved by the local governing body.

Beneficiary Eligibility: Families of low income. A single person who is elderly, disabled, handicapped, displaced, or the remaining member of a tenant family is also eligible.

Other Tests: See program 14.158 below.

* * * 14.156 Lower-Income Housing Assistance Program

(Section 8—Housing Assistance Payments Program for Lower Income Families)

Authorization: Housing Act of 1937, Pub. L. 75–412; 42 U.S.C. 1401–1435, as amended by the Housing and Community Development Act of 1974, Pub. L. 93–383; 88 Stat. 662, 42 U.S.C. 1437f; the Supplemental Housing Authorization Act of 1977, Pub. L. 95–24; 91 Stat. 53; and the Housing and Community Development Act of 1977, Pub. L. 95–128; 91 Stat. 1111; Housing and Community Development Amendments of 1978, Pub. L. 95–557; 92 Stat. 2080.

Objectives: To aid lower-income families in obtaining decent, safe and sanitary housing in private accommodations and to promote economically mixed existing, newly constructed, and substantially rehabilitated housing.

Major Compliance Features

Uses and Use Restrictions: Provides housing assistance payments to participating private owners and Public Housing Agencies to provide decent, safe and sanitary housing for lower and very low-income families at rents they can afford. Housing assistance payments are used to make up the difference between the maximum approved rent due to the owner for the dwelling unit which is reasonable in relation to comparable market units and the occupant family's required contribution towards rent. Assisted families are required to contribute not less than 15, nor more than 25 percent of their adjusted family income toward rent.

Applicant Eligibility: Any private owner (profit-motivated and nonprofit, cooperative, or an authorized public housing agency (any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income families).

Beneficiary Eligibility: Very low-income families (whose income does not exceed 50 percent of the median income for the area as determined by the Secretary with adjustments for smaller and larger families); lower income families (whose income does not exceed 80 percent of the median income for the area adjusted for family size). A very low income or lower income single person who is elderly, disabled or handicapped, displaced, or the remaining member of an eligible tenant family is also eligible. At least 30 percent of the families assisted should be very low income families with gross incomes not in excess of 50 percent of area median income.

Other Tests: See program 14.158 below.

* * * 14.158 Public Housing—Modernization of Projects

Authorization: Housing Act of 1937, as amended; Pub. L. 75–412; 50 Stat. 888; 42 U.S.C. 1430–1437].

Objectives: To provide annual contributions to modernize existing public housing projects to upgrade living conditions, correct physical deficiencies, and achieve operating efficiency and economy.

Major Compliance Features

Uses and Use Restrictions: Modernization funds must be used to

finance capital improvements in public housing projects.

Applicant Eligibility: Public Housing Agencies (PHAS) operating PHA-owned low income public housing projects under an existing annual contributions contract (ACC).

Beneficiary Eligibility: The tenants of the modernized project are the ultimate beneficiaries.

Formula and Matching Requirements: Formula based on annual contributions needed to meet debt service requirements. PHAs shall use current operating funds to assist in the financing of the modernization programs if such funds are available.

Other Tests: 1. *Accounting Records and Financial Reporting Procedures.* The Low-Rent Housing Accounting Handbook 7510.1 contains the chart of accounts and accounting records and procedures that are the minimum acceptable to HUD. Chapter 13 of the Accounting Handbook prescribes the financial reporting procedures for Public Housing Agencies (PHAs). The auditor will determine the following:

a. Whether the accounting records include the applicable control accounts and subsidiary records prescribed by HUD Handbook 7510.1;

b. Whether the PHA follows the pertinent accounting procedures called for in HUD Handbook 7510.1;

c. Whether the accounting records are in proper condition for audit;

d. Whether the PHA records indicate that the required financial reports were submitted within prescribed time intervals as prescribed in HUD Handbook 7510.1; and

e. Whether the reports submitted to HUD reflect what is in the books of accounts.

2. *Collection Policy and Practice.* The auditor is to determine if tenant accounts receivable and/or collection loss write-offs are reasonable. Receivables less than an average of $15 per unit and collection losses less than 1 percent of annual dwelling rental income are considered reasonable. If tenant accounts receivable and/or collection losses are excessive, the auditor is required to confirm at least the large balances. In addition, the auditor should determine the following:

a. Whether the PHA has an official collection policy;

b. Whether the collection policy is enforced consistently; and

c. Whether collection loss write-offs are approved by the governing board or an official designated such authority.

The PHA is required to reconcile certain program compliance matters as described in HUD Handbook IG 7476.3.

Community Development Block Grant Program (CDBG)

* * * 14.218 Community Development Block Grants/Entitlement Grants Development

and

* * * 14.219 Community Development Block Grants/Small Cities Program (Small Cities)

and

* * * 14.221 Urban Development Action Grants

Authorization: Title I of the Housing and Community Development Act of 1974 (Pub. L. 93–383). Principal amendments to Title I were included in the Housing and Community Development Act of 1977 (Pub. L. 95–128).

Objectives: The primary objective of Title I is the development of viable urban communities. Several methods of funding CDBG participants are prescribed:

1. *Entitlement grant funds,* the most common, are allocated to designated communities or counties which qualify as "Entitlement Communities." The entitlement grant is determined by formula and is made to metropolitan and nonmetropolitan recipients.

2. *Discretionary grant funds* are allocated to communities which may or may not receive an entitlement grant. Discretionary grants include the following:

a. *Secretary's Fund.* Grants, which represent three percent of the CDBG funds appropriated for each fiscal year 1978, 1979, and 1980, to be used for a variety of purposes.

b. *Transition/Categorical Program Settlement Fund.* Grants to facilitate an orderly transition to the CDBG program and for financial settlement of projects and programs terminated and consolidated by Title I.

c. *Small Cities Program.* Grants to States and units of general local government in both metropolitan and nonmetropolitan areas to undertake the same activities as may be funded in the entitlement grant program. The primary distinction is that the Small Cities program is competitive.

d. *Urban Development Action Grants.* Grants to assist distressed cities and distressed urban counties.

Major Compliance Features

1. *Conditional Approvals.* Under certain circumstances, HUD may make conditional approval of an application, in which case the full entitlement amount will be approved but the obligation and utilization of funds for affected activities will be restricted. Conditional approvals may be made where (1) local environmental reviews have not yet been completed, (2) a recipient is required to seek other Federal funds for the provision of public services or for flood or drainage facilities, or (3) there is substantial evidence there has been or will be a lack of substantial progress, nonconformance, noncompliance, or a lack of continuing capacity.

Recipients may not be reimbursed for expenditures incurred prior to HUD's release of funds for the projects in question. The auditor should ascertain whether the grantee obtained HUD authorization (release of funds) to expend funds prior to incurring costs or submitting requests for fund drawdowns for those activities on which HUD placed conditional approval (item number 16—HUD Form 7082).

2. *Assurances and Certifications.* A CDBG recipient must submit certifications each year that certain statutory and regulatory requirements have been complied with:

a. *Maximum Feasible Priority Certification.* All projects and activities must benefit principally either low- and moderate-income persons, aid in the prevention or elimination of slums and blight, or meet other community development needs having a particular urgency. The auditor should check the recipient's documentation of such compliance.

b. *Lead Based Paint Poisoning Prohibition (Pub. L. 91–695).* The auditor should verify that contracts for construction, rehabilitation and modernization contain a clause prohibiting the use of lead based paint.

c. The certifications of compliance with Davis Bacon, Flood Protection, Citizen Participation and Relocation Assistance in the front of this document.

3. *Limitation on Planning and Aministrative Costs.* No more than 20 percent of the total program year costs may be budgeted or expended for planning and administrative costs as defined by HUD.

The auditor should obtain a copy of the cost summary submitted as part of the Annual Community Development Program, ascertain that the grantee has not budgeted more than 20 percent and review the planning and administrative costs to ensure that the grantee has not expended more than 20 percent.

4. *Close-Out of Urban Renewal Projects.* HUD must approve various types of closeout and financial settlement of urban renewal projects which will result in full payment of all temporary loans. Any surplus may be made available to the local government

V 45 A G 18 80 UMI

for use under the CDBG program, pursuant to the closeout agreement.

Note.—The auditor should determine whether any urban renewal projects have been closed-out during the audit period. This information may have to be obtained from the HUD Area Office or the local government. If this is the case, the auditor should make the standard test for credits from program income in Circular A-102.

Federal Emergency Management Administration

• • • 83.000 Disaster Assistance Urban Development

Authorization: The Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143; the Disaster Relief Act of 1970, as amended, Pub. L. 91-606, as amended, 84 Stat 1744; Executive Order 11795, 39 FR 25939; as amended by Executive Order 11910, 41 FR 15661; Reorganization Plan No. 1 of 1973; Executive Order 11749, 38 FR 34177; Delegation of Authority, Secretary of Housing and Urban Development to Administrator of Federal Disaster Assistance, 39 FR 28227; 40 FR 27711, and 41 FR 19365; Redelegation of Authority to Regional Directors of Federal Disaster Assistance Administration, as amended, 39 FR 32046, 39 FR 40186, 41 FR 19365, 41 FR 29719, and 44 FR 1226.

Note.—Effective July 20, 1979 by Executive Order 12148, the Federal Disaster Assistance Administration was transferred to the Federal Emergency Management Agency.

Objectives: To provide assistance to States, local governments, owners of selected private nonprofit facilities, and individuals in alleviating suffering and hardship resulting from emergencies or major disasters declared by the President. The natural disaster program is intended to supplement the costs borne by State and local governments and others. (Pub. L. 93-288 sec. 101.) States apply for assistance. The Scope of Work to be accomplished in each project is outlined in a Damage Survey Report (DSR) for the Public Assistance Program, usually prepared on site by field staff of FEMA. The DSR is the same narrative required by OMB Circular A-102. The DSR for Public Assistance and expenditures under the individual and Family Grant Program will cover only "disaster related" damage.

Major Compliance Features

Uses and Use Restrictions: Services are provided and grants and contributions are made available for suppression of forest or grassland fires, and for post-disaster assistance, including repair, restoration, or replacement of public facilities of States and local governments and selected private nonprofit facilities; removal of wreckage and dibris; performance of essential protective work on public and private lands; emergency shelter and temporary housing for displaced individuals and families; assistance to unemployed individuals; loans to local governments suffering substantial loss of tax and other revenues; emergency transportation service; emergency communications; food coupons; crisis counseling; survey and allocation of construction materials; and individual and family grants to meet disaster related expenses or serious needs of persons adversely affected by a major disaster.

Applicant Eligibility: State and local governments in declared emergency or major disaster areas, owners of selected private nonprofit facilities, and individual disaster victims.

Formula and Matching Requirements: Fire suppression assistance funds normally are made available on a cost-sharing basis.

Other Tests: Suggested Approach.—1. Compare the expenditures with the repair work specified in the DSR (defined above) for the Public Assistance Program.

2. Compare labor rates (police, fire and supervisory) and equipment rates (bulldozers, earthmovers, etc.) with rates established by FEMA.

3. Ensure that the recipient is participating in the flood program outlined in the front of this document.

• • • 15.400 Outdoor Recreation-Acquisition, Development and Planning (Land and Water Conservation Fund Grants)

Authorization: 16 U.S.C. 1-4 et seq. Land and Water Conservation Fund Act of 1965; Pub. L. 88-578; 78 Stat. 897; as amended by Pub. L 90-401 (82 Stat. 354); Pub. L. 91-485 (84 Stat. 1084); Pub. L. 91-308 (84 Stat. 410); Pub. L. 92-347 (86 Stat. 460); Pub. L. 93-81 (87 Stat. 178); Pub. L. 94-422 (90 Stat. 1313); and Pub. L. 95-42 (91 Stat. 210).

Objectives: To provide financial assistance to the States and their political subdivisions for the preparation of comprehensive statewide outdoor recreation plans and acquisition and development of outdoor recreation areas and facilities for the general public, to meet current and future needs.

Major Compliance Features

Uses and Use Restrictions: Acquisition and development grants may be used for a wide range of outdoor recreation projects, such as picnic areas, inner city parks, campgrounds, tennis courts, boat launching ramps, bike trails, outdoor swimming pools, and support facilities such as roads, water supply, etc. Facilities must be open to the general public and not limited to special groups. Development of basic rather than elaborate facilities is favored. Priority consideration generally is given to projects serving urban populations. Fund monies are not avaialable for the operation and maintenance of facilities.

Grants are also available to States only for revising and updating existing State outdoor recreation plans, preparation of new plans and for statewide surveys, technical studies, data collection and analysis and other planning purposes which are clearly related to the refinement and improvement of the State outdoor recreation plan.

Applicant Eligibility: For planning grants, only the State agency formally designated by the Governor or State law as responsible for the preparation and maintenance of the Statewide Comprehensive Outdoor Recreation Plan is eligible to apply, including District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, and Guam.

For acquisition and development grants, the above designated agency may apply for assistance for itself, or on behalf of other State agencies or political subdivisions, such as cities, counties, and park districts. Additionally, Indian tribes which are organized to govern themselves and perform the function of a municipal government qualify.

Formula and Matching Requirements: The Land and Water Conservation Fund Act specifies that not more than 50 percent of the project cost may be federally financed. Under certain conditions, all or part of the project Sponsor's matching share may be from certain other Federal assistance programs, such as Title I Community Development, Appalachia and all other Regional Commissions. Forty percent of the first $225 million; thirty percent of the next $275 million; and twenty percent of all additional appropriations is apportioned equally among the States. The remaining appropriation is apportioned on the basis of need.

Department of Justice

• • • 16.502 Law Enforcement Assistance-Improving and Strengthening Law Enforcement and Criminal Justice (Safe Streets, Crime Control)

Authorization: Omnibus Crime Control and Safe Streets Act of 1968; Pub. L. 90-351, as amended by Omnibus Crime Control Act of 1970; Pub. L. 91-644; 42 U.S.C. 3731-3737, as amended by the Crime Control Act of 1973; Pub. L. 93-83; 42 U.S.C. 3701 as amended; Juvenile Justice and Delinquency Prevention Act of 1974; Pub. L. 93-415; 42 U.S.C. 5601, as amended; and the Crime Control Act of 1976; Pub. L. 94-503, 42 U.S.C. 3701, as amended.

Objectives: To provide matching grants to implement a State's law enforcement and criminal justice program as developed in the State comprehensive action plan.

Part B Planning: It is the purpose of this part to provide financial and technical aid and assistance to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans.

Part C Block Action Grants: It is the purpose of this part, through the provision of Federal technical and financial aid and assistance, to encourage States and units of general local government to carry out programs and projects developed under Part B Planning.

Major Compliance Features

Applicant Eligibility: States which have established operating State criminal justice planning agencies.

Beneficiary Eligibility: Units of a State and its local governments, with funds being dispersed to operating criminal justice system components.

Formula and Matching: In addition to a general nonsupplant provision

A. *Part B—Planning Funds.* 1. Forty percent of a State's Federal planning grant funds must be passed-through to general local units of government, or combinations of local units, unless a waiver from the local units of government has been obtained. (Section 203(f).)

2. Each state shall provide that at least $50,000 of the Federal funds awarded to them for any fiscal year be made available to the judicial planning committee. (Section 203(f).)

B. *Part C—Action Funds.* A variable percentage of a State's Federal block action grant funds must be passed through to units of general local government or combinations of local units. This percentage is determined by calculating the ratio of the total non-Federal local expenditures for criminal justice system operation to the total non-Federal expenditures for all operations of the criminal justice system within the State during the preceding fiscal year. (Section 303(a)(2).)

1. *Buy-In Requirements:* This requirement is applicable to the total aggregate Part B and Part C funds which each state is required to pass-through to units of general local government or combination of local units. Each state is required to provide in the aggregate for Part B or C planning and action grants not less than the following percentages of the required non-Federal share.

a. *FY 1973*—25 percent of the required non-Federal share for Part C Action grants.

b. *FY 1974 and later*—50 percent of the required non-Federal share for Part B Planning and Part C Action grants.

2. *Federal Participation Ratios:* Matching contributions need not be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full grantee and/or subgrantee matching share must be obligated by the end of the period for which the Federal funds have been made available for obligation. The required percentage of matching shares is as follows:

a. *Beginning with FY 1971:* (1) Ninety percent for Part B planning funds. (2) Seventy-five percent for Part C action funds EXCEPT for construction which is 50 percent.

b. *Beginning with FY 1974:* (1) Ninety percent for Part B planning; up to 100 percent to regional planning units. (2) Ninety percent for Part C action (EXCEPT for construction which is 50 percent).

3. *Hard Match Requirement.* Must be new money, appropriated in the aggregate:

a. Hard match may be applied from funds from the following sources:

(1) Funds from State and local units of government that have been identified in their budgets or appropriations as a binding commitment of matching funds for programs or projects;

(2) Housing and Community Development Act of 1974;

(3) Public and private sources;

(4) Appalachian Redevelopment Act;

(5) General Revenue Sharing Act.

b. *New Funds.* May be calculated on the basis of:

(1) The amount of increase in cash input to a program or project from the previous year's hard match and nonrecurring items.

(2) The extent to which the current cash input exceeds the previous three years average input, less the previous year's hard match and nonrecurring items.

c. Salaries of personnel transferred to a grantor agency project may not be considered hard match unless the vacancies created by their transfer are filled by personnel whose salaries are from appropriated State or local funds.

d. Required portion of hard match for the various fiscal years: (1) Beginning with fiscal year 1973, 40 percent of the REQUIRED non-Federal funding of the cost of any program or project under Part C action funds. (2) Beginning with fiscal year 1974, the required percentage is the total REQUIRED non-Federal funding (10 or 50 percent) of the cost of any program or project under Part B planning and Part C action funds.

4. *Obligations:* For Parts B, C and E, an obligation is incurred only when committed by the ultimate (lowest) user.

5. *One-Third Personnel Limitation.* The ceiling on Part C for compensation of police and other regular law enforcement and criminal justice personnel is one-third (exclusive of training, research, development, demonstration, or other short-term projects). Federal funds expended shall not exceed the amount of State or local funds made available to increase such compensation. (Section 301(d).)

6. *20 Percent Contract Limit.* With FY 1973, not more than 20 percent of the State's Planning Grant (State and local portions) or 20 percent of either the State or local portion, may be used for contracted planning services or assistance by nongovernmental organizations.

7. *Special Limits on Construction.* a. *Definition.* Construction means acquisition, alteration and initial equipment (including architects' fees) but not the cost of land (Section 103(10)). Initial equipment includes permanent fixtures only. Minor repairs and remodeling are not allowed.

The minimum grantee contribution ratio for costs of programs for construction of law enforcement facilities within Section 301(b)(4) of the Act is 50 percent State and/or local funds to 50 percent Federal funds. For fiscal year 1974, the minimum grantee contribution of 50 percent must be hard match.

To the extent that construction is included in any law enforcement action program submitted for a Part C block action grant and such construction is not described as a separate program, the State Planning Agency must specify in its program description that a dual contribution ratio will be applied to construction costs (50-50) and other program costs (90-10) within the larger program.

b. *Qualifications.* The following should be noted:

(1) Minor remodeling or repairs to existing facilities need not be treated as construction programs subject to the 50 percent contribution minimum. Any such work totalling in excess of $5,000 for any building or facility should be submitted to LEAA for written determination that the "minor remodelling and repair" exception is applicable.

V 45 A G 18 80 UMI

(2) Projects for architectural studies or design which do not include a construction component may be funded at the 90–10 contribution ratio. Where the project includes both actual construction and architectural, or other design costs, the 50–50 contribution ratio must be used.

(3) The cost of a construction project includes the cost of site preparation, including demolition of existing structures. Any proceeds realized from site preparation activities (e.g., salvage value of structures demolished or the proceeds from sale of timber) should be applied to reduce the total cost of the construction project.

8. *Assumption of Costs.* The recipient's plan should demonstrate future non Federal appropriations for the projects.

9. *Non-Supplant.* Test that Federal funds don't supplant State and local funds.

Department of Labor

*** * * 17.207 Employment Service**

Authorization: The Wagner-Peyser Act of 1933, Pub. L. 73–30, as amended; 29 U.S.C. 49–49n and 39 U.S.C. 338. The Social Security Act of 1935, Pub. L. 74–271, as amended; and provisions relating to Employment Security; 42 U.S.C. 1101 et seq. The Vietnam Era Veterans' Readjustment Assistance Act of 1974, Title IV Pub. L. 93–508 as amended; 38 U.S.C. 2001–2014; The Trade Expansion Act of 1974, Pub. L. 93–618. Comprehensive Employment and Training Act of 1973, as amended by Pub. L. 95–524, 92 Stat. 1909, 29 U.S.C. 801 note; The Rehabilitation Act of 1973, Pub. L. 93–112; Emergency Jobs and Unemployment Extension Act of 1975, Pub. L. 94–45. Airline Deregulation Act of 1978, Pub. L. 95.504, 92 Stat. 1705, 49 U.S.C. 1301; The Revenue Act of 1978, Pub. L. 95–600, 92 Stat. 2763, 26 U.S.C. 51; Redwood National Park Expansion Act, Pub. L. 95–250, 92 Stat. 163, 16 U.S.C. 79a.

Other legislative bases foir employment security programs (not mentioned above):

Federal Unemployment Tax Act (FUTA); Food Stamp Act (Pub. L. 91–671 as amended 1971); Federal-State Extended Unemployment Compensation Act of 1970 (EB); 5 U.S.C. 8501–8508 and 8521–8525, (UCFE and UCX); Emergency Unemployment Compensation Act of 1974 (Pub. L. 93–572); Trade Expansion Act of 1962, as amended (19 U.S.C. 1941–1944 and 1952); Trade Reform Act of 1970 (Pub. L. 93–618), Title II; Disaster Relief Act of 1970 (Pub. L. 91–106); Disaster Relief Act of 1974 (Pub. L. 93–288), Title IV; Immigration and Nationality Act; Special Unemployment Compensation Act of 1974, as amended; Title IV of Social Security Act as amended (WIN).

Objectives: To place persons in employment by providing a variety of placement-related services to job seekers and to employers seeking qualified individuals to fill job openings.

Major Compliance Features

Uses and Use Restrictions: General services to job seekers include outreach, interviewing, testing, counseling, and referral to employment opportunities. Also, job seekers in need of specialized training or supportive services to local, State or Federal offices that are able to provide such services. General services to employers include providing a source of qualified applicants for job openings within the local area or, if necessary, nationwide, and providing selected technical assistance in identifying and resolving internal workforce problems such as turnover, absenteeism, and special recruitment difficulties as well as assisting in the development of personnel.

Applicant Eligibility: State employment security agencies, including Virgin Islands, Puerto Rico, and Guam.

Beneficiary Eligibility: All employers seeking workers, persons seeking employment, community groups, and employer organizations. Priority in service is given to veterans, with handicapped veterans receiving preferential treatment over other veterans.

Other Tests: For this program, the auditor should review (vis-a-vis Grants-to-States funds), the State agency's financial agreements with other agencies including CETA, Food Stamps, WIN and Job Corps.

*** * * 17.211 Job Corps**

Authorization: Title IV of the Comprehensive Employment and Training Act of 1973 as amended by Pub. L. 93–567, 88 Stat. 1845, 29 U.S.C. 801 note, and Pub. L. 95–524, 92 Stat. 1909, 29 U.S.C. 801 note.

Objectives: To assist young men and women who need, and can benefit from, an intensive educational and vocational training program in order to become more responsible, employable, and productive citizens. Operated in a residential group setting.

Major Compliance Features

Uses and Use Restrictions: Jobs Corps contractors operate residential centers to serve low-income young men and women, ages 16 through 21, who require additional education, training, or intensive counseling to secure and hold meaningful employment, participate successfully in regular schoolwork, qualify for other training programs suitable to their needs, or satisfy Armed Forces entrance requirements. Corpsmembers receive a comprehensive program of basic and remedial education, vocational training, work experience, and personal and vocational counseling are given room and board, medical and dental services, work and casual clothing, and a monthly allowance for living expenses. A readjustment payment is made upon completion of at least six months of training and job placement assistance is provided. *Maximum* enrollment is 2 years.

Applicant Eligibility: Federal, State, local government agencies including U.S. Territories, private profit and nonprofit organizations and Indian tribes and organizations having the capabilities to carry out the objectives of the program. Usually the program operators are State Unemployment Security Agencies (SESA's).

Beneficiary Eligibility: (Source: CETA, sec. 452). a. has attained age 14 but not attained age 22 at the time of enrollment, except that such maximum age limitation may be waived, in accordance with regulations of the Secretary in the case of any handicapped individuals; b. is economically disadvantaged or is a member of a family who is economically disadvantaged, and who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements; c. is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance; d. is determined, after careful screening, as provided for in sectiojns 453 and 454, to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involved; and e. meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

*** * * 17.225 Unemployment Insurance**

Authorization: The Social Security Act, as amended, 42 U.S.C. 501–504, 1101–1108; Trade Act of 1974, Pub. L. 93–618, 88 Stat. 2024, 19 U.S.C. 2311; Benefit provisions-Federal Unemployment Tax Act as amended, 26 U.S.C. 3404 note; Federal Employees and Ex-servicemen, 5 U.S.C. 8505(h); Redwood National Park Expansion Act, Pub. L. 95–250, 92 Stat. 163, 16 U.S.C. 79K,1; Trade Act of 1974 (cited above); Disaster Relief Act of 1974, Pub. L. 93–288, 88 Stat. 153, 42 U.S.C. 5171; Airline Deregulation Act of 1978, Pub. L. 95–504, 92 Stat. 1705, 49 U.S.C. 1552.

Objectives: To administer programs of unemployment insurance for eligible workers through Federal and State cooperation; to administer payment of worker adjustment assistance.

Major Compliance Features

Uses and Use Restrictions: The States have the direct responsibility for establishing and operating their own unemployment insurance programs, while the Federal Government finances the cost of administration. State unemployment insurance tax collections are used solely for the payment of benefits; Federal unemployment insurance tax collections are used to finance expenses deemed necessary for proper and efficient administration of the State unemployment insurance programs, and to reimburse State funds for one-half the costs of extended benefits paid under the provisions of State laws which conform to the provisions of the Social Security Act and the Federal Unemployment Tax Act. Federal Unemployment Benefits and Allowances (FUBA) funds are used to pay benefits to CETA PSE enrollees, unemployed Federal military and civilian (including USPS) employees and for the Trade and Redwood Programs (See Beneficiary Eligibility). FUBA funds may not be used for any program administration costs nor for training, job search, and job relocation payments.

"Reed Act" Funds: States may use unemployment funds for administration under certain conditions.

—The amount available for this purpose is limited to those sums allocated to a State account in the Unemployment Trust Fund from excess FUTA revenues, generally referred to as "Reed Act" distributions.
—Any use of these "Reed Act" monies must be authorized by a specific appropriation of a State legislature, automatically expiring in 2 years.
—Under certain conditions, "Reed Act" funds expended for the purchase of real estate and high cost equipment may be redeposited for future use.

Applicant Eligibility: State unemployment insurance agencies, including Puerto Rico and the Virgin Islands.

Beneficiary Eligibility: All workers whose employers contribute to or make payments in lieu of contributions to State unemployment funds, Federal civilian employees, ex-servicemen, workers deemed "affected employees" in the Redwood industry, eligible protected employees under the Airline Deregulation Act, workers whose unemployment is caused by a Presidentially declared disaster under the Disaster Relief Act, and "adversely affected workers" under the Trade Act are eligible if they are involuntarily unemployed, able to work, available for work, meet the eligibility and qualifying requirements of the State law, and are free from disqualifications. Individual State information and eligibility requirements are available from local employment offices.

Other Tests: State Unemployment Fund: Federal Law requires that all receipts be transferred immediately (24 hour turnaround) to the U.S. Treasury. Examine agency procedures for this.

Determine that the Unemployment Fund consists only of those accounts necessary to receive contributions and payments in lieu of contributions from employers (clearing account).

Collection of Contributions: The auditor should test for procedures to ensure the following:

—State accounts in which activity has ceased should be closed out and balances reverted to their sources.
—Estimating procedures should be reviewed where withdrawals of funds routinely exceed expenditures.
—Extended Benefit, or other emergency compensation balances in a State account, should be returned to the proper trust fund account if not expended within 10 days.
—If unemployment funds are maintained within a State general fund, ascertain whether a pro rata share of the State's earnings are applied to the unemployment fund.

The auditor should review "Reed Act" accounts for the following:

—The balance in a State "Reed Act" account (see discussion above) cannot exceed the amounts allocated to the State from the excess in the Federal accounts in the Unemployment Trust Fund.
—Expenditures for administration cannot exceed allocations plus redeposits.
—"Reed Act" balances should be reduced by any amounts used to pay benefits.

*****17.232 Comrehensive Employment and Training Programs (Comprehensive Employment and Training Act of 1973, as Amended)**

Authorization: Titles I, II, IV, VI, and VII of the Comprehensive Employment and Training Act of 1973, as amended, Pub. L. 95–524, 92 Stat. 1909, 29 U.S.C. 801 note.

Objectives: To provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons and to assure that training and other services lead to increased earnings and enhanced self-sufficiency by establishing a flexible decentralized system of Federal, State, and local programs.

Major Compliance Features

Note.—The CETA regulations (and statutes) are found in a number of separate citations:

—CETA of 1973: 29 CFR Parts 94–99 (Pub. L. 93–203)
—CETA "Transition Period" (10/26/78 to 1/25/79) 29 CFR Part 93.2 (Pub. L. 95–524)
—CETA of 1978: 20 CFR Parts 675–680 (Pub. L. 95–524)

Introduction—the major compliance features for this program relate princially to *ELIGIBILITY.*

Definitions: 1. *Veteran:* (1) Served more than 180 days on active duty, or (2) discharged or released from active duty with a service-connected disability and; (3) has not obtained permanent, ful! time, unsubsidized employment between the release date (from service) and the application date.

2. *Resident:* At the time of application and selection, the person resides within the geographic area covered by the grant.

3. *Poverty Family:* Person is a member of a family whose total income does not exceed the OMB established poverty level.

4. *Welfare Family:* Person is a member of a family which either qualifies and receives public assistance/welfare payment, or which could so qualify.

5. *LLSIL:* The person is a member of a family which is at "some" percentage of the lower living standard income level (LLSIL).

6. *Barrier individual:* The youth, or other applicant, presents significant barriers to employment because he/she is: a. A client of a sheltered workshop or b. Handicapped or

d. Age 16–21, and
2. Be unemployed (See Title IIB

Major Compliance Features

c. Institutionalized with 24 hour support, e.g., prison hospital, care facility etc., or

d. Regular outpatient of a mental facility or rehab facility or similar.

7. *10 and 30 Rule:* At least seven days prior to application, the person did not work more than ten hours nor earn more than $30 in any week.

Title I—For the Period fiscal year 1978 and fiscal year 1979 up to January 25, 1979

A. *Non* Public-Service applicant must meet one of the following criteria: 1. *Economically Disadvantaged:* a. Member of Welfare Family; or

b. Member of a Poverty Family at either: (1) Poverty level established by OMB; or (2) 70 percent LLSIL.

2. *Unemployed:* a. Person who did not work during the calendar week preceding the week in which the determination of eligibility is made (welfare recipients excluded); or

b. Person who is confined in a jail, penitentiary, or other institution and the expected release date is not unreasonably long after planned completion of training date; or

c. Member of Welfare Family; or

d. Veteran.

3. *Underemployed:* a. Person working part-time, seeking full-time job or is working full-time, and

b. Same as A.1.b. above.

B. *Public Service Employment (PSE)* applicant must: 1. Meeting either one of the requirements in A. above, and

2. Be a Resident.

Title II—For the Period fiscal year 1978 and fiscal year 1979 to January 25, 1979

All applicants must be: 1. Unemployed for at least 30 days prior to application, and a member of a welfare family, or during the 30 days preceding application, person met the "10 and 30 Rule" (as defined above), or

2. Underemployed which is defined as working part-time and seeking full-time or working full-time and a member of a poverty family, or

3. Veteran, and

4. Resident.

Title III—Summer Youth [3]

A. *For the Period fiscal year 1978 and fiscal year 1979 to March 30, 1979.* All applicants must be: 1. Economically Disadvantaged at application time (as defined in Title I above), and

2. Age 14–21 (inclusive), at application time.

B. *For the Period fiscal year 1979 as of April 1, 1979.* All applicants must be: 1. Economically Disadvantaged at application time: a. Member of welfare family, which receives public assistance, or

b. Member of a family whose income during the previous six months, on an annualized basis, was such that: (1) Family would qualify for public assistance, or

(2) Family income does not exceed poverty level, or

(3) Family income does not exceed 70 percent LLSIL.

c. Foster child, or

d. BARRIER individual, and

2. Age 14–21 (inclusive), at time of enrollment.

Title III—Youth Incentive Entitlement Pilot Projects [3]

A. *For the period fiscal year 1978–80.* At time of application and selection, a youth must show documentation that the following criteria have been met:

1. Age 16–19 (inclusive), unless otherwise authorized,

2. Has not received a high school diploma or equivalent,

3. Is a resident for 30 days, except for newly discharged veteran,

4. Is from a welfare or poverty family (economically disadvantaged),

5. a. Enrolled in and attending a State-certified program leading to a high school diploma, or is so scheduled within 30 days of YIEPP, or

b. Scheduled for an equivalency (GED) program within 30 days.

6. Has participation approved in writing, if under the juvenile or criminal justice system.

Title III—Youth Community Conservation and Improvement Project [4]

A. *For the period fiscal year 1978 to April 4, 1978.* 1. All applicants must be: a. Age 16–19 (inclusive) at *enrollment,* and

b. Unemployed (same as Title I).

B. *For the period fiscal year 1978 as of April 7, 1978 and 1979 up to March 30, 1979.* 1. At the time of *application and enrollment,* all applicants must be: a. Age 16–19 (inclusive) and

b. Unemployed (same as Title I).

C. *For the period fiscal year 1979 (beginning April 1, 1979) and fiscal year 1980.* 1. At the time of *application,* all applicants must be: a. Age 16–19 (inclusive), and

b. Unemployed

(1) Without a job for at least 7 consecutive days prior to application and meet the "10 and 30 Rule,"

(2) A BARRIER individual, or

(3) Age 18, and a member of a welfare family, or

(4) Veteran.

Title III—Youth Employment and Training Programs [5]

A. *For the period fiscal year 1978 and fiscal year 1979 to March 30, 1979.* 1. At *application* and *enrollment* time, the youth must meet the following: a. Unemployed (as in Title I), or

b. Underemployed (as in Title I), or

c. In school: (1) A youth who is currently enrolled in and attending a secondary, trade, or technical school or was enrolled in, and attended the last regularly scheduled quarter or semester of such school, and is scheduled to attend the next regularly scheduled quarter or semester, or

(2) A youth who has a high school diploma or its equivalent and who attended the last regularly scheduled quarter or semester of a community college or vocational school, but has not completed all required course work, or

(3) A youth who has not completed high school and who agrees to enroll in a school program leading to a secondary school diploma or its equivalent.

d. Age 16–21, and

e. Family at or below 85% LLSIL.

2. On an exception basis, applicants who are "in school" and 14 or 15 years of age may participate in "broad career" programs under YETP. These applicants need not meet the criteria in 3. above, if they participate in a special component which mixes youth above and below LLSIL.

3. Youth who do not meet the income criteria and who are not in a special component (see CETA regulations, Subpart A, paragraph 680.6 (44 FR 56869)) may also be offered services.

B. *For the period fiscal year 1979 as of April 1, 1979 and fiscal year 1980.* 1. At application time, youth must be: a. Unemployed, or

(1) Person who is without a job for at least seven consecutive days and meets the "10 and 30 Rule," or

(2) A BARRIER individual, or

(3) Age 18 and member of a welfare family, or

(4) Veteran, or

b. Underemployed: (1) A person who is working part-time, but seeking full-time, or working full-time, and

(2) Current annualized wage rate is not in excess of (for a family of one) the higher of either: (a) the poverty level, or

(b) 70% LLSIL, or

c. In school youth (for YETP, as of 10/1/79) the definition of "in school" youth excludes 14 and 15 year olds.

[3] This Title is now promulgated under Title IV, Part C, of the CETA amendments of 1978.

[3] This Title is not promulgated under Title IV, Part A, Subpart E, of the CETA amendment of 1978.

[4] This Title is now promulgated under Title IV, Part A, Subpart E, of the CETA amendment of 1978.

[5] This Title is now promulgated under Title IV, Part A, Subparts 3 and 4, of the CETA amendments of 1978.

d. Age 16–21, and

e. Family at or below 85% LLSIL.

2. Exceptions (see para A.2. and A.3. above).

Title III—Special Grant

An individual must meet the eligibility requirements outlined in the grantee's Title III—Special Grants.

Title VI—Public Service Employment

An individual must meet the eligibility requirements outlined in the grant agreement.

Title IIB—For the period fiscal year 1979 (beginning January 26, 1979 and fiscal year 1980 [6]

A. At application time, to be eligible an individual must meet the following criteria: 1. Economically disadvantaged (as defined under Title III—Summer Youth) and either

2. Unemployed: a. Person who is without a job for at least seven consecutive days prior to application, and meets the "10 and 30 Rule," or

b. A BARRIER individual, or

c. Age 18 and member of a welfare family, or

d. Veteran.

3. Underemployed (as defined in Title III—YETP, para B.1.b.)

4. Enrolled in school full-time at present, and scheduled for next semester.

Title IIC—As of April 1, 1979 [6]

A. *Upgrading Program:* At time of application, an individual must be: 1. Operating at least that full skill potential, and

2. Working for at least the prior six months with the same employer in either entry level, unskilled, or semi-skilled position or a position with little or no advancement opportunity in a normal promotional line.

B. *Retraining Program.* At time of application, an individual must: 1. Have received a bonafide notice of impending layoff within the last six months, and

2. Have been determined by the prime sponsor, wih the assistance of the local employment service, as having little opportunity to be reemployed in the same or an equivalent occupation or skill level within the labor market area.

Title IID—Public Service Employment [7]

A. *For the period fiscal year 1979 as of January 26, 1979 to March 30, 1979.* To be eligible, an individual must: 1. Be economically disadvantaged (see Title IIB definition), and

2. Be unemployed (See Title IIB definition) during 15 of the 20 weeks immediately prior to application (except for welfare recipients),

3. Be a resident, and

4. Not have quit a job paying the Federal minimum wage without good cause during six months prior to application.

B. *For the period fiscal year 1979 as of April 1, 1979 and fiscal year 1980.* To be eligible, an individual must: 1. Be economically disadvantaged (see Title IIB definition), and

2. Unemployed (see Title IIB definition) during 15 of the 20 weeks immediately prior to application, or

3. Be a member of a welfare family,

4. Be a resident, and

5. Not have quit a job paying the Federal, state or local minimum wage without good cause during six months prior to application.

Title VI—Public Service Employment

A. *For the period fiscal year 1979 as of January 26, 1979 to March 30, 1979.* 1. To be eligible, an individual must: a. Be unemployed (see Title IIB definition) for at least 10 out of the 12 weeks immediately prior to application (except for welfare recipients),

b. Be unemployed at the time of application,

c. Family income does not exceed 100 percent LLSIL, based upon annualization of income three months prior to application,

d. Be a member of welfare family receiving public assistance 10 of the last 12 weeks immediately prior to application,

e. Be a resident, and

f. Not have quit a job paying the Federal, State, or local minimum wage without good cause during six months prior to application.

Note to the Auditor.—The interim PSE eligibility criteria for new Titles IID and VI (CETA Amendments of 1978) during the "Transition Period" (10/26/78 to 1/25/79) shall be the same as old Title VI (New Criteria) per CETA of 1973.

* * * 17.235 Senior Community Service Employment Program

Authorization: Title V of Older Americans Act, Pub. L. 94–135, 89 Stat. 720, 42 U.S.C. 3056A.

Objectives: To provide, foster, and promote useful part-time work opportunities up to 20 hours per week in community service activities for low income persons who are 55 years old and older, and who have poor employment prospects.

Major Compliance Features

Uses and Use Restrictions: Organizations which receive project grants or contracts may use the funds to create and pay for part-time community service job positions. The individuals who are employed may be placed in work assignments at established local service agencies (e.g., schools, hospitals, day care centers, park systems, etc.), or may be given work assignments in connection with newly formed or innovative community service projects. A portion of project funds may be used to provide participants with training, counseling, and other supportive services. No more than 15 percent of the Federal share of the project costs may be spent for administration.

Applicant Eligibility: The following types of organizations are eligible to receive project grants: (1) States and agencies of a State, (2) national, public and private nonprofit agencies and organizations other than political parties, (3) U.S. Territories.

Beneficiary Eligibility: Adults 55 years or older and economically disadvantaged. Upon first time enrollment, participants must have an income at or below 125 percent of the poverty level. Reentry persons enrolled in the program may have incomes which exceed the poverty level by no more than $500. SCSEP positions must: (a) Represent an addition to regular agency employment opportunities; (b) not displace current employees, including partial displacement; (c) not impair existing contracts or substitute Federal funds for other funds.

Other Tests: Payment of wages. SCSEP wages must be the higher of the Federal or State minimum wage and/or the prevailing rates of pay for persons employed in similar public occupations by the same employer.

Limitation on hours worked. SCSEP participants may not work more than 1,300 hours in any 12 month period.

Department of Transportation

* * * 20.102 Airport Development Aid Program (ADAP)

Authorization: Airport and Airway Development Act of 1970; Pub. L. 91–258, 49 U.S.C. 1701, as amended by Public Law 92–174, Pub. L. 93–44, and Pub. L. 94–353. Current act expires at the end of fiscal year 1980, and new legislation will be required to extend the program.

Objectives: To assist public agencies in the development of a nationwide system of public airports adequate to meet the needs of civil aeronautics.

[6] This Title was formerly Title I under CETA of 1973, exclusive of Title IID.

[7] This Title was formerly Title II under CETA of 1973.

Level of Effort (LOE): This is the local

c. An offsetting increase may be

4. Grantees will not engage in charter

Major Compliance Features

Uses and Use Restrictions: Constructing, improving, or repairing a public airport or portion thereof consisting of: (1) Land acquisition, (2) site preparation, (3) construction, alteration, and repair of runways, taxiways, aprons, and roads within airport boundaries, (4) construction and installation of lighting utilities, navigational aids, and certain offsite work; (5) safety equipment required for certification of airport facility, (6) security equipment required of the sponsor by the Secretary of Transportation by rule or regulation for the safety and security of persons and property on the airport, (7) snow removal equipment, (8) noise suppressing equipment, construction of physical barriers, landscaping and land acquisition for noise compatibility, and (9) terminal development.

Applicant Eligibility: State, county, municipal, and other public agencies including an Indian tribe or Pueblo are eligible for airport development grants if the airport on which the development is required is listed in the national airport system plan.

Formula and Matching Requirements: Federal government share of allowable costs of airport development project may not exceed: 75 percent for an air carrier (other than a commuter service airport) which enplanes one-quarter of one percent or more of all passengers enplaned at all such airports, and 80 percent for all other airports, i.e., general aviation airports, reliever airports, and commuter service airports, and air carrier airports which enplane less than one-quarter of one percent of such passengers. The Federal share for terminal development projects at air carrier airports may be funded only from the airport's enplanement apportionment and no more than 60 percent of such apportionment for any fiscal year may be obligated for such projects. The Federal share of terminal development projects shall be 50 percent.

Other Tests: 1. The following costs are unallowable: a. Passenger automobile parking facilities, buildings to be used as hangars, living quarters, nonairport purposes and building construction which is not airport development; and

b. The cost of general area, urban, or statewide planning of airports, as distinguished from planning a specific project.

2. When FAA permits a grantee to dispose of land acquired with Federal funds, the net proceeds from its sale are to be offset against the allowable costs for new airport development or for master planning grants.

The following two programs are administered by UMTA. The compliance features for both are outlined following the description of program #20.507 below.

* * * 20.500 Urban Mass Transportation Capital Improvement Grants

Authorization: Urban Mass Transportation Act of 1964: Pub. L. 88–365, as amended through February 5, 1976; 49 U.S.C. 1601 et. seq.

Objectives: To assist in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation, lease, or otherwise, in Mass Transportation Service in urban areas and in coordinating service with highway and other transportation in such areas.

* * * 20.507 Urban Mass Transportation Capital and Operating Assistance

Authorization: Urban Mass Transportation Act of 1964: Pub. L. 88–365, as amended through February 5, 1976; 49 U.S.C. 1601 et. seq.

Objectives: To assist in financing the acquisition, construction, and improvement of facilities and equipment for use by operation or lease or otherwise in Mass Transportation service, and the payment of operating expenses to improve or to continue such service by operation, lease, contract or otherwise.

Major Compliance Features

For 20.500 Only

Uses and Use Restrictions: Eligible facilities and equipment include land, buses, other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. Ordinary governmental or project operating expenses are excluded. Adequate public notice must be given of intent; social and economic impact on environment must be considered; project must be consistent with official plans for comprehensive development of urban areas.

Applicant Eligibility: Public agencies. Private transportation companies may participate through contractual arrangements with a public agencies grantee. Applicant must have legal, financial, and technical capacity to carry out proposed project. Capital funds are also available through the states to private, nonprofit organizations for the purpose of providing transportation services to the elderly and the handicapped.

For 20.507 Only

Uses and Use Restrictions: Eligible capital assistance projects may include the acquisition, construction or reconstruction of facilities and equipment for use in mass transportation, including designing, engineering, locating, surveying, mapping, acquisition of rights-of-way, relocation assistance, and acquisition and replacement of housing sites. An operating assistance project represents the eligible operating expenses incurred or projected during a local fiscal year by a mass transportation operator or system serving an urbanized area. Projects must be development through a continuing cooperative and comprehensive urban transportation planning process, resulting in plans and programs for a unified or officially coordinated urban transportation system consistent with the planned development of the urban area.

Applicant Eligibility: Funds will be made available to urbanized areas (as defined by the Bureau of the Census) through designated recipients which must be public entities and legally capable of receiving and dispensing federal funds. The Governor, responsible local officials and publicly-owned operators of mass transportation services must designate recipient(s) jointly for urbanized areas of 200,000 or more population. The Governor or his designee is the recipient for urbanized areas of 50,000 to 200,000 population. Recipients must submit a program of projects to UMTA and the Governor through the Metropolitan Planning Organization; and certify that a public hearing has been conducted.

Section 5—All Operating Assistance Grants Requirements: Formula and Matching Requirements: Determine whether UMTA assistance was the smallest of: (a) 50% of the New Project Cost (loss); (b) the eligible local share (amount of local funds); (c) the operating deficit after adding local funds but before adding UMTA funds (the operating deficit less the local share); or (d) the original maximum funding agreed to by UMTA (the maximum amount of the UMTA grant).

Maintenance of Effort (MOE): This is the level of funding the local government must exceed in order to get Federal funding. It is the average of the two prior years. Ascertain how the grantee computes this share and from what sources. Check these against a schedule of allowable sources, available from DOT or from the grantee.

Level of Effort (LOE): This is the local level of funding computed for 1 fiscal year only. Though similar to MOE, the eligible sources are not exactly the same. Perform the same computation and analysis as that in MOE above, using the same schedule of allowable sources. The LOE must equal or exceed the MOE.

1. Ineligible costs must be eliminated from the eligible operating expenses in determining net operating deficit.

2. All expenses for nontransit revenue are ineligible: a. Charter bus,

b. School bus operations which are not regular service,

c. Sightseeing, and,

d. Freight.

If the grantee does not segregate expenses associated with nontransit activities, assume expenses equal revenues.

3. Sample employee pension plan payments (contributions) to see if they are actually paid and are on a cash basis as required.

Section 5 involves some complex features, unique to that program, such as eligible expenses, maintenance of effort, local share, level of effort, net project cost and the application or revenues to expenses.

For grants awarded after November 6, 1978, the recipient must adhere to the following (in lieu of the above).

General Discussion: As of the Act of 1978, any grant recipient may reduce LOE below the average of the previous two local fiscal years. A reduction in the LOE may result in reduction in the level of Federal assistance. If an operator provides both bus and rapid rail, but requests assistance for the bus operation only then only that portion is subject to MOE requirements. However, if the applicant applies for assistance based on the eligible costs for the operation of only a portion of the bus fleet eligible for assistance, the MOE requirement is applied to the total level of effort for the entire eligible bus operation. Contributions toward capital projects do not contribute toward MOE.

1. *Offsetting Increase in Fare Structure.* If the grantee's LOE is less than its MOE, the difference can be offset if: a. Offset dollar for dollar by an increase from changes in the fare structure, fare increases or reductions, zone structure, zone changes, or new peak hours.

b. Increases in operating revenues which result from changes to service levels cannot be used. Measures of service levels include total number of vehicle miles, route miles, frequency, the number of reverse commuter trips, and the characteristics of special services, etc.

c. An offsetting increase may be claimed only for one local fiscal year. In cases where the change is in the last three months of the local fiscal year, the grantee may claim the offset for this year or the following year. In all other cases, only for the year in which put into effect.

d. The grantee must establish that the offset claimed is due solely to increases in operating revenues resulting solely from changes in the fare structure ("offset amount").

e. Actual revenues and expenses must be reported in the same year.

f. A grantee who has offset reductions in project year #1 may apply the same offset in the application for project year #2.

2. *Reduced Operating Costs.* If a grantee reduces costs while maintaining service levels, it may reduce its LOE proportional to the reduction in operation cost without a loss of UMTA funds providing: a. Service levels are maintained.

b. Grantees who seek to reduce their LOE must specify the dollar amount and percentage reduction compared to the previous year and describe the actions taken to offset.

c. Changes which result in reduced operating costs may be claimed only for one local fiscal year. (Same provision as 1.c above.)

d. Same as 1.e. above.

e. The grantee must also certify reductions in expenses being used to justify a reduction in the LOE don't reflect decreases in future service.

f. Same as 1.f above.

3. *Commensurate Reductions.* A grantee who has an LOE less than the MOE will receive commensurate reduction. Section 5 assistance will be reduced either (1) and amount equal to the amount by which the grantee's LOE is less than the MOE or, (2) an amount proportional to the percentage shortfall from MOE. (The method most advantageous to the grantee.)

Section 3 and 5 Capital Grants. The auditor should determine the following:

1. Depreciation, amortization and use allowances are unallowable project costs.

2. Test that the grantee uses and disposes of mass transportation property, e.g. buses and railcars, in accordance with Attachment N of Circular A–102. Check that the Federal government is notified promptly and receives fair market value for property which is destroyed.

3. Grantee shall keep insurance adequate to protect project facilities and equipment throughout use.

4. Grantees will not engage in charter bus operations outside the urban area within which it provides regular service.

5. Grant recipients will not engage in school bus operations exclusively for the transporation of students or school personnel in competition with school bus operators.

*** * * 20.205 Highway Research, Planning, and Construction (Federal Aid Highway Program)**

Authorization: Title 23 U.S.C., "Highways"; Federal-Aid Highway Act of 1973, Pub. L. 93–87; Federal-Aid Highway Amendments of 1974, Pub. L. 93–643; Federal-Aid Highway Act of 1976, Pub. L. 94–280; Surface Transportation Assistance Act of 1978, Pub. L. 95–599.

Objectives: To assist State highway agencies in constructing and rehabilitating the Interstate highway system and building or improving primary, secondary, and urban systems roads and streets, to provide aid for their repair following disasters, and to foster safe highway design; and to replace or rehabilitate unsafe bridges.

Major Compliance Features

Construction

The auditor should determine the following: 1. No funds for rehabilitation work on the superseded section of a relinquished highway.

2. The contractor's own organization must perform not less than 50 percent of the total contract price (excluding Speciality Items).

3. FHWA must approve claim awards made on the basis of arbitration board awards or State court judgments.

4. FHWA must approve a Federal amount where contract time extensions granted by a State affect project costs or liquidated damages.

5. Federal-aid in cooperative projects using the soil moved by heavy equipment (highway fill) e.g. flood control, will be limited to the pro rata share of the highway only.

6. Maintenance work is not eligible.

7. The cost of procuring and installing the business signs on panels or on ramp signs is not allowed.

8. Projects under Certification Acceptance (CA) follow CA procedures; all others are performed, measured and paid vis-a-vis the approved plan.

9. No funds will be used in any allowance for anticipated profit on work not actually performed.

10. Stockpiled material cost is allowable if it is not excessive to complete the project and its value doesn't exceed the value of contract items in which incorporated (23 U.S.C. 121).

11. Foreign structural steel will not be used unless the project (a) costs less than $450,000; (b) is under CA procedures; (c) favors domestic steel; (d) would cost 10 percent more otherwise.

Utility Relocation and Adjustment

The auditor should determine the following: 1. Where privately owned, located on the owner's land and not serving the public, FHWA right-of-way procedures apply.

2. If nearly all of a facility moves, or if extensive damage will occur, the State's analysis of trade-offs must be concurred in by FHWA.

3. Generally, prior approval is required for engineering services over $5,000 to engineers, architects and others.

4. A credit is required for any betterment unless required by governing codes or there is a direct benefit to the highway department.

5. Generally, each State-utility agreement must be approved.

6. Where the utility self-insures against public liability, reimbursement will be at a rate developed by the utility, or not in excess of one percent of salaries and wages.

Financial Management

The auditor should determine the following: 1. Except for salary and related costs of Highway Planning Research and Development (HPR), State costs for the establishment, maintenance, general administration, supervision, and other overhead, costs including internal audit, are unallowable in accordance with Section 302(a) of Title 23, U.S.C.

2. The limitation on construction engineering cost is either 10 or 15 percent of construction cost as approved by FHWA.

3. Reimbursement of bond proceeds may be made only for those amounts actually spent in construction of Federal-aid projects. Such projects must be free of tolls.

Planning, Research, and Development

The auditor should determine the following: 1. Metropolitan Planning Organizations (MPO's) must spend in accordance with a unified work plan (23 U.S.C. 104F and 134).

2. FHWA must approve changes in principal investigator (except approved management option procedures) and all proposed R&D studies except for the more limited type "B" study.

Railroads

The auditor should determine the following: 1. Salaries and expenses of the overhead organization may be reimbursed for the time working directly on the project, when the work is essential and could not have been accomplished as economically outside.

2. The cost of labor surcharges will be reimbursed either at actual cost or at the rates established between FHWA and the Association of American Railroads.

3. Temporary materials recovered and accepted for re-use shall be credited at amounts charged the project less 10 percent for rails, angle bars, tie plates and metal turnout materials and 15 percent for all other.

4. In lieu of handling costs, at the option of the company, 5 percent of billable materials will be reimbursable in lieu of actual costs.

5. In lieu of actual costs, reimbursement for equipment cost may be made at the rate and under the conditions set forth in circulars issued by the General Managers Association of Chicago and the Eastern General Managers Association of New York. In lieu of average or actual costs of company owned vehicles, reimbursement may be made at rates of recorded use per mile established by agreement between FHWA and AAR.

6. Transportation of materials over its own lines in a revenue train is reimbursable at rates which do not exceed ten mills a ton-mile or the published tariff rate (the lesser). No charge will be made except for the operating expenses of the work train. When more economical to move equipment on its own wheels, reimbursement may be made at rate of $0.20 a car mile haul for heavy construction equipment and six cents a car-mile haul for other equipment.

7. Generally, the maximum coverage (Federal funds), with respect to bodily injury, death, and property damage, is a combined amount of $2 million per occurrence.

8. There will be no charge for the existing right-of-way being transferred to the State except when the value exceeds the value of the replacement.

Preliminary Engineering

The auditor should determine the following: 1. Lacking acceptable State procurement procedures, FHWA will approve contracts exceeding $10,000.

2. Except for 23 U.S.C. 104(f) or 402 funds, contracts will show that the prime contractor performs all work, except exempted or specialized tasks.

* * * 20.600 State and Community Highway Safety

Authorization: Highway Safety Acts of 1966, 1970, 1973, 1976 and 1977; Surface Transportation Act of 1978; Pub. L. 89–654; Pub. L. 91–605; Pub. L. 93–355; Pub. L. 93–643 23 U.S.C. 402 as amended; 23 U.S.C. 120; Pub. L. 94–280; Pub. L. 94–387; Pub. L. 95–599.

Objectives: To provide a coordinated national highway safety program to reduce traffic accidents, deaths, injuries, and property damage.

Major Compliance Features

Uses and Use Restrictions: Funds may be used for problems identified in the areas of motor vehicle inspection, vehicle registration, motorcycle safety, driver education, driver licensing, traffic codes and laws, traffic courts, alcohol in relation to highway safety, emergency medical services, traffic records, highway design (excluding construction and maintenance), traffic engineering services, identification and surveillance of accident locations, pedestrian and bicycle safety, police traffic services, debris hazard control and cleanup, accident investigation, school bus safety, community support and planning, and administration of programs. FHWA funds may be used to fund the installation of regulatory and warning devices of the Federal-aid highway system. The law provides that at least 40 percent of Federal funds apportioned to a State for any fiscal year will be expended by the political subdivisions of such State.

Applicant Eligibility: State, American Indian, District of Columbia, American Samoa, Guam, Virgin Islands and Puerto Rico highway safety programs.

Beneficiary Eligibility: Political subdivisions, through the State Highway Safety Agencies.

Formula and Matching Requirements: Federal share shall not exceed 75 percent or applicable sliding scale.

* * * 20.309 Railroad Rehabilitation and Improvement Guarantee of Obligations

Authorization: Title V, Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1966; Pub. L. 94–210.

Objectives: To provide financial assistance for the acquisition or rehabilitation and improvement of railroad facilities or equipment.

Major Compliance Features

Uses and Use Restrictions: Funds received by applicants must be used for acquisition or rehabilitation and improvement of facilities or equipment. Equipment and facilities include locomotives, freight cars, track, roadbed and related structures, communication and power transmission systems, signals, yard and terminal facilities and shop or repair facilities.

Applicant Eligibility: Applicant is defined to mean any railroad or person, including State and local government entities, which submits an application to the Administrator for the guarantee of an obligation under which it is an obligor. Under this definition of applicant, a government entity may apply for, and receive, guarantees. However, the policy of FRA is not to guarantee tax exempt obligations unless the applicant can demonstrate reasons why such a guarantee should be extended.

Beneficiary Eligibility: The ultimate purpose is to provide the means to rehabilitate and maintain the physical facilities, improve the operations and structure, and restore the financial stability of the railway system of the United States, and to promote the revitalization of such railway system so that this mode of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient, ecologically compatible transportation services with greater efficiency, effectiveness and economy. Beneficiaries are the users of rail properties which have been acquired or modernized with Federal assistance.

Other Tests: The auditor should test compliance with the terms and conditions of the grant or loan agreement.

Appalachian Regional Commission

* * * 20.003 Appalachian Development Highway System (Appalachian Corridors)

Authorization: Section 201, Appalachian Regional Development Act of 1965, Pub. L. 89–4; as amended by Section 106, Pub. L. 90–103; Section 103, Pub. L. 91–123; and Section 110, Pub. L. 94–188; 40 App. U.S.C. 201.

Objectives: To provide a highway system which, in conjunction with other federally-aided highways, will open up areas with development potential within the Appalachian region where commerce and communication have been inhibited by lack of adequate access.

Major Compliance Features

Uses and Use Restrictions: The grants may be used for preliminary engineering, right-of-way, and construction of highways meeting the objectives stated above. Total highway construction may not exceed 3,025 miles for the 13-State system. The highways must be accepted and maintained as a Federal-aid highway.

Applicant Eligibility: State governments, only within their Appalachian portions.

Community Services Administration

* * * 49.002 Community Action

Authorization: Economic Opportunity Act of 1964, as amended, Title II, Pub. L. 95–568; 42 U.S.C. 2790, et seq.

Objectives: The Community Action Agency (CAA) is the prime mechanism for implementing Community Action Programs. The objectives of the CAA are to mobilize and channel the resources of private and public organizations and institutions into antipoverty action; to increase the capabilities as well as opportunities for participation of the poor in the planning, conduct, and evaluation of programs affecting their lives; to stimulate new and more effective approaches to the solution of poverty problems; to strengthen communications, achieve mutual understanding and to strengthen the planning and coordination of antipoverty programs in the community. Detailed information applicable to specific programs funded by the Community Services Administration is included in the Code of Federal Regulations 45, Public Welfare, Parts 500 to 1199.

Major Compliance Features

Uses and Use Restrictions: Funds may be used for administrative costs of CAAs, nonprogram staff activities, and locally developed programs which further the objectives of community action. Projects may include community organization; job development, placement, follow-up, and vocational training; direct employment; day care; school age education; adult education; housing services; housing development corporations; medical care; dental care; mental health care; environmental health; consumer action and financial counseling; cooperatives; emergency financial assistance; family development; youth development programs; recreation; energy; narcotics addiction and alcoholism. Technical assistance is also available to communities in developing, conducting and administering programs under Title II and for training for specialists or other personnel which are needed with those programs.

Applicant Eligibility: A CAA must be designated by the State, a political subdivision of the State, or a combination of such political subdivisions or Indian tribal governments.

Beneficiary Eligibility: Low income families and individuals of all ages (as defined by CSA poverty guidelines), in urban and rural areas.

Formula and Matching: Limitations on Assistance: Section 225(c); 714(a)(1); and 803(b). The matching requirements in the law vary somewhat from section to section and may be waived by the Director. They are as follows: Section 221, Local Initiative Program and Section 222, Special Programs and Assistance include programs mentioned above under Uses and Use Restrictions. Section 225(c) limits the financial assistance provided for these programs to 80 percent of the total program or activity; 20 percent of the program shall be contributed by non-Federal sources.

Title VII of the Act is Community Economic Development and its purpose is to encourage the development of special programs by which the residents of urban and rural low income areas may, through self-help and mobilization of the community-at-large, improve the quality of their economic and social participation in community life. This contributes to the elimination of poverty and the establishment of permanent economic and social benefits. Section 714(a)(1) limits financial assistance to 90 percent of the cash of any program funded under Title VII, including costs of administration; 10 percent of the program shall be contributed by non-Federal sources.

Title VIII: The purpose of this title is to promote the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives. Section 803(b) of this title limits financial assistance extended to any agency to 80 percent of the approved costs of the program; 20 percent of the program be contributed by non-Federal sources.

Other Tests: The auditor should determine the following: 1. *General Prohibitions:* Section 244 and 611.

Sec. 244(1) Funds awarded under this title or matching non-Federal funds may not be used to pay allowances for an individual's attendance at meetings of any community action agency governing board, neighborhood council or committee, if the individual is a Federal, State or local government employee, or an employee of a community action agency, or for payment of an allowance to any individual for attendance at more than two meetings a month.

Sec. 244(5) No financial assistance shall go to elementary or secondary education, except for special, remedial, and other noncurricular assistance.

2. *Salary:* Sections 244(2); 602(b)(1); 610(a); 610(b) Except where approved by Director:

Sec. 244(2) No employee will be compensated in excess of $18,000 per annum. Any amount in excess shall not be considered in determining the non-Federal contributions.

V. 45 AUG 18 1980 UMI

Sec. 602(b)(1) May employ experts for 100 days in any fiscal year not in excess of $100 per diem, including travel time; and travel expenses (including per diem in lieu of subsistance) (contracts may be renewed annually).

Sec. 603(b)(c): This section prohibits programs funded under this Act to use any funds and services or to employ or assign personnel for the purpose of engaging in political activities.

Sec. 610(a)(b): (a) Persons employed under title II (except as provided in section 602) shall not receive compensation (1) in excess of the average compensation paid in the area, or paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment whichever is higher or (2) less than the minimum wage rate prescribed by DOL. The grantee is required to perform a comparability study and sign certifications for inclusion in applications for funding or refunding, and must maintain documentation of methods used to determine wage and salary comparability. (b) No person whose compensation exceeds $8,000 per annum shall receive compensation 20 percent higher than the last job held. Grantee is required to maintain prior salary information in employees' personnel folders.

3. *Administrative Cost Limitation:* Section 244(7) Except where approved by Director: Sec. 244(7) Administrative costs are limited to 15 percent, including non-Federal contributions. In certain cases, the Director may set the limit lower.

4. *Special:* Section 302(a); 305.

Sec. 302(a) Loans may be made for 15 years not resulting in indebteness of more than $3,500 to elderly and rural persons to: 1. Acquire or improve real estate or reduce encumbrances or erect improvements thereon;

2. Operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

3. Participate in cooperative association; and/or to finance nonagricultural enterprises which will enable such families to supplement their income.

Sec. (305) Assurances for the above loans: 1. There is reasonable assurance of repayment;

2. Credit is not available on reasonable terms from other sources;

3. Total funds are adequate for project completion;

4. Bears interest at a rate determined by the Treasury, plus program costs;

5. Section 303 loans don't exceed thirty years; and

6. No financial or other assistance shall be provided any cooperation or cooperative organization for the production of agricultural commodities or for manufacturing purposes: Provided, that

a. Packing, canning, cooking, freezing, or other processing used in preparing or marketing edible farm products, including dairy products, shall not be regarded as manufacturing merely by resulting in the creation of a new or different substance; and

b. A cooperative organization formed of members of an Indian tribe (including any tribe with whom the special Federal relationship has been terminated) engaged in the production of agricultural commodities, or in manufacturing products, on an Indian reservation (or former reservation) shall not be regarded as a cooperative organization.

Environmental Protection Agency

***66.418 Construction Grants for Wastewater Treatment Works

Authorization: Clean Water Act, as amended, Sections 101(e), 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 217, 304(d)(3), 313, 501, 502, 511, and 516(b); Pub. L. 95–217; 33 U.S.C. 1251 et seq.

Objectives: To assist and serve as an incentive in construction of municipal sewage treatment works which are required to meet State and Federal water quality standards.

Major Compliance Features

Uses and Use Restrictions: For construction of municipal wastewater treatment works including privately owned individual treatment systems, if a municipality applies on behalf of a number of such systems. Such works may serve all or portions of individual communities, metropolitan areas, or regions. A project may include, but may not be limited to, treatment of industrial wastes. Grantee must require pretreatment of any industrial wastes which would otherwise be detrimental to efficient operation and maintenance, or grantee must prevent the entry of such waste into the treatment plant. The grantee must initiate an acceptable system of user charges, and recover from industry capital costs associated with the treatment of industrial wastes. (ICR payments have been suspended until December 1, 1979.)

Applicant Eligibility: Any municipality, intermunicipal agency, State, or interstate agency having jurisdiction over waste disposal. This program is available to each State, territory and possession of the U.S., including the District of Columbia.

Formula and Matching Requirements: 75 percent of the cost of a treatment works. After September 30, 1978, Step 2 and 3 projects that incorporate innovative or alternative technologies up to 85 percent of eligible costs. In addition, if the innovative project fails, then 100 percent of the modification or replacement costs can be reimbursed (see definition of steps below).

Other Tests: These features issue from Pub. L.: Pub. L. 84–660 and Pub. L. 92–500

An audit must include a review of the records of contracts under grants, for which the EPA maintains cognizance. Ascertain whether an audit was conducted at the contractor's site. EPA will continue to make audits of contracts made under grants. State auditors should rely on these audits to the extent possible.

A. *Definitions.* 1. Construction grants are usually obligated in three stages (steps) of project development: 1. facility plans and related elements, 2. preparation of construction drawings and specifications, 3. fabrication and building of treatment works.

2. Eligible Costs: Federal participation is authorized pursuant to statutes. For wastewater treatment works, EPA reviews and approves the engineering plans and specifications and determines the portion eligible.

3. Subagreements: A written agreement between an EPA grantee and another party (not a public agency) and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project. These agreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

B. *Pub. L. 84–660 Grants.* 1. Percentage of Federal Participation: Up to 55 percent of eligible project costs.

C. *Pub. L. 92–500 Grants.* 1. Program Requirements: Determine that the following requirements were met:

a. *User Charge Systems (UCS)* For Step 3 awards after March 1, 1973, determine whether the grantee has developed a UCS. With the Regional Administrator's (RA) approval, a grantee may utilize an ad valorem tax system in lieu of a UCS based on actual use. The auditor need not concern himself with the requirements for developing a UCS. However, the auditor should report on the status of UCS development.

b. *Industrial Cost Recovery (ICR)* For Step 2 and 3 grants awarded after March 1, 1973, determine whether: (1) The grantee has indicated to the RA that it has no industrial users. The auditor should be alert for information to the contrary during the audit.

(2) The grantee has obtained letters from "significant" industrial users agreeing to pay under the ICR system.

Note.—For final audits of construction grants which have ICR systems, the auditor should ensure that the system proposed by the grantee has been approved by the RA. The auditor should state in his report the extent to which he has not audited the ICR system but that the system is subject to audit at a later date.

c. *Operation and Maintenance (O&M) Manual.* The facility must have an approved O&M Manual.

d. *Sewer Use Ordinance.* The grantee must develop, and obtain approval for, the sewer use ordinances.

D. *Items Applicable to both Pub. L. 84–660 and Pub. L. 92–500 Grants*

Retainages: The grantee has the option of withholding a portion of each progress payment or accepting a financial instrument in lieu of the cash retainage.

If the grantee elects to retain a portion of the amount due a construction contractor: 1. The compliance requirements for the grantee are: a. Up to ten percent may be withheld when work is less than 50 percent complete;

b. retainage can be reduced to five percent when more than 50 percent complete;

c. When the work is substantially completed, retainages can be further reduced;

d. A grantee may not claim retainages in its outlay report; and

e. When a grantee delays disbursement of grant funds to a contractor, it will be required to credit to the United States all interest earned on those funds.

2. The auditor should ensure that: a. Retainages are not included as expenditures in the outlay reports submitted to EPA;

b. Where retainages are claimed as expenditures, costs are questioned to the extent of the retainage plus interest attributable to the retainage; and

c. The interest recouped is the amount actually earned if higher than the prime rate. In no event shall the interest be calculated at a rate less than the prime rate for the term improperly claimed.

Department of Energy

***81.042 Weatherization Assistance Program for Low-Income Persons

Authorization: Title IV, Part A of the Energy Conservation and Production Act, Pub. L. 94–385; 42 U.S.C. 6861–6870; Department of Energy Organization Act, 42 U.S.C. 7101; Pub. L. 95–91; Title II, Part 2 of the National Energy Conservation Policy Act, Pub. L. 95–619 (92 Stat. 3207).

Objectives: To insulate the dwellings of low-income persons, particularly the elderly and handicapped low-income, in order to conserve needed energy and to aid those persons least able to afford higher utility costs.

Major Compliance Features

Uses and Use Restrictions: Improvement of the thermal efficiency of dwellings by the installation of weatherization materials such as ceiling insulation, caulking, weather-stripping and storm windows, and furnace efficiency modifications. Thirty percent of each grant may be used for such program support costs as tools and equipment, transportation of tools, materials and workers to the job site, and on-site supervisory personnel. Up to 10 percent of each grant may be spent for administrative expenses (5 percent for the grantee and 5 percent for the subgrantee).

Applicant Eligibility: States, including the District of Columbia, and in certain instances, Native American tribal organizations. In the event a State does not apply, a unit of general purpose local government, or Community Action Agency within that State becomes eligible to apply.

Beneficiary Eligibility: All low-income households will be eligible to receive weatherization assistance. A low-income household is one whose combined income falls at or below 125 percent of the poverty level determined by the Office of Management and Budget, or the basis on which Federal, State or local cash assistance payments have been made.

***81.052 Energy Conservation Programs for Schools, Hospitals and Public Buildings

Authorization: National Energy Conservation Policy Act, Title III, Parts 1, 2, Pub. L. 95–619, 92 Stat. 3206 et seq.

Objectives: To provide grants to States, public and private non-profit schools, hospitals, units of local government, and public care institutions to identify and implement energy conservation, maintenance and operating procedures in buildings, and to acquire and install energy conservation measures to reduce energy consumption.

Major Compliance Features

Uses and Use Restrictions: Assistance may be used to conduct preliminary energy audits, energy audits, technical assistance analyses, and to acquire energy conservation measures. Assistance may not be used for buildings completed later than April 20, 1977. Funds received by grantees must be matched 50/50 and no Federal funds may be used. No item of equipment or personal property for audit or State administration costing more than $300 or for technical assistance costing over $500 may be acquired without the Department's approval. Not more than 25 percent of funds provided to States for audits may be used for administrative expense, training, development of materials for audits, preliminary energy audits, sample energy audits, and monitoring and evaluations. The balance (at least 75 percent) must be used for conducting energy audits of buildings.

Applicant Eligibility: State energy agencies are eligible to apply for financial assistance to conduct energy audits of schools, hospitals, local government buildings, and public care institutions (public and private non-profit institutions). Local governments and individual institutions are eligible for assistance to conduct technical assistance and energy conservation measures.

Beneficiary Eligibility: Schools, hospitals, buildings of local governments, and public care institutions.

Formula and Matching Requirements: Funds granted to States, local governments and individual institutions must be matched 50/50, all from non-Federal funds. Grantees may use in-kind contributions to make up all or part of that match.

Department of the Treasury

***21.000 Revenue Sharing

Authorization: Title I State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512 amended) and Title II Public Works Employment Act for 1976 (Pub. L. 94–369 amended).

Objectives: State and locan fiscal assistance of a general nature.

This is an entitlement program not subject to the standard application and award process. For this reason the auditor may find the agency regulations of some assistance during the audit. The citation is 31 CFR 51.0.

Major Compliance features

Financial Audit. Only recipient governments receiving $25,000 or more in annual entitlement payments must have an independent audit of their financial statements (all funds).

Compliance Audit. a. Determine that the recipient has established a separate trust fund or bank account (Section 51.100(a)).

b. Determine if any revenue sharing funds have not been appropriated, obligated or spent within 24 months after the end of the entitlement period or the date to which an extension has been granted by ORS. (Section 51.100b)

c. Determine if the recipient has observed the same laws and procedures for revenue sharing expenditures that are applicable to its own revenues (Section 51.100(c)).

d. If funds were spend for debt redemption after January 1, 1972, use professional judgment in determining if the grantee complied with subparts D and E of the Regulations.

e. While performing the other "Davis Bacon tests" at the front of this document, determine if individuals employed by the recipient, in jobs financed by revenue sharing funds, have been paid wages no lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer.

f. Determine if Native American recipients spend funds only for the benefit of members of the tribe or village residents in the county area from which the funds were allocated (Section 51.43).

g. Determine that accounts have been maintained in a manner that permits the tracing of entitlement funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the Act and regulations (Section 51.100(d)(2)). Where expenditures either recorded in a separate set of fund accounts or deposited in a separate bank account are subsequently transferred to another fund for expenditure, a memorandum record must be kept of the voucher numbers and amount of expenditures made from the fund to which the transfer is made.

h. Determine that the recipient's accounts have been maintained in a manner sufficient to permit preparation of reports as required by the Director of ORS.

i. Publication of Reports and Public Hearings (Subsection B): 1. Compare figures in the Use Report (Section 51.12(a)) to audited figures. These figures are reported to Census in its "Survey of Government Finances." If revenue sharing funds have been transferred from the Revenue Sharing Trust Fund to another fund for expenditure, review the amounts of the transfer and the totals, by categories, of expenditures of revenue sharing funds made from the fund to which the transfer was made. Report any material differences.

(a) Determine that a notice has been published in a newspaper of general circulation after filing the "Use Report" with census to advise that the report is available for public inspection. To prove newspaper publication, inspect certification of publication, or newspaper clippings. If an alternative publication method has been used, ascertain that a waiver has been obtained from ORS (Section 51.13(c)(2)).

2. Determine that a public hearing (proposed use hearing) has been held on possible use of entitlement funds at least 7 days before the budget is presented to the legislative body (Section 51.13(a)).

(a) If the hearing has been waived because its cost is estimated to exceed 15% of the entitlement (Section 51.13(c)(1)), obtain detailed estimates of cost and determine that they are reasonable.

(b) Determine that a notice of the proposed use hearing was published in a newspaper at least 10 days prior to the hearing date or that an alternate publication method was used (Section 51.13(b)).

3. Determine that a public hearing (budget hearing) has been held prior to enactment of the budget (Section 51.14(a)).

(a) Determine that notice of the hearing was published in a newspaper of general circulation or by alternative means, at least 10 days prior to the hearing date (Section 51.14(b)), or within the time limit prescribed by the State or local law applicable to the recipient (Section 51.14(d)). This notice must include the intended uses of entitlement funds and a summary of the entire proposed budget.

4. Determine that a notice has been published in a newspaper of general circulation or by alternative means stating that a summary of the enacted budget is available for public inspection within 30 days of its enactment (Section 51.14(g)).

5. If the recipient chooses to use budget hearing procedures prescribed by State or local law as an alternative to the regulations, review those procedures to determine that they provide citizens with the opportunity to present oral and written comments and to ask questions concerning the proposed use of funds (Section 51.14(b)(1)).

6. If State or local laws requiring hearings (as outlined above) do not apply to amendments or modifications of budgets, and such changes are made affecting 25% or $1,000 of entitlement funds (whichever is greater), determine that the provisions of Sections 51.13 and 51.14 as outlined above have been followed.

j. Maintenance of Transfer Effort (Sec. 51.27) for States only, determine that the level of transfer effort has been maintained.

k. Verification of Census Data—obtain the data on census figures submitted by the local government. Reconcile with audited amounts if possible (for latest fiscal period).

l. Lobbying is prohibited under certain circumstances. If evidence of the expenditure of revenue sharing funds for lobbying not specifically permitted by ORS are disclosed, a statement to this effect showing the amount involved should be shown.

Civil Rights (Subpart E). a. If the recipient has 100 or more employees, determine if it has filed annual reports with the Equal Employment Opportunity Commission (EEOC) as required. (Form EEO–4) If the recipient has between 15 and 100 employees, determine if it has kept EEOC records. Also, inquire if the recipient has ever been required to file a report with EEOC, and if so, when. The report to EEOC must include all employees except elected officials and their immediate secretary, administrative, legislative or other first line aide, legal advisor and appointed cabinet officials of States and heads of executive departments for units of local government.

b. Determine the nature and status of any complaints filed with EEOC.

c. Determine if there is a State and/or local agency responsible for Civil Rights enforcement. If so, ascertain if there are any current complaints filed or investigations in progress. Determine the nature and status of each.

d. Determine if the recipient has an office responsible for Civil Rights enforcement internally. If so, make the same tests as in (iii) above.

e. Determine if any Civil Rights suits have been adjudicated or are pending.

f. Determine by inquiring if the recipient is required to develop an Equal Opportunity Affirmative Action Compliance Program and, if so, whether this has been done.

g. Determine, using professional judgment, if facilities financed by revenue sharing funds have been located in such a manner as to have the effect of discriminating (Section 51.52(b)(4)).

h. Ascertain if a formal policy concerning nondiscriminatory action in employment exists.

i. For property acquired with revenue sharing funds: 1. Office of Revenue Sharing shall have jurisdiction over any program or activity for ensuring compliance with the nondiscrimination provisions of the Act and of the regulations as long as a recipient retains ownership or possession of any real or personal property purchased with revenue sharing funds. Further, if the property is transferred to another party, the Office of Revenue Sharing will retain jurisdiction over the primary recipient for the purposes of compliance.

2. For purposes of CR, the term "transferred" means the passage of possession or title, or both, (except by bona-fide sale) of the property to a secondary recipient, another unit of government, another government agency within the primary recipient government, or to any other person, firm, or organization. For example, if an automobile acquired with revenue sharing funds for use in the Police Department was subsequently transferred to the Health Department, the Health Department would be likewise subject to these provisions while the vehicle was assigned to it.

3. For purposes of CR, real property, personal property and nonexpendable tangible personal property are defined the same way as property acquired by the recipient with its own funds. Many governmental units include in their definitions of property only those acquisitions costing more than a stated minimum amount. Such minimum amounts are acceptable to ORS up to $1,000.

4. Any record for property subject to CR is acceptable so long as it contains the following minimum information: date of purchase; date of disposal or date of transfer, transferee (if applicable); and location.

5. If the property is disposed of, CR will have no further applicability.

Suggested Approach:

—Determine that a record such as that previously described is maintained.

—Such property is in the same category as operating/maintenance expenses in determining whether revenue sharing funds have been used in a program in which discrimination is suspected.

j. Any determination in a. to i. above indicating a possible discriminatory action shall be shown.

Appendix I—Inspectors General [1]

Commerce—Office of the Inspector General, (202) 634–7888, Department of Commerce, 1730 K Street, NW., Suite 410, Washington, D.C. 22006; attention: Matthew Groff.

Energy—Office of the Inspector General, (202) 252–8888, Department of Energy, 1000 Independence Avenue, SW., Room 5A 179, Washington, D.C. 20585; attention: Bill Bernsdorf.

HHS—Office of the Inspector General, (202) 472–3188, Department of Health and Human Services, 5760 North HHS Building, 330 Independence Avenue, SW., Washington, D.C. 20201; attention: Frederick Lehrer.

HUD—Office of the Inspector General, (202) 755–7217, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8176, Washington, D.C. 20410; attention: Anna Virbick.

Interior—Office of the Inspector General, (703) 235–8133, Contract and Grant Operations, Department of the Interior, Room 401, 800 N. Quincy Street, Arlington, VA 22217; attention: Isak M. Danon.

Labor—Office of the Inspector General, (202) 523–8404, Department of Labor, Room S5030, 200 Constitution Avenue, NW., Washington, D.C. 20210; attention: Edward W. Stepnick.

CSA—Office of the Inspector General, (202) 254–6420, Community Services Administration, 1200 19th Street, NW., Room 473, Washington, D.C. 20506; attention: Joseph E. Kratz.

GSA—Office of the Inspector General (JA), (202) 566–1584, General Services Administration, 18th & F Streets, NW., Room 5001, Washington, D.C. 20405; attention: Paul F. Gibbons.

NASA—Office of the Inspector General, (202) 755–3555, NASA Headquarters, Washington, D.C. 20546; attention: Anthony J. Gabriel.

SBA—Office of the Inspector General, (202) 653–6613, Small Business Administration, 1441 L Street, NW., Room 203, Washington, D.C. 20416; attention: Raymond F. Randolph, Assistant IG for Audit.

VA—Office of the Inspector General (50), (202) 389–2636, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20410; attention: Allan Reynolds.

USDA—Office of the Inspector General, (202) 447–4685/5907, Department of Agriculture, Room 403E, Administration Building, 14th & Independence Avenues, SW., Washington, D.C. 20250; attention: William L. Philpot.

DOT—Office of the Inspector General, (202) 426–4172, Department of Transportation, Room 7130, 400 Seventh Street, SW., Washington, D.C. 20590; attention: William Murphy.

EPA—Office of the Inspector General, (703) 557–1485, Environmental Protection Agency, Code A–109C, Room 1007, West Tower, 401 M Street, SW., Washington, D.C. 20460; attention: Gene Fazio

Education—Office of the Inspector General, (202) 755–0733, Department of Education, Washington, D.C. 20202; attention: Carol Lynch.

Justice—Office of Audit & Investigation, (202) 492–9030, Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531; attention: Howard Hyatt.

FEMA—Assistant Inspector General for Audit, (202) 634–6791, Federal Emergency Management Administration, Premier Building, Room 714, 1725 I Street, NW., Washington, D.C. 20472; attention: L. E. Rathbun.

Treasury—Department of the Treasury, (202) 634–5915, Office of Revenue Sharing, Manager of Audit Division, 2401 E Street, NW (Columbia Plaza), Washington, D.C. 20226; attention: Glenn Funkhouser.

NSF—Audit Officer, (202) 357–7813, National Science Foundation, 1800 G Street, NW., Room 245, Washington, D.C. 20550; attention: Robert B. Boyden.

[1] In most cases, this is the Office of the Assistant Inspector General for Audit.

[FR Doc. 80-24782 Filed 8-15-80; 8:45 am]
BILLING CODE 3110-01-M

V 45 AG 18 80 UMI

V
4
5

A
G
1
8
8
0
UMI

federal register

Monday
August 18, 1980

Part VI

Department of Agriculture

Federal Grain Inspection Service

Grain Regulations and Standards; Corrections

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Parts 800, 801, 802

Grain Regulations and Standards; Final Rule; Corrections

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Corrections to final rule for grain regulations and standards.

SUMMARY: On March 11, 1980, the Federal Grain Inspection Service (Service) published final regulations and standards to implement the United States Grain Standards Act, as amended in 1976 and 1977 (45 FR 15802–15873). A subsequent review of the rules published that date disclosed a number of errors in the heading, the preamble, and the regulatory text. The Service is correcting these parts.

DATES: These corrections to the final rule become effective upon publication.

ADDRESS: Copies of corrections to the final rule will be given general distribution. Requests for additional copies should be sent to the Issuance and Coordination Staff, FGIS, USDA, Room 1127, Auditors Building, 1400 Independence Avenue SW., Washington, DC 20250

FOR FURTHER INFORMATION CONTACT: L. E. Malone, Assistant Deputy Administrator, Program Operations (Staff), FGIS, USDA, Room 1627—South Building, 1400 Independence Avenue SW., Washington, DC 20250, telephone (202) 447–9166.

SUPPLEMENTARY INFORMATION: On March 11, 1980, the Service published final rules in the **Federal Register** at 45 FR 15802–15873. There were a number of errors in the heading, the preamble (all the material in the final rule document as published in the **Federal Register** from the AGENCY line to and including the SUPPLEMENTARY INFORMATION), and the text of the final regulations as published. The errors were typographical and format mistakes. Their correction does not constitute substantive changes. Through an error the provision for the fee charge that accompanies the application for approval to operate as a scale testing organization was inadvertently omitted although notice was given for comment in the publication of the proposed regulations on March 2, 1979. Accordingly, a paragraph containing this provision is being added to § 800.71 and § 800.198. An additional correction is also being made in Section 800.71(b)(ii). In identifying persons who must pay a registration fee of $270, the term "subsidiaries" was used incorrectly. The intent was that persons who are required to register and who are also in a "control relationship" (as defined in section 17A(b)(2) of the Act; i.e., has an ownership interest of 10 percent or more) in any other business engaged in the business of buying, handling, weighing, or transporting grain for sale in interstate commerce would pay the $270 fee. Therefore, the item is being corrected to reflect this meaning. The heading (Line 3) in the table in Item 4 under Regulatory Text is being corrected because the words "Acceptance" and "Maintenance" were inadvertently transposed in the Final Rule. Concerning this correction it should be noted that the heading was presented correctly in the Proposed Rule.

Corrections in the heading are identified by page, column, and line number, and corrections in the preamble are identified by page, column, paragraph, and line number. Items 1 through 4 list corrections to the regulatory text. Corrections in the regulatory text are identified by section reference, page, column, and line number. The column number listed in the regulatory text contains the last cited subsection in which the correction can be found. Numbering for lines in the regulatory text begins with the line containing the last cited subsection. The following are corrections of the errors:

Heading

Page	Column	Line	Correction
15802	1	Between lines 1 and 2	Insert the following line "Federal Grain Inspection Service".
15802	1	2	Delete the words "Parts 26".
15802	1	4	Add the words "Regulations and" between "Grain" and "Standards" so that the line reads "Grain Regulations and Standards".

Preamble

Page	Column	Paragraph and line	Correction
15802	3	2—line 4	Change "ll" to "li".
15803	2	1 (partial)—line 14	Change "or" to "of".
15803	3	4—line 15	Change "to" to "To".
15805	2	1—line 8	Change "states" to "States".
15805	2	3—line 19	Change "means" to "mean".
15809	1	3—line 5	Change "nonretoractive" to "nonretroactive".
15810	1	5—line 12	Change "to" to "of".

Regulatory Text

Item 1. Sections are corrected as follows:

Section	Page	Column	Line	Corrections
Index	15811	3	7—Chapter Heading	Change "Certificate" to "Certificates" so that the line reads "Official Certificates".
800.0(b)	15812	1	6	Change "each" to "easy".
800.0(b)(4)	15812	1	4	Change "of" to "or".
800.0(b)(22)	15812	2	2	Change "of" to "or".
800.0(b)(33)	15812	3	3	Add the words "Federal Register" between "the" and "Act" so that the line reads "the Federal Register Act of July 26, 1935, as amended (44)".
800.0(b)(34)	15812	3	2	Change "peform" to "perform".
800.8(b)	15815	1	2	Change "service" to "Service".
800.19(a)	15816	2	18	Between the words "verification." and "In" add the sentence "The provisions for record retention are the same as those of § 800.25(g)." so that the line reads "verification. The provisions for record retention are the same as those of § 800.25(g). In addition, the exporters or".
800.40	15819	1	4	Add the symbol "§" to "800.39" so that the line reads "suspended or revoked under § 800.39 shall".
800.45(b)	15819	1	2	Add the words "and checkweighing" between "weighing" and "services" so that the line reads "Class X weighing and checkweighing services on export".
800.45(b)(2)	15819	1	2	Add the words "and checkweighing" between "weighing" and "services" so that the line reads "X weighing and checkweighing services on sacked grain".

Regulatory Text—Continued

Item 1. Sections are corrected as follows:

Section	Page	Column	Line	Corrections
800.46(c)(5)	15820	1	1	Change "addreses" to "addresses".
800.70(f)(2)	15822	3	3	Change "will" to "with".
800.71(a)	15822			In the heading in the third column of table 1 in schedule A change "or" to "and" and after the word "inspection" add the word "service" so that the heading reads "Reinspection and appeal inspection service".
800.71(a), footnote 10	15823		1	Delete the words "or supervision".
800.71(b)(ii)	15824	1	7	Delete the words "have subsidiaries engaged in interstate or foreign commerce grain business." and substitute the words "are in a control relationship, as defined in section 17A(b)(2) of the Act, with respect to a business engaged in the business of buying, handling, weighing, or transporting grain for sale in interstate commerce."
800.71(c)	15824	1	Immediately after line 4	Add paragraph (d) which reads "(d) Each application for approval to operate as a scale testing organization shall be accompanied by a fee of $250."
800.72(a)	15824	1	9	Change "(3)" to "(4)" and add the number "(3)" between "costs;" and "the" so that the line reads "costs; (3) the cost of overtime; and (4)".
800.80(a)(4)	15826	2	7	Add the word "the" between "in" and "instructions" so that the line reads "size will be prescribed in the instructions. If".
800.80(c)	15826	2	4	Add the word "or" after "stamped" so that the line reads "service shall be promptly stamped or".
800.81(a)	15826	3	8	Change "protection" to "protected".
800.81(a)(3)	15826	3	18	Change "sample" to "sample(a)".
800.81(d)	15827	1	9	Change "filed" to "field".
800.85(g)	15830	1	1	Change "*uniform*" to "*uniform*".
800.85(h)(1)	15830	1	5	Change "quality" to "quality".
800.85(h)(4)	15830	1	15	Change "inpsection" to "inspection".
800.85(h)(5)	15830	2	25	Change "certifiate" to "certificate".
800.86(b)	15830	3	5	Change "quantiy" to "quantity".
800.86(e)(1)	15830	3	31	Change "beeen" to "been".
800.95(a)(1)	15831	3	7	Change "described" to "prescribed".
800.115(b)(3)	15835	1	5	Change "of" to "or".
800.130(a)(1)	15837	1	5	Change "(c)(1)" to "(b)(1)".
800.130(b)(2)	15837	2	13	Change "(c)(1)" to "(b)(1)".
800.140(a)(1)	15839	1	5	Change "(c)(1)" to "(b)(1)".
800.140(b)(1)	15839	1	15	Change ")" immediately following the word "service" to a closing quotation mark. Ad the symbol ")" between "inspection" and "service" so that the line reads "appeal inspection) service"; or (ii)".
800.140(b)(1)	15839	1	21	Delete ")" immediately after the word "appeal". Add the symbol ")" between "inspection" and "service" so that the line reads "appeal inspection) service."
800.140(b)(2)	15839	2	15	Change "(c)(1)" to "(b)(1)".
800.146(a)	15840	1	19	Delete duplicate line 19 "Fee schedules . . . 5 years after last use".
800.161(d)(1)	15845	2	10–17	See item 2.
800.185(h)	15851	1	8	Change "of" to "on".
800.187(e)(3)	15852	2	6	Add the word "a" between "for" and "license" so that the line reads "subject (i) and applicant for a license to a".
800.196(e)(1)(i)	15853	2	11	Change "dispostion" to "dispoition".
800.196(e)(3)(i)	15853	3	12	Change "of" to "or".
800.198(c)	15854	2	Immediately after line 31	Add the following paragraph: "Each application for approval to operate as a scale testing organization shall be accompanied by the fee specified by the Service."
800.207(e)(1)	15857	2	4	Add the word "port" between "export" and "location" so that the line reads "export port location in the area shall be".
800.208(d)	15857	3	6	Add the word "prohibited" between "actions" and "by" so that the line reads "of actions prohibited by §§ 800.185 through 800.198."
800.208(1)	15858	2	1	Change "(1)" to "(i)".
800.216(f)	15859	2	3	Delete the words "to be".
801.7	15861	1	Heading of table (b)	Change "all" to "All" and add the word "BAR" between "than" and "master" so that the line reads "(b) All other than BAR Master/Standard meters".
801.9(c)	15861	2		See item 3.
802.1(b)(14)	15862	3	1	Change "*Damping*" to "*Dampening*".
802.10(b)	15868	3	3–22	See item 4.
802.13(b)	15871	2	2	Change "*accurancy*" to "*accuracy*".

Item 2. The table in § 800.161(d) is recaste as to format only as follows:

§ 800.161 Official certificate requirements.

* * * * * * * * *

(d) *Format and color requirements for certificates.* (1) *General* * * *

Caption on certificate	Color of original certificate	Color of copy
Official Certificate—Warehouseman's Sample—Lot Inspection	Yellow	Yellow.
Official Certificate—Submitted Sample Inspection	Pink	Pink.
Official Supervision of Grain Weight Certificate	Yellow	Yellow.

* * * * * * * * *

Item 3. Change "51/2/64" to "5½/64" in the third line listed in the table in § 801.9(c) so that it reads as follows:

§ 801.9 Minimum tolerance for sieve devices.

* * * * *

(c) Sieving accuracy:

Sieve description	Minimum tolerance [1]	
	Direct comparison	Sample exchange
.084 × ¾ inch oblong	±0.2	±0.3
5/64 × ¾ inch slotted	±0.3	±0.5
5½/64 × ¾ inch slotted	±0.5	±0.7
6/64 × ¾ inch slotted	±0.7	±1.0

[1] Mean deviation from standard—percent.

Item 4. In the table in § 802.10(b), change the heading of the first column from "Types of scale" to "Type of scale"; add "0" preceding all decimal points of percentages listed in items 1–4 of the second and third columns; change "Acceptance" to "Maintenance" and "Maintenance" to "Acceptance" in the heading, line 3; add "is" between "whichever" and "greater" in the third column, line 13; delete dotted line in the second column, line 20 opposite the word "Portable"; and delete all of the solid line, line 22, immediately after the word "platform" so the table will read as follows:

§ 802.10(b) Tolerances and sensitivity requirements.

* * * * *

(b) *Tolerance values.* * * *

Type of scale	Maintenance tolerance	Acceptance tolerance
(1) Hopper scale	0.05 pct × the applied test load or the minimum tolerance value, whichever is greater.	0.05 pct × the applied test load or the minimum tolerance value, whichever is greater.
(2) Motor vehicle scale	0.1 pct × the applied test load or the minimum tolerance value, whichever is greater.	0.05 pct × the applied test load or the minimum tolerance value, whichever is greater.
(3) Railroad track scale	0.1 pct × the applied test load or the minimum tolerance value, whichever is greater.	0.05 pct × the applied test load or the minimum tolerance value, whichever is greater.
(4) Portable platform:		

Test load		Maintenance tolerances expressed—		Acceptance tolerances expressed—	
From—	To but not including—	In ounces	In pounds	In ounces	In pounds
Pounds:					
1	2	1/16	0.004	1/32	0.002
2	4	1/8	.008	1/16	.004
4	7	3/16	.012	3/32	.006
7	10	1/4	.016	1/8	.008
10	15	5/16	.020	5/32	.010
15	20	3/8	.023	3/16	.012
20	30	1/2	.031	1/4	.016
30	40	5/8	.039	5/16	.020
40	50	3/4	.047	3/8	.023
50	75	1	.062	1/2	.031
75	100	1½	.094	3/4	.047
100	150	2	.125	1	.062
150	200	3	.188	1½	.094
200	300	4	.250	2	.125
300	400	6	.375	3	.188
400	600	8	.500	4	.250
600	900	12	.750	6	.375
900	1,000	14	.875	7	.438
[1]	[1]	[2]	[2]	[3]	[3]

[1] 1,000 and over.
[2] 0.1 percent of test load.
[3] 0.05 percent of test load.

* * * * * * * *

(39 Stat. 482, as amended; Pub. L. 90–487, 82 Stat. 761; Pub. L. 94–582, 90 Stat. 2867; Pub. L. 95–113, 91 Stat. 1024 (7 U.S.C. 71 et. seq))

Done in Washington, D.C., August 12, 1980.

L. E. Bartelt,
Administrator.

[FR Doc. 80-24866 Filed 8-15-80; 8:45 am]
BILLING CODE 3410-02-M

federal register

Monday
August 18, 1980

Part VII

Department of Health and Human Services

Public Health Service

Health Maintenance Organizations; Federal Financial Assistance General

V 45 A G 18 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations; Federal Financial Assistance: General

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This document amends the general requirements for the award of grants, loans and loan guarantees to public and private entities under Title XIII of the Public Health Service Act (the Act). It sets forth (1) a condition that the Secretary may impose with respect to the approval of any application for a feasibility study or for a project for the planning or initial development of a health maintenance organization (HMO), and (2) a number of technical revisions to conform these regulations with the Department's grant administration requirements of 45 CFR Part 74.

EFFECTIVE DATE: These amendments are effective on August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: On July 18, 1979, final regulations were published in the **Federal Register** (44 FR 42074-9) to amend 42 CFR Part 110, Subpart B. Subpart B sets forth general provisions which apply to Federal financial assistance for the development and operation of HMOs. In the preamble to the July 18 regulations, the Secretary of Health and Human Services (HHS; at that time, Health, Education, and Welfare) also invited comments on a proposal to add a requirement that for awards made under sections 1303 and 1304 of the Act (feasibility studies and planning and initial development projects), one element of an approvable application would be that the project director be approved by the Secretary. Interested persons were invited to submit written comments on this proposed amendment by September 17, 1979. Five organizations submitted comments.

One commenter opposed the proposal on the ground that it "inappropriately usurps a legitimate prerogative of an applicant organization to select, and to change the person who will act as project director." A second commenter expressed concern that imposition of this requirement would result in delays in appointing project directors. The other three commenters supported the proposal that the Secretary have the right to approve the project director.

As to the ability to select and replace the project director, the Department has decided to amend 42 CFR 110.206 (now § 110.205) by adding a new paragraph (b), stating that, with respect to feasibility, planning and initial development activities funded under Title XIII of the Act, the Secretary may reserve the right to approve the project director. Thus, the rule does not require that every project director be approved by the Secretary. Rather, the rule gives the Secretary the authority to reserve, as to any particular applicant, the right to approve the project director. Accordingly, the Department emphasizes that entities assisted under sections 1303 and 1304 of the Act will still be able both to select and to replace the project director, subject in certain cases to the Secretary's right to approve the selection or replacement.

As to the potential for delay, the Department anticipates that it should be able, in most cases, to exercise its right of approval as part of the normal process of reviewing the application for assistance. In any event, the Department notes its experience that the competence of the project director is one of the major factors in determining whether a project is accomplished successfully. Thus, it believes that, in those cases where the Secretary has reserved the right to approve the project director, the importance of ensuring that the entity has a competent project director outweighs any potential administrative inconvenience.

Several technical revisions have also been made in these regulations to conform with the Department's grant administration regulations at 45 CFR Part 74. These changes are:

1. Deletion of § 110.205, "What records must be maintained and what reports must be submitted?". This section duplicates provisions in 45 CFR Part 74 which applies to grants funded under this part. As to loans and loan guarantees, these provisions are contained in the applicable loan documents. Accordingly, § 110.206 is renumbered as § 110.205.

2. Deletion of § 110.207, "What are the government's rights with respect to data developed during the term of Federal financial assistance?". This section also duplicates provisions in 45 CFR Part 74. As to loans and loan guarantees, the Department has determined that, in general, it is not appropriate to impose the requirements with respect to data developed during the term of Federal financial assistance. Accordingly, § 110.208 is renumbered as § 110.206.

3. Section 110.209 (now § 110.207) sets forth the other HHS regulations that are applicable to grants and those that are applicable to loans and loan guarantees awarded under this part. It is revised to clarify that the references to other applicable HHS regulations are not intended to be an exclusive list of what other regulations may apply to recipients of awards under this Part. The section has also been revised to add the following to the list of HHS regulations that, among others, are applicable to awards made under this Part: (a) 42 CFR Part 50, Subpart D—Public Health Service grant appeals procedures (applicable to grants only), (b) 45 CFR Part 81—Practice and procedures for hearings under Part 80, and (c) 45 CFR Part 90—Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance from HHS.

4. A new § 110.208 is added to set forth clearly the purposes for which grant funds awarded under this Part may be used.

5. Section 110.210 (now § 110.209) is now entitled, "What is the effect of a grantee's failure to become or remain a qualified HMO?" It is also corrected to bring it into conformity with grant administration regulations at 45 CFR Part 74 which relate to the accountability of grantees.

6. Section 110.211 (now § 110.210) is revised to provide clear guidance to grantees and recipients of loans and loan guarantees as to the obligation of the Federal Government to make additional awards.

7. Section 110.212 is renumbered as § 110.211.

(Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17))

Dated: June 11, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

42 CFR Part 110, Subpart B, is revised as follows:

§ 110.205 [Deleted]

(1) Delete § 110.205.

§ 110.206 [Renumbered as § 110.205 and Amended]

(2) Section 110.206 is renumbered § 110.205 with existing text designated paragraph (a) and new paragraph (b) is added as follows: "(b) In approving any application under Section 1303 or 1304 of the Act for feasibility, planning, or initial development, the Secretary may reserve the right to approve the project director."

§ 110.207 [Deleted]

(3) Delete § 110.207.

§ 110.208 [Renumbered as § 110.206]

(4) Section 110.208 is renumbered as § 110.206.

(5) Section 110.209 is renumbered as § 110.207 and is revised to read:

§ 110.207 What other HHS regulations apply?

(a) Several other HHS regulations apply to grants under this Part. These include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure.
45 CFR Part 16—Department grant appeals process.
45 CFR Part 74—Administration of grants.
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and procedure for hearings under Part 80.
45 CFR Part 84—Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR Part 90—Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance from HHS.

(b) Several other HHS regulations apply to loans and loan guarantees under this Part. These include, but are not limited to:

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and procedure for hearings under Part 80.
45 CFR Part 84—Nondiscrimination on the basis of handicap in federally assisted programs.
45 CFR Part 90—Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance from HHS.

(6) A new § 110.208 is added as follows:

§ 110.208 For what purposes may grant funds be used?

A grantee may spend funds it receives under this Part only according to the approved application and budget, Title XIII of the Act, the terms and conditions of the grant award, the applicable cost principles specified in Subpart Q of 45 CFR Part 74, and the regulations of this Part.

(7) Section 110.210 is renumbered to § 110.209 and is revised to read as follows:

§ 110.209 What is the effect of a grantee's failure to become or to remain a qualified HMO?

The failure of a grantee to become a qualified HMO in accordance with Subpart F of this Part, or to remain a qualified HMO, is a material failure to comply with the terms of the grant. Upon this failure, the subsequent use and disposition of any property acquired with grant funds will be governed by 45 CFR Part 74.

(a) If the grant project period has not yet expired, this failure is grounds for termination of the grant under 45 CFR Part 74.115(a).

(b) If the grant period has expired, property acquired with grant funds will be deemed, under 45 CFR Part 74, Subpart O, to be no longer needed for the program or project for which it was acquired.

(8) Section 110.211 is renumbered § 110.210 and is revised to read as follows:

§ 110.210 What obligation does the Federal Government have to continue support for an approved project?

(a) The notice of award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. For feasibility grants under Subpart C and planning grants and loan guarantees under Subpart D, this period, called the project period, will usually be for, and cannot exceed, one year. For initial development grants and loan guarantees under Subpart D, the project period will usually be for 1-3 years and cannot exceed three years.

(b) Generally, the initial development grant or loan guarantee will be for one year initially and subsequent continuation awards will also generally be for one year at a time. Although the project period for a feasibility grant and for a planning grant or loan guarantee is limited to one year, the Secretary may either make one additional grant or loan guarantee for such a project or permit additional time (up to one year) for completion of the project. A grantee or a recipient of a loan guarantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the assistance level of such awards will be made after consideration of such factors as the progress and management practices of the grantee or recipient of the loan guarantee, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued assistance is in the best interest of the Federal government.

(c) Neither the approval of any application nor the making of an award commits or obligates the Federal government in any way to make an additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 110.212 [Renumbered as § 110.211]

(9) Section 110.212 is renumbered as § 110.211.

[FR Doc. 80-24837 Filed 8-15-80; 8:45 am]
BILLING CODE 4110-85-M

V
4
5

A
G
1
8
8
0
UMI

federal register

Monday
August 18, 1980

Part VIII

Department of the Interior

Geological Survey

Final Revision of Certain Requirements of Outer Continental Shelf (OCS) Orders Nos. 1, 2, 5, and 7

DEPARTMENT OF THE INTERIOR

Geological Survey

Final Revision of Certain Requirements of Outer Continental Shelf (OCS) Orders Nos. 1, 2, 5, and 7

Notice is hereby given that, pursuant to Title 30 of the Code of Federal Regulations, Part 250.10 and Part 250.11 (30 CFR 250.10 and 250.11), and the U.S. Geological Survey (USGS) Director's Delegation of Authority, as published in the **Federal Register**, Volume 45, No. 52, on March 14, 1980, the Deputy Chief, Conservation Division—Offshore Minerals Regulation, has approved the issuance of revisions to the Outer Continental Shelf (OCS) Orders Nos. 1, 2, 5, and 7 for the following OCS Areas: Gulf of Mexico, Pacific, Gulf of Alaska, and Atlantic.

These revisions to the OCS Orders will be effective September 15, 1980. The revised paragraphs and subparagraphs of these Orders supercede the corresponding paragraphs and subparagraphs currently in effect for the OCS Areas listed above, which were published in the **Federal Register**, Volume 44, No. 247, on December 21, 1979.

These revisions incorporate appropriate suggestions which were received in response to a solicitation for comments which was published in the **Federal Register**, Volume 45, No. 71, on April 10, 1980. They also incorporate appropriate suggestions which were received at a public meeting at the USGS National Center in Reston, Virginia, on May 20, 1980.

In accordance with the USGS Director's Delegation of Authority, which was published in the **Federal Register**, Volume 45, No. 52, on March 14, 1980, the change of the title of the position of the "Oil and Gas Supervisor" to "Deputy Conservation Manager" has been incorporated as well as the redelegation of the authority of the "Chief, Conservation Division," to the "Deputy Chief, Conservation Division—Offshore Minerals Regulation," for the approval of the Orders. The new titles of these positions and approval authority are effective throughout all of the OCS Orders. These title changes will be incorporated into the booklet copies of the remainder of the OCS Orders when the next edition of the booklet is issued.

These revisions will also be incorporated into the final Arctic OCS Orders when published. The proposed Arctic OCS Orders were published in the **Federal Register**, Part 5, Volume 44, No. 115, on June 13, 1979.

Comments were received from the following organizations: Alaska Oil and Gas Association, Amoco Production Company, Arco Oil and Gas Company, Cameron Iron Works, Inc., Chevron U.S.A., Inc., Conoco, Inc., Environmental Protection Agency, Exxon Company, U.S.A., Gulf Oil Exploration and Production Company, Huthnance Drilling Company, National Oceanic and Atmospheric Administration, Ocean Drilling and Exploratioin Company, Offshore Operators Committee, Otis Engineering Corporation, Shell Oil Company, Zapata Corporation.

Summaries of the comments received, discussions for accepting or rejecting the suggestions of the commenters, and the final revisions of the Orders are published below. The requirements of certain paragraphs and subparagraphs are different for the various Areas due to environmental, geological, geophysical, or geographical differences. The Areas which are affected by these varying requirements are identified following the headings for each of the final revisions of the Orders. Revised insert pages of the final revisions, suitable for placement in the booklet copies of the Orders for each Area, can be obtained from the addresses listed below.

The primary author of this document is Mr. Lloyd M. Tracey, Chief, OCS Orders and Standards Section, Branch of Offshore Rules and Procedures, Conservation Division, U.S. Geological Survey, Mail Stop 640, Reston, Virginia 22092 (703–860–7835). Reprints of this Notice and copies of the revised insert pages can be obtained after September 15, 1980, from the following:

Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, P.O. Box 7944, Metairie, Louisiana 70011.
Conservation Manager, Atlantic OCS Region, U.S. Geological Survey, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006.
Conservation Manager, Alaska OCS Region, U.S. Geological Survey, P.O. Box 259, Anchorage, Alaska 99510.
Conservation Manager, Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Los Angeles, California 90017.
Deputy Chief, Conservation Division—Offshore Minerals Regulation, U.S. Geological Survey, Mail Stop 640, National Center, Reston, Virginia 22092.

Dated: August 13, 1980.

Robert L. Rioux,
Deputy Chief, Conservation Division—Offshore Minerals Regulation, Conservation Division.

OCS Order No. 1

Paragraph 4, *Identification of Subsea Objects*

Comments. The U.S. Coast Guard and others have expressed concern that excessive reports are being filed because the currently effective Order does not place any limitations on the objects which are to be reported.

Discussion. The USGS proposes to revise paragraph 4 of OCS Order No. 1 as set forth below. The U.S. Coast Guard will forward all reports disclosing potential obstructions to the National Marine Fisheries Service for appropriate inclusion on the list of obstructions to fishing devices which is published in the Weekly Notice to Mariners by the Defense Mapping Agency Hydrographic/Topographic Center. The Notice to Mariners will be distributed to all USGS District Supervisors. This publication is available from: DMAOOS, Code IMA, 650 Brookes Lane, Washington, D.C. 20315.

The U.S. Coast Guard also intends to publish a Notice which will outline the method of position fixing.

Comments. There was a wide divergence of opinion on the proposed revision of this paragraph. One commenter agreed with the proposed revision; another contended that the 40-pound limitation on the reporting of objects was too low; and another contended that this limitation was too high. The first commenter stated that "* * * a 6" ANSI 600 series weld neck flange weights 73 lbs., and an 8" ANSI 600 series flange weights 112 lbs. and these would not be considered an obstruction." This commenter suggested that the limitation should be 120 pounds or less. Another commenter suggested the limitation should be 150 pounds. The opposing view maintains that 55-gallon drums are a major cause of net damage. It was contended that "* * * platform workers knock holes in the drums and throw them into the Gulf rather than return them to the shore. The drums weigh less than 40 pounds empty, but on the sea floor filled with mud they weigh half a ton or more. Often they rip through the net wings or through the bottom of the net causing the loss of a catch."

This commenter also contended that batteries and diesel fuel filters would also weigh less than 40 pounds, and these items have caused damage to fishing nets.

Discussion. The 40-pound weight limitation was selected because the USGS determined that a 55-gallon steel drum without a top weighs approximately 42 pounds. Therefore, any 55-gallon steel drum lost, with or without a top, would be required to be reported. The disposal of material such as containers, batteries, and diesel fuel filters is prohibited by OCS Order No. 7, subparagraphs 1.2, *Solid Material Disposal*, 1.2.2, *Containers*, and 1.2.3, *Equipment*. Engine starting batteries weigh 45 to 55 pounds and, therefore, would be a reportable item. It would appear that the 40-pound weight limitation is reasonable.

Comments. It was suggested that subparagraph 4.b should be revised to separate the weight limitation from the configuration limitation. It was contended that the configuration limitation should be treated alone since it alone provides sufficient reason for exclusion.

Discussion. The USGS disagrees with this contention. The intent was to require the reporting of light bulky items which would damage fishing nets regardless of weight.

Comments. It was suggested that a new subparagraph 4.d should be added to the Order as follows:

"d. Are located within 150 feet of fixed structures on which approved aids to navigation are maintained."

It was contended that prudent fishermen would maintain this distance for safety.

Discussion. The USGS agrees with the intent of this suggestion and has revised the subparagraph to include a new subparagraph 4.c as follows:

"c. Are determined to be located on the seafloor within 46 meters (150 feet) of fixed structures on which approved aids to navigation are maintained."

The phrase "determined to be located on the seafloor" was added because an accidentally dropped object may roll or be carried by currents more than 150 feet from the structure and, therefore, could present a hazard to fishing gear. Paragraph 4 is hereby revised as set forth below:

Final Revision of OCS Order No. 1, Paragraph 4, Identification of Subsea Objects

All OCS Areas:

4. *Identification of Subsea Objects.* Prior to the installation of subsea equipment required for lease operations, or in the event of the accidental sinking of an object, the owner shall report the submerged equipment or object to the appropriate U.S. Coast Guard District Commander subject to the following limitations. Reports are not required for equipment or objects that:

a. Are submerged in water depths greater than 305 meters (1,000 feet); or

b. Weigh 18 kilograms (40 pounds) or less and are of such shape or configuration that they are unlikely to snag or damage fishing devices; or

c. Are determined to be located on the seafloor within 46 meters (150 feet) of fixed structures on which approved aids to navigation are maintained.

The report shall contain the object's description, weight, dimensions, location, and the depth of water in which it is located. The U.S. Coast Guard will determine if it is a hazard to navigation and will determine whether it requires marking in accordance with 33 CFR 64.

Paragraph 5, *Marking of Equipment*

Comments. Several commenters commented on the content of this paragraph.

Discussion. As stated in the **Federal Register** on April 10, 1980, Volume 45, No. 71, appropriate comments received in response to the solicitation for comments on 30 CFR 250.54 would be considered in the development of the final revision of paragraph 5 of OCS Order No. 1. These comments have been incorporated into a proposed revision of paragraph 5 which was published in the **Federal Register**, Volume 45, No. 117, June 16, 1980. Comments are to be submitted by August 15, 1980. These comments will be analyzed and appropriate suggestions will be incorporated into an additional final revision of paragraph 5 which will be published in the **Federal Register** in the near future.

OCS Order No. 2

Subparagraphs 2.2, *Mobile Drilling Units*, Item c (Pacific, Gulf of Alaska, and Atlantic), 2.3, *Well-Site Surveys* (Gulf of Mexico), and 2.1.3, *Well-Site Surveys* (Pacific, Gulf of Alaska, and Atlantic).

Comments. It was suggested that the requirement of subparagraph 2.2, Item c, should be applicable only to the Pacific, Gulf of Alaska, and Atlantic Areas. Several commenters suggested that the submittal of seabed data should be selectively required for unusual conditions such as mud slides.

Discussion. Paragraph 2 of OCS Order No. 2 for the Gulf of Mexico does not contain a subparagraph 2.2c which addresses *Mobile Drilling Units*. The insertion of the heading "All OCS Areas" was an editorial error. The USGS has reviewed the criteria for requiring this data and has determined that seabed data is important for the determination of the stability of mooring points and for the stability of the location for subsea blowout-preventer stacks. Therefore, the USGS intends to revise the Order for all Areas to allow the District Supervisors to selectively require the submittal of the data as indicated in italics below. It should be noted that subparagrah 2.1.3 for the Pacific has been revised to require the data to be submitted to the Deputy Conservation Manager, Offshore Field Operations, instead of the District Supervisor.

Final Revision of OCS Order No. 2, Subparagraphs 2.2, Mobile Drilling Units, Item c (Pacific, Gulf of Alaska, and Atlantic), 2.3, Well-Site Surveys (Gulf of Mexico), and 2.1.3, Well-Site Surveys (Pacific, Gulf of Alaska, and Atlantic)

Gulf of Mexico:

2.3 *Well-Site Surveys.* Lessees shall submit a shallow geologic hazards report and conduct such shallow geologic hazard surveys or other surveys as required by the *Deputy Conservation Manager (DCM), Offshore Field Operations.* The results of these surveys and an analysis of the geologic hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor. *When requested, this data shall include sediment and seabed data, e.g., seabed profiles, sediment consistency, allowable bearing and sliding loads, and nearby potential seabed hazards, i.e., sand waves, slumps, and mud slides.*

Pacific:

2.1.3 *Well-Site Surveys.* Lessees

Discussion. The USGS has deleted the *all pertinent factors for well control*

2.1.3 *Well-Site Surveys.* Lessees shall submit a shallow geologic hazards report and conduct such shallow geologic hazard surveys or other surveys as required by the *Deputy Conservation Manager (DCM), Offshore Field Operations.* The results of these surveys and an analysis of the geologic hazards shall be furnished to the *DCM, Offshore Field Operations.* All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the *DCM, Offshore Field Operations. When requested, this data shall include sediment and seabed data, e.g., seabed profiles, sediment consistency, allowable bearing and sliding loads, and nearby potential seabed hazards, i.e., sand waves, slumps, and mud slides.*

Gulf of Alaska, and Atlantic:

2.1.3 *Well-Site Surveys.* Lessees shall submit a shallow geologic hazards report and conduct such shallow geologic hazards surveys or other surveys as required by the *Deputy Conservation Manager (DCM), Offshore Field Operations.* The results of these surveys and an analysis of the geologic hazards shall be furnished to the District Supervisor. All data obtained from the surveys and all geophysical data relating to shallow hazards shall be furnished upon request to the District Supervisor. *When requested, this data shall include sediment and seabed data, e.g., seabed profiles, sediment consistency, allowable bearing and sliding loads, and nearby potential seabed hazards, i.e., sand waves, slumps, and mud slides.*

Pacific, Gulf of Alaska, and Atlantic:

2.2 *Mobile Drilling Units.*

* * * * *

Delete item "c" and reletter item "d" as item "c."

Subparagraph 3.1, *General Requirements (Well Casing and Cementing)*

Comments. It was suggested that the first sentence of the revised footnote should be replaced with the definitive sentence: "Anticipated surface pressure is defined as that surface well pressure which can reasonably be expected to be exerted upon the casing string and its related wellhead equipment."

Discussion. The USGS agrees with the intent of this comment and has revised the first sentence of the footnote.

Comments. The previous commenter also agreed that the revised footnote renders the first sentence of the second paragraph of subparagraph 5.1.1 redundant and suggested that this sentence should be deleted.

Discussion. The USGS has deleted the referenced sentence.

Comments. It was suggested that the last sentence of the footnote should be revised to state:

"The lessee shall include as part of the statement of anticipated surface pressure a statement containing the calculations used to determine this pressure during the drilling phase, the completion phase, and the anticipated surface pressure used for production string design."

It was contended that "The anticipated surface pressure for *production purposes* through the *production casing* is usually based on the estimated bottom hole pressure less the pressure exerted by a column of gas with the hole void of fluid. This type of calculation is *not* appropriate for calculation of anticipated pressure for the drilling and completion phases and our recommended change recognizes this difference."

Discussion. The USGS agrees that the suggested revision would go well with the penultimate sentence of the footnote. The sentence was adopted with minor editorial changes. Refer to the final revision of the footnote.

Comments. It was suggested that the following sentence should be added to the footnote:

"Any reasonable criteria for calculating anticipated surface pressure known to provide safe operations for a particular company in combination with appropriate historical design factors, equipment, and operational practices for the type well proposed shall be deemed acceptable."

It was contended that:

"Technology which has proven safe as well as cost effective for a particular company should not be arbitrarily set aside."

Discussion. The USGS does not agree with this suggestion. The District Supervisor is required to make an engineering judgment on the validity of the calculations used to determine anticipated surface pressure. The second paragraph of subparagraph 3.1 is hereby revised as set forth below in italics. The first, third, and fourth paragraphs of subparagraph 3.1 remain unchanged.

Final Revision of OCS Order No. 2, Subparagraph 3.1, General Requirements

All OCS Areas:

3.1 *General requirements.*

* * * * *

The design criteria considered for all wells shall be submitted with the Application for Permit to Drill. The criteria to be considered shall include all pertinent factors for well control, such as:

a. Formation fracture gradients.

b. Formation pressure.

*c. Anticipated surface pressure.**

d. Casing setting depths.

**Anticipated surface pressure is defined as the surface well pressure which can reasonably be expected to be exerted upon a casing string and its related wellhead equipment. In the calculation of anticipated surface pressure, the lessee shall take into account the drilling, completion, and producing conditions. He shall consider mud densities to be used below various casing strings, fracture gradients of the exposed formations, casing setting depths, total well depth, formation fluid type, and other pertinent conditions. Considerations for calculating anticipated surface pressure may vary for each segment of the well. The lessee shall include as a part of the statement of anticipated surface pressure the calculations used to determine this pressure during the drilling phase and the completion phase, including the anticipated surface pressure used for production string design.*

* * * * *

Subparagraph 5.1.1, *BOP Equipment*

Comments. A large portion of the comments addressed the requirements of this subparagraph. It was the concensus of opinion that the phrase "except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi)" should be reinstated in the subparagraph. One commenter suggested that a qualifying phrase such as, "If, upon review of an applicant's request for permit to drill, the District Supervisor determines that the blowout preventer equipment proposed for use is not adequate, he may require equipment they limit the use of annular preventers to controlling pressures in the range of 2,000 to 3,500 psi. This limitation is accomplished through the use of prudent well-control procedures."

Discussion. After considering all comments, the USGS has revised subparagraph 5.1.1 as set forth below in italics. It should be noted that the first sentence of the second paragraph of the former subparagraph 5.1.1 has been deleted. The deleted sentence was rendered redundant by the revisions of subparagraph 3.1.

Final Revision of OCS Order No. 2, Subparagraph 5.1.1, BOP Equipment

All OCS Areas:

5.1.1 *BOP Equipment.* Blowout-preventer equipment shall consist of annular preventer and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the anticipated surface pressure to which it may be subjected, *except that the working pressure of the annular preventer need not exceed 34,475 kPa (5,000 psi), unless a higher working pressure is required by the District Supervisor. When the anticipated surface pressure exceeds the rated working pressure of the annular preventer, the lessee shall submit with the Application for Permit to Drill a well-control procedure which indicates how the annular preventer will be utilized and the pressure limitations which will be applied during each mode of pressure control.*

All blowout-preventer systems shall be equipped with:

* * * * *

Subparagraph 5.2, *Subsea BOP Requirements,* and Subparagraph 5.3, *Surface BOP Requirements*

Comments. The majority of the commenters objected to the requirements for the third set of pipe rams when a tapered drill string is in use.

Three commenters contended that if the blowout-preventer stack were arranged with the smaller pipe rams between the larger pipe rams and the blind rams, either the small or large drill pipe rams located below the drilling spool could be closed, and the blind rams could then be replaced with a small or large pipe ram if a redundant ram is considered necessary for a long term well-control operation. Another option would be to replace the small pipe rams with large pipe rams for large ram-to-large ram stripping.

Discussion. The USGS does not consider these suggestions as viable alternatives. In the case of the surface blowout-preventer stack, it appears that changing rams with the lower portion of the stack under pressure would be an extremely hazardous operation. Neither commenter indicated that he would attempt such an operation with a subsea blowout-preventer stack. It would appear that, with a subsea blowout-preventer stack, this operation would be impossible or prohibitive from the standpoint of personnel safety. Furthermore, by removing the blind shear ram, the last line of defense, i.e., closing the blind shear rams, shearing the pipe, and moving off location, is forever lost. Another alternative to the third set of pipe rams is suggested in the following comment.

Comments. One commenter suggested the following alternative for the third set of pipe rams:

"The objection that the addition of one set of pipe rams to a surface stack will cost over $100,000 and to a subsea stack, over $250,000, assumes that one blowout-preventer must be added to existing stacks to comply with Order No. 2. However, by simply replacing one set of 5" pipe rams with one set of 2-⅞" through 5" variable bore rams at a cost of about $25,000, the number of preventers in existing subsea and surface stacks is sufficient to comply with Order No. 2."

"Variable bore rams seal on a range of pipe sizes, i.e., 2-⅞" through 5" or 3-½" through 7". In a three ram surface BOP stack, blind/shear or blind rams may be installed in the upper ram cavity, 2-⅞" through 5" variable bore rams in the middle cavity, and 5" in the lower cavity. Middle and lower pipe rams can then be used to seal on the major or 5" pipe string and the middle rams used to seal on the smaller size pipe. Indeed, by using variable bore rams in both pipe ram cavities, two ram preventers would provide double protection for both pipe sizes of a tapered drill string. Drill pipe can be suspended on variable bore ram 2-⅞" through 5" in the same manner as on 5" pipe rams."

Discussion. The USGS reaffirms the rationale contained in the **Federal Register** Notice of April 10, 1980. However, as a result of comments received at the public meeting on May 20, 1980, and subsequent comments, it has been recognized that certain optional alternative requirements should be incorporated for subsea and surface BOP stacks. Therefore, the requirements for subsea and surface BOP stacks are revised as set forth below. Lessees should plan to use a three pipe ram stack arrangement when a tapered drill string is anticipated for use. In the event of an unplanned requirement for a tapered drill string, or when there are mechanical or physical restraints, the revised requirements provide optional alternatives.

It should be noted that item "d" of subparagraph 5.2, and item "e" of subparagraph 5.3 provide the same redundancy as item "a" of subparagraphs 5.2 and 5.3, and that item "e" of subparagraph 5.2 and item "f" of subparagraph 5.3 provide the same redundancy as item "c" of subparagraphs 5.2 and 5.3. It should also be noted that item "d" of subparagraph 5.3 is not allowed as an option for subsea BOP stacks under subparagraph 5.2, because picking up a crossover sub and switching to the larger size pipe when a well control problem occurs with the smaller pipe within the stack is not a viable option with a subsea stack in deep water. With a subsea stack having only two sets of rams for the larger size pipe, the only course of action with the smaller size pipe within the stack during a blowout might be to shear the small pipe. We believe that operating in this mode should be an exception to approved practice and therefore should only be allowed under exceptional circumstances through the departure procedure; furthermore, the majority of subsea stacks have sufficient cavities to provide redundant pipe rams, and the "last ditch" option of shearing the pipe is always available with subsea stacks.

Final Revision of OCS Order No. 2, Subparagraph 5.2, Subsea BOP Requirements and Subparagraph 5.3, Surface BOP Requirements

All OCS Areas:

5.2 *Subsea BOP Requirements.*

* * * * *

—5. When a tapered drill string is in use, the BOP stack shall be equipped with one of the following pipe ram configurations:

a. Two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe.

b. Two (2) sets of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe.

c. Two (2) sets of variable bore pipe rams to fit both sizes of pipe.

d. One (1) set of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe.

e. One (1) set of pipe rams for the larger size string, one (1) set of pipe rams for the smaller pipe, and one (1) set of variable bore pipe rams to fit both sizes of pipe.

* * * * *

5.3 *Surface BOP Requirements.*

* * * * *

—2. When a tapered drill string is in use, the BOP stack shall be equipped with one of the following pipe ram configurations:

a. Two (2) sets of pipe rams for the larger size string and one (1) set for the smaller size string of drill pipe.

b. Two (2) sets of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe.

c. Two (2) sets of variable bore pipe rams to fit both sizes of pipe.

d. Two (2) sets of pipe rams for the larger size string. The blind ram cavity shall be equipped with blind shear rams

and the blind ram actuator shall be converted to operate the blind shear rams. A crossover sub to the largest size pipe shall be readily available on the rig floor.

e. One (1) set of pipe rams for the larger size string and one (1) set of variable bore pipe rams to fit both sizes of pipe.

f. One (1) set of pipe rams for the larger size string, one (1) set of pipe rams for the smaller pipe, and one (1) set of variable bore pipe rams to fit both sizes of pipe.

* * * * *

Subparagraph 5.7.1, *BOP Testing Frequency*, Subparagraph 5.7.2, *Pressure Testing of Surface BOP Systems*, and Subparagraph 5.7.3, *Pressure Testing of Subsea BOP Systems*

Comments. Several commenters agreed with the proposed revision of subparagraph 5.7.1, Item c, which was proposed for the Gulf of Mexico and Pacific Areas only. This revision would require blind and blind shear rams to be tested prior to drilling out after each casing string has been set, instead of requiring these rams to be tested weekly. All of the commenters suggested that the revision should be applicable to all Areas of the OCS.

Discussion. As a result of comments received at the public meeting on May 20, 1980, it was concluded that, due to the variations in drilling rates for all Areas of the OCS, adopting the proposed revision for all Areas would result in the blind rams and blind shear rams being tested after a time lapse of 1 week to 2 months. Several BOP manufacturers suggested that this frequency would be entirely satisfactory for testing blind and blind shear rams. This contention is based on the fact that the sealing surfaces of blind and blind shear rams are not subjected to as much friction wear as occurs with pipe rams; therefore, the seal life is longer and requires less testing.

The USGS agrees with this contention and has revised the requirements for all areas of the OCS. Since this revision pertains to the frequency of testing, it was recognized that it would be editorially simpler and clearer to revise subparagraph 5.7.1, BOP Testing Frequency. Therefore, we have revised subparagaphs 5.7.1, 5.7.2, and 5.7.3 for all Areas of the OCS as set forth below in italics. It should be noted that an additional sentence has been inserted after the first sentence of item "c" of subparagraph 5.7.1. This sentence was formerly contained in item "d" of subparagraph 5.7.4. Refer to the Discussion of the revision of subparagraph 5.7.4.

Final Revision of OCS Order No. 2, Subparagraph 5.7.1, BOP Testing Frequency, Subparagraph 5.7.2, Pressure Testing Surface BOP Systems, and Subparagraph 5.7.3, Pressure Testing of Subsea BOP Systems

All OCS Areas:

5.7.1 *BOP Testing Frequency.* Surface and subsea BOP stacks shall be tested as follows:

* * * * *

c. At least once each week, but not exceeding 7 days between tests, alternating between control stations. *If either control system is not functional, further drilling operations shall be suspended until that system becomes operable.* A period of more than 7 days between blowout-preventer tests is allowed when well operations prevent testing and remedial efforts are being performed, provided the tests will be conducted as soon as possible before normal operations resume, and the reason for postponing testing is entered into the log. Well operations which prevent testing are stuck drilling pipe and pressure-control operations. Testing shall be at staggered intervals to allow each drill crew to operate the equipment.

The weekly test is not required for blind and blind shear rams. These rams need only be tested prior to drilling out after each casing string has been set.

* * * * *

5.7.2. *Pressure Testing Surface BOP Systems.*

Gulf of Mexico:

The last two sentences of subparagraph 5.7.2 are hereby deleted. These sentences were rendered redundant by the revision of subparagraph 5.7.1, Item c.

5.7.3 *Pressure Testing Subsea BOP Systems.*

Gulf of Mexico:

The last two sentence of subparagraph 5.7.3 is hereby deleted. This sentence was rendered redundant by the revision of subparagraph 5.7.1, Item c.

Subparagraph 5.7.4, *Actuation of Surface BOP Systems*, and Subparagraph 5.7.5, *Actuation of Subsea BOP Systems*

Comments. Several commenters objected to the "partial actuation" requirement of these subparagraphs when tapered drill strings are in use because there is no reliable way to assure that the smaller size rams would not close completely on the pipe and thereby damage the rams and the pipe. Other commenters objected to the frequency of the daily and every other day requirement for the actuation of surface and subsea BOP pipe rams. At the public meeting on May 20, 1980, several BOP manufacturers expressed their opinion that the actuation of rams required during the weekly pressure test is adequate to assure the reliabiity of the BOP stack. It was contended that daily and every other day action of the rams could result in unnecessary "wear and tear."

Discussion. In consideration of all of the comments, the USGS has reevaluated the rationale for the actuation tests and has revised the Orders as set forth below:

It should be noted that the last sentence of item "d" of the deleted subparagraph 5.7.4 has been incorporated into item "c" of the revised subparagraph 5.7.1.

Final Revision of OCS Order No. 2, Subparagraphs 5.7.4, Actuation of Surface BOP Systems, and 5.7.5, Actuation of Subsea BOP Systems

All OCS Areas:

The existing subparagraphs 5.7.4 and 5.7.5 are hereby deleted in their entirety, and a revised subparagraph 5.7.4 is hereby adopted as set forth below:

5.7.4 *Actuation of Auxiliary Well-Control Equipment.* In conjunction with the weekly pressure test of surface and subsea BOP systems, auxiliary well-control equipment such as choke manifold valves, kelly cocks, and drill pipe safety valves shall be actuated. Casing safety valves shall be actuated prior to running casing.

Subparagraph 5.8, *Inspection and Maintenance (BOP Systems)*

Comments. Several commenters objected to the requirement that all BOP systems, marine risers, and associated equipment shall be inspected and maintained in accordance with the manufacturers' recommended procedures.

Discussion. The USGS believes this comment has merit and has revised subparagraph 5.8 as set forth below in italics.

Final Revision of OCS Order No. 2, Subparagraph 5.8, Inspection and Maintenance

All OCS Areas:

5.8 *Inspection and Maintenance.* All BOP systems, marine risers, and associated equipment shall be inspected and maintained *to assure that the equipment will function properly. The manufacturers' recommended inspection and maintenance procedures are acceptable as guidelines in complying with this requirement.* The BOP systems and marine risers shall be visually inspected at least once each day if the weather and sea conditions permit the inspection. Inspection of subsea installations may be accomplished by the use of television equipment.

Subparagraph 5.9, *Blowout-Preventer Drills*

Comments. Several commenters objected to the wording of the sentence which provides that a blowout-preventer drill may be required by a USGS designated representative at any time during the drilling operation. It was contended that, "The authority for the USGS representative to call for a BOP drill should be tempered to require some discretion in the Drilling Supervisor."

Discussion. The USGS reaffirms the rationale contained in the April 10 Notice. However, it is intended to clarify the intent of the requirement by rewording the subparagraph as indicated below in italics.

Final Revision of OCS Order No. 2, Subparagraph 5.9, Blowout-Preventer Drills

All OCS Areas:

5.9 *Blowout-Preventer Drills.* All drilling personnel shall be indoctrinated in blowout-preventer drills and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted for each drilling crew in accordance with the well-control drill requirements of the U.S. Geological Survey (USGS) Outer Continental Shelf Standard "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS–OCS–T 1), First Edition, December 1977, and subsequent revisions thereto. A BOP drill may be required by a USGS designated representative at any time during the drilling operation, after notifying *and consulting with* the lessee's senior representative present.

All BOP drills shall be recorded in the driller's report.

Subparagraph 6.1, *Mud Control*

Comments. It was contended that subparagraph 6.1, item "b," should be tempered to allow some reasonable difference in the weight of returning mud and the weight of mud entering the hole. One commenter suggested an allowable mud weight difference of 0.2 pound per gallon, and another commenter suggested an allowable difference of 1 percent.

Discussion. The USGS agrees with this contention and hereby revises subparagraph 6.1, item "b," as follows:

Final Revision of OCS Order No. 2, Subparagraph 6.1, Mud Control,

Item "b."

All OCS Areas:

6.1 *Mud Control.*

* * * * *

b. The weight of the returning mud is essentially the same as the weight of the mud entering the hole. In the event that the returning mud is lighter than the entering mud by a weight differential equal to or greater than 0.2 pound per gallon, the lessee shall circulate until the annular volume is displaced, and check the mud properties for the influx of gas or liquid.

* * * * *

OCS Order No. 5

Subparagraph 3.2, *Specification for Subsurface-Safety Valves*

Comment. It was suggested that this paragraph be revised to allow the use of valves that had been qualified by performance test to a previous edition of "API Specification for Subsurface Safety Valves," API Spec 14A, during the performance test effectivity.

Discussion. The USGS has revised subparagraph 3.2, as set forth below in italics, to allow the use of previous qualified valves for the duration of the 3-year qualification period. These valves must then be requalified to the Fourth Edition of API Spec 14A as required by section 4.2 of API Spec 14A if manufacturing is to be continued.

It should be noted that we have also revised subparagraph 3.2 for the Gulf of Alaska and Atlantic Areas to address future replacement of subsurface-safety valves and to define the term "replacement."

Comment. Another commenter expressed his agreement with the proposed revision pertaining to subsurface-safety valves and recommended that a similar revision be included for surface-safety valves.

Discussion. The USGS does not propose to revise Subparagraph 4.3, *Specifications for Wellhead Surface-Safety Valves (SSV)*, because these valves are required to conform to API Spec 14D, Second Edition, November 1977, as amended by Supplement 2, November 1978. Section 4.2 of this document states that "performance testing is not required for SSV equipment other than valves for Class 2 service." Periodic retesting is a requirement of API Spec 14A. There is no retest requirement in API Spec 14D.

Final Revision of OCS Order No. 5, Subparagraph 3.2, Specification for Subsurface Safety Valves

Gulf of Mexico and Pacific:

3.2 *Specification for Subsurface-Safety Valves.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5, which are installed on new installations or replaced on old installations after February 1, 1980, shall conform to "American Petroleum Institute (API) Specification for Subsurface Safety Valves," API Spec 14A, Fourth Edition, November 1979, or subsequent revisions which the *Deputy Chief, Conservation Division—Offshore Minerals Regulation*, has approved for use at the time of installation. *A valve qualified to a previous edition of API SPEC 14A is acceptable provided that the valve enters inventory within 3 years of its qualifying performance test date.*

For purposes of this requirement, the term "replacement" is defined as occurring when that portion of the valve assembly containing the serial number is removed from inventory and a new certified valve is placed in inventory.

Gulf of Alaska and Atlantic:

3.2 *Specification for Subsurface-Safety Valves.* Surface-controlled and subsurface-controlled subsurface-safety valves required by subparagraphs 3.4 and 3.5, *which are installed or replaced* shall conform to "American Petroleum Institute (API) Specification for Subsurface Safety Valves," API Spec 14A, Fourth Edition, November 1979, or subsequent revisions which the *Deputy Chief, Conservation Division—Offshore Minerals Regulation*, has approved for use at the time of installation. *A valve qualified to a previous edition of API Spec 14a is acceptable provided that the valve enters inventory within 3 years of its qualifying performance test date.*

For purposes of this requirement, the term "replacement" is defined as occurring when that portion of the valve assembly containing the serial number is removed from inventory and a new certified valve is placed in inventory.

OCS Order No. 7

Subparagraph 1.1.3.b, *Curbs, Gutters, and Drains for Mobile Drilling Units*

Comments. One commenter agreed with the final version of this Order, and another suggested that the Order does not provide a reasonable amount of time to accomplish the necessary installation work for curbs, gutters, and drains in mobile drilling units.

Discussion. The USGS reiterates the rationale for the final version of this Order as published in the Federal

Register on April 10. Approval for

Final Revision of OCS Order No. 7,

Contingency Plan shall contain the

Register on April 10. Approval for extending the time for compliance with this requirement will only be granted by the District Supervisor after review on a case-by-case basis.

Subparagraph 1.2.3, *Equipment (Disposal)*

Comments. One commenter stated "The requirement to report 'The location and description of *any* equipment disposed of * * *' is extremely burdensome both for the lessee and the agencies." The commenter appealed this requirement "* * * as unnecessary and unreasonable in the light of paragraph 4 of OCS Order No. 1."

Discussion. As previously stated, the requirements of paragraph 4 of OCS Order No. 1 have been revised to provide limitations on the reporting of intentional and accidentally submerged objects. Consistent with this revision, the word "any" and the phrase "to the District Supervisor" have been deleted from the second sentence of the subparagraph. Subparagraph 1.2.3 is hereby revised as set forth below.

Final Revision of OCS Order No. 7, Subparagraph 1.2.3 Equipment

All OCS Areas:

1.2.3 *Equipment.* Disposal of equipment into the ocean is prohibited except under emergency conditions. The location and description of equipment disposed of into OCS waters shall be reported to the U.S. Coast Guard in accordance with paragraph 4 of OCS Order No. 1.

Subparagraph 2.2.2, *Unattended Facilities (Inspection)*

Comments. Several commenters objected to the daily inspection requirement for unattended platforms. It was suggested that these facilities should be inspected weekly and that the subparagraph should provide an exception in the event of prohibitive weather.

Discussion. The USGS does not agree with the suggestion of weekly inspections. Early detection of a leak or equipment malfunction is the key to pollution prevention. The phrase "or at intervals prescribed by the District Supervisor" provides latitude to waive the daily inspection requirement for those unmanned facilities which have a consistent record of pollution-free operation. In order to provide relief in the event of adverse weather conditions, the subparagraph has been revised as indicated below in italics.

Final Revision of OCS Order No. 7, Subparagraph 2.2.2, Unattended Facilities

2.2.2 *Unattended Facilities.* Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor to determine if pollution is occurring. *Daily inspections may be postponed in the event of adverse weather conditions.* Necessary maintenance or repairs shall be made immediately.

Subparagraph 3.2, *Oil Spill Contingency Plans*

Comments. One commenter objected to the requirement that the oil spill contingency plan shall contain provisions for identifying and protecting areas of special biological sensitivity. It was contended that the requirement is unclear and does not provide a time for existing plans to be brought into compliance.

Another commenter stated "Oil Spill Contingency Plans are already required" and contended that, if the particular facility/rig/platform does not involve a sensitive area, there is no real need for such plan to include additional stringent requirements to protect sensitive areas.

Discussion. The intent of this requirement is for the operator to state in his plan the procedures he would use in the event of an oil spill to protect areas of special biological sensitivity such as waterfowl, fish, oyster beds, and other aquatic life.

In order to provide a time for existing plans to be brought into compliance, subparagraph 3.2 is revised as set forth below in italics.

Final Revision of OCS Order No. 7, Subparagraph 3.2, Oil Spill Contingency Plan

All OCS Areas:

3.2 *Oil Spill Contingency Plans.* The lessee shall submit an Oil Spill Contingency Plan for approval by the *Deputy Conservation Manager (DCM), Offshore Field Operations,* with or prior to submitting an Exploration Plan or a Development and Production Plan. *Existing Oil Spill Contingency Plans which do not conform to the requirements of this subparagraph shall be modified and submitted to the DCM, Offshore Field Operations, for approval by December 15, 1980.* Oil Spill Contingency Plans shall be reviewed annually. All modifications of the Oil Spill Contingency Plans and the results from the review of the plan shall be submitted to the *DCM, Offshore Field Operations,* for approval. The Oil Spill Contingency Plan shall contain the following:

* * * * *

[FR Doc. 80-24969 Filed 8-15-80; 8:45 am]
BILLING CODE 4310-31-M

federal register

Monday
August 18, 1980

Part IX

Environmental Protection Agency

Controls Applicable to Gasoline Refiners; Lead Phase-down Regulations

V 45 A G 18 80 UMI

V 4 5 A G 1 8 1 9 8 0 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-1563-6]

Controls Applicable to Gasoline Refiners; Lead Phase-down Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the lead phase-down regulations (40 CFR 80.20) by revoking the unleaded gasoline production requirements associated with the optional 0.8 gram per gallon (gpg) standard for the quarter beginning July 1, 1980, and ending September 30, 1980. These requirements are unnecessary this quarter because of adequate supplies of unleaded gasoline.

DATES: The revocation of the unleaded gasoline production requirement is effective on August 6, 1980. Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of August 18, 1980 (October 17, 1980). Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of information relevant to this rule are available for public inspection at the Central Docket Section (Docket EN–80–11), Environmental Protection Agency, Gallery I, West Tower, 401 M Street SW., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for coping services.

FOR FURTHER INFORMATION CONTACT: Robert Summerhayes, Fuels Section, Field Operations and Support Division (EN–397), 401 M Street SW., Washington, D.C. 20460 at (202) 472–9367.

SUPPLEMENTARY INFORMATION: On September 12, 1979, EPA published amended regulations which relaxed for one year the lead phase-down standard of 0.5 gpg effective October 1, 1979, to 0.8 gpg conditioned upon an increase in quarterly unleaded gasoline production of six percentage points over the corresponding quarter of the previous year, or an unleaded gasoline production of at least 45 percent of total gasoline (44 FR 53144). EPA relaxed the lead standard to enable refiners to produce more total gasoline. The unleaded gasoline production requirement was included to insure that sufficient supplies of unleaded gasoline would be produced to help protect against increased fuel switching due to shortages of gasoline, particularly unleaded gasoline. Alternatively, refiners were provided the option of complying with the 0.5 gpg requirement on October 1, 1979, as originally promulgated, in which case they would not be required to produce a minimum percentage of unleaded gasoline.

The 6 percent/45 percent unleaded gasoline production percentages were based on the historical growth of unleaded gasoline demand. But EPA noted in the preamble of the September 1979 amendments that it would "continue to monitor unleaded gasoline demand," and stated that "if demand does not grow by at least the historical rate, EPA will take appropriate actions to avoid the unnecessary overproduction of unleaded gasoline."

During January and February 1980, EPA received reports indicating that demand was not continuing to increase at the historical rate and that some overproduction of unleaded gasoline had occurred during the Octoberr-December 1979 quarter and the first part of the January-March 1980 quarter. Some refiners reported unusual difficulties in trading excess unleaded gasoline for leaded gasoline. EPA has also noted that cargo trading differentials on the inter-refinery spot market, which normally reflect a two to three cents per gallon premium for unleaded gasoline, dropped to zero cents per gallon in some areas. In one particular area the cargo trading differential fell to minus one and one-half cents per gallon; that represents a one and one-half cent premium for leaded gasoline over unleaded gasoline. Recent unleaded gasoline sales showed a smaller than six percentage points increase in unleaded gasoline demand during 1979 and early 1980. This reduction in the historical growth rate of unleaded gasoline has been attributed to both the declining sales of new vehicles using unleaded gasoline and the trend towards the use of smaller, more fuel efficient cars. Based on this information, EPA concluded that adequate supplies of unleaded gasoline (relative to leaded) would be available for the January-March 1980 quarter without the imposition of the 6 percent/45 percent production requirement.

In order to avoid the unnecessary loss of energy caused by the overproduction of unleaded gasoline EPA revoked the unleaded gasoline production requirement for the January-March 1980 quarter (45 FR 14854) and proposed alternatives for amending the requirements for the subsequent quarters (45 FR 14899).

On June 2, 1980, EPA revoked the unleaded gasoline production requiremetns for the April-June 1980 quarter (45 FR 37197). The primary reason for doing so was the slackening of consumer demand for gasoline (down about 8% so far this year), which, accompanied by the world-wide stability of crude oil supplies, has resulted in very high inventories of both crude oil and gasoline. Since the possibility of a serious disruption of retail gasoline supplies during the short term is reduced greatly when these inventories are high, EPA concluded that adequate supplies of unleaded gasoline would probably be available for the quarter without the imposition of an unleaded gasoline production requirement.

Simultaneously, EPA proposed three alternatives for amending the requirements for the July-September 1980 quarter. The possible alternatives included, but were not limited to: (1) No change; (2) adjust the 6%/45% production requirement to more accurately reflect the increased demand for unleaded gasoline during the quarter beginning July 1, 1980, and ending September 30, 1980, over the corresponding quarter in 1979; or (3) revoke the unleaded production requirements for the second and third quarters of calendar year 1980. EPA solicited comments from interested parties concerning which of the proposed alternatives would be most effective.

Consumer demand for gasoline products has remained low. Deliveries of gasoline for the first five months of 1980 were 8% below the amount delivered during the comparable period in 1979. At the same time, inventories of motor gasoline have been high (about 8% higher than the DOE Projected Normal Level). Significantly, the average retail price of motor gasoline has fallen by a small yet perceptible amount in recent weeks showing that competition in the retail marketplace has grown. Lastly, stocks of crude oil, distillate fuel oil, and residual fuel oils have remained high recently. In the event of a sudden increase in consumer demand for gasoline or a major disruption in crude oil supplies, these extra stocks could provide refiners the flexibility to produce greater quantities of both leaded and unleaded gasolines.

When all of these stocks are high, the possibility of a serious disruption of retail gasoline supplies during the short term is reduced greatly. While complete assurance is not possible, it appears that adequate supplies of unleaded gasoline will be available for the current quarter without the imposition of an unleaded gasoline production requirement.

Because of EPA's desire to avoid any unnecessary loss of energy from the overproduction of unleaded gasoline, the lead phase-down regulations are being amended to remove the production requirement for the July-September 1980 quarter.

Because this rule relieves a restriction on the regulated industry, EPA is publishing this amendment as a final rule effective immediately, pursuant to the exemptions in 5 U.S.C. 553(d). Since this rule results in a relaxation of an existing regulatory control, EPA has determined that this document does not contain a major action requiring an Economic Impact Analysis under Executive Orders 11821, 11949, 12044, and section 317 of the Clean Air Act, as amended.

Summary of Comments Received

The following is a summary of public comments received on the three alternatives proposed in June:

1. Keep present requirements in place.

No commenters suggested that EPA maintain an unleaded gasoline production requirement for the July-September 1980 quarter. Some stated that the continuation of the present requirements would result in marketplace perturbations such as those which occurred in January and February of 1980.

2. Adjust the requirements to an intermediate figure. Several commenters stated that if some unleaded production requirement were imposed, then the magnitude of the requirement should be lowered. They argued, however, that such a revision would be difficult because of continuing changes in consumer driving habits which have occurred in response to higher gasoline prices. One refiner noted that the growth in unleaded sales in its particular market was only 1.5–2.0 percentage points over 1979 levels. Other estimates were somewhat higher (up to 5.8 percentage points). As a result, lowering the requirements to 5 or 5.5 percentage points could still cause market disruptions, though of a smaller magnitude.

EPA understands the difficulty in precisely revising the estimate of unleaded market share growth and has determined that adjusting the unleaded production requirements to some intermediate value is not practicable.

3. Revoke the unleaded production requirements.

All of the commenters identified this option as their preferred approach. Some commenters had previously noted that the refining industry has more than sufficient capacity to produce unleaded gasoline and that the existing two cents per gallon cost pass-through rule provided by the Department of Energy provides a sufficient incentive to use that capacity. A couple of commenters stated that sufficient volumes of unleaded gasoline would be available as long as crude supplies are not significantly interrupted.

An analysis of such factors as world-wide crude production levels, domestic crude oil and motor gasoline stocks, and product prices indicates that domestic supplies of gasoline should be adequate for the reaminder of this quarter. Since the unleaded production requirements are unnecessary when adequate supplies of unleaded gasoline are available and since refiners have both the capability and incentive to produce the market split of unleaded gasoline if adequate crude supplies are available, EPA has decided to revoke the unleaded requirements for the July-September 1980 quarter.

Dated: August 6, 1980.

Douglas M. Costle,

Administrator.

Accordingly, notice is hereby given that 40 CFR Part 80 is amended by amending § 80.20(a)(7) to remove the unleaded gasoline production requirements for the July-September 1980 quarter so as to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

(a) * * *

(7) In the manufacture of gasoline, no gasoline refiner who has submitted a valid registration form for refineries in accordance with paragraph (a)(6) of this section, shall, in aggregate, at those registered refineries, produce unleaded gasoline as a percentage of total gasoline for the quarter beginning October 1, 1979, that is less than that percentage in the quarter beginning October 1, 1978, plus six (6) percentage points unless the production of unleaded gasoline as a percentage of total gasoline produced by the refiner in aggregate at registered refineries is greater than 45%.

* * * * * *

(Sections 211, 301(a), Clean Air Act, as amended, 42 U.S.C. 7545, 7601(a).)

[FR Doc. 80–25211 Filed 8–15–80; 9:29 am]

BILLING CODE 6560–01–M

Reader Aids — Federal Register

V 45 AG 18 80 UMI

Reader Aids

Federal Register
Vol. 45, No. 161
Monday, August 18, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1
51539-51754.....4
51755-52138.....5
52139-52354.....6
52355-52768.....7
52769-53074.....8
53074-53436.....11
53437-53800.....12
53801-54008.....13
54009-54298.....14
54299-54710.....15
54711-55138.....18

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139
12232.....53437

Proclamations:
4776.....51539
4777.....53075
4778.....53439
4779.....53441
4780.....53443
4781.....53445

Administrative Orders:

Presidential Determinations:
No. 80-25 of August 8, 1980.....54299

Memorandums:
July 31, 1980.....51169-51174

5 CFR
Ch. XIV.....51541
297.....52769
410.....51755
581.....53447

Proposed Rules:
339.....53481
359.....51214
432.....53481
752.....53481
831.....53481
930.....53485

6 CFR
705.....51175
706.....51541, 52769

7 CFR
2.....52355
6.....54301
210.....51175
245.....52770
272.....53448
273.....53448
282.....54638
301.....51176
319.....53449
331.....51755, 53450, 54302
401.....54711
418.....54718
419.....54720
427.....54722
430.....54723
437.....54711
722.....51755
800.....55118
801.....55118
802.....55118
908.....52356, 53801, 54063
910.....51177, 52771, 54304
916.....53450
917.....51179, 53450, 54724
919.....54305
921.....51180
922.....53451
924.....51180
926.....52772
946.....52141
948.....51182
958.....52141
967.....52143
993.....54064, 54725
1137.....51542
1421.....53801, 54305
1427.....53077
1446.....51756
1701.....54307
2853.....51757
2890.....54307
2891.....54307
2892.....54307
2893.....54307
2894.....54307
2895.....54307
2896.....54307
2897.....54307
2898.....54307
2899.....54307

Proposed Rules:
29.....51572
272.....51216, 53792
273.....51216, 53066, 53792
301.....52816
404.....51573
427.....54346
431.....53486
722.....52817
800.....52339
910.....53487
985.....51818
1001.....54066
1435.....54347
1464.....51579
1701.....54354
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR
238.....54310
264.....52143

Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR
78.....52772
92.....52773
318.....54310
381.....54310

Proposed Rules:
94.....52818

317 53002
318 51832
381 53002

10 CFR

2 54725
110 51184
212 ..... 52112, 54325
430 53488
445 51763
456 53434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:

2 53972
50 54662
205 51833
211 54662
212 ..... 54069, 54688, 54694
378 51581
430 53714
456 53422
500 53368
503 53368
504 53368
505 53368
506 53368
799 54264

11 CFR

100 52356
110 52356

12 CFR

7 53080
201 ..... 52144, 54009
220 53452
225 54326
265 54011
303 54326

Proposed Rules:

Ch. I 52166
Ch. II 51581
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR

Proposed Rules:

101 ..... 51763, 53081
108 53835

14 CFR

39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014, 54725–54732
71 ..... 51546, 53086–53090, 54015, 54027, 54028, 54733
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:

Ch. I 53161, 53162, 54766
39 ..... 53162, 54071, 54072
45 ..... 53163, 54766
71 ..... 51587–51590, 52396, 53163, 54072–54080, 54766
73 51591
75 ..... 52396, 54081
121 53316
135 53316
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR

17a 54028
373 54031
378 53090

Proposed Rules:

19 51592

16 CFR

13 ..... 52776, 52778, 53455
305 53340
436 ..... 51763, 51765
455 52750
460 54702
1019 53036

Proposed Rules:

13 ..... 51593, 51596
239 51838
441 53839
705 51218

17 CFR

Ch. I 54032
7 51520

Proposed Rules:

1 51598
4 51600

18 CFR

2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
281 54733
282 ..... 52359, 54741
290 54033
292 52779
375 53456

Proposed Rules:

2 54354
154 54354
260 54082
271 ..... 51219, 54085
273 ..... 51219, 54085
274 ..... 51219, 54085
301 51614

19 CFR

353 52780
355 54035

Proposed Rules:

Ch. I 51490
177 54085
207 54086

20 CFR

Ch. III 53806
404 52078
416 ..... 52078, 54742

Proposed Rules:

Ch. II 51615

21 CFR

172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458, 54035
510 ..... 54327, 54328
520 52781
540 54329
555 54327
558 ..... 53457, 54328
884 ..... 51185, 51186
1306 54329

Proposed Rules:

Ch. II 51832, 52397
101 53023
310 54354
346 54354
600 52821
606 52821
610 51226
660 51226

22 CFR

220 54751
221 54751
222 54751

Proposed Rules:

Ch. II 53164–53182

23 CFR

657 52365
658 52365

Proposed Rules:

625 51720
652 51720
663 51720

24 CFR

200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
571 51516
590 52762
803 54330
869 52371
885 51186
888 54330
1710 52144

Proposed Rules:

570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
886 51226
888 51228
889 51229

25 CFR

Proposed Rules:

171 53164
172 53164
173 53164
177 53164
182 53164
231 54331

26 CFR

1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:

1 ..... 52399, 52824
14 52824
26 51840

27 CFR

Proposed Rules:

Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR

0 52145
18 54752
42 54036
31 53772

Proposed Rules:

Ch. I 51506, 51832
16 52183
42 54770
50 52183

29 CFR

11 51187
40 51192
102 51192
1625 51547
1910 54333
1913 54333
1952 ..... 51775, 53457, 54334
1999 51187
2520 51446
2550 51194

Proposed Rules:

Ch. XIV 51229
1960 54355
2520 ..... 51231, 52824, 54370
2530 ..... 51231, 52824, 54370
2550 ..... 51231, 51840

30 CFR

Ch. VII 51547, 52834
211 53128
700 54752
762 52375
785 54752
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306
816 54752
817 54752
820 54752

Proposed Rules:

Ch. VII 52407, 52408, 53180, 53839, 54371, 54372
104 54656
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR

341 53
346 53

32 CFR

706 54753
763 51776
853 52800
888d 52145

33 CFR

110 ..... 54754, 54755
117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:

117 ..... 51617, 51618
209 54770

34 CFR

64 ..... 353412, 53414
709 53788

Proposed Rules:

100 ..... 52052, 53841
797 54000

36 CFR

1228 54334

Proposed Rules:

7 51618
14 54771
1190 55010
1202 51843

37 CFR

304 51197

38 CFR

17 53807
21 51777
36 53807

39 CFR

Proposed Rules:

111 51848

40 CFR

35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336
80 55134
81 ..... 53147, 54052
86 53400
122 52149
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053, 54340

Proposed Rules:

6 53187
35 53187
50 ..... 55066, 55083
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372, 54772
58 ..... 54772, 54773
60 54385
61 53842
80 54090
81 52841
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
406 52411
410 52185
717 51855
720 54642

41 CFR

Ch. 101 ..... 51201, 53149
3 53806
7–12 54755

Proposed Rules:

101–17 52842

42 CFR

Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205
58 ..... 51209, 51556
110 55122
405 ..... 51783, 54757
455 51559

Proposed Rules:

51 53492
72 51241
405 54774
460 53189
461 53189

43 CFR

4100 53154
8351 51740

Proposed Rules:

2560 52303

Public Land Orders:

5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR

64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796
70 54760–54764
205 ..... 53334, 53956
322 53479

Proposed Rules:

6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427, 54774–54776

45 CFR

Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
71 54765
151 53998
185 54004
1211 52130
1210 52130
1210p 52130
1210q 52130
1210r 52130
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:

1210q 52136
190 51243

46 CFR

30 52386
61 52386
151 52386

Proposed Rules:

11 54776
93 54095

47 CFR

Ch. I 52389
13 52154
22 52149
68 ..... 52151, 54341
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821
74 51563
76 52153
81 52154
83 52154
87 52154
90 51811
97 51564

Proposed Rules:

Ch. I 51251
2 ..... 51251, 51252, 53843
13 54778
15 ..... 51251, 54784
21 51252
22 53843
73 ..... 51624, 52843, 52845, 52848, 52848, 53843, 54786
74 51252
81 54778
83 54778
87 54778
90 ..... 53843, 53844
94 51252

48 CFR

Proposed Rules:

9 51253

49 CFR

1 54054
571 ..... 51569, 52365, 53157
840 54055
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1309 52161
1310 52161

Proposed Rules:

Ch. X 53846
171 54097
173 54097
178 54097
398 51625
571 ..... 51626, 51628
1039 ..... 54111, 54385
1060 53190
1102 51858
1116 52186

50 CFR

17 ..... 52803, 52807, 53968 54678
18 54056
26 52391
32 ..... 52392, 52393, 54057–54060, 54344
285 53479
611 53831
652 53480
653 52610
661 53832

Proposed Rules:

13 52849
17 ..... 52849, 53495, 54111, 54112, 54682, 54685
20 53982
32 52163
216 51254
265 51858
285 52853
611 ..... 51254, 53500, 53847
655 51254
661 ..... 51861, 54113

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the Federal Register 15 days or more ago. Inclusion or exlusion from this list has no legal significance.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

49077 7–23–80 / Rules generally applicable to regulated sales of natural gas

ENVIRONMENTAL PROTECTION AGENCY

48132 7–18–80 / Attainment States designations for air quality planning proposes; Illinois

INTERIOR DEPARTMENT

Coast Guard—

47842 7–17–80 / Use of helicopters in the management of wild free-roaming horses and burros

Land Management Bureau—

47843 7–17–80 / Off-road vehicles; licensing

PERSONNEL MANAGEMENT OFFICE

48096 7–18–80 / Employee training, policies and procedures

48098 7–18–80 / Federal employees health benefits program; Benefits for medically underserved areas

TRANSPORTATION DEPARTMENT

Coast Guard—

47842 7–17–80 / Boundary realinements within the 12th Coast Guard District

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 14, 1980

V 45 G 18 80 0 UMI

8-19-80
Vol. 45 No. 162
Pages 55137-55418

federal register

Tuesday
August 19, 1980

Highlights

55249 **Grant Programs—Housing** USDA/FmHA gives notice of self-help rehabilitation/repair assistance grants

55282 **Grant Programs—Education** HHS/PHS publishes notice regarding first-year student enrollment decreases for health professions schools

55141-55166 **Loan Programs—Crops** USDA/CCC revises basic county loan and purchase rates in accordance with national average loan and purchase rates of certain 1979 crops; effective 1-8-80 (6 documents)

55214 **Credit Unions** NCUA request comments by 9-15-80 regarding financial condition and statement of income and expense

55382 **Social Security** HHS/HDSO publishes regulations regarding disclosure by providers of certain ownership interests and other information (Part IV of this issue)

55223 **Housing** HUD/Sec'y publishes proposal regarding siting of HUD-assisted projects near hazardous operations; comments by 10-20-80

55346 **Government Procurement** FEMA establishes procedures for acquisition of personal property and nonpersonal services; effective 8-14-80 (Part II of this issue)

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

55402 **Radioactive Materials** NRC upgrades emergency planning regulations; effective 11–3–80 (Part VIII of this issue) (2 documents)

55374 **Oil** DOE/ERA adopts procedures for distribution of Strategic Petroleum Reserve crude oil; effective 9–18–80 (Part III of this issue)

55386 **Waste Treatment** EPA publishes regulations regarding the hazardous waste management system (Part V of this issue)

55213 **Environmental Protection** FCA proposes policy statement on implementation of National Environmental Policy Act; comments by 10–20–80

55205 **Railroads** ICC exempts State acquisition of abandoned rail lines from certain regulations; effective 9–18–80

55223 **Petroleum** FTC publishes proposal regarding deceptive advertising and labeling of previously used lubricating oil; comments by 9–18–80

55172 **Consumer Safety** HHS/FDA requires warning label for bubble bath products; effective 8–19–80

55257 **Petroleum Allocation** DOE/ERA issues supplemental allocation notice for 7–1 through 9–30–80 period for Canadian crude oil

55394 **Pesticide** FMCS appoints arbitrators to assist pesticide producers in resolution of disputes over value of technical data; effective 9–18–80 (Part VII of this issue)

55252 **Import** CITA increases import restraint levels for certain man-made fiber textile products from Singapore; effective 8–18–80

55317 **Sunshine Act Meetings**

Separate Parts of This Issue

55346 **Part II, FEMA**
55374 **Part III, DOE/ERA**
55382 **Part IV, HHS/HDSO**
55386 **Part V, EPA**
55390 **Part VI, USDA/FGIS**
55394 **Part VII, FMCS**
55402 **Part VIII, NRC**

Contents

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 1980

Agricultural Marketing Service
RULES
55140 Oranges (Valencia) grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
55213 Nebraska-Western Iowa

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Federal Grain Inspection Service.
NOTICES
Meetings:
55249 Equal Opportunity Citizen's Advisory Committee

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
55248 Biocontrol Laboratory, Moore Air Base, Mission, Tex.
55248 National Monitoring and Residue Analysis Laboratory, construction; Gulfport, Miss.

Arms Control and Disarmament Agency
NOTICES
Meetings:
55249 General Advisory Committee

Arts and Humanities, National Foundation
NOTICES
Meetings:
55300 Design Arts Panel
55299 Folk Arts Panel
55300 Museum Panel (3 documents)

Civil Aeronautics Board
NOTICES
Hearings, etc.:
55250 Trans-Panama, S.A.

Commerce Department
See also International Trade Administration; Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
55252 Economic Advisory Board

Commodity Credit Corporation
RULES
Loan and purchase programs:
55141 Barley
55144 Corn
55166 Cotton; correction
55153 Oats
55158 Rye
55149 Sorghum
55159 Wheat

Commodity Futures Trading Commission
NOTICES
55317 Meetings; Sunshine Act

Defense Department
See Defense Logistics Agency.

Defense Logistics Agency
NOTICES
Environmental statements; availability; etc.:
55252 FS Smoke; disposal

Delaware River Basin Commission
NOTICES
55253 Comprehensive plan, water supply and sewage treatment plant projects; hearings

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
56374 Crude oil; distribution and pricing of strategic petroleum reserve
NOTICES
Canadian allocation program:
55257 Crude oil, July through September
Powerplant and industrial fuel use; existing powerplant or installation; prohibition orders, exemption requests, etc.:
55254 Convent Chemical Corp.
55258 General Electric Co.

Education Department
NOTICES
Meetings:
55253 Career Education National Advisory Council

Energy Department
See Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55197 Illinois; correction
55179 Maryland
55178 Pennsylvania
55180 Virginia
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
55198 Formulations; inert ingredients
55199 Oxalic acid
55197 Tetrahydro-5,5-dimethyl-2(1H)-pyrimidinone (3-(4-(trifluoromethyl)phenyl)-1-(2-(4(trifluoromethyl)phenyl) ethenyl)-2-propenylidene)hydrazone
Waste management, solid:
55386 Hazardous waste regulations; amendments, interpretations, and answers to questions; notice of intent
Water pollution; effluent guidelines for point source categories:
55200 Electroplating; correction

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55227 Minnesota
55228, 55229 Virginia (2 documents)
55230 Wisconsin; correction
Air quality planning purposes; designation of areas:
55231 California
Air quality surveillance, ambient:
55230 Pennsylvania; State and local air monitoring stations
Waste management, solid:
55232 Hazardous waste regulations; amendments, interpretations, and answers to questions; notice of intent; cross reference
NOTICES
Pesticide registration, cancellation, etc.:
55269 Antifouling red/gray, etc.
Pesticides; emergency exemption applications:
55270 Fenvalerate; correction
Pesticides; experimental use permit applications:
55270 UpJohn Co. et al.
Pesticides; temporary tolerances:
55270 Hercon Products Group
Pesticides; tolerances in animal feeds and human food:
55268 Monsanto Co. et al.
Toxic and hazardous substances control:
55268 Premanufacture notices receipts

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
55282 Fairway Apartments, Fulton County, Ga., et al.

Equal Employment Opportunity Commission
NOTICES
55317 Meetings; Sunshine Act

Farm Credit Administration
PROPOSED RULES
55213 National Environmental Policy Act; implementation; policy statement

Farmers Home Administration
NOTICES
Rural housing loans and grants:
55249 Self-help rehabilitation/repair assistance grants

Federal Communications Commission
RULES
Radio services, special:
55200 Land mobile services; regional spectrum management program in Chicago; termination of proceeding
Radio stations; table of assignments:
55205 Alaska
55201 Arizona
55202 Colorado
55202 Georgia and North Carolina
Television stations; table of assignments:
55204 California
55203 Kentucky
55203 Oregon
PROPOSED RULES
Radio and television broadcasting:
55242 Representation of stations by representatives owned by competing stations in same area
Radio services, special:
55245 Land mobile services; use of digital voice modulation in power radio service
Radio stations; table of assignments:
55237 Colorado
55240 Utah
55238–55241 Washington (2 documents)
55239 Wisconsin
Television stations; table of assignments:
55244 North Carolina et al.
NOTICES
Hearings, etc.:
55271 Trinity Broadcasting of Denver, Inc., et al.
Meetings:
55272 National Industry Advisory Committee
55271 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Emergency Management Agency
RULES
55346 Procurement; personal property and nonpersonal services
PROPOSED RULES
Flood elevation determinations:
55232 Kansas; correction
55236 Pennsylvania
55234 Virginia
55233 Washington

Federal Grain Inspection Service
NOTICES
Grain standards; inspection points:
55392 Iowa
55390, 55391 North Dakota (2 documents)
55390 Texas

Federal Home Loan Bank Board
NOTICES
55317 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
55273 Agreements filed, etc.
Freight forwarder licenses:
55274 Jovanovic, Dusan et al.
55274 Peninsula Air Delivery

Federal Mediation and Conciliation Service
RULES
55394 Pesticide data disputes; arbitration procedures

Federal Reserve System
NOTICES
Applications, etc.:
55274 Arbuckle Bancorp., Inc.
55276 Bellevue Service Co.
55274 Chemical New York Corp. et al.
55276 Chickasha Bancshares, Inc.
55276 Citibank Interamerica
55276 First Alabama Bancshares, Inc.
55276 First Bank Holding Co. of Colorado
55277 How-Win Development Co.

55277 Iowa Bancorporation
55278 Jasper Investment Co., Inc.
55278 MilWisc Bancorp, Inc.
55278 National Bancshares, Inc.
55278 Norlo, Inc.
55278 P & D Co. of Stewartville, Inc.
55279 Southeast Bancshares, Inc.
55279 Southwestern Investment Co.
55279 Union International Bank
55279 United Citizens Bancshares, Inc.
55280 Valley State Investments, Inc.
55317 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
55171 Lesko, Terrance D., M.D.
PROPOSED RULES
55223 Lubricating oil, previously used; deceptive advertising and labeling; enforcement policy statement
Prohibited trade practices:
55219 Universal Bodybuilding, Inc. et al.
NOTICES
Premerger notification waiting periods; early terminations:
55280 Continental Grain Co.
55280 Digital Equipment Corp.

Fiscal Service
RULES
55178 Bonds, U.S. retirement plan; interest rates; correction

Fish and Wildlife Service
RULES
Hunting:
55210 Conboy Lake National Wildlife Refuge, Wash., et al.

Food and Drug Administration
RULES
Cosmetics:
55172 Bubble bath products; warning label
NOTICES
55281 Tomato juice; identity standard; temporary permits for market testing

General Services Administration
NOTICES
Authority delegations:
55281 Defense Department Secretary

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See Food and Drug Administration; Health Resources Administration; Health Services Administration; Human Development Services Office; National Institutes of Health.

Health Resources Administration
NOTICES
Grants; availability, etc.:
55282 Health professions schools; first-year student enrollment decreases

Health Services Administration
NOTICES
Meetings; advisory committees:
55281 September

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
55260 Cases filed
55262, 55265 Decisions and orders (2 documents)
Remedial orders:
55267 Objections filed

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
55283 Florida et al.

Housing and Urban Development Department
See also Environmental Quality Office, Housing and Urban Development Department.
PROPOSED RULES
Environmental criteria and standards:
55223 Danger zones around hazardous operations; handling of conventional fuels or explosive chemicals, etc.

Human Development Services Office
RULES
Social services programs for individuals and families:
55382 Disclosure of ownership interests, etc.

Justice Department
See Parole Commission.

Interior Department
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau.

Internal Revenue Service
NOTICES
55250 Merchant marine and fisheries capital construction funds; applicable interest rates on nonqualified withdrawals

International Trade Administration
NOTICES
Scientific articles; duty free entry:
55250 National Aeronautics and Space Administration et al.; correction

Interstate Commerce Commission
RULES
Practice and procedure:
55205 Rail carriers; common carrier status of States, State agencies and instrumentalities, and political subdivisions
Reports:
55209 Motor carriers of property; annual reports; discussion of comments
PROPOSED RULES
Practice and procedure:
55246 Administrative appeals from motor carrier board decisions

NOTICES
55296 Long and short haul applications for relief
Motor and rail carriers:
55296 Carrier-affiliated shippers' agents, status; declaratory order proceeding; extension of time
Motor carriers:
55295 Fuel costs recovery, expedited procedures
55287-55291 Permanent authority applications (3 documents)
55296 Permanent authority applications; correction
Petitions filed:
55286 Trailways, Inc.; transportation of small shipments weighing 500 pounds or less; denial
Rail carriers:
55296 Master tariffs; elimination of grain tables from general rate increase

Labor Department
See also Mine Safety and Health Administration; Wage and Hour Division.
NOTICES
Adjustment assistance:
55299 Complete Auto Transit; correction
55297 RCA Corp. et al.

Land Management Bureau
NOTICES
Applications, etc.:
55283 New Mexico
Environmental statements; availability, etc.:
55283 South Coast and Curry Sustained Yield Units; timber management plan, Oreg.

Libraries and Information Science, National Commission
NOTICES
55317 Meetings; Sunshine Act

Maritime Administration
NOTICES
55250 Merchant marine and fisheries capital construction funds; applicable interest rates on nonqualified withdrawals

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
55296 Galveston Coal Co., Inc.

National Bureau of Standards
RULES
55166 Measurement services; policies, services, procedures, and fees
NOTICES
Voluntary products standards:
55250 Construction and industrial plywood, etc.; withdrawal; status report

National Capital Planning Commission
NOTICES
Senior Executive Service:
55299 Bonus award schedule

National Credit Union Administration
PROPOSED RULES
Federal credit unions:
55214 Month-end financial statements; financial condition, income, and expense; multipurpose form

National Institutes of Health
NOTICES
Committees; establishment, renewals, terminations, etc.:
55282 Cancer Panel, President's, and National Cancer Advisory Board

National Oceanic and Atmospheric Administration
NOTICES
55250 Merchant marine and fisheries capital construction funds; applicable interest rates on nonqualified withdrawals

National Science Foundation
NOTICES
Meetings:
55300 Information Science and Technology Advisory Committee

Nuclear Regulatory Commission
RULES
Nuclear material and production and utilization facilities; domestic licensing:
55402 Emergency planning
Production and utilization facilities, domestic licensing:
55413 Emergency planning; environmental assessment
NOTICES
Meetings:
55301 Reactor Safeguards Advisory Committee (2 documents)
55317, 55318 Meetings; Sunshine Act (2 documents)

Overseas Private Investment Corporation
NOTICES
55318 Meetings; Sunshine Act

Parole Commission
NOTICES
55318 Meetings; Sunshine Act (2 documents)

Personnel Management Office
RULES
Excepted service:
55138 Energy Department (3 documents)
55138, 55139 Environmental Protection Agency (2 documents)
55139 Federal Home Loan Bank Board
55139 Health, Education, and Welfare Department
55139 Health, Education, and Welfare Department; correction
55140 Housing and Urban Development Department
55140 Justice Department (2 documents)
55137 National Credit Union Administration
55137 State Department (2 documents)
55137 Transportation Department
55138 Treasury Department

Securities and Exchange Commission
NOTICES
Hearings, etc.:
55302 Alabama Power Co.

55303 Bondstock Corp.
55304 Chase Fund of Boston et al.
55310 Electro-Heat Resources Corp.
55310 O. N. Market Yield Fund, Inc.
55312 Paine, Webber Municipal Bond Fund First Series et al.
55314 Trinwall Bond Fund, Inc.
55315 Vermont Yankee Nuclear Power Corp.
Self-regulatory organization; proposed rule changes:
55308 Chicago Board Options Exchange, Inc.
55309 Cincinnati Stock Exchange
55309 Depository Trust Co.
55310 Midwest Clearing Corp.

State Department
NOTICES
Meetings:
55316 International Investment, Technology, and Development Advisory Committee

Textile Agreements Implementation Committee
NOTICES
Man-made textiles:
55252 Singapore

Treasury Department
See Fiscal Service; Internal Revenue Service.

Truman, Harry S., Scholarship Foundation
NOTICES
55318 Meetings; Sunshine Act

Wage and Hour Division
RULES
Child labor for agricultural employment:
55175 Waiver applications and restrictions of use of pesticides

Women, President's Advisory Committee
NOTICES
55302 Meetings (2 documents)

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Office of the Secretary—
55249 Citizens' Advisory Committee on Equal Opportunity, 9–7, 9–8 and 9–9–80

ARMS CONTROL AND DISARMAMENT AGENCY
55249 General Advisory Committee, 9–11 and 9–12–80

COMMERCE DEPARTMENT
Office of the Secretary—
55252 Economic Advisory Board, 9–22–80

EDUCATION DEPARTMENT
55253 Career Education National Advisory Council, 9–11 and 9–12–80

FEDERAL COMMUNICATIONS COMMISSION
55272 National Industry Advisory Committee, Broadcast Services Subcommittee, 9–11–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Services Administration—
55281 National Health Service Corps Advisory Council, 9–15, 9–16, and 9–17–80

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
55300 Design Arts Panel (Design Fellowships), 9–8, 9–9 and 9–10–80
55299 Folk Arts Panel, 9–5 and 9–6–80
55300 Museum Panel (Catalogue and Utilization), 9–15 and 9–16–80
55300 Museum Panel (Collection Maintenance), 9–9–80
55300 Museum Panel (Conservation), 9–8–80

NUCLEAR REGULATORY COMMISSION
55301 Reactor Safeguards Advisory Committee, Reactor Fuel Subcommittee, 9–13–80
55301 Reactor Safeguards Advisory Committee, Safety Philosophy and Criteria Subcommittee, 9–3–80

NATIONAL SCIENCE FOUNDATION
55300 Information Science and Technology Advisory Committee, 9–4 and 9–5–80

PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN
55302 Meeting, 9–16–80 (2 documents)

STATE DEPARTMENT
55316 International Investment, Technology, and Development Advisory Committee, 9–9, 9–10 and 9–11–80

HEARINGS

DELAWARE RIVER BASIN COMMISSION
55253 Hearing, 8–27–80

INTERIOR DEPARTMENT
Land Management Bureau—
55283 South Coast and Curry Sustained Yield Units timber management plan draft environmental impact statement, 10–1–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

LUBRICATING OIL
Deceptive advertising and labeling of previously used oil, enforcement policy; Federal Trade Commission; Proposed Rules

Rules and Regulations

V. 45 A G 1980 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
213 (16 documents)..... 55137–55140

7 CFR
908..... 55140
1421 (6 documents)..... 55141–55159
1427..... 55168
Proposed Rules:
1065..... 55213

10 CFR
50 (2 documents)..... 55402, 55413
70..... 55402
211..... 55374
220..... 55374

12 CFR
Proposed Rules:
Ch. VI..... 55213
Ch. VII..... 55214

15 CFR
200..... 55166

16 CFR
13..... 55171
Proposed Rules:
13..... 55219
406..... 55223

21 CFR
740..... 55170

24 CFR
Proposed Rules:
51..... 55223

29 CFR
575..... 55175
1440..... 55394

31 CFR
346..... 55178

40 CFR
52 (4 documents)..... 55178–55180, 55197
122–124..... 55386
180 (3 documents)..... 55197–55199
260–265..... 55386
413..... 55200.
Proposed Rules:
52 (4 documents)..... 55227–55230
58..... 55230
81 (2 documents)..... 55230, 55231
122–124..... 55232
260–265..... 55232

41 CFR
Ch. 44..... 55348

44 CFR
Proposed Rules:
67 (4 documents)..... 55232–55236

45 CFR
228..... 55382

47 CFR
1..... 55200
73 (7 documents)..... 55201–55205
90..... 55200
95..... 55200
Proposed Rules:
73 (7 documents)..... 55237–55244
90..... 55245

49 CFR
1120A..... 55205
1249..... 55209
Proposed Rules:
1100..... 55246

50 CFR
32..... 55210

Rules and Regulations

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; National Credit Union Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Secretary (Typing) to the Board, National Credit Union Administration, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 12, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: James Jackson, National Credit Union Administration, 202–254–9817.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3357(h) is revised as set out below:

§ 213.3357 National Credit Union Administration.

* * * * *

(h) One Secretary and one Secretary (Typing) to the Board.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25160 Filed 8-18-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Ambassador-at-Large and U.S. Special Representative for Nonproliferation Matters, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(10) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(10) One Secretary (Steno) and one Staff Assistant to the Ambassador-at-Large and U.S. Special Representative for Nonproliferation Matters.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80-25167 Filed 8-18-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Protocol Officer, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(23) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(23) One Secretary (Steno), one Staff Assistant, and one Protocol Officer to the Chief of Protocol.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80-25168 Filed 8-18-80; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration, Department of Transportation, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 10, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Olivia Harris, Department of Transportation, 202–426–4122.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3394(h)(8) is revised as set out below:

§ 213.3394 Department of Transportation.

* * * * *

(h) *Federal Aviation Administration.* * * *

SUMMARY: This amendment changes the

(m) *Office of the Assistant Secretary*

SUMMARY: This amendment excepts

On position content: Anne Maes,

5 CFR Part 213

(8) Two Special Assistants to the Assistant Administrator for Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80-25182 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Treasury

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Assistant Secretary (Administration), Department of the Treasury, because it is confidential in nature. This position replaces a Special Assistant to the Assistant Secretary (Public Affairs) because there is no longer a need for the job. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Barbara Coughlan, Department of the Treasury, 202–566–2707.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3305(a)(39) and (73) are revised as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(39) One Staff Assistant, one Special Assistant and one Confidential Assistant to the Assistant Secretary (Administration).

* * * * *

(73) Two Special Assistants to the Assistant Secretary (Public Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80-25169 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Energy from Private Secretary to the Chairman, Federal Power Commission to Private Secretary to the Chairman, Federal Energy Regulatory Commission to reflect an organizational transfer. This position formerly existed at the Federal Energy Administration and was subsequently transferred to the Department of Energy on September 30, 1977.

EFFECTIVE DATE: February 8, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(1) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.*

(1) One Confidential Secretary, three Private Secretaries, one Secretary (Steno) and one Confidential Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25176 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment corrects FR document 79–32624 published October 23, 1979, (44 FR 60974) which erroneously listed a position at the Department of Energy of one Staff Assistant to the Director, Office of Intergovernmental Affairs.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(5) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(5) One Staff Assistant, City and County Relations; and one Staff Assistant; to the Director, Office of Intergovernmental Affairs.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR, 1954–1958 Comp., p. 218)

[FR Doc. 80-25177 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Energy from Staff Assistant, Congressional Affairs to Staff Assistant, Legislative Affairs to reflect an organizational redesignation.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(6) is revised and (m)(7) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(6) Three Staff Assistants, Congressional Affairs; one Congressional Affairs Specialist and one Legislative Affairs Specialist.

(7) One Staff Assistant, Legislative Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25178 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, Office of Public Awareness, Environmental Protection Agency, because it is confidential in nature. This position takes the place of a Special Assistant to the Deputy Administrator because there is no longer a need for the job. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Anne Maes, Environmental Protection Agency, 202–755–0270.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3318(a)(6) is revised and (a)(9) is added as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* * * *

(6) One Special Assistant to the Deputy Administrator.

* * * * *

(9) One Special Assistant to the Director, Office of Public Awareness.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25174 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Congressional Liaison Specialist, to the Director, Congressional Affairs Division, Environmental Protection Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management. This position takes the place of a Legislative Specialist, Office of Legislation because there is no longer a need for the job.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Anne Maes, Environmental Protection Agency; 202–755–0270.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3318(b)(7) is revised and set out below:

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(7) One Congressional Liaison Specialist to the Director, Congressional Affairs Division.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25175 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Federal Home Loan Bank Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C Director for Minority Affairs, Federal Home Loan Bank Board, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 26, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Pat Schambach, Federal Home Loan Bank Board, 202–377–6054.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3354(s) is added as set out below:

§ 213.3354 Federal Home Loan Bank Board.

* * * * *

(s) Director for Minority Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25179 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Advisor for Program and Resource Development, Office of the Assistant Secretary for Human Development, Department of Health, Education and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 10, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education and Welfare, 202–426–7621.

Office of Personnel Management.

Kathryn Anderson Fetzer

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3316(n)(4) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(4) One Special Advisor for Program and Resource Development.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25172 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document corrects an excepted service appointing authority of one Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications), Department of Health, Education, and Welfare, published by the Office of Personnel Management on November 27, 1979. This is an editorial change only.

EFFECTIVE DATE: April 11, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, Office of Personnel Management, 202–632–6000.

SUPPLEMENTARY INFORMATION: FR Doc. 79–36273, published November 27, 1979, at 44 FR 67621, incorrectly revised 5 CFR 213.3316(r)(3). This document corrects paragraph (r)(3) and revises paragraph (r)(11).

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3316(r)(3) is corrected and (r)(11) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

(3) One Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications).

* * * * *

(11) Confidential Assistant and one Assistant Director for Programs to the Director, Institute of Museum Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25173 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document corrects FR Doc 79–34732 dated November 9, 1979, (44 FR 65027) which erroneously revoked one Private Secretary to the Deputy Assistant Secretary for Legislation, Office of Legislation and Intergovernmental Relations, Department of Housing and Urban Development.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3384(m)(2) is restored and (n)(2) is revoked as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(m) *Office of Legislation and Intergovernmental Relations.* * * *

(2) One Private Secretary to the Deputy Assistant Secretary for Legislation.

* * * * *

(n) *Office of the Assistant Secretary for Administration.* * * *

(2) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25181 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Executive Assistant and one Special Assistant to the Attorney General, Department of Justice, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(1) is revised as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.*

* * *

(1) Five Special Assistants and one Executive Assistant to the Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25170 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Justice from Confidential Assistant to the Associate Attorney General to Special Assistant to the Associate Attorney General to more appropriately reflect the duties of the position.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(12) is revised as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* ***

(12) Two Special Assistants and a Deputy Associate Attorney General to the Associate Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25171 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 658, Amdt. 1]

[Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 8–14, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: The amendment is effective for the period August 8–14, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated parts of California. The agreement and order are effective under the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again on August 13, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this amendment is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and this amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

Paragraph (a) of § 908.958 Valencia Orange Regulation 658 (45 FR 52356) is amended to read as follows:

§ 908.958 Valencia orange regulation 658.

(a) * * *

(1) District 1: 376,000 cartons;

(2) District 2: 424,000 cartons;

(3) District 3: Open movement.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: August 14, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–25162 Filed 8–18–80; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

[CCC Grain Price Support Regulations, 1979 Crop Barley Supplement, Amendment 1]

7 CFR Part 1421

1979 Crop Barley Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.76 that appeared in the Federal Register at 44 FR 31611. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop barley national average loan and purchase rates from $1.63 to $1.71 per bushel, previously announced in the Federal Register. Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447–7923.

With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the Federal Register (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for barley was being increased to $1.71 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $1.71 per bushel for the 1979 crop of barley, published in the Federal Register on January 30, 1980, (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.76(a) is revised to read as follows:

§ 1421.76 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for barley are established for barley grading No. 2 or better as follows:

1979—Crop Barley Loan and Purchase Rates

County	Rate per bushel
Alabama	
All counties	$1.60
Alaska [1]	
Delta	1.54
Fairbanks	1.53
Glenallen	1.53
Homer	1.59
Kenai-Sold	1.66
Palmer	1.72
Talkeetna	1.72
Arizona	
All counties	1.80
Arkansas	
All counties	1.60
California	
Alameda	2.07
Alpine	1.90
Amador	2.03
Butte	1.98
Calaveras	2.03
Colusa	2.02
Contra Costa	2.04
El Dorado	2.02
Fresno	2.01
Glenn	1.99

1979—Crop Barley Loan and Purchase

1979—Crop Barley Loan and Purchase

1979—Crop Barley Loan and Purchase

1979—Crop Barley Loan and Purchase

1979—Crop Barley Loan and Purchase

1979—Crop Barley Loan and Purchase

1979—Crop Barley Loan and Purchase Rates—Continued

County	Rate per bushel
Humboldt	1.87
Imperial	2.01
Inyo	1.89
Kern	2.02
Kings	2.00
Lake	1.97
Lassen	1.87
Los Angeles	2.07
Madera	2.03
Marin	2.04
Mariposa	2.01
Mendocino	1.91
Merced	2.03
Modoc	1.85
Monterey	1.98
Napa	2.02
Orange	2.07
Placer	2.00
Plumas	1.90
Riverside	2.02
Sacramento	2.07
San Benito	1.99
San Bernardino	2.03
San Diego	2.07
San Francisco	2.07
San Joaquin	2.07
San Luis Obispo	1.98
San Mateo	2.04
Santa Barbara	1.98
Santa Clara	2.03
Santa Cruz	2.00
Shasta	1.87
Sierra	1.98
Siskiyou	1.85
Solano	2.04
Sonoma	2.02
Stanislaus	2.05
Sutter	2.01
Tehama	1.98
Tulare	1.99
Tuolumne	2.01
Ventura	2.02
Yolo	2.04
Yuba	2.01
Weighted State average	2.00
Colorado	
All counties	1.77
Connecticut	
All counties	1.69
Delaware	
All counties	1.69
Florida	
All counties	1.70
Georgia	
All counties	1.70
Idaho	
Ada	1.74
Adams	1.74
Bannock	1.74
Bear Lake	1.71
Benewah	1.83
Bingham	1.73
Blaine	1.74
Boise	1.74
Bonner	1.79
Bonneville	1.71
Boundary	1.78
Butte	1.73
Camas	1.74
Canyon	1.74
Caribou	1.71
Cassia	1.73
Clark	1.70
Clearwater	1.82
Custer	1.74
Elmore	1.74
Franklin	1.75
Fremont	1.71
Gem	1.74
Gooding	1.74
Idaho	1.78
Jefferson	1.71
Jerome	1.74
Kootenai	1.83
Latah	1.83
Lemhi	1.70
Lewis	1.82
Lincoln	1.74
Madison	1.71
Minidoka	1.75
Nez Perce	1.83
Oneida	1.74
Owyhee	1.74
Payette	1.74
Power	1.74
Shoshone	1.71
Teton	1.71
Twin Falls	1.75
Valley	1.74
Washington	1.74
Weighted State average	1.74
Illinois	
Alexander	1.75
Cook	1.70
Madison	1.74
St. Clair	1.74
All other counties	1.85
Weighted State average	1.85
Indiana	
All counties	1.85
Iowa	
Pottawattamie	1.71
All other counties	1.67
Weighted State average	1.67
Kansas	
Leavenworth	1.72
Wyandotte	1.72
All other counties	1.68
Weighted State average	1.68
Kentucky	
All counties	1.66
Louisiana	
East Baton Rouge	1.87
Jefferson	1.87
Orleans	1.87
St. Charles	1.87
West Baton Rouge	1.87
All other parishes	1.70
Weighted State average	1.70
Maine	
All counties	1.69
Maryland	
Baltimore	1.87
All other counties	1.69
Weighted State average	1.69
Massachusetts	
All counties	1.69
Michigan	
All counties	1.81
Minnesota	
Aitkin	1.79
Anoka	1.82
Becker	1.69
Beltrami	1.71
Benton	1.79
Big Stone	1.72
Blue Earth	1.82
Brown	1.80
Carlton	1.83
Carver	1.83
Cass	1.74
Chippewa	1.78
Chisago	1.82
Clay	1.67
Clearwater	1.67
Cottonwood	1.76
Crow Wing	1.75
Dakota	1.83
Dodge	1.82
Douglas	1.73
Faribault	1.81
Fillmore	1.79
Freeborn	1.82
Goodhue	1.82
Grant	1.71
Hennepin	1.83
Houston	1.78
Hubbard	1.71
Isanti	1.81
Itasca	1.76
Jackson	1.77
Kanabec	1.80
Kandiyohi	1.79
Kittson	1.82
Koochiching	1.75
Lac Qui Parle	1.75
Lake of the Woods	1.70
Le Sueur	1.83
Lincoln	1.73
Lyon	1.77
McLeod	1.82
Mahnomen	1.67
Marshall	1.64
Martin	1.80
Meeker	1.80
Mille Lacs	1.80
Morrison	1.77
Mower	1.81
Murray	1.78
Nicollet	1.82
Nobles	1.73
Norman	1.65
Olmsted	1.82
Otter Tail	1.70
Pennington	1.65
Pine	1.83
Pipestone	1.72
Polk	1.65
Pope	1.76
Ramsey	1.83
Red Lake	1.65
Redwood	1.79
Renville	1.80
Rice	1.83
Rock	1.70
Roseau	1.64
St. Louis	1.83
Scott	1.83
Sherburne	1.82
Sibley	1.82
Stearns	1.78
Steele	1.83
Stevens	1.74
Swift	1.77
Todd	1.74
Traverse	1.70
Wabasha	1.82
Wadena	1.73
Waseca	1.83
Washington	1.83
Watonwan	1.81
Wilkin	1.68
Winona	1.80
Wright	1.83
Yellow Medicine	1.75
Weighted State average	1.67
Mississippi	
All counties	1.69
Missouri	
Buchanan	1.71
Clay	1.71
Jackson	1.71
St. Louis	1.73
All other counties	1.69
Weighted State average	1.69
Montana	
Beaverhead	1.85
Big Horn	1.80
Blaine	1.56
Broadwater	1.68
Carbon	1.61
Carter	1.50
Cascade	1.84
Chouteau	1.60
Custer	1.52
Daniels	1.49
Dawson	1.51
Deer Lodge	1.71
Fallon	1.50
Fergus	1.60
Flathead	1.76
Gallatin	1.71
Garfield	1.55
Glacier	1.63
Golden Valley	1.61
Granite	1.69
Hill	1.59
Jefferson	1.71
Judith Basin	1.61
Lake	1.69
Lewis and Clark	1.62
Liberty	1.61
Lincoln	1.76
McCone	1.52
Madison	1.71
Meagher	1.65
Mineral	1.73
Missoula	1.73
Musselshell	1.60
Park	1.69
Petroleum	1.58
Phillips	1.53
Pondera	1.62
Powder River	1.52
Powell	1.71
Prairie	1.52
Ravalli	1.69
Richland	1.49
Roosevelt	1.49
Rosebud	1.55
Sanders	1.73
Sheridan	1.47
Siver Bow	1.71
Stillwater	1.61
Sweet Grass	1.64
Teton	1.62
Toole	1.62
Treasure	1.55
Valley	1.52
Wheatland	1.62
Wibaux	1.50
Yellowstone	1.60
Weighted State average	1.61
Nebraska	
Douglas	1.72
All other counties	1.64
Weighted State average	1.64
Nevada	
All counties	1.69
New Hampshire	
All counties	1.69
New Jersey	
All counties	1.69
New Mexico	
All counties	1.79
New York	
Albany	1.87
New York City	1.87
All other counties	1.69
Weighted State average	1.69
North Carolina	
All counties	1.70
North Dakota	
Adams	1.49
Barnes	1.62
Benson	1.54
Billings	1.47
Bottineau	1.49
Bowman	1.47
Burke	1.47
Burleigh	1.53
cass	1.65
Cavalier	1.56
Dickey	1.60
Divide	1.47
Dunn	1.47
Eddy	1.57
Emmons	1.52
Foster	1.58
Golden Valley	1.47
Grand Forks	1.62
Grant	1.48
Griggs	1.59
Hettinger	1.47
Kidder	1.58
La Moure	1.59
Logan	1.58
McHenry	1.52
McIntosh	1.57
McKenzie	1.49
McClean	1.51
Mercer	1.50
Morton	1.50
Mountrail	1.47
Nelson	1.59
Oliver	1.51
Pembina	1.60
Pierce	1.53
Ramsey	1.58
Ransom	1.62
Renville	1.48
Richland	1.65
Rolette	1.52
Sargent	1.64
Sheridan	1.53
Sioux	1.50
Slope	1.47
Stark	1.47
Steele	1.61
Stutsman	1.60
Towner	1.54
Traill	1.62
Walsh	1.60
Ward	1.49
Wells	1.58
Williams	1.47
Weighted State average	1.58
Ohio	
All counties	1.63
Oklahoma	
All counties	1.70
Oregon	
Baker	1.81
Benton	1.86
Clackamas	1.90
Clatsop	1.96
Columbia	1.96
Coos	1.77
Crook	1.85
Curry	1.75
Deschutes	1.85
Douglas	1.79
Gilliam	1.90
Grant	1.85
Harney	1.72
Hood river	1.92
Jackson	1.78
Jefferson	1.88
Josephine	1.78
Klamath	1.78
Lake	1.77
Lane	1.85
Lincoln	1.85
Linn	1.87
Malheur	1.75
Marion	1.88
Morrow	1.69
Multnomah	1.96
Polk	1.88
Sherman	1.91
Tillamook	1.91
Umatilla	1.86
Union	1.84
Wallowa	1.81
Wasco	1.92
Washington	1.92
Wheeler	1.87
Yamhill	1.90
Weighted State average	1.83
Pennsylvania	
Philadelphia	1.87
All other counties	1.69
Weighted State average	1.69
Rhode Island	
All counties	1.69
South Carolina	
Charleston	1.85
All other counties	1.70
Weighted State average	1.70
South Dakota	
Aurora	1.59
Beadle	1.63
Bennett	1.53
Bon Homme	1.62
Brookings	1.69
Brown	1.62
Brule	1.57
Buffalo	1.59
Butte	1.48
Campbell	1.56
Charles Mix	1.60
Clark	1.64
Clay	1.64
Codington	1.67
Corson	1.51
Custer	1.51
Davison	1.59
Day	1.65
Deuel	1.71
Dewey	1.53
Douglas	1.60
Edmunds	1.59
Fall River	1.51
Faulk	1.60
Grant	1.71
Gregory	1.58
Haakon	1.53
Hamlin	1.67
Hand	1.61
Hanson	1.60
Harding	1.47
Hughes	1.57
Hutchinson	1.61
Hyde	1.59
Jackson	1.53
Jerauld	1.59
Jones	1.56
Kingsbury	1.66
Lake	1.65
Lawrence	1.46
Lincoln	1.64
Lyman	1.57
McCook	1.62
McPherson	1.59
Marshall	1.64
Meade	1.49
Mellette	1.55
Miner	1.61
Minnehaha	1.65
Moody	1.67
Pennington	1.51
Perkins	1.49
Roberts	1.69
Potter	1.58
Sanborn	1.59
Shannon	1.51
Spink	1.62
Stanley	1.56
Sully	1.58
Todd	1.55
Tripp	1.57
Turner	1.64
Union	1.65
Walworth	1.56
Yankton	1.64
Ziebach	1.51
Weighted State average	1.62
Tennessee	
Shelby	1.75
All other counties	1.69
Weighted State average	1.69
Texas	
Chambers	1.89
Galveston	1.89
Harris	1.89
Jefferson	1.89
Nueces	1.89
San Patricio	1.89
All other counties	1.73
Weighted State average	1.73
Utah	
All counties	1.79
Vermont	
All counties	1.69
Weighted State average	1.70

V 45 AG 1980 UMI

1979—Crop Barley Loan and Purchase Rates—Continued

County	Rate per bushel
Virginia	
Chesapeake (Norfolk)	1.79
All other counties	1.66
Weighted State average	1.69
Washington	
Adams	1.86
Asotin	1.88
Benton	1.88
Chelan	1.90
Clallam	1.76
Clark	1.93
Columbia	1.87
Cowlitz	1.86
Douglas	1.85
Ferry	1.81
Franklin	1.87
Garfield	1.87
Grant	1.88
Grays Harbor	1.85
Island	1.80
Jefferson	1.81
King	1.85
Kitsap	1.90
Kittitas	1.88
Klickitat	1.89
Lewis	1.90
Lincoln	1.85
Mason	1.83
Okanogan	1.84
Pacific	1.85
Pend Oreille	1.79
Pierce	1.95
San Juan	1.84
Skagit	1.84
Skamania	1.91
Snohomish	1.89
Spokane	1.83
Stevens	1.80
Thurston	1.90
Wahkiakum	1.99
Walla Walla	1.87
Whatcom	1.82
Whitman	1.85
Yakima	1.87
Weighted State average	1.85
West Virginia	
All counties	1.69
Wisconsin	
Douglas	1.75
All other counties	1.66
Weighted State average	1.68
Wyoming	
All counties	1.73

[1] In Alaska, loan rates are for marketing areas.

Since the 1979 crop of barley has been harvested in the barley producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25144 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Corn Supplement, Amendment 1]

1979 Crop Corn Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.115 that appeared in the **Federal Register** at 44 FR 48647. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop corn national average loan and purchase rates from $2.00 to $2.10 per bushel, previously announced in the **Federal Register.** Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447–7923. With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS) Room 3749, South Building, P.O. Box 2415. Washington, D.C. 20013, (202) 447–7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for corn was being increased to $2.10 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $2.10 per bushel for the 1979 crop of corn, published in the **Federal Register** on January 30, 1980, (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.115(a) is revised to read as follows:

§ 1421.115 Loan and Purchase Rates, Premiums and Discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for corn are established for corn grading No. 2 and containing from 15.1 through 15.5 percent moisture as follows:

1979—Crop Corn Loan and Purchase

County	Rate per bushel
Alabama	
All counties	$2.25
Arizona	
All counties	2.31
Arkansas	
All counties	2.22
California	
All counties	2.31
Colorado	
Baca	2.14
Cheyenne	2.13
Kiowa	2.13
Kit Carson	2.13
Lincoln	2.16
Logan	2.15
Phillips	2.13
Prowers	2.13
Sedgewick	2.13
Washington	2.15
Yuma	2.12
All other counties	2.17
Weighted State average	2.14
Connecticut	
All counties	2.34
Delaware	
All counties	2.28
Florida	
All counties	2.26

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Georgia	
All counties	2.26
Idaho	
All counties	2.26
Illinois	
Adams	2.15
Alexander	2.19
Bond	2.17
Boone	2.15
Brown	2.16
Bureau	2.15
Calhoun	2.17
Carroll	2.13
Cass	2.16
Champaign	2.14
Christian	2.16
Clark	2.14
Clay	2.15
Clinton	2.18
Coles	2.14
Cook	2.19
Crawford	2.14
Cumberland	2.14
De Kalb	2.15
De Witt	2.14
Douglas	2.14
Du Page	2.18
Edgar	2.14
Edwards	2.16
Effingham	2.15
Fayette	2.16
Ford	2.15
Franklin	2.17
Fulton	2.16
Gallatin	2.17
Greene	2.17
Grundy	2.16
Hamilton	2.16
Hancock	2.15
Hardin	2.18
Henderson	2.15
Henry	2.15
Iroquois	2.15
Jackson	2.18
Jasper	2.14
Jefferson	2.18
Jersey	2.17
Jo Daviess	2.12
Johnson	2.18
Kane	2.17
Kankakee	2.16
Kendall	2.16
Knox	2.18
Lake	2.18
La Salle	2.15
Lawrence	2.15
Lee	2.15
Livingston	2.15
Logan	2.15
McDonough	2.18
McHenry	2.17
McLean	2.14
Macon	2.15
Macoupin	2.17
Madison	2.19
Marion	2.16
Marshall	2.15
Mason	2.16
Massac	2.19
Menard	2.15
Mercer	2.14
Monroe	2.20
Montgomery	2.18
Morgan	2.16
Moultrie	2.14
Ogle	2.14
Peoria	2.16
Perry	2.19
Piatt	2.14
Pike	2.16
Pope	2.18
Pulaski	2.19
Putnam	2.15
Randolph	2.19
Richland	2.15
Rock Island	2.14
St. Clair	2.20
Saline	2.17
Sangamon	2.15
Schuyler	2.16
Scott	2.16
Shelby	2.15
Stark	2.16
Stephenson	2.12
Tazwell	2.15
Union	2.18
Vermilion	2.14
Wabash	2.16
Warren	2.16
Washington	2.20
Wayne	2.18
White	2.16
Whiteside	2.14
Will	2.18
Williamson	2.17
Winnebago	2.13
Woodford	2.15
Weighted State average	2.15
Indiana	
Adams	2.13
Allen	2.13
Bartholomew	2.14
Benton	2.15
Blackford	2.12
Boone	2.10
Brown	2.14
Carroll	2.13
Cass	2.15
Clark	2.17
Clay	2.12
Clinton	2.11
Crawford	2.17
Daviess	2.16
Dearborn	2.17
Decatur	2.14
De Kalb	2.13
Delaware	2.11
Dubois	2.16
Elkhart	2.15
Fayette	2.13
Floyd	2.17
Fountain	2.12
Franklin	2.16
Fulton	2.15
Gibson	2.17
Grant	2.12
Greene	2.14
Hamilton	2.10
Hancock	2.11
Harrison	2.17
Hendricks	2.11
Henry	2.11
Howard	2.13
Huntington	2.12
Jackson	2.16
Jasper	2.16
Jay	2.13
Jefferson	2.17
Jennings	2.16
Johnson	2.12
Knox	2.16
Kosciusko	2.15
Lagrange	2.13
Lake	2.16
La Porte	2.18
Lawrence	2.16
Madison	2.10
Marion	2.11
Marshall	2.16
Martin	2.16
Miami	2.13
Monroe	2.14
Montgomery	2.12
Morgan	2.12
Newton	2.16
Noble	2.13
Ohio	2.17
Orange	2.16
Owen	2.12
Parke	2.12
Perry	2.17
Pike	2.16
Porter	2.16
Posey	2.17
Pulaski	2.16
Putnam	2.11
Randolph	2.12
Ripley	2.16
Rush	2.12
St. Joseph	2.16
Scott	2.17
Shelby	2.12
Spencer	2.17
Starke	2.16
Steuben	2.13
Sullivan	2.14
Switzerland	2.17
Tippecanoe	2.13
Tipton	2.13
Union	2.11
Vanderburgh	2.14
Vermillion	2.17
Vigo	2.13
Wabash	2.13
Warren	2.13
Warrick	2.13
Washington	2.17
Wayne	2.17
Wells	2.12
White	2.12
Whitley	2.15
Weighted State average	2.13
Iowa	2.14
Adair	2.08
Adams	2.11
Allamakee	2.06
Appanoose	2.11
Audubon	2.08
Benton	2.09
Black Hawk	2.08
Boone	2.07
Bremer	2.08
Buchanan	2.09
Buena Vista	2.04
Butler	2.07
Calhoun	2.05
Carroll	2.08
Cass	2.09
Cedar	2.12
Cerro Gordo	2.06
Cherokee	2.04
Chickasaw	2.07
Clarke	2.10
Clay	2.02
Clayton	2.06
Clinton	2.12
Crawford	2.09
Dallas	2.07
Davis	2.12
Decatur	2.12
Delaware	2.09
Des Moines	2.12
Dickinson	2.00
Dubuque	2.10
Emmet	2.00
Fayette	2.08
Floyd	2.07
Franklin	2.06
Fremont	2.12
Greene	2.06
Grundy	2.08
Guthrie	2.07
Hamilton	2.06
Hancock	2.05
Hardin	2.08
Harrison	2.10
Henry	2.12
Howard	2.05
Humboldt	2.05
Ida	2.05
Iowa	2.10
Jackson	2.11
Jasper	2.09
Jefferson	2.11
Johnson	2.11
Jones	2.10
Keokuk	2.11
Kossuth	2.02
Lee	2.12
Linn	2.09
Louisa	2.12
Lucas	2.10
Lyon	2.01
Madison	2.08
Mahaska	2.10
Marion	2.09

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Kansas	
Allen	2.13
Anderson	2.13
Atchison	2.13
Barber	2.13
Barton	2.13
Bourbon	2.13
Brown	2.13
Butler	2.13
Chase	2.13
Chautauqua	2.13
Cherokee	2.13
Cheyenne	2.13
Clark	2.13
Clay	2.13
Cloud	2.13
Coffey	2.13
Comanche	2.13
Cowley	2.13
Crawford	2.13
Decatur	2.13
Dickinson	2.13
Doniphan	2.13
Douglas	2.13
Edwards	2.13
Elk	2.13
Ellis	2.13
Ellsworth	2.13
Finney	2.13
Ford	2.13
Franklin	2.13
Geary	2.13
Gove	2.13
Graham	2.13
Grant	2.13
Gray	2.13
Greeley	2.13
Greenwood	2.13
Hamilton	2.13
Harper	2.13
Harvey	2.13
Haskell	2.13
Hodgeman	2.13
Jackson	2.13
Jefferson	2.13
Jewell	2.13
Johnson	2.13
Kearny	2.13
Kingman	2.13
Kiowa	2.13
Labette	2.13
Lane	2.13
Leavenworth	2.13
Lincoln	2.13
Linn	2.13
Logan	2.13
Lyon	2.13
McPherson	2.13
Marion	2.13
Marshall	2.13
Meade	2.13
Miami	2.13
Mitchell	2.13
Montgomery	2.13
Morris	2.13
Morton	2.13
Nemaha	2.13
Neosho	2.13
Ness	2.13
Norton	2.13
Osage	2.13
Osborne	2.13
Ottawa	2.13
Pawnee	2.13
Phillips	2.13
Pottawatomie	2.13
Pratt	2.13
Rawlins	2.13
Reno	2.13
Republic	2.13
Rice	2.13
Riley	2.13
Rooks	2.13
Rush	2.13
Russell	2.13
Saline	2.13
Scott	2.13
Sedgwick	2.13
Seward	2.13
Shawnee	2.13
Sheridan	2.13
Sherman	2.13
Smith	2.13
Stafford	2.13
Stanton	2.13
Stevens	2.13
Sumner	2.13
Thomas	2.13
Trego	2.13
Wabaunsee	2.13
Wallace	2.13
Washington	2.13
Wichita	2.13
Wilson	2.13
Woodson	2.13
Wyandotte	2.13
Kentucky	
Adair	2.15
Allen	2.15
Anderson	2.15
Ballard	2.15
Barren	2.15
Bath	2.15
Bell	2.15
Boone	2.15
Bourbon	2.15
Boyd	2.15
Boyle	2.15
Bracken	2.15
Breathitt	2.15
Breckinridge	2.15
Bullitt	2.15
Butler	2.15
Caldwell	2.15
Calloway	2.15
Campbell	2.15
Carlisle	2.15
Carroll	2.15
Carter	2.15
Casey	2.15
Christian	2.15
Clark	2.15
Clay	2.15
Clinton	2.15
Crittenden	2.15
Cumberland	2.15
Daviess	2.15
Edmonson	2.15
Elliott	2.15
Estill	2.15
Fayette	2.15
Fleming	2.15
Floyd	2.15
Franklin	2.15
Fulton	2.15
Gallatin	2.15
Garrard	2.15
Grant	2.15
Graves	2.15
Grayson	2.15
Green	2.15
Greenup	2.15
Hancock	2.15
Hardin	2.15
Harlan	2.15
Harrison	2.15
Hart	2.15
Henderson	2.15
Henry	2.15
Hickman	2.15
Hopkins	2.15
Jackson	2.15
Jefferson	2.15
Jessamine	2.15
Johnson	2.15
Kenton	2.15
Knott	2.15
Knox	2.15
Larue	2.15
Laurel	2.15
Lawrence	2.15
Lee	2.15
Leslie	2.15
Letcher	2.15
Lewis	2.15
Lincoln	2.15
Livingston	2.15
Logan	2.15
Lyon	2.15
McCracken	2.15
McCreary	2.15
McLean	2.15
Madison	2.15
Magoffin	2.15
Marion	2.15
Marshall	2.15
Martin	2.15
Mason	2.15
Meade	2.15
Menifee	2.15
Mercer	2.15
Metcalfe	2.15
Monroe	2.15
Montgomery	2.15
Morgan	2.15
Muhlenberg	2.15
Nelson	2.15
Nicholas	2.15
Ohio	2.15
Oldham	2.15
Owen	2.15
Owsley	2.15
Pendleton	2.15
Perry	2.15
Pike	2.15
Powell	2.15
Pulaski	2.15
Robertson	2.15
Rockcastle	2.15
Rowan	2.15
Russell	2.15
Scott	2.15
Shelby	2.15
Simpson	2.15
Spencer	2.15
Taylor	2.15
Todd	2.15
Trigg	2.15
Trimble	2.15
Union	2.15
Warren	2.15
Washington	2.15
Wayne	2.15
Webster	2.15
Whitley	2.15
Wolfe	2.15
Woodford	2.15
Louisiana	
Acadia	2.15
Allen	2.15
Ascension	2.15
Assumption	2.15
Avoyelles	2.15
Beauregard	2.15
Bienville	2.15
Bossier	2.15
Caddo	2.15
Calcasieu	2.15
Caldwell	2.15
Cameron	2.15
Catahoula	2.15
Claiborne	2.15
Concordia	2.15
De Soto	2.15
East Baton Rouge	2.15
East Carroll	2.15
East Feliciana	2.15
Evangeline	2.15
Franklin	2.15
Grant	2.15
Iberia	2.15
Iberville	2.15
Jackson	2.15
Jefferson	2.15
Jefferson Davis	2.15
La Fayette	2.15
La Fourche	2.15
La Salle	2.15
Lincoln	2.15
Livingston	2.15
Madison	2.15
Morehouse	2.15
Natchitoches	2.15
Orleans	2.15
Ouachita	2.15
Plaquemines	2.15
Pointe Coupee	2.15
Rapides	2.15
Red River	2.15
Richland	2.15
Sabine	2.15
St. Bernard	2.15
St. Charles	2.15
St. Helena	2.15
St. James	2.15
St. John The Baptist	2.15
St. Landry	2.15
St. Martin	2.15
St. Mary	2.15
St. Tammany	2.15
Tangipahoa	2.15
Tensas	2.15
Terrebonne	2.15
Union	2.15
Vermilion	2.15
Vernon	2.15
Washington	2.15
Webster	2.15
West Baton Rouge	2.15
West Carroll	2.15
West Feliciana	2.15
Winn	2.15
Maryland	
All counties	2.30
Michigan	
Alcona	2.08
Alger	2.08
Allegan	2.12
Alpena	2.08
Antrim	2.08
Arenac	2.08
Baraga	2.08
Barry	2.12
Bay	2.12
Benzie	2.08
Berrien	2.12
Branch	2.12
Calhoun	2.12
Cass	2.12
Charlevoix	2.08
Cheboygan	2.08
Chippewa	2.08
Clare	2.08
Clinton	2.12
Crawford	2.08
Delta	2.08
Dickinson	2.08
Eaton	2.12
Emmet	2.08
Genesee	2.12
Gladwin	2.08
Gogebic	2.08
Grand Traverse	2.08
Gratiot	2.12
Hillsdale	2.12
Houghton	2.08
Huron	2.12
Ingham	2.12
Ionia	2.12
Iosco	2.08
Iron	2.08
Isabella	2.08
Jackson	2.12
Kalamazoo	2.12
Kalkaska	2.08
Kent	2.12
Keweenaw	2.08
Lake	2.08
Lapeer	2.12
Leelanau	2.08
Lenawee	2.12
Livingston	2.12
Luce	2.08
Mackinac	2.08
Macomb	2.12
Manistee	2.08
Marquette	2.08
Mason	2.08
Mecosta	2.08
Menominee	2.08
Midland	2.08
Missaukee	2.08
Monroe	2.12
Montcalm	2.08
Montmorency	2.08
Muskegon	2.08
Newaygo	2.08
Oakland	2.12
Oceana	2.08
Ogemaw	2.08
Ontonagon	2.08
Osceola	2.08
Oscoda	2.08
Otsego	2.08
Ottawa	2.12
Presque Isle	2.08
Roscommon	2.08
Saginaw	2.12
St. Clair	2.12
St. Joseph	2.12
Sanilac	2.12
Schoolcraft	2.08
Shiawassee	2.12
Tuscola	2.12
Van Buren	2.12
Washtenaw	2.12
Wayne	2.12
Wexford	2.08
Minnesota	
Aitkin	2.08
Anoka	2.08
Becker	2.08
Beltrami	2.08
Benton	2.08
Big Stone	2.08
Blue Earth	2.08
Brown	2.08
Carlton	2.08
Carver	2.08
Cass	2.08
Chippewa	2.08
Chisago	2.08
Clay	2.08
Clearwater	2.08
Cook	2.08
Cottonwood	2.08
Crow Wing	2.08
Dakota	2.08
Dodge	2.08
Douglas	2.08
Faribault	2.08
Fillmore	2.08
Freeborn	2.08
Goodhue	2.08
Grant	2.08
Hennepin	2.08
Houston	2.08
Hubbard	2.08
Isanti	2.08
Itasca	2.08
Jackson	2.08
Kanabec	2.08
Kandiyohi	2.08
Kittson	2.08
Koochiching	2.08
Lac Qui Parle	2.08
Lake	2.08
Lake of the Woods	2.08
Le Sueur	2.08
Lincoln	2.08
Lyon	2.08
McLeod	2.08
Mahnomen	2.08
Marshall	2.08
Martin	2.08
Meeker	2.08
Mille Lacs	2.08
Morrison	2.08
Mower	2.08
Murray	2.08
Nicollet	2.08
Nobles	2.08
Norman	2.08
Olmsted	2.08
Otter Tail	2.08
Pennington	2.08
Pine	2.08
Pipestone	2.08
Polk	2.08
Pope	2.08
Ramsey	2.08
Red Lake	2.08
Redwood	2.08
Renville	2.08
Rice	2.08
Rock	2.08
Roseau	2.08
St. Louis	2.08
Scott	2.08
Sherburne	2.08
Sibley	2.08
Stearns	2.08
Steele	2.08
Stevens	2.08
Swift	2.08
Todd	2.08
Traverse	2.08
Wabasha	2.08
Wadena	2.08
Waseca	2.08
Washington	2.08
Watonwan	2.08
Wilkin	2.08
Winona	2.08
Wright	2.08
Yellow Medicine	2.08
Mississippi	
Adams	2.15
Alcorn	2.15
Amite	2.15
Attala	2.15
Benton	2.15
Bolivar	2.15
Calhoun	2.15
Carroll	2.15
Chickasaw	2.15
Choctaw	2.15
Claiborne	2.15
Clarke	2.15
Clay	2.15
Coahoma	2.15
Copiah	2.15
Covington	2.15
De Soto	2.15
Forrest	2.15
Franklin	2.15
George	2.15
Greene	2.15
Grenada	2.15
Hancock	2.15
Harrison	2.15
Hinds	2.15
Holmes	2.15
Humphreys	2.15
Issaquena	2.15
Itawamba	2.15
Jackson	2.15
Jasper	2.15
Jefferson	2.15
Jefferson Davis	2.15
Jones	2.15
Kemper	2.15
Lafayette	2.15
Lamar	2.15
Lauderdale	2.15
Lawrence	2.15
Leake	2.15
Lee	2.15
Leflore	2.15
Lincoln	2.15
Lowndes	2.15
Madison	2.15
Marion	2.15
Marshall	2.15
Monroe	2.15
Montgomery	2.15
Neshoba	2.15
Newton	2.15
Noxubee	2.15
Oktibbeha	2.15
Panola	2.15
Pearl River	2.15
Perry	2.15
Pike	2.15
Pontotoc	2.15
Prentiss	2.15
Quitman	2.15
Rankin	2.15
Scott	2.15
Sharkey	2.15
Simpson	2.15
Smith	2.15
Stone	2.15
Sunflower	2.15
Tallahatchie	2.15
Tate	2.15
Tippah	2.15
Tishomingo	2.15
Tunica	2.15
Union	2.15
Walthall	2.15
Warren	2.15
Washington	2.15
Wayne	2.15
Webster	2.15
Wilkinson	2.15
Winston	2.15
Yalobusha	2.15
Yazoo	2.15
Missouri	
Adair	2.13
Andrew	2.13
Atchison	2.13
Audrain	2.13
Barry	2.13
Barton	2.13
Bates	2.13
Benton	2.13
Bollinger	2.13
Boone	2.13
Buchanan	2.13
Butler	2.13
Caldwell	2.13
Callaway	2.13
Camden	2.13
Cape Girardeau	2.13
Carroll	2.13
Carter	2.13
Cass	2.13
Cedar	2.13
Chariton	2.13
Christian	2.13
Clark	2.13
Clay	2.13
Clinton	2.13
Cole	2.13
Cooper	2.13
Crawford	2.13
Dade	2.13
Dallas	2.13
Daviess	2.13
De Kalb	2.13
Dent	2.13
Douglas	2.13
Dunklin	2.13
Franklin	2.13
Gasconade	2.13
Gentry	2.13
Greene	2.13
Grundy	2.13
Harrison	2.13
Henry	2.13
Hickory	2.13
Holt	2.13
Howard	2.13
Howell	2.13
Iron	2.13
Jackson	2.13
Jasper	2.13
Jefferson	2.13
Johnson	2.13
Knox	2.13
Laclede	2.13
Lafayette	2.13
Lawrence	2.13
Lewis	2.13
Lincoln	2.13
Linn	2.13
Livingston	2.13
McDonald	2.13
Macon	2.13
Madison	2.13
Maries	2.13
Marion	2.13
Mercer	2.13
Miller	2.13
Mississippi	2.13
Moniteau	2.13
Monroe	2.13
Montgomery	2.13
Morgan	2.13
New Madrid	2.13
Newton	2.13
Nodaway	2.13
Oregon	2.13
Osage	2.13
Ozark	2.13
Pemiscot	2.13
Perry	2.13
Pettis	2.13
Phelps	2.13
Pike	2.13
Platte	2.13
Polk	2.13
Pulaski	2.13
Putnam	2.13
Ralls	2.13
Randolph	2.13
Ray	2.13
Reynolds	2.13
Ripley	2.13
St. Charles	2.13
St. Clair	2.13
St. Francois	2.13
St. Louis	2.13
Ste. Genevieve	2.13
Saline	2.13
Schuyler	2.13
Scotland	2.13
Scott	2.13
Shannon	2.13
Shelby	2.13
Stoddard	2.13
Stone	2.13
Sullivan	2.13
Taney	2.13
Texas	2.13
Vernon	2.13
Warren	2.13
Washington	2.13
Wayne	2.13
Webster	2.13
Worth	2.13
Wright	2.13
Nebraska	
Adams	2.13
Antelope	2.13
Arthur	2.13
Banner	2.13
Blaine	2.13
Boone	2.13
Box Butte	2.13
Boyd	2.13
Brown	2.13
Buffalo	2.13
Burt	2.13
Butler	2.13
Cass	2.13
Cedar	2.13
Chase	2.13
Cherry	2.13
Cheyenne	2.13
Clay	2.13
Colfax	2.13
Cuming	2.13
Custer	2.13
Dakota	2.13
Dawes	2.13
Dawson	2.13
Deuel	2.13
Dixon	2.13
Dodge	2.13
Douglas	2.13
Dundy	2.13
Fillmore	2.13
Franklin	2.13
Frontier	2.13
Furnas	2.13
Gage	2.13
Garden	2.13
Garfield	2.13
Gosper	2.13
Grant	2.13
Greeley	2.13
Hall	2.13
Hamilton	2.13
Harlan	2.13
Hayes	2.13
Hitchcock	2.13
Holt	2.13
Hooker	2.13
Howard	2.13
Jefferson	2.13
Johnson	2.13
Kearney	2.13
Keith	2.13
Keya Paha	2.13
Kimball	2.13
Knox	2.13
Lancaster	2.13
Lincoln	2.13
Logan	2.13
Loup	2.13
McPherson	2.13
Madison	2.13
Merrick	2.13
Morrill	2.13
Nance	2.13
Nemaha	2.13
Nuckolls	2.13
Otoe	2.13
Pawnee	2.13
Perkins	2.13
Phelps	2.13

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Marshall	2.09
Mills	2.11
Mitchell	2.05
Monona	2.09
Monroe	2.10
Montgomery	2.11
Muscatine	2.12
O'Brien	2.03
Osceola	2.01
Page	2.13
Palo Alto	2.01
Plymouth	2.05
Pocahontas	2.04
Polk	2.06
Pottawattamie	2.11
Poweshiek	2.09
Ringgold	2.13
Sac	2.06
Scott	2.12
Shelby	2.10
Sioux	2.03
Story	2.09
Tama	2.09
Taylor	2.13
Union	2.11
Van Buren	2.12
Wapello	2.11
Warren	2.09
Washington	2.11
Wayne	2.11
Webster	2.05
Winnebago	2.04
Winneshiek	2.06
Woodbury	2.07
Worth	2.05
Wright	2.05
Weighted State average	2.08
Kansas	
Allen	2.16
Anderson	2.17
Atchison	2.18
Barber	2.10
Barton	2.08
Bourbon	2.18
Brown	2.16
Butler	2.12
Chase	2.12
Chautauqua	2.12
Cherokee	2.16
Cheyenne	2.06
Clark	2.10
Clay	2.10
Cloud	2.10
Coffey	2.15
Comanche	2.10
Cowley	2.11
Crawford	2.18
Decatur	2.08
Dickinson	2.10
Doniphan	2.16
Douglas	2.18
Edwards	2.09
Elk	2.12
Ellis	2.06
Ellsworth	2.09
Finney	2.09
Ford	2.10
Franklin	2.17
Geary	2.12
Gove	2.07
Graham	2.07
Grant	2.10
Gray	2.10
Greely	2.08
Greenwood	2.13
Hamilton	2.09
Harper	2.10
Harvey	2.10
Haskell	2.10
Hodgeman	2.09
Jackson	2.16
Jefferson	2.18
Jewell	2.09
Johnson	2.19
Kearny	2.09
Kingman	2.10
Kiowa	2.09
Labette	2.14
Lane	2.08

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Leavenworth	2.19
Lincoln	2.09
Linn	2.18
Logan	2.07
Lyon	2.14
McPherson	2.10
Marion	2.10
Marshall	2.14
Meade	2.11
Miami	2.16
Mitchell	2.09
Montgomery	2.13
Morris	2.12
Morton	2.11
Nemaha	2.15
Neosho	2.16
Ness	2.08
Norton	2.09
Osage	2.15
Osborne	2.08
Ottawa	2.10
Pawnee	2.09
Phillips	2.09
Pottawatomie	2.15
Pratt	2.09
Rawlins	2.07
Reno	2.09
Republic	2.11
Rice	2.09
Riley	2.14
Rooks	2.08
Rush	2.08
Russell	2.08
Saline	2.10
Scott	2.08
Sedgwick	2.11
Seward	2.11
Shawnee	2.16
Sheridan	2.07
Sherman	2.07
Smith	2.09
Stafford	2.09
Stanton	2.10
Stevens	2.11
Sumner	2.11
Thomas	2.07
Trego	2.07
Wabaunsee	2.14
Wallace	2.07
Washington	2.13
Wichita	2.08
Wilson	2.14
Woodson	2.15
Wyandotte	2.19
Weighted State average	2.10
Kentucky	
Ballard	2.19
Boone	2.18
Bracken	2.20
Breckinridge	2.19
Bullitt	2.20
Campbell	2.18
Carroll	2.19
Crittenden	2.19
Daviess	2.19
Gallatin	2.19
Hancock	2.19
Henderson	2.19
Jefferson	2.19
Kenton	2.18
Lewis	2.20
Livingston	2.19
McCracken	2.19
Mason	2.20
Meade	2.19
Oldham	2.19
Trimble	2.19
Union	2.19
All Other Counties	2.21
Weighted State average	2.20
Louisiana	
All counties	2.24
Maine	
All counties	2.34
Maryland	
All counties	2.26

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Massachusetts	
All counties	2.34
Michigan	
Alcona	2.11
Alger	2.09
Allegan	2.11
Alpena	2.11
Antrim	2.11
Arenac	2.10
Baraga	2.09
Barry	2.09
Bay	2.09
Benzie	2.11
Berrien	2.16
Branch	2.13
Calhoun	2.11
Cass	2.14
Charlevoix	2.11
Cheboygan	2.11
Chippewa	2.09
Clare	2.09
Clinton	2.10
Crawford	2.11
Delta	2.09
Dickinson	2.09
Eaton	2.11
Emmet	2.11
Genesee	2.11
Gladwin	2.09
Gogebic	2.09
Grand Traverse	2.11
Gratiot	2.08
Hillsdale	2.14
Houghton	2.09
Huron	2.09
Ingham	2.11
Ionia	2.10
Iosco	2.10
Iron	2.09
Isabella	2.08
Jackson	2.12
Kalamazoo	2.12
Kalkaska	2.11
Kent	2.09
Keweenaw	2.09
Lake	2.10
Lapeer	2.11
Leelanau	2.11
Lenawee	2.15
Livingston	2.12
Luce	2.09
Mackinac	2.09
Macomb	2.12
Manistee	2.10
Marquette	2.09
Mason	2.10
Mecosta	2.08
Menominee	2.09
Midland	2.08
Missaukee	2.10
Monroe	2.16
Montcalm	2.08
Montmorency	2.11
Muskegon	2.10
Newaygo	2.09
Oakland	2.12
Oceana	2.10
Ogemaw	2.10
Ontonagon	2.09
Osceola	2.09
Oscoda	2.11
Otsego	2.11
Ottawa	2.10
Presque Isle	2.11
Roscommon	2.10
Saginaw	2.08
St. Clair	2.11
St. Joseph	2.13
Sanilac	2.09
Schoolcraft	2.09
Shiawassee	2.10
Tuscola	2.08
Van Buren	2.12
Washtenaw	2.13
Wayne	2.14
Wexford	2.10
Weighted State average	2.11
Minnesota	
Aitkin	2.02

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Anoka	2.02
Becker	2.00
Beltrami	2.00
Benton	2.02
Big Stone	1.97
Blue Earth	2.01
Brown	2.00
Carlton	2.02
Carver	2.02
Cass	2.00
Chippewa	2.00
Chisago	2.02
Clay	2.00
Clearwater	2.00
Cook	2.02
Cottonwood	1.98
Crow Wing	2.01
Dakota	2.02
Dodge	2.02
Douglas	2.01
Fairbault	2.00
Fillmore	2.04
Freeborn	2.01
Goodhue	2.02
Grant	2.00
Hennepin	2.02
Houston	2.04
Hubbard	2.00
Isanti	2.02
Itasca	2.02
Jackson	1.99
Kanabec	2.02
Kandiyohi	2.01
Kittson	2.00
Koochiching	2.02
Lac Qui Parle	1.97
Lake	2.02
Lake of the Woods	2.00
Le Sueur	2.02
Lincoln	1.98
Lyon	1.97
McLeod	2.02
Mahnomen	2.00
Marshall	2.00
Martin	1.99
Meeker	2.02
Mille Lacs	2.02
Morrison	2.01
Mower	2.03
Murray	1.98
Nicollet	2.01
Nobles	1.99
Norman	2.00
Olmsted	2.03
Otter Tail	2.00
Pennington	2.00
Pine	2.02
Pipestone	1.98
Polk	2.00
Pope	2.00
Ramsey	2.02
Red Lake	2.00
Redwood	1.99
Renville	2.01
Rice	2.02
Rock	1.99
Roseau	2.00
St. Louis	2.02
Scott	2.02
Sherburne	2.02
Sibley	2.02
Stearns	2.01
Steele	2.01
Stevens	1.99
Swift	1.99
Todd	2.01
Traverse	1.97
Wabasha	2.02
Wadena	2.01
Waseca	2.01
Washington	2.02
Watonwan	1.99
Wilkin	1.99
Winona	2.03
Wright	2.02
Yellow Medicine	1.98
State weighted average	2.01
Mississippi	
All counties	2.24

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Missouri	
Adair	2.14
Andrew	2.16
Atchison	2.15
Audrian	2.16
Barry	2.21
Barton	2.17
Bates	2.16
Benton	2.16
Bollinger	2.16
Boone	2.15
Buchanan	2.19
Butler	2.19
Caldwell	2.19
Callaway	2.16
Camden	2.17
Cape Girardeau	2.18
Carroll	2.16
Carter	2.19
Cass	2.19
Cedar	2.16
Charlton	2.17
Christian	2.21
Clark	2.13
Clay	2.19
Clinton	2.19
Cole	2.16
Cooper	2.14
Crawford	2.16
Dade	2.16
Dallas	2.19
Daviess	2.17
De Kalb	2.17
Dent	2.19
Douglas	2.23
Dunklin	2.19
Franklin	2.16
Gasconade	2.16
Gentry	2.15
Greene	2.19
Grundy	2.16
Harrison	2.15
Henry	2.17
Hickory	2.17
Holt	2.16
Howard	2.15
Howell	2.23
Iron	2.18
Jackson	2.19
Jasper	2.18
Jefferson	2.19
Johnson	2.19
Knox	2.14
Laclede	2.19
Lafayette	2.19
Lawrence	2.19
Lewis	2.14
Lincoln	2.17
Linn	2.16
Livingston	2.18
McDonald	2.20
Macon	2.15
Madison	2.18
Maries	2.17
Marion	2.14
Mercer	2.14
Miller	2.17
Mississippi	2.19
Montineau	2.16
Monroe	2.15
Montgomery	2.16
Morgan	2.16
New Madrid	2.19
Newton	2.19
Nodaway	2.16
Oregon	2.21
Osage	2.16
Ozark	2.23
Pemiscot	2.19
Perry	2.18
Pettis	2.15
Phelps	2.19
Pike	2.16
Platte	2.19
Polk	2.13
Pulaski	2.19
Putnam	2.13
Ralls	2.15
Randolph	2.15

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Ray	2.19
Reynolds	2.19
Ripley	2.19
St. Charles	2.17
St. Clair	2.17
St. Francois	2.18
St. Genevieve	2.18
St. Louis	2.19
Saline	2.17
Schuyler	2.14
Scotland	2.13
Scott	2.19
Shannon	2.21
Shelby	2.14
Stoddard	2.19
Stone	2.21
Sullivan	2.15
Taney	2.23
Texas	2.21
Vernon	2.17
Warren	2.17
Washington	2.18
Wayne	2.19
Webster	2.21
Worth	2.15
Wright	2.21
State weighted average	2.17
Montana	
All counties	2.19
Nebraska	
Adams	2.07
Antelope	2.07
Arthur	2.07
Banner	2.12
Blaine	2.03
Boone	2.07
Box Butte	2.10
Boyd	2.04
Brown	2.03
Buffalo	2.04
Burt	2.11
Butler	2.10
Cass	2.11
Cedar	2.05
Chase	2.08
Cherry	2.05
Cheyenne	2.10
Clay	2.08
Colfax	2.10
Cuming	2.09
Custer	2.03
Dakota	2.05
Dawes	2.10
Dawson	2.03
Deuel	2.10
Dixon	2.05
Dodge	2.10
Douglas	2.12
Dundy	2.05
Fillmore	2.10
Franklin	2.07
Frontier	2.05
Furnas	2.06
Gage	2.13
Garden	2.08
Garfield	2.04
Gosper	2.05
Grant	2.07
Greeley	2.06
Hall	2.06
Hamilton	2.06
Harlan	2.07
Hayes	2.05
Hitchcock	2.05
Holt	2.04
Hooker	2.05
Howard	2.06
Jefferson	2.12
Johnson	2.13
Kearney	2.06
Keith	2.08
Keya Paha	2.03
Kimball	2.12
Knox	2.05
Lancaster	2.11
Lincoln	2.06
Logan	2.04
Loup	2.03

V 45 A G 1980 UMI

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
McPherson	2.05
Madison	2.07
Merrick	2.06
Morrill	2.12
Nance	2.07
Nemaha	2.13
Nuckolls	2.09
Otoe	2.12
Pawnee	2.14
Perkins	2.07
Phelps	2.06
Pierce	2.07
Platte	2.06
Polk	2.06
Red Willow	2.05
Richardson	2.15
Rock	2.03
Saline	2.11
Sarpy	2.10
Saunders	2.10
Scotts Bluff	2.12
Seward	2.10
Sheridan	2.06
Sherman	2.04
Sioux	2.12
Stanton	2.09
Thayer	2.10
Thomas	2.04
Thurston	2.06
Valley	2.04
Washington	2.12
Wayne	2.07
Webster	2.07
Wheeler	2.06
York	2.08
State weighted average	2.07
Nevada	
All counties	2.32
New Hampshire	
All counties	2.34
New Jersey	
All counties	2.30
New Mexico	
Curry	2.21
Harding	2.21
Lea	2.21
Quay	2.21
Roosevelt	2.21
Union	2.21
All Other Counties	2.28
State weighted average	2.22
New York	
All counties	2.29
North Carolina	
All counties	2.27
North Dakota	
All counties	2.03
Ohio	
Adams	2.16
Allen	2.15
Ashland	2.18
Ashtabula	2.25
Athens	2.21
Auglaize	2.14
Belmont	2.23
Brown	2.18
Butler	2.15
Carroll	2.22
Champaign	2.14
Clark	2.14
Clermont	2.17
Clinton	2.16
Columbiana	2.25
Coshocton	2.19
Crawford	2.16
Cuyahoga	2.21
Darke	2.13
Defiance	2.14
Delaware	2.15
Erie	2.17
Fairfield	2.17
Fayette	2.15
Franklin	2.14
Fulton	2.16
Gallia	2.19
Geauga	2.23
Greene	2.14
Guernsey	2.21
Hamilton	2.16
Hancock	2.16
Hardin	2.15
Harrison	2.23
Henry	2.16
Highland	2.16
Hocking	2.16
Holmes	2.19
Huron	2.17
Jackson	2.16
Jefferson	2.24
Knox	2.16
Lake	2.23
Lawrence	2.19
Licking	2.16
Logan	2.15
Lorain	2.16
Lucas	2.18
Madison	2.14
Mahoning	2.25
Marion	2.16
Medina	2.20
Meigs	2.20
Mercer	2.13
Miami	2.14
Monroe	2.24
Montgomery	2.14
Morgan	2.21
Morrow	2.16
Muskingum	2.19
Noble	2.22
Ottawa	2.16
Paulding	2.14
Perry	2.19
Pickaway	2.15
Pike	2.17
Portage	2.23
Preble	2.14
Putnam	2.15
Richland	2.16
Ross	2.16
Sandusky	2.16
Scioto	2.16
Seneca	2.16
Shelby	2.14
Stark	2.22
Summit	2.21
Trumbull	2.25
Tuscarawas	2.21
Union	2.15
Van Wert	2.14
Vinton	2.16
Warren	2.16
Wayne	2.20
Williams	2.15
Wood	2.16
Wyandot	2.16
State weighted average	2.16
Oklahoma	
Beaver	2.16
Beckham	2.20
Cimarron	2.15
Ellis	2.18
Harper	2.16
Roger Mills	2.20
Texas	2.15
All Other Counties	2.22
State weighted average	2.16
Oregon	
All counties	2.28
Pennsylvania	
All counties	2.29
Rhode Island	
All counties	2.34
South Carolina	
All counties	2.27
South Dakota	
Aurora	1.96
Beadle	1.96
Bennett	2.03
Bon Homme	2.00
Brookings	1.96
Brown	1.96
Brule	1.96
Buffalo	1.96
Butte	2.02
Campbell	1.96
Charles Mix	1.99
Clark	1.96
Clay	2.03
Codington	1.96
Corson	2.00
Custer	2.06
Davison	1.97
Day	1.96
Deuel	1.96
Dewey	2.00
Douglas	1.97
Edmunds	1.97
Fall River	2.09
Faulk	1.97
Grant	1.96
Gregory	1.98
Haakon	2.00
Hamlin	1.96
Hand	1.96
Hanson	1.97
Harding	2.02
Hughes	1.96
Hutchinson	1.99
Hyde	1.97
Jackson	2.01
Jerauld	1.96
Jones	2.00
Kingsbury	1.96
Lake	1.96
Lawrence	2.02
Lincoln	2.01
Lyman	1.96
McCook	1.96
McPherson	1.97
Marshall	1.96
Meade	2.01
Mellette	2.00
Miner	1.97
Minnehaha	1.99
Moody	1.96
Pennington	2.03
Perkins	2.00
Potter	1.99
Roberts	1.96
Shannon	2.06
Spink	1.96
Stanley	2.00
Sully	1.96
Todd	2.01
Tripp	1.99
Turner	2.00
Union	2.03
Walworth	1.99
Yankton	2.01
Ziebach	2.01
State weighted average	1.99
Tennessee	
All Counties	2.23
Texas	
Armstrong	2.17
Bailey	2.17
Briscoe	2.17
Carson	2.17
Castro	2.17
Childress	2.18
Cochran	2.19
Collingsworth	2.18
Cottle	2.19
Crosby	2.19
Dallam	2.17
Deaf Smith	2.17
Dickens	2.19
Donley	2.18
Floyd	2.17
Gray	2.17
Hale	2.17
Hall	2.18
Hansford	2.17
Hartley	2.17
Hemphill	2.17
Hockley	2.19
Hutchinson	2.17
King	2.19
Lamb	2.17
Lipscomb	2.17
Lubbock	2.19
Moore	2.17
Motley	2.19
Ochiltree	2.17
Oldham	2.17
Parmer	2.17
Potter	2.17
Randall	2.17
Roberts	2.17
Sherman	2.17
Swisher	2.17
Wheeler	2.18
All Other Counties	2.24
State weighted average	2.18
Utah	
All counties	2.31
Vermont	
All counties	2.34
Virginia	
All counties	2.28
Washington	
All counties	2.26
West Virginia	
All counties	2.27
Wisconsin	
Adams	2.07
Ashland	2.07
Barron	2.05
Bayfield	2.04
Brown	2.09
Buffalo	2.04
Burnett	2.03
Calumet	2.09
Chippewa	2.05
Clark	2.07
Columbia	2.11
Crawford	2.07
Dane	2.13
Dodge	2.13
Door	2.10
Douglas	2.02
Dunn	2.05
Eau Claire	2.05
Florence	2.09
Fond du Lac	2.11
Forest	2.09
Grant	2.09
Green	2.13
Green Lake	2.11
Iowa	2.13
Iron	2.08
Jackson	2.05
Jefferson	2.14
Juneau	2.07
Kenosha	2.16
Kewaunee	2.10
La Crosse	2.04
Lafayette	2.12
Langlade	2.09
Lincoln	2.08
Manitowoc	2.10
Marathon	2.08
Marinette	2.09
Marquette	2.09
Menominee	2.09
Milwaukee	2.14
Monroe	2.05
Oconto	2.09
Oneida	2.09
Outagamie	2.06
Ozaukee	2.12
Pepin	2.04
Pierce	2.04
Polk	2.03
Portage	2.08
Price	2.07
Racine	2.16
Richland	2.10
Rock	2.14
Rusk	2.06
St. Croix	2.04
Sauk	2.10
Sawyer	2.08
Shawano	2.09
Sheboygan	2.10
Taylor	2.07
Trempealeau	2.04
Vernon	2.05
Vilas	2.09
Walworth	2.15
Washburn	2.05
Washington	2.13
Waukesha	2.14
Waupaca	2.09
Waushara	2.09
Winnebago	2.09
Wood	2.07
State weighted average	2.10
Wyoming	
All counties	2.19

Since the 1979 crop of corn has been harvested in the corn producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C., on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25141 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Sorghum Supplement, Amendment 1]

1979 Crop Sorghum Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.239 that appeared in the **Federal Register** at 44 FR 44822. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop sorghum national average loan and purchase rates from $3.39 to $3.57 per hundredweight, previously announced in the **Federal Register**. Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923.

With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for sorghum was being increased to $3.57 per hundredweight in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $3.57 per hundredweight for the 1979 crop of sorghum, published in the **Federal Register** on January 30, 1980 (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units

of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.239(a) is revised to read as follows:

§ 1421.239 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per hundredweight for loan and settlement purposes for sorghum are established for sorghum grading No. 2 as follows:

1979—Crop Sorghum Loan and Purchase

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Alabama	
All counties	$3.56
Arizona	
Apache	3.55
Cochise	3.77
Coconino	3.55
Gila	3.55
Graham	3.59
Greenlee	3.55
Maricopa	3.91
Mohave	4.03
Navajo	3.55
Pima	3.83
Pinal	3.91
Santa Cruz	3.80
Yavapai	3.55
Yuma	3.96
Weighted State average	3.80
Arkansas	
Arkansas	3.62
Ashley	3.58
Baxter	3.50
Benton	3.47
Boone	3.48
Bradley	3.58
Calhoun	3.55
Carroll	3.46
Chicot	3.58
Clark	3.54
Clay	3.64
Cleburne	3.57
Cleveland	3.58
Columbia	3.58
Conway	3.54
Craighead	3.65
Crawford	3.52
Crittenden	3.66
Cross	3.65
Dallas	3.58
Desha	3.60
Drew	3.58
Faulkner	3.56
Franklin	3.51
Fulton	3.55
Garland	3.52
Grant	3.53
Greene	3.64
Hempstead	3.58
Hot Spring	3.53
Howard	3.53
Independence	3.57
Izard	3.53
Jackson	3.62
Jefferson	3.58
Johnson	3.51
Lafayette	3.57
Lawrence	3.62
Lee	3.65
Lincoln	3.59
Little River	3.55
Logan	3.51
Lonoke	3.60
Madison	3.47
Marion	3.48
Miller	3.57
Mississippi	3.66

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Monroe	3.64
Montgomery	3.51
Nevada	3.54
Newton	3.49
Ouachita	3.55
Perry	3.53
Phillips	3.65
Pike	3.59
Poinsett	3.65
Polk	3.52
Pope	3.52
Prairie	3.62
Pulaski	3.58
Randolph	3.61
St. Francis	3.65
Saline	3.53
Scott	3.52
Searcy	3.50
Sebastian	3.52
Sevier	3.53
Sharp	3.57
Stone	3.53
Union	3.56
Van Buren	3.55
Washington	3.48
White	3.60
Woodruff	3.63
Yell	3.53
Weighted State average	3.62
California	
Alameda	4.05
Amador	4.04
Butte	3.94
Calaveras	4.04
Colusa	3.98
Contra Costa	4.05
El Dorado	4.03
Fresno	3.97
Glenn	3.95
Humboldt	3.69
Imperial	4.00
Inyo	3.76
Kern	4.01
Kings	3.98
Lake	3.69
Lassen	3.73
Los Angeles	4.05
Madera	4.00
Marin	4.01
Mariposa	4.00
Mendocino	3.80
Merced	4.01
Modoc	3.72
Monterey	3.92
Napa	3.99
Orange	4.05
Placer	3.98
Plumas	3.80
Riverside	4.00
Sacramento	4.05
San Benito	3.98
San Bernardino	4.03
San Diego	4.05
San Francisco	4.05
San Joaquin	4.05
San Luis Obispo	3.89
San Mateo	4.04
Santa Barbara	3.92
Santa Clara	4.05
Santa Cruz	3.97
Shasta	3.75
Sierra	3.82
Siskiyou	3.71
Solano	4.04
Sonoma	4.00
Stanislaus	4.05
Sutter	3.98
Tehama	3.93
Tulare	3.95
Tuolumne	4.00
Ventura	4.02
Yolo	3.98
Yuba	3.97
Weighted State average	3.98
Colorado	
Baca	3.52

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
All other counties	3.47
Weighted State average	3.47
Delaware	
All counties	3.61
Florida	
All counties	3.66
Georgia	
All counties	3.61
Idaho	
All counties	3.94
Illinois	
Alexander	3.61
Bond	3.53
Calhoun	3.49
Clay	3.53
Clinton	3.55
Edwards	3.55
Franklin	3.56
Gallatin	3.55
Hamilton	3.57
Hardin	3.58
Jackson	3.58
Jefferson	3.65
Jersey	3.49
Johnson	3.59
Lawrence	3.51
Madison	3.55
Marion	3.54
Massac	3.60
Monroe	3.55
Perry	3.56
Pope	3.59
Pulaski	3.61
Randolph	3.56
Richland	3.52
St. Clair	3.55
Saline	3.57
Union	3.60
Wabash	3.52
Washington	3.55
Wayne	3.55
White	3.55
Williamson	3.58
All other counties	3.43
Weighted State average	3.54
Indiana	
All counties	3.48
Iowa	
Adair	3.46
Adams	3.45
Appanoose	3.42
Audubon	3.44
Calhoun	3.39
Carroll	3.43
Cass	3.47
Clarke	3.43
Crawford	3.44
Decatur	3.44
Fremont	3.47
Greene	3.40
Guthrie	3.43
Harrison	3.46
Ida	3.41
Lucas	3.42
Madison	3.44
Marion	3.39
Mills	3.47
Monona	3.45
Monroe	3.40
Montgomery	3.47
Page	3.47
Pottawattamie	3.47
Ringgold	3.46
Sac	3.41
Shelby	3.45
Taylor	3.46
Union	3.44
Warren	3.42
Wayne	3.43
Woodbury	3.43
All other counties	3.35

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Weighted State average	3.43
Kansas	
Allen	3.55
Anderson	3.58
Atchison	3.59
Barber	3.45
Barton	3.41
Bourbon	3.56
Brown	3.56
Butler	3.46
Chase	3.51
Chautauqua	3.50
Cherokee	3.54
Cheyenne	3.38
Clark	3.45
Clay	3.47
Cloud	3.46
Coffey	3.53
Comanche	3.45
Cowley	3.46
Crawford	3.55
Decatur	3.40
Dickinson	3.46
Doniphan	3.55
Douglas	3.57
Edwards	3.41
Elk	3.50
Ellis	4.41
Ellsworth	3.43
Finney	3.42
Ford	3.45
Franklin	3.58
Geary	3.50
Gove	3.41
Graham	3.41
Grant	3.42
Gray	3.44
Greeley	3.38
Greenwood	3.51
Hamilton	3.40
Harper	3.45
Harvey	3.45
Haskell	3.43
Hodgeman	3.43
Jackson	3.57
Jefferson	3.58
Jewell	3.44
Johnson	3.58
Kearny	3.40
Kingman	3.44
Kiowa	3.43
Labette	3.54
Lane	3.39
Leavenworth	3.59
Lincoln	3.44
Linn	3.58
Logan	3.39
Lyon	3.52
McPherson	3.45
Marion	3.46
Marshall	3.51
Meade	3.44
Miami	3.58
Mitchell	3.44
Montgomery	3.54
Morris	3.50
Morton	3.44
Nemaha	3.53
Neosho	3.55
Ness	3.40
Norton	3.41
Osage	3.54
Osborne	3.43
Ottawa	3.45
Pawnee	3.41
Phillips	3.42
Pottawatomie	3.53
Pratt	3.43
Rawlins	3.39
Reno	3.43
Republic	3.46
Rice	3.43
Riley	3.51
Rooks	3.43
Rush	3.41
Russell	3.41

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Saline	3.45
Scott	3.39
Sedgwick	3.45
Seward	3.44
Shawnee	3.56
Sheridan	3.41
Sherman	3.38
Smith	3.43
Stafford	3.41
Stanton	3.42
Stevens	3.44
Sumner	3.45
Thomas	3.39
Trego	3.41
Wabaunsee	3.53
Wallace	3.38
Washington	3.47
Wichita	3.39
Wilson	3.54
Woodson	3.53
Wyandotte	3.59
Weighted State average	3.48
Kentucky	
All counties	3.56
Louisiana	
All counties	3.58
Maryland	
All counties	3.61
Michigan	
All counties	3.43
Minnesota	
All counties	3.38
Mississippi	
All counties	3.56
Missouri	
Adair	3.42
Andrew	3.55
Atchison	3.47
Audrain	3.47
Barry	3.45
Barton	3.49
Bates	3.55
Benton	3.49
Bollinger	3.58
Boone	3.46
Buchanan	3.57
Butler	3.64
Caldwell	3.57
Callaway	3.45
Camden	3.48
Cape Girardeau	3.59
Carroll	3.56
Carter	3.58
Cass	3.57
Cedar	3.48
Chariton	3.52
Christian	3.46
Clark	3.37
Clay	3.59
Clinton	3.58
Cole	3.45
Cooper	3.49
Crawford	3.48
Dade	3.45
Dallas	3.48
Daviess	3.52
De Kalb	3.52
Dent	3.51
Douglas	3.51
Dunklin	3.67
Franklin	3.51
Gasconade	3.46
Gentry	3.48
Greene	3.45
Grundy	3.51
Harrison	3.47
Henry	3.53
Hickory	3.49
Holt	3.50
Howard	3.49
Howell	3.54
Iron	3.57
Jackson	3.59

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Jasper	3.46
Jefferson	3.55
Johnson	3.55
Knox	3.41
Laclede	3.48
Lafayette	3.57
Lawrence	3.45
Lewis	3.39
Lincoln	3.49
Linn	3.49
Livingston	3.55
McDonald	3.45
Macon	3.48
Madison	3.58
Maries	3.46
Marion	3.41
Mercer	3.47
Miller	3.47
Mississippi	3.60
Moniteau	3.45
Monroe	3.46
Montgomery	3.48
Morgan	3.49
New Madrid	3.63
Newton	3.45
Nodaway	3.50
Oregon	3.57
Osage	3.46
Ozark	3.52
Pemiscot	3.68
Perry	3.57
Pettis	3.49
Phelps	3.46
Pike	3.46
Platte	3.59
Polk	3.46
Pulaski	3.46
Putnam	3.45
Ralls	3.42
Randolph	3.47
Ray	3.59
Reynolds	3.53
Ripley	3.63
St. Charles	3.51
St. Clair	3.51
St. Francois	3.55
Ste. Genevieve	3.56
St. Louis	3.55
Saline	3.53
Schuyler	3.39
Scotland	3.37
Scott	3.59
Shannon	3.53
Shelby	3.43
Stoddard	3.61
Stone	3.46
Sullivan	3.45
Taney	3.48
Texas	3.48
Vernon	3.52
Warren	3.50
Washington	3.54
Wayne	3.61
Webster	3.45
Worth	3.48
Wright	3.47
Weighted State average	3.54
Nebraska	
Antelope	3.43
Burt	3.46
Butler	3.48
Cass	3.47
Colfax	3.45
Cuming	3.45
Dodge	3.48
Douglas	3.47
Gage	3.47
Hall	3.42
Hamilton	3.43
Jefferson	3.44
Johnson	3.47
Lancaster	3.48
Madison	3.44
Merrick	3.42
Nemaha	3.48
Otoe	3.48

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Pawnee	3.48
Pierce	3.44
Platte	3.44
Polk	3.44
Richardson	3.50
Saline	3.46
Sarpy	3.47
Saunders	3.46
Seward	3.46
Stanton	3.45
Thayer	3.42
Thurston	3.45
Washington	3.47
York	3.45
All other counties	3.40
Weighted State average	3.44
Nevada	
All counties	3.50
New Mexico	
Chaves	3.54
Curry	3.56
De Baca	3.53
Guadalupe	3.53
Harding	3.55
Hidalgo	3.59
Lea	3.56
Luna	3.59
Quay	3.56
Roosevelt	3.56
Union	3.52
All other counties	3.51
Weighted State average	3.56
North Carolina	
All counties	3.61
North Dakota	
All counties	3.33
Ohio	
All counties	3.48
Oklahoma	
Adair	3.60
Alfalfa	3.57
Atoka	3.68
Beaver	3.53
Beckham	3.62
Blaine	3.63
Bryan	3.68
Caddo	3.67
Canadian	3.66
Carter	3.68
Cherokee	3.65
Choctaw	3.68
Cimarron	3.53
Cleveland	3.68
Coal	3.68
Comanche	3.67
Cotton	3.67
Craig	3.58
Creek	3.66
Custer	3.63
Delaware	3.60
Dewey	3.58
Ellis	3.57
Garfield	3.60
Garvin	3.68
Grady	3.68
Grant	3.57
Greer	3.63
Harmon	3.62
Harper	3.53
Haskell	3.66
Hughes	3.67
Jackson	3.63
Jefferson	3.68
Johnston	3.68
Kay	3.57
Kingfisher	3.63
Kiowa	3.65
Latimer	3.67
Le Flore	3.66
Lincoln	3.67
Logan	3.64
Love	3.68
McClain	3.68

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
McCurtain	3.66
McIntosh	3.66
Major	3.58
Marshall	3.69
Mayes	3.60
Murray	3.68
Muskogee	3.66
Noble	3.61
Nowata	3.58
Okfuskee	3.66
Oklahoma	3.67
Okmulgee	3.66
Osage	3.59
Ottawa	3.58
Pawnee	3.62
Payne	3.64
Pittsburg	3.67
Pontotoc	3.68
Pottawatimie	3.67
Pushmataha	3.66
Roger Mills	3.58
Rogers	3.60
Seminole	3.67
Sequoyah	3.65
Stephens	3.68
Texas	3.53
Tillman	3.63
Tulsa	3.65
Wagoner	3.64
Washington	3.57
Washita	3.65
Woods	3.57
Woodward	3.56
Weighted State average	3.58
Oregon	
All counties	3.49
Pennsylvania	
All counties	3.61
South Carolina	
All counties	3.61
South Dakota	
Bon Homme	3.42
Clay	3.44
Hutchinson	3.41
Lincoln	3.43
Turner	3.41
Union	3.44
Yankton	3.44
All Other Counties	3.40
Weighted State average	3.40
Tennessee	
Shelby	3.66
All Other Counties	3.56
Weighted State Average	3.56
Texas	
Anderson	3.75
Andrews	3.54
Angelina	3.80
Aransas	3.86
Archer	3.64
Armstrong	3.57
Atascosa	3.90
Austin	3.85
Bailey	3.56
Bandera	3.76
Bastrop	3.75
Baylor	3.64
Bee	3.87
Bell	3.72
Bexar	3.75
Blanco	3.76
Borden	3.56
Bosque	3.68
Bowie	3.65
Brazoria	3.88
Brazos	3.79
Brewster	3.47
Briscoe	3.58
Brooks	3.86
Brown	3.66
Burleson	3.77
Burnet	3.75

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Caldwell	3.76
Calhoun	3.84
Callahan	3.64
Cameron	3.92
Camp	3.66
Carson	3.57
Cass	3.65
Castro	3.56
Chambers	3.92
Cherokee	3.72
Childress	3.62
Clay	3.68
Cochran	3.56
Coke	3.62
Coleman	3.65
Collin	3.69
Collingsworth	3.81
Colorado	3.82
Comal	3.75
Comanche	3.68
Concho	3.86
Cooke	3.68
Coryell	3.89
Cottle	3.62
Crane	3.54
Crockett	3.52
Crosby	3.59
Culbertson	3.47
Dallam	3.52
Dallas	3.86
Dawson	3.56
Deaf Smith	3.56
Delta	3.67
Denton	3.66
DeWitt	3.81
Dickens	3.62
Dimmit	3.89
Donley	3.57
Duval	3.83
Eastland	3.67
Ector	3.53
Edwards	3.66
Ellis	3.68
El Paso	3.47
Erath	3.68
Falls	3.74
Fannin	3.86
Fayette	3.77
Fisher	3.62
Floyd	3.56
Foard	3.62
Fort Bend	3.86
Franklin	3.86
Freestone	3.73
Frio	3.71
Gaines	3.56
Galveston	3.92
Garza	3.56
Gillespie	3.74
Glasscock	3.56
Goliad	3.87
Gonzales	3.77
Gray	3.57
Grayson	3.89
Gregg	3.65
Grimes	3.84
Guadalupe	3.75
Hale	3.56
Hall	3.60
Hamilton	3.86
Hansford	3.52
Hardeman	3.62
Hardin	3.92
Harris	3.92
Harrison	3.86
Hartley	3.52
Haskell	3.64
Hays	3.75
Hemphill	3.55
Henderson	3.71
Hidalgo	3.89
Hill	3.89
Hockley	3.56
Hood	3.66
Hopkins	3.67
Houston	3.80
Howard	3.56

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Hudspeth	3.48
Hunt	3.68
Hutchinson	3.52
Irion	3.58
Jack	3.68
Jackson	3.89
Jasper	3.82
Jeff Davis	3.48
Jefferson	3.92
Jim Hogg	3.83
Jim Wells	3.89
Johnson	3.68
Jones	3.64
Karnes	3.85
Kaufman	3.68
Kendall	3.76
Kenedy	3.86
Kent	3.62
Kerr	3.75
Kimble	3.70
King	3.62
Kinney	3.68
Kleberg	3.89
Knox	3.64
Lamar	3.67
Lamb	3.56
Lampasas	3.70
La Salle	3.72
Lavaca	3.78
Lee	3.77
Leon	3.75
Liberty	3.88
Limestone	3.79
Lipscomb	3.52
Live Oak	3.85
Llano	3.72
Loving	3.53
Lubbock	3.56
Lynn	3.56
McCulloch	3.85
McLennan	3.72
McMullen	3.78
Madison	3.79
Marion	3.88
Martin	3.56
Mason	3.70
Matagorda	3.86
Maverick	3.62
Medina	3.74
Menard	3.88
Midland	3.55
Milam	3.78
Mills	3.66
Mitchell	3.59
Montague	3.68
Montgomery	3.89
Moore	3.52
Morris	3.66
Motley	3.60
Nacogdoches	3.73
Navarro	3.72
Newton	3.82
Nolan	3.62
Nueces	3.92
Ochiltree	3.52
Oldham	3.56
Orange	3.88
Palo Pinto	3.68
Panola	3.72
Parker	3.68
Parmer	3.56
Pecos	3.52
Polk	3.85
Potter	3.56
Presidio	3.47
Rains	3.67
Randall	3.56
Reagan	3.55
Real	3.73
Red River	3.66
Reeves	3.54
Refugio	3.89
Roberts	3.53
Robertson	3.75
Rockwall	3.68
Runnels	3.63
Rusk	3.69

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Sabine	3.77
San Augustine	3.77
San Jacinto	3.83
San Patricio	3.92
San Saba	3.67
Schleicher	3.59
Scurry	3.59
Shackelford	3.65
Shelby	3.73
Sherman	3.51
Smith	3.69
Somervell	3.68
Starr	3.85
Stephens	3.67
Sterling	3.58
Stonewall	3.64
Sutton	3.64
Swisher	3.58
Tarrant	3.68
Taylor	3.64
Terrell	3.52
Terry	3.58
Throckmorton	3.65
Titus	3.68
Tom Green	3.62
Travis	3.75
Trinity	3.81
Tyler	3.82
Upshur	3.66
Upton	3.53
Uvalde	3.73
Val Verde	3.63
Van Zandt	3.67
Victoria	3.84
Walker	3.84
Waller	3.88
Ward	3.54
Washington	3.85
Webb	3.70
Wharton	3.84
Wheeler	3.58
Wichita	3.63
Wilbarger	3.63
Willacy	3.91
Williamson	3.75
Wilson	3.80
Winkler	3.53
Wise	3.68
Wood	3.67
Yoakum	3.56
Young	3.67
Zapata	3.82
Zavala	3.67
Weighted State average	3.71
Utah	
All counties	3.47
Virginia	
All counties	3.61
Washington	
All counties	3.49
Wisconsin	
All counties	3.38
Wyoming	
All counties	3.39

Since the 1979 crop of sorghum has been harvested in the sorghum producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25148 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Oats Supplement, Amendment 1]

1979 Crop Oats Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.274 that appeared in the Federal Register at 44 FR 31614. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979-crop oats national average loan and purchase rates from $1.03 to $1.08 per bushel, previously announced in the Federal Register. Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923.

With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the Federal Register (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced

that effective January 8, 1980 that the 1979 loan and purchase rate for oats was being increased to $1.08 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $1.08 per bushel for the 1979 crop of oats, published in the **Federal Register** on January 30, 1980, (45 FR 61812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.274(a) is revised to read as follows:

§ 1421.274 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for oats are established for oats grading No. 3 or better as follows:

1979—Crop Oats Loan and Purchase Rates

County	Rate per bushel
Alabama	
All counties	$1.20
Alaska[1]	
Delta	1.01
Fairbanks	1.00
Glenallen	1.07
Homer	1.04
Kenai-Soldotna	1.09
Palmer	1.13
Talkeetna	1.13
Arizona	
All counties	1.27
Arkansas	
All counties	1.16
California	
All counties	1.27
Colorado	
All counties	1.17
Connecticut	
All counties	1.19
Delaware	
All counties	1.19
Florida	
All counties	1.23
Georgia	
All counties	1.20
Idaho	
All counties	1.17
Illinois	
Adams	1.11
Alexander	1.14
Bond	1.12
Boone	1.11
Brown	1.11
Bureau	1.11
Calhoun	1.12
Carroll	1.11
Cass	1.11
Champaign	1.11
Christian	1.11
Clark	1.13
Clay	1.13
Clinton	1.13
Coles	1.11
Cook	1.14
Crawford	1.14
Cumberland	1.12
De Kalb	1.11
De Witt	1.11
Douglas	1.11
Du Page	1.11
Edgar	1.12
Edwards	1.15
Effingham	1.12
Fayette	1.12
Ford	1.11
Franklin	1.14
Fulton	1.11
Gallatin	1.15
Greene	1.12
Grundy	1.11
Hamilton	1.14
Hancock	1.11
Hardin	1.15
Henderson	1.11
Henry	1.11
Iroquois	1.12
Jackson	1.14
Jasper	1.13
Jefferson	1.14
Jersey	1.12
Jo Daviess	1.11
Johnson	1.11
Kane	1.11
Kankakee	1.12
Kendall	1.11
Knox	1.11
Lake	1.12
La Salle	1.11
Lawrence	1.15
Lee	1.11
Livingston	1.11
Logan	1.11
McDonough	1.11
McHenry	1.11
McLean	1.11
Macon	1.11
Macoupin	1.12
Madison	1.13
Marion	1.13
Marshall	1.11
Mason	1.11
Massac	1.14
Menard	1.11
Mercer	1.11
Monroe	1.14
Montgomery	1.12
Morgan	1.11
Moultrie	1.11
Ogle	1.11
Peoria	1.11
Perry	1.14
Piatt	1.11
Pike	1.11
Pope	1.15
Pulaski	1.14
Putnam	1.11
Randolph	1.14
Richland	1.13
Rock Island	1.11
St. Clair	1.14
Saline	1.15
Sangamon	1.11
Schuyler	1.11
Scott	1.11
Shelby	1.11
Stark	1.11
Stephenson	1.11
Tazewell	1.11
Union	1.14
Vermilion	1.12
Wabash	1.15
Warren	1.11
Washington	1.14
Wayne	1.14
White	1.15
Whiteside	1.11
Will	1.13
Williamson	1.14
Winnebago	1.11
Woodford	1.11
State weighted average	1.11
Indiana	
Adams	1.18
Allen	1.18
Bartholomew	1.18
Benton	1.16
Blackford	1.17
Boone	1.17
Brown	1.19
Carroll	1.17
Cass	1.17
Clark	1.18
Clay	1.17
Clinton	1.17
Crawford	1.19
Daviess	1.19
Dearborn	1.20
Decatur	1.18
De Kalb	1.18
Delaware	1.17
Dubois	1.19
Elkhart	1.18
Fayette	1.17
Floyd	1.19
Fountain	1.16
Franklin	1.19
Fulton	1.17
Gibson	1.19
Grant	1.17
Greene	1.19
Hamilton	1.17
Hancock	1.17
Harrison	1.19
Hendricks	1.17
Henry	1.17
Howard	1.17
Huntington	1.17
Jackson	1.19
Jasper	1.16
Jay	1.18
Jefferson	1.20
Jennings	1.20
Johnson	1.17
Knox	1.19
Kosciusko	1.17
Lagrange	1.18
Lake	1.17
La Porte	1.16
Lawrence	1.19
Madison	1.17
Marion	1.17
Marshall	1.17
Martin	1.19
Miami	1.17
Monroe	1.19
Montgomery	1.17
Morgan	1.17
Newton	1.16

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Noble	1.17
Ohio	1.20
Orange	1.19
Owen	1.17
Parke	1.18
Perry	1.19
Pike	1.19
Porter	1.17
Posey	1.19
Pulaski	1.17
Putnam	1.17
Randolph	1.18
Ripley	1.20
Rush	1.17
St. Joseph	1.18
Scott	1.20
Shelby	1.17
Spencer	1.19
Starke	1.17
Steuben	1.18
Sullivan	1.18
Switzerland	1.20
Tippecanoe	1.17
Tipton	1.17
Union	1.18
Vanderburgh	1.19
Vermillion	1.16
Vigo	1.17
Wabash	1.17
Warren	1.16
Warrick	1.19
Washington	1.19
Wayne	1.18
Wells	1.17
White	1.17
Whitley	1.17
State weighted average	1.18
Iowa	
Adair	1.09
Adams	1.09
Allamakee	1.08
Appanoose	1.09
Audubon	1.07
Benton	1.09
Black Hawk	1.08
Boone	1.07
Bremer	1.07
Buchanan	1.08
Buena Vista	1.07
Butler	1.07
Calhoun	1.07
Carroll	1.07
Cass	1.09
Cedar	1.09
Cerro Gordo	1.06
Cherokee	1.07
Chickasaw	1.07
Clarke	1.09
Clay	1.06
Clayton	1.07
Clinton	1.09
Crawford	1.08
Dallas	1.07
Davis	1.10
Decatur	1.09
Delaware	1.08
Des Moines	1.09
Dickinson	1.05
Dubuque	1.08
Emmet	1.05
Fayette	1.07
Floyd	1.06
Franklin	1.07
Fremont	1.09
Greene	1.07
Grundy	1.07
Guthrie	1.07
Hamilton	1.07
Hancock	1.06
Hardin	1.07
Harrison	1.07
Henry	1.09
Howard	1.06
Humboldt	1.07
Ida	1.06
Iowa	1.09
Jackson	1.09
Jasper	1.07
Jefferson	1.09
Johnson	1.09
Jones	1.09
Keokuk	1.09
Kossuth	1.05
Lee	1.09
Linn	1.09
Louisa	1.09
Lucas	1.09
Lyon	1.04
Madison	1.08
Mahaska	1.09
Marion	1.09
Marshall	1.07
Mills	1.08
Mitchell	1.05
Monona	1.06
Monroe	1.09
Montgomery	1.08
Muscatine	1.09
O'Brien	1.06
Osceola	1.04
Page	1.09
Palo Alto	1.07
Plymouth	1.05
Pocahontas	1.07
Polk	1.07
Pottawattamie	1.10
Poweshiek	1.07
Ringgold	1.09
Sac	1.07
Scott	1.09
Shelby	1.07
Sioux	1.05
Story	1.07
Tama	1.07
Taylor	1.09
Union	1.09
Van Buren	1.09
Wapello	1.09
Warren	1.09
Washington	1.09
Wayne	1.09
Webster	1.07
Winnebago	1.05
Winneshiek	1.08
Woodbury	1.05
Worth	1.05
Wright	1.07
State weighted average	1.07
Kansas	
All counties	1.13
Kentucky	
All counties	1.20
Louisiana	
All counties	1.20
Maine	
All counties	1.19
Maryland	
All counties	1.20
Massachusetts	
All counties	1.19
Michigan	
Alcona	1.13
Alger	1.14
Allegan	1.15
Alpena	1.13
Antrim	1.14
Arenac	1.13
Baraga	1.13
Barry	1.15
Bay	1.13
Benzie	1.14
Berrien	1.16
Branch	1.16
Calhoun	1.15
Cass	1.16
Charlevoix	1.14
Cheboygan	1.14
Chippewa	1.14
Clare	1.14
Clinton	1.14
Crawford	1.13
Delta	1.13
Dickinson	1.13
Eaton	1.14
Emmet	1.14
Genesee	1.13
Gladwin	1.13
Gogebic	1.13
Grand Traverse	1.14
Gratiot	1.14
Hillsdale	1.16
Houghton	1.13
Huron	1.13
Ingham	1.14
Ionia	1.14
Iosco	1.13
Iron	1.13
Isabella	1.14
Jackson	1.15
Kalamazoo	1.15
Kalkaska	1.14
Kent	1.15
Keweenaw	1.13
Lake	1.15
Lapeer	1.13
Leelanau	1.14
Lenawee	1.16
Livingston	1.14
Luce	1.14
Mackinac	1.14
Macomb	1.14
Manistee	1.15
Marquette	1.13
Mason	1.15
Mecosta	1.14
Menominee	1.13
Midland	1.13
Missaukee	1.14
Monroe	1.16
Montcalm	1.14
Montmorency	1.13
Muskegon	1.15
Newaygo	1.15
Oakland	1.14
Oceana	1.15
Ogemaw	1.13
Ontonagon	1.13
Osceola	1.14
Oscoda	1.13
Otsego	1.14
Ottawa	1.15
Presque Isle	1.13
Roscommon	1.13
Saginaw	1.13
St. Clair	1.14
St. Joseph	1.16
Sanilac	1.13
Schoolcraft	1.14
Shiawassee	1.13
Tuscola	1.13
Van Buren	1.15
Washtenaw	1.15
Wayne	1.15
Wexford	1.15
State weighted average	1.14
Minnesota	
Aitkin	1.04
Anoka	1.06
Becker	1.00
Beltrami	1.00
Benton	1.04
Big Stone	1.01
Blue Earth	1.04
Brown	1.03
Carlton	1.06
Carver	1.05
Cass	1.02
Chippewa	1.02
Chisago	1.06
Clay	.99
Clearwater	1.00
Cook	1.06
Cottonwood	1.09
Crow Wing	1.03
Dakota	1.05
Dodge	1.02
Douglas	1.04
Faribault	1.04
Fillmore	1.05
Freeborn	1.05
Goodhue	1.04
Grant	1.01

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Hennepin	1.06
Houston	1.05
Hubbard	1.01
Iseanti	1.05
Itasca	1.04
Jackson	1.03
Kanabec	1.05
Kandiyohi	1.03
Kittson	.97
Koochiching	1.01
Lac Qui Parle	1.02
Lake	1.05
Lake of the Woods	.99
Le Sueur	1.04
Lincoln	1.02
Lyon	1.02
McLeod	1.04
Mahnomen	.99
Marshall	.98
Martin	1.03
Meeker	1.04
Mille Lacs	1.04
Morrison	1.03
Mower	1.04
Murray	1.02
Nicollet	1.04
Nobles	1.02
Norman	.98
Olmsted	1.04
Otter Tail	1.01
Pennington	.98
Pine	1.05
Pipestone	1.02
Polk	.98
Pope	1.02
Ramsey	1.06
Red Lake	.98
Redwood	1.03
Renville	1.03
Rice	1.04
Rock	1.02
Roseau	.98
St. Louis	1.06
Scott	1.05
Sherburne	1.05
Sibley	1.04
Steams	1.03
Steele	1.04
Stevens	1.01
Swift	1.02
Todd	1.02
Traverse	1.00
Wabasha	1.04
Wadena	1.02
Waseca	1.04
Washington	1.06
Watonwan	1.03
Wilkin	1.00
Winona	1.05
Wright	1.05
Yellow Medicine	1.02
State weighted average	1.02
Mississippi	
All counties	1.20
Missouri	
All counties	1.14
Montana	
Beaverhead	1.13
Big Horn	1.06
Blaine	1.03
Broadwater	1.09
Carbon	1.06
Carter	1.02
Cascade	1.06
Chouteau	1.05
Custer	1.02
Daniels	1.00
Dawson	.99
Deer Lodge	1.11
Fallon	1.00
Fergus	1.05
Flathead	1.11
Gallatin	1.10
Garfield	1.02
Glacier	1.06
Golden Valley	1.07
Granite	1.12
Hill	1.04
Jefferson	1.10
Judith Basin	1.06
Lake	1.12
Lewis and Clarke	1.10
Liberty	1.05
Lincoln	1.13
McCone	1.00
Madison	1.11
Meagher	1.08
Mineral	1.13
Missoula	1.12
Musselshell	1.06
Park	1.10
Petroleum	1.03
Phillips	1.02
Pondera	1.07
Powder River	1.04
Powell	1.11
Prairie	1.01
Ravalli	1.12
Richland	.99
Roosevelt	.99
Rosebud	1.04
Sanders	1.13
Sheridan	.99
Silver Bow	1.11
Stillwater	1.08
Sweet Grass	1.09
Teton	1.07
Toole	1.06
Treasure	1.05
Valley	1.01
Wheatland	1.06
Wibaux	.99
Yellowstone	1.07
State weighted average	1.04
Nebraska	
Adams	1.09
Antelope	1.06
Arthur	1.07
Banner	1.07
Blaine	1.06
Boone	1.07
Box Butte	1.06
Boyd	1.04
Brown	1.05
Buffalo	1.08
Burt	1.08
Butler	1.09
Cass	1.10
Cedar	1.06
Chase	1.10
Cherry	1.05
Cheyenne	1.08
Clay	1.09
Colfax	1.08
Cuming	1.08
Custer	1.07
Dakota	1.08
Dawes	1.06
Dawson	1.08
Deuel	1.08
Dixon	1.07
Dodge	1.09
Douglas	1.10
Dundy	1.11
Fillmore	1.09
Franklin	1.10
Frontier	1.09
Furnas	1.10
Gage	1.11
Garden	1.07
Garfield	1.06
Gosper	1.09
Grant	1.06
Greeley	1.07
Hall	1.08
Hamilton	1.08
Harlan	1.10
Hayes	1.10
Hitchcock	1.11
Holt	1.05
Hooker	1.06
Howard	1.07
Jefferson	1.10
Johnson	1.11
Kearney	1.09
Keith	1.08
Keya Paha	1.04
Kimball	1.08
Knox	1.05
Lancaster	1.10
Lincoln	1.08
Logan	1.07
Loup	1.06
McPherson	1.07
Madison	1.07
Merrick	1.07
Merrill	1.07
Nance	1.07
Nemaha	1.11
Nuckolls	1.10
Otoe	1.10
Pawnee	1.11
Perkins	1.09
Phelps	1.09
Pierce	1.06
Platte	1.07
Polk	1.08
Red Willow	1.10
Richardson	1.11
Rock	1.05
Saline	1.10
Sarpy	1.10
Saunders	1.10
Scotts Bluff	1.07
Seward	1.09
Sheridan	1.06
Sherman	1.07
Sioux	1.06
Stanton	1.07
Thayer	1.10
Thomas	1.06
Thurston	1.06
Valley	1.07
Washington	1.09
Wayne	1.07
Webster	1.10
Wheeler	1.06
York	1.06
State weighted average	1.08
Nevada	
All counties	1.27
New Hampshire	
All counties	1.19
New Jersey	
All counties	1.20
New Mexico	
All counties	1.25
New York	
All counties	1.24
North Carolina	
All counties	1.20
North Dakota	
Adams	.96
Barnes	.97
Benson	.95
Billings	.94
Bottineau	.93
Bowman	.96
Burke	.94
Burleigh	.95
Cass	.99
Cavlier	.96
Dickey	.97
Divide	.96
Dunn	.94
Eddy	.96
Emmons	.96
Foster	.96
Golden Valley	.96
Grand Forks	.97
Grant	.95
Griggs	.96
Hettinger	.95
Kidder	.96
La Moure	.97
Logan	.96
McHenry	.93
McIntosh	.96
McKenzie	.96

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
McLean	.93
Mercer	.93
Morton	.94
Mountrail	.94
Nelson	.96
Oliver	.94
Pembina	.97
Pierce	.94
Ramsey	.96
Ransom	.98
Renville	.93
Richland	.99
Rolette	.94
Sargent	.98
Sheridan	.94
Sioux	.95
Slope	.97
Stark	.93
Steele	.97
Stutsman	.97
Towner	.95
Traill	.97
Walsh	.97
Ward	.93
Wells	.95
Williams	.96
State weighted average	.96
Ohio	
Adams	1.20
Allen	1.18
Ashland	1.19
Ashtabula	1.21
Athens	1.21
Auglaize	1.18
Belmont	1.22
Brown	1.20
Butler	1.18
Carroll	1.21
Champaign	1.19
Clark	1.19
Clermont	1.20
Clinton	1.20
Columbiana	1.21
Coshocton	1.20
Crawford	1.19
Cuyahoga	1.20
Darke	1.17
Defiance	1.17
Delaware	1.19
Erie	1.19
Fairfield	1.19
Fayette	1.19
Franklin	1.19
Fulton	1.18
Gallia	1.21
Geauga	1.20
Greene	1.19
Guernsey	1.21
Hamilton	1.19
Hancock	1.18
Hardin	1.18
Harrison	1.21
Henry	1.18
Highland	1.20
Hocking	1.20
Holmes	1.20
Huron	1.19
Jackson	1.20
Jefferson	1.22
Knox	1.19
Lake	1.20
Lawrence	1.20
Licking	1.19
Logan	1.19
Lorain	1.20
Lucas	1.18
Madison	1.19
Mahoning	1.21
Marion	1.19
Medina	1.20
Meigs	1.21
Mercer	1.16
Miami	1.18
Monroe	1.22
Montgomery	1.18
Morgan	1.21
Morrow	1.19
Muskingum	1.20
Noble	1.21
Ottawa	1.19
Paulding	1.17
Perry	1.20
Pickaway	1.19
Pike	1.20
Portage	1.20
Preble	1.17
Putnam	1.18
Richland	1.19
Ross	1.20
Sandusky	1.19
Scioto	1.20
Seneca	1.19
Shelby	1.18
Stark	1.20
Summit	1.20
Trumbull	1.21
Tuscarawas	1.20
Union	1.19
Van Wert	1.17
Vinton	1.20
Warren	1.19
Washington	1.22
Wayne	1.20
Williams	1.18
Wood	1.18
Wyandot	1.19
State weighted average	1.19
Oklahoma	
All counties	1.20
Oregon	
All counties	1.23
Pennsylvania	
All counties	1.24
Rhode Island	
All Counties	1.19
South Carolina	
All counties	1.20
South Dakota	
Aurora	.99
Beadle	.99
Bennett	1.00
Bon Homme	1.02
Brookings	1.00
Brown	.97
Brule	.99
Buffalo	.99
Butte	.98
Campbell	.96
Charles Mix	1.00
Clark	.98
Clay	1.04
Codington	.99
Corson	.96
Custer	1.01
Davison	.99
Day	.98
Deuel	1.00
Dewey	.96
Dougla	1.00
Edmunds	.97
Fall River	1.01
Faulk	.98
Grant	1.00
Gregory	1.00
Haakon	.99
Hamlin	.99
Hand	.99
Hanson	.99
Harding	.97
Hughes	.99
Hutchinson	1.01
Hyde	.99
Jackson	.99
Jerauld	.99
Jones	.99
Kingsbury	.99
Lake	.99
Lawrence	.98
Lincoln	1.02
Lyman	.99
McCook	1.00
McPherson	.96
Marshall	.97
Meade	.98
Mellette	1.00
Miner	.99
Minnehaha	1.01
Moody	1.00
Pennington	.99
Perkins	.96
Potter	.98
Roberts	.98
Sanborn	.99
Shannon	1.01
Spink	.98
Stanley	.99
Sully	.99
Todd	1.00
Tripp	1.00
Turner	1.02
Union	1.04
Walworth	.98
Yankton	1.03
Ziebach	.98
State weighted average	1.00
Tennessee	
All counties	1.20
Texas	
All counties	1.23
Utah	
All counties	1.25
Vermont	
All counties	1.19
Virginia	
All counties	1.20
Washington	
All counties	1.19
West Virginia	
All counties	1.22
Wisconsin	
Adams	1.09
Ashland	1.09
Barron	1.07
Bayfield	1.06
Brown	1.08
Buffalo	1.06
Burnett	1.06
Calumet	1.08
Chippewa	1.08
Clark	1.08
Columbia	1.08
Crawford	1.09
Dane	1.10
Dodge	1.09
Door	1.08
Douglas	1.06
Dunn	1.07
Eau Claire	1.07
Florence	1.10
Fond du Lac	1.08
Forest	1.10
Grant	1.09
Green	1.10
Green Lake	1.09
Iowa	1.10
Iron	1.10
Jackson	1.08
Jefferson	1.10
Juneau	1.09
Kenosha	1.11
Kewaunee	1.08
LaCrosse	1.07
Lafayette	1.10
Langlade	1.09
Lincoln	1.09
Manitowoc	1.08
Marathon	1.09
Marinette	1.10
Marquette	1.09
Menominee	1.09
Milwaukee	1.11
Monroe	1.06
Oconto	1.09
Oneida	1.10
Outagamie	1.08
Ozaukee	1.10

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Pepin	1.08
Pierce	1.08
Polk	1.08
Portage	1.09
Price	1.08
Racine	1.11
Richland	1.08
Rock	1.10
Rusk	1.08
Saint Croix	1.08
Sauk	1.10
Sawyer	1.08
Shawno	1.08
Sheboygan	1.09
Taylor	1.08
Trempealeau	1.07
Vernon	1.07
Vilas	1.10
Walworth	1.10
Washburn	1.07
Washington	1.10
Waukesha	1.11
Waupaca	1.09
Waushara	1.09
Winnebago	1.09
Wood	1.09
State weighted average	1.08
Wyoming	
All counties	1.15

[1] In Alaska, loan rates are for marketing areas.

Since the 1979 crop of oats has been harvested in the oats producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc 80-25146 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Rye Supplement, Amendment 1]

1979 Crop Rye Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.354 that appeared in the **Federal Register** at 44 FR 18467. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop rye national average loan and purchase rates from $1.70 to $1.79 per bushel, previously announced in the **Federal Register**. Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923. With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980 that the 1979 loan and purchase rate for rye was being increased to $1.79 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $1.79 per bushel for the 1979 crop of rye, published in the **Federal Register** on January 30, 1980 (45 FR 61812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.354(a) is revised to read as follows:

§ 1421.354 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for rye are established for rye grading No. 2 or better as follows:

1979—Crop Rye Loan and Purchase Rates

County	Rate per bushel
Alabama	
All counties	$1.90
Arizona	
All counties	1.87
Arkansas	
All counties	1.84
California	
Alameda	2.04
Los Angeles	2.04
Sacramento	2.04
San Diego	2.04
San Francisco	2.04
San Joaquin	2.04
All other counties	1.91
Weighted State average	1.91
Colorado	
All counties	1.73
Connecticut	
All counties	1.88
Delaware	
All counties	1.93
Florida	
All counties	1.97
Georgia	
All counties	1.97
Idaho	
All counties	1.82
Illinois	
Cook	1.91
St. Clair	1.91
All other counties	1.85
Weighted State average	1.85
Indiana	
All counties	1.83
Iowa	
Pottawattamie	1.82
Woodbury	1.82
All other counties	1.78
Weighted State average	1.78
Kansas	
Wyandotte	1.82
All other counties	1.72
Weighted State average	1.72
Kentucky	
All counties	1.90
Louisiana	
East Baton Rouge	2.06
Jefferson	2.06
Orleans	2.06
St. Charles	2.06

1979—Crop Rye Loan and Purchase Rates—Continued

County	Rate per bushel
West Baton Rouge	2.06
All other parishes	1.87
Weighted State average	1.87
Maine	
All counties	1.88
Maryland	
Baltimore	2.04
All other counties	1.93
Weighted State average	1.93
Massachusetts	
All counties	1.88
Michigan	
All counties	1.75
Minnesota	
Hennepin	1.84
St. Louis	1.84
All other counties	1.78
Weighted State average	1.78
Mississippi	
All counties	1.92
Missouri	
St. Louis	1.95
All other counties	1.82
Weighted State average	1.82
Montana	
All counties	1.63
Nebraska	
All counties	1.72
Nevada	
All counties	1.77
New Hampshire	
All counties	1.88
New Jersey	
All counties	1.90
New Mexico	
All counties	1.77
New York	
Albany	2.04
New York City	2.04
All other counties	1.88
Weighted State average	1.88
North Caroline	
All counties	1.97
North Dakota	
All counties	1.68
Ohio	
All counties	1.83
Oklahoma	
All counties	1.80
Oregon	
Clatsop	2.05
Multnomah	2.05
All other counties	1.92
Weighted State average	1.92
Pennsylvania	
Philadelphia	2.04
All other counties	1.88
Weighted State average	1.88
Rhode Island	
All counties	1.88
South Carolina	
Charleston	2.04
All other counties	1.95
Weighted State average	1.95
South Dakota	
All counties	1.72
Tennessee	
Shelby	1.97
All other counties	1.92

1979—Crop Rye Loan and Purchase Rates—Continued

County	Rate per bushel
Weighted State average	1.92
Texas	
Galveston	2.06
Harris	2.06
Jefferson	2.06
Nueces	2.06
San Patricio	2.06
All other counties	1.85
Weighted State average	1.85
Utah	
All counties	1.72
Vermont	
All counties	1.88
Virginia	
Chesapeake (Norfolk)	2.04
All other counties	1.93
Weighted State average	1.93
Washington	
Clark	2.05
Cowlitz	2.05
King	2.05
Pierce	2.05
All other counties	1.92
Weighted State average	1.92
West Virginia	
All counties	1.90
Wisconsin	
Douglas	1.84
Milwaukee	1.92
All other counties	1.83
Weighted State average	1.83
Wyoming	
All counties	1.72

Since the 1979 crop of rye has been harvested in the rye producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25145 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Wheat Supplement, Amendment 1]

1979 Crop Wheat Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.490 that appeared in the **Federal Register** at 44 FR 47526. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979-wheat national average loan and purchase rates from $2.35 to $2.50 per bushel, previously announced in the **Federal Register**. Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley, ASCS, (202) 447-7923. With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for wheat was being increased to $2.50 per bushel in accordance with Section 107A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $2.50 per bushel for the 1979 crop of wheat, published in the **Federal Register** on January 30, 1980, (45 FR 6812), effective January 8, 1980.

Title and number of the federal

1979—Crop Wheat Loan and Purchase

1979—Crop Wheat Loan and Purchase

1979—Crop Wheat Loan and Purchase

1979—Crop Wheat Loan and Purchase

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.490(a) is revised to read as follows:

§ 1421.490 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for wheat are established for wheat grading No. 1 as follows:

1979—Crop Wheat Loan and Purchase Rates

County	Rate per bushel
Alabama	
Mobile	2.61
All other counties	2.42
Weighted State average	2.42
Arizona	
All counties	2.52
Arkansas	
All counties	2.43
California	
Alameda	2.68
Alpine	2.50
Amador	2.63
Butte	2.57
Calaveras	2.63
Colusa	2.62
Contra Costa	2.63
El Dorado	2.62
Fresno	2.58
Glenn	2.58
Humboldt	2.45
Imperial	2.60
Inyo	2.58
Kern	2.63
Kings	2.60
Lake	2.56
Lassen	2.45
Los Angeles	2.68
Madera	2.61
Marin	2.61
Mariposa	2.61
Mendocino	2.50
Merced	2.64
Modoc	2.45
Monterey	2.58
Napa	2.62
Orange	2.68
Placer	2.62
Plumas	2.45
Riverside	2.60
Sacramento	2.68
San Benito	2.61
San Bernardino	2.60
San Diego	2.68
San Francisco	2.68
San Joaquin	2.68
San Luis Obispo	2.57
San Mateo	2.68
Santa Barbara	2.58
Santa Clara	2.62
Santa Cruz	2.63

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Shasta	2.46
Sierra	2.47
Siskiyou	2.45
Solano	2.63
Sonoma	2.60
Stanislaus	2.65
Sutter	2.62
Tehama	2.52
Tulare	2.60
Tuolumne	2.61
Ventura	2.65
Yolo	2.63
Yuba	2.62
Weighted State average	2.61
Colorado	
Adams	2.32
Alamosa	2.29
Arapahoe	2.32
Archuleta	2.28
Baca	2.36
Bent	2.32
Boulder	2.31
Chaffee	2.29
Cheyenne	2.33
Conejos	2.29
Costilla	2.29
Crowley	2.32
Custer	2.31
Delta	2.23
Denver	2.32
Dolores	2.23
Douglas	2.32
Eagle	2.28
Elbert	2.32
El Paso	2.32
Fremont	2.31
Garfield	2.26
Grand	2.29
Huerfano	2.33
Jackson	2.29
Jefferson	2.31
Kiowa	2.33
Kit Carson	2.33
La Plata	2.23
Larimer	2.32
Las Animas	2.35
Lincoln	2.32
Logan	2.32
Mesa	2.23
Moffat	2.26
Montezuma	2.23
Montrose	2.23
Morgan	2.32
Otero	2.32
Ouray	2.23
Phillips	2.32
Pitkin	2.23
Prowers	2.34
Pueblo	2.32
Rio Blanco	2.26
Rio Grande	2.29
Routt	2.29
Saguache	2.29
San Miguel	2.23
Sedgwick	2.32
Summit	2.28
Teller	2.31
Washington	2.32
Weld	2.32
Yuma	2.33
Weighted State average	2.32
Connecticut	
All counties	2.44
Delaware	
All counties	2.47
Florida	
All counties	2.41
Georgia	
All counties	2.41
Idaho	
Ada	2.46
Adams	2.46
Bannock	2.44
Bear Lake	2.42

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Benewah	2.56
Bingham	2.42
Blaine	2.42
Boise	2.46
Bonner	2.49
Bonneville	2.41
Boundary	2.47
Butte	2.41
Camas	2.43
Canyon	2.46
Caribou	2.43
Cassia	2.45
Clark	2.39
Clearwater	2.55
Custer	2.41
Elmore	2.45
Franklin	2.45
Fremont	2.40
Gem	2.46
Gooding	2.46
Idaho	2.54
Jefferson	2.41
Jerome	2.46
Kootenai	2.54
Latah	2.57
Lemhi	2.41
Lewis	2.56
Lincoln	2.45
Madison	2.41
Minidoka	2.45
Nez Perce	2.59
Oneida	2.45
Owyhee	2.45
Payette	2.46
Power	2.45
Shoshone	2.55
Teton	2.40
Twin Falls	2.46
Valley	2.45
Washington	2.46
Weighted State average	2.47
Illinois	
Adams	2.45
Alexander	2.48
Bond	2.51
Boone	2.53
Brown	2.45
Bureau	2.51
Calhoun	2.52
Carroll	2.50
Cass	2.47
Champaign	2.51
Christian	2.49
Clark	2.47
Clay	2.47
Clinton	2.51
Coles	2.47
Cook	2.53
Crawford	2.46
Cumberland	2.47
De Kalb	2.53
De Witt	2.47
Douglas	2.48
Du Page	2.53
Edgar	2.49
Edwards	2.47
Effingham	2.49
Fayette	2.50
Ford	2.51
Franklin	2.51
Fulton	2.49
Gallatin	2.44
Greene	2.51
Grundy	2.53
Hamilton	2.45
Hancock	2.45
Hardin	2.44
Henderson	2.47
Henry	2.50
Iroquois	2.53
Jackson	2.50
Jasper	2.46
Jefferson	2.51
Jersey	2.52
Jo Daviess	2.50
Johnson	2.48
Kane	2.53
Kankakee	2.53
Kendall	2.53

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Knox	2.49
Lake	2.53
La Salle	2.53
Lawrence	2.46
Lee	2.52
Livingston	2.52
Logan	2.47
McDonough	2.47
McHenry	2.53
McLean	2.49
Macon	2.47
Macoupin	2.51
Madison	2.52
Marion	2.51
Marshall	2.50
Mason	2.45
Massac	2.47
Menard	2.45
Mercer	2.49
Monroe	2.52
Montgomery	2.51
Morgan	2.49
Moultrie	2.48
Ogle	2.51
Peoria	2.49
Perry	2.51
Piatt	2.47
Pike	2.46
Pope	2.45
Pulaski	2.48
Putman	2.50
Randolph	2.52
Richland	2.46
Rock Island	2.50
St. Clair	2.52
Saline	2.45
Sangamon	2.49
Schuyler	2.45
Scott	2.47
Shelby	2.49
Stark	2.49
Stephenson	2.52
Tazewell	2.47
Union	2.48
Vermilion	2.52
Wabash	2.46
Warren	2.49
Washington	2.51
Wayne	2.47
White	2.44
Whiteside	2.51
Will	2.53
Williamson	2.49
Winnebago	2.52
Woodford	2.49
Weighted State average	2.49
Indiana	
Adams	2.46
Allen	2.46
Bartholomew	2.46
Benton	2.51
Blackford	2.46
Boone	2.45
Brown	2.46
Carroll	2.49
Cass	2.49
Clark	2.51
Clay	2.47
Clinton	2.45
Crawford	2.51
Daviess	2.47
Dearborn	2.48
Decatur	2.46
De Kalb	2.46
Delaware	2.46
Dubois	2.48
Elkhart	2.48
Fayette	2.46
Floyd	2.51
Fountain	2.49
Franklin	2.46
Fulton	2.49
Gibson	2.46
Grant	2.45
Greene	2.47
Hamilton	2.46
Hancock	2.46
Harrison	2.51
Hendricks	2.45

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Henry	2.46
Howard	2.45
Huntington	2.45
Jackson	2.47
Jasper	2.52
Jay	2.46
Jefferson	2.49
Jennings	2.47
Johnson	2.45
Knox	2.46
Kosciusko	2.49
Lagrange	2.45
Lake	2.53
La Porte	2.53
Lawrence	2.47
Madison	2.46
Marion	2.46
Marshall	2.49
Martin	2.47
Miami	2.45
Monroe	2.46
Montgomery	2.47
Morgan	2.45
Newton	2.52
Noble	2.46
Ohio	2.46
Orange	2.49
Owen	2.46
Parke	2.49
Perry	2.47
Pike	2.47
Porter	2.53
Posey	2.44
Pulaski	2.52
Putnam	2.45
Randolph	2.46
Ripley	2.46
Rush	2.46
St. Joseph	2.51
Scott	2.49
Shelby	2.46
Spencer	2.47
Starke	2.52
Steuben	2.46
Sullivan	2.47
Switzerland	2.47
Tippecanoe	2.48
Tipton	2.45
Union	2.46
Vanderburgh	2.46
Vermillion	2.49
Vigo	2.48
Wabash	2.45
Warren	2.51
Warrick	2.47
Washington	2.49
Wayne	2.46
Wells	2.46
White	2.51
Whitley	2.45
Weighted State average	2.47
Iowa	
Pottawattamie	2.56
All other counties	2.45
Weighted State average	2.45
Kansas	
Allen	2.51
Anderson	2.54
Atchison	2.56
Barber	2.40
Barton	2.40
Bourbon	2.52
Brown	2.54
Butler	2.44
Chase	2.47
Chautauqua	2.47
Cherokee	2.49
Cheyenne	2.39
Clark	2.37
Clay	2.45
Cloud	2.45
Coffey	2.52
Comanche	2.38
Cowley	2.44
Crawford	2.50
Decatur	2.37
Dickinson	2.44
Doniphan	2.54

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Douglas	2.55
Edwards	2.40
Elk	2.47
Ellis	2.40
Ellsworth	2.43
Finney	2.37
Ford	2.38
Franklin	2.55
Geary	2.47
Gove	2.37
Graham	2.39
Grant	2.35
Gray	2.37
Greeley	2.39
Greenwood	2.47
Hamilton	2.34
Harper	2.42
Harvey	2.43
Haskell	2.36
Hodgeman	2.39
Jackson	2.53
Jefferson	2.55
Jewell	2.44
Johnson	2.56
Kearny	2.35
Kingman	2.43
Kiowa	2.40
Labette	2.49
Lane	2.37
Leavenworth	2.56
Lincoln	2.43
Linn	2.54
Logan	2.34
Lyon	2.49
McPherson	2.43
Marion	2.43
Marshall	2.49
Meade	2.37
Miami	2.55
Mitchell	2.43
Montgomery	2.49
Morris	2.47
Morton	2.36
Nemaha	2.51
Neosho	2.50
Ness	2.39
Norton	2.39
Osage	2.52
Osborne	2.43
Ottawa	2.44
Pawnee	2.40
Phillips	2.40
Pottawatomie	2.51
Pratt	2.40
Rawlins	2.35
Reno	2.43
Republic	2.45
Rice	2.43
Riley	2.49
Rooks	2.41
Rush	2.40
Russell	2.41
Saline	2.44
Scott	2.35
Sedgwick	2.43
Seward	2.36
Shawnee	2.53
Sheridan	2.37
Sherman	2.33
Smith	2.43
Stafford	2.40
Stanton	2.34
Stevens	2.36
Sumner	2.43
Thomas	2.35
Trego	2.39
Wabaunsee	2.50
Wallace	2.33
Washington	2.47
Wichita	2.34
Wilson	2.49
Woodson	2.50
Wyandotte	2.56
Weighted State average	2.41
Kentucky	
Jefferson	2.52
All other counties	2.44
Weighted State average	2.44

V 45 A G 1980 UMI

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Louisiana	
East Baton Rouge	2.62
Jefferson	2.62
Orleans	2.62
St. Charles	2.62
West Baton Rouge	2.62
All other counties	2.47
Weighted State average	2.47
Maine	
All counties	2.41
Maryland	
Baltimore	2.60
All other counties	2.47
Weighted State average	2.47
Massachusetts	
All counties	2.43
Michigan	
Alcona	2.36
Alger	2.37
Allegan	2.45
Alpena	2.33
Antrim	2.33
Arenac	2.37
Baraga	2.37
Barry	2.44
Bay	2.41
Benzie	2.36
Berrien	2.49
Branch	2.46
Calhoun	2.45
Cass	2.46
Charlevoix	2.32
Cheboygan	2.32
Chippewa	2.37
Clare	2.39
Clinton	2.42
Crawford	2.36
Delta	2.37
Dickinson	2.37
Eaton	2.44
Emmet	2.30
Genesee	2.44
Gladwin	2.39
Gogebic	2.37
Grand Traverse	2.36
Gratiot	2.42
Hillsdale	2.47
Houghton	2.37
Huron	2.43
Ingham	2.44
Ionia	2.42
Iosco	2.37
Iron	2.37
Isabella	2.41
Jackson	2.45
Kalamazoo	2.45
Kalkaska	2.36
Kent	2.42
Keweenaw	2.37
Lake	2.38
Lapeer	2.44
Leelanau	2.35
Lenawee	2.48
Livingston	2.45
Luce	2.37
Mackinac	2.37
Macomb	2.47
Manistee	2.37
Marquette	2.37
Mason	2.40
Mecosta	2.41
Menominee	2.37
Midland	2.41
Missaukee	2.36
Monroe	2.50
Montcalm	2.42
Montmorency	2.33
Muskegon	2.42
Newaygo	2.40
Oakland	2.47
Oceana	2.40
Ogemaw	2.37
Ontonagon	2.37
Osceola	2.36
Oscoda	2.36
Otsego	2.33

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Ottawa	2.42
Presque Isle	2.32
Roscommon	2.36
Saginaw	2.44
St. Clair	2.47
St. Joseph	2.46
Sanilac	2.44
Schoolcraft	2.37
Shiawassee	2.44
Tuscola	2.44
Van Buren	2.45
Washtenaw	2.47
Wayne	2.47
Wexford	2.36
Weighted State average	2.44
Minnesota	
Aitkin	2.68
Anoka	2.68
Becker	2.58
Beltrami	2.61
Benton	2.67
Big Stone	2.59
Blue Earth	2.66
Brown	2.66
Carlton	2.68
Carver	2.68
Cass	2.64
Chippewa	2.62
Chisago	2.68
Clay	2.56
Clearwater	2.60
Cottonwood	2.63
Crow Wing	2.66
Dakota	2.68
Dodge	2.68
Douglas	2.63
Faribault	2.65
Fillmore	2.64
Freeborn	2.64
Goodhue	2.68
Grant	2.61
Hennepin	2.68
Houston	2.61
Hubbard	2.61
Isanti	2.68
Itasca	2.66
Jackson	2.62
Kanabec	2.67
Kandiyohi	2.66
Kittson	2.52
Koochiching	2.62
Lac Qui Parle	2.60
Lake of the Woods	2.56
Le Sueur	2.68
Lincoln	2.58
Lyon	2.61
McLeod	2.68
Mahnomen	2.58
Marshall	2.55
Martin	2.64
Meeker	2.68
Mille Lacs	2.67
Morrison	2.66
Mower	2.66
Murray	2.61
Nicollet	2.68
Nobles	2.60
Norman	2.56
Olmsted	2.66
Otter Tail	2.61
Pennington	2.57
Pine	2.67
Pipestone	2.58
Polk	2.57
Pope	2.64
Ramsey	2.68
Red Lake	2.57
Redwood	2.64
Renville	2.66
Rice	2.68
Rock	2.58
Roseau	2.53
St. Louis	2.66
Scott	2.68
Sherburne	2.68
Sibley	2.68
Stearns	2.66
Steele	2.66
Stevens	2.62

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Swift	2.62
Todd	2.64
Traverse	2.58
Wabasha	2.67
Wadena	2.62
Waseca	2.67
Washington	2.68
Watonwan	2.65
Wilkin	2.58
Winona	2.65
Wright	2.68
Yellow Medicine	2.62
Weighted State average	2.59
Mississippi	
Harrison	2.62
Jackson	2.62
All other counties	2.43
Weighted State average	2.43
Missouri	
Adair	2.42
Andrew	2.54
Atchison	2.49
Audrain	2.47
Barry	2.44
Barton	2.48
Bates	2.52
Benton	2.48
Bollinger	2.47
Boone	2.44
Buchanan	2.56
Butler	2.46
Caldwell	2.53
Callaway	2.47
Camden	2.45
Cape Girardeau	2.48
Carroll	2.51
Carter	2.44
Cass	2.54
Cedar	2.47
Chariton	2.48
Christian	2.41
Clark	2.43
Clay	2.54
Clinton	2.54
Cole	2.45
Cooper	2.45
Crawford	2.47
Dade	2.46
Dallas	2.43
Daviess	2.51
De Kalb	2.53
Dent	2.45
Douglas	2.40
Dunklin	2.47
Franklin	2.51
Gasconade	2.49
Gentry	2.50
Greene	2.43
Grundy	2.46
Harrison	2.50
Henry	2.51
Hickory	2.48
Holt	2.52
Howard	2.47
Howell	2.38
Iron	2.47
Jackson	2.56
Jasper	2.47
Jefferson	2.50
Johnson	2.52
Knox	2.42
Laclede	2.42
Lafayette	2.54
Lawrence	2.44
Lewis	2.44
Lincoln	2.51
Linn	2.48
Livingston	2.50
McDonald	2.44
Macon	2.45
Madison	2.47
Maries	2.47
Marion	2.46
Mercer	2.47
Miller	2.44
Mississippi	2.49
Moniteau	2.45
Monroe	2.46

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Montgomery	2.49
Morgan	2.46
New Madrid	2.49
Newton	2.44
Nodaway	2.52
Oregon	2.42
Osage	2.46
Ozark	2.39
Pemiscot	2.47
Perry	2.48
Pettis	2.48
Phelps	2.45
Pike	2.49
Platte	2.54
Polk	2.46
Pulaski	2.43
Putnam	2.44
Ralls	2.47
Randolph	2.45
Ray	2.54
Reynolds	2.45
Ripley	2.44
St. Charles	2.52
St. Clair	2.49
St. Francois	2.48
Ste. Genevieve	2.49
St. Louis	2.52
Saline	2.49
Schuyler	2.40
Scotland	2.40
Scott	2.49
Shannon	2.42
Shelby	2.45
Stoddard	2.48
Stone	2.44
Sullivan	2.45
Taney	2.41
Texas	2.41
Vernon	2.50
Warren	2.51
Washington	2.48
Wayne	2.46
Webster	2.42
Worth	2.50
Wright	2.42
Weighted State average	2.49
Montana	
Beaverhead	2.38
Big Horn	2.39
Blaine	2.40
Broadwater	2.44
Carbon	2.40
Carter	2.40
Cascade	2.43
Chouteau	2.43
Custer	2.39
Daniels	2.38
Dawson	2.40
Deer Lodge	2.45
Fallon	2.41
Fergus	2.42
Flathead	2.46
Gallatin	2.45
Garfield	2.38
Glacier	2.43
Golden Valley	2.42
Granite	2.45
Hill	2.41
Jefferson	2.45
Judith Basin	2.42
Lake	2.45
Lewis and Clark	2.43
Liberty	2.42
Lincoln	2.46
McCone	2.39
Madison	2.45
Meagher	2.43
Mineral	2.45
Missoula	2.45
Musselshell	2.40
Park	2.44
Petroleum	2.40
Phillips	2.39
Pondera	2.43
Powder River	2.39
Powell	2.45
Prairie	2.40
Ravalli	2.43
Richland	2.40

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Roosevelt	2.39
Rosebud	2.38
Sanders	2.45
Sheridan	2.39
Silver Bow	2.45
Stillwater	2.42
Sweet Grass	2.43
Teton	2.43
Toole	2.42
Treasure	2.39
Valley	2.38
Wheatland	2.43
Wibaux	2.41
Yellowstone	2.40
Weighted State average	2.41
Nebraska	
Adams	2.43
Antelope	2.51
Arthur	2.34
Banner	2.31
Blaine	2.41
Boone	2.51
Box Butte	2.31
Boyd	2.48
Brown	2.41
Buffalo	2.44
Burt	2.56
Butler	2.53
Cass	2.55
Cedar	2.52
Chase	2.33
Cherry	2.37
Cheyenne	2.31
Clay	2.44
Colfax	2.53
Cuming	2.55
Custer	2.41
Dakota	2.56
Dawes	2.31
Dawson	2.43
Deuel	2.32
Dixon	2.52
Dodge	2.55
Douglas	2.56
Dundy	2.33
Fillmore	2.46
Franklin	2.41
Frontier	2.36
Furnas	2.39
Gage	2.49
Garden	2.32
Garfield	2.45
Gosper	2.39
Grant	2.34
Greeley	2.47
Hall	2.45
Hamilton	2.47
Harlan	2.40
Hayes	2.35
Hitchcock	2.35
Holt	2.48
Hooker	2.35
Howard	2.45
Jefferson	2.48
Johnson	2.49
Kearney	2.41
Keith	2.34
Keya Paha	2.43
Kimball	2.31
Knox	2.51
Lancaster	2.52
Lincoln	2.38
Logan	2.38
Loup	2.41
McPherson	2.37
Madison	2.51
Merrick	2.48
Morrill	2.31
Nance	2.49
Nemaha	2.49
Nuckolls	2.43
Otoe	2.52
Pawnee	2.51
Perkins	2.33
Phelps	2.40
Pierce	2.51
Platte	2.51
Polk	2.50
Red Willow	2.36

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Richardson	2.52
Rock	2.44
Saline	2.48
Sarpy	2.56
Saunders	2.55
Scotts Bluff	2.31
Seward	2.51
Sheridan	2.32
Sherman	2.44
Sioux	2.29
Stanton	2.53
Thayer	2.46
Thomas	2.38
Thurston	2.55
Valley	2.44
Washington	2.56
Wayne	2.52
Webster	2.43
Wheeler	2.47
York	2.48
Weighted State average	2.39
Nevada	
All counties	2.46
New Hampshire	
All counties	2.49
New Jersey	
All counties	2.47
New Mexico	
All counties	2.49
New York	
Albany	2.60
New York City	2.60
All other counties	2.45
Weighted State average	2.45
North Carolina	
All counties	2.41
North Dakota	
Adams	2.40
Barnes	2.53
Benson	2.46
Billings	2.39
Bottineau	2.40
Bowman	2.40
Burke	2.38
Burleigh	2.44
Cass	2.55
Cavalier	2.47
Dickey	2.53
Divide	2.37
Dunn	2.40
Eddy	2.49
Emmons	2.47
Foster	2.50
Golden Valley	2.39
Grand Forks	2.54
Grant	2.42
Griggs	2.53
Hettinger	2.40
Kidder	2.47
La Moure	2.51
Logan	2.49
McHenry	2.41
McIntosh	2.49
McKenzie	2.38
McLean	2.40
Mercer	2.40
Morton	2.43
Mountrail	2.39
Nelson	2.52
Oliver	2.41
Pembina	2.51
Pierce	2.43
Ramsey	2.48
Ransom	2.56
Renville	2.40
Richland	2.57
Rolette	2.43
Sargent	2.56
Sheridan	2.43
Sioux	2.42
Slope	2.40
Stark	2.40
Steele	2.53

V 45 AG 1980 UMI

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Stutsman	2.51
Towner	2.44
Traill	2.54
Walsh	2.53
Ward	2.39
Wells	2.47
Williams	2.38
Weighted State average	2.46
Ohio	
Adams	2.47
Allen	2.48
Ashland	2.51
Ashtabula	2.53
Athens	2.50
Auglaize	2.47
Belmont	2.51
Brown	2.47
Butler	2.47
Carroll	2.51
Champaign	2.47
Clark	2.47
Clermont	2.47
Clinton	2.47
Columbiana	2.52
Coshocton	2.51
Crawford	2.50
Cuyahoga	2.51
Darke	2.47
Defiance	2.47
Delaware	2.50
Erie	2.50
Fairfield	2.50
Fayette	2.47
Franklin	2.50
Fulton	2.49
Gallia	2.47
Geauga	2.53
Greene	2.47
Guernsey	2.51
Hamilton	2.47
Hancock	2.50
Hardin	2.50
Harrison	2.51
Henry	2.49
Highland	2.47
Hocking	2.50
Holmes	2.51
Huron	2.50
Jackson	2.47
Jefferson	2.51
Knox	2.51
Lake	2.53
Lawrence	2.47
Licking	2.51
Logan	2.47
Lorain	2.51
Lucas	2.50
Madison	2.47
Mahoning	2.53
Marion	2.50
Medina	2.51
Meigs	2.47
Mercer	2.47
Miami	2.47
Monroe	2.51
Montgomery	2.47
Morgan	2.51
Morrow	2.51
Muskingum	2.47
Noble	2.51
Ottawa	2.50
Paulding	2.47
Perry	2.50
Pickaway	2.50
Pike	2.47
Portage	2.51
Preble	2.47
Putnam	2.49
Richland	2.51
Ross	2.50
Sandusky	2.50
Scioto	2.47
Seneca	2.50
Shelby	2.47
Stark	2.51
Summit	2.51
Trumbull	2.53
Tuscarawas	2.51
Union	2.50
Van Wert	2.47
Vinton	2.50
Warren	2.47
Washington	2.51
Wayne	2.51
Williams	2.47
Wood	2.50
Wyandot	2.50
Weighted State average	2.49
Oklahoma	
Adair	2.50
Alfalfa	2.47
Atoka	2.52
Beaver	2.42
Beckham	2.51
Blaine	2.51
Bryan	2.52
Caddo	2.52
Canadian	2.52
Carter	2.52
Cherokee	2.50
Choctaw	2.52
Cimarron	2.42
Cleveland	2.52
Coal	2.52
Comanche	2.52
Cotton	2.52
Craig	2.49
Creek	2.51
Custer	2.51
Delaware	2.50
Dewey	2.50
Ellis	2.45
Garfield	2.49
Garvin	2.52
Grady	2.52
Grant	2.47
Greer	2.52
Harmon	2.52
Harper	2.42
Haskell	2.52
Hughes	2.52
Jackson	2.52
Jefferson	2.52
Johnston	2.52
Kay	2.48
Kingfisher	2.51
Kiowa	2.52
Latimer	2.52
Le Flore	2.52
Lincoln	2.52
Logan	2.51
Love	2.52
McClain	2.52
McCurtain	2.52
McIntosh	2.52
Major	2.49
Marshall	2.52
Mayes	2.50
Murray	2.52
Muskogee	2.52
Noble	2.49
Nowata	2.49
Okfuskee	2.52
Oklahoma	2.52
Okmulgee	2.52
Osage	2.49
Ottawa	2.49
Pawnee	2.49
Payne	2.51
Pittsburg	2.52
Pontotoc	2.52
Pottawatomie	2.52
Pushmataha	2.52
Roger Mills	2.49
Rogers	2.50
Seminole	2.52
Sequoyah	2.52
Stephens	2.52
Texas	2.42
Tillman	2.52
Tulsa	2.50
Wagoner	2.50
Washington	2.49
Washita	2.51
Woods	2.47
Woodard	2.47
Weighted State average	2.49
Oregon	
Baker	2.56
Benton	2.63
Clackamas	2.70
Clatsop	2.77
Columbia	2.77
Coos	2.43
Crook	2.61
Curry	2.42
Deschutes	2.61
Douglas	2.47
Gilliam	2.66
Grant	2.61
Harney	2.47
Hood River	2.72
Jackson	2.47
Jefferson	2.64
Josephine	2.47
Klamath	2.55
Lake	2.52
Lane	2.61
Lincoln	2.53
Linn	2.64
Malheur	2.47
Marion	2.68
Morrow	2.64
Multnomah	2.77
Polk	2.66
Sherman	2.66
Tillamook	2.70
Umatilla	2.63
Union	2.59
Wallowa	2.57
Wasco	2.68
Washington	2.70
Wheeler	2.63
Yamhill	2.68
Weighted State average	2.64
Pennsylvania	
Philadelphia	2.60
All other counties	2.45
Weighted State average	2.45
Rhode Island	
All counties	2.44
South Carolina	
Charleston	2.60
All other counties	2.41
Weighted State average	2.41
South Dakota	
Aurora	2.53
Beadle	2.52
Bennett	2.40
Bon Homme	2.54
Brookings	2.56
Brown	2.52
Brule	2.50
Buffalo	2.50
Butte	2.38
Campbell	2.45
Charles Mix	2.50
Clark	2.52
Clay	2.56
Codington	2.56
Corson	2.42
Custer	2.32
Davison	2.56
Day	2.56
Deuel	2.59
Dewey	2.42
Douglas	2.52
Edmunds	2.49
Fall River	2.30
Faulk	2.51
Grant	2.59
Gregory	2.47
Haakon	2.45
Hamlin	2.55
Hand	2.52
Hanson	2.53
Harding	2.39
Hughes	2.48
Hutchinson	2.55
Hyde	2.50
Jackson	2.44
Jerauld	2.53
Jones	2.46

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Kingsbury	2.53
Lake	2.55
Lawrence	2.38
Lincoln	2.58
Lyman	2.47
McCook	2.77
McPherson	2.49
Marshall	2.56
Meade	2.39
Mellette	2.45
Miner	2.54
Minnehaha	2.57
Moody	2.57
Pennington	2.39
Perkins	2.39
Potter	2.47
Roberts	2.58
Sanborn	2.53
Shannon	2.37
Spink	2.52
Stanley	2.46
Sully	2.47
Todd	2.42
Tripp	2.45
Turner	2.57
Union	2.58
Walworth	2.47
Yankton	2.54
Ziebach	2.40
Weighted State average	2.49
Tennessee	
Shelby	2.53
All other counties	2.42
Weighted State average	2.42
Texas	
Anderson	2.64
Andrews	2.50
Archer	2.55
Armstrong	2.50
Atascosa	2.64
Bailey	2.50
Bandera	2.60
Bastrop	2.64
Baylor	2.54
Bee	2.72
Bell	2.64
Bexar	2.64
Blanco	2.62
Borden	2.50
Bosque	2.61
Bowie	2.57
Brazos	2.69
Briscoe	2.50
Brown	2.58
Burleson	2.69
Burnet	2.62
Caldwell	2.64
Calhoun	2.68
Callahan	2.54
Carson	2.50
Castro	2.50
Chambers	2.74
Cherokee	2.66
Childress	2.52
Clay	2.56
Cochran	2.50
Coke	2.51
Coleman	2.55
Collin	2.59
Collingsworth	2.50
Comal	2.64
Comanche	2.59
Concho	2.58
Cooke	2.57
Coryell	2.63
Cottle	2.50
Crockett	2.52
Crosby	2.50
Culberson	2.50
Dallam	2.47
Dallas	2.61
Dawson	2.50
Deaf Smith	2.50
Delta	2.60
Denton	2.59
De Witt	2.66
Dickens	2.50
Dimmit	2.58
Donley	2.50
Eastland	2.54
Edwards	2.54
Ellis	2.61
El Paso	2.50
Erath	2.59
Falls	2.63
Fannin	2.57
Fisher	2.51
Floyd	2.50
Foard	2.52
Frio	2.62
Gaines	2.50
Galveston	2.74
Garza	2.50
Gillespie	2.58
Glasscock	2.50
Goliad	2.68
Gonzales	2.66
Gray	2.50
Grayson	2.57
Grimes	2.69
Guadalupe	2.64
Hale	2.50
Hall	2.50
Hamilton	2.61
Hansford	2.47
Hardeman	2.52
Harris	2.74
Hartley	2.47
Haskell	2.52
Hays	2.64
Hemphill	2.47
Henderson	2.62
Hill	2.61
Hockley	2.50
Hood	2.58
Houston	2.66
Howard	2.50
Hudspeth	2.50
Hunt	2.60
Hutchinson	2.47
Irion	2.52
Jack	2.56
Jackson	2.64
Jeff Davis	2.50
Jefferson	2.70
Johnson	2.60
Jones	2.52
Karnes	2.68
Kaufman	2.62
Kendall	2.62
Kent	2.50
Kerr	2.58
Kimble	2.56
King	2.50
Kinney	2.54
Knox	2.52
Lamar	2.57
Lamb	2.50
Lampasas	2.63
Limestone	2.63
Lipscomb	2.47
Live Oak	2.70
Llano	2.60
Loving	2.50
Lubbock	2.50
Lynn	2.50
McCulloch	2.58
McLennan	2.63
Martin	2.50
Mason	2.58
Maverick	2.54
Medina	2.60
Menard	2.56
Midland	2.50
Milam	2.67
Mills	2.59
Mitchell	2.51
Montague	2.56
Moore	2.47
Motley	2.50
Navarro	2.62
Nolan	2.51
Nueces	2.74
Ochiltree	2.47
Oldham	2.50
Palo Pinto	2.56
Parker	2.58
Parmer	2.50
Pecos	2.50
Potter	2.50
Presidio	2.50
Randall	2.50
Real	2.56
Red River	2.57
Reeves	2.50
Refugio	2.71
Roberts	2.47
Robertson	2.68
Rockwall	2.60
Runnels	2.54
San Patricio	2.74
San Saba	2.59
Schleicher	2.52
Scurry	2.51
Shackelford	2.54
Sherman	2.47
Somervell	2.58
Stephens	2.66
Sterling	2.51
Stonewall	2.50
Sutton	2.52
Swisher	2.50
Tarrant	2.61
Taylor	2.52
Terry	2.50
Throckmorton	2.54
Tom Green	2.53
Travis	2.64
Uvalde	2.57
Van Zandt	2.62
Victoria	2.66
Waller	2.69
Ward	2.50
Wharton	2.69
Wheeler	2.50
Wichita	2.54
Wilbarger	2.54
Williamson	2.64
Wilson	2.66
Wise	2.57
Yoakum	2.50
Young	2.55
Zavala	2.58
Weighted State average	2.52
Utah	
All counties	2.46
Vermont	
All counties	2.43
Virginia	
Chesapeake (Norfolk)	2.60
All other counties	2.45
Weighted State average	2.45
Washington	
Adams	2.61
Asotin	2.60
Benton	2.63
Chelan	2.64
Clallan	2.56
Clark	2.77
Columbia	2.62
Cowlitz	2.77
Douglas	2.62
Ferry	2.54
Franklin	2.63
Garfield	2.62
Grant	2.62
Grays Harbor	2.69
Island	2.58
Jefferson	2.58
King	2.77
Kitsap	2.59
Kittitas	2.66
Klickitat	2.68
Lewis	2.72
Lincoln	2.58
Mason	2.66
Okanogan	2.59
Pacific	2.69

characterized reference materials

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Pend Oreille	2.40
Pierce	2.77
San Juan	2.58
Skagit	2.66
Skamania	2.72
Snohomish	2.71
Spokane	2.58
Stevens	2.54
Thurston	2.71
Wahkiakum	2.71
Walla Walla	2.63
Whatcom	2.63
Whitman	2.61
Yakima	2.64
Weighted State average	2.61
West Virginia	
All counties	2.46
Wisconsin	
Douglas	2.63
All other counties	2.41
Weighted State average	2.41
Wyoming	
All counties	2.33

Since the 1979 crop of wheat has been harvested in the wheat producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25147 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

---

7 CFR Part 1427

CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops

Correction

In FR Doc. 80-24098, at page 53077, in the issue of Monday, August 11, 1980, on page 53078 in the first column, in the table, under the cities of Aliceville and Atmore, which are the second and third entries down respectively, correct the entries under "Loan Rate" from 46.95 to 48.95 for Aliceville and from 49.95 to 46.95 for Atmore and (2) on the same page in the last column, under the "city" of Yatesville, the nineteenth entry down, correct the "County" from "Vpson" to "Upson".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

15 CFR Part 200

Policies, Services, Procedures and Fees for Measurement Services; Revision

AGENCY: National Bureau of Standards, Department of Commerce.

ACTION: Final rule.

SUMMARY: Part 200 in Subchapter A of Chapter II, Title 15 of the Code of Federal Regulations was last published in its entirety on December 29, 1967. Since that time some of the information given in Part 200 has become outdated as a result, in part, of reorganizations within the National Bureau of Standards and because, among other changes, improvements, and corrections, there are now seven base units that serve as a practical base for an International System of Units as opposed to six at the time of the last publication. Therefore the entire part was reviewed and appropriate changes to update it were made. There have been no substantive changes to Part 200.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Allen J. Farrar, Office of the Legal Adviser, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-2425.

SUPPLEMENTARY INFORMATION: Because the revision to Part 200 in Subchapter A of Chapter II, Title 15 of the Code of Federal Regulations does not contain any substantive changes and this part concerns general statements of policy and procedure, the revision is effective immediately. Accordingly Part 200 as revised is set out below.

Dated: August 13, 1980.

Ernest Ambler,

Director.

SUBCHAPTER A—MEASUREMENT SERVICES

PART 200—POLICIES, SERVICES, PROCEDURES, AND FEES

Sec.

200.100 Statutory functions.
200.101 Measurement research.
200.102 Types of calibration and test services.
200.103 Consulting and advisory services.
200.104 Standard reference materials.
200.105 Standard reference data.
200.106 Publications.
200.107 WWV-WWVH-WWVB Broadcasts.
200.108 Request procedure.
200.109 Shipping, insurance, and risk of loss.
200.110 Priorities and time of completion.
200.111 Witnessing of operations.
200.112 Reports.
200.113 Use of results or reports.
200.114 Fees and bills.
200.115 Description of services and list of fees, incorporation by reference.

Authority: Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 31 Stat. 1450; 15 U.S.C. 275a.

§ 200.100 Statutory functions.

(a) The National Bureau of Standards (NBS) has been assigned the following functions (15 U.S.C. 271 et seq.):

(1) The custody, maintenance, and development of the national standards of measurement, and the provision of means and methods for making measurements consistent with those standards, including the comparison of standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Government.

(2) The determination of physical constants and properties of materials when such data are of great importance to scientific or manufacturing interests and are not to be obtained with sufficient accuracy elsewhere.

(3) The development of methods for testing materials, mechanisms, and structures, and the testing of materials, supplies, and equipment, including items purchased for use of Government departments and independent establishments.

(4) Cooperation with other governmental agencies and with private organizations in the establishment of standard practices, incorporated in codes and specifications.

(5) Advisory service to Government agencies on scientific and technical problems.

(6) Invention and development of devices to serve special needs of the Government.

(b) The calibration and testing activities of NBS stem from the functions in paragraphs (a) (1) and (3) of this section. NBS provides the central basis within the United States for a complete and consistent system of measurement; coordinates that system, and the measurement systems of other nations; and furnishes essential services leading to accurate and uniform physical measurements throughout this Nation's scientific community, industry, and commerce.

(c) The provision of standard reference materials for sale to the public is assigned to the Office of Standard Reference Materials of the National Measurement Laboratory, NBS. That Office evaluates the requirements of science and industry for carefully

characterized reference materials, stimulates efforts of NBS to develop methods for production of needed reference materials and directs their production and distribution. For further information on standard reference materials see Subchapter B, Chapter II, Part 230, of this Title 15.

§ 200.101 Measurement research.

(a) The NBS staff continually reviews the advances in science and the trends in technology, examines the measurement potentialities of newly discovered physical phenomena, and uses these to devise and improve standards, measuring devices, and measurement techniques. As new requirements appear, there are continual shifts of program emphasis to meet the most urgent needs for the measurement of additional quantities, extended ranges, or improved accuracies.

(b) The basic research and development activities of NBS are primarily funded by direct appropriations, and are aimed at meeting broad general needs. NBS may also undertake investigations or developments to meet some specialized physical measurement problem of another Government agency, industrial group, or manufacturing firm, using funds supplied by the requesting organization.

§ 200.102 Types of calibration and test services.

(a) NBS has developed instrumentation and techniques for realizing standards for the seven base units of the International System of Units, as agreed upon by the General Conference of Weights and Measures. Reference standards have been established not only for these seven base units, but also for many derived quantities and their multiples and submultiples. Such reference standards, or equivalent working standards, are used to calibrate laboratory and plant standards for other organizations. Accuracy is maintained by stability checks, by comparison with the standards of other national and international laboratories, and by the exploration of alternative techniques as a means of reducing possible systematic error.

(b) Calibrations for many types of intruments and ranges of physical quantities are described in the NBS Special Publication 250 (SP 250). (See § 200.115 for details relating to the description of service items and listing of fees.)

(c) In recent years NBS has offered to the public new measurement services called measurement assurance programs. These programs are designed for laboratories whose measurement process involves the calibration of other standards. A measurement assurance program is a measurement quality control process. By use of carefully designed redundant measurements and measurements made on NBS transport standards a total uncertainty of the laboratories measurement process can be determined by NBS. The results of these tests are then reported to the customer as uncertainties of the customer's measurements relative to national standards.

(d) Special measurements not listed in SP 250 may be made upon request. These might involve unusual physical quantities, upper or lower extremes of range, higher levels of accuracy, fast response speeds, short durations, broader ranges of associated parameters, or special environmental conditions. Such inquiries should describe clearly the measurement desired. Indication of the scientific or economic basis for the requirements to be satisfied will be helpful in determining future NBS programs. Fees for work accepted will be based upon actual costs incurred.

(e) The principal emphasis of NBS is on those calibrations and other tests requiring such accuracy as can be obtained only by direct comparison with its standards.

(f) Other services which may be obtained include:

(1) Tests of measuring instruments to determine compliance with specifications or claims, when the evaluation is critical in national scientific or technical operations, and when suitable facilities are not available elsewhere; and

(2) Referee tests in important cases when clients are unable to agree upon the method of measurement, the results of tests, or the interpretation of these results, but have agreed in advance in writing to accept and abide by the findings of NBS.

(g) NBS reserves the right to decline any request for services if the work would interfere with other activities deemed by the Director to be of greater importance. In general, measurement services are not provided when available from commercial laboratories.

(h) Suggestions will be offered on measurement techniques and on other sources of assistance on calibration or measurement problems when the equipment and personnel of NBS are unable to undertake the work. The National Conference of Standards Laboratories issues a Directory of Standards Laboratories in the United States which perform calibration work (obtainable from NCSL Secretariat, c/o National Bureau of Standards, Boulder, CO 80303). Those laboratories which perform testing are listed in the ASTM Directory of Testing Laboratories, Commercial and Institutional. (Directory available from the Amercian Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.) Similar listings appear in buyer's guides for commercial products and in technical journals concerned with physical measurement.

§ 200.103 Consulting and advisory services.

(a) In areas of its special competence, NBS offers consulting and advisory services on various problems related to measurement, e.g., details of design and construction, operational aspects, unusual or extreme conditions, methods of statistical control of the measurement process, automated acquisition of laboratory data, and data reduction and analysis by computer. Brief consultation may be obtained at no charge; the fee for extended effort will be based upon actual costs incurred. The services outlined in this paragraph do not include services in connection with legal proceedings not involving the United States as a named party, nor to testimony or the production of data, information, or records in such legal proceedings which is governed by the policies and procedures set forth in Subchapter H, Chapter II, Part 275, of this Title 15.

(b) To enhance the competence of standards laboratory personnel, NBS conducts at irregular intervals several group seminars on the precision measurement of specific types of physical quantities, offering the opportunity of laboratory observation and informal discussion. A brochure describing the current series of seminars can be obtained by writing the Office of Measurement Services, National Bureau of Standards, Washington, DC 20234.

§ 200.104 Standard reference materials.

Often the performance of a device or structure can be evaluated at the user's laboratory by comparing its response to unknown materials with its response to a stable, homogeneous reference specimen which has been well-characterized with regard to the physical or chemical property being measured. For information regarding carefully characterized materials see Subchapter B, Chapter II, Part 230, of this Title 15. The Office of Standard Reference Materials in the NBS National Measurement Laboratory administers a program to provide many types of well-characterized materials that are needed to calibrate a measurement system or to

produce scientific data that can be readily referred to a common base. NBS SP 260 is a catalog of Standard Reference Materials available from NBS.

§ 200.105 Standard reference data.

Data on the physical and chemical properties of the large variety of substances used in science and technology need to be compiled and evaluated for application in research, development, engineering design, and commerce. The Office of Standard Reference Data (OSRD) in the NBS National Measurement Laboratory provides coordination of and access to a number of governmental and nongovernmental data centers throughout this country and the world which are responsive to user needs for data. The OSRD's present program is assembled under a series of tasks which include data for application in energy, environment and health, industrial process design, materials durability, and resource recovery. The subject data are disseminated as hard-copy information in the Journal of Physical and Chemical Reference Data, published jointly with the American Chemical Society and the American Institute of Physics, in the National Standard Reference Data System reports as the NSRDS–NBS series, and as NBS special reports. Magnetic tapes of data on selected topics are also issued through the OSRD and the National Technical Information Service. A newsletter, "Reference Data Report," is issued bimonthly describing current activities. Information concerning the above is available upon request from the OSRD.

§ 200.106 Publications.

Publications provide the primary means of communicating the results of the NBS programs and services to its varied technical audiences, as well as to the general public. NBS issues some fifteen categories of publications including three periodicals, ten non-periodicals series, interagency reports, and papers in the journals and books of professional organizations, technological associations, and commercial publications. The calibration services, standard reference materials and related measurement services along with changes and fees are published in two Special Publications (SP's) and their supplements. These are SP 250 "Calibration and Related Measurement Services of the National Bureau of Standards" [1] and SP 260 "NBS Standard Reference Materials Catalog." [1] A complete catalog of all publications by NBS authors is issued annually as a supplement to SP 305 "Publications of the National Bureau of Standards." Announcements and listings of recent NBS publications and services are published in each issue of the bimonthly "NBS Journal of Research" [2] and the NBS monthly magazine, "Dimensions/NBS" [2]. Complete citations to NBS publications, along with information on availability are published bimonthly in the "NBS Publications Newsletter", available free from the Technical Information and Publications Division, National Bureau of Standards, Washington, DC 20234. NBS publications are also announced (with abstracts) in "Government Reports Announcements and Index" published every two weeks by the National Technical Information Service (NTIS), Springfield, Virginia 22161 [3]. NTIS also sells microfiche copies of all NBS GPO-published documents, as well as paper copy and microfiche versions of NBS Interagency Reports.

§ 200.107 WWV-WWVH-WWVB broadcasts.

(a) *Technical services.* The NBS radio stations WWV at Fort Collins, Colorado, and WWVH on the island of Kauai, Hawaii, broadcast a number of technical services continuously night and day. These services are: (1) Standard radio frequencies, 2.5, 5, 10, 15, and 20, MHz (WWV) and 2.5, 5, 10, and 15 MHz (WWVH); (2) standard time signals; (3) time intervals; (4) UT1 corrections; (5) standard audio frequencies; (6) standard musical pitch; (7) a slow time code; (8) Omega Navigation System status reports; (9) geophysical alerts; and (10) marine storm warnings. NBS also broadcasts time and frequency signals from its low frequency station, WWVB, also located at Fort Collins, Colorado.

(b) *Time announcements.* Once per minute voice announcements are made from WWV and WWVH. The two stations are distinguished by a female voice from WWVH and a male voice from WWV. The WWVH announcement occurs first, at 15 seconds before the minute, while the WWV announcement occurs at 7½ seconds before the minute. Coordinated Universal Time (UTC) is used in these announcements.

(c) *Time corrections.* The UTC time scale operates on atomic frequency, but by means of step adjustments is made to approximate the astronomical UTI scale. It may disagree from UTI by as much as 0.9 second before step adjustments of exactly 1 second are made. These adjustments, or leap seconds are required about once per year and will usually be made on December 31 or June 30. For those who need astronomical time more accurately than 0.9 second, a correction to UTC is encoded by the use of double ticks after the start of each minute. The first through the eighth seconds ticks will indicate a "plus" correction, and from the ninth through the 16th a "minus" correction. The correction is determined by counting the number of double ticks. For example, if the first, second, and third ticks are doubled, the correction is "plus" 0.3 second. If the ninth, 10th, 11th, and 12th ticks are doubled, the correction is "minus" 0.4 second.

(d) *Standard time intervals.* An audio pulse (5 cycles of 1000 Hz on WWV and 6 cycles of 1200 Hz on WWVH), resembling the ticking of a clock, occurs each second of the minute except on the 29th and 59th seconds. Each of these 5-millisecond second pulses occur within a 40-millisecond period, wherein all other modulation (voice or tone) is removed from the carrier. These pulses begin 10 milliseconds after the modulation interruption. A long pulse (0.8 second) marks the beginning of each minute.

(e) *Standard frequencies.* All carrier and audio frequencies occur at their nominal values according to the International System of Units (SI). For periods of 45-second duration, either 500-Hz or 600-Hz audio tones are broadcast in alternate minutes during most of each hour. A 440-Hz tone, the musical pitch A above middle C, is broadcast once per hour near the beginning of the hour.

(f) *Accuracy and stability.* The time and frequency broadcasts are controlled by the NBS atomic frequency standards, which realize the internationally defined cesium resonance frequency with an accuracy of 1 part in 10^{12}. The frequencies transmitted by WWV and WWVH are held stable to better than ± 2 parts in 10^{11} at all times. Deviations at WWV are normally less than 1 part in 10^{12} from day to day. Incremental frequency adjustments not exceeding 1 part in 10^{13} are made at WWV and WWVH as necessary. Changes in the propagation medium (causing Doppler effect, diurnal shifts, etc.) result in fluctuations in the carrier frequencies as received which may be very much greater than the uncertainties described above.

(g) *Slow time code.* A modified IRIG H time code occurs continuously on a 100-Hz subcarrier. The format is 1 pulse per second with a 1-minute time frame. It gives day of the year, hours, and minutes in binary coded decimal form.

(h) *Omega announcements.* Omega Navigation System status reports are broadcast in voice from WWV at 16 minutes after the hour and from WWVH at 47 minutes after the hour. The international Omega Navigation System is a very low frequency (VLF) radio navigation aid operating in the 10 to 14 kHz frequency band. Eight stations are in operation around the world. Omega, like other radio navigation systems, is subject to signal degradation caused by ionospheric disturbances at high latitudes. The Omega announcements on WWV and WWVH are given to provide users with immediate notification of such events and other information on the status of the Omega system.

(i) *Geophysical alerts.* These occur in voice at the 18th minute of each hour from WWV. They point out outstanding events which are in process, followed by a summary of selected solar and geophysical events in the past 24 hours and a forecast for the next 24 hours. They are provided by the Space Environment Laboratory, National Oceanic and Atmospheric Administration, Boulder, CO 80303.

(j) *Marine storm information.* Weather information about major storms in the Atlantic and eastern North Pacific are broadcast in voice from WWV at 8, 9, and 10 minutes after each hour. Similar storm warnings covering the eastern and central North Pacific are given from WWVH at 48, 49, and 50 minutes after each hour. An additional segment (at 11 minutes after the hour on WWV and at 51 minutes on WWVH) may be used when there are unusually widespread storm conditions. The brief messages are designed to tell mariners of storm threats in their areas. If there are no warnings in the designated areas, the broadcasts will so indicate. The ocean areas involved are those for which the U.S. has warning responsibility under international agreement. The regular times of issue by the National Weather Service are 0500, 1100, 1700, and 2300 UTC for WWV and 0000, 0600, 1200, and 1800 UTC for WWVH. These broadcasts are updated effective with the next scheduled announcement following the time of issue.

(k) *"Silent" periods.* These are periods with no tone modulation during which the carrier, seconds ticks, minute time announcements, and 100 Hz modified IRIG H time code continue. They occur during the 16th through the 20th minute on WWVH and the 46th through the 51st minute on WWV.

(l) *WWVB.* This station (antenna coordinates 40°40'28.3" N., 105°02'39.5" W.; radiated power 12 kw.) broadcasts on 60 kHz. Its time scale is the same as for WWV and WWVH, and its frequency accuracy and stability are the same. Its entire format consists of a 1 pulse per second special binary time code giving minutes, hours, days, and the correction between its UTC time scale and UTI astronomical time. Identification of WWVB is made by its unique time code and a 45° carrier phase shift which occurs for the period between 10 minutes and 15 minutes after each hour. The useful coverage area of WWVB is within the continental United States. Propagation fluctuations are much less with WWVB than with high-frequency reception, permitting frequency comparisons to be made to a few parts in 10^{11} per day.

(m) *Special Publication 432.* This publication describes in detail the standard frequency and time service of NBS. Single copies may be obtained at no charge upon request from the National Bureau of Standards, Time & Frequency Services Group, 524.06, Boulder, CO 80303. Quantities may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at a nominal charge per copy.

§ 200.108 Request procedure.

(a) A formal purchase order for the calibration or test should be sent before or at the time the instrument or standard is shipped. The purchase order should provide clear identification of the apparatus being submitted, and give separate instructions for return shipment, mailing of report, and billing. If a customer wishes to minimize the time during which the equipment is out of service, the customer can usually arrange to be notified of the scheduled test date to allow timely shipment. (See § 200.110.) Requests from Federal agencies, or from State agencies, for calibrations or tests on material to be used on private or Federal contract work should be accompanied either by purchase order or by letter or document authorizing the cost of the work to be billed to the agency.

(b) The submission of a purchase order for measurement services under this subchapter shall be understood as constituting an agreement on the part of the customer to be bound by the restrictions on the use of results as set forth in section 200.113 below. Acceptance of purchase orders does not imply acceptance of any provisions set forth in the order contrary to the policy, practice, or regulations of NBS or the U.S. Government. (A statement to the effect that NBS is an agency of the U.S. Government should satisfy other Government agencies with regard to compliance with Government regulations and Executive orders.)

(c) A test number will be assigned by NBS to each instrument or group of similar instruments or standards when the order is accepted. This test number should be referred to in all subsequent communications. Also, each instrument in a group must be uniquely identified, usually by the manufacturer's name and instrument serial number. When the serial number is lacking, an alternative identifying mark should be provided. If none is found, NBS will mark the piece with an NBS identification number. If the apparatus submitted has been previously calibrated by NBS, the serial number or identifying mark should be given on the new order, so that a continuing record of stability history can be established.

(d) Inquires for measurement services should be directed to the NBS address listed in the various sections of the Appendix to SP 250.

§ 200.109 Shipping, insurance, and risk of loss.

(a) Shipment of apparatus to NBS for calibration or other test should be made only after the customer has accepted the estimate of cost and the tentative scheduling. Repairs and adjustments on apparatus submitted should be attended to by the owner, since NBS will not undertake them except by special arrangement. Apparatus not in good condition will not be calibrated. If defects are found after calibration has begun, the effort may be terminated, a report issued summarizing such information as has been found, and a fee charged in accordance with the amount of work done.

(b) The customer should pack apparatus sent to NBS so as to minimize the likelihood of damage in shipment and handling. Suggestions on packing and shipping are made in some sections of SP 250. In every case, the sender should consider the nature of the apparatus, pack it accordingly, and clearly label shipments containing fragile instruments or materials, such as glass and the like.

(c) To minimize damage during shipment resulting from inadequate packing, the use of strong reusable

[1] Single copies available free from the National Bureau of Standards, Washington, DC 20234.

[2] For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, for a subscription price. The annual subscription price for the NBS Journal of Research on the date of the publication of these regulations is $13.00 and for Dimensions/NBS it is $11.00. Prices, however, for these publications are subject to change without notice.

[3] The annual subscription rate at the date of the publication of these regulations for this service is $275.00, North American Continent, $375.00 all others.

*Copies of the Complaint and the Decision and Order filed with the original document.

[1] Single copies available free from the National Bureau of Standards, Washington, DC 20234.

containers is recommended. As an aid in preventing loss of such containers, the customer's name should be legibly and permanently marked on the outside. In order to prolong the container's use the notation "REUSABLE CONTAINER, DO NOT DESTROY" should be marked on the outside.

(d) Shipping and insurance coverage instructions should be clearly and legibly shown on the purchase order for the calibration or test. The customer must pay shipping charges to and from NBS; shipments from NBS will be made collect. The method of return transportation should be stated, and it is recommeded that return shipments be insured, since NBS will not assume liability for their loss or damage. For long-distance shipping it is found that air express and air freight provide an advantage in reduction of time in transit. If return shipment by parcel post is requested or is a suitable mode of transportation, shipments will be prepaid by NBS, but without covering insurance. When no shipping or insurance instructions are furnished, return shipment will be made by common carrier collect, but uninsured.

(e) NBS will not be responsible for the risk of loss or damage to any item during shipment to or from NBS. Any arrangements for insurance covering this risk must be made by the customer. Return shipment will be made by NBS as indicated in paragraph (d) of this section. The purchase order should always show the value of the equipment, and if transit insurance is carried by the customer, this fact should be stated.

(f) The risk of loss or damage in handling or testing of any item by NBS must be assumed by the customer, except when it is determined by NBS that such loss or damage was occasioned solely by the negligence of NBS personnel.

(g) When a test number has been assigned prior to shipment to NBS, this number should be clearly marked on the shipping container. When a test number has not been assigned, an invoice, copy of the purchase order, or letter should be enclosed in the shipment to insure proper identification. The orginal purchase order should be forwarded as appropriate to:

Office of Measurement Services, National Bureau of Standards, Washington, DC 20234; or to Measurement Services Clerk, National Bureau of Standards, Boulder, CO 80303.

(h) The calibrations listed in SP 250 are performed at Boulder, Colorado and Gaithersburg, Maryland.

§ 200.110 Priorities and time of completion.

Schedule work assignments for calibrations and other tests will generally be made in the order in which confirmed requests are received. However, Government work may be given priority. On the regular services, the workload is usually such that the turn-around interval, between the date a customer's apparatus is received and the date it is prepared for return shipment, will be not more than 45 days. Some types of instruments may require considerably longer, particularly if their abnormal behavior requires reruns to check reliability. The customer who can spare the instrument for only a short time can usually arrange by letter or telephone call for shipping it to NBS just as the assigned starting date approaches. A notice will be sent acknowledging receipt of the customer's standard and/or purchase order. If both a confirmed purchase order (or equivalent) and the apparatus have been received, estimates of the completion date and the calibration fee will be sent upon request.

§ 200.111 Witnessing of operations.

NBS welcomes scientists and engineers who may wish to visit its laboratories and discuss its methods. Ordinarily visitors will not be permitted to witness the actual carrying out of highly precise measurements because their presence introduces distraction that may lead to errors or delays. This policy may be waived in those cases where NBS determines that the visitor can be of service in setting up apparatus of a new or unusual nature, in the case of referee tests, or in other cases in which the legal validity of the result may require the presence of duly authorized witnesses.

§ 200.112 Reports.

(a) Results of calibrations and other tests are issued to the customer as formal reports entitled, "National Bureau of Standards Report of Calibration," "National Bureau of Standards Report of Test," or "National Bureau of Standards Report of Analysis," as appropriate. Copies are not supplied to other parties except under applicable Federal law. Whenever formal certification is required by law, or to meet special conditions adjudged by NBS to warrant it, a letter will be provided certifying that the particular item was received and calibrated or tested, and identifying the report containing the results.

(b) NBS reports of calibration generally include in sentence form a statement of the uncertainty attached to the numerical values reported. Limits of uncertainty usually comprise an estimate of systematic error plus a value of imprecision. Details on how these estimates are arrived at are in many cases included in the calibration report. Additional information may be found in SP 250.

(c) The NBS practice is to express data given in calibration or test reports in the SI or International System of Units. The International System of Units (SI) was defined and given official status by the 11th General Conference of Weights and Measures, 1960. A complete listing of SI units is presented in detail in NBS SP 330. The NBS will express data in SI units unless this makes communication excessively complicated. For example, commercial gage designations, commonly used items identified by nominal dimensions, or other commercial nomenclatures or devices (such as drill sizes, or commercial standards for weights and measures) expressed in customary units are an exception from this practice. However, even in such instances, when practical and meaningful, SI and customary units may be given in parallel. Users of NBS calibration services may specify the units to be used in the calibration, especially for commercial devices and standards using customary units or units having some legal definition.

§ 200.113 Use of results or reports.

(a) As the national standards laboratory of the United States, NBS maintains and establishes the primary standards from which measurements in science and industry ultimately derive. It is therefore sometimes desirable for manufacturers or users of measurement standards to make appropriate reference to the relationship of their calibrations to NBS calibrations. The following considerations must be borne in mind, and shall be understood as constituting an agreement on the part of the NBS customer to be bound thereby in making reference to NBS calibration and test reports.

(b) The results of calibrations and tests performed by NBS are intended solely for the use of the organization requesting them, and apply only to a particular device or specimen at the time of its test. The results shall not be used to indicate or imply that they are applicable to other similar items. In addition, such results must not be used to indicate or imply that NBS approves, recommends, or endorses the manufacturer, the supplier, or the user of such devices or specimens, or that NBS in any way "guarantees" the later performance of items after calibration or test.

(c) NBS declares it to be in the national interest that it maintain an impartial position with respect to any commercial product. Advertising the findings on a single instrument could be misinterpreted as an indication of performance of other instruments of identical or similar type. There will be no objection, however, to a statement that the manufacturer's primary standards have been periodically calibrated by NBS, if this is actually the case, or that the customer might arrange to have NBS calibrate the item purchased from the manufacturer.

(d) NBS does not approve, recommend, or endorse any proprietary product or proprietary material. No reference shall be made to NBS, or to reports or results furnished by NBS in any advertising or sales promotion which would indicate or imply that NBS approves, recommends, or endorses any proprietary product or proprietary material, or which has as its purpose an intent to cause directly or indirectly the advertised product to be used or purchased because of NBS test reports or results.

In its own activities as a scientific institution, NBS uses many different materials, products, types of equipment, and services. This use does not imply that NBS has given them a preferential position or a formal endorsement. Therefore, NBS discourages references, either in advertising or in the scientific literature, which identify it as a user of any proprietary product, material, or service. Occasionally, effective communication of results by NBS to the scientific community requires that a proprietary instrument, product, or material be identified in an NBS publication. Reference in an NBS publication, report, or other document to a proprietary item does not constitute endorsement or approval of that item and such reference should not be used in any way apart from the context of the NBS publication, report, or document without the advance express written consent of NBS.

§ 200.114 Fees and bills.

(a) In accordance with 15 U.S.C. 271 et seq., fees are charged for all measurement services performed by NBS, unless waived by the Director, or the Director's designee, when deemed to be in the interest of the Government. The above-mentioned statutes authorize the issuance from time to time of appropriate regulations regarding the payment of fees, the limits of tolerance on standards submitted for verification, and related matters.

(b) The minimum fee for any service request accepted by NBS is $10, unless otherwise indicated in SP 250. If apparatus is returned without testing, a minimum charge of $10 may be made to cover handling. Charges commensurate with the work performed will be assessed for calibrations which cannot be completed because of faulty operation of the customer's device. Fees for calibrations or tests include the cost of preparation of an NBS report. Remittances should be made payable to the National Bureau of Standards.

§ 200.115 Description of services and list of fees, incorporation by reference.

(a) NBS Special Publication 250, "Calibration and Related Measurement Services of the National Bureau of Standards" is hereby incorporated by reference, pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 51. SP 250 states the authority under which NBS performs various types of measurement services including calibrations and tests and charges fees therefor, states the general conditions under which the public may secure such services, decribes these services in considerable detail, and lists the fees to be charged, and sets out the instructions for requesting them in an appendix which is reviewed, revised and reissued semi-annually (December and June). The Director, Office of the Federal Register, approved the incorporation by reference on December 28, 1967.

(b) SP 250 is available at the following places:

(1) Superintendent of Documents, Government Printing Office, Washington, DC 20402.

(2) Technical Information and Publications Division, National Bureau of Standards, Washington, DC 20234.

(3) District Offices of the U.S. Department of Commerce.

(4) Federal Depository Libraries.

(c) Revisions of SP 250 will be issued from time to time by the National Bureau of Standards, Washington, DC 20234.

(d) Further information concerning policies, procedures, services, and fees may be obtained by writing the Office of Measurement Services, National Bureau of Standards, Washington, DC 20234.

[FR Doc. 80-25108 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3031]

Terrance D. Lesko, M.D.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a medical doctor affiliated with two California firms engaged in the sale of hair replacement services, to cease soliciting, selling or performing hair implants; or misrepresenting, in advertising or otherwise, the safety or effectiveness of the hair implant process in the treatment of baldness. Should Dr. Lesko engage in any hair replacement business during period specified in the order, he must expend at least $8,000 on corrective advertising warning consumers that "Hair Implants Are Unsafe." The order also requires that the respondent notify past hair implant customers that the process is unsafe and that they should seek prompt medical attention.

DATES: Complaint and order issued July 28, 1980.*

FOR FURTHER INFORMATION CONTACT: Robert J. Enders, Director, 7R, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, Calif. 90024. (213) 824-7575.

SUPPLEMENTARY INFORMATION: On Wednesday, April 2, 1980, there was published in the **Federal Register**, 45 FR 21649, a proposed consent agreement with analysis In the Matter of Terrance D. Lesko, M.D., an individual, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.90 History of product or offering; § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.195 Safety; § 13.195-60 Product; § 13.205 Scientific or other relevent facts. Subpart-Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-10 Corrective advertising; § 13.533-20 Disclosures; § 13.533-40 Furnishing information to media. Subpart-Disseminating Advertisements, Etc.:

*Copies of the Complaint and the Decision and Order filed with the original document.

§ 13.1043 Disseminating advertisements, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1650 History of product; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

James A. Tobin,
Acting Secretary.

[FR Doc. 80-25201 Filed 8-18-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 740

[Docket No. 78N-0468]

Cosmetic Product Warning Statements Bubble Bath Products Label Warning

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is requiring a caution statement on labels of cosmetic bubble bath products. This action is based on the proposed rule on this matter. The statement cautions consumers against product misuse, identifies some of the adverse reactions that may occur, and urges discontinuance of use and consultation with a physician should injury occur.

EFFECTIVE DATE: All affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation.

FOR FURTHER INFORMATION CONTACT: Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1530.

SUPPLEMENTARY INFORMATION: The caution statement required by this rule was proposed in the Federal Register of January 28, 1977 (42 FR 5368). The proposal also defined the products required to bear the caution statement and recommended additional statements on powder products and products intended for use by children. On request of one of the comments, namely, the Cosmetic, Toiletry and Fragrance Association, Inc., a trade association representing cosmetic manufacturers and distributors, the period for filing comments on the proposed regulation was extended from March 29, 1977 to April 29, 1977. The notice of extension of time for filing comments was published in the Federal Register of March 25, 1977 (42 FR 16159).

Eighty-two comments were received during the comment period in response to the proposed regulation. Most comments were from consumers; some came from physicians; several came from manufacturers and distributors of cosmetics; one came from a cosmetic trade organization; and one came from a Federal agency's office of consumer affairs. Three comments were received after the comment period had expired.

Sixty-five comments fully supported the proposed caution statement; two supported it but requested exemptions or modifications; and five opposed it. Ten comments neither supported nor opposed the proposal; some of these comments recommended a ban on bubble bath products. The three comments received after expiration of the extended comment period supported without qualification the proposed caution statement.

Substantiation of Need for Label Warning on Bubble Bath Products

1. Among the comments supporting the caution were comments from five physicians. They told of bubble bath preparations causing many cases of urinary tract infection in children. Some said children had undergone unnecessary, expensive urological evaluations for cystitis, only to have their symptoms abate when they stopped using the bubble bath product. In light of these adverse experiences, the commenting physicians emphasized the need for the proposed caution statement on bubble bath product labels. In contrast to these comments, one physician consulted by a trade association said he had never encountered a patient with a urinary tract infection that could be directly related to the use of bubble bath products.

The five comments support the agency's finding, as discussed in the Federal Register of January 28, 1977, that bubble bath products can cause adverse reactions, particularly when misused, as when consumers use excessive amounts of bubble bath, take bubble baths too frequently, or remain in the bath for a long period of time, thereby subjecting themselves to prolonged exposures to a product.

2. Three comments argued that a label warning was not justified because the adverse reaction reports were anecdotal and a causal relationship between bubble bath products and urinary tract irritation could not be established.

The causal relationship between bath products and urinary tract irritation is supported by the comments from physicians stating that no therapy was required other than discontinuance of the use of bubble bath products. Similar observations were reported by users of these products and parents of children experiencing adverse reactions.

Additional support for the agency's conclusion that bubble bath products can cause harm is provided by the reports in the medical literature of urogenital disorders associated with bubble baths as cited in the proposed regulation published in the Federal Register of January 28, 1977. Besides discussing the seriousness of harm inflicted to the users of bubble baths, all reports reported withdrawal of the offending product as the essence of treatment.

3. Four comments said the number of injury complaints cited by the agency in support of the proposed regulation was not high enough to demonstrate a serious hazard of widespread public concern warranting the requirement of a label warning.

FDA rejects this argument. Considering the small number of all cosmetic injury complaints FDA receives annually from consumers, the annual number of complaints of adverse reactions from the use of bubble bath products has been sufficiently large enough to indicate a public hazard. Physicians or cosmetic manufacturers or distributors are not legally required to submit reports on cosmetic-related injuries that are brought to their attention by consumers. Accordingly, even a small number of reports of consumer injuries associated with a particular brand or category of products assumes significance.

Two events support the agency's conclusion that bubble bath products present a public health hazard. First, the number of consumer reports of adverse reactions related to bubble bath products was significantly higher in 1973 than the number for prior and subsequent years. This was because of a press and radio solicitation by the Federal Trade Commission (FTC) in the Cleveland, Ohio, area. Forty-four percent of the bubble bath product complaints for the January 1, 1972 to July 16, 1973 period were received by FTC's Cleveland, Ohio, district office. This demonstrates that any organized effort to obtain adverse reaction information, no matter how limited in scope, uncovers many cases of injury that normally go unreported. If the number of adverse reactions reported in the Cleveland, Ohio, area could be extrapolated statistically to reflect the entire country, the total number of adverse reactions would certainly confirm a hazard of widespread concern.

The second event supporting the Commissioner's conclusion that bubble bath products may be hazardous occurred in response to the publication of the proposed label warning in the Federal Register of January 28, 1977. Many consumers reported injuries associated with the use of bubble bath products that might not have been reported otherwise. These comments reported either personal adverse experiences or experiences observed on their children. In addition, the agency received the comments from physicians treating such cases, and there were several comments from nurses observing such effects at hospitals or medical practices.

The agency rejects the argument that the tabulations for the years 1974 and 1975 of cosmetic adverse reactions submitted to the FDA under the program of voluntary filing of cosmetic product experiences (21 CFR Part 730) contradict the need for a label warning. These data are deficient and underrated for several reasons. First, only a limited number of firms have been participating in the voluntary program, and the principal marketers of bubble bath products have not been filing consumer complaints of adverse reactions associated with these products. Second, an investigation of the voluntarily-filed bubble bath products in terms of formulations revealed that a significant number of these products were reported incorrectly in product categories under § 720.4(c)(2) (i) and (iv) (21 CFR 720.4(c)(2) (i) and (iv)), "Bath oils, tablets and salts" and "Other bath preparations," apparently because they are marketed as foaming bath oils. However, foaming bath oil formulations do not differ significantly, if at all, from bubble bath formulations. The adverse reaction rates under § 720.4(c)(2)(i) for 1974 and 1975 were significantly higher than those under § 720.4(c)(2)(ii), i.e., "Bubble baths," and exceeded also in each year the cumulative rate reflecting all cosmetic categories. Third, it is known that consumers report only a small portion of the experienced adverse reactions to cosmetic manufacturers.

The following comparison of adverse reactions data brings to light this reporting deficiency. During 1974, the 123 firms participating in the voluntary program received 27 adverse reaction reports under § 720.4(c)(2)(ii), 94 under § 720.4(c)(2)(i), and 29 under § 720.4(c)(2)(iv). Some of the adverse reactions reported under § 720.4(c)(2) (i) and (iv) relate to bubble bath products. During the same year, FDA received 25 consumer complaints relating to bubble bath products. These data relate to the entire population, whereas the industry data reflect only a portion of the market. In contrast to these figures, the survey group of approximately 30,000 persons participating in a consumer survey of adverse reactions associated with cosmetics reported for a period of only 3 months a total of 24 adverse reactions associated with bubble bath products. Further, this reporting period covered the months of September, October, and November, and not the winter months when indoor air is dry and the reaction rate is expected to be high. For those reasons, the agency concludes that the adverse reaction data for bubble bath products do not contradict but support the need for a label warning.

4. Three comments argued that the label warning was not justified because the annual numbers of adverse reactions reported by consumers to FDA had been decreasing after 1973. Two comments contended that the rate of adverse reactions per million units of bubble bath products distributed annually, as reported by the cosmetics industry to FDA under the program of voluntary filing of adverse reactions (21 CFR Part 730), had declined between 1974 and 1975.

The agency acknowledges a decline in the annual number of reports of adverse reactions associated with bubble bath products received from consumers after 1973. FDA disagrees, however, with the contention that this decrease negates the need for the proposed label warning. As discussed in the preamble of the proposed regulation and restated in the preceding section of this preamble, the number of consumer reports of adverse reactions related to bubble bath products was higher in 1973 than in subsequent years because of the press and radio solicitation by the Federal Trade Commission in the Cleveland, Ohio, area. The voluntary placement of caution statements on the label of the leading children's bubble bath product in 1974 also may have contributed to the decline in consumer complaints. Without evidence to the contrary, it seems logical to the agency to assume from these facts that a label warning promotes the safe use of bubble bath products and should therefore be required.

The decline in the rate of adverse reactions per million units of bubble bath products distributed annually, as reported under 21 CFR Part 730, from 1.74 in 1974 to 1.32 in 1975 was not of sufficient magnitude to be considered significant. The decrease in the rate occurred because of an increase in the estimate of the number of units distributed, i.e., from 15.5 million units in 1974 to 22.87 million units in 1975. The total number of adverse reaction reports under § 720.4(c)(2)(ii) i.e., "Bubble baths," actually increased from 27 in 1974 to 30 in 1975.

5. One comment argued that, because the referenced complaints related principally to one product, a warning should not be required for the entire industry.

The agency is not persuaded that the available complaint data relate to only one product and do not support a label warning on all bubble bath products. Although many of the complaints received by FDA related to the leading bubble bath product for children, they represented little more than half the total number of complaints and were proportionate to the product's estimated share of the market. Additionally, all of the adverse reactions voluntarily reported by the cosmetic industry in accordance with 21 CFR Part 730 were associated with products other than the leading bubble bath for children. There is also the technical consideration that all bubble bath products, including those labeled foaming bath oils, contain as principal ingredients surface-active agents serving as cleansing and foaming agents as well as foam stabilizers or boosters whose adverse effects on the skin were fully discussed in the preamble of the proposed regulation (42 FR 5368). Accordingly, all bubble bath products may be equally hazardous and in need of a label warning.

6. One comment said no scientifically controlled study using human subjects was included in the administrative record in support of the proposed label warning. Another comment argued that an animal study conducted for the FDA under contract suggested that bubble baths have a low potential for causing adverse reactions.

FDA advises that the human experience information received from consumers, physicians, and the industry fully supports the conclusion that the proposed label warning on bubble bath products is needed to reduce the risk of future harm. The agency opposes for ethical reasons any consideration of a controlled study in humans to determine the potential of bubble bath products to cause urinary tract infection.

In recognition of the health hazard associated with bubble bath products, the agency contracted in 1975 for a program of animal studies to determine the relative adverse reaction potential of

bubble bath products and ingredients. The studies were not intended to prove the existence of a hazard to humans associated with the use of bubble bath products. The existence of the human hazard had already been established. The objectives of these studies were to develop animal testing procedures that would produce in the chosen animal species the skin irritation effects and genito-urinary tract infections observed in humans and to investigate thereafter various bubble bath products and ingredients in accordance with these testing procedures. The results of such tests were expected to demonstrate the adverse effects that may occur in humans and permit a comparative ranking of the tested substances.

As was pointed out by one comment, the results reported in the first four quarterly reports referenced in the comment showed no significant adverse effects under the conditions of the experimental testing procedure. However, it was erroneous for the comment to conclude from these results that bubble bath products have a low potential for causing adverse reactions. The negative results meant that the testing protocol was deficient in that it did not reproduce in the test animals the reactions observed in humans. The investigator recognized this deficiency and modified the procedure accordingly. In the fifth quarterly report, it was stated that the new protocol appeared to be a more effective and definitive procedure than the tests previously used for evaluating the irritant or toxic effects of the bubble bath ingredients.

To determine the precise testing conditions for reproduction of adverse reactions, toxicologists prefer to gradually intensify the exposure conditions in a test series. Once the desired reactions are achieved and the testing conditions established, subsequent testing in accordance with the established procedure permits the determination of the relative adverse reaction potential of the tested substances. It should be noted, however, that the study was terminated for contractual reasons before the reported data assumed significance.

Definition

7. Several comments took issue with the proposed definition of the term "bubble bath product." It was argued that the definition was too broad because it would include foaming bath oils, bath oils and emulsions serving as emollients, and cleansers for infant care intended to be applied to the skin, wash cloth, or bath. One comment requested that cosmetics that are also drugs and serve either as medicated bath oils that may include cleansing agents or as medicated bath products for persons who may be affected adversely by soap be exempted from the warning requirements.

The agency recognizes that the proposed definition of the term "bubble bath product" may have been too broad and could have been interpreted to include products for which foaming is not one of the principal functions or performance characteristics under conditions of use. Accordingly, the definition has been revised to include only products added to a bath for the purpose of producing foam and containing a surface-active agent that serves as a detergent or foaming ingredient.

The revised definition of bubble bath products therefore excludes bath oils containing a surfactant serving as a spreading agent and producing some froth (i.e., incidental, light, unstable foam) and lotion or similar products serving as emollients and containing surface-active agents serving as emulsifiers. Further excluded from this definition are baby, medicated and general cosmetic cleansers containing surface-active agents, if these products are not intended to be added to a bath for the purpose of producing foam. Incidental foaming during the cleansing process without a claim of such property as a principal cosmetic characteristic does not categorize a product as a bubble bath product.

Foaming bath oils and similarly identified products, however, are not excluded from the definition of the term "bubble bath product." Like bubble bath products, these products are intended to be added to a bath for the purpose of producing foam. Furthermore, as discussed in a previous section, these products do not differ significantly in composition from products labeled bubble bath products, and several consumer complaints of adverse reactions refer to foaming bath oil products.

Labeling and Other Issues

8. Comments argued that the warning should not be required on the label of bubble bath products in liquid form, on products marketed for males, on products intended for adults, and on small packages of 2 ounces or less per application.

The agency is not persuaded that liquid products should be exempted from a requirement of a label warning because of an alleged low incidence of adverse reactions. The adverse reaction data in the consumer complaint files do not permit the agency to conclude that liquid products and those intended for adults or for males cause fewer adverse effects in these subgroups or that they will not be used by others. Such products do not differ in surfactant composition from powder formulations or bubble bath products intended for use by children. The marketing of bubble bath products in small packages does not offer the agency assurance that adverse reactions will not occur. Consumers may misuse these products by using more than one package per bath, by prolonging individual exposure, or by using bubble bath products too frequently.

9. One comment requested that the proposed statement "* * * may cause irritation to the skin and urinary tract" be changed to "* * * cause irritation to skin or *mucous membrane*" (emphasis added). It was argued that irritation of the mucous membrane more accurately describes what may occur from the use of bubble bath products and that urinary tract irritation reported in association with the use of bubble bath arises as a consequence of irritation of the mucous membrane surrounding the urethra. Another comment recommended a warning that deletes any references to urinary tract symptoms as well as to excessive use or prolonged exposure.

The agency disagrees with the contention that the reference in the label warning to urinary tract irritation does not accurately describe what may occur as a result of the use of bubble bath products. Although irritation of the mucous membrane may be mentioned in the label warning to identify the precursor of irritation of the urinary tract, FDA concludes that, for the sake of brevity of the label statement and, at the same time, to fully inform consumers of the possible consequences of such use, the proposed caution that urinary tract irritation may occur is appropriate. If no mention were made of the possible occurrence of urinary tract irritation, consumers would be misled to believe that the most serious reaction that may occur from the use of bubble bath products would be irritation of the mucous membrane.

The reference to urinary tract irritation is also in agreement with some of the comments volunteered by physicians. Those comments reported that the irritation of the urinary tract disappeared when the use of bubble bath products was discontinued.

The agency also disagrees with the request for omission in the label warning of the statement that adverse reactions may be caused by excessive use of, or prolonged exposure to, bubble bath products. Such a deletion from the warning could mislead consumers to believe that prudent use of these products may be as harmful as misuse. The adverse reaction data available to the agency indicate that excessive use and prolonged exposure are the causes of serious harm to consumers.

10. One comment suggested that the statement "Avoid inhalation of dust to prevent respiratory discomfort" not be adopted as a requirement for all bubble bath products in powder form. The comment stated that the commenter's product had been reformulated and the respiratory irritation problem resolved. The comment contended that the inhalation caution statement should therefore not be required for that product. Another comment suggested that this statement be included in the directions rather than the label warning.

The agency is persuaded that the problem of respiratory irritation from inhalation of the dust of powder bubble bath products has been eliminated, or at least significantly curtailed, through appropriate product reformulation. A review of the consumer complaints received by the FDA during the period of 1970 to 1976 demonstrated that the largest number of respiratory complaints were received in 1972. The number of such complaints decreased significantly in 1973, and no complaints of this type were received thereafter. Because of these events, the agency has decided to delete the phrase "Avoid inhalation of dust to prevent respiratory discomfort" from the required caution statement on bubble bath products in powder form. However, the agency urges manufacturers of powdered bubble bath products to include this or a similar statement in the directions for use. The respiratory irritation effect of the dust of detergent raw materials is well-known, and careless sprinkling of these products into water may result in such irritation. Notification of consumers in the directions for use that dusting may cause respiratory discomfort and should be avoided would greatly enhance the safe use of these products.

11. One comment recommended that the proposed effective date be abandoned and two other effective dates be established in its stead. The comment suggested that the first effective date apply to the ordering of new labels bearing the warning, and be the date 60 days after the date of publication of the final rule. The suggested second effective date would be the date when bubble bath products would be reqired to be labeled with the new labels bearing the required warning, and would be the date 9 months after publication of the final regulation.

The comment further argued that, should FDA continue to require the effective date by which bubble bath products introduced into interstate commerce must bear the label warning, cosmetic firms should be given no fewer than 2 years to comply with the new rule. The reasons given for these suggested delays in implementing the final rule were that the label changes could not be accomplished within the proposed 6 months, the proposed effective date would require overlabeling, and such label changes could be expensive.

The agency recognizes the difficulties and economic factors associated with the requirement for the label warning. However, FDA is not convinced that the time to implement the label change needs to be as long as suggested. Furthermore, such a delay would be contrary to FDA's mission of effective consumer protection. Accordingly, all affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation. This effective date should provide adequate time to implement the labeling of inventory not introduced into interstate commerce by the end of the 12-month period.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 601, 602, 701(a), 52 Stat. 1041 as amended, 1054 as amended, 1055 (21 U.S.C. 321(n), 361, 362, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 740 is amended by adding new § 740.17, to read as follows:

§ 740.17 Bubble bath products.

(a) For the purpose of this section, a bubble bath product is any product intended to be added to a bath for the purpose of producing foam that contains a surface-active agent serving as a detergent or foaming ingredient.

(b) The label of bubble bath products within the meaning of paragraph (a) of this section shall bear adequate directions for safe use and the following caution:

Caution—Use only as directed. Excessive use or prolonged exposure may cause irritation to skin and urinary tract. Discontinue use if rash, redness, or itching occur. Consult your physician if irritation persists. Keep out of reach of children.

(c) In the case of products intended for use by children, the phrase "except under adult supervision" may be added at the end of the last sentence in the caution required by paragraph (b) of this section.

Effective dates. All affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation.

(Secs. 201(n), 601, 602, 701(a), 52 Stat. 1041 as amended, 1054 as amended, 1055 (21 U.S.C. 321(n), 361, 362, 371(a)))

Dated: August 8, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-25093 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 575

Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops; Provisions Governing Application for and Issuance of a Waiver; Restrictions on Use of Pesticides and Other Chemicals

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: On February 15, 1980, the United States Court of Appeals for the District of Columbia Circuit entered a judgment ruling that certain portions of a regulation published by the Department of Labor relating to waivers pursuant to Section 13(c)(4) of the Fair Labor Standards Act for the employment of 10 and 11 year old children in the hand harvesting of pesticide-treated crops were invalid. The court held that the statute requires that there be absolute proof of the absence of danger to such children from the use of pesticides or other chemicals before waivers can be issued, and found that the department's regulation failed to apply this standard. The court further ruled that the Secretary of Labor lacked good cause to dispense with the notice-and-comment procedures required by the Administrative Procedure Act. The court remanded the case to the United States District Court for the District of Columbia for entry of an injunction pending appropriate notice-and-comment rulemaking (*National Association of Farmworker Organizations* v. *Marshall*, No. 79-1587).

The District Court issued an Order on February 29, 1980, enjoining the Secretary of Labor from granting any waivers pursuant to the portions of the regulation which the Court of Appeals held were invalid (Civil Action No. 79-1044). The District Court further ordered the Secretary to publish proposed regulations in the **Federal Register**, provide a period of at least 30 days for

dispense with the notice-and-comment

Witt of Oregon State University which

Effective date. The Department finds

public comment, with an additional 15 days thereafter for interested persons to reply, and to issue final regulations as soon as practicable after the close of the comment period.

The present Final Rule is issued pursuant to the order of the District Court, following issuance of proposed regulations and an appropriate comment period. The comments received during the comment period did not provide the degree of certainty required by the ruling of the Court of Appeals. Accordingly, the Final Rule merely republishes the applicable portions of the regulations published on June 21, 1978 (43 FR 26562), which were previously subjected to appropriate notice-and-comment rulemaking.

EFFECTIVE DATE: These regulations shall be effective on August 19, 1980.

FOR FURTHER INFORMATION CONTACT:
Lucille C. Pinkett, Wage and Hour Division, Room S-3022, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone 202-523-8412.

SUPPLEMENTARY INFORMATION:

The child labor provisions of the Fair Labor Standards Act generally prohibit employment of children under the age of 16. Certain exceptions allow the employment of younger children in agriculture under specific conditions delineated in the statute. In 1974, Congress prohibited the employment in agriculture of any child under the age of 12 under most conditions. This prohibition applied until 1977, when Congress enacted the waiver amendment for certain agricultural employment.

Section 13(c)(4) of the Act authorizes the Secretary to grant a waiver from the Act's prohibitions, to permit the limited employment of 10 and 11 year olds as hand harvesters of short season crops under specified conditions. Among other conditions, the statute prohibits the Secretary from granting such a waiver "unless he finds, based on objective data submitted by the applicant," that five enumerated requirements are met. One of these five prerequisites is a finding that "the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply." Section 13(c)(4)(A)(iii).

The Labor Department's final regulations implementing the waiver provisions were published on June 21, 1978 (43 FR 26562), after the Department had considered comments and testimony on its proposed regulations published on April 4, 1978 (43 FR 14068). The introduction to the final regulations discussed the testimony at a public hearing and information provided by the Environmental Protection Agency (EPA) and explained that "it was apparent from the testimony at the hearings that currently established EPA and other federal standards have not been shown to be safe for 10 and 11 year olds." Accordingly, the final regulations provided that the applicant for a waiver "will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds." The regulation also stated that in the event such data submitted by the growers, or additional studies undertaken by the Department, established safe reentry standards for particular chemicals, the regulation would be amended to include such standards so that a waiver applicant need merely identify the chemical and date last used.

When the Department determined that EPA standards could not be used to establish safe reentry times for children, the Department was concerned that the individual growers would simply not be able to meet their statutory burden of producing objective data showing that pesticides used would have no adverse effect on the health or well-being of 10 and 11 year old hand harvesters. Accordingly, the Department decided to try to develop its own expertise, by acquiring the scientific knowledge which would enable the Secretary to issue waivers where some pesticides had been used, if the necessary information to meet the statutory criteria existed. The Labor Department contracted in June, 1978, with Clement Associates, Inc., scientific regulatory consultants, to review data on the chemicals used by the affected growers.

Under a short term contract in 1978, Clement reviewed the scientific literature regarding approximately 30 chemicals used for strawberry and potato crops and issued reports in August, 1978, recommending minimum entry times for some chemicals. In reliance on these reports, the Department amended its regulations in August, 1978 to list certain pesticides which could be used if the specified periods had elapsed before 10 and 11 year olds were admitted to the fields. (August 18, 1978, 43 FR 36623).

Throughout the second half of 1978, officials of the Department consulted with EPA, OSHA, NIOSH, and experts outside the government to try to determine what type of longer term studies, including possible field observations, were needed to acquire pesticide data relating to children. They were advised that the needed study would take 3 to 5 years, and steps were taken to commence the long-term study to measure exposure levels and evaluate the risk to children more precisely. (In March 1980, the Department signed an agreement with EPA to conduct a 5-year study of the effects of pesticide exposure on the health of youth under 16 years of age employed in agriculture. This will, of course, include children 10 and 11 years of age affected by the waiver provision. The study will undertake to determine the actual pesticide exposure and physical effects of such exposure; absorption rates of pesticides into the body; and acute and chronic health effects in relation to duration and level of exposure.)

After publication of the August 18, 1978 amendment, the growers asked the Labor Department to study additional pesticides for possible inclusion on the approved pesticide list. Accordingly, the Department of Labor, in early 1979, initiated a second contract with Clement Associates to review 16 additional chemicals and re-review the 30 chemicals it had already studied under the first contract. Under this second contract, Clement Associates expanded its research of the scientific literature. Accordingly, in April and May, 1979, the waiver regulations were amended to delete certain chemicals from the approved list while including others (April 13, 1979, 44 FR 22061; April 24, 1979, 44 FR 24059; May 16, 1979, 44 FR 29049).

The National Association of Farmworker Organizations sued the Secretary of Labor on April 12, 1979, asserting that the standards adopted in the various amendments to the June 21, 1978 regulations were unlawful. The District Court ruled on June 7, 1979, that these standards were consistent with the Act's requirements.

The United States Court of Appeals for the District of Columbia Circuit subsequently ruled, however, that in publishing the amendments in question, the Secretary had failed to satisfy the statutory criteria. Specifically, the court stated that the Clement Report, on which the Secretary relied in issuing specific pesticide standards, was "based on the assumption that his recommendations would provide only 'reasonable protection' for the children." The court held, however, that under the statute there must be absolute proof of the absence of danger to 10 and 11 year old children from the use of pesticides or other chemicals. The court further ruled that the Secretary lacked good cause to dispense with the notice-and-comment procedures required by the Administrative Procedure Act (*National Association of Farmworker Organizations* v. *Marshall*, No. 79-1587; Mar. 20, 1980).

In *Washington State Farm Bureau et. al.*, v. *Marshall* (C.A. 9, No. 79-4449), the Department is continuing to assert its position that its pesticide regulations are consistent with the statutory standard. This case was argued in the United States Court of Appeals for the Ninth Circuit on March 5, 1980. It is possible that the Ninth Circuit will reach a different result from that of the District of Columbia Circuit, in which event the matter may require resolution by the United States Supreme Court. In the meantime, however, in order to abide by the ruling in *National Association of Farmworker Organizations* v. *Marshall*, the Department is now issuing final regulations, after having thoroughly studied all of the comments following the close of the 45-day comment period provided in the proposed regulations issued on March 7, 1980.

The Secretary's proposed regulations listed the same pesticides and other chemicals and set the same minimum entry times for strawberries and potatoes as did those portions of the amended regulations which were held to be invalid by the Court of Appeals for the District of Columbia Circuit, and which were codified at 29 CFR 575.5(d). This was done in order to provide interested parties with a concrete proposal on which to comment.

A total of 43 written comments were received, as well as 10 responses to comments. The commenters included government officials, individuals and organizations in four states and the District of Columbia.

Thirty-five of the commenters expressed opinions favoring the employment of 10 and 11 year old children as hand harvesters but opposing restrictive regulations. Two organizations opposed the statutory provisions permitting such employment, as well as the Secretary's proposed implementing regulations. Several commenters noted the lack of documentation of illness or harm resulting from proper use of pesticides. Several comments related specifically to Benomyl and Captan, arguing for the importance and safety of these particular chemicals in the growing of strawberries.

Only 4 letters of comment included supporting scientific data.

One letter defended the use of Captan and Benomyl in the harvesting of strawberries by 10 and 11 year olds, and attached the affidavit of Dr. James M. Witt of Oregon State University which was filed with the Court of Appeals for the Ninth Circuit in the *Washington State Farm Bureau* case. Dr. Witt's affidavit criticizes the scientific bases and conclusions of the Clement Report.

Dr. Witt himself also submitted a statement reviewing his criticisms of the Clement Report.

Another letter enclosed material published in the journal *Agrichemical Age* regarding the herbicides 2,4-D and 2,4,5-T, and the chemical residue TCDD. Neither the commenter nor the journal material indicated whether these herbicides were necessary or appropriate for use on the short season crops which are the subject matter of the present regulations.

Finally, the National Association of Farmworker Organizations submitted material criticizing the Secretary's proposed regulations and contending that scientific data upon which safe entry standards may be developed for 10 and 11 year old children is presently non-existent.

The Secretary has concluded that none of the data submitted by commenters meets the test laid down by the Court of Appeals for the District of Columbia Circuit, i.e., absolute proof of no adverse health effects of pesticides or other chemicals on 10 and 11 year old children. In the opinion of the EPA, which reviewed the technical and scientific comments, none of the "comments establish, with absolute certainty, that there would be no adverse effect on the health or well-being of 10- and 11-year-old children where any of the pesticides or other chemicals described [in the proposed regulations] have been used on short season crops." Indeed, the EPA stated its belief that there is not "any scientific data or methods presently available which would show that particular pesticides or other chemicals can be used on crops with an absolute assurance of safety to harvesters." Thus, no minimum entry times for 10- and 11-year-old hand harvesters can presently be established for specific pesticides or other chemicals.

Consequently, the final regulation provides, as did the final regulation of June 21, 1978, that an applicant, in order to satisfy the statutory pesticide requirement, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data is sufficient, the application will be considered as meeting the statutory pesticide requirement.

Effective date. The Department finds that there is good cause for having this regulation become effective upon publication, thereby dispensing with the normal rule in section 553(d) of Title 5, U.S.C., that regulations are to be published not less than 30 days before their effective date. The regulation as now published authorizes the granting of waivers on the same basis as authorized under Section 13(c)(4) of the FLSA itself, even if there were no regulation. For this reason, there is no need for a delay in the effective date of the regulation.

This document was prepared under the direction and control of Henry T. White, Jr., Deputy Administrator, Wage and Hour Division.

Accordingly, Part 575, of Title 29 of the Code of Federal Regulations is revised by striking out all of present § 575.5(d) and substituting therefor the following:

§ 575.5 Supporting data to accompany application.

* * * * *

(d) The "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The safe reentry standards established by the Environmental Protection Agency, and followed by other federal and state agencies, were established for adult workers and have not been shown to be safe for 10 and 11 year olds. Therefore, the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds, this section will be amended to include such standards and the applicant will then need only identify the type and level of pesticides or chemicals used and the date of last application of same prior to harvest.

* * * * * *

(Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; (29 U.S.C. 211, 212, 213, 218); Secretary of Labor's Order No. 16-75, 40 FR 55913)

Signed at Washington, D.C. on this 14th day of August 1980.

Donald Elisburg,
Assistant Secretary for Employment Standards.

[FR Doc. 80-25340 Filed 8-18-80; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 346

Regulations Governing U.S. Individual Retirement Bonds

Correction

In FR Doc. 80–24070 appearing on page 53397 in the issue of Monday, August 11, 1980, make the following correction:

In Table A, the headings now reading,

Issue price	$50	$100	$500	$1,000
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			

should have read,

Issue price	$50	$75	$100	$500
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1556–5]

Approval of Revision of the Commonwealth of Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This notice announces the Administrator's approval of an amendment to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning. The amendment would allow sources to use on a temporary basis, for a defined site, an air curtain destructor for open burning both inside and outside of an air basin. Use of an air curtain destructor, which is a transportable incineration-type device, is optional if used outside of an air basin. The air curtain destructor must operate in such a manner that there are very little or no emissions and no odor problems. If subsequent to approval by the Department of Environmental Resources (DER) the operation should cause particulate, visible, or malodorous emissions, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality.

EFFECTIVE DATE: September 18, 1980.

ADDRESSES: Copies of the amendment and associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Patricia Sheridan.

Pennsylvania Bureau of Air Pollution Control, Fulton Building, 18th Floor, 200 North Third Street, Harrisburg, PA 17120. Attn: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Environmental Resources (DER) of the Commonwealth of Pennsylvania submitted for the Governor a revision of the Pennsylvania State Implementation Plan (SIP) consisting of an amendment to the Pennsylvania Air Resources Regulations. The revision submitted on August 11, 1976 pertains to Chapter 129, Standards for Sources, and relates to open burning operations. The Commonwealth of Pennsylvania submitted proof that public hearings were held for this revision on June 6, 7, and 8, 1976 in Norristown, Pittsburgh, and Harrisburg, Pennsylvania, respectively, in accordance with the requirements of 40 CFR 51.4. This amendment gives DER the authority to allow sources to use an air curtain destructor, a transportable incineration-type device, for clearing and grubbing wastes such as trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction.

Permission to use an air curtain destructor will be for a defined site on a temporary basis, not to exceed three months, both inside and outside of an air basin, for open burning. The use of an air curtain destructor is optional if used outside of an air basin. An extension may be approved by DER after three months for additional limited periods not to exceed six months. The air curtain destructor, once installed, must operate in such a manner that there are very little or no emissions and no odor problems. Although the Commonwealth of Pennsylvania has not stated in its regulations, DER notified EPA in a letter dated December 9, 1976 that if any visible emissions do occur, they would have less than 20% opacity. If, subsequent to approval by DER, the operation should cause particulate, visible or malodorous emissions, i.e., an air pollution problem, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality. The Regional Administrator invited comments in the notice published in the **Federal Register** on March 13, 1980, 45 FR 16207, and provided for a 30-day comment period ending April 12, 1980.

II. Control Strategy Demonstration

This amendment is a regulatory change rather than a substantive change. Because the amendment has no adverse impact on air quality, a modeling demonstration of attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. Policy Issues

There are no policy issues involved with this revision other than the basis for the Administrator's approval; i.e., whether the revision submitted by the Commonwealth of Pennsylvania meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

V. EPA Evaluation

The revision submitted by the Commonwealth of Pennsylvania meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, 51.6, and 51.11.

VI. Final Action

In view of this evaluation, the Administrator approves the above-described amendments to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning, as a revision to the Pennsylvania State Implementation Plan. The revision allows sources to use, on a temporary basis, an air curtain destructor for open burning both inside and outside of an air basin.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–642)

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. Section 52.2020(c) is amended by adding a new paragraph (33) to read as follows:

§ 52.2020 Identification of plans

* * * * *

(c) The plan revision listed below was submitted on the date specified

* * * * *

(33) A revision submitted by the Commonwealth of Pennsylvania on August 11, 1976 consisting of an amendment to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning.

[FR Doc. 80–25143 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1569–1]

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rulemaking amends the Maryland State Implementation Plan (SIP) to include the Secretarial Order issued to the Maryland Cup Corporation of Owings Mills, Baltimore County, Maryland. The revision would be effective for three (3) years from September 11, 1979 and applies to the regulation prohibiting visible emissions. During the three year period visible emissions may not exceed 25 percent opacity.

EFFECTIVE DATE: September 18, 1980.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106. Attn: Pat Sheridan.

Air Quality Programs, State of Maryland, O'Conor Office Building, 201 West Preston Street, Baltimore, MD 21203. Attn: George Ferreri.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Pat Sheridan (3AH10), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

On September 27, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III, a revision of the Maryland State Implementation Plan. The revision consisted of a Secretarial Order for the Maryland Cup Corporation of Owings Mills, Baltimore County, Maryland.

The Company's Owings Mills plant sprays paraffin wax onto paper cups. This operation causes visible emissions of wax vapors which are discharged through four rooftop exhausters.

Stack tests on one of the four (4) exhausters, conducted by Maryland indicated an average grain loading of 0.009 grains/SCFD and an emission rate of about 1.8 lbs./hr., well below the maximum levels for particulate emissions of 0.03 grains/SCFD required by Maryland regulations.

Additionally, a significant portion of this particulate matter, i.e. wax, settles out in the immediate vicinity of the rooftop exhausters.

The potential toxicity of the paraffin wax was investigated by the State and it was determined that this material is nontoxic and poses no known threat to the public health.

The Company and the County reported that there is no air pollution control device which could feasibly eliminate or reduce emissions because of the high volume of air and the clogging of any control device by the waxy particulate discharge.

The revision is effective for three (3) years from September 11, 1979, and applies to the regulation prohibiting visible emissions (COMAR 10.18.04.02A). During the three year period, visible emissions may not exceed 25 percent opacity.

Also, during this three year period, the company will continue to research the development of new control technology which may be adaptable to its drinking cup coating operations and will report its finding to local and State control agencies. Then, if necessary, determinations will be made whether to extend the variance once the three year period expires.

Since particulate emissions meet all applicable air quality regulations, and will not increase as a result of this revision, there is no need to revise those regulations.

The Regional Administrator invited comments in the notice published in the **Federal Register** on May 8, 1980, 45 FR 30456, and provided for a 30-day comment period.

II. Public Comment

No comments were received during the 30-day comment period.

III. Control Strategy Demonstration

A review of the submittal indicates that this revision will not result in a violation of either the National Ambient Air Quality Standards (NAAQS) or exceed the PSD increments for particulate matter.

IV. Approvability of the Proposed Revision

Based upon an evaluation of the material submitted by the State of Maryland, the Agency believes that the revision satisfies the applicable requirement of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. The revision will not exceed the PSD increments. Therefore, the Administrator approves the revisions to the Maryland State Implementation Plan.

Concurrently, the Administrator amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate this plan revision into Maryland's SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and

determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: August 8, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. Section 52.1070 (c) is amended by adding a new paragraph (35) to read as follows:

§ 52.1070 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(35) Variance from Maryland regulation 10.18.04.02(A) relating to visible emissions and allowing a maximum visible emission of 25% opacity. This variance expires on September 11, 1982. The variance request was submitted on September 27, 1979 by the State of Maryland.

[FR Doc. 80–25142 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1576–4]

Approval of Revision of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve, on a conditional basis, portions of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia on January 12, 1979. Those portions upon which no conditions are placed are fully approved unless indicated otherwise. This revised SIP was for those areas in Virginia designated as not attaining the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide. The plan addresses attainment of the standards for those pollutants and includes revisions required to meet the requirements of Part D of Title I of the Clean Air Act (the Act), as amended in 1977. Some of the most significant provisions of the revised SIP are the adoption of regulations requiring the installation of Reasonably Available Control Technology (RACT) for certain categories of Volatile Organic Compound sources, the implementation of an Inspection and Maintenance program for automobiles, and the implementation of transportation control measures in certain areas of Virginia.

EFFECTIVE DATE: August 19, 1980.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, D.C. 20460

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 1106, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

For the Transportation Control portions of the plan:

Southeastern Virginia Planning District Commission—Suite 100, 16 Koger Executive Center, Norfolk, Virginia 23502

Peninsula Area Transportation Policy Committee, 2019 Cunningham Drive, Hampton, Virginia 23366

Richmond Metropolitan Planning Organization, 6 North Sixth Street, Richmond, Virginia 23219

Public Information Center, Metropolitan Washington Council of Governments, 1875 Eye Street, NW., Suite 200, Washington, D.C. 20006

FOR FURTHER INFORMATION CONTACT: Mark E. Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; telephone: (215) 59–2745.

SUPPLEMENTARY INFORMATION: On July 30, 1979, EPA published a notice of proposed rulemaking, 44 FR 44564, which described the nature of the SIP revision, discussed certain provisions which in EPA's judgment did not comply with the requirements of the Act, and requested public comment. Several comments on this proposed rulemaking notice were received by EPA. In addition, Virginia submitted SIP revisions on September 7, 1979 and September 24, 1979 that contain, in part, corrections to the deficiencies noted by EPA in the July 30, 1979 notice of proposed rulemaking. Finally, on December 18, 1979 Virginia submitted a SIP revision designed to demonstrate attainment of the new .12 standard for ozone (this revised standard was published February 8, 1979 at 44 FR 8202). Certain elements of this last submittal also correct noted deficiencies. EPA has evaluated the portions of the later submittals that correct noted deficiencies and is taking final approval action on those portions. Rulemaking on the balance of the later sumittals will take place in the near future.

The portion of the Virginia nonattainment plan revision dealing with implementation of the "bubble" concept, namely Section 4.55(b) of the Virginia regulations, is not adequately enforeable and is therefore disapproved. Since implementation of this concept is not a Part D requirement, disapproval of Section 4.55(b) does not require the disapproval of Virginia's nonattainment plan revision.

EPA has reviewed and evaluated all public comments received during the comment period and has come to the conclusion that the SIP revision submitted by Virginia on January 12, 1979 for attainment and maintenance of the NAAQS for ozone and carbon monoxide should be approved on a conditional basis and that such approval be contingent upon the satisfactory accomplishment of the conditions and deadlines contained herein.Elsewhere in today's **Federal Register**, EPA is inviting public comment on the acceptability of deadlines for complying with the conditions of approval. In addition, because the January 12, 1979 submittal makes numerous revisions to Part II, Section 2.33, PERMITS—Stationary Sources and Indirect Sources of the Virginia regulations, this rulemaking will address not only this submittal but all previous proposals dealing with Section 2.33 and not yet finalized by EPA. Such proposed SIP revisions included the submittals dated August 14, 1975 (proposed at 40 FR 53595), October 20, 1976 (proposed at 42 FR 16446), August 31, 1977 (proposed at 43 FR 24858), and September 20, 1978 (proposed at 45 FR 34018).

The information in this notice is divided into five sections entitled "INTRODUCTION," "BACKGROUND", "DEFICIENCIES AND REMEDIES", "PUBLIC COMMENTS ON PROPOSAL," and "EPA ACTIONS." The INTRODUCTION section outlines the development of the Virginia Implementation Plan revision. The "BACKGROUND" section describes the Virginia plan revision for each nonattainment area. The "DEFICIENCIES AND REMEDIES" section describes where the SIP is inadequate because it did not satisfy all the regulatory requirements and presents schedules and deadlines to correct these deficiencies. It also explains how some of the deficiencies cited in the proposed rulemaking **Federal Register** Notice, 44 FR 44564 (1979), were satisfied by later submittals by Virginia. The "PUBLIC COMMENTS ON PROPOSAL" section summarizes relevant comments received on the proposal and provides EPA's response to them. The "EPA ACTIONS" section explains EPA's decision to approve conditionally portions of Virginia's plan revision and to approve other portions based on considerations discussed in the two preceding sections.

I. Introduction

The Virginia nonattanment plan revision was developed and submitted to EPA in response to the requirements of Part D of the Act. In general, the SIP is required to provide for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Act. On March 3, 1978, 43 FR 8962, and on September 12, 1978, 43 FR 40502, the Adminstrator of the Environmental Protection Agency, in accordance with requirements of Section 107 of the Act, as amended, designated certain areas of Virginia as nonattainment for ozone and carbon monoxide. These designations are indicated in Table 1 below.

Table I—Nonattainment Areas in Virginia

Ozone

I. Southwest Virginia-Eastern Tennessee Interstate AQCR
Smyth County
II. Valley of Virginia Intrastate AQCR
Roanoke County; Roanoke City; Salem City
III. Northeastern Virginia Interstate AQCR
Stafford County
IV. State Capital Intrastate AQCR
Richmond City; Henrico County; Chesterfield County
V. Hampton Roads Interstate AQCR
Chesapeake City; Norfolk City; Portsmouth City; Suffolk City; Virginia Beach City; Newport News City; Hampton City
VI. National Capital Interstate AQCR

Carbon Monoxide

I. National Capital Interstate AQCR
City of Alexandria; Arlington County; Fairfax County—areas of high traffic density

Virginia in its submittal sub-divided the Hampton Roads Intrastate AQCR into two parts, the Peninsula and Southeastern Virginia areas. For the sake of simplicity, the nonattainment areas indicated above will be referred to throughout the remainder of this notice as follows:

1. Southwest Virginia-Eastern Tennessee Interstate AQCR: referred to as "Smyth County."
2. Valley of Virginia Intrastate AQCR: referred to as "Roanoke Area."
3. Northeastern Virginia Interstate AQCR: referred to as "Stafford County."
4. State Capital Intrastate AQCR: referred to as "Richmond Area."
5. Hampton Roads Intrastate AQCR: referred to as "Peninsula Area" (Hampton and Newport News cities) and "Southeastern Virginia Area" (Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach cities).
6. National Capital Interstate AQCR: referred to as "Northern Virginia."

Section 174 of the Act requires that certain portions of the SIP for carbon monoxide and ozone be prepared by an organization of local elected officials. The Governor of Virginia designated local planning groups as the agencies responsible for developing the transportation components of the Virginia SIP for their area. The designated Section 174 agencies were generally responsible for development of transportation control measures, which were coordinated with the transportation planning process. The Commonwealth was responsible for technical support to designated agencies as well as for Inspection/Maintenance (I/M) programs, stationary source control, new source review, and any other programs encompassing areas beyond the authority of local governments.

Based on the January 12, 1979 SIP submittal, the Commonwealth does not anticipate achieving the .08 ppm standard by the end of 1982 for any of the nonattainment area; accordingly, the Commonwealth requested an extension of the deadline for achieving this standard until the end of 1987. Since EPA revised the ozone standard to .12 ppm on February 8, 1979, 44 FR 8202, the Commonwealth's submittal was evaluated by EPA to determine if the new standard can be achieved by 1982. The results of this evaluation indicate that Richmond and Northern Virginia are the only areas which will not attain the ozone standard by 1982. Further details are presented below in the section entitled Deficiencies and Remedies.

The Commonwealth of Virginia held public hearings on October 10, 1978 and December 18, 1978 in accordance with the public notice and all other requirements of 40 CFR 51.4. Subsequent to these hearings the regulations were formally adopted. EPA proposed the Virginia nonattainment plan revision in the **Federal Register** on July 30, 1979, 44 FR 44564, and solicited public comments on the plan. The comments received and EPA's response are summarized below in the section entitled Public Comments on Proposal.

The following summarizes Virginia's major submittals in response to the notice of proposed rulemaking and additional submittals regarding attainment of the ozone standard:

July 11, 1979: Senator Howard Anderson, Chairman of the Virginia Air Pollution Study Commission, submitted a schedule for submission of proposed I/M legislation to the Governor.

August 28, 1979: Virginia submitted comments on the notice of proposed rulemaking including a discussion of how Virginia intended to deal with each of the deficiencies cited in the notice. This submittal also contained an official request to redesignate Smyth County to attainment based on the new ozone standard.

September 7 and September 24, 1979: Virginia submitted SIP revisions that included, among other things, corrections to some of the deficiencies noted in the notice of proposed rulemaking.

October 15, 1979: Virginia submitted a draft of a revised control strategy demonstration for the Richmond area.

December 18, 1979: Virginia submitted a SIP revision that was designed to show attainment of the .12 ppm statistical ozone standard. This submittal included, among other things, corrections to some of the deficiencies noted in the notice of proposed rulemaking. It also contained regulations implementing the "Round II CTGs" which are discussed in Section III below.

April 8, 1980: Virginia submitted I/M legislation to EPA. Specific requirements for an approvable SIP are discussed in the General Preamble published on April 4, 1979, 44 FR 20372, and in the following Supplements:

July 2, 1979, 44 FR 38583
August 28, 1979, 44 FR 50371
September 17, 1979, 44 FR 53761
November 23, 1979, 44 FR 67182

The following list summarizes the basic requirements for nonattainment area plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

2. A provision for expeditious attainment of the standards.

3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.

1987 may be granted. In such cases

charged with implementing the program

date may be as late as December 31

4. An accurate inventory of existing emissions.

5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.

6. An identification of emissions growth.

7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.

8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.

9. Inspection and Maintenance (I/M) if necessary, as expeditiously as practicable.

10. Necessary transportation control measures, as expeditiously as practicable.

11. Enforceability of the regulations.

12. An identification of and commitment to the resources necessary to carry out the plan.

13. State commitments to comply with schedules.

14. Evidence of public, local government, and State involvement and consultation.

A discussion of the conditional approval of certain elements in Virginia's plan and its practical effect appears in Supplements to the General Preamble, 44 FR 38583, July 2, 1979, and in 44 FR 61782, November 23, 1979. The conditional approval requires the State to submit additional materials by the deadlines proposed elsewhere in today's **Federal Register**. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met and withdraw the conditional approval and disapprove the plan. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on construction will be imposed.

3. If the State fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect. Moreover, if a State has failed to submit the required data to meet any condition contained in this Notice, EPA will at that time consider whether the funding restrictions contained in Sections 176(a) and 316 are also appropriate. (See 44 FR 33473, June 11, 1979.)

Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed.

It is important to note that EPA is taking final action today only on the January 12, 1979 submittal and on those elements of the September 7, September 24, and December 18, 1979 SIP submittals that satisfy conditional approval items. Rulemaking on the balance of the September 7, September 24 and December 18 SIP submittals will take place in the near future.

The 1978 edition of 40 CFR Part 52 lists in the subpart for Virginia the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines, those deadlines are substituted on Virginia's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 of the Act.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan.
>
> This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec. H11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.*

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of non-complying vehicles must be prohibited. This can best be accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system may be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that State Implementation Plans for States which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to

* *See* General Preamble for Proposed Rulemaking, 44 FR 20373–74 (April 4, 1979).

1987 may be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking, 44 FR 20372 (1979). Though the July 17, 1978 guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

Legal Authority. States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172 (b)(10).)

Commitment. The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)

Resources. The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)

Schedule. A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172 (b)(11)(B).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

Program Effectiveness. As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction of carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision-making to an appropriate regulatory body. For example, a State Department of Environmental Protection or Department of Transportation may be charged with implementing the program, selecting the type of test procedure, as well as the type of program to be used, and adopting all necessary rules and regulations. I/M authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation. As discussed later in this Notice, Virginia has met the requirements for obtaining a one-year legislative extension for I/M.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plans." (Section 172(b)(10).) Under Section 172 (b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirements for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expeditiously as practicable." (Section 172(b)(2)). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs of New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not previously undergone I/M. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts that reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

II. Background

As a result of the nonattainment designations described in the Introduction section of this Notice, and in accordance with the requirements of Part D of the Clean Air Act, as amended, Maurice B. Rowe, Secretary of Commerce and Resources acting on behalf of Governor John N. Dalton, submitted a revised SIP for each nonattainment area on January 12, 1979. The nonattainment plan revisions submitted by the Commonwealth of Virginia are summarized below. The submittals did not vary for each nonattainment area except as noted.

A. Stationary Source Control Measures

Virginia's nonattainment plan revision contains provisions for controlling volatile organic compound (VOC) emissions from stationary and mobile sources. For oxidant nonattainment areas, EPA requires the adoption of reasonably available control technology (RACT) for eleven (11) VOC source categories. The Virginia SIP regulates sources in all 11 categories: solvent metal cleaning; tank-truck gasoline loading terminals; cutback asphalt; bulk gasoline plants; gasoline service stations—Stage I controls; storage of petroleum liquids in fixed-roof tanks; surface coating for insulation of magnet wire; surface coating of cans, coils, paper, fabrics, automobiles, and light-duty trucks; petroleum refinery sources; and surface coating of metal furniture.

B. Preconstruction Review

The Commonwealth of Virginia included regulations in its nonattainment plan revision providing, among other things, for the issuance of permits to new stationary sources. These regulations were submitted to satisfy the requirements of Sections 172(b)(6) and 173 of the Act regarding

Chapter 3 of the Northern Virginia plan

new major stationary sources to be constructed in nonattainment areas.

C. Transportation Control Measures

Virginia's submittal included a chapter on Transportation Source Measures (TCMs) for each nonattainment area except Smyth County, Roanoke, and Stafford County. TCMs are not required for these ozone nonattainment areas because their population is less than 200,000. This portion of the plan describes ongoing transportation source measures and measures that have been committed to future study and implementation.

In reviewing the Transportation Control Measures portion of Virginia's nonattainment plan revision, EPA solicited comments from the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT).

EPA has evaluated these comments along with others before taking final action on the SIP. Also, HUD and DOT have been given an opportunity to comment on this final rule. EPA and DOT's meetings with Section 174 agencies on the transportation control measures portion of the Virginia submittal resulted in their submitting supplemental information. EPA evaluated this supplemental information for adequacy in relation to the approval status of the various Virginia plans and has reflected the results of this analysis in the formulation of this final rule.

D. Inspection/Maintenance

Virginia's January 12, 1979 submittal included a tentative schedule in Chapter 9 of the plans for the four major urbanized areas for the implementation of I/M for both the contractor and private-garage approaches. This schedule is based on anticipated 1980 legislative authority for the program. On March 9, 1979, the Governor submitted a letter to EPA requesting reconsideration of EPA's January 3, 1979 denial of a one-year legislative extension and enclosed as an attachment Senate Joint Resolution #118 which continues the Air Pollution Study Commission until December 1, 1979, when it is to provide its report and recommended legislation to the Governor and to the General Assembly. On July 11, 1979 State Senator Howard Anderson, Chairman of the Virginia Air Pollution Study Commission, submitted a schedule for submission of proposed I/M legislation to the Governor. The proposed legislation was submitted to the Governor on December 7, 1979, and was introduced to the Virginia Legislature on January 15, 1980. The Virginia Legislature passed an I/M bill in March 1980, and it was submitted to EPA on April 8, 1980.

III. Deficiencies and Remedies

This section contains a discussion of the status of deficiencies identified by EPA in the proposed rulemaking in the July 30, 1979 **Federal Register** and during the public comment period. Where conditional approvals are appropriate, schedules for correction of deficiencies are presented. These schedules are proposed elsewhere in today's **Federal Register** for public comment. The deficiencies are summarized for each pollutant following the same format as the proposed rulemaking. Any SIP elements not addressed contained no deficiencies and are being approved in today's Notice. Where a deficiency had been clearly identified in EPA's proposed rulemaking, and where a later submittal clearly remedied that deficiency, EPA is taking final action on the portion of the later submittal that remedies the deficiency.

In the following sections of this Notice there are several references to the terms "design value," "rollback," and "CTG." To avoid confusion or misunderstanding, these terms are defined below.

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the percent reduction in pollutant emissions needed for attainment of a national ambient air quality standard.

CTG—this refers to the Control Techniques Guideline documents published by EPA, establishing guidelines for determining reasonably available control technology (RACT) for different categories of volatile organic compound (VOC) sources. "Round I" refers to CTGs published prior to January, 1978, and "Round II" refers to CTGs published between January 1978 and January 1979.

A. Ozone

1. *Attainment Date.* Based on the January 12, 1979 SIP submittal, the Commonwealth does not anticipate achieving the .08 ppm standard by the end of 1982 for any of the designated nonattainment areas. The Commonwealth requested an extension of the deadline for achieving this standard until the end of 1987. In the proposed rulemaking, EPA stated that an extension may be approved provided Virginia demonstrates that attainment by 1982 is impossible, despite the implementation of RACT for stationary source categories of volatile organic compounds (VOC's) and the implementation of transportation control measures, including inspection and maintenance (I/M) in those major urbanized areas where the population exceeds 200,000.

EPA has evaluated the Virginia SIP to determine if the current ozone standard of .12 ppm can be achieved by 1982. This would then be the determining factor in granting an extension. Based on this analysis, the Northern Virginia and Richmond nonattainment areas will not be able to attain the .12 ppm ozone standard by the end of 1982. EPA is therefore approving the ozone plan with an attainment date for Northern Virginia and Richmond of December 31, 1987.

Based on EPA's analysis, the remaining nonattainment areas will show 1982 attainment of the .12 ppm ozone standard. Therefore, Virginia's request for extensions in these areas is no longer necessary. The attainment date for the Roanoke area, Stafford County, Peninsula, and Southeastern Virginia will be December 31, 1982.

Persons interested in a more complete discussion of EPA's analysis are encouraged to consult the Rationale Document prepared by EPA, Region III for this rulemaking action which is available for public inspection at the locations identified in the Addresses section of this notice. It should be noted that Virginia's submittal of December 18, 1979 for attainment of the .12 ppm ozone standard included an extension request only for the Richmond and Northern Virginia areas. Thus the results of EPA's analysis are consistent with Virginia's most recent request.

2. *Control Strategy and Demonstration of Attainment.* The Commonwealth's submittal was developed on the basis of the former .08 ppm oxidant standard. Virginia submitted a request for a SIP revision based on the new .12 ppm ozone standard on December 18, 1979, which will be acted on at a later date.

In the proposed rulemaking, EPA requested that the Commonwealth select an ozone design value for Northern Virginia that is compatible with the design value adopted by the District of Columbia and State of Maryland in their portions of the National Capital Interstate AQCR. Virginia has agreed to use a common design value for this area. The new SIP revision based on the .12 ppm ozone standard reflects this change. Therefore, EPA approves the demonstration element of the Northern Virginia portion of the Virginia ozone SIP, and also approves the design value used in Chapter 3 of the Northern Virginia plan submitted on December 18, 1979.

3. *Emission Inventory.* In the proposed rulemaking, EPA noted that source-specific operating data, actual calculations, and methods of estimation used in developing the inventory were not included in Virginia's SIP. Although this source-specific information has not been submitted, EPA believes that the emissions inventory satisfies the minimum requirements set forth in EPA guidance on the development of emissions inventories and is therefore approved. However, EPA will require Virginia to include source-specific data and emission reductions achieved as part of the Commonwealth's RFP tracking reports. These reports must be submitted to EPA at least on an annual basis.

4. *Reasonable Further Progress.* In the notice of proposed rulemaking, EPA stated that the reasonable further progress (RFP) requirement was met with respect to the volatile organic compound (VOC) demonstration but not met for the transportation control measures (TCM) portion of the SIP. Following its further review of the Virginia SIP, EPA concludes that the RFP requirement for TCM has in fact been met. This conclusion is based on the commitment made by the Virginia Department of Highways and Transportation (VDH&T) to show "RFP" as future transportation source measures are developed (See p. 10.2 of the Northern Virginia plan). Therefore the RFP portion of the SIP is approved.

In response to comments received during the public comment period, EPA wishes to make the following statements regarding RFP:

a. The "objective" line in Virginia's RFP demonstration is interpreted by EPA as the RFP line, although not explicitly identified as such.

b. The definition of RFP is deficient; however, the deficiency is treated below in the "enforceability" section of this Notice.

5. *Margin for Growth.* EPA noted in the proposal that a tracking system for emissions growth was not included in the SIP. Virginia has agreed to submit a growth tracking system by September 30, 1980. This tracking system combined with the Commonwealth's preconstruction review program will adequately track growth in Virginia. Therefore, EPA approves this SIP element conditioned on the formal submittal of the growth tracking system by September 30, 1980. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of this schedule.

6. *Preconstruction Review.* Virginia's submittal included Section 2.33 of the Virginia regulations which was intended to satisfy the preconstruction review requirements of Sections 172(b)(6) and 172(b)(11)(A) of the Clean Air Act. EPA stated in the proposed rulemaking that Virginia's submittal satisfied these requirements. During the public comment period a commenter pointed out that Virginia's provisions for preconstruction review were deficient in a number of areas. Each of the issues raised and EPA's response to each are presented below in the Public Comments section. One of the comments expresses concerns that deal with the definition of "reasonable further progress" (RFP) and are addressed in the "enforceability" section below (number 10).

In response to another of the comments, EPA wishes to express its interpretation of the enforceability of offset requirements. Any source required to reduce emmissions in order to provide an offset will be required to meet the lower emission rate as a legally binding permit condition or revised emission limitation. Furthermore, any revised permit/emission limitation for a third party offset must be submitted to EPA as a SIP revision in order to become enforceable under Federal law. The effect of this will be to have an enforceable emission limitation for both the new source and any existing source(s) from which offsets were obtained. That this is, in fact, the way in which the offset provision will work has been confirmed by discussions with VSAPCB staff and by letter dated April 15, 1980. Approval of the new source review element of the SIP is based on this interpretation of the offset regulation and any deviation from this interpretation (as, for example, a case where an offset obtained from a third party is not directly enforceable against that third party) will not be acceptable.

Subject to this interpretation, the preconstruction review program as expressed in Section 2.33 of Virginia's regulations remains acceptable insofar as meeting the requirements of Sections 172(b)(6) and 172(b)(11)(A) of the Act.

Section 2.33 has undergone numerous revisions for which EPA has published proposed rulemaking but has not taken final action. Outlined below is a description of the different parts of Section 2.33 and the action that EPA is now taking on them. This description should clarify the status of Section 2.33 in relation to EPA approval. The only public comment received by EPA about Section 2.33 was that addressed above and in the Public Comments section below.

1. Sections 2.33(a) and (f)—The Commonwealth submitted administrative changes including a new numbering system on August 14, 1975. There were also several changes submitted on October 20, 1976, September 20, 1978, and January 12, 1979. These changes were published as Proposed Rulemaking (PRM) in the **Federal Register** on November 19, 1975, 40 FR 53595, March 28, 1977, 42 FR 16446, May 21, 1980, 45 FR 34018, and July 30, 1979, 44 FR 44564 respectively.

EPA is approving Sections 2.33(a) and 2.33(f) as they appear in the January 12, 1979 submittal except for 2.33(f)(3), which as noted below in Section III. 10(f) of this Notice, is being approved as it appears in the September 24, 1979 submittal.

2. Section 2.33(b), (i), and (j)—revisions were submitted on August 14, 1975 and subsequently proposed in the **Federal Register**, 40 FR 53595 (1975). § 2.33(b) and (i) are being approved in today's Notice. However, § 2.33(j) as submitted on August 14, 1975 relates to an indirect source, Parking Management Supply Alternative, and the Commonwealth requested by letter dated December 1, 1978 that consideration of this Section as a SIP revision be withdrawn. This has been done and is addressed the Proposed Rulemaking published on May 21, 1980 at 45 FR 34018.

3. Sections 2.33(c) and (g)—again, numerous revisions have been submitted since August 14, 1975 and were published as proposed rulemaking in the **Federal Register** on the dates noted in paragraph 1. The final revision to Section 2.33(c) occurred in the January 12, 1979 submittal. EPA is approving Section 2.33(c) as written and submitted at that time. As noted elsewhere in today's Notice, Section 2.33(g)(1) as amended on September 7, 1979, is approved (see Section III.10(d) below). Section 2.33(g)(2) relates to Indirect Sources and as noted in the May 21, 1980 **Federal Register** 45 FR 34018, this subsection is not considered part of the Virginia SIP.

4. Sections 2.33(d) and (e)—revisions were submitted on August 14, 1975, proposed at 40 FR 53595, and January 12, 1979, proposed at 44 FR 44564. EPA is approving these sections as submitted on January 12, 1979.

5. Section 2.33(h)—revisions were submitted on August 14, 1975 and August 31, 1977 and proposed in the **Federal Register** on November 19, 1975, 40 FR 53595, and June 8, 1978, 43 FR 24858. No further revisions have been submitted and EPA is taking final action

to approve this section as it reads in August 31, 1977 submittal.

6. Section 2.33(k)—this section as submitted on August 14, 1975 was withdrawn by letter dated December 1, 1978, 45 FR 34018. A new Section 2.33(k) was submitted on January 12, 1979, 44 FR 44564, and is being approved in this Notice.

7. Section 2.33(l)—relates to Indirect Sources and is not considered a part of the Virginia SIP.

Also, at this time EPA would like to clarify a point in the **Federal Register** published on May 21, 1980, 45 FR 34018, 34019. It is not only Section 2.33(a)(1)(ii) of the September 20, 1978 submittal which is withdrawn from consideration as a SIP revision, but also the parenthetical reference contained in Section 2.33(a)(1)(i) is deleted.

The above information provides a comprehensive analysis of each subsection of Section 2.33 which is approved as a part of the Virginia SIP.

7. *RACT as Expeditiously as Practicable.* In the July 30, 1979 proposed rulemaking, EPA outlined six sections of Virginia's VOC regulations which were not considered to reflect the implementation of RACT. EPA also noted that another section of Virginia's VOC regulations, although legally acceptable, could encourage the use of certain degreasing compounds which may be potentially harmful.

Virginia has corrected some of the RACT deficiencies and has agreed to correct the remaining ones as described in detail below. The schedule to correct the remaining deficiencies is presented here:

(1) Not later than September 30, 1980 Virginia will submit draft revised regulations remedying the remaining deficiencies noted below, or will submit adequate documentation to justify the proposed regulations as RACT. A draft revised regulation or an adequate justification must be submitted for each source category identified below as still being deficient. If a justification is submitted in lieu of a draft revised regulation, the second increment due November 30, 1980 will no longer be applicable.

(2) Not later than November 30, 1980 Virginia will submit final regulations, where applicable, correcting the noted RACT deficiencies.

The RACT deficiencies that must be corrected according to the above schedule are given in (a) through (d) below:

(a) The emission limitation on automobile and light duty truck coating in Section 4.55(e)(2) for topcoat application is not considered RACT.

(b) Section 4.56(d)(3)(ii) provides an exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month. This exempts sources from regulation that should be covered under RACT. EPA policy require RACT on only those sources which have the potential to emit greater than 100 tons per year (major sources) of volatile organic compounds in those areas where the attainment date for the ozone NAAQS is December 31, 1982. In areas where the attainent date is later than December 31, 1982, RACT is required for all sources unless a specific justification is provided. Since gasoline service stations with a throughput of less than 20,000 gallons per month are not major sources, the exemption contained in Section 4.56(d)(3)(ii) is acceptable for all areas except Richmond and Northern Virginia. These sources in Northern Virginia are covered by regulations promulgated by EPA (40 CFR 52.2438). While this coverage eliminates the noted deficiency for Northern Virginia, EPA encourages Virginia to bring its regulations in line with EPA RACT requirements for the sake of eliminating the confusion that may result from different size sources being covered by different regulations in Northern Virginia. Furthermore, it should be noted that EPA may in the future require States to submit a SIP revision adopting the Federal regulations where applicable. Section 4.56(d)(3)(ii) is therefore deficient only as it applies to the Richmond area.

(c) Section 4.54(a)(4)(i) provides a general exemption for sources of VOC emissions. This exemption allows a large portion of the sources in the solvent metal cleaning industry to go uncontrolled. There are a large number of small metal cleaning operations and control of these sources is considered RACT. Because of the policy regarding major sources outlined above (see (b)), and because the exemption does not affect any major sources, this deficiency only applies for the Richmond and Northern Virginia areas where the request for an extension until December 31, 1987 is still necessary. The exemption, furthermore, is a deficiency only as it applies to Section 4.54(c) dealing with Solvent Metal Cleaning.

(d) In the proposed rulemaking, EPA noted three deficiencies with Section 4.57(b), Virginia's regulations controlling cutback asphalt paving. The first deficiency, allowing temperature exemption instead of a seasonal exemption, has been remedied as described below. The final two deficiencies with Section 4.57(b) have not been remedied. They are as follows:

(i) Allowing up to 15 percent solvent in emulsified asphalt is not considered RACT.

(ii) Allowing the use of cutback asphalt as a tack coat is not considered RACT.

Virginia has agreed to remedy these RACT deficiencies; therefore, EPA conditionally approves the RACT portion of the Virginia SIP based on Virginia's meeting the above schedule for resolution of all of the RACT deficiencies. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on this conditional approval and the acceptability of the schedule.

Three other regulations were also cited in the notice of proposed rulemaking as not representing RACT. In the September 24, 1979 submittal, Virginia corrected the deficiencies as noted in (e), (f) and (g) below:

(e) The temperature exemption contained in Section 4.57(b)(2)(ii) was replaced by a seasonal exemption. This is acceptable to EPA.

(f) The emission limitati n for end sealing compound coating of cans (Section 4.55(f)(4)(i)) was changed from 4.2 lbs. of VOC to 3.7 lbs. of VOC per gallon of coating, excluding water. EPA believes that this represents RACT for this type of operation.

(g) In the January 12, 1979 SIP submittal, only a 50 percent efficient vapor control system for bulk plants with a throughput greater than or equal to 4,000 gallons per day was required by Section 4.56(e), Virginia's Gasoline Bulk Loading—Bulk Plant regulations. This emission limit was not considered RACT. Virginia has remedied this deficiency, in the SIP revision of September 24, 1979 by including a provision requiring 77 percent overall plant control instead of 50 percent control. This will result in the installation of the same type of control technology as recommended in the CTG for bulk plants, and the overall control efficiency corresponds to the efficiency contained in the CTG.

EPA therefore approves sections 4.57(b)(2)(ii), 4.55(f)(4)(i), and 4.56(e) of Virginia's September 24, 1979 submittal which remedy noted deficiencies in the nonattainment plan. Rulemaking on the balance of the September 24, 1979 submittal will take place in the near future.

Virginia's SIP exempts methyl chloroform (1,1,1, trichloroethane) and methylene chloride from its definition of "nonmethane." On May 16, 1980, EPA published a clarification of agency policy concerning the control of methyl chloroform and methylene chloride in ozone SIPs. (45 FR 32424). EPA explained that it cannot approve or enforce controls on either of these two compounds as part of a federally-enforceable ozone SIP because current

information indicates that neither compound is an ozone precursor. Consequently, EPA is not disapproving Virginia's exemption of methyl chloroform and methylene chloride from the definition of "non-methane."

This policy is in no way an expression of EPA's view on the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in Section 116 of the Clean Air Act. In addition, state officials and sources should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds. (See, *e.g.* Proposed New Source Performance Standards for Organic Solvent Cleaners, 45 F.R. 39766, June 11, 1980.)

8. *Inspection/Maintenance.* In the Governor's designation letter for Section 174 agencies dated March 27, 1978, he delegated the responsibility to develop I/M legislation to the State Air Pollution Study Commission created by Joint Resolution #37 of the 1978 General Assembly of Virginia. The Commission conducted numerous meetings and public hearings in the State concerning the development of an I/M program but could not decide whether a contractor or private-garage approach to I/M should be employed.

The Commission's inability to decide on an I/M approach, coupled with the fact that the Virginia Legislature does not make appropriations for capital items during the off-budget years of the biennium budget, further delayed the adoption of necessary I/M programs. The biennium budget for the Commonwealth of Virginia is approved only during the General Assembly's long session, held in even-numbered years. The Governor petitioned EPA on November 8, 1978 citing this fact and the fact that the upcoming 1979 short session would be in an off-budget (odd) year where major revenue intensive measures, such as would be required to implement any type of I/M program, cannot be considered. The Governor thus requested a one-year extension (until June 30, 1980) so that the legislative commitment to I/M can be obtained during the 1980 General Assembly Session. EPA declined the Executive Branch's request for an extension on January 3, 1979, stating that consideration of such a request was premature and that any such request must come from the co-equal Legislature. An extension request could be evaluated only after due consideration by the Legislature, a finding of insufficient opportunity to enact the necessary I/M legislation, and a confirmation of the Legislature's commitment to consider I/M legislation during the next session. When Virginia submitted its SIP revision, it included in Chapter 9 a tentative schedule of the four major urbanized nonattainment plans for the implementation of I/M for both the contractor and private-garage approaches. This schedule, however, is based on anticipated 1980 legislative authority for the program. On March 9, 1979, the Governor submitted a letter to EPA requesting reconsideration of its denial of a one-year legislative extension and enclosed as an attachment Senate Joint Resolution #118 which continues the Air Pollution Study Commission until December 1, 1979, when it was to provide its report and recommended legislation to the Governor and to the General Assembly. In compliance with EPA's requirement for a letter from the Legislature officially requesting the legislative extension, Senator Howard Anderson, Chairman of the Virginia Air Pollution Study Commission submitted on July 11, 1979 a schedule for submission of proposed I/M legislation to the Governor. This proposed legislation was submitted to the Governor on December 7, 1979 and was introduced to the Legislature on January 15, 1980. The Virginia Legislature passed an I/M bill in March, 1980 and the bill was submitted to EPA on April 8, 1980. (As noted below, EPA is not taking action on this I/M legislation in today's Notice.)

EPA believes that the July 11, 1979 submittal, along with Senate Joint Resolution #118, satisfies the three conditions cited in the July 30, 1979 notice of proposed rulemaking for approving a legislative extension request; namely, due consideration by the Legislature, a finding of insufficient opportunity to enact the necessary I/M legislation, and a confirmation of the Legislature's commitment to consider I/M legislation during the next session. Therefore, EPA approves the one-year extension requested by Virginia for adoption of the necessary I/M legislation.

The approval of this extension results in the conditional approval of the I/M portion of the Virginia nonattainment plan revision. To satisfy the condition, Virginia must submit adequate I/M legislation to EPA by July 1, 1980. Virginia has already submitted I/M legislation to EPA; however, an additional submittal is required by July 1, 1980 that must include a schedule for implementation of the program and must provide a clear commitment to implement and enforce the I/M program and to reduce emissions by 25 percent by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads. Because of the requirement for an additional submittal by July 1, 1980, EPA is not taking action in today's Notice on the I/M legislation submitted by Virginia. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of this deadline.

The Commonwealth of Virginia has requested that the boundary of the urbanized area in Northern Virginia be modified to exclude Loudoun County, since this is primarily a rural area which accounts for only 5.0 percent of the light duty vehicle registrations in the Northern Virginia Region. The effect of this modification, if approved, would be to exclude Loudoun County from the requirement to implement an Inspection/Maintenance (I/M) program for motor vehicles. It would not change Loudoun County's designation, under Section 107 of the Clean Air Act, as nonattainment for ozone. EPA is proposing this modification elsewhere in today's **Federal Register**.

9. *Transportation Control Measures*—a. *Reassessment of General Evaluation of Transportation Control Measures.* Presented in this section are major comments and actions that were assessed in the General Evaluation of Transportation Control Measures section of the July 30, 1979 notice of proposed rulemaking (NPRM). The issues discussed that were designated as acceptable are not repeated here.

With the exception of the Northern Virginia area, the U.S. Department of Transportation (DOT) noted a serious discrepancy in the emissions inventory provided for the transportation control plans. Virginia's submittal of January 12, 1979 contains an updated emissions inventory different from the emissions inventory in the transportation control plans. EPA requested Virginia to clarify this issue so that EPA could conduct its final review. Another major comment made by the U.S. DOT was its concern about the relative burden to reduce emissions borne by transportation sources as compared to stationary sources.

In an August 28, 1979 response to the NPRM, Virginia responded in the following manner:

"Transportation Control Measures"—The difference in the emission inventory

identified in Section 108(f) of the Clean

Peninsula Area

the implementation of an inspection and

(COG #11) VPI&SU, City of

contained in the transportation control plans (TCPs) and that submitted by the State is due simply to the passage of time between the 174 agency's approval of their plan and the final submittal by the State of the total plan. The 174 agencies received a copy of the emission inventory in late summer of 1978 for inclusion in their TCP. The TCP was approved by the designated agency and sent to the State to be part of the official public hearing process. However, by the time all of these actions had been completed, the inventory had been further refined and the State used the latest version in their portion of the SIP submittal. The differences in the two versions are not considered great. All 174 agencies were provided with copies of the version submitted on January 12, 1979 so that future uses of the inventory will be consistent from one group to another. U.S. DOT has expressed concern about the relative burden in emissions reductions from transportation sources compared to that for stationary sources. It should be noted that the Virginia Plan does not call for any specific amount if emissions reductions to be required from transportation sources. On the other hand, specific emissions reductions are required from stationary sources as a result of regulations adopted and being adopted by the Board. The difference between the total reductions needed for attainment and those expected from stationary sources is simply a goal to be attained. It is hoped that transportation sources will make as large a contribution toward that goal as can reasonably be attained. The State has dictated neither specific measures nor amounts of reductions required to the 174 agencies.

EPA believes that this response by Virginia adquately addresses the concerns raised in the NPRM; however, the response does raise a question about emission reduction targets for transportation sources. Firm targets for these reductions must be jointly negotiated by the SAPCB and the appropriate Metropolitan Planning Organization (MPO) or Section 174 agency, and submitted to EPA. The lack of firm targets constitutes a SIP deficiency; however, this deficiency will be handled through the Section 175 funding process as it does not represent a failure to meet Part D requirements. Section 175 funding for the appropriate 174 agencies will be conditioned on receiving a firm emission reduction target for transportation sources.

EPA requested further clarification from the Commonwealth on the commitments to implement the identified TCM's and requested public comment on the adequacy of these commitments. Following a reevaluation of the commitments made by each of the 174 agencies. EPA finds them to be acceptable.

EPA considers commitments to use available funds and grants to meet basic transportation needs, described to various degrees in the transportation components of the Virginia submittal, to be adequate at this time. Most notably, endorsements and commitments have come from some transit operating agencies including the Washington Metropolitan Area Transit Authority, the Peninsula Transportation District Commission, and the Tidewater Transportation District Commission.

The Richmond area plan describes the local commitment in terms of current efforts for improving public transportation services. EPA considers these commitments adequate at this time. However, EPA will be issuing additional requirements on basic transportation needs which may necessitate a call for future SIP revisions.

b. *Area Profiles and Evaluation.* As a result of the ozone and carbon monoxide nonattainment designations discussed in the INTRODUCTION section of this Notice, the Governor of Virginia, on March 28, 1978, designated those agencies under Section 174 of the Clean Air Act responsible for the development and implementation of transportation control measures. Under the guidance of the Virginia State Air Pollution Control Board, which is responsible for the overall SIP, as well as for planning, coordination, and general enforcement activities, the designated local agencies developed their portions of the TCP. Detailed area profiles describing the plans were presented in the NPRM and will not be repeated here. Presented here for each of the areas with transportation control requirements is EPA's evaluation of the area's TCP as distinct from the general evaluation presented in subsection a, above.

Richmond Area

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in Richmond based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that even the revised .12 ppm statistical ozone standard will not be met by December 31, 1982 and thus the extension request can be approved until July 1, 1984. Approval of the extension request necessitates a schedule for implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures.

The TCP for Richmond commits the Richmond Section 174 agency to the assessment of transportation measures identified in Section 108(f) of the Clean Air Act and expresses the intention of local governing bodies to pursue decisions for the "representative implementation" of recommended transportation control measures. A program for the analysis of alternative transportation measures for the 1982 SIP submittal is now being conducted through an Urban Air Quality Planning Grant made on January 28, 1980 by the Mass Transportation Administration under Section 175 of the Clean Air Act. Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Richmond area meets the requirements of Part D of the Clean Air Act and therefore approves the Richmond TCP as part of Virginia's SIP.

Southeastern Virginia

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in the independent cities of Suffolk, Portsmouth, Chesapeake, Norfolk, and Virginia Beach based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that the revised .12 ppm statistical ozone standard will be met by December 31, 1982 and therefore the extension request is no longer necessary. This means that a 1982 SIP submittal is not required for the Southeastern Virginia area; however, transportation control measures are still required for Southeastern Virginia inasmuch as they can be considered reasonably available control measures. The TCP for this area commits the Southeastern Virginia Section 174 agency to the reassessment and local application of transportation control measures necessary for attainment, including the reasonably available measures specified in Section 108(f) of the Clean Air Act.

Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Southeastern Virginia area meets the requirements of Part D of the Clean Air Act and therefore approves the Southeastern Virginia TCP as a part of the Virginia SIP. EPA understands that the transportation planning process will continue in Southeastern Virginia in part as a means of assuring implementation of all reasonably available transportation control measures.

Peninsula Area

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in the cities of Hampton and Newport News, based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that the revised .12 ppm statistical standard will be met by December 31, 1982 and therefore the extension request is no longer necessary. This means that a 1982 SIP submittal is not required for the Peninsula area; however, transportation control measures are still required for the Peninsula area inasmuch as they can be considered reasonably available control measures. The TCP for this area commits the Peninsula Section 174 agency to the implementation of a ride-sharing program to further expand the already active ride-sharing concept in the Peninsula area. The plan identified nine transportation projects to which the FY 1979 Transportation Improvement Program is also committed; these also have an air quality impact. These projects include five highway widening and construction projects, three intersection improvements, and a system for synchronized traffic flow.

The plan also commits the Peninsula Section 174 agency to study and adopt additional measures necessary for attainment including those specified in Section 108(f) of the Clean Air Act as well as measures to improve land use management.

Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Peninsula area meets the requirements of Part D of the Clean Air Act and therefore approves the Peninsula area TCP as a part of the Virginia SIP. EPA understands that the transportation planning process will continue in the Peninsula area in part as a means of assuring implementation of all reasonably available transportation control measures.

Northern Virginia

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in Northern Virginia based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that even the revised .12 ppm statistical standard will not be met by December 31, 1982 and thus the extension request can be approved until December 31, 1987. Approval of such an extension necessitates a schedule for the implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures.

In preparing its plan, the Metropolitan Washington Council of Governments recommended 28 transportation measures as appropriate for consideration in the 1979 SIP submittal. These measures were selected from an initial list of 70 measures identified as having potential for reducing transportation-related emissions. COG is conducting an analysis of alternatives which will review all 70 of the measures to be considered for possible inclusion into the State Implementation Plan.

COG presented the 28 measures to the local governing bodies for endorsement and commitment actions for the 1979 plan. Fairfax City was the only jurisdiction that did not respond. A list of the measures that have received endorsement and a degree of commitment for implementation in the COG plan by one or more jurisdictions was published in the NPRM. EPA is expanding the list in this Notice to clarify and include the additional commitments made by the Virginia Department of Highways and Transportation (VDH&T) in Chapter 10 of the Northern Virginia Plan. For further clarification, the numbers of the COG commitments are shown in parenthesis:

(1) Continue Construction of Metrorail (Completion of presently committed 60 miles) (COG #1): Arlington County, City of Alexandria, City of Falls Church.

(2) Eliminate All-Day On-Street Non-Resident Parking Where Appropriate (COG #3): Arlington County, City of Alexandria, City of Falls Church.

(3) Provide Fringe Parking Lots at Selected Locations (COG #4A): VDH&T—Prince William County; VDH&T—Fairfax County.

(4) Build/Designate Exclusive Lanes for High Occupancy Vehicles (Buses, etc.—COG #6): City of Alexandria, VDH&T—Fairfax County; VDH&T—Arlington County.

(5) Reserve Convenient Parking Spaces for Carpools/Vanpools (COG #7): Arlington County.

(6) Building Additional Bicycle Lanes and Bikeways (COG #8): Arlington County, City of Alexandria, Fairfax County, City of Falls Church.

(7) Provide and Improve Regional and Local Ride-Share Activities (COG #9): City of Falls Church.

(8) Freeway Ramp Metering with Preference for High Occupany Vehicles (COG #11): VDH&T—City of Alexandria; VDH&T—Arlington County; VDH&T—Fairfax.

(9) Install Additional Bicycle Storage Facilities (COG #12): City of Falls Church.

(10) Encourage Specialized Bus Service (COG #15): Loudoun County.

(11) Include Metrobus Information With Carpool/Vanpool Information and vice versa (COG #16): City of Falls Church.

(12) Provide Additional Pedestrian Facilities and Eliminate Barriers (COG #19): Arlington County, City of Alexandria, City of Falls Church.

(13) Provide Free or Discounted Transit Rides in Off-Peak Hours (COG #22): Fairfax County.

(14) Improve Signalization in the Region (COG #23): Arlington County, City of Alexandria.

The Extent of these commitments and other actions are detailed in Appendix E of the COG plan.

Identified below are the transportation measures which were either under construction, committed for implementation, or are actively being studied by the Virginia Department of Highways and Transportation.

(1) I–66 is being constructed with provisions for Metrorail in the median between I–495 and Fairfax Drive (COG #1).

(2) Fringe parking lot construction is planned for in (COG #4A): Prince William County: Minnieville, Route 639, Route 1, Lake Ridge; Fairfax County: West Springfield.

(3) Preferential bus and high occupany vehicles lanes are to be constructed on (COG #6): Duke Street from Jordan Street Longview Drive in Alexandria; I–66 in Fairfax and Arlington Counties.

(4) Preferential bus and high occupany vehicle lanes are planned to be completed at: Four Mile Run Bridge on Route 50 in Arlington; Carlyn Springs Road interchange at Route 50 in Arlington.

(5) Planned bike construction projects (COG #8): A bikeway is to be constructed in the Route 1 corridor between the entrance to Fort Belvoir and the north intersection of Route 235 in Fairfax; A bikeway is to be constructed in the Gallows Road corridor from Routes 29/211 to Route 7 in Fairfax.

(6) Freeway ramp metering is to be studied for feasibility on (COG #11): I–395 in Fairfax, Alexandria and Arlington; I–66 from I–495 to Rosslyn in Arlington and Fairfax.

(7) Sidewalks are to be constructed on various projects in the area (COG #19): A pedestrian overpass is to be

constructed over I–66 in Rosslyn in

enforceability of the VOC regulations

conditionally approves the

becoming federally enforceable;

additional RACT requirements for

later than September 30, 1980. The

constructed over I–66 in Rosslyn in Arlington.

(8) A computerized traffic signal system will be studied and implemented in the City of Alexandria and Arlington County (COG #23).

The above should serve to clarify any confusion that may have arisen over SIP commitments in the Northern Virginia area. The scope of projects and actions behind the local government commitments are detailed in Appendix "E Documentation of Air Quality Control Measure Actions" of the COG plan, and Chapter 10 of the plan for Northern Virginia.

Conclusion: Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Northern Virginia area for ozone meets the requirements of Part D of the Clean Air Act and therefore approves the Northern Virginia TCP for ozone as part of Virginia's SIP.

c. *Conformity Commitment Requirement.* A deficiency in the TCM portion of Virginia's SIP common to all four areas is that the plans failed to provide criteria and procedures for determining consistency/conformity of transportation projects, programs and plans with the SIP.

In the absence of specific federal guidance, EPA encourages each designated lead agency and appropriate metropolitan planning organization (MPO) where different from the lead agency, to develop and adopt such criteria and procedures. At a minimum, however, each lead agency (and MPO) in response to Section 176(c) of the Act must affirm its (their) commitment not to approve any project, program, or plan which does not conform to the plan being approved (or conditionally approved) today.

The MPO's and lead agencies in each area have agreed to adopt this commitment, and Virginia has agreed to endorse the commitments; therefore, EPA conditionally approves the transportation SIP element based on the condition that this commitment is to be adopted by each designated lead agency and MPO in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas. The commitments are to be adopted, endorsed by Virginia, and submitted to EPA by September 30, 1980. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of this deadline.

10. *Enforceability.* Numerous deficiencies were noted in the July 30, 1979 **Federal Register** dealing with enforceability of the VOC regulations. Virginia has remedied many of these but a few remain deficient.

One of the deficiencies noted in the proposed rulemaking was Virginia's "bubble" regulation, Section 4.55(b). EPA believes this regulation is not specific nor clear enough to be adequately enforceable. Virginia stated in an August 28, 1979 letter to EPA that its "bubble concept" provision will be redone upon promulgation of final EPA guidelines on the subject. The Commonwealth, however, has chosen to retain section 4.55(b) in the ozone SIP. Therefore, EPA disapproves Virginia's current "bubble" regulation in Section 4.55(b). Since this regulation does not relate to any Part D requirement, this disapproval does not require the disapproval of the nonattainment plan revision. It should be noted that a final EPA policy statement on the "bubble" concept appeared in the **Federal Register** on December 11, 1979, 44 Fed. Reg. 71780.

A comment on the Virginia ozone SIP received by EPA during the public comment period following the notice of proposed rulemaking challenged, on several grounds, Virginia's permit program for major stationary sources located in nonattainment areas, as required by Sections 172(b)(6), 172(b)(11)(A), and 173 of the Clean Air Act. A discussion of each of the issues raised and EPA's response to each of them is contained in the Public Comments section below. One of the comments raised concerns about the definition of reasonable further progress (RFP). EPA agrees with the commenter that the definition is deficient.

Virginia has agreed to remedy the remaining enforceability deficiencies according to the following schedule, which is proposed elsewhere in today's **Federal Register:**

(1) Not later than September 30, 1980, Virginia must submit revised draft regulations that remedy the remaining deficiencies noted below.

(2) Not later than November 30, 1980, Virginia must submit final regulations correcting these deficiencies.

The enforceability deficiencies that must be corrected according to the above schedule are given in (a) and (b) below:

(a) Test methods adequate to determine compliance with the emission limitations contained in Sections 4.54, 4.55, 4.56 and 4.57 must be developed.

(b) The definition of reasonable further progress (RFP) must be changed to require attainment by the applicable date for each nonattainment area.

Virginia has agreed to remedy these deficiencies; therefore, EPA conditionally approves the enforceability portion of the Virginia SIP based on Virginia's meeting the above schedule for all of the enforceability deficiencies. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of the schedule.

The following deficiencies ((c) through (j)) in the enforceability of the Virginia regulations have been corrected by subsequent SIP revisions:

(c) In the proposed SIP revision, Virginia included a provision for repealing Section 4.52 of the VOC regulations. It is contrary to EPA policy to approve the deletion of existing regulations while a source is moving toward compliance with new regulations. Existing regulations are to remain in effect and enforceable. Virginia, in its September 24, 1979 SIP revision, has deleted the provision calling for the repeal of Section 4.52.

(d) Virginia has not supplied an adequate definition of "minor significance" as it relates to the exemption from new source permit requirements contained in Section 2.33(g)(1)(vi). In its September 7, 1979 submittal Virginia replaced the phrase "of minor significance" with the phrase "which have a potential to emit less than one ton per year." This is acceptable.

(e) In the September 24, 1979 SIP revision, Virginia has deleted the wording allowing oral consent agreements. This satisfies the concern raised in the notice of proposed rulemaking.

(f) In Section 2.33(f)(3), Virginia did not require all new sources subject to NSPS to be tested. Virginia remedied this deficiency in its September 24, 1979 SIP revision. As a result of a comment made by an environmental group during the public comment period, EPA wishes to note that it has the authority to require any source to perform an emissions test under Section 114 of the Act, whether or not that source has been granted a waiver under Virginia regulation 2.33(f)(3).

(g) Virginia, in its September 24, 1979 revision, has remedied the wording deficiency concern the clause "will be considered acceptable compliance by the Board."

(h) In the proposed rulemaking EPA noted deficiencies in the definition of "consent order". On September 24, 1979 Virginia submitted a SIP revision which included a definition of "Delayed Compliance Order." While acceptable, EPA notes that any Delay Compliance Order (DCO) issued in accordance with Section 113(d) of the Clean Air Act must be submitted to EPA for approval before becoming federally enforceable; furthermore, all applicable requirements of Section 113(d) must be satisfied before any DCO can be approved.

(i) Categorical compliance schedules were added as a new Appendix N in the September 24, 1979 submittal which are implemented through the provisions of Sections 4.02(f)(1) through 4.02(f)(5). This satisfies the concern raised by EPA in the notice of proposed rulemaking.

(j) A revised definition of "nonattainment areas" was submitted with the September 24, 1979 submittal. This revised definition is acceptable.

EPA therefore approves the following portions of Virginia's later submittals:

September 7, 1979: Section 2.33(g)(1)(vi) of the Regulations.

September 24, 1979: Sections 4.52(a), 2.03(a)(1), 2.33(f)(3), Part I, definitions of "Delayed Compliance Order" and, "Nonattainment Area", 4.02(f)(1) through 4.02(f)(5), Appendix N, and those portions of Sections 4.54, 4.55, and 4.56 where the phrase "will be considered acceptable compliance by the Board" has been modified.

These portions of the later submittals remedy noted deficiencies in the nonattainment plan. Rulemaking on the balance of the September 7 and 24, 1979 submittals will take place in the near future.

In the notice of proposed rulemaking EPA stated that Section 2.33(c)(1)(ii) needs further clarification. Following a more detailed review of the information required for new sources EPA has concluded that this section is adequate. The Virginia State Air Pollution Control Board (VSAPCB) permit forms, that must be completed as part of a permit application, provide ample information to make the required determinations. Also in the notice of proposed rulemaking EPA noted that the definition of "vapor tight" should be expressed in terms of positive pressure as well as negative pressure. While this is still a requirement for Round II CTG's, it will be dealt with in future rulemaking on Virginia's December 18, 1979 submittal and is no longer considered a deficiency of the January 12, 1979 submittal.

11. *State Commitments to Comply With Schedules.* As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as Virginia's, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 ("Round I CTGs") and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations ("Round II CTGs") was revised from January 1, 1980 to July 1, 1980 by a **Federal Register** notice of August 28, 1979, 44 FR 50371. Virginia has already submitted a SIP revision implementing Round II CTGs, on December 18, 1979. Today's approval of the ozone portion of Virginia's plan is contingent on the following: By each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. This requirement is set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

B. Carbon Monoxide

For the carbon monoxide nonattainment areas in Northern Virginia consisting of Arlington County, the City of Alexandria, and portions of Fairfax County, the Commonwealth has indicated that, by using a region-wide analysis of carbon monoxide emissions, the nonattainment areas will be in attainment by 1982. However, EPA requested both by letter dated April 11, 1979 and in the July 30, 1979 NPRM that the Commonwealth reassess this analysis using a localized analysis for carbon monoxide "hot spots". The analysis which had been provided did not include "hot spot" sites together with appropriate transportation control measures at those sites, nor did it agree with the conclusions of the carbon monoxide "hot spot" analysis performed by the Metropolitan Washington Council of Governments.

EPA requested Virginia to clarify the rationale for determining the carbon monoxide design value and to perform an analysis of all "hot spot" sites that conclusively demonstrates the attainment/nonattainment status by 1982. EPA also requested that Virginia construct a line of reasonable further progress (RFP) showing annual incremental reductions for carbon monoxide and submit it with the "hot spot" analysis. Virginia has stated to EPA that this work is being performed by a contractor and has agreed to remedy the noted deficiency. Therefore EPA conditionally approves the carbon monoxide portion of the Virginia nonattainment SIP based on the submittal of a hot spot analysis and RFP line. These items are to be submitted no later than September 30, 1980. The attainment date for carbon monoxide in the nonattainment portions of Northern Virginia is December 31, 1982. If the hot spot analysis shows that the standard cannot be attained by that date, an extension request will be considered when the analysis is submitted. Since an extension until 1987 for attainment of the ozone standard is being approved in this Notice and Virginia has met or is moving towards meeting all requirements for approval of an extension request, EPA believes that it is appropriate to conditionally approve the carbon monoxide portion of the Virginia SIP.

Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of the September 30, 1980 deadline for the submittal of the carbon monoxide hot spot analysis and RFP line.

IV. Public Comments on Proposal

In response to the call for public comments in the July 30, 1979 notice of proposed rulemaking for the Virginia nonattainment plan revision, EPA received comments from an automobile manufacturer, a national environmental group, and two State agencies: The Virginia State Air Pollution Control Board (VSAPCB) and the New Jersey Department of Environmental Protection (NJDEP). In addition, another national environmental group co-authored comments with a local environmental group based in the Norfolk, Virginia area.

In addition to these comments specific to the Virginia nonattainment plan revision, EPA received comments from three organizations who requested that their comments be considered with respect to each State's nonattainment plan revision. EPA's responses to the issues raised by these commenters are incorporated herein by reference to the final rulemaking notice that announced EPA's decision regarding the Delaware nonattainment plan revision, 45 FR 14551 (1979). The responses can be found in the section of the Delaware Notice entitled "PUBLIC COMMENTS ON PROPOSAL, (1) National Comments." Complete responses to all three national comments can be found in the Rationale Document referred to at the end of this section.

Due to the large number of comments received, only a summary of the major issues raised and EPA's response is included here. A complete list of all comments and responses can be found in the Rationale Document referenced below. EPA considered all of the comments in making its final decision on

the Virginia nonattainment plan revision.

Summary of Major Issues and EPA Responses

1. Transportation Control Measures. One commenter claimed that transportation control measures have been rejected in the Northern Virginia Plan. No measures have been rejected in the Northern Virginia Plan. The Washington Council of Governments (COG) is reconsidering all 70 measures in the analysis being performed for the 1982 SIP. While the municipalities and counties of Northern Virginia may have deferred commitments on some of the 28 transportation measures COG recommended for the 1979 SIP, they have not been rejected.

The commenter further claimed that the Northern Virginia plan fails to identify other measures necessary for attainment as required by Section 172(b)(11)(C). EPA has carefully examined the Northern Virginia Plan and has concluded that this requirement has been met by inclusion in Chapter IV of COG's plan of a tentative scope and schedule for alternatives analysis.

The commenter also asserted that the Northern Virginia plan that EPA proposed for final rulemaking does not consider nor even mention the requirements to "establish, expand or improve basic transportation needs (BTN) as expeditiously as practicable" and that such BTN plans shall include requirements to use, insofar as necessary, Federal, local and State grants to meet this requirement.

EPA believes that the Northern Virginia plan meets the BTN requirement by, among other things, the inclusion of commitments to metrorail construction expressed by the Washington Metropolitan Area Transit Authority (WMATA) and by the fact that the Washington, D.C. region has been the first region in the country to withdraw uncompleted portions of programmed Interstate Highway Systems and divert the monies for those systems into mass transit alternatives. Additionaly, alterntives to financing Metrorail in Northern Virginia are being considered by the 1980 session of the Virginia Legislature.

2. Inspection and Maintenance (I/M). Several of the commenters supported EPA's identification of basic deficiencies in the I/M portion of Virginia's nonattainment plan revision. Briefly, the deficiencies consist of a lack of a firm commitment on the part of the Commonwealth to consider I/M legislation, lack of a schedule for I/M implementation and the lack of a commitment to achieve a 25% reduction in emissions by 1987. EPA agrees with the comment and is conditionally approving the nonattainment plan revision based on granting an extension until July 1, 1980 for submittal of I/M legislation. The appropriate commitments must be submitted along with the legislation. As noted, above, Virginia submitted I/M legislation to EPA on April 8, 1980.

3. SIP requirements not contained in Part D. Several commenters noted that Virginia did not include regulations implementing certain Sections of the Clean Air Act that are not contained in Part D of the Act. EPA's position on this issue is that the subject sections will be the subject of a future **Federal Register** notice but that failure to implement them at the present has no bearing on the approvability of a nonattainment plan revision.

4. Reasonable Further Progress. The comment was made that the Northern Virginia plan does not provide for adquate Reasonable Further Progress. The commenter recommended that the "objective" line on page 3.5 of the Northern Virginia plan should be revised and identified as the RFP line.

A linear RFP projection is acceptable provided attainment of the NAAQS is achieved by 1987. Also, EPA agrees that the "objective" line in Virginia's plan is the RFP line.

5. RACT as expeditiously as practicable. One commenter, an automobile manufacturer, contended that Virginia's proposed VOC regulations for its Norfolk, Virginia plant constitute RACT even though they are not as stringest as those recommended by EPA. Material was provided by the Company to support this conclusion.

EPA's position on the relationship of the CTG's to the RACT requirement is spelled out in the **Federal Register** notice of September 17, 1979, 44 FR 53761. To summarize this position, a justification for incorporating a regulation less stringest than the recommended RACT can be approved by EPA on a case-by-case basis. In the present case, EPA's evaluation of the material submitted to date shows that this justification cannot be supported. This has resulted in the conditional approval of the Virginia SIP as noted earlier.

6. Common design value for Northern Virginia. A commenter questioned Virginia's use of 0.185 ppm as a design value for the ozone concentration in Northern Virginia, since the Metropolitan Washington Council of Governments (COG) had determined the appropriate design value for the National Capital AQCR to be 0.225 ppm. COG's value was determined as the highest second-high ozone concentration in the AQCR during the last three years, which was the recommended technique prior to February 8, 1979, when the primary and secondary air quality standards for photochemical oxidants were revised (44 FR 8202). At that time, a statistical method was established for determining the "expected" second highest ozone concentration. Using the statistical approach, the Council of Governments determined the design value to be 0.192 ppm. This value has since been accepted by Virginia as the appropriate design value for Northern Virginia and has been used in the demonstration for Northern Virginia contained in the Commonwealth's December 18, 1979 submittal.

7. New Source Review. One commenter noted that the permitting program contained in the Virginia nonattainment plan revision for major sources proposing to locate in nonattainment areas, as required by Section 172(b)(6) of the Act, is deficient in several areas. A summary of the issues and EPA's response to each is given below.

a. The definition of lowest achievable emission rate (LAER) is inadequate in that the definition does not provide specifically that the application of LAER will not allow a new source to emit any pollutant in excess of the amount allowable under an applicable new source performance standard (NSPS).

While Virginia's definition of LAER does not, as pointed out, contain this specific provision, EPA believes that Virginia's regulations as a whole do not exempt any source from meeting any applicable NSPS, and therefore are consistent with Section 171(3) of the Clean Air Act.

b. The definition of reasonable further progress is inadequate in that no definite dates are established by which progress must be made.

EPA agrees that the applicable attainment dates should be reflected in the definition of reasonable further progress. Virginia has agreed to add a reference to these dates, which has resulted in the conditional approval of the nonattainment plan revision (see discussion on this conditional approval above, Section III.10(b)).

c. The apparently unlimited right to a variance from permit requirements is not consistent with the mandate of Section 173 of the Act.

EPA considers a variance to any applicable SIP requirement as a revision to the SIP, and therefore requires Virginia to submit these variances for review and processing as a SIP revision. This, in turn, requires that a variance be consistent with the Clean Air Act, i.e., that an air quality demonstration must accompany the variance, it can be issued only after public notice and hearing, etc. EPA continues to require that variances be submitted for processing as a SIP revision, and that a variance from any permit condition be treated in the same manner. Thus, the right to a variance is by no means unlimited and its issuance can only be accomplished if it is consistent with the requirements of the Clean Air Act.

d. The Virginia regulations do not require offsets to be legally binding prior to operation of the new source.

EPA's review of the permit requirements for new major stationary sources in nonattainment areas contained in the Virginia SIP indicates that there are provisions for making the offsets legally binding, i.e., any source required to reduce emissions in order to provide an offset will be required to meet the lower emission rate as a legally binding permit condition or revised emission limitation. Furthermore, any revised permit/emission limitation for a third party offset must be submitted to EPA as a SIP revision in order to become enforceable under Federal law. The effect of this will be to have an enforceable emission limitation for both the new source and any existing source(s) from which offsets were obtained. That this is, in fact, the way in which the offset provision will work has been confirmed by discussions with VSAPCB staff and by letter dated April 15, 1980. EPA wishes to emphasize that approval of the new source review element of the SIP is based on this interpretation of the offset regulation and that any deviation from this interpretation (as, for example, a case where an offset obtained from a third party is not directly enforceable against that third party) will not be acceptable.

e. The SIP submission contains no explanation of how Virginia will administer the offset program and no specification of what information must be submitted to support a permit application.

A specific explanation of how a program will be administered, and a detailed explanation of the required information for new sources, are not requirements of the Clean Air Act. Virginia has committed adequate resources to carry out the programs described in the SIP, and EPA has no reason to suspect that any of the programs will be administered improperly. As for information required for new sources, Section 2.33(c) of Virginia's regulations adequately addresses this question. In particular, Section 2.33(c)(1)(i) requires that applicable permit forms be filled out. It has been EPA's experience that the forms used by Virginia provide ample information to make the required determinations.

f. The scope of the required review and analysis in Regulation 2.33(k) is far more limited than required by Sections 173 and 172(b)(11) of the Act.

Section 2.33(k) of Virginia's regulation is not intended to meet the requirements for new source review contained in the above-referenced sections of the Act. EPA refers the commenter to Section 2.33(d)(6) of Virginia's regulations which deal with the permit requirements for major stationary sources locating in nonattainment areas.

g. The possible waiver of the testing requirement in Section 2.33(f)(3) for new sources should not be allowed.

In the July 30, 1979 notice of proposed rulemaking, EPA indicated that this possible waiver must be eliminated for sources that are subject to new source performance standards (NSPS). Virginia's September 24, 1979 submittal eliminated the exemption for sources subject to NSPS, which resulted in the conditional approval of this SIP element as noted above. Since granting this waiver would not change any emission limitation that a new source is required to meet, EPA believes that it is not necessary to require the elimination of the waiver provision for sources not covered by NSPS. However, EPA also believes that for most new sources an emissions test is desirable. As a result of the comment, therefore, EPA wishes to make the comment that it has the authority to require any source to perform an emissions test under Section 114 of the Act, whether or not that source has been granted a waiver under Virginia's regulation 2.33(f)(3). The source is still obligated to meet the established emission rate.

h. Oral consent agreements should not be allowed. Virginia has eliminated the reference to oral consent agreements in its September 24, 1979 submittal which has resulted in the conditional approval of the nonattainment plan revision (see the discussion on this conditional approval above, Section III. 10(e)).

8. Commonwealth of Virginia Comments. On August 28, 1979, Virginia submitted extensive comments on EPA's July 30, 1979 notice of proposed rulemaking. Most of the comments dealt with Virginia's response to the deficiencies noted by EPA, and thus responses to most of the comments can be found in the Deficiencies and Remedies section of this Notice. Two issues raised by Virginia are not treated in that section and are thus presented below.

a. Virginia challenged EPA's authority to issue conditional approvals and requested that the Commonwealth be provided with a clear definition of this authority; furthermore, Virginia requested full approval of the Virginia nonattainment plan revision.

EPA's position on conditional approval is explained in **Federal Register** publications dated July 2, 1979, 44 FR 38583, and November 23, 1979, 44 FR 67182. In brief, EPA believes that where a SIP substantially complies with the requirements of Section 172(b), EPA has inherent authority under Section 110(a)(2) and Section 110(a)(3) to approve a SIP on the condition that the State corrects the remaining relatively minor deficiencies in a short period of time. The only available alternative would be to disapprove the SIP and thus invoke the construction moratorium. The construction moratorium was designed by Congress to protect air quality when the State lacks a plan that adequately assures attainment and maintenance of ambient standards. That purpose would not be served when the State plan substantially assures attainment and when remaining deficiencies will be promptly corrected. On the other hand, EPA must assure that all requirements of the Clean Air Act are met. EPA therefore interprets the Act to permit a conditional approval under these circumstances.

In addition, conditional approval is consistent with Section 110(c)(1)(C). That subsection requires the Administrator to promulgate regulations for a State if "the State fails, within 60 days after notification by the Administrator or such later period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H)." When the Administrator grants conditional approval, he is essentially notifying the State that further revisions are required to make the plan or regulations fully approvable. If the State fails to satisfy the Administrator's conditions, the Administrator will disapprove the plan or regulations and may then promulgate regulations to correct the deficiency. The State is simply offered the option of correcting the inadequacies itself.

Because the Virginia SIP still contains certain deficiencies, EPA cannot fully approve the SIP at this time.

b. Virginia objected to EPA's incorporation by reference in the July 30, 1979 proposal of an April 4, 1979 **Federal Register** notice entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas." Virginia claims that this material did not meet the requirements of the Administrative

Procedures Act, was not the subject of public hearings in Virginia, and could be construed as "piggybacking" on the Virginia SIP since the material was published three months after Virginia submitted its plan.

EPA believes that Virginia's objections are not supportable. The General Preamble contains a complete description of the general criteria EPA uses to decide whether a SIP meets the requirements of Part D. Notice and comment on these criteria is not necessary because the criteria merely are proposals—interested persons were specifically invited to comment on the validity of the criteria and on the application of those criteria to each SIP in the context of each EPA approval/disapproval rulemaking. Hearings in Virginia also were not necessary, since the hearing requirement of Section 110(a)(2) refers to hearings on the *State* plan, not the federal criteria. Finally, EPA did not intend to "piggyback" the General Preamble on the Virginia SIP; EPA merely announced its criteria so that the public, and Virginia, could comment on them. In this context, it should be noted that many of these criteria were previously published on May 19, 1978, 43 FR 21073.

9. Comments from the State of New Jersey. The Department of Environmental Protection of the State of New Jersey (NJDEP) made a number of comments on Virginia's ozone SIP. In summary, the major issues raised deal with transport (that the influx of ozone precursors from attainment and unclassifiable areas significantly affects New Jersey and therefore control measures should be applied statewide and not just in nonattainment areas); unclassifiable areas (rural areas in Virginia have improperly been designated as unclassifiable); and equity (lax nonattainment designations in Virginia and other States place an undue burden on New Jersey).

The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassified, and Nonattainment Areas for Ozone" January 1979. Availability of this document was announced in the February 1, 1979 Federal Register (44 FR 6395). This document and the Administrator's response to New Jersey's comments are incorporated herein by reference. Since Virginia has applied RACT to the CTG sources in the urban nonattainment areas and certified that there are no 100 ton sources to which the CTG's apply in the rural nonattainment areas, Virginia has satisfied the Part D requirements for the ozone SIP and there is no basis for disapproval.

EPA encourages anyone interested in a more complete and thorough discussion of the public comments and EPA's responses to consult the Rationale Document prepared by the Agency for the conditional approval of the Virginia nonattainment plan revision which is available for public inspection at the locations identified in the Addresses section of this notice. The Rationale Document contains a complete discussion of the comments received and EPA's response to them.

V. EPA Actions

In accordance with the procedures described in the "Introduction" Section of this Notice, EPA conditionally approves the nonattainment SIP revision submitted by Virginia for the Roanoke, Stafford County, Richmond, Peninsula, Southeastern Virginia and Northern Virginia nonattainment areas. Those portions of the plan upon which no conditions have been placed are granted final approval and are effective immediately.

The State has committed to satisfying all of the required conditions by the dates outlined below, which are proposed elsewhere in today's Federal Register. The Virginia nonattainment plan revision may be considered for full approval if the following actions are taken by the dates specified. It should be noted that the actions are required for *each* nonattainment area unless specifically noted otherwise.

A. Virginia's Submissions Remedying Noted Deficiencies

As described above in the Deficiencies and Remedies section, Virginia submitted plan revisions on September 7, September 24, and December 18, 1979 intended, among other things, to remedy a number of deficiencies noted in EPA's July 30, 1979 notice of proposed rulemaking.

Those portions of the later submittals that remedy noted deficiencies are hereby approved, and are listed below:

1. September 7, 1979 SIP submittal:
(a) Section 2.33(g)(1)(vi) of the regulations, the exemption of sources with a potential to emit less than one ton per year.

2. September 24, 1979 SIP submittal:
(a) Section 4.57(b)(2)(ii) of the regulations, relating to an exemption from the cutback asphalt requirement.
(b) Section 4.55(f)(4)(i) of the regulations, relating to the emission limitation for end sealing compound coating of cans.
(c) Section 4.56(e) of the regulations, relating to bulk plant vapor control requirements.
(d) Section 4.52(a) of the regulations, deleting the provision for repeal of Section 4.52.
(e) Section 2.03(a)(1) of the regulations, deletion of the wording allowing oral consent agreements.
(f) Section 2.33(f)(3) of the regulations, deleting the source testing waiver for sources subject to NSPS.
(g) Modification of the phrase "will be considered acceptable compliance by the Board" as it appears in Sections 4.54, 4.55 and 4.56 of the regulations.
(h) Part I of the regulations, the definition of "Delayed Compliance Order".
(i) Sections 4.02(f)(1) through 4.02(f)(5) and Appendix N of the regulations, categorical compliance schedules for sources of volatile organic compounds.
(j) Part I of the regulations, the modified definition of "nonattainment area."

3. December 18, 1979 SIP submittal:
(a) Chapter 3, Control Strategy Demonstration, design value for Northern Virginia.

B. Noted Deficiencies That Have Not Been Remedied

1. Margin for Growth. A system for tracking emissions growth is to be submitted by September 30, 1980.

2. RACT as expeditiously as practicable. The RACT deficiencies are to be remedied according to the following schedule:

- Not later than September 30, 1980: Adequate justification or draft revised regulations are to be submitted.
- Not later than November 30, 1980: Final regulations, where applicable, are to be submitted.

The following regulations contain RACT deficiencies that must be remedied:

a. The emission limitation on automobile and light duty truck coating in Section 4.55(e)(2).

b. The exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month, contained in Section 4.56(d)(3)(ii) (For Richmond only).

c. The general exemption for sources of VOC emissions contained in Section 4.54(a)(4)(i), as it applies to Section 4.54(c) dealing with Solvent Metal Cleaning (For Richmond and Northern Virginia only).

d. The regulations covering cutback asphalt paving in Section 4.57(b) must be remedied to correct two deficiencies:
(i) The maximum allowable solvent content of emulsified asphalt of 15 percent is not RACT.

(ii) Allowing the use of cutback asphalt as a tack coat is not allowed under RACT.

3. Inspection and Maintenance (I/M). Adequate I/M legislation is to be submitted by July 1, 1980. The SIP must include, as a minimum, a schedule for implementation of the I/M program and a clear commitment to implement and enforce the program and to reduce emissions by 25% by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads.

3. Enforceability. a. Acceptable test methods and procedures for determining compliance with Sections 4.54, 4.55, 4.56 and 4.57 are to be submitted by September 30, 1980.

b. An acceptable definition of "reasonable further progress" must be submitted by September 30, 1980.

5. Conformity Requirement. Commitments must be adopted by each lead agency and MPO in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and MPOs, be endorsed by the State, and be submitted to EPA by September 30, 1980.

6. Carbon Monoxide. A "hot spot" analysis for carbon monoxide, as well as a line of reasonable further progress is to be submitted for the carbon monoxide nonattainment areas by September 30, 1980.

C. Other Actions Being Taken by EPA

1. Virginia's request for an extension for attainment of the ozone standard for the Richmond and Northern Virginia nonattainment areas is approved. Attainment of the .12 ozone standard must be achieved in the Northern Virginia and Richmond areas by December 31, 1987. The request for an extension for attainment of the ozone standard is no longer necessary for all other nonattainment areas in Virginia, and therefore attainment of the .12 ppm ozone standard must be achieved in these other areas by December 31, 1982.

2. The portions of the Virginia nonattainment plan revision dealing with implementation of the "bubble" concept, namely Section 4.55(b), are not adequately enforceable and are therefore disapproved. Since implementation of this concept is not a Part D requirement, disapproval of Section 4.55(b) does not require the disapproval of Virginia's nonattainment plan revision.

3. EPA hereby approves Section 2.33 as submitted on the dates shown below:

	Submittal date	Date of proposed rulemaking
Section 2.33:		
(a) General	Jan. 12, 1979	July 30, 1979.
(b) Applications	Aug. 14, 1975	Nov. 19, 1975.
(c) Information Required.	Jan. 12, 1979	July 30, 1979.
(d) Standards/Conditions for Granting Permits.	Jan. 12, 1979	July 30, 1979.
(e) Action on Permit Application.	Jan. 12, 1979	July 30, 1979.
(f) Emission Testing for Stationary Sources.	Jan. 12, 1979 Sept. 7, 1979	July 30, 1979. July 10, 1979
(g) Exceptions	Jan. 12, 1979 Sept. 7, 1979	July 30, 1979. July 30, 1979
(h) Revocation of Permit.	Aug. 31, 1977	June 8, 1978.
(i) Existence of Permit No Defense.	Aug. 14, 1975	Nov. 19, 1975.
(k) Application Review and Analysis.	Jan. 12, 1979	July 30, 1979.

Federal Register Citations:
November 19, 1975: 40 FR 53595
June 8, 1978: 43 FR 24858
July 30, 1979: 44 FR 44564

Sections 2.33(j) and (i) relate only to Indirect Sources and have not been submitted to EPA for consideration as SIP revisions.

4. Finally, EPA is taking no action in this notice for the Smyth County nonattainment area, which is currently being considered for redesignation to attainment due to the recent change in the NAAQS for ozone to .12 ppm. Until this redesignation undergoes Final Rulemaking, the SIP for Smyth County will not be approve.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth restrictions in those areas for which Virginia has submitted adequate plans in accordance with Part D requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: August 6, 1980.

Douglas M. Costle,
Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In Section 52.2420, paragraphs (c)(27) and (c)(28) are added as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(27) On January 12, 1979 the Governor submitted the nonattainment area plans for Virginia with respect to ozone and carbon monoxide. On September 7, September 24, and December 18, 1979, the Governor submitted SIP revisions intended in part to remedy deficiencies in the nonattainment area plans.

(28) On August 14, 1975, August 31, 1977, January 12, 1979, September 7, 1979 and September 24, 1979 the Governor submitted SIP revisions relative to § 2.33 of the Virginia Regulations.

2. In § 52.2422 paragraph (c) is added as follows:

§ 52.2422 Extensions.

* * * * *

(c) The Administrator hereby extends to December 31, 1987 the attainment date for ozone in the Virginia portion of the National Capital Interstate AQCR and in the Richmond City, Chesterfield County and Henrico County portions of the State Capital Intrastate AQCR.

3. In § 52.2423, paragraphs (c), (d), (e) and (f) are added as follows:

§ 52.2423 Approval status.

* * * * *

(c) With the exceptions set forth in this subpart, the Administrator approves Virginia's plan for the attainment and maintenance of national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title 1, of the Clean Air Act as amended in 1977, except as noted below in § 52.2431. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal, by each subsequent January following January 1980, of additional RACT requirements for sources covered by CTGs issued by the previous January.

(d) The following portions of Virginia's September 7, September 24, and December 18, 1979 submittals are approved:

(1) September 7, 1979 submittal: Section 2.33(g)(1)(vi) of the regulations.

(2) September 24, 1979 submittal, the following Sections of Virginia's

regulations: Sections 4.57(b)(2)(ii);

possible redesignation of the area to

(i) The emission limitation on

6. In § 52.2436, paragraph (b) is added

USEPA has received questions

regulations: Sections 4.57(b)(2)(ii); 4.55(f)(4)(i); 4.56(e); 4.52(a); 2.03(a)(1); 2.33(f)(3); Part I of the regulations, the definitions of "Delayed Compliance Order" and "Nonattainment Area;" Sections 4.02(f)(1) through 4.02(f)(5); Appendix N; and those portions of Sections 4.54, 4.55 and 4.56 where the phrase "will be considered acceptable compliance by the Board" has been modified.

(3) December 18, 1979 submittal: Chapter 3, Control Strategy Demonstration, design value for Northern Virginia.

(e) The portion of the January 12, 1979 SIP submittal pertaining to Smyth County is not approved, pending a possible redesignation of the area to attainment status.

(f) The following portions of Virginia's August 14, 1975, August 31, 1977 and January 12, 1979 submittals as they relate to Section 2.33 are approved:

(1) August 14, 1975 submittal: Sections 2.33(b) and (i).

(2) August 31, 1977 submittal: Section 2.33(h).

(3) January 12, 1979 submittal: Sections 2.33 (a), (c), (d), (e), (f), (g) and (k).

4. Section 52.2429 is revised as follows:

§ 52.2429 Attainment dates for National Standards.

* * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur dioxides		Nitrogen oxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Eastern Tennessee-Southwestern Virginia Interstate.	a	a	b	b	e	e	e
Valley of Virginia Intrastate:							
a. Roanoke County, Roanoke City and Salem City.	a	a	e	e	e	e	[1]f
b. Remainder of AQCR	a	a	e	e	e	e	e
Central Virginia Intrastate	a	a	e	e	e	e	e
Northeastern Virginia Intrastate:							
a. Stafford County	a	a	e	e	e	e	[1]f
b. Remainder of AQCR	a	a	e	e	e	e	e
State Capital Intrastate:							
a. Richmond City, Henrico County, and Chesterfield County.	a	c	e	e	e	e	[2]g
b. Remainder of AQCR	a	c	e	e	e	e	e
Hampton Roads Intrastate:							
a. Cities of Chesapeake, Norfolk, Portsmouth, Suffolk, Virginia Beach, Newport News, and Hampton.	a	a	d	b	e	e	[2]f
b. Remainder of AQCR	a	a	d	b	e	e	e
National Capital Interstate:							
a. Alexandria, Arlington City, and areas of high traffic density in Fairfax County.	a	a	b	b	e	[2]f	[2]g
b. Remainder of AQCR	a	a	b	b	d	d	[2]g

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was unacceptable.

a. June 1975.
b. June 1972.
c. July 1975.
d. Air quality levels presently below primary standards.
e. Air quality levels presently below secondary standards.
f. December 31, 1982.
g. December 31, 1987.

Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are provided as numeric footnotes in this chart (40 CFR 52.2429, 1979).

[1] Air quality levels previously below secondary standard.
[2] The previous attainment date was January 1975.
[3] The previous attainment date was May 31, 1977.

5. In § 52.2431 the words "photochemical oxidants" should be replaced with "ozone". Paragraph (d) is also added as follows:

§ 52.2431 Control Strategy: Carbon Monoxide and Ozone.

* * * * *

(d) The nonattainment plan for Carbon Monoxide and Ozone is approved provided that the following conditions are satisfied:

(1) *Margin for Growth.* A system for tracking emissions growth must be sumitted.

(2) *RACT as expeditiously as practicable.* The following regulations contain RACT deficiencies that must be remedied:

(i) The emission limitation on automobile and light duty truck coating in Section 4.55(e)(2).

(ii) The exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month, contained in Section 4.56(d)(3)(ii) (For Richmond only).

(iii) The general exemption for sources of VOC emissions contained in Section 4.54(a)(4)(i), as it applies to Section 4.54(c) dealing with Solvent Metal Cleaning (For Richmond and Northern Virginia only).

(iv) The regulations covering cutback asphalt paving in Section 4.57(b) must be remedied to correct two deficiencies: first, the maximum allowable solvent content of emulsified asphalt of 15% is not RACT; second, allowing the use of cutback asphalt as a tack coat is not allowed under RACT.

(3) *Inspection and Maintenance (I/M).* Adequate I/M legislation must be submitted. The SIP must include, as a minimum, a schedule for implementation of the I/M program and a clear commitment to implement and enforce the program and to reduce emissions by 25% by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads.

(4) *Enforceability.* (i) Acceptable test methods and procedures for determining compliance with Sections 4.54, 4.55, 4.56 and 4.57 must be submitted.

(ii) An acceptable definition of "reasonable further progress" must be submitted.

(5) *Conformity Requirement.* Commitments must be adopted by each lead agency and Metropolitan Planning Organization (MPO) in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and MPOs, be endorsed by the State, and be submitted to EPA.

(6) *Carbon Monoxide.* A "hot spot" analysis for Carbon Monoxide, as well as a line of reasonable further progress, must be submitted for the Carbon Monoxide nonattainment areas.

6. In § 52.2436, paragraph (b) is added as follows:

§ 52.2436 Rules and regulations.

* * * * *

(b) The requirements of § 51.22 are not met with respect to Section 4.55 (b) of the Virginia regulations, because the regulation is not adequately enforceable. Therefore, Section 4.55(b) is disapproved.

[FR Doc. 80-25149 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

---

40 CFR Part 52

[FRL 1577-4]

Approval and Promulgation of Illinois State Implementation Plan for Ozone

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction and clarification of final rulemaking.

SUMMARY: On February 21, 1980 (45 FR 11472), the U.S. Environmental; Protection Agency (USEPA) announced final rulemaking on revisions to the Illinois State Implementation Plan (SIP). This notice clarifies USEPA's final actions on Rule 205 of the Illinois Air Pollution Regulations in areas of the State which are attaining the National Ambient Air Quality Standard (NAAQS) for ozone. This notice also corrects an error in the codification of Rule 205. Rule 205 contains statewide controls for stationary sources of volatile organic compounds (VOC).

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, USEPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On February 21, 1980 (45 FR 11472), USEPA announced final rulemaking on revisions to the Illinois SIP. These revisions were submitted by the State to satisfy Part D of the Clean Air Act, as amended in 1977. Part D contains requirements for areas designated as not attaining the NAAQS. Some of the revisions submitted by the State apply statewide. Therefore, they apply to areas attaining the NAAQS as well as to areas not attaining the NAAQS. Rule 205 of the Illinois Air Pollution Regulations is one of the revisions which applies statewide. It contains reasonably available control technology (RACT) requirements for stationary sources of VOC. Since the February 21, 1980 final rulemaking, USEPA has received questions concerning its final action on Rule 205 particularly as it applies to attainment areas. This Notice clarifies USEPA's final action and corrects an error in the codification.

Clarification of Final Rulemaking

Clarification of USEPA's final rulemaking is necessary because some of the Clean Air Act's requirements differ for attainment and nonattainment areas. Rule 205 is approvable in attainment areas and conditionally approvable in nonattainment areas. The minor deficiencies in Rule 205 relate to the Part D nonattainment area requirement for reasonably available control technology (RACT) on major sources. There is no RACT requirement for attainment areas. Consequently, USEPA approved Rule 205 in designated attainment areas, with the exception of compliance schedule in Rule 205(j) discussed below. This approval is codified at 40 CFR 52.722 (45 FR 11472, 11493) which states that the Administrator approves the plan identified at 40 CFR 52.720 (45 FR 11472, 11493) with the exceptions set forth in the subpart. No exceptions were contained in the subpart. In designated nonattainment areas, USEPA conditionally approved Rule 205. The conditions for approval are codified at 40 CFR 52.726 (45 FR 11472, 11494).

Correction of Final Rulemaking

In its final rulemaking, USEPA disapproved the compliance schedule in Rule 205(j) as it applies to loading rack controls for all emission sources subject to Rule 205(b)(1), as approved by USEPA on May 31, 1972, which required compliance by December 31, 1973. The disapproval applies statewide. In USEPA's final rulemaking, the disapproval of Rule 205(j) was incorrectly listed as a Part D action in the codification section (45 FR 11472, 11494). This notice corrects that error.

Since this rule clarifies regulatory language and does not alter the legal requirements established on February 21, 1980, USEPA finds that notice and comment are unnecessary. See 5 U.S.C. 553(b)(A)(B).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: August 12, 1980.

John McGuire,
Regional Administrator.

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

(1) Section 52.726(b) is revised as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(b) Disapproval—USEPA disapproves the compliance schedule in Rule 205(j) as it applies to loading rack controls for all emission sources subject to Rule 205(b)(1), as approved by USEPA on May 31, 1972 which were required to be in compliance by December 31, 1973. This disapproval does not in and of itself result in the growth restrictions of section 110(a)(2)(I).

[FR Doc. 80-25154 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

---

40 CFR Part 180

[FRL 1578; PP OF2374/R272]

Tetrahydro-5,5-Dimethyl-2(1H)-Pyrimidione (3-(4-(Trifluoromethyl)Phenyl)-1-(2-(4-(Trifluoromethyl)Phenyl)Ethenyl)-2-Propenylidene)Hydrazone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone(3-(4-(trifluoromethyl)phenyl)-1-(2-(4-(trifluoromethyl)phenyl)ethenyl)-2-propenylidene)hydrazone in or on pasture and rangeland grass and grass hay at 0.05 part per million (ppm). This regulation was requested by American Cyanamid Co. This rule establishes the maximum permissible level of the residues of the insecticide on pasture and rangeland grass and grass hay.

DATES: Effective on August 19, 1980.

Comments must be submitted on or before September 18, 1980.

ADDRESS: Written comments to: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-329, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca (202-426-9490) at the above address.

SUPPLEMENTARY INFORMATION: On July 23, 1980 a notice was published in the **Federal Register** (45 FR 49147) that American Cyanamid Co., Agricultural

Div., PO Box 400, Princeton, NJ 08540 had filed a pesticide petition (PP OF2374) with the EPA. The petition proposed to amend 40 CFR Part 180 by establishing a tolerance limitation for residues of tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone(3-(4-(trifluoromethyl)phenyl)-1-(2-(4-(trifluoromethyl)phenyl)ethenyl)-2-propenylidene)hydrazone in or on forage grasses at 0.05 ppm. No comments were received in response to this notice of filing. Since no residue data were submitted on other than grasses *per se*, American Cyanamid, at our request, revised their initial proposal in terms of "grass" and "grass hay" (pasture and rangeland).

The data submitted in the petition have been evaluated. The toxicology data considered in support of the proposed tolerances included an acute oral toxicity study in rats (both sexes) with an LD_{50} of 1,213 milligrams (mg)/kilogram (kg) of body weight (bw); an Ames test which was negative; a dominant lethal test in rats which was negative at 30 mg/kg of bw/day; a teratology study in rats which was negative at 30 mg/kg of bw/day, and which had a no-observed-effect level (NOEL) of 3 mg/kg of bw/day for fetotoxicity; 90-day feeding studies in rats and dogs with NOEL's of 50 ppm and 3 mg/kg of bw/day, respectively; and, a 26-week feeding study in dogs with a NOEL of 0.33 mg/kg of bw/day.

Desirable toxicology data that are currently lacking from the petition include a 24-month chronic toxicity/oncogenicity study in a mammalian species, an 18-month oncogenicity study in a mammalian species, and a three-generation reproduction study in rats and a second teratology study. However, this petition included interim reports on a three-generation rat reproduction study in progress with a report on the Fo generation which suggests a NOEL of 50 ppm, and six-month status reports for both the 18-month oncogenicity feeding study in mice, and the 24-month chronic toxicity/oncogenicity feeding study in rats, both currently in progress. In a letter of July 18, 1980 the petitioner indicated that the final reports on the three-generation rat reproduction study would be made available to the Agency in October 1981, the 18- and 24-month feeding studies would be made available by May and November 1981, respectively, and the second teratology study would be made available by April 1981. In a letter of July 31, 1980, the petitioner has agreed to withdraw the proposed uses from the label should adverse findings develop from the above studies.

For purposes of the proposed uses, the metabolism of the subject insecticide is considered adequately understood, and an adequate analytical method (gas-liquid chromatography using an electron capture detector) is available for enforcement purposes. Since the proposed use consitutes essentially a "no residue" situation on grass and grass hay (0.05 ppm) it is concluded that there is no reasonable expectation of secondary residues in milk, meat, fat, and meat by-products of cattle, goats, hogs, horses, and sheep. In a July 18, 1980 letter, the petitioner indicated a cattle feeding study is currently in progress that will be made available to the Agency by December 1980, in support of this conclusion.

Whether or not the product will be conditionally registered under Section 3(c)(7)(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended will depend on a finding that the registration will be in the public interest. This issue will be addressed in association with the registration review.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that tolerances of 0.05 ppm in or on "grass" and "grass hay" (pasture and rangeland) will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before September 18, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 19, 1980.

(Sec. 408(d)(2), 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: August 12, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by adding § 180.395 to read as follows:

§ 180.395 Tetrahydro-5,5-dimethyl-2(1H)-pyrimidinone(3-(4-trifluoromethyl)phenyl)-1-(2-(4-(trifluoromethyl)phenyl)ethenyl)-2-propenylidene)hydrazone; tolerances for residues.

Tolerances are established for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone(3-(4-(trifluoromethyl)phenyl)-1-(2-(4-(trifluoromethyl)phenyl)ethenyl)-2-propenylidene)hydrazone in or on the following raw agricultural commodities:

Commodity:	Parts per million
Grass (pasture and rangeland)	0.05
Grass hay (pasture and rangeland)	0.05

[FR Doc. 80-25124 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 180

[FRL 1575-5; OPP-300021A]

Certain Inert Ingredients in Pesticide Formulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for certain additional inert (or occasionally active) ingredients in pesticide formulations. The regulation was requested by various firms. This rule will permit the use of the exempted inerts in registered pesticide products.

DATES: Effective on August 19, 1980.

Comments must be submitted September 18, 1980.

ADDRESS COMMENTS TO: Gary Burin, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, Rm. 816, Crystal Mall No. 2, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin, (202/577-3710) at the above address.

SUPPLEMENTARY INFORMATION: Notice was published on May 30, 1980 (45 FR 36438) that several interested persons proposed to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from the tolerance requirements. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and therefore, that the amendment to the regulation should be adopted as set forth below.

Any person adversely affected by this regulation may on or before September

18, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 19, 1980.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by alphabetically inserting the items "Charcoal, activated * * *" and "Corn dextrin * * *" in paragraph (c) and by revising the item "Styrene-maleic anhydride copolymer, ester derivative * * *" under limitations in paragraph (d), of § 180.1001 to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * * *

(c) * * *

Inert ingredients	Limits	Uses
Charcoal, activated	Meets specifications in the Food Chemical Codex.	Carrier.
Corn dextrin		Solid diluent, carrier.

(d) * * *

Inert ingredients	Limits	Uses
Styrene-maleic anhydride copolymer, ester derivative.	Limited to 3% of the formulation.	Suspending or dispersing agent. For preemergence use and use prior to formation of edible parts of plant.

[FR Doc. 80-25125 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 180

[FRL 1575-6; OPP-300025A]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Oxalic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the inert (or ocassionally active) ingredient oxalic acid in pesticide formulations. The regulation was requested by Monsanto Agricultural Products Co. This regulation will permit the registration of pesticide formulations containing oxalic acid.

DATES: Effective on August 19, 1980.

Comments must be submitted by September 18, 1980.

ADDRESS: Comment to Gary Burin, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin (703-557-3710) at the above address.

SUPPLEMENTARY INFORMATION: Notice was published on June 4, 1980 (45 FR 37700) that Monsanto Agricultural Products Co., submitted a proposal requesting to amend 40 CFR 180.1001 by exempting oxalic acid, which is an inert (or occasionally active) ingredient, in pesticide formulations from the requirement of a tolerance. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health, and therefore, the amendment to the regulation should be adopted as set forth below.

Any person adversely affected by this regulation may, on or before September 18, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by alphabetically inserting "Oxalic acid * * *" in the table in paragraph (c) of § 180.1001 to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * *

(c) * * *

Parts 1, 2, 21, 74, 89, 91, 93, and 95 of the

applicants for frequencies in the 470-512

A. PART 1—PRACTICE AND

2. In Subpart P—§§ 90.491, 90.493,

Inert ingredient	Limits	Uses
• • •	• • •	• • •
Oxalic Acid	No more oxalic acid should be used than is necessary to chelate calcium and, in no case, should more than 2 pounds oxalic acid per acre be used.	Calcium chelating hard water inhibitor.
• • •	• • •	• • •

[FR Doc. 80-25139 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 413

[FRL 1568-5]

Effluent Guidelines and Standards, Electroplating Point Source Category, Pretreatment Standards for Existing Sources; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: This document corrects the previous correction to the Agency's Electroplating pretreatment final regulation that appeared in the Federal Register on Tuesday, March 25, 1980, (45 FR 19245).

DATE: This correction is effective August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Dwight Hlustick, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426-2582.

SUPPLEMENTARY INFORMATION: The regulation was originally published in final form on September 7, 1979, (44 FR 52590) and first corrected on October 1, 1979, (44 FR 56330). On March 25, 1980, another correction was published in the Federal Register. In this notice, EPA corrected 8413.01(a). However, in doing so EPA inadvertently omitted the letter designating subsection "(a)" of § 413.01 from the correction, implying that the Agency intended to delete subsections (b) and (c). By today's correction, the Agency clarifies that §§ 413.01(b) and 413.01(c) were not deleted by the correction of March 25, 1980. They have not been changed and remain as promulgated on September 7, 1979.

DATE: This correction is effective August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Dwight Hlustick, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426-2582.

Correction

§ 413.01 [Corrected]

1. On page 19246 in the Federal Register for Tuesday, March 25, 1980, the correction for § 413.01 is corrected to read:

"1. Section 413.01(a) has been corrected to read as set forth below."

2. The first sentence of § 413.01 which previously read:

"This part shall apply * * *" has been corrected to read:

"(a) This part shall apply * * *"

Dated: August 5, 1980.

James N. Smith

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 80-25074 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 90 and 95

[Docket No. 19150; FCC 80-483]

Amending Rules Relating to Land Mobile Allocations and Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule; order.

SUMMARY: The FCC adopts a procedural Order terminating the proceeding relating to the establishment of the Regional Spectrum Management Center in Chicago, Illinois and eliminating from the rules references to the Chicago Region and use of the FCC Form 425.

EFFECTIVE DATE: August 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau, (202) 632-6497.

Order—Proceeding Terminated

Adopted: August 1, 1980.

Released: August 14, 1980.

In the matter of Spectrum Management: Establishment of First Regional Spectrum Management Center in Chicago, Illinois and Amendment of Parts 1, 2, 21, 74, 89, 91, 93, and 95 of the Commission's Rules Relating to Land Mobile Allocations and Assignments, Docket No. 19150. See 37 FR 28419, December 23, 1972.

1. On February 9, 1970, the Commission approved the establishment of a Spectrum Management Task Force with responsibilities for developing and testing a regional spectrum management program. Chicago, Illinois was selected as the location of the first regional center, and the Spectrum Management Task Force proceeded to develop a program to study techniques which might lead to more efficient and effective frequency assignment and licensing approaches.[1]

2. In 1971 the Commission proposed, and adopted in its First *Report* and *Order* in Docket 19150 rules establishing new systems, techniques, and methodologies in the radio spectrum allocated for Land Mobile purposes.[2] These approaches were confined in applicability to an area of approximately 96,000 square miles with Chicago, Illinois at the approximate center. Among other things, the Commission adopted the use of a new application form—FCC Form 425—to permit the establishment and construction of the data base which was to be used in the spectrum management study. All licensees in the Chicago Region [3] were required to use this form.

The Commission further required all applicants for frequencies in the 470-512 MHz band to also use FCC Form 425.[4]

3. In September of 1975 the responsibility and administration of the Chicago Office and most operational aspects, were transferred to the Safety and Special Radio Services Bureau (now Private Radio Bureau). The Commission also undertook a long-term evaluation of the Chicago Regional program and in June 1976, decided to direct its energies and resources to the development of a national land mobile data base rather than continue with a regional approach.

4. Most applicants and licensees in the Chicago Region still continue, however, to submit the Form 425 when seeking new, modified and renewal applications.[5] Additionally, all

[1] See generally *Notice of Proposed Rule Making, Docket No. 19150, 27 FCC 400 (1971); First Report and Order, Docket No. 19150, 32 FCC 2d 347 (1971).*

[2] Id.

[3] The Chicago Region was defined in rules adopted in the *First Report & Order, supra* and extended approximately 175 miles in radius from Chicago. The region included parts of Illinois, Indiana, Michigan, Wisconsin, Iowa and Ohio.

[4] See First Report & Order at 340.

[5] The rules have since been amended to delete references which require the use of the Form 425 in the Broadcast and Common Carrier Radio Services.

applicants for frequencies in the 470-512 MHz band still use this form.

5. Since the Chicago Regional experiment has terminated, the Commission has decided that continued reference to the Chicago Region in the private land mobile radio services rules (Part 90) is no longer warranted. We also have concluded that a uniform approach to receiving and processing applications is more convenient to all parties, and will reduce the administrative burden of maintaining two separate processing procedures and data bases. Additionally, FCC Form 425 is more complex, and therefore it requires more of the applicant's time to provide the information. The rationale [6] for the complex information having been rendered moot by previous Commission decisions,[7] there is no longer any substantive reasons to require two different forms. Therefore, in the future, all licensees and applicants seeking authorizations under Part 90 of our rules should use standard FCC Form 400.[8]

6. We are, therefore, eliminating all references in our rules to the Chicago Region and the requirement to use FCC Form 425. Use of the FCC Form 400 for affected parties will become optional August 1, 1980, and mandatory September 1, 1980.

7. These amendments are procedural in nature and will impose no burdens on licensees and applicants. Therefore the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are inapplicable.

8. It is, therefore, ordered pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, That the rules contained in the attached Appendix are adopted effective August 1, 1980. It is further ordered that the proceeding in Docket No. 19150 is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1, 22, 74, 90 and 95 of the rules are amended as follows.

[6] Tremper, P., Automatic Frequency Assignment Model (*AFAM*); FCC Report No. SMTF-75-01 (1975).

[7] Notice of Inquiry, Docket No. 21229, FCC 77-287, adopted April 27, 1977, Released May 17, 1977, Page 9, Paragraph 21.

[8] Applicants for the 470-512 MHz frequencies, in lieu of the Form 425, should use the Form 400 and append to it necessary information relating to altitude above average terrain (AAT) and effective radiated power (ERP). See Sections 90.301-315 of the Commission's Rules.

A. PART 1—PRACTICE AND PROCEDURE

1. In § 1.61, paragraph (a) is amended to read as follows.

§ 1.61 Procedures for handling applications requiring special aeronautical study.

(a) Antenna surveys are conducted by the Antenna Survey Branch of the Regional Services Division, Field Operations Bureau.

* * * * *

2. In § 1.922, references to FCC Form 425 are deleted and (reserved) is substituted to read as follows.

§ 1.922 Forms to be used.

* * * * *

410-B Application for permit to operate a Canadian General Radio Station in the United States.

[Reserved]

453—B Certificate of Special Temporary Authorization for Operation of Radio Station on Board New Aircraft.

* * * * *

3. In § 1.924, paragraph (b)(2)(iv) is deleted and (reserved) is substituted to read as follows.

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

(a) * * *
(b) * * *
(2) * * *
(iv) [Reserved]

* * * * *

4. In § 1.926 paragraph (b) is amended by the deletion of subparagraph (5) and the substitution of (reserved) to read as follows.

§ 1.926 Application for renewal of license.

(a) * * *
(b) * * *
(5) [Reserved]

* * * * *

5. In § 1.951, the deleted paragraph (d) is reserved to read as follows.

§ 1.951 How applications are distributed.

(a) * * *

* * * * *

(d) [Reserved]

* * * * *

B. PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. In § 90.119 paragraph (c) is deleted and the word (reserved) is substituted.

§ 90.119 Application forms.

(a) * * *

* * * * *

(c) [Reserved]

* * * * *

2. In Subpart P—§§ 90.491, 90.493, 90.495, and 90.497 are deleted *in toto* and the word (reserved) is adopted to read as follows.

§§ 90.491, 90.493, 90.495, 90.497 Subpart P. [Reserved]

C. PART 95—SUBPART A—GENERAL MOBILE RADIO SERVICE

1. In § 95.15 paragraph (b) is deleted and the word (reserved) is substituted to read as follows.

§ 95.15 Standard forms to be used.

(a) * * *

* * * * *

(b) [Reserved]

* * * * *

2. In § 95.17 paragraph (b) is amended by the deletion of the last sentence to read as follows.

§ 95.17 Filing of applications.

(a) * * *

* * * * *

(b) Applications for station authorizations, applications for consent to transfer of control of a corporation holding a radio station authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a radio station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary.

* * * * *

[FR Doc. 80-25189 Filed 8-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-4; RM-3519]

Radio Broadcast Services; FM Broadcast Station in Lake Havasu City, Ariz., Changes Made in Table of Assignments; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: On July 23, 1980, a Report and Order in Docket No. 80-4 was adopted concerning FM broadcast station in Lake Havasu City, Arizona. Inadvertently, the rule section number in the heading and in paragraph 6 was marked as section 73.202(b). The correct rule section is § 73.504(a).

EFFECTIVE DATE: September 8, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Released: August 5, 1980.

By the Chief, Policy and Rules Division.

1. On July 23, 1980, a *Report and Order* in the above-captioned proceeding was adopted. Inadvertently, the rule section number in both the heading and in paragraph 6 was listed as § 73.202(b). The correct section number is § 73.504(a).

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25233 Filed 8-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–27; RM–3275]

Radio Broadcast Services; FM Broadcast Station in Snowmass Village, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns Channel 280A to Snowmass Village, Colorado, as its first FM channel assignment in response to a petition filed by Pitkin County Broadcasters.

DATE: Effective September 22, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 6, 1980.

Released: August 14, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* adopted January 22, 1980, proposing the assignment of a first Class A FM channel, 280A, to Snowmass Village, Colorado. Supporting comments were filed by petitioner, Pitkin County Broadcasters, and by William Lippman, Jack D. Gabow and Robert E. Lyon. An opposition was filed by Recreation Broadcasting of Aspen, Inc. ("RBA"), licensee of FM station KSPN, Aspen, Colorado. RBA also filed a reply.

2. Snowmass Village (pop. 1,500), in Pitkin County (pop. 6,185), is located in the western part of Colorado, approximately 24 kilometers (15 miles) from Aspen, Colorado.

3. RBA, in opposition, contends that there are already sufficient aural services for the Aspen area in which Snowmass Village is one of several resort communities. It also notes that growth potential is limited by controls and that preclusion would be significant. In its reply, RBA argues that the supporting parties have not demonstrated that Snowmass Village can support a local station.

4. We have carefully considered the proposal herein and conclude that it would be in the public interest to assign Channel 280A to Snowmass Village, Colorado. The arguments raised by RBA concern economic matters that are more appropriate for consideration at the application stage. As for the preclusion impact, that factor is not an obstacle to a first Class A assignment to a non-suburban community. Therefore, in view of the provision of a first local aural service, we shall assign Channel 280A to Snowmass Village.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (b) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. In view of the foregoing, IT IS ORDERED, That effective September 22, 1980, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended for the community listed below as follows:

City and Channel No.
Snowmass Village, Colorado—280A.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 1307.)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25232 Filed 8-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–40; RM–3349]

FM Broadcast Stations in Blue Ridge, Ga., and Murphy, N.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action herein would reassign Channel 280A from Murphy, North Carolina, to Blue Ridge, Georgia, to reflect its actual use. This action is taken in response to a petition filed by the Cherokee Broadcasting Company.

DATE: Effective September 18, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
John Kamp, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 4, 1980.

Released: August 14, 1980.

In the matter of amendment of section 73.202(b), Table of Assignments, FM Broadcast Stations. (Blue Ridge, Georgia, and Murphy, North Carolina), BC Docket No. 80–40, RM–3349.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted February 1, 1980, 45 FR 9023, in the above-entitled proceeding, instituted in response to a petition filed by Cherokee Broadcasting Company ("petitioner"). Petitioner proposed the deletion of FM Channel 280A from Murphy, North Carolina, and its reassignment to Blue Ridge, Georgia, to reflect its use there. Supporting comments were filed by petitioner. No oppositions were filed.

2. Murphy (pop. 2,062)[1] in Cherokee County (pop. 16,300) is located in the southwestern part of North Carolina. It has one FM assignment, Channel 280A. Blue Ridge (pop. 1,602), in Fannin County (13,357), is located approximately 35 kilometers (22 miles) southwest of Murphy. Local service is provided by Station WPPL (Channel 280A) which is assigned to Murphy and used at Blue Ridge pursuant to § 73.203(b) which, when the station was first licensed, permitted its use within 25 miles of the community to which it was assigned. Since then, the 25 mile limit has been decreased to 10 miles for Class A stations.

3. Petitioner states that Station WPPL is located approximately 22 miles from Murphy, and both terrain and distance prohibit it from providing FM service to Murphy. Petitioner in supporting comments listed attempts to obtain a new FM assignment to Murphy that could provide a first local FM service to 35,000 persons. Petitioner believes that the existence of an assignment at Murphy has been a factor in these denials. The previous attempts have failed in our reading of the cases because the requests either involved short spaced channels or did not

[1] Population figures are taken from the 1970 U.S. Census.

otherwise comply with the Commission's rules.

4. Although petitioner does not seek a channel assignment herein for Murphy, the Commission believes that the public interest would be served by the reassignment of Channel 280A Blue Ridge, Georgia, to reflect its current use there.

5. Accordingly, it is ordered, that effective September 18, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the communities listed below:

City and Channel No.
Blue Ridge, Georgia, 280A.
Murphy, North Carolina——.

6. Authority for the action taken herein is found in Sections 4(i), 5(d), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact John Kamp, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25194 Filed 8-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–5; RM–3449]

TV Broadcast Station in LaGrande, Ore.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action reserves VHF–TV Channel *13 for noncommercial educational use and makes UHF–TV Channel 16 available for commercial use at LaGrande, Oregon, in response to a petition from the Oregon State Board of Higher Education. The reservation of Channel *13 reflects the actual use of TV Station KTVR there.

DATE: Effective September 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 4, 1980.

Released: August 14, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (LaGrande, Oregon), BC Docket No. 80–5, RM–3449.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted January 9, 1980, 45 FR 3939, in response to a petition filed by the Oregon State Board of Higher Education ("petitioner") acting on behalf of the Oregon Educational and Public Broadcasting Service. Petitioner requests the reservation of VHF–TV Channel 13, LaGrande, Oregon, for noncommercial educational use to reflect the actual use of satellite Station KTVR there. It also proposes to delete the reservation on UHF–TV Channel *16 at LaGrande in order to continue to provide a channel for commercial use. No comments were filed in response to the petition.

2. LaGrande (pop. 9,645), in Union County (pop. 19,377) [1], is located in the northeastern part of the State. Television Channels 13 and *16 are assigned to LaGrande, Oregon. At present Channel 13 is operated primarily as a satellite of the affiliated Portland, Oregon, noncommercial station, KOAP–TV.

3. Petitioner states that the reservation of Channel 13 for noncommercial educational use would reflect its current use as well as provide the necessary assurances to warrant the investment of time and resources to make KTVR the full-fledged educational operation envisioned by the 1965 State plan. This plan calls for a LaGrande facility with studio and production facilities operating in conjunction with Eastern Oregon College; the facility would also provide material for broadcast over the Portland and Corvallis stations.

4. We have carefully considered the proposal and conclude that it would be in the public interest to reserve television Channel 13 (KTVR) for noncommercial educational use. The reservation reflects the use of the channel by the Oregon State Board of Higher Education for its satellite Station KTVR, and preserves its availability for noncommercial educational use. In order to provide a channel for future commercial use, we shall also delete the reservation on Channel *16.

[1] Population figures are taken from the 1970 U.S. Census.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective September 22, 1980, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended for the city listed below, to read as follows:

City and Channel No.
LaGrande, Oregon, *13+, 16.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303 307 48 Stat., as amended 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25196 Filed 8-18-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–45; RM–3491]

TV Broadcast Station in Lexington, KY; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: As a result of a petition for rule making filed by Frederick Gregg, Jr., Channel 62 has been assigned to Lexington, Kentucky, as its fourth commercial TV assignment.

DATE: Effective September 22, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 4, 1980.

Released: August 14, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Lexington, Kentucky), BC Docket No. 80–45, RM–3491.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted February 6, 1980, 45 FR 12453, in response to a petition filed by Frederick Gregg, Jr., in connection with

Docket 21392 which deleted UHF Channel 62 from Lexington, Kentucky, *Report and Order*, released April 26, 1979. This petition proposes the reinstatement of Channel 62 to Lexington as its fourth commercial TV assignment. Kentucky Family Broadcasting and Fantel, Inc., filed supporting comments each asserting that they would file an application if Channel 62 is reassigned.

2. Lexington (pop. 108,137), in Fayette County (pop. 174,323)[1], is located approximately 115 kilometers (70 miles) east of Louisville.

3. Petitioner states that the commercial facilities in the Lexington market only provide viewers with network programming. He, as well as Kentucky Family Broadcasting, Inc., asserts that the proposed channel would provide for a station which could render a new and diversified source of television programming, thus maximizing diversity of viewpoints available in the broadcast marketplace, and providing a choice between or among competing applicants.

4. We have carefully considered the proposal and conclude that it would be in the public interest to reassign UHF television Channel 62 to Lexington, Kentucky. Leaving Channel 62 in place would maximize utilization of the UHF spectrum in the Lexington market. Channel 62 can be reassigned to Lexington in compliance with the minimum distance separation requirements and other technical criteria.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), and 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective September 22, 1980, the Television Table of Assignments, § 73.606(b) of the Commission's rules is amended for the city listed below, to read as follows:

City and *Chanel No.*

Lexington, Kentucky, 18+, 27−, 36, *46, 62.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast, Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

[1] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25100 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-313; RM-3052]

TV Broadcast Station in San Diego, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns UHF–TV Channel 69 to San Diego, California, as its sixth television channel assignment in response to a petition filed by Center City Complex, Inc. Oppositions submitted by groups representing land mobile operators and by the translator operator on an adjacent channel were held not to be obstacles to the assignment.

DATE: Effective September 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: August 4, 1980.

Released: August 13, 1980.

In the matter of amendment of § 73.606(b), *Table of Assigments*, Television Broadcast Stations. (San Diego, California), BC Docket No. 78–313, RM–3052.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 43 FR 46049, released October 3, 1978, proposing assignment of UHF–TV Channel 69 to San Diego, California, in response to a request by Center City Complex, Inc. ("petitioner").[1] Comments supporting the proposal were filed by the petitioner and by Frank M. Goldberg; comments opposing it were filed by the Board of Trustees, The California State University and Colleges for San Diego State University ("Board of Trustees"),[2] the Land Mobile Communications Council ("LMCC") and Palomar Communications Co., Inc. ("Palomar"). Petitioner filed reply comments to which the Association of Maximum Service Telecasters, Inc. ("MST") responded.

2. San Diego (pop. 697,027, 1970 U.S. Census), seat of San Diego County (1970 pop. 1,357,854), is located in the extreme southwest corner of California at the United States-Mexican border. Five television channels are presently assigned to the city: Channel 8 (KFMB–TV), Channel 10 (KGTV), Channel *15 (KPBS–TV), Channel 39 (KCST–TV) and Channel 51 (construction permit granted to Gross Broadcasting Co. (KJOG–TV), BPCT–3842).

3. In issuing the *Notice*, the Commission's staff undertook an analysis of possible UHF assignments to San Diego. Channel 69 was the only channel that was not subject to transmitter site restrictions, and therefore could be used either at the city reference point or on San Manuel mountain, the site of two existing and one proposed UHF stations. The need for a sixth television assignment to San Diego had been established. Board of Trustees, LMCC and Palomar question the suitability of a Channel 69 allocation, citing various problems of potential interference.

4. As a preliminary matter, the concern of the Board of Trustees that interference to its existing translator Station at La Jolla, California, should be considered is not a legitimate matter. Changes in the Television Table of Assignments may be made without regard to existing translator stations. See § 74.702(c)(3) of the Commission's rules. Furthermore, protection is not in any event necessary, it being apparent from the pleadings that petitioner's proposed transmitter site will be separated from the Board of Trustee's translator by more than the 20 miles specified in § 74.702(c)(2)(iii) of the Commission's Rules.[3]

5. LMCC and Palomar both complain of potential interference on land mobile radio frequencies adjacent to Channel 69.[4] When UHF Channels 70–83 were set aside for land mobile usage, no restrictions on the use of Channel 69 were imposed to avoid adjacent channel interference problems. See Docket 18262, 35 FR 8644; *recons. den.*, 25 F.C.C. 2d 764 (1970); *Second Report and Order*, 46 F.C.C. 2d 752 (1974), 51 F.C.C. 2d 936, 55 F.C.C. 2d 771 (1975). Land mobile stations have been operating for some time in the band immediately adjacent to UHF–TV Channel 14, using techniques such as vertical isolation, cross-polarization isolation and filtering to meet or minimize problems that arise. We are confident that the band adjacent to Channel 69 can be used on the same terms with equal success. Reservation of Channel 69 as, in effect, a guard band separating UHF television operations from the land mobile radio operations, the practical effect of opponent's position, is not contemplated by our Rules. Given the availability of alternative methods for handling interference, it is unnecessary and inappropirate on operational grounds as well.[5] Therefore, we do not view the potential for interference as a sufficient obstacle to bar the assignment of Channel 69 to San Diego.

6. Petitioner submitted lengthy comments in which it complained that UHF TV Channel 27 should not have been "lost" to the Mexican government. However, after reviewing the remaining channels for possible assignment, it supports the assignment of Channel 69 to San Diego.

7. The concurrence of the Mexican government in the assignment of Channel 69 to San Diego has been obtained.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules, it is ordered, that effective September 22, 1980, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended to read as follows for the city listed below:

City and Channel No.

San Diego, California, 8, 10, *15, 39, 51, 69.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25237 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Petitioner previously requested Channel 27 which was assigned to Tijuana, Mexico, subsequent to the filing of the petition. Channel 69 was substituted for the original proposal.

[2] While somewhat late, these comments were not so untimely as to preclude their examination by all parties concerned. Hence, we will consder them on their merits.

[3] Were this not the case, the Board of Trustees would bear the burden of achieving compliance with the required separation. Section 74.702(c)(3) of our rules.

[4] Channel 69 occupies 800 to 806 MHz in the frequency spectrum; 806 to 821 MHz are allocated for land mobile radio use.

[5] This would be true even if channels other than Channel 69 were available for use in San Diego.

47 CFR Part 73

[BC Docket No. 80-46; RM-3483]

Radio Broadcast Services; FM Broadcast Station in Bethel, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns Channel 261A to Bethel, Alaska, as its first FM channel in response to a petition filed by Tundra Broadcasting, Inc.

DATE: Effective September 18, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 4, 1980.

By the Chief, Policy and Rules Division, Report and Order (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, adopted February 6, 1980, 45 FR 12448, proposing the assignment of FM Channel 261A to Bethel, Alaska, as a first FM assignment. The *Notice* was issued in response to petition filed by Tundra Broadcasting, Inc. ("petitioner"). Petitioner has reaffirmed its intention to apply for the channel, if assigned.

2. Bethel (pop. 2,416)[1], is located in the Bethel Division (pop. 7,579) in the southwestern portion of the State, approximately 450 kilometers (280 miles) south of Nome and 660 kilometers (410 miles) west of Anchorage. It is served by full-time AM Station KYUK.

3. Petitioner has provided sufficient information concerning the need for a first local FM service.

4. We believe that the public interest would be served by the assignment of Channel 261A to Bethel, Alaska. An interest has been expressed for its use, and such an assignment could provide the community with its first local FM broadcast service.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, that effective September 18, 1980, the FM Table of Assignments, § 73.202(b) of the rules, is amended with respect to the following community:

City and Channel No.

Bethel, Alaska—261A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25191 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1120A

[Finance Docket No. 28990F]

Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions

Decided July 23, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules and exemptions.

SUMMARY: We are exempting the acquisition by a State of rail lines approved for abandonment, when the abandonment has not been consummated. Further, we are exempting from our regulation the start up and termination of operations over lines abandoned or approved for abandonment, which have been acquired by a State. We are also adopting rules for a modified certificate of public convenience and necessity for these operations. This will insure that our regulations do not prevent a State or political subdivision from initiating programs to continue rail service, and will encourage operators to provide service over State acquired lines.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Kelley, (202) 275–7564.

SUPPLEMENTARY INFORMATION: On March 28, 1980, a notice of proposed rulemaking and proposed exemptions was served and published at 45 FR 19585. These proposals were in response to petitions filed by States concerned about the effect regulation might have on their programs to continue rail service. In that notice, we proposed to exempt from our approval, under 49 U.S.C. 10901, the acquisition by a State of a rail line which had been abandoned or approved for abandonment. In addition, we proposed to exempt the

operators who provide service over these lines, from our regulatory requirements concerning start up and termination of operations. (49 U.S.C. 10901 and 10903). We also proposed special rules which would apply to the States and to the operators of these lines.

The purpose of these proposals is to promote continuation of rail service by removing certain regulatory constraints from the States and thus encouraging rail continuation programs. In addition, it will remove regulatory contraints which might discourage new operators from initiating service over marginal lines. Within the last year two major rail systems, the Chicago, Rock Island and Pacific Railroad Company, and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company have terminated either all or a substantial portion of their operations. In response to the threat of losing rail service that the States find vital to their economic well being, several States have developed programs to continue service. These programs include plans by States to purchase rail lines and contract with operators to provide service. Also, new businesses have been organized to provide service over these lines. This proposal is designed to facilitate these efforts.

Comments on the notice were filed by five States: the State of Michigan, Department of Transportation (MI–DOT), the State of Wisconsin, Department of Transportation (WI–DOT), the Commissioner of Transportation of the State of New York (NY), the State of South Dakota (SD), the State of Iowa, Department of Transportation, the United States Department of Transportation (DOT, Railway Labor Executives' Association (RLEA), the Illinois Legislative Director for the United Transportation Union (UTU), the Association of American Railroads (AAR) and the Freight User Association of Long Island, Inc. Generally, the States and DOT favored the proposals but raised several questions about them. The labor and shipper organizations opposed the proposals.

NY filed a petition to be considered a party and moved to dismiss the proceeding, on the ground that this Commission has no jurisdiction over a State. NY is a proper party to the proceeding. The motion to dismiss is denied. It is well established that when a noncarrier, including a State, acquires a railroad, it must seek our approval under section 10901. See *United States* v. *California*, 297 U.S. 175 (1936); *Iowa Term. R. Co. Acquisition and Operation*, 312 I.C.C. 546, 549 (1961).

Discussion and Conclusions of Issues

1. *Exemptions.*—RLEA and UTU contend that the proposed exemptions are beyond the scope of section 10505 and that the Commission has not met the statutory burdens of this section. The unions' concern is that these proposed rules and exemptions will be used to avoid the labor protective provisions of 49 U.S.C. subtitle IV. They contend that the Commission cannot act as a superlegislature and exempt a class from important statutory provisions.

The language of section 10505 and the legislative history [1] give the Commission broad discretion concerning exemptions. We can exempt not only a transaction, but transactions. The Senate report explained the scope of the Commission's exemption authority as follows:

> The requirement of full proceedings before exemption can be granted * * *, as well as the findings which must be made, assure that the Commission will not act in such a manner as to contravene its Congressional mandate to regulate interstate commerce. At the same time, the power to exempt from regulation in whole or in part will enable the Commission to commit its limited resources in areas where they are most needed, by enabling it to deregulate those areas which have no significant bearing on the overall regulatory scheme. [S. Rept. 94–499, p. 53 (November 26, 1975).]

See also H. Rept. 94–725, p. 75 (December 12, 1975) which stated:

> The Committee has given the Commission the [exemption] power to study and review the areas of its regulation so as to eliminate from regulation those areas where regulation is not required to effectuate the national transportation policy or where the removal of the regulation would be no undue burden on persons or class of persons in interstate or foreign commerce, or where such regulation would serve little or no useful public purpose.

Additional legislative history indicates that the exemption power is to be used where regulation is not necessary to carry out the statutory criteria. See H. Rept. 94–768, p. 125 (December 10, 1975) and H. Rept. 94–781, p. 153 (January 23, 1976). Based on the clear legislative history of our exemption power and its precise wording as enacted in the Railroad Revitalization and Regulatory Reform Act of 1976, we can clearly exempt a class of transactions.

Under section 10505, we are authorized to exempt from our regulation a class of persons, or a transaction or service where appropriate "because of the limited scope of the transaction or service." This exemption is available when we find that continued regulation:

(1) Is not necessry to carry out the transportation policy contained in section 10101 of the act;

(2) Would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) Would serve little or no useful public purpose.

We will now apply these statutory requirements to the two exemptions proposed here. The scope of the exempted transactions is limited. Both exemptions will apply only to rail lines which have been approved for abandonment. Out of a national rail system totaling approximately 325,000 miles of main and branch lines, we approved the abandonment of only 2,873 miles in 1979, 2,417 miles in 1978, 2,500 miles in 1977, and 1,789 miles in 1976. The average length of the lines approved for abandonment is short: 23 miles in 1979, 22 miles in 1978, 17 miles in 1977, and 18 miles in 1976. In addition, States have shown interest in acquiring only a small fraction of these abandoned lines. Also, lines approved for abandonment generally have relatively sparse traffic, and have been either not profitable or only marginally profitable.

a. *Acquisition by State of a rail line approved for abandonment.*—When a rail line has been fully abandoned,[2] it is no longer rail line and the transfer of the line is not subject to our jurisdiction. However, when a line has not been fully abandoned, the transfer of the line is subject to our juridiction. We are exempting States from our regulatory requirements concerning acquisition of lines not fully abandoned. When a State wishes to acquire a line approved for abandonment by the Commission or a Bankruptcy Court, and the line has not been fully abandoned we will not require the filing of an application. This is a narrow class of transactions which does not require review by this Commission to protect the public interest.

We are requiring States to notify the Commission of the acquisition of these rail lines and whether operations will be continued over them.

The fact that the abandonment has not been consummated will not result in any change in employee protective conditions which may have been imposed in the abandonment proceeding. In acquisition proceedings where the vendor had filed abandonment applications for the involved line, but the application was dismissed when the acquisition was granted, the Commission has required the selling railroad to assume the costs of labor protection. See *Prairie Trunk Railway—Acquisition and Operation*, 348 I.C.C. 832 (1977) and *Cadillac & Lake City Ry. Co. Acquisition and Operation*, 320 I.C.C. 617 (1964).

SD requests that this exemption proposal be modified to include nonabandoned lines of bankrupt railroads purchased by a State with the approval of the Bankruptcy Court. We see no justification for abdicating our concurrent jurisdiction. Under the Milwaukee Railroad Restructuring Act, section 5(b)(2) (MRRA), a Bankruptcy Court may not authorize a sale or transfer *until* an application has been filed with the Commission. To comply with the requirements of MRRA, we have adopted special procedures in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980). These procedures streamline the information filed by applicants; yet enable the Commission to rule quickly and knowledgeably on the acquisition. We have ruled upon an acquisition under these procedures with a 30-day court imposed time limit. See, Finance Docket No. 29237, *State of Wisconsin—Acquisition of Certain Lines of Chicago Milwaukee, St. Paul and Pacific Railroad Company* (not printed), decided January 30, 1980. However, transfers to States of those lines abandoned or approved for abandonment will fall within the scope of this exemption.

b. *Operators exempt from filing start up and abandonment applications.*—(49 U.S.C. 10901 and 10903.) The lines involved under this exemption are lines that have been approved for abandonment, or have been fully abandoned; as discussed above, the scope of the transaction is limited.

In acquiring these lines the States may be contracting with new operators for service over lines which have proven uneconomical to operate. Service over these lines may be in danger of immediate termination. Requiring an application under section 10901 to start up operations may result in temporary cessation of service to shippers. The new carriers may also be concerned with the necessity of continuing operations for months should another abandonment application be required. To require applications for the start up and termination of service over these lines serves no public purpose, is an unreasonable burden, and is not necessary to carry out the transportation policy.

We recognize the concern of RLEA and UTU regarding the Commission's statutory duty to impose employee protective conditions. However, these exemptions will not affect the labor protective conditions imposed by the Bankruptcy Court or the Commission in abandonment proceedings. All rail lines exempted here will have been approved for abandonment and employees protective conditions will have been imposed on the abandoning carrier.

The purpose of this proceeding is to facilitate the acquisition and operation of lines for which service by the current carrier will in all likelihood not be continued. This purpose clearly fulfills our most fundamental congressional mandate: to ensure the development, coordination, and preservation of a transportation system. This proposal should increase employment opportunities for railroad employees. However, employees of the new operators will be on notice from the beginning that this is an enterprise that may go out of business, and as with most business enterprises, the employees will have no protections other than those provided by the original abandoning carrier imposed if the new operations terminate.

2. *Common carrier status of states.*—In our March 28 notice, we suggested that both the State and the operator would become common carriers, even though certain transactions would be exempt from our jurisdiction. The States argue strenuously that no common carrier status should attach when they acquire rail line and contract for the operations over the line. They contend that a State should be required to file an application for a common carrier certificate only if it operates a rail line. Further, where the operator has assumed the entire burden of operating the line, no purpose is served by requiring a State to become a common carrier. WI–DOT explained:

> These Wisconsin counties and cities do not provide any rail service for compensation. They simply permit an operator on their track and WISDOT land and hope the operator can break even or turn a profit with a minimum contribution of public moneys for track maintenance and rehabilitation. [WI–DOT comment, p. 1.]

In addition, they contend that a finding that States incur a common carrier obligation merely by owning a rail line is contrary to established Commission policy and contrary to the purpose of 49 U.S.C. subtitle IV. They argue that the fundamental test for determining common carrier status is whether there has been a "holding out to the public as a common carrier." *Status of Bush Universal, Inc.*, 342 I.C.C. 550, 564 (1973). See also *State of Okla. Ex Rel., Dept. of Highways, Abandonment*, 324 I.C.C. 666 (1965), where the State paid the construction cost of a rail line, but was not considered a "carrier" under 49 U.S.C. 10901. Further, in *State of Vt. and Vermont Ry., Inc., Acquisition and Op.*, 320 I.C.C. 609, 610 (1964), the Commission, Division 3, ruled that a State, which acquired a rail line authorized to be abandoned, was not considered a common carrier when it never performed, or held itself out to perform transportation service.

WI–DOT notes that many State constitutions prohibit a State from becoming a common carrier. WI–DOT also asks the Commission to consider the additional burden common carrier status would impose on States insofar as employee protective arrangements under 49 U.S.C. 11347 and liability under the Federal Employee's Liability Act.

We are persuaded by the States' arguments. The purpose of this proposal is to promote continuation of rail service and to remove obstacles which might inhibit States from acquiring lines so that service can be continued. Our mandate to promote transportation is best served by following the policy that mere ownership of a rail line by a State does not create common carrier status. When a State has not held itself out to be the operator of a line and thus has not incurred a duty to the public, the common carrier duty to provide and maintain service should be only on the operator. Therefore, we have modified our proposal, and we will not require the State to file jointly with the operator of a notice for a modified certificate.[3] A State will be considered a common carrier if it operates a rail line itself. *United States* v. *California, supra.*

3. *Modified certificate of public convenience and necessity.*—The operators, whether a State or its contractor, which would be exempted from our regulatory requirements concerning start up and termination of operations, must however, file a notice for a modified certificate of public convenience and necessity under 49 CFR Part 1120A. See apendix. This notice will provide the Commission with essential information concerning the financial condition of the operator, liability insurance coverage, and the nature of the operations. An operator may commence operations immediately

[1] See H. Rept. 94–725, p. 75 (December 12, 1975), H. Rept. 94–781, p. 153 (January 23, 1976), and S. Rept. 94–499, p. 53 (November 26, 1975).

[2] A line is fully abandoned after a certificate of public convenience and necessity has been issued, and when operations have ceased, tariffs have been canceled and a letter has been filed with the Commission that the abandonment has been consummated.

[3] In our original notice, we had proposed exempting the States from the securities requirements of section 11301. Under that proposal the State, as the nonoperating owner of a rail line was required to join in the application for a modified certificate. Since, we have ruled here that only the operator of a line is a common carrier, this exemption for the States is not needed.

upon the filing of a completed notice under 49 CFR Part 1120A. Service can be terminated after providing 60 days' notice to the State, the Commission, and shippers on the line.

The operators under the modified certificate incur full common carrier obligations (within any limitations contained in the certificate such as shipper subsidy) and may subscribe to existing industrywide agreements and rules pertaining to the joint movement and interchange of freight cars and traffic, and arrangements for accounting, billing, and settlements.

DOT questions whether an operator under this type of certificate should be eligible for antitrust immunity under section 10706. The issue of rate bureau antitrust immunity is being considered in other proceedings before the Commission [4] and in legislation pending in Congress. DOT has not shown how granting the immunity to these operators would promote uneconomical transportation. It is our view, that insofar as operations are concerned, the operators under modified certificates are the same as other common carriers—they differ only in the requirements for start up and termination of service. To the extent that these carriers join rate bureaus for the purpose of discussing collective rates, they will be held to the same standards applicable for rail carrier antitrust immunity generally.

We should also clarify the limitation of service under the modified certificate. The State through its operational agreement and/or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over a line. All shippers must be notified of the precondition and any shipper who meets the requirements must be served. The modified certificate will authorize service only to the shippers who meet these preconditions and the operator's common carrier duty will extend only to those shippers.

4. *Other issues.*—DOT suggests that the exemptions apply only to rail lines which carried traffic of 5 million gross ton-miles or less during its last year of operation. This limitation is needed, DOT contends, because States may acquire abandoned main line and these State-owned lines could achieve "unfair competitive advantages." This limitation is not necessary. DOT has not shown what "unfair competitive advantages" may result from this proposal. Also, shippers along lines served served by these operators are on notice that service may be terminated after providing 60 days' notice. If the operations become profitable enough, a carrier would, in all likelihood, apply for a common carrier certificate so that shippers would know the service was long term and would be willing to expand or locate on the line.

DOT is authorized, under 49 U.S.C. 1654 (f) and (k), with certain limited exceptions, to grant assistance to States for *subsidizing* service over lines previously authorized for abandonment by this Commission, and to grant assistance for *rehabilitating* light density lines that have not been abandoned or authorized for abandonment. Thus, the type of assistance which DOT is authorized to provide varies depending on whether the line for which a State seeks assistance has been abandoned or authorized for abandonment.

DOT requests that we clarify whether the line operated under a modified certificate of public convenience and necessity is a line authorized for abandonment and therefore eligible only for operating subsidies, or is a line operated under a common carrier certificate and thus eligible for rehabilitation assistance. Since all the rail lines that will be covered by this exemption would have been abandoned pursuant to our regular procedures but for this exemption, we conclude that they would not be eligible for rehabilitation assistance. If a carrier wishes to take advantage of Federal rehabilitation assistance programs, it will have to apply for a full-fledged certificate of public convenience and necessity pursuant to section 10901 of the act.

UTU asks why States should be treated differently than private sector railroads. Our statutory mandate requires us "to cooperate with each State and the officials of each State on transportation matters." 49 U.S.C. 10101(a)(15). In addition, Congress has clearly enunciated its view that States should take an active role in maintaining rail service. See the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976.

We adopt the exemptions discussed in this notice and the rules set forth in the appendix.

This action does not affect significantly the quality of the human environment or conservation of energy resources.

[4] Section 5(b) Application No. 2, Western Railroads—Agreement; Section 5(b) Application No. 3, Eastern Railroads—Agreement; and Section 5(b) Application No. 6, Southern Railroads—Agreement.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321 and 10505.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Trantum concurring with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Trantum, concurring:

In his comments, the Illinois Legislative Director for the United Transportation Union observes:

> The fact that a carrier may be financially assisted by a State should not accord that carrier preferential regulatory treatment vis-a-vis other carriers not connected with a State.

Although I am not persuaded by his arguments against the exemptions and rules adopted by the Commission in this proceeding, I too oppose inconsistent application of regulations.

We have found valid reasons to lessen regulatory burdens on State and local governments that acquire abandoned rail lines, and on those who operate such lines for them. But we are not being consistent unless we provide comparable relief for private-sector railroad companies that may wish to acquire and operate abandoned lines. In fact, we are creating a strong incentive for expanding government involvement. While the majority has cited the Congressional policy favoring cooperation with the States, Section 101(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 declared the goal of allowing the railroad industry to "remain viable in the private sector of the economy." I call on the Commission to institute another proceeding to investigate extending to private-sector companies the same exemptions and rules adopted today.

Appendix

The following rules are added as 49 CFR Part 1120A:

PART 1120A—MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Sec.

1120A.1 Scope of rules.
1120A.2 Exemptions and common carrier status.
1120A.3 Modified certificate of public convenience and necessity.
1120A.4 Termination of service.

Authority. 5 U.S.C. 553 and 49 U.S.C. 10321 and 10505.

§ 1120A.1 Scope of rules.

These special rules apply to the operations over abandoned rail line, which has been acquired (through purchase or lease) by a State. The rail line must have been fully abandoned, or approved for abandonment by the Commission or a Bankruptcy Court. As used in these rules, the term "State" includes States, political subdivisions of States, and all instrumentalities through which the State can act. An operator has the option of applying for a modified certificate of public convenience and necessity under this section or a common carrier certificate under 49 U.S.C. 10901 and 49 CFR Part 1120.

§ 1120A.2 Exemptions and common carrier status.

The acquisition by a State of a fully abandoned line is not subject to the jurisdiction of the Interstate Commerce Commission. The acquisition by a State of a line approved for abandonment and not yet fully abandoned is exempted from the Commission's jurisdiction. If the State intends to operate the line itself, it will be considered a common carrier. However, when a State acquires a rail line described under section 1120A.1 and contracts with an operator to provide service over the line, only the operator incurs a common carrier obligation. The operators of these lines are exempted from 49 U.S.C. 10901 and 10903 to which are the statutory requirements governing the start up and termination of operations. Operators exempted from these requirements must comply with the requirements of this part and must apply for a modified certificate of public convenience and necessity. The operator is a common carrier and incurs all benefits and responsibilities under 49 U.S.C. subtitle IV; however, the State through its operational agreement or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over the line. The operator must notify the shippers on the line of any preconditions. The modified certificate will authorize service to shippers who meet these preconditions and the operator will be required to provide complete common carrier service under this certificate only to those shippers. (See 363 I.C.C. 132.)

§ 1120A.3 Modified certificate of public convenience and necessity.

(a) The operator must file a notice with the Commission for a modifed certificate of public convenience and necessity. Operations may commence immediately upon the filing; however, the Commission will review the information filed, and if complete, will issue a modified certificate notice. If an operator has an application pending under section 10901 at the time the rules become effective, it may file a request to convert the application to a modified certificate within 60 days of the effective date of these rules.

(b) A notice for a modified certificate of public convenience and necessity shall include the following information:

(1) The name and address of the operator and, unless the operator is an existing rail carrier:

(i) Its articles of incorporation or, if it is unincorporated, the facts and organizational documents relating to its formation;

(ii) The names and addresses of all of its officers and directors and a statement indicating any present affiliation each may have with a rail carrier; and

(iii) Sufficient information to establish the financial responsibility of the operator.

(2) The exact dates of the period of operation which have been agreed upon by the operator and the State which owns the line (if there is any agreement, it should be provided);

(3) A description of the service to be performed including, where applicable, a description of:

(i) The line over which service is to be performed;

(ii) All interline connections, including the names of the connecting railroads;

(iii) The nature and extent of all liability insurance coverage, including binder or policy number and name of insurer; and

(iv) Any preconditions which shippers must meet to receive service.

(4) The name and address of any subsidizers, and,

(5) Sufficient information to establish the financial responsibility of any subsidizers (if the subsidizer is a State, the information should show that it has authority to enter into the agreement for subsidized operations).

(c) The service offered and the applicable rates, charges, and conditions must be described in tariffs published by the operator pursuant to the Commission's rules.

§ 1120A.4 Termination of service.

The duration of the service may be determined in the contract between the State and the operator. An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be: (a) Filed with the State and the Commission, and (b) mailed to all persons that have used the line within the 6 months preceding the date of the notice.

[FR Doc. 80-25081 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1249

[No. 37211]

Revision of Annual Report Form M–3

AGENCY: Interstate Commerce Commission.

ACTION: Discussion of comments of final rule.

SUMMARY: On January 18, 1980, the Commission issued a final rule which modified Form M–3 the annual report form for Class III motor carriers of property (see 45 FR 3588). Form M–3 was modified to reduce the amount of information which carriers were required to file. This action was taken because the Commission determined that it did not need most of the information contained in the form.

This notice discusses comments received as a result of that final rule. The Commission has considered that rule, in light of the information contained in the comments, and has concluded that there is no need to modify the rule.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Chief, Section of Accounting and Reporting, (202) 275–7448.

SUPPLEMENTARY INFORMATION: On January 18, 1980, the Commission issued a final rule which modified Form M–3 the annual report form for Class III motor carriers of property (see 45 FR 3588). Form M–3 was modified to reduce the amount of information which carriers were required to file. This action was taken because the Commission determined that it did not need most of the information contained in the form.

As a result of our action, we received a number of comments from insurance companies which claimed that we had eliminated data from Form M–3 which the insurance industry needs. The comments indicated that the lack of this information would make it more difficult for Class III motor carriers to obtain and to renew their insurance policies. Furthermore, the insurance companies predicted that it would cost them more to obtain the information elsewhere and that this increased cost might result in higher premiums for the carriers. The National Association of Regulatory Utility Commissioners, the National Small Shipments Traffic Conference, and the Drug and Toilet Preparation Traffic Conference, Inc. also claimed that the loss of financial information previously required, is necessary for insurance companies to determine the financial health of motor carriers. They expressed the concern that since

insurance companies depend on Form

expression. Commissioner Clapp

Parkmont Lane, Olympia, Washington

A. In Marsh Unit I hunting is allowed

Ridgefield National Wildlife Ref

insurance companies depend on Form M–3 in assessing the risks of carriers, they would become unwilling to provide coverage at previous rates. They also expressed concern that many states require Form M–3 for their regulatory agencies, which have come to depend on this information.

We recognize that the data previously included in Form M–3 was useful to the insurance industry, but we believe that the Commission should only require the carriers it regulates to report information that the Commission needs and uses itself. We believe that there are other means by which the insurance companies can obtain the information which they need; in fact, they should be able to obtain it directly from the carriers themselves. If the result is an increase in the administrative costs of the insurance companies which leads to an increase in the premium paid by the carriers, this increased cost will be offset by the reduction in the costs the carrier incurs complying with the Commission's data filing requirements.

State regulatory agencies, having the need for financial information no longer required in Form M–3 should required such data directly for themselves. The reliability of this information should not be impaired. Previous Commission policy has not been to audit Class III carriers. State regulatory agencies should have authority to require such data, and should do so if needed.

The American Trucking Association (ATA) also filed comments in opposition to the revision of Form M–3. However, the issues raised by ATA were not relevant to the changes made to Form M–3. They questioned the reporting requirements of carriers covered in Commission Decision Ex Parte No. MC–118. These requirements have not been changed by this proceeding, and this proceeding is not the proper place for their comments or suggestions.

Having thoroughly reviewed the comments filed in response to the final rule, we conclude that the respondents have not raised any issues which require any modification of the action which we took in this proceeding on January 18, 1980.

This action does not affect significantly the quality of the human environment or the conservation of energy resources.

Decided June 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Vice Chairman Gresham concurs in the result, but would have preferred a notice and comment period before adopting final rules, as noted in his prior separate expression. Commissioner Clapp concurring with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Clapp, Concurring:

I support simplification and reduction in filing requirements for small motor carriers. Therefore, I agree that filing requirements should be lessened (as the Revised Form M–3 would do). On the other hand, I recognize that the revision may not be without cost to small carriers and ultimately to consumers. I am concerned about the revised form's effect on a small carrier's ability to obtain insurance. I foresee added costs and difficulties for insurance companies in obtaining, and in ascertaining reliability of, data submitted not to the Commission in verified form, but rather to the insurance companies directly or to them through some data collection company. For this reason I would monitor the situation closely and should the shortened reporting form prove detrimental to small carriers' services or to the public interest at large, I would favor return to a longer form in order to obtain the information necessary to insurers.

[FR Doc. 80–25080 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges in Washington; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Washington is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1980 to June 30, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Joseph R. Blum, Area Office Manager, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502, Telephone: FTS, 434–9578 or 9579, Com'l., (206) 753–9578 or 9579.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the National Wildlife Refuge(s) were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions and maps applying to individual refuges are available as pamphlet handouts at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Mulnomah Street, Portland, Oregon 97232. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Doves, pigeons, ducks, geese, coots and common snipe may be hunted on the following refuge areas: *Conboy Lake National Wildlife Refuge,* Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509–364–3410.

2. Ducks, geese, coots and common snipe may be hunted on the following refuge areas; *Columbia National Wildlife Refuge,* P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509–488–2668. Special Conditions:

A. In Marsh Unit I hunting is allowed by permit only within 50 feet of designated blind sites on Wednesdays, Saturdays and Sundays until 12:00 noon. No more than four hunters may hunt at a blind site. After noon on Wednesdays, Saturdays and Sundays the area is open to general hunting without a permit.

B. In Farm Unit 226–227 hunting is allowed by permit only from designated pit blinds on Wednesdays, Saturdays and Sundays. Mo more than two hunters may hunt from each blind.

C. Permit applications will be accepted only on standard post cards and must provide:

(a) name, address and telephone number;

(b) desired hunt area (one only, MU–I or FU226–227); and

(c) desired date (one only).

No more than one application is allowed per hunter for a specific hunt date. Applications must be received at the refuge office at least two weeks before the desired hunt. Public drawings will be held at 10:00 a.m. of the first workday of the week before the hunt. Any remaining vacancies will be filled on a first come, first-serve basis at the Othello office until 3:00 p.m. of the last workday before the hunt. Permits are not transferable.

D. Temporary blinds may be constructed but must be available for general use on a first-come, first-serve basis.

E. Decoys may not be left, set up for hunting, on the refuge overnight.

F. Dogs may be used to retrieve birds but must be kept leashed when not hunting.

G. Parking is allowed only in designated areas; camping and overnight parking are permitted only in Soda Lake Campground.

H. Fires are allowed in camp stoves only.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at (509) 865–2405.

Special Conditions: Hunters using the Pumphouse Road and Robbins Road areas must register at respective parking areas and shoot from designated sites only.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at (503) 922–3232.

Columbian White-Tailed Deer National Wildlife Refuge, Route 1, Box 378C, Cathlamet, Washington 98612. Contact Refuge Manager at (206) 795–4915.

3. Ducks, geese and coots may be hunted on the following refuge areas:

Ridgefield National Wildlife Refuge, P.O. Box 457, Ridgefield, Washington 98642. Contact Refuges Manager at (206) 887–4071. Special conditions: (1) Hunting will be allowed every other day during the regular waterfowl season, except for Thanksgiving, Christmas and New Years Days. (2) A federal permit, available from the refuge office, is required to enter the public hunting area before 10:00 a.m. Permit applications will be accepted only from September 15 through October 1 for the first half of the regular waterfowl season (opening day to November 30), and only from November 1 through November 15 for the second half of the regular waterfowl season (December 1 to closing day). Permits will be issued only by mail. (3) Hunters may shoot only from blinds selected by drawing at the check station. A recreational use fee of $5.00 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is $2.50. (4) Only steel shot may be possessed or used on the refuge hunting area.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at (206) 484–3482.

Lewis and Leadbetter Point Units, Special conditions: Hunter registration is required. Leadbetter Point is the only refuge unit open to black brant hunting after the close of the general season.

Riekkola Unit, Special conditions: (1) Hunters will be permitted only on Wednesdays and Saturdays, except for Christmas and New Years Days, during the regular waterfowl season. (2) Hunter registration is required. (3) Hunters may shoot only from blinds selected by drawing at the check station. A recreational use fee of $5.00 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is $2.50.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at (509) 547–4942. Special Conditions: (1) Hunters are required to park vehicles in designated parking areas only. (2) On Burbank Slough, hunting will be permitted on Wednesday, Saturday, Sunday and Thanksgiving Day only. No additional hunting will be permitted during the State extended goose hunting season. In the north and south one-thirds of hunting area, hunting is from marked sites only. Reservations are required for use of goose hunting sites in fields 5 and 6. (3) On the Hanford Island Division, hunting is permitted only on the five upstream islands from opposite the Hanford 300 area-Sagemoore Road upstream to BPA power line crossing. The Hanford Island offshore from the Graduate Center, Sprout Road is closed to hunting. (4) All public use on the Strawberry Island Division and the two Columbia River islands within the Richland city limits is prohibited.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game birds and rabbits may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at (509) 488–3831. Special Conditions: Rabbits and upland game birds may be hunted only during that part of the State season concurrent with the waterfowl hunting season. Hunting is allowed only in those areas open to waterfowl hunting subject to the permit requirements of Marsh Unit I and Farm Unit 226–227.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at (503) 922–3232. Special Condition: No rabbit hunting permitted.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at (509) 383–3410. Special Condition: Rabbits and upland game may only be hunted during the part of the State season concurrent with the waterfowl hunting season.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at (509) 865–2405. Special Condition: Rabbits and upland game may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at (206) 484–3482.

Long Island Unit, Special conditions: (1) Archery hunting for blue and ruffed grouse only. (2) Hunters must register and possess hunting permit. Permits available at refuge headquarters and at the Nahcotta dock.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at (509) 547–4942. Special Conditions: (1) Pheasants only may be hunted during the first half of the State's split season or through November 6, whichever is earlier. (2) Pheasant hunting will be restricted to Wednesday, Saturday, and Sunday. (3) Hunters are required to park vehicles in designated parking areas only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

1. All big game hunting regulated by the State is permitted on the following refuge area:

Little Pend Oreille National Wildlife Refuge, Route 1, Colville, Washington 99114. Contact Refuge Manager at (509) 684–2824.

2. Deer hunting only is permitted on the following refuge areas;

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at (509) 488–3831. Special conditions: Deer may be hunted only in those areas open to waterfowl hunting subject to the permit requirements of Marsh Unit I and Farm Unit 226–227.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at (503) 922–3232.

3. Bear, deer, and elk may be hunted on the following refuge areas;

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at (206) 484–3482.

Long Island Unit, Special conditions: (1) Archery hunting only is permitted. (2) Hunters must register and possess hunting permit. (3) Permits available at refuge headquarters and at the Nahcotta Dock. (4) Use of bait or baiting for bears is prohibited. (5) All garbage must be removed from the island.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The primary author of this document is John H. Doebel, Area Office Staff Specialist (Wildlife): Telephone FTS 434–8578 or 9579, Com'l (206) 753–8578 or 9579.

Dated: August 7, 1980.

Joseph R. Blum,

Area Manager, U.S. Fish and Wildlife Service.

[FR Doc. 80–25241 Filed 8–18–80; 8:45 am]
BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1065

[Docket No. AO–86–A39–R01

Milk in the Nebraska-Western Iowa Marketing Area; Extension of Time for Filing Exceptions to the Revised Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This action extends the time for filing exceptions to a revised recommended decision concerning a proposed amended order regulating the handling of milk in the Nebraska-Western Iowa marketing area. Counsel for Associated Milk Producers, Inc., requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before September 15, 1980.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued September 29, 1978; published October 4, 1978 (43 FR 45881).

Extension of time for filing briefs: Issued January 15, 1979; published January 19, 1979 (44 FR 3989).

Recommended Decision: Issued July 24, 1979; published July 30, 1979 (44 FR 44523).

Extension of time for filing exceptions: Issued August 13, 1979; published August 16, 1979 (44 FR 47950).

Notice of reopening of hearing: Issued October 1, 1979; published October 4, 1979 (44 FR 57103).

Revised recommended decision: Issued July 24, 1980; published July 31, 1980 (45 FR 50773).

Notice is hereby given that the time for filing exceptions to the above listed revised recommended decision is hereby extended to September 15, 1980.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: August 13, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–25086 Filed 8–18–80; 8:45 am]
BILLING CODE 3410–02–M

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Proposed Statement of Policy—National Environmental Policy Act

AGENCY: Farm Credit Administration.

ACTION: Proposed Statement of Policy.

SUMMARY: The National Environmental Policy Act (NEPA), (42 U.S.C. 4321 *et seq.*) requires Federal agencies to include environmental concerns in their decisionmaking. Under Executive Order 11991, May 24, 1977 (42 FR 26967), the Council on Environmental Quality (CEQ) was directed to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA. The Executive Order also required Federal agencies to comply with CEQ's regulations "except where * * * inconsistent with statutory requirements." On November 29, 1978, CEQ published (43 FR 55978) final regulations for implementing the procedural provisions of NEPA. CEQ's regulations (40 CFR Parts 1500–1508) require that "* * * each agency shall as necessary adopt procedures to supplement these regulations" (40 CFR 1507.3(a)). This policy statement constitutes compliance by FCA with this requirement.

DATES: Written comments must be received on or before October 20, 1980.

ADDRESSES: Submit any comments or suggestions in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, D.C. 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Acting Deputy Governor, Office of Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578, (202–755–2181).

Statement of Policy—

The Farm Credit Administration (FCA) is required, pursuant to 40 CFR 1507.3(a), to adopt, as necessary, procedures to supplement regulations issued by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500–1508). Those regulations were adopted by CEQ to implement the procedural provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*).

The FCA has responsibility for supervising, regulating and examining the lending institutions of the cooperative Farm Credit System under the provisions of the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* in carrying out those responsibilities, the Agency attempts to assure that the stated statutory objective is achieved. That objective is: "to continue to encourage farmer- and rancher-borrowers participation in the management, control, and ownership of a permanent system of credit for agriculture which will be responsive to the credit needs of all types of agricultural producers having a basis for credit and to modernize and improve the authorizations and means for furnishing such credit and credit for housing in rural areas made available through the institutions constituting the Farm Credit System * * *" 12 U.S.C. 2001(b).

Because the activities of the FCA ordinarily do not, either individually or cumulatively, have a significant effect on the human environment, it is not necessary for FCA to set forth separate procedures to provide early involvement in action requiring FCA approval (40 CFR 1501.2(d)); nor to adopt procedures for introducing supplemental environmental impact statements into formal administrative records (40 CFR

1502.9(c)(3)); nor to provide procedures where interested persons can get information or status reports on environmental impact statements (40 CFR 1506.6(e)). In accordance with 40 CFR 1507.3(b)(2) and 1508.4, FCA believes that none of its actions will normally require the preparation of environmental assessments or environmental impact statements.

However, where it appears that, due to extraordinary circumstances, a particular action may have a significant effect on the human environment, FCA will determine whether NEPA requires additional consideration of the environmental impact of a particular action. An official will be designated at the FCA Headquarters to review such considerations prior to FCA action. Where a particular action requires environmental analysis, the relevant environmental documents will be prepared and placed in the administrative record. The documents shall accompany the proposal through the existing agency review process so that agency officials will use those documents in making their decision, and the decisionmaker will consider the alterntives presented in those environmental documents. In addition, interested members of the public may raise objections to proposed actions by FCA based upon environmental considerations.

Interested persons may submit comments and views on the effect of FCA's actions on the human environment, and may seek information concerning FCA's compliance with the National Environmental Policy Act, by writing to Frederick R. Medero, General Counsel of the Farm Credit Administration at the address stated above.

Donald E. Wilkinson,
Governor.

[FR Doc. 80-25150 Filed 8-18-80; 8:45 am]
BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Month-End Financial Statements for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Request for comment on Proposed Statement of Financial Condition and Statement of Income and Expense.

SUMMARY: Federal credit unions are required to complete certain financial statements at the end of each month and to post these statements in the credit union office for review by members and other interested parties. The most important of these financial statements are the Statement of Financial Condition and the Statement of Income and Expense.

Suggested forms to be used for this purpose are contained in the *Accounting Mannual For Federal Credit Unions.* The proposed forms would replace these existing forms: FCU 109A, Statement of Financial Condition, FCU 109B, Statement of Income, FCU 109F, Statistical Report, and FCU 109 (COMB 75), Report of Operations. The forms would also serve as the basis for any periodic call reports requested by the Administration; as such it would replace the major portion of form NCUA 5300, Financial and Statistical Report.

The development of this multipurpose form is an effort to reduce the overall reporting burden on credit unions. The data which would be reported on the proposed form should meet the needs of the credit unions for financial reporting purposes and the Agency's data needs for statistical and analytical purposes.

DATE: Comments must be received by September 15, 1980.

ADDRESS: Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW; Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Mike Fischer, Chief Accountant, Office of Examination and Insurance, at the above address. Telephone (202) 357-1065.

SUPPLEMENTARY INFORMATION: In accordance with Article VIII of the *Federal Credit Union Bylaws,* Federal credit unions are required to complete certain financial statements at the end of each month and to post these statements in the credit union office for review by members and other interested parties. The most important of these financial statements are the Statement of Financial Condition and the Statement of Income and Expense. Suggested forms to be used for this purpose are contained in the *Accounting Manual for Federal Credit Unions.* The existing forms are: FCU 109A, Statement of Financial Condition, FCU 109B, Statement of Income, FCU 109F, Statistical Report, and FCU 109 (COMB 75), Report of Operations.

In addition under Sections 106 and 202 of the Federal Credit Union Act (12 U.S.C. 1756 and 1782), Federal and Federally Insured credit unions are required to file periodic reports with the National Credit Union Administration. The form currently used for this purpose is form NCUA 5300, Financial and Statistical Report.

Set forth below are preliminary copies of the Statement of Financial Condition and Statement of Income and Expense which are proposed as replacements for existing forms: FCU 109A, Statement of Financial Condition, FCU 109B, Statement of Income, FCU 109F, Statistical Report, and FCU 109 (COMB 75), Report of Operations. The forms contain certain changes which reflect credit unions' expanded powers and other changes which provide the use of the statements with more information regarding the liquidity position of the credit union.

The revised forms are multipurpose forms which not only provide more useful information to credit union members and management but also serve the National Credit Union Administration's needs for data gathering for statistical and analytical purposes. Credit unions which use the proposed forms for reporting to members on a monthly basis would be able to meet the basic reporting requirements of this Agency by furnishing a photocopy of the form which is prepared on a monthly basis. These credit unions would only need too prepare an additional form when supplementary data is requested. The basic call report would be identical to the monthly financial reports.

The Administration intends to consolidate existing, credit union reporting forms and to improve the usefulness and timeliness of credit union data. To that end the forms have been highly structured so that they may serve as source documents for data entry into computer systems. The structured approach will also facilitate comparability between credit unions.

Comments are requested on the clarity of instructions and the extent to which the forms meet the needs of users. Specific suggestions to improve the readability and ease of preparation will be appreciated.

(Sec. 506, 92 Stat. 3683 (12 U.S.C. 1756); sec. 1 (3), 84 Stat. 995 (12 U.S.C. 1782))

Rosemary Brady,
Secretary of the Board.

August 13, 1980.

BILLING CODE 7535-01-M

STATEMENT OF FINANCIAL CONDITION AS OF _____ — CREDIT UNION

Charter # or Ins. Cert. # _____

ASSETS:	$ Amount	¢	Acct. code no.
LOANS & CASH			
1. a. Outstanding balances of lines of credit loans to members			702
b. Real estate loans to members (first lien) (Orig maturity over 12 years)			703
c. Loan balances fully secured by shares			650
d. All other loans to members (excluding a,b,c, above)			651
e. Total loans to members (include items a, b, c, and d)			698
2. All other loan accounts (excluding amts. in 1.a,b,c,&d)			001
3. (Less) allowance for loan loses			719
4. Net Loans Outstanding			700
5. Cash (cash on hand, petty cash, checking accts, etc.)			730

INVESTMENTS (A + B = C)	Remaining Maturities A. 1 Yr. or less	B. More than 1 Yr.	$	C. Total	¢	Acct. code no.
6. U.S. Government Obligations						741
7. Federal agency securities						742
8. Common trust investments (CU NIFCU's, etc.)						743
9. Shares, deposits & certif. in corporate centrals						652
10. Shares, deposits & certif. in banks, S&L's & MSB's						746
11. Shares, deposits & certif. in other CUs						653
12. Loan to other credit unions						747
13. Shares in Central Liquidity Facility						654
14. All other investments						655
15. (Less) allowance for investment losses						749
16. Net Investments						

OTHER ASSETS	$ Amount	¢	Acct. code no.
17. Land and building (net of depreciation)			007
18. Other fixed assets (net of depreciation)			008
19. All other assets			009
20. TOTAL ASSETS			010

LIABILITIES SAVINGS EQUITY (A + B = C)	Remaining Maturities A. 1 yr. or less	B. More than 1 yr.	$	C. Total	¢	Acct. code no.
21. Promissory notes						011
22. Reverse Repurchase Agreements						058
23. Other notes/interest Payable						656
24. Accounts payable						800
25. Dividends/interest on shares/deposit payable						820
26. All other liabilities						012
27. Total Liabilities						

	Remaining Maturities A. 1 yr. or less	B. More than 1 yr.	$	C. Total	¢	Acct. code no.
28. a. Share certif.						908
b. Share draft accounts						902
c. Other member savings/deposits						657
d. Non-member Savings						
e. Total savings/shares/deposits						013
29. Regular/statutory reserve						931
30. Investment Valuation reserve (SCU's only)						668
31. Special Reserves						
32. Other reserves						658
33. Undivided Earnings						940
34. Net Income (Loss)						960
35. TOTAL LIABILITIES & EQUITY (Sum of 27, 29e, & 29 - 34) (35 must be equal to 20)						014

CLASSIFICATION OF LOANS OUTSTANDING	A. Number	B. $ Amount	¢	Acct. code no.
36. 2 to less than 6 months delinquent				021
37. 6 to less than 12 months delinquent				022
38. 12 months and over delinquent				023
39. Current and less than 2 months delinquent				024
40. Total loans (must be = to item 1e plus 2)				025

FCU 109 (DRAFT) Page 1

Instructions for Completing FCU 109 — credit union funds invested in

STATEMENT OF INCOME AND EXPENSE FOR _____ CREDIT UNION

Charter # or Ins. Cert. # _____ AMOUNT from ____ to ____ Year to date Acct. code no.

OPERATING INCOME:			
41. Interest on Loans (Gross)			110
42. (Less) interest refunded			119
43. Income from investments			120
44. Other operating income (include acct. 131)			859
45. TOTAL GROSS INCOME			100
OPERATING EXPENSES:			
46. Employee compensation (Accts. 210-219)			210
47. Employee benefits (Accts. 220-229)			220
48. Travel & conference expense (Accts. 230-239)			230
49. Association dues			240
50. Office occupancy expense (Accts. 250-259)			250
51. Office operations expense (Accts. 260-269)			260
52. Educ. & promotional exp. (Accts. 270-279)			270
53. Loan servicing expense (Accts. 280-289)			280
54. Prof. & outside services (Accts. 290-299)			290
55. Provision for loan losses			300
56. Member insurance (Accts. 310-319)			310
57. Oper. fees (exam. & supervisol)(Accts. 320-329)			320
58. Cash over and short			330
59. Interest on borrowed money			340
60. Annual meeting expense			350
61. Misc. operating expense			360
62. Total Oper. Exp. Before Div. & Int. on Dep (Total of items 46 to 61)			650
63. Net Inc. (Loss) Before Div. & Int. on Dep (Item 45 less 62)			661
NON-OPERATING GAINS OR LOSSES			
64. Gain (loss) on investments			420
65. Gain (loss) on disposition of assets			430
66. Other non-operating income (expense)			440
67. Total non-operating gains and losses			017
ALLOCATION OF INCOME			
68. Total Net Income (Loss)before div & int/dep			019
69. Dividends & interest on deposits			390
70. Net income (Loss) after div & int/dep			662
71. (Less) Req. trans to reg. or stat. reserve			
72. Provision for loan losses adjustment			
73. Change to Undivided Earnings as a Result of Operations			

MISCELLANEOUS INFORMATION

74. Maximum unsecured loan limit		044
75. Interest refund rate, if applicable (most common rate)		663
76. Dollar amount of forward commitments to purchase (securities,etc.)		669
77. Number of members as end of month		053
78. Number of potential members		064
79. Effective date of the most recent supervisory committee verification of all members accounts ____ Month ____ Year		666
80. Effective date of the most recent supervisory committee annual audit ____ Month ____ Year		666
81. Are individual share and loan ledgers in balance with their respective general ledger control: [ ] Yes [ ] No		667

OTHER LOAN INFORMATION:

	A. Number	B. $ Amount	Acct. code no.
82. Total loans made during current year (include real estate loans)			031
83. Real estate loans made during current year			670
84. Loans sold and being serviced by the credit union			
85. Total loans made since organization			032
86. Total loans charged off since organization			033
87. Recovery of loans charged off since organization			034
88. Net loans charged off since organization			

We certify, to the best of our knowledge and belief, this statement and the related statements are true and correct and present fairly the financial position and the results of operations for the periods covered.

Certified correct by: ____ Please print

Treasurer-Manager (Signature) ____ Date ____ President/Authorized Officer

Telephone No. ____ Area Code ____ Number ____ Date

Notes to Financial Statements

FCU 109 DRAFT Page 2

BILLING CODE 7535-01-C

Instructions for Completing FCU 109

Item and Assets

1a—Outstanding Balances of Lines of Credit Loans to Members. (Acct. 702). Report the outstanding balances as of the report date in all approved line of credit accounts to members.

1b—Real Estate Loans. (Acct. 703). The total amount of first lien real estate loans to members outstanding as of the report date should be recorded in this account. Only those loans with original maturities in excess of 12 years should be reported on this line.

1c—Loan Balances Fully Secured By Shares. Report the amount of loans to members outstanding as of the report date that are completely secured by shares.

1d—All Other Loans to Members. This amount should be the residual of loans to members after lines of credit, real estate loans, and loan balances fully secured by shares have been deducted.

1e—Total Loans to Members. Include all loans to members (including Lines of Credit, Real Estate Loans and Loans fully secured by shares) outstanding as of the report date. Do not include loans to other credit unions which are reported in the investment section.

2—All Other Loan Accounts. Represents all other loan accounts of the credit union such as loans involving repossession of collaterial, any note or contract receivable resulting from the sale of assets acquired in liquidation of loans and similar accounts, if any. Do not include loans to other credit unions which are reported in the investment section.

3—(Less) Allowance for Loan Losses. (Acct. 719). This item, if applicable to your credit union, represents the amount set aside by the credit union which is necessary to absorb possible losses on loans. This should not include amounts reported in items 29 through 32 as reserves.

4—Net Loans Outstanding. This represents the value of loans outstanding net of the allowance for loan losses. Add items 1e and 2 and subtract item 3.

5—Cash. (Acct. 730). This account represents cash on hand, petty cash, checking accounts, etc.

6—U.S. Government Obligations. (Acct. 741). Represents the "book value" of credit union funds invested in obligations of the united States which are fully guaranteed as to both principal and interest. The amounts reported in 6A plus 6B must equal the amount in 6C.

7—Federal Agency Securities. (Acct. 742). Represents the "book value" of credit union funds invested in agency securities and participation certificates which are secured by collateral owned by these agencies. The amount reported in 7A plus 7B must equal the amount in 7C.

8—Common Trust Investments. (Acct. 743). Represents the "book value" of credit union funds placed in common trust fund investments such as ICU, NIFCUS, etc. The amounts reported in 8A plus 8B must equal the amount in 8C.

9—Shares, Deposits and Certificates Invested in Corporate Central Credit Unions. Report the total amount of shares, deposits and certificates invested in Corporate Central Credit Unions as of the report date. The amounts reported in 9A plus 9B must equal the amount in 9C.

10—Shares, Deposits and Certificates in Banks, S&L's and Mutual Savings Banks. (Acct. 746). Represents the amounts of outstanding shares, deposits and certificates invested in Banks, S&L's and MSB's as of the report date. The amounts reported in 10A plus 10B must equal the amount in 10C.

11—Shares, Deposits and Certificates in Other Credit Unions. Represents the amount as of the report date of credit union funds invested in shares, deposits and certificates of other credit unions, excluding corporate central credit unions. The amounts reported in 11A plus 11B must equal the amount in 11C.

12—Loans to Other Credit Union. (Acct. 747). Represents the amount outstanding of loans made to other credit unions as of the report date. The amounts reported in 12A plus 12B must equal the amount in 12C.

13—Total Shares in the Central Liquidity Facility. Represents the total amount of shares invested directly in the Central Liquidity Facility as of the report date.

14—All Other Investments. This amount should reflect all other investments other than those listed above, as of the report date.

15—(Less) Allowance for Investment Losses. (Acct. 749). This items, if applicable to your credit union, represents the amount set aside to absorb possible losses in the liquidation of investments.

16—Net Investments. This represents the sum of items 6 through 14 less 15.

17—Land and Building (Net). Represents the amount of land and building less depreciation on building, if any.

18—Other Fixed Assets. Represents all other fixed assets of the credit union such as furniture and fixtures, leasehold improvements, less related depreciation items, if any.

19—All Other Assets. Represents all other assets of the credit union not included in the above items. Includes such items as prepaid expenses and insurance, accounts receivable, accrued income, etc.

20—Total Assets. Represents the sum of items 4, 5, 16, 17, 18, and 19 (total columns).

Item and Liabilities/Savings/Equity

21—Promissory Notes (Certificates of Indebtedness). Report the amount of funds borrowed by your credit union from individuals for which you issued a promissory note (CI). The amounts reported in items 21A plus 21B must equal the amount in 21C.

22—Reverse Repurchase Agreements. Report the outstanding balance of funds borrowed by the credit union from any source, using its securities as collateral on the loans.

23—Other Notes/Interest Payable. Represents the amount of liability of the credit union for borrowed funds, other than those reported in items 21 and 22. The amounts reported in items 23A plus 23B must equal the amount in item 23C.

24—Accounts Payable. (Acct. 800). Represents all accounts payable of the credit union such as undistributed payments, undistributed payroll deductions, etc.

25—Dividends/Interest on Shares/Deposits Payable. (Acct. 820). This account should reflect the total amount of dividends/interest on shares/deposits payable that are declared for the last dividend period and not paid.

26—All Other Liabilities. This is a balancing item and represents all other liability accounts that are not shown separately. Include such items as taxes payable, accrued expenses, deferred income, etc.

27—Total Liabilities. This represents the sum of items 21 through 26 (Total Column).

28a—Share Certificates. Represents the total amount of regular, Money Market, Jumbo and other share certificates held by your credit union members, if any. The sum of the amounts in the two maturity categories for share certificates must be equal to the total.

28b—Share Draft Accounts. Represents the total amount outstanding of share draft accounts held by your credit union members.

28c—Other Member Savings/Deposits. The amount represents the total member savings in the credit union, excluding share draft accounts and share certificates.

28d—Non-member Savings. This represents the total amount of non-member savings in the credit union.

V 45 A G 1980 UMI

28e—Total Savings/Shares/Deposits. Represents the sum of amounts held in all savings/shares/deposits accounts of members and non-members. Includes Share Certificates, Share Draft Accounts, Public Unit Accounts, Retirement Plans and special share accounts such as Christmas and Vacation accounts, if any. The sum of the Total Columns of items 28a, 28b, 28c, and 28d must equal 28e.

29—Regular/Statutory Reserve. (Acct. 931). Represents the statutory (regular) reserve balance as of the report date.

30—Investment Valuation Reserve (SCU's only). Represents the reserves to cover the excess of Book Value over Market Value for investments other than those authorized for Federal credit unions by Section 107 of the Federal Credit Union Act.

31—Special Reserves. This represents any other reserves required by regulation, special agreement or order of the credit union's supervisory authority.

32—Other Reserves. Represents the sum of other reserve accounts (excluding amounts in items 29, 30 and 31) such as reserve for contingencies, additional reserves for losses, insurance reserves, etc.

33—Undivided Earnings. (Acct. 940). Represents the total amount of accumulated income or suplus of the credit union. Should not include the amount of dividends and interest on deposits paid or payable which are reported in item 25.

34—Net Income (Loss). Represents the net income (loss) from operations.

Item and Liabilities/Savings/Equity

35—Total Liabilities, Savings, and Equity. Represents the sum of amounts in items 27, 28e and 29 through 34.

Item and Classification of Loans Outstanding

36–40—Classification of Loans Outstanding. This section calls for the reporting of the number and amount of delinquent loans, current and less than two months delinquent, and the total number and amount of loans outstanding including line of credit balances, if any. Information on loans delinquent should be taken from a schedule of delinquent loans as of the report date.

The following income and expense items should reflect totals for the periods.

Item and Operating Income

41—Interest on loans (Gross). (Acct. 110–118). Represents the total amount of income from interest on loans.

42—(Less) Interest Refunded. (Acct. 119). Represents the total amount of interest refunded.

43—Income from Investments. Represents the total amount of income earned on investments.

44—Other Operating Income. Represents all operating income other than income on loans and income from investments received by the credit union.

45—Total Gross Income. Represents the sum of items 41, 43, 44 minus item 42.

Item and Operating Expenses

46—Employee Compensation. (Acct. 210–219). Represents the total amount of salaries paid to employees of the credit union, including the treasurer, if paid. Also includes reimbursement to sponsor when credit union employees are on the sponsor company's payroll.

47—Employee Benefits. (Acct. 220–229). Represents all expenses of the credit union that relate to employee benefits. Includes such items as pension plan costs, employer's social security taxes, unemployment compensation taxes, and other benefits provided to employees.

48—Travel and Conference Expense. (Acct. 230–239). Represents the amount of authorized expenses incurred by employees and officers (including the treasurer) for travel and attendance at conferences and other meetings.

49—Association Dues. (Acct. 240–249). Represents membership dues and other fees paid to credit union organizations of which the credit union is a member.

50—Office Occupancy Expense. (Acct. 250–259). Represents all expenses relating to occupying an office including rent, utilities (except telephone depreciation of building if owned by the credit union, real estate taxes, and if renting, amortization of leasehold improvements, if any.

51—Office Operation Expense. (Acct. 260–269). Represents all expenses relating to the operation of an office including communications, stationery and supplies, insurance, furniture rental and/or maintenance, depreciation, bank service charges, etc.

52—Educational and Promotional Expense. (Acct. 270–279). Represents expenses incurred for advertising in newspapers, periodicals, radio or television and publicity and promotions in education of members.

53—Loan Servicing Expense. (Acct. 280–289). Represents all expenses incurred in the servicing of loans such as collection expense, credit reports, recording fees, chattel lien insurance, etc.

54—Professional and Outside Services. (Acct. 290–299). Represents expenses incurred by the credit union for such items as legal fees, audit fees, accounting services, and management and consultant fees.

55—Provision for Loan Losses. (Acct. 300–309). Represents the current period provision for all losses and related costs on loans and other receivables.

56—Member Insurance. (Acct. 310–319). Represents the cost of members' insurance, including premiums paid for life savings insurance, annual share insurance premium and borrowers protection insurance.

57—Operating Fees. (Acct. 320–329). Represents the NCUA annual operating fee, state supervision fee and the cost of periodic examinations assessed by NCUA or the State Supervisory Agency, if any.

58—Cash Over and Short. (Acct. 330–339). Represents the amount of tellers' cash overages and shortages where cash received vouchers for a day's business did not balance with the total cash receipts for that day.

59—Interest on Borrowed Money. (Acct. 340–349). Represents the interest cost to the credit union for borrowed money. Interest paid on member and non-member deposits (if authorized in your State) should be included in code 380, Dividends and Interest on Deposits.

60—Annual Meeting Expense. (Acct. 350–359). Represents all costs incurred by the credit union in connection with the annual meeting of shareholders; includes costs of hall rental, printing of notices, etc.

61—Miscellaneous Operating/ Expense. (Acct. 360–369). Includes all miscellaneous operating expenses for which no separate expense categories are listed.

62—Total Operating Expenses Before Dividends and Interest on Deposits. Represents the sum of all expense items listed above. (Items 46 through 61).

63—Net Income (Loss) Before Dividends and Interest on Deposits. Represents the total amount of income or loss resulting from operations (operating income less operating expenses). (Item 45 less item 62).

Item and Non-Operating Income and Expenses

64—Gain (Loss) on Investments. (Acct. 420). Report the amount of non-operating income or expense resulting from the gain or loss on investments.

65—Gain (Loss) on Disposition of Assets. (Acct. 430). Report the amount of non-operating income or expense resulting from the disposition of assets.

66—Other Non-Operating Income (Expense). (Acct. 440). Represents miscellaneous non-operating income or expenses.

67—Total Non-Operating Gains and Losses. The sum of items 64, 65, and 66.

68—Total Net Income (Loss) Before Dividends/Interest on Deposits. Represents the total amount of operating and non-operating income or loss before the deduction of dividends and interest on deposits. (Total of items 63 and 67).

Item and Allocation of Income

69—Dividends and Interest on Deposits. Report the total amount of dividends and interest on deposits paid or declared on all savings accounts. If dividends have not been declared enter the estimated amount which will be required based upon the anticipated dividend rate.

Item and Non-Operating Income, and Expenses

70—Net Income (Loss) After Dividends and Interest on Deposits. Item 68 less item 69.

71—Transfer to Regular or Statutory Reserve. Report the amount transferred from gross income to regular or statutory reserves.

72—Provision for Loan Losses Adjustment. Enter the lesser of the amount shown in the Provision for Loan Losses Expense (Item 55) or the Required Reserve transfer (item 71).

73—Change to Undivided Earnings as a Result of Operations. Item 70 less 71 plus 72.

Item and Miscellaneous Information

74—Maximum Unsecured Loan Limit. Represents the maximum loan amount given by your credit union that is unsecured.

75—Interest Refund Rate. Report the most common interest refund rate paid on refunds by your credit union during the current period.

76—Dollar Amt. of Forward Commitments to Purchase if your credit union is committed to purchase U.S. Government obligations or Federal agency securities at a future date, report the total commitment as of the report date.

77—Number of Members at End of Month. Enter the actual number of members of record as of the month end. Do not enter the number of accounts.

78—Number of Potential Members. Represents the number of actual members plus persons in the field of membership who have not yet joined the credit union. If the field of membership is stated in terms of the number of families, use an average of 3 persons per family to estimate the total potential membership.

79—Effective Date of Most Recent Supervisory Committee Verification of Members' Accounts. For example, report September 1980 as 09 80.

80—Effective Date of Most Recent Supervisory Committee Annual Audit. For example, report September 1980 as 09 80.

81—Balance of Share and Loan ledgers. Indicate whether or not your share and loan ledgers balance with their respective general ledger control.

Item and Other Loan Information

82—Total Loan Made During Current Year. Report the total number and amount of loans made during the current year.

83—Real Estate Loans Made During Current Year. Record the number and the outstanding dollar amount of loans sold to others which the credit union continues to service.

84—Loans Sold and Being Serviced by the Credit Union. Record the number and the outstanding dollar amount of loans sold to others which the credit union continues to service.

85—Total Loans Made Since Organization. Report the total number and amount of loans made since the organization of the credit union.

86—Loans Charged Off Since Organization. Represents the total amount of loans charged off since the credit union was organized. Loans charged off during the current year should be added to the amount reported on last year's year-end form to obtain the total charged off since organization as of the report date.

87—Recoveries on Loans Charged Off Since Organization. Represents the total amount of recoveries on previously charged off loans since the organization of the credit union. Add the amount recovered during the current year to last year's year-end total.

88—Net Loans Charged Off Since Organization. Represents items 86 less item 87.

[FR Doc. 80-25161 Filed 8-18-80; 8:45 am]
BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 802 3168]

Universal Bodybuilding, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Redford, Mich. seller of various bodybuilding and self-improvement courses and products to cease from using adult models and testimonials in advertisments directed to non-adults; and advertising or promoting the sale of bodybuilding products or courses, unless it has tests or studies available which indicate that unsupervised use of its products will not be harmful to non-adults. The firm would be further prohibited from making any unfair, deceptive or unsubstantiated product claim in advertising or other promotional material; and required to maintain specified records for a particular period.

DATE: Comments must be received on or before October 20, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas C. Armitage, Director, 10R Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal building, 915 Second Ave., Seattle, Wash. 98174. (206) 442–4655.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 802 3168]

Universal Bodybuilding, Inc., et al; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission has initiated an investigation of certain acts and practices of Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, an individual. It now appears that Universal Bodybuilding, Inc. and Morris Mitchell, sometimes referred to as respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between

in disposition of the proceeding. The

years of age. Advertisements directed to

reasonably be expected to result from

product in a manner which differs from

products. In addition, for a period of 10

It is hereby agreed by and between Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, an individual, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed Universal Bodybuilding, Inc., is a Michigan corporation with its office and principal place of business located at 26903 West Eight Mile Road, Redford, Michigan 48240.

2. Proposed respondent Morris Mitchell is President of Universal Bodybuilding, Inc. and his address is the same as that of Universal Bodybuilding, Inc. He formulates, directs and controls the policies, acts and practices of Universal Bodybuilding, Inc. In particular, he is responsible for all advertising for Universal Bodybuilding, Inc.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days. The Commission thereafter may withdraw its acceptance of this agreement and so notify the proposed respondents. In this event it will take such action as it may consider appropriate. The Commission also may issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute and admission by respondents that the law has been violated as alleged in the draft of the attached complaint.

7. If this agreement is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, issue its complaint corresponding in form and substance with the draft of the attached complaint and its decision containing the following order to cease and desist in disposition of the proceeding. The Commission may also make public information pursuant to Rule 2.34. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

This order applies to respondent Universal Bodybuilding, Inc., a corporation, its successors and assigns and its officers, agents, representatives and employees, in connection with offering for sale, sale or distribution of any bodybuilding, muscle-building or other self-improvement products, devices or courses directly or through any corporation, subsidiary, division, or other device in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended. This order applies to respondent Morris Mitchell in connection with advertising, offering for sale, sale or distribution of any bodybuilding, muscle-building or other self-improvement products, devices or courses in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, and amended. This order shall not apply to Morris Mitchell insofar as he is involved only in the bona fide sale of advertising services to businesses which are not involved in the sale or offering for sale of any bodybuilding, muscle-building, or other self-improvement products, devices or courses and in which he or members of his immediate family have no financial interest.

For purposes of this order "non-adults" shall mean persons under 17 years of age. Advertisements directed to non-adults shall mean all advertisements and promotional material:

1. Whose dominant appeal is to non-adults;

2. Mailed directly to a person who respondent has reason to believe is a non-adult; or

3. Disseminated in publications whose audience for the prior 12 months was composed of a majority of non-adults. Such publications shall include all comic books, *Mad Magazine, Boy's Life, Children's Digest* and *Jack and Jill.* This list is intended to be representative of publications covered by this order but not exclusive.

It is ordered, That in all advertisements directed to non-adults respondents cease and desist from:

A. Advertising or in any way promoting the sale of body-building or muscle-building products, devices or courses (hereafter referred to as products) until respondents have available and rely on competent scientific or medical tests or studies adequate to show that use of the products without appropriate supervision will not be harmful to non-adult consumers.

B. Using pictures or drawings of adults or professional models to promote the sale of bodybuilding or musclebuilding products.

C. Making any representation, directly or by implication, unless, at the time the representation is made, respondents have, and rely on, substantiation sufficient to provide a reasonable basis to believe that the representation is true for the typical non-adult consumer of respondent's products. In interpreting this provision, respondents shall not represent that a consumer can achieve any result unless and until respondents can substantiate by competent tests or studies that the result can be attained by a typical non-adult who uses the product in the manner depicted in the advertisement. The original data collected for any such studies performed at the request of or with the financial assistance of respondents and a detailed description of how the test or study was performed must be available for inspection by the Federal Trade Commission for at least two years following the final use of the representation.

D. Using any testimonial which does not represent the typical experience of non-adult consumers of respondents' products.

E. Making any representation, directly or indirecly, which exaggerates or overstates the results which may

reasonably be expected to result from use of any product by a non-adult.

II

It is further ordered, That in all advertisements respondents cease and desist from:

A. Representing in any manner, directly or by implication, including through the use of testimonials, that a typical consumer who uses respondents' products will attain rapid improvement in his physical appearance, add muscles, lose fat or gain respect from his peers unless the representation is, in fact, true.

B. Representing in any manner, directly or by implication, that any product:

(1) Makes muscles appear quickly and easily, with little effort;

(2) Is more effective than isometrics or any other form of muscle building, body building or self-improvement products;

(3) Is the fastest muscle-building system in the world, unless the representation is, in fact, true.

C. Disseminating any advertisement or promotional material which contains unfair or deceptive representations or fails to disclose material facts regarding the facts regarding the advertised product(s).

D. Making any representation, directly or by implication, unless at the time the representation is made, respondents have, and rely on, substantiation sufficient to provide a reasonable basis to believe that the representation is true for the typical consumer of respondents' products. In interpreting this provision, respondents shall not represent that a consumer can achieve any result unless and until respondents can substantiate by competent tests or studies that the result can be attained by a typical consumer who uses the product in the manner depicted in the advertisement. The original data collected for any such studies performed at the request of or with the financial assistance of respondents and a detailed description of how the test or study was performed must be available for inspection by the Federal Trade Commission for at least two years following the final use of the representation.

Provided, That respondents may use testimonials which do not represent the typical experience of consumers of respondents' product(s) if (1) the testimonial itself is truthful; and (2) all conditions which contributed to the atypical results are clearly and conspicuously disclosed. Such conditions shall include, but shall not be limited to, the prior physical condition of the user, use of a special diet, use of bodybuilding products in addition to the advertised products and use of the product in a manner which differs from that depicted in the advertisement (e.g., use of the product for a longer period of time each day than advertised).

E. Representing in any manner, directly or by implication, that the physical stature of any model used in an advertisement is attainable by typical consumers who use the product unless it is, in fact, attainable.

III

It is further ordered, That respondents maintain complete business records relative to the manner and form of their compliance with this order. Respondents shall retain each such record for at least three years, and shall retain substantiation and other documentation at least two years beyond the last dissemination of any representation or testimonial which relies on the substantiation under the provisions of this order. Upon reasonable notice, respondents shall make any and all such records avalable for inspection and photocopying by authorized representatives of the Federal Trade Commission at respondents' place of business or other properly designated location.

IV

It is further ordered, That respondent Univeral Body Building, Inc., shall immediately deliver a copy of this order to each operating division and affiliated business. Respondent Universal Body Building, Inc., shall also immediately deliver a copy of this order to all personnel now or hereafter engaged in the sale or offering for sale of respondents' services or in any aspect of the preparation, creation or placing of advertising on behalf of respondents. Respondents shall secure from each such person a signed statement acknowledging receipt of the order.

V

It is further ordered, That respondents notify the Commission at least thirty days prior to any proposed change in a corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That Morris Mitchell promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment relating to the promotion or sale of body building, muscle building or self-improvement course, devices or products. In addition, for a period of 10 years from the date of service of this order, he shall promptly notify the Commission of each affiliation with such a new business of employment. Each such notice shall include his new business or employment. Each such notice shall include his new business address and a statement of the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilites in connection with the business or employment. The expriration of the notice provision of this paragraph shall not affect any other ogligation arising under this order.

VI

It is further ordered, That the respondents herein shall, within sixty days after service of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, an individual. The proposed consent order has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order. Universal Bodybuilding advertises and sells various bodybuilding and self-improvement courses and products. A significant portion of their previous advertising was directed to non-adults (persons under 17 years old) through publication in various comic books. Morris Mitchell, as president of Universal Bodybuilding, is personally in charge of much of this advertising.

The complaint which was issued by the Commission along with the proposed consent order alleges that Universal and Mitchell distributed advertisements and other promotional material which contained unfair and deceptive representations about these products. The principal allegations of the complaint focus on various ways respondents exaggerated the improvement of physique and muscle development that would be achieved and the amount of effort necessary to obtain body building results.

Unfortunately, the order contains additional

The complaint alleges that respondents failed to substantiate claims which they made about their products. The complaint also alleges that by promoting the unsupervised use of bodybuilding courses and products to non-adults, respondents falsely represented that they had reason to believe that such use was safe and non-harmful. Finally, the complaint alleges that respondents unfairly and deceptively used adult models and testimonials in advertising to non-adults in a manner which misrepresented muscle development which the typical non-adult could achieve by using respodents' products.

The proposed consent order separates respondents' advertising into two parts: Advertising directed to adults and advertising directed to non-adults. In advertising to non-adults, respondents are prohibited from making any claim which promotes the unsupervised use of bodybuilding courses or products unless they have reason to believe that such use will not be harmful to non-adults. Respondents are also prohibited from using adult models or testimonials, or any testimonial which does not represent the typical experience of non-adults. Finally, respondents are prohibited from using any advertisement which exaggerates or overstates the expected results of using respondents' products.

In advertising directed to adults, respondents are prohibited from making certain specific claims about the ease and effectiveness of their products in building up bodies unless they are true. In addition, respondents are prohibited from making any unfair or deceptive representations or failing to disclose material facts regarding their products. They are also prohibited from making any unsubstantiated claims in advertising or other promotional material. The order allows respondents to use true testimonials that do not represent the typical experience of users of respondents' products in advertising directed to adults if all conditions which contributed to the atypical results are clearly and conspicuously disclosed.

We believe that this order will effectively eliminate any deception or other possible injury which might have resulted from respondents' previous advertising. There is reason to believe that the unsupervised use by non-adults of certain types of products or exercises might be physically harmful. For this reason the order requires respondents to substantiate the safety of any bodybuilding courses or products they promote to non-adults. In addition, we believe that consumers, especially non-adults, are especially susceptible to exaggeration and misrepresentation of the likely effects of this type of product. By requiring that respondents use only advertising techniques which promise results which are attainable by the average member of the audience, we hope that this sort of misrepresentation can be avoided. At the same time, the Commission recognizes that such a restriction will not always be the most appropriate remedy for this type of misrepresentation. In many cases it is entirely possible that affirmative disclosure of the unusual circumstances necessary to achieve the promised results also could serve to cure the misrepresentation. We do not believe that compliance with this order will impose a great burden on these respondents or on other sellers and advertisers of bodybuilding courses or products. The order places no affirmative obligation on respondents which did not already exist for all advertisers under established Commission precedent.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms.

James A. Tobin,
Acting Secretary.

Dissenting Statement of Commissioner David A. Clanton

While I support the other provisions of the order, I am opposed to Paragraph I.B., which would prohibit the use of adult models in advertisements directed primarily to non-adults. It is difficult to assume that children reading such ads would be deceived into thinking that Universal Bodybuilding's program would transform them into replicas of the pictured models (who plainly appear to be adults, and not adolescents). While it might be argued that the use of heavily-muscled adult models prompts children to overexert themselves, I think that other provisions in the order, such as Paragraph I.A., are sufficient to assure that the advertisements do not encourage such results.

Dissenting Statement of Commissioner Robert Pitofsky

Universal Body Building sells body building devices and body building and self improvement courses. Among its products are weight lifting supporting belts and several books and pamphlets on body building. In the past, it advertised these products in comic books as well as other publications.

Some of its advertising claims appear to be highly unlikely—for example, claims that by using its body building method, "muscles will appear * * * almost like magic." Staff and the company have negotiated a cease and desist order covering false claims. Unfortunately, the order contains additional provisions which are entirely unsupportable.

Two order provisions seem to me particularly unfounded. Staff alleges that it is deceptive advertising to use adult models in physical self improvement ads in comic books because it will lead young readers to think they can achieve the physical stature of the models. The order addresses that problem by directing that the company in the future not use pictures or drawings of adults or professional models to promote the sale of body building or muscle building products in publications likely to reach non-adults—i.e., people under 17. The theory apparently is that kids reading these comic-book ads will be induced to believe that by following the body building program, they will soon look like the models. I just don't think kids are that dumb. At most, they may believe that the models followed weight lifting or body building programs like those described for sale, and if they follow the recommended program, they too will come to look more like the models than they do now. Muscle building ads have been using adult models as long as I can remember and I haven't noticed any serious consumer harm as a result. In any event, the staff has offered no evidence to support these unusual complaint and order provisions.

The staff's second concern relating to sale of these products and programs to non-adults has to do with the dangers of unsupervised use. The complaint alleges that Universal Body Building in its advertisements impliedly represents that it is relying on "competent scientific tests or studies" to provide a reasonable basis to believe its products can be used by non-adults "without appropriate supervision." The ads say nothing of the kind, but the theory underlying the Order is that the promotion of muscle building products or programs to kids create an implied claim of safe use. The proposed remedy is to require that such ads be run in publications designed to reach non-adults only if the company has studies to show the products "can be used without appropriate supervision * * * [and] * * * will not be harmful."

Obviously, any body building regime could be harmful if done to excess or with improper technique. The same could be said about riding a bicycle or roller-skating. The Commission has no evidence that unsupervised body building is a dangerous activity and I am simply not willing to assume that advertising these products and programs, without some sort of scientific study relating to safety, is a violation of law, when no claims about safety are made. Since a scientific study to demonstrate that unsupervised muscle building is safe under all circumstances will be impossible to develop, the real result here will be to exclude all muscle building ads from comic books and other magazines read mainly by non-adults. I don't see that as a sensible Commission goal.

I believe these two provisions should be eliminated and the Order limited to covering instances of fraud.

[FR Doc. 80-25200 Filed 8-18-80; 8:45 am]
BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 406

Deceptive Advertising and Labeling of Previously Used Lubricating Oil

AGENCY: Federal Trade Commission.

ACTION: Statement of Enforcement Policy and invitation to comment.

SUMMARY: On April 15, 1980, the Association of Petroleum Re-Refiners filed a petition with the Commission concerning its Trade Regulation Rule on Deceptive Advertising and Labeling of Previously Used Lubricating Oil (Used Oil Rule). The relief sought by the petition is the repeal of the rule or, in the alternative, a modification of its requirements to permit sellers of used oil to satisfy the rule by referring to their products as "recycled" rather than "used." The Commission has tentatively concluded that the use of the term "recycled oil product" to describe lubricants that have been re-refined from used oil would satisfy the disclosure requirement of the Used Oil Rule, and has therefore issued this Enforcement Policy Statement. Public comments on the Statement are being solicited for a period of 30 days. Unless the Commission subsequently determines, in light of the public comments, to alter or revoke the Statement, it will automatically take effect 60 days from the date of this notice.

DATE: Comments will be accepted until September 18, 1980.

ADDRESSES: Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. They should be designated as "Comment on Used Oil Rule Enforcement Policy Statement." Copies of the petition filed by the Association of Petroleum Re-Refiners and of the Used Oil Rule can be obtained from the Public Reference Branch at the above address (202/523–3598). The record of the Used Oil Rule proceeding is available for inspection at the Public Reference Branch.

FOR FURTHER INFORMATION CONTACT: Charlie Donaldson, Attorney, Division of Energy and Product Information, Bureau of Consumer protection, Federal Trade Commission, Washington, D.C. 20580. Telephone number: 202/724–1537.

SUPPLEMENTARY INFORMATION: On August 14, 1964, The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. Section 41 *et seq.*, promulgated "16 CFR Part 406—Deceptive Advertising and Labeling of Previously Used Lubricating Oil" (29 FR 11650). The Commission's rule is founded on the conclusion that whether a lubricant has been made from crude oil or from used oil is material to consumers. Accordingly, the Commission's rule requires that containers of lubricant that has been made from used oil disclose the origin of the product to consumers. While the Used Oil Rule does not prescribe specific language to be employed in making this disclosure, the term in common use since promulgation of the rule has been "made from used oil."

On April 15, 1980, the Association of Petroleum Re-Refiners petitioned the Commission to repeal the Used Oil Rule, or to modify it to permit the use of the terms "this is a recycled petroleum product" or "this is a combination of virgin oil and recycled petroleum products" to satisfy the requirements of the rule. The Association believes that the phrase "used oil" conflicts with the Congressional policy favoring the recycling of used oil, by disparaging the quality of lubricants made from used oil. In their view, the terms suggested in their petition are not discriminatory and satisfy the purposes of the rule.

It is unclear whether consumers, in fact, derive a disparaging meaning from the phrase "used oil." As noted above, however, the Used Oil Rule does not specifically require the use of this term, so long as the used origin of such a lubricant is adequately conveyed to consumers. Thus, the Commission believes that it is unnecessary to consider repeal or modification of its rule, if the terms suggested by the Association adequately convey this message to consumers.

While empirical evidence is lacking as to perception of the word "recycled", the Commission is of the view that the term "recycled oil product" would convey two things to consumers: (1) that the product has been made from previously used oil; and (2) that the processing of the used oil has made it suitable once again for ordinary consumer use. As a result, the Commission has tentatively concluded that this term is an acceptable phrase for making the disclosure required by the Used Oil Rule, for those lubricants which have been re-refined from used oil. This latter limitation is consistent with the Used Oil Rule, which draws a distinction between lubricants that are made from used oil which has been subjected to a re-refining process and those made from used oil which has not been subjected to such a process. The former have been subjected to a process that removes virtually all contaminants, while the latter have not and are therefore inappropriate for ordinary consumer use. Since the APR's petition is concerned only with re-refined oil, our interpretation permitting use of "recycled oil product" applies only to lubricants whose used oil components have been subjected to a complete re-refining process.

Another limitation is that the Commission expressly endorses only the phrase "recycled oil product" as complying with the rule. The Commission is encouraging the use of that wording to maintain a reasonably uniform disclosure scheme and to minimize any consumer confusion in this area. By this action, the Commission takes no position on whether other references to "recycled" would also be in compliance.

Although the Commission believes that this Enforcement Policy Statement is consistent with the purposes of its rule, the Commission wishes to receive and consider the comments of interested parties regarding this interpretation. The Commission is particularly interested in comments on the question whether the phrase "recycled oil product" adequately informs consumers of the used origin of re-refined lubricants.

Comments on the Statement will be accepted for a period of 30 days. Unless the Commission subsequently determines, in light of the public comments, to alter or revoke the Enforcement Policy Statement, it will automatically become effective 60 days after publication of this notice.

By direction of the Commission.

James A. Tobin,
Acting Secretary.

[FR Doc. 80-25199 Filed 8-18-80; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. R-80-709]

Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: HUD proposes to adopt a new regulation establishing Departmental standards, requirements and guidelines delineating danger zones around hazardous operations so that

generated by an explosion. The very

Subpart are satisfied. Mitigating

government on hazard implications and

HUD-assisted projects can be located at acceptable separation distances from specific hazardous operations handling materials of an explosive nature or flammable materials with a high thermal radiation output.

The purpose of the proposed regulation is to assure that a HUD assisted project is located at an acceptable separation distance (ASD) from such potentially hazardous facilities. The regulation proposes to establish explosion and thermal radiation (fire) safety standards, which will be used to determine an ASD for a given project.

DATES: Interested persons may comment by submitting written data, opinions or recommendations to the Department by October 20, 1980. Each person submitting a statement should include name, address and a reference to this policy document by the docket number indicated in the heading. All statements should be accompanied by reasons and substantiating data. All statements will be considered before final action is taken on the proposed rule.

ADDRESSES: Statements should be submitted to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Copies of all correspondence received will be available for examination by any interested persons during usual business hours in the Office of the Rules Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: James L. Christopulos, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone number 202–755–8909 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: An Advance Notice of Proposed Rulemaking (ANPR), concerning this proposed regulation, was published in the **Federal Register** on September 10, 1979, 44 FR 52695. The ANPR resulted from the discovery, during the environmental review of proposed HUD projects, that many such projects were too often being located near hazardous operations of an explosive or fire prone nature. For example, in 1975, during the environmental review process, the Department learned about the proposed construction of 1,250 units of public housing which were to be located within 120 feet of a public utility facility containing forty 60,000 gallon liquid propane storage tanks. An engineering analysis determined that an explosion of just one of the tanks would emit a force capable of destroying 00 percent of the project.

The Department's concern with proposals to locate HUD-assisted projects in the vicinity of operations which include large quantities of explosive or flammable materials dates from that time. During the past four year period, Departmental staff and local officials have been using interim guidelines contained in HUD guidebook PD&R–161 (December 1975) entitled "Safety Considerations in Siting Housing Projects", to identify potentially hazardous operations and to determine acceptable separation distances for Community Development Block Grant (CDBG) projects and HUD-assisted housing in the vicinity of such operations. The guidebook is being revised concurrently with the development of this rule. It compiles formulae, nomographs, tables and other data which can be used to identify potential hazards and to determine acceptable separation distances from such hazards. The one substantive change between the original and the revised guidebook is that the standard for the safety of people in areas exposed to thermal radiation has been revised in accordance with the latest findings of current research. A draft of this guidebook is available for inspection in the Environmental Planning Division, Room 7266, at the above address.

Specific hazards considered in the proposed regulation are those of explosion and fire. The proposed regulation applies to any stationary or site specific operation or activity involved in handling quantities of explosive or flammable material(s). Operations covered by the regulation include the manufacture, storage, processing and transfer of certain chemicals and ordinary flammable fuels, e.g., kerosene, gasoline and naptha; liquid petroleum gases (LPG), e.g., liquid propane and liquid butane; and liquefied natural gas (LNG).

The Appendix, included as part of the proposed regulation, contains formulae taken from the guidebook to serve as an example for applying the standards.

This proposed rule appeared as Item CPD–32–78 in the January 4, 1980 Agenda of Significant Rules published in accordance with Executive Order 12044.

The Department has determined that the proposed regulation may significantly affect the quality of the human environment. Therefore, a Draft Environmental Impact Statement has been prepared for agency and public comment in accordance with the National Environmental Policy Act of 1969 (U.S.C. 4321), Council on Environmental Quality Regulations (40 CFR Part, 1500–1508) and HUD's Regulations (24 CFR Part 50).

Accordingly, the Department proposes to amend 24 CFR Part 51 by adding a new Subpart C to read as follows:

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

Sec.
51.200 Purpose.
51.201 Definitions.
51.202 Policy.
51.203 Safety Standards.
51.204 Responsibilities.
51.205 Exceptions.
51.206 Mitigating Measures.
51.207 Reservation of Administrative and legal Rights.

APPENDIX:

1. Background Information Concerning the Standards
2. Examples

Authority: Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535 (d)); and 42 U.S.C. 1441.

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

§ 51.200 Purpose

It is the purpose of this regulation to:

(a) Alert those responsible for the siting of HUD-assisted projects to the inherent potential dangers when such projects are located in the vicinity of hazardous operations of an explosion and/or fire prone nature;

(b) Provide guidance for identifying those harardous operations which are the most prevalent;

(c) Provide the technical guidance required to evaluate the degree of danger anticipated from explosion and thermal radiation (fire);

(d) Establish safety standards which can be used as a basis for calculating acceptable separation distances from potential fire and/or explosion hazards thereby assuring the location of HUD-assisted projects at acceptable distances from such hazardous operations; and

(e) Provide technical guidance required to determine acceptable separation distances from such hazards.

§ 51.201 Definitions.

Acceptable Separation Distance—(ASD) from a particular hazard is the distance beyond which it is not likely to cause more than minimal injury to people or damage to property. The ASD is also the distance beyond which HUD assisted projects may generally be constructed.

Blast Overpressure—that physical phenomenon that is characteristically generated by an explosion. The very rapid combustion or decomposition of an explosive reaction which produces very large volumes of super heated gases which exert pressure on the surrounding medium in excess of normal atmospheric pressure.

BTU—British Thermal Unit, a quantity of heat required to raise one pound of water one degree fahrenheit; a unit of heat measurement.

Danger Zone—That land area between the hazard and a perimeter defined by the ASD is the danger zone. For example, if the ASD is determined to be 200 feet, all land area beyond 200 feet is considered acceptable for construction of a HUD project; and that land located in the area between the hazard and the 200 feet perimeter is the "Danger Zone", and generally not acceptable for construction of a HUD assisted project.

Department—The Department of Housing and Urban Development

Secretary—The Secretary of Housing and Urban Development

HUD—The Department of Housing and Urban Development

HUD Assisted Project—The development, construction, rehabilitation, modernization or conversion with HUD subsidy, grant assistance, loan, loan guarantee, or mortgage insurance, of any project which is intended for human occupancy or use, i.e., for residential, institutional, recreational or other such use.

psi—Pounds per square inch, an abbreviation for the unit commonly used to measure compression pressure or blast overpressure.

Thermal Radiation Flux Level—The emission and propagation of heat energy through space or a material medium in the form of waves in a quantity proportional to the surface integral of the normal force field intensity over a given area. In simple terms, the amount of heat emitted from a fire. Normally expressed in BTU per square foot per hour (BTU/ft.^{2} hr.)

§ 51.202 Policy.

(a) It is HUD's policy that projects receiving HUD assistance will be located in a safe and healthful environment. Therefore, any HUD-assisted project which is intended for human occupancy or use, i.e., for employment, residential, institutional, recreational or other functions, whether part-time or full-time, shall be situated at an Acceptable Separation Distance (ASD) from a potential hazard of an explosion or fire prone nature. The Department will withhold assistance for any proposed project unless the safety considerations and standards of this Subpart are satisfied. Mitigating measures may be applied wherever feasible in order to minimize any potential hazard to the occupants or users of a proposed HUD assisted project in accordance with Section 51.206 of this regulation. An exception to this rule would be HUD projects of an industrial or commercial nature, which may have fire or explosive potential, e.g., gasohol plants, industrial parks, etc. However, the safety standards will apply in determining the proximity of projects of this nature to other land areas such as residential.

(b) The fundamental intent of this regulation is to safeguard community inhabitants by directing the growth patterns and development of densely inhabited areas away from such danger zones of flammable and explosive chemicals and fuels. Before such assistance is approved, HUD will evaluate the area zoning classification to establish whether a hazardous operation could at some time in the future be installed in close proximity to a proposed project to be constructed or rehabilitated with HUD assistance.

(c) The provisions of this regulation apply to all HUD assisted projects, with the exception noted in § 51.202(a). This includes any type of HUD assistance, i.e., grants, loans, mortgage guarantees, etc.

(1) Applicants for assistance under Title I, Housing and Community Development Act of 1974, will implement the policy, safety standards and criteria set forth in this Subpart during the environmental review process and must provide for appropriate mitigating measures such as barriers when sensitive land development is proposed for or will attract development to locations exposed to hazardous materials operations.

(2) This policy and its intended purposes of safety with regard to hazardous material operations shall be applied to all new construction, except as indicated in Paragraph 51.202(a), and to rehabilitation or modernization when such work wold substantially increase the number of people exposed to the hazards by increasing residential densities or through the conversion of a building or facility from non-residential to residential use.

(d) Grantees or sponsors of projects which have received HUD approval must notify the Department if they learn of any planned hazardous operation, covered by this regulation, which is to be located in the vicinity of their project. HUD will use this information to advise the appropriate entity of local government on hazard implications and remedial measures.

§ 51.203 Safety Standards.

There are two types of potential hazards covered by this regulation: (a) Fire (thermal radiation), and (b) explosion. Therefore, the safety standards to be established are for these two hazards. Based upon the background information contained in the Appendix of the regulation it has been determined that the fire safety standards will be 10,000 BTU/ft^{2}hr for buildings, and 450 BTU/ft^{2}hr for people in unprotected (outdoor) areas, such as playgrounds, parks, yards and open spaces within the property lines of the proposed development; and the standard for explosion will be 0.5 psi overpressure. These standards will be used to determine the Acceptable Separation Distance (ASD) from a potential explosive or fire prone hazard as illustrated by the examples in the Appendix. Any distance beyond the ASD will be considered acceptable for construction. That distance between the hazard source and the ASD delineates the "Danger Zone" and is unacceptable for the location of HUD-assisted projects, unless mitigating measures are taken. See § 51.206, Mitigating Measures. The Acceptable Separation Distances for building construction, which are computed for fire and for explosion will always differ. For some materials the ASD for fire will be the greatest, while for others the explosion ASD will predominate. In any event, the hazard requiring the greatest separation distance will prevail in determining the siting of buildings in HUD assisted projects.

Note.—Computation of an ASD is predicated on level topography and no intervening object(s) between a potential hazard and a proposed project. A permanent intervening structure or shielding topography can constitute a mitigating measure.

The Annex contains detailed information concerning the Safety Standards for determining acceptable separation distances (ASD's) for construction of buildings and location of outdoor recreational facilities.

§ 51.204 Responsibilities.

(a) Assistant Secretaries' duties:

(1) Assistant Secretaries shall implement the Department Policy regarding the required siting considerations of HUD assisted projects through guidance documents, and administrative forms and procedures for progams under their jurisdication.

(2) The Assistance Secretaries shall evaluate the effectiveness of the Departmental Policy and compliance

with its provisions. All significant issues and problems or suggested revisions or additions to the policy should be directed to the Assistant Secretary for Community Planning and Development.

(b) Regional Administrators, Area Office Managers and other Office Supervisors duties:

(1) *General Policy Implementation.* Regional Administrators, Area Office Managers, Insuring Office Supervisors and Service Office Supervisors shall assure that this policy is implemented.

(2) *Notice to Applicants.* As soon as practicable, these supervisors indicated in § 51.204(b)(1) above shall:

(i) Assure all present and prospective applicants are apprised of the Department's hazards policy and its provisions so that current and future site selections will be in accordance with HUD policy standards and guidelines.

(ii) Determine the suitability of proposed residential development with regard to potential danger zones and promptly notify applicants of any adverse or questionable conditions and state the factors leading to a HUD decision of adverse or questionable conditions.

(iii) Review mitigating measures submitted by the applicant to offset a potential hazard, and notify applicant of their acceptability.

§ 51.205 Exceptions.

There will be no exceptions, beyond that noted in § 51.202(a). Any project coming under the purview of this policy will comply with the prescribed Acceptable Separation Distance (ASD) as related to a specific hazard unless appropriate mitigating measures (see § 51.206) are incorporated into the project.

§ 51.206 Mitigating Measures.

There are two very effective measures which can be employed to minimize or off-set the effect of a potential explosion or thermal radiation (fire) hazard. The most positive and effective mitigating measure, which can be taken when siting a HUD project in the immediate vicinity of a fire or explosion prone operation, is the establishment of and adherence to an acceptable separation distance (ASD). This, as a matter of policy, should be the first recourse whenever HUD projects are proposed near hazardous operations of the type previously described. Another very effective measure is the construction of a barrier between the potential hazard and the proposed project site. This can dramatically reduce the danger zone and increase the availability of usable land area. Use of a barrier is recommended wherever the ASD cannot be achieved and it is feasible economically and acceptable environmentally. And as previously stated in § 51.203 above a permanent intervening structure or shielding topography can also constitute a mitigating measure.

§ 51.207 Reservation of Administrative and Legal Rights.

Publication of these standards does not constitute a waiver of any right (a) of HUD to disapprove a project proposal if the siting is too close to a potential hazard not covered by this subpart, and (b) of HUD or any person or other entity to seek to abate or to collect damages occasioned by a nuisance, whether or not covered by the Subpart.

Appendix

The Appendix is comprised of two parts. The first part contains background information concerning the fire and explosion safety standards, and the second part illustrates the application of the standards.

1. *Background Information Concerning the Standards*

(a) *Fire.* (1) *Introduction.* Flammable products stored in above ground tanks represent a definite potential threat to human life and structures in the event of fire. Even though it may not impinge directly on neighboring structures, the resulting flame emits thermal radiation which is absorbed by the surroundings. If another tank is in the same area and is exposed to high levels of thermal radiation or to the flame itself, its walls may fail and its contents may ignite and burn. Similarly, combustible structures such as wooden houses and trees, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn injuries and even death to exposed persons at some distance away from the site of the fire.

(2) *Criteria for Acceptable Separation Distance.* (ASD) Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time (15–20 minutes) to thermal radiation flux levels of approximately 10,000 BTU/hr. sq. ft., and structural steel loses its strength when its temperature reaches approximately 650 F after about 15 minutes of continuous exposure at that intensity. Since the reasonable response time for fire fighting units in urbanized areas is approximately five to ten minutes, 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings, since it will take 15 to 20 minutes for a building to ignite at that degree of thermal intensity. Therefore, this will be the standard for calculating the acceptable separation distance for a proposed HUD building project from the site of a potential thermal radiation (fire) hazard. People who are in an outdoor area and are exposed to a thermal radiation level of approximately 450 BTU/ft²hr will suffer pain after about two minutes and receive a burn comparable to a second degree burn. Longer exposure causes blistering. Since it is assumed that people will take refuge behind walls or run away from the fire well within the two-minute time period, and before skin blistering occurs, 450 BTU/hr. sq. ft. thermal radiation is established as the standard for determining the ASD for people in unsheltered locations. Therefore, exposed outdoor recreation areas such as playgrounds, and parks must be placed at such a distance from a potential fire hazard so that the radiation flux does not exceed 450 BTU/hr. sq. ft. This includes open space ancillary to residential structures, such as yard areas and vehicle parking areas, unless such space is protected (shielded) from the potential source of thermal radiation by the structure being served or by other means to such a degree that the thermal radiation would be reduced to an acceptable level.

(3) *Acceptable Separation Distance From a Potential Fire Hazard.* This is the actual setback required for the safety of occupied buildings and their inhabitants and people in open spaces (exposed areas) from a potential fire hazard, if there are no mitigating measures. The specific distance required for safety from such a hazard depends upon the nature and the volume of the substance. The Technical Guidebook, which supplements this regulation, contains the technical guidance required to compute Acceptable Separation Distances (ASD) for those flammable substances most often encountered. Section 2 of the appendix has an example for computing ASD from a potential fire. Liquid propane is the substance used in the example, since it is one of the flammable products most often encountered.

(b) *Explosion.* (1) *TNT Equivalent:* The range of sensitivity of the explosion tolerance of a material and the magnitude of the violent sudden release of energy can vary widely between one material and another. Therefore, for the sake of simplicity, the blast effect of an explosive material is compared to TNT, whose blast energies are well known. This method of comparison is known as "TNT Equivalent." The term "TNT Equivalent" refers to the amount of material (other than TNT) it would take to have the same blast effect as one pound of TNT. Appropriate tables, nomographs and other technical guidance are provided in the Technical Guidebook to assist in determining a TNT equivalent.

(2) *Acceptable Separation Distance.* The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion is dependent upon the resultant blast measured in pounds per square inch (PSI) overpressure. The military services have determined that 0.5 PSI is the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand that level of external exertion with no serious structural damage and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this standard and after determining the TNT equivalent for the material concerned, the ASD can be mathematically computed by determining the distance at which the blast overpressure will be 0.5 PSI. That distance is the ASD or the maximum radius of the danger zone. A special table and a nomograph are included in the Technical Guidebook from which the ASD can be extrapolated, thereby eliminating that portion of the calculation. An example for determining TNT equivalent and ASD are included below.

(c) *Hazard evaluation.* The Acceptable Separation Distances for buildings, which are computed for fire and explosion, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius, and cover the largest area, while for others the explosion danger zone will be the greatest. In any event the hazard requiring the greatest separation distance will prevail in determining the location of buildings for HUD-assisted projects.

The standards proposed for the protection of public health and welfare are given in the following table.

	Thermal radiation	Blast overpressure
Amount of acceptable exposure allowed for building structures.	10,000BTU/ft²-hr[a].....	0.5 psi
Amount of acceptable exposure allowed for people in open areas.	450BTU/ft²-hr[b].....	0.5 psi

Note a.—Duration of exposure should not exceed 20 minutes.

Note b.—Duration of exposure should not exceed 2 minutes.

2. *Examples*

The following examples are given as guides so that anyone reviewing this policy can understand how the procedures are used in determining acceptable separation distances. Liquid propane has been selected to be used in the examples since it is both an explosion and a fire hazard.

In this hypothetical case, the hazard is 30,000 gallons of liquid propane stored in one tank at a storage pressure of 200 PSI. The objective is to determine the ASD (a) in event of explosion and (b) in event of fire. There is no dike around the tank in this example.

(a) *Calculation of ASD in Event of Explosion:*

1. *Procedure for Calculating ASD.* (i) Identify the material, the storage or operating pressure, the quantity in pounds, the specific gravity, and the molecular weight. If quantity is given in gallons, convert to cu. ft. by dividing by 7.48 gal./cu. ft. Multiply specific gravity by 62.4 to obtain density in lb./cu. ft. Multiply density by number of cubic feet in the tank to obtain total content in pounds.

(ii) From molecular weight of contents and operating pressure determine TNT_{eq}. This can be extrapolated from a nomograph in the Technical Guidebook for liquid propane. Multiply TNT_{eq} by mass of tank contents in pounds to obtain totlal TNT equivalent.

(iii) If the total TNT equivalent is less than 30,000 lbs. a nomograph is included in the Technical Guidebook from which the acceptable separation distance (ASD) can be obtained.

(iv) If the total TNT equivalent is more than 30,000 lbs. the ASD can be obtained from a table in the Technical Guidebook.

(2) *Sample Calculation* (for explosion):

Chemical or fuel: Liquid Propane.
Amount of Material: 30,000 gallons.
Specific Gravity: 0.59.
Molecular Weight: 44 (commercial propane).
Storage Pressure: 200 PSI.
TNT_{eq} for Propane = .044 lb_{TNT}/ lb. propane.
Density of propane = 0.59 x 62.4 = 36.8 lb./cu. ft.
Mass of propane in tank = 30,000 gal. x 1 cu. ft./7.48 gal. x 36.8 lb./cu. ft. = 147,590 lb.
Total TNT Equivalent = 0.044 x 147,590 = 6494 lb TNT.

Since the total TNT_{eq} is less than 30,000 lb. the nomograph in the technical document is consulted and it is found that the ASD is *660 feet.*

(b) *Calculation of ASD in Event of Fire:*

(1) *Procedure for Calculating ASD.* (i) Determine the expected spill fire diameter, D:

(A) Storage tank in circular dike: Dike diameter = D.
(B) Storage tank in rectangular dike: D = 4 (area of dike) ÷ perimeter of dike.
(C) For an undiked tank the spill diameter (D) is

$D = 2\sqrt{\text{volume (gallons)}}$

(ii) Using the spill fire diameter proceed to the appropriate nomograph in the Technical Guidebook and read off the acceptable separation distance (ASD).

(2) *Sample Calculation* (for fire):

Chemical or Fuel: Liquid Propane.
Amount of Material: 30,000 gallons.
Type of Dike: Undiked.
$D = 2\sqrt{\text{volume (gallons)}}$
$D = 2\sqrt{30{,}000} = 346$ ft.

Using the appropriate nomograph for propane in the Technical Guidebook it is found that the acceptable separation distance is 880 feet for playgrounds or open space associated with residential buildings and 300 feet for buildings.

Since the 660 feet ASD for explosion is greater than the 300 feet for fire it will prevail. Therefore, the Acceptable Separation Distance for inhabited buildings from this particular 30,000 gal. liquid propane tank is *660* feet; and playgrounds, and other recreational facilities or open space for human use must be located at least *880* feet from the tank.

Issued at Washington, D.C., August 12, 1980.

Ronald P. Laurent,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 80-25239 Filed 8-18-80; 8:45 am]
BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1577-2]

Approval and Promulgation of Implementation Plans, Minnesota; Receipt

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Receipt and Availability.

SUMMARY: This notice is to announce receipt and availability for public review of proposed revisions to the Sulfur dioxide (SO_2) portion of the Minnesota State Implementation Plan (SIP) for the Twin Cities and Rochester nonattainment areas.

Under the requirements of Part D of the Clean Air Act, the State of Minnesota on May 7, 1980, June 17, 1980,

July 14, 1980 and August 4, 1980 submitted to the U.S. Environmental Protection Agency (USEPA) the above mentioned proposed revisions to its SIP. These proposed revisions are designed to implement new measues for decreasing the ambient concentrations of SO_2 in the Twin Cities and Rochester nonattainment areas. A Notice of Proposed Rulemaking describing the proposed revisions and USEPA's intended rulemaking action will be published in a subsequent Federal Register.

DATES: See Supplementary Information.

ADDRESSES: The submittal may be examined during normal business hours at the following USEPA offices:

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition the revisions may be examined at the office of the: Minnesota Pollution Control Agency, 1935 W. County Road B–2, Roseville, Minnesota 55113.

WRITTEN COMMENTS SHOULD BE SENT TO: Mr. Gary Gulezian, Chief Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clarizio, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6052.

SUPPLEMENTARY INFORMATION: USEPA is currently reviewing the above mentioned proposed revisions to the Minnesota SIP. At the completion of this review a notice will be published in the Federal Register proposing rulemaking action on these proposed revisions. All interested persons are advised that the proposed revisions are available for review at the locations listed above. The proposed rulemaking notice referred to above will announce the last day for public comment. This public comment period will extend for 30 days from the date of publication in the Federal Register of USEPA's proposed rulemaking action.

Dated: August 8, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-25102 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1576–5]

Commonwealth of Virginia; Proposed Deadlines for Correcting Deficiencies in Virginia's SIP Revision for Nonattainment Areas; Proposed Change in Northern Virginia Urbanized Area Boundary

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Elsewhere in today's Federal Register, EPA is conditionally approving the Virginia State Implementation Plan (SIP) in instances where the plan is deficient and the State has assured EPA that it will submit corrections. Conditional approvals mean that restrictions under Sections 110, 176 and 316 of the Clean Air Act will not apply unless Virginia fails to submit the necessary corrections or EPA fails to approve them. This notice solicits comments on the adequacy of the deadlines established for conditionally approved items. Furthermore, this notice proposes, and solicits comments on, a change in the boundary of the urbanized area in Northern Virginia to exclude Loudon County.

DATE: Comments must be submitted on or before September 18, 1980.

ADDRESSES: Copies of the materials submitted by the Commonwealth of Virginia are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106. Attn.: Patricia Sheridan.

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted on or before September 18, 1980, will be considered and should be addressed to: Howard Heim, Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106. Attn: AH300aVA

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597–2745.

SUPPLEMENTARY INFORMATION: Elsewhere in today's Federal Register, EPA has published a notice approving, with certain conditions, Virginia's State Implementation Plan (SIP) revision for attaining the national ambient air quality standards (NAAQS) for ozone and carbon monoxide. The conditions and deadlines EPA has established for correcting the deficiencies in this revision, are:

1. *Margin for Growth.*—A system for tracking emissions growth must be submitted by September 30, 1980.

2. *RACT as expeditiously as practicable.*—The RACT deficiencies must be remedied according to the following schedule:

Not later than September 30, 1980: Adequate justification or draft revised regulations must be submitted.

Not later than December 30, 1980: Final regulations, where applicable, must be submitted.

The following regulations contain RACT deficiencies that must be remedied:

a. The emission limitation on automobile and light duty truck coating in § 4.55(e)(2).

b. The exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month, contained in § 4.56(d)(3)(ii) (for Richmond only).

c. The general exemption for sources of VOC emissions contained in § 4.54(a)(4)(i), as it applies to § 4.54(c) dealing with Solvent Metal Cleaning (for Richmond and Northern Virginia only).

d. The regulations covering cutback asphalt paving in § 4.57(b) must be remedied to correct two deficiencies:

(i) The maximum allowable solvent content of emulsified asphalt of 15 percent is not RACT.

(ii) Allowing the use of cutback asphalt as a tack cost is not allowed under RACT.

3. *Inspection and Maintenance (I/M).*—Adequate I/M legislation must be submitted by July 1, 1980. The legislation must include, as a minimum, a schedule for implementation of the I/M program and a clear commitment to implement and enforce the program and to reduce emissions by 25 percent by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads.

4. *Enforceability:*

a. Acceptable test methods and procedures for determining compliance with §§ 4.54, 4.55, 4.56, and 4.57 must be submitted by September 30, 1980.

b. An acceptable definition of "reasonable further progress" must be submitted by September 30, 1980.

5. *Conformity Requirement.*—Commitments must be adopted by each lead agency and Metropolitan Planning Organization (MPO) in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and MPOs, be endorsed by the State, and be submitted to EPA by September 30, 1980.

6. *Carbon Monoxide:*

A "hot spot" analysis for carbon monoxide in the carbon monoxide nonattainment portions of the National Capital Interstate AQCR, as well as a line of reasonable further progress for carbon monoxide, must be submitted by September 30, 1980.

The conditions apply to all ozone nonattainment areas unless indicated otherwise. "Richmond" refers to the Richmond City, Henrico County and Chesterfield County portions of the State Capital Intrastate AQCR. "Northern Virginia" refers to the Virginia portions of the National Capital Interstate AQCR.

The Commonwealth of Virginia has requested that the boundary of the urbanized area in Northern Virginia be modified to exclude Loudoun County, since this is primarily a rural area which accounts for only 5.0 percent of the light duty vehicle registrations in the Northern Virginia Region. The effect of this modification, if approved, would be to exclude Loudoun County from the requirement to implement I/M. It would not change Loudoun County's designation, under Section 107 of the Clean Air Act, as nonattainment for ozone. In addition, if the modification were approved, Loudoun County would no longer be eligible to receive funds under Section 175 of the Act.

EPA invites the public to submit comments on whether the deadlines and the change in urbanized area boundaries discussed above are acceptable and should be approved as a revision of the Virginia State Implementation Plan. Comments should be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the revision conforms to the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the Procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: June 6, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25151 Filed 8-18-80; 8:45]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1576–6]

Commonwealth of Virginia; Receipt of State Implementation Plans for Virginia

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of State Implementation Plan.

SUMMARY: On January 11, 1979, the Commonwealth of Virginia submitted a revision to its State Implementation Plan (SIP) in accordance with Part D of the Clean Air Act. The purpose of the SIP revision was to implement the measures necessary to attain the ozone and carbon monoxide air quality standards in areas of Virginia not currently attaining those standards.

After submittal of the above-mentioned plan revision, EPA revised the ozone standard to 0.12 ppm. Subsequently, Virginia submitted a revision on December 17, 1979, reflecting this change in the ozone standard.

Air quality analysis based upon the new ozone air quality standard indicated that all areas, except the Richmond Area and Northern Virginia Area, can achieve attainment by December 31, 1982. Virginia requested that an extension of the attainment date until December 31, 1987 be withdrawn for all nonattainment areas except Richmond and Northern Virginia.

As required by Section 172(b)(11)(A) of the Clean Air Act, Virginia submitted, on May 15, 1980, revisions for a motor vehicle inspection and maintenance (I/M) program. The program is to be applicable in the two nonattainment areas (Richmond and Northern Virginia) for which attainment of the ozone standard by December 31, 1982 cannot be demonstrated.

The purpose of this notice is to announce the availability of the December 17, 1979 and May 15, 1980 submittals. Interested persons are invited to inspect these SIP submittals at one of the locations listed below.

ADDRESS: The December 17, 1979 and May 15, 1980 SIP submittals are available for inspection at:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, VA 23219. Attn: Mr. William R. Meyer.

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AH11), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597–8187.

SUPPLEMENTARY INFORMATION:

A separate area plan was developed for each nonattainment area in the submittal of December 17, 1979. The area plans include information concerning introduction, air quality data analysis, control strategy, new source review program, regulations, emission inventory, compliance schedules, inspection/maintenance, transportation measures and intergovernmental responsibilities/legal authority/consultation.

The May 15, 1980 submittal included the legislation recently enacted by the Virginia General Assembly and a proposed revision to Chapter 9, Inspection/Maintenance, of the Virginia Implementation Plan. The revision to Chapter 9 includes a schedule for the implementation of the I/M program. This submittal was made to satisfy conditions specified in the Rulemaking relative to the Virginia Part D SIP which appears elsewhere in today's Federal Register.

This Notice of Availability incorporates by reference and is published in accordance the General Preamble published by EPA on April 4, 1979 (44 FR 20372) and supplements thereto published on July 2, 1979 (44 FR 38471) and November 23, 1979 (44 FR 67182).

(42 U.S.C. 7401–7642)

Dated: July 15, 1980.

Alvin R. Morris,

Regional Administrator.

[FR Doc. 80-25150 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 52 and 81

[FRL 1577-3]

Approval and Promulgation of Implementation Plan; Designation of Areas for Air Quality Planning Purposes; Ozone and Carbon Monoxide, Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking: Correction notice.

SUMMARY: On June 17, 1980, the EPA erroneously proposed to designate Crawford County instead of LaCrosse County attainment/unclassifiable for the ozone ambient air quality standard (45 FR 41018). The EPA is today correcting the error and proposing rulemaking on LaCrosse County.

DATE: Comments on the changes included in this correction notice are due September 18, 1980.

ADDRESSES: Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On June 17, 1980, the EPA proposed to redesignate under Section 107 of the Clean Air Act, Grant, Douglas, and Crawford Counties, Wisconsin to attainment/unclassifiable for the ozone standard (45 FR 41018). Crawford County was erroneously listed. Crawford County is presently designated attainment/unclassifiable (March 3, 1978, 43 FR 8961, 40 CFR 81.350). The EPA intended to propose redesignating Grant, Douglas, and LaCrosse Counties to attainment/unclassifiable because of the February 8, 1979 change in the ozone standard (44 FR 8220).

The EPA today is correcting the error by withdrawing the proposed change in Crawford County's ozone designation and by proposing to redesingate LaCrosse County, Wisconsin from "Does not meet the primary standards" for oxidants to "Cannot be classified or better than national standards" for ozone. If the EPA redesignates LaCrosse County to attainment/unclassifiable, Part D of the Clean Air Act does not require an ozone plan to be developed for the County. In the June 17, 1980 **Federal Register**, the EPA proposed to approve the Part D ozone plan for LaCrosse County. If the EPA does ot redesignate the County, the EPA is planning to approve the Part D ozone plan for LaCrosse County.

Interested persons are invited to comment on these changes to the June 17, 1980 **Federal Register** Notice and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. All comments received will be available for inspection at the Region V Office, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12044 (43 FR 12661), EPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in EPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator, and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 107, 110, 172, and 301(a) of the Clean Air Act as amended)

Dated: August 11, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-25153 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 58

[FRL 1575-3]

Approval and Promulgation of State Implementation Plans; Pennsylvania, Philadelphia and Allegheny County; State and Local Air Monitoring Stations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Pennsylvania's, Philadelphia's and Allegheny County's SIP, to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air Quality Surveillance plan content.

DATE: Comments due September 18, 1980.

ADDRESSES: Comments on this modification should be directed to:

Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH12), Air, Toxics and Hazardous Materials Division, EPA—Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn.: AH500PA, AH500APA, AH500BPA.

Copies of the materials submitted by the State of Pennsylvania; the City of Philadelphia and Allegheny County and comments received on this proposal may be examined during normal business hours at:

U.S. EPA Region III, Air Programs Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn.: Patricia Sheridan.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Paparella, U.S. EPA—Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Phone: 215-597-8184.

SUPPLEMENTARY INFORMATION: In a May 10, 1979, **Federal Register** Notice, (44 FR 27571) EPA required that by January 1, 1980, the States shall adopt a Revision to their SIP which meets the requirements of 40 CFR Part 58, subpart C, paragraph 58.20. On January 25, 1980, December 21, 1979 and June 18, 1979, Pennsylvania, Philadelphia and Allegheny County, respectively, submitted revisions to their SIPs concerning compliance with these Federal Monitoring Regulations. EPA has reviewed the revisions and finds that they meet the requirements of Part 58.

The public is invited to submit to the address stated above comments on whether the above listed modifications should be approved as revisions to the Pennsylvania and Philadelphia and Allegheny County SIPs.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA lables these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the Authority of section 319 of the Clean Air Act as amended.

(42 U.S.C. 7401-7642)

Dated: July 24, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25157 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1577-1]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations—California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to revise the attainment status designation of part of Kern County, California, for sulfur dioxide (SO_2). The San Joaquin Valley Air Basin (SJVAB) portion of Kern County is now designated nonattainment (primary) for SO_2. The EPA now proposes to redesignate part of that area to attainment for SO_2 and to leave the remainder with its present designation of nonattainment (primary).

The EPA invites public comments on the proposed redesignation. If a portion of Kern County is redesignated attainment, the requirements of Title I, Part D, of the Clean Air Act (CAA), as amended, would no longer apply to the area redesignated for SO_2.

DATE: Comments will be considered if received on or before September 18, 1980.

ADDRESSES: Comments should be directed to:

David Howekamp, Acting Chief, Air Technical Branch (A-4), Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, California 94105.

Information pertinent to the proposed redesignation is available for public inspection during normal business hours at the EPA Region IX Office at the address above, and at the following locations:

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.
California Air Resources Board, 1102 "Q" Street, Sacramento, Calif. 95812.
Kern County APCD, 1700 Flower Street, Bakersfield, Calif. 93305.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Acting Chief, Technical Analysis Section (A-4-3), Air Technical Branch, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attn.: Morris Goldberg, (415) 556-8065.

SUPPLEMENTARY INFORMATION:

State-Proposed Redesignation

Under section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for approval.

The California Air Resources Board (ARB), in a letter to the EPA dated September 24, 1979, requested, in part, that all of the SJVAB portion of Kern County, with the exception of the "Oildale Area" northeast of Bakersfield, be redesignated to attainment for SO_2. Documentation to support the change of designation was attached. Other redesignations requested in the September 24 letter have been acted upon in a separate **Federal Register** notice.

The EPA, in a January 9, 1980 letter, notified the ARB that the recommended redesignation of the Midway-Sunset Oil Field portion of Kern County from nonattainment to attainment would be inappropriate. EPA policy requires a nonattainment designation for SO_2 for all areas with measured and/or modeled SO_2 violations resulting from existing sources. In accordance with section 107(d)(2) of the CAA, as amended, the EPA requested that the ARB provide additional information regarding modeled violations in the Midway-Sunset Oil Field in southwestern Kern County, as discussed below.

The ARB, in a February 7, 1980 letter to the EPA, reaffirmed "its recommendation for redesignation of the Midway-Sunset Oilfield area of Kern County as an attainment area," and stated, "predicted violations are based on the expected emissions from existing *and* projected sources in the area, under worst-case meteorological conditions."

Violations of the SO_2 Stantards

On November 15, 1978, Science Applications, Inc. (SAI) published Report No. SAI-78-963-LJ, entitled *Air Quality Impact of Proposed Oil-Fired Equipment in the Western Kern County Oil Fields as of July 1978*, Volumes I-III, prepared for Westside Oil Field Operators. That report, using the Climatological Dispersion Model (CDM), concluded that within the Midway-Sunset Oil Field area:

1. Existing sources are causing violations of the annual average SO_2 standard, and
2. Existing plus future sources will cause violations of the same standard.

The SAI Report also concludes, using the Texas Episodal Model (TEM), that:

1. Existing sources are causing violations of the 24-hour average SO_2 standard, and
2. Existing plus future sources will cause violations of the same standard.

On December 25, 1978, the Getty Oil Company measured a 24-hour average SO_2 concentration of 383 $\mu g/m^3$ at their Producers-Oildale monitor, and a 24-hour average of 430 $\mu g/m^3$ SO_2 at their Kern Front monitor. Both monitors are in the "Oildale Area".

For calendar year 1978, the ARB monitor at the Oildale-Kern County Fire Department recorded an annual average SO_2 concentration of 87 $\mu g/m^3$, as compared to the primary standard of 80 $\mu g/m^3$.

In January 1979, SRI International published a report entitled *Modeling of Stationary Air Pollution Sources in the Central and Western Kern County Oil Fields*, Volumes I and II, prepared for EPA Region IX. That report showed, using CDM, that existing sources, as well as existing plus future sources, are predicted to cause violations of the annual average SO_2 standard in the area northeast of Bakersfield ("Oildale Area").

Criteria for Attainment Status Designations for SO_2

1. One measured air quality violation within recent years is sufficient basis for a nonattainment designation, while two years of violation-free data at all monitoring sites, including sites located at places of expected maximum concentration, is necessary for a redesignation to attainment. Only if it is shown that recent air quality improvements are the result of recent enforceable emission reductions, may one year of violation-free data be sufficient for a redesignation to attainment.

2. One modeled air quality violation due to existing sources is sufficient basis for a nonattainment designation. Modeling is not required, but is the preferred method of demonstrating attainment when there is reason to believe that the monitoring sites which had violations previously are not located at places of expected maximum concentration due to existing sources.

3. Nonattainment areas may be as small as possible as long as all areas in which violations are expected are included. It is impossible to accurately define the area of a violation. Sufficient flexibility exists to allow an additional area, around the area with measured and/or expected violations, to be designated nonattainment. The additional area provides new sources the potential for additional sources of emission offsets and, as a buffer, prevents the construction of a source in the area from adversely impacting the area which has the measured or modeled air quality violations.

Proposed Boundaries of "Oildale Area"

40 CFR Parts 122-124 and 260-265

Proposed Boundaries of "Oildale Area"

In its September 24, 1979 letter, the ARB recommended that the nonattainment (primary) designation for the "Oildale Area" be retained. In an attachment to that letter, the "Oildale Area" is described as follows:

"Oildale Nonattainment Area for SO_2—An area circumscribed by the following lines: on the south from Kern River State Park at the Universal transmercator (UTM) line of 326,000 east; southwest to the intersection with State Highway 204 and northwest along Highway 204 to where it merges with State Highway 99, northwest along Highway 99 to the intersection with the line defined by 310,000 easting UTM coordinate; north to the intersection of the center line of Poso Creek, then east by southeast along Poso Creek until it intercepts the line running from the Kern River center line to the Poso Creek center line at the UTM coordinate 326,000 easting. (Refer to attached map for approximate boundaries.)"

Judging from that description and from the "attached map," it appears that the intended southeast boundary of the "Oildale Area" is the Kern River. Such a boundary seems inappropriate, in that it does not include all areas where violations have been predicted to occur by the SRI International Report.

EPA-Proposed Redesignation: Oildale Area

The EPA is therefore proposing that the "Oildale Area" be extended southward to State Highways 178 (Freeway) and 204. Such an extension is proposed to the nearest convenient and easily described boundary. It would include all areas where violations of the SO_2 standards are predicted to occur, and would provide a buffer zone of one to two miles.

The boundaries of the "Oildale Area" being proposed by the EPA are as follows:

Beginning at the intersection of State Highway (S.H.) 178 (Freeway) and Universal Transverse Mercator (UTM) coordinate 326,000 east (Zone 11), thence westerly and southwesterly along S.H. 178 (Freeway) to its intersection with S.H. 204 (Golden State Avenue), thence northwesterly along S.H. 204 to its intersection with S.H. 99, thence northwesterly along S.H. 99 to its intersection with UTM coordinate 310,000 east, thence northerly along said coordinate to its intersection with the center line of Poso Creek, thence easterly and southeasterly along said center line to its intersection with UTM coordinate 326,000 east, thence southerly along said coordinate to the point of beginning.

EPA-Proposed Redesignation: Midway-Sunset Area

Because of the modeled violations noted above of the primary (annual and 24-hour) standards for SO_2 in the northern portion of the Midway-Sunset Oil Field, the EPA is proposing to retain the nonattainment (primary only) designation for that area. The proposed North Midway-Sunset nonattainment area is described as follows:

Township 31 South, Range 22 East, Mt. Diablo Base and Meridian.

Public Comments

The EPA is particularly interested in receiving comments on whether (1) the ARB-proposed (Kern River) boundary of the "Oildale Area" should be accepted; (2) the EPA-proposed (S.H. 178/Freeway) boundary —or some other boundary south of the Kern River—should be adopted; or (3) the original (SJVAB portion of Kern County) nonattainment area designation should remain unchanged.

Effect of Redesignation

If a portion of Kern County is redesignated attainment for SO_2 as proposed (leaving the Oildale and Midway-Sunset areas under the nonattainment designation), the State would no longer be subject to the requirements of Part D of the CAA, as amended, for SO_2 in that portion of Kern County so redesignated. However, all of the SJVAB portion of Kern County remains subject to the requirements of Part D until the EPA approves such redesignation in a final rulemaking action. The Nonattainment Area Plan deadlines cannot be extended as a result of the reduction in size of a nonattainment area.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sections 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)).)

Dated: July 22, 1980.

Paul De Falco, Jr.,

Regional Administrator.

[FR Doc. 80-25152 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 122–124 and 260–265

[FRL 1574-4]

Hazardous Waste Management System

Cross Reference:

For a document announcing EPA's intention to issue amendments to, interpretations of and answers to questions on its February 26, and May 19, 1980, hazardous waste regulations, see FR Doc. 80-25158 published elsewhere in this issue. Refer to the table of contents at the front of this issue under "Environmental Protection Agency" to determine the correct page number.

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5828]

National Flood Insurance Program; Proposed Flood Elevation Determination; Correction; Kansas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Lawrence, Douglas County, Kansas, previously published at 45 FR 37231 on June 2, 1980.

EFFECTIVE DATE: AUGUST 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Lawrence, Douglas County, Kansas previously published at 45 FR 37231 on June 2, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)].

The location described as, "Upstream corporate limits at County Road," under the Source of Flooding of Hidden Valley Tributary, has been changed. The location should read, "Just downstream of corporate limits at County Road." The corresponding elevation of 834 feet remains unchanged.

Under the Source of Flooding of Hidden Valley Tributary, the following location descriptions and elevations should be added: "Just upstream of 23rd Street," with a corresponding elevation of 849 feet, and "About 3,000 feet upstream of 23rd Street," with a corresponding elevation of 877 feet.

The location described as, "Just upstream of Clinton Parkway," under the Source of Flooding of East Branch Yankee Tank Creek has been changed. The location should read, "Just upstream of 23rd Street." The corresponding elevation of 851 feet remains unchanged.

The location described as, "About 3,500 feet upstream of Clinton Parkway," under the Source of Flooding of East Branch Yankee Tank Creek, has been changed. The location should read, "About 3,500 feet upstream of 23rd Street." The corresponding elevation of 870 feet remains unchanged.

The elevation 829 feet which corresponds to the location described as, "Downstream corporate limits," under the Source of Flooding of Naismith Creek, has been changed. The elevation should be 828 feet. The location description remains unchanged.

The location described as, "About 1,000 feet upstream of Leonard Avenue," under the Source of Flooding of ATSF Tributary, has been changed. The location should read, "About 600 feet upstream of Leonard Avenue." The corresponding elevation of 861 feet remains unchanged.

The elevation 831 feet which corresponds to the location described as, "Mouth of Kansas River," under the Source of Flooding of Country Club-Hope Plaza Tributary, has been changed. The elevation should be 830 feet. The location description remains unchanged.

These changes will be reflected in the proof copies of the Flood Insurance Study and FIRM.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kansas	(C) Lawrence, Douglas County	Hidden Valley Tributary	Just downstream of corporate limits at County Road	*834
			Just upstream of 23rd Street	*849
			About 3,000 feet upstream of 23rd Street	*877
		East Branch Yankee Tank Creek	Just upstream of 23rd Street	*851
			About 3,500 feet upstream of 23rd Street	*870
		Naismith Creek	Downstream corporate limits	*828
		ATSF Tributary	About 600 feet upstream of Leonard Avenue	*861
		Country Club-Hope Plaza Tributary	Mouth at Kansas River	*830

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127)

Issued: July 31, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24989 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR PART 67

[Docket No. FEMA-5881]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Pullman, Whitman County, Wash.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

The proposed zones and base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at City Hall, 325 Paradise, S.E., Pullman, Washington 99163.

Send comments to: The Honorable Pete Betkus, Mayor, City of Pullman, 325 Paradise, S.E., P.O. Box 615, Pullman, Washington 99163.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW, Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of Pullman, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zones and base flood elevations, together with the flood plain

#Depth in feet above

management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations in the recently annexed areas are:

Source of flooding	Location	Elevation, national geodetic vertical datum
South Fork Palouse River	West of Cleveland Street.	2,328
	Northernmost corporate limits.	2,323
Missouri Flat Creek	East of the intersection of Turner Drive with Route 27.	2,372
	East of the intersection of Larry Street with Route 27.	2,390
	Downstream of the Terre View Drive crossing.	2,400
Dry Fork Creek	West of the intersection of Sloop Road with Grand Street.	2,433

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued July 15, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-24981 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5780]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations, Virginia

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Salem, Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published at 45 FR 13486 on February 29, 1980, and in the *Salem Times-Register*, published on February 7, 1980, and February 14, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Salem Municipal Building. Send comments to: Honorable William Paxton, Jr., Salem City Manager, P.O. Box 869, Municipal Building, Salem, Virginia 24153.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Salem, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Salem, City	Roanoke, River	Downstream Corporate Limits	*983
			Norfolk and Western Railway (Upstream)	*990
			U.S. Route 11 (Apperson Drive) (Upstream)	*993
			State Route 419 (Cave Spring Road) Upstream	*997
			Upstream Crossing of U.S Route 11 (Apperson Drive) Upstream side	*999
			Colorado Street (Upstream)	*1,006
			Eddy Avenue (Upstream)	*1,012
			Mill Lane (Upstream)	*1,029
			Hamrat Lane (Extended)	*1,044
			Diuguids Lane (Upstream)	*1,052
			Confluence of Butt Hollow	*1,056
		Mason Creek	Confluence with Roanoke River	*987
			Norfolk and Western Railway	*987
			Roanoke Boulevard (Upstream)	*996
			Lynchburg Turnpike (Upstream)	*1,013
			State Route 419 (Electric Road) Upstream	*1,016
			U.S. Route 460 (East Main Street) Upstream	*1,026
			Confluence of Gish Branch	*1,028
			Reece Road (Extended)	*1,036
			Garst Street	*1,047
			Dam 1, 950 feet upstream of Garst Street (Upstream)	*1,061
			Dam 2, 1,700 feet upstream of Garst Street	*1,063
			Dam 3, 3,200 feet upstream of Garst Street (Upstream)	*1,071
			Private Drive Approximately 1,300 feet upstream of Dam 3 (Upstream)	*1,080
			Upstream Corporate Limits	*1,087

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Gish Branch	Confluence with Mason Creek	*1,028
			Malone Hyde Building culvert outlet	*1,030
			Malone Hyde Building culvert inlet	*1,034
			Chamberlain Lane (Upstream)	*1,045
			Parksdale Drive (Upstream)	*1,050
			Stoutamire Drive (Extended)	*1,081
			State Route 631 (North Mill Road)	*1,095
		Williams Branch	Confluence with Roanoke River	*1,008
			Norfolk and Western Railway (most upstream crossing) Upstream side.	*1,012
			7th Street (Upstream)	*1,012
			6th Street (Upstream)	*1,014
			4th Street (Upstream)	*1,025
			2nd Street (Upstream)	*1,032
			Burwell Street culvert outlet	*1,044
			East Main Street culvert outlet (Downstream Side)	*1,048
			Clay Street culvert inlet	*1,052
			Market Street (Upstream)	*1,084
			Private Road (840 feet upstream of Market Street) Upstream Side	*1,075
			Hawthorne Road (Upstream)	*1,881
			Base of Private Pond Dam	*1,098
		Snyder Branch	Confluence with Williams Branch	*1,035
			Alabama Street culvert inlet	*1,042
			Roanoke Boulevard culvert inlet	*1,043
			College Avenue	*1,860
			Calhoun Street culvert inlet	*1,854
			East Main Street culvert inlet (Upstream)	*1,057
			Clay Street culvert inlet	*1,063
		High School Branch	Confluence with Roanoke River	*1,027
			Mill Lane (Upstream)	*1,027
			Norfolk and Western Railway (Downstream crossing) Downstream Side.	*1,028
			Norfolk and Western Railway (Upstream crossing) Upstream	*1,035
			Culvert outlet 120 feet upstream from Norfolk and Western Railroad	*1,035
			Culvert inlet 1,040 feet upstream from Norfolk and Western Railroad	*1,041
			80 feet upstream of culvert inlet	*1,042
		Dry Branch	Confluence with Roanoke River	*1,014
			Norfolk and Western Railway Downstream Crossing (Upstream)	*1,815
			Norfolk and Western Railway Upstream Crossing (Upstream)	*1,822
			Fourth Street (Upstream)	*1,822
			First Street (Extended)	*1,832
			Burwell Street (Upstream)	*1,839
			U.S. Route 460 (East Main Street) culvert inlet	*1,847
			James Street (Extended)	*1,864
			Marshall Street (Extended)	*1,872
			Field Drive (Extended)	*1,885
			Carrolton Avenue (Upstream)	*1,898
			Private Drive (1,290 feet upstream of Carrolton Avenue) Upstream	*1,121
			Upstream Corporate Limits	*1,141
		Cole Hollow Brook	Confluence with Roanoke River	*1,031
			Hurt Lane Downstream	*1,034
			Norfolk and Western Railway (Upstream Crossing) Upstream	*1,036
			Confluence of Paint Bank Branch	*1,040
			U.S. Routes 11 and 460 (Downstream)	*1,044
			Horner Lane (Upstream)	*1,848
			Windsor Drive (Downstream)	*1,071
			Downstream Interstate 81 Off Ramp (Downstream)	*1,074
			Upstream Interstate 81 Off Ramp (Downstream)	*1,083
			Litchell Road Upstream	*1,092
			Upstream Corporate Limits	*1,096
		Paint Bank Branch	Confluence with Cole Hollow Brook	*1,040
			Culvert outlet 2,340 feet upstream of confluence with Cole Hollow Brook Upstream.	*1,045
			U.S. Routes 11 and 460 (West Main Street) Upstream	*1,864
			Rolling Wood Drive (Extended)	*1,071
			Valleydale Road (Upstream)	*1,108
			Jackson Drive (Extended)	*1,115
			Texas Hollow Road (Upstream)	*1,128
			Upstream Corporate Limits	*1,134
		Butt Hollow	Confluence with Roanoke River	*1,057
			Downstream Corporate Limits	*1,057
			Norfolk and Western Railway Downstream Crossing (Upstream)	*1,058
			Norfolk and Western Railway Upstream Crossing (Upstream)	*1,063
			U.S. Routes 11 and 460 (Upstream)	*1,073
			Howard Drive (Extended)	*1,102
			Butt Hollow Road (Upstream)	*1,108
			Upstream Corporate Limits	*1,137

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bowman Hollow	Confluence with Roanoke River	*1,002
			U.S. Route 11 (Apperson Drive) Downstream	*1,006
			Brook Avenue (Upstream)	*1,012
			Kimball Avenue (Upstream)	*1,020
			Private Drive 2,630 feet upstream of Kimball Drive (Upstream)	*1,059
			Franklin Street (Downstream)	*1,066
			Second Private Drive—220 feet upstream from Franklin Street (Upstream).	*1,073
			Third Private Drive 1,400 feet upstream from Franklin Street (Upstream).	*1,092
			Point 3,150 feet upstream from Franklin Street	*1,129
		Bernhardt Creek	Confluence with Roanoke River	*964
			Upstream Corporate Limits	*964

Maps available at the Salem Municipal Building.

Send comments to Mr. William Paxton, Jr., Salem City Manager, P.O. Box 869, Municipal Building, Salem, Virginia 24153.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001—4128; Executive Order 12127)

Issued: August 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24990 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5724]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Frankstown, Blair County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published at 44 FR 66445 on November 7, 1979, and in the *Altoona Mirror*, published on September 18, 1979, and September 25, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Frankstown Township Municipal Building. Send comments to; Honorable Harry Mattern, Chairman of the Board of Supervisors of Frankstown, R.D. 2, Hollidaysburg, Pennsylvania 16648.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Lin. (800) 424–8872, Washington, D.C. 20-.'2.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Frankstown, Blair County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Frankstown, Township, Blair County.	Frankstown Branch, Juniata River	11,700' downstream Township Route 444	*877
			Township Route 444 (Downstream side)	*888
			300' upstream of Conrail	*893
			White Bridge Road (Upstream side)	*916
			Legislative Route 07011 (Upstream side)	*922
			Township Route 405	*927
			Legislative Route 07012 (Upstream side)	*932
		Beaverdam Branch	Confluence with Frankstown Branch of Juniata River	*927
			Confluence with Brush Run	*931
		Canoe Creek	U.S. Route 22	*890
			Confluence of New Creek	*891
		New Creek	Private Drive (Upstream side)	*897
			Legislative Route 07021 (Upstream side)	*902
			1,540' upstream Legislative Route 07021	*907
			4,560' upstream Legislative Route 07021	*923
			1.3 miles upstream Legislative Route 07021	*937
			1.9 miles upstream Legislative Route 07021	*967

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Brush Creek	U.S. Route 22	*921
			Private Drive (Upstream U.S. Route 22)	*932
			Legislative Route 07011 (Upstream side)	*960
			Township Route 424	*966
			Legislative Route 07011 (0.2 mile upstream Route 424) Upstream side.	*1,003
			Legislative Route 07011 (0.99 mile upstream Route 424) Upstream side.	*1,165
			1,060' upstream of Private Drive	*1,252
		Oldtown Run	Legislative Route 07011	*927
			Township Route 378 (1.4 miles upstream Legislative Route 07011)	*949
			Township Route 376 (2nd crossing)	*969
			Township Route 376 (1st crossing)	*1,032
			Private Drive, approximately 1,170' upstream Township Route 376	*1,123
			1,300' upstream Private Drive	*1,150
		Brush Run	Confluence with Beaverdam Branch	*931
			U.S. Route 22	*936
			Upstream side of Scotch Valley Road/Township Route 424	*943
			Legislative Route 07015 (Upstream side)	*953
			U.S. Route 220 (Upstream side)	*955
			Upstream Corporate Limits	*961

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24994 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-504; RM-3578]

FM Broadcast Station in Wray, Colo.; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making

SUMMARY: This action proposes to assign Channel 252A to Wray, Colorado as the first FM channel in response to a petition filed by KRDZ Broadcasters, Inc.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, Area 202: 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments* FM Broadcast Stations (Wray, Colorado), BC Docket No. 80–504, RM–3578.

Adopted: August 6, 1980.

Released: August 14, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by KRDZ Broadcasters, Inc. ("petitioner"), proposing the assignment of FM Channel 252A to Wray, Colorado, as that community's first FM assignment.

(b) Channel 252A could be assigned to Wray in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel if assigned.

2. *Demographic Data*—(a) *Location.* Wray is located in northeastern Colorado, approximately 240 kilometers (190 miles) ENE of Denver.

(b) *Population.* Wray 1,953; Yuma County 8,544.[2]

(c) *Local Aural Broadcast Service.* Daytime only AM Station KRDZ.

3. *Economic Considerations.* Petitioner did not provide community information. We request that it do so in comments.

4. In view of the fact that the proposed FM channel assignment would provide a first fulltime aural broadcast service to Wray, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Wray, Colorado, as follows:

City	Channel No. Present	Channel No. Proposed
Wray, Colorado		252A

5. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

7. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

note that from the time a Notice of

connection with the decision in this

SUPPLEMENTARY INFORMATION:

City	Channel No. Present	Channel No. Proposed

3. *Cut-off procedures.* The following

DATE: Comments must be filed on or

note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-504; RM-3578]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments are reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25196 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 80-502; RM-3423]

FM Broadcast Station in Spokane, Wash.; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 280A to Spokane, Washington as an eighth FM assignment in response to a petition from Thomas W. Read d.b.a. Read Broadcasting.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau (Area 202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Spokane, Washington), BC Docket No. 80-502, RM-3423.

Adopted: August 6, 1980.

Released: August 15, 1980.

1. Thomas W. Read d.b.a. Read Broadcasting ("Read") has filed a petition for rule making seeking assignment of Channel 280A to Spokane, Washington.[1] Read states that he will apply for the channel, if assigned.

2. A city of 170,516, in a county (Spokane) of 287,487 population (population figures from the 1970 U.S. Census), Spokane is currently served by nine AM stations (six full time and three daytime-only), and seven FM stations. Located in the extreme eastern part of the State near the Idaho border, the city is, according to Read, a trading, medical, shopping and transportation center for an agricultural region containing over one million people.

3. The assignment of Channel 280A to Spokane would cause preclusion to seven communities with populations exceeding 1,000 and no local aural service.[2] Petitioner lists alternative channels (237A and 285A) for Davenport, Chewelah, Deer Park, Medical Lake and Newport, Washington. Two other communities—Wilbur, Washington, and Priest River, Idaho—will also sustain preclusion. Thus, a showing of alternative available channels should be provided in comments for those two communities.

4. While Spokane's other FM assignments are Class C facilities, Read is willing to apply for and operate on a Class A channel. Hence intermixture is not a problem. See *Yakima, Washington,* 42 FCC 2d 548 (1973).

5. As the proposed assignement is within 402 kilometers (250 miles) of the U.S-Canada border, Canadian concurrence must be obtained.

6. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Spokane, Washington	225, 229, 251, 255, 260, 269, 300.	225, 229, 251, 255, 260, 280A, 269, 300.

7. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

9. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-502 RM-3423]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.45 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-25245 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 80-503; RM-3587]

FM Broadcast Station in Ladysmith, Wis.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Ladysmith, Wisconsin, in response to a petition filed by Ruth Nelson. The proposed channel could provide for a second local FM commercial broadcast service to Ladysmith.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Ladysmith, Wisconsin), BC Docket No. 80-503, RM-3587.

Adopted: August 6, 1980.

Released: August 15, 1980.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Ruth Nelson of Flambeau Broadcasting Co., licensee of Station WLDY(AM), Ladysmith, Wisconsin ("petitioner"), proposing the assignment of Channel 224A to Ladysmith, as that community's second FM assignment.

(b) The channel can be assigned to Ladysmith, provided the transmitter is located 6.3 kilometers (3.9 miles) southeast of Ladysmith.

(c) Petitioner states she will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location.*—Ladysmith, seat of Rusk County, is located in northern Wisconsin, approximately 169 ° kilometers (105 miles) northeast of Minneapolis-St. Paul, Minnesota.

(b) *Population.*—Ladysmith—3,674; [2] Rusk County—14,236.

(c) *Local Aural Service.*—Ladysmith is served locally by fulltime AM Station WLDY and FM Station WWIB (Channel 279).

3. *Economic Considerations.*—Petitioner states that the economic base is provided by recreational activities and agricultural products. Petitioner has submitted demographic and economic data with respect to Ladysmith and its need for an additional FM broadcast service.

4. *Preclusion Study.*—The assignment of Channel 224A to Ladysmith would cause preclusion only on the co-channel to some communities in the following *counties: Wisconsin:* Oneida, Price, Lincoln, Taylor, Rusk, Iron, Chippewa, Eau Claire and Clark.

5. The assignment of Channel 224A to Ladysmith would result in intermixing a Class A channel and Class C channel (279). the Commission has a policy of permitting such intermixture where no other Class C channels are available for

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] This assumes a transmitter located in the center of the city. There is now pending an application to use Channel 282 (allocated to Wallace, Idaho) at Kellogg, Idaho, which, if granted, would require a Channel 280A transmitter site at least 8 kilometers (5 miles) west of Spokane.

V 45 A G 19 80 UMI

assignment and (as here) the petitioner is willing to apply for the Class A channel in spite of the unfavorable competitive situation. *Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974). Petitioner offers moving the existing Station WWIB (Channel 279) to Cornell, as an alternative proposal, stating that although the Commission's Table of Assignments lists Station WWIB as being assigned to Ladysmith, it is not and never has been a Ladysmith station. However, since the station is licensed to serve Ladysmith, we do not agree that moving the assignment to Cornell would be desirable.

6. Since Ladysmith is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment of Channel 224A to Ladysmith, Wisconsin, requires coordination with the Canadian Government.

7. In view of the foregoing information and the fact that the proposed assignment would provide a second local commercial FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Ladysmith, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Ladysmith, Wisconsin	279	224A, 279

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

10. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-503 RM-3587]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.*—Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.*—The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.*—Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.*—In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.*—All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25235 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-449; RM-3576]

FM Broadcast Station in Smithfield, Utah; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 280A to Smithfield, Utah, as the first FM channel in response to a petition filed by Cache Valley Broadcasting Company.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau Area 202: 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Smithfield, Utah), BC Docket No. 80-449, RM-3576.

Adopted: August 4, 1980.

Released: August 15, 1980.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Cache Valley Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 280A to Smithfield, Utah as the community's first local radio station.

(b) Channel 280A could be assigned to Smithfield in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:*

(a) *Location.*—Smithfield is located in north central Utah near the Idaho border.

(b) *Population.*—Smithfield—3,342; Cache County—42,331.[2]

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

(c) *Local Aural Broadcast Service.*—None.

3. *Economic Considerations.*—Petitioner states that from 1970, to present, population has increased 50% while the population of Cache County has increased 27%. Economic indicators show 35 retail establishments in 1977, 6 wholesale establishments in 1977. Retail sales are up 15% from 1972 to 1977.[3]

4. In view of the fact that the proposed FM channel assignment could provide for a first local aural broadcast service to Smithfield, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Smithfield, Utah, as follows:

City	Channel No.	
	Present	Proposed
Smithfield, Utah	-----	280A

5. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

7. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[3] This information comes from the Bureau of Economic and Business research, 401 Business Building, University of Utah, Salt Lake City, Utah.

Appendix

[BC Docket No. 80-449 RM-3576]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.28(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.*—Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.*—The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.*—Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.*—In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.*—All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25236 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-448; RM-3575]

FM Broadcast Station in Pasco, Wash.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Pasco, Washington, in response to a petition filed by Tri-City Christian Center. The proposed channel could provide a first local commercial FM broadcast service to Pasco.

DATES: Comments must be filed on or before October 3, 1980, and reply comments must be filed on or before October 23, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, Area 202: 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations, (Pasco, Washington), BC Docket No. 80-448, RM-3575.

Adopted: July 31, 1980.

Released: August 15, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rulemaking [1] was filed by Tri-City Christian Center ("petitioner"), proposing the assignment of Channel 252A ot Pasco, Washington, as that community's first commercial FM assignment.

(b) The channel can be assigned to Pasco in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location.*—Pasco, seat of Franklin County, is located approximately 290 kilometers (180 miles) southeast of Seattle, Washington, near the Oregon border. Pasco along with the

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

neighboring communities of Kennewick

DATES: Comments are due by October 14, 1980, and Reply comments by

(1975), the Commission expanded the policy making it applicable to stations in

comments regarding television stations

neighboring communities of Kennewick and Richland are known as the "Tri-Cities."

(b) *Population.*—Pasco 13,920; [2] Franklin County 25,616.

(c) *Local Aural Broadcast Service.*—Pasco is served locally by daytime AM Station KORD, full-time AM Station KONA and educational FM Station KOLU (Ch. 211C).

3. *Economic Consideration.*—Petitioner states that Pasco's economy is based on the river traffic of petroleum products and the shipment of agricultural products. It notes that the area to be served (known as Tri-Cities) was reported in a recent article in the Wall Street Journal as the fastest growing area in the United States. Economic and demographic information with respect to Pasco, has been submitted which demonstrate the need for an FM assignment.

4. *Preclusion Study.*—The assignment of Channel 252A to Pasco would cause new preclusion only on Channels 251 and 252A affecting communities in the northern portion of Wheeler County, Oregon, from using Channel 251. This assignment will also foreclose some communities in the following counties from an assignment on Channel 252A; *Washington:* Benton, Franklin and Walla Walla; *Oregon:* Gilliam, Morrow and Umatilla. Petitioner offers Channels 211A, 224A, 244A and 256A as possible alternate channels for some of the precluded areas. Petitioner states that in placing Channel 252A in Pasco, the preclusion area would be minimal and would serve more population than if it were allotted to any other area.

5. Since Pasco is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment of Channel 252A to Pasco, Washington, requires coordination with the Canadian Government.

6. In view of the fact that the proposed FM channel assignment would provide for a first local commercial FM broadcast service in Pasco, Washington, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules with regard to Pasco, Washington, as follows:

City	Channel No.	
	Present	Proposed
Pasco, Washington		252A

[2] Population figures are taken from the 1970 U.S. Census.

7. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by Paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 3, 1980, and reply comments on or before October 23, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–448 RM–3575]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.*—Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.*—The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.*—Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.*—In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.*—All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-25197 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 80–438; FCC 80–479]

Representation of Stations by Representatives Owned by Competing Stations in the Same Area

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Commission has adopted an inquiry to obtain information and comments to determine whether it should continue or change its policy which prohibits a representative, owned wholly or partially by the licensee of a competing station in an area, from representing a rival station in the same area.

DATES: Comments are due by October 14, 1980, and Reply comments by October 31, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jack Estepp, Complaints and Compliance Division, 202–632–3860.

In the matter of representation of stations by representatives owned by competing stations in the same area, BC Docket No. 80–438.

Notice of Inquiry

Adopted: July 31, 1980.

Released: August 13, 1980.

1. Recently the Commission received a Petition for Deregulation, and requests for modification of Commission policy [1] which prohibits a representative, under common ownership of a station, from representing a rival station in the same area. It is the purpose of this Notice of Inquiry to gather information regarding this policy to determine whether the policy should be continued in its present form or changed in some manner.

2. In *Golden West Broadcasters,* 16 FCC 2d 918, 15 RR 2d 938 (1969), the Commission adopted a policy regarding sales representatives. The Commission held that representation of a station by a sales representative owned wholly or partially by a licensee of a competing station in the same community or service area was a violation of long-standing Commission policy proscribing cross-interests by licensees in more than one station in the same service in the same area. The Commission stated that its objective was the promotion and maintenance of full competition between such stations; that representation of a station by a licensee or licensee-owned organization which operates a station in the same service in the same area gives the licensee-representative a large stake in the financial well-being of the station it represents, and that this relationship necessarily militates against competition between the two stations. Further, the Commission stated that the policy was based on its concern for potential impairment of competition, so that is was not necessary to find actual injury to competition, and that such representation was antithetical to those policies which are the underpinnings of the multiple ownership rules: the promotion of maximum diversification of program and service viewpoints. In the proceeding concerning *Combination Advertising Rates and Other Joint Sales Practices,* 51 FCC 2d 679, 32 RR 2d 1527 (1975), the Commission expanded the policy making it applicable to stations in all broadcast services. Later the Commission modified the policy to permit representation of one or more separately owned television stations by a representative owned wholly or partially by the licensee of a standard broadcast station or FM broadcasting station in the same area, and vice versa. *Combination Advertising Rates and Other Joint Sales Practices,* 59 FCC 2d 894, 37 RR 2d 785 (1976).

3. While a representative owned wholly or partially by a competing station in an area may not represent a rival station in the same area, the Commission has stated that it will permit representation of more than one station in an area if the representative is not owned by a competitor. In the proceeding concerning *Combination Rates and Other Joint Sales Practices,* 51 FCC 2d 679, 32 RR 2d 1527 (1975), the Commission stated in regard to representing more than one station in an area:

> We do believe it would serve the public interest to restrict such multiple representation at this time. We have no evidence of anti-competitive results from multiple representation, and we note from the tenor of comments that there are insufficient radio representatives available to represent all stations desiring representation, with the smaller stations experiencing the greatest difficulty. We also note that independent television stations, particularly UHF stations, have difficulty in obtaining representation. While a representative may represent two or more separately owned stations in the same community, it may not sell them in combination. For example, it will be expected that such representatives will not sell or offer to sell time in combination for two separately owned stations in the same community, will enter into separate contracts with clients for each station represented and will leave all decisions as to contracting for the sale of time, including rates charged to each individual licensee. We are not unmindful that questions may arise as to unfair practices because of multiple representation. Therefore, we will consider on a case-by-case basis any such questions and should we receive information that unfair practices result, we will consider this matter further.

4. Thus, in accordance with the present policy, a representative may represent any number of stations, except a representative owned by a television station may not represent a rival television station in the same area and a representative owned by a radio station may not represent a rival (AM or FM) radio station in the same area.

5. All the recent requests for change of Commission policy have concerned representation of radio stations, but we believe that comments should be elicited on all aspects of the policy. Thus, comments regarding television stations are requested also. [2]

6. The Petition for Deregulation filed by Torbet Radio (Torbet) states that the number of national radio representatives has diminished with 30 radio sales representatives going out of business in the past 12 years. It attributes this to the extremely high cost of maintaining offices in major markets and to the need for extensive research material which has required more personnel and utilization of high cost computer facilities. Torbet states that there is a very limited number of national sales representative firms, that the number will continue to diminish, and that most of the large representative firms are affiliated with owners of broadcast stations which makes fewer representatives available in markets where they are affiliated in ownership. Torbet points out that another limiting factor is that some representatives, because of competitive considerations, will not represent stations in a market where the stations are competing for the same audience. Torbet contends that if the policy were changed a greater number of stations would be competing for national advertising business.

7. Parties commented that it is commonplace for national radio representatives (not affiliated with a radio station in the area) to act as sales agents for more than one station in an area, that there have been no abuses and that the situation would not change if representatives were allowed to expand the practice in markets where affiliated stations operate.

8. Other comments assert that a sales representative generally takes no part in programming or other operational decisions of the stations represented, including those stations with whom they are affiliated in ownership. The representative is merely a sales agent for the station, receives no confidential information and sells time based upon demographics. In order for the representative to obtain maximum income it must sell as much time as possible on each station it represents and there is no economic incentive for a sales representative to favor a station with which it is affiliated. Also a representative does not decide how much time an advertiser will purchase or on what stations the advertising will be placed since these decisions are made by the advertiser and his agent, the advertising agency. Thus, it is asserted that it is unrealistic to believe

[1] These requests were filed by McGavren Guild, Inc., Torbet Radio and Buckley Radio Sales, Inc.

[2] We propose no change and request no comments with regard to § 73.658(i) of the Rules which provides that networks may not represent affiliates for non-network time.

V 45 AG 1980 UMI

that a sales representative can significantly affect the advertiser-station relationship because of bias in favor of one station.

9. Buckley comments that the choice of sales representatives should be left to the parties and if a licensee is dissatisfied it can obtain another representative. It argues that the Commission should focus on whether the public is injured as a result of representation by a licensee-related sales representative and points out that ABC is permitted to operate television, AM and FM stations in Los Angeles and to provide multiple radio networks serving several competing stations in the Los Angeles market. Buckley contends that such concentration of program activities far exceeds any concentration by representation of a rival radio station by a licensee-owned representative in the same area.

10. We are requesting information concerning our policy as to licensee-owned representatives. The policy was adopted to assure open and full competition between competing stations. At this time we have an outstanding proceeding for deregulation, *Deregulation of Radio*, 73 FCC 2d 457, 46 RR 2d 237 (1979), which is founded on the basis of substantial competition between stations, and we will scrutinize comments carefully to assure that we are not undermining the premise for this deregulation proceeding. In any event, so we can be more fully informed, we seek information on the following:

(a) To what degree, if any, do sales representatives provide guidance or consultation on the program service provided by the stations they represent?

(b) To what degree, if any, would there be a lessening of economic competition between two separately owned stations in the same area if one owns a sales representative company that represents the other?

(c) To what degree, if any, would representation in a market by a representative owned by another station in that market result in access to confidential business information that would not normally be available to competitors?

(d) Should the policy as to representatives be repealed or modified in some manner?

(e) If the policy were changed to permit a representative owned by a licensee to represent a rival station in the same area, should it be qualified to permit such representation only until the Commission received a complaint that the practice was causing harm?

(f) If so, what showing should be made by a complainant?

(g) Should the policy as it pertains to television stations be different from that relating to radio stations?

(h) Should the policy be applied if the stations do not compete for the same audience?

(i) What factors should the Commission consider in determining whether stations are competing in an area?

(j) Do radio networks represent separately owned radio stations in areas where the network, or company under common ownership of the network, is licensed to operate a radio station? Examples of such network representation are requested.

(k) Should the policy regarding radio networks be different from that pertaining to non-network representatives?

11. Parties filing comments may also provide any additional pertinent information they believe will be useful to the inquiry.

12. Authority for the institution of this proceeding, is found in Sections 4(i) and 403 of the Communications Act of 1934, as amended, and § 1.1 of the rules.

13. Pursuant to the applicable procedures set out in §§ 1.4, 1.46 and 1.415 of the Commission's rules, interested persons may file comments on or before October 14, 1980, and reply comments on or before October 31, 1980. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

14. In accordance with the provisions of § 1.419 of the Rules, an original and five copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. Participants who wish each Commissioner to have a personal copy may file six additional copies, and members of the general public may submit one copy of their comments. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25190 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-505; RM-3393]

TV Broadcast Stations in Jacksonville, Lumberton, Roanoke Rapids and Rockingham, North Carolina; Farmville and Kenbridge, Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action take here proposes (1) assignment of new television channels to Lumberton, Roanoke Rapids and Rockingham, North Carolina—all to be reserved for noncommercial educational use; (2) reservation for noncommercial educational use of an existing assignment at Jacksonville, North Carolina and (3) shifting of a reserved assignment from Kenbridge, Virginia to Farmville, Virginia.

DATE: Comments must be filed on or before October 14, 1980, and reply comments on or before November 3, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (Area 202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 8, 1980.

Released: August 15, 1980.

By the Chief, Policy and Rules Division:

1. Citing the need for statewide noncommercial educational service of high quality and reliability, the University of North Carolina ("UNC") has filed a petition for rule making [1] seeking three new reserved television channels and one reservation of an existing assignment. As the proposal now stands, all of UNC's contemplated facilities can be constructed and operated in conformity with our minimum distance separation requirements and without site restrictions of any kind.[2] UNC states that it will apply for the requested channels, if assigned.[3]

2. With respect to UNC's specific requests, petitioner plans first to serve the north central portion of North Carolina with a new Channel *36

[1] Public Notice of the petition was given on July 11, 1979, Report No. 1183.

[2] Supplements to UNC's original petition have eliminated several problems of short spacing. The Association of Maximum Service Telecasters, Inc., which opposed the original filing because of these problems, has accordingly withdrawn its objection.

[3] UNC is currently the licensee of eight noncommercial educational television stations and five translator stations.

assignment at Roanoke Rapids (pop. 13,508, 1970 U.S. Census). This facility would provide a first noncommercial educational service to 48,900 persons, petitioner claims, and an improved service to many others.

3. Reserving for noncommerical educational use the existing Channel 19 assignment at Jacksonville (1970 pop. 16,289) would provide a first noncommerical educational service to 105,000 persons in the southeastern coastal area of the State, UNC continues.[4] Assigned to Jacksonville in 1968, Channel 19 has never been occupied, indicating, UNC argues, a total lack of interest in its use on a commerical basis.

4. Channels *31 at Lumberton (1970 pop. 16,961), and *53 at Rockingham (1970 pop. 5,852), would serve the south central portion of the State, UNC concludes, providing a new Grade A service to 137,000 persons and an improved service to many others now poorly served by existing facilities. Channel *31 at Kenbridge, Virginia, would have to be deleted to accommodate the Lumberton request. UNC has requested that the channel be reassigned to Farmville, Virginia—a shift to which the Virginia Public Telecommunications Council does not object.

5. The Commission is persuaded that a rule making proceeding should be instituted, it being our opinion that the new and improved noncommerical educational service planned by UNC could confer a substantial benefit to the public. Accordingly, we propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Jacksonville, North Carolina	19	*19
Lumberton, North Carolina		*31
Roanoke Rapids, North Carolina		*36
Rockingham, North Carolina		*53
Farmville, Virginia		*31
Kenbridge, Virginia	*31	

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[4] UNC has applied for authority to construct an educational television station on Channel 19 in Jacksonville.

7. Interested parties may file comments on or before October 14, 1980, and reply comments on or before November 3, 1980.

8. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contact are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25192 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[FR Docket No. 80-416; RM-3428]

Amendment of Part 90 of the Commission's Rules and Regulations to allow the use of digital voice modulation in the Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The FCC proposes to amend its rules to permit the use of digital voice modulation in the Power Radio Service. This proposed amendment is in response to a petition filed by the Utilities Telecommunications Council.

DATES: Comments must be filed on or before October 8, 1980, and reply

decisions under 49 U.S.C. 10928 to

comments on or before November 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Adopted: July 23, 1980.

Released: August 15, 1980.

By the Commission:

1. The Utilities Telecommunications Council (UTC) has filed a petition (RM–3428), requesting amendment of Part 90 of the Commission's Rules, to allow the use of digital voice modulation in the Power Radio Service for security purposes.

2. In support, UTC noted that Power Radio Service licensees provide essential utilities services to the public and that interruption of these services can have a detrimental effect on the public welfare. UTC also pointed ut that there is concern both in the Federal Government [1] and in the utilities industry about attempts to intercept communications of utilities in general and nuclear power facilities in particular. As part of their security precautions, UTC said that utilities would like to secure some of their more sensitive communications through digital voice scrambling systems.

3. Presently we authorize analog but not digital scrambling techniques in the Power Radio Service. However, analog modulation can be easily intercepted. Digital modulation can be encrypted and provides a much higher degree of communications security. The use of digital voice modulation is permitted in the Police and Fire Radio Services only.[2] We limited the use of digital modulation to those services when we adopted the interim standards for digital system in our *First Report and Order* in Docket No. 21142,[3] because of potential conflicts with ordinary voice operations.

4. We have considered UTC's petition carefully and we believe it should be granted. Apparently, Power Radio Service licensees often require a high degree of security in their radio communications. We also recognize that the frequency coordination is very effective in the Power Radio Service. In our First Report and Order in Docket No. 21142, we said: "... we believe that considering the untried nature of digital voice modulation, it would be prudent to restrict its authorization to those services where re-use of a frequency in a particular geographic area is at a minimum, or where such use is carefully coordinated among licensees engaged in essentially similar activities." It appears that the Power Radio Service meets these tests.

5. Accordingly, we propose to amend Section 90.207 to permit digital modulation (F3Y and F9Y) in the Power Radio Service.

6. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before October 8, 1980, and reply comments on or before November 7, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public files and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. For further information concerning this document, you may contact William P. Berges, (202) 632–6497.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 90 of the Commission's Rules would be amended as follows:

1. In § 90.207, paragrqaph (k) is amended to read as follows:

§ 90.207 Types of emission.

* * * * *

(k) For stations in the Fire, Police, and Power Radio Services utilizing digital voice modulation in either the scrambled or unscrambled mode F3Y emission will be authorized. Authorization to use F3Y is construed to include the use of F9Y emission subject to the provisions of paragraphs (a), (b), and (d) of § 90.233.

2. In § 90.212 paragraph (b) is amended to read as follows:

§ 90.212 Provisions relating to the use of scrambling devices arid digital voice modulation.

* * * * *

(b) The use of digital scrambling techniques or digital voice modulation requires the specific authorization of F3Y emission, and this emission will be authorized only to stations in the Police, Fire and Power Radio Services, subject to the provisions of paragraph (d) of this section.

[FR Doc. 80-25234 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] See e.g. § 73.55 of the Nuclear Regulatory Commission's Rules and Regulations (CFR § 73.55) pertaining to the requirements for nuclear power facilities to protect themselves against nuclear sabotage.

[2] See generally, *First Report and Order*, Docket No. 21142, FCC 78–70, released February 9, 1978, and *Second Report and Order* Docket No. 21142, FCC 79–756, released December 3, 1979, in which we authorized digital voice emission in the Police and Fire Radio Services.

[3] See *First Report and Order*, Docket No. 21142, supra, at para. 5.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 36)]

Administrative Appeals From Motor Carrier Board Decisions; Discontinuance of Proposed Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Discontinuance of Proposed Rules.

SUMMARY: By notice in this proceeding published at 44 FR 22765 (April 17, 1979), the Commission proposed rules which would make single Commissioner appellate action on Motor Carrier Board decisions administratively final. In Ex Parte No. MC–67 (Sub-No. 9), *Revised temporary Authority Rules*, 45 FR 45525 (July 3, 1980), the Commission issued final rules which abolished the Motor Carrier Board and delegated appellate jurisdiction on temporary authority

decisions under 49 U.S.C. 10928 to Review Boards. Accordingly, no purpose would be served by the rules proposed in this proceeding, and the proceeding will be discontinued.

FOR FURTHER INFORMATION CONTACT:

Paul Grossman, 202–275–7976

Edward E. Guthrie, 202–275–7691

It is ordered:

The proceeding is discontinued.

Dated: August 11, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25088 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

main laboratory components: a gas

Under the authority of Section 523 of

Office of the Secretary

Notices

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Biocontrol Laboratory, Moore Air Base, Mission, Tex.; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of Environmental Assessment and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the proposed construction of a Biocontrol Laboratory at Moore Air Base (USDA facility), Mission, Texas. The proposed Biocontrol Laboratory would be used to rear biological agents which have been shown to be capable of controlling crop pests.

The environmental assessment of this action indicates that a similar type facility at Moore Air Base has not caused significant adverse local, regional, or national impacts on the environment in the past. There are no adverse environmental impacts anticipated in the future for this new facility. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Dr. John H. Green, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301–436–8237).

SUPPLEMENTAL INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant".

The Animal and Plant Health Inspection Service is responsible for controlling both diseases and pests of plants and animals. One major activity of this agency is controlling insects and other pests which are harmful to animals and agricultural crops. Up to now the main methods of controlling these pests has been by use of chemical pesticides.

The demonstrated past and present successes of biocontrol projects have shown biological agents to be a more economically and environmentally prudent alternative to chemical control of agriculturally harmful insects and other pests. The proposed Biocontrol Laboratory will be especially designed and engineered to meet the specific growing requirements of biological agents used in biocontrol projects.

The proposed facility will have three segregated areas for rearing up to three different biological agents in confinement in order to avoid cross contamination.

The Moore Air Base facility has already been used by the U.S. Department of Agriculture for research and development of biocontrol agents. The proposed new Biocontrol Laboratory will augment this growing and important program with a facility specifically designed for the purpose and incorporating updated technology. No administrative action will be taken until September 3, 1980.

Done at Washington, D.C., this 12th day of August 1980.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-24690 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-34-M

Construction of the National Monitoring and Residue Analysis Laboratory, Gulfport, Miss.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of Environmental Assessment and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the construction of a new laboratory facility to house the National Monitoring and Residue Analysis Laboratory, Gulfport, Mississippi. Most of the laboratory functions to be performed in the proposed laboratory facility already exist and are presently being performed throughout several other buildings which comprise the Animal and Plant Health Inspection Service's Gulfport facility. The environmental assessment of this proposed action indicates that the existing laboratory functions have not caused significant adverse local, regional or national impacts upon the environment in the past. There are no adverse environmental impacts anticipated in the future for this proposed action. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Dr. John H. Green, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 271, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301–436–8237).

SUPPLEMENTAL INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant."

The Animal and Plant Health Inspection Service, through its Plant Protection and Quarantine programs, is responsible for collecting agricultural, forestry and other plant samples throughout the nation. These samples are sent to the Animal and Plant Health Inspection Service facility at Gulfport for laboratory analysis to determine pesticide or other chemical residues. The proposed new laboratory facility would combine several existing laboratory units into a more efficient laboratory system. The new facility would be specifically designed for the housing and operation of two of the main laboratory components: a gas liquid chromatography unit coupled in operation to a mass spectophotometer for more efficient and rapid analysis of plant material extracts. The rest of the proposed new laboratory facility would be technical and administrative support to the gas liquid chromatography and mass spectrophotometry units. No administrative action will be taken until September 3, 1980.

Done at Washington, D.C., this 12th day of August 1980.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-24689 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

[FCDA No. 10.420]

Rural Self-Help Housing Technical Assistance; Self-Help Rehabilitation/Repair Assistance Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) has the ability to provide grants, under the authority in Section 523 of Title V of the Housing Act of 1949, to public and private nonprofit organizations to administer programs of technical and supervisory assistance to aid low-income families to rehabilitate their homes through the mutual self-help method. The families normally finance their homes with section 502 rural housing loans and Section 504 rural housing rehabilitation loans and/or grants, but also may utilize other financial resources.

Rural areas have about one-fourth of the nation's population and 60 percent of its substandard housing. The nonmetopolitan household has been substantially more likely to have a leaky roof or holes in the floor of the house than the urban household. That is partly explained by the fact that there is a 20 percent better chance that they are living in a pre-1940 house. There were 1.9 million households living in substandard housing in 1975. Nearly all of these households were low-to-moderate income. Consequently, the solution to their housing needs is not new construction, rather the solution is the rehabilitation of existing housing. Rehabilitation is more than the structural improvement of housing units, it also includes the installation of necessary plumbing, including hot running water.

Under the authority of Section 523 of Title V of the Housing Act of 1949, FmHA proposes to increase the use of the self-help housing rehabilitation and repair provisions of the Act, and to evaluate the effectiveness of that program. Subpart I of Part 1933, Chapter XVIII, Title 7, Code of Federal Regulations, governs the program. 7 CFR 1933.410 will be followed in preparing preapplications and applications. Since the intention of FmHA is to work toward expanding the use of self-help repair and rehabilitation, FmHA will develop an evaluation plan. Such an evaluation plan could provide for determining, among other things:

A. If the mutual self-help method is economically and socially feasible for housing rehabilitation and repair.

B. What are the relationships, between (a) type of work proposed and hours of labor contributed by families and (b) type of work proposed and the size of the group needed to accomplish the completion of job.

7 CFR 1933.409(a)(1)–(a)(3) provides special conditions that must be met before technical assistance grant funds may be used for repair and rehabilitation purposes.

Applicants will submit an original and 1 copy of proposal (Application) to the FmHA District Office within 45 days of the publishing of this Notice. The District Office will review and make written comments, and submit the original and copy of each proposal to the FmHA State Director within 14 days. The State Director will review each proposal and recommend no more than three, with comments, to FmHA National Office for review. Those not recommended will be advised of appeal rights under 7 CFR 1900–B.

It is anticipated that approximately $1,000,000 will be initially available for funding of TA grants for self-help repair and rehabilitation proposals.

FOR FURTHER INFORMATION CONTACT: Mr. Cliff Herron, Multiple Family Housing Loan Division, Room 5337, Farmers Home Administration, telephone 202–447–7207.

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

Dated: August 7, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-25103 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-07-M

Office of the Secretary

Citizens' Advisory Committee on Equal Opportunity; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act notice is hereby given of a public meeting of the USDA Citizens' Advisory Committee on Equal Opportunity on September 7–9 in Room 218A, Administration Building, 14th and Independence Avenue, Washington, D.C. commencing at 8:30 a.m.

The purpose of the meeting is to consider USDA's programs and opportunities for the rural population. The agenda will include representatives from the Office of the Assistant Secretary for Rural Development with a specific segment on Farmer's Home Administration.

The meeting is open to the public to observe Committee operations. Interested persons may make written comments to and obtain further information regarding the Committee from:

Elda R. Inoue, Office of the Assistant Secretary for Administration, Room 212E Admin Building, Washington, D.C. 20250, Phone: 202/447–7247.

John A. Miranda,

Acting Assistant Secretary for Administration.

[FR Doc. 80-25104 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I (the Act) and paragraph 8.b. of Office of Management and Budget Circular No. A–63 (revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on September 11, 1980 from 10 a.m. to 6 p.m. and on September 12, 1980 from 8:30 a.m. to 2 p.m. at 2201 C Street, NW, Washington, DC, in Room 5941.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065 dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of August 8, 1980 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph

PS 34–70, Flurorinated Ethylene-Propylene

CS 192–53, General Purpose Vinyl Plastic

CS 202–58, Industrial Life and Hinged

8.d.(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: August 14, 1980.

Walter L. Baumann,
Acting Advisory Committee, Management Officer.

[FR Doc. 80-25238 Filed 8-18-80; 8:45 am]
BILLING CODE 6820-33-M

CIVIL AERONAUTICS BOARD

[Docket 34141]

Application of Trans-Panama, S.A.; Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 7, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 14, 1980.

Elias C. Rodriguez,
Administrative Law Judge.

[FR Doc. 80-25231 Filed 8-18-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Merchant Marine and Fisheries Capital Construction Funds; Applicable Rates of Interest on Nonqualified Withdrawals

Under the authority in section 607(h)(4) of the Merchant Marine Act, 1936, (46 U.S.C. 1101), as amended by section 21 of the Merchant Marine Act of 1970 (84 Stat. 1031), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any nonqualified withdrawals from a capital construction fund established under section 607 of the Act shall be 10.36 percent, with respect to nonqualified withdrawals made in the taxable year beginning in 1980.

The determination of the applicable rate of interest with respect to nonqualifed withdrawals was computed according to the joint regulations issued under the Act (46 CFR Part 391 § 391.7(e)(2)(ii)) by multiplying 8 percent by the ratio which (a) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year, bears to (b) the average yield on 5-year Treasury securities for the calendar year 1970. The applicable rate so determined was computed to the nearest one-hundredth of 1 percent.

Dated: August 11, 1980.

Samuel B. Nemirow,
Assistant Secretary for Maritime Affairs.

Richard A. Frank,
Administrator, National Oceanic and Atmospheric Administration.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 80-24840 Filed 8-18-80; 8:45 am]
BILLING CODE 3510-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 80-24104, at page 53192, in the issue of Monday, August 11, 1980, on page 53193 in the middle column, the sixth full paragraph now reading "Docket No.: 79-00062." is corrected to read "Docket No.: 80-00062."

BILLING CODE 1505-01-M

National Bureau of Standards

Status Report on Withdrawal of Voluntary Product Standards

AGENCY: Department of Commerce, National Bureau of Standards.

ACTION: Maintenance, Retention, Replacement, and Withdrawal of certain Voluntary Product Standards.

On June 19, 1980, the Department of Commerce (Department) announced in the **Federal Register** (45 FR 41475-6) the withdrawal, effective August 18, 1980, of 80 documents classifed as Voluntary Product Standards. The withdrawl announcement was made in accordance with a revisions to the Procedures for the Development of Voluntary Product Standards (15 CFR Part 10) which was announced in a separate notice in that same issue of the **Federal Register** (45 FR 41401-08) and which went into effect on June 19, 1980. The revised Procedures specify six criteria which must be met for the department to sponsor the development or maintenance of a standard. Section 10.13 of the revised Procedures provided that within the period ending August 18, 1980, interested parties could submit a request to the director of the National bureau of Standards (NBS) to retain a particular standard or standards in accordance with those specified criteria. Several such requests have been received, and determinations have been reached on those requests as indicated below.

Based on proposals from the proponent organizations identified after the following titles, the following product standards will continue to be sponsored by the Department:

PS 1-74, Construction and Industrial Plywood; American Plywood Association
PS 20-70, American softwood Lumber Standard; American Lumber Standards Committee
PS 56-73, Structural Glued Laminated Timber; American Institute of Timber Construction
PS 73-77, Carbonated Soft Drink Bottles; Glass Packaging Institute

Based on documented activity within a private standards-writing organization, the following standards will be retained by NBS for the stated periods of time to permit the orderly transfer of sponsorship of such standards from the Department to the identified organizations:

PS 13-69 Uncorded Slab Urethane Foam for Bedding and Furniture cusioning; American society for Testing and Materials; 24 months
PS 15-69, Custom Contact-Molded Reinforced-Polyester Chemical-Resistant Process Equipment; Society of the Plastics Industry; 12 months
PS 17-69, Polyethylene-sheeting (construction, Industrial, and Agricultural Applications); Society of the Plastics Industry; 12 months
PS 23-70, Horticultural Grade Perlite; the Perlite Institute; 12 months
PS 24-70, Melamine Dinnerware (Alpha-Cellulose Filled) for Household Use; Society of the Plastics Industry; 12 months
PS 25-70, Heavy-Duty Alpha-Cellulose-Filled Melamine Tableware; Society of the Plastics Industry; 12 months
PS 27-70, Mosaic-Parquet Hardwood Slat Flooring; American Parquet Association; 6 months
PS 29-70, Plastic Heat-Shrinkable Film; Society of the Plastics Industry; 12 months
PS 30-70, School Chalk; the Crayon, Water Color and Craft Institute, Inc.; 18 months
PS 31-70, Polystyrene Plastic Sheet; Society of the Plastics Industry; 12 months

PS 34-70, Flurorinated Ethylene-Propylene (FEP) Plastic Lined Steel Pipe and Fittings; Society of the Plastics Industry; 12 months
PS 36-70, Body Measurements for the Sizing of Boys' Apparel; Mail Order Association of America; 24 months
PS 42-70, Body Measurements for the Sizing of Women's Patterns and Apparel; Mail Order Association of America; 24 months
PS 45-71, Body Measurements for the Sizing of Apparel for Young Men (Students); Mail Order Association of America; 24 months
PS 46-71, Flame-Resistant Paper and Paperboard; American society for Testing and Materials; 18 months
PS 51-71, Hardwood and Decorative Plywood; Hardwood Plywood Manufacturers Association; 24 months
PS 52-71, Polytetrafluoroethylene (PTFE) Plastic ; Society of the Plastics Industry; 12 months
PS 53-72, Glass-Fiber Reinforced Polyester Structural Plastic Panels; Society of the Plastics Industry; 12 months
PS 54-72, Body Measurements for the Sizing of Girls' Apparel; Mail Order Association of America; 24 months
PS 57-73, Cellulosic Fiber Insulation Board; American Hardboard Association; 6 months
PS 58-73, Basic Hardboard; American Hardboard Association; 6 months
PS 59-73, Prefinished Hardboard Paneling; American Hardboard Association; 6 months
PS 60-73, Hardboard Siding; American Hardboard Association; 6 months
PS 62-74, Grading of Diamond Powder in Sub-Sieve Sizes; Industrial Diamond Association of America; 12 months
PS 63-75, Latex Foam Mattresses for Hospitals; American Society for Testing and Materials; 24 months
PS 64-75, School Paste; the Crayon, Water Color and Craft Institute, Inc.; 18 months
PS 65-75, Paints and Inks for Art Education in Schools; The Crayon, Water Color and Craft Institute, Inc.; 18 months
PS 67-76, Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases; Jewelers Vigilance Committee; 36 months
PS 68-76, Marking of Articles Made of Silver in Combination with Gold; Jewelers Vigilance Committee; 36 months
PS 69-76, Marking of Articles Made Wholly or in Part of Platinum; Jewelers Vigilance Committee; 36 months
PS 70-76, Marking of Articles Made of Karat Gold; Jewelers Vigilance Committee; 36 months
PS 71-76, Marking of Jewelry and Novelties of Silver; Jewelers Vigilance Committee; 36 months
CS 98-62, Artists' Oil Paints; Artists Equity Association, Inc.; 18 months
CS 130-60, Color Materials for Art Education in Schools; The Crayon, Water Color and Craft Institute, Inc.; 18 months
CS 138-55, Insect Wire Screening; Insect Screening Weavers Association; 12 months
CS 151-50, Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers and Children (for the Knit Underwear Industry); Mail Order Association of America; 24 months
CS 192-53, General Purpose Vinyl Plastic Film; Society of the Plastics Industry; 12 months
CS 201-55, Rigid Polyvinyl Chloride Sheets; Society of the Plastics Industry; 12 months
CS 227-59, Polyethylene Film; Society of The Plastics Industry; 12 months
CS 245-62, Vinyl-Metal Laminates; Society of the Plastics Industry; 12 months
CS 257-63, TFE-Fluorocarbon (Polytetrafluoroethylene) Resin Molded Basic Shapes; Society of the Plastics Industry; 12 months
CS 288-65, Hide Trim Pattern for Domestic Cattlehides; National Hide Association; 12 months
CS 274-66, TFE-Fluorocarbon (Polytetrafluoroethylene) Resin Sintered Thin Coatings for Dry Film Lubrication; Society of the Plastics Industry; 12 months
R 2-62, Bedding Products and Components; National Association of Bedding Manufacturers; 12 months
R 192-63, Crayons and Related Art Materials for School Use (Types, Sizes, Packages, and Colors); the Crayon, Water Color and Craft Institute, Inc.; 18 months

The following standards have been replaced by standards published by private standards-writing organizations and, therefore, Department of Commerce sponsorship is no longer needed for them:

PS 28-70, Rigid Poly (Vinyl Chloride) (PVC) Profile Extrusions replaced by ASTM D 3678-78, Specification for Rigid Poly (Vinyl Chloride) (PVC) Profile Extrusions
PS 43-71, Fluorinated Ethylene-Propylene (FEP) Plastic Tubing replaced by ASTM D 3296-74, Specification for FEP-Fluorocarbon Resin Tubing
PS 47-71, Heat-Shrinkable Fluorocarbon Plastic Tubing replaced by ASTM D 2902-75, Specification for Fluorocarbon Resin Heat-Shrinkable Tubing
PS 55-72, Rigid Poly (Vinyl Chloride) (PVC) Plastic Siding replaced by ASTM D 3679-79 Specification for Rigid Poly (Vinyl Chloride) (PVC) Siding
CS 11-63, Moisture Regain of Cotton Yarns replaced by ASTM D 1909-77 Standard Table of Commercial Moisture Regains for Textile Fibers and ASTM D 2494-74 Standard Method of Test for Commercial Weight of a Shipment of Yarn or Man-Made Staple Fiber
CS 21-58, Interchangeable Taper-Ground Joints, Stopcocks, Stoppers, and Spherical-Ground Joints replaced by ASTM E 675-79 Standard Specification for Interchangeable Stopcocks and Stoppers, ASTM E 676-79 Standard Specification for Interchangeable Taper-Ground Joints, and ASTM E 677-79 Standard Specification for Interchangeable Spherical-Ground Joints
CS 75-56, Automatic Mechanical-Draft Oil Burners Designed for Domestic Installations replaced by ANSI Z 91.2-1976 Performance Requirements for Automatic Pressure Atomizing Oil Burners of the Mechanical-Draft Type
CS 191-53, Flammability of Clothing Textiles replaced by ASTM D 1230-61 (1972) Test for Flammability of Clothing Textiles
CS 202-56, Industrial Lifts and Hinged Loading Ramps replaced by ANSI MH14.1-1976 Industrial Loading Dockboards (Ramps)
CS 209-57, Vinyl Chloride Plastics Garden Hose replaced by ASTM D 3901-80 Standard Consumer Product Specification for Graden Hose
CS 236-66, Mat-Formed Wood Particleboard replaced by ANSI A 208.1-1979 Mat-Formed Particleboard

In the absence of any request for retention or maintenance, the following standards will be withdrawn, as previously announced, on August 18, 1980:

PS 4-66, Standard Stock Light-Duty 1-3/8-and 1-3/4-inch Thick Flush-type Interior Steel Doors and Frames
PS 6-66, Trim for Water-Closet Bowls, Tanks and Urinals (Dimensional Standards)
PS 28-70, Glass Stopcocks with Polytetrafluoroethylene (PTFE) Plugs
PS 38-70, Steel Bi-fold Closet Door Units, Frames, and Trim
PS 40-70, Package Quantities of Green Olives
PS 41-70, Package Quantities of Instant Mashed Potatoes
PS 44-71, Paper Ice Bag Sizes
PS 48-71, Package Quantities of Cubed, Sized, Crushed, and Block Ice
PS 49-71, Portable Picnic Coolers
PS 50-71, Package Quantities of Toothpaste
CS 5-65, Pipe Nipples; Brass, Copper, Steel, and Wrought Iron
CS 46-65, Hosiery Lengths and Sizes Excluding Women's
CS 234-61, Measurements for Stretch Socks and Anklets
CS 242-62, Standard Stock Commercial 1-3/4-Inch Thick Steel Doors and Frames
CS 269-65, Aluminum Alloy Chain Link Fencing
R 46-55, Tissue Wrapping Paper
R 222-46, Hot-Rolled Carbon Steel Bars and Bar-Size Shapes
R 264-61, Standard Sizes of Oil-Hardenable Flat, Ground Tool Steel Stock

In accordance with section 10.1(e) of the revised Procedures for the Development of Voluntary Product Standards and by agreement with the Consumer Product Safety Commission, the Department will retain sponsorship of the following two Product Standards until such time as arrangements for their sponsorship by a private standards-writing organization can be made:

PS 66-75, Safety Requirements for Home Playground Equipment
PS 72-76, Toy Safety

For further information contact: James E. French, Office of Engineering Standards, National Bureau of Standards, Washington, D.C. 20234, Telephone: (301) 921-3272.

Dated: August 15, 1980.

ACTION: Increasing the consultation

U.S. Department of Commerce International

to dispose of approximately 3.7 million

DELAWARE RIVER BASIN

Dated: August 15, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-25250 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Monday, September 22, 1980, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-serve basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230, Telephone (202) 377-3523.

Dated: August 14, 1980.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-25302 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Levels for Certain Man-Made Fiber Textile Products from Singapore

August 13, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for other man-made fiber yarn wholly of non-continuous filament, in Category 604, exported from Singapore during the agreement year which began on Januray 1, 1980 from 700,000 pounds to 975,610 pounds.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: By an exchange of letters, the Governments of the United States and Singapore have agreed, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, to increase the consultation level previously established for man-made fiber textile products in Category 604 to 975,610 pounds during the 12-month period which began on January 1, 1980.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377-5423)

SUPPLEMENTARY INFORMATION: On December 20, 1979, there was published in the Federal Register (44 FR 75440) a letter dated December 14, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 604, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has agreed to increase the consultation level for Category 604 to 975,610 pounds during the agreement year which began on January 1, 1980. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of man-made fiber textile products in Category 604 in excess of the adjusted twelve-month level of restraint.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

U.S. Department of Commerce International Trade Administration

Committee for the Implementation of Textile Agreements

August 13, 1980.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 14, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 18, 1980 and for the twelve month period which began on January 1, 1980 and extends through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604, produced or manufactured in Singapore, in excess of 975,610 pounds.[1]

The action taken with respect to the Government of Singapore and with respect to imports of man-made fiber textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provision of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-25188 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Finding of No Significant Impact Disposal of FS Smoke

The Defense Property Disposal Service (DPDS), a field activity of the Defense Logistics Agency (DLA), plans

to dispose of approximately 3.7 million pounds of FS Smoke (sulfur trioxide-chlorosulfonic acid mixture). The FS Smoke is currently located at the Naval Weapons Support Center, Crane, Indiana (3,225 drums); Naval Weapons Station, Earle, Colts-Neck, New Jersey (574 drums); and U.S. Army Ammunition Plant, McAlester, Oklahoma (400 drums).

Consistent with the intent of Section 102(2) of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR 1500-1508) and DoD Directive 6050.1, notice is hereby given that an Environmental Impact Statement is not being prepared for this action. An Environmental Assessment has been completed from which it has been determined that this action will not have a significant impact on the human environment.

The recommended course of action is to offer the FS Smoke for sale. The FS Smoke will be offered for sale "as is-where is". The appropriate terms and conditions (e.g., environmental protection, transporting hazardous materials, indemnification, and work practice standards) will be included in the invitation for bid and the sale of the item will be accomplished in accordance with prescribed sale procedures, including the use of an end-use certificate. These actions are considered to be sufficient to minimize the risk of environmental pollution as a result of implementing the proposed action. If sales actions fail, the FS Smoke will be disposed of through service contract by one or a combination of the following methods:

a. Burial in a hazardous waste landfill.
b. Chemical treatment.
c. Incineration.
d. Continued storage.

Any of the above alternatives must be effected in accordance with provisions of the Resources Conservation and Recovery Act (RCRA).

The Environmental Assessment may be reviewed in the office of Mr. George M. Jonas, Jr., Chief, Environmental Branch, Defense Property Disposal Service, Battle Creek, Michigan 49016. A limited number of copies of the Environmental Assessment are available from the same office to fill single copy requests.

Dated: August 13, 1980.

Lawrence R. Smith,

Colonel, USA, Staff Director, Installation Services and Environmental Protection.

[FR Doc. 80-25213 Filed 8-18-80; 8:45 am]

BILLING CODE 3620-01-M

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing; Approval of Projects

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 27, 1980, commencing at 1:30 p.m. The hearing will be part of the Commission's regular August business meeting which is open to the public. Both the hearing and the meeting will be held at the Goddard Conference Room, at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Forest Lakes Water Company (D-74-94 CP).* A well water supply project to serve the Forest Lakes community in Andover Township, Sussex County, N.J. Designated as Well No. 3, the new facility will be used as backup for an existing well and is expected to yield up to 230,000 gallons per day.

2. *Pennsylvania Department of Environmental Resources (D-80-6 CP and D-80-7 CP).* A water supply system and sewage collection and treatment facility to serve the French Creek State Park in Union Township, Berks County, and Warwick Township, Chester County, Pa. Two wells with a design capacity of 280,000 gallons per day will be utilized. The sewage treatment facility will provide removal of 85% of BOD with ultimate disposal by spray irrigation.

3. *Larchmont Farms (D-79-3).* A well water supply project to provide water supplies on the subject farm in Upper Pittsgrove Township, Salem County, N.J. Two wells are expected to yield up to a combined maximum of 1.4 million gallons per day, which will be used for supplemental irrigation of 230 acres of fruit crops.

4. *Clair Taylor (D-79-41).* A well water supply project at the subject farm in Cedarville, Cumberland County, N.J. A maximum of 12 million gallons per month would be withdrawn and used for irrigation of crops.

5. *Clair Taylor (D-80-56).* A surface water withdrawal at the subject farm in Lawrence Township, Cumberland County, N.J. A maximum of 16 million gallons per month would be withdrawn from Cedar Lake on Cedar Creek and used for irrigation of 80 acres of crops.

6. *Totten Farms (D-80-5).* A well water supply project at the subject farm in North Hanover Township, Burlington County, N.J. The well is expected to yield about 290,000 gallons per day and would be used for the irrigation of crops.

7. *Rocco Infante, Jr. (D-80-53).* A surface water withdrawal to serve the subject farm in Upper Freehold Township, Monmouth County, N.J. A maximum of 20 million gallons per month would be withdrawn from an unnamed tributary of Doctors Creek and used for irrigation of 100 acres of crops.

8. *Ellis F. Herbert (D-80-54).* A surface water withdrawal at the subject farm in Upper Freehold Township, Monmouth County, N.J. A maximum of 6 million gallons per month would be withdrawn from an unnamed tributary of Assunpink Creek and used for irrigation of 30 acres of crops.

9. *Joseph Klein and Son (D-80-55).* A surface water withdrawal at the subject farm in Upper Freehold Township, Monmouth County, N.J. A maximum of 30 million gallons per month would be withdrawn from Doctors Creek and used for the irrigation of 150 acres of crops.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

Dated: August 13, 1980.

W. Brinton Whitall,

Secretary.

[FR Doc. 80-25212 Filed 8-18-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

National Advisory Council for Career Education; Meeting

AGENCY: Department of Education, National Advisory Council for Career Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meetings is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This documnet is intended to notify the general public of their opportunity to attend.

DATE: September 11-12, 1980.

ADDRESS: Hubert Humphrey Building, 200 Independence Avenue, S.W., Room 403A-425A, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Nancy N. Swandby, Department of Education, Office of Career Education,

7th and D Streets, S.W., ROB 3, Room 3108A, Washington, D.C. 20202, (202) 245–2331.

The National Advisory Council for Career Education is established under Section 406 of the Education Amendments of 1974, Pub. L. 93–380, (88 Stat. 552, 553). The Council is directed to:

Advise the Secretary of Education and the Assistant Secretary for Elementary and Secondary Education on the implementation of Section 406 of the Education Amendments of 1974, Sections 331–336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these sections and all other programs of the Department of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in Section 406 and in the Career Education Incentive Act.

The Secretary, to the extent practicable, seeks the advice and assistance of the Council concerning the lifelong learning activities authorized by Sec. 133 of Part B of Title I of the Higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Thursday, September 11 and Friday, September 12, 1980 and will begin at 9 A.M. and end at 4:30 P.M. The meeting will be held at the Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The proposed agenda includes:

Council Discussion—Old Business
Career Education and Postsecondary Education
Career Education and Adult Education
Council Discussion—New Business

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the Office of Career Education located at 7th and D Streets, S.W., Room 3100, Washington, D.C. 20202.

Signed at Washington, D.C. on August 12, 1980.

John Lindia,

Delegate National Advisory Council for Career Education.

[FR Doc. 80-25306 Filed 8-18-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-80-002; OFC Case Nos. 61020-9140-01-12, 61020-9140-05-12, 61420-9140-06-12]

Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff determination.

SUMMARY: On December 31, 1980, Convent Chemical Corporation (Convent or the Company) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting each of three new major fuel burning installations (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Applicable criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR Part 500, *et seq.* (Interim Rules). ERA published Final Rules relating to New Facilities on June 6, 1980, (45 FR 38276 and 38302) which became effective August 5, 1980.

The MFBIs for which the petition was filed are a field erected, coal-fired boiler (identified as Unit 31–F–1 or Unit 1) and two package boilers (identified as Units 31–F–5 and 31–F–6, or Unit 5 and Unit 6, or waste-gas boilers) to be installed at Convent's new industrial chemical plant, Convent, Louisiana.

The design operating characteristics of the three boilers are:

	Boiler 31-F-1	Boiler 31-F-5	Boiler 31-F-6
Size:			
Input (MMBtu/hr)	303	176	181
Output (MMBtu/hr)	250	150	150
Steam output: Thousand lbs/hr	250	150	150
Fuel capabilities	(1)	(2)	(3)

[1] Coal, natural gas, No. 2 fuel oil.
[2] Natural gas and a mixture of waste-gas and natural gas.
[3] Natural gas and a mixture of waste-gas and natural gas or No. 2 fuel oil.

Note.—The waste-gas proposed to be used in the fuels mixture is a process by-product composed of mostly hydrogen gas and water (wet hydrogen gas).

Convent proposed to burn a mixture of coal and natural gas or No. 2 fuel oil in Unit 1, to burn a mixture of waste gas (a gaseous by-product of its chlorine-caustic process and EDC process plants) and natural gas in Unit 5, and to burn a mixture of waste gas and natural gas or No. 2 fuel oil in Unit 6. Convent contended that the waste gas by-product is an alternate fuel because it is a by-product of industrial operations. Convent proposed to burn No. 2 fuel oil in Unit 1 and Unit 6 only as a back-up fuel in the event natural gas becomes unavailable.

Convent stated that, when the new chemical plant is operating normally according to design specifications, producing products and the waste gas by-product at anticipated volumes, the amount of natural gas or Btu equivalent in No. 2 fuel oil used in its proposed fuel mixtures will not exceed 25 percent of the total annual Btu heat input of the primary energy source of each boiler. The Company submitted a duly authorized certification to that effect for each unit.

ERA accepted the petition for a permanent exemption to burn a fuels mixture in each boiler on January 30, 1980. Notice of that acceptance was published in the **Federal Register** on Tuesday, February 5, 1980 (45 FR 7828). The publication of the Notice of Acceptance started a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The period for submitting written comments and to request a public hearing closed on March 2, 1980. A public hearing was not requested and no written comments were received.

ERA staff has reviewed the information contained in the record of this proceeding to date. A Tentative Staff Determination has been made recommending that ERA issue an order that would grant the requested permanent exemptions to use a fuels mixture of natural gas or No. 2 fuel oil and coal in Unit 1; natural gas and waste gas in Unit 5; and natural gas or No. 2 fuel oil and waste gas in Unit 6.

A public file containing a copy of the Tentative Staff Determination and other documents and supporting material on this proceeding is available upon request at: ERA Room B–110, 2000 M Street, NW., Washington, D.C., Monday–Friday, 8:00 a.m.–4:30 p.m.

ERA will issue a final order, in accordance with Sections 501.68 and 503.38 of the final rules, granting or denying the petition for permanent exemptions within six months after the public comment period provided for in this notice has closed unless ERA extends such period. Notice of any extension, together with a statement of the reasons therefore, will be published in the **Federal Register.**

DATES: Written comments on the Tentative Staff Determination and requests for a public hearing are due on or before September 13, 1980.

ADDRESSES: Fifteen copies of written comments, and any request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461. Docket Number ERA–FC–80–002 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4226.

Edward J. Peters, Jr., Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3126–A, Washington, D.C. 20461, Phone (202) 653–4253.

Allan Stein, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION:

Concurrent with its petition for permanent exemptions Convent petitioned ERA pursuant to 10 CFR Section 505.15 of ERA's Interim Rules for a temporary public interest exemption for Units 1, 5 and 6 to permit the Company to burn natural gas in Unit 5 and natural gas or No. 2 fuel oil in Units 1 and 6 as the primary energy source in the respective units, while the production units and ancillary equipment are started up, tested, and brought up to normal operation, producing products and by-products at design specification rates. The amount of natural gas or No. 2 fuel oil used by each unit would decrease as sufficient waste gas became available. Natural gas or No. 2 fuel oil would represent no more than 25 percent of the annual Btu heat input of each unit by August 1981. ERA rejected the petition for public interest exemptions for Units 1, 5, and 6 as incomplete and advised the Company of this action by letter dated January 30, 1980.

Convent also requested ERA to classify the waste gas by-product of its chlorine-caustic and EDC processes as an alternate fuel in accordance with the provisions of 10 CFR 500.2 of the Interim Rules which defines as an alternate fuel waste gas from industrial operations. The term industrial for this purpose does not pertain to refineries.

Convent described its waste gas as by-products of its chlorine-caustic processes and its EDC process. The composition of this waste gas by volume is:

Element	Percent*
Hydrogen	58
Water	25
Methane	7
Nitrogen	6
Oxygen	4
Total	100

*Convent states that the percentage may vary from time to time due to operating conditions at the processing plants.

After staff analysis of the chemical plant operation, ERA staff concluded that by any criteria under consideration to define a "refinery" for this purpose, Convent's chemical plant operation would not be included in such a definition. Accordingly, ERA has determined that this plant is an industrial operation and classified the above described waste gas from the chlorine-caustic and EDC processing operations as an alternate fuel. Convent was notified of this action on June 9, 1980.

To qualify for a permanent fuels mixture exemption a petitioner must demonstrate to the satisfaction of ERA that:

(1) He proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources used by the installation needed to maintain operational reliability consistent with maintaining a reasonable level of fuel efficiency.

If a mixture exemption is granted, ERA may not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources used by the installation.

In addressing the eligibility requirements, and the evidentiary requirements in § 505.28 (a) and (c)(4) of the Interim Rules, Convent states that it will be using a mixture of sub-bituminous coal and natural gas or No. 2 fuel oil as the primary energy source in Unit 1, a mixture of waste gas and natural gas as the primary energy source in Unit 5, and a mixture of waste gas and natural gas or No. 2 fuel oil as the primary energy source in Unit 6.

Convent certified that the total amount of natural gas or its oil Btu equivalent proposed to be used in Unit 1 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by the unit. The Company also certified that after the plant testing and start-up are completed and the plant has been proved capable of operation at design capacity the amount of natural gas proposed to be used in Unit 5, and the amount of natural gas or the fuel oil Btu equivalent to be used in Unit 6 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each unit. Convent expects to reach normal operation by August 1981.

When the plant becomes fully operational and is producing waste gas reliably and in sufficient quantities to become the primary energy source for the waste gas Units 5 and 6, Convent estimates that its range of annual consumption of natural gas or No. 2 fuel oil will, depending upon the balance of the steam producing system and the operating mode of the plant, be:

Boiler	Volumes (million CF)	Trillion Btu heat input	Percentage of total annual Btu heat input
31–F–1:			
Coal		[1] 1.565–1.934	77–95
Natural gas [2]	93–449	.097–.467	5–23
31–F–5:			
Waste gas		.551–.636	77–89
Natural gas	75–157	.078–.163	11–23
31–F–6:			
Waste gas		.551–.636	77–89
Natural gas [2]	75–157	.078–.163	11–23

[1] Based on sub-bituminous coal (11,000 Btu/lb) consumption at a rate of 21,906 lbs/hr.
[2] Boilers 31–F–1 and 6 have the capability to burn No. 2 fuel oil equivalent as a back-up fuel if natural gas is not available.

Convent estimates that the initial plant start-up period will take approximately 12 months. This period includes start-up and testing of each of the three boilers, the EDC plant and the chlorine-alkali plants individually, and the subsequent integration of the several units into a working, reliable plant at which time the waste gas stream from the processing units will become available as the primary energy source for the mixture used in Units 5 and 6. These 12 months have been divided into two phases for planning purposes. The first period begins when the waste gas boilers are mechanically completed in October 1980, and ends approximately three months later in December 1980. In the three month period some waste gas

V 45 A G 19 80 UMI

will be produced and used, but not in sufficient quantity to be effectively used as the primary energy source for the fuels mixture used in either of the two waste gas boilers.

The second period covers the following eight months (January thru August 1981) during which the coal-fired Unit 1 will be brought on line and the individual process plants will become fully integrated into a workable whole, meeting plant design specifications. During this time the whole plant will begin to produce sufficient quantities of waste gas to burn in the waste gas boilers. Depending on the frequency and severity of problems arising during this final period, Convent estimates that the consumption of natural gas required for total plant start-up and break-in will drop considerably as the waste gas by-product becomes available in sufficient quantity to be used as the primary source of energy in the fuels mixture.

The proposed amount of natural gas or fuel oil equivalent to be used and the percentage of total Btu input during the 12 month period is estimated as follows:

	Natural gas volume (million CF)	Natural gas heat input (billion Btus)	Alternate fuel heat input (billion Btus)	Percentage of total Btu heat input attributable to natural gas
October Through December 1980				
Boiler:				
31-F-1	(Not ready for operation)			
31-F-5	202	210	5	97
31-F-6	[1] 202	210	6	97
January Through August 1981				
Boiler:				
31-F-1	[1] 231	240	930	21
31-F-5	124	129	358	27
31-F-6	[1] 124	129	358	27

[1] Or No. 2 fuel oil Btu equivalent.

As the plant moves into its normal operating mode, producing products and the waste gas by-products, all available waste gas will be utilized in a mixture with natural gas for burning in Unit 5, and with natural gas or No. 2 fuel oil for burning in Unit 6 until in August 1981, when the plant reaches its normal operating mode, the natural gas used in the fuels mixture for Unit 5 and the natural gas or fuel oil equivalent used in the fuel mixture for Unit 6 will represent less than 25 percent of the total annual Btu heat input of each boiler.

Prior to such time, to achieve the normal operating rate of the plant, and of each boiler using the proposed fuels mixture, some additional natural gas is needed for use in Unit 5, and additional natural gas or No. 2 fuel oil equivalent is needed for use in Unit 6. ERA staff are persuaded that this additional natural gas or oil—Convent estimates that an additional 326 million CF of natural for Unit 5 and an additional 326 million CF of natural gas, or No. 2 fuel oil equivalent for Unit 6, is required during this period for each waste gas boiler—would not exceed the minimum percentage of the total Btu heat input of the primary energy sources of the unit needed to maintain reliability of operation of the units, consistent with maintaining a reasonable level of fuel efficiency.

Based upon its review and analysis, the ERA staff has tentatively determined that Convent demonstrated that, pursuant to Section 212(d) of the Act and the applicable Interim Rules, it is eligible for the requested permanent fuels mixture exemptions for each of the three new boilers. Therefore, ERA's staff recommends that ERA issue an order granting Convent the requested permanent exemptions from the prohibitions of Title II of the Act in order to burn a mixture of coal and natural gas or No. 2 fuel oil in Unit 1, a mixture of waste gas and natural gas in Unit 5, and a mixture of waste gas and natural gas or No. 2 fuel oil in Unit 6, provided the amount of natural gas or oil to be used in each unit, after the first commencement of normal plant production, in August 1981, does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each installation.

This recommendation takes into account the purposes for which the minimum percentage of natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of efficiency. Therefore, should this exemption be granted, ERA will not exclude any fuel from the definition of primary energy source for the purpose of unit ignition, start-up, testing, flame stabilization, and control uses for each of the three subject boilers.

It is further recommended that, under the terms and conditions of this order, Convent be permitted to use the amounts of natural gas or No. 2 fuel oil in units 5 and 6 necessary to start, test, and obtain a useable and reliable waste gas stream from the process units for use in the fuels mixture proposed for units 5 and 6. It is recommended that such amounts not exceed 326 million CF of natural gas in unit 5, and not exceed 326 million CF of natural gas or No. 2 fuel oil Btu equivalent in Unit 6.

On the basis of the environmental analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, in consultation with the Office of the General Counsel, DOE has concluded that the issuing of an order granting these exemptions will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and conditions: Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon the information furnished by Convent, and upon the results of the staff analysis, the ERA staff has tentatively determined and recommends that any order that would grant the exemptions described above should, pursuant to Section 214 of the Act, be on the following terms and conditions:

(1) Convent will, within thirty (30) days of the date of this order, provide ERA with a compliance plan setting forth a complete schedule of milestones for the full completion and start-up of the plant. If, as the work in the facility progresses, a completion date is missed, or it appears that a milestone will be delayed for more than thirty (30) days, Convent shall report such occurrence to ERA giving the reasons therefor and an appraisal of the effect, if any, the delay will have on the final completion of the plant and compliance with this order;

(2) Convent will make effective use of each of the fuel conservation measures identified and listed in its Fuels Decision Report furnished with its petition for exemptions and operate each unit in a fuel efficient manner;

(3) Consistent with required compliance with any pertinent rules or regulations concerning the acquisition or distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any appropriate State regulatory agency, Convent is to be urged to make all reasonable efforts to obtain and use natural gas instead of No. 2 fuel oil in units 1 and 6. Further, if while under this order, Convent decides to modify unit 5 in such a way as to make it capable of buring No. 2 fuel oil, or other petroleum product, Convent must notify ERA, prior to such modification, of its intention to convert the unit to petroleum and petition ERA for an exemption from the prohibitions of the Act in the event it wishes to use petroleum in the unit.

(4) Convent must notify ERA, in writing at the address given in item 8 of the commencement of the first use of natural gas or oil in each of units 1, 5, and 6.

(5) Natural gas may be used in unit 5 in an amount not to exceed 326 million CF during the one year period following the commencement date of the use of natural gas in the unit for the purpose of start-up and testing the unit and providing the process steam to establish the reliable generation of the waste gas in sufficient quantities to become one of the primary energy sources of the fuels mixture in the normal operating mode;

(6) Natural gas or No. 2 fuel oil (not to exceed the Btu equivalent of natural gas) may be used in unit 6 in an amount not to exceed 326 million CF during the one year period following the commencement date of the use of natural gas or No. 2 fuel oil in the unit for the same purposes described in item 5 above;

(7) In 1981, within 30 days after the anniversary of the first use natural gas or oil in each boiler Convent shall submit, to the address noted in item 8 below, an annual report containing the following:

(a) A duly executed certification that the amount of natural gas or No. 2 fuel oil used in unit 1 did not exceed 25 percent of the total annual Btu heat input of the primary energy source of the unit;

(b) A duly executed certification that for the first year after the commencement of the use of natural gas in unit 5, that the amount of natural gas consumed did not exceed 326 million CF; and

(c) A duly executed certification that for the first year after the commencement of the use of natural gas or No. 2 fuel oil in unit 6 that the amount of natural gas consumed did not exceed 326 million CF of natural gas or the Btu heat input equivalent of No. 2 fuel oil;

(8) In accordance with the reporting requirements in section 503.38(g) of the Final Rules, Convent will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW, Washington, DC 20461, each year, beginning in 1982, within 30 days after the anniversary of the first use of natural gas or oil in each boiler, containing the following:

(a) A duly executed certification that the amount of natural gas or No. 2 fuel oil used in unit 1 did not exceed 25 percent of the total annual Btu heat input of the primary energy source of the unit;

(b) A certification that the amount of natural gas used in unit 5 did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(c) A certification that the amount of natural gas or No. 2 fuel oil used in unit 6 did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(9) In addition, Convent will include in its annual report:

(a) Identification of the actual quantities of coal (in tons), waste gas (in MCF), natural gas (in MCF), and No. 2 fuel oil (in bbls) used during the year in each boiler as well as the heating value (in Btu's) of each of these fuels. The following format for quantities will be used for each boiler:

Fuel types; Amounts used (tons) (MCF) (Bbls); Btu equivalent; Percentage of annual fuel consumption

(b) Identification of any new fuel conservation measures employed at the site during the year, estimate of the fuels savings achieved, and assessment of the effectiveness of the conservation measures in energy savings.

This Tentative Staff Determination does not constitute a decision by ERA to grant the requested exemptions. Such a determination will be made in accordance with 10 CFR 501.68 of the Final Rules on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, DC on August 13, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-25098 Filed 8-18-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the July 1 Through September 30, 1980 Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect revised export levels of Canadian heavy crude oil for the month of August 1980.

ERA issued a supplemental allocation notice for August 1980 on July 11, 1980 (45 FR 48181, July 18, 1980), reflecting previously announced export levels of Canadian heavy crude oil. Since that notice was issued, the Canadian National Energy Board (NEB) has increased exports of heavy crude oil for August 1980 from 31,620 B/D to 56,793 B/D; exports of light crude oil for August 1980 remain at 50 B/D. The sole purpose of this notice is to revise the heavy crude oil allocations for August that were issued on July 11, 1980; otherwise, the July 11 notice is correct and remains in effect.

Allocation of Canadian Heavy Crude Oil

The NEB has advised ERA that the authorized export level for Canadian heavy crude oil for the month of August 1980 is revised from 31,620 B/D to 56,793 B/D.

Ashland Oil Inc., Koch Refining Co., and Laketon Asphalt Refining, Inc., all of whom submitted nominations for Canadian heavy crude oil for the July through September allocation period, have advised ERA of changes in their respective nominations for heavy crude oil for the month of August. Ashland advised ERA that it would be able to accept only 1,926 B/D of Canadian heavy crude oil at its St. Paul Park, Minnesota, refinery in August. Koch advised that because of the late notice of additional heavy crude oil availability, recent crude oil deliveries, and a planned refinery shutdown, it would be unable to take more than 27,540 B/D of heavy crude oil in August. Laketon declined any heavy crude oil for August because the volume it would have received would have been to small to tender to pipelines. ERA has given effect to the changes in the nominations of these firms in the allocations of heavy crude oil assigned for August.

In allocating heavy crude oil for August, ERA has used the following procedures, which are set forth in § 214.31(a)(3). The first priority refineries for which nominations had been received were allocated heavy

than the number of rights already provisions of the Powerplant and

supply at a cost which does not 6G-087, Washington, D.C. 20585, plant. GE states that the new unit will

crude oil equal to one-fourth of their base period volumes of Canadian heavy crude oil. The nominations for first priority refineries (Ashland—St. Paul Park; Koch—Pine Bend; and Murphy—Superior) were less than the refineries' base period volumes of heavy crude oil and less than the total heavy crude oil available for allocation, so these refineries were assigned allocations equal to their nominations. Pursuant to § 214.31(a)(3)(iii), second priority refineries for which nominations were received were allocated heavy crude oil equal to one-fourth of their respective base period volumes of Canadian heavy crude oil. Since the allocable supply of Canadian heavy crude oil was greater than the number of rights already calculated, the remaining additional rights were issued to second priority refineries nominating for heavy crude oil on a pro rata basis with respect to their base period volumes of Canadian light and heavy crude oil pursuant to § 214.31(a)(3)(v). No rights were issued under § 214.31(a)(3) (ii) or (iv) because all nominations for first priority refineries were satisfied under § 214.31(a)(3)(i).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, for August 1980 to refiners and other firms nominating for heavy crude oil for the July–September allocation period is revised as follows:

	Refiner/refinery	Base period volumes [1] Canadian total	Base period volumes [1] Canadian heavy crude	Nomination	Allocation
Priority:					
II	Ashland—Buffalo, NY	36,752	4,719	2,800	2,800
II	Ashland—Findley, OH	2,198	2,165	1,300	1,300
I	Ashland—St. Paul Park, MN	44,707	4,803	7,000	[2] 1,926
I	Koch—Pine Bend, MN	74,383	68,692	95,000	[2] 27,540
II	Laketon—Laketon, IN	141	131	200	[2] 0
II	Mobil—Buffalo, NY	24,995	0	6,036	1,410
II	Mobil—Ferndale, WA	45,444	0	10,975	2,563
II	Mobil—Joliet, IL	14,606	12,474	12,989	12,584
I	Murphy—Superior, WI	25,625	5,372	6,000	6,000
II	Union—Lemont, IL	11,711	0	20,000	680
Total Priority I					35,466
Total Priority II					21,327
Total I and II					56,793

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 29, 1979 (45 FR 1664, January 8, 1980).

[2] Nomination limited to this volume for August 1980 only. See preceding discussion in text.

Please Note Change of Address: All reports and applications made under this notice should be addressed to: Canadian Crude Oil Allocation Program, 2000 M Street NW., Room 6318, Washington, D.C. 20461.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 18, 1980.

Issued in Washington, D.C., on August 11 1980.

Doris J. Dewton,

Assistant Administrator Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-25114 Filed 8-18-80; 8:45 am]

BILLING Code 6450-01-M

[Docket No. ERA–FC–80–018]; (OFC Case No. 55118–1648–20–12)

General Electric Co.; Acceptance of Petition for Exemption Regarding the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption Pursuant to the Interim Rule Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 16, 1980, The General Electric Company (GE) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBIs. The basis for the exemption is the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum as a primary energy source in the unit for which the exemption is requested.

The MFBI for which the petition is filed is a new package boiler (identified as Unit No. 20) to be installed at GE's Central Powerhouse Building Number 31 located at Pittsfield, Massachusetts. The unit has a design heat input rate of 159 million Btu's per hour and will be capable of burning either No. 6 fuel oil, natural gas, or vapor phase oil providing 150,000 pounds of steam per hour at 200 psig. Under § 505.22 of the Interim Rule implementing FUA (Interim Rule) GE has requested a permanent exemption for this unit due to the lack of a supply of coal, wood, electricity, on-site gasification products, and several fuel mixture combinations at a cost which does not substantially exceed the cost of using imported oil.

Section 202(a) of FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBIs which consist of a boiler. ERA's decision in this matter will determine whether GE will be granted a permanent exemption to use natural gas and/or petroleum as the primary energy source for unit No. 20.

ERA determined that the petition is complete in accordance with § 501.3(c) of the Interim Rule, and on May 9, 1980, notified GE of acceptance of its petition for filing.

On June 6, 1980, ERA published its Final Rule on Criteria for Petitions for Exemptions from the Prohibitions of the Act for New Facilities (45 FR 38302), which revoked, upon publication, §§ 503.5 and 505.5 of the Interim Rule (10 CFR 503.5 and 505.5), which prescribed the cost calculation methodology that was to be used in connection with certain provisions of FUA. By Notice of Proposed Rulemaking (NOPR) published in the **Federal Register** on June 23, 1980 (45 FR 42190), ERA proposed a new cost calculation methodology for use with such provisions, including the § 505.22 exemption for lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, and called for public comment. A Final Rule on the cost calculation methodology is anticipated to be issued as 10 CFR 503.6 shortly after the close of the public comment period on August 20, 1980, to take effect 60 days after **Federal Register** publication. Accordingly, at this time there is no effective methodology for performing the cost calculation required by § 505.22. Nevertheless, as this petition was filed with ERA prior to the revocation of Interim Rule § 505.5, GE was given the option, as provided in the NOPR (45 FR 42190) of having ERA (1) analyze the petition using the NOPR as quidance or (2) hold the petitionin abeyance pending finalization of the cost calculation methodology. On July 31, 1980, GE requested that its petition be processed as expeditiously as possible using the NOPR as guidance. ERA is proceeding with its analysis accordingly. However, ERA will take no final administrative action with respect to the petition until it adopts a final rule for cost calculation methodology.

Although ERA has found GE's petition acceptable for filing, ERA retains the right to request additional relevant information from GE at any time during the pendency of these proceedings where circumstances may so require.

A review of the petition is provided in the Supplementary Information section below.

As provided for in sections 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the Interim Rule, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before October 3, 1980. A request for public hearing must also be made on or before October 3, 1980.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW, Washington, DC 20461.

Docket No. ERA–FC–80–018 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4226.

Doug Mitchell, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3207, Washington, D.C. 20461, Phone (202) 653–4237.

William L. Webb, Office of Public Information, Economic Regulatory Administration, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

SUPPLEMENTARY INFORMATION: ERA published its Interim Rule implementing the provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act)(42 U.S.C. 8301 *et seq.*) in the **Federal Register** on May 17, 1979 (44 FR 28950). The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new units unless an exemption for such use has been granted by ERA.

On June 6, 1980, ERA published in the **Federal Register** its Final Rule on Criteria for Petitions for Exemption from the Prohibitions of the Act for New Facilities (45 FR 38,302). The Final Rule revoked Interim Rule sections pertaining to the cost calculation methodology (10 CFR 503.5 and 505.5), effective June 6, 1980. The cost calculation methodology must be used in connection with those provisions of FUA that require a determination of whether the cost of using an alternate fuel as a primary energy source substantially exceeds the cost of using imported petroleum as a primate energy source. A Notice of Proposed Rulemaking applicable to the cost calculation methodology (NOPR) was issued by ERA on June 13, 1980, and was published in the **Federal Register** on June 23, 1980 (45 FR 42190). ERA will issue a final rule on the cost calculation methodology shortly after the close of the public comment period on August 20, 1980, which will become effective 60 days following **Federal Register** publication. ERA cannot take final administrative action with respect to a petition which requires the use of a cost calculation until a final rule has become effective.

The new MFBI for which the permanent exemption based upon the lack of an alternate fuel supply at a cost that does not substantially exceed the cost of using imported petroleum as requested is a package boiler with a design heat input rate of 159 million Btu's per hour, a steam generating capacity of 150,000 pounds per hour, and is capable of burning No. 6 fuel oil, natural gas, or vapor phase oil, which is a waste product from the transformer manufacturing process conducted at the plant. GE states that the new unit will replace three existing, less efficient, older, oil-fired units, and will be used to provide steam for normal plant needs.

GE filed its petition for exemption under § 505.22 of the Interim Rule. On August 5, 1980, § 505.22 was superseded by § 503.32 of the Final Rule. To qualify for this exemption under § 503.32 of the Final Rule, the petitioner must demonstrate to the satisfaction of ERA that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (Cost Calculation—NOPR, 45 FR 42199).

In addressing the eligibility requirements for this exemption GE states that it has analyzed each of the alternate fuels suggested by ERA during the discussions prior to submission of the petition. The fuel alternatives GE considered were coal, wood, electricity, low or medium Btu gas generated through on-site gasification, stoker fired wood with an oil or gas overfire mixture, and a coal-oil slurry.

GE performed the cost calculations in accordance with the Interim Rule and determined that for each of the alternate fuels and mixtures considered, the 1.3 cost ratio specified in the Interim Rule was exceeded. On that basis, GE contends that it qualifies for a permanent exemption from the prohibitions of Title II of FUA.

ERA hereby gives notice that GE's petition for a permanent exemption has been accepted for filing. As the petition was filed with ERA prior to the revocation of Interim Rule § 505.5, GE was given the option provided in the NOPR (45 FR 42190) of having ERA (1) analyze the petition using the NOPR as guidance or (2) hold the petition in abeyance pending finalization of the cost calculation methodology. (The proposed rule will implement the cost calculation provisions of FUA, including the provision applicable to § 503.32 of the Final Rule for New Facilities.) In accordance with GE's request of July 31, 1980, that the petition be processed as expeditiously as possible using the NOPR as guidance, ERA is proceeding with its analysis. ERA will not, however, take any final action on this exemption request until the final rule on the cost calculation methodology (§ 503.6) is promulgated and becomes effective.

Although ERA has found the GE petition acceptable for filing, ERA retains the right to request additional relevant information from GE at any time during the pendency of these proceedings where circumstances may so require.

As set forth in § 501.3(d) of the Final Rule, the acceptance of the petition by ERA does not constitute a determination that GE is entitled to the exemption requested.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, NW, Washington, DC, Monday–Friday, 8:00 am–4:30 pm.

Issued in Washington, DC, on August 11, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-25115 Filed 8-18-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of July 25 through August 1, 1980

During the week of July 25 through August 1, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 12, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 25 through Aug. 1, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 25, 1980	Chevron U.S.A. Inc., San Francisco, California	BEJ–0109, BED–0109.	Motions for Protective Order and Discovery. If Granted: Chevron U.S.A. Inc., would enter into a Protective order with Zitro Energy Consultants, Inc., regarding the release of proprietary information to Chevron in connection with Zitro Energy's Application for Exception (Case No. DEE–2884). Discovery would be granted to Chevron in connection with Zitro Energy's Application for Exception.
July 25, 1980	Commonwealth Oil Refining Co., Inc., San Antonio, Texas.	BEE–1308	Exception from the Entitlements Program. If Granted: Commonwealth Oil Refining Co., Inc., would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations with respect to Alaskan North Slope crude oil, prospectively and on a retroactive basis for the months of May and June 1980.
July 25, 1980	Conoco, Inc., Washington, D.C	BED–0069, BEH–0069.	Motions for Discovery and Evidentiary Hearings. If Granted: Discovery would be granted to Conoco, Inc., and an Evidentiary Hearing would be convened in connection with the Statements of Objections submitted in response to the December 21, 1979, Proposed Decision and Order (Case No. DEE–5748) issued to Union Oil Company of California.
July 25, 1980	Shell Oil Company, Houston, Texas	BEE–1307	Price Exception (Section 212.73). If Granted: Shell Oil Company would be permitted to sell at stripper well prices the crude oil produced from the South Wasson (Clearfork) unit located in Yoakum County, Texas.
July 25, 1980	Amerada Hess Corporation, Washington, D.C	BEE–1310	Price Exception. If Granted: Amerada Hess Corporation would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of Connecticut the full amount of the increased costs resulting from the recently enacted Connecticut gross receipts tax.
July 28, 1980	Atlantic Richfield Company, Los Angeles, California	BEE–1311	Price Exception. If Granted: Atlantic Richfield Company would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of New York the full amount of the increased costs resulting from the recently enacted New York gross receipts tax.
July 28, 1980	Crown Central Petroleum, Baltimore, Maryland	BES–0087, BST–0087.	Requests for Stay and Temporary Stay. If Granted: Crown Central Petroleum would receive a stay and a temporary stay of the provisions of 10 CFR 211.9, pending a final determination on its Application for Exception (Case No. DEE–7756).
July 28, 1980	Dow Chemical U.S.A., Washington, D.C	BEJ–0110	Motion for Protective Order. If Granted: Dow Chemical U.S.A., would enter into a Protective Order with Marathon Oil Company regarding the exchange of proprietary information between the two firms in connection with Dow Chemical's Application for Exception (Case No. BEE–0285).
July 28, 1980	Laketon Asphalt Refining, Evansville, Indiana	BEE–1312	Exception from the Entitlements Program. If granted: Laketon Asphalt Refining would receive an exception from the provisions of 10 CFR 211.67, with respect to its entitlements sales transactions with Sector Refining, Inc.
July 28, 1980	Publicker Industries, Inc., Washington, D.C	BEA–0435	Appeal of Entitlements Notice. If granted: The February 1979 Entitlements Notice would be modified with respect to Publicker Industries, Inc.'s entitlements purchase obligations.
July 28, 1980	Publicker Industries, Inc., Washington, D.C	BSG–0030	Request for Special Redress. If granted: Publicker Industries, Inc., would be issued entitlements in order to reduce the firm's entitlements purchase obligations published in the February 1979 Entitlements Notice.
July 28, 1980	Richardson Ayres, Jobber Inc., Washington, D.C	BRD–1241	Motion for Discovery. If granted: Discovery would be granted to Richardson Ayres, Jobber Inc., in connection with the Statement of Objections submitted by the firm in response to the May 14, 1980, Proposed Remedial Order (Case No. BRO–1241), issued to Richardson Ayres by the Economic Regulatory Administration.
July 28, 1980	Shell Oil Company, Houston, Texas	BEE–1309	Price Exception. If granted: Shell Oil Company would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of Connecticut the full amount of the increased costs resulting from the recently enacted Connecticut gross receipts tax.
July 29, 1980	Exxon Company, U.S.A., Washington, D.C	BSG–0031	Request for Special Redress. If granted: The Director of the Division of Freedom of Information and Privacy Act Activities would release certain information to Exxon Company, U.S.A., thereby complying with a May 23, 1979, Decision and Order (Case No. DFA–0378).

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 25 through Aug. 1, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 29, 1980	Federation of American Scientists, Washington, D.C.	BFA–0436	Appeal of Information Request Denial. If granted: The Federation of American Scientists would receive access to a document entitled "National Security and the Comprehensive Test Ban Treaty—UCRL—52911."
July 29, 1980	Golden Eagle Refining, Washington, D.C	BEE–1313	Exception from the Entitlements Program. If granted: Golden Eagle Refining would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations.
July 29, 1980	Orloski's Service Stations, Inc., Wilkes-Barre, Pennsylvania.	BEA–0437	Appeal of Assignment Order. If granted: The July 14, 1980, Assignment Order issued to Orloski's Service Stations, Inc., by the Economic Regulatory Administration, Region III, would be modified to increase the base period volume of motor gasoline assigned to Orloski's.
July 29, 1980	Winston Refining Company, Washington, D.C	BEJ–0112 through BEJ–0115.	Motions for Protective Orders. If granted: Winston Refining Company would enter into Protective Orders with Permian Corporation, Mobil Oil Corporation, Gulf Oil Corporation, and Cities Service Company, regarding the exchange of proprietary information in connection with the firm's Application for Temporary Exception (Case No. BEL–1284).
July 30, 1980	American Petrofina, Inc., Washington, D.C	BEE–1316	Exception from the Entitlements Program. If granted: American Petrofina, Inc., would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations with respect to Alaskan North Slope crude oil retroactively for the month of April 1980.
July 30, 1980	Atlantic Richfield Company, Los Angeles, California	BEJ–0111	Motion for Protective Order. If granted: Atlantic Richfield Company would enter into a Protective Order with Chevron U.S.A. Inc., regarding the exchange of proprietary information between the two firms in connection with Arco's Application for Exception (Case No. BEE–1294).
July 30, 1980	Standard Oil Company of Indiana (Amoco), Chicago, Illinois.	BEE–1314	Price Exception. If granted: Standard Oil Company of Indiana (Amoco), would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of Connecticut the full amount of the increased costs resulting from the recently enacted Connecticut gross receipts tax.
July 30, 1980	Winston Refining Company, Washington, D.C	BEJ–0116	Motion for Protective Order. If granted: Winston Refining Co. would enter into a Protective Order with Standard Oil Company of Indiana (Amoco) regarding the exchange of proprietary Application for Temporary Exception (Case No. BEL–1284).
July 31, 1980	Dow Chemical U.S.A., Washington, D.C	BEJ–0118	Motion for Protective Order. If granted: Dow Chemical U.S.A. would enter into a Protective Order with Cities Service Company regarding the exchange of proprietary information between the two firms in connection with Dow Chemical's Application for Exception (Case No. BEE–0285).
July 31, 1980	Fannon Petroleum Service, Inc., Alexandria, Virginia	BXE–1318	Extension of relief granted in *Fannon Petroleum Service, Inc.*, 4 DOE ¶ 81,133 (September 17, 1979). If granted: Fannon Petroleum Services, Inc., would continue to receive an exception from the provisions of 10 CFR Part 211, which permits the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
July 31, 1980	Gulf Oil Corporation, Houston, Texas	BED–0070	Motion for Discovery. If granted: Discovery would be granted to Gulf Oil Corporation in connection with the Statement of Objections submitted by the firm in response to the May 19, 1980, Proposed Decision and Order (Case No. DXE–5784) issued to Allied Oil Company.
July 31, 1980	Little America Refining Co., Inc., Washington, D.C	BST–0085	Request for Temporary Stay. If granted: Little America Refining Co., Inc., would receive a temporary stay of the provisions of 10 CFR 211.67, pending a final determination on its Application for Temporary Exception (Case No. BEL–0085) and Application for Stay (Case No. BES–0085).
July 31, 1980	Southland Oil Company/VGS Corporation, Jackson, Mississippi.	BEL–0080	Temporary Exception from the Entitlements Program. If granted: Southland Oil Company/VGS Corporation would receive a temporary exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations for the year 1979.
July 31, 1980	Universal Utilities Inc., Hicksville, New York	BRR–0068, BST–0068, BRT–0068.	Request for Modification; Requests for Stay and Temporary Stay. If granted: The January 30, 1978, Consent Order issued to Universal Utilities, Inc., by the Economic Regulatory Administration would be modified. Universal Utilities would receive a stay and a temporary stay of the Consent Order pending a final determination on its Request for Modification

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

[Week of 7/25/80 Through 8/1/80]

Name	Case No. and date	State
Echo Bay Resort	BEE–1315, 7/30/80	DC.
Hull Grocery, Inc	BEN–0049, 7/29/80	GA.
J. A. Nere Company, Inc	BEN–0048, 7/29/80	VA.
Ted's Service Center	BEE–1319, 7/31/80	MA.

Notices of Objection Received

[Week of 7/25/80 Through 8/1/80]

Date	Name and location of applicant	Case No.
7/25/80	Belvidere Car Wash, Lexington, MA.	DEE–6951
7/25/80	DAP, Inc., Springfield, MO	BEE–1182
7/25/80	Hess Store, Monkton, MD	BEO–1282
7/25/80	Molo Oil Company, Dubuque, IA	BEE–0349
7/28/80	Fireline Petroleum, Washington, DC.	BEE–0650
7/28/80	Region Oil Co., Houston, TX	BEE–0405
7/28/80	10–10 Truck Stop, Rialto, CA	DEE–5304
7/29/80	City of Long Beach, CA, Long Beach, CA.	BXE–1149
7/29/80	Energy Cooperation, Inc., Phoenix, OR.	BEE–0952
7/29/80	Industrial Fuel and Asphalt of Indiana, Inc., Hammond, IN.	BEE–0962

Notices of Objection Received—Continued

[Week of 7/25/80 Through 8/1/80]

Date	Name and location of applicant	Case No.
7/30/80	Atlantic Richfield Co., Los Angeles, CA.	BEE–0696

[FR Doc. 80-25094 Filed 8-18-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of June 30 Through July 4, 1980

During the week of June 30 through July 4, 1980, the decisions and orders

summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Foster Associates, Inc., Washington, D.C., freedom of information, BFA–0358

Foster Associates, Inc. filed an Appeal from a partial denial by the Assistant Administrator of the Office of Fuels Conversion of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the release of the information initially withheld under exemption (b)(4) was not likely to cause the firms involved in the Major Fuel Burning Installation Coal Conversion Report substantial competitive harm and should therefore be released to the public.

Mark F. Grady, Iowa City, Iowa, freedom of information BFA–0359

Professor Mark F. Grady filed an Appeal from a denial by the Assistant Administrator of Regulations and Emergency Planning of the Economic Regulatory Administration of a request for information that Professor Grady had submitted under the Freedom of Information Act. The DOE found that certain of the documents initially withheld under Exemption 5 should be released to the public in whole or in part. In addition, the DOE remanded the request for a further search for responsive documents.

Petroleum International Associates, Inc., Somerville, N.J., middle distillates, DRA–0212.

Petroleum International Associates, Inc. (PIA) filed an Appeal of an Ancillary Order which DOE Region II issued to the firm on August 10, 1978 in connection with a Letter of Compliance and a Consent Order which were entered into between the FEA and two of PIA's suppliers of middle distillates. In the Ancillary Order, Region II directed PIA to pass through to its customers the refunds which PIA had received as restitution for prior overcharges. In its Appeal, PIA raised numerous objections concerning the legality, timeliness and factual basis of the Ancillary Order. The firm also contended that it was financially incapable of complying with the Ancillary Order and that the terms of the Order were simplistic, vague and contradictory. In considering PIA's Objections, the DOE found that Region II possessed the requisite authority to issue an Ancillary Order to PIA concerning the refunds it had received and that the issuance of such had been timely. The DOE also found that (i) the Ancillary Order contained a sufficient finding that PIA should be required to pass through the refunds received and (ii) the mere passage of time between PIA's receipt of the refunds and the issuance of the Ancillary Order did not shift the burden to the DOE to show that the firm had not already passed through the refunds to its customers. The DOE rejected PIA's contention that its technical compliance with the FEA regulations in its prior handling of the refunds undermined the validity of the refund provisions set forth in the Ancillary Order. It further found that the firm had not established in a convincing manner that it was without sufficient assets to comply with the Ancillary Order. Finally, the DOE held that the Ancillary Order's refund provisions were a valid exercise of the agency's discretionary authority and that they provided sufficiently clear and unambiguous instructions to allow the firm to divide the refund monies among its known purchasers of affected products. The DOE found, however, that the Ancillary Order should be modified to specify how refunds attributable to unidentified customers should be distributed and to allow PIA to deduct reasonable administrative expenses not to exceed $5,000 from the refund monies it has already received from its suppliers. On the basis of these findings, the DOE affirmed the validity of the August 10 Ancillary Order as modified by this Decision and Order.

Requests for Exception

Acme Amoco, Acme, Mich., BEO–0077, motor gasoline

Acme Amoco filed an Application for Exception from the provisions of 10 C.F.R. Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a Proposed Decision and Order issued to the firm, the DOE reached the tentative determination that Acme's request for additional gasoline should be denied. The DOE found that, contrary to the firm's assertions, motorists in Acme's marketing area were not experiencing gasoline shortage of a unique nature. The DOE also determined that Acme could meet its monthly operating expenses and earn a reasonable profit in the absence of exception relief. In considering Acme's Objections to the Proposed Order, the DOE affirmed its initial conclusion that motorists in Acme's marketing area were not experiencing significantly greater difficulty in obtaining gasoline than those in other parts of the country. The DOE also noted that Acme does not require exception relief in order to operate profitably and that, although the firm had significantly altered its mode of operation, it had ample opportunity to realize the benefits from that change prior to the implementation of the new base period for gasoline allocation. Accordingly, the DOE denied Acme's exception request.

Cunningham Oil Co., Inc., Columbus, Ga., DEE–3490, motor gasoline

Cunningham Oil Company, Inc. filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm was not experiencing a serious financial hardship or gross inequity. Accordingly, exception relief was denied.

Dock's Chevron Station, Pascagoula, Miss., BEO–0423, motor gasoline

Dock's Chevron Station filed an Application for Exception from the provisions of 10 C.F.R. Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a proposed Decision and Order issued to the firm, the DOE reached the tentative determination that Dock's request should be denied. This determination was based upon an analysis of the firm's financial and operating posture which indicated that Dock's could meet its monthly operating expenses and earn a reasonable profit in the absence of exception relief. However, an evaluation of Dock's Objections to the Proposed Order revealed that, contrary to the conclusion reached in the Proposed Order, Dock's current gasoline allocation was not sufficient to enable the firm to operate the station profitably. The DOE also noted that Dock's made significant improvements at the station and was experiencing increased demand for gasoline as a result of its decision to operate the outlet on a full-time basis; a major alteration in the ongoing business practice of the firm. In this regard, the DOE found that the previous operator of the outlet was seriously ill during the updated base period and was therefore unable to operate on a full-time basis. This situation resulted in gasoline sales during the updated base period which were not representative of the outlet's normal level of business activity. Therefore the DOE determined that Dock's exception request should be granted.

Elk Store, Axtell, Tex., BEO–0203 motor gasoline

On May 24, 1979, Elk Store filed an Application for Exception from the provisions of 10 C.F.R. Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that Elk Store's allocation should be increased in order to prevent the firm's community from suffering an unfair distribution of burdens as a result of the DOE allocation regulations. In granting relief to the firm the DOE rejected the claim raised by Mobil Oil Corporation, Elk Store's ultimate supplier, that Elk Store should not be granted exception relief in final form since Mobil had not received adequate notice of the exception proceeding.

Ethanol Corp., Los Angeles, Calif., BEE–0119, gasohol

Ethanol Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an allocation of unleaded gasoline for use in its gasohol production and marketing program. In considering the request, the DOE found that the firm was not in an advantageous position to further the national objective of increasing the use of gasohol. Futhermore, the DOE determined that Ethanol Corporation had not shown that it was suffering a gross inequity as a result of the DOE regulatory programs.

Farwest Taxicabs, Seattle, Wash., BEO–0508, motor gasoline

Farwest Taxicabs filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable the firm to expand its participation in a low cost transportation program for elderly and handicapped citizens and to institute a ride sharing program.

Faulkland Exxon, Wilmington, Del., BEO–0478, motor gasoline

Faulkland Exxon filed an Application for Exception from the provisions of 10 CFR Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a Proposed Decision and Order issued to the firm, the DOE reached the tentative determination that Faulkland's request should be denied. This determination was based upon the DOE's conclusion that motorists in Faulkland's marketing area were not experiencing significantly greater difficulty in obtaining gasoline than those in other areas of the country. The DOE also concluded that Faulkland could meet its monthly operating expenses and earn a reasonable profit in the absence of exception relief. In considering the firm's Objections to the Proposed Order, the DOE affirmed its conclusion that motorists in Faulkland's market area were not experiencing a disproportionate burden resulting from the nation's gasoline shortage. The DOE also rejected Faulkland's contention that highway construction in its vicinity during the updated base period resulted in a significantly reduced gasoline purchases at the outlet. The DOE noted that gasoline purchasing activity at the outlet failed to increase significantly subsequent to the completion of the construction work. Accordingly, the DOE denied Faulkland's exception request.

Fuller's 66, Salt Lake City, Utah, DEE–2520, retail outlet

Fuller's 66 filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE rejected the assertion that the operation of the current gasoline allocation regulations are causing any financial difficulties which the firm alleges it is experiencing. Accordingly, exception relief was denied.

Gold Oil Co., Belleville, Ill., BEX–0454, motor gasoline

Gold Oil Company filed an Application for Exception in which it requested that it be assigned to a new, lower-priced base period supplier for the period January through June 1980. In considering the Gold request, the DOE determined that the hardship which it found in the previous analysis of Gold's competitive situation in *Gold Oil Co.*, Case Nos. DEE–4344 and DEN–4344 (October 25, 1979) (unpublished Decision) was continuing. The DOE therefore concluded that exception relief should be granted and directed the Economic Regulatory Administration to select a new supplier for Gold for the period January through June 1980.

Justice Exxon, Columbus, Ohio, BEO–0247, motor gasoline

Justice Exxon filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was adversely affected to a significant degree as a result of the DOE motor gasoline allocation regulations. Accordingly, exception relief was denied.

Kane's Furniture Corp., St. Petersburg, Fla., BEO–0157, motor gasoline

Kane's Furniture Corporation, a bulk purchaser of motor gasoline, requested an exception from the provisions of 10 C.F.R. Part 211 to permit it to receive an increase in its base period allocation of gasoline. The basis of the request was an increase in the number of vehicles in the Kane's delivery and service fleet. In considering the request, the DOE found that Kane's had failed to demonstrate that obtaining a portion of its motor gasoline supplies from retail sales outlets would cause the firm to experience a gross inequity, serious hardship, or unfair distribution of burdens. Accordingly, exception relief was denied.

Lyte and Co., Los Angeles, Calif., BXE–0727, crude oil

Lyte and Company filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. Exception relief was granted to permit Lyte and Company to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Skeeter Slaughter Lease.

Marine Oil Co., Fulton, Ky.; Exxon Oil Co., U.S.A., Washington, D.C., BEE–0398, BES–0212, BEA–0212, motor gasoline

Exxon Oil Company, U.S.A. filed an Application for Stay and Appeal of an assignment order issued to the firm by the Region IV Office of Petroleum Operations of the DOE. The assignment order was issued pursuant to a Proposed Decision and Order issued to Marine Oil Company by the Office of Hearings and Appeals and directed Exxon to supply Marine Oil Company with specified volumes of motor gasoline for the period January through June 1980. Exxon also filed a Statement of Objections to the issuance of the Proposed Decision and Order in final form. In considering Exxon's submissions, the Office of Hearings and Appeals determined that the relief granted to Marine Oil Company was necessary to relieve the firm of a serious financial hardship which it was experiencing as a result of its supplier's uncompetitively high wholesale prices for motor gasoline. The Office of Hearings and Appeals further determined that Exxon had been given a full opportunity to comment on the merits of both the Proposed Decision and Order and the assignment order.

In conclusion, the Office of Hearings and Appeals found that the assignment orders had been properly issued. Accordingly, the Office of Hearings and Appeals ordered that Exxon's Statement of Objections be denied and the Proposed Decision and Order issued to Marine Oil Company be issued in final form. In addition, the Office of Hearings and Appeals further ordered that Exxon's Appeal be denied and the firm's Application for Stay be dismissed.

Sun Production Co., Inc., Dallas, Tex., DEE–1483, crude oil

On August 11, 1978, the Sun Production Company, Inc. (Sun) filed an Application for Exception from amendments to 10 C.F.R. § 211.67 which the Economic Regulatory Administration (ERA) of the Department of Energy issued in proposed form on November 1, 1978. These regulatory amendments would expand the scope of the Entitlements Program to include certain non-refining uses of crude oil. In considering the request, the DOE found that the market for the firm's crude oil produced from its Felda Field, located in South Florida, was not affected by the proposed regulatory amendments, and there was no evidence presented that these amendments would be enacted in the foreseeable future. Accordingly the DOE determined that the Sun Application for Exception should be dismissed without prejudice to a refiling at a later date.

Village Marathon, Arlington Heights, Ill., BEO–0386, motor gasoline

Village Marathon filed an Application for Exception from the provisions of 10 C.F.R. § 221.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the residents of the market area served by the firm were not experiencing a gross inequity or an unfair distribution of burdens. Accordingly, exception relief was denied.

Weatherite, Los Angeles, Calif., DEE–6511, motor gasoline

Weatherite filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to demonstrate that it would suffer a gross inequity, unfair distribution of burdens or serious hardship in the absence of exception relief. Accordingly, exception relief was denied.

Request for Temporary Exception

Thomas P. Reidy, Inc., Washington, D.C., BEL–0054 motor gasoline

Thomas P. Reidy, Inc. filed an Application for Temporary Exception from the requirement that it irrevocably elect by June 30, 1980, one of two alternative regulatory mechanisms for determining its maximum allowable selling price for motor gasoline. (10 C.F.R. § 212.93(a)(5)). In considering the Application, the DOE determined that Reidy had failed to demonstrate that it will be irreparably injured if it was required to comply with the election provision or that

V 45 A G 19 80 UMI

there was a likelihood that it will succeed on the merits of its exception request. The Reidy temporary exception request was therefore denied.

Request for Stay

Young Refining Corp., Douglasville, Ga., BES–0062, crude oil

Young Refining Corporation filed an Application for Stay from the requirement that it purchase entitlements during the month of June 1980 to account for its crude oil receipts and runs to stills during the month of April 1980 pursuant to the provisions of 10 C.F.R. § 211.67. In considering the request, the DOE noted that a Proposed Decision and Order had been issued to the firm on June 30, 1980, which tentatively determined that Young should be relieved of all of its entitlement purchase obligation for a period of time which included June 1980. In addition, the DOE determined that the firm did not possess the financial resources to purchase its entire entitlements purchase obligation during June 1980. Young's stay request was therefore granted.

Request for Temporary Stay

Oasis Petroleum Corp.; Trans-Texas Petroleum; BLT, Inc.; Research Fuels, Inc., Culver City, Calif., DST–0042, DEE–2942, DES–2942, DST–2942, DEE–3430, DES–3430, DST–3430, DSG–0071, motor gasoline

A number of petitions for administrative relief were filed in connection with a controversy between Oasis Petroleum Corporation and Research Fuels, Inc., which arose primarily from a series of October 1978 agreements in which RFI transferred 84 retail motor gasoline outlets to Oasis and assigned to Oasis its right to receive motor gasoline from certain suppliers. The DOE determined that no action should be taken on these petitions since the DOE had already addressed the issues raised in the submissions in a tentative decision issued in a separate special redress proceeding and since the United States District Court for the Northern District of Texas had in any event enjoined the DOE from taking action on certain of these issues. Accordingly, the petitions were dismissed without prejudice.

Supplemental Orders

Caribou Four Corners, Inc., Afton, Wyo., BEX–0065, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Caribou Four Corner's, Inc., staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Genico Distributors, Inc., Austin, Tex., BEX–0074, crude oil

The DOE issued a Supplemental Order in order to make a technical correction to its Decision and Order in *Genico Distributors, Inc.*, 5 DOE ¶ ——, Case Nos. BSG–0024 and BST–0024 (June 24, 1980).

Highway Oil, Inc., Topeka, Kans., BEX–0052, Gasohol

On April 25, 1980, the DOE issued an Order requiring Highway Oil, Inc. to show cause why the DOE should not revoke previously granted exception relief which increased the firm's base period allocation in the amount of 300,000 gallons of unleaded gasoline per month in connection with Highway's gasohol blending and marketing operations. *Highway Oil, Inc.*, 5 DOE ¶ —— BEX–0049 (April 25, 1980). In considering the material submitted by Highway pursuant to the April 25 Order, the DOE concluded that the exception relief should be rescinded since Highway's current gasohol operations are substantially different from the gasohol operations which Highway had projected in its exception application and which the DOE had accepted as the basis for the approval of exception relief.

Plateau, Inc., Washington, D.C., BEX–0070, crude oil

On June 30, 1980, the DOE issued a Decision and Order to Plateau, Inc. staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 30, 1980.

Sage Creek Refining Co., Cowley, Wyo., BEX–0073, crude oil

On June 30, 1980, the DOE issued a Decision and Order to Sage Creek Refining Company staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 30, 1980.

Southland Oil Co., Jackson, Miss., BEX–0066, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Southland Oil Company staying the firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Thriftway Co., Washington, D.C., BEX–0075, crude oil

On June 30, 1980, the DOE issued a Decision and Order to Thriftway Company staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 30, 1980.

Warrior Asphalt Company of Alabama, Tuscaloosa, Ala., BEX–0067, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Warrior Asphalt Company of Alabama staying that firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Young Refining Corp., Washington, D.C., BEX–0068, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Young Refining Corporation staying that firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Remedial Orders

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company Name, Case No. and Location

Bert Jones, BRW–0055, Stillwell, OK.
Herbert Menard d.b.a. Berwick Exxon, BRW–0053, Berwick, LA.
James E. Porter, BRW–0054, Oklahoma City, OK.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

O.K. Petroleum Products Corp., DEN–6685, New York, NY
R&W Motor Sales, BEN–0040, Taunton, MA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted.

Company Name, Case No., and Location

Energy Unlimited, BEO–0572, Elm Grove, WI.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Ernie's General Store, DEE–3763, Stockton, CA.
Koenig Texaco, BEO–0498, Salida, CO.
Leo's One Stop Mart, DEE–4764, Chehalis, WA.
Los Osos Petroleum Products, DEE–6376, Los Osos, CA.
Mount Vernon Sunoco, DEE–5206, Alexandria, VA.
Riverside Shell, DEO–0335, N. Riverside, IL.
Petrolics, Inc., BEE–0266, Austin, TX.
Riggs Gas & Grocery, BEO–0058, Scurry, TX.
San-Ann Service, Inc., DXE–5354, Washington, DC.
Savoley & Shepard Sunoco Station, DEE–5352, Lowell, MA.
The W. Gordon Smith Co., DEE–6658, Eden Prairie, MN.
Wedge Service Station, Inc., BEO–1052, Elmsford, NY.
Westwood Tune-up Service, BEO–0051, Los Angeles, CA.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Bartco Associates, DEE–5091.
Clarence Berner, BEE–0685.
Gas Appliance Mfgs. Association, BXE–1220.
Matthews Oil Co., Inc., DEE–7026.
O. K. Petroleum Products Corporation, DES–6685; DEST–6685.
Oil City Petroleum Company, Inc., BEE–1199.
Two J's Auto Clinic, DEE–5066.
Vickers Petroleum Corporation, DSG–0060.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Thomas L. Wieker,

Deputy Director, Office of Hearings and Appeals.

August 12, 1980.

[FR Doc. 80–25095 Filed 8–18–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of July 7 through July 11, 1980

During the week of July 7 through July 11, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Collier, Shannon, Rill, Edwards & Scott, Washington, D.C., BFA–0367, freedom of information

Collier, Shannon, Rill, Edwards & Scott filed an Appeal from a denial by the Regional Counsel of the Economic Regulatory Administration Region II of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that portions of the requested document which was initially withheld in its entirety under Exemption 5 should be released to the public. Important issues that were considered in the Decision and Order were whether the requested document was protected either by the deliberative process privilege, the attorney-client privilege, or the attorney work-product privilege and therefore exempt from mandatory disclosure under the FOIA pursuant to Exemption 5.

Charles Varon, San Francisco, Calif., BFA–0389, freedom of information

On June 6, 1980, Charles Varon filed an Appeal from a determination that had been issued to him by the Director of the Division of Program Support of the Office of Military Application. In that determination it was stated that no records exist which are responsive to requests for information that the Appellant had submitted pursuant to the Freedom of Information Act. In his Appeal, the Appellant contended that the DOE improperly had failed to identify documents responsive to his requests and had failed to conduct a sufficient research for responsive documents. In considering the Appeal, the DOE fund that the Appellant's requests did not "reasonably describe" the records sought within the meaning of the Act. Therefore the matter was remanded to allow the DOE to offer assistance to the requester pursuant to 10 CFR 1004.4(c)(2).

Remedial Order

Ferguson Oil Co., Oklahoma City, Okla., DRO–0270, DRS–0270, crude oil

Ferguson Oil Company objected to a Proposed Remedial Order on the grounds that the facts and issues raised by the PRO were identical to those involved in pending court cases and that the PRO proceeding should be held in abeyance pending resolution of these cases. Subsequent to the filing of Ferguson's Statement of Objections, court decisions were issued which supported DOE's position on the matters involved in the Ferguson PRO proceeding. The DOE issued the Ferguson PRO in final form and dismissed the Application for Stay.

Requests For Modification and/or Rescission

Doe Office of Procurement Operations, Washington, D.C., BMR–0043, Freedom of Information

The DOE Office of Procurement Operations filed an Application for Modification of *International Biomass Institute*, 5 DOE ¶ 80,135 (1980), which granted in part an Appeal which the Institute had submitted under the Freedom of Information Act. In considering the Application, the Office of Hearings and Appeals found that the Office of Procurement Operations had not met the regulatory requirements of showing "significantly changed circumstances," 10 CFR 205.134(b)(2) and the Application was denied. The material ordered to be released in *International Biomass Institute* was released to the requester.

Office of Enforcement, Washington, D.C., BRR–0064, crude oil

Office of Enforcement filed a Motion for Reconsideration of an Order which the Office of Hearings and Appeals issued in *Shenandoah Oil Corp.*, 5 DOE ¶ 80,105 (1980), requiring the Office of Enforcement to explain the basis for its finding that a certain tract did not qualify for "very large tract" treatment under Ruling 1977–1, 42 FR 3628 (January 19, 1977). In considering the Motion the DOE determined that Enforcement must explain the basis for crucial determinations in Remedial Orders it issues. The Motion for Reconsideration was therefore denied.

Requests for Exception

Airport DX Service, Des Moines, Iowa, BEO–0557, Motor Gasoline

Airport DX Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation. In considering the request, the DOE found that the firm had leased and invested in the retail outlet after the updating of the base period and was adversely affected by its own discretionary business decision rather than the regulatory program. Accordingly, exception relief was denied.

Donald E. Batey, Petaluma, Calif., BEO–0796, motor gasoline

Donald E. Batey filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that any operating difficulties which the firm was experiencing were the result of its own discretionary business decisions and were not the result of DOE regulations. Accordingly, exception relief was denied.

The Citizen Tribune, Morristown, Tenn., BEO–0136, motor gasoline

The Citizen Tribune filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its motor gasoline allocation. In considering the request, the DOE found that the updated base period did not represent an anomalous period in the firm's operations and that the allocation regulations were not causing the firm a serious hardship, gross inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Foregione's Service Station, Mayfield, Pa., DEO–0369, motor gasoline

Forgione's Service Station filed an Application Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request the DOE found that exception relief was necessary to prevent the firm from experiencing a severe financial hardship as a result of its inability to market its gasoline at the maximum lawful profit margin of 10.8 cents per gallon. Accordingly, exception relief was granted.

General Telephone Company of the Northwest, Inc., Everett, Wash., BEO–0573, motor gasoline

General Telephone Company of the Northwest, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its motor gasoline allocation. In considering the request, the DOE found that the allocation regulations were not making it impossible for the applicant to provide service to its customers or causing the applicant any other hardship, inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Georgia Pacific Corp., Bellingham, Wash., BEE–0759 gasohol

Georgia Pacific Corporation filed an Application for Exception sought an increase in its base period allocation of unleaded gasoline for use in denaturing alcohol. This denatured alcohol is then sold for use in blending gasohol. In considering the request, the DOE found that exception relief was

necessary to insure continued production of

Southeast Regional Center of the Office of

requirement that it make refunds pursuant to

necessary to insure continued production of alcohol for blending gasohol. Accordingly, exception relief was granted.

Good Chevrolet, Renton, Wash., BEO–0629, motor gasoline

Good Chevrolet filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its business activities would be significantly adversely affected if exception relief was denied. Accordingly, exception relief was denied.

Han-D-Sac Drive-In Grocery, Bartlett, Tenn., BEO–0267, motor gasoline

Han-D-Sac filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm was not experiencing a gross inequity. Accordingly, the firm's request was denied.

Perfection Products Co., Waynesboro, Ga., BXE–1216; Poeway, Inc., Wisconsin Rapids, Wis., BXE–1217; Louisville Tin & Stove Co., Louisville, Ky., BXE–1218; Williams Furnace Co., Le Maride, Calif., BXE–1219; United States Stove Co., Chattanooga, Tenn., BXE–1221; Martin Industries, Florence, Ala., BXE–1222; Locke Stove Co., Kansas City, Mo., BXE–1223; Readybuilt Products & Co., Baltimore, Md., BXE–1224; Suburban Manufacturing Co., Dayton, Tenn., BXE–1225; test procedures

Perfection Products Co., *et al.*, filed Applications for Extension of Exception relief previously granted in *Perfection Products Co.*, 4 DOE ¶ 81,096 (1979). In their joint submission, the applicants requested that the exception from the provisions of 10 CFR Part 430 which relieved them of the obligation to perform energy efficiency tests on vented gas space heaters with manual and modulating controls and vented oil heaters with vaporizing-type burners be extended beyond July 1, 1980. In considering the request, the DOE found that the circumstances which led to the prior approval of exception relief had not changed and that reimposition of the testing requirements would impose a gross inequity on the applicants. Accordingly, the Applications for Exception were granted.

Ron's Arco Station, Woodbury, N.J. DEO–0337, motor gasoline

Ron's Arco Station filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing an unfair distribution of burdens, gross inequity or serious hardship in the absence of exception relief. Accordingly, exception relief was denied.

T. J.'s Service Station, Collier County, Fla., BEO–0305, motor gasoline

T. J.'s Service Station filed a Statement of Objections to the issuance in final form of a Proposed Decision and Order in which the Southeast Regional Center of the Office of Hearings and Appeals tentatively determined that the firm's request for an increase in its base period allocation of motor gasoline should be denied. In considering the Statement of Objections, the DOE found that although the community around T. J.'s Service Station had experienced a reduction in its base period supplies of motor gasoline as a result of station closings in the area, a local jobber planned to reopen one of the closed stations in the near future and that this latter event would eliminate any reduction in the community's allocation supplies. The DOE also found that community residents and travelers were encountering no current difficulties in obtaining product. Accordingly, exception relief was denied.

V.I.P. Limousine, Inc., Stamford, Conn., BEO–1018, motor gasoline

V.I.P. Limousine, Inc. (VIP), filed an Applicatin for Exception from the provisions of 10 CFR Part 211. In this Application, the firm sought an increased allocation of motor gasoline for use in its "group ride program" (GRP). In its Decision, the DOE indicated what information is necessary in order for it to evaluate the potential level of energy conservation associated with the GRP. In considering the firm's request, however, the DOE found that V.I.P. had failed to demonstrate that its GRP would in fact result in a significant reduction of energy consumption in its operating area. Accordingly, the DOE denied the firm's request.

Van Wert Manufacturing Co., Peckville, Pa., BEE–1051; Yukon Industries, St. Paul, Minn., BEE–1066; Stadler Corp., Carlisle, Mass., BEE–1074; Combo Furnace Co., Grand Rapids, Minn., BEE–1113; Charmaster Products, Inc., Grand Rapids, Minn., BEE–1144; test procedures

Van Wert Manufacturing Company, *et al.* filed Applications for Exceptions from the provisions of 10 CFR Part 430, Appendix N. In their submissions, the applicants requested that they be relieved of the requirement to perform energy efficiency and fuel utilization tests for their multi-fuel furnaces and boilers. In considering the requests, the DOE found that the test procedures applicable to multi-fuel furnaces and boilers yielded inappropriate results and that the applicants would suffer agross inequity in the absence of relief. Accordingly, the exeption applications were granted.

Zenith Oil Co., Minneapolis, Minn., DEE–2556, No. 2 heating oil

Zenith Oil Company filed an Application for Exception in which the firm would be relieved from the obligation to comply with the terms of a Remedial Order issued to it. In considering the firm's request, the DOE determined that Zenith would not experience a serious financial hardship if it were required to make refunds to customers who were overcharged, as required by the Remedial Order.

Request for Stay

Milder Oil Co., Washington, D.C., BES–0079, BST–0007, crude oil

Milder Oil Company filed an Application for Temporary Stay and Stay from the requirement that it make refunds pursuant to a Consent Order agreed to by the firm and DOE Office of Enforcement. In considering the Application, the DOE determined that Milder had presented no persuasive argument that postponement of its refund obligation was necessary to prevent a serious hardship to the firm or to further the public interest. Milder's stay request was therefore denied.

Request for Temporary Stay

Petroleum Delivery Service, Inc., Fort Lauderdale, Fla., BST–0005, motor gasoline

Petroleum Delivery Service, Inc. filed an Application for Temporary Stay of an Interim Order issued to Southern Bell Telephone and Telegraph Company granting Southern Bell's request for a termination of its supplier/purchaser relationship with the applicant. The DOE determined that Petroleum Delivery Service was not experiencing a substantial irreparable injury due to the Interim Order. The DOE also noted that the applicant had not filed a timely response to Southern Bell's Motion for Interim Order and that it is generally inappropriate to grant stay relief when an applicant did not avail itself of the opportunity to contest the Interim Order before it was issued. Accordingly, the Application for Temporary Stay was denied.

Supplemental Order

Marathon Oil Co., Findlay, Ohio, BEX–0077, motor gasoline.

On April 17, 1980 the Office of Hearings and Appeals issued a Decision and Order granting the Marathon Oil Company (Marathon) Appeal of a February 19, 1980 Order issued by the Region IV Economic Regulatory Administration assigning Marathon to supply Publix Oil Company, Inc. with 65,572,475 gallons of motor gasoline per year at Tennessee terminals. In response to an Order issued by the United States District Court for the Eastern District of Tennessee on May 1, 1980 the Office of Hearings and Appeals issued a Supplemental Order staying the April 17 Appeal Decision and temporarily reinstating the February 19 Assignment Order. On July 9, 1980, however, the Court granted summary judgment in favor of the defendants DOE and Marathon, and dissolved the preliminary injunction. The Office of Hearings and Appeals therefore issued this Supplemental Order reinstating the April 17 Decision which rescinded the February 19 Assignment Order.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Case No., and Location

Chevron, USA, United Refining Co., BEJ–0095, Washington, DC.
Little America Refining Co., Inc. et al., BEJ–0098; Mobil Oil Corp., BEJ–0097; Texaco, Inc., BEJ–0098; Chevron, USA, BEJ–0099; Cities Service Wyoming Refining Co., BEJ–0100; Washington, DC.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No. and Location

Antonio Vricella, BEN–0289, Somerville, MA.
Angelo & Sons, BEN–0784, Revere, MA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No. and Location

Bill Johnson's Chevron Service, BEO–0490, Los Angeles, CA.
Black Jack Service Station, BEO–0320, Flourissant, MO.
Country Super Store, BEO–0729, Bogalusa, LA.
Dave's Texaco Station, BEO–1114, Brighton, MA.
Huling's, BEO–0652, Seattle, WA.
Mayo's D–X Service Station, BEO–0615 Dresden, TN.
Miami Beach Texaco, BEO–0746, Washington, DC.
Tyler Texaco Station, DEE–5826, Hollister, CA.
Zionsville Standard Station, BEO–0251;
Old Orchard Car Wash, BEO–0436;
Checko's & Mike's Esso Service Station, BEO–0187;
The Tanner Co., BEO–0620;
Interstate Standard, BEO–0298;
Hayes Arco, BEO–0411;
San Jose State University; BEO–0472;
Jarrell's Exxon, BEO–1037;
Sharp Texaco, BEO–1040, Zionsville, IN.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Central Texas Energy Supplier's, Inc., DST–0019.
Chevron, USA, BED–0361.
Dow Chemical, USA, BEO–1167.
Foster Oil Co., DRO–0314.
Ft. Washington Car, BEE–1109; BES–1109.
Great Lakes Research Corp., BEO–0999.
Green's Gas & Go, DEE–5800.
Greiner Welding and Fabricating, Inc., DEE–7466.
Ken's Mobil, DEE–6636.
Mobil Oil Corp., DES–0400; BST–0400.
Office of Enforcement, BRS–0064.
Quincy Oil, Inc., DEE–0447; DED–0006; DED–0007.
Trends Publishing Inc., BFA–0406.
Union 76 Service, DEE–7284.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also avaialble in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reported system.

George B. Breznay,
Deputy Director, Office of Hearings and Appeals.
August 12, 1980.

[FR Doc. 80–25087 Filed 8–18–80; 8:45 am]
BILLING CODE 6450–01–M

Objections to Proposed Remedial Orders Filed; Week of July 14 through July 18, 1980

During the week of July 14 through July 18, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice (September 8, 1980). The Office of Hearings and Appeals will then determine those person who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Deputy Director, Office of Hearings and Appeals.
August 12, 1980.

Remedial Orders

Eldon Spencer Oils, Inc., Port Byron, Ill., BRO–1273, motor gasoline and middle distillates

On July 16, 1980, Eldon Spencer Oils, Inc., 1510 North High Street, Port Byron, Illinois 61275, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 12, 1980. In the PRO the Central District found that during the period from November 1, 1973 through March 31, 1975 the firm had failed to maintain records sufficient to demonstrate that its prices were in compliance with the maximum lawful selling prices under the terms of 6 CFR 150.359(c) and 10 CFR 212.93(a) and had in fact charged prices in excess of what was permitted by those regulatory provisions with respect to sales of regular motor gasoline, No. 1 and No. 2 fuel oils and diesel fuels. According to the PRO, the Eldon Spencer Oils, Inc. violation resulted in $162,805.86 of overcharges.

Exxon Company, U.S.A., Houston, Tex., BRO–1274, motor gasoline

On July 17, 1980, Marathon Oil Company, Findlay, Ohio filed a Notice of Objection to a Proposed Remedial Order which the Southwest District Office of Special Counsel issued to Exxon Company, U.S.A. on May 9, 1980. In the PRO the Southwest District concluded that under the pertinent allocation regulations, the exchange agreement consummmated in the months of March, April, and May 1978 between Exxon and Hydrocarbon Trading and Transport Company, Inc. established a supplier/purchaser relationship between Exxon and Hydrocarbon. According to the PRO, Exxon's refusal in March, April and May of 1979 and 1980 to supply Hydrocarbon with the amount of motor gasoline that was supplied to Hydrocarbon in the corresponding months of the base period pursuant to the exchange agreements constitutes a violation of 10 CFR 211.9(a). The PRO orders Exxon to bring itself into compliance with 10 CFR 211.9(a) by offering to sell Hydrocarbon its base period entitlement of gasoline for the months of March, April and May 1979 and 1980.

Fontana Marine Service, Fontana, Wis., BRO–1268, motor gasoline

On July 14, 1980 Fontana Marine Service on Lake Geneva, Fontana, Wisconsin filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 18, 1980. In the PRO the Central District found that during the period from August 1, 1979 to May 31, 1980, Fontana charged prices for motor gasoline in excess of the maximum lawful selling price. According to the PRO the Fontana violation resulted in $2,040 of overcharges.

Shatz Bros. Marine Center, Inc., Brooklyn, N.Y., BRO–1272, motor gasoline

On July 15, 1980 Shatz Brothers Marine Center, Inc., 3148 Voorhies Ave., Brooklyn, New York 11235, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on June 12, 1980. In the PRO the Northeast District found that during the period April 22, 1980 to May 27, 1980 Shatz Bros. charged prices significantly in excess of the maximum lawful selling price permitted by 10 CFR, Part 212, and engaged in practices in violation of other provisions of Part 212. According to the PRO the Shatz Brothers Marine Center, Inc., violations resulted in $420.90 of overcharges.

[FR Doc. 80–25092 Filed 8–18–80; 8:45 am]
BILLING CODE 6450–01–M

EPA has proposed premanufacture notification rules and forms in the

that an extension is necessary, it will

Occupational Exposure

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1577-7; PF 196]

Certain Pesticide Chemicals; Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals in or on raw agricultural commodities.

ADDRESS: Written comments and inquiries should be directed to the: Designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the Agency. The comments are to be identified by the document control number "[PF–196]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP OF2357. Monsanto Co., 1101 7th St., NW, Washington, D.C. 20036. Proposes amending 40 CFR 180.211 by increasing the tolerance for the combined residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolities (calculated as 2-chloro-*N*-isopropylacetanilide) in or on the raw agricultural commodity sorghum forage from "3.0 parts per million (ppm)" to "4.5 ppm." The proposed analytical method for determining residues is gas chromatography using a FID or nitrogen specific detector. (PM 25, Robert J. Taylor, Rm. E–359, 202/755–2196)

PP OF2379. Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.330 by establishing tolerances for the residues of the insecticide *S*-[2-ethylsulfinyl]ethyl] *0,0*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodities	Part per million
Beans, dried	0.01
Bean vines, dried	0.2

The petition also proposes to revise the tolerances for the following commodities:

Commodities	Part per million
Beans, forage	2
Beans, succulent	0.5

The proposed analytical method for determining residues is a gas-liquid chromatographic procedure utilizing a phosphorus specific detector. (PM 16, William H. Miller, Rm. E–343, 202/426–9458)

PP OF2382. E. I. DuPont de Nemours and Co., Inc., Wilmington, DE 19898. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1*H*, 3*H*)-dione and its metabolites (calculated as hexazinone) in or on the following raw agricultural commodities:

Commodities	Part per million
Alfalfa, forage and hay	5
Meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep	0.05
Milk	0.05
Liver of cattle, goats, horses, hogs, and sheep	0.1

The proposed analytical method for determining residues is by nitrogen selective gas chromatography. (PM 23, Richard Mountfort, Rm. E–351, 202/755–1397)

PP OF2193. Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes that 40 CFR 180.342 be amended by revising the tolerance limitations for residues of the insecticide chlorpyrifos in or on the raw agricultural commodity peanut forage from "15 ppm" to "20 ppm". The proposed analytical method for determining residues is by gas chromatography using a hydrogen flame ionization detector. (PM 12, Jay Ellenberger, Rm. E–303, 202/426–2635)

PP OF2383. Allan H. Bonnell, Brumbaugh, Graves, Donohue, and Raymond, 30 Rockefeller Plaza, NY, NY 10020. Proposes that 40 CFR 180.1001 be amended to establish an exemption from the requirement of a tolerance for *Trichoderma viride sensu* Bisby and *Trichoderma polysporum* Rifai. (PM 21, Eugene Wilson, Rm. E–349, 202/755–1809.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 135))

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-25099 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS–51114; FRL 1578–2]

Primary Amyl Nitrates; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Cindy Work, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the Data taken from the PMN is published herein.

Interested persons may, on or before September 28, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51114]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 13, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–188

Close of Review Period. October 28, 1980.

Manufacturer's Identity. Ethyl Corp., 451 Florida Blvd., Baton Rouge, LA 70801.

Specific Chemical Identity. Primary amyl nitrates.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Diesel fuel cetane improver.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Density—0.998

Boiling point—305–314°F (150–155°C).

Flash point—156°F.

Toxicity Data

Skin irritation test (rabbits, rats)—Mild skin irritant. Growth inhibitor when applied dermally.

Inhalation study (rabbits, guinea pigs, rats, cats)—Exposure to 12.3 mg/liter for one hour was lethal to most mice in the study. Rabbits, guinea pigs, rats, and cats (in that order) were less susceptible.

Occupational Exposure

Activity	Potential route(s)	No.[1]	Maximum duration of exposure
Manufacture	Inhalation	4	8 hr/da; 160 da/yr.
Processing	Inhalation, dermal	8	2 hr/da; 30 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. The submitter claims that environmental release of the PMN substance will be minimal. Inorganic solid wastes, packaged in drums, will be disposed of in an approved chemically secure landfill.

[FR Doc. 80-25082 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1577–8; OPP–C31038]

Receipt of Applications to Conditionally Register Pesticide Products Entailing Changed Use Patterns

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: This notice publishes applications submitted by Ameron to conditionally register pesticide products entailing changed use patterns.

ADDRESS: Written comments to: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Ameron, Protective Coating Division has submitted to EPA applications to conditionally register pesticide products entailing changed use patterns.

Notice of approval or denial of these applications to register pesticide products will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of these applications do not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on these applications. Comments may be submitted, and inquiries directed, to the product manager. The comments must be received on or before September 18, 1980, and should bear a notation

indicating the document control number "[OPP–C31038]" and the applicable file symbol or registration number. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Applications Received

EPA File Symbol 8120–GL. Antifouling Red/Gray. Ameron, Protective Coating Div., 201 North Berry Street, Brea, CA 92621. Active Ingredient: tributyltin oxide 9.38% and diiodomethyl-para-tolyl sulfone 7.92%. The application proposes an aquatic impact use pattern. This is the first aquatic impact use pattern proposed for the chemical diiodomethyl-para-tolyl sulfone.

EPA File Symbol No. 8120–GG. Antifouling Red/Green. Ameron. Active Ingredient: tributyltin oxide 11.66% and diiodomethyl-para-tolyl sulfone 8.55%. The application proposes an aquatic impact use pattern. This is the first aquatic impact use pattern proposed for the chemical diiodomethyl-para-tolyl sulfone.

EPA File Symbol No. 8120–GT. Antifouling Red/White. Ameron. Active ingredient: tributyltin oxide 8.09% and diiodomethyl-para-tolyl sulfone 8.00%. The application proposes an aquatic impact use pattern. This is the first aquatic impact use pattern proposed for the chemical diiodomethyl-para-tolyl sulfone.

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Divison, Office of Pesticide Programs.

[FR Doc. 80–25100 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1577–6; OPP 50497]

Renewal of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued renewals of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticide for experimental purposes.

1023–EUP–35. The UpJohn Co., Agricultural R&D, Kalamazoo, MI 49001. This experimental use permit allows the use of 539 pounds of the pesticide amitraz (*N'*-2,4-dimethylphenyl)-*N*-[[2,4-dimethylphenyl]imino]methyl]-*N*-methylmethanimidamide in or on lemons, grapefruits, oranges, and tangerines. A total of 280 acres are involved. The program is authorized only in the States of Arizona, California, Florida, and Texas. The permit is being renewed under the special conditions that the pesticide be used on fresh market fruit only and that orchards in which animals graze not be treated. The experimental program is effective from July 17, 1980 to July 17, 1981. (PM 12, Jay Ellenberger, Rm. E–303, 202/426–2635)

8399–EUP–3. The Great Western Sugar Co., Agricultural Research Center, 11939 Sugarmill Road, Longmont, CO 80501. This experimental use permit allows the use of 70 pounds of the plant growth regulator propylene on sugarbeets to evaluate reduction of sucrose loss. A total of 20,000 tons of sugarbeet roots (harvested) are involved. The program is authorized only in the State of Colorado. The experimental program is effective from August 30, 1980 to August 30, 1981. A temporary exemption from the requirement of a tolerance has been established. (PM 25, Robert J. Taylor, Rm. E–359, 202/755–2196

Interested persons wishing to review the experimental use permits are referred to the designated Product Manager, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW, Washington, DC 20406. It is suggested that such persons call before visiting the EPA, so that the appropriate file may be made conveniently available for review purposes. The files are available for inspection from 8:00 a.m. to 4:00 p.m., Mondays through Fridays, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended, (7 U.S.C. 136))

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–25098 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180423; FRL 1509–4]

Pennsylvania Department of Agriculture; Specific Exemption to Use Fenvalerate

Correction

In FR Doc. 80–17343 appearing on page 38443 in the issue of Monday, June 9, 1980, make the following correction:

In the third column of page 38443, fourth line, "Pydin . . ." should have read "Pydrin . . .".

BILLING CODE 1505–01–M

[FRL 1577–5; PP 9G2183/T266]

Hercon Products Group; Renewal of Temporary Exemption From Requirement of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary exemption from the requirement of a tolerance for residues of the insecticide (*Z*)-11-hexadecenal with (*z*)-9-tetradecenal in or on cottonseed when used as a pheromone to disrupt mating in tobacco budworms and bollworms.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–341, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, (202–426–9417) at the above address.

SUPPLEMENTARY INFORMATION: On May 1, 1979 EPA issued a notice that published in the **Federal Register** (44 FR 25506) that Hercon Products Group, Herculite Products, Inc., 1107 Broadway, NY, NY 10010, had filed a pesticide petition (PP 9G2183). The petition requested that an exemption from the requirement of a tolerance be established for residues of the insecticide (*Z*)-11-hexadecenal with (*z*)-9-tetradecenal in or on the raw agricultural commodity cottonseed when used as a pheromone to disrupt mating in the tobacco budworm and bollworm. This temporary exemption expired April 3, 1980.

Hercon Products Group has requested a renewal of the temporary exemption to permit the marketing of cottonseed treated in accordance with the experimental use permit which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material have been evaluated and it has been determined that renewal of the temporary exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption has been renewed under the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active insecticide to be used must not exceed the amount authorized in the experimental use permit.

2. Hercon must immediately notify the EPA of any findings from the experimental use permit or the temporary tolerance that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires July 21, 1981. Residues in or on the above raw agricultural commodity after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemption from the requirement of a tolerance. The temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with the pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–25101 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1243]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

August 12, 1980.

The following listing of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expires.

Docket or RM No.	Rule section	Subject	Date received
20642		Clear Channel Broadcasting in the AM Broadcast Band. Filed by:	
		Robert P. Bigelow, Editor for Computer Law and Tax Report.	7–14–80
		William O. Barry, President for Great Southern Broadcasting Company, Inc. (WAMB).	7–16–80
		Alvin L. Anderson, President for KBMR Radio Inc. (KERR).	7–18–80
		David Honig, Research Director for National Black Media Coalition.	7–21–80
		Willis A. Deal, President for Piedmont Broadcasting Company, Inc. (WSPF).	7–21–80
		Everett H. Erlick, Robert J. Kaufman, Mark D. Roth, James A. McKenna, Jr., and R. Michael Senkowski, Attorneys for American Broadcasting Companies, Inc.	7–25–80
		Paul J. Berman, Attorney for Midwest Television, Inc. (KFMB).	7–28–80
		Peter Shuebruk and Zave M. Unger, Attorneys for Midwest Radio Television, Inc. (Petitions I, II, and III).	7–28–80
BC 79–340	73.202(b)	Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Malakoff, Texas).	
		Filed by Harry J. Ockershausen and Christopher J. Reynolds, Attorneys for Seven Seals Broadcasting Company.	7–2–80

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–25216 Filed 8–18–80; 8:45 am]

BILLING CODE 6712–01–M

Trinity Broadcasting of Denver, Inc. and LUB Television Associates, Ltd.; Hearing Designation Order

Adopted: August 5, 1980.

Released: August 15, 1980.

By the Chief, Broadcast Bureau:

In the matter of applications of Trinity Broadcasting of Denver, Inc., Denver, Colorado (BC Docket No. 80–500, Filed No. BPCT–5057) and LUB Television Associates Limited, a limited partnership, d.b.a. La Unidad Broadcasting Corporation, Denver, Colorado (BC Docket No. 80–501, Filed No. BPCT–5097): for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications,[1] filed by Trinity Broadcasting of Denver (Trinity) and LUB Television Associates Ltd. (LUB) for a new commercial television station on Channel 31, Denver, Colorado.[2]

LUB Television Associates Ltd.

2. The financial data submitted by LUB indicates that $117,135 will be required to construct and operate the proposed station for three months, itemized as follows:

Legal	$15,000	
Engineering	5,000	
Installation	20,000	
Miscellaneous	5,000	
Total construction costs	$45,000	
Operating Expenses (includes costs of equipment, land and building lease)		72,135
Total proposed expenditures		$117,135
To meet these expenditures LUB intends to rely upon:		
Capital contributions		$250,000
Bank loan (less interest and principal)		88,220
Network guarantee		100,000
Total funds available		$438,220

3. Analysis of the financial data presented in paragraph 2 leads to the following conclusions:

(a) Regarding the capital contributions, the Commission is unable to determine whether these funds can be relied upon. The balance sheets of stock subscribers Quintana, Rodriquez and Duran indicate that they do not have sufficient liquid assets to meet their combined commitments of $85,000. The balance sheets were not submitted pursuant to the instructions contained in Paragraph 4(b), Page 3, Section III, Form 301. In some instances, liabilities were not segregated into current and long term items. Where this is not done, all liabilities must be assumed to be

[1] These applications were filed under the procedures adopted in *Adjudicatory Re-regulation Proposals*, 58 FCC 2d 865 (1976). Subsequently, the Commission adopted new procedures. *Revised Procedures For the Processing of Contested Broadcast Applications*. 45 RR 2d 1220 (1979). Accordingly, these applications will be considered under the revised procedures. Furthermore, the matters sought to be raised by the parties in issue pleadings have been considered herein only to the extent they relate to qualifications issues specifically included in this order.

[2] Several amendments were tendered for filing by Trinity after the cut-off date for amending as a matter of right. Acceptance of Trinity's amendments is unopposed and, since the information contained in these amendments is required to be reported under Section 1.65 of the Rules, these amendments will be accepted for filing.

current. Furthermore, information has

particularly those of Black or Hispanic

Section 311(a)(2) of the Communications

c. MDS, IFTS, CATV licensees (HBO, Showtime) and other non-licensees

States, or is contrary to the public

TPAFBO to police any member of any other

current. Furthermore, information has not been submitted to show that other non-liquid assets can be relied upon to provide funds to meet commitments. Therefore, a question arises, as to the availability of the $85,000 in stock subscription capital as a source of funds.

(b) LUB proposes to lease broadcast equipment (transmitter, antenna, etc.) from Spanish International Network (SIN), and also proposes to lease the land and buildings on which it is to operate. However, there is no indication that SIN is an equipment manufacturer or in the business of buying and leasing broadcast equipment. Subsequently, LUB is required to submit a balance sheet or a financial statement from SIN showing that it possesses the "net liquid assets" necessary to purchase the equipment and lease same to LUB, (see paragraph 4(b), Section III, page 3, Form 301). If these requirements are not met, LUB is considered to have to pay $208,000 in cash for its equipment. In addition, the $100,000 in proposed advertising revenue will not be considered under the new 90 day rule unless prepaid.[3] Accordingly, limited financial issues will be specified against LUB under (a) and (b), supra.

4. LUB indicates that its programming proposal is in response to the community needs and problems. However, LUB has not sufficiently described the broadcast matter, nor has the applicant made a showing as to which programs are responsive to which problems and needs. Accordingly, a limited ascertainment issue will be specified.

Trinity Broadcasting of Denver

5. Trinity has failed to comply with certain requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has failed to survey leaders of significant population groups set forth in its demographic study. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 2d 1127 recon. den. 47 FCC 2d 526, 30 RR 2d 851 (1974). Trinity has submitted a list of approximately 200 "Community Leaders." However, it is not possible to determine whether any minority or ethnic leaders have been surveyed, particularly those of Black or Hispanic origin. Accordingly, a limited ascertainment issue will be specified.

6. Except as indicated by the issues specified below, the Commission finds Trinity Broadcasting of Denver and LUB Television Associates Ltd. legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of the applications will serve the public interest, convenience and necessity. The applications must therefore be designated for hearing on the issues set out below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934 as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine, whether Trinity, complied with Question and Answer 7 of the *Primer* by interviewing leaders of minority/ethnic groups, and if not, the effect on the applicant's basic qualifications.

(2) To determine, with respect to LUB:

(a) whether stock subscribers have sufficient liquid assets to meet their commitments.

(b) whether SIN possesses the "net liquid assets" necessary to purchase broadcast equipment and lease same to LUB.

(c) whether, in light of the evidence adduced pursuant to (a) and (b) above, applicant is financially qualified to construct and operate as proposed.

(d) whether the programming proposal reflects an evaluation of its ascertained needs and problems, and if not, the effect on the applicant's basic qualifications.

(3) To determine, on a comparative basis, which of the applications would better serve the public interest.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-25214 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[3] The Commission notes that "there are 90 days between the initial start-up period between commencement of broadcast operations and the point in time where advertising accounts begin to remit revenue." (*New Financial Qualifications Standard for Broadcast Television Applicants*, FCC 79-299, May 11, 1979). Therefore, anticipated revenue will not be considered unless the advertising is paid in advance.

National Industry Advisory Committee, Broadcast Services Subcommittee; Meeting

August 15, 1980.

Pursuant to the provisions of the Public Law 92-463, announcement is made of a public meeting of the Broadcast Services Subcommittee of the National Industry Advisory Committee to be held Thursday, September 11, 1980. The Subcommittee will meet at the National Association of Broadcasters in the Board Room, located at 1771 N Street, NW., Washington, D.C. at 10 a.m.

Purpose: To consider proposals related to the Emergency Broadcast System (EBS).

Agenda items

1. Opening remarks by Chairman.
2. Comments by Mr. John W. Macy, Jr., Director of the Federal Emergency Management Agency (FEMA).
3. Emergency Broadcast System (EBS) tests:
   a. Propose nationwide test of the EBS, combining the Weekly Off-the-Air Monitoring Test with the Closed Circuit Test (CCT);
   b. Include participation of TV networks and non-affiliated stations in the CCT at least once a year;
   c. Provide evening time windows for the purpose of conducting a CCT;
   d. Carriage of EBS Emergency Activation Notifications (EAN) on *all* AP and UPI Subscriber networks.
4. In lieu of— ". . . in voluntary cooperation with the FCC and other authorities have developed this system etc., etc.," change the weekly off-the-air test announcement to either of the following:
   a. . . . in voluntary cooperation with the Federal Communications Commission and the Federal Emergency Management Agency . . .; or
   b. . . . in voluntary cooperation with Federal, State and local authorities. . . .
5. Presentation of Working Group report by Granville Klink on the FEMA Studio Transmitter Link (STL) and Broadcast Station Protection Program (BSPP) proposal.
6. Develop recommendation regarding adding other representatives to the Subcommittee from:
   a. Equipment manufacturers;
   b. Satellite carriers;
   c. MDS, IFTS, CATV licensees (HBO, Showtime) and other non-lincensee organizations like MUSAK.
7. Consider approval of draft EBS Activation postcard.
8. Consider approval of FCC, FEMA, NWS, NIAC Agreement.
9. FEMA and Nuclear Regulatory Commission (NRC) presentations regarding "A prompt Notification System" relative to nuclear power plants.
10. Other business.
11. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632-7232.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25215 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 I, Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 8, 1980, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operators to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-21-7.

Filing Party: Ronald L. Laumbach, Cargill, Incorporated, Law Department, P.O. Box 9300, Minneapolis, Minnesota 55441.

Summary: Agreement No. T-21-7, between Sacramento-Yolo Port District (Port) and Cargill, Inc. (Cargill), modifies the basic agreement which provides for the lease to Cargill of a grain terminal facility at Sacramento, California. The purpose of the modification is to increase the monthly rental to $8,000, and to increase the minimum tonnage of the commodities to be transported from the grain elevator by deep sea vessel to 1,250,000 tons for the five-year period ending June 30, 1985.

Agreement No.: T-3917.

Filing Party: Edward W. Wellman, Jr., Cummings & Lockwood, One Atlantic Street, Stamford, Connecticut 06904.

Summary: Agreement No. T-3917, between Farrell Lines, Inc. (Farrell) and Howland Hook Marine Terminal Corporation, (Howland Hook) sets forth the terms and conditions for Farrell's use of its wholly-owned subsidiary, Howland Hook. Agreement No. T-3917 consolidates and restates the contractual relationships between the parties, originally set forth in Agreements Nos. T-2903, T-2903-B and T-2903-3. Pursuant to the terms of the agreement, Howland Hook supplies all marine terminal services at the Port of New York to Farrell. As compensation, Farrell will pay Howland Hook all fixed and variable costs, as set forth in the agreements.

Agreement No.: 6010-24.

Filing Party: Charles F. Warren, Warren & Associates, P.C., 1100 Connecticut Avenue N.W., Washington, D.C. 20036.

Summary: Agreement No. 6010-24 amends the basic agreement of the Straits/New York Conference to clarify the voting procedures under Article 10(a).

Agreement No.: 7540-34.

Filing Party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, (The Firm of Herman Goldman), Attorneys at Law, 120 Broadway, New York, New York 10271.

Summary: Agreement No. 7540-34 modifies the basic agreement of the Leeward and Windward Islands and Guianas Conference to expressly provide that members may agree upon and publish credit rules including a bonding and/or security requirement and/or provisions denying credit.

Agreement No.: 8483-12.

Filing Party: Robert B. Yoshitomi, Esquire, Lillick, McHose & Charles, Attorneys for the Trans-Pacific American Flag Berth Operators, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 8483-12 amends the first paragraph of Article 12(a)(2) of the Trans-Pacific American Flag Berth Operators' (TPAFBO) Agreement by (1) adding language which permits the neutral body employed by TPAFBO to police any member of any other conference or rate-fixing agreement or any independent carrier in any trade, and (2) providing that the neutral body need not divulge to TPAFBO, its interests in any conference, rate agreement or independent carrier in whose behalf it acts. In addition, Article (11)(a)(2)(i) is amended by deleting reference to a two-thirds majority vote, inasmuch as TPAFBO sets tariff rates and practices by unanimous vote.

Agreement No.: 10399.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer and Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Summary: Agreement No. 10399 is a settlement agreement among Moore McCormack Lines, Incorporated (Mooremac), Empresa Lineas Maritimas Argentinas, S.A. (ELMA), and A/S Ivarans Rederi (Ivaran) that emanated from a Court proceeding wherein Ivaran has contested the Commission's approval of Agreement No. 10349. Ivaran agrees to pay Mooremac and ELMA $25,919 apiece in settlement of all outstanding obligations owed by Ivaran to the national-flag lines under Agreement No. 10349. Mooremac and ELMA on the one hand, and Ivaran on the other, agree to give up any claim with respect to any money owed to them by the other under Agreement No. 10349. After approval, Ivaran agrees to withdraw its appeal, all three parties agree to cooperate in effecting dismissal of the Court proceeding, and Ivaran agrees not to take an active part in the proceeding if it is not dismissed. The agreement stipulates that there will be no further recovery with respect to Agreement No. 10349, regardless of any disposition by the Court. The agreement will become null and void unless the Commission, within 120 days of filing, either approves the agreement or deems that its approval is not required.

Agreement No.: 10400.

Filing Party: J. D. Straton, Jr., Director Rates and Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Summary: Agreement No. 10400, between Robin Line (Robin), a service of Moore McCormack Lines, Inc., and Mediterranean Shipping Company (MSC), provides for a transshipment agreement for the transportation of general cargo in the trade between the U.S. Atlantic ports and ports in Mozambique, Tanzania, Kenya and Somalia, with transshipment at a port in South or East Africa, in the Cape Town/Mombasa range. The through rates are to be in accordance with Robin Line Outward Tariff in effect at time of shipment. The division of net through freight revenue and transshipment expenses, including storage charges, are to be divided one-third to MSC and two-thirds to Robin. The agreement may be terminated by either party upon 6 months' written notice to the other party.

Dated: August 14, 1980.

3. Citicorp, New York, New York

By order of the Federal Maritime Commission.

Joseph C. Polking,
Assistant Secretary.

[FR Doc. 80-25111 Filed 8-18-80; 8:45 am]
BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Dusan Jovanovic, 8630 Aviation Blvd., Inglewood, CA 90301.

Overseas Express (Andrew P. Lu, d.b.a.), 12871 Megiber Avenue, San Diego, CA 92129.

AAPKO Forwarders, Inc., P.O. Box 103, 1570 W. Balncke Street, Linden, NJ 07036. Officers: Arnold Wishinsky, President, Keith Devine, Secretary/Treasurer, Palmina Nuzzo.

Harley Quincy Moore, 1903 Marlock Lane, Pasadena, TX 77502.

Dated: August 14, 1980.

By the Federal Maritime Commission.

Joseph C. Polking,
Assistant Secretary.

[FR Doc. 80-25112 Filed 8-18-80; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1844]

Peninsula Air Delivery; Order of Revocation

On May 2, 1980, Peninsula Air Delivery, P.O. Box 668, Mountain View, CA 94042, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1844.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1844 issued to Peninsula Air Delivery, be and is hereby revoked effective May 2, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1844 issued to Peninsula Air Delivery, be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Peninsula Air Delivery.

Robert G. Drew,
Director, Bureau of Certification and Licensing.

[FR Doc. 80-25110 Filed 8-18-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Arbuckle Bancorp. Inc.; Formation of Bank Holding Company

Arbuckle Bancorp., Inc., Sulphur, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Oklahoma Bank & Trust Company, Sulphur, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,
Assistant Secretary of the Board.

[FR Doc. 80-25137 Filed 8-18-80; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 11, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Chemical New York Corporation, New York, New York (investment advisory activities; Colorado, New Mexico, Wyoming, Utah, Idaho and Montana): to engage through its subsidiary, Van Devanter & Hock, Inc., in activities that may be carried on by an investment advisor, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. These activities would be conducted from an office in Denver, Colorado, serving Colorado, New Mexico, Wyoming, Utah, Idaho and Montana.

2. Citicorp, New York, New York (finance company activities; Illinois, Indiana, Michigan, Wisconsin, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota): to engage through its subsidiary Citicorp Private Capital, Inc., in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in Chicago, Illinois serving the ten states listed in the caption of this notice.

3. Citicorp, New York, New York (finance company activities; New Mexico, Louisiana, Oklahoma, Texas): to engage through its subsidiary Citicorp Private Capital, Inc., in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in Houston, Texas, serving the four states listed in the capition of this notice.

4. Citicorp, New York, New York (finance company activities; Arizona, California, Hawaii, Nevada, Utah): to engage through its subsidiary Citicorp Private Capital, Inc. in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in Beverly Hills, California serving the five states listed in the caption of this notice.

5. Citicorp, New York, New York (finance company activities; Alaska, California, Colorado, Idaho, Oregon, Washington, Wyoming): to engage through its subsidiary Citicorp Private Capital, Inc. in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in San Francisco, California serving the seven states listed in the caption of this notice.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities; Virginia): to engage, through a subsidiary known as Dominion Bankshares Services, Inc., in the following activities: acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving an affiliate or subsidiary of Dominion Bankshares Corporation, credit disability insurance; mortgage redemption insurance and mortgage accident and health insurance; non-convertible term life insurance; physical damage insurance on motor vehicles, mobile homes, motor homes, boats, trailers and other kinds of personal property or attachments designed for use in connection therewith. Dominion Bankshares Corporation, Roanoke, Virginia, additionally proposes to continue to engage through Dominion Bankshares Services, Inc. in the following activities: acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving an affiliate or subsidiary of dominion Bankshares Corporation: credit life insurance, credit accident and health insurance.

Dominion Bankshares Services, Inc. will be headquartered at 213 South Jefferson Street, Roanoke, Virginia. Its activities will be conducted through offices of The First National Exchange Bank of Virginia, Dominion National Bank of Richmond, Dominion National Bank of Tidewater, Dominion National Bank of Northern Virginia, Southampton County Bank, Cumberland Bank & Trust Company, Dominion National Bank and The First National Exchange Bank of Montgomery County. Such activities will be conduted in the following locations: Roanoke SMSA; City of Bedford; Bedford County; Rockbridge County; City of Lexington; City of Buena Vista; Alleghany County; City of Covington; City of Clifton Forge; Giles County; Wythe County, Smyth County; Tazewell County; Russell County; Wise County; City of Norton; Richmond SMSA; Norfolk-Virginia Beach-Portsmouth, Virginia-North Carolina SMSA (Virginia portion only); Newport News-Hampton SMSA; Washington, D.C.-Maryland-Virginia SMSA (Virginia portion only); Southampton County; City of Franklin; Buchanan County, Dickenson County; Johnson City-Kingsport-Bristol, Tennessee-Virginia SMSA (Virginia portion only): Montgomery County; City of Radford.

2. Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities, Tennessee, Virginia): to engage, through a subsidiary known as Dominion Bankshares Services, Inc. in the following activities: acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving an affiliate or subsidiary of Dominion Bankshares Corporation: credit life insurance, credit accident and health insurance and credit disability insurance; mortgage redemption insurance and mortgage accident and health insurance; non-convertible term life insurance; physical damage insurance on motor vehicles, mobile homes, motor homes, boats, trailers and other kinds of personal property or attachments designed for use in connection therewith. Dominion Bankshares Services, Inc. will be headquartered at 213 South Jefferson Street, Roanoke, Virginia. Its activities will be conducted through offices of Dominion National Bank of Fredericksburg, Bank of Smithfield, Metropolitan Mortgage Fund, Inc., State Mortgage Corporation, Rockingham National Bank, The Commercial and Savings Bank, The Farmers Bank of Edinburg, Incorporated, Western Frederick Bank and The Farm Loan Corporation. Such activities will be conducted in the following locations: City of Fredericksburg; Spottsylvania County; Stafford County; Isle of Wight County; Nashville, Tennessee SMSA; Washington, D.C.-Maryland-Virginia SMSA (Virginia portion only): Newport News-Hampton SMSA; Norfolk-Virginia Beach-Portsmouth, Virginia-North Carolina SMSA (Virginia portion only); City of Martinsville; Henry County; Richmond SMSA; Roanoke SMSA; Mecklenburg County; City of Harrisonburg; Rockingham County; Augusta County; City of Staunton; City of Waynesboro; City of Winchester; Frederick County; Shenandoah County.

C. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant, Vice President:

Americorp, Shawnee, Oklahoma (financing activities; Oklahoma): to engage in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial loan company, such as construction loans secured by real estate mortgages under contract sale and working capital and equipment loans to oil-related industries. Such activities will be conducted at offices located at 201 North Broadway, Shawnee, Oklahoma, and the geographic scope of the activities will be the area within a 25-mile radius of Shawnee, Oklahoma.

D. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Old National Bancorporation, Spokane, Washington (insurance activities; Washington): to make available through its subsidiary, Union Securities Co., insurance coverage to VISA cardholders by offering VISA cardholders credit life and disability insurance which would pay the minimum monthly payment due on VISA accounts retroactive after the cardholder has been disabled 30 days. The credit life and disability insurance to be offered VISA cardholders will also include minimum monthly payment protection for involuntary loss of income. These activities would be conducted from the main office of Union Securities Co., at Spakane, Washington, for customers of another subsidiary of Applicant, Old National Bank of

Washington, which has branch offices

Governors of the Federal Reserve

The application may be inspected at

Company Act (12 U.S.C. 1842(a)(1)) to

the banks listed in the preceding

Iowa. Such activities have been

Washington, which has branch offices throughout the State of Washington, and would serve the State of Washington.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25117 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Bellevue Service Co.; Proposed Acquisition of Bellevue Service Company Insurance Agency

Bellevue Service Company, Bellevue, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of Bellevue Service Company Insurance Agency, Bellevue, Iowa.

Applicant states that the proposed subsidiary would continue to engage in the sale of credit-related life, accident and health insurance in connection with the extension of credit by Applicant's bank subsidiary. These activities would be performed from offices of Applicant's subsidiary in Bellevue, Iowa, and the geographic area to be served is Jackson County, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 11, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25122 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Chickasha Bancshares, Inc.; Formation of Bank Holding Company

Chickasha Bancshares, Inc., Chickasha, Oklahoma, has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of Chickasha Bank & Trust Company, Chickasha, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25127 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Citibank Interamerica; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank Interamerica, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Beverly Hills, California. Citibank Interamerica operates as a subsidiary of Citibank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in section 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25118 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

First Alabama Bancshares, Inc.; Acquisition of Bank

First Alabama Bancshares, Inc., Montgomery, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Chilton County Bank, Thorsby, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25136 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

First Bank Holding Company of Colorado; Formation of Bank Holding Company

First Bank Holding Company of Colorado, Lakewood, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First Bank Holding Company, Lakewood, Colorado, and thereby indirectly acquire 100 percent (less directors' qualifying shares) of FirstBank of Westland, N.A., Lakewood, Colorado, FirstBank of Wheat Ridge, N.A., Wheat Ridge, Colorado, FirstBank of North Longmont, N.A., Longmont, Colorado, FirstBank of Castle Rock, N.A., Costle Roch, Colorado, FirstBank of West Arvada, N.A., Colorado, FirstBank of Minturn, Minturn, Colorado, FirstBank of Vail, Vail, Colorado, FirstBank of Erie, Erie, Colorado, FirstBank of Gunbarrel, N.A., Boulder, Colorado, FirstBank of Academy Park, Lakewood, Colorado, FirstBank of Villa Italia, N.A., Lakewood, Colorado, FirstBank of Governor's Ranch, N.A., Denver, Colorado, and FirstBank of South Longmont, N.A., Longmont, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First Bank Holding Company of Colorado, Lakewood, Colorado, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2)) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in data processing, credit-related insurance activities, and acting as insurance agent for its subsidiary banks. The data processing activities would be performed from an office in Lakewood, Colorado and will serve Jefferson, Denver and Eagle Counties, Colorado. The credit-related insurance agency activities would be performed from the following: FirstBank of Westland, N.A., Westland, Colorado, FirstBank of Vail, Vail, Colorado, FirstBank of Wheat Ridge, N.A., Wheat Ridge, Colorado, FirstBank of Erie, Erie, Colorado, FirstBank of Minturn, Minturn, Colorado, FirstBank of North Longmont, N.A., Longmont, Colorado, FirstBank of Gunbarrel, N.A., Boulder, Colorado, FirstBank of Castle Rock, N.A., Castle Rock, Colorado, FirstBank of Academy Park, Lakewood, Colorado, FirstBank of South Longmont, N.A., Longmont, Colorado, FirstBank of West Arvada, N.A., Arvada, Colorado, FirstBank of Villa Italia, N.A., Lakewood, Colorado, and FirstBank of Governor's Ranch, N.A., Denver, Colorado and the geographic area to be served is the same as that served by those of Applicant's subsidiary banks listed herein. Applicant's insurance agent activities would be performed from an office in Lakewood, Colorado and would serve the banks listed in the preceding sentence. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25129 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

How-Win Development Co.; Proposed Retention of How-Win Insurance Agency

How-Win Development Co., Cresco, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain How-Win Insurance Agency, Cresco, Iowa.

Applicant states that the subsidiary would continue to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Cresco Union Savings Bank, Cresco, Iowa. These activities would be performed from offices of Applicant's subsidiary bank in Cresco, Iowa, and the geographic area to be served is within a nine-mile radius of Cresco, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25134 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Iowa Bancorporation; Proposal To Continue To Engage in Insurance and Lending Activities

Iowa Bancorporation, Des Moines, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the activities of general insurance in a town with a population of less than 5,000 and in making extensions of credit. These activities would be performed from offices of Applicant's subsidiary in LaPorte City, Iowa, and the geographic areas to be served are Black Hawk County, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in

accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 29, 1980.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25130 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Jasper Investment Co., Inc.; Formation of Bank Holding Company

Jasper Investment Company, Inc., Jasper, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88.8 percent of the voting shares of Jasper State Bank, Jasper, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 12, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25128 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

National Bancshares, Inc.; Formation of Bank Holding Company

National Bancshares, Inc., Bethany, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Bethany, Bethany, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25126 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

MilWisc Bancorp, Inc.; Formation of Bank Holding Company

MilWisc Bancorp, Inc., Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Midtown State Bank, Milwaukee, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25129 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Norlo, Inc.; Formation of Bank Holding Company

Norlo, Inc., Prior Lake, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Prior Lake State Bank, Prior Lake, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25119 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

P & D Company of Stewartville, Inc.; Proposed Continuation of Insurance Agency Activities

P & D Co. of Stewartville, Inc., Stewartville, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in a community where the population does not exceed 5,000.

Applicant states that it would engage in activity of selling. These activities would be performed from offices of Applicant's subsidiary in Stewartville, Minnesota, and the geographic area to be served is an area within a fifteen mile radius of Stewartville, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25121 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Southwestern Investment Co.; Proposed Retention of General Insurance Activities

Southwestern Investment Company, Appleton, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its general insurance agency in Appleton, Minnesota, a community with a population not exceeding 5,000.

Applicant states that it would continue to engage in the activities of operating a general insurance agency. These activities would be performed from offices of Applicant's subsidiary in Appleton, Minnesota, and the geographic areas to be served are the city of Appleton and surrounding rural area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25132 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Union International Bank; Relocation of Principal Office of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Union International Bank, Los Angeles, California, a corporation organized under section 25(a) of the Federal Reserve Act, has requested the Board's consent to relocate its principal office to Houston, Texas. Union International Bank operates as an indirect subsidiary of Standard Chartered Bank Limited, London, England. Union International Bank has also applied for consent to change its name to Standard Chartered Bank International.

The factors that are to be considered in acting on the application to relocate the principal office are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 8, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25118 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Southeast Bancshares, Inc.; Formation of Bank Holding Company

Southeast Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Commercial National Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 12, 1980. Any comment on an application

United Citizens Bancshares, Inc.; Formation of Bank Holding Company

United Citizens Bancshares, Inc., Ashland County, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company act

GENERAL SERVICES

SUMMARY: The Food and Drug

Dated: August 11, 1980.

(12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of United Citizens Bank of Cheatham County, Ashland City, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25123 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Valley State Investments, Inc.; Proposed Continuation of Insurance Agency Activities

Valley State Investments, Inc., Lamar, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities in a community with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Lamar, Colorado, and the geographic area to be served is the area within a 50 mile radius of Lamar, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 4, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25126 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Continental Grain Co.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Continental Grain Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Central Soya Company, Inc., The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Central Soya. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc 80-25243 Filed 8-18-80; 8:45 am]

BILLING CODE 6750-01-M

Digital Equipment Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Digital Equipment Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of International Telephone & Telegraph Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination subitted by Digital. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc 80-25200 Filed 8-18-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[F-80-14]

Delegation of Authority to the Secretary of Defense

1. *Purpose.*—This delegation authorizes the secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Arizona Corporation Commission involving intrastate telecommunications service rates.

2. *Effective date.*—This delegation is effective immediately.

3. *Delegation:* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Arizona Corporation Commission involving the application of the Mountain States Telephone and Telegraph Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 4, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25244 Filed 8-18-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80P-0004/CP]

Tomato Juice Deviating From Identity Standard; Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment of a temporary permit issued to Libby, McNeill & Libby, Inc., to market test tomato juice from concentrate to which ascorbic acid is added to attain a vitamin C level of 4 milligrams per fluid ounce. This action enables Libby, McNeill & Libby, Inc., to improve the quality of information to be derived from the market test by increasing the areas of distribution.

DATES: This amended permit is effective for 15 months beginning on the date the new food is introduced into or caused to be introduced into interstate commerce, but no later than August 11, 1980. However, the permit may terminate sooner depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after such negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A temporary permit was issued to Libby, McNeill & Libby, Inc., under 21 CFR 130.17, to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the **Federal Register** of May 13, 1980 (45 FR 31498).

Libby, McNeill & Libby, Inc., has requested that the temporary permit issued to it on May 6, 1980, be amended by increasing the permitted areas of distribution to include the State of New Mexico. The company indicated that the exclusion of New Mexico from the areas of distribution requested in its application for a temporary permit was an inadvertent error on its part. Accordingly, FDA is amending the temporary permit issued to Libby on May 6, 1980, to include New Mexico in one of the permitted areas of distribution. Distribution in New Mexico is subject to the same requirements as stated in one temporary permit.

Dated: August 11, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-34048 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-03-M

Health Services Administration

National Advisory Council on the National Health Service Corps.; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1980:

Name: National advisory Council on the National Health Service Corps.

Date and Time: September 15-17, 1980, 9:00 a.m., September 15—9 a.m.-5 p.m., September 16—Site Visits, September 17—9 a.m.-12 noon.

Place: Tower Suite, Peachtree Plaza Hotel, 210 Peachtree Street, Atlanta, Ga. 30303.

Open for entire meeting, except a formal meeting of the Council will not be held on Tuesday, September 16, due to the Council members visiting National Health Service Corps sites located in the Atlanta area.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: Agenda items include discussions of: Organization of new Bureau for NHSC; the NHSC scholarship program; student assistance programs; recruitment policies; and status of legislation and funding situation.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should write to or contact MS. CHARLOTTE WALCH, National Health Service Corps, Health Service Administration, Parklawn Building, Room 6A-14, 5600 Fishers Lane, Rockville, Md. 20857. Telephone: (301) 443-4046.

Agenda items are subject to change as priorities dictate.

Dated: August 12, 1980.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 80-25100 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-84-M

National Institutes of Health

Renewal of NIH Public Advisory Committees

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776, October 6, 1972), the National Institutes of Health announces the renewal by the Secretary, HHS, with the concurrence of the Committee Management Secretariat, General Services Administration, of the following committees:

President's Cancer Panel

National Cancer Advisory Board

Authority for the above committees will expire on July 27, 1982, unless the Secretary formally determines that continuance is in the public interest.

Dated: August 6, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80-25105 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

First-Year Student Enrollment Decreases for Health Professions Schools

The Department of Health and Human Services announces that the schools of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine and public health (health professions schools) may request decreases in their first-year student enrollments that are above the statutory requirements and below the number assured when they accepted Health Professions Construction Grants, Part B, Title VII, Public Health Service Act (42 U.S.C. 293). The affected grantees wishing to decrease their first-year student enrollments may request the decrease by submitting a revision to their approved Health Professions Construction Program application with supporting data. Applications from health professions schools may not seek a decrease below the number assured for the Health Professions Capitation Program and the statutory requirement of the Construction Program.

The affected schools will be individually notified of the procedures to be followed based on this announcement.

Questions concerning this announcement should be directed to: Director, Bureau of Health Facilities, Health Resources Administration, PHS, Center Building, Room 5-22, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: 301-436-7700.

Request for additional information, materials and data regarding this matter should be directed to: Grants Management Officer, Bureau of Health Facilities, Health Resources Administration, Center Building, Room 5-22, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: 301-436-7363.

Dated: August 14, 1980.

John J. Moscato,

Acting Administrator.

[FR Doc. 80-25203 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-26]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact State (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Fairway Apartments, Fulton County, Georgia; and Madrona Hills Estates, Willow Creek Basin, adjacent to Eugene, Oregon. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., August 13, 1980.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

EIS on Fairway Apartments, Fulton County, Ga.

The Atlanta Area Office of the Department of Housing and Urban Development (HUD) is preparing an Environmental Impact Statement (EIS) on a project described below and solicits comments and information for consideration in the EIS.

Description. The proposed 120 unit Section 8 development will be located on West Campbellton Street approximately 0.50 miles northwest of downtown Fairburn, Fulton County, Georgia. The schedule calls for a DEIS to be prepared in October 1980.

Need. The EIS is being prepared due to HUD's internal NEPA implementation policy (24 CFR 50). The project is in close proximity to Atlanta International Airport, and there may be noise problems. There has also been a considerable amount of public controversy concerning the project.

Alternatives. The EIS will consider the alternatives of funding as proposed, funding with modifications, or rejection of proposal.

Scoping. HUD plans to hold a scoping meeting for the purposes of deciding significant issues and selecting data which the EIS should address., The scoping meeting will be held at 10:00 A.M., Friday August 22, 1980, in Room 1700 of the Richard B. Russell Federal Building, 75 Spring Street, Atlanta, Georgia.

Comments. Comments should be forwarded within 21 days of publication in the Federal Register to Harry Walls, Evironmental Clearance Officer, Room 576, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, Georgia 30303 (or call (404) 221-4036).

EIS on Madrona Hills Estate, Willow Creek Basin, adjacent to Eugene, Oreg.

The Portland Area Office of the U.S. Department of Housing and Urban Development intends to prepare an Environmental Impact Statement for Madrona Hills Estates, a Planned Community. The proposed project is a phased development of a planned community in the Willow Creek Basin Adjacent to the city ot Eugene, Oregon. Interested agencies, organizations and individuals are invited to provide comments and information which the EIS should address.

Description. The project will include a residential community of mixed single-family subdivisions, townhouse condominiums and multi-family rental apartments (430 acres); a neighborhood Community Center and Conference Facility providing a focus for neighborhood activities (35 acres); a Public Golf Course, open space, parks, jogging and bicycle paths, nature trails and natural preserves (167 acres); plus additional specialized open space park land as an integral part of each development phase. The project site is generally bounded on the north by Highway 126 (West Eleventh Avenue), on the east and south by Willow Creek Road and on the west by Greenhill Road. Annexation and rezoning of the 630 acre site is requested from the City of Eugene for R-1 residential densities of 1-10 units per acre. The proposed development schedule extends over a fifteen year period beginning with construction of a Public Golf Course and residential development in 1980 and ending in 1995.

Need. The HUD thresholds established by 24 CFR 50 §§ 50.31(b) require that an EIS be

developed. It is important to note that only preliminary planning has been completed. EIS supplements will be required for the more detailed planning of each development phase.

Alternatives Perceived. The alternatives to this project are: (1) No action, which permits incremental growth by individual developers; and (2) Development without HUD/FHA participation.

Scoping. This notice invites comments as part of the scoping process of 40 CFR, Parts 1500-1508, §§ 1501.7 to determine the scope of issues to be addressed and for indentifying the significant issues related to the proposed action. We are requesting the Environmental Protection Agency, USDA—Soil Conservation Service and DOT—Federal Highway Administration to be cooperative agencies. A scoping meeting is tentatively scheduled for August 29, 1980 at the Portland Area Office of HUD located at 520 S.W. Sixth Avenue in Portland, Oregon for 10:00 A.M. (Please contact Area Office to find out definite time for meeting.)

Comments. Comments and information should be sent to: Clifford T. Sanfranski, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 520 S.W. Sixth Avenue, Portland, Oregon 97204. Comments should be written or telephoned to (503) 221-2701 (FTS 423-2701) on or before September 9, 1980.

[FR Doc. 80-25216 Filed 8-18-80; 8:45 am]

Billing Code 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DEIS 80-51]

South Coast and Curry Sustained Yield Units Timber Management Plan: Draft Environmental Impact Statement; Public Hearing and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management, has prepared a draft environmental impact statement for the South Coast and Curry Sustained Yield Units. The draft analyzes the impacts of implementing a 10-year timber management plan (along with eight alternatives to that plan) on public lands within the Coos Bay District in southwestern Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 18th and C Streets, NW, Washington, D.C. 20240
Bureau of Land Management, Office of Public Affairs, 729 N.E. Oregon Street, Portland, OR 97208
Bureau of Land Management, Coos Bay District Office, 333 S. Fourth Street, Coos Bay, OR 97420
Oregon State Library, State Library Building, Salem, OR 97310
Oregon State University Library, Government Document Section, Corvallis, OR 97331
Portland State University Library, 724 S.W. Morrison, Portland, OR 97201
Southern Oregon State College Library, Ashland, OR 97520
Southwestern Oregon Community College Library, Coos Bay, OR 97420
Umpqua Community College Library, Roseburg, OR 97420
Bandon Public Library, City Hall, Bandon, OR 97411
Brookings Public Library, 420 Alder, Brookings, OR 97415
University of Oregon Library, Government Document Section, Eugene, OR 97403
Lane Community College Library, Eugene, OR 97401
Gold Beach Public Library, Colvin St., Gold Beach, OR 97444
Coos Bay Public Library, 525 W. Anderson, Coos Bay, OR 97420
Douglas County Library, County Courthouse, Roseburg, OR 97470
North Bend Public Library, 1925 McPherson Ave., North Bend, OR 97459.

A limited number of copies are available upon request from the Bureau of Land Management, Oregon State Office, or the Coos Bay District Office at the above addresses.

Oral and/or written comments will be received at formal hearings held at 1:00 p.m. and 7:00 p.m. on October 1, 1980 at the Public Library auditorium in Coos Bay, Oregon.

ADDRESS: Written comments on the Draft EIS may be sent to: State Director (911.1), Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, OR 97208.

All comments must be postmarked no later than October 16, 1980.

For further information contact: Richard Bonn, Statement Leader, Oregon State Office, Telephone: (503) 231-6953.

Dated: August 11, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-25113 Filed 8-18-80; 8:45 am]

BILLING CODE 4310-84-M

[NM 40873]

New Mexico; Notice of Application

August 5, 1980.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Conoco, Inc. has applied for one 6-inch and one 4-inch natural gas pipelines right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 31 E.,
Sec. 1: NE¼SE¼;
Sec. 11: SE¼SE¼;
Sec. 12: NW¼NE¼, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 14: N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 15: SE¼SE¼;
Sec. 22: N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼;
Sec. 27: NE¼NW¼, W½W½;
Sec. 34: S½NE¼, W½NW¼, N½SW¼, NW¼SE¼;
Sec. 35: S½NW¼, E½SW¼.
T. 17 S., R. 32 E.,
Sec. 28: S½NE¼NE¼NW¼, S½NE¼NW¼, E½SW¼;
Sec. 29: SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 31: N½SE¼, SW¼SE¼.
T. 18 S., R. 32 E.,
Sec. 6: Lot 5, 6, E½NW¼.

These pipelines will convey natural gas across 10.585 miles of public land in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

James H. O'Connor,

District Manager.

[FR Doc. 80-25204 Filed 8-18-80; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 8, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 3, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

FLORIDA

Dade County

Miami, *Trinity Episcopal Cathedral*, 464 NE. 16th St.

Duval County

Lake and Davis Sts.: *Arlington Plantation,*

Ironton, *Elevated Metal Water Tank (Cuyuna*

Luna County

DISTRICT OF COLUMBIA

Duval County

Jacksonville, *Masonic Temple*, 410 Broad St.

ILLINOIS

Sangamon County

Rochester, *Taft Farmstead*, SR 3

KENTUCKY

HISTORIC FIREHOUSES OF LOUISVILLE THEMATIC RESOURCES. Reference—see individual listings under Jefferson County.

Jefferson County

Louisville, *Fire Department Headquarters (Historic Firehouses of Louisville Thematic Resources)* 1135 W. Jefferson St.
Louisville, *Hook and Ladder Company No. 2 (Historic Firehouses of Louisville Thematic Resources)* 221 S. Hancock St.
Louisville, *Hook and Ladder Company No. 3 (Historic Firehouses of Louisville Thematic Resources)* Frankfort Ave. and Pope St.
Louisville, *Hook and Ladder Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 2301 Jefferson St.
Louisville, *Hook and Ladder Company No. 5 (Historic Firehouses of Louisville Thematic Resources)* 1824 Garland Ave.
Louisville, *Steam Engine Company No. 2 (Historic Firehouses of Louisville Thematic Resources)* 617–621 W. Jefferson St.
Louisville, *Steam Engine Company No. 3 (Historic Firehouses of Louisville Thematic Resources)* 802—804 E. Main St.
Louisville, *Steam Engine Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 1024 Logan St.
Louisville, *Steam Engine Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 1617 W. Main St.
Louisville, *Steam Engine Company No. 7 (Historic Firehouses of Louisville Thematic Resources)* 821 S. 6th St.
Louisville, *Steam Engine Company No. 10 (Historic Firehouses of Louisville Thematic Resources)* 1419 E. Washington.
Louisville, *Steam Engine Company No. 11 (Historic Firehouses of Louisville Thematic Resources)* 1122 Rogers.
Louisville, *Steam Engine Company No. 18 (Historic Firehouses of Louisville Thematic Resources)* 2800 S. 4th St.
Louisville, *Steam Engine Company No. 20 (Historic Firehouses of Louisville Thematic Resources)* 1330 Bardstown Rd.
Louisville, *Steam Engine Company No. 20 (Historic Firehouses of Louisville Thematic Resources)* 1735 Bardstown Rd.
Louisville, *Steam Engine Company No. 21 (Historic Firehouses of Louisville Thematic Resources)* 1761 Frankfort Ave.
Louisville, *Steam Engine Company No. 22 (Historic Firehouses of Louisville Thematic Resources)* 37th and Broadway.

LOUISIANA

East Carroll Parish

Lake Providence, *Lake Providence Multiple Resource Area (Partial Inventory).* This area includes: Lake Providence, *Lake Providence.*
Historic District, Lake, Levee, and Scarborough Sts. (previously listed in the National Register 12–8–79); *Lake Providence Residential Historic District*, Lake and Davis Sts.; *Arlington Plantation*, 214 Arlington; *Fischer House*, 15 Lake St.; (previously listed in the National Register 1–11–80).
Nelson House, 407 Davis St.; *Old Courthouse Square*, 1st and Hoad Sts.

East Feliciana Parish

Gurley vicinity, *Oakland Plantation House*, W of Gurley.

Lincoln Parish

Dubach vicinity, *Autrey House*, 1 mi. W of Dubach of LA 152.

Ouachita Parish

West Monroe, *Block, J. S., Building*, 101 N. Grand St.

Pointe Coupee Parish

New Roads vicinity, *Pointe Coupee Parish Museum*, 6 mi. SW of New Roads on LA 1.

MARYLAND

Somerset County

Princess Anne, *Princess Anne Historic District*, Off MD 413.

MASSACHUSETTS

Middlesex County

Sudbury, *Haynes-Smith House*, Water Row.

MICHIGAN

Oakland County

Davisburg vicinity, *Everts, Caleb, House*, 8880 Hickory Ridge Rd.

Wayne County

Detroit, *Fisher and New Center Buildings*, 7430 2nd Ave. and 3011 W. Grant Blvd.
Detroit, *Palmer Park Apartment Buildings Historic District*, Roughly bounded by Pontchartrain Blvd., McNichols Rd., and Convington Dr.
Detroit, *Stearns, Frederick, Building*, 6533 E. Jefferson Ave.
Detroit, *West Village District*, Roughly bounded by Jefferson, Kercheval, Parker and Seyburn Aves.
Livonia, *Everitt, Orson, House*, 39040 W. Seven Mile Rd.

MINNESOTA

CUYUNA IRON RANGE MUNICIPALLY-OWNED ELEVATED METAL WATER TANKS. Reference—see individual listings under Crow Wing County.

Cass County

Cass Lake vicinity, *Great Northern Railway Company Bridge*, SW of Cass Lake off MN 371.

Crow Wing County

Crosby, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* 1st Ave.
Cuyuna, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* North St.
Deerwood, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* 211 Maple St.
Ironton, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* 7th St.
Trommald, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks).*

Hennepin County

Minneapolis, *New Century Mill*, 5th and Oaks Sts.

Lincoln County

LINCOLN COUNTY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Arco, *Pedersen Filling Station*, Laurel and Hawthorn Sts.; Ivanhoe, *Lincoln County Courthouse and Jail*, Rotherwood St.; Lake Benton, *Osbeck, Ernest, House*, 106 S. Fremont St.; Lake Benton vicinity, *Drammen Farmers' Club*, SR 13; Tyler, *Lincoln County Fairgrounds*, Strong and Marsha Sts.; *Tyler Public School*, Strong St.

Olmsted County

Dover vicinity, *Krause, Christoph, Farmstead*, S of Dover on SR 30.
Stewartville, *Sears, Richard W., Birthplace*, 305 N. Main St.
Stewartville vicinity, *Pleasant Grove Masonic Lodge No. 22 A.F. and A.M., E* of Stewartville.
Rochester, *Chicago Great Western Railroad Company Depot*, 19 2nd St., SE.
Rochester, *Cutting, Lucius, Barn*, 3210 19th St., NW.
Rochester, *Hotel Zumbro*, 101 1st Ave., SW.
Rochester, *Rochester Armory*, 121 N. Broadway.
Rochester, *Whiting, Timothy A., House*, 225 1st Ave., SW.

MISSOURI

Warren County

Warrenton, *Schowengerdt, Ernst, House*, 308 E. Boone's Lick Rd.

MONTANA

Hill County

Havre, *Young-Almas House*, 419 4th Ave.

NEBRASKA

Sarpy County

Papillion, *Sautter, John, Farmhouse*, 220 N. Jefferson St.

NEW JERSEY

Hudson County

Jersey City, *St. Patrick's Parish Complex*, Grand St., Ocean and Bramhall Aves.

Middlesex County

Perth Amboy, *McCormick Tenant House*, 274 Front St.

NEW MEXICO

Bernalillo County

Albuquerque, *Kelvinator House*, 324 Hermosa Dr., SE.
Albuquerque, *Pacific Desk Building*, 213–215 Gold Ave., SW.

Grant County

Membres vicinity, *Mattocks Site.*

Luna County

Deming vicinity, *Upton Site.*

NORTH CAROLINA

Cumberland County

Fayetteville, *North Carolina Arsenal Site*, Off NC 87.

OREGON

Multnomah County

Portland, *West's Block*, 701—707 SE. Grand Ave.

Umatilla County

Pendleton, *Sommerville, Edgar, House*, 104 SE. 5th St.

Union County

Elgin, *Elgin City Hall and Opera House*, Albany and N. 8th Sts.

SOUTH CAROLINA

Aiken County

Aiken, *Joye Cottage*, 463 Whiskey Rd. and 129 1st Ave.

Spartanburg County

Spartanburg, *Morgan, Daniel, Monument*, Main and Church Sts.

UTAH

Sanpete County

Ephraim, *Sorensen, Fredrick Christian, House*, E. Center St.
Manti, *Billings-Hougaard House*, Off U.S. 89.
Manti, *Johnson, Robert, House*, Off U.S. 89.
Manti, *Jolley, Francis Marion, House*, Off U.S. 89.

VERMONT

Rutland County

Rutland, *Clementwood*, Clement Rd.
Rutland, *St. Peter's Church and Mount St. Joseph Convent Complex*, Convent Ave., Meadow and River Sts.

WISCONSIN

Racine County

Racine, *Hall, Chauncey, Building*, 338—340 Main St.
Racine, *Racine Depot*, 1402 Liberty St.

Sheboygan County

Kohler, *Riverbend*, Lower Falls Rd.

The following is a list of corrections to properties listed in the "Federal Register," Part II, March 18, 1980. Additional corrections may appear in subsequent updates.

ARIZONA

Pinal County

Sacaton vicinity, *Ha-ak Va-ak Intaglio Site* (9–6–79) (previously listed as Ha-ak Site).

CONNECTICUT

Fairfield County

Monroe, *Hawley, Thomas, House*, 514 Purdy Hill Rd. (4–11–79) (previously listed in Monroe County).

DISTRICT OF COLUMBIA

Washington

Lenthall Houses, 606 and 610 21st St., NW. (6–30–80) (previously listed at 612 and 614 19th St., NW.

SOUTH CAROLINA

Greenwood County

Greenwood vicinity, *Scotch Cross House*, 2 mi. S of Greenwood on U.S. 25 (3–30–73) (previously listed as Brooks, J. Wesley, House).

Oconee County

Westminster, *Westminster Depot*, 129 Main St. (11–7–76) (previously listed as Southern Railway Passenger Station).

TENNESSEE

Hamilton County

Chattanooga, *Brabson-Loveman House*, 407 E. 5th St. (4–11–73) (previously listed as Brabson House).

Knox County

Knoxville, *Holston National Bank*, 531 S. Gay St: (10–2–79) (previously listed in SD).

Moore County

Lynchburg, *Moore County Courthouse and Jail*, Court Sq. (9–26–79) (previously listed in SD).

Shelby County

Memphis, *Hayley, Patrick H., House*, 604 Vance Ave. (10–10–79) (previously listed in SD).
Memphis, *Pinch-North Main Commerical District*, Roughly bounded by N. Front and N. 2nd Sts., Commerce and Auction Aves. (10–18–79) (previously listed in SD).

The following properties were omitted from the listing in the "Federal Register," Part II, March 18, 1980.

CALIFORNIA

San Francisco County

San Francisco, *Phelps, Abner, House, 1111 Oak St. (5–23–79) HABS.*

Santa Barbara County

Santa Barbara vicinity, *San Miguel Island Archeological District* (9–12–79).
Santa Barbara vicinity, *Santa Barbara Island Archeological District* (9–12–79).

Ventura County

Port Hueneme vicinity, *Anacapa Island Archeological District* (9–12–79).

FLORIDA

Dade County

Miami Beach, *Miami Beach Architectural District*, Roughly bounded by Atlantic Ocean, Miami Beach Blvd., Alton Rd. and Collins Canal (5–14–79).

INDIANA

Allen County

Fort Wayne, *Strunz, Christian G., House*, 333 E. Berry St. (10–4–79).

St. Joseph County

Mishawaka, *Kamm and Schellinger Brewery*, 100 Center St. (10–11–79).

Vanderbaugh County

Evansville, *Alhambra Theatorium*, 50 Adams Ave. (10–1–79).
Evansville, *Greyhound Bus Terminal*, 102 NW. 3rd St. (10–1–79).
Evansville, *McCurdy Building (Sears, Roebuck and Company Building)* 101 NW. 4th St. (10–1–79).

KENTUCKY

Bell County

Middlesboro, *American Association, Limited, Office Building*, 2215 Cumberland Ave. (12–29–78).

Caldwell County

Princeton, *Champion-Shepherdson Building*, 115 E. Main St. (12–28–78).

Fayette County

Athens, *Athens Historic District*, Athens-Boonesboro Pike (10–11–79).
Lexington, *Price, Pugh, House*, 2245 Liberty Rd. (9–25–79).

Jefferson County

Anchorage vicinity, *Dorsey-O'Bannon'Hebel House*, E of Anchorage at 13204 Factory Lane (9–25–79).
Louisville, *House of Weller*, 121 W. Main St. (9–26–79).

Lincoln County

Stanford vicinity, *Walnut Meadows*, SE of Stanford on U.S. 150 (12–22–78).

Nelson County

Lenore vicinity, *Archeological Site 15 Ne 3* (9–27–79).

MAINE

Anroscoggin County

Lewiston, *Healey Asylum*, 61 Ash St. (10–1–79).
Lisbon vicinity, *Cushman Tavern*, NE of Lisbon on ME 9 (10–9–79).

Cumberland County

Portland, *St. Lawrence Church*, 76 Congress St. (10–1–79).

Kennebec County

Sidney vicinity, *Powers House*, S of Sidney on ME 104 (10–1–79).

Lincoln County

Medomak vicinity, *Weston, Daniel, Homestead*, W of Medomak on ME 32 (10–1–79).

Penobscot County

Bangor, *Hamlin, Hannibal, House*, 15 5th St. (10–9–79).

Piscataquis County

Guilford, *Hudson, H., Law Office*, Hudson Ave. (10–9–79).

Washington County

Machias, *Perry, Clark, House*, Court St. (10–9–79).

Pennsylvania Railroad Bridge, Reference—

KENTUCKY

SUPPLEMENTARY INFORMATION: By

environment or the conservation of

those with duly note problems) upon

York County

Kittery, *Rice Public Library*, 8 Wentworth St. (10–1–79).
Kittery Point, *Bray House*, Pepperell Rd. (10–9–79).
North Waterboro vicinity, *Elder Grey Meetinghouse*, N of North Waterboro (10–9–79).
Saco, *Saco City Hall, 300 Main St. (10–9–79).*

MARYLAND

Washington County

Eakles Mills vicinity, *Snively Farm*, N of Eakles Mills on Mt. Briar Rd. (9–24–79).

MISSOURI

Boone County

Columbia, *Wabash Railroad Station and Freight House*, 126 N. 10th St. (10–11–79).

Buchanan County

St. Joseph, *Missouri Theater and Missouri Theater Building*, 112–128 S. 8th St. and 713–721 Edmond St. (10–11–79).

Cape Girardeau County

Cape Girardeau, *Glenn House*, 325 S. Spanish St. (10–11–79).

Carroll County

Carrollton, *Carroll County Sheriff's Quarters and Jail*, 101 W. Washington St. (10–11–79).

Clark County

Wayland vicinity, *Sickles Tavern*, NW of Wayland on MO B (10–22–79).

Jackson County

Kansas City, *Kansas City Athenaeum*, 900 E. Linwood Blvd. (10–11–79).

Lafayette County

Lexington, *Waddell House*, 1704 South St. (10–11–79).

Macon County

Macon, *Blees Military Academy*, U.S. 63 (10–11–79).

Nodaway County

Maryville, *Nodaway County Courthouse*, 3rd and Main Sts. (10–11–79).

Ray County

Richmond, *Ray County Courthouse*, Off MO 10 and MO 13 (10–11–79).

St. Charles County

St. Charles *Marten-Becker House*, 837 First Capitol Dr. (10–11–79).

St. Louis (independent city)

Mayfair Hotel, 806 St. Charles Ave. (9–17–79).
St. Liborius Church and Buildings, 1835 N. 18th St. (10–11–79).
St. Louis vicinity, *Pappas, Theodore, A., House*, 865 Masonridge Rd. (2–14–79).

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny Observatory*, 159 Riverview Ave. (6–22–79).

Bucks County

Spinnerstown, *Spinner House*, Spinnerstown and Sleepy Hollow Rds. (6–22–79).

Pennsylvania Railroad Bridge. Reference—(see Mercer County, NJ).
Erwinna, *Stover Mill*, PA 32 (10–18–79).

Centre County

Milesburg vicinity, *Harmony Forge Mansion*, S of Milesburg on PA 144 (10–18–79).
Philipsburg, *Rowland Theatre*, Front St. (10–18–79).

Chester County

West Chester, *Everhart, William, Building*, 28 W. Market St. (7–17–79).

Dauphin County

Hummelstown, *Matlack, Enoch, House*, 250 E. Main St. (6–22–79).

Indiana County

Indiana, *Old Indiana County Jail and Sheriff's Office*, 6th St. and Nixon Ave. (9–27–79).

Lancaster County

Lancaster, *Hager Building*, 25 W. King St. (10–18–79).
Lancaster, *Steinman Hardware Store*, 26—28 W. King St. (10–18–79).

Lebanon County

Campbelltown, *Stauffer, Dr. B., House*, 192 W. Main St. (6–22–79).
Schaefferstown, *Erpff, Philip, House*, S. Market St. (11–20–79).

Montgomery County

Cheltenham vicinity, *Wall House (The Ivy)* W of Cheltenham on Old York Rd. (6–28–79).
Hatboro, *Union Library Company*, 243 S. York Rd. (11–20–79).
Jenkintown, *Jenkins' Town Lyceum Building*, Old York and Vista Rds. (10–18–79).

Northumberland County

Watsontown vicinity, *Hopper-Snyder Homestead*, NE of Watsontown off SR 49061 (7–3–79).

Philadelphia County

Philadelphia, *Hamilton Family Estate*, 4039—4041 Baltimore Ave. and 4000—4018 Pine St. (6–22–79).
Philadelphia, *Old Federal Reserve Bank*, 925 Chestnut St. (6–28–79) HABS.
Philadelphia, *Union League of Philadelphia*, 140 S. Broad St. (6–22–79).

Westmoreland County

West Newton, *Plumer House*, Vine and S. Water St. (12–6–79).

The following properties have been demolished and/or removed from the "National Register of Historic Places." This action does not necessarily modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act.

CALIFORNIA

San Diego County

San Diego, *Klauber, Melville, House*, 3060 6th Ave. (11–13–74) (demolished).

KENTUCKY

Nicholas County

Millersburg vicinity, *Thompson, Henry, Stone House*, 2.5 mi. N of Millersburg on Arthur Pike (6–23–75) (demolished).

MASSACHUSETTS

Barnstable County

Barnstable, *Barnstable Fair Hall*, 3512 Main St. (3–7–79) (demolished).

NORTH DAKOTA

Burleigh County

Bismarck, *Bismarck Public Library*, 519 E. Thayer Ave. (12–7–77) (demolished).
Bismarck, *Fire Hall*, 517 E. Thayer Ave. (2–14–78) (demolished).

WISCONSIN

Bayfield County

Port Wing, *South Shore Public School*, Grand Ave. and WI 13 (11–15–78) (demolished).

[FR Doc. 80-24756 Filed 8-18-80; 8:45 am]
BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-120]

Denial of Petition To Relax Entry on the Transportation of Small Shipments Weighing 500 Pounds or Less

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinuance of rulemaking proceeding.

SUMMARY: The Commission previously published a notice of the filing of a petition seeking institution of a rulemaking proceeding for the purpose of possibly making a general finding that the public convenience and necessity require the transportation of small shipments of general commodities, with the usual exceptions, weighing 500 pounds or less, and to establish new regulations allowing expedited certification and pricing flexibility for carriers wishing to transport these small shipments. Petitioner's proposal envisioned the issuance of a master certificate of public convenience and necessity authorizing this transportation by any necessity authorizing this transportation by any carrier which demonstrates its fitness to conduct these operations. The Motor Carrier Act of 1980 specifically prohibits the master certificate approach to granting operating authority. Accordingly, the petition is denied and this proceeding is discontinued.

FOR FURTHER INFORMATION CONTACT: Thomas J. Barry, (202) 275–7982 or Edward E. Guthrie, (202) 275–7691.

SUPPLEMENTARY INFORMATION: By petition filed August 8, 1978 (published at 43 FR 37329 (August 22, 1978)), Trailways, Inc., a motor common carrier of passengers, their baggage, and express, requested the Commission to propose rules which would make a general finding that the public convenience and necessity require the transportation of small shipments of general commodities, with the usual exceptions, weighing 500 pounds or less, and to establish new regulations allowing expedited certification and pricing flexibility for carriers wishing to transport these small shipments. Petitioner proposed that a master certificate be issued, based upon the general finding of public convenience and necessity, authorizing new or existing carriers to provide any and all of the services which the small shipper might demand, including forwarding, consolidation, pickup and delivery, and over-the-road transportation. To perform these services under the proposed master certificate, an applicant would have oly to establish that it is fit, financially and otherwise, to conduct small shipments service.

Section 5 of the Motor Carrier Act of 1980 (Pub. L. 96–296, 94 Stat. 795), added a new subsection (b) to 49 U.S.C. 10922 which, as pertinent, provides as follows:

(b)(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

In adding this provision to the Interstate Commerce Act, Congress clearly intended to prevent the Commission from pursuing the master certificate approach.

On the other hand, by adopting subsection (b)(4)(D) to this section Congress provided abbreviated (fitness only) licensing provisions for the transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds. Applications to provide this service are governed by our interim rules in Ex Parte No. 55 (Sub-No. 43), 45 FR 45534, and Ex Parte No. 55 (Sub-No. 43A), 45 FR 45545. Interested persons may consult these documents or contact their nearest field office.

It is the intention of this Commission to implement and administer as fully and expeditiously as possible the will of Congress as expressed in the new legislation. Accordingly, the petition is denied and this proceeding is discontinued.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

This notice is issued under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 7, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25089 Filed 8-18-80; 8:45 am]
BILLING CODE 7035-1-M

[Volume No. OP 2–012]

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly note problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–010

Decided: August 7, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 96750 (Sub-6F), filed August 1, 1980. Applicant: TRUCKING UNLIMITED, 9215 Sorensen Ave., Santa Fe Springs, CA 90670. Representative: Bobbie F. Albanese, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Note.—Issuance of a certificate in this proceeding shall cancel Certificate of Registration MC 96750 (Sub-2).

MC 120761 (Sub-65F), filed July 30, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, Fort Worth, TX 76118. Representative: A. William Brackett, 1108 Continental Life Bldg., Forth Worth, TX 76102. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP1–013

Decided: August 11, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 119641 (Sub-184F), filed August 5, 1980. Applicant: RINGLE EXPRESS, INC., P.O. Box 335, Moline, IL 61625.Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 12571 (Sub-9F), filed August 6, 1980. Applicant: H&W CARRIERS, INC., Box 73, Camargo, IL 61919. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 130981F, filed August 1, 1980. Applicant: HALE FREIGHT SYSTEMS, INC., 1404 Clinton St. Baltimore, MD 21224. Representative: Mel P Booker, Jr., 110 South Columbus St., Alexandria, VA 22314. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 145610 (Sub-7F), filed August 5, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 576 Lake Mirror Road, College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S. and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 149400F, filed July 23, 1980. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First St., Fort Recovery, OH 45816. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP1–014

Decided: August 12, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 48221 (Sub-28F), filed August 1, 1980. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, NE 68107. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *meats, meat products, meat byproducts and articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Morot Carrier Certificates*, 61 M.C.C. 209 and 766, between points in IA, and those in Douglas, Lancaster and Saline Counties, NE, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NV, NM, OH, OK, OR, TN, TX, UT, WA, WI, and WY.

Note.—Upon issuance of a certtificate in this proceeding, applicant's certificates in MC 48221 (Subs-4 and 22), will be cancelled.

MC 78400 (Sub-88F), filed August 7, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Over *regular routes*, transporting *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Branson, and Kansas City, MO, (a) from Branso over U.S. Hwy 65 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City, and return over the same route, serving the junction of Interstate Hwy 44 and U.S. Hwy 65 for the purpose of joinder only, (b) from Bronson over U.S. Hwy 65 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Kansas City and return over the same route, serving the junction of U.S. Hwy 65 and U.S. Hwy 50 for the purpose of joinder only, (c) from Branson over U.S. Hwy 65 to Springfield, MO, then over MO Hwy 13 to junction MO Hwy 7, then over MO Hwy 7 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City and return over the same route, and (d) from Branson over U.S. Hwy 65 to junction U.S. Hwy 54, then over U.S. Hwy 54 to Jefferson City, MO, then over U.S. Hwy 50 to Kansas City and return over the same route, serving the termini for the purpose of joinder only, serving in (a) through (d) the unincorporated area of Silver Dollar City on MO Hwy 265 and the facilities of Blakemore Lure Co. on U.S. Hwy 65, both near Branson, MO, as off-route points; and (2) between Branson, MO, on the one hand, and, on the other, St. Louis, MO, from Branson over U.S. Hwy 65 to junction Interstate Hwy 44, then over Interstate Hwy 44 to St. Louis and return over the same route, serving the junctions of Interstate Hwy 44 and U.S. Hwy 50, and Interstate Hwy 44 and MO Hwy 100 for the purpose of joinder only, and serving the unincorporated area of Silver Dollar City on MO, Hwy 265 and the facilities of Blakemore Lure Co., on U.S. Hwy 65 both near Branson, MO, as off-route points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 115831 (Sub-17F), filed August 6, 1980. Applicant: TIDEWATER TRANSIT CO., INC., P.O. Box 189, Kinston, NC 28501. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *fertilizer and fertilizer materials*, from points in New Hanover County, NC, to points in DE, MD, PA, VA and WV.

MC 119741 (Sub-274F), filed August 6, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *vehicle body sealer compounds, cleaning compounds, rust preventing compounds, petroleum oil, petroleum grease, petroleum wax, roofing cement, adhesive cement, resin, surface coated papers, wrapping paper, gummed paper, and masking tape*, between points in Cook and Will Counties, IL, Cullman County, AL, and Luzerne County, PA, on the one hand, and, on the other, points in the U.S.

MC 124711 (Sub-110F), filed August 8, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *cement*, from points in OK, to points in AR, KS, and MO.

MC 136181 (Sub-2F), filed July 30, 1980. Applicant: MARINE TRANSPORT, INC., 7737 Hampton Blvd., Norfolk, VA 23505. Representative: Russell R. Sage, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Transporting *general commodities*, between Norfolk, VA, on the one hand, and, on the other, points in VA and NC, and those in Bronx, Kings, New York, Queens, and Richmond Counties, NY, and Hudson, Middlesex, Essex, and Union Counties, NJ, Charleston, SC, and Baltimore, MD, restricted to traffic having a prior or subsequent movement by water. Condition: To the extent that the certificate in this proceeding authorize the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 148400 (Sub-3F), filed August 5, 1980. Applicant: ORVILLE E. VAUGHAN AND KATHLEEN V. VAUGHAN d.b.a. SUN VALLEY TANK LINES, 64 Laporte Drive, Mars, PA 16046. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Jacob Stern & Sons, Inc.; Snow Commodities Co., Inc.; Acme Hardesty Co., Inc.; Kaber Commodities Company; and Murro Chemical Co., Inc., all of Jenkintown, PA.

MC 150010 (Sub-1F), filed August 6, 1980. Applicant: HENRY FAIRCLOTH TRANSFER, INC., 521 N. John Street, Goldsboro, NC 27530. Representative: Lindsay C. Warren, Jr., P.O. Box 1616, Goldsboro, NC 27530. Transporting *general commodities* (except classes A and B explosives, and motor vehicles), between Asheville, Charlotte, Fayetteville, Greensboro, Raleigh, Rocky Mount, and Smithfield, NC, on the one hand, and on the other, points in NC, restricted to traffic having a prior or subsequent movement by rail.

MC 151411 (Sub-1F), filed August 1, 1980. Applicant: DON HOLLAND & ASSOCIATES, INC., P.O. Box 1228, Lexington, NC 27292. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *plastic film and plastic sheeting*, between points in the U.S., under continuing contract(s) with Southern Film Extruders, Inc., of High Point, NC.

MC 151470F, filed August 6, 1980. Applicant: STYLINE CORPORATION, 431 Fourth Street, Huntingburg, IN 47542. Representative: Robert H. Menke, Jr. (same address as applicant). Transporting (1) *furniture*, and (2) *parts and accessories* for furniture, between points in the U.S., under continuing contract(s) with Ferdinand Furniture Company, of Huntingburg, IN.

[FR Doc. 80–25089 Filed 8–18–80; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP1–014]

Decision-Notice

Decided: August 12, 1980

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10,000.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 2, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 82841 (Sub-291F), filed August 11, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149041 (Sub-1F), filed July 31, 1980. Applicant: TANK TRANSPORT, INC., 9325 North 107th St., Milwaukee, WI 53224. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2–012

Decided: August 6, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 115162 (Sub-534F), filed July 30, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting (1) *petroleum and petroleum products, additivies, and agricultural chemicals*, from points in Montgomery County, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities in (1) above, in the reverse direction.

MC 123872 (Sub-119F), filed July 30, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowmen (same address as applicant). Transporting (1) (a) *Cotton and synthetic yarn*, (b) *cotton and synthetic rope and twine*, and (c) *tape*, and (2) *materials and supplies used in the manufacture of commodities listed in (1) above* (except commodities in bulk), between points in Alexander, Burke, Caldwell, and Catawba Counties, NC, and De Kalb County, GA, on the one hand, and, on the other, points in AZ, CA, CO, GA, IA, ID, IL, KS, MN, MO, MT, NC, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 127042 (Sub-301F), filed July 30, 1980. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same address as applicant). Transporting *foods*, between points in Finney County, KS, and those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA.

MC 138882 (Sub-371F), filed July 30, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Henderson Rd., Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *beverages* (except in bulk, in tank vehicles), between St. Louis, MO, on the one hand, and, on the other, points in AL, GA, and TN; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of beverages (except commodities in bulk, in tank vehicles), between points in GA, on the one hand, and, on the other, points in AL and TN.

Volume No. OP2–017

Decided: August 7, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 25823 (Sub-10F), filed July 28, 1980. Applicant: WERCH TRUCKING COMPANY, INC., Route No. 2, Box 113, Berlin, WI 53923. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Transporting: *Lignin pitch* from points in WI to points in the U.S. (except AK and HI).

MC 88203 (Sub-13F), filed July 28, 1980. Applicant: OTIS WRIGHT & SONS, INC., 700 East Wayne St., P.O. Box 277, Lima, OH 45802. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Procter & Gamble Company and its subsidiaries, of Cincinnati, OH.

MC 115162 (Sub-535F), filed August 1, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *(1) plumbing goods and fixtures,* and *(2) materials, supplies and equipment used in the manufacture, sale and distribution of commodities named in (1) above,* between Cook County, IL; Rhea County, TN; and Robeson County, NC; on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 115353 (Sub-46F), filed July 30, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting: *(1) steel and steel articles, (2) materials, supplies and equipment* used in the manufacture and distribution of commodities in (1) (except in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Raritan River Steel Co. of Perth Amboy, NJ.

MC 134783 (Sub-68), filed July 30, 1980. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting: *Meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc. at or near Holcomb, KS to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, TN, and DC.

MC 139193 (Sub-116F), filed July 31, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St. NW., Washington, DC 20006. Transporting *meats, meat products, meat byproducts, dairy products, articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in Sections A, B, C, and D, Appendix I to the report in *Descriptions in Motor Carrier Certificates,* (61 M.C.C. 209 and 766), between points in the U.S., under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 143383 (Sub-8F), filed August 4, 1980. Applicant: DALE E. NICHOLSON, P.O. Box 97, Potosi, MO 63664. Representative: Dale E. Nicholson (same address as applicant). Transporting *lead, zinc, and copper concentrates,* in bulk, from Corridon, MO, to Glover, MO.

MC 144293 (Sub-16F), filed August 1, 1980. Applicant: DUANE MCFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *Foodstuffs* and (2) *such commodities* as are dealt in by meat-packing houses, between points in Mower, Hennepin and Steele Counties, MN, Dodge and Scottsbluff Counties, NE, Webster, Kossuth, Marion and Wapello Counties, IA, and Rock County, WI, on the one hand, and, on the other, points in IL, IA, MN, NE and WI.

MC 144622 (Sub-180F), filed August 1, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J.B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting: *Foods,* between points in Dallas County, TX, on the one hand, and, on the other, points in AR, LA, NM, and OK.

MC 146773 (Sub-3F), filed August 4, 1980. Applicant: CON–EX, INC., 369 Mast Rd., Manchester, NH 03102. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, NH, VT, and MA, on the one hand, and, on the other, points in the U.S. (except AK, CT, DE, HI, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and DC).

MC 150103 (Sub-8F), filed August 1, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. Transporting *synthetic stapel fiber and synthetic yarn,* between points in the United States, under continuing contract(s) with Borg Textile Corporation, a division of Bunker Ramo, of Jefferson, WI.

Volume No. OP2–019

Decided: August 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 69292 (Sub-11F), filed August 5, 1980. Applicant: ATLAS TRANSPORTATION, INC., P.O. Box 4028, 8100 Stansbury Rd., Baltimore, MD 21222. Representative: Charles F. Perkinson (same address as applicant). Transporting (1) *contractor's equipment and supplies,* (2) commodities which, because of size or weight, require the use of special equipment, (3) *machinery and machinery parts,* (4) *metals,* and (5) *iron and steel articles,* between points in DE, MD, NJ, NY, NC, PA, VA, and DC. Condition: Issuance of a certificate here is subject to prior or coincidental cancellation at applicant's written request of Certificates MC 69292, issued December 11, 1963, and MC 69292 (Sub-7F), issued April 25, 1980.

MC 107162 (Sub-73F), filed August 6, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 S. Pinckney St., Madison, WI 53703. Transporting *building and insulating materials* (except iron and steel articles), from Chicago, Rockdale, and Waukegan, IL and Minneapolis, MN, to points in MI and WI.

MC 115162 (Sub-536F), filed August 4, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *nonferrous metals, and materials, equipment, and supplies* used in the manufacture and distribution of nonferrous metals, between points in TX, AZ, NE, MO, OK, IN, NJ, CA, IL, and OH on the one hand, and, on the other, points in the U.S.

MC 123812 (Sub-6F), filed August 4, 1980. Applicant: SULLIVAN FREIGHT LINES, INC., Congress Parkway, Athens, TN 37303. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting (1) *farm implements* and *parts and accessories* for farm implements, and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Yazoo County, MS, on the one hand, and, on the other, points in the U.S.

MC 141532 (Sub-88F), filed August 4, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff between points in Davis County, UT, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-89F), filed August 5, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff (1) between points in Alameda County, CA, on the one hand, and, on the other, points in the U.S., (2) between points in Chester County, PA, on the one hand, and, on the other, points in CA, and (3) between points in Salt Lake County, UT, on the one hand, and, on ther other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 146982 (Sub-4F), filed August 5, 1980. Applicant: D. J. LEE CO., INC., Route 1, Vesper, WI 54489. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, OR, MT, NV, NM, TX, UT, WA and WY.

MC 146982 (Sub-5F), filed August 5, 1980. Applicant: D. J. LEE CO., INC., Route 1, Vesper, WI 54489. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting (1)(a) *fireplaces, space heaters, and chimneys,* and (b) *parts and accessories for the commodities in (1)(a) above,* and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1)(a) above (A) between Stevens Point and Wisconsin Rapids, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between points in San Bernardino County, CA, on the one hand, and on the other, these points in the U.S. in and west of MT, WY, CO and NM.

MC 151352 (IF), filed August 5, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 So. Lawrence Street, Montgomery, AL 36104. Transporting *non-exempt food or kindred products, as described in item 20 of the Standard Transportation Commodity Code, Tariff, between points in Chautauqua County, NY, Passaic and Hudson Counties, NJ, Charleston County, SC, Armstrong County, PA, and Dearborn County, IN, on the one hand, and, on the other, points in Mobile, Montgomery, and Houston Counties, AL.*

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–00000 Filed 00–00–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rule's of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS: With the exception of those applications, involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 3, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before October 20, 1980 an applicant may file a verified statement in rebuttal to any statement in oppostion.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

V 45 A G 1980 UMI

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-011

Decided: August 7, 1980
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-481F), filed August 1, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Finney County, KS, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AL, FL, GA, MS, NC, SC, TN, IL, IA, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 29910 (Sub-282F), filed July 29, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902.

I—Over Regular Routes Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment), (1) between Albuquerque, NM, and El Paso, TX, from Albuquerque over U.S. Hwy 85 to Las Cruces, NM, then over U.S. Hwy 80 to El Paso, and return over the same route, serving all intermediate points, restricted at Belen, NM, and points north thereof to traffic moving to or from points south of Belen, and further restricted at Hatch, NM, and points south thereof to traffic moving to or from points north of Hatch, (2) between Ogden, UT, and Albuquerque, NM, from Ogden over U.S. Hwy 89 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 63 (formerly U.S. Hwy 160), then over U.S. Hwy 163 to junction U.S. Hwy 666, then over U.S. Hwy 666 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Albuquerque, and return over the same route, serving the intermediate points of Salt Lake City, Provo and Ogden Arsenal, UT, and the off-route points of Hill Field, Naval Supply Depot near Ogden, UT, and the Geneva Steel Mills near Provo and those within five miles of Salt Lake City, restricted against traffic moving between points in UT, and further restricted to traffic moving on Government bills of lading when moving between points north of but not including Salt Lake City, (3) between Hatch and Deming, NM, over NM Hwy 26, serving the intermediate points of Florida and Nutt, NM, (4) between Deming and Columbus, NM, over NM Hwy 11, serving all intermediate points, (5) between Deming and Hachita, NM, from Deming over U..S Hwy 70 to junction NM Hwy 81, then over NM Hwy 81 to Hachita, and return over the same route, serving all intermediate points between Hachita and junction U.S. Hwy 70 and NM Hwy 81, (6) between Deming and Rodeo, NM, over U.S. Hwy 80, serving all intermediate points, (7) between Lordsburg and Animas, NM, from Lordsburg over U.S. Hwy 80 to junction NM Hwy 338, then over NM Hwy 338 to Animas, and return over unnumbered Hwy to Lordsburg, serving all intermediate points, (8) between El Paso, TX, and Deming, NM, over U.S. Hwy 80, serving the intermediate points of Akela and Cambray, NM, and the off-route points of the Corrilitos Ranches, 10 miles south of U.S. Hwy 80, The Johnson Ranch, 5 miles south of Cambray, The Jernigan Ranch, 4 miles northwest of Akela, The Birchfield Ranch, 20 miles southwest of Akela, and Wemple, NM, (9) between El Paso, TX, and Hatch, NM, from El Paso over alternate U.S. Hwy 80 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Las Cruces, NM, then over U.S. Hwy 85 to Hatch, and return over the same route, serving the off-route points of Radium Springs, Leasburg, Ricon, Hill, and Dona Ana, NM, (10) between El Paso, TX, and Artesia, NM, from El Paso over U.S. Hwy 62 to Carlsbad, NM, then over U.S. Hwy 285 to Artesia, and return over the same route, serving all intermediate points, (11) between Tularosa and Vaughn, NM, over U.S. Hwy 54, serving all intermediate points, (12) between Roswell and Artesia, NM, from Roswell over NM Hwy 2 (formerly unnumbered Hwy) to junction U.S. Hwy 285, then over U.S. Hwy 285 to Artesia, and return over the same route, serving the intermediate points of Dexter, Hagerman, Lake Arthur, Cottonwood and Espuella, NM, (13) between Hagerman and Roswell, NM, over NM Hwy 2, serving all intermediate points, and (14) between El Paso, TX, and San Antonio, NM, from El Paso over U.S. Hwy 54 to Carrizozo, then over U.S. Hwy 380 to San Antonio, and return over the same route, serving all intermediate points south of but not including Carrizozo, NM, and the off-route point of Holloman Air Force Base near Alamogordo, NM.

(B) *dangerous articles and explosives,* (1) between El Paso, TX, and Artesia, NM, from El Paso over U.S. Hwy 62 to Carlsbad, NM, then over U.S. Hwy 285 to Artesia and return over the same route, serving the off-route points in NM east of U.S. Hwy 285 and within 25 miles of Carlsbad, and (2) between Tularosa and Vaughn, NM, over U.S. Hwy 54, serving all intermediate points.

(C) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Albuquerque, NM, and U.S. Engineers Project No. 76, approximately 7 miles southeast of Albuquerque, over unnumberd Hwy, serving no intermediate points, (2) between Las Cruces and White Sands Proving Grounds, NM (located approximately 27 miles east of Las Cruces), from Las Cruces over U.S. Hwy 70 to junction with unnumbered Hwy, then over the unnumbered Hwy to White Sands Proving Grounds, and return over the same route, serving all intermediate points, (3) between Albuquerque and Farmington, NM, from Albuquerque over U.S. Hwy 85 to junction NM Hwy 44 near Bernalillo, NM, then over NM Hwy 44 to Bloomfield, then over NM Hwy 17 to Farmington, and return over the same route, serving no intermediate points, (4) between San Antonio and El Paso, TX, from San Antonio over U.S. Hwy 87 to Comfort, TX, then over TX Hwy 27 to junction U.S. Hwy 290, then over U.S. Hwy 290 to junction U.S. Hwy 80, then over U.S. Hwy 80 to El Paso, and return over the same route, serving all intermediate points, and the off-route points of Royalty, Crane, and Iraan, TX, (5) between Dallas, TX, and Albuquerque, NM, from Dallas, TX, over U.S. hwy 180 to Snyder, TX, then over U.S. Hwy 84 to Ft. Sumner, NM, then over U.S Hwy 60 to Encino, NM, then over U.S. Hwy 285 to Clines Corners, NM, then over U.S. Hwy 66 to Albuquerque and return over the same route, (6) between Post, TX, and Tularosa, NM, from Post over U.S. Hwy 380 to Hondo, NM, then over U.S. Hwy 70 to Tularosa and return over the same route, restricted to traffic originating at or destined to points in NM, (7) between Tularosa and Roswell, NM, over U.S. Hwy 70, serving all intermediate points and the off-route point of Ruidoso, NM, (8) between Road Forks, NM, and Tucson, AZ, (a) from Road Forks, NM, over Interstate Hwy 10 (NM Hwy 14) to junction AZ Hwy 86 at the NM-AZ state line, then over AZ Hwy 86 to junction U.S. Hwy 80 at or near Benson, AZ, then over U.S. Hwy 80 to Tucson, AZ, and return over the same route, serving all intermediate points except Benson, AZ, and (b) between Road Forks, NM, and Tucson, AZ, over Interstate Hwy 10, (9) serving Hollywood, NM, as an intermediate points in connection with carrier's otherwise authorized regular-route between Dallas, TX, and Tularosa, NM, restricted to traffic originating at or destined to points in NM, (10) between Phoenix and Tucson, AZ, over Interstate Hwy 10, serving no intermediate points, restricted against traffic moving between Phoenix, AZ, and points in its commercial zone, on the one hand, and, on the other, Tucson, AZ, and points in its commercial zone, (11) between Lordsburg and Deming, NM, from Lordsburg over NM Hwy 90 to Silver City, NM, then over U.S. Hwy 180 to Deming and return over the same route, serving all intermediate points and the off-route points of Hanover, Santa Rita, Tyrone and the Phelps-Dodge mine site near Tyrone, NM, (12) between Post, TX, and Roswell, NM, over U.S. Hwy 380, serving no intermediate points and serving Post, TX, for purpose of joinder only, (13) between Snyder, TX, and Carlsbad, NM, over U.S. Hwy 180, serving no intermediate points, and serving Snyder, TX, for purpose of joinder only, (14) serving Clovis, NM, as an intermediate point in connection with carrier's otherwise authorized regular-route operations between Dallas, TX, and Albuquerque, NM, (15) serving the facilities of Phelps-Dodge Corp., located in Hidalgo County, NM, as an off-route point in connection with carrier's otherwise authorized regular-route operations, and (16) serving the site of the Little Mountain, UT, Production Testing Facility of the Marquardt Aircraft Company plant approximately 11 miles west of Ogden, UT, as an off-route point in connection with carrier's otherwise authorized regular-route operations over U.S. Hwy 91.

(D) *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Las Cruces and San Antonio, NM, from Las Cruces over U.S. Hwy 70 to Alamogordo, NM, then over U.S. Hwy 54 to Carrizozo, NM, then over U.S. Hwy 380 to San Antonio, and return over the same route, serving the White Sands Missile Range, NM, as an off-route point, and (2) between Artesia, NM, and junction U.S. Hwys 82 and 54, over U.S. Hwy 82, serving all intermediate points, and the site of the U.S. Government Solar Furnace, approximately 3.5 miles north of Cloudcroft, NM, as an off-route point.

II—Over Irregular Routes Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in those parts of Luna, Grant, and Dona Ana Counties, NM, south of U.S. Hwy 80.

III—Alternate Routes for Operating Convenience Only Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment) (1) between Ogden and Salt Lake City, UT, over U.S. Hwy 91, serving no intermediate points, restricted to traffic moving on Government bills of lading (2) between El Paso, TX, and the site of the White Sands Missile Range, NM, from El Paso over U.S. Hwy 54 to junction unnumbered Hwy approximately 4 miles north of El Paso, then over unnumbered Hwy to the White Sands Missile Range, and return over the same route, serving no intermediate points, and serving off-route points in NM east of U.S. Hwy 285 and within 30 miles of Carlsbad, NM, in connection with carrier's otherwise authorized regular-route operations between El Paso, TX, and Artesia, NM (3) between El Paso, TX, and Las Cruces, NM, from El Paso across the Rio Grande River to junction NM Hwy 28, then over NM Hwy 28 to Las Cruces, and return over the same route, serving no intermediate points and serving Las Cruces for purpose of joinder only, and (4) between Shiprock and Farmington, NM, over U.S. Hwy 550, serving no intermediate points, restricted against traffic moving between Farmington, NM, and points in its commercial zone, on the one hand, and, on the other, Salt Lake City, UT, and its commercial zone and points beyond Salt Lake City, UT.

(B) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Albuquerque, NM, and junction NM Hwy 45 and U.S. Hwy 85, from Albuquerque over U.S. Hwy 66 to junction NM Hwy 45, then over NM Hwy 45 to junction U.S. Hwy 85 (about 7 miles north of Los Lunas, NM), and return over the same route, serving no intermediate points, but serving points in the El Paso, TX and Albuquerque, NM commercial zones as intermediate and off-route points in connection with carrier's otherwise authorized regular-route operations between El Paso, TX, and Albuquerque, NM (2) between Vaughn and Roswell, NM, over U.S. Hwy 285, serving no intermediate points, and (3) between Carlsbad, NM, and Ft. Stockton, TX, over U.S. Hwy 285, serving no intermediate points, and serving Carlsbad, NM, for purpose of joinder only.

Condition: To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Note.— Applicant intends to tack this authority to its existing regular-route authority.

MC 61440 (Sub-195F), filed August 4, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in TX as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 69281 (Sub-56F), filed August 4, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a Corporation, 698 Fairmount Ave., Baltimore, MD 21204. Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Allentown and Reading, PA, over PA Hwy 222, and (2) between Allentown and Pottsville, PA, from Allentown over PA Hwy 309 to junction PA Hwy 209, then over PA Hwy 209 to Pottsville, and return over the same route, serving all intermediate points, and serving all other points in Berks and Schuylkill Counties, PA, as off-route points.

Note.—Applicant intends to tack this authority with its existing regular-route authority at Allentown, PA.

MC 111231 (Sub-308F), filed August 1, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *plastic pipe, fittings, gaskets, and sealer,* and (2) *accessories for plastic pipe,*

Volume No. OP1-012

Decided: August 7, 1980
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-482F), filed August 1, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Finney County, KS, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AL, FL, GA, MS, NC, SC, TN, IL, IA, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 29910 (Sub-283F), filed July 29, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902.

I—Over Regular Routes Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment), (1) between Albuquerque, NM, and El Paso, TX, from Albuquerque over U.S. Hwy 85 to Las Cruces, NM, then over U.S. Hwy 80 to El Paso, and return over the same route, serving all intermediate points, restricted at Belen, NM, and points north thereof to traffic moving to or from points south of Belen, and further restricted at Hatch, NM, and points south thereof to traffic moving to or from points north of Hatch, (2) between Ogden, UT, and Albuquerque, NM, from Ogden over U.S. Hwy 89 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 63 (formerly U.S. Hwy 160), then over U.S. Hwy 163 to junction U.S. Hwy 666, then over U.S. Hwy 666 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Albuquerque, and return over the same route, serving the intermediate points of Salt Lake City, Provo and Ogden Arsenal, UT, and the off-route points of Hill Field, Naval Supply Depot near Ogden, UT, and the Geneva Steel Mills near Provo and those within five miles of Salt Lake City, restricted against traffic moving between points in UT, and further restricted to traffic moving on Government bills of lading when moving between points north of but not including Salt Lake City, (3) between Hatch and Deming, NM, over NM Hwy 26, serving the intermediate points of Florida and Nutt, NM, (4) between Deming and Columbus, NM, over NM Hwy 11, serving all intermediate points, (5) between Deming and Hachita, NM, from Deming over U..S Hwy 70 to junction NM Hwy 81, then over NM Hwy 81 to Hachita, and return over the same route, serving all intermediate points between Hachita and junction U.S. Hwy 70 and NM Hwy 81, (6) between Deming and Rodeo, NM, over U.S. Hwy 80, serving all intermediate points, (7) between Lordsburg and Animas, NM, from Lordsburg over U.S. Hwy 80 to junction NM Hwy 338, then over NM Hwy 338 to Animas, and return over unnumbered Hwy to Lordsburg, serving all intermediate points, (8) between El Paso, TX, and Deming, NM, over U.S. Hwy 80, serving the intermediate points of Akela and Cambray, NM, and the off-route points of the Corrilitos Ranches, 10 miles south of U.S. Hwy 80, The Johnson Ranch, 5 miles south of Cambray, The Jernigan Ranch, 4 miles northwest of Akela, The Birchfield Ranch, 20 miles southwest of Akela, and Wemple, NM, (9) between El Paso, TX, and Hatch, NM, from El Paso over alternate U.S. Hwy 80 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Las Cruces, NM, then over U.S. Hwy 85 to Hatch, and return over the same route, serving the off-route points of Radium Springs, Leasburg, Ricon, Hill, and Dona Ana, NM, (10) between El Paso, TX, and Artesia, NM, from El Paso over U.S. Hwy 62 to Carlsbad, NM, then over U.S. Hwy 285 to Artesia, and return over the same route, serving all intermediate points, (11) between Tularosa and Vaughn, NM, over U.S. Hwy 54, serving all intermediate points, (12) between Roswell and Artesia, NM, from Roswell over NM Hwy 2 (formerly unnumbered Hwy) to junction U.S. Hwy 285, then over U.S. Hwy 285 to Artesia, and return over the same route, serving the intermediate points of Dexter, Hagerman, Lake Arthur, Cottonwood and Espuella, NM, (13) between Hagerman and Roswell, NM, over NM Hwy 2, serving all intermediate points, and (14) between El Paso, TX, and San Antonio, NM, from El Paso over U.S. Hwy 54 to Carrizozo, then over U.S. Hwy 380 to San Antonio, and return over the same route, serving all intermediate points south of but not including Carrizozo, NM, and the off-route point of Holloman Air Force Base near Alamogordo, NM.

(B) *dangerous articles and explosives,* (1) between El Paso, TX, and Artesia, NM, from El Paso over U.S. Hwy 62 to Carlsbad, NM, then over U.S. Hwy 285 to Artesia and return over the same route, serving the off-route points in NM east of U.S. Hwy 285 and within 25 miles of Carlsbad, and (2) between Tularosa and Vaughn, NM, over U.S. Hwy 54, serving all intermediate points.

(C) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Albuquerque, NM, and U.S. Engineers Project No. 76, approximately 7 miles southeast of Albuquerque, over unnumberd Hwy, serving no intermediate points, (2) between Las Cruces and White Sands Proving Grounds, NM (located approximately 27 miles east of Las Cruces), from Las Cruces over U.S. Hwy 70 to junction with unnumbered Hwy, then over the unnumbered Hwy to White Sands Proving Grounds, and return over the same route, serving all intermediate points, (3) between Albuquerque and Farmington, NM, from Albuquerque over U.S. Hwy 85 to junction NM Hwy 44 near Bernalillo, NM, then over NM Hwy 44 to Bloomfield, then over NM Hwy 17 to Farmington, and return over the same route, serving no intermediate points, (4) between San Antonio and El Paso, TX, from San Antonio over U.S. Hwy 87 to Comfort, TX, then over TX Hwy 27 to junction U.S. Hwy 290, then over U.S. Hwy 290 to junction U.S. Hwy 80, then over U.S. Hwy 80 to El Paso, and return over the same route, serving all intermediate points, and the off-route points of Royalty, Crane, and Iraan, TX, (5) between Dallas, TX, and Albuquerque, NM, from Dallas, TX, over U.S. hwy 180 to Snyder, TX, then over U.S. Hwy 84 to Ft. Sumner, NM, then over U.S Hwy 60 to Encino, NM, then over U.S. Hwy 285 to Clines Corners, NM, then over U.S. Hwy 66 to Albuquerque and return over the same route, (6) between Post, TX, and Tularosa, NM, from Post over U.S. Hwy 380 to Hondo, NM, then over U.S. Hwy 70 to Tularosa and return over the same route, restricted to traffic originating at or destined to points in NM, (7) between Tularosa and Roswell, NM, over U.S. Hwy 70, serving all intermediate points and the off-route point of Ruidoso, NM, (8) between Road Forks, NM, and Tucson, AZ, (a) from Road Forks, NM, over Interstate Hwy 10 (NM Hwy 14) to junction AZ Hwy 86 at the NM-AZ state line, then over AZ Hwy 86 to junction U.S. Hwy 80 at or near Benson, AZ, then over U.S. Hwy 80 to Tucson, AZ, and return over the same route, serving all intermediate points except Benson, AZ, and (b) between Road Forks, NM, and Tucson, AZ, over Interstate Hwy 10, (9) serving Hollywood, NM, as an intermediate points in connection with carrier's otherwise authorized regular-route between Dallas, TX, and Tularosa, NM, restricted to traffic originating at or destined to points in NM, (10) between Phoenix and Tucson, AZ, over Interstate Hwy 10, serving no intermediate points, restricted against traffic moving between Phoenix, AZ, and points in its commercial zone, on the one hand, and, on the other, Tucson, AZ, and points in its commercial zone, (11) between Lordsburg and Deming, NM, from Lordsburg over NM Hwy 90 to Silver City, NM, then over U.S. Hwy 180 to Deming and return over the same route, serving all intermediate points and the off-route points of Hanover, Santa Rita, Tyrone and the Phelps-Dodge mine site near Tyrone, NM, (12) between Post, TX, and Roswell, NM, over U.S. Hwy 380, serving no intermediate points and serving Post, TX, for purpose of joinder only, (13) between Snyder, TX, and Carlsbad, NM, over U.S. Hwy 180, serving no intermediate points, and serving Snyder, TX, for purpose of joinder only, (14) serving Clovis, NM, as an intermediate point in connection with carrier's otherwise authorized regular-route operations between Dallas, TX, and Albuquerque, NM, (15) serving the facilities of Phelps-Dodge Corp., located in Hidalgo County, NM, as an off-route point in connection with carrier's otherwise authorized regular-route operations, and (16) serving the site of the Little Mountain, UT, Production Testing Facility of the Marquardt Aircraft Company plant approximately 11 miles west of Ogden, UT, as an off-route point in connection with carrier's otherwise authorized regular-route operations over U.S. Hwy 91.

(D) *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Las Cruces and San Antonio, NM, from Las Cruces over U.S. Hwy 70 to Alamogordo, NM, then over U.S. Hwy 54 to Carrizozo, NM, then over U.S. Hwy 380 to San Antonio, and return over the same route, serving the White Sands Missile Range, NM, as an off-route point, and (2) between Artesia, NM, and junction U.S. Hwys 82 and 54, over U.S. Hwy 82, serving all intermediate points, and the site of the U.S. Government Solar Furnace, approximately 3.5 miles north of Cloudcroft, NM, as an off-route point.

II—Over Irregular Routes Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in those parts of Luna, Grant, and Dona Ana Counties, NM, south of U.S. Hwy 80.

III—Alternate Routes for Operating Convenience Only Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment) (1) between Ogden and Salt Lake City, UT, over U.S. Hwy 91, serving no intermediate points, restricted to traffic moving on Government bills of lading (2) between El Paso, TX, and the site of the White Sands Missile Range, NM, from El Paso over U.S. Hwy 54 to junction unnumbered Hwy approximately 4 miles north of El Paso, then over unnumbered Hwy to the White Sands Missile Range, and return over the same route, serving no intermediate points, and serving off-route points in NM east of U.S. Hwy 285 and within 30 miles of Carlsbad, NM, in connection with carrier's otherwise authorized regular-route operations between El Paso, TX, and Artesia, NM (3) between El Paso, TX, and Las Cruces, NM, from El Paso across the Rio Grande River to junction NM Hwy 28, then over NM Hwy 28 to Las Cruces, and return over the same route, serving no intermediate points and serving Las Cruces for purpose of joinder only, and (4) between Shiprock and Farmington, NM, over U.S. Hwy 550, serving no intermediate points, restricted against traffic moving between Farmington, NM, and points in its commercial zone, on the one hand, and, on the other, Salt Lake City, UT, and its commercial zone and points beyond Salt Lake City, UT.

(B) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Albuquerque, NM, and junction NM Hwy 45 and U.S. Hwy 85, from Albuquerque over U.S. Hwy 66 to junction NM Hwy 45, then over NM Hwy 45 to junction U.S. Hwy 85 (about 7 miles north of Los Lunas, NM), and return over the same route, serving no intermediate points, but serving points in the El Paso, TX and Albuquerque, NM commercial zones as intermediate and off-route points in connection with carrier's otherwise authorized regular-route operations between El Paso, TX, and Albuquerque, NM (2) between Vaughn and Roswell, NM, over U.S. Hwy 285, serving no intermediate points, and (3) between Carlsbad, NM, and Ft. Stockton, TX, over U.S. Hwy 285, serving no intermediate points, and serving Carlsbad, NM, for purpose of joinder only.

Condition: To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Note.— Applicant intends to tack this authority to its existing regular-route authority.

MC 61440 (Sub-196F), filed August 4, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in TX as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 69281 (Sub-57F), filed August 4, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a Corporation, 698 Fairmount Ave., Baltimore, MD 21204. Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Allentown and Reading, PA, over PA Hwy 222, and (2) between Allentown and Pottsville, PA, from Allentown over PA Hwy 309 to junction PA Hwy 209, then over PA Hwy 209 to Pottsville, and return over the same route, serving all intermediate points, and serving all other points in Berks and Schuylkill Counties, PA, as off-route points.

Note.—Applicant intends to tack this authority with its existing regular-route authority at Allentown, PA.

MC 111231 (Sub-309F), filed August 1, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *plastic pipe, fittings, gaskets, and sealer,* and (2) *accessories for plastic pipe,*

between points in the U.S., under

Transporting *shipments* weighing 100

between the facilities of Marathone Plastics, Inc., at or near Litchfield, IL, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, IN, KS, KY, MI, MN, MO, MS, NC, ND, NE, OH, OK, SC, SD, TN, VA, and WI.

MC 119741 (Sub-273F), filed August 4, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *such commodities* as are dealt in, or used in the manufacturing, processing or milling of soybeans, soybean products, salt and grain, and the manufacture and processing of steel products, (except commodities in bulk), between the facilities of Cargill, Inc., and its subsidiaries, on the one hand, and, on the other, points in the U.S.

MC 135410 (Sub-104F), filed August 5, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. BOX 266, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting (1) *foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between the facilities of Velvet Food Products, at Livonia, MI, on the one hand, and, on the other, points in IL.

MC 138420 (Sub-47F), filed July 30, 1980. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Route 1—P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *malt beverages* from Pittsburgh, PA, to points in MN, WI, and those in IL on and north of U.S. Hwy 136, and (2) *materials, equipment and supplies* used in the production and distribution of malt beverages, in the reverse direction.

MC 138991 (Sub-29F), filed August 4, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in the U.S., under continuing contract(s) with General Foods Corporation, of White Plains, NY.

MC 139171 (Sub-6F), filed August 1, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M St., N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Streamline Shippers Association, Inc., of Los angeles, CA.

MC 145950 (Sub-84F), filed August 1, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg. 666 Eleventh St., N.W. Washington, DC 20001. Transporting *bananas*, from Mobile, AL, Gulfport, MS, Charleston, SC, and Galveston, TX, to points in the U.S., restricted to traffic having a prior movement by water.

MC 146071 (Sub-27F), filed August 5, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St. Denver, CO 80203. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Packing, Inc., at Le Mars and Sioux City, IA, to points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VT, WV, and DC.

MC 150710 (Sub-1F), filed August 4, 1980. Applicant: LEBARNOLD, INC., 625 South 5th Ave., P.O. Box 630, Lebanon, PA 17042. Representative: Richard A. Mehley, 1000 16th St., N.W., Suite 502, Washington, D.C. 20036. Transporting *such commodities* as are dealt in or used by retail distributors of wearing apparel, between points in the U.S., under continuing contract(s) with Kinney Service Corporation, of Harrisburg, PA.

MC 151271 (Sub-1F), filed July 24, 1980. Applicant: JERRY OWEN'S TRUCKING CO., P.O. Box 371, Rice Lake, WI 54868. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Decker Distributing, Inc., of Rice Lake, WI.

MC 151280 (Sub-1F), filed August 1, 1980. Applicant: IOWA TURKEY EXPRESS, INC., P.O. Box 582, Storm Lake, IA 50588. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by wholesale and retail lumber yards and home improvement stores, between the facilities of Ranco Company, at or near (a) Culbertson, McCook, North Platte and Grand Island, NE, (b) Storm Lake, IA, and (c) Rogers, AR.

Volume No. OP1–012

Decided: Aug. 11, 1980
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 115311 (Sub 399F), filed August 1, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1)(a) *anti-freeze compounds, de-icing compounds, petroleum and petroleum products, additives, agricultural chemicals, windshield washer solvent, and* (b) *containers and closures*, from points in Montgomery, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (a) and (b) above, in the reverse direction.

MC 124511 (Sub-66F), filed August 5, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Hwy. 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *iron and steel articles* (except commodities the transportation of which because of size or weight requires the use of special equipment) between Chicago and East St. Louis, IL, on the one hand, and, on the other, Kansas City, KS, and points in MO.

MC 143701 (Sub-26F), filed August 1, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *foodstuffs*, between points in the U.S., restricted to traffic originating at or destined to the facilities of Winton Sales Company or its customers or suppliers.

MC 146071 (Sub-28F), filed August 5, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *frozen prepared foods and frozen meats*, from the facilities of Armour & Co., at or near (a) Eau Claire, WI, and (b) Fairmont, MN, to points in FL, AL, MS, LA, and AR.

MC 150791 (Sub-1F), filed August 4, 1980. Applicant: INDUSTRIAL FREIGHT SERVICES, INC., 241 Erie St., Waverly, NY 14892. Representative: Donald C. Carmien, 501 Midtown Mall, Binghamton, NY 13901. Transporting *fabricated metal products* and *primary metal products*, as described in Items (34) and (33) of the Standard Transportation Commodity Code Tariff,

between points in the U.S., under continuing contract(s) with Ingersoll-Rand Company, Athens, PA.

MC 151451F, filed August 1, 1980. Applicant: CHARLES E. REED, P.O. Box 547, Long Lane, Franklin, TN 37064. Representative: James Clarence Evans, 1600 Third National Bank Bldg., Nashville, TN 37219. Transporting *edible tallow, shortening, vegetable, cooking, and salad oils, and margarine* (except commodities in bulk), from the facilities used by Bunge Edible Oil Corporation, at (a) Bradley, IL, and (b) Chattanooga, TN, to points in AL, GA, IL, KY, and TN.

MC 151461F, filed August 5, 1980. Applicant: B.J.K. CORP., 414 Park Dr., Grand Forks, ND 58201. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *nonmetallic minerals* (except fuels), as described in Item 14 of the Standard Transportation Commodity Code Tariff, between points in Traill and Pembina Counties, ND, on the one hand, and, on the other, points in St. Louis County, MN.

Volume No. OP2–015

Decided: August 6, 1982.

By the Commission, Reveiw Board Number 1, Members Carleton, Joyce and Jones.

MC 151393F, filed July 28, 1980. Applicant: MILLERS BEND CARRIERS, INC., U.S. Highway 231 No., P.O. Box 197, Wetumpka, AL 36092. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP2–016

Decided: August 7, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 94393 (Sub-11F), filed August 1, 1980. Applicant: W. J. CASEY TRUCKING & RIGGING CO., INC., 1200 Springfield Rd, Union, NJ 07083. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S. (except AK and HI).

MC 124423 (Sub-10F), filed August 1, 1980. Applicant: JET MESSENGER SERVICE, INC., Box 99, Metuchen, NJ 08840. Representative: W. C. Mitchell, 370 Lexington Ave, New York, NY 10017. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 124673 (Sub-55F), filed July 31, 1980. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting: *Animal and poultry feed*, between points in the U.S. (except AK and HI).

MC 127053 (Sub-2F), filed August 5, 1980. Applicant: ALERT MESSENGER SERVICE, INC., d.b.a. AVAK MESSENGER SERVICE, 28 E. Winant Ave., Ridgefield Park, NJ 07660. Representative: Henry Lopez, 350 Teaneck Rd., Ridgefield Park, NJ 07660. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 148802 (Sub-2F), filed August 1, 1980. Applicant: RUSSELL B. HINER, and PETER D. MILLER d.b.a. R.P.M. MESSENGER SERVICE, a partnership, 3387 Quakerbridge Rd., Mercerville, NJ 08619. Representative: John M. Ballenger, 6121 Lincolnia Rd., Suite 400, Alexandria, VA 22312. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP2–020

Decided: August 8, 1980.

By the Commission, Review Board Number 2, Members Chamdler, Eaton and Liberman.

MC 130982F, filed August 4, 1980. Applicant: BMS BROKERAGE COMPANY, a partnership, 67 Wall St., Suite 2510, New York, NY 10005. Representative: Thomas J. Benner (address same as applicant). To operate as a broker of property for the transportation of *general commodities* (except household goods) between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–25065 Filed 8–18–80; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: August 12, 1980.

In our decisions of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, and August 5, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to received compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m. August 15, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins absent and not participating.

Agatha L. Mergenovich,
Secretary.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

August 11, 1980 ..... 113.8¢

	Transportation performed by—			
	Owner operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[3] 2.1
Percent surcharge allowed	13	2.3	5.0	[4] 1.3

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80–25084 Filed 8–18–80; 8:45 am]
BILLING CODE 7035–01–M

Long-and-Short-Haul Applications for

Commission, Washington, D.C. 20423.

from master tariffs publishing rail

is filed under section 101(c) of the

Negative Determinations

TA–W–9153; Island Creek Coal

Long-and-Short-Haul Applications for Relief (Formerly Fourth Section Application)

August 13, 1980.

These applications for long-and-short-haul relief have been filed with I.C.C.

Protests are due at the ICC on or before September 3, 1980. No. 43854, Southwestern Freight Bureau, Agent, (No. B–81), increased rates on common salt, in carloads, between points in Southwestern Territory, as published in Supplement 210 to its Tariff ICC SWFB 2004–J, to become effective September 10, 1980. Grounds for relief—revised rate structure. No. 43855, Southwestern Freight Bureau, Agent, (No. B–72), increased rates on rice, rice products and related commodities, in carloads, between stations in Southwestern Territory, on the one hand, and stations in Eastern, Illinois, Southern, Southwestern and Western Territories, on the other hand. Rates are published in Supp. 209 to its Tariff ICC SWFB 2004–J, Supp. 321 to ICC SWFB 2005–J, Supp. 305 to ICC SWFB 2007–H, Supp. 263 to ICC SWFB 3282–D, and Supp. 176 to ICC SWFB 4390, to become effective September 13, 1980. Grounds for relief—additional revenue to offset increased operating costs. By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25085 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 380]

Status of Carrier-Affiliated Shippers' Agents

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file comments in declaratory order proceeding.

SUMMARY: On July 3, 1980, a declaratory order proceeding was instituted to determine the lawfulness of a railroad's establishing a subsidiary consolidation company to act as an exempt shipper's agent under 49 U.S.C. 10562(4).

The purpose of this document is to give notice that the time for filing comments in this proceeding is extended to September 18, 1980.

DATE: Comments should be filed by September 18, 1980.

ADDRESSES: Send an original and 15 copies, if possible, of any comments to: Ex Parte No. 380, Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Send one copy of comments to each of petitioners' representatives:

M. J. Barron, Vice President—Marketing, Detroit, Toledo & Ironton Railroad Co., One Parkland Boulevard, Dearborn, MI 48126.

Lawrence Berman, 747 Third Avenue, New York, NY 10017.

S. S. Eisen, 370 Lexington Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Mark S. Shaffer, (202) 275–7531 or Donald J. Shaw, Jr., (202) 275–7292.

SUPPLEMENTAL INFORMATION: Robert H. Shertz, on behalf of the Local and Short Haul Carrier National Conference of the American Trucking Association, has filed a written request that the time for filing comments in this proceeding (a notice of institution of a declaratory order proceeding published at 45 FR 45410, July 3, 1980) be extended until September 18, 1980. The Conference contends that it needs the time extension to contact its numerous members and properly prepare comments reflecting the members' positions.

We believe the requested extension for the filing of comments is warranted. The extension would provide sufficient time for the Conference to gather the information it needs from its members so that meaningful comments may be filed. The 30-day extension would not, on the other hand, delay the proceeding for an unreasonable period of time.

Accordingly, the time for filing comments in this proceeding is extended to September 18, 1980.

Decided: August 13, 1980.

By the Commission, Robert C. Gresham, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25087 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. 37343]

U.S. Railroads; Petition for Declaratory Order; Elimination of Grain Tables From General Rate Increase Master Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Elimination of Grain Tables from General Rate Increase Master Tariff.

SUMMARY: The United States railroads filed a request on December 21, 1979 for the authority to eliminate grain tables from master tariffs publishing rail general rate increases. In a notice served March 19, 1980 (45 FR 19407, March 25, 1980) the Commission sought public comments on the proposed elimination. Nineteen parties responded, all favorably to the proposal. We have found that the grain tables have outlived their original purpose and have become a costly burden. Elimination of these tables will lead to tariff simplification and a reduction in publishing and other related costs. This elimination will apply on all future railroad general rate increases.

ADDRESS: Copies of this decision may be obtained from: The Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall, (202) 275–7693.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Dated: August 6, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25091 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–17502, appearing at page 39960 in the issue of Thursday, June 12, 1980, please make the following correction:

On page 39971, second column, first full paragraph, under MC 107452, in the 23rd line, "SN" should read "ND". In the next line "MN" should read "NM".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–80–89–C]

Galveston Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Galveston Coal Co., Inc., Box 6, Bypro, KY 41612, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. This petition concerns the installation of lighting on the petitioner's mining machines.

2. The petitioner states that due to the thinness of the seams there is not sufficient clearance between the top of the equipment and the mine roof to allow for installation of lighting.

3. For this reason, the petitioner requests a modification of the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 18, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-25186 Filed 8-18-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 4–8, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7625; RCA Corporation, Indianapolis, Indiana

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of records did not increase as required for certification.

TA–W–7621; Rockwell International, La Palma, California

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of wheels did not increase as required for certification.

TA–W–8284; Keystone Resources, Greensboro, Georgia

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of aluminum casting alloys did not increase as required for certification.

TA–W–8190–91; Allegheny Ludlum Steel, Wallingford, Connecticut

The investigation revealed that criterion (2) has not been met.

TA–W–9167; White Automotive Service, Inc., Allen Park, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7926; Police, Fire & Street Departments, Parma, Ohio

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7622; Aileen, Incorporated, Brookneal, Virginia

The investigation revealed that criterion (3) has not been met. Separations from the subject plant resulted from a transfer of production to other domestic facilities.

TA–W–9151; Island Creek Coal Company, Gund Prep Plant, Sidney, Kentucky

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–9152; Island Creek Coal Company, Big Creek Mine #1, Sidney, Kentucky

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–9153; Island Creek Coal Company, Big Creek Mine #2, Sidney, Kentucky

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–7798; Crucible, Inc., Midland Pennsylvania

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of alloy steel bars and stainless steel sheet and strip did not increase as required for certification.

TA–W–8269; General Motors Corporation, G.M. Division, Edina, Montana

The investigation revealed that criterion (3) has not been met. A substantial portion of the parts produced at the Edina Plant are replacement parts for automobiles produced prior to Model Year 1979.

TA–W–8273; South Western Rail Production, TS Inc., Wellington, Texas

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7917; Industrial Transport, Cleveland, Ohio

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7927; DND Teletronics, Utica, New York

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7604; Henry Richards Co., Hamden, Connecticut

The investigation revealed that criterion (1) has not been met.

TA–W–8120; Rockport Log and Shake, Copalis Crossing, Washington

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7619; Elco Industries Inc., Southington, Connecticut

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

V 4 5 A G 1 9 8 0 UMI

TA–W–8160; GF Business Equip, Crenlo Division, Rochester, Montana

With respect to workers producing electronic modular enclosures, the investigation revealed that criterion (2) has not been met.

With respect to workers producing cabs for agricultural tractors, the investigation revealed that criterion (3) has not been met. Imports of cabs for agricultural tractors are negligilbe.

TA–W–7808; Max Alaways Mill, Sedro Woolley, Washington

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8825; Commercial Steel Treating, Madison Heights, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7399; Uniroyal Merchandising Company, Houston, Texas

The investigation revealed that criterion (3) has not been met. Separations from Uniroyal Merchandising Company resulted from a general decline in the demand for passenger car tires.

TA–W–8211; Selmear Company, Elkhart, Indiana

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of woodwind instruments did not increase as required for certification.

TA–W–8086–8090; Greif and Company, Fredricksburg, Virginia, Baltimore, Maryland, Everett, Pennsylvania, Hanover, Pennsylvania, Verona, Virginia

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7950; U.S. Steel Corporation, Texas Works, Baytown, Texas

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of welded steel pipe and carbon steel plate did not increase as required for certification.

TA–W–7882; Hurn Shingle Mill, Concrete, Washington

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7848; Levi Strauss Company, San Francisco, California

The investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA–W–7676; International Packings Company, Bristol, New Hampshire

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8201; Newport Tire Center, Inc., Springfield, Missouri

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8960; Dearborn Refining Company, Dearborn, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8776; Val-Kro Inc., Buffalo, New York

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8693; Goddeyne Manufacturing Company, Bay City, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8296; Bowling and Hildebrand Truck, Raleigh, West Virginia

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8155; Georgia Pacific Corporation, Woodland, Maine

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8098; New England Drawn Steel, Mansfield, Massachusetts

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7903; Cassens Transport, Edwardsville, Illinois

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7837; Colt Industrial, Haralson Metal Plant, Bremen, Georgia

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7880; Edmonton Manufacturing Company, Edmonton, Kentucky

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7787; Allegheny-Ludlum Steel, W. Leechburg Works, West Leechburg, Pennsylvania

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless sheet, stainless strip, stainless plate, and silicon sheet did not increase as required for certification.

TA–W–7888; Allegheny-Ludlum Steel, Brackenridge, Pennsylvania

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless sheet, stainless strip, stainless plate, and silicon sheet did not increase as required for certification.

TA–W–8394; The Budd Company, Red Lion Plant, Automotive Frame Operations, Philadelphia, Pennsylvania

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7939; Stauffer Chemical Company, Food Ingredients Division, South Portland, Maine

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Carrageenan did not increase as required for certification.

TA–W–8842; White Automotive Service, Inc., Toledo, Ohio

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8690; Brewster Finishing Company, Paterson, New Jersey

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA–W–7995; Dawn Fashion Leather, New York, New York

A certification was issued covering all workers of the firm separated on or after April 24, 1979.

TA–W–7822; Apex Hip and Ridge, Inc., Humptulips, Washington

A certification was issued covering all workers of the firm separated on or after April 11,1979.

TA–W–8081; D & G Shake Company, Inc., Amanda Park, Washington

A certification was issued covering all workers of the firm separated on or after April 10, 1979.

TA–W–7530; Taurus Manufacturing Company, Blairsville, Pennsylvania

A certification was issued covering all workers of the firm separated on or after June 1, 1979.

TA–W–8423; York Luggage Corpration, Lambertville, New Jersey

A certification was issued covering all workers of the firm separated on or after May 12, 1979.

TA–W–7695; Paul's Auto Ignition, Inc., Yonkers, New York

A certification was issued covering all workers of the firm separated on or after April 25, 1979.

TA–W–8005; Southeastern Garment, Clinton, North Carolina

A certification was issued coverning all workers of the firm separated on or after July 1, 1979.

TA–W–7581–7581 A; Henry Guttman, Inc., Coat Fair, Inc., New York, New York

A certification was issued covering all workers of the firm engaged in employment related to the production of women's coats, jackets, and raincoats who were separated on or after June 22, 1979.

TA–W–7465; Acme Precision Products, Inc., Detroit, Michigan

With respect to workers producing automobile moulding, a certification was issued for workers separated from employment on or after March 3, 1979.

With respect to workers producing drives, criterion (2) has not been met.

With respect to workers producing light bezels and door handle assemblies, a survey of customers revealed that increased imports did not contribute importantly to the separation of workers.

TA–W–8613; Gereral Motors Corporation, General Motors Assembly Division, Fairfax, Kansas.

A certification was issued covering all workers of the firm separated on or after December 1, 1979.

I hereby certify that the aforementioned determinations were issued during the period August 4–August 8, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: August 13, 1980.

Harold A. Bratt,

Acting, Director Office of Trade adjustment Assistance.

[FR Doc. 80–25183 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–7916 and TA–W–7993]

Negative Determination Regarding Eligibility to Apply For Worker Adjustment Assistance; Correction

In FR Doc. 80–18725 appearing on page 41722 in **Federal Register** of June 20, 1980, the TA–W–number in Complete Auto Transit, St. Louis, Missouri appearing on page 41725 should be corrected to read TA–W–7993.

Signed at Washington, D.C. this 11th day of August 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–25184 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL CAPITAL PLANNING COMMISSION

Action of Agency Senior Executive Service Performance Review Board

Consistent with the Civil Service Reform Act of 1978, as amended by H.R. 7542, FY–80 Supplemental Appropriation Act, and supplemented by OPM guidance in their memorandum of July 21, 1980, to Heads of Departments and Agencies regarding SES Performance Review Boards, the National Capital Planning Commission has approved the payment of one SES bonus during FY–1980. The Commission's schedule for payment of this bonus will be September 1, 1980, and is awarded for the SES performance year ending June 15, 1980.

For further information regarding SES Performance Review Board contact: Malcolm L. Trevor, Assistant Executive Director for Administration, National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576.

August 14, 1980.

Edward H. Rickels,

Secretary.

[FR Doc. 80–25217 Filed 8–18–80; 8:45 am]

BILLING CODE 7520–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Folk Arts Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Panel to the National Council on the Arts will be held September 5, 1980 from 9:00 a.m. to 5:30 p.m. at Pueblosan Ildefonso, Route 5, Santa Fe, New Mexico and September 6, 1980 from 9:00 a.m. to 5:30 p.m. at St. John's College, Santa Fe, New Mexico.

A portion of this meeting will be open to the public on September 6, 1980 from 1:30 p.m. to 5:30 p.m. at St. John's College, Great Hall for the Folk Arts presentation and questions and answers with the public.

The remaining sessions of this meeting on September 5, 1980 from 9:00 a.m. to 5:30 p.m. and September 6, 1980 from 9:00 a.m. to 1:30 p.m. (at St. John's College, Senior Common Room) are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to

9:00 a.m. to 5:30 p.m. in room 1426,

Dated: August 7, 1980.

Type of Meeting: Part Open—Open 9/4–9:00

Authority to Close Meeting

Further information about topics to be

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 13, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-25207 Filed 8-18-80; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Panel (Design Fellowship); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Fellowships) will be held September 8, 1980 from 9:00 a.m. to 5:30 p.m., September 9, 1980 from 9:00 a.m. to 5:30 p.m., and September 10, 1980 from 9:00 a.m. to 5:30 p.m. in Room 1422, Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 7, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-25210 Filed 8-18-80; 8:45 am]

BILLING CODE 7537-01-M

Museum Panel (Catalog and Utilization); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel (Catalog and Utilization) to the National Council on the Arts will be held September 15, 1980 from 9:00 a.m. to 5:30 p.m. and September 16, 1980 from 9:00 a.m. to 5:30 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b or Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 5, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-25206 Filed 8-18-80; 8:45 am]

Billing Code 7537-01-M

Museum Panel (Collecting Maintenance); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel (Collection Maintenance) to the National Council on the Arts will be held September 9, 1980 from 9:00 a.m. to 5:30 p.m. in Room 1340, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 7, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-25208 Filed 8-18-80; 8:45 am]

BILLING CODE 7537-01-M

Museum Panel (Conservation); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel (Conservation) to the National Council on the Arts will be held September 8, 1980 from 9:00 a.m. to 5:30 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5; United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endownment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 5, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endownment for the Arts.

[FR Doc 80-25209 Filed 8-18-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Information Science and Technology; Notice of Meeting

In accordance with the Federal Advisory Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Information Science and Technology.

Date and Time: September 4 and 5, 1980, 9 a.m. to 4 p.m each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Part Open—Open 9/4–9:00 a.m. to 12:00 p.m.—Closed 9/4–1:00 p.m. to 4:00 p.m.—Closed 9/5–9:00 a.m. to 12:00 p.m. Part Open—Open 9/5–1:00 p.m. to 4:00 p.m.

Contact Person: Mrs. Darcey Higgins, Room 1250, National Science Foundation, Washington, DC 20550. Telephone: 202/357–9572. Persons planning to attend should notify Mrs. Higgins by August 28, 1980.

Summary Minutes: May be obtained from the Contact Person, at the above stated address.

Purpose of Committee: To provide advice, recommendations, and oversight concerning support for activities related to the Foundation's program in information science and technology.

Agenda: Open—Septemer 4, 1980

9:00 a.m.–12:00 p.m.

Welcome and Introductory Remarks.
Review of the Division of Information Science and Technology Activities for FY 1980.
Working Group on Information Technology: Discussion of Meeting and Report.
Miscellanea.

Closed—September 4, 1980

1:00 p.m.–4:00 p.m.

Review and comparison of declined proposals (and supporting documentation) with the successful awards under the Division of Information Science and Technology, including review of peer review materials and other privileged material.

Closed—September 5, 1980

9:00 a.m.–12:00 p.m.

Continuation of review and comparison of declined proposals (and supporting documentation) with the successful awards under the Division of Information Science and Technology, including review of peer review materials and other privileged material.
Report to the Director.

Open—September 5, 1980

1:00 p.m.–4:00 p.m.

Organizational Locus of IST.
Public Participation.

Reason for Closing

The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical.

These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) the Government in the Sunshine Act.

Authority to Close Meeting

This determination was made by the Committee Management Oficer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Note: This notice is being amended primarily to change the times of the open and closed sessions. The agenda is basically the same as that published in the **Federal Register** on Friday, August 15, 1980.

Dated: August 14, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80-25080 Filed 8-18-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Fuel; Meeting

The ACRS Subcommittee on Reactor Fuel will hold a meeting on September 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC., to complete its review of NUREG–0630, "Cladding Swelling and Rupture Models for LOCA Analysis." Notice of this meeting was published July 25, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, September 3, 1980, 1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 13, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-24984 Filed 8-18-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Philosophy and Criteria; Meeting

The ACRS Subcommittee on Safety Philosophy and Criteria will hold a meeting on September 3, 1980 in room 1046, 1717 H St., NW, Washington, DC to review the NRC Staff's general approach to developing licensing requirements in a number of areas, including Near-Term Construction Permit (NTCP) requirements, the effect of nonsafety systems on plant safety functions, and the requirements for future LWRs. The Subcommittee also plans to begin a review of the nuclear accident cascades issue.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, September 3, 1980, 9:00 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff,

their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 13, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-24982 Filed 8-18-80; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women.

Date, Time and Place: September 15, 1980.
Open Business Session: 8:30 a.m. to 4:30 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.
Purpose: General Business Meeting.
Date, Time and Place: September 16, 1980.
Open Business Session: 1:30–3:00 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C.
Purpose: General Business Meeting.

Dated: August 12, 1980.

Warlene Gary,

Deputy Director.

[FR Doc. 80-25185 Filed 8-18-80; 8:45 am]

BILLING CODE 4510-23-M

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women.

Date, Time and Place: September 16, 1980.
Closed Business Session: 8:30 a.m. to 12:00 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.
Purpose: To discuss the 1980 Report to the President.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. During its closed session, the Committee will discuss and plan the format of the 1980 Report to the President.

Dated: August 12, 1980.

Warlene Gary,

Deputy Director.

[FR Doc. 80-25187 Filed 8-18-80; 8:45 am]

BILLING CODE 4510-23-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21677; (70–6117)]

Alabama Power Co.; Post-Effective Amendment Relating To Issuance and Sale of Short-Term Notes to Banks and Dealers in Commercial Paper; Exception From Competitive Bidding

August 11, 1980.

Notice is hereby given that Alabama Power Company ("Alabama"), P.O. Box 2641, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company ("Southern"), a registered holding company, has filed post-effective amendments to the application-declaration in this proceeding, pursuant to Sections 6, 7 and 12 of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 45 and 50(a)(5) promulgated thereunder, as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama currently is negotiating to extend its Revolving Credit Agreement with a group of banks for a period of one year so that the expiration date thereof will be September 30, 1981, rather than September 30, 1980. The Revolving Credit Agreement provides a $500,000,000 line of credit. Alabama has additional lines of credit from other banks, principally in the State of Alabama, aggregating approximately $75,000,000 and issues commercial paper. Alabama now requests that its short-term borrowing authorization be extended through September 30, 1981 and be increased to permit a maximum aggregate principal amount outstanding at any one time of $575,000,000.

In general, borrowings are in the form of unsecured promissory notes, of a maturity of nine months or less. Except for commercial paper, issued for much shorter periods, such notes are prepayable without penalty. The credit agreements give Alabama the right to refund maturing obligations, within the limits specified in those agreements. The base interest rate on the first $250,000,000 of borrowing under the Revolving Credit Agreement is the higher of 108% of the base rate of Citibank, or ½ of 1% above a defined commercial paper rate. The base rate will apply only if Alabama's bond rating is upgraded to a single A category. An additional ¼ of 1% is added, as long as the bond rating is lower. Borrowings above the $250,000,000 level cost 110% of the applicable rate.

A two part commitment fee is charged, consisting of 7½% of the variable interest rate which is or would be applicable to the first $250,000,000 of borrowings and 10% of the rate applicable to the second $250,000,000, plus ½ of 1% on the unborrowed portion. No compensating balance is required. The local bank credit agreements generally require compensating balances of up to 20% of the amounts borrowed, and bear interest at the lenders' prime rates.

Based on the current Citibank rate of 10% per annum, Alabama's current bond ratings and the approximate balance of $286 million as of July 31, 1980, the effective interest rate under the Revolving Credit Agreement is 14.21% per annum. The effective interest rate on the local bank borrowings, based on an 11% prime rate, is approximately 13.75% per annum.

The Revolving Credit Agreement was entered into as of March 31, 1978, pursuant to an order entered in this proceeding on March 24, 1978 (HCAR No. 20469), which reserved jurisdiction over $250,000,000 of the authorized borrowings thereunder. Further orders on March 23, 1979 (HCAR No. 20970), and August 16, 1979 (HCAR No. 21188) were entered, the last reserving jurisdiction over the final $100,000,000.

The capitalization of Alabama, at December 31, 1979 and March 31, 1980 consisted of:

[Dollars in millions]

	Dec. 31, 1979		Mar. 31, 1980	
	Amount	Percent	Amount	Percent
Long-term debt	$1,884	51.4	$1,883	50.4
Interim obligation	353	9.6	394	10.5
Current maturities	24	0.6	29	0.8
Subtotal	2,261	61.6	2,306	61.7
Preferred stock	384	10.5	382	10.2
Common equity	1,023	27.9	1,050	28.1
Total	3,668	100.0	3,739	100.0

Prolonged rate litigation had precluded long-term financing, except for common equity supplied by Southern and compelled a sharp curtailment of Alabama's previously planned expenditures. Relief obtained in 1979 has permitted Alabama to develop a financial plan, based on bond and stock financing, which contemplates the payment of the accumulated borrowings in 1980 and a return to a normal level and cycle of short term borrowings and security sales. The first $100,000,000 of new bonds were sold pursuant to the order of June 3, 1980 (HCAR No. 21605) and an application-declaration for sale of the next series, of the same size, is pending. Alabama's gross capital addition budget is about $425 million for 1980, of which about $130 million had been expended as of April 11, 1980, and its budget for the first three quarters of 1981 is about $370 million.

The timing of the full financing program is subject to market conditions and other variable factors. Alabama states that the extension of the Revolving Credit Agreement and the borrowing authorization requested is necessary to permit it to cope with possible delays and contingencies.

The Alabama Public Service Commission has authorized the proposed transactions. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment.

Notice is further given that any interested persons may, not later than September 4, 1980, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-delcarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25229 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11299; (811–502)]

Bondstock Corp.; Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Applicant Has Ceased To Be an Investment Company.

August 11, 1980

Notice is hereby given that Bondstock Corporation ("Applicant") 1100 One Washington Plaza, Tacoma, Washington 98402, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on May 19, 1980, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a corporation organized and existing under the laws of the State of Delaware and that on December 1, 1948, it registered under the Act. Its initial registration statement filed pursuant to the Securities Act of 1933 ("1933 Act"), covering 288,500 shares of common stock, became effective on December 20, 1949. According to the application, in December, 1954, Applicant became an open-end investment company and commenced a continuous offering of its shares. Applicant represents that it maintained the continuous offering of its shares until January 23, 1980, when the sale of such shares was permanently discontinued.

According to the application, the Board of Directors approved, originally on February 21, 1979, and subsequently on May 18, 1979, August 24, 1979, and January 22, 1980, an Agreement and Plan of Reorganization ("Plan") whereby substantially all the property, assets and goodwill of Applicant would be transferred to Security Equity Fund, Inc. ("Equity"), a company registered under the Act as an open-end, diversified, management investment company, in exchange for shares of voting capital stock of Equity. The plan was approved by Applicant's shareholders on January 23, 1980.

Applicant states that prior to the exchange of shares pursuant to the Plan, it paid, in cash or through dividend reinvestment, a final dividend of $0.11 per share to shareholders of record on January 22, 1980. Applicant further states that as of January 23, 1980, the effective date of the reorganization, it had 2,463,973.622 shares of common stock, par value of $1.00, outstanding, with a per share net asset value of $6.25, resulting in an aggregate net asset value of $15,405,330 for Applicant, and that the net asset value per share of Equity as of that date was $5.91.

Applicant states that pursuant to the Plan: (1) all of its assets, including portfolio securities, were transferred to Equity in exchange solely for shares of capital stock of Equity, and (2) the number of shares of Equity received by Applicant was determined on the basis of relative net asset values, using Equity's valuation procedures to value Applicant's assets. Applicant further states that immediately following the closing, it distributed pro rata to its shareholders of record as of the close of business on January 23, 1980, the shares of Equity it received, which resulted in Applicant's shareholders receiving 1.058 shares of Equity for each share of Applicant.

Applicant represents that $61,417 of expenses were incurred in connection with the reorganization and that such expenses were allocated between Applicant and Frank Russell Co., Inc. ("Russell"), its investment adviser, with Russell paying $20,000 and Applicant bearing the remaining $41,417. Applicant estimates that approximately $7,000 of these expenses would have been incurred in the normal course of operations. Applicant states that at this time it has no security holders; it is not a party to any litigation or administrative proceedings; and it is not now engaged and does not propose to engage in any business activities other than those necessary for the winding up of its affairs.

On February 12, 1980, Applicant filed Articles of Dissolution with the Secretary of the State of Delaware. Applicant states that as of April 30, 1980, it had retained assets of $110.85 to cover miscellaneous expenses connected with its dissolution and that as of March 30, 1980, there was a remaining balance of $3,017.73 in a corporate checking account representing thirty dividend checks not yet presented

to the bank for payment, which constitutes the only known liability of Applicant which remains outstanding. Applicant represents that it has made extensive efforts to locate the shareholders entitled to those dividend checks and that Security Management Company (investment adviser of Equity) will continue the efforts to locate such shareholders. In addition, Applicant states that such monies will be held by Russell in a separate bank account until shortly before the end of 1980, at which time the monies will be distributed under applicable escheat laws.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary

[FR Doc. 80-25228 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11294; (812-4649)]

Chase Fund of Boston, et al.; Filing of an Application for an Order of the Commission Exempting Certain Proposed Exchanges From Section 22(c) of the Act and Rule 22c-1 Thereunder Pursuant to Section 6(c) of the Act and Exempting Such Proposed Exchanges From Section 17(a) of the Act Pursuant to Section 17(b) of the Act

August 8, 1980.

In the matter of The Chase Fund of Boston, Shareholders' Trust of Boston, Chase Special Fund of Boston, Inc., Chase Frontier Capital Fund of Boston, Inc., Phoenix Investment Counsel of Boston, Inc., 535 Boylston Street, Boston, Massachusetts 02116; Phoenix Fund, Inc., Phoenix Capital Fund, Inc., Phoenix Equity Planning Corporation, Phoenix Mutual Life Insurance Company, One American Row, Hartford, Connecticut 06115.

Notice is Hereby Given that Shareholders' Trust of Boston ("Shareholders"), Chase Special Fund of Boston, Inc. ("Special"), Chase Frontier Capital Fund of Boston, Inc. ("Frontier"), Phoenix Fund, Inc. ("Phoenix Fund"), Phoenix Capital Fund, Inc. ("Phoenix Capital") (hereinafter collectively referred to as "the Funds"), and The Chase Fund of Boston ("Chase"), all registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, and Phoenix Investment Counsel of Boston, Inc. ("Phoenix of Boston") and Phoenix Equity Planning Corporation ("PEPCO"), both registered under the Investment Advisers Act of 1940 ("Advisers Act") and Phoenix Mutual Life Insurance Company ("Phoenix Mutual") (the Funds, Chase, Phoenix of Boston, PEPCO and Phoenix Mutual hereinafter referred to as "Applicants"), filed an application on February 1, 1980 and an amendment thereto on June 17, 1980, in connection with the proposed acquisition by Chase, after the recapitalization of Chase as a series fund, of the assets of the Funds ("Proposed Exchanges"). The application requests an order of the Commission (1) pursuant to Section 6(c) of the Act exempting the Proposed Exchanges from the provisions of Section 22(c) of the Act and Rule 22c-1 thereunder, to permit the issuance of shares of the series fund at net asset value, but at a price other than the price next determined after receipt of a purchase order; and (2) pursuant to Section 17(b) of the Act exempting the Proposed Exchanges from the provisions of Section 17(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Chase was organized as a Massachusetts business trust on April 7, 1958. As of October 31, 1979, Chase had net assets of approximately $25.5 million beneficially owned by approximately 8,000 shareholders. The primary investment objective of Chase is capital appreciation.

Shareholders was organized as a Massachusetts business trust on March 13, 1948. As of October 31, 1979, Shareholders had net assets of approximately $38 million beneficially owned by approximately 5,800 shareholders. The investment objectives of Shareholders are: (a) the conservation of principal; (b) the production of a reasonable amount of current income; and (c) the possible enhancement of principal income.

Special was organized as a corporation under the laws of the Commonwealth of Massachusetts on February 24, 1969. As of October 31, 1979, Special had net assets of approximately $10.8 million beneficially owned by approximately 4,900 shareholders. The investment objective of Special is capital appreciation. Special may from time to time employ "leverage" by borrowing from banks at fixed amounts of interest and investing the borrowed funds to increase its ownership of securities holdings above the amounts otherwise possible.

Frontier was organized as a corporation under the laws of the Commonwealth of Massachusetts on January 26, 1968, and has qualified as a diversified, open-end investment company since December 1, 1971. As of October 31, 1979, Frontier had net assets of approximately $12.6 million beneficially owned by approximately 6,700 shareholders. Frontier's investment objective is appreciation of investors' capital. Frontier may from time to time employ "leverage" by borrowing from banks at fixed amounts of interest and investing the borrowed funds to increase its ownership of securities holdings above the amounts otherwise possible.

Phoenix Fund was incorporated under the laws of the State of Maryland on January 2, 1970. As of October 31, 1979, Phoenix Fund had net assets of approximately $16.9 million beneficially owned by approximately 2,200 shareholders. Phoenix Mutual owned outright 5.4 percent of the outstanding voting securities of Phoenix Fund as of October 31, 1979. The investment objective of Phoenix Fund is to produce

current income with due regard for both capital enhancement and the need to protect capital values.

Phoenix Capital was incorporated under the laws of the State of Maryland on December 4, 1979. On October 31, 1979, the net assets of Phoemix Capital were approximately $8.9 milliom beneficially owned by approximately 1,700 shreholders. Phoenix Mutual owned by approximately 1,700 shareholders. Phoenix Mutual owned outright 7.6 percent of the outstanding voting securities of Phoenix Capital as of October 31, 1979. Phoenix Capital's investment objective in th seek long-term growth of capital.

Phoenix of Boston is the investment adviser for Chase, Shareholders, Special and Frontier. Phoenix of Boston will be the investment adviser of the series fund following the proposed transactions. All of the outstanding stock of Phoenix of Boston is owned by PEPCO, a wholly owned subsidiary of Phoenix Mutual.

PEPCO is the investment adviser to Phoenix Fund and Phoenix Capital and is the national distributor for Chase and the Funds and will continue to be the national distributor for the series fund following the proposed transactions. PEPCO also performs bookkeeping and pricing services for Chase and the Funds and will perform those services for the series fund. PEPCO also performs bookkeeping and pricing services for Chase and the Funds and will perform those services for the series fund. PEPCO is registered as a broker dealer in approximately 40 states. PEPCO was organized in 1968 and acquired Phoenix of Boston (then known as John P. Chase, Inc.) in 1975.

Phoenix Mutual is a mutual life insurance company formed under the laws of Connecticut. It is in the business of writing ordinary and group life and health insurance and annuities.

Pursuant to a Plan of Recapitalization, Chase proposes to amend its Declaration of Trust to change its name to Phoenix-Chase Series Fund ("Series Fund") and to provide its trustees with the authority from time to time to divide the class of shares into two or more series of shares ("Recapitalization"). The amendment to the Declaration of Trust would establish and designate the following series of shares: Phoenix-Chase Growth Fund, Phoenix-Chase Stock Fund, Phoenix-Chase Balanced Fund, Phoenix-Chase Money Market Fund, and Phoenix-Chase High Yield Fund. Under the amendment to the Declaration of Trust, shares of Chase outstanding as of the effective date of the amendment would become shares of the Growth Fund series. The conversion ratio would be share for share, and all assets and liabilities of Chase would be assets and liabilities of the Growth Fund series. Simultaneously, the registration statement of Chase on Form N-1 would be amended to provide for the public offering of shares of the Growth Fund series, the High Yield Fund series, and the Money Market Fund series. Applicants further state that Phoenix Mutual has made an initial investment of $4,500,000 in shares of the High Yield Fund series and $2,200,000 in shares of the Money Market Funds series, as a result of which it owns over five percent of the shares in the Series Fund.

Applicants further propose that following such Recapitalization and pursuant to the terms of Agreements and Plans of Reorganization ("Plans"), each of the Funds will, on a Closing Date to be determined separately for each of the Funds, transfer substantially all of its assets to one of the series (hereinafter referred to as "the applicable series") of the Series Fund in exchange for shares of beneficial interest in such applicable series ("Proposed Exchanges"). The applicable series for each of the Funds is as follows:

Fund	Phoenix-chase series
Shareholders	Balanced Fund
Phoenix Fund	Balanced Fund
Special	Stock Fund
Frontier	Stock Fund
Phoenix Capital	Growth Fund

Applicants state that it is expected although not required by the Plans that all the Proposed Exchanges will occur simultaneously and that the value of the assets of each of the Funds, for purposes of the Proposed Exchanges, will be net asset value computed as of the Effective Date for each of the Funds. The Effective Date of the Proposed Exchanges will be as of the close of business on the day preceeding the Closing Date. The net asset value of each of the Funds will be computed on the basis of the valuation procedures customarily used by the respective Funds, adjusted for the payment of amounts for expenses, liabilities for dividends or distributions, appraisal rights and any Federal or state income or other taxes arising out of the Proposed Exchanges and dissolution of the Funds. Applicants state that the Money Market Funds series and the High Yield series will not be involved in the Proposed Exchanges.

According to the Plans, the number of shares of the applicable series to be issued will be determined by dividing the aggregate value of the net assets to be transferred by each of the Funds by the net asset value per share of the applicable series on the Effective Date of the Proposed Exchanges. The net asset value per share of the applicable series as of the Effective Date will be determined to the nearest one-hundredth of as full-cent as follows:

a. In the case of any series which has assets prior to the Closing Date, by using the same valuation procedures used by it in respect to the public sale of its shares as set forth in its then current prospectus, or

b. In the case of any other series, by dividing the value of the net assets (determined as set forth above) of the Fund (or, if closings are held with more than one fund on the same day involving the same series, then whichever such fund has the greater number of shareholders) by the aggregate number of its full and fractional shares outstanding as of the Effective Date.

Applications further represent that no adjustment will be made in the number of shares of the Series Fund issued based on unrealized appreciation or depreciation or capital loss carryovers as the boards of directors or trustees of Chase and the Funds have each determined that the benefit or detriment, if any, to their shareholders from such amounts would be too speculative or theoretical to justify such action.

Pursuant to the Plans, each of the Fund will approve a Plan of complete Liquidation and Dissolution pursuant to which the shares of the applicable series received on the Closing Date will be distrubuted by such Fund ratably to its shareholders in exchange for and complete cancellation and retirement of all its issued and outstanding shares and in complete liquidation of such Fund, followed by its dissolution.

According to the application, as supplemented by a letter of August 4, 1980, the amendment of the Declaration of Trust for Chase was approved by Chase's shareholders on July 12, 1980, and such amendment became effective on July 28, 1980. The letter further states that the relevant Plans are expected to be submitted for the approval of the respective shareholders of each Fund prior to October 31, 1980.

The obligations of Chase and each of the Funds in the Proposed Exchanges are conditional upon: the approval of the requisite number of shareholders of Chase and the Funds, respectively, of the amendment to the Declaration of Trust of Chase and of the Plans; the registration with the Commission of the shares of beneficial interest of the Series Fund to be issued; the receipt of a favorable ruling from the Internal Revenue Service or a written opinion of counsel, satisfactory to the parties, as to

the qualification of the Proposed Exchanges as tax-free reorganizations under the Internal Revenue Code; comparable rulings or opinions concerning the tax consequences under Massachusetts law; the issuance of an order from the commission providing an exemption from the applicable provisions of sections 17 and 22 of the Act as amended, or such other orders as such parties' counsel may deem advisable; and certain standard conditions relating to compliance with the terms of the Plans.

Applicants state that it has been agreed that all expenses directly related to the Recapitalization and Proposed Exchanges, over and above the normal annual meeting expenses of Chase and the Funds, will be borne by Phoenix of Boston, the investment adviser of Chase, Shareholders, Special, Frontier and the Series Fund (following the recapitalization of Chase). Applicants further state, however, that each Fund may choose to pay some portion of the reorganization expenses if it is found to be consistent with its representations in the Plans, more particularly, the representation of each party to the Proposed Exchanges that such amounts will be limited as nearly as possible to the amount necessary to preserve its status as a regulated investment company under Subchapter M of the Internal Revenue Code.

Applicants further state that the terms of the proposed investment advisory contract between the Series Fund and Phoenix of Boston provide for an adviser's fee of 0.5 percent of the first $500 million, 0.45 percent of the next $500 million and 0.40 percent of the excess over $1 billion of the average net asset value of the Series Fund for the fiscal year. The advisory fee applicable to the growth Fund series will be 0.45 percent until the total net assets of the Series Fund exceed $100,000,000. According to the application, such amounts will be prorated among the series in proportion to their respective aggregate average of daily net asset values. Applicants further state that a proposed financial agent agreement with PEPCC provides that PEPCO will prepare tax returns and bookkeeping schedules required by the Series Fund's auditors and the at PEPCO will provide essentially the same services relating to the registration and qualification of the Series Fund and its shares with the Commission and the states in which such shares are offered as are now provided in the existing investment advisory agreements of Chase and the funds.

Section 22(c) of the Act, and Rule 22c–1 thereunder together provide, in part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

The Plans provide that the assets of each of the Funds and the net asset value of the applicable series will be valued as of the time of the close of trading on the New York Stock Exchange on the last business day preceding the Closng Date of the Proposed Exchanges. Thus, the "forward pricing" requirement of Section 22(c) of the Act and Rule 22c–1 thereunder will not be met.

Applicants assert that, as a practical matter, valuation of the assets of the Funds and the shares of the applicable series as of the last full business day preceding the Closing Date of the Proposed Exchanges is required in order to determine the number of shares of such applicable series to be issued on the Closing Date. Applicants further represent that, since the Closing Date for each of the Proposed Exchanges will be agreed upon by the respective parties of such Proposed Exchange prior to the time of valuation of the respective assets and shares, and since the net asset values of both the applicable series (if it has assets) and the assets of all the Funds to be acquired on the Closing Date for each Proposed Exchange would be valued at the same time, the proposed valuation procedure will be fair to the shareholders of Chase and the Funds, and will not present any of the potential for abuse that Rule 22c–1 is intended to prevent. Moreover, Applicants state that an investor purchasing or redeeming Fund shares on the Closing Date would not be adversely affected by the proposed valuation procedure since his shares would be valued (as shares of the combined series) in the normal fashion at the price determined as of the close of business on the Closing Date.

Section 69(c) of the Act provides, in part, that the commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants represent that an order exempting Applicants from the provisions of Section 22(c) and Rule 22c–1 thereunder to the extent necessary to enable valuations as of the time set forth above is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act.

Section 17(a) of the Act provides, in part, that it shall be unlawfull for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer.

Applicants state that no person owns beneficially 25 percent or more of the voting securities of Chase or any of the Funds and, therefore, that Chase and the Funds are not "affiliated persons" or "affiliated persons of affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, Phoenix of Boston, a wholly-owned subsidiary of PEPCO, is the investment adviser of Chase and all the Funds except Phoenix Fund and Phoenix Capital. PEPCO, which in turn is a wholly-owned subsidiary of Phoenix Mutual, serves as the investment adviser of Phoenix Fund and Phoenix Capital. In addition, the boards of directors and officers of Phoenix Fund and Phoenix Capital are identical, and Phoenix Fund and Phoenix Capital have four officers (but no directors) in common with Chase and the other Funds, and one common director with Frontier. Moreover, Phoenix Mutual shares common directors or officers with all the other Applicants. Accordingly, the Applicants might be deemed to be "affiliated persons" of each other by virtue of being under common control within the meaning of Section 2(a)(3) of the Act and therefore the Proposed Exchanges might be deemed to be prohibited by Section 17(a) of the Act. The application states that, while the Applicants do not necessarily agree with such an interpretation, they have deemed it advisable to resolve any uncertainty by requesting the Commission to exercise its exemptive authority under Section 17(b) of the Act.

Accordingly to the application, it is also possible that Phoenix Fund, Phoenix Capital and the Series Fund might be deemed to be "affiliated persons of an affiliated person" of each other by virtue of Phoenix Mututal's ownership of 5% or more of the stock of Phoenix Fund and Phoenix Capital, and the initial investment by Phoenix Mututal in the shares of the High Yield Fund series and Money Market Fund series, as a result of which Phoenix Mutual is the owner of over 5% of the shares of the Series Fund. Thus, the Proposed Exchange of the assets of Phoenix Fund and Phoenix Capital for the shares of the Series Fund would be prohibited by Section 17(a) of the Act absent an exemption under Section 17(b). Similarly, Phoenix Mutual's status as an "affiliated person" of the Series Fund would also prohibit Phoenix Mutual from exhanging its shares of Phoenix Fund and Phoenix Capital for shares of the Series Fund without an exemption under Section 17(b) of the Act.

Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicant state that the terms of the Proposed Exchanges are reasonable and fair and do not involve overreaching by any of the Applicants and that the Proposed Exchanges are consistent with the investment policies of each applicant and with the general purposes of the Act. In this regard, Applicant represent that the Proposed Exchanges are expected to result in certain economies to the shareholders of Chase and the Funds attributable to a consolidation of audit, legal and transfer agent fees, printing costs and lower state tax liability. Accordingly to the application, these expense savings are expected to exceed any additional costs due to greater advisory fees (for shareholders of Chase), the allocation of Blue Sky fees to the Series Fund (currently paid by the national distributor in the case of Chase and Shareholders), and less extensive expense reimbursement provisions (compared to the present contracts of Special, Frontier, Phoenix Fund and Phoenix Capital). Furthermore, Applicants assert that the proposed transactions will provide benefits in terms of the ease with which shareholders can manage their investments to best meet their changing investment and financial needs without ceasing to be shareholders of the Series Fund. Therefore, Applicants asserts that the Proposed Exchanges are expected to benefit Chase and the Funds and their respective shareholders by providing better investment services and opportunities at lower cost. The terms of the Plans as stated in the application provide for the acquisition of the Funds by the Series Fund on the basis of the net asset values of each of the Funds as of the Closing Date for the relevent Proposed Exchange. Thus, the shareholders of all the Funds will receive shares of the applicable series having an aggregate net asset value equal to the net asset value of the shares that such shareholders held prior to the Proposed Exchange.

Applicants assert that the payment of expenses by Phoenix of Boston is consistent with the provisions, policies, and purposes of the Act, that it is to the benefit of the shareholders of Chase and each of the Funds, and that it is fair and proper on the basis of the benefits to Phoenix of Boston as a result of the proposed transactions and the fact that Phoenix of Boston and PEPCO initiated the proposed transactions and submitted them to Chase and the Funds on the basis that they would bear such expenses. Applicants further believe that the provision of the Plans by which Chase and each of the Funds may choose to pay a portion of such expenses, limited as nearly as possible to the amount necessary to assure that such Fund will preserve its status under Subchapter M, gives each party the flexibility to achieve the most beneficial result from all points of view.

Applicants state that the respective Directors and Trustees of each of the Funds and Chase have concluded that there would be no dilution of any shareholder's interest as a result of the Proposed Exchanges, based on the payment of expenses by Phoenix of Boston to the extent stated above, the fact that no undue costs will be incurred in liquidating a portion of any Fund's assets, and because the proposed exchange of assets for shares will be based on relative net asset values. In this regard, Applicants further represent that Phoenix of Boston is currently involved in a class action suit brought by certain former clients of a wholly-owned inactive subsidiary of Phoenix of Boston, Chase Investment Services of Boston, Inc. ("CIS"), which alleges, among other things, violations of the anti-fraud provisions of the Advisers Act and the Securities Exchange Act of 1934. Phoenix of Boston states that, although it considers that this litigation would not currently impair its ability to perform its obligations to the Series Fund, an adverse decision could result in a materially adverse impact on Phoenix of Boston and its operations. Applicants further state, however, that neither Chase nor any of the Funds is a party to this litigation or a member of any class which might be benefited thereby and that, accordingly, the respective Trustees and Directors of Chase and the Funds have concluded that shareholders of neither Chase nor the Funds would suffer any potential dilution in connection with the litigation as a result of the Proposed Exchanges.

Applicants assert that the Proposed Exchanges are consistent with the investment objectives and policies of each of the Funds and Chase. The assets of each of the Funds will be transferred to the applicable series having investment objectives and policies similar to those of the original Fund. The investment objective of the Growth Fund series, into which Chase and Phoenix Capital will be transferred, is to seek long-term growth of capital. The Stock Fund series, into which the assets of Frontier and Special will be transferred, has an investment objective of aggressively seeking capital appreciation. To achieve this objective, the Stock Fund series may employ "leverage" by borrowing money and using such proceeds to increase its investments in securities above the amounts otherwise possible. The Balanced Fund series, into which the assets of Shareholders and Phoenix Fund will be transferred, has the investment objective of providing reasonable income, long-term capital growth, and conservation of capital. Thus, according to the application, the objectives of each of the Funds are virtually identical to the investment objectives of the applicable series. Applicants further state that any significant sales of portfolio securities which occur in connection with the Proposed Exchanges will occur prior to the transfer of such Fund's assets. Moreover, since it has been determined that the portfolios of the various Funds comprising each series are consistent with the investment objectives of that series, Applicants represent that no undue brokerage commissions or other costs will be incurred in liquidating a portion of any Fund's assets.

With respect to the claims of dissenting shareholders of Chase and the Funds under the Plans, Applicants represent that, to the extent that the state law remedy conflicts with that prescribed by the Act, such claims will be processed in accordance with the Act and the rules of the Commission, and that the shareholders of Chase and the Funds will be advised that the state

(b) by eliminating the 3:00 p.m.

remedy might therefore be unavailable. Applicants further represent that Phoenix Mutual will participate in the Proposed Exchanges as a shareholder of Phoenix Fund and Phoenix Capital on the same basis as all other shareholders of Chase and the Funds.

Notice if further given, That any interested person may, not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affadavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25227 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–17054; File No. SR–CBOE–1980–20]

Chicago Board Options Exchange, Inc.; Proposed Rule Change; Self-Regulatory Organizations

Pursant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

"Brackets indicate deletions; italics indicate new material"

Trading Rotations

Rule 6.2. No change.

. . . Interpretations and Policies:

.01 No change.

.02 [A trading rotation in any class of option contracts may be completed even though completion of the rotation will result in the effecting of transactions on the Exchange after 3:10 p.m. (Chicago time) provided that either (i) trading in the underlying security opens or reopens after 2:45 p.m. (Chicago time) and promptly thereafter but before 3:10 p.m. (Chicago time) the Exchange commences an opening or reopening rotation in the corresponding options class; or (ii) such rotation is initiated due to the declaration of a "fast market" pursuant to Rule 6.6 and notice of the rotation is publicly disseminated prior to its initiation and not later than 3:00 p.m. (Chicago time).]

Transactions may be effected in a class of options after 3:10 p.m. (Chicago time) if they occur during a trading rotation. Such a trading rotation may be employed in connection with the opening or reopening of trading in the underlying security after 2:30 p.m. (Chicago time), or due to the declaration of a "fast market" pursuant to Rule 6.6. The decision to employ a trading rotation after 2:30 p.m. shall be publicly announced on the trading floor and over the CBOE newswire prior to the commencement of such rotation. No more than one trading rotation may be conducted after 3:10 p.m. Any trading rotation conducted after 3:10 p.m. may not begin until ten minutes after news of such rotation is disseminated. If a trading rotation is in progress and Floor Officials determine that a final trading rotation is needed to assure a fair and orderly close, the rotation in progress shall be halted and a final rotation begun as promptly as possible after 3:10 p.m.

Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to simplify and to make more realistic the procedures concerning the effecting of transactions after 3:10 p.m. in the following manner:

(a) by providing that the CBOE shall announce to the trading floor and shall disseminate over its newswire the use of any trading rotation commencing after 2:30 p.m.,

(b) by eliminating the 3:00 p.m. deadline for the decision to employ a trading rotation,

(c) by directing that a rotation in progress be halted and a new rotation begun as soon as possible after 3:10 p.m. if a final rotation is required, and

(d) by limiting to one the number of rotations that may be employed after 3:10 p.m. in a class of options and by requiring 10 minutes notice before the start of a rotation after 3:10 p.m. in order to inform the public.

The present restrictions concerning trading rotations that result in the effecting of transactions after 3:10 p.m. have proven unworkable and impractical. At times they have prevented Floor Officials from employing such rotations when conditions warranted them. After 3:00 p.m. Floor Officials are precluded from authorizing a trading rotation to end the day's trading, no matter how chaotic trading may be or how great the benefits a rotation might provide by facilitating an orderly close. Just before 3:00 p.m. Floor Officials face the difficult task of anticipating trading conditions during the next several minutes, so that the use of a trading rotation can be announced by 3:00 p.m. Under such circumstances the Exchange may be committed to conduct trading rotations when market conditions cease to warrant them. For example, on October 10, 1979, a day of record volume on the New York Stock Exchange, CBOE Floor Officials, electing what they believed to be the most prudent course of action, prepared for a continuation of heavy activity after 3:00 p.m. by announcing the use of final trading rotations in options of four underlying securities. After 3:00 p.m., order flows slowed significantly and in none of the classes would a final rotation have been required to ensure an orderly close.

In addition, the rule change provides an opportunity for the execution of orders that arrive on the floor before the close but miss their turn in an opening or reopening rotation that begins after 2:45 p.m. (Chicago time). The following is an example of this problem. XYZ has reopened on the NYSE at 2:50 p.m. An order for Jan 40 XYZ calls arrives on the floor at 2:52 p.m. but misses the Jan 40 XYZ series in the rotation because it is a near-term, in-the-money option that opens first. The reopening rotation is completed after 3:10 p.m., and the order which had been placed 18 minutes before the normal CBOE close has not had an opportunity to be executed. The proposed change would allow the reopening rotation to be halted and a final rotation to be commenced. The delay in trading an option series if the rotation is halted is meaningless, since stock trading is halted and the final stock price will be the operative one after 3:00 p.m.

The basis under the act for the proposed rule change is section 6(b)(5), the promotion of just and equitable principles of trade.

No comments on this proposed rule change have been solicited or received from members.

The Exchange does not believe that the proposed change will impose any burden on competition.

On or before September 23, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 9, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

August 8, 1980.

[FR Doc. 80-25221 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–17060; File No. SR–CSE–80–4]

Cincinnati Stock Exchange; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exhange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: The Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Change.

Rule 11.1 (a) of the Rules of the Exchange is proposed to be amended. Set forth below is the current text of Section 11.1 (a) with brackets used to indicate words to be deleted and itlaics used to indicate words to be added by the amendment: 11.1 (a) Except as provided below, the hours of trading on the Exchange shall be from 10:00 a.m. to [4:15 p.m.] *4:05 p.m.* local Cincinnati time during normal business days.

The Cincinnati Stock EXchange's Statement of Basis and Purpose.

The proposed change in trading hours was approved by the Board of Trustees of The Cincinnati Stock Exchange on July 23, 1980.

The Basis for the proposed rule change is Sec. 6(b)(5) of the Securities Exchange Act in that the principal purpose of the proposed rule change is to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

No comments were solicited from Members nor were any received.

The proposed Rule change imposes no burden on competition.

The foregoing Rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549 Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the prinicipal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 9, 1980. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 13, 1980.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25219 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–17055; File No. SR–DTC–80–4]

Proposed Rule Change; Self Regulatory Organizations; Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 4, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of Proposed Rule Change

(a) Surcharges for services in securities issues which carry transfer agent fees:

[Deposits..... $1.60 per deposit.
Withdrawals..... $4.30 per withdrawal by Transfer-Transfer Control Form (W/T-TCF).
$5.10 per Urgent Withdrawal Request (COD)].

Transfer agent fee	Deposit surcharge	Withdrawal-by-transfer (WT) surcharge	Urgent certificate-on-demand (COD) surcharge
$3.50 or less per certificate	$1.25	$4.25	$6.10
More than $3.50 per certificate	$3.10	$8.60	$11.20

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to pass along to Participants with activity in securities issues which carry transfer agent fees the costs incurred by The Depository Trust Company (DTC) because of such fees. The transfer agent fees are not imposed by DTC for services rendered to Participants and therefore such fees are

not contained in the Fee Schedule for Major Services.

The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by equitably allocating charges other than dues or fees among DTC Participants.

Comments were not and are not to be solicited from Participants. All Participants have been notified of proposed surcharges by a DTC Important Notice (Exhibit 2 to DTC's filing on Form 19b–4A, SR–DTC–80–4).

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 9, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 8, 1980.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80–25222 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Electro-Heat Resources Corp; Order of Suspension of Trading

August 7, 1980

It appearing to the Securities and Exchange Commission that there has been recent unusual and unexplained market acivity in the securities of Electro-Heat Resources Corp. and questions have been raised concerning the adequacy and accuracy of publicly disseminated information about orders which Electro-Heat Resources Corp. has received, contracts it has entered into, and negotiations in which it is or was participating, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Electro-Heat Resources Corp.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:00 a.m. on August 7, 1980 and terminating on August 16, 1980 at midnight.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80–25224 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 17057; (SR–MCC–80–1)]

Midwest Clearing Corp. ("MCC"); Order Approving Proposed Rule Change

August 11, 1980

On June 24, 1980, MCC 120 South LaSalle Street, Chicago, Illinois 60603 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change that would permit the chairman of the board of directors to set the salary of the president of the corporation and would designate the chairman as the chief executive officer of the corporation.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16944, June 30, 1980) and by publication in the **Federal Register** (45 FR 45992, July 8, 1980). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and, in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the above mentioned rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80–25225 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11298; (812–4669)]

O.N. Market Yield Fund, Inc.; filing of Application for Order Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Section 2(a) (41) of the Act and Rules 2a–4 and 22c–1 Thereunder

August 11, 1980

Notice is Hereby Given that O.N. Market Yield Fund, Inc. ("Applicant") P.O. Box 237 Cincinnati, Ohio 45201, registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified, management investment company, filed an application on April 22, 1980, and amendments thereto on June 23, 1980, and July 11, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized as a Maryland corporation; that O.N. Investment Management Company, a wholly owned subsidiary of the O.N. Equity Sales Company ("Equity Sales"), serves as its investment adviser. Equity Sales is a wholly owned subidiary of The Ohio National Life Insurance Company ("Ohio National"). Applicant further states that although a registration statement relating to its securities has been filed under the Securities Act of 1933, such securities will not be offered or sold directly to the public. Sales will be restricted to Ohio National, its affiliated companies and separate accounts, and pension and profit sharing plans of such companies. According to the application, Applicant's investment objective is to provide investors with maximum current income consistent with liquidity and preservation of capital. Applicant states that it will seek to achieve this objective by investing in a variety of high quality money market instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (i) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of this application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant states that purchasers of annuity contracts to be funded by its shares, including sophisticated individual, institutional and professional investors, seek stability of principal and a steady flow of predictable and competitive investment income. Applicant submits that the amortized cost method of valuation will enable it to achieve these investment objectives. it asserts that by maintaining a portfolio of high quality money market instruments with a dollar weighted average portfolio maturity of 120 days or less, it will avoid the possiblity of significant volatility in the value of portfolio securities and will be able to offer its shareholders the stability they desire and yield commensurate with yields available in the general money market. Applicant further asserts that by restricting its portfolio to securities with a relatively short maturity, it will avoid the problems of overvaluation and undervaluation with which the Commission was concerned in Investment Company Act Release No. 9786.

Applicant represents that for the foregoing reasons, its Board of Directors has determined in good faith that, in light of Applicant's characteristics, the amortized cost method of valuation, absent unusual circumstances, is appropriate and preferable to the use of a market based valuation method, and reflects the fair value of portfolio securities. Applicant further represents that it will continually monitor valuations indicated by methods other than amortized cost in order to effect any changes in the valuation method necessary to assure that portfolio securities are valued in a fair manner in view of all pertinent factors. Accordingly, Applicant requests exemptions from the provision of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit its assets to be valued as set forth in the application, as described above, whether or not market quotations are available.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that the granting of the requested exemptions would be consistent with these standards.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which its Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

2. Applicant will maintain a dollar weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value of $10.00 per share; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar weighted average portfolio maturity in excess of 120 days.[1]

3. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $10.00 per share.

4. Included within the procedures to be adopted by Applicant's Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $10.00 amortized cost price per share, and the maintenance of records of such review.

(b) In the event such deviation from the $10.00 amortized cost price exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from Applicant's $10.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

5. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the

[1] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

capital. The trusts which comprise the

V. 45 A. G. 1980 UMI

procedures (and any modifications thereto) described in paragraph 3 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Director's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 4(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is Further Given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delgated authority.

Shirley F. Hollis,
Assistant Secretary.

[FR Doc. 80-25230 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11301; (812–4626)]

Paine, Webber Municipal Bond Fund First Series, et al.; Filing of Application for an Order Pursuant to Section 11 of the Act Permitting Certain Exchange Transactions and Pursuant to Section 6(c) of the Act Exempting Such Exchange Transactions From the Provisions of Section 22(d) of the Act

August 12, 1980

In the matter of Paine, Webber Municipal Bond Fund First Series, Paine, Webber Municipal Bond Fund Second Series, Paine, Webber Municipal Bond Fund Third Series, The Municipal Bond Fund, Series One through Series Forty-Three, The Municipal Bond Trust, Series Forty-Four and subsequent series, The Municipal Bond Trust, Multi-State Program Series One and subsequent series, The Corporate Bond Trust, Series One and subsequent series, The Municipal Bond Trust, Puerto Rico Series One and subsequent series, The Municipal Bond Trust, Multiple Maturity Series One and subsequent series, and Paine Webber, Jackson & Curtis Incorporated 1221 Avenue of the Americas, New York, New York 10023.

Notice is Hereby Given that Paine, Webber Municipal Bond Fund First Series; Paine, Webber Municipal Bond Fund Second Series, Paine, Webber Municipal Bond Fund Third Series (the "Paine Webber Series"); The Municipal Bond Fund, Series One through Series Forty-Three, The Municipal Bond Trust, Series Forty-Four and subsequent series (the "National Series"); The Municipal Bond Trust, Multi-State Program Series One and subsequent series (the "Multi-State Series"); The Corporate Bond Trust, Series One and subsequent series (the "Corporate Series"); The Municipal Bond Trust, Puerto Rico Series One and subsequent series (the Puerto Rico Series); The Municipal Bond Trust, Multiple Maturity Series One and subsequent series (the "Multiple Maturity Series") (collectively referred to as the "Trusts"); and Paine, Webber, Jackson & Curtis Incorporated (the "Sponsor") (the Trusts and the Sponsor collectively referred to as "Applicants") filed an application on March 12, 1980, and an amendment thereto on July 14, 1980, for an order of the Commission (1) pursuant to Section 11 of the Act permitting the exchange of units of certain series of the Trusts for units of other series of the Trusts, pursuant to an exchange option, at net asset value plus a sales charge of $15 per unit, and (2) pursuant to Section 6(c) of the Act exempting such exchange transactions from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Paine Webber Series and the National Series consist of separate unit investment trusts created under the laws of the State of New York by separate trust indentures and agreements among the Sponsor, United States Trust Company of New York as trustee (the "Trustee") and Standard & Poor's Corporation as evaluator (the "Evaluator"). The investment objectives of the trusts comprising the Paine Webber Series and the National Series are federally tax exempt income, and conservation of capital through investment in a fixed portfolio of interest-bearing municipal bonds: The Multi-State Series consists of separate unit investment trusts created under the laws of the State of New York by separate trust agreements among the Sponsor, the Trustee and the Evaluator. The portfolios of the trusts comprising the Multi-State Series contain interest-bearing municipal bonds issued by governmental entities located within the state for which each trust is named and the investment objective of each trust is conservation of capital, and interest income that is exempt from federal, state and local income taxation for residents of the state for which such trust is named. The Corporate Series consists of separate unit investment trusts created under the laws of the State of Massachusetts by separate trust agreements among the Sponsor, the Trustee and Interactive Data Corporation as evaluator. The portfolio of each trust comprising the Corporate Series contains primarily bonds, debentures, notes and other debt securities issued by corporations. A limited portion of the portfolios of the Corporate Series may, under certain circumstances, contain long-term obligations issued or guaranteed by the United States or agencies or instrumentalities thereof, or corporate obligations which have been privately placed. The investment objective of each trust comprising the Corporate Series is to provide interest income consistent with the preservation of

capital. The trusts which comprise the Paine Webber Series, the National Series, the Multi-State Series and the Corporate Series are each registered separately under the Act as unit investment trusts.

The trusts which will comprise the Puerto Rico Series and the Multiple Maturity Series are not currently in existence. Applicants represent, however, that they anticipate those trusts will be organized and will register under the Act. Applicants state that the portfolio of each trust comprising the Puerto Rico Series is expected to consist solely of interest-bearing municipal obligations issued by governmental entities located within the Commonwealth of Puerto Rico and that the investment objective of the trusts in the Puerto Rico Series will be conservation of capital, and interest income which is exempt from federal, state and local income taxation. Applicants also represent that the Multiple Maturity Series will consist of one unit investment trust with a portfolio which will contain interest-bearing municipal obligations with long-term maturities of not less than fifteen years, and another separate trust with a portfolio which will contain municipal obligations with intermediate-term maturities of not more than fifteen years.

Applicants state that, although the Sponsor is not obligated to do so, the Sponsor intends to maintain a market for units of each Trust and continuously offer to purchase any such unit at a price based on the aggregate offering price of the underlying securities in the portfolio of the Trust plus accrued interest. Applicants also state that the Sponsor may discontinue such purchases at any time. In that event, the Sponsor may nonetheless purchase units of the trusts at a price based on the current redemption price of those units. However, if the Sponsor repurchases units of a Trust in the secondary market at prices below the offering prices of the underlying bonds in the portfolio of such Trust, it will not resell those units in the secondary market.

Applicants state that the Sponsor proposes to allow purchasers of units of any of the Trusts ("Certificateholders") to exchange the units which they hold for units of other series of the same Trust or for units of other Trusts that the Sponsor has repurchased in the secondary market and has not tendered to the Trustee for redemption (collectively, the "Exchange Trusts"). The Sponsor proposes to permit such exchanges at net asset value plus a sales charge per unit exchanged (the "Exchange Option"). Applicants represent that the Exchange Option would be available only with respect to units of various series of the Exchange Trusts for which a secondary market is being maintained. A Certificateholder wishing to dispose of such units would be able to exchange them for units of another series of the same Trust or for units of any series of any other Exchange Trust. Applicants state that although it is not presently contemplated that Certificateholders will be permitted to exchange their units either for units of other series of the same Trust or for units of any series of the Exchange Trusts that are available on original issue, the Sponsor may, at some future date, permit such exchanges. Applicants state that while the Sponsor intends to hold the Exchange Option open under most circumstances, the Sponsor will reserve the right to modify, suspend or terminate the Exchange Option at any time without further notice to Certificateholders.

Applicants represent that an exchange effected pursuant to the Exchange Option would operate in a manner essentially identical to any secondary market transaction, except that the Sponsor proposes to impose a reduced sales charge on each exchange transaction. When a Certificateholder notifies the Sponsor of his desire to exercise the Exchange Option, he will receive a current prospectus for one or more series of the Exchange Trusts in which the Certificateholder has indicated an interest and for which the Sponsor has units, acquired in the secondary market, available to offer to the Certificateholder. Applicants state that, under the Exchange Option, a Certificateholder would not be permitted to make up any difference between the amount representing the units being submitted for exchange and the units being acquired, and would be permitted to acquire only whole units of the Exchange Trust. Applicants state that any excess amounts representing the sales price of units submitted for exchange would be resubmitted to the Certificateholder.

Units of any series of the Trusts repurchased by the Sponsor in the secondary market are normally resold to the public at a public offering price based on the offering side evaluation of the underlying portfolio securities in the portfolio of the Trust plus a sales charge of 3.846% of the public offering price. The Sponsor proposes to sell units of the Exchange Trusts pursuant to the Exchange Option at a price equal to the offering side evaluation of the underlying portfolio securities of the Exchange Trust divided by the number of units outstanding (the "Unit Offering Price"), plus a charge of $15 per unit. Applicants maintain that such $15 charge can be expected to approximate about 1½% of the Unit Offering Price. The Sponsor reserves the right to increase or decrease such charge from time to time in the event of fluctuations in the costs of professional assistance and operational expenses in connection with its exchange transactions. Applicants state that a Certificateholder who has purchased units of a series and paid a per unit sales charge which was less than the per unit sales charge of the series of the Exchange Trust for which such Certificateholder desires to exchange would be permitted to exercise the Exchange Option at the Unit Offering Price plus the sales charge of $15 per unit, provided that such Certificateholder has held his units for a period of at least eight months. Any Certificateholder who has not held the units to be exchanged for an eight month period would be permitted to exchange such units for units of an Exchange Trust only at the Unit Offering Price plus a sales charge based on the greater of $15 per unit or an amount which, together with the initial sales charge paid in connection with the acquisition of the units being exchanged, equals the sales charge of the series of the Exchange Trust for which such Certificateholder desires to exchange, determined as of the date of the exchange.

Section 11(c) of the Act provides, in pertinent part, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Applicants request an order, pursuant to Section 11 of the Act, approving the terms of the Exchange Option.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security isued by such

company to any person except at a

for a Certificateholder to acquire units

Persons who request a hearing, or

application finds that a registered

1935 ("Act") designating Section 6 of the

$8 million each with The First National

company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of each of the Trusts for effecting regular secondary market transactions is greater than the charge which would be applicable to transactions under the Exchange Option. Rule 22d–1 under the Act permits certain variations in sales charges, none of which, it is alleged by Applicants, will be applicable to transactions under the Exchange Option.

Section 6 (c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act or any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order, pursuant to Section 6(c) of the Act, exempting exchanges of units of the Trusts made pursuant to the Exchange Option from the provisions of Section 22(d) of the Act.

Applicants submit that a person desiring to dispose of units of one series and acquire units of another series of the Exchange Trusts may wish to do so for a number of reasons, such as a change in his or her particular investment goals or requirements, or in order to take advantage of possible tax benefits flowing from the exchange. Applicants state that the purpose of the Exchange Option is to permit the Sponsor to pass on to the Certificateholder the cost savings resulting from reductions in time and expense related to advice, financial planning and operational expense required for the Exchange Option. Accordingly, Applicants maintain that the proposed reduction in sales charge would be beneficial to all Certificateholders.

Applicants assert that requiring Certificateholders, who hold units of a series of a Trust which were acquired at a lower sales charge than the sales charge with respect to the units of the Exchange Trust to be acquired under the Exchange Option, to pay an adjusted sales charge for such exchange during the first eight months in which they have held the units to be exchanged maintains equitable treatment of various Certificateholders. For example, Applicants maintain that it may be possible, under certain circumstances, for a Certificateholder to acquire units of a series of a Trust with a lower sales charge and immediately to convert such units into other units of the same Trust or into units of a series of another Exchange Trust and to pay a lower total sales charge than a Certificateholder purchasing units of such Trust directly. Applicants state that, under normal circumstances, this situation is unlikely, since the initial sales charge on direct purchases of units of series with a lower sales charge (currently 3.846% of the public offering price) plus the conversion sales charge ($15 per unit, or approximately 1½% of the public offering price) usually will exceed the sales charge related to direct purchases of units of series of that Trust. However, if the price of the units of a series of an Exchange Trust were to increase sharply, the $15 sales charge on an exchange could represent less than the difference between the lower sales charge and the higher sales charge. Thus, Applicants argue that an exchanging Certificateholder could obtain an unfair advantage when compared to investors making direct purchases of units of a series of such Trust. Applicants submit that, after a Certificateholder of a series with a lower sales charge has held units for a period of eight months, the discriminatory nature of permitting that person to effect an exchange transaction at a reduced sales charge is not as compelling, and thus the possible abuse outlined above is no longer material.

Notice is Further Given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As aprovided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion.

Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25220 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11296; (811–2596)]

Trinwall Bond Fund, Inc.; Application Pursuant to Section 8(f) of the Act for an Order Declaring That Applicant has Ceased To Be an Investment Company

August 8, 1980.

Notice is hereby given that Trinwall Bond Fund, Inc. ("Applicant") 61 Broadway, New York, New York 10006, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 17, 1980, pursuant to Section 8(f) of the Act and Rule 8f–1 thereunder, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Maryland corporation, states that it filed a registration statement under Section 8(b) of the Act on or about September 29, 1975. Applicant states that on February 11, 1980, pursuant to an agreement approved by Applicant's shareholders on February 8, 1980, The Putnam Income Fund, Inc. ("Putnam") acquired substantially all of Applicant's assets in exchange for Putnam common stock, and Applicant mailed a confirmation to each shareholder reflecting his pro rata number of such shares.

Applicant submits that it has no assets, nor any debts or other liabilities outstanding. Applicant also submits that it is not a party to any litigation or administrative proceedings. Applicant states that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs. According to the application, it is contemplated that articles of dissolution will be filed in Maryland in the near future.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25223 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21678; (70–6475)]

Vermont Yankee Nuclear Power Corp.; Proposal To Issue and Sell Short-Term Promissory Notes; Order Authorizing Solicitation of Proxies

August 12, 1980.

Notice is hereby given that Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), 77 Grove Street, Rutland, Vermont 05701, a subsidiary of New England Electric System and Northeast Utilities, both registered holding companies, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6 of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

Vermont Yankee's Articles of Association currently provide that, without the vote of a majority of the outstanding cumulative preferred stock, Vermont Yankee shall not issue or incur unsecured indebtedness if, immediately thereafter, (i) the aggregate principal amount of all unsecured indebtedness would exceed 20% of the total principal amount and par value of the other securities of Vermont Yankee or (ii) the aggregate principal amount of all short-term unsecured indebtedness of Vermont Yankee would exceed 10% of such total. As of April 30, 1980, the total principal amount and par value of the other securities of the Company equaled $15,866,802.

Vermont Yankee projects that its cash needs in connection with the acquisition of an inventory of uranium, the fabrication of nuclear fuel and the installation in its plant of capital improvements necessary to meet requirements of the Nuclear Regulatory Commission will amount to $27,400,000 for the balance of 1980, and $32,200,000 and $28,300,000 for 1981 and 1982, respectively. While Vermont Yankee intends ultimately to finance these needs through appropriate fuel financing and other long-term arrangements, the present state of the capital markets and general economy make the timing of such financings important. Therefore Vermont Yankee desires to obtain the necessary vote of its preferred stock to permit it to increase its unsecured indebtedness so that initially some of these needs may be met by such borrowings, thereby giving Vermont Yankee more flexibility in the timing of the placement of its long-term financings.

Vermont Yankee intends to call a special meeting of its preferred stockholders and to solicit proxies by mailing to each holder a letter, solicitation statement and proxy. Such mailing will be followed by oral solicitations of certain stockholders and brokers by officers and other regular employees of Vermont Yankee. In addition, Vermont Yankee will retain the services of Georgeson & Co., New York, New York, to act as Vermont Yankee's agent in soliciting proxies from preferred stockholders by oral follow-up soliciations.

Vermont Yankee currently maintains lines of credit in the principal amount of $8 million each with The First National Bank of Boston and Chase Manhattan Bank ("Banks"). As of April 30, 1980, Vermont Yankee had $4.2 million in loans outstanding under those lines. As of that date, 5% of the principal amount and par value of the other securities of the Company equaled $7,082,000.

As described above, Vermont Yankee will have substantial capital needs during 1980 and beyond. If it is successful in obtaining the necessary preferred stockholder vote, Vermont Yankee intends to seek from the Banks (and possibly other banks also) increased lines of credit until lines aggregating a maximum of $32 million have been obtained and will also investigate the possibility of borrowing from its sponsor companies pursuant to the Capital Funds Agreements. Borrowings under the lines of credit would be made during a period not to exceed three years and would be evidenced by Vermont Yankee's promissory notes, maturing up to three months after their date of issue and bearing interest at the lenders' prime rate. The Banks presently require Vermont Yankee to maintain compensatory balances equal to 7.5% of the lines and 7.5% of any borrowings thereunder. Assuming full borrowings under the lines and a prime rate of 12% per annum, the effective costs of borrowings would be 14.1%. Borrowings from sponsors under the Capital Funds Agreements would be at a rate not less than 1½% above the prime rate.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $10,000, including legal fees of $3,000 and soliciting agents fee of $3,500. The Vermont Yankee Public Service Board has jurisdiction over the issuance of short-term debt in excess of 12% of Vermont Yankee's total assets. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 5, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated

address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies of Vermont Yankee's preferred shareholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies of Vermont Yankee's preferred stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25228 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/311]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on September 3 of the Working Group on International Data Flows of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 2:00–5:00 p.m. The meeting will be held in Room 1105 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss, first, a report of the U.S. delegation to the Intergovernmental Bureau of Informatics meeting in Rome June 23–27 and, second, the preparations of the U.S. delegation to the OECD Working Group on Information, Computers and Communication Policy (ICCP) meeting to be held September 9–11 in Paris.

Requests for further information on the meeting should be directed to Jack Orlando, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–1717.

Members of the public wishing to attend the meeting must contact Mr. Orlando's office in order to arrange entrance to the State Department building.

The Chairman of the working group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 8, 1980.

R. M. Roberts,

Acting Executive Secretary.

[FR Doc. 80-25155 Filed 8-18-80; 8:45 am]

BILLING CODE 4710-07-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Equal Employment Opportunity Commission	2
Federal Home Loan Bank Board	3
Federal Reserve System	4
National Commission on Libraries and Information Science	5
Nuclear Regulatory Commission	6, 7
Overseas Private Investment Corporation	8
Parole Commission	9, 10
Harry S Truman Scholarship Foundation	11

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., August 15, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1551-80 Filed 8-15-80; 9:45 am]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 2 p.m. (Eastern Time), Thursday, August 21, 1980.

PLACE: Commission Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Proposed revisions to several sections of Volume 1 of the Compliance Manual.
2. Report on Commission Operations by the Executive Director.

Closed to the Public

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202 634–6748).

This Notice Issued August 15, 1980.

[S-1552-80 Filed 8-15-80; 10:03 am]

BILLING CODE 6570-06-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10:30 a.m., August 15, 1980.

PLACE: 1700 G Street NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall, (202–377–6677).

MATTERS TO BE CONSIDERED: Application to Increase Accounts of an Insurable Type by Purchase of Branch Offices of El Dorado Savings and Loan Association, Placerville, California by Westdale Savings and Loan Association, Los Angeles, California.

No. 379, August 14, 1980.

[S-1555-80 Filed 8-15-80; 12:21 pm]

BILLING CODE 6720-01-M

24

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Friday, August 22, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-1556-80 Filed 8-15-80; 10:14 am]

BILLING CODE 6210-01-M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 3 to 6 p.m.

DATE: September 18, 1980.

PLACE: Sheraton Ritz Hotel, Minneapolis, Minnesota.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive Session (closed meeting Sec 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS Area Code 202–653–6252.

Mary Alice Hedge Reszetar,

Associate Director, NCLIS.

August 12, 1980.

[S-1550-80 Filed 8-15-80; 9:33 am]

BILLING CODE 7527-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, August 20, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Wednesday, August 20

10 a.m.

Time Reserved for Discussion of Management-Organization and Internal Personnel Matters (Approximately 2 hours—closed—EX 2 and 6).

2 p.m.

Discussion of North Anna (Approximately 1½ hours—public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

AUTOMATIC TELEPHONE SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should

reverify the status on the day of the meeting.

Roger M. Tweed,
Office of the Secretary.
August 13, 1980.

[S-1559-80 Filed 8-15-80; 2:05 pm]
BILLING CODE 7590-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, August 21, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

1. Discussion of Sequoyah (Approximately 1½ hours—public meeting).
2. Affirmation Session (Approximate 10 minutes—public meeting).
   a. Delegation of Rulemaking Authority.
   b. Physical Protection of Category II Material in Transit.

ADDITIONAL INFORMATION: By vote of 3–0 (Chairman Ahearne not present) on August 14, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that the Affirmation of Certification from Licensing Board in TMI Restart Proceeding, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498, Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,
Office of the Secretary.
August 14, 1980.

[S-1558-80 Filed 8-15-80; 2:05 pm]
BILLING CODE 7590-01-M

8

OVERSEAS PRIVATE INVESTMENT CORPORATION.

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday August 26, 1980 at 9 a.m. (Closed Portion); 11 a.m. (Open Portion).

PLACE: Offices of the Corporation. Seventh (7th) floor Board Room; 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

MATTERS TO BE CONSIDERED:

(Closed to the Public: 9 a.m. to 11 a.m.)

1. Finance Project in African Country.
2. Finance Project in East Asia Country.
3. Finance Project in East Asia Country.
4. Finance Project in Central American Country.
5. Insurance Project in African Country.
6. Insurance Project in East Asia Country.
7. Insurance Project in Middle East Country.
8. Insurance Project in Middle East Country.
9. Insurance Project in Middle East Country.
10. Claims Report
11. Information Reports
12. Information Report (Insurance).

FURTHER MATTERS TO BE CONSIDERED:

(Open to the Public: 11 a.m.)

1. Approval of Minutes of Previous Board Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Policy: Developmental Emphasis for OPIC Programs.
4. Investors' Communications Program.
5. The OPIC Budget: Proposed for FY 82 and Amended for FY 81.
6. Allocation to Reserves.
7. Financial Statements.
8. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 632–1839.

Elizabeth A. Burton,
Corporate Secretary.
August 15, 1980.

[S-1554-80 Filed 8-15-80; 11:04 am]
BILLING CODE 3210-01-M

9

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Wednesday, August 13, 1980, at 9:30 a.m.

PLACE: Room 826A, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On August 12, 1980, the Commission determined that the above meeting be continued to 10:30 a.m. on Friday, August 15, and that the location be changed to Room 724, 320 First Street, NW., for consideration of case referrals from Regional Commissioners. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S-1557-80 Filed 8-15-80; 2:04 pm]
BILLING CODE 4410-01-M

10

PAROLE COMMISSION:

TIME AND DATE: Tuesday, August 26, 1980, at 9:30 a.m.–5:30 p.m.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On August 13, 1980, the Commission determined that the consideration of case referrals be interrupted between 11 a.m. and 12 noon on August 26, 1980, and that the meeting shall go into open session during that time for a general discussion of administrative matters concerning the operation of the U.S. Parole Commission. From 12:00 noon until 5:30 p.m., consideration of case referrals at a closed session shall continue. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst, National Appeals Board, U.S. Parole Commission, (202) 724—3094.

[S-1556-80 Filed 8-15-80; 2:04 pm]
BILLING CODE 4410-10-M

11

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 10 a.m., Monday, September 8, 1980.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Call meeting to order. Check quorum.
2. Adoption of proposed agenda.
3. Approval of minutes of April 14, 1980 meeting.
4. Report of Chairman—
   (a) Remarks on Fiscal Year 1980 Annual Report.
   (b) Discussion on Educational Testing Service.
   (c) Discussion of awards ceremony.
   (d) Discussion of proposed date of next Board meeting, 10:00 a.m., Monday, April 13, 1981.
   (e) Resolution to empower Chairman to renew service contracts and conclude other Foundation business.

5. Report of Executive Secretary—
   (a) Discussion of current status of Truman Scholars.
   (b) Discussion of selection of 1981 Truman Scholars.
   (c) Report on work-experience program.
   (d) Report on Foundation operations.
6. New business.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary, telephone, 202–395–4831.

Malcolm C. McCormack,
Executive Secretary.

[S-1560-80 Filed 8-15-80; 4:27 pm]
BILLING CODE 6115-02-M

V 45 AG 1980 UMI

federal register

Tuesday
August 19, 1980

Part II

Federal Emergency Management Agency

Procurement; Policies and Procedures

FEDERAL EMERGENCY MANAGEMENT AGENCY

41 CFR Chapter 44

[Docket No. FEMA-MISC-41-44]

Procurement

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This part provides policies and procedures for the acquisition of personal property and nonpersonal services (including construction) by the Federal Emergency Management Agency (FEMA). They implement the Federal Procurement Regulations in accordance with 41 CFR 1–1.008.

DATE: This rule is effective August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Steve Goodman, Acquisition Management Division, Federal Emergency Management Agency, Washington, D.C. 20472. Telephone (202) 653–7270.

SUPPLEMENTARY INFORMATION: FEMA published interim rules dealing with procurement in the **Federal Register** on December 6, 1979 (44 FR 70424). This established Chapter 44 of Title 41 of the Code of Federal Regulations.

No substantial public comments were received in response to the interim rule.

Several minor typographical errors have been corrected.

Subparts 1.600 Debarred, Suspended and Ineligible Bidders and 4.900—Unsolicited Proposals have been added to meet the implementation requirements of 41 CFR 1–1.606(a) and 1–4.903 respectively. Subpart 1.5000—Criteria for use of Procurement Contracts Versus Assistance Instruments has been added to aid in the selection of the appropriate instrument as required by Public Law 95–224 "The Federal Grants and Cooperative Agreement Act of 1977". Subsections 7.5002–7, 7.5002–8 and 7.5002–11 have been deleted to avoid duplication of like or similar provisions of 41 CFR 1–7. Subsection 7.5002–1 "Rights in Data" has been replaced with 7.5002–1 "Rights in Technical Data and Computer Software". In addition, Subsections 7.5002–13 "Cost Accounting Standard Withdrawal" and 7.5002–14 "Rights in Technical Data Specific Acquisition" have been added.

These changes deal with public contracts and publication of the modifications as a proposal for public comments is not required by 5 U.S.C. 553. The new material is needed immediately to carry out FEMA business.

Accordingly, Chapter 44 of Title 41 is amended by replacing those rules published December 6, 1979 at 44 FR 70424 with the following:

CHAPTER 44—FEDERAL EMERGENCY MANAGEMENT AGENCY

Part
44–1 General.
44–2 Procurement by formal advertising.
44–3 Procurement by negotiation.
44–4 Special types and methods of procurement.
44–7 Contract clauses.
44–11 Federal, State and local taxes.
44–13 Government property.
44–15 Contract cost principles and procedures.
44–16 Procurement forms.
44–30 Contract financing.

PART 44–1—GENERAL

Sec.
44–1.000 Scope of part.

Subpart 1.0—Regulation System

44–1.001 Scope of subpart.
44–1.002 Purpose.
44–1.003 Authority.
44–1.004 Applicability.
44–1.004–50 Relationship to the FPR.
44–1.005 Exclusions.
44–1.006 Issuance.
44–1.006–1 Code arrangement.
44–1.006–2 Publication.
44–1.006–3 Copies.
44–1.006–4 Coordination.
44–1.007 Arrangement.
44–1.007–1 General plan.
44–1.007–2 Numbering and titling.
44–1.007–3 Citation.
44–1.009 Deviation.
44–1.009–1 Description.
44–1.009–2 Procedure.

Subpart 1.2—Definition of Terms

44–1.201 Definitions.
44–1.202 Agency.
44–1.204 Director.
44–1.205 Procuring office.
44–1.206 Head of the procuring activity.
44–1.250 Contractor.
44–1.251 Subcontractor.
44–1.252 Supplies and property.
44–1.253 Personal services.
44–1.254 Nonpersonal services.
44–1.255 Program office.
44–1.256 Project Officer.
44–1.257 Interagency agreement.
44–1.258 Memorandum of Understanding.

Subpart 1.3—General Policies

44–1.302 Procurement sources.
44–1.302–1 General.
44–1.302–3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.
44–1.305 Specifications.
44–1.305–6 Military and departmental specifications.
44–1.317 Noncollusive bids and proposals.

Subpart 1.4—Procurement Responsibility and Authority

44–1.400 Scope of subpart.
44–1.401 Responsibility of the Head of the Procuring Activity.
44–1.404 Selection, designation and termination of designation of Contracting Officers.
44–1.404–1 Selection.
44–1.404–2 Designation.

Subpart 1.6—Debarred, Suspended, and Ineligible Bidders

44–1.600 Scope of subpart.
44–1.602 Establishment, maintenance and distribution of a list of concerns or individuals debarred, suspended or declared ineligible.
44–1.602–1 Bases for entry on the debarred, suspended and ineligible bidders list.
44–1.603 Treatment to be accorded firms and individuals in debarred, suspended or ineligible status.
44–1.604 Causes and conditions applicable to determination of debarment.
44–1.604–1 Procedural requirements relating to the imposition of debarment.
44–1.605 Suspension of bidders.
44–1.605–1 Causes and conditions under which FEMA may suspend contractors.
44–1.606 Agency procedures.

Subpart 1.7—Small Business Concerns

44–1.700 General.
44–1.704 FEMA direction and operation.
44–1.704–1 Small business advisor.
44–1.704–2 Small business specialists.
44–1.705 Cooperation with the Small Business Administration.
44–1.705–3 Screening of procurements.
44–1.706 Procurement set-asides for small business.
44–1.706–2 Review of set-aside recommendations initiated by small business specialists.
44–1.706–3 Withdrawal or modification of set-asides.
44–1.706–5 Small business class set-asides.
44–1.706–50 Review of class set-aside programs.
44–1.713 FEMA contracts with the Small Business Administration.
44–1.750 FEMA responsibilities and functions pursuant to Section 8(a) of the Small Business Act.

Subpart 1.8—Labor Surplus Area Concerns

44–1.800 Scope of subpart.
44–1.803 FEMA direction and operation.
44–1.803–1 Labor surplus area advisor.
44–1.803–2 Labor surplus area specialists.
44–1.803–3 Screening of procurements.
44–1.803–4 Review of set-aside recommendations initiated by labor surplus area specialists.
44–1.804 Partial set-asides for labor surplus area concerns.
44–1.804–4 Withdrawal of set-asides.
44–1.804–50 Modifications of set-asides.

Subpart 1.10—Publicizing Procurement Actions

44–1.1003–2 General requirements.

Sec.
44–1.1003–4 Synopsis of subcontract opportunities.

Subpart 1.13—Small Business Concerns Owned and Controlled by One or More Socially and Economically Disadvantaged Individuals

44–1.1300 Scope of subpart.
44–1.1302 Policy.
44–1.1303 Solicitation representation.

Subpart 1.50—Criteria for Use of Procurement Contracts Versus Assistance Instruments

44–1.5000 Scope of subpart.
44–1.5001 Procurement contracts.
44–1.5001–1 Definition.
44–1.5001–2 Examples of procurement contracts.
44–1.5002 Assistance.
44–1.5002–1 Grants.
44–1.5002–2 Cooperative agreements.
44–1.5002–3 Examples of involvement that is not substantial.
44–1.5002–4 Examples of substantial involvement.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44–1.000 Scope of part.

This part sets forth policies and procedures concerning: The Federal Emergency Management Agency Procurement Regulation System; definition of terms used throughout this chapter; general policies of procurement; small business concerns; labor surplus area concerns; publicizing procurement actions; and the use of contracts versus assistance documents.

Subpart 1.0—Regulation System

§ 44–1.001 Scope of subpart.

This subpart sets forth introductory information pertaining to the Federal Emergency Management Agency Procurement Regulation System; its purpose, authority, applicability, issuance, arrangement, implementation, supplementation and deviation procedure.

§ 44–1.002 Purpose.

This subpart establishes the Federal Emergency Management Agency Procurement Regulations (FEMAPR) for the codification and publication of uniform policies and procedures applicable to the Federal Emergency Management Agency (FEMA) in the procurement of personal property and nonpersonal services (including construction).

§ 44–1.003 Authority.

41 CFR 1–1.008 requires that as portions of Federal Procurement Regulation (FPR) material are prescribed, agencies shall publish in the **Federal Register** implementing regulations deemed necessary for business concerns, and others properly interested, to understand basic and significant agency procurement policies and procedures which implement, supplement, and deviate from the FPR. In compliance with this requirement, the FEMAPR are herein prescribed.

§ 44–1.004 Applicability.

The FEMAPR apply to all procurements within FEMA but do not apply to the placement or administration of cooperative agreements or grants.

§ 44–1.004–50 Relationship to the FPR.

Material published in the FEMAPR will not repeat, paraphrase or otherwise restate material in the FPR except to the extent necessary to implement, supplement or deviate therefrom.

§ 44–1.005 Exclusions.

Certain FEMA policies and procedures which come within the scope of the FEMAPR nevertheless may be excluded from the FEMAPR. These exclusions include the following categories:

(a) Policy or procedure for subject matter which bears a security classification.

(b) Policy or procedure which is expected to be effective for a period of six months or less.

(c) Policy or procedure which is being instituted on an experimental basis for a reasonable period.

(d) Policy or procedure of an internal nature which shall be issued as either a FEMA Handbook or Standard Operating Procedure or a revision to either of the above.

§ 44–1.006 Issuance.

§ 44–1.006–1 Code arrangement.

The FEMAPR are issued in the Code of Federal Regulations as Chapter 44 of Title 41, Public Contracts and Property Management.

§ 44–1.006–2 Publication.

The FEMAPR, as deemed necessary by the Director, Office of Finance and Administration, for information to the general public, are published initially in the daily issue of the **Federal Register** and in final cumulated form in title 41 of the Code of Federal Regulations. The above regulations are printed in separate loose-leaf volume form for distribution to appropriate FEMA organizational elements.

§ 44–1.006–3 Copies.

Copies of the FEMAPR in **Federal Register** and Code of Federal Regulations form may be purchased at nominal cost from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Upon request, copies of the FEMAPR loose-leaf volume and amendments and additions thereto will be distributed to agency procuring offices and other appropriate agency organizational units by the Policy and Support Branch Acquisition Management Division.

§ 44–1.006–4 Coordination.

In the development of FEMAPR issuances, the views of interested agency procuring offices, and, where appropriate and feasible, the views of interested business and professional organizations, will be considered.

§ 44–1.007 Arrangement.

§ 44–1.007–1 General plan.

The general plan, numbering system, and nomenclature used in the FEMAPR conform with those of the Federal Procurement Regulation (FPR) and **Federal Register** Standards approval for the FPR.

§ 44–1.007–2 Numbering and titling.

(a) Where the FEMAPR implements or deviates from a part, subpart, section or subsection of the FPR, the FEMAPR part, subpart, section or subsection will be numbered and titled to correspond to the part, subpart, section or subsection of the FPR.

(b) Where the subject matter contained in a part, subpart, section or subsection of the FPR requires no further implementation, the FEMAPR will contain no corresponding part, subpart, section or subsection number and the subject matter as published in the FPR governs.

(c) Material published in the FEMAPR which supplements the FPR will be assigned numbers from the number 50 onward to denote the new part, subpart, section or subsection being added. For example, § 44–50.100 (new part), § 44–1.5000 (new subpart), § 44–1.150 (new section), § 44–1.102–50 (new subsection).

§ 44–1.007–3 Citation.

FEMAPR will be cited in accordance with **Federal Register** Standards approved for the FPR. Thus this section, when referred to in divisions of the FEMAPR, should be cited as "§ 44–1.007–3" of this chapter. When this section is referred to formally in official documents, such as legal briefs, it should be cited as "41 CFR 44–1.007–3". Any section of the FEMAPR may be informally identified as "FEMAPR" followed by the section number, such as FEMAPR 44–1.007–3.

requisitioning office shall prepare a

training and education the following

Subpart 1.6—Debarred, Suspended,

§ 44-1.009 Deviation.

§ 44-1.009-1 Description.

As used in the FEMAPR, the term "deviation" includes any of the actions set forth in 41 CFR 1-1.009-1 for either the FEMAPR or the FPR.

§ 44-1.009-2 Procedure.

In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and the FEMAPR shall be kept to a minimum and controlled as follows:

(a) Deviations in both individual cases and classes of cases must be authorized in advance by the Director, Acquisition Management Division. Requests for such authorization shall:

(1) Cite the specific parts of the FPR or FEMAPR from which it is desired to deviate.

(2) Provide a full description of the deviation.

(3) Indicate the circumstances which will require use of the deviation.

(4) Give detailed reasons supporting the actions requested; and

(5) Give reasons why the action is in the best interest of the Government.

(b) Where the deviation applies to a class of cases, review and approval shall be accomplished in accordance with 41 CFR 1-1.009-2(c) for deviations to either the FPR or the FEMAPR.

(c) The contract file(s) of the requesting office shall include a copy of the request and the approval. Class deviations will be issued as a part of the FEMAPR, if they are of a continuing nature and publication is deemed appropriate by the Director, Office of Finance and Administration.

Subpart 1.2—Definition of Terms

§ 44-1.201 Definitions.

For the purposes of the FEMAPR, the following terms have the meaning set forth in this subpart unless otherwise indicated.

§ 44-1.202 Agency.

"Agency" means the Federal Emergency Management Agency or as it is referred to throughout the FEMAPR, "FEMA".

§ 44-1.204 Director.

"Director" means the Director of the Federal Emergency Management Agency. In the FPR, the term "Secretary", where it pertains to a procuring agency, shall be construed to mean "Director".

§ 44-1.205 Procuring office.

"Procuring offices" means those offices which have delegated or redelegated authority to purchase or contract for supplies, services and/or construction.

§ 44-1.206 Head of the procuring activity.

"Head of the Procuring Activity" means the Director, Acquisition Management Division.

§ 44-1.250 Contractor.

"Contractor" means any person, firm, association, or corporation entering into a contract with the Government.

§ 44-1.251 Subcontractor.

"Subcontractor" means any person, firm, association or corporation entering into a subcontract with a contractor or higher-tier subcontractor.

§ 44-1.252 Supplies and property.

"Supplies and property" means materials and goods to be delivered to the Agency under contracts or purchase orders.

§ 44-1.253 Personal services.

"Personal services" means those services rendered by an officially appointed or employed individual engaged in the performance of authorized Federal functions who is compensated on either a time or contract basis and is under the direct supervision of a Federal officer thereby establishing an employer-employee relationship.

§ 44-1.254 Nonpersonal services.

"Nonpersonal services" means those services rendered by non-Government firms, institutions or persons through contract or agreement with FEMA wherein no employer-employee relationship exists.

§ 44-1.255 Program office.

"Program office" means any of various offices within the Agency which generate requests for procurement action.

§ 44-1.256 Project officer.

"Project officer" means the representative of a program office cognizant over the technical aspects of a given procurement action.

§ 44-1.257 Interagency agreement.

"Interagency agreement" means an agreement between two or more agencies, bureaus, or departments of the Federal Government by which supplies, services or property are provided to, or obtained from, one or more agencies, bureaus or departments of the Federal Government. Funds are transferred between the parties as consideration for the supplies, services or property.

§ 44-1.258 Memorandum of understanding.

"Memorandum of Understanding" means an agreement between two or more agencies, bureaus or departments of the Federal Government. Funds are not transferred between parties in a "Memorandum of Understanding."

Subpart 1.3—General Policies

§ 44-1.302 Procurement sources.

§ 44-1.302-1 General.

Supplies and services may be obtained from the following sources:

(a) *Government Program Sources.* Procuring offices shall endeavor to obtain required supplies or services from the following sources prior to initiating purchases from other sources. These sources shall be utilized to the maximum extent practicable in accordance with applicable laws and regulations and shall be solicited in the order in which they appear below:

(1) Agency inventories.

(2) Excess and surplus stocks in the possession of other Government agency.

(3) Federal Prison Industries, Inc.

(4) Committee for Purchase from the Blind and other Severely Handicapped.

(5) GSA Stock Program.

(6) Mandatory Federal Supply Schedule.

(7) Optional use Federal Supply Schedule.

(b) *Sources outside the Government.* If the required supplies and/or services cannot be obtained from any of the sources listed in paragraph (a) of this section, procuring offices shall endeavor to obtain them from commercial or other non-Government sources (including State and local Governments) to the maximum extent practicable.

(c) *Other Federal Agencies.* If supplies and/or services are available from another Federal agency, and the circumstances of the requirement meet the criteria set forth in OMB Circular A-76, procuring offices may obtain the supplies or services from that Federal agency.

§ 44-1.302-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

When a requisitioning office becomes aware that a suggested procurement source is either a Government employee, or a business or organization substantially owned by a Government employee, or the spouse or immediate family of a Government employee, the appropriate procurement office shall be immediately notified and shall seek alternative sources. If no alternative sources can be located, the requisitioning office shall prepare a written justification to clearly support a Contracting Officer decision to procure from the Government employee source and to provide for actions where possible, to prevent future related procurements from employee sources. Approval shall be obtained from the Head of the Program Office and the Director, Office of Finance and Administration prior to any procurement award to a Government employee source.

§ 44-1.305 Specifications.

§ 44-1.305-6 Military and departmental specifications.

If no Federal Specification is available, Interim Federal, Military and Departmental Specification shall be considered, in the order of precedence indicated herein, prior to using or developing other specifications.

§ 44-1.317 Noncollusive bids and proposals.

The authority to make the determination described in paragraph (d) of the certification set forth in 41 CFR 1-1.317(a) shall vest in the Head of the Procuring activity without authority to redelegate.

Subpart 1.4—Procurement Responsibility and Authority

§ 44-1.400 Scope of subpart.

This subpart deals with the placement of procurement authority and responsibility within the Agency, the selection and designation of Contracting Officers, and the authority of procuring offices.

§ 44-1.401 Responsibility of the head of the procuring activity.

The Head of the Procuring Activity shall be responsible for the establishment of policy throughout the Agency, monitor in the overall effectiveness and efficiency of the Agency's procuring offices, the establishment of adequate controls to assure compliance with applicable laws, regulations and procedures, and shall be responsible for delegating or redelegating Contracting Officer authority, which has been delegated the Head of the Procuring Activity.

§ 44-1.404 Selection, designation and termination of designation of contracting officers.

§ 44-1.404-1 Selection.

In selecting Contracting Officers, the appointing authorities shall consider experience, training, education, business acumen, judgment, character, reputation and ethics. In the areas of experience, training and education the following shall be required unless contracting authority is limited to simplified purchase procedures. Waiver of any of the criteria set out below shall be in writing with specific justification therefor:

(a) Experience of an individual Contracting Officer or appointment of an individual to a position having contracting officer authority shall consist of a minimum of two years experience performing contracting, procurement or purchasing operations in a Government or commercial procurement office. Additionally where appointment of a Contracting Officer involves a specialized procurement field, experience in the field shall be considered as a criterion for the appointment.

(b) Educational requirements of an individual Contracting Officer or appointment of an individual to a position having contracting officer authority shall require as a minimum the equivalent of a bachelor's degree from an accredited college or institution with major studies in business administration, law, accounting or related fields. This educational requirement may be waived by the appointing official when it is determined that a potential appointee is otherwise qualified by virtue of extensive contract-related experience, training, business acumen, judgment, character, reputation and ethics.

(c) Training requirements of an individual Contracting Officer or appointment of an individual to a position having contracting authority as a minimum shall require that the individual has successfully completed training courses in Government basic procurement, of not less than 80 class hours, and Government contract administration, not less than 80 class hours. Incumbents not meeting the special training requirements shall be given 24 months to meet the minimum qualification standards.

§ 44-1.404-2 Designation.

Except for disaster-related activities and unusual circumstances as determined by the Head of the Procuring Activity, it is the policy of the Agency to delegate Contracting Officer authority to individuals rather than to positions. Except in those instances where the redelegation of authority specifically includes the authority for further redelegation to subordinate no other delegations or redelegations may be made. Delegations of Contracting Officer authority shall include clear statement of such authority, its responsibilities and limitations.

Subpart 1.6—Debarred, Suspended, and Ineligible Bidders

§ 44-1.600 Scope of subpart.

This subpart prescribes the FEMA policy and procedures for establishment, use, maintenance and distribution of a debarred, suspended, and ineligible bidders list for debarring or suspending bidders for cause.

§ 44-1.602 Establishment, maintenance and distribution of a list of concerns or individuals debarred, suspended, or declared ineligible.

(a) The Director, Acquisition Management Division, is responsible for establishment and maintenance of a master list or file of firms and individuals who are administratively or legally debarred or suspended from FEMA contracting and subcontracting and from whom bids and proposals will not be solicited as provided in 41 CFR 1-1.603. This list will be known as the FEMA Debarred, Suspended and Ineligible Bidders List.

(b) The list shall as a minimum contain that information set forth in 41 CFR 1-1.602 (b).

(c) The Director, Acquisition Management Division, will effect distribution of the list to authorized personnel. The lists shall not be disclosed to the public.

§ 44-1.602-1 Basis for entry on the debarred, suspended, and ineligible bidders list.

(a) The list shall be comprised of those firms debarred, suspended or declared ineligible in accordance with 41 CFR 1-1.602-1 (a), (b), (c), and (e).

(b) The list shall also be comprised of those firms which the Director, Office of Finance and Administration, declares to be debarred, suspended or ineligible in accordance with 41 CFR 1-1.602-1 (d), (f), and (g).

§ 44-1.603 Treatment to be accorded firms and individuals in debarred, suspended or ineligible status.

The Director, Office of Finance and Administration, shall make the determinations required by 41 CFR 1-1.603 (a).

§ 44-1.604 Causes and conditions applicable to determination of debarment.

Determination to debar or take other action concerning a firm or individual for a cause listed in 41 CFR 1-1.604 shall be made by the Director, Office of Finance and Administration. Whenever cause for debarment becomes known to any Contracting Officer, the matter shall be submitted, with recommendations of the Director, Acquisition Management Division, to the Director, Office of

procurement not awarded to a small

program as part of the performance of

a labor surplus area specialist in each

Finance and Administration for appropriate action. The documented file of the case will be included in the submission.

§ 44–1.604–1 Procedural requirements relating to the imposition of debarment.

(a) Hearings requested in connection with debarment proceedings shall be conducted before the Director, Office of Finance and Administration, or his designee. An opportunity shall be afforded to the firm or individual to appear with witnesses and counsel, to present facts or circumstances showing cause why such firm or individual should not be debarred. If the firm or individual elects not to appear, or if the firm or individual does not respond within 30 days from receipt of the written notice, the reviewing authority will make the decision based on the facts on record and such additional evidence as may be furnished by the parties involved. After consideration of the facts, the reviewing authority shall notify the firm or individual of the final decision.

(b) Appeals may be taken within 30 days after receipt by the firm or individual of a decision to debar. Appeals shall be filed with Director, FEMA, who shall make a decision based on the record. The Director's decision shall be final.

§ 44–1.605 Suspension of bidders.

§ 44–1.605–1 Causes and conditions under which FEMA may suspend contractors.

Any Contracting Officer may recommend suspension of bidders for the causes and conditions set forth in 41 CFR 1–1.605–1. These recommendations shall be accompanied by the documented file in the case and be submitted through the Director, Acquisition Management Division, to the Director, Office of Finance and Administration. The Director, Office of Finance and Administration, shall issue the Notice of Suspension required by 41 CFR 1–1.605–2.

§ 44–1.606 Agency procedures.

The Director, Acquisition Management Division, is responsible for complying with the provisions of 41 CFR 1–1.606.

Subpart 1.7—Small Business Concerns

§ 44–1.700 General.

This subpart implements and supplements general policies and procedures set forth in 41 CFR Subpart 1–1.7.

§ 44–1.704 FEMA direction and operation.

FEMA shall implement the policies and procedures set forth in 41 CFR 1–1.7 through its small business advisor and its small business specialists.

§ 44–1.704–1 Small business advisor.

The Director, Acquisition Management Division, is hereby designated as FEMA's small business advisor for all procurement matters. The small business advisor is responsible for the establishment, implementation and execution of the small business procurement program. He is the central point of contact for inquiries concerning the program from industry, the Small Business Administration, the Congress, the Office of the Director and others. His duties include developing a plan of operation that will insure that an equitable share of contracts will be awarded to small businesses by the Agency. He will be assisted on a daily basis by the small business specialists.

§ 44–1.704–2 Small business specialists.

The small business advisor shall designate, by name and in writing, a small business specialist in each procuring office of FEMA, as appropriate, who shall be responsible for maintaining the program in that procuring office in accordance with the requirements of the FPR, the FEMAPR, and any further directives from the small business advisor. The small business specialist, for the Division of Acquistion Management at FEMA Headquarters, in addition to the above duties, shall act as coordinator for the small business activities in the other procuring offices and provide liaison between the other small business specialists and the small business advisor.

§ 44–1.705 Cooperation with the Small Business Administration.

§ 44–1.705–3 Screening of procurements.

FEMA has no SBA representative assigned to it on a full or part-time basis except to the extent that a representative of SBA regularly monitors the small business program within the Agency. Therefore, for all practical purposes, the small business specialists perform the duties of on-site SBA representatives. Accordingly, all proposed procurements estimated to exceed $10,000 will be reviewed by the small business specialists to identify those procurements which should be set aside in whole or in part for small business, unless the Head of the Procuring Activity determines in accordance with 41 CFR 1–1.705–3(a) that such review would unduly delay the procurement process. The small business specialist initiates recommendations to the Contracting Officer for small business set-asides for those individual procurements or classes of procurements, or portions thereof.

§ 44–1.706 Procurement set-asides for small business.

§ 44–1.706–2 Review of set-aside recommendatons initiated by small business specialist(s).

When the small business specialist recommends that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the Contracting Officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the Contracting Officer disapproves the recommendation of a small business specialist, the small business specialist may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 44–1.706–3 Withdrawal or modification of set-asides.

A withdrawal or modification of an individual or class set aside which was originally established upon the recommendation of the small business specialist may be proposed by the Contracting Officer by giving notice, containing the reason for the proposed withdrawal or modification, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, the Contracting Officer may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 44–1.706–5 Small business class set-asides.

(a) A class set-aside is hereby made for each proposed procurement for construction which is not expected to exceed $1,000,000 in amount. Accordingly, Contracting Officers shall set aside for small business each such proposed procurement. If a Contracting Officer determines that any individual procurement falling within the class set-aside requirements of this section is unsuitable for such a set-aside in part or in total, the set-aside may be withdrawn or modified in accordance with FEMAPR 44–1.706–3. Proposed procurements for construction which exceed an estimate of $1,000,000 shall be considered for set-aside on a case-by-case basis.

(b) A class set-aside is hereby made for each proposed procurement which is not expected to exceed $10,000. A written determination must be made by the Contracting Officer for each such

procurement not awarded to a small business detailing the reasons therefor.

§ 44–1.706–50 Review of class set-aside programs.

Each procuring office shall forward a semi-annual report on class set-aside withdrawals to the Director, Acquisition Management Division. The Director, Acquisition Management Division, acting as the small business advisor, shall direct actions to be taken to improve small business participation under the class set-asides in FEMAPR 44–1.706–5.

§ 44–1.713 FEMA contracts with the Small Business Administration.

It is the policy of FEMA to increase small business participation in procurement programs by awarding procurement contracts, whenever feasible to the SBA as authorized by Section 8(a) of the Small Business Act (15 USC 637(a)) and the FPR.

§ 44–1.750 FEMA responsibilities and functions pursuant to Section 8(a) of the Small Business Act.

(a) 8(a) program responsibilities. The FEMA Director for Small and Disadvantaged Business Utilization shall be responsible for the development and review of goals to be achieved under the 8(a) program and shall coordinate with the Director, the program offices, and the regional directors in establishing the level of FEMA's participation in the 8(a) program and the level of coordination with the small business advisor appropriate and necessary to definitize FEMA's plan for implementation of the 8(a) established goals.

In conjunction with this responsibility for establishing 8(a) goals, the Director for Small and Disadvantaged Business Utilization shall make available to the small business advisor 8(a) program guides for use by the small business specialists and Contracting Officers in making determinations on individual procurements that should be processed as an 8(a) contract to be awarded to SBA.

(b) 8(a) procurement responsibility. The procurement and contracting aspects of this program shall be the responsibility of the small business advisor who shall assure that 8(a) procurement requirements are implemented through the small business specialists in each of their appropriate areas of assignment.

(c) 8(a) functions of the small business specialist. The small business specialist(s) acting on behalf of the small business advisor, shall screen proposed solicitations to determine the feasibility of placement under the 8(a) program as part of the performance of those duties set forth under FEMAPR 44–1.704–1. The small business specialists, after consideration of the goals and guidance established pursuant to paragraph (a) of this section, shall make recommendations for 8(a) procurement to the Contracting Officer, who may, in his discretion, contract with the Small Business Administration in accordance with 41 CFR 1–1.705–7 and 1–1.713.

(d) 8(a) reporting requirements. The small business advisor shall report to the Director for Small and Disadvantaged Business Utilization on a quarterly basis covering the activities of the 8(a) program which report shall include the following:

(1) A narrative statement regarding the operation of the program during the three month period; and

(2) The number and dollar amount of awards made to small business under the 8(a) program.

Subpart 1.8—Labor Surplus Area Concerns

§ 44–1.800 Scope of subpart.

This subpart sets forth policies and procedures governing aid to sections classified as having concentrated unemployment or underemployment and areas of persistent or substantial labor surplus hereinafter referred to as labor surplus areas.

§ 44–1.803 FEMA direction and operation.

FEMA shall implement the policies and procedures set forth in 41 CFR 1–1.8 through its labor surplus area advisor and its labor surplus area specialists.

§ 44–1.803–1 Labor surplus area advisor.

The Director, Acquisition Management Division, is hereby designated as FEMA's labor surplus area advisor for all procurement matters. The labor surplus area advisor is responsible for the establishment, implementation and execution of the labor surplus area program within FEMA. He is the point of contact for inquiries concerning the program from industry, the Departments of Labor and Commerce, the Small Business Administration, the Congress, the Office of the Director and others. His duties include developing a plan of operation to increase the share of contracts awarded to labor surplus area concerns by FEMA. He will be assisted on a daily basis by the labor surplus area specialists.

§ 44–1.803–2 Labor surplus area specialists.

(a) The labor surplus area advisor shall designate, by name and in writing, a labor surplus area specialist in each procuring office of FEMA who shall be responsible for maintaining the program in those procuring offices in accordance with the requirements of the FPR, the FEMAPR and any further directives from the labor surplus area advisor.

(b) The labor surplus area specialist for the Acquisition Management Division at FEMA headquarters, in addition to the above, shall also act as coordinator for the labor surplus area activities in the other procuring offices and provide liaison between the other labor surplus area specialists and the labor surplus area advisor.

§ 44–1.803–3 Screening of procurements.

All proposed procurements estimated to exceed $10,000 shall be reviewed by the labor surplus area specialist to identify those procurements which should be set aside in whole or in part for labor surplus area concerns in accordance with 41 CFR 1–1.804–1 and to identify possible subcontracting opportunities for labor surplus area concerns. The labor surplus area specialist shall initiate recommendations to the Contracting Officer based upon these reviews for labor surplus area set-asides for those individual procurements or classes of procurements or portions thereof identified.

§ 44–1.803–4 Review of set-aside recommendations initiated by labor surplus area specialists.

When the labor surplus area specialist recommends that all, or a portion, of an individual procurement or class of procurements be set aside for labor surplus area concerns, the Contracting Officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the Contracting Officer disapproves the recommendation, the labor surplus area specialist may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 44–1.804 Partial set-asides for labor surplus area concerns.

§ 44–1.804–4 Withdrawal of set-asides.

A withdrawal of an individual or class set-aside which was originally established upon the recommendation of the labor surplus area specialist may be proposed by the Contracting Officer by giving written notice, containing the reason for the proposed withdrawal to the labor surplus area specialist. If the labor surplus area specialist does not agree to a withdrawal, the Contracting Officer may appeal to the Head of the

protection and provision for the

Sec.

Procuring Activity whose decision shall be final.

§ 44–1.804–50 Modifications of set-asides.

Modifications of set-asides shall be handled in the same manner as withdrawals of set-asides.

Subpart 1.10—Publicizing Procurement Actions

§ 44–1.1003–2 General requirements.

(a) Except in the instances described in 41 CFR 1–1.1003–2(a) (1) through (10) every proposed modification to, or exercise of an option on existing contracts, when new funds are obligated for additional supplies and services which may result in an award of $5,000 or more, shall be published promptly in the Commerce Business Daily.

(b) Synopses prepared in accordance with paragraph (a) above on procurements negotiated on a noncompetive basis, shall indicate that the procurement is being synopsized to show that the agency believes only one source to exist. Descriptions of noncompetitive procurements contained in such synopses shall be in such detail that a firm can clearly understand the requirement and thus decide on the basis of adequate information whether it has the ability to compete in performing the work.

§ 44–1.1003–4 Synopsis of subcontract opportunities.

In addition to the requirements of 41 CFR 1–1.1003–4, the Contracting Officer shall, unless not in the Government's best interest, make the source list on a solicitation available to those firms requesting such list for the purpose of seeking subcontracting opportunities on procurements exceeding $10,000.

Subpart 1.13—Small Business Concerns Owned and Controlled by One or More Socially and Economically Disadvantaged Individuals

§ 44–1.1300 Scope of subpart.

This subpart contains policies and procedures applicable to the participation in FEMA procurement of small business concerns owned and controlled by one or more socially and economically disadvantaged individuals.

§ 44–1.1302 Policy.

It is the policy of FEMA to foster and promote the participation of small business concerns owned and controlled by one or more socially and economically disadvantaged individuals in the Agency's procurement program and to offer guidance to such firms to the maximum extent practicable in order to enhance their ability to compete for the placement of FEMA procurement contracts.

§ 44–1.1303 Solicitation representation.

As with procurements over $10,000, it is desirable that a representation as a small business concern owned and controlled by one or more socially economically disadvantaged individuals be obtained from all bidders, offerors, and contractors for procurement under $10,000. Accordingly, procuring offices shall request, whether in a solicitation or otherwise, that all bidders, offerors and contractors, complete and return on a voluntary basis, the certificate set forth in 41 CFR 1–1.1303, indicating also the applicable solicitation number or purchase order number. Completion of the certificate shall not be regarded as a condition for award.

Subpart 1.50—Criteria for Use of Procurement Contracts Versus Assistance Instruments

§ 44–1.5000 Scope of subpart.

This subpart sets forth definitions for procurement contracts, grants and cooperative agreements and provides examples of each to allow for uniform selection of the proper instrument within FEMA.

§ 44–1.5001 Procurement Contracts.

§ 44–1.5001–1 Definition.

Procurement contracts are to be used whenever the principal purpose of the instrument is the acquisition by purchase, lease or barter of property or services for the direct benefit or use of the Federal Government.

§ 44–1.5001–2 Examples of procurement contracts.

Procurement contracts will normally be used when the principal purposes of the relationship is:

(a) Evaluation (including research of an evaluative character) of the performance of Government program, projects or grantee activity initiated by FEMA.

(b) Projects funded by administrative funds.

(c) Technical assistance rendered on behalf of the Government to any third party, including those receiving grants or cooperative agreements.

(d) Surveys, studies and research which provide specific information desired by the Government for its direct activities or for dissemination to the public.

(e) Consulting or professional services of all kinds if provided to the Government or, on behalf of the Government, to any third party.

(f) Planning for Government use.

(g) Conferences conducted in behalf of the Government.

(h) Production of publications or audiovisual materials required primarily for the conduct of the direct operations of the Government.

(i) Design or development of items for Government use or pursuant to agency definition or specifications.

(j) The generation of management information or other data for Government use.

§ 44–1.5002 Assistance.

Assistance may take the form of either grants or cooperative agreements and include:

(a) General financial assistance (stimulation or support) to eligible recipients under specific legislation authorizing such assistance.

(b) Financial assistance (stimulation or support) to a specific program activity eligible for such assistance under specific legislation authorizing such assistance.

§ 44–1.5002–1 Grants.

Grants are to be used whenever the principal purpose of the relationship is the transfer of money, property, services or anything of value to a recipient to accomplish a public purpose of support or stimulation authorized by Federal statute and substantial involvement is not anticipated.

§ 44–1.5002–2 Cooperative agreements.

Cooperative agreements are to be used whenever the principal purpose of the relationship is the transfer of money, property, service or anything of value to recipients to accomplish a public purpose of support or stimulation authorized by Federal statute and substantial involvement is anticipated.

§ 44–1.5002–3 Examples of involvement that is not substantial.

Involvement is not substantial and therefore a grant is the proper instrument if the following types of involvement are planned:

(a) Approval of recipient plans prior to award.

(b) Normal Federal stewardship such as site visits, performance reporting, financial reporting and audits to insure that objectives, terms and conditions of the grants are met.

(c) Unanticipated involvement to correct deficiencies in project or financial performance from the terms of the grants.

(d) General statutory requirements understood in advance of the award such as civil rights, environmental protection and provision for the handicapped.

(e) Review of performance after completion.

(f) General administrative requirements, such as those included in OMB Circulars A–21, A–95, A–110 and A–102.

§ 44–1.5002–4 Examples of substantial involvement.

Involvement is substantial and a cooperative agreement is the proper instrument when the following types of involvement are planned.

(a) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the cooperative agreement.

(b) Agency and recipient collaboration or joint participation in the performance of the assisted activities.

(c) Highly prescriptive agency requirements prior to award limiting recipient discretion with respect to scope of services offered, organizational structure, staffing, mode of operation, and other management processes, coupled with close agency monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.

(d) General administrative requirements beyond those included in OMB Circulars A–102 and A–110.

PART 44–2—PROCUREMENT BY FORMAL ADVERTISING

Sec.
44–2.000 Scope of part.

Subpart 2.1—Use of Formal Advertising

44–2.106 Procurement management reviews.

Subpart 2.2—Solicitation of Bids

44–2.201 Preparation of invitation for bids.
44–2.202 Miscellaneous rules for solicitation of bids.
44–2.202–1 Bidding time.
44–2.202–2 Telegraphic bids.
44–2.202–3 Place and method of delivery of supplies.
44–2.202–4 Bid samples.
44–2.202–50 Extension of time for bid opening.
44–2.202–51 Pre-bid conferences.
44–2.202–52 Bid envelopes.
44–2.205 Bidders mailing lists.
44–2.205–1 Establishment of lists.
44–2.250 Small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns.

Subpart 2.3—Submission of Bids

44–2.301 Responsiveness of bids.
44–2.303 Late bids.
44–2.303–6 Notification to late bidders.
44–2.303–7 Disposition of late bids.

Subpart 2.4—Opening of Bids and Award of Contract

44–2.401 Receipt and safeguarding of bids.
44–2.402 Opening of bids.
44–2.402–50 Time of acceptance and withdrawal of bids.
44–2.406 Mistakes in bid.
44–2.406–3 Other mistakes disclosed before award.
44–2.407 Award.
44–2.407–8 Protests against award.

Subpart 2.5—Two-Step Formal Advertising

44–2.502 Conditions for use.

Authority: Sec: 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44–2.000 Scope of part.

This part implements and supplements the basic requirements for procurement of personal property and non-personal services (including construction) by formal advertising, and establishes policies with respect to solicitation of bids, submission of bids, opening and evaluation of bids and the awarding of contracts as set forth in 41 CFR Part 1–2.

Subpart 2.1—Use of Formal Advertising

§ 44–2.106 Procurement management reviews.

The Policy and Support Branch of the Acquisition Management Division shall be responsible for meeting the requirements of 41 CFR 1–2.106.

Subpart 2.2—Solicitation of Bids

§ 44–2.201 Preparation of invitation for bids.

Forms used in the preparation of invitations for bids are prescribed in 41 CFR Subparts 1–16.1 and 1–16.4 and Part 16 of the FEMAPR.

§ 44–2.202 Miscellaneous rules for solicitation of bids.

§ 44–2.202–1 Bidding time.

In the procurement of supplies and services, the following shall be observed:

(a) Procurement action which does not provide for the minimum bidding time required by 41 CFR 1–2.202–1(c) shall be justified by the Contracting Officer prior to releasing the invitation for bids. This justification shall take the form of a finding of fact which establishes the Contracting Officer's basis for the exception to the minimum bidding time.

(b) The minimum bidding time stipulated in 41 CFR 1–2.202–1(c) shall not be construed as a maximum. Each prospective procurement shall be examined on its own merits to determine the bidding time that will facilitate competition on reasonable and equal terms. As a general rule, procurement of a less complicated nature for which no extensive bid preparation by the prospective bidder is required in development of his bid may contain a bidding time of 20 calendar days. Where the specification may require prospective bidders to develop drawings or samples, or to do extensive preparation in developing a meaningful bid, 30 calendar days or more of bidding time may be required.

§ 44–2.202–2 Telegraphic bids.

Telegraphic bids will be authorized only by the Contracting Officer who shall document the official procurement file as to the necessity of telegraphic bids. Conditions under which telegraphic bids may be authorized are set forth in 41 CFR 1–2.202–2. When telegraphic bids are authorized by the Contracting Officer, a clause shall be incorporated in the invitation for bids, authorizing such bids and providing instructions on their submission in accordance with 41 CFR 1–2.202–2(a).

§ 44–2.202–3 Place and method of delivery of supplies.

To the maximum extent practical, invitations for bids issued by FEMA shall stipulate "f.o.b. destination." Only where the Contracting Officer determines in writing that it is in the Government's best interest may he deviate from this policy.

§ 44–2.202–4 Bid samples.

Bid samples submitted by bidders as required by an invitation for bids or as unsolicited samples, if not returned in accordance with 41 CFR 1–2.202–4(h), shall be disposed of by the contracting officer who shall document the contract file as to the method of disposition.

§ 44–2.202–50 Extension of time for bid opening.

Whenever such action is determined by the Contracting Officer to be in the best interest of the Government, bid openings may be rescheduled for a later date by issuance and distribution of an amendment (See 41 CFR 1–2.207) to the invitation for bids. Notices of change in bid opening date shall specify the exact time and date for the new opening and will be issued by mail or telegram as soon as possible, but, in any event, prior to the time specified for the opening of bids.

§ 44–2.202–51 Pre-bid conferences.

Whenever a pre-bid conference is proposed for a formally advertised procurement the following will be applicable:

(a) *General.* One of the essential elements of formal advertising is that all bidders are afforded an equal opportunity to compete. For this reason, discussions with prospective bidders will only be conducted by or with the knowledge and approval of the Contracting Officer. It is incumbent upon the Contracting Officer to avail all prospective bidders of the same information so as not to give one an advantage over the others. The need for pre-bid conferences in advertised procurements should be infrequent and such conferences shall not be used as a substitute for formally amending defective or ambiguous solitations or to disseminate additional specification requirements. A pre-bid conference is only authorized when it is deemed by the Contracting Officer to be in the best interest of the Government and approved by the Head of the Procuring Activity or when written internal program policy requires it under certain specified circumstances.

(b). *Purpose.* A pre-bid conference is held to accomplish these primary objectives:

(1) To provide discussion of unusual aspects of complex procurements.

(2) To impart information that removes areas of performance uncertainties which, unless removed, result in higher price to the Government, i.e., inclusion in the bid of an amount for the uncertainty or contingency.

(3) To avoid post-award performance problems which firms could have been made aware of at the time of bid preparation.

(c) *Format.* The typical format of a pre-bid conference is a formal presentation by the Contracting Officer or his representative followed by a question and answer period. All prospective bidders and their subcontractors shall be invited to the meeting in a manner deemed appropriate by the Contracting Officer. When held, a pre-bid conference shall be scheduled sufficiently in advance of the date set for bid opening to permit prospective bidders to use the information. A written record of the pre-bid conference shall be made and maintained in the procurement file as the office record of what was presented at the conference.

(d) *Conclusion.* As a result of the pre-bid conference, it may become necessary to change or substantially clarify the invitation for bid. This action shall be transmitted to all those receiving invitation for bids in the form of an official amendment to the solicitation, taking into consideration any extension of the closing date for the receipt of bids.

§ 44-2.202-52 Bid envelopes.

Mailing labels, or envelopes, bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, the Optional Form 17, "Sealed Bid Label" may be furnished with each bid set to inform the bidder as to what will be required on the bid envelope. 41 CFR 1-16.902-OF17 illustrates the referenced form and copies of same can be obtained from the General Services Administration.

§ 44-2.205 Bidders mailing lists.

§ 44-2.205-1 Establishment of lists.

New prospective suppliers that have been added to the bidders mailing list shall be notified by the procuring office by a letter so indicating.

§ 44-2.250 Small business concerns owned and controlled by one or more socially and economally disadvantaged individuals and labor surplus area concerns.

It is the policy of FEMA to send pre-invitation notices to all small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns that are on the bidder's mailing list for each procurement expected to result in an award in excess of $10,000, subject to the provisions of § 44-1.1302.

Subpart 2.3—Submission of Bids

§ 44-2.301 Responsiveness of bids.

Any bid which is not signed by the bidder or his authorized representative shall be disregarded, except when it is accompanied by other evidence which demonstrates the bidder's intention to be bound by the unsigned bid document. An example of such evidence is a bid guarantee or a letter (which does not qualify or otherwise render the bid non-responsive) signed by the bidder referring to, and clearly identifying the bid itself. In such a case, the Contracting Officer may waive the deficiency as a minor informality or irregularity (see 41 CFR 1-2.405) and shall document the file to so indicate.

§ 44-2.303 Late bids.

§ 44-2.303-6 Notification to late bidders.

In setting the date to be inserted in the notice to late bidders contained in 41 CFR 1-2.303-6, consideration should be given to the time required by the bidder to develop and prepare the required evidence in relation to the acceptance period specified by the otherwise apparent low bidder, avoidance of undue delay in the procurement cycle, and other pertinent factors. As a general rule, the bidder should be allowed a minimum of three (3) working days in addition to a time allowance for transmitting the notice to, and receipt of the evidence by, the Contracting Officer. The bidder shall be notified immediately in writing if his bid cannot be considered for award because of lateness.

§ 44-2.303-7 Disposition of late bids.

The return of a late bid which cannot be considered for award shall be accompanied by a statement from the Contracting Officer that the bid was not considered because of its late receipt. If the late bid had to be opened for identification purposes or was opened by mistake, this fact shall be included in the statement from the Contracting Officer accompanying the returned bid. In all cases where a late bid is not considered and returned to the bidder, the file shall be documented with all information relating to the determination of late receipt which shall include a copy of the late bid envelope.

Subpart 2.4—Opening of Bids and Award of Contract

§ 44-2.401 Receipt and safeguarding of bids.

(a) Envelopes or other outer coverings containing identified bids shall be stamped or otherwise marked to show the office of receipt, the time of day received and the date. The individual receiving the bids shall then place his initials under the above marking.

(b) The Contracting Officer shall, in addition to the requirements of 41 CFR 1-2.401(b), retain in the file a copy of the envelope, wrapper or other container bearing the required documentation of a bid which was opened by mistake or for purposes of identification.

§ 44-2.402 Opening of bids.

(a) The Contracting Officer, or his duly authorized representative, shall be designated as the bid opening officer. At the bid opening, the relative merits of any bids shall not be discussed by any person from the procuring office. No statement shall be made at the bid opening by any person from the procuring office regarding the award, the possibility of a readvertisement, mistakes in bids, the responsiveness of any bid or responsibility of any bidder, etc.

(b) Inquiries or protest received during the bid opening regarding award of the contract shall be referred to the Contracting Officer for resolution after the completion of the bid opening.

Bidders are cautioned that information obtained at the bid opening from persons other then the Contracting Officer may only be relied upon by the bidder at the bidder's own risk. After all bids have been opened, read aloud and recorded, the bid opening officer shall state that opening of bids has been completed.

§ 44-2.402-50 Timing of acceptance and withdrawal of bids.

Bidders may not withdraw their bids after bid opening unless the notice of withdrawal was mailed prior the time set for bid opening and handled in accordance with 41 CFR 1-2.305.

§ 44-2.406 Mistakes in bid.

§ 44-2.406-3 Other mistakes disclosed before award.

The Director, Acquisition Management Division, is delegated the authority to make the determinations required by 41 CFR 1-2.406-3 concerning mistakes in bid other than obvious clerical errors discovered prior to award. Each such determination shall be approved by the Office of General Counsel prior to notification of the bidder.

§ 44-2.407 Award.

§ 44-2.407-8 Protests against award.

(a) *General.* (1) Resolution of protests to the contracting activity shall be pursued initially by the Contracting Officer. If the protest cannot be resolved, or if the protest has been filed with GAO, the Contracting Officer shall forward a report to the HPA. The report shall consist of the documents set forth in 41 CFR 1-2.407-8(a)(2). The HPA shall either recommend a course of action to the Contracting Officer or forward the Contracting Officer's report to the Office of General Counsel. The Office of General Counsel is the FEMA liaison with GAO. All communication with GAO concerning a protest shall be coordinated through the HPA and the Office of General Counsel.

(2) A protestor shall be notified of the final decision of his protest to the Contracting Officer within thirty (30) working days after receipt of his protest. A formal report to GAO shall be submitted to GAO within twenty-five (25) working days after receipt of the request. In order to assure compliance with these dates, the contracting office shall submit his report to the HPA within ten (10) working days of receipt of the protest or request for comments from GAO. If the GAO has requested comments, the Contracting Officer's submission to the HPA shall include the names and addresses of interested parties along with copies of the report for GAO and each interested party.

(b) *Protests before award.* Where the Contracting Officer makes a determination to award a contract notwithstanding a protest, approval shall be obtained from the HPA prior to making the award. The Contracting Officer shall forward a written determination, made in accordance with 41 CFR 1-2.407-8(b)(4), to the HPA along with the request for approval to make award. The HPA shall notify the Office of General Counsel prior to authorizing award of a contract when the protest has been filed with GAO.

(c) *Protests after award.* In addition to the requirements of 41 CFR 1-2.407-8(a)(2), the Contracting Officer's report shall contain the following:

(1) Current status of the contract, indicating whether performance has commenced, shipment or delivery has been made or a stop work order has been issued, and

(2) Copies of any mutual agreement with the contractor, if applicable, to suspend performance.

(d) *Timeliness.* Protest filed with the Contracting Officer shall be filed to be received at the procuring office not later than five (5) working days after the basis for protest is known or reasonably should have been known, whichever is earlier.

(e) *Records.* The HPA shall maintain records relating to all protests received. The records shall contain adequate data to show the number and nature of formal protests received (whether filed directly with FEMA or with GAO), their disposition and the time for resolutions. These records will be reviewed annually in order to update protest procedures.

Subpart 2.5—Two-Step Formal Advertising

§ 44-2.502 Conditions for use.

Pursuant to 41 CFR 1-2.502, approval must be obtained from the Head of the Procuring Activity before the two-step formal advertising method of procurement may be used.

PART 44-3—PROCUREMENT BY NEGOTIATION

Sec.

44-3.000 Scope of part.

Subpart 3.1—Use of Negotiation

44-3.100 Scope of subpart.
44-3.101-50 Noncompetitive procurement.
44-3.101-51 Preference for local contractors in Presidentially declared major disasters or emergencies.
44-3.103 Dissemination of procurement information.
44-3.103-50 Preproposal conferences.
44-3.150 Treatment of proposal information.
44-3.150-1 General.
44-3.150-2 Disposition of unsuccessful proposals.
44-3.150-3 Use of successful proposals.

Subpart 3.4—Types of Contracts

44-3.400 Scope of subpart.
44-3.405-3 Cost-sharing contract.
44-3.406 Letter contract.

Subpart 3.7—Negotiated Overhead Rates

44-3.700 Scope of subpart.
44-3.702 General.
44-3.707 Overhead ceilings.

Subpart 3.8—Price Negotiation Policies and Techniques

44-3.800 Scope of subpart.
44-3.801-2 Responsibility for determination of final price.
44-3.802 Preparation for negotiation.
44-3.802-2 Alternate procedures for consideration of late proposals.
44-3.805 Selection of offerors for negotiation and award.
44-3.805-50 Source selection procedures.

Subpart 3.51—Protests Against Award

44-3.5101 Negotiated procurement protests.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-3.000 Scope of part.

This part prescribes policies and procedures which shall be observed by FEMA procuring offices in connection with procurement by negotiation.

Subpart 3.1—Use of Negotiation

§ 44-3.100 Scope of subpart.

This subpart sets forth policies and procedures concerning exceptions to normal negotiation procedures and the dissemination of procurement information.

§ 44-3.101-50 Noncompetitive procurement.

(a) *General.* FEMA procurement shall be accomplished on a competitive basis to the maximum extent practicable. Procurement without competition shall be limited to those circumstances in which only one firm, organization or individual can provide the required supplies or services.

(b) *Justification for noncompetitive procurement.* In order for procurement on a noncompetitive basis to be approved, the justification must demonstrate that one of the following criteria has been met:

(1) The recommended source possesses a unique characteristic or capability that serves to make that source the only one able to provide the required product or service and all other sources unable to provide the product or service.

(2) The proposed procurement is for replacement of components for

competitive range, shall provide prompt

(i) Confidential business information.

§ 44-3.150 Treatment of proposal

equipment specially designed by a manufacturer and available data is not adequate to assure that replacement parts or components, if provided by a source other than the manufacturer of the equipment, would be compatible with, or perform the same function as, the parts or components being replaced.

(c) *Exclusions.* The provisions of FEMAPR 44–3.101–50(a) do not apply to the following:

(1) Procurement of $500 or less.

(2) Procurement from or through other Government Agencies.

(3) Procurements of architect-engineer services.

(4) Procurements of utility services where the services are available from only one source.

(5) Procurements with the Small Business Administration.

(6) Purchases from mandatory Federal Supply Schedule contracts which list only one source.

(d) *Approvals.* Program offices are responsible for submitting to the procuring office a detailed recommendation of the factual circumstances justifying noncompetitive procurement. The Contracting Officer shall execute a written justification either approving or disapproving the non-competitive procurement. The justification shall state that the circumstances set forth in the justification do or do not meet the noncompetitive procurement criteria set forth in FEMAPR 3.101–50(b): It shall also set forth the reasons why these circumstances do or do not meet these criteria. The Contracting Officer shall then forward the justification, along with the contract file, to the following approval levels prior to issuance of a solicitation:

(1) Procurements over $500 but not over $10,000—Contracting Officer.

(2) Procurements over $10,000 but not over $100,000—level higher than the Contracting Officer.

(3) Procurements over $100,000 but not over $500,000—the Head of the Procuring Activity.

(4) Procurements over $500,000—the Director, Office of Finance and Administration.

§ 44–3.101–51 Preference for local contractors in Presidentially declared major disasters or emergencies.

(a) *Scope of subsection.* This subsection establishes policies relating to local contractor preference to receive procurement awards resulting from competitively negotiated solicitations under a Presidentially-declared major disaster or emergency operation.

(b) *Geographical coverage.* The geographic areas to which local contractor preference shall apply are those affected by the Presidentially-declared disaster and designated by the Associate Director for Disaster Response and Recovery in the **Federal Register.** Geographical areas shall be identified by county or other political subdivision.

(c) *Procurement for implementation of the procurement of supplies and services for disaster relief response.* Pursuant to the provisions of Pub. L. 93–288, the clause set forth below shall be included in each competitively negotiated solicitation for disaster relief response.

Provision for Competitively Negotiated Solicitations

In awarding any contract(s) pursuant to this solicitation, the Government shall give preference to local organizations, firms and individuals residing or doing business primarily in the geographic area identified as the disaster area by the Associate Director for Disaster Response and Recovery.

The Contracting Officer reserves the right to request offerors to furnish documentation to demonstrate eligibility for local contractor preference. To be eligible for local contractor preference, the offeror shall have been residing (in the case of individuals) or doing the major portion of its business (in the case of business entities) in the disaster area.

Offerors for which eligibility is established (local offerors) shall be permitted to reduce their proposed price to meet the lowest price received from an otherwise eligible non-local offeror, provided that the proposed price from the local offeror(s) does not exceed 130% of the price received from the non-local offeror. The lowest priced local offeror within 130% of the lowest non-local price shall be given the initial opportunity to meet the non-local price. If the local offeror meets the lowest non-local price and is determined to be responsible, award shall be made. If the non-local offer is not met, the next lowest local offeror within 130% shall be given an opportunity to meet the lowest non-local price. This process shall continue until award is made to a local offeror within the 130% requirement or the supply of such local offerors is exhausted and award made to the lowest non-local offerors.

(d) *Exception to use of local preference provisions.* If it is determined by the Contracting Officer to be in the best interest of the Government the clause set forth in Paragraph (c) need not be included in solicitations. Such determination shall be documented in the contract file with a findings and determination signed by the Contracting Officer and approved by the Head of the Procuring Activity.

(e) *Additional methods for encouraging local participation.* In the event the Contracting Officer makes the determination of paragraph (d) above, local participation may be encouraged by:

(1) Setting the procurement aside for labor surplus area if the disaster area has been established as a labor surplus area;

(2) Advertising only in the local disaster area; and/or

(3) Subdividing large requirements into several smaller requirements.

§ 44–3.103 Dissemination of procurement information.

(a) *Publicizing procurement actions.* The agency shall continually search for and develop information on sources (including small businesses owned and controlled by one or more socially or economically disadvantaged individuals) competent to provide supplies or services. Advance publicity, including use of the Commerce Business Daily to the fullest extent practicable, shall be given for this purpose. The search should include (a) a review of relevant data or brochures furnished by sources seeking to do business with the agency and (b) a cooperative effort by program personnel, small business specialists and Contracting Officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirements. Each procuring office shall use to the maximum extent practicable its bidders mailing list for soliciting competition.

(b) *Release of information during the solicitation phase.* No information shall be released during the solicitation phase of a procurement except as follows:

Each solicitation for a negotiated procurement shall specify an individual within the procuring office who shall be responsible for responding to inquiries concerning the solicitation and evaluation of proposals resulting from the solicitation. All questions concerning the solicitation, whether of a procedural or substantive nature, shall be directed to the above individual. All other personnel will avoid exchange of comments with all offerors or potential offerors. Answers to questions requiring clarification of the substantive portion of the solicitation shall be provided by amendment to the solicitation a copy of which shall be furnished to each recipient of the solicitation.

(c) *Release of information during the evaluation phase.* During the course of evaluating proposals, personnel involved in this activity shall not reveal any information concerning the evaluation of proposals to anyone who is not also participating in the same evaluation proceedings, except as may be required for internal clearances. However, the Contracting Officer, upon determination that a proposal is unacceptable, or not within the competitive range, shall provide prompt notice of the fact to the offeror submitting the proposal. In addition to stating that the proposal has been determined to be unacceptable, or not within the competitive range, the notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise the offeror that since further negotiation with him is not contemplated, a revision of his proposal will not be considered. Such notice need not be given if (a) in the judgment of the Contracting Officer, the disclosure will prejudice the Government's interest (the possibility of protest shall not be considered prejudicial), or if the proposed contract is to be awarded within a few days and notice pursuant to 41 CFR 1–3.103 would suffice. This notification procedure shall not apply to procurements negotiated pursuant to 41 USC 252(c) (4), (5) or (6); negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited; or urgent procurement actions which the Contracting Officer determines in writing must be awarded without delay to protect the public interest. The Contracting Officer's determination shall be placed in the contract file.

(d) *Post-award release of procurement information.* Promptly after making award of any procurement in excess of $10,000, the Contracting Officer shall, if he has not done so pursuant to FEMAPR 44–3.103(c), give written notice to the unsuccessful offerors that their proposals were not accepted. The notice should name the successful contractor and state the amount of the award and the number of proposals received. Where additional information is requested by the offeror, it shall be provided as follows:

(1) It is the policy of FEMA to provide a debriefing to any unsuccessful offeror who makes a written request to the Contracting Officer within two (2) months after contract award.

(2) A debriefing is intended to:

(i) Tell an unsuccessful offeror which areas of his proposal were judged to be weak or deficient and whether the weaknesses or deficiencies were factors in his not having been selected.

(ii) Identify the factors which were the basis for selection of the successful contractor. If the quality of the successful offeror's proposal to satisfy the mission requirement was the basis, the unsuccessful offeror should be so informed and given a general comparison of significant areas, but not a point by point comparison of all the elements considered in the evaluation criteria.

(3) A debriefing should not reveal:

(i) Confidential business information, trade secrets, techniques, or processes of the other offerors; and

(ii) The relative merits or technical standing of the unsuccessful offerors or the scoring by the Source Evaluation Board or Technical Evaluation Panel.

(4) Any FEMA official who receives from an unsuccessful offeror a request, written or oral, for a debriefing shall immediately refer the request to the appropriate procuring office which shall make the necessary arrangements for the debriefing.

(5) It is essential that the debriefing be conducted in a scrupulously fair, objective and impartial manner, and that the information given be factual and consistent with the findings of the evaluation and the basis on which the source selection official made his decision.

(6) It is most important that all FEMA personnel engaged in the evaluation and selection process be aware of the foregoing policies and procedures. Detailed and complete records will be maintained by key technical and business participants in a manner which will facilitate either a written or oral debriefing of any unsuccessful offeror's proposal.

§ 44–3.103–50 Preproposal conferences.

In cases of complex procurement, preproposal conferences may be used to explain complicated specifications and requirements to prospective offerors so as to permit them to submit proposals without undue expenditure of effort, time and money. Attendance at the preproposal conference shall not be used as a method for prequalification of offerors. The preproposal conference may only be used when approved by the Head of the Procuring Activity. The preproposal conference shall be arranged and conducted by the Contracting Officer or his representative with participation by technical, legal and such other personnel as appropriate. All prospective offerors shall be furnished identical information in connection with the proposed procurement. Remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications. All conferees shall be advised that unless the solicitation is amended in writing it will remain unchanged and that if an amendment is issued, normal procedures relating to the acknowledgement and receipt of solicitation amendments shall be applied. A complete record shall be made of the conference. The record shall be made available to those requesting it.

§ 44–3.150 Treatment of proposal information.

§ 44–3.150–1 General.

It is the general policy of FEMA to use information contained in proposals only for evaluation purposes except to the extent such information is generally available to the public, is already the property of the Government or the Government already has unrestricted use rights, or it is, or has been made available to the Government from other sources, including the offeror, without restriction.

§ 44–3.150–2 Disposition of unsuccessful proposals.

Unsuccessful proposals shall be disposed of as follows:

(a) All but one copy of each unsuccessful proposal shall be destroyed upon contract award. The one remaining copy of each unsuccessful proposal shall be retained in the official contract file for six (6) months at the end of which time it may be destroyed.

(b) Unsuccessful proposals shall not be used for purposes other than internal reference unless (1) written permission has been obtained from the offeror or (2) the proposal expressly states that unrestricted use of the proposal is given to the Government regardless of its success in the competition or (3) any of the conditions described in FEMAPR 44–3.150–1 exist.

§ 44–3.150–3 Use of successful proposals.

The Government shall normally be accorded unrestricted use of successful proposals. In the event that the successful offeror desires to place restrictions on the use of his proposal, the terms and extent of such restrictions may be set forth in the resulting contract. In any event the Freedom of Information Act will govern.

Subpart 3.4—Types of Contracts

§ 44–3.400 Scope of subpart.

This subpart sets forth policies and procedures concerning the use of cost-sharing contracts.

§ 44–3.405–3 Cost sharing contract.

(a) *Purpose.* This subsection sets forth basic guidelines governing cost-sharing on research contracts with non-Federal organizations.

(b) *Basic guidelines.* (1) Cost sharing with non-Federal organizations shall be encouraged in contracts for basic or applied research in which the parties have considerable mutual interest in the research.

(2) Contracting Officers shall assure themselves of the following in the determination of contract type.

V 45 A G 19 80 UMI

(i) The research effort has more than minor relevance to the non-Federal activities of the performing organization and the research is not primarily a service to the government;

(ii) The performing organization has adequate non-Federal sources of funds from which to make a cost contribution;

(iii) The performing organization conducts production or other service activities, as opposed to being primarily engaged in research and development, and is in a favorable position to make a cost contribution;

(iv) The principle purpose of the contract is research as opposed to the production of, or design, testing or improving of products, materials, devices, systems or methods.

(v) Payment of the full cost of the project is not necessary in order to obtain the services of the particular organization.

(3) FEMA's Appropriation Act includes provisions requiring cost sharing by the contractor under research contracts resulting from unsolicited proposals. This requirement may only be wavied when the offeror certifies in writing to the Contracting Officer that it has no commercial, production, educational or service activities on which to use the results of the research and that it has no means of recovering any cost sharing on such projects. In situations such as the foregoing, the Contracting Officer may determine that there is no measurable gain to the performing organization and no mutuality of interest; therefore, it would not be equitable for the Government to require cost sharing. Such determinations shall be in writing and placed in the file.

(c) *Guidelines for determining the amount of cost sharing.* (1) For educational institutions and other not-for-profit or nonprofit organizations, cost sharing normally may vary from 1 percent to as much as 50 percent of the costs of the project. In some cases it may be appropriate for educational institutions to provide a higher degree of cost sharing, such as when the cost of the research consists primarily of the academic year salary of faculty members, or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities.

(2) The amount of cost participation by commercial or industrial organizations may vary from as little as 1 percent or less of the total project cost to more than 50 percent of total project cost, depending upon the extent to which the research effort is likely to enhance the performing organization's capability, expertise or competitive position and the value of such enhancement to the performing organization. It should be recognized that those organizations which are predominately engaged in research and development and have little or no production or other service activities may not be in a favorable position to derive a monetary benefit from the research under Federal agreements.

(3) A fee or profit will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced to reflect the fact that the organization is foregoing its normal fee or profit on the research. However, if the research is expected to be of only minor value to the performing organization and if cost-sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee or profit, rather than sharing the costs of the project.

(4) Each cost-sharing contract negotiated by the agency shall contain the clause included in FEMAPR 44–7.500 2–9.

§ 44–3.408 Letter contract.

Prior to the award of a letter, contract the Contracting Officer shall make a determination that no other type of contract is suitable under the circumstances surrounding the procurement and shall support this determination by detailing the reasons why no other type of contract is suitable. The determination and supporting documentation shall then be submitted to, and must be approved by, the Head of the Procuring Activity before the letter contract may be awarded.

Subpart 3.7—Negotiated Overhead Rates

§ 44–3.700 Scope of subpart.

This subpart sets forth policies and procedures concerning negotiated overhead rates for use in cost-reimbursement type contracts.

§ 44–3.702 General.

(a) When a contractor performs work in the same period under several contracts for one or more procuring offices or agencies, it may be desirable and appropriate, when mutually agreed to by FEMA and the contractor, to negotiate uniform overhead rates for application to all such contracts in order to (1) effect uniformity of approach, (2) effect economy in administrative effort, and (3) promote timely settlement of reimbursement claims.

(b) When the Contracting officer determines that the above conditions exist, he shall include the negotiated ovrhead rate clause set forth in 41 CFR 1–3.704–1.

(c) If the prospective cost-reimbursement contract is the only contract to be performed by the contractor for the Government during a given period or if the Contracting Officer determines that it is not appropriate to include the clause specified in 41 CFR 1–3.704–1, determination of the reimbursable amount of the overhead under the contract shall be based upon final audit of the actual costs incurred during the period of performance and the clause set forth in FEMAPR 44–7.500 2–6 shall be included.

§ 44–3.707 Overhead ceiling.

When the Contracting Officer determines in accordance with 41 CFR 1–3.707 that it is appropriate to place an overhead ceiling in the contract, he shall include the clause set forth in FEMAPR 44–7.500 2–8.

Subpart 3.8—Price negotiation Policies and Techniques

§ 44–3.800 Scope of subpart.

This subpart sets forth policies and procedures concerning final price negotiation, consideration of late proposals, and source selection.

§ 44–3.801–2 Responsibility for determination of final price.

In the event a contractor insists on a price or demands a profit or fee which the Contracting Officer considers unreasonable and the Contracting Officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in 41 CFR 1–3.801–2(c), the matter shall be referred to the Head of the Procuring Activity, with a statement of facts and the Contracting Officer's recommendations, for resolution.

§ 44–3.802 Preparation for negotiation.

§ 44–3.802–2 Alternate procedures for consideration of late proposals.

When the Head of the Procuring Activity determines that the procedures set forth in 41 CFR 1–3.802–1 are not appropriate for certain classes of negotiated procurement conducted by FEMA, he may authorize the adoption of the procedures set forth in 41 CFR 1–3.802–2(b) for consideration of late proposals and modifications (except where the procurement of general purpose automated data processing equipment is involved unless use of the procedures set forth in 41 CFR 1–3.802–2(b) is expressly authorized by the

Commissioner, automated Data and Telecommunications Service, GSA)

§ 44–3.805 Selection of offerors for negotiation and award.

§ 44–3.805–50 Source selection procedures.

All competitive procurements in excess of $10,000 shall be subject to a formal selection procedure as described herein.

(a) A proposal evaluation team shall be appointed for each competitive procurement. For procurements under $500,000, the team shall be called the Technical Evaluation Panel. For those procurements in excess of $500,000, the team shall be called the Source Evaluation Board.

(b) Each competitive solicitation shall contain applicable selection criteria including the numerical ranking of each selecting official for those procurements under $500,000 shall be the Contracting Officer and for those over $500,000 the head of the cognizant program office shall be the selecting official.

(c) The proposal evaluation team shall evaluate each proposal against the criteria established in the request for proposal. The initial evaluation shall be to determine technical merit and then shall be combined with the business evaluation to determine the overall merit. Upon completion of this total evaluation the competitive range shall be established. The competitive range shall include those proposals which through written or oral discussions with the offeror, have a reasonable change of selection when all factors are considered, including cost. The competitive range shall be established by the Source Evaluation Board for procurements in excess of $500,000 and by the Contracting Officer on those under $500,000.

(d) discussions shall be conducted with all offerors in the competitive range. Each offeror shall be given an opportunity to submit a revised proposal. A common cutoff date shall be established for receipt of the revisions. Upon receipt the appropriate evaluation team shall evaluate and prepare a final ranking. A final recommendation report will be prepared and furnished to the selecting official. The selecting official for those procurements under $500,000 shall be the Contracting Officer and for those over $500,000 the head of the cognizant program office shall be the selecting official.

(e) The selecting official shall consider the recommendations and select the firm(s) for final negotiations. The Contracting Officer shall then enter into final negotiations with the selected firm(s) to resolve all remaining terms and conditions necessary to reach final agreement.

Subpart 3.51—Protests Against Award

§ 44–3.5101 Negotiated procurement protests.

Protests against award of neogtiated contracts shall be processed in accordance with FEMAPR 44–2.407–8 and 41 CFR 1–2.407–8.

PART 44–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Sec.

44–4.000 Scope and applicability of part.

Subpart 4.9—Unsolicited Proposals

44–4.900 Scope of subpart.
44–4.901 General.
44–4.902 Policy.
44–4.903 Program direction and operation.
44–4.904 Definitions.
44–4.905 Advance guidance.
44–4.906 Content of unsolicited proposals.
44–4.907 Submission.
44–4.908 Agency point of contact.
44–4.909 Receipt, review, and evaluation.
44–4.910 Method of procurement.
44–4.911 Prohibitions.
44–4.912 Interagency coordination.
44–4.913 Limited use of data.

Subpart 4.10—Architect-Engineer Services

44–4.1000 Scope of subpart.
44–4.1004 Selection.
44–4.1004–1 Establishment of architect-engineer evaluation boards.
44–4.1004–4 Source selection.
44–4.1004–50 Conflict of interest.
44–4.1004.51 Privity of information.

Subpart 4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies

44–4.1100 Scope of subpart.
44–4.1104 Request for procurement action.
44–4.1104–50 Clearance procedures.

Subpart 4.50—Interagency Procurement [Reserved]

§ 44–4.000 Scope and applicability of part.

This part sets forth policies and procedures regarding unsolicited proposals and the procurement of architect-engineer services, automatic data processing equipment and services, and property and services from other Federal agencies.

Subpart 4.9—Unsolicited Proposals

§ 44–4.900 Scope of subpart.

This subpart sets forth policies and procedures concerning the receipt, evaluation, and acceptance of unsolicited proposals.

§ 44–4.901 General.

The unsolicited proposal is a valuable means by which unique or innovative methods or approaches which have originated or developed outside the Government can be made available to FEMA for use in its mission. It is offered in the hope that FEMA will enter into a contract with the offeror for (a) research on or development of the methods, approaches, or ideas it contains, or (b) the conduct of the activity or services or delivery of the items it proposes. It should not be merely an advance proposal for a specific FEMA requirement which would normally be procured by competitive methods. An unsolicited proposal should be prepared independent of Government supervision. As it often represents a substantial investment of time and effort by the offeror, it should present the proposed work in sufficient detail to allow a determination that FEMA support could be worthwhile and that the proposed work could enhance, benefit, and/or provide valuable input to FEMA's research and development mission or to some other area of this Agency's responsibility.

§ 44–4.902 Policy.

FEMA fosters and encourages the submission of unsolicited proposals which contribute new ideas consistent with the contributing to the accomplishment of this Agency's objectives.

§ 44–4.903 Program direction and operation.

For detailed information on unsolicited proposals see 44–4.905 and 44–4.908 below.

§ 44–4.904 Definitions.

As used in this subpart, the following terms have the meanings stated.

(a) "Unsolicited proposal" means a written offer to perform a proposed task or effort, initiated and submitted to FEMA by a prospective contractor (offeror) without a solicitation by FEMA, with the objective of obtaining a contract. Advertising materials, commercial product offerings, contributions, or technical correspondence as defined in paragraphs (b) through (e) below which are submitted to this Agency shall not be considered to constitute unsolicited proposals within the intent of this subpart.

(b) "Advertising material" means material designed to acquaint FEMA with a prospective contractor's present off-the-shelf products or potential capabilities, or designed to determine

this Agency's interest in buying such

(iii) FEMA's Appropriation Act

§ 44–4.906 Content of unsolicited

proposal and negotiate any resultant

addition to any other criteria, the

and circumstances that operate to

this Agency's interest in buying such products.

(c) "Commercial product offerings" means offers of standard commercial products usually sold in substantial quantities to the general public and which the vendor wishes to see introduced in the FEMA supply system as an alternate or replacement for an existing supply item.

(d) "Contributions" means concepts, suggestions, or merely ideas presented to FEMA for its use, with no indication on the part of the offeror that he will devote any further effort in relation to such concepts, suggestions, or ideas on behalf of this Agency.

(e) "Technical correspondence" includes written inquiries regarding FEMA interest in research areas, pre-proposal explorations, technical inquiries, and research descriptions.

§ 44–4.905 Advance guidance.

Organizations or individuals who are interested in submitting an unsolicited proposal are encouraged, before expending extensive effort in preparing a detailed unsolicited proposal or submitting any proprietary information to FEMA, to make preliminary inquiries as to the general need for the type of effort contemplated.

(a) Prior contact with FEMA technical personnel is permissible and encouraged with the limited objective of conveying to the prospective offeror an understanding of the FEMA mission and needs relative to the type of effort contemplated.

(b) The following information regarding policy and procedures for unsolicited proposals is furnished for the use of potential offerors.

(1) Definition—See 44–4.904(a) above

(2) Characteristics of a suitable proposal acceptable for formal evaluation. See 44–4.906 and 44–4.910 below.

(3) Prospective offerors are advised that:

(i) Any awards, based upon acceptance of unsolicited proposals, shall be made only to responsible prospective contracts who meet the standards set forth in 41 CFR 1–1.1203–1 and 1–1.1203–2 and such special standards as may be prescribed in 1–1.2303–3.

(ii) In the areas of research, this Agency's choice of a contractor shall be based primarily upon getting the job done effectively and efficiently with due regard to the long-term strength of the Nation's scientific and technical resources, and avoiding assignments of work which would create inherent conflicts of interest.

(iii) FEMA's Appropriation Act includes provisions requiring cost sharing by the contractor under research contracts resulting from unsolicited proposals. This requirement may only be waived when (A) the offeror certifies in writing to the Contracting Officer that it has no commercial, production, educational or service activities on which to use the results of the research and that it has no means of recovering any costs sharing on such projects; and (B) the Contracting Officer makes a written determination that there is no measurable gain to the performing organization and no mutuality of interest; therefore, it would not be equitable for the Government to require cost sharing.

(4) Prospective offerors, prior to investing substantial time and money in preparation of an unsolicited proposal, should correspond with Agency technical personnel as to the general need for the type of effort to be offered. (See 44–4.904(e) and 44–4.905(a) above, and 44–4.908 below.)

(5) The FEMA point of contact for information regarding unsolicited proposals and other types of transactions frequently misconstrued as unsolicited proposals, e.g., advertising, bidders mailing lists, etc., is the Acquisition Management Division, Policy and Support Branch (See 44–4.908 below).

(6) Information regarding unsolicited proposal submission procedures is contained in 44–4.906 through 44–4.913 below.

(7) Information regarding unsolicited proposal evaluation procedures is contained in 44–4.909 below.

(8) Information on FEMA objectives and areas of potential interest suitable for unsolicited proposal submissions may be obtained from this Agency's technical representatives through the Acquisition Management Division, Policy and Support Branch (See 44–4.908 below).

(9) Prospective offerors should identify any proprietary information that may be contained in proposals and any restrictive legend appearing in the proposal must conform to the legend set forth in 44–4.913(a) below.

(10) Unsolicited proposals shall conform to the procedural and submission guidelines contained in 44–4.906 through 44–4.913 below.

(c) All FEMA personnel shall conduct personal contacts in a manner that will preclude FEMA commitments regarding acceptability of unsolicited proposals.

§ 44–4.906 Content of unsolicited proposals.

Unsolicited proposals shall contain the following information in order to permit consideration in an orderly and timely manner.

(a) *Basic information.* Name and address of offeror; if an organization, indicate type; e.g., profit, nonprofit, educational, small business, names and telephone numbers of the offerors technical and business personnel whom FEMA may contact for evaluation and negotiation purposes; identification of any proprietary data which the offeror intends to be used by FEMA only for evaluation purposes (See 44–4.913 below), names of any other Federal, States, local agencies or other parties receiving the proposal and/or funding the proposed effort or activity; date of submission; and signature of a responsible official or authorized representative of the organization or a person authorized to contractually obligate the organization.

(b) *Technical information.* A concise title and an abstract (approximately 200 words) of the proposed effort; a reasonably complete discussion stating the objectives of the effort, the method of approach and extent of effort to be employed, the nature and extent of the anticipated results, and the manner in which the work will help support accomplishment of the FEMA mission; the names and brief biographical information of the offerors key personnel who would be involved and the types of support if any, the offeror requests of FEMA, e.g., facilities, equipment, materials, or personnel resources.

(c) *Supporting information.* A proposed price or total estimated cost; a cost estimate for the proposed effort sufficiently detailed by element of cost for meaningful evaluation; the type of contract preferred; period of time for which the proposal is valid (a minimum of 6 months is suggested); proposed duration of effort, statements, if applicable, regarding cost sharing, organizational conflicts of interests, security clearance status, and environmental impacts; and brief descriptions of the organization, previous work or experience in the field of the proposal, and facilities to be utilized for the work, where appropriate for understanding the proposal.

§ 44–4.907 Submission.

Unsolicited proposals shall be submitted in an original and five copies at least six months in advance of the offeror's desired beginning of the proposed effort in order to allow this Agency sufficient time to evaluate the proposal and negotiate any resultant contract.

§ 44–4.908 Agency point of contact.

The Acquisition Management Division is the FEMA point of contact for the receipt, acknowledgement and handling of unsolicited proposals. Unsolicited proposals and requests for additional information regarding their preparation shall be submitted to:

Federal Emergency Management Agency, Acquisition Management Division, Policy & Support Branch (M Street Building), Washington, D.C. 20472.

Unsolicited proposals received by other FEMA offices shall be immediately furnished to the Acquisition Management Division, Policy & Support Branch.

§ 44–4.909 Receipt, review, and evaluation.

(a) The Acquisition Management Division shall acknowledge an unsolicited proposal within ten (10) days of its receipt. Simultaneously, copies of the proposal shall be sent to the appropriate program office(s) for evaluation.

(b) Prior to having a comprehensive evaluation made on any unsolicited proposal, the Acquisition Management Division shall insure that the proposal:

(1) Contains sufficient technical and cost information to permit a meaningful evaluation; and

(2) Has been approved by a responsible official of the offeror's organization or a person authorized to contractually obligate the organization.

(c) If the unsolicited proposal does not meet the requirements in (b) above, the Acquisition Management Division shall give the offeror the opportunity to provide the required data. A comprehensive evaluation of an unsolicited proposal shall not be made if the proposal is not within the purview of the mission of FEMA. In such cases the offeror shall be advised how the proposal is being interpreted, the reason(s) for not evaluating it, and the disposition of the material submitted. An appropriately revised or supplemented proposal which is responsive to the above may be reconsidered.

(d) For each unsolicited proposal that is circulated for a comprehensive evaluation within FEMA, the Acquisition Management Division shall attach a legend identifying it as an unsolicited proposal, and stating that it shall be used only for the purpose of evaluation (See 44–4.913(c) below). In evaluating unsolicited proposals, program officials shall consider, in addition to any other criteria, the following:

(1) Unique, innovative or meritorious methods, approaches, or ideas which originated with or are assembled together by the offeror that are contained in the proposed effort or activity.

(2) Overall scientific, technical, or socioeconomic merits of the proposed effort or activity.

(3) Potential contribution which the proposed effort is expected to make to the FEMA mission, if pursued at this time.

(4) Capabilities, related experience, facilities, or techniques, or unique combinations thereof which the offeror possesses and offers and which are considered to be integral factors for achieving the scientific, technical, or socioeconomic objective(s) of the proposal.

(5) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are considered to be critical in achieving the objectives of the proposal.

(e) Upon completion of the comprehensive evaluation, program officials shall notify the Acquisition Management Division of their conclusions together with recommendations for further action.

§ 44–4.910 Method of procurement.

(a) A favorable comprehensive evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the offeror. When a document qualifies as an unsolicited proposal but the substance is available to the Government without restriction from another source, or closely resembles that of a pending requirement that will result in a competitive solicitation, or is otherwise not sufficiently unique to justify acceptance, the unsolicited proposal shall not be accepted and shall be returned to the offeror by the Acquisition Management Division with reasons for the return.

(b) A noncompetitive procurement is permissible when an unsolicited proposal has received a favorable technical evaluation, unless FEMA has determined that the substance thereof is available to the Government without restriction from another source, or a competitive procurement is otherwise appropriate. The program office sponsoring the procurement shall support its recommendation with a justification for a noncompetitive procurement. The justification shall be based on a comprehensive evaluation of the proposal and shall include the facts and circumstances that operate to preclude competition and that support the recommended noncompetitive action. Consideration shall include the evaluation factors listed in 44–4.909(d) above.

(c) When it is determined that the subject matter of an unsolicited proposal is acceptable for award on a noncompetitive basis, the unsolicited proposal will serve as the basis for negotiation.

§ 44–4.911 Prohibitions.

No unsolicited proposal nor any part of an unsolicited proposal shall be used as the basis, or as a portion, of a solicitation, or in negotiation with other firms unless the offeror is notified of and agrees to the intended use. However, FEMA may use any data, concept, or idea which it could have used had the unsolicited proposal not been submitted. Unauthorized disclosure of data tendered in an unsolicited proposal (see 44–4.913(a) below) which concerns or relates to trade secrets, processes, operations, style of work, or apparatus, or other matters may result in the imposition of a criminal penalty pursuant to the provisions of 18 U.S.C. 1905.

§ 44–4.912 Interagency coordination.

When it is determined that a meritorious unsolicited proposal is not related to the mission of FEMA or may be of interest to other agencies in addition to this Agency, FEMA may identify for the offeror other agencies whose missions bear a relationship to the subject matter of the unsolicited proposal.

§ 44–4.913 Limited use of data.

(a) An unsolicited proposal may include data which the offeror does not want disclosed for any purpose other than evaluation of the proposal. If the offeror wishes to impose such a restriction on his unsolicited proposal the offeror shall mark the title page with the following legend:

Use and Disclosure of Data

This data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal, PROVIDED, That if a contract is awarded to this offeror as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the contract. This restriction does not limit the Government's right to use information contained in the data if it is obtainable from another source without restriction. The data subject to this restriction is contained in Sheets ——.

The offeror also shall mark each sheet which the offeror wishes to restrict with the following legend:

Use of disclosure of proposal data is subject to the restriction on the title page of this proposal.

(b) If an unsolicited proposal is marked with a legend substantially different from that provided in (a) above, the Acquisition Management Division shall return the proposal to the offeror advising the offeror that the proposal cannot be considered because it is impracticable for the Government to comply with the legend. However, the offeror shall also be advised that the proposal will be considered if it is resubmitted with the legend provided in (a) above.

(c) Except as provided in paragraphs (d) or (e) below, the Acquisition Management Division shall place a cover sheet on the proposal or the proposal shall be otherwise clearly marked as follows unless the offeror gives a clear written indication that it does not wish to impose any restrictions on the disclosure or use of the data contained in the proposal.

Unsolicited Proposal

Use of Data Limited

All Government personnel handling this proposal shall exercise EXTREME CARE to insure that the information contained herein is not disclosed outside the Government and is NOT DUPLICATED, USED, OR DISCLOSED in whole or in part for any purpose other than to evaluate the proposal, without the written permission of the offeror (except that if a contract is awarded on the basis of this proposal, the terms of the contract shall control disclosure and use).

This notice does not limit the Government's right to use information contained in the proposal if it is obtainable from another source without restriction.

This is a Government notice, and shall not by itself be construed to impose any liability upon the Government or Government personnel for any disclosure or use of data contained in this proposal.

The notice in this paragraph (c) is used by FEMA solely as a manner of handling unsolicited proposals which will be compatible with the provisions of this section. Nevertheless, the use of the notice in this paragraph (c) shall not be used by FEMA to justify the withholding of a document (record) nor to improperly deny access to a document to an individual (the public) where an obligation is imposed on FEMA by the Freedom of Information Act, 5 U.S.C. 552, as amended. Matters which the prospective offeror considers to be trade secrets and commercial or financial information and privileged or confidential should be identified by the offeror upon submission to FEMA in accordance with (a) above.

(d) If an unsolicited proposal is received without any restrictive legend from an educational or nonprofit organization or institution and it is necessary or appropriate to obtain an evaluation outside the Government, the Acquisition Management Division shall place a cover sheet on the proposal or shall clearly mark the proposal with the legend set forth in (c) above, modified by changing the first two words to read "All Government and Non-Government," and by deleting the words "is not disclosed outside the Government and." The Acquisition Management Division shall obtain from any non-Government evaluator a written agreement that the evaluator will not disclose information in the proposal outside the Government. If the proposal is received with the restrictive legend specified in (a) above, the modified cover shall also be used and permission shall be obtained from the offeror, prior to release, for the release of the proposal for outside evaluation.

(e) If an unsolicited proposal is received from other than an education or nonprofit organization or institution irrespective of whether it contains a restrictive legend, and it is necessary or appropriate to obtain an evaluation of the proposal by Government personnel outside of FEMA and/or outside the Government, written permission shall be obtained from the offeror prior to release of the proposal for such evaluation. The Acquisition Management Division shall place a cover sheet on the proposal or shall clearly mark the proposal with the legend set forth in (c) above, if appropriate. The Acquisition Management Division shall obtain from any non-Government evaluator a written agreement that the evaluator will not disclose information in the proposal outside the Government.

Subpart 4.10—Architect-Engineer Services

§ 44-4.1000 Scope of subpart.

This subpart sets forth policies and procedures for the establishment of architect-engineer evaluation boards and for architect-engineer source selection.

§ 44-4.1004 Selection.

§ 44-4.1004-1 Establishment of architect-engineer evaluation boards.

Each architect-engineer evaluation board, whether permanent or ad hoc, shall consist of at least five voting members who are Federal employees from the appropriate FEMA program office or, from Federal offices outside the program office, as appropriate. One member of each board shall be appointed chairman. Five alternate members, who are Federal employees, shall also be appointed. The majority of voting members shall be from the program office concerned. The members of a permanent board shall be appointed by the Director for a period of two (2) years.

§ 44-4.1004-4 Source selection.

(a) The heads of offices cognizant over programs which from time to time may require architect-engineer services are designated as source selection officials for all procurements of architect-engineer services, and as such are vested with the authority to review the recommendations of the evaluation board and to make the final selection of the firms best qualified to perform the work, in accordance with the provisions of 41 CFR 1-4.1004-4. Rejections of the recommended firms and the reasons for their rejection will be in writing.

(b) Upon the determination of the qualified firms by the source selection official, a requisition shall be forwarded to the procuring office which shall indicate the order of qualification, including capability, of the selected firms. The procuring office shall then send a request for proposal to, and begin negotiations with, the firm ranked highest on the list.

§ 44-4.1004-50 Conflict of interest.

If at any time during the selection process a board member or advisor to the board, encounters a situation with one or more of the firms being considered that might be, or might appear to be, a conflict of interest, he will disqualify himself and call it to the attention of the chairman who shall refer the matter to the Office of General Counsel.

§ 44-4.1004-51 Privity of information.

The evaluation board is to be insulated from outside pressures to the extent practical. No person having knowledge of the activities of the board shall divulge information concerning the deliberations of the board to any other persons not having a need to know such information.

Subpart 4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Service, and Supplies.

§ 44-4.1100 Scope of subpart.

This subpart sets forth policy governing the procurement of all automatic data processing equipment, software, maintenance services, and supplies by FEMA.

§ 44-4.1104 Request for procurement action.

§ 44-4.1104-50 Clearance procedures.

No solicitation or modification to an existing contract, when related in whole or in part to the procurement of ADP equipment or services, shall be issued until approval is obtained from the General Services Administration pursuant to 41 CFR 1-4.1104.

Subpart 4.50—Interagency Procurement [Reserved]

PART 44-7—CONTRACT CLAUSES

Sec.

44-7.000 Scope of part

Subpart 7.50—Additional clauses.

44-7.5001 Additional clauses to be used in all contracts.
44-7.500-1 Notification of changes.
44-7.5001-2 Suspension of work.
44-7.5001-3 Affirmative action for disabled veterans and veterans of the Vietnam era.
44-7.5002 Additional clauses to be used in contracts as appropriate.
44-7.5002-1 Rights in technical data and computer software.
44-7.5002-2 Reproduction of reports.
44-7.5002-3 Coordination of Federal reporting requirements.
44-7.5002-4 Services of consultants.
44-7.5002-5 Publication.
44-7.5002-6 Indirect costs (actual).
44-7.5002-7 [Reserved]
44-7.5002-8 [Reserved]
44-7.5002-9 Consideration and payment (cost-sharing).
44-7.5002-10 Warranty.
44-7.5002-11 [Reserved]
44-7.5002-12 Method of payment—letter of credit.
44-7.5002-13 Cost Accounting Standard Withdrawal.
44-7.5002-14 Rights in Technical Data—Specific Acquisition.

Authority: Sec: 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-7.000 Scope of part.

This part sets forth special contract clauses which are in addition to clauses set forth in the FPR for use in connection with the procurement of personal property and nonpersonal services (including construction).

Subpart 7.50—Additional Clauses

§ 44-7.5001 Additional clauses to be used in all contracts.

§ 44-7.5001-1 Notification of changes.

Notification of Changes

(a) *Notices.* The Contractor shall notify the Contracting Officer within five (5) calendar days of receipt of any instruction which he/she considers to be a change to the contract terms and conditions. Instructions to be reported can include actions, inactions and written or oral communications but need not include written communication from the Contracting Officer specifically directing changes. Notice from the Contractor shall state:

(1) The date, nature, and circumstance of the instructions regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor employee involved in or knowledgeable about such instructions; and

(3) The identification of any documents and the substance of any oral communication involved in such instruction.

(b) *Continued Performance.* Following submission of the notice required by (a) of this provision the Contractor shall continue performance of this contract in accordance with its terms and conditions as understood prior to receipt of said instruction. The Contractor shall *not* institute a change to the terms and conditions of the contract until specifically authorized by the Contracting Officer, in writing, to do so.

(c) *Contractor's Liability.* If the Contractor proceeds with any change to the terms and conditions of the contract without prior written approval from the Contracting Officer, the Contractor assumes all liability for costs incurred by such action.

§ 44-7.5001-2 Suspension of work.

Suspenson of work

(a) The Contracting Officer may, at any time, by written order to the contractor, require the contractor to suspend, delay or interrupt all, or any part, of the work called for by this contract for a period up to ninety (90) days after the order is delivered to the contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a suspension of work issued pursuant to this clause. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work suspension. Within a period of ninety (90) days after a suspension of work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:

(1) Cancel the suspension of work order; or

(2) Terminate the work covered by such order as provided in the "Termination for Convenience" clause of this contract.

(b) If a suspension of work issued under this clause is cancelled or the period of the order or any extension thereof expires, the contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if:

(1) The suspension of work results in an increase in the time required for, or in the contractor's cost properly allocable to, the performance of any part of this contract, and

(2) The contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) If a suspension of work order is not cancelled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the suspension of work order shall be allowed in arriving at the termination settlement.

(d) If a suspension of work order is not cancelled and the work covered by such order is terminated for default, the reasonable costs resulting from the suspension of work order shall be allowed by equitable adjustment or otherwise.

§ 44-7.5001-3 Affirmative action for disabled veterans and veterans of the Vietnam era.

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veterans of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal

obligations which attach to the placings of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this order shall include, but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause:

(1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be in the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

§ 44-7.5002 Additional clauses to be used in contracts as appropriate.

§ 44-7.5002-1 Rights in technical data and computer software.

Rights in Data

(a) Definitions. (1) Technical Data means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications standards, process sheets, manuals, technical reports, catalog item identifications and related information and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

(2) Computer—a data processing device capable of accepting data, performing prescribed operations on the data, and suppling the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on these data, or a device that operates on analog data by performing physical processes on the data.

(3) Computer Software—computer programs and computer data bases

(4) Computer Program—a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

(5) Computer Data Base—a collection of data in a form capable of being processed and operated on by a computer.

(6) Computer Software Documentation—Technical data, including computer listing and printouts, in human-readable form which (i) documents the design or details of computer software, (ii) explains the capabilities of the software, or (iii) provides operating instructions for using the software to obtain desired results from a computer.

(7) Unlimited Rights means rights to use, duplicate, or disclose technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(8) Limited Rights means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for:

(i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release of disclosure; or

(ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(9) Restricted Rights apply only to computer software, and include, as a minimum, the right to:

(i) use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(ii) use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(iii) copy computer programs for safekeeping (archives) or backup purposes;

(iv) modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights; and

(v) treat computer software bearing a copyright notice as a published copyrighted work; and in addition, any other specific rights not inconsistent therewith listed or described in this contract or described in a license or agreement made a part of this contract.

(b) Government Rights. (1) Unlimited Rights. The Government shall have unlimited rights in:

(i) technical data and computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contact or subcontact;

(ii) computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract;

(iii) computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense (but see (2)(ii) below);

(v) technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software;

(vi) technical data pertaining to end-items; components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(vii) manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(viii) technical data or computer software which is in the public domain, or has been or is normally furnished without restriction by the Contractor or subcontractor; and

(ix) technical data or computer software listed or described in an agreement incorporated into the schedule of this contract which the parties have predetermined, on the basis or subparagraphs (i) through (viii) above, and agreed will be furnished with unlimited rights.

(2) Limited Rights. The Government shall have limited rights in:

(i) technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) technical data pertaining to items, components or processes developed at private expense, and computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in (b)(1)(i), (v), (viii), and (viii); provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2) (i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. the number of the prime contract under which the technical data is to be delivered,

B. the name of the Contractor and any subcontractor by whom the technical data was generated, and

C. an explanation of the method used to identify limited rights data.

Limited Rights Legend

Contract No. ———
Contractor: ———
Explanation of Limited Rights Identification Method Used

———

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or, in the case of computer software documenation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for: (i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) Restricted Rights. The Government shall have restricted rights in computer software, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided, however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights in (a)(9)(i) through (v). Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. ——— with ——— (Name of Contractor) ———, and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

V 45 A G 1980 UMI

(4) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to, any data or computer software which the Contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this paragraph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) Material Covered by Copyright. (1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, except computer software documentation bearing a copyright notice and furnished in support of restricted rights computer software, and unlimited rights computer software prepared or required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyright matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data or computer software delivered hereunder.

(d) Removal of Unauthorized Markings. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder, if:

(i) the Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) the Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of limited rights markings by clear and convincing evidence, or of restricted rights markings by identification of the restrictions set forth in the contract.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) Relation to Patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Limitation on Charges for Data and Computer Software. The Contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data or computer software on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund or amounts received by the Contractor with respect to any such charges not so excluded.

(g) Acquisition of Data and Computer Software from Subcontractors. (1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next-higher tier Contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data-or computer software from their subcontractors for themselves.

§ 44–7.5002–2 Reproduction of reports.

Include the following clause when the product of the contract is a report, data or other written material.

Reproduction of Reports

Reproduction of reports, data or other written material, if required herein is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in aggregate. The aggregate number of production units is to be determined by multiplying pages times copies. A production unit is one sheet, size 8½ by 11 inches or less, printed on one size only and in one color. All copy preparation to produce camera ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stencils masters and plates which are to be used on single unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10¾ by 14¼ inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproducibles (camera ready copies for reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data or other written material.

§ 44–7.5002–3 Coordination of Federal reporting requirements.

The following clause shall be included in contracts when appropriate:

Coordination of Federal Reporting Services

In the event that it is a contractual requirement to collect information from ten or more public respondents, the provisions of 44 U.S.C., Chapter 35 (Coordination of Federal Reporting Requirements), shall apply to this contract. The contractor shall obtain through the Project Officer the required Office of Management and Budget clearance before making public contacts for the collection of data or expending any funds for such collection. The authority to proceed with the collection of data from public respondents and the expenditure of funds therefor shall be in writing signed by the Contracting Officer.

§ 44–7.5002–4 Services of consultants.

The following clause shall be used in contracts where it is anticipated that consultant services may be used:

Services of Consultants

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled, "Subcontracting" the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract except when the consultant has been identified and rates established during negotiations of this contract.

Whenever Contracting Officer approval is required, the contractor shall obtain and furnish to the Contracting Officer information concerning the need of such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

§ 44–7.5002–5 Publication.

The following clause shall be used in all contracts under which it is anticipated that a report will be a product:

Publication

(a) *Definition.* For the purpose of this clause, "publication" includes (1) any document containing information intended for public consumption or (2) the act of, or any act which may result in disclosing information to the public.

(b) *General.* The results of the research and development and studies conducted under this contract are to be made available to the public through dedication, assignment to the Government, or such other means as the Director of the Federal Emergency Management Agency shall determine.

(c) *Reports furnished the Government.* All intermediate and final reports of the research and development and studies conducted hereunder shall indicate on the cover or other initial page that the research and development and studies forming the basis for the report were conducted pursuant to a contract with the Federal Emergency Management Agency. Such reports are official Government property and may not be published or reproduced (in toto, in verbatim excerpt, or in a form approximating either of these) as an unofficial paper or article. The contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish such reports in whole or in part in a non-Government publication only in accordance with this paragraph (c) and paragraph (e) (1) of this clause.

(d) *Publication by Government.* The Government shall have full right to publish all information, data, and findings developed as a result of the research and development and studies conducted hereunder.

(e) *Publication by contractor or technical personnel.* (1) *Publication in whole or in part of contractor's reports furnished the Government.* Unless such reports have been placed in the public domain by Government publication, the contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish a report furnished the Government, in toto or in verbatim excerpt, but consistent with paragraph (c) of this clause may not secure copyright therein, subject to the following conditions, and the conditions in paragraph (e)(4) and paragraph (f):

(i) During the first six months after submission of the full final report, if written permission to publish is obtained from the Contracting Officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, if a foreword or footnote in the non-Government publication indicates the source of the verbatim material.

(2) *Publication, except verbatim excerpts, concerning or based in whole or in part on results of research and development and studies hereunder.* The contractor or technical personnel may issue a publication concerning, or based in whole or in part on the results of, the research and development and studies conducted under this contract and may secure copyright therein but in so publishing is not authorized thereby to inhibit the unrestricted right of the Director of the Federal Emergency Management Agency to disclose or publish in such manner as he may deem to be in the public interest the results of such research and development and studies, subject to the following conditions and the requirement in paragraph (e)(4):

(i) During the first six months after submission of the full final report, and if paragraph (e)(3) is inapplicable, if written waiver of the waiting period is obtained from the Contracting Officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, subject to Government exercise of an option that the publication contain a foreword or initial footnote substantially as follows:

The (research) (development) (studies) forming (part of) the basis for this publication were conducted pursuant to a contract with the Federal Emergency Management Agency. The substance of such (research) (development) (studies) is dedicated to the public. The author and publisher are solely responsible for the accuracy of statements or interpretations contained herein.

(3) *General condition if FEMA determines that contractor's final report contains patentable subject matter developed in contract performance.* If the Contracting Officer determines that the contractor's full final report contains patentable subject matter developed in the performance of this contract and so notifies the contractor in writing prior to six months from date of submission of such report, no publication of verbatim excerpts from contractor's reports or publication concerning or based in whole or in part on the results of the research and development and studies hereunder shall be made without the written consent of the Contracting Officer.

(4) *Copies of contractor and technical personnel publications to be furnished the Government.* The contractor or technical personnel will furnish the Contracting Officer six (6) copies of any publications which are based in whole or in part on the research and development and studies conducted under this contract.

(f) *Administratively confidential information.* The contractor shall not publish or otherwise disclose, except to the Government and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

(g) *Inclusion of provisions in contractor's agreements.* The contractor shall include provisions appropriate to effectuate the purposes of this clause in all contracts of employment with persons who perform any part of the research or development or study under this contract and in any consultant's agreements or subcontracts involving research or development or study hereunder.

§ 44–7.5002–6 Indirect costs (actual).

When it has been determined pursuant to FEMAPR 44–3.702(c) that it is not appropriate to include the Negotiated Overhead Rates clause set forth in 41 CFR 1–3.704, the following clause shall be inserted:

(Indirect Costs (Actual))

In accordance with the "Allowable Cost, Fixed-Fee, and Payment" clause of the contract, the contractor shall be paid his actual overhead costs. Allowable overhead cost will be determined by the Contracting Officer in accordance with the principles set forth in 41 CFR Part 1–15. Any failure of the parties hereto to agree as to what constitutes actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes".

§ 44–7.5002–7 [Reserved]

§ 44–7.5002–8 [Reserved]

§ 44–7.5002–9 Consideration and payment (cost-sharing).

The following clause shall be inserted in each cost-sharing contract:

Consideration and Payment (Cost-Sharing)

(a) The estimated cost for the performance of this contract is $————. The contractor agrees to bear without reimbursement by the Government —% of the cost for performance hereunder. Such cost sharing shall be effected as set forth in Paragraph (b) below.

(b) Public vouchers or invoices shall be submitted in an original and five (5) copies and shall show the total cost incurred for the period for which the voucher or invoice is submitted, the cumulative total of costs incurred through the billing period, and the percentage of costs to be reimbursed by the Government. However, the Government is not obligated to reimburse the contractor in excess of————% of such amount. The Government shall not be obligated to reimburse the contractor for the Government's share of the costs in excess of $————nor is the contractor obligated by this contract to expend his own funds in excess of $————.

§ 44–7.5002–10 Warranty.

When it has been determined that it is appropriate to place a warranty on equipment or services furnished under a contract, insert the following clause set forth below. Each construction contract shall incorporate an appropriate clause.

Warranty

The contractor agrees that the supplies or services furnished by the contractor under this contract shall be covered by warranties which are either standard or customary in the trade or are substantially similar to, and not in excess of, a standard or customary trade warranty. The contractor shall furnish any warranty description at time of delivery. Supply package shall be simply marked to show existence of the warranty, its expiration date and the company official to be notified.

§ 44–7.5002–11 [Reserved]

§ 44–7.5002–12 Methods of payment—Letter of Credit.

(a) The contractor shall be paid with funds made available under the Federal Reserve Letter of Credit No.————, established by————, Federal Emergency Management Agency (FEMA), against which the contractor will withdraw funds pursuant to prescribed

Federal Reserve Letter of Credit procedures, as implemented by FEMA.

(b) The contractor shall: (1) initiate cash drawdowns only when actually needed for its disbursements, (2) timely report cash disbursements and balances as required by the Contracting Officer, and (3) impose the same standards of timing and amount upon any secondary recipients including the furnishing of reports of cash disbursements and balances. Failure to adhere to these material provisions will be considered an event under paragraph (f) of this clause.

(c) The funds drawn by the contractor against the Federal Reserve Letter of credit referred to above shall be only for current allowable expenditures necessary for the performance of the contract.

(d) Then so requested in writing by the Contracting Officer, the contractor shall repay to the government, in accordance with prescribed agency procedures, such part in the unliquidated balance of the advance payments as shall, in the opinion of the Contracting Officer, be in excess of the contractor's current needs or in excess of the contract price.

(e) If upon completion or termination of this contract all amounts obtained by the contractor under this letter of credit shall have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due to the contractor from the Government, and any excess funds shall be repaid by the contractor to the Government.

(f) Upon the happening of any of the following events of default: (1) a finding by the Contracting Officer that the contractor (i) has failed to observe any of the convenants, conditions, or warranties of these provisions or has failed to comply with any material provision of this contract, or (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, or (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, or (iv) is delinquent in payment of taxes or of the costs of performance of this contract in the ordinary course of business; (2) appointment of a trustee, receiver or liquidator for all or a substantial part of the contractor's property, or institution of bankruptcy, reorganization, arrangement or liquidation proceedings, by or against the contractor; (3) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings; or (4) the commission of an act of bankrutcy; the Government, without limiting any rights which it may otherwise have, may, in its discretion and upon written notice to the contractor withhold further withdrawals under the Letter of Credit and withhold further payments on this contract.

(g) Upon the continuance of any such events of default for a period of thirty (30) days after such written notice to the contractor, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances:

(1) Charge interest on advance payments outstanding during the period of any such default at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97 for the Renegotiation Board;

(2) Demand immediate repayment of the unliquidated balance of advance payments hereunder; or

(3) Take possession of and, with or without advertisements, sell at public sale at which the Government may be the purchaser, or at a private sale, all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of the unliquidated balance of advance payments hereunder and in reduction of any other claims of the Government against the contractor.

(h) Notwithstanding any other provision of this contract, the contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(i)(1) Interest shall be charged in the manner provided herein at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41; 85 Stat. 97, for the Renegotiation Board on subadvances or downpayments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on subcontracts with nonprofit educational or research institutions for experimental, developmental or research work.

(2) The office administering advance payments is designated as the Acquisition Management Division.

(j) For the performance of this contract, the Government shall pay the contractor: The cost thereof (hereinafter referred to as "allowable cost" determined by the Contracting Officer to be allowable in accordance with (1) 41 CFR 1-15 as in effect on the date of this contract; and (2) the terms of this contract.

(k) For the purpose of determining amounts to be advanced under this contract, costs previously incurred shall only include those recorded costs which result, at the time of requests for further advances, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid for materials which have been issued from the contractor's stores inventory and production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, as is shown by records maintained by the contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to the Contractor's subcontractors under similar cost standards. In addition, when pension contributions are paid by the contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for purposes of obtaining advances under this contract until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from indirect cost for payment purposes of obtaining advances under this contract until payment has been made.

(l) The contractor shall submit an invoice or a voucher designated as a "Completion Invoice" or "Completion Voucher" promptly following completion of the work under this contract but in no event later than one year (or such longer time as the Contracting Officer may in his discretion approve in writing) from the date of such completion. The Contracting Officer can direct that a final report of expenditures be included with the completion invoice or voucher.

(m) The contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the contractor or any assignee under this contract shall be paid by the contractor to the Government, to the extent that they are properly allocable to costs for which the contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the contractor shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allowable to costs for which the contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statements by the contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the contractor to third parties arising out of the performance of this contract; provided, however, that such claims are not known to the contractor on the date of the execution of the release, and provided further, that the contractor gives notice of such claims in writing to the Contracting Officer not more than six years after the date of the release or the date of any notice to the contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the contractor under the provisions of this contract relating to patents.

(n) Any cost incurred by the contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by references, designating services to be performed or materials to be furnished by the contractor at his expense or without cost to the Government.

§ 44-7.5002-13 Cost Accounting Standard Withdrawal.

Cost Accounting Standard 414—Cost of money as an element of cost of facilities capital—is withdrawn from application to the provisions of the clauses in this contract entitled "Cost Accounting Standards" and "Administration of Cost Accounting Standards."

§ 44-7.5002-14 Rights in Technical Data—Specific Acquisition.

(a) Definition. Technical Data means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalogs item identifications, and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) Government Rights. The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) Material Covered by Copyright. (1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) Relation to Patents. Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) Limitation on Charges for Data. The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data which the Government has a right to use and disclose to others which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

PART 44-11—FEDERAL, STATE, AND LOCAL TAXES

Sec.

§ 44-11.000 Scope of part.

Subpart 11.4—Contract Clauses

§ 44-11.401-4 Matters requiring special consideration.

Subpart 11.50—Resolution of Tax Problems

§ 44-11.500-1 Resolution of tax problems.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-11.000 Scope of part.

This part sets forth policies and procedures for dealing with matters concerning Federal, State or local taxes.

Subpart 11.4—Contract Clauses

§ 44-11.401-4 Matters requiring special consideration.

Pursuant to 41 CFR 1-11.401-4(d), it is the policy of FEMA to implement the procedures set forth in 41 CFR 1-11.404-4 (a), (b), and (c) as appropriate.

Subpart 11.50—Resolution of Tax Problems

§ 44-11.500-1 Resolution of tax problems.

In order to have uniformity in FEMA's treatment of the tax aspects of a contract and to insure effective cooperation with other Government agencies on tax matters of mutual interest, the Office of General Counsel has the responsibility within FEMA for handling all tax problems. Therefore, procuring offices will not engage in negotiation with any taxing authority for the purpose of determining the validity or applicability of, or obtaining exemptions from or refund of, any tax. When a problem exists, the Contracting Officer shall request in writing the assistance of the Office of General Counsel. The request shall detail the problem and be accompanied by appropriate backup data. The Office of General Counsel shall report to the Contracting Officer as to the necessary disposition of the tax problem. The Contracting Officer will notify the contractor of the outcome of the tax problem. The Office of General Counsel shall have the responsibility for communications with the Department of Justice for representation or intervention in proceedings concerning taxes.

PART 44-13—GOVERNMENT PROPERTY

Sec.

44-13.000 Scope of part.
44-13.001 General policy.

Subpart 13.1—Definitions

44-13.100 Scope of subpart.
44-13.101 Government property.
44-13.102 Real property.
44-13.103 Personal property.
44-13.104 Facilities.

Subpart 13.2—Furnishing Government Property to Contractors

44-13.201 Responsibility of FEMA.
44-13.202 Availability of required property.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganizaion Plan No. 3 of 1978, 43 FR 41943.

§ 44-13.000 Scope of part.

This part sets forth policy concerning the furnishing of Government property to contractors under FEMA contracts.

§ 44-13.001 General policy.

It is the general policy of FEMA to contract with suppliers which are able to perform the requirements of a contract without being furnished property by the Government. This policy has been established to prevent FEMA from assuming any responsibility for the performance of work under a contract which rightly vests in the contractor,

V 45 AG 1980 UMI

and to preclude the possibility of creating an unfair competitive advantage for one prospective contractor over another. However, circumstances may arise in which the interests of the Government would be best served by furnishing property to contractors, such as in a case where the property is necessary to contract performance, or, when furnishing Government property will result in substantial cost savings to the Government.

Subpart 13.1—Definitions

§ 44-13.100 Scope of subpart.

For purposes of this part, and unless otherwise indicated, the following terms have the meaning set forth in this subpart.

§ 44-13.101 Government property.

"Government property" means all property furnished by the Government or acquired with Federal funds by the contractor for use in performance of his contractual obligations. Government property includes Government-furnished property and contractor-acquired property as defined below:

(a) "Government-furnished property" is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(b) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

§ 44-13.102 Real property.

"Real Property" means land, buildings or items permanently affixed to either land or buildings.

§ 44-13.103 Personal property.

"Personal property" means all property that is subject to ownership except real property. Personal property includes:

(a) *Reportable property.* All property other than real property having a unit acquisition cost of $100.00 or more and tools regardless of cost.

(b) *Expendable property (material).* Property which may be incorporated into, or attached to, an end item to be delivered under the contract or which may be consumed or expended in the performance of the contract.

It is the general policy of FEMA that contractors will furnish all materials required for the performance of its contracts. However, furnishing materials to contractors could be preferable when:

(1) The material is not readily available on the market or cannot be conveniently manufactured by a contractor or his subcontractors. This premise is valid only if the Government has the material in inventory or can readily obtain it;

(2) The cost would be less than if the contractor obtained the material;

(3) The Government may already be exercising control over the material;

(4) Standardization or Government-design control is desired;

(5) It is necessary to expedite the research; and

(6) Furnishing the material may significantly broaden the competitive base.

(c) *Residual materials and property.* All serviceable material not consumed in the performance of a contract, and all unserviceable or scrap equipment not consumed in the performance of a contract.

§ 44-13.104 Facilities.

"Facilities" means all industrial property (other than material, special tooling, military or space property, special test equipment and technical information) used for the production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

Subpart 13.2—Furnishing Government Property to Contractors

§ 44-13.201 Responsibility of FEMA.

When the Government furnishes property it assumes a direct role in the performance of the contract. Therefore, the furnishing of Government property should be carefully planned and scheduled in order to avoid delays or mistakes. When Government-furnished property is essential for performance of the contract, FEMA must insure that the contractor receives the property in the specified quantities and at the required time.

§ 44-13.202 Availability of required property.

(a) Prior to making a decision to furnish property to a prospective contractor, the Contracting Officer shall first ascertain whether the subject property is available by inquiring into existing inventories. Property requested should be identified by functional need in order to maximize the effectiveness of furnishing Government property. The functions to which the Government furnished property are to be applied should be analyzed to determine what types of equipment can be used from available sources.

(b) When existing Government property is not available or suitable, the contractor may be authorized (subject to surveillance and approval of the Contracting Officer) to purchase new property. The contractor then vouchers for the property along with the normal billing process, is reimbursed and the Government takes title to the property. Contractor-acquired and Government furnished property can be combined in the same contract.

PART 44-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.

44-15.000 Scope of part.

Subpart 15.50—Suspension and Disallowance of Contract Costs

44-15.5000 Scope of subpart.
44-15.5001 Suspension and disallowance of costs.
44-15.5001-1 Procedure.
44-15.5001-2 Recourse to determination of cost as unallowable.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-15.000 Scope of part.

This part sets forth policies and procedures concerning unallowable costs.

Subpart 15.50 Suspension and Disallowance of Contract Costs

§ 44-15.5000 Scope of subpart.

This subpart sets forth policies and procedures concerning suspension and disallowance of contract costs and recourse to determination of costs as unallowable.

§ 44-15.5001 Suspension and disallowance of costs.

§ 44-15.5001-1 Procedure.

In the event that the contractor presents a cost for reimbursement which the Contracting Officer considers to be unallowable, questionably allowable or partially unallowable, either specifically pursuant to 41 CFR 1-15, or consistent with the intent thereof, he shall notify the Division of Budget and Finance, the Project Officer, and the contractor that the subject cost, plus any corresponding overhead, general and administrative expense, indirect cost or fee associated with its incurrence, is being suspended pending receipt of supporting documentation from the contractor justifying the cost. This notification in each case shall be in writing and shall be accompanied by a copy of the invoice indicating the questioned cost. The notification to the contractor shall also indicate that supporting documentation for the cost must be received within thirty days, or such longer period as may be granted by the Contracting Officer, or the cost will be disallowed pending final audit. The notification to the Division of Budget and Finance shall also indicate that the cost and associated pool costs and/or fee should not be reimbursed. If the contractor provides the requested documentation, and the Contracting Officer considers it to adequately support the cost as allowable, the Contracting Officer shall so notify the contractor and advise him to resubmit the cost and associated pool costs on his next invoice clearly indicating the origin and identity of the cost. In the event that the contractor should fail to submit the requested documentation, or if the supporting documentation is considered to be inadequate, or does not support the cost as allowable, the Contracting Officer shall notify the contractor, in writing, to this effect and advise him that the cost is being disallowed and, therefore, shall not be reimbursed.

§ 44-15.5001-2 Recourse to determination of cost as unallowable.

When the Contracting Officer has determined, in accordance with the foregoing procedure, that a cost is unallowable, his decision shall be final and conclusive unless the contractor seeks remedy pursuant to the "Disputes" clause of the contract.

PART 44-16—PROCUREMENT FORMS

Sec.

44-16.000 Scope of part.

Subpart 16.1—Forms for Advertised Supply Contracts

44-16.101 Contract forms.

Subpart 16.2—Forms for Negotiated Supply Contracts

44-16.202 Contracts forms.
44-16.202-50 Fixed price contracts.
44-16.202-51 Cost-reimbursement contracts.

Subpart 16.3—Purchase and Delivery Order Forms

44-16.301 Order-invoice-voucher forms.
44-16.301-2 Order for supplies or services (Standard Forms 147 and 148).

Subpart 16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect Engineer Contracts)

44-16.501 Contracts forms.
44-16-501-1 Fixed price contracts.
44-16.501-2 Cost-reimbursement contracts.

Subpart 16.7—Forms for Negotiated Architect-Engineer Contracts

44-16.701 Forms prescribed.
44-16.701-1 Cost-reimbursement contracts.

Subpart 16.8—Miscellaneous Forms

44-16.806 Contract pricing proposals.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-16.000 Scope of part.

This part prescribes forms for use by FEMA procuring offices in connection with the procurement of supplies, purchase and delivery orders, nonpersonal services, and architect-engineer services and other miscellaneous forms for use in connection with the procurement of supplies and services.

Subpart 16.1—Forms for Advertised Supply Contracts

§ 44-16.101 Contract forms.

FEMA Form 40-8 shall be used for all advertised supply contracts in excess of $10,000.

Subpart 16.2—Forms for Negotiated Supply Contracts

§ 44-16.202 Contract forms.

§ 44-16.202-50 Fixed price contracts.

FEMA Form 40-8 shall be used for all negotiated fixed price supply contracts in excess of $10,000.

§ 44-16.202-51 Cost-reimbursement contracts.

FEMA Form 40-7 shall be used for all cost-reimbursement supply contracts in excess of $10,000.

Subpart 16.3—Purchase and Delivery Order Forms

§ 44-16.301 Order-invoice-voucher forms.

§ 44-16.301-2 Order for supplies or services (standard form 147 and 148).

All FEMA purchase and delivery orders shall be executed on Standard Form 147 (SF-147), "Order for Supplies or Services", and Standard Form 148 (SF-148) "Continuation Sheet".

Subpart 16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)

§ 44-16.501 Contract forms.

§ 44-16.501-1 Fixed Price contracts.

FEMA Form 40-11 shall be used for all advertised or negotiated fixed price contracts in excess of $10,000 for nonpersonal services other than construction, architect-engineer services and transportation.

§ 44-16.501-2 Cost-reimbursement contracts.

FEMA Form 40-10 shall be used for all cost-reimbursement contracts in excess of $10,000 for nonpersonal services other than construction, architect-engineer services or transportation.

Subpart 16.7—Forms for Negotiated Architect-Engineer Contracts

§ 44-16.701 Forms prescribed.

§ 44-16.701-1 Cost-reimbursement contracts.

FEMA Form 40-10 shall be used for all cost-reimbursement architect-engineer contracts. The form may be modified by substituting appropriate clauses from 41 CFR 1-16.

Subpart 16.8—Miscellaneous Forms

§ 44-16.806 Contract pricing proposals.

Cost or pricing data shall be submitted by contractors on Optional Form 59 if the proposed contract is for other than research and development work.

PART 44-30—CONTRACT FINANCING

Sec.

44-30.000 Scope of part.

Subpart 30.4—Advance Payments

44-30.400 Scope of subpart.
44-30.406 Responsibility—delegation of authority.
44-30.408-1 Use of letter of credit method of financing.
44-30.414-2 Contract provisions for advance payments.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-30.000 Scope of part.

This part sets forth policies and procedures concerning advance payments on prime contracts.

Subpart 30.4—Advance Payments

§ 44-30.400 Scope of subpart.

This subpart covers policies and procedures concerning authority to make advance payments and the letter of credit method of financing and sets forth clauses to be used in contract where advance payment has been authorized.

§ 44-30.406 Responsibility—delegation of authority.

The responsibility and authority for making findings and determinations with respect to advance payments and in each case for approval of contract provisions for advanced payments, or for approval of terms and conditions thereof, shall be vested in the Head of the Procuring Activity. Prior to committing FEMA to the making of an advance payment, the Head of the Procuring Activity shall obtain the advice and concurrence of the Director, Division of Budget and Finance concerning such advance payment.

V 45 A G 19 80 UMI

§ 44-30.408-1 Use of letter of credit method of financing.

Letters of credit for contracts shall be established and administered in accordance with FEMA procedures established for all Letter of Credit transactions.

§ 44-30.414-2 Contract provisions for advance payments.

The clause set forth in 41 CFR 1-30.414-2 shall be included in all contracts for which advance funding has been authorized but for which the letter of credit method of providing advance funding is not appropriate. The clause set forth in FEMAPR 44-7.5002-12 shall be included in all contracts for which advance funding has been authorized and the letter of credit method of providing such advance funding is appropriate.

Dated: August 8, 1980.

John W. Macy, Jr.,
Director, Federal Emergency Management Agency.

[FR Doc. 80-25078 Filed 8-18-80; 8:45 am]
BILLING CODE 6718-01-M

V 45 A G 19 80 UMI

federal register

Tuesday
August 19, 1980

Part III

Department of Energy

Economic Regulatory Administration

Distribution of Strategic Petroleum Reserve Crude Oil

DEPARTMENT OF ENERGY

SUPPLEMENTARY INFORMATION:

any severe shortage of crude oil should

indicated that while they believed that

the allocation would be conducted

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 220

[Docket No. ERA-R-79-38]

Distribution of Strategic Petroleum Reserve Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a final rule adopting a new Part 220 to implement the authority of section 161 of the Energy Policy and Conservation Act for the allocation of crude oil from the Strategic Petroleum Reserve (SPR) and the SPR Distribution Plan. The rule gives DOE discretion to distribute SPR crude oil under the current Buy/Sell Program, the Standby Crude Oil Allocation Program, or by means of allocation outside of those programs. The rule also prescribes the manner in which SPR crude oil would be priced in allocated sales.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT:
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.
Peter Antonelli (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3462.
Josette L. Maxwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3256.
Richard D. Furiga (Strategic Petroleum Reserve Office), Department of Energy, Room 400, 1726 M Street, N.W., Washington, D.C. 20461, (202) 634-5521.
Samuel M. Bradley or Sue D. Sheridan (Office of General Counsel—Petroleum Regulations), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754.
Craig S. Bamberger (Office of General Counsel—Strategic Petroleum Reserve), Department of Energy, Room 5E-074, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION:

I. *Background*
II. *Discussion of Major Comments*
III. *Amendments Adopted*
IV. *Procedural Matters*

I. Background

On August 17, 1979, we issued a notice of proposed rulemaking (44 FR 48696, August 20, 1979) to adopt a new Part 220 to provide a regulatory framework for the allocation of Strategic Petroleum Reserve (SPR) oil as an alternative to distributing SPR crude oil by competitive sale.[1] The proposed rule gave DOE discretion to distribute SPR crude under the current Buy/Sell Program, the Standby Crude Oil Allocation Program, or by means of a new, separate SPR allocation system set forth in the notice. In addition, the proposed rule set forth procedures for the conduct of sales of SPR crude oil which apply under each allocation alternative, and prescribed the manner in which SPR crude oil would be priced in allocated sales. For a detailed discussion of the statutory basis for the SPR, the SPR physical distribution system and the policy issues concerning distribution of SPR crude oil, as well as the details of the proposed regulation, *see* the regulation preamble at 44 FR 48696. These matters are also discussed in the SPR Distribution Plan (Amendment No. 3 to the SPR Plan), which was transmitted to Congress on October 21, 1979 and became effective November 15, 1979, and which can be obtained from the National Technical Information Service.

II. Discussion of Major Comments

Comments on the proposed rule were requested through October 10, 1979. In addition, a hearing on the proposal was held in Washington, D.C. on September 18, 1979. Oral and written comments regarding the proposed rule were submitted by twenty-nine respondents, including major oil refiners, small oil refiners, trade associations, end user groups, two private citizens, and two government entities.

Many respondents opposed use of the current or even an amended version of the Buy/Sell program to allocate SPR crude oil. These commenters felt that any severe shortage of crude oil should be shared equitably throughout the industry, which in their view could not be achieved through use of the current Buy/Sell program since it allocates crude only to certain small refiners. In addition, some respondents felt that the six-month allocation schedule on which the current Buy/Sell program operates would prohibit timely response to a severe supply shortage. It was also suggested that since the legislation authorizing the allocation of crude oil under the Buy/Sell program expires in September 1981, it would be unwise to base the SPR distribution system on the continued existence of this program.

We can foresee particular circumstances in which use of the current small refiner Buy/Sell program might be appropriate. These might include a moderate interruption of short duration at a time when the physical ability to draw down the SPR would be limited. Thus, while we do not believe that this alternative would be appropriate in most interruption scenarios, we believe it should be retained as an option in the final rule in order to provide the flexibility to address all possible situations.

The majority of respondents supported allocation of SPR crude oil by the Standby Mandatory Crude Oil Allocation Program, primarily because it was viewed as the most equitable of the proposed allocation mechanisms, since it would distribute the effects of a reduced supply by spreading the reduction equally among all refiners. Several respondents also stressed the efficiency of using a system such as the Standby Program which is already finalized and enacted in regulatory form.

Some respondents who opposed use of the Standby Program, as well as some who generally favored its use, expressed concern about the ability of DOE and industry to meet the timing requirements under the program. Sales of SPR crude oil under the Standby Program would be subject to the requirements that sale/purchase agreements for allocated crude oil be completed within 10 days following publication of the buy/sell notice, that deliveries of allocated crude oil be completed within 30 days following the signing of sale/purchase agreements, and that allocated crude oil be processed within 60 days from the date of execution of the sale/purchase agreement. These respondents expressed doubt that the timing requirements of the program would provide sufficient time for the negotiation of sale/purchase agreements and the delivery and processing of allocated crude oil. However, others

[1] Section 161(e) of the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163, EPCA) (42 U.S.C. 6231 *et. seq.*) provides that the Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the EPAA.

indicated that while they believed that industry could work within the time frame set forth in the Standby Program, the Administrator could if necessary revise the current time requirements upon activating the Standby Program.

While we recognize that the timing requirements of the Standby Program may present some problems in the distribution of SPR oil under that program, we have decided not to modify these requirements at this time. However, in the course of our periodic review of the standby regulations and at the time implementation may be warranted, we will consider the need to amend the timing requirements in light of the program's possible use as a means of allocating SPR crude oil.

Several commenters responded to our proposal authorizing the Secretary to allocate SPR crude oil in a flexible manner outside the Buy/Sell or Standby Programs. While the comments reflected general approval of an alternative allocation system designed to give the Secretary flexibility in responding to a variety of shortage situations, many respondents expressed concern over the absence of any announced criteria to guide the Secretary in his decisions. Several believed that both DOE and the industry would be better prepared to handle an emergency if DOE developed a more specific plan under this third alternative. Other commenters argued that the lack of criteria in the rule increased the likelihood of legal action challenging DOE's response as inconsistent with the objectives under the EPAA. In addition, some commenters expressed the view that since the provision was so vaguely drawn, any DOE response plan under this provision might be in violation of the rulemaking requirements of the Administrative Procedure Act (APA) and Section 501 of the DOE Organization Act (DOE Act).

While we appreciate the concerns of those respondents who felt that the third allocation system proposed should in advance specify more criteria to guide the Secretary in deciding how to allocate SPR crude oil, rather than specify the criteria at the time of a drawdown, we nevertheless believe that it is essential to maximize the Secretary's flexibility in responding to a variety of shortfall situations. Since it is impossible to forecast with precision the nature of particular crude oil shortage situations, any attempt to devise a more detailed scheme to deal with in unpredictable situation would likely restrict, rather than enhance, the Secretary's ability to address the impacts of an interruption. Moreover, the allocation would be conducted pursuant to criteria specified in Notices of Sale, at the time of drawdown. Further, the final rule makes clear that actions taken under this new allocation provision must be consistent with the objectives set forth in section 4(b)(1) of the EPAA.

Finally, if a decision is made to distribute SPR crude oil under the third allocation provision, DOE could at that time comply with any procedural requirements that might be required by the APA and the DOE Act.

In connection with the new allocation provision, we specifically requested comments regarding a "buy rights" system for allocating SPR crude oil, under which "eligible refiners" would be issued rights to purchase SPR crude oil based on their runs to stills during a specified base period. Comments regarding this alternative generally were split between those who favored and those who opposed it. Those who supported this approach felt that it was an equitable means of dealing with a crude oil shortage, since "rights" would be available to all interested domestic refiners. Others who favored this approach felt that the opportunity for refiners to exchange or sell buy rights among themselves would promote efficiency in the crude oil transportation system and would assure that refiners with the capability to produce the highest valued products could, by purchasing other refiners' buy rights, acquire sufficient crude oil to satisfy demand. In this regard, it was suggested that the proposed buy rights system best approximates the free market.

On the other hand, respondents who were opposed to an allocation system based on buy rights expressed concern that such a system would exert significant upward pressure on prices. Some respondents expressed concern that a buy righs system would not necessarily allocate oil to those refiners most hard hit by a crude oil shortage, but rather to those that were strongest economically. Other commenters opposed to this system felt that it would be difficult to administer in a crisis situation and that allocation under the Standby Program would accomplish the same results with fewer complications.

In view of the considerable number of comments on the proposed "buy rights" allocation system, we are retaining it as an option available under Part 220 as originally proposed. Specifics of a satisfactory "buy right" approach would be addressed at the time of an interruption when SPR use is authorized. While there is a possibility that such an allocation system might result in higher prices and thus preclude its implementation in certain shortage situations, we can conceive of circumstances in which the incremental effect of such cost pressure on prices would be negligible in comparison with other contributing factors. In addition, any adverse distributional effects which might result from implementation of a buy rights system could be mitigated by the ongoing operation of a buy/sell program, if it was in existence at the time of an interruption. The issues involved with its use would have to be fully explored at the time an interruption occurred.

We also requested comments regarding the price rule proposed in the notice. Most respondents favored our proposal that DOE establish monthly prices for sales of SPR crude oil at approximately the average landed cost to all refiners of imported crude oil in the month of sale. There was general agreement that such a pricing system would approximate the market value for crude oil, would provide real incentives for companies to find lower priced alternative supplies, as well as inducing conservation efforts by the general public. There was also general agreement that a uniform price should be applied to all refiners regardless of size.

One commenter suggested that the price of SPR oil in allocated sales should be based on the "port of entry" cost of imported oil, rather than the average landed cost to refiners of imported oil as proposed. Since the latter includes the average domestic transportation cost from port of entry to the refinery and since buyers of SPR crude oil are responsible for the transportation costs between SPR storage sites and their refineries, if a landed cost price rule were used there would be double counting of transportation costs and the delivered cost of SPR crude oil would likely exceed the delivered cost of non-SPR allocated crude oil. The concern was expressed that this anomaly could create a disincentive to the purchase of SPR crude oil.

We have decided to adopt the proposed method of establishing prices for SPR oil for several reasons. First, ERA currently collects landed cost data on a routine basis. Adoption of a price formula based on port-of-entry costs of imported crude oil would require the development of a new data collection system by ERA, which would likely be burdensome for the industry. Moreover, ERA does not believe that pricing SPR crude oil on the basis of the average landed cost of imported crude would create a serious disincentive to its purchase. It can be expected that in

SPR sales contract. The second step

quality of the environment, provide a

times of a supply emergency severe enough to require distribution of the SPR, prices of other oil available on the world market would likely exceed an SPR selling price based on the average landed cost of imported crude.

Several commenters argued that the proposed price rule might generate "windfall profits" for the Government, since the acquisition cost of SPR crude oil would likely be far less than the ultimate sales price. One commenter suggested that DOE use funds derived from sales of SPR crude oil for the purchase of replacement volumes of crude oil for storage in the SPR.

While it is likely that sale prices for SPR oil might exceed the acquisition cost of SPR crude oil, we believe that it would be inappropriate to sell the oil at less than current market prices. First, if SPR crude oil was sold at less than current market prices, there would be a "windfall" to purchasers of SPR supplies. In these circumstances, a complicated regulatory scheme would be necessary to ensure that the benefits of such a windfall were passed on to consumers. Further, such a price differential would be a disincentive to conservation and could create price discrepancies in the product market. Finally, any "windfall" that accrued to the Government would benefit the public to the extent that it could be used to offset the cost of operating and refilling the SPR.

Several other issues were addressed by the commenters. All respondents agreed that recipients of SPR crude oil should be refiners who had executed the Basic Sales Agreement (BSA) with DOE, although some expressed concern that completing the BSA might be difficult for small refiners not experienced with government contracts. With regard to the treatment of SPR oil under the Entitlements Program, the majority of respondents favored our proposal to treat SPR crude oil as imported or uncontrolled domestic crude oil. Moreover, most of the respondents who addressed the issue favored our proposal to permit exchanges of SPR crude oil and agreed that only quality and location differentials should be taken into account in the exchange ratio. However, some respondents urged DOE to limit the total number of exchanges which could be made, in order to minimize speculative sales which might hinder the rapid distribution of SPR crude oil. Based on the record in this proceeding, we have concluded that exchanges of SPR oil should be regulated only to the extent of requiring that the exchange ratio reflect quality and location differentials, as proposed, to ensure maximum flexibility in the distribution of SPR oil.

Although we did not indicate in the notice of proposed rulemaking any perference for distributing SPR crude oil by allocation rather than by competitive sale, the overwhelming majority of respondents favored distribution of SPR crude oil by an allocation system. Opposition to a competitive bidding system was based primarily on the fear that during a shortage, the bid price would be so high as to exclude many potential buyers from sharing in the SPR system. In addition, many respondents feared that distribution of SPR oil by competitive sale would produce upward pressure on crude prices in general, and might encourage foreign suppliers to further raise their prices. It was also suggested that competitive sales would be cumbersome and difficult to implement in time to respond to a major crude oil shortage.

III. Amendments Adopted

For the reasons discussed above, we are adopting substantially as proposed a new Part 220 to establish a regulatory framework for the allocation and pricing of SPR crude oil in the event that the Secretary decides to distribute SPR crude oil by allocation rather than by competitive sale. Part 220 consists of three major Subparts, setting forth (i) the method of allocation, (ii) procedures for the sale of SPR crude oil, and (iii) a price rule. In addition, we are adopting as proposed the conforming amendments to the Buy/Sell Program and the Standby Allocation Program.[2]

In general, Part 220 provides DOE three alternative methods of allocating SPR crude oil in a manner consistent with the objectives of section 4(b)(1) of EPAA. First, the Secretary could allocate SPR crude oil in such amounts as he determines appropriate to small refiners under the current Buy/Sell Program. Second, the Secretary could allocate SPR crude oil under the Standby Allocation Program. Third, the rule provides that the Secretary may allocate SPR crude oil under a separate allocation system as established in Part 220.

The rule also establishes a three-step procedure for the conduct of sales of SPR crude oil which applies to each of the allocation alternatives set forth in Part 220. First, in order to be eligible to purchase SPR crude oil, refiners must accept a Basic Sales Agreement (BSA) setting forth the basic provisions of an SPR sales contract. The second step involves the issuance of a Notice of Sale (NS) to eligible refiners following a decision to draw down the SPR. The NS will specify the quantity and quality of SPR crude oil to be sold, the prices and other terms and conditions of sale, as well as the criteria to be employed in evaluating offers by eligible refiners. The class of "eligible refiners" will depend on the allocation option which the Secretary adopts. If appropriate, a third step in conducting sales of SPR crude oil would be the evaluation of offers and awarding of contracts by DOE on the basis of the selection criteria announced in the NS.

Finally, the pricing provision of the rule permits DOE to establish on a monthly basis the prices, along with appropriate gravity and sulfur differentials, for allocated sales of high and low sulfur SPR crude oil. In determining the prices, DOE will consider the weighted average per barrel landed cost to all refiners of imported high and low sulfur crude oil in the month of sale, prices between affiliated entities and other relevant data. DOE anticipates that the price of SPR crude oil in allocated sales would be set at approximately the average landed cost to all refiners of imported crude oil in the month of sale. However, under the final rule DOE retains the discretion to charge a higher or lower price so long as the price charged is not significantly higher or lower than the highest or lowest prices, respectively, in comparable sales of non-SPR allocated crude oil (for example, Buy/Sell Program sales) in the month.

IV. Procedural Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Act, we have referred these amendments to the Federal Energy Regulatory Commission (FERC) for a determination whether they would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review these amendments, the FERC has declined to determine that they may significantly affect any of its functions.

B. Section 7 of the FEA Act

Under Section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 et seq., Pub. L. 93–275, as amended), the requirements of which remain in effect under Section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before, promulgating proposed rules, regulations, or policies affecting the

[2] For an extensive discussion of Part 220 and conforming amendments to Part 221, *see* Notice of Proposed Rulemaking at 44 FR 48696, August 24, 1979.

quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Following an opportunity to review a draft of the proposed rule, the EPA Administrator expressed concern that the proposed rule contemplated a greater number of drawdowns of the SPR than had been described in earlier programmatic and site-specific Environmental Impact Statements (EIS) on the SPR. The Administrator advised us that, if this presumption was correct, it might be necessary for DOE to revise the original EIS's for the SPR program to reflect the change.

Recently, we advised EPA that the fact that the regulation does not address the number of times that drawdown may be implemented should not be interpreted as an indication of any change in the assumptions upon which the Department of Energy prepared its Programmatic and site-specific EIS's for the SPR. Specifically, DOE has reviewed the original assumption that the program will undergo five fill and drawdown cycles during its life and concluded that the assumption remains valid. Therefore, DOE has determined that the publication of this final regulation is not a major federal action requiring amendment of the SPR's Final EIS.

In a letter dated May 19, 1980, EPA indicated that our assurance that the original assumptions underlying the SPR EIS's remain valid satisfactorily addresses its concerns. However, EPA noted that if at any future time DOE contemplates more frequent use of the SPR, then further review of the program under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) would be indicated.

C. National Environmental Policy Act

For the reasons noted above, it has been determined that an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations that may have a major economic impact. Section 3(a) of the Executive Order directs the agencies to establish criteria to identify which regulations require regulatory analyses. DOE's implementing procedures are contained in DOE Order 2030.1 (44 FR 1032, January 3, 1979). In the Notice of Proposed Rulemaking we stated that we had determined that the criteria for the preparation of a regulatory analysis were not met by the proposed amendments. Specifically, since the rules adopted today are simply a regulatory mechanism to facilitate the distribution of SPR oil, we do not believe the regulations themselves are likely to impose significant economic costs. In this regard, since the regulations provide that SPR oil will be priced at roughly the average landed cost of imported oil to all refiners, sales of SPR oil under the allocation regulations should not result in appreciable increases in costs or prices for crude oil or petroleum products.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we are amending Part 211 and adding a new Part 220 to Chapter II, Title 10 of the Code of Federal Regulation as set forth below.

Issued in Washington, D.C., August 12, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory Administration.

§ 211.62 [Amended]

1. Section 211.62 is amended by revising the definition of "Refiner-seller" and by adding the definitions of "Strategic Petroleum Reserve" and "SPR crude oil" in proper alphabetical order to read as follows:

* * * * *

"Refiner-seller" means a refiner which is not a small refiner or independent refiner as defined in this section; *provided, that* a refiner which is not a small refiner or an independent refiner, and all of the refining capacity of which has been constructed after January 1, 1974, shall not be classified as a refiner-seller; and *provided further, that,* for the allocation period commencing October 1, 1977, the refiners considered to be refiner-sellers for purposes of § 211.65 of this subpart shall include only those firms classified as refiner-sellers in the allocation quarter commencing June 1, 1977. Refiner-seller shall also mean the United States Government when SPR crude oil is allocated pursuant to § 211.65 of this subpart; *except that,* unless expressly provided, the provisions of § 211.65(e)–(j) shall not apply to the United States Government.

* * * * *

"Strategic Petroleum Reserve (SPR)" means the program for the storage of crude oil and/or petroleum products authorized by Title I, Part B of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. section 6231 *et seq.*

"SPR crude oil" means crude oil stored in or acquired for storage in the SPR, or for the distribution thereof. For the purposes of this subpart, such crude oil shall be considered as imported crude oil.

§ 211.65 [Amended]

2. Section 211.65 is amended by adding a new paragraph (k) to read as follows:

* * * * *

(k) *Special provisions for allocation of Strategic Petroleum Reserve crude oil.* (1) *General.* This paragraph applies to the allocation of such amounts of SPR crude oil as the Secretary of Energy determines pursuant to Part 220 of this chapter shall be allocated under this section. Except as expressly provided in this paragraph (k), the provisions of paragraphs (a) through (j) of this section shall not apply to the allocation of such crude oil.

(2) *Notice of availability of SPR crude oil.*

(i) ERA shall announce the availability of SPR crude oil for distribution under this section for a particular allocation period in the buy/sell notice specified in paragraph (g)(1) of this section or, if the SPR crude oil is not available until after the beginning of an allocation period, in a supplemental buy/sell notice. The buy/sell notice shall set forth to the maximum extent practicable information concerning the quantity, quality and delivery points of SPR crude oil available for sale under this section for the allocation period; any maximum or minimum volume restrictions; and any delivery and/or transportation restrictions.

(ii) Any refiner-buyer desiring to purchase SPR crude oil under this section in an allocation period must submit to DOE an offer in accordance with the procedures set forth in Subpart C of Part 220 of this chapter. To the extent practicable, DOE shall award contracts for the purchase of SPR crude oil under this section prior to the beginning of an allocation period.

(3) *Adjustments to refiner-sellers' sales obligations, purchase opportunities and allocations.* (i) For the purpose of the calculations of the sales

obligation for each refiner-seller for a

oil from the delivery points to its

to read as follows:

§ 211.65 Mandatory Crude Oil Allocation

Regulation 212–1. SPR crude oil shall be

Appendix A, Part 211 (Standby

obligation for each refiner-seller for a particular allocation period, the total allocation obligation specified in paragraph (e) of this section and the total sales obligation specified in paragraph (f)(1) of this section shall be reduced by the total volume of SPR crude oil allocated under this section in that allocation period.

(ii) If during any allocation period DOE sells SPR crude oil to any refiner-buyer in a manner other than pursuant to the provisions of this section, ERA shall issue a supplemental buy/sell notice that (A) reduces the purchase opportunity or allocation of each such refiner by the volume of SPR crude oil purchased by each such refiner and (B) reduces the sales obligation for each refiner-seller in the manner prescribed in subclause (i) of this subdivision.

(4) *Permitted exchanges and sales of SPR crude oil.* (i) No volumes of SPR crude oil allocated under this section shall be sold or otherwise disposed of by refiner-buyers except pursuant to (A) crude oil exchanges in which only quality and location differentials are given effect in the calculation of the exchange ratio or (B) matching purchase and sale transactions which have the same effect as an exchange described in clause (A); *provided, that,* the volume of non-SPR crude oil received by a refiner-buyer pursuant to such transactions shall be processed in such refiner's refinery.

(ii) SPR crude oil allocated under this section must be processed by the ultimate recipient of the SPR crude oil within forty-five (45) days following the close of the allocation period for which that crude oil was allocated; *provided, that,* if SPR crude oil is purchased from the Government in the last month of the allocation period, it must be processed within sixty (60) days following the close of the allocation period.

(iii) Within forty-eight hours of the completion of the arrangements therefor, each exchange transaction involving SPR crude oil shall be reported to ERA in writing or by telex by all parties to the exchange. This report shall identify the exchange partners, the refineries to which the SPR crude oil and the non-SPR crude oil is to be delivered, and the period over which the delivery is expected to take place.

(5) *Procedures for sale of SPR crude oil.* (i) Sales of SPR crude oil pursuant to this section shall be conducted in accordance with the procedures set forth in Subpart C of Part 220 of this chapter.

(ii) The refiner-buyer shall be responsible for the transportation, including the cost thereof, of SPR crude oil from the delivery points to its refinery.

(iii) SPR crude oil sold pursuant to this section shall be priced in accordance with the provisions of § 220.32 of this chapter.

3. Section 211.66 is amended by revising subclause (vi) of paragraph (d) and subparagraph (5) of paragraph (h) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(d) *Refiner-buyers' semiannual report.* * * *

* * * * *

(vi) Purchases of allocated crude oil for each eligible refinery, separately stating the volumes of SPR crude oil purchased from the Government.

* * * * *

(h) *Monthly report.* * * *

* * * * *

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), SPR crude oil purchased from the Government, other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph should be derived from the landed costs set forth in such reports.

* * * * *

Appendix A [Amended]

4. Standby Regulation 211–1 in Appendix A, Part 211, is amended—

a. in paragraph 1, by revising the second sentence;

b. in paragraph 4, by revising the definitions of "Estimated crude oil runs to stills," "National estimated crude oil runs to stills" and "seller"; and

c. in paragraph 5, by revising § 211.65(a)(4)(ii); by adding a new subparagraph (3) to § 211.65(b); by revising § 211.65(g)(1); by revising § 211.65(h)(5); and by adding new subparagraphs (7) and (8) to § 211.65(h);

d. in paragraphs 1–8, by changing (i) all references to "special rule" to "Standby Regulation" and (ii) all references to "Part 212, Subpart L, Special Rule No. 1" to "Standby Regulation 212–1, Appendix A, Part 212";

to read as follows:

Appendix A to Part 211—Standby Regulations

Standby Regulation 211–1

Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs

1. *Scope.* This Standby Regulation 211–1 sets forth the DOE Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs. This Standby Regulation also provides for the distribution of such amounts of SPR crude oil as the Secretary of Energy determines pursuant to Part 220 of this chapter shall be distributed under the Standby Regulation.

* * * * *

4. * * *

* * * * *

"Estimated crude oil runs to stills" means the volume of crude oil a refiner estimates it will run to stills for its own account during an allocation period for all of its refineries, the volume of crude oil to be processed for nonrefiners, the volume of crude oil to be processed for the refiner's account by other refiners, and, if SPR crude oil is distributed in a manner other than pursuant to this Standby Regulation, the volume of SPR crude oil purchased from, or received through exchange with, the Government. A refiner's estimated runs to stills shall be based on the volume of its total crude oil supply (as defined in paragraph 4 of this Standby Regulation) that could be processed in its refineries or for its account by other refiners in the particular allocation period, excluding crude oil purchased or to be purchased under this Standby Regulation. If the exemption in paragraph 3(a) of this Standby Regulation is applicable, "estimated crude oil runs to stills" shall not include the quantity of crude oil a refiner-seller estimates it will be required to sell to refiner-buyers pursuant to § 211.65 during the allocation period.

* * * * *

"National estimated crude oil runs to stills" means, for any allocation period, the total of the estimated crude oil runs to stills for all U.S. refiners, plus the volume of SPR crude oil to be allocated under this Standby Regulation, minus the quantity of crude oil directed to all refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this Standby Regulation.

* * * * *

"Seller" means any refiner whose estimated crude oil runs to stills during the allocation period is greater than the national utilization rate multiplied by that refiner's base period average monthly crude oil runs to stills, including the United States Government when SPR crude oil is allocated pursuant to this Standby Regulation. Except as expressly provided, the provisions of paragraphs (a) and (c)–(j) of § 211.65 in paragraph 5 of this Standby Regulation shall not apply to the U.S. Government.

* * * * *

5. *Method of Allocation.*

* * * * *

§ 211.65 Mandatory Crude Oil Allocation Program.

(a) *General Rule.*

* * * * *

(4) *Calculation Procedure.*

* * * * *

(ii) For each allocation period, the ERA shall compute the national estimated crude oil runs to stills, which shall equal the total estimated crude oil runs to stills for all U.S. refiners for that allocation period, plus the quantity, if any, of SPR crude oil allocated under this Standby Regulation, minus the quantity of crude oil directed to all refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this Standby Regulation.

* * * * *

(b) *Buyers.* * * *

* * * * *

(3) Any buyer desiring to purchase SPR crude oil under this section in an allocation period must submit to DOE an offer in accordance with the procedures set forth in Subpart C of Part 220 of this chapter.

* * * * *

(g) *Buy/Sell Notice and Negotiation of Transactions.*

(1) Except for the first allocation period, a buy/sell notice shall be published at least 10 days prior to the beginning of the allocation period. Except when the exemption in paragraph 3(a) of this Standby Regulation is applicable, each buy/sell notice shall contain two lists. One list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity is 50,000 barrels per day or less is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers. The other list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity exceeds 50,000 barrels per day is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers (less the obligations shown on the first list). If SPR crude oil is distributed under this section for an allocation period, the buy/sell notice shall set forth to the maximum extent practicable information concerning the quantity, quality and delivery points of the SPR crude available for sale; any maximum or minimum volume restrictions; and any delivery and/or transportation restrictions.

(h) *Terms and Conditions of Sales.*

* * * * *

(5) All crude oil except SPR crude oil sold pursuant to this section shall be priced in accordance with the provisions in Part 212, Appendix A, Standby Regulation 212–1. SPR crude oil shall be priced in accordance with the provisions of § 220.32 of this chapter.

* * * * *

(7) Sales of SPR crude oil pursuant to this Standby Regulation shall be conducted in accordance with the procedures set forth in Subpart C of Part 220 of this chapter.

(8) The buyer shall be responsible for the transportation, including the cost thereof, of SPR crude oil from the delivery points specified by DOE to its refinery.

* * * * *

5. Part 220 is aded to Title 10, Chapter II of the Code of Federal Regulations, to read as follows:

PART 220—STRATEGIC PETROLEUM RESERVE CRUDE OIL ALLOCATION

Subpart A—General Provisions

Sec.
220.1 Purpose and scope.
220.2 Definitions.

Subpart B—Method of Allocation

220.10 Rule.

Subpart C—Procedures for Sales of SPR Crude Oil

220.20 Basic sales agreement.
220.21 Notice of sale.
220.22 Contract awards.

Subpart D—Price Rule

220.30 Applicability.
220.31 Definitions.
220.32 Rule.

Authority: Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163 as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

§ 220.1 Purpose and scope.

(a) This part implements section 161(e) of the Energy Policy and Conservation Act (Pub. L. 94–163) (42 U.S.C. § 6231), as amended, which authorizes the Secretary of Energy to provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve.

(b) *Applicability.* This part applies to any allocation of SPR crude oil, other than distribution by price competition, whether or not conducted pursuant to § 211.65 of this chapter (Buy/Sell Program), Standby Regulation 211–1, Appendix A, Part 211, (Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs), or this part.

§ 220.2 Definitions.

"Basic Sales Agreement" means a document issued by DOE containing many of the terms and conditions of any contract which may be awarded for the purchase of SPR crude oil from the Government.

"DOE" means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95–91), and includes the Secretary of DOE or his delegate.

"Notice of Sale" means the document (other than the buy/sell notice specified in § 211.65(g) of this chapter) issued by DOE announcing the sale of SPR crude oil. The Notice of Sale will specify the method of sale, eligibility to purchase, prices, applicable terminalling, handling and transportation charges, the crude oil types and quantities available for purchase, the sales period, delivery location(s), minimum and maximum volume restrictions, place and date for submission of offers, modes of transportation applicable for each delivery point (i.e., pipeline, barge, tanker and applicable port data/restrictions), special terms and conditions of sale, and the criteria to be employed in evaluating offers to purchase.

"Strategic Petroleum Reserve (SPR)" means the program for the storage of crude oil and/or petroleum products authorized by Title I, Part B of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. section 6231 *et seq.*

"SPR crude oil" means crude oil stored in or acquired for storage in the SPR, or for the distribution thereof. For the purposes of Subpart C, Part 211 of this chapter, such crude oil shall be considered as imported crude oil.

Subpart B—Method of Allocation

§ 220.10 Rule.

(a) Upon a determination by the President that implementation of the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program, the Secretary may allocate, in a manner consistent with the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, in such amounts as he shall determine: (1) pursuant to the provisions of § 211.65 (Buy/Sell Program) of this chapter, (2) pursuant to the provisions of Standby Regulation 211–1, Appendix A,

V 45 A G 19 80 UMI

Part 211 (Standby Mandatory Allocation and Refinery Yield Control Programs) of this chapter, or (3) to any refiner, in accordance with criteria announced in a Notice of Sale.

(b) No volumes of SPR crude oil sold to any firm pursuant to paragraph (a)(3) of this section shall be sold or otherwise disposed of by such firm except pursuant to (A) crude oil exchanges in which only quality and location differentials are given effect in the calculation of the exchange ratio or (B) matching purchase and sale transactions which have the same effect as an exchange described in clause (A).

Subpart C—Procedures for Sale of SPR Crude Oil

§ 220.20 Basic Sales Agreement.

SPR crude oil will be sold only to refiners which have executed a Basic Sales Agreement by the deadlines announced in the Notice of Sale for submission of offers.

§ 220.21 Notice of sale.

SPR crude oil sales will be announced in a Notice of Sale.

§ 220.22 Contract awards.

Recipients of SPR crude oil will be selected from among those refiners offering to buy SPR crude oil, on the basis of the criteria announced in the Notice of Sale. The basis for the selection of recipients thereafter will be documented.

Subpart D—Price Rule

§ 220.30 Applicability.

The price rule stated in this subpart shall apply to any sale of SPR crude oil pursuant to the provisions of § 211.65 of this chapter, Standby Regulation 211–1, Appendix A, Part 211 of this chapter, or this part.

§ 220.31 Definitions.

For purposes of this subpart—

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Imported crude oil" means crude oil brought into the United States from a foreign country for consumption within the United States, but excluding crude oil stored in, or owned and controlled by the United States Government in connection with the SPR.

"United States" means the several states, the District of Columbia, Puerto Rico and the territories and possessions of the United States.

§ 220.32 Rule.

(a) DOE shall establish the price at which low sulfur SPR crude oil and high sulfur SPR crude oil shall be sold, plus any gravity, and sulfur content adjustments as specified in paragraphs (b) and (c), respectively, of this section. The sale prices of SPR crude oils shall not be significantly higher or significantly lower than the highest and lowest prices, respectively, in comparable sales of allocated crude oil in the month of sale. In determining the prices of SPR crude oils, the DOE shall consider (1) the weighted average per barrel landed cost (as defined in § 212.82) for all low sulfur crude oil and for high sulfur imported crude oil delivered to all U.S. refiners in the month of sale; (2) the data on the Transfer Pricing Report ERA–51 (or any successor to this form), wherein refiners report crude oil prices obtained in transactions between affiliated entities and in transactions between non-affiliated entities pursuant to 10 CFR 212.84; and (3) other data that the DOE considers to be appropriate for price determination purposes.

(b) a price adjustment shall be made for gravity differentials of SPR crude oil offered for sale by adding to or subtracting from the price determined under paragraph (a) of this section an amount per barrel fixed monthly by the DOE for each degree API that the crude oil being offered for sale is above or below, respectively, the weighted average degree API of the reference crude oil of the same sulfur content category, established monthly by the DOE.

(c) a further price adjustment shall be made for sulfur content differentials of SPR crude oil offered for sale by adding to or subtracting from the price determined under paragraph (a) of this section an amount per barrel fixed monthly by the DOE for each one tenth of one percent that the sulfur content by weight of the SPR crude oil being offered for sale is either below or above, respectively, the percentage representing the sulfur content of the reference crude oil of the same sulfur content category established monthly by the DOE.

[FR Doc. 80-25083 Filed 8-18-80; 8:45 am]
BILLING CODE 6450-01-M

federal register

Tuesday
August 19, 1980

Part IV

Department of Health and Human Services

Office of Human Development Services

Social Services Programs for Individuals and Families (Title XX); Disclosure by Providers of Certain Ownership Interests and Other Information

V 45 AG 19 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 228

Social Services Programs for Individuals and Families: Title XX of the Social Security Act; Disclosure by Providers of Certain Ownership Interests and Other Information

AGENCY: Office of Human Development Services (HDS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Office of Human Development Services is amending its final regulations published July 17, 1979, at 44 FR 41646. Those regulations among other things, require private providers of medical or remedial care and health-related homemaker services under Title XX of the Social Security Act to disclose the names of persons with an ownership or control interest. These amendments are being made to clarify the effective date statement due to unnecessary inconsistencies between those States whose program year begins July 1, and those that begin on October 1. Two technical changes and two editorial changes are also being made.

EFFECTIVE DATE: These regulations continue to be effective on July 17, 1979 with the following specific clarification:

(1) Contracts signed on or before July 17, 1979 need not meet the requirements in 45 CFR 228.72 and 228.73 until the time the contract is renewed;

(2) Contracts signed between July 18, 1979 and December 31, 1979 must meet the requirements of § 228.72 and § 228.73 by December 31, 1979; and

(3) Contracts signed after December 31, 1979 must meet the requirements of §§ 228.72 and 228.73 prior to the approval of the contract.

Although this is a final rule, comments will be accepted and any changes found necessary will be made. Consideration will be given to written coments or suggestions received on or before September 18, 1980. Agencies and organizations are requested to submit their comments in duplicate.

ADDRESS: Address comments to: Acting Director, Division of Policy Coordination, Office of Policy Development, Department of Human Services, Washington, D.C. 20201. Comments will be available for public inspection beginning approximately two weeks after publication, in room 722–E of the Department's offices at 200 Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–472–4415).

FOR FURTHER INFORMATION CONTACT: Mrs. Johnnie U. Brooks, Room 722–E, HHH Building, Department of HHS, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 472–4415.

SUPPLEMENTARY INFORMATION:

Effective Date

These regulations continue to be effective July 17, 1979. However, we have provided clarification. The most critical clarification is that irrespective of a State's program year, the State has until December 31, 1979 to obtain the required information from providers with whom they enter into a contract after July 17, 1979 and prior to December 31, 1979.

This clarification is needed because the language in the current effective date statement produced unnecessary inconsistencies between those States whose program year began July 1 and those whose program year began October 1. The current effective date statement requires that all contracts signed after July 17, 1979 must meet these disclosure requirements, except that States whose program year begins July 1, have an additional 90 days to secure the required information. Since the reporting forms were not available from the Department until late September, we believe it is unreasonable to expect States to meet the current deadline.

Technical Changes

The first technical change made is in § 228.40(d). We have deleted the specific reference to paragraph (d) of § 228.72, thus requiring the provider to comply with § 228.72 in its entirety. As this is a current requirement, no policy change is intended.

The second technical change corrects the definition of provider. "Provider" is currently defined as "a private non-profit or for-profit non-governmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency *or* under subcontract with a public or private agency to deliver medical or remedial care or health-related services funded under title XX." The last phrase beginning "or under subcontract with a public or private agency * * *" was added to the final regulation in response to the question: Did the requirements of § 228.72 apply to private subcontractors of public agencies? (See Preamble 44 FR 41647.)

The answer given was yes, and the above phrase was added to the definition of provider as a way to assure reporting from these subcontractors.

Questions have been raised however about how this definition is to be applied. For example, are State title XX agencies required to contact subcontractors of public agencies and obtain the required information? Are subcontractors of either public or private agencies then responsible for obtaining disclosure information from their subcontractors?

On further analysis, we have concluded that this provision goes beyond the statute and was not intended to do so. A subcontractor is clearly defined in § 228.72(a)(12) and the circumstances under which the subcontractor is required to disclose information is also clearly stated in § 228.72(b) and (d).

Our analysis is as follows: As required by the statute, "disclosing entities" must provide information to the appropriate State agency(s). In the title XX program, disclosing entities for the purpose of § 228.72 are defined as *private* providers of:

(a) Medical or remedial care, and/or

(b) Health-related homemaker services. (See discussion of how this definition was determined in the NPRM 43 FR 34719.)

These disclosing entities (private providers) must report information regarding ownership and control interests and business transactions for themselves and certain subcontractors specified in the statute.

Thus, private subcontractors of private agencies are clearly included and must provide the required information. Private subcontractors of public agencies are not included because a public agency is not a disclosing entity for the purpose of § 228.72. For example, there is no way that a public agency can meet the requirement to report the "name and address of persons who have an ownership or control interest in the public agency and in certain subcontractors of the public agency."

In addition, two editorial corrections are made in § 228.72(a)(11) and in § 228.72(a)(12).

(Sec. 1102, 1124, and 1128, Social Security Act (42 U.S.C. 1302, 1320a–3 and 1320a–5))

(Catalog of Federal Domestic Assistance Program No. 13.642, Social Services for Low Income and Public Assistance Recipients.)

Note.— It has been determined that this document does not require Preparation of a Regulatory Analysis under Executive Order 12044.

Dated: March 7, 1980.

Cesar A. Perales,

Acting Assistant Secretary for Human Development Services.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

45 CFR Part 228 is revised as follows:

1. Section 228.40(d) is revised by removing the specific reference to § 228.72(d) as follows:

§ 228.40 Minor medical and remedial care.

* * * * *

(d) FFP is not available for medical or remedial care or health-related homemaker services purchased from a private provider for any period during which the provider fails to comply with § 228.72 that requires disclosure about ownership, control interests, and certain information about past business transactions.

2. Section 228.72(a)(10) is amended as follows:

§ 228.72 Disclosure of information about ownership and business transactions.

(a) * * *

(10) *Provider* means a private non-profit or for-profit nongovernmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency to deliver services funded under title XX.

* * * * *

§ 228.72 [Amended]

3. Section 228.72(a)(11) is revised by substituting the word "or" for the word "and" as follows:

(a) * * *

(11) *Significant business transaction* means any business transaction or series of transactions which, during any one fiscal year, exceeds the lesser of either $25,000 or 5 percent of the total operating expenses of the provider.

* * * * *

§ 228.72 [Amended]

4. Section 228.72(a)(12) adds a comma after the word "individual" as follows:

(a) * * *

(12) *Subcontractor* means an individual, agency, or organization which by contract:

* * * * *

[FR Doc. 80–25133 Filed 8–18–80; 8:45 am]

BILLING CODE 4110–92–M

V
4
5

A
G

1
9

8
0

UMI

federal register

Tuesday
August 19, 1980

Part V

Environmental Protection Agency

Hazardous Waste Management System

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122–124 and 260–265

[FRL–1574–4]

Hazardous Waste Management System; Intent to Issue Amendments to Interpretations of and Answers to Questions on Final Regulations

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to issue amendments to, interpretations of and answers to questions on final regulations.

SUMMARY: The Environmental Protection Agency (EPA) intends to begin issuing amendments to, interpretations of and answers to questions on its February 26, and May 19, 1980, hazardous waste regulations within the next several weeks. These were promised by EPA in the preamble to its May 19th regulations (see 45 FR 33089) and in the subsequent public meetings on the new hazardous waste regulations. Because of the complexity and breadth of the Resource Conservation and Recovery Act of 1976 (RCRA) subtitle C regulations, it is important for EPA to systematically provide the regulated community and interested public with clarifications and additional details regarding the coverage of the regulations.

ADDRESSES: Requests for the issuance of amendments and interpretive memoranda should be sent to Filomena Chau, whose address appears below. Requests for EPA's question-and-answer book and copies of amendments or interpretive memoranda should be sent to Edward Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 W. Saint Clair Street, Cincinnati, Ohio 45268, (513) 684–5382.

FOR FURTHER INFORMATION CONTACT: Filomena Chau, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755–9173.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 26, and May 19, 1980, EPA published its initial regulations implementing sections 3001 through 3006 and 3010 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended; see 45 FR 12722, 12746 and 33066. These regulations represent the first step in the development of a comprehensive Federal and State regulatory program to control the transportation, treatment, storage and disposal of hazardous waste.

Since their promulgation, the Agency has received thousands of questions from the regulated community and the States concerning the applicability of these regulations. In the majority of cases, the questions can be answered by a careful reading of the regulations. In others, the answers either do not appear in the regulations or are not clear.

To date, EPA has been responding to individual questions orally. Recognizing that this is not an effective way of communicating interpretations of the regulations to the public, the Agency has devised the following approach for dealing with the many issues which have been raised regarding these regulations.

A. Questions Which Can Be Answered by A Careful Reading of the Regulations

Many questions have been raised which could have been answered by a careful reading of the regulations or accompanying preamble. Because the Agency believes that those raising such questions either have not had an opportunity to read the regulations and preambles thoroughly or simply wish to confirm their own reading of the regulations, EPA does not feel it is necessary to issue specific written responses to them. However, the Agency will make available to the public during September 1980, upon request, a question-and-answer document which addresses many of questions in this category. EPA hopes that this document will assist persons reading the regulations for the first time to understand some of the more basic requirements of the hazardous waste program. Requests for this document should be sent to Edward Cox, whose address appears above.

B. Questions Which the Regulations Do Not Answer or Do Not Answer Clearly

In promulgating its February 26, and May 19, 1980, regulations, EPA recognized that it would probably not be able to adequately address *every* hazardous waste management situation, due to the large number of individual transportation, treatment, storage, and disposal situations to be addressed. To appropriately address these classes of situations, EPA sought comment on those sections of the regulations which it thought might require some additional refinement (*see* 45 FR 33084 and 33154). The Agency also requested the public to advise it of situations in which a literal application of the regulations would lead to an inappropriate result (45 FR 33088–33089). Finally, three public meetings were held to answer questions about the regulations (45 FR 33084).

EPA intends to initiate rulemaking to expand, correct or clarify the regulations as appropriate for these situations. Many of these changes will be promulgated in the Federal Register as technical amendments, with explanation, but without opportunity for public comment. Others will be published in interim final form or proposed, as appropriate.

It will not be possible for EPA to respond to all these issues immediately, due to their complexity. Also, the Agency must complete several other major priority tasks in the next six months. Such tasks include reviewing State hazardous waste programs for interim authorization, finalizing the interim final portions of the May 19, 1980, regulations and proposals, and developing permitting standards for hazardous waste management facilities. Therefore, EPA will deal first with issues which identify those persons subject to the regulations and those facilities which can qualify for interim status. Those issues the Agency intends to address in the next several weeks are outlined in section II, below.

C. Questions for Which Interpretive Guidance Would be Helpful

Questions have been raised whose answers require a fairly sophisticated understanding of the regulations. For this category of questions, EPA intends to begin issuing interpretive memoranda to explain how the regulations will apply in particular situations. These interpretive memoranda will be referred to as Regulatory Interpretation Memoranda (RIMs).

RIMs will be issued by EPA's Deputy Assistant Administrator for Solid Waste, with the concurrence of its Deputy Assistant Administrator for Water Enforcement and Associate General Counsel for Water & Solid Waste. Each memorandum will be assigned a three-part number. The first part will correspond to the CFR Part it interprets ("260" will be used for memoranda which address several regulations or general issues). The second part will identify the calendar year in which it is issued. The third part will reflect the sequential order in which the memorandum is issued (*e.g.*, RIM 260–80–01). Each RIM will be published in the Federal Register, will be available at EPA Regional Offices and State agencies regulating hazardous waste management, and will be mailed to individuals on request. All such requests should be sent to Edward Cox, whose address appears above and should specify whether the requestor wishes (1) to obtain a specific memorandum (identified, for instance, as, "RIM 260–80–01") or (2) to be placed on a mailing list to receive all memoranda in a particular series (identified, for instance as, "RIM Series 262 and 123" memoranda).

For the reasons stated in Section I.B., EPA will not be able to issue interpretive memoranda responding to all the questions in this category immediately, but will set priorities along the lines outlined above. Issues which the Agency intends to address in the next several months are outlined below.

II. Issues to be Addressed in August, September, and October 1980

EPA is currently developing RIMs or amendments to the regulations on the following issues.

1. *When is a hazardous waste first subject to regulation?* Many hazardous wastes are created in pipes, tanks or closed vessels, which are an integral part of a manufacturing, product storage, or waste treatment process. Examples are: sludges formed in raw material or product storage tanks (such as petroleum storage tanks, distillation residues created in distillation units) and sludges formed in treatment facilities where the wastewater itself is not a hazardous waste. We expect to be issuing an amendment to Part 261 in August which will clarify when these wastes become subject to regulation under Subtitle C.

2. *Clarification of the definition of "totally enclosed treatment facility."* A large number of questions have been asked about this definition, which appears in § 260.10(a)(70). Most of these questions relate to the definition of the term "totally enclosed" from an engineering standpoint (*e.g., does the term cover a vented tank, a tank in a building or a tank with a floating cover). We will address these in a RIM or an amendment to the regulations to be published in August.*

3. *Application of regulation to certain neutralization processes.* Several questions have been raised about application of the regulations to the neutralization of process wastes that are hazardous only because they exhibit the characteristic of corrosivity, and where the neutralization treatment is an integral part of the manufacturing process. We hope to publish an amendment on this matter in August.

4. *Clarification of the exclusion for wastes generated in the combustion of coal and other fossil fuels and in the exploration, development and production of crude oil, natural gas or geothermal energy.* We anticipate issuing a RIM to clarify the scope of these exclusions in August.

5. *Clarification of the application of regulations to surface coal mining wastes.* There is an inconsistency between the preamble to EPA's Section 3004 regulations and the regulations themselves concerning the applicability of the regulations to coal mining wastes which are regulated under the Surface Mining Control and Reclamation Act. We hope to clarify this issue during August.

6. *Clarification of small generator special requirements.*

A large number of questions have been raised regarding the requirements in § 261.5 for hazardous wastes generated by small quantity generators. We hope to publish a RIM and regulatory amendment dealing with these questions in August.

7. *Clarification of the regulation of commerical products listed under § 261.33.* Many questions have been raised about when the commercial products listed in § 261.33 become "wastes." The most frequent question is whether manufacturing wastes that contain the chemicals listed in § 261.33 are hazardous wastes. Other questions relate to the regulation of commercial products that are used, re-used, recycled or reclaimed. We intend to address these and other questions in a RIM to be published in August.

8. *Clarification of the term "sometimes discarded" in the definition of solid wastes which are by-products in § 261.2(b)(3).* Many persons have asked the meaning of this term and asked how they can show that their by-product is never discarded and therefore is not a solid waste. We hope to publish a RIM or amendment addressing this issue in August.

9. *Application of the regulation to inactive facilities.* EPA's regulations do not apply to "inactive" facilities. Questions have been raised as to whether this exclusion includes inactive storage facilities and whether the regulations apply if inactive facilities are reactivated. We hope to publish a RIM or an amendment to the regulations dealing with these questions in late September.

10. *Application of the regulations to NPDES and pretreatment wastewater treatment facilities that treat or generate hazardous wastes.* Numerous comments have been received about the appropriateness of applying the requirements of Parts 264 and 265 to these facilities and requiring them to have RCRA Subtitle C permits. We hope to address this issue in late September.

11. *Clarification of and possible amendments to the delisting procedures in § 260.22.* Many questions and comments are being received on these procedures, one of which is the status of a delisting petition during the period between a favorable tentative decision to grant the petition and a final decision (see § 260.22). We are considering these questions and comments and hope to address them in November.

12. *Application of the regulations to spills of listed chemicals and hazardous wastes.* Questions have been raised about the applicability of the regulations to spills of listed chemicals and hazardous wastes (both at facilities and during transportation). They include the following: Is a permit required for clean-up activities, particularly those involving treatment, storage or disposal? Is a manifest required for emergency transport of spilled material? Who is the generator—the transporter or the clean-up firm? How do the hazardous waste spill regulations relate to the spill regulations issued by EPA under Section 311 of the Clean Water Act? We hope to address these and related questions in RIMs and amendments to the regulations in October.

13. *Application of the regulations to dredged materials which are hazardous wastes because they exhibit any of the characteristics of hazardous wastes.* Questions have been raised about the application of the hazardous waste regulations to dredged materials and the interrelationship between these regulations and those issue by EPA under Section 404 of the Clean Water Act. We hope to address these questions in a RIM and, where appropriate, amendments to the regulations in October.

14. *The circumstances under which a facility can obtain interim status after November 19, 1980.* We have been asked whether an existing facility which does not now handle hazardous waste can obtain interim status in the future if, for example, EPA amends its hazardous waste list to add a waste which the facility now handles. We hope to address this issue in a RIM in September.

15. *Clarification of "existing facility".* A number of persons have asked us to clarify the definition of "existing facility," particularly whether the definition of "commenced construction" pertains to an entire manufacturing site or only the hazardous waste facility located on the site. We intend to deal with this issue in a RIM or an amendment in September.

16. *The Office of Management and Budget's (OMB) review of EPA's Parts 264 and 265 reporting requirements under the Federal Reports Act.* OMB recently approved EPA's Parts 264 and

265 reporting requirements under the

EPA will also issue interpretive

Tuesday

265 reporting requirements under the Federal Reports Act on the condition that EPA extend, until May 19, 1981, the deadline by which landfills, landfarms and surface impoundments which intend to close as landfills must prepare a closure and post-closure monitoring and maintenance plan. EPA will be issuing an amendment to its regulations to reflect this change in August.

In addition to the foregoing, we expect to publish a RIM or an amendment to the regulations, as appropriate, on each of the following issues during the next three months:

1. Definition of empty container
2. Clarification of "empty tank" as it applies in the accumulation of hazardous wastes
3. Application of regulations to samples of hazardous wastes being transported to and processed in laboratories
4. Application of the regulations to pipelines transporting hazardous wastes to off-site facilities
5. Application of regulations to run-off from non-hazardous waste storage piles and raw materials storage piles
6. Clarification of the regulations as they apply to ocean disposal of hazardous wastes

III. Effect of Technical Amendments and Interpretive Memoranda on Compliance Deadlines

This notice does not suspend any requirements in EPA's February 26, and May 19, 1980, regulations. Until an amendment or interpretive memorandum is published on a particular issue, those regulations will remain in effect and individuals should use their best judgment in interpreting them. It is EPA's intent to resolve the issues outlined above prior to the November 19, 1980, effective date of the February 26, 1980 and May 19, 1980 regulations. Should a number of outstanding major issues not be addressed by November 19, 1980, EPA will consider whether the adoption of a temporary special enforcement policy would be appropriate to deal with these situations.

IV. Requesting Amendments or Interpretive Memoranda

As explained in the preamble to EPA's May 19, 1980, regulations any person may submit a petition to amend EPA's hazardous waste regulations (45 FR 33068–33070). Sections 260.20 through 260.22 of the regulations prescribe the information which should be contained in such petitions and describe the procedures which EPA will follow in acting on them.

EPA will also issue interpretive memoranda (if appropriate) on written request. Persons wishing to file such a request should follow the general requirements for rulemaking petitions in § 260.20, except that in lieu of describing their proposed amendment and the justification for it, they should indicate the particular factual situation or regulation for which a regulatory interpretation is requested.

For the reasons stated in I. B., it may be many months before EPA can act on rulemaking petitions or requests for interpretive memoranda. However, requests will be acknowledged within 10 days after receipt. To the extent feasible, the Agency will address first those issues having the most immediate and wide-ranging impact. It should be noted that the filing of a petition or request for interpretation does not stay the compliance date for any regulation.

Dated: August 5, 1980.

Eckardt C. Beck,

Assistant Administrator for Water & Waste Management.

[FR Doc. 80-25156 Filed 8-15-80; 1:31 pm]
BILLING CODE 6560-01-M

federal register

Tuesday
August 19, 1980

Part VI

Department of Agriculture

Federal Grain Inspection Service

Official Grain Inspection Functions; Assignment of Geographic Area

V 45 AUG 19 80 UMI

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Assignment of Geographic Area to the Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Tex.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Texas, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Fort Worth Grain Exchange Inspection Service, Inc., 2707 Decatur Avenue, P.O. Box 4421, Fort Worth, Texas 76106, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on March 20, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the Octo- ber 18, 1979, issue of the **Federal Register** (44 FR 60130). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency shall be the area within the following Counties in Texas:

Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Ellis, Falls, Fannin, Grayson, Hamilton, Hill, Johnson, Lamar, Limestone, McLennan, Milam, Red River, Tarrant, and Williamson.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,
Acting Director Compliance Division.

[FR Doc. 80-25183 Filed 8-18-80; 8:45 am]
BILLING CODE 3410-02-M

Assignment of Geographic Area to Grain Inspection, Inc., Jamestown, N. Dak.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Grain Inspection, Inc., Jamestown, North Dakota, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Grain Inspection, Inc., 217 4th Avenue, N.W., P.O. Box 1652, Jamestown, North Dakota 58401, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on March 1, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the November 23, 1979, issue of the **Federal Register** (44 FR 67199–67200). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is as follows:

Bounded: on the North by Interstate 94 to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 north to U.S. Route 52; U.S. Route 52 southeast to State Route 15; State Route 15 east to U.S. Route 281; U.S. Route 281 south to Foster County; the northern Foster County line; the northern Griggs County line east to State Route 32;

Bounded: on the East by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to Dickey County line;

Bounded: on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west to State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Chicago Milwaukee St. Paul and Pacific Railroad line; the Chicago Milwauee St. Paul and Pacific Railroad line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and

Bounded: on the West by the western North Dakota State line north to Interstate 94.

In addition, the following locations outside of the foregoing contiguous geographic area, which have been and will continue to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Farmers Coop Elevator, Fessenden, North Dakota, in Wells County; Farmers Union Elevator and Manfred Grain, Manfred, North Dakota, in Wells County; and Norway Spur and Oakes Grain, Oakes, North Dakota, in Dickey County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by: Aberdeen Grain Inspection, Inc.: Farmers Elevator, Guelph, North Dakota, in Dickey County; Farmers Equity Exchange and Sun Grain, New England, North Dakota, in Hettinger County; and Regent Grain Company and Regent Equity, Regent, North Dakota, in Hettinger County; and by Minot Grain Inspection, Inc.: Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larson Elevator, Inc., Washburn, North Dakota, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,
Acting Director Compliance Division.

[FR Doc. 80-25184 Filed 8-18-80; 8:45 am]
BILLING CODE 3410-02-M

Assignment of Geographic Area to the Minot Grain Inspection, Inc., Minot, N. Dak.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Minot Grain Inspection, Inc., Minot, North Dak., for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT:
J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Minot Grain Inspection, Inc., 601 3rd Avenue, P.O. Box 13, Minot, North Dak. 58701, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on February 1, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the November 23, 1979, issue of the **Federal Register** (44 FR 67196–67197). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is as follows:

Bounded: on the North by the North Dakota State line east to State Route 14;

Bounded: on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded: on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded: on the West by the North Dakota State line.

In addition, the following locations outside of the foregoing contiguous geographic area, which have been and will continue to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Farmers Elevator Company, Bottineau, North Dakota, in Bottineau County; Farmers Feed & Grain and Farmers Union, Harvey, North Dakota, in Wells County; Farmers Union, Rugby, North Dakota, in Pierce County; Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larsen Elevator, Inc., Washburn, North Dakota, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agency will provide official inspection services not requiring a licensed

Tuesday

inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,

Acting Director Compliance Division.

[FR Doc. 80-25165 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-02-M

Assignment of Geographic Area to A. V. Tischer and Son, Inc., Fort Dodge, Iowa

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the A. V. Tischer and Son, Inc., Fort Dodge, Iowa, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

A. V. Tischer and Son, Inc., 137 10th Street, N.W., P.O. Box 339, Fort Dodge, Iowa 50501, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on February 1, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the November 19, 1979, issue of the **Federal Register** (44 FR 66220–66221). No comments were received during the comment period. However, in a March 13, 1980, letter, the Agency requested that the geographic area which was assigned on an interim basis be amended to exclude a portion of the area as described below. The Agency indicated that servicing this portion of the area imposed a financial hardship upon them and that the distance from their main office was a deterrent to providing timely service. This portion of the area was assigned on an interim basis effective May 18, 1980, and terminating at such time as a permanent replacement agency is designated, to the Fremont Grain Inspection Department, Inc., in the May 16, 1980, issue of the **Federal Register** (45 FR 32569).

The description of the area being deleted from the Agency is as follows:

Bounded: on the North by the Iowa-Minnesota State line east from U.S. Route 59 to U.S. Route 71;

Bounded: on the East by U.S. Route 71 south to the southern Clay County line;

Bounded: on the South by the southern Clay County Line west;

Bounded: on the West by the western Clay County Line north to B24; B24 west to U.S. Route 59; U.S. Route 59 north to the Iowa-Minnesota State Line.

After due consideration of all information available to the United States Department of Agriculture, the geographic area assigned to the Agency is as follows:

Bounded: on the North by the Iowa-Minnesota State line from U.S. Route 71 east to U.S. Route 169;

Bounded: on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern Webster County line; the Webster County line south; the southern Webster County line to U.S. Route 169; U.S. Route 169 south to E18 west; E18 west to the eastern Greene County line; the Greene County line to U.S. Route 30;

Bounded: on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded: on the West by U.S. Route 71 north to the Iowa-Minnesota State line.

In addition, the following locations outside of the foregoing contiguous geographic area, which have been and will continue to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Cargill, Inc., Algona, Iowa, in Kossuth County; Farmers Coop Elevator, Boxholm, Iowa, in Boone County; Big Six Elevator, Burt, Iowa, in Kossuth County; Farmers Elevator, Goldfield, Iowa, in Wright County; and Farmers Coop Elevator, Holmes, Iowa, in Wright County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by: D. R. Schaal: Farmers Coop Company, Eagle Grove, Iowa, in Wright County; and by Sioux City Inspection and Weighing Agency, Inc.: Gooch Seed Mill and Ernie's Seed and Field Service, Storm Lake, Iowa, in Buena Vista County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,

Acting Director Compliance Division.

[FR Doc. 80-25166 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-02-M

federal register

Tuesday
August 19, 1980

Part VII

Federal Mediation and Conciliation Service

Arbitration of Pesticide Data Disputes

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1440

Arbitration of Pesticide Data Disputes

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final Regulations.

SUMMARY: The Federal Insecticide, Fungicide, & Rodenticide Act (hereinafter "FIFRA") provides for the appointment of arbitrators by the Federal Mediation and Conciliation Service (hereinafter "FMCS" or "the Service") if the parties to a dispute regarding either compensation for the use or joint development of pesticide data cannot reach an agreement. FIFRA provides that the procedure and rules of the Service shall be applicable to such arbitration proceedings. (Pub. L. 95–396, September 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii)).

The final rule establishes the procedure by which the Federal Mediation and Conciliation Service will appoint arbitrators to assist pesticide producers in the resolution of disputes over the value of technical data concerning the properties and effects of pesticides or joint development of such data. For this purpose, the Service will utilize as its roster of arbitrators the roster of commercial arbitrators maintained by the American Arbitration Association ("AAA"), a non-profit private organization with long experience in commercial dispute resolution. The FIFRA arbitration rules of the AAA will be the rules of procedure to be followed for arbitration of pesticide data compensation disputes.

Interested parties were invited to submit written comments concerning interim regulations published at 45 FR 28105, April 28, 1980. No submissions were received. Therefore, this final regulation does not differ from the interim rule.

EFFECTIVE DATE: This regulation becomes effective September 18, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff, Assistant General Counsel, 2100 K Street, NW., Washington, D.C. 20427, (202) 653–5305.

SUPPLEMENTARY INFORMATION: This rule will provide a mechanism for the binding resolution of certain disputes that may arise between persons who have attained or are seeking government authorization to produce and sell pesticides. Rules promulgated by the Environmental Protection Agency ("EPA") at 40 CFR 162.9–1 through –.8 (see 40 FR 28242, July 3, 1975 and 44 FR 27932 May 11, 1979) described the circumstances in which one pesticide producer either may or must base an application for licensing of a pesticide upon information previously submitted to EPA. Use of said data gives rise to an obligation under § 3(c)(1)(D)(ii) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA") on the part of the applicant to pay compensation to the submitter of the information. Under § 3(c)(2)(B)(iii), disputes concerning joint development of data to satisfy EPA data requirements are also subject to compulsory arbitration.

The role of the FMCS is limited to the appointment of arbitrators to resolve compensation disputes. The duties and obligations of EPA and the parties to the dispute are specified in the rules cited above and are explained in considerable detail in the preambles. Therefore, interested persons are urged to read and understand the EPA rulemaking and contact EPA concerning those matters not addressed in the following rule.

Background

Congress has demonstrated its belief that the costs of generating information to evaluate pesticide risks be equitably apportioned among registrants of pesticide products. In Section 3(c)(1)(D) of the 1972 FIFRA, Congress authorized the Administrator of EPA to consider data submitted by firm A (other than "trade secret" data) when evaluating an application from firm B so long as firm B offered to pay "reasonable compensation" to A. The 1972 Act provided that the Administrator would fix the amount of compensation if the applicant and submitter could not agree on an amount.

In 1973, EPA implemented the compensation provision of FIFRA with an Interim Policy Statement. This policy did not require direct communication of an offer from firm B to firm A. Rather, it permitted firm A to claim compensation from B on the basis of a general notice in the **Federal Register** that B's application had been granted. If the parties could not agree on an amount of compensation, they could offer evidence concerning the reasonableness of the amount sought or offered in a hearing before an Administrative Law Judge, who would decide the sum. The situation became complicated in 1975, when EPA eliminated the practice of granting registration based on "established use patterns." Applicants were now required to identify data submitted by prior registrants on which they intended to rely and to advise the Agency that they had offered compensation to the original submitter. The response of many prior registrants to such offers was to advise EPA that the data on which applicants intended to rely were "trade secret," and therefore not subject to licensing. In other cases, because of poorly organized files at EPA, applicants experienced difficulty in identifying appropriate data to support registrations, or applicants were unwilling to extend offers to pay an unspecified amount of compensation.

Because of concern that FIFRA's complex provisions and EPA's difficulties in implementing them were affecting the viability of the pesticide industry, Congress directed EPA to conduct an evaluation and report its findings (H.R. 94–1105). A report, entitled *FIFRA: Impact on the Industry*, was subsequently submitted to Congress on March 7, 1977. Almost simultaneously EPA requested that Congress enact major changes to the pesticide statute.

On April 27, 1977, EPA Administrator Costle testified on behalf of an Administration proposal to amend FIFRA. He recomnmended the deletion of the "trade secret" exclusion for the Act's mandatory data licensing scheme. He also observed that EPA felt uncomfortable as the judge of data valuation disputes and asked Congress to provide guidance by specifying the factors to be considered when making valuations.

In response, the Senate and the House passed bills providing for final and binding arbitration of compensation disputes by arbitrators appointed by FMCS. Neither S. 1678 nor H.R. 8681 specified a formula or other guidance on the valuation of data for compensation purposes. The Conference Committee substantially modified the provisions of each bill which pertained to data available for compensation, the duration of the compensable period and sanctions for failure to negotiate or arbitrate compensation disputes. Provisions were incorporated to permit any party to a compensation dispute of a specified duration to "initiate binding arbitration by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by (the) Service."

Section 3(c)(1)(D)(ii) of FIFRA, as amended by the Federal Pesticide Act of 1978, provides in pertinent part:

> (ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the "applicant") within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment on the fees expenses of the arbitrator.

Section 3(c)(2)(B)(iii) contains similar provisions for disputes arising during joint development of data. In addition, the parties to any dispute may choose to submit their dispute voluntarily to arbitration. In such case, the parties may go directly to AAA for appointment of an arbitrator.

The role of the FMCS is relatively minor within the context of the pesticide registration program as indicated by FIFRA and the limited legislative history which is available. According to the statute, the duties of the Service under FIFRA are to:

(1) Designate a person to arbitrate a compensation dispute, when requested.

(2) Maintain a roster of persons qualified and available to conduct the arbitration proceedings.

(3) Adopt rules of procedure to be followed in the conduct of compensation arbitration.

The Federal Mediation and Conciliation Service rarely arranges or conducts arbitration of commercial disputes. The Service is in the business of helping to resolve labor disputes between employers and representative of their employees. Among various means to further that purpose, FMCS maintains a roster of names of private labor arbitrators who do not handle commercial disputes such as the compensation disputes arising under FIFRA.

Therefore, in the Notice of Proposed Rulemaking (44 FR 43293, July 24, 1979) the Service proposed to adopt and use the Commercial Arbitration Roster of the American Arbitration Association (AAA) as its roster and to adopt the AAA's rules of commercial arbitration as its rules of procedure for disputes arising under FIFRA.

The Notice of Proposed Rulemaking was published in the **Federal Register** on July 24, 1979 for a 60-day period of public comment. Five thousand copies of the proposed regulations were mailed to interested parties. The comment period was reopened to allow further comment. (44 FR 65407, November 13, 1979). All comments received have been carefully considered.

After reviewing the comments, FMCS promulgated an interim final rule on April 28, 1980, (45 FR 28105). No comments were received during the comment period on the interim regulation.

This final rule is issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 95–396 September 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii).

Federal Mediation and Conciliation adds Part 1440 to Title 29 of the Code of Federal Regulations as set forth below.

Dated: August 8, 1980.

Robert P. Gajdys,

Director of Administration.

A new Part 1440 is added to 29 CFR as follows:

PART 1440—ARBITRATION OF PESTICIDE DATA DISPUTES

Sec.

1440.1 Arbitration of pesticide data disputes.

Appendix—FIFRA Arbitration Rules.

Authority: Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), as amended, Pub. L. 95–396, 92 Stat. 819.

PART 1440—ARBITRATION OF PESTICIDE DATA DISPUTES

§ 1440.1 Arbitration of Pesticide Data Disputes.

(a) Persons requesting the appointment of an arbitrator under Section 3(c)(1)(D)(ii) and Section 3(c)(2)(B)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, as amended), shall send such requests in writing to the appropriate American Arbitration Association Regional Office. Such requests must include the names, addresses, and telephone numbers of the parties to the dispute; issue(s) in dispute, the amount in dollars or any other remedy sought; sufficient facts to show that the statutory waiting period has passed, and the appropriate fee provided in the Fee Schedule.

(b) For the purpose of compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter "the Act"), the roster of arbitrators maintained by the Federal Mediation and Conciliation Service shall be the roster of commerical arbitrators maintained by the American Arbitration Association. Under this Act, arbitrators will be appointed from that roster. The fees of the American Arbitration Association shall apply, and the procedure and rules of the Federal Mediation and Conciliation Service, applicable to arbitration proceedings under the Act, shall be the FIFRA arbitration rules of the American Arbitration Association, which are hereby made a part of this regulation.

Appendix—FIFRA Arbitration Rules

Section 1

These rules shall apply as published in the **Federal Register** unless modified by FMCS.

Sec. 2. Definitions

For the purpose of these Rules of Procedure the terms are defined as follows:

(1) "AAA" means the American Arbitration Association.

(2) "Act" or "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*

(3) "EPA" means the United States Environmental Protection Agency.

(4) "Arbitrator(s)" means the person or persons appointed to the tribunal constituted by the parties for the settlement of their dispute under these Rules.

(5) "Claimant" means a person asserting a claim for compensation under these Rules or filing a claim concerning joint development of data.

(6) "Compulsory arbitration" means arbitration invoked under the mandatory provisions of section 3(c)(1)(d) or 3(c)(2)(B)(iii) of the Act.

(7) "Voluntary arbitration" means arbitration voluntarily agreed to by the parties to settle a dispute under section 3(c)(1)(d) or 3(c)(2)(B)(iii) of the Act.

(8) "Director" means Director, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, or any officer or employee of the EPA to whom authority has been or

may hereafter be lawfully delegated to

involved, if any, and the remedy sought, together with the appropriate

Sec. 7—Direct Appointment by Parties

shall be filed with AAA prior to the opening of the first hearing.

(3) A detailed statement of the matter in dispute under 3(c)(2)(B)

for the filing of any document or paper,

may hereafter be lawfully delegated to act in his stead.

(9) "Administator" means the AAA, its Tribunal Administrators or such officers or committees as the AAA may direct.

(10) "Roster" means the Commercial Arbitration Roster of AAA.

(11) "FMCS" or "Service" means the Federal Mediation and Conciliation Service.

(12) "Party" means claimant or respondent.

(13) "Person" means any individual, partnership, association, corporation, or any organized group of persons, whether incorporated or not.

(14) "Respondent" means the person against whom a claim is made under section 3(c)(1)(D) or 3(c)(2)(B)(iii) of the Act.

Terms defined in the Act and not explicitly defined herein are used herein with the meanings given in the Act.

Sec. 3. Initiation of Arbitration

(a) *Under compulsory procedures of FIFRA.* Upon the request of a party qualified under FIFRA § 3(c)(1)(D) or 3(c)(2)(B)(iii) for the appointment of an arbitrator, the Service will appoint an arbitrator in accordance with 29 CFR § 1440(a) and these rules. Requests shall be submitted in writing to the appropriate AAA Regional Office and must include the names, addresses and telephone numbers of the parties to the dispute; issues in dispute; the amount in dollars or any other remedy sought; sufficient facts to show that the statutory waiting period has passed; and the appropriate fee as provided in the Fee Schedule.

AAA shall give notice of filing of a request for arbitration to the other party. If he so desires, the party upon whom the demand for arbitration is made may file an answering statement in duplicate with AAA within seven days after notice, in which event he shall simultaneously send a copy of his answer to the other party. If a monetary claim is made in the answer the appropriate fee provided in the Fee Schedule shall be forwarded with the answer. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration.

(b) *Under a Voluntary Submission.*—Parties to any existing dispute may commence an arbitration under these Rules by filing at any AAA Regional Office two (2) copies of a written agreement to arbitrate under these Rules (Submission), signed by the parties. It shall contain a statement of the matter in dispute, the amount of money involved, if any, and the remedy sought, together with the appropriate administrative fee as provided in the Fee Schedule.

Sec. 4—Fixing of Locale

The parties may mutually agree on the locale where the arbitration is to be held. If the locale is not designated within seven days from the date of filing the Demand or Submission the AAA shall have power to determine the locale. Its decision shall be final and binding. If any party requests that the hearing be held in a specific locale and the other party files no objection thereto within seven days after notice of the requests, the locale shall be the one requested.

Sec. 5—Qualification of Arbitrator

Any Arbitrator appointed pursuant to these rules shall be neutral, subject to disqualification for the reasons specified in Section 11. If the agreement of the parties names an Arbitrator or specifies any other method of appointing an Arbitrator, or if the parties specifically agree in writing, such Arbitrator shall not be subject to disqualification for said reasons.

Sec. 6—Appointment From Panel

If the parties have not appointed an Arbitrator and have not provided any other method of appointment, the Arbitrator shall be appointed in the following manner. Immediately after the filing of the Request or Submission, the AAA shall submit simultaneously to each party to the dispute an identical list of names of persons chosen from the Panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names to which he objects, number the remaining names indicating the order of his preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an Arbitrator to serve, and the Service shall appoint the Arbitrator. If the parties fail to agree upon any of the persons named, or if acceptable Arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the FMCS shall have the power to make the appointment from other members of the Panel without the submission of any additional lists.

Sec. 7—Direct Appointment by Parties

If the agreement of the parties to a Submission names an Arbitrator or specifies a method of appointment of an Arbitrator, that designation or method shall be followed. The notice of appointment, with name and address of such Arbitrator, shall be filed with the AAA by the appointing party. Upon the request of any such appointing party, the AAA shall submit a list of members from the Panel from which the party may, if he so desires, make the appointment.

If the agreement specifies a period of time within which an Arbitrator shall be appointed, and any party fails to make such appointment within that period, the AAA shall make the appointment.

Sec. 8—Appointment of Neutral Arbitrator by Party Appointed Arbitrators

If the parties have appointed their Arbitrators or if either or both of them have been appointed as provided in Section 7, and have authorized such Arbitrators to appoint a neutral Arbitrator within a specified time and no appointment is made within such time or any agreed extension thereof, the FMCS shall appoint a neutral Arbitrator who shall act as Chairman.

If no period of time is specified for appointment of the neutral Arbitrator and the parties do not make the appointment within seven days from the date of the appointment of the last party-appointed Arbitrator, the FMCS shall appoint such neutral Arbitrator, who shall act as Chairman.

If the parties have agreed that their Arbitrators shall appoint the neutral Arbitrator from the Panel, the AAA shall furnish to the party-appointed Arbitrators, in the manner prescribed in Section 6, a list selected from the Panel, and the appointment of the neutral Arbitrator shall be made as prescribed in such Section.

Sec. 9—Number of Arbitrators

If the arbitration agreement does not specify the number of Arbitrators, the dispute shall be heard and determined by one Arbitrator, unless the AAA in its discretion, directs that a greater number of Arbitrators be appointed.

Sec. 10—Notice to Arbitrator of His or Her Appointment

Notice of the appointment of the neutral Arbitrator, whether appointed by the parties, by the AAA or FMCS shall be mailed to the Arbitrator, together with a copy of these Rules, and the signed acceptance of the Arbitrator

shall be filed with AAA prior to the opening of the first hearing.

Sec. 11—Disclosure and Challenge Procedure

A person appointed as neutral Arbitrator shall disclose to the AAA any circumstances likely to affect his or her impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such Arbitrator or other source, the AAA shall communicate such information to the parties, and, if it deems it appropriate to do so, to the Arbitrator. Thereafter, the AAA shall make a determination whether the Arbitrator should be disqualified. The determination, however, may be appealed to FMCS. The decision of FMCS shall be conclusive.

Sec. 12—Vacancies

If any Arbitrator should resign, die, withdraw, refuse, be disqualified, or be unable to perform the duties of his office, AAA may, on proof satisfactory to it, declare the office vacant. Either party to a compulsory arbitration may request the FMCS to review a declaration of disqualification. Vacancies shall be filled in accordance with the applicable provision of these Rules and the matter shall be reheard unless the parties shall agree otherwise.

Sec. 13—Commencement of Proceeding

(a) Within 60 days from receipt by the parties of notice of the appointment of an arbitrator, the claimant shall file with AAA:

(1) If appropriate, a detailed statement as to the amount of compensation claimed, the method of computing said amount, and terms of payment, and a list of the test data deemed to be compensable, together with a detailed justification therefore.

(2) A certification as to: (i) Whether any court or tribunal has made determinations for payment by any other persons to claimant for use of the same test data and, if so, identification of the persons against whom the 3(c)(2)(B) determinations were issued and the application for registration for which the test data was used; and (ii) whether any other claims against any persons are pending in arbitration or in any court for use of the same test data and, if so, an identification of the persons against whom the claims are pending and the applications for registration on which the claims are being made.

(3) A detailed statement of the matter in dispute under 3(c)(2)(B).

(b) Within 60 days of service of the documents referred to in subsection (a) the respondent shall file a detailed statement of its position as to the amount of compensation due, method of computation, terms of payment, and list of data deemed to be compensable together with a detailed justification therefore or a detailed statement of the dispute under 3(c)(2)(5). To the extent any portion of the claimant's statement of its claim is not denied or challenged by respondent, it shall be deemed admitted.

(c) After respondent's statement is filed, the arbitrator may, upon request by a party, request the Director to supplement the file with additional information, including copies of relevant test data, information contained in a relevant registration file, a statement as to data requirements for registration, or any other information which the arbitrator deems to be relevant. Upon request by a party or other interested person, the arbitrator shall order protective measures to safeguard and restrict access to confidential business information.

Sec. 14—Filing and Service

(a) All documents or papers required or authorized to be filed, shall be filed with the AAA for transmittal to the arbitrator, except as otherwise herein provided, and shall bear the caption of the case and the docket number. At the same time that a party files documents or papers with the AAA, the party shall serve upon all other parties copies thereof, with a certificate of service on or attached to each document or paper, including those filed with the arbitrator. If a party is represented by counsel or other representative, service shall be made on such representative. Service may be made personally or by regular mail, and if made by mail shall be deemed complete on mailing. If filing is accomplished by mail addressed to the AAA, filing shall be deemed timely if the papers are postmarked on the due date.

(b) All orders, decisions, or other documents made or signed by the arbitrator shall be served immediately upon all parties.

Sec. 15—Time

(a) In computing any period of time prescribed or allowed by these rules, except as otherwise provided, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays and legal holidays shall be included in computing the time allowed for the filing of any document or paper, except that when such time expires on a Saturday, Sunday, or legal holiday, such period shall be extended to include the next following business day.

(b) When by these rules or by order of the arbitrators, an act is required or allowed to be done at or within a specified time, the arbitrator or AAA for cause shown may at any time in their discretion (1) with or without motion or notice, order the period enlarged if request therefore, which may be made *ex parte*, is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) on motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect or other good cause.

Sec. 16—Communication with Arbitrator and Serving of Notices

(a) There shall be no communication between the parties and a neutral arbitrator other than at oral hearings. Any other oral or written communications from the parties to the arbitrator shall be directed to the AAA for transmittal to the arbitrator.

(b) Each party to an agreement which provides for arbitration under these Rules shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith or for the entry of judgment on any award made thereunder may be served upon such party by mail addressed to such party or his attorney at his last known address or by personal service, within or without the State wherein the arbitration is to be held (whether such party be within or without the United States of America): *Provided*, That reasonable opportunity to be heard with regard thereto has been granted such party.

Sec. 17—Time of Award

The award shall be made promptly by the arbitrator and, unless otherwise agreed by the parties, or specified by law, no later than thirty days from the date of closing the hearings, or if oral hearings have been waived, from the date of transmitting the final statements and proofs to the arbitrator.

Sec. 18—Appearances

(a) Parties may appear in person or by counsel or other representative. Persons who appear as counsel or in a representative capacity must conform to the standards of ethical conduct

required of practitioners before the

hearing setting a time and place for such

(1) cannot be obtained by alternative

Sec. 25—Evidence

place determined by the arbitrator. The

required of practitioners before the courts of the United States.

(b) Any party to the proceeding who, after being duly notified and without good cause being shown fails to appear at a prehearing conference or fails to respond to correspondence, shall be deemed to have waived his rights with respect thereto and shall be subject to such orders or determinations with respect thereto as the arbitrator shall make. The failure of a party to appear at a hearing shall constitute a waiver of the right to present evidence at such hearing. Where either party fails to appear at a hearing, the arbitrator shall require the presentation by the present party of such evidence as he deems necessary to prepare a decision in conformity with the requirements of the act.

(c) Any person having a direct interest in the arbitration is entitled to attend hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.

Sec. 19—Consolidation and Severance

(a) The AAA may with agreement of all parties consolidate any matters at issue in two or more proceedings docketed under these Rules of Procedure where there exist common parties, common questions of fact and law, and where such consolidation would expedite or simplify consideration of the issues. Consolidation may also be effected where separate claims for use of the same test data are made against different respondents. The arbitrator who presides over the consolidated proceeding shall be chosen in accordance with section 3, *supra*.

(b) The arbitrator may, by motion or *sua sponte*, for good cause shown order any proceeding severed with respect to some or all parties or issues.

Sec. 20—Protection of Confidential Information

(a) The arbitrator shall make such orders as required to protect the secrecy of confidential information or documents such as review *in camera*.

(b) The arbitrator shall impose a sanction against any party who violates an order issued under this section. Such sanction may include an award against the offending party.

Sec. 21—Scheduling of Hearing

(a) After consideration of the convenience of the parties, the AAA shall serve upon the parties a notice of hearing setting a time and place for such hearing.

(b) Except for good cause shown, no request for postponement of a hearing will be granted. Such request must be received in writing at least a day in advance of the time set for the hearing. In case of postponement, the hearing shall be rescheduled for a date as early as circumstances will permit.

Sec. 22—Optional Accelerated Procedure

(a) In claims involving $25,000 or less, the parties may elect, prior to commencement of hearing, to have the claim processed under an expedited procedure. If no specific amount of claim is stated, a case will be considered to fall within this rule if the amount which the claimant represents in writing that it could recover as a result of any arbitrator's decision favorable to it does not exceed $25,000. Upon such election, a case shall then be processed under this rule unless the respondent objects and shows good cause why the substantive nature of the dispute requires processing under the regular procedures. In cases proceeding under this rule, the parties have waived discovery and briefs.

(b) The arbitrator shall schedule the dispute for hearing within thirty (30) days of service of notice to the parties that the dispute will be governed by this accelerated procedure, unless either party requests that the case be submitted without hearing under Section 19.

(c) Written decision by the arbitrators in cases proceeding under this rule normally will be short and contain summary findings of fact and conclusions only. The arbitrator shall render such decisions promptly, but in no event later than thirty days after the dispute is ready for decision.

Sec. 23—Discovery

(a) Either party may move for permission to serve written interrogatories and requests for production of documents upon the opposing party. The arbitrator shall grant such motion to the extent that such interrogatories and requests are designed to produce relevant evidence and only upon such terms as the arbitrator in his or her discretion considers to be consistent with the objective of securing a just and inexpensive determination of the dispute without unnecessary delay.

(b) Upon motion by either party, the arbitrator may order a deposition upon a showing of good cause and a finding that the deposition is designed to secure relevant and probative evidence which (1) cannot be obtained by alternative means, or (2) may otherwise not be preserved for presentation at hearing.

(c) If a party fails to comply with an order issued under this section, the arbitrator shall draw inferences adverse to that party in connection with the facts sought to be discovered.

(d) At least thirty days prior to the hearing, each party shall make available to each other party the names of the expert and other witnesses it intends to call, together with a detailed summary of their expected testimony, and copies of all documents and exhibits which the party intends to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended only upon motion by a party for good cause shown.

Sec. 24—Prehearing Conference

(a) When it appears that such procedure will expedite the preceeding, the arbitrator at any time prior to the commencement of the hearing may request the parties and their counsel or other representative to appear at a conference before him or her to consider:

(i) The possibility of settlement of the case;

(ii) The simplification of issues and stipulation of facts not indispute;

(iii) The necessity or desirability of amending or supplementing documents in the record;

(iv) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;

(v) The limitation of the number of expert or other witnesses;

(vi) The setting of a time and place for the hearing, giving consideration to the convenience of all parties and to the public interest; and

(vii) Any other matters as may expedite the disposition of the proceeding.

(b) No transcript of any prehearing conference shall be made unless ordered upon motion of a party or *sua sponte* by the arbitrator. In the absence of a transcript, the arbitrator shall prepare and file a report of the action taken at such conference. Such report shall incorporate any written stipulations or agreements made by the parties, all rulings upon matters considered at such conference, and appropriate orders containing directions to the parties. Such report shall, as appropriate, direct the subsequent course of the proceeding, unless modified by the arbitrators on motion or *sua sponte*.

Sec. 25—Evidence

(a) The arbitrator shall admit all evidence which is relevant, competent, material, not privileged, and not unduly repetitious. The weight to be given evidence shall be determined by its reliability and probative value.

(b) Except as otherwise provided in these Rules of Procedure or by the arbitrator, witnesses shall be examined orally, under oath or affirmation. Parties shall have the right to cross-examine a witness who appears at the hearing provided that such cross-examination is not unduly repetitious.

(c) Except where the arbitrator finds it impracticable, an original and two copies of each exhibit shall be filed at the time the exhibit is offered into evidence and a copy shall be furnished to each party. A true copy of an exhibit may be substituted for the original.

(d) Official notice may be taken of any matter judicially noticed in the Federal courts. The parties shall be given adequate opportunity to show that such facts are erroneously noticed.

Sec. 26—Order of Proceedings

(a) Hearing shall be opened by the filing of the oath of the arbitrator, and by the recording of the place, time and date of the hearing, the presence of the arbitrator, parties, and counsel.

(b) The arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved. The claimant shall then present his claim and proofs and his witnesses. The respondent shall then present his response and proofs and his witnesses. The arbitrator may in his descretion vary this procedure but he or she shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Sec. 28—Burden of Presentation; Burden of Persuasion

The claimant shall have the burden of going forward to establish his entitlement to an amount of compensation that respondent should pay for use of the test data relied upon. Each matter of controversy shall be decided by the arbitrator upon a preponderance of the evidence.

Sec. 29—Stenographic Record

Any party may request a stenographic record by making arrangements for same through the AAA. If such transcript is agreed by the parties to be, or in appropriate cases determined by the arbitrator to be, the official record of the proceeding, it must be made available to the arbitrator, and to the other party for inspection, at a time and place determined by the arbitrator. The total cost of such a record shall be shared equally by those parties that order copies.

Sec. 30—Filing of Briefs, Proposed Findings of Fact and Conclusions of Law, and Proposed Order

Unless otherwise ordered by the arbitrator, each party may within thirty days after delivery of the transcript of a hearing to the arbitrator as provided in Section 29, file with AAA and serve upon all other parties a brief together with references to relevant exhibits and the record. Within Fifteen days thereafter each party may file a reply brief concerning matters contained in the opposing brief. Oral argument may be had at the discretion of the arbitrator.

Sec. 31—Closing of Hearings

The Arbitrator shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrator shall declare the hearings closed and the time and date shall be recorded. If briefs or other documents are to be filed, the hearings shall be declared closed as of the final date set by the arbitrator for filing with the AAA. The time limit within which the Arbitrator is required to make the award shall commence to run, in the absence of other agreement by the parties, upon the closing of the hearings.

Sec. 32—Arbitrators' Decision

(a) The arbitrator shall as soon as practicable after the filing of briefs evaluate the record and prepare and file a decision. The decision shall contain findings of fact and conclusions regarding all issues in dispute as well as reasons therefore.

(b) The decision shall contain a determination as to the compensation, if any respondent must pay to claimant, or other remedy as appropriate, the method of payment, and may fix such other terms and conditions as may be reasonable under the circumstances, including the furnishing of a bond or other guarantee of payment by the respondent to the claimant.

Sec. 33—Reopening of Hearings

(a) The hearings may be reopened by the arbitrator on his or her own motion, or upon application of a party at any time before the award is made. If the reopening of the hearings would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties agree upon the extension of such time limit. When no specific date is fixed, the arbitrator may reopen the hearings, and the arbitrator shall have thirty days from the closing of the reopened hearings within which to make an award.

(b) A motion to reopen a hearing to take further evidence, to rehear or reargue any matter related to such proceeding, or to reconsider the arbitrator's decision, must be made by motion in writing to the arbitrator in accordance with these Rules of Procedure. Every such motion must state the specific grounds upon which relief is sought.

(c) A motion to reopen a hearing for the purpose of taking further evidence may be filed at any time prior to the issuance of the arbitrator's decision. Such motion shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not cumulative, and shall set forth a good reason why such evidence was not adduced at a hearing.

(d) Motions to modify the arbitrator's decision shall be filed within 30 days after the date of service of the decision. Such motion must state specifically one of the following grounds for modification:

1. There was a miscalculation of figures or a mistake in the description of any person, thing or property referred to in the award; or

2. The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

3. The award is imperfect in a matter of form, not affecting the merits of the controversy.

Sec. 34—Award Upon Settlement

If the parties settle their dispute during the course of the arbitration, the arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

Sec. 35—Delivery of Award to Parties

Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at his last known address or to his attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

Sec. 36—Release of Documents for Judicial Proceedings

The AAA shall, upon the written request of a party, furnish to such party, at his or her expense, certified facsimiles of any papers in the AAA's possession that may be required in

judicial proceedings relating to the

Sec. 42—Deposits

Refund Schedule—If the AAA is

Tuesday

judicial proceedings relating to the arbitration.

Sec. 37—Application to Court

(a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) Neither the AAA nor FMCS is a necessary party in judicial proceedings relating to the arbitration.

(c) Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any Federal or State Court having jurisdiction thereof.

Sec. 38—Administrative Fees

As a nonprofit organization, the AAA shall prescribe an administrative fee schedule and a refund schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing or the time of refund shall be applicable.

The administrative fees shall be advanced by the initiating party or parties, subject to final appointment by the arbitrator in his award.

When a matter is withdrawn or settled, the refund shall be made in accordance with the refund schedule.

The AAA, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

Sec. 39—Fee When Oral Hearings Are Waived

Where all oral hearings are waived the Administrative Fee Schedule shall apply.

Sec. 40—Expenses

The expenses of witnesses for either side shall be paid by the party producing such witnesses.

The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless they shall otherwise agree and shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, including required traveling and other expenses of the arbitrator and of AAA representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the arbitrator, shall be borne equally by the parties.

Sec. 41—Arbitrator's Fee

Any arrangement for the compensation of a neutral arbitrator shall be made through the AAA and not directly by him or her with the parties. Where parties cannot agree, AAA shall fix reasonable compensation.

Sec. 42—Deposits

The AAA may require the parties to deposit in advance such sums of money as it deems necessary to defray the expense of the arbitration, including the arbitrator's fee if any, and shall render an accounting to the parties and return any unexpened balance.

Sec. 43—Interpretation and Application of Rules

The arbitrator shall interpret and apply these Rules insofar as they relate to his or her powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of any such Rules, it shall be decided by a majority vote. If that is unobtainable, either an arbitrator or a party may refer the question to the AAA for decision. All other Rules shall be interpreted and applied by the AAA. Either party may request that FMCS review any decision of AAA on interpretation or application of these rules.

Administrative Fee Schedule

The administrative fee of the AAA is based upon the amount of each claim and counterclaim as disclosed when the claim and counterclaim are filed, and is due and payable at the time of filing.

Amount of claim	Fee
Up to $25,000	$500.
$25,000 to $100,000	$600, plus 1% of excess over $25,000.
$100,000 to $200,000	$1350, plus ½% of excess over $100,000.
$200,000 to $5,000,000	$1850, plus ⅛% of excess over $200,000.

Where the claim or counter claim exceeds $5 million, an appropriate fee will be determined by the AAA.

When no amount can be stated at the time of filing, the administrative fee is $500, subject to adjustment in accordance with the above schedule as soon as an amount can be disclosed.

If there are more than two parties represented in the arbitration, an additional 10% of the initiating fee will be due for each additional represented party.

Other Service Charges—$50.00 payable by a party causing an adjournment of any scheduled hearing;

$100 payable by a party causing a second or additional adjournment of any scheduled hearing.

$25.00 payable by each party for each hearing after the first hearing which is either clerked by the AAA or held in a hearing room provided by the AAA.

Refund Schedule—If the AAA is notified that a case has been settled or withdrawn before a list of Arbitrators has been sent out, all the fees in excess of $500 will be refunded.

If the AAA is notified that a case has been settled or withdrawn thereafter but before the due date for the return of the first list, two-thirds of the fee in excess of $500.00 will be refunded.

If the AAA is notified that a case is settled or withdrawn thereafter but at least 48 hours before the date and time set for the first hearing, one-half of the fee in excess of $500 will be refunded.

Regional Directors

Atlanta (30303), India Johnson—100 Peachtree Street, N.W.
Boston (02108), Richard M. Reilly—294 Washington Street
Charlotte (28218), John A. Ramsey—3235 Eastway Drive, P.O. Box 18591
Chicago (60601), Charles H. Bridge, Jr.—180 N. La Salle Street
Cincinnati (45202), Philip S. Thompson—2308 Carew Tower
Cleveland (44114), Earle C. Brown—215 Euclid Avenue
Dallas (75201), Helmut O. Wolff—1607 Main Street
Detroit (48226), Mary A. Bedikian—1234 City National Bank Building
Garden City, N.Y. (11530), Ellen Maltz-Brown—585 Stewart Avenue
Hartford (06103), J. Robert Haskell—37 Lewis Street
Los Angeles (90020), Jerrold L. Murase—443 Shatto Place
Miami (33129), Joseph A. Fiorillo—2250 S.W. 3rd Avenue
Minneapolis (55402), Patricia A. Levin—1001 Foshay Tower
New Brunswick, N.J. (08901), Richard Naimark—96 Bayard Street
New York (10020), Robert E. Meade—140 West 51st Street
Philadelphia (19102), Arthur R. Mehr—1520 Locust Street
Phoenix (85004), Paul A. Newnham—222 North Central Avenue
Pittsburgh (15222), John F. Schano—221 Gateway Four
San Diego (92101), John E. Scrivner—530 Broadway
San Francisco (94104), Charles A. Cooper—690 Market Street
Seattle (98104), Neal M. Blacker—810 Third Avenue
Syracuse (13203), Deborah A. Brown—731 James Street
Washington (20036), Garylee Cox—1730 Rhode Island Avenue, N.W.
White Plains, N.Y. (10601), John R. Dacey—34 South Broadway

[FR Doc. 80-25242 Filed 8-18-80; 8:45 am]
BILLING CODE 6732-01-M

federal register

Tuesday
August 19, 1980

Part VIII

Nuclear Regulatory Commission

Emergency Planning; Final Regulations

V 45 AG 19 80 UMI

V 45 A G 1 9 8 0 UMI

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

Emergency Planning

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is upgrading its emergency planning regulations in order to assure that adequate protective measures can and will be taken in the event of a radiological emergency. Nuclear power plants and certain other licensed facilities are required to submit their emergency plans, together with the emergency response plans of State and local governments, to the Commission. The Commission and the Federal Energy Management Agency will review the plans for adequacy. The amendment also extends emergency planning considerations to "Emergency Planning Zones", and makes additional clarifications.

EFFECTIVE DATE: November 3, 1980.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of the reporting requirements in the rule, pursuant to the Federal Reports Act, as amended (44 U.S.C. 3512). The date on which the reporting requirements of the rule become effective includes a 45-day period, which the statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (telephone: 301–443–5966).

SUPPLEMENTARY INFORMATION: On September 19, 1979 and on December 19, 1979, the Commission published for public comment (44 FR 54308 and 44 FR 75167) proposed amendments to its emergency planning regulations for production and utilization facilities. Extensive comments were received, all of which were evaluated and considered in developing the final rule. The comments received and the staff's evaluation is contained in NUREG–0684. In addition, the NRC conducted four Regional Workshops to solicit comments; these comments are available in NUREG/CP–0011 (April 1980).[1]

The final regulation contains the following elements:

1. In order to continue operations or to receive an operating license an applicant/licensee will be required to submit its emergency plans, as well as State and local governmental emergency response plans, to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented. These issues may be raised in NRC operating license hearings, but a FEMA finding will constitute a rebuttable presumption on the question of adequacy,

2. Emergency planning considerations will be extended to "Emergency Planning Zones,"

3. Detailed emergency plan implementing proceudres of licensees/applicants will be required to be submitted to NRC for review, and

4. Requirements in 10 CFR Part 50, Appendix E are clarified and upgraded.

Background

In June 1979, the Nuclear Regulatory Commission began a formal reconsideration of the role of emergency planning in ensuring the continued protection of the public health and safety in areas around nuclear power facilities. The Commission began this reconsideration in recognition of the need for more effective emergency planning and in response to the TMI accident and to reports issued by responsible offices of government and the NRC's Congressional oversight committees.

On December 19, 1979, the Nuclear Regulatory Commission published in the **Federal Register** (44 FR 75167) proposed amendments to 10 CFR Part 50 and Appendix E to Part 50 of its regulations. Publication of these final rule changes in the **Federal Register** is not only related to the December 19, 1979 proposed rule changes but also incorporates the proposed changes to 10 CFR Parts 50 and 70 (44 FR 54308) published on September 19, 1979. Interested persons were invited to submit written comments/suggestions in connection with the proposed amendments within 60 days after publication in the **Federal Register**. During this comment period (in January 1980) the Commission conducted four regional workshops with State and local officials, utility representatives, and the public to discuss the feasibility of the various portions of the proposed amendments, their impact, and the procedures proposed for complying with their provisions. The NRC used the information from these workshops along with the public comment letters to develop the final rule (more than 200 comment letters and the points made in two petitions for rulemaking were also considered).

In addition to the above, on June 25, 1980, the Commission was briefed by three panels of public commenters on the rule, one each comprised of representatives from the industry, State and local governments, and public interest groups. Each panel raised important concerns regarding the final rule. On July 3, 1980, the Commission was briefed by its staff in response to these panels, including several modifications to the proposed final rules. Finally, on July 23, 1980, at the final Commission consideration of these rules, the Commission was briefed by the General Counsel on the substance of conversations with Congressional staff members who were involved with passage of the NRC Authorization Act for fiscal year 1980, Pub. L. No. 96–295. The General Counsel advised the Commission that the NRC final rules were consistent with that Act. The Commission has relied on all of the above information in its consideration of these final rules. In addition, the Commission directs that the transcripts of these meetings shall be part of the administrative record in this rulemaking. However, the transcripts have not been reviewed for accuracy and, therefore, are only an informal record of the matters discussed.

After evaluating all public comment letters received and all the information obtained during the workshops as well as additional reports such as the Presidential Commission and the NRC Special Inquiry Group Reports, the Commission has decided to publish the final rule changes described below.

Description of Final Rule Changes

The Commission has decided to adopt a version of the proposed rules similar to alternative A described in Sections 50.47 and 50.54 in the **Federal Register** Notice dated December 19, 1979 (44 FR 75167), as modified in light of comments. These rules are consistent with the approach outlined by FEMA and NRC in a Memorandum of Understanding (45 FR 5847, January 24, 1980). No new operating license will be granted unless the NRC can make a favorable finding that the integration of onsite and offsite emergency planning provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. In the case of an operating reactor, if it is determined that there are such deficiencies that a favorable NRC finding is not warranted and if the deficiencies are not corrected within 4 months of that determination, the Commission will determine expeditiously whether the reactor should be shut down or whether some other enforcement action is appropriate, pursuant to procedures provided for in 10 CFR 2.200–2.206. In any case where the Commission believes that the public health, safety, or interest so requires, the plant will be required to shut down immediately (10 CFR 2.202(f), see 5 U.S.C. 558(c)).

The standards that the NRC will use in making its determinations under these rules are set forth in the final regulation. Wherever possible, these standards may blend with other emergency planning procedures for nonnuclear emergencies presently in existence. The standards are a restatement of basic NRC and now joint NRC–FEMA guidance to licensees and to State and local governments. See NUREG–0654; FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," (January 1980). In deciding whether to permit reactor operation in the face of some deficiencies, the Commission will examine among other factors whether the deficiencies, are significant for the reactor in question, whether adequate interim compensatory actions have been or will be taken promptly, or whether other compelling reasons exist for reactor operation. In determining the sufficiency of "adequate interim compensatory actions" under this rule, the Commission will examine State plans, local plans, and licensee plans to determine whether features of one plan can compensate for deficiencies in another plan so that the level of protection for the public health and safety is adequate. This interpretation is consistent with the provisions of the NRC Authorization Act for fiscal year 1980, Pub. L. 96–295.

The regulation contains the following three major changes from past practices:

1. In order to continue operations or to recieve an operating license, an applicant/licensee will be required to submit its emergency plans, as well as State and local governmental emergency response plans, to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the applicant's/licensee's emergency plans are adequate and capable of being implemented. In any NRC licensing proceeding, a FEMA finding will consitute a rebuttable presumption on the question of adequacy. Specifically:

a. An operating license will not be issued unless a favorable NRC overall finding can be made.

b. After April 1, 1981, an operating plant may be required to shut down if it is determined that there are deficiencies such that a favorable NRC finding cannot be made or is no longer warranted and the deficiencies are not corrected within 4 months of that determination.

2. Emergency planning considerations must be extended to "Emergency Planning Zones," and

3. Detailed emergency planning implementing procedures of both licensees and applicants for operating licenses must be submitted to NRC for review.

In addition, the Commission is revising 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities," in order to clarify, expand, and upgrade the Commission's emergency planning regulations. Sections of Appendix E that are expanded include:

1. Specification of "Emergency Action Levels" (Sections IV.B and C)

2. Dissemination to the public of basic emergency planning information (Section IV.D)

3. Provisions for the State and local governmental authorities to have a capability for rapid notification of the public during a serious reactor emergency, with a design objective of completing the initial notification within 15 minutes after notification by the licensee (Section IV.D)

4. A licensee onsite technical support center and a licensee near site emergency operations facility (Section IV.E)

5. Provisions for redundant communications systems (Section IV.E)

6. Requirement for specialized training (Section IV.F)

7. Provisions for up-to-date plan maintenance (Section IV.G)

Applicants for a construction permit would be required to submit more information as required in the new Section II of Appendix E.

Rationale for the Final Rules

The Commission's final rules are based on the significance of adequate emergency planning and preparedness to ensure adequate protection of the public health and safety. It is clear, based on the various official reports described in the proposed rules (44 FR 75169) and the public record compiled in this rulemaking, that onsite and offsite emergency preparedness as well as proper siting and engineered design features are needed to protect the health and safety of the public. As the Commission reacted to the accident at Three Mile Island, it became clear that the protection provided by siting and engineered design features must be bolstered by the ability to take protective measures during the course of an accident. The accident also showed clearly that onsite conditions and actions, even if they do not cause significant offsite radiological consequences, will affect the way the various State and local entities react to protect the public from any dangers associated with the accident. In order to discharge effectively its statutory responsibilities, the Commission must know that proper means and procedures will be in place to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that adequate protective actions in response to actual or anticipated conditions can and will be taken.

The Commission's organic statutes provide it with a unique degree of discretion in the execution of agency functions. *Siegel* v. *AEC*, 400 F.2d 778, 783 (D.C. Cir. 1968), see *Westinghouse Electric Corp.* v. *NRC*, 598 F.2d 759, 771 & n.47 (3d Cir. 1979). "Both the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 confer broad regulatory functions on the Commission and specifically authorize it to promulgate rules and regulations it deems necessary to fulfill its responsibilities under the Acts, 42 U.S.C. § 2201(p)." *Public Service Co. of New Hampshire* v. *NRC*, 582 F.2d 77, 82 (1st Cir.), *cert. denied*, 439 U.S. 1046 (1978). *See* 42 U.S.C. 2133(a). As the Supreme Court stated almost 20 years ago, the Atomic Energy Act "clearly contemplates that the Commission shall

[1] Copies of NUREG documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

by regulation set forth what the public safety requirements are as a prerequisite to the issuance of any license or permit under the Act," *Power Reactor Development Co.* v. *International Union of Electrical Radio Machine Workers*, 367 U.S. 396, 404 (1961). Finally, it is also clear that "Congress, when it enacted [42 U.S.C. 2236] . . ., must have envisioned that licensing standards, especially in the areas of health and safety regulation, would vary over time as more was learned about the hazards of generating nuclear energy. Insofar as those standards became more demanding, Congress surely would have wanted the new standards, if the Commission deemed it appropriate, to apply to those nuclear facilities already licensed," *Ft. Pierce Utilities Authority* v. *United States*, 606 F.2d 986, 996 (D.C. Cir. 1979).

In response to and guided by the various reports and public comments, as well as its own determination on the significance of emergency preparedness, the Commission has therefore concluded that adequate emergency preparedness is an essential aspect in the protection of the public health and safety. The Commission recognizes there is a possibility that the operation of some reactors may be affected by this rule through inaction of State and local governments or an inability to comply with these rules. The Commission believes that the potential restriction of plant operation by State and local officials is not significantly different in kind or effect from the means already available under existing law to prohibit reactor operation, such as zoning and land-use laws, certification of public convenience and necessity, State financial and rate considerations (10 CFR 50.33(f)), and Federal environmental laws. The Commission notes, however, that such considerations generally relate to a one-time decision on siting, whereas this rule requires a periodic renewal of State and local commitments to emergency preparedness. Relative to applying this rule in actual practice, however, the Commission need not shut down a facility until all factors have been thoroughly examined. The Commission believes, based on the record created by the public workshops, that State and local officials as partners in this undertaking will endeavor to provide fully for public protection.

Summary of Comments on Major Issues

The Commission appreciates the extensive public comments on this important rule. In addition to the record of the workshops, the NRC has received over 200 comment letters on the proposed rule changes. The following major issues have been raised in the comments received.

Issue A: NRC Review and Concurrence in State and Local Radiological Plans

1. FEMA is best suited to assess the adequacy of State and local radiological emergency planning and preparedness and report any adverse findings to NRC for assessment of the licensing consequences of those findings.

2. The proposed rule fails to provide objective standards for NRC concurrence, reconcurrence, and withdrawal of concurrence.

3. In the absence of additional statutory authority, the proposed rule frustrates Congressional intent to preempt State and local government veto power over nuclear power plant operation.

4. Procedures and standards for adjudication of emergency planning disputes are not adequately specified in the proposed rule.

Issue B: Emergency Planning Zones (EPZs)

1. Regulatory basis for imposition of the Emergency Planning Zone concept should be expressly stated in the regulation.

2. Provisions regarding the plume exposure pathway EPZ should provide a maximum planning distance of 10 miles.

3. References to NUREG–0396 should be deleted to avoid disputes over its meaning in licensing proceedings.

Issue C: Alternative A and B (in 50.47 and 50.54)

1. Neither alternative is necessary because the Commission has sufficient authority to order a plant shut down for safety reasons and should be prepared to exercise that authority only on a case-by-case basis and when a particular situation warrants such action.

2. No case has been made by the Commission for the need for automatic shutdown, as would be required in alternative B, and certainly no other NRC regulations exist that would require such action based on a concept as amorphous as "concurrence in State and local emergency plans."

3. The idea that the Commission might grant an exemption to the rules that would permit continued operation (under alternative B) has little significance, primarily because 10 CFR Part 50.12(a) already permits the granting of exemptions.

4. The process and procedures for obtaining such exemptions are not defined, nor is there any policy indication that would indicate the Commission's disposition to grant such exemptions.

5. The Commission, in developing this aspect of the proposed rule, must consider its own history. There was time when regulation was characterized by the leaders of the agency by simple and very appropriate expressions. The process was to be "effective and efficient." The application of regulatory authority was to be "firm, but fair." Regardless of the outcome of the "concurrence" issue, the Commission must appreciate that alternative B is not fair. It is not effective regulation.

Issue D: Public Education

Only information required to inform the public about what to do in the event of a radiological emergency need be disseminated. There should be flexibility, in any particular case, as to who will be ultimately responsible for disseminating such information.

Issue E: Legal Authority

1. A few commenters felt that NRC had no authority to promulgate a rule as the one proposed.

2. Other comments were the nature that NRC has statutory authority only inside the limits of the plant site.

3. Some commenters suggested that NRC and FEMA should seek additional legislation to compel State and local governments to have emergency plans, if that is what is necessary.

Issue F: Schedule for Implementation

The schedule for implementing the proposed rule was considered to be unrealistic and in some cases in conflict with various State schedules already in existence. A sampling of the comments on the implementation schedule follows:

1. The 180 days in the schedule is an insufficient amount of time to accomplish tasks of this magnitude; the Federal government does not work with such speed. States are bureaucracies also; there is no reason to assume they can work faster. It took years of working with States to get the plans that are presently concurred in. It is just insufficient time for new concurrences and review. Also, to get a job done within that time frame means a hurried job, rather than an acceptable and meaningful plan.

2. The time provided is inadequate for States to acquire the hardware needed. States must go out for competitive bids just as the Federal government does. Between processing and accepting a bid and actual delivery of equipment, it may take a year to get the hardware. The State budgets years ahead; therefore, if a State or local government needs more money, it may have to go to the legislature. This is a time-consuming public process that may not fit the Federal schedule.

3. NRC and FEMA could not review 70 or more plans and provide concurrence by January 1, 1981. The Federal government moves slowly. Commenters did not think that NRC and FEMA can review all the plans within the time frame scheduled. If the Federal government cannot meet its schedule, why or how should the States?

4. Funding could not be appropriated by State and local governments before the deadline. It was suggested that the Commission use H. Rept. #96–413, "Emergency Planning U.S. Nuclear Power Plants: Nuclear Regulatory Commission Oversight," for the time frame rather than that in the proposed rule or use a sliding-scale time frame since States are at various stages of completing their emergency plans.

Issue G: Impact of Proposed Rule

1. The proposed regulations were considered by some commenters as unfair to utilities because it was felt they place the utilities in the political and financial role that FEMA should be assuming. NRC is seen as in effect giving State and local governments veto over the operation of nuclear plants. It was questioned whether this was an intent of the rule. In addition, it was felt that utilities, their customers, and their shareholders should not be penalized by a shutdown (with a resulting financial burden) because of alleged deficiencies or lack of cooperation by State and local officials.

2. It was suggested that NRC's Office of Inspection and Enforcement conduct the reviews of the State and local governmental emergency response plans in order to ensure prompt, effective, and consistent implementation of the proposed regulations.

3. One commenter noted that the public should be made aware of the issue of intermediate and long-term impacts of plant shutdowns. Specifically, people should be informed of the possibility of "brownouts," cost increases to the consumer due to securing alternative energy sources, and the health and safety factors associated with those alternative sources.

Issue H: Public Notification

1. Ultimate responsibility for public notification of a radiological emergency must be placed on State and local government.

2. The "fifteen minute" public notification rule is without scientific justification, fails to differentiate between areas close in and further away from the site, and ignores the technical difficulties associated with such a requirement.

Issue I: Emergency Action Levels

Applicants, in cooperation with State and local governmental authorities, should be permitted the necessary flexibility to develop emergency action level criteria appropriate for the facility in question, subject to NRC approval. Inflexible NRC emergency action level standards are not necessary.

Issue J: Training

1. Mandatory provision for training local service personnel and local news media persons is outside of NRC's jurisdiction and is not necessary to protect the public health and safety.

2. Public participation in drills or critiques thereof should not be required.

3. The provision regarding formal critiques should be clarified to mean the licensee is responsible for developing and conducting such critiques.

4. Definitive performance criteria for evaluation of drills should be developed by the licensee, subject to NRC approval.

Issue K: Implementing Procedures

NRC review of implementing procedures is only necessary to apprise the NRC staff of the details of the plans for use by the NRC during the course of an actual emergency.

Issue L: Funding

1. Nuclear facilities, although located in one governmental tax jurisdiction and taxed by that jurisdiction, affect other jurisdictions that must bear immediate and long-term planning costs without having access to taxes from the facility.

2. As the radius of planning requirements becomes greater, few facilities are the concern of a single county. The planning radius often encompasses county lines, State lines, and in some instances, international boundaries.

3. As new regulations are generated to oversee the nuclear industry and old ones expanded, there is an immediate need to address fixed nuclear facility planning at all levels of government, beginning at the lowest and going to the highest. All levels of government need access to immediate additional funds to upgrade their response capability.

4. It is well understood that the consumer ultimately must pay the price for planning, regardless of the level in government at which costs are incurred. It becomes a matter of how the consumer will be taxed, who will administer the tax receipts, and what is the most effective manner in which to address the problem.

5. The basis for effective offsite response capabilities is a sound emergency preparedness program. Federal support (funding and technical assistance) for the development of State and local offsite capabilities should be incorporated into FEMA's preparedness program for all emergencies.

Issue M: General

The States support Federal oversight and guidance in the development of offsite response capabilities. However, many States feel the confusion and uncertainty in planning requirements following Three Mile Island is not a proper environment in which to develop effective capabilities nor does it serve the best interests of their citizens. The development of effective nuclear facility incident response capabilities will require close coordination and cooperation among responsible Federal agencies, State government, and the nuclear industry. An orderly and comprehensive approach to this effort makes it necessary that onsite responsibilities be clearly associated with NRC and the nuclear industry while deferring offsite responsibilities to State government with appropriate FEMA oversight and assistance.

In addition to these comments, two petitions for rulemaking were filed in reference to the proposed rule. These were treated as public comments rather than petitions and were considered in developing the final rule.

The Commission has placed the planning objectives from NUREG–0654; FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980, into the final regulations. Comments received concerning NUREG–0654 were available in developing the final regulation. The Commission notes that the planning objectives in NUREG–0654 were largely drawn from NUREG–75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities," (December 1, 1974) and Supplement 1 thereto dated March 15, 1977, which have been in use for some time.

The approximately 60 public comment letters received on NUREG–0654 were not critical of the proposed planning objectives. The Commission also notes that at the May 1, 1980 ACRS meeting, the Atomic Industrial Forum representative encouraged the use of the planning objectives from NUREG–0654 in the final regulations in order to

reduce ambiguity and provide specificity to the final regulation.

Based on the above, the Commission has decided to modify the proposed rule changes in the areas discussed in paragraphs I through X below.

I. FEMA/NRC Relationship

In issuing this rule, NRC recognizes the significant responsibilities assigned to FEMA, by Executive Order 12148 on July 15, 1979, to coordinate the emergency planning functions of executive agencies. In view of FEMA's new role, NRC agreed on September 11, 1979, that FEMA should henceforth chair the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness (FICCC). On December 7, 1979, the President issued a directive assigning FEMA lead responsibility for offsite emergency preparedness around nuclear facilities. The NRC and FEMA immediately initiated negotiations for a Memorandum of Understanding (MOU) that lays out the agencies' roles and provides for a smooth transfer of responsibilities. It is recognized that the MOU, which became effective January 14, 1980, supersedes some aspects of previous agreements. Specifically, the MOU identifies FEMA responsibilities with respect to emergency preparedness as they relate to NRC as the following:

1. To make findings and determinations as to whether State and local emergency plans are adequate.

2. To verify that State and local emergency plans are capable of being implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualification, and equipment).

3. To assume responsibility for emergency preparedness training of State and local officials.

4. To develop and issue an updated series of interagency assignments that delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

Specifically, the NRC responsibilities for emergency preparedness identified in the MOU are:

1. To assess licensee emergency plans for adequacy.

2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications, and equipment).

3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.

4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of the licensee's emergency preparedness as determined by the NRC and of the State/local governments as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shutdown of operating reactors.

In addition, FEMA has prepared a proposed rule regarding "Review and Approval of State Radiological Emergency Plans and Preparedness" (44 FR 42342, dated June 24, 1980). According to the proposed FEMA rule, FEMA will approve State and local emergency plans and preparedness, where appropriate, based upon its findings and determinations with respect to the adequacy of State and local plans and the capabilities of State and local governments to effectively implement these plans and preparedness measures. These findings and determinations will be provided to the NRC for use in its licensing process.

II. Emergency Planning Zone Concept

The Commission notes that the regulatory basis for adoption of the Emergency Planning Zone (EPZ) concept is the Commission's decision to have a conservative emergency planning policy in addition to the conservatism inherent in the defense-in-depth philosophy. This policy was endorsed by the Commission in a policy statement published on October 23, 1979 (44 FR 61123). At that time the Commission stated that two Emergency Planning Zones (EPZs) should be established around each light-water nuclear power plant. The EPZ for airborne exposure has a radius of about 10 miles; the EPZ for contaminated food and water has a radius of about 50 miles. Predetermined protective action plans are needed for the EPZs. The exact size and shape of each EPZ will be decided by emergency planning officials after they consider the specific conditions at each site. These distances are considered large enough to provide a response base that would support activity outside the planning zone should this ever be needed.

III. Position on Planning Basis for Small Light-Water Reactors and Ft. St. Vrain

The Commission has concluded that the operators of small light-water-cooled power reactors (less than 250 MWt) and the Ft. St. Vrain gas-cooled reactor may establish smaller planning zones which will be evaluated on a case-by-case basis. This conclusion is based on the lower potential hazard from these facilities (lower radionuclide inventory and longer times to release significant amounts of activity in many scenarios). Guidance regarding the radionuclides to be considered in planning is set forth in NUREG–0396; EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light-Water Nuclear Power Plants," December 1978.

IV. Rationale for Alternatives Chosen

In a few areas of the proposed rule, the Commission identified two alternatives that it was considering. Many public comments were received on these alternatives; based on due consideration of all comments received as well as the discussions presented during the workshops, the Commission has determined which of each pair of alternatives to retain in the final rule.

In Sections 50.47 and 50.54 (s) and (t), the alternatives dealth with conditioning the issuance of an operating license or continued operation of a nuclear power plant on the existence of State and local government emergency response plans concurred in by NRC.* The basic difference between alternatives A and B in these sections was that, under alternative A, the proposed rule would require a determination by NRC on issuing a license or permitting continued operation of plants in those cases where relevant State and local emergency response plans had not received NRC concurrence. Denial of a license or shutdown of a reactor would not follow automatically in every case. Under alternative B, shutdown of the reactor would be required automatically if the appropriate State and local emergency response plans had not received NRC concurrence within the prescribed time periods unless an exemption is granted.

After consideration of the public record and on the recommendation of its staff, the Commission has chosen a text for Sections 50.47 and 50.54 (s) and (t) that is similar to, but less restrictive than, alternative A in the proposed rule. Rather than providing for the shutdown of the reactor as the only enforcement action and prescribing specific preconditions for the shutdown remedy, the final rule makes clear that for emergency planning rules, like all other rules, reactor shutdown as outlined in the rule is but one of a number of possible enforcement actions and many factors should be considered in determining whether it is an appropriate action in a given case. This Commission choice is consistent with most of the comments received from State and local governments and is consistent with the provisions of Section 109 of the NRC fiscal year 1980 Authorization Act. Alternative B was seen by some of the commenters as potentially causing unnecessarily harsh economic and social consequences to State and local governments, utilities, and the public.

State and local governments that are directly involved in implementing planning objectives of the rule strongly favor alternative A since it provides for a cooperative effort with State and local governments to reflect their concerns and desires in these rules. This choice is responsive to that effort. In addition, the industry strongly supported alternative A as being the more workable of the two alternatives.

In Appendix E, Sections II.C and III, alternative A would require an applicant/licensee to outline ". . . corrective measures to prevent damage to onsite and offsite property," as well as protective measures for the public. Alternative B addresses only protective measures for the public health and safety. The Commission has chosen alternative B because public health and safety should take clear precedence over actions to protect property. Measures to protect property can be taken on an ad hoc basis as resources become available after an accident.

In Appendix E, under Training, alternative A would provide for a joint licensee, Federal, State, and local government exercise every 3 years, whereas alternative B would provide for these exercises to be performed every 5 years at each site. The Commission has chosen alternative B because the Commission is satisfied that the provision that these exercises be performed every 5 years for each site will allow for an adequate level of preparedness among Federal emergency response agencies. In addition, under these regulations, each licensee is required to exercise annually with local governmental authorities. Furthermore, Federal emergency response agencies may have difficulty supporting exercises every 3 years for all of the nuclear facilities that would be required to comply with these rule changes.

V. Definition of Plan Approval Process

The term "concurrence" has been deleted from the proposed regulations and replaced with reference to the actual procedure and standards that NRC and FEMA have agreed upon and are implementing. According to the agreed upon procedure, FEMA will make a finding and determination as to the adequacy of State and local government emergency response plans. The NRC will determine the adequacy of the licensee emergency response plans. After these two determinations have been made, NRC will make a finding in the licensing process as to the overall and integrated state of preparedness.

It was pointed out to the Commission at the workshops and in public comment letters that the term "concurrence" was confusing and ambiguous. Also, there was a great deal of misunderstanding with the use of the term because, in the past, the obtaining of NRC "concurrence" in State emergency response plans was voluntary on behalf of the States and not a regulatory requirement in the licensing process. Previously too, "concurrence" was statewide rather than site-specific.

VI. Fifteen-Minute Notification

The requirement for the capability for notification of the public within 15 minutes after the State/local authorities have been notified by the licensee has been expanded and clarified. It also has been removed as a footnote and placed in the body of Appendix E. The implementation schedule for this requirement has been extended to July 1, 1981. This extension of time has been adopted because most State and local governments identified to the Commission the difficulty in procuring hardware, contracting for installation, and developing procedures for operating the systems used to implement this requirement.

The Commission is aware that various commenters, largely from the industry, have objected to the nature of the 15-minute notification requirement, indicating that it may be both arbitrary and unworkable.

Among the possible alternatives to this requirement are a longer notification time, a notification time that varies with distance from the facility, or no specified time. In determining what that criterion should be, a line must be drawn somewhere, and the Commission believes that providing as much time as practicable for the taking of protective action is in the interest of public health and safety. The Commission recognizes that this requirement may present a significant financial impact and that the technical basis for this requirement is not without dispute. Moreover, there may never be an accident requiring using the 15-minute notification capability. However, the essential rationale behind emergency planning is to provide additional assurance for the public protection even during such an unexpected event. The 15-minute notification capability requirement is wholly consistent with that rationale.

The Commission recognizes that no single accident scenario should form the basis for choice of notification capability requirements for offsite authorities and for the public. Emergency plans must be developed that will have the flexibility to ensure response to a wide spectrum of accidents. This wide spectrum of potential accidents also reflects on the appropriate use of the offsite notification capability. The use of this notification capability will range from immediate notification of the public (within 15 minutes) to listen to predesignated radio and television stations, to the more likely events where there is substantial time available for the State and local governmental officials to make a judgment whether or not to activate the public notification system.

Any accident involving severe fuel degradation or core melt that results in significant inventories of fission products in the containment would warrant immediate public notification and consideration, based on the particular circumstances, of appropriate protective action because of the potential for leakage of the containment building. In addition, the warning time available for the public to take action may be substantially less than the total time between the original initiating event and the time at which significant radioactive releases take place. Specification of particular times as design objectives for notification of offsite authorities and the public are a means of ensuring that a system will be in place with the capability to notify the public to seek further information by listening to predesignated radio or television stations. The Commission recognizes that not every individual would necessarily be reached by the actual operation of such a system under all conditions of system use. However, the Commission believes that provision of a general alerting system will significantly improve the capability for taking protective actions in the event of an emergency. The reduction of notification times from the several hours required for street-by-street notification to minutes will significantly increase the options available as protective actions under severe accident conditions. These actions could include staying indoors in the case of a release that has already occurred or a precautionary evacuation in the case of a potential release thought to be a few hours away. Accidents that do not result in core melt may also cause relatively quick releases for which protective actions, at least for the public in the immediate plant vicinity, are desirable.

* See Section V for a discussion concerning "concurrence."

Some comments received on the proposed rule advocated the use of a staged notification system with quick notification required only near the plant. The Commission believes that the capability for quick notification within the entire plume exposure emergency planning zone should be provided but recognizes that some planners may wish to have the option of selectively actuating part of the system during an actual response. Planners should carefully consider the impact of the added decisions that offsite authorities would need to make and the desirability of establishing an official communication link to all residents in the plume exposure emergency planning zone when determining whether to plan for a staged notification capability.

VII. Effective Date of Rules and Other Guidance

Prior to the publication of these amendments, two guidance documents were published for public comment and interim use. These are NUREG–0610, "Draft Emergency Action Level Guidelines for Nuclear Power Plants," (September 1979) and NUREG–0654/FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," (January 1980). It is expected that versions of these documents, revised on the basis of public comments received, will be issued to assist in defining acceptable levels of preparedness to meet this final regulation. In the interim, these documents should continue to be used as guidance.

VIII. Hearing Procedures Used in Implementation of These Regulations

Should the NRC believe that the overall state of emergency preparedness at and around a licensed facility is such that there is some question whether a facility should be permitted to continue to operate, the Commission may issue an order to the licensee to show cause, pursuant to 10 CFR 2.202, why the plant should not be shut down. This issue may arise, for example, if NRC finds a significant deficiency in a licensee plan or in the overall state of emergency preparedness.

If the NRC decides to issue an order to show cause, it will provide the licensee the opportunity to demonstrate to the Commission's satisfaction, for example, that the alleged deficiencies are not significant for the reactor in question, whether adequate interim compensating actions have been or will be taken promptly, or whether other compelling reasons exist for reactor operation. Finally, pursuant to 10 CFR 2.202(f), the Commission may, in appropriate circumstances, make the order immediately effective, which could result in immediate plant shutdown subject to a later hearing.

IX. Funding

In view of the requirements in these rule changes regarding the actions to be taken in the event State and local government planning and preparedness are or become inadequate, a utility may have an incentive, based on its own self interest as well as its responsibility to provide power, to assist in providing manpower, items of equipment, or other resources that the State and local governments may need but are themselves unable to provide. The Commission believes that in view of the President's Statement of December 7, 1979, giving FEMA the lead role in offsite planning and preparedness, the question of whether the NRC should or could require a utility to contribute to the expenses incurred by State and local governments in upgrading and maintaining their emergency planning and preparedness (and if it is to be required, the mechanics for doing so) is beyond the scope of the present rule change. It should be noted, however, that any direct funding of State or local governments solely for emergency preparedness purposes by the Federal government would come through FEMA.

X. Exercises

On an annual basis, all commercial nuclear power facilities will be required by NRC to exercise their plans; these exercises should involve exercising the appropriate local government plans in support of these facilities. The State may choose to limit its participation in exercises at facilities other than the facility (site) chosen for the annual exercise(s) of the State plan.

Each State and appropriate local government shall annually conduct an exercise jointly with a commercial nuclear power facility. However, States with more than one facility (site) shall schedule exercises such that each individual facility (site) is exercised in conjunction with the State and appropriate local government plans not less than once every 3 years for sites with the plume exposure pathway EPZ partially or wholly within the State, and not less than once every 5 years for sites with the ingestion exposure pathway EPZ partially or wholly within the State. The State shall choose, on a rotational basis, the site(s) at which the required annual exercise(s) is to be conducted; priority shall be given to new facilities seeking an operating license from NRC that have not had an exercise involving the State plan at that facility site.

The Commission has determined under the criteria in 10 CFR Part 51 that an environmental impact statement for the amendments to 10 CFR Part 50 and Appendix E thereof is not required. This determination is based on "Environmental Assessment for Final Changes to 10 CFR Part 50 and Appendix E of 10 CFR Part 50, Emergency Planning Requirements for Nuclear Power Plants" (NUREG–0685, June 1980). Comments on the "Draft Negative Declaration; Finding of No Significant Impact" (45 FR 3913, January 21, 1980) were considered in the preparation of NUREG–0685.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50 and 70, are published as a document subject to codification.

Part 50—Domestic Licensing of Production and Utilization Facilities

1. Paragraph (g) of Section 50.33 is revised to read as follows:

§ 50.33 Contents of applications; general information.

* * * * *

(g) If the application is for an operating license for a nuclear power reactor, the applicant shall submit radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway Emergency Planning Zone (EPZ)[1], as well as the plans of State governments wholly or partially within the ingestion pathway EPZ.[2] Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to the local emergency response needs and

[1] Emergency Planning Zones (EPZs) are discussed in NUREG–0396, EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light-Water Nuclear Power Plants," December 1978.

[2] If the State and local emergency response plans have been previously provided to the NRC for inclusion in the facility docket, the applicant need only provide the appropriate reference to meet this requirement.

capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway shall focus on such actions as are appropriate to protect the food ingestion pathway.

2. A new § 50.47 is added.

§ 50.47 Emergency plans.

(a)(1) No operating license for a nuclear power reactor will be issued unless a finding is made by NRC that the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

(2) The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the applicant's onsite emergency plans are adequate and capable of being implemented. In any NRC licensing proceeding, a FEMA finding will constitute a rebuttable presumption on a question of adequacy.

(b) The onsite and offsite emergency response plans for nuclear power reactors must meet the following standards: [1]

(1) Primary responsibilities for emergency response by the nuclear facility licensee and by State and local organizations within the Emergency Planning Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its initial response on a continuous basis.

(2) On-shift facility licensee responsibilities for emergency response are unambiguously defined, adequate staffing to provide initial facility accident response in key functional areas is maintained at all times, timely augmentation of response capabilities is available and the interfaces among various onsite response activities and offsite support and response activities are specified.

[1] These standards are addressed by specific criteria in NUREG–0654; FEMA–REP–1 entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants—For Interim Use and Comment" January 1980.

(3) Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the licensee's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

(4) A standard emergency classification and action level scheme, the bases of which include facility system and effluent parameters, is in use by the nuclear facility licensee, and State and local response plans call for reliance on information provided by facility licensees for determinations of minimum initial offsite response measures.

(5) Procedures have been established for notification, by the licensee, of State and local response organizations and for notification of emergency personnel by all organizations; the content of initial and followup messages to response organizations and the public has been established; and means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established.

(6) Provisions exist for prompt communications among principal response organizations to emergency personnel and to the public.

(7) Information is made available to the public on a periodic basis on how they will be notified and what their initial actions should be in an emergency (e.g., listening to a local broadcast station and remaining indoors), the principal points of contract with the news media for dissemination of information during an emergency (including the physical location or locations) are established in advance, and procedures for coordinated dissemination of information to the public are established.

(8) Adequate emergency facilities and equipment to support the emergency response are provided and maintained.

(9) Adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

(10) A range of protective actions have been developed for the plume exposure pathway EPZ for emergency workers and the public. Guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

(11) Means for controlling radiological exposures, in an emergency, are established for emergency workers. The means for controlling radiological exposures shall include exposure guidelines consistent with EPA Emergency Worker and Lifesaving Activity Protective Action Guides.

(12) Arrangments are made for medical services for contaminated injured individuals.

(13) General plans for recovery and reentry are developed.

(14) Periodic exercises are (will be) conducted to evaluate major portions of energency response capabilities, periodic drills are (will be) conducted to develop and maintain key skills, and deficiencies identified as a result of exercises or drills are (will be) corrected.

(15) Radiological emergency response training is provided to those who may be called on to assist in an emergency.

(16) Responsibilities for plan development and review and for distribution of emergency plans are established, and planners are properly trained.

(c)(1) Failure to meet the standards set forth in paragraph (b) of this subsection may result in the Commission declining to issue an Operating License; however, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation.

(2) Generally, the plume exposure pathway EPZ for nuclear power plants shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway shall focus on such actions as are appropriate to protect the food ingestion pathway.

3. Section 50.54 is amended by adding five new paragraphs (q), (r), (s), (t), and (u).

§ 50.54 Conditions of licenses.

* * * * *

(q) A licensee authorized to possess and/or operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) and the requirements in Appendix E of this Part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E of this Part. The nuclear power reactor licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of § 50.47(b) and the requirements of Appendix E of this Part. The research reactor licensee and/or the fuel facility licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E of this Part. Proposed changes that decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission. The licensee shall furnish 3 copies of each proposed change for approval; and/or if a change is made without prior approval, 3 copies shall be submitted within 30 days after the change is made or proposed to the Director of the appropriate NRC regional office specified in Appendix D, 10 CFR Part 20, with 10 copies to the Director of Nuclear Reactor Regulation, or, if appropriate, the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(r) Each licensee who is authorized to possess and/or operate a research or test reactor facility with an authorized power level greater than or equal to 500 kW thermal, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of Nuclear Reactor Regulation for approval within one year from the effective date of this rule. Each licensee who is authorized to possess and/or operate a research reactor facility with an authorized power level less than 500 kW thermal, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of Nuclear Reactor Regulation for approval within two years from the effective date of this amendment.

(s)(1) Each licensee who is authorized to possess and/or operate a nuclear power reactor shall summit to NRC within 60 days of the effective date of this amendment the radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within a plume exposure pathway EPZ, as well as the plans of State governments wholly or partially within an ingestion pathway EPZ.[1,2] Ten (10) copies of the above plans shall be forwarded to the Director of Nuclear Reactor Regulation with 3 copies to the Director of the appropriate NRC regional office. Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs for a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway EPZ shall focus on such actions as are appropriate to protect the food ingestion pathway.

(2) For operating power reactors, the licensee, State, and local emergency response plans shall be implemented by April 1, 1981, except as provided in Section IV.D.3 of Appendix E of this Part. If after April 1, 1981, the NRC finds that the state of emergency preparedness does not provide reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency and if the deficiencies are not corrected within four months of that finding, the Commission will determine whether the reactor shall be shut down until such deficiencies are remedied or whether other enforcement action is appropriate. In determining whether a shutdown or other enforcement action is appropriate, the Commission shall take into account, among other factors, whether the licensee can demonstrate to the Commission's satisfaction that the deficiencies in the plan are not significant for the plant in question, or that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.

(3) The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the licensee's emergency plans are adequate and capable of being implemented. Nothing in this paragraph shall be construed as limiting the authority of the Commission to take action under any other regulation or authority of the Commission or at any time other than that specified in this paragraph.

(t) A nuclear power reactor licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program. To this end, the licensee shall provide for a review of its emergency preparedness program at least every 12 months by persons who have no direct responsibility for implementation of the emergency preparedness program. The review shall include an evaluation for adequacy of interfaces with State and local governments and of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and retained for a period of five years. The part of the review involving the evaluation for adequacy of interface with State and local governments shall be available to the appropriate State and local governments.

(u) Within 60 days after the effective date of this amendment, each nuclear power reactor licensee shall submit to the NRC plans for coping with emergencies that meet standards in § 50.47(b) and the requirements of Appendix E of this Part.

* * * * *

4. 10 CFR Part 50, Appendix E, is amended as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities[1]

Table of Contents

I. Introduction
II. The Preliminary Safety Analysis Report
III. The Final Safety Analysis Report
IV. Content of Emergency Plans
V. Implementing Procedures

[1] Emergency Planning Zones (EPZs) are discussed in NUREG–0396; EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," December 1978.

[2] If the State and local emergency response plans have been previously provided to the NRC for inclusion in the facility docket, the applicant need only provide the appropriate reference to meet this requirement.

Footnotes continued on next page

[1] NRC staff has developed two regulatory guides: 2.6, "Emergency Planning for Research Reactors," and 3.42, "Emergency Planning in Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70;" and a joint NRC/FEMA report, NUREG–0654; FEMA–REP–1, "Criteria for Preparation and

I. Introduction

Each applicant for a construction permit is required by § 50.34(a) to include in the preliminary safety analysis report a discussion of preliminary plans for coping with emergencies. Each applicant for an operating license is required by § 50.34(b) to include in the final safety analysis report plans for coping with emergencies.

This appendix establishes minimum requirements for emergency plans for use in attaining an acceptable state of emergency preparedness. These plans shall be described generally in the preliminary safety analysis report and submitted as a part of the final safety analysis report.

The potential radiological hazards to the public associated with the operation of research and test reactors and fuel facilities licensed under 10 CFR Parts 50 and 70 involve considerations different than those associated with nuclear power reactors. Consequently, the size of Emergency Planning Zones [2] (EPZs) for facilities other than power reactors and the degree to which compliance with the requirements of this Section and Sections II, III, IV, and V as necessary will be determined on a case-by-case basis.[3]

II. The Preliminary Safety Analysis Report

The Preliminary Safety Analysis Report shall contain sufficient information to ensure the compatibility of proposed emergency plans for both onsite areas and the EPZs, with facility design features, site layout, and site location with respect to such considerations as access routes, surrounding population distributions, land use, and local jurisdictional boundaries for the EPZs in the case of nuclear power reactors as well as the means by which the standards of § 50.47(b) will be met.

As a minimum, the following items shall be described:

A. Onsite and offsite organizations for coping with emergencies and the means for notification, in the event of an emergency, of persons assigned to the emergency organizations.

B. Contacts and arrangements made and documented with local, State, and Federal governmental agencies with responsibility for coping with emergencies, including identification of the principal agencies.

C. Protective measures to be taken within the site boundary and within each EPZ to protect health and safety in the event of an accident; procedures by which these measures are to be carried out (e.g., in the case of an evacuation, who authorizes the evacuation, how the public is to be notified and instructed, how the evacuation is to be carried out); and the expected response of offsite agencies in the event of an emergency.

(D) Features of the facility to be provided for onsite emergency first aid and decontamination and for emergency transportation of onsite individuals to offsite treatment facilities.

E. Provisions to be made for emergency treatment at offsite facilities of individuals injured as a result of licensed activities.

F. Provisions for a training program for employees of the licensee, including those who are assigned specific authority and responsibility in the event of an emergency, and for other persons who are not employees of the licensee but whose assistance may be needed in the event of a radiological emergency.

G. A preliminary analysis that projects the time and means to be employed in the notification of State and local governments and the public in the event of an emergency. A nuclear power plant applicant shall perform a preliminary analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations, noting major impediments to the evacuation or taking of protective actions.

H. A preliminary analysis reflecting the need to include facilities, systems, and methods for identifying the degree of seriousness and potential scope of radiological consequences of emergency situations within and outside the site boundary, including capabilities for dose projection using real-time meteorological information and for dispatch of radiological monitoring teams within the EPZs; and a preliminary analysis reflecting the role of the onsite technical support center and of the near-site emergency operations facility in assessing information, recommending protective action, and disseminating information to the public.

III. The Final Safety Analysis Report

The Final Safety Analysis Report shall contain the plans for coping with emergencies. The plans shall be an expression of the overall concept of operation; they shall describe the essential elements of advance planning that have been considered and the provisions that have been made to cope with emergency situations. The plans shall incorporate information about the emergency response roles of supporting organizations and offsite agencies. That information shall be sufficient to provide assurance of coordination among the supporting groups and with the licensee.

The plans submitted must include a description of the elements set out in Section IV for the Emergency Planning Zones (EPZs) [2] to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency.

IV. Content of Emergency Plans

The applicant's emergency plans shall contain, but not necessarily be limited to, information needed to demonstrate compliance with the elements set forth below, i.e., organization for coping with radiation emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. In addition, the emergency response plans submitted by an applicant for a nuclear power reactor operating license shall contain information needed to demonstrate compliance with the standards described in Section 50.47(b),[4] and they will be evaluated against those standards. The nuclear power reactor operating license applicant shall also provide an analysis of the time required to evacuate and for taking other protective actions for various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

A. Organization

The organization for coping with radiological emergencies shall be described, including definition of authorities, responsibilities, and duties of individuals assigned to the licensee's emergency organization and the means for notification of such individuals in the event of an emergency. Specifically, the following shall be included:

1. A description of the normal plant operating organization.

2. A description of the onsite emergency response organization with a detailed discussion of:

a. Authorities, responsibilities, and duties of the individual(s) who will take charge during an emergency;

b. Plant staff emergency assignments;

c. Authorities, responsibilities, and duties on an onsite emergency coordinator who shall be in charge of the exchange of information with offsite authorities responsible for coordinating and implementing offsite emergency measures.

3. A description, by position and function to be performed, of the licensee's

Footnotes continued from last page

Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980, to provide guidance in developing plans for coping with emergencies. Copies of these documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of these documents may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

[2] EPZs for power reactors are discussed in NUREG–0396; EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," December 1978. The size of the EPZs for a nuclear power plant shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. Generally, the plume exposure pathway EPZ for nuclear power plants with an authorized power level greater than 250 MW thermal shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius.

[3] Regulatory Guide 2.6 will be used as guidance for the acceptability of research and test reactor emergency response plans.

[4] These objectives are addressed by specific criteria in NUREG–0654; FEMA–REP–1 entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment" January 1980.

V 45 A G 19 80 UMI

headquarters personnel who will be sent to the plant site to augment the onsite emergency organization.

4. Identification, by position and function to be performed, of persons within the licensee organization who will be responsible for making offsite dose projections, and a description of how these projections will be made and the results transmitted to State and local authorities, NRC, and other appropriate governmental entities.

5. Identification, by position and function to be performed, of other employees of the licensee with special qualifications for coping with emergency conditions that may arise. Other persons with special qualifications, such as consultants, who are not employees of the licensee and who may be called upon for assistance for emergencies shall also be identified. The special qualifications of these persons shall be described.

6. A description of the local offsite services to be provided in support of the licensee's emergency organization.

7. Identification of, and assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies.

8. Identification of the State and/or local officials responsible for planning for, ordering, and controlling appropriate protective actions, including evacuations when necessary.

B. Assessment Actions

The means to be used for determining the magnitude of and for continually assessing the impact of the release of radioactive materials shall be described, including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies, the Commission, and other Federal agencies, and the emergency action levels that are to be used for determining when and what type of protective measures should be considered within and outside the site boundary to protect health and safety. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. These emergency action levels shall be discussed and agreed on by the applicant and State and local governmental authorities and approved by NRC. They shall also be reviewed with the State and local governmental authorities on an annual basis.

C. Activation of Emergency Organization

The entire spectrum of emergency conditions that involve the alerting or activating of progressively larger segments of the total emergency organization shall be described. The communication steps to be taken to alert or activate emergency personnel under each class of emergency shall be described. Emergency action levels (based not only on onsite and offsite radiation monitoring information but also on readings from a number of sensors that indicate a potential emergency, such as the pressure in containment and the response of the Emergency Core Cooling System) for notification of offsite agencies shall be described. The existence, but not the details, of a message authentication scheme shall be noted for such agencies. The emergency classes defined shall include: (1) notification of unusual events, (2) alert, (3) site area emergency, and (4) general emergency. These classes are further discussed in NUREG–0654; FEMA–REP–1.

D. Notification Procedures

1. Administrative and physical means for notifying local, State, and Federal officials and agencies and agreements reached with these officials and agencies for the prompt notification of the public and for public evacuation or other protective measures, should they become necessary, shall be described. This description shall include identification of the appropriate officials, by title and agency, of the State and local government agencies within the EPZs.[2]

2. Provisions shall be described for yearly dissemination to the public within the plume exposure pathway EPZ of basic emergency planning information, such as the methods and times required for public notification and the protective actions planned if an accident occurs, general information as to the nature and effects of radiation, and a listing of local broadcast stations that will be used for dissemination of information during an emergency. Signs or other measures shall also be used to disseminate to any transient population within the plume exposure pathway EPZ appropriate information that would be helpful if an accident occurs.

3. A licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency. The licensee shall demonstrate that the State/local officials have the capability to make a public notification decision promptly on being informed by the licensee of an emergency condition. By July 1, 1981, the nuclear power reactor licensee shall demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway EPZ. The design objective shall be to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes. The use of this notification capability will range from immediate notification of the public (within 15 minutes of the time that State and local officials are notified that a situation exists requiring urgent action) to the more likely events where there is substantial time available for the State and local governmental officials to make a judgment whether or not to activate the public notification system. Where there is a decision to activate the notification system, the State and local officials will determine whether to activate the entire notification system simultaneously or in a graduated or staged manner. The responsibility for activating such a public notification system shall remain with the appropriate government authorities.

E. Emergency Facilities and Equipment

Adequate provisions shall be made and described for emergency facilities and equipment, including:

1. Equipment at the site for personnel monitoring;

2. Equipment for determining the magnitude of and for continuously assessing the impact of the release of radioactive materials to the environment;

3. Facilities and supplies at the site for decontamination of onsite individuals;

4. Facilities and medical supplies at the site for appropriate emergency first aid treatment;

5. Arrangements for the services of physicians and other medical personnel qualified to handle radiation emergencies on-site;

6. Arrangements for transportation of contaminated injured individuals from the site to specifically identified treatment facilities outside the site boundary;

7. Arrangements for treatment of individuals injured in support of licensed activities on the site at treatment facilities outside the site boundary;

8. A licensee onsite technical support center and a licensee near-site emergency operations facility from which effective direction can be given and effective control can be exercised during an emergency;

9. At least one onsite and one offsite communications system; each system shall have a backup power source.

All communication plans shall have arrangements for emergencies, including titles and alternates for those in charge at both ends of the communication links and the primary and backup means of communication. Where consistent with the function of the governmental agency, these arrangements will include:

a. Provision for communications with contiguous State/local governments within the plume exposure pathway EPZ. Such communications shall be tested monthly.

b. Provision for communications with Federal emergency response organizations. Such communications systems shall be tested annually.

c. Provision for communications among the nuclear power reactor control room, the onsite technical support center, and the near-site emergency operations facility; and among the nuclear facility, the principal State and local emergency operations centers, and the field assessment teams. Such communications systems shall be tested annually.

d. Provisions for communications by the licensee with NRC Headquarters and the appropriate NRC Regional Office Operations Center from the nuclear power reactor control room, the onsite technical support center, and the near-site emergency operations facility. Such communications shall be tested monthly.

F. Training

The program to provide for (1) the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties and (2) the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

a. Directors and/or coordinators of the plant emergency organization;

b. Personnel responsible for accident assessment, including control room shift personnel;

c. Radiological monitoring teams;

d. Fire control teams (fire brigades);

e. Repair and damage control teams;

f. First aid and rescue teams;

g. Medical support personnel;

h. Licensee's headquarters support personnel;

i. Security personnel.

In addition, a radiological orientation training program shall be made available to local services personnel, e.g., local Civil Defense, local law enforcement personnel, local news media persons.

The plan shall describe provisions for the conduct of emergency preparedness exercises. Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communication networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties. Each licensee shall exercise at least annually the emergency plan for each site at which it has one or more power reactors licensed for operation. Both full-scale and small-scale exercises shall be conducted and shall include participation by appropriate State and local government agencies as follows:

1. A full-scale exercise which tests as much of the licensee, State, and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted;

a. For each site at which one or more power reactors are located and licensed for operation, at least once every five years and at a frequency which will enable each State and local government within the plume exposure pathway EPZ to participate in at least one full-scale exercise per year and which will enable each State within the ingestion pathway to participate in at least one full-scale exercise every three years.

b. For each site at which a power reactor is located for which the first operating license for that site is issued after the effective date of this amendment, within one year before the issuance of the operating license for full power, which will enable each State and local government within the plume exposure EPZ and each State within the ingestion pathway EPZ to participate.

2. The plan shall also describe provisions for involving Federal emergency response agencies in a full-scale emergency preparedness exercise for each site at which one or more power reactors are located and licensed for operation at least once every 5 years;

3. A small-scale exercise which tests the adequacy of communication links, establishes that response agencies understand the emergency action levels, and tests at least one other component (e.g., medical or offsite monitoring) of the offsite emergency response plan for licensee, State, and local emergency plans for jurisdictions within the plume exposure pathway EPZ shall be conducted at each site at which one or more power reactors are located and licensed for operation each year a full-scale exercise is not conducted which involves the State(s) within the plume exposure pathway EPZ.

All training, including exercises, shall provide for formal critiques in order to identify weak areas that need corrections. Any weaknesses that are identified shall be corrected.

G. Maintaining Emergency Preparedness

Provisions to be employed to ensure that the emergency plan, its implementing procedures, and emergency equipment and supplies are maintained up to date shall be described.

H. Recovery

Criteria to be used to determine when, following an accident, reentry of the facility would be appropriate or when operation could be resumed shall be described.

V. Implementing Procedures

No less than 180 days prior to scheduled issuance of an operating license for a nuclear power reactor or a license to possess nuclear material, 3 copies of each of the applicant's detailed implementing procedures for its emergency plan shall be submitted to the Director of the appropriate NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation or, if appropriate, the Director of Nuclear Material Safety and Safeguards. In cases where a decision on an operating license is scheduled less than one year after the effective date of this rule, such implementing procedures shall be submitted as soon as practicable but before full power operation is authorized. Prior to March 1, 1981, licensees who are authorized to operate a nuclear power facility shall submit 3 copies each of the licensee's emergency plan implementing procedures to the Director of the appropriate NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation. Three copies each of any changes to maintain these implementing procedures up to date shall be submitted to the same NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation or, if appropriate, the Director of Nuclear Material Safety and Safeguards within 30 days of such changes.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

2. Section 70.32 is amended by adding paragraph (i) to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(i) Licensees required to submit emergency plans in accordance with § 70.22(i) shall follow and maintain in effect emergency plans approved by the Commission. The licensee may make changes to the approved plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E, Section IV, 10 CFR Part 50. The licensee shall furnish the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix D, Part 20 of this Chapter, each change within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan shall not be implemented without prior application to and prior approval by the Commission.

* * * * *

(Sec. 161b., i., and o., Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5341))

Dated at Washington, D.C. this 11th day of August 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–25247 Filed 8–18–80; 8:45 am]

BILLING CODE 7590–01–M

---

10 CFR Part 50

Emergency Planning: Negative Declaration; Finding of no Significant Impact for Effective Rule Changes

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final negative declaration; finding of no significant impact.

SUMMARY: The Nuclear Regulatory Commission's regulations require that the environmental impact of certain regulatory actions, including substantive amendments to 10 CFR Part 50, be evaluated to determine if an environmental impact statement should be prepared. If it is determined an environmental impact statement need not be prepared, a negative declaration will be issued. The NRC has evaluated the environmental impact of the proposed changes to Part 50 dealing with emergency planning requirements for nuclear power plants (published elsewhere in this issue), and has determined that the rule changes will not have a significant impact on the human environment. Therefore, an environmental impact statement will not be prepared, and a negative declaration is being issued.

DATES: The rule changes for emergency planning will become effective November 3, 1980.

ADDRESSES: Copies of the Final Environmental Assessment, NUREG–0685, and the comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

environmental impact statement will not

specified in the regulation that the

TMI accident, does not support an

and at local Public Document Rooms. Single copies of the final Environmental Assessment (NUREG–0685) are available for purchase through the NRC GPO sales program for $4.25 (USNRC, Attention Sales Manager, Washington, D.C. 20555).

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 443–5966.

SUPPLEMENTARY INFORMATION: On January 21, 1980 the Nuclear Regulatory Commission published a "Draft Negative Declaration; Finding of No Significant Impact" (45 FR 3913, January 21, 1980) for proposed changes to 10 CFR Part 50, §§ 50.33, 50.47, 50.54 and Appendix E that deal with emergency planning requirements for nuclear power plants (44 FR 75167, December 19, 1979). A draft Environmental Assessment accompanied the draft Negative Declaration. The comment period ended on February 18, 1980.

Sixteen sets of comments were submitted and have been analyzed. Although all 16 commenters felt that the draft Environmental Assessment was inadequate to support the Finding of No Significant Impact, the staff analysis does not support this view. The commenters suggested that some points in the draft Environmental Assessment were in error, some required much more detailed discussion, and some points had been ignored. The errors have been corrected and do not significantly affect the earlier conclusion. The levels of detail and the omissions are generally related to the penalties associated with noncompliance with the rule. The staff originally judged that invocations of the noncompliance penalties (i.e., nuclear power plant shutdown) would be infrequent and of short duration and the associated impacts would thus be insignificant. Commenters asserted that there will be frequent and long-term shutdowns which will have severe impacts which would require detailed consideration in an Environmental Impact Statement. The staff analysis has supported the judgment of infrequent, short-term shutdowns and thus concludes that no additional detailed studies are necessary.

Minor revisions have been made in the environmental assessment reflecting comments received, but its conclusions have not been altered. Based on this assessment, a final determination has been made by the Director, Office of Standards Development, that the proposed rule changes will not have a signficant impact on the human environment and, therefore, that an environmental impact statement will not be prepared for these rule changes.

Analysis of Comments

The groups that submitted comments are identified on the Table together with their principal comments. No comments were received from State or local governments, other Federal agencies, or public interest groups.

The main point of each set of comments was that an Environmental Impact Statement should be prepared for the rule changes and that the Environmental Assessment ". . . inadequately addresses the environmental impact of the Emergency Planning Proposed Rule and the economic and social impacts on U.S. industry of long-term or permanent premature shutdowns of nuclear plants" (AEP). The comments have been reconstructed into 14 general criticisms, which have been analyzed for their relevance to the validity of the conclusions in the "Draft Negative Declaration; Finding of No Significant Impact."

One matter warrants additional mention here. An assumption was made in preparation of the DEA that shutdowns of nuclear power plants as a result of actions taken under these rule changes would be infrequent and of short duration. This assumption is critical to the decision that an Environmental Impact Statement should not be prepared. The basis for this assumption was that, since State and local authorities have the responsibility, in common with the NRC, to protect public health and safety and are concerned with meeting the energy needs of their citizens, it is likely that they will cooperate to ensure the continued safe operation or timely commencement of safe operation of nuclear generation capability within their jurisdiction. The only significant adverse reaction by the State and local governments that must bear this burden has been that complications in funding of State programs and lead time for equipment acquisition might make it difficult to completely satisfy all of the planning and preparedness requirements by the date set forth in the proposed rule changes. As a direct result of this, the deadline for plans and implementation has been extended to April 1, 1981, and the deadline for having warning systems in place has been extended to July 1, 1981. These extensions should be sufficient in most cases.

It should also be noted that the Commission has chosen the alternative that requires Commission action to initiate a shutdown. Conditions are specified in the regulation that the Commission will use in each case to determine whether a shutdown is warranted. When considered together, the lack of any significant adverse comment from State and local governments, the necessity for Commission action before a plant will be shut down, and the conditions for whether a shutdown is warranted, all argue convincingly that the assumption that shutdowns will be infrequent and of short duration is sound. Thus, the assumption is retained in the final Environmental Assessment (NUREG–0685) and the impacts of extended shutdowns are not considered valid impacts of these rule changes.

The 14 reconstructed general comments and a discussion of each follow:

1. *Three commenters (see Table) contend that alternatives to the proposed rule changes are inadequately addressed. They specifically mention alternative ways of achieving the same end such as proposing legislation.*

In view of the existing safety record of the nuclear industry and the lack of effective preparation for the TMI accident, the Commission had the following three alternatives from which to choose:

A. The Commission could take no immediate action itself while encouraging other parties, i.e., the Congress, other Federal Agencies, the States, and the utilities themselves to take effective action. This "no action" alternative would be counter to the Commission's legislative mandate to protect public health and safety. In fact, the TMI accident was a clear indication that this "urging without requiring" emergency preparedness had proved to be ineffective. This alternative clearly could not stand in the face of the Commission's responsibility in this area.

B. The Commission is a regulatory agency and has as one of its chief tools the authority to issue regulations that bind those parties that it regulates. If an effective method for achieving protection of public health and safety is available through promulgation of regulations with specific requirements and penalties and conditions governing those requirements and penalties, this should be the proper way for the Commission to proceed.

C. If the Commission judged that danger to public health and safety was significant and imminent because of continued operation of existing plants while effective regulations are developed, it had the authority to impose immediate shutdowns until a solution could be found. The safety record of nuclear power, including the TMI accident, does not support an industry-wide judgment of imminent, significant danger. However, potential does exist for significant harm to the public in the event of a severe accident and the events at TMI suggest that plans must be made to account for this potential problem. Notwithstanding this potential, given the likelihood of an accident requiring off-site emergency protective measures, immediate industry-wide shutdown and the attendant severe long-term impacts are not warranted.

Alternatives A and C are clearly unacceptable. The discussion of alternatives in the Final Environmental Assessment has not been changed from that in the Draft Environmental Assessment.

2. *Seven commenters (see Table) assert that the impacts of shutdowns are underestimated and that shutdowns of multiple unit plants or several in the same State were not considered.*

BILLING CODE 7590-01-M

V 45 AG 1980 UMI

[7590-01]

Matrix Display of Commenters and Major Comments

Major Comments \ Commenters[1]	AIF	Yank. At.	Com. Ed.[2]	Con. Ed.	AEP	EEI	LLLM	NU	PASNY	BG&E	D & L	Duke	SPP&T	DOE	LNRA&T
1. Alternatives inadequately addressed	X	X													X
2. Impacts of shutdowns underestimated (costs)	X	X		X			Endorses EEI		Endorses EEI	X			X	X	X
3. Health effects of fossil substitution underestimated	X			X										X	X
4. Challenge assumption of infrequent, short-duration shutdowns	X	X		X	X	X	X		X				X		X
5. Judgement on State cooperation unsubstantiated	X	X	X	X	X									X	X
6. Long-term impacts not addressed	X			X	X					X					X
7. Psychological and physical risks of false alarms not evaluated	X	X								X		X		X	X
8. Use of fuel-mix improper, variation in cost of replacement power			X		X					X		X		X	
9. Significant impacts due to linkage between approval and continued operation		X		X		X	X		X						
10. Proposed rule prior to FEMA		X									X				
11. Costs too low (15 minute warning system not included)		X						X			X	X	X	X	X
12. Decisions granting exemptions or resumption of operation should be classified as categorical exclusions under Commission's NEPA regulations			X												
13. No consideration of costs to utilities											X	X			
14. No consideration of plants under construction															X

[1] Key to Commenters
AIF - Atomic Industrial Forum
Yank. At. - Yankee Atomic Electric Co.
Com. Ed. - Commonwealth Edison[2]
Con. Ed. - Consolidated Edison Company of New York, Inc.
AEP - American Electric Power Service Corporation
EEI - Edison Electric Institute
LLLM - LeBoeuf, Lamb, Leiby & MacRae (for five utilities)
NU - Northeast Utilities
PASNY - Power Authority of the State of New York
BG&E - Baltimore Gas and Electric
D & L - DeBevois & Liberman (for three utilities)
Duke - Duke Power Company
SPP&T - Shaw, Pittman, Potts & Trowbridge (for eight utilities)
DOE - U. S. Department of Energy
LNRA&T - Lowenstein, Newman, Reis, Axelrod & Toll (for two utilities)

The DEA was prepared with the understanding that ever increasing fuel prices make it difficult to make stable predictions of the costs of replacement power. While individual values of replacement costs may be in error, the upper end of the range of costs of replacement power, which is compared in the Environmental Assessment to the costs of compliance, is only changed by about 36% when the heat rate is changed as suggested. The response to comment eleven indicates that the costs of compliance were also underestimated. the relative comparison of these two costs was used to demonstrate the strong economic incentive that exists for all parties to strive for effective emergency planning and preparedness. The staff agrees that the net plant heat rate assumed in the DEA is low and therefore changed the assumed heat rate from 9,400 Btu/kWh to 11,000 Btu/kWh. Accordingly, the cost figures have been modified in the Final Environmental Assessment; but these modifications do not alter the conclusions of the Environmental Assessment.

The question of multiple-plant shutdowns because of a common reason, i.e., an unacceptable State plan or multiple units on a site where the local plan is unacceptable, is a more difficult problem. The State plans are only a part of the overall Federal Emergency Management Agency (FEMA) program to enhance the ability of State governments to handle emergencies. The economic incentive for the utilities to help the States in every way possible should result in the preparation of plans and equipment for a nuclear plant emergency that will be a sound, significant contribution to the overall capability of a State to handle many different kinds of emergencies. The provision of conditions that permit issuance of an operating license or continuation of operation, the extension of the compliance date and deadline for warning systems to be in place, and the record of cooperation from the States up to the present time make it unlikely that any State's program will be so deficient that shutdown of all plants in the State will be required.

The potential that an unsatisfactory local plan might result in the shutdown of all units on a specific site appears to be significantly greater. Depending on the size and number of the units involved, the incentive of the utility for aiding the local governments is also greater. The potential magnitude of the impact of shutdown in these cases is two to three times greater than for the single unit case, and this determination has been added to the Environmental Assessment. In any case, it would appear that whether these impacts, if severe enough, constitute "other compelling reasons" to permit continued operation will be determined in the individual reviews.

3. *Four groups comment that health effects of fossil substitution are underestimated in the draft Environmental Assessment and that other effects are ignored.*

The critical assumption in the draft and final Environmental Assessment is that shutdowns will be infrequent and of short duration. In such a case, the fossil generating capacity is simply that which is available for normal replacement power during refueling and maintenance outages and would probably be used in periods of peak demand until the utility phases it out of the generating system completely. (The impacts are thus ones that occur anyway, but at a different time. Short, infrequent shutdowns will only change the time period for suffering an impact that will most likely be felt eventually anyway.) For such short-term replacement, no new plants will be built. The draft and final Environmental Assessment accepts these impacts as a consequence of infrequent and brief shutdowns. (A more accurate analysis might conclude that there is zero cumulative impact because the useful life of the replacement capability is unaltered.) The discussions in the Final Environmental Assessment are unaltered on this subject.

4. *Nine commenters challenged the assumption that shutdowns would be infrequent and of short duration and questioned the lack of treatment of the availability of replacement capacity.*

The assumption that shutdowns will be infrequent and of short duration is critical to the validity of the Environmental Assessment. At the time when the Draft Environmental Assessment was prepared, this assumption was based on the assertion that State and local governments (having in common with NRC the responsibility to protect public health and safety) will cooperate to provide fully for protection of the public. Since that time, the Commission, in cooperation with FEMA, has been working diligently to help State and local governments develop satisfactory emergency plans and programs. The response of the State and local governments has confirmed the validity of the earlier assumption. In addition, no State or local government provided any comment on the Draft Environmental Assessment, thus indicating at least tacit agreement with the basis for the assumption.

Since the basis for the assumption of infrequent shutdowns has not received substantive challenge from the parties directly involved, but there has instead been activity that tends to confirm the assumption, it will remain as a fundamental assumption of the final Environmental Assessment.

The availability of replacement capacity also hinges on this assumption. Part of the purpose of reserve capacity is replacement during plant outages. As long as shutdowns are infrequent and of short duration, they should fit into this normal pattern of utilization of replacement capacity. No additional discussions of this topic have been prepared for the final Environmental Assessment.

5. *Seven commenters contend the judgment that ". . . it is likely that the States will cooperate to assure the continued safe operation or timely commencement of safe operation of nuclear generation capability within their jurisdiction" is unsubstantiated.*

While this assumption was made in the absence of first-hand information, the experience of the Commission since December 1979, in attempting to work with state and local government officials, has confirmed the accuracy of this assumption.

6. *Five commenters assert that impacts of long-term shutdowns are not addressed.*

The assumption that shutdowns will be infrequent and of short duration defines the scope of this Environmental Assessment. As described above, long-term shutdowns are not the expected result of these rule changes. The goal of these rule changes is timely implementation of adequate emergency plans and programs. The draft and final Environmental Assessment address the impacts of this action based on the expected consequences and practical considerations of implementation of the provisions of the rule changes. No analysis of the effects of long-term shutdowns has been added to the final Environmental Assessment.

7. *Six commenters contend that psychological and physical risks to the public of false alarms are not evaluated.*

The Emergency Action Level Guidelines (NUREG–0610) recommend notification of the public when a "Site Emergency" has been declared. The expected frequency of an event of this type is predicted to be 1 in 100 to 1 in 5,000 per reactor per year. The high end of this range indicates that two such warnings might occur over the effective life (40 years) for every five units. The low end indicates one event over the life of 125 units. Far from causing excessive psychological and physical risks, this

Reader Aids

V 45 A G 1980 UMI

kind of behavior should lead to a more accurate public perception of the true incidence of risk from nuclear power facilities and a more practical and considered response to an emergency when one occurs. No change has been made in the final Environmental Assessment.

8. *Five commenters assert that the use of the mix of fuels already in use in the State is a poor predicter of what would be the fuel replacement capacity for a specific plant shutdown.*

A generic assessment must make some averaging assumptions or become hopelessly lost in detail. In this case, the commenters are correct that this is a "gross assumption." It is, however, sufficient to establish the range of costs for replacement power, which is the way the detailed information was used. No change has been made in the mix of fuels used to generically assess the range of costs of replacement power.

9. *Five commenters observe that all of the significant impacts are due to linkage between adequacy of emergency plans and continued plant operation.*

These commenters agree that the impacts of compliance are insignificant and that if there were no penalty associated with inadequate emergency preparedness then an Environmental Assessment or no Environmental Assessment would be appropriate. The thrust of the rule is to protect the public through adequate emergency planning. The thrust of the shutdown provision is to protect the public in the event that adequate provision has not been and is not being made to provide adequate emergency planning and preparedness.

The decision of how the public should be protected has been made, i.e., either emergency planning and preparedness is adequate or a plant may be placed in a condition of safe shutdown. The State and local authorities have the responsibility to determine which option is in the best interest of their citizens. The linkage remains in the effective rule changes. No additional discussion has been provided in the final Environmental Assessment.

10. *Two commenters observed that the proposed rule was issued prior to the expanded role of FEMA in emergency planning for nuclear power plants.*

The NRC and FEMA are working closely to establish and carry out their respective roles in emergency planning for nuclear power plants. The effective rule has been changed to reflect this change in relationship between the two agencies. However, the substantive provisions of the rule have not changed, only the parties responsible for specific actions.

11. *Seven commenters assert that the costs of implementation are too low and that there may not be enough time allowed to achieve adequacy in all areas of emergency planning and preparedness.*

The draft Environmental Assessment based its estimates of cost of implementation on information contained in "Beyond Defense in Depth: Cost and Funding of State and Local Government Radiological Emergency Response Plans and Preparedness in Support of Commercial Nuclear Power Stations," NUREG–0553, October 1979. This report did not consider the costs of a warning system that would effectively warn everyone within 10 miles within 15 minutes of the time when the decision to warn the public is made. The cost estimates in the draft Environmental Assessment thus do not include the costs of 15-minute notification. The estimates provided by the commenters have been used to revise the cost estimate in the final Environmental Assessment. It should be noted that all cost figures are approximate and are only intended to give an estimate of the normal magnitude of costs and fees associated with building and operating a nuclear power plant. Significant variations from these costs for individual cases should be expected.* These changes do not affect the earlier conclusions of the draft Environmental Assessment.

In response to comments that more time might be needed, the deadline for plans and implementation to be completed has been extended to April 1, 1981, and the deadline for installation of warning systems has been extended to July 1, 1981 to allow for procurement problems. Appropriate changes have been made in the Environmental Assessment but the earlier conclusions remain unaffected.

12. *One commenter suggested that decisions on shutdowns, allowing continued operation despite inadequate plans, or the resumption of operation after a shutdown should be listed in 10 CFR Part 51 as a categorical exclusion.*

The categorical exclusions in Part 51 are those Commission actions that have been judged as a class not to have any significant environmental impact and thus have been excluded from further consideration under those portions of the Commission's regulations that implement the National Environmental Policy Act of 1969. The Commission will consider this as a comment on the ongoing rulemaking on 10 CFR Part 51 (45 FR 13739).

13. *Two commenters noted that no consideration was given to the costs to the utilities of those portions of the rule changes that upgrade previous onsite requirements.*

This oversight has been corrected. While these costs added a significant increment to the total cost of implementation, this total cost is still low compared to the reference costs of (1) replacement power, (2) tax and fee burden, and (3) capital investment. While several of the cost figures in the final Environmental Assessment have been revised upward, the comparison of these costs has remained unchanged and the conclusions of the Environmental Assessment are unchanged.

14. *One commenter observed that there is no consideration given to plants under construction.*

The cost estimates were forecast for all plants scheduled to be operating by the time the rule was to become effective. To go beyond this period would only complicate the estimates with future costs of greater uncertainty. The purpose here was to present an approximation of the relative significance of the cost impacts to determine whether a more detailed analysis is necessary. The relative magnitude of these costs is well established by the information at hand and these are clearly sufficient to support a decision without the preparation on environmental impact statement.

Dated at Bethesda, Maryland, this 6th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development, U.S. Nuclear Regulatory Commission.

[FR Doc. 80–25248 Filed 8–18–80; 8:45 am]

BILLING CODE 7590–01–M

* Northeast Utilities indicated costs as much as 2.5 times those quoted in the Environmental Assessment but also cited unusual complications such as large numbers of local governments that escalated their costs. Since this single estimate was not confirmed by other State or utility commenters, the values were considered beyond the usual range of costs.

Reader Aids

Federal Register

Vol. 45, No. 162

Tuesday, August 19, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202–523–5240.

Federal Register, Daily Issue:

202–783–3238	Subscription orders and problems (GPO) "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202–523–5022	Washington, D.C.
312–663–0884	Chicago, Ill.
213–688–6694	Los Angeles, Calif.
202–523–3187	Scheduling of documents for publication
523–5240	Photo copies of documents appearing in the Federal Register
523–5237	Corrections
633–6930	Public Inspection Desk
523–5227	Index and Finding Aids
523–5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523–3419	
523–3517	
523–5227	Index and Finding Aids

Presidential Documents:

523–5233	Executive Orders and Proclamations
523–5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523–5266 –5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275–3030	Slip Law Orders (GPO)

Other Publications and Services:

523–5239	TTY for the Deaf
523–5230	U.S. Government Manual
523–3408	Automation
523–4534	Special Projects
523–3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167–51538 1
51539–51754 4
51755–52138 5
52139–52354 6
52355–52768 7
52769–53074 8
53074–53436 11
53437–53800 12
53801–54008 13
54009–54298 14
54299–54710 15
54711–55136 18
55137–55418 19

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231) 52139
12230 51167
12231 52139
12232 53437

Proclamations:
4776 51539
4777 53075
4778 53439
4779 53441
4780 53443
4781 53445

Administrative Orders:

Presidential Determinations:
No. 80–25 of August 8, 1980 54299

Memorandums:
July 31, 1980 ..... 51169, 51171, 51173

5 CFR

Ch. XIV 51541
213 55137–55140
297 52769
410 51755
581 53447

Proposed Rules:
339 53481
359 51214
432 53481
752 53481
831 53481
930 53485

6 CFR

705 51175
706 ..... 51541, 52769

7 CFR

2 52355
6 54301
210 51175
245 52770
272 53448
273 53448
282 54638
301 51176
319 53449
331 ..... 51755, 53450, 54302
401 54711
418 54718
419 54720
427 54722
430 54723
437 54711
722 51755
800 55118
801 55118
802 55118
908 ..... 52356, 53801, 54063, 55140
910 ..... 51177, 52771, 54304
916 53450
917 ..... 51179, 53450, 54724
919 54305
921 51180
922 53451
924 51180
926 52772
946 52141
948 51182
958 52141
967 52143
993 ..... 54064, 54725
1137 51542
1421 ..... 53801, 54305, 55141–55159
1427 ..... 53077, 55166
1446 51756
1701 54307
2853 51757
2880 54307
2891 54307
2892 54307
2893 54307
2894 54307
2895 54307
2896 54307
2897 54307
2898 54307
2899 54307

Proposed Rules:
29 51572
272 ..... 51216, 53792
273 ..... 51216, 53066, 53792
301 52816
404 51573
427 54346
431 53486
722 52817
800 52339
910 53487
965 51818
1001 54066
1065 55213
1435 54347
1464 51579
1701 54354
1492 52342
1990 51818
2858 51217
2871 51217

8 CFR

238 54310
264 52143

Proposed Rules:
Ch. I 51832
214 51580

9 CFR

78 52772

16 52183

Proposed Rules:
Ch. I 51832

92 52773
318 54310
381 54310

Proposed Rules:
94 52818
317 53002
318 51832
381 53002

10 CFR
2 54725
50 ..... 55402, 55413
70 55402
110 51184
211 55374
212 ..... 52112, 54325
220 55374
430 53488
445 51763
456 53434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:
2 53972
50 54662
205 51833
211 54662
212 ..... 54069, 54688, 54694
378 51581
430 53714
456 53422
500 53368
503 53368
504 53368
505 53368
506 53368
799 54264

11 CFR
100 52356
110 52356

12 CFR
7 53080
201 ..... 52144, 54009
220 53452
225 54326
265 54011
303 54326

Proposed Rules:
Ch. I 52166
Ch. II 51581
Ch. VI 55213
Ch. VII 55214
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR

Proposed Rules:
101 ..... 51763, 53081
108 53835

14 CFR
39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014, 54725–54732
71 ..... 51546, 53086–53090, 54015, 54027, 54028, 54733
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:
Ch. I 53161, 53162, 54766
39 ..... 53162, 54071, 54072
45 ..... 53163, 54766
71 ..... 51587–51590, 52396, 53163, 54072–54080, 54766
73 51591
75 ..... 52396, 54081
121 53316
135 53316
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR
17a 54028
200 55166
973 54031
378 53090

Proposed Rules:
19 51592

16 CFR
13 ..... 52776, 52778, 53455, 55171
305 53340
436 ..... 51763, 51765
455 52750
460 54702
1019 53036

Proposed Rules:
13 ..... 51593, 51596, 55219
239 51838
406 55223
441 53839
705 51218

17 CFR
Ch. I 54032
7 51520

Proposed Rules:
1 51598
4 51600

18 CFR
2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
281 54733
282 ..... 52359, 54741
290 54033
292 52779
375 53458

Proposed Rules:
2 54354
154 54354
260 54082
271 ..... 51219, 54085
273 ..... 51219, 54085
274 ..... 51219, 54085
301 51614

19 CFR
353 52780
355 54035

Proposed Rules:
Ch. I 51490
177 54085
207 54086

20 CFR
Ch. III 53806
404 52078
416 ..... 52078, 54742

Proposed Rules:
Ch. II 51615

21 CFR
172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458, 54035
510 ..... 54327, 54328
520 52781
540 54329
555 54327
558 ..... 53457, 54328
740 56170
884 ..... 51185, 51186
1306 54329

Proposed Rules:
Ch. II 51832, 52397
101 53023
310 54354
346 54354
600 52821
606 52821
610 51226
660 51226

22 CFR
220 54751
221 54751
222 54751

Proposed Rules:
Ch. II 53184–53182

23 CFR
657 52365
658 52365

Proposed Rules:
625 51720
652 51720
663 51720

24 CFR
200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
571 51516
590 52762
803 54330
869 52371
885 51186
888 54330
1710 52144

Proposed Rules:
51 55223
570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:
171 53164
172 53164
173 53164
177 53164
182 53164
231 54331

26 CFR
1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:
1 ..... 52399, 52824
14 52824
26 51840

27 CFR

Proposed Rules:
Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR
0 52145
18 54752
42 54036
31 53772

Proposed Rules:
Ch. I 51506, 51832

16 52183
42 54770
50 52183

29 CFR
11 51187
40 51192
102 51192
575 55175
1440 55394
1625 51547
1910 54333
1913 54333
1952 ..... 51775, 53457, 54334
1999 51187
2520 51446
2550 51194

Proposed Rules:
Ch. XIV 51229
1960 54355
2520 ..... 51231, 52824, 54370
2530 ..... 51231, 52824, 54370
2550 ..... 51231, 51840

30 CFR
Ch. VII 51547, 52834
211 53128
700 54752
762 52375
785 54752
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306
816 54752
817 54752
820 54752

Proposed Rules:
Ch. VII 52407, 52408, 53180, 53839, 54371, 54372
104 54656
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR
341 53393
346 ..... 53393, 55178

32 CFR
706 54753
763 51776
853 52800
888d 52145

33 CFR
110 ..... 54754, 54755
117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:
117 ..... 51617, 51618
209 54770

34 CFR
64 ..... 353412, 53414
709 53788

Proposed Rules:
100 ..... 52052, 53841
797 54000

36 CFR
1228 54334

Proposed Rules:
7 51618
14 54771
1190 55006
1202 51843

37 CFR
304 51197

38 CFR
17 53807
21 51777
36 53807

39 CFR

Proposed Rules:
111 51846

40 CFR
35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336, 55178–55180, 55197
80 55136
81 ..... 53147, 54052
86 53400
122 52149
122–124 55386
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053, 54340, 55187–55199
260–265 55386
413 55200

Proposed Rules:
6 53187
35 53187
50 ..... 55066, 55083
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372, 54772, 55227–55230
58 ..... 54772, 54773, 55230
60 54385
61 53842
80 54090
81 ..... 52841, 55230, 55231
122–124 55237
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
260–265 55232
408 52411
410 52185
717 51855
720 54642

41 CFR
Ch. 44 55346
Ch. 101 ..... 51201, 53149
3 53806
7–12 54755

Proposed Rules:
101–17 52842

42 CFR
Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205
58 ..... 51209, 51556
110 55122
405 ..... 51783, 54757
455 51559

Proposed Rules:
51 53492
72 51241
405 54774
460 53189
461 53189

43 CFR
4100 53154
8351 51740

Proposed Rules:
2560 52303

Public Land Orders:
5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR
64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796
70 54760–54764
205 ..... 53334, 53956
322 53479

Proposed Rules:
5 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427, 54774–54776, 55232–55236

45 CFR
Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
71 54765
151 53996
185 54004
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
228 55382
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:
121q 52136
190 51243

46 CFR
30 52386
61 52386
151 52386

Proposed Rules:
11 54776
93 54095

47 CFR
Ch. I 52389
1 55200
13 52154
22 52149
68 ..... 52151, 54341
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821, 55201–55205
74 51563
76 52153
81 52154
83 52154
87 52154
90 ..... 51811, 55200
95 55200
97 51564

Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252, 53843
13 54778
15 ..... 51251, 54784
21 51252
22 53843
73 ..... 51624, 52843, 52845, 52846, 52848, 53843, 54786, 55237–55244
74 51252
81 54778
83 54778
87 54778
90 ..... 53843, 53844, 55245
94 51252

48 CFR

Proposed Rules:
9 51253

49 CFR
1 54054
571 ..... 51569, 52365, 53157
840 54055
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827, 55205
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1249 55209
1309 52161
1310 52161

Proposed Rules:
Ch. X 53846
171 54097
173 54097
178 54097
398 51625
571 ..... 51626, 51628
1039 ..... 54111, 54385
1080 53190
1100 55246
1102 51858

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

1116.....52188

50 CFR

17.....52803, 52807, 53968
54678
18.....54056
26.....52391
32.....52392, 52393, 54057–
54060, 54344, 55210
285.....53479
611.....53831
652.....53480
653.....52810
661.....53832

Proposed Rules:

13.....52849
17.....52849, 53495, 54111,
54112, 54682, 54685
20.....53982
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254, 53500, 53847
655.....51254
661.....51861, 54113

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago, inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 14, 1980

NEW PUBLICATION NOW AVAILABLE

For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a

NEW PUBLICATION NOW AVAILABLE

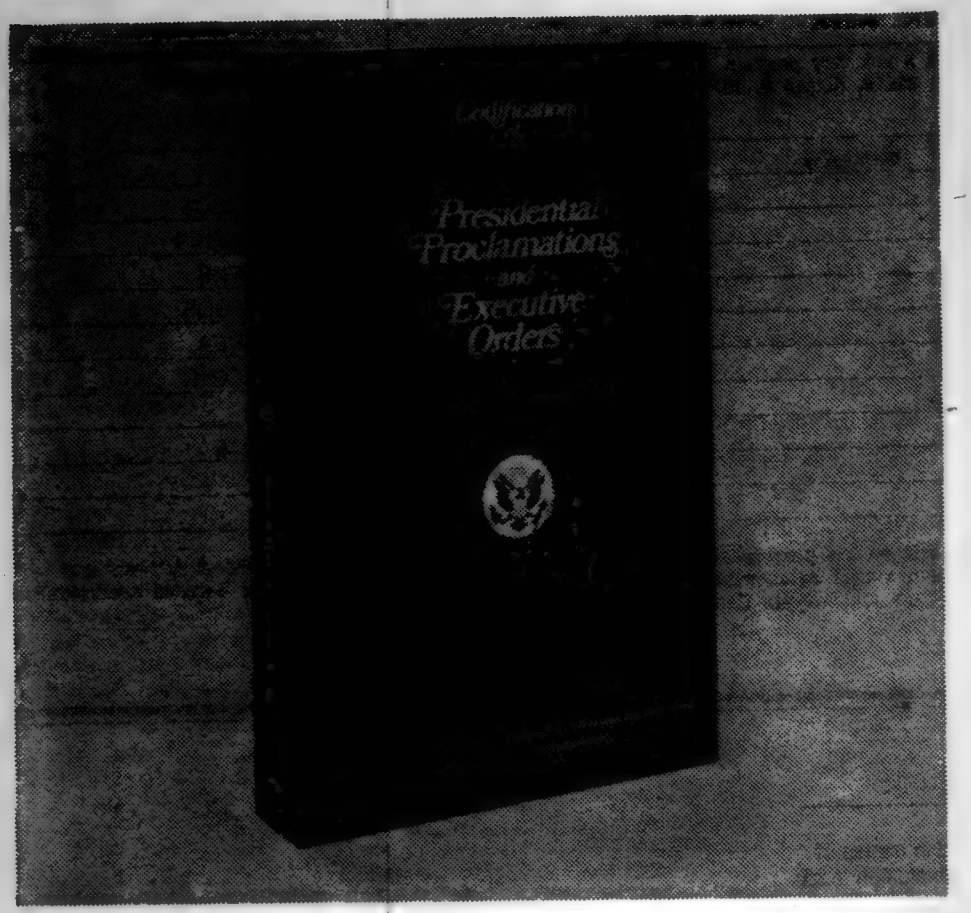

For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a convenient reference source that will make researching certain of these documents much easier.

Arranged by subject matter, this first edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1977, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1977 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register,
National Archives and Records Service,
General Services Administration

Order from Superintendent of Documents,
U.S. Government Printing Office,
Washington, D.C. 20402

MAIL ORDER FORM To:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ *check,* ☐ *money order, or charge to my*

Deposit Account No. ☐☐☐☐☐☐☐–☐ *Order No.* _____

FOR OFFICE USE ONLY	
Quantity	Charges
..... Enclosed	.....
..... To be mailed	.....
..... Subscriptions	.....
Postage	.....
Foreign handling	.....
MMOB	.....
OPNR	.....
..... UPNS	
..... Discount	
..... Refund	

master charge

VISA

Credit Card Orders Only
Total charges $ _____. Fill in the boxes below:

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Master Charge Interbank No. ☐☐☐☐

Please send me _____ *copies of the* ***Codification of Presidential Proclamations and Executive Orders*** *at $6.50 per copy. Stock No. 022–002–00060–1*

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY STATE ZIP CODE

(or) COUNTRY

PLEASE PRINT OR TYPE

V 45 AG 1980 UMI

8–20–80
Vol. 45 No. 163
Pages 55419–55688

federal register

Wednesday
August 20, 1980

Highlights

55556 **Grant Programs—Data Processing** SBA announces availability of FY 1980 funds to continue its data base development work; apply by 8–22–80

55426 **Scholarships and Fellowships** HHS sets forth requirements for award of scholarships to students receiving academic training in medicine, osteopathy, dentistry, and other health professions for the National Health Service Corps; effective 8–20–80

55566 **Old-Age, Survivors and Disability Insurance** HHS/Sec'y updates and rewrites in simpler language rules determining disability and blindness; effective 8–20–80 (Part II of this issue)

55465 **Common Carriers** ICC adopts rule which will change the way that storage-in-transit (SIT) charges are assessed on household goods moving interstate or foreign commerce; effective 11–18–80; comments by 9–19–80

55520 **Fuel** DOE/EIA publishes alternative fuel price ceilings and incremental price threshold for high cost natural gas; effective 9–1–80

55474 **Customs Duties and Inspection** Treasury/Customs proposes to amend regulations relating to U.S. and Canada in-transit truck procedures; comments by 10–20–80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

55469 **Commodities Exchanges** CFTC in a proposed rulemaking requests comments on function of current price limit rules and practices of designated contract markets; comments by 11–18–80

55559 **Exports** Treasury/Customs advises exporting community of new provisions which change procedures regarding disclosure of information on export documents; effective 8–1–80

55502 **Antidumping** Commerce/ITA determines final countervailing duty for certain iron-metal castings from India; effective 8–20–80

55425 **Procurement** VA amends regulations to specify that small purchases be reserved for exclusive participation of small business concerns in most cases; effective 8–27–80

55636 **Pensions** PBGC prescribes reporting and notification requirements for reportable events imposed by the Employee Retirement Income Security Act of 1974; effective 9–19–80 (Part III of this issue)

55419 **Nuclear Energy** NRC deletes provision for general license authorization for use of source material in humans by physicians, pharmacists and others receiving source material in form of medicinals or drugs; effective 9–19–80

55654 **Endangered and Threatened Wildlife** Interior/FWS determines the Beaver Dam Slope population of the desert tortoise in Utah to be threatened species with critical habitat; effective 9–19–80 (Part IV of this issue)

55668 **Generalized Systems of Preferences (GSP)** Trade announces deadline for requests to participate in public hearings and of acceptance for review of petitions requesting modification of list of articles eligible to receive duty-free treatment under GSP (Part V of this issue)

Privacy Act Documents

55506, 55508, 55516 DOD (3 documents)

55560 VA

55561 **Sunshine Act Meetings**

Separate Parts of This Issue

55566 **Part II, HHS/Sec'y**
55636 **Part III, PBGC**
55654 **Part IV, Interior/FWS**
55668 **Part V, Trade**

Contents

Federal Register
Vol. 45, No. 163
Wednesday, August 20, 1980

Administrative Conference of the United States
NOTICES
55500 Administrative law judge hearings, Federal; statistical report for 1976–1978; availability

Agricultural Marketing Service
RULES
55419 Hops of domestic production

Agriculture Department
See Agricultural Marketing Service.

Air Force Department
RULES
Personnel review boards:
55422 Disability Review Board; deletion of obsolete CFR Subpart

Civil Aeronautics Board
NOTICES
Hearings, etc.:
55500 Alaska Airlines, Inc.
55501 Competitive marketing of air transportation
55502 Former large irregular air service investigation
55501 Marco Island Airways, Inc. show cause order
55561 Meetings; Sunshine Act

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
55502 Michigan
55502 North Dakota (2 documents)

Commerce Department
See Economic Development Administration; International Trade Administration; National Technical Information Service.

Commodity Futures Trading Commission
PROPOSED RULES
55469 Contract markets; price limit methods; advance notice

Customs Service
PROPOSED RULES
Customs relations with Canada and Mexico:
55474 Truck procedures, Canada in-transit
NOTICES
55559 Export documents, disclosure of information; shipper's certification of confidentiality
Trade name recordation applications:
55559 Florasynth, Inc.

Defense Department
See also Air Force Department; Defense Nuclear Agency; National Security Agency/Central Security Service.
NOTICES
55516 Privacy Act; systems of records

Defense Nuclear Agency
NOTICES
55506 Privacy Act; systems of records

Economic Development Administration
RULES
55420 National Environmental Policy Act, implementation; interim rule

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
55467 Gasoline, unleaded; maximum lawful selling price; hearing change
Powerplant and industrial fuel use:
55467 Cogeneration exemption; powerplants and major fuel burning facilities; statewide energy limit, and definitions; hearings
NOTICES
Consent orders:
55519 Seminole Refining, Inc.
Natural gas; fuel oil displacement certification applications:
55519 Husky Oil Co.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
55518 Foster Wheeler Weirton

Education Department
NOTICES
Meetings:
55517 Black Higher Education and Black Colleges and Universities National Advisory Committee

Energy Department
See Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission.

Energy Information Administration
NOTICES
55520 Natural gas, high cost; alternative fuel price ceilings and incremental price threshold

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55422 Delaware; correction
55422 District of Columbia; correction
55422 North Carolina
55422 Oregon; correction
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55480 Delaware
55482 New York
Air quality implementation; interstate pollution abatement:
55482 Kentucky and Indiana; extension of time
NOTICES
Marine sanitation device standards:
55526 Virginia

Federal Communications Commission
PROPOSED RULES
Radio broadcasting:
55491 FM quadrophonic broadcasting
NOTICES
Hearings, etc.:
55530 Bob Bobbitt Co., Inc., et al.

Federal Emergency Management Agency
RULES
Flood elevation determination:
55449 Alabama et al.
Flood insurance; communities eligible for sale:
55436 Alaska et al.
55433 Colorado et al.
Flood insurance; special hazard areas:
55439 Illinois et al.
PROPOSED RULES
Flood elevation determinations:
55483 California et al.

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
55521 Akutan, Alaska
55521 El Paso Electric Co.
55522 Gillette, Wyo.
55523 Kansas Joint Venture
55525 Michigan Wisconsin Pipe Line Co. et al.
55523 Pacific Gas & Electric Co.
55524 Power Authority of State of New York
55524 Puget Sound Power & Light Co.
55525 Washington Water Power Co.
55526 West Penn Power Co. et al.
55561 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Energy and environmental statements; availability, etc.:
55532 Docket 80–52; Orient Overseas Container Line, Inc., and Korea Shipping Corp., et al.; space chartering, etc.
55531 Port Everglades Authority et al.; handling and processing of containers and related equipment

Federal Reserve System
NOTICES
55561 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
55421 Fred Meyer, Inc.
55421 Towle Manufacturing Co.

Fish and Wildlife Service
RULES
Endangered and threatened species:
55654 Desert tortoise
NOTICES
Environmental statements; availability, etc.:
55537 Sheldon National Wildlife Refuge, renewable natural resources management plan, Nev.

General Accounting Office
NOTICES
55532 Regulatory reports review; proposals, approvals, violations, (NRC)

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See Public Health Service; Social Security Administration.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Surface Mining Office.

International Trade Administration
NOTICES
Countervailing duty petitions and preliminary determinations:
55502 Iron-metal castings from India

International Trade Commission
NOTICES
55549 Harmonized commodity description and coding system; draft
Import investigations:
55547 Airtight cast-iron stoves (2 documents)
55550 Color television receivers and subassemblies; quarterly and annual information reports
55548 Inclined-field acceleration tubes

Interstate Commerce Commission
RULES
Motor carriers:
55465 Household goods transportation; storage-in-transit charges
NOTICES
55537 Long and short haul applications for relief
Motor carriers:
55544, 55547 Finance applications; correction (2 documents)
55537, 55543 Permanent authority applications (2 documents)
55544 Temporary authority applications

Justice Department
NOTICES
55550 Senior Executive Service Performance Review Board; membership

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
55534 Outer Continental Shelf; Lower Cook Inlet/Shelikof Strait Region, Alaska; oil and gas lease sale; hearings
Meetings:
55536 Baker District Advisory Council
55536 Lakeview District Advisory Council
55535 Multiple Use Advisory Council
Opening of public lands:
55535 Wyoming
Sale of public lands:
55536 Oregon

Libraries and Information Science, National Commission
NOTICES
55562 Meetings; Sunshine Act (2 documents)

Management and Budget Office
NOTICES
Meetings:
55556 National Agenda for the Eighties, President's Commission

National Railroad Passenger Corporation
NOTICES
55562 Meetings; Sunshine Act

National Security Agency/Central Security Service
NOTICES
55508 Privacy Act; systems of records

National Technical Information Service
NOTICES
Patent licenses, exclusive:
55505 Marion Scientific

Nuclear Regulatory Commission
RULES
Source material domestic licensing:
55419 Uranium or thorium medicinals; deletion from general license for small quantities
NOTICES
Applications, etc.:
55552 Consumers Power Co.
55553 Northern Indiana Public Service Co.
55554 Portland General Electric Co.
55553 University of Maryland
55555 Yankee Atomic Electric Co.
55555, 55556 Regulatory guides; issuance and availability (2 documents)
Reports; availability, etc.:
55552 Control of heavy loads at nuclear power plants
55551 Human engineering guide to control room evaluation; draft

Pension Benefit Guaranty Corporation
RULES
55636 Reportable events, reporting and notification requirements

Public Health Service
RULES
National Health Service Corps:
55426 Scholarship program

Small Business Administration
PROPOSED RULES
Minority small business and capital ownership development assistance:
55468 Community Development Corporations (CDC's); section 8a program eligibility
Small business investment companies:
55468 Capitalization requirements, etc.
NOTICES
Applications, etc.:
55558 Maine Capital Corp.
55558 Community Development Corporations (CDC's); section 8(a) program eligibility; policy statement
Grants; availability, etc.:
55556 Data base development design with application to large micro data files

Social Security Administration
RULES
Social Security benefits and supplemental security income:
55566 Disability and blindness, determination for benefits payment; revision and simplification

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States:
55479 Colorado
55478 Illinois
55479 New Mexico
55477 North Dakota
55477 Utah

Trade Representative, Office of the United States
NOTICES
55556 Generalized System of Preferences; articles considered in trade negotiations or eligible for duty-free treatment; correction
55668 Generalized System of Preferences; articles eligible for duty-free treatment; petition request deadline; hearings

Treasury Department
See Customs Service.

Veterans Administration
RULES
55425 Procurement
NOTICES
55560 Privacy Act; systems of records

MEETINGS ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
55502 Michigan Advisory Committee, 9–4 and 9–5–80
55502 North Dakota Advisory Committee, 9–19 and 9–20–80

EDUCATION DEPARTMENT
55517 Black Higher Education and Black Colleges and Universities National Advisory Committee, 9–18 and 9–19–80

INTERIOR DEPARTMENT
Land Management Bureau—
55536 Baker District Advisory Council, 9–16–80
55536 Lakeview District Advisory Council, 9–16–80
55535 Prineville District Multiple Use Advisory Council, 9–25–80

MANAGEMENT AND BUDGET OFFICE
President's Commission for a National Agenda for the Eighties—
55556 Panel VII (Electoral Process), 8–27–80

V 45 A G 20 80 UMI

CHANGED MEETING

CIVIL RIGHTS COMMISSION
55502 North Dakota Advisory Committee, 8–20–80

HEARINGS

ENERGY DEPARTMENT
Economic Regulatory Administration—
55467 Cogeneration exemption, 9–25, 10–6, and 10–9–80

INTERIOR DEPARTMENT
Land Management Bureau—
55534 Proposed Oil and Gas Lease Sale No. 60; availability of draft environmental statement, 10–14 through 10–16–80

CHANGED HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
55467 Maximum lawful selling price for unleaded gasoline, 9–18 and 9–24–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
991.....55419
10 CFR
40.....55419
Proposed Rules:
212.....55467
500.....55467
503.....55467
504.....55467
505.....55467
506.....55467
13 CFR
309.....55420
Proposed Rules:
107.....55468
124.....55468
16 CFR
13 (2 documents).....55421
17 CFR
Proposed Rules:
Ch. I.....55469
19 CFR
Proposed Rules:
123.....55474
20 CFR
404.....55566
416.....55566
29 CFR
2617.....55636
30 CFR
Proposed Rules:
Ch. VII (5 documents).....55477–55479
32 CFR
865.....55422
40 CFR
52 (4 documents).....55422
Proposed Rules:
52 (3 documents).....55480, 55482
41 CFR
8–3.....55425
42 CFR
62.....55426
44 CFR
64 (2 documents).....55433, 55436
65.....55439
67.....55449
Proposed Rules:
67.....55483
47 CFR
Proposed Rules:
73.....55491
49 CFR
1056.....55465
50 CFR
17.....55654

V 45 A G 2 0 8 0 UMI

Rules and Regulations

55419

Federal Register
Vol. 45, No. 163
Wednesday, August 20, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 991

Hops of Domestic Production; Expenses of the Hop Administrative Committee, and Rate of Assessment for the 1980–81 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1980–81 marketing year, to be collected from handlers to support activities of the Committee which locally administers the Federal marketing order covering hops of domestic production.

DATES: Effective August 1, 1980 through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, U.S. Department of Agriculture, Washington, DC, (202) 447–5053.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular market year shall apply to all assessable hops handled from the beginning of such year which began August 1. To enable the Committee to meet marketing year obligations approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. To effectuate the declared purposes of the Act, it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from J. S. Miller (202) 447–5053.

§ 991.315 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Hop Administrative Committee during the 1980–81 marketing year, will amount to $255,000.

(b) The rate of assessment for said year payable by each handler in accordance with § 991.56 is fixed at 0.4 cent per pound of salable hops.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 14, 1980.

Charles R. Brader,
Director, Fruit and Vegetable Division.

[FR Doc. 80–25252 Filed 8–19–80; 8:45 am]
BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Deletion of Source Material Medicinals From the General License for Small Quantities of Source Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its licensing regulations by deleting the provision for general license authorization of the use of source material [1] in humans by physicians, pharmacists, and other persons receiving source material in the form of medicinals or drugs. Thorotrast, containing alpha-emitting thorium-232 dioxide, was the only source material medicinal used in humans. However, as the radiobiological hazards of alpha-emitting radionuclides became known, the product fell into disuse and production of Thorotrast was discontinued in 1965. This action will require authorization by means of an NRC specific license for internal or external administration of source material, or the radiation therefrom, to human beings.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Deborah A. Bozik, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone 301–443–5860).

SUPPLEMENTARY INFORMATION: Thorotrast, authorized for use by the general license in § 40.22, "Small quantities of source material," of 10 CFR Part 40, and used as an X-ray contrast agent, has been the only source material utilized as a medicinal; no other thorium or uranium compounds have been used as source material medicinals. Thorotrast is the colloidal dioxide of thorium-232 which is an alpha-emitting radionuclide. As the radiobiological hazards of these radionuclides became apparent, the carcinogenic potential of Thorotrast became evident, and, in 1965, the production of Thorotrast was stopped. Improvements in X-ray machines and imaging techniques have resulted in Thorotrast being replaced with nonradioactive contrast agents. The Food and Drug Administration (FDA) terminated the approved New Drug Application (NDA) for Thorotrast on June 13, 1977.

NRC and FDA both strive for consistency with respect to each other's regulations. On March 6, 1980, NRC published a proposed rule (45 FR 14589) to amend the general license in § 40.22 by deleting the authorization for the

[1] Source material, as defined in 10 CFR 40.4(h) means, among other things, uranium or thorium, or any combination thereof, in any physical or chemical form.

following persons to use and transfer

research, development, educational,

SUPPLEMENTARY INFORMATION: The

(Sec. 701, Pub. L. 89–136, 42 U.S.C. 3211; Department of Commerce Organization Order

SUPPLEMENTARY INFORMATION: On

prohibited from inducing dealers or

following persons to use and transfer small quantities of source material:

(1) Pharmacists using source material solely for compounding medicinals;

(2) Physicians using source material for medicinal purposes; and

(3) Persons receiving possession of source material from pharmacists and physicians in the form of medicinals or drugs.

Under the proposed rule, the following groups would still retain their authorization under this general license to use small quantities of source material for research, development, educational, commercial or operational purposes:

(1) Commercial and industrial firms;

(2) Research, educational and medical institutions; and

(3) Federal, State and local government agencies.

A new paragraph would be added under the proposed rule to the general license in § 40.22 of 10 CFR Part 40 which would prohibit licensees from administering source material, or the radiation therefrom, either internally or externally, to human beings, except where authorized by an NRC specific license.

The public was invited to submit written comments on the proposed rule by May 6, 1980. Eight comments were received, and all supported the proposed amendment. One commenter qualified his support by inquiring if the people whose authorization is being withdrawn by this amendment have been making other use of source material. To the best of the Commission's knowledge, no one in the affected groups has been using source material since Thorotrast production was discontinued in 1965. Therefore, the Commission is adopting the final rule in the form identical to the proposed amendment.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 40 is published as a document subject to codification.

1. Section 40.22 of 10 CFR Part 40 is amended by revising paragraph (a), and by adding a new paragraph, (c), to read as follows:

§ 40.22 Small quantities of source material.

(a) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions and Federal, State and local government agencies to use and transfer not more than fifteen (15) pounds of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 150 pounds of source material in any one calendar year.

* * * * *

(c) Persons who receive, possess, use or transfer source material pursuant to the general license in paragraph (a) of this section are prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by NRC in a specific license.

(Secs. 62, 63, 161b., Pub. L. 83–703, 68 Stat. 932, 933, 948b. (42 U.S.C. 2092, 2093, 2201b.); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242, Pub. L. 94–97, 89 Stat. 413 (42 U.S.C. 5841))

Dated at Bethesda, Md., this 7th day of August 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Acting Executive Director for Operations.

[FR Doc. 80-25331 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 309

Environmental Requirements

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Interim rule.

SUMMARY: Regulations promulgated by the Council on Environmental Quality (40 CFR Parts 1500–1508) directed each executive agency to develop procedures to implement the requirements of the National Environmental Policy Act of 1969, as amended, in its programs. EDA's procedures developed in response to this requirement were published in the **Federal Register** (45 FR 41028, June 17, 1980) as EDA Directive 17.02–2. This amendment conforms EDA's regulation on environmental review to the procedures contained in Directive 17.02–2.

DATES: Effective date: August 14, 1980. Comments by: October 20, 1980.

ADDRESS: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Andrew Kauders, Special Assistant for the Environment, (202) 377–4208.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to remove any inconsistences between EDA's CEQ-approved environmental review procedures as contained in Directive 17.02–2 and its previous review policies as contained in the environmental regulation, 13 CFR § 309.18. This amendment does not represent any changes from the EDA policies and procedures concerning the environmental review of its actions as announced in the recently published directive.

Since the specific procedures governing environmental review of actions are described in detail in the directive and since the directive is readily available to EDA applicants, other interested parties and the public in general, the environmental regulation does not repeat those matters. Instead, the regulation states EDA's policy regarding environmental review of its actions and refers readers to the directive for further information on specific procedures.

Because the subject matter of this amendment has been made available for public review and comment through publication of Directive 17.02–2 in the **Federal Register**, EDA is publishing this rule as an interim regulation.

Since this change in EDA procedures is required by the Council on Environmental Quality, EDA has no significant discretion in implementing this change. As a result, this regulation is deemed not to be significant under the criteria of Executive Order 12044 and Department of Commerce and EDA procedures implementing it. However, in the spirit of the executive order, EDA will accept comments on the regulation for 60 days after publication until October 20, 1980 and will consider these comments before publishing the regulation in final form.

Accordingly, EDA revises 13 CFR 309.18 to read as follows:

§ 309.18 Environmental requirements.

(a) It is the policy of EDA to ensure that proper environmental review of its actions takes place; that there is a proper balance between the goals of economic development and environmental enhancement in its actions; and, that adverse environmental impacts from its actions are mitigated or avoided to the extent possible.

(b) Environmental reviews of EDA actions are conducted in accordance with the procedures described in EDA Directive 17.02–2 which is available from any EDA office.

(Sec. 701, Pub. L. 89–136, 42 U.S.C. 3211; Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: August 14, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-25322 Filed 8-19-80; 8:45 am]

BILLING CODE 3510-24-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3028]

Fred Meyer, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Portland, Oreg. operator of a chain of retail stores to provide each charge account customer having an outstanding credit balance with a periodic statement setting forth the amount of the credit balance; and enclose with regular monthly statements, a notice advising that credit balances are refundable upon request. Refunds of credit balances must be made upon request or automatically at the end of a six-month period. The firm is further required to refund, with interest all unpaid credit balances existing between January 1, 1974 and the effective date of the order. The order additionally requires that the firm notify layaway customers who had not completed their purchases during the fourteen (14) months prior to entry of the order that they have the option of either completing the transaction or receiving a refund of the layaway account credit balance; refund credit balances to any customer who indicates, in response to a notice, that the purchase was not completed and the customer received no reimbursement or credit on other merchandise; and maintain specified records for at least three years.

DATES: Complaint and order issued July 23, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174, (206) 442–4655.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Wednesday, April 30, 1980, there was published in the **Federal Register**, 45 FR 28754, a proposed consent agreement with analysis In the Matter of Fred Meyer, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–35 Employment of independent agencies; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits. Subpart-Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25276 Filed 8-19-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3029]

Towle Manufacturing Co.; Prohibited Trade Practices, and Affirmative Corrective Actions.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Newburyport, Mass. manufacturer, importer and distributor of silver products to cease establishing, maintaining or enforcing any agreement or arrangement with its dealers that has the effect of fixing and enforcing resale prices for its products, and conditioning retention of dealerships on adherence to suggested resale prices. The firm is prohibited from inducing dealers or prospective dealers to report those who fail to adhere to suggested resale prices and barred from taking adverse action against reported dealers. Materials containing resale pricing information must include a statement advising that dealers are not bound to listed prices. Respondent is further required to reinstate those dealers who were terminated for failing to comply with the firm's pricing policy and maintain a file containing specified data for a period of three years.

DATES: Complaint and order issued July 29, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, Mass. 02114. (617) 223–6621.

SUPPLEMENTARY INFORMATION: On Thursday, May 22, 1980, there was published in the **Federal Register**, 45 FR 34293, a proposed consent agreement with analysis In the Matter of Towle Manufacturing Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing And Intimidating: § 13.350 Customers or prospective customers. Subpart—Combining Or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures. Subpart—Cutting Off Supplies Or Service: §13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1150 Penalties; § 13.1160 Refusal to sell; § 13.1165

[1] Copies of the Complaint and the Decision and Order filed with the original document.

Systems of espionage; 13.1165–80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

James A. Tobin,

Acting Secretary.

[FR Doc. 80–25277 Filed 8–19–80; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 865

Air Force Disability Review Board; Deletion of Regulations

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Subpart C—Air Force Disability Review Board, from Part 865—Personnel Review Boards. Subpart C is deleted because the basic document has been rescinded. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, D.C. 20330, telephone: (202) 697–1861.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80–25289 Filed 8–19–80; 8:45 am]

BILLING CODE 3910–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1578–3]

Approval and Revision of the District of Columbia Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: This notice clarifies and corrects Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as published in the **Federal Register** on January 4, 1980, 45 FR 1024. It was the intent of the Administrator to approve until December 31, 1980, amendments to §§ 8–2:704 (Allowable Sulfur Content in Fuel Oil) and 8–2:705 (Allowable Sulfur Content in Coal) of the District's Air Quality Control Regulations submitted on December 27, 1978, by Mayor Walter E. Washington. Such intent, by the Administrator, was reflected throughout the notice but not so stipulated in the Part 52 delineation. Therefore, § 52.470(c)(13) of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is corrected to read as follows:

Subpart J—District of Columbia

§ 52.470 Identification of plan.

* * * * *

(c) the plan revision listed below was submitted on the date specified * * *

(13) Amendments to §§ 8–2:704 (Allowable Sulfur Content in Fuel Oil) and 8–2:705 (Allowable Sulfur Content in Coal) of the District's Air Quality Control Regulations submitted on December 27, 1978, by Mayor Walter E. Washington is hereby approved until December 31, 1980.

EFFECTIVE DATE: Immediately August 20, 1980. This notice clarifies information which appeared in a previous **Federal Register** notice and does not alter the intent or substance of that rulemaking.

FOR FURTHER INFORMATION CONTACT: Bernard E. Turlinski, Regional Energy Coordinator (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number (215) 597–9944.

(42 U.S.C. 7401–642)

Dated: July 31, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80–25279 Filed 8–19–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1558–7]

Approval and Promulgation of Implementation Plan, Oregon State Implementation Plan; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: Corrections are being made to EPA's final regulations approval of portions of the Oregon State Implementation Plan. These regulations were published in the **Federal Register** on June 24, 1980 at 45 FR 42265–42279.

FOR FURTHER INFORMATION CONTACT: Laurie M. Kral, Air Programs Branch, 1200 6th Avenue, Seattle, Washington 98101 (206) 442–1226.

SUPPLEMENTARY INFORMATION: Corrections: In **Federal Register** Docket 80–18812 appearing on June 24, 1980, 45 FR 42265, the following corrections are made:

1. On page 42278 in § 52.1970 the paragraph now designated (C) (26)–(30) should be changed to (C) (27)–(31).

2. On page 42279 in § 52.1985 the paragraph now designated (3) (i) and (ii) should be deleted.

Dated: August 6, 1980.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 80–25251 Filed 8–19–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1578–5]

Approval and Promulgation of Implementation Plans; Delaware State Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of Final rule.

SUMMARY: Certain amendments to § 52.420 (Identification of Plan) of 40 CFR Subpart I Delaware which appeared in the July 30, 1979 **Federal Register,** 44 Fed. Reg. 44496 were inadvertently codified as §§ 52.420(c)(11). The proper designation of this paragraph should be §§ 52.420(c)(12).

EFFECTIVE DATE: August 20, 1980. This notice corrects an error which appeared in a previous **Federal Register** notice and does not alter the intent or substance of that rulemaking.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597–8176.

(42 U.S.C. 7401–642)

Dated: July 11, 1980.

A. R. Morris,

Acting Regional Administrator.

[FR Doc. 80–25335 Filed 8–19–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1569–2]

Approval and Promulgation of Implementation Plans; North Carolina: Duke—CP&L Variance

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces its approval of a three-year variance granted by North Carolina on June 14, 1979, to the coal-fired electric generating units of Duke Power Company and Carolina Power & Light Company except for the provision concerning excess emissions during periods of startup, shutdown, and verified malfunction. EPA, furthermore, at this time is disapproving utility operation and maintenance manuals and the definitions of startup, shutdown, and verified malfunction contained therein which were incorporated by reference as part of this variance. In addition, EPA is disapproving the definitions of startup, shutdown, and verified malfunction found in a letter submitted by the State on December 14, 1979.

The variance exempts these units from the particulate emission limits specified in North Carolina Regulation 15 N.C.A.C. 2D.0503, Control of Particulates from Fuel Burning Sources. Under the variance, less stringent interim limits are specified for each unit. These interim limits expire on June 30, 1982, unless sooner revoked, modified, or extended by the State (with the modification or extension finally concurred in by EPA for purposes of federal enforcement). If the State does not act by June 30, 1982, to extend or modify the interim limits, the original particulate matter limits of Regulation 15 N.C.A.C. 2D.0503 will again be in effect for these units as of July 1, 1982.

DATE: These actions are effective September 19, 1980.

ADDRESSES: Copies of the materials submitted in conjunction with this revision are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Library, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

North Carolina Division of Environmental Management, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia, 30365. 404/881–3286 (FTS 257–3286).

SUPPLEMENTAL INFORMATION: Under the original North Carolina Implementation Plan, the coal-fired power plants of the State's two electric utilities, Duke Power and Carolina Power & Light, are subject to particulate emission limits ranging from 0.10 to 0.14 pounds per million Btu heat imput depending on the size of the electric generating unit (the more stringent limit applies to the larger units). On June 14, 1979, the North Carolina Environmental Management Commission granted the two companies a three-year variance from these limits, which are set forth in Regulation 15 N.C.A.C. 2D.0503 of the State Implementation Plan (SIP), and established interim limits as indicated in the following table. The interim limits are to be met on a continuous basis.

Facility	Original particulate emission limit (number per million Btu)	Revised (interim) particulate emission limit (number per million Btu)
Duke Power:		
Allen	0.10	0.25.
Belews Creek	0.10	0.25.
Buck	0.13	0.23 (Units 3–5, 3–6,4.) 0.20 (Units 5,6).
Cliffside	0.11	0.23 (Units 1,2). 0.20 (Units 3,4). 0.25 (Unit 5).
Dan River	0.14	0.20 (Units 1,2) 0.25 (Unit 3).
Marshal	0.10	0.25
Riverbend	0.12	0.20
Carolina Power & Light:		
Asheville	0.13	0.25.
Cape Fear	0.13	0.25.
Lee	0.13	0.25.
Roxboro	0.10	0.25 (Unit 3 at 1.6. until 1/1/80).
Sutton	0.11	0.25
Weatherspoon	0.13	0.20 (Units 1,2). 0.25 (Unit 3).

These interim limits were submitted for EPA's approval as a plan revision on June 18, 1979. Additional information requested by EPA was submitted on September 7, October 31, and December 14, 1979. The materials submitted by the State in support of the revision show that the interim limits will not adversely affect the attainment and maintenance of the national ambient air quality standards nor cause any violations of the applicable prevention of significant deterioration (PSD) increments for particulate matter.

A potential problem is posed for future expansion in the vicinity of several plants since the State's materials show that a substantial portion, half or more, of the available PSD increment is consumed by the variance granted to Carolina Power & Light's Asheville plant and to Duke Power's Buck, Cliffside, Dan River, and Marshall Plants. In regard to the five plants referenced in the immediately preceding sentence, as well as Cape Fear, Sutton, Weatherspoon, Lee, Cliffside, Riverbend, and Belews Creek, EPA believes that the State has not submitted information adequate to justify the baseline used to determine PSD increment consumption. In the submittal from the State, the baseline was set in every case at the allowable limit as of August 7, 1977, despite stack tests showing lower actual emissions on nearly the same date. In case of future industrial expansion in the area impacted by emissions from these plants, the State will be unable to use the allowable limit to set the baseline unless more information is provided to justify its use. It should be noted that EPA will reevaluate potential increment consumption associated with this SIP revision when EPA promulgates final PSD regulations in light of the decision of *Alabama Power Co. v. Costle,* 13 E.R.C. 1993 (D.C. Cir. 1979). In view of the expected air quality impact of the variance, EPA is approving this revision. This action is taken despite the fact that EPA cannot endorse all of the findings made by the Commission, e.g. "* * * all plants under consideration cannot consistently and continuously comply with the performance standards as set forth in the regulations; this finding is based principally on a recognition of both the technical difficulty and the unreliability inherent in,retroactive application of precipitators to existing plants." (North Carolina Environmental Management Commission Variance for Duke Power and Carolina Power & Light, Findings of Fact No. 5). EPA has refrained from inquiring into the State's technical findings supporting the SIP revision in this case since those revisions meet all requirements set forth in the Clean Air Act, and the regulations and guidance adopted pursuant thereto.

The interim limits remain in effect until June 30, 1982, unless sooner revised, revoked, or extended by the Commission. If the Commission has not done so by that date, the original emission limits of Regulation 15 N.C.A.C. 2D.0503 will automatically apply once more as of July 1, 1982. EPA has obtained confirmation from the State that the above interpretation is correct.

In its Order, the Commission provided for a situation which could arise if the Commission acted by June 30, 1982, but EPA had not yet had time to take final approval/disapproval action on the Commission's action, to preclude any

possible misunderstanding, EPA has secured confirmation from the State of

overlap in certain respects, the comments are consolidated where

and "shutdown," just the undefined exemptions as presented in this SIP

company can find no apparent explanation for this variation.

Air Act would rule out the use of stacks higher than good engineering practice to

the North Carolina Department of Natural Resources and Community

possible misunderstanding, EPA has secured confirmation from the State of EPA's interpretation of the Commission's Order on this point. The correct interpretation of the language of the Commission's Order assuring the continuing effectiveness of the interim limits between any Commission action prior to June 30, 1982, and before EPA action on the resulting SIP revision, if any (if the Commission simply revokes the interim limits, no action by EPA will be called for), is that "EPA approves" means "EPA take final action." This means that for purposes of federal enforcement a modification or extension of the limitation is not effective unless concurred in by EPA in a final action on a SIP revision embodying the modification or extension. During the time before EPA final action on a modification or extension submitted before June 30, 1982, the variance limits remain in effect. Today's approval is based on this understanding.

Since the terms "startup, shutdown, and verified malfunction" are not defined in the State's Implementation Plan or in the variance itself, EPA disapproves the provision in the variance that allows excess emissions during periods of startup, shutdown, and verified malfunction. While the State sent a letter to EPA on December 14, 1979, defining these terms, EPA cannot approve the definitions adopted in this manner because the terms were not adopted by the State after notice and opportunity for a public hearing required by Section 110 of the Clean Air Act and 40 CFR 51.4 and 51.6 (1979).

Under the State Order granting the variance, the companies were required to prepare operation and maintence manuals for their coal-fired plants and submit them for the State's approval. This has been done, and copies of the manuals have been provided to EPA. However, EPA does not consider the manuals as an approvable part of the revision since there was no public hearing concerning the manuals including the definition of startup, shutdown, and verified malfunction contained in the manuals. EPA at this time is taking disapproval action on the manuals and the pertinent definitions contained in the manuals.[1] See 40 CFR 51.4(a) (1979).

These actions were proposed in the **Federal Register** on February 14, 1980 (45 FR 9952). Comments in response to the proposal were made by the two electric utility companies involved in the variance request. Since there comments overlap in certain respects, the comments are consolidated where appropriate for purposes of EPA's response. Responses by EPA to the public comments of Duke Power and Caroline Power & Light are attached to this final rule and are available for public inspection at the locations listed above.

[1] EPA will provide the State with further guidance regarding the drafting of a startup, shutdown, and verified malfunction provision at an early date.

Public Comments

Comment: EPA should not disapprove the provision in the variance that allows excess emissions during periods of startup, shutdown, and verified malfunction. In making this comment, the Duke Power Company (Duke) stated that the operation and maintenance manuals (of Duke and Carolina Power & Light Company (CP&L)) were submitted in a timely manner and have been approved by the (State agency) Director. Duke also asserted that the "startup" and "shutdown" definitions (in the Duke manual) are consistent with long-standing State policy, and that the "malfunction" definition is consistent with EPA-sanctioned definitions.

Response: Since the submitted SIP revision exempts periods of "startup, shutdown, and verified malfunction" from any emission standards, these terms must be clearly defined in the SIP revision itself to prevent this exemption from being open-ended. EPA regulations require that a public hearing be held by the State on this type of SIP revision. See 40 CFR 51.4(a)(1) and 51.6 (c) and (f) (1979). The operation and maintenance manuals were submitted by both Duke and CP&L on November 15 and 20, 1979—well after the State public hearing on the SIP revision on April 4–6, 1979. Since these important definitions and the manuals themselves were not subject to any public scrutiny before or during the State public hearing, they may not be approved by EPA as part of this SIP revision. See also Sections 110(a)(1), (a)(2), and (a)(3) of the Clean Air Act, 42 U.S.C. 7410. The State can resubmit appropriate definitions of these terms to EPA as a future SIP revision after notice and public hearings on these definitions and manuals are afforded.

Comment: EPA should not disapprove the startup and shutdown provisions. As support for this comment, CP&L contended that the precipitator manufacturer recommends that the precipitators not be used during periods of startup and shutdown. CP&L also asserted that "industry practice" makes these concepts sufficiently objective to permit enforcement without a definition being needed.

Response: See immediately preceding Response. EPA has not disapproved the concept of an exemption for "startup" and "shutdown," just the undefined exemptions as presented in this SIP revision. EPA could not approve this exemption based on something as vague and unobjective as "industry practice," which was not described or explained by CP&L.

Comment: No Prevention of Significant Deterioration (PSD) increment is consumed, and no increment consumption analysis is required for this SIP revision. In making this comment Duke asserted that a July 17, 1979, letter from the EPA General Counsel supported this latter position. Duke also requested the Agency to wait until PSD regulations are revised to conform to *Alabama Power Co.* v. *Costle*, 13 E.R.C. 1993 (D.C. Cir. 1979), before deciding whether an increment consumption calculation is needed for this SIP revision.

Response: Although PSD regulations will be revised in the future as a result of *Alabama Power*, the presently-effective definition of "baseline concentration" must be used for analyzing the subject revision. As pertinent here, that definition speaks of actual air quality as of August 7, 1977. 40 CFR 51.24(b)(11) (1979). Since neither CP&L nor Duke has admitted violations of the TSP standards around August 7, 1977, and since performance tests around that time show emissions at or below allowable emission levels, EPA concludes that emissions from the affected sources were at or below allowable levels. Thus, today's relaxation of the TSP standard (allowing higher emissions than before) results in consumption of (part of the) PSD increment. The Preamble to present PSD regulations requires that:

> Any SIP relaxations submitted after (June 19, 1978) that would affect a PSD area must include a demonstration that the applicable increment will not be exceeded. 43 FR 26380 (1978).

The March 17, 1979, letter from the EPA General Counsel does not change this position. That letter concludes that: (1) EPA has considerable discretion in evaluating data to determine baseline concentration; and (2) no increment consumption analysis is necessary if allowable emissions after a SIP revision are no higher than the baseline concentration.

Comment: The increment consumption should be reassessed when EPA changes PSD regulations to conform to *Alabama Power*. This commenter, CP&L, also urges EPA to consider all relevant data when reassessing increment consumption. A reason given for this recommendation is that performance at CP&L plants varies markedly, and the company can find no apparent explanation for this variation.

Response: The Agency will of course reassess increment consumption if such is required in revised PSD regulations conforming to *Alabama Power*. In that event, EPA will consider all relevant information that is also reliable, as has been done for this revision.

Comment: Today's inferim limits should remain in effect after June 30, 1982, if extended by the State, even if EPA final action on an extension is not forthcoming by that date.

Response: A SIP revision (which an extension beyond June 30, 1982, would require in this case) is not effective for federal enforcement purposes unless and until finally approved by EPA. See Section 110(d) of the Clean Air Act, 42 U.S.C. 7410.

Comment: It is inappropriate to speak of a potential problem with regard to new source growth in the vicinity of the Asheville plant because (1) only one-fourth of the annual increment is used by the variance, (2) changes in air quality levels for the annual and 24-hour averaging times are insignificant beyond seven kilometers, and (3) there is sufficient increment remaining close to the plant to permit new source growth, e.g., the doubling of the plant's capacity.

Response: (1) The potential violation of any increment would be sufficient grounds for denying a PSD permit to a proposed source. Thus it is not relevant that a relatively modest portion of one increment is consumed if a quite large portion of another is consumed. (2) Because the consumption of increment is receptor-specific, EPA acknowledges that the potential problem spoken of would not present itself outside of the area quite close to the Asheville plant. (3) EPA required that the Cramer model be used for assessing the effect of the interim limits on the area around the Asheville plant. This model calculated the Class II 24-hour increment consumption as 29 $\mu g/m^3$, or 80 percent of the increment available (36 $\mu g/m^3$), at the point of maximum impact. Since any new emissions would consume increment, since the present units have a maximum 24-hour impact of 61 $\mu g/m^3$, and since only 7 $\mu g/m^3$ of the 24-hour increment remain for the new emissions, it appears quite unlikely that the addition of generating capacity equal to that of the present units could be accommodated under PSD at or near the Asheville plant site. While it is true that new coal-fired units, because of the Federal requirement to scrub sulfur dioxide from the off-gases, could emit a plume having a buoyancy somewhat different from that of the present units, the stack height provisions of the Clean Air Act would rule out the use of stacks higher than good engineering practice to place the modeled maximum impact of the new plume at a receptor well-removed from that at which the present plume has its maximum impact.

Actions: The North Carolina revision is approved except insofar as it allows excess emissions in periods of startup, shutdown, and malfunction. The exemption for excess emissions during startup, shutdown and verified malfunction is disapproved. In addition, the manuals and the definitions of these terms contained therein are not approved nor are the definitions submitted by the State by letter dated December 14, 1979, approved. These actions are effective September 19, 1980.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rule is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations, "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. Section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

Dated: August 7, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart II—North Carolina

1. In § 52.1770 paragraph (c) is amended by adding subparagraph (22) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(22) Three-year variance for the coal-fired units of Duke Power Company and Carolina Power & Light Company from the particulate emission limits of Regulation 15 N.C.A.C. 2D.0503, with submittals on June 18, September 7, October 31, and December 14, 1979, by the North Carolina Department of Natural Resources and Community Development.

2. Section 52.1781 is added as follows:

§ 52.1781 Control strategy: Sulfur oxides and particulate matter.

The plan's control strategy for particulate matter as outlined in the three-year variance for the coal-fired units of Duke Power Company and Carolina Power & Light Company from the particulate emission limits of Regulation 15 N.C.A.C. 2D.0503, with submittals on June 18, September 7, October 31, and December 14, 1979, by the North Carolina Department of Natural Resources and Community Development, is disapproved only insofar that it provides an exemption for excess emissions during periods of startup, shutdown, and verified malfunction. (See § 52.1770(c)(22).)

[FR Doc. 80-25338 Filed 8-19-80; 8:45 am]
BILLING CODE 6560-01-M

VETERANS ADMINISTRATION

41 CFR Part 8–3

Procurement by Negotiation; Small Purchases

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: This amendment to the Veterans Administration Procurement Regulations revises a section to specify that small purchases are to be reserved for the exclusive participation of small business concerns unless offers cannot be obtained from two small business concerns that are competitive with market price and in terms of quality and delivery of the goods or services being purchased. This amendment also increases the imprest fund purchase limitation to $250 per transaction under normal circumstances and $500 per transaction under emergency conditions.

EFFECTIVE DATE: This rule is effective August 27, 1980.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service, Office of Supply Services, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–2334.

SUPPLEMENTARY INFORMATION: Pub. L. 95–507, October 24, 1978 revised the Small Business Act. One revision specifies that small purchases will be reserved exclusively for small business concerns under specified conditions. Section 8–3.602 is revised to comply with this provision.

V 45 AG 2080 UMI

Section 8-3.604-5 is added to increase the imprest fund purchase limitation to $250 per transaction under normal conditions and $500 per transaction in an emergency. The Department of the Treasury has specifically authorized these limitation revisions due to increased requirements to make cash purchases.

Section 8-3.604-5 is revised to require lesser documentation for imprest fund purchases which do not exceed $25. This revision is intended to better correlate appropriate documentation requirements to the value of individual transactions.

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the regulatory process (§ 1.12, Title 38, CFR). Since this amendment merely implements public law and revises internal administrative restrictions, compliance with notice and public procedure is considered unnecessary.

Approved: August 13, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

PART 8-3—PROCUREMENT BY NEGOTIATION

Subpart 8-3.6—Small Purchases

1. In § 8-3.602, paragraph (a) is revised to read as follows:

§ 8-3.602 Policy.

(a) Pursuant to Pub. L. 95-507, small purchases will be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased. Such procurements from small business concerns will be considered small business set-asides.

* * * * *

2. In § 8-3.604-6, paragraphs (a) and (b) are revised to read as follows:

§ 8-3.604-6 Procurement and payment.

(a) Each purchase costing $25.00 or more will be supported by a cash register receipt, invoice, sales slip, or other sales document which shall, if possible, contain an itemized listing of the itmes purchased and be signed by the vendor or his/her agent. The cash receipt or sales document shall be furnished by the vendor to whom cash payment is made. Such cash receipt or sales document shall indicate the name of the vendor. When it is not possible to secure the listing of signature, the purchaser (employee authorized to accomplish the cash purchase) shall prepare and sign Standard Form 1165, Receipt for Cash-Subvoucher, listing thereon the name of the vendor and the ariticles or services purchased. The vendor's receipt for cash payment shall be attached to the SF 1165 subvoucher.

(b) Each purchase costing less than $25.00 shall be supported by a receipt for cash or sales document as required in paragraph (a) of this section, except that the signature of the vendor or agent need not be secured. When a receipt is obtained for purchases costing less than $25.00, the SF 1165 is not required. If a receipt cannot be secured, the purchaser shall prepare and sign the SF 1165, listing thereon the name of the vendor and the article or services purchased.

* * * * *

3. In § 8-3.605-3, paragraph (a) is revised to read as follows:

§ 8-3.605-3 Agency order forms.

(a) VA Form 60-2138 (or 90-2138), Order for Supplies or Services, and VA Form 60-2139 (or 90-2139), Order for Supplies or Services (Continuation), provide in one interleaved set of forms a purchase or delivery order, vendor's invoice, and receiving report. They will be used in lieu of and in the same manner as Standard Forms 147 and 148.

* * * * *

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 80-25304 Filed 8-19-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 62

National Health Service Corps Scholarship Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These regulations set forth the requirements for the award of scholarships under the National Health Service Corps Scholarship Program to students receiving academic training in medicine, osteopathy, dentistry, and other health professions in order to assure an adequate supply of trained health professionals for the National Health Service Corps.

EFFECTIVE DATE: These regulations are effective August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Alice Swift, Associate Director for Planning, Evaluation, and Legislation, Division of Health Professions Training Support, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, Room 9-50, Hyattsville, MD 20782 (telephone 301-436-6788).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare published in the **Federal Register** on September 27, 1978 (43 FR 43713), interim-final regulations revoking the existing Part 62 entitled "Public Health and National Health Service Corps Scholarship Training Program" and substituting a new Part 62 entitled "National Health Service Corps Scholarship Program." This new Part 62 establishes the National Health Service Corps Scholarship Program authorized by section 751 of the Public Health Service Act ("Act"), as amended by the Health Planning and Health Services Research and Statistics Extension Act of 1977 (Pub. L. 95-83), the Public Health Services Act Amendments of 1977 (Pub. L. 95-215), and Title II of Pub. L. 96-76.

Section 751 of the Act (42 U.S.C. 294t) authorizes the Secretary to enter into contracts with students who are enrolled in courses of study leading to degrees in medicine, osteopathy, dentistry, or other health professions. Students who enter into the contracts agree to serve 1 year for each year of scholarship support they receive or 2 years, whichever is greater, as members of the National Health Service Corps ("NHSC") providing full-time clinical services in health manpower shortage areas designated under section 332 of the Act and its implementing regulations (42 CFR Part 5).

These regulations were published as interim-final regulations with no proposed rulemaking procedures because of the need to award scholarships for the 1978-79 academic year. However, all interested persons were invited to submit written comments on the interim-final regulations not later than November 27, 1978. All public comments received not later than that date have been considered in the preparation of these final regulations. The Department received comments from private citizens, professional health organizations, universities, and government agencies. The comments and the Department's response to the comments are discussed below. For clarity, the comments and responses are arranged according to the section numbers and titles of the interim-final regulations to which they pertain.

§ 62.2 Definitions.

Section 62.2 of the regulations defines the term "school", in part, as meaning a school of medicine, osteopathy, dentistry or other health profession which provides training leading to a degree of doctor of medicine, osteopathy, dentistry or an appropriate degree for a particular health profession.

With respect to this definition of "school" one commenter noted that not all health professionals receive degrees upon the completion of their academic training and recommended that this definition be revised to read "training leading to a degree of doctor of medicine, osteopathy, dentistry or an equivalent credential for a particular health profession."

The Secretary agrees with the commenter's recommendation and has changed the regulations accordingly.

§ 62.3 Who is eligible to apply for a Scholarship Program award?

Section 62.3 has been amended by adding a new paragraph (c) which provides that individuals who receive scholarship awards under the Indian Health Service Scholarhip Program (section 757 of the Act) or the Scholarship for First-Year Students of Exceptional Financial Need Program (section 758 of the Act) are ineligible to participate in the National Health Service Corps Scholarship Program ("Scholarship Program") while receiving awards under section 757 or 758 of the Act.

This amendment makes explicit the current Scholarship Program policy concerning this matter. It is the Secretary's view that Federal funds appropriated under the three separate programs (sections 757, 758, and the Scholarship Program) should be used effectively and efficiently in assuring the greatest number of health professionals to provide health services in health manpower shortage areas.

§ 62.6 How will individuals be selected to participate in the scholarship program?

Section 62.6(a) sets forth a general description of the procedures which will be used in selecting Scholarship Program participants. That section provides that all applications will first be placed in priority categories described in § 62.6(b) of the regulations, and that these applications will then be evaluated on the basis of the criteria in § 62.6(c) giving special consideration to (1) medical and osteopathic students intending to engage in family practice, internal medicine, pediatrics, or osteopathic general practice residencies following graduation and (2) dentists who intend to undertake general practice training following graduation or who have no plans for post-graduate training.

Three commenters objected to the special consideration provision in § 62.6(a) because in their view it is inflexible and may preclude the NHSC from giving special consideration to health specialties other than those listed (e.g. psychiatry) if it determines that there is a need for these additional health specialties.

The Secretary recognizes the commenter's concern in this instance and has amended the regulations to provide that special consideration will also be given to those applicants who intend to pursue other types of clinical practices or specialized training for which the NHSC has a particular need. These other specialties or clinical practices to be given special consideration will from time-to-time be published in the **Federal Register** and made available to applicants for scholarships.

Section 62.6(c) of the regulations provides that the selection of Scholarship Program participants will be made on the basis of the following criteria: (1) work experience, (2) community background, (3) career goals, (4) faculty recommendation and (5) academic performance. With respect to these selection criteria, one commenter suggested that since the "special consideration" provision in § 62.6(a) is an additional criterion for selection, this provision should be included in the list of criteria set forth in § 62.6(c) of the regulations. In response to this commenter's concern the regulations have been amended to include the special consideration provision under § 62.6(c).

Three commenters stated that the order in which the selection criteria were listed implies that these criteria have weighted values with the greatest weight being assigned to the first listed criteria, and lesser weights being assigned to the remaining factors in descending order.

The Secretary in listing the selection criteria did not intend to suggest that the order of this listing was made on a weighted value basis, but rather intended that the selection criteria be examples of the types of factors which the Secretary will take into consideration in determining which scholarship applications to approve. To clarify the Secretary's intent with respect to the selection of participants in the Scholarship Program, § 62.6(c) has been amended to provide that the Secretary will take into consideration those factors, including work experience, community background, career goals, faculty recommendation, and academic performance which he or she determines necessary to assure effective participation in the Scholarship Program.

Another commenter objected to the implication that continuation awards would be subject to the selection criteria listed in § 62.2(c). In response to this comment, a new § 62.6(e) entitled "Continuation Awards" has been added and § 62.6(a) has been amended to provide that these continuation awards will not be subject to the evaluation and selection criteria in that section.

§ 62.7 What will an individual be awarded for participating in the scholarship program?

One commenter noted that the regulations make no provision for the payment of tuition on or before its due date.

The regulations have not been amended in response to the commenter's notation. It is the Secretary's view that since the payment of tuition will routinely be made following the acceptance of the participant in the NHSC Scholarship Program and the receipt from the school in which the participant is enrolled of a bill for the amount of the tuition, there is no reason for the regulations to specify the timing of the payment.

§ 62.8 What does an individual have to do in return for the scholarship program award?

One commenter suggested that the regulations should include a statement on the minimum salary guaranteed Scholarship Program participants and the option of becoming a "precommissioned" officer in the Commissioned Corps of the Public Health Service.

The Secretary believes that these regulations are not an appropriate mechanism to list the minimum salary levels for Scholarship Program participants while they are fulfilling their service obligations because these levels change yearly for both the Commissioned Corps and the Civil Service and reflect varying degrees of training and experience possessed by Scholarship Program participants. The Secretary notes, however, that the approximate salary levels will be distributed each year in the applicant packets for each eligible health discipline.

With respect to the commenter's second suggestion that the regulations be amended to provide that Scholarship Program participants have the option of

becoming "precommissioned" officers in the Commissioned Corps of the Public Health Service, the Secretary notes that since the authority to appoint officers to the Commissioned Corps is set forth in section 203 of the Act and its implementing regulations (42 CFR Part 21), the regulations need not be amended to supplement this authority.

Section 62.8 of the regulations has been changed to clearly indicate that a participant's period of obligated service under the Scholarship Program will begin when he or she begins providing health services in the health manpower shortage area to which he or she is assigned by the Secretary.

Another commenter requested that the rules and regulations governing the release from service obligations under section 753 of the Act be clearly and completely explained to all scholarship participants.

The Secretary is currently developing policy and programmatic guidelines for implementation of section 753. All scholarship recipients will be provided with these guidelines in the near future.

Section 62.8(f) of the regulations provides that any participant who demonstrates exceptional promise for medical research may perform his or her Scholarship Program service obligation by participating in the National Research Service Award ("NRSA") Program for individual Postdoctoral Fellows (section 472 of the Act). This section also provides that any individual who participates in this NRSA Program will receive credit toward satisfying the service obligation owed under the Scholarship Program for the period of time he or she is engaged in activities meeting the service requirements of the NRSA Program. In addition, any individual whose time served under the NRSA Program is less than his or her total Scholarship Program obligation must serve the remainder of this total Scholarship Program obligation as a member of the NHSC.

This section of the regulations has been amended to provide that any individual whose period of service under the NRSA Program is less than the total service obligation owed under the Scholarship Program may complete the remainder of his or her Scholarship Program service obligation (1) by engaging in research activities which meet the service criteria of the NRSA Program, or (2) as a member of the NHSC providing health services in the full-time clinical practice of his or her profession. This amendment gives the Secretary the flexibility of allowing an individual whose Scholarship Program service obligation is greater than the period of time served under the NRSA Program to engage in approved research activities for the remainder of his or her Scholarship Program service obligation.

§ 62.9 Under what circumstances can the period of obligated service be deferred to complete approved graduate training?

Three commenters objected to the three-year limitation on the period of time for which the obligated service of a physician may be deferred to complete graduate training, noting that physicians require a longer post-graduate training period to become fully trained psychiatrists. Two other commenters suggested that the regulations be amended to allow deferment for any period of time necessary to complete specialty training.

Section 752(b)(5)(A) (as in effect on September 28, 1979) authorized the Secretary to defer, upon request of a participant receiving a degree from a school of medicine, osteopathy, or dentistry, the beginning of that participant's service obligation "until the end of the period of time (not to exceed three years) required to complete an internship, residency or other advanced clinical training." However, on September 29, 1979, section 752(b)(5)(A) of the Act was amended by Title II, section 202 of Pub. L. 96-76 to provide that the period of the ferment to complete internship, residency or other advanced clinical training for participants receiving degrees from schools of medicine, osteopathy or dentistry may not exceed three years or "such greater period as the Secretary, consistent with the needs of the Corps, may authorize." This amendment also provides that participants who receive degrees from schools of veterinary medicine, optometry, podiatry or phamacy will, upon request, receive a deferment to complete internship, residency or other advanced clinical training for a period "not to exceed one year or such greater period as the Secretary, consistent with the needs of the Corps, may authorize." Thus, this amendment creates a new category of participants whose service obligations may be deferred upon request (veterinarians, optometrists, podiatrists, and pharmacists) and authorizes the Secretary to extend the period of deferment for this new category as well as the existing category of physicians, osteopaths, and dentists, if the Secretary determines that this extension is consistent with the needs of the NHSC. Sections 62.9 and 62.2 (definition of approved graduate training) of the regulations have been changed to reflect these statutory amendments.

Section 62.9(a) of the regulations provides that any Scholarship Program recipient who receives a degree in medicine or osteopathy and who does not intend to enter an approved graduate training program under section 752(b)(5)(A) of the Act, as amended, must complete at least one year of approved graduate training relating to primary care before beginning his or her period of obligated service. Specifically, the regulations provide that this one year of primary care training must be in (1) an allopathic flexible first-year program whose sponsorship includes approved residencies in family practice, internal medicine, or pediatrics, or a categorical first-year program in family practice, internal medicine or pediatrics, or (2) a rotating internship in osteopathic medicine.

The purpose of this requirement is to assure that physicians who begin their service obligations will be qualified to engage in the delivery of primary care in the NHSC. The Secretary notes, however, that since medical residencies are evolving in nature, there may be training programs other than those described in § 62.9(a) which provide in their first year the experience necessary to assure that physicians are qualified to deliver health services in the NHSC. Thus, the regulations have been changed to provide that in addition to the programs described in § 62.9(a) this required one year training can be in "such other programs as the Secretary determines provides comparable experience."

§ 62.10 What will happen if an individual does not comply with the terms and conditions of participating in the scholarship program?

One commenter noted that the two-year period of repayment under section 62.10(b) for participants who fail to maintain an acceptable level of academic training, are dismissed from school for disciplinary reasons, or voluntarily terminate their course of study, is unreasonable because it places an undue hardship upon an individual who is no longer in school and who presumably does not have the financial resources to repay the default penalty.

The Secretary recognizes the commenter's concern and has amended the period of repayment under § 62.10(b) from 2 to 3 years.

One commenter noted that the $1,500 liquidated damage penalty in section 754(a) of the Act for failure to accept payment of the scholarship award places the applicant at a severe disadvantage, and suggested that any individual whose application for a scholarship is approved should be given a ten day grace period following the notification of acceptance in the Scholarship Program to reject the scholarship award without penalty. The Secretary believes that the suggested change is not necessary because consistent with the statutory scheme of the Scholarship Program authority each individual whose application for participation is approved by the Secretary will be notified of this approval and given an opportunity to accept this offer of participation before the Secretary signs his or her Scholarship Program contract. The specific amount of time to be allowed for acceptance of the offer will be published in the application materials.

One respondent objected to the "exorbitant" default penalty in section 754(c) of the Act which requires, in part, that any participant who fails to begin his or her service obligation must repay an amount equal to three times the total scholarship award (including interest). The Secretary notes that Congress adopted the substantial default penalty in section 754(c) in order to emphasize that the purpose of the Scholarship Program is to obtain health services for health manpower shortage areas and not to "subsidize health professional education". Thus, in light of this clear congressional intent and the statutory language in section 754(c), the regulations have not been changed in response to the commenter's objection.

Finally, the Department has made a number of editorial changes to clarify the regulations. Accordingly, the existing Part 62 of 42 CFR is revoked and a new Part 62 is adopted to read as set forth below.

Dated: April 8, 1980.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

PART 62—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

Sec.

62.1 What is the scope and purpose of the National Health Service Corps scholarship program?
62.2 Definitions.
62.3 Who is eligible to apply for a scholarship program award?
62.4 To whom will scholarship program awards be available in addition to those individuals pursuing courses of study leading to degrees in medicine, osteopathy or dentistry?
62.5 How is application made for a scholarship program award?
62.6 How will individuals be selected to participate in the scholarship program?
62.7 What will an individual be awarded for participating in the scholarship program?
62.8 What does an individual have to do in return for the scholarship program award?
62.9 Under what circumstances can the period of obligated service be deferred to complete approved graduate training?
62.10 What will happen if an individual does not comply with the terms and conditions of participating in the scholarship program?
62.11 When can a scholarship program payment obligation be discharged in bankruptcy?
62.12 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?
62.13 What are the limitations on the receipt of concurrent benefits?
62.14 What are the special provisions relating to recipients of awards under the PH/NHSC scholarship training program who will also receive awards under the scholarship program?

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); Sec. 751 of the Public Health Service Act, 90 Stat. 2281 (42 U.S.C. 294t).

§ 62.1 What is the scope and purpose of the National Health Service Corps scholarship program?

These regulations apply to the award of scholarships under the National Health Service Corps Scholarship Program authorized by section 751 of the Public Health Service Act (42 U.S.C. 294t) to students receiving academic training in medicine, osteopathy, dentistry, and other health professions. The purpose of this program is to assure an adequate supply of trained health professionals for the National Health Service Corps which is used by the Secretary to improve the delivery of health services in health manpower shortage areas.

§ 62.2 Definitions.

As used in this part:

"Acceptable level of academic standing" means the level at which a full-time student retains eligibility to continue in attendance in school under the school's standards and practices.

"Act" means the Public Health Service Act, as amended.

"Approved graduate training" means those programs of graduate training in medicine, osteopathy, dentistry or other health professions which (a) lead to eligibility for board certification or which provide other evidence of completion, and (b) have been approved by the appropriate health professions body as determined by the Secretary.

"Full-time student" means an individual pursuing a course of study leading to a degree in medicine, osteopathy, dentistry or an equivalent credential for a particular health profession who is enrolled for a sufficient number of credit hours in any academic term to complete the course of study within not more than the number of academic terms normally required at the school. If an individual is enrolled in a school and is pursuing a course of study which is designed to be completed in more than 4 years, the individual will be considered a full-time student for only the last 4 years of the course of study.

"Health manpower shortage area" means the geographic area, the population group, the public or nonprofit private medical facility, or other public facility which has been determined by the Secretary to have a shortage of health manpower under section 332 of the Act and its implementing regulations (42 CFR Part 5).

"National of the United States" means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"Public Health and National Health Service Corps Scholarship Training Program", or "PH/NHSC Scholarship Training Program", means the program authorized by section 225 of the Act as in effect on September 30, 1977, and repealed on October 1, 1977.

"Scholarship Program" means the National Health Service Corps Scholarship Program authorized by section 751 of the Act (42 U.S.C. 294t).

"Scholarship Program participant" or "participant" means an individual whose application to the Scholarship Program has been approved and whose contract has been accepted and signed by the Secretary.

"School" means a school of medicine, osteopathy, dentistry, or other health profession which (a) provides training leading to a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry, or an equivalent credential for a particular health profession, and (b) which is accredited by a body or bodies recognized for accreditation purposes by the Secretary of Education.

"School year" means all or part of the 12-month period from July 1 through June 30 during which an applicant is enrolled in a school as a full-time student.

"Service" means the United States Public Health Service.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means one of the several States, the District of Columbia, the

Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 62.3 Who is eligible to apply for a scholarship program award?

(a) To be eligible for a scholarship under this part an applicant must:

(1) Be accepted for enrollment, or be enrolled, as a full-time student in a school located in a State;

(2) Be pursuing a course of study or program offered by the school leading to a degree in medicine, osteopathy, dentistry, or an equivalent credential for a particular health profession;

(3) Be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the National Health Service Corps;

(4) Be a National of the United States; and

(5) Submit an application to participate in the Scholarship Program together with a signed contract as described in section 751(f) of the Act.

(b) Any applicant who owes an obligation for professional practice to a State or other entity under an agreement entered into before filing an application under this part is ineligible for an award unless a written statement satisfactory to the Secretary is submitted from the State or entity that (1) there is no potential conflict in fulfilling the service obligation to the State or entity and the Scholarship Program, and that (2) the Scholarship Program service obligation will be served before the service obligation for professional practice owed to the State or entity.

(c) Any individual who receives a scholarship under the Indian Health Service Scholarship Program (section 757 of the Act) or the Scholarship Program for First-Year Students of Exceptional Financial Need (section 758 of the Act) is ineligible to participate in the Scholarship Program during the School year(s) for which the scholarships under sections 757 or 758 of the Act were awarded.

§ 62.4 To whom will scholarship program awards be available in addition to individuals pursuing courses of study leading to degrees in medicine, osteopathy, or dentistry?

The Secretary will, from time-to-time, publish in the **Federal Register** a list of those health professions in addition to medicine, osteopathy, and dentistry for which the National Health Service Corps has need and for which support is available. The Secretary will also publish any other eligibility criteria, in addition to those in § 62.3, that may be required to assure that participants can be utilized during their periods of obligated service in a manner that will best meet the needs of the National Health Service Corps.

§ 62.5 How is application made for a scholarship program award?

Each individual desiring a scholarship under this part must submit an application (including a signed contract as required under section 751(f) of the Act) in the form and at the time prescribed by the Secretary.

62.6 How will individuals be selected to participate in the scholarship program?

(a) *General.* In deciding which applications for participation in the Scholarship Program will be approved, the Secretary will place the applications into categories based upon the selection priorities described in paragraph (b) of this section. Except for continuation awards (see paragraph (e) of this section) the Secretary will then evaluate each applicant under paragraph (c) of this section.

(b) *Priorities.* (1) First priority will be given to individuals who have previously received a scholarship under the PH/NHSC Scholarship Training Program, a scholarship under this Scholarship Program, or a scholarship under section 758 of the Act, authorizing scholarships for first-year students of exceptional financial need. (2) Second priority will be given to applicants who are entering their first year of study.

(c) *Selection.* (1) In selecting participants, the Secretary will take into consideration those factors which he or she determines necessary to assure effective participation in the Scholarship Program. These factors may include, but not be limited to (i) work experience, (ii) community background, (iii) career goals, (iv) faculty recommendation, and (v) academic performance.

(2) Special consideration will be given to (i) medical and osteopathic students who indicate their intention to enter family practice, internal medicine, pediatrics, or osteopathic general practice residencies, (ii) dental students who indicate their intention to undertake general practice training following graduation or who plan no postgraduate training, and (iii) those individuals who indicate an intent to pursue other types of clinical practice or specialized training for which the National Health Service Corps has a particular need.

(d) *Duration of Scholarship award.* Subject to the availability of funds for the Scholarship Program, the Secretary will award a participant a scholarship under this part for a period of 1 school year.

(e) *Continuation awards.* Subject to the availability of funds for the Scholarship Program, the Secretary will award a continuation scholarship if (1) the participant requests a continuation, (2) the award will not extend the total period of Scholarship Program support beyond 4 years, and (3) the participant is eligible for continued participation in the Scholarship Program.

§ 62.7 What will an individual be awarded for participating in the scholarship program?

(a) *Amount of Scholarship.* (1) A scholarship award for each school year will consist of (i) tuition, (ii) reasonable educational expenses, including required fees, books, supplies, and required educational equipment, and (iii) a monthly stipend for the 12-month period beginning with the first month of each school year in which the individual is a participant. For purposes of this section "required fees" means those fees which are charged by the school to all students pursuing a similar curriculum and "required educational equipment" means educational equipment which must be rented or purchased by all students pursuing a similar curriculum at that school.

(2) The Secretary may enter into a contract with the school in which the participant is enrolled for the direct payment of tuition and reasonable educational expenses in the participant's behalf.

(b) *Payment of Scholarship: leave-of-absence; repeated course work.* The Secretary will suspend scholarship payments to or on behalf of a participant if the school (1) approves a leave-of-absence for the participant for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Secretary has previously made scholarship payments under § 62.7. However, if the repeated course work does not delay the participant's graduation date, scholarship payments will continue except for any additional costs relating to the repeated course work. Any scholarship payments suspended under this paragraph will be resumed by the Secretary upon notification by the school that the participant has returned from the leave-of-absence or has completed the repeated course work and is pursuing as a full-time student the course of study for which the scholarship was awarded.

§ 62.8 What does an individual have to do in return for the scholarship program award?

(a) *General.* Except as provided in paragraphs (d), (f), and (g) of this section, each participant is obligated to (1) become a member of the National Health Service Corps employed as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a Federal civilian in the full-time clinical practice of the participant's profession and (2) serve in the health manpower shortage area to which the participant is assigned by the National Health Service Corps.

(b) *Beginning of Service.* (1) The period of obligated service will begin when the Scholarship Program participant begins to provide services in the health manpower shortage area to which he or she is assigned by the Secretary. Except for those participants who receive a deferral under § 62.9 (a) or (b), this assignment will be made by the Secretary as soon as possible following: (i) the completion of the participant's course of study leading to a degree in medicine, osteopathy, dentistry, or an equivalent credential for a particular health profession, and (ii) appointment of the participant as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps.

(2) For purposes of this paragraph, "appointment" means only those appointments as Commissioned Officers in the Regular or Reserve Corps of the Service or as civilian members of the National Health Service Corps made specifically for the purpose of serving a participant's period of obligated service.

(c) *Duration of service.* Except as provided in § 62.14(b)(1), the period for which the Scholarship Program participant is obligated to serve is equal to 1 year for each school year for which the participant receives a scholarship award under this part, or 2 years, whichever is greater.

(d) *Service by detail.* If the Secretary determines that there is no need in a health manpower shortage area for a member of the profession in which the Scholarship Program participant is obligated to provide service, the Scholarship Program participant may be detailed to serve the period of obligated service as a full-time member of the profession for which the participant has been trained, in any unit of the Department of Health and Human Services as the Secretary may determine.

(e) *Creditability of approved graduate training.* Except as provided in § 62.14(b)(2), no period of approved graduate training will be credited toward satisfying the period of obligated service incurred under the Scholarship Program.

(f) *Service under the National Research Service Award Program.* (1) A Scholarship Program participant who demonstrates exceptional promise for medical research may perform the period of obligated service owed under this section by participating in the National Research Service Award Program for individual postdoctoral fellows authorized under section 472 of the Act.

(2) Exceptional promise for medical research will be demonstrated if the participant applies for a National Research Service Award for individual postdoctoral fellows, is selected to participate in this research program, and accepts the offer of participation. A Scholarship Program participant in the National Research Service Award Program will receive credit toward satisfying the period of obligated service incurred under this section for any period of time he or she is engaged in activities which meet the service requirements of the National Research Service Award Program.

(3) If the time served under the National Research Service Award Program is less than the total period of obligated service owed under the Scholarship Program, the participant will serve the remainder of the Scholarship Program service obligation (i) in activities which meet the criteria for service under the National Research Service Award Program, as approved by the Secretary or (ii) as a member of the National Health Service Corps providing health services in the full-time clinical practice of his or her health profession. A participant who fails to begin or complete the service requirements under the National Research Service Award Program may be subject to the default penalty under § 62.10(c) of this part and the default penalties under the National Research Service Award Program.

(g) *Release from service obligation to engage in private practice.* The Secretary will release a participant from all or part of the service obligation if the participant applies for a release under section 753 of the Act and agrees in writing to engage for a period equal to the remaining period of the participant's service obligation in the full-time private clinical practice of the participant's health profession, under the requirements of section 753 of the Act.

§ 62.9 Under what circumstances can the period of obligated service be deferred to complete approved graduate training?

(a) *Requested Deferment.* Upon the request of any participant receiving a degree from a school of medicine, osteopathy, or dentistry, veterinary medicine, optometry, podiatry or pharmacy, the Secretary will defer the beginning date of the obligated service to allow the participant to complete an approved graduate training program. The period of this deferment may not exceed (1) three years for any participant receiving a degree from a school of medicine, osteopathy or dentistry, or (2) one year for any participant recieving a degree from a school of veterinary medicine, optometry, podiatry or pharmacy. The Secretary may, however, extend this period of deferment if the Secretary determines that the extension is consistent with the needs of the National Health Service Corps.

(b) *Required Deferment.* Each participant receiving a degree in medicine or osteopathy who does not intend to enter training which can be completed within the deferment period granted under paragraph (a) of this section must complete at least one year of approved graduate training before beginning the period of obligated service. This one year of training must be in (1) an allopathic flexible first-year program whose sponsorship includes approved residencies in family practice, internal medicine, pediatrics, or a categorical first-year program in family practice, internal medicine, or pediatrics; (2) a rotating internship in osteopathic medicine; or (3) such other programs as the Secretary determines provides comparable experience. Any participant receiving a degree in medicine or osteopathy who fails to complete the one year of required training or an approved graduate training program for which a deferment was granted under paragraph (a) of this section will be subject to the default penalties of § 62.10(c).

(c) *Altering Deferment.* Before altering the length or type of approved graduate training for which the period of obligated service was deferred under paragraphs (a) or (b) of this section, the participant must request and obtain the Secretary's approval of the alteration.

(d) *Additional Terms of Deferment.* The Secretary may prescribe additional terms and conditions for deferment under paragraphs (a), (b), and (c) of this section as necessary to carry out the purposes of the Scholarship Program.

(e) *Beginning of Service After Deferment.* Any participant whose period of obligated service has been

deferred under paragraphs (a) or (b) of

complete the period of obligated service,

which so intrude on the participant's

scholarship under the PH/NHSC

FEDERAL EMERGENCY

purchase flood insurance at rates made

deferred under paragraphs (a) or (b) of this section must begin the obligated service when the participant begins to provide health services in the health manpower shortage area to which he or she is assigned by the Secretary. This assignment will be made by the Secretary as soon as possible following (1) the completion of the requested or required graduate training for which the deferment was granted, and (2) appointment as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps.

§ 62.10 What will happen if an individual does not comply with the terms and conditions of participating in the scholarship program?

(a) If a participant, other than one described in paragraph (b) of this section, fails to accept payment or instructs the school not to accept payment of the scholarship provided by the Secretary, the participant must, in addition to any service or other obligation incurred under the contract, pay to the United States the amount of $1,500 liquidated damages. Payment of this amount must be made within 30 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment.

(b) When a participant fails to maintain an acceptable level of academic standing, is dismissed from the school for disciplinary reasons, or voluntarily terminates the course of study or program for which the scholarship was awarded before completing the course of study or program, the participant must, instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under § 62.7. Payment of this amount must be made within 3 years of the date the participant becomes liable to make payment under this paragraph.

(c) If a participant fails to begin or complete the period of obligated service incurred under § 62.8, including failing to comply with the applicable terms and conditions of a deferment granted by the Secretary, the participant must pay to the United States an amount determined by the formula set forth in section 754(c) of the Act. Payment of this amount shall be made within 1 year of the date that the participant failed to begin or complete the period of obligated service, as determined by the Secretary.

§ 62.11 When can a scholarship program payment obligation be discharged in bankruptcy?

In accordance with section 754(d)(3) of the Act, any payment obligation incurred under § 62.10 may not be discharged in bankruptcy under Title XI of the United States Code until 5 years after the date on which the payment obligation is due.

§ 62.12 Under what circumstances can the service or payment obligation be canceled, waived or suspended?

(a) Any obligation of a participant for service or payment will be canceled upon the death of the participant.

(b)(1) A participation may seek a waiver or suspension of the service or payment obligations incurred under this part by written request to the Secretary setting forth the bases, circumstances, and causes which support the requested action. The Secretary may approve a request for a suspension for a period of 1 year. A renewal of this suspension may also be granted.

(2) The Secretary may waive or suspend any service or payment obligation incurred by a participant whenever compliance by the participant (i) is impossible, or (ii) would involve extreme hardship to the participant and if enforcement of the service or payment obligation would be against equity and good conscience.

(c) Compliance by a participant with a service or payment obligation will be considered impossible if the Secretary determines, on the basis of information and documentation as may be required, that the participant suffers from a physical or mental disability resulting in the permanent inability of the participant to perform the service or other activities which would be necessary to comply with the obligation.

(d) In determining whether to waive or suspend any or all of the service or payment obligations of a participant as imposing an undue hardship and being against equity and good conscience, the Secretary, on the basis of information and documentation as may be required, will consider:

(1) The participant's present financial resources and obligations;

(2) The participant's estimated future financial resources and obligations; and

(3) The extent to which the participant has problems of a personal nature, such as physical or mental disability, terminal illness in the immediate family which so intrude on the participant's present and future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

§ 62.13 What are the limitations on the receipt of concurrent benefits?

Under section 741(f) or 836(h) of the Act, the Secretary may agree to repay a portion of an individual's educational loans in return for the individual's agreement to practice his or her profession in an area in need of health manpower. However, a Scholarship Program participant may not enter into an agreement with the Secretary under section 741(f) or 836(h) of the Act, until either (1) the participant has completed the service obligation under the Scholarship Program, (2) the Secretary has recovered from the participant an amount determined under § 62.10, or (3) any service or payment obligation has been waived under § 62.12. In no case shall a scholarship received under these regulations be considered an educational loan for the purposes of section 741(f) or 836(h) of the Act.

§ 62.14 What are the special provisions relating to recipients of awards under the PH/NHSC scholarship training program who will also receive awards under the scholarship program?

(a) Except as provided in paragraph (b) of this section, if a participant has previously received an award under the PH/NHSC Scholarship Training Program and also receives an award under the Scholarship Program, the terms and conditions of these regulations will apply to the participant's entire obligation incurred under both the PH/NHSC Scholarship Training Program and the Scholarship Program.

(b) If a participant has received an award under the PH/NHSC Scholarship Training Program and also receives an award under the Scholarship Program, the following conditions apply:

(1) *Period of obligated service—carry over.* The period of obligated service owed by the participant is equal to the total number of school years for which scholarship support was awarded under both the PH/NHSC Scholarship Training Program and the Scholarship Program without regard to either Program's minimum support requirement under 42 CFR 62.7(a) (1976) as adopted on May 22, 1974 (see 39 FR 17962), and under § 62.8(c) of this part.

(2) *Credit for internship and residency training.* (i) If a participant received a scholarship under the PH/NHSC Scholarship Training Program for any school year beginning before October 12, 1976, the participant will receive credit toward satisfying the periods of obligated service incurred under the PH/NHSC Scholarship Training Program and under § 62.8 of this part for any periods of internship or residency training served in a Service or National Health Service Corps facility.

(ii) If a participant received a scholarship for the first time during the 1977–78 school year under the PH/NHSC Scholarship Training Program, the participant will only receive 1 year of credit toward satisfying the period of obligated service incurred under the PH/NHSC Scholarship Training Program for internship or residency training served in a Service or National Health Service Corps facility.

(3) *Default penalties.* The PH/NHSC Scholarship Training Program default penalty will apply to a participant who fails to begin or complete the active duty service obligation incurred under that Program, and the § 62.10 default penalties will apply to a participant who fails to begin or complete the service obligation incurred under § 62.8 of these regulations. In determining which default penalty to apply when an individual who has received a Scholarship award under both the PH/NHSC Scholarship Training Program and the Scholarship Program fails to begin or complete his service obligation, the service obligations will be considered to have been served in the order in which they were incurred.

[FR Doc. 80-24838 Filed 8-19-80; 8:45 am]

BILLING CODE 4110-83-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5876]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–8620.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

OMB Circular A–95 regarding State and local clearinghouse review of Federally assisted programs and projects is applicable.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Colorado	Otero County	Rock Ford, city of	080135	750527 emerg., 800603 reg	740405
Nebraska	Cass County	Greenwood, village of	310374	770630 emerg., 800603 reg	750926
Arkansas	Union County	Huttig, city of	050206	750623 emerg., 800604 reg	740524
California	Orange County	Anaheim, city of	060213	750627 emerg., 800604 reg	740726
California	Glenn County	Willows, city of	060059	750610 emerg., 800604 reg	740726
Colorado	Summit County	Breckenridge, town of	080172	750725 emerg., 800604 reg	740524
Colorado	Weld County	Eaton, town of	080180	750303 emerg., 800604 reg	740510
Connecticut	Tolland County	Coventry, town of	090110	740107 emerg., 800604 reg	740809
Florida	Putnam County	Palatka, city of	120273	750120 emerg., 800604 reg	740719
Iowa	Sac County	Lake View, city of	190503	750303 emerg., 800604 reg	780723
Illinois	St. Clair County	Alorton, village of	170617	740426 emerg., 800604 reg	740405
Illinois	Cook County	Dixmoor, village of	170082	750721 emerg., 800604 reg	740405
Illinois	McHenry County	Fox River Grove, village of	170477	730417 emerg., 800604 reg	740405
Illinois	Lake County	Grayslake, village of	170363	731211 emerg., 800604 reg	740405
Illinois	Tazewell County	North Pekin, village of	170853	750722 emerg., 800604 reg	740308
Illinois	Tazewell County	Pekin, city of	170654	750730 emerg., 800604 reg	740412
Illinois	Lake County	Round Lake Park, village of	170391	750721 emerg., 800604 reg	740329
Illinois	Carroll County	Savannah, city of	170021	740404 emerg., 800604 reg	740116
Illinois	Woodford County	Spring Bay, village of	170887	770826 emerg., 800604 reg	750328
Illinois	Cook County	Westchester, village of	170170	721124 emerg., 800604 reg	730907
Indiana	Lake County	East Chicago, city of	180130	750226 emerg., 800604 reg	740412
Indiana	Porter County	Porter, town of	180208	731016 emerg., 800604 reg	731228
Kentucky	Nelson County	Bloomfield, city of	210179	750808 emerg., 800604 reg	740510
Kentucky	McCracken County	McCracken County *	210151	750724 emerg., 800604 reg	741206
Louisiana	East Feliciana Parish	Jackson, town of	220333	760226 emerg., 800604 reg	750110
Massachusetts	Middlesex County	Chelmsford, town of	250188	731206 emerg., 800604 reg	741025
Massachusetts	Franklin County	Conway, town of	250114	751216 emerg., 800604 reg	740802

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Massachusetts	Essex County	Georgetown, town of	250081	750731 emerg., 800604 reg	740726
Massachusetts	Plymouth County	Lakeville, town of	250271	750415 emerg., 800604 reg	740906
Massachusetts	Franklin County	Leverett, town of	250120	750916 emerg., 800604 reg	740628
Massachusetts	Worcester County	Shrewsbury, town of	250332	750411 emerg., 800604 reg	740906
Massachusetts	Essex County	Topsfield, town of	250106	750926 emerg., 800604 reg	740913
Maine	Kennebec County	Chelsea, town of	230234	751001 emerg., 800604 reg	750221
Maine	Aroostook County	Fort Kent, town of	230019	740410 emerg., 800604 reg	741129
Michigan	Allegan County	Casco, township of	260004	741106 emerg., 800604 reg	741129
Minnesota	Lac Qui Parle County	Lac Qui Parle county *	270239	740703 emerg., 800604 reg	780210
Missouri	Platte County	Edgerton, city of	290291	741007 emerg., 800604 reg	741220
Missouri	Dunklin County	Kennett, city of	290129	731123 emerg., 800604 reg	740329
Missouri	Greene County	Republic, city of	290148	750506 emerg., 800604 reg	740405
Mississippi	Panola County	Panola county *	280125	740304 emerg., 800604 reg	771125
Montana	Lewis and Clark County	East Helena, city of	300039	750523 emerg., 800604 reg	740405
North Carolina	Guilford County	Guilford County *	370111	740430 emerg., 800604 reg	750117
New Hampshire	Grafton County	Lebanon, city of	330061	711210 emerg., 800604 reg	740920
New Jersey	Union County	Roselle Park, borough of	340473	730425 emerg., 800604 reg	770422
New Jersey	Middlesex County	South River, borough of	340280	740618 emerg., 800604 reg	740405
New Jersey	Bergen County	Wallington, borough of	340079	750618 emerg., 800604 reg	740614
New York	Rensselaer County	Brunswick town of	361130	770826 emerg., 800604 reg	761112
New York	Albany County	Green Island, village of	360009	741203 emerg., 800604 reg	740201
New York	Westchester County	Mount Pleasant, town of	360919	731226 emerg., 800604 reg	740503
New York	Broome County	Sanford, town of	360054	750725 emerg., 800604 reg	740726
New York	Niagara County	Youngstown, village of	360515	730330 emerg., 800604 reg	740301
Ohio	Franklin County	Canal Winchester, village of	390169	731226 emerg., 800604 reg	740201
Ohio	Franklin County	Dublin, village of	390673	740621 emerg., 800604 reg	750103
Ohio	Lorain County	North Ridgeville, city of	390352	750707 emerg., 800604 reg	740607
Ohio	Lucas County	Ottawa Hills, village of	390382	751024 emerg., 800604 reg	731109
Ohio	Lucas County	Toledo, city of	395373	701218 emerg., 800604 reg	761008
Ohio	Lorain County	Wellington, village of	390358	750812 emerg., 800604 reg	740109
Pennsylvania	Northampton County	Bethlehem, township of	420980	740123 emerg., 800604 reg	740614
Pennsylvania	Lancaster County	Conoy, township of	420545	730706 emerg., 800604 reg	731012
Pennsylvania	Schuylkill County	Tremont, borough of	420791	730426 emerg., 800604 reg	740222
South Carolina	Abbeville County	Abbeville, city of	450001	751009 emerg., 800604 reg	740531
South Carolina	Newberry County	Newberry, city of	450153	741127 emerg., 800604 reg	740908
South Dakota	Hughes County	Pierre, city of	460040	750416 emerg., 800604 reg	740807
South Dakota	Moody County	Trent, town of	460083	750218 emerg., 800604 reg	741206
Texas	Wharton County	El Campo, city of	480653	750717 emerg., 800604 reg	740807
Texas	Tarrant County	Fort Worth, city of	480596	710917 emerg., 800604 reg	0
Texas	Harris County	Spring Valley, city of	480313	740731 emerg., 800604 reg	740628
Texas	Collin County	Wylie, city of	480759	770516 emerg., 800604 reg	761112
Utah	Grand County	Moab, city of	490072	740917 emerg., 800604 reg	740621
Vermont	Caledonia County	Burke, town of	50025	750623 emerg., 800604 reg	740807
Washington	King County	Duvall, town of	530282	771206 emerg., 800604 reg	760820
Washington	Thurston County	Tenino, town of	530302	750218 emerg., 800604 reg	750627
Wisconsin	Dane County	Cambridge, village of	550080	751128 emerg., 800604 reg	731217
Arizona	Pinal County	Coolidge, city of	040082	750205 emerg., 800610 reg	740405
Colorado	Weld County	Ault, town of	080179	750528 emerg., 800610 reg	740517
Colorado	Weld County	Gilcrest, city of	080213	760821 emerg., 800610 reg	750822
Iowa	Adair County	Adair, city of	190537	760812 emerg., 800610 reg	750822
Iowa	Monroe County	Albia, city of	190541	760824 emerg., 800610 reg	750919
Iowa	Carroll County	Arcadia, town of	190694	760903 emerg., 800610 reg	750928
Iowa	Muscatine County	Fruitland, city of	190212	750806 emerg., 800610 reg	760625
Iowa	Carroll County	Glidden, city of	190044	750513 emerg., 800610 reg	740816
Iowa	Delaware County	Greeley, city of	190739	790503 emerg., 800610 reg	761029
Iowa	O'Brien County	Hartley, city of	190590	761026 emerg., 800610 reg	750926
Iowa	Linn County	Lisbon, city of	190807	780323 emerg., 800610 reg	760319
Iowa	Boone County	Madrid, city of	190325	761021 emerg., 800610 reg	750919
Iowa	Harrison County	Mondamin, city of	190149	750522 emerg., 800610 reg	741018
Iowa	Linn County	Mount Vernon, city of	190192	751210 emerg., 800610 reg	760604
Iowa	Monona County	Rodney, city of	190921	751024 emerg., 800610 reg	780704
Iowa	Woodbury County	Sloan, city of	190299	750812 emerg., 800610 reg	740524
Iowa	Carroll County	Templeton, city of	190811	760903 emerg., 800610 reg	760319
Iowa	Dickinson County	Terril, city of	190812	761101 emerg., 800610 reg	760910
Iowa	Allamakee County	Waukon, city of	190008	750826 emerg., 800610 reg	740322
Kansas	Sedgwick County	Goddard, city of	200500	771130 emerg., 800610 reg	760716
Kansas	Butler County	Towanda, city of	200534	780823 emerg., 800610 reg	750808
Missouri	St. Louis County	Flordell Hills, city of	290457	740121 emerg., 800610 reg	740503
Ohio	Cuyahoga County	Mayfield Heights, city of	390115	760503 emerg., 800610 reg	750725
Oregon	Josephine County	Cave Junction, city of	410107	750613 emerg., 800610 reg	741108
Pennsylvania	Armstrong County	Apollo, borough of	420092	750103 emerg., 800610 reg	740531
Pennsylvania	Washington County	Donora, borough of	420851	740729 emerg., 800610 reg	740123
Arkansas	Craighead County	Caraway, city of	050311	750306 emerg., 800618 reg	750110
California	Santa Clara County	Morgan Hill, city of	060346	750630 emerg., 800618 reg	740531
California	Sonoma County	Sebastopol, city of	060382	741213 emerg., 800618 reg	740308
Florida	Hillsborough County	Hillsborough county*	120112	701009 emerg., 800618 reg	770617
Florida	Hillsborough County	Tampa, city of	120114	701127 emerg., 800618 reg	770701
Illinois	McHenry County	Sunnyside, village of	170466	750827 emerg., 800618 reg	740830
Kansas	Kingman County	Kingman, city of	200183	750519 emerg., 800618 reg	740215
Massachusetts	Essex County	Amesbury, town of	250075	750807 emerg., 800618 reg	740614
Massachusetts	Worcester County	Berlin, town of	250294	750811 emerg., 800618 reg	741018
Massachusetts	Worcester County	Bolton, town of	250296	750310 emerg., 800618 reg	740628
Massachusetts	Bristol County	Dighton, town of	250052	730309 emerg., 800618 reg	740802
Massachusetts	Norfolk County	Dover, town of	250238	751112 emerg., 800618 reg	740920
Massachusetts	Bristol County	Freetown, town of	250056	750811 emerg., 800618 reg	740802
Massachusetts	Franklin County	Gill, town of	250117	750902 emerg., 800618 reg	740315
Massachusetts	Hampshire County	Hatfield, town of	250184	750509 emerg., 800618 reg	740920
Massachusetts	Norfolk County	Medway, town of	250243	750811 emerg., 800618 reg	740809
Massachusetts	Barnstable County	Sandwich, town of	250012	721229 emerg., 800618 reg	770114
Massachusetts	Middlesex County	Sherborn, town of	250212	780613 emerg., 800618 reg	770527
Massachusetts	Franklin County	Sunderland, town of	250129	750722 emerg., 800618 reg	740308
Massachusetts	Bristol County	Taunton, city of	250066	730611 emerg., 800618 reg	741206
Massachusetts	Middlesex County	Winchester, town of	250228	750811 emerg., 800618 reg	740719

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Maine	Franklin County	Phillips, town of	230060	751023 emerg., 800618 reg	740614
Michigan	Washtenaw County	Ann Arbor, township of	260535	770926 emerg., 800618 reg	750815
Michigan	Clinton	De Witt, township of	260631	750825 emerg., 800618 reg	770617
Michigan	Berrien County	St. Joseph, township of	260045	750224 emerg., 800618 reg	760730
Minnesota	Kanabec County	Grasston, city of	270215	800618 emerg., 800618 reg	761210
Minnesota	Scott County	Savage, city of	270433	740424 emerg., 800618 reg	740329
Minnesota	Washington County	St. Paul Park, city of	270514	740911 emerg., 800618 reg	740329
North Carolina	Watauga County	Watauga County *	370251	750717 emerg., 800618 reg	750110
New Mexico	Quay County	San Jon, village of	350047	750620 emerg., 800618 reg	741122
New York	Monroe County	Brighton, town of	360410	730126 emerg., 800618 reg	740531
New York	Niagara County	Lewiston, town of	360502	740327 emerg., 800618 reg	740412
New York	Westchester County	New Rochelle, city of	360922	730427 emerg., 800618 reg	731226
New York	Rensselaer County	North Greenbush, town of	361164	770217 emerg., 800618 reg	751003
New York	Westchester County	Scarsdale, village of	360932	730425 emerg., 800618 reg	731226
Ohio	Lorain County	Oberlin, city of	390353	740925 emerg., 800618 reg	740109
Ohio	Lorain County	Sheffield, village of	390354	750703 emerg., 800618 reg	740621
Ohio	Sandusky County	Woodville, village of	390495	751121 emerg., 800618 reg	740315
Oregon	Clackamas County	Milwaukie, city of	410019	720519 emerg., 800618 reg	740405
Pennsylvania	Allegheny County	Cheswick, borough of	420822	750730 emerg., 800618 reg	740201
Pennsylvania	Luzerne County	Duryea, borough of	420803	730112 emerg., 800618 reg	731226
Pennsylvania	Allegheny County	McCandless, township of	421081	741004 emerg., 800618 reg	740920
Pennsylvania	Bradford County	South Waverly, borough of	420176	740911 emerg., 800618 reg	740109
Pennsylvania	Blair County	Tyrone, township of	421395	751217 emerg., 800618 reg	741213
South Carolina	York County	Fort Mill, town of	450195	750610 emerg., 800618 reg	740531
South Dakota	Yankton County	Mission Hill, town of	460091	751128 emerg., 800618 reg	741213
Texas	Collin County	Frisco, city of	480134	751007 emerg., 800618 reg	750124
Texas	Collin County	McKinney, city of	480135	750409 emerg., 800618 reg	740524
Vermont	Caledonia County	Lyndon, town of	500026	740320 emerg., 800618 reg	0
Wahington	Cowlitz County	Castle Rock, city of	530277	750508 emerg., 800618 reg	760716
Ohio	Ottawa County	Clay Center, village of	390875	790327 emerg., 800620 reg	0
Iowa	Wapello County	Agency, city of	190539	780902 emerg., 800630 reg	750905
Iowa	Muscatine County	Atalissa, city of	190211	751022 emerg., 800630 reg	741108
Iowa	Lyon County	Larchwood, city of	190605	780630 emerg., 800630 reg	750629
Missouri	Cass County	Creighton, city of	290063	790803 emerg., 800630 reg	770513
Alabama	Coffee County	Enterprise, city of	010045	750221 emerg., 800702 reg	740726
Alabama	Geneva County	Geneva, city of	010085	750306 emerg., 800702 reg	740329
Alabama	Talladega County	Talladega County *	010297	751003 emerg., 800702 reg	741213
Arkansas	Union County	Calion, city of	050206	741025 emerg., 800702 reg	740412
Arkansas	Clay County	Corning, city of	050030	741101 emerg., 800702 reg	741012
Arkansas	Union County	Smackover, city of	050209	750513 emerg., 800702 reg	731026
Arkansas	Washington County	West Fork, town of	050220	741203 emerg., 800702 reg	740628
California	Los Angeles County	La Mirada, city of	060131	750807 emerg., 800702 reg	740628
Connecticut	New London County	Montville, town of	090099	731127 emerg., 800702 reg	741018
Connecticut	Fairfield County	Westport, town of	090019	711008 emerg., 800702 reg	740719
Delaware	Kent County	Bowers, town of	100002	740613 emerg., 800702 reg	740809
Delaware	Sussex County	Slaughter Beach, town of	100050	740528 emerg., 800702 reg	741115
Florida	Seminole County	Casselberry, city of	120291	740911 emerg., 800702 reg	740201
Illinois	Madison County	Alton, city of	170437	740325 emerg., 800702 reg	740308
Illinois	Madison County	Bethalto, village of	170436	740612 emerg., 800702 reg	740503
Illinois	Cook County	Blue Island, city of	170064	750110 emerg., 800702 reg	740322
Illinois	McHenry County	Cary, village of	170475	741127 emerg., 800702 reg	740412
Illinois	Du Page County	Clarendon Hills, village of	170203	730829 emerg., 800702 reg	740308
Louisiana	Ouachita Parish	Ouachita Parish *	220135	740129 emerg., 800702 reg	740913
Massachusetts	Franklin County	Bernardston, town of	250110	760204 emerg., 800702 reg	761210
Massachusetts	Franklin County	Charlemont, town of	250112	750701 emerg., 800702 reg	740802
Massachusetts	Franklin County	Colrain, town of	250113	750903 emerg., 800702 reg	740726
Massachusetts	Essex County	Danvers, town of	250079	750722 emerg., 800702 reg	740726
Massachusetts	Franklin County	Deerfield, town of	250115	760420 emerg., 800702 reg	740913
Massachusetts	Middlesex County	Dracut, town of	250190	740506 emerg., 800702 reg	740809
Massachusetts	Dukes County	Edgartown, town of	250089	750707 emerg., 800702 reg	740531
Massachusetts	Franklin County	Greenfield, town of	250118	750123 emerg., 800702 reg	740913
Massachusetts	Essex County	Methuen, town of	250093	740626 emerg., 800702 reg	740630
Massachusetts	Norfolk County	Millis, town of	250244	760302 emerg., 800702 reg	740719
Massachusetts	Dukes County	Oak Bluffs, town of	250072	740206 emerg., 800702 reg	770719
Massachusetts	Bristol County	Raynham, town of	250061	750623 emerg., 800702 reg	740809
Massachusetts	Franklin County	Shelburne, town of	250127	750722 emerg., 800702 reg	740628
Massachusetts	Middlesex County	Weston, town of	250226	750730 emerg., 800702 reg	740726
Massachusetts	Middlesex County	Woburn, city of	250229	750626 emerg., 800702 reg	770628
Maine	Franklin County	Strong, town of	230061	750621 emerg., 800702 reg	740614
Michigan	Genesee County	Grand Blanc, city of	260255	740520 emerg., 800702 reg	750711
Michigan	Genesee County	Montrose, township of	260399	750729 emerg., 800702 reg	750627
Minnesota	Washington County	Newport, city of	270510	740215 emerg., 800702 reg	740322
New Mexico	Santa Fe County	Santa Fe, city of	350070	750213 emerg., 800702 reg	770510
New York	Steuben County	Erwin town of	360774	730323 emerg., 800702 reg	731123
New York	Erie County	Lackawanna, city of	360247	740117 emerg., 800702 reg	740628
Ohio	Cuyahoga County	Chagrin Falls, village of	390103	750729 emerg., 800702 reg	740315
Ohio	Summit County	Clinton, village of	390525	750609 emerg., 800702 reg	740208
Ohio	Lorain County	Elyria, city of	390350	750328 emerg., 800702 reg	740503
Ohio	Trumbull County	Girard, city of	390536	750827 emerg., 800702 reg	740123
Ohio	Lorain County	Grafton, village of	390614	790907 emerg., 800702 reg	741220
Oklahoma	Jackson County	Altus, city of	400072	750220 emerg., 800702 reg	740628
Oklahoma	Custer County	Clinton, city of	400054	741125 emerg., 800702 reg	740123
Oklahoma	Creek County	Drumright, city of	400052	750612 emerg., 800702 reg	731123
Oklahoma	Muskogee County	Muskogee, city of	400125	750422 emerg., 800702 reg	740322
Oklahoma	Canadian County	Mustang, city of	400409	750206 emerg., 800702 reg	760409
Oklahoma	Kay County	Ponca City, city of	400080	740306 emerg., 800702 reg	740201
Oklahoma	Potawatomie County	Shawnee, city of	400178	750402 emerg., 800702 reg	741227
Pennsylvania	Bucks County	Langhorne, borough of	421074	750124 emerg., 800702 reg	740531
Pennsylvania	Berks County	Mohnton, borough of	420142	740123 emerg., 800702 reg	731226
Pennsylvania	York County	Newberry, township of	422226	740719 emerg., 800702 reg	741018
Pennsylvania	Allegheny County	O'Hara, township of	421088	741203 emerg., 800702 reg	740920
Pennsylvania	Tioga County	Putnam, township of	420824	730829 emerg., 800702 reg	740201
Pennsylvania	Allegheny County	Rankin, borough of	420087	750210 emerg., 800702 reg	740315
Pennsylvania	Tioga County	Richmond, township of	420825	730801 emerg., 800702 reg	740503

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance for area	Special flood hazard area identified	Date 1

V 45 AG 2080 UMI

State	County	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Pennsylvania	Luzerne County	Sugarloaf, township of	420997	731217 emerg., 800702 reg	740503
Pennsylvania	Montgomery County	Towamencin, township of	422236	740621 emerg., 800702 reg	750131
South Carolina	Orangeburg County	Holly Hill, town of	450163	780819 emerg., 800702 reg	740807
Tennessee	Williamson County	Franklin, city of	470206	740925 emerg., 800702 reg	740531
Tennessee	Franklin County	Winchester, city of	470056	750509 emerg., 800702 reg	740814
Texas	Bexar County	Selma, city of	480046	751001 emerg., 800702 reg	741206
Virginia	Wise County	Coeburn, town of	510716	750306 emerg., 800702 reg	740510
Vermont	Windsor County	Bridgewater, town of	500144	751113 emerg., 800702 reg	740816
Vermont	Rutland County	Poultney, town of	500099	750724 emerg., 800702 reg	740826
Vermont	Rutland County	Poultney, village to	500266	750805 emerg., 800702 reg	741206
Vermont	Lamoille County	Stowe, town of	500066	750805 emerg., 800702 reg	740721
California	Amador County	Ione, city of	060016	750916 emerg., 800708 reg	740524
Utah	Box Elder County	Mantua, town of	490009	750820 emerg., 800708 reg	750117
Maine	Cumberland County	Baldwin, town of	230200	0 emerg., 800714 reg	750214
Utah	Box Elder County	Corinne, city of	490197	770928 emerg., 800715 reg	760825

(National Flood Insurance Act of 1968 (title XII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24697 Filed 8-19-80; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 64

[Docket No. FEMA 5078]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alaska	Unorganized borough	Valdez, city of	020094B	May 13, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Nov. 1, 1974 Apr. 8, 1977	Sept. 3, 1980
Arkansas	Fulton	Mammoth Springs, city of	050082B	Nov. 29, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Mar. 15, 1974 Oct. 17, 1975	Do.
Colorado	Douglas	Douglas County, unincorporated areas.	080049B	Aug. 28, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Feb. 7, 1975 Sept. 6, 1977	Do.
Florida	Brevard	Palm Bay, city of	120404A	July 31, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended		Do.
Hawaii	Honolulu	Honolulu, city and county	150001A	June 5, 1970, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 4, 1971	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Idaho	Canyon	Caldwell, city of	160036B	May 2, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Nov. 19, 1976	Do.
Do	do	Middleton, city of	160037B	May 22, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Nov. 2, 1973 July 30, 1976	Do.
Illinois	Cook	Countryside, city of	170079B	Oct. 29, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Apr. 5, 1974 Feb. 6, 1976	Do.
Do	Lake	Old Mill Creek, village of	170385B	Aug. 8, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Aug. 30, 1974	Do.
Kentucky	Daviess	Daviess County, unincorporated areas.	210062A	Dec. 12, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Dec. 6, 1974	Do.
Louisiana	Claiborne Parish	Homer, town of	220052B	Oct. 9, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Dec. 28, 1973 Nov. 14, 1975	Do.
Do	St. Mary Parish	St. Mary Parish, unincorporated areas.	220192A	Apr. 6, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.		Do.
Maryland	Worcester	Pocomoke City, city of	240084C	Nov. 27, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Apr. 5, 1974 Dec. 12, 1975 Apr. 16, 1976	Do.
Michigan	Kent	East Grand Rapids, city of	260105B	May 21, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	May 17, 1974 Sept. 26, 1975	Do.
Minnesota	Hennepin	Medina city of	270171B	July 18, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 28, 1974 Sept. 26, 1975	Do.
Do	Goodhue	Zumbrota, city of	270148B	June 23, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	May 24, 1974 Oct. 31, 1975	Do.
Mississippi	Washington	Washington County, unincorporated areas.	280177B	May 4, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Oct. 18, 1974 Dec. 16, 1977	Do.
Nebraska	Jefferson	Fairbury city of	310120B	Aug. 28, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Aug. 2, 1974 Jan. 9, 1976	Do.
New York	Chemung	Chemung, town of	360149A	Apr. 11, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Oct. 1, 1976	Do.
Do	Monroe	Scottsville, village of	360434B	July 23, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Mar. 8, 1974 Dec. 5, 1975	Do.
North Carolina	Catawba	Catawba County unincorporated areas.	370050B	Oct. 24, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 10, 1977	Do.
Do	do	Catawba, town of	370052B	July 8, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 28, 1974 May 21, 1976	Do.
Do	do	Conover, town of	370053B	Apr. 15, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 21, 1974 Aug. 6, 1976	Do.
Do	do	Long View, town of	370055B	June 17, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 28, 1974 June 11, 1976	Do.
Do	do	Maiden, town of	370056B	May 8, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Sept. 20, 1974 June 11, 1976	Do.
Do	do	Newton, town of	370057B	Mar. 25, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 28, 1974 Apr. 2, 1976	Do.
Oregon	Lincoln	Lincoln County unincorporated areas.	410129B	Feb. 16, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Jan. 17, 1975 Aug. 9, 1977	Do.
Pennsylvania	Luzerne	Black Creek, township of	420598B	Mar. 9, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	May 31, 1974 May 14, 1976	Do.
Do	Allegheny	Blawnox, borough of	420013B	Nov. 1, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 14, 1974 May 7, 1976	Do.
Do	McKean	Eldred, borough of	420666B	Aug. 1, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Apr. 12, 1974 May 7, 1976	Do.
Do	do	Eldred, township of	421854A	Aug. 21, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Nov. 15, 1974	Do.
Do	Bucks	Haycock, township of	421127B	July 28, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	July 26, 1974 Dec. 30, 1977	Do.
Do	Luzerne	Lake, township of	421833A	Oct. 24, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Nov. 22, 1974	Do.
Do	Tioga	Lawrence, township of	421006B	Apr. 16, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Mar. 8, 1974 Dec. 24, 1976	Do.
Do	Dauphin	Lykens, borough of	420386B	Mar. 9, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Nov. 2, 1973 May 7, 1976	Do.
Do	Tioga	Morris, township of	421155B	Apr. 15, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Jan. 28, 1977	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Berks	Robeson, township of	420146C	Dec. 29, 1972, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Apr. 5, 1974 June 18, 1976	Do.
Tennessee	Hamilton	Chattanooga, city of	470072A	Mar. 3, 1972, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	June 14, 1974	Do.
Vermont	Chittenden	Charlotte, town of	500309A	July 24, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Jan. 3, 1975	Do.
Do	Franklin	Richford, village of	500057B	Aug. 20, 1974, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Mar. 15, 1974 Feb. 11, 1977	Do.
West Virginia	Harrison	Anmore, town of	540054B	Apr. 7, 1975, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	July 26, 1974 Mar. 26, 1976	Do.
Wisconsin	Kewaunee	Kewaunee County unincorporated areas.	550212B	June 11, 1973, emergency, Sept. 3, 1980 regular, Sept. 3, 1980, suspended.	Apr. 21, 1978	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24998 Filed 8-19-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5877]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or September 19, 1980, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin September 19, 1980, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin September 19, 1980, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

BILLING CODE 6718-03-M

EFFECTIVE DATE August 1, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (0 and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
IL	170538	Perry County (Uninc. Area)	Index 0005B 0006B 0008B	I	FL	B	4	3	N/A	12/13/74 5/26/78	N/A	9 10 16	N/A	N/A	Victor Provatore, Chairman County Board of Commissioners P.O. Box 438 Courthouse Pickneyville, IL 62274 Phone: (618) 357-8282
PA	421460	Township of Benner (Centre Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	N/A	11/ 1/74	N/A	9 10 16	N/A	N/A	Richard D. Meyer, Chairman Twp. Board of Supervisors Municipal Bldg. R.D. 4, Box 128-B Bellefonte, PA 16823 Phone: (814) 355-1419
PA	421437	Township of Clearfield (Cambria Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	N/A	7/18/75	N/A	9 10 16	N/A	N/A	Patrick J. Sheehan, Chairman Twp. Board of Supervisors R.D. 1, Box 138 Patton, PA 16668 Phone: (814) 674-8633
PA	422518	Township of Middlecreek (Somerset Co.)	Index 0002A 0003A 0004A	I	FL	B	1	3	N/A	1/3/75	N/A	9 10 16	N/A	N/A	Maurice J. Saylor, Chairman Twp. Board of Supervisors R.D. 2 Rockwood, PA 15557 Phone: (814) 352-4066

EFFECTIVE DATE 8-1-80

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (0 and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
NC	370204	T. of Red Springs (Robeson Co.)	0001B	I	FL	B	1	3		4/1/77		10	N/A	N/A	Earle Watson, Mayor 217 South Main Street Red Springs, NC 28377 (919) 843-5241
TN	470087	C. of Brownsville (Haywood Co.)	0005B	I	FL	B	1	3		5/3/74 4/23/76		8 9 10	N/A	N/A	Joseph G. Taylor P.O. Box 375 Brownsville, TN 38012 (901) 772-1212
TN	470066	C. Minor Hill (Giles Co.)	0001A 0003A	I	FL	B	4	3		7/2/76		10	N/A	N/A	Harry Williams, Mayor P.O. Box 69 Minor Hill, TN 38473 (615) 565-3113
TN	470121	C. of Lewisburg (Marshall Co.)	0005B	I	FL	B	4	3		3/1/74 8/6/76		8 10	N/A	N/A	J.A. Biggs, Mayor Rt. 1, 505 Ellington Pkwy. Lewisburg, TN 37091
TN	470060	T. of Milan (Gibson Co.)	0001B 0002B	I	FL	B	1	3		5/24/74 8/27/76		8 9 10	N/A	N/A	Herb Davis, Mayor City Hall Milan, TN 38358 (901) 686-3301
TN	470190	T. of Guilt Edge (Tipton Co.)	0005B 0010B	I	FL	B	4	3		9/13/74 7/2/76		10	N/A	N/A	C.C. Alsbrooks, Mayor Rt. 7 Brighton, TN 38011 (901) 476-2438
TN	470009	T. of War Trace (Bedford Co.)	0001C	I	FL	B	4	3		6/14/74 4/23/76 9/17/76		10	N/A	N/A	Mr. Roscoe Stephens, Mayor P.O. Box 158 Wartrace, TN 37183 (615) 389-6144

EFFECTIVE DATE August 5, 1980

EFFECTIVE DATE August 8, 1980

EFFECTIVE DATE August 5, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
MO	290837	Scott County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A	I	FL	B	1	2	N/A	N/A	N/A	N/A	N/A	N/A	The Honorable Louie Hirschowitz Presiding Judge Scott County Courthouse Benton, MO 63736 (314) 545-3549

EFFECTIVE DATE August 8, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repositor
PA	421407	Twp. of Stevens (Bradford Co.)	0001B	I	FL	B	4	3	1	11/ 1/74 6/25/76	N/A	9 10 16	N/A	N/A	Edward Marshall, Chairman Twp. Board of Supervisors Rt. 1 Stevensville, PA 18845 Phone: Unlisted
PA	421663	Twp. of Taylor (Fulton Co.)	Index 0001B 0002B	I	FL	B	1	3	1	12/20/74 4/30/76	N/A	9 10 16	N/A	N/A	Gerald Hann, Sr., Chairman Twp. Board of Supervisors Municipal Building Box 627 Hustontown, PA 17229 Phone: (717) 987-3264
PA	422106	Twp. of West Buffalo (Union Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	1	11/ 1/74	N/A	9 10 16	N/A	N/A	John R. Englehart, Chairman Twp. Board of Supervisors Municipal Building Red Bank Schoolhouse R.D. 2 Mifflinburg, PA 17844 Phone: (717) 966-1346
VT	500295	Town of Norwich (Windsor Co.)	0010 B 0015 B 0020 B	I	FL	B	1	3	1	10/18/74 9/6/77		9 10	N/A	N/A	Charles Hodgdon, Chairman Board of Selectmen Town of Norwich Norwich, Vermont 05055 (802) 649-1419

EFFECTIVE DATE August 8, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repositor
TL	170927	Jackson County (Uninc. Area)	Index 0006B 0003C	I	FL	B	4	3	1	7/14/78 6/ 8/79	N/A	9 10 16	N/A	N/A	William G. Kelley Chairman, County Board Jackson County Courthouse Murphysboro, IL 62966 Phone: (618) 457-8976 (work
MI	260699	Village of Elk Rapids (Antrim Co.)	0001B	I	FL	B	1	3	1	3/10/78	N/A	9 16	N/A	N/A	Ted F. Miller, President 131 River Street Elk Rapids, MI 49629 Phone: (616) 264-9274
OH	390263B	Village of Florida (Henry Co.)	Index 01	I	FL	B	1	3	1	8/ 9/74 5/21/76	N/A	9 10 16	N/A	N/A	Kay Gessner, Mayor Village Hall Napoleon, OH 43545 Phone: (419) 762-5201
PA	421687	Twp. of Clay (Huntingdon Co.)	Index 0001A 0002A	I	FL	B	1	3	1	12/13/74	N/A	9 10 16	N/A	N/A	Charles Bard, Chairman Twp. Board of Supervisors R.D. 1 Three Springs, PA 17264 Phone: (814) 448-3634

EFFECTIVE DATE August 12, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
TX	481002	Shackelford County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A 0010A 0011A 0012A	I	FL	B	1	2	N/A	N/A	N/A	N/A	N/A	N/A	The Honorable Ernest B. Fincher County Judge Shackelford County Courthouse Albany, TX 76430 (915) 762-2232

V 45 A 2080 UMI

EFFECTIVE DATE 8/15/80

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
AL	010040	C. Jackson (Clarke Co.)	0002 A	I	FL	B	1	3	I	6/27/75		8 9 10	N/A	N/A	
AL	010360	T. Pisgah (Jackson Co.)	0001A	I	FL	B	1	3	I	3/12/76		9 10	N/A	N/A	

EFFECTIVE DATE August 15, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	421665	Township of Todd (Fulton Co.)	Index 0001A	I	FL	B	1	3	N/A	1/17/75	N/A	9 10 16	N/A	N/A	Reed C. Englert, Chairman Twp. Board of Supervisors Star Route Box 285 McConnellsburg, PA 17233 Phone: (717) 987-3263
PA	421666	Township of Wells (Fulton Co.)	Index 0001A 0002A	I	FL	B	1	3	N/A	12/13/74	N/A	9 10 16	N/A	N/A	Clifford Foreman, Chairman Twp. Board of Supervisors Wells Tannery, PA 16691 Phone: (814) 685-3662

EFFECTIVE DATE August 15, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	421025	Township of Penn (York Co.)	Index 0002B	I	FL	B	1	3	N/A	5/17/74 1/30/76	N/A	9 10 16	N/A	N/A	Eugene Furhman, President Community Twp. Board of Commissioners Municipal Building 1016 York Street Hanover, PA 17331 Phone: (717) 632-7366
PA	421446	Township of Summerhill (Cambria Co.)	Index 0001A	I	FL	B	1	3	N/A	11/29/74	N/A	9 10 16	N/A	N/A	William Evancic, Chairman Twp. Board of Supervisors R.D. 1 Sidman, PA 15955 Phone: (814) 487-7351
PA	421664	Township of Thompson (Fulton Co.)	Index 0001A 0003A	I	FL	B	1	3	N/A	12/13/74	N/A	9 10 16	N/A	N/A	Bruce Bivens, Chairman Twp. Board of Supervisors Star Route 1 Municipal Building Big Cove Tannery, PA 17212 Phone: (717) 294-3305

EFFECTIVE DATE August 15, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	421685	Township of Carbon (Huntingdon Co.)	Index 0001A	I	FL	B	1	3	N/A	1/10/75	N/A	9 10 16	N/A	N/A	Donald Hamilton, Chairman Twp. Board of Supervisors R.D. 1 Saxton, PA 16678 Phone: (814) 635-3212
PA	422116	Township of Columbus (Warren Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	N/A	1/17/75	N/A	9 10 16	N/A	N/A	John Brundage, Chairman Twp. Board of Supervisors R.D. 2 Corry, PA 16407 Phone: (814) 664-7164
PA	421890	Township of Middle Smithfield (Monroe Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	N/A	12/ 6/74	N/A	9 10 16	N/A	N/A	Thomas F. Bonser, Chairman Twp. Board of Supervisors R.D. : Municipal Building East Stroudsburg, PA 18301 Phone: (717) 588-6588
PA	422521	Township of Paint (Somerset Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	N/A	12/27/74	N/A	9 10 16	N/A	N/A	Ross Weaver, Chairman Twp. Board of Supervisors 400 Rear Hayes Street Twp. Building Windber, PA 15963 Phone: (814) 467-9788

V 45 AG 20 80 UMI

EFFECTIVE DATE August 19, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
TX	480456	McLennan County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A 0010A 0011A 0012A 0013A 0014A	I	FL	B	4	2	N/A -	N/A	N/A	N/A	N/A	N/A	The Honorable Bob L. Thomas County Judge McLennan County Courthouse 214 County Courthouse Waco, TX 76703 (817) 756-7171

EFFECTIVE DATE August 22, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	422424	Twp. of Fannett (Franklin Co.)	Index 0001A 0004A 0006A	I	FL	B	1	3	I	2/ 2/75	N/A	9 10 16	N/A	N/A	Wendell Campbell, Chairman Twp. Board of Supervisors Spring Run, PA 17262 Phone: (717) 349-7222
PA	421809	Twp. of Heidelberg (Lehigh Co.)	Index 0001B 0002B	I	FL	B	1	3	I	12/27/74 10/17/75	N/A	9 10 16	N/A	N/A	Rodney Schlauch, Sr. Chairman Twp. Board of Supervisors R.D. 2 Slatington, PA 18080 Phone: (215) 767-4892
PA	422098	Twp. of Liberty (Tioga Co.)	Index 0003A 0004A	I	FL	B	1	3	I	4/ 4/75	N/A	9 10 16	N/A	N/A	Robert E. Baker, Chairman Twp. Board of Supervisors R.D. Sebring Liberty, PA 16930 Phone: (717) 324-5281
PA	422520	Twp. of Northampton (Somerset Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	I	1/ 3/75	N/A	9 10 16	N/A	N/A	Melvin C. Cook, Chairman Twp. Board of Supervisors R.D. 1 Glencoe, PA 15563 Phone: (814) 267-5479

EFFECTIVE DATE August 22, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	421403	Twp. of Pike (Bradford Co.)	Index 0001B 0002B	I	FL	B	4	3	I	11/ 1/74 8/20/75	N/A	9 10 16	N/A	N/A	Kendall Jenner, Chairman Twp. Board of Supervisors R.D. 1 Rome, PA 18837 Phone: (717) 744-2642
PA	422445	Twp. of Pine Creek (Jefferson Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	I	1/24/75	N/A	9 10 16	N/A	N/A	Harry E. Emery, Chairman Twp. Board of Supervisors R.D. 1 Brookville, PA 15825 Phone: (814) 849-7501
PA	421799	Twp. of Scott (Lawrence Co.)	Index 0001A 0002A	I	FL	B	1	3	I	1/31/75	N/A	9 10 16	N/A	N/A	B.J. Doloughan, Chairman Twp. Board of Supervisors R.D. 4, Box 257 New Castle, PA 16101 Phone: (412) 654-3066

EFFECTIVE DATE August 26, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
AZ	040116	City of Lake Havasu City (Mohave County)	0001A 0002A 0003A 0004A	I	FL	B	1	2	I	N/A	N/A	N/A	N/A	N/A	The Honorable Gene Pinto Mayor, City of Lake Havasu City 1795 Civic Center Boulevard P.O. Box 70 Lake Havasu City, AZ 86403 (602) 855-1201
MO	290781	Mississippi County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A 0007A	I	FL	B	1	2	I	N/A	N/A	20	N/A	N/A	The Honorable Hunter Raffety Presiding County Judge Mississippi County Courthouse Charleston, MO 63834 (314) 683-2146
MO	290547	City of Napoleon (Lafayette County)	0001A	I	FL	B	4	2	I	N/A	N/A	20	N/A	N/A	The Honorable Ryland Potter Mayor, City of Napoleon City Hall Napoleon, MO 64074 (816) 934-2779

EFFECTIVE DATE August 29, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed Dash Suffix	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FIRM	9 Status of FIRM	10 Previous Map Dates FIRM	10 Previous Map Dates FIRM	11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
AL	010197	C. Childersburg (Talladega Co.)	0005 B	I	FL	B	1	3	I	6/14/74	N/A	9,10	N/A	N/A	Robert S. Limbaugh, Mayor City of Childersburg 118 Sixth Avenue, S.W. Childersburg, Alabama 35044
NC	370259	T. Wilkesboro (Wilkes Co.)	0005 B	I	FL	B	1	3	I	6/14/74 7/9/76	N/A	8,10	N/A	N/A	Fidell F. Frazier, Mayor Town of Wilkesboro 100 West Street Wilkesboro, North Carolina 28697 (919) 838-3951
TN	470132	C. Selmer (McNairy Co.)	0005 B	I	FL	B	1	3	I	4/5/74 4/2/76	N/A	9, 10	N/A	N/A	Billy Joe Glover, Mayor City of Selmer 144 Second Street Selmer, Tennessee 38375 (901) 645-3241
TN	470067	C. Pulaski (Giles Co.)	0005B	I	FL	B	1	3	I	5/24/74 1/30/76	N/A	8,10	N/A	N/A	Stacey A. Garner, Mayor City of Pulaski 203 South First Street Pulaski, Tennessee 38478 (615) 363-2516
TN	470336	C of Michie (McNairy Co.)	0005 A	I	FL	B	4	3	I	10/1/76	N/A	9,10	N/A	N/A	Hayward Hunt, Alderman City of Michie P.O. Box 27 The Water Plant Michie, TN (901) 239-9857

EFFECTIVE DATE August 29, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed Dash Suffix	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FIRM	9 Status of FIRM	10 Previous Map Dates FIRM	10 Previous Map Dates FIRM	11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
IL	170899	Franklin Co. (Uninc. Area)	Index 0001B 0004B	I	FL	B	4	3	I	1/13/78	N/A	9 16	N/A	N/A	Al Chiaventone, County Board Chairman Franklin County Courthouse Vinton, IL 62812 Phone: (618) 438-3221
MI	260116	Twp. of Hamburg (Livingston Co.)	Index 0001B 0002B	I	FL	B	1	3	I	7/19/74 1/21/77	N/A	9 10 16	N/A	N/A	Donald DeWolf, Township Supervisor Township Hall 7209 Stone Street Hamburg, MI 48139 Phone: (313) 231-1000
PA	421727	Twp. of Geskill (Jefferson Co.)	Index 0001A 0002A	I	FL	B	1	3	I	12/13/74	N/A	9 10 16	N/A	N/A	Dale Brooks, Chairman Twp. Board of Supervisors R.D. 2, Box 263 Punxsutawney, PA 15767 Phone: (814) 427-2220
PA	421977	Twp. of Genesee (Potter Co.)	Index 0001A 0002A	I	FL	B	1	3	I	4/4/75	N/A	9 10 16	N/A	N/A	Joseph Herbert, Chairman Twp. Board of Supervisors P.O. Box 256 Genesee, PA 16923 Phone: (814) 228-3417

EFFECTIVE DATE August 29, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed Dash Suffix	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FIRM	9 Status of FIRM	10 Previous Map Dates FIRM	10 Previous Map Dates FIRM	11 Revision Code (s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	422465	Boro. of New Beaver (Lawrence Co.)	0001A	I	FL	B	1	3	I	1/31/75	N/A	9 10 16	N/A	N/A	Walter Vogler, Mayor Wampum, PA 16157 Phone: (412) 535-8825
PA	422548	Twp. of Pleasant (Warren Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	I	1/12/75	N/A	9 10 16	N/A	N/A	Robert Wilcox, Chairman Twp. Board of Supervisors 8 Shari Lane Warren, PA 16365 Phone: (814) 723-5240 Twp. Bldg. Home - (814) 723-6368
PA	421861	Twp. of Wetmore (McKean Co.)	Index 0002A 0003A	I	FL	B	1	3	I	3/25/75	N/A	9 10 16	N/A	N/A	Donald Carlson, Chairman Twp. Board of Supervisors Municipal Building Railroad Street Kane, PA 16733 Phone: (814) 837-7490 Twp. Bldg. Home - (814) 837-9222

BILLING CODE 6718-03-C

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development

elevations are listed below for selected locations in the nation.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives

Final Base (100-Year) Flood Elevations—Continued

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24694 Filed 8-19-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Alabama	City of Brownville, Jefferson County (FEMA–5817).	Unnamed Creek 45	Just upstream of Avenue K	*526
			Just upstream of Louisville & Nashville Railroad	*539
	Maps available for inspection at City Hall, 2120 Avenue K, Brownville, Alabama 35020.			
Alabama	City of Midfield, Jefferson County (FEMA–5817).	Valley Creek	Just upstream of Midfield Road	*509
		Unnamed Creek	Just upstream of Collier Drive	*506
			Just downstream of Short Street	*511
	Maps available for inspection at City Hall, 390 Midfield Street, Midfield, Alabama 35228.			
Arizona	Peoria, City, Maricopa county (FEMA–5798).	New River	Northern Avenue	*1,080
			99th Avenue	*1,092
			Mountain View Road	*1,198
			Peoria Avenue	*1,112
			Atchison, Topeka and Sante Fe Railroad	*1,140
			Upstream side of Thunderbird Road	*1,155
			5,400' downstream of Bell Road	*1,175
			Bell Road	*1,204
			Union Hill Drive	*1,230
			Beardsley Road	*1,253
			Deer Valley Road	*1,282
			Pinnacle Peak Road	*1,311
		Agua Fria River	Bell Road (Extended)	*1,162
			Beardsley Road (Extended)	*1,188
		Skunk Creek	Confluence with New River	*1,167
			83rd Avenue	*1,180
			Greenway Road	*1,184
			Arizona Canal	*1,205
			Upstream Corporate Limits	*1,210
	Maps available at the City Hall Complex, 8355 West Peoria Avenue, Peoria, Arizona.			
California	Whittier (City), Los Angeles County, FEMA–5817.	Turnbull Canyon	50 feet northeast of the intersection of Painter Avenue and Camilla Street.	*418
			Intersection of Sycamore Drive and Broadway	#1
		Savage Creek	150 feet north of intersection of Vista Street and York Avenue	*380
		San Gabriel River	Area bounded between Durfee Avenue and Siphon Road	*220
	Maps available at City Hall, 13230 Penn Street, Whittier, California			
Connecticut	Deep River, Town, Middlesex County (Docket No. FEMA–5725).	Deep River	Connecticut Valley Railroad (Upstream side)	*11
			Dam No. 1 (Downstream side)	*19
			Dam No. 1 (Upstream side)	
			State Route 9A (Upstream side)	*21
			Dam No. 3 (Downstream side)	*29
			Dam No. 3 (Upstream side)	*39
			Bridge Street (Upstream side)	*41
			Dam No. 4 (Downstream side)	*43
			Dam No. 4 (Upstream side)	*45
			Middle crossing of Elm Street (Upstream side)	*47
			State Route 9 Northbound (Downstream side)	*57
			State Route 9 Southbound (Upstream side)	*62
			Upstream crossing of Elm Street (Upstream side)	*73

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Dam No. 5 (Downstream side)	*78
			Dam No. 5 (Upstream side)	*83
			Dam No. 6 (Downstream side)	*115
			Dam No. 6 (Upstream side)	*129
		Connecticut River	Entire length within community	*11
	Maps available at the Town Hall, Deep River, Connecticut.			
Connecticut	Stamford (City), Fairfield County, FEMA–5815.	Mianus River	50 feet upstream from center of Merribrook Lane	*103
			Intersection of river and center of Farms Road	*193
		Rippowan River	Intersection of Green Place and Renwick Street	*22
			100 feet upstream from center of Cold Spring Road	*41
			Intersection of Black Road and Wire Mill Road	*137
		Noroton River	Intersection of river and center of Glen Terrace	*41
			Intersection of river and center of Camp Avenue	*75
		Toilsome Brook	25 feet upstream from intersection of brook and center of West Lane	*56
		Laurel Brook	25 feet upstream from intersection of brook and center of Reservoir Lane.	*280
		Long Island Sound	Intersection of Tupper Drive and Carter Drive	*12
			Intersection of Flying Cloud Road and Dolphin Cove Way	*12
	Maps available at City Clerk's Office, 175 Atlantic Street, Stamford, Connecticut.			
Delaware	Bethel, Town, Sussex County (Docket No. FEMA–5815).	Chesapeake Bay (Broad Creek)	Entire shoreline within Bethel	*6
	Maps available at the Bethel Methodist Church, Bethel, Delaware.			
Delaware	Blades, Town, Sussex County (Docket No. FEMA–5815).	Chesapeake Bay	Entire shoreline within community	*6
	Maps available at the Blades Town Hall, 4th Street, Blades, Delaware.			
Delaware	Laurel, Town, Sussex County (Docket No. FEMA–5815).	Broad Creek	Downstream Corporate Limits	*6
			Downstream side of Willow Street	*7
			Upstream Corporate Limits	*12
		Rossakatum Branch	Confluence with Broad Creek	*7
			Downstream West 6th Street	*9
			Upstream West 6th Street	*12
			Upstream Corporate Limits	*14
			Approximately 790 feet upstream of Oaklane Drive	*15
		Georgetown Road Branch	Confluence with Records Pond	*12
			Approximately 100 feet downstream of Delaware Avenue	*17
			Upstream Delaware Avenue	*25
			Upstream Corporate Limits	*27
	Maps available at the Laurel Town Hall, Laurel, Delaware.			
Florida	Wakulla County, unincorporated areas, FEMA–5815.	Sopchoppy River	Interstate of River and State Highway 22	*13
		Lost Creek	100 feet upstream from intersection of River and State Highway 374	*22
			200 feet upstream from intersection of River and State Highway 368	*31
		Buckhorn Creek	150 feet upstream from intersection of Creek and U.S. Highway 319 and State Highway 375.	*21
		West Branch Buckhorn Creek	200 feet upstream from intersection of Creek and U.S. Highway 319 and State Highway 375.	*23
		Ochlockonee River	Intersection of River and U.S. Highway 319 and State Highway 377	*11
		Gulf of Mexico	Intersection of State Highway 372B and State Highways 30, 61 and U.S. Highway 98 near Panacea Park.	*10
			Intersection of State Highway 365 and State Highway 30 and U.S. Highway 98 at Newport.	*12
	Maps available at Wakulla County Courthouse, Church Street, Crawfordville, Florida.			
Illinois	(V), Broadview, Cook County (Docket No. FEMA–5817).	Addison Creek	Southern corporate limit	*620
			Just downstream Indiana Harbor Belt Railroad	*623
			Just upstream Illinois Central Gulf Railroad	*625
			Just downstream of Eisenhower Expressway	*627
		Salt Creek	About 740 feet upstream confluence with Addison Creek	*620
			South West corporate limits	*622
	Maps available at the City Clerk's Office, Village Hall, 1600 Roosevelt Road, Broadview, Illinois 60153.			
Illinois	(C), Champaign, Champaign County (Docket No. FEMA–5815).	Boneyard Creek	Downstream corporate limits	*720
			About 175 feet upstream of Springfield Avenue	723
			Just downstream of Conrail	*729
			About 50 feet downstream of Illinois Central Gulf Railroad	*731
			Just upstream of Illinois Central Gulf Railroad	*733
		Upper Boneyard Creek	About 100 feet downstream of Neil Street	*736
			Just downstream of Bloomington Road	*747
		Third Street Boneyard Creek Tributary.	At confluence with Boneyard Creek	*722
			About 700 feet upstream of confluence with Boneyard Creek	723
		Copper Slough	About 950 feet downstream of Kirby Avenue	*712
			About 150 feet downstream of William Street	*720
			Just downstream of Springfield Avenue	*724
			Just downstream of Parkland Way Road	*744
			Just upstream of Conrail	*750

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(C), Champaign, Champaign County (Docket No. FEMA–5815).	Copper Slough	About 1,000 feet upstream of Kirby Avenue	*736
			About 1,000 feet upstream of Bradley Avenue	*744
			About 1,000 feet upstream of Springfield Avenue	*750
			About 1,000 feet upstream of Parkland Way Road	*760
			Just upstream of Conrail	*766
	Maps available at the City Building, 102 North Neil Street, Champaign, Illinois.			
Illinois	(V), Hanover Park, Cook County (Docket No. FEMA–5817).	Unnamed Creek	Just upstream of Lake Street	*722
			Just upstream of Irving Park Road	*732
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*736
			Just upstream of Barrington Road	*744
			Just upstream of Devon Avenue	*750
	Maps available at the Village Hall, 1515 Irving Park Road, Hanover Park, Illinois.			
Illinois	(V), Lombard, DuPage County (Docket No. FEMA–5817).	Unnamed Creek	Just upstream of Lombard Avenue	*690
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*694
			Just upstream of Main Street	*698
			Just upstream of Grace Street	*704
			Just upstream of Meyers Road	*710
	Maps available at the Village Hall, 255 East Wilson Avenue, Lombard, Illinois.			
Illinois	(V), Northbrook, Cook County (Docket No. FEMA–5817).	Unnamed Creek	Just upstream of Shermer Road	*654
			Just upstream of Dundee Road	*664
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*668
			Just upstream of Waukegan Road	*674
			Just upstream of Techny Road	*680
	Maps available at the Village Hall, 1225 Cedar Lane, Northbrook, Illinois.			
Illinois	(V), Schaumburg, Cook County (Docket No. FEMA–5817).	Unnamed Creek	Just upstream of Schaumburg Road	*744
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*748
			Just upstream of Roselle Road	*754
			Just upstream of Meacham Road	*760
			Just upstream of Higgins Road	*766
	Maps available at the Village Hall, 101 Schaumburg Road, Schaumburg, Illinois.			
Illinois	(V), Streamwood, Cook County (Docket No. FEMA–5817).	Unnamed Creek	Just upstream of Irving Park Road	*732
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*736
			Just upstream of Barrington Road	*744
			Just upstream of Devon Avenue	*750
	Maps available at the Village Hall, 1301 East Schaumburg Road, Streamwood, Illinois.			
Illinois	(V), Wheeling, Cook County (Docket No. FEMA–5817).	Unnamed Creek	Just upstream of Dundee Road	*664
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*668
			Just upstream of Wheeling Road	*674
			Just upstream of Palatine Road	*680
	Maps available at the Village Hall, 255 West Dundee Road, Wheeling, Illinois.			
Indiana	Bloomington, City, Monroe County (FEMA–5798).	Clear Creek	Just upstream of Rockport Road	*722
			Just upstream of Bloomington Corporate Limits	*732
			Just upstream of Bloomington Corporate Limits	*736
			Just upstream of Bloomington Corporate Limits	*744
			Just upstream of Bloomington Corporate Limits	*750
	Maps available at the City Hall, 401 North Morton Street, Bloomington, Indiana.			
Indiana	Hammond, City, Lake County (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the City Hall, 5925 Calumet Avenue, Hammond, Indiana.			
Indiana	Lake County, unincorporated areas (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the Lake County Courthouse, 2293 North Main Street, Crown Point, Indiana.			
Indiana	Michigan City, City, La Porte County (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the City Hall, 100 East Michigan Boulevard, Michigan City, Indiana.			
Indiana	Portage, City, Porter County (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the City Hall, 6070 Central Avenue, Portage, Indiana.			
Indiana	Porter County, unincorporated areas (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the Porter County Courthouse, 16 East Lincolnway, Valparaiso, Indiana.			
Indiana	Valparaiso, City, Porter County (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the City Hall, 166 Lincolnway, Valparaiso, Indiana.			
Indiana	Whiting, City, Lake County (FEMA–5798).	Lake Michigan	Entire shoreline within community	*6
	Maps available at the City Hall, 1443 119th Street, Whiting, Indiana.			
Kansas	Johnson County, unincorporated areas (FEMA–5798).	Indian Creek	Just upstream of Nall Avenue	*1,000
			Just upstream of Mission Road	*1,008
			Just upstream of Roe Avenue	*1,015
			Just upstream of Lamar Avenue	*1,022
			Just upstream of Metcalf Avenue	*1,030
			Just upstream of Antioch Road	*1,040
			Just upstream of Quivira Road	*1,050
			Just upstream of Switzer Road	*1,060
			Just upstream of Conrail	*1,070
			Just upstream of Shawnee Mission Parkway	*1,080
			Just upstream of Renner Road	*1,090
			Just upstream of Conrail	*1,100
			Just upstream of Lackman Road	*1,110
			Just upstream of Santa Fe Railroad	*1,120
			Just upstream of Old Santa Fe Road	*1,130
			Just upstream of Conrail	*1,140
			Just upstream of Pflumm Road	*1,150
			Just upstream of Conrail	*1,160
			Just upstream of Lackman Road	*1,170
			Just upstream of Conrail	*1,180
			Just upstream of Old Santa Fe Road	*1,190
			Just upstream of Conrail	*1,200
			Just upstream of Pflumm Road	*1,210
			Just upstream of Conrail	*1,220
			Just upstream of Lackman Road	*1,230
			Just upstream of Conrail	*1,240
			Just upstream of Old Santa Fe Road	*1,250
			Just upstream of Conrail	*1,260
			Just upstream of Pflumm Road	*1,270
			Just upstream of Conrail	*1,280
			Just upstream of Lackman Road	*1,290
			Just upstream of Conrail	*1,300
			Just upstream of Old Santa Fe Road	*1,310
			Just upstream of Conrail	*1,320
			Just upstream of Pflumm Road	*1,330
			Just upstream of Conrail	*1,340
			Just upstream of Lackman Road	*1,350
			Just upstream of Conrail	*1,360
			Just upstream of Old Santa Fe Road	*1,370
			Just upstream of Conrail	*1,380
			Just upstream of Pflumm Road	*1,390
			Just upstream of Conrail	*1,400
			Just upstream of Lackman Road	*1,410
			Just upstream of Conrail	*1,420
			Just upstream of Old Santa Fe Road	*1,430
			Just upstream of Conrail	*1,440
			Just upstream of Pflumm Road	*1,450
			Just upstream of Conrail	*1,460
			Just upstream of Lackman Road	*1,470
			Just upstream of Conrail	*1,480
			Just upstream of Old Santa Fe Road	*1,490
			Just upstream of Conrail	*1,500
			Just upstream of Pflumm Road	*1,510
			Just upstream of Conrail	*1,520
			Just upstream of Lackman Road	*1,530
			Just upstream of Conrail	*1,540
			Just upstream of Old Santa Fe Road	*1,550
			Just upstream of Conrail	*1,560
			Just upstream of Pflumm Road	*1,570
			Just upstream of Conrail	*1,580
			Just upstream of Lackman Road	*1,590
			Just upstream of Conrail	*1,600
			Just upstream of Old Santa Fe Road	*1,610
			Just upstream of Conrail	*1,620
			Just upstream of Pflumm Road	*1,630
			Just upstream of Conrail	*1,640
			Just upstream of Lackman Road	*1,650
			Just upstream of Conrail	*1,660
			Just upstream of Old Santa Fe Road	*1,670
			Just upstream of Conrail	*1,680
			Just upstream of Pflumm Road	*1,690
			Just upstream of Conrail	*1,700
			Just upstream of Lackman Road	*1,710
			Just upstream of Conrail	*1,720
			Just upstream of Old Santa Fe Road	*1,730
			Just upstream of Conrail	*1,740
			Just upstream of Pflumm Road	*1,750
			Just upstream of Conrail	*1,760
			Just upstream of Lackman Road	*1,770
			Just upstream of Conrail	*1,780
			Just upstream of Old Santa Fe Road	*1,790
			Just upstream of Conrail	*1,800
			Just upstream of Pflumm Road	*1,810
			Just upstream of Conrail	*1,820
			Just upstream of Lackman Road	*1,830
			Just upstream of Conrail	*1,840
			Just upstream of Old Santa Fe Road	*1,850
			Just upstream of Conrail	*1,860
			Just upstream of Pflumm Road	*1,870
			Just upstream of Conrail	*1,880
			Just upstream of Lackman Road	*1,890
			Just upstream of Conrail	*1,900
			Just upstream of Old Santa Fe Road	*1,910
			Just upstream of Conrail	*1,920
			Just upstream of Pflumm Road	*1,930
			Just upstream of Conrail	*1,940
			Just upstream of Lackman Road	*1,950
			Just upstream of Conrail	*1,960
			Just upstream of Old Santa Fe Road	*1,970
			Just upstream of Conrail	*1,980
			Just upstream of Pflumm Road	*1,990
			Just upstream of Conrail	*2,000
			Just upstream of Lackman Road	*2,010
			Just upstream of Conrail	*2,020
			Just upstream of Old Santa Fe Road	*2,030
			Just upstream of Conrail	*2,040
			Just upstream of Pflumm Road	*2,050
			Just upstream of Conrail	*2,060
			Just upstream of Lackman Road	*2,070
			Just upstream of Conrail	*2,080
			Just upstream of Old Santa Fe Road	*2,090
			Just upstream of Conrail	*2,100
			Just upstream of Pflumm Road	*2,110
			Just upstream of Conrail	*2,120
			Just upstream of Lackman Road	*2,130
			Just upstream of Conrail	*2,140
			Just upstream of Old Santa Fe Road	*2,150
			Just upstream of Conrail	*2,160
			Just upstream of Pflumm Road	*2,170
			Just upstream of Conrail	*2,180
			Just upstream of Lackman Road	*2,190
			Just upstream of Conrail	*2,200
			Just upstream of Old Santa Fe Road	*2,210
			Just upstream of Conrail	*2,220
			Just upstream of Pflumm Road	*2,230
			Just upstream of Conrail	*2,240
			Just upstream of Lackman Road	*2,250
			Just upstream of Conrail	*2,260
			Just upstream of Old Santa Fe Road	*2,270
			Just upstream of Conrail	*2,280
			Just upstream of Pflumm Road	*2,290
			Just upstream of Conrail	*2,300
			Just upstream of Lackman Road	*2,310
			Just upstream of Conrail	*2,320
			Just upstream of Old Santa Fe Road	*2,330
			Just upstream of Conrail	*2,340
			Just upstream of Pflumm Road	*2,350
			Just upstream of Conrail	*2,360
			Just upstream of Lackman Road	*2,370
			Just upstream of Conrail	*2,380
			Just upstream of Old Santa Fe Road	*2,390
			Just upstream of Conrail	*2,400
			Just upstream of Pflumm Road	*2,410
			Just upstream of Conrail	*2,420
			Just upstream of Lackman Road	*2,430
			Just upstream of Conrail	*2,440
			Just upstream of Old Santa Fe Road	*2,450
			Just upstream of Conrail	*2,460
			Just upstream of Pflumm Road	*2,470
			Just upstream of Conrail	*2,480
			Just upstream of Lackman Road	*2,490
			Just upstream of Conrail	*2,500
			Just upstream of Old Santa Fe Road	*2,510
			Just upstream of Conrail	*2,520
			Just upstream of Pflumm Road	*2,530
			Just upstream of Conrail	*2,540
			Just upstream of Lackman Road	*2,550
			Just upstream of Conrail	*2,560
			Just upstream of Old Santa Fe Road	*2,570
			Just upstream of Conrail	*2,580
			Just upstream of Pflumm Road	*2,590
			Just upstream of Conrail	*2,600
			Just upstream of Lackman Road	*2,610
			Just upstream of Conrail	*2,620
			Just upstream of Old Santa Fe Road	*2,630
			Just upstream of Conrail	*2,640
			Just upstream of Pflumm Road	*2,650
			Just upstream of Conrail	*2,660
			Just upstream of Lackman Road	*2,670
			Just upstream of Conrail	*2,680
			Just upstream of Old Santa Fe Road	*2,690
			Just upstream of Conrail	*2,700
			Just upstream of Pflumm Road	*2,710
			Just upstream of Conrail	*2,720
			Just upstream of Lackman Road	*2,730
			Just upstream of Conrail	*2,740
			Just upstream of Old Santa Fe Road	*2,750
			Just upstream of Conrail	*2,760
			Just upstream of Pflumm Road	*2,770
			Just upstream of Conrail	*2,780
			Just upstream of Lackman Road	*2,790
			Just upstream of Conrail	*2,800
			Just upstream of Old Santa Fe Road	*2,810
			Just upstream of Conrail	*2,820
			Just upstream of Pflumm Road	*2,830
			Just upstream of Conrail	*2,840
			Just upstream of Lackman Road	*2,850
			Just upstream of Conrail	*2,860
			Just upstream of Old Santa Fe Road	*2,870
			Just upstream of Conrail	*2,880
			Just upstream of Pflumm Road	*2,890
			Just upstream of Conrail	*2,900
			Just upstream of Lackman Road	*2,910
			Just upstream of Conrail	*2,920
			Just upstream of Old Santa Fe Road	*2,930
			Just upstream of Conrail	*2,940
			Just upstream of Pflumm Road	*2,950
			Just upstream of Conrail	*2,960
			Just upstream of Lackman Road	*2,970
			Just upstream of Conrail	*2,980
			Just upstream of Old Santa Fe Road	*2,990
			Just upstream of Conrail	*3,000
			Just upstream of Pflumm Road	*3,010
			Just upstream of Conrail	*3,020
			Just upstream of Lackman Road	*3,030
			Just upstream of Conrail	*3,040
			Just upstream of Old Santa Fe Road	*3,050
			Just upstream of Conrail	*3,060
			Just upstream of Pflumm Road	*3,070
			Just upstream of Conrail	*3,080
			Just upstream of Lackman Road	*3,090
			Just upstream of Conrail	*3,100
			Just upstream of Old Santa Fe Road	*3,110
			Just upstream of Conrail	*3,120
			Just upstream of Pflumm Road	*3,130
			Just upstream of Conrail	*3,140
			Just upstream of Lackman Road	*3,150
			Just upstream of Conrail	*3,160
			Just upstream of Old Santa Fe Road	*3,170
			Just upstream of Conrail	*3,180
			Just upstream of Pflumm Road	*3,190
			Just upstream of Conrail	*3,200
			Just upstream of Lackman Road	*3,210
			Just upstream of Conrail	*3,220
			Just upstream of Old Santa Fe Road	*3,230
			Just upstream of Conrail	*3,240
			Just upstream of Pflumm Road	*3,250
			Just upstream of Conrail	*3,260
			Just upstream of Lackman Road	*3,270
			Just upstream of Conrail	*3,280
			Just upstream of Old Santa Fe Road	*3,290
			Just upstream of Conrail	*3,300
			Just upstream of Pflumm Road	*3,310
			Just upstream of Conrail	*3,320
			Just upstream of Lackman Road	*3,330
			Just upstream of Conrail	*3,340
			Just upstream of Old Santa Fe Road	*3,350
			Just upstream of Conrail	*3,360
			Just upstream of Pflumm Road	*3,370
			Just upstream of Conrail	*3,380
			Just upstream of Lackman Road	*3,390
			Just upstream of Conrail	*3,400
			Just upstream of Old Santa Fe Road	*3,410
			Just upstream of Conrail	*3,420
			Just upstream of Pflumm Road	*3,430
			Just upstream of Conrail	*3,440
			Just upstream of Lackman Road	*3,450
			Just upstream of Conrail	*3,460
			Just upstream of Old Santa Fe Road	*3,470
			Just upstream of Conrail	*3,480
			Just upstream of Pflumm Road	*3,490
			Just upstream of Conrail	*3,500
			Just upstream of Lackman Road	*3,510
			Just upstream of Conrail	*3,520
			Just upstream of Old Santa Fe Road	*3,530
			Just upstream of Conrail	*3,540
			Just upstream of Pflumm Road	*3,550
			Just upstream of Conrail	*3,560
			Just upstream of Lackman Road	*3,570
			Just upstream of Conrail	*3,580
			Just upstream of Old Santa Fe Road	*3,590
			Just upstream of Conrail	*3,600
			Just upstream of Pflumm Road	*3,610
			Just upstream of Conrail	*3,620
			Just upstream of Lackman Road	*3,630
			Just upstream of Conrail	*3,640
			Just upstream of Old Santa Fe Road	*3,650
			Just upstream of Conrail	*3,660
			Just upstream of Pflumm Road	*3,670
			Just upstream of Conrail	*3,680
			Just upstream of Lackman Road	*3,690
			Just upstream of Conrail	*3,700
			Just upstream of Old Santa Fe Road	*3,710
			Just upstream of Conrail	*3,720
			Just upstream of Pflumm Road	*3,730
			Just upstream of Conrail	*3,740
			Just upstream of Lackman Road	*3,750
			Just upstream of Conrail	*3,760
			Just upstream of Old Santa Fe Road	*3,770
			Just upstream of Conrail	*3,780
			Just upstream of Pflumm Road	*3,790
			Just upstream of Conrail	*3,800
			Just upstream of Lackman Road	*3,810
			Just upstream of Conrail	*3,820
			Just upstream of Old Santa Fe Road	*3,830
			Just upstream of Conrail	*3,840
			Just upstream of Pflumm Road	*3,850
			Just upstream of Conrail	*3,860
			Just upstream of Lackman Road	*3,870
			Just upstream of Conrail	*3,880
			Just upstream of Old Santa Fe Road	*3,890
			Just upstream of Conrail	*3,900
			Just upstream of Pflumm Road	*3,910
			Just upstream of Conrail	*3,920
			Just upstream of Lackman Road	*3,930
			Just upstream of Conrail	*3,940
			Just upstream of Old Santa Fe Road	*3,950
			Just upstream of Conrail	*3,960
			Just upstream of Pflumm Road	*3,970
			Just upstream of Conrail	*3,980
			Just upstream of Lackman Road	*3,990
			Just upstream of Conrail	*4,000
			Just upstream of Old Santa Fe Road	*4,010
			Just upstream of Conrail	*4,020
			Just upstream of Pflumm Road	*4,030
			Just upstream of Conrail	*4,040
			Just upstream of Lackman Road	*4,050
			Just upstream of Conrail	*4,060
			Just upstream of Old Santa Fe Road	*4,070
			Just upstream of Conrail	*4,080
			Just upstream of Pflumm Road	*4,090
			Just upstream of Conrail	*4,100
			Just upstream of Lackman Road	*4,110
			Just upstream of Conrail	*4,120
			Just upstream of Old Santa Fe Road	*4,130
			Just upstream of Conrail	*4,140
			Just upstream of Pflumm Road	*4,150
			Just upstream of Conrail	*4,160
			Just upstream of Lackman Road	*4,170
			Just upstream of Conrail	*4,180
			Just upstream of Old Santa Fe Road	*4,190
			Just upstream of Conrail	*4,200
			Just upstream of Pflumm Road	*4,210
			Just upstream of Conrail	*4,220
			Just upstream of Lackman Road	*4,230
			Just upstream of Conrail	*4,240
			Just upstream of Old Santa Fe Road	*4,250
			Just upstream of Conrail	*4,260
			Just upstream of Pflumm Road	*4,270
			Just upstream of Conrail	*4,280
			Just upstream of Lackman Road	*4,290
			Just upstream of Conrail	*4,300
			Just upstream of Old Santa Fe Road	*4,310
			Just upstream of Conrail	*4,320
			Just upstream of Pflumm Road	*4,330
			Just upstream of Conrail	*4,340
			Just upstream of Lackman Road	*4,350
			Just upstream of Conrail	*4,360
			Just upstream of Old Santa Fe Road	*4,370
			Just upstream of Conrail	*4,380
			Just upstream of Pflumm Road	*4,390
			Just upstream of Conrail	*4,400
			Just upstream of Lackman Road	*4,410
			Just upstream of Conrail	*4,420
			Just upstream of Old Santa Fe Road	*4,430
			Just upstream of Conrail	*4,440
			Just upstream of Pflumm Road	*4,450
			Just upstream of Conrail	*4,460
			Just upstream of Lackman Road	*4,470
			Just upstream of Conrail	*4,480
			Just upstream of Old Santa Fe Road	*4,490
			Just upstream of Conrail	*4,500
			Just upstream of Pflumm Road	*4,510
			Just upstream of Conrail	*4,520
			Just upstream of Lackman Road	*4,530
			Just upstream of Conrail	*4,540
			Just upstream of Old Santa Fe Road	*4,550
			Just upstream of Conrail	*4,560
			Just upstream of Pflumm Road	*4,570
			Just upstream of Conrail	*4,580
			Just upstream of Lackman Road	*4,590
			Just upstream of Conrail	*4,600
			Just upstream of Old Santa Fe Road	*4,610

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		John Street Copper Slough Tributary.	At confluence with Copper Slough	*721
			Upstream of confluence with Copper Slough	725
		Phinney Branch	2800 feet downstream of Duncan Road	*709
			Just upstream of Hemlock Drive	*720
			About 300 feet downstream Windsor Road	*726
	Maps available at City Hall, Planning and Zoning Department, 102 North Neil Street, Champaign, Illinois 61820.			
Illinois	(V), Hinsdale Cook and Du Page Counties (Docket No. FEMA-5817).	59th Street Ditch	Downstream corporate limit	*654
			Approximately 600 feet downstream County Line Road	*660
			Just upstream County Line Road	*671
			Just upstream Charleston Road South	*678
		Bronswood Cemetery Tributary	Downstream corporate limit	*688
			Just upstream Adams Road	*689
			Approximately 100 feet downstream from State Route 83	*697
			Just downstream of State Route 83	*699
		Salt Creek	Downstream corporate limit	*642
			Just downstream York Road	*645
	Maps available at Village Library, Hinsdale, Illinois 60521.			
Illinois	(V), Lake Bluff, Lake County (Docket No. FEMA-5815).	Skokie River	At the downstream corporate limit	*669
			At the upstream corporate limit	*671
		Lake Michigan	Shoreline	*584
	Maps available at Village Hall, 40 East Central Avenue, Lake Bluff, Illinois 60044.			
Illinois	(C), Palos Hills, Cook County (Docket NO. FEMA-5815).	Stony Creek (West)	Mouth at Calumet Sag Channel	*583
			Just upstream 111th Street	*587
			Just downstream Harlem Avenue	*591
		Lucas Ditch	Just downstream 111th Street	*585
			Just downstream 86th Avenue	*591
			About 250 feet downstream 80th Street	*595
		Lucas Ditch Cut-off	Approximately 1050 feet upstream of confluence	*589
			Just downstream 103rd Street	*593
			Just upstream 103rd Street	*594
			Approximately 2200 feet upstream 103rd Street	*595
	Maps available at Mayor's Office, City Hall, 8555 West 103rd Street, Palos Hills, Illinois 60465.			
Illinois	(V), Richton Park, Cook County (Docket No. FEMA-5798).	Butterfield Creek East Branch	Downstream corporate limit	*704
			950 feet downstream of Sauk Trial	*705
			Just downstream of the north shopping center entrance	*708
			Just upstream of the south shopping center entrance	*710
			630 feet upstream from the south shopping center entrance	*713
			1425 feet upstream from the south shopping center entrance	*717
			Just downstream of tank farm driveway	*722
		Butterfield Creek East Branch Tributary.	Just upstream of the Elgin Joliet and Eastern Railroad	*705
			Just downstream of Sauk Trail	*711
			Just upstream of Sauk Trail	*719
			Just downstream of Cicero Avenue	*719
			Just upstream of Cicero Avenue	*722
			Just downstream of Imperial Drive	*724
			Just downstream of Lake Shore Drive crossing	*737
			About 160 feet downstream of corporate limit	*737
			Just downstream of Steger Road	*739
		Tributary A	At confluence with Butterfield Creek East Branch Tributary	*722
			Just upstream of Amy Drive	*727
			Upstream corporate limits	*731
	Maps available at the Village Hall, 4045 Sauk Trail, Richton Park, Illinois 60471.			
Illinois	(C), Urbana, Champaign County (Docket NO. FEMA-5815).	Saline Branch	Approximately 1600 feet downstream of western corporate limits	*694
			Just upstream of Broadway Avenue	*706
			Approximately 1400 feet upstream of Lincoln Avenue	*717
		Boneyard Creek	Approximately 1450 feet downstream of University Avenue	*703
			Just downstream of western corporate limits	*720
		McCullough Creek	Just upstream of Race Street	*718
			Just downstream of Windsor Road	*727
	Maps available at City Hall, Code Enforcement Office, 400 South Vine Street, Urbana, Illinois 61801.			
Illinois	(V), Westmont Du Page County (Docket No. FEMA-5815).	St. Joseph Creek	Approximately 1500 feet downstream of King Arthur Court Crossing	*720
			Just downstream of Easy Acres Golf Course Culvert	*721
			About 200 feet upstream from Easy Acres Golf Course Culvert	*726
			Just downstream of 59th Street	*728
			Just upstream of Williams Street near 59th Street intersection	*731
			Just upstream of 61st Street	*734
			Just upstream of 63rd Street	*737
		St. Joseph Creek Tributary	At confluence with St. Joseph Creek	*728
			Approximately 180 feet from 61st Street	*734
	Maps available at the Village Manager's Office, Village Hall, 31 West Quincy Street, Westmont, Illinois 60559.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(C), Zion Lake County (Docket No. FEMA-5800).	Lake Michigan	All shoreline in Zion	*584
		Kellogg Ravine	A point approximately 1800 feet downstream of the abandoned railroad bridge (approximately 500 feet due north of the intersection of Gilead Avenue and 17th Street).	*650
			At a point approximately 450 feet downstream of State Route 173	*670
			A point just downstream of Kenosha Road	*689
			Approximately 750 feet upstream of Kenosha Road	*692
	Maps available at the City Clerk's Office, City Hall, 2828 Sheridan Road, Zion, Illinois 60099.			
Indiana	(C), Muncie, Delaware County (Docket No. FI-5136).	White River	Just upstream 400 West Road	*915
			Just upstream of Tillotson Avenue	*924
			Just downstream of Walnut Street	*934
			550 feet downstream of Broadway Avenue	*940
			Just upstream of Jackson Street	*950
			Southeast corporate limit	*958
		York Prairie Creek	Just upstream of 400 West Road	*914
			Just upstream of Norfolk and Western Railway	*922
			Just downstream of Tillotson Avenue	*928
		Jakes Creek	Just upstream of 300 North Road	*928
			Just upstream of Wheeling Avenue	*930
			Just upstream of Rosewood Avenue	*932
			Approximately 500 feet upstream of Chessie System	*939
		Muncie Creek	Just downstream of Highland Avenue	*940
			Just downstream of Waid Avenue	*942
			Just upstream of Broadway Avenue	*943
			Just downstream of McGalliard Road	*944
		Buck Creek	East corporate limit	*939
			Just upstream of Norfolk and Western Railway	*948
			Just upstream of 23rd Street	*953
			At upstream corporate limit (approximately 600 feet upstream of Madison Avenue).	*957
	Maps available at the City Building, 220 East Jackson Street, Muncie, Indiana 47305.			
Iowa	(C), Hawarden Sioux County (Docket No. FEMA-5817).	Big Sioux River	At western corporate limit, about 800 feet downstream from Chicago and North Western Railroad.	*1,171
			Just upstream of Chicago and North Western Railroad	*1,172
			About 4,700 feet upstream of Chicago and North Western Railroad	*1,173
			At northern corporate limit, about 9,370 feet upstream of Chicago and North Western Railroad.	*1,174
		Dry Creek	Western corporate limit	*1,171
			About 100 feet upstream of E Avenue	*1,173
			About 1,250 feet upstream of E Avenue	1,179
			Just upstream of the Chicago and North Western railroad bridge	*1,185
			Just downstream of Tenth Street	*1,188
			About 600 feet upstream of Tenth Street	*1,190
		Shallow flooding from Stream No. 5.	At intersection of 23rd Street and E Avenue	*1,178
	Maps available at the City Hall, P.O. Box 231, Hawarden, Iowa 51023.			
Iowa	(C), Spencer, Clay County (Docket No. FEMA-5800).	Little Sioux River	At eastern corporate limits	*1,310
			Just upstream of Grand Avenue	*1,315
			At corporate limits approximately 7,200 feet upstream from Ocheyedan River.	*1,316
			Approximately 1,000 feet upstream from west 4th Street	*1,318
			Just upstream from West 18th Street	*1,320
			Approximately 1,200 feet south of the intersection of Highway Boulevard and 30th Street.	*1,321
			Approximately 0.5 mile northwest of the intersection of Highway Boulevard and 30th Street.	*1,322
		Ocheyedan River	At mouth at Little Sioux River	*1,315
			At corporate limits (approximately 3,800 feet upstream from mouth)	*1,316
		Shallow flooding (from Little Sioux River through Chicago, Milwaukee, St. Paul and Pacific Railroad Culvert).	Between Highway Boulevard and east corporate limits in 30th Street area.	*1,321
		Shallow flooding (from Little Sioux River through culvert along Chicago, Milwaukee, St. Paul and Pacific Railroad).	Approximately 700 feet west of Country Club Drive, between Chicago, Milwaukee, St. Paul and Pacific Railroad and West 18th Street.	*1,319
	Maps available at the City Hall, Spencer, Iowa 51301.			
Iowa	(C), Story City, Story County (Docket No. FEMA-5788).	Skunk River	About 1.0 mile downstream of Broad Street	*967
			About 1.0 mile upstream of Broad Street	*975
		Unnamed Creek	About 500 feet downstream of Forest Avenue	*971
			About 100 feet downstream of Eighth Street	*974
			About 100 feet upstream of Grand Avenue	*982
	Maps available at City Hall, Story City, Iowa 50248.			

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Kansas	(C), Auburn, Shawnee County (Docket No. FEMA–5817).	Wakarusa River	Approximately 1,400 feet downstream Auburn Road	*1,017
		North Branch Wakarusa River	Southern corporate limits (approximately 530 feet upstream Auburn Road).	*1,017
			Western corporate limits	*1,017
	Maps available at City Hall, P.O. Box 160, Auburn, Kansas 66402.			
Kansas	(C), Eudora, Douglas County (Docket No. FEMA–5815).	Eudora Middle Tributary	Just upstream of Atchison Topeka and Santa Fe Railway	*807
			Just upstream of 7th Street	*815
			Just upstream of 9th Street	*819
			Just upsteam of 10th Street	*827
			Just upstream of 12th Street	*833
			Approximately 800 feet upstream of 12th Street	*837
		Eudora East Tributary	Just upstream of 10th Street	*837
			Corporate limits	*837
		Wakarusa River	East corporate limits	*805
			Approximately 650 feet upstream from Main Street	*806
			West corporate limits	*807
	Maps available at City Hall, Main and 7th Street, Eudora, Kansas 66025.			
Kansas	(C), Holton, Jackson County (Docket No. FEMA–5817).	Elk Creek	At the eastern extraterritorial limit	*985
			About 265 feet downstream of the Chicago, Rock Island and Pacific Railroad.	*1,006
			About 265 feet upstream of the Chicago, Rock Island and Pacific Railroad.	*1,010
			About 200 feet upstream of Iowa Avenue	*1,015
			Just upstream of U.S. Highway 75	*1,021
			At western extraterritorial limit	*1,052
		Banner Creek	At the confluence With Elk Creek	*1,003
			Just downstream of the Chicago, Rock Island and Pacific Railroad	*1,020
			Just downstream of U.S. Highway 75	*1,033
			At the western extraterritorial limit	*1,091
	Maps available at City Hall, 5th and Pennsylvania, Holton, Kansas 66436.			
Maryland	Cambridge, City, Dorchester County (Docket No. FEMA–5817).	Chesapeake Bay	Shoreline of Choptank River in the City of Cambridge	*6
			Shoreline of Cambridge Creek	
			Tributary A at southern Corporate Limits	*6
	Maps available at the Department of Public Works, 703 Lenards Lane, Cambridge, Maryland.			
Maryland	Hurlock, Town, Dorchester County (Docket No. FEMA–5817).	Wright's Branch	Downstream Corporate Limits	*39
			Upstream Corporate Limits	*39
	Maps available at the Town Hall, 111 Poplar Street, Hurlock, Maryland.			
Michigan	(C), Fenton Genesee County (Docket No. FEMA–5817).	Shiawassee River	At north western limits	*873
			Just upstream of North Road	*881
			Just upstream of Grand Trunk Western Railroad	*884
			At downstream side of Caroline Street	*888
			Just downstream of Fenton Dam	*891
			Just upstream of Fenton Dam	*899
		Fenton Mill Pond	Shoreline	*899
		Silver Lake	Shoreline	*872
	Maps available at the City Manager's Office, City Hall, 301 Leroy Street, Fenton, Michigan 48430.			
Michigan	(Twp), Fenton, Genesee County (Docket No. FEMA–5817).	Shiawassee River	Downstream corporate limit	*851
			Just upstream Hogan Road	*853
			Downstream Village of Linden corporate limit	*854
			Upstream Village of Linden corporate limit	*869
			Approximately 2,200 feet upstream Linden corporate limit	*872
			At City of Fenton corporate limit	*873
		Lake Ponemah	Shoreline	*872
		Squaw Lake	Shoreline	*872
		Tupper Lake	Shoreline	*872
		Silver Lake	Shoreline	*872
	Maps available at the Township Office, 12060 Mantawauka, Fenton, Michigan 48430.			
Michigan	(Twp), Grand Haven, Ottawa County (Docket No. FEMA–5817).	Lake Michigan	Shoreline	*584
		Pattawattomie Bayou	Shoreline	*588
		Milthouse Bayou	Shoreline	*588
		Grand River	Downstream corporate limits	*585
			Upstream corporate limits	*589
	Maps available at the City Clerk's Office, 13300 168th Avenue, Grand Haven Township, Michigan 49417.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Michigan	(Twp), White River, Muskegon County (Docket No. FI–5702).	Lake Michigan	Shoreline	*584
		White Lake	Shoreline	*584
	Maps available at Township Hall, White River, Michigan 49437.			
Minnesota	(C), Alvarado, Marshall County (Docket No. FEMA–5817).	Snake River	Just upstream of State Highway 1	*810
			At the upstream corporate limit	*812
	Maps available at City Hall, P.O. Box 94, Alvarado, Minnesota 56710.			
Minnesota	(C), Corcoran, Hennepin County (Docket No. FEMA–5817).	North Fork Rush Creek	Downstream corporate limit (county road 117)	*914
			Upstream side of Cain Road	*915
			Just upstream of Trail Haven Road	*925
			Just upstream of County Road 117 (located 0.66 mile downstream of Bechtold Road).	*930
			Just upstream of Bechtold Road	*938
			Just upstream of County Road 30	*947
			Just upstream of Sundance Road	*963
			Just upstream of 97th Avenue North	*977
			Just upstream of County Road 10	*992
			Just downstream of County Road 19	*995
			Just upstream of County Road 19	*1,001
			Approximately 1.06 miles upstream of Strehler Road	*1,004
		Rush Creek	Eastern corporate limits	*934
			Just upstream of County Highway 116	*937
			Just upstream of County Highway 10	*946
			Just downstream of County Highway 50	*959
			Just upstream of Kalk Road	*965
			Just upstream of Rolling Hills Road	*968
			0.66 mile upstream of Rolling Hills Road	*971
	Maps available at the City Hall, 9525 Cain Road, Corcoran, Minnesota 55340.			
Missouri	(C), Caruthersville, Pemiscot County (Docket No. FEMA–5813).	Local Runoff in Vicinity of Ditch No. 1.	Interstate 155 and State Highway Y Interchange	*264
			Approximately 950 feet south of the intersection of the center line of Interstate 155 and the center line of State Highway Y.	*264
			Just west of Oxidation Pond	*265
			Intersection of the center line of Interstate 155 and the center line of Greenwell Road.	*265
			End of Ditch No. 1 at State Highway Y	*265
			Approximately 1,000 feet north of the end of Ditch No. 1 along State Highway Y.	*265
			Approximately 1,100 feet north of end of Ditch No. 1 along State Highway Y.	*266
			Approximately 50 feet due south of the intersection of Magnolia and Poplar Streets.	*266
			Approximately 2,000 feet east of intersection of State Highway and Poplar Street on eastern corporate limits.	*266
			Approximately 2,000 feet east of the end Ditch No. 1 on the eastern corporate limits.	*266
		In Vicinity of Ditch No. 2 Lateral	Intersection of Ditch No. 2 lateral and southern corporate limits	*266
			Intersection of Caffin Drive and 19th Street	*266
		Local Runoff in Vicinity of Southwestern Corporate Limits.	Southern end of Caruthersville Airport north-south run	*265
			Approximately 1,500 feet north of the southern end of Caruthersville Airport north-south run.	*266
			Approximately 2,200 feet due west of the intersection of Magnolia and Poplar Streets.	*266
			Southern half of golf course	*267
			Northern half of golf course	*268
			Northern end of Caruthersville Airport north-south runway	*268
		In Vicinity of Ditch No. 6 Lateral A and Ditch No. 6 Lateral AA.	Just north of Intersection of State Highway U and western corporate limits.	*269
			Intersection of 15th Street and Ward Avenue	*269
			Intersection of Ditch No. 6 Lateral A and western corporate limits	*269
			At intersection of Grand Avenue and 6th Street	*269
			Approximately 3,200 feet north of intersection of St. Louis-San Francisco Railway and western corporate limits on northern corporate limits.	*269
		Mississippi River	At downstream corporate limits	*281
			At upstream corporate limits	*282
	Maps available at City Hall, 200 W. 3rd, Caruthersville, Missouri 63830.			
Missouri	(C), Ellington, Reynolds County (Docket No. FEMA–5702).	Logan Creek	Approximately ½ mile downstream of State Highway 21	*651
			Just upstream of State Highway 21	*657
			Just downstream from Main Street	*661
			Approximately ½ mile upstream of confluence of Unnamed Tributary	*676
		Dickson Creek	At downstream corporate limits	*651
			Just downstream of Second Street	*666
			About 450 feet upstream of Main Street	*671
			Just upstream of Cherry Street	*703
			About 0.68 mile upstream of Cherry Street	*727
	Maps available at the City Hall, P.O. Box 7, Ellington, Missouri 63638.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Missouri	(C), Kennett, Dunklin County (Docket No. FEMA–5813).	Local Runoff in Vicinity of Ditch No. 1.	Approximately 1,000 feet downstream of Interstate 155	*264
			Approximately 1,000 feet upstream of Interstate 155	*264
			Approximately 1,000 feet downstream of Missouri Highway 25	*264
			Approximately 1,000 feet upstream of Missouri Highway 25	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
	Maps available at City Hall, 801 First Street, Kennett, Missouri 63857.			
Missouri	(C), Malden, Dunklin County (Docket No. FEMA–5813).	Local Runoff in Vicinity of Ditch No. 1.	Approximately 1,000 feet downstream of Interstate 155	*264
			Approximately 1,000 feet upstream of Interstate 155	*264
			Approximately 1,000 feet downstream of Missouri Highway 25	*264
			Approximately 1,000 feet upstream of Missouri Highway 25	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
	Maps available at City Hall, 102 East Pine Street, Malden, Missouri 63863.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Missouri	(C), Portageville, New Madrid County (Docket No. FEMA–5813).	Local Runoff in Vicinity of Ditch No. 1.	Approximately 1,000 feet downstream of Interstate 155	*264
			Approximately 1,000 feet upstream of Interstate 155	*264
			Approximately 1,000 feet downstream of Missouri Highway 25	*264
			Approximately 1,000 feet upstream of Missouri Highway 25	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
	Maps available at City Hall, 1 Main Street, Portageville, Missouri 63873.			
Missouri	(C), Sikeston, New Madrid County (Docket No. FEMA–5813).	Local Runoff in Vicinity of Ditch No. 1.	Approximately 1,000 feet downstream of Interstate 155	*264
			Approximately 1,000 feet upstream of Interstate 155	*264
			Approximately 1,000 feet downstream of Missouri Highway 25	*264
			Approximately 1,000 feet upstream of Missouri Highway 25	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
			Approximately 1,000 feet downstream of Missouri Highway 164	*264
			Approximately 1,000 feet upstream of Missouri Highway 164	*264
			Approximately 1,000 feet downstream of Missouri Highway 84	*264
			Approximately 1,000 feet upstream of Missouri Highway 84	*264
			Approximately 1,000 feet downstream of Missouri Highway 412	*264
			Approximately 1,000 feet upstream of Missouri Highway 412	*264
			Approximately 1,000 feet downstream of Missouri Highway 53	*264
			Approximately 1,000 feet upstream of Missouri Highway 53	*264
	Maps available at City Hall, 105 East Center Street, Sikeston, Missouri 63801.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Missouri	(C), Farmington, St. Francois County (Docket No. FEMA–5815).	Kennedy Branch	Downstream corporate limits (just upstream of State Highway 32)	*852
			Just upstream Curtis Street	*864
			About 50 feet upstream North Carleton Street	*879
			About 1,400 feet upstream North Middle Street	*894
		St. Francis River Tributary	Downstream corporate limits (just downstream of West Columbia Street).	*878
			Upstream corporate limits (just downstream of West Liberty Street)	*892
	Maps available at the City Clerk's Office, City Hall, 110 West Columbia, Farmington, Missouri 63640.			
Missouri	(T), Grantwood Village, St. Louis County (Docket No. FEMA–5813).	Gravois Creek	Downstream corporate limits	*489
			Just downstream of Dam, approximately 100 feet upstream of service road.	*500
			Approximately 1,040 feet downstream from Pardee Road	*502
			About 1,200 feet upstream Pardee Road	*510
	Maps available at City Hall Meeting Room, Basement of Slay's Restaurant, Grantwood, Missouri 63123.			
Missouri	(C), Kinloch, St. Louis County (Docket No. FEMA–5815).	Maline Creek	About 300 feet downstream of eastern corporate limits	*506
			Just downstream of North Hanley Road	*516
	Maps available at City Hall, 5990 Monroe Avenue, Kinloch, Missouri 63140.			
Missouri	(C), Oakland, St. Louis County (Docket No. FEMA–5813).	Gravois Creek	Downstream corporate limit	*564
			Just upstream of St. Louis, San Francisco Railroad	*569
			Just downstream of Oakland Avenue	*570
			Just upstream of Oakland Avenue	*574
			Just downstream of Missouri Pacific Railroad	*579
			Just upstream of Missouri Pacific Railroad	*587
			Just upstream of Sappington Road	*592
	Maps available at City Clerk's Office, 1007 Oakland Avenue, Oakland, Missouri 63122.			
Missouri	(C), Shrewsbury, St. Louis County (Docket No. FEMA–5778).	Tributary to No Name Creek	Just downstream of St. Louis & San Francisco Railway	*466
			Approximately 400 feet upstream of Watson Road	*473
			About 300 feet downstream of Laclede Station Road	*483
			Just downstream of Laclede Station Road	*484
		Deer Creek	Approximately 150 feet downstream of St. Louis Belt & Terminal Railroad.	*434
			Just upstream of St. Louis Belt & Terminal Railroad	*438
			Just downstream of Big Bend Boulevard	*443
		North Tributary to River Des Peres.	Just upstream of St. Louis & San Francisco Railroad	*432
		Murdock Tributary to River Des Peres.	Just upstream of St. Louis & San Francisco Railroad	*430
	Maps available at City Hall, 4400 Shrewsbury Avenue, Shrewsbury, Missouri 63119.			
Nebraska	(V), Arlington, Washington County (Docket No. FEMA–5815).	Elkhorn River	Approximately 8,000 feet downstream of Chicago & North Western Railroad.	*1,157
			Approximately 50 feet upstream of Chicago & North Western Railroad	*1,161
			Approximately 1,800 feet downstream of U.S. Highway 30	*1,165
			Approximately 7,400 feet upstream of U.S. Highway 30	*1,167
		Bell Creek	Approximately 60 feet upstream of Chicago & North Western Railroad	*1,163
			Just upstream of U.S. Highway 30	*1,166
			Approximately 950 feet upstream of U.S. Highway 30	*1,168
			Approximately 1,280 feet upstream of the County Road P 111 crossing which is located about 850 feet upstream of County Road P 32.	*1,171
	Maps available at City Hall, Arlington, Nebraska 68002.			
Nebraska	(Uninc.), Douglas County (Docket No. FEMA–5788).	Platte River	Southern county boundary	*1,102
			3,000 feet downstream of State Highway 92	*1,120
			500 feet downstream of Union Pacific Railroad	*1,144
			400 feet upstream of Union Pacific Railroad	*1,146
			One mile upstream of Union Pacific Railroad	*1,149
			400 feet upstream of State Highway 64	*1,157
			3,400 feet downstream of northern county boundary	*1,181
			600 feet downstream of northern county boundary	*1,189
		Elkhorn River	Southern county boundary	*1,104
			Just downstream of Q Street	*1,108
			Just upstream of U.S. Highway 275	*1,116
			Just downstream of State Highway 64	*1,125
			Just upstream of State Highway 64	*1,129
			Just upstream of State Highway 36	*1,146
			1,600 feet upstream of northern county boundary	*1,149
		West Papillion Creek	About 5,100 feet downstream of Union Pacific Railroad	*1,117
			Just upstream of Union Pacific Railroad	*1,126
			4,100 feet upstream of Union Pacific Railroad	*1,135
	Maps available at County Permits & Inspection Office, 3015 Menke Circle, Omaha, Nebraska 68183.			
Nebraska	(C), Papillion, Sarpy County (Docket No. FEMA–5815).	Big Papillion Creek	Approximately 1,300 feet downstream of Fricke Ditch	*998
			Approximately 4,700 feet upstream of Fricke Ditch	*998
		West Papillion Creek	Approximately 1 mile downstream of 66th Street	*1,001
			Just upstream of 66th Street	*1,006

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Just downstream from Washington Street	*1,013
			Located at upstream corporate limit	*1,016
			Approximately 600 feet upstream from confluence of Walnut Creek	*1,020
			Approximately 500 feet upstream from Papillion extraterritorial limits	*1,030
		Midland Creek	Approximately 900 feet downstream from County Road	*1,007
			Just upstream of County Road	*1,012
			Approximately 1,300 feet upstream from County Road	*1,016
			Just upstream from Chicago, Rock Island and Pacific Railroad	*1,027
			Just upstream from State Highway 370	*1,030
			Approximately 1,100 feet upstream from State Highway 370	*1,031
			At confluence of West Midland Creek	*1,041
			Approximately 1,725 feet upstream from confluence of West Midland Creek.	*1,051
		Walnut Creek	At confluence of West Papillion Creek	*1,020
			Approximately 2,100 feet downstream from County Road	*1,021
			Just upstream from County Road	*1,031
			Approximately 200 feet upstream from State Highway 370	*1,049
			Approximately 1,000 feet downstream from Private Road	*1,058
			Just upstream from Private Road	*1,062
			Approximately 700 feet downstream of confluence of West Walnut Creek.	*1,071
			Approximately 550 feet upstream of confluence of West Walnut Creek.	*1,075
		West Walnut Creek	At confluence with Walnut Creek	*1,079
			Approximately 375 feet upstream from Private Drive	*1,075
		South Midland Creek	At confluence with Midland Creek	*1,035
			Approximately 1,600 feet upstream from confluence with Midland Creek.	*1,042
		West Midland Creek	At confluence with Midland Creek	*1,041
			Approximately 100 feet upstream Chicago, Rock Island and Pacific Railroad.	*1,057
			Approximately 1,000 feet upstream from Chicago, Rock Island and Pacific Railroad.	*1,060
	Maps available at City Hall, 122 East 3rd Street, Papillion, Nebraska 68046.			
Nebraska	(Uninc.), Sarpy County (Docket No. FEMA–5815).	Missouri River	Downstream county boundary	*966
			About 1.6 miles upstream of confluence of Papillion Creek	*968
			About 2.16 miles downstream of confluence of Mosquito Creek	*973
			At confluence of Indian Creek	*976
		Platte River	Mouth at Missouri River	*966
			Just upstream of U.S. Highways 73 & 75	*970
			About 1.84 miles upstream of U.S. Highways 73 & 75	*979
			About 2.25 miles downstream of confluence of Buffalo Creek	*1,005
			About 300 feet upstream of State Highway 50	*1,025
			Just upstream of Chicago, Rock Island and Pacific Railroad	*1,038
			Just downstream Interstate 80	*1,053
			Just upstream of Interstate 80	*1,056
			About 600 feet upstream of U.S. Highway 6	*1,087
			About 0.62 mile downstream of confluence of Elkhorn River	*1,090
			Northern county boundary	*1,103
		Papillion Creek	At mouth	*967
			About 1.71 miles upstream of LaPlatte Road	*973
		Big Papillion Creek	About 4,000 feet downstream of Cornhusker Drive	*998
			About 1 mile upstream of Cornhusker Drive	*998
		West Papillion Creek	About 1,100 feet downstream of Chicago, Rock Island and Pacific Railroad.	*995
			About 2,500 feet upstream of 45th Street	*1,001
		Buffalo Creek	At mouth	*1,019
			Just upstream of Chicago, Rock Island and Pacific Railroad	*1,019
			About 1,450 feet upstream of State Highway 50	*1,030
			Just upstream of 156th Street	*1,042
			Just upstream of Ruff Road	*1,054
			Just upstream of 168th Street	*1,063
			Just upstream of Pflug Road	*1,076
			Just upstream of 180th Street	*1,090
			Just upstream of Platteview Road	*1,100
			About 0.52 mile upstream of Platteview Road	*1,105
		Springfield Creek	At mouth	*1,012
			About 300 feet upstream of Buffalo Road	*1,012
			Just upstream of Missouri Pacific Railroad	*1,026
			About 2,000 feet upstream of Missouri Pacific Railroad (first crossing).	*1,030
			About 1,300 feet downsream of Fairview Road	*1,073
			Just upstream of Fairview Road	*1,081
			About 2,200 feet upstream of Fairview Road	*1,086
		Elkhorn River	At mouth	*1,085
			About 3.59 miles upstream of mouth	*1,097
			About 600 feet upstream of upstream county boundary	*1,102
	Maps available at Sarpy County Courthouse, Papillion, Nebraska 68046.			
Nevada	North Las Vegas (City), Clark County FEMA–5728.	Las Vegas Wash	Carey Avenue 50 feet downstream from centerline	*1,836
			Carey Avenue 50 feet upstream from centerline	*1,841
			Cheyenne Avenue 50 feet downstream from centerline	*1,856

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Cheyenne Avenue 75 feet upstream from centerline	*1,865
			Losee Road 100 feet upstream from centerline	*1,915
			Intersection of Juelene Way and Lockwood Avenue	#1
			Intersection of Crawford Street and Judson Avenue	#1
			Intersection of Statz Street and Carey Avenue	#2
		Unnamed Tributary to Las Vegas Wash.	Cheyenne Avenue at centerline	*1,869
			Losee Road 50 feet upstream from centerline	*1,908
			Craig Road 50 feet upstream from centerline	*1,959
			Tillman Drive at centerline	*1,997
Maps available at City Hall, 2200 Civic Center Drive, North Las Vegas, Nevada.				
New Jersey	Phillipsburg, Town, Warren County, (Docket No. FEMA-5815).	Delaware River	Downstream Corporate Limits	*180
			Approximately 6,100 feet upstream of Downstream Corporate Limits	*188
			Upstream side of Upstream Conrail bridge	*192
			Upstream side of North Hampton Street bridge	*195
			Upstream Corporate Limits	*198
		Lopatcong Creek	Confluence with Delaware River	*184
			Approximately 160 feet upstream of private drive bridge	*184
			Approximately 470 feet upstream of private drive bridge	*189
			Approximately 760 feet upstream of private drive bridge	*193
			Approximately 90 feet downstream of South Main Street bridge	*199
			South Main Street bridge	*202
			Upstream side of spillway, located approximately 320 feet upstream of the South Main Street bridge.	*205
			Upstream side of Lock Street bridge (first crossing)	*210
			Upstream of Chestnut Street bridge	*215
			Approximately 280 feet downstream of downstream private road bridge.	*218
			Upstream side of downstream private road bridge	*221
			Approximately 360 feet downstream of Lock Street bridge	*224
			Upstream side of Lock Street bridge (second crossing)	*226
			Upstream private road bridge	*233
			Upstream Corporate Limits	*234
Maps available at the Building and Zoning Department, Phillipsburg, New Jersey.				
New Jersey	Wanaque, Borough, Passaic County (Docket No. FEMA-5796).	Wanaque River	Downstream Corporate Limits	*212
			Confluence with Meadow Brook	*217
			Upstream side of USGS gage #1387000 at Spillway	*221
			Approximately 330 feet upstream of Ringwood Avenue	*227
			Approximately 760 feet upstream of Ringwood Avenue	*254
			Upstream of Raymond Dam Spillway	*305
			Upstream Corporate Limits	*305
		Post Brook	Downstream Corporate Limits	*212
			Upstream side of Union Avenue	*214
			Upstream side of First Avenue	*216
			Upstream side of Lake Washington Spillway	*224
			Upstream side of Doty Road	*224
			Upstream Corporate Limits	*243
		Post Brook Branch 1	Confluence with Post Brook	*214
			Downstream side of Upper Twin Lake Spillway	*215
			Upstream side of Upper Twin Lake Spillway	*220
			Upstream Corporate Limits	*221
		Post Brook Branch 2	Confluence with Post Brook	*222
			Makemoney Avenue	*230
			Upstream side of Thomas Lake Spillway	*233
			Downstream side of Unimproved Road approximately 490 feet upstream of Thomas Lake Drop Spillway.	*239
			Approximately 370 feet upstream of Unimproved Road	*243
		Meadow Brook	Confluence with Wanaque River	*217
			Downstream side of East Avenue	*236
			Upstream side of Prospect Street	*244
			Downstream side of Conklintown Road	*257
			Upstream Corporate Limits	*261
		Stephens Lake Brook	Confluence with Meadow Brook	*248
			Upstream side of Crescent Road	*255
			Corporate Limits at downstream crossing of Conklintown Road	*270
			Corporate Limits at upstream crossing of Conklintown Road	*316
			Approximately 500 feet upstream of upstream crossing of Conklintown Road.	*343
			Upstream side of Humbert Place	*358

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Downstream side of Stephens Lake Road	*360
			Approximately 300 feet upstream of Stephens Lake Road	*395
			Downstream side of Stephens Lake Spillway	*421
			Upstream side of Stephens Lake Spillway	*425
			Upstream side of Unimproved Road approximately 1,355 feet upstream of Stephens Lake Spillway.	*441
			Approximately 2,020 feet upstream of Unimproved Road	*448
		Stephens Lake Brook Branch 2	Downstream Corporate Limits	*363
			Approximately 300 feet upstream of Corporate Limits	*381
			Approximately 600 feet upstream of Corporate Limits	*400
			Approximately 900 feet upstream of Corporate Limits	*420
			Approximately 1,200 feet upstream of Corporate Limits	*439
			Upstream Corporate Limits	*456
Maps available at the Municipal Building, Wanaque, New Jersey.				
New Jersey	West Long Branch, Borough, Monmouth County (Docket No. FEMA-5815).	Turtle Mill Brook	Downstream Corporate Limits	*9
			Upstream side of Victor Avenue	*10
			Downstream side of Cemetery Access Road	*11
			Downstream side of Monmouth Road	*19
		Whale Pond Brook	Downstream Corporate Limits	*21
			Upstream side of Larchwood Avenue	*24
			Upstream side of Monmouth Road	*26
			Ridge Drive (Extended)	*32
			Downstream side of Whale Pond Road	*35
		South Shrewsbury River	Tidal flooding on Turtle Mill Brook (Downstream Corporate Limits	*9
Maps available at the Borough Clerk's Office, West Long Branch, New Jersey.				
New Jersey	West Milford, Township, Passaic County (Docket No. FEMA-5880).	Longhouse Creek	State Boundary	*1,088
			Downstream of Lake Shore Drive	*1,091
			Upstream of Upper Greenwood Lake Spillway	*1,101
			Upstream of Mt. Laurel Lake Drop Spillway	*1,102
			Upstream of Driveway 860 feet upstream of Clinton Road	*1,105
			Downstream of Cherry Ridge Road	*1,114
			Upstream of Lake Lookover Spillway	*1,123
			Upstream of Bearfort Waters Spillway approximately 678 feet upstream of Unimproved Road.	*1,135
		Belcher Creek	Confluence with Greenwood Lake	*622
			Upstream of Greenwood Lake Turnpike	*624
			Downstream of Union Valley Road 1st crossing	*626
			Upstream of Pinecliff Lake Spillway	*635
			Downstream of Stowaway Road	*635
			Upstream of Spillway approximately 90 feet upstream of Stowaway Road.	*644
			60 feet downstream of Driveway approximately 440 feet downstream of Union Valley Road.	*655
			Downstream of Union Valley Road 2nd crossing	*663
			40 feet downstream of New Dockerty Hollow Road	*673
			Upstream of Driveway approximately 390 feet upstream of New Dockerty Hollow Road.	*686
			Upstream of Spillway approximately 1,150 feet upstream of New Dockerty Hollow Road.	*701
			30 feet upstream of Unimproved Road	*711
			Upstream of Morris Avenue	*721
			Upstream of Bergen Drive	*740
			Upstream of Spillway approximately 640 feet upstream of Bergen Drive.	*752
			Upstream of Spillway approximately 1,380 feet upstream of Bergen Drive.	*781
			Approximately 40 feet upstream of Union Valley Road 3rd crossing	*787
		Cooley Brook	Confluence with Belcher Creek	*624
			60 feet upstream of Warwick Turnpike	*633
			Approximately 1,945 feet upstream of Warwick Turnpike	*645
		Belcher Creek Branch 2	Confluence with Belcher Creek	*645
			Downstream of Union Valley Road	*646
			Upstream of Reflection Lake Spillway	*650
			Downstream of Driveway	*667
			850 feet upstream of Driveway	*721
			Downstream of Unimproved Road	*757
			Approximately 1,170 feet upstream of Unimproved Road	*791
		Post Brook	Downstream Corporate Limits	*862
			Downstream of Spillway approximately 1,100 feet upstream of Corporate Limits.	*864

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Upstream of Spillway	*870
			Downstream of Weaver Road	*878
			Upstream of Mathew's Lake Spillway	*883
			Downstream of Grodon Lake Spillway	*883
			Upstream of Grodon Lake Spillway	*893
			Upstream of Crescent Road	*895
			Downstream of Algonquin Waters Spillway	*945
			Approximately 3,140 feet upstream of Algonquin Waters Spillway	*961
		Post Brook Branch 3	Confluence with Post Brook	*874
			Downstream of Zeliff Pond Spillway	*881
			Upstream of Zeliff Pond Spillway	*886
			Upstream of Driveway approximately 890 feet upstream of Zeliff Pond Spillway.	*897
			Upstream of Spillway approximately 135 feet upstream of Weaver Road.	*910
			Approximately 810 feet upstream of Breached Dam	*915
			Approximately 1,810 feet upstream of Breached Dam	*973
		Post Brook Branch 4	Confluence with Post Brook Branch 3	*875
			Upstream of Weaver Road	*882
			Approximately 465 feet upstream of Weaver Road	*898
		West Brook	Upstream of Lower Mt. Glen Lake Spillway	*902
			Downstream of Rosemont Avenue	*902
			Upstream of Rosemond Avenue	*916
			Upstream of Upper Mt. Glen Lake Spillway	*931
			Upstream of Otterhole Road Spillway	*935
			Downstream of Schofield Road	*959
			Downstream of Indian Trail Lake Spillway	*977
			Approximately 590 feet upstream of Indian Trail Lake Spillway	*981
		West Brook Branch 7	Confluence with West Brook	*932
			Upstream of Broadway	*941
			Upstream of Driveway approximately 226 feet upstream of Broadway	*956
			Downstream of Lindy's Drive	*988
			Upstream of Lindy Lake Spillway	*994
			Approximately 1,800 feet upstream of Lindy Lake Spillway	*994
		Green Brook	Confluence with Cooley Brook	*626
			Upstream of Union Valley Road	*636
			Waterfall	*659
			Approximately 375 feet upstream of Waterfall	*680
		Belcher Creek Branch 1	Confluence with Belcher Creek	*624
			Upstream of Glencross Road	*626
			Upstream of Windsor Road	*643
			Upstream of Spillway approximately 192 feet upstream of Windsor Road.	*648
			Downstream side of Union Valley Road	*648
			Approximately 48 feet upstream of Union Valley Road	*654
		Morsetown Brook	Confluence with Belcher Creek	*624
			Downstream of Spillway approximately 1,900 feet upstream of confluence.	*632
			Upstream of Lincoln Avenue	*643
			Downstream of Marshall Hill Road	*655
			Approximately 3,055 feet upstream of Marshall Hill Road	*734
			Approximately 5,855 feet upstream of Marshall Hill Road	*804
			Upstream of Mountain Circle North	*871
			Downstream of Mountain Circle South	*891
			Downstream of Spillway approximately 492 feet upstream of Mountain Circle South.	*907
			Upstream of Spillway	*912
			Downstream of Carpi Lake Spillway	*916
			Upstream of Carpi Lake Spillway	*923
		Pequannock River	Downstream Corporate Limits	*429
			Upstream of Conrail	*442
			N.J. Route 23 (Downstream crossing)	*455
			N.J. Route 23 (Eastbound)	*520
			N.J. Route 23 (U-Turn)	*562
			Approximately 560 feet upstream of N.J. Route 23 (U-Turn)	*569
	Maps available at the Township Planning Department, West Milford, New Jersey.			
North Dakota	Crystal (City), Pembina County, FEMA–5818.	Cart Creek	Intersection of Lafayette Avenue and 3rd Street	*906
			Intersection of State Highway 66 and 4th Street	*911
	Maps available at City Hall, Crystal, North Dakota.			
North Dakota	Grafton (City), Walsh County FEMA–5815.	Park River	100 feet upstream from center of Burgamont Avenue Bridge	*826
			100 feet upstream from center of Kittson Avenue	*830

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Shallow Flooding	100 feet northwest of intersection of State Highway 17 and western corporate limits.	*830
	Maps available at City Hall, Grafton, North Dakota.			
North Dakota	Minto (City), Walsh County, FEMA–5815.	Forest River	Intersection of creek and center of First Street Bridge	*817
			Intersection of Gillespie Avenue and 4th Street	*819
	Maps available at City Hall, Minto, North Dakota.			
Ohio	(C) Barberton, Summit County (Docket No. FEMA–5815).	Tuscarawas River	At southern corporate limit	*961
			Just upstram of Tuscarawas Avenue	*964
			At eastern corporate limit	*966
		Wolf Creek	At confluence of Tuscarawas River	*962
			Just upstream of Wooster Road	*966
			At northern corporate limit	*967
		Hudson Run	About 1,600 feet downstream of Wooster Road	*974
			About 600 feet upstream of Wooster Road	*977
			About 420 feet downstream of 31st Street	*980
			About 300 feet upstream of 31st Street Northwest	*983
		Pancake Creek	At Eastern Road (southern corporate limit)	*1,047
			800 feet upstream Eastern Road	*1,050
			Just downstream of western corporate limit	*1,061
		Mud Run	At confluence of Tuscarawas River	*968
			Just upstram of U.S. Route 224	*969
			At northern corporate limit	*970
	Maps available at Municipal Building, 576 W. Park Avenue, Barberton, Ohio 44203.			
Ohio	(C) Brecksville, Cuyahoga County (Docket No. FEMA–5813).	Chippewa Creek	Just upstream of Chippewa Road	*809
			Just upstream of Brecksville Road	*815
			About 200 feet downstream of western corporate limit	*870
	Maps available at City Hall, 9069 Brecksville Road, Brecksville, Ohio 44141.			
Ohio	(V), Chilo Clermont County (Docket No. FEMA–5813).	Ohio River	Downstream corporate limit	*509
			Upstream corporate limit	*510
	Maps available at the Village Hall, Chilo, Ohio 45112.			
Ohio	(Uninc.), Erie County (Docket No. FEMA–5813).	Taylor Creek	Confluence with Sulphur Brook	*583
			About 120 feet upstream of Dewitt Avenue	*598
			About 150 feet upstream of Columbus Avenue	*617
			About 120 feet upstream of State Route 2	*623
			About 350 feet upstream of Bogart Road	*625
		Pipe Creek	About 250 feet downstream of confluence with Taylor Creek	*583
			Just downstream of Chessie System railroad	*597
			About 800 feet downstream of Strub Road	*608
			Just downstream of Chessie System railroad near Bogart Road	*626
			Just upsteam of Chessie System railroad near Bogart Road	*632
			About 100 feet downstream of Lewis Research Center property boundary.	*632
		Storrs-Hemminger Ditch	About 1,050 feet upstream of confluence with Kob Ditch	*583
			Just downstream of Milan Road	*603
			Just upstream of Milan Road	*608
			About 1,300 feet upstream of Milan Road	*611
			About 100 feet downstream from Columbus Avenue	*623
			About 950 feet upstream from Columbus Avenue	*624
		Kob Ditch	About 80 feet upstream from Perkins Avenue	*581
			About 1,100 feet upstream from confluence with Storrs-Hemminger Ditch.	*583
			Just downstream from Hull Drive	*594
		Windau Ditch	Confluence with Mills Creek	*607
			Just downstream of State Highway 2	*614
		Sulphur Brook	About 60 feet upstream from confluence with Taylor Creek	*585
			Just downstream from Columbus Avenue	*589
			Just upstream from Columbus Avenue	*595
			Just upstream from Marshall Avenue	*599
			Just downstream from Schiller Avenue	*601
			Just upstream from Schiller Avenue	*607
			Just upstream from Strub Road	*614
			About 960 feet downstream from Bogart Road	*623
		Plum Brook	Just downstream from Cleveland Sandusky Road	*577
			About 1,240 feet upstream of Perkins Avenue	*581
		Boos Ditch	Mouth at Sandusky Bay	*577

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Just downstream of Cleveland Sandusky Road	*583
		Sawmill Creek	About 2,800 feet downstream of Cleveland Sandusky Road	*577
			About 30 feet upstream of Conrail	*589
			Confluence with Dautch Ditch	*603
		Huron River	About 1.35 miles upstream of State Route 2	*579
			Just downstream of Mason Road	*588
		Edson Creek	Just upstream of Haber Road	*605
			About 4,000 feet downstream of State Route 2	*613
			Just downstream of State Route 2	*636
		Mills Creek	About 270 feet upstream of Norfolk and Western Railroad	*598
			About 60 feet downstream of confluence with Windau Ditch	*607
			About 2,200 feet upstream of State Route 2	*626
		Lake Erie	Along the shoreline	*577
		Shallow Flooding (from Sulphur Brook).	Intersection of Columbus and Marshall Avenues	#1
Maps available at the Erie County Courthouse, Sandusky, Ohio 44870.				
Ohio	(C), Fairlawn, Summit County (Docket No. FEMA–5815).	Shocalog Run	Downstream corporate limits	*980
			Just downstream of Trunko Road	*986
			Just upstream of Trunko Drive	*991
			Upstream corporate limits	*995
Maps available at Village Hall, 3487 S. Smith Road, Fairlawn, Ohio 44313.				
Ohio	(V), Milford, Hamilton County (Docket No. FEMA–5813).	Little Miami River	At the southern corporate limit	*511
			Approximately 250 feet upstream of the U.S. Route 50 bridge	*523
			At the northern corporate limit, approximately 4665 feet upstream of the U.S. Route 50 bridge.	*532
Maps available at Village Hall, 29 High Street, Milford, Ohio 45150.				
Ohio	(C), Norton, Summit County (Docket No. FEMA–5815).	Pigeon Creek	Confluence with Wolf Creek	*970
		Tributary No. 1 to Pigeon Creek	At corporate limits	*970
			Confluence with Pigeon Creek	*970
			At corporate limits	*971
		Wolf Creek	At corporate limits	*967
			At Barber Road	*968
			Just upstream of Interstate 76	*969
			Approximately 1000 feet upstream of Akron-Wadsorth Road	*970
			Just downstream of Summit Road second crossing	*971
			Approximately 500 feet upstream of Summit Road second crossing	*973
		Pancake Creek	At corporate limits	*1,061
			Just downstream of Taylor Road	*1,065
			Just upstream of Taylor Road	*1,070
			At corporate limits	*1,073
		Tuscarawas River	South corporate limits	*960
			North corporate limits	*961
		Hudson Run	Corporate limits	*983
			Approximately 1000 feet downstream of Lake Dorothy	*986
			Approximately 800 feet downstream of Lake Dorothy	*987
			At Lake Dorothy	*989
Maps available at Municipal Building, 4060 Columbia Woods Road, Norton, Ohio 44203.				
Ohio	(V), Obetz, Franklin County (Docket No. FEMA–5815).	Big Walnut Creek	Approximately 0.36 mile downstream from Alum Creek Drive	*722
			Just downstream from Groveport Road	*725
			Approximately 2.0 miles upstream of Groveport Road	*728
Maps available from the Village Hall, 50 Obetz Avenue, Obetz, Ohio 43207.				
Ohio	(C), Willoughby, Lake County (Docket No. FI–5226).	Chagrin River	Downstream corporate limits	*592
			Just downstream from Lakeland Freeway	*603
			Just upstream of St. Clair Street	*606
			Just upstream of Mentor Avenue	*611
			Just downstream of Johnnycake Ridge Road	*614
			Just upstream of Johnnycake Ridge Road	*618
			About 740 feet upstream of Riverside Drive	*621
		East Branch Chagrin River	At mouth	*618
			3,800 feet upstream of Interstate 90	*621
			Just downstream of Kirtland Country Club Dam	*628
			450 feet upstream of Kirtland Country Club Dam	*631
			Upstream corporate limit	*635
		Lake Erie	Shoreline of Community	*576
Maps available at City Hall, Willoughby, Ohio 44094.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Oregon	Portland (City), Multnomah, Clackamas, and Washington Counties FEMA–5815.	Columbia River	Along shoreline approximately 1,000 feet upstream of the confluence with Willamette River.	*27
			Approximately 250 feet north of the intersection of Northeast 13th Avenue and Marine Drive.	*27
		Willamette River	Confluence with Columbia Slough	*27
			Intersection of Rivergate Boulevard, Union Pacific Railroad, and Columbia Slough with the corporate limits.	*27
			Approximately 1,500 feet west along North Victory Boulevard from its intersection with North Denver Avenue.	*27
			Intersection of St. John's Bridge and the channel	*28
			Intersection of Burlington Northern Railroad and the channel	*28
			Intersection of Marquam Bridge and Southwest MacAdam Avenue	*29
			Intersection of Sellwood Bridge and the channel	*30
		Johnson Creek	Upstream side of Southeast Ochoco Street at intersection with channel.	*45
			Intersection of Southeast 21st Avenue and Southeast Tenino Street	*51
			Approximately 60 feet upstream from center of Southeast Harney Street Bridge over the channel.	*98
			Upstream side of Southeast 92nd Avenue at intersection with channel	*199
			Intersection of Southeast 97th Avenue and Southeast Ellis Street	*208
			Intersection of 110th Drive and Southeast Foster Road	*213
			Approximately 1,600 feet northeast of intersection of Southeast Foster Road and 159th Drive.	*248
		Peninsula Drainage District No. 2.	Approximately 150 feet north of the intersection of Schmeer Road and Minnesota Freeway.	*5
			Approximately 1,400 feet east along Gertz Road from its intersection with Vancouver Way.	*5
			Approximately 600 feet south along Northeast 13h Avenue from its intersection with Gertz Road.	*5
		Multnomah Drainage District No. 1.	Intersection of 33rd Street and Riverside Way	*17
			North side of intersection of Argyle Drive and Northeast 21st Street	*17
			Southern side of eastern end of Elrod Road	*17
			Intersection of Northeast 47th Avenue and Columbia Slough	*17
			Approximately 1000 feet north along Cascade Avenue from its intersection with Lombard Avenue.	*17
			Western end of Lombard Street at Airport boundary	*17
			Intersection of Northeast Saratoga Street and 96th Avenue	*17
			Intersection of Argyle Drive and 11th Avenue	*17
Maps available at City Hall, 1220 Southwest 5th Avenue, Portland, Oregon.				
Pennsylvania	Adamstown, Borough, Berks and Lancaster Counties (Docket No. FEMA–5815).	Little Muddy Creek	Downstream Corporate Limits	*450
			Private Drive (extended)	*462
			Willow Street (Upstream side)	*479
			Lancaster Avenue (Upstream crossing)	*497
			Upstream Corporate Limits	*500
		Lees Creek	Downstream Corporate Limits	*456
			Upstream Corporate Limits	*462
Maps available at the Adamstown Fire House, Adamstown, Pennsylvania.				
Pennsylvania	Bart, Township, Lancaster County (Docket No. FEMA–5813).	West Branch Octoraro Creek	Colerain Corporate Limits	*498
			2,000 feet upstream from Colerain Corporate Limits	*507
			Hollow Road (Upstream side)	*516
			Mt. Pleasant Road (Upstream side)	*526
			900 feet upstream of Mt. Pleasant Road	*532
			Willson Road extended	*539
			Dry Wells Road (Upstream side)	*551
			Confluence of Meetinghouse Creek and Nickel Mines Run	*559
		Meetinghouse Creek	Confluence with West Branch Octoraro Creek and Nickel Mines Run	*559
			Lomparter Road (Upstream side)	*563
			Conrail (Upstream side)	*573
			Valley Road (Downstream side)	*585
			Valley Road (Upstream side)	*590
			Quarry Road (Upstream side)	*597
			Private Road 2,800 feet upstream from Quarry Road (Upstream side)	*605
			Haiti Road (Upstream side)	*614
		Nickel Mines Run	Confluence with West Branch Octoraro Creek and Meetinghouse Creek.	*559
			Gibble's Mill Road (Upstream side)	*565
			Conrail (Upstream side)	*567
			Route 372 Valley Road (Upstream side)	*578
			Green Tree Road (Upstream side)	*583
			Private Road 1,150 feet upstream of Green Tree Road (Upstream side).	*589

V 45 A G 2 0 8 0 UMI

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Private Road 1,400 feet upstream of Green Tree Road (Upstream side).	*590
			Private Road 1,600 feet upstream of Green Tree Road (Upstream side).	*592
			Private Road 3,500 feet upstream Green Tree Road (Upstream side)	*603
			State Route 896 Christiana Pike (Downstream side)	*612
			State Route 896 Christiana Pike (Upstream side)	*619
			Old Dam Road (Upstream side)	*621
Maps available at the Bart Township Building, Quarry Road, Bart, Pennsylvania.				
Pennsylvania	Caernarvon, Township, Berks County (Docket No. FEMA–5815).	Conestoga River	Downstream Corporate Limits	*501
			Private Road Upstream	*505
			Mill Road Downstream	*510
			Mill Road Upstream	*514
			Township Route 308/Mast Road Upstream	*516
			Approximately 1,050 feet upstream of Township Route 308/Mast Road.	*519
		Tributary No. 1 to Conestoga River.	Mill Road/Township Route 305 Downstream	*503
			Private Road Upstream	*508
			Pennsylvania Turnpike Downstream	‡526
Maps available at the Caernarvon Township Building, Main and Chestnut Streets, Caernarvon, Pennsylvania.				
Pennsylvania	Colerain, Township, Lancaster County (Docket No. FEMA–5815).	Ball Run	Upstream side of Maple Shade Road	*397
			Approximately 2,700 feet upstream of Maple Shade Road	*425
			Approximately 4,800 feet upstream of Maple Shade Road	*453
			Approximately 1,500 feet downstream of Upstream Corporate Limits	*477
		West Branch Octoraro Creek	Approximately 350 feet upstream of extension of Private Road near Octoraro Lake.	*291
			Downstream side of Academy Road	*298
			Downstream side of Noble Road	*314
			Approximately 1,800 feet downstream of Legislative Route 36010	*340
Maps available at the Colerain Township Building, Route 472, Kirkwood, Pennsylvania.				
Pennsylvania	Harmony, Township, Susquehanna County (Docket No. FEMA–5800).	Susquehanna River	Downstream Lanesboro/Harmony Corporate Limits	*907
			State Boundary (Upstream)	*914
		Starrucca Creek	Downstream Lanesboro Corporate Limits	*941
			Approximately 2,900 feet upstream of Lanesboro Corporate Limits	*960
			Downstream Conrail crossing near Jefferson Junction (Upstream)	*984
			Approximately 2,400 feet upstream of Conrail crossing near Jefferson Junction.	*1,005
			Downstream crossing of Starrucca Road near Brandt (Upstream)	*1,026
			Next upstream crossing of Starrucca Road	*1,037
			Upstream Conrail crossing (Upstream)	*1,064
			Upstream Township Route 855	*1,082
			Approximately 1,000 feet upstream of Township Route 855	*1,088
Maps available at the Harmony Township Building, Stevens Point, Pennsylvania.				
Pennsylvania	Oakmont, Borough, Allegheny County (Docket No. FEMA–5813).	Allegheny River	Downstream Corporate Limits	*742
			Upstream Corporate Limits	*743
		Plum Creek	Downstream Corporate Limits	*742
			160 feet upstream of Plum Street	*748
			Upstream of Conrail Bridge	*755
			Dark Hallow Road (extended)	*766
			Upstream Corporate Limits	*771
			At Conrail Track crossing of Corporate Limits	*776
Maps available at the Oakmont Municipal Building, 5th and Virginia Avenue, Oakmont, Pennsylvania.				
Pennsylvania	Quarryville, Borough, Lancaster County (Docket No. FEMA–5813).	Beaver Creek	Downstream Corporate Limits	*456
			Downstream of North Church Street Bridge	*457
			Downstream of Private Drive	*482
			Downstream of Conrail Bridge	*486
			Upstream of Conrail Bridge	*489
			East State Street Bridge (State Route 372)	*490
			Downstream of South Broad Street Bridge	*496
			Downstream of East 2nd Street Bridge	*499
			Downstream of South Park Avenue	*512
Maps available at the Quarryville Municipal Building, 300 Catherine Street, Quarryville, Pennsylvania.				
Pennsylvania	Sadsbury, Township, Lancaster County (Docket No. FEMA–5815).	Williams Run	Downstream Corporate Limits	*473
			Private Road approximately 1,500 feet above Corporate Limits (Upstream side).	*478
			Private Road approximately 1,000 feet above confluence of Tributary A (Upstream side).	*486
			Private Road approximately 430 feet downstream of Williams Run Road (Upstream side).	*503
			Williams Run Road (Downstream side)	*505
		Buck Run	Downstream Corporate Limits	*470
Maps available at the Sadsbury Township Building, White Oak and Noble Roads, Sadsbury, Pennsylvania.				
Pennsylvania	Verona, Borough, Allegheny County (Docket No. FEMA–5813).	Allegheny River	Downstream Corporate Limits	*741
			Upstream Corporate Limits	*742
		Plum Creek	At confluence with Allegheny River	*742
			Allegheny River Boulevard Upstream	*743
			Conrail Spur Line	*745
			Upstream Corporate Limits	*749
Maps available at the Borough Building, 601 Allegheny River Boulevard, Verona, Pennsylvania.				
Pennsylvania	Wright, Township, Luzerne County (Docket No. FEMA–5813).	Big Wapwallopen Creek	Downstream Corporate Limits	*1,064
			Blytheburn Road (Upstream)	*1,086
			Confluence of Bow Creek	*1,233
			Upstream Corporate Limits	*1,346
		Watering Run	Confluence with Big Wapwallopen Creek	*1,070
			Private Road (Upstream)	*1,186
			Legislative Route 40023 (Upstream)	*1,220
			State Route 309 (Downstream)	*1,343
			State Route 309 (Upstream)	*1,349
			Approximately 2,820 feet upstream of State Route 309	*1,410
		Bow Creek	Confluence with Big Wapwallopen Creek	*1,233
			Legislative Route 40023 (Upstream)	*1,270
			Approximately 280 feet upstream State Route 309	*1,327
			Upstream Corporate Limits	*1,347
		Tributary A	Approximately 300 feet upstream confluence with Bow Creek	*1,327
			Upstream Corporate Limits	*1,342
Maps available at the Wright Township Building, 321 South Mountain Boulevard, Mountain Top, Pennsylvania.				
South Carolina	Town of Moncks Corner, Berkeley County (FEMA–5799).	California Branch	Approximately 40 feet upstream of California Avenue	*43
			Approximately 150 feet upstream of State Highway 6	*48
			Approximately 80 feet upstream of Haynesville Road	*63
Maps available at City Hall, 118 Caroline Street, Moncks Corner, South Carolina 29461.				
South Dakota	Flandreau (City), Moody County, FEMA–5815.	Big Sioux River	Intersection of North Eleventh and West Bridge Street	*1,535
			40 feet upstream from center of North Crescent Street	*1,535
			Intersection of Water Street and East Second Avenue	*1,541
Maps available at City Office Building, 136 2nd Avenue East, Flandreau, South Dakota.				
Texas	City of Gladewater, Upshur and Gregg Counties (FEMA–5799).	Victory Branch	Just upstream of East Lake Drive	*290
			Just upstream of Phillips Spring Road	*301
		Sabine River	Approximately 230 feet upstream of U.S. 271	*267
			At the confluence of Glade Creek	*268
		Moody Creek	Just upstream of U.S. Highway 80	*290
			Just upstream of Shell Camp Road	*298
Maps available at City Secretary's Office, City Hall, Gladewater, Texas 75647.				
Texas	City of Terrell Hills, Bexar County (FEMA–5815).	Crestwood Drive Ditch	Just upstream of Seford Drive	*703
			Just upstream of Crestwood Drive (Inlet Crestwood Drive Culvert)	*717
			Just upstream of Vandiver Road (Inlet Vandiver Road Culvert)	*733
			Just downstream of Morningside Drive (Outlet Morningside Drive Culvert).	*736
		Tuttle Road Ditch	Approximately 200 feet upstream of Eastern Corporate Limits	*692
		New Braunfels, Austin Highway, Broadway Drain.	Approximately 100 feet upstream of Albany Street	*740
Maps available at Terrell Hills City Hall, 5100 North New Braunfels Street, Terrell Hills, Texas 78209.				
Vermont	Essex, Town, Chittenden County (Docket No. FEMA–5798).	Winooski River	Downstream Colchester/Essex Corporate Limits	*218
			Downstream Essex/Essex Junction Corporate Limits	*218
			Upstream Essex/Essex Junction Corporate Limits	*287
			Upstream of Central Vermont Railroad	*290
			Confluence of Alder Brook	*292
			Upstream of North Williston Road	*295
			Upstream Essex/Jericho Corporate Limits	*296
		Browns River	Downstream Corporate Limits	*459
			12,600 feet upstream of Pettingill Road	*463
			Upstream of State Route 128	*474
			Upstream of State Route 15	*486
			Upstream Corporate Limits	*490

Final Base (100-Year) Flood Elevations—Continued

INTERSTATE COMMERCE

must be based on an amount per day or

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Alder Brook	Confluence with Winooski River	*292
			3,500 feet above confluence with Winooski River	*297
			Upstream of Snowmobile Bridge	*337
			10,000 feet above confluence with Winooski River	*355
			14,750 feet above confluence with Winooski River	*398
			16,650 feet above confluence with Winooski River	*409
			Downstream of State Route 15	*443
			Upstream of State Route 15	*449
			Upstream of State Route 128	*473
			1,500 feet upstream of State Route 128	*474
Maps available at the Essex Town Office.				
Vermont	(T), Royalton, Windsor County (Docket No. FEMA-5815).	White River	At the eastern corporate limits	*457
			Approximately 4,600 feet upstream of the eastern corporate limits	*463
			Approximately 150 feet downstream of State Route 110	*472
			Approximately 150 feet upstream of State Route 110	*475
			Approximately 250 feet downstream of Royalton Road	*489
			Just upstream of Royalton Road	*494
			Just downstream of Sewall Brook Road	*501
			Approximately 150 feet upstream of Sewall Brook Road	*505
			Approximately 2,150 feet downstream of western corporate limits	*526
			Approximately 1,550 feet downstream of western corporate limits	*532
			At the western corporate limits	*535
		First Branch White River	Mouth at White River	*476
			Just upstream of State Route 14	*485
			Just downstream of first of 2 dams	*487
			Just upstream of second of 2 dams	*503
			Just downstream of first of 2 farm bridges	*508
			Just upstream of first of 2 farm bridges	*513
			At northern corporate limits	*516
		Second Branch White River	Mouth at White River	*507
			Just downstream of State Route 14 (second crossing)	*518
			Just upstream of State Route 14 (second crossing)	*528
			At western corporate limits	*530
Maps available at the Town Clerk's Office, South Royalton, Vermont 05068.				
Vermont	(T), Wallingford, Rutland County (Docket No. FEMA-5815).	Otter Creek	Northern corporate limits	*554
			About 800 feet downstream of Creek Road	*556
			Just upstream of Elm Street	*566
			Just upstream of Depot Street	*572
			About 500 feet downsteam of U.S. Route 7	*577
			Just upstream of Vermont Railway (upstream of Hartsboro Road)	*583
			About 1,600 feet downstream of Vermont Railway (downstream of South Wallingford Brook).	*589
			About 90 feet downstream County Route 99	*618
			About 75 feet upstream County Route 99	*628
			Southern corporate limits	*644
		Roaring Brook	Confluence with Otter Creek	*570
			About 40 feet downstream of Vermont Railway	*576
			About 40 feet upstream of Railroad Street	*580
			Just upstream of Main Steet	*603
			About 2,200 feet upstream of Main Street	*678
		Mill River	Northern corporate limits	*1,037
			Just upstream of Green Mountain Railroad	*1,107
			Just downstream of State Route 155	*1,173
			Southern corporate limits	*1,199
		Homer Stone Brook	Confluence with Otter Creek	*633
			About 35 feet downstream of Vermont Railway	*635
			Just upstream of Vermont Railway	*639
			Just upstream of Homer Stone Road	*671
			About 370 feet upstream of Homer Stone Road	*685
Maps available at the Town Clerk's Office, Wallingford, Vermont 05773				
West Virginia	City of Williamson, Mingo County (FEMA-5813).	Tug Fork	Just upstream of U.S. Highway 119 (River Mile 58.1)	*667
			Just upstream of Norfolk and Western Railway (River Mile 59.3)	*670
			Confluence of Tug Fork and Sycamore Creek (River Mile 59.5)	*673
Maps available at City Clerk's Office, City Hall, 2 East Third Avenue, Williamson, West Virginia 25661.				
Wisconsin	(V), De Soto, Vernon and Crawford Counties (Docket No. FEMA-5800).	Mississippi River	About 2,250 feet downstream of the Vernon/Crawford County boundary.	*635
			About 5,350 feet upstream of the Vernon/Crawford County boundary	*635
Maps available at Village of De Soto, De Soto, Wisconsin 54624 to the attention of Mr. Carl Crane.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24977 Filed 8-19-80; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-No. 34)]

Household Goods Transportation; (Storage-in-Transit Charges)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rule.

SUMMARY: The Commission is adopting a rule which will change the way that storage-in-transit (SIT) charges are assessed on household goods moving in interstate or foreign commerce. Assessment of SIT charges on a daily rather than 30-day basis will be required.

DATES: The rule will become effective November 17, 1980. Comments addressing our jurisdiction to prescribe the SIT rule are due on or before September 18, 1980.

ADDRESS: Send comments and 10 copies, if possible, to: Secretary, Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley (202) 275–7348. Copies of the complete decision are available from the Secretary, Interstate Commerce Commission, Washington, DC 20423.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by a notice of proposed rule (NPR) published in the **Federal Register** on May 25, 1979 (44 FR 30387, revised at 44 FR 75194), to consider the propriety of the practice of motor carriers and freight forwarders of household goods moving in interstate or foreign commerce of assessing charges for SIT in increments of 30 days. A rule was proposed which would require that SIT charges be assessed on a daily basis.

As indicated in our NPR, we receive complaints in which complainants state that the present practice of charging for SIT is unfair. In this rulemaking we sought justification for the continuation of the present practice and comments concerning the proposed rule.

After reviewing all the comments and the justification furnished we concluded that the present practice of charging for SIT on a 30-day basis was unreasonable. We decided that adoption of the proposed rule is a reasonable alternative to the present practice. While no provision was made in the proposed rule for SIT of less than one full day, the proposed rule has been modified to require that charges for SIT must be based on an amount per day or fraction thereof.

Our revised notice in this proceeding corrected an inadvertent omission of the citations of the legal authorities under which the rule was proposed by including reference to 5 U.S.C. 553 and 49 U.S.C. 10321. However, a comment was received which contends that the revised notice still failed to give proper reference to the appropriate legal authority, as required by the Administrative Procedure Act. It was also submitted that the Commission does not have the legal authority to adopt the proposed rule, however, no argument supporting this submission was offered.

It has been clear from the outset of this proceeding that the Commission had doubts about the reasonableness of the practice of assessing a standard 30-day rate for storage-in-transit and was considering promulgating a rule requiring storage-in-transit charges to be based on the actual number of days goods remain in storage. Thus, it should have been obvious that we were proceeding under 49 U.S.C. 10701(a) and 10704(a)(1) in conducting this investigation, and our failure to specifically refer to those sections should not have precluded parties from effectively challenging our exercise of jurisdiction. However, because those sections were not specifically set forth in our notice of rulemaking (which we regard as a purely technical defect which would not invalidate the notice) and out of an abundance of caution, we will permit all parties desiring to do so to file comments, within 30 days of the date of this notice, addressed to our jurisdiction to prescribe the subject SIT regulation. All material received will be considered, and we will enter a judgment concerning the statutory authority issue. Appropriate revisions in the rule or a stay of its effective date will be published, if necessary. Unless revised or stayed, the rule shown below will become effective November 17, 1980.

Accordingly, § 1056.3(b) of Chapter X of Title 49 of the Code of Federal Regulations is revised to read:

§ 1056.3 Accessorial or terminal services; tariffs providing therefor; containers, packing, and unpacking charges.

* * * * *

(b) The separate tariff charges so established for containers, packing, and unpacking shall provide for separate charges for containers, for packing, and for unpacking stated in amounts per container. Charges for other services shall be separately stated on a unit or hourly basis, whichever is appropriate.

V 45 AG 2080 UMI

Charges for storage-in-transit shall be stated in an amount per 100 pounds per day or fraction thereof. Tariffs may state an hourly labor charge applicable to miscellaneous labor service performed at the request of a shipper in connection with the transportation, when a rate is not separately stated in the tariff for the service so requested.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

The rule adopted in this proceeding was promulgated under authority contained in 5 U.S.C. 553, 49 U.S.C. 10321, 10721(a), and 10704(a)(1).

Dated: July 17, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24243 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 45, No. 163

Wednesday, August 20, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR PART 212

[Docket No. ERA-R-80-26]

Maximum Lawful Selling Price for Unleaded Gasoline; Change in Hearing Schedule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of change in hearings schedule.

SUMMARY: On August 8, 1980 the Economic Regulatory Administration of the Department of Energy issued a Further Notice of Proposed Rulemaking and Public Hearing (45 FR 54694, August 15, 1980) concerning several methods for imputing the May 15, 1973 selling price for unleaded gasoline. Two public hearings were announced in the Notice, one is Los Angeles, California, on September 5, 1980, and one in Washington, D.C., on September 11, 1980, and are hereby changed.

DATES: Hearing dates: Los Angeles, California, September 18, 1980; Washington, D.C., September 24, 1980. Requests to speak by 4:30 p.m., September 11, 1980, for Los Angeles hearing; September 17, 1980, for Washington, D.C.

HEARING LOCATIONS: Los Angeles hearing: Los Angeles Convention Center, 1201 South Figueroa Street, Room 212–A, Los Angeles, California, 90015. Washington hearing: Room 2105, 2000 "M" Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–4055.

Lorraine Hall (Office of Public Hearings), Economic Regulatory Administration, Room B–210, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3971.

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3220.

SUPPLEMENTARY INFORMATION: If you have any interest in the matters to be discussed or represent a group or class of persons that has an interest, you may request an opportunity to make an oral presentation by 4:30 p.m. on September 11, 1980, for the Los Angeles hearing and September 17, 1980, for the Washington, D.C. hearing. You should also provide a phone number where you may be contacted through the day before the hearing. If you are selected to be heard, you will be notified before 4:30 p.m. on September 15, 1980, for the Los Angeles hearing and September 19, 1980, for the Washington, D.C. hearing, and are requested to submit one hundred copies of your statement to the hearing location by 8:30 on the morning of the hearing.

Issued in Washington, D.C., August 15, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration,

[FR Doc. 80-25328 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-01-M

10 CFR Parts 500, 503, 504, 505, and 506

[ERA-R-80-24]

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption; Public Hearing Locations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Public hearing locations.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby announces the locations for the public hearings on its proposed rule to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C.A. § 8301 et seq. (FUA or the Act) regarding cogeneration. Notice of the public hearings on cogeneration was published in the **Federal Register** (45 FR 53368, August 11, 1980).

DATES: Public hearings for cogeneration will be held on September 25, 1980, and, if necessary, September 26; October 6, 1980, and, if necessary, October 7; and, October 9, 1980, and, if necessary, October 10.

ADDRESSES: The hearings will be held at the following locations:

City, Hearing Date, Location, and Request to Speak

San Francisco, CA. Thursday, Sept. 25, 1980. Ramada Inn, 590 Bay Street, Leland Stanford Rm., San Francisco, CA. Dept. of Energy, 333 Market Street, 6th Floor, San Francisco, CA 94105, (415) 764–7027. Contact: Ms. Terry Osborn.

Boston, Ma. Monday, Oct. 6, 1980. John W. McCormack, Post Office and Courthouse Bldg., 1 Post Office Sq., Room 208, Boston, MA. Dept. of Energy, 150 Causeway Street (Room 700), Boston, MA 02114. Contact: Mr. Bob Ruttenberg.

Houston, TX. Thursday, Oct. 9, 1980. Allen Park Inn, 2121 Allen Parkway, Steamboat Room, Houston, TX. Dept. of Energy, 2626 W. Mockingbird Lane, P.O. Box 35228, Dallas, TX 75235, (214) 767–7745. Contact: Mr. Mac Lacefield.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–4055.

Dorothy M. Hamid (Public Hearings Division), Economic Regulatory Administration, Department of Energy, Room B–210, 2000 M Street, NW., Washington, D.C. 20461, 202–653–3974.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 7002, 2000 M Street, NW., Washington, D.C. 20461, 202–653–3217.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, NW., Washington, D.C. 20461, 202–653–3649.

Alan Starr (Office of Utility Systems), Economic Regulatory Administration, Department of Energy, Room 4103D, 2000 M Street, NW., Washington, D.C. 20461.

G. Randolph Comstock (Office of General Counsel), Department of

Energy, Room 6–G–087, 1000 Independence Avenue, SW., Washington, D.C. 20461, 202–252–2967.

Issued in Washington, D.C., August 14, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-25333 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Proposed Changes to Regulations Governing the Small Business Investment Company Program

AGENCY: Small Business Administration.

ACTION: Proposed rulemaking.

SUMMARY: This proposal would amend 13 CFR § 107.101(d)(1)(i), and 107.101(d)(2)(i).

The amendment to § 107.101(d)(1)(i) is merely editorial, deleting a reference to Private Capital of $150,000 which since October 1, 1979, has been obsolete. The minimum Private Capital required by the Small Business Investment Act (Act) since that date has been $500,000.

The amendment to § 107.101(d)(2)(i) reflects an obligation imposed upon SBA by amendments to the Economic Opportunity Act of 1964, to entertain License applications submitted by entities capitalized entirely with nonprivate funds granted by the Community Services Administration.

DATES: A sixty (60) day comment period (October 20, 1980) will exist for submission of comments on these proposed rules.

ADDRESS: Comments should be submitted to Peter F. McNeish, Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mr. McNeish at the above address, Tel. 202/653–6584.

SUPPLEMENTARY INFORMATION: The proposed amendment of § 107.101(d)(1)(i) is self-explanatory. Every licensee has, since October 1, 1979, been required to have not less than $500,000 of Private Capital.

The Economic Opportunity Act of 1964, as amended by Pub. L. 95–468, has been interpreted to require SBA to accept as Private Capital the entire amount of any grant made by the Community Services Administration to a "community development corporation" (as defined in 42 U.S.C. 2981a and implementing regulations) for the purpose of capitalizing a section 301(d) Licensee, even though the grant proceeds may constitute the entire capitalization of the applicant-Licensee. In other words, SBA may not, in the case of a Licensee application submitted by a corporate subsidiary of a community development corporation, require that the applicant have any truly private funds in its capitalization; or impose any such requirement as a condition precedent to SBA funding. The proposed amendment to § 107.101(d)(2)(i) merely reflects this interpretation of the Economic Opportunity Act, as amended.

Accordingly, pursuant to the authority contained in section 308 of the Small Business Investment Act, as amended, 15 U.S.C. 661, it is proposed to amend Part 107 of Title 13 of the Code of Federal Regulations as follows:

1. Section 107.101(d)(1)(i) would be amended to read as follows:

§ 107.101 Operational requirements.

* * * * *

(d) *Minimum Capital*—(1) *General.* Every Licensee shall have:

(i) Private Capital of at least $500,000 (for consideration for issuance of Licensee's securities see § 107.805(a)).

* * * * *

2. Section 107.101(d)(2)(i) would be amended to read as follows:

§ 107.101 Operational requirements.

* * * * *

(d) * * *

(2) *Nonprivate funds for Licensees.* (i) Funds directly or indirectly granted to a Licensee by a Federal or State agency, authority, or instrumentality pursuant to a statutory authorization may be included in a Licensee's Private Capital for purposes of sections 302(a), 303(c) and 306 of the Act: *Provided, however,* That, except in the case of funds granted by the Community Services Administration to a community development corporation (as defined in 42 U.S.C. 2981a), the minimum capital of $500,000 specified by section 302(a)(1) of the Act may not include nonprivate funds.

Dated: August 11, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-25332 Filed 8-19-80; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 124

Clarification of Eligibility for Section 8(a) Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would amend 13 CFR 124.1–1(c)(2)(iii) to specify that Community Development Corporations (CDC's) as defined in 42 U.S.C. 2981a, and implementing regulations promulgated thereunder, may own more than a 49 percent interest in a concern applying for admission to the section 8(a) program, pursuant to some specified restrictions. This proposed regulation alters and amplifies upon the present § 124.1–1(c)(2)(iii) which presently prescribes the ability of certain entities to maintain ownership interest in applicants for the section 8(a) program.

DATES: A sixty (60) day comment period from the date of publication (October 20, 1980) will exist for this proposal.

ADDRESS: Comments should be submitted to William A. Clement, Jr., Associate Administrator for Minority Small Business and Capital Ownership Development, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: William A. Clement, Jr., at the above address, Tel. 202/653–6407.

SUPPLEMENTARY INFORMATION: Pursuant to a Department of Justice interpretation of section 742(a)(2) of the Economic Opportunity Act, as amended, 42 U.S.C. 2985(a)(2) and a court order, the Small Business Administration (SBA) has been required to promulgate proposed regulations which would insure the availability of the section 8(a) program to community development corporations (CDC's) and businesses which CDC's own and/or control. The following proposed regulations seek to implement both the interpretation and the court order.

In this regard, SBA will consider a concern applying for admission to the section 8(a) program which is more than 49 percent owned by a CDC to be eligible for the program pursuant to certain conditions which SBA feels are necessary to protect the integrity of the program and to uphold the spirit and letter of 15 U.S.C. 637(a)(4).

The proposed regulation requires that the socially and economically disadvantaged managers of the applicant must retain practical day-to-day control of the business. Also, the same socially and economically disadvantaged individuals must obtain ownership and control of more than 50 percent interest in the concern after a period of no more than five years. In this manner, the purposes of both the Economic Opportunity Act and the Small Business Act will best be served. Accordingly, 13 CFR 124.1–1(c)(2)(iii) is proposed to be amended to read as follows:

§ 124.1–1 The section 8(a) program.

* * * * *

(c) * * *

(2) * * *

(iii) Pursuant to 42 U.S.C. 2985a(a)(2), a community development corporation, as defined in 42 U.S.C. 2981(a), and implementing regulations promulgated thereunder, may own more than a 49 percent interest in an applicant section 8(a) business concern, provided that:

(A) Prior to the admission of such an applicant section 8(a) business concern into the section 8(a) program, the community development corporation which owns more than a 49 percent interest in the applicant concern must transfer by contract, voting truat, cumulative voting agreement, proxy, power of attorney or other appropriate vehicle to the socially and economically disavantaged individuals who manage the applicant section 8(a) business concern all control over the activities of the concern which accrues to the community development corporation as a result of its ownership interest. Such transfer must be approved by the AA/MSB–COD prior to and as a condition of admission of the applicant section 8(a) concern into the section 8(a) program.

(B) In addition to paragraph (c)(2)(iii)(A) of this section, a written divestiture agreement between the community development corporation and the applicant section 8(a) concern, must be executed prior to admission of the concern into the section 8(a) program. Such agreement must be approved by the AA/MSB–COD as a condition of the concern's admission into the program. Such divestiture agreement must result in the ownership interest of the community development corporation in the applicant section 8(a) concern being reduced to less than 50 percent over a period not to exceed five years. One condition of such divestiture agreement must be a provision allowing purchase of the community development corporation's interest by the section 8(a) concern at a prescribed price at some time during the term of the divestiture agreement.

* * * * *

Dated: August 11, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-25333 Filed 8-19-80; 8:45 am]

BILLING CODE 8025-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Contract Market Rules and Practices Governing the Imposition and Maintenance of Price Limits; Advance Notice of Proposed Rulemaking; Public Comment

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is announcing its intent to consider engaging in rulemaking which would affect contract market rules and practices governing the imposition and maintenance of price limits. Price limits establish ranges within which daily prices of futures contracts are permitted to fluctuate, thereby limiting short term price volatility. In doing so, however, price limits may potential artificially prevent futures markets from reflecting the fair market value of the futures contracts to which price limits apply. The Commission requests comment on the function of current price limit rules and practices of the designated contract markets and on whether rulemaking by the Commission concerning price limits would promote the purposes of the Commodity Exchange Act. The Commission believes that consideration of whether to engage in rulemaking affecting contract market methods for imposing price limits is appropriate at this time in view of the substantial legal and economic policy issues summarized below.

DATE: Comments must be received on or before November 18, 1980.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Office of the Secretaries; Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Christine A. Rock, Esq., Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission ("Commission") is reviewing the extent to which price limits serve a beneficial regulatory purpose in the futures industry. Price limits establish a range within which the daily price of a futures contract in a particular month is permitted to fluctuate. Trading is prohibited at any price outside of the applicable price range, which is based on the closing price or clearinghouse settlement price of the previous business day plus or minus a specified amount set by the exchange for each futures contract.[1]

Some futures contracts trade without price limits in the spot month. For example, the current month in the financial instrument futures contracts and the metal futures contracts trade on the Chicago Board of Trade ("CBT") without price limits. The current month in each futures contract on the Commodity Exchange, Inc. ("Comex") trades without price limits.[2] This procedure allows market participants to trade in at least one contract month where futures prices will be able to reflect prices in the cash market.

Generally, exchanges have sought and received Commission approval to expand price limits and establish variable price limit systems when confronted with periods of extended price volatility. While the Commission has not adopted a formal policy governing price limits, it has encouraged exchanges to adopt variable limits.[3]

Many exchanges have variable price limit provisions which automatically expand price limits based on some combination of limit and less-than-limit settlement prices on prior days. For example, the CBT has a variable price limit rule under which price limits for all months of a grain contract are automatically increased by 150 percent when three or more delivery months of one crop year of a given contract move limit up or down respectively in three successive trading sessions. [4]

The Chicago Mercantile Exchange ("CME") has implemented a price limit approach which permits a closer relationship between prices in the cash

[1] For example, if the November soybeans contract closes at $5.64 and the limit is 30 cents, that futures contract may be traded only within the range of $5.34 and $5.94 on the following day. For soybeans contracts these price limits do not apply on or after the first notice day of the expiring contract.

[2] *See e.g.,* Chicago Board of Trade regulations 1008.01, 1508.01 and X1508.01 and Commodity Exchange, Inc. copper rule 5, silver rule 5, gold rule 5 and zinc rule 5. The CBT, in its submission concerning the elimination of price limits in current months in its gold and silver contracts, stated that "these amendments are necessary in order that there is (sic) always a month which is allowed to reflect the cash market and to stay competitive in the metals futures markets." Letter from Thomas R. Donovan, Secretary, Chicago Board of Trade to the Executive Secretariat of the Commission dated August 28, 1978.

[3] Commission meeting on August 29, 1978.

[4] CBT regulation 1007.01B. The limits would remain at 150 percent for successive periods of three business days until three or more contracts in a crop year do not close at the limit on one day during that period. When three or more contract months do not close at the limit, the price limits would revert to their original levels at the end of that three day period.

forward and futures markets in foreign currencies by allowing price limits to be removed for one day whenever a contract month closes at the daily price limit in the same direction for four successive business days. After one day of trading without limits, the normal limits again become effective on the sixth trading day. In addition, the Commission has approved, pursuant to section 5a(12) of the Act,[5] the proposal of the New York Futures Exchange, Inc. ("NYFE") to trade its foreign currency contracts without any price limits.[6]

The Commission has the responsibility for reviewing and approving exchange rules pursuant to section 5a(12) of the Act, the authority to engage in rulemaking pursuant to section 8a(5) of the Act,[7] and the authority to alter or supplement contract market rules pursuant to section 8a(7) of the Act.[8] Traditionally, the Commission has deferred to the discretion of the respective exchanges on whether or not to impose price limits and at what level. The Commission's ultimate decision of whether to adopt rules altering exchange methods of imposing price limits will involve a balancing of the legal and economic policy issues which are discussed below.

Arguments for Price Limits

The primary argument supporting price limits appears to be that such limits restrict intra-day price movements and, thus, limit the extent to which market participants may overreact to daily news events. In this manner, limits potentially diminish price volatility by providing the market with a cooling off mechanism in emotional situations caused by newsworthy events such as severe weather conditions, political upheaval or other occurrences of national or international significance. Such restriction of daily price movements results in a number of other benefits which have been cited by supporters of price limits.

First, price limits provide a form of financial protection for clearing members, futures commission merchants ("FCMs") and customers in cases of sudden unidirectional price moves. For FCM's the financial protection provided by price limits acts as a safety net, particularly during periods where risk exposure of their proprietary and customer positions is increased due to the market volatility.[9] Clearing members can be assured that the amount of margin they might have to submit to the clearinghouse on any one day will not exceed the value represented by an adverse limit move.[10] Customers also are assured that the amount of reduction in their accounts on any one day will be limited to the value represented by an adverse limit move.

The Commodity Futures Trading Commission Advisory Committee on the Economic Role of Contract Markets ("Advisory Committee") felt that the purpose underyling price limits was to protect the financial integrity of member firms and clearinghouses;[11] that is, price limits place a ceiling on the risk confronted by member firms and clearinghouses and provide member firms and clearinghouses with an opportunity to collect additional funds in an orderly and unburdensome manner prior to the next day's trading. To the extent that price limits permit persons to commit funds to the futures markets in a more orderly manner and prevent sudden, excessive payments of maintenance margin or payouts of excess margin over short periods of time, they may reduce the risks borne by clearing members and clearinghouses and thereby benefit the public and the industry.

Furthermore, price limits are frequently cited as justifying the establishment or maintenance of lower margin requirements, which are viewed as promoting market liquidity.[12] Since price limits place a daily ceiling on the risk confronted by member firms and clearinghouses and provide member firms and customers with the opportunity to submit funds in orderly limited installments, lower margin requirements may be justified.[13] One result of eliminating or liberalizing price limits would be that FCMs, clearinghouses and exchange might feel compelled to increase margin requirements to offset the additional risks involved in trading.[14]

Arguments for Altering Methods of Imposing Price Limits

Price limits directly interfere with free market price determination, which is one of the key economic purposes of future trading.[15] Futures markets provide a forum in which trading is conducted by open outcry and from which news of transactions is immediately disseminated worldwide. These prices are estimates of the future value of commodities. To the extent that futures markets quickly and accurately assess changes in supply and demand forces the futures prices quoted are useful in guiding production and consumption decisions throughout the world.[16]

---

[5] 7 U.S.C. 7a(12) (1978), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, section 12, 92 Stat. 871 (1978).

[6] The NYFE, in its contact market designation submission to the Commission, referred to the price volatility in foreign exchange markets and the absence of daily price limits in the cash or forward market to justify its proposal. The Commission noted that the absence of price limits would permit the futures market to serve its economic purpose at all times, regardless of volatile movements in the cash market. To the extent that the cash market in currencies acts as the primary price discovery vehicle, price limits in the futures market would inhibit the ability of the futures market to reflect the economic realities of the cash market. Letter from Frank J. Jones, Senior Vice President, New York Futures Exchange, Inc. to the Office of the Secretariat of the Commission dated April 3, 1980.

[7] 7 U.S.C. 12a(5) (1978).

[8] 7 U.S.C. 12a(7)(1978).

[9] The safety net provided by price limits, however, only limits the risk in the short-term and does not decrease the long-term effects of a sustained price movement, which may necessitate that FCMs infuse additional capital. As noted above, however, price limits allow firms to infuse such capital as necessary in a more orderly manner.

[10] This is known as a variation margin call. This amount is applied to the settlement for the day and does not go into the standing or initial margin account.

[11] Commodity Futures Trading Commission Report of the Advisory Committee on the Economic Role of Contract Markets, Gary L. Seevers, Chairman, (July 17, 1978) at 43 (hereinafter cited as Advisory Committee Report).

[12] *Id.* at 44. However Messrs. Jiler and Scheu, members of the Advisory Committee, commented that the impact of price limits on market liquidity, price discovery and clearinghouses viability should be carefully evaluated over time. *Id* at 45.

[13] Futures exchanges set the minimum initial margin requirements that members must charge customers. Individual commission houses set margin requirements for customers which may be above the exchange's minimum levels.

[14] For example, in determining to trade its foreign currency contracts without price limits, the NYFE stated its belief that: the advantages to be derived from trading without price limits are greater than the disadvantages of higher margins, and in particular cases, higher margins may be desirable, in that they may discourage excessive speculation by small, less well-financed traders. To some extent, the clearing organization and clearing members may use tools other than higher margins, as discussed below, to assure protection.

The NYFE represented to the Division of Trading and Markets, that it will set margins for the foreign currency contracts "on the basis of actual, past and expected futures price movements, presumbably at a level equal to a fraction, probably quite high, of experienced daily price movements."

Letter from Frank J. Jones, Senior Vice President, the New York Futures Exchange, Inc. to the Office of the Secretariat of the Commission dated April 3, 1980.

[15] Section 3 of the Act, 7 U.S.C. 5 (1976), provides in pertinent part that: Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as "futures" are affected with a national public interest; that such transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce; that the prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities in interstate commerce.

[16] The Advisory Committee Report noted that futures exchanges provide an institutional framework around which and through which a variety of marketing functions could be organized. These included pricing, hedging, price discovery, resource allocation and information collection and dissemination. Dr. Ferguson stated the following: I

Footnotes continued on next page

Section 5 of the Act [17] sets forth in broad terms the test for designation as a contract market, including a requirement that any board of trade seeking designation demonstrate that transactions for future delivery in the commodity for which designation is being sought will not be contrary ot the public interest. Section 6 of the Act [18] requires any board of trade seeking designation to provide the Commission with "a sufficient assurance" that it will continue to comply with the requirements of sections 5 and 5a, among other sections of the Act. Moreover, section 6b of the Act [19] and Commission regulation 1.50 [20] require a board of trade, after designation to demonstrate continued compliance with the requirements, *inter alia*, of sections 5 and 5a of the Act. Guideline 1 [21] sets forth the particular findings an exchange must make to justify its initial and continued designation, consistent with section 5 of the Act. For example, it is necessary for the contract market to meet the test of "economic purpose." Thus, any board of trade must provide evidence that: [22]

1. The prices involved in transactions for future delivery in the commodity for which such designation is sought are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, merchants, or consumers of such commodity or the products or byproducts thereof, or

2. Such transactions are, or reasonably can be expected to be, utilized by producers, merchants, or consumers engaged in handling such commodity (including the products, byproducts or source commodity thereof) in interstate (including foreign) commerce as a means of hedging themselves against possible loss through fluctuations in price.[23]

The Commission's Advisory Committee believed that efficient price relationships would not be achieved if futures markets do not function properly.[24] For example, improperly drawn contract specifications such as price limit rules could impede the discovery of competitive prices which best represent the weighted opinion of what traders believe prices should be in the future, given today's information.

Futures markets provide a reference for use in arranging commercial transactions at competitively determined prices. The widespread dissemination of exchange-generated prices fosters competition in the establishment of current cash values for commodities in many localized markets as well as aiding the establishment of market values of productive services such as storage, transportation and processing.[25]

Accordingly, section 5 of the Act conditions the designation of any board of trade as a "contract market" on the finding that the futures contracts traded on it would be located at a terminal market where cash transactions occur in sufficient volume to accurately reflect the general value of the commodity.

The imposition of price limits on futures contracts restricts the establishment of futures prices which fairly reflect the value of underlying commodities. While price limits thus place a daily ceiling on the risk exposure of clearinghouses, member firms and customers, their existence over a prolonged period of time where significant price movements have occurred merely serves to delay the adjustment of futures contract prices to economically realistic price levels.[26]

Further, under section 4c(a)(C) of the Act,[27] it is unlawful for any person to offer to enter into, to enter into or to confirm the execution of any transaction for hedging, determining basis or delivery purposes "if such transaction is used to cause any price to be reported, registered, or recorded which is not a true and bona fide price." This section expresses a Congressional intent to require that futures prices reflect actual supply and demand forces rather than artificial forces. To the extent that price limits artificially affect futures prices, fair, true and bona fide futures prices cannot be established.

The influx of temporary emergency rules and amendments to price limit rules from exchanges to the Commission in response to recent price fluctuations demonstrates that price limits may at times substantially impede the reflection of supply and demand forces on futures prices. For example, the New York Coffee, Sugar and Cocoa Exchange, Inc. recently adopted wider price limit rules in sugar after narrowing price limits in sugar only two years ago.[28] The expanded price limit rules were adopted in response to what the Exchange cited as "the recent [price] increases in both the Sugar No. 11 and Sugar No. 12 Contracts and the corresponding increased probability [of limit moves] in these markets which have made currently daily price limits unrealistic."[29]

Further, on October 22, 1979, the Board of Directors of the Chicago Board of Trade adopted a temporary emergency rule which expanded price limits for its contracts in financial instruments.[30] The Board of Trade justified its action by stating:

Footnotes continued from last page

concur with the finding that the operation of the markets in futures contracts does generate benefits to the general public by making the economy somewhat more efficient than would otherwise be the case. In order to achieve the kinds of public benefits that effectively operating markets in commodity futures can provide to the public, the CFTC should seek to assure as nearly as possible unrestricted participation in the markets to avoid all constraints upon the free play of competition, the minimization of transactions costs and the dissemination of the maximum of public information.

[17] 7 U.S.C. 7(a) (1976), which provides in pertinent part that: The Commission is hereby authorized and directed to designate any board of trade as a "contract market" when, and only when, such board of trade complies with and carries out the following conditions and requirements:

(a) When located at a terminal market where any cash commodity of the kind specified in the contracts of sale of commodities for future delivery to be executed on such board is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the commodity and the differences in value between the various grades of such commodity.

[18] 7 U.S.C. 8 (1976).

[19] 7 U.S.C. 6b (1976).

[20] 17 CFR 1.50 (1979).

[21] *See* 40 FR 25849 (June 19, 1975). *See also* CCH Comm. Fut. L. Rep. ¶6145.

[22] *See* Guideline 1 appearing at 40 FR 25849 (June 19, 1975) and CCH Comm. Fut. L. Rep. ¶6145.

[23] Conference Report, S. Rep. No. 93-1194, 93d Cong., 2d Sess. 36 (1974).

[24] To the extent that futures markets are efficient markets (i.e. markets which accurately reflect all relevant public information) futures markets properly perform their price discovery function. Price limits, however, by their nature inhibit the markets from operating in the most efficient manner and may deter the use of futures markets as a price discovery vehicle.

[25] Advisory Committee Report, *supra* at 12 and 13.

[26] In order to obtain a true picture of the financial condition of FCMs during the recent silver situation, the Commission, exchanges and clearinghouses found it necessary to adjust the value of FCMs' proprietary and customer positions in distant months to reflect their value marked to the spot month price.

[27] 7 U.S.C. 6c(a)(C) (1976).

[28] New York Coffee, Sugar and Cocoa Exchange, Standing Resolution R-34 and new Standing Resolution of the Board of Managers of the Coffee, Sugar and Cocoa Exchange. The variable daily price limit rule, as amended and approved by the Commission, pursuant to section 5a(12) of the Act, on May 15, 1980, provides for maximum daily price limits to increase at intervals of 50 points from the normal limit of 50 points to a maximum of 200 points, whenever the settlement prices for the first three trading months following the spot month move the applicable limit for three successive days in the same direction. Reduction of price limits occurs in stages until the price limit returns to 50 points.

In June 1978, the Exchange adopted amendments to the Standing Resolutions which reduced limits of one cent per pound above or below the settlement price of the preceding day to one-half cent per pound.

[29] Letter from Laurence S. Yowell, Vice President and Secretary, New York Coffee, Sugar & Cocoa Exchange, Inc. to Jane K. Stuckey, Executive Secretariat of the Commission dated March 26, 1980.

[30] Five days earlier the CBT submitted to the Commission permanent changes in the price limit rules for its 30-Day and 90-Day commercial paper contracts. The CBT justified the amendments by stating that although price limits prevent

Footnotes continued on next page

The effect of increasing the daily trading limits in these contracts will be to allow the Commission granted approval of amendments to the Comex permanent avoid the adverse consequences of locked limit market situations,

Consideration of Alternative Price Limit Measures; Request for Comments

are traded under a system of variable limits which establish, in advance, the reflect the fair market value of a commodity or are otherwise deficient

The effect of increasing the daily trading limits in these contracts will be to allow the cash futures basis to be more accurately reflected. The wider trading limits will stop large price movements from preventing futures markets from fulfilling their hedging and price determining roles. Without these changes, cash market participants would be unable to transfer risk through futures trading at a time when the desire to hedge is at its greatest. Also, these changes will enhance intermarket spreading; thus, providing further stability to these markets.[31]

The recent fluctuations in the price of silver further demonstrate that current price limit rules often make it difficult for futures prices to reflect spot prices. On September 4, 1979, the Commodity Exchange Inc. adopted an emergency rule which doubled the maximum permissible price limits in silver.[32] On November 15, 1979, the Commission approved, under section 5a(12) of the Act, a permanent change in the Comex silver price limit rule which thereafter set the price limit at forty cents per ounce.[33] On the same day, the Commission granted approval of amendments to the Comex permanent price limit rules for 90-Day U.S. Treasury bills, copper and zinc as well as silver.[34] These changes were designed to mitigate the effects of locked limit markets.

Price limits may also deny participants the opportunity to establish or liquidate futures positions when prices are at the applicable limits and exacerbate the misalignment of cash and futures prices. For example, when the price of a futures contract reaches its daily limit, either up or down, no further trades in that contract month can be made beyond the limit on that day. Further trading, however, may take place that day at the limit price or within the permitted price range established for that trading day. If prices should reach the limit down, and if there are no bids to buy at this price, a trader with a long position in the market and wishing to sell cannot liquidate his position through a direct transaction. Under such circumstances, a trader can be literally "locked in" a market, unable to liquidate his position unless there is another trader willing to buy or sell, as the case may be, at the limit price, or he is willing to engage in a spread transaction designed to liquidate the position in the month locked at the limit.[35]

Fear of being locked in the market may inhibit potential market participants from using the futures markets (*e.g.*, diminish the potential use of futures markets for hedging) and may add to the adverse consequences resulting from the potential misalignment of prices.[36] In an effort to avoid the adverse consequences of locked limit market situations, exchanges have adopted other rules which do not appear to serve any inherent economic or financial purpose other than to mitigate the effects of price limits. Many exchanges have rules which allow traders to effect transactions in months that are locked limit by executing spread transactions.[37] This practice, however, artificially inflates the apparent volume of futures trading, requires the trader to incur additional transaction costs and leaves the trader exposed to changes in spread relationships which represent more risk than if he were to liquidate the position in the locked month through a single outright transaction.

For example, on September 8, 1979, the Chicago Board of Trade adopted a temporary emergency rule which provides that when either or both contract months involved in a spread transaction are trading at the limit price, one contract month or leg of the spread may be priced within the daily permissible range (the range of trading permitted by applicable price limits), with the other leg priced within the actual price range (the range of actual transaction prices occurring in a particular contract month on that day).[38] By permitting one leg to be priced within the permissible range, an economically realistic price differential could be achieved between a freely trading month and a month subject to price limits, thereby facilitating the liquidation of a position in a month subject to limits.[39]

Footnotes continued from last page

speculative excesses and maintain orderly markets, the presence of price limits directly curtails the free movement of futures prices. "The current price fluctuation limits make it difficult for the commercial paper contract to reflect accurately the price movements in the cash market * * * Additionally, the narrow limits do not allow [traders] sufficient flexibility for arbitrage trading between these contracts and (contracts of) other financial instruments. This causes the arbitrage relationship to not reflect the true market [price] differences." Letter from Thomas R. Donovan, Vice President and Secretary, Chicago Board of Trade to Jane K. Stuckey, Executive Secretariat of the Commission dated October 17, 1979.

[31] Letter from the Chicago Board of Trade to the Commission dated October 29, 1979.

[32] The price limits were increased from $.20 per ounce to $.40 per ounce. As a partial explanation for its emergency action of September 4, 1979, Comex noted that the $.20 daily price limit had been established 5½ years earlier at a time when silver was trading for 60% of its then-current price of $10.61 per ounce.

[33] Further, on November 27, 1979, the Commission granted approval to the Comex to increase, on a permanent basis, the daily price limit for silver from forty cents to fifty cents per ounce. These changes in the price limits were designed to permit silver to trade within daily price limits which more realistically reflected supply and demand forces in silver.

On September 5, 1979, the Board of Governors of the Chicago Board of Trade, using its emergency powers, amended its daily maximum price fluctuation limits in silver. In support of this amendment, the CBT noted that the September and October contracts had reached their price limits on at least one-third of the days between August 1 and September 5, 1979. On October 5, 1979, the Commission approved, pursuant to section 5a(12) of the Act, permanent rules proposed by the CBT setting forth new price limits in silver. The Exchange supported its proposal for these price limits by stating the following: Since September 1979, silver prices have become even more volatile and it is becoming increasingly more important to have appropriate, increased trading limits in order that the silver market may accurately reflect the cash market.

Letter from Thomas R. Donovan, Vice President and Secretary, Chicago Board of Trade to Jane K. Stuckey, Executive Secretariat of the Commission dated September 26, 1979.

[34] As amended, Comex rules 5 and 6 provide that, if any day on which either the 150% or the 200% expanded price limit is in effect is not a limit day, the same expanded price limit shall remain in effect for the following business day. If, on the following business day, one or more contract months again do not close at the limit, the daily price limit will revert to either 150% of the normal, or the normal price limit, depending on the level of expanded price limits in effect at the time.

[35] Most commodities traded in London, *e.g.* cocoa, coffee, sugar, and the metals, either have no limits or temporarily close for trading when the limits are reached, and then reopen at the same session without limits. These trading pauses allow all orders to be matched and permit the dissemination of price information. For this reason, U.S. traders who are locked in the domestic markets may be encouraged by price limits to establish an opposite position in the same commodity on a foreign market.

[36] Regarding locked in market situations, Messrs. Jiler and Scheu, members of the Commission's Advisory Committee, commented as follows: A step in the right direction would be to have one contract (prior to first notice day) open at all times—hence market participants would never have to worry about being 'locked in.' One could always get out through the 'open' contract. Margin requirements could be set appropriately higher in the 'open' contract to satisfy clearinghouse objections, while reduced margins could be kept in those months still subject to 'limit' moves. The 'open' contract, itself, could well act as a stabilizing influence on overly-excited markets for pyschological reasons. Moreover, any resultant increased liquidity would act to further stabilize price movements.

Mr. Scheu especially advocated consideration of the London approach, referred to in the preceeding footnote. Advisory Committee Report, *supra* at 45.

[37] A spread or straddle is defined herein as the simultaneous sale of one futures delivery month against the purchase of another futures delivery month of the same commodity. In a locked limit market situation one can liquidate his position by estabishing an opposite position in a deferred month which is not trading at the limit and executing a spread transaction. For example, if a trader has a long position in November soybeans, he can establish a short position in January soybeans and simultaneously execute a liquidating spread in those months.

[38] The CBT later proposed permanent adoption of this temporary emergency rule and on February 26, 1980, the Commission approved that rule change.

[39] In recent months, increased market volatility has prompted exchanges to submit similar amendments to spread pricing rules, pursuant to

Footnotes continued on next page

Consideration of Alternative Price Limit Measures; Request for Comments

In view of the concerns discussed above, the frequent volatility of futures prices and the absence of price limits in the cash and forward markets (as well as the absence of price limits in many competing foreign futures markets), the Commission invites interested persons to analyze existing exchange rules which impose price limits and to consider whether such rules, and the price limit procedures which they implement, should be modified or whether alternative procedures might better achieve the objectives of the Act. The Commission would welcome comment on the benefits and deficiencies of the current exchange rules, as well as a discussion of specific alternative measures which commentators believe might address particular shortcomings in the current rules and procedures. In this regard, commentators should address whether changes in the current price limit rules and practices of the exchanges might require exchanges, clearinghouses, or FCM's to modify their existing margin policies, or any other rules, and what form such modifications might take in order to better achieve the objectives of the Act.

Commentators who believe that the various existing price limit rules and procedures which the exchanges have adopted represent an acceptable regulatory program, should address: (1) Whether a more uniform approach to price limits currently set by exchanges would reduce regulatory burdens by alleviating possible confusion among customers and exchange member firms; (2) whether possible regulatory or other problems might arise from a Commission determination to pursue one or more of the other alternatives discussed in this Notice, including the elimination of price limits after one or more days of limit moves in a contract month; and (3) whether specific modifications to existing exchange rules and procedures might better achieve the objectives of the Act.

In this latter regard, the Commission notes that a number of futures contracts are traded under a system of variable limits which establish, in advance, the extent of gradually increasing limits during periods of increased volatility.[40]

For example, the price limit rules applicable to gold, copper, U.S. Treasury bills and U.S. silver coins traded on the Chicago Mercantile Exchange and all commodities, except potatoes, traded on the New York Mercantile Exchange provide that when one delivery month in a particular commodity moves up or down the regular limit in the same direction for two consecutive days, on the third day the limit is expanded to 150 percent of the regular limit for all contract months for the commodity. On the third day of trading with the expanded limit, if a contract month continues a limit move in the same direction, the fourth day's limit is increased to 200 percent of the regular limit. The limit remains at 200 percent, provided limit moves in the same direction occur, until one month does not move the limit. Then on the following day (regarding of whether the limit was 150 percent or 200 percent), the limit reverts to the original limit.[41]

Commentators should address whether such a system for variable price limits would be appropriate for all futures contracts designated by the Commission and whether it might be appropriate, within the purposes of the Act, to provide a more accelerated schedule of expanding limits under a variable price limits scheme. For example, commentators may wish to address the feasibility of a variable price limit procedure which automatically doubles the applicable price limits on a day following a trading day where the price closed at the current limits.[42]

Commentators who believe that existing price limit rules and procedures do not adequately permit the market to reflect the fair market value of a commodity or are otherwise deficient should address whether the Commission should consider the disapproval of existing price limit rules and the prohibition of the imposition of subsequent daily price limits or requiring contract markets to follow the "London" approach. These commentators should address what regulatory objectives, if any, would be achieved by providing for such free market trading. They should also address whether price limits, in one form or another, are necessary and valid and, if so, how such benefits might be incorporated in a market which trades without price limits.

Since the prevention of short term overreactions to market news appears to be a primary basis for the existence of price limits, commentators are also requested to address whether such concerns might be accommodated by the suspension of price limits on any day following one or more trading days where a limit move occurred. Such a temporary limit system might be patterned after the rules governing currency futures contracts on the Chicago Mercantile Exchange, which provide for the removal of limits on the fifth day, whenever after four successive days the settlement price reaches the daily price limit in the same direction. Commentators should consider, however, whether a shorter period of time (one, two or three consecutive days of limit moves) would be a more appropriate "trigger" period for the suspension of price limits. Under such a plan, any futures contract which trades at a price limit adopted by an exchange for the prescribed time period would be free to trade without a price limit for at least one day thereafter before the normal exchange price limits were reimposed.

In view of the foregoing, the Commission hereby gives advance notice of its intent to consider engaging in rulemaking which may affect contract market rules governing the imposition and maintenance of price limits.[43]

Issued in Washington, D.C., on August 13, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-25305 Filed 8-19-80; 8:45 am]

BILLING CODE 6351-01-M

Footnotes continued from last page

section 5a(12) of the Act, to facilitate spread trading in locked in market situations. *See* CME rule 542, approved by the Commission on June 24, 1980; New York Mercantile Exchange rules 90.13, 100.13 and 110.13, approved by the Commission on April 17, 1980 and MidAmerica Commodity Exchange rule 407C, approved by the Commission on February 26, 1980.

[40] The New York Mercantile Exchange and the CME have devised a system of variable price limits for commodities traded on their exchanges that differs somewhat from the variable limit system used on the CBT which was discussed above. Variable price limits apply to all futures contracts traded on the CBT and the New York Mercantile Exchange; coffee and sugar futures contracts traded on the New York Coffee, Sugar & Cocoa Exchange; cotton futures contracts traded on the New York Cotton Exchange; and all futures contracts (including U.S. Treasury bills, silver coins, copper and gold) traded on the CME.

[41] CME rules 3407, 3308, 3208 and 3108. New York Mercantile Exchange rules 70.08, 80.06, 90.06, 100.06, 110.06, 120.06, 130.06 and 150.07.

[42] For example, if on Monday a particular commodity advanced to the applicable price limit, the trading range on Tuesday would be 200% of the range applicable on Monday. If the price advanced to the expanded limit on Tuesday, the trading range on Wednesday would be doubled again, to 400% of the normal trading range.

[43] Sections 8a(5) and 8a(7) of the Act provide the Commission with authority to engage in rulemaking of general or specific applicability.

V 45 AG 20 80 UMI

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 123

Customs Relations With Canada and Mexico; Proposed Amendments To Customs Regulations, Relating to United States and Canada In-Transit Truck Procedures

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Trucks proceeding between points in the United States may cross the United States-Canada border, use Canadian highways, and then reenter the United States and proceed to their destination. This document proposes to amend the Customs Regulations to require the driver of a truck carrying merchandise between points in the United States, via Canada, to present a manifest (an itemized listing of the shipment) for validation by U.S. Customs at the United States port of departure. The driver would then be required to present the validated manifest to Canadian Customs at the Canadian ports of entry and exit and to U.S. Customs at the port of reentry into the United States. At present, the manifest is required to be presented at the United States port of reentry but not at the port of departure. This change would enable U.S. Customs at the port of departure to verify the contents of shipments covered by the manifest so as to ensure the payment of duties and taxes and compliance with applicable laws and regulations when the truck reenters the United States. Conforming amendments also are proposed because of similar changes in Canadian Customs procedures concerning truck shipments proceeding between points in Canada via the United States. The amendments are considered to be significant.

DATES: Comments must be received on or before October 20, 1980.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202–566–5778); Operational Aspects: J. Bradley Lund, Inspection and Control Division, (202–566–5354), U.S. Customs Service, 1301 Constitutional Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Because of the geographic, highway, and climatic conditions along the United States-Canadian border, use of a Canadian route to transport merchandise by truck between points in the United States is a common occurrence. In these circumstances, the merchandise merely is being transported through Canada; there is no intent to export it from the United States. To process this type of movement, § 123.41, Customs Regulations (19 CFR 123.41), provides a simplified Customs procedure which allows for the reentry of merchandise into the United States without filing a Customs entry and paying duty, while at the same time protecting the revenue of the United States.

Under present procedures, a manifest on United States-Canada Transit Manifest, Customs Form 7512–B Canada 8½, an itemized list of merchandise being transported, is presented to Canadian Customs officers at the Canadian port of arrival by the driver of a truck carrying shipments of merchandise between points in the United States through Canada. Upon compliance with Canadian Customs regulations, the shipment is sealed, unless sealing is waived by Canadian Customs, and the driver is allowed to proceed through Canada. At the Canadian port of exit, the driver presents the manifest to Canadian Customs officers to verify that the seals are intact or, if sealing has been waived, that there are no irregularities. This ensures that no changes have been made in the shipment. After verification and certification of the manifest, the driver is allowed to proceed to the United States port of reentry where he presents the certified copy of the manifest to U.S. Customs officers. If they are satisfied that the shipment contains only merchandise which moved on the truck from the United States through Canada, the truck is allowed to reenter the United States without filing a Customs entry and paying duty.

This procedure, which was implemented with the cooperation of Canadian Customs and is similar to the procedure they use for truck shipments proceeding between points in Canada via the United States, was designed to protect the revenue of both countries while not delaying unnecessarily the transportation of merchandise.

However, it has come to the attention of U.S. Customs that, in certain circumstances, the revenue may not be protected because foreign merchandise may be imported into the United States without duty being paid. For example, under § 123.31, Customs Regulations (19 CFR 123.31), merchandise may be transported in transit across the United States between Canada and Mexico under the procedures set forth in Part 18, Customs Regulatins (19 CFR Part 18), for merchandise entered for transportation and exportation. Using these procedures, a shipment of foreign merchandise from Mexico destined for Canada may be transported under bond on a Transportation and Exportation Entry (T & E) by truck through the United States and exported to Canada. Because the merchandise is not entering the commerce of the United States, the truck driver need not file a formal U.S. Customs entry and pay duty. However, it has been found that after the T & E is closed by U.S. Customs officers at the United States port of exit and the bond cancelled, some truck drivers then have presented a manifest on Customs Form 7512–B Canada 8½ to Canadian Customs at a Canadian port of arrival. By following the procedures under § 123.41, foreign merchandise transported through the United States from Mexico to Canada is shown on the manifest as merely being transported by truck from point to point in the United States through Canada and then is reentered into the United States without an entry having been filed and duty paid. In addition to creating a situation that allows the United States to be deprived of the revenue due on this foreign merchandise, the present wording of § 123.41 may allow persons to bring narcotics and other contraband into the United States.

Accordingly, on December 9, 1976, a notice was published in the **Federal Register** (41 FR 53810) of a proposal to amend § 123.41(a) to require the driver of a truck carrying shipments of merchandise between points in the United States through Canada to present a manifest on Customs Form 7512–B Canada 8½ to U.S. Customs officers at the United States port of departure. This would allow U.S. Customs officers there to validate the manifest for shipments of merchandise transiting Canada by truck from point to point in the United States. A manifest on Customs Form 7512–B Canada 8½ would not be presented for validation if the merchandise covered by the manifest arrives at the United States port of departure for export. Without a validated manifest, Canadian Customs officers at the Canadian port of entry would not permit the truck shipment to transit Canada from point to point to return to the United States. This procedure would ensure that foreign merchandise is not reentered into the United States without the filing of an entry and payment of duties.

Interested parties were given until January 10, 1977, to submit data, views or arguments regarding this proposal. A discussion of the substantive comments received in response to that notice follows.

Discussion of Comments

1. While stating that it agreed with the purpose of the proposed amendment, a United State-Canada bonded carrier noted that shipments often are tendered for movement on short notice after regular office hours. It stated that if the proposal were adopted, manifests would have to be prepared in its terminal office and sent by courier to the place where the truck would be waiting at the United States-Canada border with the shipment. It stated that this delay would cause an additional expense that would have to be absorbed by the carrier.

As an alternative, this commenter suggested that U.S. Customs at the United States port of departure could validate the driver's bill of lading rather than the Customs Form 7512–B Canada 8½. It further suggested that the bill of lading be sealed in a special envelope to be opened and reviewed by U.S. Customs at the port of reentry into the United States. It suggested that if a truck were not inspected by U.S. Customs at the port of departure, it could be refused subsequent reentry to the United States.

Customs believes that this carrier's logistical problem of getting the Customs Form 7512–B Canada 8½ from its terminal to the driver could be solved with appropriate planning. As to its suggested alternative, additional problems could be creatd by requiring a bill of lading to be presented to Customs for validation because it is not an official Customs document.

It is also noted that Canadian Customs is planning to adopt similar procedural changes for truck shipments proceeding between points in Canada via the United States. Customs does not believe a change as suggested would be beneficial to continued cooperation of United States and Canadian Customs in this matter.

2. Another commenter suggested that the proposed requirement—that trucks transiting Canada while proceeding between points in the United States stop at the United States port of departure—be extended to include all trucks departing from the United States. It claimed that this extension would assist in preventing truck drivers from neglecting to file with U.S. Customs documentation relating to the exportation of articles temporarily imported into the United States under bond. The commenter believes that this change would eliminate claims for liquidated damages assessed against importers for failure to cancel temporary importation bond entries when the claim is assessed merely for the failure of the driver to file the necessary documentation for cancellation of the bond at the port of departure.

Customs believes that to require all trucks to stop at United States ports of departure would create traffic problems at the Canadian border that would not be justified by the limited benefits to be derived.

3. Another carrier expressed concern that because the proposed § 123.41(a) refers to "sealable truckload" shipments, it could be inferred that open exposed flatbed or low side flatbed trucks could not utilize the procedures in this section of the regulations. However, Subpart E of Part 123, Customs Regulations, is applicable to truck shipments transiting Canada and truck shipments transiting the United States regardless of whether the truck is sealable or non-sealable. Accordingly, all trucks with merchandise transiting Canada from point-to-point in the United States and all trucks with merchandise transiting the United States from point-to-point in Canada may utilize this procedure. Under the proposal, the driver of each truck transiting Canada, whether sealable or non-sealable, would be required to present the manifest to U.S. Customs at the United States port of departure for review and validation prior to entry into Canada. The language in the initial proposal has been revised to clarify this point.

Other Changes

After consideration of all the comments and further review of this matter with representatives of Canadian Customs, it has been determined that adoption of the proposed amendments would be in the best interests of protecting the revenue and in preventing the unlawful importation of narcotics and other contraband. However, adoption of the amendments would necessitate certain changes in the procedures followed by U.S. Customs officers concerning presentation of Customs Form 7512–B Canada 8½ which were not included in the proposal to amend § 123.41. Furthermore, it also would be necessary to make conforming amendments to § 123.42, Customs Regulations (19 CFR 123.42), concerning the procedures used by Canadian Customs for truck shipments transiting the United States while proceeding between points in Canada.

Canadian Customs also is concerned with its present in-transit procedures and the potential loss of its revenue. Therefore, in cooperation with U.S. Customs, it plans to change its procedures to require the presentation of a United States-Canada Transit Manifest, Customs Form 7512–B Canada 8½, for validation by Canadian Customs at the Canadian port of departure for truck shipments transiting the United States from point-to-point in Canada. The change in Canadian Customs procedures would be effective on the same date as the changes in U.S. Customs procedures. Accordingly, it would be necessary to amend § 123.42 to reflect the changes in Canadian Customs requirements and procedures.

In addition to the above changes, a number of minor editorial and stylistic changes would be needed to clarify the regulations.

In view of the foregoing, a new notice is being issued to allow any interested party an opportunity to comment on the revised proposed amendments.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Comments

Before adopting this proposal, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.3(b), Customs regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of EO 12044

This document is not subject to the Treasury Department directive implementing Executive Order 12044, "Improving Government Regulations", because the proposal was in process before May 22, 1978, the effective date of the directive.

Authority

These amendment are proposed under the authority of R.S. 251, as amended, and sections 553, 554, 624, 46 Stat. 742, as amended, 743, 759 (19 U.S.C. 66, 1553, 1554, 1624).

Proposed Amendments

It is proposed to amend Part 123, Customs Regulations (19 CFR Part 123), in the following manner:

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

Subpart E—United States and Canada In-Transit Truck Procedures

1. It is proposed to amend § 123.41 to read as follows:

§ 123.41 Truck shipments transiting Canada.

(a) *Manifest required.* Trucks with merchandise transiting Canada from point to point in the United States will be manifested on United States-Canada Transit Manifest, Customs Form 7512–B Canada 8½. The driver shall present the manifest in four copies to U.S. Customs at the United States port of departure for review and validation.

(b) *Procedure at United States port of departure.* The Customs officer receiving the manifest shall validate it by stamping each copy in the lower right hand corner to show the port name and date and by initialing each copy. All copies of the validated manifest then will be returned to the driver for presentation to Canadian Customs at the Canadian port of entry.

(c) *Procedure at Canadian ports of arrival and exit.* Truck shipments transiting Canada shall comply with Canadian Customs regulations. These procedures generally are as follows:

(1) *Canadian port of arrival.* The driver shall present a validated United States–Canada Transit Manifest, Customs Form 7512–B Canada 8–½, in four copies to the Canadian Customs officer, who shall review the manifest for accuracy and verify its validation by U.S. Customs. If the manifest is found not to be properly validated, the truck shall be required to be returned to the United States port of departure so that the manifest may be validated. If the manifest is validated properly and no irregularity is found, the truck will be sealed unless sealing is waived by Canadian Customs. The original manifest will be retained by Canadian Customs at the port of arrival, and the three copies will be returned to the driver for presentation to Canadian Customs at the Canadian port of exit.

(2) *Canadian port of exit.* The driver shall present the three copies of the validated manifest to the Canadian Customs officer at the Canadian port of exit for certification. That officer shall verify that the seals are intact if the vehicle has been sealed or, if sealing has been waived, that there are no irregularities. After verification and certification of the manifest, two certified copies will be returned to the driver (one to be presented to U.S. Customs at the United States port of reentry, the other for the carrier's records), and the truck will be allowed to proceed to the United States.

(d) *Procedure at United States port of reentry.* The driver of a truck reentering the United States after transiting Canada shall present a certified copy of the United States-Canada Transit Manifest, Customs Form 7512–B Canada 8–½, to the U.S. Customs officer. If this copy of the manifest does not bear the certification of a Canadian Customs officer at the Canadian port of exit, the driver will be allowed to return to that port to have it certified. The driver will be allowed to break any seals affixed by Canadian Customs upon presentation of a certified manifest. If sealing has been waived, the U.S. Customs officer shall satisfy himself that the truck contains only that merchandise covered by the manifest which moved on the truck from the United States through Canada.

(e) *Proof of exportation from Canada.* The certified copy of the manifest returned to the driver by Canadian Customs at the Canadian port of exit will serve as proof of exportation of the shipment from Canada.

2. It is proposed to amend § 123.42 to read as follows:

§ 123.42 Truck shipments transiting the United States.

(a) *Manifest required.* Trucks with merchandise transiting the United States from point to point in Canada will be manifested on United States-Canada Transit Manifest, Customs Form 7512–B Canada 8½. The driver, in accordance with Canadian Customs regulations, shall present the manifest in four copies to Canadian Customs at the Canadian port of departure for review and validation.

(b) *Procedure at Canadian port of departure.* The Customs officer receiving the manifest shall validate it by stamping each copy in the lower right hand corner to show the port name and date and by initialing each copy. All copies of the validated manifest then will be returned to the driver for presentation to U.S. Customs at the United States port of entry.

(c) *Procedure at United States port of arrival*— (1) *Presentation of manifest.* The driver shall present a validated United States-Canada Transit Manifest, Customs Form 7512–B Canada 8½, in four copies to the U.S. Customs officer, who shall review the manifest for accuracy and verify its validation by Canadian Customs. If the manifest is found not to be validated properly, the truck will be required to be returned to the Canadian port of departure so that the manifest may be validated in accordance with Canadian Customs regulations. If the manifest is validated properly and no irregularity is found, the truck will be sealed unless sealing is waived by U.S. Customs. The U.S. Customs officer shall note on the manifest over his initials the seal numbers or the waiver of sealing, retain the original, and return three copies of the manifest with the related Customs Form 7512–C (duplicate) to the driver for presentation to U.S. Customs at the United States port of exit.

(2) *Sealing or waiver of sealing.* Trucks transiting the United States will be sealed with red in-bond seals at the United States port of arrival unless sealing is waived in accordance with § 18.4 of this chapter. If a truck cannot be sealed effectively and sealing is deemed necessary to protect the revenue or to prevent violation of the Customs laws or regulations, the truck will not be permitted to transit the United States under bond.

(d) *Procedure at United States port of exit.* The driver shall present the three validated copies of the manifest and the related Customs Form 7512–C (duplicate) to the U.S. Customs officer at the U.S. port of exit. The Customs officer shall check the numbers and condition of the seals and record and certify his findings on all copies of the manifest, returning two certified copies to the driver (one to be presented to Canadian Customs at the Canadian port of reentry, the other for the carrier's records), and the truck will be allowed to proceed to Canada. The check of the seals shall be made as follows:

(1) If the seals are intact, they will be left unbroken unless there is indication that the contents should be verified.

(2) If the seals have been broken, or there is other indication that the contents should be verified, all merchandise will be required to be unladen and a detailed inventory made against the waybills.

If sealing has been waived, the Customs officer shall verify the goods against the accompanying waybills in sufficient detail to detect any irregularity.

(e) *Procedure at Canadian port of reentry.* The driver of a truck reentering Canada after transiting the United States shall present a certified copy of the United States-Canada Transit Manifest, Customs Forms 7512–B Canada 8½, to the Canadian Customs officer. If this copy of the manifest does not bear the certification of a U.S. Customs officer at the United States port of exit, the driver will be allowed to return to that port to have it certified.

(f) *Proof of exportation from United States.* The certified copy of the manifest returned to the driver by the U.S. Customs officer at the U.S. port of exit will serve as proof of exportation of the shipment from the U.S.

William T. Archey,
Acting Commissioner of Customs.

Approved: July 29, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 80-25308 Filed 8-19-80; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Reclamation and Enforcement; Public Disclosure of Comments Received From Federal Agencies on the Utah State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Utah program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure with regard to the Utah State permanent program.

ADDRESS: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202. Telephone (303) 837–5421.

Office of Surface Mining, Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Division of Oil, Gas and Mining, 1588 West North Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Utah permanent regulatory program submitted by Utah for his review on March 3, 1980. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Utah program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Utah program:

Department of Agriculture
- USDA State Land Use Committee
- Soil Conservation Service
- Forest Service
- Farmers Home Administration
- Scientific and Educational Administration—Agricultural Research
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation
Council of Environment Quality
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service (formerly Bureau of Reclamation)
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

Upper Colorado River Basin Commission
U.S. Army Corps of Engineers.

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Forest Service

U.S. Environmental Protection Agency
Department of Energy
Department of the Interior
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Fish and Wildlife Service
- U.S. Geological Survey

Advisory Council on Historic Preservation
U.S. Army Corps of Engineers.

These comments are available for review and copying during business hours at the locations listed above under "Addresses".

Dated: August 15, 1980.

Carl C. Close,
Assistant Director, State and Federal Programs.

[FR Doc. 80-25352 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Ch. VII

Reclamation and Enforcement; Public Disclosure of Comments Received From Federal Agencies on the North Dakota State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the North Dakota program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure with regard to the North Dakota State Permanent program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202. Telephone: (303) 837–5421.

Office of Surface Mining, Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

North Dakota Public Service Commission, Capitol Building, Bismarck, North Dakota 58505.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the North Dakota permanent regulatory program submitted by North Dakota for his review on March 3, 1980. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the North Dakota program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the North Dakota program:

Department of Agriculture
- USDA State Land Use Committee
- Soil Conservation Service
- Forest Service
- Farmers Home Administration
- Scientific and Educational Administration—Agricultural Research
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation
Council of Environment Quality
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service (formerly Bureau of Reclamation)
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

Upper Colorado River Basin Commission
U.S. Army Corps of Engineers.

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Forest Service

U.S. Environmental Protection Agency

National Park Service
U.S. Geological Survey

SUPPLEMENTARY INFORMATION: The

Dated: August 15, 1980.

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surfact Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the North Dakota program submitted by North Dakota on February 29, 1980. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the North Dakota program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the North Dakota program:

Department of Agriculture
- Soil Conservation service
- Forest Service
- Farmers Home Administration
- Scientific and Educational Administration Agricultural Research
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation
Council of Environmental Quality
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service (formerly Bureau of Reclamation)
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

Custer National Forest
Missouri River Basin Commission
U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Soil Conservation Service

Department of Labor
U.S. Environmental Protection Agency
Department of Energy
Department of the Interior
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

U.S. Army Corps of Engineers

These comments are available for review and copying during business hours at the locations listed above under "Addresses".

Dated: August 15, 1980.

Carl C. Close,

Assistant Director, Office of Surface Mining.

[FR Doc. 25383 Filed 8–19–80; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Illinois State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Illinois program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure with regard to the Illinois State permanent program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region III, 5th Floor, 46 E. Ohio Street, Indianapolis, Indiana 46204.

Office of Surface Mining, Department of the Interior, Room 153, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Department of Mines & Minerals, Division of Land Reclamation, 227 South 7th St., Suite 204, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT:

J. M. Furman, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, 46 E. Ohio Street, Room 527, Indianapolis, Indiana 46204. Telephone (317) 269–2629; or

Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Illinois permanent regulatory program submitted by Illinois for his review on March 3, 1980. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Illinois program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies where invited to comment on the Illinois program:

Department of Agriculture
- USDA State Land Use Committee
- Soil Conservation Service
- Forest Service
- Farmers Home Administration
- Agricultural Stabilization and Conservation Service

Advisory Council on Historic Preservation
Council on Environmental Quality
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Water and Power Resources Service (formerly Bureau of Reclamation)
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

Ohio River Basin Commission
U.S. Army Corp of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Agricultural Stabilization & Conservation Service
- Soil Conservation Service
- Forest Service

Department of Labor
U.S. Environmental Protection Agency
Council on Environmental Quality
Department of Energy
U.S. Army Corps of Engineers
Department of the Interior
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Fish and Wildlife Service

National Park Service
U.S. Geological Survey

These comments are available for review and copying during business hours, at the locations listed above under "Addresses".

Dated: August 14, 1980.

Edgar A. Imhoff,

Regional Director, Office of Surface Mining.

[FR Doc. 80–25354 Filed 8–19–80; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Ch. VII.

Reclamation and Enforcement; Public Disclosure of Comments Received From Federal Agencies on the Colorado State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Colorado program from the Environmental Protection Agency (EPA), The Department of Agriculture (USDA) and Other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies and is today announcing their public disclosure with regard to the Colorado State permanent program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202. Telephone (303) 837–5421.

Office of Surface Mining, Department of the Interior, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 80203.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202. Telephone: (303) 837–5421; or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Colorado permanent regulatory program submitted by Colorado for his review on February 29, 1980. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Colorado program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the New Mexico program:

Department of Agriculture
- Soil Conservation Service
- Farmers Home Administration
- Forest Service
- Agriculture Stabilization and Conservation Service
- Agricultural Experiment Station

Advisory Council on Historic Preservation
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Bureau of Reclamation
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

Council on Environmental Quality
U.S. Army Corps of Engineers
Missouri River Basin Commission

Of those agencies invited to comment, OSM received comments from the following offices:

Department of the Interior
- Heritage Conservation and Recreation Service
- Fish and Wildlife Service
- Bureau of Mines
- U.S. Geological Survey

Department of Labor
- Mine Safety and Health Administration

Department of Energy
U.S. Environmental Protection Agency
U.S. Army Corps of Engineers

These comments are available for review and copying during business hours, at the locations listed above under "Addresses".

Dated: August 15, 1980.

Carl C. Close,

Assistant Director, Office of Surface Mining.

[FR Doc. 80–25355 Filed 8–19–80; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Ch. VII

Reclamation and Enforcement; Public Disclosure of Comments Received From Federal Agencies on the New Mexico State Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the New Mexico program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of the agencies and is today announcing their public disclosure with regard to the New Mexico State permanent program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Energy and Minerals Department, Division of Mining and Minerals, First Northern Plaza East, Room 200, Santa Fe, New Mexico 87501, Telephone (505) 827–5451.

Office of Surface Mining, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5421.

Office of Surface Mining, Room 135, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4728.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5421; or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, D.C. 20240, Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the New Mexico permanent regulatory program submitted by New Mexico for his review on February 28, 1980. In

accordance with Section 503(b)(1) of

These comments are available for

business hours at the following

The text of the definition remains the

unit of fuel burning equipment," by

III. Variance Request for the Getty

accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the New Mexico program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the New Mexico program:

Department of Agriculture
- Soil Conservation Service
- Agricultural Stabilization and Conservation Service
- Forest Service
- Science and Education Administration
- Farmers Home Administration
- Agricultural Experiment Station

Advisory Council on Historic Preservation
Department of Labor
- Mine Safety and Health Administration

U.S. Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Bureau of Reclamation
- National Park Service
- Fish and Wildlife Service
- U.S. Geological Survey

U.S. Army Corps of Engineers
Upper Colorado River Basin Commission
Council on Environmental Quality

Of those agencies invited to comment, OSM received comments from the following offices:

Department of the Interior
- Fish and Wildlife Service
- U.S. Geological Survey
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- National Park Service

U.S. Environmental Protection Agency
Department of Agriculture
Soil Conservation Service
Forest Service
Advisory Council on Historic Preservation
Department of Energy
U.S. Army Corps of Engineers
Department of Labor
- Mine Safety and Health Administration

These comments are available for review and copying during business hours at the locations listed above under "Addresses".

Dated: August 15, 1980.

Carl C. Close,

Assistant Director, Office of Surface Mining.

[FR Doc. 80-25356 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[FRL 1578-8]

Proposed Revisions of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Delaware has submitted amendments to its air pollution control regulations and has requested that they be reviewed and processed as revisions of the Delaware State Implementation Plan.The amendments consist of changes to Regulations I (Definitions), II (Registration and Permits), III (Ambient Air Quality Standards), IV (Particulate Emissions from Fuel Burning Equipment), VIII (Sulfur Dioxide Emissions from Fuel Burning Equipment), XII (Nitrogen Oxides Emissions from Fuel Burning Equipment—New Castle County), XIV (Visible Emissions), XV (Air Pollution Alert and Emergency Plan), and XVII (Source Monitoring, Record Keeping, and Reporting). The State has also submitted a request for variance which would allow the Getty Refining and Marketing Company's catalytic cracking operations to emit particulates in excess of the limitations established in Regulations V and XIV until September, 1980, after which time the unit would be brought into compliance.

DATE: The public is invited to submit comments on these SIP revisions by September 19, 1980.

ADDRESSES: All comments should be addressed to Glenn Hanson, Chief, WV, PA, and DE Section, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: AH009/010DE

Copies of the materials submitted by the State of Delaware are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan.

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), AIr Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone (215) 597-8392.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1980, the State of Delaware submitted to the Regional Administrator, EPA Region III, amendments to the State of Delaware Regulations Governing the Control of Air Pollution and requested that they be reviewed and processed as revisions of the Delaware State Implementation Plan (SIP). Delaware submitted proof that a public hearing on these amendments was held on December 11 and 12, 1979, in accordance with the requirements of 40 CFR 51.4.

The amendments submitted by Delaware consist of changes to Delaware's Regulations I, II, III, IV, VII, XII, XIV, XV, and XVII, and of a variance allowing the Getty Refining and Marketing Company's catalytic cracking operations to emit particulates in excess of the limitations of Regulations V and XIV until September, 1980, after which time the unit would be brought into compliance.

II. Amendments to Delaware Regulations

Delaware proposes to revise Regulations I, II, III, IV, VIII, XII, XIV, XV, and XVII as follows:

A. Regulation I

Delaware has revised the definitions in Regulation I as described below. New wording is underlined, deleted wording is enclosed by brackets.

1. Alteration: Delaware has deleted this definition and is using the definition of "Modification" as a substitute.

2. Construction, Installation, (or) Alteration *or Modification Permit:* Delaware has added "*or Modification*" to the list of types of permits defined.

The text of the definition remains the same.

3. Fuel Burning Equipment: Delaware has changed this definition to "*Each unit, or any combination of units discharging* to a common *stack* used for the burning of fuel or other combustible material for the primary purpose of utilizing the thermal energy released."

4. Modification: Delaware has amended the fourth sentence of this definition as follows: Conversion to coal required for energy consideration, as specified in (Section 114(d)(5)) *Section 113(d)(5)* of the Clean Air Act, shall not be considered a modification.

5. Sulfur Recovery Operation: Delaware has changed this definition to read: Any operation designed for the recovery of elemental sulfur, *including any upstream part of the operation designed to separate hydrocarbon sulfide from refinery gasses or water.*

B. Regulation II—Registration and Permits

Delaware has modified Regulation II in three ways. First, Delaware has amended Section 4.2 of the Regulation so that gasoline station storage tanks in New Castle County having a capacity of 2,000 gallons or more would no longer be exempt from Regulation II's requirements. Second, Delaware has modified Section 6 so that only an operating permit can be extended. Third, Delaware has modified Section 6 to exempt those holding open burning permits from the need to submit written requests for extensions.

C. Regulation III—Ambient Air Quality Standards

Delaware has made three changes in this regulation. First, Delaware has adopted EPA's recently promulgated ambient air quality standard for lead. Second, Delaware has amended its air quality standards for suspended particulates, sulfur dioxide, carbon monoxide, hydrocarbons, and nitrogen dioxide to make them equivalent to EPA's standards. Third, Delaware has revised Section 1.6 by listing within it more recent sampling and analytical procedures for determining concentrations of contaminants in the air.

D. Regulation IV—Particulate Emissions From Fuel Burning Equipment

Delaware has submitted one minor change in Regulation IV. Delaware has modified Section 2.1, which reads "No person shall cause or allow the emission of particulate matter in excess of 0.3 pounds per million Btu heat input, maximum two hour average, from any unit of fuel burning equipment," by deleting the words "unit of."

E. Regulation VIII—Sulfur Dioxide Emission From Fuel Burning Equipment

Delaware has amended Regulation VIII by including in Section 2 a specification of the sampling and analysis techniques that must be used to determine the sulfur content of oil.

F. Regulation XII—Nitrogen Oxide Emissions

Delaware has requested that Regulation XII be deleted from the SIP.

G. Regulation XIV

Delaware has amended Regulation XIV by adding to it two additional sections called Sections 3 and 4. Section 3 allows Delaware to make case-by-case modifications of its opacity requirements. Delaware is able to establish more stringent opacity requirements for a source if it determines that the source when in compliance with an applicable mass emission rate has emissions with an opacity more restrictive than Delaware's usual requirements. In addition, Delaware is able to relax its standard opacity requirements whenever a source can demonstrate that it is in compliance with an applicable mass emission standard yet can not meet the standard opacity requirement. Section 4 makes it necessary for determinations of compliance with opacity standards to be made in accordance with Section 1.5(c) of Regulation XX.

H. Regulation XV—Air Pollution Alert and Emergency Plan

Delaware has redefined the air quality levels at which alert stages I, II, and emergency are declared. Delaware has defined alert causing 24 hour concentrations of TSP in ug/m^3 rather than in parts per million COHS. Also, Delaware has defined SO_2 in ug/m^3 rather than in parts per million in those cases where TSP and SO_2 levels must be multiplied to establish if an alert is required.

I. Regulation XVII—Source Monitoring, Record Keeping and Reporting

Delaware has added a new subsection 1.6 to this regulation. This subsection states that, "The reference methods used to determine compliance with the standards prescribed in Regulation No. IV; V; VII; 3.1; IX and XIV shall be those set forth in Section 1.5, Regulation XX or such other method approved by the Department."

III. Variance Request for the Getty Refining and Marketing Company.

In addition to requesting EPA approval of the regulatory changes described above, Delaware has requested that EPA approve a variance for the Getty Refining and Marketing Company's Delaware City refinery. The variance would allow the refinery's catalytic cracking unit to continue to operate despite mechanical problems which have caused its particulate emissions to increase above the levels permitted by Regulations V and XIV. The variance would be in effect until Getty could correct the problems causing excess particulate emissions by making repairs during a routine shutdown scheduled for September, 1980. The variance would be terminated earlier if Getty is able to bring the cracking unit into compliance with Regulation V earlier than September 30, 1980.

Delaware's Department of Natural Resources and Environmental Control (the Department) has included a number of conditions in the variance. These conditions are:

1. The Company shall continue its efforts to determine and to resolve the exact cause of the excessive catalyst emission problem as expeditiously as practicable. The Company shall summarize the results of these efforts in a written report to the Department at three-month intervals.

2. The Company shall measure the quantity of particulate emissions from the cracking unit stack at intervals acceptable to the Department and shall report the results of such tests promptly to the Department. The cracking unit shall be considered in compliance with Section 5.1, Regulation No. V when so indicated by two consecutive stack tests.

3. The Company shall measure and record the opacity of emissions from the cracking unit on a continuous basis during the variance period and provide a summary of the results of such monitoring to the Department at three-month intervals.

4. The Company shall disseminate to the news media and otherwise make available to the public a report at three-month intervals of the results of opacity and mass emissions tests and such other information pertaining to the Company's progress in resolving the excess emissions problems.

Delaware has given three reasons for allowing Getty to wait until the scheduled shutdown date of the catalytic cracking unit before requiring its repair. First, immediate shutdown of the cracking unit would lead to large cuts in fuel production. This would

occur because immediate shutdown of the unit would not preclude the need for

Station emits sulfur dioxide in excess of the interstate pollution requirement of

therefore, extending the public comment period until September 3, 1980.

SUPPLEMENTARY INFORMATION: On April 30, 1980 the Environmental Protection

percent sulfur content fuel oil will not result in the contravention of any

approval or disapproval of this proposed plan revision will be based on whether

occur because immediate shutdown of the unit would not preclude the need for or alter the length of the scheduled shutdown in September, 1980. Second, Getty now has three major environmental projects under construction, a stack gas scrubber, a sour water stripper, and a waste water treatment plant. In order to repair the cracking unit immediately, manpower resources might have to be shifted from these projects, causing their completion to be delayed. Third, air quality modeling shows that the cracking unit should cause no violations of ambient air quality standards during the period of the variance. Thus, the health of the public should not be adversely affected by granting the variance.

IV. EPA Actions

The Administrator is proposing to approve the amendments to Delaware's regulations and the variance described above. EPA invites the public to submit comments to the address given above on whether EPA should proceed to approve these amendments and this variance as revisions of the Delaware SIP.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments to Delaware's Air Pollution Control regulations, as well as the variance for Getty's Delaware City refinery, meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(42 U.S.C. 7401–642)

Dated: July 24, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25278 Filed 8-19-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR PART 52

[FRL 1574-2]

Interstate Pollution Abatement; Proceedings Under Section 126 of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of the closing of the record of proceedings under section 126 of the Clean Air Act.

SUMMARY: At Jefferson County's request, EPA is extending, until September 3, 1980, the comment period on their petition under section 126 of the Clear Air Act concerning the issue of whether the Public Service Indiana Gallagher Station emits sulfur dioxide in excess of the interstate pollution requirement of the Clean Air Act.

DATE: Deadline for submission of written materials and closing of the public hearing record is September 3, 1980.

ADDRESSES: Copies of the docket, #5A–80–9, for this section 126 petition are on file at:

The Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460.

Library, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604.

Essentially similar material is available for public inspection at:

Air Pollution Control District of Jefferson County, 914 E. Broadway, Louisville, Kentucky 40204.

Air Pollution Control Division, Indiana Board of Health, 1330 W. Michigan Street, Indianapolis, Indiana 46206.

Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, W. Frankfort Office Complex, U.S. 127 South Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Miller, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

Mr. Barry Gilbert, Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, (404) 881–3286.

SUPPLEMENTARY INFORMATION: In a notice dated March 17, 1980, 45 FR 17048, EPA announced that a hearing would be held on April 17, 1980 in Louisville, Kentucky to initiate proceedings under section 126 of the Clean Air Act on the issue of whether the Public Service Indiana Gallagher Stations emits sulfur dioxide in violation of section 110(a)(2)(E)(i) of the Clean Air Act. The hearing was held, at which time it was announced that the public comment period would be kept open until 30 days from the date of the hearing. On May 2, 1980 the EPA extended the public comment period to May 19, 1980 (45 FR 29313).

On May 15, 1980, the Air Pollution Control District of Jefferson County requested an extention of the comment period for the purpose of reviewing the transcript of the hearing. The EPA is, therefore, extending the public comment period until September 3, 1980.

Dated: August 8, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-25301 Filed 8-19-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1578-7]

Approval and Promulgation of Implementation Plans; Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of New York to revise its State Implementation Plan (SIP). If approved by the Environmental Protection Agency, this revision will have the effect of continuing a temporary relaxation in the sulfur content limitation applicable to fuel burning sources with a capacity less than 250 million BTU per hour located in parts of the Southern Tier East, Central New York and Champlain Valley (Northern) Air Quality Control Regions. These relaxations, called "special limitations," would allow these sources to continue the use of fuel oil with a maximum sulfur content of 2.8 percent, by weight, until December 31, 1982.

DATES: Comments must be received by October 20, 1980.

ADDRESSES: All comments should be addressed to: Charles S. Warren, Regional Administrator, US. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10278.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, 212–264–2517.

SUPPLEMENTARY INFORMATION: On April 30, 1980 the Environmental Protection Agency (EPA) received a proposed revision to the New York State Implementation Plan (SIP). This revision provides for the continuation of a State initiated fuel oil sulfur content relaxation ("special limitation") affecting certain fuel burning sources in certain areas of the State. The submittal requests that this "special limitation," which was previously approved by EPA (42 FR 56607, October 27, 1977) and which expired December 31, 1979, be renewed and extended through December 31, 1982.

"Special limitations" are authorized by Part 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York and can allow individual sources or groups of sources to use a fuel of a different sulfur content than the prevailing regulation. The State's proposed extension of the "special limitation" would continue to relax (unless otherwise constrained by a Prevention of Significant Deterioration (PSD) permit) to a maximum of 2.8 percent sulfur, by weight, the sulfur-in-fuel-oil limitation applicable to sources which do not have a total heat input in excess of 250 million BTU per hour located in the following areas:

1. The Southern Tier East Air Quality Control Region (AQCR), with the exception of all sources in Broome County.

2. The Central New York AQCR, with the exception of the Oswego Facilities Trust Company in Oswego County and all sources in Onondaga County.

3. The Champlain Valley (Northern) AQCR, with the exception of all sources in the City of Glens Falls and sources with a total heat input greater than 100 million BTU per hour in the Town of Queensbury.

The State's SIP revision submittal consists of:

1. A technical support document evaluating the air quality impact of the special limitations.

2. Public hearing documents relating to the proposed rule changes.

3. Copies of letters sent to the States of New Jersey, Connecticut, Vermont, Pennsylvania and to local air pollution control agencies.

The State's SIP revision request was submitted in accordance with all EPA requirements under 40 CFR Part 51. These include the need for a public hearing, which was held by the State on November 27, 1979.

In order for EPA to be able to find the State's "special limitation" approvable as a revision to the New York SIP, it must be demonstrated that the use of 2.8 percent sulfur content fuel oil will not result in the contravention of any national ambient air quality standard or violate any applicable PSD increment.

It should be noted that the objective of the PSD program, as discussed in Part C, Sections, 160–169, of the Clean Air Act of 1977, is to protect areas with air quality cleaner than the national ambient air quality standards. The program is designed to insure that economic growth can occur in a manner consistent with the preservation of existing clean air resources. Pursuant to the PSD regulations promulgated on August 7, 1980 (45 FR 52676), the baseline date is defined as the date after August 7, 1977 on which the first complete application if filed with the appropriate reviewing authority by a source subject to the PSD regulations. Since there have not been any complete applications filed to date in the three AQCRs affected by today's proposal, the baseline date has not been set in the AQCRs. Therefore, these revisions to the New York SIP do not consume increment and do not need to be evaluated in terms of increment consumption.

EPA has reviewed the technical material submitted by New York State Department of Environmental Conservation and proposes to approve the renewal of the "special limitation" in the three AQCR's. EPA concurs with the State's determination that no national ambient air quality standard or PSD increment will be contravened.

Interested persons are invited to comment on any element of the subject revision and on whether or not the proposed New York SIP revision meets Clean Air Act requirements. Comments received by (60 days following publication) will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 908, New York, New York 10278.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110 (a)(2)(A)–(K) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sec. 110, 301 Clean Air Act, as amended (42 U.S.C. 7410, 7601))

Dated: July 21, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25337 Filed 8-19-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5883]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Canada and Hawaii call Toll Free Line (800 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These elevations, together with the

Proposed Base (100-Year) Flood Elevations—Continued

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Moraga (Town), Contra Costa County.	Moraga Creek	60 feet upstream from center of St. Andrews Drive	*487
		Ivy Drive Tributary	180 feet upstream from center of Moraga Way	*520
		Larch Creek	60 feet upstream from center of Larch Avenue	*484
		South Branch Moraga Creek	170 feet upstream from center of Camino Pablo	*555
		Laguna Creek	80 feet upstream of Country Club Drive	*483
			Intersection of creek and Moraga Road	*605
		Cortes Drive Tributary	150 feet upstream from center of Cortes Drive	*531
		St. Mary's Road Tributary	50 feet upstream from center of Moraga Road	*509
		Las Trampas Creek	Intersection of creek and St. Mary's Road	*551
Maps available at City Hall, City Engineers Office, 350 Rheem Blvd., Post Office Box 188, Moraga, California.				
Send comments to Honorable Michael Coty, 350 Rheem Blvd., Post Office Box 188, Moraga, California 94556.				
Delaware	Dagsboro, Town, Sussex County	Pepper Creek	Downstream Corporate Limits	*9
			Upstream side of Main Street	*14
			Upstream Corporate Limits	*15
		Fork No. 1 to Pepper Creek	Confluence with Pepper Creek	*9
			Downstream side Piney Neck Road	*20
			Downstream side Waples Street	*24
			Downstream side of ConRail crossing	*28
		Fork No. 2 to Pepper Creek	Confluence with Pepper Creek	*10
			Approximately 800 feet downstream of Main Street	*19
			Upstream side of Main Street	*26
			Downstream side of ConRail crossing	*27
		Fork No. 3 to Pepper Creek	Confluence with Pepper Creek	*14
			Upstream side of Conrail crossing	*21
			Upstream side of Swamp Road	*24
			Approximately 800 feet upstream of Swamp Road	*24
Maps available at the Dagsboro Town Hall.				
Send comments to Honorable Arthur Osper, Mayor of Dagsboro, P.O. Box 420, Dagsboro, Delaware 19939.				
Georgia	City of Buford, Gwinnett and Hall Counties.	Suwanee Creek	Just upstream of Sudderth Road	*995
			Approximately 150 feet downstream of Maddox Road	*1,004
			Approximately 300 feet downstream of Thomson Mill Road	*1,043
		Suwannee Creek Tributary 1	Just downstream of U.S. Highway 23	*1,000
		Suwanee Creek Tributary 2	Just downstream of Georgia Highway 13	*1,037
Maps available for inspection at Buford City Manager's Office, City Hall, 30 Garnett Street, Buford, Georgia.				
Send comments to Mr. Kerrlin, City Manager, Buford City Hall, 30 Garnett Street, Buford, Georgia 30518.				
Georgia	City of Rest Haven, Gwinnett County.	Suwanee Creek	Approximately 120 feet downstream of Bryant Road	*1,055
			Just upstream of Bryant Road	*1,060
Maps available for inspection at Rest Haven City Hall, 841 Gainesville Highway, Buford, Georgia.				
Send comments to Mayor Tullis or Mr. Lee Jones, Assistant Mayor, Rest Haven City Hall, 841 Gainesville Highway, Buford, Georgia 30518.				
Georgia	City of Suwanee, Gwinnett County.	Suwanee Creek	Just downstream of Burnette Road	*933
			Just upstream of Martin Farm Road	*941
			Approximately 325 feet upstream of State Highway 317	*947
		Ivy Creek	Approximately 150 feet downstream of Old Suwanee Road	*955
Maps available for inspection at Suwanee City Hall, 323 Buford Highway, N.W., Suwanee, Georgia 30174.				
Send comments to Mayor Terry or Ms. Amy Johnson, City Clerk, Suwanee City Hall, 323 Buford Highway, N.W., Suwanee, Georgia 30174.				
Illinois	Hoffman Estates (Village), Cook County.	Poplar Creek	100 feet upstream from center of Golf Road	*773
			200 feet upstream from center of Higgins Road	*806
		East Branch of Poplar Creek	100 feet upstream from center of Barrington Road	*785
			100 feet upstream from center of Huntington Boulevard	*794
		Schaumburg Branch of Poplar Creek.	100 feet upstream from center of Barrington Road	*786
		Tributary A of West Branch of Salt Creek.	100 feet upstream from center of Basswood Street	*748
			100 feet upstream from center of Apricot Street	*755
		Salt Creek	400 feet WNW from intersection of Park Lane and Newman Place	*817
Maps available for inspection at Clerk's Office, 1200 N. Gannon Drive, Hoffman Estates, Illinois 60196.				
Send comments to Honorable Virginia Hayter, 1200 N. Gannon Drive, Hoffman Estates, Illinois 60196.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C) Mascoutah, St. Clair County	Silver Creek	Approximately 3,500 feet downstream of Louisville and Nashville Railroad.	*422
			Just downstream of State Route 177	*423
Maps available at City Manager's Office, Municipal Building, 3 West Main Street, Mascoutah, Illinois.				
Send comments to Honorable Leroy Perrottet, Mayor, City of Mascoutah, Municipal Building, 3 West Main Street, Mascoutah, Illinois 62258.				
Louisiana	Unincorporated Areas of Assumption Parish.	Bayou St. Vincent	Just upstream of Bridge 5	*11
			Just upstream of Bridge 7	*12
			Just downstream of Bridge 8	*12
Maps available for inspection at Assumption Parish Police Jury Office, Louisiana Highway 1—Courthouse Street, Napoleonville, Louisiana 70390.				
Send comments to Mr. Paul J. Cancienne, President, Assumption Parish Police Jury, P.O. Box 518, Napoleonville, Louisiana 70390, or Mr. C. J. Savoie, Parish Engineer, P.O. Drawer R, Paincourtville, Louisiana 70391.				
Maine	Standish, Town, Cumberland County.	Saco River	Downstream Corporate Limits	*183
			Upstream of Bonny Eagle Hydro Station Dam	*222
			Approximately 260' downstream of State Route 25	*228
			Approximately 1,800' upstream of State Route 25	*236
			Approximately 5,400' upstream of State Route 25	*242
			Confluence of Strout Brook	*251
			Approximately 530' upstream of State Route 11	*256
			Upstream Corporate Limits	*263
		Saco River Left Channel	Downstream Corporate Limits	*204
			Upstream side of State Route 35	*214
			Downstream side of Bonny Eagle Dam	*216
			Confluence with Saco River	*222
Maps available at the Code Enforcement Office, Standish, Maine.				
Send comments to the Honorable Ronald Sawyer, First Selectman of the Town of Standish, Town Hall, Standish, Maine 04084.				
Maryland	Aberdeen, Town, Harford County	Swan Creek	Michael Lane Extended	*12
			Northeast Corporate Limits	*131
			Confluence of Carsins Run	*141
			State Route 462 (downstream side)	*146
			State Route 462 (upstream side)	*153
			Approximately 2,470' upstream of State Route 462	*170
		Carsins Run	Confluence with Swan Creek	*141
			Approximately 1,000' upstream of confluence with Swan Creek	*157
			Maxu Road (upstream side)	*167
			Upstream Corporate Limits	*180
		Tributary to Romney Creek	Downstream Corporate Limits	*57
			Conrail Culvert (upstream side)	*64
Maps available at the Municipal Building, 3 West Bel Air Avenue, Aberdeen, Maryland.				
Send comments to Honorable Raymond Warfield, President of the Aberdeen Board of Commissioners, P.O. Box 70, 3 West Bel Air Avenue, Aberdeen, Maryland 21001.				
Massachusetts	East Brookfield, Town, Worcester County.	Quaboag Pond	Entire shoreline within corporate limits	*606
		Quacumquasit Pond	Entire shoreline within corporate limits	*606
		East Brookfield River	Entire shoreline within corporate limits	*607
		Lake Lashaway	Entire shoreline within corporate limits	*618
		Sevenmile River	Confluence with East Brookfield River	*607
			Downstream Podunk Street	*613
			Upstream corporate limits	*624
		Great Brook	Confluence with East Brookfield River	*607
			Downstream Draper Street	*620
			Downstream Sturbridge Road	*624
		Dunn Brook	Downstream corporate limits	*609
			Upstream corporate limits	*616
		Perry Pond Stream	Confluence of Dunn Brook	*613
			Upstream corporate limits	*623
Maps available at the Town Hall, East Brookfield, Massachusetts.				
Send comments to Honorable Louis Petruzzi, Chairman of the Board of Selectmen of East Brookfield, Town Hall, East Brookfield, Massachusetts 01515.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	Ballwin, City, St. Louis County	Bonhomme Creek	Approximately 1,000 feet upstream of Kehrs Mill Road	*535
			Approximately 1,000 feet downstream of Ries Road	*545
		Tributary 1 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
		Tributary 2 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
Maps available for inspection at Ballwin City Hall, 14811 Manchester Road, Ballwin, Missouri.				
Send comments to Mayor Ronald Hoffmann, Ballwin City Hall, 14811 Manchester Road, Ballwin, Missouri 63011.				
Missouri	Chesterfield, City, St. Louis County	Bonhomme Creek	Approximately 1,000 feet upstream of Kehrs Mill Road	*535
			Approximately 1,000 feet downstream of Ries Road	*545
		Tributary 1 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
		Tributary 2 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
Maps available for inspection at Chesterfield City Hall, 14811 Manchester Road, Chesterfield, Missouri.				
Send comments to Mayor Ronald Hoffmann, Chesterfield City Hall, 14811 Manchester Road, Chesterfield, Missouri 63011.				
Missouri	Manchester, City, St. Louis County	Bonhomme Creek	Approximately 1,000 feet upstream of Kehrs Mill Road	*535
			Approximately 1,000 feet downstream of Ries Road	*545
		Tributary 1 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
		Tributary 2 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
Maps available for inspection at Manchester City Hall, 14811 Manchester Road, Manchester, Missouri.				
Send comments to Mayor Ronald Hoffmann, Manchester City Hall, 14811 Manchester Road, Manchester, Missouri 63011.				
Missouri	Unincorporated Areas of St. Louis County.	Bonhomme Creek	Approximately 1,000 feet upstream of Kehrs Mill Road	*535
			Approximately 1,000 feet downstream of Ries Road	*545
		Tributary 1 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
		Tributary 2 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
Maps available for inspection at St. Louis County Department of Public Works, 41 South Central Avenue, Clayton, Missouri.				
Send comments to Mr. Robert Schneider, St. Louis County Department of Public Works, 41 South Central Avenue, Clayton, Missouri 63105.				
Missouri	Wildwood, City, St. Louis County	Bonhomme Creek	Approximately 1,000 feet upstream of Kehrs Mill Road	*535
			Approximately 1,000 feet downstream of Ries Road	*545
		Tributary 1 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
		Tributary 2 to Bonhomme Creek	Confluence with Bonhomme Creek	*535
			Approximately 1,000 feet upstream of Kehrs Mill Road	*545
Maps available for inspection at Wildwood City Hall, 14811 Manchester Road, Wildwood, Missouri.				
Send comments to Mayor Ronald Hoffmann, Wildwood City Hall, 14811 Manchester Road, Wildwood, Missouri 63011.				
New Jersey	Bernards, Township, Somerset County	Passaic River	Approximately 1,000 feet upstream of Liberty Corner Road	*230
			Approximately 1,000 feet downstream of Lyons Road	*240
		Dead River	Confluence with Passaic River	*230
			Approximately 1,000 feet upstream of Liberty Corner Road	*240
		Harrison Brook	Confluence with Passaic River	*230
			Approximately 1,000 feet upstream of Liberty Corner Road	*240
Maps available for inspection at Township Hall, Liberty Corner Road, Bernards, New Jersey.				
Send comments to Mr. Robert Kiser, Township Manager, Township Hall, Liberty Corner Road, Bernards, New Jersey 07920.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Bernardsville, Borough, Somerset County	Passaic River	Approximately 1,000 feet upstream of Liberty Corner Road	*230
			Approximately 1,000 feet downstream of Lyons Road	*240
		Dead River	Confluence with Passaic River	*230
			Approximately 1,000 feet upstream of Liberty Corner Road	*240
		Harrison Brook	Confluence with Passaic River	*230
			Approximately 1,000 feet upstream of Liberty Corner Road	*240
Maps available for inspection at Borough Hall, Liberty Corner Road, Bernardsville, New Jersey.				
Send comments to Mr. Robert Kiser, Township Manager, Township Hall, Liberty Corner Road, Bernards, New Jersey 07920.				
New Jersey	Bernardsville, Borough, Somerset County	Passaic River	Approximately 1,000 feet upstream of Liberty Corner Road	*230
			Approximately 1,000 feet downstream of Lyons Road	*240
		Dead River	Confluence with Passaic River	*230
			Approximately 1,000 feet upstream of Liberty Corner Road	*240
		Harrison Brook	Confluence with Passaic River	*230
			Approximately 1,000 feet upstream of Liberty Corner Road	*240
Maps available for inspection at Borough Hall, Liberty Corner Road, Bernardsville, New Jersey.				
Send comments to Mr. Robert Kiser, Township Manager, Township Hall, Liberty Corner Road, Bernards, New Jersey 07920.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Ludlow, Town, Hampden County	Broad Brook	Confluence with Chicopee River	*281
			Approximately 0.5 mile upstream of confluence with Chicopee River	*291
			Approximately 0.75 mile upstream of confluence with Chicopee River	*302
			Alden Pond Dam (downstream)	*319
			Alden Pond Dam (upstream)	*324
			Piney Lane (upstream)	*329
		Chicopee River	Downstream Corporate Limits	*141
			Western Massachusetts Electric Dam (downstream)	*150
			Western Massachusetts Electric Dam (upstream)	*168
			Conrail Bridge approximately 1.5 miles above Corporate Limits (upstream).	*175
			State Route 21 (downstream)	*180
			Ludlow Dam (downstream)	*194
			Ludlow Dam (upstream)	*214
			Conrail Bridge approximately 3.3 miles above Corporate Limits (upstream).	*216
			Miller Street (downstream)	*224
			Interstate 90 (upstream)	*234
			Red Bridge Dam (downstream)	*245
			Red Bridge Dam (upsteam)	*261
			Upstream Corporate Limits	*281
		Higher Brook	Downstream Corporate Limits	*174
			West Street (upstream)	*193
			Approximately 1.5 miles upstream of Corporate Limits	*201
			Holyoke Street Dam (downstream)	*210
			Holyoke Street Dam (upstream)	*218
			Center Street (downstream)	*226
			Center Street (upstream)	*230
			Private Road approximately 1 mile upstream of Center Street (upstream).	*238
			Approximately 0.25 mile downstream of upstream Corporate Limits	*243
			Upstream Corporate Limits	*265

Maps available at the Office of Planning and Engineering, Ludlow, Massachusetts.

Send comments to Honorable Nicholas Ruggerio, Chairman of the Board of Selectmen, Town of Ludlow, Town Hall, 488 Chapin Street, Ludlow, Massachusetts 01056.

Minnesota	(Uninc.), Morrison County	Skunk River	About one mile upstream State Highway 25	*1,140
			Just upstream of County Road 251	*1,151
			Just downstream of County Highway 39	*1,156
		Little Elk River	Just upstream of County Road 211	*1,143
			Just downstream of County Road 209	*1,159
			Just upstream of County Road 209	*1,161
			At the City of Randall eastern corporate limits	*1,165
		South Branch Little Elk River	At the southern corporate limit for the City of Randall, about 2,000 feet downstream of State Highway 6.	*1,173
			Just downstream of State Highway 6	*1,174
		Swan River	About 4.9 miles above State Highway 238	*1,123
			Just downstream of County Highway 18	*1,124
		Platte River	Just upstream of State Highway 27	*1,114
			At the confluence of Little Mink Creek	*1,117
		Mississippi River	At the southern corporate limits of the City of Little Falls	*1,092

Maps available at Office of the County Zoning Administrator, Morrison County, Morrison County Courthouse, Little Falls, Minnesota.

Send comments to the Honorable Gilbert Kaasner, Chairman of the County Board, Morrison County, Morrison County Courthouse, Little Falls, Minnesota 56345.

Missouri	(C) Wellston, St. Louis County	Engelholm Creek	Downstream corporate limits (about 400 feet downstream of Maple Street).	*490
			About 80 feet downstream Maple Street	*496
			Just upstream of Bartmer Industrial Drive	*502
			About 580 feet upstream of Plymouth Avenue	*510
			Just upstream of Page Boulevard	*513
			Just downstream Terminal Railroad Association	*516
			Upstream corporate limits (just upstream of Norfolk & Western Railway).	*523
		Engelholm Creek Bypass	Downstream corporate limits (at center of Maple Street)	*495
			About 560 feet upstream of Maple Street	*500

Maps available at City Hall, Wellston Land Clearance Authority, 6205 Martin Luther King, Jr. Drive, Wellston, Missouri

Send comments to Honorable Johnnie Henderson, Mayor, City of Wellston, City Hall, 6205 Martin Luther King, Jr. Drive, Wellston, Missouri 63133.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Hamburg, Town, Erie County	Eighteen Mile Creek	Approximately 400' downstream of Lake Shore Road	*580
			State Route 5 upstream	*588
			Upstream Conrail Track upstream	*610
			Upstream Route 20 downstream	*623
			Coincident with Corporate Limits approximately 400' downstream of South Creek Road.	*714
			Conrail upstream	*744
			Pierce Avenue Upstream	*755
			Corporate Limits	*768
			Carpenter Road (extended)	*791
			Upstream Corporate Limits	*802
		Hampton Brook	Confluence with Eighteen Mile Creek	*758
			Upstream Corporate Limits	*781
		Eighteen Mile Creek North Branch.	Confluence with Eighteen Mile Creek	*797
			Upstream Corporate Limits	*802
		Eighteen Mile Creek South Branch.	Confluence with Eighteen Mile Creek	*798
			Approximately 620' upstream of Farm Road	*805
		Buttermilk Falls Creek	Approximately 60' downstream of North Creek Road	*696
			North Creek Road upstream	*707
			Approximately 90' upstream of Lakeview Road	*730
		Berricks Creek	Approximately 300' downstream of Lake Shore Road (State Route 5)	*581
			Mt. Vernon Drive Downstream	*609
			Mt. Vernon Drive upstream	*617
			Conrail downstream	*617
			Conrail upstream	*639
			Downstream Golf Course Road upstream	*677
			U.S. Route 20 upstream	*692
			Upstream Corporate Limits	*754
		Waterfalls Village Creek	Confluence with Lake Erie	*581
			Conrail downstream	*608
			Conrail upstream	*627
			Approximately 250' upstream of Howard Road	*670
		Foster Brook	Confluence with Lake Erie	*581
			State Route 75 upstream	*590
			Conrail downstream	*597
			Conrail upstream	*610
			U.S. Route 20 upstream	716
			Sowles Road upstream	*742
			Approximately 120' upstream of Maelov Drive	*793
		Rush Creek	Conrail upstream	*626
			South Park Avenue upstream	*655
			State Route 20 upstream	*668
			Bayview Road upstream	*725
			Clark Road downstream	*796
			South Abbott Road upstream	*845
		South Branch Smokes Creek	Corporate Limits downstream	*602
			Lake Avenue upstream	*620
			Corporate Limits upstream	*642
		Tributary to South Branch Smokes Creek.	Confluence with South Branch Smokes Creek	*625
			Milestrip Road	*667
			Nile Road upstream	*680
			Approximately 950' upstream of Nile Road	*683

Maps available at the Hamburg Town Engineer's Office.

Send comments to Honorable Leo Farlon, Hamburg Town Supervisor, S-6100 South Park Avenue, Hamburg, New York 14075

New York	Hamburg, Village, Erie County	Berricks Creek	Downstream Corporate Limits	*752
			Upstream Brookwood Drive	*768
			Approximately 310 feet upstream of Sunset Drive	*775

Maps available at the Hamburg Village Hall.

Send comments to Honorable Carl Henry, Mayor of the Village of Hamburg, 100 Main Street, Hamburg, New York 14070.

Ohio	(V) Whitehouse, Lucus County	Blue Creek	Downstream corporate limits	*639
			Approximately 0.4 mile upstream Norfolk and Western Railway	*643
		Lone Oak Ditch (Downstream)	Downstream corporate limits	*643
			Just downstream Whitehouse-Spencer Road	*645
		Lone Oak Ditch (Upstream)	Just downstream Archbold-Whitehouse Road	*652
			Just upstream Archbold-Whitehouse Road	*655
			Upstream corperate limits	*656

Proposed Base (100-Year) Flood Elevations—Continued

Proposed Base (100-Year) Flood Elevations—Continued

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Disher Ditch (Downstream)	At confluence with Blue Creek	*641
			At upstream corporate limits	*642
		Disher Ditch (Upstream)	Just upstream of Providence Street	*653
			About 1,900 feet upstream of Providence Street	*653
		Swan Creek	Downstream corporate limits	*639
			Upstream corporate limits	*640

Maps available at Village Hall, 6655 Providence Street, Whitehouse, Ohio.

Send comments to Honorable Donald Notzinger, Mayor, Village of Whitehouse, Village Hall, 6655 Providence Street, Whitehouse, Ohio 43571.

Pennsylvania	Aston, Township, Delaware County.	Chester Creek	Downstream Corporate Limits	831
			Upstream Bridgewater Road	*40
			Upstream Dutton Mill Road	*49
			Downstream Knowlton Road	*58
			Upstream Mt. Alverno Road	*67
			Upstream of Dam	*78
			Upstream Pennell Road	*83
			Approximately 1,600' downstream of Convent Road	*93
			Downstream Convent Road	*102
			Downstream Hollow Hill Road	*105
			Approximately 1,200' downstream of Lenni Road	*107
			Downstream Lenni Road/Corporate Limits	*114
		West Branch Chester Creek	Confluence with Chester Creek	*105
			Upstream New Road	*112
			Upstream of downstream Dam	*121
			Upstream of upstream Dam	*136
			Approximately 2,000' downstream of Aston Mills Road	*139
			Approximately 1,000' upstream of Aston Mills Raod	*147
			Approximately 2,000' upstream of Aston Mills Road	*162
			Approximately 3,000' upstream of Aston Mills Road	*167
			Approximately 1,000' downstream of Valley Brook Road	*171
			Corporate Limits/Valley Brook Road	*173

Maps available at the Township Building, 233 Pennell Road, Aston, Pennsylvania.

Send comments to Honorable Bob Divins, President of the Aston Board of Commissioners, 233 Pennell Road, Aston, Pennsylvania 19014.

Pennsylvania	Bethel Park, Municipality Allegheny County.	Graesers Run	Downstream Corporate Limits	*998
			Brookside Boulevard (Upstream)	*1,010
			Approximately 1,200' upstream of Brookside Boulevard	*1,020
		Piney Fork	Downstream Corporate Limits	*982
			Upstream Library Road	*987
			Upstream of First Footbridge	*1,004
			Upstream of 6th Footbridge	*1,013
			Upstream of Irishtown Road	*1,035
			Approximately 500' upstream of Irishtown Road	*1,039
		Tributary 1 to Piney Fork	Confluence with Piney Fork	*983
			Upstream Library Road	*991
			Upstream Alleghney County Port Authority Righ-of-way	*994
			Upstream Beagle Drive	*1,007
			Upstream West Kings School Road	*1,031
			Approximately 900' upstream of West Kings School Road	*1,039

Maps available at the Bethel Park Library, Bethel Park, Pennsylvania.

Send comments to Honorable James Martin, Manager of Bethel Park, 5100 West Library Avenue, Bethel Park, Pennsylvania 15102.

Pennsylvania	Green Lane, Borough, Montgomery County.	Perkiomen Creek	Downstream Corporate Limits	*218
			Confluence of Macoby Creek	*223
			Upstream side of Conrail Bridge	*224
			Upstream side of Park Road	*226
			Upstream Corporate Limits	*227
		Macoby Creek	Confluence with Perkiomen Creek	*223
			Upstream side of State Route 29 Bridge	*228
			Upstream side of Conrail bridge (approximately 60' downstream of upstream Corporate Limits).	*235

Maps available at the residence of the Borough Secretary, Ms. Barbara Turansky, 500 Main Street, Green Lane, Pennsylvania.

Send comments to Honorable Claude Balduzzi, Council President of Green Lane, P.O. Box 514, Green Lane, Pennsylvania 18054.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Greenville, Borough Mercer County.	Shenango River	Corporate Limits (Downstream)	*942
			Main Street (Upstream side)	*946
			Corporate Limits (Upstream)	*950
		Little Shenango River	Confluence with Shenango River	*947
			College Avenue (Upstream side)	*951
			Corporate Limits (Upstream)	*958

Maps available at Municipal Building in the Council Chambers, Greenville, Pennsylvania.

Send comments to Honorable Walter Caswell, Council President, 125 Main Street, Greenville, Pennsylvania 16125.

Pennsylvania	Kennett Square, Borough, Chester County.	West Branch Red Clay Creek	Upstream side of West Cypress Street Bridge	*277
			Upstream Corporate Limits	*280
		East Branch Red Clay Creek	Downstream Corporate Limits	*283
			Downstream side of Conrail Bridge	*292
			Downstream side of East State Street Bridge	*300
			Upstream Corporate Limits	*306

Maps available at the Borough Building, Broad and Linden Streets, Kennett Square, Pennsylvania.

Send comments to Honorable M. D. Fulton, Manager of Kennett Square, Borough Building, P.O. Box 5, Broad and Linden Streets, Kennett Square, Pennsylvania 19348.

Pennsylvania	Lehigh, Township, Lackawanna County.	Lehigh River	Downstream Corporate Limits	*1,512
			Locust Ridge Road (Upstream side)	*1,522
			Private Road about 0.56 mile upstream of Locust Ridge Road (Upstream side).	*1,538
			Confluence of Pond Creek about 1.5 miles upstream of Locust Ridge Road.	*1,554
			Confluence of Buckley Run about 425 feet upstream of Pine Grove Road Extended.	*1,560
			Confluence of Spuce Run (Upstream Corporate Limits)	*1,570

Maps available at the Lehigh Municipal Building, Thornhurst Community Center, Thornhurst, Pennsylvania.

Send comments to Honorable Eugene Williams, Chairman of the Lehigh Board of Supervisors, Box 110, Star Route, Gouldsboro, Pennsylvania 18424.

Pennsylvania	Rochester, Township, Beaver County.	Beaver River	Downstream Corporate Limits	*704
			Upstream Corporate Limits	*705
		Lacock Run	East Washington Street Bridge	*798
			Approximately 520' upstream of East Washington Street Bridge	*814
			Upstream side of Adams Street Bridge (downstream crossing)	*830
			Approximately 500' upstream of Adams Street Bridge	*849
			Upstream side of Adams Street Culvert	*868
			Approximately 500' upstream of Adams Street Culvert	*885
			Upstream side of Reno Street Bridge	*910
			Upstream side of Private Drive Bridge approximately 550' upstream of Reno Street Bridge.	*937
			Upstream of Private Drive Bridge approximately 850' upstream of Reno Street Bridge.	*949
			Approximately 1,400' upstream of Reno Street Bridge	*977
			Approximately 1,700' upstream of Reno Street Bridge	*996
			Approximately 75 feet upstream of Private Drive Culvert located approximately 1,850' upstream of Reno Street Bridge.	*1,020

Maps available at Township Building, Rochester, Pennsylvania.

Send comments to Honorable Samuel A. Scriva, President of the Rochester Board of Commissioners, Sunflower Road, Rochester, Pennsylvania 15074.

Pennsylvania	Upper Frederick, Township, Montgomery County.	Perkiomen Creek	Downstream Corporate Limits	*186
			Old State 29 (Upstream side)	*193
			Dam approximately 600' downstream of Snyder Road (Downstream side).	*196
			Dam approximately 600' downstream of Snyder Road (Upstream side)	*204
			Knights Lake Dam (Downstream side)	*211
			Knights Lake Dam (Upstream side)	*218
			Park Road (Upstream side)	*226
			Green Lane Dam (Downstream side)	*230
			Upstream Corporate Limits	*290
		Scioto Creek	Downstream Corporate Limits	*207
			Faust Road (Upstream side)	*217
			Perkiomenville Road (Upstream side)	*233
			Heimback Road (Upstream side)	*248
			Upstream Corporate Limits	*268
		Deep Creek	Deep Creek Dam (Upstream side)	*230
			Green Lane Road (Upstream side)	*235
			Upstream Corporate Limits	*243

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Swamp Creek	Downstream Corporate Limits	*231
			Upstream Corporate Limits	*236
		Goochenhappen Creek	Downstream Corporate Limits	*261
			Faust Road (Downstream side)	*280
			Approximately 410' upstream of Faust Road	*284

Maps available at the Upper Frederick Township Building, State Route 73, Obelisk, Pennsylvania.

Send Comments to Honorable Anna M. Gottshalk, Chairperson of the Township of Upper Frederick, R.D. 2, Perkiomenville, Pennsylvania 18074.

Texas	City of Atlanta, Cass County	Black Bayou	Just upstream of U.S. Highway 59 (West Main Street)	*236
		Haw Creek	Just downstream of Sawmill Road	*236
			Just upstream of State Highway 251 (Holley Street)	*259
		Hurricane Creek	Just upstream of State Highway 251 (Holley Street)	*265
		North Tributary of Black Bayou	Just upstream of State Highway 77	*242
		South Tributary of Black Bayou	Just upstream of State Highway 43 (North Louise Street)	*238

Map available for inspection at City Hall—440 North Lane, Atlanta, Texas.

Send Comments to Mayor David Johnson, or Mr. Sidney Davis, City Manager, City Hall, 440 North Lane, Atlanta, Texas 75551.

Texas	City of Fredericksburg, Gillespie County.	Baron's Creek	Just downstream of Goehmann Street	*1,619
			Just upstream of Creek Street	*1,656
		Town Creek	Just upstream of Washington Street	*1,667
			Just upstream of Milam Street	*1,703

Map available for inspection at City Hall, 127 West Main, Fredericksburg, Texas 78624.

Send Comments to Mayor Kenneth Brown or Ms. Bernice Seipp, City Clerk, City Hall, 127 West Main, Fredericksburg, Texas 78624.

Texas	City of Pearsall, Frio County	West Creek	Just upstream of West Medina Street	*603
			Just upstream of Power Plant Road	*620

Map available for inspection at City Hall, 213 South Oak, Pearsall, Texas 78601.

Send Comments to Mayor Ruben Leal, or Mr. Andres Garcia, Jr., City Manager, City Hall, 213 South Oak, Pearsall, Texas 78061.

Utah	Plain City (City), Weber County	Weber River	500 feet south-southeast from intersection of 1500 North Street and 1400 North Street.	*4,227

Maps available at City Hall, Plain City, Utah.

Send comments to Honorable Samuel S. Lower, P.O. Box 2017, Plain City, Utah 84404.

Utah	South Weber (City), Wever River		600 feet north of intersection of 475 East Street and the westbound lanes of Interstate 80.	*4,422
			Intersection of river and center of the westbound lanes of Interstate 80.	*4,515

Maps available at City Hall, 7355 South 1375 East, South Weber, Utah.

Send Comments to Honorable Rex Bouchard, 7355 South 1375 East, South Weber, Utah 84403

Utah	Uintah (Town), Weber County	Weber River	100 feet upstream from center of 6600 South Street	*4,435
			Intersection of creek and most upstream corporate limits	*4,489

Maps available at City Hall, 2216 East 6550 South, Route 4, Uintah, Utah 84403.

Send comments to Honorable Robert D. Fermelius, 2216 East 6550 South, Route 4, Uintah, Utah 84403.

Wisconsin	(V) Wrightstown, Brown County	Fox River	At downstream (northeastern) corporate limits	*602
			Just upstream Ferry Street	*602
			Western corporate limits	*603
		Plum Creek	Approximately 1.5 miles upstream from the mouth	*615
			Approximately 1.8 miles upstream from the mouth	*617

Maps available at the Village Clerk's Office, Village Hall, Main Street, Wrightstown, Wisconsin.

Send comments to Honorable Robert Schaeuble, Village President, Village of Wrightstown, Village Hall, Main Street, Wrightstown, Wisconsin 54180.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24978 Filed 8-19-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 21310; RM-1847; RM-1984; and RM-2742]

FM Quadraphonic Broadcasting

AGENCY: Federal communications Commission.

ACTION: Prosposed rule making and memorandum opinion and order.

SUMMARY: Commission proposes specific standards for broadcasting compatible discrete and semi-discrete quadraphonic systems while it simultaneously asks for comments regarding the efficacy and practicality of adopting general standards. Denies CBS's petition for 4-2-4 quadraphonic standards as unnecessary and unenforceable.

DATES: Comments must be received on or before November 10, 1980, and reply comments must be received on or before January 9, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Albert S. Jarratt, Sr., Broadcast Bureau, (202) 653-7275.

SUPPLEMENTARY INFORMATION:

Adopted: July 17, 1980.

Released: August 14, 1980.

By the Commission.

Introduction

1. A *Further Notice of Inquiry* was released in this proceeding on January 10, 1979 (FCC 79-1, FR 44 FR 3732). The primary purpose of the *Further Notice* was to obtain additional information concerning the impact that the adoption of quadraphonic broadcasting standards would have on the possibility of reducing the channel spacing in the FM broadcast band.

Background

2. Earlier, the Commission had adopted a *Notice of Inquiry* on June 22, 1977 (FCC 77-44, FR 42 FR 34913) as a result of three petitions [1] which proposed rules and strandards for FM quadraphonic broadcasting. The objective of that *Notice* was to determine the degree of interest in quadraphonic broadcasting and, if sufficient interest was indicated, to develop a record to assist the Commission in formulating standards for the service.

3. Over 2,000 comments were received in response to the *Notice of Inquiry*. With few exceptions these favored some form of quadraphonic broadcasting. In general the comments equally favored 4-2-4 and 4-4-4 quadraphonic systems.[2] Broadcasters were also split in their preference for 4-2-4 and 4-4-4 systems. After analysis and review of the comments, the Commission concluded that there was substantial interest in FM quadraphonic broadcasting. Additionally, the commission detrermined from the technical data, that 4-4-4/4-3-4 quadraphonic systems can be accommodated within the present frequency assignment plan without objectional degradation to monophonic and sterophonic radio service. However, some doubt existed as to the feasibility of later reducing the channel spacing if quadraphonic standards were adopted.

4. Consequently, the Commission, in a meeting on September 14, 1978, determined that additional information was needed before standards could be proposed. Therefore, on January 2, 1979, the Commission adopted a *Further Notice of Inquiry ("FNOI")* to obtain information concerning the impact that the adoption of quadraphonic broadcasting standards would have on the possibility of later reducing the channel spacing in the FM broadcast band to 150 kHz or 100 kHz. In addition, the *FNOI* sought to explore the feasibility of operation of the various proposed quadraphonic systems within narrower channel spacings.[3] The *FNOI* explained that it may be necessary with 150 kHz channel spacing to restrict all baseband signals to within 75 kHz. It was acknowledged that such a reduction could preclude some of the proposed quadraphonic systems as well as affect present stereo and Subsidiary Communications Authorization (SCA) operations. The *FNOI* therefore requested comments concerning the effects on co-channel and adjacent channel protection ratios due to the operation of 4–2–4, 4–3–4, and 4–4–4 quadraphonic systems and SCA transmissions if FM channel separations were reduced to 150 kHz or 100 kHz. The Commission further stated that pending a determination regarding the efficacy of reducing FM channel spacings, it would consider adoption of quadraphonic broadcasting standard(s) only for such system(s) as could be clearly demonstrated to not preclude possible future reductions in channel spacing.

Discussion

5. Although there were many comments received by the Commission relative to the FM channel spacing, the vast majority simply expressed disapproval of any change in channel spacing. Only a few addressed the primary question asked in the *FNOI*. Technical data was received from QSI, however, that indicated the transmission of a discrete four channel (4–4–4) quadraphonic signal does not create greater adjacent channel interference than presently permitted monophonic or stereophonic transmissions. Under certain conditions monophonic transmissions could be shown to create greater adjacent channel interference than the quadraphonic systems under consideration. The QSI data also indicated that the receiver characteristics determine the required FM signal strength ratio (protection ratio) for a given audio signal to interference ratio. This was corroborated by comments submitted by RCA. By extrapolating the National Quadraphonic Radio Committee (NQRC) [4] test data, RCA stated, it could

[1] Petitions were submitted by Pacific FM, Inc., [later changed to Quadracast Systems, Inc., (QSI)], RM-1847, General Electric Company, (GE), RM-1984, and CBS, Inc., (CBS), RM-2742.

[2] Qradraphonic systems which have been proposed to date fall into three general categories, 4-2-4, 4-3-4, and 4-4-4. Where four independent or discrete audio sources are encoded by a "mattrix" into two composite signals transmitted as compatible left and right stereo signals to be later decoded back into four audio signals, the system has been designated as a 4-2-4 system. Where the four independent or discrete audio sources are combined in a composite siginals and transmitted as a main channel plus either 2 or 3 subchannels, all to be later converted back into 4 (discrete in the case of 4-4-4) audio signals, the systems are designated as 4-3-4 or 4-4-4, respectively.

[3] Narrower channel spacings were suggested by a report issued by the Commission's Office of Chief Engineer entitled "FM Broadcast Channel Frequency Spacing" (FCC/OCE RS 75-08).

[4] In 1972 the Electronic Industries Association sponsored the National Quadraphonic Radio Committee whose objective was to report to the Commission its conclusions regarding quadraphonic FM broadcasting standards. In November, 1975, the

Footnotes continued on next page

be shown ". . . that equally detrimental effects occur when narrowing channel spacings for FM quadraphonic systems as [compared] with currently authorized FM broadcast services". Quadraphonic transmissions would therefore be on an equal footing with existing FM broadcast services should narrower channel spacings be considered. This, RCA maintained, permitted the Commission to initiate the FM quadraphonic standards selection process without undue concern about particular compatibility situations. These views were supported by a number of other comments and were not disputed in any meaningful comments. RCA also commented that while the first order sidebands from a 4–4–4 transmission do not enter into the stereo subchannel of an adjacent FM channel with 150 kHz channel spacing, they may disturb the SCA operation or 4–4–4 reception on an adjacent FM channel. Comments on the importance of this problem are requested. Overall, these comments may be summarized as stating that (a) a reduction in channel spacing would not be precluded by adoption of quadraphonic standards, and (b) a reduction in the channel spacing would affect stereophonic broadcasting as well as quadraphonic transmissions.

6. From the data submitted, the Commission is persuaded that further consideration should be given to quadraphonic broadcasting standards. Our data analysis confirms the QSI and RCA comments regarding the minimal impact adoption of quadraphonic standards would have on the possibility of reducing the FM channel spacing. We are further persuaded that a reduction of the channel spacing would affect quadraphonic, stereophonic, and SCA transmissions similarly. In view of this we believe adoption of quadraphonic standards would not foreclose the possibility of exploring a reduction in the FM channel spacing in a future proceeding.[5] Consequently, we are proposing to amend our rules to permit quadraphonic broadcasting.

7. The FCC has reviewed the formal proposals for quadraphonic broadcast systems made by QSI, General Electric (GE), and CBS, Inc. (CBS). In addition, we have examined those submitted by Cooper-UMX, NRDC, Zenith Radio Corporation (Zenith), Sansui, and RCA Corporation (RCA). The following objectives, outlined in the *Further Notice of Inquiry*, were used in our review of the different systems suggested:

a. any standards established must be compatible with the present monophonic and stereophonic broadcasting service,

b. any system proposed should be capable of providing the highest quality service at reasonable cost, and

c. any standards established should be as broad as practical to permit the marketplace (broadcasters and listening public) to influence the selection between competing systems.

The FCC has identified two alternative approaches for providing standards for quadraphonic broadcasting, both of which appear to be consistent with these objectives. The first set of standards ("specific standards") would provide for a compatible 4–3–4/4–4–4 system of quadraphonic broadcasting similar to the systems proposed by QSI and RCA. Compatibility between the 4–3–4 and 4–4–4 modes will permit 4–4–4 transmissions to be received in either the 4–4–4, 4–3–4, stereophonic, or monophonic format. Transmissions in the 4–3–4 mode will be capable of reception in either the 4–3–4, stereo, or monophonic format. The Commission anticipates receivers will be produced that will have the capability to automatically detect and adjust for transmissions to either the 4–4–4 or 4–3–4 modes. This proposal for specific standards would permit licensees the flexibility to choose the quadraphonic mode best suited for their individual needs. It would provide listeners with a quadraphonic signal that is compatible with present stereo transmissions that may be decoded for high quality discrete quadraphonic reproduction (assuming transmissions in the 4–4–4 mode). It further could be decoded for slightly lower quality 4–3–4 quadraphonic reproduction in marginal signal areas (again assuming 4–4–4 transmissions). In areas where quadraphonic reception is not possible, the quadraphonic signal may be decoded in either the stereophonic or monophonic format.

8. Under the specific standards being proposed, further consideration would not be given to the systems proposed by Cooper-UMX, NDRC, GE, and Zenith. Commission concerns with certain characteristics of these systems were noted in the *FNOI*. These dealt with the complexity and/or performance deficiencies of these systems as compared to the QSI and RCA systems. None of the comments received in response to the *FNOI* have altered the Commission's findings with respect to them. Therefore, for the specific standards proposal, we find no reason to examine these systems further. Instead, this proposal focuses solely on the RCA and QSI systems and the possibilities they offer for a compatible hierarchy of quadraphonic broadcasting options.

9. Even greater flexibility would be afforded licensees and listeners under the alternative to the "specific standards" approach outlined above. This proposal is termed the "general standards" approach and would rely totally on the marketplace to determine which quadraphonic systems would be used. Only the minimum standards necessary to protect the existing allocation structure and insure the compatibility of the transmitted signal with existing receivers would be adopted. The operation of any quadraphonic transmission system that meets the general standards would be permitted under this approach. This includes those systems excluded from further consideration under the specific standards approach and any others which might be developed at a later date. Further discussion of this option is contained in paragraph 14. Under either approach, standards are not being proposed for the 4–2–4 system submitted by CBS, or for any other 4–2–4 system (such as Sansui). Further discussion of this decision is contained in paragraph 19.

10. The specific standards being proposed are based on the RCA and QSI system proposals. The similarities between them were noted in the *FNOI*. The RCA system emphasis is on the compatible 4–3–4/4–4–4 aspect while the QSI system emphasis in on a 4–4–4 system. However, the QSI proposal includes a 4–3–4 option that is almost identical with the proposed RCA system. Both systems use 76 kHz for a third quadraphonic subcarrier. The RCA proposal specifies that the front minus back signal modulate the second quadraphonic subcarrier and the diagonal or criss-cross signal modulate the third quadraphonic subcarrier. The QSI proposal specifies that the diagonal signal modulate the second quadraphonic subcarrier and the front minus back signal modulate the third quadraphonic subcarrier. However, during the NQRC tests the signals on these two subcarriers were switched by QSI to agree with that suggested by RCA. RCA proposes a second pilot subcarrier in phase quadrature at 76 kHz to control receiver mode switching. Also RCA suggests that the presence of a signal modulating the 38 kHz quadrature subcarrier could be used to indicate 4–3–4 quadraphonic transmission. QSI suggests that the 19 kHz pilot be used for the freq/phase reference of all subcarriers including SCA. Although QSI mentions that a second pilot may be inserted for mode indication, it states that such an insertion may increase overall intermodulation and multipath susceptability. Therefore, QSI suggests that the presence of quadraphonic information may be used to automatically switch quadraphonic receiving modes and to indicate quadraphonic presence.

11. The Commission's preference for switching and mode indication techniques that minimize the use of additional pilot tones was noted in the FNOI. Comments indicate that additional pilot tones (except for the possibility of submerged tones) are both unnecessary and undesirable. Informal comments to the Commission indicate that a submerged switching tone (more than 60 decibels below 90 percent modulation of the main carrier) in the vicinity of 16 to 17 kHz may be practical to indicate which quadraphonic mode is being transmitted and to provide automatic receiver mode switching as well as accomplish other functions such as to indicate the operation of noise reduction circuitry. The Commission is aware that QSI has been demonstrating a custom receiver that requires no switching tones, being actuated by the presence of subchannel information. However, the Commission does not know at this time if automatic mode switching without submerged tones will be satisfactory in marginal signal areas or if it will be necessary for the listener to make a manual adjustment. This may be a function of the design of the receiver. Further comments in this regard are requested. Comments were requested in the FNOI regarding this matter but few were received. Comments are also solicited on whether the Commission should require any submerged tones and how that might affect the introduction of new systems not now before the Commission.

12. The specific standards we are proposing will allow licensees to select the particular transmission mode which best suits their needs as well as those of their particular listening audience. The primary considerations of the proposed quadraphonic modes that would be available to broadcasters are as follows:

4–4–4. Stations presently equipped for stereo face greater expense to implement this service than would be encountered in implementing 4–2–4 service and quadraphonic station coverage may be reduced somewhat. However, many commenting parties expressed the view that 4–4–4 provides the best overall quadraphonic performance. Existing SCA operations would have to be changed when tranmitting in this mode.

4–3–4. Stations opting for this mode would face expenses similar to those required for 4–4–4. However, potential loss of quadraphonic coverage is reduced and existing SCA operations would be unaffected. The 4–3–4 mode is considered to have many of the desirable characteristics of the 4–4–4 mode. Although some believe that 4–3–4 has certain inherent limitations, others believe it has advantages. Since 4–3–4 and 4–4–4 transmissions are compatible a single decoder can decode either transmission mode.

13. The Commission desires to permit competition in the marketplace to influence to the greatest extent practical, feasible and consistent with the public interest, the quadraphonic choices available to the FM station licensee and its listeners. The specific standards approach permits the station licensee the flexibility of free choice between the major quadraphonic modes. If the station, transmitting in stereo, with or without SCA, elects to make no changes or to transmit 4–2–4 quad, so be it. If the station elects to transmit a 4–3–4 version of quad while retaining its usual SCA operation it may do so, incurring some expense to convert its studio equipment to 4 channels and suffering an almost insignificant loss of station coverage. However, if the station elects to transmit a 4–4–4 mode of quad while incurring the similar expenses of 4–3–4 with some additional loss of station coverage plus the requirement of either moving any SCA operation to 95 kHz (see paragraph 22) or otherwise discontinuing the SCA operation, it may do so. Likewise, the listener would also have the flexibility of choosing between stereo, 4–3–4, or 4–4–4 if the station is transmitting in a 4–4–4 mode. In marginal signal areas the listener may prefer to listen in a 4–3–4 mode although the station is transmitting in a 4–4–4 mode. The compatibility between the 4–3–4 and 4–4–4 modes will permit this receiving choice.

14. As an alternative to the adoption of specific quadraphonic transmission standards, the Commission requests comments on the desirability of adopting general standards. Under this proposal the transmission of *any* quadraphonic signal that meets a general set of standards would be permitted. These standards would require the quadraphonic signal to be compatible with the existing allocation structure and existing monophonic and sterophonic receivers. No minimum performance requirement for the quadraphonic systems would be established under this proposal. For example, no minimum separation requirement would be specified between front and rear channels or between left and right rear channels. The present stereo performance standards would be retained but comparable standards for quadraphonic broadcasting would not be adopted. No general standards are contained in the appendix. Rather, we request comments on the practicality of such an approach and on the minimum standards necessary to safeguard our present allocation structure and permit continued use of existing receivers.

15. One alternative which is not recommended or set forth in this item is that the Commission could choose only one of the systems to the exclusion of any other *i.e.*, specifying only the 4–4–4 mode, or only the 4–3–4 mode. Since the quadraphonic systems included in the specific standards proposal are compatible with each other and with existing monophonic and sterophonic systems, such a limitation on the choices of broadcasters and listeners has virtually no benefits but would prevent the accural of the many benefits as identified below which would derive from having several systems authorized. Therefore, even the more limiting specific standards which are being proposed allow a range of options over which those affected may choose.

16. There are two basic differences between the general and specific standards as proposed. One difference is that, under the specific standards approach, only systems which have at least the minimum standards of existing systems will be acceptable to the Commission. Thus, if a new system of quadraphonic broadcasting is developed which has vastly improved separation characteristics but offers this advantage only with slightly reduced frequency response, it would not be acceptable for use under the specific standards. On the other hand, the general standards would insure that the Commission's concerns regarding interference and international agreements were adequately covered but would not set forth minimum limits

---

Footnotes continued from last page

NQRC submitted its report and conclusions. This report consists of two volumes, of which Volume One is a summary of the tests and conclusions and Volume Two, consisting of 5 Parts, includes the various tests on receivers, interconnecting facilities, transmitters, field tests, and compatibility tests. This report was made a part of the record in this proceeding.

[5] However, the investment in FM quadraphonic equipment added to that of existing stereo and mono equipment, all of which would be adversely affected by reduced channel spacing, would increase the cost associated with an action which would reduce such spacing. Would the economic and political arguments which could be raised against a reduction in channel spacing thus be significantly strengthened? Comments are requested on the importance of this aspect of adopting standards for FM quadraphonic broadcasting.

on performance characteristics which are of interest to listeners.

17. The other difference is that the general standards would allow the use of any quadraphonic systems which protected the Commission's concerns regarding interference, compatibility with existing receivers, and international agreements even though such systems might be incompatible with other quadraphonic systems available or already in use. The advantages attached to the general standards and to a somewhat lesser extent to the specific standards are essentially that:

(1) the technology of quadraphonic broadcasting continues to be free to develop within confines which protect Commission concerns, and

(2) broadcasters and listeners choose which quadraphonic system is more appropriate for their needs, e.g., a system with greater coverage but poorer frequency response may be best for one station while another station may opt for superior frequency response with a concomitant loss of coverage area. Indeed, as described above, there are several significant differences ranging from subcarrier use to performance characteristics in the currently known systems.

18. In order to enhance the ability of the Commission to choose among the alternatives for rulemaking, several pieces of economic information are sought. Specifically:

(1) What is the expected selling price and cost of installation (including any necessary modification to existing equipment) for each of the proponents' systems?

(2) What is the added cost to the consumer of receiving equipment which has each system's quadraphonic reception capability? (Presumably, this estimate will be the incremental cost to existing stereo receivers.)

(3) Is it possible to design systems which will enable reception of all or more than one of the proposed quadraphonic transmission methods?

(4) If a universal receiver (one which will decode all known quadraphonic systems) is possible, what would be the additional cost to the consumer of purchasing such a receiver? (The incremental cost information sought is the cost of adding this feature to a quadraphonic receiver designed to receive only one type of quadraphonic broadcast.)

(5) What are manufacturers' attitudes toward manufacturing and marketing multi-system equipment?

(6) If you think specific standards which narrow the acceptable range of technology should be adopted, do you base the conclusion on some unique aspect of the radio market or do you think that, as a general proposition, the government should select particular technologies for universal use?

(7) Is FM quad sufficiently advanced in its state of the art to enable the Commission to make a choice which would narrow the technological focus or should open technological development be allowed to continue?

(8) If the technology is to be narrowed to one or a few methods of producing FM quad, is the Commission the appropriate entity to make a selection or is there a better alternative?

(9) Would either specific or general standards adversely affect the degree of competition domestically or internationally?

(10) If the Commission should narrow the technological choices available to FM broadcasters, what criteria should it use to do so and how should they be weighted, namely, what factors do broadcasting and listeners value more highly and which less highly in the systems' characteristics?

19. Concerning the 4–2–4 system submitted by CBS, the Commission finds that adoption of standards for this system (or for any other 4–2–4 system) under either the specific or general approach is unnecessary. This type of quadraphonic broadcasting may be transmitted under present stereophonic standards. On August 9, 1972, the Commission issued a Public Notice (Mimeo No. 7599), concerning 4–2–4 transmission methods, which stated:

"The Commission said that the four-channel stereo systems being sold today are 'pseudo-enhancement devices relying on a phase-differential principle to achieve four-channel audio effects, and may be used within the FCC's present FM stereo transmission standards without specified authorization."

The Commission at this time reaffirms its policy as set forth in this Public Notice. As a practical matter it would be difficult for the Commission to enforce any 4–2–4 quad standards, as stations may unknowingly or inadvertently transmit such programming material. By declining to establish 4–2–4 quad standards, the Commission is permitting a flexibility that would be curtailed if any 4–2–4 quad standards were imposed. Therefore, the Commission finds no reason to adopt CBS's proposed standards since this quadraphonic mode is permitted at the present time and will continue to be.[6]

[6] As part of it's petition, CBS proposed an "identification signal" at 57 kHz phase locked to the 19 kHz pilot and at a modulation level of 2 to 3%.

Other considerations

20. Many comments were received from background music business companies and from blind or otherwise handicapped persons concerning the impact the adoption of quadraphonic broadcasting standards would have on present SCA services. These responses had many similarities. Most expressed a concern that the adoption of quadraphonic standards would mean the end of such services. Although this, in fact, is not true, some were very disturbed at such a possibility. These comments were made without a distinction between the various quadraphonic modes. As stated earlier in this document, only the specifically proposed 4–4–4 mode would have an adverse impact on any existing SCA services. If a licensee desires to transmit an existing SCA under the specific rules being proposed, it may do so by limiting its quadraphonic transmission to the 4–2–4 or 4–3–4 modes. Additionally, one of the quadraphonic systems which has been studied is capable of transmitting 4–4–4 without requiring changes to the 67 kHz SCA. However, in recognition of the impact the specific 4–4–4 quadraphonic broadcasting standards would have on SCA operation, we are proposing to permit subcarriers on the FM baseband up to and including 95 kHz. This subcarrier option is also available under the general standards for other 4–4–4 modes requiring SCA movement. As explained further in paragraphs 22 and 25, this expanded limit would also provide an opportunity for stations transmitting stereo, 4–2–4, or 4–3–4 quad, to operate a subcarrier at 95 kHz in addition to the one at 67 kHz.

21. It is expected that use of a 95 kHz subcarrier operation may require a low-pass audio filter having a cut-off frequency slightly lower than that presently used with existing SCA equipment. Present practice in most SCA operations is to roll-off the higher audio frequencies above 4 or 4.5 kHz and to limit the subcarrier deviation to ±4 kHz while simultaneously transmitting stereo. It appears from test data that a roll-off of audio frequencies above 3.5 kHz and a limit of the subcarrier deviation to ±2.5 or 3 kHz may be necessary to give an acceptable crosstalk performance from a 95 kHz subcarrier. QSI proposed SCA standards at 95 kHz similar to those in use today,[1] but RCA suggested that at 95 kHz the subcarrier be limited to a maximum modulating frequency of 2 kHz, an injection level of 5% and a deviation of ±2 kHz.

[1] The purpose of the tone was to actuate a signal lamp on the receiver to indicate the transmission of CBS's SQ version of 4–2–4 quadraphonic broadcasting. Comments received in response to the *FNOI* indicated that additional pilot tones are both unnecessary and undesirable. There are other less obtrusive techniques available for quadraphonic mode indication. Furthermore, there is evidence that additional pilot tones cause an increase in intermodulation and multipath problems. The use of submerged tones appears practical and feasible for indicating transmission modes or for other purposes without causing problems associated with pilot tones. See paragraph 11 for more discussion.

22. With the following exception, the Commission is not proposing new standards for SCA operation. We shall, however, permit the operation of subcarriers up to and including 95 kHz with instantaneous sidebands to 99 kHz. Section 73.319(b) presently limits subcarriers and sidebands to a maximum of 75 kHz. The Commission will continue the present limit of 10% injection of any SCA subcarriers below 75 kHz simultaneous with stereo (and 4–3–4 quad) (Section 73.319(c)). It is proposing a 10% limit for all SCA subcarriers above 75 kHz regardless of the operating mode (monophonic, stereophonic or quadraphonic). Likewise the Commission will continue the existing emission limitations as specified in Section 73.317(a), (12) through (14) and will continue the present limit for SCA crosstalk [Section 73.319(e)] to no greater than —60 db into the monophonic, stereophonic or quadraphonic channels.

23. The Commission is aware that a shift in the SCA subcarrier from 67 to 95 kHz will cause expenditures and/or inconvenience on the part of the SCA lessor. However, the moving of the subcarrier does not mean the end of SCA services as some comments have indicated. An informal study by the Commission has revealed that, except for some early receivers, the change to a new subcarrier frequency is a relatively simple operation and can be accomplished without great expense and certainly does not mean the obsolescence of modern receivers. If the Commission proceeds as proposed in this rulemaking to allow a subcarrier at 95 kHz, this will permit an orderly shift of receivers from 67 to 95 kHz without any disruption of service for those licensees desiring to transmit in a 4–4–4 mode requiring SCA movement. This could be accomplished before any commencement of 4–4–4 quadraphonic trasmission (if that mode is desired) by the operation of two SCA subcarriers until a systematic change to the new frequency is completed.

24. In paragraphs 12 and 13 of this document, we discussed our belief that the marketplace (station licensee, station advertisers including SCA lessors and listeners, etc.) should influence the selection between the monpohonic/stereophonic/quadraphonic operating modes. Likewise, we feel that a local decision should determine whether a station continues with an existing 67 kHz SCA operation or elects to move the subcarrier to 95 kHz. As was pointed out earlier, if only general quadraphonic standards are adopted, this could include a decision to use a 4–4–4 system not requiring a change in SCA frequency. This local decision should permit the station to better serve its listeners and advertisers. As the Commission has never required any station to change from monophonic operation to stereophonic operation, it is not envisioned that quadraphonic broadcasting will someday become mandatory of use of an SCA at 67 kHz prohibited.

25. Although not mentioned in the Commission's earlier proceedings on quadraphonic broadcasting standards, or in comments thereto, our proposal for quadraphonic standards presents an opportunity for the FM station licensee to have an additional SCA channel simultaneous with stereo or 4–3–4 quad. By permitting subcarrier frequencies up to and including 95 kHz, this will permit a licensee with a 67 kHz subcarrier to add a subcarrier at 95 kHz using 10% injection at 95 kHz. We note that it may be desirable to phase-lock the 95 kHz subcarrier to the fifth harmonic of the 19 kHz pilot.

26. The frequency of the third quardraphonic subcarrier and other subcarriers above 75 kHz being proposed herein exceeds the 75 kHz baseband limitation specified in the Mexican-U.S. FM Broadcasting Agreement. Consequently, the 4–4–4 quadraphonic mode and SCA operations using frequencies above 75 kHz may not be used when the transmitting station is located within 199 miles of the U.S.-Mexican border pending further agreement with the Mexican government. The U.S.-Canada FM working agreement dues not, however, preclude such operation near the Canadian border.

27. The Commission will address the matter of quadraphonic modulation monitors at a later time. Also, the Commission is studying the desirability of requiring quadraphonic generators to be type-accepted. Type accepting generators may facilitate the substitution or addition of quadraphonic generators to existing tramitters.

28. Accordingly, pursuant to authority found in Section 4(i) and 303(g) and (r) of the Communications Act of 1934, as amended, it is proposed to amend Part 73 of the Commission's Rules and Regulations as set forth in the attached Appendix.

29. Further, it is ordered, That the petition, RM–2742, submitted by CBS is denied.

30. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before November 10, 1980 and reply comments on or before January 9, 1981. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding.

31. In accordance with Section 1.419 of the Commission's Rules and Regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying docket number 21310.

32. All filings made in this procedure will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

33. For further information concerning this proceeding contact Albert S. Jarratt, Sr., Broadcast Bureau, (202) 653–7275. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file.

34. We have determined that this proceeding is not one involving "conflicting private claims to a valuable privilege" in which *ex parte* contacts should be prohibited. *See Sangamon Valley Television Corp.* v. *U.S.*, 269 F.2d 211, 224 (D.C. Cir. 1959); *Action for Children's Television* v. *FCC*, 564 F.2d 458 (D.C. Dir. 1977). In this proceeding, even under the proposal that the Commission adopt specific rather than general standards for quadraphonic broadcasting systems, we do not believe that the Commission would be resolving "conflicting private claims to a valuable privilege in the sense that the *Sangamon* court intended in order for *ex parte* contracts to be strictly prohibited. All that is proposed in the rulemaking proceeding is the establishment of at least minimum technical standards of a quadraphonic system. Under both the specific and general approaches, any system that meets whatever standards

are adopted by the Commission will be permitted to operate. It is true that in

Appendix

caused by an electrical signal impressed on another transmission channel.

(b) The instantaneous frequency of SCA subcarreirs and sidebands shall at

subcarrier frequency shall be at 95 kHz and be phase locked to the fifth

and right back) signals exist shall be within ± 3.5% of unity at all levels of

are adopted by the Commission will be permitted to operate. It is true that in this rulemaking proceeding, as in many of our rulemaking proceedings, some persons or entities are likely to benefit economically more than others. But this does not alter the fact that in proceedings such as this one in which we are essentially establishing technical standards, we are not resolving "conflicting private claims" since anyone who can meet the standards established is not foreclosed from benefiting economically from our action.

35. We believe that the interests of the parties and the integrity of our processes will be fully protected if the procedures requiring public disclosure of *ex parte* contacts adopted recently in General Docket No. 78–167, *Policies and Procedures Regarding Ex Parte Communications During Informal Rule Making Proceedings*, FCC 80–334 (June 30, 1980) are followed. Especially in a proceeding such as this one where our final decision will depend so heavily on an understanding and assessment of complex technical data, we do not believe it would serve the public interest in the efficient dispatch of our business or the ends of justice to restrict completely *ex parte* presentations. *See* Section 4(j) of the Communications Act, 47 U.S.C. 154(i) and (j).

36. We are aware that in a somewhat similar rulemaking proceeding involving the adoption of technical standards to permit AM stereophonic broadcasting, In the Matter of *AM Stereophonic Broadcasting*, Docket No. 21313, FCC 78–638, October 19, 1978, we prohibited *ex parte* presentations. We believe that this approach may not have been compelled under *Sangamon* as a legal matter, and in future similar cases, we intend to follow the approach we are taking in this proceeding.

37. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this matter, he or she should follow the Commission's procedures governing *ex parte* contacts in informal rule making. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202–632–7000).

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

It is proposed that Part 73, Chapter I, Title 47 of the Code of Federal Regulations be amended as follows:

1. In § 73.297, the headnote and paragraphs (a) and (b) are amended to read as follows:

§ 73.297 Stereophonic and quadraphonic broadcasting

(a) FM broadcast stations may, without further authority, transmit stereophonic and quadraphonic programs in accordance with the technical standards set forth in § 73.322 and § 73.323 and upon installation of type accepted stereophonic or quadraphonic transmitting equipment and a type approved stereophonic or quadraphonic modulation monitor as appropriate. Prior to commencement of stereophonic or quadraphonic broadcasts, appropriate equipment performance measurements must be completed. Not that until such time as standards are established for thpe approval of quadraphonic modulation monitors and such monitors are available, a stereophonic modulation monitor is to be used.

(b) Each licensee or permittee engaging in stereophonic and quadraphonic broadcasting shall measure the pilot subcarrier frequency as often as necessary to ensure that it is kept at all time within 2 Hz of the authorized frequency. However, in any event, the measurement shall be made at least once each calendar month with not more than 40 days expiring between successive measurements.

2. In § 73.310, paragraph (c) is redesignated paragraph (d) and new paragraph (c) is added as follows:

§ 73.310. Definitions.

* * * * *

(c) *Quadraphonic broadcasting.*

FM Quadraphonic Broadcast: The transmission of a quadraphonic program by a single FM broadcast station utilizing the main channel and one or more quadraphonic subcarrier(s).

LF (RF, LB, RB) Signal: An audio signal component of a quadraphonic program intended to convey to the listener the intensity, time and location of sound predominantly to the left front (right front, left back and right back) of the center of the listener's area.

Quadraphonic Program: A program comprising four audio signals which are the LF signal, RF signal, LB signal and RB signal.

Channel: A transmission path.

Crosstalk: The electrical signal occurring in one transmission channel caused by an electrical signal impressed on another transmission channel.

Electrical Separation: The ratio of the intensity of the sum of the desired electrical signals present in a set of audio channel(s) to the intensity of the sum of the identical and undesired electrical signals present in another set of audio channel(s) when only the first set of audio channel(s) is energized.

LF (RF, LB, RB) Audio Channel: The transmission path of the LF (RF, LB, RB) signal.

Main Channel Signal: An audio signal consisting of the sum of the LF, LB, RB and RF signals which frequency modulates the main carrier.

Quadraphonic Subcarrier: A subcarrier used in FM quadraphonic broadcasting operating on a frequency which is a specified harmonic of the 19 KHz pilot subcarrier frequency and with a phase which has a specified relation to the phase of the 19 kHz pilot subcarrier.

Subchannel: A transmission path occupying a specified band of frequencies including the subcarrier and associated sidebands.

Quadraphonic Subchannel: A subchannel in which a quadraphonic subcarrier is modulated by a specified combination of the LF, RF, LB, and RB signals.

Quadrature: The relation between two sinusoidal functions of equal period when the phase difference between them is ¼ of a period.

Quadraphonic Baseband Signal: A signal which is composed of the main channel signal and the quadraphonic subcarrier signals and which frequency modulates the main carrier.

Composite Baseband Signal: A signal which is composed of all signals which frequency modulate the main FM carrier.

Positive Baseband Signal: At the instant when a positive (negative) composite baseband signal is aplied, the main carrier shall be modulated in the upward (downward) deviation from the center frequency.

Subchannel Signal Polarity: The contribution of a subchannel signal to the composite baseband signal is positive whenever the instantaneous subcarrier and its modulating signal have the same sign and is negative whenever the instantaneous subcarrier and its modulating signal have the opposite sign.

3. Section 73.319 is amended to read as follows:

§ 73.319 Subsidiary communications multiplex operations: engineering standards.

(a) Frequency modulation of SCA subcarriers shall be used.

(b) The instantaneous frequency of SCA subcarreirs and sidebands shall at all times be within the range 20 to 99 kHz: provided, however, that when the station is engaged in stereophonic and quadraphonic broadcasting pursuant to § 73.297, or § 73.597 and § 73.322 or quadraphonic broadcasting with two quadraphonic subcarriers pursuant to § 73.297 or § 73.597 and § 73.323(a), the instantaneous frequency of SCA subcarriers shall at all times be within the ranges 53 to 99 kHz, and that when the station is engaged in quadraphonic broadcasting with three quadraphonic subcarriers pursuant to § 73.297 or § 73.597 and § 73.323(b), the instantaneous frequency of SCA subcarriers shall at all times be within the range 91 to 99 kHz.

(c) The arithmetic sum of the modulation of the main carrier by all SCA subcarriers shall not exceed 30%: Provided however, that when a station is engaged in stereophonic broadcasting, pursuant to § 73.322 and § 73.297 or § 73.597 or quadraphonic broadcasting pursuant to § 73.297 or § 73.597 and § 73.323 the arithmetic sum of the modulation of the main carrier by the SCA subcarriers below 75 kHz shall not exceed 10%. Modulation of the main carrier by any SCA subcarrier above 75 kHz shall be limited to a maximum of 10% for all broadcasting modes.

(d) The total modulation of the main carrier, including SCA subcarriers, shall meet the requirements of § 73.1570.

(e) Frequency modulation of the main carrier caused by the SCA subcarrier operation shall, in the frequency range 50 to 15,000 Hz be at least 60 dB below 100% modulation: Provided however, that when the station is engaged in stereophonic or quadraphonic broadcasting pursuant to § 73.297, or § 73.597 and § 73.322 or quadraphonic broadcasting with two quadraphonic subcarriers pursuant to § 73.297 or § 73.597 and § 73.323(a) frequency modulation of the main carrier by the SCA subcarrier operation shall, in the frequency range 50 to 53,000 Hz, be at least 60 dB below 100% modulation, and that when the station is engaged in quadraphonic broadcasting with three quadraphonic subchannels pursuant to § 73.297 or § 73.597 and § 73.323(b), frequency modulation of the main carrier by the SCA subcarrier operation shall, in the frequency band 50 to 91,000 Hz, be at least 60 dB below 100% modulation.

(f) The center frequency of each SCA subcarrier shall be kept at all times within 500 Hz of the authorized frequency. However, when a station is engaged in quadraphonic broadcasting pursuant to § 73.323(b) the SCA subcarrier frequency shall be at 95 kHz and be phase locked to the fifth harmonic of the 19 kHz pilot subcarrier and shall cross the time axis in a steady state condition with a positive slope simultaneously with the crossing of the pilot subcarrier.

4. New § 73.323 is added to read as follows:

§ 73.323 Quadraphonic transmission standards.

(a) Quadraphonic transmission standards using the main channel and two subcarriers shall be in accordance with the following standards (4–3–4 mode):

(1) The modulating signal for the main channel shall consist of a signal which is the sum of the left front, left back, right front and right back signals.

(2) A pilot subcarrier at 19,000 hertz (Hz) ±2 Hz shall be transmitted and shall frequency modulate the main carrier between the limits of 8 and 10%.

(3) The first quadraphonic subcarrier shall be the second harmonic of the pilot subcarrier and shall cross the time axis with a positive slope simultaneously with each crossing of the time axis by the pilot subcarrier.

(4) The second quadraphonic subcarrier shall have the same frequency as the first quadraphonic subcarrier and shall be advanced by 90° with respect to the first subcarrier, thereby reaching positive maxima whenever the pilot subcarrier crosses the time axis.

(5) Amplitude modulation of the quadraphonic subcarriers shall be used.

(6) The quadraphonic subcarriers shall be suppressed to a level less than 1.0% modulation of the main carrier.

(7) The quadraphonic subcarriers shall be capable of being modulated by audio frequencies from 50 to 15,000 Hz.

(8) The modulating signal for the first quadraphonic subcarrier shall be a signal which is the difference between the sum of the two left signals and the sum of the two right signals.

(9) The modulating signal for the second quadraphonic subcarrier shall be a signal which is the difference between the sum of the two front signals and the sum of the two back signals.

(10) The pre-emphasis characteristics of the modulation applied to the quadraphonic subcarriers shall be identical with those of the main channel with respect to phase and amplitude at all audio frequencies.

(11) The ratio of peak deviation resulting from the main channel audio signal and peak deviation resulting from sidebands of the first quadraphonic subcarrier when only identical steady state left front and left back (right front and right back) signals exist shall be within ± 3.5% of unity at all levels of these signals and at all frequencies from 50 to 15,000 Hz.

(12) The phase difference between the zero points of the main channel signal and the envelope of the first quadraphonic subcarrier sidebands, when only identical steady state left front and left back (right front and right back) signals exist shall not exceed ± 3° for audio modulating frequencies from 50 to 15,000 Hz.

(13) The ratio of peak deviation resulting from the main channel audio signal and peak deviation resulting from the sidebands of the second quadrophonic subcarrier when only identical steady state left front and right front (left back and right back) signals exist shall be within ± 3.5% of unity at all levels of these signals and at all frequencies from 50 Hz to 15,000 Hz.

(14) The phase difference between the zero points of the main channel signal and the envelope of the second quadraphonic subcarrier sidebands, when only identical steady state left front and right front (left back and right back) signals exist shall not exceed ± 3° for audio modulating frequencies from 50 to 15,000 Hz.

Note.—If the quadraphonic separation between the sum of identical signals in the left front and left back (right front and right back) (left front and right front) (left back and right back) channels and the sum of signals in the right front and right back (left front and left back) (left back and right back) (left front and right front) is better than 29.7 dB at audio frequencies between 50 and 15,000 Hz it will be assumed that paragraphs (11), (12), (13), and (14) of this Section have been complied with.

(15) The sum of the sidebands of the first quadraphonic subcarrier shall not cause a peak deviation of the main carrier in excess of 45% of total modulation (excluding SCA subcarriers) when only identical left front and left back (right front and right back) signals exist; simultaneously in the main channel the deviation when only identical left front and left back (right front and right back) signals exist shall not exceed 45 percent of total modulation (excluding SCA subcarriers).

(16) The sum of the sidebands of the second quadraphonic subcarrier shall not cause a peak deviation of the main carrier in excess of 45% of total modulation (excluding SCA subcarriers) when only identical left front and right front (left back and right back) signals exist; simultaneously in the main channel the deviation when only identical left front and right front (left back and right back) signal exist shall

not exceed 45% of total modulation (excluding SCA subcarriers).

(17) The sum of the sidebands of the first and second (quadrature) subcarriers shall not cause a peak deviation of the main FM carrier in excess of 52.72 percent of the total modulation (excluding SCA subcarriers) when only a Left Front (Left Back, Right Front, Right Back) signal exists; simultaneously in the main channel the peak deviation of the main FM carrier when only a Left Front (Left Back, Right Front, Right Back) signal exists shall not exceed 37.28 percent of the total modulation (excluding SCA subcarriers).

Note.—If the modulation percentages of paragraphs (15) and (16) have been met, it will be assumed that paragraph (17) of this Section has been complied with.

(18) The main channel signal shall not cause a peak deviation of the main carrier in excess of 90%.

(19) The sum of the sidebands of the first quadraphonic subcarrier shall not cause a peak deviation of the main carrier in excess of 90%.

(20) The sum of the sidebands of the second quadraphonic subcarrier shall not cause a peak deviation of the main carrier in excess of 90%.

(21) Crosstalk into the main channel caused by modulation of the first and/or second quadraphonic subcarriers shall be at least 40 dB below 90% modulation.

(22) Crosstalk into either first or second subcarrier caused by any signals in the main channel shall be at least 40 dB below 90% modulation.

(23) Crosstalk into the in-phase (0°) subcarrier from the quadrature (90 degree) subcarrier shall be at least 40 db below 90% modulation.

(24) Crosstalk into the quadrature (90°) subcarrier from the in-phase subcarrier shall be at least 40 db below 90% modulation.

(25) Total modulation of the main carrier including the pilot subcarrier and SCA subcarriers shall meet the requirements of §73.268 or §73.568 with maximum modulation of the main carrier by all SCA subcarriers below 75 kHz limited to 10% according to §73.319.

(26) For required transmitter performance all of the requirements of § 73.254 or § 73.554 shall apply with the exception that the maximum modulation to be employed is 90% (excluding pilot subcarriers) rather than 100%.

(27) For electrical performance standards of the transmitter and associated equipment, the requirements of §73.317 (a) (2), (3), (4), and (5) shall apply to the main channel and quadraphonic subchannels alike, except that where 100% modulation is referred to, this figure shall include the pilot subcarriers.

(b) Quadraphonic transmission using the main channel and three subcarriers shall be in accordance with the following standards (4–4–4 mode):

(1) All standards for quadraphonic transmission using the main channel and three subcarriers in accordance with §73.323 (a) (1) through §73.323 (a) (27), except (a) (17), shall apply.

(2) The third quadraphonic subcarrier shall be the fourth harmonic of the pilot subcarrier and shall cross the time axis with a positive slope sumultaneously with each crossing of the time axis by the pilot subcarrier.

(3) Amplitude modulation of the third quadraphonic subcarrier shall be used.

(4) The third quadraphonic subcarrier shall be suppressed to a level less than 1.0% modulation of the main carrier.

(5) The third quadraphonic subcarrier shall be capable of being modulated by audio fequencies from 50 to 15,000 Hz.

(6) The modulating signal for the third quadraphonic subcarrier shall be a signal which is the difference between the sum of the left front and right back signal and the sum of the left back and right front signal.

(7) The pre-emphasis characteristics of the modulation applied to the third quadraphonic subcarrier shall be identical with those of the main channel with respect to phase and amplitude at all audio frequencies.

(8) The ratio of peak deviation resulting from the main channel audio signal and peak deviation resulting from the sidebands of the third quadraphonic subcarrier when only identical steady state left front and right back (right front and left back) signals exist shall be within ±3.5% of unity at all levels of these signals and at all frequencies from 50 Hz to 15,000 Hz.

(9) The phase difference between the zero points of the main channel signal and the envelope of the third quadraphonic subcarrier sidebands, when only identical steady state left front and right back (right front and left back) signals exist shall not exceed ±3° for audio modulating frequencies from 50 to 15,000 Hz.

Note.—If the quadraphonic separation between the sum of the signals in the left front and right back (right front and left back) channels and the sum of signals in the right front and left back (left front and right back) is better than 29.7 dB at audio frequencies between 50 and 15,000 Hz it will be assumed that paragraphs (8) and (9) of this Section have been complied with.

(10) The sum of the sidebands of the third quadraphonic subcarrier shall not cause a peak deviation of the main carrier in excess of 45% of total modulation (excluding SCA subcarriers) when only identical left front and right back (left back and right front) signals exist; simultaneously in the main channel the deviation when only identical left front and right back (right front and left back) signals exist shall not exceed 45% of total modulation (excluding SCA subcarriers).

(11) The sum of the sidebands of the first and second (quadrature) subcarriers shall not cause a peak deviation of the main FM carrier in excess of 37.28% of the total modulation (excluding SCA subcarriers) when only a left front (left back, right front, right back) signal exists; simultaneously in the main channel the peak deviation of the main FM carrier when only a left front (left back, right front, right back) signal exists shall not exceed 26.36% of the total modulation (excluding SCA subcarriers); simultaneously the sum of the sidebands of the third subcarrier shall not cause a peak deviation of the main FM carrier in excess of 26.36% of the total modulation (excluding SCA subcarriers) when only a left front (left back, right front, right back) signal exists.

Note.—If the modulation percentages of Sections 73.323(a)(15) and (16) and 73.323(b)(10) have been met, it will be assumed that paragraph (11) of this Section has been complied with.

(12) The sum of the sidebands of the third quadraphonic subcarrier shall not cause a peak deviation of the main carrier in excess of 90%.

(13) Crosstalk into the main channel caused by modulation of any quadraphonic subcarrier shall be at least 40 dB below 90% modulation.

(14) Crosstalk into either first, second or third subcarrier caused by and signals in the main channel shall be at least 40 dB below 90% modulation.

(15) Crosstalk into any one of the three quadraphonic subcarriers caused by the modulation of any other of the quadraphonic subcarriers shall be at least 40 dB below 90% modulation.

(16) For required transmitter performance all of the requirements of § 73.254 shall apply with the exception that the maximum modulation to be employed is 90% (excluding pilot subcarriers) rather than 100%.

(17) For electrical performance standards of the transmitter and associated equipment, the requirements of § 73.317(a), (2), (3), (4), and (5) shall apply to the main channel and quadraphonic subchannels alike, except that where 100% modulation is referred to, this figure shall include the pilot subcarriers.

5. Section 73.597, headnote and text are amended to read as follows:

§ 73.597 Stereophonic or quadraphonic broadcasting.

(a) Noncommercial educational FM broadcast stations may, without further authority, transmit stereophonic or quadraphonic programs in accordance with the technical standards set forth in §§ 73.322 and 73.323 and upon installation of type accepted stereophonic or quadraphonic transmitting equipment and a type approved stereophonic or quadraphonic modulation monitor as appropriate. Prior to commencement of stereophonic or quadraphonic broadcasts, appropriate equipment performance measurements must be completed. Note that until such time as standards are established for type approval of quadraphonic modulation monitors and such monitors are available, a stereophonic modulation monitor is to be used.

(b) Each licensee or permittee engaging in stereophonic or quadraphonic broadcasting shall measure the pilot subcarrier frequency as often as necessary to ensure that it is kept at all times within 2 Hz of the authorized frequency. In any event, however, the pilot subcarrier frequency shall be measured in accordance with the following schedule:

(1) For stations authorized to operate with transmitter power in excess of 10 watts, the pilot subcarrier frequency shall be measured at least once each calendar month with not more than 40 days expiring between successive measurements.

(2) For stations authorized to operate with transmitter power of 10 watts or less, the pilot subcarrier frequency shall be measured:

(i) When the pilot subcarrier generator is initially installed;

(ii) At any time the frequency determining elements of the pilot subcarrier generator are changed;

(iii) At any time the licensee may have reason to believe the pilot subcarrier frequency is not within the frequency tolerance prescribed by the FCC's rules.

[FR Doc. 80-25246 Filed 8-19-80; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 163

priority mail and $2.0999 per great-circle ton-mile for nonpriority mail;

1. We grant the motion of Alaska Airlines, Inc. to file an otherwise

communications should be addressed to Judge Yoder.

Notices

Federal Register
Vol. 45, No. 163
Wednesday, August 20, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Federal Administrative Law Judge Hearings—Statistical Report for 1976 to 1978

The Office of the Chairman of the Administrative Conference of the United States announces publication of a report: "Federal Administrative Law Judge Hearings—Statistical Report for 1976–1978." The report contains caseload statistics and data on closed cases for the 28 Federal agencies that employed administrative law judges in fiscal years 1976–1978. The statistics are annotated with citations to relevant statutes and regulations, and a chapter on the role of the administrative law judge is included.

The report is on sale through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock No. 052–049–00012–1) for $8.50.

The Office of the Chairman has a limited supply of copies for single copy distribution. To request a copy of the report, write to Administrative Conference of the U.S., Suite 500, 2120 L Street, NW., Washington, D.C. 20037, or telephone Sue Boley, Librarian, at 202–254–7020.

Richard K. Berg,
Executive Secretary.
August 12, 1980.

[FR Doc. 80-25286 Filed 8-19-80; 8:45 am]
BILLING CODE 6110-01-M

CIVIL AERONAUTICS BOARD

[Docket No. 37497; Order 80-8-75]

Intra-Alaska Service Mail Rates of Alaska Airlines, Inc.; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of August 1980.

By this order the Board proposes to establish new final service mail rates for the transportation of priority and nonpriority mail over the intra-Alaska routes of Alaska Airlines, Inc. on and after January 26, 1980.

Alaska petitioned the Board on January 23, 1980, to open its existing intra-Alaska service mail rates effective January 26, 1980, and to establish increased service mail rates per billed revenue ton-mile of $2.3628 for nonpriority mail and $2.5773 for priority mail. These rates would produce an estimated overall yield of $2.5191 per mail ton-mile and were based on operating data for the year ended September 30, 1979. Subsequently, on March 12, 1980, Alaska filed Amendment No. 1 to its petition containing revised economic justification and requested the Board to establish rates per billed ton-mile of $2.1045 for nonpriority mail and $2.2785 for priority mail resulting in an estimated overall yield of $2.2313 per mail ton-mile.

By letter dated January 31, 1980, the United States Postal Service requested that the date for submission of answers be extended until June 17, 1980, so that traffic density tests could be conducted in April. The request was granted.

The Postal Service filed its answer to Alaska's petition on June 13, 1980, setting forth the results of the density tests and proposing establishment of priority and nonpriority rates of $2.2835 and $2.0999 per billed great-circle ton-mile, respectively. Alaska authorized the Postal Service to state that it supports the rates and joins in the request of the Postal Service that these rates be established for Alaska's intra-Alaska service effective January 26, 1980. The Postal Service also requests that the order establishing the rates contain authority permitting Alaska to elect to transport mail between competitive points at a reduced rate equal to the rate then in effect for such service by any other carrier.

On Jule 18, 1980, Alaska filed a motion to file an otherwise unauthorized document endorsing the rates proposed by the Postal Service and requesting the Board to (1) take steps to finalize the new rates as quickly as possible in view of its weakened financial condition; (2) establish the new rates as final rates; and (3) provide for an automatic updating procedure to reflect subsequent cost changes.

Our review of the data submitted by the carrier in its petition, the Postal Service in its answer, and fuel data contained in C.A.B. Form 41 reports indicates that an increase in Alaska's intra-Alaska service mail rates is warranted. As discussed below, we are also adopting a procedure for updating the mail rates to reflect cost escalations and granting the Postal Service's request for a rate equalization provision. We tentatively find that the rates proposed by the Postal Service and agreed to be by Alaska fall within the zone of reasonableness and constitute fair and reasonable rates of compensation for Alaska's intra-Alaska mail services. Although the methodology used by the Postal Service to determine the rates varies slightly from the Board's usual methodology the resulting difference in *de minimis*. Consistent with past policy, we have given weight to the fact that both parties have agreed upon the rates. We also have taken into consideration the fact that Alaska is a subsidized carrier. Our analysis does not indicate that these rates will burden subsidy and, therefore, we can find no basis to declare the rates unreasonable.

In reaching this conclusion, we have confined our determination to the facts of this case and do not necessarily accept and/or completely agree with the methodology used by the Postal Service in arriving at these rates, nor do we intend that our determination in this instance be construed as a precedent for use of its slightly different methodology. Based on mail volumes for the year ended September 30, 1979, the proposed rates will result in an annual increase in Alaska's mail revenues of approximately $442,000 or about 70 percent. Alaska's current rates have been in effect since January 1, 1975.

Based on the foregoing, the Board tentatively finds and concludes that:

1. The fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of Section 406 of the Federal Aviation Act of 1958, as amended, on and after January 26, 1980, to Alaska Airlines, Inc. for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, shall be $2.2835 per great-circle ton-mile for priority mail and $2.0999 per great-circle ton-mile for nonpriority mail;

2. Alaska, by notice, may elect to transport mail between points for which rates here established are applicable at a reduced rate equal to the rate then in effect for such service between such points by any other carrier or carriers.

(a) An original and three copies of each notice of election and agreement shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing service between the stated points. Such notice shall contain a complete description of the reduced charge being established, the routing over which it applies, how it is constructed and shall similarly describe the charge with which it is being equalized.

(b) Any rate established shall be effective for the electing carrier or carriers on the date of filing of the notice, or such later date as may be specified in the notice, until such election is terminated. Elections may be terminated by any electing carrier upon ten days notice filed with the Board and served upon the Postmaster General and each carrier providing service between the stated points.

3. The rates here established shall be adjusted semi-annually based on an update methodology similar to procedures established in the *Priority and Nonpriority Domestic Service Mail Rates Investigation*, Docket 23080–2 and the *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation*, Docket 26487. See Orders 79–7–16 and 79–7–17, July 3, 1979.

Final future rates will be established every six months based on the latest available four-quarter Form 41 data projected forward to the midpoint of the prospective rate period. Thus, final mail rates for the period January 1, 1981, through June 30, 1981, will reflect the application of a cost escalation factor to the base period costs for intra-Alaska mail service. The cost escalation factor will be based on a comparison of FY 1979 costs with base period costs plus a factor for anticipatory costs through March 31, 1981, the midpoint of the period. The factor for anticipatory costs will assume a rate of change equal to the rate of change experienced from the base period to FY 1979. Unit costs will be determined by dividing total costs, excluding passenger and transport related items, by available ton-miles.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly Sections 204(a), and 406, and the Board's Procedural Regulations promulgated in 14 CFR Part 302,

1. We grant the motion of Alaska Airlines, Inc. to file an otherwise unauthorized document.

2. We direct all interested persons, particularly Alaska Airlines, Inc. and the Postmaster General, to show cause why the Board should not adopt the foregoing findings and conclusions, and fix, determine and publish those rates to be effective as specified above.

3. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within 30 days after service of this order.

4. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix.

5. We shall serve this order on the Postmaster General and Alaska Airlines, Inc.

We shall pubish this order in the **Federal Register.**

By the Civil Aeronautics Board.
Phyllis T. Kaylor,[1]
Secretary.

APPENDIX.—*Alaska Airlines, Inc. Summary of Costs Assigned To Mail Intra-Alaska Services*

[Year Ended Sept. 30, 1979]

	Priority mail	Nonpriority mail	Total
Total operating costs	$742,703	$247,758	$990,461
Return and tax markup	59,306	19,784	79,090
Total economic costs	$802,009	$267,542	$1,069,551
Billed ton-miles	351,212	127,406	478,618
Service mail rate per billed ton-mile	$2.2835	$2.0999	$2.2347

Source: Postal Service Attachment I.

[FR Doc. 80-25344 Filed 8-19-80; 8:45am]
BILLING CODE 6320-01-M

[Docket No. 36595]

Competitive Marketing of Air Transportation; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge William H. Dapper to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to Judge Yoder.

Dated at Washington, D.C., August 15, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-25343 Filed 8-19-80; 8:45 am]
BILLING CODE 6320-01-M

[1] All Members concurred.

[Docket Nos. 38332, 38596]

Marco Island Airways, Inc.; Fitness Investigation and Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause, Docket 38332 and Fitness Investigation of Marco Island Airways, Inc. (Docket 38596).

SUMMARY: The Board is issuing an order in which it tentatively finds and concludes that it is consistent with the public convenience and necessity to grant the application of Marco Island Airways, Inc., for a certificate authorizing the air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Marco Island, Florida. Certification is subject to a favorable determination of the applicant's fitness in the Marco Island Airways, Inc., Fitness Investigation (Docket 38596), instituted concurrently.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file by September 17, 1980, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 38332, application of Marco Island Airways for a certificate of public convenience and necessity. In addition, copies of such filings should be served on Marco Island Airways, the Department of Transportation of the State of Florida, the Mayors of Miami and Marco Island, Florida, the Managers of Miami International Airport and Marco Island Airport and the Governor of Florida.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Intravia, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–6068.

SUPPLEMENTARY INFORMATION: The complete text of Order 80–8–79 is

available from our Distribution Section,

Commission will convene at 9:30 a.m.

Dakota Advisory Committee (SAC) of the

Countervailing Duty Determination"

decision, are substantially similar to

exporters of castings had been

available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80–8–79 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 14, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-25345 Filed 8-19-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket Nos. 33361, 38495]

Former Large Irregular Air Service Investigation and Universal Airlines, Inc. Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference will be convened in the above-entitled matter on August 27, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., with the undersigned presiding.

The Bureau of Domestic Aviation and the Bureau of Consumer Protection (the Bureaus), will serve on all parties on or before August 21, 1980, a statement of proposed issues, proposed stipulations, requests for information, and proposed procedural dates. The other parties to this proceeding will serve on each other and the Bureaus on or before August 26, 1980, a proposed statement of issues, proposed stipulations, requests for information, and proposed procedural dates, provided that the submissions of other parties are to be restricted to matters upon which they differ with the Bureaus' proposals. The parties are directed to adopt the Bureaus' lettering and numbering format to facilitate cross-referencing. Six copies of all submissions will be served on the administrative law judge promptly.

Dated at Washington, D.C., August 15, 1980.

Alexander N. Argerakis,
Administrative Law Judge.

[FR Doc. 80-25342 Filed 8-19-80; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 5:00 p.m., on September 4, 1980, and will convene at 9:30 a.m. and will end at 5:00 p.m., on September 5, 1980 at the PVM Building, 477 Michigan Avenue, Room 895, Detroit, Michigan 48226.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is planning for Loan Equality, Education and Criminal Justice Projects.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 15, 1980.

Thomas L. Neumann,
Advisory Committee Management Officer.

[FR Doc. 80-25319 Filed 8-19-80; 8:45 am]
BILLING CODE 6335-01-M

North Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 9:00 p.m., on September 19, 1980 and will convene at 8:30 a.m. and will end at 3:00 p.m. on September 20, 1980, at the Kirkwood Motor Inn, Bavarian Hall, 800 S. Third Street, Bismarck, North Dakota 58501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to receive testimony on fair housing in Bismarck, North Dakota.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 14, 1980.

Thomas L. Neumann,
Advisory Committee Management Officer.

[FR Doc. 80-25320 Filed 8-19-80; 8:45 am]
BILLING CODE 6335-01-M

North Dakota Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission originally scheduled for August 25, 1980, at Bismarck, North Dakota, (FR Doc. 80–24449 on page 53852, August 13, 1980) has been changed.

The meeting now will be held on August 20, 1980, beginning at 1:00 p.m. and will end at 3:00 p.m., at the Dakota Association of Native Americans, 2900 Broadway, Bismarck, North Dakota 58501.

Dated at Washington, D.C., August 14, 1980.

Thomas L. Neumann,
Advisory Committee Management Officer.

[FR Doc. 80-25321 filed 8-19-80; 8:45 a.m.]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Countervailing Duties—Certain Iron-Metal Castings From India; Final Countervailing Duty Determination

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to advise the public that the Department of Commerce has determined that the Government of India confers benefits upon the production or export of certain iron-metal castings which constitute subsidies within the meaning of the countervailing duty law. This case has been referred to the International Trade Commission for a determination regarding injury.

EFFECTIVE DATES: August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Program Analyst, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202–377–3965).

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1980, the Department of Commerce received a petition in satisfactory form from James Pinkerton, Jr. and Pinkerton Foundry, Inc., on behalf of Domestic manufactures of iron-metal castings, alleging that bounties or grants (subsidies) are being provided on the manufacture, production, or exportation of certain iron-metal castings from India. A "Notice of Initiation of Countervailing Duty Investigation" was published in the Federal Register on March 14, 1980 (45 FR 16521). A notice of "Preliminary

Countervailing Duty Determination" was published in the Federal Register on May 23, 1980 (45 FR 34945). The Department has afforded interested parties an opportunity to present oral views in accordance with § 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946). In addition, written views and oral views have been received in accordance with § 355.34(a), Commerce Regulations (19 CFR 355.34(a), 45 FR 4946).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) took effect. The TAA superseded section 303 of the Tariff Act of 1930 (the Act) for countervailing duty cases involving products of any country determined to be a "country under the Agreement" as defined in section 701(b) of the Act (19 Stat. 151, 19 U.S.C. 171(b)). The TAA also amended section 303 of the Act (19 U.S.C. 1303).

India is not presently a "country under the Agreement". This case is, therefore, governed by section 303 of the Act, as amended by section 103(b) of the TAA (19 Stat. 190, 19 U.S.C. 1303(b)). Cases under section 303 generally do not include an injury determination by the International Trade Commission. The only exception is merchandise that is not subject to normal Customs duties. Because iron-metal castings are not dutiable, this case will be referred to the Commission for a final determination of whether there is material injury to an industry in the United States by reason of the subsidized merchandise.

The iron-metal castings covered by this determination consist of manhole covers and frames, clean-out covers and frames and catch basin grates and frames which enter the United States under item number 657.09 of the Tariff Schedules of the United States (TSUS).

Nature of Industry

The Indian iron-metal castings industry is composed of "small scale" manufacturers with a captial investment of $125,000 or less. Iron-metal castings production is labor intensive. The materials used are supplied locally (i.e., are not imported).

All exporters of castings are required to belong to the Engineering Export Promotion Council (EEPC). Many of the manufacturers also belong to the Trade Development Authority (TDA). Both of these organizations assist in export promotion.

Programs Investigated

The petitioner has alleged that Indian exports of castings to the United States receive a variety of subsidies, most of which are direct export subsidies. The issues raised, and the reasons for our decision, are substantially similar to those dealt within our final determination, published in the Federal Register on July 21, 1980, in the case of Certain Industrial Fasteners from India (45 FR 48607).

As in the fasteners case, the major program involved is a system of cash compensatory supports for exports. Representatives of the Indian exporters and the Indian Government have argued that this program should be considered a rebate of indirect taxes which are not otherwise rebated to exporters and, therefore, payments made under it should not be considered subsidies. The other programs investigated are, in terms of benefit to the exporter, far less significant.

Programs Found to be Subsidies

Of the programs investigated, we have determined that the following constitute subsidies within the meaning of the countervailing duty law:

1. *Cash Compensatory Support on Export (CCS)*—The CCS program was introduced in 1966 and, since then, has been revised periodically. The Government of India has stated that the primary—but not the exclusive—purpose of the CCS program is to compensate exporters for various indirect taxes paid, and not otherwise rebated, on products that are exported. CCS payments are designed to support exports in a manner consistent with the competitive needs of Indian producers.

The CCS rate various depending upon the product exported. It is determined after taking into account the incidence of indirect taxes paid by producers of a particular product and not otherwise refunded, the existence of other disincentives to exports, and the competitive needs of the producers. There is no "right" to CCS payments; none are granted even where there are indirect taxes not otherwise rebated if the Government of India decides that the competitive need of a particular industry does not warrant CCS payments.

In the case of iron-metal castings exported to North America, the CCS rate was established, effective April 1, 1979, at 12.5% of the f.o.b. value of the merchandise exported. In October 1978 the Ministry of Commerce requested all Export Promotion Councils, including the EEPC (which represents the castings industry), to submit updated information on the indirect taxes levied on castings, and other matters affecting this export.

The Ministry stated that such information was needed to determine revised CCS payment levels. The CCS rate was established after the data submitted by the manufacturers and exporters of castings had been reviewed.

As we stated in our decision in the fastener case, the primary considerations in determining whether programs like the CCS program should be considered indirect tax rebates are (1) whether the program operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on export and indirect taxes paid; and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the amount paid on export.

In the fasteners case, a number of points were raised concerning the general structure of the CCS program (e.g., CCS payments were not made by the taxing authorities; industries do not have a right to CCS payments). However, our decision turned not on such general considerations but on specific analysis of the relationship between the level of CCS payments for fasteners exports and the incidence of indirect taxes borne by these exports. Our decision in this case also rests on specific analysis of the indirect tax/CCS payments relationship for the product involved. Several characteristics of this relationship convince us that the standards presented above have not been satisfied in this case.

We reviewed data on the actual indirect taxes paid by iron-metal castings producers that export to the United States and provided the Indian Government with information for purposes of fixing the level of CCS payments. In most cases total indirect taxes paid were considerably less than 12.5% of the value of the merchandise. Moreover, these tax calculations included several payments (i.e., a steel development surcharge, payments to an engineering goods export assistance fund, port congestion charges, and taxes on electricity and fuel) which we would *not* consider indirect taxes which may be rebated on export.

In addition to the difference in incidence of indirect taxes and the level of CCS payments, the manner in which the information on the tax levels was submitted to the Government of India and relied on raises, of itself, certain problems. The Commerce Ministry required the Export Promotion Council governing the castings sector to submit information relating to its indirect tax burden. Some individual company experiences were provided to the Ministry, but apparently without an appropriate aggregation showing the weighted average tax incidence for the

sector as a whole. In order to satisfy the question of whether export payments are made to remit indirect taxes, we require evidence demonstrating that the tax incidence of any given product sector has been determined quite precisely. In this case, there is no such satisfactory evidence. Counsel for the EEPC himself pointed out that calculations of indirect taxes paid by producers of castings varied from 4% to 13.6%. In the absence of evidence showing the average tax incidence on all the products at issue to have been near the high end of this range, counsel's characterization of this 12.5% figure as a "middle ground" is unconvincing.

Thus, the evidence in this case includes neither a satisfactory demonstration of the requisite linkage between the indirect tax incidence and the level of CCS payments, nor a showing that the actual indirect tax incidence has been reasonably calculated and documented. The CCS program, as applied to exports of iron-metal castings, does not appear to involve indirect tax rebates as much as it does a general export payment which, while undoubtedly compensating in some measure for indirect taxes not otherwise rebated, goes well beyond this purpose.

We have therefore concluded that, in this case, the CCS payments must be considered a subsidy program and have found the amount of subsidy to be 12.5% of the f.o.b. value of the exported merchandise.

Counsel representing Indian manufacturers of iron-metal castings has argued that, in the event we find that the CCS program as applied to exports of castings constitutes a subsidy, the amount of the subsidy should be offset by an export inspection fee in the amount of 1% of the value of the exported merchandise, which all castings exporters must pay. We have decided that such an offset would be inappropriate.

Counsel maintains that the export inspection fee should be considered "an application fee * * * paid in order to qualify for * * * the benefit of the subsidy" and, therefore, an allowable offset under section 771(b)(A) of the Act. However, it does not appear that the inspection fee is related to application for CCS payments. Export inspection, and payment of export inspection fees, are required for certain engineering product exports, whether or not the exports benefit from CCS payments. The inspection is meant to be a service that benefits the exporter by ensuring quality control over exports. The fee is payment for the service provided, not for CCS application.

Counsel has also argued that the benefit conferred by CCS payments should be calculated on an after tax basis—i.e., should be reduced by the "approximately 60% income tax rate" paid by "most casting firms". We have not accepted this argument.

The information we have received provides no basis for accurate calculation of extent to which CCS payments are taxed. The tax rate may vary from producer to producer. Moreover, the extent to which the payments are taxed will depend upon the extent to which the exporter has net income, after deductible expenses.

Because we have not been given a basis upon which accurately to gauge the real impact of taxation of CCS payments, we need not reach the underlying legal question of whether the limitations in the countervailing duty law prevent calculating the subsidy on an after tax basis. However, in facing this issue we would have to begin from the demonstrable intent of Congress to restrict offsets severely.

2. *Preferential Export Financing*—Packing credit loans are available to exporters of castings. These loans have a sliding scale interest rate which varies with the elapsed time that the loan is outstanding. The interest rate ranges from 11% for the first 90 days, 13% for the next 45 days and thereafter at negotiated commercial rates. Commercial credit is generally available to manufacturers and traders from rates of 13.5% to 15%.

The Government of India (through the Reserve Bank of India) apparently underwrites the lower interest rate of the packing credit loans by paying the lending bank an additional 1.5% interest rate without any charge to the exporter. There is a direct transfer of funds to support the loan from the Central Bank to the lending bank. Accordingly, we have found that packing credit loans involve a subsidy of 0.4% of the f.o.b. value of the exported merchandise.

3. *Tax Deductions*—The GOI has a program which allows for a special income tax deduction for export market development.

The Export Markets Development Allowance provides for a tax deduction of 133% of certain specific expenses. These include expenses incurred both before and after sale, although commissions normally are not an allowable deduction unless they are tied to other specific expenses. The claims made by the manufacturers for this special deduction normally exceed the amount eventually allowed for deduction by the tax authorities, if and when the tax returns of the companies are audited, sometimes by a substantial amount. Final settlement of the tax returns normally takes two to three years.

Because the kind of expenses allowed under the special deduction would be deductible in full if incurred in non-export business activities, the benefit to the manufacturers is limited to 33 percent of the allowed amount applied to the corporate tax rate. On this basis, we have determined that exporters of castings receive a subsidy in the following amounts:

	Percent of f.o.b. value
Uma Iron & Steel	3.6
RB Agarwalla	2.0
Basant Udyog	0.9
Kejriwal Iron & Steel	0.2
Kajaria Exports	0.0
All Others	0.4

4. *Market Development Assistance*—Under the Market Development Assistance program, grants have been provided for export promotion to the Engineering Export Promotion Council (EEPC) and the Trade Development Authority (TDA). These grants have been used by the EEPC and the TDA to operate overseas offices and organize exhibits designed to promote Indian exports generally. Firms which belong to these organizations pay dues which exceed any specific benefits they derive from EEPC and TDA activities. In addition, the firms are billed for all special services such as participation in trade shows, listing in directories, etc. We have, accordingly, decided that such market development assistance does not amount to a subsidy under the countervailing duty law.

However, apart from these services, special grants for export market study teams to travel to and sell in the United States were provided for the benefit of Uma Iron & Steel and Kajaria Exports. We have determined that such grants are subsidies. The benefit to Kajaria was de minimis (0.0001%). The grant to Uma Iron and Steel amounted to 0.3% of its f.o.b. export sales.

Programs Not Used

1. *Import Permits*—The Government of India provides import permits to manufacturers which export in order to allow them to replenish their stocks of imported inputs. The import permits are negotiable and therefore can have a market value. However, since manufacturers of castings use local materials, they receive no import permits and there is no question of possible subsidization.

2. *Kandla Free Trade Zone*—The petition alleged that benefits were received by manufacturers or exporters of castings based on their location within the Kandla Free Trade Zone. No castings manufacturer is located within the zone nor are castings exported to the U.S. from the zone. Thus, there is no question of any benefit that would constitute a subsidy within the meaning of the countervailing duty law.

3. *Post-Shipment Export Financing*—Documents were provided by the Reserve Bank of India which listed the categories of manufacturers eligible and those ineligible for post shipment financing. Castings manufacturers are listed as ineligible. Thus, no benefit has been conferred on castings manufacturers by this program.

4. *Subsidized Freight Rates*—The GOI submitted information indicating that a program to provide preferential freight rates for exports is no longer in effect.

Programs Found Not To Be Subsidies

1. *Tax Deductions for Capital Equipment and New Industrial Undertakings*—The Government of India allows income tax deductions for purchases of new capital equipment and establishment of new industrial enterprises. We have found that these deductions are generally available (i.e., they are not industry or enterprise specific) and therefore have concluded that they are not subsidies within the meaning of the countervailing duty law.

2. *Refund of Excise Taxes*—Under a "duty drawback" program, excise taxes collected under the Excise and Salt Tax Act on the sale of pig iron and scrap iron are refunded when products incorporating the iron ore are exported. The nonexcessive rebate of excise taxes is not a subsidy within the meating of the countervailing duty law. Pig iron and scrap iron is subject to an excise tax of 73.50 rupees per ton; it is rebated on export at a rate of 73.00 rupees per ton. Accordingly we find that there is no subsidy involved.

3. *Export Credit Insurance*—Petitioner has alleged that castings manufacturers and exporters receive preferential export insurance rates. Export Credit Guarantee Corporation (ECGC) is chartered by the GOI to insure export transactions against default. However, the ECGC does not receive funds from the GOI. It is a commerical entity which charges rates sufficient to cover its operating expenses and to provide profit. Accordingly we have determined that ECGC insurance does not amount to a subsidy.

Verification

The information relied upon in reaching this determination has been verified by Department officials through investigation of government documents, discussions with GOI, trade organization, and corporate officials, and corporate books and records.

Examples of the type of documents examined include official government reports and policies, announcements of government programs, letters from banks ledger sheets, and income tax reports.

Determination

I hereby determine that the Government of India provides bounties or grants (subsidies) within the meaning of section 303 of the Act and that the estimated aggregate net amount of these benefits equals the amount indicated in the table below.

Effective on August 20, 1980, and until further notice, deposit of estimated countervailing duties, bond or other security shall be required at the time of entry, or withdrawal from warehouse, for consumption. The amount to be deposited is the amount specified in the table below. Entry documents should state the manufacturer of the merchandise, as well as the identity of the exporter. If the shipper is not the manufacturer of specific merchandise, the higher of the indicated rates will be applicable.

	Percent of f.o.b. price
Uma Iron & Steel	16.6
R.B. Agarwalla & Co.	14.9
Basant Udyog	13.8
Kejriwal Iron & Steel Works	13.1
Karjaria Exports	12.9
All Other Companies	13.3

This notice is published pursuant to section 303 and 706 of the Act (19 U.S.C. 1303, 1671(e), and § 355.36 of the Department of Commerce Regulations (19 CFR 355.36).

Robert E. Herzstein,

Under Secretary for International Trade.

[FR Doc. 80-25265 Filed 8-19-80; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Marion Scientific; Intent To Grant Limited Exclusive Patent License

Notice is hereby given that the National Techincal Information Service (NTIS), U.S. Department of Commerce, proposes to grant to Marion Scientific, a division of Marion Laboratories, Kansas City, Missouri 64114, a limited exclusive right in the United States for the manufacture, use and worldwide sale of the products embodied in an invention on "Fecalator, an Apparatus and Method for Concentration of Parasite Eggs and Larvae," protected by U.S. Patent No. 4,081,356 (dated March 28, 1978).

This patent has been assigned to the United States of America, as represented by the Secretary of Health and Human Services. Custody of the right to license this invention has been transferred to the Secretary of Commerce.

Copies of the patent may be purchased from the Patent and Trademark Office, Washington, D.C. 20231, at a cost of fifty cents per copy.

Public announcements of the availability of this invention for licensing were published in the **Federal Register** on November 15, 1978 (43 FR 53056); in the NTIS publication *Government Inventions for Licensing* on November 14, 1978; and in the *Official Gazette* of the Patent and Trademark Office on December 12, 1978. To date, these and other promotional efforts have not resulted in any applications for, or the granting of, nonexclusive licenses under this patent. The Director of NTIS has therefore determined, in accordance with 41 CFR 101–4.103–3, that this invention is available for licensing on a limiting exclusive basis.

The limited exclusive license proposed to be granted will be a royalty-bearing license for a term of five years from the effective date of the license agreement. The license will be revocable in accordance with 41 CFR 101–4.104.5.

The proposed license will be subject to an irrevocable, nonexclusive, nontransferable, royalty-free right in the U.S. Government to make, use or sell the licensed invention throughout the world by or through contract on behalf of the U.S. Government or any foreign government pursuant to a treaty or agreement with the United States.

The proposed license will be granted by NTIS to Marion Scientific unless, on or before October 20, 1980, NTIS receives (1) an application for a nonexclusive license from a responsible U.S. applicant intending to practice the invention identified herein in the United States and NTIS determines that such applicant is likely to bring the invention to the point of practical application within a reasonable period of time under a nonexclusive license; or (2) written evidence and argument which establishes that it would not be in the public interest to grant the proposed

limited exclusive license to Marion Scientific.

Written data, inquiries, comments and objections relating to this proposed limited exclusive license should be submitted to the Office of Government Inventions and Patents, National Technical Information Service, Springfield, VA 22161. NTIS shall maintain and make available for public inspection a record of all decisions made in this matter and the basis therefor. This record shall contain copies of all written data, inquiries, comments and objections received by NTIS and pertaining to the proposed limited exclusive license.

Dated: August 8, 1980.

Melvin S. Day,

Director, National Technical Information Service.

[FR Doc. 80-25338 Filed 8-19-80; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Defense Nuclear Agency

Privacy Act of 1974; Deletions and Amendments of Systems of Records

AGENCY: Defense Nuclear Agency.

ACTION: Notice of deletions and amendments to systems of records.

SUMMARY: The Defense Nuclear Agency proposes to delete four and amend two systems of records in its inventory of records subject to the Privacy Act of 1974. The deletions are listed by system number and name with the reason for deletions following. The specific changes to the systems being amended are set forth followed by each system published in its entirety as amended.

DATES: Proposed actions shall be effective September 19, 1980, unless public comments result in a contrary determination requiring republication for further comments.

ADDRESS: Any public comments, including written data, views or arguments concerning the proposed actions should be addressed to the System Manager identified in the particular record system concerned.

FOR FURTHER INFORMATION CONTACT: Robert L. Brittigan, General Counsel, Defense Nuclear Agency, Washington, D.C. 20305, Telephone: 202-325-7681.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Agency record system notices as prescribed by the Privacy Act of 1974, Public Law 93-579 (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR Doc 77-28255 (42FR51073), September 28, 1977
FR Doc 78-25819 (43FR42472), September 20, 1978
FR Doc 79-37052 (44FR74431), December 17, 1979

The proposed actions are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services.

August 13, 1980.

Deletions

HDNA 004

SYSTEM NAME:

Training and Employee Development Record Systems (44 FR 74434) December 17, 1979.

HDNA 102-03

SYSTEM NAME:

Headquarters Personnel Roster (44 FR 74435) December 17, 1979.

HDNAAFRRI 1102-03

SYSTEM NAME:

AFRRI Personnel Roster (44 FR 74437) December 17, 1979.

HDNAFCPD41

SYSTEM NAME:

FCDNA Personnel Data Systems (44 FR 74438) December 17, 1979.

Reason for deletions: These four systems have been combined into HDNA 005 (44 FR 74438) December 17, 1979

Amendments

HDNA 001

SYSTEM NAME:

Employee Assistance Program Case Record Systems (44 FR 74432) December 17, 1979

Changes:

SYSTEM LOCATION:

Delete: "Civilian Personnel Office, Defense Nuclear Agency, Washington, D.C. 20305, Routing Symbol: PACV."

Insert: "Occupational Health Unit, Biomedical Effects Office, Defense Nuclear Agency, Washington, D.C. 20305."

SYSTEM MANAGER(S) AND ADDRESS:

Delete: "Civilian Personnel Officer."

Insert: "Occupational Health Nurse, Occupational Health Unit, Biomedical Effects Office."

NOTIFICATION PROCEDURE:

Delete: "Civilian Personnel Officer."

Insert: "Occupational Health Nurse, Occupational Health Unit, Biomedical Effects Office."

Delete: Telephone Number 202-325-7592

Insert: 202-325-7073

HDNA 609-03

SYSTEM NAME:

Personnel Exposed to Radiation from Atmospheric Nuclear Tests (44 FR 74437) December 17, 1979.

Changes:

SYSTEM LOCATION:

Delete: "Headquarters, Defense Nuclear Agency, Washington, D.C. 20305 main computer location."

Insert: "Biomedical Effects Office, Defense Nuclear Agency, Washington, D.C. 20305."

SYSTEM MANAGER(S) AND ADDRESS:

Delete current listing.

Insert: "Assistant to the Director (Biomedical Effects), Defense Nuclear Agency, Washington, D.C. 20305."

HDNA 001

SYSTEM NAME:

DNA001 Employee Assistance Program Case Record Systems

SYSTEM LOCATION:

Biomedical Effects Office, Occupational Health Unit, Defense Nuclear Agency, Washington, DC 20305. Also at the following subordinate commands: Civilian Personnel Office, Bldg. 2023A, Kirkland AFB, New Mexico, 87115, and Civilian Personnel Office, Armed Forces Radiobiology Research Institute, Bethesda, Maryland, 20014, Bldg 42, located on the grounds of the National Naval Medical Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees in appropriated and non-appropriated fund activities who are referred by management for, or voluntarily request, counseling assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case records on employees which are maintained by counselors, supervisors, and civilian personnel offices and consist of information on condition, curent status, and progress of employees or dependents who have alcohol, drug, emotional, or other job performance problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Drug Abuse Office and Treatment Act of 1972, as amended by Public Law 93-282 (21 USC 1175); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Public Law 93-282 (42 USC 4582); Subchapter A of Chapter I, Title 42, Code of Federal Regulatons; Chapter 43 of Title 5, USC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the counselor in the execution of the counseling function as it applies to the individual employee. With specific written authority of the employee selected informaion may be provided to and used by other counselors or medical personnel research personnel, employers, representatives such as legal counsel, and to other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case records are stored in paper file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in locked security containers accessible only to pefsonnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are purged of identifying information within five years after termination of counseling or destroyed when they are no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

Occupational Health Nurse, Occupational Health Unit, Biomedical Effects Office, Defense Nuclear Agency, Washington, DC 20305, for Headquarters Defense Nuclear Agency: Chief, Civilian Personnel, Armed Forces Radiobiolody Research Institute, Bethesda, Maryland, 20014, for Armed Forces Radiobiology Research Institute; Civilian Personnel Officer, Kirtland AFB, New Mexico, 87115, for Field Command, Defense Nuclear Agency.

NOTIFICATION PROCEDURE:

Information may be obtained from: Occupational Health Nurse, Occupational Health Unit, Biomedical Effects Office, Defense Nuclear Agency, Washington, DC 20305, Telephone: Area Code 202-325-7073 for Headquarters, Defense Nuclear Agency; Chief, Civilian Personnel, Armed Forces Radiobiology Research Institute, Bethesda, Maryland, 20014, Telephone: Area Code 301-295-1047, for Armed Forces Radiobiology Research Institute; or Civilian Personnel Officer, Bldg. 2023A, Kirtland AFB, New Mexico, 87115, Telephone: Area Code 505-264-9253, for Field Command, Defense Nuclear Agency. The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

SYSTEMS EXCEPTED FROM CERTAIN PROVISION OF THE ACT:

None.

HDNA 609-03

SYSTEM NAME:

Personnel Exposed to Radiation from Atmospheric Nuclear Tests.

SYSTEM LOCATION:

Biomedical Effects Office, Defense Nuclear Agency, Washington, DC 20305.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD and DoD affiliated personnel military and civilian, who participated in the United States Government atmospheric nuclear test programs in the Pacific and at the Nevada Test Site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information consisting of name, rank, service number, social security number, last known or current address, dates of test participation, exposure data, and unit of assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Atomic Energy Act of 1954, 42 U.S.C. 2013 and Tasking Memorandum from Office of the Secretary of Defense to the Director, Defense Nuclear Agency dated 28 Jan 78, Subject: 'DoD Personnel Participation in Atmospheric Nuclear Weapons Testing'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Defense Components—For the purpose of preparing histories of atmospheric nuclear test participation and for use in litigation between test participants or their representatives and the Department of Defense.

Defense Nuclear Agency Contractors—For the purpose of assisting DoD components in preparation of histories of atmospheric nuclear test participation and responding to the inquiries and concerns of individuals who may have participated in the test programs and/or their representatives.

National Research Council and the Center for Disease Control—For the limited purpose of conducting epidemiological studies of the effects of ionizing radiation from the atmospheric nuclear weapons test on DoD participants in those tests.

Department of Energy—For the limited purpose of identifying AEC and AEC-contractor Personnel exposed to ionizing radiation during nuclear testing; and for conducting epidemiological studies of radiation effects of individuals so identified; and for use in litigation between the DoD and any of the individuals so identified.

Department of Transportation—For the limited purpose of identifying DOT and DOT-affiliated personnel exposed to ionizing radiation during nuclear testing and for use in litigation between the DOT and any of the individuals so identified.

Veterans Administration—For use in litigation between the VA and individuals and/or their representatives who are alleging service-connected disabilities as a result of said exposure.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; computer magnetic tape disks and printouts in secure computer facility.

RETRIEVABILITY:

Paper records in file folders; computer magnetic tape disks and printouts in secure computer facility.

SAFEGUARDS:

Paper records are filed in folders stored in locked security safes. Mag tapes stored in vault in the computer area.

RETENTION AND DISPOSAL:

Paper records are retained until information is transferred to magnetic

tapes, then destroyed. Magnetic-tapes and disks are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Director, Biomedical Effects, Defense Nuclear Agency, Washington, DC 20305

NOTIFICATION PROCEDURE:

Information may be obtained from the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

RECORD SOURCE CATEGORIES:

From DNA Form 10, searches of DoD records by other DoD components, and from individuals voluntarily contacting DNA by phone or mail.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-25327 Filed 8-19-80; 8:45 am]
BILLING CODE 3810-70-M

National Security Agency/Central Security Service

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: National Security Agency/Central Security Service.

ACTION: Notification of amendment to systems of records.

SUMMARY: The National Security Agency/Central Security Service proposes to amend nine systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a). The specific changes to each system being amended is set forth, followed by a publication of each system in its entirety as amended.

DATES: The proposed amendments shall be effective September 19, 1980, unless contrary public comment result in a contrary determination requiring republication for further comment.

ADDRESS: Any public comment, including written data, views or arguments concerning the proposed actions should be addressed to the Systems Manager in the particular record system concerned.

FOR FURTHER INFORMATION CONTACT: Daniel C. Schwartz, General Counsel, National Security Agency, Room 9A178, Fort George C. Meade, MD 20755.

SUPPLEMENTARY INFORMATION: The National Security Agency record system notices as prescribed by the Privacy Act of 1974, Public Law 93-579 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

The proposed amendments are not within the purview of 5 U.S.C. 552a(o) which requires submission of a new or altered systems notice.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services.
August 13, 1980.

Amendments

GNSA 01

SYSTEM NAME:

NSA/CSS Access, Authority and Release of Information File.

Changes

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "Executive Order 11652" and insert "Executive Order 12065".

NOTIFICATION PROCEDURE:

Change "Information Officer" to read "Chief, Office of Policy".

RECORDS ACCESS PROCEDURES:

Change "Information Officer" to read "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to read "Chief, Office of Policy".

GNSA 02

SYSTEM NAME:

NSA/CSS Applicants

Changes

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "Civil Service Commission" to "Office of Personnel Management".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Change "Civil Service Commission" to "Office of Personnel Management".

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

GNSA 03

SYSTEM NAME:

NSA/CSS Correspondence, Cases, Complaints, Visitors, Request

Changes

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "Executive Order 11652" to "Executive Order 12065".

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Change "Civil Service Commission" to "Office of Personnel Management".

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

GNSA 04

SYSTEM NAME:

NSA/CSS Cryptologic Reserve Mobilization Designee List

Changes

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORDS ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

GNSA 05

SYSTEM NAME:

NSA/CSS Equal Opportunity Data

Changes

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Change "Civil Service Commission" to "Office of Personnel Management".

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

GNSA 06

SYSTEM NAME:

NSA/CSS Health, Medical and Safety Files

Changes

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "Civil Service Commission" to "Office of Personnel Management". Also add "Executive Order 11807, Executive Order 9397, 29 C.F.R. 1906 and Department of Defense Instruction 1000.19".

RETRIEVABILITY:

Change "BY NAME" to "By name, social security number, and specific subject matter data elements".

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

GNSA 07

SYSTEM NAME:

NSA/CSS Motor Vehicles and Carpools

Changes

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

GNSA 08

SYSTEM NAME:

NSA/CSS Payroll and Claims

Changes

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete current entry and insert "Public Law 86-36; 31 U.S.C. §§ 66a, 951-953; 50 U.S.C. App § 2160; Titles 5 and 37 of the U.S. Code; and Titles 2, 4, 5 and 6 GAO Manual.

NOTIFICATION PROCEDURE:

Change "Information Offfficer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy"

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy."

GNSA 11

SYSTEM NAME:

NSA/CSS Time, Attendance and Absence

Changes

NOTIFICATION PROCEDURE:

Change "Information Officer" to "Chief, Office of Policy".

RECORD ACCESS PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

CONTESTING RECORD PROCEDURES:

Change "Information Officer" to "Chief, Office of Policy".

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Delete current entry and insert "None".

GNSA01

SYSTEM NAME:

NSA/CSS Access, Authority and Release of Information File

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.
Decentalized Segments—Each staff, line, contract and field element as appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, personnel under contract or appointment and military assignees.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may consist of authorizations to obtain keys; authorizations for access to specific sensitive information or areas; delegation of responsibility to authorize or request specific action, work projects or access; notification to report for duty in event of hazardous weather or other emergency; authorizations to officially release various types of communications; assignments to special activities; assignments as Agency representatives to department or other government committees, boards, task groups; assignments to special tasks in event of technical or national emergencies; assignments to duties as fire, safety, security officers, Combined Federal Campaign and blood donation workers; and assignments to other special or volunteer duties or activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86-36, Public Law 88-290, 18 U.S.C. § 798, Executive Order 12065.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this file is to provide a means to rapidly determine who may have access to information or keys; who is required to report for duty in special circumstances, who has been authorized to release official communications; who has been assigned additional special tasks, voluntary duties, or other duties. The file and its segments are used by each authorized staff, line, contract and field officer, employee, or assignee to make determinations as noted in the purposes above. Where required, specific information from this file may be made available to appropriate investigatory authorities engaged in national security or criminal investigations or to national defense and intelligence authorities or other governmental entities with respect to specific assignments or when emergency action is required.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Paper records in file folders, paper cards in file boxes, magnetic tapes, disks and other computer storage media, computer listings, microfilm.

RETRIEVABILITY:

By name.

SAFEGUARDS:

For paper, computer listing, cards and microfilm—secure limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers. Access to information is limited to authorized individuals only. For machine records stored on magnetic tape, disk or other computer storage media within the computer processing area—additional secure limited access facilities, specific processing requests from authorized persons only, specific authority to access stored records and delivery to authorized persons only. Where data elements are derived from the Personal Security File—remote terminal inhibitions are in force with respect to access to complete file or data relating to persons not assigned to requesting organization using a remote terminal. Remote terminals are secured, are available to authorized persons only, and certain password and other identifying information available to authorized users only is required.

V 45 AG 2080 UMI

Terminals are not available outside of headquarters area locations.

RETENTION AND DISPOSAL:

Retained until individual is no longer authorized access or release authority or assigned to specific additional duties. Computer files are purged and updated to reflect current status.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURES:

Requests from individual for notification shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD SOURCE CATEGORIES:

Applications and related forms requesting access, appointment or authorization, notifications of same, personnel records, personnel security records, and other sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records in this file may be exempt pursuant to 5 U.S.C. § 552a(k) (1) and (5). For additional information see agency rules contained in 32 CFR Part 299a.

GNSA02

SYSTEM NAME:

NSA/CSS Applicants

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CATEGORIES OF INDIVIDUALS COVERED BY A THE SYSTEM:

Applicants for employment with NSA/CSS.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains forms, documents and correspondence providing personal and qualifications information submitted by individual applicants, educational institutions, past employers, references. Records include processing items, status reports, test results, interview reports, reports of reviewing organizations and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86–36, Public Law 88–290, E.O. 10450, and Title 5 U.S.C. and appropriate implementing Office of Personnel Management directives in the Federal Personnel Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this file is to support the recruitment, selection, hire and placement of applicants. The file is used to document applicant processing, as a basis for selection decisions by individual agency elements and the personnel organization, and such other related uses as required. The users of this file include those staff, line, contract and field officers and employees as authorized and appropriate. In addition, files may be made available to the Office of Personnel Management, Freedom of Information Act and Privacy Act authorities, Department of Defense and other governmental entities as required and appropriate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper in file folders, cards in containers, logs, computer listings, computer magnetic tape, disks and other computer storage media, microfilm.

RETRIEVABILITY:

By name, social security number and other appropriate data elements.

SAFEGUARDS:

For paper, computer printouts and microfilm—secure limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers. Access to information is limited to those individuals specifically authorized and granted access by Deputy Director for Management Services. For machine records stored on magnetic tape, disk or other computer storage media within the computer processing area—additional secure limited access facilities, specific processing requests accepted from authorized persons only. Remote terminal inhibitions are in force with respect to access to computerized file or data relating to persons not assigned to the organization using a remote terminal. Remote terminals are secured, are available to authorized persons only and certain password and other identifying information available to authorized users only is required. Terminals are not available outside of headquarters area locations.

RETENTION AND DISPOSAL:

For applicants who are subsequently hired, records are transferred to Personnel File or destroyed as appropriate. For applicants not hired, records are retained for a period not to exceed one year unless employment requirements necessitate retention for a longer period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD SOURCE CATEGORIES:

Applicant, educational institutions, references, former employers including other governmental entities, interviewing and reviewing individuals including possible gaining organization, security and medical authorities and other sources as relevant and appropriate.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records in this file may be exempt pursuant to 5 U.S.C. § 552a(k)(1) and (5). For additional information see Agency rules contained in 32 CFR Part 299a.

GNSA03

SYSTEM NAME

NSA/CSS Correspondence, Cases, Complaints, Visitors, Requests

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755. Decentralized Segments—Each staff, line, contract and field element as authorized and appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons calling or corresponding with NSA/CSS concerning congressional inquires; job opportunities; Freedom of Information and Privacy Act requests; other information requests, suggestions or comments; registering complaints; requesting appropriate security clearance and permission to visit; requesting orrequiring information relating to litigation or anticipated litigation; and employees or assignees registering complaints or requesting information with respect to Equal Employment Opportunities; requesting inquiry or investigation by the Inspector General; requesting advice, opinions, or assistance from the General Counsel or provided to the General Counsel with respect to conflict of interest issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains correspondence from and to individuals, documents and memoranda related to the response; written material developed during or in anticipation of litigation or investigation of inquiries, complaints or grievances; written material developed in response to a request for advice or opinion from an individual; written material required by law, executive order, and regulations with respect to Equal Employment Opportunity investigations, Inspector General investigations, judicial branch subpoenas, orders and related actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86–36, Public Law 88–290, 5 U.S.C. § 552, Public Law 93–579, Public Law 92–261, Public Law 93–259, Executive Order 10450, Executive Order 11222, Executive Order 11478 and Executive Order 12065.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this file is to provide a record of the official responses and determinations of NSA/CSS to various inquiries for information, complaints, official actions of other governmental agencies and branches. The users of these files are those staff, line, contract and field officers, employees and assignees delegated the responsibility to respond on behalf of the Director, NSA, to such inquiries and complaints. The files are used to carry out the purpose set forth above, to provide an information base to be used in responding to the various reporting requirements levied by the Public Laws and Executive Orders cited in the authorities section of this notice. Information in the file may be used to provide reports in summary or statistical form to the Department of Defense, Office of Personnel Management, Office of Equal Employment Opportunity, Congress and those committees or subcommittees of the Congress having jurisdiction over matters covered by individual reports. Certain files may be provided to the General Counsel, Department of Defense, the Department of Justice, other appropriate governmental agencies and the judicial branch where litigation or anticipated civil or criminal litigation is involved or where sensitive national security investigations related to protection of intelligence sources or methods are involved.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name, case or subject and within subject by name.

SAFEGUARDS:

Secure limited access facilities and within those facilities individual limited access offices. Files are stored in lockable containers and are only made available to individuals specifically authorized access or required to respond and individuals affected by actions taken or complaints received. Files related to sensitive investigations by the Equal Employment Opportunity Office, the Inspector General and General Counsel are additionally protected pursuant to appropriate statutes, executive orders or regulations and attorney-client privilege. In some cases records are sealed pursuant to sensitivity of subject matter or specific court order.

RETENTION AND DISPOSAL:

Records are retained on-site indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD SOURCE CATEGORIES:

Individual correspondence, written materials developed in response to inquiries from executive branch departments and agencies, judicial branch elements, Congress, Congressional committees, individual Congressmen, other government and private entities as appropriate, and other sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records in this file may be exempt pursuant to 5 U.S.C. § 552a(k)(1), (2), (4) and (5). For additional information, see agency rules contained in 32 CFR Part 299a.

GNSA04

SYSTEM NAME:

NSA/CSS Cryptologic Reserve Mobilization Designee List.

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755. Decentralized Segments—Appropriate staff and line elements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inactive duty military reservists assigned to NSA/CSS mobilization positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record consists of a computer listing of NSA/CSS reserve mobilization requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86–36 and Title 10, U.S. Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain Tables of Distribution on mobilization requirements by military service, military job code, billet title,

number of billets, mobilization duty location, training sponsor, and any special clearance requirements of the billet, and to provide a system of identifying mobilization designees with billets for training assignments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM STORAGE:

Computer listings, computer magnetic tapes, disks and other computer storage media.

RETRIEVABILITY:

By name and mobilization designee requirements.

SAFEGUARDS:

Secure limited access facilities and within those facilities lockable containers. Records are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are permanent. They are reviewed annually for changes in requirements. Superseded records are destroyed when no longer useful for reference purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NASA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD SOURCE CATEGORIES:

Individual's parent service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records in this file may be exempt pursuant to 5 U.S.C. § 552a(k)(1) and (k)(5). For additional information, see agency rules contained in 32 CFR Part 299a.

GNSA05

SYSTEM NAME:

NSA/CSS Equal Employment Opportunity Data.

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian personnel and personnel under contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains civilian personal data and Agency organizational data to include job title, grade, date of birth, training, date of last promotion, educational attainments, social security number, time of service, personnel codes, organization assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92–261, Public Law 93–259, Public Law 86–36, Executive Order 11478, Chapter 713 of the Federal Personnel Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose of this file is to insure compliance with cited authorities with respect to equal employment opportunities. Users of the file are those staff, line, contract and field officers and employees specifically authorized by law, regulation, delegation of responsibility, and grant of access by the NSA Equal Employment Opportunity Director. The file is used to compile those studies, research, statistics and reports necessary to insure compliance with cited authorities. Reports, summaries and statistics may be made available to the Department of Defense, Office of Equal Employment Opportunity, Congress, Office of Personnel Management, Department of Justice and judicial branch elements as required by cited authorities, requested pursuant to those authorities or ordered by specific judicial branch order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, disk or other computer storage media, computer listings, paper in file folders.

RETRIEVABILITY:

By name, social security number, and specific subject matter data elements.

SAFEGUARDS:

For paper, computer printouts and microfilm—Secure limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers. Access to information is limited to those individuals specifically authorized and granted access by EEO Director. For machine records stored on magnetic tape, disk or other computer storage media within the computer processing area—additional secure limited access facilities, specific processing requests from authorized persons only, specific authority to access stored records and delivery to authorized persons only. Where data elements are derived from the Personnel System, remote terminal inhibitions are in force with respect to access to complete file or data relating to persons not assigned to requesting organization using a remote terminal. Remote terminals are secure, are available to authorized persons only, and certain password and other identifying information available to authorized users only is required. Terminals are not available outside of headquarters area locations.

RETENTION AND DISPOSAL:

File is routinely updated and old data disposed of as required. Individual data is subject to retention and disposal requirements specified for records contained in the Personnel System.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Equal Employment Opportunity, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Request from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD SOURCE CATEGORIES:

Individuals themselves, organizational elements, personnel file, and other sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records and data elements in this file may be exempt pursuant to 5 U.S.C. § 552a(k) (1), (2) and (4). For additional information, see agency rules contained in 32 CFR Part 299a.

GNSA06

SYSTEM NAME:

NSA/CSS Health, Medical and Safety files.

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.
Decentralized Segments—Each staff, line, contract and field element as appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, military assignees applicants, retirees, building concessionaires, assigned GAS employees, certain contract employees, visitors requiring emergency treatment, in certain cases members of employees' families with prior approval of the employee, blood donors, designated Health and Safety Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may consist of complete medical questionnaires, results of physical examinations and laboratory tests, records of medical treatment and services, x-rays, notices of injury, forms and correspondence including exchanges with Department of Labor related to injury and subsequent claims, correspondence with personal physician, NSA/CSS Medical Center reports, safety reports, absence and attendance records, medical evaluations, fitness of duty reports, "Log of Federal Occupational Injuries and Illnesses," results of psychological assessment testing and interviews, psychiatric examination results and related reports, forms and notes, lists of blood donors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86–36, and Federal Employees Compensation Act of September 7, 1916, as amended, Title 5, U.S.C., and certain Office of Personnel Management implementation thereof as contained in Federal Personnel Manual. In addition, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. § 4582), and subchapter A of Chapter I, Title 42, C.F.R., Executive Order 11807, Executive Order 9397, 29 C.F.R. 1960 and Department of Defense Instruction 1000.19.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine fitness for hiring, continued employment of assignment and reassignment; to process accident and compensation claims; correct hazardous conditions; determine eligibility for disability retirement; record names of blood donors. When required, specific information from these files may be made available to the Department of Labor in those cases involving compensation claims and, with the permission of the individual, to other medical personnel or the American Red Cross for additional examination, treatment, counseling or other medical purpose; Freedom of Information and Privacy Act authorities as appropriate; and to other governmental entities as required and appropriate. Alcohol abuse patient records used in accordance with cited statute and regulations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tape, disk or other computer storage media, computer listings.

RETRIEVABILITY:

By name, social security number, and specific subject matter data elements.

SAFEGUARDS:

Secure, limited access facilities and within these facilities lockable containers. Records are accessible only to authorized personnel. For machine records stored on magnetic tape, disk or other computer storage within the computer processing area—additional secure limited access facilities, specific processing requests from authorized persons only, specific authority to access stored records, and delivery to authorized persons only. Remote terminals are secured, are available to authorized persons only, and certain password and other identifying information available to authorized users only is required. Terminals are not available outside of specific security offices at headquarters area locations.

RETENTION AND DISPOSAL:

Medical files and records on traumatic injury and occupational disease are transferred to official personnel folder upon separation; traumatic injury and occupational disease correspondence on civilian employees and retirees is retained indefinitely. Applicant medical files are retained for no more than one year or until date designated to individual; files on military assignees are forwarded to parent service upon reassignment from NSA/CSS; all other medical case files are destroyed upon termination of association with NSA/CSS. Psychological files on applicants are retained for no more than one year or until date designated to individual; all other files are retained for four years after end of individual's asssociation with NSA/CSS. Decentralized segments are either transferred with employee or assignee, or retained for a period after separation as appropriate but not to exceed three years and are then destroyed. Alchohol abuse patient records retained and disposed of pursuant to cited statute and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Fort George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD SOURCE CATEGORIES:

Applicants, employees, assigness, official personnel folders, NSA Safety Officers and records, witnesses to accidents and injuries, medical and administrative personnel, blood donor personnel, members of employee's family with employee's permission, and other sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records in this file may be exempt pursuant to 5 U.S.C. § 552a(k)(1),

V 45 AG 2080 UMI

(4), (5) and (6) and may also be subject to certain special access procedures established pursuant to 5 U.S.C. § 552a(f)(3). For additional information, see agency rules contained in 32 CFR part 299a.

GNSA07

SYSTEM NAME:

NSA/CSS Motor Vehicles and Carpools

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755. Decentralized Segments—Each non-headquarters facility and field element as appropriate and required.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, military assignees, other governmental employees or personnel under contract granted extended temporary or permanent access to an NSA/CSS facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may consist of machine-readable or regular paper cards, carpool or other transportation survey results, annotated machine listings, post motor vehicle violation reports, stolen vehicle reports, or other forms and correspondence related to parking privileges, transportation needs, local (parking lot) parking enforcement procedures, vehicle abuse, and other related matters as appropriate and required.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. § 318a–b; 50 U.S.C. § 797; Title 34 C.F.R., Part 232, Appendix B; and Title 41 C.F.R., Part 101–20.111 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this file is to provide data necessary to enforcement of parking lot regulations, to assist employees with respect to vehicle abuse and stolen vehicles, provide carpool assistance, assure availability of adequate transportation and parking facilities, and other related matters. The uses of the file are to verify vehicle ownership, determine allocation of parking privileges, ensure the maintenance of adequate and safe parking areas, develop statistics with respect to parking and transportation requirements, encourage formation of carpools or other multiple-user transportation arrangements, provide a directory of potential participants in carpools or other multiple-user transportation arrangements, and other related uses as appropriate and required. The users of the file are those authorized line, staff, contract, and field element officers and employees; any employee, assignee or other individual working at an NSA/CSS facility interested in forming or joining a carpool or other multiple-user transportation arrangement; local civil and military law enforcement personnel as required and appropriate. Statistical data or selected individual data limited to name, address, and telephone number may be made available to commercial or private transportation entities where the individuals have indicated a desire to use or join a multiple-user transportation arrangement, supervisory, and other reviewing authorities in cases of parking privilege abuses, and other related users as required and appropriate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, machine-readable and other cards in appropriate containers, magnetic tape, disk or appropriate containers, magnetic tape, disk or other computer storage media, computer listings.

RETRIEVABILITY:

By name, motor vehicle identifier.

SAFEGUARDS:

For paper, cards and computer listings—secure limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers as appropriate. Access is limited to authorized users. For machine records stored on magnetic tape, disk or other computer storage media within the computer processing area—additional secure limited access facilities, specific processing requests accepted from authorized persons only, specific authority to access stored records, and delivery granted to authorized persons only.

RETENTION AND DISPOSAL:

File is routinely updated and old data disposed of as required. Individual data is subject to retention and disposal requirements specified for records contained in the Personnel System.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755.

RECORD SOURCE CATEGORIES:

Data provided by individuals, authorities in charge of parking facilities, local civil and military law enforcement entities, and other related sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

GNSA08

SYSTEM NAME:

NSA/CSS Payroll and Claims

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755. Decentralized Segments—Each staff, line, contract, and field element as appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY A THE SYSTEM:

NSA/CSS civilian employees and applicants, military assignees, contractors, reemployed annuitants, personnel under contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may consist of records on time and attendance; overtime, shift and holiday work; absent without leave reports; payroll deductions, allotments and allowances; requests for leave; payments for travel performed in connection with permanent change of station, temporary duty, invitations, interviews, pre-employment interviews and initial entry on duty. Also included are Pay Adjustment Authorizations (DD Form 139) and Case Collection Vouchers (DD Form 1131) and, in connection with pay claims, waivers, requests for waivers, documents, correspondence, background data, recommendations and decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86–36; 31 U.S.C. §§ 66a, 951–53; 50 U.S.C. App. § 2160; Titles 5 and 37 of the U.S.C.; Titles 2, 4, 5 and 6 of the GAO Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain effective control over and accountability for all funds; to provide accounting data to support the NSA/CSS budget request and control the execution of the budget; provide financial information required by the Office of Management and Budget; provide financial information for NSA/CSS management purposes; provide for the input of permanent change data and the output of such data as leave without pay, reconciliation of files, periodic step increases, mass pay changes, and changes in leave categories; investigate, review, discuss, and recommend and implement decisions on pay claims waivers. When required, specific information from this file may be made available to other governmental entities in connection with Social Security deductions, unemployment compensation claims, job-related injury and death benefits, tax audit and collections, and other related claims or actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; file cards; computer paper printouts; machine-readable cards; computer magnetic tapes, disks, and other computer storage media.

RETRIEVABILITY:

By name, social security number.

SAFEGUARDS:

For paper, computer printouts and microfilm—secure limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers. Access to information is limited to authorized individuals. For machine records stored on magnetic tape, disk or other computer storage media within the computer processing area—additional secure limited access facilities, specific processing requests from authorized persons only, specific authority to access stored records and delivery to authorized persons only. Remote terminals are secured, are available to authorized persons only, and certain password, and other identifying information available to authorized users only is required. Terminals are not available outside of headquarters area locations.

RETENTION AND DISPOSAL:

Records are reviewed annually and retired or destroyed as appropriate. Permanent records are retired to the St. Louis Federal Records Center after completion of audit. Computer records are purged and updated consistent with these retention policies.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

GNSA11

SYSTEM NAME:

NSA/CSS Time, Attendance, and Absence.

SYSTEM LOCATION:

Primary System—National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755. Decentralized Segments—Each staff, line, contract, and field element as authorized and appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, personnel under contract, and military assignees.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains request forms, time cards, authorization forms, notifications, locator cards, and other correspondence or revisions thereof related to actions concerning time, attendance, absence, annual leave, sick leave, leave without pay, advance leave, administrative leave, exemplary use of leave, unauthorized leave and absences, and other related matters.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755.

RECORD SOURCE CATEGORIES:

Forms, cards, requests and other documentation, submitted by individuals, supervisors, claims officers, Personnel File data, Time, Attendance and Access File data, and other sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Individual records in this file may be exempt pursuant to 5 U.S.C. § 552a(k)(1) and (k)(2). For additional information, see agency rules contained in 32 CFR 299a.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 86–36; Public Law 88–290, section 113 of the Budget and Accounting Procedures Act of 1950, as amended; 31 U.S.C. § 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of these files is to provide a means of accounting for all time, attendances, and absences of NSA/CSS civilian employees, contract employees, and military assignees. The users of these files are those staff, line, contract and field officers, employees, and assignees authorized to account for or investigate employee time,' attendance, and absence. the files may be used to make performance, payroll, personnel, and security determinations. Where required, specific information from these files may be made available to appropriate investigatory authorities engaged in national security or criminal investigations, hearing examiners, and other authorized individuals with respect to grievances or adverse actions, and to those agencies identified in the NSA/CSS System of Records named "Payroll and Claims" as necessary to document payroll actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, file cards, machine readable cards, computer printouts, computer magnetic tapes, disks, and other computer storage media, and microfilm.

RETRIEVABILITY:

May be retrieved by name and in some cases social security number.

SAFEGUARDS:

For paper, cards, printouts and microfilm—secure limited access facilities, within those facilities secure limited access rooms, and within those rooms lockable containers as

appropriate. Access by authorized

SYSTEMS EXEMPTED FROM CERTAIN

Register (40 FR 45877) on October 3, 1975

a. To disclose pertinent information to the appropriate Federal, state, or local

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

DEPARTMENT OF EDUCATION

appropriate. Access by authorized individuals only. Current time cards are not secured with respect to individual employees within immediate working element. For machine-readable cards, computer magnetic tapes, and disks and other computer storage media within the computer processing area—additional secure limited-access facilities, specific processing requests from authorized persons only, specific authority to access stored cards, tapes or disk files.

RETENTION AND DISPOSAL:

Primary System—Records are reviewed annually and retired or destroyed as appropriate. Permanent records are retired to the St. Louis Federal Records Center after completion of audit. Computer records are purged and updated consistent with these retention policies.

Decentralized Segments—Records are temporary, are retained for the period the individual is assigned to an element, or disposed of as appropriate. Time cards and other appropriate forms for pay and leave purposes are forwarded each pay period to the payroll office.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755.

RECORD ACCESS PROCEDURES:

Requests from individuals for access shall be in writing addressed to Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to Chief, Policy Staff, National Security Agency/Cental Security Service, Ft. George G. Meade, MD 20755.

RECORD SOURCE CATEGORIES:

Time cards, requests forms and related correspondence from individual employees and assignees, authorizations and notifications from authorizing officers, correspondence from supervisory personnel and investigating officers with respect to abuses of leave and attendance or unauthorized leave and absences, other records or reports related to either exemplary use of leave or abusive use of leave, and other sources as appropriate and required.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-25329 Filed 8-19-80; 8:45 am]

BILLING CODE 3810-70-M

Office of the Secretary

Privacy Act of 1974; New System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of new system of records.

SUMMARY: The Office of the Secretary of Defense publishes a notice of a new system of records, DWHS P37, entitled: "Grievance Records", which incorporates information contained in OPM's system of records OPM/GOVT-2, "Grievance Records", which is being deleted from OPM's annual republication of systems of records (September 1980).

DATE: This system shall be effective September 19, 1980.

ADDRESS: Privacy Act Officer, Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, Pentagon, Washinton, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone: 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** as follows:

FR Doc. 79-370542 (44 FR 74088) December 17, 1979
FR Doc. 80-7517 (45 FR 15604) March 11, 1980
FR Doc. 80-8135 (45 FR 17056) March 17, 1980
FR Doc. 80-13709 (45 FR 29390) May 2, 1980
FR Doc. 80-13707 (45 FR 29590) May 5, 1980
FR Doc. 80-15479 (45 FR 34034) May 21, 1980
FR Doc. 80-19461 (45 FR 43409) June 27, 1980
FR Doc. 80-23575 (45 FR 51880) August 5, 1980

This system does not fall within the purview of Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
August 13, 1980.

DWHS P37

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washingon, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Federal employees who have submitted grievances in accordance with 5 USC 2302, and 5 USC 7121, or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by Office of the Secretary of Defense (OSD) employees under 5 USC 2302, and 5 USC 7121. These case files contain all documents related to the grievances, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that OSD may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 2302, and 5 USC 7121.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

INTERNAL USERS, USES, AND PURPOSES:

This information is used by the Office of the Secretary of Defense (OSD) in the creation and maintenance of records of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by reference.

EXTERNAL USERS, USES, AND PURPOSES:

These records and information in these records are used:

a. To disclose pertinent information to the appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the Agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual, in response to an inquiry from that congressional office, made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Adminstration) in records management inspections conducted under authority of 44 U.S.C. 2906.

g. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties.

h. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties, exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom the records are maintained.

SAFEGUARDS:

These records are maintained in locked metal file cabinets, with access only to anthorized OSD Personnel employees.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301. Telephone: 202-697-3305.

RECORD ACCESS PROCEDURES:

Request for access to records may be obtained from the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By Agency officials.

d. From related corrspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-25835 Filed 8-19-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

National Advisory Committee on Black Higher Education and Black Colleges and Universities; Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the fifteenth meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATE: September 18 to 19, 1980, 9:00 a.m. to 5:00 p.m.

ADDRESS: The Forum, Howard University, Armour J. Blackburn University Center, Washington, D.C. 20059.

FOR FURTHER INFORMATION CONTACT: Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Suite 702-6, 1100 17th Street, NW., Washington, D.C. 20036, AC 202-653-7558.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 *et seq.)* and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

This Committee was established to examine all approaches to the higher education of Black Americans as well as the historically Black colleges and universities. Originally scheduled to expire on June 30, 1980, Secretary Hufstedler has extended the Committeed to June 30, 1982 so that the Education Department may continue to benefit from the Committee's recommendations.

The meeting on September 18-19, 1980, will be open to the public beginning at 9:00 am each day. The meeting will be held at Howard University, Armour J. Blackburn University Center, The Forum, Washington, D.C. 20059.

The proposed agenda will include the swearing in ceremony for the members, a review of the Charter and Committee functions and discussion by the Committee on future activities with

respect to issues and recommendations affecting the advancement of Black higher education and enhancement of the historically Black colleges.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 1100 17th Street, NW., Suite 702–6, Washington, D.C. 20036

Signed at Washington, D.C., on August 13, 1980.

Carol J. Smith,

Program Delegate National Advisory Committee on Black Higher Education and Black Colleges and Universities.

[FR Doc. 80-25290 Filed 8-19-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–80–027; OFC Case No. 62009–9170–01, 02–12]

Foster Wheeler Weirton; Acceptance of Petition for Exemption Pursuant to Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption Pursuant to the Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On May 16, 1980, Foster Wheeler Weirton (Foster Wheeler) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting two new major fuel burning installations (MFBIs) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR Part 501 *et seq.* (Interim Rules), published on June 6, 1980, and 45 FR 38276 (Final Rules), which became effective August 5, 1980.

The MFBIs for which the petition was filed are two identical field-erected steam boilers to be constructed at Foster Wheeler's Weirton, West Virginia facility. These boilers, designated as Nos. 1 and 2 by Foster Wheeler, will each have a design heat input rate capability of 497 million Btu per hour with a steam generating capacity of 350,000 pounds per hour and are capable of burning blast furnace gas in a mixture with natural gas.

Under § 505.28 of the Interim Rules, Foster Wheeler has requested a permanent fuel mixtures exemption to burn natural gas in a mixture with blast furnace gas in each of the two boilers. On June 20, 1980, Foster Wheeler requested that ERA use § 503.38 of the Final Rules to evaluate their petition. The decision to grant or deny the requested exemptions will be made under the Final Rules.

FUA imposes statutory prohibitions against the use of natural gas or petroleum as a primary energy source by new MFBIs which consist of a boiler. ERA's decision in this matter will determine whether Foster Wheeler will be granted a permanent exemption for these two boilers to use natural gas in a mixture with an alternate fuel.

As provided for in Sections 701(c) and (d) of FUA and §§ 501.30 and 501.31 of the Final Rules, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before October 6, 1980. A request for public hearing must also be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room B–210, 2000 M Street, NW, Washington, DC 20461.

Docket No. ERA–FC–80–027 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M street, NW, Room 3128, Washington, DC 20461, Phone: (202) 653–3679

Marilyn L. Ross, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, DC 20585, Phone: (202) 252–2967

Gail B. Johnson, Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW, Room 3128, Washington, DC 20461, Phone: (202) 653–3675

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum as a primary energy source in certain new MFBIs unless an exemption for such use has been granted by ERA.

The MFBIs for which these permanent exemptions are requested are two identical field-erected boilers, which each have a design heat input rate capability of 497 million Btu per hour, a steam generating capacity of 350,000 pounds per hour for each unit, and which are designed to burn blast furnace gas in a mixture with natural gas. These two boilers will be used to provide steam to the Weirton Steel Division of National Steel Corporation.

On May 16, 1980, Foster Wheeler filed a petition requesting permanent exemption for two identical field-erected steam boilers, designed to burn a fuel mixture of 75 percent blast furnace gas and 25 percent natural gas, to be constructed at Weirton, West Virginia. Sections 501.21 and 501.22 of the Interim Rules required payment of a filing fee concurrent with submission of a petition. Foster Wheeler failed to pay such a fee and ERA delayed commencement of the acceptability review of Foster Wheeler's petition until receipt of a filing fee. On June 20, 1980, Foster Wheeler requested that its petition be processed using the guidelines of the Final Rules issued May 30, 1980, rather than under the Interim Rules. EPA has agreed, has notified Foster Wheeler verbally that its petition has been accepted, and is hereby waiving the fee and initiating the administrative proceeding.

Section 503.38 of the Final Rules provides for a permanent exemption from the prohibitions of FUA for certain fuel mixtures containing natural gas or petroleum. To qualify, a petitioner must demonstrate to the satisfaction of ERA that:

(1) It proposed to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources used by the installation needed to maintain operational reliability consistent with maintaining a reasonable level of fuel efficiency.

If the exemption is granted, ERA will not require that the percentage of petroleum and natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources used by the installation.

Section 503.38(d)(1) provides for a certification alternatives to be used in lieu of the evidence requirements of § 503.38(c) for new installations where the amount of natural gas or petroelum to be used is less than 25 percent of the total annual Btu heat input of the

primary energy sources used by the installation.

Foster Wheeler has certified in its petition that the total amount of natural gas that is proposed to be used in these two identical boilers will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each unit.

ERA hereby gives notice that Foster Wheeler's petition for a permanent fuel mixtures exemption has been determined to be complete as filed and is accepted. ERA retains the right to request additional relevant information from Foster Wheeler at any time during the pendency of these proceedings.

As set forth in § 501.3(d) of the Final Rules, the acceptance of this petition by ERA does not constitute a determination that Foster Wheeler is entitled to the exemption requested.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, NW, Washington, DC, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, DC, on August 14, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-25312 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA docket No. 80–Cert–019]

Husky Oil Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Husky Oil Company (Husky) 600 South Cherry Street, Denver, Colorado 80222, filed an application for certification of an elegible use of natural gas to displace fuel oil at its refinery facility in Cody, Park County, Wyoming, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on May 27, 1980. Notice of that application was published in the **Federal Register** (45 FR 51261, August 1, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days a from the date of publication. No comments were received. The delay between the filing date of the application and its publication in the **Federal Register** was due to the filing by Husky of an amendment to its application which was not received by ERA until July 15, 1980.

The ERA has carefully reviewed Husky's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Husky's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on August 14, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

Re ERA Certification of Eligible Use, ERA Docket No. 80–Cert–019, Husky Oil Company

Mr. Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Albert F. Bass, Deputy Director, Division of Natural Gas, Economic Regulatory Administration, 2000 M Street NW, Room 7108, Washington, D.C. 20461, telephone (202) 653–3286. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80–Cert–019.

Sincerely,

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Husky Oil Co.

[ERA Docket No. 80–CERT–019]

Application for Certification

Pursuant to 10 CFR Part 595, Husky Oil Company (Husky) filed an application for certification of an eligible use of 125,740 Mcf (344 Mcf daily) of natural gas per year for its refinery facility located in Cody, Park County, Wyoming, with the Administrator of the Economic Regulatory Administration (ERA) on May 27, 1980. The application states that the eligible sellers of the gas are the Husky Oil Company (Husky) and the Michigan Consolidated Gas Company (Michigan Consolidated) and the gas will be transported by the Colorado Interstate Gas Company and the Montana-Dakota Utilities. The application indicates that the use of this natural gas is estimated to displace approximately 20,000 barrels of No. 6 fuel oil (3.0 percent sulfur) per year. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of 125,740 Mcf of natural gas per year at the Cody Refinery purchased from Husky and Michigan Consolidated is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible sellers.

Issued in Washington, D.C., on August 14, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-25313 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-01-M

Seminole Refining, Inc.; Final Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley S. Mills, Program Manager for Entitlements, Office of Enforcement, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, N.W., Room 5114, Washington, D.C. 20461. (202–653–3548).

SUPPLEMENTARY INFORMATION: On July 10, 1980, 45 FR 46475, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with Seminole Refining, Inc. of Saint Marks, Florida on July 2, 1980 which would not become effective until 30 days after publication. Interested

persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order. In addition, persons who believed they had a claim to all or a portion of the refund paid by Seminole Refining, Inc. pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

Although interested persons were invited to submit comments regarding the proposed Consent Order to the DOE, no comments were received. In addition, the ERA did not receive any claims to the refund. The proposed Consent Order has therefore been finalized.

The ERA shall receive $1,500.000.00 from Seminole Refining, Inc. upon the Effective Date of this Consent Order. Seminole Refining, Inc. shall further pay the sum of $400,000.00 to DOE in two annual installments of $200,000.00 each, together with interest at the rate of 15.39 percent per annum, compounded quarterly, running from the Effective Date of this Consent Order. Each installment shall be paid on or before the end of the twelfth and twenty-fourth month following the Effective Date of this Consent Order. These monies shall be placed in a suitable account pending determination of proper distribution.

Issued in Washington, D.C., on the 14th day of August, 1980.

Robert Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

[FR Doc. 80-25311 Filed 8-19-80; 8:45am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95-621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204 (e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and a high cost gas incremental pricing threshold which are to be effective September 1, 1980. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, Federal Building, 12th and Pennsylvania, Ave., NW, Rm. 4121, Washington, D.C. 20461. (202) 633-9710.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollar per million Btu's
Alabama	2.62
Arizona	2.84
Arkansas	2.99
California	2.82
Colorado	2.69
Connecticut	3.07
Delaware	2.90
Florida	2.67
Georgia	2.62
Idaho	3.48
Illinois	2.56
Indiana	2.52
Iowa	2.43
Kansas	2.05
Kentucky	3.51
Louisiana	1.92
Maine	3.06
Maryland	2.86
Massachusetts	3.01
Michigan	2.92
Minnesota	2.50
Mississippi	2.68
Missouri	2.09
Montana	2.69
Nebraska	2.37
Nevada	2.97
New Hampshire	3.32
New Jersey	2.90
New Mexico	2.54
New York	2.84
North Carolina	3.12
North Dakota	2.80
Ohio	2.20
Oklahoma	2.55
Oregon	3.56
Pennsylvania	2.81
Rhode Island	3.45
South Carolina	2.84
South Dakota	3.39
Tennessee	2.85
Texas	2.79
Utah	2.69
Vermont	3.42
Virginia	2.59
Washington	3.01
West Virginia	2.87
Wisconsin	2.59
Wyoming	2.52

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during June 1980 was $33.03 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203 (a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective September 1, 1980, is $7.40 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 28, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 51, issued in the same docket on the same date, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1980.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1% sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of April 1980, May 1980 and June 1980.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings (1) Calculation of Volume-Weighted Average Price

The prices which will become effective September 1, 1980, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, April 1980, May 1980 and June 1980. Reported prices for sales in April 1980 were adjusted by the percent change in the nationwide volume-weighted average price from April to June 1980. Prices for May 1980 were similarly adjusted by the percent change in the nationwide volume-weighted average price from May to June 1980. The volume-weighted 3-month average of the adjusted April 1980 and May 1980, and the reported June 1980 prices were then computed for each State.

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

(2) *Adjustment for Price Variation*

States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Prices*

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted-average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The appropriate lag adjustment factor (as discussed in Section III.B.4.) was then applied to the alternative fuel ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment*

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending August 13, 1980, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of June 1980. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

C. Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	Region B
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	
Region C	**Region D**
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	
Region E	**Region F**
Iowa	Arkansas
Kansas	Louisisana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	
Region G	**Region H**
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, D.C., on August 18, 1980.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 80-25380 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL80-31]

Akutan, Alaska, City of; Declaration of Intention

August 12, 1980.

Take notice that on May 19, 1980, the City of Akutan filed a declaration of intention to construct and operate a hydroelectic facility on an unnamed stream near Akutan, Alaska. The declaration of intention was filed under § 23(b) of the Federal Power Act 16 U.S.C. § 817(b), and requests the Federal Energy Regulatory Commission to conduct an investigation to determine if a FERC license will be required for the project. Correspondence, with the application should be directed to Mr. Vincent McClelland, Project Coordinator, 301 East Firewood Lane, Anchorage, Alaska 99503.

The project would consist of: (1) an earthfill dam, 200 feet long and 30 feet high; (2) a 14-inch diameter penstock, 2000 feet long; (3) a powerhouse containing one generating unit with a rated capacity of 200 kW; and (4) a transmission line, approximately 1.5 miles long, extending from the powerhouse to Akutan.

Project power would be used in the City of Akutan.

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *September 29, 1980.* The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25254 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-298]

El Paso Electric Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Intervention, Granting Waiver and Establishing Procedures

Issued July 29, 1980.

On March 24, 1980 El Paso Electric

Company (El Paso) submitted for filing a

Project Description—The proposed

must conform with the requirements of

applications for Section 103

Company (El Paso) submitted for filing a rate schedule [1] providing for the sale by El Paso to Southern California Edison Company (Edison) of specified amounts of capacity and associated energy during specified months during the years 1980, 1981 and 1982. In addition, energy will also be made available as scheduled by Edison at any time during the contract term subject to the availability of gas-fired generation on El Paso's system. El Paso requests waiver of the notice requirements of Section 35.3 of the Commission's regulations and an effective date of March 24, 1980, the date on which sales of energy to Edison commenced.

On April 28, 1980, Rio Grande Electric Cooperative (Rio Grande) filed an untimely petition to intervene stating that it does not oppose the sale of capacity and energy to Edison. However, Rio Grande states that it has not had an opportunity to fully evaluate the terms and conditions of the sale to be assured they are not discriminatory. Therefore, Rio Grande opposes summary acceptance of the proposed conditions. Rio Grande further states that the sale of capacity off-system by El Paso raises questions about the continued viability of the load projections which apparently induced El Paso to undertake its heavy involvement in the Palo Verde Nuclear Project.[2]

Subsequently, Rio Grande and El Paso filed a joint motion for approval of the firm capacity agreement. In the joint motion, El Paso stipulates that (1) with respect to Rio Grande's concern that the off-system sale will increase fuel clause rates, fuel clause charges will not increase as a result of the sale, and (2) with respect to Rio Grande's concern that approval of the agreement might have precedential effect on pending rate cases, the acceptance of the agreement will not constitute precedential findings as to the terms and conditions contained in the agreement. Therefore, the parties urge acceptance of the filing and termination of the docket.

Discussion

The proposed monthly charge for the firm capacity is $4.80/KW of contract capacity. El Paso states that firm capacity is considered to be provided from system-wide resources and priced based on average system costs. The proposed charge for any energy scheduled for delivery to Edison is 115% of the system incremental energy cost [3] during the hour in which the energy is scheduled plus variable production operation and maintenance expenses. El Paso has used incremental cost pricing for energy associated with firm capacity supplied on a fully distributed average cost basis. This mix of incremental and fully costs may result in unreasonable rates, and we shall set this question for hearing.

El Paso has indicated in its transmittal letter that the agreement was negotiated as a means of reducing Edison's use of oil-fired generation. The company has also indicated that it does not object to collecting revenues under the agreement subject to refund pending a Commission decision in the docket. In light of these factors and Edison's agreement to the terms and conditions of the transaction including the commencement of energy sales as of March 24, 1980, we find there is good cause to grant the waiver of the notice requirements of § 35.3 of the Commission's regulations.

El Paso has indicated that there is a 15% adder to the rate for variable production operation and maintenance costs which is intended to recover the variable component of labor and materials required by generating facilities. This adder, which is set at 1.5 mills/KWh during 1980, is to be determined on an annual basis by the parties. Any change in this component of the energy charge must be timely filed with the Commission as a change in rate schedule under Section 35.13 of the Commission's Regulations together with appropriate cost support as required by that section.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, we shall accept El Paso's submittal for filing, to become effective, subject to refund, as of March 24, 1980.

The Commission orders: (A) The rates proposed by El Paso are hereby accepted for filing, to become effective, subject to refund, as of March 24, 1980.

(B) Petitioner Rio Grande is hereby permitted to intervene in this proceeding subject to the Commission's Rules and Regulations; *Provided however,* that participation by such intervenor shall be limited to the matters set forth in its petition to intervene and its motion for approval, filed jointly with El Paso; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Changes in the variable production operation and maintenance component of the energy charge must be filed as changes in rate schedule pursuant to Section 35.13 together with appropriate cost support.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferrred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, specifically Sections 205 and 206, and by the Commission's Rules of Practice and Procedures and the Regulations under the Federal Power Act (18 CFR Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of El Paso's proposed rates.

(E) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a prehearing conference in this proceeding, to be held within 30 days of the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24803 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[1] Designated as: *El Paso Electric Company*—Rate Schedule FERC No. 27.

[2] *See El Paso Electric Co.*, Opinion No. 85 (May 19, 1980).

[3] System incremental energy cost is defined in the agreement as the greater of (1) the product of El Paso's incremental heat rate and replacement fuel cost, or (2) El Paso's purchased energy cost, both expressed in Mills/KWh.

[Project No. 3224]

Gillette, Wyo., City of; Application for Preliminary Permit

August 12, 1980.

Take notice that the city of Gillette (Applicant) filed on June 23, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for proposed Project No. 3224 to be known as Keyhole Dam located on the Keyhole Reservoir in Crook County, Wyoming, near the town of Moorcraft. Correspondence with the Applicant should be directed to: Paul G. Schamp, P.O. Box 3003, Gillette, Wyoming 82716.

Project Description—The proposed project would consist of: (1) a proposed powerhouse containing two generating units, each rated at 450 kW; (2) a proposed 12-kV transmission line approximately 1.5 miles long; and (3) appurtenant facilities. The estimated annual output of the proposed project would be 4,000,000 kWh. Applicant would utilize an existing dam and reservoir owned by the U.S. Corps of Engineers. The Applicant's facilities would be located on private lands.

Purpose of Project—The city of Gillette would utilize the energy produced to meet the growth and demand upon its utilities.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary State and Federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 20, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 19, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended* 44 *FR* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended,* 44 *FR* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 20, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commision and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25255 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-142]

Kansas Joint Venture; Application for Adjustment

August 12, 1980.

Take notice that on May 13, 1980, Kansas Joint Venture (KJV), c/o John V. Black, Esquire, 306 South Oak, Pratt, Kansas, 67124, filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, *et seq.* KJV petitions for a modification to, exemption from, and/or exception to 18 CFR 273.204 of the Commission's regulations.

Specifically, KJV states that it is the operator of the Fatzer #1 Well, SW/4 NE/4 Section 5, T27N, R17W, Kiowa County, Kansas, and the Taylor #1 Well, NW¼ NE¼ Section 20, T27N, R17W, Edwards County, Kansas, and that the subject wells were put on production in June 1979. In the Fall of 1979, KJV alleges it commenced work on applications for Section 103 determinations which were subsequently filed on March 14, 1980, with the appropriate jurisdictional agency in Kansas. The purchaser of the gas is Panhandle Eastern Pipeline Company.

KJV is eligible to make interim collections of the Section 103 price from the date a notice was filed with this Commission under § 273.202. Upon receiving a final determination, KJV would be eligible for retroactive collections back to its original filing date for jurisdictional determination on March 14, 1980. However, KJV also requests waiver of the regulations in order to collect the Section 103 price as of the date of initial delivery from these wells. KJV asserts that the operation of § 273.204(a) of the Commission's regulations will prevent collection of the difference between the Section 103 rate and the contract price ($1.66/MCF) between June 1979 and March 14, 1980, and would result in an unfair distribution of burdens and special hardships to it.

KJV contends that relief should be granted because it is a small company, lacking the staff of its larger competitors and hence at a disadvantage in keeping abreast of FERC regulations and filing requirements.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR 1.41(e). All petitions to intervene must be filed on or before September 4, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25256 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER 80-582]

Pacific Gas & Electric Co.; Filing

August 12, 1980.

The filing Company submits the following:

Take notice that on August, 1, 1980 Pacific Gas and Electric Company (PG&E) submitted for filing a Notice of Cancellation of PG&E's Rate Schedule F.P.C. No. 21 applicable only to the City of Redding, California. The Rate Schedule expired by its own terms on April 1, 1971.

A copy of this filing has been served upon Redding, California and the California Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before September 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25257 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Projects Nos. 3105 and 3106]

Power Authority of the State of New York; Granting Interventions

August 12, 1980.

The City of New York, New York, the Town of Olive, New York, and New York State Assemblyman Maurice D. Hinchey have petitioned to intervene in the proceeding involving the application of the Power Authority of the State of New York (PASNY) for an exemption from licensing for its proposed Ashokan Project, FERC Project No. 3105. Additionally, the City of New York has petitioned to intervene in the proceeding involving PASNY's application for an exemption from licensing for its proposed Kensico Project, FERC Project No. 3106.

The Ashokan Project would utilize New York City's water supply facilities, and would be located in the Town of Olive and in Maurice Hinchey's Assembly District. The Kensico Project would also utilize New York City's water supply facilities. Thus, each petitioner has an interest in the proceeding(s) in which intervention is sought.

The City of New York supports the grant of exemptions for both projects, provided such action does not impair its rights as owner of certain of the projects' facilities or as consumer of the projects' power. The Town of Olive and Assemblyman Hinchey opposed the grant of an exemption for the Ashokan Project at the time they petitioned to intervene; they now support the exemption.

Pursuant to § 375.302 of the Commission's regulations, 45 FR 21216 (1980), *amending* 18 CFR 3.5(a) (1979), the Petitioners are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. Participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene. The admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25256 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3239]

Puget Sound Power & Light Co.; Application for Preliminary Permit

August 12, 1980.

Take notice that Puget Sound Power & Light Company (Applicant) filed on July 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3239 to be known as Sandy Creek Project located on the Sandy, Rocky, Sulphur, and Dillard Creeks in Whatcom County, Washington. The Project would occupy lands of the United States within the Mount Baker-Snoqualmie National Forest. Correspondence with the Applicant should be directed to: Mr. David H. Knight, Vice President—Power Supply, Puget Sound Power & Light Company, Puget Power Building, Bellevue, Washington 98009.

Project Description.—Applicant proposes to divert water from four creeks—Sandy, Rocky, Sulphur, and Dillard—into a single powerhouse. The proposed project would consist of: (a) four 25-foot high concrete arch or gravity diversion dams; (b) approximately 17,800 feet of low pressure pipeline (diameter range: 36–80 inches); (c) a 48-inch diameter, 4,800-foot long penstock; (d) a concrete powerhouse with a total rated capacity of 8,900 kW, located on the south bank of Sandy Creek at a point approximately 1⅛ miles east of Baker Lake; and (e) a 2.9-mile long, 12.5-kV transmission line connecting the powerhouse to the Applicant's existing Upper Baker Development (FERC Project No. 2150) substation, south of the powerhouse.

Purpose of Project.—Project power would be integrated into the Applicant's existing transmission and distribution network.

Proposed Scope and Cost of Studies Under Permit.—Applicant has requested an 18-month preliminary permit to prepare a project report, including preliminary designs, and results of geological, hydrological, environmental and economic feasibility studies. Applicant has indicated that: (a) no new roads would be required for conducting the studies; (b) an existing stilling pipe and equipment platform would be used for reestablishment of the gaging station on Sulphur Creek; (c) test borings would be done in areas which are clear of vegetation, boring holes would be backfilled, and the ground surface reconditioned to the extent possible.

The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Forest Service and other Federal, State, and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $500,000.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—This application was filed as a competing application to the Rocky Creek Water Power Project No. 3018 on Rocky and Sulphur Creeks in Whatcom County, under 18 CFR 4.33 *as amended*, 44 FR 61328 (October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procdures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 29, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25259 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RI80-12]

Eldon Walker, et al.; Petition

August 12, 1980.

In the matter of Eldon Walker, Henrietta Walker, Earl Walker, W. A. Robinson, and Jalmer Berg, Petitioners, v. Michigan Wisconsin Pipe Line Company, Defendant.

Take notice that on July 15, 1980, Eldon Walker, Henrietta Walker, Earl Walker, W. A. Robinson, and Jalmer Berg filed a petition with the FERC against Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), alleging: that in 1961 petitioners drilled and completed the Galbreath No. 1 well in Section 14, Township 27 North, Range 25 West, Harper County, Oklahoma, and sold the gas therefrom to Michigan Wisconsin under three contracts they assumed from others in connection with acquisition of the leases involved, and under a fourth contract they entered into with Michigan-Wisconsin directly; that Michigan Wisconsin misrepresented the expiration dates of three of these contracts to petitioners, causing them to believe they were not eligible to be replaced by rollover contracts, when in fact they were eligible; and that petitioners, after learning of the correct expiration dates, requested Michigan Wisconsin to execute rollover contracts for these three expired contracts effective as of their expiration dates, but that Michigan Wisconsin refuses to do so. Petitioners charged Michigan Wisconsin with a failure to bargain in good faith.

Petitioners request that the Commission order Michigan Wisconsin to enter into the contracts with them which they believe themselves to be entitled; that the Commission waive the requirement of Opinion No. 699–H that a rollover contract must be executed before a rollover rate can be granted; or, in the alternative, that they be granted immediate abandonment. For protective purposes, petitioners request that their filing be treated as a notice of unilateral change in price pursuant to Opinion No. 699–H, effective on the dates of expiration of the three above-mentioned contracts. They also request that, during the pendency of this proceeding, they be allowed to shut in their well or be granted a protective order restoring their sales volumes to them.

Any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on-file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25260 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2545]

Washington Water Power Co.; Application for Amendment of a Major License

August 12, 1980.

Take notice that on March 3, 1980, the Washington Water Power Company of Spokane, Washington (Applicant), filed an application for an amendment of a major license with the Federal Energy Regulatory Commission [pursuant to the Federal Power Act, 16 U.S.C., Sections 791(a)—825(r)] to include the constructed Post Falls hydroelectric development in the license for project No. 2545. The Post Falls development is located on the Spokane River in the counties of Kootenai and Benewah, Idaho. Correspondence concerning the application should be sent to: Mr. J. P. Buckley, Vice President and Secretary, P.O. Box 3727, Spokane, Washington; and Mr. Alan P. O'Kelly, 1400 Washington Trust Financial Center, Spokane, Washington 99204.

The constructed Post Falls Development consists of: 1) the 48,000-acre Coeur D'Alene Lake with a useable storage capacity of 223,100 acre-feet; 2) the 431-foot long and 31-foot high spillway dam across the north channel, consisting of piers, one rolling sector gate, and eight Taintor gates; 3) the 127-foot long and 25-foot high concrete gravity spillway dam across the south channel containing six wooden sluice gates; 4) the 215-foot long and 64-foot high concrete gravity powerhouse dam containing six gates and forming the east wall of the powerhouse; 5) five 56-foot long and 11.3-foot diameter steel penstocks and one penstock which is stubbed off for a sixth unit; 6) the 175-foot long and 62-foot wide brick powerhouse containing five generating units, each rated at 2250 kW; 7) a 16,000–KVA 2.4/115–kV step-up transformer and a 4667–KVA 2.4/115–kV step-up transformer; and appurtenant facilities.

Applicant proposes to install an additional sixth generating unit, rated at 350 kW, in the existing powerhouse at a cost of $1,050,000. Further, Applicant, jointly with the City of Post Falls, proposes to expand, on Company-owned land, the existing South City Park. Project power would be integrated into the Applicants's interconnected transmission and distribution system.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be hard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the Requirements of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person

---

must file a petition to intervene in

impossible to estimate the increase in

ADDRESSES: The Commonwealth's

and did so. EPA reviewed this

Agency was particularly interested in

The Commonwealth has certified that

must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before September 29, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25261 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-586]

West Penn Power Co. and Duquesne Light Co.; Filing

August 12, 1980.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (APSC) on August 4, 1980 tendered for filing on behalf of (West Penn), one of the electric utilities which make up the integrated Allegheny Power System, and Duquesne Light Company (Duquesne), Amendment No. 9 to the Interchange Agreement dated February 1, 1968, between West Penn and Duquesne designated West Penn Rate Schedule FPC No. 24 and Duquesne Rate Schedule FPC No. 9.

Amendment No. 9: (1) provides for an increase in the demand charge for Short Term power from $0.70 to $0.85 per kilowatt-week and increase in the charge for Short Term power obtained by the supplying party from another system from $0.24 per kilowatt-week; (2) as required by the Commission in Rule 35.23 (f), places a $0.001 per kilowatt-hour cap on the adder to the out-of-pocket costs of providing energy coming from a third party sold under the Short Term and schedules; (3) places demand charges on emergency Service energy which comes from third party of $0.0017 per kilowatt-hour when supplied by Allegheny Power System companies and $0.0016 per kilowatt-hour when supplied by Duquesne; (4) increases the mimimum charge for energy sold under the Emergency Service schedule generated by the supplying party's own system to $0.03 per kilowatt-hour; and (5) places a $0.002 per kilowatt-hour cap on the adders to the out-of-pocket costs of energy supplied by Allegheny Power System companies under the Emergency Service and Short Term schedules. Applicants state that since Short Term and Limited Term power transactions will be scheduled from time to time as load and capacity conditions on the systems of the parties dictate it is impossible to estimate the increase in revenues which would result from Amendment No. 9.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protest should be filed on or before September 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25262 Filed 8-19-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1578-6]

Commonwealth of Virginia, Marine Sanitation Device Standard; Receipt of Supplemental Information in Support of Petition

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt of supplemental information and solicitation of public comment.

SUMMARY: In 1979, the Commonwealth of Virginia petitioned the Environmental Protection Agency (the Agency) for a determination under section 312(f)(3) of the Clean Water Act that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for a specified portion of the Rappahannock River. The Agency has recently received supplemental information from the Commonwealth. This notice summarizes that information and solicits public comment on the Commonwealth's petition, as supplemented. The Agency has also solicited further information from the Commonwealth, which will be made available for public comment when it is received.

DATES: The Agency will accept public comments on the petition October 6, 1980. The Agency has requested the Commonwealth to provide additional information by September 1, 1980.

ADDRESSES: The Commonwealth's submissions and previous public comments are available for inspection and copying at the Agency's Public Docket Room, Library, Room 2404, 401 M Street, SW., Washingtn, D.C. 20460. Comments should be addressed to Joseph A. Krivak, Director, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the Commonwealth's submissions contact Joseph A. Krivak at the above address or by telephone: (202) 755-0100.

SUPPLEMENTARY INFORMATION: On November 26, 1979, the Environmental Protection Agency (the Agency), published notice that the Commonwealth of Virginia had petitioned it to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Rappahannock River from its mouth (determined by a line between Windmill Point and Stingray Point) upstream to the Thomas Downing Bridge at Tappahannock, and including all creeks, coves, and estuaries within the specific area (44 FR 67524). The petition area is bordered by four counties: Middlesex, Lancaster, Richmond and Essex. This petition was filed pursuant to section 312(f)(3) of the Clean Water Act, 33 U.S.C. 1322. Under section 312, if the Agency makes an affirmative determination on this petition, the Commonwealth of Virginia may designate the specified waters as "no discharge" waters.

Section 312(f)(3) states that:

> After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such probition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessles are reasonably available for such water to which such prohibition would apply.

On March 11, 1980 (45 FR 15648), after receiving public comment on the Commonwealth's petition, the Agency published its determination that there were major deficiencies in the petition and that it was unable to make the finding required by section 312(f)(3). The Commonwealth was invited to submit additional information by April 10, 1980 and did so. EPA reviewed this information and in an April 30, 1980 letter to the Commonwealth requested clarification concerning the Commonwealth's additional information. EPA indicated that a response was required before the Agency could publish a notice of receipt of the Commonwealth's additional information. The letter indicated that the Agency was particularly interested in capacities of the facilities to handle high volumes of sewage and in the construction and operation of the equipment at each facility. The Commonwealth responsed on June 4, 1980. This notice invites public comment on the Commonwealth's original petition, as modified by its submissions on April 9 and June 4.

The Commonwealth has certified that there are eleven pumpout facilities within the area covered by the petition and a twelfth (Ruark's Boat Yard and Marina) on the north shore of the Piankatank River. The twelve pumpout facilities identified by the Commonwealth are shown in Table 1. Additional information pertaining to these facilities is shown in Table 2.

Table 1.—*With Modified Information, Submitted Apr. 9, 1980 and June 4, 1980*

Name of marina	Geographic location	Nautical miles from mouth of river	Operating hours	Days per week
Walden Bros. Marina	Broad Creek in Middlesex County.	1.9	April 1 to October 30, 8 a.m. to 5 p.m. November 1 to March 31, 8 a.m. to 5 p.m.	5 (closed Saturday and Sunday).
Miller's Marine Railway	Broad Creek in Middlesex County.	1.9	January 1 to December 31, 8 a.m. to 4:30 p.m.	5 (closed Saturday and Sunday).
Dozier's Dockyard Marina	Broad Creek in Middlesex County.	1.9	April 1 to October 31, 9 a.m. to 4:30 p.m.	6 (closed Tuesday).
Montgomery and Wilson Marine Railway	Broad Creek in Middlesex County.	2.0	April 1 to December 1, Monday to Friday 8 a.m. to 5 p.m.; Saturday 8 a.m. to 12:30 p.m.	5½ (closed Saturday afternoons and Sunday).
Norton's Marina	Broad Creek in Middlesex County.	2.0	April 1 to November 30, 8 a.m. to 4:30 p.m.	6 (closed Sunday).
Rappahannock Yachts	Carter Creek in Lancaster County.	9.2	January 1 to December 1, 8 a.m. to 5 p.m.	7.
Regent Point Marina	Locklies Creek in Middlesex County.	9.3	April 1 to October 31, 10 a.m. to 6 p.m. November 1 to March 31, 10 a.m. to 5 p.m.	7. 2 (open Saturday and Sunday).
Tides Lodge Marina	Carter Creek in Lancaster County.	11.0	March 15 to November 28, 8 a.m. to 6 p.m.	7.
Yankee Point Sailboat Marina	Myers Creek in Lancaster County.	14.5	March 1 to October 31, 9 a.m. to 5 p.m.	7.
Urbanna Marine Corp Marina	Urbanna Creek in Middlesex County.	15.8	January 15 to December 1, 8 a.m. to 5 p.m.	6 (closed Sunday).
Garrett's Marina	On the south shore of the Rappahannock River in Essex County.	29.3	May 1 to October 31, 8 a.m. to 5 p.m.. November 1 to April 30, 7:30 a.m. to 4 p.m.	6 (closed Sunday). 5 (closed Saturday and Sunday).
Ruark's Boat Yard and Marina	On the north shore of the Piankatank River in Middlesex County.	9.0	April 15 to November 1, 9 a.m. to 4 p.m.	5 (closed Saturday and Sunday).

Table 2.—*With Modified Information, Submitted Apr. 9, 1980, and June 4, 1980*

Name of marina	Available minimum water depth at mean low water (feet)	Method of disposal of collected sanitary wastes	Number of vessels moored at Marina	Number of transient vessels serviced
Walden Bros. Marina	6	a	53	1 during season.
Miller's Marine Railway	8	a	8	15 per month; most vessels served are commercial.
Dozier's Dockyard Marina	3	d	30	3 per week.
Montgomery and Wilson Marine Railway	4	a	16	3 per year.
Norton's Marina	(1)	a	38	2 or 3 per month during season.
Rappahannock Yachts Marina	6	a	25	0 (does not have slips for transient vessels).
Regent Point Marina	6	d	8	1 per month during season.
Tides Lodge Marina	6	b	29	Less than 15 during 1979 boating season.
Yankee Point Sailboat Marina	6	d	55	3 per week.
Urbanna Marine Corp. Marina	6	c	80	20 per week.[2]
Garrett's Marina	7	a	34	Less than 2 vessels per year.
Ruark's Boat Yard and Marina	8	d	45	1 per week.

[1] No information provided.

[2] Urbanna Marine Corp. sponsors weekend boating events; many of these vessels are trailered to the marina for these events.

a. Sanitary wastes pumped to septic tank, contents to be removed by septic tank contractor.

b. Sanitary wastes pumped to raw sewage pump station which discharges to Tides Golf Lodge Sewage treatment plant, NPDES permit No. VA0029343.

c. Sanitary wastes pumped into Town of Urbanna sewages system, NPDES permit No. VA0026263.

d. Sanitary wastes pumped to holding tank; contents of tank removed by septic tank contractor.

V 45 AUG 20 80 UMI

In addition, the Commonwealth has certified that there are an estimated 2298 vessel slips at marinas and other places where vessels are moored in the area covered by the petition and that all marina slips are filled to capacity year-round. On April 9, 1980, the Commonwealth stated that the estimate of 2298 boats was only an estimate of boats moored at marinas in the area and did not include all boats moored and stored at private locations in the area.

The Commonwealth has secured from the Virginia Commission of Game and Inland Fisheries (GIFC—the agency in Virginia charged with the responsibility of registering boats) a list of all boats registered in the four counties bordering the petition area. This list shows Lancaster County with 2424 boats registered, Middlesex County with 3313, Richmond, County with 702, and Essex County with 1076, for a total of 7515. In the case of Lancaster and Middlesex Counties, the number of boats includes numerous boats located in waters not included in the petition area, e.g., in the Piankatank River and other waters feeding directly into the Chesapeake Bay. The Commonwealth has no figures on how many boats are moored within the two counties but registered elsewhere. In order to estimate the number of boats moored in the area under petition, the Commonwealth has assumed that boats registered outside of these four counties but moored in waters under petition are approximately equal in number to boats registered in the four counties but moored outside of the waters under petition.

The Commonwealth has also certified the number of vessels over 20 feet in length and having a cabin. Lancaster had 417, Richmond had 49, Middlesex had 1011, and Essex had 74 for a Total of 1551. Of these 1551 boats, 1496 were classified as used for pleasure boating. Thus, a probable maximum total of approximately 1500 boats moored in the petition area could be equipped with marine toilets eventually. Best Commonwealth estimates show that 11.4% of the registered boats in Virginia have marine toilets. Applying this figure (11.4%) to the total number of boats registered in the petition area (7515), a total of only 857 boats would have marine toilets. Therefore, in the Commonwealth's opinion, this figure of 1500 watercraft with a marine toilet capability within the area under petition appears to be reasonable.

The Commonwealth has certified that the cost of a pumpout at four of the eleven marinas is five dollars ($5.00); Garrett's Marina and Montgomery and Wilson Marine Railway have increased the charge to ten dollars ($10.00). Costs of pumpout at the remaining five pumpout facilities has not been provided.

On March 11, 1980, the Agency noted that five commenters stated that there are no pumpout facilities at any of the numerous public boat ramps or dockages owned and/or operated by the Commonwealth. The Commonwealth did not dispute these statements. In the Commonwealth's opinion, the presence or absence or pumpout facilities at public boat ramps or dockages owned and/or operated by the Commonwealth is irrelevant to the granting or denial of this petition. The Commonwealth stated that representatives from the Virginia State Health Department recently visited all of the publicly-owned boat ramps within the area under petition, and with the exception of one, all were found to have such water depths that boats with flow-through marine toilets or holding tanks could not have been launched or could have been launched only with a great deal of difficulty. In the Commonwealth's opinion, there is little need to provide pumpout facilities at publicly-owned boat ramps. No further information was provided by the Commonwealth on the one exceptional boat ramp.

The Commonwealth has submitted certified inspections of the eleven pumpout facilities within the area covered by the petition that are fully and completely operational as follows:

(a) The Commonwealth has certified that the pumpout facility at Regent Point Marina consists of a 5-gallon plastic drum with a vented top, and a diaphragm hand pump capable of pumping sewage. A 5-foot length of 1½-inch O.D. (outside diameter) wire-inserted hose is attached to the suction side of the pump. A right-angle nozzle is attached to the end of the suction hose. The discharge line, a 1½-foot length of 1½-inch O.D. hose, is securely attached to the top of the 5-gallon drum and to the pump. The entire unit must be carried on board the vessel; the contents of the holding tanks are then pumped into the five-gallon drum. The collected waste is hand-carried approximately 300 feet to a 2000-gallon holding tank. The waste is then drained through a hose into the holding tank. A plastic, 6-inch diameter access port provides entrance to the holding tank, which is serviced by a septic tank contractor. The Commonwealth states that the owner prefers using a 5-gallon tank because he can carry it on board the sailboats rather than setting a large tank on his dock; he also can operate the unit alone. In the Commonwealth's opinion, a 5-gallon drum is adequate for this particular marina.

(b) The Commonwealth has certified that the pumpout facility at Tides Lodge Marina consists of a dock-mounted, electric ¾ HP motor with an attached, self-priming, impeller pump. The 10-foot suction line is a flexible 1½-O.D. wire-inserted hose with a right-angle nozzle. The discharge line is a 25 foot length of 1½-inch O.D. plastic pipe and leads to an ejector pump station. The contents are pumped from this station to another ejector pump station approximately 400 feet away. This station pumps about 0.25 mile to the Tides Lodge extended aeration package sewage treatment plant. In addition, the second pump station is backed up by three 1000-gallon holding tanks to insure against pump station failure.

(c) The Commonwealth has certified that the pumpout facility at Rappahannock Yachts is a 15-gallon plastic rectangular tank with dual handles attached at each end. Sewage is removed by a diaphragm hand pump. Approximately 10 feet of 1½-inch O.D. wire-inserted suction line and 2 feet of 1½-O.D. wire-inserted discharge lines are attached to the pump. A right-angle nozzle is installed at the end of the suction line and the unit must be carried out on the dock. The tank is hand-carried by two men approximately 120 feet and drained through a 2-foot length of 1¼-inch O.D. line into the owner's septic tank, which is serviced by a septic tank contractor.

(d) The Commonwealth has certified that the pumpout facilities at Yankee Point Sailboat Marina consist of a dock mounted, electric ¼ HP motor with an impeller pump. The 5-foot suction and 6-foot discharge hose are made up of 1½-inch O.D. wire-inserted hose and there is a right-angle nozzle attached to the end of the suction hose. Sewage is pumped approximately 200 feet to a 1000-gallon holding tank. Contents of the tank will be removed by a septic tank hauler.

(e) The Commonwealth has certified that the pumpout facility at Urbanna Marine Corporation Marina consists of a portable centrifugal pump with a gas engine to pump sewage from the boat to a 1000-gallon holding tank. The holding tank is then pumped into the Town of Urbanna's sewage treatment plant. The pump is hand carried out on the docks and then the suction and discharge 1½-inch O.D. lines are attached to the pump. A right-angle nozzle is attached to the end of the suction line.

(f) The Commonwealth has certified that the pumpout facility at Garrett's Marina consists of a 55-gallon steel drum mounted sidewise on a two-wheel trailer. An electric motor with a ¾-inch impeller pump is mounted on the trailer next to the drum. Twenty feet of 1½-inch O.D. wire-inserted suction hose and 2 feet of 1½-inch O.D. rubber discharge hose are attached to the pump. Boats are pumped out at a single dockside location. After servicing the boat(s), the trailer-mounted unit is towed by a tractor approximately ⅛ mile to one of four septic tanks located at the owner's private residence. Contents of the 55-gallon drum are then drained into one of the tanks through 20 feet of 1½-inch O.D. discharge line. A gate valve is provided on the pump discharge line into the 55-gallon drum to provide access for flush water or disinfectant.

(g) The Commonwealth has certified that the pumpout unit at Dozier's Dockyard Marina consists of a 22-gallon steel drum with a diaphragm-type hand pump mounted on the drum. One 10-foot length of 1½-inch O.D. non-kink hose is used for the suction line with a right-angle nozzle. The discharge line is a 1½-foot length of 1½-inch O.D. wire inserted hose, and the contents are emptied through a 1½-inch O.D. brass swing valve. The drum is securely mounted on a two-wheeled cart and then wheeled to a vessel moored at the dock. Wastes are then pumped from the boat and wheeled approximately 150 feet to the owner's 1,000-gallon holding tank. The drum is drained through a 2-foot length of 1½-inch O.D. hose through an access port to the holding tank, which will be serviced by a septic tank contractor.

(h) The Commonwealth has certified that the pumpout facility at Miller's Marine Railway consists of a 22-gallon plastic "travel-along" tank (as used in the recreational vehicle industry). It is attached by metal straps to a two-wheeled dolly and a diaphragm hand pump, and is capable of pumping sewage through a 2-foot length of 1½-inch O.D. wire-inserted discharge hose. The suction line is a 5-foot length of 1½-inch O.D. wire-inserted, flexible hose. The collected wastes are wheeled approximately 150 feet and emptied into a 1000-gallon septic tank. Access to the septic tank is through a 6-inch diameter VC pipe. Miller's Marine Railway tank will be serviced by a septic tank hauler.

(i) The Commonwealth has certified that the pumpout facility at Norton's Marina consists of a vented 55-gallon steel drum mounted on its side to a four-wheeled cart. A 1½ HP electric motor drives a 1¼-inch impeller pump. An 8-foot length of a 1½-inch O.D. wire-inserted, plastic suction hose with a right-angle nozzle is attached to the pump. The discharge hose is a 2-foot length of 1½-inch diameter cast iron pipe; it discharges into the top of the drum. The tank is hand pulled approximately 100 feet and drained through a 2-inch I.D. gate valve into a 6-inch diameter ABS plastic line into the owner's septic tank, which will be serviced by a septic tank contractor.

(j) The Commonwealth has certified that the pumpout facility at Walden Brothers' Marina consists of a 55-gallon steel drum mounted on its side on a four-wheeled wagon. A dockside pumpout unit (consisting of a ¾ HP electric motor impeller pump with a 10-foot wire-inserted, plastic suction hose, a right-angle nozzle, and an automatic shut-off vacuum switch) removes the sewage from boats. Discharge to the wagon mounted drum is through a 1-inch I.D. plastic hose. The drum is wheeled approximately 150 feet and drained into the Walden Brothers' Marina septic tank.

(k) The Commonwealth has certified that the pumpout facility at Montgomery and Wilson Marine Railway consists of a 30-gallon galvanized steel tank mounted sidewise on a two-wheel cart. A hand-operated diaphragm pump with six feet of 1½-inch I.D. suction line and eight feet of 1½-inch discharge line is attached. A right-angle nozzle is attached to the end of the suction line. The tank is wheeled approximately 150 feet and emptied into the Montgomery and Wilson Marine Railway 1000-gallon septic tank.

For facilities using septic tanks and holding tanks, the Commonwealth has certified that these tanks will be emptied by local septic tank contractors.

Finally, the Commonwealth presented a sampling of data from conversations with boat owners and marina operators in the State of Michigan during the Year 1973. The Commonwealth stated that Michigan boat owners reported that they usually pumped out their holding tanks (10 to 20 gallon capacity) two or three times per season; marina operators reported that the average time to pump out and flush a 10-gallon holding tank ranged from 5 minutes with a one-horsepower pump to 15 minutes with a hand pump; and operating reports suggested that peak pumpout demand would be about 10 vessels per day for a marina with 100 slips. The Commonwealth also stated that the owners of Rappahannock Yachts and Regent Point Marina estimated that it takes them about 30 minutes to move a pumpout unit to dockside, pump out an on-board holding tank, and transport the wastes to an on-shore septic tank. The Commonwealth then estimated the following times for various activities required in pumping out a holding tank:

	Minutes
(1) Time to moor vessel and/or bring pump-out unit to dock	5–15
(2) Time to remove contents	2–10
(3) Time to flush out tank	2–10
(4) Time to transport portable tank to on-shore holding tank, empty contents, and return	5–15
Total time	14–50
Average time	32

Upon examination of all the information submitted so far by the Commonwealth, the Agency has found that there are still deficiencies in the information. Many are similar in character to those listed in the Agency's March 11, notice.

(1) Some of the pumpout facilities on which the Commonwealth relies are not operational. The Commonwealth has certified that the Norview Marina had not yet installed a pumpout facility as of April 9, 1980. The Commonwealth also stated that the previously existing pumpout at the Urbanna Bridge Marina had been damaged by an automobile and had not been replaced. On June 4, 1980 the Commonwealth stated that the pumpout facility at the Urbanna Bridge Marina was not fully and completely operational as of April 9, 1980.

In addition, the Commonwealth's petition of April 9, 1980, stated that Windmill Point Marina, Southside Marine Service, Inc., and Whelan's Marina and Campground will install pumpout facilities and that these facilities will be operational during the 1980 boating season. To the best of the Agency's knowledge, these three facilities are still not operational. Until certified by the Commonwealth to be fully and completely operational, no pumpout facility can be considered in any determination pursuant to section 312(f)(3) of the Clean Water Act.

(2) The Commonwealth has stated in inspection reports that several certified pumpout facilities (Yankee Point Sailboat Marina, Tides Lodge Marina, Walden Brothers' Marina, and Norton's Marina) will not service transient vessels. This appears to conflict with the data provided by the Commonwealth

and summarized in Table 2, and suggests that all transient traffice must be serviced at other marinas.

In addition, the Commonwealth has certifed that Norton's Marina moored 38 vessels; however, the minimum water depth at mean low water was not provided by the Commonwealth. A signed, sworn, and notarized statement submitted on behalf of the owner of Norton's Marina reveals that there were 78 vessels moored and that the available minimum water depth at mean low water was 9 feet. The Commonwealth has certified that the available minimum water depth at mean low water for Montgomery and Wilson Marine Railway was 4 feet and that there were 16 vessels moored at the Marina. A signed, sworn, and notarized statement submitted on behalf of the owner reveals that the available minimum water depth at mean low water was 6 feet and that there were 53 vessels moored at the Marine Railway.

(3) The Commonwealth has acknowledged that there are no pumpout facilities within the area covered by the petition to serve the grain barges and tugs that load at the grain-storage facility owned by Perdue, Inc., at Tappanhannock, Virginia, which is within the area covered by the petition. This facility has a storage capacity of 2,150,000 bushels of beans, corn, wheat, and barley. The Commonwealth states that about 40 barge-loads are shipped from the facility each year. The facility is serviced by one tugboat with a draft of 9½ feet when fully fueled, and two barges with a draft of 10½ feet when loaded. Only one barge is used per trip. In the fall of 1979, approximately 45 to 50 loaded barges were shipped down the Rappahannock River from the Perdue, Inc. facility at Tappahannock.

The Commonwealth has certified that the tugboat is equipped with a Model M–50, Type II Microphor MSD. This is a five-man unit fitted with sump tank (effluent retention tank) and discharge pump. The barges have no sanitary facilities. On rare occasions, Perdue, Inc. of Tappahannock consigns several loads of grain to Cargill, Inc. of Chesapeake, Virginia. These grain consignments are barge-loaded at Tappahannock and transported by the Allied Towing Company of Norfolk. All Allied tugboats operating out of Norfolk are equipped with Type II Microphor MSD's.

The Commonwealth has stated that if its petition is granted, tugboats operating at Perdue, Inc. will have to "secure" the marine toilet while operating in the no discharge area. Apparently, the Commonwealth expects that these tugboats will not have any functioning toilet facilities for their crews while in the no discharge area. Section 312, however, requires that pumpout facilities be reasonably available for all vessels. The Commonwealth does not state why it believes that this would not require denial of the petition.

On the other hand, Virginia has described the tugboat that normally services Perdue, Inc. as having both a Type II MSD and an effluent retention tank and discharge pump. If the tugboat were capable of retaining its sewage or treated effluent for a period of time and then discharging treated effluent, it might not require a pumpout facility in the area described in the petition.

(4) The Commonwealth acknowledges that Ruark's Boat Yard and Marina is 9 nautical miles beyond the mouth of the Rappahannock River, and thus 9 nautical miles from the area covered by the petition. This is a significant distance; the Agency stated on March 11, 1980 that the facility is not "reasonably available" to the area covered by the petition. The Commonwealth has provided no additional justification for its consideration with the petition.

(5) Finally for all facilities, the Commonwealth has stated that, in its opinion, the facilities are adequate for the peak usage expected at the facility. However, the Commonwealth provides scant analysis on which it might have based its opinion. The Agency must reach its own decision on the adequacy and availability of facilities, on the basis of information submitted.

The agency has requested the Commonwealth to submit further information by September 1, 1980 addressing the questions raised above, other questions raised in the public comments, and detailed calculations of the likely demands on and capacity of the 11 pumpout facilities. The Commonwealth's submittal will be made available for public inspection and comment. If the Commonwealth's clarification does not demonstrate that adequate facilities are reasonably available for the safe and sanitary removal and treatment of sewage from all vessels, the Agency will deny the Commonwealth's petition on its merits.

Dated: August 14, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-25302 Filed 8-19-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 80-506, File No. 014155-IB-40 and PR Docket No. 80-507, File No. 014176-IB-40**]**

Bob Bobbitt Co., Inc., and Porter Lighting Fixture Co., Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: August 12, 1980.

Released: August 18, 1980.

In re Applications of Bob Bobbitt Co., Inc., 15800 Addison Road, P.O. Box 141, Addison, Texas 75248, and Porter Lighting Fixture Co., Inc., 12331 North Central Expressway, Dallas, Texas 75243, For Authorizations for New Facilities in the Business Radio Service.

By the Chief, Private Radio Bureau.

1. The Chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned applications of Bob Bobbitt Co., Inc. (Bobbitt) and Porter Lighting Fixture Co., Inc. (Porter) for authorization of new facilities in the Business Radio Service. Bobbitt's application, initially filed April 9, 1980, was returned as defective May 16, 1980. It was resubmitted June 3, 1980. Porter's application, also initially filed April 9, 1980, was returned as defective May 20, 1980. It, too, was resubmitted June 3, 1980. Also before the Bureau is information concerning an investigation conducted by the Dallas, Texas District Office of the Commission's Field Operations Bureau into unlicensed operation by Bobbitt and Porter of the radio facilities proposed in their respective applications.

2. Bobbitt and Porter each seeks authorization of 800 MHz band conventional control and mobile stations to operate in conjunction with Specialized Mobile Relay Station WYQ504 licensed to Benjamin L. Farris d/b/a Golden Circle Communications in Richardson, Texas. It appears from the Dallas office's investigation that on or about March 31–April 1, 1980, Farris furnished radio equipment to both Bobbitt and Porter and permitted them to operate that equipment through Farris' Station WYQ504. It also appears that both Bobbitt and Porter operated the radio equipment provided to them by Farris until April 9, 1980, the date when the Dallas office commenced its investigation and when the applications were first received at the Commission.

3. The information before the Bureau concerning the unlicensed operation by Bobbitt and Porter raises serious questions as to whether Bobbitt or Porter possess the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorization which each here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-referenced applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for hearing.

4. Accordingly, it is ordered, that in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Bob Bobbitt Co., Inc., File No. 014155–IB–40**, and Porter Lighting Fixture Co., Inc., File No. 014176–IB–40**, for authorization of new facilities in the Business Radio Service are, pursuant to authority delegated in Sections 0.131(a) and 0.331 of the Commission's Rules, designated for a hearing in a consolidated proceeding, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Bob Bobbitt Co., Inc. operated radio facilities in the Business Radio Service which were not licensed to it.

(b) To determine whether Porter Lighting Fixture Co., Inc. operated radio facilities in the Business Radio Service which were not licensed to it.

(c) To determine whether any unlicensed operation by Bob Bobbitt Co., Inc. was knowing or willful or negligent.

(d) To determine whether any unlicensed operation by Porter Lighting Fixture Co., Inc. was knowing or willful or negligent.

(e) To determine, in light of the evidence adduced pursuant to issues (a) and (c) hereinabove, whether Bob Bobbitt Co., Inc. possesses the requisite character qualifications to receive a grant of its application which is in part the subject of this proceeding.

(f) To determine, in light of the evidence adduced pursuant to issues (b) and (d) hereinabove, whether Porter Lighting Fixture Co., Inc. possesses the requisite character qualifications to receive a grant of its application which is in part the subject of this proceeding.

(g) To determine, in light of the evidence adduced pursuant to issues (a) and (c) hereinabove, whether Bob Bobbitt Co., Inc. has exhibited such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorization which it is here seeking.

(h) To determine, in light of the evidence adduced pursuant to issues (b) and (d) hereinabove, whether Porter Lighting Fixture Co., Inc. has exhibited such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorization which it is here seeking.

(i) To determine, in light of the evidence adduced pursuant to issues (a), (c), (e) and (g) hereinabove, what disposition of the above-captioned application of Bob Bobbitt Co., Inc. will best serve the public interest, convenience and necessity.

(j) To determine, in light of the evidence adduced pursuant to issues (b), (d), (f) and (h) hereinabove, what disposition of the above-captioned application of Porter Lighting Fixture Co., Inc. will best serve the public interest, convenience and necessity.

5. It is further ordered, that Bob Bobbitt Co., Inc., Porter Lighting Fixture Co., Inc. and the Chief, Private Radio Bureauy are made parties in this proceeding.

6. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Bob Bobbitt Co., Inc. with respect to issues (a), (c), (e), (g) and (i) set forth in paragraph 4 hereinabove, and upon Porter Lighting Fixture Co., Inc. with respect to issues (b), (d), (f), (h) and (j) set forth in paragraph 4 hereinabove.

7. It is further ordered, that each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in Section 1.221 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon each of the parties to this proceeding (except the Bureau) at the address furnished in its respective application.

Federal Communications Commission.

Arlan K. van Doorn,

Acting Chief, Private Radio Bureau.

[FR Doc. 80-25283 Filed 8-19-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-3918]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. T–3918 is a one-year lease between the Port Everglades Authority and Sea-Land Service, Inc. for a vacant lot in Broward County, Florida. The lot is to be used in the handling and processing of containers and related equipment. The OEA's major environmental concern was whether the agreement would significantly affect energy usage and/or the quality of the air, water, noise and biological environment.

The OEA has determined that the Commission's final resolution of Agreement No. T–3918 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725. Interested parties may comment on the environmental assessment on or before September 9, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that the party has no comment to make.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-25284 Filed 8-19-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-52; Agreements Nos. 10186,

Written comments on the proposed

or special nuclear material at an

quantities of nuclear material received,

the form of samples containing less than

affected by this requirement annually

[Docket No. 80-52; Agreements Nos. 10186, As Amended, 10332, As Amended, and 10371, As Amended, Agreement No. 10377, Agreements Nos. 10364 and 10329]

Intent To Prepare an Energy and Environmental Assessment

Docket No. 80-52 is an investigation to determine whether Agreements Nos. 10186, as amended, 10332, as amended, 10371, as amended and 10377 should be approved, disapproved or modified and whether Agreements Nos. 10364 and 10329 should be disapproved or modified, pursuant to section 15 of the Shipping Act, 1916.

The Office of Environmental Analysis believes that the final resolution of the issues in this proceeding may constitute a major regulatory action affecting energy efficiency or conservation within the meaning of the Energy Policy and Conservation Act of 1975 and a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Written comments regarding the possible energy and environmental impacts are invited. Such comments should be submitted on or before September 9, 1980, to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

Copies of discovery materials and all future correspondence, pleadings and exhibits exchanged or filed in these proceedings will be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-25308 Filed 8-19-80; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on August 11 and August 12, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such acceptances.

The notice includes the title of the NRC requests received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 8, 1980, and should be addressed to Mr. John M. Lovelady Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of application, recordkeeping, and reporting requirements contained in new 10 CFR Part 75, Safeguards on Nuclear Materials—Implementation of US/IAEA Agreement. The United States, as a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), has joined with other nations in an effort to limit the spread of nuclear weapons. To encourage wide-spread adherence to the NPT by non-nuclear weapon States, which would be committed to accept the application of safeguards administered by the International Atomic Energy Agency (IAEA), President Lyndon B. Johnson in 1967 announced that the United States would permit IAEA to apply its safeguards to nuclear activities in this country—excluding only those with direct national security significance. This policy has been reaffirmed by each succeeding President and has been referred to by other Governments as a consideration affecting their decision to ratify the NPT.

The instrument for applying IAEA safeguards in the United States is a formal Agreement. The US/IAEA Agreement contains provisions which parallel agreements between IAEA and non-nuclear-weapons States, the principal difference being the exclusion of national security activities. Implementation of the Agreement requires the cooperation of NRC licensees, in accordance with new 10 CFR Parts 40, 50, 70, 150 and 170. 10 CFR Part 75 establishes a system of nuclear material accounting and control to implement (with respect to NRC and Agreement State licensees) the Agreement between the United States and the IAEA for the application of safeguards in the United States.

The requirements in Part 75 apply to all persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation specified on the United States eligible list. The requirements of Part 75 also apply to holders of construction permits and to persons who intend to receive source material or special nuclear material. The United States eligible list is a list of installations eligible for IAEA safeguards under the US/IAEA Safeguards Agreement which the Secretary of State or his designee files with the Commission. Excluded from the list are activities having direct national security significance and activities dealing with mining and ore processing.

These proposed implementing regulations identify provisions requiring licensees: (1) To submit information concerning their installation for the use of IAEA; (2) to establish, maintain, and follow prescribed material accounting and control procedures; (3) to provide reports; and (4) to permit inspections by IAEA representatives.

For NRC to implement its responsibilities, it is necessary for licensees affected by the new 10 CFR Part 75 to maintain records and submit reports as follows: Section 75.3(a) states that the NRC may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of the part. Section 75.11(a) provides that each licensee subject to the requirements of the Part must submit to the NRC in response to and within the period, which shall be at least 45 days, specified in a written request from the NRC, specific information with respect to any installation in which the licensee carries out licensed activities. The information required is listed in the section. Section 75.11(b) provides that each licensee shall submit to the NRC information with respect to any modification or change at the installation affecting the information described in § 75.11(a). Section 75.12(b)(1) provides that a licensee may request that information of particular sensitivity, which it customarily holds in confidence, not be transmitted physically to the IAEA. Section 75.14(a) provides that at the time information is submitted in accordance with § 75.11, and promptly whenever changes are made, each licensee subject to the provisions of Part 75 shall submit to the NRC information on organizational responsibility for material accounting and control and health and safety rules to be observed by the Agency inspectors at the installation. Section 75.21, Material Accounting and Control, general requirements are: A measurement system for the determination of the quantities of nuclear material received, produced, shipped, lost or otherwise removed from the inventory, and the quantities on inventory; the evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty; procedures for identifying, reviewing and evaluating differences in shipper/receiver measurements; procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses; and maintenance of accounting and operating records; and also procedures, including frequency, for taking a physical inventory. Section 75.32 provides that the initial report shall be reported on the last day of the calendar month in which the NRC gives the licensee notice that an initial report is required. The report is to be submitted on DOE/NRC-742 within 20 days after the initial reporting date. Section 75.34 provides that inventory change reports are to be submitted on Form DOE/NRC-741 which serves as a shipping and transfer document for special nuclear material, source material and tritium as required of NRC and Agreement State licensees. Section 75.35 provides that material balance reports are to be submitted on Form DOE/NRC-742 in accordance with printed instructions for completing the form. Section 75.43(b) provides that notification shall be given of any proposed shipment of nuclear material for peaceful purposes under an export license issued pursuant to Part 110, in an amount exceeding one effective kilogram, directly or indirectly to any non-nuclear-weapon state (as referred to in Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons, 21 U.S.T. 483). If the licensee anticipates that it will make two or more shipments for peaceful purposes within any period of 90 days, directly or indirectly to destinations in the same non-nuclear-weapon state, notification shall be given of each shipment if the aggregate quantity of nuclear material to be transferred exceeds one effective kilogram. Section 75.43(c)(2) provides that notification shall be given with respect to any proposed import of nuclear material described in paragraph (c)(1) of this section in an amount exceeding one effective kilogram. If a licensee anticipates that it will receive two or more shipments of such nuclear material within any 90-day period from points of origin in the same country, notification shall be given with respect to each shipment if the quantity exceeds one effective kilogram. Section 74.43(d) provides that notification shall be given with respect to any shipments of nuclear material (other than small quantities in the form of samples containing less than 0.01 effective kilogram per sample) to a non-eligible destination (i.e., any destination in the U.S. other than an installation on the U.S. eligible list). The NRC estimates that the average annual burden per licensee will be as follows: Section 75.3(a), 8 hours; § 75.11(a), 360 hours; § 75.11(b), 8 hours; § 75.12(b)(1), 4 hours; § 75.14(a), 10 hours and 2 hours; § 75.21, 425 hours; § 75.32, 1 hour; § 75.34, 250 hours; § 75.35, 1 hour; § 75.43(b), 1 hour and 1 hour; § 75.43(c) 1 hour and 1 hour; and § 75.43(d), 1 hour.

The NRC requests clearance of a new Form N-71, Design Information Questionnaire. The NRC through Part 75 (specifically section 75.11) and conforming amendments to Parts 30, 40, 50, 70, 150 and 170 of its regulations will require its licensees to submit data on Form N-71 developed by the International Atomic Energy Agency to provide confidential information. The NRC will be a recipient of the form; however, the primary user of the data collected will be the International Atomic Energy Agency (IAEA). The NRC estimates approximately 200 licensees will be required to complete and submit a Design Information Questionnaire, Form N-71, as a one-time only requirement and that time to complete the Questionnaire will require 360 hours per licensee.

The NRC requests clearance for the application requirement contained in new § 40.31(g) of 10 CFR Part 40, Domestic Licensing of Source Material. This new application requirement implements part of the US/IAEA Agreement program. Section 40.31(g) requires that an applicant for a license to possess and use source material in a uranium hexaflouride production plant or a fuel fabrication plant and any other applicant for a license to possess and use more than one effective kilogram of source material should file with NRC the identificaion of the installation; a description of the general design of the installation in reference to flow of nuclear material; a description of features of the installation relating to material accounting, containment and surveillance; and a description of the existing and proposed procedures of the installation for nuclear material accounting and control. This information should be filed at least nine months prior to the date the applicant desires to receive the source material (or earlier upon request by the Commission). The NRC will grant an exemption from these requirements if it determines that the installation will not be included on the United States eligible list. The NRC estimates that 15 applicants will be affected by this requirement annually and that the burden per applicant will average 360 hours.

The NRC requests clearance for the reporting requirement contained in new § 50.78 of 10 CFR Part 50, Domestic Licensing of Production and Utilization Facilities. This new reporting requirement implements part of the US/IAEA Agreement program. Section 50.78 requires that each holder of a construction permit shall, if requested by the Commission, submit installation information and permit verification thereof by the International Atomic Energy Agency (IAEA), and take such other action as may be necessary to implement the Safeguards Agreement, in the manner set forth in §§ 75.6 and 75.11 thru 75.14 of the Commission's regulations. If the holder of the construction permit is a nuclear power plant or a non-power reactor, the information should be submitted to the Director, Office of Nuclear Reactor Regulation. For all other installations, the Director, Office of Nuclear Material Safety and Safeguards. The NRC estimates that 150 licensees will be affected by this reporting requirement and that burden per licensee will average 360 hours.

The NRC requests clearance for the application requirement contained in new § 70.21(g) of 10 CFR Part 70, Domestic licensing of Special Nuclear Material. This new application requirement implements part of the US/IAEA Agreement program. Section 70.21(g) requires that an applicant for a license to possess and use more than one effective kilogram of special nuclear material should file with the NRC the installation information described in § 75.11; and the applicant shall permit verification by the International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in §§ 75.6 and 75.11 thru 75.14. The commission will grant an exemption from the requirements of § 70.21(g), upon application if it determines that the installation will not be included on the United States eligible list. The installation information should be filed at least 9 months prior to the date when the applicant desires to receive the special nuclear material (or earlier upon request by the Commission). Applicants who desire to receive the special nuclear material within 9 months after the effective date of this paragraph should submit the installation information as soon as possible. The NRC estimates that this application requirement will affect 35 applicants

annually and that the burden per applicant will average 360 hours.

The NRC requests clearance of the application requirement contained in new § 150.17a(b) of 10 CFR Part 150, Exemptions and Continued Regulatory Authority in Agreement States Under Section 274. This new application requirement implements part of the US/IAEA Agreement program. Section 150.17a(b) requires that an applicant for a license from an agreement state authorizing the possession of source material in amounts greater than one effective kilogram (except in ore processing) shall file with the Commission, at least 9 months prior to the date when the applicant desires to receive such source material or earlier upon request by the Commission, the installation information described in § 75.11, except that in the case of applicants who desire to receive the source material within 9 months after the effective date of this section, the installation information shall be submitted as soon as possible and the applicant shall permit verification by the International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in §§ 75.6 and 75.11 thru 75.14. The Commission will grant an exemption from this requirement upon application, if it determines that the installation will not be included on the United States eligible list.The NRC estimates that number of applicants affected annually will be approximately 154 and the average burden per applicant will be 360 hours.

The NRC requests clearance of new Form 740M, Concise Note. The NRC in accordance with 10 CFR Parts 30, 40, 50, 70, 75 and 150 will require certain licensees who are authorized to possess at any one time and location Special Nuclear Material (SNM) to report to the NRC some discrete data. This will be done by the use of DOE/NRC Form 740M. In some cases it may be desirable to provide additional explanatory information with reports filed on DOE/NRC Forms 741, 742 or 742C, Form 740M is the vehicle to be used to submit a Concise Note. The NRC estimates approximately 200 licensees are expected to submit two reports per year and that the preparation burden for a report will average 15 minutes.

The NRC requests clearance of revision of Form 741/741A, Nuclear Material Transaction Report. The NRC in accordance with 10 CFR Parts 30, 40, 50, 70, 75 and 150 will require certain licensees who are authorized to possess at any one time and location Special Nuclear Material (SNM) to report to the NRC all nuclear material transactions. This will be done by the use of DOE/NRC Form 741/741A. The revision is five new data elements: (1) Concise Note attached to indicate if a DOE/NRC Form 740M is attached as may be required by the Facility Attachment; (2) type of inventory changes—all changes to inventory that meet the reporting criteria must be reported using a code; (3) production code (for DOE use only); (4) key measurement point, used for reporting a location where nuclear material appears in such form that it may be measured to determine material flow or inventory; and (5) measurement identification, this code indicates where and when the material was measured and consists of three parts denoting the measurement basis, measurement point, if other than (3) above, and the measurement method. The last two items apply only to licensees reporting under the requirements in 10 CFR Part 75. The NRC estimates approximately 2,000 licensees will be required to file Form 741/741A and that burden for preparation of each report will average 40 minutes.

The NRC requests clearance of revision of Form 742, Material Balance Report. The NRC in accordance with 10 CFR Parts 30, 40, 50, 70, 75 and 150 will require certain licensees who are authorized to possess at any one time and location Special Nuclear Material (SNM) in a quantity totaling more than 350 grams of contained uranium 235, uranium 233, or plutonium, to report SNM received, produced, possessed, transferred, consumed, disposed of or lost on Form 742. The revision to Form DOE/NRC 742 is five new data elements: (1) DOE/NRC 740M attached, indicates whether a Concise Note is attached; (2) From Other Materials, indicates increases resulting from the introduction of another material into the material balance being reported; (3) Degradation of Other Materials, indicates decreases resulting from the introduction of other material into the material balance being reported or the amount of radioactive decay; (4) Inventory Difference, formerly Material Unaccounted For; and (5) Bias Adjustment, quantity of material which should be added to or subtracted from the inventory difference quantity in Item 77 to produce the best estimate of an unbiased inventory difference. The NRC estimates approximately 300 licenses will be required to file Form 742 and that the burden will average 20 minutes per report.

The NRC requests clearance of a new Form DOE/NRC 742C, Physical Inventory Listing. The NRC in accordance with 10 CFR Parts 30, 40, 50, 70, 75 and 150 will require certain licensees who are authorized to possess at any one time and location Special Nuclear Material (SNM) to report such physical inventory on Form 742C. The form 742C is required to be completed and attached to each Material Balance Report submitted. The Form 742C lists by batch name and other identifying data, all nuclear material on hand at the time of the physical inventory. The NRC estimates that approximately 207 licensees will be required to file Form 742C two times per year and that the burden for preparation of each report will average 8 hours.

The NRC requests clearance of a new, single-time, voluntary survey on release of radioactive material into the environment. The survey will collect data from licensees (medical, research and academic institutions) on their total release of radioactive materials to air and sanitary sewage systems for the year 1979. In order to implement the National Environmental Policy Act (NEPA) NRC is considering revising 10 CFR Part 51 (see Proposed Rule, Federal Register, March 3, 1980) to require the preparation of environmental reassessments for actions previously excluded from NEPA review (i.e., certain material licensee issuances). The data will be used to document the magnitude of releases of radioactive material from licensees and thus aid in NRC's determination of the types of material licenses for which categorical exclusions from environmental assessment might be established. The NRC estimates that respondents will number approximately 2,500 and that reporting burden will average 30 minutes per survey questionnaire prepared.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-25291 Filed 8-19-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF THE INTERIOR

Bureau of the Land Management

[INT DES 80-52]

Alaska Outer Continental Shelf Oil and Gas Lease Sale; Availability of Draft Environmental Statement and Locations and Dates of Public Hearings Regarding Proposed Oil and Gas Lease Sale No. 60

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 153 tracts consisting of 349,917 hectares (864,646 acres) of submerged Federal land in the Lower Cook Inlet/Shelikof Strait Region of Alaska.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510 and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240. Copies of the draft statement will also be available for review in the following public libraries in Alaska: Alaska Federation of Natives, 670 W. Fireweed Lane, Anchorage 99501; Department of Interior, Alaska Resources Library, 733 W. 4th Avenue, Anchorage 99501; Kenai Community Library, Box 157, Kenai 99611; North Star Borough Library, Fairbanks 99701; University of Alaska, Institute of Economics and Government Research Library, Fairbanks 99801; Z. J. Loussac Public Library, 427 F Street, Anchorage 99501; Alaska State Library, Juneau 99811; Bureau of Indian Affairs School Library, Elim 99739; Department of Defense, Army Corps of Engineers Library, Anchorage 99510; Department of Interior—Bureau of Mines Library, AF—F.O. Center, P.O. Box 550, Juneau 99802; Ketchikan 99901; Seldovia Public Library, Seldovia 99663; University of Alaska—Juneau Library, P.O. Box 1447, Juneau 99802; Anchor Point Public Library, Anchor Point 99556; Cordova Public Libraruy, Cordova 99574; Elim Learning Center, Elim 99739; Haines Public Library, Haines 99827; Homer Public Library, Homer 99603; Juneau Memorial Library, Douglas Public Library, 114 W 4th Street, Juneau 99824; Ketchikan Public Library, 629 Dock Street, Ketchikan 99901; Kodiak Public Library Association, Inc., Kodiak 99615; Metlakatla Extension Center, Metlakatla 99926; Petersburg Extension Center, Petersburg 99833; Seward Community Library, Seward 99664; Sitka Community Library, Sitka 99835; University of Alaska—Anchorage Library, 3211 Providence Drive, Anchorage 99504; University of Alaska, Elmer E. Rasmusson Library, Fairbanks 99701; Wrangell Extension Center, Wrangell 99929.

In accordance with 43 CFR 3314.1, public hearings on the draft statment have been scheduled as follows:

October 14, 1980, Elks Hall, Homer, Alaska, 3:00 p.m. to 9:00 p.m.

October 15, 1980, Borough Assembly Chambers, Kodiak, Alaska, 1:00 p.m. to 9:00 p.m.

October 16, 1980, Alaska OCS Office, Conference Room, Anchorage, Alaska, 10:00 a.m. to 4:00 p.m.

The hearings will provide the Secretary of the Interior with information from government agencies, public and private groups and individual citizens, to help evaluate the potential effects of the proposed offering. Comments are solicited concerning effects of exploration, development and production resulting from the proposed sale on marine, cultural, recreational and other resources of the Cook Inlet/Shelikof Strait Region.

Interested individuals, representatives of organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:00 p.m., October 7, 1980. Written comments from those unable to attend the hearing also should be addressed to the Manager, Alaska Outer Continental Shelf, Bureau of Land Management at the above address. The Bureau will accept written testimony and comments on the draft evironmental statement until 4:00 p.m., October 24, 1980. This will allow those unable to testify at the hearing to make their views known, and those presenting oral testimony to submit supplemental materials. Oral statements should be limited to ten (10) minutes unless prior arrangements for longer presentations are made through the Alaska OCS Office. Oral statments may be supplemented, however, by a more complete written statement which may be submitted to a hearing official at the time of the presentation or by mail to be received at any time prior to 4:00 p.m., October 24, 1980. To the extent that time is available after presentation of oral statement by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and considered, a final environmental statement will be prepared.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved:

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-25275 Field 8-19-80; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Multiple Use Advisory Council Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Prineville District Multiple Use Advisory Council will be held on Thursday, Sept. 25, 1980 at 10 a.m., at the Bureau of Land Management Office, 185 E. 4th St., Prineville, OR 97754.

Agenda for the meeting will include:

1. Introduction and biographical sketch of members;
2. Discussion of the function of the Council;
3. Briefing and discussion of Prineville District programs by resource areas, to include, but not be limited to the Wilderness Study Area Proposals, the Brothers Environmental Statement and land use planning;
4. Current sensitive issues;
5. Election of Chairperson and Vice Chairperson;
6. Establishment of committees;
7. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by Sept. 19, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

Paul W. Arrasmith,

District Manager.

August 10, 1980.

[FR Doc. 80-25339 Filed 8-19-80; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 55322]

Wyoming; Order Providing for Opening of Public Lands

August 12, 1980.

1. In an exchange of lands made under the provisions of section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716 (1976), the following described lands have been reconveyed to the United States:

Sixth Principal Meridian, Wyoming

T. 36 N., R. 110 W.
Sec. 18, E½SW¼SE¼,
Except those lands conveyed by Warranty Deed to the Wyoming State Highway Commission recorded at page 225 of book 16 of deed records, Sublette County, Wyoming.

The area described aggregates 17.62 acres.

2. The lands are located in Sublette County, about 10 miles north of the town of Cora. The topography is rolling foothills. Soils are fair and presently supports sagebrush and some forage production.

3. At 10 a.m. on September 22, 1980 the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 10 a.m. on September 22, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and will continue to be open to the U.S. Mining Laws and applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations

[FR Doc. 80-25340 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-84-M

Baker District Advisory Council; Meeting

Notice is hereby given that the Baker District Advisory Council will convene its first meeting at 9:00 a.m., Tuesday, September 16, 1980, in the Conference Room on the second floor of the Federal Building, Baker, Oregon.

The egenda for the meeting includes: Elect a Chairperson and Vice Chairperson; review purpose, objectives and functions of the Council; adopt rules of Council procedure; review BLM's mission and responsibilities; review status of the Ironside Grazing Environmental Impact Statement and Baker Resource Area Management Framework Plan; review the Bureau's Wilderness program and ORV land use designations.

The second meeting will be held on October 16, 1980, beginning at 7:00 a.m. and will consist of a field tour to look at and discuss specific management issues within the Baker Resource Area. The Ironside Environmental Impact Statement and Baker Management Framework Plan will guide the day's agenda. Members of the public wishing to participate on the field trip are to bring their own transportation and a lunch. Attendees are to meet in the parking lot at the rear of the Federal Building, Baker, Oregon.

Persons wishing to make oral or written statements at either meeting should so advise the District Manager at least 24 hours prior to the meeting. Presentations are to be made in writing and copies filed with the Council. Written statements for consideration by the Council should be sent to the District Manager, Bureau of Land Management, P.O. Box 987, Baker, Oregon 97814.

Dated: August 7, 1980.

Gordon R. Staker,
District Manager.

[FR Doc. 80-25298 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-84-M

Lakeview District Advisory Council; Meeting

Notice is hereby given, in accordance with Public Law 94-579 and 43 CFR Part 1780, that a meeting of the Lakeview District Multiple use Advisory Council will be held on Tuesday, September 16, 1980 at 9:00 a.m. at the Bureau of Land Management Office, 1000 South Ninth Street, Lakeview, Oregon 97630. The meeting is open to the public.

Agenda for the meeting will include:

(1) Introduction of individual members.

(2) Organization of the council.

(3) Discussion of the function of the council.

(4) Briefing and discussions on the current status of the MFP in preparation for the Lakeview E.I.S.

(5) Arrangements and agenda for next meeting.

(6) Public comments.

Summary minutes of the meeting will be kept in the Lakeview District Office and will be available for public inspection and reproduction during regular business hours within 30 days after the meeting.

Richard A. Gerity.
District Manager, Lakeview District Office.

August 7, 1980.

[FR Doc. 80-25294 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-84-M

Public Land in Yamhill County, Oreg.; Realty Action—Noncompetitive Sale

August 7, 1980.

The following described land has been examined and identified as suitable for transfer out of Federal ownership by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750-1; 43 U.S.C. 1713) at not less than the fair market value:

Willamette Meridian, Oregon

T. 3 S., R. 6 W.

Sec. 8, metes and bounds within the S1/2NE1/4, N1/2SE1/4
Containing 5.03 acres

The metes and bounds description is too lengthy for inclusion in this notice but anyone requesting the description will be furnished a copy.

The above-described land is being offered by direct sale to Willamette Industries, Inc., at the appraised fair market value of $4,300.00. Sale will not occur until at least 60 days have lasped from the date of this notice.

The land was acquired by the United States in 1958, as part of a larger parcel, for the construction of the Nestucca Access Road. Failure of the Meadow Lake Dam in the winter of 1962-63 forced the relocation of a segment of the road to the south side of the Nestucca River. The above-described land contains the abandoned road segment.

Sale of the land is in the public interest as the land is difficult and uneconomic to manage as part of the public lands due to its small size and narrow configuration. The land is no longer required for roadway purposes or any other Federal purposes.

The highest and best use of the land is for the commercial production of timber. Willamette Industries owns the surrounding land which is under management for timber production. Direct sale to Willamete Industries is justified as sale to another party would result in a land ownership pattern that would conflict with the county comprehensive plan and zoning.

The direct sale has been discussed with county officials and state agencies. Comments received indicates the sale is consistent with local plans, programs and objectives.

The patent, when issued, will contain a reservation to the United States for rights-of-way for ditches or canals under the Act of August 30, 1890.

The mineral estate is not in Federal ownership.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public comments, is available for review at the Salem District Office, P.O. Box 3227 (3550 Liberty Road S.), Salem, OR 97302.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (LLM-320), Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become a final determination of the Department of the Interior.

John D. Evans,
Acting District Manager.

[FR Doc. 80-25297 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability for a Final Environmental Impact Statement on a Renewable Natural Resources Management Plan for Sheldon National Wildlife Refuge, Nevada

AGENCY: Fish and Wildlife Service (FWS), Intertior.

ACTION: Notice.

SUMMARY: This Notice advises the public that a Final Environmental Impact Statement on a Renewable Natural Resources Management Plan for Sheldon National Wildlife Refuge is available for public review. On or before September 19, 1980, FWS will issue a Record of Decision on the proposed action which will be made available to the public according to National Environmental Policy Act (NEPA) Regulations (40 CFR 1506.6).

ADDRESSES: Further comments should be addressed to: R. Kahler Martinson, Regional Director, U.S. Fish and Wildlife Service, Region 1, Lloyd 500 Bldg., Suite 1552, 500 N.E. Multnomah St., Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Blayne Graves, Senior Staff Specialist, Refuges and Wildlife Resources, Region 1, U.S. Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1552, 500 N.E. Mulnomah St., Portland, OR 97232. Individuals wishing copies of this EIS for review should immediately contact the above individual. Copies have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

SUPPLEMENTARY INFORMATION: Sole legal responsibility for managing the Sheldon National Wildlife Refuge was transferred to the U.S. Fish and Wildlife Service (FWS) in February 1976. Prior to that time, the area had been jointly administered with the U.S. Bureau of Land Management (BLM), and sustained heavy grazing by feral horses and burros, and domestic livestock under guidelines established by the Taylor Grazing Act of 1936. Becuase FWS administers National Wildlife Refuges under different legal authorities than BLM administers land under its jurisdiction, a resource management plan reflecting the FWS wildlife mission was prepared for Sheldon. The primary purpose of this plan is to provide habitat for a diversity of native plant and animal species.

Specifics of the proposed plan include: an intensively managed grazing program on about 367,000 acres, designed to manipulate the vegetation to enhance its value to wildlife; construction of gates, cattle guards and approximately 70 miles of interior fence to control livestock movements; development of springs and water reservoirs to provide wildlife water, and disperse cattle; management of a special 197,000-acre area designated because of its fragile soils, high value to bighorn sheep, reptiles, amphibians, plant species of special concern, and importance as winter range for antelope and mule deer; and special management emphasis upon sensitive habits (e.g., springs, meadows, streams, riparian strips, aspen groves, and snow pockets).

Effects of the proposed action were anaylzed. Antelope, mule deer, bighorn sheep and sage grouse would be expected to benefit. For other wildlife species, there was insufficient information to determine effects. As population data is accumulated over time, the effects of the grazing program on many of these native populations should become better understood, providing the FWS a basis for adjusting the grazing program as necessary.

The effects analysis also indicates that deliberate manipulation of vegetation would be expected to result in beneficial effects on vegetative condition, vegetative vigor and watershed values (such as soil erosion and water quality).

The economic analysis indicates that the FWS preferred alternative would reduce present AUM usage of permittees. The reduction would range from 25% the second year to 3% the fifth year, and would have no significant economic impact. Over the long term, if the vegetation responds as expected, there would be more AUM's available for wildlife *and* possibly cattle and thus, conceivably, the grazing alternatives could have long-term beneficial economic effects for permittees.

The FWS considered five other alternatives to the proposed action. The first would involve deliberate manipulation of vegetation, but management tools would be limited to prescribed burns, herbicides and mechanical treatments of vegetation. The second alternative would eliminate manipulation of vegetation by any means, on the assumption that natural processes would constitute the best means for restoring range vegetation. The third alternative would continue past management practices, while a fourth alternative would involve implementation of the FWS grazing program—but with elimination of feral horses and burros. Finally, a prescribed grazing alternative would only allow grazing where a positive need or benefit to wildlife could be clearly documented. Unlike the preferred alternative, grazing would not be allowed on a secondary basis.

Final review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

William H. Meyer,
Acting Regional Director.

August 14, 1980.

[FR Doc. 80-25285 Filed 8-19-80; 8:45 am]
BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Washington; Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

August 14, 1980.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before September 4, 1980.

No. 43856, Southwestern Freight Bureau, Agent (No. B-87), rates on common salt, in carloads, from or to Southwestern stations, on the one hand, and stations in Illinois Freight, Northern and Western Trunk Line Territories, on the other, as published in Supplement 71 to its Tariff ICC SWFB 2006-K, to become effective September 12, 1980. Grounds for relief—revised rate structure.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25280 Filed 8-19-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any

application, together with applicant's

air cleaners, filters, and mufflers, and

CO, and return over the same route,

Alamosa and Antonito, CO, over U.S.

points in Rio Arriba County, NM, as off-

UT, then over UT Hwy 11 to junction

application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP1-015

Decided: Aug. 13, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 200 (Sub-482F), filed August 7, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting (1) *air cleaners, filters, and mufflers,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between points in Adair and Livingston Counties, MO, and Adams and Lee Counties, IL, on the one hand, and, on the other, points in the U.S.

MC 2900 (Sub-428F), filed August 7, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). Transporting (1) *lumber, building materials, metal articles, plastic articles, rubber articles, containers, paper and paper products, automotive parts, machines, machine parts, chemicals, photographic materials, electrical appliances and equipment, parts for electrical appliances and equipment, medicines, toilet preparations, cleaning compounds, ore products, petroleum products, and beer* (except commodities in bulk, and those requiring special equipment), between Chicago, IL, Minneapolis, MN, Kansas City, MO, Omaha, NE, Oklahoma City, OK, Dallas and Houston, TX, Denver, CO, and Cheyenne, WY, on the one hand, and, on the other, points in AZ, CA, NV, OR, UT, and WA, and (2) *electrical appliances and equipment, parts for electrical appliances and equipment, lumber, machines, machine parts, metal articles, plastic articles, and rubber articles* (except commodities in bulk, and those requiring special equipment), between points in AZ, CA, CO, NV, OR, UT, and WA.

MC 29910 (Sub-281F), filed July 29, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. (I) Over regular routes, Transporting (A) *general commodities* (except those of unusual value, commodities in bulk, and those requiring special equipment), (1) between Denver and Fort Garland, CO, from Denver over U.S. Hwy 85 to Walsenburg, CO, then over U.S. Hwy 160 to Fort Garland, CO, and return over the same route, serving all intermediate points; (2) between junction U.S. Hwy 85 and CO Hwy 393 and junction U.S. Hwy 85 and CO Hwy 105, over relocated U.S. Hwy 85, as an alternate route for operating convenience only, serving no intermediate points; (3) between Pueblo and Leadville, CO, from Pueblo over U.S. Hwy 50 to Salida, CO, then over CO Hwy 291 to junction U.S. Hwy 285, then over U.S. Hwy 285 to junction U.S. Hwy 24, then over U.S. Hwy 24 to Leadville, CO, and return over the same route, serving all intermediate points; (4) between South Fork and Durango, CO, over U.S. Hwy 160, serving all intermediate points, and the off-route point of Ignacio, CO; (5) between Wheeler and Dowd, CO, over U.S. Hwy 6, serving no intermediate points; (6) between junction CO Hwy 115 and U.S. Hwy 85, near Colorado Springs, CO, and junction CO Hwy 115 and U.S. Hwy 50, near Florence, CO, over CO Hwy 115, serving no intermediate points; (7) between junction CO Hwys 120 and 115 near Penrose, CO, and junction CO Hwy 120 and U.S. Hwy 50 near Canon City, CO, over CO Hwy 120, serving no intermediate points; (8) between Denver, CO, and Farmington, NM, from Denver over U.S. Hwy 6 to Wheeler, CO, then over CO Hwy 91 to Leadville, CO, then over U.S. Hwy 24 to Grand Junction, CO, then over U.S. Hwy 50 to Montrose, CO, then over U.S. Hwy 550 to Farmington, and return over the same route, serving all intermediate points between Leadville and Farmington; (9) between Colorado Springs and Leadville, CO, over U.S. Hwy 24, serving all intermediate points; (10) between Denver and Creede, CO, from Denver over U.S. Hwy 285 to junction CO Hwy 291, then over CO Hwy 291 to Salida, CO, then over U.S. Hwy 50 to junction U.S. Hwy 285, then over U.S. Hwy 285 and CO Hwy 17 to Monte Vista, CO (also from junction U.S. Hwy 285 and CO Hwy 17 over CO Hwy 17 to Alamosa, CO, then over U.S. Hwy 160 to Monte Vista), then over U.S. Hwy 160 to junction CO Hwy 149, then over CO Hwy 149 to Creede, and return over the same route, serving the intermediate points of Salida, CO, and those between Salida and Creede, and the off-route points on CO Hwy 112 between Hooper and Del Norte, CO; (11) between Salida and Montrose, CO, over U.S. Hwy 50, serving all intermediate points; (12) between Delta and Somerset, CO, from Delta over CO Hwy 92 to Hotchkiss, CO, then over CO Hwy 133 to Somerset, CO, and return over the same route, serving all intermediate points; (13) between Cortez and Durango, CO, over U.S. Hwy 160, serving the intermediate points of Mancos and Hesperus, CO; (14) between Denver and Salida, CO, from Denver over U.S. Hwy 85 to Pueblo, CO, then over U.S. Hwy 50 to Salida, and return over the same route, serving all intermediate points and the off-route points of Fort Logan, Louviers, Camp Carson, and Minnequa, CO; (15) between Fort Garland and Del Norte, CO, over U.S. Hwy 160, serving all intermediate points, and serving the off-route point of Center, CO; (16) between

Alamosa and Antonito, CO, over U.S. Hwy 285, serving all intermediate points and the off-route points of Capulin, Sanford, and Manassa, CO; (B) *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) serving the facilities of the United States Atomic Energy Plant, at or near Marshall, CO, as an off-route point in connection with applicant's otherwise authorized regular-route operations to and from Denver, CO; (2) between Denver and Canon City, CO, from Denver over U.S. Hwy 85 to Pueblo, CO, then over U.S. Hwy 50 to Canon City, and return over the same route, serving all intermediate points; (3) between junction CO Hwy 120 and U.S. Hwy 50 and Canon City, CO, over CO Hwy 120, serving the intermediate points of Concrete, Portland, and Florence, CO, and the off-route points of Wetmore, Coal Creek, Rockvale, and Chandler, CO; (4) between junction CO Hwys 267 and 120, and junction CO Hwy 267 and U.S. Hwy 50, over CO Hwy 267, serving no intermediate points, but serving junction CO Hwys 267 and 120 for the purpose of joinder only;

(5) between Colorado Springs, CO, and junction CO Hwy 115 and U.S. Hwy 50, over CO Hwy 115, serving the intermediate point of Penrose, CO; (6) between junction CO Hwy 115 and U.S. Hwy 50, and junction CO Hwys 115 and 120 near Florence, CO, over CO Hwy 115, serving no intermediate points, but serving the junction of CO Hwys 115 and 120 for the purpose of joinder only; (7) between Cortez and McElmo Canyon, CO, from Cortez over U.S. Hwy 666 to junction unnumbered county road, then over unnumbered county road to McElmo Canyon, and return over the same route, serving all intermediate points; (8) between Pandora, CO, and junction CO Hwy 62 and U.S. Hwy 550 at or near Ridgeway, CO, from Pandora over CO Hwy 108 to junction CO Hwy 145, then over CO Hwy 145 to Placerville, CO, then over CO Hwy 62 to junction U.S. Hwy 550, and return over the same route, serving no intermediate points, but serving junction CO Hwy 62 and U.S. Hwy 550 for the purpose of joinder only; (9) serving the facilities of Glen L. Martin Plant, near Waterton, CO, as an off-route point in connection with applicant's otherwise authorized regular-route operations to and from Denver, CO; (10) between Grand Valley, CO, and the facilities of The Union Oil Company, at Parachute Creek, CO, over an unnumbered county road, serving all intermediate points; (11) serving the Navajo Dam Site near Blanco, NM, and points in Rio Arriba County, NM, as off-route points in connection with applicant's regular-route operations between Durango, CO, and Farmington, NM; (12) between Somerset, CO, and the Paonia Dam, CO, near junction CO Hwy 133 and 135, from Somerset over CO Hwy 135 to junction unnumbered Hwy, then over unnumbered Hwy to the Paonia Dam, and return over the same route, serving no intermediate points; (13) serving the Missile Launching Sites, at or near Lowry Bombing and Gunnery Range, CO, and Elizabeth, CO, as off-route points in connection with applicant's otherwise authorized regular-route operations to and from Denver, CO; (14) between the facilities of the Standard Metal Corporation, near Silverton, CO, and Montrose, CO, from the facilities of the Standard Metal Corporation over CO Hwy 110 to Silverton, then over U.S. Hwy 550 to Montrose, and return over the same route, serving no intermediate points; (15) serving the facilities of the Four Corners Electric Generating Plant and Dam, near Fruitland, NM, as an off-route point in connection with applicant's otherwise authorized regular-route operations; (16) serving the Lemon Dam on the Florida River, near Durango, CO, as an off-route point in connection with applicant's otherwise authorized regular-route operations; (17) between Provo and Park City, UT, from Provo over U.S. Hwy 189 to Heber, UT, then over U.S. Hwy 40 to junction unnumbered Hwy, then over unnumbered Hwy to Park City, UT, and return over the same route, serving all intermediate points and the off-route points of Midway, Hot Pots, and Center Creek, UT, (18) between Orem, UT, and junction UT Hwy 52 and U.S. Hwy 189, over UT Hwy 52, serving all intermediate points, and the off-route points of Midway, Hot Pots, and Center Creek, UT; (19) between Salt Lake City, UT, and junction U.S. Hwy 40 and unnumbered Hwy (formerly UT Hwy 6), near Park City, UT, over U.S. Hwy 40, serving all intermediate points; (20) between Salt Lake City and Price, UT, from Salt Lake City over U.S. Hwy 91 to Spanish Fork, UT, then over U.S. Hwy 6 to Price, and return over the same route, serving all intermediate points, and the off-route points of Kenilworth, Peerless, Spring Canyon, Standardville, Rains, Latuda, and Mutual, UT; (21) serving Storrs, UT, and the facilities of the Carbon Dioxide Plant, near Wellington, UT, as off-route points in connection with applicant's otherwise authorized regular route operations; (22) between Spanish Fork and Marysvale, UT, from Spanish Fork over U.S. Hwy 91 to Nephi, UT, then over UT Hwy 11 to junction U.S. Hwy 89, then over U.S. Hwy 89 to Marysvale, UT, and return over the same route, serving all intermediate points, and the off-route points of Spring City, Glenwood, Monroe, Mayfield, Austin, Wales, Venice, Annabella, Fairview, and Mt. Pleasant, UT; (23) between Pleasant Grove and Provo, UT, over UT Hwy 114, serving all intermediate points, and the off-route point of the Provo Airport, UT, (24) between Nephi and Gunnison, UT, from Nephi over U.S. Hwy 91 to junction UT Hwy 28, then over UT Hwy 28 to Gunnison, and return over the same route, serving all intermediate points; (25) between Price and Grand Junction, CO, over U.S. Hwy 50, serving all intermediate points and all off-route points within 10 miles of the indicated portion of the specified Hwy (except Sunnyside, Sunnydale, Columbia, Dragerton, and Horse Canyon, CO,

(26) between Springville and Emery, UT, from Springville over alternate U.S. Hwy 50 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Price, UT, then over UT Hwy 10 to Emery, and return over the same route, serving all intermediate points between Springville and Price, and the off-route points within 5 miles of the portion of UT Hwy 10 specified; (27) between Glenwood Springs and Aspen, CO, from Glenwood Springs over CO Hwy 82 to junction CO Hwy 133, then over CO Hwy 133 to Carbondale, CO, then over unnumbered Hwy to junction CO Hwy 82, then over CO Hwy 82 to Aspen, and return over the same route, serving all intermediate points; (28) serving Joe's Valley Dam Site, near Orangeville, UT, as an off-route point in connection with applicant's otherwise authorized regular-route operations between Springville and Emery, UT; (29) between Pagosa Springs, CO, and Blanco, NM, from Pagosa Springs over U.S. Hwy 84 to junction NM Hwy 17, then over NM Hwy 17 to Blanco and return over the same route, serving all intermediate points, and serving off-route points in Archuleta County, CO, south and east of U.S. Hwy 160, and those in Rio Arriba County, NM, within 10 miles South of NM Hwy 17; (30) between Basalt and Meridith, CO, over unnumbered Hwy, serving all intermediate points and the off-route point of the Ruedi Dam and Reservoir Site, CO; (31) between Fort Garland, CO, and the facilities of Molybdenum Corporation of America, on NM Hwy 38, near Red River, NM, from Fort Garland over CO Hwy 159 to the CO–NM State line, then over NM Hwy 3 to Questa, NM, then over NM Hwy 38 to the facilities of Molybdenum Corporation of

America, and return over the same route, serving the intermediate point of San Luis, CO, for the purpose of joinder only; (32) between Alamosa and San Luis, CO, from Alamosa over U.S. Hwy 285 to junction CO Hwy 142, then over CO Hwy 142 to San Luis, and return over the same route, serving no intermediate points, but serving San Luis for purpose of joinder only; (33) between Alamosa and Fort Garland, CO, over U.S. Hwy 160, serving no intermediate points, but serving Fort Garland for purpose of joinder only; (34) between Leadville and Dowd, CO, from Leadville over CO Hwy 91 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Dowd, and return over the same route, serving all intermediate points on U.S. Hwy 6 (except Wheeler junction); (35) serving the facilities of Montezuma Plywood Company, near Cortez, CO, as an off-route point in connection with carrier's otherwise authorized regular-route operations to and from Cortez; (36) serving points in San Juan County, NM, (except points on U.S. Hwy 550 west of Farmington, NM), as off-route points in connection with applicant's otherwise authorized regular-route operations to and from Farmington, NM; (37) between Grand Junction, CO, and Price, UT, over U.S. Hwy 6, serving all intermediate points; (38) serving those in Pitkin and Lake Counties, CO, within 10 miles of Leadville, CO (except Climax and points in its Commercial Zone) as off-route points in connection with applicant's otherwise authorized regular-route operations; (39) between Antonito, CO, and Tres Piedras, NM, over U.S. Hwy 285, serving all intermediate points and the off-route points of No Agua, NM, the facilities of Johns-Manville Corp., and the facilities of United Perlite Corp., both near No Agua, NM; (40) serving Climax Co., as an off-route point in connection with applicant's otherwise authorized regular-route operations; (41) between Alamosa and Cortez, CO, over U.S. Hwy 160, serving the intermediate points of Hesperus and Mancos, CO, and the off-route point of the facilities of Montezuma Plywood Company, at or near Cortez, CO; (42) between Huntington and Fairview, UT, over U.S. Hwy 31, serving all intermediate points, and the facilities of Utah Power and Light Company, near Huntington, UT, as off-route points in connection with applicant's otherwise authorized regular-route operations at Huntington and Fairview, UT; (43) serving the facilities of Twin Lakes, CO, as an off-route point in connection with applicant's otherwise authorized regular-route operations; (44) between Salt Lake City and Ogden, UT, over U.S. Hwy 91, serving no intermediate points; (45) between Denver and Craig, CO, over U.S. Hwy 40, serving the intermediate points of Steamboat Springs, Milner, McGregor, Tow Creek, Bear River, Mount Harris, Hayden, Kremming, Hot Sulphur Springs, Granby, Fraser, West Portal, and Idaho Springs, CO, and the off-route points of Haybro, Oak Creek, Phippsburg, Yampa, and Toponas, CO; (46) serving the site of the Yampa Project, near Craig, CO, as an off-route point in connection with applicant's otherwise authorized regular-route operations; (47) serving the facilities used by Valley Camp of Utah, Inc., at or near Scofield, UT, as an off-route point in connection with applicant's otherwise authorized regular-route operations; (48) between Price and Sunnyside, UT, from Price over U.S. Hwy 50 to junction UT Hwy 123, then over UT Hwy 123 to Sunnyside, and return over the same route, serving all intermediate points, and the off-route points of Columbia and Horse Canyon, UT; (49) between Price and Mohrland, UT, from Price over UT Hwy 10 to junction UT Hwy 122, then over UT Hwy 122 to Mohrland, and return over the same route, serving all intermediate points; (50) between Farmington and Albuquerque, NM, from Farmington over NM Hwy 17 to junction NM Hwy 44 near Bloomfield, NM, then over NM Hwy 44 to junction Interstate Hwy 25, then over Interstate Hwy 25 to Albuquerque, and return over the same route, serving no intermediate points; (51) between Denver, CO, and junction U.S. Hwy 6 and U.S. Hwy 40, near Idaho Springs, CO, over U.S. Hwy 6, serving junction U.S. Hwys 6 and 40 for the purpose of joinder only in connection with applicant's regular-route operations between Denver, CO, and Farmington, NM, as an alternate route for operating convenience only, and (52) between Denver, CO, and junction CO Hwy 185 and U.S. Hwy 85 near Castle Rock, CO, over CO Hwy 185, serving the junction of CO Hwy 185 and U.S. Hwy 85 for purpose of joinder only in connection with applicant's regular-route operations between Denver and Fort Garland, CO, over U.S. Hwys 85 and 160, as an alternate route for operating convenience only, and (C) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), (1) serving the Provo Airport, near Provo, UT, as an off-route point in connection with applicant's otherwise authorized regular-route operations, and (2) between Springville, UT, and junction Alternate U.S. Hwy 50 (formerly U.S. Hwy 50) and U.S. Hwy 6, near Spanish Fork, UT, over Alternate U.S. Hwy 50, serving all intermediate points; and (III) over irregular routes, transporting (1) *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Aztec, Farmington, and Blanco, NM, and (2) *molybdenum concentrates*, in bulk, from the facilities of Molybdenum Corporation of America, near Red River, NM, to Alamosa, CO. Condition: To the extent that any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall expire 5 years from its date of issuance.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 121600 (Sub-13F), filed August 7, 1980. Applicant: AVERITT EXPRESS, INC., P.O. Box 7342, Nashville, TN 37210. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Knox, Overton, and Putnam Counties, TN, on the one hand, and, on the other, points in the U.S.

Note.—Applicant intends to tack the above requested authority with its existing regular route operations.

MC 146451 (Sub-34F), filed August 8, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: R. S. Richard, P.O. Box 2069, Montgomery, AL 36197. Transporting *appliances*, and *parts* for appliances, from the facilities of General Electric Company, at or near Norcross GA, to points in AL, FL, NC, and SC. Condition: As applicant is in common control with another regulated carrier, it must file an application for approval of the common control under the provisions of 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 151081 (Sub-1F), filed August 5, 1980. Applicant: PAUL DONALD AVERY, JR., d.b.a. DON AVERY TRUCKING, Rt. 2, Box 282A, Pacific, MO 63069. Representative: Paul Donald Avery, Jr. (same address as applicant). Transporting *cullet*, between points in the U.S., under continuing contract(s) with Circo Glass of St. Louis, MO.

MC 151371 (Sub-1F), filed August 8, 1980. Applicant: METALS TRANSPORT, INC., 528 South 108th St., West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). Transporting (1) *non-ferrous metals, scrap metals, heat processing equipment, fabricated metal products, iron and steel articles, forest products, lumber, millwork, building supplies and hardware, material handling equipment, and water treatment equipment*, (2) *parts and accessories* for the commodities in (a), and (3) *materials, equipment and supplies* used in the facture and repair of the commodities in (1) and (2), between points in the U.S. (including AK, but excluding HI).

Note.—The purpose of this application is to convert applicant's existing contract carrier authority in MC–134730 and Subs 4, 5, 8, and 9 to common carrier authority, and also to convert to common carrier authority any permits issued in the following pending applications—MC 134730 (Subs-20, 21, 22, 23, 24, 25, 26, 27, and 28). Condition: Issuance of a certificate in this proceeding is subject (1) the coincidental cancellation, at applicant's written request, of its permits in MC 134730 and (Subs-4, 5, 8, and 9), and any permits issued in MC 134730 (Subs-20, 21, 22, 23, 24, 25, 26, 27, or 28), and (2) the withdrawal, at applicant's written request, of any of the proceedings still pending in MC 134730 (Subs-20, 21, 22, 23, 24, 25, 26, 27, and 28).

Volume No. OP2–018

Decided: August 18, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 10343 (Sub-40F), filed July 18, 1980. Applicant: CHURCHILL TRUCK LINES, INC., U.S. Hwy. 36 West, P.O. Box 250, Chillicothe, MO 64601. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (I) Over regular routes: (1) between Indianapolis, and Terre Haute, IN over U.S. Hwy 40, serving Plainfield, Brazil, Seelyville, Stilesville, and Ben Davis, IN as intermediate points, and serving Mount Pleasant, Bellmore, and West Terre Haute, IN as off-route points, (2) between Terre Haute and Evansville, IN, over U.S. Hwy 41, serving Farmersburg, Fort Branch, Kings-Station, Haubstadt, Decker, Hazelton, Princeton, and Erskine, IN, and the facilities of the Warrick Works of the Aluminum Company of America, near Newburgh, IN, as off-route points, (3) between Terre Haute and Lafayette, IN: from Terre Haute over U.S. Hwy 41 to junction IN Hwy 47, then over IN Hwy 47 to Crawfordsville, then over IN Hwy 43 to Lafayette, and return over the same route, serving New Market, Marshall, Russellville, Milligan, and Judson, IN and Wabash River Ordance Works on IN Hwy 63 as off-route points, (4) between South Bend and Wabash, IN: from South Bend over U.S. Hwy 20 to junction IN Hwy 15, then over IN Hwy 15 to junction IN Hwy 114, then over IN Hwy 114 to North Manchester, then over IN Hwy 13 to Wabash, and return over the same route, serving Mishawaka, Elkhart, Goshen, Milford, Silver Lake, North Manchester, Urbana, and Warsaw, IN as intermediate points, and serving New Paris, Nappanee, Leesburg, and Claypool, IN as off-route points, (5) between Indianapolis and South Bend, IN over U.S. Hwy 31, serving Peru, Kokomo, Mexico, Rochester, Argos, Plymouth, Lapaz, and Lakeville, IN as intermediate points, and Macy, IN as an off-route point, (6) between Peru and Fort Wayne, IN, over U.S. Hwy 24, serving Largo and Huntington, IN as intermediate points, and serving Rich Valley, Wabash, Andrews, Roanoke, IN, and the facilities of the B.F. Goodrich Tire Company in Mailan Township (Allen County, IN) as off-route points, (7) between the intersection of the IN-IL State and U.S. Hwy 41 and Anderson, IN: from the instersection of the IN-IL State line and U.S. Hwy 41 over U.S. Hwy 41 to junctioin U.S. Hwy 6, then over Hwy 6 to junction IN Hwy 130, then over IN Hwy 130 to Valparaiso, then over U.S. Hwy 30 to junction U.S. Hwy 35, then over U.S. Hwy 35 to Logansport, then over U.S. Hwy 24 to Peru, then over IN Hwy 21 to junction IN Hwy 18, then over IN Hwy 18 to Marion, then over IN Hwy 9 to Anderson, and return over the same route, serving Hammond, Whiting, Gary, Hobart, Wheeler, Valparaiso, Knox, Bass Lake, Beardstown, Winamac, Royal Center, Wanatah, Logansport, Peru, Santa Fe, Amboy, Marion, and Alexandria, IN as intermediate points, and serving East Chicago, Indiana Harbor, Hanna, Star City, Thronhope, Portage, Monticello, and Converse, IN as off-route points, (8) between Marion and Muncie, IN: from Marion over IN Hwy 15 to Jonesboro, then over U.S. Hwy 35 to Muncie, and return over the same route, serving Jonesboro, IN as intermediate point, and serving Gas City, Upland, and Matthews, IN as off-route points; (9) between Terre Haute, IN and the intersection of the IN-IL State line and U.S. Hwy 150, over U.S. Hwy 150, (10) between Indianapolis, IN and junction U.S. Hwys 41 and 52, over U.S. Hwy 52, (11) between Vincennes and Muncie, IN, over IN Hwy 67, (13) between Lafayette and Warsaw, IN, over IN Hwy 25, (14) between Valparaiso, IN and the intersection of the IN-IL State line and U.S. Hwy 30, over U.S Hwy 30, (15) between Indianapolis and Logansport, IN: from Indianapolis over U.S. Hwy 421 to junction IN Hwy 29 near Boyleston, then over IN Hwy 29 to Logansport, and return over the same route, (16) between South Bend, IN and the intersection of the IN-IL State line and U.S. Hwy 20; from South Bend over IN Hwy 2 to junction U.S. Hwy 20 near Byron, IN, then over U.S. Hwy 20 to the intersection of the IN-IL State line and U.S. Hwy 20, and return over the same route, (17) serving the facilities of the B.F. Goodrich Company in Milan Township (Allen County, IN), as an off-route point in connection with carrier's regular-route operations to and from Fort Wayne, IN, (18) serving the facilities of the General Electric Company near Mount Vernon, IN, as an off-route point in connection with carrrier's regular-route operations to and from Evansville, IN, (19) between Louisville, KY and Evansville, IN: from Louisville over U.S. Hwy 150 to Prospect, IN, then over IN Hwy 56 to Haysville, IN, then over IN Hwy 45 to Dale, IN, then over U.S. Hwy 231 to junction U.S. Hwy 460, then over U.S. Hwy 460, to Evansville, and return over the same route, (20) between Jasper, IN and junction IN Hwys 64 and 145: from Jasper over IN Hwy 162 to junction IN Hwy 64, then over IN Hwy 64 to junction IN Hwy 145, and return over the same route, (21) between Dale, IN and junction IN Hwys 62 and 145, over IN Hwy 62, serving Siberia, IN as off-route point, (22) between junction IN Hwys 545 and 62 near Bradley, IN and Owensboro, KY: from junction IN Hwys 545 and 62 over IN Hwy 545 to junction IN Hwy 66, then over IN Hwy 66 to junction U.S. Hwy 231, then over U.S. Hwy 231 to Owensboro, and return over the same route, serving no intermediate points, restricted against the transportation of traffic between Evansville, IN and Owensboro, KY (23) between Plymouth and Indianapolis, IN, over U.S. Hwy 31, (24) between Fort Wayne and Indianapolis, IN, over IN Hwy 37, serving Jonesboro, IN as an off-route point, (25) between Logansport and Rochester, IN, over IN Hwy 25, (26) between Marion and Indianapolis, IN: from Marion over IN Hwy 15 to junction U.S. Hwy 35, then over U.S. Hwy 35 to Muncie, then over IN Hwy 67 to Indianapolis, and return over the same route, serving Anderson, IN as an off route point, (27) between Fort Wayne and Plymouth, IN, over U.S. Hwy 30, (28) between Pittsburgh, PA and Chicago, IL: from Pittsburgh over PA Hwy 65 to Rochester, PA, then over PA Hwy 51 to the PA–OH State line, then over OH Hwy 14 to Salem, OH, then

over U.S. Hwy 62 to Canton, OH, then

between St. Louis, MO and Marshall, IL:

problems (e.g., unresolved common

between Alhambra, Kuhn, Mont, and

over U.S. Hwy 62 to Canton, OH, then over U.S. Hwy 30 to junction U.S. Hwy 30N, then over U.S. Hwy 30N to Delphos, OH, then over U.S. Hwy 30 to Ft. Wayne, IN, then over U.S. Hwy 33 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Chicago, and return over the same route, serving Akron, Lima, Xenia, Cleveland, Toledo, Youngstown, and Columbus, OH, Werton and Wheeling, WV, New Castle and Erie, PA, Fort Wayne and Baer Field, IN, and points in the Chicago IL commercial zone, as defined by the Commission, as off-route points, (29) between Chicago, IL and Terre Haute, IN: (a) over U.S. Hwy 41, and (b) from Chicago over IL Hwy 1 to Goodenow, IL, then over IL Hwy 1 to Paris, IL, then over U.S. Hwy 150 to Terre Haute, and return over the same route, serving the facilities of the Southern Indiana Gas and Electric Company, near Yankeetown, IN, as an off-route point, (30) between Indianapolis, IN and Louisville, KY: from Indianapolis over IN Hwy 37 to Paoli, IN, then over U.S. Hwy 150 to Palmyra, IN, then over IN Hwy 135 to Corydon, IN, then over IN Hwy 62 to New Albany, IN, then across the Ohio River to Louisville, and return over the same route, (31) between Columbus and Terre Haute, IN: from Columbus over IN Hwy 46 to junction IN Hwy 59, then over IN Hwy 59 to Brazil, IN, then over U.S. Hwy 40 to Terre Haute, and return over the same route, (32) between Bloomington and Terre Haute, IN: from Bloomington over IN Hwy 45 to junction IN Hwy 54, then over IN Hwy 54 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Terre Haute, and return over the same route, (33) between Fort Wayne, IN and Chicago, IL: from Fort Wayne over U.S. Hwy 30 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Chicago, and return over the same route, (34) between Muncie and Fort Wayne, IN, over IN Hwy 3, (35) between Columbia City and Huntington, IN, over IN Hwy 9, (36) between Wabash and Warsaw, IN, over IN Hwy 15, (37) between Kokomo, IN and junction U.S. Hwy 35 and IN Hwy 15, over U.S. Hwy 35, (38) between Westfield and Noblesville, IN, over IN Hwy 32, (39) between Noblesville and Anderson, IN, over IN Hwy 32, (40) between Anderson, IN and junction unnumbered highway (formerly IN Hwy 232) and IN Hwy 67, over unnumbered highway (formerly IN Hwy 232), (41) between Columbus and Indianapolis, IN: from Columbus over U.S. Hwy 31A to junction U.S. Hwy 31, then over U.S. Hwy 31 to Indianapolis, and return over the same route, (42) between Vincennes and Prospect, IN, over U.S. Hwy 15, serving no intermediate points, and serving Vincennes for purposes of joinder only, (43) between Mitchell, IN and Louisville, KY: from Mitchell over IN Hwy 60 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Louisville, and return over the same route, serving no intermediate points, and serving junction IN Hwy 60 and Interstate Hwy 65 for purposes of joinder only, (44) between junction IN Hwys 46 and 59 and Terre Haute, IN, over IN Hwy 46, (45) between Indianapolis, IN and Louisville, KY: from Indianapolis over U.S. Hwy 31 to Sellersburg, IN, then over U.S. Hwys 31E and 31W to Louisville, and return over the same route, (46) between Kentland, IN and junction U.S. Hwy 24 and IL Hwy 1, over U.S. Hwy 24, (47) between junction IL Hwys a and 119, and, junction IN Hwy 28 and U.S. Hwy 41: from junction IL Hwys 1 and 119 over IL Hwy 119 to the IL–IN State line, then over IN Hwy 28 to junction U.S. Hwy 41, and return over the same route, (48) between Vincennes and Indianapolis, IN, over IN Hwy 67, (49) between junction U.S. Hwy 41 and IN Hwy 57, and, Indianapolis, IN: from junction U.S. Hwy 41, and IN Hwy 57 over IN Hwy 57 to junction IN Hwy 67, then over IN Hwy 67 to Indianapolis, and return over the same route, (50) between Danville, IL and Indianapolis, IN, over U.S. Hwy 136, restricted against traffic (A) originating at Danville, IL destined to Indianapolis, IN, and (B) originating at Indianapolis, IN, and destined to Danville, IL, (51) between Corydon, IN and junction IN Hwy 145 and U.S. Hwy 460, over U.S. Hwy 460,

(52) serving the facilities of Eli Lilly and Company near Clinton, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations, (53) between Lawrenceville and Paris, IL, over IL Hwy 1, (54) between Chicago and Fairfield, IL: from Chicago over U.S. Hwy 34 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Fairfield, and return over the same route, (55) between Danville and Lincoln, IL, over IL Hwy 10, (56) between Marshall and Vandalia, IL, over U.S. Hwy 40, (57) between Springfield, IL and junction U.S. Hwy 36 and IL Hwy 1, over U.S. Hwy 36, (58) between Lawrenceville and Sandoval, IL, over U.S. Hwy 50, (59) between junction IL Hwys 33 and 49, and, junction IL Hwy 49 and U.S. Hwy 45, over IL Hwy 49, (60) between Bloomington and Ashely, IL, over U.S. Hwy 51, (61) between Bloomington and Litchfield, IL, over U.S. Hwy 66, (62) between Mount Vernon, IL and junction IL Hwy 37 and U.S. Hwy 45, over IL Hwy 37, (63) between junction IL Hwys 10 and 48, and, junction IL Hwy 48 and U.S. Hwy 66, over IL Hwy 48, (64) between Clinton and Springfield, IL, over IL Hwy 54, (65) between Ashley and Fairfield, IL, over IL Hwy 15, (66) between Taylorville, IL and junction IL Hwy 104 and U.S. Hwy 66, over IL Hwy 104, (67) between Pana and Springfield, IL, over IL Hwy 29, (68) between Paris and Bloomington, IL, over U.S. Hwy 150, (69) between Bloomington and Chicago, IL, over U.S. Hwy 66, serving all intermediate points (except those in Will County, IL), (70) between Bloomington and Peoria, IL, over U.S. Hwy 150, (71) between Lincoln and Morton, IL, over IL Hwy 121, serving Morton for purposes of joinder only, (72) serving the facilities of American Cyanamid Co., at South River, MO as an off-route point in connection with carrier's regular-route operations, (73) between Quincy, IL and St. Louis, MO: (a) from Quincy over IL Hwy 96 to junction U.S. Hwy 36, then over U.S. Hwy 36 to Jacksonville, IL, then over U.S. Hwy 67 to junction unnumbered highway (formerly portion U.S. Hwy 67), then over unnumbered highway to junction IL Hwy 267, then over IL Hwy 267 to junction U.S. 67, then over U.S. Hwy 67 to Alton, IL, then over IL Hwy 3 to junction unnumbered highway (formerly portion U.S. Hwy 67A) then over unnumbered highway to junction IL Hwy 203, then over IL Hwy 203 to junction U.S. Hwy 40, then over U.S. Hwy 40 to St. Louis, and return over the same route, and (b) from Quincy over U.S. Hwy 24 to Taylor, MO, then over U.S. Hwy 61 to Wentzville, MO, then over Bypass U.S. Hwy 40 to junction MO Hwy 115, then over MO Hwy 115 to junction MO Hwy 180, then over MO Hwy 180 to St. Louis, and return over the same route, (74) between St. Louis, MO and Lawrenceville, IL: from St. Louis over U.S. Hwy 50 to junction unnumbered highway (formerly U.S. Hwy 50A) near Sumner, IL, then over unnumbered highway to Lawrenceville, and return over the same route, (75) between St. Louis, MO and Bloomington, IL: from St. Louis over Interstate Hwy 55 to junction IL Hwy 4, then over IL Hwy 4 to Staunton, IL, then over unnumbered highway to junction Interstate 55, then over Interstate Hwy 55 to Bloomington, and return over the same route, (76) between Springfield and Peoria, IL, over IL Hwy 29, (77) between Mason City and Danville, IL: from Mason City over IL Hwy 10 to Champain, then over U.S. Hwy 150 to Danville, and return over the same route, (78) between junction Interstate Hwy 55 and IL Hwy 48 and Decatur, IL, over IL Hwy 48, (79) between St. Louis, MO and Marshall, IL: from St. Louis over U.S. Hwy 40 to junction unnumbered highway, then over unnumbered highway to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction U.S. Hwy 40A, then over U.S. Hwy 40A to Mulberry Grove, IL, then over U.S. Hwy 40 to Marshall, and return over the same route, (80) between Jacksonville and Springfield, IL, over U.S. Hwy 36, (81) between Lawrenceville, IL and Vincennes, IN, over U.S. Hwy 50, (82) between Marshall, IL and Terre Haute, IN, over U.S. Hwy 40, (A) serving routes (10) through (16), (33) through (51), (71), and (80) through (82), as alternate routes for operating convenience only, serving no intermediate points (except as noted in routes (42), (43), and (71) above), and (B) serving all intermediate points in routes (2), (3), (9) through (21), (23) through (32), (53) through (70), and (73) through (79) above (except as noted in routes (54) and (69) above); and (II) over irregular routes: (1) between points in Marion County, IN, and (2) between Fort Wayne, IN, on the one hand, and, on the other, Ferguson, IN, and Baer Field Airport, IN.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25281 Filed 8-19-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPI–015

Decided: August 13, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 38481 (Sub-22F), filed August 6, 1980. Applicant: FARRUGGIO'S BRISTOL AND PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe St., Bristol. PA 19007. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 90870 (Sub-41F), filed August 6, 1980. Applicant: RIECHMANN ENTERPRISES, INC., Route 1, Box 1284, Granite City, IL 62040. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting *general commodities,* between Alhambra, Kuhn, Mont, and Marine, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor service for abandoned rail service.

MC 115931 (Sub-121F), filed August 8, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151490F, filed August 8, 1980. Applicant: ARCHER COURIER SYSTEMS OF CHICAGO, INC., 517 South Jefferson St., Chicago, IL 60607. Representative: Lawrence Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151491F, filed July 21, 1980. Applicant: BONDED MESSENGER SERVICE, INC., 418 North 27th St., Milwaukee, WI 53208. Representative: Lawrence P. Kahn, 161 West Wisconsin Ave., Suite 5170, Milwaukee, WI 53203. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP3–006

Decided: August 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 52914 (Sub-6F), filed August 1, 1980. Applicant: FITCHETT TRUCK LINES, INC., 3641 N. W. Front Ave., P.O. Box 10799, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government between points in the U.S.

MC 126904 (Sub-39F), filed August 4, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 136545 (Sub-33F), filed July 30 1980. Applicant: NUSSBERGER BROS. "H. HOYT McKAREM," should be corrected to read "MC–F–14338F, filed *(1) Foodstuffs, lime juices, grenadine, cocktail mixes and (2) materials,*

Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ *distribution* of the commodities named above under a continuing contract or Products, Division Wander Limited at Petersborough, Ont. Supporting shipper:

MC 136545 (Sub-33F), filed July 30 1980. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 136605 (Sub-160F), filed August 4, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 6058, Missoula, MT 59807. Representative: Allen P. Felton, (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 140294 (Sub-16F), filed August 4, 1980. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Middleburg Pike, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 149385 (Sub-1F), filed August 1, 1980. Applicant: WHITE BROTHERS TRUCKING CO., a corporation, P.O. Box 96, Wasco, IL 60183. Representative: Leonard R. Kofkin, 39 S. La Salle St., Chicago, IL 60603. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 151464 filed August 1, 1980. Applicant: ARCHER MOTOR SERVICE, INC., 855 Avenue of the Americas, New York, NY 10001. Representative: Lawrence Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *shipments weighting 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25282 Filed 8-19-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

In FR Doc. 80-22950, published at page 50946, on Thursday, July 31, 1980, on page 50947, in the third column, in the second paragraph, in the first line, "H. HOYT McKAREM," should be corrected to read "MC-F-14338F, filed February 28, 1980. H. HOYT McKAREM,".

BILLING CODE: 1505-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. F-49]

The following applications were filed in region 1.

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway St., room 501, Boston, MA 02114.

MC 144496 (Sub-1-1TA), filed July 23, 1980. Applicant: ECKS TRUCKING, INC., 657 Pleasant Street, Norwood, MA 02063. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. Contract carrier, irregular routes: *(1) Foodstuffs, lime juices, grenadine, cocktail mixes and (2) materials, equipment, and supplies used in the manufacture and distribution of the products named in number (1)* above (except commodities in bulk), between the facilities of Cadbury, Schweppes, U.S.A. Ltd., and Jefferson Bottling Co., Warwick, RI, and points in the U.S.A., except AL, HA, and RI. Supporting shipper: Cadbury, Schweppes, U.S.A. Ltd. or its subsidiary, Jefferson Bottling Co., 101 Jefferson Blvd., Warwick, RI 02888.

MC 151349 (Sub-1-1TA), filed July 23, 1980. Applicant: HINGHAM EXPRESS, INC., 349 Lincoln Street, Hingham, MA 22043. Representative: Jeffrey M. Aresty, Esq., Crossland & Aresty, Bay 305 Union Wharf, Boston, MA 02109. *General commodities in containers having a prior or subsequent movement by water or by rail (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between Boston, MA and its commercial zone and Providence, RI, and its commercial zone. Supporting shipper: J. F. Moran, Central Air Freight Terminal, Logan Airport, East Boston, MA 02128.

MC 151263 (Sub-1-1TA), filed July 24, 1980. Applicant: BARRINGTON HAULAGE COMPANY INCORPORATED, 300 Treble Cove Road, Billercia, MA 01862. Representative: James R. Barrington, 300 Treble Cove Road, Billerica, MA 01862. *General Commodities (Except Commodities Transported in Bulk Tank Vehicles)* between MA, CT, RI, ME, NH, VT, and points in the U.S. including AK. Supporting shipper(s): BTU, Bruce Engineering Corporation, Esquire Road, North Billerica, MA 01862; Plasma Coatings, Inc., 23 Rutledge Road, Waterbury, CT 06702; Sanborn Associates, Inc., 25 Commercial Drive, Wrentham, MA 02093.

MC 29934 (Sub-1-2TA), filed July 23, 1980. Applicant: LO BIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Pet Food and materials, supplies and equipment used in the manufacture, distribution and sale of pet food.* Between the facilities of Franklin Foods Corporation, Norma, NJ on the one hand, and, on the other, points in NY, DE, MD, PA, VA, MA, CT, RI and DC. Supporting shipper: Franklin Foods Corporation, Landis Avenue, Norma, New Jersey 08347.

MC 147074 (Sub-1-10TA), filed July 23, 1980. Applicant: E Z FREIGHT LINES, 70 Gould Street, Bayonne, NJ 07002.

Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Binders, and materials and supplies* used in the manufacturing, sales, packaging and distribution thereof, except in bulk between Chicago, IL, on the one hand, and, on the other, points in the United States east of the Mississippi River. Supporting shipper: S. I. Jacobson, Inc., 1414 South Wabash Avenue, Chicago, IL 60605.

MC 144502 (Sub-1-1TA), filed July 24, 1980. Applicant: INTERMODAL FREIGHT SYSTEMS, INC., 144 Pennsylvania Avenue, P.O. Box 423, Kearny, NJ 07032. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those which, because of size or weight, require the use of special equipment)* between points in and east of WI, IL, KY, TN and MS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to transportation of shipments having a prior, subsequent or intermediate movement by rail in trailer on flat car or container on flat car service. Supporting shippers: There are 12 supporting shippers. Their statements may be examined at the Interstate Commerce Commission, Regional office at Boston, MA.

MC 146083 (Sub-1-2TA), filed July 23,1980. Applicant: AIRFREIGHT TRANSPORTATION CORPORATION OF NEW NEW JERSEY, 333 North Henry St., Brooklyn, NY 11222. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934.*Contract carrier:* irregular routes: *Such commodities as are dealt in or used by department stores (except foodstuffs and commodities in bulk).* Between the facilities of Lee Wards Creative Crafts, Inc., at or near Elgin, IL, on the one hand, and, on the other, points in CA, CT, CO, GA, KY, MA, NC SC, TX, and DC. Supporting shipper: Lee Wards Creative Crafts, Inc., 1200 St. Charles St., Elgin, IL 60120.

MC 151358 (Sub-1-1TA), filed July 24, 1980. Applicant: T K TRANSPORT, INC., 275 Central Street, Leominster, MA 01453. Representative: John A. Maiona, Esq., 294 Washington Street, Boston, MA 02108. Contract carrier, irregular routes: *(1) Finished plastic container products and raw materials for manufacture of plastic products,* from, to, or between Leominster, MA to CT, DE, FL, ME, MA, MD, MO, NJ, NY, NC, OH, PA, RI, SD, TX, VA; and *(2) Materials, equipment and supplies used in the manufacturing, production, installation, sale, and distribution* of the commodities named above under a continuing contract or contracts with North American Container Corporation, located in Leominster, MA. Supporting shipper: North America Container Corp., Leominster, MA 01453.

MC 151354 (Sub-1-1TA), filed July 23, 1980. Applicant: STEVEN FREIGHT SERVICE CO., INC., 16 Sturtevant Street, Somerville, MA 01245. Representative: Robert L. Cope, Esq., Suite 501, 1730 M Street, NW, Washington, DC 20036. Contract, irregular: *General Commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between the commercial zone of Boston, MA, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, RI, VT, under continuing contract or contracts with Cam-Con Corporation. Supporting shipper: Cam-Con Corporation of Somerville, MA.

MC 145829 (Sub-1-10TA), filed July 23, 1980. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract carrier, irregular routes: *Such merchandise as is sold in department or retail chain stores,* between Cheswick, PA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper(s): Action Industries, Inc., 460 Nixon Road, Cheswick, PA 15024.

MC 128798 (Sub-1-1TA), filed July 25, 1980. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Road, Larchmont, NY 10538. Representative: Larsh B. Mewhinney, Esq., Moore, Berson, Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. Contract carrier, irregular routes: *Paper and paper products, wood pulp, plastic and plastic products, except commodities in bulk, restricted to traffic originating at or destined to facilities owned, used, or operated by Georgia Pacific Corporation,* between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and DC, under contract with Georgia Pacific Corporation. Supporting shipper: Georgia Pacific Corporation, Darien, CT.

MC 116371 (Sub-1-4TA), filed July 23, 1980. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ont., Canada L5J 2Y4. Representative: Miss Whilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Malt extract or malt syrup,* in bulk, in tank vehicles, from ports of entry on the U.S.-Canada International Boundary line in MI on the Detroit and St. Clair Rivers and in NY on the Niagara River to Villa Park, IL, restricted to traffic originating at the facilities of Ovaltine Food Products, Division Wander Limited at Petersborough, Ont. Supporting shipper: Ovaltine Food Products, Division Wander Limited, 1377 Lawrence Avenue, East, Don Mills, Ont., Canada M3A 3M4.

MC 84428 (Sub-1-3TA), filed July 25, 1980. Applicant: CHESTER JACKSON COMPANY, 475 Schuyler Avenue, Newark, NJ 07032. Representative: Charles J. Irwin, Esq., Irwin and Post, P.A., 744 Broad Street, Newark, NJ 07102. *Denatured wine,* in bulk, in sanitary stainless steel tank vehicles, from Edgewater and Kearny, NJ to Lynchburg, VA. Supporting shipper: Lever Brothers Company, 390 Park Avenue, New York, NY 10022.

MC 142603 (Sub-1-8TA), filed July 24, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Contract carrier, irregular routes: *Paper, Computing Machine Forms, Circulars, Books, Booklets, Leaflets, Pamphlets, Sheets, Price Lists, PLastic Binders and Envelopes,* between Clifton, NJ (Passaic County), on the one hand, and, on the other, all points in the United States, restricted to traffic originating at or destined to the facilities of Automatic Data Processing, Inc., under a continuing contract(s) with Automatic Data Processing, Inc. Supporting shipper: Automatic Data Processing, Inc., 405 Route 3, Clifton, NJ 07015.

MC 151356 (Sub-1-1TA) filed July 25, 1980. Applicant: THE BIRGE COMPANY, INC., 421 E. 16th Street, Paterson, NJ 07514. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Automotive products and parts* between New York Commercial Zone and Suffolk County, NY, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting Shipper: Gibson Chemical & Oil Corp., 74 Mall Drive, Commack, NY 11725.

MC 151357 (Sub-1-1TA), filed July 24, 1980. Applicant: ANTHONY N. PRIZIO, d.b.a. FINAST TRANSPORTATION COMPANY, 22 Makepeace Street, Saugus, MA 01906. Reprentative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *General commodities, except classes A & B explosives, household goods as defined by the Commission, and commodities in bulk,* (1) between all points in MA, on the one hand, and, on the other, all points in CT, ME, NH, RI, VT, and the New York, NY Commercial Zone, and (2) between all points in the New York, NY Commercial Zone, on the one hand, and, on the other, all points in CT, ME,

NH, RI, and VT, and (3) between all points in RI, on the one hand, and, on the other, all points in CT, ME, NH, and VT, and (4) between all points in CT, on the one hand, and, on the other, all points in ME, NH, and VT. Supporting shipper(s): Dis-Con, Inc., 40 Constitution Road, Charlestown, MA 02129.

MC 84428 (Sub-1-4TA), filed July 25, 1980. Applicant: CHESTER JACKSON COMPANY, 475 Schuyler Avenue, Newark, NM 07032. Representative: Charles J. Irwin, Esq., Irwin and Post, P.A., 744 Broad Street, Newark, NJ 07102. *Aniline oil*, in bulk, in tank vehicles, from the plant site of American Cyanamid at Willow Island, W.VA. to the plant sites of American Cyanamid at Bound Brook and Linden, NJ. Supporting shipper: American Cyanamid, Berdan Avenue, Wayne, NJ 07470.

MC 135873 (Sub-1-1TA), filed August 7, 1980. Applicant: KSS TRANSPORTATION CORPORATION, P.O. Box 3052, North Brunswick, NJ 08402. Representative: Elaine M. Conway, 10 S. La Salle Street, Suite 1600, Chicago, IL 60603. Contract, irregular: *Paper, pulp or allied products* between points in the United States, moving under continuing contracts with Inland Container Corporation. Supporting shipper: Inland Container Corporation, P.O. Box 925, Indianapolis, In 46206.

MC 150751 (Sub-1-2TA), filed August 6, 1980. Applicant: HAROLD A. YOUNG, d.b.a., Young's Express, 21 Glenwood Avenue, Southbridge, MA 01550. Representative: Russell S. Callahan, P.O. Box 1806, Brockton, MA 02403. *Household applicances, household appliance parts and television sets*, from Providence County, RI to points in Massachusetts. Supporting shipper: Choquette & Co., Inc., One Washington Avenue, Providence, RI 02905.

MC 142803 (Sub-1-9TA), filed August 6, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Stephen J. Habash, 100 E. Broad Street, Columbus, OH 43215. Contract, irregular: (1) *Fabric (piece goods)* from Greensboro, Lowell, Kenansville, Lilesville, Farmville, Morgantown and Gastonia, NC; Rock Hill, Grace, and Union, SC; Scottsboro, AL; McComb, MS; Easton and Pine Grove, PA; Lawrence, MA; and McMinnville, TN; to the facilities of N. Edelson Sons Corporation located at Chicopee, MA; and Moulton, AL; (2) *Ladies' garments* from the facilities of N. Edelson Sons Corporation at Chicopee, MA to the facilities of K-Mart located at North Bergen, NJ. Under continuing contract(s) with N. Edelson Sons Corporation of New York, NY. Supporting shipper: N. Edelson Sons Corporation, 44 E. 32nd Street, New York, NY 10016.

MC 151473 (Sub-1-1TA), filed August 1, 1980. Applicant: THE B LINE, INC., 25 Adams Street, Braintree, MA 02184. Representative: James M. Burns, 1383 Main Street Suite 413, Springfield, MA 01103. Contract carrier, Irregular Routes: (1) *Bar, chain and motor oil and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities* between points in CT, MA, ME, NH, NJ, NY, RI, and VT, and (2) *Automotive lubricants, anti-freeze and chemicals and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities*, between points in CT, MA, ME, NH, NJ, NY, RI and VT, under a continuing contract(s) in (1) above with Admiral Petroleum, Inc., Kingston, MA and in (2) above with Commonwealth Chemical Corp., Lowell, MA. Supporting shipper(s): Admiral Petroleum, Inc., Joseph Street, Kingston, MA and Commonwealth Chemical Corp., 24 Date Street, Lowell, MA.

MC 111729 (Sub-1-7TA), filed August 4, 1980. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch, 333 New Hyde Park Road, New Hyde Park, NY 11042. *General commodities* (except articles of unusual value, Classes A and B explosives; household goods, as defined by the Commission, commodities in bulk and those requiring special equipment), *restricted against the transportation of packages or articles weighing in excess of 250 pounds*, between Hayward, CA, on the one hand, and, on the other, points in Idaho, Oregon and Washington. Supporting shipper: Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94608.

MC 138073 (Sub-1-1TA), filed August 7, 1980. Applicant: BUF-AIR FREIGHT, INC., 495 Aero Drive, Cheektowaga, NY 15225. Representative: Robert D. Gunderman, Esq., Suite 710 Statler Building, Buffalo, NY 14202. *Printed matter*, from Bristol, CT to points in NY on and west of Interstate Highway 81. Supporting shipper: Newsweek, Inc. 444 Madison Avenue, New York, NY 10022.

MC 112627 (Sub-1-2TA), filed August 7, 1980. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Wine*, in cases, from Westfield, NY to points in IN, IL, MI, and KY. Supporting shipper: Mogen David Wine Corp., 85 Bourne Street, Westfield, NY 14787.

Mc 35882 (Sub-1-1 TA), filed August 6, 1980. Applicant: BRANDER BUS LINES, INC., 20 Slater Street, Rehoboth, MA 02769. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Passengers and their baggage, express and newspapers in the same vehicle with passengers*, between Bristol, RI and Kingston, NH. (1) From Bristol, RI over RI Hwy 136 to Junction Mt. Hope Bridge, then over Mt. Hope Bridge to Junction unnumbered Hwy, then over unnumbered Hwy to Junction RI Hwy 24, then over RI Hwy 24 to the RI/MA state line, then over MA Hwy 24 to Junction Interstate Hwy 195, then over Interstate Hwy 195 to Junction MA Hwy 88, then over MA Hwy 88 to Horseneck Beach, Junction MA Hwy 18, then over MA Hwy 18 to Junction MA Hwy 140, then over MA Hwy 140 to Junction MA Hwy 24, then over MA Hwy 24 to Junction Interstate Hwy 93, then over Interstate Hwy 93 to Junction MA Hwy 213, then over MA Hwy 213 to Junction MA Hwy 125, then over MA Hwy 125 to MA/NH State Line, then over NH Hwy 125 to Kingston, NH and return over same route, serving all intermediate points.(2) From Bristol, RI over RI Hwy 136 to Junction Mt. Hope Bridge, then over Mt. Hope Bridge to Junction unnumbered Hwy, then over over unnumbered Hwy to Junction RI Hwy 24, then over RI Hwy 24 to the RI/MA State Line, then over MA Hwy 24 to Junction Interstate Hwy 195, then over Interstate Hwy 195 to Junction MA Hwy 88, then over MA Hwy 88 to Junction MA Hwy 6, then over MA Hwy 6 to Junction MA Hwy 140, then over MA Hwy 140 to Junction MA Hwy 24, then over MA Hwy 24 to Junction Interstate Hwy 93, then over Interstate Hwy 93 to Junction MA Hwy 213, then over MA Hwy 213 to Junction Interstate Hwy 495, then over Interstate Hwy 495 to Junction MA Hwy 125, then over MA Hwy 125 to MA/NH State Line, then over NH Hwy 125 to Kingston, NH and return over same route, serving all intermediate points. Restriction: No passenger will be carried whose entire ride is between Bristol, RI and Westport, MA in (1) and (2) above. Supporting shipper(s): There are approximately 25 statements of support which may be examined at the ICC Regional Office at Boston, MA.

Note.—(1) Applicant requests authority to interline at Bristol, RI, New Bedford, MA, Boston, MA and Kingston, NH.

The following applications were filed in Region 3. Send protects to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA. 30357.

MC 95540 (Sub-3-14 TA), filed August 11, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Dairy products* from Green Bay, WI to MS and LA. Supporting shipper: Topco Associates, Inc., 7711 Gross Point Road, Skokie, IL 60077.

MC 107515 (Sub-3-49 TA), filed August 11, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Stoves, heaters, fireplace, equipment and cast iron cookware and lawn furnitures; and (2) materials, equipment and supplies used in the installation and sale of the commodities in (1) above* from facilities of Atlanta Stove Works, Inc., Birmingham AL and Atlanta, GA to points in CT, IL, IN, IA, KS, ME, MA, MI, MN, MO, NH, NJ, NY, OH, PA, TX, and WI. Supporting shipper: Atlanta Stove Works, Inc., 112 Krog St., N.E., Atlanta, GA 30307.

MC 121081 (Sub-3-4TA), Files August 11, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Containers, container parts, equipment and materials and supplies used in the distribution, production, and sale of containers*, (1) between Charlotte, NC, on the one hand, and, on the other, points in AL, FL, KY, and WV, (2) between Mauldin, SC, on the one hand, and on the other, points in AL, FL, KY, VA, and WV, (3) between Hollywood and Orlando, FL, on the one hand, and, on the other, points in GA, NC, and SC. Supporting shipper: Sewell Plastics, Inc., P.O. Box 8051, Charlotte, NC 28208.

MC 151508, (Sub-3-1TA), Filed August 11, 1980. Applicant: BARY, INC., 4715 Pinewood, Louisville, KY 40218. Representative: Jack Bary, 1303 Blackwood Court, Jeffersonville, IN 47130. *Contract carrier*, irregular routes: *Home and office furniture, desks, chairs, filing cabinets, storage boxes, safes, timing devices, clocks, appliances and fixtures and parts used in the manufacture thereof*, between New Albany, IN and Louisville, KY, on the one hand, and, on the other, points in the states of AK, IA, KS, MN, MO, NE, OK, TX and points east of the MS River except ME. Supporting shipper: Murphy Manufacturing Co., Inc., 900 Park Place, New Albany, IN 47150.

MC 2934 (Sub-3-8TA), Filed August 8, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, Indiana 46032. *New Furniture (cartoned and uncartoned)*. From: MIchigan City, Indiana. To: AL, AR, CT, DE, DC, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper: Inter Royal Corporation, Royal Road, Michigan City, Indiana 26360.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25284 Filed 8-19-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

In FR Doc. 80-22950, appearing in the issue of Thursday, July 31, 1980, please make the following correction:

On page 50947, second column, second paragraph, first line, "MC-F-14284F, filed January 4, 1980" was omitted from beginning of publication of F-B TRUCK LINE COMPANY.

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Invoice. No. 337-TA-69]

Certain Air-Tight Cast-Iron Stoves; Termination

Upon consideration of the presiding officer's recommendation and the record in this proceeding, the Commission is ordering the termination of Inv. No. 337-TA-69, *Certain Air-Tight Cast Iron Stoves*, with respect to three respondents, Oriental Kingsworld Industrial Co. Ltd., Nelson and Small Inc., and Borneo Sumatra Trading Co.

The order is effective as of August 12, 1980.

Any party wishing to petition for reconsideration of the Commission's action must do so within 14 days of service of the Commission order. Such petitions must be in accord with Commission Rule 210.56 (19 CFR 210.56).

Copies of the Commission's Action and Order, the Commission's Opinion and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, United States International Trade Commission, 701 E Street NW, Washington, D.C. 20436, telephone 202-523-0161.

Notice of the institution of this investigation was published in the Federal Register of July 12, 1979 (44 FR 40732).

Issued: August 12, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-25347 Filed 8-19-80; 8:45 am]
BILLING CODE 7020-02-M

[Invoice No. 337-TA-69]

Certain Airtight Cast-Iron Stoves; Order for Written Comments Regarding Relief, Bonding and the Public Interest

AGENCY: United States International Trade Commission.

ACTION: Written comments on relief, bonding, and the public interests.

SUMMARY: This request follows a Recommended Determination of the Administrative Law Judge in this investigation on July 7, 1980. In her recommended determination the ALJ stated that the following respondents were in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by reason of unfair methods of competition and unfair acts in the importation or sale of Certain Airtight Cast-Iron Stoves in the United States: Hearth Craft, Hutch Manufacturing Co., Fireplace Distributors, International Foundries, Harbor Sales, Co., Crane Industries, Great Eastern Trading Co. Inc., Heritage Stove Co., Meteor Design International Ltd., Genial Jade Industrial Co., Pyramid International Co. Ltd., Justin Taiwan Industrial Co. Ltd., Cathay Overseas Trading Co., Taiwan Active Enterprises Co. Ltd., Tinpin Trading Co., Nan Shang Enterprises Co. Ltd., Linmore Enterprise Co. Ltd., Formosa May Inc., Hermix Industries Corp., Firebird Hardware Inc., Lee-Lin Enterprise Co. Ltd., Yulson Industries Co. Ltd., KFK Industrial Co. Ltd., Stratford Mfg. Co. Ltd., You Well Co. Ltd., Collins Co. Ltd., and Wood Heat. This notice requests comments on relief, bonding, and the public interest should the Commission determine that the above-named respondents are in violation of section 337. Copies of the Administrative Law Judge's recommendation may be obtained by interested persons by contacting the Office of the Secretary, U.S. International Trade Commission, 701 E. Street N.W., Washington, D.C. 20436, telephone 202-523-0161.

DATES: Complainant shall file and serve on all parties of record and with the Secretary to the Commission a detailed proposed Commission action, including a proposed determination of bonding, a proposed remedy, and a discussion of

the effects of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers by no later than the close of business on Friday, August 29, 1980. The Commission's investigative staff shall file and serve on all parties of record a formal report reflecting its investigation of public interest factors to be considered by the Commission with the staff's recommendation and conclusions no later than the close of business on Friday, September 5, 1980. Any other party, interested agency or department, public interest group, or other member of the public wishing to file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public interest considerations listed above must file those comments no later than the close of business on Friday, September 5, 1980. Comments should conform with Commission Rule 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E. Street N.W., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Office of the General Counsel, U.S. International Trade Commission, 701 E Street N.W., Washington, D.C. 20436; telephone 202–523–0359.

SUPPLEMENTARY INFORMATION: This investigation began with publication by the Commission of a notice in the **Federal Register** on July 12, 1979 (44 FR 40732). Twenty-five parties were named as respondents. By notice published in the **Federal Register** (44 FR 58816) on October 11, 1979, the Commission named twenty-six additional respondents. A subsequent notice dated October 24, 1979 (44 FR 61289) named one more respondent. In her recommended determination of July 7, 1980 the Administrative Law Judge found that twenty-seven respondents had engaged in one or more unfair methods of competition or unfair acts in the importation or sale in the United States of cast-iron wood-burning or coal-burning stoves which are airtight or represented to be airtight. All of the respondents found to be violating section 337 were in default.

WRITTEN COMMENTS REQUESTED: Should the Commission adopt the recommendation of the Administrative Law Judge, it must make determinations concerning the appropriate relief and bonding, if any, and it must consider the public interest. These issues are described below.

(a) *Relief.*—In the event that the Commission were to find a violation of section 337, it would issue (1) an order which could result in the exclusion from entry of certain airtight cast-iron stoves into the United States or (2) an order which could result in requiring respondents to cease and desist from unfair methods of competition or unfair acts in the importation and sale of these airtight cast-iron stoves. Accordingly, the Commission is interested in what relief should be ordered, if any.

(b) *Bonding.*—In the event that the Commission were to find a violation of section 337 and order some form of relief, that relief would not become final for a sixty-day period during which the President would consider the Commission's determination. During this period, the airtight cast-iron stoves would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Should the Commission determine that a bond is unnecessary, importation could continue during this period. Accordingly, the Commission is interested in what bond should be determined, if any.

(c) *The Public Interest.*—In the event that the Commission were to find a violation of section 337 and order some form of relief, the Commission must consider the effect of that relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

(d) *Request for Oral Argument and Oral Presentation.*—At present, no oral argument is planned with respect to the recommended determination of the presiding officer concerning whether there is a violation of section 337 of the Tariff Act of 1930 in this matter. Similarly, no oral presentation is planned with respect to the relief, bonding, and public interest factors set forth in section 337(d) and (f) of the Tariff Act of 1930. (19 U.S.C. 1337). However, the Commission will consider requests for an oral argument or an oral presentation if they are received by the Secretary of the Commission not later than September 19, 1980.

By order of the Commission.

Issued: August 15, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80–25348 Filed 8–19–80; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–67]

Certain Inclined-Field Acceleration Tubes; Termination of Investigation With Respect to the University of Pittsburgh

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation No. 337–TA–67, Certain Inclined-Field Acceleration Tubes, with respect to respondent University of Pittsburgh.

Notice is hereby given that the Commission, having on June 25, 1980, published for comment a licensing agreement between Complainant High Voltage Engineering Corp., South Bedford Street, Burlington, Mass., and respondent University of Pittsburgh, Pittsburgh, PA., settling complainant's patent infringement claims against the university (45 FR 42893), and having received no comments thereon, hereby terminates this investigation with respect to the University of Pittsburgh.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Louis Mastriani, Commission investigative attorney (202–523–0489) or Michael Jennison, Office of the General Counsel (202–523–0189).

AUTHORITY: The authority for termination of a respondent is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51–.55.

SUPPLEMENTARY INFORMATION: Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission order. Petitions must be in accord with section 210.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.56).

Copies of the Commission's action and order and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Notice of the institution of this investigation was published in the **Federal Register** of June 27, 1979 (44 FR 32567).

Issued: August 13, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80–25346 Filed 8–19–80; 8:45 am]
BILLING CODE 7020–02–M

[332–73]

Release for Public Comment of Provisionally Adopted Chapters of the Harmonized Commodity Description and Coding System

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332–73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of the following chapters of the Harmonized Commodity Description and Coding System as provisionally adopted by the Harmonized System Committee and the Nomenclature Committee of the Customs Cooperation Council.

Chapter 27: Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes
Chapter 31: Fertilizers
Chapter 32: Tanning or dyeing extracts; tannings and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks
Chapter 38: Miscellaneous chemical products
Chapter 84: Nuclear reactors, boilers, machinery and mechanical applicances; parts thereof
Chapter 85: Electrical machinery and equipment; parts thereof
Chapter 93: Arms and ammunition; parts thereof
Chapter 94: Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like; prefabricated buildings
Chapter 99: Works of art, collectors' pieces, and antiques

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by December 1, 1980.

HEARING: Parties desiring the Commission to hold a hearing on these draft chapters of the Harmonized Code should contact the Secretary of the Commission by October 1, 1980 and show good cause for holding a hearing.

COPIES OF DOCUMENTS: Copies of the chapters which are subject of this notice are available for public inspection at the offices of the Commission, 701 E Street NW, Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523–0370.

SUPPLEMENTARY INFORMATION: In its public notices of February 8, 1980 (45 F.R. 9828 of February 13, 1980) and March 21, 1980 (45 F.R. 19896 of March 26, 1980) the Commission identified 59 chapters of the Harmonized Commodity Description and Coding System (Harmonized System) for which texts had been provisionally adopted by the Harmonized System and Nomenclature Committees of the Customs Cooperation Council. The purpose of the above mentioned notices was to invite comments and views of interested parties with respect to the 59 chapters.

Since the release of the March 21, 1980 notice, provisionally adopted texts of nine further chapters have been published by the Customs Cooperation Council. This notice hereby amends the previous notice by adding these nine new chapter texts to the list of texts released for public comment.

This notice is being issued pursuant to Commission investigation No. 332–73, instituted on January 31, 1975 (40 F.R. 6329), under section 332(g) of the Tariff Act of 1930, as amended. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting should principles of commodity identification and specification and modern producing methods and trading practices * * *.

The Harmonized System is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized System will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized System for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1978), February 14, 1979 (44 FR 10435 of February 20, 1979), May 16, 1979 (44 FR 29740 of May 22, 1979), September 5, 1979 (44 FR 53112 of September 12, 1979), January 28, 1980 (45 FR 7648 of February 4, 1980), February 1, 1980 (45 FR 8168 of February 6, 1980), May 20, 1980 (45 FR 36231 of May 29, 1980), and May 23, 1980 (45 FR 36230 of May 29, 1980), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

Following its deliberation on the draft chapters, the Harmonized System Committee forwards recommended texts for the chapters to the Nomenclature Committee. The Nomenclature Committee, which supervises the operations of the convention on Nomenclature for the Classification of Goods in Customs Tariffs and is responsible for ensuring international uniformity in the interpretation and application of the CCCN, reviews the recommended texts for the Harmonized System and returns the draft chapters which it has approved to the Harmonized System Committee. The draft chapters which have thusly been provisionally approved by both committees are then held in abeyance pending final revision sessions. It is anticipated that the Harmonized System

Committee will begin final revision

FOR FURTHER INFORMATION CONTACT:

each year thereafter so long as the import relief is in effect

Joseph H. Widmar,
Director of Operations,

Director, Office of Research Programs,
National Institute of Justice,

of control room layout, the adequacy of

Committee will begin final revision sessions early in 1981.

The draft chapters released for public comment today have been provisionally adopted by the Harmonized System Committee and the Nomenclature Committee according to the above described procedure. As further chapters are adopted, the Commission will issue future notice requesting public comment.

In 1977, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized System, the interagency committee has instituted procedures which takes into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized System for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

Issued: August 15, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-25349 Filed 8-19-80; 8:45 am]

BILLING CODE 7020-02-M

[332-112]

Quarterly and Annual Reports Providing Information Providing Information on Color Television Receivers and Certain Subassemblies Thereof

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under the authority of section 332(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(b)), to establish a permanent docket for the quarterly and annual reports concerning color television receivers and certain subassemblies thereof required by Presidential Proclamation 4769 of June 30, 1980 (45 FR 45237, July 2, 1980).

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. William Fletcher or Mr. Scott Baker, Machinery and Equipment Division, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (telephone 202-523-0378, 202-523-0361, respectively).

SUPPLEMENTARY INFORMATION: On May 16, 1980, the United States International Trade Commission reported to the President (Publication 1068) the results of its investigation under section 203(i)(3) of the Trade Act of 1974 (19 U.S.C. 2253(i)(3)). The Commission advised that termination of import relief in effect with respect to color television receivers and subassemblies thereof from Taiwan and Korea will have an adverse impact on the domestic industry producing like or directly competitive articles.

After considering the advice of the Commission, the President determined that an extension of the orderly marketing agreements with the Coordinating Council for North American Affairs (representing Taiwan) and the Republic of Korea, covering color television receivers and certain subassemblies thereof, is in the national interest.

On June 30, 1980, the President issued Proclamation 4769 limiting, effective July 1, 1980, the number of color television receivers imported into the United States from Taiwan and Korea through June 30, 1982, unless earlier modified or terminated.

Paragraph (8) of Presidential Proclamation 4769 directs as follows:

(8) The USITC shall issue reports and conduct the following surveys with respect to the certain color television receivers, and subassemblies thereof the subject of this proclamation:

(a) *Quarterly* surveys by calendar quarter to obtain from producers in the United States monthly data on production, shipments, inventories, employment, man-hours, prices, and other economic factors indicative of conditions in the U.S. industry. The initial surveys shall cover the second quarter of 1980. Subsequent surveys shall cover individual quarters with the last such survey covering the quarter which ends not less than 60 days prior to the termination of the import relief. The USITC shall publish the results of the surveys within 45 days after the end of the surveyed quarter.

(b) *Annual.* Annual surveys to obtain data from producers in the United States by calendar quarter on profits, capacity, and annual data on capital expenditures and research and development expenditures; and to obtain from importers data by calendar quarter on prices, orders, and inventories. The initial surveys shall cover the calendar year 1980, and the results shall be published by March 31, 1981. The results of subsequent surveys shall be published by March 31 of each year thereafter so long as the import relief is in effect.

Issued: August 12, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-25350 Filed 8-19-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Membership of Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of the Department of Justice's Performance Review Boards.

SUMMARY: Pursuant to the requirement of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its Performance Review Boards. The purposes of the Performance Review Boards are to provide fair and impartial review of Senior Executive Service performance appraisals and to make recommendations to the Deputy or Associate Attorney General regarding the ratings.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Oser, Director, Personnel and Training Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone: 633-3221.

Harry H. Flickinger,

Executive Secretary, Senior Executive Resources Board.

Offices, Boards and Divisions Performance Review Boards:

Board 1

Rhoda Mancher, Chairperson,
Deputy Assistant Attorney General,
Justice Management Division
Theodore D. Peyser, Jr.,
Chief, Court of Claims Section,
Tax Division
Gerald A. Connell,
Chief, General Litigation Section,
Antitrust Division
Thomas S. Martin,
Deputy Assistant Attorney General,
Civil Division
Martin B. Danziger,
Deputy Commissioner,
Immigration and Naturalization Service
Robert L. Dennis,
Deputy Director,
Community Relations Service
Anthony C. Liotta,
Deputy Assistant Attorney General,
Lands Division

Board 2

Stuart E. Schiffer, Chairman,
Deputy Assistant Attorney General,
Civil Division
John E. Huerta,
Deputy Assistant Attorney General,
Civil Rights Division

Joseph H. Widmar,
Director of Operations,
Antitrust Division
Michael W. Dolan,
Deputy Assistant Attorney General,
Office of Legislative Affairs
Lois J. Schiffer,
Chief, General Litigation Section,
Lands Division
David L. Milhollan,
Chairman,
Board of Immigration Appeals
John C. Keeney,
Deputy Assistant Attorney General,
Cariminal Division

Board 3

Lloyd A. Bastian, Chairman,
Assistant Director,
Planning Budget and Administration,
United States Marshals Service
James P. Turner,
Deputy Assistant Attorney General,
Civil Rights Division
Gerald E. McDowell,
Chief, Public Integrity Section,
Criminal Division
Lawrence Lippe,
Chief, General Litigation and Legal Advice Section,
Criminal Division
William S. Lynch,
Senior Counsel for Litigation,
Criminal Division

Board 4

Ronald L. Gainer, Chairman,
Deputy Assistant Attorney General,
Office for Improvements in the Administration of Justice
Stanley F. Krysa,
Chief, Criminal Section,
Tax Division
Larry L. Simms,
Deputy Assistant Attorney General,
Office of Legal Counsel
Stuart A. Smith,
Tax Assistant,
Office of the Solicitor General

Immigration and Naturalization Service Performance Review Board:

Charles C. Sava, Chairman,
Associate Commissioner, Enforcement,
Immigration and Naturalization Service
Edward F. O'Connor,
Regional Commissioner, Western Region,
Immigration and Naturalization Service
Julie P. Dubick,
Assistant Director for Legal and Personnel Programs,
United States Marshals Service
Andrew J. Carmichael,
Assistant Commissioner, Naturalization,
Immigration and Naturalization Service
Hugh J. Brien,
Assistant Commissioner, Detention and Deportation,
Immigration and Naturalization Service

Office of Justice Assistance, Research and Statistics Performance Review Board:

Robert F. Diegelman, Chairman,
Acting Director,
Office of Justice Assistance, Research and Statistics
Walter R. Burhart,
Director, Office of Research Programs,
National Institute of Justice
Gilbert M. Leigh, Jr.,
Director, Finance Staff,
Justice Management Division
George H. Bohlinger,
Acting Assistant Administrator, Criminal Justice Programs,
Law Enforcement Assistance Administration
Wayne P. Holtzman,
Director, Systems Development Division,
Bureau of Justice Statistics

Federal Prison System Performance Review Board:

James D. Williams, Chairman,
Assistant Director, Correctional Programs,
Federal Prison System
Gary R. Mote,
Assistant Director, Planning and Development,
Federal Prison System
Gerald M. Farkas,
Associate Commissioner, FPS (UNICOR),
Federal Prison System
Z. Stephen Grzegorek,
Regional Director, Northeast Region,
Federal Prison System
John L. Poore,
Deputy Assistant Attorney General,
Civil Division
Gary R. McCune,
Regional Director, Southeast Region,
Federal Prison System
James D. Henderson,
Regional Director, North Central Region,
Federal Prison System

[FR Doc. 80-25295 Filed 8-19-80; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Availability of Draft Human Engineering Guide To Control Room Evaluation

Notice is given that the Commission's Office of Nuclear Reactor Regulation has published a draft Human Engineering Guide to Control Room Evaluation which was prepared for the Commission by the Essex Corporation of Alexandria, Virginia. Identified as NUREG/CR-1580, the draft is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in all other Commission Local Public Document Rooms. This document is a draft version of the control room design review guidelines described in Task 1.D of the NRC Action Plan developed as a result of the TMI-2 Accident, NUREG-0660. The guidelines are intended to provide guidance for a detailed control room design review to identify and correct design deficiencies. This review will be performed by all operating reactor licensees and applicants for operating licenses. Review subjects include an assessment of control room layout, the adequacy of the information provided, the arrangement and identification of important controls and instrumentation displays, the usefulness of the audio and visual alarm systems, the information recording and recall capability, the control room environment, and other considerations of human factors that have an impact on operator effectiveness.

Interested persons may submit comments on the draft guidelines for the Commission's consideration. Operating reactor licensees, applicants for operating licenses, and designated Federal agencies and organizations with experience in human factors analysis are being provided with copies of the draft guidelines. Comments on the draft guidelines received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Upon consideration of comments submitted with respect to the draft guidelines, the NRC will prepare final guidelines, the availability of which will be published in the **Federal Register.** The final guidelines will be identified as NUREG-0700.

The Commission staff plans to meet with operating reactor licensees and applicants for operating licenses, human factor engineering experts, and other interested parties at some time after comments on the draft guidelines have been received, but prior to publication of the final guidelines. The purpose of these meetings will be to review the guidelines in the context of the Commission's evaluation criteria that are to be developed and used by the Commission staff to judge the acceptability of the design reviews performed and the design modifications implemented. Notice of these meetings will be published in the **Federal Register.**

Comments on the draft Human Engineering Guide to Control Room Evaluation should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Human Factors Safety. Comments are due by September 12, 1980.

Dated at Bethesda, Md., this 12th day of August 1980.

D. Tondi,

Acting Chief, Human Factors Engineering Branch, Division of Human Factors Safety.

[FR Doc. 80-25272 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0612]

special review of equipment,

For the Nuclear Regulatory Commission.

Regulatory Commission, Washington,

following factors: (1) The nature of the

mailed); (University of Maryland); and

[NUREG-0612]

Issuance and Availability: Control of Heavy Loads at Nuclear Power Plants—Resolution of Task A-36

The Nuclear Regulatory Commission (NRC) staff has prepared a report entitled, "Control of Heavy Loads at Nuclear Power Plants—Resolution of Task A-36" (NUREG-0612), dated July 1980. The report provides the staff's resolution of the NRC's Generic Technical Activity A-36, which was an "unresolved safety issue" pursuant to Section 210 of the Energy Reorganization Act of 1974, as amended.

The generic study was established to take a systematic look at staff licensing criteria and adequacy of measures in effect at operating plants, and to recommend necessary changes to assure the safe handling of heavy loads in the area of the fuel storage pool, fuel in the reactor vessel during refueling, and safety related equipment.

NUREG 0612 describes the types of heavy loads handled, the potential consequences of load handling accidents, and the staff's plan for implementing guidelines to assure safe load handling.

The staff has determined that a number of procedural and design measures are in effect at operating plants to reduce the likelihood or mitigate the effects of load handling accidents; however, adequate measures have not been taken for all of the heavy loads that may be handled and the potential consequences that may result from a load handling accident. NUREG 0612 describes the interim measures that should be satisfied until full conformance to the guidelines in the report. The staff will be sending a generic letter to licensees identifying the interim measures that should be implemented.

Our review showed that load drops occur rather infrequently. Nonetheless, load drops can and have occurred at nuclear facilities, although these have not resulted in an offsite release of radioactive material. The staff believes that the likelihood for a load drop in this interim period and the potential consequences warrant some interim actions prior to final implementation of the guidance in NUREG 0612. The measures that will be implemented at operating facilities in this interim period include: revisions to technical specifications to include a restriction on carrying heavy loads over fuel in the storage pool; definition of safe load paths; development of procedures for handling heavy loads; training of crane operators; crane inspections; and a special review of equipment, procedures, and personnel training for the handling of loads which must be brought over the core such as vessel internals or the vessel inspection tool. These measures will assure that heavy loads are kept away from fuel in the core or spent fuel pool except where necessary, that equipment used to handle these heavy loads are in proper condition, and that personnel who handle these loads have received sufficient direction and training.

NUREG 0612 also provides guidelines to assure safe load handling over the life of the plant and acceptance criteria for evaluation of licensee measures and designs related to load handling. General guidelines are provided that include definition of safe load handling paths, qualification and training of crane operators, selection and proper use of slings and other handling devices, and periodic inspection, test, and maintenance of cranes. Additionally, certain area specific guidelines are provided that include alternatives on upgrading handling system reliability, use of mechanical stops or electrical interlocks to restrict crane travel, or analyzing the consequences of postulated load handling accidents to demonstrate that acceptance criteria are satisfied. The factors that should be considered in these analyses are also specified.

NUREG 0612 also contains recommended changes to Regulatory Guides and Standard Review Plans that will be used in the CP and OL licensing reviews.

The staff has initiated the implementation review of the guidelines in NUREG 0612 on a plant specific basis.

Copies of the report will be available after August 14, 1980. Copies will be sent directly to utilities, utility groups and associations, and environmental and public interest groups. Copies will also be forwarded to the applicable Congressional Committees for their information and use. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Commission's local public document room located in the vicinity of existing nuclear power plants. Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Room Branch, Mail Stop 309, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Dated at Bethesda, Md., this 12th day of August 1980.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Acting Director, Division of Operating Reactors Office of Nuclear Reactor Regulation.

[FR Doc. 80-25271 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.;

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Provisional Operating License No. DPR—20, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Covert Township, Van Buren County, Michigan. The amendment is effective as of it date of issuance.

The amendment deletes the requirement for quarterly stroking of the valves associated with the operation of the Safety Injection and Refueling Water Storage Tank Level Switch Interlocks except when in cold shutdown or refueling modes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significance hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any signficant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 14, 1980, (2) Amendment No. 59 to License No. DPR—20, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 29th day of July 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-25267 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-166]

University of Maryland; Proposed Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-70, issued to the University of Maryland (the licensee), for operation of the TRIGA-type research reactor located on the licensee's campus at College Park, Maryland.

The renewal would extend the expiration date of Facility License No. R-70 to June 29, 2000, in accordance with the licensee's timely application for renewal dated May 23, 1980.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 19, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petitioner should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference schedules in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity.

Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 324-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: (petitioner's name and telephone number); (date petition was mailed); (University of Maryland); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Dr. John S. Toll, President, University of Maryland, Adelphi, Maryland 20783.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated May 23, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Md., this 11th day of August 1980.

For Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 80-25266 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-367 CPA]

Northern Indiana Public Service Co., (Bailly Generating Station, Nuclear 1); Hearing on Amendment of Construction Permit Extension

On November 30, 1979, the Nuclear Regulatory Commission published in the **Federal Register** a Notice of Opportunity for Hearing on a Proposed Issuance of an Amendment to Construction Permit CPPR-104 that had been issued to the Northern Indiana Public Service Company (Permittee) for construction of the Bailly Generating Station, Nuclear 1 (the facility), a boiling water reactor to be located 12 miles northeast of Gary, Indiana. The proposed amendment would extend the latest date for completion of the facility from September 1, 1979 to December 1, 1987.

The Notice indicated that the Commission must make the findings required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations, including 10 CFR 50.55(b), which requires a showing of

good cause for the extension of the completion date for a reasonable period of time. The Notice determined that Permittee's application for extension had been filed more than thirty (30) days prior to the date for expiration of the permit, as required by the Administrative Procedure Act and 10 CFR 2.109, and that, consequently, the construction permit would not be deemed to have expired until the application has been finally determined.

The Notice also provided that, by December 31, 1979, the Permittee and any person whose interests may be affected by the proceeding might file a request for a hearing with respect to whether, pursuant to 10 CFR 50.55(b), good cause has been shown for the requested extension, *i.e.*, whether the causes put forward by Permittee are among those which the Commission will recognize as bases for extending the completion date. By that date, individual petitions were received from: George Schultz, Local 1010 of the United Steelworkers of America, the Lake Michigan Federation, and the State of Illinois. Joint petitions were also received by that date from a group of petitioners denominated "Porter County Chapter Petitioners", another group denominated "Gary Petitioners", and George and Anna Grabowski. An Atomic Safety and Licensing Board was designated to rule upon intervention petitions and request for hearings, and to preside over the proceeding in the event that a hearing is ordered. The members of the Board are: Mr. Glenn O. Bright, Dr. Richard F. Cole, and Mr. Herbet Grossman who will serve as Chairman of the Board.

On August 7, 1980, the Board granted the petitions of Local 1010 (conditionally), the State of Illinois, Porter County Chapter Petitioners, and George and Anna Grabowski. As a result, a hearing to consider the proposed amendment to construction permit will be held near the site of the Bailly construction, at a time and place to be established.

Limited appearance statements will be heard at the hearing. Members of the public may request permission to make a limited appearance pursuant to § 2.715(a) of the Commission's Rules of Practice, 10 CFR Part 2. Persons desiring to make limited appearances are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A person making a limited appearance does not become a party but may state his position and raise questions which, if relevant, the Board may require be answered by the parties through evidence on the record. Limited appearances will be received at the time of the evidentiary hearing within such limits and on such conditions as may be fixed by the Board.

For further details with respect to this action, see the applications for extension dated February 7, 1979 and August 31, 1979, which are available for public inspection at the Commission's Public Document Room, 1717 H St., NW., Washington, D.C. and at the Westchester Township Public Library, 125 South 2nd Street, Chesterton, Indiana.

By order of the Board.

Dated at Bethesda, Md., this 14th day of August 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman.

[FR Doc. 80-25270 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., (Trojan Nuclear Plant); Director's Decision

By telegram dated May 29, 1980, the Trojan Decommissioning Alliance of Portland, Oregon, requested that the Commission suspend operation of the Trojan Nuclear Plant on the basis of potential dangers posed by recent volcanic activity at Mount St. Helens in Washington State. On June 3, 1980, the Commission referred this request for action to the NRC Staff for consideration under 10 CFR 2.206 of the Commission's regulations. For the reasons stated in this decision, the Alliance's request is denied.

The potential impact of volcanic activity on the safety of the Trojan facility was investigated thoroughly by government geologists (Atomic Energy Commission and the U.S. Geological Survey) before the plant was allowed to be constructed and again before the operating license was issued. This investigation and reassessment of volcanic-related hazards has continued as attested by the affidavit which was filed with the Atomic Safety and Licensing Board in the Trojan spent fuel pool expansion proceeding in April, 1978.

Although this report filed prior to the recent volcanic activity, it is with few exceptions considered an accurate assessment today. Exceptions to the report include (1) the underestimation of volume of debris associated with a potential mudflow, (2) exclusion of a discussion of volcano-induced earthquakes, and (3) the statement that historic data indicates that the volcano has been substantially more active in the 19th century than the 20th century. Notwithstanding the above exceptions, the report's conclusion that the Trojan site is suitable from a volcanic hazards point of view remains accurate.

The recent massive eruption of May 18, 1980 exceeded that envisioned by the Nuclear Regulatory Commission and by our advisors, the U.S. Geological Survey. Nevertheless, the effects of the recent volcanism (mudflows, earthquakes and ashfall) at the Trojan site have been minimal. Mudflows in the Toutte, Kalama, and Lewis River valleys have not comprised the safety of the Trojan plant. Volcanic-induced earthquakes have been small and have neither been felt nor recorded instrumentally at the site. Ashfall at the Trojan plant resulting from the May 25, 1980 eruption has been slight (not exceeding ⅛ of an inch) and fell at the site in the form of a muddy rain or mist. The only other indication of ash occurred on April 29, 1980 when a thin coating of the ash was noted at the Trojan site.

According to University of Washington seismologists, the volcanic-induced earthquakes mentioned previously have not exceeded Richter Magnitude 5.1 and have been concentrated in an area roughly coincidental with the volcano crater which is 35 miles northeast of the Tojan plant. None of the larger events (Magnitude 5.0 and above) have occurred closer than 35 miles to the plant. For the most part, the volcanic earthquakes have occurred as shallow depths and have consequently been felt only in the immediate vincinity of the seismic event. However, there have been unconfirmed reports of volcanic-related earthquakes (originating at Mount St. Helens) being felt in the Longview-Kelso, Washington area, roughly five miles north of the Trojan plant. Apparently those feeling the tremors were located in areas where soil overlies bedrock. The plant is designed to safely withstand seismic levels of 0.25g peak ground acceleration. This corresponds to earthquake levels many times greater than those generated by the volcano-induced earthquakes.

We have been in constant contact with numerous state, governmental agency, and university scientists since initiation of earthquake activity and subsequent volcanic activity in the vincinty of Mount St. Helens on March 20, 1980. This surveillance, accumulation of information, and assessment will continue as long as the volcano remains active. In addition, representatives of the NRC staff visted the Trojan site and environs on June 18, 1980 for the specific purpose of assessing the safety of Trojan in light of the recent volcanic activity.

Our conclusion, based upon an evaluation of volcanic phenomena prior to construction, coupled with an assessment of the effects of the activity beginning March 20, 1980, is that the Trojan site remains suitable from a volcanic hazards viewpoints.

As to evacuation under severe ashfall conditions, this can cause transportation problems somewhat similar to those produced by road icing or heavy snowfall. The first protective action to be taken following a radiological emergency at a nulcear facility is to alert the public to take shelter and await further instructions. Seeking shelter in homes is an effective protective measure under most circumstances. A decision to evacuate is based on an assessment of the potential injury to the public from the accident and must be balanced against the risk to the public from the evacuation itself and against the conditions that prevail at the time. Seeking shelter would have to be given greater weight under ashfall conditions, depending on its severity.

Beyond about five miles, sheltering following by relocation within several hours is essentially as effective as immediately evacuation. Within five miles, sheltering is still an effective protective measure. Under ashfall conditions, consideration would have to be given to limiting the evacuation area, depending on the exact circumstances. This would reduce the difficulty of evacuating those persons exposed to the greatest risk.

Therefore, if an accident occurred in combination with transportation difficulties due to severe volcanic ashfall, effective protecting measures can still be implemented, albeit with greater difficulty. The probability of these two events occurring simultaneously is, however, extremely low.

Based on the foregoing, your request on behalf of the Trojan Decommissioning Alliance that operation of the Trojan Nuclear Plant be suspended on the basis of the recent volcanic activity at Mount St. Helens is denied.

Dated at Bethesda, Md., this 13th day of August 1980.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulations.

[FR Doc. 80-25269 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amemend No. 61 to Facility Operating Licenses No. DPR-3, issued to Yankee Atomic Electric company (the licensee), which revised the license and its appended Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment deletes the technical specifications for secondary water chemistry and incorporates a new license condition in the license, paragraph 2.C(5), for implementation of a secondary water chemistry monitoring program which inhibits steam generator tube degradation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 24, 1979 (Proposed Change No. 167), (2) Amendment No. 61, to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Licensing.

Dated at Bethesda, Md., this 21st day of July 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-25273 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OH 710-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Health Physics Surveys in Uranium Mills" and is intended for Division 8, "Occupational Health." It is being developed to describe health physics surveys acceptable to the NRC staff for protecting uranium mill workers from radiation and the chemical toxicity of uranium while on the job.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 20, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

V 45 AG 2080 UMI

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 11th day of August 1980.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 80-25274 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.25, "Calibration and Error Limits of Air Sampling Instruments for Total Volume of Air Samples," identifies methods for calibrating air sampling instruments used to assess the air concentration of radioactive materials and provides guidance for measuring within certain limits the volume of air sampled. This guide endorses and supplements a manual, "Air Sampling Instruments for Evaluation of Atmospheric Contaminants," 5th Edition, 1978, published by the American Conference of Governmental Industrial Hygienists.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 12th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-25268 Filed 8-19-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

August 14, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meetings.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of Panel VII (Electoral Process) of the President's Commission for a National Agenda for the Eighties. The meeting is scheduled for August 27, 1980, from 3:30 p.m. to 6:00 p.m., in room 9104 of the New Executive Office Building, in Washington, D.C.

The purpose of the meeting is to discuss the panel's option paper on the Presidency and the Executive branch.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-25283 Filed 8-19-80; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Articles Being Considered for Possible Duty Modification

Correction

In FR Doc. 80-23950 appearing at page 52978 in the issue of Friday, August 8, 1980, make the following corrections to Annex I:

(1) On page 52979, TSUS item 118.30 should be followed by footnote reference " 1".

(2) On page 52979, item 517.91 is listed twice but should be listed only once.

(3) Also on page 52979, item 603.30 was left out and should be inserted in its correct numercial order.

(4) On page 52980, at the end of Annex I insert the following footnote texts:

[1] Only goat's milk products not containing any other type of milk.

[2] Only pineapple and quince pastes and pulps.

[3] Only sauces other than tomato.

BILLING CODE 1505-01-M

SMALL BUSINESS ADMINISTRATION

Availability of Fiscal Year 1980 Funds for Continuation of Data Base Development Design With Specific Application to Large Micro Data Files

AGENCY: Small Business Administration, Office of Advocacy.

ACTION: Notice.

SUMMARY: The Office of Economic Research, Office of Advocacy announces availability of FY 80 funds to continue its data base development work. Under Public Law 94-305, passed in 1976, funds will be awarded as cooperative agreements which means that substantial performance involvement between the Small Business Administration and the recipient is anticipated. Any person or group outside the Federal Government may submit a proposal. This notice sets forth: (1) conditions under which proposals will be evaluated to determine relevance to the project objectives; (2) filing dates; (3) funding; and (4) recommended format.

Vendor meeting was held on August 1, 1980.

DATE: Applications and accompanying proposals must be received no later than August 22, 1980.

ADDRESS: Small Business Administration, Office of Economic Research 1441 L Street N.W. (Room 1100 Vermont Building), Washingotn, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Dr. William Whiston, or Mr. David Hirschberg, telephone (202) 634-4885.

SUPPLEMENTARY INFORMATION:

A. Program Objectives

Under Public Law 94-305, and more recently under S. 2698 (the Small Business Economic Policy Act), the Office of Economic Research is requested in Section 303 of the latter to "examine the current role of small business in the economy on an industry-by-industry basis and * * * " to identify economic trends which will or may affect the small business sector and the state of competition." In Section 401, the Office is requested by the Congress to provide data on "employment layoff and new hires; * * * sales and new orders; * * * debt to equity ratios" * * * among others.

This data will provide: (1) the most comprehensive, and up-to-date list of businesses in the United States; (2) a unique file of current economic and trend data which has undergone a rigorous series of imputations, tests, and benchmarking; and (3) and opportunity for future model buildings and relevant policy analyses by researchers, on and as needed basis.

B. Scope and Purpose of this Announcement

This announcement initiates the second and third phases of the Data Base Development Design. The Office of Economic Research perceives three separate projects in the second and third phases as described below. An applicant may submit a proposal on one, two, or all three projects, but each project must be applied for separately and the applicant should clearly identify which project it is they are applying for with each submission.

C. Projects

1. *Creation of an initial data base*—Much of this task has already been completed by the Brookings Institution, who will be working along with recipients of awards of this program announcement. The major files with which Brookings has been working are the Dun and Bradstreet 4.3 million record Market Identifier File and the Duns 1.0 million record Financial Statistics File. In addition, there are smaller subsets to each of these files. The tasks under this sub-heading suggest a plan for continued testing of these files for reliability of the data, choosing stratified samples for the files, updating missing employment, sales and asset data by appropriate statistical techniques, and constructing a longitudinal study of firm births and deaths from the files. To assist an applicant to prepare a proposal for this Program Announcement, the progress reports of the Brookings Institution will be made available.

2. *Coordination of above work with that of the Brookings Institution*—The applicant's plan should reflect the coordination of all research with both SBA's research needs and those of the Brookings Institution. Brookings will continue to play a major role in evaluating the progress and performance of the above work. The applicant's proposal must describe a plan to benchmark the Dun and Bradstreet data files with other published and unpublished government sources, and the applicant should include a plan which encompasses the comparability of reporting units such as those for taxpaying work, enterprises, and establishment, as they affect comparisons among data sources.

The software and hardware configurations are crucial aspects to this part of the proposal. The computer language used should be protable, as should the hardware.

3. *Experimented Testing of an Augmented Duns File*—The Office of Economic Research, Office of Advocacy is developing an Indicative Data Base which will be an *up-to-date comprehensive listing* of all relevant businesses in the United States. This involves augmenting the Dun and Bradstreet data files by adding approximately 2 million records (2 million is roughly the difference between the number of establishments in the Duns Market Identifier File and the business list data sold by commercial firms). The applicant should indicate how this matching should be done, and how they plan to test this augmented file against other specified files—such as those of the Department of Labor's Wage and Benefit program, the Unemployment Insurance system and the Internal Revenue Service's files.

D. Eligible Applicants

Any non-Federal public or private, profit or no-profit entity or individual is eligible to apply for a cooperative agreement under this announcement. Preference will be given to small business applicants.

E. Funding

For Fiscal Year 1980, the Office of Economic Research has $800,000 for funding the three projects described above. The Office of Economic Research anticipates that this will be a 5-year study; the initial budgeting, however, will be for a 1-year period. With satisfactory progress, the agreement may be renewed in succeeding years, depending on the availability of funds. A cooperative agreement may be continued, therefore, on a non-competitive basis for future years. Any proposal submitted on a multi-year basis should contain a detailed proposal for the initial year which funding is requested, plus an outline of planned activities and expected costs for succeeding years.

Acceptable proposals which cannot be funded in FY 80 will be retained and considered for FY 81 funding.

F. Review Criteria

All proposals received as a result of this solicitation will be evaluated both by a panel of experts inside the Small Business Administration and an outside panel of academic, government, and small business persons. The following factors will be used to score the proposals:

(1) The methodology should be well-defined, logically constructed, reasonably documented, and appropriate to the project: 20%.

(2) The extent to which the proposal exhibits an understanding of existing work in this and related areas of research, including data resources and limitations relevant to the proposed topic: 15%.

(3) The promise of the proposal for assistance within reasonable timeframes to gather data for Federal and non-Federal entities for the purpose of providing economic reasearch concerning the well-being of small business: 10%.

(4) The appropriateness of the project within the constraints of the facilities available and the qualifications of the personnel involved: 10%.

(5) The adequacy of the project in terms of level of effort, time, costs, organization, and management of the project: 10%.

(6) The firm submitting the proposal(s) is a small business which is defined as having average annual receipts not in excess of $2 million for the past three fiscal years: 15%.

(7) Small business status: 20%.

G. Recommended Format

Applications are to be submitted on Standard Form #424 along with the requisite number of signed copies of "Assurances and Certifications." Forms may be obtained from the following: Grants Management Officer, Small Business Administration, 1441 L Street N.W. (Room 221), Washington, D.C. 20416, Telephone (202) 653-7744. All proposals should contain the following elements:

(1) *Cover Page.*

Research proposals should be cleared through the execute officer who has the

where specific tasks and results may be influenced by factors beyond the control

Dated: August 14, 1980

and have responded to them by revising the policy with respect to CDC's as

disclosure of information became effective August 1, 1980.

and Rulings. However, personnel from other Customs offices participated in its

Research proposals should be cleared through the execute officer who has the power to bind firms or institutions. One copy must be signed, in the space provided on the cover, by the principal investigator, the department chairman (if appropriate), and the authorized financial officer in the following suggested format:

Title of Proposal _____
Name of Principal Investigator(s) _____
Total cost of Proposal _____
Period of Proposal _____
Organization or Institution and Department _____
Required Signatures _____
Principal Investigator(s) _____
Name _____
Date _____
Address _____
Telephone Number _____
Required Organization Approval:
Name _____
Date _____
Address _____
Telephone Number _____
Organization Financial Officer:
Name* _____
Date _____
Address _____
Telephone Number _____

(2) *Project Description.* Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding. The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

a. *Project Goals and objectives.* The projects's objectives must be clearly and unambiguously stated. To the greater extent possible, they should be stated in quantitative terms or other descriptors that can be measured.

b. *Project Outline.* The proposal should clearly define the tasks that are to be performed, the key events or milestones in accomplishing the task schedule, and the feasibility of achieving these events or milestones.

c. *Project management.* The proposal should describe how the project will be organized and managed, and should list those persons or groups assigned to the project along with their qualifications and their level of involvement in the project.

d. *Project Evaluation.* The proposal must describe how the progress of the project will be monitored and evaluated while the project is underway and upon completion. It must also indicate what actions the applicant will undertake in the event project objectives becomes unattainable. This is particularly important for demonstration projects where specific tasks and results may be influenced by factors beyond the control of the applicant.

e. *Project Costs.* The proposal must provide a detailed schedule or project costs, identifying in particular:

(a) Salaries and Fringe Benefits.
(b) Equipment.
(c) Travel.
(d) Publication costs.
(e) Other direct costs (specify).
(f) Indirect costs (attach negotiated agreement).
(g) Total Costs.

(3) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

H. Financial Information

(1) Account Identification—73–0100–0–1–376.

(2) Federal Catalog of Domestic Assistance Identification—#59.034.

Dated: August 14, 1980.

William H. Mauk, Jr.,

Deputy Administrator.

[FR Doc. 80-25315 Filed 8-19-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0306]

Maine Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On July 16, 1980, a notice was published in the **Federal Register** (45 FR 47775) stating that Maine Capital Corporation, One Memorial Circle, Augusta, Maine 04330 had filed an Application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on July 31, 1980, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01–0306 on August 7, 1980, to Main Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 14, 1980

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-25314 Filed 8-19-80; 8:45 am]

BILLING CODE 8025-01-M

Implementation of Economic Opportunity Act, as amended by Pub. L. 95–568

AGENCY: Small Business Administration.

ACTION: General notice.

Section 742(a)(2) of the Economic Opportunity Act, as amended by section 14j of Pub. L. 95–568, 42 U.S.C. 2985a(2)(a), provides that the Administrator of the Small Business Administration (SBA) after consultation with the Director of the Community Services Administration (CSA) shall promulgate regulations to insure the availability to community development corporations (CDC's) of such of SBA's programs as will further the purposes of the Economic Opportunity Act. A controversy over the effect of this section has existed between CSA and SBA since its passage in 1974. This controversy culminated in a lawsuit brought by a CDC and a small business to, among other things, compel SBA to permit the small business to enter SBA's section 8(a) program.

Pursuant to a settlement agreement entered into by SBA and the other parties to that lawsuit, SBA agreed to consult with CSA and draft proposed regulations to implement section 742(a)(2) of the Economic Opportunity Act.

The consultation process has taken place. During that process, CSA advised SBA of four specific SBA policies which it suggested should be altered by regulation, or otherwise, in order to insure that SBA's programs would be available to CDC's. These policies included:

1. SBA's affiliation rule and its effect on CDC participation in SBA programs;
2. SBA's section 8(a) program eligibility requirement that the ownership, management and daily business operations of applicants be controlled by socially and economically disadvantaged persons;
3. SBA policy that $150,000 of the required $500,000 "private capital" for entry into the Small Business Investment Company and section 301(d) licensee programs must be non-Federal.
4. SBA policy that CDC-owned businesses cannot apply for any loan programs for which their CDC has acted as a "packager."

The pertinent program offices within SBA has considered CSA's suggestions,

and have responded to them by revising the policy with respect to CDC's as packagers of loans for buisnesses in which they own interests. In this regard, a letter so advising has been prepared to be sent to CSA and appropriate changes in SBA's internal standard operating procedures are being made. In addition, two proposed regulations have been drafted dealing with CDC eligibility for SBA's section 8(a) program and Small Business Investment Company program. These proposed regulations are published elsewhere in this issue. Finally, SBA has chosen not to alter its affiliation policy, and a letter to that effect has also been prepared to be sent to CSA which explains the basis for that decision.

Dated: August 11, 1980.

William H. Mauk, Jr.

Acting Administrator.

[FR Doc. 80-25334 Filed 8-19-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Disclosure of Information on Export Documents; Shipper's Certification of Confidentiality

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the exporting community of the provisions of a new law which changes the procedures a shipper must follow in order to request that Customs not disclose to the public the shipper's name and address from documents submitted to Customs in connection with exports from the United States. Customs will publish a final rule document at a later date amending the Customs Regulations to implement those procedural changes.

FOR FURTHER INFORMATION CONTACT: Doris B. Robinson, Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW, Washington, D.C. 20229 (202–566–8681).

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–275, which was published as T.D. 80–184 in the Customs Bulletin of July 23, 1980, an Act "to protect the confidentiality of Shippers' Export Declarations and to standardize export data submission and disclosure requirements," was enacted by Congress on June 17, 1980. The provisions of that law relating to disclosure of information became effective August 1, 1980.

Section 2 of the law provides that the name and address of a shipper contained in an outward foreign manifest or documents attached to the manifest will be subject to public disclosure unless the shipper has made a biennial (every two years) certification to Customs claiming confidential treatment for that information.

New Customs Procedures

To implement the many changes required by the law, Customs will amend its regulations contained in title 19, Code of Federal Regulations, Chapter I (19 CFR Chapter I), in a final rule document to be published in the **Federal Register** at a later date. However, as regards the new certification requirement imposed by the law, Customs considers it advisable to notify members of the exporting community of changes in disclosure of information procedures by this document.

Effective August 1, 1980, if a shipper wishes to request confidential treatment by Customs of his/her name and address, the following procedures will be used:

1. A shipper, or authorized employee or official of the shipper, must submit a certification claiming confidential treatment of the shipper's name and address.

2. There is no prescribed format for a certification.

3. The certification must be submitted to the Regional Commissioner for the Region in which the port of exportation is located.

4. Each certification will be valid for a period of two (2) years from the date of its submission to Customs.

Existing Shipper's Claims For Confidentiality

A shipper who, before August 1, 1980, had applied for and obtained Customs approval of a claim for confidential treatment of the shipper's name, must submit to Customs a new "certification" claiming confidentiality of the shipper's name and address if desired, following the procedure described above. However, claims of confidentiality made by a shipper and already approved by Customs will continue in effect until 60 days after the publication in the **Federal Register** of the final rule document (Treasury Decision) amending the Customs Regulations to implement the new law.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Research Division, Office of Regulations and Rulings. However, personnel from other Customs offices participated in its development.

Dated: August 13, 1980.

R. E. Chasen.

Commissioner of Customs.

FR Doc. 80-25309 Filed 8-19-80; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 80–212]

Florasynth, Inc.; Recordation of Trade Name

On June 11, 1980, there was published in the **Federal Register** (45 FR 39609) a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name FLORASYNTH, INC. The notice advised that prior to final action on the application, filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevent data, veiws, or arguments submitted in opposition to the recordation and received not later than 30 days from the date of publication of the notice.

The name "FLORASYNTH, INC." is hereby recorded as the trade name of Florasynth, Inc., a corporation organized under the laws of the State of new York, located at 410 East 62nd Street, New York, New York 10021, when applied to essences and aromatic ingredients used as bases for cosmetics, toilet preparations, perfumes and colognes, and as flavor in foods, beverages and tobacco products; essential oils, used as an odorant to mask disinfectants, insecticides, and similar products; extracts, flavors, oils and emulsions for use in making soft drink syrups and bases; non-alcoholic preparation for producing a foam in soft drinks and a flavoring agent used in the preparation of root beer; orange compound adapted to produce a cloud in non-alcoholic, malt-less soft drink beverages and having flavoring ingredients; natural and synthetic organic flavors, extracts, oils, and blenders for alcoholic beverages; imitation vanilla bean flavor; grapefruit juice powder, lemon juice powder, lime juice powder, orange juice powder, and brown sugar powdered flavor; citrus oils for food purposes; onion powder and garlic powder; and coffee, manufactured in Brazil, Canada, England, France, Japan, Mexico and the United States. Various foreign subsidiaries are authorized to use the trade name.

Dated: August 14, 1980.

Salvatore F. Caramagno,

Director, Office of Management Services.

Approved: August 12, 1980.

By direction of the Administrator.

Richard J. Morrison,

Assistant Administrator for Administration.

RETENTION AND DISPOSAL:

Records are maintained for the

Sunshine Act Meetings

Federal Register
Vol. 45, No. 163

Dated: August 14, 1980.

Salvatore E. Caramagno,

Director, Office of Regulations and Rulings.

[FR Doc. 80-25310 Filed 8-19-80; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Systems of Records

Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register**, a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published and adopted a notice of its inventory of personal records of September 27, 1977 (42 FR 49728).

Notice is hereby given that the Veterans Administration is adding a new system of records entitled "Resident Engineer Assignment System (REAS)" (62VA08). This system is authorized under Title 5 U.S.C. Section 301 and Title 38 U.S.C. Sections 210(c) and 219.

The purpose of this new system of records is to aid in the assignment of Resident Engineers and clerical support staff to supervise VA construction sites. The data in the records will include various personal and professional information such as areas of preference, VA experience, states in which licensed, family information, etc. The data will be used exclusively in permitting the efficient scheduling of assignments of Resident Engineers and their clerical support staff to construction sites with the maximum utilization of these personnel with a minimum of relocation. No disclosures of this information will be made outside the agency.

The use of the information and data in this system is restricted solely to the office of the system manager and does not have any routine uses as defined by the Privacy Act of 1974 (5 U.S.C. 552a(a)(7)). Therefore, the requirement to give 30-days prior public notice before compiling this new system does not apply.

A "Report of New System" and an advance copy of the revised system notice were sent on June 24, 1980, to the Speaker of the House, the President of the Senate, and the Office of Management and Budget, as required by the provision of 5 U.S.C. 552a(o) of the Privacy Act and guidelines issued by the Office of Management and Budget (40 FR 45877), October 3, 1975.

Notice is hereby given that this description is effective the date of approval by the Administrator of Veterans Affairs (August 12, 1980).

Approved: August 12, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

SYSTEM NAME:

Resident Engineer Assignment System, 62VA08.

SYSTEM LOCATION:

Records are maintained in the Office of Construction, Cental Office, Veterans Administration, Washington, D.C., 20420.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Resident Engineers and their clerical staff currently employed by the Veterans Administration Central Office and assigned to nationwide construction site supervision responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include information such as station assignment, last relocation date, states in which licensed, area or preference, address, family, grade and last promotion date, employment date, and VA experience. Only records that permit efficient scheduling assignments of Resident Engineers and their clerical staff to construction sites and that will maximize utilization of these personnel with a minimum of relocations will be maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C. Section 301, Title 38 U.S.C., Sections 210(c), 219.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(a) Magnetic tape at the VA Central Office.

(b) Paper documents at the VA Central Office.

RETRIEVABILITY:

Records are indexed by name of the employee and filed alphabetically.

SAFEGUARDS:

Physical Security: Maintained under lock and key in file cabinets. Access to files is restricted to Resident Engineer assignment officials on a need to know basis. The file area is locked after duty hours and protected from unauthorized access by the Federal Protective Service.

RETENTION AND DISPOSAL:

Records are maintained for the duration of employment of the Resident Engineers and clerical staff. When the employee leaves the Office of Construction the records are destroyed in accordance with approved VA procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Systems Staff, Office of Construction, Veterans Administration, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual seeking information concerning the existence of records or the contents of records on him or her must furnish a written request or apply in person at the Office of the Director, Resident Engineer Staff, Office of Construction, Veterans Administration, Washington, D.C. 20420. The individual must reasonably identify the system of records and provide his or her full name.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Questionnaires completed by Resident Engineers and their clerical staff, and from present Resident Engineer staff assignment records.

[FR Doc. 80-25324 Filed 8-19-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 163

Wednesday, August 20, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Energy Regulatory Commission	2
Federal Reserve System (Board of Governors)	3
Libraries and Information Science National Commission	4, 5
National Railroad Passenger Corporation	6

1

CIVIL AERONAUTICS BOARD.

[M-289, August 14, 1980]

TIME AND DATE: 9:30 a.m., August 21, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 38278, Southwest Airlines notice to terminate service at Beaumont/Port Arthur, Texas. (Memo No. 9864, BDA, OCCR)
3. Dockets 38412 and 38413, Braniff Airways 90-day notice of termination of all service at Cleveland, Ohio and Milwaukee, Wisconsin. (BDA, OCCR) (Memo No. 9870)
4. Docket 38547, United Air Lines notice under section 401(j)(2) to suspend nonstop or single-plane service in 34 markets. (BDA, OCCR) (Memo No. 9869)
5. Docket 34681, proposed final 419 rate of compensation for Air North service at five Upstate New York points. (Memo No. 8486-N, BDA, OCCR)
6. Docket 34802, Wien Air Alaska, Inc. Intra-Alaska Service Mail Rates. (Memo No. 9210-A, BDA)
7. Docket 37588, Palm Beach Environmental Study. (Memo No. 9446-E, 9446-F)
8. Docket 32660, Petition of the International Airforwarder Agents Association for review of staff action. (Memo No. 9865, BIA)
9. Dockets 35634 and 32660, IATA petition for reconsideration of Order 80-4-75. (Memo No. 9567-A, BIA)
10. Docket 37286, Application of Saudi Arabia Airlines Corporation for amendment of its foreign air carrier permit to add Houston, Texas and coterminalize its U.S. points. (BIA, BCP, OGC, BALJ)
11. Docket 37580, Application of TACA International Airlines, S.A. for an amendment to its foreign air carrier permit to operate scheduled all-cargo service. (Memo 9868, BIA, OGC, BALJ)
12. Docket 36916, Application of Redcoat Air Cargo Limited for foreign charter air carrier permit to carry cargo between the United States and the United Kingdom. (BIA, OGC, BALJ) (Memo No. 9867)
13. Docket 33220, Yucatan Service Case. (Instructions to staff)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1562 Filed 8-15-80; 4:35 pm]

BILLING CODE 6320-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

August 13, 1980.

TIME AND DATE: 10 a.m., August 20, 1980.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of Public Information.

Power Agenda—459th Meeting, August 20, 1980, Regular Meeting (10 a.m.)

CAP-1. Docket No. EL78-43, City of Bountiful, Utah, Utah Power and Light Co., City of Santa Clara, Calif. and Pacific Gas and Electric Co.
CAP-2. Project No. 2811, Public Utility District No. 1 of Klickitat County, Wash.
CAP-3. Docket No. ER80-493, Interstate Power Co.
CAP-4. Docket No. ER76-827 and ER77-427, Minnesota Power & Light Co.
CAP-5. Docket No. ER80-363 Delmarva Power & Light Co.
CAP-6. Docket Nos. ER80-38 and ER80-122, West Texas Utilities Co.
CAP-7. Docket No. ER76-716, Indiana & Michigan Electric Co.
CAP-8. Docket No. ER80-261, Mississippi Power & Light Co.
CAP-9. Docket No. ER80-222, Georgia Power Co.

Miscellaneous Agenda—459th Meeting, August 20, 1980, Regular Meeting

CAM-1. Docket No. GP80- , NGPA well category determination, USGS New Mexico, El Paso Natural Gas Co. FERC No. JD 80-34000.
CAM-2. Docket No. GP80-93, State of Louisiana, Section 103 NGPA determination, Conoco, Inc., T. Ortego A. SU, L. L. Welch A No. 17 Well, Louisiana, Docket NGPA #79-3006, FERC JD No. BD-10858.

Gas Agenda—459th Meeting, August 20, 1980, Regular Meeting

CAG-1. Docket Nos. RP74-20 and RP74-83, United Gas Pipe Line Company; Docket Nos. RP7-20, et al., (interest reimbursement) United Gas Pipe Line Co.; Docket Nos. RP74-82 and RP74-81, Columbia Gas Transmission Corp. and Columbia Gulf Transmission Corp.; Docket Nos. CP70-22, et al., Michigan-Wisconsin Pipe Line Co.; Docket Nos. RP73-102 and RP73-14 (PGA75-1), Michigan Wisconsin Pipe Line Co.; Docket Nos. RP75-96 and RP76-100, Michigan-Wisconsin Pipe Line Co.; Docket No. RP73-110, Natural Gas Pipeline Co. of America; Docket No. RP75-84, Southern Natural Gas Co.; Docket No. RP73-113, Tennessee Gas Pipeline Co.; Docket Nos. RP74-48 and RP75-3, Transcontinental Gas Pipeline Corporation.; Docket Nos. RP72-23, et al., and RP73-35, Trunkline Gas Co.; Docket No. RP73-35 and RP74-89 (PGA76-1 and AP76-2), Trunkline Gas Co.; Docket Nos. RP74-89 and RP73-35 (AP76-1), Trunkline Gas Co.
CAG-2. Docket No. TA80-2-33 (PGA80-2a), El Paso Natural Gas Co.
CAG-3. Docket No. TA80-2-57 (PGA80-2), Western Transmission Corp.
CAG-4. Docket Nos. AR61-2, et al., and AR69-1, area rate proceeding, et al. (Southern Louisiana); Docket Nos. AR64-2, et al., area rate proceeding, et al. (Texas Gulf Coast); Docket Nos. AR67-1, et al., area rate proceeding, et al. (other southwest); Docket Nos. AR70-1, et al., area rate proceeding, et al. (Permian Basin II).
CAG-5. Docket Nos. RI74-188 and RI75-23, Independent Oil and Gas Assocation of West Virginia.
CAG-6. Docket No. CP80-324, Tennessee Gas Pipeline Co. a division of Tenneco Inc.; Docket No. CP80-336, Transcontinental Gas Pipe Line Corp.
CAG-7. Docket No. CP79-150, Northwest Pipeline Corp.
CAG-8. Docket No. CP80-386, Buckeye-Tennessee Gas Gathering Co.
CAG-9. Docket No. PC79-416, ANR Storage Co.; Docket No. CP79-374, Southern Natural Gas Co.; Docket No. CP79-382, South Georgia Natural Gas Co.; Docket No. CP79-476, Great Lakes Gas Transmission Co.; Docket No. CP79-496, Michigan Wisconsin Pipe Line Co.

CAG–10. Docket No. CP80–337, Eastern Shore Natural Gas Co.
CAG–11. Docket No. CP80–379, Trunkline Gas Co.
CAG–12. Docket No. CP80–280, Tennessee Gas Pipe Line Co., a division of Tenneco Inc.
CAG–13. Docket No. CP74–150, Transcontinental Gas Pipe Line Corp.
CAG–14. Docket No. CP80–384, Michigan Wisconsin Pipe Line Co.

Power Agenda—459th Meeting, August 20, 1980, Regular Meeting

I. Licensed Project Matters

P–1. Reserved.

II. Electric Rate Matters

ER–1. Docket No. ER80–497, Appalachian Power Co.
ER–2. Docket No. ER80–506, Alabama Power Co.
ER–3. Docket No. ER80–492, Idaho Power Co.
ER–4. Docket No. ER80–511, Niagara Mohawk Power Corp.
ER–5. Docket No. ER80–508, Boston Edison Co.
ER–6. Docket No. ER80–495, Iowa Public Service Co.
ER–7. Docket No. ER80–422, Central Vermont Public Service Corp.
ER–8. Docket No. EL80–5, Central Vermont Public Service Corp.
ER–9. Docket No. E–7777 (phase II), Pacific Gas & Electric Co.; Docket No. E–7796, Pacific Power & Light Co.
ER–10. (A) Docket No. E–9563, Bonneville Power Administration (Wheeling rates); (B) Docket No. EF80–2011, Bonneville Power Administration (system rates); Docket No. RM80– , proposed rulemaking on review of Federal rate schedules; (C) Docket No. EF79–4011, Southwestern Power Administration (System rates); (D) Docket No. EF79–4021, Southwestern Power Administration (Sam Rayburn Dam project).
ER–11. Docket No. ID–1839, H. Russell Smith.
ER–12. Docket No. ID–1860, Robert L. Loughhead.

Miscellaneous Agenda—459th Meeting, August 20, 1980, Regular Meeting

M–1. Docket No. QF80–4, Consolidated Water Power Co.—small power production and congeneration facilities—qualifying status.
M–2. Docket No. RM80–65, exemption of small hydroelectric power project of 5 megawatts or less from all or part of part I of the Federal Power Act.
M–3. Docket No. RM79–79, price squeeze—procedural rules; Docket No. RM79–80; price squeeze—substantive rules.
M–4. Reserved.
M–5. Reserved.
M–6. Reconsideration of FERC practice with respect to stays.
M–7. Docket No. RM80–57, amendment to § 1.18 of the rules of practice and procedure.
M–8. (A) Docket No. RM78–15, rules relating to investigations; (B) Docket No. RM80– , delegations to the director of office of enforcement.
M–9. Docket No. RM80–16, disclosed estimation methodology approach for determination of volumes of natural gas used for exempt purposes under the incremental pricing program.

Gas Agenda—459th Meeting, August 20, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket Nos. RP77–107 and RP78–68, United Gas Pipe Line Co.

II. Producer Matters

CI–1. Docket No. RI79–21, Shell Oil Co.

Kenneth F. Plumb,

Secretary.

[S–1546 Filed 8–19–80; 9:47 am]

BILLING CODE 6450–85–M

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to Federal Register on August 12, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, August 20, 1980.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such open item has been added to the Summary Agenda:

Proposal for annual Board financial support of the University of Michigan's Survey Research Center. (This matter was originally considered at an open meeting on Wednesday, August 13, 1980.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: August 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–1561–80 Filed 8–15–80; 4:34 pm]

BILLING CODE 6210–01–M

4

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME AND DATE: 9:00–5:00 p.m., September 5 and 6, 1980 respectively.

PLACE: O'Hare/Kennedy Holiday Inn, Rosemont, Illinois.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive session (closed meeting Sec 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS, area code 202–653–6252.

Mary Alice Hedge Reszetar

Associate Director, NCLIS.

August 11, 1980.

[S–1563–80 Filed 8–15–80; 4:36 pm]

BILLING CODE 7527–01–M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME AND DATE: 9–5:30 p.m., August 22 and 23, 1980 respectively.

PLACE: San Francisco Hilton Airport Inn, San Francisco, California.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive Session (closed meeting Sec. 1703.202(2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS, area code 202–653–6252.

Mary Alice Hedge Reszetar

Associate Director, NCLIS.

August 11, 1980.

[S–1564–80 Filed 8–15–80; 4:36 am]

BILLING CODE 7527–01–M

6

NATIONAL RAILROAD PASSENGER CORPORATION.

(Board of Directors)

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on August 27, 1980.

A. The meeting will be held on Wednesday, August 27, 1980, in the National Guard Association Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors, August 27, 1980

Closed Session (9:30)

1. Internal Personnel Matters.
2. Litigation Matters

Open Session (10:30)

3. Approval of Minutes of Regular Meeting of July 30, 1980.
4. Ratify Appointment of Director to Committee.

5. Approval of Consulting Contract for the Design and Implementation of the ARTS Replacement Project.
6. Commitment Approval Requests:
80–165 Retirement and sale of five overage GG1 electric locomotives.
80–157 New Orleans—Modernize and rehabilitate equipment washing facilities.
80–169 Hialeah/St. Petersburg—Provide 480 volt standby service for HEP trains.
80–183 Acquire facility for the Amtrak Institute for Rail Services.
80–184 Purchase Conrail portion of Chicago joint track.
78–33–R1 Modernization of Beech Grove—Phase III.
76–294–S5 Fiscal year 1981 Northeast Corridor purchase.
7. Resolution Adopting Equipment Retirement Policy.
8. Film Presentation: Amtrak TV News.
9. Board Committee Reports:
Equipment.
Finance.
Legal affairs.
Northeast Corridor improvement project.
Organization and compensation.
10. President's Report.
11. New Business.
12. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Assistant Corporate Secretary at (202) 383–3991.

Barbara J. Willman,

Assistant Corporate Secretary.

August 18, 1980.

[S–1565–80 Filed 8–18–80; 9:14 am]

V 4 5 A G 2 0 8 0 UMI

federal register

Wednesday
August 20, 1980

Part II

Department of Health and Human Services

Social Security Administration

Federal Old Age, Survivors, and Disability Insurance Benefits

DEPARTMENT OF HEALTH AND

21235, telephone 301–594–7337 or 301–

information for which they may be

§§ 404.1522 and 416.922 we explain that, *Consultative Examination at Our*

State agency physicians at the initial

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regs. Nos. 4 and 16]

Federal Old Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: The Department of Health and Human Services has revised the regulations in Subpart P of Part 404 and Subpart I of Part 416 to make them clearer and easier for the public to use. These subparts contain the rules for determining disability and blindness under titles II and XVI of the Social Security Act. We have completely reorganized and rewritten these rules in simpler, briefer language.

We have updated these regulations by including certain policies which we are now following in evaluating disability and blindness. We have also changed the provisions on the amount of earnings we consider representative of substantial gainful activity and on the monetary amount we do not count for trial work period purposes.

These final regulations do not include the regulatory changes which will be required by the recently enacted Social Security Disability Amendments of 1980, Pub. L. 96–265. The changes that we will have to make to our regulations because of this recent legislation will, in general, not change the substance of the policies in these final rules, including policies already being followed which we are placing in our regulations for the first time. We will, however, be making modifications in some limited areas, such as to our policy on the purchase of medical evidence in title II cases, the trial work period, substantial gainful activity, and vocational rehabilitation. We will publish these changes either with notice of proposed rulemaking or as interim regulations, as appropriate, so that the public will have full opportunity to provide views and comments before final rules are adopted.

DATES: These regulations will be effective August 20, 1980.

FOR FURTHER INFORMATION CONTACT: Harry J. Short or William J. Ziegler, Legal Assistants, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD. 21235, telephone 301–594–7337 or 301–594–7415.

SUPPLEMENTARY INFORMATION:

Revising the Disability Regulations

We have completely revised the regulations under "Operation Common Sense" and in accordance with Executive Order 12044. These regulations describe how we determine disability and blindness for the purpose of paying benefits under the disability insurance program (Part 404) and supplemental security income program (Part 416). These regulations explain (1) the requirements for receiving cash benefits based upon disability or blindness and for getting a "period of disability," (2) the evidence a person must give us when applying for benefits or a "period of disability," (3) how we evaluate the evidence to make a disability or blindness determination on a claim, (4) what we need to know and what a person must do after beginning to receive benefits, and (5) the factors we consider when determining whether a person will continue to receive these benefits or have a period of disability continue.

In order to obtain the public's views and comments before proceeding with these amendments, we published these regulations along with a Notice of Proposed Rulemaking in the Federal Register on July 3, 1979 (44 FR 38879). On March 23, 1979, we published, at 44 FR 17654, interim regulations setting the substantial gainful activity (SGA) level amounts for 1978 and 1979. Then on March 18, 1980, we published, at 45 FR 17131, interim regulations setting the substantial gainful activity level amount for 1980 and thereafter. We have carefully considered all the comments pertaining to the proposed amendments and the interim regulations on the 1978 and 1979 substantial gainful activity earnings guidelines, and we have answered the issues raised in these comments later in the preamble. We will respond to any comments on the 1980 SGA amounts when we publish those regulations in final form. Although we are not finalizing the 1980 figures at this time, we are including them in this recodification since the 1980 figures do have interim effectiveness.

Our Goals

We have rewritten the disability regulations to make them easier to read and understand. We have tried to remove legalistic language and bureaucratic jargon, and to define the terms we use in simpler language. We have also rearranged the sections to make it easier for persons to find information for which they may be looking.

We have also taken out of the regulations policies which we no longer follow or which we very seldom use. For example, we have deleted the rules for determining disability in 1965 and earlier, before the law was changed.

At the same time we have added to the regulations certain policies which we are now following in determining disability. These are based on provisions of the law and should be included in the regulations. Most of these policies are already in our Program Operations Manual, which State and Federal employees use when evaluating disability. This manual is available for anyone to see at any of our local social security offices. We are also putting into the regulations other policies we have adopted based on our experience in evaluating disability claims over many years. These policies will now clearly apply to all determinations, including appeals.

While legislation has recently been enacted which will require changes in disability regulations, we have not attempted to include any of these changes in this recodification. As previously explained, the purpose of this recodification is to rewrite and clarify existing regulations and incorporate a number of policies (not previously part of our regulations) that we follow in evaluating disability and blindness.

We will publish proposed regulations implementing changes required by this new legislation as Notices of Proposed Rulemaking or as Interim regulations as soon as possible.

Policies We Are Including in the Regulations for the First Time

What We Mean by an Impairment That Is Not Severe

To receive disability benefits, a person must have a severe impairment. We deny a disability claim if we find that a person does not have a severe impairment. In §§ 404.1521 and 416.921, we explain in more detail that an impairment is not severe when it does not significantly limit a person's physical or mental ability to do those things needed to work. For the first time, we explain what abilities we consider necessary in order for a person to work.

When a Person Has Two or More Impairments—Initial Claims

To get disability benefits or establish a period of disability, a person must have a severe impairment, and the impairment must either be expected to result in death or to last for 12 continuous months or longer. In

§§ 404.1522 and 416.922 we explain that, when a person has two or more impairments, we will evaluate them together to see if they are severe enough to keep the person from doing substantial gainful activity. However, in doing this evaluation, we will only include impairments which are expected to result in death or to last for 12 months or longer.

The Meaning of Medical Equivalence

When a person has a severe impairment which is one that is shown in our Listing of Impairments in Appendix 1 or is medically equivalent (equal) to one shown there, we consider that person disabled if he or she is not doing substantial gainful activity. We explain in §§ 404.1526 and 416.926 how we decide whether an impairment is equal to a listed impairment. If a person's impairment is not listed, we will consider the listed impairment most like the person's impairment to decide whether it is medically equal. If the person has more than one impairment, and none of them meets or equals a listed impairment, we will review the symptoms, signs, and laboratory findings about the impairments against the listed impairments most like the person's impairment. We will then decide whether we can consider the combination of impairments medically equal to any listed impairment.

Medical Evidence of Disability

We have stated more clearly what we consider acceptable medical evidence by listing acceptable sources and by describing the required content of medical evidence (See §§404.1513 and 416.913). We have also added osteopaths, optometrists, and psychologists to the list of acceptable medical sources.

When We Will Purchase Medical Evidence

There has been some confusion about our policies on when we will pay for medical evidence. In § 416.914 we explain that we will usually pay for medical evidence for a person who is applying for supplemental security income benefits based on disability or blindness. We will always pay for this medical evidence when we decide that we need it to make a determination of disability or blindness. We may pay for the evidence in other situations. In § 404.1514 we explain when we will pay for medical evidence for a person who is applying for title II disability benefits. We pay for if only in limited situations.

Consultative Examination at Our Expense

Sometimes we must arrange a special medical examination for a person to get the information we need to make a determination. In §§ 404.1517 and 416.917, we explain when we may ask a person to go for one of these special examinations. Frequently, we need more detailed medical information or a technical, specialized medical test which a person's treating physician cannot give us or do for us. Sometimes, we must resolve a conflict or difference in medical findings in the evidence we already have. In these sections we also point out that we will give the examiner information about the person we are sending for the examination. We will always tell the person the purpose of the examination and the name of the examiner before the examination.

Failure To Appear at a Consultative Examination

If a person does not go to an examination so that we do not get information we need to determine disability or blindness, we may find that the person is not disabled or blind, unless he or she had a good reason for not going. In §§ 404.1518(b) and 416.918(b) we give examples of what we consider good reasons for not going to an examination. These include being ill on the day of the examination, not receiving sufficient notice from us, receiving incorrect information from us, or having a death or serious illness in the family.

How We Evaluate Subjective Symptoms, Including Pain

In §§ 404.1529 and 416.929 we explain how we evaluate pain and other subjective symptoms. We recognize that the effects of pain and other subjective symptoms can usually be evaluated by clinical and laboratory diagnostic techniques.

Residual Functional Capacity

We consider a person's residual functional capacity when we are deciding whether a person is able to do his or her past work or other work. Residual functional capacity is generally the physical and mental abilities a person still has which enable him or her to work even though these abilities are limited because of his or her impairment. In §§ 404.1545 and 416.945, we explain how we determine residual functional capacity. Anyone qualified to make medical judgments may assess residual functional capacity. Qualified persons include treating or examining physicians, consultative physicians, and State agency physicians at the initial and reconsideration levels. While there are no preferred sources, the final responsibility for the assessment at the initial and reconsideration levels is with the State agency staff physician. For cases at the hearing and Appeals Council level, the responsibility for assuring that the assessment of residual functional capacity is supported by the evidence in file rests with administrative law judges or members of the Appeals Council.

Impairments Which May Warrant a Finding of Presumptive Disability or Presumptive Blindness

Under certain circumstances, we may pay benefits to a person applying for supplemental security income benefits on the basis of disability or blindness before we make a formal determination of disability or blindness. We call these payments presumptive disability and presumptive blindness payments. We only make these payments when it appears, on the basis of the available evidence, that the person is disabled or blind. If we decide later, after we get more evidence, that the person is not disabled or blind, he or she will not have to pay back the money we have already paid to him or her. In § 416.934, we give examples of 10 specific impairment categories where we will make a presumptive determination before we get any more medical evidence. We have been making presumptive payments on the basis of these impairment categories for several years.

When Vocational Factors Are Considered

In §§ 404.1560 and 416.960, we explain what evidence we will need when we cannot make a decision about whether a person is disabled on medical evidence alone. We will need information about the person's age, education, and work experience, as explained below. We may also need additional medical evidence to determine that person's residual functional capacity. If we find that the person cannot do work he or she has done in the past, we will use authoritative publications and, in some cases, the services of vocational experts, to determine what range of work or specific occupations, if any, he or she can do. These jobs must exist in significant numbers in the national economy. We define "significant numbers in the national economy" in §§ 404.1566 and 416.966.

Age as a Vocational Factor

In §§ 404.1563 and 416.963, we explain when we will ask a person to prove his

or her age. We do not generally do this. However, if we need to know a person's exact age to determine whether he or she is disabled, or if the amount of the benefit will be affected, we ask for proof of age.

Education as a Vocational Factor

In §§ 404.1564 and 416.964, we explain what information we need to know about a person's education to make a disability determination. We will ask how long a person attended school, and we will also consider how much formal or informal education a person has had through previous work, community projects, hobbies, and any other activities which may help a person to work. We will also consider any information which shows that the formal education may not have given the person as much education as the grade level might show.

Work Experience as a Vocational Factor

In §§ 404.1565 and 416.965, we explain what information we may need about a person's work experience. If we need to consider whether that person can do past work or work that is different from what he or she did in the past, we will ask for a description of jobs done in the last 15 years. This will include job duties, tools, machinery and equipment used, and physical and mental activities. However, if all the work that the person did in the last 15 years was hard labor and unskilled, and that person has very little education, we ask about all the work the person did since he or she first began working. If a claimant has only a marginal education and long work experience (e.g. 35 years or more) where he or she did only arduous unskilled physical labor; and he or she can no longer do this kind of work, we use a different rule to determine disability (see §§ 404.1562 and 416.962). With this additional information, we can tell if the claimant qualifies for benefits under this rule. We also explain that we consider past work experience to be work that will help the person work now if the work at any skill level was done within the past 15 years, lasted long enough, and was substantial and gainful.

Work Which Exists in the National Economy

We explain in §§ 404.1566 and 416.966 that, in determining whether unskilled jobs requiring sedentary, light or medium exertion exist in the national economy in significant numbers in one or more regions of the country, we will use reliable job information available in various governmental and other publications. We also explain that we may use the services of a vocational expert or other specialist when there is a question about whether the work skills used in past work can be useful in doing other work and the kinds of jobs or specific occupations in which they can be used.

Substantial Gainful Activity

In §§ 404.1574, 416.974, and 404.1584 we list the rules on determining whether a person is engaging in substantial gainful activity. In §§ 404.1575 and 416.975, we have added evaluation guides for self-employed persons and have explained what we mean by significant services by self-employed persons. Whether a person is doing significant services depends upon how much he or she is involved in the management of the business. Significant services are important in determining whether a self-employed person is doing substantial gainful activity.

Subsidies

We explain in §§ 404.1574(a) and 416.974(a) how we evaluate earnings when a person is receiving a subsidy. Subsidies are payments by an employer to an employee for more than the reasonable value of his or her work. We exclude subsidies in determining whether work is substantial gainful activity. When the employer does not set the amount of the subsidy or does not adequately explain how he or she figured the subsidy, we will try to develop how much the work is worth.

Responsibility To Notify Us of Discharge From a Hospital

We no longer require a person to tell us when he or she is discharged from a hospital or similar institution. We have found that release from a hospital is not a reliable indication of recovery from disability. Also, advances in medical treatment have reduced the average period of hospitalization, and more people are now receiving treatment outside hospitals. Elimination of this reporting requirement (1) relieves the beneficiary of a responsibility, (2) eliminates premature, unproductive investigations, (3) reduces costs to the Government and (4) reduces inconvenience to beneficiaries. We are updating §§ 404.1588 and 416.988 to reflect this change.

We May Investigate Whether Disability or Blindness Continues

After we find that a person is disabled or blind, we may determine from time to time if he or she is still disabled or blind. We may begin an investigation for this purpose for any number of reasons, including the person's failure to follow the requirements of the Social Security Act or these regulations. If our investigation shows that we should stop benefits, we will tell the person and give him or her a chance to reply. We explain these policies in §§ 404.1589 and 416.989. In §§ 404.1590 and 416.990, we discuss the events which will prompt us to investigate whether a person is still disabled.

If Medical Recovery Was Expected When a Person Returned to Work

In §§ 404.1591 and 416.991 we explain that when a person who has an impairment which is expected to improve, returns to full-time work with no significant medical limitations, we may determine that he or she is no longer disabled as of the first month in which he or she returned to work.

Why and When Disability May Be Determined To Have Stopped

In §§ 404.1579, 404.1586, 404.1594 and 416.994 we explain a new policy on when disability is considered to stop. At one time we would not find that disability or blindness had stopped unless the medical evidence showed that the person's condition had improved since we last determined that he or she was disabled. About three years ago, we changed this policy and began to find that disability or blindness had stopped if we found, on the basis of new evidence, that the person was not disabled or blind as defined in the law.

Before We Make a Determination That Disability Stopped

In § 404.1595 we explain that we will always give a person advance notice before we make a final determination that he or she is no longer disabled, unless that person already knows our decision. For example, the person may have told us that he or she was no longer disabled. In this notice, we will tell the person the reason why we have decided that he or she is no longer disabled and allow the person a chance to answer and give us additional information.

When We May Stop Benefits Before Making a Final Determination

We explain in § 404.1596 when we will stop payments before determining whether a person is still disabled. We will do this to prevent an overpayment, when a beneficiary does not cooperate in a continuing disability investigation, or if his or her whereabouts are unknown.

When a Person Becomes Disabled by Another Impairment

In §§ 404.1598 and 416.998 we explain how we treat a person who gets another impairment. If a person already receiving benefits becomes disabled by another impairment, the new impairment need not be expected to last 12 months or result in death in order for us to find the person still disabled. However, the new impairment must be severe enough to prevent substantial gainful activity and must begin in or before the month in which the last impairment ended.

The Trial Work Period

We explain our policies on the trial work period in § 404.1580, 404.1585, 404.1592 and 416.992. The trial work period is a period during which a disabled person may test his or her ability to return to work. If a disabled person does return to work, that person may work for 9 months (which do not have to be consecutive) before we evaluate this work. We consider any month in which a person performs services to be a trial work month. In §§ 404.1592 and 416.992, we define "services" to mean any activity, even though it is not substantial gainful activity, which is done by a person in employment or self-employment for remuneration, generally pay or profit, or is the kind normally done for remuneration. For an employee, we consider work "services" if his or her earnings after 1978 are more than $75 a month. For a self-employed person, we consider work "services" if his or her net earnings after 1978 are more than $75 a month or if the time spent in work is more than 15 hours a month. Before 1979, we used $50 a month as the amount of earnings considered to show "services".

The Appendices

The medical criteria and the medical-vocational guides used in making disability determinations were previously appendices to both subpart P of Part 404 and subpart I of Part 416. Except for Part B of Appendix 1 to subpart I, these appendices are the same, word-for-word, and were repeated at the end of both subparts only for ease of reference. Part B of Appendix 1 contains medical criteria applicable to children and, since they apply mainly to claims under title XVI, were located only in Part 416. However, Part B also applies in some cases under the title II disability insurance program. In this recodification we have taken the appendices out of Part 416 and located them only in subpart P of Part 404. This eliminates some of the unnecessary repetition in our regulations and is consistent with the goals of "Operation Common Sense." We have made the changes needed to cross-refer subpart I of Part 416 to the appendices in Part 404.

Social Security Disability Amendments of 1980

These final regulations do not include the regulatory changes which will be required by the recently enacted Social Security Disability Amendments of 1980, Public Law 96–265. The changes that we will have to make to our regulations because of this recent legislation will, in general, not change the substance of the policies in these final rules, including policies already being followed which we are placing in our regulations for the first time. We will, however, be making modifications in some limited areas, such as to our policy on the purchase of medical evidence in title II cases, the trial work period, substantial gainful activity, and vocational rehabilitation. We will publish these changes either with notice of proposed rulemaking or as interim regulations, as appropriate, so that the public will have full opportunity to provide views and comments before final rules are adopted.

Public Comments

We received comments on 95 sections of the proposed disability regulations involving over 150 different issues. Most of the comments we received came from legal aid services and other organizations involved in representing disability claimants. We also received a large number of suggestions from persons involved in the administration of the disability program.

Many of the comments we received were favorable toward our rewriting the disability regulations in simpler language. These commenters believe that we have made these regulations easier to read and understand. They also think the regulations are better organized and that information they need will be easier to find. For example, one person stated he found "the regulations to be much more comprehensive and understandable." Another person stated that she found the "rules easily readable and easily understood." Another person commented that "they are much easier to understand and include many policies which have been unwritten in the past." Still another person stated that the regulations are far more understandable, which is a "step in the right direction."

On the negative side, several people complained about our adding new material to the regulations. Generally, they believed that we should not have included new rules in the regulations at the same time we were rewriting them for clarity and ease of understanding. According to these comments, it is difficult to determine exactly what is new to the regulations and what is merely a rewritten version of the previous regulations. Some of these people questioned whether the policies we included in the regulations for the first time were actually being followed by the Social Security Administration. One person stated that "the Operation Common Sense procedure is not the place for substantive changes." Another person stated that the Notice of Proposed Rule Making (NPRM) was misleading because the summary indicated that the purpose was to rewrite the affected subparts in simpler language.

However, "Operation Common Sense" has other objectives in addition to rewriting the regulations in plain language. Some of these objectives, which we explained in the preamble to the NPRM, include updating the regulations to include important policies and removing from the regulations outdated policies we no longer follow. In the preamble, we clearly identified the policies we were including in the regulations for the first time.

We have made several changes on the basis of comments we received from the public.

One of the changes we made concerns the rule about the need to follow prescribed treatment. Under our proposal, if we believed that treatment might enable a person to work, we could send him or her to a physician at our expense for a medical opinion on treatment. In determining whether treatment could correct the impairment enough so that the person could work, we intended to consider that physician's findings and recommendations along with any other medical findings and recommendations we had received from the person's treating physician or any other medical source. Under this proposed rule, we would not have paid benefits to a person who refused to follow treatment we determined could correct the impairment enough to enable him or her to work, unless there was good reason for the person to refuse the treatment.

Because of the many critical comments we received concerning this proposed rule and the issues raised in these comments, we have not adopted this change in policy. Instead, we will continue to follow the same rule which we have followed in the past. Under this rule, which we have kept in the regulations, we only require that a person must follow treatment prescribed

V 45 AG 2080 UMI

by his or her own physician or other treating source.

Also, because of the many public comments which questioned the need for certification of records from hospitals and other similar institutions, we have changed our position. We will not return these records for certification unless there seems to be something questionable about them.

We have added optometrists to the list of acceptable medical sources for the measurement of loss of sight. However, we have pointed out that in some cases we may still need a report from a physician to determine other aspects of eye diseases.

Many persons pointed out to us an error in our explanation of how we evaluate symptoms, including pain. In the NPRM we stated that we would never find a person disabled based on symptoms, including pain, alone. Since we do find persons disabled on the basis of pain and other symptoms, we have explained in the final regulations that there must be medical signs or findings to show that there is a medical condition that could reasonably be expected to produce the symptoms.

We have decided to remove Appendix 1, Listing of Impairments, and Appendix 2, Medical-Vocational Guidelines, from Subpart I of Part 416 and include them only in Subpart P of Part 404. While we received some objections about doing this, we believe the advantages in not duplicating this material in Chapter III of Title 20 of the CFR outweigh the negative considerations.

In these final regulations, we have not made any significant changes in the appendices, since they were recently revised and updated. (Appendix 1, the medical criteria, was published in the **Federal Register** on March 27, 1979 (44 FR 18170), and Appendix 2, the vocational guidelines, was published in the **Federal Register** on November 28, 1978 (43 FR 55349)). We have only corrected some errors and references.

We have replaced the term "wages" wherever it appears with the broader term "pay". This change makes it clearer that we are referring to any compensation (it does not have to be cash) a person receives for his or her services and avoids confusion with "wages" as that term is defined in section 209 of the Social Security Act.

We have also made other changes of a clarifying nature.

There follows a discussion of issues which were raised in the comments made by the public in response to the NPRM published in the **Federal Register** on July 3, 1979 (44 FR 38879). We discuss these comments under the appropriate section headings. Many of the written comments we received necessarily had to be condensed, summarized, or paraphrased. However, we have tried to express everyone's views adequately and to respond to the issues raised.

General

Scope of Subparts

Comment: A legal aid bureau objected to our stating in §§ 404.1501(a) and 416.901(a) that disability determinations by other programs have no effect on our determinations.

Response: Determinations under other programs are considered in our evaluation of disability and blindness. Our intention was to make clear that we must make our own determinations based on social security law. Therefore, we have changed the statement to read "determinations made under other programs are not binding on our determinations."

Determinations

Who Makes Disability and Blindness Determinations

Comment: A person representing a legal aid bureau commented that §404.1503(d) should read exactly the same as § 416.903(d) in order to allow us to find an earlier disability date, a later date for ending disability, or a disability when the State agency found none. According to this person, there is no basis for this difference between the title II and title XVI disability programs.

Response: Section 221(c) of title II of the Social Security Act provides that as a result of reviewing title II disability determinations by State agencies, we may only determine that a person is not disabled, or that disability began later, or that disability ended earlier. We may not under title II change any State agency's decision to a more favorable one for the person claiming benefits. On the other hand, under section 1633 of title XVI of the Act, there are no restrictions upon our changing a State agency's disability determinations concerning supplemental security income benefits. Since the differences in these sections are in the law, we cannot adopt this comment.

Definition of Disability

Basic Definition of Disability

Comment: A legal aid bureau objects to the basic definition of disability in §§404.1505 and 416.905 because the definition does not state that other substantial gainful activity must exist in significant numbers in the national economy.

Response: These sections introduce the basic definition of disability which is further explained in later sections concerning the evaluation of disability. Under Vocational Considerations, §§ 404.1566 and 416.966, we adequately explain that we consider work to exist in the national economy when it exists in significant numbers either in the region where a person lives or in several other regions of the country. Consequently, we have not adopted this comment.

Additional Changes: We have added a statement to § 404.1505(a) to make clear that the basic definition of disability applies when a person is applying for a period of disability, or disability insurance benefits as a disabled worker, or child insurance benefits based on disability before age 22.

Disability for Children Under Age 18

Comment: Several persons commented that § 416.906 and related sections, by requiring children under age 18 to have an impairment which meets or equals the Listing of Impairments in order to be found disabled, are in conflict with the statutory language in section 1614(a)(3)(A). According to these comments, the law only requires a child under age 18 to have a medically determinable physical or mental impairment of comparable severity to that which would be disabling for an adult. An adult may be found to be disabled on the basis of vocational considerations even when the impairment does not meet or equal the Listing of Impairments. Therefore, according to these comments, we are requiring children under age 18 to have an impairment of greater severity than an adult in order to be found disabled. In their views, this requirement exceeds the test of comparable severity provided in the law and is not authorized under the law as in the case of disabled widows and widowers under title II of the Act.

Response: The title XVI definition of disability for children under age 18 does not specifically exclude the consideration of vocational factors. However, the use of vocational factors is not appropriate since the activities of children under age 18 are extremely difficult to measure in vocational terms. In view of this, it is more equitable to evaluate childhood claims only on medical terms—i.e., the impairment must meet or equal the Listing of Impairments. However, many conditions have a different effect on children than on adults, and for this reason a supplemental Listing of Impairments is also used for children. This supplement realistically expands the area of medical consideration for children, and lessens

any inequity that could result because of the absence of vocational evaluation. Therefore, we are not making any changes in this section.

What Is Needed To Show an Impairment

Comment: On commenting on §§ 404.1508 and 416.908, one person took the position that a disability claimant should be able to rely solely on statements of symptoms in a clinical setting. This person believes that under the law symptoms alone may support a finding of disability.

Response: Sections 404.1508 and 416.908 state that an impairment must be established by medical findings consisting of signs, symptoms and laboratory findings. These sections, however, go on to state that disability cannot be found on the basis of a statement of symptoms alone.

A history of symptoms, recorded in a clinical setting, is important to the evaluation of disability, and this is recognized in the regulations. However, it is essential for the regulations to specify that a statement of symptoms alone is not sufficient for a decision. The law requires that disability be determined on the basis of a medically determinable impairment. Symptoms, in the absence of any confirming signs or clinical findings, cannot meet this requirement.

Comment: Another person pointed out that §§ 404.1508 and 416.908 mention signs, symptoms, and laboratory findings but that these are not defined until later in §§404.1528 and 416.928. This person recommends that we cross-refer these sections.

Response: We agree with the comment and have added a cross reference.

Evidence

Your Responsibility To Submit Evidence

Comment: Several persons, some of whom represented legal advocacy groups, commented that §§ 404.1512 and 416.912 place too heavy a burden upon claimants by requiring them to submit medical evidence to prove disability. Some of these persons pointed out that under the title XVI supplemental security income program, which is based on need, the Secretary has a special obligation of obtaining medical evidence on behalf of the claimant.

Response: We will always assist a person in obtaining the medical evidence we need to make a disability determination. However, the person must give us the names and addresses of physicians and other treatment sources and give us permission to obtain the evidence on his or her behalf. For a person applying for supplemental security income benefits, we will pay for the medical evidence if there is any charge. When we need special medical information which a person's treating sources cannot give to us, we will send the person for medical examinations and tests at our expense. However, the person must cooperate with us in obtaining the medical evidence.

In order to clarify our responsibility, we have added the following statement to §§ 404.1512 and 416.912: "We will help you in getting medical reports when you give us permission to request them from your doctor and other medical sources."

Comment: One person objected to the language in §§ 404.1512 and 416.912 which states that we will only consider impairments which the claimant tells us about or about which the claimant gives us evidence. This person pointed out that the claimant may not be aware of what is wrong with him or her, the diagnoses may be incomplete, or the interviewer may not have obtained all the information.

Response: We agree that we should not rely solely on the claimant's statements and the evidence which the claimant gives us. Therefore, we have changed the language in these sections to make it clear that we will consider impairments about which we receive evidence in addition to impairments about which the claimant tells us. Of course, we cannot be expected to consider impairments of which we are reasonably not aware.

Comment: Another person from a legal service foundation commented that the claimant should at least be advised of which reports we considered in making the disability determination.

Response: In making a disability determination, we consider all the medical evidence we receive about a person's medical condition. We do not routinely identify each of these medical sources when we inform the person of our decisions about disability. However, this information is available to him or her upon request.

Medical Evidence of Your Impairment

Comment: Two persons, representing a professional association, commended us for including "licensed or certified psychologists" under acceptable medical sources in §§ 404.1513 and 416.913. However, these same persons pointed out that other related sections pertaining to medical evidence refer only to "physicians" when discussing medical evidence. According to these persons, the term "health care providers" would be more appropriate.

Response: One of our main reasons for revising the regulations is to make them easier to read and understand. We believe that simply using the term physician in these sections accomplishes this purpose better than using the more general and abstract term "health care provider." The sections in which we use the word physician focus on issues which are not directly concerned with the source of the medical evidence. In sections that are directly concerned with the qualifications of persons giving us evidence, we have made it clear that acceptable evidence is not limited to reports from physicians. Therefore, we have not adopted this comment.

Comment: Another person, representing a professional association, recommended that "licensed or certified optometrists" be added to the list of acceptable sources in §§ 404.1513 and 416.913. According to this comment, we should include optometrists because doctors of optometry are licensed by all 50 states and are qualified to supply reports on visual impairments within their speciality.

Response: We agree with the comment and have added optometrists as an acceptable source for the measurement of loss of sight (the measurement of visual acuity and visual fields). However, we have also pointed out that we may need a report from a physician to determine other aspects of eye diseases.

Comment: A representative of a professional association stated that the limitations which we place upon reports from optometrists in § 404.1513 is unnecessary and inconsistent with the education of optometrists and the scope of their license to practice. According to this comment, requiring a report from a physician when a report from an optometrist would be sufficient needlessly increases costs by requiring an extra, unnecessary eye examination. This policy is also said to arbitrarily discourage the use of doctors of optometry under the title II disability program.

Response: Under the provision of this section, we accept findings from optometrists on the measurement of visual acuity and visual fields without restriction, on the same basis as we accept a report from a physician. However, we require a physician's findings to determine other aspects of an eye disease that are essential to establish a medically determinable impairment. These aspects include diagnosis and treatment. We need this information to determine whether surgery or other therapy might correct or improve sight to the extent that the

impairment would no longer be disabling. Also, in some cases, we have

any change in the regulations. In following the previous regulations,

request it and that we might also pay for evidence we receive even if it is not

that we will pay for this evidence if we find it is needed to evaluate the claim.

reason for failing or refusing to take part in a consultative examination or test

case in mind. Sometimes, without knowing all the circumstances, we refer

impairment would no longer be disabling. Also, in some cases, we have found that another health problem requiring evaluation by a physician is the cause of the visual loss rather than an eye disease.

Since the regulations must cover the entire range of diseases that result in loss of sight, we believe it is essential to maintain a statement placing limits on the use of evidence submitted by optometrists.

Program costs are not appreciably increased by this requirement, nor does it mean that a person must undergo two examinations, one by a physician and another by an optometrist. We make most of our determinations for all types of impairments, by using reports of past treatment, without the need to obtain an examination for the specific purpose of the disability determination. In the case of visual impairments, persons applying for benefits usually have medically records that are not restricted to an examination by an optometrist. Physicians, whether private or serving in a clinic, are still the first source of contact for most health problems. Also, optometrists frequently make referrals to physicians for consideration of surgery or other therapy. By the time a visual impairment has become so severe that a person applies for disability benefits, there is usually evidence available from a physician who has diagnosed the disease and prescribed treatment.

Comment: Another person, representing an assistance group, commented that §§ 404.1513 and 416.913 should not limit the sources from which we may obtain medical records. He pointed out that in many urban and rural areas medical clinics are staffed primarily by nurses and physician assistants. These practitioners provide useful medical reports.

Response: Under paragraph (e) of these sections, we explain that information from sources other than a licensed physician may assist us in evaluating a person's ability to work. We do accept reports from nurses, physician assistants, and other similar practitioners.

Comment: Several persons, including representatives from various legal aid groups, objected to the requirement that medical records from hospitals, clinics, sanatoriums, medical institutions, and health care facilities be certified by the custodians of the records. They believe that certification is unnecessary and would cause needless delay in obtaining medical reports.

Response: The certification requirement stated in §§ 404.1513(a) and 416.913(a) in the NPRM did not represent any change in the regulations. In following the previous regulations, however, we always accepted medical records from hospitals and other similar institutions as long as it was clear that the reports came from the hospital or institution. We considered the signature of the custodian, the letterhead, the covering letter, or other similar information sufficient for this purpose. We did not generally require certification in a legal sense. In order to avoid confusion in the future, we have modified the language in these sections to state that while these records should be certified, we will not return uncertified records unless there seems to be something questionable about them.

Comment: Another person pointed out that we should delete the reference to licensing in §§ 404.1513(e) and 416.913(e), since the practitioners we are referring to are actually licensed in most States for the practice in which they specialize.

Response: We agree with this comment, and we have eliminated the wording "not medically licensed."

When We Will Purchase Existing Evidence

Comment: One person from a legal service foundation pointed out that it would be less expensive for us to purchase existing medical records under the title II disability program than to refer persons for consultative examinations at our expense.

Response: Section 416.914 explains that we will pay for existing medical evidence for persons applying for supplemental security income benefits under title XVI of the Act. However the title II law does not allow us to routinely purchase existing medical evidence. Section 404.1514 explains that in rare situations we will pay for existing medical records under title II disability program when the only other way we can get the medical information we need is to refer the person for an expensive consultative examination. Generally, we do this when there are indications that the person is disabled but is unable to pay for the medical records. If we find that the medical sources have the additional information we need for making a disability determination but will not give it to us until they are paid, we may pay them a small fee to cover copying and mailing costs.

Additional Changes: In § 416.914 we explain that we always pay for existing medical evidence we request for use in making title XVI disability or blindness determinations. However, in the NPRM we added that we would pay for evidence we use even if we did not request it and that we might also pay for evidence we receive even if it is not needed as long as the person applying for benefits or the medical source believed that the evidence was needed. We have decided not to include these additional statements in the final regulations. These situations do not occur often enough to require regulations. Removing these statements does not mean that we will no longer pay for evidence which we did not request or need for the disability or blindness determination. As in the past, we will continue to make these decisions on a case-by-case basis. For example, we may pay for a report from a physician who submits evidence requested by a patient without knowing that sufficient information has already been sent to us by a hosptial. We cover this in our operating instructions.

If You Fail To Submit Medical and Other Evidence

Comment: One person from a legal service foundation commented that the claimant should be notified of which physicians or hospitals refused to give us evidence. According to the comment, we should also inform the claimant about what records we will pay for.

Response: We will notify the claimant if there are any problems in obtaining medical records from any of his or her treating or examing medical sources. We usually assist the claimant in contacting these sources again in order to obtain the reports. Often we refer the claimant for a special medical examination at our expense if we cannot get the reports we need from his or her own physicians and hospitals.

At the time of the initial interview, we generally tell supplemental security income claimants what medical evidence we will pay for. When we refer a claimant for a consultative examination, we give him or her a pamphlet explaining the reasons for the examination. We also explain that the examination is at our expense. Therefore, we see not reason for making any changes in the language in §§ 404.1516 and 416.916.

Comment: One person commented that these regulations are not supported by the legislative history of the title XVI disability program, because Congress intended that the burden of obtaining medical evidence for claimants rests upon the Secretary.

Response: We recognize in § 416.914 that we have the responsibility of obtaining medical evidence for supplemental security income claimants. In § 416.916 we ask only that the person cooperate with us in obtaining the medical evidence. We specifically state

that we will pay for this evidence if we find it is needed to evaluate the claim.

Comment: Sections 404.1516 and 416.916, according to one person, are not equitable, because failure to submit medical evidence will result in a denial under these regulations. This person believes that § 416.916 is especially inequitable for title XVI disability claimants. According to the comment, the "good cause" provisions for failure to appear for a consultative examination should be extended to failure to submit medical records.

Response: We always consider whether or not a person has good reason for failure to submit medical reports. However, we do not believe that it is necessary to give examples of "good cause" for failure under these sections. We agree that we cannot find a person not disabled merely for failure to give us medical evidence. Therefore, we are changing the language in these sections to explain that we will always make a disability determination on the basis of the evidence available to us.

Additional Changes: We have added an explanation to § 416.916 that a person will not be excused from giving us evidence because of religious or personal reasons against medical examinations, tests, or treatment. This rule was stated in the NPRM in § 404.1516 but was erroneously omitted from § 416.916, where it also applies.

Consultative Examination at Our Expense

Additional Changes: Upon further consideration, we have expanded § 416.917 to make it clear that we will not pay for any medical examinations arranged by a claimant or his or her representative without being asked by us. The reason we are adding this statement is because in some situations, claimants or their representatives have been arranging for medical examinations at our expense without first consulting with us. Frequently, we have found that the examination report only duplicated information already available to us or was not necessary for making a disability determination.

If You Do Not Appear at a Consultative Examination

Comment: One person from a legal aid bureau stated that in §§ 404.1518 and 416.918 we should make it clear that the listed examples of good reasons for not going to a consultative examination are not "all-inclusive." This person suggested that we include another example for not going to an examination: "For other valid reasons."

Response: These sections already state that the person must have a good reason for failing or refusing to take part in a consultative examination or test which we arrange to get information we need for a disability determination. We ask a person who is unable to go to an examination to tell us why as soon as possible. We explain that if the person has a good reason, we will schedule another examination or try to get the information we need in another way. The reasons listed are described only as "some examples of what we consider good reasons for not going to a scheduled examination." Therefore, we believe it is clear that these are not the only reasons which we will consider valid.

Comment: Another person commented that "inconvenient or unreasonable scheduling" should be included as a good reason for not going to a consultative examination.

Response: The examples we provided in §§ 404.1518 and 416.918 are only guidelines of what we consider to be good reasons for not going to a consultative examination. If the claimant cannot keep an appointment, he or she should notify us immediately. We explain this to the person when we arrange a special examination for him or her. If the claimant has a good reason, such as inconvenient time or place causing genuine hardship, we will reschedule the examination. The examples of good reasons are not the only acceptable reasons. We must consider other reasons on an individual basis.

Comment: Several persons commented about our excusing a claimant from going to a consultative examination on the basis of "having had professional or personal contact with the scheduled examiner and believing that the examiner could not be objective." One person believed that we should also consider objections to the examinations made by the claimant's representative, such as his or her attorney. Other persons commented that this example would permit a claimant to refuse an examination without any showing of bias on the examiner's part. According to these comments, the claimant would only need to assert that he or she believed, on the basis of past experience, that the examiner could not be objective. Some persons believe that the claimant should be obligated to submit evidence to show that the examiner could not be objective. Still another person pointed out that the claimant in some cases is mentally ill and could refuse an examination on the basis of delusions.

Response: In proposing this example of good reason for not going to an examination, we had a specific type of case in mind. Sometimes, without knowing all the circumstances, we refer a claimant for a consultative examination with an examiner who previously represented an interest adverse to the claimant. For example, the examiner may have represented the claimant's employer in a worker's compensation case, or he or she may have been involved in an insurance claim or legal action adverse to the claimant. In this situation, we would consider the claimant to have good reason for refusing a consultative examination with the examiner on the basis of possible bias or partiality on his or her part.

In view of the fact that this listed example has been misinterpreted by so many people, we have decided to remove it from the examples of good reasons for failure to appear for a consultative examination. Removing it from the listed examples, however, does not mean that we will no longer consider bias, prejudice, partiality, or lack of objectivity on the part of the examiner as a good reason for refusing an examination. The purpose of the examples in §§ 404.1518 and 416.918 is to give clearcut situations where the claimant would have good reason for refusing an examination. We will still consider all other reasons given by the claimant.

Comment: Other persons commented that we should spell out in §§ 404.1518 and 416.918 any adverse consequences for failure to report for a consultative examination.

Response: If a person will not go to a consultative examination, we must, of course, make the disability determination on the basis of whatever evidence is available to us. Since we usually send a person for a consultative examination when the evidence we already have is not sufficient to show disability, the refusal to go to the examination could result in our determining that the person is not disabled.

Evaluation of Disability

Evaluation of Disability in General

Comment: One person objected to §§ 404.1520(b) and 416.920(b), because they provide a sequential evaluation in which a claimant may be found not disabled on the basis of doing substantial gainful activity without considering medical or vocational factors. According to this comment, the claimant's medical condition must always be considered, especially since some people force themselves to work to meet expenses, even though the work

tends to worsen their physical or mental impairment.

"severe" in §§ 404.1522 and 416.922. This commenter believes that this

Additional Changes: In order to clarify the meaning of this section, we

cases under the title II disability insurance program.

tends to worsen their physical or mental impairment.

Response: We consider the concerns expressed in this comment under §§ 404.1571–404.1575 and 416.971–416.975, which deal with substantial gainful activity in more detail. In §§ 404.1520 and 416.920 we give only a brief explanation of the steps we follow in evaluating disability in general. Each of the steps is explained more fully in other sections of the regulations.

After considering this comment, however, we have decided to change §§ 404.1520(b) and 416.920(b) to provide that if a person is doing substantial gainful activity, we will find that he or she is not disabled regardless of his or her medical condition, age, education, and work experience. This language is more in conformity with the law. Sections 223(d)(4) of Title II and 1614(a)(3)(D) of Title XVI of the Social Security Act provide that a person whose earnings meet the criteria established by the Secretary for determining when services or earnings demonstrate ability to engage in substantial gainful activity shall be found not disabled. The law provides that this is true *notwithstanding* the person's physical or mental impairment or his or her age, education, and work experience. We have made this change because we believe that the word "regardless" conveys the meaning of the law more clearly than "without considering." In fact, in some cases, we may have considered the medical evidence and vocational factors before becoming aware that the claimant was actually doing substantial gainful activity during the period of time in which we are considering whether he or she is disabled.

Additional Changes: In §§ 404.1520 and 416.920, paragraph (f)(2), we have changed the notation "e.g." to "i.e.", to make the insert in the parentheses read "(i.e., 35 years or more)." This change has been made because the 35 years requirement is not an example. See §§ 404.1562 and 416.962 for a further explanation of this rule.

What We Mean by an Impairment That Is Not Severe

Comment: We received a letter from one person who made extensive comments on the denial of claims on the basis of nonsevere impairments, as described in §§ 404.1521 and 416.921. The commenter contends this principle introduces an "average man" concept that conflicts with the law and with court interpretations of the law, both of which require consideration of the claimant's circumstances in each case. This person also feels that it is difficult to define with accuracy impairments that are not severe, and suggests that it would be more realistic, and just as economical, to evaluate these impairments in terms of the vocational impact in each case. This person pointed out, further, that if an impairment is truly minimal, it should not be difficult to make the decision using the vocational considerations described in §§ 404.1545 through 404.1568 and 416.945 through 416.968.

Response: Although this evaluation approach to impairments that are not severe has been in the regulations for some time, we expanded it in 1978, when we published the more detailed regulations describing the principles used in vocational evaluation. (43 FR 55349)

We anticipated that greater program efficiency would be obtained by this provision, by limiting the number of cases in which it would be necessary to follow the vocational evaluation sequence described in §§ 404.1545 through 404.1568 and §§ 416.945 through 416.968.

We are now attempting to determine whether this advantage has been realized. The reasons for this are in part due to the problems discussed by this commenter. In most cases that involve an impairment that is not severe, the vocational evaluation guides can be applied as efficiently as can the nonsevere impairment principle. Most cases of this kind do not require extensive investigation of a person's vocational background in order to evaluate them under the vocational guidelines. We can decide many cases of this type on the basis that a person can return to his or her most recent occupation. Also, defining an impairment that is not severe can sometimes be as judgmental as a decision based on vocational considerations.

We are now studying the feasibility of a possible revision of this rule. However, the rule proposed in §§ 404.1521 and 416.921 is included in this final publication since it reflects current policy. Any future revision we make in the basic concept will be published in the **Federal Register** with an opportunity for the public to comment.

When You Have Two or More Unrelated Impairments—Initial Claims

Comment: Several persons representing legal services commented that §§ 404.1522 and 416.922 are inconsistent with the law, in that two impairments, each disabling for 6 months, should be sufficient to meet the requirement that disability must last for 12 months. According to these comments, these two sections conflict with §§ 404.1598 and 416.998, which allow disability to continue under a new impairment, which is not expected to last for 12 months. One person stated that nowhere in the law is there any indication that two separate impairments cannot be combined to total a 12 month period.

Response: Under the law, in determining whether the 12 month duration requirement is met, we must look at each impairment to see how long it has lasted or is expected to last. We cannot consider in our determination any impairment lasting, or expected to last, less than 12 months. This is not inconsistent with §§ 404.1598 and 416.998, which concern determinations on whether disability continues for persons who are receiving disability benefits. These sections provide that a new impairment superimposed on a disabling impairment which has ended extends disability so long as it is disabling, even though it is expected to last less than 12 months. This is because the duration requirement is a requirement only for initial entitlement to benefits. Once we find a person to have a qualifying impairment(s), we cannot find that disability has ended, as long as he or she continues to have an impairment severe enough to prevent substantial gainful activity.

Comment: One person commented that §§ 404.1522 and 416.922 violate court interpretations of the statutory language pertaining to the 12-month duration requirement. According to this comment these sections adopt a "retrospective" viewpoint.

Response: These sections explain how we evaluate multiple impairments to determine whether they meet the duration requirement, which is the requirement that the disabling impairment must last or must be expected to last for a continuous period of 12 months. We do not intend to apply these sections in retrospect. Rather, we will apply them at the time when the disability determination is made, and in most instances the rule will affect only the first month for which we pay a disability benefit. For example, a person who suffers a leg fracture and then two months later, before complete recovery from the fracture, develops a chronic and disabiling heart condition, will not be determined to be disabled until the onset of the heart condition, assuming that we have evidence to show that the leg fracture is a temporary impairment that cannot be expected to last 12 months.

Comment: One person from a legal assistance agency objected to the word "severe" in §§ 404.1522 and 416.922. This commenter believes that this qualification is contrary to the Act, because it implies that all impairments, even ones lasting or expected to last twelve months, will no longer be considered in evaluating disability.

Response: The sections cited in this comment concern the duration requirement; i.e., the requirement that disability must last twelve months. These sections explain that an impairment of short duration cannot be combined with another unrelated impairment to meet the twelve-month duration requirement. The reference to *severe* impairments is merely meant to confirm that there would be no concern with how long an impairment has lasted, or is expected to last, unless it is severe. The duration requirement does not come into consideration until it is first established that an impairment is disabling at some point in time.

Comment: Another person stated that the NPRM is misleading because nowhere in the preamble summary is there any reference to §§ 404.1522 and 416.922. This person claims that the Social Security Administration has never followed the policy in these sections about unrelated impairments. According to this comment, the NPRM should be republished with a clear statement that this is an entirely new policy which was never followed in the past.

Response: The preamble of the NPRM did include a summary of these sections on page 38880 of Volume 44 of the **Federal Register.** We also stated in the preamble that we were adding to the regulations the important policies which we were following in determining disability. We further pointed out that most of these policies were already in our Program Operations Manual which State and Federal employees use when evaluating disability.

The policy stated in these sections is not in the Program Operations Manual, since we only recently adopted the policy about a year before the publication of the NPRM but after a long period of consideration. Therefore, the policy was appropriately announced in the NPRM. Although this policy was being followed at the initial and reconsideration level, it was not binding upon administrative law judges and the Appeals Council, since they are only required to follow the law, the regulations, and Social Security Rulings in deciding cases. On page 38880 of the preamble we specifically stated that we were including our basic policies in the regulations, since it is desirable that the same rules apply at all levels of adjudication.

Additional Changes: In order to clarify the meaning of this section, we have revised the second sentence to read: "If you have a severe impairment(s) and then develop another unrelated severe impairment(s) but neither one is expected to last 12 months, we cannot find you disabled, even though the two impairments may in combination last for 12 months."

Medical Considerations

Listing of Impairments

Comment: Several persons commented about our taking the Listing of Impairments (Appendix 1) and the Medical Vocational Guidelines (Appendix 2) out of Part 416 and including them only in Part 404. One person stated that it is contradictory to "Operation Common Sense" to fragment the organization of related regulations. According to this commenter, the title XVI and the title II disability programs are essentially independent to each other and share only common administration. According to another comment, many persons are involved in only one of these programs and keep only the law and regulations concerning that program. This person believes that removing these appendices from Part 416 will impede the researching of disability issues. Another person noted that he only receives title II regulations from Commerce Clearing House (Unemployment Reports). This person recommended that we publish all the regulations common to both programs in one place in the Code of Federal Regulations (CFR).

Response: One of the objectives in rewriting the regulations under "Operation Common Sense" is to eliminate overlapping and duplicate material in order to insure that paperwork costs and other burdens on the public are minimized. This is an important part of the Department's program to revise, rewrite, and reduce the more than 6,000 pages of the Department's regulations in the CFR.

Both Appendix 1 and Appendix 2 were formerly located in two places, behind Subpart P of Part 404 and behind Subpart I of Part 416. The criteria in these appendices, the medical listings and the vocational guidelines, apply to both the title II and the title XVI disability programs. These appendices are exactly the same, except for Part B of Appendix 1, which was previously located only behind Subpart I of Part 416, because Part B mainly applied to the evaluation of disability for children under age 18 for purposes of the Supplemental Security Income program. However, Part B also applies in some cases under the title II disability insurance program.

In order to eliminate this duplication of material, which is exactly the same, we have published Appendix 1 and Appendix 2 only behind Subpart P of Part 404. This eliminates some of the unnecessary repetition in our regulations and is consistent with the goals of "Operation Common Sense." We have cross referenced Subpart I of Part 416 to the Appendices in Part 404. These references clearly show that we are using the same Appendices for two separate disability programs. Since Parts 404 and 416 are both published in Chapter III (Parts 400 to 499) of title 20 of the CFR, this material is available to everyone in one volume of the CFR.

Comment: One person, representing a legal aid bureau, stated that our revision of §§ 404.1525 and 416.925 requires that a claimant who has a listed impairment must prove the 12-month duration requirement. This person observed that under the previous regulations, if a claimant's medical condition met a listed impairment, we presumed that the 12-month duration requirement was met. According to this comment, this significant, additional requirement is unwarranted.

Response: The majority of the impairments listed in Appendix 1 do not require a separate decision on the duration of the impairment. This is because the majority of the described medical conditions are either static or become more severe with the passage of time. However, some impairments are also listed which are subject to improvement in some cases. If we revised the listing to include only impairments in which the duration requirement can be presumed, we would have to exclude many impairments that are subject to improvement. We believe that it is in the public interest to list as many impairments as possible. Therefore, we will no longer presume that the duration requirement is met merely because an impairment is listed in Appendix 1.

Comment: One person from a legal service agency commented that the Listing of Impairments requires overly restrictive standards for wage earner claimants, because the listing describes impairments severe enough to prevent a person from doing any gainful activity. This person observed that the law requires a more stringent standard of disability for surviving spouses, who must be unable to do gainful activity to be found disabled. Therefore, this person believes that the listing requires a worker to be as functionally limited as a surviving spouse.

Response: If a worker has an impairment which meets the duration

considering the vocational factors of age, education and work experience.

subjective symptoms can be accepted is contrary to long-standing principles of

medical signs or findings show that

treatment conforms to widely accepted

Response: The condition in paragraph (c) was previously published as a final

Response: If a worker has an impairment which meets the duration requirement and is listed in Appendix 1, or is equal to one of the listed impairments, we will find that worker disabled on the basis that he or she is unable to do any gainful activity. This is the requirement that widows, widowers, and surviving divorced wives *must* meet in order to be found disabled. However, unlike the surviving spouse, we may still find the worker disabled even when he or she does not have any impairment which meets or equals a listed impairment. A worker who has an impairment severe enough to keep him or her from doing previous work may be found unable to do any substantial gainful activity, considering his or her age, education, and work experience. We agree with the comment that in order for us to find that the worker is disabled on medical considerations alone, the worker must meet the same standard of disability established by law for widows, widowers, and surviving divorced wives. However, this is not the only standard which we consider in evaluating the worker's claim.

Additional Changes: In §§ 404.1525 and 416.925, we have revised the last sentence in paragraph (a) to point out that the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months. In paragraph (b)(1) we have changed "similar impairment impact" to "similar effect" for clarity.

Medical Equivalence

Comments: Several comments were received on determining medical equivalence under §§ 404.1526 and 416.926. These included a comment questioning whether there has been a change in these regulations that would now require claimants to have an impairment that is medically equivalent to a listed impairment in order to be found disabled. Others commented on the complexity involved in these decisions, and whether it was proper to make this decision by comparing the person's impairment(s) with the listed impairment most like it.

Response: Nothing new has been added. Medical equivalence is still only one aspect of disability evaluation. It is used whenever claimants have a severe impairment or combination of impairments that do not meet the specific findings contained in a listing. If evaluation for medical equivalence does not result in a disability allowance, we must still consider whether the claimant is unable to do any substantial gainful activity by reason of the impairment(s), considering the vocational factors of age, education and work experience.

These decisions are complex, as pointed out by one of the commenters. In order to make these decisions as accurately as possible, however, we make all decisions of medical equivalence on the basis of medical judgments furnished by physicians in the disability program who are familiar with the medical requirements.

A comparison is made with the listed impairment most like the claimant's impairment to see if it is as severe. Each listed condition is independent, and the listed findings represent a point of severity for that particular condition at which we no longer consider it reasonable or necessary to consider vocational factors under the guidelines described in §§ 404.1560 through 404.1569 or §§ 416.960 through 416.969

Conclusions by Physicians Concerning Your Disability

Comment: One person representing a legal service foundation commented that §§ 404.1527 and 416.927 are impermissible in light of the substantial body of case law indicating that the uncontradicted conclusion of a physician is entitled to "great weight." This person further stated that the treating physician's conclusion as to the existence of disability, if uncontradicted, is "binding" upon the Secretary.

Response: In these sections we explain that under the law we are responsible for making the disability determination on the basis of the evidence. Opinions by physicans about "disability" or "the ability to work" are not binding upon us. While we carefully consider these opinions, there must be sufficient evidence to support conclusions. When there is insufficient evidence to support an opinion, we ask for additional evidence. However, we must make our determination on the basis of the evidence and not on the basis of an opinion alone and some court decisions have criticized us for not obtaining sufficient evidence.

How We Evaluate Symptoms, Including Pain

Comments: One person from a legal service foundation objected to the statement in §§ 404.1529 and 416.929 that "we will never find that you were disabled based on your symptoms, including pain alone." According to this comment, the statement violates case law indicating that pain itself can be disabling. Another person, representing a legal aid bureau, believes that these sections must be deleted, because the requirement of objective proof before subjective symptoms can be accepted is contrary to long-standing principles of law that "pain," unaccompanied by any objectively observable symptoms, will support a claim for disability benefits. Another legal service representative stated that all the courts have held that subjective medical evidence, even including pain unsupported by objective medical evidence, will support a finding of disability. Still another person from a legal aid foundation stated that these sections fail to account for the fact that pain is outside the realm of objective scientific measurement and cannot be diagnosed by laboratory and clinical procedures. According to another comment, these sections fail to recognize that pain can be separate from any particular syndrome and can be part of an overlay of multiple medical problems and physical inactivity, or even of undiagnosed but very real conditions. One person agreed that the source of pain must have a medical verification but considered the sections "overbroad" and contrary to the law. Other persons expressed similar objections to these sections.

Response: In including these sections in the regulations for the first time, we did not intend that pain itself must be objectively measured. We only require proof that there is a medical condition producing the pain. After we verify that there is a medical condition which can be expected to cause pain, we can evaluate any medical evidence submitted to determine whether the pain is disabling. Pain that is of such long duration and severity as to be significant for disability evaluation is, almost without exception, verifiable by clinical signs and findings showing a medical condition that can be reasonably expected to produce the pain. We do not require that a specific diagnosis be established, but, in practice, the medical signs and findings that show the presence of a medical condition consistent with pain will also permit a diagnosis in most cases.

After reviewing these comments, however, we realize that the language in the last sentence of these sections is unclear. It could be read to mean that we never find a person disabled when the only limitation is severe pain. We intended that there must be other signs and findings that show there is a medical condition present that can be reasonably expected to result in severe pain. We have rewritten the last sentence to clarify that pain, in itself, or other symptoms, can be disabling. This sentence now reads: "We will never find that you are disabled based on your symptoms, including pain, unless

medical signs or findings show that there is a medical condition that could be reasonably expected to produce these symptoms." In the second sentence, we have also removed the word "objective," since "signs and laboratory findings" are objective by definition.

Need To Follow Prescribed Treatment

Comment: Many persons objected to the change in policy which we proposed in §§ 404.1530 and 416.930 of the NPRM. Under this proposal, in order to receive benefits, a person would have to follow treatment which we determined would restore his or her ability to work, even if the treatment had not been prescribed by his or her own physician. In addition to the adverse comments which we received from members of the public, physicians and other Federal and State personnel involved in the day-to-day administration of the titles II and XVI disability programs also expressed serious concerns about this proposed change in our policy. A few comments agreed with this proposal, but most comments pointed out its disadvantages. Several persons repreesenting legal aid services commented that relying on the viewpoint of a consulting physician who sees a claimant for a single examination, rather than on an attending physician who is actually treating the claimant, would be "unduly harsh and restrictive." Several persons believed that this change in policy would be an interference in the doctor-patient relationship. Some doctors thought that this policy "would be fraught with marked malpractice liability." A representative from a legal aid bureau expressed the opinion that this new requirement may cause injury to a claimant's physical or mental condition, because a consulting physician is not qualified to prescribe mandatory treatment. According to other attorneys, this provision is beyond the scope of the law and contrary to court decisions. Others pointed out that the proposed rule "gives much too much weight to consulting physicians" and that the claimant should have some freedom in deciding on whose treatment to follow. Others questioned whether consulting physicians would be willing to assume this responsibility.

Response: We have decided not to adopt that proposed rule. From the beginning, we recognized that this proposal would require careful administration on our part. We would have only applied this proposed rule to medical conditions which we carefully evaluated. We had intended to limit the proposed rule to medical conditions where it is clear that the recommended treatment conforms to widely accepted medical standards. Admittedly, we would have had difficulty in accomplishing this goal while administering a nationwide program that requires us to consider the wide variety of impairments that might produce disability and the treatment for these medical conditions.

Our intent in proposing the change in policy was to eliminate situations where we are paying disability benefits to persons who would be able to return to work if they followed appropriate treatment. By obtaining another medical opinion about appropriate treatment, we might encourage some disabled persons to seek treatment to correct their medical condition. However, there are probably few people receiving disability benefits only because of lack of proper treatment. Therefore, the proposed change in policy would have little effect on the total cost of disability benefits.

In view of the potential problems which were pointed out in the comments, we are not adopting this proposed rule. In deciding whether a person is following treatment which would restore his or her ability to work, we will continue our past policy of only considering treatment that has been prescribed by a treating source. We have revised §§ 404.1530 and 416.930 along these lines.

Comment: One person commented about the examples of good reasons for not following prescribed treatment. According to this comment, the example in paragraph (c)(2) of §§ 404.1530 and 416.930 is not appropriate, because one cannot meet the Listing of Impairments, which applies to both eyes, by having a very severe problem with one eye alone.

Response: We agree with this comment. Therefore, we have revised the example to show that a person would have good reason for refusing cataract surgery for one eye when there is an impairment of the other eye resulting in a severe loss of vision that is not subject to improvement through treatment.

Presumptive Disability and Blindness

When Presumptive Payments Begin and End

Comment: One person representing a legal aid bureau commented that paragraph (c) of § 416.932 is an additional condition for cessation of presumptive disability. This person stated that this condition should be published as a substantive change and not as part of "Operation Common Sense," since it is not in the prior regulations.

Response: The condition in paragraph (c) was previously published as a final regulation in § 416.952 in the **Federal Register** on April 24, 1978 (43 FR 17354). It read as follows: "(c) The month in which a non-medical factor of entitlement is no longer met." This described one of the conditions which would end payments based on presumptive disability or presumptive blindness. In the NPRM, we rewrote this paragraph to read: "(c) The month in which you no longer meet one of the other eligibility requirements (e.g., your income exceeds the limits)." We did not intend to make any change in the rule but only to state more clearly what we mean by "a non-medical factor of entitlement".

Impairments Which May Warrant a Finding of Presumptive Disability or Presumptive Blindness

Comment: One person observed that the list of impairments in § 416.934 which warrant a finding of presumptive disability or presumptive blindness without obtaining medical evidence is completely new to the regulations. This person belives that we should have published this list of impairments separately as a proposed substantive change and not as a part of "Operation Common Sense", in which it was "slipped in" with other regulations. This person also believes that the section should at least include a statement that the list is not meant to exclude other possibilities.

Response: We stated in the preamble of the NPRM that we were including in the regulations for the first time the important policies which we were already following. We highlighted this addition on page 38881, where we stated that "in § 416.934, we give examples of 10 specific impairment categories where we will make a presumptive determination before we get any more medical evidence." We also pointed out that we have been paying presumptive payments on the basis of these impairment categories for several years. Those categories were already listed in our operating manuals. On the second point, based on our experience, we have listed impairments that are observable or can be judged without medical evidence and have a high degree of probability of a finding of disability or blindness. In other cases we need some other evidence. In § 416.933, we already explain how we make a finding of presumptive disability or presumptive blindness in other cases in which the medical evidence shows a high degree of probability that disability or blindness exists.

V 45 A G 2 0 8 0 UMI

Drug Addiction and Alcoholism

Medically Determined Drug Addicts and Alcoholics

Comment: One person pointed out that § 416.935 no longer includes the phrase in the previous rule which defined "contributing factor" as "material to the finding of disability." This person stated that the phrase has a specific legal meaning, narrower and clearer than "contributing factor" and should be retained in the new section, even though it may not be considered as ordinary language.

Response: We agree with this comment, and we have restored the phrase "material to the finding of your disability" in order to more clearly define the meaning of contributing factor."

Treatment Required for Medically Determined Drug Addicts and Alcoholics

Comment: One person objected to § 416.936 because it omits language from the previous rule that made it clear that ineligibility for failure to accept and comply with treatment applies only to those months in which there was noncompliance. This person believes that the language "for such month" should be retained because without it the section could be interpreted to permit permanent cessation of payments, requiring the claimant to make a new application and undergo a new determination of disability in order to become eligible again.

Response: We agree with the comment, and we have added the phrase "for any month" to make it clear that we are only referring to the month of noncompliance.

Residual Functional Capacity

Your Residual Functional Capacity

Comment: One person, in discussing §§ 404.1545 and 416.945, noted that "sensory characteristics" were included with physical abilities in paragraph (b), while only skin impairments and epilepsy were mentioned as examples of impairments other than physical or mental ones in paragraph (d).

Response: We agree that these paragraphs in the sections are confusing. Accordingly, we have deleted "and sensory characteristics" from paragraph (b) and we have added to paragraph (d) the phrase "impairments of vision, hearing or other senses, postural and manipulative limitations, and environmental restrictions."

Comment: Another person commenting on §§ 404.1545 and 416.945 stated that in determining residual functional capacity, it is not clear what we mean by the statement that we will consider other factors, such as a claimant's description of the impairment, when we cannot make a decision on medical findings. This person questioned whether a claimant's description of the impairment is not in fact the same as medical findings of his symptoms to be considered along with signs and laboratory findings.

Response: The determination of residual functional capacity is based on a medical assessment, and often requires descriptions or observations that go beyond those symptoms that are important for medical diagnosis and treatment. These observations by examining physicians relate to physical limitations that affect work and not necessarily to medical findings that relate to the treatment of the claimant's condition. The claimant's own description of how an impairment limits capacity to work may also be helpful. These descriptions and observations are then considered together with the claimant's complete medical record. Sections 404.1545(a) and 416.945(a) have been revised to clarify these points. Additional material has also been added to emphasize that the determination of residual functional capacity is not in itself a determination of disability, but is used together with the vocational guidelines to make a disability determination.

Comment: One person commented that we should consider a claimant's pain in determining residual functional capacity.

Response: Since pain, as a symptom, is a medical finding, we do consider a claimant's pain in making a decision about residual functional capacity. How we evaluate pain, and other symptoms, is described in §§ 404.1529 and 416.929.

Responsibility for Assessing and Determining Residual Functional Capacity

Comment: A person representing a legal aid bureau expressed concern that §§ 404.1546 and 416.946 require administrative law judges to accept conclusions by physicians. This person believes that the sections should specifically provide that while a physician's judgment as to residual functional capacity should be considered, it is in no way binding on the trier of fact, such as the administrative law judge, who has the responsibility to reach a finding of fact on this issue.

Response: We agree that the responsibility of the administrative law judge and the Appeals Council should be defined in these sections. Therefore, we have revised the language to make it clear that the administrative law judge, or Appeals Council, has the responsibility for deciding the claimant's residual functional capacity on the basis of the medical evidence for cases at the hearing or Appeals Council level.

Comment: One person objected to §§ 404.1546 and 416.946 because current medical forms are inadequate for furnishing a medical assessment by the treating physician as required by the regulations.

Response: These sections state that a treating or examining physician, State Agency physician, or any other physician designated by the Secretary may make an assessment and determination of the residual functional capacity. These sections, however, do not indicate that the treating or examining physician is the preferred source for the assessment of the claimant's residual functional capacity. Therefore, we ordinarily do not ask the treating physician to make an assessment.

Vocational Considerations

When Your Vocational Background Will Be Considered

Comment: A person from a social service agency believes that the provision in § 416.960(a) that states that vocational factors do not apply to supplemental security income (SSI) claimants who are eligible for benefits because of blindness will cause problems for rehabilitation agencies. This person interprets this section to mean that those who meet the blindness eligibility requirements under the SSI program can continue to receive benefits indefinitely, even though they may have acquired skills through vocational rehabilitation and have obtained successful employment.

Response: The law does not give us the discretion to decide whether vocational factors should apply to the blind as well as to the disabled. Title XVI of the Social Security Act provides two distinct benefit categories for people with impairments: disability and blindness. To receive benefits based upon blindness, the person must meet the requirement of statutory blindness by having central visual acuity of 20/200 or less in the better eye with the use of correcting lens or an equivalent limitation in the field of vision. By law the determination is made on the basis of medical considerations alone without the need to consider vocational factors. There is no requirement that the blind person be unable to work. However, if the blind person is working, we will consider the earnings under the income and resources provisions of the law. This means that if the blind person's income and resources exceed the limitations under the law, that person will not be eligible for benefits even though blind. See §§ 416.981–416.985, which explain the policies of the SSI program with respect to blindness.

If You Have Done Only Arduous Unskilled Physical Labor

Comment: A representative from a legal aid bureau stated that §§ 404.1562 and 416.962 seem to limit the application of the rule that is stated in those sections to persons who have worked a minimum of 35 years in arduous unskilled physical labor. This person pointed out that the prior regulations explaining this rule stated "e.g., 35 to 40 years," which implied that the 35-year limit is only an example.

Response: In order for us to apply this particular rule the claimant must have done arduous unskilled labor for at least 35 years and now be unable to do this kind of work because of a severe impairment. Generally, this means that the claimant is an older person. Since the claimant must also have no more than a marginal education, we are able to make a determination of disability on the basis of these seriously adverse vocational factors without considering whether the claimant has qualifications for doing other work. However, when a claimant has done arduous unskilled labor for less than 35 years, this does not mean that we will deny the claimant's application. We look further at the claimant's vocational background, including age, education, and work experience, and may find that the claimant has no qualifications for other work. In §§ 404.1520 and 416.920, we have also changed the "e.g.," to "i.e.," in paragraph (f)(2) to clarify that the 35-year requirement is not merely an example.

Your Age as a Vocational Factor

Comment: One person representing a legal aid bureau observed that §§ 404.1563 and 416.963 omit the statement in the prior regulations which provided that the age categories "are not to be applied mechanically in borderline situations." According to this comment, this is an important provision which protects claimants from arbitrary and unreasonable treatment where their age is very close to a different category. Another person asked whether we intended to delete this provision.

Response: We agree that this provision is important, and we have restored it.

Your Work Experience as a Vocational Factor

Comment: One person considered it inconsistent that §§ 404.1565 and 416.965 provide "that your work experience applies when it was done within the last 15 years, lasted long enough (usually six months to a year) for you to learn to do it" and that §§ 404.1568 and 416.968 state that, as to unskilled work, "a person can usually learn to do the job in 30 days."

Response: We agree. We did not intend by the parenthetical guidance "(usually six months to a year)" to preclude consideration of a shorter period of relevant work. This language could cause confusion. Therefore, we have deleted it from these sections.

Comment: Another person believed that someone not familiar with the disability program could confuse the term "earnings requirements" with "substantial gainful activity" and suggested that we use different wording than "earnings requirements."

Response: We have adopted this suggestion. Accordingly, we have substituted the term "disability insured status" in § 404.1565. In § 416.965 we have deleted the statement about when the earnings requirement was last met, since there is no insured status requirement under the Supplemental Security Income Program.

Work Which Exists in the National Economy

Comment: One person questioned how "technological changes in the industry" could affect employability as do the other factors in paragraph (c) of §§ 404.1566 and 416.966.

Response: All of the seven items we listed in paragraph (c) refer to the inability to *get* a job, as opposed to the physical or mental inability to *do* a job. Technological changes, such as automation in the industry in which a person worked, may eliminate certain jobs or require greater skills or different skills.

Comment: Another person commented that §§ 404.1566 and 416.966 make it possible for administrative law judges or the Appeals Council to take administrative notice of not just the existence of jobs but also the tasks involved in jobs. According to this comment, this is a function for a vocational expert.

Response: We take administrative notice of unskilled occupations only. These occupations are entry occupations, requiring no prior experience, and can be learned after a short demonstration or within 30 days on the job. Since the tasks involved in unskilled occupations are so elementary, vocational experts would contribute little to the decisions involving vocational adjustment to this work. The unskilled occupations we refer to in Appendix 2 to Subpart P of Part 404 were taken by us from the *Dictionary of Occupational Titles*, Third Edition, published by the Department of Labor.

Additional Changes: After further consideration, we have decided to expand paragraph (c) of §§ 404.1566 and 416.966 by adding item (8) to explain that we will also find a person not disabled if his or her residual functional capacity and vocational abilities make it possible to do work which exists in the national economy, but the person remains unemployed because he or she does not wish to do a particular type of work.

In paragraph (e), which explains the use of vocational experts and other specialists, we have added a sentence to make it clear that we have the discretion to decide whether to use a vocational expert or other specialist.

Physical Exertion Requirements

Additional Changes: In §§ 404.1567 and 416.967, we have revised the first sentence of paragraph (e) to read: "Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more." In the NPRM, we defined very heavy work as involving "lifting objects weighing 100 pounds or more." This was an error on our part. The definitions of physical exertional requirements are standard definitions in the *Dictionary of Occupational Titles*, published by the Department of Labor.

Skill Requirements

Comment: One person stated that §§ 404.1568 and 416.968 should include the additional information in Appendix 2 of Subpart P about transferability of skills when dealing with older workers.

Response: Sections 404.1568 and 416.968 relate to transferable skills in general, while Appendix 2 gives specific guidance for evaluating the work skills of persons who are limited to sedentary or light work. We believe that it is not appropriate to combine these approaches. Further, neither the regulations proper nor the Appendix 2 provisions stand alone but must be used together.

Comment: Another person questioned whether a case-by-case approach is necessary for determining a claimant's work skills and the transferability of these skills to specific occupations.

Response: Transferability of skills is not an issue in most disability claims. In

many cases, we determine on the basis of medical considerations alone whether or not a claimant is disabled. In other cases, the principal disability issue is related to whether the claimant can do her or her usual work or other past relevant jobs. See §§ 404.1520 and 416.920 for the steps we follow in making a disablity determination. Transferability of skills only becomes an issue in the last step after we have determined that the claimant has a severe impairment which prevents him or her from doing past relevant work. Before we can make a decision on this issue, we must first make findings about the claimant's residual functional capacity, age, education, and work experience. To determine whether the claimant's skills are transferable to other jobs, we use reference materials such as the *Dictionary of Occupational Titles*. In some cases, we use the services of vocational experts or work evaluation centers for determining whether skills are transferable.

Additional Changes: We have revised the last sentence in paragraph (d)(3) of §§ 404.1568 and 416.968 to make it clear that we do not consider all jobs in mining, agriculture, and fishing to be so specialized that skills are not transferable.

Listing of Medical-Vocational Guidelines in Appendix 2

Comment: One person commented that we should identify by name and *Dictionary of Occupational Titles* number the separate sedentary and light unskilled occupations we refer to in §§ 404.1569 and 416.969.

Response: These jobs are described in the *Dictionary of Occupational Titles*, which is published by the Department of Labor. One can find the physical demands and skill requirements of jobs in the Supplement to the *Dictionary of Occupational Titles*. Since this information is already available, we see no purpose in publishing another list of these jobs. We state in §§ 404.1566 and 416.966 that we will take administrative notice of the *Dictionary of Occupational Titles* and other job information available from various government and other publications.

Comment: One person stated that it was difficult to understand the 65-word opening sentence in §§ 404.1569 and 416.969. This person believed that a cross-reference to Appendix 2 would be sufficient.

Response: We agree that the sentence is too long, and we have revised the language. However, we believe that a mere cross-reference is not sufficient, since this section is an important link to Appendix 2.

Substantial Gainful Activity

General Information About Work Activity

We received no comments directly on §§ 404.1573 and 416.973. However, we realized, on our own further review that the titles to these sections are misleading, since these sections do not contain evaluation guides. The guides are found in §§ 404.1574 and 404.1575 and §§ 416.974 and 416.975. We therefore changed the titles of these two sections from "Evaluation Guides for Work Activitity" to "General Information About Work Acvitity." In addition, we added a reference in § 416.973 to Subparts K and L of Part 416 to specify where the income and resource provisions may be found. This change was prompted by a comment made by an SSI recipient about the substantial gainful activity earnings guidelines.

Evaluation Guides if You Are an Employee

Comments received following publication of the interim regulations on the 1978 and 1979 SGA amounts have been considered along with the comments received following publication of the NPRM for this recodification.

Comment: A writer from an association of retired people felt that our reference to "a mentally handicapped person" in §§ 404.1574 and 416.974 seems to bring medical factors into the discussion of what constitutes SGA when the work is done under special circumstances.

Response: We did not intend to create that impression. We used that only to be illustrative. We referred to the mentally handicapped since they are the ones most likely to be engaged in doing simple tasks under supervision such as we describe. We have, however, deleted the word "mentally" to avoid any future misunderstandings.

Comment: Several commenters felt that the upper level figures are too low and thus act as disincentives for people to return to work, since in some cases it is possible for a person to receive more money by continuing to draw benefits than by working. A commenter from a State rehabilitation agency feels that a better indicator would be the Federal minimum wage multiplied by the number of hours (generally 35 to 40 hours a week) considered to be full-time employment. A writer from a State department of health and social services suggested raising the upper level SGA amount to correspond more closely with the poverty level. This same writer, when commenting on the interim regulations setting the SGA levels for 1978 and 1979, had suggested that the upper limit guidelines for disabled SSI recipients be made the same as the income exclusions for SSI recipients age 65 or over. Two other writers, a representative from a vocational rehabilitation institute and a representative from a vocational rehabilitation training center, also felt that the income guidelines should be the same as the income exclusions for SSI recipients age 65 or over. A representative of a facility for the mentally retarded wrote that the upper level guidelines applicable to all disabled persons should be made the same as for persons disabled by blindness who are receiving title II disability benefits.

Response: We have not adopted any of these suggestions. We are, however, trying to find ways to eliminate, where possible, the apparent disincentives in the current SGA guides for impaired persons to reenter the work force or to attempt rehabilitation. We have been studying various alternatives to the current guides to find out whether there is a more effective way of evaluating a person's work activity. A number of alternatives are being considered, including keeping the upper limit equal to the Federal minimum wage or to the poverty level. However, the increases in the SGA limit amounts are kept consistent with specific economic indicators, and increases beyond the amounts indicated by those indicators cannot be fiscally justified without statutory authority. Recently enacted legislation provides that extraordinary work expenses will be excluded from a person's earnings when applying the SGA earnings guidelines. We will publish a notice of proposed rulemaking to implement this provision as soon as possible.

In addition, the legislation authorizes experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of disabled beneficiaries under the disability program. Plans are now being developed to set up and carry out experiments under this authority.

Comment: A recipient of supplemental security income disability benefits wrote that she has recently learned that her monthly earnings, although considerably less than the upper SGA amounts, may affect her SSI benefit. She does not understand why her earnings, which are considerably less than the amount normally considered to show that a person has done substantial gainful activity, should affect her SSI benefit.

Response: Under the SSI program, eligibility for benefits and the amount of the benefit payable are dependent in part upon the amount of a person's income. As the amount of a person's countable income rises, his or her benefit payment is reduced. All earnings, therefore, must be evaluated under the income and resources provisions of the law. This evaluation is completely independent of any determination as to whether a person's work activity shows that he or she is doing substantial gainful activity. One evaluation has no affect upon the other. In the commenter's case the earnings, although nowhere near the upper SGA limits, still had to be evaluated for their effect, if any, on her monthly benefit amount.

Comment: A legal services agency interpreted the guides in §§ 404.1574(b)(2) and 416.974(b)(2) to mean that when a person's earnings are less than the amount shown in these sections we presume that person to be disabled; that is, that the person cannot do any substantial gainful activity. He then reasons that work at less than the lower limits ($190 for 1980) constitutes gainful activity as opposed to substantial gainful activity and believes that it is incumbent upon us to prove, when denying a widow/widower claim, that there are jobs which the claimant can perform, which pay less than the lower SGA limits.

Response: These sections do not provide a presumption that a person is disabled. The lower limits in §§ 404.1574 and 416.974 are merely monetary guides to help us determine whether a person is engaging or has engaged in substantial gainful activity. Sections 404.1520 and 416.920 set out the steps we follow in making a disability determination. When a person is working, the first step we follow is to see if the work is substantial gainful activity. We use the earning levels for this purpose. Earnings that exceed the upper level ordinarily demonstrate that the person is able to engage in substantial gainful activity. Earnings below the lower level ordinarily indicate that the person is not engaging in substantial gainful activity. However, the fact that the earnings are below the lower level does not necessarily indicate that the person does not have the ability to engage in substantial gainful activity. We still must proceed to the other steps. Only then can it be determined whether the person cannot do any substantial activity and is disabled.

Unlike the determination of other disability claims, the determination of a widow, widower or surviving divorced wife claim does not involve a decision as to the existence of other jobs that a person could do. Under section 223(d)(2)(B) of the Act, such a claim is decided based on the severity of the impairment(s). A detailed discussion of how the determination is made on such a claim is contained in §§ 404.1577–404.1580.

Comment: In commenting on the sequential evaluation process a writer from an association of retired people expressed concern that these regulations introduce the concept of "actually" or "currently" engaging in substantial gainful activity without consideration of whether a person has the ability to engage in substantial gainful activity.

Response: What a person has done is important to us when determining whether he or she is able to do substantial gainful activity. We consider any work a person has done, along with all the other vocational and medical evidence on file, to determine whether he or she is able to do substantial gainful activity.

Additional Changes: We amended the earnings guidelines in §§ 404.1574(b) (1) and (2) and 416.974(b) (1) and (2) to reflect the earnings limits applicable to earnings after calendar year 1979. In addition, we changed the title sentences of §§ 404.1574(a)(1) and 416.974(a)(1) to make them more consistent with the remaining paragraphs of §§ 404.1574 and 416.974. We changed the reference to "work" in the last sentence of §§ 404.1574(a)(1) and 416.974(a)(1) to "substantial gainful activity" to more clearly show that our concern is with whether a person is able to do substantial gainful activity. We rewrote the last sentence in paragraph (a)(4) of §§ 404.1574 and 416.974 to clearly show that medication and equipment are only examples. The discussion was not intended to be limited to only those two items.

To the discussion on earnings that are neither high enough nor low enough to show whether or not a person has engaged in substantial gainful activity, we have added (to paragraphs (b)(3)(ii) of §§ 404.1574 and 416.974) references to pay scales in a person's community. We did this to reflect what has been our long-standing policy in this area.

Evaluation Guides if You Are Self-Employed

Comment: Several writers pointed out the incorrect reference to "paragraph (b)(1) of this section" in §§ 404.1575 and 416.975.

Response: We have corrected the cross-references to show the correct sections—§§ 404.1574(b)(1) and 416.974(b)(1).

Comment: A person representing a State department of health and social services asked whether the rule in §§ 404.1575(c) and 416.975(c) provides for the deduction of soil bank payments and the value of unpaid help from gross business revenue or from net business income.

Response: Our procedures provide that the reasonable value of any significant amount of unpaid help furnished by a spouse, children, or others is to be deducted from gross income. They also provide that soil bank payments are not to be included in figuring net farm income. Our policy is that only income or earnings resulting from a person's own work activity is to be considered when determining whether a person's work is substantial gainful activity. Portions of income resulting from other factors such as unpaid help, rents, and soil bank payments do not result from a person's work and are not counted in determining the amount of substantial gainful activity. We have, however, made several changes to §§ 404.1575(c) and 416.975(c) to more clearly reflect our policies in these areas.

Additional Changes: We changed the second sentence in §§ 404.1575(a) and 416.975(a) from "We realize that we cannot use income alone . . ." to "We will not consider income alone . . ." We think the revised version more clearly reflects our policy in evaluating the earnings of a self-employed person. In §§ 404.1575 (a) and (b) and 416.975 (a) and (b) we have changed "give" and "giving" to "render" and "rendering" wherever those words were used to make the language in these sections conform to language that is in our operating manuals. To §§ 404.1575(a) and 416.975(a) we added a discussion, inadvertently left out of the NPRM, to show that earnings from work that a person is forced to stop after a short period of time because of his or her impairment will not be used to show that a person is able to do substantial gainful activity. We pointed out more clearly that paragraph (b)(1) applies to any business other than that of farm landlord. In order to be more specific we changed the references in paragraphs (c)(1) and (c)(2) of these sections from "§ 404.1574" to "§ 404.1574(b)(1)" and from "§ 416.974" to "§ 416.974(b)(1)".

Widows, Widowers, and Surviving Divorced Wives.—How We Determine Disability for Widows, Widowers, and Surviving Divorced Wives

Additional Changes: We have revised § 404.1578 to make it clear that we

cannot pay benefits to a disabled widow(er) or surviving divorced wife if he or she is actually doing substantial gainful activity regardless of the severity of the impairment.

Why and When We Will Stop Your Cash Benefits

Additional Changes: We changed the title of this section—§ 404.1579—from "Why and when we will stop your cash benefits" to "Why and when we will find that your disability has ended" to better describe the subject matter of this section. We added new paragraphs (b), (c), and (d) to § 404.1579 to provide that a widow, widower, or surviving divorced wife's disability may also be ended for failure to cooperate, if we are unable to locate him or her and there is a question as to whether he or she is still disabled and to provide the widow(er) a chance to tell us why we should not stop his or her benefits. These provisions, also provided in the regulations relating to disabled workers and persons disabled since childhood, were mistakenly left out of this section when we restructured the regulations.

Blindness

A Period of Disability Based on Blindness

Additional Changes: On the basis of a comment which we received on § 404.1565, we have changed "earnings requirement" to "insured status requirement."

Evaluation of Work Activity of Blind People

Comment: A writer from a State department of social services feels that the higher SGA earnings test for the blind (over that for the nonblind disabled) adversely affects the number of blind people who are vocationally rehabilitated. The writer points out that the Federal funding formula allocates a portion of the vocational rehabilitation funds on the basis of the number of cases that are closed because the beneficiary was able to return to substantial gainful activity. The comment argues that the higher SGA levels result in fewer case closures and, therefore, reduced funding for State agencies serving the blind.

Response: The higher SGA level for the blind was established by the Social Security Amendments of 1977. Our regulations merely reflect the law.

Additional Changes: We have rounded to the next whole dollar the amounts a blind person may earn monthly before being considered able to engage in substantial gainful activity. This aligns the amounts shown in this regulation section (§ 404.1584(d)) to the regulations relating to earnings of persons age 65 or over, which provides for rounding to whole dollars, except where to do so would result in a different grace year.

Why and When We Will Stop Your Cash Benefits

Additional changes: We added new paragraphs (c), (d), and (e) to § 404.1586 to provide that we may also find a blind person no longer disabled if he or she fails to cooperate with us, or if we are unable to locate him or her and there is a question as to whether he or she is still disabled and to provide the beneficiary a chance to tell us why we should not stop his or her benefits. These provisions, also included in the regulations relating to disabled workers and persons disabled since childhood, were mistakenly left out of this section when we rewrote the regulations. To the rules on blindness in Part 416 we added § 416.986 to give the conditions under which we will no longer consider a person disabled by blindness.

Circumstances Under Which We May Suspend Your Benefits Before We Make a Determination

Comment: A legal aid bureau wrote that, since this regulation section (§ 404.1587) has no counterpart in the present regulations, it should be deleted.

Response: Although not previously contained in the regulations the policy described in this section is not new. Since inclusion of our operating policy into the regulations makes it easier for the public to understand how we administer the program, we believe adding this policy to the regulations is consistent with the goals of Operation Common Sense.

Additional changes: We changed the reference (in § 404.1587) to "leaves no doubt" in the first sentence to "clearly shows." We believe the phrase "leaves no doubt" sets up a different level of evidentiary proof than is intended and that the phrase "clearly shows" more accurately describes the intent of this section.

Continuing or Stopping Disability or Blindness

When We Will Investigate Whether Your Disability Continues

Comment: A writer from a legal services agency feels that §§ 404.1590 and 416.990 could be improved by including in these sections information on how often cases are reviewed and how the review, or diary, dates are determined.

Response: Medical reexamination diary dates are set up on those cases where the person's impairment falls within one or more of the categories that are listed in our disability operating manuals. These categories list those impairments that can be reasonably expected to improve. We are now conducting various studies to determine whether this list of categories should be revised. We expect to make some changes. If we publish the categories at this time any changes that we later make as a result of those studies would also have to be made in the regulations. We have, therefore, not adopted this suggestion at this time.

Additional Changes: We added language explaining that we may start an investigation to determine whether a person's disability is continuing if someone in a position to know tells us that the claimant is not disabled or has returned to work.

If Your Medical Recovery Was Expected and You Returned To Work

Comment: A person representing a legal services organization wrote that he feels that these sections, 404.1591 and 416.991, should be rewritten to provide for a trial work period even though the person returned to work with no significant medical limitations. The writer points out that persons returning to work occasionally encounter unforeseen difficulties and that medical prognoses can be wrong.

Response: The cases with which these sections deal are clear-cut cases where medical improvement was reasonably expected, and the person's condition did improve and he or she returned to full-time work with no medical restrictions. Generally such persons no longer consider themselves disabled. Only persons who are disabled are entitled to a trial work period in which to test their ability to work on a sustained basis. Since these sections deal only with persons who have recovered from their disabilities, we have not adopted this suggestion.

The Trial Work Period

Additional Changes: We received no comments on these sections (§§ 404.1592 and 416.992). However, we have made several changes. We changed § 416.992 as a result of a comment on the substantial gainful activity regulations. We now explain that earnings during a trial work period, although not evaluated during the trial work period for the purpose of determining whether disability is continuing, are evaluated under the income and resources provisions of our regulations. Earnings during a trial work period can thus

affect a person's monthly benefit amount. We also made a change (in §§ 404.1592(b) and 416.992(b)) to provide the amount of earnings considered to be "services" for earnings in any calendar year before 1979. In doing so we made the dates and amounts conform to the instructions already in our operating manuals. We also made several changes to more clearly show what we do not consider to be services.

We May Ask You To Help Us Determine Whether You Are Still Disabled

Comment: A person from a legal services agency feels the §§ 404.1593 and 416.993 could be improved by referring to the appropriate paragraphs in §§ 404.1594 and 416.994 regarding cessation of a person's disability benefits if he or she fails to cooperate with us.

Response: We have adopted this suggestion.

Why and When We Will Stop Your Cash Benefits

Comment: A writer from a State department of social services thinks that these sections (§§ 404.1594 (b) and (c) and 416.994 (b) and (c)) do not clearly explain when disability ends in cases where the beneficiary returned to work, and recommends that these sections be revised to clearly differentiate between cessations based on work activity and cessations for medical reasons.

Response: We agree with the writer's recommendations and have made changes to more clearly distinguish between the medical and the work activity cessations. We may find that a person's disability has ended for medical reasons because the evidence of record reasonably supports a finding that the person is able to do substantial gainful activity even though he or she may not be working. We may also find that a person's disability has ended for work activity because the person's work activity shows that he or she is able to do substantial gainful activity. Persons who have not medically recovered are entitle to a 9-month trial work period in which to test their abilities to work. Although a determination is not made until after the trial work period, we may determine that the work a person did during the trial work period shows the ability to do substantial gainful activity, and therefore we may determine that a person's disability ended with the month following the trial work period. In other cases, although not showing ability to do substantial gainful activity during the trial work period, a person may demonstrate this ability sometime after the trial work period. We believe that the changes we have made to §§ 404.1594 and 416.994 more clearly state this policy.

Comment: Three commenters wrote that we should show that a person's medical condition has improved since disability or blindness was initially established before determining that the disability or blindness has ended. A legal services agency expressed the feeling that several recent Federal court decisions have held that we must show improvement before stopping payment of a person's benefits and that these regulations ignore those decisions. A member of another legal aid foundation feels that once a decision that a person is disabled has been made, the decision should be allowed to stand unless it is clear that his or her condition has improved. Still another legal aid society feels that to find that disability has ended without showing medical improvement, if the person has not returned to work, is patently unfair.

Response: Our previous regulations dealing with cessation of disablity (in cases other than widow's and widower's claims) provided that disability should be found to have ended when the impairment is no longer of such severity as to prevent the individual from engaging in any substantial gainful activity (SGA). Those regulations have been interpreted by some to mean that not only must the current evidence show that the individual is unable to engage in SGA but that the evidence must also demonstrate that the impairment forming the basis for the previous allowance (or continuance) has improved. This interpretation can result in the payment of benefits to persons who can engage in substantial gainful activity and who are no longer disabled or blind within the meaning of the law, but for whom actual "improvement" cannot be shown. These recodified regulations make it clear that disability ends when current evidence shows that the individual is able to engage in SGA regardless of whether actual improvement can be demonstrated. We do not agree that this position ignores the position taken by any Federal court. The decision that a person's disability or blindness has ended will not be based on a reexamination of old evidence but will be based on new evidence which will have to reasonably show that the person is able to perform substantial gainful activity. We do not agree that a finding that a person is disabled or blind should be allowed to stand in the face of evidence to the contrary simply because of the lack of evidence clearly showing medical improvement. We do not feel these regulations are unfair and we believe that the requirements of these new regulations provide adequate safeguards for persons who are still disabled or blind.

Additional Changes: We changed the titles of these sections from "Why and When We Will Stop Your Cash Benefits" to "Why and When We Will Find that Your Disability Has Ended" so that the title more closely describes the subject matter of the sections. In § 416.994 we corrected the incorrect reference from Subpart N to Subparts M and N.

When We Determine That You Are Not Now Disabled

Comment: Someone from a legal services agency suggested that § 404.1595 be amended to provide that first priority will be given to the opinion and evidence submitted by a person's treating physician.

Response: We do contact a person's current treating sources first. We secure a consultative examination only when we need it. The nature of a report determines the importance we give to it in the adjudicative process. We would not attach the same weight to a report that contains minimal information or an unsupported statement that a person is disabled as we would to a report that gives detailed and extensive findings upon which a determination of disability can be based. We do not believe, therefore, that we should include a categorical statement in the regulations that a treating physician's report will be given first priority.

Comment: A writer from a legal services foundation asked whether the reasons given to a beneficiary whose benefits are to be terminated are the same as those shown on the Disability Determination Transmittal. The writer expressed the belief that beneficiaries are entitled to detailed analyses of the reasons for the termination of their benefits.

Response: The advance notice that goes to a beneficiary before benefit payments are stopped gives the beneficiary 10 working days to submit additional evidence if he or she disagrees with our decision to terminate benefits. This notice gives a detailed explanation of the evidence in the claims file and tells why we are going to terminate benefits. If the beneficiary submits no new evidence, or if after we review any additional evidence our decision remains unchanged, we prepare a formal termination notice and sent it to the beneficiary. This notice cites the basis in law for our action and tells the beneficiary how to file an appeal should he or she wish to do so. It does not repeat the information already given to

V 45 A G 2 0 8 0 UMI

the beneficiary in the advance notice. The Disability Determination Transmittal (our form SSA–833–U5) is used to document decisions to continue or stop disability benefit payments. It documents the legal basis for the decision and serves as a source document from which statistics on the disability insurance program are extracted. The rationale for stopping a person's benefits is shown on a continuation form (SSA–834–U5) and is usually quite similar to the rationale included in the advance notice. We do not believe the beneficiary would be helped by being given a copy of the Disability Determination Transmittal since it contains no information of any value to the beneficiary that has not already been given in the advance notice or the termination notice. We have, therefore, not adopted this suggestion.

Comment: This same writer also feels a copy of the Disability Determination Transmittal should be given to persons who are denied benefits at the initial or reconsideration level.

Response: As with continuing eligibility claims, the Disability Determination Transmittal documents the decision and the legal basis for that decision, and serves as a source document for statistics. Much of the information is technical or statistical in nature and would be of little help to the claimant in understanding why his or her claim has been denied. Although the Disability Determination Transmittal does show the reasons for the denial, these same reasons are also included in the notice to the person of the disallowance of his or her claim. We have always encouraged people to contact our local offices if they have any questions regarding their claims. We believe that this person-to-person contact is more helpful than a detailed letter. We also believe that furnishing a copy of the Disability Determination Transmittal to denied claimants would not really help their understanding of why they have been denied. We have, therefore, not adopted this suggestion.

Comment: A legal aid bureau commented that, since the procedures described here and in §§ 404.1596 and 404.1597 were not previously found in the regulations, Operation Common Sense is not the forum for making these changes.

Response: The procedures described in these sections, although not described in the present regulations, reflect the practices we use in administering the title II disability program. These sections do not contain any new policies or procedures. Since inclusion of these policies and procedures into the regulations makes it easier for the public to understand how we administer the program, we believe their addition to the regulations is consistent with the goals of Operation Common Sense.

Circumstances Under Which We May Suspend Your Benefits Before We Make a Determination

Comment: Someone from a legal services foundation wrote that § 404.1596(b)(2) should make more clear what we mean by ". . . we are satisfied that you received our request and our records show that you should be able to respond." The same writer asked if illiteracy is an acceptable reason for failure to respond to a written notice.

Response: We may request additional medical or other evidence by mail, telephone, personal contact, or by a combination of these ways. Our policies provide that before we suspend a person's benefits it must be reasonable to infer from information in the file that he or she has received our request. Our file must also show that the beneficiary apparently understands, or is capable of understanding, the request. In addition, the file must show that all reasonable attempts have been made to secure the beneficiary's cooperation. We believe the wording of this section adequately protects the beneficiary, and we have made no changes.

Illiteracy, in itself, is not necessarily an acceptable reason for failure to respond to a written notice. Generally the case folder will indicate whether or not the beneficiary is illiterate. Whether or not the beneficiary has been able to understand previous letters, such as the award notice, is generally reflected in the folder. In addition, there is usually a follow-up contact in person or by telephone.

Additional Changes: We have changed the reference to "leaves no doubt" in the first sentence of § 404.1596(b)(1) to "clearly shows." We believe the phrase "leaves no doubt" sets up a different level of evidentiary proof than we intended and that the phrase "clearly shows" more accurately describes the intent of this section.

If You Become Disabled by Another Impairment

Comment: A legal aid bureau commented that, since these proposed sections (§§ 404.1598 and 416.998) were not in the previous regulations, they should not be included in this recodification.

Response: Although not previously contained in the regulations, the policy described in these sections—which concern persons already receiving benefits who become disabled by subsequent impairments—is not new policy. We believe inclusion of this policy in the regulations is consistent with our efforts to increase public understanding of our administration of the program.

Other Comment

Comment: A writer from a State rehabilitation commission recommended adding a section that would permit a person to continue to receive SSA benefits while participating in a rehabilitation program whether or not he or she has medically recovered. The writer mentions that medical recovery results in termination of a person's benefits and may result in termination of his or her rehabilitation program as well.

Response: Present law dose not permit the payment of benefits after medical recovery. Although a person's benefits have to be terminated upon medical recovery, his or her rehabilitation program may not necessarily end. A State vocational rehabilitation agency may continue the program using section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730), funds instead of Social Security Trust Fund monies.

The amendments are hereby adopted as revised and set forth below.

(Catalog and Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

Dated: June 4, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950-)

1. Subpart P of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart P—Determining Disability and Blindness

General

Sec.

404.1501 Scope of subpart.
404.1502 General definitions and terms for this subpart.

Determinations

404.1503 Who makes disability and blindness determinations.
404.1504 Determinations by other organizations and agencies.

Definition of Disability

404.1505 Basic definition of disability.
404.1508 What is needed to show an impairment.
404.1509 How long the impairment must last.
404.1510 Meaning of substantial gainful activity.

Evidence

404.1512 Your responsibility to submit evidence.
404.1513 Medical evidence of your impairment.
404.1514 When we will purchase existing evidence.
404.1515 Where and how to submit evidence.
404.1516 If you fail to submit medical and other evidence.
404.1517 Consultative examination at our expense.
404.1518 If you do not appear at a consultative examination.

Evaluation of Disability

404.1520 Evaluation of disability in general.
404.1521 What we mean by an impairment that is not severe.
404.1522 When you have two or more unrelated impairments—initial claims.

Medical Considerations

404.1525 Listing of impairments in Appendix 1.
404.1526 Medical equivalence.
404.1527 Conclusion by physicians concerning your disability.
404.1528 Symptoms, signs and laboratory findings.
404.1529 How we evaluate symptoms including pain.
404.1530 Need to follow prescribed treatment.

Residual Functional Capacity

404.1545 Your residual functional capacity.
404.1546 Responsibility for assessing and determining residual functional capacity.

Vocational Considerations

404.1560 When your vocational background will be considered.
404.1561 Your ability to do work depends upon your residual functional capacity.
404.1562 If you have done only arduous unskilled physical labor.
404.1563 Your age as a vocational factor.
404.1564 Your education as a vocational factor.
404.1565 Your work experience as a vocational factor.
404.1566 Work which exists in the national economy.
404.1567 Physical exertion requirements.
404.1568 Skill requirements.
404.1569 Listing of Medical—Vocational Guidelines in Appendix 2.

Substantial Gainful Activity

404.1571 General.
404.1572 What we mean by substantial gainful activity.
404.1573 General information about work activity.
404.1574 Evaluation guides if you are an employee.
404.1575 Evaluation guides if you are self-employed.

Widows, Widowers, and Surviving Divorced Wives

404.1577 Disability defined for widows, widowers and surviving divorced wives.
404.1578 How we determine disability for widows, widowers and surviving divorced wives.
404.1579 Why and when we will find that your disability has ended.
404.1580 You are not eligible for a trial work period.

Blindness

404.1581 Meaning of blindness as defined in the law.
404.1582 A period of disability based on blindness.
404.1583 How we determine disability for blind persons who are age 55 or older.
404.1584 Evaluation of work activity of blind people.
404.1585 Trial work period for persons age 55 or older who are blind.
404.1586 Why and when we will stop your cash benefits.
404.1587 Circumstances under which we may suspend your benefits before we make a determination.

Continuing or Stopping Disability

404.1588 Your responsibility to tell us of events that may change your disability status.
404.1589 We may investigate to find out whether you continue to be disabled.
404.1590 When we will investigate whether your disability continues.
404.1591 If your medical recovery was expected and you returned to work.
404.1592 The trial work period.
404.1593 We may ask you to help us determine if you are still disabled.
404.1594 Why and when we will find that your disability has ended.
404.1595 When we determine that you are not now disabled.
404.1596 Circumstances under which we may suspend your benefits before we make a determination.
404.1597 After we make a determination that you are not now disabled.
404.1598 If you become disabled by another impairment.

Appendix 1—Listing of Impairments

Appendix 2—Medical-Vocational Guidelines

Authority: Issued under Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

Subpart P—Determining Disability and Blindness

General

§ 404.1501 Scope of subpart.

In order for you to become entitled to any benefits based upon disability or blindness or to have a period of disability established, you must be disabled or blind as defined in title II of the Social Security Act. This Subpart explains how we determine whether you are disabled or blind. We discuss a "period of disability" in subpart D of this Part. We have organized the rules in the following way.

(a) We define general terms, then discuss who makes our disability determinations and state that disability determinations made under other programs are not binding on our determinations.

(b) We explain the term "disability" and note some of the major factors that are considered in determining whether you are disabled in §§ 404.1505–404.1510.

(c) Sections 404.1512–404.1518 contain our rules on evidence. We explain your responsibilities for submitting evidence of your impairment, state what we consider to be acceptable sources of medical evidence, and describe what information should be included in medical reports.

(d) Our general rules on evaluating disability are stated in §§ 404.1520–404.1523. We describe the steps that we go through and the order in which they are considered.

(e) Our rules on medical considerations are found in §§ 404.1525–404.1530. We explain in these rules—

(1) The purpose of the Listing of Impairments found in Appendix 1 of this subpart and how to use it;

(2) What we mean by the term "medical equivalence" and how we determine medical equivalence;

(3) The effect of a conclusion by your physician that you are disabled;

(4) What we mean by symptoms, signs, and laboratory findings;

(5) How we evaluate pain and other symptoms; and

(6) The effect on your benefits if you fail to follow treatment that is expected to restore your ability to work, and how we apply the rule.

(f) In §§ 404.1545–404.1546 we explain what we mean by the term "residual functional capacity," state when an assessment of residual functional capacity is required, and who may make it.

(g) Our rules on vocational considerations are found in §§ 404.1560–404.1569. We explain when vocational factors must be considered along with the medical evidence, discuss the role of residual functional capacity in evaluating your ability to work, discuss the vocational factors of age, education, and work experience, describe what we mean by work which exists in the national economy, discuss the amount of exertion and the type of skill required

V 45 AG 20 80 UMI

for work, and describe and tell how to use the Medical-Vocational Guidelines in Appendix 2 of this subpart.

(h) Our rules on substantial gainful activity are found in §§ 404.1571–404.1574. These explain what we mean by substantial gainful activity and how we evaluate your work activity.

(i) In §§404.1577–404.1580 we explain the special rules covering disability for widows, widowers, and surviving divorced wives, and in §§ 404.1581–404.1587 we discuss disability due to blindness.

(j) Our rules on when disability continues and stops are contained in §§ 404.1588–404.1598. We explain what your responsibilities are in telling us of any events that may cause a change in your disability status, when you may have a trial work period, and when we will investigate to see if you are still disabled.

§ 404.1502 General definitions and terms for this subpart.

As used in this subpart—

"Secretary" means the Secretary of Health and Human Services.

"State agency" means an agency of a State which enters into an agreement with the Secretary to make determinations of disability for the Secretary.

"We" or "us" refers to either the Social Security Administration or the State agency making the disability or blindness determination.

"You" refers to the person who has applied for benefits or for a period of disability or is receiving benefits based on disability or blindness.

Determinations

§ 404.1503 Who makes disability and blindness determinations.

(a) *State agencies.* When there is an agreement between the State and the Secretary, the State agency designated in the agreement makes disability determinations for the Secretary for—

(1) Any person living in that State; and

(2) Any group of people named in the agreement.

(b) *Social Security Administration.* The Social Security Administration will make disability and blindness determinations for the Secretary for—

(1) Any person in any State that has not entered into an agreement with the Secretary;

(2) Any group of people not covered by an agreement with any State; and

(3) Any person living outside the United States.

(c) *What determinations are authorized.* The Secretary has authorized the State agencies and the Social Security Administration to make determinations about—

(1) Whether you are disabled or blind;

(2) The date your disability or blindness began; and

(3) The date your disability stopped.

(d) *Review of State Agency determinations.* On review of a State agency determination we may find that—

(1) You are not disabled or blind, although the State agency found you disabled or blind;

(2) Your disability or blindness began later than the date found by the State agency; and

(3) Your disability or blindness stopped earlier than the date found by the State agency.

§ 404.1504 Determinations by other organizations and agencies.

A decision by any nongovernmental agency or any other governmental agency about whether you are disabled or blind is based on its rules and is not our decision about whether you are disabled or blind. We must make a disability or blindness determination based on social security law. Therefore, a determination made by another agency that you are disabled or blind is not binding on us.

Definition of Disability

§ 404.1505 Basic definition of disability.

(a) The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment, which makes you unable to do your previous work or any other substantial gainful activity which exists in the national economy. To determine whether you are able to do any other work, we consider your residual functional capacity and your age, education, and work experience. We will use this definition of disability if you are applying for a period of disability, or disability insurance benefits as a disabled worker, or child insurance benefits based on disability before age 22.

(b) There are different rules for determining disability for individuals who are statutorily blind. We discuss these in §§ 404.1581 through 404.1587. There are also different rules for determining disability for widows, widowers, and surviving divorced wives. We discuss these in §§ 404.1577 through 404.1580.

§ 404.1508 What is needed to show an impairment.

If you are not doing substantial gainful activity, we always look first at your physical or mental impairment(s) to determine whether you are disabled or blind. Your impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only by your statement of symptoms. (See § 404.1528 for further information about what we mean by symptoms, signs, and laboratory findings.)

§ 404.1509 How long the impairment must last.

Unless your impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement.

§ 404.1510 Meaning of substantial gainful activity.

Substantial gainful activity means work that—

(a) Involves doing significant and productive physical or mental duties; and

(b) Is done (or intended) for pay or profit.

(See § 404.1572 for further details about what we mean by substantial gainful activity.)

Evidence

§ 404.1512 Your responsibility to submit evidence.

(a) *General.* In general, you have to prove to us that you are blind or disabled. Therefore, you must bring to our attention everything which shows that you are blind or disabled. In making a decision we will consider all information we get from you and others about your impairments.

(b) *Kind of evidence.* You must provide medical evidence showing that you have an impairment and how severe it is during the time you say that you are disabled. We will consider only impairments you say you have or about which we receive evidence. We will help you in getting medical reports when you give us permission to request them from your doctors and other medical sources. If we ask, you must also provide evidence about your—

(1) Age;

(2) Education and training;

(3) Work experience;

(4) Daily activities both before and after the date you say that you became disabled;

(5) Efforts to work; and

(6) Any other evidence showing how your impairment(s) affects your ability to work. (In §§ 404.1560 through 404.1569 we discuss in more detail the evidence we need when we consider vocational factors.)

§ 404.1513 Medical evidence of your impairment.

(a) *Acceptable sources.* We need reports about your impairments from acceptable medical sources. Acceptable medical sources are—

(1) Licensed physicians;

(2) Licensed osteopaths;

(3) Licensed or certified psychologists;

(4) Licensed optometrists for the measurement of visual acuity and visual fields (we may need a report from a physician to determine other aspects of eye diseases); and

(5) Persons authorized to send us a copy or summary of the medical records of a hospital, clinic, sanitorium, medical institution, or health care facility. Generally, the copy or summary should be certified as accurate by the custodian or by any authorized employee of the Social Security Administration, Veterans' Administration, or State agency. However, we will not return an uncertified copy or summary for certification unless there is some question about the document.

(b) *Medical reports.* Medical reports should include—

(1) Medical history;

(2) Clinical findings (such as the results of physical or mental status examinations);

(3) Laboratory findings (such as blood pressure, x-rays);

(4) Diagnosis (statement of disease or injury based on its signs and symptoms);

(5) Treatment prescribed with response, and prognosis; and

(6) Medical assessment (except in statutory blindness claims, and disability claims for widows, widowers, and surviving divorced wives).

(c) *Medical assessment.* The medical assessment should describe—

(1) Your ability to do work-related activities such as sitting, standing, moving about, lifting, carrying, handling objects, hearing, speaking, and traveling; and

(2) In cases of mental impairment, your ability to reason or make occupational, personal, or social adjustments.

(d) *Completeness.* The medical evidence, including the clinical and laboratory findings, must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. It must allow us to determine—

(1) The nature and limiting effects of your impairment(s) for any period in question;

(2) The probable duration of your impairment; and

(3) Your residual functional capacity to do work-related physical and mental activities.

(e) *Information from other sources.* Information from other sources may also help us to understand how your impairment affects your ability to work. Other sources include—

(1) Public and private social welfare agencies;

(2) Observations by non-medical sources; and

(3) Other practitioners (for example, naturopaths, chiropractors, audiologists, etc.).

§ 404.1514 When we will purchase existing evidence.

You are responsible for submitting evidence to support your disability claim. This requires you to secure the medical evidence we will need to make a disability or blindness determination from the medical sources where you were examined or treated. Although we will help you get this information by asking these sources on your behalf, we will not usually pay for this information. However, there are rare situations when we will pay for existing evidence. For example, if the evidence in file shows that you may be disabled, but it does not contain the medical findings needed to make a disability determination, and we must have this additional information. If we find that one (or more) of your medical sources has this information, but that they will not give us the information until they are paid for it, we may pay for the report. Generally, we may pay when a hospital or clinic charges a small fee to cover its copying and mailing costs, and the only other way we can get the information would be to have you take a special examination at our expense.

§ 404.1515 Where and how to submit evidence.

You may give us evidence about your impairment at any of our offices or at the office of any State agency authorized to make disability determinations. You may also give evidence to one of our employees authorized to accept evidence at another place. For more information about this, see Subpart H of this Part.

§ 404.1516 If you fail to submit medical and other evidence.

If you do not give us the medical and other evidence that we need and request, we will have to make a decision based on information available in your case. We will not excuse you from giving us evidence because you have religious or personal reasons against medical examinations, tests, or treatment.

§ 404.1517 Consultative examination at our expense.

(a) *Notice of the examination.* If your medical sources cannot give us sufficient medical evidence about your impairment for us to determine whether you are disabled, we may ask you to take part in physical or mental examinations or tests. We will pay for these examinations. We will give you reasonable notice of the date, time, and place of the examination or test, and the name of the person who will do it. We will also give the examiner any necessary background information about your condition when your own physician will not be doing the examination or test.

(b) *Reasons why we may need evidence.* We may need more medical evidence—

(1) To obtain more detailed medical findings about your impairment(s);

(2) To obtain technical or specialized medical information; or

(3) To resolve conflicts or differences in medical findings or assessments in the evidence we already have.

§ 404.1518 If you do not appear at a consultative examination.

(a) *General.* If you are applying for benefits and do not have a good reason for failing or refusing to take part in a consultative examination or test which we arrange for you to get information we need to determine your disability or blindness, we may find that you are not disabled or blind. If you are already receiving benefits and do not have a good reason for failing or refusing to take part in a consultative examination or test which we arranged for you, we may determine that your disability or blindness has stopped because of your failure or refusal. Therefore, if you have any reason why you cannot go for the scheduled appointment, you should tell us about this as soon as possible before the examination date. If you have a good reason, we will schedule another examination.

(b) *Examples of good reasons for failure to appear.* Some examples of what we consider good reasons for not going to a scheduled examination include—

V 45 A G 2 0 8 0 UMI

(1) Illness on the date of the scheduled examination or test;

(2) Not receiving timely notice of the scheduled examination or test, or receiving no notice at all;

(3) Being furnished incorrect or incomplete information, or being given incorrect information about the physician involved or the time or place of the examination or test, or;

(4) Having had death or serious illness occur in your immediate family.

(c) *Objections by your physician.* If any of your treating physicians tell you that you should not take the examination or test, you should tell us at once. In many cases, we may be able to get the information we need in another way. Your physician may agree to another type of examination for the same purpose.

Evaluation of Disability

§ 404.1520 Evaluation of disability in general.

(a) *Steps in evaluating disability.* We consider all material facts to determine whether you are disabled. If you are doing substantial gainful activity, we will determine that you are not disabled. If you are not doing substantial gainful activity, we will first consider your physical or mental impairment(s). Your impairment must be severe and meet the duration requirement before we can find you to be disabled. We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity and your age, education, and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review further.

(b) *If you are working.* If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience.

(c) *You must have a severe impairment.* If you do not have any impairment(s) which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. However, it is possible for you to have a period of disability for a time in the past even though you do not now have a severe impairment.

(d) *When your impairment meets or equals a listed impairment in Appendix 1.* If you have an impairment which meets the duration requirement and is listed in Appendix 1, or we determine that the impairment is equal to one of the listed impairments, we will find you disabled without considering your age, education, and work experience.

(e) *Your impairment must prevent you from doing past relevant work.* If we cannot make a decision based on your current work activity or on medical facts alone, and you have a severe impairment, we then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled.

(f) *Your impairment must prevent you from doing any other work.* (1) If you cannot do any work you have done in the past because you have a severe impairment, we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled.

(2) If you have only a marginal education, and long work experience (i.e., 35 years or more) where you only did arduous unskilled physical labor, and you can no longer do this kind of work, we use a different rule (see § 404.1562.)

§ 404.1521 What we mean by an impairment that is not severe.

(a) *Non-severe impairment.* An impairment is not severe if it does not significantly limit your physical or mental abilities to do basic work activities.

(b) *Basic work activities.* When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include—

(1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;

(2) Capacities for seeing, hearing, and speaking;

(3) Understanding, carrying out, and remembering simple instructions;

(4) Use of judgment;

(5) Responding appropriately to supervision, co-workers and usual work situations; and

(6) Dealing with changes in a routine work setting.

§ 404.1522 When you have two or more unrelated impairments—initial claims.

We cannot combine two or more unrelated severe impairments to meet the 12-month duration test. If you have a severe impairment(s) and then develop another unrelated severe impairment(s) but neither one is expected to last for 12 months, we cannot find you disabled, even though the two impairments in combination last for 12 months. However, we can combine unrelated impairments to see if together they are severe enough to keep you from doing substantial gainful activity. We will consider the combined effects of unrelated impairments only if all are severe and expected to last 12 months.

Medical Considerations

§ 404.1525 Listing of impairments in Appendix 1.

(a) *Purpose of the Listing of Impairments.* The Listing of Impairments describes, for each of the major body systems, impairments which are considered severe enough to prevent a person from doing any gainful activity. Most of the listed impairments are permanent or expected to result in death, or a specific statement of duration is made. For all others, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months.

(b) *Adult and childhood diseases.* The Listing of Impairments consists of two parts:

(1) *Part A* contains medical criteria that apply to adult persons age 18 and over. The medical criteria in Part A may also be applied in evaluating impairments in persons under age 18 if the disease processes have a similar effect on adults and younger persons.

(2) *Part B* contains additional medical criteria that apply only to the evaluation of impairments of persons under age 18. Certain criteria in Part A do not give appropriate consideration to the particular effects of the disease processes in childhood; i.e., when the disease process is generally found only in children or when the disease process differs in its effect on children than on adults. Additional criteria are included in Part B, and the impairment categories are, to the extent possible, numbered to maintain a relationship with their counterparts in Part A. In evaluating disability for a person under age 18, Part B will be used first. If the medical criteria in Part B do not apply, then the medical criteria in Part A will be used.

(c) *How to use the Listing of Impairments.* Each section of the Listing of Impairments has a general introduction containing definitions of key concepts used in that section. Certain specific medical findings, some of which are required in establishing a diagnosis or in confirming the existence of an impairment for the purpose of this Listing, are also given in the narrative introduction. If the medical findings needed to support a diagnosis are not given in the introduction or elsewhere in the listing, the diagnosis must still be established on the basis of medically acceptable clinical and laboratory diagnostic techniques. Following the introduction in each section, the required level of severity of impairment is shown under "Category of Impairments" by one or more sets of medical findings. The medical findings consist of symptoms, signs, and laboratory findings.

(d) *Diagnosis of impairments.* We will not consider your impairment to be one listed in Appendix 1 solely because it has the diagnosis of a listed impairment. It must also have the findings shown in the Listing of that impairment.

(e) *Addiction to alcohol or drugs.* If you have a condition diagnosed as addiction to alcohol or drugs, this will not, by itself, be a basis for determining whether you are, or are not, disabled. As with any other medical condition, we will decide whether you are disabled based on symptoms, signs, and laboratory findings.

§ 404.1526 Medical equivalence.

(a) *How medical equivalence is determined.* We will decide that your impairment(s) is medically equivalent to a listed impairment in Appendix 1 if the medical findings are at least equal in severity and duration to the listed findings. We will compare the symptoms, signs, and laboratory findings about your impairment(s), as shown in the medical evidence we have about your claim, with the medical criteria shown with the listed impairment. If your impairment is not listed, we will consider the listed impairment most like your impairment to decide whether your impairment is medically equal. If you have more than one impairment, and none of them meets or equals a listed impairment, we will review the symptoms, signs, and laboratory findings about your impairments to determine whether the combination of your impairments is medically equal to any listed impairment.

(b) *Medical equivalence must be based on medical findings.* We will always base our decision about whether your impairment(s) is medically equal to a listed impairment on medical evidence only. Any medical findings in the evidence must be supported by medically acceptable clinical and laboratory diagnostic techniques. We will also consider the medical opinion given by one or more physicians designated by the Secretary in deciding medical equivalence.

(c) *Who is a designated physician.* A physician designated by the Secretary includes any physician employed or engaged to make medical judgments by the Social Security Administration, the Railroad Retirement Board, or a State agency authorized to make disability determinations.

§ 404.1527 Conclusion by physicians concerning your disability.

We are responsible for determining whether you are disabled. Therefore, a statement by your physician that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. We have to review the medical findings and other evidence that support a physician's statement that you are "disabled."

§ 404.1528 Symptoms, signs, and laboratory findings.

Medical findings consist of symptoms, signs, and laboratory findings:

(a) *Symptoms* are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.

(b) *Signs* are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Pyschiatric signs are medically demonstrable phenomena which indicate specific abnormalities of behavior, affect, thought, memory, orientation and contact with reality. They must also be shown by observable facts that can be medically described and evaluated.

(c) *Laboratory findings* are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests.

§ 404.1529 How we evaluate symptoms, including pain.

If you have a physical or mental impairment, you may have symptoms (like pain, shortness of breath, weakness or nervousness). We consider all your symptoms, including pain, and the extent to which signs and laboratory findings confirm these symptoms. The effects of all symptoms, including severe and prolonged pain, must be evaluated on the basis of a medically determinable impairment which can be shown to be the cause of the symptom. We will never find that you are disabled based on your symptoms, including pain, unless medical signs or findings show that there is a medical condition that could be reasonably expected to produce those symptoms.

§404.1530 Need to follow prescribed treatment.

(a) *What treatment you must follow.* In order to get benefits, you must follow treatment prescribed by your physician if this treatment can restore your ability to work.

(b) *When you do not follow prescribed treatment.* If you do not follow the prescribed treatment without a good reason, we will not find you disabled or, if you are already receiving benefits, we will stop paying you benefits.

(c) *Acceptable reasons for failure to follow prescribed treatment.* The following are examples of a good reason for not following treatment:

(1) The specific medical treatment is contrary to the established teaching and tenets of your religion.

(2) The prescribed treatment would be cataract surgery for one eye, when there is an impairment of the other eye resulting in a severe loss of vision and is not subject to improvement through treatment.

(3) Surgery was previously performed with unsuccessful results and the same surgery is again being recommended for the same impairment.

(4) The treatment because of its magnitude (e.g. open heart surgery), unusual nature (e.g., organ transplant), or other reason is very risky for you; or

(5) The treatment involves amputation of an extremity, or a major part of an extremity.

Residual Functional Capacity

§ 404.1545 Your residual functional capacity.

(a) *General.* Your impairments may cause physical and mental limitations that affect what you can do in a work setting. Your residual functional capacity is what you can still do despite your limitations. If you have more than one impairment, we will consider all of your impairments of which we are aware. We consider your capacity for various functions as described in the following paragraphs, (b) physical abilities, (c) mental impairments, and (d) other impairments. Residual functional capacity is a medical assessment. However, it may include descriptions (even your own) of limitations that go beyond the symptoms that are important in the diagnosis and treatment of your medical condition. Observations of your work limitations in addition to those usually made during formal medical examinations[,] may also be used. These descriptions and observations, when

V 45 A G 20 80 UMI

used, must be considered along with the rest of your medical record[,] to enable us to decide to what extent your impairment keeps you from performing particular work activities. This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment. Then, using the guidelines in §§ 404.1560 through 404.1569, your vocational background is considered along with your residual functional capacity in arriving at a disability decision.

(b) *Physical abilities.* When we assess your physical abilities (e.g., strength) we assess the severity of your impairment(s) and determine your residual functional capacity for work activity on a regular and continuing basis. We consider your ability to do physical activities such as walking, standing, lifting, carrying, pushing, pulling, reaching, handling and the evaluation of other physical functions. A limited ability to do these things may reduce your ability to do work.

(c) *Mental impairments.* When we assess your impairment because of mental disorders, we consider factors such as your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, co-workers and work pressures in a work setting.

(d) *Other impairments.* Some medically determinable impairments, such as skin impairments, epilepsy, and impairments of vision, hearing or other senses, postural and manipulative limitations, and environmental restrictions do not limit physical exertion. If you have this type of impairment, in addition to one that affects physical exertion, we consider both in deciding your residual functional capacity.

§ 404.1546 Responsibility for assessing and determining residual functional capacity.

The State agency staff physicians or other physicians designated by the Secretary are responsible for assuring that the agency makes a decision about your residual functional capacity. In cases where the State agency makes the disability determination, a State agency staff physician must assess residual functional capacity where it is required. This assessment is based on all of the medical evidence we have, including any other assessments that may have been provided by treating or examining physicians, consultative physicians, or any other physician designated by the Secretary. (See § 404.1545.) For cases at the hearing or Appeals Council level, the responsibility for deciding your residual functional capacity rests with the administrative law judge or Appeals Council.

Vocational Considerations

§ 404.1560 When your vocational background will be considered.

(a) *General.* We may consider vocational factors when you are applying for a period of disability, or disability insurance benefits as a disabled worker, or child insurance benefits based on disability before age 22.

(b) *Disability determinations in which vocational factors must be considered along with the medical evidence.* When we cannot decide whether you are disabled on medical evidence alone, we must use other evidence.

(1) We will use information from you about your age, education and work experience.

(2) We will consider your doctors' reports and hospital records as well as your statements and other evidence to determine your residual functional capacity and how it affects the work you can do. Sometimes, to do this, we will need to ask you to have special examinations or tests. (See § 404.1517).

(3) If we find that you can no longer do the work you have done in the past, we will determine whether you can do other work (jobs) which exists in significant numbers in the nation's economy.

§ 404.1561 Your ability to do work depends upon your residual functional capacity.

If you can do your previous work (your usual work or other applicable past work), we will determine that you are not disabled. However, if your residual functional capacity is not enough to enable you to do any of your previous work, we must still decide if you can do any other work. To do this, we consider your residual functional capacity, and your age, education, and work experience. Any work (jobs) that you can do must exist in significant numbers in the national economy (either in the region where you live or in several regions of the country). Sections 404.1563–404.1565 explain how we evaluate your age, education, and work experience when we are deciding whether or not you are able to do other work.

§ 404.1562 If you have done only arduous unskilled physical labor.

If you have only a marginal education and work experience of 35 years or more during which you did arduous unskilled physical labor, and you are not working and are no longer able to do this kind of work because of a severe impairment(s), we will consider you unable to do lighter work, and therefore, disabled. However, if you are working or have worked despite your impairment(s) (except where the work is sporadic or is not medically advisable), we will review all the facts in your case, and we may find that you are not disabled. In addition, we will consider that you are not disabled if the evidence shows that you have training or past work experience which enables you to do substantial gainful activity in another occupation with your impairment, either on a full-time or a reasonably regular part-time basis.

Example: B is a 60-year-old miner with a fourth grade education who has a life-long history of arduous physical labor. B says that he is disabled because of arthritis of the spine, hips, and knees, and other impairments. Medical evidence shows a combination of impairments and establishes that these impairments prevent B from performing his usual work or any other type of arduous physical labor. His vocational background does not show that he has skills or capabilities needed to do lighter work which would be readily transferable to another work setting. Under these circumstances, we will find that B is disabled.

§ 404.1563 Your age as a vocational factor.

(a) *General.* "Age" refers to how old you are (your chronological age) and the extent to which your age affects your ability to adapt to a new work situation and to do work in competition with others. However, we do not determine disability on your age alone. We must also consider your residual functional capacity, education, and work experience. If you are unemployed because of your age and you can still do a significant number of jobs which exist in the national economy, we will find that you are not disabled. We explain in detail how we consider your age as a vocational factor in Appendix 2. However, we will not apply these age categories mechanically in a borderline situation.

(b) *Younger person.* If you are under age 50, we generally do not consider that your age will seriously affect your ability to adapt to a new work situation. In some circumstances, however, we consider age 45 a handicap in adapting to a new work setting (see Rule 201.17 in Appendix 2).

(c) *Person approaching advanced age.* If you are closely approaching advanced age (50–54), we will consider that your age, along with a severe impairment and limited work experience, may seriously affect your ability to adjust to a significant number of jobs in the national economy.

(d) *Person of advanced age.* We consider that advanced age (55 or over) is the point where age significantly affects a person's ability to do substantial gainful activity. If you are severely impaired and of advanced age and you cannot do medium work (see § 404.1567(c)), you may not be able to work unless you have skills that can be used in (transferred to) less demanding jobs which exist in significant numbers in the national economy. If you are close to retirement age (60–64) and have a severe impairment, we will not consider you able to adjust to sedentary or light work unless you have skills which are highly marketable.

(e) *Information about your age.* We will usually not ask you to prove your age. However, if we need to know your exact age to determine whether you get disability benefits or if the amount of your benefit will be affected, we will ask you for evidence of your age.

§ 404.1564 Your education as a vocational factor.

(a) *General.* "Education" is primarily used to mean formal schooling or other training which contributes to your ability to meet vocational requirements, for example, reasoning ability, communication skills, and arithmetical ability. However, if you do not have formal schooling, this does not necessarily mean that you are uneducated or lack these abilities. Past work experience and the kinds of responsibilities you had when you were working may show that you have intellectual abilities, although you may have little formal education. Your daily activities, hobbies, or the results of testing may also show that you have significant intellectual ability that can be used to work.

(b) *How we evaluate your education.* The importance of your educational background may depend upon how much time has passed between the completion of your formal education and the beginning of your physical or mental impairment(s) and by what you have done with your education in a work or other setting. Formal education that you completed many years before your impairment began, or unused skills and knowledge that were a part of your formal education, may no longer be useful or meaningful in terms of your ability to work. Therefore, the numerical grade level that you completed in school may not represent your actual educational abilities. These may be higher or lower. However, if there is no other evidence to contradict it, we will use your numerical grade level to determine your educational abilities. The term "education" also includes how well you are able to communicate in English since this ability is often acquired or improved by education. In evaluating your educational level, we use the following categories:

(1) *Illiteracy.* Illiteracy means the inability to read or write. We consider someone illiterate if the person cannot read or write a simple message such as instructions or inventory lists even though the person can sign his or her name. Generally, an illiterate person has had little or no formal schooling.

(2) *Marginal education.* Marginal education means ability in reasoning, arithmetic, and language skills which are needed to do simple, unskilled types of jobs. We generally consider that formal schooling at a 6th grade level or less is a marginal education.

(3) *Limited education.* Limited education means ability in reasoning, arithmetic, and language skills, but not enough to allow a person with these educational qualifications to do most of the more complex job duties needed in semi-skilled or skilled jobs. We generally consider that a 7th grade through the 11th grade level of formal education is a limited education.

(4) *High school education and above.* High school education and above means abilities in reasoning, arithmetic, and language skills acquired through formal schooling at a 12th grade level or above. We generally consider that someone with these educational abilities can do semi-skilled through skilled work.

(5) *Inability to communicate in English.* Since the ability to speak, read and understand English is generally learned or increased at school, we may consider this an educational factor. Because English is the dominant language of the country, it may be difficult for someone who doesn't speak and understand English to do a job, regardless of the amount of education the person may have in another language. Therefore, we consider a person's ability to communicate in English when we evaluate what work, if any, he or she can do. It generally doesn't matter what other language a person may be fluent in.

(6) *Information about your education.* We will ask you how long you attended school and whether you are able to speak, understand, read and write in English and do at least simple calculations in arithmetic. We will also consider other information about how much formal or informal education you may have had through your previous work, community projects, hobbies, and any other activities which might help you to work.

§ 404.1565 Your work experience as a vocational factor.

(a) *General.* "Work experience" means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last 15 years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did 15 years or more before the time we are deciding whether you are disabled (or when the disability insured status requirement was last met, if earlier) applies. A gradual change occurs in most jobs so that after 15 years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. The 15-year guide is intended to insure that remote work experience is not currently applied. If you have no work experience or worked only "off-and-on" or for brief periods of time during the 15-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we will try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last 15 years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the work day, as well as any other physical or mental duties of your job. If all of your work in the past 15 years has been arduous and unskilled, and you have very little education, we

will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

§ 404.1566 Work which exists in the national economy.

(a) *General.* We consider that work exists in the national economy when it exists in significant numbers either in the region where you live or in several other regions of the country. It does not matter whether—

(1) Work exists in the immediate area in which you live;

(2) A specific job vacancy exists for you; or

(3) You would be hired if you applied for work.

(b) *How we determine the existence of work.* Work exists in the national economy when there is a significant number of jobs (in one or more occupations) having requirements which you are able to meet with your physical or mental abilities and vocational qualifications. Isolated jobs that exist only in very limited numbers in relatively few locations outside of the region where you live are not considered "work which exists in the national economy". We will not deny you disability benefits on the basis of the existence of these kinds of jobs. If work that you can do does not exist in the national economy, we will determine that you are disabled. However, if work that you can do does exist in the national economy, we will determine that you are not disabled.

(c) *Inability to obtain work.* We will determine that you are not disabled if your residual functional capacity and vocational abilities make it possible for you to do work which exists in the national economy, but you remain unemployed because of—

(1) Your inability to get work;

(2) Lack of work in your local area;

(3) The hiring practices of employers;

(4) Technological changes in the industry in which you have worked;

(5) Cyclical economic conditions;

(6) No job openings for you;

(7) You would not actually be hired to do work you could otherwise do; or

(8) You do not wish to do a particular type of work.

(d) *Administrative notice of job data.* When we determine that unskilled, sedentary, light, and medium jobs exist in the national economy (in significant numbers either in the region where you live or in several regions of the country), we will take administrative notice of reliable job information available from various governmental and other publications. For example, we will take notice of—

(1) *Dictionary of Occupational Titles,* published by the Department of Labor;

(2) *County Business Patterns,* published by the Bureau of the Census;

(3) *Census Reports,* also published by the Bureau of the Census;

(4) *Occupational Analyses,* prepared for the Social Security Administration by various State employment agencies; and

(5) *Occupational Outlook Handbook,* published by the Bureau of Labor Statistics.

(e) *Use of vocational experts and other specialists.* If the issue in determining whether you are disabled is whether your work skills can be used in other work and the specific occupations in which they can be used, or there is a similarly complex issue, we may use the services of a vocational expert or other specialist. We will decide whether to use a vocational expert or other specialist.

§ 404.1567 Physical exertion requirements.

To determine the physical exertion requirements of work in the national economy, we classify jobs as "sedentary," "light," "medium," "heavy," and "very heavy." These terms have the same meaning as they have in the *Dictionary of Occupational Titles,* published by the Department of Labor. In making disability determinations under this subpart, we use the following definitions:

(a) *Sedentary work.* Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(b) *Light work.* Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

(c) *Medium work.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.

(d) *Heavy work.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work.

(e) *Very heavy work.* Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, we determine that he or she can also do heavy, medium, light and sedentary work.

§ 404.1568 Skill requirements.

In order to evaluate your skills and to help determine the existence in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. In classifying these occupations, we use materials published by the Department of Labor. When we make disability determinations under this subpart, we use the following definitions:

(a) *Unskilled work.* Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider jobs unskilled if the primary work duties are handling, feeding and offbearing (that is, placing or removing materials from machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs.

(b) *Semi-skilled work.* Semi-skilled work is work which needs some skills but does not require doing the more complex work duties. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities which are similarly less complex than skilled work, but more complex than unskilled work. A job may be classified as semi-skilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks.

(c) *Skilled work.* Skilled work requires qualifications in which a person uses judgment to determine the machine and manual operations to be performed in order to obtain the proper form, quality, or quantity of material to be produced. Skilled work may require laying out work, estimating quality, determining the suitability and needed quantities of materials, making precise measurements, reading blueprints or other specifications, or making necessary computations or mechanical adjustments to control or regulate the work. Other skilled jobs may require dealing with people, facts, or figures or abstract ideas at a high level of complexity.

(d) *Skills that can be used in other work (transferability).* (1) *What we mean by transferable skills.* We consider you to have skills that can be used in other jobs, when the skilled or semi-skilled work activities you did in past work can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work. This depends largely on the similarity of occupationally significant work activities among different jobs.

(2) *How we determine skills that can be transferred to other jobs.* Transferability is most probable and meaningful among jobs in which—

(i) The same or a lesser degree of skill is required;

(ii) The same or similar tools and machines are used; and

(iii) The same or similar raw materials, products, processes, or services are involved.

(3) *Degrees of transferability.* There are degrees of transferability of skills ranging from very close similarities to remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary for transferability. However, when skills are so specialized or have been acquired in such an isolated vocational setting (like many jobs in mining, agriculture, or fishing) that they are not readily usable in other industries, jobs, and work settings, we consider that they are not transferable.

§ 404.1569 Listing of Medical-Vocational Guidelines in Appendix 2.

The Dictionary of Occupational Titles includes information about jobs (classified by their exertional and skill requirements) that exist in the national economy. Appendix 2 provides rules using this data reflecting major functional and vocational patterns. We apply these rules in cases where a person is not doing substantial gainful activity and is prevented by a severe medically determinable impairment from doing vocationally relevant past work. The rules in Appendix 2 do not cover all possible variations of factors. Also, as we explain in § 200.00 of Appendix 2, we do not apply these rules if one of the findings of fact about the person's vocational factors and residual functional capacity is not the same as the corresponding criterion of a rule. In these instances, we give full consideration to all relevant facts in accordance with the definitions and discussions under vocational considerations. However, if the findings of fact made about all factors are the same as the rule, we use that rule to decide whether a person is disabled.

Substantial Gainful Activity

§ 404.1571 General.

The work that you have done during any period in which you believe you are disabled may show that you are able to do work at the substantial gainful activity level. If you are able to engage in substantial gainful activity, we will find that you are not disabled. (We explain the rules for persons who are statutorily blind in § 404.1584.) Even if the work you have done was not substantial gainful activity, it may show that you are able to do more work than you actually did. We will consider all of the medical and vocational evidence in your file to decide whether or not you have the ability to engage in substantial gainful activity.

§ 404.1572 What we mean by substantial gainful activity.

Substantial gainful activity is work activity that is both substantial and gainful:

(a) *Substantial work activity.* Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before.

(b) *Gainful work activity.* Gainful work activity is work activity that you do for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized.

(c) *Some other activities.* Generally, we do not consider activities like taking care of yourself, household tasks, hobbies, therapy, school attendance, club activities, or social programs to be substantial gainful activity.

§ 404.1573 General information about work activity.

(a) *The nature of your work.* If your duties require use of your experience, skills, supervision and responsibilities, or contribute substantially to the operation of a business, this tends to show that you have the ability to work at the substantial gainful activity level.

(b) *How well you perform.* We consider how well you do your work when we determine whether or not you are doing substantial gainful activity. If you do your work satisfactorily, this may show that you are working at the substantial gainful activity level. If you are unable, because of your impairments, to do ordinary or simple tasks satisfactorily without more supervision or assistance than is usually given other people doing similar work, this may show that you are not working at the substantial gainful activity level. If you are doing work that involves minimal duties that make little or no demands on you and that are of little or no use to your employer, or to the operation of a business if you are self-employed, this does not show that you are working at the substantial gainful activity level.

(c) *If your work is done under special conditions.* Even though the work you are doing takes into account your impairment, such as work done in a sheltered workshop or as a patient in a hospital, it may still show that you have the necessary skills and ability to work at the substantial gainful activity level.

(d) *If you are self-employed.* Supervisory, managerial, advisory or other significant personal services that you perform as a self-employed individual may show that you are able to do substantial gainful activity.

(e) *Time spent in work.* While the time you spend in work is important, we will not decide whether or not you are doing substantial gainful activity only on that basis. We will still evaluate the work to decide whether it is substantial and gainful regardless of whether you spend more time or less time at the job than workers who are not impaired and who are doing similar work as a regular means of their livelihood.

§ 404.1574 Evaluation guides if you are an employee.

(a) *General.* We use several guides to decide whether you have done substantial gainful activity.

(1) *Your earnings may show you have done substantial gainful activity.* The amount of your earnings from work you have done may show that you have engaged in substantial gainful activity. Generally, if you worked for substantial earnings, this will show that you are able to do substantial gainful activity. On the other hand, the fact that your earnings are not substantial will not necessarily show that you are not able to do substantial gainful activity.

Earnings from work that you were forced to stop after a short time because of your impairment will not show that you are able to do substantial gainful activity.

(2) *We consider only the amounts you earn.* We do not consider any income not directly related to your productivity when we decide whether you have done substantial gainful activity. If your earnings are being subsidized, the amount of the subsidy is not counted when we determine whether or not your work is substantial gainful activity. Thus, where work is done under special conditions, we only consider the part of your pay which you actually "earn". For example, where a handicapped person does simple tasks under close and continuous supervision, we would not determine that the person worked at the substantial gainful activity level only on the basis of the amount of pay. An employer may set a specific amount as a subsidy after figuring the reasonable value of the employee's services. If your work is subsidized and your employer does not set the amount of the subsidy or does not adequately explain how the subsidy was figured, we will investigate to see how much your work is worth.

(3) *If you are working in a sheltered or special environment.* If you are working in a sheltered workshop, you may or may not be earning the amounts you are being paid. The fact that the sheltered workshop or similar facility is operating at a loss or is receiving some charitable contributions or governmental aid does not establish that you are not earning all you are being paid. Since persons in military service being treated for severe impairments usually continue to receive full pay, we evaluate work activity in a therapy program or while on limited duty by comparing it with similar work in the civilian work force or on the basis of reasonable worth of the work, rather than on the actual amount of the earnings.

(4) *If you have special work-related expenses.* If you have out-of-the-ordinary expenses in connection with your work and because of your impairment (for example, you may require special transportation), we will deduct these from your earnings if they exceeded the normal work-related expenses you would have if you were not impaired. When we decide if your work is substantial gainful activity, however, we do not deduct expenses for those things (e.g., medication or equipment) which you need even when you are not working.

(b) *Earnings guidelines.* If you are an employee, we first consider the criteria in paragraph (a) of this section, and then the guides in paragraphs (b)(1), (2), and (3) of this section.

(1) *Earnings that will ordinarily show that you have engaged in substantial gainful activity.* We will consider that your earnings from your work activities as an employee show that you have engaged in substantial gainful activity if—

(i) Your earnings averaged more than $200 a month in calendar years prior to 1976;

(ii) Your earnings averaged more than $230 a month in calendar year 1976;

(iii) Your earnings averaged more than $240 a month in calendar year 1977;

(iv) Your earnings averaged more than $260 a month in calendar year 1978;

(v) Your earnings averaged more than $280 a month in calendar year 1979; or

(vi) Your earnings averaged more than $300 a month in calendar years after 1979.

(2) *Earnings that will ordinarily show that you have not engaged in substantial gainful activity.* We will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity if—

(i) Your earnings averaged less than $130 a month in calendar years before 1976;

(ii) Your earnings averaged less than $150 a month in calendar year 1976;

(iii) Your earnings averaged less than $160 a month in calendar year 1977;

(iv) Your earnings averaged less than $170 a month in calendar year 1978;

(v) Your earnings averaged less than $180 a month in calendar year 1979; or

(vi) Your earnings averaged less than $190 a month in calendar years after 1979.

However, if you are working in a sheltered workshop or a comparable facility especially set up for severely impaired persons, your earnings and activities will ordinarily establish that you have not done substantial gainful activity if your average earnings are not greater than $200 a month in calendar years prior to 1976, $230 a month in calendar year 1976, $240 a month in calendar year 1977, $260 a month in calendar year 1978, $280 a month in calendar year 1979, $300 a month in calendar years after 1979.

However, if there is evidence showing that you may have done substantial gainful activity, we will apply the criteria in paragraph (b)(3) of this section regarding comparability and value of services.

(3) *Earnings that are not high or low enough to show whether you engaged in substantial gainful activity.* If your earnings, on the average, are between the amounts shown in paragraphs (b) (1) and (2) of this section, we will generally consider other information in addition to your earnings, such as whether—

(i) Your work is comparable to that of unimpaired people in your community who are doing the same or similar occupations as their means of livelihood, taking into account the time, energy, skill, and responsibility involved in the work, or

(ii) Your work, although significantly less than that done by unimpaired people, is clearly worth the amounts shown in paragraph (b)(1) of this section, according to pay scales in your community.

§ 404.1575 Evaluation guides if you are self-employed.

(a) *If you are a self-employed person.* We will consider your activities and their value to your business to decide whether you have engaged in substantial gainful activity if you are self-employed. We will not consider your income alone since the amount of income you actually receive may depend upon a number of different factors like capital investment, profit sharing agreements, etc. However, income from activities that you were forced to stop after a short time because of your impairment will not show that you are able to do substantial gainful activity. We will evaluate your work activity on the value to the business of your services regardless of whether you receive an immediate income for your services. We consider that you have engaged in substantial gainful activity if—

(1) Your work activity, in terms of factors such as hours, skills, energy output, efficiency, duties, and responsibilities, is comparable to that of unimpaired individuals in your community who are in the same or similar businesses as their means of livelihood;

(2) Your work activity, although not comparable to that of unimpaired individuals, is clearly worth the amount shown in § 404.1574(b)(1) when considered in terms of its value to the business, or when compared to the salary that an owner would pay to an employee to do the work you are doing; or

(3) You render services that are significant to the operation of the business and receive a substantial income from the business.

(b) *What we mean by significant services.* (1) If you are not a farm landlord and you operate a business entirely by yourself, any services that you render are significant to the business. If your business involves the services of more than one person, we will consider you to be rendering significant services if you contribute more than half the total time required for the management of the business, or you render management services for more than 45 hours a month regardless of the total management time required by the business.

(2) If you are a farm landlord, that is, you rent farm land to another, we will consider you to be rendering significant services if you materially participate in the production or the management of the production of the things raised on the rented farm. (See § 404.1053 of this chapter for an explanation of "material participation".) If you were given social security earnings credits because you materially participated in the activities of the farm and you continue these same activities, we will consider you to be rendering significant services.

(c) *What we mean by substantial income.* We will consider the income you receive from a business, after we deduct from gross income the reasonable value of any significant amount of unpaid help and any soil bank payments that were included as farm income, as well as normal business expenses, to be substantial if—

(1) Your net income from the business averages more than the amounts described in § 404.1574(b)(1); or

(2) Your net income from the business averages less than the amounts described in § 404.1574(b)(1) but the livelihood which you get from the business is either comparable to what it was before you became disabled or is comparable to that of unimpaired self-employed persons in your community who are in the same or similar businesses as their means of livelihood.

Widows, Widowers, and Surviving Divorced Wives

§ 404.1577 Disability defined for widows, widowers, and surviving divorced wives.

If you are a widow, widower, or surviving divorced wife, the law provides that you must have a medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. The impairments must be of a level of severity to prevent a person from doing any gainful activity. To determine whether you are disabled, we consider only your physical or mental impairment. We do not consider your age, education and work experience.

§ 404.1578 How we determine disability for widows, widowers, and surviving divorced wives.

(a) We will find that you are disabled and pay you benefits as a widow, widower, or surviving divorced wife if—

(1) Your impairment(s) has specific clinical findings that are the same as those for any impairment in the Listing of Impairments in Appendix 1 or are medically equivalent to those for any impairment shown there;

(2) Your impairment(s) meets the duration requirement.

(b) However, even, if you meet the requirements in (a) (1) and (2) of this section, we will not find you disabled if you are doing substantial gainful activity.

§ 404.1579 Why and when we will find that your disability has ended.

(a) *If you are not disabled.* If you are entitled to disability benefits as a disabled widow, widower, or surviving divorced wife, we will find that your disability ended in the earlier of—

(1) The month your impairment, as shown by current medical evidence, is not an impairment listed in Appendix 1 or is not equal to a listed impairment; or

(2) The month you do substantial gainful activity.

(b) *If you do not cooperate with us.* If we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail (without a good reason) to do what we ask. The month in which your disability will be found to have ended will be the month in which you failed to do what we asked.

(c) *If we are unable to find you.* If there is a question about whether you continue to be disabled and we are unable to find you to resolve the question, we will find that your disability has ended. The month it ends will be the first month in which the question arose and we could not find you.

(d) *Before we stop your benefits.* Before we stop your benefits or a period of disability, we will give you a chance to give us your reasons why we should not stop your benefits or your period of disability. Section 404.1595 describes your rights and the procedures we will follow.

§ 404.1580 You are not eligible for a trial work period.

When you are receiving benefits because you are a disabled widow, widower, or surviving divorced wife, you are not entitled to a trial work period.

Blindness

§ 404.1581 Meaning of blindness as defined in the law.

We will consider you blind under the law for a period of disability and for payment of disability insurance benefits if we determine that you are statutorily blind. Statutory blindness is defined in the law as central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less. Your blindness must meet the duration requirement in § 404.1509.

§ 404.1582 A period of disability based on blindness.

If we find that you are blind and you meet the insured status requirement, we may establish a period of disability for you regardless of whether you can do substantial gainful activity. A period of disability protects your earnings record under Social Security so that the time you are disabled will not count against you in determining whether you will have worked long enough to qualify for benefits and the amount of your benefits. However, you will not necessarily be entitled to receive disability insurance cash benefits even though you are blind. If you are a blind person under age 55, you must be unable to do any substantial gainful activity in order to be paid disability insurance cash benefits.

§ 404.1583 How we determine disability for blind persons who are age 55 or older.

We will find that you are eligible for disability insurance benefits even though you are still engaging in substantial gainful activity, if—

(a) You are blind;

(b) You are age 55 or older; and

(c) You are unable to use the skills or abilities like the ones you used in any substantial gainful activity which you did regularly and for a substantial period of time. (However, you will not be paid any cash benefits for any month in which you are doing substantial gainful activity.)

§ 404.1584 Evaluation of work activity of blind people.

(a) *General.* If you are blind (as explained in § 404.1581), we will consider the earnings from the work you are doing to determine whether or not you should be paid cash benefits.

(b) *Under Age 55.* If you are under age 55, we will evaluate the work you are doing using the guides in paragraph (d) of this section to determine whether or

not your work shows that you are doing substantial gainful activity. If you are

§ 404.1586 Why and when we will stop your cash benefits.

§ 404.1587 Circumstances under which we may suspend your benefits before we make

(4) You tell us that you have recovered

(b) *What we mean by services.* When

§ 404.1593 We may ask you to help us

not your work shows that you are doing substantial gainful activity. If you are not doing substantial gainful activity, we will pay you cash benefits. If you are doing substantial gainful activity, we will not pay you cash benefits. However, you will be given a period of disability as described in Subpart D of this Part.

(c) *Age 55 or older.* If you are age 55 or older, we will evaluate your work using the guides in paragraph (d) of this section to determine whether or not your work shows that you are doing substantial gainful activity. If you have not shown this ability, we will pay you cash benefits. If you have shown an ability to do substantial gainful activity, we will evaluate your work activity to find out how your work compares with the work you did before. If the skills and abilities of your new work are about the same as those you used in the work you did before, we will not pay you cash benefits. However, if your new work requires skills and abilities which are less than or different than those you used in the work you did before, we will pay you cash benefits, but not for any month in which you actually perform substantial gainful activity.

(d) *Evaluation of earnings.* The law provides a different earnings test for substantial gainful activity of people who are blind. We will not consider that you are able to engage in substantial gainful activity on the basis of earnings unless your monthly earnings average more than $334.00 in 1978; $375.00 in 1979; $417.00 in 1980; $459.00 in 1981; and $500.00 in 1982. Thereafter, an increase in the substantial gainful activity amount will depend on increases in the cost of living. For work activity performed in taxable years before 1978, the earnings considered enough to show an ability to do substantial gainful activity are the same for blind people as for others.

§ 404.1585 Trial work period for persons age 55 or older who are blind.

If you become eligible for disability benefits even though you were doing substantial gainful activity because you are blind and age 55 or older, you are entitled to a trial work period if—

(a) You later return to substantial gainful activity that requires skills or abilities comparable to those required in the work you regularly did before you become blind or became 55 years old, whichever is later; or

(b) Your last previous work ended because of an impairment and the current work requires a significant vocational adjustment.

§ 404.1586 Why and when we will stop your cash benefits.

(a) *When you are not entitled to benefits.* If you become entitled to disability cash benefits as a statutorily blind person, we will find that you are no longer entitled to benefits beginning with the earliest of—

(1) The month your vision, as shown by current medical evidence, does not meet the definition of blindness (and any remaining impairments do not make you unable to do substantial gainful activity considering your age, education and work experience);

(2) If you are under age 55, the month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period); or

(3) If you are age 55 or older, the month (following completion of a trial work period) when your work activity shows you are able to use, in substantial gainful activity, skills and abilities comparable to those of some gainful activity which you did with some regularity and over a substantial period of time. The skills and abilities are compared to the activity you did prior to age 55 or blindness, whichever is earlier.

(b) *If we find that you are not entitled to disability cash benefits.* If we find that you are not entitled to disability cash benefits on the basis of your work activity but your visual impairment is sufficiently severe to meet the definition of blindness, the period of disability that we established for you will continue.

(c) *If you do not cooperate with us.* If we ask you to give us medical or other evidence or to go for a medical examination by a certain date, we will find that your disability has ended if you fail (without a good reason) to do what is asked. The month in which your disability will be found to have ended will be the month in which you failed to do what we asked.

(d) *If we are unable to find you.* If there is a question about whether you continue to be disabled by blindness and we are unable to find you to resolve the question, we will find that your disability, has ended. The month it ends will be the first month in which the question arose and we could not find you.

(e) *Before we stop your benefits.* Before we stop your benefits or period of disability, we will give you a chance to give us your reasons why we should not stop your benefits or your period of disability. Section 404.1595 describes your rights and the procedures we will follow.

§ 404.1587 Circumstances under which we may suspend your benefits before we make a determination.

We will suspend your benefits if all of the information we have clearly shows that you are not disabled and we will be unable to complete a determination soon enough to prevent us from paying you more monthly benefits than you are entitled to. This may occur when you are blind as defined in the law and age 55 or older and you have returned to work similar to work you previously performed.

Continuing or Stopping Disability

§ 404.1588 Your responsibility to tell us of events that may change your disability status.

If you are entitled to cash benefits or to a period of disability because you are disabled, you should promptly tell us if—

(a) Your condition improves;

(b) You return to work;

(c) You increase the amount of your work; or

(d) Your earnings increase.

§ 404.1589 We may investigate to find out whether you continue to be disabled.

After we find that you are disabled, we must determine from time to time if you are still eligible for disability cash benefits. We may begin an investigation for this purpose for any number of reasons, including your failure to follow the provisions of the Social Security Act or these regulations. If our investigation shows that we should suspend payment of your benefits, we will notify you in writing and give you an opportunity to reply. In § 404.1590 we describe those events that may prompt us to investigate whether you continue to be disabled.

§ 404.1590 When we will investigate whether your disability continues.

(a) *General.* We investigate to determine whether or not you continue to meet the disability requirements of the law. Payment of cash benefits or a period of disability ends if the medical or other evidence shows that you are not disabled or if there is not enough evidence to support a finding that disability continues.

(b) *When we will investigate.* An investigation will be started if—

(1) We need a current medical report to see if you are able to do substantial gainful activity;

(2) You return to work and successfully complete a period of trial work;

(3) Substantial earnings are reported to your wage record;

(4) You tell us that you have recovered from your disability or that you have returned to work; or

(5) Your State Vocational Rehabilitation Agency tells us that—

(i) You have completed your training;

(ii) You have returned to work;

(iii) You are able to return to work; or

(6) Some one in a position to know of your physical or mental condition tells us that you are not disabled or that you have returned to work and it appears that the report could be susbtantially correct.

§ 404.1591 If your medical recovery was expected and you returned to work.

If your impairment was expected to improve and you returned to full-time work with no significant medical limitations, we may find that your disability ended in the month you returned to work. Unless there is evidence showing that your disability has not ended, we will use the medical and other evidence already in your file and the fact that you returned to full-time work without significant limitations to determine that you are able to engage in substantial gainful activity. (If your condition is not expected to improve, we will not ordinarily review your claim until the end of the trial work period, as described in § 404.1592).

Example: Evidence obtained during the processing of your claim showed that you had an impairment that was expected to improve about 18 months after your disability began. We, therefore, told you that your claim would be reviewed again at that time. However, before the time arrived for your scheduled medical re-examination, you told us that you had returned to work. We investigated immediately and found that, in the 16th month after your disability began, you returned to full-time work without any significant medical restrictions. Therefore, we would find that your disability ended in the first month you returned to full-time work.

§ 404.1592 The trial work period.

(a) *Definition of the trial work period.* The trial work period is a period during which you may test your ability to work and still be considered disabled. It begins and ends as described in paragraph (e) of this section. During this period, you may perform "services" (see paragraph (b) of this section) in as many as 9 months, but these months do not have to be consecutive. We will not consider those services as showing that your disability has ended until you have performed services in at least 9 months. However, after the trial work period has ended we will consider the work you did during the trial work period in determining whether your disability ended at any time after the trial work period.

(b) *What we mean by services.* When used in this section, "services" means any activity, even though it is not substantial gainful activity, which is done by a person in employment or self-employment for pay or profit, or is the kind normally done for pay or profit. If you are an employee, we will consider your work to be "services" if in any calendar year after 1978 you earn more than $75 a month ($50 a month is the figure for earnings in any calendar year before 1979). If you are self-employed, we will consider your activities "services" if in any calendar year after 1978, your net earnings are more than $75 a month, ($50 a month is the figure for earnings in any calendar year before 1979), or you work more than 15 hours a month in the business. We generally do not consider work to be "services" when it is done without remuneration or merely as therapy or training, or when it is work usually done in a daily routine around the house, or in self-care.

(c) *Limitations on the number of trial work periods.* You may have only one trial work period during a period of entitlement to cash benefits.

(d) *Who is and is not entitled to a trial work period.* (1) Those who are receving disability insurance benefits or child's insurance benefits based on disability generally are entitled to a trial work period.

(2) You are not entitled to a trial work period if—(i) You are receiving benefits because you are a disabled widow, widower, or surviving divorced wife;

(ii) You are entitled to a period of disability but not to disability insurance cash benefits; or

(iii) You are receiving benefits in a second period of disability for which you did not have to complete a waiting period.

(e) *When the trial work period begins and ends.* The trial work period begins with the month in which you become entitled to disability insurance cash benefits or to child's cash benefits based on disability. It cannot begin before the month in which you file your application for benefits. It ends with the close of whichever of the following calendar months is the earlier:

(1) The 9th month (whether or not the months have been consecutive) in which you have performed services; or

(2) The month in which new evidence, other than evidence relating to any work you did during the trial work period, shows that you are not disabled, even though you have not worked a full 9 months. We may find that your disability has ended at any time during the trial work period if the medical or other evidence shows that you are able to do substantial gainful activity.

§ 404.1593 We may ask you to help us determine if you are still disabled.

If you are entitled to cash benefits or if a period of disability has been established for you because you are disabled, you must, upon our request and reasonable notice, undergo consultative examinations and tests to help us find out if you are still disabled. You must also give us reports from your doctor or others who have treated you, as well as any other evidence that will help us make a disability determination. You must have a good reason for not giving us this information (see § 404.1594(c)).

§ 404.1594 Why and when we will find that your disability has ended.

(a) *General.* When the medical or other evidence in your file shows that your disability has ended, we will contact you and tell you that the evidence in your file shows that you are able to do substantial gainful activity and that your eligibility for cash benefits and for a period of disability will end. Before we stop your benefits or a period of disability, we will give you a chance to give us your reasons why we should not stop your benefits or your period of disability. Section 404.1595 describes your rights and the procedures we will follow. We may also stop payment of your benefits if you have not cooperated with us in getting information about your disability or if we cannot find you (see paragraph (c) of this section).

(b) *Disabled workers and persons disabled since childhood.* If you are entitled to disability cash benefits as a disabled worker or to child's insurance benefits, we will find that your disability ended in the earliest of the following months—(1) The month in which your impairment, as shown by current medical or other evidence, is such that you are able to do substantial gainful activity;

(2) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period); or

(3) The month in which you actually do substantial gainful activity (where you are not entitled to a trial work period).

(c) *If you do not cooperate with us.* If we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail (without a good reason) to do what we ask. The month in which your disability will be found to have ended will be the month in which you failed to do what we asked.

(d) *If we are unable to find you.* If there is a question about whether you

V 45 A G 20 80 UMI

continue to be disabled and we are unable to find you to resolve the question, we will find that your disability has ended. The month it ends will be the first month in which the question arose and we could not find you.

(e) *Before we stop your benefits.* Before we stop your benefits or a period of disability, we will give you a chance to give us your reasons why we should not stop your benefits or your period of disability. Section 404.1595 describes your rights and the procedures we will follow.

§ 404.1595 When we determine that you are not now disabled.

(a) *When we will give you advance notice.* Except in those circumstances described in paragraph (d) of this section, we will give you advance notice when we have determined that you are not now disabled because the information we have conflicts with what you have told us about your disability. If your dependents are receiving benefits on your Social Security number and do not live with you, we will also give them advance notice. To give you advance notice, we will contact you by mail, telephone or in person.

(b) *What the advance notice will tell you.* We will give you a summary of the information we have. We will also tell you why we have determined that you are not now disabled, and will give you a chance to reply. If it is because of—

(1) *Medical reasons.* The advance notice will tell you what the medical information in your file shows;

(2) *Your work activity.* The advance notice will tell you what information we have about the work you are doing or have done, and why this work shows that you are not disabled; or

(3) *Your failure to give us information we need or do what we ask.* The advance notice will tell you what information we need and why we need it or what you have to do and why.

(c) *What you should do if you receive an advance notice.* If you agree with the advance notice, you do not need to take any action. If you desire further information or disagree with what we have told you, you should immediately write or telephone the State agency or the social security office that gave you the advance notice or you may visit any social security office. If you believe you are now disabled, you should tell us why. You may give us any additional or new information, including reports from your doctors, hospitals, employers or others, that you believe we should have. You should send these as soon as possible to the local social security office or to the office that gave you the advance notice. We consider 10 days to be enough time for you to tell us, although we will allow you more time if you need it. You will have to ask for additional time beyond 10 days if you need it.

(d) *When we will not give you advance notice.* We will not give you advance notice when we determine that you are not disabled if—

(1) We recently told you that the information we have shows that you are not now disabled, that we were gathering more information, and that your benefits will stop; or

(2) We are stopping your benefits because you told us you are not now disabled; or

(3) We recently told you that continuing your benefits would probably cause us to overpay you and you asked us to stop your benefits.

§ 404.1596 Circumstances under which we may suspend your benefits before we make a determination.

(a) *General.* Under some circumstances, we may stop your benefits before we make a determination. Generally, we do this when the information we have clearly shows you are not now disabled but we cannot determine when your disability ended. These situations are described in paragraph (b)(1) and other reasons are given in paragraph (b)(2) of this section. We refer to this as a suspension of benefits. Your benefits, as well as those of your dependents (regardless of where they receive their benefits), may be suspended. When we do this we will give you advance notice. (See § 404.1595.) We will contact your spouse and children if they are receiving benefits on your Social Security number, and the benefits are being mailed to an address different from your own.

(b) *When we will suspend your benefits.* (1) *You are not now disabled.* We will suspend your benefits if the information we have clearly shows that you are not disabled and we will be unable to complete a determination soon enough to prevent us from paying you more monthly benefits than you are entitled to. This may occur when—(i) New medical or other information clearly shows that you are able to do substantial gainful activity and your benefits should have stopped more than 2 months ago;

(ii) You completed a 9-month period of trial work more than 2 months ago and you are still working;

(iii) At the time you filed for benefits your condition was expected to improve and you were expected to be able to return to work. You subsequently did return to work more than 2 months ago with no significant medical restrictions; or

(iv) You are not entitled to a trial work period and you are working.

(2) *Other reasons.* We will also suspend your benefits if—(i) You have failed to respond to our request for additional medical or other evidence and we are satisfied that you received our request and our records show that you should be able to respond.

(ii) We are unable to locate you and your checks have been returned by the Post Office as undeliverable; or

(iii) You refuse to accept vocational rehabilitation services without a good reason. Section 404.422 gives you examples of good reasons for refusing to accept vocational rehabilitation services.

(c) *When we will not suspend your cash benefits.* We will not suspend your cash benefits if—(1) the evidence in your file does not clearly show that you are not disabled;

(2) We have asked you to furnish additional information; or

(3) You have become disabled by another impairment.

§ 404.1597 After we make a determination that you are not now disabled.

If we make a determination that you are not now disabled, your benefits will stop. You will receive a formal written notice telling you why you are not disabled and the month your benefits should stop. If your spouse and children are receiving benefits on your Social Security number, we will also stop their benefits and tell them why. The notices will also explain your right to reconsideration if you disagree with our determination.

§ 404.1598 If you become disabled by another impairment.

If a new, severe impairment begins in or before the month in which your last impairment ends, we will find that your disability is continuing. The new impairment need not be expected to last 12 months or to result in death, but it must be severe enough to keep you from doing substantial gainful activity.

Appendix 1.—Listing of Impairments

Part A

Criteria applicable to individuals age 18 and over and to children under age 18 where criteria are appropriate.

Sec.

1.00 Musculoskeletal system.
2.00 Special sense and speech.
3.00 Respiratory system.
4.00 Cardiovascular system.
5.00 Digestive system.
6.00 Genito-urinary system.
7.00 Hemic and lymphatic system.
8.00 Skin.
9.00 Endocrine system.
10.00 Multiple body systems.
11.00 Neurological.
12.00 Mental disorders.
13.00 Neoplastic diseases—malignant.

1.00 Musculoskeletal System

A. *Loss of function* may be due to amputation or deformity. Pain may be an important factor in causing functional loss, but it must be associated with relevant abnormal signs or laboratory findings. Evaluations of musculoskeletal impairments should be supported where applicable by detailed descriptions of the joints, including ranges of motion, condition of the musculature, sensory or reflex changes, circulatory deficits, and X-ray abnormalities.

B. *Disorders of the spine,* associated with vertebrogenic disorders as in 1.05C, result in impairment because of distortion of the bony and ligamentous architecture of the spine or impingement of a herniated nucleus pulposus or bulging annulus on a nerve root. Impairment caused by such abnormalities usually improves with time or responds to treatment. Appropriate abnormal physical findings must be shown to persist on repeated examinations despite therapy for a reasonable presumption to be made that severe impairment will last for a continuous period of 12 months. This may occur in cases with unsuccessful prior surgical treatment.

Evaluation of the impairment caused by disorders of the spine requires that a clinical diagnosis of the entity to be evaluated first must be established on the basis of adequate history, physical examination, and roentgenograms. The specific findings stated in 1.05C represent the requirements for the level of severity of that impairment; these findings, by themselves, are not intended to represent the basis for establishing the clinical diagnosis. Furthermore, while neurological examination findings are required, they are not to be interpreted as a basis for evaluating the severity of any neurological impairment. Neurological impairments are to be evaluated under 11.00–11.19.

The history must include a detailed description of the character, location, and radiation of pain; mechanical factors which incite and relieve pain; prescribed treatment, including type, dose, and frequency of analgesic; and typical daily activities. Care must be taken to ascertain that the reported examination findings are consistent with the individual's daily activities.

There must be a detailed description of the orthopedic and neurologic examination findings. The findings should include a description of gait, limitation of movement of the spine given quantitatively in degrees from the vertical position, motor and sensory abnormalities, muscle spasm, and deep tendon reflexes. Observations of the individual during the examination should be reported; e.g., how he or she gets on and off the examining table. Inability to walk on heels or toes, to squat, or to arise from a squatting position, where appropriate, may be considered evidence of significant motor loss. However, a report of atrophy is not acceptable as evidence of significant motor loss without circumferential measurements of both thighs and lower legs (or upper or lower arms) at a stated point above and below the knee or elbow given in inches or centimeters. A specific description of atrophy of hand muscles is acceptable without measurements of atrophy but should include measurements of grip strength.

These physical examination findings must be determined on the basis of objective observations during the examination and not simply a report of the individual's allegation, e.g., he says his leg is weak, numb, etc. Alternative testing methods should be used to verify the objectivity of the abnormal findings, e.g., a seated straight-leg raising test in addition to a supine straight-leg raising test. Since abnormal findings may be intermittent, their continuous presence over a period of time must be established by a record of ongoing treatment. Neurological abnormalities may not completely subside after surgical or nonsurgical treatment, or with the passage of time. Residual neurological abnormalities, which persist after it has been determined clinically or by direct surgical or other observation that the ongoing or progressive condition is no longer present, cannot be considered to satisfy the required findings in 1.05C.

Where surgical procedures have been performed, documentation should include a copy of the operative note and available pathology reports.

Electrodiagnostic procedures and myelography may be useful in establishing the clinical diagnosis, but do not constitute alternative criteria to the requirements in 1.05C.

C. *After maximum benefit from surgical therapy* has been achieved in situations involving fractures of an upper extremity (see 1.12), or soft tissue injuries of a lower or upper extremity (see 1.13), i.e., there have been no significant changes in physical findings or X-ray findings for any 6-month period after the last definitive surgical procedure, evaluation should be made on the basis of demonstrable residuals.

D. *Major joints* as used herein refer to hip, knee, ankle, shoulder, elbow, or wrist and hand. (Wrist and hand are considered together as one major joint.)

E. *The measurements of joint motion are* based on the techniques described in the "Joint Motion Method of Measuring and Recording," published by the American Academy of Orthopedic Surgeons in 1965, or the "Guides to the Evaluation of Permanent Impairment—The Extremities and Back" (Chapter I); American Medical Association, 1971.

1.01 Category of Impairments, Musculoskeletal

1.02 *Active rheumatoid arthritis and other inflammatory arthritis.* With both A and B:

A. Persistent joint pain, swelling, and tenderness involving multiple joints with signs of joint inflammation (heat, swelling, tenderness) despite therapy for at least 3 months, and activity expected to last over 12 months; and

B. Corroboration of diagnosis at some point in time by either:

1. Postive serologic test for rheumatoid factor; or

2. Antinuclear antibodies; or

3. Elevated sedimentation rate.

1.03 *Arthritis of a major weight-bearing joint (due to any cause)* with limitation of motion and enlargement or effusion in the affected joint, as well as a history of joint pain and stiffness. With:

A. Gross anatomical deformity such as subluxation, contracture, bony or fibrous ankylosis, or instability; or

B. Ankylosis of the hip outside of the position of function (i.e., at less than 20° or more than 30° of flexion measured from the neutral position) and X-ray evidence of either joint space narrowing with osteophytosis or bony destruction (with erosions or cysts); or

C. Reconstructive surgery or surgical arthrodesis of a major weight-bearing joint and return to full weight-bearing status did not occur, or is not expected to occur, within 12 months of onset.

1.04 *Arthritis of one major joint in each of the upper extremities (due to any cause)* with limitation of motion and enlargement or effusion in the affected joints as well as a history of joint pain and stiffness and X-ray evidence of either joint space narrowing with osteophytosis or bony destruction (with erosions or cysts). With:

A. Abduction of both arms at the shoulders, including scapular motion, restricted to less than 90 degrees; or

B. Gross anatomical deformity such as subluxation, contracture, bony or fibrous ankylosis, joint instability, or ulnar deviation.

1.05 *Disorders of the spine:*

A. Arthritis manifested by ankylosis or fixation of the cervical or dorsolumbar spine at 30° or more of flexion measured from the neutral position, with X-ray evidence of:

1. Calcification of the anterior and lateral ligaments; or

2. Bilateral ankylosis of the sacroiliac joints with abnormal apophyseal articulations; or

B. Osteoporosis, generalized (established by X-ray) manifested by pain and limitation of back motion and paravertebral muscle spasm with X-ray evidence of either:

1. Compression fracture of a vertebral body with loss of at least 50 percent of the estimated height of the vertebral body prior to the compression fracture, with no intervening direct traumatic episode; or

2. Multiple fractures of vertebrae with no intervening direct traumatic episode; or

C. Other vertebrogenic disorders (e.g., herniated nucleus pulposus, spinal stenosis) with the following persisting for at least 3 months despite prescribed therapy and expected to last 12 months. With both 1 and 2:

1. Pain, muscle spasm, and significant limitation of motion in the spine; and

2. Appropriate radicular distribution of significant motor loss with muscle weakness and sensory and reflex loss.

1.06 *Osteomyelitis (established by X-ray):*

A. Located in the pelvis, vertebra, femur, tibia, or a major joint of an upper or lower extremity, with persistent activity or occurrence of at least two episodes of acute activity within a 5-month period prior to adjudication, manifested by local inflammatory, and systemic signs and laboratory findings (e.g., heat, redness, swelling, drainage, leucocytosis, or increased sedimentation rate); or

B. Multiple localizations and systemic

visual fields. The contraction may be either

7. *Statutory blindness.* The term "statutory

otolaryngologic examination with a detailed

B. So the widest diameter subtends an

percent or less in the better ear.

B. Multiple localizations and systemic manifestations as in A above.

1.09 *Amputation or anatomical deformity of (i.e., loss of major function due to degenerative changes associated with vascular or neurological deficits, traumatic loss of muscle mass or tendons and X-ray evidence of bony ankylosis at an unfavorable angle, joint subluxation or instability):*

A. Both hands; or

B. Both feet; or

C. One hand and one foot.

1.10 *Amputation of one lower extremity (at or above the tarsal region):*

A. Hemipelvectomy or hip disarticulation; or

B. Amputation at or above the tarsal region due to peripheral vascular disease or diabetes mellitus; or

C. Inability to use a prosthesis effectively, without obligatory assistive devices, due to one of the following:

1. Vascular disease; or

2. Neurological complications (e.g., loss of position sense); or

3. Stump too short or stump complications persistent, or are expected to persist, for at least 12 months from onset; or

4. Disorder of contralateral lower extremity causing mobility restrictions.

1.11 *Fracture of the femur, tibia, tarsal bone, or pelvis* with solid union not evident on X-ray and not clinically solid, when such determination is feasible, and return to full weight-bearing status did not occur or is not expected to occur within 12 months of onset.

1.12 *Fractures of an upper extremity* with non-union of a fracture of the shaft of the humerus, radius, or ulna under continuing surgical management directed toward restoration of functional use of the extremity and such function was not restored or expected to be restored within 12 months after onset.

1.13 *Soft tissue injuries of an upper or lower extremity* requiring a series of staged surgical procedures within 12 months after onset for salvage and/or restoration of major function of the extremity, and such major function was not restored or expected to be restored within 12 months after onset.

2.00 Special Senses and Speech

A. *Ophthalmology*

1. *Causes of impairment.* Diseases or injury of the eyes may produce loss of central or peripheral vision. Loss of central vision results in inability to distinguish detail and prevents reading and fine work. Loss of peripheral vision restricts the ability of an individual to move about freely. The extent of impairment of sight should be determined by visual testing.

2. *Central visual acuity.* A loss of central visual acuity may be caused by impaired distant and/or near vision. However, for an individual to meet the level of severity described in 2.02 and 2.04, only the remaining central visual acuity for distance of the better eye with best correction based on the Snellen test chart measurement may be used. Correction obtained by special visual aids (e.g., contact lenses) will be considered if the individual has the ability to wear such aids.

3. *Field of vision.* Impairment of peripheral vision may result if there is contraction of the visual fields. The contraction may be either symmetrical or irregular. The extent of the remaining peripheral visual field will be determined by usual perimetric methods at a distance of 330 mm. under illumination of not less than 7 foot-candles. Measurements obtained on comparable perimetric devices may be used; this does not include the use of tangent screen measurements. For the phakic eye (the eye with a lens), a 3 mm. white disc target will be used, and for the aphakic eye (the eye without a lens), a 6 mm. white disc target will be used. In neither instance should corrective lenses be worn during the examination but if they have been used, this fact must be stated.

Field measurements must be accompanied by notated field charts, a description of the type and size of the target and the test distance. Tangent screen visual fields are not acceptable as a measurement of peripheral field loss.

Where the loss is predominantly in the lower visual fields, a system such as the weighted grid scale for perimetric fields described by B. Esterman (see Grid for Scoring Visual Fields, II. Perimeter, *Archives of Ophthalmology*, 79:400, 1968) may be used for determining whether the visual field loss is comparable to that described in Table 2.

4. *Muscle function.* Paralysis of the third cranial nerve producing ptosis, paralysis of accommodation, and dilation and immobility of the pupil may cause significant visual impairment. When all the muscles of the eye are paralyzed including the iris and ciliary body (total ophthalmoplegia), the condition is considered a severe impairment provided it is bilateral. A finding of severe impairment based primarily on impaired muscle function must be supported by a report of an actual measurement of ocular motility.

5. *Visual efficiency.* Loss of visual efficiency may be caused by disease or injury resulting in a reduction of central visual acuity or visual field. The visual efficiency of one eye is the product of the percentage of central visual efficiency and the percentage of visual field efficiency. (See Tables No. 1 and 2, following 2.09.)

6. *Special situations.* Aphakia represents a visual handicap in addition to the loss of central visual acuity. The term monocular aphakia would apply to an individual who has had the lens removed from one eye, and who still retains the lens in his other eye, or to an individual who has only one eye which is aphakic. The term binocular aphakia would apply to an individual who has had both lenses removed. In cases of binocular aphakia, the central efficiency of the better eye will be accepted as 75 percent of its value. In cases of monocular aphakia, where the better eye is aphakic, the central visual efficiency will be accepted as 50 percent of its value. (If an individual has binocular aphakia, and the central visual acuity in the poorer eye can be corrected only to 20/200, or less, the central visual efficiency of the better eye will be accepted as 50 percent of its value.)

Ocular symptoms of systemic disease may or may not produce a disabling visual impairment. These manifestations should be evaluated as part of the underlying disease entity by reference to the particular body system involved.

7. *Statutory blindness.* The term "statutory blindness" refers to the degree of visual impairment which defines the term "blindness" in the Social Security Act. Both 2.02 and 2.03 A and B denote statutory blindness.

B. *Otolaryngology*

1. *Hearing impairment.* Hearing ability should be evaluated in terms of the person's ability to hear and distinguish speech.

Loss of hearing can be quantitatively determined by an audiometer which meets the standards of the American National Standards Institute (ANSI) for air and bone conducted stimuli (i.e., ANSI S 3.6–1969 and ANSI S 3.13–1972, or subsequent comparable revisions) and performing all hearing measurements in an environment which meets the ANSI standard for maximal permissible background sound (ANSI S 3.1–1977).

Speech discrimination should be determined using a standardized measure of speech discrimination ability in quiet at a test presentation level sufficient to ascertain maximum discrimination ability. The speech discrimination measure (test) used, and the level at which testing was done, must be reported.

Hearing tests should be preceded by an otolaryngologic examination and should be performed by or under the supervision of an otolaryngologist or audiologist qualified to perform such tests.

In order to establish an independent medical judgment as to the level of severity in a claimant alleging deafness, the following examinations should be reported: Otolaryngologic examination, pure tone air and bone audiometry, speech reception threshold (SRT), and speech discrimination testing. A copy of reports of medical examination and audiologic evaluations must be submitted.

Cases of alleged "deaf mutism" should be documented by a hearing evaluation. Records obtained from a speech and hearing rehabilitation center or a special school for the deaf may be acceptable, but if these reports are not available, or are found to be inadequate, a current hearing evaluation should be submitted as outlined in the preceding paragraph.

2. *Vertigo associated with disturbances of labyrinthine-vestibular function, including Meniere's disease.* These disturbances of balance are characterized by an hallucination of motion or loss of position sense and a sensation of dizziness which may be constant or may occur in paroxysmal attacks. Nausea, vomiting, ataxia, and incapacitation are frequently observed, particularly during the acute attack. It is important to differentiate the report of rotary vertigo from that of "dizziness", which is described as light-headedness, unsteadiness, confusion, or syncope.

Meniere's disease is characterized by paroxysmal attacks of vertigo, tinnitus, and fluctuating hearing loss. Remissions are unpredictable and irregular, but may be longlasting; hence, the severity of impairment is best determined after prolonged observation and serial reexaminations.

The diagnosis of a vestibular disorder requires a comprehensive neuro-otolaryngologic examination with a detailed description of the vertiginous episodes, including notation of frequency, severity, and duration of the attacks. Pure tone and speech audiometry with the appropriate special examinations, such as Bekesy audiometry, are necessary. Vestibular function is assessed by positional and caloric testing, preferably by electronystagmography. When polytograms, contrast radiography, or other special tests have been performed, copies of the reports of these tests should be obtained, in addition to reports of skull and temporal bone X-rays.

3. *Organic loss of speech.* Glossectomy or laryngectomy or cicatricial laryngeal stenosis due to injury or infection results in loss of voice production by normal means. In evaluating organic loss of speech (see 2.09), ability to produce speech by any means includes the use of mechanical or electronic devices. Impairment of speech due to neurologic disorders should be evaluated under 11.00–11.19.

2.01 Category of Impairments, Special Senses and Speech

2.02 *Impairment of central visual acuity.* Remaining vision in the better eye after best correction is 20/200 or less.

2.03 *Contraction of peripheral visual fields in the better eye.*

A. To 10° or less from the point of fixation; or

B. So the widest diameter subtends an angle no greater than 20°; or

C. To 20 percent or less visual field efficiency.

2.04 *Loss of visual efficiency.* Visual efficiency of better eye after best correction 20 percent or less. (The percent of remaining visual efficiency = the product of the percent of remaining central visual efficiency and the percent of remaining visual field efficiency.)

2.05 *Complete homonymous hemianopsia* (with or without macular sparing). Evaluate under 2.04.

2.06 *Total bilateral ophthalmoplegia.*

2.07 *Disturbance of labyrinthine-vestibular function (including Meniere's disease),* characterized by a history of frequent attacks of balance disturbance, tinnitus, and progressive loss of hearing. With both A and B:

A. Disturbed function of vestibular labyrinth demonstrated by caloric or other vestibular tests; and

B. Hearing loss established by audiometry.

2.08 *Hearing impairments* (hearing not restorable by a hearing aid) manifested by:

A. Average hearing threshold sensitivity for air conduction of 90 decibels or greater, and for bone conduction to corresponding maximal levels, in the better ear, determined by the simple average of hearing threshold levels at 500, 1000, and 2000 hz. (see 2.00B1); or

B. Speech discrimination scores of 40 percent or less in the better ear.

2.09 *Organic loss of speech* due to any cause with inability to produce by any means speech which can be heard, understood, and sustained.

Table No. 1.—*Percentage of central visual efficiency corresponding to central visual acuity notations for distance in the phakic and aphakic eye (better eye)*

Snellen		Percent central visual efficiency		
English	Metric	Phakic [1]	Aphakic monocular [2]	Aphakic binocular [3]
20/16	6/5	100	50	75
20/20	6/6	100	50	75
20/25	6/7.5	95	47	71
20/32	6/10	90	45	67
20/40	6/12	85	42	64
20/50	6/15	75	37	56
20/64	6/20	65	32	49
20/80	6/24	60	30	45
20/100	6/30	50	25	37
20/125	6/38	40	20	30
20/160	6/48	30	----------	22
20/200	6/60	20	----------	----------

Column and Use

[1] Phakic.—1. A lens is present in both eyes. 2. A lens is present in the better eye and absent in the poorer eye. 3. A lens is present in one eye and the other eye is enucleated.

[2] Monocular.—1. A lens is absent in the better eye and present in the poorer eye. 2. The lenses are absent in both eyes; however, the central visual acuity in the poorer eye after best correction is 20/200 or less. 3. A lens is absent from one eye and the other eye is enucleated.

[3] Binocular.—1. The lenses are absent from both eyes and the central visual acuity in the poorer eye after best correction is greater than 20/200.

Table No. 2.—*Chart of visual field showing extent of normal field and method of computing percent of visual field efficiency*

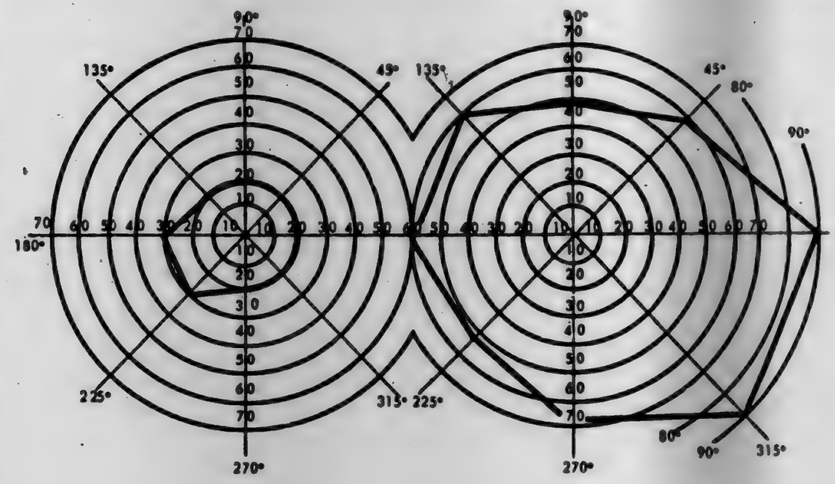

1. Diagram of right eye illustrates extent of normal visual field as tested on standard perimeter at 3/330 (3 mm. white disc at a distance of 330 mm.) under 7 foot-candles illumination. The sum of the eight principal meridians of this field total 500°.

2. The percent of visual field efficiency is obtained by adding the number of degrees of the eight principal meridians of the contracted field and dividing by 500. Diagram of left eye illustrates visual field contracted to 30° in the temporal and down and out meridians and to 20° in the remaining six meridians. The percent of visual field efficiency of this field is: $6\times20+2\times30=180+500=0.36$ or 36 percent remaining visual field efficiency, or 64 percent loss.

3.00 Respiratory System

A. *Causes of impairment.* The impairment produced by respiratory disease usually results from chronic recurrent infection or from pulmonary insufficiency or a combination of these factors.

B. *Pulmonary tuberculosis will be evaluated* on the basis of the resulting impairment to pulmonary function. Evidence of infectious or active pulmonary tuberculosis such as positive cultures, increasing lesions, or cavitation is not, by itself, a basis for determining that an individual has a severe impairment which is expected to last 12 months. However, if these factors are abnormally persistent, they should not be ignored. For example, in those unusual cases where there is evidence of persistence of pulmonary infection caused by mycobacteria for a period closely approaching 12 consecutive months, the clinical findings, complications, treatment considerations, and prognosis must be carefully assessed to determine whether, despite the absence of impairment of pulmonary function, the individual has a severe impairment that can be expected to last for 12 consecutive months.

C. *When a respiratory impairment is episodic in nature,* as may occur in complications of bronchiectasis and asthmatic bronchitis, the frequency of severe episodes despite prescribed treatment is the criterion for determining the level of impairment. Documentation for episodic asthma should include the hospital or emergency room records indicating the dates of treatment, clinical findings on presentation, what treatment was given and for what period of time, and the clinical response. Severe attacks of episodic asthma, as listed in § 3.03B, are defined as prolonged episodes lasting at least several hours, requiring intensive treatment such as intravenous drug administration or inhalation therapy in a hospital or emergency room.

D. *Documentation of pulmonary insufficiency.* The results of ventilatory function studies for evaluation under Tables I, II, and IV should be expressed in liters or liters per minute. The reported 1 second forced expiratory volume (FEV_1) should represent the largest of at least three attempts. One satisfactory maximum voluntary ventilation (MVV) is sufficient. The MVV should represent the observed value and should not be calculated from FEV_1. These studies should be repeated after administration of a nebulized bronchodilator unless the prebronchodilator values are 80 percent or more of predicted normal values or the use of bronchodilators is contraindicated. The values in Tables I, II, and IV assume that the ventilatory function studies were not performed in the presence of wheezing or other evidence of bronchospasm or, if these were present at the time of the examination, that the studies were repeated after administration of a bronchodilator. Ventilatory function studies performed in the presence of bronchospasm, without use of bronchodilators, cannot be found to meet the requisite level of severity in Tables I, II, and IV.

The appropriately labeled spirometric tracing, showing distance per second on the abscissa and the distance per liter on the ordinate, must be incorporated in the file. The FEV_1 must be recorded at a speed of at least 20 mm. per second. Calculation of the FEV_1 from a flow volume loop is not acceptable. The recording device must provide a volume excursion of at least 10 mm. per liter. The MVV should be represented by the tidal excursions measured over a 10-to-15 second interval. Tracings showing only cumulative volume for the MVV are not acceptable. The height of the individual must be recorded. Studies should not be performed during or soon after an acute respiratory illness. A statement should be made as to the individual's ability to understand the directions, and cooperate in performing the test.

3.01 Category of Impairments, Respiratory

3.02 *Chronic obstructive airway disease (due to any cause)* with spirometric evidence of airway obstruction demonstrated by MVV and FEV_1 both equal to, or less than, the values specified in Table I, corresponding to the person's height.

Table I

Height (inches)	MVV (MBC) equal to or and less than	FEV_1 equal to or less than
	L./Min.	L.
57 or less	32	1.0
58	33	1.0
59	34	1.0
60	35	1.1
61	36	1.1
62	37	1.1
63	38	1.1
64	39	1.2
65	40	1.2
66	41	1.2
67	42	1.3
68	43	1.3
69	44	1.3
70	45	1.4
71	46	1.4
72	47	1.4
73 or more	48	1.4

3.03 *Asthma.* With:

A. Chronic asthmatic bronchitis. Evaluate under the criteria for chronic obstructive airway disease in 3.02; or

B. Episodes of severe attacks (see 3.00C), in spite of prescribed treatment, occurring at least once every 2 months, or on an average of at least 6 times a year and prolonged expiration with wheezing or rhonchi between attacks.

3.04 *Diffuse pulmonary fibrosis (sarcoidosis, Hamman-Rich syndrome, idiopathic interstitial fibrosis, and similar diffuse fibroses substantiated by chest X-ray or tissue diagnosis. This category does not include cases of bronchitis or emphysema with incidental scarring or scattered parenchymal fibrosis on X-ray).* With:

A. Total vital capacity equal to, or less than, values specified in Table II below corresponding to the person's height.

Table II

Height (inches)	V.C. equal to or less than (L.)
57 or less	1.2
58	1.3
59	1.3
60	1.4
61	1.4
62	1.5
63	1.5
64	1.6
65	1.6
66	1.7
67	1.7
68	1.8
69	1.8
70	1.9
71	1.9
72	2.0
73 or more	2.0

or

B. Diffusing capacity of the lungs for carbon monoxide less than 6 ml./mm. Hg./min. (steady-state methods) or less than 9 ml./mm. Hg./min. (single-breath methods) or less than 30 percent of predicted normal. (All methods—actual values and predicted normal values for the method used should be reported); or

C. Arterial oxygen tension (pO_2) at rest and simultaneously determined arterial carbon dioxide tension (pCO_2) equal to, or less than, the values specified in Table III.

Table III

Arterial pCO_2 (mm. Hg) *and*	Arterial (pO_2) equal to or less than (mm. Hg)
30 or below	65
31 or below	64
32 or below	63
33 or below	62
34 or below	61
35 or below	60
36 or below	59
37 or below	58
38 or below	57
39 or below	56
40 or above	55

3.05 *Other restrictive ventilatory disorders (e.g., kyphoscoliosis, thoracoplasty, pulmonary resection)* with total vital capacity equal to, or less than, values specified in Table IV corresponding to the person's height.

Table IV

Height (inches)	V.C. equal to or less than (L.)
59 or less	1.0
60	1.1
61	1.1
62	1.1
63	1.1
64	1.2
65	1.2
66	1.2
67	1.3
68	1.3

Table IV—Continued

Height (inches)	V.C. equal to or less than (L.)
69	1.3
70 or more	1.4

3.06 *Pneumoconiosis (demonstrated by X-ray evidence).* With:

A. Nodular or focal fibrosis (non-conglomerative). Evaluate under the criteria for chronic obstructive airway disease in 3.02; or

B. Interstitial or disseminated fibrosis or conglomerative disease. Evaluate under the criteria for pulmonary fibrosis in 3.04; or

C. Where A and B are mixed or cannot be differentiated—evaluate under the criteria in 3.02 or 3.04.

3.07 *Bronchiectasis (demonstrated by radio-opaque material).* With:

A. Episodes of acute bronchitis or pneumonia or hemoptysis (more than blood streaked sputum) occurring at least once every 2 months; or

B. Impairment of pulmonary function due to extensive disease should be evaluated under the criteria for chronic obstructive airway disease in 3.02 or where extensive fibrosis is evident on chest film, under the criteria for pulmonary fibrosis in 3.04.

3.08 *Pulmonary tuberculosis (caused by M. tuberculosis of pathogenic atypical mycobacteria).* Impairment of pulmonary function due to extensive disease should be evaluated under the criteria in 3.02, 3.04, or 3.05.

3.09 *Mycotic infection of lung.* With:

A. Culture of specific organisms from sputa and serial X-ray evidence of increasing or decreasing extent of lesion, both persisting for at least 3 months despite prescribed therapy; or

B. Culture of specific organisms from sputa and current X-ray evidence of a lesion and episodes of hemoptysis occuring at least once every 2 months; or

C. Impairment of pulmonary function due to extensive disease should be evaluated under the criteria in 3.02, 3.04, or 3.05.

3.11 *Cor pulmonale.* Evaluate under the criteria for 4.02D.

3.12 *Pleurocutaneous fistula* with persistent purulent drainage.

4.00 Cardiovascular System

A. *Severe cardiac impairment* results from one or more of three consequences of heart disease: (1) congestive heart failure; (2) ischemia (with or without necrosis) of heart muscle; (3) conduction disturbances and/or arrhythmias resulting in cardiac syncope.

With diseases of arteries and veins, severe impairment may result from disorders of the vasculature in the central nervous system, eyes, kidneys, extremities, and other organs.

The criteria for evaluating impairment resulting from heart disease or diseases of the blood vessels are based on symptoms, physical signs and pertinent laboratory findings.

B. *Congestive heart failure* is considered in the Listing under one category whatever the etiology (i.e., arteriosclerotic, hypertensive, rheumatic, pulmonary, congenital, or other organic heart disease). Congestive heart failure is not considered to have been established for the purpose of 4.02 unless there is evidence of vascular congestion such as hepatomegaly or peripheral or pulmonary edema which is consistent with the clinical diagnosis. (Radiological description of vascular congestion, unless supported by appropriate clinical evidence, should not be construed as pulmonary edema.) The findings of vascular congestion need not be present at the time of adjudication (except for 4.02A), but must be causally related to the current episode of severe impairment. The findings other than vascular congestion must be persistent.

Other congestive, ischemic, or restrictive (obstructive) heart disease such as caused by cardiomyopathy or aortic stenosis may result in severe impairment due to congestive heart failure, rhythm disturbances, or ventricular outflow obstruction in the absence of left ventricular enlargement as described in 4.02B1. However, the ECG criteria as defined in 4.02B2 should be fulfilled. Clinical findings such as symptoms of dyspnea, fatigue, rhythm disturbances, etc. should be documented and the diagnosis confirmed by echocardiography or at cardiac catheterization.

C. *Hypertensive vascular disease* does not result in severe impairment unless it causes severe damage to one or more of four end organs: heart, brain, kidneys, or eyes (retinae). The presence of such damage must be established by appropriate abnormal physical signs and laboratory findings as specified in 4.02 or 4.04, or for the body system involved.

D. *Ischemic heart disease* may result in severe impairment due to chest pain. Description of the pain must contain the clinical characteristics as discussed under 4.00E. In addition, the clinical impression of chest pain of cardiac origin must be supported by objective evidence as described under 4.00 F, G, or H.

E. *Chest pain of cardiac origin* is considered to be pain which is precipitated by effort and promptly relieved by sublingual nitroglycerin or rapid-acting nitrates or rest. The character of the pain is classically described as crushing, squeezing, burning, or oppressive pain located in the chest. Excluded is sharp, sticking or rhythmic pain. Pain occurring on exercise should be described specifically as to usual inciting factors (kind and degree), character, location, radiation, duration, and response to nitroglycerin or rest.

So-called "anginal equivalent" locations manifested by pain in the throat, arms, or hands have the same validity as the chest pain described above. Status anginosus and variant angina of the Prinzmetal type (e.g., rest angina with transitory ST elevation on electrocardiogram) will be considered to have the same validity as classical angina pectoris as described above. Shortness of breath as an isolated finding should not be considered as an anginal equivalent.

Chest pain that appears to be of cardiac origin may be caused by noncoronary conditions. Evidence for the latter should be actively considered in determining whether the chest pain is of cardiac origin. Among the more common conditions which may masquerade as angina are gastrointestinal tract lesions such as biliary tract disease, esophagitis, hiatal hernia, peptic ulcer, and pancreatitis; and musculoskeletal lesions such as costochondritis and cervical arthritis.

F. *Documentation of electrocardiography.*

1. *Electrocardiograms obtained at rest* must be submitted in the original or a legible copy of a 12-lead tracing, appropriately labeled, with the standardization inscribed on the tracing. Alteration in standardization of specific leads (such as to accommodate large QRS amplitudes) must be shown on those leads.

The effect of drugs, electrolyte imbalance, etc., should be considered as possible noncoronary causes of ECG abnormalities, especially those involving the ST segment. If needed and available, pre-drug (especially predigitalis) tracings should be obtained.

The term "ischemic" is used in 4.04 to describe a pathologic ST deviation. Nonspecific repolarization changes should not be confused with ischemic configurations or a current of injury.

Computer interpretations without the original or legible copies of the ECG tracings are not acceptable.

2. *Electrocardiograms obtained in conjunction with exercise tests* must include the original tracings or a legible copy of appropriate leads obtained before, during, and after exercise. Test control tracings, taken before exercise in the upright position, must be obtained. An ECG after 20 seconds of vigorous hyperventilation should be obtained. A tracing should be taken at approximately 5 METs of exercise (treadmill speed of 1.7 miles per hour at a 10 percent grade as in Stage I of the Bruce protocol) and at the time the ECG becomes abnormal according to the criteria in 4.04A. The time of onset of these abnormal changes must be noted, and the ECG tracing taken at that time should be obtained. Exercise histograms without the original tracings or legible copies are not acceptable.

Whenever electrocardiographically documented stress test data are submitted, irrespective of the type, the standardization must be inscribed on the tracings and the strips must be labeled appropriately, indicating the times recorded. The degree of exercise achieved, the blood pressure levels during the test, and any reason for terminating the test should be included in the report.

G. *Exercise testing.*

1. *When to purchase.* Since the results of a treadmill exercise test are the primary basis for adjudicating claims under 4.04, they should be included in the file whenever they have been performed. There are also circumstances under which it will be appropriate to purchase exercise tests. Generally, these are limited to claims involving chest pain which is considered to be of cardiac origin but without corroborating ECG or other evidence of ischemic heart disease.

Exercise tests should not be purchased in the absence of alleged chest pain of cardiac origin. Even in the presence of an allegation of chest pain of cardiac origin, an exercise test should not be purchased where full

V 45 A G 20 80 UMI

development short of such a purchase reveals that the impairment meets or equals any Listing or the claim can be adjudicated on some other basis.

2. *Methodology.* When an exercise test is purchased, it should be a treadmill type using a continuous progressive multistage regimen (as typified by the Bruce protocol). The targeted heart rate should be not less than 85 percent of the maximum predicted heart rate unless it becomes hazardous to exercise to that heart rate or becomes unnecessary because the ECG meets the criteria in 4.04A at a lower heart rate. Beyond these requirements, it is prudent to accept the methodology of a qualified, competent test facility. In any case, a precise description of the protocol that was followed must be provided.

3. *Limitations of exercise testing.* Exercise testing should not be purchased for individuals who have the following: unstable progressive angina pectoris; congestive heart failure; uncontrolled serious arrhythmias (including uncontrolled auricular fibrillation); second or third-degree heart block; Wolff-Parkinson-White syndrome; uncontrolled severe hypertension; severe aortic stenosis; severe pulmonary hypertension; dissecting or ventricular aneurysms; acute illness; limiting neurological or musculoskeletal impairments, or for individuals on medication where performance of stress testing may constitute a significant risk.

The presence of noncoronary or nonischemic factors which may influence the ECG response to exercise include hypokalemia, hyperventilation, vasoregulatory asthenia, significant anemia, left bundle branch block, and other heart disease, particularly valvular.

Digitalis may cause ST segment abnormalities at rest, during, and after exercise. Digitalis-related ST depression, present at rest, may become accentuated and result in false interpretations of the ECG taken during or after exercise test.

4. *Evaluation.* Where the evidence includes the results of a treadmill exercise test, this evidence is the primary basis for adjudicating claims under 4.04. For purposes of the social security disability program, treadmill exercise testing will be evaluated on the basis of the level at which the test becomes positive in accordance with the ECG criteria in § 4.04A. However, the significance of findings of a treadmill exercise test must be considered in light of the clinical course of the disease which may have occurred subsequent to performance of the exercise test. The criteria in 4.04B are not applicable if there is documentation of an acceptable treadmill exercise test. If there is no evidence of a treadmill exercise test or if the test is not acceptable, the criteria in 4.04B should be used. The level of exercise is considered in terms of multiples of METs (metabolic equivalent units). One MET is the basal O_2 requirement of the body in an inactive state, sitting quietly. It is considered by most authorities to be approximately 3.5 ml. O_2/kg./min.

H. *Angiographic evidence.*

1. *Coronary arteriography.* This procedure is not to be purchased by the Social Security Administration. Should the results of such testing be available, the report should be considered as to the quality and kind of data provided and its applicability to the requirements of the Listing of Impairments. A copy of the report of the catheterization and ancillary studies should be obtained. The report should provide information as to the technique used, the method of assessing coronary lumen diameter, and the nature and location of any obstructive lesions.

It is helpful to know the method used, the number of projections, and whether selective engagement of each coronary vessel was satisfactorily accomplished. It is also important to know whether the injected vessel was entirely and uniformly opacified, thus avoiding the artifactual appearance of narrowing or an obstruction.

Coronary artery spasm induced by intracoronary catheterization is not to be considered as evidence of ischemic heart disease.

Estimation of the functional significance of an obstructive lesion may also be aided by description of how well the distal part of the vessel is visualized. Some patients with severe proximal coronary atherosclerosis have well-developed large collateral blood supply to the distal vessels without evidence of myocardial damage or ischemia, even under conditions of severe stress.

2. *Left ventriculography.* The report should describe the local contractility of the myocardium as may be evident from areas of hypokinesia, dyskinesia, or akinesia; and the overall contractility of the myocardium as measured by the ejection fraction.

3. *Proximal coronary arteries* (see 4.04B7) will be considered as the:

a. Right coronary artery proximal to the acute marginal branch;

b. Left anterior descending coronary artery proximal to the first septal perforator; and

c. Left circumflex coronary artery proximal to the first obtuse marginal branch.

I. *Results of other tests.* Information from adequate reports of other tests such as radionuclide studies or echocardiography should be considered where that information is comparable to the requirements in the Listing.

J. *Major surgical procedures.* The amount of function restored and the time required to effect improvement after heart or vascular surgery vary with the nature and extent of the disorder, the type of surgery, and other individual factors. If the criteria described for heart or vascular disease are met, proposed heart or vascular surgery (coronary artery bypass procedure, valve replacement, major arterial grafts, etc.) does not militate against a finding of disability with subsequent assessment of severity postoperatively.

The usual time after surgery for adequate assessment of the results of surgery is considered to be approximately 3 months. Assessment of the severity of the impairment following surgery requires adequate documentation of the pertinent evaluations and tests performed following surgery, such as an interval history and physical examination, with emphasis on those signs and symptoms which might have changed postoperatively, as well as X-rays and electrocardiograms. Where treadmill exercise tests or angiography have been performed following the surgical procedure, the results of these tests should be obtained.

Documentation of the preoperative evaluation and a description of the surgical procedure are also required. The evidence should be documented from hospital records (catheterization reports, coronary arteriographic reports, etc.) and the operative note.

Implantation of a cardiac pacemaker is not considered a major surgical procedure for purposes of this section.

4.01 Category of Impairments, Cardiovascular System

4.02 *Congestive heart failure (manifested by evidence of vascular congestion such as hepatomegaly, peripheral or pulmonary edema).* With:

A. Persistent congestive heart failure on clinical examination despite prescribed therapy; or

B. Persistent left ventricular enlargement and hypertrophy documented by both:

1. Extension of the cardiac shadow (left ventricle) to the vertebral column on a left lateral chest roentgenogram; and

2. ECG showing QRS duration less than 0.12 second with S_{V_1} plus R_{V_5} (or R_{V_6}) of 35 mm. or greater *and* ST segment depressed more than 0.5 mm. *and* low, diphasic or inverted T waves in leads with tall R waves; or

C. Persistent "mitral" type heart involvement documented by left atrial enlargement shown by double shadow on PA chest roentgenogram (or characteristic distortion of barium-filled esophagus) and either:

1. ECG showing QRS duration less than 0.12 second with S_{V_1} plus R_{V_5} (or R_{V_6}) of 35 mm. or greater *and* ST segment depressed more than 0.5 mm. *and* low, diphasic or inverted T waves in leads with tall R waves; or

2. ECG evidence of right ventricular hypertrophy with R wave of 5.0 mm. or greater in lead V_1 *and* progressive decrease in R/S amplitude from lead V_1 to V_5 or V_6; or

D. Cor pulmonale (non-acute) documented by both:

1. Right ventricular enlargement (or prominence of the right out-flow tract) on chest roentgenogram of fluoroscopy; and

2. ECG evidence of right ventricular hypertrophy with R wave of 5.0 mm. or greater in lead V_1 *and* progressive decrease in R/S amplitude from lead V_1 to V_5 or V_6.

4.03 *Hypertensive vascular disease.* Evaluate under 4.02 or 4.04 or under the criteria for the affected body system.

4.04 *Ischemic heart disease with chest pain of cardiac origin as described in 4.00E.* With:

A. Treadmill exercise test (see 4.00F and G) demonstrating one of the following at an exercise level of 5 METs or less:

1. Horizontal or down-sloping ischemic depression of the ST segment to 1.0 mm. or greater, clearly discernible in at least two consecutive complexes which are on a level baseline in any lead; or

2. Premature ventricular systoles which are multiform or bidirectional or are sequentially inscribed (3 or more); or

3. ST segment elevation to 3 mm. or greater; or

4. Development of second or third degree heart block; or

B. In the absence of a report of an acceptable treadmill exercise test (see 4.00G), one of the following:

1. Transmural myocardial infarction exhibiting a QS pattern or a Q wave with amplitude at least 1/3rd of R wave and with a duration of 0.04 second or more. (If these are present in leads III and aVF only, the requisite Q wave findings must be shown, by labelled tracing, to persist on deep inspiration); or

2. Resting ECG findings showing ischemic-type (see § 4.00F1) depression of ST segment to more than 0.5 mm. in either (a) leads I and aVL and V_4 or (b) leads II and III and aVF or (c) leads V_5 through V_6; or

3. Resting ECG findings showing an ischemic configuration or current of injury (see 4.00F1) with ST segment elevation to 2 mm. or more in either (a) leads I and aVL and V_4 or (b) leads II and III and aVF or (c) leads V_5 through V_6; or

4. Resting ECG findings showing symmetrical inversion of T waves to 5.0 mm. or more in any two leads except leads III or aVR or V_1 or V_5; or

5. Inversion of T wave to 1.0 mm. or more in any of leads I, II, aVL, V_5 to V_6 *and* R wave of 5.0 mm. or more in lead aVL *and* R wave greater than S wave in lead aVF; or

6. "Double" Master Two-Step test demonstrating one of the following:

a. Ischemic depression of ST segment to more than 0.5 mm. lasting for at least 0.08 second beyond the J junction and clearly discernible in at least two consecutive complexes which are on a level baseline in any lead; or

b. Development of a second or third degree heart block; or

7. Angiographic evidence (see 4.00H) (obtained independent of social security disability evaluation) showing one of the following:

a. 50 percent or more narrowing of the left main coronary artery; or

b. 70 percent or more narrowing of a *proximal* coronary artery (see 4.00H3) (excluding the left main coronary artery); or

c. 50 percent or more narrowing involving a long (greater than 1 cm.) segment of a proximal coronary artery or multiple proximal coronary arteries; or

C. Resting ECG findings showing left bundle branch block as evidenced by QRS duration of 0.12 second or more in leads I, II, or III *and* R peak duration of 0.06 second or more in leads I, aVL, V_5, or V_6, unless there is a coronary angiogram of record which is negative (see criteria in 4.04B7); or

D. Left ventricular ejection fraction of 30 percent or less measured at cardiac catheterization or by echocardiography.

4.05 *Recurrent arrhythmias* (not due to digitalis toxicity) resulting in uncontrolled repeated episodes of cardiac syncope and documented by resting or ambulatory (Holter) electrocardiography.

4.09 *Myocardiopathies, rheumatic or syphilitic heart disease.* Evaluate under the criteria in 4.02, 4.04, 4.05, or 11.04.

4.11 *Aneurysm of aorta or major branches* (demonstrated by roentgenographic evidence). With:

A. Acute or chronic dissection not controlled by prescribed medical or surgical treatment; or

B. Congestive heart failure as described under the criteria in 4.02; or

C. Renal failure as described under the criteria in 6.02; or

D. Repeated syncopal episodes.

4.12 *Chronic venous insufficiency* of the lower extremity with incompetency or obstruction of the deep venous return, associated with superficial varicosities, extensive brawny edema, stasis dermatitis, and recurrent or persistent ulceration which has not healed following at least 3 months of prescribed medical or surgical therapy.

4.13 *Arteriosclerosis obliterans or thrombo-angiitis.* With:

A. Intermittent claudication with failure to visualize (on arteriogram obtained independent of social security disability evaluation) the common femoral or deep femoral artery in one extremity; or

B. Intermittent claudication and absence of peripheral arterial pulsations in the femoral, popliteal, dorsalis pedis, and posterior tibial arteries by Doppler or plethysmography, in one extremity; or

C. Amputation at or above the tarsal region due to peripheral vascular disease.

5.00 Digestive System

A. *Disorders of the digestive system* which result in severe impairment usually do so because of interference with nutrition, multiple recurrent inflammatory lesions, or complications of disease, such as fistulae, abscesses, or recurrent obstruction. Such complications usually respond to treatment. These complications must be shown to persist on repeated examinations despite therapy for a reasonable presumption to be made that severe impairment will last for a continuous period of at least 12 months.

B. *Malnutrition or weight loss from gastrointestinal disorders.* When the primary disorder of the digestive tract has been established (e.g., enterocolitis, chronic pancreatitis, postgastrointestinal resection, or esophageal stricture, stenosis, or obstruction), the resultant interference with nutrition will be considered under the criteria in 5.08. This will apply whether the weight loss is due to primary or secondary disorders, of malabsorption, malassimilation, or obstruction. However, weight loss not due to diseases of the digestive tract, but associated with psychiatric or primary endocrine or other disorders, should be evaluated under the appropriate criteria for the underlying disorder.

C. *Surgical diversion of the intestinal tract,* including colostomy or ileostomy, are not listed since they do not represent impairments which preclude all work activity if the individual is able to maintain adequate nutrition and function of the stoma. Dumping syndrome which may follow gastric resection rarely represents a severe impairment which would continue for 12 months. Peptic ulcer disease with recurrent ulceration after definitive surgery ordinarily responds to treatment. A recurrent ulcer after definitive surgery must be demonstrated on repeated upper gastrointestinal roentgenograms or gastroscopic examinations despite therapy to be considered a severe impairment which will last for at least 12 months. Definitive surgical procedures are those designed to control the ulcer disease process (i.e., vagotomy and pyloroplasty, subtotal gastrectomy, etc.). Simple closure of a perforated ulcer does not constitute definitive surgical therapy for peptic ulcer disease.

5.01 Category of Impairments, Digestive System

5.02 *Recurrent upper gastrointestinal hemorrhage from undetermined cause* with anemia manifested by hematocrit of 30 percent or less on repeated examinations.

5.03 *Stricture, stenosis, or obstruction of the esophagus (demonstrated by X-ray or endoscopy)* with weight loss as described under § 5.08.

5.04 *Peptic ulcer disease (demonstrated by X-ray or endoscopy).* With:

A. Recurrent ulceration after definitive surgery persistent despite therapy; or

B. Inoperable fistula formation; or

C. Recurrent obstruction demonstrated by X-ray or endoscopy; or

D. Weight loss as described under § 5.08.

5.05 *Chronic liver disease (e.g., portal, postnecrotic, or biliary cirrhosis; chronic active hepatitis; Wilson's disease).* With:

A. Esophageal varices (demonstrated by X-ray or endoscopy) with a documented history of massive hemorrhage attributable to these varices; or

B. Performance of a shunt operation for esophageal varices; or

C. Serum bilirubin of 2.5 mg. per deciliter (100 ml.) or greater persisting on repeated examinations for at least 5 months; or

D. Hepatic encephalopathy. Evaluate under the criteria in 12.02; or

E. Confirmation of chronic liver disease by liver biopsy (obtained independent of social security disability evaluation) and one of the following:

1. Ascites not attributable to other causes, recurrent or persisting for at least 3 months, demonstrated by abdominal paracentesis or associated with persistent hypoalbuminemia of 3.0 gm. per deciliter (100 ml.) or less.

2. Serum bilirubin of 2.5 mg. per deciliter (100 ml.) or greater on repeated examinations.

3. Hepatic cell necrosis or inflammation persisting for at least 3 months, documented by repeated abnormalities of prothrombin time and enzymes indicative of hepatic dysfunction.

5.06 *Chronic ulcerative or granulomatous colitis (demonstrated by endoscopy, barium enema, biopsy, or operative findings).* With:

A. Recurrent bloody stools documented on repeated examinations and anemia manifested by hematocrit of 30 percent or less on repeated examinations; or

B. Persistent or recurrent systemic manifestations, such as arthritis, iritis, fever, or liver dysfunction, not attributable to other causes; or

C. Intermittent obstruction due to intractable abscess, fistula formation, or stenosis; or

D. Recurrences of findings of A, B, or C above after total colectomy; or

E. Weight loss as described under § 5.08.

5.07 *Regional enteritis (demonstrated by operative findings, barium studies, biopsy, or endoscopy).* With:

A. Persistent or recurrent intestinal obstruction evidenced by abdominal pain,

Table III.—*Men*

suppressive agents. A convalescent period of at least 12 months is required before it can be

occlusive or aplastic episodes should be documented by description of severity,

B. Documented recurrent systemic bacterial infections occurring at least 3 times during

8.03 *Pemphigus, erythema multiforme bullosum, bullous pemphigoid, dermatitis*

A. Persistent or recurrent intestinal obstruction evidenced by abdominal pain, distention, nausea, and vomiting and accompanied by stenotic areas of small bowel with proximal intestinal dilation; or

B. Persistent or recurrent systemic manifestations such as arthritis, iritis, fever, or liver dysfunction, not attributable to other causes; or

C. Intermittent obstruction due to intractable abscess or fistula formation; or

D. Weight loss as described under § 5.08.

5.08 *Weight loss (due to any gastrointestinal disorder).* With:

A. Weight equal to or less than the values specified in Table I or II; or

B. Weight equal to or less than the values specified in Table III or IV and one of the following abnormal findings on repeated examinations:

1. Serum albumin of 3.0 gm. per deciliter (100 ml.) or less; or

2. Hematocrit of 30 percent or less; or

3. Serum calcium of 8.0 mg. per deciliter (100 ml.) (4.0 mEq./L) or less; or

4. Uncontrolled diabetes mellitus due to pancreatic dysfunction with repeated hyperglycemia, hypoglycemia, or ketosis; or

5. Fat in stool of 7 gm. or greater per 24-hour stool specimen; or

6. Nitrogen in stool of 3 gm. or greater per 24-hour specimen; or

7. Persistent or recurrent ascites or edema not attributable to other causes.

Tables of weight reflecting malnutrition scaled according to height and sex—To be used only in connection with 5.08.

Table I.—*Men*

Height (inches) [1]	Weight (pounds)
61	90
62	92
63	94
64	97
65	99
66	102
67	106
68	109
69	112
70	115
71	118
72	122
73	125
74	128
75	131
76	134

Table II.—*Women*

Height (inches) [1]	Weight (pounds)
58	77
59	79
60	82
61	84
62	86
63	89
64	91
65	94
66	99
67	101
68	104
69	107
70	110
71	114
72	117
73	120

Table III.—*Men*

Height (inches) [1]	Weight (pounds)
61	95
62	98
63	100
64	103
65	106
66	109
67	112
68	116
69	119
70	122
71	126
72	129
73	133
74	136
75	139
76	143

Table IV.—*Women*

Height (inches) [1]	Weight (pounds)
58	82
59	84
60	87
61	89
62	92
63	94
64	97
65	100
66	104
67	107
68	111
69	114
70	117
71	121
72	124
73	128

[1] Height measured without shoes.

6.00 Genito-Urinary System

A. *Determination of the presence of chronic renal disease will be based upon* (1) a history, physical examination, and laboratory evidence of renal disease, and (2) indications of its progressive nature or laboratory evidence of deterioration of renal function.

B. *Nephrotic Syndrome.* The medical evidence establishing the clinical diagnosis must include the description of extent of tissue edema, including pretibial, periorbital, or presacral edema. The presence of ascites, pleural effusion, pericardial effusion, and hydroarthrosis should be described if present. Results of pertinent laboratory tests must be provided. If a renal biopsy has been performed, the evidence should include a copy of the report of microscopic examination of the specimen. Complications such as severe orthostatic hypotension, recurrent infections or venous thromboses should be evaluated on the basis of resultant impairment.

C. *Hemodialysis, peritoneal dialysis, and kidney transplantation.* When an individual is undergoing periodic dialysis because of chronic renal disease, severity of impairment is reflected by the renal function prior to the institution of dialysis.

The amount of function restored and the time required to effect improvement in an individual treated by renal transplant depend upon various factors, including adequacy of post-transplant renal function, incidence and severity of renal infection, occurrence of rejection crisis, the presence of systemic complications (anemia, neuropathy, etc.), and side effects of corticosteroids or immunosuppressive agents. A convalescent period of at least 12 months is required before it can be reasonably determined whether the individual has reached a point of stable medical improvement.

D. *Evaluate associated disorders and complications* according to the appropriate body system Listing.

6.01 Category of Impairments, Genito-Urinary System

6.02 *Impairment of renal function, due to any chronic renal disease expected to last 12 months (e.g., hypertensive vascular disease, chronic nephritis, nephrolithiasis, polycystic disease, bilateral hydronephrosis, etc.).* With:

A. Chronic hemodialysis or peritoneal dialysis necessitated by irreversible renal failure; or

B. Kidney transplant. Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see 6.00C); or

C. Persistent elevation of serum creatinine to 4 mg. per deciliter (100 ml.) or greater or reduction of creatinine clearance to 20 ml. per minute (29 liters/24 hours) or less, over at least 3 months, with one of the following:

1. Renal osteodystrophy manifested by severe bone pain and appropriate radiographic abnormalities (e.g., osteitis fibrosa, severe osteoporosis, pathologic fractures); or

2. A clinical episode of pericarditis; or

3. Persistent motor or sensory neuropathy; or

4. Intractable pruritus; or

5. Persistent fluid overload syndrome resulting in diastolic hypertension (110 mm. or above) or signs of vascular congestion; or

6. Persistent anorexia with recent weight loss and current weight meeting the values in 5.08, Table III or IV; or

7. Persistent hematocrits of 30 percent or less.

6.06 *Nephrotic syndrome, with severe anasarca, persistent for at least 3 months despite prescribed therapy.* With:

A. Serum albumin of 3.0 gm. per deciliter (100 ml.) or less *and* proteinuria of 3.5 gm. per 24 hours or greater; or

B. Proteinuria of 10.0 gm. per 24 hours or greater.

7.00 Hemic and Lymphatic System

A. *Impairment caused by anemia* should be evaluated according to the ability of the individual to adjust to the reduced oxygen-carrying capacity of the blood. A gradual reduction in red cell mass, even to very low values, is often well tolerated in individuals with a healthy cardiovascular system.

B. *Chronicity is indicated by* persistence of the condition for at least 3 months. The laboratory findings cited must reflect the values reported on more than one examination over that 3-month period.

C. *Sickle cell disease* refers to a chronic hemolytic anemia associated with sickle cell hemoglobin, either homozygous or in combination with thalassemia or with another abnormal hemoglobin (such as C or F).

Appropriate hematologic evidence for sickle cell disease, such as hemoglobin electrophoresis, must be included. Vaso-occlusive or aplastic episodes should be documented by description of severity, frequency, and duration.

Major visceral episodes include meningitis, osteomyelitis, pulmonary infections or infarctions, cerebrovascular accidents, congestive heart failure, genito-urinary involvement, etc.

D. *Coagulation defects.* Chronic inherited coagulation disorders must be documented by appropriate laboratory evidence. Prophylactic therapy such as with anti-hemophilic globulin (AHG) concentrate does not in itself imply severity.

E. *Acute leukemia.* Initial diagnosis of acute leukemia must be based upon definitive bone marrow pathologic evidence. Recurrent disease may be documented by peripheral blood, bone marrow, or cerebrospinal fluid examination. The pathology report must be included.

The criteria in 7.11 contain the designated duration of disability implicit in the finding of a listed impairment. Following the designated time period, a documented diagnosis itself is no longer sufficient to establish a severe impairment. The severity of any remaining impairment must be evaluated on the basis of the medical evidence.

7.01 Category of Impairments, Hemic and Lymphatic System

7.02 *Chronic anemia (hematocrit persisting at 30 percent or less due to any cause).*

A. Evaluate the resulting impairment under criteria for the affected body system; or

B. Requiring one or more blood transfusions on an average of at least once every 2 months.

7.05 *Sickle cell disease, or one of its variants.* With:

A. Documented painful (thrombotic) crises occurring at least three times during the 5 months prior to adjudication; or

B. Requiring extended hospitalization (beyond emergency care) at least three times during the 12 months prior to adjudication; or

C. Evaluate the resulting impairment under the criteria for the affected body system.

7.06 *Chronic thrombocytopenia (due to any cause)* with platelet counts repeatedly below 40,000/cubic millimeter. With:

A. At least one spontaneous hemorrhage, requiring transfusion, within 5 months prior to adjudication; or

B. Intracranial bleeding within 12 months prior to adjudication.

7.07 *Hereditary telangiectasia* with hemorrhage requiring transfusion at least three times during the 5 months prior to adjudication.

7.08 *Coagulation defects (nemophilia or a similar disorder)* with spontaneous hemorrhage requiring transfusion at least three times during the 5 months prior to adjudication.

7.09 *Polycythemia vera (with erythrocytosis, splenomegaly, and leukocytosis or thrombocytosis).* Evaluate the resulting impairment under the criteria for the affected body system.

7.10 *Myelofibrosis (myeloproliferative syndrome).* With:

A. Chronic anemia. Evaluate according to the criteria of §7.02; or

B. Documented recurrent systemic bacterial infections occurring at least 3 times during the 5 months prior to adjudication; or

C. Intractable bone pain with radiologic evidence of osteosclerosis.

7.11 *Acute leukemia.* Consider under a disability for 2½ years from the time of initial diagnosis.

7.12 *Chronic leukemia.* Evaluate according to the criteria of 7.02, 7.06, 7.10B, or 13.06A.

7.13 *Lymphomas.* Evaluate under the criteria in 13.06A.

7.14 *Macroglobulinemia or heavy chain disease,* confirmed by serum or urine protein electrophoresis or immunoelectrophoresis. Evaluate impairment under criteria for affected body system or under 7.02, 7.06, or 7.08.

7.15 *Chronic granulocytopenia (due to any cause).* With both A and B:

A. Absolute neutrophil counts repeatedly below 1,000 cells/cubic millimeter; and

B. Documented recurrent systemic bacterial infections occurring at least 3 times during the 5 months prior to adjudication.

7.16 *Myeloma (confirmed by appropriate serum or urine protein electrophoresis and bone marrow findings).* With:

A. Radiologic evidence of bony involvement with intractable bone pain or pathological fracture; or

B. Evidence of renal impairment as described in 6.02; or

C. Hypercalcemia with serum calcium levels persistently greater than 11 mg. per deciliter (100 ml.) for at least one month despite prescribed therapy; or

D. Plasma cells (100 or more cells/cubic millimeter) in the peripheral blood.

8.00 Skin

A. *Skin lesions* may result in severe, long-lasting impairment if they involve extensive body areas or critical areas such as the hands or feet and become resistant to treatment. These lesions must be shown to have persisted for a sufficient period of time despite therapy for a reasonable presumption to be made that severe impairment will last for a continuous period of at least 12 months. The treatment for some of the skin diseases listed in this section may require the use of high dosage of drugs with possible serious side effects; these side effects should be considered in the overall evaluation of impairment.

B. *When skin lesions are associated with systemic disease* and where that is the predominant problem, evaluation should occur according to the criteria in the appropriate section. Disseminated (systemic) lupus erythematosus and scleroderma usually involve more than one body system and should be evaluated under 10.04 and 10.05. Neoplastic skin lesions should be evaluated under 13.00ff. When skin lesions (including burns) are associated with contractures or limitation of joint motion, that impairment should be evaluated under 1.00ff.

8.01 Category of Impairments, Skin

8.02 *Exfoliative dermatitis, ichthyosis, ichthyosiform erythroderma.* With extensive lesions not responding to prescribed treatment.

8.03 *Pemphigus, erythema multiforme bullosum, bullous pemphigoid, dermatitis herpetiformis.* With extensive lesions not responding to prescribed treatment.

8.04 *Deep mycotic infections.* With extensive fungating, ulcerating lesions not responding to prescribed treatment.

8.05 *Psoriasis, atopic dermatitis, dyshidrosis.* With extensive lesions, including involvement of the hands or feet which impose a severe limitation of function and which are not responding to prescribed treatment.

8.06 *Hydradenitis suppurative, acne conglobata.* With extensive lesions involving the axillae or perineum not responding to prescribed medical treatment and not amenable to surgical treatment.

9.00 Endocrine System

Cause of impairment. Impairment is caused by overproduction or underproduction of hormones, resulting in structural or functional changes in the body. Where involvement of other organ systems has occurred as a result of a primary endocrine disorder, these impairments should be evaluated according to the criteria under the appropriate sections.

9.01 Category of Impairments, Endocrine

9.02 *Thyroid Disorders.* With:

A. Progressive exophthalmos as measured by exophthalmometry; or

B. Evaluate the resulting impairment under the criteria for the affected body system.

9.03 *Hyperparathyroidism.* With:

A. Generalized decalcification of bone on X-ray study and elevation of plasma calcium to 11 mg. per deciliter (100 ml.) or greater; or

B. A resulting impairment. Evaluate according to the criteria in the affected body system.

9.04 *Hypoparathyroidism.* With:

A. Severe recurrent tetany; or

B. Recurrent generalized convulsions; or

C. Lenticular cataracts. Evaluate under the criteria in 2.00ff.

9.05 *Neurohypophyseal insufficiency (diabetes insipidus).* With urine specific gravity of 1.005 or below, persistent for at least 3 months and recurrent dehydration.

9.06 *Hyperfunction of the adrenal cortex.* Evaluate the resulting impairment under the criteria for the affected body system.

9.08 *Diabetes mellitus.* With:

A. Neuropathy demonstrated by significant and persistent disorganization of motor function in two extremities resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C); or

B. Acidosis occurring at least on the average of once every 2 months documented by appropriate blood chemical tests (pH or pCO_2 or bicarbonate levels); or

C. Amputation at, or above, the tarsal region due to diabetic necrosis or peripheral vascular disease; or

D. Retinitis proliferans; evaluate the visual impairment under the criteria in 2.02, 2.03, or 2.04).

10.00 Multiple Body Systems

A. The impairments included in this section usually involve more than a single body system.

B. Long-term obesity will usually be associated with disorders in the musculoskeletal, cardiovascular, peripheral vascular, and pulmonary systems and the advent of such disorders is the major cause of impairment. Extreme obesity results in restrictions imposed by body weight and the additional restrictions imposed by disturbances in other body systems.

10.01 Category of Impairments, Multiple Body Systems

10.02 *Hansen's disease (leprosy).* As active disease or consider as "under a disability" while hospitalized.

10.03 *Polyarteritis or periarteritis nodosa (established by biopsy).* With signs of generalized arterial involvement.

10.04 *Disseminated lupus erythematosus (established by a positive LE preparation or biopsy or positive ANA test).* With frequent exacerbations demonstrating involvement of renal or cardiac or pulmonary or gastrointestinal or central nervous systems.

10.05 *Scleroderma or progessive systemic sclerosis (the diffuse or generalized form).* With:

A. Advanced limitation of use of hands due to sclerodactylia or limitation in other joints; or

B. Significant visceral manifestations of digestive, cardiac, or pulmonary impairment.

10.10 *Obesity.* Weight equal to or greater than the values specified in Table I for males, Table II for females (100 percent above desired level) and one of the following:

A. History of pain and limitation of motion in any weight bearing joint or spine (on physical examination) associated with X-ray evidence of arthritis in a weight bearing joint or spine; or

B. Hypertension with diastolic blood pressure persistently in excess of 100 mm. Hg measured with appropriate size cuff; or

C. History of congestive heart failure manifested by past evidence of vascular congestion such as hepatomegaly, peripheral or pulmonary edema; or

D. Chronic venous insufficiency with superficial varicosities in a lower extremity with pain on weight bearing and persistent edema; or

E. Respiratory disease with total forced vital capacity equal to or less than 2.0 L. or a level of hypoxemia at rest equal to or less than the values of the following table:

Arterial pCO_2 (mm Hg) and	Arterial pO_2 equal to or less than (mm Hg)
30 or below	65
31	64
32	63
33	62
34	61
35	60
36	59
37	58
38	57
39	56
40 or above	55

Table I.—*Men*

Height (inches)	Weight (pounds)
60	246
61	252
62	258
63	264
64	270
65	276
66	284
67	294
68	302
69	310
70	318
71	328
72	336
73	346
74	356
75	364
76	374

Table II.—*Women*

Height (inches)	Weight (pounds)
56	208
57	212
58	218
59	224
60	230
61	236
62	242
63	250
64	258
65	266
66	274
67	282
68	290
69	298
70	306
71	314
72	322

11.00 Neurological

A. *Convulsive disorders.* In convulsive disorders, regardless of etiology, severity will be determined according to type, frequency, duration, and sequelae of seizures. At least one detailed description of a typical seizure is required. Such description includes the presence or absence of aura, tongue bites, sphincter control, injuries associated with the attack, and postictal phenomena. The reporting physician should indicate the extent to which description of seizures reflects his own observations and the source of ancillary information. Testimony of persons other than the claimant is essential for description of type and frequency of seizures if professional observation is not available.

Documentation of epilepsy should include at least one electroencephalogram (EEG).

Under 11.02 and 11.03, a severe impairment is considered present only if it persists despite the fact that the individual is following prescribed anticonvulsive treatment. Adherence to prescribed anticonvulsant therapy can ordinarily be determined from objective clinical findings in the report of the physician currently providing treatment for epilepsy. Determination of blood levels of phenytoin sodium or other anticonvulsive drugs may serve to indicate whether the prescribed medication is being taken. Should serum drug levels appear therapeutically inadequate, consideration should be given as to whether this is caused by individual idiosyncrasy in absorption or metabolism of the drug. Where adequate seizure control is obtained only with unusually large doses, the possibility of impairment resulting from the side effects of this medication must also be assessed. Where documentation shows that use of alcohol or drugs affects adherence to prescribed therapy or may play a part in the precipitation of seizures, this must also be considered in the overall assessment of impairment severity.

B. *Brain tumors.* The diagnosis of malignant brain tumor should be established under the criteria described in 13.00B for neoplastic disease.

In histologically malignant tumors, the pathological diagnosis alone will be the decisive criterion for severity and expected duration (see 11.05A). In cases of benign tumors (see 11.05B) the severity and duration of the impairment will be determined on the bases of the symptoms, signs, and pertinent laboratory findings.

C. *Persistent disorganization of motor function* in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands, and arms.

D. *In conditions which are episodic in character,* such as multiple sclerosis or myasthenia gravis, consideration should be given to frequency and duration of exacerbations, length of remissions, and permanent residuals.

11.01 Category of Impairments, Neurological

11.02 *Epilepsy—major motor seizures, (grand mal or psychomotor), documented by EEG and by detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once a month, in spite of at least 3 months of prescribed treatment.* With:

A. Diurnal episodes (loss of consciousness and convulsive seizures); or

B. Nocturnal episodes manifesting residuals which interfere significantly with activity during the day.

11.03 *Epilepsy—minor motor seizures (petit mal, psychomotor, or focal), documented by EEG and by detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once weekly in spite of at least 3 months of prescribed treatment.* With alteration of awareness or loss of consciousness and transient postictal manifestations of unconventional behavior or significant interference with activity during the day.

11.04 *Central nervous system vascular accident.* With one of the following more than 3 months post-vascular accident:

A. Sensory or motor aphasia resulting in ineffective speech or communication; or

B. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C).

11.05 *Brain tumors.*

A. Malignant gliomas (astrocytoma—grades III and IV, glioblastoma multiforme), medulloblastoma, ependymoblastoma, or primary sarcoma; or

B. Astrocytoma (grades I and II), meningioma, pituitary tumors, oligodendroglioma, ependymoma, clivus chordoma, and benign tumors. Evaluate under 11.02, 11.03, 11.04 A, or B, or 12.02.

11.06 *Parkinsonian syndrome* with the following signs: Significant rigidity, brady kinesia, or tremor in two extremities, which, singly or in combination, result in sustained disturbance of gross and dexterous movements, or gait and station.

11.07 *Cerebral palsy.* With:

A. IQ of 69 or less; or

B. Abnormal behavior patterns, such as destructiveness or emotional instability; or

C. Significant interference in communication due to speech, hearing, or visual defect; or

D. Disorganization of motor function as described in 11.04B.

11.08 *Spinal cord or nerve root lesions, due to any cause* with disorganization of motor function as described in 11.04B.

11.09 *Multiple sclerosis.* With:

A. Disorganization of motor function as described in 11.04B; or

B. Visual or mental impairment as described under the criteria in 2.02, 2.03, 2.04, or 12.02.

11.10 *Amyotrophic lateral sclerosis.* With:

A. Significant bulbar signs; or

B. Disorganization of motor function as described in 11.04B.

11.11 *Anterior poliomyelitis.* With:

A. Presistent difficulty with swallowing or breathing; or

B. Unintelligible speech; or

C. Disorganization of motor function as described in 11.04B.

11.12 *Myasthenia gravis.* With:

A. Significant difficulty with speaking, swallowing, or breathing while on prescribed therapy; or

B. Significant motor weakness of muscles of extremities on repetitive activity against resistance while on prescribed therapy.

11.13 *Muscular dystrophy* with disorganization of motor function as described in 11.04B.

11.14 *Peripheral neuropathies.* With disorganization of motor function as described in 11.04B, in spite of prescribed treatment.

11.15 *Tabes dorsalis.* With:

A. Tabetic crises occurring more frequently than once monthly; or

B. Unsteady, broad-based or ataxic gait causing significant restriction of mobility substantiated by appropriate posterior column signs.

11.16 *Subacute combined cord degeneration (pernicious anemia)* with disorganization of motor function as described in 11.04B or 11.15B, not significantly improved by prescribed treatment.

11.17 *Degenerative disease not listed elsewhere, such as Huntington's chorea, Friedreich's ataxia, and spino-cerebellar degeneration.* With:

A. Disorganization of motor function as described in 11.04B or 11.15B; or

B. Chronic brain syndrome. Evaluate under 12.02.

11.18 *Cerebral trauma:* Evaluate under the provisions of 11.02, 11.03, 11.04, and 12.02, as applicable.

11.19 *Syringomyelia.* With:

A. Significant bulbar signs; or

B. Disorganization of motor function as described in 11.04B.

12.00 Mental Disorders

A. *Introduction:* The evaluation of disability applications on the basis of mental disorders requires consideration of the nature and clinical manifestations of the medically determinable impairment(s) as well as consideration of the degree of limitation such impairment(s) may impose on the individual's ability to work, as reflected by (1) daily activities both in the occupational and social spheres; (2) range of interest; (3) ability to take care of personal needs; and (4) ability to relate to others. This evaluation must be based on medical evidence consisting of demonstrable clinical signs (medically demonstrable phenomena, apart from the individual's symptoms, which indicate specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality) and laboratory findings (including psychological tests) relevant to such issues as restriction of daily activities, constriction of interests, deterioration of personal habits (including personal hygiene), and impaired ability to relate to others.

The severity and duration of mental impairment(s) should be evaluated on the basis of reports from psychiatrists, psychologists, and hospitals, in conjunction with adequate descriptions of daily activites from these or other sources. Since confinement in an institution may occur because of legal or social requirements, confinement per se does not establish that impairment is severe. Similarly, release from an institution does not establish improvement. As always, severity and duration of impairment are determined by the medical evidence. A description of the individual's personal appearance and behavior at the time of the examination is also important to the evaluation process.

Diagnosis alone is insufficient as a basis for evaluation of the severity of mental impairment(s). Accordingly, the criteria of severity under mental disorders are arranged in four comprehensive groups; chronic brain syndromes (see 12.02), functional (nonorganic) psychotic disorders (see 12.03), functional nonpsychotic disorders (see 12.04), and mental retardation (see 12.05). Each category consists of a set of clinical findings, one or more of which must be met, and a set of functional restrictions, all of which must be met. The functional restrictions are to be interpreted in the light of the extent to which they are imposed by psychopathology.

The criteria for severity of mental impairment(s) are so constructed that a decision can be reached even if there are disagreements regarding diagnosis. All available clinical and laboratory evidence must be considered since it is not unusual to find, in the same individual, signs and test results associated with several pathological conditions, mental or physical. For example, an individual might show evidence of depression, chronic brain syndrome, cirrhosis of the liver, etc., in various combinations.

In some cases, the results of well-standardized psychological tests, such as the Wechsler Adult Intelligence Scale (WAIS) and the Minnesota Multiphasic Personality Inventory (MMPI), may contribute to the assessment of severity of impairment. To provide full documentation, the psychological report should include key data on which the report was based, such as MMPI profiles, WAIS subtest scores, etc.

B. *Discussion of Mental Disorders:*

1. *Chronic brain syndromes* (organic brain syndromes) result from persistent, more or less irreversible, diffuse impairment of cerebral tissue function. They are usually permanent and may be progressive. They may be accompanied by psychotic or neurotic behavior superimposed on organic brain pathology. The degree of impairment may range from mild to severe. Acute brain syndromes are temporary and reversible conditions with favorable prognosis and no significant residuals. Occasionally, an acute brain syndrome may progress into a chronic brain syndrome.

2. *Functional psychotic disorders* are characterized by demonstrable mental abnormalities without demonstrable structural changes in brain tissue. Mood disorders (involutional psychosis, manic-depressive illness, psychotic depressive reaction) or thought disorders (schizophrenias and paranoid states) are characterized by varying degrees of personality disorganization and accompanied by a corrresponding degree of inability to maintain contact with reality (e.g., hallucinations, delusions).

3. *Functional nonpsychotic disorders* are likewise characterized by demonstrable mental abnormalities without demonstrable structural changes in brain tissue (psychophysiologic, neurotic, personality and certain other nonpsychotic disorders).

a. *Psychophysiologic (autonomic and visceral) disorders* (e.g., cardiovascular, gastrointestinal, genitourinary, musculoskeletal, respiratory). In these conditions, the normal physiological expression of emotions is exaggerated by chronic emotional tensions, eventually leading to a disruption of the autonomic regulatory system and resulting in various visceral disorders. If the condition persists, it may lead to demonstrable structural changes (e.g., peptic ulcer, bronchial asthma, dermatitis).

b. *Neurotic disorders* (e.g., anxiety, depressive, hysterical, obsessive-compulsive, and phobic neuroses). In these conditions there are no gross falsifications of reality such as observed in the psychoses in the form of hallucinations or delusions. Neuroses are characterized by reactions to deep-seated conflicts and are classified by the defense mechanisms the individual employs to stave off the threat of emotional decompensation (e.g., anxiety, depression, conversion, obsessive-compulsive, or phobic mechanisms). Anxiety or depression occurring in connection with overwhelming

external situations (i.e., situational reactions) are self-limited and the symptoms usually recede when the situational stress diminishes.

c. *Other functional nonpsychotic disorders,* including paranoid, cyclothymic, schizoid, explosive, obsessive-compulsive, hysterical, asthenic, antisocial, passive-aggressive, and inadequate personality; sexual deviation; alcohol addiction and drug addiction. These disorders are characterized by deeply ingrained maladaptive patterns of behavior, generally of long duration. Unlike neurotic disorders, conflict in these cases is not primarily within the individual but between the individual and his environment. In many of these conditions, the patient may experience little anxiety and little or no sense of distress, except when anxiety and distress are consequences of maladaptive behavior.

4. *Mental retardation* denotes a lifelong condition characterized by below-average intellectual endowment as measured by well-standardized intelligence (IQ) tests and associated with impairment in one or more of the following areas: learning, maturation, and social adjustment. The degree of impairment should be determined primarily on the basis of intelligence level and the medical report. Care should be taken to ascertain that test results are consistent with daily activities and behavior. A well-standardized, comprehensive intelligence test, such as the Wechsler Adult Intelligence Scale (WAIS), should be administered and interpreted by a psychologist or psychiatrist qualified by training and experience to perform such an evaluation. In special circumstances, nonverbal measures, such as the Raven Progressive Matrices or the Arthur Point Scale, may be substituted.

Unfortunately, identical IQ scores obtained from different tests do not always reflect a similar degree of intellectual function. In this connection, it may be noted that on the WAIS, perhaps currently the most widely used measure of intellectual ability in adults, IQ's of 69 and below are characteristic of approximately the lowest 2 percent of the general population. In instances where other tests are administered, it will be necessary to convert the IQ to the corresponding percentile rank in the general population in order to determine the actual degree of impairment reflected by the IQ scores. Where more than one IQ is customarily derived from the test administered, i.e., where Verbal, Performance, and Full Scale IQ's are provided as on the WAIS, the lowest of these is to be used in conjunction with 12.05.

In cases where the nature of the individual's impairment is such that testing, as described above, is precluded, medical reports specifically describing the level of intellectual, social, and physical function should be obtained. Actual observations by district office or State DDS personnel, reports from educational institutions, and information furnished by public welfare agencies or other reliable, objective sources should be considered as additional evidence.

12.01 Category of Impairments, Mental

12.02 *Chronic brain syndromes* (organic brain syndromes). With both A and B:

A. Demonstrated deterioration in intellectual functioning, manifested by persistence of one or more of the following clincial signs:

1. Marked memory defect for recent events; or

2. Impoverished, slowed, perseverative thinking, with confusion or disorientation; or

3. Labile, shallow, or coarse affect;

B. Resulting persistence of marked restriction of daily activities and constriction of interests and deterioration in personal habits and seriously impaired ability to relate to other people.

12.03 *Functional psychotic disorders* (mood disorders, schizophrenias, paranoid states). With both A and B:

A. Manifested persistence of one or more of the following clinical signs:

1. Depression (or elation); or

2. Agitation; or

3. Psychomotor disturbances; or

4. Hallucinations or delusions; or

5. Autistic or other regressive behavior; or

6. Inappropriateness of affect; or

7. Illogical association of ideas;

B. Resulting persistence of marked restriction of daily activities and constriction of interests and seriously impaired ability to relate to other people.

12.04 *Functional nonpsychotic disorders* (psychophysiologic, neurotic, and personality disorders; addictive dependence on alcohol or drugs). With both A and B:

A. Manifested persistence of one or more of the following clinical signs:

1. Demonstrable and persistent structural changes mediated through psychophysiological channels (e.g., duodenal ulcer); or

2. Recurrent and persistent periods of anxiety, with tension, apprehension, and interference with concentration and memory; or

3. Persistent depressive affect with insomnia, loss of weight, and suicidal preoccupation; or

4. Persistent phobic or obsessive ruminations with inappropriate, bizarre, or disruptive behavior; or

5. Persistent compulsive, ritualistic behavior; or

6. Persistent functional disturbance of vision, speech, hearing, or use of a limb with demonstrable structural or trophic changes; or

7. Persistent, deeply ingrained, maladaptive patterns of behavior manifested by either:

a. Seclusiveness or autistic thinking; or

b. Pathologically inappropriate suspiciousness or hostility;

B. Resulting persistence of marked restriction of daily activities and constriction of interests and deterioration in personal habits and seriously impaired ability to relate to other people.

12.05 *Mental retardation.* As manifested by:

A. Severe mental and social incapacity as evidenced by marked dependence upon others for personal needs (e.g., bathing, washing, dressing, etc.) and inability to understand the spoken word and inability to avoid physical danger (fire, cars, etc.) and inability to follow simple directions and inability to read, write, and perform simple calculations; or

B. IQ of 59 or less (see 12.00B4); or

C. IQ of 60 to 69 inclusive (see 12.00B4) and a physical or other mental impairment imposing additional and significant work-related limitation of function.

13.00 Neoplastic Disease—Malignant

A. *Introduction:* The determination of the level of severity resulting from malignant tumors is made from a consideration of the site of the lesion, the histogenesis of the tumor, the extent of involvement, the apparent adequacy and response to therapy (surgery, irradiation, hormones, chemotherapy, etc.), and the magnitude of the post-therapeutic residuals.

B. *Documentation:* The diagnosis of malignant tumor should be established on the basis of symptoms, signs, and laboratory findings. The site of the primary, recurrent, and metastatic lesion must be specified in all cases of malignant neoplastic diseases. If an operative procedure has been performed, the evidence should include a copy of the operative note and the report of the gross and microscopic examination of the surgical specimen. If these documents are not obtainable, then the summary of hospitalization or a report from the treating physician must include details of the findings at surgery and the results of the pathologist's gross and microscopic examination of the tissues.

For those cases in which a disabling impairment was not established when therapy was begun but progression of the disease is likely, current medical evidence should include a report of a recent examination directed especially at local or regional recurrence, soft part or skeletal metastases, and significant posttherapeutic residuals.

C. *Evaluation:* Usually, when the malignant tumor consists only of a local lesion with metastasis to the regional lymph nodes which apparently has been completely excised, imminent recurrence or metastasis is not anticipated. Exceptions are noted in 13.02E, 13.03, 13.05B, 13.09 B and E, 13.11 A and F, 13.13B, 13.16 B and C, 13.21B, 13.22 A and B, and 13.24A. For adjudicative purposes, "distant metastasis" or "metastasis beyond the regional lymph nodes" refers to metastasis beyond the lines of the usual radical en bloc resection.

Local or regional recurrence after radical surgery or pathological evidence of incomplete excision by radical surgery is to be equated with unresectable lesions (except for carcinoma of the breast, 13.09C) and, for the purposes of our program, may be evaluated as "inoperable." These situations are usually followed by severe impairment within 6 months to 1 year.

Local or regional recurrence after incomplete excision of a localized and still completely resectable tumor is not to be equated with recurrence after radical surgery. In the evaluation of lymphomas, the tissue type and site of involvement are not necessarily indicators of the severity of the impairment.

When a malignant tumor has metastasized beyond the regional lymph nodes, the impairment usually will be considered to be severe. Exceptions are hormone-dependent tumors, isotope-sensitive metastases,

metastases from seminoma of the testicles which are controlled by definitive therapy, or distant metastases which have apparently disappeared and have not been evident for 3 or more years.

D. *Effects of therapy.* Significant posttherapeutic residuals, not specifically included in the category of impairments for malignant neoplasms, should be evaluated according to the affected body system.

Where the impairment is not listed in the Listing of Impairments and is not medically equivalent to a listed impairment, the impact of any residual impairment including that caused by therapy must be considered. The therapeutic regimen and consequent adverse response to therapy may vary widely; therefore, each case must be considered on an individual basis. It is essential to obtain a specific description of the therapeutic regimen, including the drugs given, dosage, frequency of drug administration, and plans for continued drug administration. It is necessary to obtain a description of the complications or any other adverse response to therapy such as nausea, vomiting, diarrhea, weakness, dermatologic disorders, or reactive mental disorders. Since the severity of the adverse effects of anticancer chemotherapy may change during the period of drug administration, the decision regarding the impact of drug therapy should be based on a sufficient period of therapy to permit proper consideration.

E. *Onset.* To establish onset of disability prior to the time a malignancy is first demonstrated to be inoperable or beyond control by other modes of therapy (and prior evidence is nonexistent) requires medical judgment based on medically reported symptoms, the type of the specific malignancy, its location, and extent of involvement when first demonstrated.

13.01 Category of Impairments, Neoplastic Diseases—Malignant

13.02 *Head and neck* (except salivary glands—13.07, thyroid gland—13.08, and mandible, maxilla, orbit, or temporal fossa—13.11):

A. Inoperable; or

B. Not controlled by prescribed therapy; or

C. Recurrent after radical surgery or irradiation; or

D. With distant metastasis; or

E. Epidermoid carcinoma occurring in the pyriform sinus or posterior third of the tongue.

13.03 *Sarcoma of skin:*

A. Angiosarcoma with metastasis to regional lymph nodes or beyond; or

B. Mycosis fungoides with lymph node or visceral involvement.

13.04 *Sarcoma of soft parts:* Not controlled by prescribed therapy.

13.05 *Malignant melanoma:*

A. Recurrent after wide excision; or

B. With metastasis to adjacent skin (satellite lesions) or elsewhere.

13.06 *Lymph nodes:*

A. Hodgkin's disease or non-Hodgkin's lymphoma with progressive disease not controlled by prescribed therapy; or

B. Metastatic carcinoma in a lymph node (except for epidermoid carcinoma in a lymph node in the neck) where the primary site is not determined after adequate search; or

C. Epidermoid carcinoma in a lymph node in the neck not responding to prescribed therapy.

13.07 *Salivary glands*—carcinoma or sarcoma with metastasis beyond the regional lymph nodes.

13.08 *Thyroid gland*—carcinoma with metastasis beyond the regional lymph nodes, not controlled by prescribed therapy.

13.09 *Breast:*

A. Inoperable carcinoma; or

B. Inflammatory carcinoma; or

C. Recurrent carcinoma, except local recurrence controlled by prescribed therapy; or

D. Distant metastasis from breast carcinoma (bilateral breast carcinoma, synchronous or metachronus, is usually primary in each breast); or

E. Sarcoma with metastasis anywhere.

13.10 *Skeletal system* (exclusive of the jaw):

A. Malignant primary tumors with evidence of metastases and not controlled by prescribed therapy; or

B. Metastatic carcinoma to bone where the primary site is not determined after adequate search.

13.11 *Mandible, maxilla, orbit, or temporal fossa:*

A. Sarcoma of any type with metastasis; or

B. Carcinoma of the antrum with extension into the orbit or ethmoid or sphenoid sinus, or with regional or distant metastasis; or

C. Orbital tumors with intracranial extension; or

D. Tumors of the temporal fossa with perforation of skull and meningeal involvement; or

E. Adamantinoma with orbital or intracranial infiltration; or

F. Tumors of Rathke's pouch with infiltration of the base of the skull or metastasis.

13.12 *Brain or spinal cord:*

A. Metastatic carcinoma to brain or spinal cord.

B. Evaluate other tumors under the criteria described in 11.05 and 11.08.

13.13 *Lungs:*

A. Unresectable; or

B. With metastases; or

C. Recurrent after resection; or

D. Incomplete excision; or

E. Oat cell carcinoma.

13.14 *Pleura or mediastinum:*

A. Malignant mesothelioma of pleura; or

B. Malignant tumors, metastatic to pleura; or

C. Malignant primary tumor of the mediastinum not controlled by prescribed therapy.

13.15 *Abdomen:*

A. Generalized carcinomatosis; or

B. Retroperitoneal cellular sarcoma not controlled by prescribed therapy; or

C. Ascites with demonstrated malignant cells.

13.16 *Esophagus or stomach:*

A. Carcinoma or sarcoma of the upper two-thirds of the esophagus; or

B. Carcinoma or sarcoma of the distal one-third of the esophagus with metastasis to the regional lymph nodes or extension to surrounding structures; or

C. Carcinoma of the stomach with metastasis to the regional lymph nodes or extension to surrounding structures; or

D. Sarcoma of stomach not controlled by prescribed therapy; or

E. Inoperable carcinoma; or

F. Recurrence or metastasis after resection.

13.17 *Small intestine:*

A. Carcinoma, sarcoma, or carcinoid tumor with metastasis beyond the regional lymph nodes; or

B. Recurrence of carcinoma, sarcoma, or carcinoid tumor after resection; or

C. Sarcoma, not controlled by prescribed therapy.

13.18 *Large intestine* (from ileocecal valve to and including anal canal)—carcinoma or sarcoma.

A. Unresectable; or

B. Metastasis beyond the regional lymph nodes, or

C. Recurrence or metastasis after resection.

13.19 *Liver or gallbladder:*

A. Primary or metastatic malignant tumors of the liver; or

B. Carcinoma of the gallbladder; or

C. Carcinoma of the bile ducts, unresectable or with metastases.

13.20 *Pancreas:*

A. Carcinoma except islet cell carcinoma; or

B. Islet cell carcinoma which is unresectable and physiologically active.

13.21 *Kidneys, adrenal glands, or ureters*—carcinoma.

A. Unresectable; or

B. With metastasis.

13.22 *Urinary bladder*—carcinoma. With:

A. Infiltration beyond the bladder wall; or

B. Metastasis; or

C. Unresectable; or

D. Recurrence after total cystectomy; or

E. Evaluate urinary diversion after total cystectomy under the criteria in 6.02,

13.23 *Prostate gland*—carcinoma not controlled by prescribed therapy.

13.24 *Testicles:*

A. Choriocarcinoma; or

B. Other malignant primary tumors with progressive disease not controlled by prescribed therapy.

13.25 *Uterus*—carcinoma or sarcoma (corpus or cervix).

A. Inoperable and not controlled by prescribed therapy; or

B. Recurrent after total hysterectomy; or

C. Total pelvic exenteration.

13.26 *Ovaries*—all malignant, primary or recurrent tumors. With:

A. Ascites with demonstrated malignant cells; or

B. Unresectable infiltration; or

C. Unresectable metastasis to omentum or elsewhere in the peritoneal cavity; or

D. Distant metastasis.

13.27 *Leukemia:* Evaluate under the criteria of 7.00ff, Hemic and Lymphatic System.

13.28 *Uterine (Fallopian) tubes*—carcinoma or sarcoma, unresectable or with metastasis.

Part B

Medical criteria for the evaluation of impairments of children under age 16 (where criteria in Part A do not give appropriate

consideration to the particular disease

101.00 Musculoskeletal System

signs or drainage for at least 6 months despite prescribed therapy and consistent

2. Speech discrimination scores at 40 percent or less in the better ear; or

2. Persistent or recurrent abnormal breath sounds; bilateral rales or rhonchi; and

E. Evidence of pulmonary edema, such as rales or orthopnea.

consideration to the particular disease process in childhood).

Sec.
100.00 Growth Impairment.
101.00 Musculoskeletal System.
102.00 Special Senses and Speech.
103.00 Respiratory System.
104.00 Cardiovascular System.
105.00 Digestive System.
106.00 Genito-Urinary System.
107.00 Hemic and Lymphatic System.
109.00 Endocrine System.
110.00 Multiple Body Systems.
111.00 Neurological.
112.00 Mental and Emotional Disorders.
113.00 Neoplastic Diseases—Malignant.

100.00 Growth impairment

A. *Impairment of growth* may be disabling in itself or it may be an indicator of the severity of the impairment due to a specific disease process.

Determinations of growth impairment should be based upon the comparison of current height with at least three previous determinations, including length at birth, if available. Heights (or lengths) should be plotted on a standard growth chart, such as derived from the National Center for Health Statistics: NCHS Growth Charts. Height should be measured without shoes. Body weight corresponding to the ages represented by the heights should be furnished. The adult heights of the child's natural parents and the heights and ages of siblings should also be furnished. This will provide a basis upon which to identify those children whose short stature represents a familial characteristic rather than a result of disease. This is particularly true for adjudication under 100.02B.

B. *Bone age determinations* should include a full descriptive report of roentgenograms specifically obtained to determine bone age and must cite the standardization method used. Where roentgenograms must be obtained currently as a basis for adjudication under 100.03, views of the left hand and wrist should be ordered. In addition, roentgenograms of the knee and ankle should be obtained when cessation of growth is being evaluated in an older child at, or past, puberty.

C. The criteria in this section are applicable until closure of the major epiphyses. The cessation of significant increase in height at that point would prevent the application of these criteria.

100.01 Category of impairments, growth

100.02 *Growth impairment,* considered to be related to an additional specific medically determinable impairment, and one of the following:

A. Fall of greater than 15 percentiles in height which is sustained; or

B. Fall to, or persistence of, height below the third percentile.

100.03 *Growth impairment,* not identified as being related to an additional, specific medically determinable impairment. With:

A. Fall of greater than 25 percentiles in height which is sustained; and

B. Bone age greater than two standard deviations (2 SD) below the mean for chronological age (see 100.00B).

101.00 Musculoskeletal System

A. *Rheumatoid arthritis.* Documentation of the diagnosis of juvenile rheumatoid arthritis should be made according to an established protocol, such as that published by the Arthritis Foundation, *Bulletin on the Rheumatic Diseases.* Vol. 23, 1972–1973 Series, p. 712. Inflammatory signs include persistent pain, tenderness, erythema, swelling, and increased local temperature of a joint.

B. *The measurements of joint motion* are based on the technique for measurements described in the "Joint Method of Measuring and Recording," published by the American Academy of Orthopedic Surgeons in 1965, or "The Extremities and Back" in *Guides to the Evaluation of Permanent Impairment,* Chicago, American Medical Association, 1971 Chapter 1, pp. 1–48.

C. *Degenerative arthritis* may be the end stage of many skeletal diseases and conditions, such as traumatic arthritis, collagen disorders, septic arthritis, congenital dislocation of the hip, aseptic necrosis of the hip, slipped capital femoral epiphyses, skeletal dysplasias, etc.

101.01 Category of impairments, musculoskeletal

101.02 *Juvenile rheumatoid arthritis.* With:

A. Persistence or recurrence of joint inflammation despite six months of medical treatment and one of the following:

1. Limitation of motion of two major joints of 50 percent or greater; or

2. Fixed deformity of two major weight-bearing joints of 30 degrees or more; or

3. Radiographic changes of joint narrowing, erosion, or subluxation; or

4. Persistent or recurrent systemic involvement such as iridocyclitis or pericarditis or

B. Steroid dependence.

101.03 *Deficit of musculoskeletal function* due to deformity or musculoskeletal disease and one of the following:

A. Walking is markedly reduced in speed or distance despite orthotic or prosthetic devices; or

B. Ambulation is possible only with obligatory bilateral upper limb assistance (e.g., with walker, crutches); or

C. Inability to perform age-related personal self-care activities involving feeding, dressing, and personal hygiene

101.05 *Disorders of the spine.*

A. Fracture of vertebra with cord involvement (substantiated by appropriate sensory and motor loss).

B. Scoliosis (congenital idiopathic or neuromyopathic). With:

1. Major spinal curve measuring 60 degrees or greater; or

2. Spinal fusion of six or more levels. Consider under a disability for one year from the time of surgery; thereafter evaluate the residual impairment; or

3. FEV (vital capacity) of 50 percent or less of predicted normal values for the individual's measured (actual) height.

C. Kyphosis or lordosis measuring 90 degrees or greater.

101.06 *Chronic osteomyelitis* with persistence or recurrence of inflammatory signs or drainage for at least 6 months despite prescribed therapy and consistent radiographic findings.

102.00 Special Senses and Speech

A. *Visual impairments in children.* Impairment of central visual acuity should be determined with use of the standard Snellen test chart. Where this cannot be used, as in very young children, a complete description should be provided of the findings using other appropriate methods of examination, including a description of the techniques used for determining the central visual acuity for distance.

The accommodative reflex is generally not present in children under 6 months of age. In premature infants, it may not be present until 6 months plus the number of months the child is premature. Therefore absence of accommodative reflex will be considered as indicating a visual impairment only in children above this age (6 months).

Documentation of an ophthalmologic disorder must include description of the ocular pathology.

B. *Hearing impairments in children.* The criteria for hearing impairments in children take into account that a lesser impairment in hearing which occurs at an early age may result in a severe speech and language disorder.

Improvement by a hearing aid, as predicted by the testing procedure, must be demonstrated to be feasible in that child, since younger children may be unable to use a hearing aid effectively.

The type of audiometric testing performed must be described and a copy of the results must be included. The pure tone air conduction in 102.08 are based on American National Standard Institute Specifications for Audiometers, S3.6–1969 (ANSI–1969). The report should indicate the specifications used to calibrate the audiometer.

The finding of a severe impairment will be based on the average hearing levels at 500, 1000, 2000, and 3000 Hertz (Hz) in the better ear, and on speech discrimination, as specified in § 102.08.

102.01 Category of impairments, special sense organs

102.02 *Impairment of central visual acuity.*

A. Remaining vision in the better eye after best correction is 20/200 or less.

B. For children below 3 years of age at time of adjudication:

1. Absence of accommodative reflex (see 102.00A for exclusion of children under 6 months of age); or

2. Retrolental fibroplasia with macular scarring or neovascularization; or

3. Bilateral congenital cataracts with visualization of retinal red reflex only or when associated with other ocular pathology.

102.08 *Hearing impairments.*

A. For children below 5 years of age at time of adjudication, inability to hear air conduction thresholds at an average of 40 decibels (db) hearing level or greater in the better ear.

B. For children 5 years of age and above at time of adjudication:

1. Inability to hear air conduction thresholds at an average of 70 decibels (db) or greater in the better ear; or

2. Speech discrimination scores at 40 percent or less in the better ear; or

3. Inability to hear air conduction thresholds at an average of 40 decibels (db) or greater in the better ear, and a speech and language disorder which significantly affects the clarity and content of the speech and is attributable to the hearing impairment.

103.00 Respiratory System

A. *Documentation of pulmonary insufficiency.* The reports of spirometric studies for evaluation under Table I must be expressed in liters. The reported FEV_1 should represent the largest of at least three satisfactory attempts, and should be within 10 percent of another FEV_1. The appropriately labeled spirometric tracing of three FEV maneuvers must be submitted with the report, showing distance per second on the abscissa and distance per liter on the ordinate. The unit distance for volume on the tracing should be at least 15 mm. per liter and the paper speed at least 20 mm. per second. The height of the individual without shoes must be recorded.

The ventilatory function studies should not be performed during or soon after an acute episode or exacerbation of a respiratory illness. In the presense of acute bronchospasm, or where the FEV_1 is less than that stated in Table I, the studies should be repeated after the administration of a nebulized bronchodilator. If bronchodilator was not used in such instances, the reason should be stated in the report.

A statement should be made as to the child's ability to understand directions and the cooperate in performance of the test, and should include an evaluation of the child's effort. When tests cannot be performed or completed, the reason (such as a child's young age) should be stated in the report.

B. *Cystic fibrosis.* This section discusses only the pulmonary manifestations of cystic fibrosis. Other manifestations, complications, or associated disease must be evaluated under the appropriate section.

The diagnosis of cystic fibrosis will be based upon appropriate history, physical examination, and pertinent laboratory findings. Confirmation based upon elevated concentration of sodium or chloride in the sweat should be included, with indication of the technique used for collection and analysis.

103.01 Category of impairments, respiratory

103.03 *Bronchial asthma.* With evidence of progression of the disease despite therapy and documented by one of the following:

A. Recent, recurrent intense asthmatic attacks requiring parenteral medication; or

B. Persistent prolonged expiration with wheezing between acute attacks and radiographic findings of peribronchial disease.

103.13 *Pulmonary manifestations of cystic fibrosis.* With:

A. FEV_1 equal to or less than the values specified in Table I (see § 103.00A for requirements of ventilatory function testing); or

B. For children where ventilatory function testing cannot be performed:

1. History of dyspnea on mild exertion or chronic frequent productive cough; and

2. Persistent or recurrent abnormal breath sounds; bilateral rales or rhonchi; and

3. Radiographic findings of extensive disease with hyperaeration and bilateral peribronchial infiltration.

Table I

Height (in centimeters)	FEV_1 equal to or less than (liters)
110 or less	0.6
120	0.7
130	0.9
140	1.1
150	1.3
160	1.5
170 or more	1.6

104.00 Cardiovascular System

A. *General.* Evaluation should be based upon history, physical findings, and appropriate laboratory data. Reported abnormalities should be consistent with the pathologic diagnosis. The actual electrocardiographic tracing, or an adequate marked photocopy, must be included. Reports of other pertinent studies necessary to substantiate the diagnosis or describe the severity of the impairment must also be included.

B. *Evaluation of cardiovascular impairments in children* requires two steps:

1. The delineation of a specific cardiovascular disturbance, either congenital or acquired. This may include arterial or venous disease, rhythm disturbance, or disease involving the valves, septa, myocardium or pericardium; and

2. Documentation of the severity of the impairment, with medically determinable and consistent cardiovascular signs, symptoms, and laboratory data. In cases where impairment characteristics are questionably secondary to the cardiovascular disturbance, additional documentation of the severity of the impairment (e.g., catherization data, if performed) will be necessary.

C. *Chest roentgenogram* (6 ft. PA film) will be considered indicative of cardiomegaly if:

1. The cardiothoracic ratio is over 60 percent at age one year or less, or 55 percent at more than one year of age; or

2. The cardiac size is increased over 15 percent from any prior chest roentgenograms; or

3. Specific chamber or vessel enlargement is documented in accordance with established criteria.

D. *Tables I, II, and III* below are designed for case adjudication and not for diagnostic purposes. The adult criteria may be useful for older children and should be used when applicable.

E. *Rheumatic fever,* as used in this section assumes diagnoses made according to the revised Jones Criteria.

104.01 Category of impairments, cardiovascular

104.02 *Chronic congestive failure.* With two or more of the following signs:

A. Tachycardia (see Table I).

B. Tachypnea (see Table II).

C. Cardiomegaly on chest roentgenogram (see 104.00C).

D. Hepatomegaly (more than 2 cm. below the right costal margin in the right midclavicular line).

E. Evidence of pulmonary edema, such as rales or orthopnea.

F. Dependent edema.

G. Exercise intolerance manifested as labored respiration on mild exertion (e.g., in an infant, feeding).

Table I—Tachycardia at Rest

Age	Apical Heart (beats per minute)
Under 1 yr	150
1 through 3 yr	130
4 through 9 yr	120
10 through 15 yr	110
Over 15 yr	100

Table II.—*Tachypnea at Rest*

Age	Respiratory rate over (per minute)
Under 1 yr	40
1 through 5 yr	35
6 through 9 yr	30
Over 9 yr	25

104.03 *Hypertensive cardiovascular disease.* With persistently elevated blood pressure for age (see Table III) and one of the following:

A. Impaired renal function as described under the criteria in 106.02; or

B. Cerebrovascular damage as described under the criteria in 111.06; or

C. Congestive heart failure as described under the criteria in 104.02.

Table III.—*Elevated Blood Pressure*

Age	S (over) mm.	Diastolic (over) in mm.
Under 6 mo	95	60
6 mo. to 1 yr	110	70
1 through 8 yrs	115	80
9 through 11 yrs	120	80
12 through 15 yrs	130	80
Over 15 yrs	140	80

104.04 Cyanotic congenital heart disease. With one of the following:

A. Surgery is limited to palliative measures; or

B. Characteristics squatting, hemoptysis, syncope, or hypercyanotic spells; or

C. Chronic hematocrit of 55 percent or greater or arterial O_2 saturation of less than 90 percent at rest, or arterial oxygen tension of less than 60 Torr at rest.

104.05 *Cardiac arrhythmia, such as persistent or recurrent heart block or A–V dissociation (with or without therapy).* And one of the following:

A. Cardiac syncope; or

B. Congestive heart failure as described under the criteria in 104.02; or

C. Exercise intolerance with labored respirations on mild exertion (e.g., in infants, feeding).

104.07 *Cardiac syncope* with at least one documented syncopal episode characteristic of specific cardiac disease (e.g., aortic stenosis).

104.08 *Recurrent hemoptysis.* Associated with either pulmonary hypertension or extensive bronchial collaterals due to documented chronic cardiovascular disease.

104.09 *Chronic rheumatic fever or rheumatic heart disease.* With:

A. Persistence of rheumatic fever activity for 6 months or more, with significant murmur(s), cardiomegaly (see 104.00C), and

other abnormal laboratory findings (such as elevated sedimentation rate or electrocardiographic findings); or

B. Congestive heart failure as described under the criteria in 104.02.

105.00 Digestive System

A. *Disorders of the digestive system* which result in disability usually do so because of interference with nutrition and growth, multiple recurrent inflammatory lesions, or other complications of the disease. Such lesions or complications usually respond to treatment. To constitute a listed impairment, these must be shown to have persisted or be expected to persist despite prescribed therapy for a continuous period of at least 12 months.

B. *Documentation of gastrointestinal impairments* should include pertinent operative findings, radiographic studies, endoscopy, and biopsy reports. Where a liver biopsy has been performed in chronic liver disease, documentation should include the report of the biopsy.

C. *Growth retardation and malnutrition.* When the primary disorder of the digestive tract has been documented, evaluate resultant malnutrition under the criteria described in 105.08. Evaluate resultant growth impairment under the criteria described in 100.03. Intestinal disorders, including surgical diversions and potentially correctable congenital lesions, do not represent a severe impairment if the individual is able to maintain adequate nutrition growth, and development.

D. *Multiple congenital anomalies.* See related criteria, and consider as a combination of impairments.

105.01 Category of impairments, digestive

105.03 *Esophageal obstruction, caused by atresia, stricture, or stenosis* with malnutrition as described under the criteria in 105.08.

105.06 *Chronic liver disease.* With one of the following:

A. Inoperable billiary atresia demonstrated by X-ray or surgery; or

B. Intractable ascites not attributable to other causes, with serum albumin of 3.0 gm./100 ml. or less; or

C. Esophageal varices (demonstrated by angiography, barium swallow, or endoscopy or by prior performance of a specific shunt or plication procedure); or

D. Hepatic coma, documentated by findings from hospital records; or

E. Hepatic encephalopathy. Evaluate under the criteria in 112.02; or

F. Chronic active inflammation or necrosis documented by SGOT persistently more than 100 units or serum bilirubin of 2.5 mg. percent or greater.

105.07 *Chronic inflammatory bowel disease (such as ulcerative colitis, regional enteritis), as documented in 105.00.* With one of the following:

A. Intestinal manifestations or complications, such as obstruction, abscess, or fistula formation which has lasted or is expected to last 12 months; or

B. Malnutrition as described under the criteria in 105.08; or

C. Growth impairment as described under the criteria in 100.03.

105.08 *Malnutrition, due to demonstrable gastrointestinal disease causing either a fall of 15 percentiles of weight which persists or the persistence of weight which is less than the third percentile (on standard growth charts).* And one of the following:

A. Stool fat excretion per 24 hours:

1. More than 15 percent in infants less than 6 months.

2. More than 10 percent in infants 6–18 months.

3. More than 6 percent in children more than 18 months; or

B. Persistent hematocrit of 30 percent or less despite prescribed therapy; or

C. Serum carotene of 40 mcg./100 ml. or less; or

D: Serum albumin of 3.0 gm./100 ml. or less.

106.00 Genito-Urinary System

A. *Determination of the presence of chronic renal disease* will be based upon the following factors:

1. History, physical examination, and laboratory evidence of renal disease.

2. Indications of its progressive nature or laboratory evidence of deterioration of renal function.

B. *Renal transplant.* The amount of function restored and the time required to effect improvement depend upon various factors including adequacy of post-transplant renal function, incidence of renal infection, occurrence of rejection crisis, presence of systemic complications (anemia, neuropathy, etc.) and side effects of corticosteroid or immuno-suppressive agents. A period of at least 12 months is required for the individual to reach a point of stable medical improvement.

C. Evaluate associated disorders and complications according to the appropriate body system listing.

106.01 Category of impairments, genito-urinary

106.02 *Chronic renal disease.* With:

A. BUN of 30 mg./100 ml. or greater; or

B. Serum creatinine of 3.0 mg./100 ml. or greater; or

C. Creatinine clearance equal to or less than 42 ml./min./1.73 m^2; or

D. Chronic renal dialysis program for irreversible renal failure; or

E. Renal transplant. Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see 106.00B).

106.06 Nephrotic syndrome, with edema not controlled by prescribed therapy. And:

A. Serum albumin less than 2 gm./100 ml.; or

B. Proteinuria more than 2.5 gm./1.73m^2/day.

107.00 Hemic and Lymphatic System

A. *Sickle cell disease* refers to a chronic hemolytic anemia associated with sickle cell hemoglobin, either homozygous or in combination with thalassemia or with another abnormal hemoglobin (such as C or F).

Appropriate hematologic evidence for sickle cell disease, such as hemoglobin electrophoresis must be included. Vaso-occlusive, hemolytic, or aplastic episodes should be documented by description of severity, frequency, and duration.

Disability due to sickle cell disease may be solely the result of a severe, persistent anemia or may be due to the combination of chronic progressive or episodic manifestations in the presence of a less severe anemia.

Major visceral episodes causing disability include meningitis, osteomyelitis, pulmonary infections or infarctions, cerebrovascular accidents, congestive heart failure, genitourinary involvement, etc.

B. *Coagulation defects.* Chronic inherited coagulation disorders must be documented by appropriate laboratory evidence such as abnormal thromboplastin generation, coagulation time, or factor assay.

C. *Acute leukemia.* Initial diagnosis of acute leukemia must be based upon definitive bone marrow pathologic evidence. Recurrent disease may be documented by peripheral blood, bone marrow, or cerebrospinal fluid examination. The pathology report must be included.

The designated duration of disability implicit in the finding of a listed impairment is contained in 107.11. Following the designated time period, a documented diagnosis itself is no longer sufficient to establish a severe impairment. The severity of any remaining impairment must be evaluated on the basis of the medical evidence.

107.01 category of impairments, hemic and lymphatic

107.03 *Hemolytic anemia (due to any cause).* Manifested by persistence of hematocrit of 26 percent or less despite prescribed therapy, and reticulocyte count of 4 percent or greater.

107.05 *Sickle cell disease.* With:

A. Recent, recurrent, severe vaso-occlusive crises (musculoskeletal, vertebral, abdominal); or

B. A major visceral complication in the 12 months prior to application; or

C. A hyperhemolytic or aplastic crisis within 12 months prior to application; or

D. Chronic, severe anemia with persistence of hematocrit of 26 percent or less; or

E. Congestive heart failure, cerebrovascular damage, or emotional disorder as described under the criteria in 104.02, 111.00ff, or 112.00ff.

107.06 *Chronic idiopathic thrombocytopenic purpura of childhood* with purpura and thrombocytopenia of 40,000 platelets/cu. mm. or less despite prescribed therapy or recurrent upon withdrawal of treatment.

107.08 *Inherited coagulation disorder.* With:

A. Repeated spontaneous or inappropriate bleeding; or

B. Hemarthrosis with joint deformity.

107.11 *Acute leukemia.* Consider under a disability:

A. For 2½ years from the time of initial diagnosis; or

B. For 2½ years from the time of recurrence of active disease.

109.00 Endocrine System

A. *Cause of disability.* Disability is caused by a disturbance in the regulation of the

secretion or metabolism of one or more hormones which are not adequately controlled by therapy. Such disturbances or abnormalities usually respond to treatment. To constitute a listed impairment these must be shown to have persisted or be expected to persist despite prescribed therapy for a continuous period of at least 12 months.

B. *Growth.* Normal growth is usually a sensitive indicator of health as well as of adequate therapy in children. Impairment of growth may be disabling in itself or may be an indicator of a severe disorder involving the endocrine system or other body systems. Where involvement of other organ systems has occurred as a result of a primary endocrine disorder, these impairments should be evaluated according to the criteria under the appropriate sections.

C. *Documentation.* Description of characteristic history, physical findings, and diagnostic laboratory data must be included. Results of laboratory tests will be considered abnormal if outside the normal range or greater than two standard deviations from the mean of the testing laboratory. Reports in the file should contain the information provided by the testing laboratory as to their normal values for that test.

D. *Hyperfunction of the adrenal cortex.* Evidence of growth retardation must be documented as described 100.00. Elevated blood or urinary free cortisol levels are not acceptable in lieu of urinary 17-hydroxycorticosteroid excretion for the diagnosis of adrenal cortical hyperfunction.

E. *Adrenal cortical insufficiency.* Documentation must include persistent low plasma cortisol or low urinary 17-hydroxycorticosteroids or 17-ketogenic steroids and evidence of unresponsiveness to ACTH stimulation.

109.01 Category of impairments, endrocrine

109.02 *Thyroid Disorders.*

A. *Hyperthyroidism (as documented in 109.00C).* With clinical manifestations despite prescribed therapy, and one of the following:

1. Elevated serum thyroxine (T_4) and either elevated free T^4 or resin T_3 uptake; or

2. Elevated thyroid uptake of radioiodine; or

3. Elevated serum triiodothyronine (T_3).

B. *Hypothyrodism.* With one of the following, despite prescribed therapy:

1. IQ of 69 or less; or

2. Growth impairment as described under the criteria in 100.02 A and B; or

3. Precocious puberty.

109.03 *Hyperparathyroidism (as documented in 109.00C).* With:

A. Repeated elevated total or ionized serum calcium; or

B. Elevated serum parathyroid hormone.

109.04 *Hypoparathyroidism or Pseudo-hypoparathyroidism.* With:

A. Severe recurrent tetany or convulsions which are unresponsive to prescribed therapy; or

B. Growth retardation as described under the criteria in 100.02 A and B.

109.05 *Diabetes insipidus, documented by pathologic hypertonic saline or water deprivation test.* And one of the following:

A. Intracranial space-occupying lesion, before or after surgery; or

B. Unresponsiveness to Pitressin; or

C. Growth retardation as described under the criteria in 100.02 A and B; or

D. Unresponsive hypothalmic thirst center, with chronic or recurrent hypernatremia; or

E. Decreased visual fields attributable to a pituitary lesion.

109.06 *Hyperfunction of the adrenal cortex (Primary or secondary).* With:

A. Elevated urinary 17-hyroxycorticosteroids (or 17-ketogenic steroids) as documented in 109.00 C and D; and

B. Unresponsiveness to low-dose dexamethasone suppression.

109.07 *Adrenal cortical insufficiency (as documented in 109.00 C and E)* with recent, recurrent episodes of circulatory collapse.

109.08 *Juvenile diabetes mellitus (as documented in 109.00C) requiring parenteral insulin.* And one of the following, despite prescribed therapy:

A. Recent, recurrent hospitalizations with acidosis; or

B. Recent, recurrent episodes of hypoglycemia; or

C. Growth retardation as described under the criteria in 100.02 A or B; or

D. Impaired renal function as described under the criteria in 106.00ff.

109.09 *Iatrogenic hypercorticoid state.* With chronic glucocorticoid therapy resulting in one of the following:

A. Osteoporosis; or

B. Growth retardation as described under the criteria in 100.02 A or B; or

C. Diabetes mellitus as described under the criteria in 109.08; or

D. Myopathy as described under the criteria in 111.08; or

E. Emotional disorder as described under the criteria in 112.00ff.

109.10 *Pituitary dwarfism (with documented growth hormone deficiency).* And growth impairment as described under the criteria in 100.2B.

109.11 *Adrenogenital syndrome.* With:

A. Recent, recurrent self-losing episodes despite prescribed therapy; or

B. Inadequate replacement therapy manifested by accelerated bone age and virilization, or

C. Growth impairment as described under the criteria in 100.02 A or B.

109.12 *Hypoglycemia (as documented in 109.00C).* With recent, recurrent hypoglycemic episodes producing convulsion or coma.

109.13 *Gonadal Dysgenesis (Turner's Syndrome), chromosomally proven.* Evaluate the resulting impairment under the criteria for the appropriate body system.

110.00 Multiple Body Systems

A. *Catastrophic congenital abnormalities or disease.* This section refers only to very serious congenital disorders, diagnosed in the newborn or infant child.

B. *Immune deficiency diseases.* Documentation of immune deficiency disease must be submitted, and may include quantitative immunoglobulins, skin tests for delayed hypersensitivity, lymphocyte stimulative tests, and measurements of cellular immunity mediators.

110.01 Category of impairments, mutiple body systems

110.08 *Catastrophic congenital abnormalities or disease.* With:

A. A positive diagnosis (such as anencephaly, trisomy D or E, cyclopia, etc.), generally regarded as being incompatible with extrauterine life; or

B. A positive diagnosis (such as cri du chat, Tay-Sachs Disease) wherein attainment of the growth and development level of 2 years is not expected to occur.

110.09 *Immune deficiency disease.*

A. *Hypogammaglobulinemia or dysgammaglobulinemia.* With:

1. Recent, recurrent severe infections; or

2. A complication such as growth retardation, chronic lung disease, collagen disorder, or tumors.

E. *Thymic dysplastic syndromes* (such as Swiss, diGeorge).

111.00 Neurological

A. *Seizure disorder* must be substantiated by at least one detailed description of a typical seizure. Report of recent documentation should include an electroencephalogram and neurological examination. Sleep EEG is preferable, especially with temporal lobe seizures. Frequency of attacks and any associated phenomena should also be substantiated.

Young children may have convulsions in association with febrile illnesses. Proper use of 111.02 and 111.03 requires that a seizure disorder be established. Although this does not exclude consideration of seizures occurring during febrile illnesses, it does require documentation of seizures during nonfebrile periods.

There is an expected delay in control of seizures when treatment is started, particularly when changes in the treatment regimen are necessary. Therefore, a seizure disorder should not be considered to meet the requirements of 111.02 or 111.03 unless it is shown that seizures have persisted more than three months after prescribed therapy began.

B. *Minor motor seizures.* Classical petit mal seizures must be documented by characteristic EEG pattern, plus information as to age at onset and frequency of clinical seizures. Myoclonic seizures, whether of the typical infantile or Lennox-Gastaut variety after infancy, must also be documented by the characteristic EEG pattern plus information as to age at onset and frequency of seizures.

C. *Motor dysfunction.* As described in 111.06, motor dysfunction may be due to any neurological disorder. It may be due to static or progressive conditions involving any area of the nervous system and producing any type of neurological impairment. This may include weakness, spasticity lack of coordination, ataxia, tremor, athetosis, or sensory loss. Documentation of motor dysfunction must include neurologic findings and description of type of neurologic abnormality (e.g., spasticity, weakness), as well as a description of the child's functional impairment (i.e., what the child is unable to do because of the abnormality). Where a diagnosis has been made, evidence should be included for substantiation of the diagnosis (e.g., blood chemistries and muscle biopsy reports), wherever applicable.

D. *Impairment of communication.* The documentation should include a description

2. IQ of 69 or less; or

C. Four extremity involvement; or

damage resulting in total incapacitation. Such children may meet criteria in either

schedules impart significant additional morbidity to the child during the period of

202.00 Maximum sustained work capability limited to light work as a result of severe

(c) In the application of the rules, the individual's residual functional capacity (i.e.,

D. *Impairment of communication.* The documentation should include a description of a recent comprehensive evaluation, including all areas of affective and effective communication, performed by a qualified professional.

111.01 Category of impairment, neurological

111.02 *Major motor seizure disorder.*

A. *Major motor seizures.* In a child with an established seizure disorder, the occurrence of more than one major motor seizure per month despite at least three months of prescribed treatment. With:

1. Diurnal episodes (loss of consciousness and convulsive seizures); or

2. Nocturnal episodes manifesting residuals which interfere with activity during the day.

B. *Major motor seizures.* In a child with an established seizure disorder, the occurrence of at least one major motor seizure in the year prior to application despite at least three months of prescribed treatment. And one of the following:

1. IQ of 69 or less; or

2. Significant interference with communication due to speech, hearing, or visual defect; or

3. Significant emotional disorder; or

4. Where significant adverse effects of medication interfere with major daily activities.

111.03 *Minor motor seizure disorder.* In a child with an established seizure disorder, the occurrence of more than one minor motor seizure per week, with alteration of awareness or loss of consciousness, despite at least three months of prescribed treatment.

111.05 *Brain tumors.* A. Malignant gliomas (astrocytoma—Grades III and IV, glioblastoma multiforme), medulloblastoma, ependymoblastoma, primary sarcoma, or brain stem gliomas; or

B. Evaluate other brain tumors under the criteria for the resulting neurological impairment.

111.06 *Motor dysfunction (due to any neurological disorder).* Persistent disorganization or deficit of motor function for age involving two extremities, which (despite prescribed therapy) interferes with age-appropriate major daily activities and results in disruption of:

A. Fine and gross movements; of

B. Gait and station.

111.07 *Cerebral palsy.* With: A. Motor dysfunction meeting the requirements of 111.06 or 101.03; or

B. Less severe motor dysfunction (but more than slight) and one of the following:

1. IQ of 69 or less; or

2. Seizure disorder, with at least one major motor seizure in the year prior to application; or

3. Significant interference with communication due to speech, hearing, or visual defect; or

4. Significant emotional disorder.

111.08 *Meningomyelocele (and related disorders).* With one of the following despite prescribed treatment:

A. Motor dysfunction meeting the requirements of § 111.03 or § 111.06; or

B. Less severe motor dysfunction (but more than slight), and:

1. Urinary or fecal incontinence when inappropriate for age; or

2. IQ of 69 or less; or

C. Four extremity involvement; or

D. Noncompensated hydrocephalus producing interference with mental or motor developmental progression.

111.09 *Communication impairment, associated with documented neurological disorder.* And one of the following:

A. Documented speech deficit which significantly affects the clarity and content of the speech; or

B. Documented comprehension deficit resulting in effective verbal communication for age; or

C. Impairment of hearing as described under the criteria in 102.08.

112.00 Mental and Emotional Disorders

A. *Introduction.* This section is intended primarily to describe mental and emotional disorders of young children. The criteria describing medically determinable impairments in adults should be used where they clearly appear to be more appropriate.

B. *Mental retardation. General.* As with any other impairment, the necessary evidence consists of symptoms, signs, and laboratory findings which provide medically demonstrable evidence of impairment severity. Standardized intelligence test results are essential to the adjudication of all cases of mental retardation that are not clearly covered under the provisions of 112.05A. Developmental milestone criteria may be the sole basis for adjudication only in cases where the child's young age and/or condition preclude formal standardized testing by a psychologist or psychiatrist experienced in testing children.

Measures of intellectual functioning. Standardized intelligence tests, such as the Wechsler Preschool and Primary Scale of Intelligence (WPPSI), the Wechsler Intelligence Scale for Children (WISC), the Revised Stanford-Binet Scale, and the McCarthey Scales of Children's Abilities, should be used wherever possible. Key data such as subtest scores should also be included in the report. Tests should be administered by a qualified and experienced psychologist or psychiatrist, and any discrepancies between formal test results and the child's customary behavior and daily activities should be duly noted and resolved.

Developmental milestone criteria. In the event that a child's young age and/or condition preclude formal testing by a psychologist or psychiatrist experienced in testing children, a comprehensive evaluation covering the full range of developmental activities should be performed. This should consist of a detailed account of the child's daily activities together with direct observations by a professional person; the latter should include indices or manifestations of social, intellectual, adaptive, verbal, motor (posture, locomotion, manipulation), language, emotional, and self-care development for age. The above should then be related by the evaluating or treating physician to established developmental norms of the kind found in any widely used standard pediatrics text.

c. *Profound combined mental-neurological-musculoskeletal impairments.* There are children with profound and irreversible brain damage resulting in total incapacitation. Such children may meet criteria in either neurological, musculoskeletal, and/or mental sections; they should be adjudicated under the criteria most completely substantiated by the medical evidence submitted. Frequently, the most appropriate criteria will be found under the mental impairment section.

112.01 Category of impairments, mental and emotional

112.02 *Chronic brain syndrome.* With arrest of developmental progression for at least six months or loss of previously acquired abilities.

112.03 *Psychosis of infancy and childhood.* Documented by psychiatric evaluation and supported, if necessary, by the results of appropriate standardized psychological tests and manifested by marked restriction in the performance of daily age-appropriate activities; constriction of age-appropriate interests; deficiency of age-appropriate self-care skills; and impaired ability to relate to others; together with persistence of one (or more) of the following:

A. Significant withdrawal or detachment; or

B. Impaired sense of reality; or

C. Bizarre behavior patterns; or

D. Strong need for maintenance of sameness, with intense anxiety, fear, or anger when change is introduced; or

E. Panic at threat of separation from parent.

112.04 *Functional nonpsychotic disorders.* Documented by psychiatric evaluation and supported, if necessary, by the results of appropriate standardized psychological tests and manifested by marked restriction in the performance of daily age-appropriate activities; construction of age-appropriate interests; deficiency of age-appropriate self-care skills; and impaired ability to relate to others; together with persistence of one (or more) of the following:

A. Psychophysiological disorder (e.g., diarrhea, asthma); or

B. Anxiety; or

C. Depression; or

D. Phobic, obsessive, or compulsive behavior; or

E. Hypochondriasis; or

F. Hysteria; or

G. Asocial or antisocial behavior.

112.05 *Mental retardation.*—A. Achievement of only those developmental milestones generally acquired by children no more than one-half the child's chronological age; or

B. IQ of 59 or less; or

C. IQ of 60–69, inclusive, and a physical or other mental impairment imposing additional and significant restriction of function or developmental progression.

113.00 Neoplastic Diseases Malignant

A. *Introduction.* Determination of disability in the growing and developing child with a malignant neoplastic disease is based upon the combined effects of:

1. The pathophysiology, histology, and natural history of the tumor; and

2. The effects of the currently employed aggressive multimodal therapeutic regimens.

Combinations of surgery, radiation, and chemotherapy or prolonged therapeutic

schedules impart significant additional morbidity to the child during the period of greatest risk from the tumor itself. This period of highest risk and greatest therapeutically-induced morbidity defines the limits of disability for most of childhood neoplastic disease.

B. *Documentation.* The diagnosis of neoplasm should be established on the basis of symptoms, signs, and laboratory findings. The site of the primary, recurrent, and metastatic lesion must be specified in all cases of malignant neoplastic diseases. If an operative procedure has been performed, the evidence should include a copy of the operative note and the report of the gross and microscopic examination of the surgical specimen, along with all pertinent laboratory and X-ray reports. The evidence should also include a recent report directed especially at describing whether there is evidence of local or regional recurrence, soft part or skeletal metastasis, and significant post-therapeutic residuals.

C. *Malignant solid tumors,* as listed under 113.03, include the histiocytosis syndromes except for solitary eosinophilic granuloma. Thus, 113.03 should not be used for evaluating brain tumors (see 111.05) or thyroid tumors, which must be evaluated on the basis of whether they are controlled by prescribed therapy.

D. *Duration of disability* from malignant neoplastic tumors is included in 113.02 and 113.03. Following the time periods designated in these sections, a documented diagnosis itself is no longer sufficient to establish a severe impairment. The severity of a remaining impairment must be evaluated on the basis of the medical evidence.

113.01 Category of Impairments, Neoplastic Diseases—Malignant

113.02 *Lymphoreticular malignant neoplasms.* Consider under a disability:

A. For 2½ years from the time initial diagnosis, or

B. For 2½ years from the time of recurrence of active disease.

113.03 *Malignant solid tumors.* Consider under a disability:

A. For 2 years from the time of initial diagnosis; or

B. For 2 years from the time of recurrence of active disease.

113.04 *Neuroblastoma.* With one of the following:

A. Extension across the midline; or

B. Distant metastasis; or

C. Recurrence; or

D. Onset at age 1 year or older.

113.05 *Retinoblastoma.* With one of the following:

A. Bilateral involvement; or

B. Metastases; or

C. Extension beyond the orbit; or

D. Recurrence.

APPENDIX 2—MEDICAL—VOCATIONAL GUIDELINES

Sec.

200.00 Introduction.
201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).
202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).
203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).
204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).

200.00 *Introduction.* (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which cannot be evaluated on medical considerations alone, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of his or her vocationally relevant past work. They also reflect the analysis of the various vocational factors (i.e., age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled. However, each of these findings of fact is subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a conclusion of disabled or not disabled. In any instance where a rule does not apply, full consideration must be given to all of the relevant facts of the case in accordance with the definitions and discussions of each factor in the appropriate sections of the regulations.

(b) The existence of jobs in the national economy is reflected in the "Decisions" shown in the rules; i.e., in promulgating the rules, administrative notice has been taken of the numbers of unskilled jobs that exist throughout the national economy at the various functional levels (sedentary, light, medium, heavy, and very heavy) as supported by the "Dictionary of Occupational Titles" and the "Occupational Outlook Handbook," published by the Department of Labor; the "County Business Patterns" and "Census Surveys" published by the Bureau of the Census; and occupational surveys of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies. Thus, when all factors coincide with the criteria of a rule, the existence of such jobs is established. However, the existence of such jobs for individuals whose remaining functional capacity or other factors do not coincide with the criteria of a rule must be further considered in terms of what kinds of jobs or types of work may be either additionally indicated or precluded.

(c) In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and work experience must first be determined.

(d) The correct disability decision (i.e., on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. If an individual's specific profile is not listed within this Appendix 2, a conclusion of disabled or not disabled is not directed. Thus, for example, an individual's ability to engage in substantial gainful work where his or her residual functional capacity falls between the ranges of work indicated in the rules (e.g., the individual who can perform more than light but less than medium work), is decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in this Appendix 2. These rules represent various combinations of exertional capabilities, age, education and work experience and also provide an overall structure for evaluation of those cases in which the judgments as to each factor do not coincide with those of any specific rule. Thus, when the necessary judgments have been made as to each factor and it is found that no specific rule applies, the rules still provide guidance for decisionmaking, such as in cases involving combinations of impairments. For example, if strength limitations resulting from an individual's impairment(s) considered with the judgments made as to the individual's age, education and work experience correspond to (or closely approximate) the factors of a particular rule, the adjudicator then has a frame of reference for considering the jobs or types of work precluded by other, nonexertional impairments in terms of numbers of jobs remaining for a particular individual.

(e) Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. In addition, some impairments may result solely in postural and manipulative limitations or environmental restrictions. Environmental restrictions are those restrictions which result in inability to tolerate some physical feature(s) of work settings that occur in certain industries or types of work, e.g., an inability to tolerate dust or fumes.

(1) In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in this Appendix 2. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments.

(2) However, where an individual has an impairment or combination of impairments resulting in both strength limitations and

V 45 AG 2080 UMI

nonexertional limitations, the rules in this subpart are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be contraindicated by the nonexertional limitations. Also, in these combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules in this Appendix 2, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussions of each factor in the appropriate sections of the regulations, which will provide insight into the adjudicative weight to be accorded each factor.

201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).* (a) Most sedentary occupations fall within the skilled, semi-skilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

(b) These unskilled sedentary occupations are standard within the industries in which they exist. While sedentary work represents a significantly restricted range of work, this range in itself is not so prohibitively restricted as to negate work capability for substantial gainful activity.

(c) Vocational adjustment to sedentary work may be expected where the individual has special skills or experience relevant to sedentary work or where age and basic educational competences provide sufficient occupational mobility to adapt to the major segment of unskilled sedentary work. Inability to engage in substantial gainful activity would be indicated where an individual who is restricted to sedentary work because of a severe medically determinable impairment lacks special skills or experience relevant to sedentary work, lacks educational qualifications relevant to most sedentary work (e.g., has a limited education or less) and the individual's age, though not necessarily advanced, is a factor which significantly limits vocational adaptability.

(d) The adversity of functional restrictions to sedentary work at advanced age (55 and over) for individuals with no relevant past work or who can no longer perform vocationally relevant past work and have no transferable skills, warrants a finding of disabled in the the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. Advanced age and a history of unskilled work or no work experience would ordinarily offset any vocational advantages that might accrue by reason of any remote past education, whether it is more or less than limited education.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of ability to engage in substantial gainful activity regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (55 and over), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) Individuals approaching advanced age (age 50–54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant past work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education.

(h) The term "younger individual" is used to denote an individual age 18 through 49. For those within this group who are age 45–49, age is a less positive factor than for those who are age 18–44. Accordingly, for such individuals: (1) who are restricted to sedentary work, (2) who are unskilled or have no transferable skills, (3) who have no relevant past work or who can no longer perform vocationally relevant past work, and (4) who are either illiterate or unable to communicate in the English language, a finding of disabled is warranted. On the other hand, age is a more positive factor for those who are under age 45 and is usually not a significant factor in limiting such an individual's ability to make a vocational adjustment, even an adjustment to unskilled sedentary work, and even where the individual is illiterate or unable to communicate in English. However, a finding of disabled is not precluded for those individuals under age 45 who do not meet all of the criteria of a specific rule and who do not have the ability to perform a full range of sedentary work. The following examples are illustrative: Example 1: An individual under age 45 with a high school education can no longer do past work and is restricted to unskilled sedentary jobs because of a severe medically determinable cardiovascular impairment (which does not meet or equal the listings in Appendix 1). A permanent injury of the right hand limits the individual to sedentary jobs which do not require bilateral manual dexterity. None of the rules in Appendix 2 are applicable to this particular set of facts, because this individual cannot perform the full range of work defined as sedentary. Since the inability to perform jobs requiring bilateral manual dexterity significantly compromises the only range of work for which the individual is otherwise qualified (i.e., sedentary), a finding of disabled would be appropriate. Example 2: An illiterate 41 year old individual with mild mental retardation (IQ of 78) is restricted to unskilled sedentary work and cannot perform vocationally relevant past work, which had consisted of unskilled agricultural field work; his or her particular characteristics do not specifically meet any of the rules in Appendix 2, because this individual cannot perform the full range of work defined as sedentary. In light of the adverse factors which further narrow the range of sedentary work for which this individual is qualified, a finding of disabled is appropriate.

(i) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals age 18–44 even if they are illiterate or unable to communicate in English.

Table No. 1.—*Residual functional capacity: Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
201.01	Advanced age	Limited or less	Unskilled or none	Disabled.
201.02	do	do	Skilled or semiskilled—skills not transferable [1].	Do.
201.03	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
201.04	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
201.05	do	High school graduate or more—provides for direct entry into skilled work [2].	do	Not disabled.
201.06	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable [1].	Disabled.
201.07	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
201.08	do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable [1].	Do.
201.09	Closely approaching advanced age.	Limited or less	Unskilled or none	Disabled.
201.10	do	do	Skilled or semiskilled—skills not transferable.	Do.
201.11	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.12	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
201.13	do	High school graduate or more—provides for direct entry into skilled work [2].	do	Not disabled.
201.14	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Disabled.
201.15	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.16	do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Do.
201.17	Younger individual age 45–49.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
201.18	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
201.19	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
201.20	do	do	Skilled or semiskilled—skills transferable.	Do.
201.21	do	High school graduate or more...	Skilled or semiskilled—skills not transferable.	Do.
201.22	do	do	Skilled or semiskilled—skills transferable.	Do.
201.23	Younger individual age 18–44.	Illiterate or unable to communicate in English.	Unskilled or none	Do. [4]
201.24	do	Limited or less—at least literate and able to communicate in English.	do	Do. [4]
201.25	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do. [4]
201.26	do	do	Skilled or semiskilled—skills transferable.	Do. [4]
201.27	do	High school graduate or more...	Unskilled or none	Do. [4]
201.28	do	do	Skilled or semiskilled—skills not transferable.	Do. [4]
201.29	do	do	Skilled or semiskilled—skills transferable.	Do. [4]

[1] See 201.00(f).
[2] See 201.00(d).
[3] See 201.00(g).
[4] See 201.00(h).

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform a full range of light work includes the functional capacity to perform sedentary as well as light work. Approximately 1,600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each occupation representing numerous jobs in the national economy. These jobs can be performed after a short demonstration or within 30 days, and do not require special skills or experience.

(b) The functional capacity to perform a wide or full range of light work represents substantial work capability compatible with making a work adjustment to substantial numbers of unskilled jobs and, thus, generally provides sufficient occupational mobility even for severely impaired individuals who are not of advanced age and have sufficient educational competences for unskilled work.

(c) However, for individuals of advanced age who can no longer perform vocationally relevant past work and who have a history of unskilled work experience, or who have only skills that are not readily transferable to a significant range of semi-skilled or skilled work that is within the individual's functional capacity, or who have no work experience, the limitations in vocational adaptability represented by functional restriction to light work warrant a finding of disabled. Ordinarily, even a high school education or more which was completed in the remote past will have little positive impact on effecting a vocational adjustment unless relevant work experience reflects use of such education.

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a factor which significantly limits vocational adaptability (i.e., closely approaching advanced age, 50–54) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

(e) The presence of acquired skills that are readily transferable to a significant range of semi-skilled or skilled work within an individual's residual functional capacity would ordinarily warrant a finding of not disabled regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) For a finding of transferability of skills to light work for individuals of advanced age who are closely approaching retirement age (age 60–64), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. The capability for light work, which includes the ability to do sedentary work, represents the capability for substantial numbers of such jobs. This, in turn, represents substantial vocational scope for younger individuals (age 18–49) even if illiterate or unable to communicate in English.

Table No. 2.—*Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
202.01	Advanced age	Limited or less	Unskilled or none	Disabled.
202.02	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.03	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
202.04	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
202.05	do	High school graduate or more—provides for direct entry into skilled work [2].	do	Not disabled.
202.06	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Disabled.

Table No. 2.—*Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*

longer able to perform this labor because of a severe impairment(s), may still be found

Table No. 3.—*Residual functional capacity: Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)—Continued*

416.921 What we mean by an impairment

Table No. 2.—*Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
202.07	...do	...do	Skilled or semiskilled—skills transferable [1].	Not disabled.
202.08	...do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Do.
202.09	Closely approaching advanced age.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
202.10	...do	Limited or less—At least literate and able to communicate in English.	...do	Not disabled.
202.11	...do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.12	...do	...do	Skilled or semiskilled—skills transferable.	Do.
202.13	...do	High school graduate or more...	Unskilled or none	Do.
202.14	...do	...do	Skilled or semiskilled—skills not transferable.	Do.
202.15	...do	...do	Skilled or semiskilled—skills transferable.	Do.
202.16	Younger individual...	Illiterate or unable to communicate in English.	Unskilled or none	Do.
202.17	...do	Limited or less—At least literate and able to communicate in English.	...do	Do.
202.18	...do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.19	...do	...do	Skilled or semiskilled—skills transferable.	Do.
202.20	...do	High school graduate or more...	Unskilled or none	Do.
202.21	...do	...do	Skilled or semiskilled—skills not transferable.	Do.
202.22	...do	...do	Skilled or semiskilled—skills transferable.	Do.

[1] See 202.00(f).
[2] See 202.00(c).

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform medium work includes the functional capacity to perform sedentary, light, and medium work. Approximately 2,500 separate sedentary, light, and medium occupations can be identified, each occupation representing numerous jobs in the national economy which do not require skills or previous experience and which can be performed after a short demonstration or within 30 days.

(b) The functional capacity to perform medium work represents such substantial work capability at even the unskilled level that a finding of disabled is ordinarily not warranted in cases where a severely impaired individual retains the functional capacity to perform medium work. Even the adversity of advanced age (55 or over) and a work history of unskilled work may be offset by the substantial work capability represented by the functional capacity to perform medium work. However, an individual with a marginal education and long work experience (i.e., 35 years or more) limited to the performance of arduous unskilled labor, who is not working and is no longer able to perform this labor because of a severe impairment(s), may still be found disabled even though the individual is able to do medium work.

(c) However, the absence of any relevant work experience becomes a more significant adversity for individuals of advanced age (55 and over). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for individuals closely approaching retirement age (60–64) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

Table No. 3.—*Residual functional capacity: Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
203.01	Closely approaching retirement age.	Marginal or none	Unskilled or none	Disabled.
203.02	...do	Limited or less	None	Do.
203.03	...do	Limited	Unskilled	Not disabled.
203.04	...do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.

204.00 *Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).* The residual functional capacity to perform heavy work or very heavy work includes the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of "not disabled". Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment, and generally is sufficient for a finding of not disabled, even though age, education, and skill level of prior work experience may be considered adverse.

Table No. 3.—*Residual functional capacity: Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)—Continued*

Rule	Age	Education	Previous work experience	Decision
203.05	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.06	...do	High school graduate or more...	Unskilled or none	Do.
203.07	...do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.08	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.09	...do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.10	Advanced age	Limited or less	None	Disabled.
203.11	...do	...do	Unskilled	Not disabled.
203.12	...do	...do	Skilled or semiskilled—skills not transferable.	Do.
203.13	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.14	...do	High school graduate or more...	Unskilled or none	Do.
203.15	...do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.16	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.17	...do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.18	Closely approaching advanced age.	Limited or less	Unskilled or none	Do.
203.19	...do	...do	Skilled or semiskilled—skills not transferable.	Do.
203.20	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.21	...do	High school graduate or more...	Unskilled or none	Do.
203.22	...do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.23	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.24	...do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.25	Younger individual...	Limited or less	Unskilled or none	Do.
203.26	...do	...do	Skilled or semiskilled—skills not transferable.	Do.
203.27	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.28	...do	High school graduate or more...	Unskilled or none	Do.
203.29	...do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.30	...do	...do	Skilled or semiskilled—skills transferable.	Do.
203.31	...do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

2. Subpart I of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart I—Determining Disability and Blindness

General

Sec.
416.901 Scope of subpart.
416.902 General definition and terms for this subpart.

Determinations

416.903 Who makes disability and blindness determinations.
416.904 Determinations by other organizations and agencies.

Definition of Disability

416.905 Basic definition of disability.
416.906 Disability for children under age 18.
416.907 Disability under a State plan.
416.908 What is needed to show an impairment.
416.909 How long the impairment must last.
416.910 Meaning of substantial gainful activity.

Evidence

416.912 Your responsibility to submit evidence.
416.913 Medical evidence of your impairment.
416.914 When we will purchase existing evidence.
416.915 Where and how to submit evidence.
416.916 If you fail to submit medical and other evidence.
416.917 Consultative examination at our expense.
416.918 If you do not appear at a consultative examination.

Evaluation of Disability

416.920 Evaluation of disability in general.
416.921 What we mean by an impairment that is not severe.
416.922 When you have two or more unrelated impairments—initial claims.
416.923 How we determine disability for a child under age 18.

Medical Considerations

416.925 Listing of impairments in Appendix 1 of subpart P of Part 404 of this chapter.
416.926 Medical equivalence.
416.927 Conclusion by physicians concerning your disability or blindness.
416.928 Symptoms, signs, and laboratory findings.
416.929 How we evaluate symptoms, including pain.
416.930 Need to follow prescribed treatment.

Presumptive Disability and Blindness

416.931 The meaning of presumptive disability or presumptive blindness.
416.932 When presumptive payments begin and end.
416.933 How we make a finding of presumptive disability or presumptive blindness.
416.934 Impairments which may warrant a finding of presumptive disability or presumptive blindness.

Drug Addiction and Alcoholism

416.935 Medically determined drug addicts and alcoholics.
416.936 Treatment required for medically determined drug addicts and alcoholics.
416.937 What we mean by appropriate treatment.
416.938 What we mean by approved institutions or facilities.
416.939 How we consider whether treatment is available.

Residual Functional Capacity

416.945 Your residual functional capacity.
416.946 Responsibility for assessing and determining residual functional capacity.

Vocational Considerations

416.960 When your vocational background will be considered.
416.961 Your ability to do work depends upon your residual functional capacity.
416.962 If you have done only arduous unskilled physical labor.
416.963 Your age as a vocational factor.
416.964 Your education as a vocational factor.
416.965 Your work experience as a vocational factor.
416.966 Work which exists in the national economy.
416.967 Physical exertion requirements.
416.968 Skill requirements.
416.969 Listing of Medical—Vocational Guidelines in Appendix 2 of subpart P of Part 404 of this chapter.

Substantial Gainful Activity

416.971 General.
416.972 What we mean by substantial gainful activity.
416.973 General information about work activity.
416.974 Evaluation guides if you are an employee.
416.975 Evaluation guides if you are self-

(d) Our general rules on evaluating

agency about whether you are disabled

be shown by medically acceptable

416.975 Evaluation guides if you are self-employed.

Blindness

416.981 Meaning of blindness as defined in the law.
416.982 Blindness under a State plan.
416.983 How we evaluate statutory blindness.
416.984 If you are statutorily blind and still working.
416.985 How we evaluate other visual impairments.
416.986 Why and when we will find that your statutory blindness has ended.

Continuing or Stopping Disability or Blindness

416.988 Your responsibility to tell us of events that may change your disability or blindness status.
416.989 We may investigate to find out whether you continue to be disabled.
416.990 When we will investigate whether your disability continues.
416.991 If your medical recovery was expected and you returned to work.
416.992 The trial work period.
416.993 We may ask you to help us determine if you are still disabled or blind.
416.994 Why and when we will find that your disability has ended.
416.996 If you become disabled by another impairment.

Authority: Issued under Secs. 1102, 1614, and 1631 of the Social Security Act; 49 Stat. 647, as amended, 86 Stat. 1471, as amended by 88 Stat. 52, 86 Stat. 1475; 42 U.S.C. 1302, 1382c, and 1383.

Subpart I—Determining Disability and Blindness

General

§ 416.901 Scope of subpart.

In order for you to become entitled to any benefits based upon disability or blindness you must be disabled or blind as defined in title XVI of the Social Security Act. This Subpart explains how we determine whether you are disabled or blind. We have organized the rules in the following way.

(a) We define general terms, then discuss who makes our disability or blindness determinations and state that disability and blindness determinations made under other programs are not binding on our determinations.

(b) We explain the term "disability" and note some of the major factors that are considered in determining whether you are disabled in §§ 416.905–416.910.

(c) Sections 416.912–416.918 contain our rules on evidence. We explain your responsibilities for submitting evidence of your impairment, state what we consider to be acceptable sources of medical evidence, and describe what information should be included in medical reports.

(d) Our general rules on evaluating disability are stated in §§ 416.920–416.923. We describe the steps that we go through and the order in which they are considered.

(e) Our rules on medical considerations are found in §§ 416.925–416.930. We explain in these rules—

(1) The purpose and use of the Listing of Impairments found in Appendix 1 of subpart P of Part 404 of this chapter;

(2) What we mean by the term "medical equivalence" and how we determine medical equivalence;

(3) The effect of a conclusion by your physician that you are disabled;

(4) What we mean by symptoms, signs, and laboratory findings;

(5) How we evaluate pain and other symptoms; and

(6) The effect on your benefits if you fail to follow treatment that is expected to restore your ability to work, and how we apply the rule.

(f) In §§ 416.931–416.934 we explain that we may make payments on the basis of presumptive disability or presumptive blindness.

(g) In §§ 416.935–416.939 we explain the rules which apply in cases of drug addiction and alcoholism.

(h) In §§ 416.945–416.946 we explain what we mean by the term "residual functional capacity," state when an assessment of residual functional capacity is required, and who may make it.

(i) Our rules on vocational considerations are found in §§ 416.960–416.969. We explain when vocational factors must be considered along with the medical evidence, discuss the role of residual functional capacity in evaluating your ability to work, discuss the vocational factors of age, education, and work experience, describe what we mean by work which exists in the national economy, discuss the amount of exertion and the type of skill required for work, and describe how the Guidelines in Appendix 2 of subpart P of Part 404 of this chapter apply to claims under Part 416.

(j) Our rules on substantial gainful activity are found in §§ 416.971–416.974. These explain what we mean by substantial gainful activity and how we evaluate your work activity.

(k) In §§ 416.981–416.985 we discuss blindness.

(l) Our rules on when disability or blindness continues and stops are contained in §§ 416.988–416.998. We explain what your responsibilities are in telling us of any events that may cause a change in your disability or blindness status, when you may have a trial work period, and when we will investigate to see if you are still disabled.

§ 416.902 General definitions and terms for this subpart.

As used in this subpart—"Secretary" means the Secretary of Health and Human Services.

"State agency" means an agency of a State which enters into an agreement with the Secretary to make determinations of disability or blindness for the Secretary.

"We" or "us" refers to either the Social Security Administration or the State agency making the disability or blindness determination.

"You" refers to the person who has applied for or is receiving benefits based on disability or blindness.

Determinations

§ 416.903 Who makes disability and blindness determinations.

(a) *State agencies.* When there is an agreement between the State and the Secretary, the State agency designated in the agreement makes disability and blindness determinations for the Secretary for—

(1) Any person living in that State; and

(2) Any group of people named in the agreement.

(b) *Social Security Administration.* The Social Security Administration will make disability and blindness determinations for the Secretary for—

(1) Any person in any State that has not entered into an agreement with the Secretary;

(2) Any group of people not covered by an agreement with any State.

(c) *What determinations are authorized.* The Secretary has authorized the State agencies and the Social Security Administration to make determinations about—

(1) Whether you are disabled or blind;

(2) The date your disability or blindness began; and

(3) The date your disability or blindness stopped.

(d) *Review of State Agency determinations.* On review of a State agency determination or redetermination of disability or blindness we may find that—

(1) You are, or are not, disabled or blind, regardless of what the State agency found;

(2) Your disability or blindness began earlier or later than the date found by the State agency; and

(3) Your disability or blindness stopped earlier or later than the date found by the State agency.

§ 416.904 Determinations by other organizations and agencies.

A decision by any nongovernmental agency or any other governmental agency about whether you are disabled or blind is based on its rules and is not our decision about whether you are disabled or blind. We must make a disability or blindness determinations based on social security law. Therefore, a determination made by another agency that you are disabled or blind is not binding on us.

Definition of Disability

§ 416.905 Basic definition of disability.

(a) The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment, which makes you unable to do your previous work or any other substantial gainful activity which exists in the national economy. To determine whether you are able to do any other work, we consider your residual functional capacity and your age, education, and work experience.

(b) There are different rules for determining disability for individuals who are statutorily blind. We discuss these in §§ 416.981 through 416.985.

§ 416.906 Disability for children under age 18.

If you are under age 18, we will consider you disabled if you are suffering from any medically determinable physical or mental impairment which compares in severity to an impairment that would make an adult (a person over age 18) disabled.

§ 416.907 Disability under a State plan.

You will also be considered disabled for payment of supplemental security income benefits if—

(a) You were found to be permanently and totally disabled as defined under a State plan approved under titles XIV or XVI of the Social Security Act, as in effect for October 1972;

(b) You received aid under the State plan because of your disability for the month of December 1973 and for at least one month before July 1973; and

(c) You continue to be disabled as defined under the State plan.

§ 416.908 What is needed to show an impairment.

If you are not doing substantial gainful activity, we always look first at your physical or mental impairment(s) to determine whether you are disabled or blind. Your impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only by your statement of symptoms. (See § 416.928 for further information about what we mean by symptoms, signs, and laboratory findings.)

§ 416.909 How long the impairment must last.

Unless your impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement.

§ 416.910 Meaning of substantial gainful activity.

Substantial gainful activity means work that—(a) Involves doing significant and productive physical or mental duties; and

(b) Is done (or intended) for pay or profit.

(See § 416.972 for further details about what we mean by substantial gainful activity.)

Evidence

§ 416.912 Your responsibility to submit evidence.

(a) *General.* In general, you have to prove to us that you are blind or disabled. Therefore, you must bring to our attention everything which shows that you are blind or disabled. In making a decision we will consider all information we get from you and others about your impairments.

(b) *Kind of evidence.* You must provide medical evidence showing that you have an impairment and how severe it is during the time you say that you are disabled. We will consider only impairments you say you have or about which we receive evidence. We will help you in getting medical reports when you give us permission to request them from your doctors and other medical sources. If we ask, you must also provide evidence about your—

(1) Age;

(2) Education and training;

(3) Work experience;

(4) Daily activities both before and after the date you say that you became disabled;

(5) Efforts to work; and

(6) Any other evidence showing how your impairment(s) affects your ability to work. (In §§ 416.960 through 416.969 we discuss in more detail the evidence we need when we consider vocational factors.)

§ 416.913 Medical evidence of your impairment.

(a) *Acceptable sources.* We need reports about your impairments from acceptable medical sources. Acceptable medical sources are—

(1) Licensed physicians;

(2) Licensed osteopaths;

(3) Licensed or certified psychologists;

(4) Licensed optometrists for the measurement of visual acuity and visual fields (see paragraph (f) of this section for the evidence needed for statutory blindness); and

(5) Persons authorized to send us a copy or summary of the medical records of a hospital, clinic, sanitorium, medical institution, or health care facility. Generally, the copy or summary should be certified as accurate by the custodian or by any authorized employee of the Social Security Administration, Veterans' Administration, or State agency. However, we will not return an uncertified copy or summary for certification unless there is some question about the document.

(b) *Medical reports.* Medical reports should include—

(1) Medical history;

(2) Clinical findings (such as the results of physical or mental status examinations);

(3) Laboratory findings (such as blood pressure, x-rays);

(4) Diagnosis (statement of disease or injury based on its signs and symptoms);

(5) Treatment prescribed with response, and prognosis; and

(6) Medical assessment (except in statutory blindness claims).

(c) *Medical assessment.* The medical assessment should describe—

(1) Your ability to do work-related activities such as sitting, standing, moving about, lifting, carring, handling objects, hearing, speaking, and traveling; and

(2) In cases of mental impairment, your ability to reason or make occupational, personal, or social adjustments.

(d) *Completeness.* The medical evidence, including the clinical and laboratory findings, must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. It must allow us to determine—

(1) The nature and limiting effects of your impairment(s) for any period in question;

(2) The probable duration of your impairment; and

(3) Your residual functional capacity to do work-related physical and mental activities.

(e) *Information from other sources.* Information from other sources may also

help us to understand how your impairment affects your ability to work. Other sources include—

(1) Public and private social welfare agencies;

(2) Observations by non-medical sources; and

(3) Other practitioners (for example, naturopaths, chiropractors, audiologists, etc.).

(f) *Evidence we need to establish statutory blindness.* If you are applying for benefits on the basis of statutory blindness, we will require an examination by a physician skilled in diseases of the eye or by an optometrist, whichever you may select.

§ 416.914 When we will purchase existing evidence.

We need specific medical evidence to determine whether you are disabled or blind. We will pay for the medical evidence we request, if there is a charge. We will also be responsible for the cost of medical evidence we ask you to get.

§ 416.915 Where and how to submit evidence.

You may give us evidence about your impairment at any of our offices or at the office of any State agency authorized to make disability or blindness determinations. You may also give evidence to one of our employees authorized to accept evidence at another place. For more information about this, see Subpart C of this Part.

§ 416.916 If you fail to submit medical and other evidence.

You must cooperate in furnishing us with available medical evidence about your impairment(s). When you fail to cooperate with us in obtaining evidence, we will have to make a decision based on information available in your case. We will not excuse you from giving us evidence because you have religious or personal reasons against medical examinations, tests, or treatment.

§ 416.917 Consultative examination at our expense.

(a) *Notice of the examination.* If your medical sources cannot give us sufficient medical evidence about your impairment for us to determine whether you are disabled or blind, we may ask you to take part in physical or mental examinations or tests. We will pay for these examinations. However, we will not pay for any medical examination arranged by you or your representative without being asked by us. We will give you reasonable notice of the date, time, and place of the examination or test, and the name of the person who will do it. We will also give the examiner any necessary background information about your condition when your own physician will not be doing the examination or test.

(b) *Reasons why we may need evidence.* We may need more medical evidence—

(1) To obtain more detailed medical findings about your impairment(s);

(2) To obtain technical or specialized medical information;

(3) To resolve conflicts or differences in medical findings or assessments in the evidence we already have.

§ 416.918 If you do not appear at a consultative examination.

(a) *General.* If you are applying for benefits and do not have a good reason for failing or refusing to take part in a consultative examination or test which we arrange for you to get information we need to determine your disability or blindness, we may find that you are not disabled or blind. If you are already receiving benefits and do not have a good reason for failing or refusing to take part in a consultative examination or test which we arranged for you, we may determine that your disability or blindness has stopped because of your failure or refusal. Therefore, if you have any reason why you cannot go for the scheduled appointment, you should tell us about this as soon as possible before the examination date. If you have a good reason, we will schedule another examination.

(b) *Examples of good reasons for failure to appear.* Some examples of what we consider good reasons for not going to a scheduled examination include—

(1) Illness on the date of the scheduled examination or test;

(2) Not receiving timely notice of the scheduled examination or test, or receiving no notice at all;

(3) Being furnished incorrect or incomplete information, or being given incorrect information about the physician involved or the time or place of the examination or test, or;

(4) Having had death or serious illness occur in your immediate family.

(c) *Objections by your physician.* If any of your treating physicians tell you that you should not take the examination or test, you should tell us at once. In many cases, we may be able to get the information we need in another way. Your physician may agree to another type of examination for the same purpose.

Evaluation of Disability

§ 416.920 Evaluation of disability in general.

(a) *Steps in evaluating disability.* We consider all material facts to determine whether you are disabled. If you are doing substantial gainful activity, we will determine that you are not disabled. If you are not doing substantial gainful activity, we will first consider your physical or mental impairment(s). Your impairment must be severe and meet the duration requirement before we can find you to be disabled. We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity and your age, education, and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review further.

(b) *If you are working.* If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience.

(c) *You must have a severe impairment.* If you do not have any impairment(s) which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience.

(d) *When your impairment meets or equals a listed impairment in Appendix 1.* If you have an impairment which meets the duration requirement and is listed in Appendix 1 of subpart P of Part 404 of this chapter, or is equal to a listed impairment, we will find you disabled without considering your age, education, and work experience.

(e) *Your impairment must prevent you from doing past relevant work.* If we cannot make a decision based on your current work activity or on medical facts alone, and you have a severe impairment, we then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled.

(f) *Your impairment must prevent you from doing any other work.* (1) If you cannot do any work you have done in the past because you have a severe impairment, we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled.

(2) If you have only a marginal education, and long work experience (i.e., 35 years or more) where you only did arduous unskilled physical labor, and you can no longer do this kind of work, we use a different rule (see § 416.962).

§ 416.921 What we mean by an impairment that is not severe.

(a) *Non-severe impairment.* An impairment is not severe if it does not significantly limit your physical or mental abilities to do basic work activities.

(b) *Basic work activities.* When we talk about basic work activities, we mean the abilities and aptitude necessary to do most jobs. Examples of these include—

(1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;

(2) Capacities for seeing, hearing, and speaking;

(3) Understanding, carrying out, and remembering simple instructions;

(4) Use of judgment;

(5) Responding appropriately to supervision, co-workers and usual work situations; and

(6) Dealing with changes in a routine work setting.

§ 416.922 When you have two or more unrelated impairments—initial claims.

We cannot combine two or more unrelated severe impairments to meet the 12-month duration test. If you have a severe impairment(s) and then develop another unrelated severe impairment(s) but neither one is expected to last for 12 months, we cannot find you disabled, even though the two impairments in combination last for 12 months. However, we can combine unrelated impairments to see if together they are severe enough to keep you from doing substantial gainful activity. We will consider the combined effects of unrelated impairments only if all are severe and expected to last 12 months.

§ 416.923 How we determine disability for a child under age 18.

We will find that a child under age 18 is disabled if he or she—(a) Is not doing any substantial gainful activity; and

(b) Has a medically determinable physical or mental impairment(s) which compares in severity to any impairment(s) which would make an adult (a person age 18 or over) disabled. This requirement will be met when the impairment(s)—

(1) Meets the duration requirement; and

(2) Is listed in Appendix 1 of subpart P of Part 404 of this chapter; or

(3) Is determined by us to be medically equal to an impairment listed in Appendix 1 of subpart P of Part 404 of this chapter.

Medical Considerations

§ 416.925 Listing of Impairments in Appendix 1 of subpart P of Part 404 of this chapter.

(a) *Purpose of the Listing of Impairments.* The Listing of Impairments describes, for each of the major body systems, impairments which are considered severe enough to prevent a person from doing any gainful activity. Most of the listed impairments are permanent or expected to result in death, or a specific statement of duration is made. For all others, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months.

(b) *Adult and childhood diseases.* The Listing of Impairments consists of two parts:

(1) *Part A* contains medical criteria that apply to adult persons age 18 and over. The medical criteria in Part A may also be applied in evaluating impairments in persons under age 18 if the disease processes have a similar effect on adults and younger persons.

(2) *Part B* contains additional medical criteria that apply only to the evaluation of impairments of persons under age 18. Certain criteria in Part A do not give appropriate consideration to the particular effects of the disease processes in childhood; i.e., when the disease process is generally found only in children or when the disease process differs in its effect on children than on adults. Additional criteria are included in Part B, and the impairment categories are, to the extent possible, numbered to maintain a relationship with their counterparts in Part A. In evaluating disability for a person under age 18, Part B will be used first. If the medical criteria in Part B do not apply, then the medical criteria in Part A will be used.

(c) *How to use the Listing of Impairments.* Each section of the Listing of Impairments has a general introduction containing definitions of key concepts used in that section. Certain specific medical findings, some of which are required in establishing a diagnosis or in confirming the existence of an impairment for the purpose of this Listing, are also given in the narrative introduction. If the medical findings needed to support a diagnosis are not given in the introduction or elsewhere in the listing, the diagnosis must still be established on the basis of medically acceptable clinical and laboratory diagnostic techniques. Following the introduction in each section, the required level of severity of impairment is shown under "Category of Impairments" by one or more sets of medical findings. The medical findings consist of symptoms, signs, and laboratory findings.

(d) *Diagnoses of impairments.* We will not consider your impairment to be one listed in Appendix 1 of subpart P of Part 404 of this chapter solely because it has the diagnosis of a listed impairment. It must also have the findings shown in the Listing for that impairment.

(e) *Addiction to alcohol or drugs.* If you have a condition diagnosed as addiction to alcohol or drugs, this will not, by itself, be a basis for determining whether you are, or are not, disabled. As with any other medical condition, we will decide whether you are disabled based on symptoms, signs, and laboratory findings.

§ 416.926 Medical equivalence.

(a) *How medical equivalence is determined.* We will decide that your impairment(s) is medically equivalent to a listed impairment in Appendix 1 of subpart P of Part 404 of this chapter if the medical findings are at least equal in severity and duration to the listed findings. We will compare the symptoms, signs, and laboratory findings about your impairment(s), as shown in the medical evidence we have about your claim, with the medical criteria shown with the listed impairment. If your impairment is not listed, we will consider the listed impairment most like your impairment to decide whether your impairment is medically equal. If you have more than one impairment, and none of them meets or equals a listed impairment, we will review the symptoms, signs, and laboratory findings about your impairments to determine whether the combination of your impairments is medically equal to any listed impairment.

(b) *Medical equivalence must be based on medical findings.* We will always base our decision about whether your impairment(s) is medically equal to a listed impairment on medical evidence only. Any medical findings in the evidence must be supported by medically acceptable clinical and laboratory diagnostic techniques. We will also consider the medical opinion given by one or more physicians designated by the Secretary in deciding medical equivalence.

(c) *Who is a designated physician.* A physician designated by the Secretary includes any physician employed or engaged to make medical judgments by the Social Security Administration, the Railroad Retirement board, or a State agency authorized to make disability determinations.

V 45 A G 2 0 8 0 UMI

§ 416.927 Conclusion by physicians concerning your disability or blindness.

We are responsible for determining whether you are disabled or blind. Therefore, a statement by your physician that you are "disabled" or "blind" or "unable to work" does not mean that we will determine that you are disabled or blind. We have to review the medical findings and other evidence that support a physician's statement that you are "disabled" or "blind".

§ 416.928 Symptoms, signs, and laboratory findings.

Medical findings consist of symptoms, signs, and laboratory findings:

(a) *Symptoms* are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.

(b) *Signs* are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific abnormalities of behavior, affect, thought, memory, orientation and contact with reality. They must also be shown by observable facts that can be medically described and evaluated.

(c) *Laboratory findings* are anatomical, physiological, or psychological phenomena which can be shown by the use of (a) medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests.

§ 416.929 How we evaluate symptoms, including pain.

If you have a physical or mental impairment, you may have symptoms (like pain, shortness of breath, weakness or nervousness). We consider all your symptoms, including pain, and the extent to which signs and laboratory findings confirm these symptoms. The effects of all symptoms, including severe and prolonged pain, must be evaluated on the basis of a medically determinable impairment which can be shown to be the cause of the symptom. We will never find that you are disabled based on your symptoms, including pain, unless medical signs or findings show that there is a medical condition that could be reasonably expected to produce these symptoms.

§ 416.930 Need to follow prescribed treatment.

(a) *What treatment you must follow.* In order to get benefits, you must follow treatment prescribed by your physician if this treatment can restore your ability to work.

(b) *When you do not follow prescribed treatment.* If you do not follow the prescribed treatment without a good reason, we will not find you disabled or blind or, if you are already receiving benefits, we will stop paying you benefits.

(c) *Acceptable reasons for failure to follow prescribed treatment.* The following are examples of a good reason for not following treatment:

(1) The specific medical treatment is contrary to the established teaching and tenets of your religion.

(2) The prescribed treatment would be cataract surgery for one eye when there is an impairment of the other eye resulting in a severe loss of vision and is not subject to improvement through treatment.

(3) Surgery was previously performed with unsuccessful results and the same surgery is again being recommended for the same impairment.

(4) The treatment because of its enormity (e.g. open heart surgery), unusual nature (e.g., organ transplant), or other reason is very risky for you; or

(5) The treatment involves amputation of an extremity, or a major part of an extremity.

Presumptive Disability and Blindness

§ 416.931 The meaning of presumptive disability or presumptive blindness.

If you are applying for supplemental security income benefits on the basis of disability or blindness, we may pay you benefits before we make a formal finding of whether or not you are disabled or blind. In order to receive these payments, we must find that you are presumptively disabled or presumptively blind. You must also meet all other eligibility requirements for supplemental security income benefits. We may make these payments to you for a period not longer than 3 months. These payments will not be considered overpayments if we later find that you are not disabled or blind.

§ 416.932 When presumptive payments begin and end.

We may make payments to you on the basis of presumptive disability or presumptive blindness before we make a formal determination about your disability or blindness. The payments can not be made for more than 3 months. They start for a period of not more than 3 months beginning in the month we make the presumptive disability or presumptive blindness finding. The payments end the earliest of—

(a) The month in which we make a formal finding on whether or not you are disabled or blind;

(b) The month in which we make the third monthly payment based on presumptive disability or presumptive blindness to you; or

(c) The month in which you no longer meet one of the other eligibility requirements (e.g., your income exceeds the limits).

§ 416.933 How we make a finding of presumptive disability or presumptive blindness.

We may make a finding of presumptive disability or presumptive blindness if the evidence available at the time of the presumptive disability or presumptive blindness decision, reflects a high degree of probability that you are disabled or blind. In the case of readily observable severe impairments (e.g., amputation of extremities, total blindness), we will find that you are disabled or blind without medical evidence. In all other cases, a finding of disability or blindness must be based on medical evidence or other information which, though not sufficient for a formal determination of disability or blindness, is sufficient for disability evaluators to find that there is a high degree of probability that you are disabled or blind.

§ 416.934 Impairments which may warrant a finding of presumptive disability or presumptive blindness.

We may make findings of presumptive disability and presumptive blindness in 10 specific impairment categories without obtaining any medical evidence. These specific impairment categories are—

(a) Amputation of two limbs;

(b) Amputation of a leg at the hip;

(c) Allegation of total deafness;

(d) Allegation of total blindness;

(e) Allegation of bed confinement or immobility without a wheelchair, walker, or crutches, due to a longstanding condition, excluding recent accident and recent surgery;

(f) Allegation of a stroke (cerebral vascular accident) more than 3 months in the past and continued marked difficulty in walking or using a hand or arm;

(g) Allegation of cerebral palsy, muscular dystrophy or muscle atrophy and marked difficulty in walking (e.g., use of braces), speaking or coordination of the hands or arms.

(h) Allegation of diabetes with amputation of a foot;

(i) Allegation of Down's syndrome (Mongolism); and

(j) Allegation of severe mental deficiency made by another individual filing on behalf of a claimant who is at least 7 years of age. For example, a mother filing for benefits for her child states that the child attends (or attended) a special school, or special classes in school, because of mental deficiency or is unable to attend any type of school (or if beyond school age, was unable to attend), and requires care and supervision of routine daily activities.

Drug Addiction and Alcoholism

§ 416.935 Medically determined drug addicts and alcoholics.

(a) We will find that you are a medically determined drug addict or alcoholic if we determine you are disabled and we find that your drug addiction or alcoholism is a contributing factor material to the finding of your disability.

(b) You will not be medically determined to be a drug addict or alcoholic if—

(1) We find that you are disabled independent of drug addiction or alcoholism; or

(2) We find that you are eligible for benefits because of your age or blindness.

§ 416.936 Treatment required for medically determined drug addicts and alcoholics.

If you are medically determined by us to be a drug addict or alcoholic you must take appropriate treatment for your condition as a drug addict or alcoholic at an approved institution or facility, when this treatment is available. You are not expected to pay for this treatment. You will not be eligible for benefits for any month in which—

(a) You do not comply with the terms, conditions and requirements of the treatment; or

(b) You do not take the treatment when available to you.

§ 416.937 What we mean by appropriate treatment.

By appropriate treatment, we mean recognized medical or other professional procedures for treatment of drug addiction or alcoholism which is carried out at or under the supervision of, an approved institution or facility (or facilities). This treatment may include—

(a) Medical examination and treatment;

(b) Psychiatric, psychological and vocational counselling; or

(c) Other appropriate services for drug addiction or alcoholism.

§ 416.938 What we mean by approved institutions or facilities.

Institutions or facilities that may be approved by the Secretary include—

(a) An institution or facility that furnishes medically recognized treatment for drug addiction or alcoholism in conformity with applicable Federal and State laws and regulations;

(b) An institution or facility accepted by a State for treatment of drug addicts or alcoholics when treatment was a requirement for eligibility for aid under the State plan in effect before the supplemental security income program; or

(c) An institution or facility used by or licensed by an appropriate State agency which is authorized to refer persons for treatment of drug addiction or alcoholism.

§ 416.939 How we consider whether treatment is available.

Our determination about whether treatment is available to you for your drug addiction or your alcoholism will depend upon—

(a) The existence of an obtainable treatment vacancy for you in an approved institution or facility;

(b) The location of the approved institution or facility, or the place where treatment, services or resources will be provided to you;

(c) The availability and cost of transportation for you to the place of treatment;

(d) Your general health, including your ability to travel and capacity to understand and follow the prescribed treatment;

(e) Your particular condition and circumstances; and

(f) The treatment that is required for your drug addiction or alcoholism.

Residual Functional Capacity

§ 416.945 Your residual functional capacity.

(a) *General.* Your impairments may cause physical and mental limitations that affect what you can do in a work setting. Your residual functional capacity is what you can still do despite your limitations. If you have more than one impairment, we will consider all of your impairments of which we are aware. We consider your capacity for various functions as described in the following paragraphs; (b) physical abilities, (c) mental impairments, and (d) other impairments. Residual functional capacity is a medical assessment. However, it may include descriptions (even your own) of limitations that go beyond the symptoms that are important in the diagnosis and treatment of your medical condition. Observations of your work limitations in addition to those usually made during formal medical examinations[,] may also be used. These descriptions and observations, when used, must be considered along with the rest of your medical record[,] to enable us to decide to what extent your impairment keeps you from performing particular work activities. This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment. Then, using the guidelines in §§ 416.960 through 416.969, your vocational background is considered along with your residual functional capacity in arriving at a disability decision.

(b) *Physical abilities.* When we assess your physical abilities, (e.g., strength) we assess the severity of your impairment(s) and determine your residual functional capacity for work activity on a regular and continuing basis. We consider your ability to do physical activities such as walking, standing, lifting, carrying, pushing, pulling, reaching, handling and the evaluation of other physical functions. A limited ability to do these things may reduce your ability to do work.

(c) *Mental impairments.* When we assess your impairment because of mental disorders, we consider factors such as your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, co-workers and work pressures in a work setting.

(d) *Other impairments.* Some medically determinable impairments, such as skin impairments, epilepsy, and impairments of vision, hearing or other senses, postural and manipulative limitations, and environmental restrictions do not limit physical exertion. If you have this type of impairment, in addition to one that affects physical exertion, we consider both in deciding your residual functional capacity.

§ 416.946 Responsibility for assessing and determining residual functional capacity.

The State staff agency physicians or any other physicians designated by the Secretary are responsible for assuring that the agency makes a decision about your residual functional capacity. In cases where the State agency makes the disability determination, a State agency

V 45 A G 20 80 UMI

staff physician must assess residual functional capacity where it is required. This assessment is based on all of the medical evidence we have, including any other assessments that may have been provided by treating or examining physicans, consultative physicians, or any other physician designated by the Secretary. (See § 416.945.) For cases at the hearing or Appeals Council level, the responsibility for deciding your residual functional capacity rests with the administrative law judge or Appeals Council.

Vocational Considerations

§ 416.960 When your vocational background will be considered.

(a) *General.* We may consider vocational factors when you are applying for benefits based upon disability. We will never consider vocational factors in determining whether you are eligible for benefits based upon blindness.

(b) *Disability determinations in which vocational factors must be considered along with the medical evidence.* When we cannot decide whether you are disabled on medical evidence alone, we must use other evidence.

(1) We will use information from you about your age, education and work experience.

(2) We will consider your doctors' reports and hospital records as well as your statements and other evidence to determine your residual functional capacity and how it affects the work you can do. Sometimes, to do this, we will need to ask you to have special examinations or tests. (See § 416.917).

(3) If we find that you can no longer do the work you have done in the past, we will determine whether you can do other work (jobs) which exists in significant numbers in the nation's economy.

§ 416.961 Your ability to do work depends upon your residual functional capacity.

If you can do your previous work (your usual work or other applicable past work), we will determine that you are not disabled. However, if your residual functional capacity is not enough to enable you to do any of your previous work, we must still decide if you can do any other work. To do this, we consider your residual functional capacity, and your age, education, and work experience. Any work (jobs) that you can do must exist in significant numbers in the national economy (either in the region where you live or in several regions of the country). Sections 416.963–416.965 explain how we evaluate your age, education, and work experience when we are deciding whether or not you are able to do other work.

§ 416.962 If you have done only arduous unskilled physical labor.

If you have only a marginal education and work experience of 35 years or more during which you did arduous unskilled physical labor, and you are not working and are no longer able to do this kind of work because of a severe impairment(s), we will consider you unable to do lighter work, and therefore, disabled. However, if you are working or have worked despite your impairment(s) (except where the work is sporadic or is not medically advisable), we will review all the facts in your case, and we may find that you are not disabled. In addition, we will consider that you are not disabled if the evidence shows that you have training or past work experience which enables you to do substantial gainful activity in another occupation with your impairment, either on a full-time or a reasonably regular part-time basis.

Example.—B is a 60-year-old miner with a fourth grade education who has a life-long history of arduous physical labor. B says that he is disabled because of arthritis of the spine, hips, and knees, and other impairments. Medical evidence shows a combination of impairments and establishes that these impairments prevent B from performing his usual work or any other type of arduous physical labor. His vocational background does not show that he has skills or capabilities needed to do lighter work which would be readily transferable to another work setting. Under these circumstances, we will find that B is disabled.

§ 416.963 Your age as a vocational factor.

(a) *General.* "Age" refers to how old you are (your chronological age) and the extent to which your age affects your ability to adapt to a new work situation and to do work in competition with others. However, we do not determine disability on your age alone. We must also consider your residual functional capacity, education, and work experience. If you are unemployed because of your age and you can still do a significant number of jobs which exist in the national economy, we will find that you are not disabled. We explain age as a vocational factor in Appendix 2 of subpart P of Part 404 of this chapter. However, we will not apply these age categories mechanically in a borderline situation.

(b) *Younger person.* If you are under age 50, we generally do not consider that your age will seriously affect your ability to adapt to a new work situation. In some circumstances, however, we consider age 45 a handicap in adapting to a new work setting (see Rule 201.17 in Appendix 2 of subpart P of Part 404 of this chapter).

(c) *Person approaching advanced age.* If you are closely approaching advanced age (50–54), we will consider that your age, along with a severe impairment and limited work experience, may seriously affect your ability to adjust to a significant number of jobs in the national economy.

(d) *Person of advanced age.* We consider that advanced age (55 or over) is the point where age significantly affects a person's ability to do substantial gainful activity. If you are severely impaired and of advanced age and you cannot do medium work (see § 416.967(c)), you may not be able to work unless you have skills that can be used in (transferred to) less demanding jobs which exist in significant numbers in the national economy. If you are close to retirement age (60–64) and have a severe impairment, we will not consider you able to adjust to sedentary or light work unless you have skills which are highly marketable.

(e) *Information about your age.* We will usually not ask you to prove your age. However, if we need to know your exact age to determine whether you get disability benefits, we will ask you for evidence of your age.

§ 416.964 Your education as a vocational factor.

(a) *General.* "Education" is primarily used to mean formal schooling or other training which contributes to your ability to meet vocational requirements, for example, reasoning ability, communication skills, and arithmetical ability. However, if you do not have formal schooling, this does not necessarily mean that you are uneducated or lack these abilities. Past work experience and the kinds of responsibilities you had when you were working may show that you have intellectual abilities, although you may have little formal education. Your daily activities, hobbies, or the results of testing may also show that you have significant intellectual ability that can be used to work.

(b) *How we evaluate your education.* The importance of your educational background may depend upon how much time has passed between the completion of your formal education and the beginning of your physical or mental impairment(s) and by what you have done with your education in a work or other setting. Formal education that you completed many years before your impairment began, or unused skills and knowledge that were a part of your formal education, may no longer be useful or meaningful in terms of your ability to work. Therefore, the numerical grade level that you completed in school may not represent your actual educational abilities. These may be higher or lower. However, if there is no other evidence to contradict it, we will use your numerical grade level to determine your educational abilities. The term "education" also includes how well you are able to communicate in English since this ability is often acquired or improved by education. In evaluating your educational level, we use the following categories:

(1) *Illiteracy.* Illiteracy means the inability to read or write. We consider someone illiterate if the person cannot read or write a simple message such as instructions or inventory lists even though the person can sign his or her name. Generally, an illiterate person has had little or no formal schooling.

(2) *Marginal education.* Marginal education means ability in reasoning, arithmetic, and language skills which are needed to do simple, unskilled types of jobs. We generally consider that formal schooling at a 6th grade level or less is a marginal education.

(3) *Limited education.* Limited education means ability in reasoning, arithmetic, and language skills, but not enough to allow a person with these educational qualifications to do most of the more complex job duties needed in semi-skilled or skilled jobs. We generally consider that a 7th grade through the 11th grade level of formal education is a limited education.

(4) *High school education and above.* High school education and above means abilities in reasoning, arithmetic, and language skills acquired through formal schooling at a 12th grade level or above. We generally consider that someone with these educational abilities can do semi-skilled through skilled work.

(5) *Inability to communicate in English.* Since the ability to speak, read and understand English is generally learned or increased at school, we may consider this an educational factor. Because English is the dominant language of the country, it may be difficult for someone who doesn't speak and understand English to do a job, regardless of the amount of education the person may have in another language. Therefore, we consider a person's ability to communicate in English when we evaluate what work, if any, he or she can do. It generally doesn't matter what other language a person may be fluent in.

(6) *Information about your education.* We will ask you how long you attended school and whether you are able to speak, understand, read and write in English and do at least simple calculations in arithmetic. We will also consider other information about how much formal or informal education you may have had through your previous work, community projects, hobbies, and any other activities which might help you to work.

§ 416.965 Your work experience as a vocational factor.

(a) *General.* "Work experience" means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last 15 years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did 15 years or more before the time we are deciding whether you are disabled applies. A gradual change occurs in most jobs so that after 15 years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. The 15-year guide is intended to insure that remote work experience is not currently applied. If you have no work experience or worked only "off-and-on" or for brief periods of time during the 15-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we will try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last 15 years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the work day, as well as any other physical or mental duties of your job. If all of your work in the past 15 years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

§ 416.966 Work which exists in the national economy.

(a) *General.* We consider that work exists in the national economy when it exists in significant numbers either in the region where you live or in several other regions of the country. It does not matter whether—

(1) Work exists in the immediate area in which you live;

(2) A specific job vacancy exists for you; or

(3) You would be hired if you applied for work.

(b) *How we determine the existence of work.* Work exists in the national economy when there is a significant number of jobs (in one or more occupations) having requirements which you are able to meet with your physical or mental abilities and vocational qualifications. Isolated jobs that exist only in very limited numbers in relatively few locations outside of the region where you live are not considered "work which exists in the national economy". We will not deny you disability benefits on the basis of the existence of these kinds of jobs. If work that you can do does not exist in the national economy, we will determine that you are disabled. However, if work that you can do does exist in the national economy, we will determine that you are not disabled.

(c) *Inability to obtain work.* We will determine that you are not disabled if your residual functional capacity and vocational abilities make it possible for you to do work which exists in the national economy, but you remain unemployed because of—

(1) Your inability to get work;

(2) Lack of work in your local area;

(3) The hiring practices of employers;

(4) Technological changes in the industry in which you have worked;

(5) Cyclical economic conditions;

(6) No job openings for you;

(7) You would not actually be hired to do work you could otherwise do, or;

(8) You do not wish to do a particular type of work.

(d) *Administrative notice of job data.* When we determine that unskilled, sedentary, light, and medium jobs exist in the national economy (in significant numbers either in the region where you live or in several regions of the country),

we will take administrative notice of reliable job information available from various governmental and other publications. For example, we will take notice of—

(1) *Dictionary of Occupational Titles*, published by the Department of Labor;

(2) *County Business Patterns*, published by the Bureau of the Census;

(3) *Census Reports*, also published by the Bureau of the Census;

(4) *Occupational Analyses* prepared for the Social Security Administration by various State employment agencies; and

(5) *Occupational Outlook Handbook*, published by the Bureau of Labor Statistics.

(e) *Use of vocational experts and other specialists.* If the issue in determining whether you are disabled is whether your work skills can be used in other work and the specific occupations in which they can be used, or there is a similarly complex issue, we may use the services of a vocational expert or other specialist. We will decide whether to use a vocational expert or other specialist.

§ 416.967 Physical exertion requirements.

To determine the physical exertion requirments of work in the national economy, we classify jobs as "sedentary," "light," "medium," "heavy," and "very heavy." These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. In making disability determinations under this subpart, we use the following definitions:

(a) *Sedentary work.* Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(b) *Light work.* Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

(c) *Medium work.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.

(d) *Heavy work.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work.

(e) *Very heavy work.* Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, we determine that he or she can also do heavy, medium, light, and sedentary work.

§ 416.968 Skill requirements.

In order to evaluate your skills and to help determine the existence in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. In classifying these occupations, we use materials published by the Department of Labor. When we make disability determinations under this subpart, we use the following definitions:

(a) *Unskilled work.* Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider jobs unskilled if the primary work duties are handling, feeding and offbearing (that is, placing or removing materials from machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs.

(b) *Semi-skilled work.* Semi-skilled work is work which needs some skills but does not require doing the more complex work duties. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities which are similarly less complex than skilled work, but more complex than unskilled work. A job may be classified as semi-skilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks.

(c) *Skilled work.* Skilled work requires qualifications in which a person uses judgment to determine the machine and manual operations to be performed in order to obtain the proper form, quality, or quantity of material to be produced. Skilled work may require laying out work, estimating quality, determining the suitability and needed quantities of materials, making precise measurements, reading blueprints or other specifications, or making necessary computations or mechanical adjustments to control or regulate the work. Other skilled jobs may require dealing with people, facts, or figures or abstract ideas at a high level of complexity.

(d) *Skills that can be used in other work (transferability).* (1) *What we mean by transferable skills.* We consider you to have skills that can be used in other jobs, when the skilled or semi-skilled work activities you did in past work can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work. This depends largely on the similarity of occupationally significant work activities among different jobs.

(2) *How we determine skills that can be transferred to other jobs.* Transferability is most probable and meaningful among jobs in which—

(i) The same or a lesser degree of skill is required;

(ii) The same or similar tools and machines are used; and

(iii) The same or similar raw materials, products, processes, or services are involved.

(3) *Degrees of transferability.* There are degrees of transferability of skills ranging from very close similarities to remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary for transferability. However, when skills are so specialized or have been acquired in such an isolated vocational setting (like many jobs in mining, agriculture, or fishing) that they are not readily usable in other industries, jobs, and work settings, we consider that they are not transferable.

§ 416.969 Listing of Medical-Vocational Guidelines in Appendix 2 of Subpart P of Part 404 of this chapter.

The *Dictionary of Occupational Titles* includes information about jobs (classified by their exertional and skill requirements) that exist in the national economy. Appendix 2 provides rules using this data reflecting major functional and vocational patterns. We apply these rules in cases where a person is not doing substantial gainful activity and is prevented by a severe medically determinable impairment from doing vocationally relevant past work. The rules in Appendix 2 do not cover all possible variations of factors. Also, as we explain in § 200.00 of Appendix 2, we do not apply these rules if one of the findings of fact about the person's vocational factors and residual functional capacity is not the same as the corresponding criterion of a rule. In these instances, we give full consideration to all relevant facts in accordance with the definitions and discussions under vocational considerations. However, if the findings of fact made about all factors are the same as the rule, we use that rule to decide whether a person is disabled.

Substantial Gainful Activity

§ 416.971 General.

The work that you have done during any period in which you believe you are disabled may show that you are able to do work at the substantial gainful activity level. If you are able to engage in substantial gainful activity, we will find that you are not disabled. (We explain the rules for persons who are statutorily blind in § 416.984.) Even if the work you have done was not substantial gainful activity, it may show that you are able to do more work than you actually did. We will consider all of the medical and vocational evidence in your file to decide whether or not you have the ability to engage in substantial gainful activity.

§ 416.972 What we mean by substantial gainful activity.

Substantial gainful activity is work activity that is both substantial and gainful:

(a) *Substantial work activity.* Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before.

(b) *Gainful work activity.* Gainful work activity is work activity that you do for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized.

(c) *Some other activities.* Generally, we do not consider activities like taking care of yourself, household tasks, hobbies, therapy, school attendance, club activities, or social programs to be substantial gainful activity.

§ 416.973 General information about work activity.

(a) *The nature of your work.* If your duties require use of your experience, skills, supervision and responsibilities, or contribute substantially to the operation of a business, this tends to show that you have the ability to work at the substantial gainful activity level.

(b) *How well you perform.* We consider how well you do your work when we determine whether or not you are doing substantial gainful activity. If you do your work satisfactorily, this may show that you are working at the substantial gainful activity level. If you are unable, because of your impairments, to do ordinary or simple tasks satisfactorily without more supervision or assistance than is usually given other people doing similar work, this may show that you are not working at the substantial gainful activity level. If you are doing work that involves minimal duties that make little or no demands on you and that are of little or no use to your employer, or to the operation of a business if you are self-employed, this does not show that you are working at the substantial gainful activity level.

(c) *If your work is done under special conditions.* Even though the work you are doing takes into account your impairment, such as work done in a sheltered workshop or as a patient in a hospital, it may still show that you have the necessary skills and ability to work at the substantial gainful activity level.

(d) *If you are self-employed.* Supervisory, managerial, advisory or other significant personal services that you perform as a self-employed individual may show that you are able to do substantial gainful activity.

(e) *Time spent in work.* While the time you spend in work is important, we will not decide whether or not you are doing substantial gainful activity only on that basis. We will still evaluate the work to decide whether it is substantial and gainful regardless of whether you spend more time or less time at the job than workers who are not impaired and who are doing similar work as a regular means of their livelihood.

(f) *Possible effect on income and resource levels.* Your earnings, including earnings from work done during a trial work period, will be considered under the income and resource provisions in Subparts K and L of this part to determine whether or not your earnings cause you to exceed the limitations on income or resources under the Supplemental Security Income Program.

§ 416.974 Evaluation guides if you are an employee.

(a) *General.* We use several guides to decide whether you have done substantial gainful activity.

(1) *Your earnings may show you have done substantial gainful activity.* The amount of your earnings from work you have done may show that you have engaged in substantial gainful activity. Generally, if you worked for substantial earnings, this will show that you are able to do substantial gainful activity. On the other hand, the fact that your earnings are not substantial will not necessarily show that you are not able to do substantial gainful activity. Earnings from work that you were forced to stop after a short time because of your impairment will not show that you are able to do substantial gainful activity.

(2) *We consider only the amounts you earn.* We do not consider any income not directly related to your productivity when we decide whether you have done substantial gainful activity. If your earnings are being subsidized, the amount of the subsidy is not counted when we determine whether or not your work is substantial gainful activity. Thus, where work is done under special conditions, we only consider the part of your pay which you actually "earn". For example, where a handicapped person does simple tasks under close and continuous supervision, we would not determine that the person worked at the substantial gainful activity level only on the basis of the amount of pay. An employer may set a specific amount as a subsidy after figuring the reasonable value of the employee's services. If your work is subsidized and your employer does not set the amount of the subsidy or does not adequately explain how the subsidy was figured, we will investigate to see how much your work is worth.

(3) *If you are working in a sheltered or special environment.* If you are working in a sheltered workshop, you may or may not be earning the amounts you are being paid. The fact that the sheltered workshop or similar facility is operating at a loss or is receiving some charitable contributions or governmental aid does not establish that you are not earning all you are being paid. Since persons in military service being treated for severe impairments usually continue to receive full pay, we evaluate work activity in a therapy program or while on limited duty by comparing it with similar work in the civilian work force or on the basis of reasonable worth of the work, rather than on the actual amount of the earnings.

(4) *If you have special work-related expenses.* If you have out-of-the-ordinary expenses in connection with your work and because of your impairment (for example, you may require special transportation), we will deduct these from your earnings if they exceeded the normal work-related expenses you would have if you were not impaired. When we decide if your work is substantial gainful activity, however, we do not deduct expenses for those things (e.g. medication or equipment) which you need even when you are not working.

(b) *Earnings guidelines.* If you are an employee, we first consider the criteria in paragraph (a) of this section, and then the guides in paragraphs (b) (1), (2), and (3) of this section.

(1) *Earnings that will ordinarily show that you have engaged in substantial gainful activity.* We will consider that your earnings from your work activities as an employee show that you have engaged in substantial gainful acitivity if—

(i) Your earnings averaged more than $200 a month in calendar years prior to 1976;

(ii) Your earnings averaged more than $230 a month in calendar year 1976;

(iii) Your earnings averaged more than $240 a month in calendar year 1977;

(iv) Your earnings averaged more than $260 a month in calendar year 1978; or

(v) Your earnings averaged more than $280 a month in calendar year 1979; or

(vi) Your earnings averaged more than $300 a month in calendar years after 1979.

(2) *Earnings that will ordinarily show that you have not engaged in substantial gainful activity.* We will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity if—

(i) Your earnings averaged less than $130 a month in calendar years before 1976;

(ii) Your earnings averaged less than $150 a month in calendar year 1976;

(iii) Your earnings averaged less than $160 a month in calendar year 1977;

(iv) Your earnings averaged less than $170 a month in calendar year 1978; or

(v) Your earnings averaged less than $180 a month in calendar year 1979; or

(vi) Your earnings averaged less than $190 a month in calendar years after 1979.

However, if you are working in a sheltered workshop or a comparable facility especially set up for severely impaired persons, your earnings and activities will ordinarily establish that you have not done substantial gainful activity if your average earnings are not greater than $200 a month in calendar years prior to 1976, $230 a month in calendar year 1976, $240 a month in calendar year 1977, $260 a month in calendar year 1978, $280 a month in calendar year 1979, $300 a month in calendar years after 1979.

However, if there is evidence showing that you may have done substantial gainful activity, we will apply the criteria in paragraph (b)(3) of this section regarding comparability and value of services.

(3) *Earnings that are not high or low enough to show whether you engaged in substantial gainful activity.* If your earnings, on the average, are between the amounts shown in paragraphs (b)(1) and (2) of this section, we will generally consider other information in addition to your earnings, such as whether—

(i) Your work is comparable to that of unimpaired people in your community who are doing the same or similar occupations as their means of livelihood; taking into account the time, energy, skill, and responsibility involved in the work, or

(ii) Your work, although significantly less than that done by unimpaired people, is clearly worth the amounts shown in paragraph (b)(1) of this section, according to pay scales in your community.

§ 416.975 Evaluation guides if you are self-employed.

(a) *If you are a self-employed person.* We will consider your activities and their value to your business to decide whether you have engaged in substantial gainful activity if you are self-employed. We will not consider your income alone since the amount of income you actually receive may depend upon a number of different factors like capital investment, profit sharing agreements, etc. However, income from activities that you were forced to stop after a short time because of your impairment will not show that you are able to do substantial gainful activity. We will evaluate your work activity on the value to the business of your services regardless of whether you receive an immediate income for your services. We consider that you have engaged in substantial gainful activity if—

(1) Your work activity, in terms of factors such as hours, skills, energy output, efficiency, duties, and responsibilities, is comparable to that of unimpaired individuals in your community who are in the same or similar businesses as their means of livelihood;

(2) Your work activity, although not comparable to that of unimpaired individuals, is clearly worth the amount shown in § 416.974(b)(1) when considered in terms of its value to the business, or when compared to the salary that an owner would pay to an employee to do the work you are doing; or

(3) You render services that are significant to the operation of the business and receive a substantial income from the business.

(b) *What we mean by significant services.* (1) If you are not a farm landlord and you operate a business entirely by yourself, any services that you render are significant to the business. If your business involves the services of more than one person, we will consider you to be rendering significant services if you contribute more than half the total time required for the management of the business, or you render management services for more than 45 hours a month regardless of the total management time required by the business.

(2) If you are a farm landlord, that is, you rent farm land to another, we will consider you to be rendering significant services if you materially participate in the production or the management of the production of the things raised on the rented farm. (See § 404.1053 of this chapter for an explanation of "material participation".) If you were given social security earnings credits because you materially participated in the activities of the farm and you continue these same activities, we will consider you to be rendering significant services.

(c) *What we mean by substantial income.* We will consider the income you receive from a business, after we deduct from gross income the reasonable value of any significant amount of unpaid help and any soil bank payments that were included as farm income, as well as normal business expenses, to be substantial if—

(1) Your net income from the business averages more than the amounts described in § 416.974(b)(1); or

(2) Your net income from the business averages less than the amounts described in § 416.974(b)(1) but the livelihood which you get from the business is either comparable to what it was before you became disabled or is comparable to that of unimpaired self-employed persons in your community who are in the same or similar businesses as their means of livelihood.

Blindness

§ 416.981 Meaning of blindness as defined in the law.

We will consider you blind under the law for payment of supplemental security income benefits if we determine that you are statutorily blind. Statutory blindness is central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less.

§ 416.982 Blindness under a State plan.

We shall also consider you blind for the purposes of payment of supplemental security income benefits if—

(a) You were found to be blind as defined under a State plan approved under title X or XVI of the Social Security Act, as in effect for October 1972;

(b) You received aid under the State plan because of your blindness for the month of December 1973; and

(c) You continue to be blind as defined under the State plan.

§ 416.983 How we evaluate statutory blindness.

We will find that you are blind if you are "statutorily blind" within the meaning of § 416.981. For us to find that you are statutorily blind, it is **not** necessary—

(a) That your blindness meet the duration requirement; or

(b) That you be unable to do any substantial gainful activity.

§ 416.984 If you are statutorily blind and still working.

There is no requirement that you be unable to work in order for us to find that you are blind. However, if you are working, your earnings will be considered under the income and resources rules in Subparts K and L of this part. This means that if your income or resources exceed the limitations, you will not be eligible for benefits, even though you are blind.

§ 416.985 How we evaluate other visual impairments.

If you are not blind as defined in the law, we will evaluate a visual impairment the same as we evaluate other impairments in determining disability. Although you will not qualify for benefits on the basis of blindness, you may still be eligible for benefits if we find that you are disabled as defined in §§ 416.905–416.907.

§ 416.986 Why and when we will find that you are no longer entitled to benefits based on statutory blindness.

(a) *If your vision does not meet the definition of blindness.* If you become entitled to payments as a statutorily blind person, we will find that your statutory blindness has ended beginning with the month your vision, as shown by current medical evidence, does not meet the definition of blindness. This will generally mean that your eligibility for payments will end two months after your blindness ended.

(b) *If you were found blind as defined in a State plan.* If you became eligible for payments because you were blind as defined in a State plan, we will find that your blindness ended in the later of—

(1) The first month in which your vision, as shown by medical or other evidence, did not meet the criteria of the appropriate State plan; or

(2) The first month in which your vision did not meet the definition of statutory blindness (§ 416.981).

(c) *If you do not cooperate with us.* If you are asked to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your blindness ended if you fail without a good reason to do what we ask. The month your blindness ends will be the month in which you fail to do what we ask.

(d) *Before we stop your payments.* Before we stop payment of your benefits we will give you a chance to give us your reasons why we should not stop payment. Subpart M of this Part describes your rights and the procedures we will follow.

Continuing or Stopping Disability or Blindness

§ 416.988 Your responsibility to tell us of events that may change your disability or blindness status.

If you are entitled to payments because you are disabled or blind, you should promptly tell us if—

(a) Your condition improves;

(b) Your return to work;

(c) You increase the amount of your work; or

(d) Your earnings increase.

§ 416.989 We may investigate to find out whether you continue to be disabled or blind.

After we find that you are disabled or blind, we must determine from time to time if you are still eligible for payment. We may begin an investigation for this purpose for any number of reasons, including your failure to follow the provisions of the Social Security Act or these regulations. If our investigation shows that we should suspend payment of your payments, we will notify you in writing and give you an opportunity to reply. In § 416.990 we describe those events that may prompt us to investigate whether you continue to be disabled or blind.

§ 416.990 When we will investigate whether your disability or blindness continues.

(a) *General.* We investigate to determine whether or not you continue to meet the disability or blindness requirements of the law. Payment ends if the medical or other evidence shows that you are not disabled or blind, or if there is not enough evidence to support a finding that disability continues.

(b) *When we will investigate.* An investigation will be started if—

(1) We need a current medical report to see if you are able to do substantial gainful activity;

(2) You return to work and successfully complete a period of trial work;

(3) Substantial earnings are reported to your wage record;

(4) You tell us that you have recovered from your disability or blindness or that you have returned to work;

(5) Your State Vocational Rehabilitation Agency tells us that—

(i) You have completed your training,

(ii) You have returned to work,

(iii) You are able to return to work; or

(6) Someone in a position to know of your physical or mental condition tells us that you are not disabled or blind or that you have returned to work, and it appears that the report could be substantially correct.

§ 416.991 If your medical recovery was expected and you returned to work.

If your impairment was expected to improve and you returned to full-time work with no significant medical limitations, we may find that your disability ended in the month you returned to work. Unless there is evidence showing that your disability or blindness has not ended, we will use the medical and other evidence already in your file and the fact that you returned to full-time work without significant limitations to determine that you are able to engage in substantial gainful activity. (If your condition is not expected to improve, we will not ordinarily review your claim until the end of the trial work period, as described in § 416.992).

Example: Evidence obtained during the processing of your claim showed that you had an impairment that was expected to improve about 18 months after your disability began. We, therefore, told you that your claim would be reviewed again at that time. However, before the time arrived for your

V 45 AG 2080 UMI

scheduled medical re-examination, you told us that you had returned to work. We investigated immediately and found that, in the 16th month after your disability began, you returned to full-time work without any significant medical restrictions. Therefore, we would find that your disability ended in the first month you returned to full-time work.

§ 416.992 The trial work period.

(a) *Definition of the trial work period.* The trial work period is a period during which you may test your ability to work and still be considered disabled. It begins and ends as described in paragraph (e) of this section. During this period, you may perform "services" (see paragraph (b) of this section) in as many as 9 months, but these months do not have to be consecutive. We will not consider those services as showing that your disability has ended until you have performed services in at least 9 months. However, during this trial work period we will evaluate your earnings under the income and resources rules in Subparts K and L of this part. This means that if your income or resources exceed the limitations, you will not be eligible for payments even though you have not worked a full 9 months. (See paragraph (e) of this section.) After the trial work period has ended we will consider the work you did during the trial work period in determining whether your disability ended at any time after the trial work period.

(b) *What we mean by services.* When used in this section, "services" means any activity, even though it is not substantial gainful activity, which is done by a person in employment or self-employment for pay or profit, or is the kind normally done for pay or profit. If you are an employee, we will consider your work to be "services" if in any calendar year after 1978 you earn more than $75 a month ($50 a month is the figure for earnings in any calendar year before 1979). If you are self-employed, we will consider your activities "services" if in any calendar year after 1978 your net earnings are more than $75 a month ($50 a month is the figure for earning in any calendar year before 1979), or you work more than 15 hours a month in the business. We generally do not consider work to be "services" when it is done without remuneration or merely as therapy or training, or when it is work usually done in a daily routine around the house or in self-care.

(c) *Limitations on the number of trial work periods.* You may have only one trial work period during a period of entitlement to cash payments.

(d) *When the trial work period begins and ends.* The trial work period begins with the month in which you become entitled to benefits. It cannot begin before the month in which you file your application for benefits. It ends with the close of whichever of the following calendar months is the earlier:

(1) The 9th month (whether or not the months have been consecutive) in which you have performed services; or

(2) The month in which new evidence, other than evidence relating to any work you did during the trial work period, shows that you are not disabled, even though you have not worked a full 9 months. We may find that your disability has ended at any time during the trial work period if the medical or other evidence shows that you are able to do substantial gainful activity.

(e) *If you fail to meet other eligibility factors.* We will count the services you do while disabled towards your period of trial work even though you may be ineligible for payments for other reasons. The months in which you are eligible for payments will be evaluated for trial work purposes upon reestablishment of your eligibility for payments under this part as though your eligibility had not been interrupted.

§ 416.993 We may ask you to help us determine if you are still disabled or blind.

If you are entitled to payments because you are disabled or blind, you must, upon our request and reasonable notice, undergo consultative examinations and tests to help us find out if you are still disabled or blind. You must also give us reports from your doctor or others who have treated you, as well as any other evidence that will help us make a determination. You must have a good reason for not giving us this information. (See § 416.994(d).

§ 416.994 Why and when we will find that your disability has ended.

(a) *General.* When the medical or other evidence in your file shows that your disability has ended, we will contact you and tell you that the evidence in your file shows that you are able to do substantial gainful activity and that your eligibility for benefits will end. Before we stop payment of your benefits, we will give you a chance to give us your reasons why we should not stop your benefits. Subparts M and N of this part describe your rights and the procedures we will follow. We may also stop payment of your benefits if you have not cooperated with us in getting information about your disability.

(b) *Disabled persons age 18 or over.* If you are age 18 or older, we will find that your disability ended in the earliest of the following months:

(1) The month in which your impairment, as shown by current medical or other evidence, is such that you are able to do substantial gainful activity;

(2) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period).

(c) *Disabled persons under age 18.* If you are under age 18, we will find that your disability ended in the earliest of the following months—

(1) The month your impairment, as established by current medical evidence is not an impairment listed in Appendix 1 of Subpart P of Part 404 of this chapter or is not equal to a listed impairment;

(2) The month in which you demonstrate your ability to engage in substantial gainful activity (following completion of a trial work period).

(d) *If you do not cooperate with us.* If we ask you to give us medical or other evidence or to go for a physical or mental examination by a certain date, we will find that your disability has ended if you fail (without a good cause) to do what we ask. The month in which your disability will be found to have ended will be the month in which you failed to do what we asked.

(e) *Persons who were found disabled under a State plan.* If you became entitled to benefits because you were found to be disabled under a State plan, we will find that your disability ended in the later of the following months—

(1) The month in which your disability, as shown by current medical or other evidence, does not meet the criteria of the appropriate State plan; or

(2) The month in which your disability ended under the provisions of paragraphs (b), (c) or (d) of this section.

§ 416.998 If you become disabled by another impairment.

If a new, severe impairment begins in or before the month in which your last impairment ends, we will find that your disability is continuing. The new impairment need not be expected to last 12 months or to result in death, but it must be severe enough to keep you from doing substantial gainful activity.

[FR Doc. 80-25106 Filed 8-19-80; 8:45 am]
BILLING CODE 4110-07-M

federal register

Wednesday
August 20, 1980

Part III

Pension Benefit Guaranty Corporation

Reportable Events; Reporting and Notification Requirements

V 45 A G 20 80 UMI

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2617

Reporting and Notification Requirements for Reportable Events

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes the reporting and notification requirements for reporting events imposed by the Employee Retirement Income Security Act of 1974 (the "Act"). The Act requires the plan administrator of any plan covered by the plan termination insurance provisions of the Act to notify the Pension Benefit Guaranty Corporation (the "PBGC") within 30 days after he or she knows or has reason to know of the occurrence of certain events that may indicate a possible danger of plan termination. The PBGC is authorized to waive these reporting obligations and instead require notification of the event(s) to be included in the plan's annual report to the PBGC. In this final rule, the PBGC is making extensive use of its authority to waive the 30-day notice requirement to reduce the plan administrator's reporting obligations and to enable the PBGC to direct its primary attention to those events that need to be reviewed on a priority basis. The PBGC is also exercising its authority to prescribe other reportable events (in addition to those specifically mentioned in the Act) by establishing three new reportable events-bankruptcy, insolvency or similar settlements; liquidation or dissolution; and, transactions involving a change of employer. As a consequence of this rule and the waivers it includes, the PBGC anticipates the number of 30-day notices that would otherwise be required of plan administrators will be drastically reduced.

EFFECTIVE DATE: This rule applies to all reportable events occurring on or after September 19, 1980.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; 202-254-3010. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1977, the Pension Benefit Guaranty Corporation (the "PBGC") published for comment in the **Federal Register**, 42 FR 59285, a proposed rule setting forth the reporting requirements for reportable events under § 4043 of the Employee Retirement Income Security Act of 1974 (the "Act"). (Correction published on December 1, 1977, at 42 FR 61051). The PBGC received a sustantial number of comments on the proposed rule and has given consideration to each of them in promulgating this final rule. The final rule contains a number of changes made in response to the comments received. It also contains many substantive changes initiated by the PBGC staff, and some non-substantive clarifying, correcting, and editorial changes initiated by the PBGC staff.

Substantive public comments on the proposed rule and significant differences between the proposed rule and the final rule are discussed below. In the discussion that follows, citations are to sections in the final regulation unless otherwise stated.

Overview

This regulation prescribes the reporting and notification requirements for reportable events under section 4043 of the Act. This regulation applies to all plans subject to section 4021, including multiemployer plans.[1]

The reporting requirements of section 4043 are intended to inform the PBGC of the occurrence of certain events that may result in a plan termination, or that may necessitate monitoring of the plan or termination of the plan by the PBGC. These requirements are designed to protect participants and the PBGC. The reportable events described in §§ 2617.11–2617.20 are those set forth by Congress in paragraphs (b)(1)–(8) of section 4043 of the Act. In addition, section 4043(b)(9) authorizes the PBGC to prescribe other reportable events. The PBGC is establishing three more reportable events, which are described in §§ 2617.21–2617.23.

Section 4043 authorizes the PBGC to waive the plan administrator's statutory obligation to file a 30-day notice, *i.e.*, the obligation to notify the PBGC within 30 days after he or she knows or has reason to know of the occurrence of a reportable event. The PBGC is making extensive use of this waiver authority in this final regulation, generally in those situations where the Internal Revenue Service (the "IRS") or the Department of Labor (the "DOL") is required to notify the PBGC (Act, section 4043 (c) and (d), or where the event is likely to have only a minimal impact on the plan, the employer, or the PBGC. The Act, however, requires that the plan's annual report provide notification to the PBGC of all reportable events, whether or not the 30-day notice requirement is waived.

Under this regulation, a plan administrator is not required to file a 30-day notice for the following five reportable events:

(1) IRS notice that a plan has ceased to be a plan described in section 4021(a)(2) of the Act (§ 2617.11);

(2) DOL determination of non-compliance with Title I of the Act (§ 2617.12);

(3) IRS determination of a termination or partial termination within the meaning of section 411(d)(3) of the Internal Revenue Code (§ 2617.15);

(4) Plan merger, consolidation or transfer (§ 2617.19); and

(5) Alternative method of compliance with reporting and disclosure requirements under section 110 of the Act (§ 2617.20).

In addition, a plan administrator is required to file a 30-day notice with the PBGC with respect to the following four reportable events only under limited circumstances:

(1) Amendment decreasing benefits payable (§ 2617.13).

(2) Active participant reduction (§ 2617.14);

(3) Inability to pay benefits when due (§ 2617.17); and

(4) Distribution to a substantial owner (§ 2617.18).

For only one reportable event specifically listed in section 4043-failure to meet ERISA's minimum funding standards (section 4043(b)(8))—is a 30-day notice always required. In addition, the three new reportable events, which are drafted to avoid unnecessary reporting, are all required to be reported within 30 days.

In summary, this final regulation is substantially simpler and contains fewer reporting requirements than the proposed regulation. The rest of this preamble is primarily devoted to a discussion of the many public comments on the proposed rule.

Definitions

"Plan"—The proposed regulation defined a "plan" for purposes of applying the reportable events rules as "one plan (whether it be a single employer, multiemployer or multiple employer plan), as opposed to a number of plans, only if, on a going concern basis, all of the plan assets are available to pay all participants' benefit entitlements". The PBGC has made some technical revisions in this definition in order to conform the definition to the IRS definition of "single plan" in Treas. Reg. § 1.414(1)–1(b)(1) (44 FR 48191, August 17, 1979). The definition of "plan" in this reportable events regulation now reads as follows: "'Plan' means a single plan (whether it be a single employer, multiemployer or multiple employer plan), as opposed to a number of plans, if, on an ongoing basis, all of the plan assets are available to pay benefits to employees who are covered by the plan and their beneficiaries."

The definition of "plan" in the present regulation, while limited by its terms to this part only, is the same definition that PBGC will be applying for all purposes under Title IV where it is necessary to determine whether an arrangement involves one plan or more than one plan.[2]

"Active participant"—One comment suggested that the definition of "active participant" should be the same for both single employer plans and plans to which more than one employer contributes, because the Act does not specifically distinguish between these two types of plans. The PBGC disagrees. The purpose of § 2617.14 (relating to active participant reductions) is to identify plans experiencing significant declines in covered employment, because such declines may indicate employer economic problems. The definition of "active participant" is critical to this event. While in single employer plans it is possible to relate the definition of active participant, and thus the event, generally, to declines in employment, it would be costly and burdensome to do so in a plan to which more than one employer contributes. Therefore, because of the different characteristics of these two types of plans, two different definitions of "active participant" are appropriate and are consistent with the purpose of section 4043. The final rule, like the proposed rule, defines "active participant" differently for a single employer plan than for a plan to which more than one employer contributes.

The PBGC has not adopted the definition of "active participant" used for purposes of the Form 5500, which is based on when a participant suffers a break in service. As discussed above, the PBGC believes that the definition of "active participant" with respect to a single employer plan should be designed to identify declines in employment. Because of Form 5500 definition is inadequate to identify declines in employment, it is inappropriate.

In response to another comment, the PBGC has revised the definition of "active participant" in the case of a plan to which more than one employer contributes, to provide that "active participant" does not include: (1) retired individuals, and (2) a former employee of a contributing sponsor, who has incurred a break in service.

"Participant"—One comment requested clarification as to whether the definition of "participant" includes employees who have not completed participation requirements under the terms of a plan. The same comment also asked whether a participant who suffers a break in service and is no longer a participant under the plan is treated as a participant under the regulation immediately upon being reemployed. The PBGC has made some technical changes in the definition to clarify that: (1) an employee who has not yet completed participation requirements under the terms of a plan is not a "participant" under Part 2617, and (2) a non-vested former employee who has incurred a break in service is a participant only if he or she has become a participant under the terms of a plan by subsequently overcoming the break in service in accordance with plan rules.

Another comment objected to the "participant" definition because it includes non-vested laid-off employees who have not incurred a break in service of one year. The comment stated that it is contrary to traditional personnel practices to say that once an individual is a participant, he or she retains that status for at least 12 months after his or her termination of employment date. Further, it suggested the problem is magnified if no waiting period is required for participation or the industry covered by the plan has a high turnover rate. The PBGC disagrees with this comment. This part of the definition is consistent with the "participant" definition used for other purposes under the Act (*e.g.*, annual reporting). It is also consistent with the definition in Title I, because such an individual "may become eligible to receive a benefit of any type from an employee benefit plan * * *" Act, section 3(7).

One comment objected that the definition excludes individuals to whom an insurance company has made an irrevocable commitment. The PBGC has determined that the requested change in this regulation should not be made. The definition of "participant" is to be used for purposes of reporting requirements only and does not represent a decision as to the applicability of this definition with respect to the substantive provisions in Title IV (*e.g.*, section 4045).

The same comment also stated the regulation includes a post-funding rider as an irrevocable commitment, thus excluding a former employee with an annuity with a post-funding rider from the definition of "participant". An insurance contract may contain a post-funding rider under which the insurer agrees to pay full benefits to a retired participant while that participant's irrevocable commitment is being purchased in installments after the participant's retirement. Only that portion of the retiree's annuity that has been purchased from the insurer is irrevocable. Thus, a former employee with an insurance contract with a post-funding rider where only a portion of the benefits to which he or she is entitled under the plan is subject to an irrevocable commitment is still a "participant". The definition has been revised to clarify that a former employee or a retiree is not a "participant" for purposes of this regulation only if an irrevocable commitment has been made by the insurer to pay *all* the benefits to which he or she is entitled.

"Employer"—One comment objected to the PBGC defining "employer" in Part 2617 to include all trades or businesses under common control (with the trade or business maintaining the plan) and urged that no final regulation be issued until the courts decide whether the PBGC definition is correct. The PBGC has rejected this comment. The PBGC interprets the definition of "employer" in section 4001(b) of the Act to include all trades or businesses under common control. It is appropriate for the definition of "employer" in § 2617.2 to be the same as that in section 4001(b). The PBGC's interpretation has been

[1] Legislation to revise the termination insurance program for multiemployer plans is currently pending in Congress. The enactment of multiemployer legislation may necessitate amendments to this regulation.

[2] The PBGC has previously issued opinion letters, relating to the question of what constitutes a single plan for purposes of determining whether there has been a plan termination. These letters contain a detailed explanation of how the definition of "plan" will be applied to distinguish between a single plan and an aggregate of single plans. The following is the analytic framework set forth in these letters:

Our determination as to the nature of an entity—whether it is a single plan or an aggregate of single plans—is based on its structure and how it actually operates on an ongoing basis. We look to the documents governing the entity and to relevant evidence of how it has operated and continues to operate. Such evidence may include the reasonable expectations and intent of the parties.

The availability of funds held by an entity to provide benefits on an ongoing basis is a central factor in our analysis. Ongoing restrictions on the use of such funds indicate that the entity may be an aggregate of single plans. For example, an asset account might be maintained for each contributing employer. An employer's account might be credited with its contributions and allocable share of investment losses. It may be possible to restrict use of assets from each such account to pay only the benefits of the employee-participants of the employer maintaining the account. If the evidence shows that payments are effectively restricted, by whatever means, so that there is a minimal risk of funds attributable to the contributions of one employer being used to pay the benefits of another employer's employee-participants, then the entity is an aggregate of single plans.

affirmed by a United States District

an irrevocable commitment has been

some information that previously was

when due), to include more specific

30-day period, and would unfairly result

comments suggested that this event be

affirmed by a United States District Court in the context of an employer liability action. *Pension Benefit Guaranty Corporation* v. *Ouimet Corporation*, 470 F. Supp. 945 (D. Mass. 1979).

Two comments suggested that the definition of "employer" needed clarification because the definition, as proposed, appears to cover only a trade or business under common control that maintains a plan. In response to these comments, the definition has been revised. The definition now reads: " 'Employer' means the trade or business (whether or not incorporated) maintaining the plan and all trades or businesses (whether or not incorporated) under common control, within the meaning of Part 2612 of this chapter, with such trade or business."

"*Single employer plan*"—In response to one comment suggesting a technical revision, this definition has been revised to read: " 'Single employer plan' means a plan maintained by one trade or business (whether or not incorporated) or by two or more trades or businesses (whether or not incorporated) all of which are under common control within the meaning of Part 2612 of this chapter."

"*Money purchase plan*"—After consideration of two comments suggesting technical revisions, this definition has been revised to read: " 'Money purchase plan' means an individual account plan, as defined in section 3(34) of the Act, other than a profit-sharing plan or a stock bonus plan, in which the employer's contributions are fixed or determinable."

"*Normal retirement benefit*"—One comment objected to the definition in the proposed regulation on the grounds that "normal retirement benefit" is adequately defined in the Act and need not be re-defined. In response, the PBGC has revised the definition to incorporate by reference the definition of normal retirement benefit in the vesting rules in Code section 411(a)(9) and Treas. Reg. § 1.411(a)–7(c).

"*Retirement benefit*"—The proposed rule defined a "retirement benefit" as "a benefit payable upon normal, early or disability retirement, other than a welfare benefit described in section 3(1) of the Act, to a *participant* who leaves or has left covered employment." (Emphasis added.) One comment suggested that the definition be modified to include former employees with vested rights. This change is unnecessary because the definition of "participant" for purposes of this regulation includes former employees with vested rights (other than former employees to whom an irrevocable commitment has been made) and such employees have a benefit payable upon normal retirement.

The PBGC has revised the definition to include a benefit payable upon late retirement. This change is discussed below in connection with the reportable event relating to an amendment decreasing benefits payable.

"*Contributing sponsor*"—A new definition has been added. The term "contributing sponsor" is defined as "each trade or business that is obligated to contribute to the plan, whether or not a funding waiver or variance has been granted by the Secretary of Treasury." This term is discussed below in connection with the three new reportable events.

"*Insurance contract*" and "*post-funding rider*"—The proposed regulation defined these two terms because these terms were used in the reportable event relating to an inability to pay benefits when due. The definitions of these terms have been deleted because these terms are no longer used in this event in the final regulation.

Reporting Requirements

Requirement of notice—A number of comments objected to the amount of information required to be filed with a 30-day notice (proposed § 2617.3(c)). Many comments objected to the administrative expense and burden that would be involved in providing the required information. Some comments suggested specific limited documentation that should be required (*e.g.*, one comment suggested filing a description of the event, a copy of the plan, and the most recent annual report). Others suggested that the plan administrator submit only "pertinent" documentation. One comment urged that relevant information be required with the annual report only. Still another requested that no information be required; rather, the regulation should identify the kinds of additional information generally needed for the PBGC to analyze the danger of termination and, then, based on its review of the facts in a particular case, the PBGC could require such information (or other information) to be submitted later, if needed. The same comment also requested an explanation of why each document is requested.

After consideration of these comments, the PBGC has decided to eliminate most of the information items listed in proposed § 2617.3(c). However, because the PBGC has decided not to prescribe, at this time, a form on which a 30-day notice would be filed, the PBGC has added to the list of general information required in a 30-day notice some information that previously was included on the proposed form. In addition, the PBGC has added one other item—a brief statement of the pertinent facts relating to the reportable event.

The final regulation requires that a 30-day notice include: (1) the name of the plan; (2) the name, address, and telephone number of the plan sponsor(s); (3) the name, address, and telephone number of the plan administrator; (4) the identification number assigned to the plan sponsor (EIN) and the plan (PIN); (5) a brief statement of the pertinent facts relating to the reportable event; (6) a copy of the current plan document; (7) a copy of the most recent actuarial statement and opinion; (8) a statement of any material change in the assets or liabilities of the plan occurring after the date of the most recent actuarial statement and opinion relating to the plan; and (9) a copy of the most recent IRS determination letter (§ 2617.3(b)). The PBGC believes that the information required to be submitted in a 30-day notice under the final regulation does not impose an undue burden on a plan administrator and is the minimum necessary for the corporation to review a notice on a timely basis. The PBGC may, of course, request additional information based on the facts and circumstances of each case.

One comment requested clarification as to whether the information to be filed should be current as of the date the 30-day notice is mailed or the date the reportable event occurred. The PBGC has revised the regulation (§ 2617.3(b)) to indicate that the above nine information items required to be filed in the notice should be as current as practical as of the date the 30-day notice is mailed. (As a practical matter, though, it is expected that there will be few situations in which there is a material difference between the information as of the date of the event and information as of the mailing date.)

Section 2617.3(c) sets forth additional information that must be provided for certain events. The additional information required in § 2617.3(c) is basically the same as the information required in § 2617.3(d) of the proposed regulation. The PBGC has revised the additional information required, as follows: (1) for an event described in § 2617.13(a) (relating to a decrease in benefits payable), to eliminate the requirement to file any additional information; (2) for an event described in § 2617.16(a) (relating to a minimum funding violation), to include financial information relating to the plan sponsor; (3) for an event described in § 2617.17(a) (relating to an inability to pay benefits when due), to include more specific information concerning the failure to pay benefits and the possibility that failure will continue; (4) for an event described in § 2617.18(a) (relating to a distribution to a substantial owner) to eliminate the requirement to include information concerning nonforfeitable benefits which are not funded; and (5) for an event described in § 2617.23(a) (relating to a transaction involving a change of employer) to include financial information relating to each member of the plan sponsor's controlled group before and after the transaction and to eliminate the requirement to include information concerning nonforfeitable benefits which are not funded.

Finally, one comment requested that the PBGC provide in the regulation that when a plan administrator believes that a particular reportable event notice need not contain all of the information required under § 2617.3, the plan administrator may request that the PBGC waive the filing of certain information. The PBGC believes that in almost all cases the information required to be filed will be necessary to the processing of the case by the PBGC. The PBGC also believes that the submission of the information required under §2617.3 will not impose an unreasonable burden on a plan administrator. Accordingly, no formal procedure for a plan administrator to request a waiver is being adopted. In addition, proposed § 2617.3(f), relating to waiver of the obligation to file, has been deleted.

Reporting events on annual report—The proposed rule provided that even if the plan administrator's obligation to file a 30-day notice is waived, the plan administrator is still required to report the occurrence of the event on the plan's annual report (proposed § 2617.3(a)(2)). One comment suggested that the PBGC eliminate from the annual report any event for which the 30-day notice is waived, other than those events for which notice will be provided to the PBGC by the DOL or the IRS. The PBGC is not empowered to relieve a plan administrator from the statutory obligation to include reportable events in the annual report. The PBGC has added a separate section (§ 2617.4) to clarify that a reportable event must be reported in the plan's annual report whether or not the 30-day notice requirement has been waived.

Date of filing—Under the proposal, a document was deemed filed with the PBGC on the date of receipt by the PBGC. Some comments objected to this provision, arguing that because the proposal would significantly reduce the 30-day period, and would unfairly result in a violation of Title IV if a notice is lost in the mail, the date of filing should be considered the date of the United States postmark stamped on the envelope. The PBGC agrees with this suggestion and has made the necessary change (§ 2617.6). It should be noted, however, that the date of the postmark will be considered the date of filing only if the postmark is made by the United States Postal Service and only if the document is mailed postage prepaid, properly packaged and addressed. If the above conditions are not met, the date of filing is the date the PBGC receives the document.

Specific Reportable Events

Title I noncompliance—One comment objected to the requirement in proposed section 2617.4 that any violation of Title I be reported in the annual report and requested that the PBGC interpret the phrase "not in compliance with Title I of the Act" in section 4043(b)(1) as covering only those parts of Title I that correspond to the tax qualification requirements of Code section 401(a). This comment contended that: (1) this event could include many situations that are not indicative of plan or employer financial problems or possible need for plan termination, and (2) the events in section 4043(b)(1) (Title I noncompliance and tax disqualification) are only intended to relate to tax disqualification. The PBGC has rejected this comment because the suggested construction of section 4043(b)(1) is unsupported by the statutory language. In addition, the PBGC notes that in section 4043(b)(8), the only other paragraph in section 4043(b) with two discrete events, the two events are unrelated. Section 4043(b)(8) includes both plan mergers, consolidation or transfers and an alternative method of compliance with the reporting and disclosure requirements under Title I.

Amendment decreasing benefits payable—Under the proposed regulation, a reportable event occurs when an amendment to a plan is adopted if, under the amendment, any participant's retirement benefit may be decreased (proposed § 2617.5). The final regulation provides that a reportable event occurs only if the decrease is in a benefit payable from employer contributions (§ 2617.13).

Several comments objected to the PBGC treating as a reportable event the adoption of an amendment if, under the amendment, there is "a decrease or *potential decrease* in the amount of any accrued retirement benefit or *the retirement benefit that would accrue in the future*" (emphasis added). Some comments suggested that this event be limited to reductions in accrued benefits (*i.e.* benefits payable as of the date an amendment is adopted). One such comment stated that the proposed regulation requires reporting of changes that do not portend plan termination. Another comment urged that this event only apply to the elimination of any type of retirement benefit and an increase in age, service or other requirements for benefit entitlement.

The PBGC believes that treating a decrease or a potential decrease in accrued benefits or future accruals as a reportable event is consistent with the language in section 4043(b)(2) and the purpose of section 4043. Section 4043(b)(2) applies to the adoption of an amendment to a plan under which "the *benefit payable * * * may be decreased*" (emphasis added). It is significant that Congress used the term "benefit payable" in section 4043(b)(2), not accrued benefit. The term "accrued benefit" found in section 204(g) of the Act and section 411(d)(6) of the Code, both of which relate to reductions in accrued benefits, does not apply to benefits that might accrue in the future. The use of the term "benefit payable" in section 4043(b)(2), a broader term, indicates a legislative intent that section 4043(b)(2) apply in circumstances other than or in addition to the reduction of accrued benefits, *e.g.*, prospective reductions in benefits. This is consistent with the purpose of section 4043, since a prospective reduction or benefits may be as indicative of the need for the PBGC to scrutinize a plan as a reduction in accrued benefits. In addition, the reference to a "potential decrease" in section 2617.13 reflects the use of the term "may be decreased" in section 4043(b)(2), which seems to evidence Congressional intent to widen the application of this reportable event to cover a plan amendment that creates the possibility of a prospective reduction in benefits, as well as an amendment that results in an actual reduction.

A number of comments objected to the PBGC treating as a reportable event the adoption of an amendment designed to integrate a plan's benefit formula with Social Security benefits or to increase the level of integration. Other comments requested the PBGC to waive the 30-day notice requirement for such situations. The PBGC has decided that such amendments are reportable events as described in section 4043 since they may result in a reduction in the benefit payable. However, the PBGC has added a special rule in the waiver provisions in section 2617.13 to waive the 30-day reporting requirement for an amendment

under which: (1) the plan becomes integrated with Social Security benefits, (2) the level of integration is increased, or (3) the method of integration is changed. The same rules would apply in the case of Railroad Retirement benefits. The PBGC also has included a definition of "Social Security benefits" and "Railroad Retirement benefits" in section 2617.2.

A few comments raised questions about the interpretation of the term "potential decrease". One comment requested that the PBGC limit the application of "potential decrease" to specifically enumerated situations, because this term may cover so many possible events. The PBGC recognizes that the term "potential decreases" may apply to many situations, such as those described in the next two paragraphs, but it does not believe it is necessary or prudent to attempt to enumerate these situations in the regulation.

Another comment asked whether a reportable event occurs upon the adoption of a plan amendment that is not intended to decrease benefits but "may occasionally have that effect on some individuals", such as the result of a change in the benefit formula from a career earnings plan to a final average salary with a lower percentage formula. Another comment noted that many amendments change the benefit formula from career average to final pay. While these amendments are intended to increase benefits for most participants, they may adversely affect a few participants because, for example, a participant's compensation is subsequently reduced. In response to these comments, the final regulation provides in § 2617.13(d)(2) that projected benefits, and therefore potential benefit increases or decreases, should be determined based upon the salary scale used in the plan's actuarial assumptions. For this purpose, the plan should assume that each participant's salary will increase until normal retirement age in accordance with the salary scale used by the plan's actuary. If the plan changes from a career average to a final pay benefit formula and uses a salary scale to project future benefits levels that has salary increasing up to normal retirement age, but retains the same percentage benefit formula, there is no reportable event because the new formula would always provide a higher benefit under the assumptions used. However, if the percentage formula is reduced, it will be necessary to project the benefits of participants at various ages to determine whether their benefits would be lower under the new formula than under the old formula.

One comment requested that the final regulation provide that no reportable event occurs if a plan amendment provides for a minimum benefit based on a continuation of the old benefit formula at the participant's wage level as of the date of the change. Because such an amendment may result in a decrease in the benefits payable, under the final regulation, as under the proposal, this is a reportable event.

One comment requested the PBGC to clarify in the final regulation whether a reduction in option factors or early retirement factors resulting from a change in actuarial assumptions is a reportable event. Another comment objected to the PBGC treating as a reportable event a change in the actuarial factors underlying an early retirement benefit calculation, arguing that this is unduly burdensome and not within the scope of ERISA. Under the final regulation, as in the proposed regulation, a change in the actuarial factors used to compute optional forms of payment of a retirement benefit is not a reportable event. A change in the actuarial factors used to compute early retirement benefits that may result in a lower normal form of payment at any age is a reportable event. These results follow from the language of § 2617.13. Furthermore, the PBGC believes that these results are consistent with section 4043(b)(2) of ERISA and the purpose of section 4043, as discussed above. In addition, since the plan administrator's obligation is only to report such events in the plan's annual report (*i.e.*, there is no 30-day notice requirement), there is not an undue burden on the plan administrator.

One comment suggested that the regulation provide that a reportable event has not occurred where a decrease in a participant's anticipated benefit under a plan is offset by an increase in the participant's anticipated benefit under another plan maintained by a trade or business within the same controlled group. The PBGC has rejected this suggestion because, under section 4043, the occurrence of a reportable event is determined on a plan-by-plan basis. Thus, section 4043(b)(2) provides that a reportable event occurs "when an amendment of the plan is adopted if, *under the amendment, the benefit payable* with respect to any participant may be decreased" (emphasis added). However, the 30-day notice for this event is waived when there is an offsetting benefit increase in another plan covering the same participants that is maintained by a member of the same controlled group.

By modifying the definition of "retirement benefit", the PBGC has revised this event to include a decrease or potential decrease in a benefit payable upon late retirement.

The PBGC has revised the 30-day notice requirement with respect to this event. Under the final regulation, the 30-day notice requirement is waived unless the following three conditions exist. First, the plan has 100 or more participants as of the end of the previous plan year. This represents a change in the date as of which the number of participants should be determined; under the proposal, the determination date was the date of adoption of the amendment. This change is designed to minimize the burden imposed on the plan administrator by enabling the plan administrator to count participants as of the same date for purposes of both the annual report and this reportable event. Second, the amendment results in: (a) a decrease in the already accrued normal retirement benefit of any participant; or (b) a decrease of more than 50 percent in the amount of the normal retirement benefit that would accrue in the future with respect to more than 50 percent of the number of active participants in the plan as of the end of the previous plan year. The test in the proposed rule related to a 10 percent decrease in the normal retirement benefit for more than 10 percent of the participants. That test has been eliminated because of the administrative difficulty involved in applying that test. The new 30-day notice requirement focuses specifically on only those classes of events for which the PBGC has determined a 30-day notice is essential. Third, the amendment is not adopted in order to comply with the requirements of any federal law (*e.g.*, the Internal Revenue Code). The proposed regulation referred only to amendments not adopted in order to avoid or to correct discrimination prohibited under the Code. The PBGC has revised the third test in recognition of the fact that the adoption of an amendment to comply with other Code provisions or other federal law does not normally indicate a plan in danger of termination, even if the amendment may result in a decrease or potential decrease in a benefit payable to any participant.

One comment suggested that since this event must be reported on the annual report, the PBGC should consider whether it needs earlier notification. The PBGC believes that a decrease in benefits payable is one of the most significant reportable events because it is very likely to be indicative of

employer financial hardship or a danger of plan termination. To delay reporting of a benefit decrease for as long as one and one-half years after the decrease could have an adverse impact on participants and the PBGC. Accordingly, it would be inappropriate to waive entirely the 30-day notice requirement for this event and rely exclusively on annual reports.

The same comment also requested that the PBGC consider waiving the 30-day notice requirement where a plan is amended to increase the vesting requirements for entitlement to a normal retirement benefit. The PBGC has rejected this suggestion because such an increase may well be indicative of a plan in danger of termination.

One comment suggested that in the case of a collectively bargained plan, there should be a waiver of the 30-day notice requirement for amendments that do not curtail benefits during the term of the bargaining agreement but which might reduce future benefit accruals for many participants. The comment stated that there should be a waiver because it is likely in a collectively bargained plan that the flat dollar benefit amount will be increased in future negotiations. The same comment also urged that the 30-day notice requirement for the event be waived unless there is a "material reduction" in the retirement benefit of all participants. As noted above, PBGC has, in this final rule, expanded the waiver provisions for this event. The PBGC believes that it would be inappropriate to expand the waiver further for collectively bargained plans.

Finally, one comment stated that the reference to "normal retirement age" in proposed § 2617.5(c)(1) in the special computation rules for computing the amount of a decrease in the amount of the normal retirement benefit for purposes of the waiver provisions is confusing because the Act defines that term in section 3(24) without regard to the age at which full accrued benefits are payable. The comment suggested that the 30-day notice requirement should be written without reference to "normal retirement age". The final regulation (§ 2617.13(d)(1)) uses the age at which the normal retirement benefit is payable instead of the "normal retirement age" for purposes of comparing benefits before and after a plan amendment that changes the age at which the benefit is payable.

Active participant reduction—Several comments requested the PBGC to authorize a plan administrator to use annual census participation data to determine whether a reportable event has resulted from a decrease in the number of active participants. These comments suggested the use of year end participation data since that data is already being compiled for purposes of other reporting requirements under the Act. One comment stated that it would impose "an unreasonable and costly administrative burden upon administrators to constantly monitor the [number of] active participants" Another comment stated that for multiemployer and multiple employer plans employment is often irregular and whether an idividual is a participant can generally be determined only when the plan records are available for a plan year.

The PBGC has decided against specifically authorizing in the final regulation the use of annual participant data. The PBGC believes that this event does not require daily monitoring of the number of active participants. A plan administrator's obligation is merely to report an active participant reduction when the plan administrator knows or has reason to know about the occurrence of an active participant reduction. There is no violation of Title IV if, for any reason (e.g., plan records are compiled on a yearly basis), the plan administrator does not know or has no reason to know of any active participant reduction that is a reportable event. (It is not the intention of the PBGC to require a change in current reasonable record keeping methods in order to comply with this event.) On the other hand, there will be situations where the plan administrator should know of the occurrence of a reportable event without regard to when plan records are updated. For example, if 40 percent of the employees under a single employer plan are separated from employment, the PBGC would expect that plan administrator should not be relieved of his or her reporting obligations in all situations simply because plan records are compiled on a yearly basis.

A related question is what should be the base point in time for determining the number of active participants in order to be able to measure the percentage decrease, if any, in the number of active participants during the plan year? The PBGC has added a special rule for this event under which a plan administrator need not determine the number of active participants as of the beginning of a plan year, if, instead, he or she determines the number as of the end of the preceding year (§ 2617.14(c)). The PBGC believes that the number of active participants as of the beginning of a plan year should not be significantly different from the number as of the end of the previous plan year. Further, the special rule will enable a plan administrator to avoid establishing a new system of records for purposes of determining the number of active participants as of the beginning of the plan year and, instead, to use information that is required to be reported by plans for other purposes under the Act.

One comment suggested that the PBGC consider whether it needs to be notified of an active participant reduction before it receives a plan's annual report. The comment asked why, in the proposed regulation, the PBGC waived the 30-day notice requirement for an IRS determination of a partial termination, which usually means a 20 percent decrease in plan participation, but not for an active participant reduction. The PBGC believes that an active participant reduction is highly indicative of plan or employer financial problems. Delaying reporting of this event for as long as one and one-half years could have a serious adverse impact on the participants, and the PBGC. In the case of an IRS determination of a partial termination, the PBGC has waived the 30-day notice requirment because the IRS is required to notify the PBGC when it makes such a determination. However, a partial termination does not automatically occur when there is a 20 percent decrease in plan participation. Accordingly, the significance of a decline in participation makes it important that the PBGC receive notice from the plan administrator of an active participant reduction as soon as possible.

Several comments requested the PBGC to clarify the active participant reduction waiver provision. One comment expressed confusion about whether one or both of the tests in proposed § 2617.6(b) needed to be satisfied in order to qualify for a waiver of the 30-day notice requirement. Another comment stated that the regulation was unclear whether in applying the second test (relating to aggregating the total number of active participants in all the employer's covered plans) a plan administrator could include active participants in the employer's defined contribution plans.

The PBGC has revised the waiver provision to clarify two points. First, the waiver provision is applicable if there are less than 100 participants in the plan or there is an insignificant reduction in the total number or active participants in all of the employer's covered plans. Second, for purposes of the second test, the plan administrator may take into account only the total number of active participants in all of the employer's

V 45 A G 2 0 8 0 UMI

single employer defined benefit plans covered under Title IV.

The PBGC notes that the final regulation, like the proposed regulation, provides that the 30-day notice requirement is not waived if the plan has 100 or more participants as of the beginning of the current or previous plan year. The beginning of the plan year is used because this reportable event uses the beginning of the plan year as the base point in time for determining the number of active participants in order to be able to measure the percentage decrease. However, the plan administrator may determine the number of participants as of the end of the two immediately preceding plan years (§ 2617.14(c)).

Failure to meet minimum funding standards—One comment suggested that the PBGC waive the 30-day notice requirement for this event, because a minimum funding violation does not necessarily mean a plan is in trouble and "this information would be discovered at the time of the normal actuarial report." The PBGC has rejected this suggestion because the occurrence of this event may indicate serious plan and employer financial problems and thus requires a PBGC review of the facts and circumstances as soon as possible; a delay in notification of this event may have a serious adverse impact on the PBGC and participants.

Two comments suggested that the PBGC waive the 30-day notice requirement in situations where the period for making a contribution to the funding standard account is extended beyond the due date for the annual report, since the PBGC will receive notice of the occurrence of this event when it receives a copy of the annual report from the IRS. The PBGC has rejected this comment. A contribution for a plan year must be made within two and one-half months after the close of the plan year, or an extended period of up to eight and one-half months under regulations prescribed by the Secretary of the Treasury. The Secretary of the Treasury has issued regulations automatically extending the period during which contributions must be made for a plan year to eight and one-half months after the close of the plan year—more than a month later than the annual report deadline. See Treas. Reg. § 11.412(c)–12(b). As long as the deadline for contributions is later than that for reporting, it will be impossible to determine delinquencies in contributions in time for the annual report. Therefore, the PBGC has determined that it is necessary to maintain the 30-day reporting requirement.

Inability to pay benefits when due—Under the proposed regulation, a reportable event occurs when a plan is unable to pay full promised benefits when due in the form prescribed by the plan. Special rules are included for determining when a plan is unable to provide full promised benefits depending on the form in which benefits are provided (proposed § 2617.9(b)). Administrative delays or difficulties caused by, for example, the absence for fewer than two full benefit payment periods of the person authorized to make or approve benefit payments, or the need to verify participants' eligibility to receive benefits, do not result in a plan being considered unable to pay full promised benefits when due.

The final regulation has been revised to provide that a plan is unable to pay benefits when due if the plan does not pay any participant, who is then entitled to benefit payments, the full promised benefits to which he or she is entitled in the form prescribed under the terms of the plan (§ 2617.7(a)). For example, a plan is unable to pay benefits when due if an insurer from which the plan has purchased a group insurance contract that contains a post-funding rider does not pay a participant his or her benefit in the form prescribed under the terms of the plan.

Except for a substantive change with respect to proposed § 2613.3(b) (relating to a group insurance contract that contains a post-funding rider), the special rules in proposed § 2617.9(b) (relating to the form in which benefits are provided) have been dropped for editorial reasons. Similarly, the regulation no longer specifically provides that this event will generally occur when a plan currently has inadequate assets to pay full promised benefits as they come due, or when full promised benefits are not paid because of asset liquidity problems (proposed § 2617.9(a)). This too was dropped for editorial reasons. Such changes were made because they did not add anything to the general rule in § 2617.17(a). Further, the rule relating to administrative delays has been revised to provide that a plan shall not be treated as being unable to pay benefits when due if its failure to pay benefits is caused solely by: (1) the need to verify any participant's eligibility for benefits, (2) inability to locate any participant, or (3) any other administrative delay if such delay lasts less than the shorter of two months or two full benefit payment periods.

One comment suggested that the regulation provide that a plan is not unable to pay benefits when due merely because plan assets are currently inadequate to pay all benefits due at a future date. The PBGC believes that the interpretation of section 4043(b)(6) stated in the comment is correct and that this interpretation is now clear under § 2617.17(a), as revised.

The inability of a plan to pay benefits when due is one of the statutory bases for action under section 4042 of the Act. The PBGC notes that its interpretation of when it is authorized to initiate involuntary termination proceedings under section 4042(a)(2) need not coincide with its interpretation as set forth in § 2617.17 of when a reportable event occurs under section 4043(b)(6).

Distribution to a substantial owner—Under the proposed rule, a 30-day notice for this event is required only when there has been a distribution or distributions with a value of $10,000 or more to a substantial owner within a 12-month period, all or a portion of which is attributable to a benefit which is in excess of the maximum guaranteeable benefit for substantial owners under Part 2609 of this chapter for the year in which it is made (proposed § 2617.11(b)). One comment suggested that the 30-day notice requirement in the case of a distribution to a substantial owner be waived entirely for plans with fewer than 100 participants since (1) the administrative cost of determining the value of a distribution at irregular intervals during the year would impact most severely on smaller plans, (2) the notification requirement is more sweeping where an annuity contract is the vehicle for retirement benefits than in a non-insured fund because of the rules for valuing irrevocable commitments, and (3) the recapture provisions of section 4045 adequately protect the PBGC.

The PBGC has rejected this suggestion for several reasons. First, the PBGC believes that the 30-day notice requirement will apply in very few situations, but when it does it will most likely involve a small plan. A large distribution in a small plan is likely to have a serious impact on the plan. Second, failure to receive a 30-day notice will severely impair the PBGC's ability to apply the recapture provisions of section 4045 because notification on the annual report may not be timely. Third, the seriousness of the event described in this section is reflected in the fact that the occurrence of such an event authorizes the PBGC to initiate involuntary termination proceedings under section 4042(a)(3) of the Act. Accordingly, the interests of other plan participants and the PBGC outweigh the rare instances in which significant administrative cost and inconvenience possibly might result from application of the 30-day notice requirement.

One comment suggested that in the rules for valuing a distribution in paragraph (c)(2), the words "to the participant and/or his beneficiary" be added after "benefit payable" in order to eliminate situations where the trust has power to retain the payments. The PBGC has rejected this comment because paragraph (c)(2) is intended to provide valuation rules for a distribution in the form of an irrevocable commitment, *i.e.*, an insurer's obligation to pay a participant or his or her beneficiary. Paragraph (c)(2) thus does not apply to situations where the trust has power to retain benefit payments.

The same comment suggested that the PBGC add the words "to a participant and/or beneficiaries," after "equivalent" in the rules for determining the date of a distribution of an irrevocable commitment in paragraph (d) in order to apply to the situation where a trustee purchases an insurance contract with payments to be made to or at the direction of the trustee. The PBGC has not accepted this suggestion because such a contract is not an "irrevocable commitment" as defined in § 2617.2.

Plan merger, consolidation or transfer—Under the proposal, the 30-day notice requirement is partially waived for this event. In general, under the proposed rule, a 30-day notice is required when a multiemployer plan (within the meaning of section 414(f) of the Code) merges or consolidates with or transfers (or receives) assets or liabilities to (or from) any other plan, or when a single employer plan with 100 or more participants merges or consolidates with or transfers assets or liabilities to a plan maintained by a different employer (*i.e.*, an employer who is not a member of the same group of trades or businesses under common control, within the meaning of part 2612 of this chapter) (proposed § 2617.11(a)). Proposed § 2617.11(b)(2) contains a special rule under which a 30-day notice need not be filed if there is a transfer of assets or liabilities pursuant to a reciprocity or portability agreement.

Some comments urged the PBGC to waive the 30-day notice requirement for all plan mergers, consolidations or transfers of assets or liabilities. One comment endorsed the proposed rule but suggested clarification of the provision relating to the merger of a single employer plan with a plan maintained by a different employer.

The PBGC has decided to waive the 30-day notice requirement for any reportable event under this section because the PBGC expects to receive information from the IRS concerning plan mergers, consolidations or transfers of assets or liabilities. (A plan administrator is required, pursuant to section 6058(b) of the Code, to file a notice with the IRS at least 30 days prior to the occurrence of the event.)[3]

Alternative method of compliance—In response to a comment, the PBGC has established a separate section for this event, § 2617.20. In response to another comment, the PBGC has revised the alternative method of compliance event to indicate that a reportable event occurs only if the Secretary of Labor prescribes an alternative method of compliance for a particular plan or a specific limited group of plans. The PBGC has made the latter change because certain reporting and disclosure forms filed by a class of plans or by all plans (*e.g.*, the 5500 series) are considered alternative methods of compliance under DOL regulations.

Bankruptcy, insolvency or similar settlements; liquidation or dissolution.—These two events apply to single employer plans only. One comment suggested that the PBGC expand the scope of these two events to apply to multiple employer and multiemployer plans, possibly with a 3 percent *de minimis* rule for administrative feasibility. The PBGC has not followed this suggestion because the PBGC believes that, in view of the number and size of the employers in many multiple or multiemployer plans, the bankruptcy or liquidation of one employer in such plans will rarely be indicative of a possible danger of termination. Moreover, in those cases where a major contributing employer is bankrupt or is liquidated or dissolved, the PBGC should be so advised in a timely manner either as a reportable event as a result of a reduction in active participants, or under § 4063 in connection with the plan administrator's notice of the withdrawal of a substantial employer.

Under the proposed regulation, a reportable event occurs when, in the case of a single employer plan maintained by a member of a group of trades or businesses under common control, any member of the group (whether or not contributing to the plan) is the subject of bankruptcy, insolvency or similar settlements or is in the process of being completely liquidated or dissolved. One comment objected to the requirement that a notice be filed for each plan in the controlled group. The comment recommended that the reporting obligation apply with respect to a plan only if there is a bankruptcy or liquidation of a trade or business that contributes to the plan or the parent corporation of such trade or business. The PBGC has revised both events to limit the events to situations where a contributing sponsor is the subject of bankruptcy, insolvency or similar settlements or is in the process of being completely liquidated or dissolved. The PBGC believes that where a bankruptcy or liquidation does not involve a contributing sponsor, the administrative burden imposed by the proposed events is unjustifiable when compared to the likely danger of, or need for, plan termination. That is, while bankruptcy or liquidation of a contributing sponsor indicates a significant danger or possible need for a plan termination, the bankruptcy or liquidation of a member of a contributing sponsor's controlled group is far less likely to indicate a danger of or the need for a plan termination.

In addition, the PBGC has revised the last subparagraph of the proposed bankruptcy event so that a reportable event occurs if a contributing sponsor undertakes to effect any other non-judicial composition, extension or settlement with *substantially all* its creditors.

Transaction involving a change of employer—Proposed § 2617.14(a) provides, generally, that a reportable event occurs when, with respect to a single employer plan with 100 or more participants and with nonforfeitable benefits which are not funded, there is a transaction involving the assets of or an ownership interest in the plan sponsor and, as a result, the plan sponsor is or will no longer be a member of the same commonly controlled group, or there is or will be a change of plan sponsor. Proposed § 2617.14(b) provides, in pertinent part, that this event does not cover a situation in which there is no change in the identity of the employer (as opposed to the plan sponsor), as defined in proposed § 2617.2.

As finalized herein, § 2617.23(a) applies only with respect to a single employer plan with nonforfeitable benefits which are not funded of $1 million or more. The substitution of $1 million threshold for the 100 or more participant test should further limit the scope of this event. The PBGC believes that few, if any, single employer plans with fewer than 100 participants are

[3] Appropriate changes will be made in the joint PBGC–IRS proposed procedure to eliminate duplicative filing requirements under §§ 4041(a) and 4043(b)(6) of the Act and §§ 401(a) and 6058(b) of the Code, as described in the PBGC's proposed revision of the Notice of Intent to Terminate regulation, published on July 24, 1979, at 44 FR 43404, so that the procedure would no longer apply to plan mergers, consolidations or transfers of plan assets or liabilities.

V 45 A AG 20 80 UMI

likely to have nonforfeitable benefits which are not funded of $1 million or more.

A reportable event occurs under the final regulation when:

(1) As a result of a transaction involving a transfer of assets of or an ownership interest in a contributing sponsor—

(i) There is or will be a new contributing sponsor that is not a member of the controlled group of the previous contributing sponsor;

(ii) The contributing sponsor leaves or will leave the controlled group; or

(iii) The contributing sponsor becomes or will become a member of a different controlled group, except where the new controlled group is or will be the same, but for the addition of another trade or business, as the contributing sponsor's controlled group before the transaction; or

(2) As a result of a transaction involving a transfer by a contributing sponsor of the assets of or an ownership interest in another trade or business, the sponsor and that trade or business are no longer part of the same controlled group.

The reporting obligations under § 2617.23(a) apply with respect to a contributing sponsor's single employer plan. For example, assume that Corporation X owns 100 percent of the only class of Stock of Corporation Y. Corporation X maintains a single employer plan. Corporation Y maintains a separate single employer plan. Corporation X's plan and Corporation Y's plan each have nonforfeitable benefits which are not funded of $1 million or more. Corporation X sells all of its stock in Corporation Y to Corporation Z, an unrelated company. There is a reportable event with respect to Corporation X's plan (§ 2617.23(a)(2)) and a reportable event with respect to Corporation Y's plan (§ 2617.23(a)(1)).

This event, as modified, and §§ 2617.21 and .22, refer to the term "contributing sponsor." The relationship of the terms contributing sponsor, "employer", and "controlled group", is as follows: Each trade or business that is obligated to contribute to a plan is a "contributing sponsor." There may be more than one contributing sponsor even with respect to a single employer plan. For example in the case of a plan to which six members of the same controlled group contribute, each member is a contributing sponsor; however, there is one "employer" with respect to the plan for purposes of Title IV. The "employer" is the trade(s) or business(es) obligated to contribute to the plan plus all trades or businesses under common control with such trade(s) or business(es), whether or not they are contributing sponsors with respect to the plan. That is, the "employer" is a group of trades or businesses under common control, including at least one contributing sponsor. A contributing sponsor and all trades or businesses under common control with it form a "controlled group." If there are no trades or businesses under common control with the contributing sponsor, the contributing sponsor and the "controlled group" are the same.

The purpose of this event is to require a plan administrator to notify the PBGC of transactions that have resulted or will result in a change in the make-up of the employer that would be liable to the PBGC if the plan then terminated immediately after the transaction. These rules reflect the fact that employer liability to the PBGC is limited by 30 percent of the employer's net worth.

A transaction may be a reportable event under both § 2617.23(a)(1) (ii) and (iii). For example, assume that Corporations A, B, and C are members of a controlled group, that A is the contributing sponsor, and that the plan has nonforfeitable benefits which are not funded of $1 million or more. Individual X buys 100 percent of the stock of Corporation A. This transaction is a reportable event under § 2617.23(a)(1) (ii) and (iii).

Section 2617.23(a)(1)(iii) contains an exemption for a transaction involving a transfer of assets of or an ownership interest in the contributing sponsor where the contributing sponsor becomes a member of a different controlled group if the new controlled group is or will be the same, but for the addition of another trade or business, as the contributing sponsor's controlled group before the transaction. For example, no reportable event occurs under § 2617.23(a)(1)(iii) if assets of the contributing sponsor are transferred to another trade or business in exchange for stock in that transferee trade or business and as a result of this transaction the contributing sponsor and the transferee trade or business are now part of the same controlled group.

The following examples are illustrative of reportable events under this section. For purpose of these examples, assume that A, B, and C are members of a controlled group, that A is the contributing sponsor, and that the plan has nonforfeitable benefits which are not funded of $1 million or more.

1. A buys back all of its stock held by B and C (§ 2617.23(a)(1)).

2. A and D, an unrelated company, are consolidated into a new company E, which is not a member of the controlled group of which A was a member and which becomes the contributing sponsor (§ 2617.23(a)(1)).

3. A sells all its stock in C to D, an unrelated company. (§ 2617.23(a)(2)).

In the next example of a reportable event under § 2617.23, assume that A is the sole member of a controlled group and that a division of A maintains a plan:

4. A sells that division that maintains the plan to B, an unrelated third party, who incorporates the division (§ 2617.23(a)(1)).

Finally, assume that A is the sole member of a controlled group and A maintains a plan:

5. A sells all its stock to B, an unrelated company, which is a member of a controlled group including companies C and D (§ 2617.23(a)(1)).

Section 2617.23(a) does not apply to all transactions where there is a change in the contributing sponsor's controlled group. For example, A maintains a single employer plan with nonforfeitable benefits that are not funded of $1 million. B owns 90 percent of the stock in A and 85 percent of the stock in C. B executes an agreement to sell all of its stock in C to an unrelated company. In this case, § 2617.23(a) does not apply, because the transaction does not involve a change in the controlling ownership interest in A, nor in A's controlling ownership interest in another trade or business.

In addition, § 2617.23(a) does not apply to reorganizations that involve a mere change in name, location or organization, however effected, liquidation into a parent corporation, or a merger, consolidation or division involving only members of the same controlled group. These exceptions are intended to exclude events that do not have an impact on the net worth of the employer liable to the PBGC in the event of plan termination. For example, assume A is the contributing sponsor to a single employer plan and A, B, and C are members of a controlled group. A, B, and C are consolidated into a single company. This would not be a reportable event.

For purposes of this reportable event, the term "transaction" includes but is not limited to a legally binding agreement, whether or not written, to transfer, or a transfer, and a change of ownership that occurs as a matter of law or exercise or lapse of pre-existing rights. For example, a reportable event occurs upon the execution of an agreement to sell the assets of a facility to an unrelated employer and to transfer plan sponsorship to that employer. In the absence of a preliminary sales agreement, the reportable event occurs upon the consummation of the sale.

The PBGC has also revised this event by: (1) including valuation rules for determining whether a plan has nonforfeitable benefits which are not funded of $1 million or more; and (2) eliminating the special exception from the coverage of this event for a plan merger, consolidation or transfer of assets or liabilities (proposed § 2617.14(c)).

One comment requested that the PBGC clarify whether this section applies to a sale of stock as well as a sale of assets. The proposed and the final regulation both use the term "ownership interest." The term "ownership interest" includes stock in a corporation. Therefore, the regulations apply to a sale of stock or assets.

The same comment also suggested that the PBGC consider applying this section not only to sales but also to other types of transfers that otherwise meet the requirements of this section. The reference to a sale situation in the proposed regulation is intended to be merely illustrative of a frequent event subject to this section. The term "transfer", which is used in the final regulation, includes but is not limited to, a sale, merger, acquisition, consolidation, distribution of a cash or stock dividend, distribution of capital, a gift or a devise. Therefore, the proposed and the final regulations apply to other types of transfers in addition to sales.

Another comment suggested that the PBGC expand the scope of this event to apply to multiple employer and multiemployer plans, possibly with a 3 percent *de minimis* rule for administrative feasibility. The comment could be read to refer to a change in (1) the ownership interest of a contributing employer, or (2) the total group of contributing employers (*e.g.*, a withdrawal of an employer). The PBGC has rejected this comment under either reading. As to the first reading, a multiemployer or a multiple employer plan is normally maintained by many employers. A change in the ownership interest of one employer does not normally indicate a danger of plan termination. With respect to the second reading, a withdrawal of one employer would not normally be indicative of an event that would jeopardize plan continuation. In the case of the withdrawal of a major contributing employer, the PBGC should be so advised in a timely manner under section 4063. In addition, if there is a substantial reduction in the number of active participants the PBGC should be so advised in accordance with § 2617.14.

Two comments suggested that the PBGC waive the 30-day notice requirement if the net worth of the employer after the transaction is equal to or greater than the net worth of the employer before the transaction. The PBGC has rejected this suggestion. This is a factor appropriately considered by the PBGC when it reviews a 30-day notice. In addition, the PBGC believes that it would be burdensome to expect a plan administrator to determine the net worth of the employer before and after the transaction. Accordingly the PBGC believes it appropriate not to include a net worth test in this event to enable the plan administrator to avoid having to make this complex calculation.

Finally, the PBGC wishes to note that the plan administrator of the plan at the time the obligation to report arises has the obligation to notify the PBGC of the occurrence of an event under this section. For example, assume that a company maintains a separate plan for one of its large divisions. Under the plan, the company is the plan administrator. The company enters into an agreement to sell the division in 90 days to a company that will assume the plan. In this situation, the seller is required to notify the PBGC. However, if the company had sold the division without any preliminary agreement the buyer would be required to notify the PBGC.

Additional events not included in the regulation—One comment suggested that the PBGC consider prescribing as an additional reportable event, a creditor's claim against a plan under state law (*e.g.*, a claim by a divorced spouse of a participant). The PBGC has decided not to add this situation as a reportable event. The PBGC believes that creditors' claims against a plan are unlikely to be significant, in and of themselves, or indicative of a possible danger of or need for plan termination. The reportable events prescribed in this regulation should provide the PBGC with adequate notice of plan or employer financial problems.

Another comment recommended that the regulation provide that a reportable event occurs when a plan sponsor takes action that substantially reduces (*e.g.*, a 50 percent reduction) its net worth for Title IV (*e.g.*, declares a dividend, redeems stock, or spins-off a substantial member of the controlled group). The comment suggested that this event is necessary to enable the PBGC to take timely action to prevent a plan sponsor from intentionally reducing its net worth to reduce its employer liability upon a subsequent plan termination.

The PBGC has rejected this recommendation because the scope of the recommended event is overbroad. A significant drop in net worth for Title IV purposes is not necessarily indicative of a danger of plan termination and consequently an increase in PBGC's risk of loss. However, the PBGC believes that even if the event were more limited in scope (*e.g.*, by providing that a reportable event occurs only if the plan has nonforfeitable benefits which are not funded), it would still be unnecessary because other reportable events are sufficient to provide the PBGC with notice of significant declines in an employer's financial condition. In addition, the PBGC believes that the recommended event is unnecessary because the PBGC, in determining an employer's net worth for purposes of the employer liability provisions in Title IV, has the authority under section 4062(c)(2) to set aside improper asset transfers made by the employer. Finally, the PBGC believes that in the absence of clear necessity, it would be undesirable to require reporting that would necessitate the complex calculations and business judgments involved in determining net worth.

Effective date—One comment urged the PBGC not to make the obligation to report events added pursuant to the PBGC's authority under Section 4043(b)(9) retroactive to a date before the final rule is published in the **Federal Register.** Another comment suggested that the reporting requirements in the regulation should have a retroactive effective date for pending reportable event cases in order to require submission of necessary information, such as that listed in the proposed regulation. The final regulation is effective for reportable events occurring on or after 30 days after the date of publication. Therefore, a plan administrator is only obligated to report the occurrence of any of the three new reportable events added pursuant to section 4043(b)(9) (*i.e.*, bankruptcy, insolvency, or similar settlements (§ 2617.21), liquidation or dissolution (§ 2617.22), and transactions involving a change of employer (§ 2617.23)), occurring on or after 30 days after the date of publication. The PBGC believes there is no need for the final regulation to have a retroactive effective date in order to obtain necessary information in pending cases because the PBGC can always request the submission of necessary information.

Miscellaneous Comments

A number of comments were received that are beyond the scope of the final rule or beyond the PBGC's statutory authority under § 4043. They included suggestions to:

1. Eliminate the separate filing of Form PBGC–1 and permit payment of premiums to the IRS with the filing of

the plan's annual report (Form 5500 series).

2. State in the final regulation that this part does not relieve a plan administrator from the obligation to report the occurrence of events under sections 4062(e) and 4063. Part 2617 is limited to reportable events under § 4043 only. Accordingly, it would be inappropriate to discuss the filing obligations under sections 4062(e) and 4063 in Part 2617. These sections apply according to their terms.

3. Promulgate regulations under section 4062(e) of the Act.

4. Include a listing on the annual report for events under sections 4062(e) and 4063 of the Act. (The PBGC notes that the Form 5500 series already includes such a listing), and

5. Alter or eliminate section 4043(b)(3) by statutory amendment since the relevance of the 20 (or 25) percent reduction in active participants test is subject to many variables, is not necessarily indicative of a troubled plan, and a plan administrator will find it impossible to determine whether and when a reportable event has occurred. As an alternative, include only active participants with 5 years or more service in the comparison and make the comparison year-end to year-end rather than at any time during the year; include a secondary test which would be to report a reduction to 50 percent of all beginning of the year active participants after such reduction had continued or was expected to continue for 60 days.

In addition, the PBGC received a few other miscellaneous comments that were rejected because the PBGC believes they would not improve the final regulation.

The formal requirements of the PBGC's Statement of Policy and Procedures (43 FR 58237 (December 13, 1978)) implementing the President's Order on improving government regulations (Executive Order 12044) do not apply to this final rule because a notice of proposed rulemaking relating to Reporting and Notification Requirements for Reportable Events was issued before the effective date of the PBGC's Statement of Policy and Procedures (43 FR 58237, 58239). Nevertheless, the PBGC's Policy Committee has reviewed this regulation and has determined that this final rule would be a "significant regulation" according to the criteria prescribed by Executive Order 12044 and the PBGC's Statement of Policy and Procedure, because the regulation deals generally with matters that are likely to engender substantial public interest or controversy. The PBGC's Policy Committee has also determined that a regulatory analysis would not be required because the regulation is unlikely to have a major economic impact.

In consideration of the foregoing, Chapter XXVI of Title 29, Code of Federal Regulations is hereby amended by adding a new Part 2617 reading as follows:

PART 2617—REPORTING AND NOTIFICATION REQUIREMENTS FOR REPORTABLE EVENTS

Sec.

2617.1 Purpose and scope.
2617.2 Definitions.
2617.3 Requirement of notice.
2617.4 Reporting events on annual report.
2617.5 Obligation of employer.
2617.6 Date of filing.
2617.7 Computation of time.
2617.8 [Reserved.]
2617.9 [Reserved.]
2617.10 [Reserved.]
2617.11 Tax disqualification.
2617.12 Title I non-compliance.
2617.13 Amendment decreasing benefits payable.
2617.14 Active participant reduction.
2617.15 Termination or partial termination.
2617.16 Failure to meet minimum funding standards.
2617.17 Inability to pay benefits when due.
2617.18 Distribution to a substantial owner.
2617.19 Plan merger, consolidation or transfer.
2617.20 Alternative compliance with reporting and disclosure requirements of Title I.
2617.21 Bankruptcy, insolvency, or similar settlements.
2617.22 Liquidation or dissolution.
2617.23 Transaction involving a change of employer.

Authority: Secs. 4002(b)(3), 4043, 4065, Pub. L. 93–406, 88 Stat. 1004, 1024–25, 1032 (29 U.S.C. 1302(b)(3), 1343, 1365).

§ 2617.1 Purpose and scope.

(a) The purpose of this part is to prescribe the specific reporting and notification requirements imposed by section 4043 of the Act.

(b) This part applies to all plans covered by section 4021 of the Act for which a Notice of Intent to Terminate has not been filed with the PBGC.

§ 2617.2 Definitions.

For purposes of this part (unless otherwise indicated or required by the context)—

"Act" means the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 *et seq.* (1976)).

"Active participant" means—

(a) With respect to a single employer plan, a participant who—

(1) Is receiving compensation for work performed;

(2) Is on paid or unpaid leave granted by an employer for a reason other than a layoff;

(3) Is laid off from work for a period of time which has lasted less than 30 days; or

(4) Is absent from work due to a recurring reduction in employment, which occurs at least annually.

(b) With respect to a plan to which more than one employer contributes, a participant, other than—

(1) A retiree; or

(2) A former employee of a contributing sponsor who has incurred a break in service under the plan.

"Bankruptcy case" means a case under Title 11 of the United States Code (11 U.S.C. 101 *et seq.*).

"Break in service" means the greater of a one-year break in service or such other period specified in the plan used for purposes of vesting under the plan.

"Code" means the Internal Revenue Code of 1954, as amended.

"Contributing sponsor" means each trade or business that is obligated to contribute to a plan, whether or not a funding waiver or variance has been granted by the Secretary of the Treasury.

"Controlled group" means one or more trades or businesses (whether or not incorporated) under common control within the meaning of Part 2612 of this chapter.

"Distribution" means a direct or indirect benefit payment made in any form by a plan to a participant, including but not limited to, a monthly annuity payment, a lump-sum payment or a direct transfer of a plan asset other than cash. A cash payment made by an insurer pursuant to an irrevocable commitment shall not be considered a "distribution."

"Employer" means a trade or business (whether or not incorporated) maintaining a plan and all trades or businesses (whether or not incorporated) under common control within the meaning of Part 2612 of this chapter, with such trade or business.

"Insurer" means a company authorized to do business as an insurance carrier under the laws of a State or the District of Columbia.

"Irrevocable commitment" means an obligation by an insurer to pay benefits to a named participant or surviving beneficiary, which cannot be cancelled under the terms of the insurance contract (except for fraud or mistake) without the consent of the participant or beneficiary and which is legally enforceable against the insurer by the participant or beneficiary.

"IRS" means the Internal Revenue Service.

"Money purchase plan" means an individual account plan, as defined in section 3(34) of the Act, other than a profit sharing plan or stock bonus plan, in which the employer's contributions are fixed or determinable.

"Nonforfeitable benefits which are not funded" means nonforfeitable benefits, as defined in § 2605.6 of this chapter, in excess of plan assets.

"Normal retirement benefit" means normal retirement benefit as defined in Code section 411(a)(9) and Treas. Reg. § 1.411(a)–7(c).

"Participant" means—

(a) An individual who has satisfied the participation requirements, if any, prescribed by the plan and who is retaining or accruing credited service under the plan (other than a non-vested former employee who has incurred a break in service under the plan);

(b) A former employee with vested rights to immediate or deferred benefits or a retiree receiving or eligible to receive benefits from the plan, other than a former employee or retiree to whom an irrevocable commitment has been made to pay all the benefits to which he or she is entitled under the plan;

(c) A deceased individual who has one or more beneficiaries receiving or eligible to receive benefits from the plan, except when all the benefits payable under the plan with respect to a deceased individual have been satisfied through the purchase of irrevocable commitments; or

(d) Any other individual who is defined as a participant under the plan.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Plan" means a single plan (whether it be a single employer, multiemployer or multiple employer plan), as opposed to a number of plans, if, on an ongoing basis, all of the plan assets are available to pay benefits to employees who are covered by the plan and their beneficiaries.

"Plan administrator" means the plan administrator, as defined in section 4001(a)(1) and section section 3(16) of the Act. For this purpose, the term "employer" as used in section 3(16)(B), is defined in section 3(5) of the Act.

"Plan sponsor" means the plan sponsor, as defined in section 3(16)(B), of the Act. For this purpose, the term "employer" as used in 3(16)(B), is defined in section 3(5) of the Act.

"Plan year" means the calendar, policy or fiscal year on which the records of the plan are kept.

"Railroad Retirement benefits" mean benefits payable under the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.* (1976)).

"Retirement benefit" means a benefit payable upon late, normal, early, or disability retirement, other than a welfare benefit described in section 3(1) of the Act, to a participant who leaves or has left covered employment.

"Single employer plan" means a plan maintained by one trade or business (whether or not incorporated) or by two or more trades or businesses (whether or not incorporated) all of which are under common control within the meaning of Part 2612 of this chapter.

"Social Security benefits" mean old age, survivors, and disability insurance benefits payable under Title II of the Social Security Act (42 U.S.C. 301–1400).

"Substantial owner" means a substantial owner as defined in Section 4022(b)(6)(A) of the Act.

"Title IV" means Title IV of the Act.

§ 2617.3 Requirement of notice.

(a) *Obligation to file.* Except where the requirement is expressly waived by this part, the plan administrator, or a duly authorized representative, shall file with the PBGC a notice of all reportable events described in this part no later than 30 days after the plan administrator knows or has reason to know a reportable event has occurred. When a notice is submitted by a plan administrator's duly authorized representative, other than an attorney at law, it shall be accompanied by a notarized power of attorney, signed by the plan administrator, which authorizes the representative to sign and submit a notice and, if desired, also authorizes the representative to act on behalf of the plan administrator in connection with the notice.

(b) *Contents of notice.* The plan administrator shall include the information listed in this paragraph, and when applicable, the information specified in Paragraph (c) of this section, in a notice required to be submitted under this section. The plan administrator shall submit the most recent information available. The plan administrator shall identify the response to each numbered item in this paragraph by item number. If any requested information is included in an IRS form or submission attached to the notice, instead, the information may be incorporated by reference to the number, date, and page(s) of the IRS form or submission where it appears. Any required documentation previously filed with the PBGC need not be refiled, but may be incorporated by reference to the previous submission. The plan administrator shall include the following information in a notice:

(1) The name of the plan;

(2) The name, address, and telephone number of the plan sponsor(s);

(3) The name, address, and telephone number of the plan administrator. If the plan administrator is a corporate body, the name of an individual that should be contacted;

(4) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, also state the EIN–PIN last filed with the PBGC. If and EIN–PIN has not been assigned, so indicate;

(5) A brief statement of the pertinent facts relating to the reportable event;

(6) A copy of the plan document currently in effect, i.e., a copy of the last restatement of the plan and all subsequent amendments;

(7) A copy of the most recent actuarial statement and opinion (if any) relating to the plan;

(8) A statement of any material change in the assets or liabilities of the plan occurring after the date of the most recent actuarial statement and opinion relating to the plan; and

(9) A Copy of the most recent determination letter issued by the IRS (if any) relating to the plan.

(c) *Additional information.* With respect to the following reportable events, the information specified below must be submitted in addition to that listed in Paragraph (b) of this section:

(1) For an event described in § 2617.14(a) (relating to an active participant reduction):

The number of participants and the number of active participants as of the beginning of the immediately preceding and the current plan year and as of the date of the event; the number of active participants with fully vested rights, the number of such participants with partially vested rights, and the number of such participants without vested rights, as of the date of the event or, if this information is not available as of this date, as of the beginning of the current plan year; the number of retired participants receiving benefits as of the date of the event or, if this information is not available as of this date, as of the beginning of the current plan year; the number of former employees with vested rights and the number of deceased participants whose beneficiaries are receiving or entitled to receive benefits as of the date of the event or, if this information is not available as of this date, the beginning of the current plan year. (For those plans determining the number of active participants as of the end of a plan year, instead of at the beginning of a plan

year, in accordance with § 2617.14(c), the information required by this paragraph as of the beginning of a plan year shall be provided as of the end of the previous plan year.)

(2) For an event described in § 2617.16(a) (relating to a minimum funding violation):

A statement of the current funding standard account, or its alternative, showing the balance at the beginning of the plan year and the charges and credits to the account for the plan year that are required under Section 302 of the Act and Section 412 of the Code; in the case of a single employer plan, a copy of the most recent audited (or if not available, unaudited) financial statements, and the most recent interim financial statements, of the contributing sponsor (individually or where financial statements are only available on a consolidated basis with other members of the same controlled group, on a consolidated basis), including balance sheets, income statements, statements of changes in financial position and annual reports.

(3) For an event described in § 2617.17(a) (relating to an inability to pay benefits when due):

The reason(s) why the plan is unable to pay benefits, including a statement of how long this inability is likely to continue; the amount of the benefits due during the current payment period and the amount of assets available to pay those benefits; the normal date of benefit payment; the amount and date of the last benefit payment.

(4) For an event described in § 2617.18(a) (relating to a distribution to a substantial owner):

The amount and form of the distribution; a statement of whether an indemnity agreement has been entered into between the participant receiving the distribution and the plan trustee concerning lump-sum distributions to the 25 highest paid employees of the benefits subject to the early termination restrictions of Treas. Reg. § 1.401–4(c).

(5) For an event described in § 2617.21(a) (relating to a bankruptcy or liquidation):

A copy of all papers filed in the relevant proceedings, including but not limited to, petitions and supporting schedules; the last date for filing claims, if known; the name, address and telephone number of any trustee or receiver of the contributing sponsor.

(6) For an event described in § 2617.23(a) (relating to a transaction involving a change of employer):

The name, address, and telephone number, of the new contributing sponsor, or of the trade or business no longer controlled by the contributing sponsor, or of the new trade or business controlling the contributing sponsor, as applicable; a copy of the most recent audited (or if not available, unaudited) financial statements, and the most recent interim financial statements, of the contributing sponsor before and after the transaction, and of the trade or business no longer controlled by the contributing sponsor, or the new trade or business controlling the contributing sponsor, as applicable (individually or where financial statements are only available on a consolidated basis with other members of the same controlled group, on a consolidated basis), including balance sheets, income statements, statements of changes in financial position and annual reports.

(d) *Requests for additional information.* The PBGC may, in any case, require the submission of additional information.

(e) *How and where to file.* A notice and information required to be filed with the PBGC by this part may be sent by mail or submitted by hand during normal working hours to the Office of Program Operations, Pension Benefit Guaranty Corporation, Room 5300A, 2020 K Street NW., Washington, D.C. 20006.

(f) *Optional consolidated filing.* A plan administrator may file a single notice with respect to the occurrence of more than one reportable event, or two or more plan administrators may file a single notice with respect to one or more reportable events when—

(1) More than one event for which a notice is required by this section has occurred and the plan administrator is able to give the PBGC simultaneous timely notification of the events; or

(2) An event described in §§ 2617.21(a), 2617.22(a), or 2617.23(a) has occurred, and all plan administrators who are required to file a notice pursuant to this section sign the same notice.

(g) *Effect of failure to file.* Failure to file a notice required by this section or failure to include all information required in the notice constitutes a violation of Title IV of the Act.

§ 2617.4 Reporting of reportable events on annual report.

A plan administrator shall report the occurrence of a reportable event described in this part in the annual report filed pursuant to Part 2606 of this chapter (whether or not the filing of the 30-day notice is waived under this part).

§ 2617.5 Obligation of employer.

Whenever an employer making contributions under a plan covered by Section 4021 of the Act, knows or has reason to know that a reportable event has occurred, it shall notify the plan administrator immediately.

§ 2617.6 Date of filing.

(a) Any notice or document required to be filed under this part is considered filed on the date of the United States postmark stamped on the cover in which the document is mailed, if—

(1) The postmark was made by the United States Postal Service; and

(2) The document was mailed postage prepaid, properly packaged and addressed to the PBGC.

If the conditions stated in both paragraphs (1) and (2) are not met, the notice or document is considered filed on the date it is received by the PBGC. Notices or documents received after regular business hours are considered filed on the next regular business day.

§ 2617.7 Computation of time.

In computing any period of time prescribed or allowed by the rules of this part, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

§§ 2617.8–2617.10 [Reserved]

§ 2617.11 Tax disqualification.

(a) *Reportable event.* A reportable event occurs when the Secretary of the Treasury issues a notice that a plan has ceased to be a plan described in § 4021(a)(2) of the Act.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the event described in this section.

§ 2617.12 Title I non-compliance.

(a) *Reportable event.* A reportable event occurs when the Secretary of Labor determines that the plan is not in compliance with Title I of the Act.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the event described in this section.

§ 2617.13 Amendment decreasing benefits payable.

(a) *Reportable event.* A reportable event occurs when an amendment to a plan is adopted under which the retirement benefit payable from employer contributions with respect to any participant may be decreased. A decrease in the retirement benefit payable with respect to any participant includes the elimination of any type of

retirement benefit, a decrease in the amount of any accrued retirement benefit or a certain or potential decrease in the amount of the retirement benefit that would accrue in the future, determined in accordance with Paragraph (d) of this section, and an increase in the age, service or other requirements for entitlement to any retirement benefit.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the event described in this section, *unless* all of the following conditions exist:

(1) The plan has 100 or more participants as of the end of the previous plan year;

(2) Except as provided in Paragraph (c) of this section, under the amendment, there is—

(i) A decrease in the amount of the accrued normal retirement benefit with respect to any participant; or

(ii) A decrease of more than 50 percent in the amount of normal retirement benefit that would accrue in the future with respect to more than 50 percent of the number of active participants as of the end of the previous plan year; and

(3) The amendment is not adopted in order to comply with the requirements of any federal law.

(c) *Exceptions for certain amendments.* An amendment is not an amendment described in Paragraph (b)(2) of this section, and therefore the 30-day notice requirement is waived, if—

(1) With respect to a plan integrated with Social Security benefits or Railroad Retirement benefits, the amendment changes the level of integration by taking into account changes in the benefit levels payable or any increase in the wage base under Title II of the Social Security Act or any increase in the benefit levels payable under the Railroad Retirement Act of 1974;

(2) With respect to a plan integrated with Social Security benefits or Railroad Retirement benefits, the amendment changes the method of integration;

(3) The amendment integrates the plan with Social Security benefits or Railroad Retirement benefits; or

(4) The amendment is adopted incident to another amendment that increases the amount of the normal retirement benefit provided by the same employer's contributions to a second plan covering the same participants that is either a plan covered by section 4021 of the Act, or a money purchase plan, and the amount of the increase of the projected normal retirement benefit under the second plan is equal to or exceeds the amount of the decrease in the normal retirement benefit provided under the first plan. The increase in the projected normal retirement benefit under a money purchase plan shall be determined by using the interest and other appropriate assumptions of the covered plan.

(d) *Calculation of benefit decrease.*—(1) *Change in form of benefit or retirement age.* When a plan amendment changes the retirement age or the form of the benefit, the decrease, if any, in the amount of the retirement benefit shall be computed by first converting the amount of the retirement benefit provided by the plan immediately before the amendment to the actuarially equivalent amount of the benefit for the retirement age and form of benefit under the amendment, using the applicable conversion factors prescribed by the plan, and then subtracting the amount of the retirement benefit after the amendment from the amount of the converted pre-amendment benefit. If no applicable conversion factors are prescribed by the plan, the conversion factors prescribed by Part 2609 of this chapter for computing maximum guaranteeable benefits shall be used.

(2) *Salary assumptions.* For purposes of determining whether there is a decrease or potential decrease in the amount of any accrued retirement benefit or the retirement benefit that would accrue in the future, it should be assumed that each participant's salary will change up to the age at which full accrued benefits are payable in accordance with the plan's salary scale.

§ 2617.14 Active participant reduction.

(a) *Reportable event.* A reportable event occurs when the number of active participants under a plan is less than 80 percent of the number of active participants at the beginning of the plan year, or is less than 75 percent of the number of active participants at the beginning of the previous plan year.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the event described in this section, if the conditions in either Paragraph (b)(1) or (b)(2) of this section exist.

(1) The plan has less than 100 participants as of the beginning of either the current or the previous plan year.

(2) With respect to a single employer plan, as of the date of the event, the total number of active participants covered by all the single employer plans covered by § 4021 that are maintained by the employer is not less than 80 percent of the total number of active participants in all such plans determined as of the beginning of each such plan's current plan year, or not less than 75 percent of the total number of active participants in all such plans determined as of the beginning of each such plan's previous plan year.

(c) *Determination of the number of active participants.* The number of active participants as of the beginning of a plan year may be determined as of the end of the previous plan year.

§ 2617.15 Termination or partial termination.

(a) *Reportable event.* A reportable event occurs when the Secretary of the Treasury determines that there has been a termination or partial termination of the plan within the meaning of section 411(d)(3) of the Code.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the events described in this section.

§ 2617.16 Failure to meet minimum funding standards.

(a) *Reportable event.* A reportable event occurs when the plan fails to meet the minimum funding standards under section 412 of the Code or section 302 of the Act.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is *not* waived for the event described in this section.

§ 2617.17 Inability to pay benefits when due.

(a) *Reportable event.* A reportable event occurs when a plan is unable to pay benefits when due. Except as provided in Paragraph (c) of this section, a plan is unable to pay benefits when due if the plan does not pay any participant, who is then entitled to benefit payments, the full promised benefits to which he or she is entitled in the form prescribed under the terms of the plan.

(b) *Waiver.* The 30-day notice requirement in § 2617.3(a) is *not* waived for the event described in this section.

(c) *Administrative delays.* A plan shall not be treated as being unable to pay benefits when due if its failure to pay benefits is caused solely by: (1) the need to verify any participant's eligibility for benefits; (2) the inability to locate any participant; or (3) any other administrative delay if such delay lasts less than the shorter of two months or two full benefit payment periods.

§ 2617.18 Distribution to a substantial owner.

(a) *Reportable event.* A reportable event occurs when there is a distribution or distributions under the plan to a participant who is a substantial owner if—

V. 45 A G 2080 UMI

(1) The total of all distributions to the substantial owner within a 24-month period has a value of $10,000 or more;

(2) The distribution or distributions were not made by reason of the death of the participant; and

(3) Immediately after the distribution or the last distribution in a series, the plan has nonforfeitable benefits which are not funded.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3 is waived for the event described in this section, *unless*—

(1) A plan makes a distribution or distributions within a 12-month period to a substantial owner having a total value of $10,000 or more; and

(2) The amount of the distribution or distributions exceeds the amount of the maximum guaranteeable benefit for the substantial owner, determined under § 2609.7 of this chapter, for the year in which the distribution or the last distribution in a series was made.

(c) *Valuation of distribution.* The value of a distribution described in papragraphs (a) or (b) of this section is determined in accordance with the provisions of this paragraph.

(1) The value of a distribution, other than an irrevocable commitment, equals the sum of the cash amounts actually received by the participant and the fair market value of any assets distributed in a form other than cash, determined as of the distribution date in accordance with Subpart B of Part 2611 of this chapter.

(2) The value of an irrevocable commitment is the purchase price of the irrevocable commitment, or the value, determined in accordance with reasonable actuarial assumptions, of the benefits payable pursuant to that irrevocable commitment. For this purpose, reasonable actuarial assumptions are the actuarial assumptions used by the PBGC under Part 2610 of this chapter, or the actuarial assumptions used by the plan for purposes of section 302 of the Act and section 412 of the Code.

(d) *Date of distribution.* The date of distribution of an irrevocable commitment is the effective date of the irrevocable commitment. The date of distribution of a cash distribution shall be the date it is received by the participant. The date of all other distributions shall be the date when the plan relinquishes control over the assets transferred directly or indirectly to the participant.

(e) *Determination date.* The determination of whether a participant is a substantial owner, or has been in the preceding 60 months, is made on the date when there has been a distribution or distributions with a total value of $10,000 or more.

(f) *Nonforfeitable benefits which are not funded—valuation.* For purposes of paragraph (a)(3) of this section, in determining whether a plan has nonforfeitable benefits which are not funded—

(1) Assets are valued in accordance with the valuation standards contained in Part 2611 of this chapter; and

(2) Benefits are valued in accordance with reasonable actuarial assumptions. For this purpose, reasonable actuarial assumptions are the actuarial assumptions used by the PBGC under Part 2610 of this chapter, or the actuarial assumptions used by the plan for purposes of section 302 of the Act and section 412 of the Code.

§ 2617.19 Plan merger, consolidation or transfer.

(a) *Reportable event.* A reportable event occurs when a plan merges, consolidates, or transfers its assets or liabilities under section 208 of the Act or section 414(1) of the Code.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the events described in this section.

§ 2617.20 Alternative compliance with reporting and disclosure requirements of Title I.

(a) *Reportable event.* A reportable event occurs when an alternative method of compliance (not of general applicability) is prescribe for a plan by the Secretary of Labor under section 110 of the Act.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is waived for the event described in this section.

§ 2617.21 Bankruptcy, insolvency or similar settlements.

(a) *Reportable event.* A reportable event occurs with respect to a single employer plan, when a contributing sponsor—

(1) Commences a bankruptcy case, or has a bankruptcy case commenced against it;

(2) Commences or has commenced against it, any other type of insolvency proceeding (including, but not limited to the appointment of a receiver);

(3) Commences, or has commenced against it, a proceeding to effect a composition, extension or settlement with creditors;

(4) Executes a general assignment for the benefit of creditors; or

(5) Undertakes to effect any other non-judicial composition, extension or settlement with substantially all its creditors.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is *not* waived for the event described in this section.

§ 2617.22 Liquidation or dissolution.

(a) *Reportable event.* Except as provided in Paragraph (c) of this section, a reportable event occurs with respect to a single employer plan, when a contributing sponsor—

(1) Is involved in any transaction to implement its complete liquidation; or

(2) Institutes or has instituted against it a proceeding to be dissolved, or is dissolved, whichever occurs first.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is *not* waived for the event described in this section.

(c) *Reorganizations described in section 4062(d).* This section does not cover any of the reoganizations described in section 4062(d) of the Act.

§ 2617.23 Transaction involving a change of employer.

(a) *Reportable event.* Except as provided in Paragraph (c) of this section, a reportable event occurs with respect to a single employer plan of a contributing sponsor with nonforfeitable benefits which are not funded of $1 million or more when—

(1) As a result of a transaction involving a transfer of assets of or an ownership interest in a contributing sponsor—

(i) There is or will be a new contributing sponsor that is not a member of the controlled group of the previous contributing sponsor;

(ii) The contributing sponsor leaves or will leave the controlled group; or

(iii) The contributing sponsor becomes or will become a member of a different controlled group, except where the new controlled group is or will be the same, but for the addition of another trade or business, as the contributing sponsor's controlled group before the transaction; or

(2) As a result of a transaction involving a transfer by a contributing sponsor of assets of or an ownership interest in another trade or business, the sponsor and that trade or business are no longer part of the same controlled group.

(b) *Waiver.* The 30-day notice requirement contained in § 2617.3(a) is *not* waived for the event described in this section.

(c) *Certain reorganizations.* This section does not apply to—

(1) A reorganization involving a mere change in identity, form or place of organization, however effected;

(2) A reorganization involving a liquidation into a parent corporation; and

(3) A reorganization involving a merger, consolidation, or division solely between (or among) members of the same controlled group as the contributing sponsor.

(d) *Definition of "transaction".* For purposes of this section, the term "transaction" includes, but is not limited to, a legally binding agreement, whether or not written, to transfer, a transfer, and a change in ownership that occurs as a matter of law or through the exercise or laps of pre-existing rights.

(e) *Nonforfeitable benefits which are not funded-valuation.* For purposes of paragraph (a) of this section, in determining whether a plan has nonforfeitable benefits which are not funded of $1 million or more—

(1) Assets are valued in accordance with the valuation standards contained in Part 2611 of this chapter; and

(2) Benefits are valued in accordance with reasonable actuarial assumptions. For this purpose, reasonable actuarial assumptions are the actuarial assumptions used by the PBGC under Part 2610 of this chapter, or the actuarial assumptions used by the plan for purposes of section 302 of the Act and section 412 of the Code.

Effective date. This part is effective on September 19, 1980.

Issued in Washington, D.C. this 15th day of August 1980.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue the same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 80-25249 Filed 8-19-80; 8:45 am]

BILLING CODE 7708-01-M

V 45 AG 20 80 UMI

federal register

Wednesday
August 20, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Beaver Dam Slope Population of the Desert Tortoise in Utah; Listing as Threatened With Critical Habitat

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing as Threatened With Critical Habitat for the Beaver Dam Slope Population of the Desert Tortoise in Utah

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Beaver Dam Slope population of the desert tortoise (*Gopherus agassizii*) to be a Threatened species and determines the Critical Habitat of the species. The tortoise population occurs on the Beaver Dam Slope of southwestern Washington County, Utah. This action is being taken because the population is continuing to decline because of habitat deterioration and because of past overcollection. The Bureau of Land Management, which owns the entire Critical Habitat, has recently taken steps which it is hoped can maintain a viable population of tortoises and allow for maximum grazing. For this reason, the tortoise is being listed as Theatened instead of Endangered as originally proposed. The rule provides the full protection of the Endangered Species Act of 1973, as amended, to this population.

DATES: The rule becomes effective on September 19, 1980.

ADDRESSES: Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to the rule are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1977, the U.S. Fish and Wildlife Service was petitioned by Dr. Glenn R. Stewart on behalf of the Desert Tortoise Council to list the Utah desert tortoise population as Endangered under provisions of the Endangered Species Act of 1973. Included in the petition was a recommendation for Critical Habitat. The main threats to this unique population were said to be competition from grazing animals, overgrazed habitat, and problems with collection of individuals.

After careful review of the petition by the Office of Endangered Species, the Director of the Service notified the Desert Tortoise Council on August 30, 1977, that the petition did indeed supply substantial information as required by the Act to warrant a proposal to list the population under provisions of the Act. On August 23, 1978, the Fish and Wildlife Service published a proposal to list this population as Endangered and included a 35 square mile area of Bureau of Land Management administered land in southwestern Utah as Critical Habitat (43 FR 37662–37665).

On March 6, 1979, the Service withdrew all proposed Critical Habitats until such time as they could be reproposed in accordance with the 1978 amendments (see the **Federal Register**, 44 FR 12382–12384). On December 7, 1979, the Service reproposed Critical Habitat to include exactly the same area as originally proposed. See the **Federal Register** of December 7, 1979 (44 FR 70680–70682) or the Service's January 1980, *Endangered Species Technical Bulletin* for details.

In conjunction with the reproposal for Critical Habitat, the Service held a public meeting in St. George, Utah, on January 10, 1980, to explain the proposal, answer public questions, and to solicit additional information on the biology of the tortoise and the economic effects of a Critical Habitat designation on Federally authorized and funded projects in the area. Several individuals, including U.S. Senators Hatch and Garn, requested that a public hearing be held on the reproposal of Critical Habitat. Accordingly, a public hearing was held on March 25, 1980, at St. George, Utah, to take testimony on the designation of Critical Habitat. That testimony is part of the public record and has been carefully considered in the drafting of this final rule.

All public comment periods were closed on April 9, 1980.

The following section provides a brief introduction to the biology of the Beaver Dam Slope population of the desert tortoise. More information may be obtained by consulting the references cited at the end of this section.

The desert tortoise, *Gopherus agassizii*, is one of three species of the genus *Gopherus* occurring in the United States. A fourth *Gopherus, G. flavomarginatus*, occurs in Mexico and is listed as Endangered on the U.S. List of Endangered and Threatened Wildlife and Plants. The desert tortoise inhabits the Mojave and Sonoran deserts of the southwestern United States (Arizona, California, Nevada, Utah) and adjacent areas of Mexico as far south as southern Sonora. The biology of this species has been reviewed by Ernst and Barbour (1972), Smith and Smith (1979) and Auffenberg and Franz (1978); extensive references on this species have been provided by Douglas (1975, 1977). Throughout the United States, the tortoise has been the subject of extensive research as to its status, biology, potential threats and distribution; most of this research has been sponsored or conducted by the Bureau of Land Management in cooperation with the various states. The chief threats to the tortoise include habitat destruction through development for residential and agricultural use, overgrazing (Berry, 1978), geothermal development, taking as pets (now largely controlled by individual states), malicious killing, from being run over on roads, and for competition with grazing or feral animals. Natural predation may or may not be a significant factor in the decline of this species, depending on age class involved.

From 1936 to 1946, the Beaver Dam Slope population was studied by Drs. Angus Woodbury and Ross Hardy. While the whole Beaver Dam Slope was surveyed, they concentrated their efforts in a two square mile area where they found the greatest concentration of tortoises. Some 270 tortoises were marked and a few are reported to remain thus making them part of one of the oldest marked populations of vertebrates in the world. According to the petition submitted by the Desert Tortoise Council in 1977, 2000 tortoises may have inhabitated the slope at one time with fewer than 350 remaining. The ecology of this population is discussed by Woodbury and Hardy (1948), Coombs (1974a,b; 1977a,b,c; 1979) and Hansen et al. (1976). Concern for the continued survival of the tortoise on the Beaver Dam Slope is expressed by Coombs (1977c), Hardy (1976) and Stewart (1976). Dodd (1978) reviewed the status of the petition to list this species as Endangered and Day (1979), Smith (1979), and Rowley (1978) discussed aspects of State and BLM management programs and why they believe the tortoise population should not receive Federal protection.

Over the last few years, the Bureau of Land Management has made adjustments to correct livestock grazing problems (statement of F. Rowley at St. George hearing). Fifty percent of cattle use was reduced in 1965 with another 23 percent proposed (however, this is in litigation at present). Adjustments have been made in season of use and an Allotment Management Plan (AMP) is in the process of being implemented. BLM has proposed the establishment of a 3040 acre natural study area for the desert tortoise. Further studies have been contracted. In addition, Mr. Rowley has indicated that grazing will in the future not extend beyond April 30. The AMP calls for a stocking rate of 26 acres/cow/ month which allows 156 acres per cow for the six-month grazing season. Mr. Rowley believes that trampling will therefore be insignificant. BLM's land use plan calls for vehicles to be restricted to existing roads and trails.

The steps outlined above, form the basis for the Service's decision that this population should be listed as Threatened instead of Endangered as originally proposed in 1978 (see discussion below).

The latest survey of the tortoise was sponsored in 1980 by the Utah Division of Wildlife Resources and BLM. A 60 day study revealed a total of 82 tortoises over a 30 square mile area. Ninety shells were recovered but were reported to be only a part of those seen. Of interest is that a balanced sex ratio was found.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

In the August 23, 1978, **Federal Register** (43 FR 37662–37665) the Service proposed to list the Beaver Dam Slope population of the desert tortoise (*Gopherus agassizii*) as Endangered with Critical Habitat. The Critical Habitat portion of this proposal was withdrawn on March 6, 1979 (44 FR 12382–12384) and reproposed on December 7, 1979 (44 FR 70680–70682).

Comments received thru April 9, 1980, on the proposed listing of this tortoise population are summarized below. A total of 85 comments were received in response to the original proposal and reproposal of Critical Habitat. 24 comments were formally presented for the record at the public hearing in St. George; these comments are summarized below with the other comments. Responses were received from Governor Scott Matheson of Utah, Senator Orrin Hatch of Utah, Utah State Senator Ivan Matheson, Douglas F. Day (Utah Division of Wildlife Resources), various city and county representatives, concerned local citizens, scientists, conservation organizations, the Bureau of Land Management, and several other governmental organizations.

In a letter dated October 31, 1978, Gov. Matheson states that the State's position on the proposed listing had not changed since the Division of Wildlife Resources letter of September 23, 1977 (as summarized in the **Federal Register** proposal of August 23, 1978; 43 FR 37662–37665). He recommended "the status of the desert tortoise in this area be kept under review until all the facts are in before a final decision is made." In a letter dated April 8, 1980, Gov. Matheson reiterated the State's opposition and made four points:

(1) There is no compelling reason to distinguish the Beaver Dam Slope population of the desert tortoise from the range of the tortoise generally. Any endangered species designation or critical habitat proposal should be based upon a careful and comprehensive analysis or the tortoise range to determine where restrictive actions are necessary and appropriate.

(2) The presumed threats to the population are not substantiated and do not recognize changing conditions. The Fish and Wildlife Service cites overgrazing as a threat to the tortoise population, yet the proposal fails to document overgrazing and more importantly, fails to link grazing activity in any meaningful way to tortoise mortality. To the contrary some data suggests that livestock predators may be a significant threat to young tortoises.

The Fish and Wildlife Service has also failed to adequately consider recent actions of the Bureau of Land Management to reduce grazing use and establish a 3,000 acre protected area for the tortoise. BLM is currently restrained from implementing this program, but there is no evidence that the tortoise population cannot tolerate a short delay. It is logical to await the outcome of the grazing environmental statement process and to use that time to resolve some of the biological questions that have surfaced in this review.

The proposal does not recognize that collection and removal of tortoises has declined with the rerouting of traffic to Interstate 15. The Fish and Wildlife Service should reexamine the removal problem based on new traffic patterns.

Finally, the Fish and Wildlife Service has failed to document any substantial off-road vehicle use or establish any link from the ORB [sic] use to tortoise mortality.

(3) Section 4(b)4 of the Endangered Species Act requires a consideration of economic and other impacts in a critical habitat decision. Livestock grazing in the area is a significant contributor to the local economy. Precise quantification of the impact is not possible as the proposal does not detail the level or extent of grazing cuts required to mitigate the alleged threat. I am sure that the St. George hearing provided some indication of the potential economic impacts.

There is also evidence of minable concentrations of important minerals in the Beaver Dam Mountain. The mineral impacts of the critical habitat proposal need to be carefully analyzed.

(4) Other factors to be considered should include the local government policy toward land use restrictions. Again, that should be apparent from the public hearing.

Senator Hatch opposed the proposed designation of Critical Habitat stating:

(1) The consequences of the Critical Habitat designation to the management of affected federally controlled lands are potentially more severe than has been publically represented by the Service.

(2) Inquiry at the Office of Endangered Species failed to produce "definitive empirical evidence" for justification of the proposal.

(3) The most recent work was done at a time of poor range conditions because of drought. This may account for the "alleged decline".

(4) Since collecting is prohibited by Utah State law, a Critical Habitat designation will add nothing to the status improvement.

(5) ORV use is not a problem in this area.

(6) The population is not "unique".

Senator Hatch states that while he is "in support of reasonable measures to protect the tortoise population as a research sample," he believes the proposed designation (of Critical Habitat) is not a justified or prudent federal action.

State Senator Matheson strongly opposed the designation in two letters and states:

It is these kinds of tactics which continue to stir the Sagebrush Rebellion. It will bring a like move against the efforts of the Fish and Wildlife Service if they don't begin to give some credence to local needs and desires. The tremendous economic impact that would occur to the cattlemen of this area if 36 square miles were withdrawn has not been sufficiently measured. Cattle is [sic] one of the most important backbones of the Washington County economy. If we do not begin to see some rational action on the part of the Interior Department with recommendation for the well being of the people living in the area rather than the well being of useless animals, we may have to take actions that would be more severe than the Sagebrush Rebellion as a last alternative.

Mr. Day submitted a long letter and states:

We feel that a status review of the entire desert tortoise complex of the southwestern United States and northern Mexico would be in order to fully and logically assess the status of the species, rather than the piecemeal approach that seems to be operating now. A completely documented package would certainly be more palatable to the many and varied interests voicing support or complaints about the current procedure and proposal.

Studies conducted to date have documented current status of the Beaver Dam Slope population but have not been of long enough duration to indicate trends. This Division will soon be contracting with the Bureau of Land Management for further study to add to our knowledge base regarding this population, but only long-term monitoring will indicate the trend of numbers and age structure.

The apparent key to restoring this population to a higher level, based on present knowledge, is to reverse the trend in the forage base. The BLM's program, keyed to implementation of the Hot Desert ES, is designed to do this by various grazing management practices. The fencing of 3,040 acres for exclusive use by tortoise will also aid greatly. Unfortunately, both of these actions have been stymied by a recent court injunction against the imposition of grazing adjustments and the closure of the above-mentioned acreage. It appears that Department of the Interior's efforts would be better spent in trying to gain favorable judical decisions to implement the ES, a document required by legal action brought by the NRDC. We strongly believe that endangered status will do nothing that improved grazing practices cannot do, and public sentiment will undoubtedly be more favorable towards all concerned, if the Service proposal is not implemented.

We are gravely concerned that listing this subpopulation of the desert tortoise as endangered will have severe repercussions on the population itself for several reasons: (1) the "Sagebrush Rebellion" feeling in southern Utah is very strong, and misguided individuals or vandals might use this "excuse" to cause physical harm to tortoises; (2) current research on artificial propagation will be hampered because of permit red tape; (3) captive tortoises will not be turned in for obvious reasons, and our success with returning captives to the wild has been good to date; (4) the president's attempt to balance the federal budget may result in funding cuts for endangered species work, negating the very results desired; (5) delays in implementing any positive on-the-ground action by any agency until a recovery plan is drafted, reviewed, finalized and approved.

At the public hearing in St. George, a representative of Senators Garn and Hatch made the following points in opposing the proposed listing:

(1) The Hot Desert Grazing Management Plan developed by the Dixie Resource Office of the Bureau of Land Management (BLM) concluded that there are insufficient data to warrant listing.

(2) They state that there is a degree of dependence of desert tortoise upon livestock.

(3) The BLM has sufficient discretion in land management to afford adequate protection until more studies are completed.

(4) They state that there are insufficient data to make a Critial Habitat determination. Critical Habitat is an overreaction to the decline of the tortoise. They claim there is no evidence of the negative effects of livestock on tortoises. They support the fencing off of 3,000 acres by BLM to determine the effects of grazing. They believe that there will be a major negative impact on the cattle industry in southwestern Utah.

(5) The concept of Critical Habitat is called drastic and inflexible. They say this if the species is thriving elsewhere, it makes no sense to focus on a less significant area.

The following State and Federal government agencies were contacted but either had no comments or did not have any data concerning the population: U.S. Geological Survey, U.S. Air Force, U.S. Army Corps of Engineers, Arizona Game and Fish Department, California Department of Fish and Game, and Utah State Environmental Coordinating Committee. Both the Department of Energy and the BLM Utah State Director supplied information on the potential economic impacts of the proposed listing. The BLM office in Washington called for a full status review throughout the tortoise's range. BLM's Dixie Resource Area Office opposed the listing and reviewed past and proposed projects concerning the tortoise on the Beaver Dam Slope (see Background). Nevada Power and Light Co. provided information on the proposed Alton Pipeline, the Navajo-McCullough transmission line corridor, and the proposed Warner Valley McCullough transmission line right-of-ways. They recommended the elimination of any areas which might be affected from a Critical Habitat designation. One commenter neither supported nor opposed the proposal but requested additional information.

The following is a summary of comments of those who opposed the proposed listing and/or designation of Critical Habitat. One comment stated that there are many endangered species designations already in southwestern Utah. The commenter then stated that the Government now wants to "lock up" an area for the desert tortoise and perhaps other areas in addition to areas already "locked up".

There were 18 comments which stated that the reason the tortoise had declined on the Beaver Dam Slope was not because of problems with grazing but because tourists took tortoises as pets. This occurred primarily before the completion of the nearby interstate highway which uses another route than through the Beaver Dam Slope. This point was especially stressed by long time residents of the area and many recounted stories of tortoise selling. While many people thought this problem was not now significant, a few thought it might still be occurring.

Four comments stated that the tortoise population was not unique since the species has a large range and the Beaver Dam Slope population is not recognized as taxonomically distinct. Two persons stated that the BLM and environmentalists are waging an economic war on cattlemen and that the proposal is just another example. Two comments stated that a Critical Habitat designation may actually harm the tortoise population by drawing attention to it. One person stated that Eric Coombs, the person who did much of the work on the tortoise population in the 1970's, did not support the proposed listing and that, instead of Critical Habitat, areas on the Beaver Dam Slope should be declared "crucial" habitat and the tortoise designated "sensitive" instead of endangered.

One comment provided extensive discussion about how the Fish and Wildlife Service had not, in their opinion, followed proper government regulatory procedures. One comment stated that the Fish and Wildlife Service and BLM are at odds in their regulatory responsibility with regard to the Beaver Dam Slope. Eight comments were received which stated that the data used for the proposal were insufficient; most of these comments did not supply additional information. One comment stated that the Service should have prepared an environmental impact statement and that the requirements of NEPA are not satisfied until one is prepared. One commenter said that the Fish and Wildlife Service had inadequately cooperated with the Utah BLM concerning the desert tortoise. Three persons called for an "Economic Impact Statement" prior to any listing with Critical Habitat.

Three individuals questioned whether the desert tortoise was endangered throughout all or a significant portion of its range. These persons generally felt that the tortoise should not be listed unless it is endangered throughout its range. Seven comments were received which questioned the evidence the competition between cattle and tortoises. These commenters believe such evidence is weak or nonexistent and believe that the preponderance of evidence is that cows offer little competition from foraging.

Four persons stated that livestock grazing is good for tortoises because grazing practices allow the introduction of annuals on which the tortoise can feed. Three comments report that when grazing levels were up to ten times more on the Beaver Dam Slope than at present, more tortoises were present. These individuals believed that this indicated that cows were not responsible for the tortoise's decline. Two individuals questioned whether the atomic testing of the 1950's may have contributed to a decline in numbers of tortoises in southwestern Utah.

Two commenters stated that if the area was left alone (i.e., no government action), the tortoise population would recover by itself. Two individuals stated that instead of a Critical Habitat designation, 200 acres should be set aside by BLM in Utah to compliment BLM's 500 acre desert tortoise study area in Arizona. One comment said that drought may be a factor in the apparent declining status of the tortoise in the 1970's.

Three letters were received which said that there had been no economic input requested from Washington County officials or those ranchers directly affected by the proposal. These letters claimed that only BLM was contacted for information and that the local people had no input to the proposed rules.

Many comments (16), especially from local ranchers and cattle associations, strongly protested any elimination or reduction of grazing in southwestern Utah which they felt would occur if this population's Critical Habitat was officially designated. Eight comments claimed that the proposal was either setting aside the land or "locking it up" from any other uses and that this should not be allowed. Six commenters stated that the ranges on the Beaver Dam Slope are not in poor condition and that this area is really prime winter range. One individual said that the Desert Tortoise Council is an outside obstructionist environmental group causing trouble. This person concluded that "the people have no power." Three additional letters expressed general complaints about government and governmental regulations. One person stated that the proposal infringed on the historical heritage of southwestern Utah.

There were five comments which addressed the Desert Tortoise Council's presentation at the meeting in St. George as either based on incorrect data or a "malicious attempt to distort facts." Eight commenters stated that there is no evidence that cattle step on dens or burrows or that they step on tortoises. Some of these individuals noted that the Beaver Dam Slope is primarily used for winter grazing when tortoises are likely to be hibernating.

Two comments stated that a potential cause of tortoise mortality is that they fight and during the course of fighting, one may be turned over and unable to right itself. There were 15 comments that predation by coyotes, bobcats, and/or kit foxes may have been significant causes of mortality; most believed cows were not a factor in the tortoise's decline. Three individuals stated that tortoises have actually increased in number or remained at a stable population level since man's presence had been "removed" from the Beaver Dam Slope.

One comment stated that tortoises have been successfully released back to their habitat. There were 20 comments which stated a belief that a designation of Critical Habitat would have adverse economic effects on the local ranchers or economy. Some of those who commented provided information about their ranching operations and how a complete stoppage of grazing rights would affect them.

Two individuals read the following statement adopted by the American Farm Bureau Federation:

At our 1980 meeting in Phoenix, Arizona, our delegate adopted the following policy positions on the Endangered Species Act: "The National Endangered Species Act of 1973 should be amended to provide that:

1. Listing a species as endangered shall be upon that basis alone and not on the basis of "rarity",

2. The law shall not encroach upon economic agricultural or sivicultural practices;

3. Proof of a species being endangered shall be on the petitioner or the Department of the Interior and not on the general public; and

4. Scientific data supporting the inclusion of a species shall receive wide dissemination to landowners and private organizations representing the rights of these landowners.

All federal and state agencies should be required to adopt procedures where by any proposed new or amended regulation shall be accompanied by *economic impact statements.*

Dr. James E. Bowns made the following statement:

Habitat modification or deterioration by grazing animals

The F.R.R. states that overgrazing could be expected to adversely modify critical habitat since cows:

(1) trample burrows

(2) may trample young tortoises

(3) destroy cover sites

(4) compete for food items especially in the spring and early summer

There are many references to overgrazing and continued habitat deterioration from various desert tortoise studies and reports. The following are three such statements.

(1) Range deterioration has occurred since the 1940's and perennial grasses are no longer common (Coombs, 1977b).

(2) The desert tortoise population is greatly depleted since the 1930's and 1940's. "Without doubt, part of this is caused by the deterioration of the range because of overgrazing by livestock. Once fairly common grasses are no longer in evidence and the size and vigor of most shrubs has diminished." (Hardy, 1976)

(3) *Casual observations* indicate livestock have a deleterious affect on tortoise populations *although no* field studies have been undertaken to determine the effects of grazing on the tortoise. (Berry, 1978)

All of the above statements are biased judgments that have no objective studies or data to support them. With all due respect to Dr. Hardy (statement #2 above), I find it difficult to believe that one's memory is adequate to recall such changes over a period of 30 to 40 years.

During the 1936's and 1940's, sheep grazed the area in the spring and statements were made that "sheep herds swept the carpet clean (and) the tortoise access to the fresh green vegetation is limited to a few days" (Woodbury and Hardy, 1948). Cattle also grazed this area in the winter. It has been stated that livestock numbers were higher at that time than at any time previously. The sheep herds are now gone and cattle graze mainly during the winter and early spring. Cattle numbers on this allotment were reduced by 50 percent in 1985, yet it is assumed by some individuals or groups that this range is still overgrazed.

An important perennial grass in this area is bush muhly (*Muhlenbergia porteri*). This grass is reported to have been more abundant in the 1930's and 1940's although there are no studies or data to support this contention. It was also reported as a primary food item for the tortoise by Woodbury and Hardy (1948). Fecal analysis of desert tortoises diets indicates that it is presently not used by the tortoise (Coombs, 1977a). If this plant is being used, it should be evident from the fecal analysis technique because of its highly fibrous structure.

Recent studies repeatedly mention filaree (*Erodium circutarium*) and red brome (*Bromus rubens*) as the primary food items of the tortoise and both of these species are introduced annuals.

There is an urgent need for better data to support the contention that bush muhly is important in the tortoise diet and that it has, in fact, decreased since the 1940's. This grass is named bush muhly because of its tendency to grow within the shrubs. It is assumed that this provides the plant protection from grazing by livestock, which it undoubtedly does, but this phenomenon is probably not due to grazing pressure alone. This species has a very brittle inflorescence which can easily become lodged within a shrub following disarticulation. The shrub can then provide a more favorable microenvironment for the establishment and growth of the grass (e.g. lower temperatures, more favorable moisture, higher nitrogen, phosphorous, and possibly other nutrients) in contrast to the interspaces between the shrubs. There is also recent evidence that bush muhly will sometimes kill the host shrub by shading the lower branches (Welsh and Beck, 1976). The death of such host shrubs is evident on the Beaver Dam Slope.

Bush muhly is a warm season grass that greens up in the spring, but flowers and produces seed following the summer rains which provide approximately one-third of the total yearly precipitation. The critical stage in the life cycle of this plant and the time it would be most susceptible to grazing damage is July, August and September. No cattle graze this area during this critical period. It is conceivable that this grass could provide an important source of water and nutrients for the tortoise at that time.

As mentioned previously, annuals are the primary forage plants for the tortoise and cattle in the spring. Observations indicate that use of perennial grasses is light when annuals are being consumed. The production of annuals in this area is dependent on winter precipitation not livestock grazing. When the annuals dry up, tortoise activity declines and summer aestivation begins (Berry, 1978)

whether or not livestock graze the area. There is also evidence that tortoise may not lay eggs on dry years (Berry, 1978) when annual production is low, indicating a dependence on these annuals.

A proposal has been made by (Coombs, 1977a) to eliminate grazing below 3,000-feet elevation after April 1 to leave annuals for the tortoise. Coomba (1974) estimates a population of 350 tortoise on the Beaver Bam Slope which he estimates will consume 8,140 pounds of vegetation over a 145-day period of activity. The range of consumption being 5,500 to 11,220 pounds per year depending on the period of activity. I have assumed there are 50 square miles of habitat on the Beaver Dam Slope where tortoise and cattle use overlaps. I have also estimated the area will produce a minimum of 100 pounds of forage per acre (a very small amount considering annual production on favorable years). From these figures, I calculate that at the level of 11,200 pounds of forage consumed per year by the tortoise, there is 285 times as much forage produced as is consumed by the tortoise. At the 5,500-pound level of forage consumption, there would be 582 times as much forage produced as is consumed by the tortoise.

It has also been proposed that a rest rotation grazing system be implemented in this area. This type of system may have a detrimental impact on this range and the tortoise because of a higher rate of utilization on the grazed pasture and the low mobility of the tortoise resulting in a forage deficiency.

Some data (Coombs, 1977a) indicates an increase in winter fat (*Ceratoides lanata*) over the past 30 years which would indicate this range is improving. However, quantitative plant data to support any significant plant changes for this area are grossly inadequate.

Livestock impacts on dens and summer holes

Coombs (1977a) states that the number and location of winter dens is the most significant single factor in determining the distribution and carrying capacity of the tortoise habitat in U[illegible] Cattle can have little or no impact on win[illegible]lens because they are located at the edge of arroyos and beneath the petrocalcic horizons.

Summer holes are used by tortoise to escape the high summer temperatures. A tortoise may have several holes within its summer range. These holes are seldom used from one year to the next and locations vary each year with new territories (Coombs, 1977a).

Cattle do not graze this area during the hot part of the year, and it is not apparent how critical these holes are during the spring when cattle are in the area.

Trampling of tortoise by livestock

Reference is made to an individual (Berry, 1978) who described the loss of *a* juvenile tortoise and its small burrow *presumably* by sheep in the spring. During the same spring, a small two- to three-year-old tortoise was found with a hole in its shell near a water trough which *appeared* to have been killed by sheep. I do not condone the loss of these tortoises, but these isolated instances have been extrapolated to cattle ranges and trampling of tortoise by cattle on the Beaver Dam Slope has not been documented and this implied impact is probably greatly exaggerated.

Collection of tortoise

The general decline in desert tortoise populations can be attributed to constant collecting by man. This is particularly true for the Beaver Dam Slope population because of its close proximity to Interstate Highway [SIC] US–91 and former service stations in that area. This problem has been largely alleviated by rerouting traffic along Interstate 15.

Selective collection could also account for the changes in sex ratios since the 1940's when the sex ratio was 64 percent female and 36 percent male to the present ratio of 30 percent female and 70 percent male (Coombs, 1974). Females tend to remain near the winter dens longer than males and are therefore, more vulnerable to collection.

The age structure of this population included 90 percent adults in the 1935–1945 period (Berry, 1978) and in 1977, was composed of 70 percent adult (Coombs, 1977a). This change could indicate that the population structure is improving.

Impact of predation on the tortoise

This is a factor that many wildlife biologists choose to overlook or discount as having a significant impact on the tortoise. Coombs (1974) states that predation is now a great threat to the tortoise population on the Beaver Dam Slope, and there have been many reported incidents of predation in this area. This factor is probably greater than realized because there would be little, if anything, left of a hatchling tortoise killed by some predators. Coombs (1977a) lists eight and possibly ten mammalian predators and seven predatory birds likely to harm the tortoise. He also lists several other mammals that compete with the tortoise for food and space. The kit fox and gila monster are also listed as nest and egg predators (Coomb, 1977a).

A plan that is seriously designed to protect the tortoise must certainly include some type of predator control program or at least a close evaluation of the impact of predation on tortoise survival. There is much more direct evidence that predation is a serious problem than there is for the implied impacts of livestock competition and habitat deterioration.

Intensive study area

A 3,040-acre (4.75 square mile) enclosure (not yet functional) has been constructed in this area by the Bureau of Land Management to exclude livestock grazing. It is my opinion that this enclosure is larger than required to evaluate this and other problems in this area, and is probably a compromise because of this critical habitat proposal. Coombs (1977a) reports that the actual area within the continuum of good tortoise habitat is only 13 square miles on the Beaver Dam Slope.

There is a serious lack of good objective data to evaluate the tortoise problem and the impact of livestock grazing. Therefore, I suggest the following studies be initiated:

(1) forage habits and nutritional requirements of the tortoise.

(2) extent of competition with livestock.

(3) vegetation changes with and without livestock grazing. This would necessitate long-term studies.

(4) predator control or predator exclusion and its impact on tortoise survival.

I will support a reasonable, carefully-considered recovery plan that will benefit this tortoise population. However, only after the above-mentioned studies, and possibly others, have been conducted and evaluated.

I am adamantly opposed to the present proposal if it seeks to eliminate livestock grazing without objective quantitative data in support of such drastic and economically-devastating action on the local cattle operators.

Dr. Darwin B. Nielsen made the following points:

I have been asked by the affected ranchers to do a study to try to ascertain some of the economic impacts that the proposed action would have on their businesses. The point at which I took off on this study was the assumption that grazing would be totally eliminated on the Beaver Dam Slope critical habitat area, which was one of the options considered in the write-up I had on this proposal.

The economic impacts presented in this statement are based on estimates of what would happen if "Option 2—No Grazing" is adopted for the Beaver Dam Slope critical habitat. Eight permittee livestockmen are involved in this proposed action. They range from fairly large ranches to rather modest livestock enterprises. Ranchers are faced with several alternative actions when grazing cuts on federal lands are imposed on them. Some of these alternatives are: (1) replace the lost grazing by leasing other land, using owned lands more intensely or feeding hay; (2) reduce herd size to fit the new seasonal mix of grazing lands imposed on them; or (3) give up on the livestock business and sell their remaining grazing resources.

The ranchers affected by this proposed action are also part of a larger group involved in the Hot Desert EIS. Substantial grazing cuts are proposed, based on the EIS, that will put increased pressures for any alternative sources of feed during the winter and spring grazing seasons. Interviews have been held with these ranchers in an attempt to determine what alternative courses of action are available to them.

Data were also collected to estimate the economic impacts of such proposed actions as the EIS and the tortoise proposal. Data gathered from these ranchers (those involved in the EIS and those involved in both the EIS and the tortoise proposal) are used to make estimates of the economic impacts of the proposed actions on the Beaver Dam Slope.

Since the proposed actions resulting from the Hot Desert EIS are in litigation at the present time, and since the resulting grazing cuts have not been made, this statement will approach the economic impacts from two points in time or two base periods: First, grazing use before any action is taken as a result of the EIS; and second, assuming proposed EIS cuts are imposed on the ranchers. An additional assumption is made that all of the ranchers stay in business.

Thus, this analysis is conservative to the degree that this assumption does not hold and ranchers do not go out of business.

Permit Values

Grazing permits on federal grazing lands have a value that is in part determined by local conditions relative to the supply and demand for grazing resources. The value of these permits is an intergral part of the capital structure of the ranch. When grazing is curtailed, the value of these permits is a loss to the rancher. Permit values in the Hot Desert area before the proposed actions of the EIS were reported to be about $20 per animal unit month (AUM). The estimated value of permits lost to the eight ranchers is given in Table 1. Ranchers are referred to only by number. Thus, these ranchers would have expected loss in ranch capital assets of betwen $36,000 and $20,000, depending on who gets the responsibility of the grazing cut, i.e., the EIS or the tortoise. This is a one-time loss of a capital asset not an annual cost or loss.

It was determined through rancher interviews that since so many ranchers in the area were facing potential losses of grazing during the winter and spring seasons that there was not anywhere near enough grazing available from other lands to offset this potential loss on BLM lands. The only alternative, if herd size is to be maintained, is to bring hay into the area for feeding. The estimated cost of having hay delivered into the area was $90 per ton. (The cost is probably higher this winter-spring, 1980). Hay can be converted into AUM's on the basis of about three AUM's per ton or 666 pounds of hay per AUM. At this conversion rate, the cost of replacing an AUM lost on the BLM with hay feeding would be $30 per AUM. Estimates of the cost of replacing lost BLM grazing by feeding hay (exclusive of the extra cost of feeding) are given in Table 2.

If ranchers decided to keep their herds intact by feeding hay to replace the AUM's lost, it would cost them between $54,000 and $30,000 each year. Ranchers indicated that this was too expensive an alternative, and, thus, they would not be able to do it. If one could estimate the added cost of labor and equipment required to feed the hay to the animals, this would be a very expensive alternative. This alternative also assumes hay will be available in the amounts needed.

Annual Income Losses

Many ranchers have only a couple of alternative courses of action as they are faced with cuts on BLM lands. They can reduce their herd size to accommodate the cut or they can give up on the system and leave the business. When grazing cuts such as the one under consideration here are imposed on a rancher, they usually only affect a seasonal range use. For example, a ranch is seasonally balanced and provides feed for 500 cows from various sources, BLM, FS, private, and state. Suppose the BLM cuts his winter grazing by 50 head for six months. If he has no alternative sources of feed for this period, he would have to cut his cow herd to 450 cows. He may be able to use his excess summer grazing with yearlings, but he could not winter cows over. Often, ranchers are caught with limited flexibility in changing the seasonal use of their rangelands. In estimating the expected income losses ranchers would suffer from BLM cuts, a seasonal balance chart was set up for each ranch before and after the cut. This allows one to visualize the adjustment problems the rancher faces. From these charts, an estimate was made of how many cows he could run after the cut, assuming no new resources (hay or other grazing) were available or affordable. Initially, estimates were made only of the decrease in ranch income as a result of the proposed losses of grazing on the Beaver Dam Slope. These estimates are shown in Table 3.

These estimates assume all ranchers run a cow-calf operation, an 85-percent calf crop, 400-pound steer calves, 375-pound heifer calves, 900-pounds cull cows, $.90/lb. steers, $.80/lb. heifers, and $.45/lb. on cull cows. An estimate of the decreases in expenses that would accompany these losses of income as the herds are reduced in size was not made because of time constraints. However, this has been done in the past on other ranch situations which would be similar to this situation. The rancher's fixed expenses go down very little, if any, in the short run. His annual variable expenses will go down, but they will not go down nearly as much as his income goes down. In fact, only a few expense items will go down. For example, grazing fees paid, property taxes on cattle, veterinarian expenses, trucking and marketing, and maybe a few others. One case studied showed income decreases of 15 percent while costs decreased by about six percent.

There is another way to approach this income loss estimate. It is reported that the tortoise-proposed action will reduce grazing by 168 head for these eight ranchers. This would reduce expected sales as follows:

168 cows × .85 calf crop = 143 calves	
72 steer calves + 71 heifer calves	
72 steers × 400 lbs./hd. × $.90/lb.	= $25,920
71 heifers × 375 lbs./hd. × $.80/lb.	= 21,300
Total	47,220

The $47,220 loss of income computed here would be comparable to Base II loss of $45,155 in Table 3.

One should keep in mind, when evaluating the magnitude or the impact of these income losses, that the net income loss comes directly out of the ranch families' living allowance. So what might seem like a rather modest impact in the county or state may be devastating for the individual. As ranches are forced to reduce herd size, they become less and less efficient in the production of food. The fixed costs are spread over fewer and fewer animals, thus, the average cost of producing beef goes up.

As ranchers' incomes are reduced, they have fewer dollars to spend in the local and state economy. As their spending is reduced, it has a multiple-effect on economic activity in the local communities and the state. Locally, this multiplier would probably be around 1.6 to 2.2; for the state, the multiplier could be as high as 4.0. This says that for every dollar reduction of income in the livestock sector, there will be a total decrease of four dollars in economic activity in the state. Thus, the total impact of an income loss of $75,730 could amount to a reduction in economic activity of $302,920 in the state.

Three commenters state that the Fish and Wildlife Service did not consult properly with local people in the St. George area. Nine comments were made that both the tortoises and cows can coexist without any more restrictions. Two letters urged thorough studies throughout the species' entire range before any designation of the population as Endangered. One comment stated that removal of livestock would not result in the sudden improvement of the range. Two comments stated that the Service had already predetermined its position on the listing. Two comments stated that the reasons for listing were not correct since they were not occurring at *present.* One individual said that the Fish and Wildlife Service does not have the constitutional authority to be making any decisions in Utah.

Finally, Mr. Frank Rowley (BLM, Utah) outlined BLM's programs while opposing the listing:

"In the proposal notice reference is made that overgrazing by livestock is one of the key factors involved in the decline of the desert tortoise population. We admit that overgrazing has been a problem in the past, but the notice has failed to recognize the steps which have been taken to correct this problem. In the last ten years, BLM has made substantial adjustments to correct livestock grazing problems. During this period, 73 percent of the cattle use has been reduced in the area (approximately) a 50 percent reduction in 1965 and approximately a 23 percent average reduction proposed in our recent decisions. Adjustments have also been made in the season of use, signficantly reducing competitive spring use, and an allotment management plan is in the process of being implemented. In 1978, the average forage production for annual brome grass and filaree was 860 pounds of air dry forage per acre. When the catle were removed in May, there was an average of 241 pounds of annual forage per acre remaining. These facts suggest that steps are being taken to reduce the impacts of livestock grazing over the area. We would also like to note that the livestockmen have cooperated with us and moved their cattle to other pastures when requested.

Not only has BLM made adjustments to livestock use, we have also proposed establishment of a 3,040-acre natural study area to enhance the desert tortoise population. This year we will let a contract to study the effects of grazing versus non-grazing so more information will be available to evaluate this problem. This area encompasses the historic Woodbury-Hardy study area and several other critical desert tortoise denning areas. It is also proposed in

the allotment management plan that grazing

who conducted the original studies on

individuals believed that the State's

If cattle are present on the Beaver Dam

2. Minutes of a BLM and Cattlemen

data sheet of this same period (1967)

the allotment management plan that grazing in the remaining portions of Beaver Dam allotment would not extend beyond April 30th.

Trampling of vegetation, burrows, and young tortoises is listed as a major concern. The allotment will be stocked at a rate of 26 acres/cow/month. Based on a six-month grazing season, 156 acres are allocated to each cow for the six-month grazing season. Based on this vast acreage, trampling is insignificant and of minor importance to the welfare and survival of the desert tortoise.

Predation and Man

The removal of desert tortoises by the public has subsided since the construction of Interstate 15. However, this problem has not been completely eliminated and is expected to continue, even if the desert tortoise is listed as an endangered species. We feel that this designation will hinder the present tortoise recovery program since people who knowingly violate the law may be reluctant to return the tortoise for fear of the penalties which could be imposed on them.

Off-road vehicle (ORV) use is listed as one of the major detrimental factors affecting the tortoise. The off-road vehicle use is minor, only occasional ORV use occurs, there are no resource values which have attracted ORV users into this area. Our land use plan calls for vehicles to be restricted to existing roads and trails.

As you may be aware, the effects of radioactive fallout on humans and livestock in Washington County, Utah, as a result of the atomic bomb testing in Nevada is now being investigated. Radio fallout could have affected animal populations, including the desert tortoise, in Utah, Arizona, and Nevada. This possibility should be considered.

The following is a summary of comments of those who favored the proposed listing and designation of Critical Habitat.

Three comments advocated either the complete stoppage of livestock grazing on the Beaver Dam Slope or the cessation of grazing between April and September as the best way to protect both the tortoises and the land. Three commenters agreed that the population has shown declines since it was first studied in 1936. There were 23 comments which supported the listing with Critical Habitat for the reasons provided in the various Federal Register documents.

Two statements gave opposition to the State's proposal to the release of captive tortoises on Beaver Dam Slope and cited reasons why uncontrolled release is biologically unjustified. Two comments cited collection as an important factor in the decline of the tortoise population, especially since people may be unaware of the State's collecting prohibitions.

Two persons cited habitat destruction as a major cause of the tortoise's decline. One of those, Dr. Ross Hardy, who conducted the original studies on this population, states:

On page 67 of my monograph on "The Influence of Types of Soil Upon the Local Distribution of Some Mammals in Southwestern Utah" (Ecological Monographs, Vol. 15, No. 1, Jan. 1945) I included a count of the number and kinds of perennial shrubs as well as measurements (height x width) on "quadrat 9" in this area. Since then (measured in the summer of 1941) there has been an easily noticeable and measureable decline in the *number* and *size* of these shrubs as well as in the amount of perennial grass present in this area. Without doubt the *destruction of habitat* is one of the chief if not the main cause of the tortoise decline.

One comment strongly disagreed with the State's request for more time to study the matter saying that enough information is already at hand on which to make a judgement. Four individuals cited overgrazing as a specific cause of the tortoise's decline. One comment noted that predation may account for as much as 35% mortality among tortoises. One comment stressed that the State of Utah has not emphasized patrolling the tortoise habitat although he did mention that the State is short of funds and manpower for tortoise work.

One commenter, Mr. Eric Coombs, stated that the destruction of palatable shrubs such as Mormon tea and winterfat may be more important than that of creosote bush. He further states:

Also, the trampling of forage is portrayed in a low key when I believe that in case of competition and removal of vegetation presently critical to tortoise survival, that the affects of trampling are higher than that of direct removal as forage. The removal of perennials is a long-term problem, whereas the trampling of important forbs and annual grasses during the critical spring feeding period is the major concern.

Three persons stated that the historical and scientific value of the Beaver Dam Slope population cannot be overstressed. One commenter believed that the populations of tortoises in the hills north of St. George and in Paradise Canyon did not result entirely from introduction of captives and therefore should be included under provisions of the Act. Two individuals commented on work being conducted in nearby areas in Arizona and Nevada and, while agreeing with the proposed rule, stressed that population surveys in other areas are urgently needed.

One commenter advocated the closure of the area to all off-road vehicle (ORV) use and another stressed that ORV's must be monitored especially during certain times, such as on holidays. One comment stressed the importance of the Beaver Dam Slope as a biological transition area harboring many interesting plants and animals. Two individuals believed that the State's efforts or those of BLM are inadequate to protect the Beaver Dam Slope population of the desert tortoise.

Finally, the Desert Tortoise Council submitted a long letter discussing the tortoise and its management:

Allotment Management Plan (AMP)

The AMP was drafted in 1976 and revised in March, 1977. It is stated in the AMP (p. 7) that current livestock forage conditions, based on desirable forage studies, are in fair condition over 47 percent of the allotment and in poor condition on 53 percent of the area. It further states that all areas rated as poor can be improved to fair condition except Beaver Dam Wash. No areas have been rated as good and none can be improved to a good forage condition. Large washes receive heavy grazing, and the range condition trend there is downward.

The AMP states that annual species are grazed each year during the growth period and that annual grazing does not allow for the necessary rest required by perennial plants to restore vigor and produce seed (p. 13). Further, "during the spring one sheep herd trails through the middle of the desert tortoise area located in the lower half of the allotment."

None of the documents sent to the Desert Tortoise Council address sheep grazing, except for the above quote taken from the draft AMP. The grazing pressure exerted by sheep is quite different for cattle. Sheep will essentially eat all desirable plants to the ground surface level, essentially denuding an area of desirable forage as they move through it. Since no mention is made to their control, the Council is concerned that sheep are not being regulated on the Beaver Dam Slope.

Reproductive success has long been well recognized as too low on the Beaver Dam Slope to sustain the tortoise population (Woodbury and Hardy, 1948; Coombs, 1974, 1977 a and b). This point is also discussed in the AMP, "the excessively heavy grazing of livestock on the area over the past 80 years suggests a nutritional problem, but available evidence is not conclusive. Other possible causes include an inadequate number of mature females, excessive predation on eggs and young, and human disturbance."

The Plan proposes to use *Ephedra nevadensis* and *Muhlenbergia porteri* as indicators of range improvement, for, "by meeting the physiological requirements of these two species, the requirements of the other desirable forage species can be met to the fullest extent possible." It is questionable that by meeting the physiological conditions for growth and vigor of *Ephedra* and *Muhlenbergia* (2 out of every 3 years) will necessarily meet the conditions for many other forage species. Moreover, under the proposed 3-year rest-rotation grazing schedule, grazing will be permitted on the Beaver Dam Slope every third year through April, yet it is indicated that *Ephedra* begins growth at the beginning of March and *Muhlenbergia* in early April. Grazing will thus overlap with the onset of the growth period and thus will in turn adversely affect attempted range improvement.

If cattle are present on the Beaver Dam Slope through April, then the tortoise will be directly competing with livestock when the tortoise emerges from the hibernaculum during March. Further, managing a range for perennial species fails to address specific annual species requirements of the tortoise. For example, in his letter to the U.S. Fish and Wildlife Service in response to the public meeting (letter of January 10, 1980), Mr. Rowley states that in 1978, 840 pounds of air dried forage (brome grass and filaree) were produced per acre, and that after the livestock were removed, 241 pounds remained. Specifically not mentioned is the amount of forage produced on dry years and on average years, for 1978 was an unusually wet year. Further, the AMP does not discuss how the range will be managed during dry years. Cattle grazing during dry years will essentially preclude the availability of required forage for the desert tortoise.

Mr. Rowley states, that regarding the leaving of 241 pounds per acre of forage available to the tortoise, "These facts suggest that steps are being taken to reduce the impact of livestock grazing over the area." We have not seen data to substantiate this statement. 1978 was not a typical year for it was very wet, and we were not supplied data from 1977 or 1979 for comparison, thus we cannot determine if the range is being managed for the tortoise. The desert tortoise has evolved a survival strategy adapted to existing ecological conditions. If nutrition plays a role in this tortoise population's decline, as indicated in the literature (Woodbury and Hardy, 1948; Hardy, 1976; Coombs, 1974, 1977 a and b; and Hohman and Ohmart, 1978), reduction of the spring annual food source by 72 percent once every three years does not appear consistent with the objective of improving conditions for the tortoise. Livestock concentrate near washes and areas where forage is most abundant. If forage conditions are good in or near the areas of high tortoise concentration, the reduction of cattle to 26 acre/cows/month, or 156 acres allotted to each cow over a 6-month grazing period (as outlined in Mr. Rowley's letter), will not make more forage available to tortoises in these areas or increase space for them to avoid being trampled.

Range Conditions

The range data sheets supplied to the Desert Tortoise Council cover the period from about 1963 to 1977. Range trend index sheets for the various allotments on the Beaver Dam Slope were evaluated by a range scientist, and it is impossible to draw any conclusion from them. Trend indices were plotted using species cover values only; factors important to determining range condition change such as annual and seasonal precipitation, temperature ranges, soil types, etc. were not taken into account. Thus, the data do not support, or refute for that matter, the supposition that the range is being managed for the tortoise.

BLM records indicate a history of grazing problems on the Beaver Dam Slope, e.g.:

1. A notice from the BLM to licensees, dated April 16, 1958, called a meeting, "to discuss management problems in the Beaver Dam Slope area."

2. Minutes of a BLM and Cattlemen meeting (December 7, 1964) state, "It was agreed by all livestock owners that something be done to control cattle use in the Beaver Dam Slope allotment."

Although these conditions were recognized at least as early as 1958, the data do not indicate a significant improvement in range conditions since that time.

Individual range data sheets indicate that plots range from fair to poor condition. Little of the data appear to be applicable to desert tortoise forage conditions and requirements. Many of the data sheets indicate that forage species reproduction was poor and grazing pressure was cited as moderate to heavy. Several sheets from the Indian Springs allotment indicate that, "most of the plants of undesirable composition," reproduction was fair, past grazing as heavy and present grazing as moderate and occasionally heavy.

Similar assessments are cited in the Castle Cliffs, Beaver Dam and Santa Clara allotments.

Draft 1980 Beaver Dam Slope Habitat Management Plan

"The overall goal of the Beaver Dam Slope Habitat Management Plan is to improve and protect wildlife with species emphasis on stabilizing and improving the declining Beaver Dam Slope desert tortoise population."

In recognition of the above need, the HMP states that the tortoise population, "is only 10–20 percent of the level of 35 years ago and has nearly stopped reproducing." The HMP's objectives include:

1. stabilize the Beaver Dam Slope desert tortoise population and increase the population growth rate at least to 5 percent per year;

2. study and manage for the desert tortoise, in part by establishing the "Woodbury Desert Study Area" of 3040 acres.

The objectives are commendable and represent a positive step. However, the 3040 acre natural area is only 14 percent of the proposed 35 square mile critical habitat identified by the Desert Tortoise Council. This 3040-acre area is totally inadequate as a tortoise protection area. It will serve, however, as a research enclosure for determining range improvement in the absence of livestock.

We are also concerned that the BLM has proposed predator control as a means to protect the tortoise. We do not believe that predator control is a justified means to reducing predation on tortoises. The predator control proposal indicates a less than full understanding of ecological principles and is a less than solid biological approach to managing the tortoise population on the Beaver Dam Slope.

In his letter to the U.S. Fish and Wildlife Service, Mr. Rowley stated that in the last ten years the BLM has made substantial adjustments to correct livestock grazing problems. "During this period, 73 percent of the cattle use has been reduced in the area (approximately 50 percent in 1965 and 23 percent is proposed)." Clearly, this statement is self-contradictory. Only a 50 percent reduction has been achieved. The rest remains to be accomplished. Also, the range data sheet of this same period (1967) submitted to the Desert Tortoise Council states, "Soilstable; reproduction-light to poor; evidence of grazing-heavy to moderate; trend static." Additionally, Coombs (1974, 1977 a and b) indicated poor range conditions with significant competition between cattle and desert tortoise. Coombs (1974) also states that the tortoise population was still declining by 5–7 percent per year. Thus, the biological data do not indicate that the steps taken by the BLM have been effective measures for managing the tortoise population.

The Council fully supports the desert tortoise studies to be funded by the BLM, but the study itself will not reverse the downward trend of the population.

Mr. Rowley stated several additional objections to the listing of the Beaver Dam Slope population as endangered. These are addressed below.

1. "We feel that this designation will hinder the present tortoise recovery program, since people who unknowingly violate the law may be reluctant to return the tortoise for fear of the penalties which would be imposed on them."

The Council is not aware that Utah BLM has a recovery program. Further, this statement assumes (1) tortoises cannot be returned without penalty, and (2) people will not be informed about how to properly deal with captive tortoises. While this may be of concern to the BLM, the answers to this concern may be very effectively dealt with in a recovery plan.

2. "Off-road vehicles (ORV) use is listed (in the proposal) as one of the major detrimental factors affecting the tortoise. Off-road vehicles use is minor, only occasional ORV use occurs. There are no resource values which attract users into this area."

To quote the draft AMP, "Dominant recreational uses in the allotment are sightseeing, rockhounding, wildlife and botanical observations, and jeeping and other ORV use. Overall use appears to be light. The main use being in the spring and fall."

3. "Radioactive fallout could have affected animal populations including the desert tortoise in both Utah, Arizona and Nevada. The possibility should be considered."

The Council does not see this as anything other than speculation. Neither a case for this suggestion nor any data to support it were presented by the BLM. Attempting to answer such a statement is difficult, as often the case can neither be proved or disproved. As stated by Turner, Rowland and Wood (1966), "in evaluating the influences of nuclear engineering, one must consider the merit of seeking to prove or disprove the existence of nuclear engineering products—remembering that statistically significant effects may have no discernible influence on the organization of a community of plants and animals."

Perhaps the most poignant point here is that Woodbury and Hardy (1948) cite the detrimental effects of livestock competition for forage as being detrimental to the desert tortoise years prior to the nuclear testing in Nevada.

4. "There are no definitive data substantiating the reasons for the population decline."

V 45 A G 2 0 8 0 UMI

During their 1934–1945 study period, Woodbury and Hardy (1948) recognized livestock grazing pressure and competition as contributing to the Beaver Dam Slope tortoise population decline. Coombs (1974, 1977 a and b) and Hohman and Ohmart (1978) have also reviewed cattle competition with Beaver Dam Slope cattle and tortoise. BLM records indicate that they were also cognizant of range condition problems, at least during the 1950's and 1960's. Mr. Rowley states in his letter that significant reductions in livestock grazing have taken place in the last ten years. However, Coombs (1974, 1977 a and b), shows clearly that the tortoise population on the Beaver Dam Slope continued to decline during the early 1970's.

Many studies have demonstrated that competition between range cattle and native wildlife is detrimental to wildlife. This subject is addressed in papers on the desert tortoise (Woodbury and Hardy, 1948; Coomba, 1974 and 1977 a and b; Berry, 1978; Ohmart and Hohman, 1978). It is difficult to cite conclusive data that grazing competition is the only cause of the tortoise population decline. However, it is more difficult to say that it is not a major causal factor.

5. "The area identified as critical habitat is much larger than that actually occupied by the tortoise."

The proposed 35-square mile critical habitat is inhabited by the desert tortoise. Review of Coombs (op. cit.) show that 6 or 7 areas of tortoise concentration occur within the proposed critical habitat. The BLM data and records supplied to the Desert Tortoise Council contain no data to support Mr. Rowley's statement; it is in fact incorrect.

Discussion and Conclusions

The Service would like to thank all those individuals and organizations that either submitted comments or attended the public meetings and hearings on the proposed rule. It is evident that many people spend a great deal of time in gathering data and preparing a response. All comments have been carefully considered before making a decision; the Service has complied with all requirements of NEPA and Executive Order 12044, as well as those of the Act and its amendments, in making its decision. Much of the evidence presented is contradictory with other evidence supplied during the rule proposal process; this makes a decision difficult but this determination will provide for the best protection of the tortoise and its habitat without imposing undue economic hardship on the ranchers who use the Beaver Dam Slope. The Service will cooperate fully with all parties to minimize the potential impacts of this listing.

Many individuals believed that the tortoise population throughout its range should be assessed either prior to or in addition to a determination of status for the Beaver Dam Slope population.

On August 23, 1978, the Service published a notice of review in the Federal Register to the effect that a review of the status of the tortoise throughout its range was being conducted (43 FR 37662). Accordingly, the States of Arizona, California, Nevada, and Utah, officials in Mexico, other U.S. government agencies, particularly BLM, and scientists familiar with the species were contacted and requested to supply information pertaining to the tortoise. This review is nearly completed and indicates that the tortoise is facing many threats to its continued survivial throughout its range. The Service hopes to have the review completed early this winter and will then decide if sufficient data exist to on Endangered under provisions of the Act. The Endangered Species Act Amendments of 1978 impose a two-year deadline on proposals for Endangered or Threatened warrant a proposal as either Threatened status. The Service has therefore decided to proceed with the listing of the Beaver Dam Slope population now rather than let the proposal expire and repropose the population when substantial new information can be obtained.

While the Service recognizes that the Beaver Dam Slope population is not taxonomically distinct, it believes that it is important with regard to its historical preeminence in turtle ecological studies, the fact that it is the northernmost population of the *G. agassizii*, and that it inhabits an area of unique faunal and floral assemblage. As stated in the introduction, this population has been studied beginning in 1936 and studies continue at present. It is one of the longest studied vertebrate populations, with several individuals marked by Woodbury and Hardy reportedly still being present. Thus the population is important historically in the field of ecological studies. The population is also important since other population studies on the desert tortoise have been undertaken relatively recently; thus the Beaver Dam Slope population serves as a source of baseline information with which to compare more recent findings. The data from the population also provide one of the clearest examples of the result of overcollecting on the population structure and status of tortoises, which are under threats from trade in many parts of the world. The Beaver Dam Slope population inhabits a transition zone between southerly fauna and flora and those of more northerly areas. Thus the ecosystem is distinct. While there are washes which connect the Utah part of the slope with that in Arizona, the low bagility of tortoises in this rocky and wash disected area probably precludes any appreciable gene flow. Indeed, gene flow between populations would be very difficult, if not impossible, to demonstrate. Thus the population may be considered distinct.

Some individuals questioned the impact of cattle on the tortoise population. The Service recognizes that there is conflicting evidence on this question (see comments particularly by Dr. Bowns and the Desert Tortoise Council, as well as information contained in Berry (1978), Coombs (1977a,b,c, 1979), and Hohman and Ohmart (1978), for evidence on the effects of grazing on tortoises). The information in the above references forms the basis of the Service's contention that grazing may have a negative impact on tortoise populations. However, the Service believes that the steps already taken or proposed by BLM to reduce grazing between April and September can minimize potential competition for food resources. The Service believes that the impacts of cattle on tortoise populations should be carefully monitored to determine how much impact there may be and methods to reduce it. The Service also notes that a determination of Critical Habitat does not automatically have the effect of eliminating or reducing grazing in this area (see below).

The Service recognizes that predators may be impacting tortoise populations, especially the young. However, fortoises and predators have evolved together long before man introduced additional pressures on the population; a predator removal program should only be considered after careful evaluation of alternatives. The Service acknowledges that the collection of tortoises as pets prior to the completion of I–15 may have been a major cause of the decline in this population. Although the problem seems to have been alleviated by the highway rerouting and State laws against collecting, collection may still be a problem at least occasionally (see Mr. Rowley's comments).

There has been substantial information presented that the habitat of the Beaver Dam Slope has suffered in the past (see Coombs references, Mr. Rowley's letter, Desert Tortoise Council's comments). Grazing allotments were reduced by 50 percent in 1965 and sheep no longer graze the Beaver Dam Slope (but see the Desert Tortoise Council's comments). However, contrary to some statements, the BLM has not reduced grazing by 73 percent. The additional 23 percent is a proposed reduction which has not yet been implemented (such proposal is presently in litigation). It is hoped that the measures proposed by BLM (some of which have been implemented) since the original proposal appeared in 1978 will allow for continued use of the area by livestock and allow the range to recover. However, as one commenter noted, there will be no sudden improvement; the Slope will have to be carefully monitored for many years to come.

The Service acknowledges that annuals are an important food supply of tortoises, especially in years of adequate rainfall. The production of annuals is a complex interaction of proper rainfall, temperature, and general range conditions, and cannot be attributed solely to cattle grazing. Cattle grazing may in some circumstances and in some years lead to an increase in annuals. However, it has not been demonstrated that this is in practice happening on the Beaver Dam Slope on a yearly basis, much less that the tortoise will or has benefited. The Service notes that there is extensive overlap (37 percent) in the foods used by tortoises and cattle.

The Service acknowledges that ORV use is not a major factor in the decline of the tortoise on the Beaver Dam Slope. As long as ORV's are strictly confined to well defined roads in this area, with appropriate warnings to users to be careful to avoid tortoises, there should not be any significant mortality. This situation must be carefully monitored.

The Service acknowledges that drought might affect the status of the population. In fact, it might enhance problems caused by grazing abuses in the past, collection, predation, and general habitat deterioration.

The Service believes that there is substantial information to document the decline of this population as well as the reasons it has declined. The Service acknowledges that no one factor is probably involved. Consequently, before recovery of this population can be effected, additional research on individual factors as well as their interaction is needed. Almost no one doubted that the population has suffered a serious decline. The Service does not believe that it would be in the best interests of the tortoise to delay listing until every facet of its biology is known. The Act requires that the best available biological and commercial data be used to determine whether a species should be listed. The Service has examined all data with regard to this population and believes that the population has declined in numbers to the point where listing it under provisions of the Act is warranted. Solutions to reverse the declining status of the tortoise should not take the course of simple notions (i.e., "kill all predators" or "prevent all grazing"). A recovery program must be developed that recognizes the needs of the tortoises and the economic concerns of the eight ranchers that depend on the Beaver Dam Slope for winter range. Interaction between the local community and concerned scientists is the best way to preserve the Beaver Dam Slope ecosystem. Immediate research and recovery programs would not, however, be delayed before a recovery plan could be started. A recovery plan would serve as a future guide to efforts needed to maintain the population.

The Service rejects the idea that tortoises are dependent on cattle to maintain their population size. The idea that when cows were abundant, tortoises were abundant so therefore tortoises are dependent on cows is not supported by biological data. Tortoises existed at higher population densities throughout the Southwest long before cattle were introduced.

There were some comments about the desirability and effectiveness of determining Critical Habitat. The Service points out that the Endangered Species Act Amendments of 1978 require that all proposals to list species as either Endangered or Threatened must also contain "to the maximum extent prudent" a determination of Critical Habitat at the time of final listing. The Service believes that Critical Habitat must be included with this final rule to comply with the amendments and the intent of Congress.

Most of those who spoke in opposition to the proposal did not seriously question the status of the Beaver Dam Slope population of the desert tortoise or the potential for its continuing decline. Instead, they voiced concern at the impact of the designation of Critical Habitat on their activities and future use of the Beaver Dam Slope for winter grazing. Actually, there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely effect the species. Indeed, no activity is automatically excluded. This point is not well understood by much of the public. There is widespread and erroneous belief that a Critical Habitat designation is somewhat akin to the establishment of a wildlife refuge and automatically closes an area to most human uses. A Critical Habitat designation applies only to Federal agencies, and is an official notification to these agencies that their responsibilities under Section 7 of the Endangered Species Act are applicable in a certain area.

While the Service acknowledges BLM's steps to set aside a 3,040-acre preserve, the Service also notes that the preserve has not actually been set up because of pending litigation. Therefore, there are no assurances that the preserve will ever become a functioning reality. In any case, the preserve encompasses only the Woodbury-Hardy study area and an additional small area. The final Critical Habitat includes all major tortoise concentrations on the Beaver Dam Slope. A 3,040-acre preserve would only protect one concentration of tortoises with perhaps fewer than 50 females and is therefore too small an area of land to form an ecological unit meeting the needs of the majority of tortoises on the Beaver Dam Slope.

The Service wishes to emphasize that it will work in close cooperation with any agency to minimize impacts of the present rules on future activities in the Beaver Dam Slope area. No automatic limitations are imposed by a designation of Critical Habitat. It does, however, assist Federal agencies in insuring that their actions are not likely to jeopardize the continued existence of the species (Schreiner, 1976).

The Service is also concerned about harm to the tortoises by misguided individuals who do not understand the final rule and may be tempted to harm them in retaliation. The Service hopes that such individuals will not harm defenseless animals but warns that penalties for harming a Threatened species can be quite severe and will be enforced.

The Service points out that there are no provisions in the Act for designations of "crucial" habitats or "sensitive" species. In addition, in a lengthy letter to Dr. Kristin Berry (dated March 7, 1979), Mr. Coombs states:

> I do not think that Endangered Status is a panacea in itself, but it is a great step in the right direction in forcing State and Federal agencies to function in behalf of the tortoise and its habitat, instead of livestock interest. Also, money will be available to do something, which is the UDWR's problem and weak excuse. Biologists with good qualifications could then do the work instead of UDWR's force of summer temps, who are not fully trained or acquainted with such important management and study techniques as would be needed to study and manage an endangered K-selected species on such a large scale.

The Service has no reason to doubt the motives or professional standing of the scientists in the Desert Tortoise Council. The Service notes that all decisions must be based solely on the best biological or commercial data available. Any person or group may petition the Service to list a species under provisions of the Act. During the review and proposal process, the Service solicits pertinent biological and

commercial data from the entire public, not any one particular group.

The Service acknowledges that the trampling of young tortoises is a possibility and may not be significant in the decline of the Beaver Dam Slope population. The Service also recognizes there is no proof to the contrary.

The Service agrees that the uncontrolled release of captive tortoises to the Beaver Dam Slope could be detrimental to the population and probably does not allow significant survivorship of the released captives. Before tortoises should be released there should be a thorough examination by a veterinarian for disease, knowledge of the origin of the captive, and knowledge about the population structure and carrying capacity of the environment where the captive is to be released. Even in California, where these requirements are met, release programs have been met with limited success.

The Service has examined Dr. Nielsen's comments on the potential economics of closing grazing on the Beaver Dam Slope. His work essentially arrives at the same results as Rice et al. (1979), though by a different method. The Service points out, however, that closing grazing is not being considered by BLM and the Service does not have the authority to prevent grazing on BLM land. In any case, permits are available to prevent undue economic hardship for a specified period of time.

After a thorough review and consideration of all the information available, the Director has determined that (1) the Beaver Dam Slope population of the desert tortoise is likely to become an Endangered species throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act, as specified in the proposal of August 23, 1978 (43 FR 37662–37665), and revised in this listing document (see below) and (2) listing this species as Threatened with the specific Critical Habitat will, with appropriate measures undertaken by the State of Utah and BLM, provide it with necessary protections to ensure its survival.

The summary of factors affecting the species, as required by Section 4(a) of the Act and published in the **Federal Register** of August 23, 1978 (43 FR 37662–37665), is revised below to take into account the information received by the Service since that date. These factors are as follows:

1. *The present or threatened destruction, modification or curtailment of its habitat or range.*—The Beaver Dam Slope has had a long history of overgrazing, especially prior to the mid 1960's before grazing was reduced by fifty percent. Although both sheep and cattle have grazed in the past, presently only cattle are using the range. Overgrazing modified the habitat, especially by the reduction of the availability of perennials and native vegetation, particularly Mormon tea and winterfat. The BLM has proposed an additional grazing reduction of 23 percent and eliminating grazing between April and September, both of which should aid in recovery of the range. It will take a long time to recover and must be carefully monitored. Livestock occasionally may collapse summer burrows and may inadvertently step on young tortoises, although the extent to which these contribute to the declining status of the population is in need of more study.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Collection of individuals for pets is thought to have had severe effects on the population in the past, especially since females were reported to be collected more than males because they are sedentary and easier to find than males. Many individuals believe that this is the chief cause of the present status of the population. Collection is probably not a major problem at present although any removal not in connection with conservation efforts would probably be detrimental.

3. *Disease or predation.*—Predation by natural or feral animals, such as coyotes, kit foxes, and bobcats, may be contributing to the decline of the population, especially as it effects eggs and young tortoises, both of which are very vunerable. Many individuals believe that this is a major factor in the decline of the population although more research is needed to fully assess the problem.

4. *The inadequacy of existing regulatory mechanisms.*—While both the State of Utah and the Bureau of Land Management have regulations protecting the tortoise, they have not been sufficient to halt the decline in the population. By listing the tortoise as Threatened, present State and BLM regulations will be strengthened.

5. *Other natural or manmade factors affecting its continued existence.*—Competition for food items between tortoises and cattle may be contributing to a decline in this population, although as many ecologists have noted, competition is extremely difficult to prove. Competition may be direct (for food items) or indirect (in terms of adequate diet needed for successful reproduction). Dietary overlap is as high as 37.5 percent between cattle and tortoises based on fecal samples. The measures proposed by BLM for managing the Beaver Dam Slope, if implemented, should eliminate serious competition in the future.

Critical Habitat

The Act defines "Critical Habitat" as (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features:

(I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that the area proposed as Critical Habitat and which contains the majority of the tortoises on the Beaver Dam Slope, should be designated as Critical Habitat. The tortoises are vulnerable to a variety of threats, as discussed above and in the summary of comments. Because the status of the tortoise has resulted from a variety of interacting causes related to the management of the Beaver Dam Slope, the physical and biological features of this habitat are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service has prepared an impact analysis. The estimated impact on grazing should not exceed $54,000 which is not significant regionally or nationally but may cause a substantial impact upon the income of eight ranches. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this action.

Effects of this Rule

Section 7(a) of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of the endangered species and threatened species listed pursuant to Section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of Section 7 of the Endangered Species Act Amendments of 1978.

This rule now requires Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Beaver Dam Slope population of the desert tortoise, but also to insure that their actions do not result in the destruction or adverse modification of this critical habitat. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Section 4(f)(4) of the Act requires, to the maximum extent practicable that any rule which determines critical habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species.

1. Unregulated grazing could seriously affect the tortoise population because of habitat destruction and competition for resources which would result.

2. Unregulated use of ORV's could lead to the destruction of burrows and forage needed by tortoises and also result in the direct killing and maiming of tortoises.

3. The placing of pipelines, transmission lines, and mining operations without consideration of their impacts on the tortoise population could jeopardize tortoises and lead to a further decline in the population's status.

The above three examples are provided as illustrations of the types of activities which may be detrimental to the physical environment of the Beaver Dam Slope population of the desert tortoise Critical Habitat. They are not necessarily examples of what is actually happening at the area listed as Critical Habitat.

Endangered species regulations already published in title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above, which pertain to threatened species, are found at Section 17.31 ot title 50, and are summarized below.

With respect to the Beaver Dam Slope population of the desert tortoise, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.31, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the **Federal Register** of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

The Service will review the status of the Beaver Dam Slope population of the desert tortoise to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon Appendix I to that Convention (all tortoises, genus *Gopherus*, are on Appendix II already), and whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, or other appropriate international agreements.

National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal Action that significantly affects the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

The primary author to this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (703/235–1975).

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Literature Cited

Auffenberg, W. and R. Franz. 1978. *Gopherus agassizii*. Cat. Amer. Amphib. Rept. 212.1–212.2.

Berry, K.H. 1978. Livestock grazing and the desert tortoise. pp. 505–519 In: Trans. 43rd. North Amer. Wildl. and Nat. Resources Conf., Washington, D.C.

Coombs, E.M. 1974a. Utah cooperative desert tortoise study. *Gopherus agassizii*. Report to BLM District Office, Cedar City, Utah.

Coombs, E.M. 1974b. Desert tortoise *Gopherus agassizii* study. Progress Report Summer 1973 in the Beaver Dam Wash Area. Report to BLM District Office, Cedar City, Utah. 27 pp.

Coombs, E.M. 1977a. Wildlife observations of the hot desert region, Washington County, Utah, with emphasis on reptilian species and their habitat in relation to livestock grazing. Report to BLM, Cedar City, Utah. 204 pp.

Coombs, E.M. 1977b. Population status, bahavior and physiology of the desert tortoise, *Gopherus agassizii*, in southwestern Utah, with inferences drawn from related desert ectotherms. Report to, BLM, St. George, Utah. 23 pp. 8 fig.

Coombs, E.M. 1977c. Status of the desert tortoise, *Gopherus agassizii*, in the State of Utah. pp. 95–101 In: Proc. 1977 Symposium, Desert Tortoise Council.

Coombs, E. M. 1979. Food habits and livestock competition with the desert tortoise on the Beaver Dam Slope, Utah. Abstract of paper presented at 1979 Symposium of Desert Tortoise Council.

Day, D. 1979. Endangered animals in Utah and adjacent areas. Great Basin Nat. Memoirs No. 3: 35–40.

Dodd, C. K., Jr. 1978. Status of the petition to list the Beaver Dam Slope population of *Gopherus agassizi* as Endangered. pp. 55–57 In: Proc. of 1978 Symposium, Desert Tortoise Council.

Douglass, J. F. 1975. Bibliography of the North American land tortoises (Genus *Gopherus*). Spec. Sci. Rept.—Wildlife No. 190, U.S. Fish and Wildlife Service, Washington, D.C. 60 pp.

Douglass, J. F. 1977. Supplement to the bibliography of the North American land tortoises (Genus *Gopherus*). Smithsonian Herp. Inform. Serv. No. 39: 1–18.

Ernst, C. H. and R. W. Barbour. 1972. Turtles of the United States. Univ. Press of Kentucky, Lexington, Ky. 347 pp.

Hansen, R. M., M. K. Johnson, and T. R. Van Devender. 1976. Foods of the desert tortoise, *Gopherus agassizii*, in Arizona and Utah. Herpetologica 32: 247–251.

Hardy, R. 1976. The Utah population—a look in the 1970's. pp. 84–88 In: Proc. of 1976 Symposium, Desert Tortoise Council.

Hohman, J. P. and R. D. Ohmart. 1978. Historical range use of the Beaver Dam Slope, Arizona, and its possible effects on the desert tortoise population. pp. 116–125 In: Proceedings of the 1978 Symposium, Desert Tortoise Council.

Rice, D., N. Starler, and R. Johnson. 1979. Economic impact of designating Critical Habitat for the Beaver Dam Slope population of the desert tortoise

(*Gopherus agassizii*). U.S. Dept. Interior, 19 pp.
Rowley, F. 1978. State Report—Utah. pp. 53–54 In: Proc. of 1978 Symposium, Desert Tortoise Council.
Schreiner, K. M. 1976. Critical Habitat: what it is—and is not. Endang. Sp. Tech. Bull. 1(2): 1,4.
Smith, D. A. 1978. State Report—Utah. pp. 48–52 In: Proc. of 1978 Symposium, Desert Tortoise Council.
Smith, H. M. and R. B. Smith. 1979. Synopsis of the herpetofauna of Mexico. Vol. VI. Guide to Mexican turtles, Bibliographic addendum III. John Johnson Publ., N. Bennington, Vt. 1044 pp.
Stewart, G. R. 1976. The Utah population of the desert tortoise, *Gopherus agassizi*, is Endangered! p. 122 In: Proc. of 1976 Symposium, Desert Tortoise Council.
Turner, F. B., R. H. Rowland, and R. A. Wood. 1966. Nuclear engineering and wildlife: radioactivity in jackrabbits after the Sedan test. J. Wildl. Manag. 30(2): 433–443.
Woodbury, A. M. and R. Hardy. 1948. Studies of the desert tortoise, *Gopherus agassizii*. Ecol. Monog. 18: 145–200.

Regulations Promulgation

Accordingly, Part 17, Subparts B and I, Title 50 of the Code of Federal Regulations are amended as set forth below:

1. Section 17.11 is amended by adding, in alphabetical order, the following to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and Threatened Wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Tortoise, desert	*Gopherus agassizii*	U.S.A. (Utah, Arizona, California, Nevada); Mexico.	Beaver Dam Slope, Utah	T		17.95(c)	NA

2. Section 17.95(c) is amended by adding the following Critical Habitat description after the Critical Habitat description for the Plymouth red-bellied turtle:

§ 17.95 Critical Habitat—Fish and Wildlife.

* * * * *

(c) *Reptiles.*

Beaver Dam Slope Population of the Desert Tortoise (*Gopherus agassizii*)

Utah. Washington County. E½ Sections 13 and 24, T43S R20W; S½ Section 7, all of Sections 8 through 28, E½ Section 29, SE¼ Section 5, SW¼ Section 4, T43S R19W; all of Sections 7 through 10, 15 through 22, 28 through 30, and W½ Section 27, T43S R18W.

Beaver Dam Slope Population

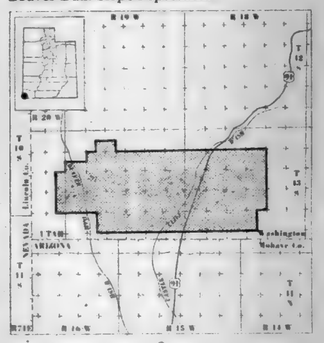

Dated: August 14, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-25316 Filed 8-19-80; 8:45 am]

BILLING CODE 4310-55-M

federal register

Wednesday
August 20, 1980

Part V

Office of the United States Trade Representative

Generalized System of Preferences; Acceptance for Review of Petitions To Modify the List of Articles Receiving Duty-Free Treatment; Public Hearings; Timetable

V 45 A G 20 80 UMI

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Acceptance for Review of Petitions To Modify the List of Articles Receiving Duty-Free Treatment; Public Hearings; Timetable

I. Deadline for Receipt of Request To Participate in the Public Hearings

Requests to present oral testimony in connection with public hearings announced in 45 FR 36243 (May 29, 1980), accompanied by twenty copies in English of all written briefs or statements should be received by the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee (TPSC), Room 711, Office of the United States Trade Representative, Washington, D.C. 20506, not later than the close of business Thursday, September 18, 1980. Oral testimony before the GSP Subcommittee will be limited to five-minute presentations. All such requests to appear and accompanying briefs or statements must conform to the regulations codified at 15 CFR Parts 2001–2003 and 2007. Part 2007 was published in the September 9, 1977 **Federal Register**, 42 FR 45532. Rebuttal briefs or statements will be accepted if submitted in twenty copies in English within one week after the close of the hearings (but in no case later than close of business, Friday, October 10, 1980).

Parties not wishing to appear at the hearings also may submit written briefs or statements in twenty copies in English in connection with articles under consideration in the public hearings, provided that such submissions are filed by October 10 and conform with the regulations cited above.

II. Notice of Public Hearings

Hearings will begin at 10:00 a.m. on Monday, September 29th in Room 2006 of the New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Street, N.W.), Washington, D.C., and will continue on that and subsequent days until all witnesses have been heard. It should be noted that the hearings of Friday, October 3, previously scheduled in Room 2010 of the New Executive Office Building, are now moved to Room 2008.

1. Acceptance of petitions for review

Notice is hereby given of acceptance for review of petitions requesting modification of the list of articles eligible to receive duty-free treatment under the Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). These petitions have been submitted, and will be reviewed, pursuant to regulations codified at 15 CFR, Part 2007 (42 FR 45532, September 9, 1977).

As part of this and future product reviews, a special effort will be made to include on the GSP list products of special export interest to low income beneficiaries, including handicraft items. In addition all requests to add or remove products to or from the list of articles eligible for GSP duty-free treatment will be evaluated in accordance with a new "graduation" policy. In considering GSP eligibility for products, limitations on GSP benefits will be considered for the more developed beneficiary developing countries in specific products where it is determined that they have demonstrated international competitiveness. This approach will help to ensure that a greater share of GSP benefits is reserved for less competitive beneficiaries. The development level of individual beneficiaries, their competitive position in the product concerned and the overall economic interests of the United States will be taken into account when any such action is considered. Demonstration of import sensitivity in the context of GSP is necessary to effect the removal of any beneficiary developing country from GSP eligibility with respect to a specific product already eligible or from proposed GSP eligibility with respect to a petition requesting the designation of an item.

Product designations announced at the conclusion of the review process, therefore, may be made on a differentiated basis. This means that certain beneficiary developing countries may not be designated for GSP benefits in certain products even though those beneficiaries are not excluded statutorily under the competitive need provisions. Similarly, with respect to product removals, the President may elect to withdraw GSP benefits from certain beneficiaries rather than remove the product entirely from GSP coverage. In determining the eligibility of particular beneficiaries with respect to any product, the President will take into account the three criteria specified above. The competitive need limitations (provided for in Section 504(c)(1) of the Trade Act of 1974) will continue to apply to countries remaining eligible for GSP treatment.

The implementation of this policy is designed to provide increased opportunities for less developed, less competitive beneficiary developing countries. In accordance with overall U.S. trade policy toward developing countries, this action is designed to promote continued graduation of more advanced developing countries from GSP benefits in products where they have demonstrated competitiveness. Over time such action should help to provide a more equitable distribution of GSP benefits by shifting more of the benefits to the less competitive developing countries.

For additional information on this policy, reference should be made to the Report to the Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences (GSP), transmitted by the President of the United States on April 17, 1980, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

2. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the Executive Director of the GSP Subcommittee of the TPSC, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. It is requested that parties submitting briefs or statements containing confidential information indicate on the cover page of each of the twenty copies submitted that such confidential material is enclosed.

The hearings will be open to the public, and transcripts of the hearings will be made available for public inspection or purchase from the reporting company.

3. Solicitation of Public Views

The TPSC invites submissions to be made in support of or in opposition to any petition contained in Annex I of this notice. Such submissions should, however, conform to 15 CFR 2007.0, 2007.1(1), 2007.1(2), and 2007.1(3) (42 FR 45532, September 9, 1977).

4. Communications

All communications with regard to these hearings should be addressed to: Secretary, GSP Subcommittee, Office of the United States Trade Representative, Room 711, Washington, D.C. 20506. The telephone number of the Secretary of the GSP Subcommittee is 202–395–6971. Additional questions also may be directed either to Tim Bennett, Executive Director of the GSP Subcommittee, or Melissa Coyle, Assistant Executive Director.

Acceptance for review of the petitions listed in Annex I does not indicate any opinion with respect to a disposition on the merits of the petitions. Acceptance indicates only that the listed petitions have been found to be formally adequate as bases for reviews by the GSP Subcommittee and the TPSC, and that such reviews will take place.

BILLING CODE 3190-01-M

V 45 A G 20 80 UMI

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences	
		Fish, prepared or preserved in any manner, not in oil, in airtight containers:	
		Sardines:	
		In containers weighing with their contents not over 15 pounds each:	
		[In immediate containers weighing with their contents under 8 ounces each]	
80-1	112.22 pt.	In immediate containers weighing with their contents 15 ounces each, in tomato sauce	Toluca Corporation, Salt Lake City, UT
		Tuna:	
		[In containers weighing with their contents not over 15 pounds each, for an aggregate quantity entered in any calendar year not to exceed 20% of the United States pack of canned tuna during the immediately preceding calendar year, as reported by the United States Fish and Wildlife Service]	
80-2	112.34	Other	Government of Malaysia, Government of Morocco
		Fish, prepared or preserved in any manner, in oil, in airtight containers:	
		Sardines:	
		Valued over 30 cents per pound (including weight of immediate container):	
80-3	112.86	Skinned or boned	Government of Peru

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Other cheeses, and substitutes for cheese:	
		[Cheeses made from sheep's milk]	
		Other:	
		Valued over 25 cents per pound:	
		[Colby]	
		Other:	
		[Cheese and substitutes for cheese, whether or not in original loaves, containing or processed from Romano, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya, all the foregoing made from cow's milk]	
		Other:	
		[Provided for in item 950.07; provided for in item 950.08A; provided for in item 950.08B; provided for in item 950.09B; provided for in item 950.10A]	
		Other:	
		Of the type provided for in item 950.10D:	
80-4	117.8860	[Subject to quota] Other	Government of Portugal
		Leather, in the rough, partly finished, or finished:	
		[Chamois; patent; upholstery leather]	
		Other:	
		[Calf and kip]	
80-5	121.50	Pig and hog	Industrija Usnja Vrhnika, Yugoslavia, Tovarna Usnja Kamnik, Yugoslavia
	or	or	
	121.50 pt.	In sheets of at least 5 square feet, of pig and hog	Industrija Usnja Vrhnika, Yugoslavia Tovarna Usnja Kamnik, Yugoslavia
		Other:	
		Fancy:	
80-6	121.64	Goat and kid	Florsheim Shoe Company, Chicago, IL

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Other cheeses, and substitutes for cheese:	
		[Cheeses made from sheep's milk]	
		Other:	
		Valued over 25 cents per pound:	
		[Colby]	
		Other:	
		[Cheese and substitutes for cheese, whether or not in original loaves, containing or processed from Romano, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya, all the foregoing made from cow's milk]	
		Other:	
		[Provided for in item 950.07; provided for in item 950.08A; provided for in item 950.08B; provided for in item 950.09B; provided for in item 950.10A]	
		Other:	
		Of the type provided for in item 950.10D:	
80-4	117.8860	[Subject to quota] Other	Government of Portugal
		Leather, in the rough, partly finished, or finished:	
		[Chamois; patent; upholstery leather]	
		Other:	
		[Calf and kip]	
80-5	121.50	Pig and hog	Industrija Usnja Vrhnika, Yugoslavia, Tovarna Usnja Kamnik, Yugoslavia
	or	or	
	121.50 pt.	In sheets of at least 5 square feet, of pig and hog	Industrija Usnja Vrhnika, Yugoslavia Tovarna Usnja Kamnik, Yugoslavia
		Other:	
		Fancy:	
80-6	121.64	Goat and kid	Florsheim Shoe Company, Chicago, IL

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Other cheeses, and substitutes for cheese:	
		[Cheeses made from sheep's milk]	
		Other:	
		Valued over 25 cents per pound:	
		[Colby]	
		Other:	
		[Cheese and substitutes for cheese, whether or not in original loaves, containing or processed from Romano, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya, all the foregoing made from cow's milk]	
		Other:	
		[Provided for in item 950.07; provided for in item 950.08A; provided for in item 950.08B; provided for in item 950.09B; provided for in item 950.10A]	
		Other:	
		Of the type provided for in item 950.10D:	
80-4	117.8860	[Subject to quota] Other	Government of Portugal
		Leather, in the rough, partly finished, or finished:	
		[Chamois; patent; upholstery leather]	
		Other:	
		[Calf and kip]	
80-5	121.50	Pig and hog	Industrija Usnja Vrhnika, Yugoslavia, Tovarna Usnja Kamnik, Yugoslavia
	or	or	
	121.50 pt.	In sheets of at least 5 square feet, of pig and hog	Industrija Usnja Vrhnika, Yugoslavia Tovarna Usnja Kamnik, Yugoslavia
		Other:	
		Fancy:	
80-6	121.64	Goat and kid	Florsheim Shoe Company, Chicago, IL

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):	
		[Beans; beets; cabbage; carrots; cauliflower]	
		Celery:	
		[If imported and entered during the period from April 15 to July 31, inclusive, in any year]	
80-7	135.61	Other	AGREXCO, Israel
		[Chickpeas or garbanzos; corn-on-the-cob; cowpeas; cucumbers; dasheens; endive, including Witloof chicory]	
		Eggplant:	
80-8	136.20	If entered during the period from April 1 to November 30, inclusive, in any year	Government of Morocco
80-9	136.22	Other	do.
		[Garlic; horseradish; lentils; lettuce; lupines; okra; onions; peas]	
80-10	137.10	Peppers	AGREXCO, Israel
		[Potatoes, white or Irish; radishes; squash; tomatoes; turnips or rutabagas]	
		Other:	
		[Brussels sprouts; chayote; fiddlehead ferns; jicamas, fresh or chilled; parsnips; yams and sweet potatoes]	
		Other:	
80-11	137.8782 or 137.8782 pt.	Frozen or Water chestnuts, frozen	La Choy Food Products, Archbold, OH do.
		Vegetables, fresh, chilled, or frozen, and cut, sliced, or otherwise reduced in size (but not otherwise prepared or preserved):	
		[Broccoli, cauliflower and okra; kidney beans, frozen; rutabagas; yucca]	
		Other:	
80-12	138.4510	Fresh or chilled	AGREXCO, Israel
		Frozen:	
		[Asparagus]	
80-13	138.4570 or 138.4570 pt. or 138.4570 pt.	Other or Sliced bamboo shoots or Sliced water chestnuts	La Choy Food Products, Archbold, OH do. do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved):	
80-14	140.70	Reduced to flour: Potatoes	Guatemala Export Promotion Center
		Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B of this part):	
		[Beans; cabbage; chickpeas or garbanzos; black-eye cowpeas; onions; peas; pimientos; tomatoes; water chestnuts]	
		Other:	
		[Packed in salt, brine, or pickled]	
80-15	141.78	Other: Bamboo shoots in airtight containers	La Choy Food Products Archbold, OH
		Other edible nuts, shelled or not shelled, blanched, or otherwise prepared or preserved:	
		Shelled, blanched, or otherwise prepared or preserved:	
		[Almonds; Brazil nuts; cashews; filberts; peanuts]	
80-16	145.50	Pecans	Government of Mexico
		[Pignolia; pistache; walnuts]	
		Other edible nuts:	
80-17	145.58 or 145.58 pt.	Shelled or blanched or Macadamia, shelled or blanched	Government of Malawi do.
		Berries, fresh, or prepared or preserved:	
		Fresh or in brine:	
		Strawberries:	
80-18	146.58	If entered during the period from June 15 to September 15, inclusive, in any year	Government of Morocco
80-19	146.60	If entered at any other time	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Annex I

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Melons, fresh, or prepared or preserved:	
		Fresh:	
80-20	148.24	Watermelons	Government of Honduras
		Olives, fresh, or prepared or preserved:	
		Dried:	
80-21	148.52	Not ripe	Government of Morocco
80-22	148.54	Ripe	do.
		Mixtures of two or more fruits, prepared or preserved:	
		[In airtight containers and not containing apricots, citrus fruits, peaches or pears]	
80-23	150.05	Other	Narex-Middle East Company, Israel
80-24	161.07	Capers	Everett Trading Company, New York, NY, Government of Morocco
		Rum (including cana paraguaya)	
80-25	169.13 pt.	Cachaca or aguardente de cana in containers each holding not over 1 gallon	Government of Brazil
		Cigarettes:	
80-26	170.63	Containing clove	Government of Indonesia
80-27	182.49	Shrimp chips	do.
		Soy bean and other vegetable oil cake and oil-cake meal:	
		[Linseed oil cake and oil-cake meal]	
80-28	184.51	Rapeseed oil cake and oil-cake meal	Government of Argentina
80-29	184.53	Other	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Plywood, whether or not face finished:	
		Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:	
80-30	240.17	With a face ply of Philippine mahogany (almon (Shorea almon)), bagtikan (Parashorea plicata), red lauan (Shorea negrosensis), white lauan (Pentacme contorta and P. mindanensis), mayapis (Shorea squamata), tangile (Shorea polysperma) and tiaong (Shorea spp.); meranti (Shorea spp.); red seraya (Shorea spp.); and white seraya (Parashorea spp.)	Government of Indonesia, Government of Malaysia
	or 240.17 pt.	or With a face ply of meranti (Shorea spp.)	Government of Indonesia, Government of Malaysia
		Ornamented fabrics, in the piece, and ornamented motifs, not specially provided for:	
		Of cotton by weight:	
80-31	353.5012	Woven	Kashmir Valley Arts, Santa Fe Springs, CA
		Floor coverings of pile or tufted construction, of textile materials:	
		In which the pile was inserted or knotted during weaving or knitting:	
		With pile hand-inserted or hand-knotted:	
80-32	360.05	With over 50 percent by weight of the pile being hair of the alpaca, guanaco, huarizo, llama, misti, suri, or any combination of these hairs	Government of Bolivia, Government of Morocco, Government of Peru

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 A G 20 80 0 UMI

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Floor coverings composed of braids, cords, fabric strips, and similar materials in continuous lengths, sewn or otherwise bound together but not woven, of textile materials:	
		[Wholly or in part of braids (except tubular braids with a core)]	
		Other:	
		[With over 50 percent by weight of the fibers, exclusive of any core, being of wool]	
		[With over 50 percent by weight of the fibers, exclusive of any core, being cotton, man-made fibers, or cotton and man-made fibers]	
		[With over 50 percent by weight of the fibers, exclusive of any core, being jute]	
		Other:	
		In chief weight of the named material:	
80-33	361.2210	Vegetable fibers, except cotton [Wool; man-made fibers]	Government of Morocco
80-34	361.2245	Other	do.
		Other bedding, not ornamented:	
		Of wool:	
		[Blankets]	
80-35	363.75 or 363.75 pt.	Other or Hand-loomed or folklore pillow covers	Artesanias Titicaca, Ltda, Bolivia do.
		Other furnishings, not ornamented:	
		Of wool:	
		[Knit (except pile or tufted construction); pile or tufted construction; nonwoven felt]	
		Other:	
80-36	367.3025	Wall hangings	do., Kashmir Valley Arts, Santa Fe Springs, CA

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Articles not specially provided for, of textile materials:	
		Lace or net articles, whether or not ornamented, and other articles ornamented:	
		Of cotton:	
		[Shoe uppers]	
80-37	386.0430 or 386.0430 pt.	Other or Hand-woven hammocks	Government of El Salvador do.
		Other articles, not ornamented:	
		Of cotton:	
		[Knit (except pile or tufted construction); pile or tufted construction]	
		Other:	
		[Shoe uppers; inked ribbons]	
80-38	386.5040 or 386.5040 pt.	Other or Hand-woven hammocks	do. do.
		Of vegetable fibers, except cotton:	
		[Knit (except pile or tufted construction); pile or tufted construction]	
		Other:	
		[Of jute]	
		Other:	
		[Of jute]	
80-39	387.34 or 387.34 pt.	Other or Of coir	Government of India do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Annex I

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of Schedule 4 of the Tariff Schedules of the United States: Drugs: [13 specified drugs or categories of drugs] Other: [Alkaloids and their salts and other derivatives; antihistamines, including those chiefly used as antinauseants]	
		Anti-infective agents: Antibiotics:	
80-40	411.60 pt.	Ampicillin trihydrate	Fermentaciones y Sintesis, S.A., Mexico, Covernment of Mexico
		[Autonomic drugs, except alkaloids and their derivatives; cardiovascular drugs, except alkaloids and their derivatives; dermatological agents and local anesthetics; drugs primarily affecting the central nervous system, except alkaloids and their derivatives; hormones, synthetic substitutes, and antagonists; vitamins, provitamins, and their analogs and derivatives used primarily for their vitamin activity]	
		Other:	
80-41	412.68 or 412.68 pt.	Products provided for in the Chemical Appendix to the Tariff Schedules or Catheter lubrication jelly	H.G. Pollak (International) Ltd., Israel do.
80-42	412.70 or 412.70 pt.	Other or Naproxen and naproxen sodium	Syntex USA Inc., San Francisco, CA do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Acids: [Acetic; chloroacetic; citric; formic; gallic; lactic acid; naphthenic; oxalic; propionic acid and sorbic acid; pyrogallic; tartaric; valeric]	
		Other: Carboxylic acids: [Carboxylic acids with other oxygen functions; thioglycolic acid]	
80-43	425.9940 or 425.9940 pt.	Other carboxylic acids (including mercapto acids) or Monobromo acetic acid	Bromine Compounds, Ltd., Israel do.
		Barium sulfate: Natural (barytes):	
80-44	472.12	Ground	Government of Mexico
		Fatty substances, not sulfonated or sulfated, and not specially provided for: Fatty acids: Of animal (including marine animal) origin:	
80-45	490.12	Stearic acid	Government of Colombia
		Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients: Of chinaware or of subporcelain: Household ware: Of nonbone chinaware or of subporcelain:	
80-46	533.64	Available in specified sets: In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C of part 2 of Schedule 5 of the Tariff Schedules of the United States is over $56	Government of Argentina
80-47	533.76	Not available in specified sets: Candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 AG 20 80 UMI

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Articles chiefly used for preparing, etc. (con.):	
		Of china ware or of subporcelain (con.):	
		Household ware (con.):	
		Of nonbone chinaware, etc. (con.):	
		Not available in specified sets (con.):	
80-48	533.78	Cups valued over $8 per dozen; saucers valued over $5.25 per dozen; soups, oatmeals, and cereals valued over $9.30 per dozen; plates not over 9 inches in maximum diameter and valued over $8.50 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $11.50 per dozen; platters or chop dishes valued over $40 per dozen; sugars valued over $23 per dozen; creamers valued over $20 per dozen; and beverage servers valued over $50 per dozen	Government of Argentina
		Articles chiefly used in the household or elsewhere for preparing, serving, or storing food or beverages, or food or beverage ingredients; smokers' articles, household articles, and art and ornamental articles, all the foregoing not specially provided for:	
		[Glassware made of glass containing by weight over 24 percent lead monoxide]	
		[Glassware, other than the foregoing, decorated with metal flecking, glass pictorial scenes, or glass thread- or ribbon-like effects, any of the foregoing embedded or introduced into the body of the glassware prior to its solidification; millefiori glassware]	
		[Glassware, other than the foregoing, colored prior to solidification, and characterized by random distribution of numerous bubbles, seeds, or stones, throughout the mass of the glass]	
		[Glassware, other than the foregoing, pressed and toughened (specially tempered), chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients]	

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Articles chiefly used in the household, etc. (con.):	
		Other glassware:	
		[Smokers articles; perfume bottles fitted with ground glass stoppers]	
		Other:	
		Valued over $3 each:	
		Cut or engraved:	
80-49	546.64	Valued over $5 each	B.Z.T. Ltd., Israel
		Other:	
80-50	546.68	Valued over $5 each	do.
		Forks, spoons, and ladles, all the foregoing which are kitchen or table ware, with or without their handles:	
		Forks:	
		With their handles:	
		[With silver or silver-plated handles; with stainless steel handles; with animal horn, bone, ivory, mother-of-pearl, or shell handles; with rubber or plastics handles]	
		Other:	
80-51	650.47	Barbecue forks with wood handles	Government of Colombia
		Other:	
80-52	650.4920	Table forks (including table serving forks)	Government of Malaysia
		Gloves of rubber or plastics:	
		With textile fabric fourchettes or sidewalls; or with the outer surface thereof (except as to applied cuffs, if any) wholly of plastics, and the seams of which are heat sealed and not sewn or stitched:	
		[With textile fabric fourchettes or sidewalls]	
		Other:	
80-53	705.8540 or 705.8540 pt.	Disposable gloves or Disposable surgical and medical gloves	H.C. Pollak (International) Ltd., Israel do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Annex I

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Luggage and handbags, whether or not fitted with bottle, dining, drinking, manicure, sewing, traveling, or similar sets; and flat goods:	
		Of textile materials (except yarns, of paper), whether or not ornamented:	
		[Wholly or in part of braid]	
		Other:	
		Of vegetable fibers and not of pile or tufted construction:	
		[Of cotton]	
		Other:	
80-54	706.2380	Flat goods	Government of Malta
		Other:	
		[Of cotton]	
		Of other textile materials:	
80-55	706.2460	Flat goods	Kmart Corporation Troy, MI
			Government of Malta
80-56	706.30 or 706.30 pt.	Of reinforced or laminated plastics or Flat goods of reinforced or laminated plastics	Government of Malta do.
		Of other materials:	
		[Handbags; flat goods, of metal]	
		Other:	
80-57	706.6045	Flat goods	Kmart Corporation, Troy, MI
		Time switches with watch or clock movements, or with synchronous or subsynchronous motors:	
80-58	715.68 or 715.68 pt.	Valued over $10 each or Chronometric time locks	Government of Argentina
		Furniture, and parts thereof, not specially provided for:	
		Of unspun fibrous vegetable materials:	
80-59	727.11	Of rattan	Government of Thailand

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences	
		Other cheeses, and substitutes for cheeses:	
		Cheeses made from sheep's milk:	
80-60	117.65	In original loaves and suitable for grating	Cheese Importers Group of the Italy-America Chamber of Commerce, Inc., New York, NY
80-61	117.67	Pecorino, in original loaves, not suitable for grating	do.
		Parts of bicycles:	
		Three speed hubs whether or not incorporating a coaster brake; caliper brakes; multiple free-wheel sprockets:	
80-62	732.3875	Caliper brakes	Dia-Compe, Inc., Fletcher, NC
		Articles not specially provided for, of rubber or plastics:	
		[Of shellac or copal; of natural rubber; of casein; of vulcanized fiber]	
		Other:	
		[Artificial flowers, trees, foliage, fruits, vegetables, grasses, or grains, all the foregoing, wholly or almost wholly of plastics, other than articles classifiable in item 748.20; parts of footwear]	
80-63	774.55 or 774.55 pt.	Other or Shopping bags of rubber or plastics	Amko Plastics, Inc., Cincinnati, OH do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

V 45 AG 20 80 UMI

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences	
		Strands, ropes, cables, and cordage, all the foregoing, of wire, whether or not cut to length, and whether or not fitted with hooks, swivels, clamps, clips, thimbles, sockets, or other fittings or made up into slings, cargo nets, or similar articles: Not fitted with fittings and not made up into articles: Not covered with textile or other non-metallic material: Ropes, cables, and cordage other than wire strand: Valued 13 cents or more per pound: [Of stainless steel] Other: Of iron or steel (except stainless): [Of brass plated wire]	
80-64	642.1630	Other	Committee of Domestic Steel Wire Rope and Specialty-Cable Manufacturers, Washington, DC
		Railroad and railway rolling stock:	
80-65	690.15	Passenger, baggage, mail, freight and other cars, not self-propelled	AFL-CIO, Washington, DC Brotherhood of Railway Carmen of the United States and Canada, Washington, DC International Union, Transport Workers Union of America, Washington, DC
		Eyeglasses, lorgnettes, goggles, and similar articles, all the foregoing whether used for corrective, protective, or other purposes; frames and mountings for any of the foregoing, and parts of such frames and mountings:	
80-66	708.47	Frames and mountings, and parts thereof	International Union of Electrical, Radio, and Machine Workers, Washington, DC Optical Manufacturers Association, Arlington, VA

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences (con.)	
		Toys, and parts of toys, not specially provided for: [Toys having a spring mechanism] Other: [Kites] Other: [Toys having a friction or weight operated motor; toys having an electric motor] Other (except parts): Wholly or almost wholly of rubber or plastics:	
80-67	737.9535	Inflatable	National Latex Products Co., Ashland, OH, Oak Rubber Co., Ravenna, OH
	or 737.9535 pt.	or Toy balloons (including inflatable rubber punch balls)	National Latex Products Co., Ashland, OH Oak Rubber Co., Ravenna, OH

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Annex I

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		D. Petition to subdivide a TSUS item currently designated as an eligible article for the Generalized System of Preferences	
		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal: Articles, wares, and parts, of base metal, not coated or plated with precious metal: Of iron or steel: Not enameled or glazed with vitreous glasses: [Cast articles, coated; of tin plate] Other: [Cooking ware, and parts thereof, wholly or almost wholly of cast-iron] [Tpilet and sanitary ware] Other: [Cooking ware (except stainless steel or chrome-plated)]	
	[654.01]	Other [Stainless steel; chrome-plated ware; kitchen ware (except stainless steel and chrome plated)]	
80-68	654.01 pt.	Other	Metal Cookware Manufacturers Association, Walworth, WI
	654.01 pt.	Other	
		E. Petitions to determine eligible articles as not like or directly competitive with any article produced in the United States on January 3, 1975, in order to avoid loss of GSP duty-free treatment under the provisions of section 504(c)(1)(B) of the Trade Act of 1974	
		Leather in the rough, partly finished, or finished: [Chamois; patent; upholstery leather] Other: [Calf and kip; pig and hog] Other: Not fancy:	
80-69	121.55	Buffalo	Florsheim Shoe Company, Chicago, IL
		[Reptilian] Other:	
80-70	121.62	Goat and kid	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		E. Petitions to determine eligible articles as not like or directly competitive with any article produced in the United States on January 3, 1975, in order to avoid loss of GSP duty-free treatment under the provisions of section 504(c)(1)(B) of the Trade Act of 1974 (con.)	
		Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B of part 8 of Schedule 1 of the Tariff Schedules of the United States):	
80-71	141.70	Water chestnuts	La Choy Food Products, Archbold, OH
		Game machines, including coin or disc operated game machines and including games having mechanical controls for manipulating the action, and parts thereof: [Video games and parts thereof] Other: [Coin or disc operated game machines]	
80-72	734.2040 pt.	Hand-held electronic game machines	Interstate Industries, Inc., Mundelein, IL

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Ann Hughes

Chairman, Trade Policy Staff Committee.

[FR Doc. 80-25385 Filed 8-19-80; 8:45 am]

BILLING CODE 3190-01-C

V 45 AG 2080 UMI

Reader Aids

Federal Register

Vol. 45, No. 163

Wednesday, August 20, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538	1
51539-51754	4
51755-52138	5
52139-52354	6
52355-52768	7
52769-53074	8
53074-53436	11
53437-53800	12
53801-54008	13
54009-54298	14
54299-54710	15
54711-55136	18
55137-55418	19
55419-55688	20

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231)..... 52139
12230..... 51167
12231..... 52139
12232..... 53437

Proclamations:
4776..... 51539
4777..... 53075
4778..... 53439
4779..... 53441
4780..... 53443
4781..... 53445

Administrative Orders:

Presidential Determinations:
No. 80-25 of August 8, 1980..... 54299

Memorandums:
July 31, 1980..... 51169, 51171, 51173

5 CFR

Ch. XIV..... 51541
213..... 55137-55140
297..... 52769
410..... 51755
581..... 53447

Proposed Rules:
339..... 53481
359..... 51214
432..... 53481
752..... 53481
831..... 53481
930..... 53485

6 CFR

705..... 51175
706..... 51541, 52769

7 CFR

2..... 52355
6..... 54301
210..... 51175
245..... 52770
272..... 53448
273..... 53448
282..... 54638
301..... 51176
319..... 53449
331..... 51755, 53450, 54302
401..... 54711
418..... 54718
419..... 54720
427..... 54722
430..... 54723
437..... 54711
722..... 51755
800..... 55118
801..... 55118
802..... 55118
908..... 52356, 53801, 54063, 55140
910..... 51177, 52771, 54304
916..... 53450
917..... 51179, 53450, 54724
919..... 54305
921..... 51180
922..... 53451
924..... 51180
926..... 52772
946..... 52141
948..... 51182
958..... 52141
967..... 52143
991..... 55419
993..... 54064, 54725
1137..... 51542
1421..... 53801, 54305, 55141-55159
1427..... 53077, 55166
1446..... 51756
1701..... 54307
2853..... 51757
2890..... 54307
2891..... 54307
2892..... 54307
2893..... 54307
2894..... 54307
2895..... 54307
2896..... 54307
2897..... 54307
2898..... 54307
2899..... 54307

Proposed Rules:
29..... 51572
272..... 51216, 53792
273..... 51216, 53066, 53792
301..... 52816
404..... 51573
427..... 54346
431..... 53486
722..... 52817
800..... 52339
910..... 53487
985..... 51818
1001..... 54066
1065..... 55213
1435..... 54347
1464..... 51579
1701..... 54354
1492..... 52342
1990..... 51818
2858..... 51217
2871..... 51217

8 CFR

238..... 54310
264..... 52143

Proposed Rules:
Ch. I..... 51832
214..... 51580

9 CFR

78..... 52772

92 52773
318 54310
381 54310

Proposed Rules:
94 52818
317 53002
318 51832
381 53002

10 CFR
2 54725
40 55419
50 ..... 55402, 55413
70 55402
110 51184
211 55374
212 ..... 52112, 54325
220 55374
430 53488
445 51763
456 53434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:
2 53972
50 54662
205 51833
211 54662
212 ..... 54069, 54688, 54694, 55467
378 51581
430 53714
456 53422
500 ..... 53368, 55467
503 ..... 53368, 55467
504 ..... 53368, 55467
505 ..... 53368, 55467
506 ..... 53368, 55467
799 54264

11 CFR
100 52356
110 52356

12 CFR
7 53080
201 ..... 52144, 54009
220 53452
225 54326
265 54011
303 54326

Proposed Rules:
Ch. I 52166
Ch. II 51581
Ch. VI 55213
Ch. VII 55214
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR
309 55420

Proposed Rules:
101 ..... 51763, 53081
107 55468
108 53835
124 55468

14 CFR
39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014, 54725–54732
71 ..... 51546, 53086–53090, 54015, 54027, 54028, 54733
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:
Ch. I 53161, 53162, 54766
39 ..... 53162, 54071, 54072
45 ..... 53163, 54766
71 ..... 51587–51590, 52396, 53163, 54072–54080, 54766
73 51591
75 ..... 52396, 54081
121 53316
135 53316
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR
17a 54028
200 55166
373 54031
378 53090

Proposed Rules:
19 51592

16 CFR
13 ..... 52776, 52778, 53455, 55171, 55421
305 53340
436 ..... 51763, 51765
455 52750
460 54702
1019 53036

Proposed Rules:
13 ..... 51593, 51596, 55219
239 51838
406 55223
441 53839
705 51218

17 CFR
Ch. I 54032
7 51520

Proposed Rules:
Ch. I 55469
1 51598
4 51600

18 CFR
2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
281 54733
282 ..... 52359, 54741
290 54033
292 52779
375 53456

Proposed Rules:
2 54354
154 54354
260 54082
271 ..... 51219, 54085
273 ..... 51219, 54085
274 ..... 51219, 54085
301 51614

19 CFR
353 52780
355 54035

Proposed Rules:
Ch. I 51490
123 55474
177 54085
207 54086

20 CFR
Ch. III 53806
404 ..... 52078, 55566
416 ..... 52078, 54742, 55566

Proposed Rules:
Ch. II 51615

21 CFR
172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458, 54035
510 ..... 54327, 54328
520 52781
540 54329
555 54327
558 ..... 53457, 54328
740 55170
884 ..... 51185, 51186
1306 54329

Proposed Rules:
Ch. II 51832, 52397
101 53023
310 54354
346 54354
600 52821
606 52821
610 51226
660 51226

22 CFR
220 54751
221 54751
222 54751

Proposed Rules:
Ch. II 53164–53182

23 CFR
657 52365
658 52365

Proposed Rules:
625 51720
652 51720
663 51720

24 CFR
200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
571 51516
590 52762
803 54330
869 52371
885 51186
888 54330
1710 52144

Proposed Rules:
51 55223
570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
888 51228
888 51228
889 51229

25 CFR

Proposed Rules:
171 53164
172 53164
173 53164
177 53164
182 53164
231 54331

26 CFR
1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:
1 ..... 52399, 52824
14 52824
26 51840

27 CFR

Proposed Rules:
Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR
0 52145
18 54752
42 54036
31 53772

Proposed Rules:
Ch. I 51506, 51832
16 52183
42 54770
50 52183

29 CFR
11 51187
40 51192
102 51192
575 55175
1440 55394
1625 51547
1910 54333
1913 54333
1952 ..... 51775, 53457, 54334
1999 51187
2520 51446
2550 51194
2617 55636

Proposed Rules:
Ch. XIV 51229
1960 54355
2520 ..... 51231, 52824, 54370
2530 ..... 51231, 52824, 54370
2550 ..... 51231, 51840

30 CFR
Ch. VII 51547, 52834
211 53128
700 54752
762 52375
785 54752
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306
816 54752
817 54752
820 54752

Proposed Rules:
Ch. VII 52407, 52408, 53180, 53839, 54371, 54372, 55477–55479
104 54656
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR
341 53393
346 ..... 53393, 55178

32 CFR
706 54753
763 51776
853 52800
865 55422
888d 52145

33 CFR
110 ..... 54754, 54755
117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:
117 ..... 51617, 51618
209 54770

34 CFR
64 ..... 353412, 53414
709 53788

Proposed Rules:
100 ..... 52052, 53841
797 54000

36 CFR
1228 54334

Proposed Rules:
7 51618
14 54771
1190 55006
1202 51843

37 CFR
304 51197

38 CFR
17 53807
21 51777
36 53807

39 CFR

Proposed Rules:
111 51846

40 CFR
35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336, 55178–55180, 55197, 55422
80 55136
81 ..... 53147, 54052
86 53400
122 52149
122–124 55386
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053, 54340 55187–55199
260–265 55386
413 55200

Proposed Rules:
6 53187
35 53187
50 ..... 55066, 55083
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372, 54772, 55227–55230, 55480, 55484
58 ..... 54772, 54773, 55230
60 54385
61 53842
80 54090
81 ..... 52841, 55230, 55231
122–124 55237
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
260–265 55232
408 52411
410 52185
717 51855
720 54642

41 CFR
Ch. 44 55346
Ch. 101 ..... 51201, 53149
3 53806
7–12 54755
8–3 55425

Proposed Rules:
101–17 52842

42 CFR
Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205
58 ..... 51209, 51556
62 55426
110 55122
405 ..... 51783, 54757
455 51559

Proposed Rules:
51 53492
72 51241
405 54774
460 53189
461 53189

43 CFR
4100 53154
8351 51740

Proposed Rules:
2560 52303

Public Land Orders:
5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR
64 ..... 52383, 55433, 55436
65 ..... 51212, 51788, 52384, 55439
67 ..... 51213, 51559, 51789, 51796, 55449
70 54760–54764
205 ..... 53334, 53956
322 53479

Proposed Rules:
6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427, 54774–54776, 55232–55236, 55483

45 CFR
Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
71 54765
151 53996
185 54004
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
228 55382
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:
121q 52136
190 51243

46 CFR
30 52386
61 52386
151 52386

Proposed Rules:
11 54776
93 54095

47 CFR
Ch. I 52389
1 55200
13 52154
22 52149
68 ..... 52151, 54341
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821, 55201–55205
74 51563
76 52153
81 52154
83 52154
87 52154
90 ..... 51811, 55200
95 55200
97 51564

Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252, 53843
13 54778
15 ..... 51251, 54784
21 51252
22 53843
73 ..... 51624, 52843, 52845, 52846, 52848, 53843, 54786, 55237–55244, 55491
74 51252
81 54778
83 54778
87 54778
90 ..... 53843, 53844, 55245
94 51252

48 CFR

Proposed Rules:
9 51253

49 CFR
1 54054
571 ..... 51569, 52365, 53157
840 54055
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A 51213, 52158
1056 ..... 51213, 52158, 55465
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827, 55205
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1249 55209
1309 52161

V 45 A G 20 80 UMI

1310.....52161

Proposed Rules:

Ch. X.....53846
171.....54097
173.....54097
178.....54097
398.....51625
571.....51626, 51628
1039.....54111, 54385
1080.....53190
1100.....55246
1102.....51858
1116.....52186

50 CFR

17.....52803, 52807, 53968, 54678, 55654
18.....54056
26.....52391
32.....52392, 52393, 54057–54060, 54344, 55210
285.....53479
611.....53831
652.....53480
653.....52810
661.....53832

Proposed Rules:

13.....52849
17.....52849, 53495, 54111, 54112, 54682, 54685
20.....53982
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254, 53500, 53847
655.....51254
661.....51861, 54113

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

48626 7–21–80 / Interstate shipment of etiologic agents

POSTAL SERVICE

48619 7–21–80 / Poisons and controlled substances; deletion of requirement to use registered mail

Deadlines for Comments on Proposed Rules for the Week of August 24 through August 30, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

50347 7–29–80 / Irish potatoes grown in Modoc and Siskiyou Counties in California and in all Counties in Oregon except Malheur County; handling regulations; comments by 8–28–80

Animal and Plant Health Inspection Service—

43366 6–27–80 / Gypsy moth and browntail moth; list of hazardous recreational vehicle sites; comments by 8–26–80

43368 6–27–80 / Pink bollworm quarantine; suppressive areas in Ark. and La.; comments by 8–26–80

Federal Crop Insurance Corporation—

50341 7–29–80 / Almond crop insurance regulations; comments by 8–28–80

43783 6–30–80 / Proposed canning and processing tomato crop insurance regulations; comments by 8–29–80

43776 6–30–80 / Proposed Eastern U.S. apple crop insurance regulations; comments by 8–29–80

43771 6–30–80 / Proposed peach crop insurance regulations; comments by 8–29–80

42303 6–24–80 / Food distribution program; subdistributing, and recipient agencies; processing of USDA—donated foods by commercial or institutional facilities; comments by 8–25–80

43422 6–27–80 / National School Lunch and School Breakfast Programs; comments by 8–25–80

Food Safety and Quality Service–

43425 6–27–80 / Bacon made with dry curing materials; comments by 8–26–80

36417 5–30–80 / Food grading policy; comments by 8–28–80

35345 5–27–80 / Voluntary Grading of Shell Eggs; comments by 8–25–80

Rural Electrification Administration—

49586 7–25–80 / Proposed revision of REA Specification D–17 remanufactured distribution transformers; comments by 8–25–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

41661 6–20–80 / Nondiscrimination on basis of sex in Federally assisted programs; comments by 8–25–80

CIVIL AERONAUTICS BOARD

46812 7–11–80 / Charter flight limitations; Carriers obligation in case of interruptions of its service; comments by 8–25–80

49291 7–24–80 / Employee protection program; Federal payments to airline employees; determination of "qualifying dislocation", comments by 8–25–80

48654 7–21–80 / Interim fare suspension policies for Puerto Rico / Virgin Islands, Hawaii and Lower-48-Alaska (but not intra-Alaska) markets; reply comments by 8–28–80

42629 6–25–80 / Notice to passengers of conditions of carriage; reply comments by 8–25–80

COMMERCE DEPARTMENT

International Trade Administration—

43010 6–25–80 / Commodity Control List; revision; comments by 8–25–80

43139 6–25–80 / Export Administration Regulations to conform to revised Commodity Control List; comments by 8–25–80

[Corrected at 45 FR 50724, July 31, 1980]

V 45 AG 20 80 UMI

National Oceanic and Atmospheric Administration—

52853 8–8–80 / Atlantic bluefin tuna regulations; Intent to prepare environmental impact statement; comments by 8–29–80

43205 8–26–80 / Flower Garden Banks Marine Sanctuary; comments by 8–25–80

53847 8–13–80 / Northeast Pacific Ocean; order to retain domestic annual harvest; comments by 8–28–80

Office of the Secretary—

49278 7–24–80 / Regional Action Planning Commissions; administration; comments by 8–25–80

COMMODITY FUTURES TRADING COMMISSION

42324 6–24–80 / Procedures of the Complaints Section and conforming Amendments to reparation rules; comments by 8–25–80

COMMUNITY SERVICES ADMINISTRATION

50296 7–28–80 / Grantees, funding; community action agencies, program management system; republication; comments by 8–27–80

COST ACCOUNTING STANDARDS BOARD

49274 7–24–80 / Allocation of business unit general and administrative expenses to final cost objectives; comments by 8–25–80

49573 7–25–80 / Cost accounting standard; allocation of home office expenses to segments; comments by 8–25–80

DEFENSE DEPARTMENT

Office of the Secretary—

43438 6–27–80 / Policy on organizations that seek to represent or organize members of the armed forces in negotiation or collective bargaining; comments by 8–26–80

ENERGY DEPARTMENT

50355 7–29–80 / General Policy for establishing prices or charges for materials and services sold by DOE; comments by 8–28–80

49601 7–25–80 / Property management regulation, transportation and traffic management; comments by 8–25–80

Conservation and Solar Energy Office—

43976 6–30–80 / Energy conservation program for consumer products; comments by 8–29–80

Economic Regulatory Administration—

44238 6–30–80 / Mandatory petroleum price regulations; equal application rule; comments by 8–29–80

45098 7–2–80 / Review and establishment of natural gas curtailment priorities for interstate pipelines; comments by 8–29–80

Federal Energy Regulatory Commission—

49087 7–23–80 / Establishment of natural gas curtailment priorities for interstate pipelines; previous proposal by ERA; comments by 8–29–80

51219 8–1–80 / High-cost natural gas: Production enhancement procedures; comments by 8–25–80

ENVIRONMENTAL PROTECTION AGENCY

43794 6–30–80 / Approval and promulgation of State implementation plans; proposed revision of New York State Implementation Plan; comments by 8–29–80

49600 7–25–80 / N-(1-Ethylpropyl)-3,4-Dimethyl-2,6-Dinitrobenzenamine; proposed tolerances; comments by 8–25–80

49599 7–25–80 / Ohio; approval and promulgation of implementation plans; comments by 8–25–80

43148 6–25–80 / Prior notice of citizen suit; proposed procedural regulation; comments by 8–25–80

42335 6–24–80 / Revision of New Jersey State Implementation Plan; comments by 8–25–80

39766 6–11–80 / Standards to limit emissions of volatile organic compounds (VOC) and trichloroethylene 1,1,1-trichloroethane, perchloroethylene, methylene chloride, and trichlorotrifluoroethane from new, modified, and reconstructed organic solvent cleaners (degreasers) in which solvents are used to clean (degrease) metal, plastic, fiberglass, or any other type of material; comments by 8–25–80

49110 7–23–80 / Visibility protection for Federal class I areas; guideline availability; comments by 8–25–80

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

43794 6–30–80 / Equal employment opportunity in the Federal government; complaints of handicap discrimination; comments by 8–29–80

50326 7–29–80 / Procedure for review of final decisions of the Merit Systems Protection Board involving allegations of discrimination (mixed cases); comments by 8–28–80

FEDERAL COMMUNICATIONS COMMISSION

46121 7–9–80 / American Telephone and Telegraph Co., manual containing procedures to be followed in allocating costs; comments by 8–29–80

42729 6–25–80 / Amendments to broadcast equal employment opportunity rules and FCC Form 395; comments by 8–25–80

42747 6–25–80 / FM broadcast station in Anchorage, Alaska; changes in table of assignments; reply comments by 8–27–80

42749 6–25–80 / FM broadcast station in Belfast, Me.; changes in table of assignments; reply comments by 8–27–80

42751 6–29–80 / FM broadcast station in Hanover, N.H.; changes in table of assignments; reply comments by 8–27–80

46452 7–10–80 / FM broadcast station in Jacksonville, Fla.; channel assignment; comments by 8–25–80

42752 6–25–80 / FM broadcast station in Petersburg, Ind.; changes in table of assignments; reply comments by 8–27–80

42748 6–25–80 / FM broadcast station in Vincennes, Ind.; changes in table of assignments; reply comments by 8–27–80

46455 7–10–80 / FM broadcast stations in Wichita and Winfield, Kans.; change to table of assignments; comments by 8–25–80

42727 6–25–80 / FM broadcast stations in Woodward and Alva, Okla.; changes in table of assignments; reply comments by 8–27–80

10606 2–15–80 / Revision of the Radio Control (R/C) Radio Service Rules in plain language; reply comments by 8–29–80

FEDERAL EMERGENCY MANAGEMENT AGENCY

42341 6–24–80 / Policy and procedures for review and approval of State and local emergency plans and preparedness for coping with offsite effects of radiological emergencies which may occur at nuclear power facilities; comments by 8–25–80

FEDERAL MARITIME COMMISSION

42721 7–25–80 / Foreign commerce tariff regulations; amendments implementing the Ocean Shipping Act of 1978; comments by 8–25–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

35576 5–27–80 / Anorectal drug products for OTC human use; establishment of a monograph; comments by 8–25–80

44326 7–1–80 / Tentative final regulation prohibiting deodorizer distillate substances from animal food or feed; comments by 8–29–80

[*See also* 45 FR 28349, 4–29–80]

Office of the Secretary—

47169 7–14–80 / Freedom of Information Act; treatment of data in contract proposals; comments by 8–25–80

Social Security Administration—

42647 6–25–80 / Federal Old-Age, Survivors, and Disability Insurance benefits; computing primary insurance amounts; comments by 8–25–80

43235 6–30–80 / Inclusion of child receiving Old-Age, Survivors, or Disability Insurance benefits into an Aid to Families With Dependent Children Assistance unit; comments by 8–25–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing Office—Federal Housing Commissioner—

46377 7–10–80 / Increased loan-to-value ratios for dwellings with warranty plans; comments by 8–25–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

43358 6–26–80 / Proposed endangered status for *achatinella*, a genus of Hawaiian tree snails; comments by 8–25–80

49854 7–25–80 / Proposal to determine *Erogonum* gypsophilum (Gypsum Wild buckwheat) to be a threatened species and to determine its critical habitat, Carlsbad, N. Mex., 8–27–80

Surface Mining Reclamation and Enforcement Office—

49958 7–28–80 / Receipt of abandoned mine lands reclamation plan submission from State of Illinois; comments by 8–27–80

INTERSTATE COMMERCE COMMISSION

49627 7–25–80 / Chicago, Ill., commercial zone; comments by 8–25–80

LIBRARY OF CONGRESS

Copyright Office—

50823 7–31–80 / Unauthorized use of certain works transmitted "live" and simultaneously being fixed in tangible form; comments by 8–29–80

PERSONNEL MANAGEMENT OFFICE

49577 7–25–80 / Pay administration features of the Merit Pay System; implementation; comments by 8–25–80

SECURITIES AND EXCHANGE COMMISSION

49957 7–28–80 / Statement of beneficial ownership of securities of registered holding companies and their subsidiaries; comments by 8–25–80

42642 6–25–80 / Unavailability of exemption for limited offers and sales of securities of certain issuers; comments by 8–30–80

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

35405 5–27–80 / Lamps, Reflective Devices and Associated Equipment; Federal Motor Vehicle Safety Standards; comments by 8–25–80

TREASURY DEPARTMENT

Customs Service—

49591 7–25–80 / Proposed change in the Customs regulations pertaining to the issuance of Administrative rulings concerning the tariff classification of merchandise; comments by 8–25–80

Deadlines for Comments On Proposed Rules for the Week of August 31 through September 6, 1980

AGRICULTURE DEPARTMENT

Commodity Credit Corporation—

52342 8–6–80 / CCC Intermediate Credit Export Sales Program for Foreign Market Development Facilities; comments by 9–5–80

Farmers Home Administration—

51818 8–5–80 / Biomass energy and alcohol fuels loans and guarantees; comments by 9–4–80

Federal Corp. Insurance Corporation—

44305 7–1–80 / Procedures for insuring Florida citrus effective with 1981 crop year; comments by 9–2–80

44311 7–1–80 / Procedures for insuring citrus in Texas effective with the 1981 crop year; comments by 9–2–80

CIVIL AERONAUTICS BOARD

52820 8–8–80 / Actual notice to passengers about the terms of the contract of carriage, airlines requirement; comments by 9–3–80

42317 6–24–80 / Simplification of regulations for airline ticket and ticket counter notices to passengers; reply comments by 9–1–80

[*See also* 45 FR 25817, 4–16–80]

COMMERCE DEPARTMENT

International Trade Administration—

45891 7–8–80 / Processing export license applications; procedures and time limits; comments by 9–2–80

45894 7–8–80 / Qualified general license; comments by 9–2–80

National Oceanic and Atmospheric Administration—

49953 7–28–80 / Deep seabed mining advance notice of proposed rulemaking for the mining of deep seabed minerals; comments by 8–31–80

EDUCATION DEPARTMENT

45130 7–2–80 / Guaranteed Student Loan Program; refund of tuition charge and other fees; comments by 9–2–80

ENERGY DEPARTMENT

49586 7–25–80 / Outer Continental Shelf Oil and gas leasing, developoment of a bidding system with a work commitment component; comments by 9–5–80

Economic Regulatory Administration—

51833 8–5–80 / Reports on major electric utility system emergencies; comments by 9–5–80

ENVIRONMENTAL PROTECTION AGENCY

50825 7–31–80 / Air quality implementation plans; Illinois; comments by 9–2–80

50832 7–31–80 / Air quality implementation plans; New York; comments by 9–2–80

51619 8–4–80 / Availability of implementation plan revision for the state of Oregon; comments by 9–3–80

44970 7–20–80 / California plan to control floride emissions from existing phosphate fertilizer plants; comments by 9–2–80

45322 7–3–80 / Electroplating point source category effluent guidelines and standards pretreatment standards for existing sources; comments by 9–2–80

51854 8–5–80 / Nuclear polhedrosis virus of *Heliothis Zea*; proposed exemption from the requirement of a tolerance; comments by 9–4–80

52185 8–6–80 / Textile mills point source category effluent limitations guidelines; pretreatment standards, and new source performance standards; comments by 9–5–80

FEDERAL COMMUNICATIONS COMMISSION

42725 6–25–80 / FM broadcast station in Lake Havasu, Ariz.; changes in table of assignments; reply comments by 9–2–80

45600 7–7–80 / Permission for use of alternative procedures in choosing applicants for radio authorization in the multipoint distribution service; reply comments period extended to 9–5–80

[*See also* 45 FR 29335, 5–2–80]

47885 7–17–80 / Scope and coverage of restrictions on employee financial interests; reply comments by 9–2–80

45601 7–7–80 / Technical requirements applicable to the multipoint distribution service, the instructional television fixed service and the private operational-fixed microwave service; comment period extended to 9–2–80

[*See also* 45 FR 29350, 5–2–80]

51251 8–1–80 / Verification and methods of measurement of computing devices; comments extended to 9–2–80

[*See also* 45 FR 42347, 6–24–80]

FEDERAL EMERGENCY MANAGEMENT AGENCY

50282 7–28–80 / Acquisition of flood damaged structures (interim rule); comments by 9–1–80

51426 8–1–80 / Proposed notice of rules exempting systems of records from certain requirements of the Privacy Act of 1974 and proposed section to FEMA Privacy Act regulations covering exemptions under the Privacy Act of 1974; comments by 9–2–80

49960 7–28–80 / Statewide FAIR Plans; Depopulation Program; comments by 9–1–80

FEDERAL HOME LOAN BANK BOARD

46431 7–10–80 / NOW accounts; comments by 9–3–80

FEDERAL TRADE COMMISSION

44317 7–1–80 / American Art Clay Co., Inc.; Consent agreement with analysis to aid public comment; comments by 9–2–80
[Corrected at 45 FR 49589, 7–25–80]

51218 8–1–80 / Reasonable duties under a full warranty; comments extended to 9–2–80
[*See also* 45 FR 37388, 6–2–80]

44324 7–1–80 / Totes Inc.; consent agreement with analysis to aid public comments; comments by 9–2–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

47878 7–17–80 / Grants for preventative health services; comments by 9–2–80

Food and Drug Administration—

51184 8–1–80 / Ethylene-Vinyl acetate-carbon monoxide polymer, safe use as a component of adhesives in articles for food-contact use; objections by 9–2–80

51766 8–5–80 / Food additives for human consumption; Sodium Stearoyl—2—Lactylate; objections by 9–6–80

51767 8–5–80 / Indirect food additives; 1,3,5-Triethyl-hexahydro-1,3,5-Triazine; objections by 9–4–80

30002 5–6–80 / Ophthalmic Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; reply comments by 9–3–80

Public Health Services—

48507 7–18–80 / Grants for Community Mental Health Centers; Provisional nature of amounts of initial operation and staffing, conversion, and financial distress, grants; comments by 9–2–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

31446 5–13–80 / Endangered and threatened wildlife and plants; review of status of nine Antich, California, insect species; comments by 9–1–80

Surface Mining Reclamation and Enforcement Office—

54372 8–15–80 / Pennsylvania permanent regulatory program; comments by 9–2–80
[*See also* 45 FR 54372, 7–11–80]

51240 8–1–80 / Surface Coal Mining and reclamation operations; Permanent regulatory program; Proposed interpretive rules; comments by 9–2–80

INTERSTATE COMMERCE COMMISSION

45545 7–3–80 / Acceptable forms of requests for operating authority (motor carriers and brokers of property); comments by 9–2–80

52186 8–6–80 / Recordation of documents; comments by 9–5–80

51213 8–1–80 / Rules governing applications filed by motor carriers; comments extended to 9–2–80
[Originally published at 45 FR 45534, 7–3–80 and corrected at 45 FR 49082, 7–23–80]

51213 8–1–80 / Rules governing applications for operating authority; comments extended to 9–2–80
[Originally published at 45 FR 45534, 7–3–80]

JUSTICE DEPARTMENT

Attorney General—

52183 8–6–80 / Privacy Act; exemption of records systems; comments by 9–5–80

Parole Commission—

44966 7–2–80 / Appellate hearings; oval representation; comments by 9–2–80

NATIONAL CREDIT UNION ADMINISTRATION

47846 7–17–80 / Federally insured state chartered credit unions; Federal credit union share accounts, share certificate accounts; and share draft accounts; comments by 9–1–80

NUCLEAR REGULATORY COMMISSION

45302 7–2–80 / Standards for protection against radiation; miscellaneous clarifying amendments; comments by 9–2–80

NUCLEAR SAFETY OVERSIGHT COMMITTEE

50772 7–31–80 / Privacy Act of 1974; regulations for implementation; comments by 9–2–80

PERSONNEL MANAGEMENT OFFICE

44304 7–1–80 / Reduction in force; competitive level placement, retention register, length of service, etc.; comments by 9–2–80

51214 8–1–80 / Removal, reinstatement, and guaranteed placement in the Senior Executive Service; comments by 9–2–80

POSTAL SERVICE

51846 8–5–80 / Address cards arranged in sequence of carrier delivery; comments by 9–4–80

SECURITIES AND EXCHANGE COMMISSION

49954 7–28–80 / Electric utility companies; acquisition of voting securities of electric generation or transmission companies; exemption; comments by 9–2–80

47159 7–14–80 / Short Selling by market makers; modification of Rule 10a–1; comments by 8–31–80

TRANSPORTATION DEPARTMENT

Coast Guard—

43226 6–26–80 / Drawbridge operation regulations; standards opening and acknowledging signals; comments by 9–1–80

48662 7–21–80 / Establishment of a special anchorage area at Apollo Beach, Fla.; comments by 9–4–80

48058 7–17–80 / Safety rules for self-propelled vessels carrying hazardous liquids; comments by 9–2–80

TREASURY DEPARTMENT

Internal Revenue Service—

44965 7–2–80 / Tax-force sales of articles to be used for, or resold for further manufacture; comments by 8–31–80

WAGE AND PRICE STABILITY COUNCIL

51541 8–4–80 / Amendment of procedural rules for second program year; questions and answers; interim rule; comments by 9–4–80

WATER RESOURCES COUNCIL

48800 7–21–80 / State Water Management Planning; program guidelines; comments by 9–5–80

Next Week's Meetings

AGING—FEDERAL COUNCIL

52188 8–6–80 / Meeting, Washington, D.C. (open), 8–25 and 8–26–80

AGRICULTURE DEPARTMENT

Forest Service—

46836 7–11–80 / East Carson Grazing Advisory Board, Questa, N.M. (open), 8–26–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

49200 7–23–80 / Humanities Panel, Washington, D.C. (closed), 8–26 through 8–29–80

51676 8–4–80 / Humanities Panel, Washington, D.C. (closed), 8–25 through 8–29–80

47561 7–15–80 / Media Arts Panel (General Services to the Field), Washington, D.C. (open), 8–25, 8–26 and 8–27–80

56677 8–4–80 / Music Panel (Jazz Section), Washington, D.C. (closed), 8–25–80

52516 8–7–80 / National Council on the Arts, Design Arts Panel (Design Communication), Washington, D.C. (closed), 8–25 and 8–26–80

52517 8–7–80 / National Council on the Arts, Expansion Arts Panel, Santa Fe, N. Mex., (open), 8–27 through 8–29–80

CIVIL RIGHTS COMMISSION

50617 7–30–80 / Hawaii Advisory Committee, Honolulu, Hawaii (open), 8–25–80

51629 8–4–80 / Indiana Advisory Committee, Terra Haute, Ind. (open), 8–25–80

51629 8–4–80 / Nevada Advisory Committee, Reno, Nev. (open), 8–29–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

49120 7–23–80 / Emergency Striped Bass Study, Washington, D.C. (open), 8–25–80

50849 7–31–80 / Mid-Atlantic Fishery Management Council, Surf Clam/Ocean Quahog Resources Subpanel, Dover, Del. (open), 8–29–80

52439 8–7–80 / New England Fishery Management Council, Rockport, Maine (open), 8–27 and 8–28–80

49120 7–23–80 / South Atlantic Fishery Management Council, Charleston, S.C. (open), 8–26 through 8–28–80

National Telecommunications and Information Administration—

51867 8–5–80 / Electromagnetic Radiation Management Advisory Council, Washington, D.C. (open), 8–26 and 8–27–80

United States Travel Service—

39884 6–12–80 / Travel Advisory Board, Washington, D.C. (open), 8–26–80
[Rescheduled at 45 FR 46841, 7–11–80]

DEFENSE DEPARTMENT

Army Department

51132 8–4–80 / Chief of Engineers Environmental Advisory Board, Vicksburg, Miss. (open), 8–26 through 8–28–80

51632 8–4–80 / National Hydropower Study Results presentation, Little Rock, Ark. (open), 8–27–80

Office of the Secretary—

50379 7–29–80 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed), 8–25 and 8–26–80

EDUCATION DEPARTMENT

47720 7–16–80 / Education of Disadvantaged Children, National Advisory Council; Committee on Federal Administration of Title I, 8–29–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

52900 8–8–80 / Municipal Waste-to-Energy Development plan, Phoenix, Ariz. (open), 8–27 and 8–28–80

Economic Regulatory Administration—

49125 7–23–80 / Collins Units 4 and 5 generating station, scoping meeting, Morris, Ill. (open), 8–28–80

Federal Energy Regulatory Commission—

46075 7–9–80 / Annual Report for Natural Gas Companies (Class A and B); revision of Form No. 2; comments by 8–29–80

Western Area Power Administration—

50929 7–31–80 / Eastern Division, Pick-Sloan Missouri Basin Program, post-1985 marketing plan: Bismarck, N. Dak., 8–25; Moorhead, Minn., 8–28; Sioux City, Iowa, 8–27; Lincoln, Nebr., 8–28; Mitchell, S. Dak., 8–29–80 (all sessions open)

ENVIRONMENTAL PROTECTION AGENCY

49973 7–28–80 / National Air Pollution Control Techniques Advisory Committee, Philadelphia, Pa. (open), 8–26 and 8–27–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

37302 6–2–80 / Center for Disease Control Programs and Policies Advisory Committee (Ad Hoc), Atlanta, Ga. (open), 8–27 through 8–29–80

Health Care Financing Administration—

50373 7–29–80 / Proposed Rule on Conditions of participation for skilled nursing and intermediate care facilities, (open), New York, N.Y. 8–27–80; Chicago, Ill., 8–28 and 8–27–80; Denver, Colo., 8–27–80; San Francisco, Calif., 8–26–80 and Seattle, Wash., 8–25–80

National Institutes of Health—

53876 8–13–80 / National Cancer Advisory Board Working Group on Board Activities and Agenda, Bethesda, Md. (open), 8–28–80

53877 8–13–80 / President's Cancer Panel, Bethesda, Md. (open), 8–29–80

INTERIOR DEPARTMENT

Indian Affairs Bureau—

48258 7–18–80 / Shell Coal Lease Crow Indian Reservation, Intent to Prepare and consider an EIS, Scoping Meeting, Pryor, Mont., 8–28–80; Crow Agency, Mont., 8–27–80; Lodge Grass, Mont., 8–28–80 (all sessions open)

Land Management Bureau—

49366 7–24–80 / Arizona Strip District Multiple-Use Council, St. George, Utah (open), 8–28–80

52935 8–8–80 / Coal land in Whitley and McCrory Counties, Ky.; availability of environmental assessment, Williamsburg, Ky., 8–28–80

49684 7–25–80 / Craig District Grazing Advisory Board, Walden, Colo. (open), 8–28 and 8–29–80

47933 7–17–80 / Las Cruces District Grazing Advisory Board, Las Cruces, N. Mex. (open), 8–26–80

46491 7–10–80 / Lewistown District Grazing Advisory Board, Lewistown, Mont. (open), 8–25 and 8–26–80

49983 7–28–80 / Lewistown District Multiple Use Advisory Council Lewistown, Mont., 8–27 and 8–28–80

48266 7–18–80 / Safford District Advisory Council, Safford, Arizona (open), 8–28–80

44692 7–10–80 / Salt Lake District Multiple Use Advisory Council, Salt Lake City, Utah (open), 8–27–80

49365 7–24–80 / Worland District Advisory Council, Worland, Wyo. (open), 8–27–80

National Park Service—

49668 7–25–80 / Crater Lake National Park, Workshops: Crater Lake National Park, Oreg., 8–25–80; Klamath Falls, Oreg., 8–26–80; Medford, Oreg., 8–27–80; Roseburg, Oreg., 8–28–80; and Corvallis, Oreg., 8–29–80

Office of the Secretary—

52261 8–6–80 / Oil Shale Task Force (open)
8–26–80; Salt Lake City, Utah
8–27–80; Denver, Colo.

52260 8–6–80 / Oil Shale Tract Delineation—Tract Selection Criteria, (open)
8–25–80; Salt Lake City, Utah
8–28–80; Denver, Colo.

NUCLEAR REGULATORY COMMISSION

Western Area Power Administration—

54036 8–14–80 / Justice/OJARS—Rules for nondiscrimination in

OTHER ITEMS OF INTEREST

NUCLEAR REGULATORY COMMISSION

53823 8–12–80 / Advisory Committee on Reactor Safeguards, Subcommittee on Consideration of Class 9 Accidents, Washington, D.C. (open), 8–26–80

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

51710 8–4–80 / Meeting, Washington, D.C. (closed unless otherwise stated), 8–28–80

SMALL BUSINESS ADMINISTRATION

49004 7–22–80 / Region V Advisory Council Executive Board, Chicago, Ill. (open), 8–28–80

53306 8–11–80 / Region X Advisory Council Executive Board, Portland, Oreg. (open), 8–27–80

TRANSPORTATION DEPARTMENT

Federal Railroad Administration—

52541 8–7–80 / National Railroad Passenger Corp. (AMTRAK), Washington, D.C. (open), 8–28–80

TREASURY DEPARTMENT

Office of the Secretary—

51330 8–1–80 / Renegotiating the Tax Treaty with Trinidad and Tobago, Washington, D.C. (open), 8–27–80

VETERANS ADMINISTRATION

47561 7–15–80 / Central Office Education and Training Review Panel, Washington, D.C. (open), 8–28–80

51039 7–31–80 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 8–29–80

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

48905 7–22–80 / Foreign quarantine notices, flag smut (foreign strains), Hyattsville, Md., 8–27–80

53449 8–12–80 / Foreign quarantine notices; importation of Maypan variety of coconut from Jamaica, Hyattsville, Md., 8–27–80

49503 7–25–80 / Nursery stock, plants, roots, bulbs, seeds, and other plant products, certain seeds imported from Brazil, Hyattsville, Md., 8–27–80

Farmers Home Administration—

51818 8–5–80 / Biomass energy and alcohol fuels loans and loan guarantees; Macon, Georgia, 8–25; Des Moines, Iowa, 8–27; and Lubbock, Texas 8–29–80

DEFENSE DEPARTMENT

Engineers Corps, Army Department—

53507 8–12–80 / Draft environmental impact statement to dispose of DOD stocks of DDT, Washington, D.C., 8–26–80

Navy Department—

41691 6–20–80 / Naval Discharge Review Board, Atlanta, Ga., Tampa, Fla., Chicago, Ill., 8–18 through 8–29

[*See also* 45 FR 28793, 4–30–80]

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

46075 7–9–80 / Energy Conservation Program for Consumer Products, Chicago, Ill., 8–25 through 8–29–80

[Originally published at 45 FR 44086, 6–30–80]

Economic Regulatory Administration—

50384 7–29–80 / Special Temporary Public Interest Exemptions, Washington, D.C. (open), 8–25–80

49646 7–21–80 / Synthetic natural gas (SNG) feedstock allocation; price-decontrolled naphtha exemption and removal of restrictive criteria on propane, Washington, D.C., 8–26–80

Federal Energy Regulatory Commission—

51219 8–1–80 / High-cost natural gas; Production enhancement procedures, Washington, D.C., 8–26–80

Western Area Power Administration—

50412 7–29–80 / Boulder City Area Preliminary Consolidated Power Marketing Criteria, Las Vegas, Nevada (open), 8–29–80

ENVIRONMENTAL PROTECTION AGENCY

49298 7–24–80 / Utah SO_2 Control Strategy, approval and promulgation of implementation plan, Salt Lake City, Utah, 8–27–80

49110 7–23–80 / Visibility protection for Federal Class I areas; guideline availability, Washington, D.C. 8–25–80

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

53183 8–11–80 / Consideration of surface and underground mining preformance standards, Washington, D.C. 8–29–80

INTERNATIONAL TRADE COMMISSION

41244 6–18–80 / Certain iron-metal castings from India, San Francisco, Calif., 8–27–80

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office—

51016 7–31–80 / Uniform procurement system, Cambridge, Mass., 8–25 and 8–26–80

POSTAL RATE COMMISSION

47773 7–16–80 / Basic mail classification reform schedule, 1976, Washington, D.C., 8–27–80

TRANSPORTATION DEPARTMENT

Coast Guard—

49426 7–24–80 / Bridge across gulf Intracoastal Waterway, Mile 134.0, West of Harvey Lock, New Iberia, La., 8–27–80

WATER RESOURCES COUNCIL

48800 7–21–80 / State Water Management Planning, program guidelines, Kansas City, Mo., 8–26–80, and Washington, D.C., 8–28–80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today **List of Public Laws.**

Last Listing August 14, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

54028 8–14–80 / Commerce/Sec'y—Cooperative generic Technology Program; procedures; effective 8–14–80

54004 8–13–80 / ED—Emergency School Aid Act; final regulations; for effective date call or write Department of Education

53996 8–13–80 / ED—Territorial Teacher Training Assistance Program; final regulations; for effective date call or write Department of Education

53411 8–11–80 / ED/MSI—Regulations implementing Government in the Sunshine Act and establishing regulations for awarding of grants to museums (2 documents); effective 8–11–80

53382 8–11–80 / EPA—Municipal wastewater treatment works; construction grants limitations provided in Clean Air Act; policy and procedures; effective 8–11–80

53806 8–13–80 / HHS/Sec'y—Nomenclature changes in Code of Federal Regulations reflecting departmental reorganization; effective 5–4–80

53772 8–12–80 / Justice/LEAA—Formula grants for juvenile justice; effective 8–12–80

54036 8–14–80 / Justice/OJARS—Rules for nondiscrimination in Federally assisted programs; effective 8–14–80

54638 8–15–80 / USDA/FNS—Food Stamp Workfare demonstration project; effective 5–26–80

DEADLINES FOR COMMENTS ON PROPOSED RULES

54000 8–13–80 / ED/Precollege Teacher Development in Science Program; comments by 9–12–80

53187 8–11–80 / EPA—Proposed provisions implementing the municipal wastewater treatment works construction grants program and the National Environmental Policy Act; comments by 10–10–80

53492 8–12–80 / HHS/PHS—Project grants to states for hypertension control services; comments by 10–14–80

53610 8–12–80 / Labor/ETA—Employment transfer and business competition determinations under the Rural Development Act; comments by 8–26–80

APPLICATIONS DEADLINES

54640 8–15–80 / USDA/FNS—Food Stamp program; Demonstration research, and evaluation projects; apply by 9–15–80

54120 8–14–80 / Commerce/MBDA—Financial assistance application announcement; apply by 9–16–80

53506 8–12–80 / Commerce/MBDA—Financial assistance application announcement; applications by 9–4–80

MEETINGS

54142 8–14–80 / HHS/ADAMHA—National Advisory Mental Health Council, Bethesda, Md. (open) 9–16–80, (closed) 9–17 and 9–18–80

54142 8–14–80 / HHS/ADAMHA—National Advisory Council on Drug Abuse, Rockville, MD. (open) 9–25–80, (partially open) 9–26–80

54142 8–14–80 / HHS/ADAMHA—National Advisory Council on Alcohol Abuse and Alcoholism, Bethesda, Md. (open) 9–22–80, (closed) 9–23–80

53876 8–13–80 / HHS/NIH—Bladder and Prostatic Cancer Review Committee, Boston, Mass. (partially open), 9–8 and 9–9–80

53876 8–13–80 / HHS/NIH—Bladder and Prostatic Cancer Review Committee, Buffalo, N.Y. (open), 9–22–80

53877 8–13–80 / HHS/NIH—Cancer Cause and Prevention Division, Board of Scientific Counsellors, Bethesda, Md. (open), 9–29 and 9–30–80

53876 8–13–80 / HHS/NIH—Cancer Control and Rehabilitation Division, Board of Scientific Counsellors, Bethesda, Md. (open), 9–18 and 9–19–80

53876 8–13–80 / HHS/NIH—Cancer Research Manpower Review Committee, Bethesda, Md. (partially open), 9–25 and 9–26–80

53876 8–13–80 / HHS/NIH—National Cancer Advisory Board, Subcommittee on Centers and Construction, Bethesda, Md. (open), 9–25 and 9–26–80

53876 8–13–80 / HHS/NIH—National Cancer Advisory Board, Working Group on Board Activities and Agenda, Bethesda, Md. (open), 8–28–80

53876 8–13–80 / HHS/NIH—National Cancer Institute, Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee), Houston, Tex. (partially open), 9–3 through 9–5–80

53877 8–13–80 / HHS/NIH—President's Cancer Panel, Bethesda, Md. (open), 8–29–80

53851 8–13–80 / NFAH—Design Arts Panel (Design Demonstration), Washington, D.C. (closed), 9–3 and 9–4–80

54491 8–15–80 / NSF—Information Science and Technology Advisory Committee, Washington, D.C. (partially open), 9–4 and 9–5–80

OTHER ITEMS OF INTEREST

53782 8–12–80 / ED—Program of Research grants on organizational processes in education

53220 8–11–80 / HHS/PHS—Privacy Act of 1974; proposed new routine use in systems of records

54472 8–15–80 / Labor/ETA—Voluntary reallocation of funds under Title II–D of the Comprehensive Employment and Training Act

54194 8–14–80 / Justice/LEAA—Proposed policy and criteria for de minimus exceptions to full compliance with the Deinstitutalization Requirement of Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended

54471–54472 8–15–80 / Labor/ETA—Reallocation of funds under Title II–D of the Comprehensive Employment and Training Act

53930 8–13–80 / LSC—Grant application under consideration; Legal Aid of Western Oklahoma, Inc.

NOW AVAILABLE !

V 4 5 A G 2 0 8 0 0 UMI

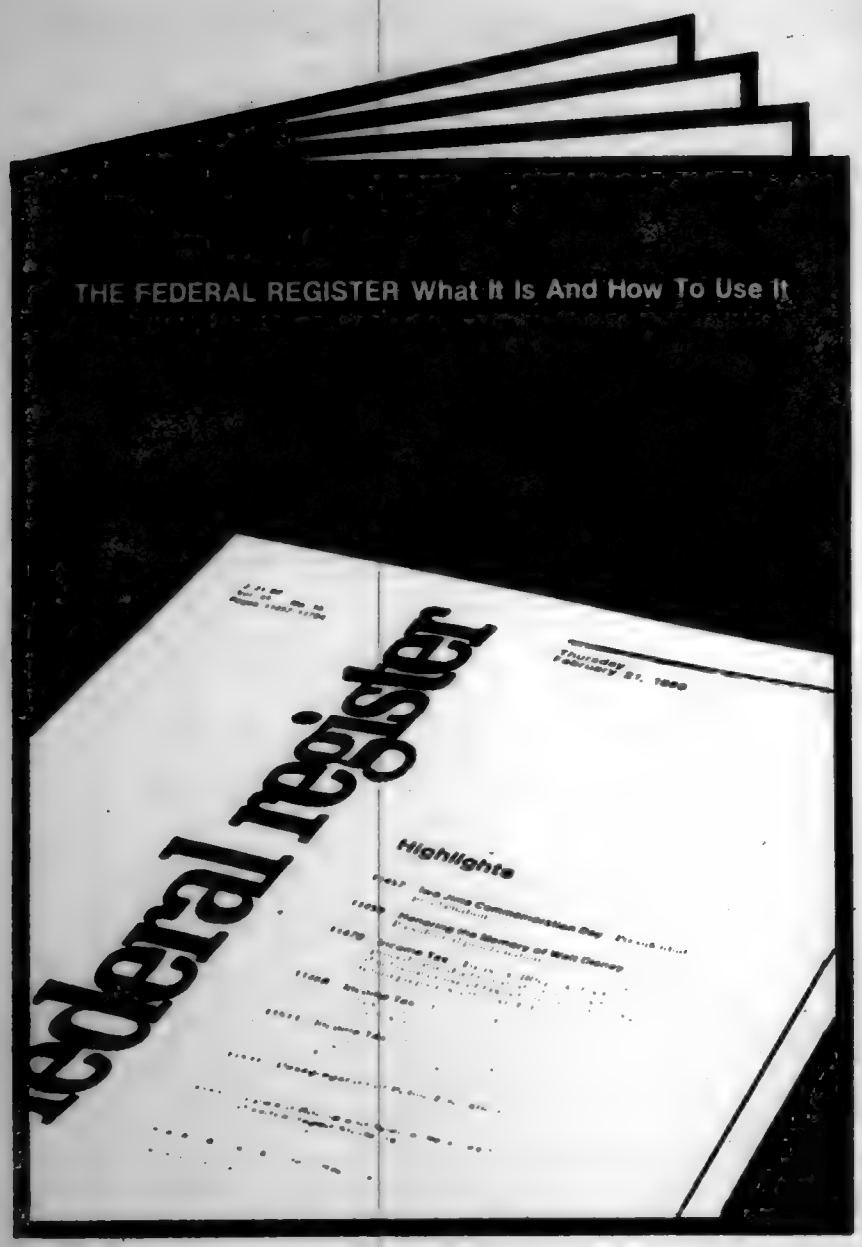

NOW AVAILABLE !

The Federal Register: What It Is and How To Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a sample research problem, and a discussion of how the consumer can be a participant in the regulatory process.

Price $3.50

ORDER FORM Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check,
☐ money order, or charge to my
Deposit Account No.
☐☐☐☐☐☐☐–☐

Order No._____

VISA®

master charge THE INTERBANK CARD

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me_____copies of **The Federal Register - What It Is and How To Use It,** at $3.50 per copy, Stock No. 022-003-01041-6.

Name—First, Last

Company name or additional address line

Street address

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only

Quantity	Charges
_____ Enclosed _____ To be mailed Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
_____ UPNS _____ Discount _____ Refund	

8-21-80
Vol. 45 No. 164
Pages 55689-56004

federal register

Thursday
August 21, 1980

Several pages of the **Federal Register** for Wednesday, August 20, 1980 (Vol. 45, No. 163) were incorrectly numbered. The following page numbers are corrected as indicated:

Pages 54434 through 54436 are corrected to 55434 through 55436.

Page 54438 is corrected to 55438.

Pages 54447 through 54464 are corrected to 55447 through 55464.

The page numbers listed in the Table of Contents and List of CFR Parts Affected are correct.

Highlights

55716 **Veterans** VA issues interim final regulations for a pilot program using community based treatment facilities for treatment of alcohol and drug dependence; effective 4-8-80

55714 **Electric Utilities** DOE/FERC clarifies regulations relating to limitation for percentage adders in electric rates; compliance date extended to 9-1-80

55693 **Banking** FHLBB amends regulations to implement change in savings and loan control, effective 9-15-80

55799 **Grant Programs—Community Services** CSA gives notice of income disregard when determining eligibility for CSA funded programs; effective 9-22-80

55750 **Banking** FHLBB publishes proposal regarding mutual capital certificates; comments by 10-20-80

55689 **Labor-Management** GAO amends procedures governing requests for decisions in Federal labor-management relations matters; effective 8-21-80

55727 **Grant Programs—Health** HHS/PHS implements program of financial distress grants to health professions schools to assist meeting their costs of operation; effective 8-21-80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

55731 **Microwave** FCC publishes regulations regarding private operational-fixed microwave service; effective 9–26–80

55734 **Motor Carriers** ICC imposes a number of new requirements and standards on motor carrier rate bureaus as a condition to their continued immunity from the antitrust laws; effective 8–21–80

55692 **Banks** FRS temporarily suspends Regulation Q penalty normally imposed upon withdrawal of funds from time deposits prior to maturity; effective 8–11 and 8–14–80

55763 **Highway** DOT/FHWA proposes policy on how the type of materials used in the various pavement components of a Federal-aid project are determined; comments by 10–20–80

55968 **Grant Programs—Community Development** HUD/CPD revises Small Cities Program regulations; effective 9–15–80 (Part V of this issue)

55728 **Procurement** GSA changes policy on ordering items from GSA to reduce incidence of agencies ordering items when it is not economically justifiable; effective 8–21–80

55711 **Import** Commerce/ITA publishes interim regulations regarding effects of imported articles on the National Security; effective 8–21–80, comments by 10–20–80

55891 **Imports** Treasury announces preparation of report to Congress on possible import barriers for ethyl alcohol; comments by 9–15–80

55932, 55941 **Continental Shelf** Interior/BLM announces Gulf of Mexico oil and gas lease sale (2 documents) (Part III of this issue)

55761 **Electric Utility and Natural Gas Industries** DOE/FERC gives opportunity for reply comments by 9–26–80 regarding tax normalization for certain items reflecting timing differences in recognition of expenses or revenues for ratemaking and income tax purposes

55831 **Privacy Act Documents** Interior/Secretary

55892 **Sunshine Act Meetings**

Separate Parts of This Issue

55924 **Part II, HHS/NIH**
55932 **Part III, Interior/BLM**
55960 **Part IV, Interior/FWS**
55968 **Part V, HUD/CPD**
55994 **Part VI, WRC**

Contents

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

Agency for International Development
RULES
Procurement:
55724 Technical amendments
NOTICES
Authority delegations:
55872 Program and Management Services Assistant Administrator et al.; contracting and personnel management functions for the trade and development program
Housing guaranty programs:
55873 Costa Rica
Meetings:
55872 Voluntary Foreign Aid Advisory Committee

Agricultural Marketing Service
RULES
55692 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Forest Service.

Air Force Department
NOTICES
Environmental statements; availability, etc.:
55800 Gandy Range Extension Military Operations Area/Air Traffic Controlled Assigned Airspace Area, Utah-Nevada
Meetings:
55800 Scientific Advisory Board (2 documents)

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
55821 September

Army Department
See also Engineers Corps.
NOTICES
Patent licenses, exclusive:
55801 Delta Manufacturing & Sales, Inc.

Coast Guard
PROPOSED RULES
Boating safety:
55768 Vessels; certificate of number applications; change in required contents

Commerce Department
See also Economic Development Administration; International Trade Administration; National Oceanic and Atmospheric Administration; Travel Service.
NOTICES
Organization and functions:
55798 Regulatory Policy Office

Community Planning and Development, Office of Assistant Secretary
RULES
Community development block grants:
55968 Small cities program

Community Services Administration
NOTICES
Grants; availability, etc.:
55799 Income from litigation settlement; disregard for program eligibility

Copyright Office, Library of Congress
NOTICES
55874 Rights of creators and needs of users of copyrighted works; hearing

Defense Department
See Air Force Department; Army Department; Engineers Corps.

Delaware River Basin Commission
NOTICES
55802 Comprehensive plan, water supply and sewage treatment plant projects; hearings

Economic Development Administration
RULES
55696 Economic development district organizational structure and establishment
NOTICES
Import determination petitions:
55794 JNL Industries, Inc., et al.
Procurement:
55794 Commercial or industrial activities; cost comparison reviews

Economic Regulatory Administration
NOTICES
Consent orders:
55806 Associated Programs, Inc.
55807 R. Lacy, Inc.

Education Department
NOTICES
Meetings:
55803 Federal Advisory Panel

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Nuclear Energy Office, Energy Department; Western Area Power Administration.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
55805 Canada and European Atomic Energy Community
55805 Canada, Japan, and European Atomic Energy Community
55804 Chile
55805 Finland and European Atomic Energy Community
55805 Japan (2 documents)
55804 Norway and European Atomic Energy Community

55804 Sweden
Meetings:
55804 International Energy Agency Industry Advisory Board

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
55801 Lorain County, Ohio; shoreline erosion damages mitigation
55801 Swatara Creek Flood Control Study, Schuylkill County, Pa.
55802 Whitewater River Basin Flood Control Project, Coachella Valley, Calif.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55720 District of Columbia
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
55721 Inert ingredients
Pesticides; tolerances in animal feeds:
55715 Profenofos
NOTICES
Air quality implementation plans; approval and promulgation:
55812, 55813 Prevention of significant air quality deterioration (PSD); final determinations (2 documents)
55810–55812 Prevention of significant air quality deterioration (PSD); non-applicability (5 documents)
55808, 55809, 55814 Prevention of significant air quality deterioration (PSD); permit approvals (3 documents)
Meetings:
55813 Science Advisory Board

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
55821 Village Nine Subdivision, Mesa County, Colo.

Ethical Problems in Medicine and Biomedical and Behavioral Research, President's Commission for the Study of
NOTICES
55884 Meetings

Federal Aviation Administration
RULES
Airworthiness directives:
55704 Airbus Industrie
55706 Bell
55705, 55707 Boeing (2 documents)
55708 Gates Learjet
55709 McDonnell Douglas
55710 Sikorsky; correction
55710 Transition areas
55711 VOR Federal airways; name change
PROPOSED RULES
Air carriers certification and operations:
55760 Crewmember clothing; flammability standards; reopening of comment period
Airworthiness directives:
55754 Gates Learjet
55760 Control zones
55755–55759 Transitional areas (6 documents)
NOTICES
55886, 55888 Exemption petitions; summary and disposition (2 documents)
Organization and functions:
55887 Airports division, Fort Worth, Tex.; geographical area change

Federal Communications Commission
RULES
Radio broadcasting:
55731 Reregulation and oversight; correction
Radio services, special:
55731 Private operational-fixed microwave service; facilitating operation of low power, limited coverage systems
PROPOSED RULES
Common carrier services:
55777 MTS and WATS market structure; interstate telecommunications services entry policy, and Alaska submarket inquiry
Radio services, special:
55775 Microwave device, new low power, unlicensed class and low power, limited coverage systems operation
NOTICES
55814 FM and television translator applications; availability and announcement of closing date

Federal Deposit Insurance Corporation
NOTICES
55892, 55893 Meetings; Sunshine Act (4 documents)

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
55815 Texas

Federal Energy Regulatory Commission
RULES
Electric utilities:
55714 Rate schedules; limits on percentage adders for transmission services; extension of time
PROPOSED RULES
Policy and interpretations:
55761 Tax normalization for timing difference transactions; computation for ratemaking and income tax purposes of expenses or revenues; opportunity for reply comments

Federal Highway Administration
RULES
Engineering and traffic operations:
55716 Motor vehicles; certification of size and weight enforcement; correction
PROPOSED RULES
Engineering and traffic operations:
55763 Highway Federal-aid project; pavement type selection; advance notice
NOTICES
Environmental statements; availability, etc.:
55889 Boulder and Larimer Counties and Estes Parks, Colo.; intent to prepare
55889 Gloucester County, N.J.; intent to prepare
55890 New Castle County, Del.; intent to prepare

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
55693 Mutual and stock insured institutions; change in control
PROPOSED RULES
Federal Savings and Loan system, etc.:
55750 Mutual capital certificates

Federal Maritime Commission
RULES
55729 Husbanding agreements; exemption from filing and approval requirements
NOTICES
Freight forwarder licenses:
55816 Flamingo Freight Forwarders
55893 Meetings; Sunshine Act (2 documents)

Federal Mine Safety and Health Review Commission
NOTICES
55893 Meetings; Sunshine Act

Federal Railroad Administration
NOTICES
55890 Chicago, Rock Island & Pacific Railroad Co; submission of feasible ownership plan; extension of time
Meetings:
55890 Minority Business Resource Center Advisory Committee

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
55692 Early withdrawal penalty; temporary suspensions in Texas
NOTICES
Applications, etc.:
55819 B.C.P. Corp.
55817 CB Bancshares, Inc.
55819 Century Banks, Inc.
55816 Citicorp et al. (2 documents)
55817 H&H Financial Corp.
55817 Kupka's, Inc.
55818 Ranier Bancorporation
55819 Royal Bancshares, Inc.
55818 Texas Commerce Bancshares, Inc.
55818 United Missouri Bancshares, Inc.
Federal Open Market Committee:
55819 Domestic open market operations, authorization
55819 Domestic policy directives

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations:
55820 Weyerhaeuser Co.

Fish and Wildlife Service
RULES
Hunting:
55743 Chassahowitzka National Wildlife Refuge, Fla., et al.
55746 Eastern Neck National Wildlife Refuge, Md.
55747 Parker River National Wildlife Refuge, Mass.
55748, 55749 Shiawassee National Wildlife Refuge, Mich. (2 documents)
55748 Waubay National Wildlife Refuge, S. Dak.
Migratory bird hunting:
55960 Seasons, limits, and shooting hours, establishment, etc.
Public entry and use:
55742 Charles M. Russell National Wildlife Refuge, Mont., et al.
NOTICES
55826, 55827 Endangered and threatened species permits; applications (6 documents)
Environmental statements; availability, etc.:
55827 Redhead waterfowl production wetlands, preservation, Idaho

Forest Service
NOTICES
Environmental statements; availability, etc.:
55794 Colville National Forest, Wash., et al.; land and resource management plans

General Accounting Office
RULES
55689 Agencies and labor organizations; appropriated fund expenditures decision procedures

General Services Administration
See also National Archives and Records Service.
RULES
Procurement:
55723 Recovered material requirements and separate accounting for change orders
55721 Small business concerns; small purchase set-asides
Property management:
55726 Ordering items from GSA supply sources; policy change
NOTICES
Authority delegations:
55820 Defense Department Secretary (2 documents)
Committees; establishment, renewals, terminations, etc.:
55821 Qualifications Review Panel for the Position of Director, Gerald R. Ford Library
Procurement:
55820 Qualified film producers list and videotape producers list; quarterly update

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
55830 Union Oil Co. of California

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Health Resources Administration; National Institutes of Health; Public Health Service.

Health Resources Administration
NOTICES
Meeting; advisory committees:
55821 October

Housing and Urban Development Department
See Community Planning and Development, Office of Assistant Secretary; Environmental Quality Office, Housing and Urban Development Department.

Interior Department
See also Fish and Wildlife Service; Geological Survey; Land Management Bureau; Surface Mining Office; Water and Power Resources Service.
NOTICES
55841 National Environmental Policy Act; implementation; Lowell Historic Preservation Commission; inquiry
55831 Privacy Act; systems of records

Internal Revenue Service
PROPOSED RULES
Procedure and administration:
55764 Administrative summonses

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
RULES
55711 National security; effects of imported articles; interim rule and request for comments
NOTICES
Consent agreements:
55795 Hendrix Electronics
55795 Milton Snedeker Corp.
55796 Pace Co. Consultants & Engineers, Inc.
55797 Rue Forwarding Co.
55797 Tally Corp.
Meetings:
55796 President's Export Council

International Trade Commission
NOTICES
Import investigations:
55873 Motor vehicles and bodies chassis; petition

Interstate Commerce Commission
RULES
Tariffs and schedules:
55734 Motor carrier rate bureaus; interim policy
NOTICES
Motor carriers:
55842, 55847 Finance applications (2 documents)
55848 Permanent authority applications
55847, 55848 Permanent authority applications; corrections (2 documents)

Justice Department
See also Parole Commission.
RULES
55727 Use of Bureau Seals and redelegation of authority

Land Management Bureau
NOTICES
Coal areas, federally owned under non-Federal surface:
55824 Montana
Coal leases, exploration licenses, etc.:
55826 Wyoming and Montana
Environmental statements; availability, etc.:
55822 Anaconda Nevada Moly project
Meetings:
55826 Coos Bay District Advisory Council
55822 National Outer Continental Shelf Advisory Board
55823 Phoenix District, Multiple Use Advisory Council
Outer Continental Shelf; oil and gas lease sales:
55932, 55941 Gulf of Mexico (2 documents)
55823 Right-of-way; Northern Tier Pipeline Route; photo alignment maps; availability
Sale of public lands:
55823 Utah

Library of Congress
See Copyright Office, Library of Congress.

Management and Budget Office
NOTICES
55880 Agency forms under review
Meetings:
55882 National Agenda for the Eighties, President's Commission
55882 Privacy Act; systems of records

National Archives and Records Service
PROPOSED RULES
55769 Advisory committees, Federal; management

National Highway Traffic Safety Administration
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
55891 General Motors Corp.; front wheel bearing defect; denial of petition

National Institutes of Health
NOTICES
Meetings:
55924 Recombinant DNA Advisory Committee
55924 Recombinant DNA research; proposed actions under guidelines; inquiry

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
55797 Mid-Atlantic Fishery Management Council
55797 Western Pacific Fishery Management Council

National Transportation Safety Board
NOTICES
55876 Accident reports, safety recommendations and responses, etc.; availability
Railroad accidents:
55880 North Wales, Pa.; investigation hearing

Nuclear Energy Office, Energy Department
NOTICES
Meetings:
55808 Radioactive Waster Management State Planning Council

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
55880 Florida Power & Light Co. et al.

Parole Commission
NOTICES
55894 Meetings; Sunshine Act (2 documents)

Public Health Service
RULES
Grants:
55727 Health professions schools; financial distress grants

Railroad Retirement Board
NOTICES
55894 Meetings; Sunshine Act

Research and Special Programs Administration, Transportation Department
RULES
Hazardous materials:
55734 Radioactive materials; options for labeling packages; correction

Securities and Exchange Commission
NOTICES
Hearings, etc.:
55884 Basic Resources Corp.
55884 Capital Corp. of America
55886 Federated Trust for Short-Term Municipal Obligations
55894 Meetings; Sunshine Act

Social Security National Commission
NOTICES
55876 Meetings

State Department
RULES
55716 Foreign dignitaries and official personnel, protection; chief of protocol authorized to designate official guests

Surface Mining Office
PROPOSED RULES
Permanent program submission; various States, etc.:
55767 Wyoming; public disclosure of comments

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.

Travel Service
NOTICES
Meetings:
55799 Travel Advisory Board

Treasury Department
See also Internal Revenue Service.
NOTICES
55891 Ethyl alcohol for use in gasohol; import barriers; report to Congress; inquiry

Veterans Administration
RULES
Loan guaranty:
55720 Home and mobile lot loans; allowable easements for drainage and irrigation
Medical benefits:
55716 Community-based treatment facilities for alcohol and drug abuse treatment; interim

Water and Power Resources Service
NOTICES
Contract negotiations:
55842 Keyhole Unit, Pick-Sloan Missouri Basin Program, Wyo.

Water Resources Council
NOTICES
55994 Coal Liquefaction Demonstration Plant, Morgantown, W. Va.; water assessment report; inquiry

Western Area Power Administration
NOTICES
Power rate adjustments:
55808 Colorado River Storage Project; proposed interim; public forum

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
International Trade Administration—
55796 President's Export Council, 9–15–80
National Oceanic and Atmospheric Administration—
55797 Mid-Atlantic Fishery Management Council, 9–10, 9–11 and 9–12–80
55797 Western Pacific Fishery Management Council's Advisory Panel, 9–5–80

DEFENSE DEPARTMENT
Air Force Department—
55800 USAF Scientific Advisory Board, 9–9 and 9–10–80

EDUCATION DEPARTMENT
Postsecondary Education Office—
55803 Federal Advisory Panel, 9–8 and 9–9–80

ENERGY DEPARTMENT
55804 Voluntary Agreement and Plan of Action to implement the International Energy Program, 9–4 and 9–5–80
Office of Nuclear Energy—
55808 State Planning Council on Radioactive Waste Management, 9–8 and 9–9–80

ENVIRONMENTAL PROTECTION AGENCY
55813 Science Advisory Board, Health Risk Assessment Subcommittee, 9–15 and 9–16–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
55821 Research Work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, 9–19–80
National Institutes of Health—
55924 Recombinant DNA Advisory Committee, 9–25 and 9–26–80
Health Resources Administration—
55821 National Advisory Council on Nurse Training, 10–29 through 10–31–80

INTERIOR DEPARTMENT
Land Management Bureau—
55826 Coos Bay District Advisory Council, 9–18–80
55822 National Outer Continental Shelf Advisory Board, Pacific States Regional Technical Working Group Committee, 9–15–80
55823 Phoenix District Multiple Use Advisory Council, 9–24 and 9–25–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
Agency for International Development—
55872 Voluntary Foreign Aid Advisory Committee, 9–18 and 9–19–80

MANAGEMENT AND BUDGET OFFICE
55882 President's Commission for a National Agenda for the Eighties, Panel I, 8–28–80

NATIONAL COMMISSION ON SOCIAL SECURITY
55876 Meeting, 9–12 and 9–13–80

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH
55884 Meeting, 9–15 and 9–16–80

TRANSPORTATION DEPARTMENT
Federal Railroad Administration—
55890 Minority Business Resource Center Advisory Committee, 9–19–80

CHANGED MEETING

COMMERCE DEPARTMENT
Travel Service—
55799 Travel Advisory Board, 9–26–80

CANCELLED MEETING

DEFENSE DEPARTMENT
Air Force Department—
55800 USAF Scientific Advisory Board, meeting cancelled

HEARINGS

DELAWARE RIVER BASIN COMMISSION
55802 Citizens Utilities, Home Water Company, 8–27–80

NATIONAL TRANSPORTATION SAFETY BOARD
55880 Railroad accident investigation, Philadelphia, Pa., 9–9 through 9–12–80

LIBRARY OF CONGRESS
Copyright Office—
55874 Rights of creators and needs of users of works reproduced by certain Libraries and Archives,

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

4 CFR
21 55689

7 CFR
908 55692

12 CFR
217 55692
563 55693
Proposed Rules:
541 55750
544 55750
545 55750
561 55750
563 55750
563c 55750
569a 55750
577 55750
578 55750

13 CFR
301 55696
303 55696
304 55696
307 55696
311 55696

14 CFR
39 (7 documents) 55704–55710
71 (2 documents) 55710, 55711
Proposed Rules:
39 55754
71 (7 documents) 55755–55760
121 55760
123 55760
127 55760
135 55760

15 CFR
359 55711

18 CFR
35 55714
Proposed Rules:
2 55761

21 CFR
561 55715

22 CFR
2 55716

23 CFR
657 55716
658 55716
Proposed Rules:
Ch. I 55763

24 CFR
570 55968

26 CFR
Proposed Rules:
301 55764

30 CFR
Proposed Rules:
Ch. VII 55767

33 CFR
Proposed Rules:
174 55768

38 CFR
17 55716
36 55720

40 CFR
52 55720
180 55721

41 CFR
1–1 55721
1–3 55721
5A–7 55723
5A–26 55723
5A–76 55723
7–6 55724
7–7 55724
101–26 55726
128–1 55727
Proposed Rules:
101–6 55769

42 CFR
57 55727

46 CFR
520 55729

47 CFR
73 55731
94 55731
Proposed Rules:
15 55775
63 55777
94 55775

49 CFR
172 55734
1331 55734

50 CFR
20 55960
26 55742
27 55742
32 (6 documents) 55743, 55746–55749

V 45 A G 21 80 UMI

Rules and Regulations

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

Procedures for Decisions on Appropriated Fund Expenditures Which Are of Mutual Concern To Agencies and Labor Organizations

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule amends GAO's procedures governing requests for decisions in Federal labor-management relations matters. The amendment is necessary because of the enactment of the Civil Service Reform Act of 1978, Pub. L. 95–454. Title VII of that Act, codified at 5 U.S.C. Chapter 71, established a statutory framework for the conduct of labor-management relations in the Federal Government and created a new agency, the Federal Labor Relations Authority, to administer the program. This rule retains existing procedures which provide labor organizations and agencies with access to GAO, but deletes references to obsolete agencies and functions, and provides guidance as to when GAO will defer to procedures established pursuant to 5 U.S.C. Chapter 71.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Maralyn G. Blatch, Attorney-Adviser, Office of General Counsel, U.S. General Accounting Office, Washington, D.C. 20548, (202–275–6404).

SUPPLEMENTARY INFORMATION: On March 24, 1980, the General Accounting Office published a proposed rule (45 FR 18940–41) which would amend existing procedures governing requests for decisions in Federal labor-management relations matters. The proposed rule retained procedures providing agencies and labor organizations with access to GAO but, in view of the passage of title VII of the Civil Service Reform Service Act of 1978, deleted references to obsolete agencies and functions and provided for deference to the jurisdiction of the Federal Labor Relations Authority where appropriate.

Many constructive comments were received, and after careful consideration of those comments, changes have been made in the proposed rule. The major points addressed in the comments, and determinations made in response thereto are discussed below.

—The comments received reflected a wide divergence of views as to GAO's role and functions in general, and our role in relation to the labor-management program established pursuant to title VII of the Civil Service Reform Act, codified at 5 U.S.C. Chapter 71. Several requested more information on this subject. GAO's jurisdiction is based upon title 31 of the United States Code, in particular 31 U.S.C. 74 and 82d. Section 74 provides that balances certified by GAO upon the settlement of public accounts shall be final and conclusive upon the Executive Branch of the Government. Section 74 also gives heads of Federal agencies and disbursing officers the right to request a decision from GAO on any question involving the expenditure of appropriated funds. Section 82d extends the same right to certifying officers.

The labor-management program established by 5 U.S.C. Chapter 71 did not amend 31 U.S.C. 74 and 82d. Accordingly, except to the extent that Congress has indicated a contrary intent, agency heads and authorized certifying or disbursing officers continue to have a statutory right to request a decision from GAO on any matter involving the expenditure of appropriated funds. However, in recognition of the intent of Congress in enacting 5 U.S.C. Chapter 71 and the role of labor organizations and collective bargaining in the civil service, this part provides special procedures which govern requests for decisions on matters which are of mutual concern to agencies and labor organizations. It extends the right to request a decision to labor organizations; provides for service on the parties and the opportunity to comment; authorizes advisory opinions to arbitrators and other neutrals; requires notice to GAO on related matters pending before the Federal Labor Relations Authority; and provides guidance as to when GAO will, as a matter of policy, defer to the procedures established pursuant to 5 U.S.C. Chapter 71.

Under § 21.1, *Purpose and scope*, the intent is to make clear that agencies and labor unions have equal access to GAO on matters of mutual concern to the agency and the union which involve the expenditure of appropriated funds. This expands the scope of the prior role which was limited to matters arising under the negotiated agreement or arising from an arbitration award or decision of an administrative body.

—As under the previous rule, § 21.2 extends the right to request a decision to labor organizations representing Federal employees. It was suggested that § 21.2 be revised to permit local labor-relations officials to request a decision from GAO. No change was considered necessary since, as presently worded, agencies and unions are free to designate officials of their choice to request a decision from GAO.

—In response to comments received, the revised § 21.3(d) has been clarified and now explicitly requires notice as to whether the matter submitted to GAO is subject to a negotiated grievance procedure. The parties are also required under § 21.3(d) to give notice if a grievance has been filed or if another procedure has been invoked to adjudicate the same or a substantially similar matter before the Federal Labor Relations Authority, any other administrative body, or any court. The decision as to whether GAO will provide a response is governed by §§ 21.7 and 21.8.

The provisions for service of a copy of the request on the parties in § 21.4 of the final rule elicited several suggestions. Some complained that the requirement for service on the parties was too burdensome for certifying and disbursing officers who are not generally required to comply with more formalized procedures and do not have a labor-relations staff to handle such matters. No change was made in this provision, however, because notice and the opportunity of the parties to present their views is essential on matters of mutual concern. Moreover, the service requirements relate only to matters of mutual concern to agencies and labor organizations which, thus far, constitutes a relatively small portion of

the cases submitted to GAO by certifying and disbursing officers.

It was also suggested that we require service of the request on the head of the agency concerned. The suggestion was not adopted because, under these procedures, the agency will at some level receive notice and be a party to proceedings before GAO. The agency is then free to establish whatever internal requirements it deems appropriate for notice or service on the agency head.

Several different and sometimes conflicting recommendations were received concerning the method for computing the date of service and the time period for submission of a written response. The only changes which have been made are to make it clear that the 20 day periods in § 21.4(c) and § 21.5(b), and the 60 day period in § 21.6 begin with the date of service. Otherwise, our experience, and that of the parties availing themselves of these procedures in the past has been very satisfactory. As presently worded, it has permitted flexibility for all concerned and has encouraged the expeditious issuance of decision. Accordingly, no other changes have been made in these provisions.

A new § 21.5 has been added to provide arbitrators and other neutral parties authorized to administer the provisions of 5 U.S.C. Chapter 71 with access to GAO's procedures. We have received requests from arbitrators and other neutral parties in the past and several commentators asked that our practice of providing assistance to such parties be explictly stated in the final rule. Under § 21.5, requests for advisory opinions may be submitted to the General Counsel of GAO and may pertain to any matter of mutual concern, including matters subject to grievance and arbitration procedures. In other words, the restrictions in § 21.7(b), Deference to grievance and arbitration procedures established pursuant to 5 U.S.C. Chapter 71, do not apply to requests for advisory opinions from neutral parties.

Service of a request for an advisory opinion on the parties to the dispute or on other interested parties is discretionary with the requesting party, and any person served may submit written comments in response to the request. A copy of the advisory opinion of the General Counsel will be forwarded to the requester and all persons who have been served with a copy of the request. The provisions of § 21.9(b) relating to general distribution of the decisions of the Comptroller General do not apply to advisory opinions.

—The provisions in proposed § 21.5(a) that decisions will normally be issued within 60 days of receipt of written responses was very well received and has been retained. See the new § 21.6. The provision in the proposed § 21.5(b), relating to the Comptroller General's discretion not to issue a decision, has been moved to new § 21.8.

—Proposed § 21.6, Joint requests for decisions, has been deleted because it is essentially covered by a new § 21.7(b) concerning deference to grievance and arbitration procedures under 5 U.S.C. Chapter 71.

—Most of the comments received concerned the issues covered by the new §§ 21.7 and 21.8, that is, the areas in which GAO will defer to the procedures established by 5 U.S.C. Chapter 71, or will otherwise decline to issue a decision. The comments ranged from one extreme to the other. Some urged that we respond to all requests for decisions and others urged that we refrain from deciding all issues which could in any way relate to a matter which may be considered under 5 U.S.C. Chapter 71. Many more comments raised questions as to our intent to issue decisions in specific areas. In response to those comments, we have made several changes. The new § 21.7 gives specific guidance on deference to grievance and arbitration procedures, and the new § 21.8 covers all matters of mutual concern.

Consistent with the intent of Congress in enacting Chapter 71, § 21.7(a) of the final rule makes it clear that we will not review or comment on the merits of an arbitration award which is final and binding pursuant to 5 U.S.C. § 7122 (a) or (b). H.R. Rep. No. 95–1403, 95th Cong., 2d Sess. 56 (1978); S. Rep. No. 95–1272 and H. Rep. No. 95–1717, 95th Cong., 2d Sess. 158 (1978). However, § 21.7(a) also makes it clear that payments made pursuant to a final and binding arbitration award do not serve as precedent for payment in similar situations not covered by the award. Questions as to how to treat other employees similarly situated but not covered by the award may be submitted by anyone authorized to request a decision from GAO. If the matter concerns employees covered by the same collective bargaining agreement or is otherwise of mutual concern to agencies and labor organizations, it must be submitted pursuant to the procedures provided for in this part.

Many of those commenting requested that we consider matters which are at the grievance stage and not yet the subject of an arbitration award. As evident from subsection § 21.7(b), we have determined that since the negotiated grievance procedure is an integral part of the arbitration process, it would be inappropriate for GAO to respond to requests from either management or union to review any matter which is subject to a negotiated grievance procedure if the other party objects. The parties are expected to avail themselves of the procedures established pursuant to 5 U.S.C. Chapter 71. As stated in subsection (b), however, GAO may provide a response to requests from certifying and disbursing officers, or to requests from management or union if the other party does not object to our review. Arbitrators and other neutral parties may also request an advisory opinion on such matters pursuant to § 21.5.

Responses to certifying and disbursing officers were provided for because these individuals have statutory authority, independent of agency management, to decline payment of a voucher. Yet, they are not a party to the collective bargaining relationship and do not have direct access to the procedures established by 5 U.S.C. Chapter 71.

Consistent with requests received, responses to joint requests from management and union are provided for because submissions made by mutual agreement of the parties are not viewed as inconsistent with the grievance arbitration process, or the collective bargaining process in general. For purposes of subsection (b) requests will be considered joint where the other party has been served and has not objected to submission of the matter to GAO. This provision has been added because in many instances in the past a labor organization has requested a decision from GAO indicating that the parties decided not to grieve or arbitrate the matter, but the agency has made no submission to GAO, although served with a copy of the union's request for a decision. Though less frequent, this has also happened when the agency files the request for a decision. This new provision puts the parties on notice that, in the absence of any objection, we will assume both parties have agreed to submit the matter to GAO for a decision.

The new § 21.8 reflects our intent to refuse to issue a decision on any matter which is more properly within the jurisdiction of the Federal Labor Relations Authority. This concept had been stated in the Supplementary Information portion of the proposed rule and it was suggested that this intent be explicitly stated in the rule itself. Section 21.8 applies to joint requests, and requests from certifying and disbursing officers covered by § 21.7(b), as well as to all other matters of mutual concern. Thus, on any matter of mutual concern, the Comptroller General retains the discretion to decline to issue a decision if the matter has been or would be more appropriately submitted to the Federal Labor Relations Authority, a court, or other administrative body, or is unduly speculative or otherwise not appropriate for decision. The determination to decline to issue a decision pursuant to § 21.8 will be made on a case-by-case basis, with due regard to the impact our action may have on the procedures established by 5 U.S.C. Chapter 71.

In response to suggestions received, we have included citations to the statutory basis for our jurisdiction and the relevant legislative history of 5 U.S.C. Chapter 71, where applicable.

Accordingly, 4 CFR Chapter I, Part 21, is amended to read as follows:

PART 21—PROCEDURES FOR DECISIONS ON APPROPRIATED FUND EXPENDITURES WHICH ARE OF MUTUAL CONCERN TO AGENCIES AND LABOR ORGANIZATIONS

Sec.

21.1 Purpose and scope.
21.2 Who may request a decision.
21.3 Contents of a request for a decision.
21.4 Service.
21.5 Request for an advisory opinion.
21.6 Time for issuance of decisions and advisory opinions.
21.7 Deference to grievance and arbitration procedures established pursuant to 5 U.S.C. Chapter 71.
21.8 Discretion to decline issuance of a decision.
21.9 Distribution of decisions.

Authority: Sec. 8, 28 Stat. 207, as amended (31 U.S.C. 74); sec. 3, 55 Stat. 876 (31 U.S.C. 82d).

§ 21.1 Purpose and scope.

This part sets forth the procedures which govern requests for decisions concerning the legality of appropriated fund expenditures on matters of mutual concern to Federal agencies and labor organizations participating in the labor-management program established pursuant to 5 U.S.C. Chapter 71, and other Federal sector labor-management programs. It gives labor organizations and Federal agencies equal access to GAO on any matter of mutual concern involving the expenditure of appropriated funds, and extends the right to request an advisory opinion on such matters to arbitrators and other neutral parties. It also provides guidance as to when GAO will defer to procedures established pursuant to 5 U.S.C. Chapter 71.

§ 21.2 Who may request a decision.

Heads of Federal agencies and departments (or their designees), heads of labor organizations representing Federal employees (or their designees), and authorized certifying or disbursing officers may request a decision under this part.

§ 21.3 Contents of a request for a decision.

A request for a decision shall be in writing, dated, signed by the requester, addressed to the Comptroller General of the United States, General Accounting Office, Washington, D.C. 20548, and contain as applicable:

(a) The name and address of the party requesting the decision;

(b) A statement of the question to be decided, a presentation of all relevant facts, and a statement of the party's argument;

(c) Copies of all pertinent records and support documents;

(d) Notice as to whether the matter is subject to a negotiated grievance procedure, and whether a grievance has been filed or any other procedure has been invoked to adjudicate the same or a substantially similar matter before the Federal Labor Relations Authority or other administrative body or court; and

(e) A power of attorney or statement of authority to represent if required by 4 CFR Part 1.

§ 21.4 Service.

(a) Any person requesting a decision under this part is responsible for promptly forwarding a copy of the request and supporting documents to all known interested parties. Service shall be made by registered or certified mail or in person. When service is by mail, the date of service shall be the date when the document served is deposited in the United States mail.

(b) A signed and dated statement of service shall be submitted along with the request and indicate the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(c) Any party served or any other person may submit a written response to the request for a decision to the Comptroller General of the United States, General Accounting Office, Washington, D.C. 20548. Any such response should be submitted within 20 calendar days after the date of service of the request in order to ensure that it will be considered. Copies of written responses shall be promptly forwarded to all know interested parties in the manner prescribed in paragraphs (a) and (b) of this section.

§ 21.5 Request for an advisory opinion.

(a) Arbitrators and other neutral parties authorized to administer 5 U.S.C. Chapter 71 may request an advisory opinion on any matter involving the expenditure of appropriated funds which is of mutual concern to Federal agencies and labor organizations. A request for an advisory opinion shall be in writing, dated, signed by the requester, addressed to the General Counsel, U.S. General Accounting Office, Washington D.C. 20548, and contain all of the information referred to in § 21.3 (a) through (d). Consistent with § 21.8, the General Counsel retains the discretion to decline to issue an advisory opinion.

(b) Service of a request for an advisory opinion on the parties to the dispute or on other interested parties is discretionary with the requesting party. If service is made, it shall be in a manner consistent with § 21.4 (a) and (b), except that where the persons served have been previously provided with copies of records and support documents, the requester may instead serve them with a listing of the documents submitted to GAO.

(c) Any party served with a copy of a request for an advisory opinion may submit written comments on the request to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548. Copies of such comments shall be promptly served on all known interested parties. Comments should be submitted within 20 calendar days after the date of service of the request in order to ensure consideration by the General Counsel.

(d) A copy of the advisory opinion of the General Counsel will be forwarded to the requester and to all persons who have been served with a copy of the request.

§ 21.6 Time for issuance of decisions and advisory opinions.

Decisions and advisory opinions under this part will be issued as expeditiously as possible, normally within 60 calendar days after the expiration of the 20 day period for filing responses pursuant to § 21.4(c) or § 21.5(b). Where a delay is anticipated, interested parties will be notified and provided with a tentative date for issuance of the decision or advisory opinion.

§ 21.7 Deference to grievance and arbitration procedures established pursuant to 5 U.S.C. Chapter 71.

(a) *Final and binding arbitration awards.* Payments made pursuant to an

arbitration award which is final and binding under 5 U.S.C. § 7122 (a) or (b) will be considered conclusive on GAO in its settlement of the accounts involved, and the Comptroller General will not review or comment on the merits of such an award. However, payments made pursuant to such an award do not constitute precedent for payment in other instances not covered by the award.

(b) *Matters subject to a grievance procedure.* The Comptroller General will not issue a decision or comment on the merits of a matter which is subject to a negotiated grievance procedure authorized by 5 U.S.C. 7121, except upon the request of an authorized certifying or disbursing officer, or the joint request of an agency and labor organization. Requests will be considered joint for purposes of this subsection when the other party has been served pursuant to § 21.4 and has not objected to submission of the matter to GAO.

(c) *Claims against the United States.* Except as provided in paragraph (a), nothing in this section restricts or limits an individual's right to have a claim against the United States adjudicated pursuant to part 31 of Title 4, Code of Federal Regulations.

§ 21.8 Discretion to decline issuance of a decision.

The Comptroller General will not issue a decision on (a) any matter which the Comptroller General finds is more properly within the jurisdiction of the Federal Labor Relations Authority or other administrative body or court of competent jurisdiction, or (b) on a matter which the Comptroller General finds is unduly speculative or otherwise not appropriate for decision.

§ 21.9 Distribution of decisions.

(a) A copy of a decision of the Comptroller General will be forwarded to the requester and to all other interested parties of record.

(b) Any person interested in receiving copies of decisions issued under this part may request to be placed on the distribution list maintained for that purpose. Requests should be directed to the Chief, Legal Information and Reference Services, U.S. General Accounting Office, Washington, D.C. 20548.

Elmer B. Staats,

Comptroller General of the United States.

[FR Doc. 80-25329 Filed 8-20-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 659, Amdt. 1; Valencia Orange Reg. 660]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 22–August 28, 1980, and increases the quantity of such oranges that may be so shipped during the period August 15–August 21, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 22, 1980, and the amendment is effective for the period August 15–August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 19, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 908.960 is added as follows:

§ 908.960 Valencia Orange Regulation 660.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 22, 1980, through August 28, 1980, are established as follows:

(1) District 1: 376,000 cartons;
(2) District 2: 424,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

§ 908.959 [Amended]

2. Paragraph (a) in § 908.959 Valencia Orange Regulation 659 (45 FR 54063), is hereby amended to read:

(a) * * *
(1) District 1: 400,000 cartons;
(2) District 2: 450,000 cartons;
(3) District 3: Open Movement.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 20, 1980

D.S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-25725 Filed 8-20-80; 12:23 pm]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R-0323]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by Hurricane Allen in Texas counties of Aransas, Brooks, Cameron, Hidalgo, Jim Wells, Kleberg, Nueces, San Patricio, and Willacy.

EFFECTIVE DATE: August 11, 1980, for the Counties of Cameron, Jim Wells, Kleberg, Nueces, San Patricio, and Willacy; August 14, 1980, for the Counties of Aransas, Brooks, and Hidalgo.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3711).

SUPPLEMENTARY INFORMATION: On August 11, 1980, and August 14, 1980, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Texas counties of Cameron, Jim Wells, Kleberg, Nueces, San Patricio, and Willacy, and the counties of Aransas, Brooks, and Hidalgo, respectively, major disaster areas. The Board regards the President's actions as recognition by the Federal government that a disaster of major proportions has occurred. The President's designations enable victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1]

The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of Hurricane Allen beginning August 10, 1980. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to August 11, 1980, and August 14, 1980, for the designated counties, respectively, and will remain in effect until 12 midnight February 15, 1981.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in section 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within the designated counties of Texas, which have been officially designated major disaster areas by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Texas, directly affected by the severe damage and destruction occasioned by Hurricane Allen, good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), August 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-25539 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

[1] Effective July 1, 1979, section 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forfeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion thereof, are paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed the current ceiling rate for a savings deposit under section 217.7 and the depositor shall forfeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with the consent of the depositor. For time deposits entered into, renewed, or extended on or after June 2, 1980, the minimum early withdrawal penalty for time deposits with an original maturity of one year or less is a forfeiture of an amount equal to three months of interest earned, or that could have been earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit. For early withdrawals from time deposits with original maturities of more than one year, the minimum penalty shall be a forfeiture of an amount equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit. For time deposits with original maturities of less than three months, the minimum early withdrawal penalty is forfeiture of an amount equal to the amount of interest that could have been earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit had the funds remained on deposit until maturity. Banks may, with the depositor's consent, calculate the early withdrawal penalty for time deposits existing prior to June 2, 1980, on the basis of the nominal simple rate of interest paid on such deposits.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 80-491]

Federal Savings and Loan Institutions; Change in Control

Dated: August 15, 1980.

AGENCY: Federal Home Loan Bank Board

ACTION: Final regulations.

SUMMARY: The Board has amended and adopted on a permanent basis the temporary regulations issued on February 7, 1979 to implement the Change in Savings and Loan Control Act of 1978. The amended regulations will require notice to an institution that is the subject of a proposed acquisition of control, and afford it the opportunity to present its views; the notice will also be publicly available. The Board has also amended the regulations by limiting one of the tests of presumption of control, that of acquisition of ten percent of an institution's voting stock, to institutions having assets of at least $250 million and 1200 shareholders. The Board believes that adoption of permanent regulations and the described amendments to the regulations will reduce confusion and regulatory burden on institutions, provide the public with greater access to acquisition information, and result in fairer and more comprehensive review procedures.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Wendy B. Davis, (202) 377–6465, Richard L. Little, (202) 377–6452 or James S. Fleischer, (202) 377–6417, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Effective March 10, 1979, the Change in Savings and Loan Control Act of 1978 ("Control Act"), Title VII of the Financial

Institutions Regulatory and Interest Rate Control Act of 1978, generally requires persons who intend to acquire control of a stock insured institution, including a savings and loan holding company as defined in section 408 of the National Housing Act (12 U.S.C. 1730a), to give the Federal Savings and Loan Insurance Corporation ("Corporation") prior written notice. The Control Act authorizes the Corporation to disapprove the proposed acquisition on specified grounds.

Temporary regulations were adopted by the Federal Home Loan Bank Board, as operating head of the Corporation, on February 7, 1979, (44 FR 10500, published on February 21, 1979), to implement the Control Act. These regulations revised existing change in control regulations which applied to both stock and mutual associations. The temporary regulations added a section dealing solely with stock associations and holding companies, and set forth reporting requirements related to changes in chief executive officer or director occurring after a change in control. The Board solicited public comments on the temporary regulations, and twelve were received from Federal Home Loan Banks, insured institutions, both mutual and stock, a savings and loan holding company, attorneys, and a stock brokerage firm. After consideration of the public comments and other available information, the Board has determined to adopt permanent regulations in this area, with changes from the temporary regulations as discussed below.

The Control Act requires prior written notice to the Corporation whenever a person acquires power to vote 25 percent of the stock or to direct the management or policies of an insured institution or holding company. Under the temporary regulations, a rebuttable presumption of the power to control management or policies is raised from the acquisition of the power to vote ten percent or more of any class of voting securities if the institution has any class of securities subject to the registration requirements of the Securities Exchange Act of 1934 ("1934 Act"), or if, after the acquistion, the person would hold the largest portion of the acquired class of stock. As amended, the presumption will apply only to acquisition of the power to vote 10 percent or more of any class of voting securities of an institution having at least $250 million in assets held of record by 1200 or more persons, or acquisitions resulting in the acquiring person becoming the holder of the largest portion, or an amount equal to the largest shareholder's portion, of any class of voting stock.

The temporary regulations presume that ten percent of the shares of a very small institution meeting the minimum registration requirements of the 1934 Act, e.g. one having 500 shareholders and $1 million in assets, would likely constitute a controlling interest in such institution, and as a result a person acquiring such an interest should be required to rebut the presumption of control. However, experience has shown that ten percent ownership alone does not necessarily constitute a controlling interest in many of the institutions subject to the 1934 Act. A number of institutions which do not meet the 500 shareholder and $1 million in assets requirements are nonetheless registered under and subject to the 1934 Act due to other applicable Board requirements. Thus, the temporary regulations apply the ten percent presumption of control to many smaller institutions solely as a result of their registration under the 1934 Act. The Board has found that the power to vote ten percent of an institution's stock is more likely to constitute control of a larger institution, due to the increased number of shareholders with relatively few shares and the resultant lack of concentration of voting power in a readily identifiable group. Therefore, it is an unnecessary administrative burden to apply the ten percent presumption of control to all institutions registered under the 1934 Act.

The Board believes that the total number of shareholders in conjunction with the relative size of the institution is a far better benchmark for applying a presumption of control than is the 1934 Act criterion. Twelve hundred shareholders of record of an institution with $250 million in assets is a rational point at which to presume that 10 percent ownership may constitute control. The former figure has been drawn from the requirements for listing an institution on the American Stock Exchange, while the latter is the Board's guideline for distinguishing between local and regional associations. The ten percent presumption should apply only to those situations where a significant effect on the public market is possible, and where the presumption is likely to be supported.

The temporary regulations provide an informal opportunity for a person subject to the presumption of control to demonstrate lack of actual control over the institution or holding company for purposes of these regulations. Several commenters suggested that the institution involved should have the opportunity to comment on any attempt to rebut the presumption of control. Therefore, in the interests of fairness and of providing the Corporation with as much information as possible, the permanent regulations give the institution subject to a proposed acquisition the opportunity to respond. This response, however, must be submitted within ten days of notification to the institution of a request by the acquiring person to rebut the presumption of control. All comments should be submitted in good faith and not for purposes of delay.

Three significant changes have been made to the notice section. First, reflecting the great majority of comments received, the regulation provides for notification to the institution subject to a proposed acquisition of control in the event of a filing. The temporary regulations do not provide for such notification. The Board in adopting these regulations is not attempting to interrupt normal trading market activities. The trading of sufficient blocks of shares to acquire greater than ten percent ownership of a relatively large institution, however, usually does not constitute normal market activity. The rationale for this notice is that the institution is charged with the responsibility of informing its stockholders and the marketplace of important events which may affect its operations, and the institution must therefore be provided with the information necessary to fulfill this responsibility. It is the Board's intention to eliminate any possibility that an acquiring person could receive permission to acquire ten percent of an institution's shares before the institution is aware of the proposed acquisition. Second, the final regulations provide that any determination regarding the presumption of control or of notification of intent not to disapprove an acquisition be communicated to the institution and the acquiring party simultaneously. The third change requires that notices of intended acquisitions be made available to the public, with the exception of any portions containing confidential information.

The amended regulation also establishes a 20 day period subsequent to any initial filing under the Control Act, and before Board action takes place, during which an institution subject to a proposed acquisition of control may submit written comments to the Board. The regulation does not provide for any form of hearing, nor is it intended as an adversary procedure. Under the temporary regulations, the Board bears the entire burden of investigating a potential acquiring person; a change permitting comments

from the institution could provide information about an acquiring person not available to the Board from other sources, and is therefore expected to prove valuable in helping the Board evaluate whether a proposed acquisition should be disapproved.

A further change makes a notice of intent not to disapprove a proposed acquisition effective only as long as there is no material change in conditions from those detailed in the acquiring person's notice, and in any event for a maximum of one year. This provision is designed to forestall consummation of a transaction under circumstances materially different from those that prevailed at the time of the Corporation's decision, and to prevent the Corporation from being committed indefinitely with respect to a pending acquisition.

The amended regulations provide that the Board's Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, has delegated authority to make certain determinations in connection with the administration of the Control Act. The Board has adopted a more centralized procedure in order to ease the burden on Supervisory Agents while utilizing the significant resources of the Board, including a staff experienced in resolving these types of securities and related questions, and to avoid the potential for inconsistent rulings on substantially similar filings.

In addition, several technical changes have been made. Primarily, these consist of requirements for simultaneous filings with the Board and the appropriate Federal Home Loan Bank, and provision by the acquiring party of a notice without confidential information suitable to be made available to the public. Also, as suggested by several commenters, a definitions section has been added, for the readers' convenience, incorporating the statutory definitions to which the temporary regulation referred.

Accordingly, the Board hereby amends Part 563 of the Rules and Regulations for Insurance of Accounts, as set forth below.

Subchapter D—Insurance of Accounts

PART 563—OPERATIONS

§ 563.18–1 [Adopted]

1. Adopt temporary § 563.18–1 as a final regulation.

2. Adopt temporary § 563.18–2 as a final regulation, and amend it to read as follows:

§ 563.18–2 Changes in control of stock institutions including savings and loan holding companies.

(a) *Scope.* This section applies only to changes of control under section 407(q) of the National Housing Act, as amended (12 U.S.C. 1730(q)) ("Control Act").

(b) *Definitions.* As used in this section,

(1) "Person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein;

(2) "Control" means the power, direct or indirect, to direct the management or policies of an insured institution or to vote 25 percent or more of any class of voting securities of an insured institution;

(3) "Stock" means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto;

(4) "Insured institution" or "institution" shall include any savings and loan holding company, as that term is defined in section 408 of the National Housing Act, which has control of any insured institution.

(c) *Acquisitions requiring prior written notice.* (1) *General.* Unless a transaction is exempted under paragraph (d) of this section, 60 days' prior written notice to the Corporation is required whenever any person or persons acting in concert, through a purchase, assignment, transfer, pledge, or other disposition of voting stock, will acquire power—

(i) To direct the management or policies, or

(ii) To vote 25 percent or more of any class of voting securities of any insured institution.

(2) *Transactions presumptively requiring notice.* For purposes of this section, a person shall be presumed to acquire power to direct the management and policies of an insured institution whenever the person will acquire power to vote ten percent or more of any class of voting securities of the institution and

(i) The institution has assets of at least $250 million and has issued any class of voting securities held of record by 1200 or more persons; or

(ii) The person, after the acquisition, would hold the largest portion, or an amount equal to the largest shareholder's portion, of any class of voting stock.

(3) *Rebuttal of presumption.* Any acquiring person may request an opportunity to rebut the presumption established in paragraph (c)(2) of this section. The Corporation will afford such person an opportunity to present views in writing or orally before its designated representatives, either at an informal conference discussion or an informal presentation of evidence. The Corporation shall notify the institution, in writing, of any request by an acquiring person to rebut the presumption of control and inform the institution of its right to submit comments within ten days from the date of such notification. The Corporation shall have ten days from the date of receipt of any comments from the institution, or 20 days from the date the views of the acquiring person are presented at an informal conference discussion or presentation of evidence, whichever period is greater, within which to determine whether such presumption has been rebutted. Notice of the decision of the Corporation shall be released simultaneously to the acquiring person and the subject institution.

(4) *Presumption to apply prospectively.* Any person who is deemed to have had the power to direct the management or policies of an insured institution continuously since March 9, 1979, solely on the basis of the presumption contained in paragraph (c)(2) of this section, must either give prior written notice as prescribed by this section or seek a determination by the Corporation that the person has had such power, before acquiring additional voting securities in the institution.

(d) *Transactions exempt from notice.* (1) *Transactions entirely exempt.* Notice is not required for—

(i) Transactions subject to section 408 of the National Housing Act (12 U.S.C. 1730a), whether or not prior Corporation approval is required by that section,

(ii) Transactions subject to approval under Part 546 of this Chapter or § 563.22 of this subchapter;

(iii) Acquisition of additional shares of any class of voting securities in an insured institution by any person who

(*a*) Has held power to vote 25 percent or more of any class of voting securities in such institution continuously since March 9, 1979, or

(*b*) Has maintained control of the institution continuously since acquisition of control in compliance with this section and the Control Act; and

(iv) Acquisition of power to vote 25 percent or more of any class of voting securities in an insured institution by virtue of receipt of any pro rata stock dividends.

(2) *Transactions exempt from prior notice.* If a person would obtain control

ACTION: Final rule.

responsibilities set forth in § 303.4a

reexamining its requirements for

as a result of acquisition of voting securities in an insured institution—

(i) In satisfaction of a debt previously contracted in good faith, or

(ii) Through testate or intestate succession or bona fide gift—

the acquiring party need not provide advance notice but must advise the Corporation in writing within 30 days of the acquisition and provide such information as the Corporation may request.

(e) *Notice.* (1) *Form and contents.* In the discretion of the Corporation, a notice required under paragraph (2) of the Control Act shall not be deemed sufficient unless it is responsive to every item

(i) Listed in paragraph (6) of the Control Act, or

(ii) Specified in a form prescribed by the Corporation for such transactions.

(2) *Specified information.* As to any form of notice prescribed for acquisition under this section, the Corporation may

(i) Waive any information deemed unnecessary, or

(ii) Require additional information to the extent permitted under paragraph (6) of the Control Act.

(3) *Receipt of notice; effect.* The period for Corporation review of any proposed acquisition will begin upon receipt by the Corporation of a notice substantially complying with the provisions of paragraph (e)(1) of this section. The Corporation will send a letter of acknowledgment to an acquiring person and to the institution indicating the date of receipt of a notice deemed sufficient or specifying the reasons why a notice is insufficient.

(4) *Availability to public.* Any notice received pursuant to this section will be available for public viewing at the Public Information Office of the Federal Home Loan Bank Board, except for confidential information required by any prescribed form.

(f) *Comments by institution.* Within 20 days of the date of the Corporation's letter of acknowledgment indicating notice is sufficient, the institution may submit written comments to the Corporation.

(g) *Action by Corporation.* Prior to expiration of the 60-day review period prescribed in paragraph (c) of this section or any extension thereof under paragraph (i) of this section, but subsequent to the expiration of the 20 day period for comments by the institution prescribed in paragraph (f) of this section, the Corporation may notify the acquiring person and the institution of:

(1) Its disapproval of the proposed acquisition on any of the grounds listed in paragraph (7) of the Control Act and advising that the acquiring party may request an administrative hearing under paragraph (4) of the Control Act, or

(2) Its intent not to disapprove the proposed acquisition if consummated within one year and absent any material changes-in circumstances, upon receipt of which the acquisition may take place.

(h) *Failure to disapprove.* If, upon expiration of the 60-day review period or any extension thereof, the Corporation has failed to disapprove a proposed acquisition, such acquisition may take place.

(i) *Extensions of review period.* The 60-day period may be extended by the Corporation.

(1) For up to 30 days for any reason, or

(2) (i) For any length of time necessary, in the judgment of the Corporation, for an acquiring party to submit a materially complete and accurate notice, and (ii) up to 30 days thereafter.

(j) *Filing procedures.* Any notice or other submission required or provided for in the Control Act or this section shall be filed as follows:

(1) The original and two copies, including one copy marked "Public", which contains the entire notice except for confidential information required by any prescribed form, shall be filed with the Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552; and

(2) Two copies shall be filed with

(i) The Principal Supervisory Agent, as defined in § 561.35 of this subchapter, with respect to an insured institution, or

(ii) The Supervisory Agent, as defined in § 583.3 of this chapter, with respect to a savings and loan holding company.

(k) *Authority to take action.* (1) *Sole authority in Corporation.* The Corporation alone shall exercise the authority to

(i) Disapprove any proposed acquisition, or

(ii) Issue a notice of its intent not to disapprove any proposed acquisition whenever the appropriate State savings and loan supervisory agency seasonably recommends disapproval in writing on any of the grounds specified in paragraph (7) of the Control Act.

(2) *Delegations.* The Corporation hereby delegates authority:

(i) To the Office of Examinations and Supervision, with the concurrence of the Office of General Counsel, to—

(*a*) Require information from an acquiring party exempt from the prior notice requirements under paragraph (d)(2) of this section,

(*b*) Determine sufficiency of a notice for the purpose of beginning the review period under paragraph (e)(3) of this section,

(*c*) Waive any information or require additional information under paragraph (e)(2) of this section,

(*d*) Determine that a notice is materially complete or accurate for the purpose of resuming the review period under paragraph (i)(2) of this section,

(*e*) Act as designated representatives and decide whether a presumption of control has been rebutted under paragraph (c)(3) of this section,

(*f*) Determine the existence of control prior to the effective date of the Control Act under paragraph (c)(4) of this section,

(*g*) Extend the review period under paragraph (i) of this section,

(*h*) In the absence of a recommendation by the appropriate State savings and loan supervisory agency for disapproval, issue notices of intent not to disapprove proposed acquisitions under paragraph (g)(2) of this section, and

(*i*) Act on behalf of the Corporation with respect to the exercise of any authority not expressly reserved to the Corporation under paragraph (k)(1) of this section.

(*l*) *Supervisory cases.* Any right to notice and provision for comment prescribed by this section may be deemed inapplicable by a finding by the Corporation that a transaction otherwise subject to the provisions of this section is to be effected for the purpose of rehabilitating or resolving a supervisory case.

§ 563.18–3 [Adopted]

3. Adopt temporary § 563.18–3 as a final regulation.

(Title VII, Financial Institutions Regulatory and Interest Rate Control Act of 1978, sec. 407, 48 Stat. 1260, as amended, 12 U.S.C. 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 2 CFR, 1943–48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–25520 Filed 8–20–80; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 301, 303, 304, 307, 311

Establishment and Organization; Organizational Structure of Economic Development Districts

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: This rule makes a minor revision to the definition of "Economic Development Center" by deleting the phrase "not located in a redevelopment area." EDA is making this revision in order to bring the definition into conformance with the substantive requirements regarding economic development centers found at 13 CFR Part 303, Subpart B. This change is not related to the other changes made by this rule.

(2) An interim rule revising the requirements regarding the type of organization required for areas to receive designation as economic development districts and to receive assistance under EDA's grant and loan programs was published in the **Federal Register** on June 6, 1979, 44 FR 32359 *et seq.*, with a minor correction thereto published on June 29, 1979, 44 FR 37905–06. The rule was published as an interim rule because of certain exigencies related to making new district fundings. However, review and comment procedures of Executive Order 12044 were followed and the result thereof and other considerations underlying publication of this final rule are discussed at length below.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Victor A. Hausner, Deputy Assistant Secretary for Policy and Planning, U.S. Department of Commerce, Economic Development Administration, Washington, D.C. 20230, (202) 377–3121.

SUPPLEMENTARY INFORMATION:

I. Procedural Background

On June 6, 1979, the Economic Development Administration published interim rules affecting the "Organizational Structure of Economic Development Districts". These interim rules dealt with Title 13 of the Code of Federal Regulations, Parts 303, 304, 307, and 311. Although these rules were determined by the Agency to be "significant" under terms of Executive Order 12044, the June 6 rules were issued as interim rather than proposed rules because of certain exigencies related to making new district fundings in FY 1979. The interim rules provided for comments by August 6, 1979.

On June 29, 1979, EDA published a correction to the June 6, 1979 interim rules. An internal reference number in the paragraph on "Basic Organizational Requirements" (§ 303.4(c)(1); now § 303.4–1(c)) was corrected to make it clear that each district organization would be required to meet the District organization functions and responsibilities set forth in § 303.4a (now § 303.4–3) along with the representation and staff support requirements correctly specified in the June 6 interim rules.

Before "significant" rules can be published as final, Executive Order 12044 requires the publication in the **Federal Register** of a summary of the recommendations received during the review and comment period, together with a statement and justification of the Agency's disposition of such recommendations in the final regulations. Parts II, III and IV to this "Supplementary Information" set forth the background, a summary of comments received on these regulations, and EDA's decisions on the content of the final rules.

II. History of the Development of the Regulations

A. *Publication of a Regulation Requiring One-Third Non-Elected Private Citizens on Economic Development District Boards.* In a letter to the Agency, dated January 23, 1976, the Chairman of EDA's National Public Advisory Committee recommended that the rules on economic development district (EDD) board composition be revised to require that at least one-third of the district board members should be private citizens. On October 19, 1976, the substance of this recommendation was published as a final rule in the **Federal Register.** EDA issued regulations requiring that one-third of the EDD board be private citizens who are neither elected officials of, nor employees of, a unit of general purpose local government. This regulation took immediate effect on districts to be designated after October 1976. Existing EDDs were given until January 1, 1978 to comply.

EDA received letters from 44 organizations in response to this action. These organizations uniformly protested the procedure of initially publishing this requirement as a final rule. These respondents appealed to EDA to withdraw the rule and to provide for organizational flexibility. The Agency responses at that time were: (1) That the rule was only the codification of prior EDA practices; (2) that there were congressional intent and legislation which support the requirement of public and private representation; (3) that the rule would stay in force; and (4) that if the Agency later reexamined its regulations on this subject then the comments would be taken into account.

B. *Reexamination of Requirements for Composition of the Boards of Directors of Economic Development Districts.* In April 1977, the Agency began reexamining its requirements for economic development district board composition. The National Association for Regional Councils recommended substitute regulatory language to provide for alternative ways to achieve broad representation on economic development district boards. Staff of a U.S. Senator submitted a position paper that recommended that EDA should establish two separate categories for economic development districts. One proposed category would be designed for non-urban areas and the other for urban metropolitan areas. Greater organizational flexibility was proposed for the urban metropolitan areas.

EDA considered these proposals and began a public consultation process to develop specific proposals for revising these regulations. EDA considered different organizational approaches that might allow an organization to retain its existing structure while meeting EDA's representational requirements through an advisory committee or subcommittee.

Reexamination of this regulation and consultation with the public involved the following steps:

1. Staff studies of the intergovernmental practices under a variety of Federal assistance programs and of the Options proposed for change in EDA regulations.

2. Public issuance of the principles guiding the reexamination.

3. Public briefing on November 3, 1977 of public interest groups and minority organizations concerning the options considered by EDA and the tentative course of action proposed.

4. In a succession of actions, EDA extended the date by which existing districts would have to comply with the requirement for one-third of the board of directors to be non-elected private citizens. The original deadline of January 1, 1978, was extended to May 1, 1978, then to October 1, 1978 and finally to October 1, 1979. The June 6, 1979, interim rules removed the October 1, 1979 compliance deadline date and indicated that all previously authorized or designated districts would have one year following final rules to comply.

5. The Senate Appropriations Committee acted to increase the number of funded economic development districts through a FY 1979 budget increase. The Committee was concerned that the unfunded districts included many candidates which did not comply with the EDA district board composition requirements. In its Report of July, 1978, the Committee instructed EDA "promptly to modify the existing regulations to make eligible these types of regional agencies for participation in the program."

6. The Chairmen of EDA's House and Senate Authorizing Committees and the Chairmen and Ranking Minority Members of the respective Economic Development Subcommittees wrote the Secretary of Commerce on October 5, 1978, to request that EDA "withhold contemplated changes to eliminate entirely private sector representation in these regulations until the House and Senate authorizing committees in early 1979 examine thoroughly this difficult issue." Secretary Kreps, in acceding to their request, indicated that "The need for an early-1979 resolution of this board composition issue is * * * clear and convincing."

7. On October 13, the Assistant Secretary for Economic Development testified on this matter before a joint hearing of the Subcommittee on Economic Development and the Subcommittee on Investigations and Review of the House Committee on Public Works and Transportation. Three options were proposed: (a) To retain the regulations then in effect, (b) to allow councils of governments (COGs) dominated by elected officials to gain EDD designations by lodging primary economic development functions in a related organizational unit which meets EDA requirements, and (c) to take a performance approach, allowing an EDD to use any organizational arrangement it chose, provided that economic development responsibilities were effectively carried out and significant representation of principal economic interests, minority groups, private citizens, and local governments was achieved. Discussion of this issue by Committee Members was interpreted by the Agency as approving the further development of the second option. This was later confirmed by the House Committee on Public Works and Transportation in House Report 96–180.

During this "reexamination" phase of the development of the interim regulations the Agency received letters from 40 respondents which recommended that the flexible regulations be adopted. Three other respondents recommended that EDA should not change the regulations.

C. *Issuance of EDA recommended policy on composition of the boards of directors of economic development districts.* On January 30, 1979, EDA publicly issued its recommended policy on economic development district board composition and draft implementing regulations.

The main elements of the EDA proposal in the January 30 position paper were as follows:

"EDA proposes to continue current board composition requirements for existing economic development districts and generally for other regional organizations which want to become EDDs. For organizations that want to become EDDs, EDA proposes to change the regulation to provide for waiver of existing requirements to permit, in very limited cases, the use of one of a variety of organizational options. Waivers would be granted where a potential district is precluded by State law (or local law) from compliance with existing requirements or in other circumstances where compliance would create a special hardship. Only in rare occasions would EDA allow such waivers for existing districts. Waivers would only be granted where the district demonstrates special hardship and concurrence of the principal economic interests, minority interests and local governments that are involved in the district.

In cases where a waiver was granted, the organization seeking EDD designation would have to establish a special organizational unit (e.g., an augmented COG governing board, a subcommittee or policy advisory committee to the COG, an economic development component to a bi-cameral decisionmaking institution or another type of organization not cited by EDA) that does meet EDA requirements.

EDA scheduled briefings for the staffs of the concerned Congressional Committees and for public interest groups and minority groups following this issuance. In addition, 14 state and local government public interest groups and organizations representing minority interests were given copies of these documents and were invited to a briefing.

A small number of these organizations attended a briefing on March 2, 1979, during which general support was expressed for the EDA proposal. However, concerns were expressed that the waiver provisions should be implemented in a way that would result in a sufficient level of flexibility. One attendee recommended that EDA should not use the waiver mechanism, but rather, should allow prospective district organizations to have complete discretion to select and use one of the organization options.

The Agency also received letters in response to the January 30 documents. Nine respondents were in favor of the proposed changes, and of these, some proposed specific substitute language to improve the draft regulations. Two other respondents advised the Agency not to make the changes proposed by the draft regulations.

As part of its FY 1980 Budget review process, the Senate Committee on Environment and Public Works conducted a hearing February 22, 1979, on the subject of economic development district board composition. The Agency outlined its January 30 proposal for organizational structure of economic development districts. The Agency interpreted the discussion of the Committee members to be approval of the Agency's proposal. This was later confirmed in Senate Report 96–270.

D. *Publication of Interim Rules on the "Organizational Structure of Economic Development Districts".* On June 6, 1979, EDA published interim rules to implement the course of action that the Agency had proposed in January. Public comments on these interim rules were invited. During the formal review and comment period, fifty-two persons or organizations sent comments to EDA. Forty-two respondents recommended that the Agency withdraw the provisions for alternative organizational arrangements and return to the rules in place before June 6. Ten respondents approved the general effect of the interim rules but many of them recommended substitute language which would significantly increase the number of organizations to qualify for flexible arrangements. A summary of the comments from these respondents is given below in Section III.

E. *Summary of the Consultation on the Regulations.* Since the October 19, 1976 publication of the rule which required that one-third of district governing boards should be composed of private citizens, there have been 125 respondents who advised the Agency, in a total of 210 letters, concerning the regulations on economic development district organizational structure. Of these respondents, 46 recommended that the Agency should continue with the then-existing requirement that representatives of the principal economic interests, local governments, minorities, the unemployed-underemployed and private citizens be directly represented on the district board. On the other side of the issue, 79 respondents generally favored changes in the regulations to allow alternative organizational arrangements for involvement of representatives of these interests.

The respondents who opposed the rule change were made up largely of members of community action groups, their national and state associations and state community affairs agencies. The respondents who favored the changes were regional planning commissions, councils of governments, their national and state associations and state agencies concerned with comprehensive planning and economic development.

F. *Recent Congressional Action.* Since the issuance of the interim rules, there have been some congressional actions which influence the final rules on this subject. Senate Bill S. 914 (passed by the Senate on August 1, 1979), adds a new statutory paragraph:

"* * * authorizing the Secretary to provide for participation in district activities by economically important elements of the district, including governments, private sector representatives, minorities and representatives of the disadvantaged and long-term unemployed. This gives firm legislative grounding to EDA regulations concerning the composition of boards of directors of economic development districts currently in the process of being amended" (Senate Report 96–270, page 51).

Senate Report 96–270 further indicates that the Committee believed that there was reasonable argument for some flexibility in the organizational structure of economic development districts and that board composition requirements should not be frozen into law. While the Committee thereby supports flexibility, it did warn that it does not wish to invite any general move by existing districts to abandon their current arrangements for board membership—except where the districts face significant hardships.

In the floor discussion of S. 914 prior to its passage by the Senate, Senator Jennings Randolph, Chairman of the Committee on Environment and Public Works, made the following statement:

"This legislation affirms, in section 403(a)(5), that all elements of the economy within economic development districts should participate in the development process. In many areas such participation is assured by including representatives of the local business community, the long-term unemployed, and socially and economically disadvantaged minorities in the membership of district governing boards. EDA has, in fact, interpreted the law to require that district boards include such representation. I do not believe this to be a necessary interpretation.

It is possible, and may even be preferable, to assure participation of local businesses and the economically disadvantaged by other means than board membership. If districts can meet this participation goal in any other way, they should be permitted to do so. I see no reason why districts taking part in this program who can meet this goal with alternative to board membership should have to comply with the cumbersome waiver procedure currently required by EDA."

On May 15, 1979, the House Committee on Public Works and Transportation reported its bill, H.R. 2063, to extend authorization for EDA. House Report 96–180, accompanying H.R. 2063, references the oversight hearings (October 13, 1978) and hearings on H.R. 2063, and approves the policy directions that EDA has proposed for the organizational structure of districts. The report noted, "Districts should be continued and the Secretary should move as quickly as possible to extend the system and designate new Districts."

III. Summary of Comments Received in Response to the Publication of Interim Rules on the "Organizational Structure of Economic Development Districts"

EDA is required to summarize the substance of these comments and publish them in the **Federal Register** before rules can be published in final form.

The general view expressed by persons and groups in favor of EDA's past organizational requirements was that federally required citizen participation provisions are absolutely necessary to assure adequate minority and private sector representation. A typical response by those sharing this view held that "any retreat from the current requirements would be a severe blow to the private sector groups who have worked long and hard in providing direct community input into the local COGs and EDDs."

Those in favor of EDA's interim rule provisions argued that the composition of areawide planning agency governing boards should be left to local determination as long as there is an effective advisory committee structure that provides for valid representation by minority groups and private economic interests. Many of these groups and individuals stated that locally elected officials represent all the citizenry and maintain the only true accountability to the electorate for governmental business.

Detailed Recommendations From Respondents

EDA received widely varying specific recommendations for revising the language of the interim rules on the "Organizational Structure of Economic Development Districts". Most of these recommendations focused on the provision for waiver from the basic requirement for representation directly on the district board of directors (§ 303.4(c)(1)(ii); now § 303.4–1(c)(2)) and on the provisions for organizational options where a waiver is granted (§ 303.4(c)(4); now § 303.4–2(c)). These recommendations ranged from a suggestion at one extreme for a structural/quota formula that would reduce local government representation to below a majority of the board membership to a suggestion at the other extreme that all organizational requirements should be eliminated. These recommendations arranged on a spectrum ranging from strong structural requirements to extreme local government flexibility, are listed below:

1. Recommendation to require district board composition to be made up of one-third local governments, one-third private sector and one-third minorities and other special interests.

2. Recommendation that the waiver and organizational options be withdrawn, and that representation quotas be added to the representational requirements (§ 303.4(d); now § 303.4–1(d)) variously for:

—Women
—Ethnic groups
—Handicapped persons
—Community-based organizations
—⅓ private citizens

3. Recommendation that EDA rewrite the interim regulations to provide for non-quota representation of women in EDD organizations.

4. Recommendation that EDA withdraw the interim rule of ⅓ private citizens (§ 303.4(d)(3); now § 303.4–1(d)(3)) and return to the rule that ⅓ of the governing board must be private citizens.

5. Recommendations that only one organizational option—bi-cameral decisionmaking—be permitted.

6. Recommendation that EDA require appropriate recognition of the special interests of unemployed and working women in the minority representation requirements (Part 311).

7. Recommendation that proposed districts (§ 303.4(c)(2)(i); now § 303.4–2(a)(1)) and existing districts (§ 303.4(c)(2)(ii); now § 303.4–2(a)(2)) be given the equal opportunity to obtain a waiver under both the "legal impediment" and "special hardship" waiver provisions.

8. Recommendation that EDA adopt the approach of the Environmental Protection Agency regarding the responsibilities and authorities of "advisory group" (40 CFR 25) as an adequate replacement of the organizational options under waiver provisions (§ 303.4(c)(4); now § 303.4–2(c)).

9. Recommendation that representational requirements for non-elected private citizens (§ 303.4(d)(3); now § 304.4–1(d)(3)) be withdrawn altogether.

10. Recommendation that the "waiver" be automatic if a COG's board composition is specified by any state law.

11. Recommendation that "special hardship" provisions (§ 303.4(c)(2)(i)(B) and (ii) (A); now § 303.4–2(a)(1)(ii) and (a)(2)(i)), be rewritten to make the test one of the "practicability" of converting to the EDA standard of board composition.

12. Recommendations that the waiver provisions (§ 303.4(c)(2)(i)(A); now § 303.4–2(a)(1)(i)) be amended to add, variously, one of the following to the list of legal impediments which could become the basis for a waiver.

—State Governor's Executive Order
—Interlocal agreement
—Local laws

13. Recommendation that EDA drop all requirements regarding policy board composition.

14. Recommendation that EDA withdraw the "public hearings" provisions (§ 303.4(f)(3); now § 303.4–1(f)(3)) and substitute a requirement for the district organization to specify how it involved the public in its economic development process to meet citizen participation standards.

15. Recommendation that regulations (§ 303.4(c)(2)(i)(B) and (ii)(A); now § 303.4–2(a)(1)(ii) and (a)(2)(i)) which deal with "special hardship" be written to indicate specifically what does and does not constitute a "special hardship" that would qualify for a waiver.

16. Recommendation that EDA "Civil Rights Guidelines" (Part 311) for minority group representation be incorporated in regulations.

17. Recommendation for a change in the procedures for selecting minority representatives such that minority organizations would nominate a slate of representation candidates from which county commissioners would appoint the minority representatives on EDD boards.

IV. EDA Decisions on the Content of Final Rules on the Organizational Structure of Economic Development Districts

A. The Economic Development Administration has decided to retain, in the final rules, the interim rule provisions for: (1) Waiver, under limited circumstances, of the basic organizational requirement for representation directly on the district board of directors; (2) Alternative organizational arrangements under a granted waiver; and (3) A representation formula for principal economic interests, minority groups, the unemployed and underemployed, local governments and private citizens which is applicable to both an economic development district which meets basic requirements and to the EDA component of any district with a waiver of the basic requirements.

B. The Economic Development Administration will revise the interim rule provisions of (§ 303.4(c)(2)(i)(A); now § 303.4–2(a)(1)(i)) to permit citation, in a waiver petition, of a mandatory requirement of a State governor's executive order issued pursuant to a constitutional provision or state law as a basis for demonstrating a legal constraint on an organization's ability to comply with EDA's basic organizational requirement of interim rule § 303.4(c)(1); now § 303.4–1(c).

C. The Economic Development Administration has decided not to accept and implement the following recommendations from respondents: (1) *That the interim rules should be revised to establish a quota for representation of women on the board of directors of a district organization.* EDA will, through means other than these regulations, encourage public planning organizations to include women on their boards and committees. EDA will monitor and evaluate the effect of this policy over the course of the next year. EDA will then, based on the evaluation, on its experience under these final regulations, and on consultation with interested parties, develop, if necessary, a more formal policy for ensuring appropriate levels of women representation on boards and committees of public planning organizations.

Moreover, EDA will assist public planning organizations to comply with requirements of 42 U.S.C. 3123 which prohibit discrimination on the basis of sex in all EDA programs.

(2) *That the interim rules should be revised to spell out all criteria and standards for consideration of "special hardship" justification for waiver requests.* The interim rules contain as much specificity as can be set forth at this time. If all criteria and standards could be established, then it would not be necessary to use a waiver procedure.

(3) *That the interim rules should be revised to return to the former requirement that one-third of the representation on district boards should be non-elected private citizens.* The reason for this respondent recommendation is a misapprehension that under the one-fifth private-citizen formula there would not be enough private citizens positions on the board to meet minority representation requirements that may exceed 20 percent of the board. The percentage of minority representation on the district board is not limited by the private citizen requirement. Minority representation requirements can be met from among the required one-fifth private citizens, from elected officials currently serving on the board or from other private citizens or elected officials that will be added to the district board as necessary. EDA further reaffirms its position that private citizen interests, *per se*, adequately will be represented by one-fifth of each district board or EDA component.

(4) *That the interim rules should be revised to call for performance standards rather than required public hearings in order to provide for general public participation beyond that which can be achieved through representation requirements.* EDA has determined that the public hearings requirements are necessary to protect the interests of various target groups for whose benefit the EDA programs have been created. The public participation requirements are generally consistent with the public participation requirements that are imposed by other Federal agencies which also work with economic development districts.

5. *That EDA should reincorporate its "Civil Rights Guidelines" into the EDA regulations as they were prior to May, 1979.* EDA has determined that the incorporation of the "Guidelines" by reference in Part 311 of Chapter 13, *Code of Federal Regulations* provides adequate coverage and reference to civil rights requirements.

D. The final rules will also contain some technical and clarification changes which do not affect the substance of the published interim rules.

(1) Sections 303.4 and 303.4(a) have been reorganized and renumbered so that the final rules contain three sections as follows:

- § 303.4–1 which deals with the basic requirements for district organization;
- § 303.4–2 which deals with waivers to the basic requirements; and
- § 303.4–3 which deals with district organization functions and responsibilities.

(2) Revisions have been made to sections which refer to "overall economic development programs" (OEDPs) so that consistent terminology is used throughout the text of the rules.

(3) The phrase "special body" has been replaced with the phrase "EDA component" which is defined in § 303.4–1 of the final rules.

(4) The effective date for compliance with the representation requirement for one-fifth of the district orgainzation to be "private citizens" (§ 303.4(d)(3); now § 303.4–1(d)(3)) by districts which were authorized or designated prior to the publication of the interim rules (June 6, 1979) is set forth to be no later than one year from the date this regulation is published as a final rule. This effective date conforms to the policy published in the **Federal Register** on September 28, 1978 (43 FR 44473).

E. EDA has determined that these regulations will not have major economic consequences under criteria established pursuant to Executive Order 12044 and a regulatory analysis of these rules will not be prepared.

Accordingly, Parts 301, 303, 304, 307 and 311 of Chapter III of Title 13 of the Code of Federal Regulations are amended as follows:

PART 301—ESTABLISHMENT AND ORGANIZATION

1. 13 CFR 301.2 is revised by changing the definition of "Economic Development Center" to read as follows:

§ 301.2 Definitions.

* * * * *

"Economic Development Center" means any geographic area within the United States having a population of 250,000 or less which has been identified in an approved district overall economic development program as having the potential for economic growth and the ability to alleviate the economic distress of the redevelopment areas within the district.

* * * * *

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

2. 13 CFR 303.2(f) is revised and 13 CFR 303.2(g) is added to read as follows:

§ 303.2 Designation of economic development districts.

* * * * *

(f) Where a district organization has been established which meets the requirements of § 303.4–1.

(g) Where the proposed district organization requests such designation.

3. 13 CFR 303.4 and 303.4a are deleted and new §§ 303.4–1—303.4–3 are added to read as follows:

§ 303.4–1 District organizations.

(a) *Organization prerequisite to designation and funding.* The district organization is a prerequisite to initial and continued designation of an economic development district ("EDD"). In addition, it is prerequisite to the provision of planning grants.

(b) *Legal status.* Districts shall organize in one of the following ways: (1) As nonprofit organizations incorporated under the laws of the States in which they are located;

(2) As public organizations through intergovernmental agreements for the joint exercise of local government powers; or

(3) As public organizations established under State enabling legislation for the creation of multijurisdictional areawide planning organizations.

(c) *Basic organizational requirements.* Each district organization must meet EDA requirements concerning its membership composition as set forth in § 303.4–1(d), its authorities and responsibilities for carrying out economic development functions as set forth in § 303.4–3, and the maintenance of adequate staff support to perform its economic development functions as set forth in § 303.4–1(e) in one of the two ways cited below: (1) In general, the foregoing requirements must be met by the board of directors (or other governing body of the organization) as a whole.

(2) However, a waiver may be granted under provisions of § 303.4–2 to permit a district organization to use one of a variety of organizational options (hereafter, the "EDA component") set forth in § 303.4–2(c) to meet the basic organizational requirements.

(d) *Representation requirements.* The district organization shall demonstrate that either the district organization as a whole or its EDA component meets all of the following requirements: (1) It is broadly representative of the following interests:

(i) The principal economic interests of the district, including business, industry, finance, transportation, utilities, the professions, labor, agriculture, and education. In meeting this requirement, the representatives of the principal economic interests may be private citizens, part-time elected officials, or minority representatives also selected under paragraph (d)(1)(ii) of this section.

(ii) Minority groups. Minority representatives shall be selected in accordance with *Civil Rights Guidelines* issued pursuant to 13 CFR Part 311, and may be private citizens, elected officials, or government employees.

(iii) Representatives of the unemployed and underemployed.

(2) There is at least a simple majority of its membership who are elected officials of, or employees of, a general purpose unit of local government and who have been appointed to represent such government.

(i) Where appointment of local government members is not otherwise provided for by the district organization charter or by-laws, each county and major city which joins the district shall name an elected official or an employee to represent it.

(ii) Where appropriate to their non-governmental occupations, part-time elected officials may also represent the principal economic interests.

(3) There is at least one-fifth of its membership who are private citizens who are neither elected officials of a general purpose unit of local government nor employees of such a government who have been appointed to represent that government. All districts which have been authorized or designated prior to June 6, 1979, must comply with this provision no later than one year from the date that this regulation is published as a final rule.

(i) The district organization shall demonstrate that persons fulfilling this requirement represent the interests of groups listed in paragraphs (d)(1)(i) or (d)(1)(iii) of this section. Minority representatives who meet these criteria may be counted toward the fulfillment of the private citizen requirement.

(ii) Except where these private citizens are also selected as minority representatives under paragraph (d)(1)(ii) of this section, these representatives shall be appointed by the governing bodies of the counties actively participating in the district organization or as otherwise provided in the district organizational charter and by-laws.

(e) *Staff support.* (1) The district organization or its EDA component established according to § 303.4–2 shall be assisted by a professional staff drawn from qualified persons in planning, economics, business administration, engineering and related disciplines.

(2) EDA may provide planning grants to economic development districts to employ professional staff in accordance with Subpart B of Part 307 of this chapter.

(f) *Public participation.* District organizations shall provide access for persons who are not members of the district organization or its "EDA component" to make their views known concerning ongoing and proposed district activities in accord with the following requirements:

(1) At a minumum, the district organization shall conduct meetings open to the public once a year. It shall also publish the date and the agenda of the meeting at least four weeks in advance to allow members of the public a reasonable time to prepare to participate effectively in the meetings.

(2) The district organization shall adopt a system of parliamentary procedures to assure that board members and other interested persons and groups have access to and an effective opportunity to participate in the affairs of the district.

(3) Where an "EDA component" is used, the district organization is required to hold appropriate public meetings and hearings when it considers significant economic development matters involving authorities,

responsibilities, activities, or products of the EDA component.

(4) Information should be provided sufficiently in advance of public decisions to give citizens an adequate opportunity to review and react to proposals. District organizations should seek to relate technical data and other professional material to the affected citizens so that they may understand the impact of public programs, available options and alternative decisions.

§ 303.4–2 Waiver of district organization basic representation requirements and organizational options thereunder.

(a) *Conditions for waivers to basic representational requirements.* Under the following circumstances only, EDA will grant waivers to § 303.4–1(c)(1) to permit district organizations to use an "EDA component" to meet EDA basic organizational requirements: (1) Where the subject organization is not the governing body of a designated economic development district or is not receiving a planning assistance grant under 13 CFR Part 307, Subpart B, and

(i) Where the proposed district organization is not able to meet some part of the representational requirements of § 303.4–1(d) because of mandatory requirements of an interstate compact, a State law or constitutional provision, a State governor's executive order issued pursuant to a constitutional provision or state law or a homerule charter of a participating city or county, or

(ii) Where the proposed district organization demonstrates that it would undergo special hardship if it is required to reorganize in order to comply with the requirements of § 303.4–1(c)(1); or

(2) Where the proposed district organization is an existing designated or funded economic development district which demonstrates to the satisfaction of the Assistant Secretary: (i) That it would undergo a special hardship if it is required to maintain its district status through continued compliance with § 303.4–1(c)(1), and

(ii) That it has obtained concurrence in its proposal to reconstitute the district organization under § 303.4–1(c)(2) from the principal economic interests, minority interests, and local governments involved in the district.

(b) *Consideration of requests for waivers.* EDA will consider the following points (without excluding other possibilities) in determining whether to grant a waiver under the foregoing section.

(1) Where the waiver request is based on a legal constraint under § 303.4–2(a)(1)(i), the following kinds of situations would be the basis for a waiver: (i) Where the membership composition or the membership appointment procedures of the organization are legally specified such that it cannot meet EDA board membership requirements, or

(ii) Where only local government elected officials are legally allowed to participate in the joint exercise of local government powers.

(2) Where the waiver request is based on the demonstration of special hardship under § 303.4–2(a)(1)(ii) or § 303.4–2(a)(2), the following factors would be considered: (i) The record of the organization in delivering projects related to economic development to assist distressed populations of the area,

(ii) The mechanisms proposed to provide for the involvement of the private sector and of distressed populations, including minority groups and local jurisdictions with high rates of distress, in the economic development planning process,

(iii) The age and complexity of any interlocal agreement for the joint exercise of powers,

(iv) The array of public policy issues assigned to the organization and the appropriateness for the various categories of representation required by EDA to participate in voting on the issues, and

(v) The risk of any breach of contract obligations if the organization were required to restructure its governing board in order to comply with EDA regulations.

(c) *Organizational options available under waiver provisions.* Organizations which are granted a waiver of § 303.4–1(c)(1) may employ one of the following types of organizational structure as their "EDA component" in accordance with § 303.4–1(c)(2), to meet EDA's basic organizational requirements: (1) An augmented governing board whose membership meets EDA requirements;

(2) A subcommittee of the governing board where the subcommittee membership meets EDA's requirements;

(3) A policy advisory committee to the governing board where the committee membership meets EDA requirements;

(4) A bicameral decisionmaking organization in which dual policy bodies are created (consistent with § 309.17(b)), one of which meets EDA's requirements; and

(5) Other types of arrangements which are found by the Assistant Secretary to meet EDA's requirements.

§ 303.4–3 District organization functions and responsibilities.

(a) *Basic requirement.* Economic development districts (EDDs) must arrange to carry out two classes of functions and responsibilities: Those which every EDD must carry out (paragraph (b) of this section), and those which EDDs receiving grants must carry out (paragraph (c)). Where the district organization uses an EDA component to meet EDA requirements, as provided for in § 303.4–2, the EDA component of the district organization shall be given authority to carry out certain parts of these two classes of functions and responsibilities described in paragraph (d) of this section.

(b) *Functions and responsibilities common to all EDDs.* Subject to the requirements of § 303.4–1, EDDs are responsible for seeing that the following functions are provided for on a continuing basis.

(1) *Organizational actions,* including: (i) Arranging the legal form of organization which will be used;

(ii) Arranging for the membership of the board of directors to meet § 303.4–1 requirements;

(iii) Recruiting staff to carry out the economic development functions;

(iv) Establishing a management system;

(v) Contracting for services to carry out district functions; and

(vi) Establishing and directing activities of economic development subcommittees.

(2) *Civil rights responsibilities* of 13 CFR Part 311 including: (i) Arranging for the EDD board of directors and its executive committee to comply with EDA requirements for minority representation;

(ii) Submitting reports to EDA on the EDD's compliance with civil rights requirements (e.g., nondiscrimination on the basis of race, color, national origin, sex, or handicap); and

(iii) Preparing, taking action on and reporting on an affirmative action plan for the district.

(3) *Actions to develop and maintain the required district overall economic development program (OEDP), and any subsequent supplements or revisions, including:* (i) Preparing the analytic, strategic and implementation components of the OEDP;

(ii) Identifying economic development centers and redevelopment centers and any later boundary modifications;

(iii) Adopting the OEDP by formal action of the EDD governing board;

(iv) Submitting the OEDP and any supplements or revisions for reviews by appropriate governmental bodies and interested organized groups, and attaching dissenting opinions and comments received; and

(v) Obtaining EDA approval of the OEDP.

(4) *Preparation of proposals that EDA take actions* which: (i) Establish or change the designation status of the district or its growth centers; or

(ii) Affect economic development projects available to the EDD.

(5) *Coordination and implementation* of economic development activities in the district, including: (i) Entering into coordinative arrangements under OMB Circular A–95, as set forth at 13 CFR 309.17(b)(4);

(ii) Assisting other eligible units within the district to apply for grant assistance for economic development purposes;

(iii) Carrying out economic development related research, planning, implementation and advisory functions as are necessary and helpful to the coordination with other local, State, Federal, and private organizations, and as are necessary and helpful to the development and implementation of the overall economic development program;

(iv) Coordinating the development and implementation of the OEDP with other local, State, Federal and private organizations (including minority organizations); and

(v) Carrying out the annual OEDP plan for implementation.

(c) *Grants management activities.* Economic development district organizations which seek and receive EDA grant assistance must carry out grants management activities, including:

(1) Preparing application materials and accepting EDA grant offers;

(2) Arranging for the contribution of the required non-Federal matching share of the grant project costs;

(3) Receiving and managing the proceeds of the grant from EDA and of the matching share contributions;

(4) Complying with grant terms and conditions, including those pertaining to financial management and to work program requirements;

(5) Incurring expenses in carrying out the purposes of the EDA grant and charging these projects costs against grant project accounts; and

(6) Keeping records, and preparing and submitting reports on the grant project.

(d) *EDA component functions and responsibilities.* Where the EDD uses an EDA component to meet EDA requirements under § 303.4–1, the following functions and responsibilities (with the exception of subparagraph (4)(iii), which need not be exclusive to the EDA component) shall be lodged solely in the EDA component: (1) *Organizational actions.* The EDA component shall: (i) Adopt by-laws for the conduct of the functions and responsibilities assigned to the EDA component;

(ii) Establish and direct activities of economic development subcommittees;

(iii) Advise the district board of directors or the staff director, as appropriate, concerning the activities of the economic development staff which is established according to § 303.4–1(e)(1).

(2) *Civil Rights responsibilities.* The EDA component shall: (i) Assure that the required minority representatives participate in the functions and responsibilities of the EDA component; and

(ii) Work to resolve matters of civil rights compliance review and assist in implementing the district organization's ongoing affirmative action plan required under § 311.4(b) of 13 CFR Part 311.

(3) *Overall economic development program (OEDP) activities.* The EDA component shall have responsibility for: (i) Preparing and recommending adoption of the district OEDP, and of any subsequent supplements of revisions required by EDA, including the recommendation therein of project implementation priorities;

(ii) Making comments to the district organization board of directors concerning any board-initiated revisions of such OEDP documents;

(iii) Informing EDA when such revisions by the district organization board of directors constitute major departures from the recommendations of the EDA component and efforts to reinstate the substance of the recommended OEDP documents have not been successful;

(iv) Submitting the OEDP and any supplements or revisions for review by appropriate governmental bodies and significant organized interest groups, and the attaching thereto of dissenting opinions and comments received; and

(v) Determining when, on the initiative of the district, to revise and resubmit the OEDP.

(4) *Coordination and implementation activities.* The EDA components unit shall: (i) Enter into a planning-coordination memorandum of agreement with the A–95 areawide clearinghouse in accordance with § 309.17(b)(4), if the EDA component is organized under terms of § 303.4–2(c)(4);

(ii) Take actions required by EDA concerning grant or loan applications from other eligible applicants within the district which affect the district; and

(iii) Carry out economic development related research, planning, implementation and advisory functions as are necessary and helpful to the coordination with other local, State, Federal, and private organizations and to the development and implementation of the overall economic development program.

(5) *Application for and use of EDA grants.* The EDA component shall: (i) Advise the district organization board of directors concerning the scope of work section of grant applications; and

(ii) Comply with EDA terms and conditions relating to work program requirements.

4. 13 CFR 303.7(a)(1) is revised to read as follows:

§ 303.7 Termination and suspension of district designation.

(a) * * *

(1) Where the district no longer meets the standards for designation: (i) As set forth in § 303.2(a), (b), (c), (d), (f), or (g), or

(ii) As set forth in § 303.2(e), except that district designation status may be continued if those counties which would maintain their commitment to support economic development activities are determined by EDA to meet the other standards of § 303.2 and the standards of § 303.1.

* * * * *

PART 304—OVERALL ECONOMIC DEVELOPMENT PROGRAM

5. 13 CFR 304.3 is revised to read as follows:

§ 304.3 Redevelopment Area OEDP Committee.

(a) The preparation of the Area OEDP and of the ongoing development program which it charts is the primary responsibility of the Area OEDP committee.

(1) Area OEDP Committees are required only in those areas not located in districts. (District organization requirements are set forth at § 303.4–1, § 303.4–2 and § 303.4–3 of this chapter.)

(2) However, because of the crucial role of the OEDP committee, EDA recommends that all areas establish such an organization even though located within a district and using the district OEDP (as allowed under § 304.2).

(b) The Area OEDP committee shall be representative of the community so that all viewpoints are considered in discussion and decisionmaking and all available local skills are engaged in program formulation. Representation on the committee shall include representatives of local government (county, city, and town), business, industry, finance, agriculture, the professions, organized labor, utilities, education, minorities, and the unemployed or underemployed. 13 CFR Part 311 of this chapter, as implemented by the *Civil Rights Guidelines,* contains the requirements for the specific representation of minority groups.

(c) If an existing development group meets the criteria as set forth in paragraph (b) of this section, that group may function as the Area OEDP committee.

PART 307—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

Subpart B—Planning Grants and Economic Growth Study Grants

6. 13 CFR 307.25(b)(2) and (b)(2)(i) are revised to read as follows:

§ 307.25 Terms and conditions.

* * * * *

(b) * * *

(2) Except as set forth in paragraph (b)(2)(i) of this section, no planning grants to economic development district organizations will be extended unless at least three-fourths of the counties within the district boundaries indicate, by resolution or other appropriate document, their commitment to support the activities of the district.

(i) Where a sufficient number of counties have withdrawn from the district to make compliance with this three-fourths requirement impossible or unreasonable, EDA may fund the continuing committed counties in the name of the original district organization if the Assistant Secretary determines that the remaining counties can meet the requirements for authorizing and designating EDDs, as set forth at § 303.1 and § 303.2 of this chapter.

* * * * *

PART 311—CIVIL RIGHTS REQUIREMENTS ON EDA ASSISTED PROJECTS

7.13 CFR 311.4 is revised to read as follows:

§ 311.4 Public planning organizations.

(a) Minorities must be represented on the governing boards, or the EDA components established under § 303.4–2 of 13 CFR Part 303, of public planning organizations receiving EDA assistance as set forth in the *Guidelines*. Minorities must also be represented, as required by the *Guidelines*, on any executive committees as may be established by such governing boards or EDA components. Planning organizations shall comply with the requirements of the *Guidelines* to provide minorities with the opportunity to select their own representatives.

(b) Each planning organization must develop a written Affirmative Action Plan for its employees as set forth in the *Guidelines*.

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10–4 (September 30, 1975), as amended (40 FR 56702, as amended))

Dated: August 18, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80–25497 Filed 8–20–80; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 20632; Amdt. 39–3899]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of the pitch trim control system, replacement of the pitch trim unit and modification of associated wiring, and addition of white markings on the pitch trim control wheel on Airbus Industrie Model A300 series airplanes. This AD is prompted by a report of pitch trim runaway which could result in loss of control of the airplane.

DATES: Effective September 4, 1980. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Airbus Industrie, Airbus Support Division, BP 33, 31700 Blagnac, France.

Copies of the applicable service bulletins are contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Acting Chief, Technical Standards Branch, AWS–110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 426–8192.

SUPPLEMENTARY INFORMATION: The FAA has received a report of pitch trim control runaway with the autopilot engaged. Investigation of the incident revealed faults in the trim engage unit on Airbus Industrie Model A300 series airplanes which could result in loss of control of the airplane.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires checks of the pitch trim system before each flight until installation of a modified pitch trim unit and placement of white markings on the pitch trim control wheel on Airbus Industrie Model A300 series airplanes. Subsequent repetitive operational checks are required of specified components of the pitch trim control.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, certificated in all categories.

Compliance is required as indicated.

To prevent incorrect pitch trim control operation which could result in pitch trim control runaway and possible loss of control of the airplane, accomplish the following: (a) Before each flight, check the pitch trim system in accordance with the instructions in paragraph 2, "ACCOMPLISHMENT INSTRUCTIONS," of Airbus Industrie Service Bulletin No. A300–22–024, Revision No. 4, dated August 30, 1976, or an FAA-approved equivalent, on airplanes in which the modifications required by paragraph (b) of this AD have not been incorporated.

(b) Within the next 750 hours time in service after the effective date of this AD, unless already accomplished, modify the trim handwheel and the wiring between the electronic rack 80VU/STA 1380 and the flight compartment overhead panel, and replace the trim engage unit in accordance with the instructions in paragraph 2, "ACCOMPLISHMENT INSTRUCTIONS," of Airbus Industrie Service Bulletin No. A300–22–025, Revision No. 4, dated May 23, 1979, or an FAA-approved equivalent.

(c) After accomplishing the modifications required by paragraph (b) of this AD, comply with the following: (1) At intervals not to exceed 2,000 hours time in service from the last inspection, perform the operational inspection in accordance with paragraph 3.A. of Airbus Industrie Service Bulletin No. A300–22–025, Revision No. 4, dated May 23, 1979, or an FAA-approved equivalent.

(2) At intervals not to exceed 6,000 hours time in service from the last inspection, perform the functional inspection in accordance with paragraph 3.B of Airbus Industrie Service Bulletin No. A300–22–025, Revision No. 4, dated May 23, 1979, or an FAA-approved equivalent.

(d) After the modifications required in paragraph (b) of the AD have been accomplished, compliance with paragraph (a) of this AD is no longer required.

(e) If an equivalent means of compliance is used in complying with paragraphs (a), (b), and (c), that equivalent must be approved by the Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective September 4, 1980.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on August 14, 1980.

Jerold M. Chavkin,

Acting Director of Airworthiness.

[FR Doc. 80–25400 Filed 8–20–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 80–NW–1–AD. Amdt. 39–3889]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment further amends FAA Airworthiness Directive (AD) 79–04–01, which requires inspection and replacement as necessary, of certain main landing gear extension/retraction system components on Boeing Model 727 series airplanes whose failure can result in gear-up landings. This rule requires either (1) installation of an improved door safety bar mechanism (this terminates the repetitive inspection/replacement requirements), or (2) installation of improved lock system components and incorporation of an overhaul/maintenance program. Also, this rule requires replacement of certain main landing gear manual extension system support structure components and modification of the uplock assembly.

DATES: Effective date September 25, 1980.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The ATA report noted in this directive may be obtained upon request to the Air Transport Association (ATA) of America, 1709 New York Avenue, N.W., Washington, D.C. 20006. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION:

History

Failures in the main landing gear lock system on Boeing Model 727 series airplanes have occurred which caused missequencing and subsequent jamming of the gear and wheel well door. Nine jamming incidents resulted in gear-up landings. Also, failures have occurred in the main landing gear manual extension system support structure which prevented extension of the gear by manual means, resulting in gear-up landings when the "A" hydraulic system (which powers the normal extension system) was inoperative.

Amendment 39–3410, AD 79–04–01, as amended by Amendment 39–3577, requires inspection of certain main landing gear lock system components whose failure can or has caused the missequence condition. AD 79–04–01 also requires replacement of certain parts, such as bolts, for which repetitive inspection has been determined to be inappropriate or impractical. AD 79–04–01 further requires inspections of the main landing gear manual extension system support structure components made from 7079–T6 aluminum alloy.

Two gear-up landings occurred subsequent to the issuance of AD 79–04–01. As a result of these two incidents, it was necessary to amend the AD (by Amendment 39–3577) to decrease the inspection intervals of components involved in these incidents.

The incidents further indicated the need for a comprehensive action such as redesign and/or modification of the existing lock system. Boeing has designed, tested and received FAA approval of an improved door safety bar mechanism which will satisfy this need. This mechanism is capable of withstanding hydraulic-operated door loads associated with missequencing for which the original safety bar was not designed.

In addition, modification and/or replacement of the uplock assembly and emergency extension system support structure were considered necessary in lieu of continued repetitive inspections presently required by AD 79–04–01.

A Notice of Proposed Rule Making (NPRM) was published in the **Federal Register** (45 FR 7555) on February 4, 1980, proposing these changes.

Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented and the Air Transport Association (ATA) of America commented on behalf of its members and other airline operators. In addition, All Nippon Airways Co., Ltd. submitted comments.

Discussion of Comments

All three commenters stated that the largest impact would be caused by the proposed mandatory incorporation of the improved safety bar mechanism. Both Boeing and ATA pointed out that the availability schedule for the safety bar mechanism kits would not accommodate the proposed July 1, 1982, compliance data. The ATA stated that most airlines would need from 4 to 5 years to accomplish the modifications (estimated to require approximately 460 man-hours per aircraft) without removal of some aircraft from service. the ATA stated that a substantial number of 727 operators believe that installation of the improved design lock system components in conjunction with an overhaul/maintenance program will provide a level of safety equivalent to that provided by the new safety bar. (Note: The improved design lock system components are those specified in Boeing Service Bulletin No. 727–32–237, and are sometimes referred to as "unlimited life" components because their fatigue lives, based on service experience, testing, and analysis are greater than that of the aircraft itself.) The ATA submitted a copy of ATA Report 32–30–01 describing a maintenance program, including an MSG–2 analysis, which was developed by several airlines. These airlines believe that a periodic overhaul of the lock system equipped with the "unlimited life" components will reveal any unforecast distress such as corrosion, bearing/bushing wear or other component wear. The ATA pointed out that such a maintenance process is routinely used for maintaining the safety of other nonfailsafe, unlimited

life components such as propellers and

ACTION: Final rule.

001 on Model 206B helicopters. One

Chief, Engineering and Manufacturing

life components such as propellers and landing gear assemblies. The FAA has reviewed this alternative to the installation of the improved safety bar mechanism and consider it to provide an equivalent level of safety. Accordingly, the amendment, as adopted, permits as an option to installation of the improved safety bar, the installation of the improved design lock system components. Operators electing this alternative method of compliance must incorporate an overhaul/maintenance program approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The ATA overhaul/maintenance program specified in ATA Report 32–30–1, Revision 2, dated July 9, 1980, is an FAA approved program for the purpose of complying with the requirements of paragraph F.2 of this AD.

ATA requested that the proposed compliance date for modification of the main landing gear uplock assembly per Boeing Service Bulletin No. 727–32–245, Revision 4, be extended one year to July 1, 1982. They stated that the extension of time would allow all of the modification on each aircraft to be accomplished during the same visit. Since AD 79–04–01 presently requires rotational force tests on the uplock assembly every 1500 landings for detection of binding, a one year extension is considered acceptable and is incorporated into the rule as adopted.

The ATA requested that FAA permit the installation of grooved aluminum bronze bushings with the lubrication fitting as an equivalent to the modifications specified in Boeing Service Bulletin No. 727–32–245, Revision 4. Several operators have received approval from the FAA Northwest Region for this alternate modification. The service bulletin modification includes replacement of a cartridge-type bungee with an external spring-type bungee. Some operators who have shown their service experience with the cartridge-type bungee to be satisfactory have received approval for the modification (i.e. aluminum bronze bushing and lubrication fitting) without the bungee replacement. Since this approval is based on operator experience, the FAA will continue to handle requests for approval on an individual basis.

Several operators objected to the proposed mandatory replacement of the manual extension system support structure components, i.e., gearbox horizontal supports, support yokes, and gearbox housings. The FAA believes that the replacement of these components, made from 7079–T6 aluminum alloy and susceptible to stress corrosion cracking, is essential to assure continued, reliable operation of the manual extension system. Therefore, Paragraph G is adopted as proposed.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by further amending Airworthiness Directive 79–04–01 (Amendment 39–3410, 44 FR 9735, as amended by Amendment 39–3577, 44 FR 56318), as follows: 1. By amending Paragraph C.2 to read as follows:

2. On or before July 1, 1982, accomplish the main landing gear uplock assembly modification specified in Boeing Service Bulletin No. 727–32–245, Revision 4, dated August 31, 1979, or later FAA approved revisions, or an alternate approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. This modification constitutes terminating action for the requirements of Paragraph C.1 above.

2. By redesignating Paragraphs F, G, and H as Paragraphs H, I, and J, respectively; and

3. By adding the following new Paragraphs F and G:

F. Accomplish one of the following: 1. On or before July 1, 1982, install the main landing gear safety bar mechanism, LH and RH sides, in accordance with Boeing Service Bulletin No. 727–32–275, dated March 28, 1980, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If Boeing Service Bulletin Numbers 727–32–237, Revision 2, dated March 9, 1979; 727–32–251, dated March 11, 1977; and 727–32–257, Revision 1, dated July 21, 1978; or later FAA approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, have been accomplished the improved safety bar mechanism or FAA approved equivalent need not be installed until December 31, 1983.

2. On or before July 1, 1982, replace the main landing gear lock system components with improved components in accordance with Boeing Service Bulletin No. 727–32–237, Revision 2, dated March 9, 1979, or later FAA-approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, and thereafter overhaul and maintain the main landing gear lock system in accordance with a supplemental overhaul/maintenance program acceptable to the assigned FAA maintenance inspector and approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. [Recurring action taken under the overhaul/maintenance program shall be recorded to show the status of compliance with this A.D.]

Accomplishment of Paragraph F.1. constitutes terminating action to Paragraphs A, D, and E above. If Paragraph F.2. is accomplished, the requirements of F.2. supersede Paragraphs A, D, and E.

G. On or before July 1, 1982, (1) replace the main landing gear manual extension system gearbox horizontal supports, LH and RH sides, Boeing P/N 65–24575–1, with Boeing P/N 65–69156–1 in accordance with Boeing Service Bulletin No. 727–32–164, Revision 2, dated June 22, 1979, or later FAA-approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, (2) replace the main landing gear manual extension system support yokes, LH and RH sides, Boeing P/Ns 65–26300–1/–2, 65–26300–7/–8, 65–61412–1/–2, 65–26300–11/–12, and 65–26300–17/–18 with Boeing P/Ns 65–26300–21/–22 or 65–26300–23/–24 in accordance with Boeing Service Bulletin No. 727–32–204, Revision 3, dated December 7, 1979, or later FAA-approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, and (3) replace the main landing gear manual extension system gearbox housing, Boeing P/N 65–27485–1/–2, LH and RH sides, with Boeing P/N 65–27485–11/–12 in accordance with Boeing Service Bulletin No. 727–32–279, dated June 22, 1979, or later FAA-approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The replacement accomplished per this paragraph constitutes terminating action to Paragraph B of this AD.

Note.—The overhaul/maintenance program specified in ATA Report 32–30–1, Revision 2, dated July 9, 1980, is an FAA-approved program for the purpose of complying with the requirements of paragraph F.2. of this AD.

This amendment becomes effective September 25, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 11, 1980.

E. O'Connor,

Acting Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80–25399 Filed 8–20–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Airworthiness Docket No. 80–ASW–26; Amdt. 39–3884]

Airworthiness Directives; Bell Models 206A, 206B, 206A–1, 206B–1 206L, and 206L–1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive magnetic particle inspections and replacement as necessary for main rotor trunnions, P/N 206–010–104–3 and 206–011–113–001, installed on Bell Models 206A, 206B, 206A–1, and 206B–1 helicopters or main rotor trunnion, P/N 206–011–120–001, installed on Bell Models 206L and 206L–1 helicopters. The proposed AD is needed to prevent inflight failure of the main rotor trunnion, P/N 206–010–104–3, 206–011–113–001, or 206–011–120–001, which could result in loss of the helicopter.

DATES: Effective September 15, 1980. Compliance required as prescribed in the AD.

ADDRESSES: Copies of the applicable service bulletins may be obtained from the Regional Counsel, Attention: Docket NO. 80–ASW–28, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

Bell service information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW–212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624–4911, extension 517.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) requiring repetitive magnetic particle inspections and replacement as necessary for main rotor trunnions, P/N 206–010–104–3 and 206–011–113–001, installed on Bell Models 206A, 206B, 206A–1, and 206B–1 helicopters or main rotor trunnion, P/N 206–011–120–001, installed on Bell Models 206L and 206L–1 helicopters was published in 45 FR 40615.

There has been one report of a trunnion failure, P/N 206–011–113–001, on a Model 206B at 4,060 operating hours. The fatigue crack originated in the leading edge of the inboard radius of the trunnion spindle and progressed toward the splines. The inspection requirement at the last required overhaul was either not accomplished or was improperly accomplished. There has also been a trunnion failure, P/N 206–011–120–001, on Model 206L at 3,226 operating hours. The reported failure originated in the inboard fillet radius of the spindle.

Two other reports have been received of cracked trunnions, P/N 206–011–113–001 on Model 206B helicopters. One occurred at 5,193 operating hours and one at 1,197 hours. Both were detected by proper inspections at the required interval.

Interested persons have been afforded the opportunity to participate in the making of the amendment. One comment was received from the National Transportation Safety Board in support of the proposal. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell: Applies to Models 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters equipped with main rotor trunnions, P/N 206–010–104–3, 206–011–113–001, or 206–011–120–001 certificated in all categories (Airworthiness Docket No. 80–ASW–28).

Compliance required as indicated.

To prevent possible failure of the main rotor trunnion, P/N 206–010–104–3, 206–011–113–001, and 206–011–120–001 due to fatigue cracks, accomplish the following, unless already accomplished, in accordance with Bell Helicopter Textron Alert Service Bulletin 206–80–7, Revision A, dated February 26, 1980 (206A, 206B, 206A–1, 206–B–1) or 206L–80–9, Revision A, dated February 26, 1980 (206L, 206L–1) or FAA approved equivalent.

a. For trunnions with less than 1,100 hours' total time in service, on the effective date of this AD, accomplish a magnetic particle inspection prior to attaining 1,200 hours and again prior to attaining 2,400 hours, and thereafter at intervals not to exceed 600 hours.

b. For trunnions with more than 1,100 hours and less than 1,700 hours' total time in service, on the effective date of this AD, accomplish a magnetic particle inspection within the next 100 hours' time in service and again prior to attaining 2,400 hours, and thereafter at intervals not to exceed 600 hours.

c. For trunnions with 1,700 hours or more total time in service, on the effective date of this AD, accomplish a magnetic particle inspection within the next 100 hours' time in service, and thereafter at intervals not to exceed 600 hours.

d. For trunnions with time unknown, on the effective date of this AD, accomplish a magnetic particle inspection within the next 100 hours' time in service, and thereafter at intervals not to exceed 600 hours.

e. If a crack is found, remove and replace the trunnion before further flight.

f. If no cracks are found, reassemble and install the main rotor hub on the helicopter in accordance with the pertinent Model 206 Maintenance and Overhaul Manual and continue the repetitive inspections specified above.

g. Report in writing any cracks found during the inspections required herein to Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101. Each report must include the location of the cracks and the trunnion total time in service. Reporting approved by the Office of Management and Budget under OMB No. 04–R0174.

h. If trunnion P/N 206–011–113–103 (206A, 206B, 206A–1, 206B–1) or P/N 206–011–120–103 (206L, 206L–1) is installed, the inspections specified in this AD are not required.

i. The helicopter may be flown in accordance with FAR 21.197 to a base where inspections can be performed.

This amendment becomes effective September 15, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Forth Worth, Texas, on August 5, 1980.

C. R. Melugin,

Director, Southwest Region.

[FR Doc. 80–25386 Filed 8–20–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 80–NW–37–AD, Amdt. 39–3887]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 78–05–08 (Amdt. 39–3155, 43 FR 9592 as amended by Admt. 39–3458, 44 FR 25834) requires inspection of emergency escape system cool gas generator propellant cartridges in Boeing 747 airplanes. Service experience since the adoption of the AD now indicates that cartridge deterioration is likely to occur in a shorter time span if cool gas generators remain in airplanes which are parked for extended periods in hot weather. Therefore, the AD is further amended to require additional inspections of propellant cartridges if they are left in airplanes parked for extended periods in hot weather.

DATES: Effective date August 28, 1980.

FOR FURTHER INFORMATION, CONTACT: Mr. Joseph M. Starkel, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION:

History

AD 78-05-08 requires annual inspections of cool gas generator cartridges used in escape systems on Boeing Model 747 airplanes. This AD was necessary to preclude use of defective cartridges which, when fired, could produce overpressure leading to a structural failure of the generator. Subsequent to the issuance of the AD, the FAA has determined that x-ray inspections are required if propellant cartridges remain on aircraft parked for extended periods in hot weather.

During a recent scheduled sampling deployment of an emergency escape slide, the cool gas generator breech closure assembly separated and departed the aircraft injuring four maintenance personnel. It was reported that the cartridge had been stored in an air conditioned area and was installed in the cool gas generator approximately four months prior to the incident. The aircraft is known to have been parked for an extended period in temperatures frequently exceeding 90° F. Cartridge swelling and deterioration due to chemical phase transitions at extreme temperatures is the cause of such a malfunction. In the instance of an aircraft parked in hot weather, a more rapid deterioration of the cartridge will occur since the cartridge is more frequently exposed to the phase transition temperature. As a consequence, the AD is being amended to require x-ray inspections of propellant cartridges which are left in airplanes parked for extended periods in hot weather. Clarification is also made in the lead-in paragraph by adding the name of the manufacturer of the propellant cartridges.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive No. 78-05-08 (Amdt. 39-3155, 43 FR 9592 as amended by Amdt. 39-3458, 44 FR 25834), as follows:

1. Delete the lead-in paragraph and replace with the following:

Boeing: Applies to all Boeing 747 series airplanes which incorporate propellant cartridges manufactured by Olin Corporation in the emergency escape slide inflation system. Accomplish the following:

2. Add new paragraphs G. and H. as follows:

G. If, for any reason, an airplane is parked for more than 10 consecutive days with the cool gas generator installed, or has been parked for this extended period since the date of last cartridge inspection, *and* the peak atmospheric temperature outside the aircraft exceeds or exceeded 90°F on any 10 or more days during this parked period, the cartridges must be inspected, unless already accomplished, in accordance with paragraph E as follows:

(1) If the airplane is parked for 20 days or less, the inspection must be made within 15 days following return of the airplane to active flight status;

(2) If the airplane is parked for more than 20 days, the inspection must be made before further flight or before any escape system tests are performed.

Alternate inspections or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

Note.—Thermal cycling, at elevated temperatures, of the propellant cartridges installed in cool gas generators can cause excessive swelling and rapid deterioration of the propellant grain. For greater temperature control the cool gas generators should be removed from aircraft which are expected to be parked for extended periods in hot weather. The gas generators should be stored within the temperature limits of +10°F to +90°F.

H. Aircraft requiring immediate inspection may be ferried to a maintenance base in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on August 8, 1980.

E. O'Connor,

Acting Director, Northwest Region.

[FR Doc. 80-25072 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-CE-25-AD; Amdt. 39-3888]

Airworthiness Directive; Gates Learjet Model 35 and 36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires rework/replacement of the forward engine mounts on certain Gates Learjet Model 35 and 36 series airplanes. In the interim, a maximum operating speed (V_{MO}) of 307 KIAS, sea level to 31,100 ft. altitude, is imposed. This action will assure the operational safety of the aircraft in flight conditions that could otherwise overload, and possibly fail, the forward engine mount structure.

EFFECTIVE DATE: August 28, 1980.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: The applicable Airplane Service Bulletin No. 35/36-11-3 dated July 28, 1980, and Airplane Modification Kit No. AMK 80-6 may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277, telephone number (316) 946-2000. Copies of the Bulletin and Modification Kit are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Marvin Beene, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION: The Gates Learjet Model 35 and 36 series airplanes forward engine mount casting, which is to be used on a new Gates Learjet model airplane, failed during static tests of the new model at a lower load value than approved for the Models 35 and 36. No engine mount failures on in-service airplanes have been reported.

Follow-on static tests indicate that a degradation in static strength below minimum certification levels of the engine mount may have occurred since the initial casting qualification tests. Gates Learjet has, therefore, conducted an extensive investigation to define the effectivity and cause of this reduction in strength. The resulting hardware rework/changes necessary to re-establish the structural integrity of the mount system are defined in Gates Learjet Corporation Airplane Modification Kit (AMK) 80-6.

Until AMK 80-6 is incorporated, Gates Learjet has issued Service Bulletin 35/36-11-3, dated July 28, 1980, which provides instructions for installation of airspeed warning placards and modification of the Mach/overspeed warning system to effect a 307 KIAS (V_{MO}) speed limitation. This limitation will preclude operation of the airplane at velocities, in combination with critical gust conditions, that could overload the engine mount. The appropriate Flight Manual changes to reflect the airspeed limitation are included in the Service Bulletin.

Since the condition described herein is likely to exist or develop on airplanes of the same type design, an AD is being issued, applicable to Gates Learjet Model 35 and 36 series airplanes. The new AD makes compliance with Gates Learjet Corporation Service Bulletin mandatory until the airplane has been modified in accordance with Gates Learjet Corporation Modification Kit (AMK) 80-6 which is required within 600 hours after the effective date of this AD.

Since a situation exists that requires the immediate adoption of this regulation, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Gates Learjet: Applies to the following model and serial number airplanes:

Model 35 Series—Serial Number 35-050 through 35-339 except 35-054 and 35-065

Model 36 Series—Serial Number 36-017 through 36-045

Compliance: Required as indicated unless already accomplished. To prevent encountering a possible overload flight condition that could fail the forward engine mount, accomplish the following: (A) Within the next 75 hours time-in-service after the effective date of this AD, in accordance with Gates Learjet Corporation Service Bulletin 35/36-11-3, dated July 28, 1980: 1. Install airspeed warning placards and modify the Mach/overspeed switch circuit to effect a reduced maximum operating airspeed (V_{MO}) of 307 KIAS, from sea level to 31,100 feet altitude.

2. Insert in the existing Airplane Flight Manual the temporary Airplane Flight Manual Supplement included in Service Bulletin 35/36-11-3.

(B) Within the next 600 hours' time-in-service after the effective date of this AD, replace or re-age both forward engine mounts in accordance with Gates Learjet Corporation Airplane Modification Kit AMK 80-6. Accomplish the removal and installation of the engine mounts at authorized Gates Learjet Service Centers and the nondestructive testing and heat treating at appropriately rated FAA certified repair stations.

(C) Upon compliance with Paragrpah B above, the requirements of Paragraph A of this AD are no longer applicable.

(D) Issuance of a Special Flight Permit in accordance with FAR 21.197 is permitted for the purpose of moving the affected airplanes to a location where the modifications required by this AD can be accomplished.

(E) Any equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 6, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-25397 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-37-AD; Amdt. 39-3890]

Airworthiness Directive; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires replacement of cable guard pins on McDonnell Douglas DC-10 series airplanes fuselage numbers 1 thru 243. The AD is prompted by two reports that during ground system tests wing engine emergency fire shut-off handles were restricted in movement and could not be moved completely to the agent discharge position, preventing the use of fire extinguishing agent which could result in uncontrollable engine fire and possible loss of the airplane.

DATES: Effective August 28, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attn: Director, Publication and Training C1-750-[54-60].

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There have been reports of the wing engine hydraulic transition drum cable guard pins P/N AA 2603-9 working loose and restricting movement of the hydraulic shut-off valve-to-transition drum push rod assembly. This limits engine emergency fire shut-off handle travel, restricting shut-off of fluids to engine and preventing the discharge of fire extinguishing agent. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection and reinstallation of cable guard pins using a serviceable cable guard pin sealed in position with RTV-731 or 732 or equivalent or installation of a new design pin on McDonnell Douglas DC-10 series airplanes, fuselage numbers 1 thru 243.

Since a situation exists that requires immediate adoption of this regulation, it

is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to DC-10 Series Airplanes fuselage numbers 1 through 243.

Compliance required as indicated, unless already accomplished. To prevent restriction of travel of the wing engine emergency fire shutoff handle and loss of associated fire fighting safeguards, accomplish the following:

Within 300 hours additional time in service after the effective date of this AD, accomplish paragraph (1) or (2) below.

(1) Inspect and seal cable guard pin P/N AA 2603-9 in place in accordance with McDonnell Douglas Alert Service Bulletin A76-27 dated 6/24/80 and within 1500 hours additional time in service after the effective date of this AD accomplish the modification described in McDonnell Douglas Service Bulletin 76-27 dated 7/16/80; or

(2) Accomplish the modification described in McDonnell Douglas Service Bulletin 76-27 dated 7/16/80.

(3) Accomplishment of the modification described in McDonnell Douglas Service Bulletin 76-27 dated 7/16/80 is terminating action for this AD. Service Bulletin 76-27 calls for the replacement of the existing guard pin with a new guard pin incorporating a lip retaining head.

(4) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modification required by this AD.

(5) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective August 28, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which, is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, California on August 7, 1980.

H. C. McClure,

Acting Director, FAA Western Region.

[FR Doc. 80-25398 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 80NE-20; Amdt. 39-3837]

Airworthiness Directives; Sikorsky S-76A Helicopters; Certificated in All Categories; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

In docket number 80-NE-20, Amendment 39-3837, appearing on page 47131 in the **Federal Register** of July 14, 1980, the date of July 12, 1980, specified in paragraphs 1.c. and 2., was incorrectly stated. The correct date is July 14, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen J. Soltis (617) 273-7336.

Issued in Burlington, Massachusetts, on July 30, 1980.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 80-25450 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-ASW-34]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Levelland, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter transition area at Levelland, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing an instrument approach procedure to the Levelland Municipal Airport. The circumstances creating the need for the action are the present transition area which is improperly described because of an incorrect bearing of the north extension and the geographical coordinates of the airport which are also incorrect.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: The present transition area for the Levelland Municipal Airport is in error describing the extension to the north and the geographical coordinates for the airport reference point are incorrect. This action is necessary to correct these errors and to properly describe the airspace necessary for the protection of Instrument Flight Rules (IFR) aircraft operating to or from the airport. Since this action is minor in nature and will not impact the user, circulation and public notice of this action is not considered necessary.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) Levelland, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing an instrument approach procedure to Levelland Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., October 30, 1980, as follows.

In Subpart G, § 71.181 (45 FR 445), the following transition area is amended by deleting the present description and substituting the following:

Levelland, Texas

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Levelland Municipal Airport (latitude 33°33'32"N., longitude 102°22'20"W., and within 3 miles each side of the 010° bearing of the Levelland NDB (latitude 33°33'20"N., longitude 102°22'29"W.), extending from the 7-mile radius area to 8.5 miles north of the Levelland NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on August 12, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-25392 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-AEA-44]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Name Change—Millville VORTAC to Cedar Lake VORTAC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Millville VORTAC is located approximately 11¼ nautical miles (NM) from the Millville Airport. Pilots frequently report over Millville or in the proximity of Millville. The controller must then verify whether the pilot is over the VORTAC or the airport. To eliminate this ambiguity and potential for confusion, we are changing the name of "Millville VORTAC" to "Cedar Lake VORTAC." This change is editorial in nature.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Charles R. Horne, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to rename the "Millville, N.J., VORTAC" to "Cedar Lake VORTAC." Segments of victor airways 16, 184, 284, and 467 are described, in part, by reference to the Millville, N.J., VORTAC. The Millville VORTAC is located approximately 11¼ NM from the Millville Airport. Pilots frequently report over Millville or in the proximity of Millville. The controller must then verify whether the pilot is over the VORTAC or the airport. To eliminate this ambiguity and potential for confusion, we are renaming the "Millville VORTAC" to "Cedar Lake VORTAC." The Cedar Lake VORTAC has been assigned the identifier V-C-N. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

Discussion of Comments

No informal airspace meeting was held concerning this change. However, to determine whether or not the name change was controversial, a nonrule circular was issued and posted at local airports in the immediate vicinity of Millville. No adverse comments were received to the nonrule circular. Further, because this change is editorial in nature, I find that notice and public procedure for this action is unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, October 30, 1980, as follows:

1. Under V-16—In the text, delete, "Millville, N.J.;" and substitute "Cedar Lake, N.J.;" therefor.

2. Under V-184—In the text, delete, "Millville, N.J.;" and substitute "Cedar Lake, N.J.;" therefor.

3. Under V-284—In the text, delete, "INT Sea Isle 008° and Millville, N.J., 150° radials; Millville." and substitute "INT Sea Isle 008° and Cedar Lake, N.J., 150° radials; Cedar Lake." therefor.

4. Under V-467—In the text, delete, "INT Sea Isle 256° and Millville, N.J., 216° radials; Millville; INT Millville 037° and LaGuardia, N.Y., 209° radials;" and substitute "INT Sea Isle 256° and Cedar Lake, N.J., 216° radials; Cedar Lake; INT Cedar Lake 037° and LaGuardia, N.Y., 209° radials;" therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 13, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25286 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 359

Effects of Imported Articles on the National Security

AGENCY: Office of Industrial Moblization, Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979) (Reorg. Plan) transferred to the Secretary of Commerce (the Secretary) the functions performed previously by the Secretary of the Treasury pursuant to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C 1862) (the Act). Executive Order 12188 of January 2, 1980 (45 FR 989, January 4, 1980) (E.O. 12188), established January 2, 1980, as the effective date of this transfer. Under Section 232 of the Act, the Secretary now has the responsibility to commence and conduct an investigation to determine the effect on the national security of the imports of any article. This will enable the Secretary to make a report to the President recommending action or inaction regardng an adjustment of the imports of the article. These regulations prescribe the procedures to be followed for such an investigation.

DATES: These rules are effective August 21, 1980 and may be revised in light of any comments received. Comments must be received by the Department before noon, October 20, 1980.

ADDRESS: Written comment (6 copies when possible) should be sent to Room 4104, Office of Industrial Mobilization, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Oral communications or requests for further information concerning these interim rules should be directed to John A. Richards, Deputy Director, Office of Industrial Mobilization, (202) 377-3695.

SUPPLEMENTARY INFORMATION: The regulations of this Part, implementing Section 232 of the Act, prescribe the procedures to be followed by the Department of Commerce to commence and conduct an investigation to determine the effect on the national security of the imports of any article. Prior to January 2, 1980, this function was performed by the Secretary of the Treasury pursuant to regulations promulgated in 31 CFR Part 9. E.O. 12188 implemented Section 5(a) of the Reorg. Plan transferring this duty to the Secretary as of January 2, 1980.

These regulations are similar in content to the Treasury Department's regulations. They include rules for: the initiation of an investigation; the criteria for determining the effects of imports of the article on the national security; the filing and content of requests and applications for investigations; the conduct of an investigation; the Secretary's report to the President; and the public availability of the record of the investigation and the Secretary's report. Additional provisions to prevent duplicative investigations are included permitting consolidation or rejection of duplicative requests or applications. The provisions for public hearings during an investigation are expanded to permit the highest possible level of public participation.

For investigations initiated and conducted prior to January 2, 1980, the public availability of the record of the investigation and the report to the President will be governed by the applicable regulations in effect at that time.

Because these regulations relate to agency procedures pursuant to Section 232 of the Act, the relevant provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Nevertheless, in the interest of involving the public in the rulemaking process, comments are invited. Comments should be written and may take the form of proposed regulatory language, narrative discussion, or any other appropriate format. If oral comments are received, the Department official receiving such comments will prepare a written memorandum containing the substance of the comments and identifying the individual making the comments, as well as the entity on whose behalf they purport to be made. All such memoranda will be made part of the public record. All comments will be evaluated and acted upon in the same manner as if these regulations were proposed rules. Until such time as any further changes are made, 15 CFR Part 359, as set forth below, shall remain in effect.

The period for submission of comments will close at noon, October 20, 1980. No comments received after the close of the comment period will be accepted or considered by the Department. Written public comments which are accompanied by a request that part or all of the material be treated confidentially will not be accepted. Such comments and materials will be returned to the submitter and will not be considered. All comments that are considered will be a matter of public record.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments. Information pertaining to the inspection and copying of records at the facility may be obtained from Ms. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

It has been determined that these regulations are "not significant" within the meaning of Section 4.04 of Department of Commerce Administrative Order 218–7 and International Trade Administration Administrative Instructions 1–6 (44 FR 2082 et seq., January 9, 1979), which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

These regulations will be republished if any revisions are made after public comments have been considered.

Accordingly, a new Part 359 to Chapter III of Title 15, Code of Federal Regulations, is established to read as follows:

PART 359—EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Sec.

359.1 Definitions.
359.2 Purpose.
359.3 Commencing and investigation.
359.4 Criteria for determining effects of imports on the national security.
359.5 Request or application for an investigation.
359.6 Confidential information.
359.7 Conduct of an investigation.
359.8 Public hearings.
359.9 Emergency action.
359.10 Report of an investigation and recommendation.

Authority: Sec. 232 Trade Expansion Act of 1962, as amended (Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1993, 19 U.S.C. 1862); Reorg. Plan No. 3 of 1979 (44 FR 69273, December 3, 1979); Exec. Ord. 12188 of January 2, 1980 (45 FR 989, January 4, 1980); Dept. of Commerce Org. Ord. No. 10–3 (45 FR 6141, Jan. 25, 1980); and International Trade Administration Organization and Function Order No. 41–1 (45 FR 11862, Feb. 22, 1980).

§ 359.1 Definitions.

As used in this Part:

"Department" means the United States Department of Commerce and includes the Secretary of Commerce and the Secretary's designees.

"Secretary" means the Secretary of Commerce or the Secretary's designees.

"Applicant" means the person or entity submitting a request or application for an investigation pursuant to this Part.

§ 359.2 Purpose.

These regulations set forth the procedures by which the Department shall commence and conduct an investigation to determine the effect on the national security of the imports of any article. Based on this investigation, the Secretary shall make a report and recommendation to the President for action or inaction regarding an adjustment of the imports of the article.

§ 359.3 Commencing an investigation.

Upon request of the head of any other government department or agency, upon application of an interested party, or upon motion of the Secretary, the Department shall immediately conduct an investigation to determine the effect on the national security of the imports of any article.

§ 359.4 Criteria for determining effects of imports on the national security.

(a) To determine the effect on the national security of the imports of the article under investigation, the Department shall consider the quantity of the article in question or other circumstances related to its import. With regard for the requirements of national security, the Department shall also consider the following:

(1) Domestic production needed for projected national defense requirements;

(2) The capacity of domestic industries to meet projected national defense requirements;

(3) The existing and anticipated availabilities of human resources, products, raw materials, production equipment and facilities, and other supplies and services essential to the national defense;

(4) The growth requirements of domestic industries to meet national defense requirements and the supplies and services including the investment, exploration and development necessary to assure such growth; and

(5) Any other relevant factors.

(b) In recognition of the close relation between the strength of our national economy and the capacity of the United States to meet national security requirements, the Department shall also, with regard for the quantity, availability, character and uses of the imported article under investigation, consider the following:

(1) The impact of foreign competition on the economic welfare of any domestic industry essential to our national security;

(2) The displacement of any domestic products causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; and

(3) Any other relevant factors that are causing or will cause a weakening of our national economy.

§ 359.5 Request or application for an investigation.

(a) A request or application for an investigation shall be in writing. The original and 12 copies shall be filed with the Director, Office of Industrial Mobilization, Room 4104, U.S. Department of Commerce, Washington, D.C. 20230.

(b) When a request, application or motion is under investigation, or when an investigation has been completed pursuant to § 359.10 of this Part, any subsequently filed request or application concerning imports of the same or related article that does not raise new or different issues may be either consolidated with the investigation in progress as provided in § 359.7(e) of this Part, or rejected. In either event, an explanation for taking such action shall be promptly given to the applicant. If the request or application is rejected, it will not be returned unless requested by the applicant.

(c) Requests or applications shall describe how the quantity, availability, character, and uses of a particular imported article, or other circumstances related to its import, effect the national security, and shall contain the following information to the fullest extent possible:

(1) Identification of the applicant;

(2) A precise description of the article;

(3) Description of the domestic industry affected, including pertinent information regarding companies and their plants, locations, capacity and current output of the industry;

(4) Pertinent statistics on imports and domestic production showing the quantities and values of the article;

(5) Nature, sources, and degree of the competition created by imports of the article;

(6) The effect that imports of the article may have upon the restoration of domestic production capacity in the event of national emergency;

(7) Employment and special skills involved in the domestic production of the article;

(8) Extent to which the national economy, employment, investment, specialized skills, and productive capacity is or will be adversely affected;

(9) Revenues of Federal, State, or local Governments which are or may be adversely affected;

(10) National security supporting uses of the article including data on applicable contracts or sub-contracts, both past and current; and

(11) Any other information or advice relevant and material to the subject matter of the investigation.

(d) Statistical material presented should be, if possible, on a calendar-year basis for sufficient periods of time to indicate trends. Monthly or quarterly data for the latest complete years should be included as well as any other breakdowns which may be pertinent to show seasonal or short-term factors.

§ 359.6 Confidential information.

(a) Any information or material which the applicant or any other party desires to submit in confidence at any stage of the investigation that would disclose national security classified information or business confidential information (trade secrets, commercial or financial information, or any other information considered sensitive or privileged), shall be submitted on separate sheets with the clear legend "National Security Classified" or "Business Confidential," as appropriate, marked at the top of each sheet. Any information or material submitted that is identified as national security classified must be accompanied at the time of filing by a statement indicating the degree of classification, the authority for the classification, and the identity of the classifying entity. By submitting information or material identified as business confidential, the applicant or other party represents that the information is exempted from public disclosure, either by the Freedom of Information Act (5 U.S.C. 552 et seq.) or by some other specific statutory exemption. Any request for business confidential treatment must be accompanied at the time of filing by a statement justifying non-disclosure and referring to the specific legal authority claimed.

(b) The Department may refuse to accept as business confidential any information or material it considers not intended to be protected under the legal authority claimed by the applicant, or under other applicable legal authority. Any such information or material so refused shall be promptly returned to the submitter and will not be considered. However, such information or material may be resubmitted as non-confidential in which case it will be made part of the public record.

§ 359.7 Conduct of an investigation.

(a) If the Department determines that it is appropriate to afford interested parties an opportunity to present information and advice relevant and material to an investigation, a public notice shall be published in the **Federal Register** soliciting from any interested party written comments, opinions, data, information or advice relative to the investigation. This material shall be submitted as directed within a reasonable time period to be specified in the notice. All material shall be submitted with 6 copies. In addition, public hearings may be held pursuant to § 359.8 of this part.

(b) All request and applications filed and all material submitted by interested parties, except information or material that is classified or determined to be confidential as provided in § 359.6 of this part, will be available for public inspection and copying in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

(c) Further information may be requested by the Department from other sources through the use of questionnaires, correspondence, or other appropriate means.

(d) The Department shall, as part of an investigation, seek information and advice from, and consult with, the Secretary of Defense and any other appropriate officers of the United States or their designees, as shall be determined. The Department may also seek assistance in the conduct of an investigation from other agencies of the United States, as shall be necessary.

(e) Any request or application that is filed while an investigation is in progress, concerning imports of the same or related article and raising similar issues, may be consolidated with the request, application or motion that initiated the investigation.

§ 359.8 Public hearings.

(a) If it is deemed appropriate by the Department, public hearings may be held to elicit further information.

(1) A notice of hearing shall be published in the **Federal Register** describing the date, time, place, the subject matter of each hearing and any other information relevant to the conduct of the hearing. The name of a person to contact for additional information or to request time to speak

at the hearing shall also be included.

§ 359.10 Report of an investigation and

seller. Thus, the rule applies to *any*

the generating utility's incremental cost

Rm. E–343, Environmental Protection

at the hearing shall also be included. Public hearings may be held in more than one location.

(2) Hearings shall be open to the public unless national security classified information will be presented. In that event the presiding officer at the hearing shall close the hearing, as necessary, to all persons not having appropriate security clearances or not otherwise authorized to have access to such information. If it is known in sufficient time prior to the hearing that national security classified information will be presented, the notice of hearing published in the **Federal Register** shall state that national security classified information will be presented and that the hearing will be open only to those persons having appropriate security clearances or otherwise specifically authorized to have access to such information.

(b) Hearings shall be conducted as follows:

(1) The Department shall appoint the presiding officer;

(2) The presiding officer shall determine all procedural matters during the hearing;

(3) Interested parties may appear, either in person or by representation, and produce oral or written information relevant and material to the subject matter of the investigation;

(4) Hearings will be fact-finding proceedings without formal pleadings or adverse parties. Formal rules of evidence will not apply;

(5) After a witness has testified, the presiding officer may question the witness. Questions submitted to the presiding officer in writing by any interested party may, at the discretion of the presiding officer, be posed to the witness. No cross examination of any witness by a party shall be allowed.

(6) Each hearing will be stenographically reported. Transcripts of the hearing, excluding any national security classified information, may be purchased from the Department at actual cost of duplication, and will be available for public inspection in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

§ 359.9 Emergency action.

In emergency situations, or when in the judgment of the Department, national security interests require it, the Department may vary or dispense with any or all of the procedures set forth in § 359.7 of this part.

§ 359.10 Report of an investigation and recommendation.

(a) When an investigation conducted pursuant to this Part is completed, a report of the investigation shall be promptly prepared. The report shall be organized in several sections, if necessary. One section shall contain all information and material that is not classified or confidential as provided in § 359.6 of this part. Another Section shall contain all national security classified information and material. A third section shall contain all business confidential information and material.

(b) The Secretary shall report to the President the findings of the investigation and a recommendation for action or inaction within one year after receiving a request or application or otherwise beginning an investigation pursuant to this Part.

(c) The report, excluding the sections containing national security classified and business confidential information and material, shall be published in the **Federal Register** upon the disposition of each request, application, or motion made pursuant to this Part. Copies of the published report will then be available for public inspection and copying in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Issued in Washington, D.C. on August 15, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25502 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM79-29, Order 84-B]

Clarification and Extension of Date of Rule on Limitation on Percentage Adders in Electric Rates for Transmission Services

August 11, 1980

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order clarifying and granting extension for compliance with Final Rule.

SUMMARY: The Federal Energy Regulatory Commission hereby clarifies its final rule relating to the limitation for percentage adders in electric rates for transmission services and grants an extension to utilities to file in compliance with the final rule to September 1, 1980. The extension is granted in response to requests of utility companies.

DATE: The date for filings in compliance with Order No. 84 is extended to September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Cackowski, Deputy Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426 (202) 376-9229.

SUPPLEMENTARY INFORMATION:

Amendment to Part 35 of The Regulations Under the Federal Power Act; Limits for Percentage Adders in Electric Rates for Transmission Services, Docket No. RM79-29, Order 84-B, Order Further Clarifying Rule and Granting Extension of Compliance Date.

Representatives of a number of utilities have raised with our staff the questions of interpretation of Order Nos. 84 (45 FR 31294, May 13, 1980) and 84-A (45 FR 47841, July 17, 1980). The question is of sufficient importance that we deem it appropriate to clarify the matter *sua sponte*.

The first question presented is whether the limit on percentage adders as applied to purchased power costs applies (a) only when a multi-party transaction is contemplated by all the parties from the beginning, *i.e.* when the arrangement between the utility transmitting the power (but applying a sales rate schedule rather than a transmission rate schedule) and the ultimately purchasing system explicitly recognizes that the transmitting system will be buying the power from another utility and applying a percentage adder to the cost of the purchased power; or (b) to *any* transaction where purchased power costs make up all or part of the incremental energy cost to which a percentage adder is applied when the power is resold. The correct answer is (b).

The fundamental basis for the Commission's adoption of Order 84 was that the claimed cost justification for uncapped percentage adders consisted of certain difficult-to-quantify costs incurred by the seller in generating the power for interchange; and that these difficult-to-quantify costs of generation were not incurred by systems that were not, in fact, generating the power they were selling. This proposition applies in equal degree whether or not the system ultimately purchasing the power expected from the beginning that the power is purchased would be generated by a system other than the immediate seller. Thus, the rule applies to *any* transaction where and to the extent that the base of incremental costs to which a percentage adder is applied consists of purchased power costs.

A related question has arisen as to how purchasing and reselling systems will know whether a percentage adder is capped for a particular transaction where the purchase and resale were not scheduled together. The answer is that when the reselling system figures out its bill and finds that purchased power costs comprise part or all of the incremental costs being billed to the buyer, then the rule applies.

The second question deals with whether the limit on percentage adders applies in a particular set of circumstances involving centrally dispatched pools to entities outside the pool where the rate schedule under which the sale takes place is a rate schedule of an individual member of the pool rather than the pool as a whole. The question arises in connection with the first two words of the definition of the term "purchased power price" as stated in § 35.23 of the Commission's rules and regulations which section was adopted by Order 84. The definition states that this term means the amount paid by a utility or system that performs a transmission or purchase and resale function for electric power generated by another utility or system. In the case of a sale by one member of a centrally and economically-dispatched power pool to an entity outside the pool, at a price based in whole or in part on the pool incremental running cost plus a percentage of that cost, the question is whether "electric power generated by another utility or system" includes the energy sold but not generated by the selling member. The answer is in the negative. In such circumstances none of the energy sold would fall within the § 35.23(b) definition of purchased power since the sale is in essence a sale by the entire pool although in a manner governed by the pool agreement.

The essential test here is whether the incremental cost to which the selling system applies the percentage adder consists solely of the generating utility's (and the pool's) incremental cost. If so, then it would be a triumph of form over substance (with unfortunate and unintended effects on interchange transactions) to deny the generating system the rate to which it would be entitled if it made the sale in its own name rather than the name of another pool member. On the other hand, if the base to which the selling utility would apply a percentage adder includes some charge from the generating utility above the generating utility's incremental cost (such as split savings or a percentage adder applied by the generator), then the rule and the cap apply.

The Requests for Extension of Time

A number of utilities have requested extensions of time to comply with Order 84, which requires compliance by August 11, 1980. In order to permit additional negotiations and to allow billing on a calendar month basis, we shall grant an extension of time for filings in compliance with Order No. 84, until September 1, 1980. Upon a showing of good cause, the Secretary of the Commission may grant individual requests for extensions of time for filing beyond that date, but the effective date of any late filed compliance rates should be no later than September 1, 1980.

The Commission orders: (A) The date for filings in compliance with Order No. 84 is hereby extended to September 1, 1980.

(B) The effective date of any compliance filings for which an extension is granted by the Secretary shall be no later than September 1, 1980.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25518 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 7H5156/T60; FRL 1579-6]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Profenofos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a feed additive regulation related to the experimental use of the pesticide profenofos in or on cottonseed hulls and soapstock. The extension was requested by Ciba-Geigy Corp. This rule will permit the marketing of cottonseed hulls and soapstock while further data are collected on the subject pesticide.

EFFECTIVE DATE: Effective on August 21, 1980.

ADDRESS: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-343, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller (202-426-9458) at the above address.

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the **Federal Register** of August 22, 1979 (44 FR 49249) that a temporary feed additive regulation had been issued to Ciba-Geigy Corp., Agricultural Div., P.O. Box 11422, Greensboro, NC 27409. This regulation established a temporary tolerance for residues of the insecticide profenofos (*O*-(4-bromo-2-chlorophenyl)-*O*-ethyl *S*-propyl phosphorothicate) and its metabolites converted to 4-bromo-2-chlorophenol (calculated as the parent compound) in cottonseed hulls at 6 parts per million (ppm) and soapstock at 15 ppm resulting from application of the insecticide to growing cotton in a proposed experimental program in accordance with an experimental use permit that was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136). This experimental program will expire August 16, 1980.

Ciba-Geigy Corp. has requested an extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the insecticide profenofos to cottonseed hulls and soapstock.

The scientific data reported and other material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued under FIFRA. A related document concerning the extension of temporary tolerances for residues of the subject pesticide in or on the raw agricultural commodities cottonseed; eggs; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in this issue of the **Federal Register.** Accordingly, a feed additive regulation is extended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, EPA, Rm. M-3708, (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for

the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

EFFECTIVE DATE: August 21, 1980.

(Sec. 409(c)(1), 72 Stat. 1780, (21 U.S.C. 348(c)(1)))

Dated: August 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

§ 561.53 [Amended]

Therefore, 21 CFR 561 is amended by changing the date in the last line of paragraph (a) in § 561.53 from "August 16, 1980" to "October 16, 1980".

[FR Doc. 80-25500 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF STATE

22 CFR Part 2

[Departmental Reg. 108.792]

Protection of Foreign Dignitaries and Other Official Personnel; Revision

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This revision substitutes the Chief of Protocol for the Deputy Under Secretary for Management as the Department of State officer authorized to designate official guests within the meaning of 18 U.S.C. 112.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Horace F. Shamwell, Jr., Deputy Assistant Legal Adviser for Management, Office of the Legal Adviser, Department of State, Washington, D.C. 20520, (202) 632-0768.

SUPPLEMENTARY INFORMATION: The Act for the Prevention and Punishment of Crimes against Internationally Protected Persons, Pub. L. 94-467, 18 U.S.C. 112, provides for the designation by the Secretary of State of "official guests" of the United States. The current rule contained in section 2.4 of 22 CFR delegates that authority to Deputy Under Secretary of State for Management [current title Under Secretary of State for Management] through the Deputy Secretary. This revision of the rule substitutes the Chief of Protocol for the Deputy Under Secretary for Management.

Since this revision relates solely to a matter of internal management, compliance with the requirements relating to proposed rulemaking and delayed effective date under 5 U.S.C. 553 is not necessary. Accordingly, § 2.4 is revised to read as follows:

§ 2.4. Designation of official guests.

The Chief of Protocol shall also maintain a roster of persons designated by the Secretary of State as official guests. Any inquiries by law enforcement officers or other persons as to whether a person has been so designated shall be directed to the Chief of Protocol. The designation of a person as an official guest is final. Pursuant to section 2658 of Title 22 of the U.S.C., the authority of the Secretary of State to perform the function of designation of official guests is hereby delegated to the Chief of Protocol.

(22 U.S.C. 2658)

Dated: August 6, 1980.

Ben H. Read,

Under Secretary for Management.

[FR Doc. 80-25613 Filed 8-20-80; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR 657 and 658

Certification of Size and Weight Enforcement

Correction

In FR Doc. 80-23879, appearing at page 52365, in the issue of Thursday, August 7, 1980, please make the following correction:

On page 52367, the third column, the first paragraph, line 17 now reading "improved plan * * *" should read "approved plan * * *".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Pilot Program for Use of Community-Based Treatment Facilities for Treatment of Alcohol and Drug Dependence

AGENCY: Veterans Administration.

ACTION: Interim final regulations.

SUMMARY: The "Veterans Health Care Amendment Act of 1979" authorizes the Veterans Administration to conduct a 5-year pilot program for care and treatment and rehabilitation services on a contract basis in halfway houses, therapeutic communities, psychiatric residential treatment centers and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Contractors will be required to meet quality and effectiveness standards established by the Veterans Administration before they can be authorized to provide services. This rule making will establish interim regulations and provide authority for furnishing treatment and rehabilitation service for alcohol and drug dependence or abuse disabilities in a residential or live-in arrangement under contractual arrangement with halfway houses and other similar residential treatment centers.

DATES: The effective date is April 28, 1980. Comments must be received on or before September 19, 1980.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Olson, Chief, Program Development Division, Mental Health and Behavioral Sciences Service, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202) 389-3513.

SUPPLEMENTARY INFORMATION: The following additional information describes the new benefits as they relate to existing entitlement in title 38, United States Code. The purpose of the pilot program is to provide treatment and rehabilitation to veterans, suffering from alcohol or drug dependence or abuse, in a community-based peer-group oriented residential facility which provides food, lodging and supportive services in a drug and alcohol free environment for persons involved in a recovery process. When referred by a VA physician, veterans who have completed detoxification or other hospital level treatment for alcohol or drug dependence or abuse, may be furnished treatment and rehabilitation through halfway house care.

Such community-based care is intended to provide opportunities for immediate learning and development of

responsible living, and support for the individual desire for sobriety (alcohol/drug abuse free life style). Such care should also permit the patient to understand the illness/recovery process, to upgrade skills and to improve personal relationships. Community halfway house care will not be used as an emergency boarding facility nor as a way-station for veterans headed for domiciliary placement or hospitalization. Candidates for halfway house placement under the pilot program will be patients who have been discharged from hospital care but require transitional residential assistance to permit integration into the community. Such a placement would permit the patient to gain additional time and support in order to become self supportive. Beneficiaries might include veterans with an unsatisfactory home environment who require additional time to stabilize the changes made in inpatient care before living autonomously and semi-stable individuals who need a brief inpatient stay and require a therapeutic milieu. The new authority for the establishment of the pilot program for use of community-based treatment facilities for treatment of Alcohol and Drug Dependence is found in Section 620A, Title 38, United States Code. Compliance with the provisions of Section 1.12 of Title 38, CFR which requires publication of proposed regulations prior to final adoption is waived in this instance.

Publication of these regulations in proposed form would not be in the public interest because adherence to this procedure would unduly delay the implementation of liberalizing legislation. Delay in its implementation would also compromise the purpose of this pilot program, which is intended to demonstrate any medical advantages and cost effectiveness that may result from furnishing veterans suffering from alcohol or drug dependence or abuse with treatment and rehabilitation services in community-based treatment facilities. Public Law 96-22 requires the Administrator to report to congressional committees by March 31, 1983, on the findings and recommendations regarding the operation of this program through September 30, 1982. In addition, we have determined that under Executive Order 12044 (43 FR 12661) and VA Final Report implementing Executive Order 12044 published in the **Federal Register** (44 FR 7026) these regulations are nonsignificant. These interim final regulations are being adopted under the authority granted the Administrator by sections 210(c) and 620A of Title 38, United States Code.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding the interim regulations to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

All material received will be considered, and appropriate regulatory revisions will be published. These regulations, however, shall remain effective until further amended. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until September 29, 1980. Any person visiting Veterans Administration Central Office for the purpose of inspecting any such comments will be received by Central Office Veterans Services Unit in room 132. Such visitors to any field stations will be informed that the records are available for inspection only in Central Office and furnished the above address and room number.

Approved: August 14, 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

Section 17.960 is added to 38 CFR Part 17 to read as follows:

§ 17.960 Pilot Program; Use of Community (Contract) Halfway Houses, Therapeutic Communities, Psychiatric Residential Treatment Centers and Other Community-Based Treatment Facilities for Eligible Veterans Suffering from Alcohol and Drug Dependence.

(a) *Definition.* (1) A community halfway house (HWH) for alcohol and/or drug dependence treatment, is defined as a community-based, peer-group oriented, residential facility which provides food, lodging and supportive services in a non-drinking environment for persons involved in a recovery process (or some similar definition which is generic). Licensing requirements vary considerably from state to state and HWHs may be found which are licensed as boarding homes, board and care facilities, intermediate care facilities, and, most desirable, as halfway houses per se. Attention is invited to the discussion of standards for Halfway House Alcoholism Programs, published by the Association of HWH Alcoholism Programs of North America (Address: 786 E. 11th Street, St. Paul, Minnesota 55106).

(2) It is anticipated that about twenty (20) contracts will be established in fiscal year 1980. It is further anticipated that each contract will provide assurance for approximately eighty (80) placements per contract year and that placements will provide for an expected length of stay of sixty days. Selection and approval of contract proposals will be based on the need to obtain data on both urban and rural geographic parameters, and on a number of associated logistical factors of importance. Those medical centers that have specialized Alcohol or Drug Dependence Treatment Programs which are located in or near communities possessing halfway house resources are encouraged to submit contract proposals.

Responsibilities. (1) Medical Center Directors are responsible for designating the appropriate individuals to serve as members of the contracting officer's negotiating team and to develop proposed contracts. They also are responsible for assuring appropriate clinical/administrative participation in the selection and placement of patients, issuing authorizations and processing invoices, inspecting HWHs and coordinating the follow-up of patients. The medical center contracting officer is responsible for negotiating and consummating contracts with HWHs. Copies of negotiated new, amended or canceled contracts will be furnished to the Regional Director and to the appropriate clinic of jurisdiction. A contract format is being developed and will be distributed in Calendar Year 1980. Any contracts required to be negotiated prior to that distribution will be accomplished as a service contract on SF-33 and include all requirements contained in this regulation.

(2) The Regional Director is responsible for maintaining a current file of all contracts within the Region. This file will serve as a regional resource file as to the location and the terms of the contracts for inquiries from other interested facilities. Contract costs are to be charged to DM&S Cost Center 8361 "Alcohol and Drug Treatment and Rehabilitation".

(3) Referral for medical follow-up may be made to another VA medical center or to a Veterans Administration outpatient clinic when the distance between the placing medical center and the HWH or other compelling circumstances would make follow-up by the authorizing medical center impracticable. When two or more facilities place patients in the same halfway house, follow-up services may be exchanged by mutual agreement.

(4) Contracts will be sought with HWHs which meet the standards and desire to furnish care to VA patients.

involvement of residents' families and

or transfer patients and terminate the

egress, and sufficient physical mobility

Appropriate medical center personnel will advise the Medical Center Director of suitable HWHs known to them. Every effort will be made to secure contracts to include within the per diem rate in addition to room and meals, the cost of routine medical care, and other necessary services as described in the contract. If this is not possible, it will be necessary for the contract to specify those services and supplies which are not included in the per diem rate.

(c) *Additional VA Minimum Standards.* Standards are to reflect the provision of residential, nutritional, limited health-related services, and social rehabilitation with support and guidance toward the goal of independent living. Since Federal Standards for such facilities are minimal and broadly defined, the facility must meet the following additional VA standards:

(1) The HWH conforms to the standards of the Life Safety Code (National Fire Protection Association #101) in effect on the date of the award of the contract, conforms to the fire and safety code imposed by the State law, which adequately protects residents in HWHs, and meets all city, state, and Federal requirements concerning licensing and health codes. In all cases, the VA requires a level of safety which conforms to NFPA 101. All contract facilities must be licensed under state or Federal authority.

(2) Accreditation and licensing by the State. Accreditation by the Joint Commission on Accreditation of Hospitals is evidence of internal quality assurance mechanisms and is desirable, but is not required.

(3) The notification and contract clause entitled "Privacy Act" as specified in Federal Procurement Regulations 1–1.327 shall be incorporated into this contract by the contracting officer, as will references to 38 U.S.C. 4132, "Confidentiality of Certain Medical Records", and 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records".

(4) Basic Services will Ordinarily Include: (i) A supervised, alcohol and drug free environment, including active affiliation with Alcoholics Anonymous (AA) programs. The facility will be staffed on a 24-hour basis, and have at least one live-in staff member.

(ii) Board and room.

(iii) Laundry facilities for residents to do their own laundry.

(iv) Structured activities: resident participation in group sessions will depend upon resident preference and Alcohol Dependence Treatment Program/Drug Dependence Treatment Program-HWH staff recommendations.

(v) A variety of group activities, including physical activities as appropriate.

(vi) Health and personal hygiene maintenance.

(vii) Monitoring of medications.

(viii) Supportive Social Service.

(ix) Individual counseling as required (with special emphasis on vocational rehabilitation counseling, in collaboration with VA program resources).

(5) Records and Reports: An individual client record will be maintained on each veteran admitted under this contract, which will include, in addition to reasons for referral:

(i) All essential identifying data relevant to the resident and his/her family including a sociocultural assessment.

(ii) Data relating to the resident's admission.

(iii) Copies of any medical prescriptions issued by physicians, including orders, if any, for medications to be taken.

(iv) Reports of periodic re-evaluation by halfway house staff.

(v) Final summaries on each resident who leaves the program, to include reason for leaving, the resident's future plans, and follow-up locator information.

(vi) Individual case records will be maintained in confidence as required by 38 U.S.C. 4132, "Confidentiality of Certain Medical Records" and 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records". Records will be accessible to the VA's ADTP or DDTP staff, and such data will materially contribute to the evaluation study required by Congress.

(vii) Periodic reports will be provided to the VA (i.e., fiscal accountability) as required.

(6) *Staffing:* Sufficient staff in numbers and position qualifications to carry out the policies, responsibilities, and programs of the facility. As a minimum, there must be a full-time administrative staff member or his/her staff designee on duty on the premises or residing at the house and available for emergencies 24 hours a day, 7 days a week. Inspection teams are expected to evaluate the contractor's ability to consistently assure the presence of staff capable of providing those services required under the terms of the contract.

(d) *Scope of Care.* The care provided is to include:

(1) Opportunities for immediate learning/development of responsible living.

(2) Support for the individual desire for sobriety (alcohol/drug abuse-free life style).

(3) Opportunities for learning, testing, and internalizing knowledge of illness/recovery process, and to up-grade skills and improve personal relationships.

(e) *Pre-Contract Assessment.* A multidisciplinary VA team consisting at a minimum of a physician, a social worker, psychologist, or nurse, and an engineering service safety office will conduct an assessment of the home prior to the award of a contract. Programs to be utilized will be restricted to community-based peer-group oriented, residential facilities that provide food, shelter, and service in a supportive, non-alcohol drinking/non-drug abusing environment (abstinence). The Safety Officer will inspect the facility for conformity to the current Life Safety Code and submit the findings to the chairperson of the team. The other members of the team will focus on an assessment of the quality of care provided by the facility and the quality of life within the facility, giving particular attention to the following critical indicators:

(1) General observation of residents indicates that they maintain an acceptable level of personal hygiene and grooming.

(2) The facility meets applicable fire, safety and sanitation standards in attractive surroundings conducive to social interaction and the fullest development of the resident's rehabilitative potential. It is preferably in a central urban location, near public transportation, and not too far from areas which provide employment.

(3) Appropriate organized activity programs during waking hours (including evenings) reflect a high level of activity in the facility.

(4) Appetizing, nutritionally adequate meals are provided in a setting which encourages social interaction and nutritious snacks for between meals and bedtime are available for those requiring or desiring additional food, when it is not medically contraindicated. The addition of nutritious snacks to requirements for board is important for alcohol or drug dependent patients. Many of these patients are either undernourished or have developed poor eating habits because of their addiction. The local VA dietitian may consult with the initial inspection team and the team making subsequent assessments, in evaluating not only the printed menus but the patients' satisfaction with meals and actual consumption of food offered.

(5) Staff behavior and interaction with residents convey a genuine attitude of concern and caring.

(6) Treatment and discharge planning reflect a team assessment of health and social and vocational needs and the involvement of residents' families and appropriate community resources in resolving problems and setting goals.

(7) The facility demonstrates a commitment to constant upgrading of knowledge and skills of staff through provision of documented training programs which respond directly to the resident's treatment needs.

(8) There is evidence of facility-community interaction. This may be demonstrated by the nature of scheduled activities, by information about resident flow out of the facility, e.g., family, volunteers, local consumer services, etc.

(9) There is documented evidence of the facility's commitment to the implementation of the Patient's Bill of Rights.

(10) If urine screening is required or other procedures, there shall be data developed to measure which hospital based services are required.

(11) The report of Pre-Contract Survey, with recommendations, will be submitted to Central Office for review and approval (Attn: 10B/116A3) prior to awarding a contract. Funding will be made available subsequent to VACO approval of proposed contract.

(12) Preliminary to making each inspection of facility and survey of patient care, the team leader (who will usually be a physician assigned to the program) will:

(i) Contact the person in charge of the HWH to arrange date and time of inspection.

(ii) Review report of most recent previous inspection, if any, and discuss with the Chief of Medical Administration, hospital contracting officer and the Chief, Social Work Service, any problems or irregularities which they may have encountered in dealing with the HWH.

(iii) Review terms of existing agreement.

(13) A formal report of each inspection will be prepared and forwarded to the medical center contracting officer. In accordance with normal contract administrative practices, the following actions can be expected to ensue:

(i) The HWH will be advised of the findings of the inspection team.

(ii) In the event deficiencies have been noted, the HWH will be given a reasonable time to take corrective action and to notify the contracting officer that the corrections have been made.

(iii) If satisfactory corrections are not made in a reasonable time, the contracting officer will consult with the concerned officials so that suitable arrangements can be made to discharge or transfer patients and terminate the contract.

(iv) The original copy of the report and pertinent correspondence will be filed in the contract file. Copies of all new, amended or terminated contracts will be sent to the appropriate clinic of jurisdiction and Regional Medical Director.

(14) Contracts will not be initiated until noted deficiencies have been eliminated.

(15) Any unsatisfactory conditions noted during a follow-up visit to a HWH will be reported in writing to the contracting officer through the Medical Center Director.

(16) All HWHs, as a part of the contract, have agreed and warranted that they do not maintain nor provide dual or segregated patient facilities on the basis of race, creed, color or national origin. As a part of each inspection, special attention will be given to evaluating compliance by the HWH with this requirement. If, during the course of the inspection, an unresolved discrimination complaint arises or maintenance of segregated facilities has been observed, a report will be forwarded to the appropriate regional director (10BA–). The report will contain pertinent facts and observations with a description of action taken to correct the situation. A copy of the report will be given to the contracting officer.

(f) *Subsequent assessments.* Subsequent assessment of the facility must be made at least every two years by a multidisciplinary team including such hospital personnel as the Director considers necessary to assure that the facility provides quality care in a safe environment.

(g) *Guidelines for Selection for Post-Hospital Referral.* It should be emphasized that this program is limited to out-placement of eligible veterns who have recently completed detoxification or other hospital level treatment. The program is not intended for use as an emergency boarding house, nor as a way-station for veterans headed for domiciliary placement, nor for treatment prior to hospitalization or rehospitalization. Technical (clinical) guidance, patient selection, and associated coordination will be provided by the Office of the Chief, ADTP, or DDTP, at the contracting VA medical center. Selection will include:

(1) Patients capable of self-preservation. In an emergency situation, the patient should have sufficient capacity to recognize physical danger, sufficient judgment to recognize when such danger requires immediate egress from a group residence, sufficient capacity to follow a prescribed route of egress, and sufficient physical mobility to accomplish such egress;

(2) Patients who, for various reasons, need a slower integration into the community, perhaps requiring a low-skilled job and some help finding a room with cooking privileges;

(3) Alcohol or drug abusing veterans who, because of health problems, may find readjustment to "street life" tough going, and who may need additional time and support in order to be self-supportive;

(4) The alcohol or drug dependent veteran who has an unsatisfactory home environment may need more time to stabilize the changes made in the inpatient unit, before living autonomously;

(5) The semi-stable individual who has a lot of ego strength and some environmental support, but due to crisis, needs a brief inpatient stay and requires a therapeutic milieu.

(h) *Per Diem Rates and Census.* To the degree that any savings are generated by lower per diem rates, census may be adjusted to accommodate placement of additional veterans so long as facilities remain within their dollar allocation. Length of stay at VA cost will be limited to 60 days, unless in exceptional cases a waiver of up to 30 additional days is authorized by the medical center Chief of Staff on the recommendation of appropriate clinical official subject to availability of funds as determined by Fiscal Service. Additional contract funds will not be allocated for placement of veterans at this level of care for post-hospital treatment of alcohol or drug dependence beyond the 90th day.

(i) *Other Instructions.* (1) Contracting facilities must certify willingness to make available to the VA documented information as deemed necessary to conduct utilization review audits, to verify quality of patient care for veterans, to assure confidentiality of patient record information, and to determine the completeness and accuracy of financial records. It is anticipated that a comprehensive program evaluation study will be implemented at a date to be determined, and will draw part of its data from the contracted facilities.

(2) Assessment of treatment outcome at periodic intervals is expected of all ADTPs and DDTPs. Veterans provided placement in halfway house or similar residential care facilities under this program, will also be included in such follow-up activities as part of the continuing support and involvement of the contracting VA program.

(3) Review of opinions expressed by the Director, National Institute on Alcohol Abuse and Alcoholism, and by the National Association of Halfway House Programs, indicates a cost factor of $17.00 per day for Halfway House Care is a realistic averaged figure for use in estimating costs for contract fee-basis services. Unusual cases requiring higher cost/days may be referred to VACO for review.

(4) Pub. L. 96–22 requires an evaluation report be submitted to the Congress, considering both the treatment and the cost experiences in a comparison with VA-provided care. Such report, covering program operations through September 30, 1982, must be submitted by the Administrator not later than March 31, 1983.

(5) The requirements and mechanism for periodic reporting of program activity are currently under development and will be available to participating field facilities in Calendar Year 1980.

(6) As is noted in the text of the legislative authority, care, treatment and rehabilitative services authorized under Pub. L. 96–22, (38 U.S.C. 620A), may not be provided after the last day of the fifth fiscal year following the fiscal year in which this pilot program is initiated (DM&S Circular 10–80–85).

[FR Doc. 80-25303 Filed 8-20-80; 8:45 am]
BILLING CODE 8320-01-M

38 CFR Part 36

Allowable Easements for Drainage and Irrigation Purposes—Guaranteed Home and Mobile Home Lot Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations to specify the conditions under which easements for drainage and irrigation purposes will be viewed as acceptable limitations on title. Adoption of these amendments should reduce the paperwork burdens of both lenders and the VA with regard to drainage and irrigation easements.

EFFECTIVE DATE: August 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Veterans Administration, Washington, DC 20420, (202–389–2691).

SUPPLEMENTARY INFORMATION: On page 25411 of the **Federal Register** of April 15, 1980, there was published a notice of proposed regulatory development to amend §§ 36.4253 and 36.4350 relative to allowable easements for drainage and irrigation purposes.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

These amendments are adopted under authority of sections 210(c), 1803(c), and 1819(g) of title 38, United States Code.

By direction of the Administrator.

Approved: August 13, 1980.

Rufus H. Wilson,
Deputy Administrator.

1. Section 36.4253 is amended as follows:

(a) By deleting the words "his price" and inserting the words "the price" in paragraph (b)(5)(iii).

(b) By revising paragraph (c)(4)(i) as set forth below:

§ 36.4253 Title and lien requirements.

* * * * *

(c) The following limitations on the quantum or quality of the estate or property shall be deemed for the purposes of paragraph (b) of this section to have been taken into account in the appraisal of the mobile home lot and determined by the Administrator as not materially affecting the reasonable value of such property:

* * * * *

(4) *Easements.* (i) Easements for public utilities along one or more of the property lines and easements for drainage or irrigation ditches, provided the exercise of the rights thereof do not interfere with the use of the mobile home or improvements located on the subject property.

* * * * *

2. In § 36.4350, paragraph (c)(4)(i) is revised as follows:

§ 36.4350 Estate of veteran in real property.

* * * * *

(c) The following limitations on the quantum or quality of the estate or property shall be deemed for the purposes of paragraph (b) of this section to have been taken into account in the appraisal of residential property and determined by the Administrator as not materially affecting the reasonable value of such property:

* * * * *

(4) *Easements.* (i) Easements for public utilities along one or more of the property lines and easements for drainage or irrigation ditches, provided the exercise of the rights thereof do not interfere with the use of any of the buildings or improvements located on the subject property.

* * * * *

(38 U.S.C. 210(c), 1803(c), 1819(g))

[FR Doc. 80-25403 Filed 8-20-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1574-7]

District of Columbia Implementation Plan; Approval and Promulgation of Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: The Environmental Protection Agency is correcting FR Doc. 76–53326, published December 6, 1976, concerning the District of Columbia Implementation Plan. This notice corrects an error which appeared in a previous **Federal Register** notice and does not alter the intent or substance of that rulemaking.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Joanne McKernan, U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597–8182.

Correction

An amendment to § 52.470 (Identification of Plan) of 40 CFR Subpart J (District of Columbia) which appeared in the December 6, 1976 **Federal Register,** 41 FR 53326, FR Doc. 76–35728, was inadvertently codified as § 52.470(c)(8). The proper designation of this paragraph should be § 52.470(c)(9). In addition, an amendment to 40 CFR 52.470 which appeared in the May 12, 1976 **Federal Register** (41 FR 19310) FR Doc. 76–13700, was inadvertently deleted and will be reinstated with its proper designation as (c)(8). Also, amendment (c)(10) has been reserved. This notice serves to make these corrections. Paragraphs (c)(1) through (c)(7), (c)(11) and (c)(12) of 40 CFR 52.470 remain unchanged.

In Section 52.470, paragraphs (c)(8) through (c)(10) should read as follows:

§ 52.470 Identification of plan.

(c) * * *

* * * * *

(8) Section 8–2:709 and Section 8–2:724 are amended to limit particulate emissions to .08 grains per day standard cubic foot at Solid Waste Reduction Center #1 (S.W.R.C. #1) and allow continued operation of S.W.R.C. #1 respectively; submitted July 17, 1975 by the District of Columbia.

(9) Amendments to Sections 8–2:704 and 8–2:705 of the District of Columbia Air Quality Control Regulations submitted on February 25, 1976 by the Mayor.

(10) [Reserved]

(42 U.S.C. 7401–642)

Dated: July 31, 1980.

Alvin R. Morris,
Acting Regional Administrator.

[FR Doc. 80-25452 Filed 8-20-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1579-4; OPP 300020A]

Inert Ingredients in Pesticide Formulations; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of a tolerance for certain additional inert (or occasionally active) ingredients in pesticide formulations. The regulation was submitted by various firms. This rule permits the use of the exempted inerts in pesticide products.

EFFECTIVE DATE: Effective on August 21, 1980.

ADDRESS: Send comments to: Gary Burin, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin, (202/577–3710) at the above address.

SUPPLEMENTARY INFORMATION: On January 10, 1980, the EPA issued a notice that published in the **Federal Register** (45 FR 2058) of proposed rulemaking to amend 180.1001 by exempting certain pesticide chemicals which are inert (occasionally active) ingredients from tolerance requirements under Section 408(e) of the Federal Food, Drug, and Cosmetic Act. The comments that were received have been incorporated in this regulation. It has been concluded that the amendment will protect the public health and, therefore, the amendment to the regulation should be adopted as set forth below.

Any person adversely affected by this regulation may within 30 days after publication of this notice in the **Federal Register** file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

Dated: August 12, 1980.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Therefore Subpart D of 40 CFR Part 180 is amended by alphabetically inserting new items in the table in paragraph (d), § 180.1001, to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
*	*	*
Corn gluten meal, Hydrolyzed.		Attractant.
*	*	*
Iso-octadecanol	Not more than 2% of pesticide formulation.	Defoaming agent.
*	*	*
Polyvinylpyrrolidone, butylated.		Surfactants, related adjuvants of Surfactants.

[FR Doc. 80-25469 Filed 8-20-80; 8:45 am]
BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1–1, 1–3

[FPR Amdt. 206]

Small Purchase Set-Asides for Small Business Concerns

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Pub. L. 95–507 amended the Small Business Act and included a requirement in section 221 that "each contract for goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be exclusively reserved for small business concerns." This amendment implements the act, the revised regulations of the Small Business Administration, and Office of Federal Procurement Policy, Policy Letter No. 80–6, July 22, 1980 (45 FR 50493, July 29, 1980). The intended effect of the amendment is to increase the award of small purchases to small business concerns.

EFFECTIVE DATE: September 30, 1980, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate (VR), Office of Acquisition Policy, 703–557–8947.

SUPPLEMENTAL INFORMATION: This amendment also clarifies the treatment to be accorded late proposals when only one proposal is received.

PART 1–1—GENERAL

Subpart 1–1.7—Small Business Concerns

1. Section 1–1.701–1 is amended to revise paragraph (d)(3) to read as follows:

§ 1–1.701–1 Small business concerns (for Government procurement).

* * * * *

(d) * * *

(3) In the case of Government procurement reserved for or involving the preferential treatment of small business concerns (including equal low bids), such nonmanufacturer shall furnish in the performance of the contract the products of a small business manufacturer or producer which products are manufactured or produced in the United States. However, if the procurement has an anticipated value of less than $10,000 and is subject to, and is procured under, the "small purchase procedures" (see Subpart 1–

3.6), a nonmanufacturer may furnish any domestically produced or manufactured product. Subject to the foregoing, if the goods to be furnished are woolen, worsted, knitwear, duck and webbing, dealers and converters shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher. If the procurement is for thread, dealers and converters shall furnish such products which have been furnished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specification, but excluding mercerizing, spinning, throwing, or twisting operations.") If the procurement is for a refined petroleum product, other than a product classified in Standard Industrial Classification Industries No. 2951, Paving mixtures and blocks, No. 2952, Asphalt felts and coatings, No. 2992, Lubricating oils and greases, or No. 2999, Products of petroleum and coal, not elsewhere classified, paragraph (i) of this section is for application. ("Nonmanufacturer" means any concern which in connection with a specific Government procurement contract, other than a construction or service contract, does not manufacture or produce the products required to be furnished by such procurement. Nonmanufacturer includes a concern which can manufacture or produce the products referred to in the specific procurement, but does not do so in connection with that procurement.)

* * * * *

2. Section 1–1.702 is amended by revising paragraph (b)(13) as follows:

§ 1–1.702 Small business policies.

* * * * *

(b) * * *

(13) Small purchases shall be set-aside for small business concerns.

* * * * *

3. Section 1–1.706–1 is amended by adding paragraph (g) to read as follows:

§ 1–1.706–1 General.

* * * * *

(g) *Small purchases.* Small purchases; i.e., purchases under $10,000 subject to small purchase procedures, shall be identified as small business-small purchase set-asides for small business concerns as provided in §§ 1–3.602 and 1–3.603–3.

PART 1–3—PROCUREMENT BY NEGOTIATION

The table of contents for Part 1–3 is amended by adding the following entry:

Sec.
1–3.603–3 Small business-small purchase set-asides.

Subpart 1–3.6—Small Purchases

1. Section 1–3.602 is amended by adding paragraphs (f) and (g) as follows:

§ 1–3.602 Policy.

* * * * *

(f) *Policy.* (1) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased (see 15 U.S.C. 644(j)).

(2) The provisions of 15 U.S.C. 644(j) shall be implemented by using a special category of set-asides identified as small business-small purchase set-asides when purchases under $10,000 are affected by small purchase procedures.

(3) The responsibility of agencies to make purchases under directed sources of supply, such as Federal Prison Industries, Industries for the Blind and the Other Severely Handicapped, and manadatory multiple award Federal Supply Schedule contracts, is unaffected by the provisions of Pub. L. 95–507 and this § 1–3.602.

(g) Provide for prompt payments to contractors with a minimum of paperwork whenever small purchases procedures are used.

2. Section 1–3.603–3 is added to read as follows:

§ 1–3.603–3 Small business-small purchases set-asides.

(a) Small business-small purchase set-asides of each small purchase procurement of supplies or services having an anticipated value of less than $10,000 is automatically established for small business concerns (see paragraph (g) of this § 1–3.603–3 for procurements under $500). Any written solicitation for small business-small purchase set-asides shall cite it as a set-aside under section 15(j) of the Small Business Act.

(b) If the contracting officer determines that he can reasonably expect to obtain two or more offers from small business concerns that are competitive in terms of (1) market price, (2) quality and (3) delivery, he shall proceed to make an award under the small business-small purchase set-aside.

(c) If the contracting officer determines he cannot reasonably expect to obtain two or more offers from small business concerns that will be competitive in terms of (1) market price, (2) quality, and (3) delivery, he need not proceed with the small business-small purchase set-aside and may complete the procurement on an unrestricted basis.

(d) In making the determinations in (b) and (c), the contracting officer, as appropriate, should ascertain by telephone, or other informal means, the availability of small business suppliers.

(e) If the contracting officer proceeds with the small business-small purchase set-aside, solicits offers, and:

(1) Receives only one responsive offer from a responsible small business concern at a reasonable price, he shall make an award to such concern;

(2) Receives no responsive offers from any responsible small business concerns, he may cancel the small business-small purchase set-aside and solicit offers on an unrestricted basis.

(f) If the contracting officer proceeds under (c) or (e)(2) of this § 1–3.603–3 he shall document the file accordingly.

(g) Small purchases not exceeding $500 may be made on a non-competitive basis from small business concerns (see § 1–3.603–1). If a responsible small business source is not available, the non-competitive purchase may be made on an unrestricted basis.

(h) Existing appeal rights of small business specialists and SBA representatives with respect to set-asides shall apply to small business-small purchase set-asides.

Subpart 1–3.8—Price Negotiation Policies and Techniques

§ 1–3.802–1 [Amended]

1. Section 1–3.802–1 is amended to revise paragraph (c) as follows:

* * * * *

(c) Where only one proposal is involved and it is received after the time specified, it may be evaluated and considered for award in accordance with agency procedures. As used in this section the term "only proposal received" means a proposal which is submitted by the only offeror responding to the request for proposals or a sole source. The term "only proposal received" does not mean (1) an offeror who is offering proprietary items in response to a request for proposals which specifies that awards will be made on the basis of proprietary items identified by the offeror by brand name, model, type, or other identification, and (2) an offer which is based on a performance specification or a brand name product which is specifically identified in the request for proposals.

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: August 13, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–25436 Filed 8–20–80; 8:45 am]

BILLING CODE 6820–61–M

41 CFR Parts 5A–7, 5A–26, 5A–76

[APD 2800.3 CHGE 8]

Procurement; Miscellaneous Amendment

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations (Chapter 5A), is amended to prescribe clauses pertaining to (1) requirements for recovered materials in the performance of a contract, and (2) requirements for contractors to maintain a separate accounting for change orders. An exhibit of a form letter is added for use in connection with late bids or proposals. These actions reflect changes in policies and operating procedures. The effect of these changes is to improve the procurement system.

EFFECTIVE DATE: September 26, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (703) 557–8947.

PART 5A–7—CONTRACT CLAUSES

The table of contents for Part 5A–7 is amended by revising the following entries:

Sec.
5A–7.103–85 [Reserved]
5A–7.103–86 Recovered material requirements.

Section 5A–7.103–85 is deleted and the section is reserved as follows:

§ 5A–7.103–85 [Reserved]

Section 5A–7.103–86 is revised to read as follows:

§ 5A–7.103–86 Recovered material requirements.

(a) Pub. L. 94–580, Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), provides that after October 21, 1978, procurements exceeding $10,000 shall require Federal agencies to procure items (subject to certain exceptions) which have the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

(b) Before issuing a solicitation, the contracting officer shall review the Item Purchase Description cards (IPD's) for recovered material requirements. Solicitations requiring the use of recovered materials shall include the following contract provisions:

Recovered Material Requirements

(a) Pub. L. 94–580, Resource Conservation and Recovery Act of 1976, requires Federal agencies to procure items which have the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

(1) Recovered material is defined as material which has been collected or recovered from solid waste.

(2) Solid waste is defined as any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (32 U.S.C. 1242), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(b) Columns A and B set forth the Government's requirements of recovered materials (as defined in the specifications or elsewhere defined in this solicitation) which must be met. Column C is to be completed by the offeror. By signing the offer, the offeror certifies that the Government's minimum requirements will be met. If the offeror indicates a percentage which is less than required, the offer will be rejected as nonresponsive. If the offeror indicates a percentage which is higher than required, it will become a contract requirement. Failure to insert a percentage shall be deemed to be an offer of the Government's minimum percentage listed in Column B.

A	B	C
Solicitation item number	Percentage of recovered material required	Percentage of total material utilized which will be recovered material
.....	.....	.....
.....	.....	.....
.....	.....	.....

(c) Any decision to procure items with less than the required percentage of recovered materials shall be made only if one or more of the following circumstances are present.

(1) The item with the required percentage of recovered material is not available within a reasonable period of time.

(2) The item with the required prescribed minimum percentage of recovered material(s) fails to meet the performance requirements set forth in the applicable specifications or fails to meet the requirements of the using activity. In this case, the matter shall be referred to the Office of Programs and Requirements (FR).

(3) The item with the required percentage of recovered material is available only at an unreasonable price.

(4) A satisfactory level of competition cannot be maintained.

(d) Solicitations and contracts for commercial or specification items, including multiple award federal supply schedule contracts, for which the recovered material requirements are unknown shall include the following contract provision:

Recovered Materials Information

(a) Pub. L. 94–580, Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) requires Federal agencies to procure items which have the highest percentages of recovered material practicable, consistent with maintaining a satisfactory level of competition.

(1) Recovered material is defined as material which has been collected or recovered from solid waste.

(2) Solid waste is defined as any garbage, refuse sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, and contained gaseous material resulting from industrial, commercial, and mining and agricultural operations, and from community activities but does not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1242), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 as amended (42 U.S.C. 2011).

(b) To provide a basis for making future determinations as to percentages of recovered materials as defined in paragraph (a) which can reasonably be expected, you are encouraged to furnish the following information for each item on which you submit an offer.

Solicitation item No.	Percent of recovered material
.....	
.....	
.....	

(e) Upon receipt of the offeror's recovered materials percentages, the contracting officer shall furnish the

information to the Office of Programs

included in all solicitations when it is

PART 5A–76—EXHIBITS

Regulations (FPR). Rather than

§ 7–6.5104 [Amended]

7. § 7–7.5002–5, *Marking,* is revised as

information to the Office of Programs and Requirements (FR).

Section 5A–7.103–87(a) (1) and (2) are revised to read as follows:

§ 5A–7.103–87 Availability for inspection and testing and delivery.

* * * * *

(1) The clause may be modified to accommodate individual circumstances, such as, shipment authorized under a "Quality Approved Manufacturer Agreement".

(2) The clause may be modified to require availability for delivery. "Delivery" shall be substituted for "shipment," and "notice of award" for "receipt of order" in definite quantity procurements.

* * * * *

PART 5A–26—CONTRACT MODIFICATION

Subpart 5A–26.50—Change Orders

Section 5A–26.5002 is amended to read as follows:

§ 5A–26.5002 Change order accounting procedures.

(a) Prior to the issuance of a change order, "forward pricing" should be accomplished whenever feasible. Forward pricing means: The price of contract modifications shall be negotiated prior to execution if this can be done without adversely affecting the interest of the Government.

(b) If a significant cost increase could result from a change order but time does not permit negotiation of a firm price for the change order, a maximum price for the total contract should be negotiated, if practical. As a minimum, the file should be documented to show the Government's estimated cost for the change.

(c) When forward pricing is not possible and retroactive pricing is the only alternative, the latter can be effected more accurately if the Government has complete and accurate information disclosing a contractor's costs incurred in performing the changes. Recording change order cost is a difficult and complex task with respect to certain aspects of work and costs; hence, contractors' accounting systems seldom segregate the costs of performing changed work. Therefore, before submission of offers, prospective contractors should be advised of the possible need to alter or improve their accounting procedures to comply with the need for appropriate change order cost segregation.

(d) The following Change Order Accounting clause and Change Orders—Submission of Claims clause shall be included in all solicitations when it is anticipated (i) that after award of a contract there may be a change(s) which may exceed $100,000 in cost, or (ii) that the total contract award with changes may exceed $500,000.

Change Order Accounting

The contractor and his subcontractors are required to maintain acceptable accounting systems including change order account systems for each change order, or series, or related change orders. These systems shall include separate accounts, by job order or other suitable accounting procedure, of all incurred segregable direct costs (less allocable credits) of work, both changed and unchanged, allocable to the change. These accounts shall be controlled by the general books of account.

Change Orders—Submission of Claims

(a) Any claims for adjustment of contract price or delivery schedule which a Contractor wishes to assert as a result of any change order(s) must be submitted in accordance with the Changes clause (article 2 of Standard Form 32) and the Change Order Accounting clause.

(b) If it is impossible for the Contractor to completely support the assertion of claim with detailed cost or pricing data as required by 41 CFR 1–3.807–3(a)(2) of the Federal Procurement Regulations, the Contractor shall state the reasons for his inability to do so at the time of first asserting the claim. The Contractor shall then be allowed [1] calendar days from the date of first asserting the claim to submit the missing detailed data, or until the Contractor has completed (or manufactured) [2] percent of the items which were changed by the change order(s), at the option of the Contracting Officer.

(e) It may not be possible to enumerate all categories of costs attributable to a change order because such costs vary according to the particular contract and the contractor's accounting system. Certain categories of costs are less susceptable to accounting segregation than others. Nevertheless, the following categories of costs normally are segregable and accountable as direct costs under the terms of the first clause in (d), above:

(1) Nonrecurring costs; e.g., engineering costs and costs of obsolete work or reperformed work;

(2) Costs of added distinct work; e.g., new subcontract work, or new prototypes, or new retrofit or backfit kits caused by the change order; and

(3) Costs of recurring work; e.g., labor and material costs.

[1] Normally 30 calendar days.

[2] Normally 50 percent. (The contracting officer may determine any other number of days or percentages that is reasonable and adequate to protect the Government's interests. The determination shall be documented in the contract file.)

PART 5A–76—EXHIBITS

The table of contents for Part 5A–76 is amended by adding the following entry:

Subpart 5A–76.1—Letters and Notices

* * * * *

Sec.

5A–76.102 Letter form for late/bid proposal in response to solicitations.

* * * * *

Note.—The letter illustrated at § 5A–76.102 is filed with the original document.

(Sec. 305(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: July 25, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80–24723 Filed 8–20–80; 8:45 am]

BILLING CODE 6820–61–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Parts 7–6 and 7–7

[AIDPR Notice 81–2]

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This AID Procurement Regulation (AIDPR) Notice makes administrative and editorial revisions to Parts 7–6 (Foreign Purchases), and 7–7 (Contract Clauses) of the AIDPR. The changes correct typographical errors, conform AIDPR contract clauses to clauses prescribed in the Federal Procurement Regulations (FPR), and formally incorporate material previously issued within AID as internal procedural instructions or policies.

EFFECTIVE DATE: This AIDPR Notice is effective August 12, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235–9107.

SUPPLEMENTARY INFORMATION: A summary of the changes made by the AIDPR Notice, and the reason for specific changes follows:

AID's contract clauses concerning "Changes" (§§ 7–7.5001–2, and 7–7.5401–3), "Standards of Work" (§ 7–7.5001–6), "Limitation of Cost" (§ 7–7.5001–8), "Limitation of Funds" (§ 7–7.5501–10), and "Insurance-Liability to Third Persons" (§§ 7–7.5001–22 and 7–7.5501–25), are all based on required contract clauses in the Federal Procurement Regulations (FPR). Rather than presenting these clauses in full text, they are revised to cross-reference the appropriate FPR clause. This is consistent with our treatment of other such clauses, and insures that AID clauses conform to FPR clauses.

A new contract clause governing reporting requirements on participants trained under AID contracts is added in §§ 7–7.5003–11, 7–7.5301–30, and 7–7.5403–12. This clause establishes standard reporting requirements to enable AID to gather data necessary for reports to the Congress.

The contract clauses governing source and nationality requirements in § 7–6.5103 and local cost financing in § 7–6.5104, are revised to correct a typographical error.

The contract clauses governing transportation requirements in §§ 7–7.5002–15, 7–7.5402–8, and 7–7.5502–10 are revised to conform to AID's new source, origin, and nationality policies, as published in AID Handbook 1, Supplement B, Chapter 5 (Procurement Policies, Source and Nationality). The clause requirement relating to shipments on U.S. flag vessels has been changed to require at least 50% of the gross tonnage of goods purchased under the contract to be shipped on U.S. flag vessels, rather than requiring that U.S. flag vessels be use "when available", and to allow use of vessels serving under Cooperating Country Flag registry, when procurement has been authorized from AID Geographic Code 941 (the United States and certain developing countries).

The contract clauses governing marking of AID-financed goods (§ 7–7.5002–5, cross-referenced in §§ 7–7.5402–8, and 7–7.5502–17) are revised to reflect new AID policies as published in AID Handbook 1, Supplement B, Chapter 22 (Procurement Policies, Marking). The changes reflect a transfer of responsibility for marking requirements from AID's Small Business Office to the cognizant Mission Director, Regional Bureau Assistant Administrator, or the Office of Commodity Management.

PART 7–6—FOREIGN PURCHASES

Subpart 7–6.51—Source, Origin, and Nationality

§ 7–6.5103 [Amended]

1. § 7–6.5103, Contract clause—source and nationality requirements, is amended by deleting paragraph (c)(2)(i) of the clause, and re-numbering paragraphs (c)(2)(ii) through (c)(2)(v) as paragraphs (c)(2)(i) through (c)(2)(iv).

§ 7–6.5104 [Amended]

2. § 7–6.5104, *Contract clause—authorization of local cost financing with U.S. dollars,* is amended by deleting the word ". . . may . . ." as it appears in paragraph (d)(2)(ii) of the clause, and in its place inserting the word ". . . does . . .".

PART 7–7—CONTRACT CLAUSES

Subpart 7–7.50—Clauses for Cost Reimbursement Contracts

3. § 7–7.5001–2, *Changes,* is revised as follows:

§ 7–7.5001–2 Changes.

Insert the clause set forth in FPR 1–7.404–5, and the following additional paragraph (d):

(d) If this contract is executed by an AID/Washington Contracting Officer, valid change orders may be issued only by the AID/Washington Contracting Officer, or such person as he or she may designate in writing for such purpose.

4. § 7–7.5001–6, *Standards of Work,* is revised as follows:

§ 7–7.5001–6 Standards of work.

Insert the clause set forth in FPR 1–7.302–3.

5. § 7–7.5001–8, *Limitation of cost,* is revised and re-titled as follows:

§ 7–7.5001–8 Limitation of cost or funds.

(a) For *fully funded* contracts *not* providing for cost-sharing, insert the Limitation of Cost clause set forth in FPR 1–7.202–3(a), in accordance with FPR 1–7.402–2(a).

(b) For *fully funded* contracts which *do* provided for cost-sharing, insert the Limitation of Cost (Cost-Sharing) clause set forth in FPR 1–7.402–2(b).

(c) For *incrementally funded* contracts *not* providing for cost-sharing, insert the Limitation of Funds clause set forth in FPR 1–7.202–3(b), in accordance with FPR 1–7.402–2(c). (If the contract does *not* provide for payment of a fee, delete paragraph (g) of the clause specified in FPR 1–7.202–3(b)).

(d) For *incrementally funded* contracts which *do* provide for cost-sharing, insert the Limitation of Funds (Cost-Sharing) clause set forth in FPR 1–7.402–2(d). (If the contract does *not* provide for payment of a fee, delete paragraph (g) of the clause specified in FPR 1–7.402–2(d)).

6. § 7–7.5001–22, *Insurance-liability to third persons,* is revised as follows:

§ 7–7.5001–22 Insurance-liability to third persons.

Insert the clause set forth in FPR 1–7.204–5, in accordance with FPR 1–7.404–9.

7. § 7–7.5002–5, *Marking,* is revised as follows:

§ 7–7.5002–5 Marking.

Marking (August 1980).

(a) It is AID policy that AID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the AID red, white, and blue handclasp emblem. Shipping containers are also to be marked with the last five digits of the AID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semifinished products which are not packaged.

(b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the Cover Page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.

(c) Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.

(d) A copy of any specific marking instructions, or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

§ 7–7.5002–15 [Amended]

8. § 7–7.5002–15, *Transportation and storage expenses,* is amended by:

(a) Changing the clause date from "(DECEMBER 1976)" to "(AUGUST 1980)"; and

(b) Revising paragraph (d)(1) as follows:

(d) * * *

(1) Flag eligibility requirements for ocean carriers is covered by paragraph (c)(2) of the General Provision entitled Source and Nationality Requirements of this contract.

* * * * *

9. A new § 7–7.5003–11 is added as follows:

§ 7–7.5003–11 Participant training.

Participant Training (August 1980).

(a) *Definitions.*

(1) Participant training is the training of any foreign national outside of his or her home country, using AID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her home country.

V 45 A G 21 80 UMI

(b) *Applicable regulations.*

Participant training is to be conducted according to the policies established in AID Handbook 10—Participant Training, except to the extent that specific exceptions to AID Handbook 10 have been provided in this contract. (Handbook 10 may be obtained by submitting a request to the Office of International Training, at the address specified in paragraph (c) of this section.)

(c) *Reporting requirement.*

Once each month the Contractor shall submit three copies of AID Form 1380–9, "Monthly Report of Participants Under Contract" to the Office of International Training, Bureau for Development Support (DS/IT), AID, Washington, D.C. 20523.

Subpart 7–7.53—Contracts for Participant Training

10. New § 7–7.5301–30 is added as follows:

§ 7–7.5301–30 Participant training.

Insert the clause set forth in AIDPR 7–7.5003–11.

Subpart 7–7.54—Clauses for Fixed Price Contracts for Technical Services

11. § 7–7.5401–3, *Changes,* is revised as follows:

§ 7–7.5401–3 Changes.

Insert the clause set forth in FPR 1–7.304–1, and the following additional paragraph:

If this contract is issued by an AID/Washington Contracting Officer, valid change orders may be issued only by the AID/Washington Contracting Officer, or such other person as he or she may designate in writing for such purpose.

§ 7–7.5402–8 [Deleted and reserved]

12. § 7–7.5402–8, *Ocean transportation,* is deleted and reserved.

13. A new § 7–7.5403–2 is added as follows:

§ 7–7.5403–12 Participant training.

Insert the clause set forth in AIDPR 7–7.5003–11.

Subpart 7–7.55—Clauses for Cost Reimbursement Contracts with Educational Institutions

14. § 7–7.5501–10, *Limitation of funds,* is revised and re-titled as follows:

§ 7–7.5501–10 Limitation of cost or funds.

Insert the appropriate clause specified in FPR 1–7.402–2, as detailed in AIDPR 7–7.5001–8.

15. § 7–7.5501–25, *Insurance-liability to third persons,* is revised as follows:

§ 7–7.5501–25 Insurance-liability to third persons.

Insert the appropriate clause as specified in FPR 1–7.404–9.

16. § 7–7.5502–17, Marking, is revised as follows:

§ 7–7.5502–17 Marking.

Insert the clause set forth in AIDPR 7–7.5002–5.

§ 7–7.5503–5 [Deleted and reserved]

17. § 7–7.5503–5, *Limitation of cost,* is deleted and reserved.

(41 CFR 7–1.104–4)

Dated: August 12, 1980.

John F. Owens,

Deputy Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 80–25504 Filed 8–20–80; 8:45 am]

BILLING CODE 4710–02–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–26

[FPMR Amdt. E–242]

Procurement Sources and Programs; Requisitioning Items From GSA

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation changes the policy on ordering items from GSA to reduce the incidence of agencies ordering items when it is not economically justifiable. Because of higher costs of preparing and processing requisitions, the ordering of small quantities of low dollar value items from GSA is costly in relation to the value of items ordered and, in many instances, is not the most economical method of obtaining the items. This regulation will reduce Government costs by allowing agencies to purchase small quantities of many low dollar value items on the open market rather than obtaining the items from GSA.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Renner, Director, Regulations Management Division (703–557–5026).

SUPPLEMENTARY INFORMATION: FPMR Temporary Regulation E–68 (44 FR 59529, Oct. 16, 1979) is canceled and deleted from the appendix at the end of Subchapter E in 41 CFR Chapter 101.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Subpart 101–26.1—General

1. Section 101–26.102–1 is revised to read as follows:

§ 101–26.102–1 General.

(a) GSA is a nonmandatory source of supply for activities of executive agencies in the conterminous United States, Hawaii, and Alaska for nonstock centrally procured items managed by GSA when the total value of the line item requirement is less than $100. Agencies shall not divide orders to avoid requisitioning items from GSA.

(b) Upon request, GSA will perform purchasing services in addition to the sources specified in this Part 101–26.

(c) Any Federal agency, mixed-ownership corporation, the government of the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol, and any non-Federal agency, when the function of a Federal agency authorized to procure for it is transferred to GSA, may arrange for these special buying services to be performed by GSA.

Subpart 101–26.3—Procurement of GSA Stock Items

2. Section 101–26.301 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

§ 101–26.301 Applicability.

All executive agencies within the United States (including Hawaii and Alaska) shall requisition from GSA needed stock items available from GSA supply distribution facilities, including items needed by activities located outside of the United States which are required, by agency instruction or otherwise, to be requisitioned in the United States except as provided in this § 101–26.301 and as may be otherwise specifically authorized. (Items available from GSA stock are listed or described in the GSA Supply Catalog, which is issued in accordance with Subpart 101–30.6.) Federal agencies not required to requisition stock items from GSA are encouraged to do so.

* * * * *

(b) GSA is a nonmandatory source of supply for activities in the conterminous United States, Hawaii, and Alaska for items listed in the GSA Supply Catalog when the total value of the line item requirement is less than $25, except for requirements for Standard and Optional forms (see § 101–26.302), items produced by the Federal Prison Industries, Inc., or items listed in the Procurement List published by the Committee for Purchase from the Blind and Other Severely Handicapped. Agencies shall not divide orders to avoid the requirement to requisition from GSA. GSA will process all requisitions for stock items, regardless of value, from activities electing not to exercise the option provided by this § 101–26.301(b).

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: August 11, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–25524 Filed 8–20–80; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF JUSTICE

41 CFR Part 128–1

Use of Bureau Seals and Redelegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This regulation establishes policy concerning the use of the Department of Justice and other bureau seals by commercial or Government entities, and redelegates the authority to approve requests to use their individual organizational seals to appropriate bureaus within the Department.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony C. Moscato, Director, Property Management and Procurement Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530, 202–633–4405.

SUPPLEMENTARY INFORMATION: The Code of Federal Regulations, 28 CFR 0.146 delegates the authority to prescribe regulations governing the use of the seal of the Department and various organizational units to the Assistant Attorney General for Administration. Due to repeated requests from outside sources to reproduce and utilize the Department seal, the following policy has been developed. Section 128–1.5007 is added as indicated.

Note.—The Department of Justice has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

By virtue of the authority vested in me by 28 CFR 0.146 and 41 CFR 128–1.105, 41 CFR 128–1.5007 is added as follows:

§ 128–1.5007 Reproduction of departmental and bureau seals.

(a) Requests for permission to reproduce the Departmental seal for commercial, educational, ornamental or other purposes by other government agencies or private entities shall be referred to the Assistant Attorney General for Administration for decision.

(b) Requests for permission to reproduce the seals of the Federal Bureau of Investigation, the Bureau of Prisons, the Federal Prison Industries, the Immigration and Naturalization Service, the Board of Parole, the Drug Enforcement Administration, and the United States Marshals Service for such purposes by other government agencies or private entities shall be referred to the head of the respective Departmental organization for decision.

(c) The decision whether to grant such a request shall be made on a case-by-case basis, with consideration of any relevant factors, which may include the benefit or cost to the government of granting the request; the unintended appearance of endorsement or authentication by the Department; the potential for misuse; the effect upon Departmental security; the reputability of the use; the extent of control by the Department over the ultimate use; and the extent of control by the Department over distribution of any products or publications bearing a Departmental seal.

Kevin D. Rooney,

Assistant Attorney General for Administration.

[FR Doc. 80–25509 Filed 8–20–80; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Financial Distress Grants to Health Professions Schools

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: The Public Health Service is issuing regulations to implement the program of financial distress grants to health professions schools to assist them in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms. These grants are authorized under the Public Health Service Act.

DATE: These regulations are effective August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Donald C. Parks, Deputy Director, Office of Program Support, Bureau of Health Professions, Room 4–22, Health Resources Administration, 3700 East-West Highway, Center Building, Hyattsville, Maryland 20782. (Telephone: 301–436–6560).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 21, 1979 [44 FR 17159], the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, issued regulations revising Subpart M of Part 57 of Title 42 of the Code of Federal Regulations. The regulations implemented amendments made by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484) to section 788(b) of the Public Health Service Act.

Section 788(b) of the Public Health Service Act ("Act") authorizes the Secretary to make grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health to assist in meeting the costs of operation of these schools if they are in serious financial distress, or in meeting accreditation requirements if they have a special need for assistance in meeting these requirements. Funds can also be used for carrying out appropriate operational, managerial, and financial reforms.

Several changes in the final regulations have been made to make the grants administration policy more responsive to the needs of financially distressed institutions.

In order to secure more time for grantees to integrate their financial distress awards with their financial plans for the school year, the final regulations have been amended to permit an acceleration of the grant cycle. The interim-final regulations tied the amount of grant awards for operating deficits to a school's deficit through June 30 of the Federal fiscal year during which the school applied for a grant. This stipulation prevented the submission of applications and award of grants prior to the fiscal year during which the school obligates grant funds. § 57.1207 has been amended to base the amount of the grant award on the amount needed to cover the school's deficit through June 30 of the fiscal year for which the grant is made. This change will facilitate improved financial planning by allowing grant funds to be awarded at the Federal level and budgeted at the grantee level before the school year begins.

Two modifications to the restrictions on using grant funds have been made to permit the program to respond to the

particular financial difficulties which may afflict some institutions. To permit financial relief for institutions which are burdened by debts incurred for special costs, § 57.1209(a)(1) has been amended to permit grant funds to be used to amortize the principal portion of debts incurred for these costs with the prior written approval of the Secretary. Second, § 57.1209(b) has been added to permit the transfer of grant funds from the grantee health professions school to its parent organization for the cost of services provided to the school. These transfers require the prior written approval of the Secretary. This codifies current administrative policy and recognizes that the financial soundness of a health professions school is tied to the viability of its parent organization.

The applicability of the Department's grants administration regulation (45 CFR Part 74) has been clarified in § 57.1211(c) to indicate that because overhead costs are treated as direct costs in this program, no other indirect cost charges may be applied to these grants. This clarification codifies present cost policy.

Comments were solicited on the interim-final regulations for a period of 60 days from the date of publication in the **Federal Register**. No comments were received.

The Department has deleted the requirement in § 57.1208 of the regulation that the amount of a financial distress grant to a school may not exceed 75 percent of the amount granted to the school for that purpose in the immediately preceding year. This change was made in accordance with the amendment of section 788(b) of the Act by the Nurse Training Amendments of 1979 (Pub. L. 96–76).

The final regulations have been restructured based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The grants administration and nondiscrimination provisions (interim-final §§ 57.1208–1214) have either been revised to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74). All provisions have been reorganized into a standardized format for health manpower grants regulations, and many provisions have been rewritten for clarity.

Accordingly, Subpart M of Part 57 of Title 42 of the Code of Federal Regulations is revised as set forth below.

Dated: June 7, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

Subpart M—Financial Distress Grants to Health Professions Schools

Sec.

57.1201 To what programs do these regulations apply?
57.1202 Definitions.
57.1203 Who is eligible to apply for a grant?
57.1204 What assurances are required of an applicant?
57.1205 What requirements may the Secretary impose?
57.1206 How will applications be evaluated?
57.1207 How is the amount of the award determined?
57.1208 How long does grant support last?
57.1209 For what purposes may grant funds be spent?
57.1210 What other audit and inspection requirements apply to grantees?
57.1211 What additional Department regulations apply to grantees?
57.1212 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 788(b), 90 Stat. 2319 (42 U.S.C. 295g–8(b))

§ 57.1201 To what programs do these regulations apply?

These regulations apply to the award of grants under section 788(b) of the Public Health Service Act (42 U.S.C. 259g–8(b)) to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, and public health in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, and to carry out appropriate operational, managerial, and financial reforms.

§ 57.1202 Definitions.

"Act" means the Public Health Service Act, as amended.

"Comprehensive cost analysis study" means an in-depth review of all the significant factors and circumstances affecting costs incurred in the operation and management of the institution. The review includes, but is not limited to, personnel and property utilization and practices, cost efficiency in specific areas of operation, and the search for additional sources of revenue.

"Construction" or "cost of construction" means the construction of new buildings or the expansion or acquisition of existing buildings (including related costs such as architect's fees, acquisition of land, offsite improvements, and the initial equipping of these buildings).

"School" means a public or other nonprofit school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health as defined in section 701(4) of the Act, which is accredited according to section 772(b) of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1203 Who is eligible to apply for a grant?

(a) Any school which is located in a State is eligible to apply for a grant if it is either in serious financial distress or has a special need for financial assistance in meeting accreditation requirements.

(b) For purposes of this subpart; (1) a school is in serious financial distress if it has incurred costs in excess of its ability to pay for those costs; and (2) a school has a special need for financial assistance in meeting accreditation requirements if it cannot meet its accreditation requirements within the school's revenues.

§ 57.1204 What assurances are required of an applicant?

(a) The applicant must provide assurances satisfactory to the Secretary that it will spend in carrying out its functions as a school during the fiscal year for which the grant is sought, an amount of funds (other than funds for construction) from non-Federal sources which is at least as great as the average amount of funds from non-Federal sources spent for this purpose by the school during the preceding two fiscal years. The determination of the average amount of funds from non-Federal sources spent by a new school which has been in operation for less than two years will be the amount of expenditures which were actually made in carrying out the functions of the school in the preceding year.

(b) The Secretary may, in individual cases, require additional assurances where he or she finds that additional assurances are necessary to carry out the purposes of section 788(b) of the Act.

§ 57.1205 What requirements may the Secretary impose?

The Secretary will make grants upon terms and conditions which he or she determines are reasonable and necessary, including requirements that the school:

(a) Disclose any financial information which the Secretary decides is necessary to determine the cause of the school's financial distress;

(b) Conduct a comprehensive cost analysis study, as directed by the Secretary; and

(c) Carry out operational, managerial, and financial reforms which the Secretary decides are appropriate on the basis of the comprehensive cost analysis study and other relevant information. These reforms may include increasing tuition or obtaining increased financial support from State or local governmental units.

§ 57.1206 How will applications be evaluated?

After consultation with the National Advisory Council on Health Professions Education established by section 702 of the Act, the Secretary will award grants by considering the following among other factors:

(a) The extent to which the school is either unable to meet its incurred costs or has a special need for financial assistance to met its accreditation requirements;

(b) The reasons for the school's failure to meet its costs or accreditation requirements and the alternatives available to the school to meet its costs or requirements; and

(c) The actions which the applicant has taken to alleviate the need for financial assistance to meet its costs of operation or accreditation requirements and the applicant's plan to eliminate this need in the future.

§ 57.1207 How is the amount of the award determined?

The amount of the award will be based on the Secretary's estimate of the sum necessary for the costs of the approved activity. Grant awards to meet incurred costs in excess of a school's ability to pay these costs may not exceed the actual funds necessary to met such excess costs of the school through June 30 of the Federal fiscal year for which the grant is sought, plus an amount which the Secretary estimates is necessary to carry out appropriate operational, managerial and financial reforms.

§ 57.1208 How long does grant support last?

(a) The written notice of grant award specifies the period during which grant funds are available for obligation by the grantee. This period will not exceed one year.

(b) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

§ 57.1209 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations. Grant funds may be spent to:

(1) Pay for costs incurred for all school fiscal years through June 30 of the Federal fiscal year for which the grant is sought. These costs exclude construction (other than alterations and renovations), student aid, and other costs not allowable under § 57.1211. Costs may include the amortization of the principal portion of loans for construction, student aid, and other costs not allowable under § 57.1211, with the prior written approval of the Secretary.

(2) Meet accreditation requirements; and

(3) Carry out, under an approved plan, appropriate operational, managerial, and financial reforms.

(b) Grant funds may be paid or transferred to the school's parent organization for services provided for the operation of the school only with the prior written approval of the Secretary.

(c) Grant funds may not be used for sectarian instruction, or any other religious purpose.

§ 57.1210 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the applicable requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

§ 57.1211 What additional Department regulations apply to grantees?

(a) Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50—PHS grant appeals process
45 CFR Part 16—Department grant appeals process
45 CFR Part 46—Protection of human subjects
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance from the Department—Implements Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR Part 84—Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 86—Nondiscrimination on the basis of sex in Federally assisted education programs
45 CFR Part 91—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance

(b) The provisions of 45 CFR Part 74, establishing uniform administrative procedures and cost principles apply to all awards granted under this subpart, except that, in the case of grants awarded to assist schools unable to pay for incurred costs or meet accreditation requirements, the following provisions of 45 CFR 74.172(a) are modified as listed below:

(1) Costs normally not allowed under the following sections will be allowed: Sections J.2; J.4; J.17 (a), (b), and (c); J.19; J.25; J.29; J.39; J.40; J.41(a)(2); and J.43(f).

(2) Costs normally allowed under the following section will not be allowed: Section J.9.

(3) The grantee may not charge any indirect costs to a grant under this subpart, since direct costs include those identified in section F.

§ 57.1212 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the continued viability of the school, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-25107 Filed 8-20-80; 8:45 am]
BILLING CODE 4110-83-M

FEDERAL MARITIME COMMISSION

46 CFR Part 520

[Docket No. 80–36; General Order 46]

Exemption of Husbanding Agreements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission hereby exempts only those husbanding agreements that deal with routine vessel operating activities in port from the filing and approval

[1] When issued.

requirements of section 15 of the Shipping Act, 1916. These husbanding agreements have such minimal competitive impact that continued regulation of these agreements through the section 15 review process serves no substantive purpose.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523–5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission solicited comment on a proposed rulemaking by notice filed in the **Federal Register** on June 4, 1980 (45 FR 37703) to exempt certain husbanding agreements between persons subject to the Shipping Act, 1916, from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814). Husbanding agreements generally fall into two categories. The first consists of those agreements that deal with routine vessel operating activities in port such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operators; arranging bunkers, stores, repairs, water, garbage disposal; assisting with passengers and crew matters; and related services. The second consists of those agreements which in addition to the foregoing, also cover agency matters involving the solicitation and booking of cargoes and signing of contracts of affreightment and bills of lading.

Section 35 of the Shipping Act, 1916, (46 U.S.C. 833a) provides that the Commission, upon application or on its own motion, may be order or rule exempt any class of agreement between persons subject to the Act, or any specified activity of such persons from any requirement of the Act, where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce.

The first category of husbanding agreements has such minimal competitive impact that continued regulation of these agreements through the section 15 review process serves no substantive purpose. The delay involved in the regulatory process is not offset by any corresponding regulatory benefit under the Act, provided that such agreements do not preclude the agents from servicing other carriers. These agreements are rarely protested, nor are they frequently made the subject of formal Commission proceedings to determine their approvability under the standards of the Shipping Act. Exemption from the filing and approval requirements of section 15 is warranted for this category of agreements as it will present no impairment to the Commission's effective regulation of the parties' activities, nor will it be unjustly discriminatory or detrimental to commerce. The exemption will not confer antitrust immunity; however section 15 approval consideration will remain available to parties requesting it.

The second category of husbanding agreements has a potential for competitive impact which requires a thorough analysis of the relationships between the parties involved. This category is presently under review for consideration for possible exemption in a separate proceeding.

The comments support the exemption of husbanding agreements from the filing and approval requirements of section 15 of the Shipping Act.

The Commission has adopted one suggested change in the requirement that exempted husbanding agreements be available for public inspection at the agent's office. After considering what is fair to the parties affected by the rule, no reason was found to now require the agreement, including rate schedules, to be made public. Thus, exempted agreements shall be kept by the parties and shall be available for the purpose of inspection by the Commission only.

The same comment also suggested that all agency agreements be exempted from the filing and approval requirements of section 15 with certain exceptions. The Commission is limited in affording relief to the scope of its published proposed rule. Therefore, we will treat this comment as a suggestion for further study.

Now, therefore, pursuant to sections 15, 35, and 43 of the Shipping Act, 1916, (46 U.S.C. 814, 833a, and 841a), and section 4 of the Administrative Procedure Act, (5 U.S.C. 553), it is ordered, that, effective August 21, 1980, Title 46 CFR is hereby amended by the addition of Part 520 as follows:

PART 520—EXEMPTION OF HUSBANDING AGREEMENTS

Sec.

520.1 Purpose.
520.2 Definition.
520.3 Exemption.
520.4 Termination of Approved Husbanding Agreements
520.5 Compliance with the Filing and Approval Requirements of Section 15

Authority: Section 15, 35, 43; 46 U.S.C. 814, 833a, and 841a

§ 520.1 Purpose.

(a) Section 15 of the Shipping Act, 1916, requires that certain agreements between common carriers by water and other persons subject to the Act be filed with and approved by the Commission prior to implementation. Section 35 of the Act, as pertinent in this context, provides that the Commission may by order or rule exempt any class of agreements between persons subject to the Act where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or detrimental to commerce.

(b) In the interest of minimizing unnecessary delay in the implementation of routine husbanding agreements between persons subject to the Act and to avoid the cost of unnecessary regulation, the Commission is exempting certain husbanding agreements from the filing and approval requirements of section 15.

§ 520.2 Definition.

As used in this part, husbanding agreements are agreements between a common carrier by water and another person subject to the Shipping Act, 1916, through which the carrier contracts with an agent to handle routine vessel operating activities in port, such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, and linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operators; dealing with passenger and crew matters; and providing similar services related to the above activities. The term does *not* include agreements which provide for the solicitation or booking of cargoes, signing contracts or bills of lading and other related matters, nor does it include agreements that prohibit the agent from entering into similar agreements with other carriers.

§520.3 Exemption.

Husbanding agreements between persons subject to the Act are hereby exempted from the filing and approval requirements of section 15. Exempted agreements shall be kept by the parties and shall be available for inspection by the Commission during the term of the agreement and two years thereafter.

§ 520.4 Termination of Approved Husbanding Agreements.

Husbanding agreements which have received section 15 approval shall continue to be approved for the duration of their term or until terminated by the parties.

§ 520.5 Compliance with the Filing and Approval Requirements of section 15.

Notwithstanding the provisions of this part, persons who desire approval of husbanding agreements may continue to submit such agreements to the Commission for section 15 consideration in accordance with ordinary filing procedures.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80–25514 Filed 8–20–80; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcast Services; Reregulation of Radio and TV Broadcasting

AGENCY: The Federal Communications Commission.

ACTION: Final Rule: Correction to Order.

SUMMARY: In the Broadcasting Reregulation *Order* FCC 80–165, published in the **Federal Register** on April 17, 1980, at 45 FR 26059, paragraph (a) of § 73.242, Duplication of AM and FM programming, is incorrectly stated. This document corrects that mistake.

EFFECTIVE DATE: August 21, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Reiser, Philip Cross, Steve Crane, Broadcast Bureau, (202) 653–7275.

SUPPLEMENTARY INFORMATION: In the matter of Reregulation of Radio and TV Broadcasting.

Released: August 14, 1980.

In the above-captioned *Order*, FCC 80–165, released April 16, 1980, and published in the **Federal Register** on April 17, 1980 at 45 FR 26059, paragraph (a) of § 73.242, Duplication of AM and FM programming, is incorrectly stated. Section 73.242(a) is corrected to read as follows:

(a) The extent to which an FM station may duplicate the programming of an AM station owned by the same licensee in the same local area is governed by the following:

(1) If either the AM or the FM station is licensed to a community of over 25,000 population, the FM station shall not operate so as to devote more than 25% of the average program week to duplicated programming.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–25482 Filed 8–20–80; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 94

[PR Docket No. 79–337; RM–3241]

Private Operational-Fixed Microwave Service; Facilitating Operation of Low Power, Limited Coverage Systems in the 22.0–23.6 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule: Report and Order.

SUMMARY: The FCC amends Part 94 of its Rules to permit the operator of low power, limited coverage systems in the 22,000–23,600 MHz band.

This amendment will facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz.

EFFECTIVE DATE: September 26, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Donald Campbell, Office of Science and Technology, (202) 653–8176.

In the matter of amendment of Part 94 of the Commission's rules and regulations to facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz, PR Docket No. 79–337, RM–3241. See also 45 FR 27457, April 23, 1980.

First Report and Order

Adopted: August 1, 1980.

Released: August 19, 1980.

1. On January 2, 1980, the Commission issued a Notice of Proposed Rule Making looking toward amending Part 94 of the Commission's rules to allow the operation of short haul, low cost, low power microwave systems in the 22.0–23.6 GHz band utilizing somewhat relaxed technical standards.[1] We took this action in response to a petition for rule making (RM–3241) submitted by the General Electric Company, (GE).

2. Our objective in proposing these rules was to stimulate the development of systems in the 22.0–23.6 GHz band, which is sparingly used, and to accommodate some of the existing and future operations which are now authorized in the 12.0–12.7 GHz band.[2]

3. Our present rules permit systems in the 22.0–23.6 GHz band to operate with a maximum transmitter output power of 10 watts, a frequency tolerance ±0.03%, a channel maximum bandwidth of 100 MHz and an attenuation for harmonics and spurious signals of 43+10 log 10 (mean output power in watts) decibels. In the Notice we proposed to authorize low power systems with maximum output power of 0.1 watt, to operate with a frequency tolerance of ±0.05%, a channel maximum bandwidth of 50 MHz and an attenuation for harmonics and spurious signals above 40,000 MHz of 33 plus 10 log 10 (mean output power in watts) decibels. We also proposed to limit the operation of these systems to a maximum number of five hops in tandem and a maximum tandem length of 40 km (25 miles). Finally, we proposed limiting their operating frequencies to the 22.2–22.4 GHz and 23.4–23.6 GHz band segments.

4. The parties which filed comments are listed in Appendix A.[3] The overwhelming majority of the comments fully supported the Commission's proposal. Rockwell International Corporation (Rockwell) and M/A–COM, Incorporated (M/A–COM) argued, however, that the proposed frequency tolerance of ±0.05% would waste the greatest part of the 50 MHz channel bandwidth. M/A–COM suggested the use of frequency control techniques to improve the frequency tolerance and the channel bandwidth of the proposed systems.

5. GE in response argued that the suggested M/A–COM frequency tolerance improvement would increase the cost of these systems substantially and that the market for such high cost systems was doubtful. It concluded that adoption of these proposals would result in the 22.0–23.6 GHz band remaining unused.

6. We have reviewed all of the comments and replies submitted in this proceeding carefully. The overwhelming support for our proposal indicates that the introduction of such systems in the 22.0–23.6 GHz band can fulfill an existing public need in a frequency spectrum which is presently unused. Also, we are concerned that the public interest would not be served by

[1] See Notice of Proposed Rule Making, Docket No. 79–337, 45 FR 2069 (January 10, 1980).

[2] This band was reallocated for shared use by the Fixed and Broadcast-Satellite Services in the 1979 World Administrative Radio Conference.

[3] Comments in this proceeding were requested by March 7, 1980, and replies by April 7, 1980. The reply comment date was extended to April 11, 1980. On May 28, 1980, Solfan Systems, Inc., filed a motion asking that we re-open the record for a 30 day period to give it an opportunity to file comments. The reasons given in support of this request, however, are not convincing. Although Solfan, says it became aware of this proceeding early in April, it did not request an extension until nearly the end of May. Solfan's own procrastination is not a good justification for re-opening and delaying disposition of this proceeding. The request is therefore denied.

restrictive standards which may retard the development and utilization of this spectrum. Further, the adoption of somewhat relaxed standards in the proposed frequency band does not preclude the operation of more advanced, tighter frequency tolerance systems. We have decided, therefore, to adopt at this time the ±0.05% frequency tolerance and 50 MHz maximum channel bandwidth for systems that operate with a maximum power output of 0.1 watt in the 21.8–22.0 MHz and 23.0–23.2 GHz band segments.[4] It is emphasized that the standards we are adopting here will apply only to a small portion of the 21.0–23.6 GHz band. Existing standards will continue to apply to the rest of the band and to higher power systems in the proposed band segments. Further, should future congestion in this band or interference with higher bands become major concerns, we may revisit the frequency tolerance and channel bandwidth specifications for these systems.[5]

7. Rockwell also urged the Commission to retain the present attenuation standard for harmonics and spurious signals of 43 plus 10 log 10 (mean output power in watts) decibels. Rockwell claimed that reducing the standards above 40,000 MHz to 33 plus 10 log 10 (mean output power in watts) decibels would increase the interference caused to the operation of future systems in the frequency bands above 40,000 MHz. GE on the other hand argued that the possibility of such interference would be minimal because the attenuation of 33 plus 10 log 10 (mean output power in watts) decibels would reduce the harmonics and spurious signals to a very low level. GE also claimed that any additional decrease of interference would cause an unnecessary increase in the cost of these systems.

8. We have considered Rockwell's and GE's arguments on this point, and we have decided to adopt our proposal. We reach this conclusion because we do not believe that the additional potential for interference to radio systems at or above 40,000 MHz would be as significant as Rockwell fears. The bands at 40,000 MHz and above are not developed, so there are no operational systems needing protection. Also radio signals at these frequency ranges experience severe attenuations so the potential for harmonics and spurious types of interference from the low power[6] systems under consideration, in our view, would be very small. Further, we are concerned that the cost for maintaining existing restrictions for these low power systems would be substantial. On balance therefore, we have decided to relax the attenuation requirements above 40,000 MHz, from 43 plus 10 log 10 (mean output power in watts) decibels to 33 plus 10 log 10 (mean output power in watts) decibels as proposed.

9. API requested the Commission to increase the proposed maximum number of five hops in tandem and maximum tandem length of 40 km (25 miles). API claimed that our proposal would prevent these low power systems from being used in areas where the incidence of attenuation due to rain and fog is great and where long distance communications are presently accommodated by systems in the congested lower microwave frequencies.

10. As we said previously, these low power systems are intended for use in short haul operations. For the operations API has in mind, systems with higher output power in this band would be more suitable. Nevertheless, in special situations, we will review proposed systems on a case-by-case basis and, if appropriate, authorize longer systems or more hops by rule waiver.

11. M/A–COM and GE recommended that the Commission adopt a channel pairing plan for the operation of these systems. We have considered this request and we have decided to adopt a channel pairing plan similar to the one provided for the 12.2–12.7 GHz frequencies in § 94.90 of our rules.

12. GE also requested again that digital operations be permitted to use the analog emission standards prescribed under § 94.71(c)(1) of the rules. We have considered this request and are denying it. As we said in the Notice, this exception to our rules for digital systems would increase the potential for harmful interference to adjacent channels.

13. GE and M/A–COM also urged that Part 15 of the Rules be amended to allow operation of these types of low power systems in the band without a license. GE also proposed that we adopt a temporary licensing program for the systems under consideration, and has requested the use of these frequencies for mobile operations. We have considered GE's request, however, we believe that in view of the needs to protect licensees on the channel pairs 21.875/23.075 GHz, 21.925/23.125 GHz and 21.975/23.175 GHz from interference, their suggestion would not be compatible with the operations being approved. The need for these capabilities (Part 15 operation, mobile operation and temporary licensing), however, is being explored in the accompanying Further Notice of Proposed Rule Making.

14. Accordingly, it is ordered, that pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 94 of the Commission's rules is amended as discussed and denied in all other respects, effective September 26, 1980, as set forth in the attached Appendix D. IT IS FURTHER ORDERED that the Secretary shall cause a copy of this Report and Order to be published in the **Federal Register.**

Federal Communications Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

William J. Tricarico,

Secretary.

Appendix A—Parties Filing Comments and Reply Comments

Comments

Valley Cinema, Inc./Valley Sound
Master Electronic Systems, Inc.
National Safe Corporation
Meade Electric Company
Gonzales, Inc.
Lerro Electrical Corporation
Charles Wallach
Electronics Unlimited, Inc.
Bruce Dawson & Associates
Antronics, Inc.
Custom Video Systems, Inc.
Western Communications, Inc.
VT Technologies, Inc.
Rockwell International Corporation (Rockwell)
Farinon Group, Harris Corporation (Farinon)
Datapoint Corporation (Datapoint)
Microwave Associates, Inc. (M/A–COM)
American Petroleum Institute (API)
Utilities Telecommunications Council (UTC)
General Company (GE)

Reply Comments

American Petroleum Institute (API)
Microwave Associates, Inc. (M/A–COM)
General Electic Company (GE)

[4] In an effort to lessen the burden of frequency coordination and to allow the possibility of uncoordinated use of these devices, we have adopted different band segments than were proposed in the *Notice of Proposed Rule Making*. In the Notice, we proposed to allow these systems to operate in the band 22.2–22.4 GHz and 23.4–23.6 GHz. The international Radio Regulations, however, urges that assignments to stations in the 22.01–22.5 GHz band protect the Radio Astronomy Service. To simplify the coordination process we are now proposing to allow these low power devices to use the 21.8–22.0 GHz and 23.0–23.2 GHz band segments. It should also be noted that the Commission is addressing the necessity of frequency coordination for these low power devices in a companion *Further Notice of Proposed Rule Making*, FR Doc. 80–25484, Docket 79–337, adopted today in the Proposed Rules Section of this issue.

[5] Licensees are also put on notice that actions taken at the 1979 World Administrative Radio Conference (WARC) may affect the operation of these systems. The extent of the impact will be determined in a contemplated rule making proceeding for the implementing the provisions of the 1979 WARC. It should be noted that the band 21.2 to 23.6 GHz was reallocated and that more stringent frequency tolerances were established for the band 10.5 to 40.0 GHz by the 1979 WARC, as shown in Appendices B & C.

[6] I.e., one tenth of one watt.

Appendix B

"Appendix 3.—*Table of transmitter frequency tolerances*"

[Final Acts of the World Administrative Radio Conference, Geneva, 1979.]

Frequency bands (lower limit exclusive, upper limit inclusive) and categories of stations	Tolerances[2]	Tolerances[3]
Band: 10.5 to 40 GHZ		
1. *Fixed Stations*	500	300
2. *Radiodetermination Stations*	[1] 7,500	[1] 5,000
3. *Broadcasting Stations*		100
4. *Space Stations*		100
5. *Earth Stations*		100

[1] Where specific frequencies are not assigned to radar stations, the bandwidth occupied by the emissions of such stations shall be maintained wholly within the band allocated to the service and the indicated tolerance does not apply.
[2] In parts per 10^6 applicable until January 1, 1990, to transmitters in use and to those to be installed before January 2, 1985.
[3] In parts per 10^6 applicable to new transmitters installed after January 1, 1985, and to all transmitters after January 1, 1990.

Appendix C

"Article N7/5.—*Frequency allocations*"

[Final Acts of the World Administrative Radio Conference, Geneva, 1979]

Allocation GHz		
Region 1	Region 2	Region 3
21.2–21.4	Earth Exploration-Satellite (passive). Fixed Mobile Space Research (passive).	
21.4–22.0	Fixed Mobile	
22.0–22.21	Fixed Mobile except aeronautical mobile. 3801A	
22.21–22.5	Earth Exploration-Satellite (passive). Fixed Mobile except aeronautical mobile. Radio Astronomy Space Research (passive). 3801B 3801BA	
22.5–22.55 Fixed Mobile	22.5–22.55 Broadcasting-Satellite 3202/410B. Fixed Mobile 3801C	
22.55–23.0 Fixed Inter-Satellite Mobile 3801D	22.55–23.0 Broadcasting-Satellite 3802/410B. Fixed Inter-Satellite Mobile 3801C 3801D	
23.0–23.55	Fixed Inter-Satellite Mobile 3801D	
23.55–23.6	Fixed Mobile	

3801A In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service in the band 22.01–22.21 GHz from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also No. 3290/116 and 3281/116A and Article N33A).
3801B In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference in the band 22.21–22.5 GHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also No. 3280/116 and 3281/116A and Article N33A).
3801BA The use of the Band 22.21–22.5 GHz by the earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile services.
3802/410B In Regions 2 and 3, the broadcasting-satellite service is authorized in the band 22.5–23.0 GHz, subject to agreement obtained under the procedure set forth in Article N13A.
3801C Additional allocation: in Japan, the band 22.5–23 GHz is also allocated to the broadcasting service on a primary basis.
3801D In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service in the bands 22.81–22.86 GHz and 23.07–23.12 GHz from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also No. 3280/116 and 3280/116A and Article N33A).

Appendix D

1. Part 94 of the Commission's rules is amended as follows:

1. Footnote 12 in § 94.61(b) is amended to read as follows:

§ 94.61 Applicability.

* * * * * *

(b) * * *

[12] Authorizations are normally granted only to common carriers (Part 21) in the band segments 21.2–21.8 GHz and 22.4–23.00 GHz, and to operational-fixed users (Part 94) in the segments 21.8–22.4 GHz and 23.0–23.6 GHz Cross-service, assignments for these users may be made only upon a showing that no interference-free frequencies are available in the appropriate band segments. Frequencies in the 21.8–22.0 GHz and 23.0–23.2 GHz band segments may be authorized to operational fixed users under the provisions of § 94.91.

* * * * *

2. Section 94.63 (b) and (d) are amended to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

(b) The interference protection criteria for operational-fixed stations, other than those licensed under the provisions of § 94.90 and 94.91 are as follows:

* * * * * *

(d) * * *

(3) Except as provided in §§ 94.90 and 94.91, where the applicant's proposed facilities are of a type not included in paragraph (b) of this section or where the development of the carrier-to-interference (C/I) ratio is not covered by generally acceptable procedures, or where the applicant does not wish to develop the carrier-to-interference ratio, the applicant shall, in the absence of criteria or a developed C/I ratio, employ the following C/I protection ratios:

3. Section 94.65(i) is amended to read as follows:

§ 94.65 Frequencies.

* * * * * *

(i) Except as provided in § 94.91 frequencies in bands authorized in § 94.61(b) above 13.0 GHz are not paired and will be specified in authorization.

4. Section 94.67(a) is amended by adding footnote 5 to the tolerance for the frequency band 12,700–40,000 MHz to read as follows:

§ 94.67 Frequency tolerance.

(a) * * *

Frequency band MHz	*Tolerance as percentage of assigned frequency*
* * * * *	
12,700–40,000	[5] 0.03
* * * * *	

[5] For exceptions see § 94.91.

5. Section 94.71 is amended by adding footnote 7 to the maximum authorized bandwidth for the frequency band 21.2–23.6 GHz and a new subdivision (iv) to (c)(1) and (c)(2) is added to read as follows:

§ 94.71 Emission and bandwidth limitations.

* * * * * *

(b) * * *

Frequency band MHz	*Maximum authorized bandwidth*
* * * * *	
21,200–23,600 MHz	up to 100 MHz[5]
* * * * *	

[5] For exceptions see § 94.91.

(c) * * *

(1) * * *

(iv) On any frequency above 40,000 MHz the carrier harmonics of any systems operating under the provisions of § 94.91 shall be attenuated at least 33 plus 10 log 10 (mean output power in watts) decibels.

(2) * * *

(iv) On any frequency above 40,000 MHz the carrier harmonics of any system operating under the provisions of § 94.91 shall be attenuated at least 33 plus 10 log 10 (mean output power in watts) decibels.

6. Section 94.73(a)(1) is amended by adding footnote 5 to maximum transmitter power output for the frequency band 12.2–40.0 GHz and in § 94.73(a)(2) footnote 5 is amended to read as follows:

§ 94.73 Power limitations.

* * * * * *

(a) * * *

(1) * * *

Frequency band	*Maximum transmitter output power (watts)*
* * * * *	
12.2–40.0 GHz	[5] 10
* * * * *	

(2)

Frequency band	*Maximum allowable ERP* [2] dBm
* * * * *	

[5] For low power operations see Sections 94.90 and 94.91.

7. In § 94.75, paragraph (b) is amended by adding footnote 5 to the frequencies "above 12,700 MHz" and paragraph (c) is amended to read as follows:

§ 94.75 Antenna limitations.

(b) * * *

Antenna Standards

Frequency band (in megahertz)	Category [1]	Maximum beamwidth to 3dB points included angle in degrees)	Minimum radiation suppression at angle in degrees from centerline of main beam in decibels— 5 to 10	10 to 15	15 to 20	20 to 30	30 to 100	100 to 140	140 to 180
Above [5] 12,700—To be specified in authorization except that bands shared with domestic public radio services stations (Part 21) shall conform to standards contained in § 21.109(c).									

[1] Except as provided in § 94.91.

(c) Applicants shall request, and authorization for stations in this service will specify, the polarization of each transmitted signal. When periscope antenna systems or passive repeaters are employed, the applicant shall indicate the expected polarization of the reflected signal. The polarization should be expressed as either horizontal, vertical, or at an angle from vertical. Antenna polarizations of horizontal and vertical should be denoted by the abbreviations (H) and (V), respectively. For antennas using linear polarizations other than horizontal or vertical, the polarization should be stated in degrees measured from the vertical, with angles between 0° and +90° denoting the on-coming electric field vector displacement in a counterclockwise direction, and angles between 0° and −90° denoting the on coming electric field vector displacement in a clockwise direction. In the event polarization diversity is authorized, the two polarizations must be separated by 90°. Antennas employing other than linearly polarized feed systems will not be authorized except for stations utilizing frequencies listed in § 94.65(a)(1) or under the provisions of § 94.91(i).

8. A new § 94.91, is added to read as follows:

§ 94.91 Special provisions for low power, limited coverage systems in the band segments 21.8–22.0 GHz and 23.0–23.2 GHz.

Notwithstanding any contrary provisions in this part the frequency pairs 21.825/23.025 GHz, 21.875/23.075 GHz, 21.925/23.125 GHz and 21.975/23.175 GHz may be authorized for low power, limited coverage, systems subject to the following provisions:

(a) Maximum effective radiated power (ERP) shall be 55 dBm.

(b) The rated transmitter output power shall not exceed 0.100 watts.

(c) Frequency tolerance shall be maintained to within 0.05 percent of the assigned frequency.

(d) Maximum beamwidth not to exceed 4 degrees. However, the sidelobe suppression criteria contained in § 94.75(b) of this part shall not apply, except that a minimum front-to-back ratio of 38 dB shall apply.

(e) Upon showing of need, a maximum bandwidth of 50 MHz may be authorized per frequency assigned.

(f) Radio systems authorized under the provisions, of this section shall have no more than five hops in tandem, except upon showing of need, but in any event the maximum tandem length shall not exceed 40 km (25 miles).

(g) Interfering signals at the antenna terminals of stations authorized under this section shall not exceed 90 dBm and 70 dBm respectively, for co-channel and adjacent channel interfering signals.

(h) Stations authorized under the provisions of this section shall provide the protection from interference specified in § 94.63 to stations operating in accordance with the provisions of this part.

(i) Antennas employing circular polarization may be used in operational-fixed systems operating under the provisions of this Section. In such cases, antenna polarization shall be defined either as clockwise or counterclockwise, as described in § 94.75(c).

[FR Doc. 80-25483 Filed 8-20-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM-169; Amdt. No. 172-60]

Labeling of Radioactive Materials Packages

Correction

In FR Doc. 80-22428, appearing on page 49939, in the issue of Monday, July 28, 1980, make the following correction.

On page 49940, second column, the section heading for "§ 172.436" should have read:

§ 172.436 Radioactive White—I label.

BILLING CODE 1505-01

Interstate Commerce Commission

49 CFR Part 1331

[Ex Parte No. 297 (Sub-5)]

Motor Carrier Rate Bureaus—Implementation of Pub. L. 96-296 (Motor Carrier Act of 1980)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Interim Policy Requirements.

SUMMARY: Section 14 of the Motor Carrier Act of 1980 imposes a number of new requirements and standards on motor carrier rate bureaus as a condition to their continued immunity from the antitrust laws. In this proceeding, the Commission will interpret and implement these new provisions. Interpretations contained in this notice are imposed on an interim basis. Amendments to existing rate bureau agreements or new or revised agreements must be filed within 120 days of enactment. At the same time, comments on the interpretations and proposed conditions are invited. Final standards will then be set. Once this phase of the proceeding is completed, the Commission will undertake review of each revised agreement to determine whether it meets all statutory requirements.

DATES: Effective date: August 21, 1980. An original and 15 copies of comments must be filed with the Commission on or before October 6, 1980.

ADDRESS: Comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Richard B. Felder (202) 275-7693
or
Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Motor carrier rate bureaus may be granted antitrust immunity to determine collectively motor carrier rates rules, practices, etc., provided that the agreements under which they function have been approved by the Interstate Commerce Commission. Approval of agreements hinges upon compliance with certain statutory requirements and rules promulgated by the Commission. Pub. L. 96-296, the Motor Carrier Act of 1980, has made a number of changes in the permissible scope of rate bureau agreements. These changes are quite broad and take many different forms. Some require little or no interpretation. Others leave to the Commission establishment of standards for their implementation. Some are effective immediately; others postponed to future years.

With the exception of certain limited areas, Congress did not authorize delay in implementation of these important changes. We find it necessary to adopt interim rules and conclude that notice of the interim rules would be impractical and contrary to the public interest. In fact, Section 14(e) of this legislation requires interim compliance, pending our final action on each agreement. Compliance, in certain cases, requires interpretation of the new language. Our experience under the 4R Act demonstrates the importance of making our interpretations of new statutory provisions effective as soon as possible. Thus we are requiring interim compliance with the new standards, as interpreted in this decision.[1]

At the same time, the bureaus and other interested persons will have the opportunity to comment on our interim interpretations. As will be seen in our discussion of each new requirement, the need for interpretation is in most instances minimal. In some cases, the legislation reflects prior Commission findings and rules. In other cases, e.g., quorum standards, our interpretations are designed to be consistent with present bureau activities and should not be controversial. Under Section 14(e), violations of these interim standards and interpretations are grounds for immediate consideration of withdrawal of immunity.

Following our review of the comments, we will issue final standards. Section 14(e) provides 120 days for the filing of new or amended agreements. This should provide adequate time for us to finalize these standards before amendments are filed. Revisions will be required only to the extent that final rules change existing agreement provisions. Any agreement that is not amended within 120 days to conform to our final standards could be immediately considered for termination. To simplify the amendment process, we are offering sample amendments that bureaus may consider.[2] The exact wording of our samples need not be adopted. However, in any case where we do not believe the amendment conforms to our final interpretation, we will disapprove the proposed agreement and consider terminating the existing one. Compliance with our findings at these two stages will ensure continued antitrust immunity through the first phase of this proceeding.

Implementation of the specific restrictions set out in new § 10706(b)(3) does not, by itself, fulfill the Commission's statutory obligations in this area. Under the standard of review of § 10706(b)(2), the Commission is directed to approve collective ratemaking agreements, if all specific statutory conditions are fulfilled, unless it finds that any such agreement is inconsistent with the National Transportation Policy (NTP). Moreover, the Commission may require compliance with any reasonable conditions to assure that the agreement furthers this transportation policy.

In the second stage of this proceeding, all agreements will be reviewed in light of the NTP as well as their compliance with specific sections of the Act. It is clear that even if a bureau is in compliance with § 10706(b)(3), continued immunity is not automatic. Therefore, in this second stage we will consider, for each bureau, the need for continued immunity under the standards of § 10706, including § 10706(b)(2).

Comments on our approach in this second stage are not requested at this time and will not be considered. At this point, we are concerned with implementing the specific restrictions contained in the revised statute. Our discussion of the second stage is included now only to give parties an overview of our intentions in the rate bureau area and to give advance notice that compliance with this first stage will not necessarily guarantee immunity in the future.

The Commission has terminated the proceedings in Ex Parte No. 297 (Sub-No. 3), *Modified Terms and Conditions for Approval of Collective Ratemaking Agreements under Section 5a of the Interstate Commerce Act*, and in Ex Parte No. 297 (Sub-No. 4), *Reopening of Section 5A Application Proceedings to Take Additional Evidence*. However, we take official notice of the comments submitted on the record in those proceedings where they are relevant to the proposals at issue here.

In addition, we take official notice of the comments made by the Federal Trade Commission (FTC) in its petition filed December 18, 1979, to reopen the record in Ex Parte No. 297 (Sub-No. 4), to the extent that that petition is relevant to the issues involved in this proceeding. We originally allowed parties 90 days to reply to the FTC's petition but have recently postponed this due date. We will permit parties to address the matters raised in that petition to the extent they remain relevant as a part of their comments in support of their new agreements in the second stage of this proceeding.

We will now proceed to a discussion of the specific changes for which amendments must be filed. While certain of the changes are not effective immediately, we are requiring amendments to conform to the legislation on these matters as well. This will avoid further fragmentation of the proceeding.

I. New Standards Related to Bureau Operations

A. *Identification and description of the member carriers*

§ 10706(b)(3) provides that:

(A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, "affiliate" means a person controlling, controlled by or under common control or ownership with another person and "ownership" means equity holdings in a business entity of at least 5 percent.

These requirements are self-explanatory.

B. *Right of Independent Action*

§ 10706(b)(3)(B)(ii) provides:

The organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items.

[1] To the extent necessary, we are also ordering changes in by-laws. By-laws must be consistent with our interpretations.

[2] Not all of the new provisions need be applicable to each bureau. Amendments will be required only in those areas applicable to a bureau's activities.

49 CFR 1331.6(A)(1), *Changing or Cancelling Rates Established by Independent Action*, established by the Commission in *Notification of Rate Proposals*, 358 ICC 487 (1978) defines independent action as:

> * * * any action taken by a common carrier member of a rate bureau, * * *
>
> (a) To establish a rate to be published in the appropriate rate bureau tariff, or to cancel a rate for that carrier's account, or
>
> (b) To instruct the rate bureau that an existing rate (whether established by independent action or collective action), that is proposed to be changed or canceled, be retained for that carrier's account and published in the appropriate bureau tariff, or
>
> (c) To have published for its account in the appropriate rate bureau tariff a rate established by the independent action of another carrier. This definition applies regardless of the manner in which the carrier joins in the rate, as long as the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action.

Independent actions may be taken by one carrier, on a single-line rate, or by more than one, in the case of an independent action on a particular joint-line rate. As can be seen from the definition, independent action is not limited to the establishment of a separate rate for the account of one carrier. It also includes changes to any published rate made only for the independent actor's account, as well as the refusal to agree to particular changes sought by other carriers.

This ratemaking freedom is crucial to price competition. We believe it would not be consistent with the Act's guarantees of the right of independent action for rate bureau agreements to require or provide that an independent rate action by a bureau member of members be published with the bureau, circulated to other members, or be discussed or voted upon by other members in advance of its filing with the Commission. Rate bureaus exist primarily as a forum for *collective* action on matters related to more than one carrier. Independent action is not related to these activities or to the functioning of the bureau on matters of collective interest. The bureau's role, subject to the exceptions in the statute, should be limited to the administrative function of tariff publication, as directed by the independent actor. As noted in the legislative history, "the bill allows rate bureaus to continue, subject to the provisions of this section, their functions with respect to * * * filing independent actions for individual members." H.R. Rep. No. 96–1069, 96th Cong., 2nd Sess., 28 (1980).

To the extent that provisions in rate bureau agreements require or allow independent rate actions to be published with the bureau any specified number of days before it is filed with the Commission or to be circulated to or discussed by other bureau members before it is filed with the Commission, we believe such provisions are contrary to the concept of independent action and have the potential of interfering with the right of independent action contrary to Section 10706(b)(3)(B)(ii). Such provisions serve primarily to postpone the filing of independent proposals and thus hinder the independent actor's ability to react individually to market changes and delay pricing initiatives. They also tend to eliminate or significantly diminish the competitive advantages the independent actor would otherwise have had. They also may offer competing carriers the opportunity to attempt to exert improper pressure on the independent actor not to take the proposed action.

We recognize that Congress intended to allow rate bureaus to continue to perform such administrative functions as "docketing" and "publication of rates." Thus, Section 10708(d), which establishes a zone of rate freedom for motor carriers and prohibits antitrust immunity for any collective actions respecting rates filed under that section, also provides in subsection (d)(4) that "the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws." But neither the Act nor its legislative history defines "docketing" of rates, and we believe that both the basic purposes of the Act and its legislative history make clear that "docketing" was not to be used by rate bureaus or carriers as device for delaying or interfering with each carrier's statutory right of independent action, or generally as a means to facilitate statutorily prohibited collective action. Thus, as the House Report explained in discussing the purpose of Section 10708(d)(4) (pp. 24–25; emphasis supplied):

> This is to clarify that these two types of *administrative* functions may still be performed by rate bureaus for rates established pursuant to this subsection. *The Committee does not intend by the use of the language "docketing and publication of such rate" to preclude the Commission from issuing rules and regulations to assure that carriers who utilize the zone of rate freedom do so individually and not collectively.*

Moreover, it appears clear from the structure of the Act that the antitrust immunity conferred by Section 10708(d)(4) on "docketing and publication" was not intended to serve as a means of permitting discussion or voting otherwise prohibited by the Act. Thus, for example, Section 10706(b)(3)(C) prohibits rate bureau agreements from allowing "discussion or voting on rates" filed under the zone of freedom of Section 10708(d). It seems plain that the "docketing and publication" given antitrust immunity under Section 10708(d)(4) was not intended to override the specific prohibition of Section 10706(b)(3)(C).

In sum, although we intend to allow the "docketing and publication" of independent actions with rate bureaus, as Congress appears to have intended, we also believe that the purpose and legislative history of the Act support our decision to prohibit the "docketing" of independent action with the bureau until the bureau files the independent action (in tariff form) with the Commission. Simultaneous tariff filing and bureau docketing should eliminate the harshest anti-competitive effects of the collective ratemaking process on independent actions.

We realize that this prohibition may also deprive shippers of some measure of advance notice of rates to be offered through independent action. However, we believe the benefits to be gained from this prohibition clearly outweigh the harms, since it will foster price competition and does not prevent carriers from notifying shippers in advance of filing.

We note that these interpretations would not be inconsistent with our prior action in *Notification of Rate Proposals, supra*. There, we were concerned only with procedures for changes in existing independent actions. We did not reach the basic issue we are here addressing.

If a bureau agreement provides for the docketing of an independent action on or after the date it is filed with the Commission we will not, at least in the interim prior to the establishment of final rules, prohibit subsequent discussion of the docketed action by other bureau members. We believe that the comments that are submitted may illuminate further whether congressional intent and policy considerations warrant a prohibition on any bureau discussion of independent action. After the comments are received, we will seriously consider whether to prohibit such discussion altogether. As an alternative to an outright ban on discussion of independent actions, we will consider requiring rate bureaus to include in their bylaws a provision granting the party filing an independent action the right to direct the bureau not to permit discussion, if the party does not desire such discussion to take place.

Section 10706(b)(3)(B)(ii) contains specific exceptions to the right of independent action which permit bureau

changes to existing independently set rates. Regarding these exceptions, we will make the following interpretations, required on an interim basis:

(1) The prohibition of changes or cancellations by "the organization" will encompass changes or cancellations proposed by an individual carrier under the collective ratemaking procedures of the organization. Thus, another carrier(s) may not propose for collective consideration or as its own independent action, changes in independently set rates of another carrier.

(2) The organization may only change independently established rates for the purpose of tariff simplification, removal of discrimination, and elimination of obsolete items. Tariff simplication does not contemplate changes to independent rates in order to equalize rates. Rate equalization is not, in our view, tariff simplification; and

(3) Items will be considered obsolete only where a carrier has gone out of business, or has verified in writing that the item is obsolete.

For rate changes under these three circumstances, written consent of the carrier which initiated the independent rate must be obtained and kept on file. The standard covering consent may be found at 49 CFR 1331.6(o)(2).

(4) General increases and decreases and broad rate restructurings are not subject to these requirements. Ex Parte adjustments, however, may not have the effect of cancelling or eliminating any rate differential or differences in the application or rules established previously by an independent action, without prior written authorization of its proponent and any participants. General increases, reductions, or restructurings may only adjust independently established rates by the same amount or percentage as they change rates established through collective procedures for similar movements. The statutory language does not impose the consent requirement in these two situations.

Sample Amendment

There is reserved to each carrier participating in a tariff published by this organization the free and unrestrained right to take independent action, either before or after any determination is made under any procedure of this organization. New rates or other new tariff items proposed under independent action will not be docketed, discussed, or voted on, nor will the bureau provide, by any other means, advance notice of the proposal to any member or non-member, unless, simultaneous with docketing, the bureau files the independent action (in tariff form) with the Interstate Commerce Commission.

This organization will change or cancel a rate established by independent action only for the purposes of tariff simplification, removal of discrimination, or elimination of obsolete items.

To change or cancel an independently established rate, whether the change or cancellation is proposed under collective procedures or under the right of independent action, the organization will use the following procedures:

1. Member carriers participating in the independently established rate, shippers, and other interested parties will be provided 14 days notice (not counting the day the notice is sent) of any meeting at which a proposal to change or cancel a rate established by independent action will be considered. Notice will include: the rate, if there is one, limitations of weight or other restrictions pertaining to the existing rate and the proposed rate, the commodities moving under the rate, the relevant origin and destination points, the carriers participating in the rate proposed to be changed or cancelled, and the identity of the proponent of the change or cancellation.

2. The member carriers, shippers, and other interested parties shall have at least 14 days, after notice is sent to them, to respond to the notice and to express their views to the appropriate committee of this organization. Their views may be expressed in writing, in person or by any other means of their own choosing, within the established procedures of this organization.

3. A change or cancellation in the independently established rate will only apply to those carrier-members participating in the rate if those members have sent, and this organization has received, written consent to the change or cancellation. The written consent will clearly identify the rate and the change, and will be signed by a representative of the consenting carrier-member. The rate will continue to be treated as an independently established rate for the account of the participating carriers which do not give written consent to the change or cancellation.

General rate increases and broad rate restructurings are excepted from these requirements. However, such collective adjustments will not cancel rate differentials or differences in the application of rules existing as a result of any independent action taken previously, unless the proponent and any other participants in that independent action desiring to eliminate such rate differentials or applications first notify in writing this organization.

C. *Rate Bureau Protests*

§ 10706(b)(3)(B)(iii) provides:

> The organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property.

In Ex Parte No. 297, *Rate Bureau Investigation*, 349 ICC 811, (1975), we held that rate bureaus were prohibited from protesting independent action proposals of member carriers in any way, or from discouraging initiation of independent action proposals of members. Section 10706(b)(3)(B)(iii) goes further. It imposes a total prohibition against bureau filings of protests and complaints against any tariff item. We believe this provision needs no additional interpretation.

D. *Employee Docketing*

§ 10706(b)(3)(B)(iv) provides:

> The organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers.

In this section, the term "docket" will be interpreted to include "propose." Thus, organization employees and employee committees may not propose changes in tariff items published by or for the account of any member carrier or carriers.

The phrase "act upon" refers to the consideration of such proposals and to any determination or recommendation concerning the merits, published by or for the account of member carriers.

The phrase "act upon" refers to the consideration of such proposals and to any determination concerning the publishing or effectiveness of proposals. This would include screening performed by standing rate committees and action by general rate committees, if bureau employees participate in committee consideration or determination.

This section does not prohibit advice to carriers by employees concerning the legality of their actions.

It also does not prevent such employees from acting as moderators at meetings, so long as they do not participate in the substance of the discussions, or prohibit the organization from developing general cost data to support requests for general rate increases.

Sample Amendment

Employees and employee committees of this organization will act only on procedural or managerial business of the organization. In addition, they may advise the members of the organization

V 45 AG 21 80 0 UMI

concerning the legality of rate and rule proposals under the laws of the United States, and may moderate meetings but they will not participate in the substance of discussion concerning rates and rules. In particular they will not initiate or act upon any proposal effecting a change in any tariff item published by or for the account of any member carrier.

E. *Open Meetings*

§ 10706(b)(3)(B)(v) provides:

Upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization.

This section is intended to help protect the public's interest in the rates established through procedures immune from the antitrust laws.

The phrase "upon request" will be interpreted to encompass all requests, however they are made. The requests for identification of a proponent and for votes cast by members should be answered immediately, as the information is readily available. Admission to meetings must also be granted immediately upon request without requiring advance arrangements.

The phrase "any person" will refer to any person, including but not limited to, motor carriers, non-bureau competitors, carriers by other modes, shippers, representatives of public interest groups, and government agencies. The organization may reasonably limit the number of representatives permitted per company or association.

The phrase "any meeting at which rates or rules will be discussed or voted upon" includes meetings where rates are discussed even if they are not voted upon at the same meeting.

The requirement that persons be admitted to meetings on request assumes as a prerequisite that these persons have notice of the meeting. No discussion or voting on rates is permitted unless the meeting is noticed. Therefore, this section will be interpreted to require that the organization give reasonable notice through its docket bulletin of meetings at which rates or rules will be discussed or voted upon. In addition to stating the time and place of the meeting, the notice must state the rate or rule proposals which will be discussed. If the notice concerns a rate, it should include a list or general description of the commodities moving under the rate, the relevant origin and destination points, and the justification for the proposed action, as well as any other relevant data.

This section will not require admittance to or divulgence of information from meetings whose subject matter relates solely to internal personnel rules and procedures of the organization and not to tariff rates or rules.

Sample amendment

The name of the proponent of a rule or rate docketed with this organization, and the vote cast by any member carrier on any proposal for this organization, will be immediately divulged to any person, upon request.

Any person requesting admittance to a meeting at which rates or rules are being discussed must be admitted immediately.

Notice must be given of meetings at which rates or rules may be discussed or voted upon will state the time and place of the meeting and the rate proposals or rules which will be discussed or voted upon, including a list or general description of the commodities moving under the rate, the relevant origin and destination points, and the appropriate justification for the proposed action as well as any other relevant data.

Notice of meetings will be transmitted at the same time to each receiver (subscriber), member and non-member, of the organization's docket bulletin.

F. *Proxy Voting*

§ 10706(b)(3)(B)(vi) provides:

The organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented.

Written proxies will be required when one carrier authorizes another to vote for it. The proxy must be signed, dated and contain a brief statement of the type of authorization (single meeting, period of time, etc.). A proxy may be revoked at any time, either by a subsequent written verification or by the member-carrier appearing at a meeting and expressing an intent to vote on its own behalf. A proxy may remain in effect for 2 years after which time it expires unless renewed. There is no limit to the number of proxies a carrier may hold. The bureau must immediately be tendered copies of all proxy agreements entered into, maintain these copies, and monitor and ensure compliance.

Sample Amendment

Any carrier voting for one or more other carriers must possess a written authorization of its authority. The proxy must contain the date, signature of the carrier that is releasing the vote, and the description of the type of proxy being granted. A copy of all effective proxies will be maintained by the bureau.

G. *Quorum Standard*

§ 10706(b)(3)(F) provides:

The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

We determine a reasonable quorum to be 35 percent of the membership of the particular group holding the meeting. We are concerned that the quorum standard be a uniform percentage for the various ratemaking organizations, affording them equal treatment regardless of actual size. Use of one particular number as a quorum for all organizations would not ensure appropriate representation for different organizations, since the number of members in each organization may change over time. Use of a percentage ensures, that, for any particular discussion, an adequate number of the total carriers involved will be represented, regardless of possible changes in membership.

In the final rules we are considering a requirement that a quorum be defined as the presence of at least 35 percent of the carriers members. We request comments on the reasonableness of this figure.

Past agreements have established various percentages as quorum requirements. The Illinois Freight Association Agreement requires a quorum of a majority of members. The Commission decision in *The Rocky Mountain Motor Tariff Bureau-Agreement,* 293 I.C.C. 585 (1954) requires a quorum of 6 percent.

Where organizations have very large memberships we think that requiring a 51 percent quorum per committee may be burdensome. On the other hand, requiring only a very small percentage quorum could permit a few dominant carriers to control the meetings and the rates. We think that a quorum of 35 percent is sufficient to ensure appropriate representation without being burdensome.

Sample Amendment

At any meeting of the organization or committee of the organization, at which rates or rules are discussed, 35 percent of the membership of the organization or the committee shall constitute a quorum.

H. *Final Disposition of Cases*

§ 10706(b)(3)(B)(vii) provides:

The organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

This provision is essentially a codification of current Commission policy, as promulgated in *Rate Bureau Investigation,* 349 I.C.C. 811 (1975). In that case, we interpreted "final disposition" to include adoption, rejection or withdrawal of rate proposals including appeals procedures, if any, so as to render such a determination administratively final within the agreement procedures. We interpret 120 days to mean calendar days, although if the 120th day should fall on a Saturday, Sunday or public holiday, the due date shall be the first working day following.

The statute provides that the 120 days can be extended under unusual circumstances. In Ex Parte 297, we noted that examples of hardship cases might include issues such as complex interline or interterritorial adjustments and nationwide classification changes, although these matters will be decided on a case by case basis. Request for extension of the 120 day limit should be submitted to the Commission as soon as it becomes apparent that the deadline will not be met, but, in any event, no later than 30 days prior to the 120th day. If the 120 days expire and an extension has not been timely requested and granted, further consideration of the docketed item is automatically prohibited. Action on it must begin again at the notice stage.

Since this ruling has been in effect for some time, we assume that rate bureaus have already amended their bylaws to reflect this requirement.

II. Standards for Member Carrier Voting and Discussion of Collectively Established Rates

A. *General Standards*

§ 10706(b)(3)(B)(i) provides:

(i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) The organization may allow any member carrier to discuss any rate proposal docketed,[3] but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal.

A primary purpose of this legislation is to infuse additional competition into the ratemaking process. Nowhere is this intent more evident than in the provisions which define the limits for voting and discussion of collectively established rates. As noted above, rates proposed under independent action have special requirements for docketing. Discussion, and voting of independent actions may ultimately be prohibited. Collectively established rates, whether single-line or joint-line, may be docketed, discussed and voted upon by any member carrier until January 1, 1981. After that date, discussion and docketing of collectively established rates is permissible but voting is limited to carriers with authority to operate under the proposed rate. To guarantee that voting is limited to those carriers which are entitled to vote we will require each bureau to submit a plan for identifying carriers which are eligible to vote which includes a sworn certification that each vote taken is limited to carriers with the requisite authority. These procedures must be set forth in the revised agreements or in revised by-laws, due to be filed within 120 days of enactment of Pub. L. 96-296.

Sample Amendment

While any member carrier may discuss (unless otherwise proscribed) any collectively established rate proposals docketed, after January 1, 1981, only those carriers with authority to participate in the transportation to which the proposed rates apply may vote on the rate.

A sworn certification will be made concerning the eligibility of those carriers which vote on collectively established rates after January 1, 1981.

B. *Single-line Rates*

§ 10706(b)(3)(D) provides:

No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984 * * *

This section takes the general standard for collectively established rates one step further. After a three year transition period, discussion and voting on single-line rates is ended. This prohibition against collective action on single-line rates necessarily precludes the docketing of single-line rates in advance of their filing for the same reasons we used in our discussion of independent action.

Section 10706(b)(1) defines a single-line rate as a "rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier." On the basis of these provisions, the agreements of the rate bureaus must be modified to prohibit, after January 1, 1984, docketing in advance of filing, discussion or voting on single-line rates and to discontinue inclusion of both single-line and joint-line movements in one proposal. While this date may be delayed until July 1, 1984, if the Motor Carrier Rate Making Study is not complete, the substance of this section will remain the same.

Sample Amendment

After January 1, 1984 (or July 1, 1984), no docketing in advance of tariff filing, discussion or voting on single-line rates will be permitted by the bureau members or committees and single-line rates may not be included in the same item as joint-line rates.

III. Specific Exceptions to These Standards

A. *General Increases and Decreases*

§ 10706(b)(3)(D)(i) provides an exception to the limitations on single- and joint-line ratemaking in the case of general increases and decreases. This exception is subject to certain other restrictions. These are:

(1) The agreement must provide procedures to give shippers at least 15 days' notice of the proposal;

(2) Shippers must be given the opportunity to present comments on the proposal before it is filed with the Commission;

(3) Discussion of these proposals must be limited to industry average carrier costs; and

(4) After January 1, 1984 (or July 1, 1984), there may also be no discussion of individual markets or particular single-line rates, even if discussion is limited to industry average costs.

We interpret "notice" here to mean advance notification to shipper subscribers via a notice in the bureau's docket bulletin. The notice must include the intended changes and be issued at least 4 weeks before the proposal is to be filed with the Commission. As noted, the section states "at least 15 days," thus giving us discretion to require a longer notice period. If shippers are to develop serious comments and the bureau is to consider them, notice 15 days before the tariff is to be filed is not adequate. The bureau must also provide at least 2 weeks for the filing of these comments. The importance of this comment opportunity may not be disregarded by the bureau. We expect the bureaus to consider seriously these comments prior to filing the proposed tariff and develop specific procedures to implement this requirement. We will not require that a meeting be held to receive shipper comments. Written comments will be acceptable.

Sample Amendment

General rate increases and decreases may be discussed and voted on only if:

(1) Shippers receive, through docket bulletin publication, notice at least 4

[3] Released rates, zone of freedom rates, and other exceptions to this provision are covered by specific sections of the statute and are discussed elsewhere in this notice.

weeks in advance of the filing date of the proposals;

(2) Shippers are given at least 2 weeks to comment;

(3) The shipper comments are analyzed by the bureau, under specified procedures, prior to the filing of the proposal;

(4) Discussion of general rate increases and decreases is limited to industry average carrier cost information; and after January 1, 1984 (or July 1, 1984), no discussion of individual markets or particular single-line rates is permitted.

B. *Changes in Tariff Structures*

§ 10706(b)(3)(D)(iii) basically extends the general increase and decrease discussion exception to broad rate restructurings. We will not permit the phrase "changes in tariff structure" to be used to circumvent other restrictions. This interpretation is consistent with the 4R Act, with other provisions of Pub. L. 96–296, and with the broadly-accepted grouping of general increases (and decreases) and broad rate restructurings.

Sample Amendment

Discussion of changes in tariff structures (broad tariff restructurings) is limited to industry average carrier cost information. After January 1, 1984 (or July 1, 1984), discussions of individual markets or particular single-line rates are also prohibited.

C. *Zone of Freedom and Released Rates*

§ 10706(b)(3)(C) provides:

> No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of Section 10708(d) or 10730(b) of this title apply, except that rates established or filed under Section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with the respect to such rates may be discussed or voted on under agreement approved under this subsection until January 1, 1984.

Section 10708(d) is a new provision which allows for a zone of rate freedom for motor carriers of property and freight forwarders. It allows a carrier to increase its rate as much as 10 percent above the rate in effect the year before and allows it to decrease its rates to 10 percent below the rate in effect on July 1, 1980 without Commission intervention. A prohibition against discussion and voting is contained in the section. The legislative history notes that no collective action on these items is permitted, and that the rates may be proposed only by individual carriers. House Report at 29.

Section 10708(d)(4) provides antitrust immunity for the "docketing and publication" of rates in the zone of rate freedom. As we discussed earlier, the legislative history indicates that the purpose of this immunity is to permit the rate bureaus to perform administrative functions concerning rates which cannot be collectively considered or established. The drafters go further to state "The Committee does not intend by the use of the language 'docketing and publication of such rate' to preclude the Commission from issuing rules and regulations to assure that carriers who utilize the zone of rate freedom do so individually and not collectively." House Report at 25.

With this background in mind, when carriers docket with the rate bureau rates within the zone of rate freedom, docketing may not take place before the rates are filed with the Commission. If we are to encourage use of this provision the initiating carrier must be ensured the benefit of its action. If a proposed rate change is prematurely docketed, it nullifies all competing carriers and nullifies whatever advantage the initiator might have had, especially in the short run.

Section 10730(b) permits carriers to establish rates for the transportation of property (other than household goods) under which the liability of the carrier for the property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper. This section specifically prohibits any discussion of or voting on released rates if the rates have not yet been established when the Act goes into effect. However, the legislative history makes it clear that all collective ratemaking on new released rates is prohibited. For the reasons discussed above, we believe this, also, requires a prohibition against premature docketing of new released rates proposed independently. If the rates are in effect at the time of enactment, they may be docketed, discussed and voted on until January 1, 1984. After January 1, 1984, released rates may not be the subject of collective action.

Sample Amendment

No docketing in advance of tariff filing, discussion or voting will be allowed on rates that are being proposed under the zone of rate freedom.

No new released rates may be docketed in advance of tariff filing, or discussed or voted by bureau members or its committees, but released rates, as defined by Section 10730(b), if in effect when the Motor Carrier Reform Act was enacted or filed to be effective before enactment may be docketed, discussed or voted on until January 1, 1984.

D. *Changes in Commodity Classification*

§ 10706(b)(3)(D)(ii) provides that the single and jointline ratemaking limitations do not apply to changes in commodity classifications. Presently, these changes are made collectively by one bureau, acting for all motor carriers of freight. The effect of the change is to continue to allow all carriers, whether or not they transport the commodities for which classification changes are proposed, to discuss and vote on changes. No amendment is necessary to implement this provision. However, the bureau must comply with the other new standards of general applicability (e.g., open meeting, proxies, etc.) by filing conforming amendments.

E. *Housekeeping Functions of the Bureau*

§ 10706(b)(3)(D)(iv) provides that certain prohibitions do not apply to:

> Publishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

The general housekeeping duties of the rate bureaus, such as the items listed above, are not included in the prohibitions on rate discussions. Bureaus may continue to perform these types of services for carrier members. The last phrase complements § 10706(b)(3)(D)(iii).

IV. Burden of Proof of Violations and Effect of Violations

§ 10706(b)(3)(E) provides:

> In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing parallel behavior does not satisfy that burden by itself.

The section places the burden of proof upon the party alleging violation to show that the alleged event occurred. The reference to "parallel behavior" (behavior of one or more parties that is similar or identical but absent proof of intent by the party to agree upon a rate) means that it is not enough to show that the carrier ultimately published the same rate. Obviously, this proof is extremely difficult. In order to ensure compliance, the Commission must rely, to a great extent, on shipper monitoring of bureau and carrier activities. The open meeting requirement will certainly assist in this task. However, we believe it would be unduly burdensome to require shippers to attend all meetings. We believe some sort of record-keeping requirement is necessary to ensure adequate access to necessary information. In the interim, bureaus will make sound recordings of all meetings and maintain them for the Statute of Limitations period. Typed transcriptions of these recordings must be made available for purchase, upon request. The purchase price should be no more than the cost of reproduction. The recordings must also be made available for use at bureau offices. We seek comments on this as a final standard. Another alternative which must be considered is a transcript requirement. As this could be more expensive than sound recordings, we have chosen the latter as the interim standard.

One troublesome aspect of past regulation of rate bureaus has been the lack of definite remedies for proven violations. In addition to the obvious potential remedy of withdrawal of immunity when serious and continuing violations occur, we propose to adopt a standard that provides that proof of significant violations of an agreement (i.e., actions outside the scope of permissible activities) will automatically result in tariff rejection. If the allegations of improper activity are not sufficient to warrant rejection, they will be considered as grounds for suspension or investigation of the tariff item. Rejection, suspension, or investigation for actions beyond the scope of permissible bureau activity, should not be viewed as restricting other remedies under the antitrust laws. This procedure merely will provide an immediate administrative remedy which will ensure the integrity and consistency of our regulation, to the extent rate bureau activity affects matters before us.

We seek comments on this approach and invite presentation of alternate solutions to this issue.

Sample Amendment

Transcripts (or sound recordings) of all meetings will be made and kept available for viewing at the bureau. Copies of transcripts (or sound recordings) are available for purchase.

V. Conclusions

Oral hearings do not appear to be necessary at this time and none are contemplated. Anyone wishing to present views and evidence, either in support of or in opposition to these proposals, is invited to submit written data, views, or arguments within 30 days. While actual rules have not been proposed, this notice provides adequate notice of contemplated actions. We are not yet certain whether all these changes warrant rules in the CFR. Section 10706(b)(3)(F), for example, seems to require regulations. Other statutory provisions are self-executing. While we recommend selective adoption of rules, an argument can be made that it is useful to have a complete set of regulations. We seek comment on this issue. In any case, existing rules (similar or different from Pub. L. 96–296) will be repealed or amended to conform to the new law.

We anticipate that final standards or rules will be completed in time to permit revised agreements to be filed within 120 days of enactment. If we are unable to meet this timetable, revised agreements consistent with this notice will be required.

It does not appear that this action will affect significantly the quality of the human environment or conservation of energy resources. However, comments on this issue are also invited.

(Pub. L. 96–196, 49 U.S.C. 10321, 10706, 5 U.S.C. 553)

Decided: August 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Commissioner Gilliam concurring with a separate expression. Vice Chairman Gresham dissenting in part with a separate expression. Commissioner Stafford dissented with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, Concurring:

In the Motor Carrier Act of 1980, the Congress has provided the Commission with specific guidelines for approving collective ratemaking agreements. The new statute requires that the Commission approve any agreement conforming to the restrictions imposed under the statute, unless we determine that the agreement is inconsistent with the transportation policy. The legislative history reveals that Congress specifically intended to reduce the substantial discretion previously invested in the Commission to approve or disapprove rate bureau agreements. In reference to Section 14, the House Report states that "This is a clear example of Congress defining the limits which it believes the Commission should follow in reducing the discretion of the Commission to expand those limits." In this regard, the Report emphasizes that the legislation is not designed to eliminate rate bureaus. The creation of an independent Study Commission to examine the need for continued antitrust immunity is further evidence that the Congress and not the Interstate Commerce Commission will decide the ultimate fate of the rate bureaus.

The interim interpretations adopted here exceed the parameters imposed by the Congress on our discretion in the following ways. Before discussing the specific problems I have with these interpretations it is important to clarify the role of the Commission under the statute.

The duty of the Commission is to approve or disapprove collective ratemaking agreements submitted by the carriers. Antitrust immunity automatically follows by statute once approval is given, if the carriers adhere to the specific terms of their agreements. If they do not, they are automatically operating without immunity, subject to the operation of the antitrust laws. The carriers do not continue to be immunized while engaging in activities which are contrary to the terms of their agreement. It is not necessary for the Commission to first revoke their existing agreement in order for the carriers to become liable for antitrust violations.

The interim solution promulgated by this decision states that under Section 14(e), violations of these interim standards and interpretations are grounds for immediate consideration of withdrawal of immunity. This statement is erroneous. The Commission has not been vested by Section 14(e) with the power to withdraw interim immunity. What the statute does provide is continued immunity under previously approved agreements during the period in which new or amended agreements are being finally disposed of by the Commission. This interim immunity is conditioned upon compliance by the ratemaking organization with the statutory section including amendments made by this section and regulations issued under such amendments. If the conditions are not met, then the carriers have no interim immunity and operate subject to the antitrust laws until a final decision is made by the Commission on their new agreements. This interpretation of the statute applies equally to the other references to termination for specific causes which are contained in the decision.

A potentially more serious problem of exceeding the Congressional mandate arises from the interpretation of available remedies. The provision for suspension or investigation of rates on the basis of allegations of "improper activity" in my view goes beyond the Congressional intent. As in the prior statute the Commission's power in the rate bureau area is limited to approval or disapproval of agreements. It is the clear Congressional intent that the Commission "stay within the powers

specifically vested in it by the revised laws". As I have already stated, the Congress intended to limit our discretion not increase it. To my knowledge, the Commission has never suspended a rate on the grounds that a carrier violated its rate bureau agreement. The proper remedy appears to be under the antitrust laws to which the carrier would be automatically subject by engaging in unapproved activities. In fact the statute increases the efficacy of available remedies under the antitrust laws by providing for public scrutiny of rate bureaus, which argues against the necessity for excessive involvement by the Commission in the enforcement end of collective ratemaking.

Vice Chairman Gresham, Dissenting in Part:

If I were the author of this notice, I would have included the following quote from the House Report (H.R. Rep. No. 96–1069, 96th Cong., 2nd Sess., p. 29 (1980).) in the notice:

> In other parts of the rate bureau section of the bill, the Committee has proposed to reduce the amount of discretion that the Commission has to approve or disapprove rate bureau agreements. This reduction in Commission discretion goes hand-in-hand with the other reforms proposed in the rate bureau process. This is a clear example of Congress defining the limits which it believes the Commission should follow in reducing the discretion of the Commission to expand those limits. When the parties to an agreement meet all the conditions in the section, there is a presumption that the Commission should find the agreement to be in the public interest.

In my opinion, we must follow the Congressional direction explicated in this passage, which is similar to language found at page 31 of the Senate Report (S. Rep. No. 96–641, 96th Cong., 2nd Sess. (1980).) It is in this spirit that I issue this dissent.

Apart from the general tone of the notice, I agree with the rules or standards proposed by the majority with two exceptions. First, while I strongly endorse the proposal to prohibit rate Bureaus from requiring independent actors to docket their proposals, I would not at this time dictate to an independently acting carrier that it may not docket a proposal or that it may do so only at a prescribed time, except for those proposals which are singled out for different treatment under 49 U.S.C. 10706(b)(3)(C).

The Motor Carrier Act of 1980, which we here are proposing to implement, explicitly permits rate bureaus to discuss single line rates, with the previously noted exceptions, until 1984. Congress chose to allow this until 1984 and I am unwilling to undo that which Congress has mandated. Furthermore, I believe we do not have the authority to do so.

Second, I am not in favor of adopting the requirements that sound recordings be kept and that copies of these recordings and typed transcripts be made available for purchase upon request. Congress has added 49 U.S.C. (b)(3)(B)(v), which imposes "sunshine" requirements which I believe are adequate yet reasonable. Thus, I do not support the majority's proposal to supplement those requirements.

Commissioner Stafford, Dissenting:

Today's decision fails to give any consideration or credence to the principal concern of Congress that the rate bureau as an institution be retained without major change until Congress has received the report and recommendations of the Motor Carrier Ratemaking Study Commission. The rush to make changes herein, proposed administrative actions which presage renewed investigations of rate bureaus, threats to remove antitrust immunity, and separate actions or potential actions in other areas of ratemaking can lead but to one conclusion, this is a determined administrative effort to dismantle the rate bureaus as speedily as possible. Obviously, Congress did not establish the elaborate provisions regarding the Study Commission unless it expected that organization to do more than to rubber stamp interim actions of this Commission.

Turning next to specific aspects of the decision, the following areas raise serious legal and administrative problems.

1. *Sample forms.* The decision seeks to establish uniform provisions to be used by all rate bureaus. While uniformity is desirable in some circumstances, the situation at hand is not one of them. The establishment of rates and related matters are the prerogatives of the carriers, not the Commission, and I would defer to the distinctive needs of groups of carriers in a rate bureau[1] *providing* that the agreements are in conformity with the Act.

2 *Docketing.* When is a "docketing" a "docketing"? The interpretation of what constitutes docketing of a proposal, whether by independent action or otherwise, should be simply left open for comment. Without question, the interpretations offered in various sections of today's decision are complex, unclear, and will lead to disputes. Clearly, this agency should not attempt to act as a rate bureau, as is evident from the regulations applying to independent actions.

3. *Penalties.* The decision proposes to reject a rate tariff automatically if there are significant violations of an agreement. This is a drastic action and appears to be beyond the powers allotted to the Commission. In any event, rejection of a tariff should be automatically stayed pending an appeal.

In summary, I am concerned lest this and related decisions or actions lead inevitably to the dismantling of the rate bureaus even before the Study Commission, an expert independent body, has reviewed the matter and has made its recommendations to Congress.

[FR Doc. 80–25560 Filed 8–20–80; 8:45 am]

BILLING CODE 7035–01–M

[1] Cf., for example, the rate bureaus established by household goods carriers. The latter are a distinctive group of carriers, have a separate uniform system of accounts (49 CFR Part 1207, table III, et seq.), prepare a separate annual report (Form M–H), and are presently being given separate consideration by Congress in pending legislation. See, S. 1798, Household Goods Transportation Act of 1979, Section 4, in connection with antitrust immunity.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 26 and 27

Opening of the Charles M. Russell and UL Bend National Wildlife Refuges, Mont., To Camping and Use of Roads; and Possession of Firearms and Bows and Arrows

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director had determined that the opening to camping of the Charles M. Russell and UL Bend National Wildlife Refuges is compatible with the objectives for which the refuges were established and will provide additional recreational opportunity to the public. All vehicle traffic will be restricted to roads designated open to the public, except that direct access by motor vehicle is permitted to and from temporary campsites within 150 feet of designated roads. Firearms and bows and arrows are permitted on the refuges.

DATES: Year around (September 1, 1980, through August 31, 1981).

FOR FURTHER INFORMATION CONTACT: Wally Steucke, Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 North 26th Street, Billings, Montana 59101; telephone: (406) 657–6115.

Ralph Fries, Refuge Manager, Charles M. Russell National Wildlife Refuge, P.O. Box 110, Lewistown, Montana 59457; telephone: (406) 538–8706.

SUPPLEMENTARY INFORMATION: General: Portions of the refuges' roads which are open to vehicular traffic by the general public are designated by signs and/or delineated on maps available at refuge headquarters and from the office of the Area Manager (address listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational uses authorized by these regulations will not interfere with the primary purposes for which the following National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 26.34 Special regulations: Concerning public access, use, and recreation for individual national wildlife refuges.

Camping on the Charles M. Russell and UL Bend National Wildlife Refuges is permitted year-round. All forms of camping are limited to 14 days within any 30-day period, except in state parks within the refuge boundary where state regulations apply. Entrance to, travel on, and exit from these refuges is permitted only on designated and numbered routes. Operation of motor vehicles off designated and numbered roads is prohibited, except that direct access by motor vehicle is permitted to and from temporary campsites within 150 feet of designated roads.

§ 27.42 Firearms.

Firearms that are not cased and are not broken down are permitted on the refuge in vehicles. Weapons may only be removed from a vehicle, and/or discharged only by a licensed hunter during a legal refuge hunting season. Discharge of weapons or their removal from a vehicle at any other time is prohibited.

§ 27.43 Weapons other than firearms.

Bows and arrows may be possessed on the refuge in vehicles. They may only be removed from a vehicle and/or shot by a licensed hunter during a legal bow season. Shooting of arrows at any other time is prohibited.

The provisions of these special regulations supplement the regulations which govern public entry and use, and prohibited acts on wildlife refuges generally, which are set forth in Title 50, Code and Federal Regulations, Parts 26 and 27.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 CFR, Part 14.

Dated: August 13, 1980.

Jack D. Lamoyeux,

Acting Area Manager.

[FR Doc. 80–25511 Filed 8–20–80; 8:45 am]

BILLING CODE 4310–55–M

---

50 CFR Part 32

National Wildlife Refuges in Florida, Georgia and South Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The director has determined that the opening to hunting of certain national wildlife refuges in Florida, Georgia and South Carolina is compatible with the objectives for which the areas were established, will utilize a renewable natural resource and will provide additonal recreational opportunity to the public. Big game hunts on island refuges (i.e., Wassaw Island National Wildlife Refuge) provide biological control and keep population levels compatible with their habitat. This document establishes special regulations effective for the upcoming hunting seasons for certain migratory game birds, upland game and big game species.

DATES: September 1, 1980 to June 30, 1981. See State regulations for waterfowl seasons in Georgia and Florida.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Area Manager, U.S. Fish and Wildlife Service, 15 North Laura Street, Jacksonville, Florida 32202, telephone (904) 791–2267.

Refuge Manager, Chassahowitzka National Wildlife Refuge, Route 2, Box 44, Homosassa, Florida 32646, telephone (904) 628–2201.

Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Florida 32028, telephone (904) 985–4673.

Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, Florida 33437, telephone (305) 732–3684.

Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Florida 32780, telephone (305) 867–4820.

Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Georgia 31080, telephone (912) 986–5441.

Refuge Manager, Savannah National Wildlife Refuge Complex (Savannah, Blackbeard Island, Pinckney Island and Wassaw Island Refuges) P.O. Box 8487, Savannah, Georgia 31412, telephone (912) 944–4415.

Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, Florida 32355, telephone (904) 925–6121.

Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Florida 32320, telephone (904) 653–8808.

SUPPLEMENTAL INFORMATION:

General Conditions

1. Hunting is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 32, State regulations and the following applicable general conditions and special regulations:

The Refuge Recreational Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) that no area of the National Wildlife Refuge System is used for forms of recreation not directly related to the primary purposes for which the area was established, and (b) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Chassahowitzka, Lake Woodruff, Loxahatchee, Merritt Island, Piedmont, Savannah, Blackbeard Island, Pinckney Island, Wassaw Island, St. Marks and St. Vincent National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November

5, 1980, (c) bag limit: deer—State

1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. All hunters must possess a refuge permit to hunt on a national wildlife refuge. Permits are available from the refuge headquarters and/or check stations. Permits must be carried while hunting and are nontransferable. Permits may be obtained by either applying in person or by mail. All participants must fill in and return the questionnaire portion of the hunt permit to the refuge manager by the established deadline for the respective hunts.

3. A list of special conditions applicable to individual refuge hunts and a map of the hunt area are available at refuge headquarters. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps.

4. Ingress and egress points for motor vehicles and/or boats are limited to designated check stations or other specified areas.

5. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any gauge is prohibited during such hunts.

6. Persons under age 18 must be under the close supervision of an authorized adult.

7. Deer, hogs and turkeys harvested during scheduled hunts for these species must be checked by refuge personnel before leaving the refuge.

8. Muzzleloading shotguns used during primitive gun big game hunts must be 20 gauge or larger loaded with single shot.

9. Unless specified, dogs are not permitted on refuge areas during hunts.

10. Only temporary blinds are permitted.

11. Personal property must be retrieved by owner and removed from the refuge daily, unless otherwise specified.

12. Use of buckshot is prohibited on refuge big game hunts (except the Savannah NWR feral hog hunt).

13. Portions of refuges open for hunts will be closed to other public use activities during these hunts.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Migratory bird hunting is permitted on the following refuges within those areas posted with signs and/or designated on a hunting area map. Migratory bird hunting shall be in accordance with the aforementioned general conditions and the following special conditions:

Florida

Chassahowitzka National Wildlife Refuge

(1) Only ducks and coots may be hunted on approximately 2,500 acres which have been designated as being open to public hunting. (2) Hunting will be permitted daily during the State waterfowl season. (3) Travel to and from the hunting area will be permitted only by outboard motorboat or manually propelled boats and canoes. Air thrust boats are prohibited. (4) Dogs are permitted for retrieving dead and wounded game.

Loxahatchee National Wildlife Refuge

(1) Only ducks and coots may be hunted on approximately 29,000 acres which have been designated as open to public hunting. (2) Hunting is permitted on Sundays, Wednesdays, Thursdays, Fridays, and Saturdays during the State waterfowl season. Shooting hours are from one-half hour before sunrise until 11 a.m. (3) Air thrust boats may be launched at the headquarters landing only. (4) All air thrust boat operators must possess a refuge airboat permit available at refuge headquarters. (5) Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) within the hunting area and a clearly posted access trail through the headquarters "closed area." No hunting is permitted in these canals or in the posted "closed area" near headquarters and the concession. (6) Guns must be cased or dismantled when boat is in motion.

Merritt Island National Wildlife Refuge

(1) Migratory waterfowl hunting is permitted for ducks and coots only on approximately 38,500 acres. (2) Hunting is permitted only on Sundays, Wednesdays, Thursdays, Fridays, and Saturdays during the State waterfowl season. Shooting hours are from one-half hour before sunrise until 1 p.m. (3) Proof of completion of a certified hunter safety training course is required to hunt Areas 1, 2, and 4 during the entire season. (4) A hunter check station is currently scheduled to be operated the first day of the season for issuance of daily permits. (5) Portions of the refuge may be closed to hunting at certain times during space shuttle operations. Consult local news sources for the space shuttle security schedule. (6) Hunting from or within 10 feet of any dike, roadway or railroad fill is prohibited. (7) All boaters must wear life jackets when boats are in motion in the Indian River and Mosquito Lagoon. Air thrust boats are prohibited. (8) The use of dogs is permitted, but they must remain under the control of their handlers at all times.

Georgia

Savannah National Wildlife Refuge

(1) Only ducks, coots and snipe may be hunted on approximately 3,500 acres which have been designated as open to public hunting. (2) Hunting will be permitted only on Thursdays, Fridays and Saturdays from one-half hour before sunrise to 12 noon during the State waterfowl season. (Note: Snipe season opens at different dates than duck and coot season but will close on the same date.) (3) Hunting will not be permitted in or on Middle River; Back River; the channels of the Savannah River known as Steamboat River and Houstown Cut, between Front and Middle Rivers; nor within 50 yards of the shoreline of these rivers. (4) Hunters will not be permitted to enter the hunting area sooner then one and one-half hours before sunrise.

§ 32.22 Special regulations; upland game for individual wildlife refuge areas.

Florida

St. Marks National Wildlife Refuge

The hunt area for upland game is 600 acres of the St. Marks Unit; which is cooperatively administered as part of the Aucilla Wildlife Management Area according to all applicable State rules and regulations.

Georgia

Piedmont National Wildlife Refuge

(1) Species permitted: Quail, squirrel and rabbit. (2) Season: Daily except Sundays during State season. (3) Closed areas: Compartment 25 and the posted wildlife trail section of Compartment 14. (4) Permits: Available at refuge headquarters during the hunt. (5) Dogs are allowed for quail hunting and one dog per hunt party is allowed for squirrel hunting. Dogs are *not allowed* for rabbit hunting. (6) Handguns and buckshot are prohibited on the refuge. (7) Upland game hunting of designated species is permitted on approximately 33,000 acres.

§ 32.32 Special regulations; big game for individual wildlife refuges.

Florida

White-tailed deer, turkey, and/or feral hogs may be hunted on one or more of the following refuge areas:

Lake Woodruff National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer and feral hogs, (b) season: September 19–21 and October 3–5, 1980, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: either sex, (e) permits—no quota, permits available at refuge headquarters prior to hunt and at the check station during the hunt. (2) *Muzzleloading firearms hunts:* (a) species permitted: deer and feral hogs, (b) season: October 17–19 and October 31–November 2, 1980, (c) bag limit: deer—State regulations, hogs—no limit, (d) sex: bucks only, must have visible antlers, (e) permits—100 permits for each hunt, applications must be received prior to the public drawing at 2 p.m. on August 22, 1980. (3) Stand hours: One-half hour before sunrise to 9 a.m. Stalking or movement through the hunt area is not permitted during stand hours. (4) No one may enter the hunt area prior to two hours before sunrise and all hunters must clear the area by two hours after sunset. (5) Big game hunting of designated species is permitted on approximately 2,250 acres.

St. Marks National Wildlife Refuge

The hunt area for big game is 600 acres of the St. Marks Unit; which is cooperatively administered as part of the Aucilla Wildlife Management Area according to all applicable State rules and regulations and 14,000 acres of the Wakulla Unit plus 18,000 acres of the Panacea Unit subject to the aforementioned general conditions and the following special conditions:

(1) *Archery hunts:* (a) species permitted: deer and feral hogs, (b) season: September 26–28, 1980, (c) bag limit: deer—one deer; hogs—no limit, (d) sex: either sex (except spotted fawn), (e) permits: no quota, permits available at refuge headquarters until August 29, 1980. (2) *Muzzleloading firearms hunt:* (a) species permitted: deer and feral hogs, (b) season: November 21–23, 1980, (c) bag limit: deer—one deer, hogs—no limit, (d) sex: deer—bucks only, must have visible antlers, hogs—either sex, (e) permits: no quota, permits available at refuge headquarters until August 29, 1980. (3) *Conventional weapon hunt:* (a) species permitted: deer and feral hogs, (b) season: December 12–14, 1980, (c) bag limit: deer—one deer, hogs—no limit, (d) sex: deer—bucks only, hogs—either sex, (e) weapons: State regulations except *no* buckshot or handguns permitted. Shotgun slugs *are* permitted, (f) permits: limited to 400. Applications are available at refuge office until August 29, 1980.

St. Vincent National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: white-tailed deer and feral hogs, (b) season: November 7–9, 1980, (c) bag limit: deer—one deer, hogs no limit, (d) sex: either sex, (e) permits: no quota; permits available at refuge headquarters until October 30, 1980, (f) hunters must be on stand one-half hour before sunrise to 9 a.m. (2) *Muzzleloading firearms hunts:* (a) species permitted: white-tailed deer, turkey, and feral hogs, (b) season: December 12–14, 1980, (c) bag limit: deer—one deer, turkey—one bearded turkey, hogs—no limit, (d) sex: deer and hogs—either sex; turkeys—bearded only, (e) permits: no quota; permits issued by mail or in person at refuge headquarters until December 1, 1980. (3) All participants are required to check in and out at check stations. (4) Hunter camping and fires are restricted to two designated camping areas. Participants may not set up camp before 8 a.m. on the day prior to the scheduled hunt. All camping equipment must be removed by 1 p.m. the day following the last day of the hunt season. (5) Hunters are required to wear an outer garment above the waist which contains a minimum of 500 square inches of daylight fluorescent orange material. (6) St. Vincent National Wildlife Refuge is closed to the general public during these hunts. (7) Approximately 12,000 acres are open for hunting designated species of big game.

Georgia and South Carolina

Savannah National Wildlife Refuge

(1)(a) Species permitted: Feral hogs, (b) season: October 25, 1980 and February 21, 1981, (c) bag limit: no limit, (d) sex: either sex, (e) weapon: shotgun—"00" buckshot, (f) permits: 250 permits for each hunt, permit applications must be postmarked by September 25, 1980 for the October 25 hunt and January 21, 1981 for the Feburary 21 hunt.

Persons drawn for the first hunt will not be eligible for the second hunt. (2) The Savannah NWR (except for headquarters area) will be closed to the general public on hunt days. (3) Approximately 11,500 acres are open for feral hog hunting.

Georgia

Blackbeard Island National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer, (b) season: November 3–5, 1980 and December 28–30, 1980, (c) bag limit: two deer, (d) sex: either sex, (a) permits: no limit; application forms must be postmarked by October 3 for the hunt beginning November 3 and by November 28 for the hunt beginning December 28. (2) Camping and fires are permitted at designated camping areas only. Entry on the island will not be permitted more than two days in advance of the opening date of each hunt period. Participants will be confined to the camping area until the morning of the first day of each hunt period and must be off the island the day following the last day of the hunt period. (3) During the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset each day, hunters must remain on their stands. No movement during these hours will be tolerated. (4) The Blackbeard Island National Wildlife Refuge will be closed to the general public November 1–6, 1980 and December 26–31, 1980. (5) Approximately 4,500 acres are open for deer hunting.

Wassaw Island National Wildlife Refuge

Special Conditions: (1) *Archery hunts:* (a) species permitted: deer, (b) season: November 14–16, 1980, (c) bag limit: two deer, (d) sex: either sex, (e) permits: unlimited permit applications must be postmarked by October 14, 1980. (2) *Gun hunts:* (a) species permitted: deer, (b) weapons: State regulations (except buckshot and handguns prohibited), (c) seasons: December 13–14, 1980, (d) bag limit: two deer, (e) sex: antlerless deer on December 13, 1980, either sex on December 14, 1980, (f) permits: 120 permits will be issued by drawing. Permit applications must be postmarked by November 13, 1980. (3) Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants must remain in the camping area until morning of first day of hunt period and must be off the island the day following last day of the hunt. (4) All camping and fires will be at designated camping areas only. (5) Stand hours: during the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset each day, hunters must remain on their stands. No movement during these hours will be tolerated. (6) The Wassaw Island National Wildlife Refuge will be closed to the general public November 13–17, 1980 and December 12–15, 1980. (7) Approximately 2,000 acres are within the designated deer hunting area.

Piedmont National Wildlife Refuge

(1) *Archery hunts:* (a) species permitted: deer, (b) season: October 4–11, 1980, (c) bag limit: two deer—either sex, (d) permits: no limit. (2) *Muzzleloading firearms hunt:* (a) species permitted: deer, (b) season: October 23–25, 1980, (c) bag limit: two deer—3 points or more on one side or antlerless, (d) permits: 1,500 permits issued by public drawing on August 25, 1980 at 1 p.m. (3) *Bucks only gun hunts:* (a) season: October 30–November 1, 1980, (b) bag

limit: one deer. (c) permits: 2,000 permits two bucks, with visible antlers. (c) permits: 1,500 permits issued by public drawing on August 25, 1980 at 1 p.m. (4) *Either sex gun hunt:* (a) seasons: November 8 and November 15, 1980. (b) bag limit: for each hunt issued by public drawing on August 25, 1980 at 1 p.m. (5) Children under age 12 are not permitted on the deer hunts. (6) Camping is permitted only in the Pippins Lake Campground, Compartment 19. The Campground will be open at 8 a.m. the day before each deer hunt and closed at 11 a.m. the day after each deer hunt. (7) Prehunt scouting and stand placement will be permitted from 8 a.m. until sunset on the day immediately prior to each deer hunt. Weapons are not permitted in the woods during scouting periods. (8) Refuge big game hunters are required to wear outer garment above the waist which contains a minimum of 500 square inches of daylight fluorescent orange material. (9) Handguns and buckshot are prohibited on the refuge. (10) Approximately 33,000 acres are open to deer hunting. (11) Piedmont National Wildlife Refuge (except headquarters area) will be closed to the general public on hunt days. (12) Submission of more than one application for each hunter is prohibited and shall be cause for rejection of all his permits. Duplication of the hunt application is prohibited. Each applicant must complete and sign his own application. Lack of signature will be cause for rejection of his application.

South Carolina

Pinckney Island National Wildlife Refuge

(1) *Gun hunts:* (a) species permitted: deer, (b) weapons: shotguns with slugs: (c) season: October 4, 1980 and October 11, 1980, (d) bag limit: two deer, (e) sex: October 4, antlerless deer only; October 11, one buck and one antlerless, (f) permits: 80 permits will be issued by public drawing for each hunt, applications must be postmarked by September 4, 1980. Persons drawn for the first hunt will not be eligible for the second hunt. (2) Participants must check in at headquarters no earlier than 4 a.m. and park in designated area prior to hunting. Entry by boat is prohibited. (3) During the periods from one-half hour before sunrise until 9 a.m. and from 3:30 p.m. until sunset, hunters must be on their stands. (4) The refuge will be open September 28, 1980 from 8 a.m. until 5 p.m. for the purpose of scouting. Only hunt participants with their hunt permit will be permitted on the refuge. (5) Pinckney Island National Wildlife Refuge will be closed to the general public on October 4 and October 11, 1980. (6) The hunting area encompasses approximately 2,500 acres.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 14, 1980.

Donald J. Hankla,

Area Manager.

[FR Doc. 80-25503 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Eastern Neck National Wildlife Refuge, Maryland, To Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Eastern Neck National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (October 6, 1980, through December 31, 1980).

FOR FURTHER INFORMATION CONTACT: Phillip Feiger, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661, Telephone No. 301-639-7056.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the developent, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Eastern Neck National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Eastern Neck National Wildlife Refuge, Maryland, is permitted on all areas except county roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 1,996 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons:

Archery only: October 6, 7, 10, and 11, 1980, Non-Ambulatory hunters only, hunter choice of weapons: October 25, 1980, Muzzle-loading longarm only: October 27, 29, and November 1, 1980, Shotgun only: November 17, 19, and 22, 1980.

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in and out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) All hunters must be checked in by no later than 8:00 a.m. of the morning they are to hunt. Failure to do so will constitute a no show and a standby hunter will be assigned.

No hunter may enter the refuge earlier than one-half hour before sunrise and must check out no later than one hour after sunset.

(5) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is not permitted.

(7) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and a minimum of 144 square inches of fluorescent orange material worn on the chest and on the back above the waistline.

(8) Hunters under 18 years of age must be accompanied by a hunting, permit-holding adult.

(9) Contained fire cooking devices will be permitted within fifty (50) feet of legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation Areas.

(10) All hunters must exhibit their hunting equipment, game Federal permit, Federal qualification certificate, State hunting license, and deer-turkey stamp to Federal or State officers on request.

(11) A completed proficiency certificate will be required of all hunters. Valid proficiency certificates will be honored for three (3) years. The certificate will contain identification of shooter, identification of certifying individuals and identification of bows and firearms with which the hunter is proficient. Required proficiency levels for muzzle-loading firearm and shotgun hunters are placement of three (3) consecutive shots in a twelve (12) inch bullseye at a fifty (50) and thirty (30) yard distance respectively using an off-hand firing position. Bow hunters must successfully complete part IIB of the Bow Hunter Education Course given by the National Field Archery Association requiring the placement of three (3) out of five (5) consecutive shots in the 9 x 14 inch chest area of a standard deer target at varying distances from ten (10) to thirty (30) yards. All firearms, ammunition, load sizes and arrows must be legal for the taking of deer in the State of Maryland and the bows and firearms used to hunt must be the same as those used to qualify.

(12) All arrows in possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint or etched into the arrow shaft.

(13) Use or possession of alcoholic beverages by hunters is not permitted during the hunt.

(14) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to one hundred and fifteen (115) per day for gun hunts, and one hundred and fifty (150) per day for archery hunts, and ten (10) for the non-ambulatory hunt. All participants of the non-ambulatory hunt will be subject to State regulations governing such hunting.

(15) The permit must be returned to the refuge at check-out or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31, 1980. Noncompliance with this and other regulations will subject hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

(16) Hunters who have a valid refuge hunting permit for 1980 will be allowed to scout the refuge from October 1 to November 22 on all non-hunt days. Hunters exercising this privilege will display their 1980 refuge permit on the dashboard of their car.

(17) Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used.

(18) Target practice or the test firing of any weapon is not permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 12, 1980.

[FR Doc. 80-25508 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of the Parker River National Wildlife Refuge, Massachusetts, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Parker River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1980, through January 31, 1981.

FOR FURTHER INFORMATION CONTACT: George Gavutis, Parker River National Wildlife Refuge, Northern Blvd., Plum Island, Newburyport, Massachusetts 01950, Telephone No. 617-465-5753.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practical and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Parker River National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of waterfowl and coots on the Parker River National Wildlife Refuge, Massachusetts, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,805 acres, and known as the Pine Island Hunting Area (Area A), Parker River Hunting Area (Area B), Nelson's Island Hunting Area (Area C), and the Youth Hunting Area (Area D), are delineated on maps available at refuge headquarters, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl and coots, subject to the following special conditions.

1. Hunters will be required to have taken and passed the refuge open book Waterfowl Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid Certification Card with them while hunting on the refuge and must display it upon request. Hunters who are convicted of a violation of refuge regulations are subject to having their exam certification card revoked.

2. The number of hunters on the Pine Island Area will be limited to 75 each day, Parker River Area to 25 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis. Hunters using Area B must each bring and set out at least two (2) waterfowl decoys and waterfowl only may be hunted within 50 yards of these set decoys.

3. Hunters on all three areas may not fire or possess more than 15 shotshells per day. Steel shot is required for all shotguns. Waterfowl hunters may not have in their possession lead shotshells.

4. Hunters when requested by federal or state enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

5. The Youth Hunting Area will be

SUPPLEMENTARY INFORMATION:

Dated: July 2, 1980.

through December 31, 1980. The public is invited to offer suggestions and

any permanent blind, platform or scaffold

5. The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected days except Sundays under the provisions of this special program. Literature describing this program is available at the refuge headquarters.

6. Boat access is prohibited on Area C and required on Area A. Boats may be landed only during the open season on waterfowl and by persons authorized to participate in refuge hunting programs. Access to Area B is permitted by foot from the refuge parking lot off of Marsh Avenue or via boat from the refuge launching ramp on Plum Island, or from off-refuge sites. Access to Area C must be from refuge parking lot on Stackyard Road.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1981. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 12, 1980.

[FR Doc. 80-25507 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 32

Opening of Waubay National Wildlife Refuge, South Dakota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Waubay National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Gun: November 29, 1980, through December 7, 1980. Archery: December 8, 1980, through December 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert R. Johnson, Waubay National Wildlife Refuge, Waubay, South Dakota 57273, Phone Number (605) 947-4695.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Waubay National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. This area, comprising 4,591 acres, is delineated on maps available at the refuge headquarters. Hunters shall possess a valid Day County, South Dakota deer license and hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. No hunting within the 60-acre safety zone surrounding refuge headquarters.
2. All refuge roads and trails within the open hunting area, other than public roads, will be closed to vehicles. All gates and trails, however, will be open to foot traffic.
3. Campfires are prohibited.
4. All deer taken on the area must be checked in at refuge checking station located at the old CCC camp site.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Waubay National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Dated: July 2, 1980.

Robert R. Johnson,

Refuge Manager.

[FR Doc. 80-25512 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 32

Opening of Shiawassee National Wildlife Refuge, Saginaw, Mich., for the 1980 Archery Deer Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined opening of archery deer hunting at Shiawassee National Wildlife Refuge is compatible with objectives for which the area was established. The hunt will utilize a renewable natural resource and provide additional recreational opportunity to the public.

DATE: December 1, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, Michigan 48601—Telephone Number 517/777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game for individual wildlife refuge areas.

Archery deer hunting is permitted on the entire refuge from 6:00 AM to 7:00 PM EST each day from December 1, 1980 through December 31, 1980, with the exception of the period from December 5th through December 14th when the area north of the Shiawassee River is open a muzzleloader hunting and closed to archery deer hunting.

Hunting shall be in accordance with all State regulations covering archery deer hunts, plus the following conditions:

(1) While hunting all archers must possess a valid federal permit on their person.

(2) Applications for federal permits must be received at the refuge office on or before October 31, 1980.

(3) All hunters must exhibit their hunting license, federal permit, deer tag, game and vehicle contents to federal and state officers upon request.

(4) Bow hunters are prohibited from constructing or using any permanent blind, platform or scaffold.

The provisions of this special regulation supplement the regulations which govern hunting on national wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective

through December 31, 1980. The public is invited to offer suggestions and comments at any time.

Note.—The USFWS has determined that this document does not contain a minor proposal requiring preparations of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

David J. Frisque,

Acting Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Mich.

August 8, 1980.

[FR Doc. 80-25526 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 32

Opening of Shiawassee National Wildlife Refuge, Saginaw, Mich., for the 1980 Muzzleloader Deer Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The director has determined opening of muzzleloader deer hunting at Shiawassee National Wildlife Refuge is compatible with objectives for which the area was established. The hunt will utilize a renewable natural resource and provide additional recreational opportunity to the public.

DATES: December 5, 1980 through December 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Saginaw, Michigan 48601—Telephone Number 517/777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game for individual wildlife refuge areas; muzzleloader deer hunting is permitted north only of the Shiawassee River from 6:00 AM to 7:00 PM EST each day from December 5, 1980 through December 14, 1980 only.

Hunting shall be in accordance with all State regulations covering muzzleloader deer hunts, plus the following conditions:

(1) All muzzleloader hunters must possess a valid federal permit on their person while they are within the boundaries of the refuge.

(2) Applications for federal permits must be received at the refuge office on or before October 31, 1980.

(3) All hunters must exhibit their hunting license, federal permit, deer tag, game and vehicle contents to federal and state officers upon request.

(4) Muzzleloader hunters are prohibited from constructing or using any permanent blind, platform or scaffold.

(5) All muzzleloading guns must be a .44 caliber or larger.

(6) There will be three permit periods each period comprising three to four days in length.

(7) The harvest will consist of bucks only.

(8) No archery deer hunting will occur within the muzzleloader zone during the muzzleloader hunt.

The provisions of this special regulation supplement the regulations which govern hunting on national wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1980. The public is invited to offer suggestions and comments at any time.

Note.—The USFWS has determined that this document does not contain a minor proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

David J. Frisque,

Acting Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Mich.

August 8, 1980.

[FR Doc. 80-25525 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

V 45 A G 2 1 8 0 UMI

Proposed Rules

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 541, 544, 545, 561, 563, 563c, 569a, 577, and 578

[No. 80-490]

Mutual Capital Certificates

Dated: August 15, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: The Board proposes to amend its regulations for Federal mutual associations, Federally-insured state-chartered mutual institutions, and Federal mutual savings banks to provide procedures for the issuance of mutual capital certificates. In summary, the proposed regulations set forth: (1) procedures for application to the Board for approval of the issuance of mutual capital certificates; (2) procedures for insured mutual association membership approval of the authorization for issuance of mutual capital certificates; (3) proxy solicitation and issuer disclosure requirements; (4) pre-approved charter amendments for Federal mutual associations and Federal mutual savings banks; and (5) permissible and mandatory legal attributes of mutual capital certificates issued pursuant to the Board's regulations. In addition, the proposed regulations provide that mutual capital certificates shall be deemed to constitute a part of an insured mutual association's statutory reserve and net worth accounts. The proposed regulations implement Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, providing for the creation and issuance of mutual capital certificates. The Board believes that its proposed regulations will provide an effective means whereby mutual associations may gain access to the capital markets and increase the supply of funds for housing.

DATE: Comments must be received by: October 20, 1080.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Harry M. Zimmerman, Jr., Associate General Counsel, (202) 377-6469, or John P. Soukenik, Attorney, (202) 377-6427, at the above address.

SUPPLEMENTARY INFORMATION: Section 407(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221, 94 Stat. 132) authorizes the creation and issuance of mutual capital certificates by mutual insured institutions by amending Section 5(b) of The Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(b), and Section 403(b) of The National Housing Act of 1934 ("NHA"), 12 U.S.C. 1726(b).

Most savings and loan associations have a mutual form of organization. Unlike the capital stock base of stock associations, which is raised through the sale of nonwithdrawable equity interests, the capital of mutual associations is in the form of share or deposit accounts, which not only generally are "withdrawable" (see 12 U.S.C. 1464(b)(1), and 12 CFR 545.1, 545.1-2 and 561.3), but, in the case of deposit accounts, create a creditor-debtor relationship between the depositor and the mutual association. Thus, mutual associations by their very nature do not have a net worth capital stock account over and above their retained earnings. The size of the net worth account of insured insitutions determines, among other things, the permissible rate of deposit growth of such institutions, and the absence of a capital stock-type account may therefore have a limiting effect on the amount of mortgage funds available for residential and other lending.

Congress intended in the Depository Institutions Deregulation and Monetary Control Act of 1980 to make available to qualifying mutual savings and loan institutions an equity instrument analogous to capital stock that could be used as part of a strong capital base. In fulfilling the statutory mandate to provide rules and regulations for the issuance and sale of mutual capital certificates, the Board has sought to provide for an instrument that constitutes an equity interest in a mutual association that is marketable to investors.

Legal Attributes of Mutual Capital Certificates

It is within the Board's discretion to determine what legal attributes mutual capital certificates should have. Generally, in proposed § 563.7-4, the Board has provided that mutual capital certificates shall have certain mandatory attributes analogous to those of preferred stock, which the Board believes is the capital stock form closest to the certificates. Dividend rights may be fixed, variable, participating or cumulative (or any combination thereof), but the right to receive dividends may not constitute an obligation of the mutual association, i.e., dividends may be paid or redemptions made only at the option of the mutual institution's board of directors.

Voting rights would be restricted to two situations. First, where the institution fails to make certain dividend or redemption payments, the mutual capital certificate holders would have the right to elect representatives to the board of directors. Second, where there is proposed a voluntary merger, consolidation or reorganization, the mutual capital certificate holders would have the right to vote on the proposal as a class.

The Board has proposed conditions relative to the maintenance of the safety and soundness of the issuing insured mutual institutions. The proposed regulations would not permit dividend or redemption payments to be made if such payments would cause the insured mutual institution to fail to meet its statutory reserve requirement or its net worth requirement. Furthermore, as Congress clearly contemplated that mutual capital certificates would be analogous to capital stock, which includes stock that is redeemable only over a relatively substantial period of time, no redemption of mutual capital certificates would be permitted unless the averge redemption date of mutual capital certificates to be redeemed were at least 10 years, except in certain specified instances that preserve the character of the security. Finally, the proposal would provide that the aggregate amount of mutual capital certificates issued pursuant to the proposed regulations not exceed 20 percent of the statutory reserve requirement. This requirement would not restrict state-chartered institutions from issuing mutual capital certificates in excess of 20 percent of their statutory reserve, except that any amount beyond the 20 percent limitation so issued would not qualify for reserve and net worth treatment. Federal mutual associations are required to follow procedures similar to those applicable to Federal stock associations issuing preferred stock and may, with Board approval, issue certificates in an amount exceeding 20 percent of the statutory reserve requirement.

While the proposed regulations would require proxy solicitation and disclosure with respect to the original authorization of the certificates, the required proxy statement is in short form relative to the Board's other proxy disclosure requirements (e.g., Form PS of Part 563b). In addition, no prior clearance by Board staff of the proxy material would be required.

Procedures for Approval and Issuance

The Board provides in its proposed regulations that, before an institution may issue mutual capital certificates qualifying for net worth and reserve treatment, it must (1) obtain the written approval of the Board, (2) obtain the approval of its members for any necessary charter amendments or other authorization pursuant to notice accompanied by proxy solicitation materials, and (3) except in a private placement, provide to investors an offering circular.

Conforming Amendments

The Board recognizes that, because mutual capital certificates have not before been issued by mutual savings and loan associations, certain conforming amendments will be required to various miscellaneous provisions in its current regulations. Conforming amendments will be set forth in the final regulations.

Accordingly, the Board hereby proposes to amend Parts 541, 544, and 545 of the Rules and Regulations for the Federal Savings and Loan System, Parts 561, 563, 563c, and 569a of the Rules and Regulations for Insurance of Accounts, and Parts 577 and 578 of the Rules and Regulations for Federal Mutual Savings Banks, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

1. Revise § 541.15 to read as follows:

§ 541.15 Net Worth.

The sum of general reserves, surplus, capital stock (including mutual capital certificates issued pursuant to § 563.7-4 of this Chapter), and any other account designated as part of net worth under this Subchapter.

PART 544—CHARTER AND BYLAWS

2. Add a new § 544.2-1 to read as follows:

§ 544.2-1 Mutual capital certificate charter amendment.

(a) *Approval of mutual capital certificate charter amendment.* No Federal mutual association shall be authorized to issue mutual capital certificates unless it adopts a charter amendment in the form set forth in paragraph (b) of this section. Approval of the amendment shall be by a majority of the outstanding eligible votes of the association, cast in person or by proxy, at a legal meeting of the members called for the purpose of voting on the amendment. Proxies shall be specifically solicited for that purpose. Except as provided herein, the provisions of this section shall constitute the approval of the Board of the proposal by the board of directors of any Federal mutual association of the charter amendment set forth in paragraph (b) of this section.

(b) A mutual association adopting a charter amendment authorizing the issuance of mutual capital certificates shall delete charter Section 11 and add new charter Sections 11 and 12 to read as follows:

11. *Mutual Capital Certificates.* The association may issue mutual capital certificates pursuant to the rules and regulations of the Federal Home Loan Bank Board. Subject to such rules and regulations, the board of directors of the association is authorized, without the prior approval of the members of the association and by resolution or resolutions from time to time adopted, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences, and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the association shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect ot any additional issues of mutual capital certificates.

12. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such proposal is made by the board of directors of the association, submitted to and approved by the Federal Home Loan Bank Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Federal Home Loan Bank Board, as of the date of the final approval of, or as fixed by, the members, provided, however, that holders of mutual capital certificates shall also be granted the right to vote if any amendment, addition, alteration, change, or repeal is proposed which would adversely change the specific terms of any class of mutual capital certificate that is permitted by Section 11 (or in any supplementary sections thereto). An amendment, addition, alteration, change, or repeal which (a) increases the number of authorized certificates of any class of mutual capital certificates, or (b) in a merger or consolidation substitutes the surviving association for the association and results in the net worth available for payment of each class of mutual capital certificates on liquidation being equal to or higher than that available for the payment of such class prior to merger or consolidation, shall not be considered to be an adverse changes. A majority vote of any class of outstanding mutual capital certificates shall be required before an adverse change, as defined in this section, may be effected.

PART 545—OPERATIONS

3. Add a new § 545.5-1 to read as follows:

§ 545.5-1 Issuance of mutual capital certificates.

A Federal mutual association may issue mutual capital certificates as its charter permits and in accordance with § 563.7-4 of this Chapter, or as the Board may otherwise authorize in writing.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

4. Revise the final sentence of § 561.3 to read as follows:

§ 561.3 Insured account.

* * * Mutual capital certificates, subordinated debt securities and mortgage-backed bonds issued by an insured institution are deemed not to be "accounts," and such securities are not insurable.

5. Revise the first sentence of § 561.13 to read as follows:

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, capital stock (including mutual capital certificates issued pursuant to § 563.7-4 of this Subchapter), and any nonwithdrawable accounts of an insured institution. * * *

PART 563—OPERATIONS

6. Add a new § 563.7-4 to read as follows:

§ 563.7–4 Mutual capital certificates.

(a) *General.* No insured mutual institution shall issue mutual capital certificates pursuant to this section or amend the terms of such certificates unless it has obtained written approval of the Corporation. No approval shall be granted unless issuance of the mutual capital certificates and the form and manner of filing of the application are in accordance with the provisions of this section.

(b) *Eligibility requirements.* The Corporation will consider and process an application for approval of the issuance of mutual capital certificates pursuant to this section only if the applicant meets all of the following eligibility requirements, unless one or more of such requirements is waived by the Corporation upon specific request in the case of a particular application:

(1) The issuance of mutual capital certificates is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws;

(2) Applicant's scheduled items do not exceed 2.5 percent of its specified assets;

(3) All appraised losses have been offset by specific loss reserves to the extent required by the Corporation under § 563.17–2 of this Part;

(4) The aggregate amount of all outstanding and proposed mutual capital certificates approved pursuant to this section (excluding any mutual capital certificates to be redeemed with the proceeds of the sale of proposed mutual capital certificates) does not exceed 20 percent of applicant's statutory reserve requirement as prescribed by § 563.13(a) of this Part.

(c) *Application form; supporting information.* An application for approval of the issuance of mutual capital certificates pursuant to this section shall be in the form prescribed by the Corporation. Such application and instructions may be obtained from the Supervisory Agent. Information and exhibits shall be furnished in support of the application in accordance with such instructions, setting forth all of the terms and provisions relating to the proposed issue and showing that all of the requirements of this section have been or will be met.

(d) *Membership approval.* No institution shall have authority to issue mutual capital certificates pursuant to this section unless the amendment to the institution's charter, constitution or bylaws or other actions conferring such authority shall have been approved, at a legal meeting called for that purpose, by a majority, or by such higher percentage as may be required by applicable law, of the outstanding eligible votes of the institution. Votes may be cast in person or by proxy. Only proxies solicited in accordance with this section are valid for the purpose of voting on the approval of such matters.

(1) *Eligibility and notice.* The notice and eligibility requirements of the vote by the membership of the institution shall be determined by the requirements set forth in paragraphs (b) and (c) of § 563b.6 of this Subchapter, except that any reference to "plan of conversion" in those paragraphs shall be deemed to be a reference to "authority to issue mutual capital certificates" and any reference to an eligible or supplemental account holder shall be disregarded.

(2) *Proxies; ancillary provisions.* Matters relating to the form and solicitation of proxies, and the content and distribution of the proxy statement required under this section, shall be governed by: (i) § 563b.5 of this Subchapter; (ii) Items 6, 7, and 8 of Form AR of § 563.45 of this Part; and (iii) Items 1, 2, 3, 4, 5, 9, 10, 11, and Note 3 of Item 15 of Form PS of Part 563b of this Subchapter. Any reference to a meeting held to consider a plan of conversion in the above-referenced provisions, for the purpose of this section, shall be deemed to be a reference to a meeting at which the authority to issue mutual capital certificates is considered.

(3) *Proxy filing requirements.* No later than three days after the date on which copies of any proxy statement, form of proxy, or other soliciting materials are furnished to the members of an institution, ten copies of any materials so furnished shall be filed with the Securities Division of the Office of General Counsel of the Board by the soliciting party. Notwithstanding any other provision of this section, nothing contained herein shall be construed to require prior Corporation approval of any proxy solicitation materials.

(e) *Minimum denominations of mutual capital certificates.* (1) *General rule.* The minimum denomination of a mutual capital certificate shall be $100,000.

(2) *Exceptions.* (i) There is no minimum denomination for mutual capital certificates issued in a private placement to institutional investors, as that term is defined in § 563.8(d)(3) of this Part.

(ii) There is no minimum denomination if the mutual capital certificates are not offered or sold at any office of the institution or any of its affiliates, and if

(*a*) They are not sold to more than 35 persons or offered by any advertisement, including any broadcast or written communication published in a newspaper, magazine or similar medium, or by any letter, circular, or other written communication sent, given, or communicated to more than 35 persons who prior to such communication have not indicated an interest in purchasing the securities, and any purchases by such persons are for their own account and not with a view to distribution; or

(*b*) Prior to or simultaneously with any offering, and prior to issuance, purchasers of the mutual capital certificates have been furnished a final offering circular which conforms to the requirements of § 563.8(h)(2) and (3) of this Part.

(f) *Disclosure.* No institution shall, directly or indirectly in connection with the offer, sale, or issuance of a security evidencing a mutual capital certificate pursuant to this section, make any statement that (1) is false or misleading with respect to any material fact, or (2) omits to state any material fact (i) necessary of order to make the statements made, in light of circumstances under which they were made, neither false nor misleading, or (ii) necessary to correct any earlier statement that has subsequently become false or misleading.

(g) *Filing requirements.* The application shall be publicly filed with the Board by transmitting concurrently three copies to the Principal Supervisory Agent and the original and three copies to the Securities Division of the Office of General Counsel of the Board.

(h) *Final offering circular filing requirements.* The applicant shall file with the Securities Division of the Office of General Counsel of the Board ten copies of each preliminary offering circular and 25 copies of each final offering circular required under this section. No final offering circular shall be furnished to purchasers under paragraph (e)(2) of this section unless it had been filed with Securities Division of the Board's Office of General Counsel, and declared effective.

(i) *Additional filing requirements.* An applicant whose application for issuance of mutual capital certificates has been approved pursuant to this section shall be subject to the additional filing requirements set forth in subparagraphs (1) and (2) of § 563.8(c) of this Subchapter, except that the compilation required by subparagraph (1) of § 563.8(c) may be prepared by an officer of the insured institution. Any reference to "plan of conversion" in § 563.8(c) shall be deemed to be a reference to "authority to issue mutual capital certificates" for the purposes of this section.

(j) *Supervisory objection.* No application for approval of the issuance of mutual capital certificates pursuant to this section shall be approved if, in the opinion of the Corporation, the policies, condition, or operation of the applicant afford a basis for supervisory objection to the application.

(k) *Limitation on an offering period.* Following the date of the approval of the application by the Corporation, the institution shall have an offering period of not more than one year in which to complete the sale of the mutual capital certificates issued pursuant to this section. The Corporation may in its discretion extend such offering period if a written request showing good cause for such extension is filed with it not later than 30 days before the expiration of such offering period or any extension thereof.

(l) *Reports.* Within 30 days after completion of the sale of mutual capital certificates issued pursuant to this section, the institution shall transmit concurrently to the Supervisory Agent and to the Securities Division of the Office of General Counsel of the Board, a written report stating the number of purchasers, the total dollar amount of securities sold, and the amount of net proceeds received by the institution.

(m) *Requirements as to mutual capital certificates.* (1) *Form of certificate.* Each mutual capital certificate and any governing agreement evidencing a mutual capital certificate issued by an institution pursuant to this section:

(i) Shall bear on its face, in bold-face type, the following legend: "This security is not a savings account or a deposit and it is not insured by the Federal Savings and Loan Insurance Corporation"; and

(ii) Shall clearly state that the certificate is subject to the requirements of § 563.7–4(m).

(2) *Legal Requirements.* Mutual capital certificates issued pursuant to this section shall:

(i) Be subordinate to all claims against the institution having the same priority as savings accounts, savings certificates, debt obligations or any higher priority;

(ii) Not be eligible for use as collateral for any loan made by the issuing institution;

(iii) Constitute a claim in liquidation, not exceeding the face value plus accrued dividends of the certificates less payment in redemption, on the general reserves, surplus and undivided profits of the insured institution remaining after the payment in full of all savings accounts, savings certificates and debt obligations;

(iv) Be entitled to the payment of dividends which may be fixed, variable, participating, or cumulative, or any combination thereof, only if, when and as declared by the institution's board of directors out of funds legally available for that purpose, *provided* that no dividend may be paid without the approval of the Corporation if such payment would cause the institution to fail to meet its statutory reserve requirement or its net worth requirement under § 563.13 of this Part;

(v) (*a*) Not require mandatory payment or redemption; (*b*) not be redeemed if a redemption would cause the institution to fail to meet its statutory reserve requirement of its net worth requirement under § 563.13 of this Part; (*c*) not be redeemable on the demand or at the option of the holder; (*d*) not receive, benefit from, be credited with or otherwise be entitled to or due redemption fund payments, payments to or from a redemption fund, or payments in or for redemption except and only if, when and as appropriated by the board of directors out of funds legally available for that purpose; (*e*) not be redeemable, except in the event of an acquisition, merger, consolidation or reorganization approved by the Corporation, or where the funds for redemption are raised by the issuance of mutual capital certificates approved pursuant to this section, or where the average redemption date of the mutual capital certificates to be redeemed is ten years or more;

(vi) Not have preemptive rights;

(vii) Not have voting rights, except: (*a*) in the event an institution fails to pay dividends for a minimum of three consecutive dividend periods, or to meet any redemption schedule, or to make any redemption fund payment, then the holders of the mutual capital certificates, voting as a class, with one vote for each outstanding certificate, may elect by a majority vote one-third of the institition's board of directors or two directors, whichever is greater; (*b*) the vote of holders of a majority of all outstanding mutual capital certificates, voting as a class, with one vote for each outstanding certificate, shall be required before any merger, consolidation, or reorganization (except in a supervisory case) may be effected if the net worth of the resulting institution available for payment of any class of mutual capital certificate on liquidation is less than the net worth available for such class prior to the merger, consolidation, or reorganization;

(viii) Not constitute an obligation of the association and shall confer no rights which would give rise to any claim of or action for default;

(ix) Not be convertible into any account, security, or interest; and

(x) Provide for charging of losses after the exhaustion of all other items in the net worth account.

7. Amend § 563.13 by redesignating existing paragraph (c) thereof as paragraph (d), and adding new paragraphs (c) and (e) thereto, to read as follows:

§ 563.13 Reserve Accounts.

* * * * * *

(c) *Mutual capital certificates.* Mutual capital certificates issued by insured mutual institutions and approved pursuant to § 563.7–4 of this Part shall be included in meeting the reserve and net worth requirements of paragraphs (a) and (b) of this section.

* * * * * *

(e) *Charging of losses to statutory reserve.* Losses charged to the statutory reserve under paragraph (a) of this section shall exhaust all other net worth accounts in the statutory reserve before constituting a charge against mutual capital certificates.

PART 563c—ACCOUNTING REQUIREMENTS

8. Amend § 563c.1(a)(2) to read as follows:

§ 563c.1 Application of this Subpart.

(a) * * *

(2) Any offering circular or private placement memorandum required to be used in connection with the issuance of mutual capital certificates under § 563.7–4 and the issuance of debt securities under §§ 563.8 and 563.8–1 of this Subchapter.

* * * * * *

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL SAVINGS AND LOAN ASSOCIATIONS

9. Amend § 569a.7(c) to read as follows:

§ 569a.7 Priority of claims.

* * * * * *

(c) In the case of institutions having nonwithdrawable accounts or mutual capital certificates outstanding, the claims specified in paragraphs (a) and (b) of this section shall have priority, in the order stated above, over any claims by the holders of mutual capital certificates or nonwithdrawable accounts. If a surplus remains after making distribution in full to prior claimants as set forth in paragraphs (a) and (b) of this section, such surplus shall be distributed to the mutual capital certificate holders and nonwithdrawable account holders, in accordance with the terms, conditions

V 45 A AUG 21 80 UMI

and priorities specified in the instruments establishing their interests in the institution. If such instruments do not specify the terms, conditions and priorities for liquidation, the distribution of the surplus shall be pro rata.

* * * * *

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 577—CHARTER AND BYLAWS

10. Add a new § 577.1–1 to read as follows:

§ 577.1–1 Mutual capital certificate charter amendment.

(a) *Approval of mutual capital certificate charter amendment.* No Federal mutual savings bank shall be authorized to issue mutual capital certificates unless it adopts a charter amendment in the form set forth in paragraph (b) of this section. Approval of the amendment shall be by a majority of the outstanding eligible votes of the bank, cast in person or by proxy, at a legal meeting of the members called for the purpose of voting on the amendment. Proxies shall be specifically solicited for that purpose. Except as provided herein, the provisions of this section shall constitute the approval of the Board of the proposal by the board of trustees of any Federal mutual savings bank of the charter amendment set forth in paragraph (b) of this section.

(b) A Federal mutual savings bank adopting a charter amendment authorizing the issuance of mutual capital certificates shall delete charter Section 12 and add new charter Sections 12 and 13 as follows:

12. *Mutual capital certificates.*

The bank may issue mutual capital certificates pursuant to the rules and regulations of the Board. Subject to such rules and regulations, the board of trustees of the savings bank is authorized, without the prior approval of the members and by resolution or resolutions from time to time adopted, to provide in supplementary sections hereto for the issuance of mutual capital certificates and to fix and state the voting powers, designations, preferences and relative, participating, optional or other special rights of the certificates and the qualifications, limitations and restrictions thereon.

Members of the bank shall not be entitled to preemptive rights with respect to the issuance of mutual capital certificates, nor shall holders of such certificates be entitled to preemptive rights with respect to any additional issues of mutual capital certificates.

13. *Amendment of charter.*

No amendment, addition, alteration, change, or repeal of this charter shall be made, except as may be otherwise authorized by the Board, unless such is first proposed by the board of trustees of the bank, approved by the Board, and thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change or repeal so acted upon and approved shall be effective, if filed with and approved by the Board, as of the date of the final approval of, or as fixed by, the members, provided, however, that holders of mutual capital certificates shall also be granted the right to vote if any amendment, addition, alteration, change, or repeal is proposed which would adversely change the specific terms of any class of mutual capital certificates that is permitted by Section 12 (or in any supplementary sections thereto). An amendment, addition, alteration, change, or repeal which (a) increases the number of authorized shares of any class of mutual capital certificates, or (b) in a merger of consolidation subsititutes the surviving mutual savings bank for the bank and results in the net worth available for payment of each class of mutual capital certificates on liquidation being equal to or higher than that available for the payment of such class prior to the merger or consolidation, shall not be considered to be an adverse change. A majority vote of any class of outstanding mutual capital certificates shall be required before an adverse change, as defined in this section, may be effected.

PART 578—OPERATIONS

11. Add a new § 578.5 to read as follows:

§ 578.5 Issuance of mutual capital certificates.

A Federal mutual savings bank may issue mutual capital certificates as its charter permits and in accordance with § 563.7–4 of this Chapter, or as the Board may otherwise authorize in writing.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Secs. 402, 403, 406, 48 Stat. 1256, 1257, 1259, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-25517 Filed 8-20-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-24-AD]

Gates Learjet 23, 24, 25, 28, 29, 35 and 36 Model/Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to adopt an Airworthiness Directive (AD) that would require reworking the rudder pedals and replacing the heelplate on certain Gates Learjet 23, 24, 25, 28, 29, 35 and 36 model/series airplanes. The proposed AD is needed to provide greater clearance between the rudder pedals and floorboard and thus eliminate the potential for the pilot's shoe heel becoming lodged between the pedal and heelplate.

DATES: Comments must be received on or before September 28, 1980.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 80–CE–24–AD, 601 East 12th Street, Kansas City, Missouri 64106.

The applicable Airplane Modification Kit Number AMK80–1 may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277; telephone number (316) 946–2000. A copy of the Modification Kit instructions is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Marvin Beene, Aerospace Engineer, Aircraft Certification Program, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4219.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The possibililty of the pilot's shoe heel becoming lodged between the rudder pedal and heelplate has been reported as a potential accident causal factor. Although no evidence has been provided that unquestionably points to this as the specific cause of any accident, it has been demonstrated during ground tests that lodging is, in fact, possible. Interference may occur after the rudder pedal is moved to the most forward position and pressure is applied to the opposite pedal, an operation that could occur during single engine operation. Heel lodging is most likely to occur with shoes having large heels similar to those used on contemporary high fashion shoes or possibly western style boots.

To eliminate this possibility, Gates Learjet has developed Airplane Modification Kit (AMK) 80–1. This kit provides instructions for modifying the rudder pedals to effect an increase in pedal to floorboard clearance by reducing the surface area of the pedal foot pad. Instructions are also given in AMK 80–1 for the replacement of the heelplate. The new heelplate is larger with significantly improved carpet to heelplate interface and floorboard attachment provisions. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, the proposed AD would make compliance with the aforementioned service kit mandatory on certain Gates Learjet 23, 24, 25, 28, 29, 35 and 36 model/series airplanes

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Gates Learjet: Applies to the following models or series and serial number airplanes certificated in all categories.

Note: A "series" includes all models in a number series, i.e., 25 series includes Models 25, 25A, 25B, 25C, etc.

Model or Series and Serial Numbers

23 (Model), 23–003 through 23–099.
24 (Series), 24–100 through 24–357.
25 (Series), 25–003 through 25–302.
28 (Model), 28–001 through 28–005.
29 (Model), 29–001 through 29–002.
35 (Series), 35–002 through 35–297.
36 (Series), 36–002 through 36–044.

Compliance: Required as indicated unless already accomplished.

To eliminate the possibility for the pilot's shoe heel becoming lodged between the rudder pedal and the heelplate, accomplish the following:

(A) Within the next 300 hours time-in-service after the effective date of this Airworthiness Directive (AD), rework the rudder pedal assembly and replace the heelplates with new heelplates in accordance with the instructions in Gates Learjet Corporation Airplane Modification Kit Number AMK80–1.

(B) Issuance of a Special Flight Permit in accordance with FAR 21.197 is permitted for the purpose of moving affected airplanes to a location where the modification required by this AD can be accomplished.

(C) Any equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421–1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.85, Federal Aviation Regulations (14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Federal Aviation Administration, Office of Regional Counsel, ACE–7, Central Region, Attn: Rules Docket Clerk, 601 East 12th Street, Kansas City, Missouri 64106; telephone 374–5446.

Issued in Kansas City, Missouri, on August 8, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-25401 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 80–AAL–15]

Alteration of Point Barrow Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Point Barrow, Alaska, Transition Area to provide additional controlled airspace to protect aircraft executing instrument approaches being developed for the Wiley Post-Will Rogers Memorial Airport.

DATES: Comments must be received on or before September 22, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80–AAL–15, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

L. Jack Overman, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before September 17, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter the Point Barrow, Alaska, Transition Area by establishing extensions to the east and west to protect aircraft executing approaches to Wiley Post-Will Rogers Memorial Airport. The proposed action would designate an area within 4.5 miles each side of the Barrow, Alaska, ILS localizer E course extending from the localizer antenna (Lat. 71°17'09"N., Long. 156°43'54"W.) to 24.5 miles east of the localizer antenna and within 4.5 miles north and 9.5 miles south of the Barrow, Alaska, ILS localizer W course extending from the localizer antenna to 25.5 miles west of the localizer antenna. Section 71.181 of Part 71 was

the airport, and additional controlled Airport and renaming the West

republished in the **Federal Register** on January 2, 1980. (45 FR 445).

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried our under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by amending the Point Barrow, Alaska, Transition Area by deleting the period at the end of the description and adding a semicolon and a new clause to read as follows:

"within 4.5 miles each side of the Barrow, Alaska, ILS localizer E course extending from the localizer antenna (Lat. 71°17'09"N., Long. 156°43'54"W.) to 24.5 miles east of the localizer antenna and within 4.5 miles north and 9.5 miles south of the Barrow, Alaska, ILS localizer W course extending from the localizer antenna to 25.5 miles west of the localizer antenna."

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510, Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 14, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-25396 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 80-SO-42]

Proposed Alteration of Transition Area, Somerset, Ky.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will alter the existing Somerset, Kentucky, transition area and will lower the base of controlled airspace southwest of Somerset-Pulaski County Airport from 1,200 to 700 feet AGL to accommodate instrument flight rule (IFR) operations. New instrument approach procedures have been developed for the airport, and additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

DATES: Comments must be received on or before: September 25, 1980.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Alton L. Matthews, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before September 25, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Somerset, Kentucky, Transition Area. This action will provide controlled airspace protection for IFR aircraft at the Somerset-Pulaski County Airport. In conjunction with the establishment of an SDF facility to serve Runway 4, the Somerset NDB has been relocated southwest of the airport and renamed Cumberland River RBN. New instrument approach procedures (NDB RWY 4 and SDF RWY 4) have been developed for the airport, and additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

Somerset, Kentucky

All after "* * * within 3 miles * * *" is deleted and "* * * each side of the 222° bearing from the Cumberland River RBN (Lat. 36°59'48"N. Long. 84°40'51.5"W.); extending from the 8.5 mile radius area to 9 miles southwest of the RBN, excluding the portion within the Monticello, Kentucky, transition area * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 6, 1980.

W. B. Rucker,

Acting Director, Southern Region.

[FR Doc. 80-25391 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-ASW-35]

Proposed Alteration of Transition Area: West Woodward, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at West Woodward, Okla. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the West Woodward Airport. The circumstances which created the need for the action are the realignment of the nondirectional radio beacon (NDB) approach to the West Woodward Airport and renaming the West Woodward transition area to Woodward, Oklahoma.

DATES: Comments must be received on or before September 22, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone; (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at West Woodward, Okla., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101. All communications received on or before September 19, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at West Woodward, Okla. The FAA believes this action will enhance IFR operations at the West Woodward Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by deleting the West Woodward, Okla., transition area and designating the following:

Woodward, Oklahoma

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the West Woodward Airport (latitude 36°26'10"N.; longitude 99°31'35"W.); within 3 miles each side of the NDB facility (latitude 36°26'03"N; longitude 99°31'25"W.) 006° bearing, extending from the 7-mile radius to 8.5 miles north of the NDB, and within 5 miles either side of the Gage VORTAC 072° radial, extending from the 7-mile radius southwest of Gage VORTAC; excluding the Gage, Oklahoma, control zone and transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Forth Worth, Texas on August 13, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25393 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-NE-35]

Proposed Amendment of the Greenville, Maine 700-foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Greenville, Maine, 700-foot transition area so as to provide protected airspace for aircraft executing a new NDB Runway 14, Standard Instrument Approach Procedure (SIAP) to the Greenville Municipal Airport, Greenville, Maine. This action is required as a result of the pending relocation of the Greenville NDB and the cancellation of existing approach procedures.

DATES: Comments must be received on or before September 15, 1980.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-29.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-29, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations to amend the 700-foot transition area for Greenville, Maine. The transition area, as amended, will provide protected airspace for aircraft executing on NDB Runway 14, SIAP to the Greenville Municipal airport. An SIAP, based on the pending relocation of the Greenville NDB has been established and the existing approach procedure has been cancelled.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the Greenville, Maine 700-foot transition area as follows:

Greenville, Maine

Delete the description of the Greenville, Maine, 700-foot transition area in its entirety and substitute in lieu thereof:

"That airspace extending upward from 700-foot above the surface within an 8.5 mile radius of the center (lat. 45°27'47"N, long. 69°33'21"W), Greenville Municipal Airport, Greenville, Maine, within 3.5 miles each side of a 323 M (305 T) bearing from the SQUAW, Maine NDB extending from the 8.5 mile radius area to a point 11.5 miles northwest of the SQUAW NDB."

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9562; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 11, 1980.

J. Stiglin,

Acting Director, New England Region.

[FR Doc. 80-25390 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No 80-ASW-37]

Proposed Designation of Transition Area: Chandler, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Chandler, Oklahoma. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Chandler Municipal Airport. The circumstance which created the need for this action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport.

DATES: Comments must be received on or before September 22, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Chandler, Oklahoma, will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101. All communications received on or before September 19, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Chandler, Oklahoma. The FAA believes this action will enhance IFR operations at the Chandler Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by adding the following:

Chandler, Oklahoma

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Chandler Municipal Airport (latitude 35°43'15"N., longitude 96°49'12"W.), and within 3 miles each side of the 352° bearing of the NDB (latitude 35°43'20"N., longitude 96°49'06"W.), extending from the 5-mile radius area to 8.5 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Forth Worth, Tex., on August 13, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25394 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-ASW-36]

Proposed Designation of Transition Area: Holdenville, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Holdenville, Okla. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Holdenville Municipal Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport.

DATES: Comments must be received on or before September 22, 1980.

ADDRESS: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (45 FR 445) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Designation of a transition area at Holdenville, Okla., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 19, 1980, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtan a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communciations must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for futhre NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Holdenville, Okla. The FAA believes this action will enhance IFR operations at the Holdenville Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) by designating the following:

Holdenville, Oklahoma

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Holdenville Municipal Airport, (latitude 35°05'15"N., longitude 96°25'00"W.) and within 3 miles each side of the 348° bearing of the Holdenville NDB, (latitude 35°05'07"N., longitude 96°24'47"W.), extending from the 5-mile radius area to 8.5 miles north of the Holdenville NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on August 13, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25305 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 80-NE-27]

Designation of Federal Airways, Area Low Routes Controlled Airspace and Reporting Points; Proposed Amendment To Control Zone, Martha's Vineyard Airport, Martha's Vineyard, Mass.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the control zone at Martha's Vineyard Airport, Martha's Vineyard, Massachusetts. The present control zone is described with reference to the Edgartown NDB which has been decommissioned.

DATE: Comments must be received on or before September 2, 1980.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-27. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; Telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-27, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before September 2, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this MPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations to amend the description of the Martha's Vineyard control zone. The amended description for the control zone will no longer make reference to the Edgartown NDB due its decommissioning.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the control zone at Martha's Vineyard Airport to read as follows:

Within a 5-mile radius of Martha's Vineyard Airport (latitude 41°23'35"N, longitude 70°36'50"W); within 4.5 miles each side of the Martha's Vineyard VOR 055° radial (070° magnetic) extending from the 5-mile radius zone to 8.5 miles NE of the VOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on August 6, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-25287 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Parts 121, 123, 127, and 135

[Docket No. 14451; Notice No. 75-13B]

Crewmember Clothing: Flammability Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: This notice reopens the period for submission of public comments relating to Notices No. 75-13 and 75-13A to close on December 16, 1980. Notice No. 75-13 solicited comments and information from interested persons to assist in establishing flammability standards for flight attendant uniforms. This action is in response to petitions indicating that persons who may be affected by the proposed rulemaking need additional time in which to prepare and submit their comments.

DATE: Comments period closes on December 16, 1980.

ADDRESS: Comments on Notices 75-13 and 13A may be mailed in duplicate to Federal Aviation Administration, Office of the Chief Counsel, Rules Docket No. 14451, (AGC—204), 800 Independence Ave., SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Ave., SW., Washington, D.C. 20591.

Persons wishing the FAA to acknowledge receipt of comments submitted in response to this notice should submit a self-addressed, stamped postcard with the following statement: "Comments to Docket No. 14451." The postcard will be dated and time stamped and returned to the commenter.

Comments delivered must be marked: Docket No. 14451.

Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA/public contact dealing with the substance of this rulemaking action will be filed in the rules docket.

FOR FURTHER INFORMATION CONTACT: Mr. Harold E. Smith, Safety Regulations Staff, AVS-24, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 755-8716.

SUPPLEMENTARY INFORMATION: In response to information supplied by the Association of Flight Attendants indicating that some items of flight attendant clothing were highly flammable when exposed to an ignition source, the FAA published Advance Notice of Proposed Rule Making (ANPRM) No. 75-13 on March 13, 1975 (40 FR 11737). That notice solicited comments and information from interested persons, including fabrics research and manufacturing sources, to assist in establishing flammability standards for flight attendant uniforms. The objective of the notice was to develop standards that would take into consideration the practical aspects of cost, wearability, comfort, and cleanability, while providing a reasonable degree of protection against heat and flame.

The comments received in response to the ANPRM, with a study conducted by the National Bureau of Standards, indicated there were numerous questions that needed to be answered before a decision on further rule making could be taken. The FAA determined that the best, most productive means of answering these questions would be at a public meeting at which each question could be fully discussed among all participants.

The comment period on Notice 75-13 was reopened to close on June 16, 1980, and a public hearing was held on May 28-29, 1980. At the hearing it was indicated that the June 16, 1980, closing date would not provide sufficient time for some of the organizations to obtain the views of the persons they represent.

A petition for extension of the comment period from June 16, 1980, to September 30, 1980, has been received from the Association of Flight Attendants (AFA). The AFA said it would take several months to research its files and survey the membership to obtain the information necessary to develop its comment.

The American Textile Manufactures Institute, Inc., (ATMI) in its comments stated: "ATMI feels that there should be a broader exchange of information between the concerned parties to more clearly define the problem and to explore the possibility of a voluntary standard. In order to facilitate this exchange, we strongly urge the FAA to extend the comment period for at least six months."

In commenting on the possible methods of reducing the danger of injury from fires, the Association of Professional Flight Attendantsd (APFA) said it would poll its membership to determine if the elimination of short sleeves, skirts, and dresses and the sacrifice of the "shirt-sleeve" cockpit environment would be an acceptable method. Although APFA did not request the comment period be extended, its comments indicated the polling of the membership would not be completed by the time the comment period closed.

The FAA has reviewed these requests and has determined that reopening of the comment period would afford the public an additional opportunity to furnish comments that should be considered in the development of the final regulations. This action is consistent with Executive Order 12044, Improving Government Regulations, and the FAA's desire to assure full public participation in its regulatory actions. The FAA concludes that the public interest would be served by granting additional time for submission of written comments.

Accordingly, the comment period for Notices 75-13 and 75-13A is reopened to close on December 16, 1980.

(Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 135(a), 1421 and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on August 15, 1980.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 80-25451 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM80-42]

Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes; Opportunity for Reply Comments

Issued: August 14, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of opportunity for reply comments.

SUMMARY: This notice gives those who filed comments to the Notice of Proposed Rulemaking in Docket No. RM80-42 regarding tax normalization an opportunity to submit reply comments.

DATES: Initial comments served on other participants by August 29, 1980. Reply comments filed with the Commission and served on other parties by September 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capital Street, NE., Washington, D.C. 20426 (202) 357-8333

Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, Room 300-F, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8186

SUPPLEMENTARY INFORMATION: On March 31, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking in Docket No. RM80-42, 45 FR 22053 (April 3, 1980). In that notice, the Commission requested comment on a proposal to amend Part 2 of its regulations by adding a new § 2.202 as a

---

Service List—Continued

Service List—Continued

Pennsylvania Public Utility Commission, Susan M.

American Public Power Association, Carl Goldfield

years and is intended to provide the

substantive rule regarding tax normalization applicable to both the electric utility and natural gas industries.

After review of comments submitted in response to the March notice, the Commission finds that the complexity and importance of the issues presented in the Notice of Proposed Rulemaking warrant an opportunity for those who filed comments to submit reply comments. To this end, participants in Docket No. RM80-42 should serve copies of initial comments filed by them on those whose names appear on the attached service list. Such service should be made before August 29, 1980.

Those wishing to submit reply comments should file same with the Commission by September 26, 1980 and serve copies of those comments on the participants listed on the service list by the same date. An original and fourteen conformed copies of any reply comment should be submitted to the Federal Energy Regulatory Commission, Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM80-42. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. during regular business hours.

In providing proper service of initial comments and any reply comments, attention is directed to the regulations of the Commission found at 18 CFR 1.17(b) which permits service by mail.

In order that all interested parties may be promptly notified of this opportunity to submit reply comments, the Secretary shall immediately serve all parties named on the attached service list with a copy of this notice.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Service List

Parties	Representatives
Alliance for Consumer Protection, Marvin Stein, Esq., P.O. Box 1354, Pittsburg, Pa. 15230.	
Texas Gas Transmission Corp., Truman D. Barnes, Esq., Gas Transmission Service Division, 3800 Frederica St., Owensboro, Ky. 42301.	Christopher T. Boland, Esq.; Gallagher, Boland, Meiburger & Brosnan, 821 15th St. NW., Washington, D.C.
American Electric Power Service Corp., P. J. de Maris, Senior Vice President, 2 Broadway, New York, N.Y. 10004.	J. J. Cassidy, Esq.; American Electric Power Service Corp., 2 Broadway, New York, N.Y. 10004.

Service List—Continued

Parties	Representatives
Northern States Power Co., Clayton K. Larson, Executive Vice President—Finance, 414 Nicollet Mall, Minneapolis, Minn. 55401.	
Gulf Power Co., Earl V. Lee, Controller, 75 North Pace Blvd., P.O. Box 1151, Pensacola, Fla. 32520.	
Public Service Co. of Indiana, Inc., James H. Pennington, Vice President—Financial Operations, 1000 East Main St., Plainfield, Ind. 46168.	
Georgia Power Co., Warren Y. Jobe, Vice President, 270 Peach St., P.O. Box 4545, Atlanta, Ga. 30302.	
Plains Electric Generation & Transmission Cooperative, Inc., Richard N. Carpenter, Esq., Bigbee, Stephenson, Carpenter, Crout & Olmstead, P.O. Box 669, Santa Fe, N. Mex. 87501.	Donald R. Allen, Esq.; David P. Yaffe, Esq.; Duncan, Allen & Mitchell, 1575 Eye Street NW., Washington, D.C. 20005.
Pacific Gas & Electric Co., Robert Ohlbach, Esq., 77 Beale St., 31st floor, San Francisco, Calif. 94106.	
Roman L. Weil, Graduate School of Business, University of Chicago, 1101 East 58th St., Chicago, Ill. 60637.	
Deloitte Haskins & Sells, 1101 15th St. NW., Washington, D.C. 20005.	
Natural Gas Pipeline Co., of America, Ronald MacNicholas, Vice President, 122 South Michigan Ave., Chicago, Ill. 60603.	Joseph M. Wells, Esq.; Paul E. Goldstein, Esq.; Karyl M. Arnold, Esq., 122 South Michigan Ave., suite 1825, Chicago, Ill. 60603.
Public Systems	James N. Horwood, Esq.; David R. Straus, Esq.; Bonnie S. Blair, Esq.; Gary J. Newell, Esq.; Spiegel & McDiarmid, 2600 Virginia Ave. NW., Washington, D.C. 20037
Oglethorpe Power Corp., et al., Thomas J. Bolch, Esq., P.O. Box 2211, Raleigh, N.C. 27602.	Mr. J. B. Solomon, Southern Engineering Co., III Georgia, 1000 Cresent Ave. NE., Atlanta, Ga. 30309.
El Paso Natural Gas Co., Charles R. Jack, Vice President, P.O. Box 1492, El Paso, Tex. 79978.	Mr. Robert N. Harbor, The El Paso Co., 310 Suffridge Bldg., 1775 K St. NW., Washington, D.C. 20006
Detroit Edison Co., W. A. Basse, Controller, 2000 Second Ave., Detroit, Mich. 48226.	
Oklahoma Gas & Electric Co., J. G. Cartwright, Senior Vice President, 321 North Harvey, P.O. Box 321, Oklahoma City, Okla. 73101.	
Iowa-Illinois Gas & Electric Co., W. C. Morrison, Superintendent, Governmental Relations Division, Energy Planning Department, 206 East Second St., P.O. Box 4350, Davenport, Iowa 52808.	Edward J. Hartman, Vice President, Iowa-Illinois Gas & Electric Co., 206 East Second St., P.O. Box 4350, Davenport, Iowa 52808.
Southwestern Electric Power Co., William H. Snow, Vice President—Finance, P.O. Box 21106, Shreveport, La. 71156.	
Iowa Electric Light & Power Co., Steven G. Gerhart, Esq., General Office, P.O. Box 351, Cedar Rapids, Iowa 52406.	
West Texas Utilities Co., Lawrence B. Connors, Controller, General Office, P.O. Box 841, Abilene, Tex. 79604.	

Service List—Continued

Parties	Representatives
Southern California Edison Co., John R. Bury, Esq., 2244 Walnut Grove Ave., P.O. Box 800, Rosemead, Calif. 91770.	
Wisconsin Public Service Commission, F. C. Huebner, Administrator, Utility Accounts and Finance, Hill Farms State Office Building, Madison, Wis. 53702.	
Central Illinois Public Service Co., John R. Hyde, Controller, 607 East Adams, Springfield, Ill., 62701.	
Boston Edison Co., et al.	Carmon L. Gentile, Esq.; James E. Hickey, Jr., Esq.; 1201 Connecticut Ave., NW., Suite 708, Washington, D.C. 20036
Edison Electric Institute	Frederick T. Searls, Esq.; Leonard W. Belter, Esq.; Debevoise & Liberman, 1200 17th St. NW., Washington, D.C. 20036.
Illinois Cities of Altamont, et al.	Charles F. Wheatley, Jr., Esq.; Philip B. Malter, Esq.; Wheatley & Wollesen, 2600 Virginia Ave. NW., Suite 1112, Washington, D.C. 20037.
Electric Utilities	Richard M. Merriman, Esq.; James K. Mitchell, Esq.; Robert S. Waters, Esq.; Reid & Priest, 1111 19th St. NW., Washington, D.C. 20036.
Boston Edison Co., Ralph M. Kelmon, Treasurer, 800 Boylston St., Boston, Mass. 02199.	
Alabama Power Co., Dale W. Oliver, Assistant Comptroller, 600 North 18th St., P.O. Box 2641, Birmingham, Ala. 35291.	
Consumers Power Co., S. N. Spring, Vice President, 212 West Michigan Ave., Jackson, Mich. 49201.	
Wisconsin Public Service Corp., Daniel A. Bollom, Treasurer, P.O. Box 700, Green Bay, Wis. 54305.	
Public Service Co. of Oklahoma, R. O. Newman, President, P.O. Box 201, Tulsa, Okla. 74102.	
Coopers & Lybrand, 1800 M St. NW., Washington, D.C. 20036.	
Carolina Power & Light Co., Paul S. Bradshaw, Vice President, P.O. Box 1551, Raleigh, N.C. 27602.	
Commonwealth Edison Co., Ralph L. Heumann, Comptroller, P.O. Box 767, Chicago, Ill. 60690.	
Public Service Co. of Colorado, Ronald D. Stinson, Manager, Rate Accounting and Federal Rate Regulatory Services, P.O. Box 841, Denver, Colo. 80201.	
The Cincinnati Gas & Electric Co., Milton L. Van Schoik, Controller, P.O. Box 960, Cincinnati, Ohio 45201.	
Arkansas Power & Light Co., Don W. Myers, Director, Finance and Accounting, P.O. Box 551, Little Rock, Arkansas 72203.	
Pennsylvania Public Utility Commission, Susan M. Shanaman, Chairman, P.O. Box 3265, Harrisburg, Pa. 17120.	
Wisconsin Electric Power Co., R. R. Piltz, Controller, 231 West Michigan, P.O. Box 2046, Milwaukee, Wis. 53201.	
Portland General Electric Co., James L. Staines, Controller, 121 S. W. Salmon St., Portland, Oreg. 97204.	
Arthur Andersen & Co., 69 West Washington St., Chicago, Ill. 60602.	
New England Electric System, Donald E. Rose, Treasurer, 25 Research Dr., Westborough, Mass. 01581.	
South Carolina Electric & Gas Co., Robert W. Stedman, Controller, P.O. Box 764, Columbia, S.C. 29218.	
Northern Natural Gas Co., John B. Will, Esq., 2223 Dodge St., Omaha, Nebr. 68102.	
Interstate Natural Gas Association of America, Jerome J. McGrath, President, 1660 L St. NW., Suite 601, Washington, D.C. 20036.	
Appalachian Power Co., et al.	Edward Berlin, Esq., Leva, Hawes, Symington, Martin & Oppenheimer, 815 Connecticut Ave., NW., Washington, D.C. 20006
Potomac Electric Power Co., Edward A. Caine, Esq., 1900 Pennsylvania Ave. NW., Suite 841, Washington, D.C. 20068.	
Central & South West Corp., Durwood Chalker, Chairman, 2700 One Main Place, Dallas, Tex. 75250.	
Duke Power Co., William R. Stimart, Vice President—Regulatory Affairs, P.O. Box 33189, Charlotte, N.C. 28242.	
Atlantic City Electric Co., J. G. Salomone, Vice President-Control, 1600 Pacific Ave., Atlantic City, N.J. 08404.	
Northeast Utilities Co., W. A. Hunt, Systems Director, Revenue Requirements, P.O. Box 270, Hartford, Connecticut 06101.	
Niagara Mohawk Power Corp., Herman B. Noll, Esq., 300 Erie Blvd. West, Syracuse, N.Y. 13202.	
Northwest Electric Light & Power Association, Orrin T. Colby, Jr., Chairman, Accounting Principles Committee, 222 S. W. Morrison St., Suite 220, Portland, Oreg. 97204.	
People of the State of California and the Public Utilities Commission of the State of California, Janice E. Kerr, Esq., J. Calvin Simpson, Esq.; Grechen Dumas, Esq., 5066 State Bldg., San Francisco, Calif. 94102.	
Central Power & Light Co., Floyd G. Anderson, Manager—Tax Accounting, P.O. Box 2121, Corpus Christi, Tex. 78403.	
Pennsylvania Power & Light Co., George F. Vanderslice, Vice President, Two North Ninth St., Allentown, Pa. 18101.	
American Public Power Association, Carl Goldfield, Esq., 2600 Virginia Ave. NW., Suite 212, Washington, D.C. 20037.	
East Tennessee Group	Arnold D. Berkeley, Esq., Suite 407, 1925 K St. NW., Washington, D.C. 20006
Municipal Electric Authority of Georgia, L. Clifford Adams, Jr., Esq., Heard, Leverett & Adams, 66 Luckie St. NW., Suite 520, Atlanta, Ga. 30303.	Donald R. Allen, Esq.; David P. Yaffe, Esq., Duncan, Allen & Mitchell, 1575 Eye St. NW., Washington, D.C. 20005
Utah Power & Light Co., Orrin T. Colby, Jr., Assistant Controller, 1407 West North Temple St., P.O. Box 899, Salt Lake City Utah 84110	

[FR Doc. 80-25519 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Chapter I

[FHWA Docket No. 80-14]

Selection of Pavement Type

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is assessing its policy on how the type of materials used in the various pavement components of a Federal-aid project are determined. A series of technical issues are raised to assist with this assessment.

DATE: Comments must be received on or before October 20, 1980.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 80-14, Room 4205, HCC-10, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. L. M. Noel, Pavement Branch, Highway Design Division, 202-426-0327, or Thomas Holian, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Deciding the type of pavement to construct on a particular highway project is an extremely important decision because of the long-term nature and sizeable cost of the investment. Once the pavement is placed, it will serve many years as a portion of the transportation facility. The FHWA's operating policy on pavement type has evolved over many years and is intended to provide the public with a pavement that provides an acceptable level of highway service at a minimum annual cost, while permitting the use of different design details and alternate materials. To accomplish this goal, FHWA recommends that decisions regarding the type of pavement components (subbase, base, shoulders, and surfacing) be made by the selecting authority on the basis of an engineering evaluation using the factors listed in the American Association of State Highway Officials (AASHO) guidelines for Pavement Type Determination and Documentation.[1] A limited number of copies are available from Mr. Noel at the above address.

Because the methods used to determine these component types may have some impact on the energy and inflation problems currently of national concern, comments are requested to assist FHWA in assessing its current policy. Comments are specifically requested on, but should not be limited to, the following:

a. The underlying premise for considering alternate pavement types and design is equivalence—comparable service, performance, and cost over the life of the facility. Is this a valid premise to apply to pavements? If not, why; if so, how is it best applied to alternate pavement designs/systems/strategies? Pavement strategies refer to the wide variety of maintenance, restoration, rehabilitation, reconstruction, and/or stage construction options and techniques available to the operating agency for providing a pavement surface with an acceptable service throughout its life.
b. Under usual conditions, the service life (time before major rehabilitation or reconstruction work) of flexible and rigid pavements is significantly different. For flexible pavements, a service life greater than 12-15 years is seldom attained without an overlay, while the service life of a rigid pavement is generally several years longer. What value should be placed on remaining service life? How should that value be determined?
c. Compared to rigid pavements, flexible pavements lend themselves to stage construction. How should this flexibility be considered in the pavement decisionmaking process?
d. Is a determination of the type of pavement components on the basis of

[1] An Informational Guide on Project Procedures: A Guide for the Reviewing of Certain Administrative, Inspection, and Documentation Practices in use by State Highway Departments, AASHO, 1960, pp. 49-54.

V 45 A G 2 1 8 0 UMI

life cycle or annual cost in the public's interest? When comparable designs (based on life cycle costs) can be developed, should FHWA allow the alternate bidding of these designs? Which components should be determined in this manner? Should the decision to use recycled or virgin material be made in this manner? Considering the factors cited in a, b, and c above, how should life cycle costs be determined? How should such a policy be administered?

e. Experience with the alternate bidding of pavement components has shown that design changes are often made on the basis of making design cost competitive, rather than on the basis of good design practice. How should this concern be addressed?

f. How should a policy for determining pavement component type be administered? Should factors other than those raised above be considered? If so, what are they and why should they be included?

Note.—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The anticipated impact of this proposal is so minimal as to not require preparation of a full regulatory evaluation at this time.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

(23 U.S.C. 109, 315; 49 CFR 1.48(b).)

Issued on: August 14, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-25505 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

Administrative Summonses; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to administrative summonses. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act and would affect persons who receive summonses and persons with respect to whose tax liability a summons is issued.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 20, 1980. The regulations are proposed to be effective generally with respect to summonses issued after February 28, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-164-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3828, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations would amend the Regulations on Procedure and Administration (26 CFR Part 301) under sections 7609 and 7610 of the Internal Revenue Code of 1954. These amendments are proposed under section 1205 of the Tax Reform Act of 1976 (90 Stat. 1699) and are to be issued under the authority of sections 7610(a) and 7805 of the Internal Revenue Code of 1954 (25 U.S.C. 7610(a) and 7805).

Summonses to Third-Party Recordkeeping

Generally, when a summons is served upon a third-party recordkeeper to examine records, section 7609(a) requires that notice be given of the service of the summons to the taxpayer or other person to whom the summoned records pertain (the notified person). The proposed regulations contain interpretative guidelines as to the circumstances under which notice is required to be given under section 7609(a). They also contain guidelines as to when and to what extent examination of the summoned records is restricted after such notice is given and as to the period during which the statute of limitations for civil and criminal liability may be suspended.

Fees for Witnesses

Under section 7610, the Secretary is authorized to pay witness fees and mileage when a witness is required to appear in response to a summons and authorizes the Secretary to reimburse a summoned party (other than the taxpayer or his representatives) for direct costs incurred in locating, copying and transporting any summoned records (other than records in which the taxpayer has a proprietary interest). Such payments and reimbursements are to be at rates, and subject to such conditions, as may be prescribed in regualtions. The proposed regulations prescribe the rates and conditions under which such payments and reimbursements may be paid.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regualtions is Cynthia L. Clark of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

Accordingly, it is proposed to revise the Regulations on Procedure and Administration (26 CFR Part 301) by the addition in the appropriate place of the following new sections:

§ 301.7609-1 Special procedures for third-party summonses.

Section 7609 requires the Internal Revenue Service to follow special procedures when summoning the records of persons defined by section 7609(a)(3) as "third-party recordkeepers." Under these special procedures, the person about whom information is being gathered must be notified in advance in many cases. If the person about whom information is being gathered has received a notice and requests the recordkeeper not to comply with the summons, the Service must obtain a court order or the consent of the person staying compliance with the summons before it can obtain the information. During the time the validity of the summons is being litigated, the statues of limitations are suspended under section 7609(e). Section 7609 does not restrict the authority under section 7602 (or under any other provision of law) to examine records and witnesses without serving a summons and without giving notice of an examination. Sections 301.7609-1 through 301.7609-5 relate to section 7609; § 301.7609-2 discusses matters under section 7609(a)(3), relating to third-party recordkeepers; § 301.7609-3 discusses matters under section 7609(b), relating to intervention rights; § 301.7609-4 discusses matters under section 7609(c), relating to summonses excepted from the section 7609 procedures; and § 301.7609-5 discusses matters under section 7609(e), relating to the suspension of the statute of limitations. Section 7609 and its regulations are effective for summonses issued after February 28, 1977.

§ 301.7609-2 Third-party recordkeepers.

(a) *Definitions*—(1) *Accountant.* a person is an "accountant" under section 7609(a)(3)(F) for purposes of determining whether that person is a third-party recordkeeper if the person is registered, licensed, or certified under State law as an accountant.

(2) *Attorney.* A person is an "attorney" under section 7609(a)(3)(E) for purposes of determining whether that person is a third-party recordkeeper if the person is admitted to the bar of a State.

(3) *Credit cards*—(i) *Person extending credit through credit cards.* The term "person extending credit through the use of credit cards or similar devices" under section 7609(a)(3)(C) generally includes any person who issues a credit card. It does not include a seller of goods or services that honors credit cards issued by other parties but does not extend credit on the basis of credit cards or similar devices issued by itself.

(ii) *Similar devices to credit cards.* An object is a "similar device" to a credit card under section 7609(a)(3)(C) only if it is physical in nature, such as a coupon book, a charge plate, or a letter of credit. Thus, a person who extends credit by requiring credit customers to sign sales slips without requiring use of physical objects issued by that person is not a third-party recordkeeping under section 7609(a)(3)(C).

(b) *When third-party recordkeeper status arises*—(1) *In general.* A person is a "third-party recordkeeper" with respect to a given set of records only if the person made or kept the records in the person's capacity as a third-party recordkeeper. Thus, for instance, an accountant is not a third-party recordkeeper (by reason of being an accountant) with respect to the accountant's records of a sale of property by the accountant to another person. Similarly, a credit card issuer is not a third-party recordkeeper (by reason of being a person extending credit through the use of credit cards or similar devices) with respect to—

(i) Records relating to noncredit card transactions, such as a cash sale by the issuer to a holder of the issuer's credit card; or

(ii) Records relating to transactions involving the use of another issuer's credit card.

(2) *Example.* The rules of paragraph (b)(1) of this section may be illustrated by the following example:

Example. V issues a credit card (the V card) that is honored by R, a retailer. When using the V card, C signs a sales slip in triplicate. C, R, and V each retain one copy. Only the copy held by V is held by a third-party recordkeeper under section 7609(a)(3), even though R may issue its own credit card.

§ 301.7609-3 Intervention rights.

(a) *Notified person.* Under section 7609(a), the Internal Revenue Service must give a notice of summons to any person, other than the person summoned, who is identified in the description of the books and records contained in the summons in order that such person may stay compliance pending litigation of the right of the Service to examine the summoned records. Thus, if the Service issues a summons to a bank requesting checking account records of more than one person all of whom are identified in the description of the records contained in the summons, then all such persons are notified persons entitled to notice under section 7609(a). Therefore, if the Service requests the records of a joint bank account of A and B both of whom are named in the summons, then both A and B are notified persons entitled to notice under section 7609(a).

(b) *Right to stay compliance.* Section 7609(b) grants a notified person the right to stay compliance with the summons to give a court of competent jurisdiction an opportunity to rule on the right of the Service to examine the summoned records. In order to stay compliance, the notified person (or the notified person's agent, nominee, or other person acting under the direction on control of the notified person) must give to the summoned person a written notice not to comply with the summons. In addition, the notified person (or the notified person's agent, nominee, or other person acting under the direction or control of the notified person) must send a copy of that notice by registered or certified mail to the Service employee and office designated to receive that copy in the notice of summons that was given to the notified person. The notice not to comply must be given to the summoned party, and a copy of the notice not to comply must be sent by mail to the Service not later than 14 days after the notified person is given notice of the issuance of the summons. Failure to give timely notice to either the summoned party or the Service or failure to give notice in the manner described in this paragraph means that compliance is not stayed. Thus, for example, if the notified person gives a copy of the notice to stay compliance to the summoned person but not to the designated Service employee and office, compliance is not stayed. Similarly, if the notified person gives a copy of such a notice to the summoned person but, instead of sending a copy of the notice by registered or certified mail to the designated employee and office, the notified person gives the designated employee and office the notice by some other means, compliance is not stayed.

(c) *Presumption no notice has been mailed.* Section 7609(b)(2)(B) permits a notified person to stay compliance by notifying the Service and the summoned person. If the notified person does not notify the Service in the appropriate manner, the summons must be obeyed, unless there are valid legal objections for noncompliance. If the copy of the notification not to comply has not been delivered to the person and office designated to receive the notice on behalf of the Service within 3 days from the close of the 14-day period allowed for the notice, it is presumed that the notification has not been timely mailed.

§ 301.7609-4 Summonses excepted from section 7609 procedures.

(a) *In aid of the collection of certain liabilities*—(1) *In general.* Section 7609(c)(2)(B) contains an exception to the general notice requirement when a summons is issued to a third-party recordkeeper. That section excepts summonses issued in aid of the collection of the liability of any person against whom an assessment has been made or judgment rendered or the liability at law or in equity of any transferee or fiduciary of such a person.

(2) *Examples.* Examples of summonses referred to in paragraph (a)(1) of this section are—

(i) Summonses issued to determine the amount held in a bank in the name of a person against whom an assessment has been made or judgment rendered;

(ii) Summonses issued for the purpose of ascertaining responsible corporate employees or officers for the 100 percent penalty under section 6672, so as to assist in collecting the amount of withheld taxes which have been assessed against the corporation; and

V 45 G 21 80 A UMI

(iii) Summonses issued to enforce transferee or fiduciary liability for a tax which has been assessed.

(b) *Numbered account (or similar arrangement).* Under section 7609(c)(2), a summons solely to determine the identity of a person having a numbered account (or similar arrangement) with a bank or other institution is excepted from the requirements of section 7609. A "numbered account (or similar arrangement)" under section 7609(c)(2) is an account through which a person may authorize transactions solely through the use of a number, symbol, code name, or other device not involving the disclosure of the person's identity. A "person having a numbered account (or similar arrangement)" includes the person who opened the account and any person authorized to use the account or to receive records or statements concerning it.

§ 301.7609–5 Suspension of statutes of limitations.

(a) *Agent, nominee, etc.* Under section 7609(e), statutes of limitations are suspended if a notified person with respect to whose liability a summons is issued, or the notified person's agent, nominee, or other person acting under the direction or control of the notified person, takes any action as provided in section 7609(b). A person is a notified person's agent, nominee, or other person acting under the direction or control of a notified person for purposes of section 7609(e) if the person with respect to whose liability the summons is issued has the ability in fact or at law to cause the agent, etc., to take the actions permitted under section 7609(b). Thus, in the case of a corporation, direction or control by the notified person may exist even though less than 50 percent of the voting power of the corporation is held by the notified person.

(b) *Period during which a proceeding, etc., is pending.* Under section 7609(e), the statute of limitations may be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending. This period begins on the date the action to enforce the summons is commenced, rather than the date a notified person takes any action as provided in section 7609(b). An action to enforce the summons is commenced upon the filing of the petition or complaint to enforce the summons. The period continues until all appeals are disposed of, or until the expiration of the period in which an appeal may be taken or a request for a rehearing may be made. Full compliance, partial compliance, and noncompliance have no effect on the suspension provisions. Of course, if the notified person takes no action provided in subsection (b) of section 7609, no suspension of the statutes of limitations takes place. The periods of limitations which are suspended under section 7609(e) are those which apply to the taxable periods to which the summons relates.

(c) *Taking of action as provided in section 7609(b).* Section 7609(b) allows intervention by a notified person as a matter of right upon compliance with the Federal Rules of Civil Procedure. The phrase "takes any action as provided in subsection (b)", found in section 7609(e), includes any intervention, whether or not section 7609(b) is specifically mentioned in the order of the court allowing intervention. The phrase also includes the fulfilling of only part of the requirements of section 7609(b)(2), relating to the right of a person to stay compliance. Thus, for instance, if a notified person notifies a person who has been summoned not to comply with the summons under section 7609(b)(2)(A) but does not mail a copy of that notice to the appropriate person and office under section 7609(b)(2)(B), the notified person has taken an action under section 7609(e).

§ 301.7610–1 Fees and costs for witnesses.

(a) *Introduction.* Section 7610 provides that the Internal Revenue Service may make payments to certain persons who are asked to give information to the Service. Under section 7610 witnesses generally will not be reimbursed for actual expenses incurred but instead will be paid in accordance with the payment rates established by regulations. Paragraph (b) of this section contains elaborations of certain terms found in section 7610 and definitions of other terms used in the regulations under section 7610(a)(2); and paragraphs (c) and (d) contain rules and rates applicable to payments under section 7610. Section 7610 and its regulations are effective for summonses issued after February 28, 1977, except as otherwise provided.

(b) *Definitions*—(1) *Directly incurred costs.* Directly incurred costs are costs incurred solely, immediately, and necessarily as a consequence of searching for, reproducing, or transporting records in order to comply with a summons. They do not include a proportionate allocation of fixed costs, such as overhead, equipment depreciation, etc. However, where a third party's records are stored at an independent storage facility that charges the third party a search fee to search for, reproduce, or transport particular records requested, these fees are considered to be directly incurred by the summoned third party.

(2) *Reproduction costs.* Reproduction costs are costs incurred in making copies or duplicates of summoned documents, transcripts, and other similar material.

(3) *Search costs.* Search costs include only the total cost of personnel time directly incurred in searching for records or information and the cost of retrieving information stored by computer. Salaries of persons locating and retrieving summoned material are not includible in search costs. Also, search costs do not include salaries, fees, or similar expenditures for analysis of material or for managerial or legal advice, expertise, or research, or time spent for these activities.

(4) *Third party.* A third party is any person served with a summons, other than a person with respect to whose liability a summons is issued, or an officer, employee, agent, accountant, or attorney of that person.

(5) *Third party records.* Third party records are books, papers, records, or other data in which the person with respect to whose liability a summons is issued does not have a proprietary interest at the time the summons is served.

(6) *Transportation costs.* Transportation costs include only costs incurred to transport personnel to search for records or information requested and costs incurred solely by the need to transport the summoned material to the place of examination. These costs do not include the cost of transporting the summoned witness for appearance at the place of examination. See paragraph (c)(2) of this section for payment of travel expenses.

(c) *Conditions and rates of payments*—(1) *Basis for payment.* Payment for search, reproduction, and transportation costs will be made only to third parties served with a summons to produce third party records or information and only for material requested by the summons. Payment will be made only for these costs that are both directly incurred and reasonably necessary. Search, reproduction, and transportation costs must be considered separately in determining whether costs are reasonably necessary. No payment will be made until the third party has satisfactorily complied with the summons and has submitted an itemized bill or invoice showing specific details concerning the costs to the Internal Revenue Service employee before whom the third party was summoned. If a third party charges any other person for any cost for which the third party is seeking payment from the Service, the amount charged to the other person must be subtracted from the amount the Internal Revenue Service may pay.

(2) *Payment rates.* The following rates are established:

(i) *Search costs.* (A) For the total amount of personnel time required to locate records or information, $5.00 per person hour.

(B) For retrieval of information stored by computer in the format in which it is normally produced, actual costs, based on computer time and necessary supplies, except that personnel time for computer search is payable only under subparagraph (2)(i)(A) of this paragraph.

(ii) *Reproductions costs.* (A) For copies of documents, $.10 per page.

(B) For photographs, films and other materials, actual cost, except that personnel time is payable only under subparagraph (2)(i)(A) of this paragraph.

(iii) *Transportation costs.* For transportation costs, actual cost, except that personnel time is payable only under subparagraph (2)(i)(A) of this paragraph.

(d) *Appearance fees and allowances*—(1) *In general.* Under section 7610(a)(1) and this paragraph, the Service shall pay a summoned person certain fees and allowances. No payments will be made until after the party summoned appears and has submitted any necessary receipts or other evidence of cost to the Service employee before whom the person was summoned. This paragraph is effective with respect to appearances made after October 26, 1978.

(2) *Attendance fees.* A summoned person shall be paid an attendance fee for each day's attendance. A summoned person shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of the attendance or at any time during the attendance. The attendance fee is the higher of $30 per day or the amount paid under 28 U.S.C. 1821(b) to witnesses in attendance at courts of the United States at the time of the summoned person's appearance.

(3) *Travel allowances.* A summoned person who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from the summoned person's residence by the shortest practical route in going to and returning from the place of attendance. Such a summoned person shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished. A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, under 5 U.S.C. 5704, for official travel of employees of the Federal Government shall be paid to each summoned person who travels by privately owned vehicle. That rate is $.20 per mile as of April 20, 1980. Computation of mileage under this paragraph shall be made on the basis of a uniform table of distances adopted by the Administrator of General Services. Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt) shall be paid in full to a summoned person incurring those expenses.

(4) *Subsistence allowances.* A subsistence allowance shall be paid to a summoned person (other than a summoned person who is incarcerated) when an overnight stay is required at the place of attendance because the place is so far removed from the residence of the summoned person as to prohibit return thereto from day to day. A subsistence allowance for a summoned person shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, under 5 U.S.C. 5702(a), for official travel in the area of attendance by employees of the Federal Government. As of April 30, 1979, that maximum per diem allowance is $35 per day. A subsistence allowance for a summoned person attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, under 5 U.S.C. 5702(c)(B), for official travel in that area by employees of the Federal Government. As of April 30, 1979, maximum rates of up to $50 per day have been prescribed by the Administrator for certain areas. An alien who has been paroled into the United States for prosecution, under section 212 (d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined under section 242(b) of that Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided for under section 7610(a)(1).

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–25510 Filed 8–20–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Wyoming State Permanent Program Resubmission

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Announcement of public disclosure of comments on the Wyoming program resubmission from the Environmental Protection Agency, the Department of Agriculture and other Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure, with regard to the Wyoming State Permanent Program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Brooks Tower, Room 5010, 1020 15th Street, Denver, Colorado 80202. Telephone (303) 837–5421.

Office of Surface Mining, Department of the Interior, Room 135, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 30 East Grinnell Street, Sheridan, Wyoming 82801.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 933 Main Street, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Crane, Regional Director, Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado 80202. Telephone: (303) 837–5921;

or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue,

NW., Washington, D.C. 20240.

Dated: August 15, 1980.

The proposal may be changed in view

States the option of retaining these

application form for a certificate of

proposed regulation is intended to meet

NW., Washington, D.C. 20240. Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Wyoming permanent program resubmitted by Wyoming for his review on May 30, 1980. The Secretary approved the Wyoming initial program submission in part on February 15, 1980 (45 FR 20930). The resubmission is to request the Secretary's approval of those parts of the Wyoming program that were disapproved on February 15, 1980. See 45 FR 37697 (June 4, 1980) and 45 FR 49595 (July 25, 1980). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1) the Wyoming program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Wyoming program resubmission:

Department of Agriculture: Soil Conservation Service; Forest Service; Agriculture Stabilization and Conservation Service; Office of Environmental Policy; Science and Education Administration.
Advisory Council on Historic Preservation.
Department of Labor: Mine Safety and Health Administration.
U.S. Environmental Protection Agency.
Water Resources Council.
Department of Energy.
Department of the Interior: Bureau of Indian Affairs; Bureau of Land Management; Bureau of Mines; Heritage Conservation and Recreation Service; Bureau of Reclamation; Fish and Wildlife Service; National Park Service; U.S. Geological Survey.
Council on Environmental Quality.
U.S. Army Corps of Engineers.
Missouri River Basin Commission.

Of those agencies invited to comment, OSM received comments from the following offices: U.S. Environmental Protection Agency, Bureau of Land Management, Fish and Wildlife Service, Soil Conservation Service.

These comments are available for review and copying during business hours, at the locations listed above under "Addresses."

Dated: August 15, 1980.

Carl C. Close,

Assistant Director State and Federal Programs.

[FR Doc. 80-25351 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 174

[CGD 79-087]

Application for Certificate of Number: Change in Required Contents

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to amend its regulations on State numbering systems for vessels. Existing regulations require States that issue their own certificates of number to obtain date of birth and citizenship information from vessel owners applying for these certificates. The Guard Guard will no longer collect this information in States where it is the issuing authority for certificates of number. It is therefore proposing to relieve State issuing authorities of their obligation to collect this information as well.

DATES: Comments must be received on or before October 6, 1980.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/24)(CGD 79–087), U.S. Coast Guard Headquarters, Washington, D.C. 20593. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Robert Dewees, Office of Boating, Public, and Consumer Affairs (G–BEL–3/43), U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426–4176.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 79–087) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addresses postcard or envelope.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the Marine Safety Council address noted above. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Robert Dewees, Project Manager, Office of Boating, Public, and Consumer Affairs, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Rule

Section 18 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1467) mandated the establishment of a standard numbering system for vessels. The Act provides that States which have a numbering system that is in accord with this standard be designated as issuing authorities for vessel numbers. In States which have not been so designated, the Coast Guard retains the authority to issue these numbers.

The application form for a certificate of number used by the Coast Guard in States where it is the vessel number issuing authority (CG–3876) was recently submitted to the Office of Management and Budget (OMB) for clearance. OMB did not approve two items on this form which required applicants to disclose their citizenship and date of birth. The absence of any apparent need for this information was cited as the basis for OMB's disapproval.

As the Coast Guard will no longer be collecting this information in its own capacity as a vessel number issuing authority, a corresponding change in the standard requirements for State issuing authorities may be in order. The Coast Guard therefore proposes to delete date of birth and citizenship from the items set forth in 33 CFR 174.17 that must be contained on a State application for a certificate of number.

In 1979 the National Association of Boating Law Administrators conducted an informal survey of its members to determine the need for collecting information on the date of birth and citizenship of vessel owners applying for certificates of number. Although the majority of States found this information unnecessary, some expressed an interest in continuing to collect it. As a consequence, this proposal would allow States the option of retaining these items on their application forms.

If this proposal were adopted, there would be no immediate need for application forms to be reprinted by States wishing to eliminate the date of birth and citizenship items. Existing forms could be used with these items crossed out. Alternately, the forms could be issued with instructions informing applicants that these items may be left blank. This will allow the proposed changes to be reflected in these forms only when existing supplies have been exhausted and new ones must be printed. As a consequence, this proposal is not expected to have sufficient economic impact to warrant preparation of a draft evaluation under the Department of Transportation's "Regulatory Policies and Procedures" published on February 26, 1979 (44 FR 11034).

In consideration of the foregoing, the Coast Guard proposes to amend Part 174 of Title 33, Code of Federal Regulations by revising § 174.17 to read as follows:

§ 174.17 Contents of application for certificate of number.

(a) Each application form for a certificate of number must contain the following information:

(1) Name of the owner.
(2) Address of the owner, including ZIP code.
(3) State in which vessel is or will be principally used.
(4) The number previously issued by an issuing authority for the vessel, if any.
(5) Whether the application is for a new number, renewal of a number, or transfer of ownership.
(6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use.
(7) Make of vessel.
(8) Year vessel was manufactured or model year.
(9) Manufacturer's hull identification number, if any.
(10) Overall length of vessel.
(11) Type of vessel (open, cabin, house, or other).
(12) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other.
(13) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail and name of engine manufacturer if available.
(14) Whether the fuel is gasoline, diesel, or other.
(15) The signature of the owner.

(b) A State may elect to include the following information in each application form for a certificate of number:

(1) Date of birth of the owner.
(2) Citizenship of the owner.

(c) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit items 7 through 14 of paragraph (a) of this section.

(d) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit items 13 and 14 of paragraph (a) of this section.

Dated: August 13, 1980.

(46 U.S.C. 1467 and 1488; 49 CFR 1.46 (n)(1))

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 80-25541 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101–6

Federal Advisory Committee Management

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: GSA proposes to provide revised responsibilities, procedures, and guidance for managing Federal executive branch advisory committees. GSA's authority for administering the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 1, is contained in FACA and Executive Order 12024, effective November 22, 1977, entitled "Relating to the Transfer of Certain Advisory Committee Functions." Under EO 12024, the President delegated to the Administrator of General Services all the functions vested in the President by FACA, as amended, except that of reporting annually to the Congress, and redelegated to the Administrator the responsibility for the preparation of the annual report required by section 6(c) of FACA.

GSA's experience in administering FACA has shown the need for rescinding Office of Management and Budget (OMB) Circular A–63, (March 27, 1974), and A–63 Transmittal Memoranda 1, 4, and 5. Further, it is necessary to revise and redesignate 41 CFR 101–11.12 and 41 CFR 101–11.4930–248 through 250 for inclusion in the Federal Advisory Committee Management regulation. The proposed regulation is intended to meet the need for additional procedures for and guidance to Federal agencies in this area.

DATE: Comments must be received by October 20, 1980.

ADDRESSES: Comments should be submitted to the Executive Director, National Archives and Records Service (mailing address: General Services Administration (NA), Washington, DC 20408). Comments will be available for examination at the Committee Management Secretariat, Room 9403, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John F. Clancy, Jr., Director, Committee Management Secretariat (202-357-0019).

SUPPLEMENTARY INFORMATION: GSA proposes to add a new Federal Property Managment Regulation (FPMR) in 41 CFR Subpart 101–6.10, entitled "Federal Advisory Committee Management." In an advance notice of proposed rulemaking (November 22, 1979, 44 FR 66852), GSA proposed to rescind OMB Circular A–63 (dated March 24, 1974), its related Transmittal Memoranda 1, 4, and 5, and to revise and redesignate FPMR 101–11.12 and 101–11.4930–248 through 250 for inclusion in a single FPMR on Federal advisory committee managment. Three comments were received from Federal agencies during the comment period and were considered in the development of the proposed rule. One Federal agency had sent a suggestion for the proposed rule before the advance notice of proposed rulemaking was published. Its comment was also considered in the development of the proposed rule.

Discussion of the comments. The first comment, sent before the advance notice of proposed rulemaking from the Department of the Interior, suggeseted that a definition of subcommittee be considered for inclusion in the proposed FPMR, and also provided a definition of subcommittee and the conditions under which a subcommittee would require a separate charter. GSA agrees with the definition and the conditions and has included them in the proposed rule.

The Veterans Administration (VA) suggested that "balanced membership" and "full-time employee" be defined in the FPMR. GSA was not able to define "balanced membership," although guidelines to assist agencies in determining balanced membership are included in the proposed rule. "Full-time employee" was not specifically defined since GSA prefers that agencies use the Office of Personnel Management definition. VA also commented that "it is not clear how to proceed in situations . . . where the Administrator . . . does

not concur" in renewals of advisory committees. The proposed rule makes it clear that the agency cannot continue to use an advisory committee that has not been concurred in for renewal by the Administrator.

The Nuclear Regulatory Commission (NRC), in its comments, objected to the requirement that the agency head be notified at least 30 calendar days before an advisory committee meeting of an advisory committee's intent to close all or part of a meeting. The NRC believes this requirement should be eliminated from the proposed rule. GSA disagrees, and has continued this requirement in the proposed rule.

NRC suggested that GSA add a provision "stating that the pay of members of a statutorily established advisory committee shall not be decreased by federal retirement benefits if the member of such a committee is retired from a government agency other than the agency he is serving." GSA has not addressed this issue in the proposed rule, but will consider it if there is comment from other Federal agencies on the issue.

NRC also suggested some procedural changes in the section on uniform pay guidelines to include changes required by the Government in the Sunshine and Civil Service Reform Acts. GSA agrees with the suggestion and has made changes in this section.

Finally, the Maritime Administration of the Department of Commerce made detailed comments on the "need" for "definitive guidelines, standards by which an agency may judge whether activities are within the purview of the Act." The Maritime Administration wants a more specific definition of "advisory committee," other than the one contained in the Act. The Maritime Administration also wants definitive guidance on "ad hoc" and other advisory committees and a definition of "balanced membership." GSA believes that a definition of advisory committee, other than the one in FACA, would require a change in FACA. Thus, the definition in the proposed rule is the definition in FACA.

On the issue of definitive guidelines and standards to cover every possible situation, GSA believes that to attempt to issue definitive guidelines and standards would be counterproductive. The questions raised by the Maritime Administration on specific situations concerning the applicability of FACA to agency activities should be answered initially by the agency. GSA does not propose to substitute its judgment for the agency's initial judgment in specific situations rising out of an agency's activities involving FACA.

GSA has not addressed the issue of "ad hoc" committees in the proposed rule. If the comments on the proposed rule warrant it, GSA will consider the issue before a final rule is issued.

The "balanced membership" issue is considered in the guidelines.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Accordingly, GSA proposes to amend Part 101–6 as follows:

PART 101–6—MISCELLANEOUS REGULATIONS

1. The table of contents for Part 101–6 is amended by adding or revising the following entries:

Subparts 101–6.3—101–6.9 [Reserved]

Subpart 101–6.10—Federal Advisory Committee Management

Sec.
101–6.1000 Scope of subpart.
101–6.1001 General provisions.
101–6.1001–1 Authority.
101–6.1001–2 Applicability.
101–6.1002 Definitions.
101–6.1003 Policy.
101–6.1004 Responsibilities.
101–6.1004–1 What are GSA's responsibilities?
101–6.1004–2 What are the agency's responsibilities?
101–6.1005 General information on advisory committees.
101–6.1005–1 Who establishes advisory committees?
101–6.1005–2 What kinds of advisory committees are there?
101–6.1006 Establishing advisory committees.
101–6.1006–1 What must an agency head do?
101–6.1006–2 What must GSA do?
101–6.1007 How to operate advisory committees.
101–6.1007–1 What must be done before an advisory committee may operate?
101–6.1007–2 What is required to hold an advisory committee meeting?
101–6.1007–3 What are the public notice requirements?
101–6.1007–4 What are the public participation requirements?
101–6.1007–5 What is required to close an advisory committee meeting?
101–6.1007–6 What are the requirements regarding the minutes of advisory committee meetings?
101–6.1008 Renewal and termination of advisory committees.
101–6.1008–1 What is required to renew an advisory committee?
101–6.1008–2 When do advisory committees terminate?
101–6.1009 Reports.
101–6.1009–1 What reports are agencies and independent PAC's required to submit to the Secretariat?
101–6.1009–2 What is the Annual Comprehensive Review of Federal Advisory Committees?
101–6.1009–3 How do you prepare and submit the Annual Comprehensive Review?
101–6.1009–4 What is the due date of the ACR?
101–6.1009–5 What is the Annual Report on Federal Advisory committees?
101–6.1009–6 How do you prepare and submit the Annual Report?
101–6.1009–7 What is the due date of the AR?
101–6.1009–8 What other reports are agencies required to submit and to whom?
101–6.1009–9 What is a 6(b) follow-up report and how is it done?
101–6.1010 Miscellaneous provisions.
101–6.1010–1 Uniform pay guidelines.
101–6.1010–2 Committee Management Information System.

Subparts 101–6.11—101–6.48 [Reserved]

101–6.4901 Standard forms.
101–6.4901–248 Standard Form 248, Annual Report on Federal Advisory Committee.
101–6.4901–248–A Standard Form 248–A, Annual Report on Federal Advisory Committee (continuation sheet).
101–6.4901–249 Standard Form 249, Membership List on Federal Advisory Committee.
101–6.4901–249–A Standard Form 249–A, Membership List on Federal Advisory Committee (continuation sheet).
101–6.4901–250 Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.
101–6.4901– Standard Form ——, Annual Comprehensive Review of Federal Advisory Committee.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Pub. L. 92–463, 5 U.S.C. App. 1.

Subparts 101–6.3—6.9 [Reserved]

2. Subparts 101–6.3 through 101–6.9 are reserved as follows:

3. Subpart 101–6.10 is added to read as follows:

Subpart 101–6.10—Federal Advisory Committee Management

§ 101–6.1000 Scope of subpart.

This subpart sets forth guidance, procedures, and responsibilities for managment of Federal executive branch advisory committees.

§ 101–6.1001 General provisions.

§ 101–6.1001 Authority.

The Committee Management Secretariat issues these provisions under the Federal Advisory Committee Act (FACA), Pub. L. 92–463, 5 U.S.C. App. 1, as amended by the government in the Sunshine Act, Pub. L. 94–409; and EO 12024, dated December 1, 1977, entitiled "Relating to the Transper of Certain Advisory Committee Functions."

§ 101–6.1001–2 Applicability.

The regulations in this subpart apply to all Federal executive branch agencies, except the Advisory Commission on Intergovernmental Relations, the Central Intelligence Agency, and the Federal Reserve System.

§ 101–6.1002 Definitions.

(a) "Administrator" means the Administrator of General Services.

(b) "Advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is:

(1) Established by statute or reorganization plan, or

(2) Established or utilized by the President, or

(3) Established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such definition excludes any committee which is composed wholly or full-time officers or employees of the Federal Government.

(c) "Agency" means the same as it does in 5 U.S.C. 551(1).

(d) "Committee Management Officer" means the person designated by the agency head or by the chairperson of an independent Presidential advisory committee (PAC) to:

(1) Exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established or used by that agency, or of the independent PAC:

(2) Assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) Carry out, on behalf of that agency, the provisions of 5 U.S.C. 552, with respect to such reports, records, and other papers.

(e) "Designated Federal Official" means a full-time Federal employee who chairs or attends an advisory committee meeting and who represents the interests of the Federal Government.

(f) "Determination" means the action taken by an agency head or the Administrator to close or partially close and advisory committee meeting.

(g) "Establishment authority" means the authority used to create an advisory committee.

(h) "FACA" means the Federal Advisory Committee Act.

(i) "Presidential advisory committee" (PAC) means an advisory committee established by the President or by the Congress, which reports directly to the President.

(j) "Secretariat" means GSA's Committee Management Secretariat.

(k) "Subcommittee" means a subgroup of an already existing advisory committee composed wholly or partly of members of the parent advisory committee.

(l) "Substantive report" means any report made by and advisory committee to the Congress, to the President, or to the agency which establishes or uses the advisory committee.

§ 101–6.1003 Policy.

(a) *General.* In applying this subpart, it is GSA's policy to require executive branch agencies to hold open advisory committee meetings, except in circumstances specified in paragraph (b) of this section.

(1) The agency shall limit advisory committees to those that are in the public interest and for which there is a compelling need.

(2) Agencies shall fairly balance membership of advisory committees in terms of the points of view represented and the committee function to be performed.

(3) For purposes of obtaining balance, the agency shall consider for membership a cross-section of interested persons and groups.

(4) The agency shall also consider the following:

(i) The extent of representation is such that membership is adequately balances.

(ii) The agency is making or plans to make a reasonable effort to achieve adequate balance.

(5) The agency which sought the advice and which retains the authority for decisions shall consider advisory committee recommendations.

(b) *Exceptions.*

(1) The Administrator, in the case of an independent PAC, or the head of the agency to which the advisory committee reports, may close advisory committee meetings when the Administrator or the agency head determines that the "Government in the Sunshine" exemptions, 5 U.S.C. 552b, apply.

(2) When the Administrator or agency head closes an advisory committee meeting, the Administrator or agency head shall explain in writing the grounds or reasons for closing the meeting.

(3) The Administrator or agency head shall emphasize the conduct of advisory committee business as openly as possible and the free flow of information to the public.

§ 101–6.1004 Responsibilities.

§ 101–6.1004–1 What are GSA's responsibilities?

The Committee Management Secretariat of GSA/NARS assists the Administrator in carrying out his responsibilities under FACA and EO 12024.

§ 101–6.1004–2 What are the agency's responsibilities?

(a) The head of each agency that establishes or uses an advisory committee, or the chairperson of an independent PAC, shall:

(1) Comply with FACA and this regulation.

(2) Issue regulations and/or guidelines which apply to all advisory committees established or used by the agency.

(3) Designate a Committee Management Officer (CMO), who shall carry out the functions specified in this regulation.

(4) Provide the name and telephone number of the CMO to the Secretariat.

(b) The CMO shall maintain information on the nature, functions, and operations of each of the agency's advisory committees, including a complete set, in a single location, of the charters and membership lists of the agency's advisory committees, minutes of meetings, and copies of the reports of its advisory committees.

§ 101–6.1005 General information on advisory committees.

§ 101–6.1005–1 Who establishes advisory committees?

(a) The President may establish advisory committees through Executive order (EO).

(b) An agency head may establish or use an advisory committee under title 5 United States Code or through general agency authorizing statute.

(c) The Congress, by statute, may establish an advisory committee reporting to the President, or direct an agency to establish an advisory committee..

§ 101–6.1005–2 What kinds of advisory committees are there?

(a) Presidential advisory committees (PAC's) are commmittees established by the President or by the Congress, which report directly to the President.

(b) Advisory committees directed by law are committees which the Congress, by statute, directs agencies to establish.

(c) Advisory committees authorized by law are committees which the Congress, by statute, authorizes, but does not direct, agencies to establish.

(d) Agency-established committees are committees which an agency

establishes or uses under agency authority in 5 U.S.C. or other general agency authorizing statute.

§ 101–6.1006 Establishing advisory committees.

§ 101–6.1006–1 What must an agency head do?

(a) An agency head must consult with the Administrator if the agency proposes to establish or use:

(1) An advisory committee authorized by law, or

(2) An advisory committee established or used under agency authority in 5 U.S.C. or other general agency authorizing statute, or

(3) Any subcommittee of an advisory committee meeting one or more of the following criteria:

(i) Has members other than the members of the parent committee, or

(ii) Has functions other than, or different from, the parent committee, or

(iii) Functions independently of the parent committee, e.g., makes recommendations directly to the agency rather than through the parent committee.

(b) The agency head must consult with the Administrator through a letter:

(1) Describing the nature and purpose of the proposed advisory committee, and

(2) Stating why the functions of the proposed committee cannot be performed by the agency or by an existing advisory committee in the agency or in another agency, or by other means such as public hearings, and

(3) Describing the agency's plan to attain balanced membership on the proposed advisory committee.

(c) The agency head shall enclose a draft copy of the charter of the proposed advisory committee with the consultation letter.

§ 101–6.1006–2 What must GSA do?

(a) If the Secretariat does not concur that the proposed advisory committee is necessary and in the public interest, then the Secretariat will inform the agency head in writing, with the reasons for nonconcurrence, within 30 calendar days of receipt of the agency head's consultation letter.

(b) The agency head must obtain the Secretariat's concurrence before establishing or using an advisory committee as specified in 101–6.1006–1(a).

(c) If the Secretariat concurs that the agency head's proposed advisory committee is necessary and in the public interest, then the Secretariat will notify the agency head or the CMO.

§ 101–6.1007 How to operate advisory committees.

§ 101–6.1007–1 What must be done before an advisory committee may operate?

(a) No advisory committee may operate, e.g., meet or take any action, until a charter has been filed with the Secretariat, in the case of PAC's, or with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of the agency establishing or using the advisory committee.

The following table summarizes the charter filing requirements:

File With

Type of committee	Secretariat	Committees of the Congress	Library of Congress
Agency-established	Yes	Yes	Yes
Authorized by law	Yes	Yes	Yes
Directed by law	Yes	Yes	Yes
Presidential	Yes	No	Yes

(b) When the Secretariat concurs in an agency head's proposal to establish or use an advisory committee, the agency head shall:

(1) Certify in writing that the establishment of the advisory committee is necessary and in the public interest;

(2) Publish in the **Federal Register**, at least 15 calendar days before filing the advisory committee's charter, the certification and a description of the nature and purpose of the committee;

(3) File a copy of the charter of the advisory committee with the Secretariat;

(4) File the charter of the advisory committee with the standing committees of the Senate and House having legislative jurisdiction of the agency; and

(5) File a copy of the charter of the advisory committee with the Library of Congress. The copy of the charter shall be sent to:

Federal Documents Section, Exchange and Gift Division, Library of Congress, Washington, DC 20540.

(c) When an agency has an advisory committee directed by law, the agency head shall:

(1) File a copy of the charter of the advisory committee with the Secretariat;

(2) File the charter of the advisory committee with the standing committees of the Senate and House having legislative jurisdiction of the agency to which the advisory committee reports; and

(3) File a copy of the charter of the advisory committee with the Library of Congress. The address is in paragraph (b)(5) of this section.

(d) When the President, or the Congress by statute, establishes an advisory committee reporting directly to the President, the responsible agency head or the chairperson of an independent PAC shall:

(1) File the charter with the Secretariat; and

(2) File a copy of the charter with the Library of Congress. The address is in paragraph (b)(5) of this section.

§ 101–6.1007–2 What is required to hold an advisory committee meeting?

(a) For agency advisory committees (established or used by the agency, directed by law, or authorized by law) the agency head shall designate a full-time employee, or Designated Federal Official (DFO) who shall:

(1) Approve or call the meetings of an advisory committee;

(2) Approve the agenda of the advisory committee meetings;

(3) Adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest; and

(4) Attend the meetings, or chair the meetings if the agency head so determines.

(b) For independent PAC's, the Administrator shall designate a full-time Federal employee and, with the approval of the chairperson of the PAC, determine his or her role. This DFO shall:

(1) Attend the meetings;

(2) Approve or call the meetings; and

(3) Adjourn the meetings whenever he or she determines it is in the public interest.

§ 101–6.1007–3 What are the public notice requirements?

(a) The agency head, the chairperson of an independent PAC, or their designees shall publish in the **Federal Register** a notice of each advisory committee meeting at least 15 calendar days before the meeting.

(b) The notice must state:

(1) The name of the advisory committee;

(2) The time, place, and purpose of the meeting;

(3) A summary of the agenda; and

(4) Whether the meeting is open or closed.

(c) Less than 15-days notice may be provided in emergency situations.

The agency head or the chairperson of an independent PAC shall ensure that the reasons for the emergency exception to the 15-day notice requirement are part of the **Federal Register** meeting notice.

§ 101–6.1007–4 What are the public participation requirements?

The agency head, the chairperson of an independent PAC, or their designees shall ensure that:

(a) Meetings are held at a reasonable time and in a place that is reasonably accessible to the public;

(b) The size of the meeting room is sufficient to accommodate the advisory committee members, committee or agency staff, and members of the public who may wish to attend;

(c) Any member of the public may file a written statement with the committee; and

(d) Any member of the public may speak at an advisory committee meeting if the advisory committee's written procedures for conducting meetings permit such oral comment.

§ 101–6.1007–5 What is required to close an advisory committee meeting?

(a) An advisory committee chairperson who seeks to have all or part of a meeting closed to public participation on the basis of the "Government in the Sunshine" exemptions shall request from the agency head or, in the case of an independent PAC, from the Administrator, a determination to close the meeting at least 30 calendar days before the scheduled date of the meeting.

(b) The request for a determination must:

(1) Be written;

(2) Specify the reasons why all or part of the meeting should be closed; and

(3) Cite the specific exemptions of the Government in the Sunshine Act, 5 U.S.C. 552b, as the basis for closing all or part of the meeting.

(c) The agency head or the Administrator shall:

(1) Issue a determination in writing if he or she finds the request to close the meeting to be consistent with the "Government in the Sunshine" exemptions and the policy of FACA;

(2) State in the determination the specific reasons for closing all or part of the meeting, citing the exemption(s) used in the Government in the Sunshine Act, 5 U.S.C. 552b; and

(3) Make a copy of the determination available to the public on request.

(d) The agency general counsel, or in the case of independent PAC's, the GSA general counsel, must review all determinations to close meetings.

(e) The agency head or the Administrator may delegate responsibility for making determinations.

(f) The agency head, the chairperson of an independent PAC, or their designees shall ensure that the reasons for closing all or part of the meeting and the specific exemption(s) under 5 U.S.C. 552b are included in the **Federal Register** meeting notice.

§ 101–6.1007–6 What are the requirements regarding the minutes of advisory committee meetings?

(a) The agency head or the agency head's designee shall ensure that detailed minutes of each advisory committee meeting are kept.

(b) In the case of independent PAC's, the chairperson shall ensure that detailed minutes of each meeting are kept.

(c) The minutes must include:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff, and agency employees present at the meeting;

(3) A summary of matters discussed and conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who presented oral or written statements;

(7) Copies of reports or written statements received from members of the public; and

(8) An estimate of the number of members of the public who attended the meeting.

(d) The chairperson of the advisory committee shall certify to the accuracy of the minutes.

§ 101–6.1008 Renewal and termination of advisory committees.

§ 101–6.1008–1 What is required to renew an advisory committee?

(a) Renewal of agency advisory committees (agency-established or authorized by law) requires concurrence by the Secretariat.

(b) The agency head shall provide the Secretariat, by consultation letter not more than 60 calendar days or less than 30 calendar days before the committee terminates, with the following information:

(1) A statement that renewal is necessary and is in the public interest;

(2) The reasons for this statement;

(3) The agency's plan to achieve adequate balance in the membership of the committee or the basis for the view that adequate balance has been achieved; and

(4) An explanation of why the committee's functions cannot be performed by the agency, by another advisory committee, or by other means.

(c) The agency head shall enclose a draft copy of the renewal charter with the consultation letter.

(d) If the Secretariat concurs in the renewal, the Secretariat will notify the agency head or the CMO.

(e) The agency head shall:

(1) Certify in writing that the renewal of the advisory committee is necessary and in the public interest;

(2) Shall publish notice of the renewal in the **Federal Register**; and

(3) Shall file a new charter.

(f) If the Secretariat does not concur that renewal of the advisory committee would be in the public interest, the Secretariat will inform the agency head in writing, with the reasons for nonconcurrence, within 30 calendar days of receipt of the agency head's consultation letter requesting renewal. The agency head must obtain the Secretariat's concurrence before the advisory committee can be renewed.

(g) No renewal consultation for an agency advisory committee directed by law is required if the duration of the advisory committee is otherwise provided by statute.

(h) For advisory committees directed by law, and for which duration is provided, the agency head shall file a new charter every two years after the date of enactment of the law directing the committee to be established.

(i) Renewal of an advisory committee established by the President, for a successive two-year period requires appropriate action by the President, and the filing of a new charter.

§ 101–6.1008–2 When do advisory committees terminate?

(a) Each agency advisory committee (agency-established or authorized by law) shall terminate not later than two years after its establishment or last renewal.

(b) Each agency advisory committee directed by law shall terminate not later than two years after its establishment unless its duration is otherwise provided by statute.

(c) Each advisory committee established by the President shall terminate on the date specified by the President in Executive order, but not later than two years after its establishment, unless renewed by the President.

V 45 A G 21 80 UMI

§ 101-6.1009 Reports.

§ 101-6.1009-1 What reports are agencies and independent PAC's required to submit to the Secretariat?

(a) Agency heads, chairpersons of independent PAC's, or their designees must submit to the Secretariat:

(1) An Annual Report (AR) by January 15 of each calendar year, on each advisory committee in existence at any time during the previous calendar year; and

(2) An Annual Comprehensive Review (ARC) by April 15 of each calendar year, on each advisory committee in existence at the end of the previous calendar year.

(b) The responsible agency head or the chairperson of an independent PAC, or their designees must submit two copies of each public report of a PAC whenever the PAC makes a public report to the President.

§ 101-6.1009-2 What is the Annual Comprehensive Review of Federal Advisory Committees?

(a) The Annual Comprehensive Review (ARC) required by FACA is a qualitative analysis of each advisory committee. This reporting requirement is being cleared in accordance with FPMR 101-11.11, and will be assigned interagency report control number——. Agencies and independent PAC's shall use the documents and procedures prescribed in § 101-6.1009-3 when preparing and submitting their ACR of Federal Advisory Committees.

(b) The ACR consists of an original and one copy of Standard Form —— (in process of being approved and printed; it will be available by the issuance of the final rule), Annual Comprehensive Review on Federal Advisory Committee. (See § 101-6.4901- ——.)

§ 101-6.1009-3 How do you prepare and submit the Annual Comprehensive Review?

(a) All CMO's shall complete an original and one copy of SF —— for each advisory committee in existence at the end of the calendar year being reported.

(b) For advisory committees authorized by law, or established under agency authority which were established, reestablished or renewed from January 1 through September 30 of the calendar year being reported, all CMO's shall complete the SF —— including item 10.

(c) For advisory committees authorized by law, or established under agency authority which were established, reestablished or renewed after September 30 of the calendar year being reported, all CMO's shall complete the SF ——, except for item 10.

(d) For advisory committees authorized by law, or established under agency authority which the agency proposes to continue or terminate in the same calendar year in which the ACR is due, CMO's shall complete the SF ——, except for item 10.

(e) If the agency decides to continue the committee the Secretariat will consider the agency head's consultation letter for renewal as the equivalent of item 10 of SF ——, the justification material of the ACR.

(f) Should the agency decide to terminate the committee, and after termination, decide to reestablish the committee, the Secretariat will consider the agency head's consultation letter for reestablishment as the equivalent of item 10 of SF ——, the justification material of the ACR.

(g) A letter signed by the agency head, chairperson of an independent PAC, or their designees shall be used to transmit the ACR.

§ 101-6.1009-4 What is the due date of the ACR?

The ACR is due on or before April 15 of each calendar year. Submit the report to the Committee Management Secretariat, Office of the Executive Director, National Archives and Records Service (mailing address: General Services Administration (NAM), Washington, DC 20408).

§ 101-6.1009-5 What is the Annual Report on Federal Advisory Committees?

The Annual Report (AR) on Federal Advisory Committees is a quantitative review of the numbers and status of Federal advisory committees as of December 31 of each calendar year. This reporting requirement has been cleared in conformance with FPMR 101-11.11. This reporting requirement has been assigned interagency reports control number 1121-GSA-AN. Agencies and independent PAC's shall use the documents and procedures prescribed in § 101-6.1009-6 when preparing and submitting their Annual Report on Federal Advisory Committees.

§ 101-6.1009-6 How do you prepare and submit the Annual Report?

(a) All CMO's shall submit to the Secretariat an original and four copies of the following:

(1) Standard Form 248, Annual Report on Federal Advisory Committee, and, if applicable, Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet);

(2) Standard Form 249, Membership List on Federal Advisory Committee, and, if applicable, Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet);

(3) Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet; and

(4) A letter of transmittal for the AR, signed by the agency head, or chairperson of an independent PAC, or their designees.

(b) The head of the organizational element responsible for the support of an advisory committee shall designate a person who shall prepare the SF 248 (and SF 248-A, if appropriate), the SF 249 (and SF 249-A, if appropriate) for that advisory committee. The person responsible for the preparation of these forms shall submit them to the agency CMO.

(c) The agency CMO shall prepare the SF 250 and the agency head's letter of transmittal. The information for the SF 250 is compiled from the data on the SF 248 and SF 249. (These forms are illustrated in §§ 101-6.4901-248 through 101-6.4901-250.)

(d) The CMO of an independent PAC shall prepare the SF 248, SF 249, and SF 250, and the chairperson's letter of transmittal.

§ 101-6.1009-7 What is the due date of the AR?

The AR is due on or before January 15 of each calendar year. Submit the report to the address contained in § 101-6.1009-4.

§ 101-6.1009-8 What other reports are agencies required to submit and to whom?

Agencies are required to submit eight (8) copies of each of the substantive reports of its advisory committees, including annual reports on closed or partially closed meetings, to the Library of Congress. The address is contained § 101-6.1007-1(b)(5). Agencies shall make these reports available to the public unless exempted by 5 U.S.C. 552.

§ 101-6.1009-9 -What is a 6(b) follow-up report and how is it done?

(a) Section 6(b) of FACA requires a follow-up report to the Congress, within one year after recommendations are made to the President in a public report of a Presidential advisory committee. These reports are required to state the President's proposals for action or the reasons for inaction, on recommendations made in the public report.

(b) The President or the President's delegate assigns responsibility for the preparation of the 6(b) follow-up reports. The assignee prepares the 6(b) report and submits it to the Secretariat.

(c) The Secretariat clears the report with the President or the President's delegate, and submits the report to the Congess.

§ 101-6.1010 Miscellaneous provisions.

§ 101-6.1010-1 Uniform pay guidelines.

(a) *Applicability.* These guidelines apply to the pay of members and staff, and contract amounts for consultants of an advisory committee, except that nothing in § 101-6.1010 shall affect a rate of pay or a limitation on a rate of pay that is specifically established by statute or a rate of pay established under the General Schedule classification and pay system in chapter 51 and subchapter III of chapter 53 of title, 5, United States Code.

(b) *Pay for members of an advisory committee.*

(1) Subject to the provisions of this paragraph, an agency may fix the pay of the members of an advisory committee to the daily equivalent of a rate of the General Schedule in 5 U.S.C. 5332 unless the members are appointed as consultants and compensated as provided in paragraph (d) of this section.

(2) In determining an appropriate rate of pay for the members of an advisory committee, an agency shall give consideration to the significance, scope, and technical complexity of the matters with which the advisory committee is concerned and the qualifications required of the members of the advisory committee.

(3) An agency may not fix the pay of the members of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-15, unless the agency head has personally determined that, under the factors set forth in paragraph (b)(2) of this section, a higher rate of pay is justified and necessary. Such a determination must be reviewed by the agency head annually.

(c) *Noncompensated services of an advisory committee member.* The provisions of this section shall not prevent an agency from accepting the noncompensated services of a member of an advisory committee, or a member of the staff of an advisory committee, provided that the agency has authority to accept these services without compensation.

(d) *Pay for the staff of an advisory committee.*

(1) Subject to the provisions of paragraph (b)(2) of this section, an agency may fix the pay of each member of the staff of an advisory committee at a rate of the General Schedule, General Management Schedule, or Senior Executive Service in which the staff member's position would appropriately be placed in the General Schedule, the General Management Schedule, or the Senior Executive Service classification system in chapter 51 of title 5, United States Code, applicable to the position.

(2) An agency may not fix the pay of a member of the staff of an advisory committee at a rate higher than the daily equivalent of the maximum rate for GS-15, unless the agency head has determined that, under the General Schedule, General Management Schedule, or Senior Executive Service classification system, the staff member's position would appropriately be placed at a grade higher than GS-15. Such a determination must be reviewed by the agency head annually.

(e) *Consultants to an advisory committee.* An agency may contract with a consultant to an advisory committee after giving consideration to the qualifications required of the consultant and the significance, scope, and technical complexity of the work. The contract amount shall not exceed the maximum rate of pay which the agency may pay experts and consultants under 5 U.S.C. 3109.

(f) *Reimbursable travel expenses for advisory committee members and staff.* The members and staff of an advisory committee, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703 for persons employed intermittently in the Government service.

(g) *Exclusions.* Nothing in § 101-6.1010 shall prevent:

(1) An individual who (without regard to his or her service with an advisory committee) is a full-time employee of the United States, or

(2) An individual who immediately before his or her service with an advisory committee was such an employee, from receiving compensation at the rate at which he or she otherwise would be compensated (or was compensated) as a full-time employee of the United States.

§ 101-6.1010-2 Committee Management Information System.

The Secretariat maintains a Committee Management Information System (CMIS) on Federal executive branch advisory committees. Information concerning the CMIS is issued in GSA bulletins in the FPMR series.

4. Subparts 101-6.11 through 101-6.48 are reserved as follows:

Subparts 101-6.11—101-6.48 [Reserved]

Subpart 101-6.49—Illustrations

5. Section 101-6.4901 is added to read as follows:

§ 101-6.4901 Standard forms.

(a) Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) The Standard forms illustrated in this § 101-6.4901 may be obtained from the Secretariat upon request. The address is contained in § 101-6.1009-4.

6. Sections 101-6.4901-248 through 101-6.4901- are added to read as follows:

§ 101-6.4901-248 Standard Form 248, Annual Report on Federal Advisory Committee.

§ 101-6.4901-248-A Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet).

§ 101-6.4901-249 Standard Form 249, Membership List on Federal Advisory Committee.

§ 101-6.4901-249-A Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet).

§ 101-6.4901-250 Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.

§ 101-6.4901- ——Standard Form ——, Annual Comprehensive Review of Federal Advisory Committee.

Note.—The forms illustrated in these §§ 101-6.4901-248 through 101-6.4901 —— are filed with the original document and do not appear in this proposed rule.

Dated: August 18, 1980.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 80-25536 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 94

[PR Docket No. 79-337; RM-3241; RM-3678; FCC 80-486]

Facilitating Operation of Low Power, Limited Coverage Systems in the 22.0-23.6 GHz Band and Creating a New Class of Low Power Unlicensed Microwave Device in the 24 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The FCC proposes amendment of Part 94 of its Rules to permit the operation of low power, limited coverage, non-frequency coordinated systems in the 22,000–23,600 MHz band.

This proposed amendment will facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz band and create a new class of low power unlicensed microwave device in the 24 GHz band.

DATE: Comments must be received on or before September 26, 1980, and Reply Comments must be received on or before October 14, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Donald D. Campbell, Office of Science and Technology, (202) 653–8176.

In the matter of amendment of Part 94 of the Commission's rules and regulations to facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz band, Docket No. 79–337, (RM–3241), and amendment of Part 15 of the Commission's rules to create a new class of low power unlicensed microwave device in the 24 GHz band, RM–3678. See also 45 FR 27457, April 23, 1980.

Adopted: August 1, 1980.

Released: August 19, 1980.

1. In a companion First Report and Order adopted today, the Commission amended Part 94 of its rules to provide for the operation of short haul, low cost, low power microwave communication systems in the band segments 21.8–22.0 GHz and 23.0–23.2 GHz with somewhat relaxed technical standards.[1] In taking this action, the Commission indicated that relaxed technical standards will permit the development of low cost equipment and will stimulate the use of this frequency band which is sparingly used at the present time.[2] The 22.0–23.6 GHz band is presently shared between the Government and non-Government fixed and mobile services. The only non-Government services who presently have access to the band are the common carrier and private fixed services. We are limiting our proposals contained in this document to the segment of the band primarily designated for private use.

2. During the course of this proceeding, two commenters, General Electric Company (GE) and M/A-Com, Incorporated (M/A-Com), questioned the necessity of frequency coordination for these low power devices. M/A-Com stated that the cost of frequency coordination may be considerably greater than any savings realized in relaxing the technical standards. GE stated that low power uncoordinated operations may meet the needs of some users. (However, GE indicated that other users may want coordinated, protected systems). Both GE and M/A-Com urged that Part 15 of the Rules be amended to allow operation of these devices without a license. GE also proposed that we adopt a temporary licensing program for these systems.

3. On 15 May 1980, M/A-Com Petitioned (RM–3678) the Commission to amend Rule Part 15 to accommodate the operation of low power microwave radio systems in the 24.05 to 24.25 GHz band. Part 15 of the Commission's rules provides for the operation of low power communication devices, auditory training devices, field disturbance sensors, biomedical telemetry devices, etc. The 24.05 to 24.25 GHz band is designated for Industrial, Scientific and Medical (ISM) applications under Part 18 of the Commission's Rules. GE supported M/A-Com's proposal to the extent that spectrum in the 22 to 24 GHz band would be provided to support low power, coordinated and un-coordinated radio communication systems. However, GE stated that the two proposals should be handled as separate proceedings. M/A-Com on the other hand suggested that "* * * due to the similarity of the issues presented by the two proposals, the public interest and administration convenience may well be served by consolidation of the two into a single proceeding."

4. The Commission feels that the issues involved in these proceedings (Docket 79–337 and RM–3678) are sufficiently similar to warrant their consolidation. Further, in adopting the rule changes set forth in the companion First Report and Order, the Commission will not delay the introduction of these new devices while the issues of frequency coordination and unlicensed operations are being resolved in this instant proceeding.

5. The Commission feels that there is merit in providing spectrum for a low power, non-frequency coordinated radio operation in the 22 to 24 GHz band. It is felt that these devices can meet certain needs for low cost, short-distance video, voice and data communications without the burden and expense of frequency coordination. These devices are envisioned to be highly directional and to have limited (short-range) interference potential. In addition, the devices are readily movable should interference be encountered. However, the Commission feels that such operations are not Part 15 in nature as proposed in RM–3678 and that some form of licensing is appropriate.[3]

6. In the companion First Report and Order, in this proceeding the Commission has designated four 50 MHz channel pairs in the 21.2 to 23.6 GHz band for use by low power microwave systems. The Commission is now proposing that one of these four channel pairs be designated for use without frequency coordination.[4] Thus the Commission proposes to re-allocate, on an exclusive basis, the spectrum in the 21.800–21.850 GHz and 23.000–23.050 GHz bands to licensed non-frequency coordinated operations (except within 25 kilometers of the Canadian and Mexican borders) and to impose the same technical standards set forth in § 94.91 of the Commission's rules. It should be noted that stations licensed to use either or both of these two 50 MHz segments will not be protected from any interference and will be required to cease operations if they cause interference to any other station located in Canada or Mexico or to a licensed domestic station operating outside these segments.

7. The public is invited to comment on the proposals presented herein and to specifically address the following questions:

(a) Is one 50 MHz channel pair sufficient for non-frequency coordinated operations?

(b) Should unlicensed operations of these devices be permitted? If so, under what conditions?

(c) Is there a need for temporary or point of sales licensing?

(d) Should these devices be subject to different technical standards then proposed herein?

(e) Is there a need to permit mobile operation and if so, what would the implication be on Fixed operations?

8. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before September 26, 1980, and reply comments on or before October 14, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

10. For further information concerning this Notice, contact Donald D. Campbell, FCC, Office of Science and Technology, Spectrum Planning Branch, Washington, D.C. 20554, telephone (202) 653–8176. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to members of the Federal Communications Commission in this proceeding must be disclosed in the public docket file. A summary of the Commission's procedure governing *ex parte* contacts in rulemaking proceedings is available from the Commission's Consumer Assistance Office, FCC Washington, D.C. 20554, (202) 532–2700.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–25484 Filed 8–20–80; 8:45 am]

BILLING CODE 6712–01–M

[1] FCC 2d.

[2] The Commission also indicated that the implimentation of the 1979 World Administrative Radio Conference and future growth in this band may impact these relaxed standards.

[3] Part 15 permits the operation without individual license of a variety of miniature transmitters on the condition that these devices will not cause harmful interference and that interference from other operation must be accepted. Devices included under Part 15 operate with low power and are widely distributed to the general public, such as wireless microphones, toy walkie-talkies and garage door openers. While the devices covered by this proceeding operate with low power, it does not appear that they meet the criteria of being widely distributed to the general public.

[4] The coordination referred to is the engineering analysis which is performed by the applicant to assure that his system will not cause/receive excessive interference. It does not refer to the process wherein the FCC and the Executive Branch perform a similar analysis with regard to systems of government agencies. Since the subject band is shared by government and private sectors, the Commission will perform such coordination.

47 CFR Part 63

[CC Docket No. 78–72; FCC 80–463]

MTS and WATS Markets Structure; Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Report and third supplemental notice of inquiry and proposed rulemaking.

SUMMARY: The Commission concludes that it should not adopt rules restricting the provision of interstate telecommunications services that are functionally equivalent to MTS or WATS in the nation as a whole. The record does not support allegations of detrimental effects of competition in the MTS and WATS market; an open entry for MTS/WATS is expected to produce benefits for the public. The Commission invities further comments with respect to the adoption of such rules for the Alaska submarket.

DATES: Supplemental comments of Alascom, Inc. must be received on or before October 17, 1980; reply comments on or before November 17, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Carl D. Lawson, Common Carrier Bureau (202) 632–9342.

Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking

Adopted: August 1, 1980.

Released: August 25, 1980.

In the matter of MTS and WATS market structure. CC Docket No. 78–72.

By the Commission: Commissioners Ferris, Chairman; Washburn and Fogarty issuing separate statements; Commissioner Quello concurring in the result.

I. Introduction

1. This proceeding was instituted in February 1978 in order to determine "whether the public interest requires that . . . MTS and/or WATS, or their functional equivalents, should be provided on a sole source basis (i.e., free from direct competition)." *Notice of Inquiry and Proposed Rulemaking* ("*Initial Notice*") 67 FCC 2d 757 (1978). The *Initial Notice* advised interested persons that we will also examine some related questions in this proceeding.

2. We subsequently issued a *Supplemental Notice of Inquiry and Proposed Rulemaking* ("*Supplemental Notice*"), 73 F.C.C. 2d 222 (1979), which invited interested persons to submit comments describing an optimal industry structure for the MTS–WATS market including an entry policy and other related regulatory policies which in combination will be most likely to produce results that further the goals of the Communications Act. Participants were encouraged to describe policies this Commission should adopt with respect to each of the following:

(1) Entry Policy for the MTS–WATS Market.

(2) Accounting Practices.

(3) Allocations of Investments and Expenses Among Jurisdictions.

(4) Contractual Arrangements Among Carriers for the Distribution of Interstate Revenues.

(5) Charges to Carriers for the Use of Facilities of Other Carriers.

(6) Other Forms of Tariff Regulation.

3. The *Supplemental Notice* did not restrict the regulatory policy section of the industry model comments to those six topics. The industry model comments do discuss some topics, such as planning and physical access arrangements, which may not be encompassed within that list.

4. After the industry model comments were filed, we concluded that certain questions relating to the compensation of local exchange carriers for the origination and termination of interstate telecommunications and the allocation of exchange plant investment and associated expenses between interstate and intrastate services should be resolved as soon as possible. We accordingly issued a *Second Supplemental Notice of Inquiry and Proposed Rulemaking* ("*Second Supplemental Notice*") (FCC 80–198, released April 16, 1980) which invited interested persons to comment upon a tentative plan for prescribed access charges and instituted a separate rulemaking proceeding (CC Docket 80–286), *Notice of Proposed Rulemaking and Order Establishing Joint Board* (FCC 80–339, released June 12, 1980), to amend jurisdictional separations rules.

5. This *Report and Third Supplemental Notice* will address the entry policy question and discuss other policy questions discussed in the industry model comments that have not been addressed in either the *Second Supplemental Notice* or the CC Docket 80–286 *Notice*. Part II of this Notice will address entry policy with respect to the MTS–WATS market generally. Part III will address entry policy questions.

relating to the Alaska submarket. Part IV will discuss regulatory policy questions other than entry policy, access charges, and jurisdictional separations.

II. General Entry Policy

A. Prior Developments

6. Entry policy questions rarely arose in domestic telecommunications markets during the first 30 years of regulation under the Communications Act of 1934. The telephone companies enjoyed a *de facto* monopoly with respect to most interstate voice communications at the time this Commission was created. Although hundreds of different telephone companies participated in the provision of long distance telephone services, each participating company provided all of the facilities within its territory and the through services were offered to the public at joint rates in which all the telephone companies concurred.

7. Western Union and the Postal Telegraph Co. were engaged in direct competition at the time this Commission was created, but that competition also disappeared when those companies merged in the 1940's. For the next several years competition in interstate telecommunications was largely confined to markets in which Western Union and telephone company services overlapped. This Commission was not obliged to determine whether additional competitors would or would not be desirable because we did not receive any applications for authority to construct or acquire facilities from potential new entrants.

8. In 1964 Microwave Communications, Inc. (MCI) filed an application with this Commission pursuant to Section 214 of the Communications Act, 47 U.S.C. 214, and pursuant to Title III of that Act for authority to construct a line of microwave towers between St. Louis and Chicago for the purpose of offering point-to-point private line services as a common carrier. That application was opposed by existing carriers that provided similar services. After extensive proceedings this Commission determined that the public interest would be served by granting the application. *Microwave Communications, Inc.*, 18 FCC 2d 953 (1969).

9. In 1970 this Commission issued a notice of proposed rulemaking instituting a proceeding to formulate a general policy with respect to the authorization of facilities for new common carriers. *Specialized Common Carrier Services*, 24 FCC 2d 318 (1970). It is apparent from that Notice that this Commission assumed the new entrants would concentrate upon meeting the needs of users who have special requirements that cannot be satisfied through telephone or telegraph services that are designed for the general public. This Commission noted that existing carriers had been somewhat sluggish in meeting the needs of persons who use telecommunications services in connection with data processing activities and observed that new entrants would probably be able to find a niche in the rapidly expanding data communications market. That *Notice* indicates that this Commission did not anticipate that such new entrants would have the ability to offer services that are directly competitive with telephone company services such as MTS or WATS.

10. This Commission subsequently determined that the public interest would be served by authorizing entities other than telephone or telegraph companies to construct facilities to enable such entities to offer "specialized" telecommunications services as common carriers. *Specialized Common Carrier Services*, 29 FCC 2d 870 (1971), *affirmed sub nom. Washington Utilities and Transportation Comm'n* v. *FCC*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975). The Commission opinion did not define "specialized" services.

11. Competition in interstate interexchange services did not develop in precisely the manner which this Commission anticipated in 1970 and 1971. The new entrants did not succeed in finding a secure niche in a "specialized" market, but some of them did succeed in developing services that are comparable to MTS or WATS. Datran's digital service was probably most representative of this Commission's 1971 conception of a specialized service that was tailored to emerging new communications requirements. Datran subsequently declared bankruptcy. New entrants such as MCI that offered services which are more comparable to telephone company services that have traditionally been described as "private line" also failed to realize significant profits as long as they confined their activities to such services.

12. In 1975 MCI offered a new service known as Execunet which this Commission found to be a functional equivalent of MTS and WATS. *MCI Telecommunications Corp.*, 60 FCC 2d 25 (1976), *reversed on other grounds, MCI Telecommunications Corp.* v. *FCC ("Execunet I")*, 561 F. 2d 365 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978). Southern Pacific Communications Company and United States Transmissions Systems, Inc. have subsequently introduced similar services known as Sprint and City-Call. Western Union recently introduced a service called Metro-Call that is also similar to Execunet. Execunet and similar services have been more successful in generating revenues and profits. Those services have expanded at a relatively rapid rate during the more than two years that have elapsed since we instituted this proceeding.

13. In *MCI Telecommunications Corp., supra*, this Commission rejected the MCI tariff for Execunet because we concluded that MCI had not been authorized to offer any service that is functionally equivalent to MTS or WATS. The Court of Appeals for the District of Columbia Circuit reversed that decision. *Execunet I, supra*. That Court held that this Commission's prior actions did not preclude MCI or other "specialized" carriers from offering services which this Commission did not anticipate at the time those carriers were authorized to construct facilities. The Court said that this Commission could restrict future service offerings in a Section 214 facility authorization by imposing conditions pursuant to Section 214(c) if we found that "the public convenience and necessity" requires such a restriction. However, that Court concluded that the *Specialized Common Carrier Services* decision does not contain such a finding. The Court concluded that although this Commission may not have anticipated that new entrants would offer services that are directly competitive with MTS or WATS, this Commission did not make any "affirmative determination of public interest need for restrictions" (561 F. 2d at 379) on MCI service offerings.

14. This Commission's *Specialized Common Carrier Services* opinion reveals that several of the participants in that proceeding did contend that the introduction of services that are competitive with MTS or WATS would produce effects which they claimed would be contrary to the public interest. That opinion also reveals that this Commission neither accepted nor rejected those claims because we did not anticipate that the new entrants would be offering such services. For example, AT&T claimed that new entry would deprive the public of the benefits of economies of scale by delaying the installation of large capacity facilities on high density routes. 29 FCC 2d at 910. This Commission concluded that competition "in the specialized field" would not be likely to have an impact on the "installation of high capacity systems to meet the growing communications requirements of all kinds." *Id.* at 912.

15. Our *Specialized Common Carrier Services* decision rejected claims of independent telephone companies that new entry could impair such companies' ability to provide service to their customers for essentially the same reasons. That opinion noted that the independents "participate in interstate services primarily by providing local distribution facilities and do not, with minor exceptions, furnish intercity facilities" and concluded that their business might increase because new entrants would be using their local distribution facilities. *Id.* at 914. We noted (fn. 37) that USITA claimed that reduced settlements for local distribution of services offered by the telephone companies might offset such increased revenues from the new entrants, but concluded that this concern was "groundless" because there was no reason to anticipate a substantial diversion of AT&T revenues.

16. Finally, we rejected an AT&T claim that new entry would undermine the nationally-averaged rate structure. We said that the uniform rate structure for interstate MTS and WATS "would not appear to be in jeopardy since those services are not being challenged competitively to any substantial degree by the services proposed to be offered by the aspiring new entrants." *Id.* at 915.

17. If this Commission had anticipated that the new entrants would be providing services that challenge MTS and WATS competitively to a substantial degree, we undoubtedly would have resolved questions with respect to the effect of such competition upon facilities development, local distribution revenues of independent telephone companies, and averaging of MTS rates in *Specialized Common Carrier Services*. This proceeding was designed in part to give the opponents of competition in interstate services another opportunity to present arguments which were not considered in 1971.

B. Comments of Participants

18. The industry model comments that were filed on March 3, 1980, indicate that most telephone companies have elected to forego that opportunity. Some telephone companies such as GTE, Rochester Telephone Corporation, and United Telecom Service, Inc. state that they now believe that competition in all interstate interexchange services will be beneficial to the public. Other telephone industry participants such as USITA indicate that they still believe such competition will produce some detrimental effects, but do not make any systematic effort to demonstrate that such effects will occur.[1] Although AT&T has presented an industry model that is based on the premise that all interstate interexchange services will be open to competition, the AT&T comments do not state whether or not it believes the net effects of interexchange competition will be beneficial to the public. Alascom, Inc. does contend that interstate interexchange competition in the Alaska submarket would produce detrimental effects that warrant service restrictions upon other carriers, but Alascom has not attempted to demonstrate any detrimental effects with respect to the nation as a whole. In these circumstances, it might be appropriate to confine the entry policy aspect of this inquiry to the Alaska submarket. However, we believe our obligations to the public require that we assess the likelihood that MTS–WATS competition will produce effects that have been suggested in the past.

19. Such an assessment is also warranted because some participants who advocate or accept competition apparently do believe that such competition will produce some of the effects that have been alleged in the past. For example, AT&T, GTE and Rochester Telephone apparently believe that a competitive environment will lead to a relative increase in local rates and a relative decrease in interstate MTS–WATS rates, GTE and USITA expect some de-averaging of interstate MTS rates, and United Telecom believes that some economies of scale will not be realized. Most of these participants apparently either believe such alleged effects will not be detrimental to the public in the long run or that such effects are outweighed by other effects of MTS–WATS competition that will be beneficial to the public.

20. Some of the industry model comments observe that MTS and WATS services would not be insulated from competition even if this Commission decided to preclude the new entrants from offering services such as Execunet which have been classified as functional equivalents of MTS or WATS. AT&T says that many services offered by the telephone companies and the new entrants that have traditionally been described as "private line" services, including FX, CCSA and point-to-point private line services, are in fact close substitutes for MTS or WATS and are used interchangeably with MTS, WATS, and Execunet-type services by many customers of interstate telecommunications services. AT&T observes that the traditional distinction between private line and message services has become obsolete with the development of electronic PBXs that will automatically route a particular call over point-to-point, FX, WATS, MTS or Execunet-type lines in order to enable a particular user to obtain the least costly combination of interexchange services to meet its needs. The use of such equipment in this manner indicates that most interexchange services, or at least services that can be used for voice communications are viewed as interchangeable by many customers.

21. Similar observations are contained in the comments of several other participants. MCI says that the MTS–WATS market is not a meaningful market because other services are highly cross-elastic. Southern Pacific says that MTS–WATS services are not readily distinguishable from other interexchange services. GTE says that the markets are converging. SBS says that neither MTS nor WATS exists as a separate and distinct market.

22. These observations do indicate that the MTS and WATS services of the telephone companies would not be insulated from competition if the newer entrants were confined to the type of services that such entrants offered prior to the introduction of MCI's Execunet service. Some participants may be suggesting that we should abandon the effort to establish an entry policy for an MTS–WATS market because a sole source policy for the MTS–WATS market described in our prior notices would not be effective. Such suggestions assume that it would be impossible to turn the clock back to a pre-1969 era by eliminating all interstate interexchange competition.

23. The *Initial Notice* in this proceeding did state that we do not propose "to reexamine in this proceeding those services which have been the subject of affirmative public interest findings as to industry structure, e.g. specialized interstate services including private line services, video transmission, switched data services, resale services, etc." 67 F.C.C. 2d at 758 (footnote omitted). However, our initial decision to limit the scope of this proceeding would not foreclose a broader reexamination of interstate interexchange competition in view of the evidence that prior assumptions with respect to the existence of meaningful market boundaries are obsolete or erroneous. If evidence has been

[1] The Rural Telephone Coalition also expresses concern that MTS–WATS competition will lead to higher interstate and local rates for persons who subscribe to the services of its members in the absence of Commission action to offset the effects of competition.

presented in this proceeding that demonstrated that the net effects of competition with MTS and WATS services will be detrimental to the public interest, this Commission could take appropriate steps to restrict competition in all interstate interexchange services.

24. Although it would not be practical to eliminate the new entrants or their facilities, it would be possible to eliminate competition without eliminating the existing competitors. The new entrants and their facilities could be integrated into a shared monopoly industry structure if such a result would serve the public interest. We have decided not to create a shared monopoly in interstate interexchange services because we are convinced, for reasons discussed in this *Report and Notice*, that competition in all interstate interexchange services is in the public interest and will further the goals of the Communications Act of 1934.

25. The conclusion rests in part upon an appraisal of the likely effects of competition with MTS and WATS that leads us to conclude that such competition is not likely to produce effects that could be characterized as detrimental.

C. Development of Optimal Facilities

26. As previously noted, AT&T contended in the *Specialized Common Carrier Services* proceeding that the introduction of competition could preclude or discourage the development of new high volume facilities and deprive the public of resulting efficiency benefits. This Commission concluded that competition in specialized services would not have sufficient impact to affect the development of telephone company facilities.

27. This Commission subsequently instituted a broad inquiry to appraise the economic effects of competition in both interstate private line services and terminal equipment. *Notice of Inquiry*, (Docket 20003), 46 FCC 2d 214 (1974). During the course of that inquiry this Commission examined telephone industry claims that economies of scale exist with respect to interexchange telecommunications generally that would not be realized in a competitive environment. We concluded that none of the studies presented in that inquiry demonstrate that significant economies of scale exist. See *First Report*, 61 FCC 2d 766 (1976), *Second Report*, 75 FCC 2d 506 (1980).[2]

[2] Those Reports noted reasons for concluding that private line competition will produce economically desirable results even if some economies of scale do exist. Those reasons are also applicable to MTS–WATS competition.

28. Although the industry model comments indicate that some participants still believe that economies of scale exist with respect to interexchange services generally that will not be realized if interexchange competition is permitted, no new studies have been presented for our consideration. In view of the deficiencies in the Docket 20003 studies that are described in the First and Second Reports in that proceeding, we could not conclude that nationwide service restrictions are warranted in order to preserve the benefits of economies of scale.

29. Some initial comments in this proceeding expressed a concern that interstate interexchange competition will lead to inadequate telecommunications facilities rather than excessive facilities. The *Supplemental Notice* observed (73 FCC 2d at 227): "Although some opponents of competitive entry assert that competition may lead to wasteful duplication, many of the opponents of competitive entry in the MTS-WATS market assert that a competitive market structure may not produce sufficient facilities redundancies to satisfy the nation's communications needs."

30. The industry model comments of AT&T and the Secretary of Defense [3] reiterate that concern. AT&T states that the public switched network has been configured "to maintain service during periods of natural or military disaster" through special features such as "redundant facilities, spare channels and protective switching." (AT&T industry model comments, p. 202.) It states that other provisions may be necessary in a competitive environment.

31. The Secretary's comments also state that competition may cause carriers to construct facilities at the lowest possible cost and that this could result in the elimination of features that are designed "to improve survivability" in the event of a natural disaster or a military attack. (Secretary of Defense Comments, p. 84). This would presumably be the case because the telephone companies could not remain competitive if they attempted to recover the cost of facilities which are not required to meet the normal peakload demands of commercial users from rates charged to all users.

32. Neither AT&T nor the Secretary of Defense contends that competition must be restricted in order to maintain an adequate national defense. AT&T says (Comments p. 203); "Future pricing policies will require that costs be borne directly by those causing them." The Secretary of Defense suggests that this Commission takes steps to assure that carriers do develop facilities that are adequate for emergency needs. The Secretary contends that such action would be approriate because Section 1 of the Communications Act, 47 U.S.C. § 151, states that the Act was enacted in part "for the purpose of the national defense" and "for the purpose of promoting safety of life and property."

33. We do not believe that it will be necessary to restrict competition or to impose special design requirements upon the carriers in order to meet national defense or other emergency needs. Any or all of the carriers in competitive markets will presumably be able and willing to provide any national defense facilities which the taxpayers are willing to finance.

34. In any event the record does not demonstrate that unrestricted competition in interstate interexchange services will produce any detrimental effect upon the national defense or the safety of life and property.

35. Perfect competition theoretically should produce optimal facilities in the long run. Although there is no guarantee that the competition that open entry is likely to produce in interstate telecommunications services will result in an optimal mix of facilities at all points at any given time, there is good reason to believe that such competition is more likely to result in an efficient allocation of resources than a monopoly industry structure. The discipline of the marketplace creates an incentive to engage in accurate forecasting which is not present in a monopoly environment. Therefore, we conclude that competition with MTS and WATS services is more likely to lead to an optimal mix of telecommunications facilities.

D. Effects Upon Independent Telephone Companies and Local Rates

36. The observation in the *Specialized Common Carrier Services* decision that the independent telephone companies are engaged primarily in local distribution is still true for the most part. The "minor exceptions" do, of course, include Alascom, Inc. Alascom is almost exclusively an interexchange carrier. A separate analysis must be performed to determine the possible impact of MTS and WATS competition upon Alascom.

37. Competition among interexchange carriers that use the same monopoly local exchange facilities cannot pose any substantial threat to local exchange carriers if each competitor pays comparable compensation for the use of

[3] The Secretary of Defense has filed comments as Executive Agent for the National Communications System.

local exchange facilities. The access services compensation questions are, of course, being addressed separately in another phase of this proceeding. Any access charges which are prescribed in that phase probably will not produce identical compensation for MTS and competing services of the telephone companies or "other" carriers because such charges must reflect differences in access arrangements to some extent. However, the aggregate compensation which exchange carriers receive for the origination and termination of all interstate services will be comparable to the aggregate access compensation such carriers would have received under existing access compensation mechanisms. There is accordingly no reason to expect that any of the present service offerings of carriers such as MCI, Southern Pacific or USTS will have a significant impact upon the revenues or profits of independent telephone companies that are primarily engaged in local exchange operations.

38. An entry policy which permits such competition could provide some of the independents with an opportunity to realize additional revenues and profits by offering interstate interexchange services outside the partnership arrangements in competition with the partnership and the existing new entrants. Most of the independents probably could not acquire the necessary capital to become independent factors in interstate interexchange markets, but some of the larger independents would appear to be prime entry candidates.

39. The independent telephone companies may, of course, be concerned about the possibility that the introduction of competition in interstate interexchange services could lead to a reduction in aggregate access service compensation. This Commission could not prescribe charges which reduce aggregate access service compensation in the absence of changes in the *Separations Manual*.[4] Our *Second Supplemental Notice* in this proceeding said (para. 53):

> Total interstate access charge revenue requirements for all interstate or foreign telecommunications services must be based upon the aggregate exchange plant costs allocated to interstate or foreign services through the jurisdictional separations process. Any other procedure would either permit carriers to recover the same costs in two different jurisdictions or preclude them from recovering some costs in any jurisdiction.

40. AT&T has asserted that the introduction of competition in interstate interexchange services will require changes in the jurisdictional allocation of exchange plant investment and associated expenses which will necessarily result in lower interstate costs and lower interstate access charges for all interexchange carriers including AT&T. Some other participants, including MCI, apparently concur with that view.

41. If competition did result in lower interstate access charges as a result of changes in separations allocations, the total revenues of independent telephone companies probably would not be reduced. Such a change would increase intrastate investment and expenses which state Commissions take into account in determining aggregate intrastate revenue requirements. The state Commissions would presumably revise intrastate rates to enable carriers to realize the same rate of return upon a revised intrastate rate base. The constitutional requirement that rates be fixed at a compensatory level might preclude the state commissions from following any other course. See, e.g., *Smyth* v. *Ames*, 169 U.S. 466 (1898).

42. An increase in intrastate rates might be viewed as an effect that is detrimental to the public interest. The participants that expect such a result to occur apparently view such an effect as beneficial. They claim that the present allocation of costs and the resulting relative rates do not produce results that promote economic efficiency.

43. We need not resolve that public interest question in this proceeding unless we have reason to believe that the introduction of competition is likely to cause a realignment of relative rates. Our *Initial Notice* expressed a preliminary view that questions relating to charges that "should be levied on interstate services to support local exchange services" and "the industry structure question for MTS and WATS . . . can be independently resolved." 67 F.C.C. 2d at 759. We still believe that our preliminary conclusion that the "subsidy" and entry policy questions are not inextricably linked is correct.

44. Persons who claim that interstate services subsidize local exchange services really mean that the present allocation of exchange plant investments and expenses between interstate and intrastate services produces a larger allocation to interstate services than some other allocation would produce. The "subsidy" represents the difference between local exchange service revenue requirements calculated under the present allocation formula and the revenue requirements which would be calculated under some hypothetical formula that allocates a smaller portion of the costs to interstate services.

45. The allocation of exchange plant investment will be reexamined by a Joint Board composed of federal and state commissioners in CC Docket 80–286 and that reexamination may result in an increase or a decrease in the interstate allocation or the adoption of a new formula or formulae which produce about the same aggregate result as the methods which are currently used to allocate exchange plant investment and associated expenses. However, it would not be accurate to say that the presence of competing interexchange carriers that use the same monopoly exchange facilities to originate or terminate interstate interexchange services caused any result that may emerge in CC Docket 80–286. The presence of such competition does not affect this Commission's discretion to establish and maintain an allocation that is fair, just, equitable and lawful.

46. New entrants do, of course, have an incentive to present arguments to the Docket 80–286 Joint Board, this Commission and any reviewing court that would support an allocation formula that results in lower access charges. If their arguments are ultimately found to be valid, one might say that interstate interexchange competition indirectly caused an increase in local exchange rates. However, such a result could not be described as contrary to the public interest if it is based upon a determination that justice, equity or the applicable law requires that a larger portion of exchange plant costs be allocated to intrastate services.

47. Moreover, it would probably be inaccurate to assign much of the credit or blame for any changes that may result from the CC Docket 80–286 proceeding to the new entrants that compete with MTS or WATS. AT&T and GTE also advocate changes in the *Separations Manual* that could lead to higher local exchange rates. Those carriers might take the same position if MTS–WATS competition did not exist. A separations change that reduces the allocation to interstate services and increases the allocation to intrastate services would enable AT&T to reduce rates for services that have a relatively more elastic demand and to increase rates for services that have a relatively less elastic demand.

[4] A decision to reduce the allowable rate of return for access services would, of course, reduce access service compensation without changes in the *Separations Manual*. The *Separations Manual*, which has been adopted as Part 67 of this Commission's Rules, establishes rules for the allocation of investment, expenses and revenues between interstate and intrastate services. See the *CC Docket 80–286 Notice, supra.*

V 45 AG 21 80 UMI

48. CC Docket 80-286 would probably have been initiated at about the same time if the new interexchange carriers did not exist. The reexamination of exchange plant allocations was prompted in part by our recent decision to deregulate customer premises terminal equipment. See our Final Decision in the *Second Computer Inquiry* (F.C.C. 80-189, released May 2, 1980). That decision resulted from the emergence of competition in terminal equipment markets. Although terminal equipment competition and interstate interexchange service competition developed at about the same time, these developments are the product of a series of changes in technology and court and Commission decisions that are largely independent of each other.

49. Inasmuch as interexchange competition is not likely to impair the ability of independent telephone companies to provide service to their subscribers and will not cause an increase in local exchange or other intrastate rates, a restriction upon interstate interexchange competition could not be justified in order to prevent such effects.

E. Effects Upon Interstate MTS Rates

50. As previously noted, our *Specialized Common Carrier Services* opinion dismissed AT&T's claim that interexchange competition would lead to the abandonment of the averaged uniform rate structure for MTS because we found that the kind of services the new entrants would be providing could not affect MTS rates. The introduction of Execunet and similar services obviously casts doubt upon that finding. The *Initial Notice* accordingly advised interested persons that we have decided to examine claims that unrestricted interexchange competition will undermine the averaged rate structure for MTS.

51. The *Initial Notice* stated that this Commission has never "approved or prescribed any particular rate structure for MTS" and that a determination that the public interest requires a uniform rate structure for some kind of MTS service would "possibly foreclose competitive offerings of the same kind of MTS services." 67 FCC 2d at 759-760. In other words, we assumed that this Commission has not established any policy with respect to MTS rate averaging and that a decision that MTS rate averaging should be preserved would probably foreclose MTS competition.

52. The *Supplemental Notice* elaborated somewhat upon the nature of the rate averaging question. That *Notice* said (73 F.C.C. 2d at 227-228):

> Many participants apparently agree that we should examine telephone industry claims that the MTS rate structure is and should be based upon rate averaging which has been alleged to equalize rates for low cost and high cost routes. Proponents of a sole source market structure have asserted that new entrants will inevitably limit their services to low cost, high density, routes and that such "cream skimming" will compel the former sole source providers of MTS service to adopt a de-averaged rate structure which will result in increased rates for high cost, low density, routes. Some proponents of a multiple source market structure question whether deviations from cost of service pricing do or should exist.

53. Some of the industry model comments question both of the preliminary assumptions expressed in the *Initial Notice*. Some participants claim that the existing interstate MTS rate structure does reflect a national policy that such rates should be averaged. Some participants claim that the introduction of competitive offerings will not affect the interstate MTS rate structure.

54. If competition will not affect the MTS structure, it would not be necessary for us to determine whether we have adopted or should adopt a policy in favor of rate averaging. Nonetheless, we believe a historical review of the evolution of rate averaging would be helpful. Such a historical review is particularly relevant to questions relating to the Alaska submarket that will be addressed in Part III.

55. The Rural Telephone Coalition relies primarily upon three orders to support its contention that a national policy in favor of averaged MTS rates has already been established—a 1918 order of the Postmaster-General, a 1941 decision of this Commission, and a 1976 decision of this Commission. Other participants have cited some of the same actions.

56. The Postmaster-General's 1918 order first established uniform rates for interstate long distance calls of comparable distance. That action clearly represented a form of governmental coercion and probably represented a policy determination upon his part that the public interest would be served by making telephone companies more like the Post Office. However, his action does not have the same status as a regulatory decision to prescribe a uniform rate structure. The Postmaster-General was really acting in a managerial capacity under special wartime powers. The regulatory powers which this Commission inherited were vested in the Interstate Commerce Commission. The ICC apparently did not take any action to prescribe or prohibit averaged rates. The carriers were free to retain or eliminate averaged rates after control of the telephone companies was returned to the owners. See *AT&T* v. *FCC*, 487 F. 2d 864 (1973). Either decision would have been subject to challenge under the Interstate Commerce Act (or the Communications Act after 1934) in the same manner that any other uninvestigated carrier-made tariff provision is subject to challenge at any time.

57. The Long Lines Division of AT&T did elect to retain averaged interstate rates after the wartime controls terminated. Bell Operating Companies (BOCs) and independent telephone companies concurred in the Long Lines tariffs. At that time Long Lines tariffs were limited to calls between points in areas served by different BOCs. BOCs that operated in more than one state filed their own interstate tariffs for calls between points in states in which they operated. The BOCs initially adopted the Long Lines mileage rates for their areas, but Pacific Telephone and Telegraph Co. departed from the industry pattern in 1926 and maintained higher interstate rates for the Pacific territory (California, Nevada, Oregon, Washington and northern Idaho) during most of the period from 1926 to 1941. Pacific Telephone published two interstate rate schedules during that period—an "interstate Pacific" schedule for calls between points in the Pacific territory and an "other interstate" schedule for calls to other points.

58. In 1941 this Commission ordered Pacific Telephone to reduce its "interstate Pacific" rates to the same level as its "other interstate" rates. *Dept. of Pub. Svc. of Wash.* v. *Pacific Tel & Tel. Co.*, 8 FCC 342 (1941). The *Pacific Telephone* decision was not based upon a determination that all interstate rates should be averaged regardless of differences in costs. This Commission concluded that Pacific Telephone had violated Section 202(a) of the Communications Act, 47 U.S.C. § 202(a), by adopting different rates for calls of the same distance which were not justified by differences in costs. The record demonstrated that Pacific Telephone's decision to adopt two different rate schedules were not based upon cost considerations and the record did not demonstrate that per mile costs within the Pacific territory differed from per mile costs to other points.

59. We believe *Pacific Telephone* should be interpreted as enforcing the Section 202(a) prohibition of unreasonable discrimination and preferences by establishing the principle that different rates for comparable

distances cannot be established in the absence of evidence that the rate differentials reflect cost differentials. *Pacific Telephone* does not hold that rates must be uniform notwithstanding proven cost differentials. That issue was not presented in *Pacific Telephone* and has not been squarely presented in any subsequent case.

60. We did address rate averaging questions again in the Second Report and Order in the Domestic Communications Satellite Facilities proceeding (*"DOMSAT II"*), 35 FCC 2d 844 (1972).[5] Although interstate MTS is sometimes described as a service that is offered nationwide at uniform rates, interstate MTS is not and never has been offered at uniform rates to all domestic points. The "uniform" rate schedules which AT&T filed after the *Pacific Telephone* decision were limited to the then 48 states and the District of Columbia. That territory corresponds with the area in which AT&T does business. AT&T established joint rate arrangements with carriers that operated at other domestic points such as Alaska, Hawaii and Puerto Rico which generally established higher rates for comparable distances.

61. In *DOMSAT II* this Commission decided that any Section 214 authorizations to use satellite facilities to serve Alaska, Hawaii or Puerto Rico would be subject to a Section 214(c) condition that the applicant submit and implement a proposal for the revision of domestic rates to those points.[6] This Commission said:

> In case of message telephone service (MT), any such proposal shall give maximum effect to the elimination of overall distance as a major cost factor and should be designed, in specified time phases if necessary, to integrate these three United States points into the uniform mileage rate pattern that now obtains for the contiguous states, with all that such approach implies in terms of nationwide cost averaging and equalizations for interstate rate making purposes. 35 F.C.C. 2d at 857 (footnote omitted).[7]

62. *DOMSAT II* did not explain precisely what that "approach" does imply. That statement conceivably could be interpreted to mean that this Commission has determined that nationwide rate averaging for MTS is in the public interest and has accordingly prescribed that existing averaging shall continue and that the unaveraged points be integrated into the system. However, it would not be reasonable to suppose that this Commission would decide a question that had remained open for over 50 years in such an offhand manner. Moreover, such an interpretation would be somewhat inconsistent with the actions we took in *DOMSAT II*. We did not order the immediate elimination of the rate disparities and we indicated that we might permit some disparities to continue.

63. *DOMSAT II* should be interpreted as implicitly recognizing that a rate structure which averages rates in 48 states and de-averages rates in 2 states may subject the residents of those two states to an unreasonable prejudice or disadvantage within the meaning of Section 202(a). Our decision does not preclude the carriers from de-averaging rates to all points including Alaska and Hawaii. We have not decided that averaging is preferable to de-averaging. We have decided that a rate structure which uses different ratemaking methods to determine the rates which different users pay for comparable services is inconsistent with the national policy expressed in Section 202(a). We have accordingly required carriers to take appropriate steps to eliminate partial or selective de-averaging in an orderly manner.

64. Inasmuch as the prior decisions of this Commission do not prohibit route-by-route pricing of MTS that is based upon actual cost differentials, we must consider the possibility that interexchange competition will cause the carriers that provide MTS to adopt such a rate structure. For reasons explained hereafter, we find that assertions that interexchange competition will lead to such de-averaged MTS rates are probably unfounded.

65. Although Execunet and similar services have expanded considerably since we issued the *Initial Notice* in this proceeding, the growth of such services has not led to the filing of de-averaged MTS tariffs. AT&T's industry model comments state that it has no present plans to file a de-averaged MTS tariff if this Commission refrains from restricting services that are competitive with MTS. However, the AT&T comments do state that such competition might lead to de-averaged MTS rates at some point in the more distant future.

66. This experience and AT&T's statement provide some basis for finding that de-averaging is not imminent. Other reasons exist for concluding that MTS rates are not likely to be de-averaged in the more distant future unless this Commission concludes that de-averaging will serve the public interest. If we reach such a conclusion in a subsequent proceeding, de-averaging will not be caused by the mere presence of competition in interstate interexchange markets.

67. De-averaging could theoretically reflect differences in exchange costs or differences in interexchange costs or differences in both exchange and interexchange costs. This Commission has tentatively decided that prescribed access charges based upon nationwide average costs for the use of local exchange facilities should be used in computing interstate MTS rates. See *Second Supplemental Notice, supra*. If the final access charge plan is based upon that approach, any de-averaging of interstate MTS rates will necessarily be limited to differences in interexchange transmission costs. Our tentative decision was not based upon a determination that rate averaging should be preserved. We concluded that prescribed access charges should be in place as soon as possible and that it would be necessary to base the initial charges upon nationwide averages in order to achieve that goal. We might prescribe de-averaged access charges at some future time. However, we can and will examine all of the possible consequences before we make such a decision. Any indirect effects upon the MTS rate structure will not be forced upon us by the presence of competition in interstate interexchange services.

68. It seems unlikely that interstate interexchange competition will provoke the filing of an MTS tariff that reflects differences in transmission costs between local exchange switches. Rochester Telephone's industry model comments note that competition does not inevitably lead to de-averaged prices. Sellers do charge averaged prices in many other industries that are quite competitive. They do so in order to avoid the administrative costs of computing de-averaged prices. That cost would be substantial in pricing a service such as MTS.

69. The assertion that competition will lead to de-averaging in the telecommunications industry is based upon a scenario that assumes competition will be confined to a few high density routes with below average costs. That scenario also assumes that such competition will cause the telephone companies to lower rates on the high density routes and to increase rates on low density monopoly routes. The telephone companies have never presented concrete evidence that the costs are lower in the major metropolitan markets. Even if such costs are lower, it seems doubtful that the

[5] The 1976 order cited by the Rural Telephone Coalition summarizes the portion of the *DOMSAT II* order relating to rate averaging.

[6] The same requirement was subsequently applied to carriers serving the Virgin Islands.

[7] MTS was often called MTT at that time.

III. Alaska Entry Policy

telephone companies would choose to incur the administrative costs of de-averaging and to sacrifice profits from the highest volume routes for the service which yields the greatest revenues to the telephone companies unless the new entrants diverted a very substantial portion of the MTS traffic on such routes. Sellers in near monopoly markets usually do not forego high profits in order to meet prices of rivals that serve only a small fraction of the market. The new entrants would have to increase their market penetration considerably in order to have a major impact upon the MTS revenues of the telephone companies on any route.

70. MCI claims that the scenario which the telephone companies have advanced in the past is incorrect for another reason. That scenario assumes new entrants will follow a marketing strategy that will not serve their best interests. Although the high density routes may be relatively more profitable from the telephone companies' perspective, MCI claims that it cannot maximize its own profits by limiting its service to a few routes with very dense traffic. It has apparently discovered that there is more demand for relatively universal services than for services of limited geographic scope and that the addition of another city produces revenues that exceed the additional costs of extending its service. MCI indicates that it accordingly plans to continue to expand the geographic coverage of its service as rapidly as possible.

71. The MCI scenario is plausible. It is also consistent with the course that all of the new entrants have been following. The new entrants have already expanded beyond the major metropolitan markets. This does not mean that any of the new entrants will be offering a truly universal service in the near future. There may be a point of diminishing returns at which the thinnest routes will not yield sufficient revenue to induce new entrants to extend their services to those points. However, it seems likely that the expansion of the new entrants will be sufficiently rapid and pervasive to preclude the telephone companies from recouping all lost revenues on competitive routes from increased rates on monopoly routes. The remaining traffic upon monopoly routes will not be sufficient to make such a pricing strategy attractive to the telephone companies. Substantial rate increases on the thinnest routes would produce a net loss in revenues and profits.

72. Of course, the MCI scenario may not be correct or AT&T may still believe in the telephone company scenario even if the MCI scenario is correct or the telephone companies might conclude that de-averaging in a fully competitive market would serve their interests. Therefore, we cannot exclude the possibility that the telephone companies will elect to de-average MTS rates in the absence of regulatory restraint.

73. Any analysis of the likelihood of de-averaging must take regulatory restraints into account. Although we have not prohibited de-averaging, our *Pacific Telephone* decision does establish a rule that a carrier that chooses to adopt non-uniform rates must present adequate evidence of cost differences in order to justify such rates.

74. *National Small Ship. Traf. Conf.* v. *United States*, 321 F. Supp. 500 (S.D.N.Y. 1970), is illustrative of the difficulties carriers would be likely to encounter in justifying rate increases resulting from MTS de-averaging. A motor carrier rate bureau attempted to revise its rate structure for less than truckload shipments by filing a tariff with the Interstate Commerce Commission that increased rates in the 101–499 lb. categories and decreased rates in the 1000 lb. and over categories. Although the court acknowledged that the data indicated that shipments in the 101–499 lb. categories were relatively underpriced (*id.* at 510), the court held that the ICC had erred in accepting the rates as lawful on the basis of the cost studies the rate bureau had presented to justify those particular rate increases. The court concluded that the cost studies were not sufficient to satisfy the carrier's burden of proof under Section 216(g) of the Interstate Commerce Act, 49 U.S.C. 316(g).[8]

75. Inasmuch as Section 216(g) of the Interstate Commerce Act is closely analogous to Section 204 of the Communications Act, the telephone companies would necessarily be subject to equally onerous cost justification burdens if they elected to raise MTS rates upon some routes as part of a general de-averaging. They could not rely upon "common knowledge" that costs are generally higher upon low density routes. They would have to demonstrate that the increased rates for particular routes accurately reflect the costs for those particular routes.

76. The telephone companies did not succeed in meeting that burden when they elected to de-average private line rates. AT&T has never succeeded in demonstrating that the Hi-Lo tariff or the replacement MPL tariff produces just and reasonable rates for all routes. See *AT&T Co.* (Docket 20814), 74 F.C.C. 2d (1979). Cost data submitted by AT&T in its Central Submissions indicate that cost information on a route-by-route basis is not now available to it for MTS or any other service.

77. Thus, MTS de-averaging will not occur unless the telephone companies elect to de-average and succeed in establishing that the particular de-averaged rates they have selected are just and reasonable. The record in this proceeding does not establish that such an occurence is very likely. Therefore, even if MTS de-averaging were deemed to be a detrimental effect, the record would not support the imposition of service restrictions in order to avoid that effect.

78. Moreover, the record in this proceeding would not be sufficient to justify a conclusion that MTS de-averaging would be contrary to the public interest. Rate averaging is arguably discriminatory because users with different costs pay the same rate. De-averaging that accurately reflects costs to every point conceivably might impose a substantial hardship upon users at points with exceptionally high costs. However, some recent legislative proposals have included subsidy schemes to alleviate such hardships. Although the present Act might not give this Commission sufficient discretion to adopt such a scheme, we are confident that Congress would enact any necessary enabling legislation if users in sparsely populated areas are ever subjected to rate increases that would produce a severe hardship for them.[9]

79. Neither the record in this proceeding nor our experience in the regulation of the telecommunications industry provides any basis for concluding that any form of interstate interexchange competition is likely to produce any allegedly detrimental effect upon the development of optimal facilities, the viability of independent telephone companies, or rates for any intrastate or interstate service that would warrant any service restrictions with respect to the nation as a whole.

[8] Seven years later the Court of Appeals for the District of Columbia Circuit concluded that new cost studies presented in ICC proceedings that followed the remand in *National Small Shipments I* were also deficient. See *National Small Shipments, etc.* v. *I.C.C. (National Small Shipments III)*, 590 F.2d 345 (1978), for an explanation of the decision without opinion in *National Small Shipments Traffic Conference, Inc.* v. *ICC (National Small Shipments II)*, 564 F.2d 600 (1977).

[9] Basic theorems of welfare economics might suggest that direct subsidies are preferable to pricing distortions.

III. Alaska Entry Policy

A. Detrimental Effects

80. Alascom's comments present essentially the same arguments for restricing interstate competition between points in Alaska and points in other states as were presented for restricting competition generally. Alascom claims that such competition will result in a wasteful duplication of facilities, will impair Alascom's ability to provide essential services to Alaska residents, will lead to increases in local exchange rates in Alaska, and will lead to a de-averaging of interstate rates to and from Alaska points which will impose a substantial hardship upon Alaskans who do not reside within the Anchorage exchange area.

81. It appears likely that any carrier that is permitted to offer interstate interexchange services in the Alaska submarket in competition with Alascom will choose to lease Alascom facilities. If this is the case, then any question with respect to the duplication of facilities will be academic.

82. If any new entrants in the Alaska interstate submarket use facilities that have been leased from Alascom, Alascom's intrastate toll rates presumably would not be affected. If the present *Separations Manual* formula is applied to Alaska, interexchange plant investment would be allocated between interstate and intrastate services on the basis of usage and distance factors. Those factors presumably would not change if the end user obtained the service from a carrier that leased facilities from Alascom instead of obtaining the service directly from Alascom. Therefore, Alascom's intrastate rate base and expenses would not be affected.

83. This Commission has not yet determined whether Alaska separations should be based upon the same allocations that are used in the contiguous states. However, AT&T and Alascom have recently agreed to recommend that Alaska separations be computed in that manner. For purposes of assessing the likely effects of competition, it would be reasonable to assume that this recommendation will be followed. If some formula were adopted which is less favorable to Alaska intrastate users, the effects would not be attributable to competition.

84. Diversion of MTS business to an Alascom competitor that used Alascom facilities could, of course, have an effect upon Alascom's profits. Alascom might not receive as much profit from leasing facilities as it derives from providing MTS. However, Alascom's assertion that it would be required to raise intrastate toll rates if it lost some of the "support" which its interstate settlements revenue provides for intrastate services (Alascom comments, pp. 131, 135) is incorrect. Alascom's intrastate rates are regulated by the state. The United States Supreme Court has held that state regulators may not consider interstate profits or losses in establishing intrastate rates. *Smyth* v. *Ames, supra.* The Court said (169) U.S. at 541): "The state cannot justify unreasonably low rates for domestic transportation considered alone, upon the ground that the carrier is earning large profits on its interstate business over which, so far as rates are concerned, the state has no control. Nor can the carrier justify unreasonably high rates on domestic business upon the ground that it will be able only in that way to meet losses on its interstate business."

85. Alascom also claims that competition would be detrimental because Alascom would be required to increase its interstate rates to points other than Anchorage to offset the loss of revenues in the Anchorage market. Alascom comments, p. 135. That claim is also illusory because Alascom does not have discretion to increase such rates. As previously noted, all Section 214 authorizations for the use of satellite facilities to serve Alaska have been subject to a Section 214(c) condition that the carrier devise and implement a plan for integrating Alaska interstate rates with the uniform rate structure in the contiguous states. Alascom has received such authorizations and has agreed to eliminate the rate disparities between Alaska rates and other rates. Although the final step has been deferred, any tariff filing that increases the rate disparity to any or all Alaska points would clearly violate the Section 214(c) condition Alascom has accepted and would accordingly be rejected in the absence of a Commission decision to waive that condition. In view of our policy against partial or selective de-averaging, it is difficult to envision any circumstances that would induce us to grant such a waiver.

86. Inasmuch as any reduction in Alascom's profits from interexchange services between Anchorage and other domestic interstate points will not be recouped from increased intrastate rates or increased interstate charges at other Alaska points, we must consider whether such competition could produce a reduction in profits of sufficient magnitude to impair Alascom's ability to provide interstate and intrastate services. If it could produce such a result, we must also assess the possibility that the needs of Alascom's customers would be met by others.

87. Competition conceivably may have a different impact upon Alascom than it does upon independent telephone companies because Alascom is essentially an interexchange carrier. However, service restrictions in the Alaska submarket cannot be justified by Alascom's assertions that such competition could have a crippling effect on Alascom. Alascom's industry model comments do not contain the kind of quantitative analysis which paragraph 42 of the *Supplemental Notice* (73 FCC 2d at 243–44) states will be necessary to support a detrimental effect finding. Nevertheless, we will not terminate the inquiry with respect to Alaska entry policy. Alascom will be afforded one more opportunity to perform the required analysis because it probably would have been difficult to perform such an analysis at the time the industry model comments were filed. It would be necessary to make some assumptions with respect to separations, settlements and rates in order to perform any quantitative analysis of the possible effects of competition upon Alascom revenues or profits. All of those things were very much in flux at the time the industry model comments were filed.

88. Alascom and AT&T have subsequently entered into an agreement with respect to those subjects. The agreement is contingent upon adoption of their recommendation with respect to separations and this Commission's approval of their agreement with respect to rates and settlements. We have not yet acted upon either proposal.

89. Nevertheless, we believe it would be appropriate to assess the possible effects of competition with MTS and WATS in the interstate Alaska submarket on the assumption that those proposals will be adopted. If the evidence demonstrates that competition would produce detrimental effects under those circumstances, we can weigh the costs and benefits of imposing service restrictions or modifying the agreement to offset those effects.

90. Our further inquiry with respect to entry policy will accordingly be limited to a particular submarket. If Alascom does not choose to file Supplemental Comments or fails to make a threshold showing that the competitive offering of voice services will have a crippling effect upon Alascom which will impair the availability or quality of services available in Alaska, we will terminate the entry policy inquiry. If Alascom does make such a threshold showing, we will weigh such effects in determining whether service restrictions in the

Alaska submarket would serve the

the certificate to further the national

implicit immunity from the antitrust

to restrict competition. The language

776. Alascom would apparently infer

been observed in a great variety of

Alaska submarket would serve the public interest.

B. Beneficial Effects Are Not Required

91. We have noted Alascom's contention that other carriers that propose to offer competing interstate services in the Alaska submarket should be required to make a showing that competition will produce beneficial effects before we weigh the costs and benefits of competition. We do not find that contention persuasive.

92. Alascom's contention is apparently based on the premise that any carrier that seeks a Section 214(a) certificate in order to compete in a new market must demonstrate that competition is desirable in order to obtain the right to compete even though a finding of detrimental effects would be necessary to impose a Section 214(c) condition restricting service offerings of a carrier that has received a Section 214(a) certificate. Alascom notes that the *Execunet I* opinion was based upon an analysis of Section 214(c) and that no carrier other than Alascom has received a Section 214(a) certificate to construct, acquire or operate a line betwen Alaska and other states. Alascom declares (Alascom comments, p. 109): "Until the Commission can make findings that the public interest will be affirmatively served by additional entry, it may not authorize competition either in response to particular [Section 214(a)] applications or as a general rule or policy."

93. The assumption that the second and subsequent entrants must demonstrate that competition is likely to produce affirmative benefits in order to obtain a Section 214(a) certificate appears to be based upon Alascom's interpretation of *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86 (1953). *RCA Communications* did hold that this Commission erred in granting a Section 214(a) certificate authorizing a carrier to construct facilities to provide radiotelegraph services on two routes that were already served by another carrier without warranting that the Commission believed the additional competition would produce any benefits for the public. However, *RCA Communications* did not hold that such a warranty is required whenever this Commission grants a Section 214(a) certificate. The Commission had granted a certificate in *RCA Communications* even though it found that additional capacity would not be needed to meet expected demand on the affected routes and that the second carrier's entry would not be likely to result in new or better services or lower prices. The Commission said that it was granting the certificate to further the national policy of competition. The Supreme Court concluded that a national policy of competition is not sufficient, in and of itself, to justify a determination that the creation of excess capacity will serve the public interest. The Court remanded the proceeding to the Commission to permit the Commission to determine whether the introduction of competition on those particular routes would be likely to produce benefits that would outweigh the detrimental effect of creating excess capacity.

94. The Court clearly did not hold that the Communications Act creates a presumption against competition. It did not even conclude that the Act is neutral with respect to monopoly or competition. Although the Court said that encouraging competition is not the single or controlling factor in a public interest determination, the Court also said that a regulatory agency may draw "on competition for complementary or auxiliary support." *Id.* at 93. In other words, an increase in competition is an affirmative benefit which may be weighed against detrimental effects in making a public interest determination. The regulatory agency has considerable discretion in weighing such costs and benefits, but it cannot assume that any increase in competition will outweigh any detrimental effect.

95. Subsequent Supreme Court decisions indicate that a regulatory agency must give substantial weight to competitive effects in making any determination under a public interest standard in a regulatory statute. Although some of the language in the *RCA Communications* opinion indicates that a majority of the Court then believed that competition in regulated industries is a minor benefit, more recent Supreme Court opinions indicate that their successors do not share that belief. In *U.S.* v. *Philadelphia Nat. Bank*, 374 U.S. 321, 372 (1963) the Court declared "that competition is our fundamental national economic policy" and concluded that extensive regulation does not exempt the banking industry from that fundamental economic policy. See also *Carnation Co.* v. *Pacific Conference*, 383 U.S. 213, 218 (1966). The Court said in *Philadelphia Nat. Bank* (374 U.S. at 732): "The fact that banking is a highly regulated industry critical to the Nation's welfare makes the play of competition not less important but more so."

96. Although the statements in the *Philadelphia Nat. Bank* and *Carnation* opinions were made in the course of rejecting claims that members of regulated industries enjoyed some implicit immunity from the antitrust laws, the Court has also stressed the importance of the fundamental national economic policy in reviewing regulatory decisions pursuant to a public interest standard in a regulatory statute. In *Gulf States Utilities Co.* v. *FPC*, 411 U.S. 747 (1973), the Court held that the Federal Power Commission erred in failing to consider competitive consequences in making such a public interest detemination. That decision appears to change the rule that competition may be considered in public interest determinations by a regulatory agency into a requirement that it must be considered.

97. The Court's decision in *FMC* v. *Svenska Amerika Linien*, 390 U.S. 238 (1968), indicates that considerable weight should be attached to competitive factors in any public interest determination. The Court held that the Federal Maritime Commission properly required a showing that carrier agreements that violate antitrust policy are "required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose" in order to gain approval under the public interest standard of the Shipping Act. *Svenska* could be interpreted to mean that any action that prevents or lessens competition is deemed to be contrary to the public interest in the absence of a showing that the action is necessary to avoid evils the regulatory statute was designed to prevent or to produce results the regulatory statute was designed to achieve. *Svenska* at least holds that regulatory agencies have discretion to adopt that approach if they choose to do so.

98. We do choose to adopt the *Svenska* approach for purposes of determining whether the public interest will be served by granting Section 214(a) certificates that will create additional competition in some telecommunications service markets. We will not deny such an application by a qualified applicant unless we have some basis for believing that a decision to grant the application is likely to produce results that conflict with the goals of the Communications Act.

99. The approach we have chosen to adopt recognizes that the 1934 Act does create a presumption in favor of competition. In view of the *Svenska* and *Gulf States* decisions the public interest standard in all regulatory statutes must be interpreted as creating a presumption in favor of competition unless the language or history of the statute demonstrates a Congressional purpose to restrict competition. The language and history of the 1934 Act does not demonstrate such a purpose. Indeed the *RCA Communications* opinion interprets the 1934 Act as establishing a presumption in favor of competition since that opinion does say that an increase in competition is an affirmative benefit that may be given some weight in a public interest determination.

100. If MTS competition in the Alaska submarket would in fact force Alascom to abandon or curtail its services and if such services would not be provided from any other source, then such competition would produce results that conflict with the goals of the Act. Section 1 of the Act states that the Communications Act was enacted for the purpose of making wire and radio communications service available to all the people of the United States. However, we cannot assume that competition in the Alaska submarket will adversely affect the availability of service merely because Alascom alleges that such results will occur. We will require Alascom to make an adequate showing before we weigh benefits of competition.

101. *Hawaiian Telephone Company* v. *FCC*, 498 F.2d 771 (D.C. Cir. 1974), does not conflict with our interpretation of the applicable Supreme Court precedents. That Court reversed a Commission decision to grant a Section 214(a) certificate to construct new facilities because the Court concluded that this Commission committed the same error described in *RCA Communications* by authorizing new facilities to create competition without finding the facilities were needed or warranting that this Commission expected any tangible benefits to the public from the increased competition. The Court did not hold that this Commission would have been required to examine the benefits of competition if we had found that the additional facilities would be needed to meet anticipated demand.[10]

102. Alascom notes (Alascom comments, p. 111) that the *Hawaiian Telephone* opinion contains a statement that the FCC must first determine whether "the public convenience and necessity requires more or better service" and if it determines that more service "would be in the public interest, then it can consider how much added service is necessary, and finally to whom the opportunity for providing service should be awarded." 498 F.2d 776. Alascom would apparently infer from that statement that the Commission must determine whether a competing service is needed before it authorizes a carrier to offer one. The *Execunet I* opinion, which was joined by the author of *Hawaiian Telephone*, rejected that interpretation. The Court explained that it really meant "facilities" when it said "services." 561 F.2d at 938. Thus, *Hawaiian Telephone* merely means that this Commission should determine whether additional facilities are needed when it acts upon an application for authority to construct additional facilities.

103. Therefore, our decision to refrain from requiring new entrants to demonstrate beneficial effects of competition in the absence of a showing that competition will produce detrimental effects is not inconsistent with *RCA Communications* or *Hawaiian Telephone*.

C. Competition Will Produce Beneficial Effects

104. Assuming *arguendo* that this Commission would be required to find that competition will be of some benefit in the Alaska submarket or in the country as a whole, our experience with the effects of competition in a variety of telecommunications service and equipment markets does provide an adequate basis for such a finding. Therefore, we could and would require Alascom to demonstrate some detrimental effects that outweigh the benefits of competition even if we accepted Alascom's interpretations of *RCA Communications* and *Hawaiian Telephone*.

105. Many of the comments have observed that competition is beneficial because it will spur innovation and efficiency and lead to lower prices and more and better services. Our regulatory experience tends to confirm this, we believe that competition is feasible in the provision of MTS-WATS service. Morever, our experience with an increasingly competitive domestic telecommunications industry over the past two decades, and the record amassed in this proceeding support our reasoned expectation that competition and the elimination of barriers to entry here will ultimately result in the provision of telecommunications service at the lowest possible cost; in the reduction or elimination of waste; in making carriers more responsive to the needs and desires of consumers; and, in making carriers respond more rapidly and efficiently to technological change and innovation.

106. These insights are not unique, of course. The benefits of competition have been observed in a great variety of markets through centuries of experience. We ourselves have observed such tangible benefits in telecommunications equipment markets after our *Carterfone* decision [11] effectively opened such markets to competition. In Docket No. 20003—a broad fact-finding inquiry into the economic implications and relationships arising from regulatory policies and pricing practices for telecommunications services and facilities subject to competition—we concluded that "consumer interconnection has benefited the general public by speeding innovation and meeting needs that were unmet prior to the introduction of customer provided equipment." 75 FCC 2d 506, 562 (1980).

107. We are hopeful that the benefits of free entry will become apparent in other areas as competition for the provision of telecommunications services—which is still in its infancy—takes hold and spreads. In the almost 6 years since the first MTS-WATS equivalent services were introduced, we have observed no untoward effect upon AT&T as a result of competition. There has been no impairment of its ability to provide service, no meaningful dimunition of its profits, and no apparent retardation in the substantial rate of growth for MTS-WATS services.

108. Although we have not as yet observed clear evidence that MTS-WATS competition has produced tangible benefits for most MTS-WATS customers, we have every reason to expect that such benefits will be realized as new entrants achieve increasing penetration in the MTS-WATS markets. Certainly the growth from zero to approximately $110 million annually indicates the public places some value on the availability of competitively supplied MTS-WATS equivalents. Of course, there is no guarantee that extensive penetration can, in fact, be achieved and we intend to provide no such guarantee either by requiring unreasonable pricing policies to be maintained or otherwise. However, effective competition in the MTS-WATS market obviously cannot develop if this Commission forecloses all competition. The potential benefits of effective competition are certainly sufficient to warrant a conclusion that the public interest will be served by preserving the possibility of effective competition in the MTS-WATS market. Significant detrimental effects would be required to justify a decision to foreclose that possibility, and, as we

[10] The *RCA Communications* and *Hawaiian Telephone* cases involved atypical situations. This Commission usually does find that new facilities will be needed when it grants a Section 214(a) certificate to construct new facilities.

[11] *Carterfone*, 13 FCC 2d 420, *recon. den.*, 14 FCC 2d 571 (1968).

have already noted, they do not exist here.

109. During the last several decades, the FCC has conducted a series of proceedings to determine in various markets whether a policy of open entry would be consistent with the public interest. In the *"Above 890"* decision (27 FCC 2d 359 (1959), recon. 29 FCC 825 (1960)), the *Carterfone* decision (see note 11), the *Domsat* decisions (35 FCC 2d 844 (1972) and 22 FCC 2d 86 (1970)), the *Specialized Common Carrier Decision, supra*, the *Resale and Shared Use* decision (60 FCC 261 (1976)) and the *Other Common Carrier Interconnection* decision (47 FCC 2d 660 (1974)), we have repeatedly found that competitive markets with reduced barriers to entry are in the public interest.

110. Our decision here, declaring MTS-WATS competition to be in the public interest, is simply a further (perhaps the last) step in our efforts to remove entry barriers and insure the benefits of competition in the provision of telecommunications service. This is the only realistic course open here. It would be completely incongruous for the Commission to now attempt to turn back the clock and to carve out a separate MTS-WATS enclave which alone would be the perserve of "monopoly carriers." The public interest burden on the proponent of such a position could be great, and, perhaps in recognition of this, no carrier has advocated that the Commission adopt such a position for the nation as a whole. As we have already noted, parties to this proceeding have pointed out that the march of technology has blurred the distinction between switched services such as MTS-WATS and so called private line service. Similarly, the impact of cross-elasticity among services has blurred any economic distinction between MTS-WATS and other services. In a very real sense, there is no separate or separable MTS-WATS market and it makes little sense to attempt to create a separate policy for such a market. We fully expect the benefits of competition for private line and specialized services recited in our *Specialized Common Carrier Services* case to be equally likely in the provision of message services. Thus, the benefits of competition in securing innovative service, low prices, and responsiveness to consumer choice should be the same regardless of whether we are dealing with private line services or message services or terminal equipment.

111. Moreover any analysis of the potential benefits of competition in an MTS-WATS market should not be confined to that market alone. Competition in specialized services might have been more effective if we had declared that all service markets were open to competition in 1971. If a new entrant is free to shift to the other markets if an established multi-market firm reacts by pricing its product or service in a particular market to contain or expel competition, the established firm is less likely to follow such a pricing strategy. Inasmuch as many telecommunications facilities can be used interchangeably for a variety of services, it should be possible for a nimble entrant to shift from one interstate interexchange market to any other.

112. We do not perceive any reason for concluding that preserving the possibility of effective competition is not equally beneficial in the Alaska submarket. A decision to designate the Alaska submarket as a protected enclave for some services would be a departure from our general policy. We do not intend to depart from that general policy in the absence of clear and convincing evidence that the creation of a protected enclave is required in order to avoid evils the Communications Act was designed to prevent. We will permit Alascom to file supplemental comments in this proceeding for the purpose of presenting such evidence.

IV. Other Issues

A. Supplemental Notice Topics

113. Many of the industry model comments have discussed the five regulatory policy subjects other than entry policy which were listed in the *Supplemental Notice* and many of the comments have offered specific proposals to adapt existing policies to a competitive environment. We will not attempt to describe those proposals in this Report and Notice because those subjects are either being addressed in the access charge phase of this proceeding or in other dockets. We do recognize that a competitive environment does require a reevaluation of policies and practices that evolved in an environment in which competition was largely confined to markets that are of lesser significance in terms of total dollar volume. The comments which have been presented in this proceeding will be of great assistance to us in reevaluating regulatory policies in other proceedings.

114. The *Supplemental Notice* invited interested persons to discuss accounting practices which would be appropriate under any proposed industry structure including any "changes in treatment of depreciation expenses by the telephone companies. . . ." 73 F.C.C. 2d at 239. This Commission had already instituted a rulemaking proceeding to revise the Uniform System of Accounts. See *Notice of Proposed Rulemaking*, 70 FCC 2d 719 (1978); *First Supplemental Notice of Proposed Rulemaking* (FCC 79-479, released August 9, 1979). The effects of a competitive environment upon accounting practices can and will be considered in the context of that proceeding.

115. The *USOA* proceeding presumably will not resolve all policy questions relating to depreciation practices. As several of the comments have noted, the existence of competition may have some effect upon the selection of useful lives for depreciation purposes. This Commission does reevaluate useful life prescriptions on a continuing basis through procedures that have been designed for that purpose. The effects of competition can be taken into account in those proceedings. We have decided that it would not be appropriate for us to attempt to formulate a general policy with respect to the prescription of useful lives in this particular docket.

116. The next three regulatory policy topics listed in the *Supplemental Notice* (73 F.C.C. 2d at 240) relate primarily to separations and access charges. As previously noted, those topics have already been designated for separate treatment. The access charge phase of this proceeding may not encompass all of the issues with respect to settlements that have been raised in the industry model comments. Although access charges will replace the present settlements system to a substantial extent under the tentative plan described in the *Second Supplemental Notice*, that plan would not disturb the existing contractual arrangements for the division of interstate revenues insofar as those arrangements compensate carriers for the use of interexchange facilities. We have tentatively concluded that changes in those arrangements would not be necessary to solve the problems described in the *Second Supplemental Notice*. The industry model comments indicate that some of the new entrants believe that the present settlements arrangement creates other problems that should be addressed. This topic may warrant further inquiry.

117. We have decided to refrain from inviting further comments in this particular docket with respect to settlements arrangements relating to interexchange facilities. That topic is not ripe for rulemaking at this time. We might institute a separate inquiry on this subject. However, we are inclined to believe that it would be preferable to encourage any persons who believe that the interexchange settlements arrangements are incompatible with a competitive environment to file a petition for rulemaking which sets forth concrete proposals for changes in those arrangements and a clear explanation of the nature of their concerns.

118. The last regulatory policy topic listed in the *Supplemental Notice* related to other forms of tariff regulation. Many of the industry model comments do discuss tariff procedures and rules relating to rate structures, rates of return, resale restrictions, etc. which would be appropriate in a competitive environment. All of the tariff policy topics discussed in the comments appear to overlap with ongoing proceedings of this Commission and will accordingly not be discussed in this Notice. Those ongoing proceedings include the *Competitive Common Carrier Services* rulemaking (Docket 79-252),[12] the *MTS-WATS Resale* proceeding (Docket 80-84),[13] and the *Cost Allocation Manual* proceeding (Docket 79-295).[14]

B. Joint Planning

119. The *Supplemental Notice* did not preclude participants from including regulatory policy elements in their industry model comments that were not included in our list. Some of the comments have suggested other subjects which may require our attention in a more competitive environment. Several participants, particularly AT&T and the Secretary of Defense, have suggested that it may be necessary to develop new mechanisms or new rules for joint planning among unaffiliated carriers.

120. AT&T's concerns appear to relate primarily to planning activities within the telephone company segment of the telecommunications industry. AT&T observes that the present settlements system for division of revenues from interstate services that are jointly offered by all telephone companies provides common financial incentivies which make it easier to obtain cooperation in the development of adequate facilities for the provision of joint services, the adoption of compatible design criteria, etc. AT&T believes that the removal of that incentive could result in less cooperation.

121. The tentative access charge plan described in the *Second Supplemental Notice* could produce some changes in existing relationships among telephone companies. The access compensation that an independent telephone company received would be based upon AT&T's allowed rate of return rather than AT&T's achieved rate of return. Thus, an independent that did not own a significant amount of interexchange facilities would not have a direct stake in the success of the interexchange partnership. It would be affected by changes in usage, but would not be affected by changes in the profitability of partnership or non-partnership services.

122. This change in the relationship should not lead any exchange carrier to fail to provide facilities that any interexchange carrier may need to provide interstate interexchange services. Under our tentative access charge plan an exchange carrier would be compensated for any reasonable investment it makes in order to provide interstate access service to any interexchange carrier. An exchange carrier will accordingly have an incentive to make such investments. Therefore, we do not believe it will be necessary to abandon the access charge plan in order to assure that all exhange carriers continue to cooperate with the interexchange partnership that offers interstate MTS.

123. Nevertheless, AT&T has identified a potential problem that might require regulatory action in the future. This Commission's power to prescribe interconnection under Section 201(a) necessarily includes the power to require a local exchange carrier to acquire facilities and to adopt design criteria that will make interconnection effective. We can exercise those powers if the need arises. However, any problems among the telephone companies are too hypothetical to warrant the adoption of any rules in this proceeding.

124. The Secretary of Defense, as Executive Agent for the National Communications System (NCS), emphasized the need for effective planning among all carriers to meet emergency needs and observed that the presence of competing carriers may make such planning more difficult. Such emergencies could range from a nuclear attack that destroys a substantial portion of the nation's telecommunications facilities to a localized natural disaster or equipment failure. Planning activities include the development of alternative facilities before an emergency arises, design criteria to assure interconnection and interoperability of competing networks, and rules establishing priorities for the restoration of service after an emergency.

125. The Secretary's concerns with respect to the development of adequate facilities have been addressed in Part II(C). We concluded that a competitive environment is not likely to result in inadequate facilities. Joint planning among carriers would not appear to be required to determine the quantity of facilities that will be needed for national defense or emergency requirements. Government agencies that are charged with responsibility for defense or emergency planning presumably can make that determination.

126. Joint planning might be useful in determining the manner in which networks, or unimpaired portions of networks, of different carriers will be used if an emergency does arise. The Secretary's comments recommend that a joint industry/government organization be established to develop plans for the restoration of telecommunications in time of natural disaster or national emergency and to develop industry interoperability criteria. Such an organization would also provide a vehicle for centralized management of telecommunications in time of national emergency.

127. This Commission has already adopted some rules with respect to the restoration of service in an emergency. See *Amendment of Part 64 of the Commission's Rules to Provide for a New Priority System for the Restoration of Common Carrier Provided Intercity Private Line Service* (Docket No. 19308), 77 F.C.C. 2d 14 (1980). Additional rules may be warranted. However, it probably would not be necessary for us to create a planning mechanism in order to develop such rules. NCS, the Federal Emergency Management Agency and other governmental bodies that are charged with the responsibility for developing plans to meet emergencies are in the best position to formulate proposed rules and presumably can obtain such advice from carriers as they may desire. If such proposals are presented to us in a petition for rulemaking, we could obtain additional input from carriers or others in response to such a petition. we encourage NCS or other agencies to file such petitions if they believe the present rules will not be adequate.

128. Interconnected networks presumably will be interoperable. Some of the comments question whether planning to permit facilities of different carriers to operate together will be a serious problem with or without new competition. For example, Southern Pacific states that to date there is no evidence that the interconnection of

[12] See *Notice of Inquiry and Proposed rulemaking* (FCC 79-599, released November 2, 1979).

[13] See *Notice of Proposed Rulemaking*, 77 F.C.C. 2d 274 (1980).

[14] See *Notice of Proposed Rulemaking*, (FCC 80-371, released June 28, 1980).

V. 45 A. G. 2 1 80 UMI

numerous independent telephone companies, the interconnection of international carriers, or the interconnection of private networks has had an adverse impact upon the management of a nationwide network. It notes that technical standards have long been set and procedures established for network interconnection. Procedures for demand forecasting, demand commitments and advanced notice of need have made possible long range facility planning as well as day-to-day traffic management for the aggregate demands of many entities. Southern Pacific says that only minimal cooperation and negotiation among firms acting in good faith is required for a smoothly functioning nationwide network.

129. It appears doubtful that new mechanisms will be required to resolve design or other technical problems associated with the interconnection of networks operated by different entities. The telephone companies have resolved such problems among themselves for decades. The telephone companies and the new entrants that have interconnected in order to enable new entrants to provide interstate interexchange services have also developed a mechanism for resolving such problems which appears to be working. This Commission hosts periodic meetings pursuant to paragraph 16 of the settlement agreement which this Commission approved in *AT&T* (Docket 20099), 52 F.C.C. 2d 727 (1975). These meetings are held to resolve any interconnection difficulties that may have arisen in implementing that agreement with respect to interconnection arrangements. If problems arise in the future that cannot be resolved through existing mechanisms, this Commission can invoke its statutory power to prescribe any arrangements that may be necessary for the provision of through services.

C. Access Arrangements for Execunet and Similar Services.

130. Some problems with respect to interconnection arrangements for the new entrants have arisen which probably cannot be resolved within the mechanism created by the 1975 settlement agreement. That settlement agreement established interconnection arrangements to enable the new entrants to provide FX and CCSA services. The interim compensation arrangements and the physical access arrangements were apparently designed to provide FX customers of the new entrants with access that is equivalent to the access received by customers of the FX service offered by the telephone companies. The periodic meetings pursuant to the 1975 settlement agreement provide a mechanism for resolving problems in the implementation of that particular agreement. Such meetings were not designed as a forum for the negotiation of additional agreements to provide alternative forms of access for other services.

131. MCI's Execunet service was designed to fit the access arrangements that MCI happened to have. When Southern Pacific and USTS decided to offer similar services, they also utilized the access arrangements that were provided under the 1975 settlement agreement. This somewhat accidental arrangement has not satisfied either the telephone companies or the new entrants. The telephone companies have maintained that they should not be required to accept compensation for MTS equivalent access that they agreed to accept for FX access. The new entrants have insisted that they should be provided with access for MTS equivalent services that is equivalent to the access which the telephone companies provide to themselves for their own MTS service.

132. The compensation dispute erupted first and led to the ENFIA agreement described in the *Supplemental Notice*. That agreement resulted from a series of meetings hosted by this Commission. This Commission subsequently hosted a second series of meetings, commonly known as the ENFIA II negotiations, to explore alternative means of providing access to local exchange facilities for Execunet and similar services. Those meetings focused primarily upon alternative access arrangements that could be implemented within a short period of time. Those meetings continued from October 1979 until January 1980 and adjourned without agreement.

133. The new entrants have apparently concluded that the present access arrangement precludes them from making their services as equivalent to MTS as they would like them to be. Under the present arrangement carriers such as MCI, Southern Pacific or USTS are connected with the local exchange in much the same way that ordinary customers are connected. Those carriers lease lines from the telephone companies that terminate on the "line side" of the local exchange or Class 5 switch at one end and terminate in the carrier's switch at the other end. A subscriber to Exeunet, Sprint or City-Call normally use the carrier's seven digit local number to reach the carrier's switch. If the subscriber is not served by the same Class 5 office as the carrier, the call will be routed through two or more switches before it reaches the carrier's switch in the originating city. After receiving a second dial tone, the subscriber must supply a personal identification number of five or more digits, followed by the three digit area code and seven digit local number of the called party. Because the additional digits must pass through the voice band, a touch telephone is required, or a tone generator must be used with a rotary dial telephone. The call will be routed to the interexchange carrier's switch in another city over intercity transmission facilities that are owned or leased by that carrier. It will then be routed through one or more additional switches at the distant city before it reaches the called party.

134. An ordinary MTS call which is not billed to a credit card number can be placed from either a rotary dial or a push button telephone by dialing or pushing ten digits. In some exchanges it is also necessary to dial "1" in order to place a long distance call. Such a call will be switched from the line side to the trunk side of the Class 5 switch that serves the calling party and will be transmitted by a toll connecting trunk to the Class 4 toll switch. MTS calls normally are not routed through more than two Class 5 offices—one in the originating city and one in the terminating city.

135. The industry model comments were filed shortly after the ENFIA II negotiations adjourned. Several carriers that participated in the ENFIA II negotiations have discussed the physical access problem in their industry model comments. MCI, Southern Pacific and USTS describe deficiencies which they perceive in the present access arrangements. AT&T has included a specific proposal for revised access arrangements in its industry model comments. The comments of those carriers also set forth principles which each believes should be followed in resolving questions relating to physical access arrangements.

136. MCI suggests that access compensation and access arrangements problems be resolved by decreeing that "[a]ll intercity carriers should have access to the facilities of a local exchange carrier on an identical basis and should pay identical charges. . . ." (MCI comments, p. 36). MCI also states that the most important implementing policy for open entry is that local telephone companies provide nondiscriminatory interconnection to all

authorized inter-city carriers. It states that this comprehensive requirement was set forth by this Commission clearly and emphatically in *Bell System Tariff Offerings* [15] and clearly extends to nondiscriminatory interconnection for switched voice services like Execunet.[16] MCI also suggests that the Commission periodically convene industry conferences to develop and implement telephone numbering plans that do not impair fair competition.

137. Southern Pacific states that the current method of interconnection is highly anticompetitive in that new entrants pay the same rates as AT&T even though the method of interconnection available to the new entrants is inferior to that obtained by AT&T Long Lines. Southern Pacific notes the following disadvantages of the Interconnection available to it: its customers must dial twenty-four digits as compared to ten digits for Long Lines; the seven digit access code required to reach its network differs from city-to-city; unpredictable transmission losses occasioned by needless routing through inter-office networks forces Southern Pacific to invest in special equipment which still does not eliminate the transmission inferiority: greater blockage occurs which reduces its call completion ratio; Southern Pacific is unable to offer services to customers who do not have touch tone or tone generator capabilities; Southern Pacific must collect its own billing information while AT&T's billing information is collected automatically; and Southern Pacific does not obtain answer supervision which produces difficulties in administering its network. Southern Pacific states that to remedy these defects the Commission must adopt a policy requiring all intercity carriers to receive identical interconnection arrangements with the monopoly local distribution facilities of telephone operating companies. Southern Pacific suggests that interconnection occur at the Class 4 office, that functionally equivalent interconnection must be maintained, and that functional equivalency requires an end to the practice of engineering and operating local exchanges in such a way that the customer automatically chooses Long Lines unless he goes through an arduous procedure to select an alternative.

138. United States Transmissions Systems (USTS) asserts that the additional switching involved in making a connection results in a degradation of the quality of service offered by the new entrants as compared to that offered by the telephone companies. Furthermore, because a line side termination is accorded the new entrants rather than a trunk side termination, the new entrants cannot provide answer supervision, automatic number identification, nationwide abbreviated access numbers, or signalling from rotary dial telephones. USTS states that if the Commission finds that competition in the MTS/WATS market is in the public interest, carriers with monopoly control over essential facilities must provide such facilities to all carriers on equal terms and conditions. It suggests that trunk side terminations be required at Class 4 or 5 offices. USTS also believes that equal access requires equal dialing access.

139. AT&T's industry model comments are based upon a dichotomy between "basic services" which include MTS, WATS and other unspecified services that will be jointly offered by the telephone companies and "nonbasic services" which include all services offered by carriers other than telephone companies and certain service offerings of telephone companies including AT&T that will be offered outside the pool arrangement. AT&T submitted a specific proposal for an interconnection arrangement for services it describes as "nonbasic." [17] AT&T has also outlined several principles which it says should govern future efforts to develop new access arrangements. It states that local telephone companies should make available to the suppliers of "nonbasic" telephone service local access arrangements by which callers may originate and terminate calls over "nonbasic" service networks, customers of "basic" services should not experience any adverse impact on the quality of service or bear any additional cost as a result of the provision of local access arrangements for "nonbasic" services, local access arrangements need not include capabilities which the suppliers of "nonbasic" services can be reasonably expected to provide for themselves, local access arrangements should be implemented through well defined interfaces which permit "basic" service and "nonbasic" service suppliers to design, implement, and operate their networks with minimal need for operational interaction, and local access arrangements should be available to all suppliers of "nonbasic" services on an equal basis pursuant to tariff.

140. The suggestion that all of the access problems can be resolved by requiring identical access at identical charges is probably too simplistic. If carriers are afforded freedom to offer any service that fits into a particular carrier's marketing strategy at a particular time, different carriers will probably need different facilities and services from the operators of the local exchange and the same carrier may require different access arrangements for different services. We are concerned that any effort to establish a single arrangement at a single charge for all access to the local exchange might create a regulatory straight-jacket that would tend to inhibit the innovation and service diversity our open entry policy is designed to promote. Even generic categories such as MTS–WATS equivalent or nonbasic services may also tend to obscure differences within such categories. The MTS–WATS offerings of the telephone companies include several variations of a switched service. Execunet, Sprint and City-Call are not precisely the same as any of them. The carriers that offer the latter services may utlimately replace or supplement them with other MTS–WATS services that are less analogous to a credit card service. Such services might have access requirements that differ from Execunet-type services.

141. We have accordingly concluded that we should not prescribe a single access arrangement or a single access charge. A flexible approach is necessary which encourages the carriers to adapt access arrangements to the service provided. Under such an approach it will probably be necessary to prescribe access charges for several different access arrangements and to revise the charges from time to time to fit new access arrangements. However, we do underscore the basic principle that there should be equal charges for equal facilities.

142. The *Second Supplemental Notice* expresses our present intention to follow such a flexible approach in prescribing access charges. We said that we have tentatively decided to prescribe initial access charges for the access arrangements that happen to exist at this time. However, we also said (para. 56):

> Any functional access service categories will necessarily have to be changed from time to time to reflect changes in the use of exchange plant facilities. The access charge scheme should not force access services into a particular mold, it should reflect the mold that happens to exist at a particular time.

[15] 46 FCC 2d 413 (1974), *aff'd sub nom, Bell Telephone Company of Pennsylvania v. FCC, 503 F.2d 1250, (3d Cir. 1974), cert. denied* 422 U.S. 1026 *reh. denied,* 423 U.S. 886 (1975).

[16] MCI cites *MCI Telecommunications Corp. v. FCC ("Execunet II"),* 580 F.2d 590, *cert. denied,* 58 L. Ed 2d 651 (1978).

[17] We have not described that plan in this Notice inasmuch as we are not endorsing or rejecting any particular access arrangement plan at this time.

V 45 A G 2 1 8 0 UMI

143. A conclusion that a flexible approach is required for access arrangements generally does not, of course, solve the problem of designing a mold for Execunet, Sprint and City-Call. Nor does it determine the role this Commission should play in designing the mold for those services or any other service.

144. In *Specialized Common Carrier Services* this Commission decreed "that established carriers with exchange facilities should, upon request, permit interconnection or leased channel arrangements on reasonable terms and conditions to be negotiated with the new carriers, . . ." 29 F.C.C. 2d at 940. Thus, we determined that all exchange carriers must respond to reasonable requests for access services and we required the telephone companies and the new entrants to negotiate with each other in order to determine the precise access arrangements that would be provided. We do not see any reasons to depart from that approach at this time. Although we may have to invoke our Section 201(a) powers to prescribe a particular set of arrangements for a particular service at some point in the future if the carriers cannot devise a negotiated solution, we do not believe it would be necessary or desirable to make prescription of physical access arrangements the norm.

145. The adjournment of the ENFIA II negotiations does not appear to be the kind of impasse which warrants the commencement of a proceeding to prescribe an access arrangement. The negotating meetings were adjourned because the participants did not appear to be ready to proceed further until this Commission resolved some unresolved questions including the entry policy with respect to the MTS-WATS market. We are confident that the carriers will proceed in good faith to examine both short-term and long-term solutions to access arrangement problems in light of the decisions we have reached. If that confidence proves to be unwarranted, this Commission will institute appropriate proceedings.

V. Further Proceedings and Ordering Clauses

146. In view of the conclusions we have reached, further proceedings in this docket will be limited to access charges and the Alaska entry question. Questions which are not directly related to access charges or entry in the Alaska interstate market will no longer be deemed to be a part of this proceeding.

147. Inasmuch as the unresolved entry policy questions are confined to particular services in a particular market, it will no longer be necessary to include conditions in Section 214 certificates which state that the authorization is subject to any rules that may be adopted in this proceeding.[18] Such conditions will be included in certificates authorizing the construction, purchase, lease or operation of facilities that can be used to provide voice communications between Alaska and other states until we have reached a final decision with respect to the provision of voice telecommunications services in the Alaska interstate submarket.

148. In order to avoid confusion we request that reply comments filed pursuant to the *Second Supplemental Notice* and any other pleadings relating to access charges be labelled "CC Docket No. 78-72, Phase 1." We also request that comments and pleadings relating to the Alaska entry policy question be labelled "CC Docket No. 78-72, Phase 2".

149. Accordingly, IT IS ORDERED that ALASCOM, INC. may file supplemental comments relating to the provision of voice telcommunications services between Alaska and other states by carriers other than Alascom, Inc. on or before October 17, 1980, and any interested person may file reply comments relating to that subject on or before November 17, 1980. Pursuant to the procedures set forth in Section 1.419(b) of this Commission's Rules (47 C.F.R. § 1.419(b)), an original and five (5) copies of all filings shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the Docket Reference Room in the Commission's offices in Washington, D.C.

Federal Communications Commission *

William J. Tricarico,

Secretary.

August 1, 1980

Separate Statement of Chairman Charles D. Ferris

Re MTS/WATS Inquiry

The last remaining regulatory barrier to entry into interstate telecommunications markets has been removed by today's action. With the exception of the Alaska market, where we are giving the monopoly carrier one last chance to show that the public is better off with one rather than many choices, anyone who wishes to compete with the established telephone companies in the home or business long distance market may now do so.

Because of our prior policy of granting entry requests to companies pending the outcome of this proceeding, individual and corporate consumers already have the choice of using Execunet, Sprint, City-Call and Metro-1. Today's decision will encourage the introduction of even more new services.

This proceeding was begun to establish whether the public interest requires a monopoly in the MTS/WATS market. We previously rejected monopoly for terminal equipment, specialized communications services, and satellite communications. Now we reject monopoly for the largest interstate telecommunications market, with revenues of over 10 billion dollars in 1979.

We now have firmly committed ourselves to the proposition that competition, and the choices it brings for consumers, is in the public interest in *all* the markets we regulate. The interstate telecommunications market should not be excepted from our national policy in favor of competition.

Much of the credit for this outcome belongs to the *Execunet* court for forcing us to abandon a narrow view of the MTS/WATS markets. Credit is also due to many of the members of the established interstate telephone industry, who have accepted not only the inevitability, but in some cases the desirability, of competition. Finally, credit should be given to the Congressional committees whose tireless work has helped form the broad consensus for competition.

Separate Statement of Commissioner Abbott Washburn

Re MTS/WATS Market Structure D. 78-72

Today's MTS/WATS report will mean little more than a fleeting headline unless it is closely followed by important implementational actions by the Commission.

How much longer, for example, must we wait before a joint board is designated to resolve the question of *access charges?*

How long must we wait for any action on *accelerated depreciation policy?* (The Commission has had on file since September 28, 1973 a request to reevaluate depreciation policy.)

How long will it be before the resale of WATS becomes a reality?

Decisions of this nature must be addressed before the policy of open entry can have significant meaning in the dynamics of the marketplace.

Concurring Statement of Commissioner Joseph R. Fogarty

In Re MTS/WATS Market Structure

I concur generally with the thrust of this *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking.* However, I do not believe that adequate attention has been paid to an assessment of the timing and the magnitude of disruptive effects which could arise from the adoption of an open entry policy in the provision of MTS and WATS services. I refer specifically to the effects upon: (1) the optimal development of nationwide telephone facilities; (2) local rates; and (3) interstate rates.

The rationale for approving an open entry policy is based upon the following observations:

(1) No participant has demonstrated detrimental effects;

[18] We have already modified the former practice of including such conditions in all certificates for all kinds of facilities. See *Standard Telephone Company* (FCC 80-363, released July 1, 1980).

* See attached Separate Statements of Chairman Ferris and Commissioners Washburn and Fogarty.

(2) Any potential "detrimental" effects (such as higher state rates or the de-averaging of interstate rates) are either unlikely in the near future or are more likely to be beneficial because of economic efficiency considerations;

(3) Generally beneficial results are anticipated from competition.

Although I favor open entry in this market, I am very uneasy about the way we get there. We presume certain benefits from competition without attempting to quantify them. We presume that certain effects—such as de-averaging or higher state rates—will either never happen or will happen only in the distant future. We do not know how distant that future is; nor can we guess what the magnitude of the rate changes or the extent of de-averaging will be if and when these economic events do occur. I think we may be cavalier in dismissing the concerns of those users who could be adversely affected when we simply tell them in advance that any and all harm they may suffer will be suffered in the interest of economic efficiency.

In approaching the issue of the optimal development of nationwide facilities, I am not sure that our hands-off approach is wise. I agree that the development of a survival capability for military emergencies should be approached on an *ad hoc* basis and paid for by those who would incur the costs. I concur, therefore, with the statement in Paragraph 33 of the *Report:*

"We do not believe that it will be necessary to restrict competition or to impose special design requirements upon the carriers in order to meet national defense or other emergency needs. Any or all of the carriers in competitive markets will presumably be able and willing to provide any national defense facilities which the taxpayers [via DOD] are willing to finance."

On the other hand I am not certain that other statutory goals, contained in Section 1 of the Communications Act, pertaining to "rapid, efficient, Nationwide . . . wire and radio communications service" will necessarily be met with the approach advocated by this *Report.* For example, I am not convinced that random interconnection of several independent sub-networks will result in a more efficient communication system than one arrived at by central planning—either by a monopolist or by a consortium of competitors operating subject to a statement of Commission-promulgated policies and goals. I think that we should do better than the hands-off approach recommended in the item and consider, perhaps, one which encompasses an *ad hoc* industry-government committee. That committee would specify our interpretation of Section 1 of the Act within the context of modern technology and the new competitive environment. If desirable, it could be allowed to self-destruct after a suitable transition period.

It is worth noting in this regard that Section 1 of the Act addresses the matter of the execution of the statutory goals contained therein with the statement: "[F]or the purpose of securing a more effective execution of the policy by *centralizing authority* heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as the 'Federal Communications Commission.'" (Emphasis added)

With regard to effects upon local rates, the *Report* quite correctly points out that the likelihood of upward rate pressures due to competition will be low if we adopt an access charge proposal similar to that set forth in our *Second Supplemental Notice* [1]—since the full local exchange revenue requirement will always be recovered under that scheme. I also agree with the *Report's* conclusion that entry policy and subsidy questions are not necessarily linked. However, the *Report* also suggests that a future Joint Board proceeding may change separations procedures and thereby effect (a) higher rates and (b) better public policy. While it is quite conceivable that the first result may occur, I believe that it is quite premature to indicate that this would necessarily be better public policy.

In considering the effect upon long distance rates, I do not feel very assured by the arguments in the *Report* which lead to the conclusion that de-averaging will not be a problem. The reasons given are:

(1) AT&T has indicated in its comments that it does not plan to immediately file de-averaged MTS tariffs if open entry is allowed; however, it may do so in the future;

(2) The administrative inconvenience and high costs associated with de-averaging may preclude AT&T from that course;

(3) There is no evidence that costs are lower in the major metropolitan markets and therefore there may not be a pressure to de-average;

(4) Bell's presence in the high density intercity routes is so predominant that there will be no immediate pressure to forego the lower revenues resulting from de-averaged rates.

I think that we should take this opportunity to observe that although we are taking this step based upon these hypotheses—and they are precisely that—we are also very concerned about the possible scope of de-averaging in the future, and about its public interest implications. In the short run, I do find the reasoning of the *Report* plausible. The long run results are the one which should be of continuous concern.

[FR Doc. 80-25521 Filed 8-20-80; 8:45 am]

BILLING CODE 6712-01-M

[1] 77 FCC 2d 224 (1980).

V 45 AG 21 80 UMI

Notices

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Land and Resource Management Plans; Revised Notice of Intent To Prepare an Environmental Impact Statement

This notice revises the date of availability of the following Forest Land and Resource Management Plan Draft and Final Environmental Impact Statements:

National forest	Location	Previously published in FEDERAL REGISTER	New availability date	
			DEIA	FEIS
Colville	Washington: Ferry, Pend Oreille, and Stevens Counties.	Vol. 44, No. 208, 10/25/79 DEIS-12/82, FEIS-12/83	May 1983	May 1984.
Deschutes	Oregon: Deschutes, Jefferson, Klamath, and Lake Counties.	Vol. 44, No. 13, 1/18/79 DEIS-1/80, FEIS-9/80	Jan. 1981	Nov. 1981.
Okanogan	Washington: Chelan, Skagit, Okanogan, and Whatcom Counties.	Vol. 44, No. 249, 12/27/79 DEIS-12/82, FEIS-6/83	Dec. 1981	Sept. 1982.
Wenatchee	Washington: Chelan, Douglas, Kittitas, and Yakima Counties.	Vol. 44, No. 114, 6/12/79 DEIS-12/81, FEIS-12/82	Apr. 1982	Dec. 1982.
In addition, the dates of availability for the Pacific Northwest Region, Regional plan have been revised as follows:				
Regional plan	Oregon, Washington	Vol. 44, No. 159, 8/15/79 DEIA-6/80, FEIS-12/80	Dec. 1980	Sept. 1981

James F. Torrence,
Acting Regional Forester.
August 14, 1980.
[FR Doc. 80-25469 Filed 8-20-80; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Cost Comparison Reviews Scheduled for Service Contracts and Commercial or Industrial Activities Performed by Government Personnel in the Economic Development Administration

Notice is hereby given that pursuant to the Office of Management and Budget (OMB) Circular A-76 and Department of Commerce Administrative Order 201-41, the Economic Development Administration intends to conduct cost comparisons of the following service contracts and commercial or industrial activities performed by Government personnel in the Economic Development Administration. The Economic Development Administration intends to issue an invitation for bids or request for proposals after the start date scheduled for each review.

Each invitation for bids or request for proposals will be announced in the Commerce Business Daily.

A contract or contracts may or may not result from the cost comparison of each activity. Results of the cost comparison of an activity will be made available to responding bidders or offerors, and other interested parties.

FOR FURTHER INFORMATION CONTACT: Henry C. Kramer, Management Analysis Division, Economic Development Administration, Department of Commerce, Washington, D.C. 20230 (202-377-2157).

Description of activity	Location	Review start	Review completion
Information systems operations	Washington, D.C	Nov. 1, 1980	Aug. 31, 1981.
Programming systems analysis	Washington, D.C	Nov. 1, 1980	Aug. 31, 1981.

Description of contract	Expiration date	Review start	Review completion
Rental and maintenance of computer equipment (4 contracts).	Sept. 30, 1980	Nov. 31, 1980	Aug. 31, 1981.

Dated: August 18, 1980.
H. W. Williams,
Deputy Assistant Secretary for Economic Development.
[FR Doc. 80-25501 Filed 8-20-80; 8:45 am]
BILLING CODE 3510-24-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) JNL Industries, Inc., 9459 Washburn Road, Downey, California 90242, producer of cabinet catches and electronic dials (accepted July 31, 1980); (2) Hyland Electronics, Inc., 7250 Commerce Drive, Unit P, Mentor, Ohio 44060, producer of amplifiers and public address systems (accepted July 31, 1980); (3) Taylor Cedar Products, P.O. Box 653, Copalis Crossing, Washington 98536, producer of cedar shakes, shingles and ridges (accepted August 1, 1980); (4) Roppolo Flowers, Inc., P.O. Box 1159, Marlin, Texas 76661, producer of artificial floral arrangements (accepted August 4, 1980); (5) Chief Apparel, Inc., 10 W. 33rd Street, New York, New York 10001, producer of men's suits, sportcoats and slacks (accepted August 4, 1980); (6) Mickey Madann Handbags, Inc., 21 Cove Street, New Bedford, Massachusetts 02744, producer of handbags (accepted August 4, 1980); (7) Scheller Brothers Lumber Company, 1900 93rd Avenue, SW., Olympia, Washington 98502, producer of cedar lumber (accepted August 4, 1980); (8) Lowe Knits, Inc., 2429 E. Olympic Boulevard, Los Angeles, California 90021, producer of women's sweaters, pants; and knit fabrics (accepted August 5, 1980); (9) Clark Copy International Corporation, 6100 Madison Court, Morton Grove, Illinois 60053, producer of photocopy machines, accessories and supplies (accepted August 6, 1980); (10) F. B. Rogers Silver Company, Inc., 414 West Water Street, Taunton, Massachusetts 02780, producer of silver-plated holloware (accepted August 6, 1980); (11) Displays, Inc., P.O. Box 6 AAA, R.D. #4, Lewistown, Pennsylvania 17044, producer of electronic digital displays (accepted August 7, 1980); (12) Car Flite Manufacturing Company, Inc., 6 Willow Street, Moonachie, New Jersey 07074, producer of automotive starter drives and alternator rotors (accepted August 7, 1980); (13) Cyrus W. Scott Manufacturing Company, Inc., 3401 Kemp Boulevard, Wichita Falls, Texas 76308, producer of men's trousers (accepted August 7, 1980); (14) American Bio-Synthetics Corporation, 710 W. National Avenue, Milwaukee, Wisconsin 53204, producer of heliotropin & other chemicals (accepted August 8, 1980); (15) L & W Engineering Company, Inc., 6771 Haggerty Road, Belleville, Michigan 48111, producer of automotive metal stampings and welded assemblies (accepted August 8, 1980); (16) Orofino Fine Jewelers, Inc., 17177 Ventura Boulevard, Encino, California 91316, producer of jewelry (accepted August 11, 1980); (17) Osan Manufacturing Company, Inc., 320 S. Washington Street, Boyertown, Pennsylvania 19512, producer of men's pants (accepted August 11, 1980); (18) Alison Ayres, Inc., 1400 Broadway, New York, New York 10018, Producer of women's dresses, (accepted August 11, 1980); (19) Dexter Arnold, Box 71, Hockessin, Delaware 19707, producer of mushrooms (accepted August 11, 1980); (20) Mr. Hanger, Inc., 20 Jones Street, New Rochelle, New York 10802, producer of plastic coat hangers (accepted August 12, 1980); (21) Original Knitting, Inc., 285 King Street, Perth Amboy, New Jersey 08861, producer of knit fabrics (accepted August 13, 1980); (22) Gare Fashions, Inc., 512 Seventh Avenue, New York, New York 10018, producer of women's suits, jackets, coats, skirts, pants and blouses (accepted August 13, 1980); Sanitary Creamery Company, Inc., 712 Wisconsin Avenue, Boscobel, Wisconsin 53805 (accepted August 13, 1980); (23) Willoform Manufacturing Company, Inc., 6 East 32nd Street, New York, New York 10016, producer of girdles and brassieres (accepted August 13, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,
Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.
[FR Doc. 80-25414 Filed 8-20-80; 8:45 am]
BILLING CODE 3510-24-M

International Trade Administration

Hendrix Electronics; Order

The Office of Export Administration, International Trade Administration, United States Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. sec. 2401, *et seq.*) (the "Act") against Hendrix Electronics ("Hendrix"), based on allegations that Hendrix violated Sections 387.2, 387.4 and 387.6 of the Export Administration Regulations [15 C.F.R. Part 368, *et seq.* (1979)] promulgated pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. app. sec. 2401 *et seq.* (1976 and Supp. I 1977)]; and

The Department and Hendrix having entered into a Consent Agreement whereby Hendrix has agreed to settle this matter by payment of a civil penalty in the amount of $12,000 and by undertaking certain corrective measures to ensure compliance with the Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Hendrix, within 20 days of the service of this Order, pay to the Department, pursuant to Section 11(c)(1) of the Act, a civil penalty in the amount of $12,000;

Second, that Hendrix shall take the measures specified in the Consent Agreement, incorporated herein by reference, to ensure future compliance;

Third, that the proposed Charging Letter, the Consent Agreement and this Order be made available to the public; and

Fourth, that Hendrix submit a report to the Director, Compliance Division, Office of Export Administration, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective measures specified in the Consent Agreement.

Entered this date August 13, 1980.

Eric L. Hirschhorn,
Deputy Assistant Secretary for Export Administration.
[FR Doc. 80-25458 Filed 8-20-80; 8:45 am]
BILLING CODE 3510-25-M

Milton Snedeker Corp.; Order Regarding Administrative Proceedings

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401, *et seq.)* (the Act) against Milton Snedeker Corporation (Milton Snedeker) based on allegations that Milton Snedeker violated the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) (the Regulations) promulgated pursuant to the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)); and

The Department and Milton Snedeker having entered into a Consent Agreement whereby Milton Snedeker has agreed to settle this matter by payment of a civil penalty in the amount of $1,000 and to undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Milton Snedeker, within 20 days of the date of service of this Order, pay to the Department, pursuant to section 11(c)(1) of the Act, a civil penalty in the amount of $1,000;

Second, that Milton Snedeker, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Milton Snedeker agrees that it will promptly issue to all of its employees, agents, and representatives involved

with its international freight forwarding business, information to acquaint them with Part 369 of the Regulations, and written instructions directing strict compliance with such regulations, and will promptly, thereafter, provide these persons with notice of all material changes and interpretations which may be issued by the Department with respect to such regulations.

(b) Milton Snedeker shall conduct unannounced inspections of documents to ensure that the proper procedures have been implemented and are being followed. Such inspections shall take place at least once a calendar quarter for one year following the date of the order entered pursuant to this agreement.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that Milton Snedeker submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date August 14, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25428 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Pace Co. Consultants and Engineers, Inc.; Order Regarding Administrative Proceedings

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. app. 2401, *et seq.*) (the Act) against The Pace Company Consultants and Engineers, Inc. (Pace) based on allegations that Pace violated the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) promulgated pursuant to the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401, *et seq.* (1976 & Supp. I 1977)); and

The Department and Pace having entered into a Consent Agreement whereby Pace has agreed to settle this matter by payment of a civil penalty in the amount of $5,000 and to undertake certain corrective measures to ensure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Pace, within 20 days of the date of service of this Order, pay to the Department, pursuant to Section 11(c)(1) of the Act, a civil penalty in the amount of $5,000;

Second, that Pace, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Pace agrees that it will promptly issue to all of its employees, agents, and representatives involved in the international sale or marketing of surveys, information to acquaint them with Part 369 of the Regulations, and written instructions directing strict compliance with such Regulations, and will promptly thereafter provide these persons with notice of all material changes and interpretations which may be issued by the Department with respect to such regulations.

(b) Pace shall establish a final review procedure for all documents to customers in boycotting countries prior to mailing. Such review shall be conducted by one person who has been instructed about the requirements of the Act and Regulations and who will receive internal communications regarding compliance procedures.

(c) Pace shall promptly institute an internal reporting system and educate its employees as to the importance of following designated procedures with respect to reporting of all reportable requests to the Department and with respect to taking appropriate exception to requests, compliance with which is prohibited, and which may occur on orders, letters of credit, requests for quotations, instructions from customers, correspondence, etc.

(d) Pace shall conduct unannounced inspections of documents to ensure that the proper procedures have been implemented and are being followed. Such inspections shall take place at least once a calendar quarter for one year following the date of the order entered pursuant to this agreement.

Third, that the proposed Charging Letter, the Consent Agreement, and this Order be made public; and

Fourth, that Pace submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date, August 7, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25424 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Executive Committee of the President's Export Council will be held on Monday, September 15 at 2:00 p.m., in room B339, Rayburn House Office Building, Washington, D.C. The President's Export Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12110 of December 28, 1978. The President's Export Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy.

The agenda for the meeting will be as follows:

—Welcoming remarks and brief introduction
—Remarks by Cabinet level attendees, Senators and Congressmen
—Reports from the Chairmen of the Subcommittees on:
GATT and the MTN
East-West Trade
Export Promotion
Export Expansion
Export Administration
Agriculture
—Discussion
—Other organizational business, announcements and plans for next meeting.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes or Ms. Elizabeth Ruskin, room 4015B, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–5719.

Dated: August 18, 1980.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 80-25466 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Rue Forwarding Co.; Order Regarding Administrative Proceedings

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. app. 2401 *et seq.*) (the Act) against Rue Forwarding Company (Rue) based on allegations that Rue violated the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) promulgated pursuant to the Export Administration Act of 1969, as amended (50 U.S.C. app. 2401 *et seq.* (1976 and Supp. I 1977)); and

The Department and Rue having entered into a Consent Agreement whereby Rue has agreed to settle this matter by payment of a civil penalty in the amount of $3,000 and to undertake certain corrective measures to insure compliance with the antiboycott provisions of the Export Administration Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that Rue pay to the Department, pursuant to Section 11(c)(1) of the Act, the civil penalty in the amount of $3,000. Payment shall be as follows: The initial payment shall be $500, payable within 20 days of the service of this order; subsequent payments of $500 each, shall be made on September 30, 1980; December 31, 1980; March 31, 1981; June 30, 1981; and September 30, 1981. Failure to make a payment on a specified date shall consistute a violation of this Order.

Second, that Rue, to the extent that it has not already done so, undertake the following corrective measures to ensure its future compliance with the antiboycott provisions of the Export Administration Regulations;

(a) Rue shall establish a final review procedure for all shipping documents to customers in boycotting countries.

(b) Rue shall verify proper distribution of memoranda and other communications regarding antiboycott compliance measures by identification of appropriate recipients and acknowledgement of receipt by the designated recipients.

Third, that the Consent Agreement, the proposed Charging Letter and this Order be made public; and

Fourth, that Rue submit a report, which shall include documentation evidencing implementation of corrective compliance measures, to the Director, Office of Antiboycott Compliance, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective steps specified in this Order.

Entered this date July 30, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-25425 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

Tally Corp.; Order

The Office of Export Administration, United States Department of Commerce, having initiated administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979, (Pub. L. 96–72, to be codified at 50 U.S.C. app. sec. 2401, *et seq.*) (the "Act") and the Export Administration Regulations [15 CFR Part 368, *et seq.* (1979)] (the "Regulations") against Tally Corporation ("Tally"), based on allegations that Tally violated §§ 387.2, 387.4 and 387.6 of the Regulations; and

The Department and Mannesmann Tally Corporation, the successor corporation to Tally, having entered into a Consent Agreement whereby the successor has agreed to settle this matter (1) by payment of a civil penalty in the amount of $50,000, (2) by a denial of all validated export license privileges for a 30 day period terminating on September 13, 1980, and (3) by undertaking certain corrective measures to ensure compliance with the Regulations; and

The terms of the Consent Agreement having been approved by me, Now, Therefore, pursuant to the authority vested in me, 15 CFR, Part 388,

It Is Ordered,

I. A civil penalty in the sum of $50,000 is assessed against respondent;

II. Any and all validated export licenses which have been issued or which may be issued to Tally or its successor corporation shall be and are suspended for the period ending on September 13, 1980;

III. Mannesmann Tally, within 30 days of the service of this Order, shall pay to the Department, a civil penalty in the amount of $35,000;

IV. Payment of the remaining $15,000 shall be suspended for a period of 18 months and will be waived at the end of the period provided that respondent and its successor corporation are in full compliance with the Regulations and all terms of the Order and that Mannesmann Tally has undertaken the corrective measures specified in the Consent Agreement.

This Order is effective immediately.

Entered this 15th day of August, 1980.

Bertram Freedman,

Hearing Commissioner.

[FR Doc. 80-25457 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss status of fishery management plans, foreign fishing applications, and other fishery management and administrative matters.

DATES: The meeting, which is open to the public, will convene on Wednesday, September 10, 1980, at approximately 1 p.m., and adjourn on Friday, September 12, 1980, at approximately 1 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Quality Inn Airport, 20th Street and Penrose Avenue, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: August 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25471 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council's Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation

and Management Act of 1976 (Pub. L. 94–265), has established an Advisory Panel, which will meet to review draft of Spiny Lobster Fishery Management Plan, environmental impact statement, regulatory analysis, and draft regulations.

DATES: The meeting, which is open to the public, will convene on Friday, September 5, 1980, at approximately 9 a.m., and will adjourn at approximately 1 p.m.

ADDRESS: The meeting will take place at Council Headquarters Office, 1164 Bishop Street, Room 1608, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: August 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25470 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

[Department Organization Order 21–3; Transmittal 501]

Office of Regulatory Policy; Functions

Effective Date: July 29, 1980.

Subject: This order effective July 29, 1980 supersedes the material appearing at 43 FR 38614 of August 29, 1978.

Section 1. Purpose.

.01 This Order establishes and prescribes the functions of the Office of Regulatory Policy.

.02 The purpose of this revision is to: change the title of the Office; designate the Director as the Deputy Assistant Secretary for Regulatory Policy; and incorporate certain regulatory policy functions transferred to the Office from ITA, environmental affairs functions transferred to the Office from the former Office of Science and Technology, and functions under Executive Orders 12044 and 12174.

Section 2. Status and Line of Authority.

The Office of Regulatory Policy, a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Policy. The Director shall also be designated as the Deputy Assistant Secretary for Regulatory Policy. The Director shall be assisted by a Deputy Director who shall be the Director's principal assistant and who shall assume the duties of the Director during the Director's absence. The Director shall represent the Assistant Secretary for Policy on most interagency groups dealing with regulatory issues.

Section 3. Functions.

The Office of Regulatory Policy shall provide overall policy guidance and coordination for the Department's internal rulemaking and regulatory review activities. In coordination with the Commerce Regulatory Council, it shall provide leadership and direction for the Department's participation in Governmentwide regulatory reform efforts. The Office shall assure timely analysis and development of positions and policies on selected regulatory issues in response to the needs and interests of the Secretary, and as directed by the Assistant Secretary for Policy and the Commerce Regulatory Council. The principal responsibilities of the Office shall include: Coordination, analysis, and review of Departmental regulatory issues and actions; identification of impacts on the national economy and its sectors of potential or actual regulatory actions; identification of alternative means of achieving national goals in ways minimizing adverse economic consequences; review and analysis of issues relating to environmental quality and standards; and representing the Assistant Secretary for Policy as the alternate member of the Water Resources Council. The Office shall serve as a central administrative and procedural compliance unit for the Department on regulatory matters. In performing these functions, the Office shall:

a. Provide staff support to the Commerce Regulatory Council. This shall include developing detailed agenda for Council meetings, providing follow-up to Council directives, arranging supporting analyses, and performing other staff services related to the work of the Council.

b. Provide assistance to senior Departmental officials who represent the Department in regulatory improvement activities, including the Department's representatives on the Regulatory Council, the Regulatory Analysis Review Group, and similar interagency programs.

c. Review and coordinate development of regulatory policy positions of major concern to the Department. These activities shall be undertaken in cooperation with other Departmental units, and the results shall be used for interagency discussions, development of legislative comments, or for input through other appropriate policy channels.

d. Review plans, procedures, and actions within the Department for complying with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related Executive Orders as appropriate. With the assistance of affected operating units, analyze the environmental and economic impact of actions proposed by other agencies in statements required by Section 102(2)(c) of the Act and referred to the Department for comments, and assist in formulating Department positions on these actions; and coordinate preparation of those impact statements required for Departmental programs or actions.

e. Conduct substantive reviews of Departmental in-house and contractual studies that deal with regulations and regulatory matters. Review study plans, studies in progress, and final reports for adequacy of the methodology and the relationship of the methodology to findings, recommendations, and policy implications.

f. Analyze the implications for the economy of proposed major new legislation, regulations, programs, or other actions; and the elimination or modification of existing statutes, regulations, programs, or other actions.

g. Develop and direct, in cooperation with other Departmental units, a program of regulatory research. The program's goals shall be to improve the process used in reaching decisions on regulatory issues, and to develop sound bases for long-term improvements in the regulatory system. The program shall utilize the full range of Departmental scientific, economic, industrial, and statistical expertise in addressing regulatory improvement issues.

h. Coordinate the preparation of technical and economic analyses and responses to selected regulations and, when appropriate, perform the review and analysis directly.

i. Conduct analyses, as directed, that will improve data essential for regulatory assessments; provide factual information and data essential to Departmental policy positions; and improve the methodology for assessing costs and benefits of regulatory actions.

j. Provide coordination and guidance for departmental programs relating to national and international environmental quality issues. In this capacity, the Office shall serve as the Department's principal contact with all public and private organizations on environmental matters of concern to the department as a whole. The Office shall also review proposed environmental standards that significantly affect business and industry, and prepare comments or studies to assist in formulating Departmental positions.

k. Monitor and ensure full compliance with Executive Order 12044, including activities relating to agenda preparation, use of plain English, public participation, sunset reviews, and the quality of regulatory analysis.

l. Prepare and implement the Department's paperwork budget under Executive Order 12174 and recommend improvements when necessary and appropriate.

Section 4. Organization.

The Office of Regulatory Policy shall consist of:

a. The Office of the Director which shall provide direction, supervision, and guidance for carrying out the responsibilities of the Office. The Director shall serve as Executive Secretary of the Commerce Regulatory Council, and shall provide administrative support for the Council and coordinate staffing of council issues within the Office of the Assistant Secretary for Policy. Necessary staff support for Water Resources Council activities shall be maintained in the Office of the Director. The Office of the Director shall coordinate the preparation of analyses of regulations based on priorities established by the Commerce Regulatory Council and develop recommended Departmental positions on major issues or proposed rules on the basis of the analyses.

b. The *Regulatory Economics and Management Division* shall be headed by a Chief, and shall be responsible for: monitoring compliance with Executive Order 12044; monitoring other administrative and procedural compliance requirements, as specified and directed; maintaining an inventory of all Department regulations, and monitoring activities to ensure that Departmental units conduct thorough reviews of significant regulations; ensuring the quality and timelineness of the Departmental review process; developing short and long-term regulatory research agenda, as guided by the Commerce Regulatory Council; coordinating the implementation of the agenda with other Departmental units; conducting analyses and research on regulatory improvement projects; providing economic analysis assistance to other units in the Department in conducting regulatory reviews; and developing policies to reduce the cost of paperwork as they relate to regulatory issues.

c. The *Environmental and Technical Evaluation Division* shall be headed by a Chief, and shall be responsible for: overseeing the Department's activities relating to environmental issues; serving as the lead unit for insuring the application of scientific and technical expertise to regulatory problems, focusing on current rulemaking activities and issues; reviewing and consolidating analyses provided by other Departmental units; and fulfilling the NEPA responsibilties for the Office.

Savings Provision.

All Department Orders referring to the Office of Environmental Affairs, the Deputy Assistant Secretary for Environmental Affairs, or the Office of Regulatory Economics and Policy are constructively amended to refer to the Office of Regulatory Policy and the Deputy Assistant Secretary for Regulatory Policy, as appropriate.

Jerry J. Jasinowski,

Assistant Secretary for Policy.

Approved:

Elsa A. Porter,

Assistant Secretary for Administration.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-75442 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-17-M

Travel Service

Travel Advisory Board; Meeting

On July 11, 1980, notice was given in the **Federal Register** (45 FR, Page 46841), that the Travel Advisory Board would meet on August 26, 1980. Notice is hereby given that the Travel Advisory Board meeting will begin at 9:00 a.m. in Room 6802 of the Main Commerce Building, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

Agenda items are as follows:

1. Pacific Basin Development Conference—Final Report on Kuilima, Hawaii Conference.
2. Internationale Tourismus Buerse—ITB.
3. Research Activity.
4. State/City Day Meeting, Los Angeles, California.
5. International Pow Wow, Los Angeles, California.
6. General Report on USTS Activities.
7. Reports of TAB Members.
8. World Tourism Organization Conference.
9. New Business.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer of the United States Travel Service, Room 1858, U.S. Department of Commerce, Washinton, D.C. 20230, (telephone (202) 377–4752) will respond to public requests for information about the meeting.

Jeanne Westphal,

Acting Assistant Secretary for Tourism.

[FR Doc. 80-25341 Filed 8-20-80; 8:45 am]

BILLING CODE 3510-11-M

COMMUNITY SERVICES ADMINISTRATION

Income Disregard When Determining Eligibility for CSA Funded Programs

AGENCY: Community Services Administration.

ACTION: Notice of income disregard when determining eligibility for CSA funded programs.

SUMMARY: The Community Services Administration is issuing a notice to all its grantees and delegate agencies to disregard as income, when determining program eligibility for all CSA funded programs using the Income Poverty Guideline as criteria of eligibility, a one-time lump-sum payment received by potential or present program beneficiaries in settlement of class-action litigation brought against the U.S. Department of Housing and Urban Development by low-income tenants residing in HUD Section 236 projects nationwide. This notice is necessary because CSA's definition of "Income" which accompanies the Income Poverty Guideline found at 45 CFR 1060.2 does not specifically exclude such one-time lump-sum payments from income. The nature of the litigation and subsequent settlement indicate that whatever financial settlement is received should not be counted as income, as such a settlement is in the nature of restitution for past financial injury suffered by the plaintiffs due to the failure of HUD to provide the required subsidies for the benefit of plaintiffs to offset increases in real estate taxes and utilities in Section 236 housing. Such payments would not have been included as income to plaintiffs had the provisions of 12 U.S.C. § 17152–1(f)(3) & (g) been carried out by HUD. The purpose of this notice is to insure continued program eligibility for

potential and present beneficiaries of CSA's programs who are entitled to settlement under the terms of *Dubose* v. *Harris*, 82 FRD 582 (D. Conn. 1979).

EFFECTIVE DATE: This notice is effective September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Roger Schwartz, Assistant General Counsel, Community Services Administration, Rm. 538, 1200 19th St. NW., Washington, D.C. 20506. Telephone (202) 653–7520; teletypwriter (202) 254–8218.

SUPPLEMENTARY INFORMATION: In 1974, Congress enacted the Housing and Community Development Act to be administered by the Department of Housing and Urban Development. The Act required HUD to provide a tax and utility subsidy to the owners of Section 236 rental units in order to compensate them for the cost of utilities and local property taxes which exceeded the initial operating expenses level of these projects (12 U.S.C. § 17152–1(f)(3) and (g)). The purpose of this subsidy was to enable project owners to meet their expenses and still provide housing for low-income residents which would not exceed 25% of their incomes. HUD's failure to provide said subsidy, however, resulted in some Section 236 project owners increasing rents in order to compensate for increased property taxes and utilities, thereby forcing some low-income tenants to pay in excess of 30% of their incomes for rent. Class-action lawsuits were brought on behalf of those tenants and the settlement agreement, styled *Dubose* v. *Harris* and found at 82 FRD 582 (D. Conn. 1979), provides that those tenants so harmed will be compensated by HUD to the extent of the financial loss suffered. The settlement from HUD to each plaintiff will come in the form of a one-time lump-sum payment.

CSA has decided to exclude these payments as income when determining program eligibility on two bases: (1) the income received by potential or present program beneficiaries as a result of settlement by HUD would not have been considered as income to those beneficiaries at the time it was legally to have been paid, as the subsidy as provided in 12 U.S.C. & 17152–1(f)(3) and (g) was to have gone to project owners on behalf of eligible tenants. The settlement comes to plaintiffs instead of project owners to compensate them for the financial injuries suffered as a result of HUD's failure to so provide such subsidies. (2) VSA's definition of income under the "Income Poverty Guidelines" provides for "one-time insurance payments or compensation for injury" to be disregarded as income. (45 CFR 1060.2(d)(1)). In addition, CSA, as a matter of policy, desires to honor the terms and intent of the settlement found in *Dubose* v. *Harris Id.*, at p. 599, which provides, in its relevant part, that any payments made pursuant to the settlement may not be included as income under any HUD program where eligibility is determined by family income.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

William W. Allison,

Acting Director.

[FR Doc. 80-25140 Filed 8-20-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Environmental Statements; Intent To Prepare a DEIS For Supersonic Flying Operations Over Utah-Nevada Within the Gandy Range Extension

August 15, 1980.

The United States Air Force proposes to conduct selected types of supersonic flying operations down to 5000 feet above ground level over Utah-Nevada within the existing Gandy Range Extension Military Operations Area/Air Traffic Controlled Assigned Airspace Area (MOA/ATCAA). Subsonic training is currently conducted in this MOA/ATCAA which overlies western portions of Tooele, Juab, and Millard Counties in Utah and eastern portions of Elko and White Pine Counties in Nevada. In addition, certain supersonic flights are already permitted there, but only above FL 300 (approximately 30,000 feet mean sea level). It is estimated that ultimately 850 to 1050 aircraft per month would go supersonic within the area.

The environmental analysis will consider, but not be limited to: air quality and aircraft emissions; the noise environment; airspace availability; sonic boom impacts on humans, structures, domesticated animals, and wildlife; secondary impacts on land use and land values; and mitigation measures.

The Draft Environmental Impact Statement (DEIS) will also discuss the following alternatives: no action; use of other training areas; relocation of the 388th Tactical Fighter Wing; and changing the geographical or vertical limits of the existing Gandy Range extension.

The Air Force will, for the next 30 days, scope the issues to be addressed in the DEIS. The Air Force invites participation in this process by interested Federal, state, and local agencies, private organizations, and individuals. Interested parties are requested to inform the Air Force in writing, within 30 days of this announcement, of issues which they believe should be addressed in the DEIS. Local press releases will be made to further publicize this request for information. Because the Air Force has prepared DEISs on similar proposals elsewhere and has already discussed this proposal with various local, state, and Federal agencies, the Air Force has decided that scoping meetings are not necessary to insure the identification of significant issues.

All replies to this request for information, as well as any questions concerning the proposed action, its alternatives, and the DEIS, can be directed to Mr. Keith Davis, Environmental Planning Unit, 2849 ABG/DEEXX, Hill Air Force Base, Utah 84056, (801) 777–2065 or Autovon 458–2065.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-25404 Filed 8-20-80; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

August 19, 1980.

The USAF Scientific Advisory Board Ad Hoc Committee to Review the Air Force Manufacturing Technology (MANTECH) Program will meet at Wright-Patterson AFB, Ohio on September 9 and 10, 1980. The purpose of the meeting is to review the management and cost effectiveness of the MANTECH Program. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

This meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

[FR Doc. 80-25534 Filed 8-20-80; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

August 19, 1980.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group meeting published in the **Federal Register**, Volume 45, No. 81, Thursday, April 24, 1980, and the rescheduling notice for August 21 and 22, 1980 have been cancelled. No new dates have been scheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

[FR Doc. 80-25535 Filed 8-20-80; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Delta Manufacturing and Sales, Inc.; Grant of Limited Exclusive Patent License

On June 8, 1980, the Department of the Army granted to Delta Manufacturing and Sales, Inc., Arlington, Texas, a limited exclusive license in the United States for the manufacture, use, and sale of the invention embodies in U.S. Patent 3,757,806, "Pulsating Hydrojet Lavage Device," issued September 11, 1973. The license is for all fields of use of the invention and is effective until April 30, 1985, unless sooner revoked.

William G. Gapcynski,

Chief, Intellectual Property Division.

[FR Doc. 80-25485 Filed 8-20-80; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Erosion Shoreline Damage, Lorain County, Ohio; Intent To Prepare Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

In the matter of intent to prepare a Draft Environmental Impact Statement (DEIS) for mitigation of shoreline erosion damages at Lorain County, Ohio under Section 111 of the River and Harbor Act of 1968.

Proposed Action: The proposed action is to mitigate for shoreline erosion damages that may be attributed to the U.S. Diked disposal Area located near the mouth of the Black River in Lorain, Ohio.

Alternatives Considered: Preliminary studies have identified 5 possible alternatives for possible implementation. These alternatives are:

a. No Federal Action—This alternative provides for no Federal action to address the shoreline erosion problem.

b. Revetments—This alternative provides for a rubble revetment along the 2,500 feet of shore easterly of the diked disposal structure.

c. Groins—This alternative provides for construction of a sand beach and groin compartmentation scheme along the 2,500 feet of shore, east of the diked disposal area.

d. Beach Fill—This alternative involves the periodic placement of sand in the form of a stockpile on the shore approximately 2,300 feet east of Colorado Avenue.

e. Permanent Evacuation—This alternative involves purchasing lands along the 2,500 feet of shoreline east of Colorado Avenue.

Public Involvement: Early purlic involvement has consisted primarily of identifying which homeowners' properties along the Lake Erie shoreline to the east of the U.S. Diked Disposal Area are being endangered by shoreline erosion that could be attributed to the diked disposal area. In addition, a public workshop was held on 31 March 1980 and a public meeting will be held on 16 September 1980 in the Lorain, Ohio area. The study progress has been closely coordinated with all concerned State, Federal and local agencies. The final selection of a plan for mitigation will be based upon discussions with the relevant agencies and individuals, results of public meetings, and appropriate engineering, economic, and environmental studies.

Issues: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the selected plan and any reasonable alternatives might positively or negatively impact upon the human and natural environment, including fish and wildlife habitats, water quality, aesthetic nature of the area, cultural resources and social/economic considerations.

Scoping Meeting: No scoping meeting will be held due to the extensive coordination already conducted and the public meetings planned in the near future.

Availability: This Draft Environmental Impact Statement will be made available to the public on or about 15 December 1980.

Address: Questions about the proposed action and DEIS can be addressed to Philip E. Berkeley, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207. Phone (716) 876–5454.

Dated: August 12, 1980.

George P. Johnson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-25369 Filed 8-20-80; 8:45 am]

BILLING CODE 3710-GP-M

Environmental Statements; Intent To Prepare A (DEIS) for the Swatara Creek Flood Control Study, Pennsylvania

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. The Pine Grove Borough, located in Schuylkill County, Pennsylvania, is experiencing flood problems caused by high flood stages on Swatara Creek. The present study is considering alternate means of providing protection from significant damages to the flood prone section of the Borough which is located between Outwood Street and East Wood Street.

2. The most efficient means of providing protection to the community is to widen Swatara Creek, including realignment of the channel between the Route 443 highway bridge and the downstream end of the PennDye Plant.

3. Preliminary studies of Pine Grove Borough flood protection needs were conducted pursuant to a formal application by the Schuylkill County Commissioners under the provisions of Section 205 of the Flood Control Act of 1948, as amended. The results of these preliminary studies were presented in a Reconnaissance Report dated 10 May 1977. It was determined that flood damage reduction measures for Pine Grove were needed and two plans, channel improvement and a levee system, appeared justified by reduction in flood damages. The Reconnaissance Report recommended further investigation and preparation of a Detailed Project Report.

The current study, which is a Detailed Project Report (DPR) for the Swatara Creek, is being conducted under the Section 205 Authority and has examined a full range of structural and non-structural solutions to the flooding problem at Pine Grove.

The DPR was initiated in January 1978. Coordination with agencies and local interests was initiated by correspondence in April 1978. Continuing coordination has been maintained with the U.S. Fish and Wildlife Service, the Pennsylvania Fish Commission, and the Pennsylvania Department of Environmental Resources. Public involvement has included several meetings with representatives of Pine Grove Borough and the Schuylkill County Commissioners. During January 1980, a public information fact sheet containing a discussion of the Pine Grove Study was widely distributed. Further

participation is invited from any interested parties.

4. The significant issues which have been identified to date through this process and which will be addressed in the EIS include the impact on existing homes and businesses and the impact on potential fishery resources from stream channelization. Additional scoping meetings are not anticipated, however, any additional definition of issues can be expressed directly to the Corps of Engineers at the address given in paragraph 5.

5. The draft EIS will be available to the public by September 1980. Address: Questions about the proposed action and DEIS may be referred to Mr. Norman Edwards, Study Manager, Baltimore District, Corps of Engineers, P.O. Box 1715, Baltimore, Maryland 21203. Telephone (301) 962–2558.

James W. Peck,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-25444 Filed 8-20-80; 8:45 am]

BILLING CODE 3710-41-M

Notice of Intent; Environmental Statements; Intent To Prepare DEIS for the Whitewater River Basin Flood Control Project, Coachella Valley, Calif.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: *1. Proposed Action.* The following plans for flood control and recreational development along the Whitewater River main stem and the tributaries of Dead Indian Creek and Deep Canyon in Coachella Valley, California, are under study during Stage 2 planning:

a. Main Stem of the Whitewater River.

(1) A dam on the San Gorgonio River near Cabazon and a dam on the Whitewater River in Whitewater Canyon, and structures to restrain blowsand and create habitat for the Coachella Valley fringe-toed lizard.

(2) A dam at Windy Point and structures to restrain blowsand and create habitat for the Coachella Valley fringe-toed lizard.

(3) An earth-bottom channel from Windy Point to the Salton Sea.

(4) An earth-bottom channel from Point Happy to the Salton Sea.

(5) A flood plain management plan.

b. For Dead Indian Creek (Palm Desert).

(1) A debris basin at the mouth of Dead Indian Creek and a concrete channel to the Whitewater River.

(2) A flood plain management plan.

c. For Deep Canyon (Indian Wells).

(1) A grass-lined channel.

(2) A flood plain management plan.

Mitigation measures are under study and will be finalized during the planning process. Possible mitigation plans include sand dune preserves for the Coachella Valley fringe-toed lizard and associated ecosystem; transplanting of trees and native plants; enhancement through transplanting or revegetation using natural plants; flagging and avoidance of natural areas not directly impacted by construction to reduce indirect construction impacts; and enhancement of the marsh at Salton Sea.

2. Alternatives. Alternatives considered during preliminary planning included a dam at Garnet; a series of dams at Whitewater Canyon, Stubbe Canyon, Jenson Creek, and Cabazon; bridge modifications; floodproofing for the main stem; a dam and a concrete channel at the mouth of Dead Indian Creek; a debris basin and grass-lined channel for Deep Canyon; a concrete channel for Deep Canyon; a partially covered channel along Cook Street; a debris basin and a diversion channel along Cook Street incorporating the existing channel along Deep Canyon channel; and zoning for both tributaries. These alternatives were removed from further consideration because they were either not economically justified, were environmentally unacceptable, or did not provide the necessary degree of flood protection. A selected plan has not been identified at this planning stage. The combination of two dams, Whitewater Canyon and Cabazon, and the Windy Point dam were both under consideration as the National Economic Development Plan. The earth-bottom channel from Point Happy to the Salton Sea with potential marsh enhancement has been identified as the Environmental Quality Plan.

3. Scoping Process. The overall study will be conducted in three planning stages. They are: Stage 1—reconnaissance study (completed in June 1978); Stage 2—development of intermediate plans (presented herein); and Stage 3—development of detailed plans. This draft EIS will be updated upon the completion of Stage 3 studies. An extensive public involvement program was initiated during the Stage 2 studies and will be continued throughout the planning process. This program included a series of public workshops held throughout the Coachella Valley, information pamphlets, tours, and newsletters. A bus tour of the project sites was conducted in November, 1979. A public meeting was held in December, 1979 to discuss the remaining plans and receive public input to select a plan for the main stem, Dead Indian Creek and Deep Canyon. Coordination with the U.S. Fish and Wildlife Service and the California Department of Fish and Game has included a number of briefings and meetings to discuss potential environmental problems and mitigation plans.

4. Future Meetings. A final public meeting will be held in March, 1981.

5. Publication of DEIS. The draft environmental impact statement is expected to be available to concerned agencies and the interested public for review and comment by February, 1981.

ADDRESS: Comments about the proposed action and draft environmental impact statement can be answered by Mr. Dionicio Gonzales, Water Resources Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053, (telephone (213) 688–2932).

Dated: August 14, 1980.

Gwynn A. Teague,

Colonel, CE, District Engineer.

[FR Doc. 80-25443 Filed 8-20-80; 8:45 am]

BILLING CODE 3710-KF-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 27, 1980, commencing at 1:30 p.m. The hearing will be a part of the Commission's regular August business meeting which is open to the public. Both the hearing and the meeting will be held at the Goddard Conference Room, at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be an application for approval of the following project:

Citizens Utilities Home Water Company (D–73–14 CP Rev.). A well water supply project to augment public water supplies in Royersford Borough and portions of Upper Providence and Limerick Townships in Montgomery County, and Spring City Borough and portions of East Vincent and East Pikeland Townships in Chester County. The applicant has completed a program to monitor the effect of Well No. 4 on surface streams and nearby wells, as directed by the Commission, and now proposes to increase the rate of withdrawal from Well No. 4 to a maximum not to exceed 30 million gallons during any 30-day period (the existing maximum is 23 million gallons over a 30-day period). Pumping would be cut back whenever streamflow in Pigeon Creek falls below specified levels, or if drawdown of ground water in Well No. 4 exceeds a specified amount.

Documents relating to the above-listing project may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,

Secretary.

August 13, 1980.

[FR Doc. 80-25467 Filed 8-20-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Postsecondary Education Office; Federal Advisory Panel; Meeting

AGENCY: Department of Education, Office of Postsecondary Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of a Federal Advisory Panel. The general public is hereby notified of its opportunity to attend and participate in the meeting, which will be held in order to review petitions from accrediting and State approval agencies for recognition by the Secretary of Education.

DATES: September 8, 1980, 9:00 a.m. to 5:30 p.m., local time and September 9, 1980 9:00 a.m. to 12:00 noon. Requests for oral presentations before the panel must be received on or before September 3, 1980. All written materials which a party wishes to file may be submitted at any time, and will be considered by the panel.

ADDRESS: Marquette Room, Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, Room 3030, ROB 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202/245–9873).

Dr. Albert H. Bowker, Assistant Secretary for Postsecondary Education, established the Federal Advisory Panel as an interim procedure to obtain advice on the recognition of certain nationally recognized accrediting agencies and State approval agencies, and on the requests of three institutions for determinations of satisfactory assurance that they will meet accrediting standards of a nationally recognized accrediting agency within a reasonable period of time. The five-member panel is composed of representatives of Federal agencies affected by accreditation decisions. The panel is created solely to advise the Assistant Secretary for Postsecondary Education and the Secretary of Education on the April 1980 recommendations of the Petition Review Subcommittee of the Advisory Committee on Accreditation and Institutional Eligibility, and on the requests of the three above-mentioned institutions. The panel will review the following agencies and institutions:

Accrediting Bureau of Health Education Schools (petition for renewal of recognition for accreditation of private medical assistant education institutions and programs, and schools and programs for the medical laboratory technician)

American Assembly of Collegiate Schools of Business, Accreditation Council (petition for renewal of recognition for accreditation of baccalaureate and graduate degree programs in business and management)

American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family therepy Education (petition for renewal of recognition for accreditation of graduate degree and clinical training programs in marriage and family counseling, and clarification of scope of recognition to substitute marriage and family therapy for marriage and family counseling)

American Physical Therapy Association, Committee on Accreditation in Education (petition for renewal of recognition for accreditation of professional programs for the physical therapist and programs for the physical therapist assistant)

American Speech-Language-Hearing Association, Council on Professional Standards in Speech-Language Pathology and Audiology (petition for renewal of recognition for accreditation of master's degree programs, and for transfer of recognition from the American Boards of Examiners in Speech Pathology and Audiology to the Council on Professional Standards in Speech-Language Pathology and Audiology)

East Coast Bible College, Charlotte, North Carolina (request for a determination of satisfactory assurance that the college will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time)

Florida School of Psychology, Miami, Florida (request for a determination of satisfactory assurance that the school will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time)

Liaison Committee on Medical Education (petition for renewal of recognition for accreditation, and preaccreditation as "Reasonable Assurance" and "Provisional Accreditation," of programs leading to the M.D. degree)

Minnesota State Board for Vocational-Technical Education (petition for renewal of recognition as a State agency for the approval of public postsecondary vocational education)

National Home Study Council, Accrediting Commission (petition for renewal of recognition for accreditation of home study schools and petition for extension of scope of recognition to include accreditation of degree granting programs)

New York State Board of Regents (petition for renewal of recognition as a nationally recognized accrediting agency, for registration [accreditation] of collegiate degree-granting programs or curriculums offered by institutions of higher education; and petition for renewal of recognition as a State agency for the approval of public postsecondary vocational education)

New York State Board of Regents (Nursing Education Unit) (petition for renewal of recognition as a State agency for the approval of nurse education)

Savannah College of Art and Design, Savannah, Georgia (request for a determination of satisfactory assurance that the college will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time)

The Federal Advisory Panel will review the April recommendations concerning these agencies, together with petitions and materials pertaining to those recommendations. Agencies and interested third parties having substantial new information to submit may do so in writing, or may request a hearing before the panel. Requests for hearings should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, Department of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which the represent (if applicable), and the

For the Department of Energy.

The subsequent arrangement to be

For the Department of Energy.

purpose for which the hearing is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before September 3, 1980. Time constraints may limit oral hearings. However, all additional written material which a party wishes to file will be considered by the panel.

Records shall be kept of all panel proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C. on August 18, 1980.

John R. Proffitt,

Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education.

[FR Doc. 80-25461 Filed 8-20-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided that a meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 4 and 5, 1980, at the offices of the Ministry of Energy, Mines and Resources, 580 Booth Street, Ottawa, Canada, beginning at 9:30 a.m. on September 4th. The purpose of this meeting is to permit attendance by representatives of Subcommittee A at a meeting of an IEA Standing Group on Emergency Questions (SEQ) Special Subgroup to design the third IEA Allocation Systems Test (AST–3), which is being held at Ottawa on those dates.

The agenda for the meeting is under the control of the SEQ Special Subgroup. It is expected that the following agenda will be followed:

1. Opening remarks.
2. Discussion and review of AST–3 Test Guide draft.
3. Completion of AST–3 Test Guide.
4. Other matters pertaining to AST–3.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Pursuant to section 252(c)(3) of the Energy Policy and Conservation Act, a verbatim transcript of this meeting will be made; the transcript, with such deletions as are determined to be necessary or appropriate pursuant to E.O. 12065 (43 FR 28949, July 3, 1978), E.O. 11932 (41 FR 32891, August 5, 1976) and 22 CFR 9a.1–9a.8, will be available in the Reading Room of the Department of Energy, Room 5B–180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Issued in Washington, D.C., August 18, 1980.

Craig S. Bamberger,

Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 80-25460 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between the United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the retransfer of 230 kilograms of Uranium of United States origin, containing 8.05 kilograms of U–235 (3.5% enrichment) from the Federal Republic of Germany to Norway, for use for research purposes in the JEPP II research reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/NO(EU)–47, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25485 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement".

The subsequent arrangement to be carried out under the above mentioned agreement involves the approval of contractual arrangements for the sale of 3.34 grams of normal Uranium and 4.25 grams of normal Thorium to be used as reference standards for calibration of equipment. This subsequent arrangement is designated as S–IA–108. These materials will be exported to Chile pursuant to a general license issued by the U.S. Nuclear Regulatory Commission (10 CFR 110.23).

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25486 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between U.S. and Government of Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of contractual arrangements for the supply of the following special nuclear material:

Contract Number WC–SW–5, to Sweden, 40 grams of uranium, enriched to 93.11% in U–235, to be used in the study of waste migration in granite strata for radioactive waste management programs

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25487 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between the United States and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Finland Concerning Civil Uses of Atomic Energy.

This subsequent arrangement would give approval, which must be obtained under the above mentioned Agreements, for the transfer of special nuclear materials of United States origin from Belgium to Finland. The material consists of 100 milligrams of Uranium enriched to 3% in U–235 and 0.5 milligrams of Plutonium, and is to be used for the determination of the uncertainty of analytical measurements for safeguards purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/FI(EU)–1 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Programs.

[FR Doc. 80-25488 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between the United States and the Government of Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract No. S–JA–277, 148.4 grams of normal uranium oxide, to be used as standards for calibration of equipment by the Toshiba Corporation, Kobe, Japan

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25489 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Between the United States and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of contractual arrangements for the supply of the following materials:

Contract Number WC–EU–162, to France, 2 kilograms of depleted Uranium as oxide, to be used in the development of reduced enrichment research and test reactor fuels.

Contract Number WC–CA–21, to Canada, 2 kilograms of depleted Uranium as oxide, to be used in the development of reduced enrichment research and test refactor fuels.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Programs.

[FR Doc. 80-25490 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between United States and the Government of Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of contractual arrangements for sale of the following materials: Contract Number S–JA–275, to the Japan Atomic Energy Research Institute, 15 grams of Plutonium 238 and 15 grams of Plutonium 240, to be used for the measurements of small sample perturbation at the fast critical assembly.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Programs.

[FR Doc. 80-25491 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Between the United States and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "'subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for

Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada, as amended.

The subsequent arrangements to be carried out under the above mentioned Agreements involve the approval of contractual arrangements for the supply of the following materials:

Contract Number S–EU–655, 275 milligrams of Uranium, enriched to 99.999% in U–238, and containing 11 parts per million U–235, to be used as dosimeters for pressure vessel irradiation programs at Mol, Belgium.

Contract Number S–JA–276, 742 grams of normal Uranium as oxide to be used for calibration of equipment in Japan.

Contract Number S–CA–296, 296.8 grams of normal Uranium as oxide to be used for calibration of equipment in Canada.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than September 5, 1980.

Dated: August 15, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-25492 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Associated Programs, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: August 14, 1980. Comments by: September 22, 1980.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374–5932.

SUPPLEMENTARY INFORMATION: On August 14, 1980, the Office of Enforcement of the ERA executed a Consent Order with Associated Programs, Inc., ("Associated") of Boca Raton, Florida. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Associated, through the Sterling Joint Venture, processes natural gas streams and sells the NGL and NGL products derived from these streams, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Associated the Office of Enforcement, ERA, and Associated entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the sales of NGL and NGL products by Associated during the period September 1. 1973 through June 30, 1980.

2. The reason for the overcharges was Associated sold NGL and NGL products at prices in excess of the applicable ceiling price, as defined at 6 CFR 150.355(b) and 150.358(b) and 10 CFR 212.81(a); 212.143(a); and 212.163(a).

3. It is understood that Associated does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Associated agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $225,000.00, plus interest as specified in Terms and Conditions, paragraph 1, of the Consent Order. The refund shall be made in monthly installments and completed within 61 months from the effective date of the Consent Order. Such refund will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374–5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Associated Programs, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 22, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures at 10 CFR 205.9(f).

Issued in Kansas City, MO on the 14th day of August 1980.

Alan L. Wehmeyer,

Acting District Manager, Economic Regulatory Administration.

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 80-25387 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

R. Lacy, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: May 2, 1980. Comments by: September 22, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767–7745.

SUPPLEMENTARY INFORMATION: On May 2, 1980, the Office of Enforcement of the ERA executed a Consent Order with R. Lacy, Inc. of Longview, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and R. Lacy, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with R. Lacy, Inc. effective as of the date of its execution by the DOE and R. Lacy, Inc.

I. Consent Order

R. Lacy, Inc. with its home office in Longview, Texas is a firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 C.F.R., Part 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and R. Lacy, Inc. entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil sales by R. Lacy, Inc. This Consent Order settles those matters relatives to R. Lacy, Inc.'s production and sale of crude during the period November 1, 1973 through December 31, 1974.

The significant terms of the Consent Order with R. Lacy, Inc. are as follows:

1. R. Lacy, Inc. (Lacy) allegedly misapplied the provisions of 10 CFR 212.73(a) and 212.93(a) and its predecessor, 6 CFR 150.353 and 150.359(c) incorrectly when determining the prices to be charged for certain domestic crude oil.

2. Lacy understands and agrees to refund $48,000.00 plus interest to the DOE by certified check. This amount is in full settlement of any and all civil liability within the jurisdiction of the DOE in regard to actions that might be brought by the DOE arising out of the sale of certain crude oil produced and sold by Lacy and certain crude oil purchased and resold by Lacy. Leases from which Lacy produced crude oil originated are:

A. Maberry
C. Maberry
C. C. Miller
W. Pouncy
V. B. Smith
F. M. Snider
H. A. Penna

3. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges as described in 2. above will be made in four installments. The first payment is due 30 days after the effective date of the Consent Order with additional payments due in subsequent 90 day installments until the total refund has been completed. Delivery of such payments shall be to the Assistant Administrator for Enforcement, Economic Regulatory Administration, in the form of a certified check made payable to the United States Department of Energy.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected person, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on R. Lacy, Inc.'s Consent Order." We will consider all comments we received by 4:30 p.m. local time, on September 22, 1980. You should identify any portion or data which, in your opinion, is confidential

and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 5th day of May, 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-25494 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Nuclear Energy

The State Planning Council on Radioactive Waste Management; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Date and time: Monday, September 8, 1980: 9:00 a.m.–5:00 p.m.; Tuesday, September 9, 1980: 9:00 a.m.–12:00 noon.

Place: Stouffer's National Center Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact: Janie Shaheen, Staff Contact for the State Planning Council, 1900 L Street, N.W., Suite 605, Washington, DC 20036, Telephone: 202/785-2901.

Purpose of Council: The State Planning Council on Radioactive Waste Management was established by Executive Order 12192 dated February 12, 1980, to provide advice and recommendations to the President and the Secretary of Energy on nuclear waste management (including interim management of spent fuel).

Tentative agenda: The agenda for the meeting will consist of consideration of recommendations on low-level waste management and the consultation and concurrence process for the development of high-level waste repositories. In addition, Council will consider procedures for reviewing the National Plan and NRC's proposed 10 CFR Part 60 (Procedural Rule).

Public participation: The meeting is open to the public. The Chairperson of the Council is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office at 202-252-5187.

Issued at Washington, D.C. on August 18, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-25495 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Colorado River Storage Project; Public Comment Forum on Proposed Rate Order

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of public comment forum for oral presentation of comments on proposed rate order by interested parties.

SUMMARY: The purpose of the public comment forum is to provide an opportunity for interested parties to present oral views, data, and arguments concerning the proposed order by the Assistant Secretary for Resource Applications, confirming, approving, and placing in effect increased rates for the Colorado River Storage Project on an interim basis. The proposed order was published in the **Federal Register** on August 8, 1980, at 45 FR 52900.

DATE: The public comment forum will be held on September 11, 1980, at 10 a.m. (registration at 9:30 a.m.).

ADDRESS: The forum will be held in the Seasons North Room, Salt Lake Hilton Hotel, 150 West 500 South, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. A. M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, Utah 84147, Telephone: (801) 524-5493

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, Colorado 80401, Telephone: (303) 231-1535

Ms. Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, Federal Building, Mail Station 3344, 12th and Pennsylvania Avenue, NW., Washington, DC 20461, Telephone: (202) 633-8338

SUPPLEMENTARY INFORMATION: The Western Area Power Administration, Department of Energy's power rate adjustment procedures, published in the **Federal Register** on March 23, 1978, at 43 FR 12076, as amended on February 7, 1979, at 44 FR 7795, provide that an opportunity for oral presentation of views, data, and arguments on any proposed rate order approved by the Assistant Secretary for Resource Applications would be afforded interested persons upon request. The proposed rate order for the Colorado River Storage Project was published in the **Federal Register** on August 8, 1980, at 45 FR 52900. Subsequently, a request was received for oral presentation by an interested party.

Since this forum will not be adjudicative in nature, questions may be asked only by those conducting the forum, and there will be no cross-examination of persons presenting statements. Any further procedural rules needed for the proper conduct of the forum will be announced by the presiding officer.

A transcript of the forum will be made, and the entire record of the forum, including the transcript, will be made available for inspection at the three Department of Energy offices listed above in Salt Lake City, Utah; Golden, Colorado; and Washington, DC. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., August 15, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

[FR Doc. 80-25493 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1579-8]

Approval of PSD Permit to Martin Marietta Aluminum, Inc., St. Croix, V.I.

Notice is hereby given that on June 6, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Martin Marietta Aluminum (MMA) for approval to modify its alumina refinery on St. Croix in the United States Virgin Islands. Specifically the modification includes the expansion of the refinery to process an additional 1650 thousand tons of bauxite per year in two new fluidized-bed claciners, the addition of 3 new oil-fired boilers, a new lime calciner and a lime hydrator and cooler. This modification is designated as Expansion "E".

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review. The EPA has determined that MMA satisfies all of the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations; thus, the approval of the PSD permit request is granted.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to chemical process plants and subject to the following conditions:

1a. MMA shall comply with the best available control technology specifications and allowable emission rates described in the PSD permit;

1b. MMA shall submit designs and operational parameters of all proposed air pollution control devices prior to the finalization of contracts;

1c. MMA shall operate no more than two oil-fired boilers at any one time;

2a. MMA shall stack test all new emission points to demonstrate compliance with applicable federal, state and local regulations;

2b. MMA shall comply with all other applicable federal, state and local regulations;

3. MMA shall inform the EPA of the anticipated dates for the commencement of the expansion process, the completion of the expansion process and the operation of the expanded facilities 30 days prior to undertaking such activities. In addition, notification of the actual dates that such activities were undertaken shall be provided to the EPA within 30 days after the occurrence of each activity.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25422 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-6]

Approval of PSD Permit to Nepera Chemical Co., Inc., Harriman, N.Y.

Notice is hereby given that on April 14, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Nepera Chemical Company (NCC) for approval to modify its chemical process plant in Harriman, New York. Specifically, the modification includes the addition of a new fume and waste water incinerator to incinerate all the waste water generated at the plant from the manufacture of pyridine and related derivatives, the picoline nitriles and the off-gases exiting from existing reactors and stills.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78-1006, D.C. Cir.)). the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review. The EPA has determined that the NCC satisfies all the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations; thus, the approval of the PSD permit request is granted.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to chemical process plants and subject to the following conditions:

1. Emission Requirements

Actual sulfur dioxide emissions from the entire plant shall be limited to 800 tons per year; this can be achieved by limiting the annual amount of 2 percent (by weight) sulfur fuel oil burned or by limiting the sulfur content of the oil to be burned or by performing a combination of the two. Monthly reports indicating the amount and sulfur content of the oil burned must be submitted to the EPA by the 10th day of the following month.

2. Monitoring Requirements

An opacity monitor and a furnace temperature recorder, each equipped with continuous printout capability, must be installed prior to the compliance test required by the New York State Department of Environmental Conservation (NYSDEC). Monthly printouts from each monitor must be submitted to the EPA by the 10th day of the following month.

3. Testing Requirements

A. A performance test to ensure that the opacity monitor conforms to the specifications of 40 CFR Part 60, Appendix B, must be performed within 60 days of startup;

B. The volume of fumes and waste water as well as furnace temperature recorded (at maximum capacity) during the NYSDEC compliance testing shall become operating limitations for the incinerator;

C. A test, conforming to the specifications of EPA test methods, to measure the NO_x emissions from the incinerator must be performed within 60 days of startup.

A copy of each test must be submitted to the EPA within 30 days of completion of the test.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the

subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25417 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-7]

PSD Non-Applicability to Nepera Chemical Co., Harriman, N.Y.

Notice is hereby given that on April 7, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Nepera Chemical Company (Nepera) proposal to construct an alumina catalyst regenerator at their Harriman, New York plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to the numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

A review of the Nepera project in accordance with the requirements of this order indicates that the project is *not* subject to PSD review. The potential (uncontrolled) carbon monoxide (CO) emissions from the proposed catalyst regenerator were calculated to be approximately 1000 tons per year and, therefore, subject to PSD under the June 19, 1978, regulations. However, the administrative order stays the application of the June 19, 1978, regulations as to any source or modifications for which there is no significant increase of emissions relative to each pollutant for which the source is "major" under the September 5, 1979, proposed amendment. When taking into account all new facilities and the shutdown of existing equipment, there is a net decrease in the amount of CO emissions. In addition, there will be no significant emission increases of any other pollutant for which Nepera would be major. Based upon this review, the Nepera project is *not* PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25418 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-1]

PSD Non-Applicability to Phillips Puerto Rico Core, Guayama, P. R.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Phillips Puerto Rico Core, Inc. (PPRC) hydrodealkylation (HDA) unit expansion project at their Guayama, Puerto Rico plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for petrochemical manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the potential (uncontrolled) sulfur dioxide ("SO_2") emissions relative to this project were calculated to be approximately 365 tons per year and, therefore, subject to PSD review under the June 19, 1978, regulations. However, the administrative order stays the application of the 1978 PSD regulations as to any source of modification which would not be major under the September 5, 1979, proposed regulations. The PRC project is not considered a major source because there will be no significant net increase of SO_2 emissions (the only applicable pollutant that would be emitted from this project) at the plant; the September 5, 1979, proposed regulations apply to a modification at a major emitting facility which would result in a significant net increase in the source's potential to emit the pollutant for which the source is major. When taking into account all new equipment and modifications of existing equipment, there is expected to be a net *decrease* in the amount of SO_2 emissions. Based upon this review, the PPRC HDA project is *not* PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25421 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-4]

PSD Non-Applicability to Tam Ceramics Inc., Niagara Falls, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Tam Ceramics Inc., (TAM) proposal to construct five new process facilities at their Niagara Falls, New York plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for ceramic and refractory minerals grinding and treatment plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to the numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Niagara Falls, New York, is not attaining the NAAQS for the pollutant particulate matter (the only applicable pollutant that would be emitted from the five referenced emission facilities). TAM satisfies the requirements of the administrative order and, therefore, PSD review of the project is not required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25418 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-3]

PSD Non-Applicability to Union Carbide Corp., Niagara Falls, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Union Carbide Corporation (UCC) proposal to construct two materials handling systems at their Carbide Products Division plant in Niagara Falls, New York, is not subject to the federal Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for carbon and graphite products manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification would be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations, or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Niagara Falls, New York, is not attaining the NAAQS for the pollutant particulate matter (the only applicable pollutant emitted from the referenced project). UCC satisfies the requirements of the administrative order and, therefore, PSD review of the project is *not* required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng. (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FRL 1580-2]

PSD Non-Applicability to United States Gypsum Co., Oakfield, N.Y.

Notice is hereby given that on April 7, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the United States Gypsum Company (USG) proposal to modify the wallboard facility at their Oakfield, New York, plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for mill and board manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any modification for which there is no significant net increase of emissions relative to each pollutant for which the source would be major under the September 5, 1979, proposed amendments. When taking into account all new equipment and the shutdown of certain existing equipment, there is a net decrease in the amount of particulate matter emissions. Based upon this review, the USG modification is not PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren

Regional Administrator.

[FR Doc. 80-25420 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1579-5]

Martin Marietta Aluminum, Inc.; Final Determination

In the matter of the proceedings under Title I, Part C of the Clean Air Act (the Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 25388, June 19, 1978) for the Prevention of Significant Air Quality Deterioration (PSD) to Martin Marietta Aluminum, Inc. (MMA).

On May 4, 1979, MMA submitted an application to the United States Environmental Protection Agency (EPA), Region II Office, to obtain a PSD permit for an expansion (Expansion "E") of their existing alumina refinery on St. Croix, in the United States Virgin Islands. Additional information pertaining to the application was submitted on August 7, 1979.

On August 30, 1979, the application was considered complete, and a PSD review for approvability was commenced. A preliminary determination (a determination pending public review) (PD) to approve this project was issued to MMA on December 14, 1979. A notice to the public was published in the *Avis* on January 11, 1980, requesting comments on the EPA PD and soliciting the need to hold a public hearing on such determination. The public comment period ended February 10, 1980; no public hearing was requested during the fifteen-day period in which requests were to be considered. On February 15, 1980, the EPA did receive a letter from MMA commenting on certain sections of the PD to approve the proposed project. These comments were reviewed and all necessary changes were made to EPA internal documents.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed September 5, 1979, PSD regulations. The MMA project was reviewed by the EPA in accordance with the requirements of the January 30, 1980, administrative order staying the 1978 PSD regulations. It was concluded that the project was still PSD affected and that it satisfied all the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed 1979 regulations.

On June 6, 1980, the EPA issued a final determination of approvability (the PSD permit) and permission to commence construction was granted.

This approval is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25433 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1580-5]

Nepera Chemical Co.; Final Determination

In the matter of the proceedings under Title 1, Part C of the Clean Air Act (the Act) as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388 June 19, 1978) for the Prevention of Significant Air Quality Deterioration (PSD) to the Nepera Chemical Company in Harriman, New York.

On July 27, 1978, the Environmental Protection Agency (EPA), Region II Office, was advised by letter from the Nepera Chemical Company (NCC) that the company had begun the construction of a new fume and waste water incinerator at their Harriman, New York chemical plant.

On September 7, 1978, the company was notified by letter from the EPA that the construction of the incinerator constituted a major modification to the chemical process plant (an existing major source). This determination was made based upon a review of the project in accordance with the June 19, 1978, PSD regulations. The company was advised to submit a PSD application.

On September 18, 1978, the company was advised by letter that certain process information was needed in conjunction with the previously requested PSD application. On that same day, a meeting was held the request of NCC to discuss the applicability of the PSD regulations to the new incinerator. The company was advised that the incinerator was subject to PSD and that if it became operational prior to obtaining a PSD permit, a Notice of Violation would be issued.

On October 13, 1978, a Notice of Violation was issued by EPA to NCC for the illegal construction of the incinerator. NCC was required to submit a PSD application with an acceptable best available control technology (BACT) proposal.

Between November, 1978 and May, 1979, the company submitted an initial PSD application (declared incomplete) and a number of information packages intended to satify Region II's completeness requirements. Also during this period, a number of meetings were convened between NCC and EPA to discuss the PSD review requirements.

On June 25, 1979, the NCC PSD application was declared complete and the review of approvability commenced. On October 25, 1979, a preliminary determination (PD) (a determination pending public review) to approve this project was issued to NCC. A notice to the public was published in the *Middletown Times Herald Record* on November 6, 1979, requesting comments on the EPA PD and soliciting the need to hold a public hearing on such determination. The public comment period ended December 6, 1979; the EPA received many written comments (including numerous requests for a public hearing) in response to the EPA PD. A public hearing was held in Harriman, New York on January 22, 1980.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

The EPA reviewed the NCC PSD application in conjunction with all of the comments received from the public and from the representatives of NCC. Based upon this information, it was determined that the NCC incinerator would meet all the requirements of the Act and the PSD requirements. On April 14, 1980, the EPA issued a final determination of approvability (the PSD permit) and permission to commence construction was granted.

This approval is final action under the Act. Under Section 307 (b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25432 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1579-3]

Science Advisory Board, Subcommittee on Health Risk Assessment; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Subcommittee on Health Risk Assessment of the Science Advisory Board will be held on Septebmer 15 and 16, 1980, in the Auditorium, Environmental Research Center, U.S. Environmental Research Center, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. The meeeting will start at 9:00 a.m. on September 15, 1980. The Environmental Research Center is located at the intersection of Highway N.C. 54 and T.W. Alexander Drive. The Auditorium is located near the Visitors' Entrance.

The purpose of the meeting will be to consult the Subcommittee on plans and programs of EPA's Office of Air Quality Planning and Standards to develop suitable methodology for assessing health risks associated with alternative ambient air quality standards. Particularly, the Subcommittee will review and discuss several specific plans and approaches suggested by outside EPA research groups involved in developing suitable methodology. The Agenda will also include informational items of current interest to the Subcommittee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper, or wishing further information should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. September 8, 1980. Please ask for Mrs. Patricia Howard of Mr. Ernst Linde. The telephone number is (202) 472-9444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

August 13, 1980.

[FR Doc. 80-25434 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-2]

Prevention of Significant Deterioration of Air Quality (PSD) Permit; Pittston Co.; Request for Extension

AGENCY: U.S. Environmental Protection Agency, Region I.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has received a request from the Pittston Company to extend its Prevention of Significant Deterioration of Air Quality (PSD) Permit, which expires on August 18, 1980. The Company has asked that this extension run for (eighteen months from a final, non-reviewable order in the cases in the United States Court of Appeals for the First Circuit challenging the validity of that permit). (*Carr* v. *EPA*, Nos. 78–1443, 78–1484, 78–1486 and 78–1487). EPA's respone to the Company's request is reprinted below.

Because of potential public interest in this matter, EPA has decided in its discretion to allow any interested member of the public until September 18, 1980 to comment on the merits of the Company's request for an extension. EPA will respond by October 18, 1980 to any comments and will render a decision on the Company's request at that time. EPA has allowed an interim extension of the Company's PSD permit until October 18, 1980 in order to preserve the status quo during the comment period. Comments should be addressed to Susan E. T. Studlien, Office of Regional Counsel, U.S. Environmental Protection Agency Region I, J.F. Kennedy Federal Building Room 2203, Boston, Massachusetts 02203.

Documents relevant to the Company's request are available during normal business hours at the Office of Regional Counsel, U.S. Environmental Protection Agency Region I, J.F. Kennedy Federal Building Room 2203, Boston, Massachusetts 02203, at the Public Information Reference Unit, U.S. Environmental Protection Agency, Waterside Mall Building, 401 M Street, S.W., Washington, D.C. 20460, at the Eastport Public Library, Eastport, Maine 04361 and the Department of Environmental Protection, Ray Building, Augusta, Maine 04333.

For further information please contact Susan E. T. Studlien, Office of Regional Counsel, U.S. Environmental Protection Agency Region I, J.F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223–5246.

Leslie A. Carothers,

Deputy Regional Administrator, U.S. Environmental Protection Agency Region I.

August 15, 1980.

Jonathan B. Hill, Esq.,
Dow, Lohnes & Albertson,
1225 Connecticut Avenue,
Washington, D.C. 20036.

Dear Mr. Hill: I am in receipt of your letter dated August 5, 1980 requesting a further extension of the Pittston Company's Prevention of Significant Deterioration of Air Quality (PSD) Permit for eighteen months dating from a final, non-reviewable order in cases in the United States Court of Appeals for the First Circuit challenging the validity of that permit.

Comment on the merits of a further extension has been submitted by the Roosevelt Campobello International Park Commission, and a request for an opportunity to comment has been made by the Natural Resources Council of Maine. It is EPA's view that the Agency can consider comment without harm to the interests of the Company. Becuase of potential interest by a wider public in this matter, I hereby allow any interested member of the public until September 18, 1980 to comment on the merits of the Company's request and I allow EPA until October 18, 1980 to respond to any comments that are received. Pursuant to my authority under 40 CFR § 52.21(r)(2) [40 CFR § 52.21(s)(2) (1978), 40 CFR § 52.21(e)(3) (1977)], I find good cause to allow an interim extension of the Company's PSD permit until October 18, 1980 to preserve the status quo during this comment period. This interim extension is hereby allowed.

I will notify the public of the opportunity to comment on the Company's request by publication of this letter in the **Federal Register.**

Sincerely yours,

William R. Adams, Jr.,

Regional Administrator.

A. F. Kaulakis, *Vice President,* The Pittston Company; Douglas Costle, *Administrator,* EPA; David Hawkins, Esq., *Assistant Administrator,* Air and Hazardous Materials; Peter Wyckoff, Esq., Office of General Counsel; Atty. Nancy Long, The Justice Department; Mr. Doc Hodgins, Friends of Eastport; John Lund, Esq., Atty. Virginia Davis, Maine Natural Resources Council; Alan Wilson, Esq., Conservation Law Foundation; Wayne Henderson, Esq., New England Legal Foundation; Howard William Carr, Tidal Power Publications; Bruce J. Terris, Esq., Atty. Karen A. Edgecombe, Roosevelt-Campobello, International Park Commission.

[FR Doc. 80-25630 Filed 8-20-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing and Notification of Cut-Off Date

Released: August 4, 1980.

Cut-Off Date: September 11, 1980.

Notice is hereby given that the TV and FM translator applications listed in the attached Appendix below will be considered ready and available for processing after September 11, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 11, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on September 11, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on September 11, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT–790918IJ (new), Tampa, Florida, Joaquin Blaya, Req: Channel 50, 686–692 MHz, 1000 watts, Primary: KWEX–TV, San Antonio, Texas.

BPTT–791010IA (new), Boston, Massachusetts, Boston Latino Television, Req: Channel 62, 758–764 MHz, 1000 watts, Primary: KWEX–TV, San Antonio, Texas.

BPTT–800514IB (new), Victorville & Adjacent Community, California, Victor Valley Public Translator, Inc., Req: Channel 27, 548–554 MHz, 100 watts, Primary: KHJ–TV, Los Angeles, California.

BPTT–800514IA (new), Victorville & Adjacent Community, California, Victor Valley Public Translator, Inc., Req: Channel 21, 512–518 MHz, 100 watts, Primary: KNXT–TV, Los Angeles, California.

BPTT–800514IE (new), Victorville & Adjacent Communities, California, Victor Valley Public Translator, Inc., Req: Channel 38, 614–620 MHz, 100 watts, Primary: KBAK–TV, Bakersfield, California.

BPTT–800519ID (new), Plainview, Hichsville, New York, Bogner Broadcast Equipment Corporation, Req: Channel 59, 740–746 MHz, 100 watts, Primary: WVIA–TV, Scranton, Pennsylvania.

BPTT–800505IS (new), Huntsville & Rural Weber County, Utah, University of Utah, Req: Channel 55, 716–722 MHz, 100 watts, Primary: KUED–TV, Salt Lake City, Utah.

BPTT–800505IT (new), Hatch, Utah, University of Utah, Req: Channel 56, 722–728 MHz, 20 watts, Primary: KUED–TV, Salt Lake City, Utah.

BPTT–800513IA (new), Myton & Rural Area, Utah, Duchesne County, Req: Channel 67, 788–794 MHz, 100 watts, Primary: KSTU–TV, Salt Lake City, Utah.

BPTT–800514IC (new), Victorville & Adjacent Communities, California, Victor Valley Public Translator, Inc., Req: Channel 31, 572–578 MHz, 100 watts, Primary: KTTV–TV, Los Angeles, California.

BPTT–800514ID (new), Victorville & Adjacent Communities, California, Victor Valley Public Translator, Inc., Req: Channel 35, 596–602 MHz, 100 watts, Primary: KCOP–TV, Los Angeles, California.

BPTT–800514IF (new), Victorville & Adjacent Community, California, Victor Valley Public Translator, Inc., Req: Channel 25, 536–542 MHz, 100 watts, Primary: KNBC–TV, Los Angeles, California.

BPTT–800516IA (new), Buellton & Solvang, California, International Panorama TV, Inc., Req: Channel 53, 704–710 MHz, 100 watts, Primary: KTBN–TV, Fontana, California.

BPTT–800522IB (new), Portales, New Mexico, Panhandle Telecasting Company, Req: Channel 59, 740–746 MHz, 100 watts, Primary: KFDA–TV, Amarillo, Texas.

BPTT–800522IC (new), Bovina & Rural Area, Texas, Panhandle Telecasting Company, Req: Channel 63, 764–770 MHz, 100 watts, Primary: KFDA–TV, Amarillo, Texas.

BPTT–800522ID (new), Hereford & Friona, Texas, Panhandle Telecasting Company, Req: Channel 67, 788–794 MHz, 100 watts, Primary: KFDA–TV, Amarillo, Texas.

VHF TV Translator Applications

BPTTV–800506ID (new), Batesburg & Leesville, South Carolina, Capital Communications, Inc., Req: Channel 2, 54–60 MHz, 1 watt, Primary: WLTX–TV, Columbia, South Carolina.

BPTTV–800519IN (new), Black Butte Ranch, Oregon, Brooks Resources Corporation, Req: Channel 5, 76–82 MHz, 10 watts, Primary: KOIN–TV, Portland, Oregon.

BPTTV–800521IA (new), Mt. Gate, Silverthorn & Bridge Bay Area, California, Req: Channel 3, 60–66 MHz, 10 watts, Primary: KRCR–TV, Redding, California.

BPTTV–800522IA (new), Steamboat, Oregon, State of Oregon Acting By & Through The State, Board of Higher Education, Req: Channel 2, 54–60 MHz, 10 watts, Primary: KVDO–TV, Salem, Oregon.

BPTTV–800522IE (new), Sioux Falls, South Dakota, Gillett Broadcasting of South Dakota, Inc., Req: Channel 7, 174–180 MHz, 10 watts, Primary: KXON–TV, Mitchell, South Dakota.

BPTTV–800528IC (new), Gila Center Federal Housing Area & Gila Hotsprings Community, New Mexico, Gila Center Recreation Association, Req: Channel 7, 174–180 MHz, 1 watt, Primary: KOLD–TV, Tucson, Arizona.

FM Translator Applications

BPFT–800103IG (new), Yucaipa, California, SW Broadcasting Company, Inc., Req: Channel 252, 98.3 MHz, 1 watt, Primary: KCAL–FM, Redlands, California.

BPFT–800103IH (new), San Clemente, Laguna Hills, Santa Ana, & Orange, California, El Camino Broadcasting Corporation, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KWVE–FM, San Clemente, California.

BPFT–800104IR (new), Dead Indian & Emigrant, Oregon, State of Oregon Acting By & Through The State, Board Of Higher Education, Req: Channel 203, 88.5 MHz, 10 watts, Primary: KSOR–FM, Ashland, Oregon.

BPFT–800122ID (new), Oakridge, Oregon, Lane Community College, Req: Channel 218, 91.5 MHz, 10 watts, Primary: KLCC–FM, Eugene, Oregon.

BPFT–791108IS (new), Washington & Rural Washington County, Utah, University of Utah, Req: Channel 218, 91.5 MHz, 10 watts, Primary: KUER–FM, Salt Lake City, Utah.

BPFT–800228IC (new), Missoula, Arlee, Frenchtown & Ovando, Montana, Rocky Mountain Bible Mission, Req: Channel 214, 90.7 MHz, 10 watts, Primary: KMBI–FM, Spokane, Washington.

BPFT–800327IB (new), Freeport, Illinois, Northwestern Illinois Radio Fellowship, Inc., Req: Channel 202, 88.3 MHz, 1 watt, Primary: WMBI–FM, Chicago, Illinois.

BPFT–800620IC (new), Laguna Beach, California, Saddleback Community College District, Req: Channel 208, 89.1 MHz, 1 watt, Primary: KSBR–FM, Mission Viejo, California.

VHF TV Translator Applications

BPTTV–791205IH (new), Harrison, Nebraska, Harrison Men's Community Club, Req: Channel 9, 186–192 MHz, 5 watts, Primary: KIVV–TV, Lead-Deadwood, South Dakota.

BPTTV–800619ID (new), Bozeman, Montana, Garryowen Corporation, Req: Channel 9, 186–192 MHz, 100 watts, Primary: KTVQ–TV, Billings, Montana.

UHF TV Translator Applications

BPTT–791015IH (new), Las Vegas, Nevada, Las Tree Campanas Television, Req: Channel 27, 548–554 MHz, 1000 watts, Primary: KWEX–TV, San Antonio, Texas.

BPTT–800110IE (new), Carrizozo, Oscura & Three Rivers, New Mexico, New Mexico Broadcasting Company, NSL, Req: Channel 57, 728–734 MHz, 100 watts, Primary: KGGM–TV, Albuquerque, New Mexico.

BPTT–800110IF (new), Alamogordo & Holloman AFB, New Mexico, New Mexico Broadcasting Company, NSL, Req: Channel 65, 776–782 MHz, 100 watts, Primary: KGGM–TV, Albuquerque, New Mexico.

BPTT–800131IB (new), Romeo, La Jara, Manassa, Antonito & Alamosa, Colorado, Capitol Of Colorado Corporation, Req: Channel 57, 728–734 MHz, 100 watts, Primary: KKTV–TV, Colorado Springs, Colorado.

BPTT–800313II (new), Victoria, Texas, South Texas Educational Broadcasting Council, Req: Channel 25, 536–542 MHz, 1000 watts, Primary: KEDT–TV, Corpus Christi, Texas.

FM Translator Applications

BPFT–800122IC (new), Florence, Oregon, Lane Community College, Req: Channel 218, 91.5 MHz, 10 watts, Primary: KLCC–FM, Eugene, Oregon.

[FR Doc. 80-25412 Filed 8-20-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-627-DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–627–DR), dated August 11, 1980, and related determinations.

DATED: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634–7848.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is herey given that, in a letter of August 11, 1980, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Texas resulting from Hurricane Allen beginning on or about August 10, 1980, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance to supplement State and local resources, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, the Federal government will provide 75 percent of all eligible public assistance under Pub. L. 93–288.

The time period prescribed for the implementation of Section 313(a), Priority to Certain Applications for Public Facility and Public Housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Dale Milford of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster.

The following Counties for Individual Assistance only:

Cameron	Nueces
Jim Wells	San Patricio
Kleberg	Willacy

(Catalog of Federal Domestic Assistance No.

Bank Holding Companies; Proposed

activities): to engage through its indirect

would not suffice in lieu of a hearing ,

indirect subsidiaries; making loans and

The application may be inspected at

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718–02)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80–25384 Filed 8–20–80; 8:45 am]

BILLING CODE 4210–23–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2146]

Flamingo Freight Forwarders, Daniel G. Ellyn, d.b.a.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Flamingo Freight Forwarders (Daniel G. Ellyn, dba), 5336 West 4th Ln., Hialeah, Florida 33012, FMC No. 2146, was cancelled effective August 14, 1980.

By letter dated July 16, 1980, Flamingo Freight Forwarders (Daniel G. Ellyn, dba) was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2146 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Flamingo Freight Forwarders (Daniel G. Ellyn, dba) has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2146 be and is hereby revoked effective August 14, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 2146, issued to Flamingo Freight Forwarders (Daniel G. Ellyn, dba) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Flamingo Freight Forwarders (Daniel G. Ellyn, dba).

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80–25402 Filed 8–20–80; 8:45 am]

BILLING CODE 6730–01–M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 15, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (mortgage lending activities; Washington): to engage through its subsidiary, Citicorp Washington Financial Center, Inc., in the activity of originating, for its own account and for the account of others, first mortgage loans secured by residential or commercial properties. This activity would be conducted from offices in Spokane, Kennewick, Everett, Yakima, Seattle, Bellevue, Wenatchee, Tacoma, Olympia, and Federal Way, Washington, serving the State of Washington.

2. Citicorp, New York, New York (consumer finance and insurance activities): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc. in conducting previously approved activities from an office located at Wheatridge, Colorado including, purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit; and the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. and to the extent permissible under applicable state insurance laws and regulations. The service area for the activity involving the sale of property and casualty insurance will be expanded to cover the entire State of Colorado. Comments on this application must be received by September 9, 1980.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–25375 Filed 8–20–80; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition; conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing , identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than September 15, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (financing and mortgage banking activities; Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, Wisconsin, and the District of Columbia): to engage, through a *de novo* office of its subsidiary, Citicorp Homeowners, Inc., in making, acquiring and servicing extensions of credit secured by liens on residential real estate, and in originating 1–4 family residential mortgage loans. These activities will be conducted from an office to be located at 680 Craig Road, Creve Coeur, Missouri. The office will serve the following states and the District of Columbia; Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, and Wisconsin. Comments on this application must be received by September 11, 1980.

2. Irving Bank Corporation, New York, New York (financing and leasing activities; nationwide): to engage, through its subsidiary, Irving Business Services, Inc., in soliciting and servicing credit and other relationships for Irving Bank Corporation's direct and indirect subsidiaries, including marketing credit and other services offered by, and assisting in the negotiation of the terms of transactions with, Irving Bank Corporation's direct and indirect subsidiaries, and servicing and monitoring extensions of credit and other relationships entered into by Irving Bank Corporation's direct and indirect subsidiaries; making loans and other extensions of credit, and leasing personal property in accordance with the Board's Regulation Y. These activities will be conducted from its principal office in New York, New York and offices in Atlanta, Georgia; Chicago, Illinois; Cincinnati, Ohio; Dallas, Texas; Los Angeles, California; and Minneapolis, Minnesota, serving a nationwide service area. Comments on this application must be received by September 11, 1980.

3. Citicorp, New York, New York (first mortgage lending; Utah): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc. in the origination, for its own account for the account of others, of first mortgage loans secured by residential or commercial properties. The new activity will be offered from an existing office in Salt Lake City and will serve the entire state of Utah.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Bancorp Hawaii, Inc., Honolulu, Hawaii (industrial loan and credit related insurance activities; Hawaii): to open a *de novo* branch office of its subsidiary, Bancorp Finance of Hawaii, Inc., and to engage through this subsidiary in industrial loan business and to act as agent or broker in the sale of credit-related life, accident and health insurance. These activities will be conducted from an office in Kailua-Kona, Hawaii, and the area to be served is the entire west side of the island of Hawaii. Comments on this application must be received by September 13, 1980.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Fedral Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–25379 Filed 8–20–80; 8:45 am]

BILLING CODE 6210–01–M

CB Bancshares, Inc.; Formation of Bank Holding Company

CB Bancshares, Inc., Honolulu, Hawaii, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to City Bank, Honolulu, Hawaii. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–25378 Filed 8–20–80; 8:45 am]

BILLING CODE 6210–01–M

H & H Financial Corp.; Formation of Bank Holding Company

H & H Financial Corporation, Kokomo, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of First National Bank, Kokomo, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–25374 filed 8–20–80; 8:45 a.m.]

BILLING CODE 6210–01–M

Kupka's, Inc.; Proposed Retention of General Insurance Agency Activities

Kupka's Inc., Traer, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR

225.4(b)(2)), for permission to retain First Insurance Agency, Traer, Iowa, a general insurance agency in a community with a population not exceeding 5,000. The geographic area to be served is the area within a 15 mile radius of Traer, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 15, 1980.

Board of Governors of the Federal Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25373 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Ranier Bancorp.; Proposed Acquisition of Roger R. Post & Co., Inc.

Ranier Bancorporation, Seattle, Washington, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through its wholly-owned subsidiary, Ranier Mortgage Company ("Ranier"), voting shares of Roger R. Post & Company, Inc. ("Post"), Monterey, California.

Applicant states that Ranier, into which Post will be merged, would engage in the activities of mortgage banking, including the origination and servicing of mortgage loans, and the sale of credit-related insurance. These activities would be performed from offices of Ranier in Kalispell, Montana; Monterey, Eureka, Fairfield, Oxnard, Redding, Sacramento, and Whittier, all in California; Coeur D'Alene, Idaho Falls, Pacatello, and Twin Falls, Idaho; and Lander and Rock Springs, Wyoming. The geographic areas to be served are the states of California, Wyoming, Montana, and Idaho, particularly in the vicinities surrounding the above-listed offices. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 15, 1980.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25372 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc.; Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Texas Commerce Bank—Northwest Freeway, National Association, Houston, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 14, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25376 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

United Missouri Bancshares, Inc.; Acquisition of Bank

United Missouri Bancshares, Inc., Warsaw, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 81.8 percent or more of the voting shares of Warsaw Bancshares, Inc., Warsaw, Missouri and its subsidiary bank, Community Bank of Warsaw, Warsaw, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the reserve Bank to be received not later than September 5, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25377 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

B.P.C Corp.; Formation of Bank Holding Company

B.P.C. Corporation, Cookeville, Tennessee, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bank of Putnam County, Cookeville, Tennessee. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 15, 1980. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25427 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Century Banks, Inc.; Acquisition of Bank; Proposal To Engage in Insurance Activities; Correction

This notice corrects a previous **Federal Register** Document (FR Doc. 24468) appearing at page 53874 of the issue for Wednesday, August 13, 1980. The first paragraph is corrected to read as follows:

Century Banks, Inc., Fort Lauderdale, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of State Bank of Apopka, Apopka, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Board of Governors of the Federal Reserve System, August 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25429 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on July 9, 1980, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on August 12, 1980.

Note.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, August 15, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-25431 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of July 9, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 9, 1980.[1]

The information reviewed at this meeting indicates a marked contraction in real GNP in the second quarter. In May total retail sales declined substantially for the fourth consecutive month, and housing starts, industrial production, and nonfarm payroll employment continued to decline. Employment fell sharply further in June; however, the unemployment rate edged down from 7.8 to 7.7 percent, following large increases in April and May. The overall rise in prices of goods and services has moderated in recent months, in large part owing to a lessening of the rapid rise in energy items. Over the first six months of the year, the rise in the index of average hourly earnings was moderately faster than the pace recorded in 1979.

The downward pressure on the dollar in exchange markets that emerged in early April abated in mid-June, and then was resumed in early July. The average U.S. foreign trade deficit for April and May was well below the average for the first quarter, reflecting reduced oil and non-oil imports.

Monetary expansion was rapid in June, following weakness earlier in the spring. Over the first half of the year growth of M–1A and M–1B fell short of the rates consistent with the Committee's ranges for the year from the fourth quarter of 1979 to the fourth quarter of 1980; the rate of growth for M–2 was just above the lower bound of its range. Outstanding bank loans to business declined substantially during the second quarter following a large increase in the first quarter. Market interest rates declined considerably further in late May and the first half of June, but since then most rates have retraced part of the decline. Reductions in Federal Reserve discount rates from 13 to 11 percent in equal steps were announced on May 28 and June 12.

Taking account of past and prospective economic developments, the Federal Open Market Committee seeks to foster monetary and financial conditions that will resist inflationary pressure while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. The Committee agrees that these objectives would be furthered by growth of M–1A, M–1B, M–2, and M–3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6 percent, 4 to 6½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit is 6 to 9 percent.

In the short run, the Committee seeks expansion of reserve aggregates consistent with growth of M–1A, M–1B, and M–2 over the third quarter of 1980 at annual rates of about 7 percent, 8 percent, and 8 percent respectively, provided that in the period before the next regular meeting the weekly average Federal funds rate remains within a range of 8½ to 14 percent.

If it appears during the period before the next meeting that the constraint on the Federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

Note.—On July 29, 1980, the Committee agreed that for the period from the fourth quarter of 1980 to the fourth quarter of 1981, it looked toward a reduction in the ranges for growth of M–1A, M–1B, and M–2 on the order of ½ percentage point from the ranges adopted for 1980, abstracting from institutional influences affecting the behavior of the aggregates.

By order of the Federal Open Market Committee, August 15, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-25430 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of July 9, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Royal Bancshares, Inc.; Formation of Bank Holding Company

Royal Bancshares, Inc., University City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of Citizens Bank of University City, University City,

Missouri, and West Side National Bank, Glendale, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25428 Filed 8-20-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Weyerhaeuser Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Trendmaker Homes, Inc. from Alfred H. Mayer. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Weyerhaeuser Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Sections 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25496 Filed 8-20-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-20]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Jersey Board of Public Utilities involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Jersey Board of Public Utilities involving the application of the Jersey Central Power and Light Company for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 5, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-25462 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-25-M

[F-80-15]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Louisiana Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Louisiana Public Service Commission involving the application of the South Central Bell Telephone Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 5, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25461 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-AS-M

[GSA Bulletin FPR 47]

Federal Procurement

August 7, 1980.

To: Heads of Federal agencies.

Subject: Quarterly updates of the Qualified Film Producers List (QFPL) and Qualified Videotape Producers List (QVPL).

1. *Purpose.* This bulletin provides information regarding quarterly updates of the Qualified Film Producers List (QFPL) and Qualified Videotape Producers List (QVPL).

2. *Expiration date.* This bulletin expires August 6, 1981 unless earlier revised or superseded.

3. *General.* Federal Procurement Regulations (FPR) Temporary Regulation 53, March 31, 1980, implemented the Office of Federal Procurement Policy (OFPP) Letter 79-4, dated November 28, 1979, which directed the establishment of a uniform Government-wide system for contracting for motion picture and videotape productions. The OFPP Executive Agent for that system issues memorandums quarterly which provide updates to the basic Qualified Film Producers List (QFPL) (GSA Bulletin FPR 43, April 16, 1980) and the basic Qualified Videotape Producers List (QVPL) (GSA Bulletin FPR 44, May 12, 1980). These memorandums, with attachments, are distributed directly to OFPP Agency Points of Contact, Federal Audiovisual Committee Members, and QFPL/QVPL Points of Contact.

4. *Agency action.*—a. Agencies not receiving the updates or requiring extra copies should write to: Executive Agent, Government-wide Contracting System for Audiovisual Productions, DOD Directorate for Audiovisual Activities, 1117 North 19th Street, Room 601, Arlington, VA 22209.

b. Questions may be directed to Major Richard H. Zigler (202 694-4914/4944).

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-25463 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-61-M

Qualifications Review Panel for the Position of Director, Gerald R. Ford Library; Establishment of Committee

Establishment of Advisory Committee. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and advises of the establishment of the Qualifications Review Panel for the Position of Director, Gerald R. Ford Library. The Administrator of General Services has determined that establishment of this ad hoc advisory committee is in the public interest.

Designation. Qualifications Review Panel for the Position of Director, Gerald R. Ford Library.

Purpose. The committee will review the Personal Qualifications Statement (SF-171) of candidates for the position of Director of The Gerald R. Ford Library and recommend to the GSA Merit Selection Panel those applicants considered to be best qualified for referral to the Archivist of the United States for final selection.

General Information. Pursuant to Office of Management and Budget Circular A-63, the Committee Management Secretariat has authorized a period of less than 15 days between publication of this notice and the filing of the committee charter.

Dated: August 15, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25464 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, The Research Work Group; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of September 1980.

The Research Work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, September 19; 2:00 p.m.—Open, Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Contact: Charles T. Kaelber, Room 16C-16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2958.

Purpose: The Research Work Group evaluates all Federal alcohol and alcoholism related research efforts, seeks to coordinate these programs and activities, and submits any reports or recommendations to the Interagency Committee of the National Institute on Alcohol Abuse and Alcoholism.

Agenda: The meeting will consist of a discussion on the NIAAA Alcohol Research Center Program.

Substantive program information may be obtained from the contact person listed above. The NIAAA Committee Management Office will furnish upon request summaries of the meeting and a roster of Committee members. Contact Helen Garrett, Room 16C-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860.

Dated: August 15, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-25382 Filed 8-20-80; 8:45 am]

BILLING CODE 4110-88-M

Health Resources Administration

National Advisory Council on Nurse Training; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1980:

Name: National Advisory Council on Nurse Training.

Date and Time: October 29-31, 1980, 9:00 a.m.

Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Open October 29, 9:00 a.m.-12:00 noon.

Closed remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

Agenda: Agenda items for open portion of meeting will cover announcements; consideration of minutes of previous meeting; discuss future meeting dates; and administrative and staff reports. The remainder of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S.C. and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Professions, Health Resources Administration, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6661.

Agenda items are subject to change as priorities dictate.

Dated: August 14, 1980.

Irene D. Skinner,

Advisory Committee Management Officer, HRA.

[FR Doc. 80-25383 Filed 8-20-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. N8-26]

Intended Environmental Impact Statement on Village Nine Subdivision, Mesa Co., Colo.

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is

intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Village Nine Subdivision, Mesa County, Colorado. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., August 15, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Village Nine Subdivision, Mesa County, Colorado

The HUD Area Office in Denver, Colorado intends to prepare an EIS on Village Nine Subdivision, described below, and requests information and comments for consideration in the EIS.

Description. Approximately 640 dwelling units (single-family and multi-family) will be built in Mesa County, Colorado, approximately two miles southeast of downtown Grand Junction, Colorado and within about 100 yards of the city limits on the west side.

Need. An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives. The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or reject participation in the development.

Scoping. A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This notice will also appear in a paper of local circulation in Grand Junction Colorado.

Comments. Comments should be forwarded on or before September 11, 1980, to Mr. Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 80-25435 Filed 8-20-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

National OSC Advisory Board, Pacific States Regional Technical Working Group Committee; Meeting

AGENCY: Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf Office.

ACTION: National Outer Continental Shelf Advisory Board, Pacific States Regional Technical Working Group Committee; notice and agenda for meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463.

The Pacific States Regional Technical Working Group Committee of the National OCS Advisory Board will meet during the period 9:00 a.m. to 3:30 p.m., September 15, 1980 at Amfac Hotel—Room Kent B; 8601 Lincoln B1., Los Angeles, California.

The agenda for the meeting will cover the following topics:

(1) Oil Spill Containment and Clean-up Technology Briefing.

(2) Sale #68: EIS Scoping.

A detailed agenda will be available by August 29, 1980.

This meeting is open to the public. Interested persons may make oral or written presentations to the Committee. Such requests should be made no later than August 28, 1980 to: Ellen Aronson, Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017 (213/688-6758). Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Office, Bureau of Land Management, 1340 West Sixth Street, Room 200, Los Angeles, California 90017.

Bureau of Land Management, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20340

Date: August 11, 1980

William E. Grant,

Manager, Pacific Outer Continental Shelf Office.

[FR Doc. 80-25364 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 80-23]

Environmental Statements, Availability; Anaconda Nevada Moly Project

AGENCY: Bureau of Land Management.

ACTION: Notice of availability of the final environmental impact statement (FEIS) on the Anaconda Copper Company's proposed Nevada Moly Project.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a FEIS concerning the Anaconda Copper Company's proposal to develop, mine, and mill a deposit of molybdenum ore. A major part of the proposal is the proposed construction of an 86-mile long 230 kV powerline by the Sierra Pacific Power Company to provide power for the mine/mill complex. The FEIS contains only comments, responses and minor changes to the Draft Environmental Impact Statement (DEIS) and should be used together with the DEIS. This revised procedure has saved substantial time, money, and paperwork and is authorized under 40 CFR 1503.4(c). The EIS analyzes the impacts of the proposal, alternate routing of the powerline and a range of materials for its construction, as well as alternative means of milling the ore. The DEIS was made available to the public April 18, 1980, with comments due by June 2, 1980. The DEIS was the subject of public hearings in Tonopah, Nevada, on May 13, 1980, and in Austin, Nevada, on May 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Gene Nodine, Battle Mountain District Office, P.O. Box 194, Battle Mountain, NV 89820, (702) 635-5181.

Pat Clason, Division of Rights of Way and Project Review, Bureau of Land Management, 18th & C Streets, N.W., Washington, D.C. 20240, (202) 343-5441.

Mike Walker, Branch of Environmental Coordination, Bureau of Land Management, P.O. Box 12000, Reno, NV 89520, (702) 784-5602.

SUPPLEMENTARY INFORMATION: A limited number of copies are available upon request at the following offices:

Battle Mountain District Office, P.O. Box 194, Battle Mountain, NV 89820.

Tonopah Resource Area Headquarters Bldg., 102 Old Radar Base, Tonopah, NV 89049.

Bureau of Land Management, Nevada State Office, P.O. Box 12000, 300 Booth St., Reno, NV 89520.

Also, copies are available for review at public libraries in Tonopah, Battle Mountain, Austin, and Reno, Nevada.

Dated: August 12, 1980.

Roger McCormack,

Associate State Director, Nevada.

[FR Doc. 80-25370 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

[U-45949]

Public Lands in Millard County, Utah; Realty Action—Sale

The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than the fair market value shown:

Legal description	Acreage	Value
T. 15 S. R. 6 W., S.L.M.:		
Sec. 18 SW¼NW¼SW¼	200	
Sec. 19 NW¼, N½SW¼, SW¼SW¼	280	
T. 15 S., R. 7 W., S.L.M.:		
Sec. 10 All	640	
Sec. 11 All	640	
Sec. 12 SW¼SW¼	40	
Sec. 13 SE¼NE¼, E½SE¼, W½E½, W½	600	
Sec. 14 All	640	
Sec. 15 All	640	
Sec. 22 Lots 1, 2, 4, 6, and 9	100.59	
Sec. 23 Lots 1, 3, 5, and 6; N½N½, SE¼NE¼	311.28	
Sec. 24 Lots 1, 2, 5, and 7; N½, N½SE¼	522.91	
Total	4,614.78	$692,200

The sale will be made on approximately the 21st day of November, 1980.

The lands are being sold to the Intermountain Power Agency for development of a generating plant. The sale of these lands will serve important public objectives which cannot be achieved on lands other than public land. These objectives outweigh the values derived by livestock grazing which is the present and projected use of the land. Because the Intermountain Power Agency is the only utility that can reasonably be expected to complete the project at the present time, the land will be sold without competitive bidding.

The Environmental Statement written for this project considered several alternative sites for a generating plant. Two of the sites, Salt Wash and Lynndyl, were submitted to the Secretary of the Interior for consideration. However, the Secretary approved the Lynndyl site. The sale is consistent with the Bureau's planning the lands involved, and has been discussed with county and state government officials. The public interest would be well served by offering these lands for sale.

The terms and conditions applicable to the sale are:

1. The total purchase price for the land will be paid at the time of the sale.
2. The patent will contain a reservation for ditches and canals.
3. All minerals will be reserved to the United States.
4. The patent will be subject to all valid existing rights.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Richfield Bureau of Land Management Office, 150 East 900 North, Richfield, Utah 84701.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior (LLM-320). Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior and the required payment will be requested of the Intermountain Power Agency. Such payment, shall be in accordance with 43 CFR 1822.1-2.

Dated: August 13, 1980.

Robert E. Anderson,

Acting State Director, Utah.

[FR Doc. 80-25371 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Arizona, Phoenix District, Bureau of Land Management, Multiple Use Advisory Council; Meeting

The first meeting of the Phoenix District, BLM, Multiple Use Advisory Council will be held September 24 and 25, 1980. The meeting will be held at the District Headquarters, 2929 West Clarendon Avenue, Phoenix, Arizona, between 1:00-5:00 P.M. on September 24, and 8:00 A.M.-12:00 Noon on September 25. the Council has been established by, and will be managed according to, the Federal Advisory Committee Act of 1972, The Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The proposed agenda for the meeting includes:

1. Introduction and biographical sketch of members.
2. Discussion of agenda and meeting objectives.
3. Discussion of the function of the Council.
4. Description of the District Organization and introduction of staff.
5. Overview of District activities.
6. Issues and Programs in the Lower Gila, Kingman, and Phoenix Resource Areas.
7. Land-Use Planning and EIS Schedule.
8. Annual Work Plan—Budget System.
9. Election of Officers.
10. Public comment and statements.
11. Discussion of Council objectives.
12. Future meetings and agenda topics.

The meeting is open to the public. Interested persons may make oral statements to the Council between 9:00-9:30 A.M. on September 25 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by September 17, 1980. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact Frank Splendoria (602) 241-2501.

Dated: August 11, 1980.

William K. Barker,

District Manager.

[FR Doc. 80-25448 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Availability of Photo Alignment Maps Depicting Proposed Northern Tier Pipeline Route Across Federal Lands

August 15, 1980.

Photo alignment maps as listed in Exhibit B of the Federal Right-of-Way Grant (45 FR 30143) indicating the proposed routing of the Northern Tier Pipeline across Federal lands are available for public review in the following offices:

Citizens Information Office, Attention: Jan Buoy, 220 West 1st Street, Port Angeles, Washington 98362.

Capt. W. H. Byng, Commanding Officer, Whidbey Island Naval Air Station, Attention: Commander Robert Booth, Naval Air Station, Whidbey Island, Oak Harbor, Washington 98278.

Mr. Bill Lowery, District Ranger, Cle Elum Ranger District, West 2nd Street, Cle Elum, Washington 98922.

Don Campbell, Forest Supervisor, U.S. Forest Service, Attention: Sam Nagel, Lands and Minerals, 1601–2nd Avenue, Seattle, Washington 98101.

Mr. Roger Burwell, District Manager, Bureau of Land Management, Attention: Jerald Spessard, Energy Coordinator, West 920 Riverside, Room 551 Courthouse Building, Spokane, Washington 99201.

Mr. Joseph Zimmer, District Manager, Bureau of Land Management, Attention: Lynn Sheldon, Area Manager, 1808 North 3rd, Coeur d'Alene, Idaho 83814.

Tom Coston, Regional Forester, U.S. Forest Service, Region 1, Attention: Ray Karr, Information Office Director, 200 E. Broadway, Missoula, Montana 59801.

Mr. Jack Fisher, Energy Coordinator, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Mr. Neil Morck, Chief, Energy Rights-of-Way Staff, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59101.

George Neuberg, District Manager, Bureau of Land Management, Attention: Don Nelson, Area Manager, West Highway 10, Miles City, Montana 59301.

Mr. Gilbert Key, Area Manager, U.S. Fish and Wildlife Service, Attention: Lyle Schoonover, 1500 Capitol Avenue, Bismarck, North Dakota 58501.

FOR FURTHER INFORMATION CONTACT: Gary Gebhardt (406) 657–6457 at the above address.

Bill D. Noble,

Acting State Director.

[FR Doc. 80-25449 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Montana; Requesting Filing of all Existing Surface Owner Consent Agreements or Refusal To Consent Agreements for Surface Mining of Federal Coal

August 15, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR 3427, the Bureau of Land Management (BLM) is advising the public that valid written consent, or evidence thereof, which would permit surface mining of the underlying federal coal, given by qualified surface owners, should be filed with the Montana State Office, BLM.

In addition, at this time, written statements from qualified surface owners of refusal to consent to surface coal leasing may be filed with the Montana State Office.

This notice applies only to areas identified as acceptable for further consideration for coal leasing in the Colstrip and Ashland areas in the South Rosebud Management Framework Plan (MFP), the Ashland and Otter Creek areas in the Coalwood MFP and the Decker area in the Decker-Birney MFP. The MFP's are located in the Montana portion of the Powder River Federal Coal Production Region.

DATES: Copies of all consent agreements, or evidence thereof, that have already been given by qualified surface owners should be received by September 15, 1980. Valid written consents given for lands in which the ownership of the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the federal government (split estate lands) will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, in accordance with the announced schedule of regional lease sales set forth by Secretarial decision. However, submission at this time, of consent documents that presently exist will provide information regarding whether the public interest would be served by offering for lease the federal coal lands to which the qualified surface owner consents apply. The lack of a valid written consent at this time will not preclude consideration of federal coal tracts during the coal activity planning process, but it is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

To preclude consideration of lands that cannot be leased, we encourage written statements from qualified surface owners who firmly refuse to consent to surface coal leasing to be filed with the Montana State Office.

ADDRESSES: Copies of the surface owner consent agreements, or evidence thereof, should be sent to Montana State Office, BLM, P.O. Box 30157, Billings, Montana, 59107, Attention: MSEL. Information concerning the requirements for surface owner consent agreements or statements of refusal to consent may also be obtained from this address.

Maps showing the areas acceptable for further consideration for coal leasing in the Montana portion of the Powder River Federal Coal Production Region may be obtained at the BLM Montana State Office at 222 N. 32nd Street, Billings, Montana.

FOR FURTHER INFORMATION CONTACT: Robert Webb, Montana State Office, P.O. Box 30157, Billings Montana 59107, (406) 657–6474.

SUPPLEMENTARY INFORMATION: The BLM is requesting that valid written consent agreements, or evidence thereof, for lands in which the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the federal government (split estate lands) should be filed with the Montana State Office, at the address given above, by September 15, 1980.

The information being sought by the BLM will be used in the federal coal activity planning process by the Powder River Regional Coal Team and will provide information regarding whether the public interest would be served by offering the lease for federal coal lands to which the consents apply. Valid written consents will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, as set forth in the Secretarial decision and announcement of regional lease sales to be scheduled, in accordance with 43 CFR 3427.2(a) and 3420.6–2(b). However, early submission of surface owner consent documents that currently exist will aid the Regional Coal Team in considering the split estate coal tracts during the tract delineation, ranking and scheduling. As indicated in 43 CFR 3420.6–1(b) and 3427.2(d), split estate tracts that would be mined by other than underground mining techniques, covered by written consents that have been filed with the appropriate BLM State Office before a decision on a pending regional coal lease sale schedule, will be given priority over those split estate tracts where there is no written consent from the qualified surface owner, all other factors being nearly equal. Surface owner consents may still be entered into during the activity planning stage, but parties intending to file written consents are responsible for being aware of pending lease sale notice dates. Information concerning lease sale notice dates may be obtained from the Montana State Office at the address given above.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0–5 (pp)), "Qualifed surface owner means the natural person or persons (or

corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have there principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations, and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the three year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "* * * the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type of methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, the consent must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is requested to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the Montana State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.05(zz)), and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Montana State Office, at the address given above.

Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

The written statement of refusal to consent by a qualified surface owner must confirm that the owner(s) has not previously given consent to mine and that the owner(s) does not intend to give consent for the expected future life of the Coalwood, South Rosebud and Decker-Birney land use plan(s) in the Montana portion of the Powder River Federal Coal Production Region. The refusal will be binding during the life of this land use plan, in this case four years, or until the ownership of the surface estate changes.

Upon receipt and verification of the refusal to consent, the BLM will remove the federal coal underlying the qualified surface owner's land from further consideration in the tract delineation, ranking and scheduling process until such time as the Powder River Resource Management Plan is completed or until the ownership of the surface estate changes. In preparing the Powder River Resource Management Plan, the qualified surface owner will be notified that the prior written refusal to consent is about to expire, and the owner would be given the opportunity to submit another statement of refusal.

Written statements of refusal to consent shall be signed and dated by the owner(s) as well as witnessed and/or notarized, and shall specify: (1) the location (State and County) and legal description of the lands; (2) the present legal address of the qualified surface owner, involved in the refusal to consent; (3) that the owners have held legal or equitable title to the specified land surface for a period of at least three years prior to the refusal to consent; (4) whether the lands involved are the principal place of residence of the owner(s); (5) whether the lands involved are used to conduct farming or ranching; and (6) to what degree or percentage income from farming or ranching of the specified land surface contributes to the total income of the qualified surface owner(s). The submission of personal income records or other personal income records or other personal information is not to be made by the owner(s).

The written statements of refusal to consent by qualified surface owners will become part of the public record since the refusal will be the principal reason for not considering a particular tract in the tract delineation, ranking and scheduling process. The written statements will be made available for

public inspection in the Montana State Office.

Bill D. Noble,

Acting State Director.

[FR Doc. 80-25447 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming and Montana, Powder River Federal Coal Production Region; Amendment to the Call for Expressions of Coal Leasing Interest

August 14, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to amend the call for expressions of coal leasing interest in Wyoming and Montana.

SUMMARY: In the Federal Register of July 24, 1980 (45 FR 49366, 49367) the Bureau of Land Management (BLM) issued a call for expressions of coal leasing interest for certain portions of the Casper District of Wyoming and the Miles City District of Montana. This notice is to rescind, in part, certain areas in the Miles City District from the call for expressions of coal leasing interest.

DATE: Expressions of interest, except those rescinded by this notice, will be accepted until September 15, 1980.

ADDRESSES: Responses should be sent to: State Director, Wyoming (933), Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001 or State Director, Montana (930), Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, as appropriate, and a copy should also be provided to: Mr. M. L. Millgate, Area Geologist, U.S. Geological Survey, P.O. Box 2373, Casper, Wyoming 82602.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Bureau of Land Management, P.O. Box 1828, Cheyennne, Wyoming 82001, telephone (307) 778-2220, ext. 2413, FTS 328-2413; or Bob Webb, Bureau of Land Management, P.O. Box 30157, Billings, Montana 49107, telephone (406) 000-5474, FTS 585-6474.

SUPPLEMENTARY INFORMATION: In the Federal Register of july 24, 1980, (45 FR 49366, 49367) the BLM issued a call for expressions of coal leasing interest in portions of the Powder River Federal Coal Production Region. That notice stated that the coal areas identified in the Coalwood, South Rosebud, Decker-Birney, and Eastern Powder River Basin Management Framework Plans (MFP) as acceptable for further consideration for leasing were available for the filing of expressions of leasing interest.

Subsequent to the publication of that notice a protest (in accordance with 43 CFR 1601.6-1) of the management decisions in the June 1980 Powder River Resource Area MFP amendments in the Miles City District was received. The effect of this protest will delay implementation of the management decisions in the June 1980 MFP amendments until final action has been completed on the protest. Accordingly, this notice rescinds those coal areas identified in the June MFP amendments from the call for expressions of leasing interest.

The call, however, does apply to certain coal areas identified in the Powder River Resource Area MFP Update Report of July 1979 as acceptable for further consideration for leasing. These include the Colstrip and Ashland areas in the South Rosebud MFP, the Ashland and Otter Creek areas in the Coalwood MFP, and the Decker area of the Decker-Birney MFP in Montana, and the Gillette area in the Eastern Powder River Basin MFP in Wyoming.

Maxwell T. Lieurance,

State Director.

[FR Doc. 80-25445 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF INTERIOR

Coos Bay District Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Coos Bay District Multiple Use Advisory Council will be held on Thursday, September 18, 1980 at 9 a.m. at the Neighborhood Facility Building, 250 Hull Street, Coos Bay, Oregon.

Agenda for the meeting will include: 1. Introduction and biographical sketch of members.

2. Discussion of the function of the council.

3. Briefing and discussion of Coos Bay District programs.

4. Development of a 10-year Timber Management Plan to include, but not be limited to discussion of 9 alternatives analyzed in the South Coast and Curry Sustained Yield Units Timber Management Environmental Impact Statement.

5. Discuss potential for committees.

6. Election of officers.

7. Arrangements for next meeting.

This meeting will acquaint the Council with the Coos Bay District so that it can offer advice and make recommendations to the District Manager relative to Coos Bay District programs.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Coos Bay District Office, 333 South Fourth, Coos Bay, OR 97420 by September 11, 1980. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: August 8, 1980.

Paul M. Sanger,

District Manager.

[FR Doc. 80-25405 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

APPLICANT: Ringling Brothers & Barnum & Bailey Combined Shows, Washington, D.C. 20016.

The applicant requests a permit to import in foreign commerce seven captive-bred Asian elephants (*Elephas maximus*) from Mr. Hermann Ruhe of Alfeld-Leine, West Germany for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, Va. 22203.

This application has been assigned file number PRT 2-6874. Interested persons may comment on this application on or before September 5, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25476 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: Oklahoma City Zoo, 2101 NE 50th, Oklahoma City, OK 73111.

The applicant requests a permit to import 3 male and 3 female captive bred and born Round Island geckos (*Phelsuma guentheri*) from the United Kingdom for the enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6788. Interested persons may comment on this application on or before September 5, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25477 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: International Crane Foundation, Baraboo, WI 53913.

The applicant requests a permit to import one wild-caught Siberian white crane (*Grus leucogeranus*) held in captivity at the Ube Zoo, Ube City, Japan for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6879. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25478 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: Stephen A. Sardello, Boulder, CO 80302.

The applicant requests a permit to import in foreign commerce six captive-bred Puerto Rican boas (*Epicrates inornatus*) and six captive-bred Jamaican boas (*E. subflavus*) from the Reptile Breeding Foundation, Ontario, Canada for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6914. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 18, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25479 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Amendment to Notice of Receipt of Application

APPLICANT: Kansas City Zoological Gardens, Swope Park, Kansas City, MO 64132.

The applicant requests a permit to amend permit PRT 2-4807 to include the importation of a male Asian wild ass (*Equus hemionus*) foal which was born to a pregnant Pre-Act wild ass which has already been imported to the Kansas City Zoo from West Germany.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-4807. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 15, 1980.

Donald G. Donahoo,

Chief, Permit Branch Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25480 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

APPLICANT: International Animal Exchange, 1489 E. Nine Mile Road, Ferndale, MI 48220.

The applicant requests a permit to purchase one male jaguar (*Panthera onca*) from the St. Louis Zoo and export it to the Taipei (Republic of China) Zoo for the enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6792. Interested persons may comment on this application on or before September 22, 1980, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 14, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 80-25481 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Intent To Prepare an Environmental Impact Statement for the Preservation of Redhead Waterfowl Production Wetlands in SE Idaho

AGENCY: Fish and Wildlife Service, Department of Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the

preparation of an Environmental Impact Statement (EIS) for the preservation of redhead waterfowl production wetlands in SE Idaho. Public participation will be sought regarding this proposal and during preparation of the EIS. This notice is being furnished as required by the National Environmental Policy Act to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATE: Written comment should be received by September 22, 1980.

ADDRESS: Comments should be addressed to: Area Manager, U.S. fish and Wildlife Service, 4620 Overland Road, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT:

Dave Brown, Wildlife Biologist, U.S. Fish & Wildlife Service—ARW-ACQ, 500 NE Multnomah Street, Portland, Oregon 97232. Phone: (503) 231–2234 Commercial, 429–2234 FTS;

or

Jim Messerli, Habitat Protection Specialist, U.S. Fish & Wildlife Service, 4620 Overland Road, Boise, Idaho 83705. Phone: (206) 334–1490 Commercial, 554–1490 FTS.

SUPPLEMENTARY INFORMATION: Dave Brown is the primary author of this document.

Purpose and Need for Action: The U.S. Fish and Wildlife Service has major responsibilities for conservation of the nation's waterfowl resources. To help meet this responsibility a continuing effort is being made to assure wetlands essential to waterfowl are protected. Wetlands that are important to redhead ducks are of special concern. Of the major waterfowl species important in North America, redhead population levels have been one of the lowest.

Historically, SE Idaho has had wetlands that are important to redheads. However, like many wetlands throughout the west, they have been impacted by various land uses. For example, over 400,000 acres of wetlands in Idaho have been drained. Recently, 90 individual wetland sites have been identified that are used by nesting redheads and other waterfowl (Figure 1). These wetlands total approximately 8,000 acres. The U.S. Fish and Wildlife Service plans to consider various alternative ways of preserving and improving these wetlands.

BILLING CODE 4310-55-M

Figure 1. General distribution of Redhead production wetlands in southeastern Idaho.

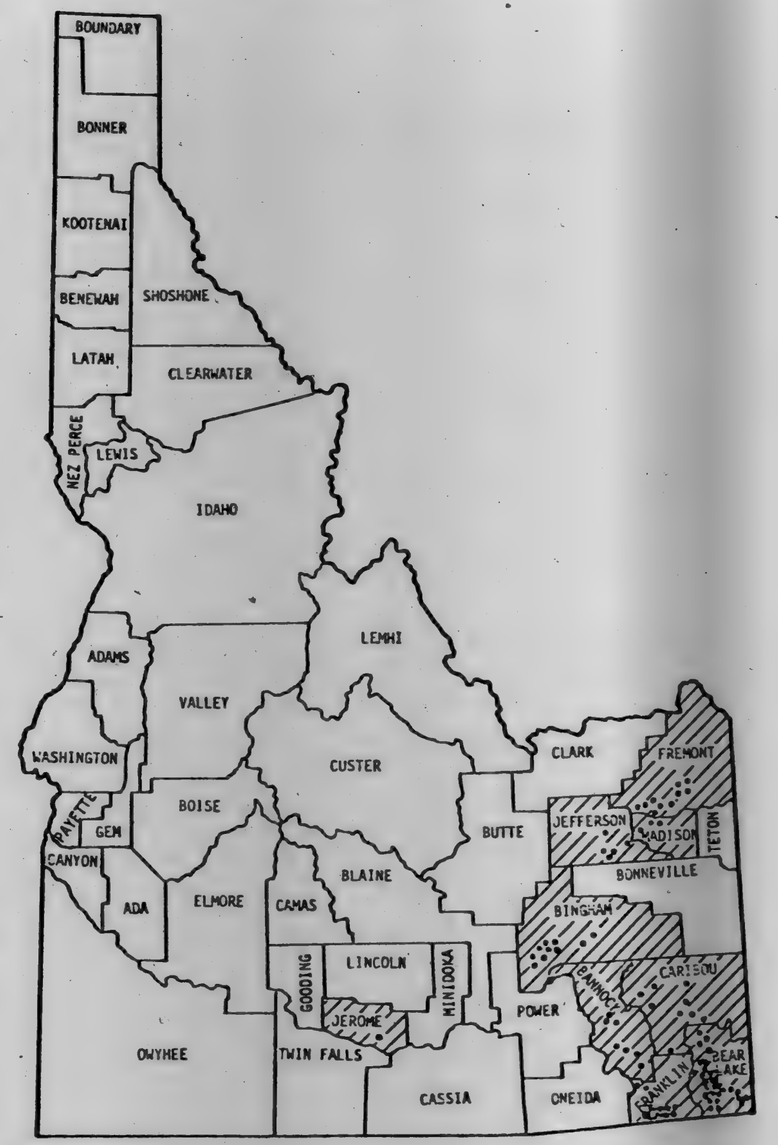

BILLING CODE 4310-55-C

Principle Identified Alternatives: Prior to issuing this Notice of Intent, the fish and Wildlife Service completed two documents relative to the subject. The first was a Concept Plan for Preservation of Redhead Breeding Habitat in the Great Basin. This covered a seven state area including Idaho. It discussed the need to protect wetlands and identified areas important to redheads. The second was a Protection Strategy Study for SE Idaho. The purpose of this study was to identify threats to the habitat and examine if any existing zoning or legislation insured protection of the habitat. The study was also to determine if any other agencies or organizations were capable and willing to preserve the needed habitat. It was determined they were not. Contacts with landowners and local officials also led to the determination that an effort by the Fish and Wildlife Service to protect wetlands would be feasible. This led to the recommendation that an EIS on some form of Service acquisition be prepared.

Alternatives to be considered in the EIS include: (1) No Action, (2) Lease, (3) Conservation Easement, and (4) Fee Acquisition. These are briefly discussed in the following:

1. No Action. Under a no action alternative the U.S. Fish and Wildlife Service would not attempt to protect or improve SE Idaho wetlands. Existing land uses that impact wetlands would continue. These include draining and filling, overgrazing shoreline vegetation, pumping or diverting water for irrigation, urban development and allowing excessive carp populations.

2. Lease. The U.S. Fish and Wildlife Service would rent wetlands from landowners and manage them for waterfowl production purposes. Generally, leases permit a specified use of land, are short-term, and may be cancelled by either party.

3. Conservation Easements. This alternative would involve the U.S. Fish and Wildlife Service acquiring certain rights from landowners. These would be the right to drain, fill, overgraze, develop or in other ways impact wetlands. Eastments represent an actual interest in the land, may be for any length of time but are usually longer term than leases, and may not be cancelled before they expire.

Of the alternatives identified, the U.S. Fish and Wildlife Service, at this time, prefers the acquisition of conservation easements. Under this alternative, the wetlands would remain in private ownership but the landowners would essentially be selling their right to adversely impact them. Landowners would be paid fair market value for any right acquired and the program would be on a voluntary basis.

4. Fee Acquisition. Complete purchase of wetlands would be considered with this alternative. Landowners would actually be selling all of their rights to the property. As with the lease and easement alternatives, landowners would be paid fair market value for rights acquired and the program would be on a voluntary basis.

Environmental Impacts of Preferred Alternative:

The fundamental consequence of the proposal will be preservation and enhancement of wetlands important to redhead ducks and other waterfowl. Numerous other wildlife species such as marsh birds, pheasant and deer, also associated with wetland environments, will benefit. In addition, the proposal will preserve the open space and aesthetic values that wetlands add to an area. Significant non-wildlife benefits include: (1) reducing surface water run-off and soil erosion, (2) ground water recharge, and (3) flood control.

Preservation of the wetlands for waterfowl purposes will preclude some economic uses. These are: (1) loss of potential agriculture land if wetlands cannot be drained or filled; (2) some loss of grazing if cattle use is limited on nesting cover around wetlands; (3) loss of some irrigation if water levels are not pumped down during the nesting season; (4) loss of potential homesites if buildings cannot be constructed close to wetlands.

Significant Issues To Be Covered During Scoping and Planning:

The scope of the proposal involves the protection of redhead production wetlands in the geographic area of SE Idaho and examination of alternative ways to accomplish this. Public and other agency involvement will be part of the process and comments sought to: (1) identify alternatives; (2) identify impacts; (3) identify significant issues that need to be addressed; (4) identify issues that do not need to be addressed; (5) identify other EIS's related to this one; (6) identify other requirements of the project, e.g., consultation and coordination.

As part of the Protection Strategy Study already completed, U.S. Fish and Wildlife Service made numerous personal contacts which were considered part of the scoping process. These included contacts with other state and federal agencies, landowners, county commissioners, and state and federal congressmen. It is planned to continue contacts of this type until it is concluded all significant issues have been identified. Because of the wide geographic area involved, it may be necessary to hold more than one public meeting for interested and/or affected individuals.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act, Council on Environmental Quality Regulations, other appropriate regulations, and Fish and Wildlife Service procedures for compliance with those regulations.

It is estimated the draft Environmental Impact Statement will be made available to the public by February, 1981.

Dated: August 11, 1980.

William H. Meyer,

Acting Regional Director.

[FR Doc. 80-25460 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Union Oil Company of California, Unit Operator of the Vermilion Block 14 Federal Unit Agreement No. 14-08-0001-12339, submitted on August 4, 1980, a proposed Supplemental plan of Development/Production describing the activities it proposes to conduct on the Vermilion Block 14 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 11, 1980.

J. Courtney Reed,

Staff Assistant for Resource Evaluation.

[FR Doc. 80-25459 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Privacy Act of 1974—Revision and Update of Notices of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes which have occurred since the publication of the material in the **Federal Register** on April 11, 1977 (42 FR 18968).

Three records systems are no longer maintained as Privacy Act systems of records and are deleted as follows:

1. System Name: Employee Identification Card files—Interior, Office of the Secretary—48 (Published at 42 FR 19023).
2. System Name: Safety Career Opportunity Plan for Employees—Interior, Office of the Secretary—61 (Published at 42 FR 19026).
3. System Name: Government of American Samoa Administrative Management and Fiscal Records—Interior, Office of the Secretary—96 (Published at 42 FR 19035).

Parts I through VII of the Appendix containing addresses of facilities of the Department which pertain to the Office of the Secretary and Other Departmental Offices (published at 42 FR 18970-18972) are updated and republished. The information in Part XIII (published at 42 FR 19000-19002) and Part XIX (published at 42 FR 19014) is deleted.

The following system notices are updated and republished in their entirety below:

1. System Name: Emergency Defense Mobilizaton Files—Interior, Office of the Secretary—15 (Published at 42 19018).
2. System Name: Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45 (Published at 42 FR 19021).
3. System Name: Secretarial Subject Files—Interior, Office of the Secretary—46 (Published at 42 FR 19022).
4. System Name: Parking Assignment Records—Interior, Office of the Secretary—47 (Published at 42 FR 19022).
5. System Name: Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50 (Published at 42 FR 19023).
6. System Name: Property Management Accountability—Interior, Office of the Secretary—51 (Published at 42 FR 19023).
7. System Name: Travel Management Records—Interior, Office of the Secretary—52 (Published at 42 FR 19024).
8. System Name: Classified Documents—Interior, Office of the Secretary—53 (Published at 42 FR 19024).
9. System Name: Privacy Act Files—Interior, Office of the Secretary—57 (Published at 42 FR 19024).
10. System Name: Safety Management Information System—Interior, Office of the Secretary—60 (Published at 42 FR 19025).
11. System Name: Freedom of Information Appeal Files—Interior, Office of the Secretary—69 (Published at 42 FR 19027).
12. System Name: Applicant Files—Interior, Office of the Secretary—70 (Published at 42 FR 19028).
13. System Name: Unfair Labor Practice Charges/Complaints—Interior, Office of the Secretary—77 (Published at 42 FR 19029).
14. System Name: Negotiated Grievance Procedure Files—Interior, Office of the Secretary—78 (Published at 42 FR 19030).

Additional information regarding this notice may be obtained from the Departmental Privacy Act Officer, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-6191.

Dated: August 15, 1980.

William L. Kendig,

Deputy Assistant Secretary of the Interior.

Appendix

This Appendix contains the addresses of facilities of the Department of the Interior. The Appendix is to be used in conjunction with the Department's notices describing systems of records which are subject to section 3 of the Privacy Act of 1974. Various system notices will refer the reader to the facilities maintaining the records which are listed in this Appendix.

I. OFFICE OF THE SECRETARY. (All addresses are as follows unless otherwise indicated: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240).

A. Immediate Office of the Secretary
B. Office of the Under Secretary
C. Office of the Assistant Secretary for Fish and Wildlife and Parks
D. Office of the Assistant Secretary—Land and Water Resources
E. Office of the Assistant Secretary—Energy and Minerals
F. Office of the Assistant Secretary—Policy, Budget and Administration.
G. Office of the Assistant Secretary—Indian Affairs
H. Office of the Assistant Secretary—Territorial and International Affairs
I. Office of Congressional and Legislative Affairs
J. Office for Equal Opportunity
K. Office of Public Affairs
L. Office of Information Resources Management
M. Office of Administrative Services
N. Office of Secretarial Operations
O. Office of Personnel
P. Office of Acquisition and Property Management
Q. Office of Coal Leasing Planning and Coordination
R. Office of Aircraft Services—Headquarters Office, Office of Aircarft Services, 3905 Vista Avenue, Boise, Idaho 83705.
Regional Office, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska 99503.
S. Office of Budget
T. Office of Policy Analysis
U. Office of Environmental Project Review
V. Office of Outer Continental Shelf Program Coordination

II. OFFICE OF THE SOLICITOR

A. Headquarters Office, Office of the Solicitor, U.S. Department of the Interior, 18th & C Streets NW., Washington, D.C. 20240.
B. Office of the Regional Solicitor, U.S. Department of the Interior, 510 L Street, Suite 408, Anchorage, Alaska 99501.
C. Office of the Regional Solicitor, U.S. Department of the Interior, Richard B. Russell Federal Building, 75 Spring Street, S.W., Suite 1328, Atlanta, Georgia 30303.
(1) Office of the Field Solicitor, U.S. Department of the Solicitor, P.O. Box 15006, Knoxville, Tennessee 37901.
D. Office of the Regional Solicitor, U.S. Department of the Interior, Suite 306, One Gateway Center, Newton Corner, Massachusetts 02158.
(1) Office of the Field Solicitor, U.S. Department of the Interior, 950 E. Kanawha Boulevard, Charleston, West Virginia 25301.

(2) Office of the Field Solicitor, U.S. Department of the Interior, Suite 505, Federal Building & U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204.
(3) Office of the Field Solicitor, U.S. Department of the Interior, 686 Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

E. Office of the Regional Solicitor, U.S. Department of the Interior, Building 67, Room 1480, Denver Federal Center, Denver, Colorado 80225.

(1) Office of the Field Solicitor, U.S. Department of the Interior, Room 211, Federal Building, Aberdeen, South Dakota 57401.
(2) Office of the Field Solicitor, U.S. Department of the Interior, Room 5431, Federal Building, 316 N. 26th Street, Billings, Montana 59103.
(3) Office of the Field Solicitor, U.S. Department of the Interior, 501 Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

F. Office of the Regional Solicitor, U.S. Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E. Multnomah, Portland, Oregon 97232.

(1) Office of the Field Solicitor, U.S. Department of the Interior, Box 020, Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83724.

G. Office of the Regional Solicitor, U.S. Department of the Interior, Room E–2753, 2800 Cottage Way, Sacramento, California 95825.

(1) Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 427, Park Street, Boulder City, Nevada 89005.
(2) Office of the Field Solicitor, U.S. Department of the Interior, Valley Bank Center, Suite 2080, 201 North Central Avenue, Phoenix, Arizona 85073.
(3) Office of the Field Solicitor, U.S. Department of the Interior, 3610 Central Avenue, Suite 104, Riverside, California 92506.
(4) Office of the Field Solicitor, U.S. Department of the Interior, Box 36064, 450 Golden Gate Avenue, Room 14126, San Francisco, California 94102.
(5) Office of the Field Solicitor, U.S. Department of the Interior, Window Rock, Arizona 86515.

H. Office of the Regional Solicitor, U.S. Department of the Interior, Suite 6201, Federal Building, Salt Lake City, Utah 84138.

I. Office of the Regional Solicitor, U.S. Department of the Interior, Room 3068, Page Belcher Federal Building, 333 West 4th Street, Tulsa, Oklahoma 74103.

(1) Office of the Field Solicitor, U.S. Department of the Interior, Room 7102, Federal Building & Courthouse, Albuquerque, New Mexico 87101.
(2) Office of the Field Solicitor, U.S. Department of the Interior, Box H–4393, Herring Plaza, 317 East Third, Amarillo, Texas 79101.
(3) Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 397, W.C.D. Office Building, Route 1, Anadarko, Oklahoma 73005.
(4) Office of the Field Solicitor, U.S. Department of the Interior, Room 319, Federal Building, 5th and Broadway, Muskogee, Oklahoma 74401.
(5) Office of the Field Solicitor, U.S. Department of the Interior, Osage Agency, Grandview Avenue, Pawhuska, Oklahoma 74056.
(6) Office of the Field Solicitor, U.S. Department of the Interior, 331 Sandoval Street, Santa Fe, New Mexico 87501.

III. OFFICE OF HEARINGS AND APPEALS

A. Headquarters Office: Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.
B. Field Offices: Administrative Law Judge, 2020 Hurley Way, Suite 170, Sacramento, California 95825; Administrative Law Judge, 6432 Federal Building, Salt Lake City, Utah 84138; Administrative Law Judge, Indian Probate, Federal Building, Room 2021, 230 N. First Avenue, Phoenix, Arizona 85025; Administrative Law Judge, Indian Probate, 2020 Hurley Way, Suite 150, Sacramento, California 95825; Administrative Law Judge, Indian Probate, Federal Building and Courthouse, Billings, Montana 59101; Administrative Law Judge, Indian Probate, 301 Federal Building, Gallup, New Mexico 87301; Administrative Law Judge, Indian Probate, P.O. Box 3064, Tulsa, Oklahoma 74101; Administrative Law Judge, Indian Probate, 1425 N.E. Irving Street, Building 100, Suite 112, Portland, Oregon 97232; Administrative Judge, P.O. Box 2433, Anchorage, Alaska 99510; Administrative Law Judge, 1 Valley Square, Suite 920, Charleston, West Virginia 25301; Administrative Law Judge, 1111 N. Shore Drive, Suite 202, Building 1, Knoxville, Tennessee 37919; Administrative Law Judge, 1052 C Federal Building, 600 Federal Place, Louisville, Kentucky 40202; Administrative Law Judge, Federal Office Building, Suite 1603, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

IV. OFFICE OF INSPECTOR GENERAL

Headquarters Office, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240;
Washington Audit Operations, Ballston Towers 01, 800 N. Quincy Street, Room 401, Arlington, Virginia 22203;
Central Region, 134 Union Boulevard, Suite 510, Lakewood, Colorado 80228;
Central Region, Suboffice, Room 334, Old Post Office Bldg., 123 4th Street, SW., P.O. Box 128, Albuquerque, New Mexico;
Western Region, Federal Office Building, Room W 2219, 2800 Cottage Way, Sacramento, California 95825;
Western Region Suboffice, 920 N.E. 7th Avenue, Room 106, Portland, Oregon 97232.

V. OTHER DEPARTMENTAL OFFICES (All addresses are as follows unless otherwise indicated: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240).

A. Office of Youth Programs—Northeast Region, Office of Youth Programs, Customs House, Room 804A, 8 McKinley Square, Boston, Massachusetts 02109;
North Atlantic Region, Office of Youth Programs, 6 World Trade Center, Suite 612, New York, New York 10048;
Mid-Atlantic Region, Office of Youth Programs, 2nd & Chestnut St., Suite 600, Philadelphia, PA 19106;
Southeast Region, Office of Youth Programs, Richard B. Russell Fed. Bldg., 75 Spring St., S.W., Room 802, Atlanta, Georgia 30303;
Midwest Region, Office of Youth Programs, 175 W. Jackson St., Room A–1153, Chicago, IL 60604;
Southwest Region, Office of Youth Programs, 1100 Commerce, Dallas, Texas 75242;
North-Central Region, Office of Youth Programs, 601 E. 12th St., Room 1702, Kansas City, MO 64106;
Rocky Mountain Region, Office of Youth Programs, Lake Plaza South, Room 617, 44 Union Boulevard, Lakewood, CO 80228;
Western Region, Office of Youth Programs, Federal Office Building, 450 Golden Gate Ave., Room 14470, San Francisco, CA 94102;
Northwest Region, Office of Youth Programs, 601 4th & Pike Bldg., Rm. 307, Seattle, WA 98101.
B. Office of Water Research and Technology
C. Office of Small and Disadvantaged Business Utilization
D. Office of Minerals Policy and Research Analysis
VI. (Reserved)
VII. (Reserved)

* * * * *

XIII. (Reserved)

* * * * *

XIX. (Reserved)

INTERIOR/OS–15

SYSTEM NAME:

Emergency Defense Mobilization Files—Interior, Office of the Secretary—15.

SYSTEM LOCATION:

(1) Office of the Assistant Secretary—Energy and Minerals. (2) Office of the Assistant Secretary—Land and Water Resources. Address for all locations: U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and related records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to administer the NDER program. Disclosures outside the Department of the Interior may be made (1) to officials of participating departments and agencies relevant to reservists assigned to their units; (2) to the U. S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

DISPOSAL:

Records held for two years after individual's resignation or death.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records maintained in the Office of the Secretary, the Assistant Secretary-Policy, Budget and Administration. (2) For records maintained in the Office of the Assistant Secretary—Energy and Minerals, the Assistant Secretary—Energy and Minerals. (3) For records maintained in the Office of the Assistant Secretary—Land and Water Resources, the Assistant Secretary—Land and Water Resources.

NOTIFICATION PROCEDURE:

A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. The request shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals.

INTERIOR/OS–45

SYSTEM NAME:

Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Division of Enforcement and Security Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office of the Secretary personnel, Heads of Bureaus, and their respective Bureau Security Officers whose duties have been designated critical sensitive or non-critical sensitive.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains copies of SF–85 or SF–86 and/or SF–171 supplied by individual concerned as well as copies of letters of transmittal between Interior and the Office of Personnel Management concerning the individual's background investigation. Further, contains copy of certification of clearance status and briefing and/or debriefing certificate signed by individual as appropriate. Card file reflects summary, case number and disposition of the case number and disposition of the case file following review.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for the identification of (a) Office of the Secretary personnel and Heads of Bureaus and their respective Security Officers who have been granted a security clearance; (b) persons in a pending clearance status awaiting the results and adjudication of Office of Personnel Management investigations; and (c) persons whose clearance has been terminated in the last five years due to an administrative down-grading, transfer to other agencies, employment retirement, or death. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safes. Access granted only to cleared personnel on official business.

RETENTION AND DISPOSAL:

Records are maintained in active status until the individual is debriefed; held for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Enforcement and Security Management, Office of Administrative Services (PMO), Office of the Secretary, Department of the

V 45 A G 21 80 UMI

Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Same as the above. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as the above. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained as well as data furnished by other Federal agencies on the person concerned.

INTERIOR/OS-46

SYSTEM NAME:

Secretarial Subject Files—Interior, Office of the Secretary—46.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Secretary's Mail and Files Section, Room 6013, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who have had correspondence with the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Index cards containing the name, dates, and subject codes for retrieval of subject files, subject files of correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are to support the operational, program and policy decisions of the Secretary of the Interior, Solicitor, Assistance Secretaries, Deputy Assistant Secretaries, and their immediate staff, disclosures outside the department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3" x 5" index cards correspondence filed in folders.

RETRIEVABILITY:

Indexed by subject.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services (PMO) Office of Adminstrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requestor seeks information concerning records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Correspondence or documents signed at the Secretarial level.

INTERIOR/OS-47

SYSTEM NAME:

Parking Assignment Record—Interior, Office of the Secretary—47.

SYSTEM LOCATION:

Office of Administrative Services (PMO), Division of General Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual requesting a parking permit or joining a carpool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, social security number, telephone number at work, service computation date, vehicle make and model, state of registration, license tag number, residence address, location of employment, parking space location and number, number of carpool riders, and the applicant's parking payment record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 471, et seq., FMC 74-1 FPMR Temporary Regulation D-43.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) internal control over the assignment of parking permits (b) assistance to individuals in locating carpools. Disclosures outside the department are (1) to a Federal agency that has jurisdiction over parking space, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (3) of information indicating a violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer printout.

RETRIEVABILITY:

Indexed by name of individual, social security number, zip code of individual's residence, organization location and license tag number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized records.

RETENTION AND DISPOSAL:

Records maintained on a current basis.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of General Services, Office of Administrative Services (PMO), U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data furnished by the individual.

INTERIOR/OS-50

SYSTEM NAME:

Motor Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50.

SYSTEM LOCATION:

Office of the Secretary—(1) Division of General Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240. (2) Division of Personnel Services, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in the Office of the Secretary and other Departmental offices who have been issued government driver identification cards.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, title, sex, date of birth, place of birth, physical characteristics, social security number, past driving record, traffic citations, accidents for past three years, medical history, state driver license number, and road test results, when applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491(j); 5 U.S.C. 1302, 3301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is internal control over the issuance of government driver identification cards. Disclosures outside the Department are, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on form DI-131-Rev. and Standard Form 47.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Subject to general records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services and Chief, Division of Personnel Services, Office of Secretarial Operations, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees applying for a government driver identification card.

INTERIOR/OS-51

SYSTEM NAME:

Property Management Accountability—Interior, Office of the Secretary—51.

SYSTEM LOCATION:

Division of General Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals designated as Responsible Officers who are charged with the care, utilization, recordkeeping, etc., for property assigned to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains computer identification codes for each Responsible Officer and descriptive data about each piece of property (excluding supplies) assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal control of property assigned to offices. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) to respond to General Accounting Office audits and Congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media.

RETRIEVABILITY:

System is indexed by code assigned to each Responsible Officer or by various property system codes.

SAFEGUARDS:

Maintained with safeguards meeting the "Computer Security Guidelines for Implementing the Privacy Act of 1974."

RETENTION AND DISPOSAL:

Destroyed when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and

RECORD SOURCE CATEGORIES:

relevant to the hiring or retention of an

INTERIOR/OS-60

must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Responsible Officer who is assigned the property by code.

INTERIOR/OS 52

SYSTEM NAME:

Travel Management Records—Interior, Office of the Secretary—52.

SYSTEM LOCATION:

Branch of Travel. Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal Employees or individuals who travel on behalf of the Department on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains passports, visas, printouts of airline ticket payment reports, Government transportation requests; and travel tickets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are making reservations, generating tickets, and transferring travel tickets to fiscal services for payment. Disclosures outside the Department are (1) to the airlines for travel and reservation purposes, (2) the transfer of passports and visa to other Federal agencies, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (4) of information indicating a violation or potential violation of a potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printouts and tickets maintained in folders. Government transportation requests are maintained in log books. Each passport and visa maintained in separate book.

RETRIEVABILITY:

Printouts filed by bureau. Government transportation requests filed by number and name. Passports and visas filed by name.

SAFEGUARDS:

Passports, visas, and Government transportation log books stored in a locked room in manipulation proof three way combination lock steel safes. Printouts stored in a locked office. Access granted only to designated personnel.

RETENTION AND DISPOSAL:

General Records Schedule No. 9, Item No. 4.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Travel, Office of Administrative Services, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendemnt shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees and individuals who travel on behalf of the Department.

INTERIOR/OS–53

SYSTEM NAME:

Classified Documents—Interior, Office of the Secretary—53

SYSTEM LOCATION:

Branch of Office Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of U.S. Department of the Interior authorized to receive classified documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individuals name, security clearance, employment address, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450 and 10865.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal transmittal of classified documents to individuals. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in standard file folders.

RETRIEVABILITY:

Indexed by bureau and name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safe.

RETENTION AND DISPOSAL:

Records are maintained in active status subject to general record schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

List of employees who have security clearance and have needs for specified classified data.

INTERIOR/OS–57

SYSTEM NAME:

Privacy Act Files—Interior, Office of the Secretary—57.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Offices of Privacy Act Officers of each bureau of the Department. (See Appendix for addresses of bureau headquarters offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have submitted requests for notification, access or amendment of records under the Privacy Act. (2) Individuals who have filed Privacy Act appeals with Assistant Secretary—Policy, Budget, and Administration under the department's regulations. (3) Offices of Systems Managers and other officials authorized to receive requests for notification and access and petitions for amendments. (See system notices for addresses.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, appeals, decisions and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for action on requests and appeals of Privacy Act matters. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on access are destroyed two years after date of reply. Final decisions on agreements or refusals to amend records are destroyed four years after final decision, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records in the Office of Administrative Services: Privacy Act Officer, Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) For other records: Bureau Privacy Act Officers. (See Appendix for addresses of bureau headquarters offices.)

NOTIFICATION PROCEDURE:

The System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access should be addressed to any office or offices to which the requester has submitted a request for access or an appeal. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/OS–60.

SYSTEM NAME:

Safety Management Information System—Office of the Secretary—60.

SYSTEM LOCATION:

(1) Division of Safety Management, Office of Administrative Services, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) All field offices and bureau headquarters retain copies of source document. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, concessioners and public visitors to Interior facilities who have been involved in an accident resulting in personal injury, and/or property damage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, social security number (employees only), occupation, date and location of accident; data elements about the accident for analytical purposes; and descriptive narrative concerning the reason for the loss producing event.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 7901, (2) 28 U.S.C. 2671–2680, (3) 31 U.S.C. 240–243, (4) Executive Order 12196 (1980), (5) 29 CFR 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) provide summary data of injury, illness and property loss information to bureaus in a number of formats for analytical purposes in establishing program to reduce or eliminate loss producing problem areas, (b) provide listings of individual cases to bureaus to insure that accidents occuring are reported through the Safety Management Information System, and (c) adjudicating tort and employee claims. Disclosures outside the Department of the Interior may be made, (1) to a Federal, State or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) to provide to the Department of Labor quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.6; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies

V. 45 AUG 21 1980 UMI

responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, with copies of source document maintained at bureau safety management headquarters, regional, and field offices where accident is reported.

RETRIEVABILITY:

System is indexed by bureau assigned document control number.

SAFEGUARDS:

Maintained with safeguards meeting the 'Computer Security Guidelines for Implementing the Privacy Act of 1974.'

RETENTION AND DISPOSAL:

Data stored on magnetic tape is retained as a permanent record. Source documents are to be retained at the field level for five years following end of the calendar year to which the record relates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Safety Management, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

System manager or the field office in which the source document pertaining to the individual would be filed. The source document contained in the field office need not be maintained more than five calendar years past the date of the record as indicated in records disposal. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or the field safety office in which the source document for the individual would be filed. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Supervisor of employee involved in accident. Investigation conducted by supervisor of employee and may include safety professionals and other management officials of the involved bureau or office.

INTERIOR/OS-69

SYSTEM NAME:

Freedom of Information Appeal Files—Interior, Office of the Secretary—69.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (2) Office of Public Affairs, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have filed appeals under Department of the Interior Freedom of Information appeal procedures. (2) Individuals whose Freedom of Information requests to bureaus and offices have required longer than 10 days to process. (3) Individuals whose Freedom of Information requests to bureaus and offices have been denied in whole or part.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appeals, recommendations of Solicitor, Director of Public Affairs, Program Assistant Secretaries and other officials, decisions of Assistant Secretary—Policy, Budget, and Administration, extension of time and initial decisions issued by bureaus and offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to support review and decision-making for Freedom of Information appeals, (b) for preparation of annual report to the Congress. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in an appeal or bureau or office decision; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are destroyed four years after final determination by agency, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Appeals Officer, Office of Administrative Services, Division of Directives and Reports Management, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Bureaus and offices of the Department, appellants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to have access to information compiled in reasonable anticipation of a civil action or proceeding.

INTERIOR/OS-70

SYSTEM NAME:

Applicant Files—Interior, Office of the Secretary—70.

SYSTEM LOCATION:

(1) Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (3) Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203. (4) Office of Water Research and Technology, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicants, recommendations, interview notes and other documents utilized to determine eligibility, suitability and qualifications for Federal civilian employment maintained subject to applicable Office of Personnel Management requirements, including Office of Personnel Management Rule VI and Chapter 302 of the Federal Personnel Manual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 1457, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for the hiring of applicants. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementating the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Current applications retained.

SYSTEM MANAGER(S) AND ADDRESS:

For the Ofice of the Secretary: Staff Assistant, Office of the Assistant Secretary—Policy, Budget, and Administration, U.S. Department of the Interior, Washington, D.C. 20240. (3) For the Office of Hearings and Appeals: Directors, Office of Hearings and Appeals, Office of the U.S. Department of the Interior, Washington, D.C. 20240. (2) For the Office of the Solicitor: Administrative Officer, Office of the Solicitor, U.S. Department of the Interior, 4015 Wilson Blvd. Arlington, Virginia 22203. (4) For the Office of Water Research and Technology, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate systems manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation, 43 CFR 2.79(c), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (1) and (f) to the extent that it consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

INTERIOR/OS-77

SYSTEM NAME:

Unfair Labor Practice Charges/Complaints—Interior, Office of the Secretary—77.

SYSTEM LOCATION:

a. For Departmental Head: Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th & C Streets, N.W., Washington, D.C. 20240. b. For Employees of BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W. Washington, D.C. 20245. c. For employees of EBM: Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Washington, D.C. 20240. d. For Employees of EGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. For Employees of FNP: National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. f. For Employees of FFWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C. Streets, N.W., Washington, D.C. 20240. g. For Employees of WPRS; Water & Power Resources Service, Division of Personnel, 19th & C Streets, N.W., Washington, D.C. 20240. h. For Employees of LLM: Bureau of Land Management, Division of Personnel (530), 19th and C. Streets, N.W. Washington, D.C. 20240. i. For Employees of HCRS: Heritage Conservation & Recreation Service, Division of Personnel, 440 G. St., N.W., Washington, D.C. 20243. j. For Employees of OS and other Departmental Offices: Office of the Secretary, Division of Personnel Services, Branch of Programs, Standards and Issuances, 19th and C Streets, N.W., Washington, D.C. 20240. k. For Employees of OSM: Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Interior employees filing unfair labor practice charges/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal charge and complaint; name, address, and other personal information

about complainant, transcript of hearing (if held), and information about other personnel in complainant's work unit, as relevant

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to administer charges or complaints of unfair labor practices. Disclosures outside the Department of the Interior may be made (1) to the Department of Labor and to the Federal Labor Relations Council for settlement of the complaint or appeal; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name and docket or case number.

SAFEGUARDS:

Records are locked in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

For records at Location (a): Chief, Division of Labor Management Relations, Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. For records at Location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at Location (e): Labor Relations Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (f): Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (g): Labor Relations Officer, Water and Power Resources Service, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (i): Labor Relations Officer, Heritage Conservation and Recreation Service, 440 G Street, N.W., Washington, D.C. 20243. For records at Location (j): Chief, Branch of Programs, Standards and Issuances, Office of the Secretary, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (k): Labor Relations Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject complainant, colleagues and supervisors of complainant and management officials.

INTERIOR/OS-78

SYSTEM NAME:

Negotiated Grievance Procedure Files—Interior, Office of the Secretary—78.

SYSTEM LOCATION:

a. For Departmental Head: Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th & C Streets, N.W., Washington, D.C. 20240. b. For Employees of BIA: Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. c. For Employees of EBM: Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, Washington, D.C. 20240. d. For Employees of EGS: Geological Survey, 215 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. e. For Employees of FNP: National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. f. For Employees of FWS: U.S. Fish and Wildlife Service, Division of Personnel Management and Organzation, 19th and C Streets, N.W., Washington, D.C. 20240. g. For Employees of WPRS: Water & Power Resources Service, Division of Personnel, 19th and C Streets, N.W., Washington, D.C. 20240. h. For Employees of LLM: Bureau of Land Management, Division of Personnel (530), 19th and C Streets, N.W., Washington, D.C. 20240. i. For Employees of HCRS: Heritage Conservation & Recreation Service, Division of Personnel, 440 G. St., N.W., Washington, D.C. 20243. j. For Employees of OS and other Departmental Offices: Office of the Secretary, Division of Personnel Services, Branch of Programs, Standards and Issuances, 19th and C Streets, N.W., Washington, D.C. 20240. k. For employees of OSM: Office of Surface Mining, DiVision of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Interior employees filing grievances/complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal charge and complaint; name, address, and other personal infomation about complainant, transcript of hearing (if held), and information about other personnel in compliianant's work unit, as relevant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to administer employee grievances.

Disclosures outside the Department of the Interior may be made (1) to the Federal Labor Relations Council, or to the Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Name and Docket or Case number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

For records at Location (a): Chief, Division of Labor Management Relations, Office of the Secretary, Personnel Management, Division of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (b): Labor Relations Officer, Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Ave., N.W., Washington, D.C. 20245. For records at Location (c): Labor Relations Officer, Bureau of Mines, Division of Personnel, Branch of Compensation and Labor Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (d): Personnel Officer, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092. For records at Location (e): Labor Relations Officer, National Park Service, Division of Personnel, Branch of Labor Management Relations, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (f) Personnel Officer, U.S. Fish and Wildlife Service, Division of Personnel Management and Organization, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (g): Labor Relations Officer, Water & Power Resources Service, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (h): Labor Relations Officer, Bureau of Land Management, Division of Personnel (530) 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (i): Labor Relations Officer, Heritage Conservation & Recreation Service, 440 G St., N.W., Washington, D.C. 20243. For records at Location (j): Chief, Branch of Programs, Standards and Issuances, Office of the Secretary, 19th and C Streets, N.W., Washington, D.C. 20240. For records at Location (k): Labor Relations Officer, Office of Surface Mining, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71. The request must meet the content requirements of 43 CFR 2.63.

RECORD SOURCE CATEGORIES:

Subject complainant, colleagues and supervisors of complainant and management officials.

[FR Doc. 80-25523 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-10-M

National Environmental Policy Act; Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed instructions for the Lowell Historic Preservation Commission.

SUMMARY: This notice proposes NEPA implementing procedures for the Lowell Historic Preservation Commission, a component of the Department of the Interior. The Departmental procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541).

DATE: Comments due by September 19, 1980.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891. FTS: 343-3891.

For Lowell Historic Preservation Commission, contact Nancy Bellows, Telephone (617) 458-7653. FTS 223-0766.

SUPPLEMENTARY INFORMATION: These proposed implementing procedures provide more specific NEPA compliance guidance to the Lowell Historic Preservation Commission. They were prepared in consultation with the Office of Environmental Project Review in accordance with 516 DM 6.5(C). They should be read in conjunction with the Departmental procedures (516 DM 1-6) which are published in the **Federal Register** on April 23, 1980, and with the regulations of the Council on Environmental Quality (40 CFR 1500-1508). Copies of these procedures are also available for inspection at the Commission's offices at 204 Middle Street, Lowell, MA 01825.

Comments on the proposed procedures are invited. To be considered in the preparation of final procedures, comments must be received by September 19, 1980.

Dated: August 14, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

Lowell Historic Preservation Commission

1. *NEPA Responsibility.* A. *Chairman* is responsible for NEPA complinace for Lowell Historic Preservation Commission (the Commission) activities.

B. *Executive Director* is responsible for insuring that the Commission staff activities and recommendations are conducted in accordance with the requirements and the spirit of NEPA.

C. *Planning Director* (1) is responsible for coordination and oversight of the NEPA process. Information about Commission NEPA documents or the NEPA process can be obtained by contacting the Planning Director at the Commission office.

(2) Is responsible for integrating the NEPA process into the Commission's activities and will insure that environmental concerns, as covered in environmental documents, are addressed when the Commission carries out its preservation and cultural activities.

2. *Guidance to Applicants.* A. Actions that are intitiated by private or non-

Federal entities through applications include: grants for private residential and commercial facade rehabilitation; grants for cultural program; loans to private firms for facade improvement programs; emergency grants or loans for facade stabilization.

B. Applicants are required to complete an application form which includes a checklist of environmental impacts that may result from the work; they will be informed by the Commission staff as to what environmental information is needed when they initiate their application. The Commission staff, using this information will advise applicants whether further environmental documentation is required.

C. A Grant Application Package is available on request at the Commission office, 204 Middle Street, Lowell, MA 01852.

3. *Major Actions Normally Requiring an EIS.* There are no categories of actions where an EIS will normally be prepared.

4. *Categorial Exclusions.* In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix I of 516 DM 2, many of which the Commission also performs, the following Commission actions are designated categorical exclusions unless the actions qualify as an exception under 516 DM 2.3 A(3):

A. *Operating Activities.* (1) Professional services, including such things as architectural plans, studies, maps, renderings, and photographs; engineering studies; appraisals; graphic design; and building inventories and surveys.

(2) Identifying the eligibility for and nominating, properties for the National Register of Historic Places and the National Historic Landmark and National Natural Landmark programs.

B. *Development Activities.* (1) Minor revisions in the boundaries of the Preservation District recommended pursuant to Section 101(2)(b) of Pub. L. 95–290.

(2) Grants to private property owners on a matching basis for the rehabilitation of building facades provided that this rehabilitation does not adversely alter the integrity of the setting or increase public use of the area to the extent of compromising the nature and character of the property or cause a nuisance to adjacent property owners or occupants. This includes the case where the owner intends to change the use of the building.

(3) Matching grants to private property owners for construction or rehabilitation work on existing non-Federal properties which are required to meet health, safety, and handicapped regulations.

(4) Grants for construction, demolition, addition, expansion of new non-residential facilities if the new facilities will not increase public use of the area to the extent of compromising the nature and character of the property or causing physical damage to it; institute non-compatible uses which might compromise the nature and characteristics of the property or cause physical damage to it; or cause a nuisance to adjacent property owners or occupants.

(5) Leasing or disposition or any interagency transfer or use of rail right-of-way for continued rail-related uses.

(6) Operation of a trolley system for resident and visitor use utilizing existing rights-of-way and tracks.

(7) Long and short term leasing of office, display, or other space from public or private owners.

(8) Acquisition or disposition of interests in real property, including but not limited to leaseholds, easements, rights-of-way or fee interests.

(9) Cultural programs, including such things as outdoor summer theater programs; art exhibits, demonstrations, and feasibility studies.

[FR Doc. 80-25450 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-10-M

Water and Power Resources Service

Repayment Contract Negotiations for Irrigation Storage Keyhole Unit, Pick-Sloan Missouri Basin Program, Wyoming; Intent To Negotiate for Irrigation Storage Space

The Department of the Interior, through the Water and Power Resources Service, intends to begin negotiations with the Belle Fourche-Wyoming Water Association (BFWWA) for irrigation storage space in Keyhold Reservoir, an existing federally constructed multipurpose facility located in Crook County, Wyoming. Keyhold Dam and Reservoir were authorized under the general authority of the Flood Control Act of 1944 (58 Stat. 887).

The BFWWA was formed in the early 1970's by a number of irrigators whose lands are located along the Belle Fourche River in Wyoming. The BFWWA entered a 10-year contract with the United States in 1974 to obtain supplemental irrigation water service from Keyhold Reservoir. The BFWWA intends to form an irrigation district and has requested a repayment contract to be considered to allow the district to purchase Wyoming's entitlement to Keyhold Reservoir storage as provided by the Belle Fourche River Compact (58 Stat. 94). The Water and Power Resources Service has agreed to enter contract negotiations with the BFWWA. The State of Wyoming will be invited to participate in negotiations as an interested and concurring party.

All meetings and/or negotiation sessions, where terms and conditions of a repayment contract are to be discussed, are open to the public. Advance notice of such meetings or sessions will be furnished on written request from interested parties. Requests for meeting notices should be addressed to the Regional Director, Water and Power Resources Service, Attention Code UM–440, P.O. Box 2553, Billings, Montana 59103. All written correspondence concerning the proposed contract is available to the general public pursuant to terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

A proposed draft contract will be made available for public review following completion of contract negotiations. Thereafter, a public hearing may be held, if necessary, and a 30-day period will be allowed for receipt of written comments from the public.

For further information on these proposed contract negotiations, please contact William E. Crosby, Chief, Economics and Repayment Branch, at the address stated above or by telephone (406) 657–6413.

Dated: August 15, 1980.

Clifford I. Barrett,

Assistant Commissioner, Water and Power Resources.

[FR Doc. 80-25380 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-09-M

Motor Carrier Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any

interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

No. F.D. 29383. By decision of July 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1141, The Motor Carrier Board approved the transfer to Columbia Transportation Company, Cleveland, OH, of Certificate W–773, issued February 6, 1950, to Columbia Transportation Company, which name was changed to Oglebay Norton Company, in 1958, authorizing the operation as a common carrier by self-propelled vessels, in interstate or foreign commerce, in the transportation of commodities generally, between all points on the Great Lakes and its tributary and connecting waterways, with the exception of the New York State Canal System and the St. Lawrence River east of Ogdensburg, NY. Applicants' representatives: Frank Castle, 1200 Hanna Bldg., Cleveland, OH 44115 for transferee; and Ronald Thompson, 1200 Hanna Bldg., Cleveland, OH 44115, for transferor.

MC–FC–78401. On reconsideration, by decision of July 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5, approved the transfer to Heartland Express, Inc., St. Clair, MO, of Certificates MC–120181 (Sub-Nos. 6 and 7), issued December 10, 1976, and June 16, 1980, respectively, to Main Line Hauling Co., Inc., St. Clair, MO, authorizing the transportation of (1) *General commodities* with the usual exceptions, between Memphis, TN and St. Louis, MO, over Interstate Highway 55, serving no intermediate points; and (2) *foodstuffs* (except in bulk), from the facilities of Inland Storage Distribution Center at Kansas City, KS, to points in AR, LA, and TN, and *empty containers*, between Kansas City, KS and Kansas City, MO, and points in AR, LA, and TN, restricted in (2) above against interlining. Applicants' representative: William H. Shawn, Suite 501, 1730 M St., NW., Washington, DC 20036.

Note.—Applicants are advised that (1) temporary authority operations authorized under 49 U.S.C. 10928 are not transferable, transferee must file its own applications; and (2) those operating authority applications which are still pending before the Commission (MC–120181 Sub-Nos. 17F, 18F, 12F and 19F) are also not transferable, applicants may file petitions for substitution in those proceedings.

MC–FC–78492. By decision of July 16, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to E. M. Nee Transfer & Storage, Inc. of Certificate MC–74528 issued September 21, 1951 to Edward M. Nee and transferred February 13, 1980 to Mary E. Nee, d.b.a. E. M. Nee Transfer and Storage, authorizing the transportation of household goods between points in Allegheny and Westmoreland Counties, PA, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Maryland, Michigan, North Carolina, New Jersey, Ohio, Tennessee and the District of Columbia. Representative: Mary E. Nee, 306 Murray Ave., Arnold, PA 15068.

MC–FC–78547. By decision of July 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Burris Trucking, Inc., Winston-Salem, NC, of Certificate MC–142823 (Sub-No. 2), issued March 7, 1979, to Robert L. Macon, Garner, NC, authorizing the transportation of *bricks*, from points in NC and SC, to points in AL, CT, DE, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC, TN, VA, and WV. Application for temporary authority has been filed under 49 U.S.C. 11349. Applicant's representative: Stuart R. Childs, One NCNB Plaza, Suite 3440, Charlotte, NC, 28280.

MC–FC–78566. By decision of May 1, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Motor Carrier Board approved the transfer to Arnold Angel Trucking, Inc., of Williamsburg, KY, of Permit MC 138338 issued March 27, 1974, to Jim Perkins Trucking, of Jellico, TN, authorizing the transportation of *stone and stone products*, in dump vehicles, from the facilities of Jellico Stone Co., Inc., at or near Jellico, TN, to points in that part of KY bounded by a line beginning at the KY–TN State line and extending along U.S. Highway 25E to junction KY Highway 229, thence along KY Highway 229 to junction KY Highway 192, thence along KY Highway 192 to junction KY Highway 312, thence along KY Highway 312 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 25W, thence along U.S. Highway 25W to junction KY Highway 90, thence along KY Highway 90 to junction U.S. Highway 27, and thence along U.S. Highway 27 to the KY–TN State line. Applicant for TA has not been filed. Transferee presently holds no authority.

MC–FC–78606. By decision of July 23, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to R.S.J. Leasing, Inc., Flushing, NY, of Certificate MC 119929, issued July 6, 1961, to Z. Tavss, Inc., New York, NY, authorizing the transportation of *fireproof* building materials, technical paints, water-proofing materials, and steel cable, between New York, NY, on the one hand, and, on the other, points in New York, NY, and New Jersey within 150 miles of Columbus Circle, New York, NY, and those in Connecticut within 85 miles of Columbus Circle, New York, NY. The gateway elimination application in MC 71079 (Sub-1F), filed by R.S.J. Leasing, Inc., as a matter directly related to the transfer transaction, is denied because the commodities set forth in the involved operating authority are not susceptible to being tacked. Representative: A. Charles Tell, Suite 1800, 100 E. Board St., Columbus, OH 43215.

MC–FC–78618. By decision of July 18, 1980 issued under 49 U.S.C. 10931 or 10932 an 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Sun Express, Inc., of Chino, CA, of Certificates of Registration MC 126944 and MC 120575 (Sub-4) and Certificate MC 120575 (Sub-3) held by Three-B Freight Service, Inc., of Chino, CA. The certificates authorize a *general commodities* service with named exceptions between described points in California, including San Diego, Borrego Valley and Calexico. The grant is subject to applicant furnishing proof that underlying state intrastate

rights have been transferred prior to or concurrently with consummation. An application for temporary lease authority has been filed. Transferee holds authority from the Commission. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211.

MC–FC–78621. By decision of July 17, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to R&S Drayage, Inc., of Certificate of Registration MC 121769 issued September 15, 1975, to H. R. McDonald d.b.a. R&S Drayage, San Leandro, CA evidencing a right to engage in transportation in interstate commerce corresponding in scope to Decision No. 84418 dated May 13, 1975 in Application 55486 issued by the Public Utilities Commission of the State of California. Representative is: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108.

MC–FC–78641. By decision of July 19, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Bob Stewart Trucking, Inc., of a portion of Permit/Certificate MC 98327 (Sub-10) issued November 29, 1974 to System 99, of Oakland, CA, authorizing the transportation of construction, drainage, mining, and logging equipment, which because of size or weight requires the use of special equipment, between points in Klawath County, OR, on the one hand, and, on the other, points in Modoc and Counties, CA; and iron and steel articles, from Klamoth Falls, OR, to points in Modoc and Counties, CA. Representative: John G. McLaughlin, Suite 1440–200 S.W. Market St., Portland, OR 92201. Transferee is not a carrier. An application seeking TA lease has been filed.

MC–FC–78642 (Republication). By decision of July 10, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board No. 5 approved the transfer to Harold D. Miller, Inc., of Shrever, OH, of Certificate MC 115276 issued July 12, 1979, MC 115276 (Sub-4) issued April 1, 1974, and, MC 115276 (Sub-E–1) published April 23, 1974, to Bod Head, Inc., of Indiana, PA, authorizing the transportation in MC 115276 of (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; and (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up of pipe in connection with main lines, between points in PA, WV, OH, and MD.

MC 115276 (Sub-4): *Machinery, equipment, materials, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products (except commodities in bulk); and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operations, repair servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, (except commodities in bulk), Between points in Pennsylvania on the one hand, and, on the other, points in New York. Machinery, equipment, materials, and supplies used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their byproducts (except commodities in bulk); and machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except commodities in bulk, except the stringing and picking up of pipe in connection with main lines, between points in New York, on the one hand, and, on the other, points in West Virginia, Ohio, and Maryland. The purpose of this filing is to eliminate the gateway of Pennsylvania. Representative is: Mr. Boyd B. Ferris, Muldoon, Pemberton & Ferris, Attorney-at-law, 50 West Broad Street, Columbus, OH 43215. Transferee presently holds no authority from the Commission. Application for TA has not been filed.

MC–FC–78665. By decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5, approved the transfer to Charles C. Young, d.b.a. Heritage Tours, Omaha, NE, of the following portion of Certificate MC 1515 (Sub-71), issued April 25, 1973, to Greyhound Lines, Inc., Phoenix, AZ, authorizing the transportation of passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as set forth on original sheet No. 45, (1) route 5, between the Iowa-Nebraska State line at Sioux City, IA, and Omaha, NE, from the Iowa-Nebraska State line over U.S. Highway 77 to Oakland, then over NE Hwy 32 to Tekamah, then over U.S. Highway 73 to Omaha, and return over the same route, serving all intermediate points, and (2) route 6, between Walthill and Walthill Junction, over NE Hwy 94, serving all intermediate points, subject to the conditions that (1) no express or newspapers shall be transported in vehicles engaged in operations authorized only in special operations, and (2) incidental charter operations may be conducted. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106.

MC–FC–78851. By decision of July 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Overland Tow Service, Inc., Shawnee Mission, KS, of Certificates MC 116178 (Sub-1 and 2), issued November 14, 1974 and February 25, 1976, to A-Emergency Tow Service, Inc., Kansas City, MO and transferred to Mid-Am Towing, Inc., Kansas City, MO pursuant to MC–FC–78434, but not reissued in its name, authorizing the transportation of *wrecked, damaged or disabled motor vehicles and trailers,* and *replacement motor vehicles and trailers* to points of wreck, damage, or disablement, by the use of wrecking equipment, only, between points in IA, KS, MO, NE, and OK; and *wrecked and disabled motor vehicles, and trailers and replacement motor vehicles and trailers,* by use of wrecker equipment, between points in the Kansas City, Mo.,-Kansas City, KS, Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in AR, IL, IN, OH, NM, and TX. Applicants' representative is: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105.

Note.—MC 112892 (Sub-1F), published in a previous section of this **Federal Register** issue is a directly related matter.

MC–FC–78668. By decision of July 23, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5, approved the transfer to Peter Del Grande, Inc. d.b.a. James Gallagher Trucking, Camden, NJ, of the following portion of Certificate MC 35706, issued November 4, 1976, to ATSL, Inc., Philadelphia, PA, authorizing the transportation of *new furniture,* between Philadelphia, PA, on the one hand, and, on the other, points in NJ, subject to the condition, agreed upon by applicants, that the remainder of the authority set forth in Certificate MC 35706, be restricted against the transportation of new furniture, from Philadelphia, PA, to points in NJ. Application for temporary authority has been filed under 49 U.S.C. 11349. Transferee holds authority from this Commission under MC 1475. Representative: Richard Rueda, 133 N. 4th St., Philadelphia, PA 19106.

MC–FC–78683. By decision of July 23, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Kent Terminals of Massachusetts, Inc., Boston, MA, of that portion of Certificate MC 2509, issued April 10, 1941, to D. S. Woodbury Co. (Debtor in Possession), Boston, MA, authorizing the transportation of *general commodities,* with the usual exceptions, (1) between Boston, MA, on the one hand, and, on the other, points within fifteen miles of Boston, and (2) between Boston, MA and points within ten miles of Boston, on the one hand, and, on the other, points in MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC–FC–78684. By decision of July 23, 1980, issued under 49 U.S.C. 19026 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to Valley Refrigerated Express, Inc., McAllen, TX of Certificate MC 105636 (Sub-37) issued June 27, 1978, to Armellini Express Lines, Inc., Vineland, NJ, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, frozen foods, commodities in bulk and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders operating pursuant to Part IV of the Interstate Commerce Act, from Akron, OH, Baltimore, MD, Boston, MA, Cranston, RI, Cincinnati, OH, Cleveland, OH, Milford, CT, Secaucus, NJ, New Haven, CT, North Bergen, NJ, Philadelphia, PA, and Syracuse, NY, to Amarillo, Dallas, Fort Worth, El Paso, Houston, Laredo, Lubbock, and San Antonio, TX; from Dallas, TX to Akron, OH, Baltimore, MD, Boston, MA, Cincinnati, OH, Cleveland, OH, New Haven, CT, North Bergen, NJ, Philadelphia, PA, and Syracuse, NY. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transferee holds no authority from the Commission. An application seeking TA lease has not been filed.

MC–FC–78687. By decision of July 29, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 5 approved the transfer to United Transport Corp., Kearny, NJ, of Permits No. MC 109501, and MC 109501 (Sub-3, 6, 8, 10, and 11), issued May 4, 1955, April 1, 1958, August 9, 1962, August 14, 1968, March 23, 1970, and April 21, 1971, respectively, to Calhoun Trucking Corp., Kearny, NJ, authorizing the transportation of *iron and steel mill products,* not fabricated, and *aluminum products* in sheets and bars not fabricated, from Lyndhurst, NJ, to points in Erie, Chemung, Monroe, and Onondage Counties, NJ and *damaged or defective shipments* in the reverse direction, *iron and steel mill products* and *aluminum* in sheets not fabricated, from Lyndhurst, NJ, to points in CT west of the Connecticut River, New York, NY, points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Columbia, Rensselaer, Rockland, Orange, Sullivan, Delaware, Broome, Ulster, Greene, Albany, and Schenectady Counties, NY, and those in PA on and east of a line extending along U.S. Hwy 309 from the NY–PA State line to Hazleton, PA, then along PA Hwy 29 to junction PA Hwy 443, approximately three miles south of Tamaqua, PA, then along PA Hwy 443 to New Ringgold, PA, then along PA Hwy 895 to Molino, then along PA Hwy 122 to the PA–MD State line; *Air conditioner sub-assemblies and parts,* from Newark, NJ to Maspeth, NY, and *pallets* used in transporting air conditioner sub-assemblies and parts, from Maspeth NY to Newark, NJ, under contract(s) with Fedders-Quigan Corp. of Newark, NJ; *Boilers, radiators, furnaces, air conditioning units, and parts* for boilers, radiators, furnaces and air conditioning units, between Newark and Garwood, NJ, on the one hand, and, on the other, Scranton, Tunkhannock, Honesdale, Philadelphia. West Hazleton, and Hazleton, PA, New York, NY, points in Orange, Rockland, Ulster, Greene, Albany, Schenectady, Rensselaer, Columbia, Dutchess, Putnam, Westchester, Nassau, and Suffolk Counties, NY, and that part of CT west of the Connecticut River; *Household appliances, furnaces, air cleaners, conditioners, heaters, humidifiers, and dehumidifiers,* from the plant site of Fedders Corporation of Edison Township Middlesex County), NJ, to Scranton, Tunkhannock, Honesdale, Philadelphia, West Hazleton, and Hazleton, PA, New York, NY, points in Orange, Rockland, Ulster, Greene, Albany, Schenectady, Rensselaer, Columbia, Dutchess, Putnam, Westchester, Nassau, and Suffolk Counties, NY, and points in that part of CT west of the Connecticut River, *materials, parts, and supplies* (except commodities in bulk), used in the manufacture, production, and distribution of the above-described commodities, from the immediately above-described destination points, to Newark, NJ and the plant site of Fedders Corporation in Edison Township (Middlesex County), NJ, and *returned shipments,* from the above-described destination points, to the above-described origin points, under contract(s) with Fedders Corporation of Edison Township, NJ; *Household appliances, furnaces, air cleaners, conditioners, heaters, humidifiers and dehumidifiers,* from the plant site of Fedders Corporation of Edison (Middlesex County), NJ, to points in PA (except Scranton, Tunkhannock, Honesdale, Philadelphia, West Hazelton, and Hazleton), NY (except New York, NY and points in Orange, Rockland, Ulster, Greene, Albany, Schenectady, Rensselaer, Columbia, Dutchess, Putnam, Westchester, Nassau, and Suffolk Counties), CT (except those west of the Connecticut River), RI, MA, MD, DE, VA, and DC and *materials, parts and supplies* (except commodities in bulk), used in the manfacture of the immediately above-described commodities, in the reverse direction, under contract(s) with The Fedders Corporation; *household appliances and air cleaning, heating, humidifying, dehumidifying, and cooling units,* from the plant site of the Fedders Corporation at Edison, NJ, to points in NC, SC, GA, FL, AL, TN, KY, and MI, and *materials and supplies* (except in bulk), used in the manufacture and distribution of the commodities described immediately above, in the reverse direction, under contract(s) with Fedders Corporation, of Edison, NJ. Transferee presently holds authority from this Commission under MC 145103 (Sub-1 and 4). Application for temporary authority has not been filed under 49 U.S.C. 11349.

MC–FC–78688. By decision of July 31, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Eunice L. Hengeveld, Moxee, WA, of Permit No. MC–143523, issued September 6, 1978, to Gerald R. Hengeveld, Moxee, WA, authorizing the transportation of *Malt beverages and wine,* from Azusa, Los Angeles and Modesto, CA, to Mt. Vernon, WA, under continuing contract(s) with Sound Beverage Distributors, Inc., of Mt. Vernon, WA. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under 49 U.S.C. 11349. Representative: Eunice L. Hengeveld, Rt. 1, Box 46, Moxee, WA 98936.

MC–FC–78689. By decision of July 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132,

insure that applicant's operations shall

this publication. Replies must be filed

application seeking temporary lease

Review Board Number 5 approved the transfer to Golden Pringle Express, Ltd., Higbee, MO, of Permits No. MC 138384 (Sub-2 and 4), issued January 2, 1974, and September 27, 1974, to Elwood Lynch and previously transferred to Boyd Martin Enterprises, Inc., in MC–FC–78003, effective August 5, 1979, authorizing the transportation of *Malt beverages*, (1) from Belleville, IL, to Moberly, MO, and (2) from Memphis, TN, to Moberly, MO, under continuing contract with Hunt Distributing, Inc., of Moberly, MO. Application for temporary authority has been filed under 49 U.S.C. 11349. Transferee presently holds no authority from this Commission. Representative: Tom B. Kretsinger, 20 E. Franklin, Liberty, MO 64068.

MC–FC–78690. By decision of July 25, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to MERCHANTS DELIVERY & STORAGE, of Hamilton, MT, of Certificate MC–63562 (Sub-47), issued April 12, 1966, and a portion of Certificate MC–63562, issued September 21, 1972, and awarded to SALT CREEK FREIGHTWAYS, of Casper, WY, in MC–F–13496, by order served April 21, 1978, authorizing the transportation of *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) between Missoula, MT, and Darby, MT, serving all intermediate points: from Missoula over US Hwy 93 via Florence, MT, to Darby (also from Florence, MT, over unnumbered hwy to Hamilton, MT, and then over US Hwy 93 to Darby), and return over the same routes, and (2) between Darby, MT, and the Trapper Creek Job Corps Camp located approximately 10.5 miles southwest of Darby, serving all intermediate points: from Darby over US Hwy 93 to junction MT Hwy 473, then over MT Hwy 473 to the Trapper Creek Job Corps Camp, and return over the same route. Representative: John R. Davidson, Room 805, First Bank Bldg., Billings, MT 59101.

Note.—Application for temporary authority has been filed under 49 U.S.C. 11349 in MC–F–14423F.

MC–FC–78699. By decision of July 28, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to BROWN LINE MOTOR FREIGHT, INC., of Winterset, IA, of Certificate of Registration No. MC–99803 (Sub 2), issued February 24, 1964, to CARL E. PETERSON, DOING BUSINESS AS PETERSON MOTOR FREIGHT, of Earlham, IA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Convenience and Necessity No. 976, dated December 8, 1959, issued by the Iowa State Commerce Commission. Condition: Prior to or concurrently with consummation of this transaction, Brown Line Motor Freight, Inc., shall furnish a copy of the Iowa certificate as reissued to it, or if the Iowa State Commerce Commission does not reissue a certificate, a certified copy of the order which approves the transfer of the Iowa intrastate certificate, together with a statement in writing confirming the date of the consummation of the intrastate transaction. Representative: P. C. McNamara, Box 207, Winterset, IA 50273.

Decision Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which doe not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* the following operating rights applications directly related thereto filed on or before September 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 112892 (Sub-1F), filed June 6, 1980. Applicant: OVERLAND TOW SERVICE, INC., P.O. Box 4262, Shawnee Mission, KS 66208. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, transporting *wrecked and disabled motor vehicles and trailers*, and *replacement motor vehicles and trailers* to points of wreck or disablement, by use of wrecker equipment only, between points in IA, KS, MO, NE, and OK, on the one hand, and, on the other, points in AR, IL, IN, OH, NM, and TX.

Note.—This is an elimination of the gateway of the Kansas City, MO-Kansas City, KS Commercial Zone, filed as a matter directly related to MC–FC–78651, published in another section of this FR issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25408 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the revelant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Motor Carrier Board, Members Healy, Hedetniemi, and Holyfield.

Federal Register Summary for Certificate or Permit

MC–FC–78420. By decision of January 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Kuhlman Towing, Inc., of Rochester, MN, of Certificate No. MC–123172 issued June 11, 1974, to Truman D. Moulton, d.b.a. Pulver's Motor Service of Rochester, MN, authorizing the transportation of *disabled motor vehicles*, by use of wrecker equipment only, Between points in that part of Minnesota on and south of a line beginning at the Minnesota-South Dakota State line and extending along U.S. Hwy 14 to Manketo, MN, and then along Minnesota Hwy 60 to the Mississippi River, at or near Wabasha, MN and points in Iowa, Illinois and Wisconsin. *Tractors* for replacement of wrecked or disabled tractors by wrecker equipment only. Between points in that part of Minnesota on and south of a line beginning at the South Dakota-Minnesota State line at U.S. Highway 14 to Mankato, MN, then along Minnesota Hwy 60 to Mississippi River at or near Wabasha, MN, and points in Iowa, Illinois and Wisconsin. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. An application seeking temporary lease authority has been filed. Transferee holds no authority from this Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25409 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-006]

Permanent Authority Decision Notice; Correction

Decided: July 30, 1980.

Notice of Correction, previously noticed in the **Federal Register** issue of August 13, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to non-fitness related applications, in lieu of fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified

statements filed on or before October 6, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 59150 (Sub-182F), filed July 23, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202.

MC 95540 (Sub-1166F), filed July 23, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 38302. Representative: Benjy W. Fincher (same address as applicant).

MC 133591 (Sub-110F), filed July 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391.

MC 135861 (Sub-83F), filed July 28, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103.

MC 144140 (Sub-53F), filed July 28, 1980. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant).

MC 149170 (Sub-16F), filed July 25, 1980. Applicant: ACTION CARRIER, INC., 1000 East 41st St., Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603.

[FR Doc. 80-25407 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-007]

Permanent Authority Decision Notice; Correction

Decided: July 30, 1980.

Notice of Correction, previously noticed in the **Federal Register** issue of August 13, 1980, and republished this issue for the purpose of correcting the preface below, as it relates to fitness related applications, in lieu of non-fitness related applications as previously published.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 6, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 94901 (Sub-10F), filed July 28, 1980. Applicant: EDDY MESSENGER SERVICE, INC., 4 Warehouse Lane, Elmsford, NY 10523. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528.

MC 119990 (Sub-11F), filed July 24, 1980. Applicant: MERCHANTS DELIVERY CO., a Corporation, 1212 E. 19th St., Kansas City, MO 64108. Representative: David W. Howard, 601 W. 47th St., Kansas City, MO 64112.

MC 133591 (Sub-109F), filed July 25, 1980. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391.

MC 141320 (Sub-14F), filed July 28, 1980. Applicant: UNITED STATES PRIORITY TRANSPORT CORP., Suite 303, 900 Walt Whitman Rd., Huntington Station, NY 11746. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048.

[FR Doc. 80-25408 Filed 8-20-80; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after August 21, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 306

Decided: August 1, 1980.

By the Commission, Review Board Number; Members Carleton, Joyce and Jones.

MC 200 (Sub-474F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION; P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of T. J. Lipton, Inc., at or near Suffolk, VA, as an off-route point in connection with carrier's otherwise authorized regular-route operations, restricted to traffic originating at or destined to the named facilities.

Note.—Applicant intends to tack the rights sought to its existing authority.

MC 200 (Sub-475F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION; P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *expended polystryrene products,* from the facilities of Culpepper and Associates of CA (CA Expanded Plastics), at or near Riverside, CA, to points in AZ, NV, and UT, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 200 (Sub-476F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION; P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *wheels and rims,* between the facilities of Webb Wheel, at or near (a) Siloam Springs, AR, and (b) Clearfield, UT, restricted to traffic originating at or destined to the named points.

MC 200 (Sub-477F), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *wire rope*, on reels, from the facilities of Wire Rope Corporation of America, Inc., at or near St. Joseph, MO to Houston, TX, restricted to traffic originating at the named origin and destined to the named destination.

MC 1931 (Sub-20F), filed June 27, 1980. Applicant: VON DER AHE VAN LINES, INC., 600 Rudder Ave., Fenton, MO 63026. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Transporting *household goods*, as defined by the Commission, between points in the US, (including HI and AK). Applicant holds authority in MC 1931 (Sub-14G) authorizing a portion of the above transportation. The purpose of this application is to remove the restrictions in the Sub 14G which states the operations authorized herein are restricted against service (1) between points in ME, VT, and NH and (2) between points in ND and SD. Condition: Issuance of a certificate in this proceeding shall cancel MC 1931 (Sub-14G).

MC 2860 (Sub-207F), filed June 27, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Peter J. Nickles, 888 16th St., N.W., Washington, DC 20006. Transporting, (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of General Electric Company, Major Appliance Group, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 3581 (Sub-27F), filed June 23, 1980. Applicant: THE MOTOR CONVOY, INC., 2175 Parklake Drive, N.E., Suite 107, Atlanta, GA 30345. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *automobiles, trucks, and tractors*, from points in Jefferson County, KY, to points in the U.S. (except AK and HI).

MC 29910 (Sub-276F), filed June 30, 1980. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities of Digital Equipment at or near Contoocook, NH, as an off-route point in connection with applicant's otherwise authorized regular route operations to and from Lowell, MA. Applicant intends to tack this authority.

MC 42011 (Sub-66F), filed June 27, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *construction materials, equipment, and supplies*, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the Ortloff Corporation or its customers or suppliers.

MC 42011 (Sub-67F), filed June 26, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *cooling tower parts*, from Tulsa, OK, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of Ecodyne Cooling Products Division.

MC 52861 (Sub-87F), filed June 30, 1980. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting *sand*, from Akron, OH, to points in IL, IN, MI, NY, PA, WI, and WV.

MC 59150 (Sub-181F), filed June 27, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting (1) *composition board*, from the facilities of the Abitibi-Price Corporation, at or near points in (a) Lucas County, OH, and (b) Wilkes County, NC, to those points in the U.S. in and east of ND, SD, NE, CO, and NM, and (2) *materials and supplies* used in the manufacture of composition board, from those points in the U.S. in and east of ND, SD, NE, CO, and NM, to the facilities of Abitibi-Price Corporation at or near points in Wilkes County, NC.

MC 65941 (Sub-64F), filed May 23, 1980. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Picoma Industries, Inc., at Martins Ferry and Bellaire, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX, restricted to traffic originating at or destined to the named facilities.

MC 66571 (Sub-8F), filed June 18, 1980. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *cleaning products* (except in bulk), from Bristol, PA, South Kearny and Hackensack, NJ, and New Castle, DE, to the facilities of Purex Corporation, at Salem and Roanoke, VA.

MC 66571 (Sub-10F), filed June 18, 1980. Applicant: RED LINE, INC., 2310 Orange Ave., N.E., Roanoke, VA 24012. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *plastic containers*, from the facilities of Purex Corporation, at Baltimore, MD, to the facilities of Purex Corporation, at Salem and Roanoke, VA.

MC 69901 (Sub-40F), filed June 27, 1980. Applicant: COURIER-NEWSON EXPRESS, INC., P.O. Box 270, Columbus, IN 47201. Representative: Joel H. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Jefferson, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant intends to tack the rights sought to its existing authority.

MC 78400 (Sub-67F), filed June 27, 1980. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Owensville, Gerald, and Japan, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 80430 (Sub-183F), filed June 27, 1980. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between the facilities of Tradewinds,

Inc., at Manawa, WI, on the one hand, and, on the other, points in AR, FL, GA, IL, IN, IA, KY, MN, MO, NH, NJ, NY, OH, PA, TN. TX, and the Lower Peninsula of MI.

MC 94350 (Sub-433F), filed June 30, 1980. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr., (same address as applicant). Transporting *buildings*, in sections, mounted on wheeled undercarriages, from points in Carter, Greene, Johnson, Sullivan, and Washington Counties, TN, to points in KY, NC, VA, and WV.

MC 115181 (Sub-42F), filed June 23, 1980. Applicant: HAROLD M. FELTY, INC., R.D. No. 1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *brick products and clay products*, between Flemington, NJ, on the one hand, and on the other, points in ME, VT, NH, NY, MA, CT, RI, PA, OH, WV, MD, NJ, DE, and DC.

MC 117730 (Sub-73F), filed November 6, 1979, and previously noticed in **Federal Register** issue of March 20, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 No. LaSalle St., Chicago, IL 60602. Transporting *bananas and agricultural commodities otherwise exempt from regulations under 49 U.S.C. section 1056 (A)(6), when transported in mixed loads with bananas*, (1) from New York, NY, Baltimore, MD, and Philadelphia, PA, to points in IL, IN, KY, MI, NY, OH, PA, WV, and WI, and (2) from Albany, NY, Newark, NJ, Wilmington, DE, Charleston, SC, and Mobile, AL, to points in IL, IN, KY, MI, OH, PA, and WI.

Note:—This republication shows Albany, NY, as an origin point in part (2).

MC 121801 (Sub-3F), filed June 27, 1980. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 793, Ardmore, OK 73401. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Over regular routes*, transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Ardmore, OK, and Gainesville, TX, over Interstate Hwy. 35, serving no intermediate points.

Note:—Applicant intends to tack the rights sought with its existing authority.

MC 121821 (Sub-9F), filed May 9, 1980, and previously noticed in **Federal Register** issue of July 22, 1980. Applicant: TENNESSEE MOTOR LINES, INC., P.O. BOX 100363, Nashville, TN 37210. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Over regular routes* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Knoxville, TN, and Tiptonville, TN, from Knoxville over Interstate Hwy 40 to its junction with U.S. Hwy 641, then over U.S. Hwy 641 to Camden, TN, then over U.S. Hwy 70 to Huntington, TN, then over U.S. Hwy 70A to Atwood, TN, then over TN Hwy 104 to Dyersburg, TN, then over TN Hwy 78 to Tiptonville, and return over the same route, serving (a) Camden, Trenton, Dyersburg, and Ridgely, TN as intermediate points, (b) Rutherford, Dyer, Bradford and Milan, TN, as off-route points, and (c) Nashville, TN, as an intermediate point for the purpose of joinder only, and (2) between Chattanooga and Nashville, TN, over Interstate Hwy 24, serving Nashville for purpose of joinder with Route (1) above only, and restricted against traffic moving between Nashville and Chattanooga, TN.

Note:—This republication shows Camden and Trenton, TN, as intermediate points in route (1)(a).

MC 124821 (Sub-98F), filed June 27, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Gettysburg Road, Camp Hill, PA 17011. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Cortland, Chenango, Broome, Chemung and Steuben Counties, NY, Franklin, Columbia, Montour, Bradford, Lackawanna, Luzerne, Wayne, Lehigh, Northampton, Tioga and Schuylkill Counties, PA, on the one hand, and, on the other, points in AL, AR, AZ, CT, DE, IA, ID, IN, KS, KY, LA, MA, MD, ME, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OK, PA, RI, SC, SD, TN, UT, VA, VT, WV and WY, and (2) between points in Wyoming, Pike, Monroe and Carbon Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) and (2) above to traffic originating at or destined to facilities used by Northeastern Pennsylvania Shippers Cooperative Association, Inc.

MC 133570 (Sub-9F), filed June 27, 1980. Applicant: A OF I, INC., P.O. Box 27, Hamilton, IN 46742. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885. *Contract carrier*, transporting (1) *machinery*, and *parts* for machinery, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Erie Press Systems, at or near Erie, PA, on the one hand, and, on the other, points in the U.S. (except AK, HI, and PA), under continuing contract(s) with Erie Press Systems, of Erie, PA.

MC 135070 (Sub-103F), filed September 13, 1979, and previously noticed in **Federal Register** issue of March 18, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs* (except frozen foods and commodities in bulk), from the facilities of Vlasic Foods, Inc., at or near Greenville, MS, to points in AR, CO, IL, IN, KS, LA, MO, NM, OK, and TX.

Note.—This republication adds CO, IL, IN, LA, and NM as destinaton states.

MC 135231 (Sub-49F), filed June 27, 1980. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *particleboard*, from Wheaton, IL, to Stevens Point, WI, and (2) *wooden cabinets*, unassembled, from Stevens Point, WI, to San Diego, CA.

MC 136511 (Sub-103F) filed June 27, 1980. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 23502. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *new furniture and furniture parts*, from points in MS, VA, NC, and SC to points in MA, CT, NY, NJ, PA, MD, VA, DE, GA, FL, TN, OH, IN, KS, MN, MO, IL, TX, CO, OK, AZ, CA, WA, OR and UT, restricted to traffic destined to the facilities of Levitz Furniture Corporation.

MC 143210 (Sub-3F), filed June 30, 1980. Applicant: W. C. HALL GENERAL HAULING, INC., Callao, VA 22435. Representative: Calvin F. Major, 200 W. Grace St., Richmond VA 23220. Transporting *canned goods and canning supplies*, between (a) the facilities of Lake Packing Co., Inc., in Northumberland County, VA, and (b) the facilities of H. H. Perry Canning Co., Inc., in Westmoreland County, VA, on the one hand, and, on the other, points in MD, NC, SC, and PA, restricted to traffic originating at or destined to the named facilities.

MC 143500 (Sub-9F), filed June 30, 1980. Applicant: R. B. CARRIERS, INC., 4425 Highway 31 East, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Contract carrier,* transporting (1) stove pipe, chimneys, ducts, and *flashings (2) metal products except those described in (1) above and equipment, materials and supplies used in the manufacture, and distribution of commodities named in (1) and (2) above* (except commodities in bulk, in tank vehicles), between Redwood City, CA, and Vicksburg, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Dura-Vent Corp. of Redwood City, CA.

MC 145150 (Sub-15F), filed May 22, 1980. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R.R. 2, Salina, KS 67401. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *Liquid fertilizer solution;* From the facilities of Chevron Chemical Co. at or near Friend, KS, to points in CO, NE, OK, NM, and TX.

MC 146110 (Sub-2F), filed June 30, 1980. Applicant: SMALL SHIPMENT EXPRESS OF ILLINOIS, INC., 9823 North Karlov Ave., Skokie, IL 60076. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in by wholesale mail order houses, from the facilities of Shaklee Corporation at Chicago, IL, to points in MO.

MC 148710 (Sub-7F), filed June 30, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Rd., Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. *Contract carrier,* transporting *cleaning, buffing, and polishing compounds, textile softeners, lubricating oils, deodorants, and disinfectants,* (except commodities in bulk), from the facilities utilized by Economics Laboratory, Inc., at or near South Holland, IL, to points in AL, FL, GA, KY, MO, NC, SC, and TN, under continuing contract(s) with Economics Laboratory, Inc., of St. Paul, MN.

MC 149100 (Sub-4F), filed June 30, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2800, Denver, CO 80202. Transporting (1) *paper drying and processing equipment,* (2) *parts* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture, installation and maintenance of the commodities in (1) and (2) above (except commodities in bulk), between points in Brown and Outagamie Counties, WI, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 151170F, filed June 27, 1980. Applicant LONG ISLAND GRAIN CO., INC., P.O. Box 97, Long Island, KS 67647. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. Transporting *such commodities* as are dealt in by animal feed business houses, from the facilities of Ralston Purina Company, at or near (a) St. Joseph and Kansas City, MO, and (b) Lincoln and Omaha, NE, to points in Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Sherman, Thomas, Sheridan, Graham, Rooks, Osborne, Wallace, Logan, Gove, Trego, Ellis and Russell Counties, KS.

MC 151120F, filed June 23, 1980. Applicant: WILLIAM B. TOLIVER, R.F.D. 1, Culpeper, VA 22701. Representative: John J. Davies III, 122 West Cameron St., Culpeper, VA 22701. Transporting *passengers and their baggage,* limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, in round-trip special and charter operations, beginning and ending at Culpeper, VA, and extending to race tracks in Charlestown, WV, and Laurel, Bowie and Baltimore, MD.

Volume No. 309

Decided: July 21, 1980.

By the Commission, Review Board Number 2, members Chandler, Eaton and Liberman.

FF 442 (Sub-3F), filed June 6, 1980. Applicant: C-LINE FORWARDING, INC., 340 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, Esq., 1730 M St., NW., Suite 501, Washington, DC 20036. To operate as a *freight forwarder* through the use of the facilities of common carriers by *rail, motor* and *water,* in the transportation of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Alexandria, VA, Baltimore, MD, and Washington, DC, points in FL and RI, and points in Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk and Worcester Counties, MA, Anne Arundel, Baltimore, Howard, Montgomery and Prince Georges Counties, MD, Bergen, Camden, Essex, Gloucester, Hudson, Middlesex, Passaic, and Union Counties, NJ, Delaware, Montgomery and Philadelphia Counties, PA, and Arlington and Fairfax Counties, VA, on the one hand, and, on the other, Suffolk County, NY.

MC 61592 (Sub-492F), (correction); filed March 21, 1980, published in the **Federal Register,** issue of May 29, 1980, and republished, as corrected, this issue. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Elisabeth A. DeVine, P.O. Box 737, Moline, IL 61265. The territorial description should read as follows: "Between Sellersburg, IN, Louisville, KY and those points in the U.S. in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.) The purpose of this republication is to correct the territorial description. Previous publication was a radial description and it should have been a non-radial description.

MC 107403 (Sub-1339F), filed June 24, 1980. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes (same address as applicant). Transporting (1) *chemicals,* and (2) *sugars, syrup, and blends of sugar and syrup,* in bulk, in tank vehicles, from points in Jefferson and Walker Counties, AL, to points in GA, FL, MS, NC, SC, TN and LA.

MC 106393 (Sub-147F), filed March 26, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Edward F. Schiff, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036. *Contract carrier,* transporting *general commodities* (except commodities in bulk, in tank vehicles, classes, A and B explosives, household goods as defined by the Commission and commodities requiring special equipment) between the facilities of Terminal Freight Cooperative Association, at Alexandria, VA, Atlanta, GA, Baltimore, MD, Boston, MA, Buffalo, NY, Cincinnati, Cleveland and Columbus, OH, Chicago, IL, Chula Vista, CA, Dallas, TX, Denver, CO, Fort Smith, AR, Greensboro, NC, Houston, TX, Jacksonville, FL, Lenoir, NC, Los Angeles, CA, Memphis, TN, Miami, FL, Minneapolis, MN, Nashville, TN, North Bergen, NJ, Oakland, CA, Philadelphia, PA, Pocatello, ID, Portland, OR, Sacramento, CA, San Antonio, TX, Seattle, WA, St. Louis, and Kansas City, MO, and Spokane, WA under a continuing contract(s) with Terminal Freight Cooperative Association, of Des Plaines, IL, restricted to traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 109462 (Sub-29F), filed June 25, 1980. Applicant: LUMBER TRANSPORT, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. Transporting (1) contractors materials, equipment, and supplies (except commodities in bulk), (2) self-propelled articles, each weighing 15,000 pounds or more, (3) commodities, the transportation of which because of size or weight require those of special equipment, and (4) general commodities (except commodities in bulk, classes A and B explosives and commodities which require the use of special equipment) when moving in mixed shipment as commodities in (2) and (3) above, between points in KS and MO, on the one hand, and, on the other, points in WY, CO, OK, TX, LA, AR, IL, NB, KS, MO and IA.

MC 109533 (Sub-128F), filed May 7, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, VA 23224. Representative: Eugene T. Liipfert, Suite 1000, 1660 L St., NW., Washington, DC 20036. Over regular routes transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, TN and Ft. Worth, TX, from Memphis over U.S. Hwy 70 to Little Rock, AR, then over U.S. Hwy 67 to Dallas, TX then over U.S. Hwy 80 to Ft. Worth, and return over the same route, serving all intermediate points, (2) between Birmingham, AL and Ft. Worth, TX, from Birmingham over U.S. Hwy 11 to Meridian, MS, then over U.S. Hwy 80 to Ft. Worth and return over the same route, serving all intermediate points and (3) serving points in Collin, Dallas, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise Counties, TX, and Tyler and Kilgore, TX as off-route points in connection with carrier's regular route operations restricted against the transportation of traffic originating at or received from connecting carriers at one point in TX, and destined to or delivered to connecting carriers at another point in TX.

Note.—Applicant intends to tack the authority sought with its otherwise authorized regular routes.

MC 110683 (Sub-173), filed March 19, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Minneapolis, MN, and Kansas City, KS: From Minneapolis, over Interstate Hwy 35 to Kansas City, MO, then over Interstate Hwy 70 to Kansas City, KS and return over the same route, serving Albert Lea, MN, and those points in IA on Interstate Hwy 35 as intermediate points; (2) between Bloomington, IL and Minneapolis, MN: from Bloomington over Interstate Hwy 74 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Minneapolis, and return over the same route, serving Peoria, IL, Rochester, MN, and those points in IA on the indicated routes as intermediate points; (3) between Waukegan, IL, and Lincoln, NE: from Waukegan over IL Hwy 120 to junction IL Hwy 47, then over IL Hwy 47 to junction IL Hwy 176, then over IL Hwy 176 to junction IL Hwy 23, then over IL Hwy 38, then over IL Hwy 38 to junction IL Hwy 2, then over IL Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Lincoln, and return over the same route, serving De Kalb, Moline, and Rock Island, IL, Omaha, NE, and points in IA on the indicated route as intermediate points; (4) between Waukegan, IL, and Wichita, KS: from Waukegan over U.S. Hwy 41 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Wichita, and return over the same route, serving Chicago and Bloomington, IL, St. Louis and Kansas City, MO, and Topeka, KS, as intermediate points; (5) between Lincoln, NE, and Wichita, KS: from Lincoln over U.S. Hwy 77 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 135, then over Interstate Hwy 135 to Wichita, and return over the same route, serving no intermediate points; (6) between Lincoln, NE, and Topeka, KS: from Lincoln over U.S. Hwy 34 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Topeka, and return over the same route, serving no intermediate points; (7) between Lincoln, NE, and Kansas City, MO: from Lincoln over NE Hwy 2 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City, and return over the same route, serving St. Joseph, MO, and those points in IA on the authorized route as intermediate points; (8) between Minneapolis, MN, and St. Joseph, MO: from Minneapolis over U.S. Hwy 169 to junction MN Hwy 60, then over MN Hwy 60 to junction IA Hwy 60, then over IA Hwy 60 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction Interstate Hwy 29, then over Interstate Hwy 29 to St. Joseph, and return over the same route, serving those points in IA on the authorized route as intermediate points; (9) between South Sioux City, NE, and Chicago, IL: from South Sioux City over U.S. Hwy 20 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Chicago, and return over the same route, serving Aurora, IL, and those points in IA on the authorized route as intermediate points; (10) between South Sioux City and Lincoln, NE, over U.S. Hwy 77, serving no intermediate points; (11) between Rochester, MN, and South Sioux City, NE: From Rochester over U.S. Hwy 63 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 20, then over U.S. Hwy 20 to South Sioux City, and return over the same route, serving Albert Lea, MN, and those points in IA on the authorized route as intermediate points; (12) between Waukegan, IL, and Minneapolis, MN: from Waukegan over U.S. Hwy 41 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Minneapolis, and return over the same route, serving no intermediate points, (13) between Bloomington, IL, and Minneapolis, MN: from Bloomington over U.S. Hwy 51 to junction U.S. Hwy 14, then over U.S. Hwy 14 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Minneapolis, and return over the same route, serving Rockford, IL, as an intermediate point; (14) between Topeka and Wichita, KS, over the Kansas Turnpike, serving no intermediate ponts; (15) between St. Louis, MO, and South Sioux City, NE: from St. Louis over U.S. Hwy 61 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction IA Hwy 141, then over IA Hwy 141 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 20, then over U.S. Hwy 20 to South Sioux City, and return over the same route, serving those points in IA on the authorized route as intermediate points; (16) between Lincoln, NE, and Bloomington, IL: from Lincoln over U.S. Hwy 34 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Bloomington, and return over the same route, serving Peoria, IL, and those points in IA on the authorized route as intermediate points; (17) between De Kalb, IL, and St. Louis, MO; from De Kalb over IL Hwy 23 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 51, then

over U.S. Hwy 51 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 180, then over Interstate Hwy 180 to junction IL Hwy 29, then over IL Hwy 29 to junction IL Hwy 4, then over IL Hwy 4 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving Peoria, IL, as an intermediate point; (18) between Topeka, KS, and Bloomington, IL: from Topeka over Interstate Hwy 70 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Bloomington, and return over the same route, serving St. Joseph, MO, and Decatur, IL, as intermediate points; (19) between Lincoln, NE and Peoria, IL: from Lincoln over NE Hwy 2 to junction IA Hwy 2, then over IA Hwy 2 to junction IL Hwy 9, then over IL Hwy 9 to Peoria, and return over the same route, serving those points in IA on the authorized route as intermediate points; (20) between Waukegan and Rockford, IL: from Waukegan over IL Hwy 131 to junction IL Hwy 176, then over IL Hwy 176, to junction U.S. Hwy 20, then over U.S. Hwy 20 to Rockford, and return over the same route, serving no intermediate points; (21) between Rockford and Chicago, IL: from Rockford over U.S. Hwy 51 to junction IL Hwy 38, then over IL Hwy 38 to junction IL Hwy 23, then over IL Hwy 23 to junction IL Hwy 5, then over IL Hwy 5 to junction IL Hwy 83, then over IL Hwy 83 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Chicago, and return over the same route, serving De Kalb and Aurora, IL as intermediate points; (22) between St. Louis, MO and Dubuque, IA: from St. Louis over U.S. Hwy 61 to junction U.S. Hwy 67, then over U.S. Hwy 67 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Dubuque, and return over the same route, serving those points in IA on the authorized route as intermediate points; (23) between Mason City, IA, and Milwaukee, WI over U.S. Hwy 18, serving no intermediate points; (24) between Milwaukee, WI and Davenport, IA: from Milwaukee over WI Hwy 15 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 38, then over IL Hwy 38 to junction IL Hwy 2, then over IL Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Davenport, and return over the same route, serving Rock Island, IL, as an intermediate point; (25) between Kansas City, KS, and St. Louis, MO: from Kansas City over U.S. Hwy 69 to junction U.S. Hwy 50, then over U.S. Hwy 50 to St. Louis, and return over the same route, serving no intermediate points; (26) between Wichita, KS, and St. Louis, MO: from Wichita over KS Hwy 96 to junction KS Hwy 47, then over KS Hwy 47 to junction KS Hwy 57, then over KS Hwy 57 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Interstate Hwy 44, then over Interstate Hwy 44 to St. Louis, and return over the same route, serving no intermediate points; (27) between Wichita, KS, and Kansas City, MO, over Interstate Hwy 35, serving no intermediate points; (28) between Rochester, MN, and St. Louis, MO: from Rochester over U.S. Hwy 63 to junction MO Hwy 22, then over MO Hwy 22 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction MO Hwy 19, then over MO Hwy 19 to junction Interstate Hwy 70, then over Interstate Hwy 70 to St. Louis, and return over the same route, serving all points in IA on the indicated route as intermediate points, and (29) serving Chemolite Siding, MN, O'Fallon, IL, and points in IA not on the above routes, as off route points in connection with routes (1) to (28) above. Restriction: Service at Kansas City, KS–MO is restricted to traffic originating at or destined to Minneapolis, MN, and Des Moines, IA. Note: The purpose of this application is to convert irregular-route authority to regular-route. Conditions: (1) The regular-route authority granted here shall not be severable, by sale or otherwise, from applicant's retained pertinent irregular-route authority. (2) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding serivice between any two points authorized to be served here pursuant to regular-route authority. In doing so, applicant should make specific references (by docket and sub number) to the irregular-route authorities being converted. As an alternative, applicant may request in writing, coincidental cancellation of the irregular-route authorities being converted.

MC 110683 (Sub-177F), filed April 18, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Niles, MI, and Evansville, IN: from Niles over U.S. Hwy 31 to junction IN Hwy 25, then over IN Hwy 25 to junction IN Hwy 28, then over IN Hwy 28 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, serving the intermediate points of South Bend, Lafayette, and Terre Haute, IN, and the off-route points of Danville and Watseka, IL, and Brazil, IN, and return over the same route; (2) between Hicksville, OH and Lafayette, IN: from Hicksville over OH Hwy 2 to junction IN Hwy 37, then over IN Hwy 37 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction IN Hwy 25, then over IN Hwy 25 to Lafayette, serving the intermediate point of Ft. Wayne, IN, and return over the same route; (3) between Willshire, OH, and Antwerp, OH; from Willshire over U.S. Hwy 33 to junction U.S. Hwy 24, then over U.S. Hwy 24 to Antwerp, serving all intermediate points, and return over the same route; (4) between Hicksville, OH, and Auburn, IN: from Hicksville over OH Hwy 18 to junction IN Hwy 8, then over IN Hwy 8 to Auburn, serving all intermediate points, and return over the same route, and (5) serving points in Steuben, Allen, Huntington, La Grange, La Porte, Wells, Boone, St. Joseph, Hendricks, Elkhart, De Kalb, Noble, Newton, Carroll, Clinton, Clay, Benton, Adams, and Jasper Counties, IN, and Lenawee County, MI, as intermediate and off-route points in connection with carrier's authorized regular routes.

Note.—Tacking is intended.

MC 112713 (Sub-303F), filed May 6, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: R. E. DeLand (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Brattleboro and Norwich, VT, over U.S. Hwy 5, serving all intermediate points, and serving Grafton, Saxons River, and Springfield, VT as off-route points; (2) between Wilder and Burlington, VT: from Wilder over VT Hwy 14 to Barre, VT, then over U.S. Hwy 302 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Burlington, and return over the same route, serving all intermediate points; (3) between Montpelier, VT and junction VT Hwys 107 and 14: from Montpelier over VT Hwy 12 to junction VT Hwy 107, then over VT Hwy 107 to junction VT Hwy 14, and return over the same route, serving all intermediate points; (4) between St. Johnsbury and Montpelier, VT, over U.S. Hwy 2, serving all intermediate points; (5) between Brattleboro and Bennington, VT, over VT Hwy 9, serving all intermediate points; (6) between Keene, NH and junction U.S. Hwy 5 and the Connecticut River: from Keene over NH Hwy 9 to the NH-VT State line, then across the Connecticut River to junction U.S. Hwy 5, and return over the same route, serving all intermediate points; (7) between Norwich and St. Johnsbury, VT, over U.S. Hwy 5, serving all intermediate points and serving Lyndonville, Lyndon, and Lyndon Center, VT as off-route points; (8) between Burlington, VT and Rouses Point, NY: from Burlington over U.S. Hwy 7 to junction VT Hwy 78, then over VT Hwy 78 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Rouses Point, and return over the same route, serving all intermediate points; (9) between junction NY Hwys 9N and 8 and Burlington, VT: from junction NY Hwys 9N and 8 over NY Hwy 8 to the VT State line, then over VT Hwy 17 to junction VT Hwy 22A, then over VT Hwy 22A to junction U.S. Hwy 7, then over U.S. Hwy 7 to Burlington, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (10) between Pittsfield, MA and junction VT Hwy 22A and U.S. Hwy 7, over U.S. Hwy 7, as an alternate route for operating convenience only, serving no intermediate points, serving Bennington, VT as a point of joinder only; (11) between Troy, NY and junction VT Hwy 9 and U.S. Hwy 7: from Troy over NY Hwy 7 to the NY-VT State line, then over VT Hwy 9 to junction U.S. Hwy 7, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points, (12) between Brattleboro, VT and Bernardston, MA, over U.S. Hwy 5, as an alternate route for operating convenience only, serving no intermediate points; (13) between Glens Falls, NY and junction VT Hwys 17 and 22A: from Glen Falls over NY Hwy 254 to junction U.S. Hwy 4, then over U.S. Hwy 4 to junction VT Hwy 22A, then over VT Hwy 22A to junction VT Hwy 17, and return over the same route for operating convenience only, serving no intermediate points, and (14) between junction U.S. Hwy 4 and VT Hwy 30 and junction VT Hwy 30 and U.S. Hwy 7, over VT Hwy 30, as an alternate route for operating convenience only, serving no intermediate points. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 114273 (Sub-761F), filed June 24, 1980. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: *metals*, from Walnutport, PA, to points in IA, IL, IN, KY, MI, MN, MO, OH and WI.

MC 114273 (Sub-762F). Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Transporting: (1) *Petroleum and petroleum products*, (2) *automotive chemicals, and cleaning compounds*, and (3) *equipment, materials, and supplies* used by automotive service centers (except in bulk), between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc., at or near Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to named facilities.

MC 125433 (Sub-427F), filed June 24, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 Southe Redwood Rd., Salt Lake City, UT 84104. Representative: R. CAMERON ROLLINS, P.O. Box 11086, Birmingham, AL 35202.Transporting (1) *iron* and *steel articles*, (2) *commodities*, the transportation of which because of size or weight requires the use of special equipment, and (3) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above (except commodities in bulk) between the facilities of Southern Engineering Company at Catawba and Rock Hill, SC and Charlotte, NC, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 135803(Sub-12F), (correction), filed March 25, 1980, published as MC 135805 (Sub-12F), in the **Federal Register**, issue of July 3, 1980, and republished, as corrected, this issue. Applicant: WALLACE TRANSPORT, a corporation, 9290 E. Hwy, 140 (P.O. Box 67), Planada, CA 95365. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. The purpose of this republication is to show the correct MC Number. MC 135803 (Sub-12F), which was published as MC 135805 (Sub-12F). The rest of the publication remains the same as previously published.

MC 135803 (Sub-13F), (correction) filed April 4, 1980, published as MC 135805 (Sub-13F) in the **Federal Register**, issue of July 3, 1980, and republished as corrected, this issue. Applicant: WALLACE TRANSPORT, 9290 E. Hwy 140 (P.O. Box 67), Planada, CA 95365. Representative: John, C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. The purpose of this republication is to show the correct MC Number. MC 135803 (Sub-13F), which was previously published as MC 135805 (Sub-13F). The rest of the publication remains the same as previously published.

MC 146402 (Sub-24F), filed July 1, 1980. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (same address as applicant). Transporting (1) *belt conveyors, and steel supports* and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of ZINIZ Inc. at Louisville, KY on the one hand, and, on the other, points in the U.S. (except AK and HI) restricted to traffic originating at or destined to facilities utilized, by ZINIZ Inc.

MC 147853 (Sub-2F), filed October 3, 1979. Applicant: MOYER & SONS, INC., P.O. Box 733, Gaithersburg, MD 20760. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting *household goods as defined by the Commission*, between points in MD, VA, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148183 (Sub-22F), filed April 23, 1980. Applicant: ARROW TRUCK LINES, INC., Post Office Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425—13th Street, NW., Washington, DC 20004. Transporting *frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Saluto Foods Corp., at Montgomery AL, to points in CA, FL, GA, NC, SC, and TX.

MC 148943 (Sub-1F), filed March 7, 1980. Applicant: TEJAS OESTE TRUCK LINES, INC., 2209 Mills St., El Paso, TX 79901. Representative: Greg J. Evans (same as applicant). Over *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between El Paso, TX, and Hobbs, NM, over U.S. Hwy 62–180; (2) between Hobbs and Lovington, NM, over NM Hwy 18; (3) between Hobbs, NM, and Midland, TX: from Hobbs over NM Hwy 18 to the NM–TX State line, then over TX Hwy 18 to junction Interstate Hwy 20, then over Interstate Hwy 20 to

Midland, and return over the same route; (4) between junction TX Hwy 18 and Interstate Hwy 20, and El Paso, TX; from junction TX Hwy 18 and Interstate Hwy 20, over Interstate Hwy 20 to junction Interstate Hwy 10, then over Interstate Hwy 10 to El Paso, and return over the same route; serving all intermediate points in routes (1) through (4) above.

MC 150412 (Sub-1F), filed May 8, 1980. Applicant: VERNON EQUIPMENT, INC., 2115 East 27th Street, Los Angeles, CA 90058. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Contract carrier,* transporting *such commodities* as are dealt in by retail department stores, between Ontario, CA, on the one hand, and, on the other, points in AZ, NV, NM, TX, and UT, under continuing contract(s) with Mervyn's, of Hayward, CA.

MC 1150482F, filed April 14, 1980. Applicant: JOHN SMITH, RUSSELL ORF, and PETER LYDON, d.b.a. MCCAULEY AIR FREIGHT, R.D. No. 4, Box 314A, Punxsutawney, PA 15767. Representative: John Smith (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives and commodities in bulk), between points in Armstrong, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Jefferson, Lycoming, Union, and Venango Counties, PA, on the one hand, and, on the other, Clarion, DuBois, Philipsburg, and Pittsburgh, PA, restricted to traffic having prior or subsequent movement by air.

MC 150633 (Sub-1F), filed June 24, 1980. Applicant: MERTENS TRUCKING CO., INC., 4215 Terminal Dr., McFarland, WI 53558. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *liquid fertilizer,* in bulk, in tank vehicles, from Amboy, Fulton, and Lemont, IL, to points in IA, MN, and WI.

MC 151 (Sub-123F), filed June 24, 1980. Applicant: T–A–T AIRFREIGHT, INC., 4401 N.W. 74th Ave., Miami, FL 33152. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives, those of unusual value, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between points in New York, Kings, Queens, Bronx, Richmond, Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam counties, NY, points in Fairfield and New Haven counties, CT, and points in NJ, restricted to traffic having a prior or subsequent movement by air or water.

Volume No. 310

Decided: August 1, 1980.
By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 29910 (Sub-272F), filed June 23, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), alternate routes for operating convenience only in conjunction with applicant's regular-route operations, (1) between Birmingham, AL, and Indianapolis, IN, over Interstate Hwy 65, serving Louisville, KY, and the termini for purposes of joinder only, (2) between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71, serving the termini for purposes of joinder only, (3) between Birmingham, AL, and St. Louis, MO, from Birmingham over Interstate Hwy 65 to junction AL Hwy 157, then over AL Hwy 157 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction U.S. Hwy 54, then over U.S. Hwy 45 to junction U.S. Hwy 45E, then over U.S. Hwy 45E to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 3, then over IL Hwy 3 to junction Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the termini for purposes of joinder only, (4) between Birmingham, AL, and Houston, TX, from Birmingham over Interstate Hwy 20/59 to Jackson, MS, then over Interstate Hwy 12 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Houston, and return over the same route, serving Jackson, MS, and the termini for purposes of joinder only, (5) between Birmingham, AL, and Harrisburg, PA, from Birmingham over Interstate Hwy 59 to junction Insterstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 76, then over Interstate Hwy 76 to Harrisburg, and return over the same route, serving the termini for purposes of joinder only, (6) between Birmingham, AL, and Dallas, TX, over Interstate Hwy 20, serving the termini for purposes of joinder only, (7) between Birmingham, AL, and New Orleans, LA, over Interstate Hwy 59, serving the termini for purposes of joinder only, (8) between Birmingham, AL, and Little Rock, AR, from Birmingham over Interstate Hwy 20 to Tuscaloosa, AL, then over U.S. Hwy 82 to junction U.S. Hwy 65, then over U.S. 65 to Little Rock, and return over the same route, serving Columbus, MS and the termini for purposes of joinder only, (9) between Birmingham, AL, and Erie, PA, from Birmingham over Interstate Hwy 59 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction WV Hwy 16, then over WV Hwy 16 to junction U.S. Hwy 19, at or near Beckley, WV, then over U.S. Hwy 19 to junction Interstate Hwy 79, at or near Canfield, WV, then over Interstate Hwy 79 to Erie, and return over the same route, serving the termini for purposes of joinder only, (10) between Birmingham, AL, and Chicago, IL, from Birmingham over Interstate Hwy 65 to Nashville, TN, then over Interstate Hwy 24 to junction Alternate U.S. Hwy 41, then over Alternate U.S. Hwy 41 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Chicago, and return over the same route, serving the termini for purposes of joinder only, and (11) between Birmingham, AL, and Waco, TX, from Birmingham over Interstate Hwy 20 to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction TX Hwy 31, then over TX Hwy 31 to Waco, and return over the same route, serving the termini for purposes of joinder only.

MC 29910 (Sub-275F), filed July 1, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *chemicals* (except in bulk), from Houston, TX, to those points in the U.S. in and east of MN, IA, MO, AR, and TX.

Note.—Applicant intends to tack the sought rights to its existing authority.

MC 29910 (Sub-277F), filed July 1, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *activated carbon,* from Marshall, TX, to points in the U.S. (except AK and HI).

MC 29910 (Sub-279F), filed July 2, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72910. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. *Over regular routes,* transporting *general commodities*

(except those of ususual value, household goods as defined by the commission, commodities in bulk, and those requiring special equipment), (1) between Sacramento, CA, and Letterkenny Army Depot, at or near Chambersburg, PA, from Sacramento over Interstate Hwy 80 to junction Utah Hwy 186, then over Utah Hwy 186 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 80 North, then over Interstate Hwy 80 North to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction U.S. Hwy 30 at Breezewood Interchange, then over U.S. Hwy 30 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Letterkenny Army Depot, and return over the same route, serving no intermediate points; (2) betweeen junction Interstate Hwy 80 and U.S. Hwy 40, and junction Interstate 70 and U.S. Hwy 30, at or near Breezewood Interchange, from junction Interstate Hwy 80 and U.S. Hwy 40 over U.S. Hwy 40 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 30, and return over the same route, serving no intermediate points; (3) between junction Interstate Hwy 80 and Alternate U.S. Hwy 95, and Interstate Hwy 70 and U.S. Hwy 40, from junction Interstate Hwy 80 and Alternate U.S. Hwy 95 over Alternate U.S. Hwy 95 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 40, and return over the same route, serving no intermediate points; (4) between Amarillo, TX, and Red River Arsenal, at or near Texarkana, TX, from Amarillo over U.S. Hwy 287 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Red River Arsenal, and return over the same route, serving no intermediate points; (5) between Amarillo, TX, and Red Stone Arsenal, at or near Huntsville, AL, from Amarillo over Interstate Hwy 40 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction Alternate U.S. Hwy 72, then over Alternate U.S. Hwy 72 to Red Stone Arsenal, and return over the same route, serving no intermediate points, and (6) between Sacramento, CA, and junction Interstate Hwy 65 and Alternate U.S. Hwy 72, from Sacramento over Interstate Hwy 5 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Alternate U.S. Hwy 72, and return over the same route, serving no intermediate points. Note: Applicant intends to tack the sought rights to its existing authority. Condition: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 29910 (Sub-280F), filed June 16, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Washburn, Roanoke, Goodfield, Princeville and Eureka, IL, as off-route points in connection with applicants otherwise authorized regular-route operations at Peoria, IL.

Note.—Applicant intends to tack this authority.

MC 33500 (Sub-21F), filed June 30, 1980. Applicant: TOWNE VAN LINES, INC., 10214 North Interregional Highway, Austin, TX 78753. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *used household goods,* between points in the U.S. (including AK and HI, but excluding ID).

MC 33641 (Sub-148F), filed July 2, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Personal Products Co., at or near Wilmington, IL, as an off-route point in connection with carrier's otherwise authorized regular route operations.

MC 33641 (Sub-149F), filed July 2, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound, communications, educational, and entertainment materials (except commodities in bulk and those requiring use of special equipment), between Los Angeles, San Jose, Santa Clara, and Santa Maria, CA, on the one hand, and, on the other, Terre Haute, IN, restricted to traffic originating at or destined to the facilities of CBS Records, Division of CBS, Inc.

MC 48221 (Sub-27F), filed January 28, 1980. Applicant: W. N. MOREHOUSED TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), between points in IA, MO, KS, NE, MN, SD, AZ, CA, CO, WA, OR, MI, WI, OK, and TX, restricted to traffic originating at or destined to the facilities of Cudahy Foods Company.

MC 52460 (Sub-275F), filed January 28, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W, 35th St., Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *foodstuffs, pet foods, and animal feeds,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), (except commodities in bulk), between points in AL, AR, CO, FL, GA, IL, IN, LA, KS, MS, MO, NM, OK, TN, and TX, restricted to traffic originating at or destined to the facilities used by Carnation Co.

MC 59570 (Sub-46F), filed June 10, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: Jean R. Hecht (same address as applicant). Transporting *salt products, salt with additives, pepper and mineral mixtures,* (1) from the facilities of Morton Salt, at Perth Amboy, NJ, to points in ME, MA, NC, NH, OH, VA, WV, and VT, and (2) from the facilities of Morton Salt, at Silver Spring, NY, to points in CT, DE, ME, MD, MA, NC, NH, NJ, NY, PA, RI, VA, VT, WV, and DC.

MC 99031 (Sub-6F), filed February 6, 1980. Applicant: THE KLUG-DIRECT TRANSPORTATION CO., a corporation, P.O. Box 72, Stoutsville, OH 43154. Representative: David A. Turano, Suite 1800, 100 East Broad St., Columbus, OH 43215. Transporting (1) *refractories, and steel mill and foundry supplies,* (except commodities in bulk), from Cleveland, OH, to Ashland, KY, and Huntington, WV, and (2) *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between Cincinnati, Cleveland, and Dayton, OH, on the one hand, and on the other, points in OH.

Note.—Part (2) seeks to convert the Certificate of Registration in MC 99031 (Sub-5), issued January 27, 1978, to a Certificate of Public Convenience and Necessity.

MC 106920 (Sub-107F), filed June 30, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805

McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *foodstuffs,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between Delphos, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 106920 (Sub-108F), filed July 2, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *foodstuffs,* from points in Allen County, OH, to those points in the U.S. in and east of MT, WY, CO, and NM, and (2) *materials, equipment and supplies* used in the manufacture and distribution of prepared foods, in the reverse direction, restricted to traffic originating at or destined to the facilities of Rudolph Foods Co., Inc., in Allen County, OH.

MC 113651 (Sub-321F), filed September 18, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from Chicago, IL, and Milwaukee, WI, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 113651 (Sub-342F), filed June 30, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Omaha, NE 68154. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *malt beverages,* from the facilities of Van Munching & Co., Inc., at New York, NY, to points in FL, GA, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, OK, SD, TX, and WI.

MC 115181 (Sub-40F), filed June 23, 1980. Applicant: HAROLD M. FELTY, INC., R.D. No. 1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting *bakerage,* between Carteret, NJ, and points in PA.

MC 115840 (Sub-120F), filed May 2, 1980. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 22168, McBride Lane, Knoxville, TN 37922. Representative: Leonard M. Carroll (same address as applicant). Transporting (1) *fabricated fiberglass structural members,* (a) from Houston, TX, to points in the U.S. (except AK and HI), and (b) from Bristol, VA, to Houston, TX.

MC 117730 (Sub-79F), filed July 1, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. Transporting (1) *foodstuffs* (except in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), in mixed loads with the commodities in (1) above, (a) from the facilities of Oscar Mayer & Co., Inc., at Goodlettsville, TN, to Davenport, IA, Madison and Jefferson, WI, and points in IL on and north of U.S. Hwy 136, (b) from the facilities of Oscar Mayer & Co., Inc., at Beardstown, IL, to Goodlettsville, TN, and points in MA, MD, NJ, NY, and PA, and (c) from the facilities of Oscar Mayer & Co., Inc., at Madison and Jefferson, WI, to points in MD, NJ, NY, OH, PA, WV, and DC.

118570 (Sub-11F), filed June 5, 1980. Applicant: DeFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18507. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. *Contract carrier,* transporting *such commodities* as are dealt in or used by grocery stores and food business houses (except commodities in bulk), from the facilities of Procter & Gamble Company, at (a) points in Lackawanna, Luzerne, and Wyoming Counties, PA, to Baltimore, MD, Washington, DC, and points in Orange County, NY, and (b) Baltimore and Cockeysville, MD, to points in Broome, Chemung, and Tioga Counties, NY, and Columbia, Lackawanna, Luzerne, Monroe, Montour, Northumberland, Wayne, and Pike Counties, PA, under continuing contract(s) with Procter & Gamble Company, of Cincinnati, OH.

MC 119670 (Sub-54F), filed September 26, 1979, and previously noticed in **Federal Register** issue of March 20, 1980. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Ave., Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *such commodities* as are dealt in or used by manufacturers of glass, plastic, chinaware, and metal products (except commodities in bulk), between points in IL, IN, KY, MI, MO, OH, WV, WI, and points in PA on and west of U.S. Hwy 219, restricted to traffic originating at or destined to the facilities used by Anchor Hocking Corporation and its subsidiaries.

Note.—This republication clarifies the territorial description.

MC 120491 (Sub-2F), filed March 27, 1980. Applicant: CONSTRUCTION HAULAGE CORP., Unit F at 46th Street, Brooklyn, NY 11322. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting (1) *stone blocks,* from St. Peters, PA, to Providence, RI, and (2) *stone slabs,* from Providence, RI, to Brooklyn, NY.

Note.—Issuance of a certificate in this proceeding shall cancel Certificate of Registration MC 120491 (Sub-1), issued December, 12, 1963.

MC 121661 (Sub-7F), filed May 9, 1980. Applicant: VAN WYKE FREIGHT LINES, INC., Box 70, Grinnel, IA 50112. Representative: Russell H. Wilson, 3839 Merle Hay Road, Suite 200, Des Moines, IA 50310. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Moline, IL, and points in IA.

Note:—Issuance of a certificate in this proceeding shall cancel Certificates of Registration Nos. MC 121661 (Sub-1), MC 121661 (Sub-3), and MC 121661 (Sub-5).

MC 124211 (Sub-379F), filed June 30, 1980. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). *Over irregular routes,* transporting (1) *petroleum and petroleum products and cleaning compounds,* and *such commodities* as are dealt in or used by automotive service centers (except commodities in bulk), between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc., at Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY, restricted to traffic originating at or destined to the named facilities; and *over regular routes,* transporting (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Burt County, NE, as intermediate and off-route points in connection with carrier's otherwise authorized regular route operations.

MC 129831 (Sub-73F), filed November 13, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: G. D. Davidson, (same address as applicant). Transporting (1) *sulphur* (except in bulk), between points in CA, ID, MT, OR, UT, WA, and WY, and (2)(a) *pallets, horticulture containers, skids, and boxes,* and (b) *materials* used in the manufacture of the commodities in (a), between those points in the U.S. in and west of CO, MT, NM, and WY (except AK and HI).

MC 126930 (Sub-33F), filed February 25, 1980. Applicant: BRAZOS TRANSPORT CO., a corporation, P.O. BOX 2746, Lubbock TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *petroleum and petroleum products,* from the facilities of Texaco, Inc., in Jefferson County, TX, to points in AR, IA, KS, LA, MO, NM, OK, and TX.

MC 129031 (Sub-8F), filed May 21, 1980. Applicant: KLAUSNER TRANSPORTATION CO., INC., 101 North Ave. 18, Los Angeles, CA 90031. Representative: William Davidson, 2455 East 27th St., Vernon, CA 90058. *Contract carrier,* transporting (1) *wearing apparel and piece goods,* and (2) *accessories* for wearing apparel and piece goods, (a) between Los Angeles, CA, and Salt Lake City, UT, (b) between Salt Lake City, UT, and El Paso, TX, and (c) between Salt Lake City, UT, El Paso, TX, and Los Angeles, CA, under continuing contract(s) in (1) and (2) above with Pyke Manufacturing Company, Inc., of Salt Lake City, UT.

MC 135640 (Sub-9F), filed June 30, 1980. Applicant: STALEY EXPRESS, INC., 2501 N. Brush College Road, Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same address as applicant). Transporting *Such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, (except commodities in bulk), between the facilities used by International Paper Company, at or near (a) Jackson, TN, (b) Clinton, IA, (c) Litchfield, IL, (d) Indianapolis, IN, (e) Wilmington, OH, and (f) Pittsburgh, KS, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 138520 (Sub-2F), filed July 1, 1980. Applicant: R. JOHNS TRANSFER, INC., 2206 Patterson Ave., Roanoke, VA 24016. Representative: Rogers Johns (same address as applicant). Transporting *such commodities* as are dealt in or used by chain grocery houses, between Charlotte, NC, on the one hand, and, on the other, points in VA and WV.

MC 14180 (Sub-1F), filed May 27, 1980. Applicant: CITY PARCEL DELIVERY, INC., South 108 State St., Spokane, WA 99204. Representative: Paul Gisselberg (same address as applicant). *Over regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Spokane, WA, and Coeur D'Alene, ID, over Interstate Hwy 90, (2) between junction Interstate Hwy 90 and U.S. Hwy 95 and Hayden Lake, ID, over U.S. Hwy 95, and (3) between Hayden Lake, ID, and junction U.S. Hwy 41 and Interstate Hwy 90, from Hayden Village over unnumbered county road to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction Interstate Hwy 90, and return over the same route, serving all intermediate points, restricted against transporting individual packages or articles weighing more than 50 pounds from any one consignor to one consignee at one location within any one day.

MC 143610 (Sub-18F), filed September 13, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Contract carrier,* transporting *such commodities* as are dealt in or used by toy and game retailers, from those points in the U.S. in and east of WI, IA, MO, AR, and LA to Compton and San Jose, CA, Dallas and Houston, TX, and Seattle, WA, under continuing contract(s) with Toys-R-Us, Inc., of Saddlebrook, NJ.

MC 144130 (Sub-5F), filed June 20, 1980. Applicant: GRILLS TRUCKING, 2225 East 33rd Ave., Vancouver, B.C., Canada. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Contract carrier,* transporting *flat glass and flat glass products,* from Lathrop, CA., to the ports of entry on the international boundary line between the U.S. and Canada in WA, under continuing contact(s) with Libbey-Owens-Ford Company, of Toledo, OH.

MC 144821 (Sub-9F), filed June 13, 1980. Applicant: FREEDOM FREIGHTWAYS, INC., P.O. Box 5850, St. Louis, MO 63134. Representative: Raymond Ellsworth (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, (except commodities in bulk, in tank vehicles), between the facilities used by International Paper Company and its subsidiaries at points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities of International Paper Company.

MC 145441 (Sub-117F), filed July 2, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *alcoholic beverages* (except in bulk), from San Antonio, TX, to Little Rock, AR.

MC 145481 (Sub-20F), filed June 30, 1980. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Suite 2800, Denver, CO 80202. Transporting (1) *plastic articles* (except commodities in bulk), from Warren, PA, to Atlanta, GA, to Indianapolis, IN, and Enfield, CT, and (2) *medicines, cosmetics, toilet preparations, plastic articles, weed killing compounds, and animal and poultry feed supplements* (exept commodities in bulk), and *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), from Roanoke, VA, West Columbia, SC, and Indianapolis, IN, to Enfield, CT, restricted in (1) and (2) above, to traffic originating at or destined to the facilities of Eli Lilly and Company.

MC 145760 (Sub-15F), filed July 1, 1980. Applicant: JOHNSON TRANSPORTATION CO. 1327 Highway 13 North, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., P.O. Box 22807, 236 E. Capital Street, Jackson, MS 39205. Transporting (1) *axles, wheels and tires,* from Largo, FL, to points in AL, GA, IN, KS, LA, MD, MS, NC, OH, PA, SC, TX, and WI, and (2) *axles,* from Denver, CO, Brownsville, Dallas, Ft. Worth, Lufkin, and Waco, TX, to Largo, FL, restricted in (1) and (2) above, to traffic orignating at or destined to the facilities of or used by All American Wheel and Axle Company, Inc.

MC 146270 (Sub-2F), filed October 22, 1979. Applicant: WINFORD NOAH WILLIAMS, Box 578, Aberdeen, NC 28315. Representative: James E. Holshouser, Jr., Box 116, Southern Pines, NC 28387. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Hamlet and Fayetteville, NC, on the one hand, and, on the other, points in Lee and Moore Counties, NC, restricted to traffic having a prior or subsequent movement by rail in trailer on flatcar service.

MC 146341 (Sub-1F), filed November 4, 1980. Applicant: RIGHT-O-WAY, INC., 566 Valley St., Orange, NJ 07050. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10001. *contract carrier,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, and those requiring special equipment), between Rouses Point, NY, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Champlain Valley International Shippers and Receivers, Incorporated, of Rouses Point, NY.

MC 148440 (Sub-8F), filed June 30, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market St., Everett, MA 02149. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in Franklin County, VT, and Clinton County, NY, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, MN, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, WV, and WY.

MC 147451 (Sub-4F), filed July 2, 1980. Applicant: RAY J. FORNEY, INC. P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting (1) *such commodities* as are dealt in or used by wholesale, retail, and chain grocery stores, and food processors, (except commodities in bulk), between the facilities of Crest Foods, Inc., at or near Ashton, and Forreston, IL on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Issuance of a certificate in this proceeding shall cancel Permit MC 136109.

MC 147681 (Sub-12F), filed June 30, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. No. 2, West Middlesex, PA 16159. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *can ends*, and *metal containers*, from the facilities of Crown Cork & Seal Company, Inc., at (a) Baltimore, MD, (b) Lawrence, MA, (c) North Bergen, NJ, (d) Philadelphia, PA, and (e) Winchester, VA, to points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, NC, SC, GA, FL, AL, TN, KY, OH, IL, IN, MI, MO, MS, AR, LA, KS, OK, TX, and DC.

MC 147681 (Sub-14F), filed June 30, 1980. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. No. 2, West Middlesex, PA 16159. Representative: Michael P. Pitterich (same address as applicant). Transporting *glass containers*, (1) between Hartford and Dayville, CT, on the one hand, and, on the other, points in MI, and (2) between Knox, Marienville, Parker, Dubois, and points in Clarion County, PA, on the one hand, and, on the other, points in NJ, MD, and DE.

MC 148291 (Sub-8F), filed June 30, 1980. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *Over regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Harrison, AR, and Tulsa, OK, from Harrison over U.S. Hwy 62 to junction AR Hwy 68, then over AR Hwy 68 to the AR–OK State line, then over OK Hwy 33 to Tulsa, and return over the same route, serving all intermediate points in AR, and the off-route points of Rogers and Bentonville, AR, and (2) between Conway, AR, and Tulsa, OK, from Conway over Interstate Hwy 40 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Tulsa, and return over the same route, serving all intermediate points.

MC 148490 (Sub-6F), filed July 1, 1980. Applicant: C & N EVANS TRUCKING COMPANY, INC., Route 2, Box 39E, Stoneville, NC 27048. Representative: Clarence B. Evans (same address as applicant). Transporting (1) *containers, container ends, and container closures*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in AL, DE, FL, GA, MD, NJ, NY, NC, SC, PA, VA, WV, and DC.

MC 148710 (Sub-8F), filed July 2, 1980. Applicant: SEABOARD EXPRESS, INC., 5724 New Peachtree Road, Atlanta, GA 30341. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, DC 20001. *Contract carrier*, transporting *chemicals*, in packages, from Groton, CT, North Claymont, DE, Chicago, IL, Indianapolis, IN, Plaquemine, LA, Baltimore, MD, Brooklyn, NY, Philadelphia, PA, Memphis, TN, Freeport, TX, Portsmouth, VA, and points in NJ, to Atlanta, GA, under continuing contract(s) with Van Waters & Rogers, of Atlanta, GA.

MC 149100 (Sub-3F), filed June 30, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Drive, Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting (1) *wood fiberboard*, and (2) *materials and supplies* used in the installation of wood fiberboard (except commodities in bulk), from Newark, OH, to points in CA, ID, OR, and WA.

MC 149170 (Sub-13F), filed June 9, 1980. Applicant: ACTION CARRIER, INC, 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *mattresses, box springs, furniture, batting, padding, frames, springs and molds*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Lockland, OH, London, KY, and Pontotoc, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of The Stearns & Foster Co. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 149170 (Sub-14F), filed June 9, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st Street, Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *automotive parts and accessories and oils* (except in bulk), from points in IL, MO, TX, GA, MI, PA, WV, MN, and OH to the facilities of Pam Oil Company at (a) Sioux Falls, SD, (b) Omaha, NE, (c) Fargo, ND, and (d) Minneapolis, MN, restricted to traffic destined to the facilities of Pam Oil Company. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 150301 (Sub-3F), filed July 2, 1980. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 3653 Lake Eastbrook Blvd. SE., Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract carrier*, transporting *such commodities* as are dealt in or used by retail stores, from points in the U.S. (except AK, HI, and MI), to the facilities of Quality Stores, Inc., in MI, OH, and IN, under continuing contract(s) with Quality Stores, Inc., of N. Muskegon, MI.

MC 150320F, filed March 10, 1980. Applicant: NORTH COAST CONTAINER SERVICE, INC., 8726 25th Ave., N.W., Seattle, WA 98117. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in cargo containers or trailers, and (2) *empty cargo containers or trailers*, between points in CA, OR, and WA, on the one hand, and, on the other, points in WA, OR, CA, and ID, restricted to traffic having an immediate prior or subsequent movement by water.

MC 150490F, filed March 11, 1980. Applicant: CONN WEST TRUCKING, INC., 4000 East Rd., Lima, OH 45807. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. Transporting (1) *machinery, engine brakes, and materials and supplies* used in the manufacture and distribution of machinery and engine brakes, between West Hartford, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *generators, engines*, and *materials and supplies* used in the manufacture and distribution of generators and engines, between Attleboro, MA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *engines, generators, radiators, trailers*, and *materials and supplies* used in the manufacture and distribution of engines, generators, radiators, and trailers, between Bridgeport, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (4) *generators, generator parts, and materials, equipment, and supplies* used in the manufacture and distribution of generators and generator parts, (except commodities in bulk), between Lima, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (5) *materials, equipment, supplies, and parts* used in the manufacture and distribution of motor vehicles (except commodities in bulk), between Lima, OH, and Doylestown, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (6) *motor vehicle parts*, and *materials and supplies* used in the manufacture and distribution of motor vehicle parts, between Elk Grove Village, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (7) *internal combustion engines, engine parts, engines and generators combined, rough castings*, and *materials, equipement, and supplies* used in the manufacture of the foregoing commodities, between Harvey, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150871F filed May 19, 1980. Applicant: B.D.C., LTD., 2677 Drew Road, Mississauga, Ontario, Canada L4T 3W1. Representative: Carl L. Steiner, 39 So. LaSalle St., Chicago, IL 60603. In foreign commerce only, transporting (1) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and such commercial papers, documents and written instruments as are used in the business of banks and banking institutions), between the ports of entry on the international boundary line between the U.S. and Canada at or near Detroit, MI, on the one hand, and, on the other, Detroit, MI, restricted against shipments from a consignor to a consignee exceeding 100 pounds in weight and any part or portion of a shipment exceeding 50 pounds in weight, (2) *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the ports of entry on the international boundary line between the U.S. and Canada at Niagara Falls and Buffalo, NY, on the one hand, and, on the other, Buffalo, NY, restricted (a) against shipments from a consignor to a consignee exceeding 100 pounds in weight and any part or portion of a shipment exceeding 50 pounds in weight and (b) to traffic having a prior or subsequent movement by air, (3) *such commercial papers, documents, written instruments and business records* (except currency and negotiable securities) as are used in the conduct and operation of banks and banking institutions), between the ports of entry on the international boundary line between the U.S. and Canada at Niagara Falls and Buffalo, NY, on the one hand, and, on the other, Buffalo, NY, and (4) *such commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities) as are used in the conduct and operations of banks and banking institutions, audit media and other business records, processed and unprocessed film, prints, slides, audio and video tapes, including motion picture film and materials and supplies used in connection with commercial and television motion pictures, between the ports of entry on the international boundary line between the U.S. and Canada at or near Blaine, WA, on the one hand, and, on the other, Blaine and Seattle, WA, restricted (a) to traffic having a prior or subsequent movement by air and (b) against shipments from a consignor to a consignee exceeding 100 pounds in weight and any part or portion of a shipment exceeding 50 pounds in weight.

Note.—Issuance of a certificate in this proceeding shall cancel that portion of Certificate MC 114533 Sub-228 which duplicates any authority granted hereunder.

MC 151171F, filed June 27, 1980. Applicant: CIRCLE DELIVERY SERVICE, INC., 2008 Clark Tower, Memphis, TN 38137. Representative: Dennis D. Kirk, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives in bulk, and those requiring special equipment), between points in Davidson County, TN, on the one hand, and, on the other, points in Lake County, IN, and Cook, DuPage, Kane, Lake, and Will Counties, IL. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 39491 (Sub-17F), filed June 25, 1980. Applicant: COLONIAL COACH CORP., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Road, Westwood, NJ 07675. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, from Philadelphia, PA and points within 35 miles of the City Hall at Philadelphia, to points in the U.S., including AK (except to points in HI, NY, NJ, DE, MD, DC and to points in VA on and east of U.S. Hwy 1 and to points in PA within 35 miles of the City Hall at Philadelphia), and return.

MC 123481 (Sub-7F), filed October 16, 1979. Applicant: BROWN LINES, INC., 22 First St. West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800 South, 1800 M St., NW., Washington, DC 20036. *Over regular routes*, transporting *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Sandpoint, ID, and Spokane, WA, over U.S. Hwy 2, serving all intermediate points.

Note.—Applicant intends to tack this authority.

MC 139440 (Sub-1F), filed June 30, 1980. Applicant: HAMMOND YELLOW & CHECKER CAB INC., d.b.a. AIRPORT LIMOUSINE SERVICE, 5850 Calumet Ave., Hammond, IN 46320. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, (a) between Chicago, IL, and points within the Chicago, IL Commercial Zone, and (b) beginning and ending at points in Lake County, IN, and

Cook County, IL, and extending to points in IN, IL, WI, MI, OH, KY, and MO.

MC 148590 (Sub-1F), filed March 12, 1980. Applicant: KCD OF CONNECTICUT, INC., 32 Burnwood Drive, P.O. Box 92, Bloomfield, CT 06002. Representative: Gerald A. Joseloff, 80 State St., Hartford, CT 06103. *Contract carrier, transporting passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, between points in CT, on the one hand, and, on the other, points in the United States, under continuing contract(s) with Michael C. Chaiklin, d.b.a. Creative Tours, of Bloomfield, CT. (Hearing site: Hartford, CT, or Washington, DC.)

Volume No. 311

Decided: June 27, 1980.

By the Commission, Review Board Number 2, Members Chandler Eaton and Liberman.

MC 33843 (Sub-1F), filed June 17, 1980. Applicant: ALLONS TRUCKING CO., INC., 642 W. 28th Street, New York, NY 10001. Representative: Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier, transporting such commodities* as are dealt in by manufacturers of paper and paper products and *materials, supplies and equipment* used in the manufacture of paper and paper products (except commodities in bulk), under continuing contract(s) with Appleton Papers, Inc., of Appleton, WI, Hammermill Paper of Erie, PA, and Nekoosa Papers, Inc., of Port Edwards, WI. (Hearing site: New York, NY.)

MC 57373 (Sub-1F), filed May 27, 1980. Applicant: LEE-WAYS FREIGHT LINES, INC., 7606 Westover Industrial Airpark, Chicopee, MA 01020. Representative: Lee L. Desrosier, 7606 Westover Industrial Airpark, Chicopee, MA 01020. Transporting *general commodities,* between points in MA, VT, NH, CT, RI, and NY. Condition: To the extent that any authority issued authorizes the transportation of classes A and B explosives, it will be conditioned to expire 5 years from the date of issuance. (Hearing site: Springfield or Boston, MA.)

MC 64932 (Sub-613F), (Correction) filed May 19, 1980, published in the **Federal Register** issue of July 3, 1980, and republished, as corrected, this issue. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting *petroleum products,* from the facilities of Amoco Chemicals Corporation, at Natchez, MS, to points in IL, IN, MI, OH, KY, TN, VA, NC, SC, AL, GA, and TX.

Note.—The purpose of this republication is to include the State of GA as a destination state, previously omitted.

MC 72243 (Sub-68F), filed June 19, 1980. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road, SE., Warren, OH 44482. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. Transporting *iron and steel articles,* (1) from the facilities of Natchez Steel & Pipe, Inc. at or near Rosharon, TX, to points in AL, AR, LA, MS, OK, and TN, (2) from New Port, AR, and from the facilities of Natchez Steel & Pipe, Inc. at New Orleans, LA, to points in TX. (Hearing site: Houston, TX.)

MC 73533 (Sub-11F), filed June 18, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, Commodities of unusual value, and commodities requiring the use of special equipment), between Baltimore, MD, on the one hand, and, on the other, points in VA, WV, MD, DE, PA, NJ, CT, and DC, and those points in NY on and south of Interstate Highway 84. (Hearing site: Baltimore, MD.)

Note.—Dual operations may be involved.

MC 76262 (Sub-3F), (Correction) filed December 28, 1979, published in the **Federal Register,** issue of March 27, 1980, and republished, as corrected, this issue. Applicant: WEIR-COVE MOVING & STORAGE COMPANY, 4224 Freedom Way, Weirton, WV 26062. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Transporting (1) *iron and steel and aluminum articles,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between points in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of National Steel Corporation and its subsidiaries.

Note.—The purpose of this republication is to include National Steel Corporation and its subsidiaries.

MC 82063 (Sub-119F), filed June 20, 1980. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, from points in LA and TX to west Memphis, AR. (Hearing site: Memphis, TN or St. Louis, MO.)

MC 103993 (Sub-1054), filed June 18, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), and *trailer converter dollies and bodies,* from points in Wirt County, WV, to points in the U.S. (except AK and HI) (Hearing site: Charleston, WV.)

MC 103993 (Sub-1055F), filed June 20, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *iron and steel articles,* from the facilities of Dial Tube Company, at or near Bedford Park, IL to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: chicago, IL.)

MC 103993 (Sub-1056F), filed June 19, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *lumber and wood products* from Alamagordo, NM, Fredonia, AZ and Panguitch and Escalante, UT, to points in OK, TX, AR, MO, IA, IL, IN, OH, MI, MN, KY and TN. (Hearing site: Albuquerque, NM.)

MC 107403 (Sub-1267F), (Correction), filed September 21, 1979, published in the **Federal Register,** issue of June 26, 1980, and republished, as corrected this issue. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, from points in CA to points in AZ, CO, TX, IN, WI, KS, MO, WV, NM, WY, and MT, OK and FL. The purpose of this republication is to add the destination States of OK and FL, previously omitted.

MC 108223 (Sub-35), filed June 19, 1980. Applicant: CENTURY-MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN. 55164. Representative: Warren K. Wahoska (same address as applicant). Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk) from the facilities of Clyde Iron Works, Inc., at Duluth, MN, to New Orleans, LA, Baltimore, MD, Port Deposit, MD., New York, NY and Houston, TX. (Hearing site: St. Paul or Duluth, MN.)

MC 109533 (Sub-121F) (Republication), filed December 13, 1979, published in the **Federal Register** issue of May 15, 1980, and republished, as corrected, this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Ave., Richmond, VA 23224. Representative: E. T. Liipfert, Suite 1100, 1660 L St. NW., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (a) over regular routes, (1) between Knoxville, TN, and Indianapolis, IN: from Knoxville over U.S. Hwys 25W and 25 to Cincinnati, OH, then over U.S. Hwy 52 to Harrison, IN, then over IN Hwy 46 to Greensburg, IN, then over U.S. Hwy 421 to Indianapolis, and return over the same route, serving all intermediate points and the off-route point of Shelbyville, IN; (2) between Morristown, TN, and Corbin, KY, over U.S. Hwy 25E, serving all intermediate points; and (3) between Kingsport and Knoxville, TN, over U.S. Hwy 11W, serving all intermediate points; and (b) over irregular routes, between Knoxville, Chattanooga, Nashville, and Bristol, TN, points in TN on and east of a line beginning at the AL–TN state line and extending along U.S. Hwy 31 to junction U.S. Hwy 31E and then along U.S. Hwy 31E to the TN–KY State line, and those in GA on and north of Interstate Hwy 20. (Hearing site: Knoxville, TN or Washington, DC.)

Note.—(I) Applicant intends to tack the regular routes sought with both its regular and irregular-route authority, and the irregular routes sought with its regular-route authority. (II) Applicant states that it presently holds authority to serve the termini and some intermediate points on routes (a) (1), (2), and (3) above, and holds authority to serve all points and territories named in (b) above. (III) Applicant further states that the purpose of this application is to obtain shortened routes and unrestricted intermediate point authority in (a) (1), (2), and (3), and to eliminate the following gateways in (b): the gateway point of Monroe, NC in part III(a) of lead certificate MC 109533; gateway points along described routes between Atlanta, GA and High Point, NC found in Part (I)(e) of lead certificate MC 109533; and gateway points of Birmingham, AL, Atlanta, and Macon, GA, and Gaffney, SC, found in certificate MC 109533 Sub-36. The purpose of this republication is to correct the territory description, to include a commodity description for Part b, and certain notes.

MC 110683 (Sub-183F), filed June 16, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., NW., Washington, DC 20036. Over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment, (1) between Ft. Smith, AR, and Joplin, MO, over U.S. Hwy 71, serving all intermediate points, (2) between Ft. Smith, AR, and junction U.S. Hwy 71, and MO Hwy 59, from Ft. Smith over AR Hwy 59 to the AR–MO state line, then over MO Hwy 59 to junction U.S. Hwy 71, and return over the same route, serving all intermediate points, (3) between Tulsa, OK, and Springfield, MO, from Tulsa over the Muskogee Turnpike to junction OK Hwy 51, then over OK Hwy 51 to junction U.S. Hwy 62, then over U.S. Hwy 62 to the OK–AR state line, then over MO Hwy 37, to junction MO Hwy 248, then over MO Hwy 248 to junction U.S. Hwy 160, then over U.S. Hwy 160 to Springfield, and return over the same route, serving all intermediate points, (4) between Vinita, OK, and Joplin, MO, from Vinita over U.S. Hwy 60 to junction MO Hwy 13, then over MO Hwy 13 to junction Interstate Hwy 44, then over Interstate Hwy 44 to Joplin, and return over the same route, serving all intermediate points, (5) between Tulsa, OK, and Springdale, AR, from Tulsa over Interstate Hwy 44 to junction OK Hwy 33, then over OK Hwy 33 to the OK–AR state line, then over AR Hwy 68 to Springdale, and return over the same route, serving all intermediate points, (6) between Claremore, OK, and Bentonville, AR, from Claremore over OK Hwy 20 to the OK–AR state line, then over AR Hwy 43 to junction AR Hwy 72, then over AR Hwy 72 to Bentonville, and return over the same route, serving all intermediate points, and (7) serving points in Sebastian, Crawford, Washington, Madison, Carroll, Boone, and Benton Counties AR; Andrew, Cedar, Dade, Greene, St. Charles, Jasper, Barton, Webster, Newton, McDonald, Lawrence, Polk, Dallas, Laclede, Pulaski, Texas, Wright, Christian, Stone, and Barry Counties, MO; and Miami, Bourbon, Crawford, Cherokee, Labette, Montgomery, and Neosho Counties, KS, as intermediate or off-route points in connection with carrier's authorized regular-route operations. (Hearing site: Washington, DC.)

Note.—Applicant intends to tack this authority with its otherwise authorized regular-route authority, Tacking and interlining is intended.

MC 115353 (Sub-45F), filed June 23, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Keil, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* transporting (1) *reinforced concrete pressure pipe,* (2) *fittings, tools and accessories* used in the installation of the commodities in (1) above and, (3) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Perryman, MD, on the one hand, and, on the other, points in NY, NJ, PA, CT, RI, MA, NH, VT, ME, VA, WV, DE and DC, under continuing contract(s) with Interpace Corporation. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 116763 (Sub-673F), filed June 19, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting (1) *plastic, plastic articles,* and (2) *such commodities* as are used in the manufacture, distribution, and sale of the commodities in (1) above, between those points in the U.S. in and east of MN, IA, MO, OK, and TX, restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles, and restricted further to the transportation of traffic originating at or destined to the facilities of Plast-O-Meric, Inc. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-67F), filed June 19, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting *general commodities* (except commodities in bulk, in tank vehicles, used furniture, commodities requiring the use of special equipment, automobiles, trucks and buses, and explosives), between points in the U.S. in and east of MN, IA, MO, OK and TX, restricted to traffic originating at or destined to the facilities utilized by James River Corporation. (Hearing site: Richmond, VA.)

MC 123233 (Sub-95F), filed June 17, 1980. Applicant: PROVOST CARTAGE, INC., 7887 rue Grenache, Ville d'Anjou, Quebec, H1J 1C4 Canada. Representative: William H. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting *alcoholic liquors, alcohol, distilled spirits, neutral spirits, wine, juices, and juice concentrates,* (1) between Bardstown, KY, on the one hand, and on the other, Fort Smith, AR, Plainfield, IL, New Orleans, LA, Detroit, MI, Scobeyville, NJ, and Burlingame, CA, (2) in foreign commerce only, ports of entry on the international boundary between the U.S. and Canada, on the one hand, and, on

the other, facilities used by Hiram

cutter; log-splitters, log-chippers and

commodities in bulk, in tank vehicles),

CO 80203. Transporting *foodstuffs* from

SCANNAVINO, d.b.a. CHEROKEE

New Baltimore, MI, to points in MN, WI

the other, facilities used by Hiram Walker & Sons, Inc., at (a) Fort Smith, AR, (b) Plainfield, IL; and (c) New Orleans, LA, (3) between Silverton, OH, on the one hand, and, on the other, Fort Smith, AR, Plainfield, IL, Bardstown, KY; New Orleans, LA. and Scobeyville, NJ, and (4) between points in NY, PA, NJ, MD, FL, AL and LA on the one hand, and, on the other, Fort Smith, AR; Silverton, OH; Plainfield, IL, Bardstown, KY, and Scobeyville, NJ, restricted to traffic having a prior or subsequent movement by water, and restricted further in paragraphs (1) (3) and (4) to the transportation of traffic originating at and destined to facilities used by Hiram Walker & Sons, Inc.

MC 123993 (Sub-80F), filed June 20, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX, 78701. Transporting (1) *bags, bagging, steel cotton-bale ties, burlap* and (2) *materials and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above (except commodities in bulk) between New Orleans, LA and Ft Worth, TX, on the one hand, and, on the other, points in the United States, except AK, AR, CO, GA, HI, IL, IA, IN, KS, LA, MN, MO, MS, NE, ND, NC, OK, SD, TN and TX. (Hearing site: Ft Worth, TX, or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 125433 (Sub-400F), (correction), filed March 17, 1980 published in the **Federal Register**, issue of May 15, 1980, and republished, as corrected, this issue. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *batteries, battery accessories, and battery supplies*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of batteries, between the facilities of General Battery Corp, in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Washington, DC.) The purpose of this republication is to correct the commodity description and territorial description.

MC 125433 (Sub-426F), filed June 16, 1980. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *agricultural machinery, implements and equipment; industrial and construction machinery and equipment, irrigation equipment; drainage systems, stump-cutter; log-splitters, log-chippers and tree spades*, (2) *attachments, parts and supplies* used in the operation of the commodities in (1) above; (3) *material and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of Vermeer Manufacturing Company at Pella, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL.)

MC 128273 (Sub-397F), filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *general commodities* (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, requiring the use of special equipment, and commodities in bulk, in tank vehicles) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities utilized by Purex Corporation. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 128273 (Sub-398F), filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities* as are used or dealt in by manufacturers and distributors of paper and paper products, printed forms, and carbon paper (except commodities in bulk, in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Vanier Graphics Corporation. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 128273 (Sub-399F), filed June 19, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities* as are used or dealt in by manufacturers and distributors of transmitting, receiving, recording and computing devices and phonographic equipment (except commodities in bulk, in tank vehicles), between Compton, CA, and Edison, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), RESTRICTED to traffic originating at or destined to the facilities of Lloyd's Electronics, Inc. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 128883 (Sub-7F), filed June 20, 1980. Applicant: NORTH IOWA EXPRESS, INC., 1921 N.E. 58th Avenue, Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), (1) between Des Moines, IA and Waterloo, IA, from Des Moines over U.S. Hwy 69 to Ames, IA, then over U.S. Hwy 30 to Cedar Rapids, IA, then over U.S. Hwy 218 to Waterloo and return over the same route, serving all intermediate points; and (2) between Des Moines, IA, and Austin, MN, from Des Moines, over Interstate Hwy 35 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Austin, and return over the same route, serving no intermediate points but serving Lake Mills, Joice, Fertile, Forest City, Hanlontown, Kensett and Northwood, IA, and Albert Lea, MN, as off-route points.

Note.—Applicant intends to tack this authority with its otherwise authorized regular routes.

MC 128343 (Sub-53F), filed June 19, 1980. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, DC 20036. *Contract carrier* transporting *such commodities* as are dealt in, used by or distributed by manufacturers and distributors of plastic and plastic products, between the facilities of Superior Plastic Products Corp., at or near Cumberland, RI, on the one hand, and, on the other, points in CA, IL, PA, TN, and VA, under a continuing contract(s) with Superior Plastic Products, Inc. (Hearing site: Boston, MA or Washington, DC.)

MC 134783 (Sub-67F), filed June 17, 1980. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *foodstuffs* from the facilities used by Texsun Corporation, at or near Weslaco, TX to those points in the U.S. in and east of NM, CO, WY, SD and ND. (Hearing site: Lubbock, TX.)

Note.—Dual operations may be involved.

MC 135283 (Sub-64F), filed June 13, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 South Stuhr Road, P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Transporting *frozen meat and barbecue sauce* from the facilities used by 7th Rib Products, Inc., at or near Minneapolis, MN, to those points in the U.S. in and east of ND, SD, NE, CO, OK and TX, restricted to traffic originating at the named facilities or desitned to points in the named states. (Hearing site: Minneapolis, MN or Grand Island, NE.)

MC 135633 (Sub-19F), filed June 13, 1980. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 140 Sylvan Avenue, Englewood Cliffs, NJ 07632. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *motor vehicles*, except automobiles, in driveaway service between points in the U.S., including AK and HI, restricted to traffic moving to or from the facilities used by Jartran, Inc., or its affiliates, or customers. (Hearing site: Washington, DC or Newark, NJ.)

MC 138313 (Sub-72F), filed June 16, 1980. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting (1) *hides and pelts*, (2) *scrap metals*, (3) *such commodities as are used or dealt in by retail or wholesale hardware stores, and* (4) *such commodities as are manufactured or distributed by steel mills or metal fabricators* (a) between the facilities of Pacific Hide & Fur Depot at or near (I) Billings, Bozeman, Butte, Glasgow, Great Falls, Havre, Helena, Kalispell, Miles City, Missoula, Lewistown, and Sidney, MT, (II) Seattle, Kennewick, Spokane, and Tacoma, WA, (III) Mills, Riverton, Worland, Gillette, and Rock Springs, WY, (IV) Salmon, Nampa, Sandpoint, Lewiston, Twin Falls, Boise, Burley, and Pocatello, ID, and (V) Portland, OR, and (b) between the facilities of Pacific Hide & Fur Depot at the points named in (a) above, on the one hand, and on the other, points in CA, CO, ID, MT, OR, UT, WA and WY. (Hearing site: Great Falls, MT.)

MC 138543 (Sub-4F), filed June 10, 1980. Applicant: GARY A. SCANNAVINO, d.b.a. CHEROKEE FREIGHT LINES, 5643 Cherokee Road, Stockton, CA 95205. Representative: Thomas M. Loughran, James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Contract carrier* transporting *foodstuffs, except frozen, and such products as are dealt in by wholesale and retail grocers*, from the facilities of Amstar Corporation, Spreckels Sugar Division, at Manteca, Mendota, Spreckels, and Woodland, CA to points in ID, UT, and AZ, under continuing contract(s) with Amstar Corporation, Spreckels Sugar Division, of San Francisco, CA. (Hearing site: San Francisco, CA.)

(Correction)

MC 138882 (Sub-362F), filed April 24, 1980, published in the **Federal Register** issue of July 3, 1980, and republished, as corrected, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting *foodstuffs* (except in bulk, in tank vehicles) between the facilities of Seabrook Blanching Corp., at or near (1) Edenton, NC, (2) Sylvester, GA, and (3) Tyrone, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correct the territorial description.

MC 141533 (Sub-19F), filed June 9, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, 118–21 Queens Boulevard, Forest Hills, NY 11375. Transporting *cleaning compounds, in ingots, solder residue, solder*, and *anodes* (except commodities in bulk in tank vehicles) between New York, NY, and Chicago, IL. (Hearing site: New York, NY.)

MC 142423 (Sub-10F), filed June 17, 1980. Applicant: BIG D CARTAGE, INC., 28091 Kingsberry Drive, Mt. Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *automobile parts*, from the facilities of Clipper International Corporation at Detroit, MI, to Buffalo, NY. (Hearing site: Detroit or Lansing, MI or Washington, DC.)

MC 142423 (Sub-11F), filed June 17, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mount Clemens, MI 48045. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting (1) *pickles, pickle products, and pepper products*, from the facilities of Safie Bros. Farm Pickle Co., Inc., at or near New Baltimore, MI, to points in MN, WI, IA, IL, MO, TN, AR, LA, MS, IN, KY, OH, IN, GA, AL, SC, NC, VA, WV, PA, NY, NJ, MA, CT, and DE, and (2) *materials, equipment and supplies used in the processing and packaging of commodities in* (1) above in the reverse direction. (Hearing site: Detroit, or Lansing, MI.)

MC 142423 (Sub-12F), filed June 16, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mount Clemens, MI 48045. Representative: Robert E. McFarland, 2855 Collidge, Suite 201 A, Troy, MI 48084. Transporting *malt beverages* from St. Louis, MO and Baldwinsville, NY, to Detroit, MI. (Hearing site: Detroit, or Lansing, MI.)

MC 142423 (Sub-13F), filed June 16, 1980. Applicant: BIG D CARTAGE, INC., 20891 Kingsberry Drive, Mount Clemens, MI 48045. Representative: Robert E. McFarland, 2855 Collidge, Suite 201 A, Troy, MI 48084. Transporting (1) *games and toys* from the facilities of Fundimensions Division of CPG Products Corp., located at or near Mount Clemens, MI, to those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment and supplies* used in the manufacture of games and toys, in the reverse direction. (Hearing site: Detroit, or Lansing, MI.)

MC 142703 (Sub-28F), filed June 4, 1980. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., P.O. Box 14072, 750 West Third Street, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in by retail drug and grocery stores (except commodities in bulk), *paper, paper articles*, and *plastic film* between St. Louis, MO, on the one hand, and, on the other, points in IN, KY and OH. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 143343 (Sub-3F), filed June 16, 1980. Applicant: BALLENTINE TRANSPORT, INC., P.O. Box 463, Scottsbluff, NE 69361. Representative: Erma Ballentine (same address as applicant). *Contract carrier*, transporting *dry sugar*, from Ft. Morgan and Loveland, CO, and Gering and Scottsbluff, NE, to points in IA, NE, MN, Sioux Falls, SD, Belvidere and Chicago, IL, and points in KS on and north of U.S. Hwy 54, under continuing contract(s) with International Distributing Corporation of St. Louis, MO. (Hearing site: Kansas City, MO or Denver, CO.)

MC 143953 (Sub-3F), filed June 11, 1980. Applicant: ELITE TRUCKING COMPANY, P.O. Box 69, Station E, St. Joseph, Missouri 64505. Representative:

By the Commission, Review Board Number

W. R. England, III, P.O. Box 456, Jefferson City, Missouri 65102. *Contract carrier* transporting *weed and tree killing compounds,* in from the plant site facilities of Rhodia, Inc., at or near St. Joseph, MO, to points in CA, ID, IL, IN, IA, MN, MT, NE, ND, OR, SD, WA and WY, under continuing contract(s) with American Hoechst Corporation. (Hearing site: Kansas City, or Jefferson City, MO.)

MC 144323 (Sub-7F), filed June 20, 1980. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N 30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, Suite 412, Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract carrier.* Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Peck Meat Packing Corp., at Milwaukee, WI, to points in the United States (except AK and HI); under a continuing contract(s) with Peck Meat Packing Corp. (Hearing site: Milwaukee, WI.)

MC 144912 (Sub-3F), (correction) filed May 7, 1979, published in the **Federal Register,** issue of March 25, 1980, and republished as corrected this issue. Applicant: LEON R. GOLDSMITH, d.b.a. TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, CA 90021. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Los Angeles, CA on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK, and TX, restricted to traffic moving on bills of lading of non-profit shippers' associations operating pursuant to 49 U.S.C. 10562 (3).

Note.—The purpose of this republication is to add the correct restriction.

MC 144913 (Sub-4F), filed June 13, 1980. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Road, Forest Park, GA 30050. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., NE, Atlanta, GA 30326. Contract carrier transporting *such commodities as are dealt in or used by retail discount department stores* (except commodities in bulk and except hanging garments), from the facilities of Zayre Corp. at or near Forest Park, GA, to points in MS, under continuing contract(s) with Zayre Corp. (Hearing site: Atlanta, GA.)

MC 146293 (Sub-63F), filed June 18, 1980. Applicant: REGAL TRUCKING CO., INC., Post Office Box 429, Lawrenceville, GA 30426. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting (1) *Electronic equipment and appliances* and (2) *materials, equipment and supplies used in the manufacture and sale of electrical equipment* (except in bulk) between facilities of Sharp Manufacturing Company, Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Memphis, TN.)

Note.—Dual operations may be involved.

MC 146643 (Sub-48F), filed June 16, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier* transporting *canned foodstuffs* (except cold packed or frozen foodstuffs), from Chicago, IL, to St. Louis, Salem, Springfield and Sedalia, MO, under continuing contract(s) with Campbell Soup Company. (Hearing site: Chicago, IL.)

MC 146643 (Sub-51F), filed June 20, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier* transporting *automotive oils and automotive chemicals* (except commodities in bulk), from Kansas City, KS, and Edison, NJ, to those points in the U.S. in and east of ND, SD, NE, KS, OK and TX, under a continuing contract(s) wth Inter State Oil Co., of Kansas City, KS, and Burmak-Castrail, Inc., of Shawnee Mission, KS. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 147433 (Sub-3F), filed May 30, 1980. Applicant: LONG LEASING CORP., P.O. Box 587, East Jordan, MI 49727. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier,* transporting (1) *castings and iron and steel products,* from the facilities of East Jordan Iron Works, Inc., at East Jordan, MI, to all points in the U.S. (except AK, HI, IL, IN, MI, MO, OH and WI), and (2) *materials and supplies* used in the manufacture, distribution and installation of the commodities in (1) above in the reverse direction, under continuing contract(s) with East Jordan Iron Works, Inc., at East Jordan, MI. (Hearing site: Lansing, MI.)

MC 147473 (Sub-No. 1F), filed June 13, 1980. Applicant: LEE C. SMITH, d.b.a., LEMAY DELIVERY, 1426 West 72nd Place, Chicago, IL 60636. Representative: Robert J. Gill, First Commercial Bk. Bldg., 410 Cortez Rd. West, Bradenton, FL 33507. *Contract carrier* transporting (1) *foodstuffs, except frozen,* from the facilities of Fould's Inc. at Libertyville, IL, to points in IN, MI, and WI and (2) *cheese* from Beloit, WI to the facilities of Fould's Inc. at Libertyville, IL, under a continuing contract(s) with Fould's Inc. of Libertyville, IL. (Hearing site: Chicago, IL.)

MC 148183 (Sub-25F), filed June 18, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425—13th Street NW, Washington, DC 20004. Transporting *chocolate candy,* in vehicles, equipped with mechanical refrigeration, from West Reading and Wyomissing, PA, to points in AL, FL, GA, NC, and SC and those points in TN on and east of Interstate Hwy 65. (Hearing site: Atlanta, GA or Washington, DC.)

MC 148183 (Sub-26F), filed June 18, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th Street NW, Washington, DC 20004. *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Holsum Foods, Inc., at or near Albany, GA, Waukesha, WI, Albert Lea, MN, Navasota, TX, and Industrial Airport, KS, to: those points in the U.S. in and east of MN, IA, KS, OK, and TX. (Hearing site: Atlanta, GA or Washington, DC).

MC 150333 (Sub-1F), filed June 23, 1980. Applicant: KNOX CARTAGE COMPANY, INC., 2335 Texas Avenue, Knoxville, TN 37921. Representative: James Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities which because of size and weight require special equipment, between points in Anderson, Blount, Cocke, Hamblen, Jefferson, Knox, Loudon, McMinn, Roane and Sevier Counties, TN, restricted to traffic having prior or subsequent movement by rail.

[Volume No. 312]

Decided: July 28, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 84212 (Sub-36F), filed May 11, 1980. Applicant: DORN'S TRANSPORTATION, INC., Railroad Ave., Ext. (Colonie), Albany, NY 12205. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. Over regular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) between Champlain, NY and Burlington, VT: from Champlain over U.S. Hwy 11 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction VT Hwy 78, then over VT Hwy 78 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Burlington, and return over the same route. (2) between Plattsburgh, NY and Champlain, NY, over U.S. Hwy 9. (3) between Champlain, NY and Burlington, VT: from Champlain over U.S. Hwy 9 to Plattsburgh, NY, then over Route 314 to Ferry at Cumberland Head, NY, then via Ferry to VT Hwy 314, then over VT Hwy 314 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction with U.S. Hwy 7, then over U.S. Hwy 7 to Burlington, and return over the same route, serving all intermediate points and the off-route points of Essex Junction, South Burlington and Winooski, VT, in (1) (2) and (3) above, in connection with carriers otherwise authorized regular-route operations.

MC 145402 (Sub-9F), filed June 25, 1980. Applicant: LAKE LINE EXPRESS, INC., P.O. Box 1021, Appleton, WI 54912. Representative: Nancy J. Johnson, 103 East Washington, St., Box 218, Crandon, WI 54520. Transporting (1) *internal combustion engines and accessories* for internal combustion engines, from the facilities of Teledyne Continental Motors, Industrial Products Division, at or near Muskegon, MI, to points in WI; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

[Volume No. 313]

Decided: August 11, 1980.

By the Commission, Review Board Number 1, Members, Carleton, Joyce and Jones.

MC 263 (Sub-235F), filed July 1, 1980. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green, (same address as applicant). Regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Cheyenne, WY and Salt Lake City, UT over Interstate Hwy 80, serving no intermediate points and serving Cheyenne for purpose of joinder only; (2) between Junction Interstate Hwy 80/U.S. Hwy 30 and Montpelier, ID, over U.S. Hwy 30, serving Junction Interstate Hwy 80/U.S. Hwy 30 for purposes of joinder only; and (3) between Cheyenne, WY and Casper, WY, over Interstate Hwy 25, serving no intermediate points and serving Cheyenne for purpose of joinder only.

MC 10173 (Sub-19F), filed July 1, 1980. Applicant: MARVIN HAYS LINES, INC., Hayes Circle, Clarksville, TN 37040. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Regular Routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) between Hopkinsville, KY and Evansville, IN: from Hopkinsville, over the Pennyrile Parkway to Evansville, IN and return over the same route. (2) between Hopkinsville, KY and Evansville, IN: over U.S. Highway 41 and return over the same route, serving all intermediate points, restricted against traffic originating at, or destined to Evansville, IN.

Note.—Applicant intends to tack.

MC 16903 (Sub-82F), filed July 1, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *lumber and wood products,* (1) from ports of entry on the U.S. Canada International Boundary Line at or near Detroit, MI and Buffalo, NY to those points in the U.S. in and east of MN, IA, MO, AR, and LA and (2) between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 16903 (Sub-83F), filed June 30, 1980. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *iron and steel articles,* from the facilities of Raritan River Steel Company at Perth Amboy, NJ to those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 52793 (Sub-66F), filed July 2, 1980. Applicant: BEKINS VAN LINES CO., New Products Division, a corporation, 3090 Via Mondo, Compton, CA 90221. Representative: Warren N. Grossman, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Transporting *new furniture and furnishings,* between points in OK, on the one hand, and, on the other, points in the US (except AK and HI).

MC 72242 (Sub-69F), filed July 2, 1980. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road, S.E., Box 350, Warren, OH 44482. Representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202. Transporting (1) *refractories, refractory products,* (2) *insulation, insulating materials,* and (3) *materials, equipment and supplies* used in the manufacture, distribution, and installation of the commodities in (1) and (2) above, from the facilities of Kaiser Refractories at or near Mexico, MO, to points in DE, KY, MD, MI, MS, NJ, NY, ND, OH, PA, SD, TN, VA, WV and WI.

MC 80443 (Sub-36F), filed June 23, 1980. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting (1) *Iron and steel articles,* from (1) Minneapolis, MN to points in the U.S. (except AK and HI), and (2) *materials, equipment and supplies used in the manufacture of (1) above,* in the reverse direction.

MC 103993 (Sub-1058F), filed July 1, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *agricultural cultivating equipment,* from Colchester, IL, to points in the U.S. (except AK and HI).

MC 103993 (Sub-1059F), filed June 16, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *lumber and lumber products,* between the facilities of C. L. Krug Lumber Company, at or near Evansville, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107012 (Sub-566F), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *plastic netting,* from Buffalo, NY, to points in the U.S. (except AK and HI).

MC 107012 (Sub-567F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *toys and games,* from the facilities of Fisher-Price Toys at or near East Aurora, Medina, and Holland, NY,

Murray, KY, Brownsville, TX, and San Diego, CA, to Clearfield, UT.

MC 107012 (Sub-568F), filed June 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *such commodities* as are dealt in or used in the distribution of products in the horticultural industry (except in bulk), from Bayonne, Passaic and Elmwood Park, NJ, Charleston and Travellers Rest, SC, Sunnyvale, CA, Dallas, TX, Little Falls, MN, West Chicago, IL, Reno, NV, Lawrence and Leominister, MA, East Jordan, MI, and Pine Bluff, AR to points in the U.S. (except AK and HI).

MC 107012 (Sub-569F), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *footwear,* (1) from Seattle, WA, Los Angeles, CA, and Norfolk, VA, to Huntington, IN and Atlanta, GA, and (2) from points in AR, GA, FL, MA, ME, NC, NH, PA, TN and TX to Huntington, IN, Compton, CA, Atlanta, GA, and Lebanon, NJ.

MC 110683 (Sub-185F), filed June 25, 1980. Applicant: SMITH'S TRANSFER CORPORTION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St., N.W., Washington, DC 20036. Transporting over *Regular routes, general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), serving points in Berrien and Jackson Counties, MI, as off-route points in connection with carrier's otherwise authorized regular-route operations.

Note.—Applicant indicates intention to tack and interline with existing authority.

MC 113362 (Sub-398F), filed June 23, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses as described in Sections A & C of Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766* (except hides, and skins and commodities in bulk), from the facilities used by John Morrell & Co., at or near Ft. Smith, AR, to points in AL, IL, KS, MS, TN, OH, and WI, restricted to traffic originating at the facilities of John Morrell & Co.

MC 113843 (Sub-285F), filed June 27, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). (1) *Such commodities* as are dealt in by wholesale or retail chain food, drug or department stores and (2) *materials, supplies and equipment* used in the distribution of commodities in (1) above, from Horsehead and Brockport, NY, to points in CT, IL, IN, KY, MA, ME, MI, MO, NH, RI, and VT.

MC 113843 (Sub-286F), filed June 30, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St. Boston, MA 02210. Representative: Lawrence T. Sheils (address same as applicant). *Foodstuffs* (except commodities in bulk) from Detroit, MI, to points in CT, DE, IA, IL, IN, KS, KY, MA, MD, ME, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VA, VT, WI, WV and DC.

MC 115413 (Sub-6F), filed June 30, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *ramps, stands,* and *scaffolding* (2) accessories and supplies for the commodities in (1) above, and (3) *equipment, materials, and supplies used* in the manufacture or distribution of the commodities in (1) and (2) above (except comodities in bulk) between Erin, TN and Archbold, OH, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX, (except AK and HI).

MC 115413 (Sub-7F), filed July 1, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *ramps, stands, and scaffolding,* (2) *accessories* for the commodities in (1) above, and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (excpet commodities in bulk) between Erin, TN and Archbold, OH, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI).

MC 116763 (Sub-675F), filed June 30, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). Transporting *animal feed and pet foods* (except commodities in bulk, in tank vehicles), from points in Lehigh County, PA, to points in CT, ME, RI and VT, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 120083 (Sub-9F), filed June 25, 1980. Applicant: LINCOLN COACH LINES, P.O. Box 369, Irwin, PA 15642. Representative: James W. Hagar, P.O. Box 1166, Harrisburg, PA 17108. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, between points in Allegheny, Bedford, Butler, Somerset and Westmoreland Counties, PA, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI).

MC 124813 (Sub-227F), filed June 30, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *grain bins,* from Columbus, NE, to Eagle Grove, IA, and (2) *steel products,* from Broadview, IL, to points in Wright, Hancock, Cerro Gordo, Franklin, Hardin, Hamilton, Webster, Humboldt and Kossuth Counties, IA.

MC 124813 (Sub-228F), filed June 30, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *dry fertilizer,* from Omaha, NE, to points in IA.

MC 127303 (Sub-80F), filed June 25, 1980. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *adhesives; cleaning, preserving and sealing compounds and products; solvents; stains; plastic carpeting; carpet strip and moldings* and (2) *equipment and supplies* used in the installation of commodities in (1) above, (a) Kalamazoo, MI and (b) Dayton, OH, to those points in the U.S. in and east of MT, WY, CO, and NM.

MC 127303 (Sub-81F), filed June 25, 1980. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *carpet strip and adhesives,* from Asheville, NC, to those points in the U.S. in and east of MT, WY, CO, and NM; and (2) *nails,* from Savannah, GA, to Asheville, NC.

MC 128273 (Sub-400F), filed July 2, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as applicant).

Transporting *coffee* (except in bulk, in tank vehicles), from New Orleans, LA, to points in the U.S. (except AK and HI), restricted to traffic originating at the facilities of ACLI International, Inc.

MC 134922 (Sub-334F), filed June 30, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, N. Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *foodstuffs* (except in bulk), between the facilities of Bannworth, Inc. at or near La Joya, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135803 (Sub-22F), filed June 30, 1980. Applicant: WALLACE TRANSPORT, a corporation, 9290 E. Hwy 140 (P.O. Box 67), Planada, CA 95365. Representative: Donald M. Finnel (same as applicant). Transporting *canned and preserved foodstuffs* from the facilities of Heinz USA, at or near Tracy and Stockton CA, to points in AZ, ID, MT, NV, OR, UT, WA, and WY, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 138313 (Sub-71F), (republication), previously published in the **Federal Register** issue of July 1, 1980, and republished this issue. Applicant: BUILDERS TRANSPORT, INC., 409 14th St., SW, Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *lumber, millwork, and wood products,* in foreign commerce only, from ports of entry on the international boundary line between the U.S. and Canada in WA, ID, and MT to points in CA and CO.

Note.—This republication is to add "millwork" which was omitted from the commodity description in the prior publication.

MC 138882 (Sub-320F), (correction), filed October 31, 1979, published in the **Federal Register,** issue of March 25, 1980, and July 1, 1980, and republished, as corrected, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *furniture, furniture parts, components, and accessories* for furniture and furniture parts, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Leggett Platt Incorporated in the U.S. and its subsidiaries, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted in (1) and (2) against the transportation of commodities in bulk, in tank vehicles, and commodities which because of size or weight, require the use of special equipment, and further restricted to traffic originating at or destined to the named shipper facilities and its subsidiaries.

Note.—The purpose of this republication is to correct the restrictions.

MC 141532 (Sub-86F), filed June 30, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting *chemicals, in containers* from the facilities of PPG Industries, Inc., Chemicals Division at Lake Charles, LA to points in CA.

MC 141532 (Sub-87F), filed July 1, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., 10244 Arrow Hwy, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104. Transporting (1) *machinery and machinery parts* (2) *oil seals and motor mounts,* (3) *rubber products,* (4) *environmental control equipment, air conditioning units, air cooling, heating and purifying systems,* and (5) *materials, equipment and supplies* (except in bulk in tank vehicles) used in the manufacture, and distribution of the commodities in (1) through (4) above, between the facilities of LSB Industries, Inc., Summit Machine Tool, U.S. Discount Machine Tool, International Environmental Corp., L & S Bearing Co., American Bearing Company, Zenith Bearing Company, Tribonetics Corporation and Rotex, at or near Oklahoma City, OK, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA and WY.

MC 141652 (Sub-37F), filed October 1, 1979. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39207. Representative: K. Edward Wolcott, P.O. Box 56387, Atlanta, GA 30343. Transporting *cleaning, buffing and polishing compounds, and toiletries,* (except commodities in bulk), from the facilities of American Cyanamid Company at Jackson, MS, to points in FL, restricted to traffic originating at the named facilities.

MC 142062 (Sub-38F), filed July 1, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier,* transporting *such commodities* as are dealt in or used by a manufacturer of plastics and polymer specialties (except in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Celanese Plastics & Specialties Company, a division of Celanese Corporation, of Louisville, KY.

MC 142872 (Sub-148F), filed June 23, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting *meats, meat products, meat by-products and articles distributed by meat-packing houses* as described in sections A and C of appendix 1 to the report *in descriptions in motor carrier certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near East St. Louis, IL, to points in AR, restricted to traffic originating at the named origin.

MC 142872 (Sub-149F), filed June 23, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. Transporting *such commodities* as are dealt in or used by discount and variety stores, from points in AL, CA, CT, IA, IL, IN, MO, OH, TX, VA and WV, to the facilities of Wal-Mart Stores, Inc., at or near (a) Bentonville and Searcy, AR, and (b) Palestine, TX.

MC 142873 (Sub-7F), filed June 25, 1980. Applicant: D & W TRUCK LINES, INC., 209 First Street, Parsons, WV 26287. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. Transporting (1) *carpet strip and adhesives,* from Asheville, NC, to those points in the U.S. in and east of MT, WY, CO, and NM; and (2) *nails,* from Savannah, GA, to Asheville, NC.

MC 143002 (Sub-20F), filed June 10, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. *Contract carrier* transporting (1) *household care and personal care products* and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above, between Ada, MI, on the one hand, and, on the other, Kent, WA under continuing contract(s) with the Amway Corporation of Ada, MI.

MC 143563 (Sub-9F), filed July 1, 1980. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, ME 04572. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. N.W., Washington, DC 20005. Transporting *shoes and materials and supplies* used in the manufacture of

V 45 A G 2 1 8 0 UMI

shoes (except commodities in bulk), between Scarboro, ME and Santa Rosa, CA.

MC 144082 (Sub-19F), filed June 30, 1980. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Bldg., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same as applicant). Transporting *such commodities* as are dealt in or used by auto service stores from Chicago, IL, to Atlanta, GA, under continuing contract(s) with Midas International Corporation, of Chicago, IL.

MC 144893 (Sub-3F), filed July 1, 1980. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North, P.O. Box 502, St. George, UT 84770. Representative: J. Ralph Atkin, P.O. Box 339, 60 North 300 East, St. George, UT 84770. Contract carrier, transporting *newsprint* between Pomona, CA on the one hand, and on the other, Phoenix, Mesa, and Tempe, AZ and (2) from Pomona, CA to Albuquerque and Santa Fe, NM under continuing contract(s) with Garden State Paper Company of Pomona, CA.

MC 146293 (Sub-64F), filed July 1, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting *plastic scrap* (except in bulk), between the facilities of Trade Enterprises, Inc., at Greenville, SC on the one hand, and, on the other, points in the US (except AK & HI).

MC 146293 (Sub-65F), filed July 1, 1980. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting (1) *such commodities* as are dealt in by wholesale, retail and chain grocery business houses, and (2) *materials, equipment and supplies* used in their manufacture and distribution between those points in the U.S. in and east of NM, OK, KS, NE, SD, and ND, restricted (a) to traffic originating at or destined to facilities of The Clorox Company and (b) against the transportation of commodities in bulk and frozen foods.

MC 146573 (Sub-13F), filed June 25, 1980. Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting (1) *adhesives, cleaning, preserving and sealing compounds and products, solvents, stains, plastic carpeting, carpet strip and moldings, and* (2) *equipment and supplies* used in the installation of the commodities in (1) above, from Kalamazoo, MI, and Dayton, OH, to those points in the U.S. in and east of MT, WY, CO, and NM.

MC 146703 (Sub-1F), filed June 27, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of home products, personal health care products, and beauty aid products between Easthampton, MA, and Chicago, IL.

MC 146893 (Sub-10F), filed July 1, 1980. Applicant: BROWN TRANSPORT, INC., Box 327A; R.R. #3, West Alexandria, OH 45381. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Transporting *commodities in bulk,* between points in Butler, Clark, Champaign, Darke, Greene, Hamilton, Miami, Mercer, Montgomery, Preble, Shelby, and Warren Counties, OH, on the one hand, and, on the other, points in IN, KY, MI, PA, and WV.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 146893 (Sub-11F), filed June 30, 1980. Applicant: BROWN TRANSPORT, INC., Box 327A; R.R. #3, West Alexandria, OH 45381. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting *fluorspar,* in bulk, between points in OH, KY, and IM.

MC 147323 (Sub-24F), filed June 9, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: John P. Haddad (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of iron and steel articles (except commodities in bulk) between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Whittaker Steel Corp.

MC 148412 (Sub-3F), filed June 25, 1980. Applicant: GRIBBLE TRUCKING, INC., R.D. 1, Somerset, PA 15501. Representative: Dixie C. Newhouse, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Contract carrier,* transporting (1) *air conditioner compressors,* from points in Frederick County, MD, to points in NJ, IL, MI, IN, OH, TN, and KY, and (2) *materials and supplies* used in the manufacture and distribution of air conditioner compressors, in the reverse direction, under continuing contract(s) with Fedders compressor company, of Eddison, NJ.

MC 149453F, filed June 9, 1980. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by Donaldson Company, Inc., its subsidiaries, divisions and vendors, under continuing contract(s) with Donaldson Company, Inc., of Minneapolis, MN.

MC 150042 (Sub-1F), filed June 23, 1980. Applicant: JOHN W. CAIN d.b.a. CAIN TRUCK LINE, P.O. Box 538, Sunland Park, NM 88063. Representative: John W. Cain (same address as applicant). *Contract carrier,* Transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration, (1) from points in CA to points in El Paso County, TX, and (2) from Clearfield, UT, to points in El Paso County, TX, under continuing contract(s) with SYSCO–H & R Food Service Company, of El Paso, TX.

MC 150163 (Sub-3F), filed June 25, 1980. Applicant: HORWITH TRUCKS, INC., R.D. 1, Coplay, PA 18037. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *In foreign commerce only* transporting (1) *aluminum concentrate,* in bulk, in dump vehicles, from South River, NJ, to ports of entry on the international boundary line between the U.S. and Canada in NY, and (2) *lead residue,* in bulk, in dump vehicles, from ports of entry on the international boundary line between the U.S. and Canada in NY to Nesquehoning, PA.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 150283 (Sub-1F), filed July 1, 1980. Applicant: NORTHERN COMMODITIES TRANSPORTATION, INC., P.O. Box 2586, Martinez, CA 94553. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *clay* from the facilities of Industrial Minerals Ventures, at Imvite, NV, to points in Fresno, Imperial, Kern, Kings, Los Angeles, Monterey, San Diego, Santa Barbara, Solano, Sonoma, Ventura, and Yolo Counties, CA.

MC 150902 (Sub-1F), filed June 30, 1980. Applicant: GORDON TRUCKING, INC., Box 389, Bassett, NE 68714. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE 68501. Transporting *petroleum and petroleum products,* from Phillipsburg, KS, Casper, WY, Yankton, SD, and Council Bluffs, IA, to points in Keya Paha, Rock, Brown, Holt, Hayes, Wheeler, and Lincoln Counties, NE.

[Volume No. 314]

Decided: August 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 112713 (Sub-305F), filed June 9, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Regular routes, transporting *general commodities* (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value, and those requiring special equipment), (1) between Jackson and Dyersburg, TN: from Jackson over TN Hwy 20 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Dyersburg, and return over the same route; (2) between Humbolt and Rutherford, TN, over U.S. Hwy 45W; and (3) between junction U.S. Hwy 45W and TN Hwy 77 and Dyersburg, TN: from junction U.S. Hwy 45W and TN Hwy 77, at or near Dyersburg, TN, over TN Hwy 77 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Dyersburg, and return over the same route; serving all intermediate points on routes (1) to (3) above.

MC 113362 (Sub-400F), filed June 30, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting *petroleum and petroleum products, vehicle body sealer, sound deadener compounds,* and *filters,* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk) from Franklin Park, IL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, AND TX, restricted to traffic originating at the named origin and destined to the indicated destinations.

MC 118202 (Sub-138F), filed October 1, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *thermosetting and thermoplastic molding materials* (except commodities in bulk), from Orange, CA, Winona, MN, and Delano, PA, to points in the U.S. (except AK and HI), and (2) *equipment, materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), in the reverse direction.

MC 120673 (Sub-1F), filed June 3, 1980. Applicant: ACME TRANSPORT COMPANY, a corporation, 3546 Vandalia Road, Des Moines, IA 50317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *alcohol,* in bulk, in tank vehicles, from points in IL, MO, KS, and NE, to points in IA, and (2) *gasohol,* in bulk, in tank vehicles, from Rock Port, MO, to points in IA. (Hearing site: Des Moines, IA.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 121733 (Sub-3F), filed April 28, 1980. Applicant: SEA–RAIL TRUCKLOADS, INC., 1225 South Jellick, City of Industry, CA 91748. Representative: Miles L. Kavaller, 315 South Beverly Dr., Beverly Hills, CA 90212. Transporting (1) *new furniture,* in cartons, from points in CA, MS, NC, IN, GA, TX, and TN, to points in AZ, CA, CO, NM, NV, TX, OK, OR, and WA, restricted to traffic originating at or destined to the facilities of Grantree Furniture Rental Corporation, and (2) *general commodities* (except commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and automobiles), between points in Los Angeles County, CA.

Note.—Part (2) above seeks conversion of applicant's certificate of registration. Conditions: (1) Issuance of a certificate of public convenience and necessity is subject to the coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC 121733. (2) Any certificate issued in this proceeding, to the extent it authorizes classes A and B explosives, shall be limited in time to a period expiring 5 years from its date of issue.

MC 144232 (Sub-2F), filed June 27, 1980. Applicant: CONTRACT DISTRIBUTION SYSTEM, INC., 3181 Bankhead Hwy., Atlanta, GA 30318. Representative: Elliot Alderman, P.O. Box 1181, Roswell, GA 30075. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI) under continuing contract(s) with General Foods Corporation, of White Plains, NY.

MC 144483 (Sub-5F), filed May 22, 1980. Applicant: MAHER, INC., R.R. #14, Box 330, West Terre Haute, IN 47885. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *liquefied petroleum gas,* from Tuscola, IL, to Waynetown, IN, under continuing contract(s) with Pyrofax Gas Corp., of Houston, TX. Condition: The permit to be issued in this proceeding shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 147492 (Sub-3F), filed July 2, 1979. Applicant: MEL MOTOR EXPRESS, INC., a corporation, P.O. Box 29058, New Orleans, LA 70189. Representative: James T. Harmon III (same address as applicant). Transporting (1) *paper and paper products,* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), from the facilities of Lengsfield Brothers, Inc., at New Orleans, LA to points in AL, AK, MS, TN, TX, SC, NC, FL, KY, MI, LA, GA, VA, IL, OH, NY, WV, IN, MO, and WI, and (3) *Materials equipment and supplies,* used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction, restricted in (1), (2) and (3) above to traffic originating at or destined to the facilities of Lengsfield Brothers, Inc.

MC 147523 (Sub-2F), filed June 11, 1980. Applicant: CAPITOL CITY WRECKER SERVICE, INC., 539 W. Monument St., Jackson, MS 39203. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting: (1) *wrecked, disabled, and repossessed motor vehicles and cargo trailers,* and (2) *replacement motor vehicles and cargo trailers,* by use of wrecker equipment only, between points in MS, on the one hand, and, on the other, points in AL, AR, LA, TN, and TX.

MC 148443 (Sub-8F), filed July 1, 1980. Applicant: SOUTH SHORE EQUIPMENT CORPORATION, 1284 Miller Rd., Avon, OH 44011. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting (1) *rust preventatives,* and *electroplating additives, metals, metal products, rubber, petroleum products, chemicals,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between Cleveland, OH, and points in CT, SC, FL, MI, MN, IL, MO,

The agenda will deal primarily with

Assistance Act of 1961, as amended (the

INTERNATIONAL TRADE

TX, LA, CO, AZ, CA, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149233 (Sub-1F), filed June 23, 1980. Applicant: EDGAR SERVICE COMPANY, INC., P.O. Box 562, Avon, MA 02322. Representative: Arthur T. Flynn (address same as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA, ME, NH, NJ, RI, VT, and Clinton and Essex Counties, NY, to points in AL, AZ, CA, FL, GA, IL, IN, KS, MD, MI, MN, MO, NV, NM, NC, OH, OR, PA, SC, TX, VA, WA, WV and WI. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 149493 (Sub-1F), filed June 16, 1980. Applicant: DARRELL MADDEN, d.b.a. DARRELL MADDEN TRUCKING, 2232 E. Maime Eisenhower Ave., Boone, IA 50036. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *pulpboard*, from the facilities of Sonoco Products Company, at or near Rockton, IL, to Boone, IA.

MC 150183 (Sub-1F), filed March 10, 1980. Applicant: CASSCO REFRIGERATED TRANSPORT, DIVISION OF CASSCO CORPORATION, 125 West Bruce St., Harrisonburg, VA 22801. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), between points in Frederick, Shenandoah, Rockingham, Bedford, and Albemarle Counties, VA, and Berkeley and Jefferson Counties, WV, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, WV, and DC.

MC 150552F, filed April 7, 1980. Applicant: RICHARD B. JONES d.b.a. DICK JONES TRUCKING, 2051 Geneva St., #43, Oceanside, CA 92054. Representative: Richard B. Jones (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NY and VT, on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Champlain Valley International Shippers & Receivers Association Inc., of Rouses Point, NY.

MC 145203 (Sub-9F), filed May 5, 1980. Applicant: REITZEL TRUCKING CO., INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *containers and container ends* and (2) *equipment, materials, and supplies* used in the manufacture and use of the commodities in (1) above (except commodities in bulk), between points in IN, KY, MI, WV, PA, MD, NY, IL, WI, NJ, MO, DE, and OH, restricted to traffic originating at or destined to the facilities of American Can Company.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25253 Filed 8-18-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

[Delegation of Authority No. 137]

Authority Delegation: Assistant Adminstrator for Program and Management Services and Director, Office of Personnel Management

By virtue of the authority delegated to me by the Trade and Development Program Delegation of Authority No. 1, entitled "Contracting and Personnel Management Functions for the Trade and Development Program," effective July 1, 1980, it is hereby directed as follows:

Section 1. There is hereby delegated to the Assistant Administrator for Program and Management Services the authority to sign or approve, on behalf of the Trade and Development Program, contracts, grants and cooperative agreements financed under authority vested in the Trade and Development Program by Section 1-203 of the International Development Cooperation Agency ("IDCA") Delegation of Authority No. 4. This delegation includes the authority to negotiate, conclude and terminate agreements; to modify and amend agreements pursuant to Section 4 of Executive Order 11223, as amended, and to make determinations pursuant to Section 604(a) of the Foreign Assistance Act of 1961, as amended in regard to programs authorized under Sections 607(a) and 661 of the Act.

Section 2. There is hereby delegated to the Director, Office of Personnel Management, the authority necessary to implement sections 1-203 and 1-401 of IDCA Delegation of Authority No. 4 insofar as they relate to personnel of the Trade and Development Program. This includes the authority of the Foreign Service Act of 1946, as amended, to employ and designate personnel, which the Director is authorized to exercise pursuant to Section 625(d) of the Act and the provisions of the Foreign Service Act which apply to personnel so appointed or assigned, shall consist of:

(a) The authority available to the Secretary of State under the Foreign Service Act of 1946 (including Section 571 of that Act), relating to Foreign Service Reserve Officers, Foreign Service staff officers and employees, and alien clerks and employees;

(b) The authority available to the Secretary of State under Sections 1021 through 1071 of the Foreign Service Act of 1946;

(c) The authority available to the Board of Foreign Service and under the Foreign Service Act of 1946;

(d) The authority to prescribe or issue in pursuance of the Foreign Service Act of 1946 and the Act such regulations, orders and instructions as may be incidental to, or necessary for, or desirable in connection with, the carrying out of the provisions of Section 625(d)(2) of the Act or the provisions of this Delegation of Authority; and

(e) The prohibitions contained in Sections 1001 through 1005 of the Foreign Service Act of 1946.

Section 3. The authority delegated herein may be redelegated successively and may be exercised by persons who are performing the functions of the designated officers on an acting basis.

Section 4. This delegation of authority shall be deemed effective as of July 1, 1980, and actions within the scope of this delegation and any redelegation hereunder undertaken prior hereto which are consistent with the terms and scope of this delegation are hereby ratified and confirmed.

Dated August 7, 1980.

Douglas J. Bennet, Jr.,
Administrator.

[FR Doc. 80-25455 Filed 8-20-80; 8:45 am]
BILLING CODE 4710-02-M

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committeee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on September 18 and 19, 1980 (from 9:00 a.m. to 5:00 p.m.), at the Biltmore Hotel, 515 South Olive Street, Los Angeles, California 90013.

The agenda will deal primarily with those aspects of the Report of the Presidential Commission on World Hunger which deal with the role of voluntary organizations. The Committee will also assess its activity during the previous 21 months and determine the priority areas of its interest for its meetings during 1981.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202-632-0108, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: August 13, 1980.

Frederick F. Simmons,
Acting Assistant Administrator, Bureau for Private and Development Cooperation.

[FR Doc. 80-25493 Filed 8-20-80; 8:45 am]
BILLING CODE 4710-02-M

Housing Guaranty Program; Costa Rican Ministry of Finance; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan to the Costa Rican Ministry of Finance (Borrower) in an approximate amount of Eleven Million Four Hundred Thousand U.S. Dollars ($11,400,000) to finance housing projects in Costa Rica. By this notice of investment opportunity the borrower solicits expressions of interest from U.S. underwriters or lenders to counsel them on loan timing, structure, features, and manage this underwriting by presenting proposals to borrower from eligible investors, as defined below, for borrowers selection. Interested underwriters or lenders should contact the borrower describing their services before the termination of fifteen (15) working days from the date of this advertisement.

The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 515-HG-006.

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D.

Underwriters or lenders are invited to consult with the borrower and, if selected by borrower, to manage this underwriting thereafter by submitting proposals to the borrower. Selection of an eligible lender and the terms of the loan are subject to approval by A.I.D. The lender and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower. Interested parties should communicate with the borrower at the following address: Raul Fernandez Bianchi, Director de Financiamiento Externo, Ministerio de Hacienda, Apartado 10104, San Jose, Costa Rica, Telephone: 23-86-54, Telex: 2277 MINHAC-CR.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632-9637.

To facilitate the renotification process copies of expressions of interest made to the borrower shall be sent to A.I.D. at the above address.

Dated: August 14, 1980.

David McVoy,
Assistant Director for Operations, Office of Housing.

[FR Doc. 80-25454 Filed 8-20-80; 8:45 am]
BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[TA-201-44]

Certain Motor Vehicles and Certain Bodies Chassis Therefor; Receipt of Ford Motor Co.; Petition

On August 4, 1980, the Commission received a petition for import relief filed by the Ford Motor Company (Ford) under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) with respect to imports of passenger cars, light trucks, vans, and utility vehicles. In its petition Ford refers to the Commission's ongoing investigation, instituted June 30, 1980, following receipt of a petition filed by the UAW. Ford urges the "expeditious completion" of the investigation and stated its intention to participate in the Commission's public hearing set to begin October 8, 1980. Ford does not ask for a second investigation or change in scope of the present investigation or Commission procedures with respect to the investigation. Ford states that it is filing its own petition "to provide the Commission with an additional perspective on the nature and extent of the industry's injury and to emphasize the importance of the requested relief to the domestic producers."

Since the imported articles against which Ford requests relief are already the subject of an investigation, and since Ford is not seeking a second investigation or a change in scope of the present investigation, the Commission considers Ford to be a copetitioner for import relief in the investigation that is already under way.

Notice of institution of the investigation and public hearings was published in the **Federal Register** of July 7, 1980 (45 FR 45731); notice of change in Commission procedures was published in the **Federal Register** of July 22, 1980 (45 FR 48996); and notice of place of the Commission hearing was published in the **Federal Register** of August 6, 1980 (45 FR 52280).

Issued: August 18, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-25361 Filed 8-20-80; 8:45 am]
BILLING CODE 7020-02-M

LIBRARY OF CONGRESS

Copyright Office; Cable Compulsory License; Definitions, Procedures, and Fees

The Copyright Office is publishing for public comment proposed regulations establishing definitions, procedures, and fees for the cable compulsory license. The proposed regulations are published in response to the Copyright Royalty Tribunal Reform Act of 1979, Pub. L. 96-416, 94 Stat. 1773, which abolished the Copyright Royalty Tribunal and transferred its functions to the Register of Copyrights and the Librarian of Congress.

LIBRARY OF CONGRESS

Copyright Office

[Docket LPR 80-4]

Report of the Register of Copyrights on the Effects of 17 U.S.C. 108 on the Rights of Creators and the Needs of Users of Works Reproduced by Certain Libraries and Archives; Public Hearing

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of public hearing.

SUMMARY: The Copyright Office of the Library of Congress is preparing a report for Congress in accordance with 17 U.S.C. 108(i). The subject of the report is the extent to which 17 U.S.C. 108 has achieved the intended balance between the rights of creators and the needs of users of copyrighted works which are reproduced by certain libraries and archives. This notice announces and invites participation in the fourth of a series of regional public hearings designed to elicit views, comments, and information from all interested persons, including copyright proprietors, librarians, and users of all types of libraries. The Copyright Office actively seeks the participation not only of organizational representatives, but also of any individual whose informed opinion may contribute to the preparation of the report and the possible recommendation of changes in the copyright law.

DATES: The hearing will be held on October 8, 1980 in Anaheim, California at the Disneyland Hotel, the Magnolia "B" Room, beginning at 9:30 a.m. The hearing will take place during the same week as the annual meeting of the American Society for Information Sciences.

Anyone desiring to testify should submit a written request to present testimony by October 1, 1980, to the address set forth below. Ten copies of written statements must be received by the Copyright Office by 4:00 p.m. on October 1, 1980.

Supplemental statements will be entered into the record until November 8, 1980. Ten copies of such statements should be submitted.

ADDRESSES: Written requests to present testimony and ten copies of written statements or of supplementary statements should be submitted as follows:

If sent by mail: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202.

If delivered by hand, the copies should be brought to: Office of the General Counsel, Room 519, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

All requests to testify should clearly identify the individual or group desiring to testify and the amount of time desired. The Copyright Office will try to contact all witnesses to confirm the times of their appearances.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 Telephone: (703) 557-8731.

SUPPLEMENTAL INFORMATION:

1. Background and purpose of the report.

The Copyright Act of 1976, 17 U.S.C. 101 et. seq., was a product of many years of effort by Congress to replace what many felt was a copyright law which was ill-suited to such technological developments of the twentieth century as cable television, computers, and photocopying machines. One of the most difficult problems to resolve concerned the photomechanical reproduction, in whole or in part, of copyrighted works by libraries and archives. In addition to codifying the doctrine of fair use for the first time (17 U.S.C. 107), the Copyright Act of 1976 contains provisions authorizing certain acts of reproduction and distribution by qualifying libraries (17 U.S.C. 108).

These provisions represent a balance between the positions forcefully advocated by the proprietor and user communities in testimony before Congress during the legislative effort that resulted in the current Act. Because of the uncertainty about their effect, at present and in the future, Congress provided that the Register of Copyrights should prepare at five-year intervals, reports concerning the effectiveness of the balance created by the Copyright Act. The first such report, the subject of the hearing here announced, is due January 1, 1983. An advisory committee composed of ten representatives of concerned interests meet regularly with the Copyright Office to plan the preparation of the report. In addition to public hearings, the Copyright Office has under consideration the possibility of conducting an empirical survey to provide objective data on the effects of section 108.

The purpose of this hearing is to examine practices under section 108 as they have developed since January 1, 1978, when the Copyright Act of 1976 became effective. It would therefore be most helpful if witnesses not simply reiterate positions previously taken with respect to library copying, but amplify their remarks with a discussion of ways in which the Act has or, of equal importance, has not affected their practices.

2. Summary of section 108

Under section 108 of the Copyright Act of 1976, authors and other owners of copyright are given the exclusive rights, among others, to reproduce the copyrighted work in copies or phonorecords and to distribute copies or phonorecords of the copyrighted work to the public. These exclusive rights are subject to several exemptions, including those contained in section 107 ("fair use") and section 108 ("reproduction by libraries and archives").

Section 108 deals with a variety of situations involving photocopying and other forms of reproduction by libraries and archives. Subsection (a) provides that "* * * it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such a copy or phonorecord, under the conditions specified by this section if—

(1) The reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) The collections of the library or archives are open to the public or specialized researchers; and

(3) The reproduced or distributed material includes a notice of copyright.

Thus, paragraph (a) of section 108 establishes the basic conditions under which a library or archives may claim an exemption from the exclusive rights of copyright proprietors. In addition, for the library activity to be exempt under section 108, one of the other conditions set forth in paragraphs (b) through (f) must be satisfied. Moreover, under paragraph (h), the exemptions for nonprint copyrighted works are modified substantially. Very generally, with the exception of facsimile duplication for preservation purposes and to replace damaged, deteriorating, or lost copies, the exemptions of section 108 apply primarily to books and periodicals.

Archival preservation [section 108(b)]. This exemption applies only to unpublished works in the current collection of a library or archives. It allows reproduction only in facsimile form and only for "purposes of preservation or security or for deposit for research use in another library or archives."

Replacement [section 108(c)]. Libraries or archives are authorized to duplicate a published work in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost or stolen *but* only if they find that an unused replacement copy cannot be obtained at a fair price. The legislative reports offer some guidance as to what is meant—they indicate that a reasonable investigation will always require recourse to commonly known trade sources in the United States, and in the normal situation also to the publisher or copyright owner or an authorized reproducing service.

Journal articles, small excerpts, etc. [section 108(d)]. This paragraph applies to "no more than one article or other contribution to a coprighted collection or periodical issue, or to * * * a small part of any other copyrighted work." The only conditions for supplying a reproduction are that: "the copy becomes the property of the user"; there is no reason to suppose that it "would be used for any purposes other than private study, scholarship, or research"; and the library or archives must display prominently, at the place where orders are accepted, and include on the order form, a warning of copyright in language prescribed by a Copyright Office regulation.

Entire works or substantial parts [section 108(e)]. With one addition, the conditions applicable under paragraph (d), as discussed above, apply under paragraph (e) to the "entire work," or "a substantial part of it." The added condition is that "the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of a copyrighted work cannot be obtained at a fair price." This paragraph applies essentially to out-of-print works.

General exemptions [section 108(f)]. In addition to the specific exemptions described above, paragraph (f) makes clear that no copyright liability attaches to a library or its employees for copying done on unsupervised copying machines provided the machines bear a warning that certain copying activity may represent an infringement of the copyright law. Also, nothing in section 108 "in any way affects the right of fair use as provided by section 107," and a small number of copies of an audiovisual news program may be made and distributed by lending.

Multiple and systematic copying [section 108(g)]. Section 108 does not permit copying when the library or archives, or its employee—

(1) Is aware or has substantial reason to believe that it is making or distributing multiple copies of the same material, whether on one or several occasions, or

(2) Engages in the systematic reproduction or distribution of copies of peridocial articles or excerpts from other copyrighted works; however, certain copying for interlibrary loan purposes is permissible, even if it might otherwise appear "systematic."

Copying for interlibrary loan purposes is authorized to the extent that libraries receiving copies so made do not do so "in such aggregate quantities as to substitute for a subscribpiton to or purchase of such work." Guidelines for interpretation of the language " such aggregate quantities * * *" were adopted by Congress during its enactment of the Copyright Act, and their effectiveness is a subject of this hearing. They, as the act, represent a compromise between proprietary and user interests. Because they were drafted by the interested parties with the administrative support of the National Commission on New Technological Uses of Copyrighted Works (CONTU), they have come to be known as the "CONTU Guidelines." (CONTU was a temprary commission which examined certain copyright issues related to computers and photocopying in order to permit Congress to proceed with its revision of the copyright law in general.)

The guidelines which were adopted provide, essentially, that copying for interlibrary loans is permissible—

(1) If no more than five requests for copies of periodical articles from any given peridocial are filled for a requesting library during a calendar year, with respect to articles less than five years old (There is no provision covering the copying of older articles);

(2) if no more than five requests for copies of excerpts of any given work are filled for a requesting library within a calendar year; and

(3) if requesting libraries state that their requests comply with the act and keep records of their requests for three years.

3. Copyright Clearance Center

In an attempt to establish a centralized mechanism to facilitate payment of royalty fees for copying activities not exempt under the Coyright Act, publishers, with planning assistance by authors and librarians, established the Copyright Clearance Center, Inc. The Center, which is a not-for-profit organization, does not provide copies or grant permission to copy. Each publisher sets its own article copying fees and, to the extent feasible, publishes an article-fee code on the first page of articles to inform users of the appropriate charges for copying.

Participating libraries register with the Center and obtain a user-registration number for use in reporting copying. They submit periodic reports of copying activities and pay the applicable royalty fees on the basis of their chosen payment method, including deposit accounts, billing, and possible prepayment through a stamping meter or stamp.

Presently, this clearance system operates with respect to works in journals, magazines, newsletters, proceedings, symposia, and similar works. Its operating costs are borne by participating publishers.

4. Specific questions.

The Copyright Office is interested in receiving comments and testimony about any issues relevant to section 108 which concern copyright owners, librarians, and their patrons. Of particular interest are answers to the following questions:

1. To what extent has section 108 changed library procedures? Has there been any significant effect on users' and librarians' access to information?

2. To what extent has section 108 affected established patterns in the publishing industry and the relationship between authors, libraries, and library users?

3. Depending upon the type of library involved, describe the effect, if any, of section 108 upon the type and amount of copying performed by the library on its own behalf or on behalf of users. To what extent have publishers and authors experience a change in the number of requests from libraries to reproduce works since the present law went into effect?

4. In what manner has the establishment of the Copyright Clearance Center affected your experience under section 108? Would the creation of a National Periodical Center affect your operations? (The intent of these questions is to elicit responses from publishers and authors on the one hand and libraries and library users on the other.)

5. Describe the impact, if any, that section 108 has had upon the replication of nonprint materials, including the ability of libraries to reproduce phonorecords and audio visual works dealing with news. In response to this

question describe any problems which have been encountered as the result of the narrower exemptions for nonprint materials under section 108.

6. How have the CONTU guidelines worked in practice? How should peridocials more than five years old be treated?

7. What is your opinion of the relationship between section 107 ("fair use") and section 108 ("reproduction by libraries and archives")?

8. How should foreign copyrighted works and requests from foreign libraries be treated under section 108 and, in practice, how are they treated now?

9. If problems do exist, can they be resolved without resort to legislative amendment? If so, what are the problems, and how could they best be resolved? If not, what changes should be made in the law?

(17 U.S.C. 108)

Dated: August 14, 1980.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 80-25540 Filed 8-20-80; 8:45 am]

BILLING CODE 1410-08-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Meeting

August 18, 1980.

The National Commission on Social Security will hold public meetings in Washington, D.C. on Friday, September 12 and Saturday, September 13 at the Washington Hilton Hotel for the purpose of reconsidering tentative recommendations made by the Commission.

The meetings will begin both days at 9:00 a.m. and adjourn at 5:00 p.m. In the event the Commission does not conclude its business by 5:00 p.m. Saturday, it will meet Sunday, September 14 at the Washington Hilton beginning at 9:00 a.m.

Additional information about the meeting may be obtained from the Commission office: Room 128—Pension Building, 440 G Street, NW., Washington, D.C., Phone: 376-2622.

Francis J. Crowley,

Executive Director.

[FR Doc. 80-25411 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-AC-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-34]

Reports, Safety Recommendations and Responses; Availability

Pipeline Accident Report

Washington Gas Light Company, Natural Gas Explosion, 215 Third Street SE, Washington, D.C., October 30, 1979. (NTSB-PAR-80-4).—The National Transportation Safety Board on August 13 released its formal investigation report concerning this accident. The explosion and fire demolished a townhouse and damaged nearby buildings and cars. No one was inside the townhouse at the time, but three persons in a stopped car were injured when debris from the explosion shattered a car window.

Investigation indicated that a contractor had worked in the area for 4 to 6 weeks until September 27, 1979, and another contractor had worked in the same location for 1½ hours on the morning of the accident. In both cases, some of the work involved the use of mechanized excavating equipment. After the accident, an inspection of the gas service line that served the townhouse revealed that it had been struck by excavating equipment. The steel casing had been broken at one point, and the plastic pipe inside the casing was exposed. Also, the plastic pipe had been pulled out of a transition compression coupling under the pavement in the alley near the gas meter that served the townhouse. The Washington Gas Light Company, operator of the gas service line, had not been notified by either contractor of the excavation work. No "one-call" system was in operation in Washington, D.C., at the time of the accident.

The Safety Board determined that the probable cause of the accident was the separation of a 1-inch-diameter plastic service line from its compression coupling in all alley next to a townhouse in the course of work involving excavation and paving in an adjacent street. Escaping natural gas under 5 inches water column pressure migrated into the townhouse and was ignited by an unknown source. Contributing to the accident was the failure of the contractors to request the gas company to mark its lines in the excavation area.

During the investigation of this accident, the Safety Board last November 14 issued two safety recommendations, Nos. P-79-38 and P-79-39, urging prompt action by the District of Columbia City Council to pave the way for the same "one-call" notification system in Washington that has sharply reduced hazardous underground utility damage incidents in nearby Maryland and Virginia suburbs. (See 44 FR 67256, November 23, 1979.) The District of Columbia responded January 9, advising that a bill entitled "Underground Facilities Protection Act of 1979," Bill 3-240, has been introduced before the city council for passage. (See 45 FR 8392, February 7, 1980.) The Board believes that the proposed bill should establish an effective system not only by requiring notification before excavating, but also by requiring the utilities in the District to participate in the "one-call" system. Because of the safety benefits that will result, the Safety Board urges the city council to move expeditiously to enact the proposed bill.

The Safety Board issued one recommendation, No. P-79-40, on November 14, 1979, jointly to the Washington Gas Light Company, the Potomac Electric Power Company, and the Chesapeake and Potomac Telephone Company to expand, in cooperation with the District of Columbia Government, the "Miss Utility one-call" system now serving areas of Maryland and Virginia to include the District of Columbia. The Board received positive response to this recommendation from the gas company and the C&P Telephone Company. The Potomac Electric Power Company responded that it did not believe that a "one-call" system was necessary. (See 44 FR 76607, December 27, 1979.) Because the "one-call" notification system has been proven effective nationwide in the reduction of excavation damage incidents, the Safety Board reiterates its recommendation to Potomac Electric Power Company and asks that it cooperate with the other utilities in the District of Columbia to expand the existing "one-call" notification system.

As a further result of its investigation of this accident, the Safety Board on July 15 issued additional recommendations, No. P-80-59 to the Research and Special Programs Administration of the U.S. Department of Transportation and No. P-80-60 to the Washington Gas Light Company, which would require preservation of evidence at the accident site until onscene investigations have been completed. (See 45 FR 52517, August 7, 1980.)

Railroad Accidents in Brief Format

Issue No. 4, 1978 Supplement (NTSB-RAB-80-2).—The Safety Board on August 12 released in fourth issued of reports of railroad accidents which occurred in 1978. The 135-page report contains brief summaries of 127 railroad accidents which involved either a fatality, a passenger train operations or substantial property damage. The report includes the Safety Board's findings of probable cause of each accident. Sixty-eight of the 127 accidents were trains striking either railroad employees or others. Of the remander, 41 were derailments, 12 were collisions and six were rail-highway grade crossing accidents.

Note.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in Washington office of the Safety Board. Upon request, factual reports will be reproduced commerically at a average cost of 7 cents per page for printed matter, $1 per page for black-and-white photographs, and $1.50 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of Issue No. 4 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA., 22161.

Aviation Safety Recommendation Letters

A-80-64 through—75 to the Federal Aviation Administration, August 8, 1980.—Following an extensive 4-month special investigation of the commuter industry and the elements which affect commuter airline safety, the Safety Board held a 4-day public hearing, ended last January 31. The special investigation included an on-site survey of 45 commuter airlines throughout the United States, a study of the role and effectiveness of the Federal Aviation Administration and the Civil Aeronautics Board, the influence of the airport environment, financial posture and management structure on individual airlines and on commuter airline safety, and an evaluation of the operational, maintenance, and training programs of the commuter airline industry. The Safety Board used its 1972 "Air Taxi Safety Study" and its commuter aircraft accident investigation experience as a basis to determine the safety issues which were involved and to evaluate the progress the commuter airline industry and the FAA are making toward correcting the deficiencies.

The Board's study of FAA's role is surveillance of the commuter airline industry indicates a need for special training of FAA inspectors, to conduct surveillance of commuter airlines. In addition, the staffing levels at FAA offices responsible for commuter airline surveillance and the workload requirements of the individual inspectors generally do not provide for accomplishing effective commuter airline surveillance unless other safety-related, general aviation activities are curtailed. Findings concerning FAA workloads were the subject of several Board recommendations in previous years and were an important finding in the recent special investigation and hearing. The Board also received much testimony that FAA should standardize surveillance procedures so that each region, district office, and inspector has the same interpretation of FAA regulations and procedures. Also, the Board concluded that procedures should be revised to provide surveillance of maintenance activities during the work shifts when maintenance is performed. For example, there were indications that very little maintenance surveillance was conducted during the night shifts when the bulk of maintenance activities were performed.

The Safety Board believes that revision of 14 CFR Part 135 has upgraded safety standards for commuter airlines. However, the Board believes that Part 135 should be amended to strengthen the requirements for the training of pilots, especially for training in emergency procedures, weight and balance, and center of gravity. These safety deficiencies, coupled with a lack of knowledge by some flight operations personnel on dispatch procedures, have contributed to several accidents in recent years. Finally, the Board believes that 14 CFR Part 135 should be amended to increase the frequency of determining the aircraft empty weight and center of gravity for aircraft used in commuter operations.

Further, the Safety Board believes that 14 CFR Part 135 should be revised to establish a minimum number of multiengine flight hours for a pilot-in-command of a multiengine aircraft used in commuter operations. The Universal Airways accident at Gulfport, Miss., on March 1, 1979, and the Comair accident at Cincinnati, Ohio, on October 8, 1979, reinforced the Board's belief that a pilot's inexperience in reciprocating multiengine aircraft can affect performance in emergency situations.

Board survey of commuter-served airports revealed that those airports served by certificated route air carriers are better equipped with approach and landing aids, e.g., 67 percent of the airports served exclusively by commuter airlines do not have a precision instrument approach facility, while 16 percent of these airports have no instrument approach facility. The Board believes that the safety of the public which travels on commuter airlines requires equivalent levels of service, and that there should not be an appreciable difference in airport facilities. The qualification criteria for instrument approach facilities, approach lights, visual approach slope indicators, and other facilities should be revised to allow commuter-served airports to achieve a level of safety equivalent to those airports served by certificated route aircarriers. The Board believes that the funding for many of the commuter airport improvements could come from the Aviation Trust Fund if the ADAP criteria were amended to provide a larger share of the revenues to commuter-served airports.

As a result of its study, the Safety Board reiterates the following "Class II, Priority Action" recommendations to FAA:

Require that pilots involved in 14 CFR Part 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their maximum certificated gross weight or to the limits of their c.g. envelope, or both. (A-79-80)

Expedite rulemaking which would make the flight time and duty time limitations and rest requirements for commuter air carriers the same as those specified for domestic air crewmembers under 14 CFR Part 121. (A-79-81)

Develop, in cooperation with industry, flight recorder standards (FDR/CVR) for complex aircraft which are predicated upon intended aircraft usage. (A-78-27)

Draft specifications and fund research and development for a low-cost FDR, CVR, and composite recorder which can be used on complex general aviation aircraft. Establish guidelines for these recorders, such as maximum cost, compatible with the cost of the airplane on which they will be installed and with the use for which the airplane is intended. (A-78-28)

In the interim, amend 14 CFR to require that no operaton (except for maintenance ferry flights) may be conducted with turbine-powered aircraft certificated to carry six passengers or more, which require two pilots by their certificate, without an operable CVR capable of retaining at least 10 minutes of intracockpit conversation when power is interrupted. Such requirements can be met with available equipment to facilitate rapid implementation of this requirement. (A-78-29)

In addition, the Safety Board now recommends that FAA:

Establish a separate classification of commuter airline inspectors to conduct commuter airline surveillance. (A-80-64)

Provide specialized training for inspectors assigned to commuter airlines to insure that inspectors are qualified in the equipment operated and are knowledgeable regarding commuter airline operations. (A-80-65)

Allocate GADO resources to insure that all commuter surveillance and general aviation requirements can be accomplished. (A-80-66)

Establish a procedure for distributing surveillance of commuter airline maintenance

evenly during all periods when maintenance is performed. (A–80–67)

Require that only actual passenger weights be used in weight and balance computations for reciprocative engine aircraft used in Part 135 flights which are certificated for nine or less passengers. (A–80–68)

Amend 14 CFR 135.243 to require a minimum number of multiengine flight hours for a pilot-in-command of a multiengine commuter airline flight. (A–80–69)

Amend 14 CFR 135 Subpart B to require that dispatch and flight operations duties are supervised by personnel trained in those functions. (A–80–70)

Amend 14 CFR 135.185 to require that aircraft empty weight and center of gravity be determined more frequently. (A–80–71)

Evaluate and revise as appropriate the criteria for the authorization of single-pilot IFT operations for commuter airlines. (A–80–72)

Expand the ADAP program to support the development of commuter-served airports. (A–80–73)

Revise the qualifying criteria to insure that a larger percentage of commuter-served airports are equipped with instrument landing systems. (A–80–74)

Insure, to the extent possible, that airports which are served by commuter airlines are equipped with instrument approach facility. (A–80–75)

The Safety Board's August 8 recommendation letter to FAA designates recommendations A–80–64, A–80–66, A–80–71, and A–80–72, above, "Class III, Longer-Term Action." All other recommendations in this series are designated "Class II, Priority Action." Printed copies of the Safety Board's special investigation report on commuter airline safety are being prepared for distribution and will be available in the near future.

A–80–76 and –77 to the Federal Aviation Administration, August 14, 1980.—On March 8, 1980, a Swearingen SA–226AT aircraft, N72OR, experienced a rapid decompression near Albany, N.Y., at 16,000 ft. after part of the aft cargo compartment door separated in flight. The aircraft cabin had just attained a pressure differential of about 7 psi to maintain a sea level cabin altitude. Some interior furnishings, including an unoccupied passenger seat, were ejected from the aircraft. During the decompression, two passengers were injured slightly by flying debris. The dorsal fin and upper fuselage were damaged sightly when the upper portion of the cargo door rotated upward about its hinge, broke the overcentering arm link attachments, separated, and struck the fuselage. The aircraft landed safely at Glen Falls, N.Y. The separated portion of the cargo door was recovered on May 14, 1980.

On March 14, 1980, the Safety Board issued recommendations A–80–20 and –21 which asked FAA to issue airworthiness directives to require an immediate inspection to assure proper adjustment and structural integrity of the door latches and to assure safe operation of the aircraft by restricting pressurization until appropriate corrective action was taken. Airworthiness Directive T80SW 14 and 15, issued by FAA, and Service Bulletin 52–009, issued by the manufacturer, during March 1980 accomplished these urgent actions.

The Safety Board's examination of the separated portion of the cargo door confirmed the previous indications that misadjustment of a latch was a major factor in the separation of the door. The examination also revealed that the "click-clacks" (split barrel) on one of the highly loaded latches had been filed or ground down, which reduced the diametrical engagement of the latch in its receptable. The Board could not determine who had performed the unauthorized maintenance procedure. The airworthiness of the fuselage depends on the integrity of the passenger and cargo door latches to withstand flight and pressurization loads, and it is imperative that the latch components and the sill receptacles be maintained dimensionally so that proper engagement takes place.

Additionally, the examination revealed a broken latch actuator rod which prevented one latch from being engaged. The Board's analysis indicated that the rod was probably broken when someone forced the handle to the closed position while the latch was not properly engaged. The compression buckling of the rod cause stress which resulted in the failure of the rod end in its threaded shank.

Since the additional unsafe conditions found on the accident aircraft might be present on other aircraft in the Swearingen fleet, the Safety Board issues the following "Class II, Priority Action" recommendations to FAA:

Issue a telert maintenance bulletin to alert operators of Swearingen Models SA226–AT and SA226–TC aircraft of the dangers of machining or filing any component of the latch or receptacle to ease the engagement. (A–80–76)

Issue an addition to the General Aviation Airworthiness Alerts, Advisory Circular 43–16, to alert operators of SA226 aircraft to the unsafe condition which can result from forcing the latching mechanism while the latches are not properly engaged. (A–80–77)

Responses to Safety Recommendations

Aviation

A–80–35, from the Federal Aviation Administration, August 6, 1980.—Response is to a recommendation issued May 7 as a result of Board investigation of an incident involving a Piper Model PA–31–350, at Washington National Airport, Washington, D.C., on September 19, 1978. The incident occurred when the pilot taxied forward a short distance for a brake check. Upon brake application, the nose wheel failed and then cocked against the gear fork assembly, resulting in damage to the gear retract mechanism and subsequent collapse of the nose gear assembly. The recommendation asked FAA to amend Airworthiness Directive 72–12–06 to require periodic nondestructive inspections of Cleveland P/N 40–76B and P/N 40–120A nose wheels on Piper model PA–31 aircraft. (See 45 FR 32147, May 15, 1980.)

In response, FAA notes that Airworthiness Directive 78–12–06, which was issued May 9, 1979, required only a visual inspection of Piper Model PA–31T aircraft nose wheel assemblies, Cleveland P/N 40–120A, before each flight, as contrasted to the request made by recommendation A–80–35. FAA says its initial analysis of Service Difficulty Reports related to these parts indicates a variety of causes of the failures experienced, such that additional investigation is required to determine whether some specific corrective action(s) is needed and what, if any, that action should be. FAA anticipates completing this review and analysis so that a decision as to FAA's course of action can be made within the next 30 days.

A–80–36 and –37, from the Federal Aviation Administration, August 6, 1980.—Reponse is to recommendations issued May 8 following investigation of Safety Board investigation of three air taxi/commuter accidents which disclosed significant medical problems involving pilots over 60 years of age. The recommendations asked FAA to determine through a study of the operating environment and rules for Part 135 operators whether the working conditions of Part 135 pilots are sufficiently different to warrant an age limitation different from that established for Part 121 pilots (A–80–36), and to amend 14 CFR 135.95 to include as an interim measure, pending completion of an appropriate study, an upper age limit for airmen under this Part which provides a level of safety equivalent to air carrier operations (A–80–37). (See 45 FR 34476, May 22, 1980.)

FAA reports that it is now evaluating these recommendations in detail and that input from its regional offices has been solicited and is currently under review. The National Institutes of Health is now conducting a study of pilot aging which is scheduled for completion in late 1980. FAA provided a copy of Pub. L. 96–171, dated December 29, 1979, which established the requirement for this research, and notes that a report of the results is to be submitted directly to the Congress within 1 year. This study is being conducted to determine:

—whether an age limitation which prohibits all individuals who are 60 years of age or older from serving as pilots is medically warranted;
—whether an age limtiation which prohibits all individuals who are older than a particular age from serving as pilots is medically warranted;
—whether rules governing eligibility for first- and second-class medical certification, as set forth in Part 67 of Title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to determine an individual's physical condition in light of existing medical technology;
—whether rules governing the frequency of first- and second-class medical examinations, as set forth in Part 67 of Title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to assure that an individual's physical condition is being satisfactorily monitored; and
—the effect of aging on the ability of individuals to perform the duties of pilots with the highest level of safety.

FAA will await the results of this study before acting on recommendations A–80–36 and –37.

Pipeline

P–80–16 and –17, from the U.S. Coast Guard, August 7, 1980.—Response is to recommendations issued last March 13 following investigation into the rupturing of a high-pressure gas line by a grappling hook from the anchor-handling vessel PETE TIDE II, while the vessel was grappling for an anchor pendent from the semisubmersible drilling rig OCEAN QUEEN near New Orleans, La., July 15, 1979. (See 45 FR 20255, March 27, 1980.)

Recommendation P–80–16 asked Coast Guard to require companies conducting anchor-handling activities in the vicinity of submarine pipelines to require specific information as to the location of submarine pipelines and other known hazards before conducting anchor-handling activities. In response, Coast Guard notes that its regulations for self-propelled U.S. mobile offshore drilling units (MODU) (46 CFR 109.565) and other vessels (46 CFR 97.05–05) provide that the unit have adequate and up-to-date "charts, sailing directions, coast pilots, light lists, notices to mariners, tide tables, current tables, and all other nautical publications necessary." In the context of a unit conducting anchor-handling operations, other necessary nautical publications would include appropriate charts or survey reports with information on submarine pipelines and other known hazards. Because this may not be clear to users from the language of the regulations, the Coast Guard will include in an amendment package to the MODU regulations clarifying language in light of P–80–16. Coast Guard will also propose that the revised requirements apply to all MODU's and other vessels which require anchoring in the vicinity of pipelines, subsea completions, or other production equipment on the seabed in the area where the vessel is operating. This amendment will be in the form of a notice of proposed rulemaking, to be published by January 1, 1981. No docket number has been assigned to the project.

With respect to recommendation P–80–17, which asked Coast Guard, in coordination with the Department of the Interior and and the Research and Special Programs Administration of the Department of Transportation, to develop facility marking and coordination requirements, Coast Guard says it concurs. Since pipelines do not normally constitute a hazard to general purpose navigation, Coast Guard does not require pipelines to be marked with aids to navigation. In the interest of safety, however, Coast Guard has no objection to offshore operators establishing temporary floats to mark the location of the pipelines in the immediate vicinity of an offshore facility. If the float itself presents a hazard to navigation, the owner must submit a private aid application in accordance with 33 CFR 66.01–5, and mark it as prescribed by the District Commander.

Railroad

R–79–73, from the Federal Railroad Administration, August 7, 1980.—Response is to the Safety Board's letter of June 26 commenting on FRA's previous response of last Feburary 21 to this recommendation, issued as a result of investigation of the collision of Amtrak train No. 111 with a track machine at Edison, N.J., April 20, 1979. (See 45 FR 14723, March 6, 1980.)

The Safety Board by its June 26 letter agrees that for train operations to be safe, there must be adequate operating rules. However, the Board knows from years of accident investigation that operating employees do not comply consistently with the rules, and sometimes it becomes expedient to use available means of communication, such as radio or telephone, to prevent a disaster. The Board has investigated a number of accidents which could have been prevented if a functioning radio system had been available. The Board's conclusion, "If the radio on the locomotive had been operable, the accident may have been prevented," is a valid one which resulted from thorough, legitimate analysis of the facts in this accident and cannot be characterized as conjecture. The Board notes that the history of the use of voice radio in train operations on the most effectively run systems suggests that radio can be one of the most effective tools in accident prevention. Additionally, although economic analysis is not an area of Safety Board consideration, the Board understands that the radio can be of economic benefit as a time-saving device.

In June 1978, the Safety Board recommended (R–78–5) that FRA analyze accident data in order to evaluate the role which radio plays in accidents. Additionally, the Board recommended (R–75–6) that unless refuted by the analysis, FRA should require the installation of radios. The Board does not believe the statistics produced by FRA offered a meaningful analysis, and as FRA clearly stated its intention not to take further action, the Board classified both recommendations as "Closed—Unacceptable Action." The present accident has raised the issue again, however, and even without statistical data, a safety analysis should indicate the effectiveness of using voice radios in train operations.

The Board's June 26 letter further expreses the belief that operating rules are the backbone of railroad safety. However, the statement in FRA's letter of February 21 that "railroad operating rules are the means by which railroads *guarantee* (emphasis added) a safe and functioning train operation," clearly ignores the operational and mechanical realities of how accidents do occur. Operating rules are not fail-safe. The Board's recommendation is based on a basic principle of safety: redundancy. The Board reiterates its belief that operable radios should be required equipment on trains which operate in main tracks, and while FRA is reconsidering this issue, recommendation R–79–73 is retained in an "Open—Unacceptable Action" status.

FRA's August 7 response refers to its February 21 letter which indicated that FRA does not have data which will support promulgation of a recommendation requiring all trains operating on a main track to be equipped with an operable radio, but the FRA has taken positive action to insure correction of certain deficiencies

involving Amtrak train operations" in the Northeast Corridor. FRA's August 7 letter notes that Amtrak has voluntarily equipped all of their locomotives operating in the Northeast Corridor with radios and has undertaken an effort to provide radios compatible with carrier frequencies on all passenger routes nationwide. Also, procedures have been developed to provide additional checks relative to the operability of on-board radios. FRA will monitor this action by Amtrak. FRA further notes that on January 31, 1980, the United Transportation Union filed a petition with FRA "to require that operating radios be required in locomotives and cabooses and that radios be required to be on the operating frequency of the railroad." This petition will be acted upon in the near future, and the Safety Board will be notified when the decision has been reached. FRA recommends that this recommendation be changed to "Open-Acceptable Alternate Action."

NOTE: Single copies of Safety Board reports are avilable without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906).

Margaret L. Fisher,

Federal Register Liaison Officer.

August 15, 1980.

[FR Doc. 80-25382 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-58-M

[Docket No. DCA-80-AR-045]

Railroad Accident Investigation Hearing: Philadelphia, Pa.

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m., (local time) September 10 through September 12, 1980, in Room 231 of the Civic Center Plaza, 34th Street at Civic Center Blvd., Philadelphia, Pennsylvania 19104.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the rear end collision of SEPTA commuter trains Nos. 406 and 472 on Conrail tracks which occurred at North Wales, Pennsylvania, on July 17, 1980.

Elmer Garner,

Hearing Officer.

August 13, 1980.

[FR Doc. 80-25383 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389-A]

Florida Power and Light Co., City of Orlando, Fla. and the Orlando Utilities Commission; Receipt of Additional Antitrust Information Time for Submission of Views of Antitrust Matters

Florida Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, (the Act), filed on June 13, 1980, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of the City of Orlando, Florida and the Orlando Utilities Commission, as an owner of the St. Lucie Plant, Unit 2, located on Hutchinson Island in St. Lucie County, Florida. The Orlando Utilities Commission was created by the Florida State Legislature and is a part of the City of Orlando, Florida.

The information was filed in connection with Florida Power and Light Company's application for an amendment to Construction Permit No. CPPR-144 to the St. Lucie Plant, Unit 2. Construction Permit No. CPPR-144 was issued on May 2, 1977 and construction of the plant is underway.

The original Notice of Receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the **Federal Register** on June 16, 1971, (36 FR 11473).

A copy of the Florida Power and Light Company letter, dated June 13, 1980 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C. and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Any person who wishes to have his views on the antitrust matters with respect to the City of Orlando, Florida and Orlando Utilities Commission presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation on or before September 29, 1980.

Dated at Bethesda, Maryland this 18th day of July, 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief Licensing Branch No. 1 Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-22794 Filed 7-29-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

August 18, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents are available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer of office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Officer—Richard J. Schrimper—447-6201)

Revisions

Farmer's Home Administration
7 CFR 1945-B, Emergency Loan Policies, Procedures, and Authorizations and 7 CFR 1945-C, Insured Economic Emergency Loan
FMHA 1940-38 and 1945-22
On occasion
Farmers suffering from economic emergency, 928,940 responses, 230,949 hours
Charles A. Ellett, 395-7340

Revisions

Food and Nutrition Service
Commodity Supplemental Food Program
On occasion
State dist. or comp. agen. loc. health or welf. agenc., 321,478 responses, 120, 128 hours
Charles A. Ellett, 395-7340

Extensions

Food and Nutrition Service
Report of Improperly Manufactured, Mutilated, or Shortage/Overage of Food Coupon Books
FNS-43
On occasion
Issuance/shipping points, 3,786 responses, 631 hours
Charles A. Ellett, 395-7340

Reinstatements

Food and Nutrition Service
Annual Report of Meal Service in Schools
FNS-47
Annually
State educational agencies, 59 responses, 17,416 hours
Charles A. Ellett, 395-7340

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michals—377-3627)

New Forms

Bureau of the Census
CPS Supplement Match P-Sample Followup Questionnaire
D-8053
Single time
Households in the U.S., 16,800 responses, 5,600 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census
November 1980 CPS Registration and Voting Supplement
CPS-1
Single time
Interviewed households in November 1980 CPS, 68,000 responses, 3,400 hours Off. of Federal Statistical Policy and Standard, 673-7974

Maritime Administration
Supplementary Training Course Application
MA-823
On occasion
Marine operating personnel, 7,000 responses, 350 hours
William T. Adams, 395-4814

Extensions

Industry and Trade Administration
Jewel Bearings and Related Components
ITA-941 (formerly DIB-941)
Annually
Producers, consumers and importers of jewel bearings, 500 responses, 1,500 hours
William T. Adams, 395-4814

Reinstatements

Economic Development Administration
Application for Financial Assistance-Private Sector Investments, Loans, and Guarantees
ED-201
On occasion
Firms expanding or starting new operations, 300 responses, 48,000 hours
Wiliam T. Adams, 395-4814

Economic Development Administration
Certification by Contractor or Subcontractor Regarding Equal Employment Opportunity
ED-120
On occasion
Contractors and subcontractors, 1,750 responses, 1,750 hours
William T. Adams, 395-4814

Economic Development Administration
Certificate as to Project Site, Right of Way and Easements
ED-152
On occasion
Engineers/Attorneys, 200 responses, 1,400 hours
William T. Adams, 395-4814

Economic Development Administration
Employment Schedule and Assurances of Job Opportunities
ED 223
On occasion
Business entities expanding or building new activities, 300 responses, 1,500 hours
William T. Adams, 395-4814

Economic Development Administration
Marketing and Capacity Information Report
ED-220
On occassion
Commercial and industrial firms, 300 responses, 600 hours
William T. Adams, 395-4814

Economic Development Administration
Potential Project Report for Field Staff Screening of Business Loan Applicants
ED-233
On occasion
Firms planning new expanded plants, 800 responses, 800 hours
William T. Adams, 395-4814

DEPARTMENT OF ENERGY

(Agency Clearance Officer—Diane W. Lique—633-8526)

New Forms

Permanent Exemption for New Powerplant Based on Inability To Obtain Adequate Capital
ERA 307-A
Single time
Electric utilities, 10 responses, 10,000 hours

Jefferson B. Hill, 395–7340

Revisions

Annual Report for Electric Utilities and Licensees, and Others (Class A and B)
FERC 1
Annually
Elec. util. with elec. operat. reve. of $1 million or more, 287 responses, 296,471 hours
Jefferson B. Hill, 395–7340

Annual Report for Natural Gas Companies (Class A and B)
FERC 2
Annually
Interst. nat. gas pipelines with gas oper. rev. of $1 M, 95 responses, 154,565 hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Agency Clearance Officer—Joseph J. Strnad—245–7488)

New Forms

Social Security Administration
Summary Report on the Low Income Energy Assistance Program
SSA–4473
Monthly
States and others administering energy assistance prog., 800 responses, 5,600 hours
Barbara F. Young, 395–6880

Social Security Administration
1981 Low Income Energy Assistance Program Household Survey
SSA–4472
Single time
Households applying for energy assistance programs, 42,000 responses, 73,500 hours
Off. of Federal Statistical Policy and Standard, 673–7974

Revisions

National Institutes of Health
Cost of Cancer Care
Single time
Cancer patients in Illinois, 360 responses, 677 hours
Eisinger, Richard, 395–6880

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—Bruce H. Allen—426–1887)

New Forms

Coast Guard
Heavy Weather Plan
Annually
Small vessels, 125 responses, 1,000 hours
Hayward, Corinne D., 395–7340

ACTION

(Agency Clearance Officer—James B. Lancaster—254–3172)

New Forms

Management Information System (MIS) for ACTION/OVCP—YES
On occasion
Participant is receiving job serv. in 12 sites in 5 States, 81,575 responses, 12,650 hours
Arnold Strasser, 395–6880

GENERAL SERVICES ADMINISTRATION

(Agency Clearance Officer—John F. Gilmore—566–1164)

New Forms

Report of Sales for Brand Products, Price Offers, and Product Characterization
Other (see SF–83)
Description not furnished by agency, 400 responses, 200 hours
Kenneth B. Allen, 395–3785

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

(Agency Clearance Officer—Malcolm C. McCormack—395–4831)

New Forms

Harry S. Truman Scholarship Foundation
Payment Request
PR–2
Semi-annually
250 Truman scholars, 750 responses, 375 hours
Edward C. Springer, 395–4814

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

(Agency Clearance Officer—C. Michael Hathaway—395–5070)

New Forms

United States Trade Representatives
Survey of Automotive Investment Expenditures in U.S. and Canada
Single time
Motor vehicle and parts manufacturers, 30 responses, 720 hours
Phillip T. Balazs, 395–4814

PENSION BENEFIT GUARANTY CORPORATION

(Agency Clearance Officer—Robert E. Geiger—254–4776)

New Forms

PBGC Audience Survey
Single time
Pension recipients and pension plan sponsors, 700 responses, 84 hours
Arnold Strasser, 395–6880

VETERANS ADMINISTRATION

(Agency Clearance Officer—R. C. Whitt—389–2146)

Reinstatements

Compliance Report of Proprietary Institutions Apprenticeship Programs and on the Job Training Programs
VA 27–4274
Annually
VA approved proprietary inst. and job training estab., 11,760 responses, 5,880 hours
Laverne V. Collins, 395–6880

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–25515 Filed 8–20–80; 8:45 am]
BILLING CODE 3110–01–M

President's Commission for a National Agenda for the Eighties, Panel I (Energy, Natural Resources, and the Environment); Meeting

August 15, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the staff of Panel I (Energy, Natural Resources, and the Environment) of the President's Commission for a National Agenda for the Eighties, scheduled August 28, 1980, from 2:00 p.m. to 6:00 p.m. at William James Hall, Room 1550, Harvard University, Cambridge, Massachusetts.

The purpose of the meeting is to discuss the contents of the draft report to the full commission.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006 (202) 275–0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80–25361 Filed 8–20–80; 8:45 am]
BILLING CODE 3110–01–M

Privacy Act; New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposal on the privacy and other personal or property rights of individuals . . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between June 13, and August 7, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of Defense

System Name:

Medical Evaluation Files.

Report Date:

June 13, 1980.

Point of Contract:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg—Room 818, 1735 North Lynn Street, Arlington, VA 22209.

Summary:

The Department of the Army proposes to alter a system of records by placing certain information contained in paper files on ADPE magnetic diskettes to effect better management control. The magnetic diskettes will contain personal information on members, certain codes of specific type of injuries for research study purposes, and Veterans Administration Schedule for Rating Disability Diagnostic Codes. The paper files will contain the proceedings of the Physical Evaluation Board describing the medical problem, findings and recommendation, and adjudicative decision.

System Name:

Pentagon and Federal Building 2 Carpool Locator.

Report Date:

July 21, 1980.

Point of Contact:

Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, Pomponio Plaza Bldg—Room 818, 1735 North Lynn Street, Arlington, VA 22209.

Summary:

The Department of Defense proposes to amend a system of records to include Federal Building 2 personnel and associated carpool records in the Pentagon's automated carpool system, and to announce a manual self-help carpool locator board system to be made operational at Federal Building 2.

Executive Office of The President, Office of Administration

System Name:

Security Clearance System.

Report Date:

July 18, 1980.

Point of Contact:

Richard Harden, Director, Office of Administration, 726 Jackson Place NW., Washington, D.C. 20503.

Summary:

The Office of Administration proposes to establish a new system of records that will be used to verify the level of security clearance; identify individuals whose security investigations need updating; and control the issuance and renewal of building passes. Individuals in the system will be applicants for employment and employees (including contractor employees and detailees from other agencies) of the Office of Administration, the Council on Wage and Price Stability, the Council on Environmental Quality, the U.S. Regulatory Council on Environmental Quality, the U.S. Regulatory Council and the Office of the U.S. Trade Representative.

Department of Health And Human Services

System Name:

Health Professions Planning and Evaluation.

Report Date:

June 27, 1980.

Point of Contact:

Ms. Kay Clary, HRA Privacy Act Coordinator, Center Building, Room 9–22, 3700 East-West Highway, Hyattsville, MD 20782.

Summary:

The Department of Health and Human Services proposes to establish a new system of records that will cover records relating to studies conducted for the Department on the national health care delivery system. The Health Resources Administration uses various records in the system to identify problems in the health care training and delivery systems, plan programs to correct the problems, and evaluate the effectiveness of the resultant programs. The categories of individuals in the system include health professionals and students in the various health professions.

Department of Justice

System Name:

Regional Automated Intelligence Data System (RAIDS).

Report Date:

July 24, 1980.

Point of Contact:

The Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530.

Summary:

The Drug Enforcement Administration (DEA) proposes to establish a new automated system of records to maintain information relating to narcotics law enforcement and narcotics intelligence in the DEA Southeastern Region. The system will provide for rapid retrieval of information from a composite regional data file. All of the information in the system will be extracted from previously compiled investigative reports. The Department also proposes to extempt the system from the provisions of 5 U.S.C. 552a(c) (d) (3) and (4), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g), and (h) pursuant to 5 U.S.C. 552a(j) and (k).

Federal Trade Commission

System Name:

Discrimination Complaint Files.

Report Date:

July 8, 1980.

Point of Contact:

Ms. Brenda Hull, Office of the General Counsel, Room 521, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Summary

The Federal Trade Commission proposes to establish a new system of records to centralize all EEO complainant files in the Office of the Equal Employment Opportunity Director. The data is used to resolve issues related to discrimination because

of race, national origin, religion, sex, age, and physical or mental handicap presented in formal complaints. The data is also used to produce reports for the Merit Systems Protection Board, the Office of Management and Budget, and the Equal Employment Opportunity Commission.

System Name:

Consumer Education Mailing List

Report Date:

July 8, 1980.

Point of Contact:

Ms. Brenda Hull, Office of the General Counsel, Room 521, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Summary

The Federal Trade Commission proposes a new system of records which will consist of a mailing list of the names and addresses of individuals who have indicated they wish to receive Commission consumer information.

Brenda A. Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-25423 Filed 8-20-80; 8:45 am]

BILLING CODE 6750-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the fourth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in Room 2010 of the New Executive Office Building, 1726 Jackson Place NW, Washington, D.C., from 9:00 a.m. to 5:00 p.m. on Monday, September 15, 1980, and from 9:00 a.m. to 4:00 p.m. on Tuesday, September 16, 1980.

The meeting will be open to the public, subject to limitations of available space. The agenda of this Commission meeting will include, among other things, the following issues:

Monday, September 15: Ethical Issues in and Mechanisms for Compensation of Injured Research Subjects.

Tuesday, September 16: Need for Commission Study of the Ethical Issues in Genetic Engineering; Advisability of Legislation on the Standards for Determining Death.

During the afternoon of Monday, September 15, one-half hour will be devoted to comments from the floor on the subject of Compensation of Research Subjects, limited to three minutes per comment. Written suggestions and comments will be accepted from those who are unable to speak because of the constraints of time or those unable to attend the meeting.

Records shall be kept of all Commission proceedings and will be available for public inspection at the Commission's office, located in Suite 555, 2000 K Street NW, Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653-8061.

Alexander M. Capron,

Executive Director.

[FR Doc. 80-25410 Filed 8-20-80; 8:45 am]

BILLING CODE 6820-AV-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-7906]

Basic Resources Corp., Common Stock, $.05 Par Value; Application To Withdraw From Listing and Registration

August 14, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Basic Resources Corporation's (the "Company") common stock has been listed and registered for trading on the American Stock Exchange since December 14, 1979 and, pursuant to a Registration Statement on Form 8-A which became effective on August 5, 1980, the New York Stock Exchange ("NYSE"). The company has determined that the additional fees and administrative burden of dual listing do not justify maintaining the common stock on the Amex and the NYSE, and believes that dual listing would not be in the best interest of its shareholders.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 5, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25474 Filed 8-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11304; (812-4581)]

Capital Corp. of America, et al.; Filing of Application for Order Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder Permitting Joint Transaction

August 13, 1980.

Notice is hereby given that Capital Corporation of America ("CCA"), 1521 Walnut St., Philadelphia, Pennsylvania 19102, registered under the Investment Company act of 1940 ("Act") as a non-diversified, closed-end, management investment company and also a federal licensee under the Small Business Investment Act of 1958, Martin M. Newman ("Newman"), president and director of CCA, and Barton M. Banks ("Banks"), secretary and director of CCA (hereinafter, CCA, Newman and Banks are referred to collectively as "Applicants"), filed an application on November 2, 1979, and an amendment thereto on June 16, 1980, for an order of the Commission, pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting Banks and Newman to enter into, and perform prusuant to, employment agreements with CCA, which agreements were negotiated in connection with the sale of a controlling interest in CCA. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that CCA was organized in 1971 and that as of March 13, 1979: (1) its 100,000 common shares

outstanding were held by 345 shareholders, and (2) to CCA's knowledge, only Banks, Newman, and Harriet R. Banks beneficially owned 5 percent or more of CCA's outstanding common shares. Applicants further state that on March 13, 1979, CCA entered into a Stock Purchase Agreement ("Agreement") to sell, in a transaction not involving a public offering, 219,320 of its authorized but unissued common shares to ten persons ("Purchasers"). Because of the resulting change of control of CCA, the sale of CCA shares pursuant to the Agreement was subject to approval of the Small Business Administration ("SBA"). On July 18, 1979, SBA approval was issued and the 219,320 shares were released to the Purchasers for $503,090.23 ($2.294 per share). according to the application, the shares were sold at their net asset value in accordance with the provisions of Section 23(b) of the Act, and such net asset value was calculated by valuing the securities in CCA's portfolio at fair value as determined in good faith by its board of directors. At the time of the share price calculation, CCA's shares were being traded in the over-the-counter market at $1.25 bid and $2.00 ask per share.

The Agreement also provided that Banks and Newman would enter into employment agreements with CCA to provide management and financial advice to CCA and, in Newman's case, to oversee the daily operation of CCA. Applicants state that under the employment agreements Newman will be required to perform his duties on a full-time basis, but may engage in other business activities which do not interfere with his CCA duties. Banks will be required to devote as much of his time as he believes necessary to accomplish the work of CCA, recognizing that Banks will continue to engage in other business and professional activities. According to the application, the employment contracts were to become effective on April 1, 1979, and were to continue in effect until March 31, 1984. However, as agreed by the parties, the employment agreements have not yet become effective. Applicants represent that Banks, Newman and CCA do not intend to enter into the employment agreements absent the issuance of the requested order of the Commission.

The application states that CCA has never utilized an external investment adviser to manage its daily affairs or to effect portfolio investments, and that these functions are performed by Newman and Banks. Banks and Newman have been executive officers, employees, directors and substantial shareholders of CCA since at least 1962. As such, they have managed CCA's affairs subject to the overall supervision of CCA's board of directors. Since his election as a director of CCA on September 17, 1979, Henry Ginsberg ("Ginsberg"), one of the Purchasers, has also actively participated in the management of CCA. The application states that Ginsberg's responsibilities include identifying investment opportunities, seeking and analyzing loan applications, negotiating financial packages and researching new investment areas.

according to the application the salaries of Banks and Newman were set in 1974 at $20,000 per year. The proposed employment agreements provide for salaries of $22,727 for CCA's 1979 fiscal year and for increases of $5,000 per year for each of the next two succeeding fiscal years. Any increases in salaries applicable to subsequent years of the employment agreements will be determined in the future, taking into consideration economic conditions, the financial performance of CCA, and the prevailing salaries for persons with similar qualifications. Applicants represent that the salaries proposed in the employment agreements, when compared to the salaries paid to comparably positioned executive employees by other small business investment companies (with assets comparable in size to CCA's assets), will be approximately equal to the industry median.

Banks and Newman, in their executive capacities, negotiated the terms of the Agreement with Ginsberg, the agent for the Purchasers. Because Banks and Newman, affiliated persons of CCA, negotiated the Agreement which provides that they shall enter into certain employment agreements with CCA, Applicants state that the execution of the employment agreements, and their performance, might be considered to be a joint enterprise or joint arrangement as defined by Rule 17d-1(c) under the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. As noted above, Applicants have requested an order pursuant to Rule 17d-1 under the Act permitting the execution and performance of the employment agreements.

In support of the requested order, Applicants state that the proposed transaction is fair and reasonable to the parties and that the participation by CCA, on the basis proposed, is consistent with the provisions, policies and purposes of the Act and is not on a basis less advantageous than that of other participants. Applicants state that the Agreement, including its requirement concerning the employment agreements, was subject to the approval of, and was approved by, the board of directors of CCA prior to entry of CCA into the Agreement. In addition, Applicants state that the employment agreements where thereafter approved by a new board of directors which included representatives of the Purchasers.

The application states that Banks and Newman have been responsible for the management of CCA's business on a daily basis. They review loan applications, make recommendations to CCA's board of directors concerning loans, and are responsible for taking steps to bring delinquent loans to a current basis and for maintaining a reasonably detailed knowledge of the business condition of CCA's borrowers. CCA believes that the services of managers who have experience with its particular portfolio are necessary to realize the full value ascribed to its current investment portfolio, and that the retention of Banks and Newman will enhance its ability to realize that value. CCA also states that with the experience and knowledge of Banks and Newman it will be albe to expand effectively its loan portfolio. Applicants state that such expansion is now feasible because of the infusion of new capital from the sale of the additional shares to the Purchases and the resulting expanded capacity to borrow from the SBA.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if

the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-25472 Filed 8-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11305; (811-2975)]

Federated Trust for Short-Term Municipal Obligations; Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Federated Trust for Short-Term Municipal Obligations ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219; a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on February 25, 1980, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on December 13, 1979, and that on that date it also filed a registration statement pursuant to the Securities Act of 1933 ("Securities Act") with respect to the issuance of an indefinite amount of shares of capital stock. Applicant states that the Securities Act registration statement was never declared effective, and further states that it has never made a public offering of its securities. Applicant represents that it has retained no assets, has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant further represents that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-25473 Filed 8-20-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–80–22]

Exemption Petitions, Summary and Dispositions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 8, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 1, 1980.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20493	Electrospace Systems, Inc	14 CFR 65.91(c)(2)	To enable Ronald J. Spatafora to become eligible for an Inspection Authorization without meeting the requirement of being actively engaged, for at least a 2-year period, in maintaining aircraft before the date of application.
20295	Ozark Airlines	14 CFR 61.39 (a)(1) and (b)	To allow certain of the petitioner's pilots to take the flight test for an airline transport pilot certificate even though they have not passed the written test for that certificate within the previous 24 months.
20399	Flying Boat, Inc	CAR 4b.604(b)	To permit the petitioner to operate Grumman G–111 aircraft without complying with the requirement that a means exist for each reversing propeller to indicate to the pilot when the propeller is in reverse pitch.
20559	Pan American World Airways	14 CFR 91.32(b)(1)(i) and 121.333(c)(2).	To permit operation of B–747–100/200 and L–1011 aircraft up to and including their respective maximum certificated of altitudes 45,000 and 43,000 feet, without requiring one pilot to don and use an oxygen mask when above 41,000 feet.
20549	Boeing Commercial Airplane Company	14 CFR 25.1301 and 37.120	To permit location of the flap position indicator in the lower left hand corner of the pilot's center instrument panel and servo altimeters configures with diel markings at 50-foot increments rather than at 20 feet.
20498	Rogers Helicopters	14 CFR 91.39(b)	To permit the use of a Bell UH1B helicopter in emergency air ambulance service for compensation while the aircraft is certificated in the restricted category.
20519	Continental Airlines, Inc	14 CFR 121.291(a)(2)(i)	To permit an increase of the passenger seating capacity of two B–727–100 aircraft by more than five percent without conducting the required full-scale emergency evacuation demonstration of passengers and crew.
16955	American Airlines Training Corp	14 CFR 61.58(c)	To allow pilots to conduct the entire 24-month pilot in command proficiency check in a digital flight simulator.
20411	G. C. Marden	14 CFR 61.129(a)	To allow Mr. Marden, to carry passengers for hire on flights of more than 50 nautical miles. (Petitioner does not hold an instrument rating on his commercial pilot certificate.)
20486	United Airlines	14 CFR 21.93	To allow an "acoustical change" on their JT9D–3A powered 747 fleet without prior approval.
20495	Midwest Piper Flight	14 CFR 135.261(b)	To allow Midwest Piper pilots, conducting helicopter emergency flights in conjunction with Wesley Medical Center, to have rest periods of four hours duration instead of 10 hours in 24 consecutive hours.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20048	Chalk's Int'l. Airlines, Inc	14 CFR 135.175(a)	To allow operation of large transport category aircraft in passenger carrying Day VFR operations without Airborne Weather Radar Equipment. *Granted 7/25/80.*
19753	Antilles Air Boats, Inc	14 CFR 135.175(a)	To allow the operation of large transport category passenger-carrying aircraft without the required airborne weather radar equipment installed. *Granted 8/1/80.*
20396	A.L.E.R.T. Kalispell Regional Hospital	14 CFR 121.261(b)	To allow frequent rest periods between flights rather than a 10 consecutive hour block of rest. *Granted 8/5/80.*
20355	Aeroamerica, Inc	14 CFR 121.49, 121.49, and 121.55.	To provide relief from a requirement to prepare, certify, and provide certain financial reports to the Federal Aviation Administration (FAA). *Denied 8/1/80.20422*
20422	Sun Land Airlines, Inc	14 CFR 121.291(a)	To allow petitioner to commence passenger carrying operations in its DC–8–31 aircraft without first conducting a full seating capacity emergency evacuation demonstration. *Granted 7/25/80.*
20579	Compania Dominicana De Aviancion, C. Oor A	14 CFR portions of Parts 21 and 91.	To allow to use an FAA-approved B–727 master minimum equipment list while operating B–727 aircraft under Part 91 of the FAR. *Granted 8/1/80.*

[FR Doc. 80-24848 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

Airports Division, Southwest Region, Fort Worth, Tex.; Change of Geographical Area of Responsibility

Notice is hereby given that on October 1, 1980, the Airports Division at Fort Worth, Texas, will assume direct field jurisdiction of the following Texas counties:

Aransas	Kenedy
Atascosa	Kent
Bandera	Kerr
Bastrop	Kimble
Bee	Kinney
Bell	Kleberg
Bexar	Lampasas
Blanco	La Salle
Brewster	Lavaca
Brooks	Lee
Burnet	Live Oak
Caldwell	Llano
Calhoun	Loving
Cameron	Mason
Cherokee	Maverick
Childress	McCulloch
Coke	McMullen
Comal	Medina
Concho	Menard
Cottle	Milam
Crane	Mitchell
Crockett	Nolan
Culberson	Nueces
De Witt	Panola
Dimmit	Pecos
Duval	Presidio
Edwards	Reagan
Fayette	Real
Fisher	Reeves
Frio	Refugio
Gillespie	Rusk
Goliad	San Patricio
Gonzales	San Saba
Guadalupe	Schleicher
Hayes	Scurry
Hidalgo	Starr
Hudspeth	Sterling
Irion	Stonewall
Jackson	Sutton
Jeff Davis	Terrell
Jim Hogg	Tom Green
Jim Wells	Travis
Karnes	Upton
Kendall	Uvalde
Val Verde	Williamson
Victoria	Wilson
Ward	Zapata
Webb	Zavala
Willacy	

Services to the general public of these counties (formerly provided by the Airports District Offices, Houston, Texas, and Albuquerque, New Mexico) will be provided by the Airports Division, Fort Worth, Texas, as well as Northeast Texas counties now being served.

Address: Department of Transportation, Federal Aviation Administration, Airports Division, ASW-600, P.O. Box 1689, Fort Worth, Texas 76101.

Issued in Fort Worth, Texas on August 8, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-25071 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13

[Summary Notice No. PE-80-23]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 10, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 17, 1980.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20499	Frank E. Morris	14 CFR Part 123	To permit Part 123 operation of a Vickers Vicount aircraft without a flight recorder, cockpit voice recorder, and a ground proximity warning glide slope deviation alerting system.
20522	Aerofab, Inc	14 CFR § 37.21	To permit a TSO authorization to be transferred to DeVore Aviation Corp. from petitioner.
19113	Capitol International Airways	14 CFR § 121.3	Extension of the Sept. 30, 1980 expiration date of Exemption No. 2746A which permits continued scheduled passenger service under the supplemental air carrier rules of Part 121.
20477	Evergreen International Airlines	14 CFR §§ 121.311(f) and 121.547	To allow petitioner, to the extent necessary, to operate its DC-8 aircraft with a non-essential flight attendant occupying a cockpit jump seat during takeoffs and landings.
20463	Wabash Enterprises Inc	14 CFR § 135.89(b)(3)	To permit operation of Learjet Model 35A aircraft above FL350 and up to FL410 under the provisions of § 121.333.
20313	Bell Helicopter	14 CFR § 29.1323(c)(1) and (c)(2)	To permit the following: For multi-engine rotorcraft, the airspeed error of the installation, excluding the airspeed indicator instrument error, may not exceed three percent or five knots, whichever is greater, throughout the speed range in level flight at forward speeds equal to the minimum power required speed and above; and ten knots throughout the speed range from 30 knots to the speed for minimum power, and throughout the speed range in climb from 10 knots below takeoff safety speed to 10 knots above the best rate of climb speed.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20412	Royal Hawaiian Air Service (RHAS)	14 CFR § 91.27(a)	To allow non-revenue ferry flights to a maintenance base for repairs without a special flight authorization physically aboard the aircraft. *Granted 8/13/80.*
20314	Flight Training Devices	14 CFR §§ 61.157(d)(1) and 61.63(d)(2).	To allow petitioner's trainees to complete a practical test, for the issuance of a type rating to be added to any grade of pilot certificate, in an airplane simulator as set forth in Appendix A of Part 61. *Granted 8/13/80.*
20371	W. F. Probet Co	14 CFR § 61.58(c)	To allow petitioner's pilots to perform all the required maneuvers for a 24 month check in a FAA approved BAC-111 Visual Flight Simulator. *Granted 8/14/80.*
16934	United States Dept	14 CFR § 91.79 (b) and (c)	To permit aircraft to conduct low altitude operations at distances closer to persons and property than allowed by the regulations. *Partial Grant 8/15/80.*

[FR Doc. 80-25513 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-13-M

Environmental Impact Statement; Boulder and Larimer Counties and City of Estes Park, Colo.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Boulder and Larimer Counties and city of Estes Park, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Budwig, Division Administrator, Central Direct Federal Division, P.O. Box 25246, Denver, CO 80225, Attention: Mr. Robert Arensdorf or Mr. E. C. Samuelson (303-234-4798).

SUPPLEMENTARY INFORMATION: The Colorado Forest Highway Program agencies (Federal Highway Administration—lead agency, U.S. Forest Service, Colorado Division of Highways) are proposing to improve approximately 12 miles of Forest Highway 26 (Colorado Route 7) from Meeker Park to U.S. 36 East in Estes Park, Colorado. The project area crosses portions of Boulder and Larimer Counties, the Arapaho-Roosevelt National Forest, and the town of Estes Park. The proposed action generally would follow the alignment of the existing 20-24-foot paved road and would entail regrading, widening, paving, and drainage features to improve capacity and safety features of the existing road and provide additional recreational parking. Five minor creek drainages and some associated wetlands would be crossed.

Alternatives currently being considered for this proposed action include:

No-Action, maintain the existing road with no structural or geometric improvement;

Reconstruct and widen the existing road with minor realignments on most curves for safety improvement. This alternative would also include addition of a 2000-foot (approx.) climbing lane (three-lane section) along Lily Mountain above the Estes Valley, and a four-lane urban section with bikepath within the city limits of Estes Park;

Reconstruct as above but realign the northern portion of the existing road onto possible new alignments as follows:

—Down Old Fish Creek Road from Wind River Pass to U.S. 36 East in Estes Park;

—Down Aspen Brook Valley from Wind River Pass to U.S. 36 West in Estes Park;

—Down Marys Lake Road from Colorado 7 to U.S. 36 West in Estes Park.

Provide other transportation modes to serve the transportation needs in this corridor.

Much of the scoping process for this proposed action has already been undertaken. In late 1978, letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies and to private organizations and citizens who were interested or were expected to be interested in this proposal. Two meetings with involved governmental/private agencies and one public meeting were held in Estes Park in late 1978 to discuss the project and related issues. Future meetings are expected with individual agencies or interested groups to analyze specific issues. Additional interagency and/or public meetings may be held if significant new concerns are raised during the location/environmental analysis process. FHWA and program agencies are presently conducting location and environmental analyses of the proposed action which will be documented in a Draft Environmental Impact Statement likely to be used in late 1980. A corridor/design public hearing(s) will be held before the Forest Highway Program agencies make a final decision on implementing the proposed action. Questions or comments concerning the proposed project can be addressed to the individuals noted above.

Issued on: August 13, 1980.

Jerry L. Budwig,

Division Administrator, Central Direct Federal Division, Denver, Colo.

[FR Doc. 80-25366 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Highway Administration

Environmental Impact Statement; Gloucester County, N.J.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Gloucester County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Lloyd J. Jacobs, Staff Specialist for Environment, Federal Highway Administration, 25 Scotch Road, Second Floor, Trenton, New Jersey 08628, Telephone: (609) 989-2291.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Jersey Department of Transportation (NJDOT), will be preparing an Environmental Impact Statement on a proposal to complete construction of 9.7 miles of I-295 as a six-lane, grade-separated facility from Hessian Avenue to Repaupo Road, Gloucester County, New Jersey. The proposed project would construct two lanes for 7.4 miles within the existing I-295 median from Delaware Street to Repaupo Road (I-295-1(52) and a widening or new alignment for 2.3 miles from Hessian Avenue to Delaware Street (I-295-1(43). The latter section is now combined with U.S. Route 130 as an unlimited access roadway carrying local residential and commercial traffic.

The purpose of this project is to relieve congestion on existing I-295/U.S. Route 130 while improving traffic flow and reducing accident rates. Further, the completed Route I-295 brought up to Interstate standards will meet regional planning needs, Federal military highway objectives, and will add an additional link in the Interstate network.

V 45 A G 2 1 8 0 UMI

Adjacent land use is suburban/rural with scattered large industrial employers in the project area. Alternatives under consideration include (1) widening existing alignment; (2) widening and 2.3 mile realignment to west of existing facility; (3) widening and 2.3 mile realignment to east of existing facility with two major interchanges; (4) widening 2.3 mile realignment to east of existing facility with one major interchange; (5) the no-action alternative.

The FHWA and NJDOT issued a Notice of Planned Action on March 8, 1978 to all government agencies with areas of responsibility for early coordination describing the proposed project and inviting those agencies to comment. Informational meetings with the public were held on March 1, 1978, March 29, 1978, and November 27, 1979, at the Municipal Building, West Deptford, New Jersey. A formal scoping meeting is planned and Federal and State agencies with permit or commenting responsibilities will be invited.

(Catalog of Federal Domestic Assistance Program Number 20.205, (Highway Research, Planning, and Construction). The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: August 13, 1980.

John J. Kessler, Jr.,

Division Administrator, Trenton, N.J.

[FR Doc. 80-25388 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: New Castle County, Del.

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in New Castle County, Delaware.

FOR FURTHER INFORMATION CONTACT: Michael Otto, Area Engineer, Federal Highway Administration, Delaware Division, P.O. Box 517, Dover, Delaware, 19901, Telephone: (302) 736–5616; Therese M. Coghlan, Environmental Planner, Environmental Studies Office, Delaware Department of Transportation, P.O. Box 778, Dover, Delaware, 19901, Telephone (302) 736–4642.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Delaware Department of Transportation, will prepare an environmental impact statement (EIS) as part of a planning study for a proposal to improve Naamans Road, Delaware Route 92 in northeastern New Castle County, Delaware. The proposed improvement would involve the reconstruction of Naamans Road, Delaware Route 92, from Concord Pike (U .S. Route 202) to Philadelphia Pike (U.S. Route 13) a distance of approximately 5.8 miles. Improvements to the corridor are considered necessary to provide adequate capacity for existing and projected traffic demand and incorporate modern design features to provide safe and efficient transportation service.

Alternatives under consideration include (1) taking no action; and (2) widening the existing two-lane roadway to four lanes. Alignment and design variations will be incorporated into and studied with the various build alternatives.

Letters describing the proposed action and soliciting cooperation into the study through the incorporation of scoping will be sent to appropriate Federal, State, and Local agencies. A formal scoping meeting is planned for August 27, 1980 at a location near the corridor area. A public notice announcing the undertaking of the planning study has appeared in the local newspapers and has been distributed to private organizations and citizens who have previously expressed interest on the proposal. A series of public meetings will be held in the corridor area from September through December, 1980. In addition a public hearing is scheduled for early 1981. Public notice and individual mailing from an established list will be utilized to announce the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued August 7, 1980.

John F. Sullivan, Jr.,

Division Administrator, Dover, Del.

[FR Doc. 80-25365 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463); 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held September 19, 1980, at 10:00 a.m. until 12:00 p.m. at the Atlanta Hilton Hotel, Courtland and Harris Streets, NE in the Milan Room, Atlanta, Ga. 30303. The agenda for the meeting is as follows:

—Review and Discuss MESBIC Program
—Status of MBRC Budget
—General Overview of MBRC Programs

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later that the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, SW, Washington, D.C. 20590, telephone: (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on August 12, 1980.

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 80-25296 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-06-M

Feasible Ownership Plan Under the Railroad Revitalization and Regulatory Reform Act of 1976; Extension of Deadline

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice.

SUMMARY: The deadline for submitting a feasible ownership plan to FRA under section 505(h)(3)(A)(ii) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Act) is extended from August 20, 1980 to September 10, 1980.

FOR FURTHER INFORMATION CONTACT: James W. Hanscom, Acting Director, National Freight Assistance Programs, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW., Room 5415, Washington, D.C. 20590, (202) 426–9657.

SUPPLEMENTARY INFORMATION: Section 112 of the Rock Island Railroad Transition and Employee Assistance Act (Pub. L. 96–254) amended section 505 of the Act to add a new subsection (h) authorizing FRA to provide assistance to noncarrier entities to purchase, lease or rehabilitate properties of the Chicago, Rock Island & Pacific Railroad Company and to purchase properties of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company. Under section 505(h)(3)(A)(ii) of the Act Applicants are required to submit a feasible ownership plan to FRA no later than August 20, 1980, or such later date as the Administrator of FRA by delegation from the Secretary of Transportation considers appropriate. Due to a number of applicants' concerns that they would be unable to prepare such a plan in so little time, the Administrator of FRA is extending the submission closing date to September 10, 1980. A feasible ownership plan shall be an explanation of applicant's plan for owning and managing the subject property to provide for a prudent common carrier rail operation.

Issued in Washington, D.C. on August 14, 1980.

Robert E. Gallamore,

Acting Administrator, Federal Railroad Administration.

[FR Doc. 80-25949 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Motor Vehicle Safety Standards; General Motors Corp. Front Wheel Bearing Defect; Petition Denied

This notice sets forth the reasons for the denial of a petition for a hearing on the question of whether a manufacturer has reasonably met its obligation to remedy a safety-related defect.

On May 10, 1980, David L. Cox of Springfield, Virginia, petitioned the agency to hold a public hearing pursuant to 49 CFR 557.3(c) to determine if General Motors Corp. had reasonably met its responsibility to correct a safety-related defect in his 1978 Pontiac Grand Am, specifically to correct a front wheel bearing defect. General Motors had notified him of the safety-related defect in his car but his local dealer allegedly had not performed the repairs.

Information received from General Motors on July 16, 1980, indicated that the vehicle had been properly repaired at the time it was serviced and that the petitioner now understood how the repairs were performed. Based upon the fact that the problem was resolved without holding a hearing, the petition was denied on July 25, 1980.

(Sec. 156, Pub. L. 93–492, 38 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 13, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80-25131 Filed 8-20-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Measures That Could Be Used To Restrain U.S. Imports of Ethyl Alcohol for Use in Gasohol

AGENCY: U.S. Treasury Department.

ACTION: Report to Congress on possible import barriers for ethyl alcohol.

SUMMARY: The Treasury Department was mandated by the Crude Oil Windfall Profits Tax Act (Pub. L. 96–223, Section 5181) to report to Congress the measures that might be used to

—Deny the excise tax exemption for any gasohol made with imported alcohol;

—Limit U.S. imports of ethyl alcohol; or

—Monitor imports of ethyl alcohol.

Because measures to restrain imports could have serious consequences for large segments of the population, the Treasury Department is seeking written comments from affected parties concerning imports of alcohol fuels.

DATES: Comments will be accepted until September 15, 1980.

ADDRESS: Secretary of the Treasury, Attention: International Trade Office, U.S. Department of the Treasury, 15th and Pennsylvania Ave., NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: William E. Barreda, International Trade Office, U.S. Treasury Department, (202) 566–5305.

SUPPLEMENTARY INFORMATION:

Background

In order to create an incentive for domestic producers of fuel alcohol, Congress exempted gasohol from the 4 cent/gallon excise tax to which sales of conventional gasoline are subject. Under the Windfall Profits Act, this exemption was extended until 1992.

The Treasury Department report to Congress will examine ways in which the government can limit to domestic alcohol producers the benefit of this tax incentive. These measures could include:

—Denial of tax exemption for gasohol made from imported alcohol;

—Tariff barriers for imported alcohol;

—Quantitative import restraints; or

—Both quantitative and tariff measures.

In inviting written comments from affected parties, Treasury wishes to obtain information on:

—The structure of the domestic market;

—The administrative feasibility of a tax exemption limited to gasohol made from domestic alcohol;

—The need (if any) for imports to ease regional shortages of ethyl alcohol and help develop markets;

—The price competition that imports induce;

—The cost of production; and

—Domestic demand for gasohol.

Dated: August 18, 1980.

Approved:

Charles Schotta,

Acting Assistant Secretary, International Affairs.

[FR Doc. 80-25359 Filed 8-20-80; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register

receiver, liquidator, or liquidating agent	4	6

Sunshine Act Meetings

Federal Register
Vol. 45, No. 164
Thursday, August 21, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1,2,3,4
Federal Maritime Commission	5, 6
Federal Mine Safety and Health Review Commission	7
Parole Commission	8, 9
Railroad Retirement Board	10
Securities and Exchange Commission	11

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 18, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from First State Bank of Northern California, San Leandro, California.

The Board further determined, by that same majority vote, that no earlier notice of the change in the subject matter of the matter was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)).

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1569-80 Filed 8-19-80; 12:19 pm]
BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 25, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: 1974 Privacy Act Notice—"Grievance Records" System of Records.

Memorandum re: Proposed Revision to the Corporation's Employee Grievance Procedure.

Memorandum re: Uniform Commercial Bank Performance Report.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Office of Corporate Audits regarding 15 liquidation sites.

Report of the Office of Corporate Audits regarding a summary analysis of Examination Reports Processing System.

Memorandum re: Attorneys' Fees Paid During Second Quarter 1980.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W. Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1570-80 Filed 8-19-80; 12:19 pm]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 25, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Sanger Community Bank, a proposed new bank, to be located at 1601 Seventh Street, Sanger, California, for Federal deposit insurance.

Bank of the Northwest, a proposed new bank, to be located at 2220 Oklahoma Avenue, Woodward, Oklahoma, for Federal deposit insurance.

Houston North Side Bank, a proposed new bank, to be located at 2010 North Main Street, Houston, Texas, for Federal deposit insurance.

Application for consent to establish a branch:

Sun Bank and Trust Company of St. Petersburg, St. Petersburg, Florida, for consent to establish a branch on the south side of East Bay Drive, approximately 600 feet west of its intersection with Belcher Road, Unincorporated Pinellas County (P.O. Largo), Florida.

Notice of acquisition of control:

The Bank of Lexington, Inc., Lexington, Kentucky.

Applications for consent to merge and establish branches:

Bank of Stockton, Stockton, California, an insured State nonmember bank, for consent to merge, under its charter and title, with Mid-Cal National Bank, Lodi, California, and for consent to establish the five offices of Mid-Cal National Bank as branches of the resultant bank.

Continental Bank, Norristown, Pennsylvania, and insured State nonmember bank, for consent to merge, under its charter and title, with The Solebury National Bank of New Hope, New Hope, Pennsylvania, and for consent to establish the three offices of The Solebury National Bank of New Hope as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,387-NR—United States National Bank, San Diego, California.
Case No. 44,419-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.
Case No. 44,428-L—The Hamilton Bank and Trust Company, Atlanta, Georgia.
Case No. 44,429-L—Reserves for losses, 86 Open Liquidations.
Case No. 44,432-L—International City Bank & Trust Company, New Orleans Louisiana.
Case No. 44,433-L—American Bank & Trust, Orangeburg, South Carolina.
Case No. 44,434-L—Donahue Savings Bank, Donahue, Iowa.
Case No. 44,436-L—Franklin National Bank, New York, New York.
Case No. 44,439-SR—Citizens State Bank, Carrizo Springs, Texas.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Reports of committees and officers:

Report of the Director, Office of Corporate Audits, re: Status of Auditee Corrective Actions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1571-80 Filed 8-19-80; 12:19 pm]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 18, 1980, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum requesting an extension of a lease of space at a warehouse facility in Capital Heights, Maryland.

Recommendation regarding modifications to the Interagency Policy Regarding the Assessment of Civil Money Penalties.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: August 18, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson
Executive Secretary.
[S-1572-80 Filed 8-19-80; 12:19 pm]
BILLING CODE 6714-01-M

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 54517, August 15, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., August 20, 1980.

CHANGES IN THE MEETING: Addition of the following items to the open session:

4. Docket No. 76-11—In Re Agreement Nos. 150 DR-7 and 3103 DR-7—Compliance With Decision.

5. Docket No. 80-13—Licensing of Independent Freight Forwarders—Request for Oral Argument.

6. U.S. North Atlantic/Continental Europe, United Kingdom, Baltic Scandanavia trades—Request for Information Concerning the Impact of Pricing Policies on U.S. Exporters.

Addition of the following item to the closed session:

2. Military Rates of Farrell Lines—RFP-1400, Second Cycle.

[S-1567-80 Filed 8-19-80; 9:30 am]
BILLING CODE 6730-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., August 27, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Report on Notation Items disposed for during July 1980.

2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during July 1980.

3. Report of the Secretary on Applications for Admission to Practice approved during July 1980 pursuant to delegated authority.

4. Assignment of Informal Dockets by the Secretary during July 1980.

5. Section 15 Agreements which fail to meet the requirements of General Order 7, Revised.

6. Cosmos Shipping Co., Inc.—FMC Independent Ocean Freight Forwarder License No. 722—Proposed Order of Investigation.

7. Proposed Rulemaking—Revision of General Order 17, "Time For Filing and Commenting on Certain Agreement".

8. Docket No. 77-23—Agreement No. 10294—Motion to Discontinue.

9. Docket No. 80-32—Exemption of Leases or Arrangements Solely Involving Terminal Facilities Located in Foreign Countries—Consideration of Comments.

10. Docket No. 80-33—Exemption of Tariff Matter covering the Movement of Cargo Between Foreign Countries Either Transshipped from One Water Carrier to Another at U.S. Ports or Transported Overland Through the United States—Consideration of Comments.

11. Special Docket No. 724—Application of Sea-Land for Benefit for Star-Kist Foods—Consideration of Exceptions to Initial Decision.

12. Docket No. 69-57—Agreement No. T-2338—New York Shipping Association Cooperative Working Arrangement—Reopening of Proceeding.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523-5725.

[S-1576-80 Filed 8-19-80; 3:36 pm]
BILLING CODE 6730-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 18, 1980.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published August 13, 1980, 45 FR 53941.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, August 20, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item should be deleted:

1. Ronald McCracken v. Valley Camp Coal Company, Docket No. WEVA 79–116–D (Petition for Discretionary Review).

No earlier announcement of this change was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1568–80 Filed 8–19–80; 10:12 am]

BILLING CODE 6820–12–M

8

PAROLE COMMISSION.

United States Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters)

TIME AND DATE: 9:30 a.m., Wednesday, August 13, 1980.

PLACE: Room 828A, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: The above meeting had been previously continued to August 15, 1980. On August 15, 1980, the Commission determined that the above meeting be further continued to 9:30 a.m. on Monday, August 18, in Room 724, 320 First Street, NW., for consideration of case referrals from regional Commissioners. The above change was necessitated by the illness of one of the Commissioners and is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S–1575–80 Filed 8–19–80; 2:05 pm]

BILLING CODE 4410–01–M

9

PAROLE COMMISSION.

United States Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters)

TIME AND PLACE: 9:30 a.m., Thursday, August 28, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Case Analyst, National Appeals Board, (202) 724–3094.

[S–1574–80 Filed 8–19–80; 2:05 am]

BILLING CODE 4410–01–M

10

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., September 4, 1980.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois 60611.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED:

(1) OPM survey of Bureau of Unemployment and Sickness Insurance.
(2) OPM study of personnel management at the Board.
(3) Headquarters relocation.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S–1573–80 Filed 8–19–80; 1:40 pm]

BILLING CODE 7905–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 45 FR 53942, August 8, 1980.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Monday, August 11, 1980.

CHANGES IN THE MEETING: Deletion:

The following item will not be considered at an open meeting scheduled for Thursday, August 21, 1980, at 10 a.m.: Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272–2454.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

August 18, 1980.

[S–1566–80 Filed 8–19–80; 9:30 am]

BILLING CODE 8010–01–M

---

federal register

Thursday
August 21, 1980

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research

---

carrying *Arabidopsis* DNA and cloned

modifications in Section III–C–1–e–(1)–

Section IV–E–1–b–(2)–(d) of the

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the Linden Hill Hotel, Linden Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014, on September 25 1980, from 9:00 a.m. to recess at approximately 6:00 p.m., and on September 26, 1980, from 8:30 a.m. to 5:00 p.m. This meeting will be open to the public on September 25 from 9:00 a.m. to recess at approximately 6:00 p.m., and on September 26 from 8:30 a.m. to approximately 3:00 p.m. to discuss:

Amendment of Guidelines
Procedures for review of proposals for large-scale production
Voluntary compliance with guidelines
Institutional Biosafety Committees
Exceptions to prohibitions
Exemptions for organism that exchange genetic information
Review of large-scale proposals
E. coli K–12 host-vector systems
Host-vector systems other than *E. coli* K–12
NIH risk-assessment plan
Review of protocols for required containment levels
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public for approximately two hours for the review, discussion and evaluation of proposal(s) from a commerical concern(s) for scale-up of recombinant DNA experiments. It is anticipated that this will occur on September 26, from approximately 3:00 p.m. until adjournment. The proposal(s) and the discussion could reveal confidential trade secrets or commerical property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301–496–6051, will provide materials to be discussed at the meeting, rosters of committees members and substantive program information. A summary of the meeting will be available at a later date.

Dated: August 14, 1980.
Donald S. Fredrickson, M.D.,
Director, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcement the number and title of affected individual programs for the guidance of the public because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that circular.

[FR Doc. 80–25289 Filed 8–20–80; 8:45 am]
BILLING CODE 4110–08–M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under NIH guidelines for research involving recombinant DNA molecules.

SUMMARY: This notice sets forth proposals for actions to be taken under the 1980 NIH Guidelines for Research Involving Recombinant DNA Molecules [Federal Register of January 29, 1980 (45 FR 6724)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its September 25–26, 1980, meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by September 22, 1980.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban or Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments under the Guidelines for Research Involving Recombinant DNA Molecules (45 FR 6724), as well as actions under these Guidelines.

1. *Requests for permission to transform chlamydomonas reinhardi with E. colisaccharomyces cerevisiae plasmids.* Dr. John Carbon of the University of California, Santa Barbara, and Dr. Stephen Howell, University of California, San Diego, request permission to introduce *Escherichia coli-Saccharomyces cerevisiae* hybrid plasmids containing defined segments of DNA into the unicellular flagellate *Chlamydomonas reinhardi* under P2 physical containment conditions.

2. *Request for permission to transform candida albicans with E. Coli-S. Cerevisiae plasmids.* Dr. P. T. Magee of Michigan State University, and Dr. W. LaJean Chaffin of Texas Tech University, have requested consideration of the appropriate containment level for the return of *Candida albicans* DNA to the host of origin. The *Candida albicans* DNA will be cloned in *E. coli* K–12 or in *Saccharomyces cerevisiae* employing a hybrid plasmid vector derived from *E. coli* K–12–*S. cerevisiae* or the yeast 2 micron plasmid.

3. *Proposal to introduce genes cloned in E. Coli K–12 into Arabidopsis plants through the use of Agrobacterium tumefaciens carrying an E. Coli/Ti hybrid plasmid vector.* Employing the following protocol, Dr. Donald J. Merlo of the University of Missouri-Columbia, requests permission to introduce genes into *Arabidopsis thaliana:*

(a) A hybrid plasmid vector, constructed from the *E. coli* plasmid pBR325 and the origin of replication and transfer genes of *Agrobacterium tumefaciens* plasmid Ti, will be cloned in *E. coli K–12.*

(b) *Arabidopsis* DNA will be introduced into the *E. coli*/Ti hybrid plasmid and cloned in *E. coli* K–12.

(c) The thiamine gene of *E. coli* will be introduced into the *E. coli*/Ti vector carrying *Arabidopsis* DNA and cloned in *E. coli* K–12.

(d) The hybrid plasmid into which *Arabidopsis* DNA and the thiamine gene have been ligated will be transformed into *Agrobacterium tumefaciens.*

(e) *Agrobacterium tumefaciens* will be used to introduce the *E. coli*/Ti plasmid vector carrying the *E. coli thiamine gene and Arabidopsis* DNA into *Arabidopsis* plants.

According to Section III–O of the Guidelines, steps, (a), (b) and (c) of the protocol may be performed under P1 containment; according to Appendix E, steps (d) and (e) may be conducted under P3 containment. Dr. Merlo requests permission to perform steps (d) and (e) at P1 or P2 containment. He suggests that the DNA combination to be generated could occur in nature, albeit at very low frequency.

4. *Request for certification of a Bacillus subtilis strain as the host-vector component of an HV2 host-vector system.* On March 28, 1980, Dr. William F. Burke, Jr., of Arizona State University, requested certification of *Bacillus subtilis* strain ASB298 as the host component of an HV2 host-vector system. Dr. Burke's proposal was evaluated by a working group and subsequently presented to the RAC at the June 5–6, 1980 meeting. The RAC discussed the characteristics of a *Bacillus subtilis* HV2 system and recommended that consideration of the proposal be deferred until additional information concerning transfer of recombinant DNA through transformation was received. The RAC will continue the evaluation of additional information received on strain ASB298 at the September meeting.

5. *Request for HV1 certification of a Bacillus stearothermophilus derived plasmid vector in Bacillus subtilis.* Dr. David B. Wilson of Cornell University, requests HV1 certification of a host-vector system based on a *Bacillus subtilis* host and a plasmid isolated from *Bacillus stearothermophilus.*

6. *Proposed revision of subsections of section III–C–1–e.* A notice appeared in the Federal Register of January 31, 1980 concerning proposed revision of Section III–C–1–e, and its subsections. It was recommended that Sections II–C–1–e, III–C–1–e–(1), III–C–1–e–(1)–(a), and III–C–1–e–(1)–(b), of the Guidelines be changed and that a new Section III–C–1–e–(1)–(c) be added. Section III–C–1–e–(2) would remain unchanged. The RAC, at its March 6–7, 1980 meeting, recommended adoption of Sections III–C–1–e, III–C–1–e–(1), and III–C–e–(1)–(a) as published in the Federal Register of January 31, 1980, with certain modifications in Section III–C–1–e–(1)–(a).

The Director, NIH, accepted this recommendation and promulgated the following sections in the Federal Register of April 14, 1980:

"III–C–1–e. All Viral Vectors.

III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus [all viruses form a single Family (36) being considered identical (50)] may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. The DNA may contain fragment of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of a genome."

At its March 6–7, 1980 meeting, the RAC voted to defer consideration until the June 5–6, 1980 meeting of the new Sections III–C–1–e(1)–(b) and III–C–1–e–(1)–(c) as proposed in the Federal Register of January 31, 1980, and requested that a working group develop additional information. Accordingly, a working group met on May 13, 1980 during the annual meeting of the American Society for Microbiology in Miama Beach, Florida. The report of the working group was considered briefly at the June 5–6 RAC meeting and will be considered again by the RAC at its September 25–26, 1980 meeting.

The Working Group discussed the question of the appropriate containment conditions for experiments involving recombinant DNA molecules containing less than two-thirds of the genome of any eukaryotic virus which may be rescued with helper virus. On the basis of the consensus of the virologists, the following recommendation was proposed, as a revision of Section III–C–1–e–(1)–(b) of the Guidelines

"III-C-l-e-(1)-(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P2 containment if wild type strains of the virus are CDC Class 1 or 2 agents, or using P3 containment if wild type strains of the virus are CDC Class 3 agents (1)."

7. *Procedures for review of large-scale experiments.* Section I-D-6 of the Guidelines prohibits "large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNAs, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established."

Section IV-E-l-b-(3)-(d) of the Guidelines states that the Director, NIH, is responsible for "authorizing, under procedures specified by the RAC, large-scale experiments (i.e., more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Part VI of the Guidelines, "Voluntary Compliance," encourages institutions not otherwise covered by the Guidelines to follow the standards and procedures set forth in the Guidelines.

At its September 1979 meeting, the RAC adopted the following procedures to be followed by applicants proposing to exceed the 10-liter limit:

"Application Procedures For Large-Scale Recombinant DNA Experiments

1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

b. A statement of the rationale for wishing to exceed the 10-liter limit.

c. A specification of the total volume of the fermenter to be used.

d. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

e. A description of the applicant's laboratory practices, containment equipment, and facilities relevant to the containment of large volumes of culture.

f. Evidence of the applicant's or applicant institution's previous experience in handling large volumes of culture. Applicants should exhibit knowledge of state-of-the-art procedures for working with large volumes of microorganisms.

g. A description of procedures to be employed for the inactivation and disposal of large volumes of culture.

h. A description of procedures for containing and inactivating accidental spills, should they occur.

2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

4. Following review and approval by the RAC, each request shall be

submitted to the Director, NIH, for final review.

5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

At the last few RAC meetings, there have been extensive discussions of the role of the RAC and NIH in the review of large-scale proposals submitted by industry. (Minutes of RAC meetings are available from ORDA.) At the June 1980 meeting, the RAC passed a motion by a vote of seventeen to zero with one abstention that the following proposal be published in the **Federal Register** for consideration at the September, 1980 meeting:

The following procedures should be adopted for approval of requests to grow greater than 10 liters of organisms containing recombinant DNA. The RAC will determine if a given recombinant DNA-containing strain is rigorously characterized and the absence of harmful sequences established. Such a determination shall include specification of a containment level (P–LS). These determinations should not in any way be construed as RAC certification of safe laboratory procedures for industrial scale-up. Adherence to the specified containment conditions is the responsibility of the local IBC.

If the above proposal is accepted, it would have the effect of changing the application procedures to read as follows:

"Application Procedures for Large-Scale Recombinant DNA Experiments

1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

b. A statement of the rationale for wishing to exceed the 10-liter limit.

c. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

d. Specification of the P–LS level proposed to be used as defined in the NIH *Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules.* (**Federal Register**, April 11, 1980).

2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

4. Following review and approval by the RAC, each request shall be submittd to the Director, NIH, for final review.

5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provision of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

8. *Proposed changes in registration requirements.* Dr. Maxine Singer, National Cancer Institute, National Institutes of Health, has proposed a series of changes in the administrative requirements specified by the Guidelines. In brief, Dr. Singer's proposal eliminates NIH review, registration, and approval for all experiments assigned containment conditions in the Guidelines. The reasons for the proposed changes are discussed in a letter to ORDA.

Specifically, the proposal would revise several sections of the Guidelines. The proposed revisions are discussed below.

A. *Section III.* Section III of the Guidelines would be amended to read as follows:

"III. *Containment Guidelines for Covered Experiments.*

Part III discusses experiments covered by the Guidelines. The reader must first consult Part I, where listings are given of prohibited and exempt experiments.

Containment guidelines for permissible experiments are given in Part III. For these experiments no registration with NIH is necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, (c) the hosts and vectors to be used, (d) whether a deliberate attempt will be made to obtain expression of a foreign gene in the cloning vehicle and if so, what protein, and (e) the containment conditions specified by these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals but such review is not required prior to initiation of experiments except as noted in Sections III–A–3–a, III–A–3–b, or for experiments where containment procedures are not explicitly described in these Guidelines.

Changes from the levels specified in Part III for specific experiments (or the assignment of levels to experiments not explicitly considered here) may not be instituted without the express approval of the Director, NIH. (See Sections (IV–E–1–b(1)–(a), IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)(b).)

In the following classification of containment criteria for different kinds of recombinant DNAs, the stated levels of physical and biological containment are minimal for the experiment designated. The use of higher levels of biological containment (HV3>HV2>HV1) is encouraged if they are available and equally appropriate for the purposes of the experiment.

Experiments involving recombinant DNA from Class 3 organisms [1] or from cells known to be infected with these agents may be conducted at P3 containment in *E. coli* K–12 EK1 hosts (see Section III–O). Containment levels for all other expriments with Class 3 organisms or with recombinant DNA which increases the virulence and host range of a plant pathogen beyond that which occurs by natural genetic exchange will be determined by NIH. (See Section IV–E–1–b–2–(e)).".

B. *Section III–O.* Section III–O of the Guidelines would be amended to read as follows:

"III–O. *Classification of Experiments Using E. coli K–12 and Saccharomyces cerevisiae Host-Vector Systems.* Most recombinant DNA experiments currently being done employ *E. coli* K–12 host-vector systems; others employ the *S. cerevisiae* host-vector systems. These are the systems for which we have the most experience and knowledge.

Some experiments using *E. coli* K–12 and *S. cerevisiae* host-vector systems are prohibited (see Section I–D).

Some experiments using *E. coli* K–12 and *S. cerevisiae* host-vector systems are exempt from the Guidelines (see Section I–E).

Experiments using *E. coli* K–12 host-vector systems and DNA from Class 3 organisms [1] or from cells known to be infected with these agents will be conducted at P3 containment or at a lower level as specified by NIH (See Section IV–E–1–b–2–(e)).

Other experiments using *E. coli* K–12 or laboratory strains of *S. cerevisiae* shall use P1 physical containment and, except as specified in the last paragraph of this section, an HVl host-vector system [i.e., for experiments using *E. coli* K–12 (a) the *E. coli* host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid or Ff bacteriophages or nonconjugative plasmids [49] shall be used as vectors. For experiments in *S. cerevisiae*, laboratory strains shall be used].

Experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempted from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4).

For those not on the Appendix A list but which exchange genetic information [35] with *E. coli*, experiments may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a nonconjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids, either autonomous or integrated, or generalized transducing phases."

C. *Section III–A–3–a.* The last sentence of Section III–A–3–a would be amended to read as follows:

"IBC approval is sufficient for such a reduction except for any lowering of containment under Section III–A–3–a to levels below P1+HV1, which requires prior consultation with NIH."

D. *Section III–A–3–b.* The last sentence of the second paragraph of Section III–A–3–b would be amended to read as follows:

"IBC approval is sufficient for such a reduction except for any lowering of containment under Section III–A–3–b to levels below P1+HV1, or reduction of containment levels by more than one step, which requires prior consultation with NIH."

E. *Section IV–C–3.* Section IV–C–3 would be deleted. This Section currently reads as follows:

"IV–C–3. "Memorandum of Understanding and Agreement" or "MUA" is a document that (i) provides to NIH or other Federal funding agency an Institution's certification that the recombinant DNA research project complies with the NIH Guidelines and (ii) contains other essential data as required in the Administrative Practices Supplement."

F. *Section IV–D–1–c.* Sections IV–D–1–c and IV–D–1–c–(1) through IV–D–1–c–(5) would be deleted. These Sections currently read as follows:

"IV–D–1–c. Submit, for each recombinant DNA project that meets with its approval, a Memorandum of Understanding and Agreement (MUA) to the funding agency for approval and registration. (Note: No MUA is required for experiments described in Section III–O). All projects, however, can proceed upon IBC approval (before submission of the MUA to the funding agency) except for the following, which require prior approval by NIH (or other funding agency designated by NIH for this purpose):

"IV–D–1–c(1). Projects for which containment levels are not specified by the Guidelines or NIH,

IV–D–1–c–(2). Projects requiring P4 containment,

IV–D–1–c–(3). Certain reductions of containment levels for characterized or purified DNA preparations or clones (see Section III–A–3),

IV–D–1–c–(4). The first project conducted in a facility at P3 containment, or,

IV–D–1–c–(5). The first project conducted by an Institution.

Note.—The MUA shall be submitted to the funding agency within 30 days of the IBC approval. If the funding agency does not routinely register recombinant DNA projects with NIH, the MUA must be submitted to NIH as well as to the funding agency. Authority to submit MUAs (or addenda) for which prior approval is not required may be delegated to the IBC chairperson. All MUAs that require NIH approval before the work can proceed shall be submitted to the NIH by the institutional official to whom the IBC is responsible."

G. *Section IV–D–1–d.* Section IV–D–1–d would be deleted. This section currently reads as follows:

"IV–D–1–d. Take appropriate action to bring protocols into compliance when advised by NIH or other funding agency that IBC-approved projects do not conform to standards set forth in the Guidelines. This responsibility may be delegated to the IBC. (See Administrative Practices Supplement for further details)."

H. *Section IV–D–2–f.* Section IV–D–2–f would be amended to read as follows:

"IV–D–2–f. Central to implementation of the Guidelines is the review of experiments by the IBC. In carrying out this responsibility, the Institution shall comply with instructions and procedures specified in the Administrative Practices Supplement."

I. *Section IV–D–2–h.* Reference to MUAs would be deleted in Section IV–D–2–h. The revised Section would read as follows:

"IV–D–2–h. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public (e.g., reports of Guideline violations and significant research-related accidents, and agency directives to modify projects). If comments are made by members of the public on IBC actions, the Institution shall forward to HIH both the comments and the IBC's response."

J. *Section IV–D–3–a.* Section IV–D–3–a would be amended to read as follows:

"IV–D–3–a. Reviewing for compliance with the NIH Guidelines all recombinant DNA research conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. (See Administrative Practices Supplement for prior NIH approval requirements.) This review shall include:"

K. *Section IV–D–3–b.* Section IV–D–3–b would be amended to read as follows:

"IV–D–3–b. Notifying the Principal Investigator (PI) of the results of their review."

The "Note" following IV–D–3–b would be deleted.

L. *Section IV–D–3–f.* Section IV–D–3–f would be renumbered to IV–D–3–g, and a new Section IV–D–3–f would be added as follows:

"IV–D–3–f. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH, (with the advice of the RAC when required) establishes the containment requirements."

M. *Amendment of Section IV–D–5–a–(1).* Section IV–D–5–a–(1) would be amended to read as follows:

"IV–D–5–a–(1). Initate or modify no recombinant DNA research subject to the Guidelines until the Institutional Biosafety Committee (IBC) has been appropriately notified and all other requirements of the Guidelines and the Administrative Practices Supplement (APS) have been met. Modify containment and experimental protocol according to recommendations of the IBC."

N. *Proposed Section IV–D–5–b–(4).* A new Section IV–D–5–b–(4) would be added as follows:

"IV–D–5–b–(4). Petition NIH for recommendations regarding containment for experiments requiring case-by-case review."

O. *Proposed Section IV–D–5–b–(5).* A new Section IV–D–5–b–(5) would be added as follows:

"IV–D–5–b–(5). Petition NIH for recommendations regarding

containment for experiments not covered by the Guidelines."

P. *Amendment of Section IV–D–5–c–(3).* Section IV–D–5–c–(3) would be amended to read as follows:

"IV–D–5–c–(3). Submit the initial research protocol (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval;"

Q. *Amendment of Section IV–D–5–d.* The heading of Section IV–D–5–d would be amended to read:

"IV–D–5–d. *PI Responsibilites Prior to Initiating the Research.*"

R. *Amendment of Section IV–D–5–e.* The heading of Section IV–D–5–e would be amended to read:

"IV–D–5–e. *PI Responsibilities During the Conduct of the Research.*"

S. *Section IV–D–5–e–(6).* A new Section, IV–D–5–e–(6), would be added to read as follows:

"IV–D–5–e–(6). Initiating no recombinant DNA research for which containment is not specified by the Guidelines until approval is received from the IBC."

T. *Deletion of Section IV–E–1–b(3)–(e).* Section IV–E–1–b(3)–(e) would be deleted. This section currently reads as follows:

"IV–E–1–b–(3)–(e). Lowering containment levels for characterized clones or purified DNA (See Sections III–A–3–a and –b, and Footnotes 3 and 41);"

U. *Deletion of Sections IV–E–3–b, IV–E–3–c, and IV–E–3–c–(1) through IV–E–3–c–(3).* Sections IV–E–3–b, IV–E–3–c, IV–E–3–c–(1), IV–E–3–c–(2), and IV–E–3–c–(3) would be deleted. These sections currently read as follows:

"IV–E–3–b. Registration of recombinant DNA projects; and

IV–E–3–c. Review of Memoranda of Understanding and Agreement (MUAs), and approval of those that conform to the Guidelines. In so doing, ORDA shall:

IV–E–3–c–(1). Conduct an independent evaluation of the containment levels required for the research covered by these Guidelines;

IV–E–3–c–(2). Determine whether the physical and biological containment levels approved by the IBC are in accordance with the requirement of the Guidelines;

IV–E–3–c–(3). Notify Institutions and the IBC chairperson in a timely fashion when MUAs (including changes in ongoing projects) do not conform to the Guidelines, and inform them of corrective measures to be taken;"

V. *Deletion of Section IV–E–4–a.* Section IV–E–4–a would be deleted. This Section currently reads as follows:

"IV–E–4–a. Awarding no grant or contract involving recombinant DNA techniques unless a properly executed MUA has been received;"

W. *Deletion of Sections IV–F–1 and IV–F–2.* Sections IV–F–1 and IV–F–2 would be deleted. These sections currently read as follows:

"IV–F–1. *Required Registration.* Institutions receiving NIH funds for recombinant DNA projects shall inform NIH of all recombinant DNA projects at the Institution. A non-NIH project, after approval by the Institutional Biosafety Committee, shall be registered with NIH within 30 days of initiation. Applications for NIH projects must be accompanied by a Memorandum of Understanding and Agreement (MUA)."

"For information on MUAs or equivalent documents that must be submitted for registration of recombinant DNA projects, see the Administrative Practices Supplement (APS)."

"IV–F–2. *Federal Agency Registration.* Institutions at which recombinant DNA research projects funded by other Federal agencies are conducted need not register such projects with NIH when the Federal agency maintains a registry and provides such information to NIH. Registration of non-NIH-funded research with the NIH Office of Recombinant DNA Activities (ORDA) is described in the APS. (The information required is similar to that in an MUA for NIH-supported research.)"

X. *Amendment of Section IV–F–3.* Section IV–F–3 could be amended to read as follows:

"IV–F–3. *Voluntary Registration and Certification.* Any institution that it not require to comply with the Guidelines may nevertheless register its intent to comply by submitting the appropriate information to ORDA. NIH will accept requests for certification of host-vector systems proposed by the institution. The submitter must agree to abide by the physical and biological containment standards of the NIH Guidelines."

9. *Proposed amendment of appendix E of the guidelines.* Dr. Fritz Reusser of the Upjohn Company, has requested that two sections of Appendix E be amended in order to include additional *Streptomyces* species. The proposed revised sections would read as follows:

"Bacillus subtilis strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus* and *S. venezuelae* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions."

"Streptomyces coelicolor, S. Aureofaciens, S. rimosus, S. griseus, S. cyaneus and *S. Venezuelae* can be used as hosts for the cloning of DNA derived from *B. Subtilis, E. Coli,* K–12, or from *S. Aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

10. *Request for exemption under Section I–E–4.* Dr. Walter R. Guild of Duke University, has proposed that *Streptococcus sanguis* and *Streptococcus pneumoniae* be included under the exemption category of Section I–E–4, and added to Appendix A of the Guidelines on the basis that these bacteria exchange chromosomal genes in both directions by known physiological processes.

11. *Proposed amendments of Section IV–E–2.* Dr. Irving Johnson of Eli Lilly and Company, submitted a number of proposals for changes in the Guidelines for consideration at the June 5–6, 1980 RAC meeting. Some were deferred. He has now resubmitted two proposed revisions of the Guidelines.

A. Following the first sentence of the second paragraph of IV–E–2, the following sentence would be inserted:

"Appropriate representatives of industry shall also be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

[When this proposal was discussed at the June 1980 meeting, objections were raised to inclusion of the words "of industry." A motion passed to include a modification of this sentence in the Guidelines as follows:

"Members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

This was followed, however, by passage of a motion to reconsider, and then passage of a motion to defer consideration until the September RAC meeting].

B. A new Section IV–E–2–b would be added to read as follows:

"A permanent subcommittee of the RAC shall be responsible for advising the Director, NIH, on the actions, listed in Section IV–E–1–b–(3)–(d) pertaining to large-scale applications. Submissions that are in compliance with the *Guidelines* may be recommended by the subcommittee to the Director of NIH for approval. The subcommittee shall also be authorized to consider preliminary plans for large-scale operations and to recommend approval contingent upon completion of the large-scale facility according to those plans. The subcommittee will be responsible for expeditiously processing applications."

12. *Request to include Vibrio cholerae in Appendix A.* Dr. John A. Mekalanos, of Harvard Medical School, has requested the NIH to consider the addition of *Vibrio cholerae* to Sublist A in Appendix A of the Guidelines. The organisms on this list are those that are exempt from the Guidelines on the basis that they have been shown to exchange genetic material by known physiological processes.

13. *Request for consideration of appropriate containment levels.* Drs. B. S. Montencourt and D. E. Eveleigh of Rutgers University, have requested permission to clone DNA derived from *Pseudomonas* strains that are non-pathogenic to plants or animals in an *E. coli* K–12 host and to be returned to *Zymomonas mobilis.*

14. *Proposed containment for cloning between members of the actinomycetes group.* Dr. Dean Taylor of the Smith Kline and French Laboratories, has proposed that the third entry in Appendix E of the Guidelines be modified to read:

"P2 physical containment shall be used for DNA recombinants produced between members of the *Actinomycetes* group except for those species which are known to be pathogenic for man, animals, or plants."

This proposal was made previously by the RAC Working Group on Prokaryotic Host-Vectors Other Than *E. coli* and appeared in the **Federal Register,** April 13, 1979 *44* (73): 22316. The RAC considered the proposal at its May 21–23, 1979 meeting and recommended to restrict this so that it did not include the entire *Actinomycetes* group but rather only the genera *Streptomyces* and *Micromonospora.* The Director, NIH, accepted this recommendation and the action was published in the **Federal Register,** July 20, 1979 *44* (141): 42916, and appears as the third entry in Appendix E of the Guidelines.

15. *Request to clone Schizosaccharomyces pombe* DNA in *Schizosaccharomyces pombe.* Dr. Benjamin Hall of the University of Washington, requests permission to clone *Schizosaccharomyces pombe DNA in Schizosaccharomyces pombe* using approved HVI *Saccharomyces/E. coli* hybrid plasmids as vectors. Dr. Hall requests that PI be established as the appropriate level of physical containment. Dr. Hall points out that *Schizosaccharomyces pombe* has been the subject of intense genetic studies in the laboratory and traditionally has been used to ferment beverages for human consumption.

Additional Announcements of the Director, NIH

Section IV–E–1–b–(3)–(d) of the Guidelines gives responsibility to the Director, NIH, for "authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Accordingly, several requests for authorization to culture, on a large-scale, recombinant DNA host-vector systems have been received and reviewed by the NIH.

1. *Genentech, Inc.* On the recommendation of the RAC, the following requests from Genentech, Inc., have been approved by the Director, NIH:

A. On July 22, 1980, the Director, NIH, approved a request from Genentech, Inc., for the large-scale culture up to 750 liters of EK1 host-vector systems containing plasmids into which have been ligated a combination of chemically synthesized DNA and cloned cDNA coding for human growth hormone.

B. On July 22, 1980, the Director, NIH, approved a request from Genentech, Inc., for the large-scale culture up to 750 liters of EK1 Host-vector systems containing plasmids into which have been ligated a combination of chemically synethesized DNA and cloned cDNA coding for human leukocyte or fibroblast interferon.

Both requests were approved with the understanding that Genentech, Inc., has agreed to permit an observer, designated by NIH, to visit the facilities if NIH should choose to inspect the site, and to certain additional stipulations.

The principal investigators are Drs. Michael Ross and Norm S. C. Lin. The work is to be done, as stipulated by the Genentech, Inc. submission, at the P1–LS level of containment at the research and development facility at 460 Point San Bruno Boulevard, South San Francisco, California 94080.

2. *Burns-Biotec Laboratories, Inc.* On July 22, 1980, The Director, NIH, approved a request from Burns-Biotec Laboratories, Inc., a wholly-owned subsidiary of Schering Corporation, for large-scale culture of an EK1 host-vector system containing a plasmid coding for human leukocyte interferon in a 1000 liter fermentor (up to 750 liter working volume) at the P1–LS level of containment.

This request was approved with the understanding that Burns-Biotec Laboratories, Inc., has agreed to permit an observer, designed by NIH, to visit the facilities if NIH should choose to inspect the site. The principal investigator for this project is Dr. Donald E. Baldwin. The large-scale growth of the organisms is to be carried out at plant facilities located in Elkhorn, Nebraska.

OMB's "Manadatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: August 14, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–25289 Filed 8–20–80; 8:45 am]

BILLING CODE 4110–08–M

V 45 G 21 80 A UMI

Thursday

V
4
5

A
G

2
1

8
0
UMI

federal register

Thursday
August 21, 1980

Part III

Department of the Interior

Bureau of Land Management

Outer Continental Shelf—Gulf of Mexico, Oil and Gas Lease Sale No. A62 and Notice of Leasing Systems, Sale No. A62

UMI 0 8 1 2 G A 5 4 V

80 25396 United States
Department of the Interior
Bureau of Land Management

Outer Continental Shelf, Gulf of Mexico

Notice of Leasing Systems, Sale No. A62

Sec. 8(a)(8) [43 U.S.C. 1337 (a)(8)] of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. A62, tracts will be offered under the following four bidding systems as authorized under Sec. 8(a)(1) [43 U.S.C. 1337 (a)(1)]: (1) bonus bidding with a fixed 33 1/3 percent royalty on 22 tracts, (2) bonus bidding with a fixed sliding scale royalty on 59 tracts, (3) bonus bidding with a fixed net profit share on 40 tracts, and (4) bonus bidding with a fixed 16 2/3 percent royalty on 71 tracts.

(1) Bonus Bidding with 33 1/3 Percent Royalty. This system is authorized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. This higher royalty type system was first tested in OCS Sale 35 held December 11, 1975, and used again in Sale 40 held August 17, 1976. This system is designed to reduce the bonus bids as a result of the high royalty rates and thereby may increase competition for these leases. Our simulation analysis for the tracts selected for this system indicated that the assignment of the high royalty costs had very little effect on production decisions and therefore on the amount of oil and gas extracted. These results suggest the benefits of possible increases in competition are worth testing when compared to the slight risks of making production less economic.

(2) Bonus Bidding with Sliding Scale Royalty. This system is authorized by Sec. (8)(a)(1)(c) of the OCS Lands Act, as amended. The use of the sliding scale royalty system was introduced in OCS Sale 43 (March 28, 1978) and used again in the last nine OCS lease sales.

The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The sliding scale formula provided for Sale A62 is based on the current assumed range of costs and wellhead prices for this area.

The sliding scale used in Sales #43 and #45 was linear in form. Although this form is easy to describe it has three disavantages which may affect the socially optimal level of production. At certain levels of production, a linear schedule causes erratic fluctuations in the royalty charged on increments in output which may lead producers to make socially non-optimal production decisions in order to minimize these royalty impacts on net revenues. Marginal royalty rates also can reach very high levels even though the average rates are low. In addition, because production costs are non-linear it can be shown that the royalty rate schedule should conform more closely to the functional form of these costs in order to minimize production losses from non-development of otherwise profitable tracts.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value is given by the formula

$$Rj = b(\ln(Vj/S))$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 13.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.0

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the "Survey of Current Business," by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold.

(3) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. 8(a)(1)(D) of the OCS Lands Act, as amended. Sale A62 will be the first test of this bidding system which was established by Department of Energy (DOE) regulations effective May 14, 1980. This profit share system is intended to increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It is designed to increase the volume of production, because certain allowable capital costs may be deducted prior to any liability for profit share payments. In addition, the system may foster the development of marginal fields when compared to a royalty system since the government shares more of the risk and the lessees incremental costs are lower in the presence of a capital recovery.

The initial experiment with a profit share system uses cash bonus as the bid variable principally to avoid percentage bids at too high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that the most efficient firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

Firms will be permitted to recover a factor of 1.00 over their actual allowable costs before any profit share payments are due. The profit share rate selected for this sale is 50 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, government receipts, gross production, minimal economic tract sizes, and part-

UMI 0 8 1 2 G A 5 4 V

icularly on the incentive to alter the production profile.

(4) Bonus Bidding with a 16 2/3 Percent Royalty. This system is authorized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. This relatively low royalty system has been used extensively since the passage of the OCS Lands Act in 1953 and results in greater risks to the lessee from finding a dry hole, but more rewards (i.e., lower contingency payments to the government) if a commercial field is discovered. The use of this system will also provide data to compare the performance of the alternative systems.

B. Designation of Tracts. The selection of tracts to be offered under the four systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) A sufficient number of tracts was needed to permit valid statistical analysis while limiting the risks of losses caused by unforeseen problems which could arise in the use of any new bidding system. The number of tracts must also be consistent with the requirements of Sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

(3) The range and distribution of the characteristics of tracts were to be comparable for statistical purposes for each system. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the location of tracts across trends.

The enclosed list shows the particular system selected for each tract.

Enclosure

Associate Director, Bureau of Land Management

AUG 7 1980

Approved:

Secretary of the Interior

8-15-80

TENTATIVE TRACT LIST
OCS SALE #A62

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
(Approved March 7, 1977)

Tract	Block	Description	Bidding System A/	Acreage
A62-1	12	All	FS	5000
A62-2	14	All	FS	5000

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-3	53	All	FS	5000
A62-4	54	All	FS	5000
A62-5	58	All	FS	5000
A62-6	59	All	FS	5000
A62-7	64	All	FS	5000
A62-8	68	N½	FS	2500
A62-9	79	All	FS	5000
A62-10	90	All	FS	5000
A62-11	91	All	FS	5000
A62-12	97	All	SS	5000
A62-13	166	All	SS	5000
A62-14	167	All	SS	5000
A62-15	203	All	FS	5000
A62-16	211	All	FS	5000
A62-17	240	All	FS	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957)

Tract	Block	Description		Acreage
A62-18	157	All	SS	2170.32
A62-19	289	All	SS	5000
A62-20	290	All	SS	5000
A62-21	291	All	SS	5000
A62-22	293	All	SS	5000
A62-23	298	All	SS	5000
A62-24	299	All	SS	5000
A62-25	300	All	SS	5000
A62-26	315	All	SS	5000
A62-27	317	All	SS	5000
A62-28	363	All	SS	5000

A/ FS is one-sixth fixed royalty system
FT is one-third fixed royalty system
SS is sliding schedule royalty system
PS is fixed net profit share system

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Bidding System	Acreage
A62-29	489	All	SS	5000
A62-30	490	All	SS	5000
A62-31	518	All	FS	5000
A62-32	519	All	FS	5000
A62-33	523	All	FS	5000
A62-34	547	All	FS	5000
A62-35	548	All	FS	5000
A62-36	553	All	FS	5000
A62-37	646	All	SS	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description		Acreage
A62-38	2	1/	FS	2413.83
A62-39	16	1/	FS	2417.35
A62-40	43	All	FS	5000
A62-41	50	All	FS	5000
A62-42	65	All	FS	5000
A62-43	66	S½	FS	2500

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-44	348	All	SS	5000
A62-45	349	All	SS	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-46	77	All	FS	5000
A62-47	78	All	FS	5000
A62-48	89	All	SS	5000
A62-49	91	All	SS	5067.26
A62-50	221	All	FS	5204.83

UMI 0 8 1 2 G A 5 4 V

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Bidding System	Acreage
A62-51	275	All	SS	5000
A62-52	280	All	SS	5000
A62-53	304	All	PS	5000
A62-54	305	All	PS	5000
A62-55	306	All	PS	5000
A62-56	317	All	PS	5000
A62-57	318	All	PS	5000
A62-58	326	All	FS	5000
A62-59	336	All	FS	5000
A62-60	341	All	FS	5000
A62-61	350	All	FS	5000
A62-62	396	All	FS	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description		Acreage
A62-63	24	All	FS	5000
A62-64	34	All	FS	5000
A62-65	62	All	SS	5000
A62-66	64	All	SS	2965.03

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959

Tract	Block	Description		Acreage
A62-67	100	All	SS	5000
A62-68	122	All	FS	5000
A62-69	160	All	SS	5000
A62-70	198	All	SS	3545.99

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Bidding System	Acreage
A62-71	231	7/	FT	3592.72
A62-72	232	All	FT	4818.68
A62-73	234	2/	FT	1756.63
A62-74	236	8/	FT	2070.72
A62-75	242	9/	FT	3068.22
A62-76	247	All	SS	4926.98
A62-77	274	All	FS	5035.27

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-78	76	All	FS	5000
A62-79	90	[illegible]	FS	3750
A62-80	113A	All	FS	5000
A62-81	116	[illegible]	FT	2500
A62-82	117	All	FT	5000
A62-83	129A	All	FT	3824.72
A62-84	133	All	FS	5000
A62-85	142	All	PS	5000
A62-86	143	All	PS	5000
A62-87	146	All	PS	5000
A62-88	147	All	PS	5000
A62-89	148	All	PS	5000
A62-90	159	All	FS	5000
A62-91	160	All	FS	5000
A62-92	181	All	FS	5000
A62-93	182	All	FS	5000
A62-94	226	All	FS	5000
A62-95	240	All	FS	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-96	396	All	SS	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Bidding System	Acreage
A62-97	12	All	FS	5000
A62-98	13	3/	FS	4357.81
A62-99	14	4/	FS	3237.50
A62-100	50	All	SS	5000
A62-101	67	1/	FS	587.05
A62-102	173	All	FS	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-103	319	All	FS	5000
A62-104	332	All	SS	5300.60

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description		Acreage
A62-105	76	All	SS	5000
A62-106	77	All	SS	5000
A62-107	96	All	SS	5000
A62-108	97	All	SS	5000
A62-109	160	All	FS	5000
A62-110	174	All	FS	3772.18
A62-111	192	All	FS	5000
A62-112	200	All	SS	5000
A62-113	208	All	FT	5000
A62-114	209	All	FT	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Bidding System	Acreage
A62-115	227	All	FT	5000
A62-116	228	All	FT	5000
A62-117	246	All	SS	5000
A62-118	269	All	SS	5000
A62-119	274	All	SS	5000
A62-120	284	All	PS	5000
A62-121	285	All	PS	2148.46
A62-122	287	All	PS	5000

OCS LEASING MAP, SOUTH PELTO AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description		Acreage
A62-123	2	1/	SS	3344.50
A62-124	3	1/	SS	4756.82
A62-125	4	All	SS	5000
A62-126	7	All	SS	5000

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description		Acreage
A62-127	34	All	FS	5000

OCS LEASING MAP, GRAND ISLE AREA, SOUTH ADDITION, LOUISIANA MAP NO. 7A
(Approved September 8, 1959; Revised March 7, 1961)

Tract	Block	Description		Acreage
A62-128	91	All	SS- PS	5000
A62-129	100	All	FT	4539.89
A62-130	101	All	FT	4539.89

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Bidding System	Acreage
A62-131	27	All	FS	5000
A62-132	102	All	FS	5000

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description		Acreage
A62-133	143	All	PS	5000
A62-134	144	All	PS	5000
A62-135	147	All	PS	5000
A62-136	148	All	PS	5000

OCS LEASING MAP, SOUTH PASS AREA, LOUISIANA MAP NO. 9
(Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973)

Tract	Block	Description		Acreage
A62-137	35	1/	FS	741.73
A62-138	38	1/	FS	4747.92
A62-139	45	All	FS	4999.96
A62-140	56	5/	FS	2999.84

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-141	(77 (78	1/	FS	4655.15
A62-142	108	All	SS	4994.55
A62-143	126	All	SS	4994.55
A62-144	150	All	SS	4994.55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Bidding System	Acreage
A62-145	265	All	SS	4994.58
A62-146	301	All	FS	4999.96
A62-147	315	All	SS	4999.96

OCS LEASING MAP, BRETON SOUND AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-148	39	1/	FT	1237.37
A62-149	40	1/	FT	4877.32
A62-150	41	All	FT	4994.55
A62-151	42	1/	FT	4551.83
A62-152	43	1/	FT	1994.61
A62-153	54	N½; N½SW¼; N½S½SW¼; SW¼SW¼SW¼; N½SE¼; N½S½SE¼	FT	4448.27
A62-154	55	N½	FT	2497.27

OCS LEASING MAP, CHANDELEUR AREA, LOUISIANA MAP NO. 11
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-155	17	All	SS	5000
A62-156	25	All	SS	5000
A62-157	32	All	SS	5000
A62-158	33	All	SS	5000
A62-159	34	All	SS	5000

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description		Acreage
A62-160	24	All	SS	5760
A62-161	68	All	SS	5760
A62-162	864	All	PS	5760
A62-163	865	All	PS	5760
A62-164	908	All	PS	5760
A62-165	909	All	PS	5760

OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Bidding System	Acreage
A62-166	304	All	SS	3140.42

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description		Acreage
A62-167	149	All	FS	5611.56

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description		Acreage
A62-168	89	All	PS	5760
A62-169	90	All	PS	5760
A62-170	91	All	PS	5760
A62-171	133	All	PS	5760
A62-172	134	All	PS	5760
A62-173	135	All	PS	5760
A62-174	136	All	PS	5760
A62-175	137	All	PS	5760
A62-176	138	All	PS	5760
A62-177	139	All	PS	5760
A62-178	140	All	PS	5760
A62-179	179	All	PS	5760
A62-180	180	All	PS	5760
A62-181	181	All	PS	5760
A62-182	182	All	PS	5760
A62-183	183	All	PS	5760
A62-184	184	All	PS	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description		Acreage
A62-226	69	S½	FS	2500

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Bidding System	Acreage
A62-227	171	All	SS	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description		Acreage
A62-228	34	All	FS	3772.18

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description		Acreage
A62-229	78	All	FS	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description		Acreage
A62-230	575	All	FS	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUUISANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description		Acreage
A62-231	26	All	SS	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description		Acreage
A62-232	235	6/	FT	3633.65

UMI 8008 12 GA 54V

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-233	123	All	4994.55

1/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

2/ That portion of the lease block located landward of a line three marine leagues seaward of a line extending from a point on Shell Keys at a latitude 29°24'32.15"N., Longitude 91°51'16.59"W., (X = 1,834,019.00, Y = 270,301.00), northwesterly in a straight line to Tigre Point at latitude 29°32'23.13"N., longitude 92°14'57.15"W., (X = 1,708,756.00, Y = 310,661.00). The coordinates used refer to the Louisiana (Lambert) Coordinate System (South Zone).

3/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2SE1/4.

4/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2S1/2.

5/ That portion of the lease block located landward of a line which is three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, December 13, 1965, United States vs. Louisiana No. 9 Original (382 U.S. 288).

6/ A portion of Block 235, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the northwest corner of Block 235, the coordinates of which referred to the Louisiana (Lambert) coordinate System (South Zone) are: X = 1,765,446.562 and Y = 246,149.987;

From the initial corner,

South	8,033.742 ft.	to X=1,765,446.562	Y=238,116.245
S.68°53'25"E.	15,819.67 ft.	to X=1,780,204.612	Y=232,418.716
North	11,981.284 ft.	to X=1,780,204.612	Y=244,400.00
N.56°36'22"W.	3,179.53 ft.	to X=1,777,550.00	Y=246,149.987
West	12,103.438 ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

7/ A portion of Block 231, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Northwest Corner of Block 231, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,750,688.512; Y=260,908.037.

From the initial corner,

South	14,758.05 ft.	to X=1,750,688.512	Y=246,149.987
East	14,758.05 ft.	to X=1,765,446.562	Y=246,149.987
North	5,700.013 ft.	to X=1,765,446.562	Y=251,850.00
N.58°17'31"W.	4,756.54 ft.	to X=1,761,400.00	Y=254,350.00
N.55°58'50"W.	4,825.97 ft.	to X=1,757,400.00	Y=257,050.00
N.50°00'48"W.	6,003.70 ft.	to X=1,752,800.00	Y=260,908.037
West	2,111.488 ft.	to the point of beginning	

8/ A portion of Block 236, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of Block 236, the coordinates of of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,780,204.612 and Y = 231,391.937;

From the initial corner,

East	13,495.388 ft.	to X=1,793,700.00	Y=231,391.937
N.46°26'43"W.	5,381.42 ft.	to X=1,789,800.00	Y=235,100.00
N.40°36'05"W.	3,687.82 ft.	to X=1,787,400.00	Y=237,900.00
N.46°41'05"W.	4,810.41 ft.	to X=1,783,900.00	Y=241,200.00
N.49°06'33"W.	4,888.34 ft.	to X=1,780,204.612	Y=244,400.00
South	13,008.063 ft.	to the point of beginning	

9/ A portion of Block 242, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of block 242, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,794,962.662 and Y=216,633.887;

From the initial corner,

East	14,758.05 ft.	to X=1,809,720.712	Y=216,633.887
North	4,635.811 ft.	to X=1,809,720.712	Y=221,269.698
Northwesterly along the arc of a 54,721.8 ft. radius circle to		X=1,804,097.05	Y=224,484.49
N.56°51'08"W	10,909.83 ft.	to X=1,794,962.662	Y=230,450.00
South	13,816.113 ft.	to the point of beginning.	

80 28087 4310-84

Department of the Interior
Bureau of Land Management 1

Outer Continental Shelf-Gulf of Mexico

Oil and Gas lease Sale No. A62

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300) as well as the Department of Energy Organization Act (91 STAT. 565) and the regulations issued thereunder (10 CFR Parts 376 and 390).

2. Filing of Bids. Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., September 29, 1980; or by personal delivery to the Louisiana Superdome, Gate "C", Hyatt Ramp, Level 200, Rooms 4 and 5, 1500 Poydras Street, New Orleans, Louisiana between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., September 30, 1980. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., September 30, 1980. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 45 FR 26827, April 21, 1980, as corrected in 45 FR 27836, April 24, 1980 and 45 FR 28822, April 30, 1980.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., September 30, 1980" must be submitted for each tract. A suggested form appears in 43 CFR Part 3300 (44 FR 38289, June 29, 1979), Appendix A. Bidders are advised that tract numbers are assigned solely for

UMI 0 8 1 2 G A 5 4 V

2

administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft on a solvent bank, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300 (44 FR 38289, June 29, 1979), Appendix B. Other documents may be required of bidders under 43 CFR 3316.4 Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. Except for the fixed net profit share tracts listed in paragraph 4 of this notice, all leases awarded will provide for a minimum annual royalty payment of $3 per acre or fraction thereof. The following systems will be utilized.

(a) Bonus Bidding with 33 1/3 Percent Royalty. Bids on tracts A62-71, A62-72, A62-73, A62-74, A62-75, A62-81, A62-82, A62-83, A62-113, A62-114, A62-115, A62-116, A62-129, A62-130, A62-148, A62-149, A62-150, A62-151, A62-152, A62-153, A62-154, and A62-232 must be on a cash bonus basis with a fixed royalty of 33 1/3 percent.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts A62-12, A62-13, A62-14, A62-18, A62-19, A62-20, A62-21, A62-22, A62-23, A62-24, A62-25, A62-26, A62-27, A62-28, A62-29, A62-30, A62-37, A62-44, A62-45, A62-48, A62-49, A62-51, A62-52, A62-65, A62-66, A62-67, A62-69, A62-70, A62-76, A62-96, A62-100, A62-104, A62-105, A62-106, A62-107, A62-108, A62-112, A62-117, A62-118, A62-119, A62-123, A62-124, A62-125, A62-126, A62-142, A62-143, A62-144, A62-145, A62-147, A62-155, A62-156, A62-157, A62-158, A62-159, A62-160, A62-161, A62-166, A62-227, and A62-231 must be submitted on a cash bonus basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

3

The fixed sliding scale formula operates in the following way; when the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[\ln (Vj/\$)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 13.0

ln = natural logarithm

Vj = the value of production in quarter j adjusted for inflation, in millions of dollars

$ = 3.0

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

4

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 21.25878 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 15.392847 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis,

Figure 1
Form of the Sliding Royalty Schedule

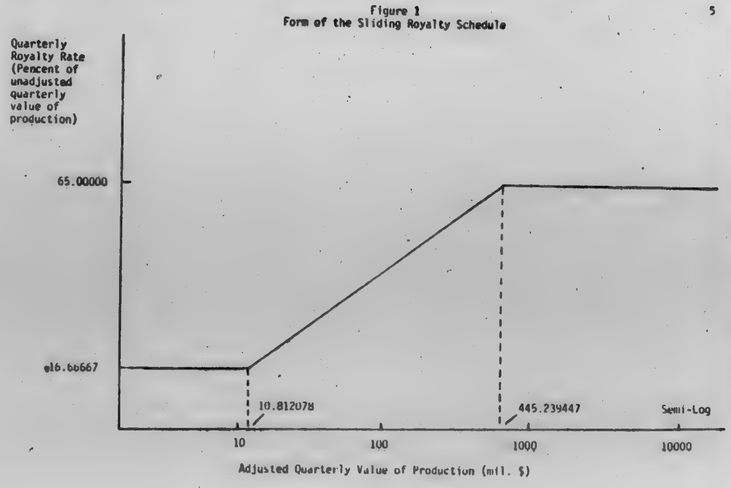

5

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	26.19374	7.858122
90.000000	200.0	4/3	67.500000	40.47570	36.428130
270.000000	200.0	4/3	202.500000	54.75766	147.845682
810.000000	200.0	4/3	607.500000	65.00000	526.500000
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	23.29287	6.987861
90.000000	250.0	5/3	54.000000	37.57483	33.817347
270.000000	250.0	5/3	162.000000	51.85679	140.013333
810.000000	250.0	5/3	486.000000	65.00000	526.500000

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., September 30, 1980, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. Bid Opening. Bids will be opened on September 30, 1980, beginning at 10:00 a.m., c.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, September 30, 1980, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts on a solvent bank, submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office at the address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Texas Nos. 1 through 8. These maps are arranged in two sets, Nos. 1 through 4 (7 maps), which sell for $5 per set; and Nos. 5 through 8 (9 maps), which sell for $7 per set.

(b) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 18. This is a set of 27 maps which sells for $17.

(c) Outer Continental Shelf Official Protraction Diagrams:

NH 15-12 Ewing Bank
NH 16-7 Viosca Knoll
NH 16-10 Mississippi Canyon
NG 15-3 Green Canyon

These sell for $2 each.

12. Tract Descriptions. The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice. Some of the blocks are included in prior environmental statements rather than the environmental statement for this sale.

U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts A62-53, A62-54, A62-55, A62-56, A62-57, A62-85, A62-86, A62-87, A62-88, A62-89, A62-120, A62-121, A62-122, A62-128, A62-133, A62-134, A62-135, A62-136, A62-162, A62-163, A62-164, A62-165, A62-168, A62-169, A62-170, A62-171, A62-172, A62-173, A62-174, A62-175, A62-176, A62-177, A62-178, A62-179, A62-180, A62-181, A62-182, A62-183, A62-184, and A62-233 must be submitted on a cash bonus basis with a fixed net profit share rate of 50 percent and a 1.00 capital recovery factor. (Note: The capital recovery factor represents the actual capital recovery premium that is debited to the net profit share lease capital account, which is made in addition to the debit for actual expenses). The net profit share payment shall be calculated according to the Department of Energy regulations 10 CFR 390.

(d) Bonus Bidding with a 16 2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16 2/3 percent.

TENTATIVE TRACT LIST
OCS SALE #A62

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
(Approved March 7, 1977)

Tract	Block	Description	Acreage
A62-1	12	All	5000
A62-2	14	All	5000

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-3	53	All	5000
A62-4	54	All	5000
A62-5	58	All	5000
A62-6	59	All	5000
A62-7	64	All	5000
A62-8	68	N 1/2	2500
A62-9	79	All	5000
A62-10	90	All	5000
A62-11	91	All	5000
A62-12	97	All	5000
A62-13	166	All	5000
A62-14	167	All	5000
A62-15	203	All	5000
A62-16	211	All	5000
A62-17	240	All	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957)

Tract	Block	Description	Acreage
A62-18	157	All	2170.32
A62-19	289	All	5000
A62-20	290	All	5000
A62-21	291	All	5000
A62-22	293	All	5000
A62-23	298	All	5000
A62-24	299	All	5000
A62-25	300	All	5000
A62-26	315	All	5000
A62-27	317	All	5000
A62-28	363	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-29	489	All	5000
A62-30	490	All	5000
A62-31	518	All	5000
A62-32	519	All	5000
A62-33	523	All	5000
A62-34	547	All	5000
A62-35	548	All	5000
A62-36	553	All	5000
A62-37	646	All	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
A62-38	2	1/	2413.83
A62-39	16	1/	2417.35
A62-40	43	All	5000
A62-41	50	All	5000
A62-42	65	All	5000
A62-43	66	S 1/2	2500

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-44	348	All	5000
A62-45	349	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-46	77	All	5000
A62-47	78	All	5000
A62-48	89	All	5000
A62-49	91	All	5067.26
A62-50	221	All	5284.83

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-51	275	All	5000
A62-52	280	All	5000
A62-53	304	All	5000
A62-54	305	All	5000
A62-55	306	All	5000
A62-56	317	All	5000
A62-57	318	All	5000
A62-58	326	All	5000
A62-59	336	All	5000
A62-60	341	All	5000
A62-61	350	All	5000
A62-62	396	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
A62-63	24	All	5000
A62-64	34	All	5000
A62-65	62	All	5000
A62-66	64	All	2965.03

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-67	100	All	5000
A62-68	122	All	5000
A62-69	160	All	5000
A62-70	198	All	3545.99

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
A62-71	231	7/	3592.72
A62-72	232	All	4818.68
A62-73	234	2/	1756.63
A62-74	236	8/	2070.72
A62-75	242	3/	3068.22
A62-76	247	All	4926.98
A62-77	274	All	5035.27

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-78	76	All	5000
A62-79	90	N1/2; SW1/4	3750
A62-80	113A	All	5000
A62-81	116	W1/2	2500
A62-82	117	All	5000
A62-83	129A	All	3824.72
A62-84	133	All	5000
A62-85	142	All	5000
A62-86	143	All	5000
A62-87	146	All	5000
A62-88	147	All	5000
A62-89	148	All	5000
A62-90	159	All	5000
A62-91	160	All	5000
A62-92	181	All	5000
A62-93	182	All	5000
A62-94	226	All	5000
A62-95	240	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-96	396	All	5000

15

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-97	12	All	5000
A62-98	13	3/	4357.81
A62-99	14	4/	3237.50
A62-100	50	All	5000
A62-101	67	1/	587.03
A62-103	173	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-103	319	All	5000
A62-104	332	All	5300.60

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-105	76	All	5000
A62-106	77	All	5000
A62-107	96	All	5000
A62-108	97	All	5000
A62-109	160	All	5000
A62-110	174	All	3772.18
A62-111	192	All	5000
A62-112	200	All	5000
A62-113	208	All	5000
A62-114	209	All	5000

16

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
A62-115	227	All	5000
A62-116	228	All	5000
A62-117	246	All	5000
A62-118	269	All	5000
A62-119	274	All	5000
A62-120	284	All	5000
A62-121	285	All	2148.46
A62-122	287	All	5000

OCS LEASING MAP, SOUTH PELTO AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-123	2	1/	3344.50
A62-124	3	1/	4756.82
A62-125	4	All	5000
A62-126	7	All	5000

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-127	34	All	5000

OCS LEASING MAP, GRAND ISLE AREA, SOUTH ADDITION, LOUISIANA MAP NO. 7A
(Approved September 8, 1959; Revised March 7, 1961)

Tract	Block	Description	Acreage
A62-128	91	All	5000
A62-129	100	All	4539.89
A62-130	101	All	4539.89

17

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-131	27	All	5000
A62-132	102	All	5000

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description	Acreage
A62-133	143	All	5000
A62-134	144	All	5000
A62-135	147	All	5000
A62-136	148	All	5000

OCS LEASING MAP, SOUTH PASS AREA, LOUISIANA MAP NO. 9
(Approved June 8, 1954; Revised July 22, 1954; Revised May 11, 1973)

Tract	Block	Description	Acreage
A62-137	35	1/	741.73
A62-138	38	1/	4747.92
A62-139	45	All	4999.96
A62-140	56	5/	2999.84

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-141	(77 (78	1/	4655.15
A62-142	108	All	4994.55
A62-143	126	All	4994.55
A62-144	150	All	4999.96

18

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-145	265	All	4994.55
A62-146	301	All	4999.96
A62-147	315	All	4999.96

OCS LEASING MAP, BRETON SOUND AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-148	39	1/	1237.37
A62-149	40	1/	4877.32
A62-150	41	All	4994.55
A62-151	42	1/	4551.83
A62-152	43	1/	1994.61
A62-153	54	N1/2; N1/2SW1/4; N1/2S1/2SW1/4; SW1/4SW1/4SW1/4; N1/2SE1/4; N1/2S1/2SE1/4	4448.27
A62-154	55	N1/2	3497.27

OCS LEASING MAP, CHANDELEUR AREA, LOUISIANA MAP NO. 11
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-155	17	All	5000
A62-156	25	All	5000
A62-157	32	All	5000
A62-158	33	All	5000
A62-159	34	All	5000

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976).

Tract	Block	Description	Acreage
A62-160	24	All	5760
A62-161	68	All	5760
A62-162	864	All	5760
A62-163	865	All	5760
A62-164	908	All	5760
A62-165	909	All	5760

UMI 8012 GAV 54

OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-166	304	All	3140.42

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-167	149	All	5611.56

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
A62-168	89	All	5760
A62-169	90	All	5760
A62-170	91	All	5760
A62-171	133	All	5760
A62-172	134	All	5760
A62-173	135	All	5760
A62-174	136	All	5760
A62-175	137	All	5760
A62-176	138	All	5760
A62-177	139	All	5760
A62-178	140	All	5760
A62-179	179	All	5760
A62-180	180	All	5760
A62-181	181	All	5760
A62-182	182	All	5760
A62-183	183	All	5760
A62-184	184	All	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-226	69	S1/2	2500

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-227	171	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
A62-228	34	All	3772.18

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
A62-229	78	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
A62-230	575	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
A62-231	26	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
A62-232	235	6/	3633.65

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
A62-233	123	All	4994.55

1/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

2/ That portion of the lease block located landward of a line three marine leagues seaward of a line extending from a point on Shell Keys at a latitude 29°24'32.15"N., Longitude 91°51'16.59"W., (X = 1,834,019.00, Y = 270,301.00), northwesterly in a straight line to Tigre Point at latitude 29°32'23.13"N., longitude 92°14'57.15"W., (X = 1,708,756.00, Y = 318,661.00). The coordinates used refer to the Louisiana (Lambert) Coordinate System (South Zone).

3/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2SE1/4.

4/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13) excluding the S1/2S1/2.

5/ That portion of the lease block located landward of a line which is three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, December 13, 1965, United States vs. Louisiana No. 9 Original (382 U.S. 288).

6/ A portion of Block 235, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the northwest corner of Block 235, the coordinates of which referred to the Louisiana (Lambert) coordinate System (South Zone) are: X = 1,765,446.562 and Y = 246,149.987;

From the initial corner,

South	8,033.742 ft.	to X=1,765,446.562	Y=238,116.245
S.68°53'25"E.	15,819.67 ft.	to X=1,780,204.612	Y=232,418.716
North	11,981.284 ft.	to X=1,780,204.612	Y=244,400.00
N.56°36'22"W.	3,179.53 ft.	to X=1,777,550.00	Y=246,149.987
West	12,103.438 ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

7/ A portion of Block 231, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Northwest Corner of Block 231, the coordinates of which referral to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,750,688.512; Y=260,908.037;

From the initial corner,

South	14,758.05 ft.	to X=1,750,688.512	Y=246,149.987
East	14,758.05 ft.	to X=1,765,446.562	Y=246,149.987
North	5,700.013 ft.	to X=1,765,446.562	Y=251,850.00
N.58°17'31"W.	4,756.54 ft.	to X=1,761,400.00	Y=254,350.00
N.55°58'50"W.	4,825.97 ft.	to X=1,757,400.00	Y=257,050.00
N.50°00'48"W.	6,003.70 ft.	to X=1,752,800.00	Y=260,908.037
West	2,111.488 ft.	to the point of beginning	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

8/ A portion of Block 236, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of Block 236, the coordinates of of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,780,204.612 and Y = 231,391.937;

From the initial corner,

East	13,495.388 ft.	to X=1,793,700.00	Y=231,391.937
N.46°26'43"W.	5,381.42 ft.	to X=1,789,800.00	Y=235,100.00
N.40°36'05"W.	3,687.82 ft.	to X=1,787,400.00	Y=237,900.00
N.46°41'05"W.	4,810.41 ft.	to X=1,783,900.00	Y=241,200.00
N.49°06'33"W.	4,888.34 ft.	to X=1,780,204.612	Y=244,400.00
South	13,008.063 ft.	to the point of beginning	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

UMI 0 8 1 2 G A 5 4 V

9/ A portion of Block 242, OCS Leasing Map, South Marsh Island Area, North Addition, Louisiana, Map No. 3D, described as follows:

Beginning at the Southwest corner of block 242, the coordinates of which referred to the Louisiana (Lambert) Coordinate System (South Zone) are: X = 1,794,962.662 and Y=216,633.887;

From the initial corner,

East	14,758.05	ft.	to X=1,809,720.712	Y=216,633.887
North	4,635.811	ft.	to X=1,809,720.712	Y=221,269.698
Northwesterly along the arc of a 54,721.8 ft. radius circle to			X=1,804,097.05	Y=224,484.49
N.56°51'08"W	10,909.83	ft.	to X=1,794,962.662	Y=230,450.00
South	13,816.113	ft.	to the point of beginning.	

The position of the corners and direction of the lines are referred to the Louisiana (Lambert) Coordinate System (South Zone).

13. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 6 Royalty on Production. (a) The lessee agrees to pay the lessor royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $10.812077 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $10.812078 million, but less than or equal to $445.239477 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln\ (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 13.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.0

When the adjusted quarterly value of production is equal to or greater than $445.239478 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 21.25878 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15,392,547 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(c), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first profit share payment becomes due".

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net Profit Share. The lessee agrees to pay a net profit share rate of 50 percent with a 1.00 capital recovery factor, calculated pursuant to 10 CFR 390.

(c) Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale. In the following stipulations the term DCM refers to the Deputy Conservation Manager for Field Operations, Gulf of Mexico OCS Region, U.S. Geological Survey and the term Manager refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the DCM, having reason to believe that a site, structure or object of historical or archaeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and the Manager for review. Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation No. 2

(To be included only in the leases resulting from this proposed sale for Tracts A62-53, A62-54, A62-55, A62-56 and A62-57).

a. No structures, drilling rigs, or pipelines will be allowed within the 55 m isobaths of Sonnier Banks as shown in Figure 2 attached to and made a part of this lease.

UMI 0 8 1 2 G A 5 4 V

b. Operations within the areas shown as "1 Mile Zone" in Figure 2 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

c. Operations within the area shown as "3 Mile Zone" in Figure 2 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DOM on a schedule established by the DOM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DOM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 3

(To be included only in the lease resulting from this proposed sale for Tract A62-62).

Operations within the area shown as "3 Mile Zone" in Figure 3, (Rezak Bank). attached to and made a part of this lease, shall be restricted as specified in either (a) or (b) below at the option of the lessee.

a. All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

b. The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The

monitoring team will submit its findings to the DOM on a schedule established by the DOM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DOM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation No. 4

(To be included only in the lease resulting from this proposed sale for Tract A62-104.)

Operations within the area shown as "3 Mile Zone" in Figure 4, (Diaphus Bank), attached to and made a part of this lease, shall be restricted as specified in either (a) or (b) below at the option of the lessee.

a. All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

b. The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DOM on a schedule established by the DOM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DOM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation No. 5

(To be included only in the leases resulting from this proposed sale for Tracts A62-133, A62-134, A62-135 and A62-136.)

a. No structures, drilling rigs, or pipelines will be allowed within the 85 m isobath of Sackett Bank as defined in Figure 5 attached to and made a part of this lease.

b. Operations within the areas shown as "1 Mile Zone" in Figure 5 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

c. Operations within the area shown as "3 Mile Zone" in Figure 5 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DOM on a schedule established by the DOM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DOM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation No. 6

(To be included only in the leases resulting from this proposed sale for Tracts A62-37, A62-54, A62-70, A62-96, A62-128, A62-136 through A62-141, A62-144, and A62-166 through A62-184.)

All or portions of this lease may be subject to mass movement of sediments, unstable slopes, shallow faults, or gaseous sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DOM's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all such unstable areas must be mapped. The DOM may also require soil testing before exploration and production operations are allowed.

Stipulation No. 7

(To be included only in the leases resulting from this proposed sale for the fixed sliding scale and the 33 1/3 percent royalty tracts listed in paragraph 4 of this notice.)

a. The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Geological Survey, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been underway for one year or more.

b. Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in Sec. 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16 2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

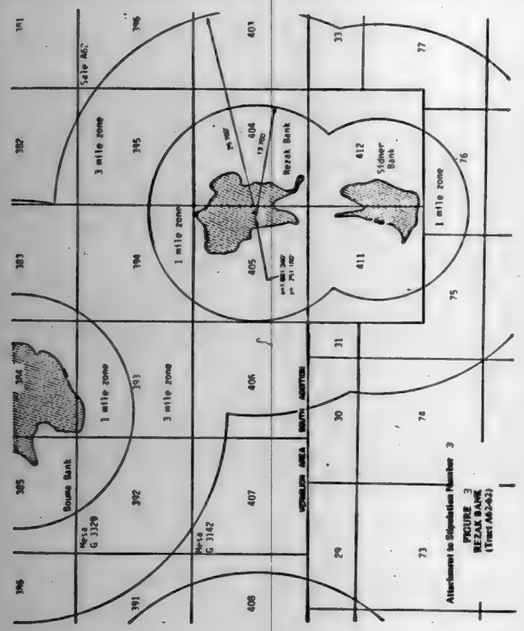
Sale A62
3 mile zone
1 mile zone
Rezak Bank
Sidner Bank
Bouma Bank
Mesa G 3329
Mesa G 3142
SOUTH AREA
SOUTH ADDITION
Attachment to Stipulation Number 3
FIGURE 3
REZAK BANK
(Tract A62-42)

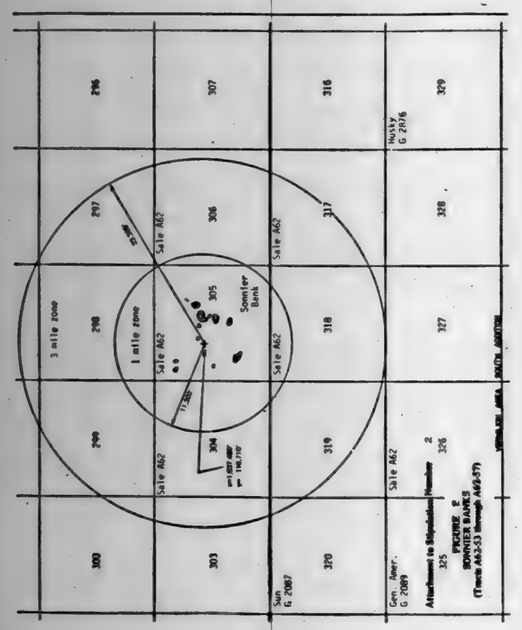
3 mile zone
1 mile zone
Sale A62
Sonnier Bank
Husky G 2076
Sun G 2087
Gen. Amer. G 2089
Attachment to Stipulation Number 2
FIGURE 2
SONNIER BANKS
(Tracts A62-53 through A62-57)

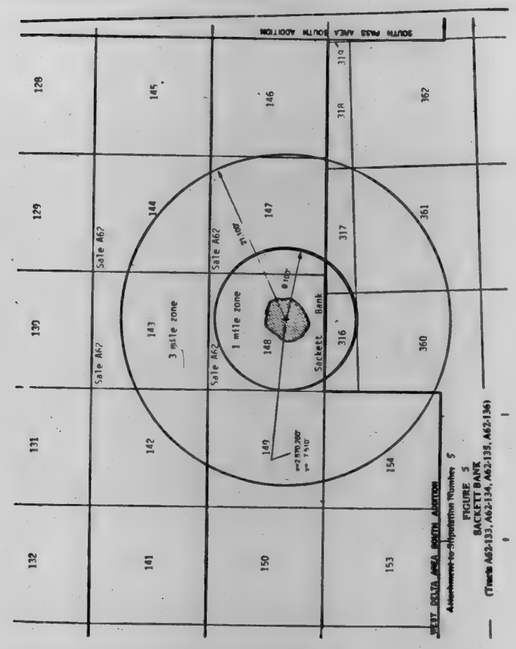
SOUTH MASS AREA SOUTH ADDITION
Sale A62
3 mile zone
1 mile zone
Sackett Bank
WEST DELTA AREA North Addition
Attachment to Stipulation Number 5
FIGURE 5
SACKETT BANK
(Tracts A62-133, A62-134, A62-135, A62-136)

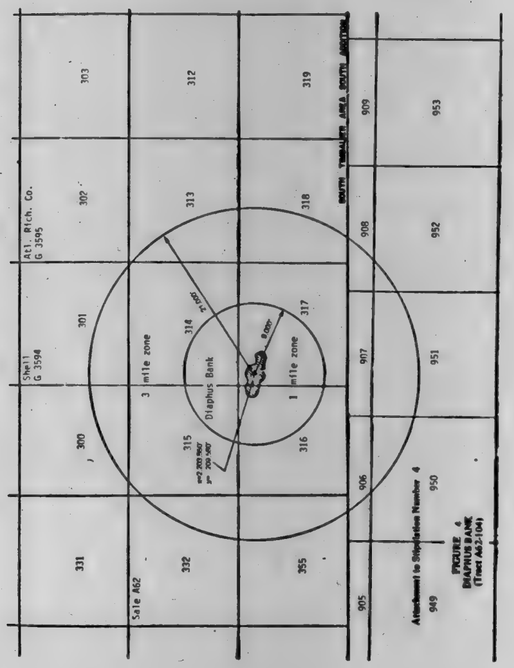
Sale A62
Shell G 3594
Atl. Rich. Co. G 3595
3 mile zone
1 mile zone
Diaphus Bank
SOUTH TIMBALIER AREA SOUTH ADDITION
Attachment to Stipulation Number 4
FIGURE 4
DIAPHUS BANK
(Tract A62-104)

UMI 8 0 8 1 2 1 G A 5 4 V

14. Information to Lessees. The Department of the Interior will seek the advice of the States of Texas, Louisiana, Mississippi and Alabama, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities then the DOM, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the Manager, BLM, and the States, will require the lessee to undertake any measures pursuant to Section 5(a) of the Act to protect live bottom areas.

Bidders are advised that the Department of Energy is authorized, under Section 302(b) & (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, traffic separation schemes or precautionary zones established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

[FR Doc. 80-25387 Filed 8-20-80; 8:45 am]
BILLING CODE 4310-84-C

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should also consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Ed Hastey
Associate Director, Bureau of Land Management

AUG 7 1980

Approved:

Cecil D. Andrus
Secretary of the Interior

AUG 15 1980

federal register

Thursday
August 21, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Migratory Bird Hunting; Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, common snipe, gallinules, and teal in September, in the contiguous United States; sea ducks in certain defined areas of the Atlantic Flyway; ducks in late September in Iowa; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands during 1980–81. The taking of these migratory birds is prohibited unless hunting seasons are specifically provided. The rules will permit the hunting of these species within specified periods of time beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

DATE: Effective on August 21, 1980.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 555, Matomic Building, 1717 H Street, NW., Washington, D.C., telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On February 29, 1980, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the Federal Register (45 FR 13630) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1980. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On June 27, 1980, the Service published in the Federal Register (45 FR 43419) the second document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1980–81 season. On July 1, 1980, the Service published for public comment in the Federal Register (45 FR 44540) the third document in the series consisting of proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1980–81 season. The same document included supplemental proposals relating to the late season frameworks, which resulted from public comments and additional information. On July 22, 1980, the Service published in the Federal Register (45 FR 49061) the fourth document in the series consisting of final rulemaking dealing specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1980–81 season. This document is the fifth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in late September in Iowa; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

Minor Changes for Puerto Rico

At the request of the Puerto Rico Department of Natural Resources, a minor change was made in the boundary of the El Verde Closure Area which was established several years ago for the protection of the endangered Puerto Rican parrot. New evidence shows that the bird now ranges northward of the area previously closed; the modification made in the boundary takes that finding and recommendation into consideration. The agency also recommended that dove hunting be prohibited on Mona Island, and that change is incorporated in the final regulations. The area has been closed to pigeon hunting for several years for the protection of white-crowned pigeons.

Nontoxic Shot Regulations

On February 11, 1980, the Service published in the Federal Register (45 FR 9028) proposed rules describing nontoxic shot zones for waterfowl hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. The nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas. The final regulations were published in the Federal Register on June 5, 1980 (45 FR 37847) under § 20.108 of 50 CFR and will also be summarized in waterfowl regulations leaflets to be published late this summer.

In 1980, shotshells loaded with toxic shot will not be permitted for waterfowl hunting in designated nontoxic shot zones (44 FR 2597). This regulation related only to 12-gauge shotshells in previous years but applies to all gauges of shotshells after August 31, 1980.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 24241). The final environmental assessment on shooting hours (42 FR 36495; July 15, 1977) supplemented the discussion on shooting hours in FES 75–54. Likewise, an environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplemented the discussion on dove hunting in FES 75–54.

Endangered Species Act Consideration

Compliance with the Endangered Species Act, insofar as early season regulations frameworks are concerned, was described in the Federal Register dated July 22, 1980 (45 FR 49061). The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in the Office of Endangered Species at 1000 North Glebe Road, Arlington, Virginia 22201, and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 555, Matomic Building, 1717 H Street, N.W., Washington, D.C. 20240, or may be obtained by mail from the addresses listed.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early proposals (45 FR 13630, February 29, 1980; and 45 FR 44540, July 1, 1980), the Service published in the Federal Register on June 27, 1980 (45 FR 43419) final frameworks for Alaska, Puerto Rico, and the Virgin Islands, and on July 22, 1980 (45 FR 49061) final early season frameworks for the contiguous United States and Hawaii. Copies of the final frameworks were also sent to the officials of the State conservation agencies and to conservation agency officials in Puerto Rico and the Virgin Islands who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 29 and July 1, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the printing and distribution of Federal and State regulatory announcements and leaflets would be delayed to the extent that hunters would not have regulatory information available prior to the beginning of the hunting seasons. The Service has determined that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Exception From Executive Order 12044 and 43 CFR 14

As discussed in the Federal Register dated February 29, 1980 (45 FR 13530), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14 which is provided for in sections 6(b)6 and 14.3(f), respectively.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are amended as follows:

Section 20.101 is amended to read as follows:

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Puerto Rico:*

	Doves	Pigeons
Daily bag limit.....	10 singly or in the aggregate of all permitted species.	5
Possession limit.	10 singly or in the aggregate of all permitted species.	

Season dates: September 6 to November 4, 1980.
Shooting hours: One-half hour before sunrise to sunset daily.

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove (*Tortola cardosantera*); White-winged dove (*Tortola aliblanca o cubanita*); Mourning dove (*Tortola rabilarga o rabiche*); Scaly-naped pigeon (*Paloma turca o torcaz*).

No season is prescribed for doves and pigeons on Mona Island in order to give the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as *Paloma cabeciblanca*, a chance to recover.

No season is prescribed for doves and pigeons on Culebra Island and in those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. No season is prescribed for doves and pigeons of any species in all of Cidra Municipality and in portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along the Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning.

Check Commonwealth Regulations for Additional Restrictions

(b) *Puerto Rico:*

	Ducks	Coots	Common gallinules	Common snipe
Daily bag limits.....	4	6	6	6
Possession limits....	8	12	12	12

Season dates: December 6, 1980, through January 29, 1981.
Shooting hours: One-half hour before sunrise until sunset daily.

'In Alabama, the South Zone is defined as that area south

Restrictions: No open season for waterfowl on Culebra Island. The season is closed for ruddy ducks (*Oxyura jamaicensis*) and purple gallinules (*Porphyrula martinica*). The season on Bahama pintail (*Anas bahamensis*) is closed by Commonwealth law.

Check Commonwealth Regulations for Additional Restrictions

Note.—Local names for game birds: Ruddy duck (*Oxyura jamaicensis*)—Pato rojo (protected); Purple gallinule (*Porphyrula martinica*)—Gallareta azul (protected); Puerto Rican plain pigeon (*Columba inornata wetmorei*)—Paloma sabanera (protected).

(c) *Virgin Islands:*

	Zenaida dove (entire Virgin Islands)	Scaly-naped pigeon (St. Thomas Island only)
Daily bag limits	10	5
Possession limits	10	5

Season dates: September 1 through October 30, 1980.

Shooting hours: One-half hour before sunrise until sunset daily.

Restrictions: No open season is prescribed for waterfowl, ground or quail doves, or other pigeons in the Virgin Islands.

Check Commonwealth Regulations for Additional Restrictions

Note.—Local names for game birds: Zenaida dove (*Zenaida aurita*)—mountain dove; Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected); Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected); Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Section 20.102 is amended to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting hours: One-half hour before sunrise to sunset daily.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Open Seasons—*Ducks, Geese, Cranes and Common Snipe*

Area	Dates
Northern: State Game Mgmt. Units: 11–13 and 17–26.	Sept. 1–Dec. 16.
Gulf Coast: State Game Mgmt. Units: 5–7, 9, 14–16 & Unimak Island.	Sept. 1–Dec. 16.
Southeast: State Game Mgmt. Units: 1–4.	Sept. 1–Dec. 16.
Pribilof and Aleutian Islands: State Game Mgmt. Unit 10 except Unimak Island.	Oct. 8–Jan. 22.
Kodiak: State Game Mgmt. Unit 8	Sept. 10–Oct. 9 and Nov. 5–Jan. 20.

Daily Bag and Possession Limits

Area	Ducks [1]	Geese [2]	Emperor geese [3]	Brant	Common snipe	Sandhill cranes
Northern	10–30	6–12	6–12	4–8	8–16	2–4
Gulf Coast	6–24	6–12	6–12	4–8	8–16	2–4
Southeast	7–21	6–12	6–12	4–8	8–16	2–4
Pribilof and Aleutian Islands	7–21	[4]6–12	6–12	4–8	8–16	2–4
Kodiak	7–21	6–12	6–12	4–8	8–16	2–4

[1] In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers.

[2] The daily bag and possession limits may not include more than 4 daily and 8 in possession of white-fronted and Canada geese, singly or in the aggregate. In addition to the daily bag and possession limits on other geese, the daily bag limit is 6 and the possession is 12 on emperor geese.

[3] No Canada geese may be taken in the Aleutian Islands west of Unimak Pass.

Section 20.103 is amended to read as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Mourning Doves—Eastern Management Unit.*

Daily bag limit	12
Possession limit (except as noted otherwise)	24

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Dates
Alabama: (Limits—12 daily and in possession)	
North Zone: [1] All of Autauga, Barbour, Bullock, Butler, Crenshaw, Dallas, Elmore, Lee, Lowndes, Macon, Marengo, Montgomery, Pike, Russell and Wilcox Counties, and that area north of U.S. Highway 84 in Choctaw, Clarke, Conecuh, and Monroe Counties:	
12 noon to sunset	Sept. 20–Sept. 30.
One-half hour before sunrise to sunset.	Oct. 1–Nov. 5 and Dec. 19–Jan. 10.
Remaining counties in North Zone:	
12 noon to sunset	Sept. 20–Nov. 5 and Dec. 19–Jan. 10.
South Zone: [1]	
12 noon to sunset	Oct. 11–Oct. 20.
One-half hour before sunrise to sunset.	Oct. 21–Nov. 30 and Dec. 20–Jan. 7.
Connecticut	Closed.
Delaware: (12 noon to sunset)	Sept. 6–Sept. 27 and Nov. 17–Dec. 6 and Dec. 15–Jan. 10.
Florida (12 noon to sunset)	Oct. 4–Nov. 2 and Nov. 8–Nov. 23 and Dec. 13–Jan. 4.
Georgia:	
North Zone [2]	Sept. 6–Oct. 11 and Dec. 13–Jan. 15.
South Zone [2]	Oct. 4–Nov. 6 and Dec. 13–Jan. 15.
Illinois (12 noon to sunset)	Sept. 1–Nov. 9.
Indiana	Closed.
Kentucky	Sept. 1–Oct. 31 and Nov. 27–Dec. 5.
Louisiana:	
North Zone [3]	Sept. 6–Sept. 21 and Oct. 11–Nov. 9 and Dec. 13–Jan. 5.
South Zone [3]	Oct. 11–Nov. 30 and Dec. 20–Jan. 7.
Maine	Closed.
Maryland (12 noon to sunset)	Sept. 1–Oct. 11 and Nov. 12–Nov. 27 and Dec. 22–Jan. 3.
Massachusetts	Closed.
Michigan	Closed.
Mississippi	Sept. 6–Oct. 5 and Oct. 18–Nov. 9 and Dec. 27–Jan. 12.
New Hampshire	Closed.
New Jersey	Closed.
New York	Closed.
North Carolina:	
12 noon to sunset	Sept. 1–Oct. 11.
One-half hour before sunrise to sunset.	Dec. 15–Jan. 12.
Ohio	Closed.
Pennsylvania (12 noon to sunset)	Sept. 1–Nov. 8.
Rhode Island (12 noon to sunset):	
Black Hut, Buck Hill, Durfee Hill, Arcadia, Carolina, Great Swamp, Indian Cedar Swamp, and Woody Hill State Management Areas only.	Sept. 3–Sept. 7.
Statewide	Sept. 8–Sept. 26 and Oct. 18–Nov. 9 and Dec. 15–Jan. 4.
South Carolina	Sept. 6–Oct. 11 and Nov. 22–Nov. 29 and Dec. 20–Jan. 14.
Tennessee [4]	Sept. 1–Sept. 30 and Oct. 11–Oct. 26 and Dec. 20–Jan. 12.
Vermont	Closed.
Virginia (12 noon to sunset)	Sept. 6–Nov. 1 and Dec. 20–Jan. 1.
West Virginia	Sept. 1–Oct. 31 and Dec. 22–Dec. 30.
Wisconsin	Closed.

[1] In Alabama, the South Zone is defined as that area south of U.S. Highway 84 running east from the Mississippi State Line to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

[2] In Georgia, the North Zone is defined as that area lying north of U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean. The South Zone consists of the remainder of Georgia.

[3] In Louisiana, the North Zone is defined as that area lying north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line. The South Zone consists of the remainder of Louisiana.

[4] In Tennessee, shooting hours on opening day (Sept. 1) are 12 noon to sunset.

(b) *Mourning Doves—Central Management Unit.*

Daily bag limit	10
Possession limit	20

Shooting hours: One-half hour before sunrise until sunset daily except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Dates
Arkansas	Sept. 1–Oct. 5 and Dec. 13–Jan. 6.
Colorado	Sept. 1–Oct. 30.
Iowa	Closed.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed.
Missouri	Sept. 1–Oct. 30.
Montana	Closed.
Nebraska	Sept. 1–Oct. 15.
New Mexico [1]	Sept. 1–Sept. 30 and Nov. 22–Dec. 21.
North Dakota	Sept. 13–Nov. 11.
Oklahoma	Sept. 1–Oct. 30.
South Dakota	Closed.
Texas: [2]	
North Zone: Counties of Kinney, Val Verde, Terrell, Brewster, Presidio, Jeff Davis, Culberson, Hudspeth, and El Paso.	
Shooting hours: 12 noon until sunset.	Sept. 6, 7, 13, 14.
Shooting hours: ½ hour before sunrise until sunset.	Sept. 1–5, Sept. 8–12 and Sept. 15–Oct. 30.
Remainder of North Zone:	
Shooting hours: ½ hour before sunrise until sunset.	Sept. 1–Oct. 30.
South Zone: Counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Webb, and Maverick.	
Shooting hours: 12 noon until sunset.	Sept. 6, 7, 13, 14.
Shooting hours: ½ hour before sunrise until sunset.	Sept. 20–Oct. 29 and Jan. 3–Jan. 18.
Remainder of South Zone:	
Shooting hours: ½ hour before sunrise until sunset.	Sept. 20–Nov. 2 and Jan. 3–Jan. 18.
Wyoming	Sept. 1–Oct. 15.

[1] In New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of these species.

[2] In Texas, the North Zone consists of the counties of Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby and all counties north and west thereof. The South Zone consists of all counties south and east of the North Zone.

(c) *Mourning Doves—Western Management Unit.*

Daily bag limit	10
Possession limit	20

Shooting hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Season dates	Limits: Bag	Limits: Possession
Arizona:			
North Zone [1] (½ hour before sunrise to sunset).	Sept. 1–Oct. 20.		
South Zone: [1]			
½ hour before sunrise to 12 noon.	Sept. 1–Sept. 29.		
12 noon to sunset	Nov. 28–Jan. 8.		
California [2]	Sept. 1–Sept. 30 and Nov. 15–Dec. 4.		
Idaho	Sept. 1–Sept. 21.		
Nevada [3]	Sept. 1–Oct. 20.		
Oregon	Sept. 1–Sept. 30.		
Utah	Sept. 1–Sept. 30.		
Washington	Sept. 1–Sept. 15.		

[1] In the *North Zone* (Game Management Units 1 through 20A), from September 1 through 28, the shooting hours are one-half hour before sunrise until sunset, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 5 may be white-wings, the possession limit is 20 mourning and white-winged doves in the aggregate of which no more than 10 may be white-wings after opening day; and from September 29 through October 20, the shooting hours are one-half hour before sunrise until sunset, and the daily bag and possession limits are 10 and 20 mourning doves, respectively. In the *South Zone* (Game Management Units 20B through 44B), from September 1 through 28, the shooting hours are one-half hour before sunrise until 12 noon, the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-wings, the possession limit is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-wings after opening day; and from November 28, 1980, through January 8, 1981, the shooting hours are 12 noon until sunset, and the daily bag and possession limits are 12 and 24 mourning doves, respectively.

[2] In those counties of California and Nevada having an open season on white-winged doves, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

Notice.—Hawaii—Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) *White-winged Doves.*

Shooting hours: One-half hour before sunrise until sunset except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Season dates	Limits: Bag	Limits: Possession
Arizona:			
North Zone [1] (½ hour before sunrise to sunset).	Sept. 1–Sept. 28.	5	10
South Zone [1] (½ hour before sunrise to noon).	Sept. 1–Sept. 28.	6	12
California: [2]			
Counties of Imperial, Riverside and San Bernardino.	Sept. 1–Sept. 30 and Nov. 15–Dec. 4.		
Remainder of State	Closed		
Nevada: [2]			
Counties of Clark and Nye.	Sept. 1–Oct. 20		
Remainder of State	Closed		
New Mexico [3]	Sept. 1–Sept. 30 and Nov. 22–Dec. 21.		
Texas: [3]			
In the North Zone counties of El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Terrell, Val Verde and Kinney, and South Zone counties of Maverick, Webb, Zapata, Starr, Hidalgo, Cameron, and Willacy.	Sept. 6, 7, 13, and 14.	10	20
Remainder of State	Closed		

[1] In the *North Zone* (Game Management Units 2 through 20A), from September 1 through 28, the shooting hours are one-half hour before sunrise until sunset, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 5 may be white-wings, the possession limit is 20 mourning and white-winged doves in the aggregate of which no more than 10 may be white-wings after opening day. In the *South Zone* (Game Management Units 20B through 44B), from September 1 through 28, the shooting hours are one-half hour before sunrise until 12 noon, the daily bag limit is 12 mourning and white-winged doves in the aggregate of which no more than 6 may be white-wings, the possession limit is 24 mourning and white-winged doves in the aggregate of which no more than 12 may be white-wings after opening day.

[2] In California, Nevada, and New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of both species.

[3] In Texas, the shooting hours are 12 noon until sunset.

(e) *Band-tailed Pigeons.*

Shooting hours: One-half hour before sunrise until sunset.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in—	Season dates	Limits: Bag	Limits: Possession
Arizona [1]	Oct. 10–Nov. 8	5	10
California:			
Counties of Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity.	Sept. 27–Oct. 26.	5	5
Remainder of State	Dec. 13–Jan.11	5	5
Colorado [1]	Sept. 1–Sept. 30.	5	10
New Mexico: [1]			
North Zone [2]	Sept. 6–Sept. 25.	5	10
South Zone [2]	Oct. 4–Oct. 23	5	10
Oregon	Sept. 13–Oct.12	5	5
Utah [1]	Sept. 1–Sept. 30.	5	10
Washington	Sept. 1–Sept. 30.	5	5

[1] Every hunter must have been issued and carry on his person while hunting band-tailed pigeons a properly validated special band-tailed pigeon hunting permit issued by the State conservation agency of each respective State for the open season in that State. Such a special band-tailed pigeon hunting permit will be issued upon application to the State conservation agency of the State in which hunting is to be done. Permits issued by any State will be valid in that State only. This season shall be open only in the areas described, delineated, and designated as such by Arizona, Colorado, New Mexico, and Utah in their respective hunting regulations.

[2] In New Mexico the *North Zone* is defined as that area lying north and east of a line following U.S. Highway 60 from the Arizona State line east to interstate Highway 25 at Socorro and then south along Interstate Highway 25 to the Texas State line. The *South Zone* is defined as that area lying south and west of the North Zone.

Section 20.104 is amended to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of

the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (sora and Virginia)	Rails (clapper and king)	Woodcock	Common snipe
Daily bag limits	[1] 25	See footnote 2	5	8
Possession limit	[1] 25	See footnote 2	10	[c] 16

Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

Check State Regulations for Additional Restrictions, Including Area Descriptions

Seasons in the Atlantic Flyway

Connecticut	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 18 to Dec. 6	Oct. 18 to Dec. 6.
Delaware	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 16 to Nov. 1 and Nov. 17 to Jan. 3.	Oct. 2 to Nov. 1 and Nov. 17 to Jan. 31.
Florida	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Dec. 6 to Feb. 8	Nov. 8 to Feb. 22.
Georgia	Sept. 20 to Nov. 28	Sept. 20 to Nov. 28	Nov. 20 to Jan. 23	Nov. 20 to Feb. 28.
Maine	Sept. 1 to Nov. 8	Closed [2]	Sept. 24 to Nov. 27	Sept. 1 to Dec. 15.
Maryland	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 4 to Nov. 22 and Dec. 15 to Dec. 29.	Sept. 12 to Dec. 27.
Massachusetts	Sept. 1 to Nov. 8	Closed	Deferred	Sept. 1 to Dec. 16.
New Hampshire	Closed	Closed	Sept. 20 to Nov. 23	Sept. 20 to Nov. 23.
New Jersey: [3]				
North Zone	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 4 to Nov. 27	Deferred.
South Zone	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 25 to Dec. 6 and Dec. 18 to Dec. 29.	Deferred.
New York: [3]				
Northern Zone including Lake Champlain	Sept. 1 to Nov. 9	Closed	Sept. 20 to Nov. 23	Sept. 1 to Nov. 23.
Long Island	Closed	Closed	Oct. 1 to Nov. 23	Closed.
Remainder of State	Sept. 1 to Nov. 9	Closed	Oct. 1 to Nov. 23	Sept. 1 to Nov. 23.
North Carolina	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Nov. 14 to Jan. 17	Nov. 14 to Feb. 28.
Pennsylvania	Sept. 1 to Nov. 8	Closed	Oct. 18 to Dec. 20	Oct. 18 to Dec. 20.
Rhode Island	Sept. 17 to Nov. 25	Sept. 17 to Nov. 25	Oct. 18 to Dec. 5 and Dec. 15 to Dec. 30.	Sept. 17 to Dec. 5 and Dec. 15 to Jan. 1.
South Carolina	Sept. 19 to Nov. 27	Sept. 19 to Nov. 27	Dec. 12 to Feb. 14	Nov. 14 to Feb. 28.
Vermont	Sept. 27 to Nov. 30	Closed	Sept. 27 to Nov. 30	Sept. 27 to Nov. 30.
Virginia	Sept. 6 to Nov. 14	Sept. 6 to Nov. 14	Oct. 20 to Dec. 6 and Jan. 1 to Jan. 17.	Deferred.
West Virginia	Sept. 8 to Nov. 16	Closed	Oct. 18 to Dec. 21	Sept. 8 to Dec. 23.

Seasons in the Mississippi Flyway

Alabama	Nov. 10 to Jan. 18	Nov. 10 to Jan. 18	Nov. 28 to Jan. 31	Nov. 14 to Feb. 28.
Arkansas	Sept. 1 to Nov. 9	Closed	Nov. 15 to Jan. 17	Nov. 15 to Feb. 28.
Illinois	Sept. 1 to Nov. 9	Closed	Oct. 15 to Dec. 18	Oct. 15 to Jan. 29.
Indiana	Sept. 1 to Nov. 9	Closed	Sept. 27 to Nov. 30	Sept. 1 to Dec. 16.
Iowa	Sept. 6 to Nov. 14	Closed	Sept. 20 to Nov. 23	Sept. 6 to Dec. 21.
Kentucky	Deferred	Closed	Oct. 4 to Dec. 7	Oct. 4 to Dec. 7.
Louisiana	Sept. 20 to Nov. 28	Sept. 20 to Nov. 28	Dec. 13 to Feb. 15	Nov. 1 to Feb. 15.
Michigan [3, 4]	Sept. 15 to Nov. 14	Closed	Sept. 15 to Nov. 14	Sept. 15 to Nov. 14.
Minnesota	Sept. 1 to Nov. 4	Closed	Sept. 1 to Nov. 4	Sept. 1 to Nov. 4.
Mississippi	Oct. 25 to Jan. 2	Oct. 25 to Jan. 2	Dec. 20 to Feb. 22	Nov. 15 to Feb. 26.
Missouri	Sept. 1 to Nov. 9	Closed	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
Ohio	Sept. 1 to Nov. 8	Closed	Sept. 19 to Nov. 22	Sept. 1 to Nov. 29 and Dec. 8 to Dec. 24.
Tennessee	Deferred	Closed	Oct. 18 to Nov. 23 and Feb. 1 to Feb. 28.	Nov. 19 to Feb. 28.
Wisconsin	Deferred	Closed	Sept. 13 to Nov. 16	Deferred.

Seasons in the Central Flyway

Colorado [5]	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Kansas	Sept. 13 to Nov. 21	Closed	Oct. 4 to Dec. 7	Sept. 13 to Dec. 28.
Montana [5]	Closed	Closed	Closed	Deferred.
Nebraska	Sept. 1 to Nov. 9	Closed	Sept. 15 to Nov. 18	Sept. 15 to Nov. 18.
New Mexico [5]	Sept. 13 to Nov. 21	Closed	Closed	Sept. 13 to Dec. 14.
North Dakota	Closed	Closed	Closed	Sept. 13 to Nov. 30.
Oklahoma	Sept. 1 to Nov. 9	Closed	Nov. 20 to Jan. 23	Oct. 20 to Feb. 3.
South Dakota	Closed	Closed	Closed	Sept. 1 to Oct. 31.
Texas	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Deferred	Deferred.
Wyoming [5]	Sept. 27 to Dec. 5	Closed	Closed	Sept. 27 to Jan. 11.

Seasons in the Pacific Flyway

Colorado [5]	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Montana [5]	Closed	Closed	Closed	Deferred.
New Mexico [5]	Sept. 13 to Nov. 21	Closed	Closed	Sept. 13 to Dec. 14.
Wyoming [5]	Closed	Closed	Closed	Sept. 27 to Dec. 28.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

[2] In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

[3] For description of zones or management units within a State, see State regulations.

[4] In Michigan, in the counties of Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola and Wayne; and adjacent Great Lakes and connecting waters, the snipe and rail seasons shall open concurrently with the duck season and shall run continuously in all areas through November 14.

[5] The Central Flyway portion consists of: *Colorado* and *Wyoming*—the area lying east of Continental Divide; *Montana*—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; *New Mexico*—the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remainder portions of these States are in the Pacific Flyway.

Note.—Some States may select rail, woodcock and snipe seasons at the time they select their duck seasons in August. Consult waterfowl regulations to be published later for information concerning these seasons.

Section 20.105 is amended to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea Ducks.* (1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1980, and January 20, 1981, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in:	
Connecticut	Sept. 26–Jan. 10.
Delaware	Sept. 26–Jan. 10.
Georgia	Deferred.
Maine	Oct. 1–Jan. 15.
Maryland	Oct. 6–Jan. 20.
Massachusetts	Oct. 3–Jan. 17.
New Hampshire	Sept. 15–Dec. 30.
New Jersey	Deferred.
New York (Long Island only)	Sept. 23–Jan. 7.
North Carolina	Deferred.
Rhode Island	Deferred.
South Carolina	Deferred.
Virginia	Deferred.

(4) Notwithstanding the provisions of this Part 20, the shooting of *crippled* waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

Note.—States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) *Teal.* September season: An open season for teal ducks (blue-winged, green-winged and cinnamon) is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the following States:

Daily bag limit	4
Possession limit	8

Shooting hours: Sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in the Mississippi Flyway

Alabama [1]	Sept. 13–Sept. 21.
Arkansas	Sept. 13–Sept. 21.
Illinois [2]	Sept. 13–Sept. 21.
Indiana [3]	Sept. 1–Sept. 9.
Kentucky	Sept. 6–Sept. 14.
Louisiana	Sept. 20–Sept. 28.
Mississippi	Sept. 13–Sept. 21.
Missouri	Sept. 13–Sept. 21.
Ohio	Sept. 12–Sept. 20.
Tennessee	Sept. 13–Sept. 21.

Seasons in the Central Flyway

Colorado [4, 5]	Sept. 6–Sept. 14
Kansas	Sept 13–Sept. 21.
New Mexico [5]	Sept. 13–Sept. 21.
Oklahoma	Sept. 20–Sept. 28.
Texas	Sept. 13–Sept. 21.

[1] In Alabama, shooting hours in Mobile Bay north of the causeway and south of the L&N Railroad are sunrise to 12 noon.

[2] In Illinois the shooting hours are from 7 a.m.-4 p.m. local time by State regulation.

[3] The Kankakee, LaSalle and portions of Jasper-Pulaski, Pigeon River, Hovey Lake and Atterbury Fish and Wildlife Areas are closed to teal hunting by State regulations.

[4] Only in Lake and Chaffee Counties, and that portion of Colorado east of U.S. Highway-Colorado State Highway 85 from the Wyoming State line to its intersection with U.S. Interstate Highway 25 to the New Mexico State line.

[5] Central Flyway portion only.

(c) *Gallinules.*

Daily bag limit	15
Possession limit	30

Shooting hours: One-half hour before sunrise to sunset.

Check State Regulations for Additional Restrictions

Seasons in the Atlantic Flyway

Connecticut	Sept. 1–Nov. 8.
Delaware	Sept. 1–Nov. 8.
Florida [1]	Sept. 1–Nov. 9.
Georgia	Deferred.
Maine	Sept. 1–Nov. 8.
Maryland	Sept. 1–Nov. 8.
Massachusetts	Sept. 1–Nov. 8.
New Hampshire	Closed.
New Jersey	Sept. 1–Nov. 8.
New York:	
Long Island	Closed.
Remainder of State	Sept. 1–Nov. 9.
North Carolina	Sept. 1–Nov. 8.
Pennsylvania	Sept. 1–Nov. 8.
Rhode Island	Sept. 17–Nov. 25.
South Carolina	Sept. 19–Nov. 27.
Vermont	Sept. 27–Nov. 30.
Virginia	Deferred.
West Virginia	Deferred.

Seasons in the Mississippi Flyway

Alabama	Nov. 10–Jan. 18.
Arkansas	Nov. 7–Jan. 15.
Illinois	Closed.
Indiana	Sept. 1–Nov. 9.
Iowa	Closed.
Kentucky	Deferred.
Louisiana	Sept. 20–Nov. 28.
Michigan	Deferred.
Minnesota	Deferred.
Mississippi	Sept. 13–Sept. 21 and Oct. 25–Dec. 14.
Missouri	Closed.
Ohio	Sept. 1–Nov. 8.
Tennessee	Deferred.
Wisconsin	Deferred.

Seasons in the Central Flyway

Colorado [2]	Closed.
Kansas	Closed.
Montana [2]	Deferred.
Nebraska	Closed.
New Mexico [2]	Deferred.
North Dakota	Closed.
Oklahoma	Sept. 1–Nov. 9.
South Dakota	Closed.
Texas	Sept. 1–Nov. 9.
Wyoming [2]	Closed.

Seasons in the Pacific Flyway

All States and portions thereof	Deferred.

[1] The gallinule season in Florida applies to the common gallinule only. There is no open season on purple gallinules in Florida.

[2] Seasons apply to Central Flyway portion of State only.

Note.—States with deferred seasons may select gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) *Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.*

* * * * *

V 45 A G 21 80 UMI

Mississippi Flyway

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

Flywaywide Restrictions

* * * * *

	Season dates	Limits	
		Bag	Possession
* * * * * *			
Ducks	Sept. 20–Sept. 24.	[Limits to be determined later.]	
* * * * * *			

Section 20.106 is amended as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of three and a possession limit of six, and with shooting hours from one-half hour before sunrise until sunset in the following areas for the dates indicated:

* * * * *

(d) In North Dakota, in the counties of Benson, Burleigh, Emmons, Kidder, Pierce, and Stutsman the inclusive season dates are September 6 through September 10 and in the counties of McLean and Sheridan, the inclusive season dates are September 6 through September 14, 1980. In the South Dakota counties of Campbell, Walworth, Potter, Dewey, and Corson the inclusive season dates are September 20 through September 28, 1980.

* * * * *

(g) Each hunter participating in the sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

* * * * *

Section 20.109 is amended as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit..... 3 singly or in the aggregate.
Possession limit..... 6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily.

Check State Regulations for Additional Restrictions

Seasons in—	Dates
Florida:	
Mourning doves	Oct.1–Jan. 15.
Rails	Sept.1–Dec. 16.
Woodcock	Nov. 1–Feb. 15.
Common snipe	Nov. 8–Feb. 22.
Sea ducks	Oct. 4–Jan. 18.
Scaup	Oct. 17–Jan. 31.
Maryland:	
Mourning doves	Sept. 1–Oct. 11 and Nov. 12–Jan. 16.
Rails and gallinules	Sept. 1–Dec. 16.
Woodcock	Oct. 4–Nov. 22 and Dec. 4–Jan. 29.
Common snipe	Sept. 12–Dec. 27.
Sea ducks	Oct. 6–Jan. 29.
Pennsylvania:	
Mourning doves	Sept. 1–Dec. 13.
Ducks and geese	Oct. 6–Jan. 10.
Virginia: Mourning doves, rails and woodcock.	Sept. 19–Dec. 6 and Dec. 20–Jan. 1.
Indiana: Woodcock only	Sept. 1–Sept. 28.
Michigan:	
Rails, woodcock, common snipe, ducks, gallinules and mergansers.	Sept. 1–Dec. 16.
Geese	Oct. 4–Jan. 18.
Minnesota:	
Woodcock, rails and common snipe.	Sept.1–Dec. 16.
Ducks, geese, coots, mergansers, and gallinules.	Oct. 4–Jan. 18.
Missouri: Mourning doves only	Sept. 1–Dec. 16.
New Mexico: Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species:	
Mourning doves, white-winged doves, and bandtailed pigeons (Statewide).	Sept. 1–Nov. 16 and Nov. 22–Dec. 21.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay and Roosevelt Counties.	Oct. 13–Jan. 18.
Ducks, mergansers, coots, geese, and gallinules.	Oct. 13–Jan. 18.
Idaho:	
Mourning doves only	Sept. 1–Oct. 20.
Waterfowl	Oct. 4–Jan. 18.
Utah: Ducks, mergansers, coots, geese, gallinules, rails, and common snipe.	Oct. 4–Jan. 18.
Wyoming: Rails and common snipe	Sept. 27–Jan. 11.

Dated: August 4, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-25389 Filed 8-20-80; 8:45 am]

BILLING CODE 4310-55-M

V 45 AG 21 80 UMI

federal register

Thursday
August 21, 1980

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Community Development Block Grants, Small Cities Program

is added data from the Bureau of

This paragraph originally carried a

this will reflect upon the county and

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-80-782]

Community Development Block Grants; Subpart F—Small Cities Program

AGENCY: Department of Housing and Urban Development (HUD), Assistant Secretary for Community Planning and Development.

ACTION: Final rule.

SUMMARY: This rule revises Subpart F the Small Cities Program regulations, of the Community Development Block Grant Program. Most of the changes clarify existing policies and procedures, but substantive changes are made as follows: (1) reducing the weight of the needs factors and giving equal weight to the two poverty needs factors; (2) adding Comprehensive Grant program impact criteria dealing with economic development and energy conservation; (3) increasing the weight of the Single Purpose Grant program impact factor; (4) combining the two criteria about State growth and resource coordination plans and regional centers into a single factor; (5) basing Areawide Housing Opportunity Plan (AHOP) points on acceptance of responsibility in achieving the AHOP's goals for metropolitan applicants and eliminating AHOP points for nonmetropolitan applicants; (6) adding an energy conservation or production factor; (7) and replacing prior Single Purpose and Comprehensive Grants citizen participation requirements with a single set of requirements that apply to both types of grants.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Kennedy, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202–755–6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On March 1, 1978, regulations governing the Small Cities Program, formerly the Discretionary Grant Program, were published. With the exception of clarifying and other minor changes published June 26, 1979, these regulations have not been changed over three program years (fiscal years 1978, 1979, and 1980). This stability has enabled small cities and other eligible applicants to become familiar with the Program and to use it to their maximum advantage.

Three years of experience with the Program, however, have shown that some improvements should be considered. These include clarifying existing policies and procedures, eliminating or modifying some of the Program's provisions, and adding provisions that will make an applicant's program easier to design.

HUD published a proposed rule in the **Federal Register** on April 8, 1980 for public comment. This proposed rule dealt with all changes made in the final rule, with the exceptions of the new energy factor and the reference to the Cost-Effective Energy Conservation Standards. These energy-related considerations were published as a proposed rule for public comment on May 7, 1980 in the **Federal Register.** HUD received 54 comments in response to the April 8 proposed rule and one comment in response to the May 7 proposed rule. HUD considered each comment in developing this final rule. It is not the intent of this final rule to disrupt the continuity of the Small Cities Program with major changes. The changes made are relatively limited and do not substantially alter the Program with which the public is already familiar.

The Department has determined that an environmental impact statement is not required with respect to this rule. A copy of the Finding of Inapplicability is on file and available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

This rule is listed as item number CPD 24–79 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044. The Small Cities Program is listed in the Catalog of Federal Domestic Assistance under the number 14–219, *Community Development* Block Grants/Small Cities Program. As explained in § 570.435, OMB Circular A–95 applies to this Program.

Beginning with some general comments from the public in response to the proposed rules, the following paragraphs explain the revision to the Small Cities Program regulations and the public's corresponding comments. With limited exceptions, each change is separately discussed. The exceptions are:

1. Corrections for typographical errors.
2. Changes in references made for conformity with new paragraph designations.

General Comments in Response to the Proposed Rule

One commentor suggested establishing a set-aside for use by States in awarding funds to small cities. In the April 22, 1980 **Federal Register,** HUD published a separate proposed rule about State participation. That rule would permit, on a demonstration basis, a very limited number of States to participate to a greater degree in selecting Small Cities Program grantees.

Another commentor requested that the role of Areawide Planning Organizations (APOs) be highlighted. Although not specifically enumerated in the regulations, there are several ways APOs contribute to the Small Cities Program. These include preparing areawide analyses, providing small cities assistance in preparing applications, and developing Areawide Housing Opportunity Plans.

§ 570.420 General.

The five objectives listed in paragraph (b), *Program objectives,* are based on statutory language which explains the purpose of the Community Development Block Grant Program. HUD has not adopted the two suggestions for additions to these Program objectives, because the suggestions are not based on statutory language. HUD has, however, expanded the third objective to include providing housing choice in a revitalizing neighborhood, enabling low and moderate income residents to avoid displacement.

In paragraph (c), *Eligible applicants,* the reference to entities described in § 570.403(b)(1), (2), and (3) as eligible applicants to undertake activities in new communities is deleted for two reasons. First, there entities have received set-asides from the Secretary's Discretionary Fund in each year since the inception of the CDBG Program (fiscal year 1975), and second, none of them has participated in the Small Cities Program.

Paragraph (g), *Restrictions on applying for grants,* has been reworded to clarify that States and counties may submit two applications, one Single Purpose and one Comprehensive, if at least one application is in behalf of one or more other units of general local government. All other applicants are limited to one application. This paragraph also states that each applicant, except States and counties, may be included in only one application in any fiscal year.

Paragraph (h), *Method of selecting grantees,* lists several sources of existing information that an applicant can use in its preapplication. To this list is added data from the Bureau of Census, since this is acceptable and often used data. Sometimes, particularly when the decennial Census data becomes outdated, existing information is not sufficient to document a community's needs, the expected benefits of a project, or other important facts. Local surveys are then necessary, which is now recognized and suggested in this paragraph. As now noted, paragraph (h) does not apply to the needs data (§ 570.424(a)–(b) and § 570.428(a)–(b)), which HUD already has.

One commentor suggested limiting areawide analyses, one source of existing information, to those prepared by Areawide Planning Organizations (APOs). HUD does not believe this is a useful restriction. The phrase "areawide analyses" does include those prepared by APOs.

Paragraph (i), *Data,* now clearly states what Census data is used to rate the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)). The data used is the most recently collected which can be applied to every applicant in a metropolitan or nonmetropolitan competition.

The phrase "as a result of such a finding" is deleted from the end of the first sentence in paragraph (j), *Previous audit findings.* Deletion of the phrase means that HUD will no longer accept a preapplication from an applicant with an outstanding monetary obligation, regardless of whether or not it resulted from an audit finding. In addition, a preapplication in behalf of a unit of general local government which has an outstanding audit finding or monetary obligation will not be accepted.

In previous competitions, a few applicants with zero points for program impact have been selected for funding, not because their program impacted their identified needs, but because of high scores for other selection factors. Therefore, the first sentence in paragraph (k), *Program Design,* now reads: "The program as a whole must principally benefit low- and moderate-income persons and directly impact on the applicant's needs." The last phrase is added to state that HUD will not invite applicants whose programs are determined during the rating process to have an insignificant impact on their identified needs. To correct an inaccuracy, the word "persons" replaces "families" in the last sentence.

Paragraph (l) *Activities outside an applicant's boundaries,* replaces former paragraph 570.421(g), *Urban counties and metropolitan cities* because the modified paragraph applies to all applicants, not just States and counties. This paragraph originally carried a prohibition against use of Small Cities Program funds in metropolitan cities and urban counties. A few eligible counties applying to the Small Cities Program, however, have proposed activities located in metropolitan entitlement cities. In each case, the applicant stated that the activities were appropriate to meeting the applicant's needs and objectives and were designed to serve all residents in the county. Each county determined that its proposed activity could only logically take place in the entitlement city. HUD considered each preapplication and where appropriate, waived the regulation. To achieve equity for all applicants, this paragraph is changed. Where the proposed activity is specifically demonstrated to be appropriate to meeting the applicant's identified needs and objectives, the applicant may use Small Cities Program funds to undertake activities in metropolitan entitlement cities or urban counties.

§ 570.421 Preapplications and applications by States and counties; joint preapplications and applications.

One commentor stated that the "in behalf of" and "joint application" options prevent small cities from building their own administrative capacity and should be eliminated. Four commentors, however, wrote that these options are valuable, giving small places a better chance to be funded by allowing them to borrow administrative capacity. Because of the advantages, these options are retained.

According to three commentors, cities sometimes have a greater administrative capacity than counties and should be allowed to apply in behalf of counties. Since counties may contract for a city's administrative services, HUD has not added this option.

The purpose of cooperation agreements is now stated in paragraphs (b), *Preapplications and applications in behalf of others,* and (c) *Joint preapplications and applications.* A cooperation agreement delineates responsibilities of the State, the county, and/or the participating unit. Paragraph (b) repeats HUD's policy of holding the applicant responsible for compliance with applicable laws and regulations.

One commentor stated that an "in behalf of" application allows a county to earn outstanding performance points regardless of the record of the city in which activities take place. Since the county is the applicant, this is true. Applicants are rated for outstanding performance points, and must meet threshold requirements as well. Consequently, if a city performs poorly, this will reflect upon the county and may affect threshold considerations for future grants. The cooperation agreement provides a mechanism for the county to require a city to meet the county's own performance standards.

Paragraph (c) explains that joint applications must address a common problem. Five commentors suggested that jurisdictions be allowed to submit a joint application on the basis of administrative convenience only. This, however, would complicate the rating system and create inequities for single city applicants. Grantees, however, may establish joint administrative units to administer their grants to realize cost savings.

Paragraph (e), *Data considerations,* is modified to clarify which data must be used for rating the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)). Essentially, data from the smallest area for which data can be readily and uniformly obtained for all applicants in a competition is used. If an activity is to take place in an incorporated place, data from that place only is used.

In rating a preapplication that proposes activities in an unincorporated area only, data from the entire unincorporated area of the county in which the activity is to take place is used. Where Census data exists at the township level for the State, that data may be used. The term township includes towns in six New England States, New York, and Wisconsin, plantations in Maine, locations in New Hampshire, and townships in ten other States. Using township data however, may not be appropriate for county applications in the competitions in all twenty of these States, for several reasons. There is some geographic overlapping of township and municipal boundaries in some places. HUD will not use township data for county applicants when this occurs for one or more townships in which activities are proposed. In some States, townships do not exist in every potential county applicant. Area Offices, therefore, must determine whether using township data is appropriate in a competition, and will use it whenever possible.

One commentor asked what data is used for a joint application between a city and a county, with activities located in the city and in unincorporated places. In this case, data from the city plus data from the entire unincorporated area of the county (or from the township) is used.

§ 570.423 Comprehensive Grant Program general requirements.

In paragraph (a), *Definition,* the phrase, "designated area" is replaced

with "defined area or areas" to conform with the definition of a comprehensive program.

Several clarifying and conforming changes are made in paragraph (b), *Funding commitments.* The last sentence of (b)(1) is now designated (b)(2) to emphasize that every Comprehensive Grant request must be, by itself or in combination with other identified funding sources, enough to complete the proposed activities. Paragraph (b)(3) is clarified in several ways. It now reflects the requirement that an applicant with a multiyear commitment must submit, as part of its second or third year application, an assessment of its performance for prior grants.

One commentor believes the multiyear funding option described in (b)(1) has been abused and should be eliminated. HUD has not found this popular feature, an option included in the Statute, abused. Experience has shown that the flexibility of the multiyear option is valuable to many applicants. It is retained.

Five commentors who support the multiyear commitment requested eliminating the preference for previous hold harmless recipients. This is, however, a statutory requirement.

With respect to paragraph (c), *Capacity and performance: threshold determinations,* one respondent suggested that if a prior recipient had not drawn down all its funds within 18 months, it has not met the threshold criteria for a subsequent preapplication. As suggested, this would release urgently needed money for other communities which are ready to implement community development programs, but such a strict standard does not give HUD enough flexibility to accommodate legitimate reasons for delay. HUD, however, has and will continue to strongly stress performance. As now stated in paragraph (c), HUD will judge a community's capacity and performance as of the date the preapplication is due in the Area Office, based in part on the applicant's adherence to its own schedule.

One commentor stated that performance criteria should be clearly defined and provided to applicants in advance of preapplication deadlines. This is done by each Area Office in its annual Review Process Statement. (The Review Process Statement provides detailed information and guidance to communities that are planning to apply to the Small Cities Program.)

Two commentors indicated that the information required in paragraph (c) is insufficient for making capacity and performance judgments. They suggested requiring information about contractors, listing projects by Census area, and breaking out benefits to minorities and lower income persons. HUD believes that sufficient information is received for the determinations and that requiring more would place an undue burden on applicants, particularly the smallest. In addition, capacity and performance determinations consider compliance with the laws, regulations, and Executive Orders applicable to the Community Development Block Grant program and resolution of monitoring or audit findings.

§ 570.424 Selection System for Comprehensive Grants.

In the Comprehensive Grant selection system, there are now nine selection factors and 995 possible points for metropolitan applicants, and eight selection factors and 945 possible points for nonmetropolitan applicants. These changes and the changes made in the factors are reflected in the introductory paragraph. Each factor is discussed separately in the following paragraphs. (Some of these changes are repeated, as appropriate, in the Single Purpose Grant selection system.)

One commentor suggested that a new factor, benefit to minorities, be added to the selection system. The CDBG program requires that minorities be accorded equal treatment, and applicants must submit assurances to that effect. Also, points are awarded to applicants with outstanding fair housing and equal opportunity records.

Counties and States are scored separately with respect to the needs factors. One commentor believes this put smaller cities at a disadvantage. Rating them separately, on the contrary, prevents skewing the needs scores in favor of large places with great numbers of persons in poverty, protecting places with small populations.

(a) *Need—absolute number of poverty persons (75 points);* (b) *Need—percent of poverty persons (75 points);* and former paragraphs (c) *Need—absolute housing need;* and (d) *Need—percent of housing need.*

In the original selection system, the needs factors (absolute number of and percent of persons in poverty, and absolute and percent of housing need), equaled 200 points out of 1025 possible points. These factors measure the needs in the entire community, not the needs to be addressed in the proposed project. The weight of these factors, which do not directly relate to a proposed project, occasionally allowed poor quality projects to rank highly enough to be funded. To counter this, HUD has decreased the overall weight of the needs factors, giving relatively more weight to factors over which the applicant has more control, like program impact, benefit to low- and moderate-income persons, and outstanding performance.

In addition there are indications that the measures of housing need (the incidence of overcrowded housing and housing lacking plumbing), are declining rapidly in some areas, but not others. Therefore, the factors are becoming less useful in measuring an individual small community's relative needs, and give unfair advantage in the selection system to communities with improving housing stock. (The same is not true of larger cities and small cities in Statewide aggregates because the data base is larger and therefore more reliable.) Poverty is a stronger reflection of needs, and less likely to unfairly disadvantage poorer communities.

Since the needs factors will carry a reduced weight and since the housing needs data are weak and dated with respect to individual small cities, HUD is eliminating the housing needs factors' fifty points in the selection system. The public supported this action by an almost 3 to 1 margin.

Most of the commentors agreed that housing data problems are severe. HUD has searched for alternate data that can reliably meet the standards of § 570.420(i), but has found none. Factors used for Urban Development Action Grants are not available for very small places. Also, eliminating the weaker housing data in order to reduce the weight of the needs factors make the needs scores less complex than modifying the housing data and also modifying the points for the poverty needs score.

Housing, however, remains an important part of both Single Purpose and Comprehensive Grants. Almost all comprehensive programs, for example, include housing-related impact criteria. The Housing Assistance Plan (HAP) is HUD's principal link betwen housing and community development, and is required of all applicants. Deleting the housing needs score will not affect program design or the HAP and, therefore, housing and community development links will not be weakened. HUD is not de-emphasizing the important links betwen housing and community development.

Over the years of the Small Cities Program many cities and public interest groups claimed that the poverty needs factors, which awarded 100 points for absolute poverty and 50 points for percent poverty, skewed the selection system to the larger small cities and worked against the smaller cities. In response to the April 8 proposed rule, 14

commentors echoed this complaint. Only one commentor favored the absolute and percent point distribution.

Most commentors recommended making the two poverty needs factors equal in point value, while some went further and argued for eliminating the absolute number factor altogether. HUD has decided to equally weight each factor, to be determined in the same manner as in the current system.

The Department believes that the rating system is fair for all program participants because the rating system has been designed to emphasize overall grant quality. Giving equal weight to absolute and percent of people in poverty will more accurately measure the needs or distress of a community.

(c) *Program factor—impact of the proposed program (400 points).*

The basic considerations used to evaluate program impact for Single Purpose and Comprehensive Grants the same. These considerations are listed in the introductory paragraph to the program impact factor at § 570.424(c), (formerly (e)), for Comprehensive Grants and at § 570.428(c), (formerly (e)), for Single Purpose Grants. The paragraphs are modified to mirror each other.

HUD received six comments about a revised consideration, "the number of persons to benefit from the program." The negative comments dwelt on unintended interpretations of this consideration. HUD is not favoring larger target areas, encouraging non-concentrated activities, or counting persons who will not benefit. The number of persons to benefit is, however, changed to read "the number of persons to benefit given the type of program." The language indicates the context in which the number of persons to benefit is considered. HUD recognizes that more people are likely to benefit from construction of a neighborhood facility than from a rehabilitation program and will take that into account. The number of beneficiaries, given the type of program, is only one of eight possible factors that HUD measures in assessing impact. Each of the factors is given appropriate consideration on a case-by-case basis. Percent of benefit to low- and moderate-income persons receives emphasis as a separate selection factor.

HUD's policy is to minimize involuntary displacement as the result of HUD funded activities. Accordingly, displacement, and the actions an applicant purposes to minimize involuntary displacement, are added to the considerations used in judging impact. Two commentors believed this consideration is too weak. Since displacement generally will be viewed negatively, applicants are likely to avoid displacement. Another commentor thought that this displacement consideration is too strong. When an applicant indicates that involuntary displacement will be minimized or eliminated, displacement will be considered less negatively or as a neutral factor. As one commentor stated, the flexibility provided by minimizing displacement, in contrast to prohibiting displacement, is necessary to treat projects which address extremely dilapidated or unsafe housing.

One commentor suggested adding benefit to women and minorities to the list of program impact considerations. HUD already insures that women and minorities receive equal treatment through an applicant's assurances, its Title VI certification, and other legal requirements.

To emphasize that low- and moderate-income people must be the principal beneficiaries of all proposed comprehensive programs, two changes are made. First, the second sentence of paragraph (c) for Comprehensive Grants now reads: "HUD shall measure the impact of the program on *low- and moderate-income persons* for each of the program design criteria selected, based on * * *." (Changed is italicized.) Since the requirement that low- and moderate-income persons benefit from every comprehensive program is stated in the introduction to the program impact criteria, it is not repeated in each criterion. Second, another introductory paragraph is added to paragraph (c). It states that each applicant must explain, in measurable terms, how the program benefits low- and moderate-income persons. The language is already found in § 570.428(c), the paragraph about the program impact factor for Single Purpose Grants.

The individual program design criteria are modified as follows:

(i) The second phrase "or conserves the housing supply" is deleted, because almost any housing program conserves the housing supply. The word "conserves", however, conveys an important concept about neighborhoods in this criterion. The criterion now reads: "Supports comprehensive neighborhood conservation, stabilization, and/or revitalization." The focus of this criterion is upon the neighborhood; it is not limited to housing. One commentor wanted HUD to emphasize scattered site rehabilitation. HUD does not prohibit scattered site rehabilitation where it is necessary to address a serious need. HUD does not believe, however, it should be emphasized.

(ii) The word "Areawide" now precedes "Housing Opportunity Plan" to conform with other HUD regulations. In addition, the phrase "housing opportunities" is replaced with "housing choice" to clarify that, in addition to providing housing units, an applicant may provide housing counseling services as part of this program design criterion.

(iii) This criterion has been expanded to include providing housing opportunities within the community, both outside areas of concentrations of minorities and low- and moderate-income persons and in neighborhoods experiencing revitalization and substantial displacement as a result of private reinvestment.

Two commentors asked that the first "and" in the phrase "concentrations of minorities and low- and moderate-income persons" be changed to "and/or". HUD, however, wants to insure that a community with areas of both kinds of concentrations will make some assisted housing available outside areas of both kinds of concentrations. In a community with no minorities, it is possible to receive impact points when opportunities are provided outside areas of concentrations of low- and moderate-income persons.

(iv) This criterion is clarified to show that "expansion of housing" is not limited to supporting new construction, but includes rehabilitation of vacant units or conversion to housing units from a prior, non-housing use.

(v) This criterion is unchanged. Specific guidance on its meaning, requested by one commentor, can be found in the Review Process Statement issued by each Area Office.

(vi) More flexibility is incorporated into this criterion since it is no longer tied solely to providing jobs and also gives credit to retention or creation of employment opportunities, a serious problem in some areas.

(vii) Eleven commentors supported the addition of a new criterion related to economic development. It encourages a community to design a program that attracts or retains businesses which provide essential services, particularly to low- and moderate-income persons. An essential service is one providing a needed, frequently-used service usually at the neighborhood level and contributes to the overall quality of life. The applicant must explain how the service is essential.

(viii) Formely criterion (vii), this criterion is unchanged.

Former criteria (viii) and (ix). The original criteria (viii), dealing with State plans, and (ix), dealing with the community's position as a growth

center, are eliminated from the program impact criteria. They are replaced with the 25 points for State's rating, § 570.424(g), discussed below.

(ix) Formerly criterion (x), this criterion is unchanged.

(x) Formerly criterion (xi), this criterion is reworded to clarify its meaning. The word "policies" was, in practice, vague to applicants trying to identify what impacts a Federal policy might have upon their communities. "Policies" was therefore deleted. The word "action" by itself, conveys the intent of this criterion that the "Federal policy or action" must have a direct, demonstrable effect upon the community. Where a Federal policy does have a demonstrable effect on an applicant, this criterion may be used. Another change to this criterion is that the other Federal program or programs which the proposed program will support, or the Federal action the program addresses must be of substantial size or impact. This precludes the use of this criterion, for example, for Federal actions that have insignificant implications for the applicant. The applicant may include more than one other Federal program.

One commentor suggested that a community with an approved community economic adjustment plan as a result of a defense realignment be awarded bonus points that would not be available to other communities. HUD believes these communities are adequately accommodated under this criterion (and under the similar Single Purpose factor, *Other Federal programs*, § 570.428(h)). Since a community with an approved economic adjustment plan as a result of a base closing is experiencing substantial impact as the result of a Federal action, it should rate well under this criterion if its proposed program is well designed.

(xi) HUD has added an energy conservation or production criterion, generally supported by seven commentors. This criterion recognizes the crucial need for energy conservation considerations in every facet of community development activity, and allows an applicant to design programs which support energy conservation or production.

Three commentors, however, objected to the energy production component, fearing that massive energy production facilities would be funded under the Small Cities Program. HUD does not expect this to happen. Energy production facilities must meet other program emphasis and requirements such as benefit to low- and moderate-income persons and meeting a substantial portion of community development needs within a defined concentrated area.

Two commentors requested that the rating terms—insignificant, minimal, moderate, and substantial—be specifically defined. This is provided in the Area Office's Review Process Statement.

Another commentor suggested that additional rating points be awarded to communities which have worked out arrangements with private lenders to leverage CDBG funds. Area Offices do use this consideration in judging impact.

(d) *Benefit to low- and moderate-income persons (200 points).*

This paragraph now explains more clearly the method used to compute a proposed program's benefit to low- and moderate-income persons. It is the same method described to applicants in other HUD publications, such as the Review Process Statement.

HUD received several comments about this factor. One believed too much emphasis is placed upon it, another too little, but HUD believes there is a good balance between this and other factors. One commentor proposed awarding all, some, or zero points to applicants whose programs fall in one of three benefit categories—100 percent, 75–100 percent, and less than 75 percent, respectively. This does not recognize different levels of benefitting low- and moderate-income people in the range of points into which most applicants fall. The suggestion is not adopted. Another suggested scoring this factor differently, but offered no specific method. According to one commentor, the present system gives equal opportunity for small and large places to receive these points. HUD also believes the current method of computing these points is fair. It is, therefore, unchanged. Two commentors were concerned about using "80 percent of median income" as the standard for determining benefit to low- and moderate-income persons at the preapplication stage, but permitting use of sliding section 8 standards for counting beneficiaries while undertaking a program. To treat all applicants fairly during a competition, when many of the proposed programs are in a preliminary phase and beneficiaries cannot be specifically identified, HUD must use data available to all applicants in the estimates of the population to be served. This is the "80 percent of median" data. Once an applicant has successfully competed and beneficiaries can be specifically identified, however, this restriction need no longer apply, since HUD recognizes that persons meeting the section 8 standards are low- and moderate-income.

(e) *Performance in housing and equal opportunity (150 points).*

In response to the many general comments about this paragraph, HUD offers the following considerations:

—As noted by one commentor, these points are clearly for outstanding performance and not intended to be earned by all applicants.

—Establishing minimal threshold requirements to replace these points does not fairly recognize outstanding efforts to achieve fair housing and equal opportunity locally.

—In its Review Process Statement, the Area Office provides specific guidance on the standards used to determine outstanding performance. Area Offices follow the regulations and the guidance provided here.

With respect to the changes HUD proposes, the total points for outstanding performance still equal 150—100 points for housing efforts and 50 points for equal employment and entrepreneurial efforts. As indicated below, however, an additional criterion is added to each. Neither criterion is new, but was formed by dividing an original criterion. To accommodate the increased number of criteria, the point structure is changed.

Instead of five 20-point criteria for housing efforts, there are four 15-point criteria and two 20-point criteria. The three criteria for equal employment and entrepreneurial efforts are now worth 25, 20, and 5 points. The derivation of, and the public comments about, each criterion and the reason for any changes are discussed below.

(1) *Housing efforts (100 points).*

(e)(1)(i)(A) (15 points): This criterion was formerly (g)(1)(i). Its language now emphasizes the criterion's focus upon the location of a community's assisted housing. To provide choice, assisted housing must be located outside areas of concentrations of minorities and of low- and moderate-income persons or in neighborhoods experiencing revitalization and substantial displacement as a result of private reinvestment.

With respect to providing housing choice outside areas of concentrations in a predominantly minority community, or in a community with no areas of concentrations, this criterion is met if there is a balanced distribution of the locations of assisted housing throughout the community. A community with no minorities can earn points through this criterion when its assisted housing is located outside areas of concentrations of low- and moderate-income persons. One commentor asked if an applicant could earn these points if its low- and moderate-income population is dispersed, but there is no assisted housing. To earn these points, the applicant must have provided assisted housing.

To merit these points for providing housing choice in a revitalizing neighborhood, the applicant must have provided housing assistance which enabled low- and moderate-income residents to remain in their revitalizing neighborhood. This alternative way to earn points for providing housing choice was supported by one commentor who suggested awarding points to places combatting gentrification.

(e)(1)(i)(B) (15 points): This criterion is similar to the original criterion (g)(1)(ii). The word "existing" is deleted to eliminate confusion between this criterion's intent and HUD's section 8 existing housing program, which is now specifically referenced. If the applicant has a section 8 existing housing program, occupancy of units must give evidence of locational choice. The original criterion's reference to "minorities" is replaced by "race and ethnicity." One commentor suggested using the phrase "race and/or ethnicity," but HUD wants to insure that a community with more than one racial group and more than one ethnic group will achieve integration of all these groups. To earn these points, an applicant must achieve integration of all its racial/ethnic groups in its assisted housing.

(e)(1)(i)(C) (15 points): The original criterion (v) had two parts, one dealing with fair housing ordinances, the other with New Horizons Fair Housing Assistance Projects. Because the parts are separable and because each is an important component in an applicant's efforts to achieve fair housing, HUD will now consider them separately. Thus, applicants with both will benefit from additional points.

Criterion (1)(i)(C) now deals only with fair housing ordinances. To earn these outstanding performance points, an applicant must actively enforce its local ordinance or actively participate in a State/county/regional fair housing ordinance. The ordinance must be at least equal in scope and coverage to Title VIII of the Civil Rights Act of 1968. HUD does not require a community to receive complaints in order to earn these points. If there have been no complaints, active enforcement may be demonstrated by educational efforts to foster fair housing or, as suggested by one commentor, preventive measures such as activities by a Fair Housing Board.

(e)(1)(i)(D) (15 points): This criterion is from the second part of the original criterion (g)(i)(v) and concerns New Horizons Fair Housing Assistance Projects. It is changed to require that an applicant implement or actively participate in a Project, as demonstrated by the applicant's progress or success. For an applicant whose Project was recently approved, HUD will consider award of these points based on the progress achieved in the time available. Communities which encourage fair housing and equal opportunity through strategies equivalent to the New Horizons Fair Housing Assistance Project may also be eligible to receive these points.

Two commentors said this criterion should be eliminated. HUD, however, wants to encourage development of New Horizons projects and to acknowledge efforts made under these projects.

(e)(1)(ii)(A) (20 points): This criterion, meeting the housing assistance needs of large families, was formerly criterion (g)(1)(iii) and is unchanged.

(e)(1)(ii)(B) (20 points): This was formerly criterion (g)(1)(iv), which required an applicant to meet the goals of a previous HAP(s). The intent of this criterion has been to award outstanding performance points to communities that have demonstrated, in relation to their HAPs, outstanding performance in providing assisted housing. Communities without HAPs can and do provide assisted housing and deserve some recognition. HUD therefore may award these points to applicants with no prior HAP.

Commentors on both (e)(1)(ii)(A) and (e)(1)(ii)(B) requested more guidance on how to determine if a community without a prior HAP has met these criteria. To claim these points, an applicant must make an assessment of its needs for assisted housing, and show what has been done to meet these needs. If its progress has been similar to that of communities with HAPs which qualify for these points, then the community will also earn these points.

(2) *Local equal employment and entrepreneurial efforts (50 points).*

(e)(2)(i) (25 points): This is the same as the original criterion (g)(2)(ii), except that a new standard is established for applicants whose percent of minority residents exceeds that of the county in nonmetropolitan areas or of the SMSA in metropolitan areas. For these applicants, the percent of minority employees must generally reflect the percent of minority residents in their own jurisdictions. This means that, absent explanation, it is expected that nondiscriminatory hiring practices by these applicants results in a workforce which is more or less representative of the racial and ethnic composition of the applicant's jurisdiction. In addition, "minority employees" is clarified by the phrase, "minority permanent, full-time employees." Two commentors suggested counting part-time employees. HUD may consider part-time employees the equivalent of full-time employees when the applicant has no full-time employees.

(e)(2)(ii) (20 points): The original criterion (g)(2)(i) had two parts, one concerned contracts with minority businesses, the other with deposits in minority banks. This criterion is derived from the first part. Several changes are made. First, the applicable percentage of minority residents is the greater of the percentage of minorities in the applicant's jurisdiction, or the county for nonmetropolitan applicants, or the SMSA for metropolitan applicants. This will be compared to the percent of contracts, based on dollar value, awarded to minority businesses. Second, since with respect to equal opportunity, ownership and control of a business are more important than management, only contracts awarded to minority owned and controlled businesses may be counted. Third, the original standard that an applicant's percentage of contracts with minority firms exceed its percentage of minority residents has proven excessive for applicants whose applicable percentage of minorities is more than 20 percent. Therefore, these applicants may award 20 percent of their contracts to minority firms to earn these points. Fourth, the original standard was, however, too lax for applicants with fewer than five percent minority residents. Therefore, these applicants must award at least five percent of their contracts to minority firms to earn these outstanding performance points. Applicants whose applicable percentage of minorities is from 5 to 20 percent must meet the original standard.

(e)(2)(iii) (5 points): This criterion is derived from the second part of the original criterion (g)(2)(i). It requires that an applicant's average daily balance in minority financial institutions over the past year be at least 5 percent of its total deposits from all sources. This criterion does not alter the applicable requirements when using U.S. Treasury letters of credit in conjunction with Federal Grant Programs. Funds must not be drawn down or kept on hand in excess of immediate cash disbursement requirements for carrying out the activities of an approved grant. In addition, the word "banks" is replaced with "financial institutions" for greater flexibility.

As stated above, not all applicants will qualify for outstanding performance points. Applicants must meet outstanding standards, such as the 5 percent minimum for contracts to minority firms and deposits in minority financial institutions, requirements to which eight commentors objected. One commentor applauded this minimum, stating that although his city had difficulty getting a minority contractor in a rural area, the city was able to do so, and others should, too. These points are not intended to discriminate against small places but to reward outstanding performance like that shown by the rural city.

(f) *Areawide Housing Opportunity Plan (50 points, metropolitan applicants only).*

Many small cities and their advocates have claimed that awarding points to nonmetropolitan applicants for participation in an Areawide Housing Opportunity Plan (AHOP) is unfair. They state that the current AHOP program is urban oriented, not always appropriate in nonmetropolitan areas, and places some applicants at a 50 point disadvantage. In addition, if a community wishes to become an AHOP participant and conditions warrant an AHOP, it may not be possible solely because sufficient neighboring communities do not wish to participate in the AHOP. Recognizing these concerns, HUD in the proposed rule solicited comments about eliminating AHOP points for nonmetropolitan applicants.

HUD received 25 comments about the issue. Four favored retaining the AHOP points, two of them stating that the AHOP program itself should be modified to accommodate needs of nonmetropolitan areas. For the reasons indicated above, 21 commentors favored eliminating points for nonmetropolitan AHOPs. Some of these commentors would eliminate all points for participation in an AHOP, but HUD believes that AHOPs are appropriate in metropolitan areas.

On the basis of these, and other recent public comments, HUD is eliminating the AHOP points for nonmetropolitan competitions.

The AHOP program itself, however, may be revised in response to public comments to an Advanced Notice of Proposed Rulemaking about the AHOP program published on March 24,1980. HUD, therefore, may propose to reinstate points for participation in a nonmetropolitan AHOP or its successor program in the future, if the concerns raised are adequately accommodated.

Nonmetropolitan communities, of course, may still join to form AHOPs to receive the benefits of the program, such as better control over the allocation and location of HUD's assisted housing. In addition, nonmetropolitan applicants to the Small Cities Program can still address the Comprehensive Grant program impact criterion about implementing an AHOP (§ 570.424(c)(1)(ii)).

The public comments supported the proposed change to require active participation in AHOPs. Metropolitan applicants which have participated in an AHOP for less than one year will still be awarded fifty points for participation only. Points for participation only, however, will be awarded only once, and only in the first year of participation in the AHOP. After the first year, the Areawide Planning Organization that developed the AHOP must certify that the applicant is carrying out its responsibility to implement the AHOP.

(g) *State's rating (25 points).*

This factor replaces the program impact criteria (e)(1)(viii) and (e)(1)(ix) of the original selection system, as noted above. In the proposed rule, HUD suggested that States review preapplicants, rank them according to their support or conformity with State policies or strategies for growth, resource coordination, and economic development, and then recommend point awards to HUD.

HUD received 31 comments about this factor. Seven commentors, including four States, supported it, 22 opposed it, and two others expressed reservations but did not specifically oppose it. Those which opposed the State's rating factor questioned whether a State's evaluation criteria would be publicly available, whether States have the capacity to review many preapplications and whether State decisions would reflect political considerations. Several suggested that HUD continue to award the points as in the prior Single Purpose selection system.

In response to the public's concern that the States' ratings of applicants might be subjective or political, and that the criteria employed by the States would not be available to the public, this factor is modified.

First, only States with HUD-approved 701 Strategy Statements may recommend point awards to HUD. These Strategy Statements will be publicly available. The States' recommendations may range from zero to 25 points for each applicant. These Strategy Statements have not been approved as a program requirement for the 701 Comprehensive Planning Program and consequently, this option will not be used in Fiscal Year 1981.

In a State where there is no HUD-approved 701 Strategy Statement, the HUD Area Office will award zero or 25 points for this factor. This is similar to the way the Single Purpose factors about State growth plans and a community's position as a regional center of economic development have been awarded in the past. Area Offices, as before, will seek advice from the State about the State plans and policies in developing criteria to rate this factor.

Finally, each Area Office's Review Process Statement will continue to include descriptions of the specific criteria HUD will use to rate this factor. In the future, criteria developed as part of the HUD-approved 701 Strategy may be used instead. This information will also be available to the public through preapplication briefings held by the Area Offices. HUD believes that using the existing Area Office procedures or requiring States to have an approved Strategy Statement responds to the public's concerns.

Former paragraph (g), *Hold Harmless provisions (25 points).*

HUD has received many comments pointing out that this factor benefits places which have received past HUD funds. This is an unfair advantage in a selection system which emphasizes program quality. This paragraph, therefore, has been eliminated.

(h) *Energy conservation or production (20 points).*

This new paragraph, supported by one commentor, is added to encourage Small Cities Program applicants to promote energy conservation or support energy production efforts in their proposed programs. Applicants which do so will receive 20 points.

Sections. 570.425, 570.426, 570.429, and 570.430.

Several commentors applauded HUD's addition of a requirement to show the location of low- and moderate-income people on the maps for both Single Purpose and Comprehensive Grants at the preapplication stage. In response to further comments, HUD has also clarified the language to read "the location of areas with low- and moderate-income persons, showing number and percent." With the exception of city wide benefit activities, HUD knows of no case in which preapplicants have not depicted such data. This language has also been used in the full application map requirements at § 570.426 and § 570.430. Also, HUD has combined the map requirements at the full application stage governing location of activities, areas of concentrations, and service areas, where applicable.

§ 570.426 Application for Comprehensive Grants.

Section 570.426 has been modified and expanded to incorporate in this one section all the requirements applicable to an application for a Comprehensive Grant, with the exception of the HAP and the certifications of assurances. This avoids cross reference to the entitlement subpart and includes only those portions relevant to the Small Cities Program.

An energy conservation standard is added to § 570.426(a)(2)(iii)(A). In order to count toward meeting Housing Assistance Plan goals, rehabilitated units must now meet the *Cost-Effective Energy Conservation Standards* (24 CFR 39).

One commentor suggested that displacement language be strengthened at § 570.426(a)(2)(iii)(B) to require a grantee to give the displacees the option of returning to their housing units after rehabilitation. HUD believes that the proposed language requiring the grantee to state what steps it will take to minimize involuntary displacement and to enable displaced persons to remain in their neighborhoods is sufficiently strong. Displacement is also addressed at the preapplication stage under program impact considerations, and it is felt that there will be some appropriate rehabilitation in which it might not be possible for displacees to return to their original units. Similar comments were made about the Single Purpose Grant Program, but the Community Development and Housing Plan Summary has been eliminated pursuant to a statutory change. Displacement is addressed, however, at the preapplication stage for Single Purpose grants.

Two commentors suggested more detail under § 570.426(a)(3), the economic development component of the Community Development and Housing Plan Summary. This element is intended to be a general context under which economic development activities will be undertaken. Specifics would have been covered at the preapplication stage if economic development activities are to be undertaken with CDBG funds.

§§ 570.426 and 570.430 Applications for Comprehensive and Single Purpose Grants.

In analyzing ways to reduce the duplication between material submitted with the preapplication and the full application, HUD believes that the Project Summary as described at § 570.426(b) and § 570.430(a) can be eliminated. However, one portion of the information now required as part of the Project Summary is retained—the schedule of activities. HUD believes it is essential to continue to require activity scheduling information in order to stress and monitor performance. HUD believes that most grantees do have such a schedule and that it is useful in the local management of the Small Cities Program. Accordingly, a Program Schedule provision is added at § 570.426(b) and § 570.430(a), respectively.

§ 570.427 Single Purpose Grant program general requirements.

The wording in program (b), *Projects,* is changed to clarify that a Single Purpose applicant may seek funds for more than one project and for more than one of the three problem areas.

The language in paragraph (c), *Performance requirements,* is changed to clarify that every previous Small Cities Program grantee must satisfy the capacity and performance criteria of § 570.423(c).

§ 570.428 Selection System for Single Purpose Grants.

In the Single Purpose Grant selection system, there are now nine selection factors and 1020 possible points for metropolitan applicants, and eight selection factors and 970 possible points for nonmetropolitan applicants. Each factor is discussed below.

(a) *Need—absolute number of poverty persons (100 points),* (b) *Need—percent of poverty persons (50 points),* and former paragraphs (c) *Need—absolute housing needs,* and (d) *Need—percent of housing need.*

Changes proposed for these factors are the same as those proposed and explained in the paragraphs about the Comprehensive Grant needs factors (§ 570.424(a)–(b)).

(c) *Program factor—impact of the proposed program (400 points).*

In the original selection system, an applicant could earn a maximum of 200 points under the program impact factor, or less than 25 percent of the 875 total possible points. Compared to the Comprehensive Grant selection system, in which program impact points represent approximately 40 percent of the total possible points, this is a low weight for the factor that most adequately assesses the proposed program's impact on identified needs and the overall quality of the program. Other factors that do not relate as closely to the program design (outstanding performance points, for example), or over which applicant have little control (the needs factors), collectively were much more important in funding decisions than the program impact factor. As a result, projects with little significance in meeting identified needs were occassionally funded while projects with substantial impact were not. The points for program impact, therefore, are increased to 400, about 40 percent of the total possible points under the proposed system, approximately the same percentage as in Comprehensive Grants. This reflects the importance of the program impact factor in choosing projects which best address identified needs. As in the original system, the program impact factor does not dominate, and other factors, like outstanding performance and benefit to low- and moderate-income persons, must also be addressed by applicants who expect to be funded.

All the commentors who addressed this issue supported increasing the points for Single Purpose program impact. All but one believed that increasing the point total to 400 will insure better quality Single Purpose Grants. Three stated that more than the four levels of impact—insignificant, minimal, moderate, substantial—be provided. HUD feels this would require unnecessarily complex decisions and decrease the impact of the factor, and will therefore maintain the four existing levels.

Another commentor asked whether "housing" includes housing supply, choice, or condition. It includes all three. The same commentor was concerned that the problem areas (c)(1) do not adequately address the problem of discrimination, and claimed that its impact upon women and minorities should be stated in measurable terms in the full application. If an applicant proposes a program to deal with discrimination in providing housing assistance, then the degree to which that problem would be resolved would be appropriately considered under impact. Otherwise, HUD presumes that the basic program will be carried out in a non-discriminatory manner since the applicant has given assurances to that effect. The language about these considerations is modified for conformity with the Comprehensive Grant program impact considerations, except that an additional consideration for Single Purpose Grants, the nature of the activity in relation to the need identified, is retained.

(d) *Benefit to low- and moderate-income persons (200 points),* (e) *Performance in housing the equal opportunity (150 points),* (f) *Areawide Housing Opportunity Plan (50 points),* (h) *Energy conservation or production (20 points),* and (i) *Other Federal Programs (25 points).*

The language in these paragraphs conforms with § 570.424(d), (e), (f), (h), and (c)(1)(x), the paragraphs about the Comprehensive Grant selection system factors for benefit to low- and moderate-income persons, outstanding performance, AHOPs, energy considerations, and the proposed program's relationship to other Federal projects. The changes or additions are fully discussed above.

In addition to comments about other Federal programs discussed with the Comprehensive criteria (§ 570.424(c)), two commentors stated HUD should increase the points for the factor, and two stated that these points should be reduced or eliminated. HUD will continue to award twenty-five points for this criteria.

(g) *State's rating (25 points).*

This paragraph merges two "other" criteria of the original selection system, (h)(1)(A), dealing with the community's position as a regional center or economic development center, and (h)(1)(B), dealing with State plans and policies. This new factors is the same as the Comprehensive selection factor contained in § 570.424(g) which is discussed above.

§ 570.429 Preapplications for Single Purpose Grants.

Paragraph (a)(2)(iii) is modified to require a statement describing the impact the activity for which funds are requested will have on the needs of low- and moderate-income persons.

Paragraph (a)(4), *Performance reporting,* now refers to assessment of performance to cover either a status report or the Grantee Performance Report.

§ 570.430 Applications for Single Purpose Grants.

A statutory change in the Housing and Community Development Act of 1979 deleted the requirement for a Needs Assessment and Strategy Statement. That change has been implemented as a final rule under a separate notice in the **Federal Register.** Former paragraph (a) is therefore deleted, and each following paragraph in this section is re-lettered.

One commentor stated that Housing Assistance Plan (HAP) requirements are very difficult and proportionally more costly to the smaller cities. HUD is working to simplify the HAP.

In addition to the provisions for displacement discussed above, paragraph (b)(1)(iii) now states that the applicant must assess the needs of households to be displaced by public action and, where information is available, by private action.

Paragraph (b)(2), *HUD review of HAP,* is clarified to indicate that weatherization and similar activities alone will not satisfy rehabilitation housing assistance goals. In addition, rehabilitated units must now meet the *Cost-Effective Energy Conservation Standards* (24 CFR Part 39) in order to count toward HAP goals.

Paragraph (e), *Title VI Compliance,* is clarified to indicate that multiyear applicants applying for second or third year funding, as well as previous hold-harmless grantees, are exempt from this requirement.

Two changes are made in paragraph (f), *Assurances.* Paragraph (f)(2) is revised to require citizen participation specifically in the development of the Housing Assistance Plan. Paragraph (f)(6) is revised to use the more general term "report on performance" in lieu of Grantee Performance Report.

Section 570.431 *Citizen participation requirements for Comprehensive and Single Purpose Grants.*

The rewritten citizen participation (CP) requirements at § 570.431 now apply to both Comprehensive and Single Purpose Grants. The same citizen participation requirements apply to each program. Therefore, the reference to § 570.303, *Citizen participation requirements,* in the entitlement regulations is eliminated for Comprehensive Grant applicants. Establishing a single set of regulations for citizen participation eliminates confusion as to which citizen participation regulations are to be followed, and at what stage of the application process they apply. As indicated in paragraph (a), *General,* this new section strives to require only the basic framework of meaningful citizen participation, regardless of the applicant's size. Critical elements are required, and others must be considered locally as appropriate. Paragraph (b), *Written citizen participation plan,* describes the procedures that must be accommodated in an applicant's CP plan. In Paragraph (c), *Requirements for citizen participation in each stage of the application process,* the citizen participation regulations now follow the application process for small cities, i.e., preapplication/application.

HUD received approximately 30 comments on the various aspects of the new CP requirements. Most comments were generally positive, but many suggested specific changes. There was little concentration of comments, however. Several commentors said the revisions were a marked improvement, were simplified, and yet created a strong basic framework for meaningful CP as HUD had intended. HUD has made several changes to clarify requirements in response to comments. The following discussion covers specific areas of comment.

Language has been added under (a) to emphasize that the objective of these requirements is to assure meaningful CP involvement on a continuing basis through all stages of a Small Cities Program, in response to the requests of several commentors. Two commentors pointed out there was no requirement for citizen involvement in the development of the written plan. This requirement has been added in the first Paragraph in (b).

Several argued that HUD should mandate a citizens' advisory or project area board as a process requirement. HUD encourages the creation and use of such boards where citizens and communities find them the most effective method of ensuring meaningful CP. Two commentors indicated that such boards should not be mandated and in some cases can be counter productive. HUD has chosen not to mandate advisory boards for all Small Cities grantees. Those that argued for mandating advisory boards as well as two others also felt that HUD should define substantial representation for low- and moderate-income persons and minorities on advisory boards. Two suggested "substantially" should mean 51 percent or more. HUD agrees that substantial means at least and probably more than 51 percent in most cases, particularly since HUD emphasizes the need to involve low- and moderate-income persons throughout the CP plan requirements. The creation of numbers like this, however, often tends to create a maximum as well as a minimum. Also, local conditions may at times require the involvement of many citizens with certain skills and interests who most effectively advocate lower income persons' needs. HUD believes that citizen advisory boards should reflect the needs to be addressed and the

people to be served. Area Offices can best address what substantial should mean on a case by case basis.

Ten comments were received on the number of public hearings to be held and their specific purposes. One commentor felt that a minimum of two hearings at the preapplication stage and two at the full application stage were appropriate. Five commentors felt that four hearings were too many and suggested that the second hearing at the full application stage as a minimum, be eliminated. One felt that public hearings are too costly and, therefore, some should be eliminated. HUD believes that the public hearing process can be an effective assurance of meaningful and open citizen participation. Hearings are required in the statute. While the preapplication stage is more important in terms of identifying needs, selecting priorities, and describing the program that the unit of general local government will propose, the full application stage is also important for several reasons. First, the Housing Assistance Plan must be developed at this stage, and it should receive citizen input as it is being conceived as well as when it becomes final. Second, the program normally becomes more defined in terms of final program detail and timing of activities at the full application stage. Also, HUD may place conditions on certain activities and other activities may be found to be ineligible during preapplication ranking.

Another issue raised in comments was the timing for hearings on past grantee performance. HUD will continue to require that one of the hearings at both the preapplication and full application stage address performance when the applicant is submitting a report on past performance. One commentor pointed out that the new proposed requirements did not require public hearings for an amendment requiring HUD approval. HUD intended such a requirement and, accordingly, a new provision to the CP plan has been added at (b)(9). Also, two commentors indicated that there was no public hearing requirement at project closeout when a grantee did not apply for a subsequent grant. HUD believes that local public reporting is appropriate at closeout and a requirement has been added to the CP plan at (b)(7) to require a public hearing on performance during the closeout process.

Two comments were received on the requirements at (c)(5) on consideration of objections. One believed the publication of the grounds for objection was too costly and not necessary. HUD feels that publication of precise bases for objection is necessary given the careful balance between substantive citizen involvement and the ultimate responsiblity of the local government. In response to the other comment, HUD has clarified that the public notice of submission of the application must be made at the time of submission to HUD.

There were five other unrelated comments in which suggestions were made in wording. HUD has chosen not to adopt these because they would tend, taken as whole, to begin to lengthen the regulations and lead to other changes beyond HUD's intent of requiring a basic famework for meaningful CP. One suggested "timely and responsive" language in responding to complaints, another suggested fixing a minimum time to respond to proposals, a third wanted a discussion of the policy role of citizens, while another wanted HUD to state that CP must be conducted in an open manner, and one commentor wanted HUD to indicate the minimum time announcement and execution of a public hearing. Additionally, one commentor argued that the CP plan should be submitted automatically to HUD. HUD believes this would lead to unnecessary emphasis on the written plan, rather than implementation of CP. HUD, of course, may review the plan during monitoring or may ask for it to be submitted when certain complaints are raised. Finally, HUD believes that CP is an important element as a process toward achieving community development objectives, but is not an end in itself. Therefore, HUD does not agree with one commentor who suggested that bonus points be awarded for particularly effective citizen participation.

§ 570.432 Single Purpose Grants for imminent threat to public health or safety.

Paragraph (c) has been changed to indicate that there is no requirement for environmental reviews for Single Purpose applications which are for imminent threat to the public health or safety, in accordance with the provisions of the environmental regulations at 24 CFR 58.21(b)(6).

§ 570.433 HUD review and actions on full applications for Single Purpose and Comprehensive Grants.

Paragraph (b)(2), *Criteria for conditional approval,* has been expanded to incorporate § 570.311(f) (1)

V 45 A G 21 80 UMI

and (2). However, an applicant for a Small Cities Program grant that has not met the capacity and performance criteria of § 570.423(c) would not be selected for funding; therefore § 570.311(f)(3) is inappropriate to the Small Cities Program and has not been included in this section.

Paragraph (b)(3), *Criteria for disapproval of an application*, has been expanded to incorporate § 570.311(c). § 570.311(c)(2)(ii) deals with the requirement that the application must address deteriorated housing in at least one concentrated area. This requirement is not appropriate for all Small Cities applicants, and has not been included in this section.

Paragraph (b)(3)(i) is added and provides for disapproval of an application if information obtained based on a field review or from other sources requires rerating of a preapplication and results in a rating no longer sufficiently high to warrant approval when compared with other preapplications in the competition.

The reference to § 570.302(b)(2) contained in § 570.311(c)(2)(iii) has been changed to § 570.420(k) in paragraph (b)(3)(iii)(B) to meet the requirements of the Small Cities Progam dealing with benefit to low- and moderate-income persons.

§ 570.434 Program amendments for Single Purpose and Comprehensive Grants.

Paragraph (b)(1), *Comprehensive Grant*, has been expanded to incorporate the referenced conditions in § 570.312(b) whereby a Comprehensive applicant must request HUD approval for amendments to its Housing Assistance Plan.

§ 570.435 Modified OMB Circular No. A–95 procedures for the Small Cities program

Because HUD has been granted variations to the normal procedures, two revisions are made in the regulations. A preapplicant/applicant is still permitted to submit simultaneously its preapplication/full application to HUD and to clearinghouses. This procedure allows HUD to speed up final action of preapplications/applications. However, HUD will make no final decisions until it has received and dealt with the clearinghouse comments or until at least 45 days have elapsed. Additionally, a requirement that preapplicants notify clearinghouses of their intent to submit a preapplication at least 30 days prior to the HUD submission deadline has been added. HUD looks to clearinghouses to provide assistance and encourages contact as early as possible, before any decisions are made. Because this contact is intended to provide general and sometimes specific assistance, no decisions such as grant amount or program content need be made prior to this contact. This requirement of prior notification has been added at § 570.435(b).

Comments by clearinghouses are taken into account and normally resolved in the ranking process at the preapplication stage before HUD invites full applications. However, on occasion, some clearinghouse comments at the preapplication stage require further interaction between the applicant and the clearinghouses. Such comments should be resolved prior to the full application submission to HUD. Accordingly, a new sentence making this a requirement has been added at § 570.435(c).

Paragraph (c), *A–95 requirements for applications*, has been clarified to include a reference to the annual submission of a multiyear application.

24 CFR Part 570, Subpart F is amended to read as follows:

Subpart F—Small Cities Program

Sec.

570.420 General.
570.421 Preapplications and applications by States and counties; joint preapplications and applications.
570.422 State participation. [Reserved]
570.423 Comprehensive Grant program general requirements.
570.424 Selection system for Comprehensive Grants.
570.425 Preapplications for Comprehensive Grants.
570.426 Applications for Comprehensive Grants.
570.427 Single Purpose Grant program, general requirements.
570.428 Selection system for Single Purpose Grants.
570.429 Preapplications for Single Purpose Grants.
570.430 Applications for Single Purpose Grants.
570.431 Citizen participation requirements for Comprehensive and Single Purpose Grants.
570.432 Single Purpose Grants for imminent threat to public health or safety.
570.433 HUD review and action on full applications for Single Purpose and Comprehensive Grants.
570.434 Program amendments for Single Purpose and Comprehensive Grants.
570.435 Modified OMB Circular No. A–95 procedures for the Small Cities Program.

II. Part 570, Subpart F is proposed to read as follows:

Subpart F—Small Cities Program

§ 570.420 General.

(a) *Scope and Applicability.* This Subpart describes the Small Cities Program's policies and procedures. Funds for this Program are those provided through the metropolitan and nonmetropolitan balances described in § 570.104(c) in Subpart B of this Part. Except as modified in this Subpart, the policies and procedures set forth in Subparts A, B, C, J, K, and O of this Part, as well as those Sections of Subpart D of this Part which are specifically cited in this Subpart, apply to the Small Cities Program. The HUD Environmental Review Procedures contained in 24 CFR Part 58 also apply to this Subpart.

(b) *Program Objectives.* The Small Cities Program provides grants to States and units of general local government in both metropolitan and nonmetropolitan areas to undertake the same community development activities as may be funded in the entitlement grant program. The Small Cities Program, however, is competitive in nature and the demand for funds far exceeds the amount available. Therefore, eligible applicants selected for funding will be those communities having the greatest need as evidenced by poverty and whose applications most adequately address locally-determined needs of low- and moderate-income persons, consistent with one or more of the following purposes.

(1) Support realistic and attainable strategies for expanding low- and moderate-income housing opportunities;

(2) Promote expansion of housing choice for low- and moderate-income persons outside areas of minority and low- and moderate-income concentrations or in revitalizing neighborhoods;

(3) Promote more rational land use;

(4) Provide increased economic opportunities for low- and moderate-income persons;

(5) Correct deficiencies in public facilities which affect the public health or safety, especially of low- and moderate-income persons.

(c) *Eligible applicants.* Eligible applicants are States and units of general local government, excluding metropolitan cities, urban counties, units of government which are participating in urban counties or metropolitan cities, even if only part of the participating unit of government is located in the urban county or metropolitan city, and Indian tribes eligible for assistance under Section 107(a)(7) of the Act. An application may be submitted individually, jointly, or by a county or State in behalf of other units of general local government.

(d) *Types of grants.* Recognizing that needs of communities vary widely, the Small Cities Program has two types of grants—Comprehensive and Single Purpose.

(e) *Distribution of funds between Comprehensive Grants and Single Purpose Grants.* Within both the metropolitan and nonmetropolitan balances for each Area Office's jurisdiction, 25 to 35 percent of the funds are reserved for Single Purpose Grants, with the remainder reserved for Comprehensive Grants. Exceptions to these percentages may be made where there is insufficient demand for Comprehensive Grants to justify a 65 percent reservation or where the demand for Comprehensive Grants justifies a reservation of more than 75 percent. In determining the demand for Comprehensive Grants, the Area Office shall consider the quality of projects, based on the selection criteria contained in these regulations.

(f) *Size of grants.* (1) *Ceilings.* Within the metropolitan and nonmetropolitan areas of each Area Offices's jurisdiction, HUD may establish general ceilings for both Single Purpose and Comprehensive Grants. Separate ceilings may be established for Comprehensive Grants with multiyear commitments, or joint applications, or for applications in behalf of other units of government.

(2) *Individual grant amounts.* Both Single Purpose and Comprehensive Grants for specific grantees will be provided in amounts commensurate with the size of the applicant and the applicant's program. In determining appropriate grant amounts for each applicant, HUD may consider an applicant's population, need, proposed activities, ability to carry out the proposed program, and previous funding levels.

(g) *Restrictions on applying for grants.* Each unit of general local government, except counties, may apply for a Comprehensive or a Single Purpose Grant, but not both, in each fiscal year. As described in § 570.421, a State or a county may apply for two grants, one Single Purpose and one Comprehensive, if one or both of the applications are in behalf of one or more units of general local government within its jurisdiction. In each fiscal year, each unit of general local government, except counties, may be included in only one application, either individual, joint, or as part of a county or State application in its behalf. In addition, applicants may apply for imminent threat grants, as described in § 570.432.

(h) *Method of selecting grantees.* (1) HUD has established national selection and rating systems for both Comprehensive and Single Purpose Grants which identify the criteria used in selecting applicants. Preapplications are required for both types of grants. These are divided into metropolitan and nonmetropolitan pools for both types of grants and rated and ranked pursuant to §§ 570.424 and 570.428, respectively. An applicant must include sufficient information in its preapplication to permit HUD to rate the preapplication against the various selection criteria (except the needs factors described in § 570.424 (a) and (b) and in § 570.428 (a) and (b)), and must advise HUD of the source of information and the method used to compile the information for the preapplication. Existing sources of information, such as areawide analyses, State plans or needs assessments, and data from the Bureau of the Census, should be used whenever possible. Local surveys may be necessary to document the information submitted in the preapplication. Decisions made by HUD in selecting grantees are documented and will be made available to the public upon request.

(2) HUD shall establish deadlines for submission of preapplications by publication of a Notice in the **Federal Register.**

(i) *Data.* Data used in this Subpart with respect to the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)) is from the United States Bureau of the Census. HUD uses the most recent Census data which is consistent as of the same point or period in time for all data elements in each needs factor and which can be applied to all potential applicants in the nonmetropolitan or metropolitan areas of the State. However, a HUD Regional office may authorize the use of updated data developed by a State agency for the entire nonmetropolitan area or all metropolitan areas of the State in lieu of Federal census data if the following criteria are met:

(1) The data have been updated in such a manner that they can be applied to all potential applicants in the nonmetropolitan or metropolitan areas of a State:

(2) The data are generally available and can be verified by HUD;

(3) The data can be submitted in a usable form no later than 30 days prior to the deadline for submission of preapplications.

(j) *Previous audit findings and outstanding monetary obligations.* HUD shall not accept a preapplication from an applicant or a preapplication in behalf of a unit of general local government that has an outstanding audit finding for any HUD program or has an outstanding monetary obligation to HUD. The Regional Administrator may provide waivers to this prohibition, but in no instance shall a waiver be

provided when funds are due HUD, with the application. The agreement

general local government in which the

to those applicants currently carrying

assistance for low- and moderate-

applicant shall select four program

provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made.

(k) *Program Design.* The program as a whole must principally benefit low- and moderate-income persons and directly impact on the applicant's needs. In addition, the selection process of the Small Cities Program is heavily weighted toward those programs which have the greatest benefit to low- and moderate-income persons. All activities contained within such programs must either benefit low- and moderate income persons, or aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency.

(l) *Activities outside an applicant's boundaries.* An applicant may conduct eligible block grant activities outside its boundaries provided that nonmetropolitan funds may only be used in nonmetropolitan areas, and metropolitan funds may only be used in metropolitan areas. These activities must be demonstrated to be appropriate to meeting the applicant's needs and objectives and must be consistent with State and local law. This provision includes using funds provided under this Subpart in a metropolitan city or an urban county.

§ 570.421 Preapplications and applications by States and counties; joint preapplications and applications.

(a) *General.* A State or a county may apply for two grants, one Single Purpose and one Comprehensive, if one or both of the applications are in behalf of one or more units of general local government within its jurisdiction. For purposes of this section, the term "county" does not include urban counties.

(b) *Preapplications and applications in behalf of others.* A State or county which submits a preapplication and application in behalf of one or more units of government shall execute a written cooperation agreement between itself and each participating unit of government. The agreement must be submitted with the preapplication.

The purpose of the cooperation agreement is to delineate the responsibilities and authorities of the State or county applicant and each participating unit of government with respect to the Small Cities preapplication, application, and grant. The agreement must be approved in accordance with local law and provide that the State or county and the participating unit will cooperate in undertaking the grant program, including implementing the Housing Assistance Plan and the certifications submitted with the application. The agreement may include other responsibilities and obligations to which the State or county applicant and the participating unit of government agree. The State or county applicant is responsible for ensuring compliance with all laws, regulations, and Executive Orders applicable to the Community Development Block Grant program.

(c) *Joint preapplications and applications.* Units of general local government, including counties, may submit a joint preapplication and application which addresses common problems faced by the jurisdictions. A joint preapplication and application must address a common problem, the solution to which requires the mutual action of the joint applicants.

A joint preapplication and application must be pursuant to a written cooperation agreement submitted with the preapplication. The purpose and the content of this cooperation agreement is the same as described in § 570.421(b). In addition, this cooperation agreement must authorize one of the participating units of governments to act as the applicant which will submit the preapplication and application to HUD.

(d) *Limits on applying for assistance.* A unit of general local government included in a preapplication and an application submitted by a State or county in its behalf, or included in a joint preapplication and application, may not otherwise apply for assistance under this Subpart.

(e) *Data considerations.* With respect to a county or State preapplication in behalf of itself, data used to rate the needs factors (§ 570.424(a)–(b) and § 570.428(a)–(b)) is that of the entire unincorporated area of the county or counties in which activities are to take place. However, HUD may use data at the town or township level where it is available and used for all county or State applicants within a competition.

If a county applicant proposes activities in a metroplitan city or an urban county, data from the entire unincorporated area of the county is used. Data from the metropolitan city or urban county is not used.

With respect to a county or State preapplication in behalf of an incorporated place, data from the incorporated place is used to rate the needs factors. When a preapplication is in behalf of more than one other unit of government, data from each is aggregated.

For joint preapplications, data from each participating unit is aggregated.

(f) *Housing Assistance Plans.*

(1) If there is a HUD-approved Housing Assistance Plan for a unit of general local government in which the State or county intends to carry out activities, the State or county may satisfy its Housing Assistance Plan requirements by indicating its support of the existing plan.

(2) For joint applications and applications in behalf of units of general local government, the Housing Assistance Plan (HAP) must relate to each unit of government in which activities are to be carried out. The plan must be adopted by each unit of general local government included in the application and must be consistent with any other HAP applicable to these jurisdictions.

§ 570.422 State participation. [Reserved]

§ 570.423 Comprehensive Grant program, general requirements.

(a) *Definition.* A comprehensive program must meet all of the following criteria:

(1) Address a substantial portion of the identifiable community development needs within a defined concentrated area or areas;

(2) Involve two or more activities that bear a relationship to each other, excluding administration, planning, and management, and which either in terms of support or necessity are carried out in a coordinated manner;

(3) Have beneficial impact within a reasonable period of time; and

(4) Be developed through assessment of the applicant's community development, housing, and economic needs.

Exceptions to the requirement that the activities be concentrated within a defined area or areas may be made if the applicant can demonstrate to HUD's satisfaction that the proposal represents a reasonable means of addressing the needs identified.

A preapplication for a Comprehensive Grant which does not meet the definition of the Comprehensive Grant program may be considered for a Single Purpose Grant.

(b) *Funding Commitments.*

(1) HUD may make commitments of up to three years for a Comprehensive Grant program, subject to the availability of appropriations. In determining the number of years for which a commitment is made, HUD shall consider the nature of the program proposed, the previous performance of the applicant, including both community development and housing, the capacity of the applicant to carry out the program proposed, the scheduling of the program, and the year-by-year fund requirements. Special consideration for funding commitments beyond one year are given

to those applicants currently carrying out a Comprehensive Grant program and subject to the hold-harmless phase out provisions of Section 106(h) of the Housing and Community Development Act of 1974, as amended.

(2) Grant requests, either by themselves or in combination with other stated funding sources, must be sufficient to complete the program described.

(3) Once an applicant is selected for a multiyear commitment and funds are available, it does not compete in the selection process for funding during subsequent years of its commitment. Funds are provided in the subsequent fiscal years after:

(i) The grantee submits the annual submission of a multiyear application described in § 570.426(i), including an assessment of its performance for each prior grant which addresses the capacity and performance considerations described in § 570.423(c), and HUD determines that the annual program is consistent with that described in the original application or has been properly amended pursuant to § 570.434.

(ii) HUD determines that the grantee's performance is adequate. Performance determinations are based on the criteria described in § 570.423(c).

(iii) HUD approves the application under the provisions of § 570.433.

(c) *Capacity and performance; threshold considerations for grant approval.* No grant is made to an applicant that lacks the capacity to undertake the proposed program. In addition, applicants which have participated in the Block Grant Program previously must have performed adequately. Performance and capacity determinations are made as of the date the preapplication is due in the Area Office and may be the basis for rejecting a preapplication from further consideration. In determining whether an applicant has performed adequately, HUD examines the applicant's performance in the following areas:

(1) *Community development activities.* Compared with the applicant's schedule or schedules submitted in each previously funded application:

(i) The rate of progress achieved in moving activities into execution; and

(ii) The rate of expenditure and obligation of community development funds.

(2) *Housing assistance.* (i) The actual progress achieved in meeting goals established under an approved Housing Assistance Plan;

(ii) Absent achievement of such goals, the actions taken by the community to facilitate the provision of housing assistance for low- and moderate-income persons, such as:

(A) Removal of impediments such as restrictive zoning or building codes;

(B) Changes in land use to facilitate construction;

(C) Provision of sites and/or necessary infra-structure;

(D) Organization of a housing authority or other similar entity;

(E) Development of a Section 701 land use or housing element.

(3) *Compliance with applicable laws and regulations.* (i) The applicant's compliance with the laws, regulations, and Executive Orders applicable to the Community Development Block Grant program;

(ii) Resolution of findings made as a result of HUD monitoring; and

(iii) Resolution of audit findings.

§ 570.424 Selection system for Comprehensive Grants.

Preapplications are rated and scored against each of the following factors. All points for each factor are rounded to the nearest whole number. The maximum score possible is 995 points for metropolitan applicants and 945 for nonmetropolitan applicants.

	Points
(a) Need—absolute number of poverty persons	75
(b) Need—percent of poverty persons	75
(c) Program factor—impact of the proposed program	400
(d) Benefit to low- and moderate-income persons	200
(e) Outstanding performance:	
Housing	100
Local equal opportunity efforts	50
(f) Areawide Housing Opportunity Plan (AHOP) (metropolitan applicants only)	50
(g) State's rating	25
(h) Energy conservation or production	20

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, are scored separately with respect to the needs factors of § 570.424(a)–(b).

(a) *Need—absolute number of poverty persons (75 points).* All applicants are compared in terms of the number of persons whose incomes are below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 75.

(b) *Need—percent of poverty persons (75 points).* All applicants are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 75.

(c) *Program factor—impact of the proposed program (400 points).* Each applicant shall select four program design criteria from among the following eleven. HUD shall measure the impact of the program on low- and moderate-income persons for each of the program design criteria selected, based on the results to be achieved in relation to the amount of funds requested, the number of persons to benefit given the type of program, the nature of the benefit, additional actions that may be necessary to fully resolve the need, previous actions taken by the applicant to address the need, whether displacement will be involved and what steps will be taken to minimize involuntary displacement and to mitigate its adverse effects or related hardships, environmental considerations, and where appropriate, site selection standards. Each applicant must use specific measurable terms to explain how its program benefits low- and moderate-income persons.

(1) *Program design criteria.*

(i) Supports comprehensive neighborhood conservation, stabilization, and/or revitalization.

(ii) Provides housing choice on a regional basis; or implements a HUD-approved Areawide Housing Opportunity Plan.

(iii) Provides housing choice within the community either outside areas with concentrations of minorities and low- and moderate-income persons or in a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low- and moderate-income persons to remain in their neighborhood.

(iv) Supports the expansion of housing by providing additional housing units not previously available.

(v) Addresses a serious deficiency in a community's public facilities.

(vi) Expands or retains employment opportunities.

(vii) Attracts or retains businesses which provide essential services.

(viii) Removes slums or blighted conditions.

(ix) Resolves a serious threat to health or safety.

(x) Supports another Federal program or programs being undertaken in the community or deals with the adverse impact of another recent Federal action. The other Federal program or action must be of substantial size or impact in the community in relation to the proposed program.

(xi) Supports energy production or conservation.

(2) *Rating and ranking methods.* This factor requires a two-step rating process. First, the potential of the proposed program of activities to

achieve the results intended by each selected criterion when considered in

private reinvestment, by enabling low-

the total dollar value of its contracts awarded to minority business enterprise

awards, each applicant is awarded zero

(iii) Information that demonstrates the

and moderate-income households and

achieve the results intended by each selected criterion when considered in relation to other communities addressing the same criterion is assessed. A numerical value is assigned, based on the following:

The results would have insignificant impact	0
The results would have minimal impact	2
The results would have a moderate impact	4
The results would have a substantial impact	6

After each of the four criteria selected by an applicant is rated and a value assigned, the total is added (Program Impact Score maximum is 32). Then, the actual points are determined by dividing each applicant's Program Impact Score by the highest Program Impact Score achieved by any applicant and multiplying the result by four hundred.

(d) *Benefit to low and moderate income persons (200 points).* All applicants are compared in terms of the percent of funds benefitting low- and moderate-income persons. Determining the percentage of funds benefitting low- and moderate-income persons requires three steps. First, the amount of funds to benefit low- and moderate-income persons for each activity is determined by dividing the number of low- and moderate-income persons by the total number of persons to benefit from the activity and multiplying by the amount of Small Cities Program funds requested for that activity. Then, these amounts for each activity are added and divided by the total amount of requested Small Cities Program funds. This number multiplied by 100 is the percentage of funds benefitting low- and moderate-income persons. Costs of planning, management, and administration may not be included in this computation.

HUD obtains individual scores by dividing each applicant's percentage by the highest percentage achieved by any applicant and multiplying the results by 200. The appropriate median income amounts for low and moderate income are supplied by HUD. Where appropriate, HUD may modify the geographic area used in the definition of low- and moderate-income persons at § 570.3 (o) and (p).

(e) *Performance in housing and equal opportunity (150 points)*—(1) *Housing efforts (100 points).* (i) Fifteen points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) providing housing for low- and moderate-income families located in a manner which provides housing choice either in areas outside of minority and low- and moderate-income concentrations or in a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low- and moderate-income persons to remain in their neighborhood; or if the community is predominantly inhabited by persons who are members of minority and/or low-income groups, HUD shall assess the extent to which assisted housing is distributed throughout the community.

(B) integrated occupancy by race and ethnicity in assisted housing projects and, if the applicant has a Section 8 Existing Housing Program, evidence of locational choice in the Section 8 Existing Housing Program demonstrated in the occupancy of units.

(C) active enforcement of a fair housing ordinance at least equivalent in scope and coverage to Title VIII of the Civil Rights Act of 1968.

(D) implementation of a HUD-approved New Horizons Fair Housing Assistance Project (or demonstrated participation in a HUD-approved county/State/regional New Horizons Project) or a fair housing strategy that is equivalent in scope to a New Horizons Project.

(ii) Twenty points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) meeting its large family housing assistance needs in relation to that proportion of need.

(B) carrying out housing assistance goals from previous HAP(s) or, if the applicant has no prior HAP, meeting a significant proportion of its housing assistance needs.

(2) *Local Equal Employment and Entrepreneurial Efforts (50 points).* (i) Twenty-five points are awarded to each applicant that demonstrates that its percentage of minority permanent, full-time employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants, unless the percentage of minority population in the community itself exceeds that of the county or SMSA, in which case minority employment must generally reflect the minority population of the community.

(ii) Twenty points are awarded to each applicant that demonstrates that at least five percent of all its contracts based on dollar value have been awarded within the past two years to minority owned and controlled businesses, providing the applicable percentage of minority population is five percent or less. If the applicable percentage of minority population exceeds five percent, then the applicant must have a corresponding percentage of its contracts awarded to minority businesses; however, twenty percent of the total dollar value of its contracts awarded to minority business enterprise will be sufficient for award of points for any applicant. The applicable percentage of minority population is the percentage of minorities in the applicant's jurisdiction, or in the county for nonmetropolitan applicants, or in the SMSA for metropolitan applicants, whichever is higher.

(iii) Five points are awarded to each applicant that demonstrates that at least five percent of its deposits from all sources, measured as an average daily balance over the past year, have been deposited in a minority owned and controlled financial institution. The year measured is the year ending the date the preapplication is due in the HUD Area Office.

(f) *Areawide Housing Opportunity Plan (metropolitan applicants only, 50 points).* Fifty points are awarded to each metropolitan applicant that is in its first year of participation in a HUD-approved Areawide Housing Opportunity Plan (AHOP). Each applicant which has been a participating jurisdiction in a HUD-approved AHOP for more than one year is awarded the fifty points if the areawide planning organization with the approved AHOP certifies that the applicant is adequately carrying out its responsibility to implement the AHOP. An applicant which is a participating jurisdiction in an AHOP but which is not adequately fulfilling its commitments to implement the AHOP is awarded zero points. The time period considered is measured from the date of written HUD approval of the AHOP to the date the preapplication is due in the HUD Area Office.

The Area Office may reject the certification by the areawide planning organization if there are data or facts available to the Area Office which indicate that a community is not carrying out its responsibility to implement the AHOP.

(g) *State's rating (25 points).* Where there is a HUD approved 701 strategy statement, the State may recommend award of zero to 25 points to each applicant, except itself, whose program implements a State growth or resource coordination strategy or enhances the community's position as a regional center of economic development, as determined by the State. The State may take into consideration regional growth or resource coordination strategies. The State must submit its recommendation within 45 days after the date preapplications are due in the Area Office. If the State's recommendation is not received within 45 days or if the State chooses not to recommend point awards, each applicant is awarded zero points.

In the absence of an approved State strategy, the Area Office shall award zero or 25 points in consultation with the State. The Area Office shall consider whether the proposed program implements a State growth or resource coordination strategy, or enhances the community's position as a regional center of economic development.

(h) *Energy conservation or production (20 points).* Twenty points are awarded to each applicant that demonstrates that its proposed program will promote energy conservation or support energy production in the applicant's jurisdiction.

(i) *Final ranking.* The points received by each applicant on the rating factors are totaled and the preapplications ranked according to the point totals. Invitations for full applications are based on this final ranking to the extent funds are available. However, if an Area Office made a procedural error in the previous year's competition, that, when corrected, would have resulted in awarding sufficient points to warrant an invitation to an applicant, HUD may invite that applicant, if otherwise eligible, to submit a full application for current year funding. HUD may invite additional applications on a stand-by basis in the event one of the higher ranked preapplications is not approved, or additional funds become available.

§ 570.425 Preapplications for Comprehensive Grants.

(a) *Submission requirements.* Preapplications shall be submitted in a form prescribed by HUD to the appropriate Area Office and shall consist of the following:

(1) Standard Form 424, as prescribed by OMB Circular A–102;

(2) A program narrative statement which consists of the following:

(i) A brief description of the applicant's community development problems/needs to be served by the proposed program; and identification of the criteria for selection to be addressed by the program and whether the program principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency;

(ii) A description of the program to be carried out with assistance under this Subpart and an estimate of the cost of the proposed activities including, if applicable other sources of Federal funding;

(iii) Information that demonstrates the impact the proposed program will have on the design criteria being addressed;

(iv) An analysis of the amount of funds that will be used to benefit low- and moderate-income persons. The analysis shall indicate the total number of persons to be served, the number of persons that meet the definition of low and moderate income, how such low- and moderate-income persons are served, and the nature of the benefit; and

(v) Other information appropriate to respond to the other criteria for selection set forth in § 570.424, particularly information on outstanding performance, AHOP, and State's rating.

(3) A certification assuring compliance with all the citizen participation requirements of § 570.431(c)(1).

(4) A map of the applicant's jurisdiction which clearly identifies:

(i) census tracts and/or enumeration districts;

(ii) location of the proposed activities including boundaries of areas in which activities will be concentrated and service areas of activities where appropriate;

(iii) location of areas with minorities, showing numbers and percent; and

(iv) location of areas with low- and moderate-income persons, showing number and percent.

(5) *Performance reporting.* If the applicant has received prior assistance under this Part, an assessment of performance under prior grants, addressing the capacity and performance considerations described under § 570.423(c).

(b) *Submission of additional data.* Only data submitted by the deadline for submission of preapplications is considered in the selection process, unless specifically requested by HUD in writing. All other data received after the deadline will be returned to the applicant.

§ 570.426 Applications for Comprehensive Grants.

(a) *Community Development and Housing Plan Summary.* Each applicant shall submit on a form prescribed by HUD a summary of its three year community development and housing plan which identifies its community development and housing needs, describes a comprehensive strategy for meeting those needs, and specifies both short- and long-term objectives to be met by the strategy. The community development and housing plan summary shall include:

(1) *A narrative summary* of the applicant's community development and housing needs, particularly those of low- and moderate-income households and any special needs of indentifiable segments of the total group of lower income persons. The narrative shall include a brief description of the major needs for neighborhood revitalization, for community facilities and public improvements, for housing, and for economic development needs.

(2) *Comprehensive strategy.* The applicant shall describe how it proposes to meet its identified community development and housing needs, particularly those of low- and moderate-income households residing in or expected to reside in the community and any special needs of identifiable segments of the lower income population. The provision of all improved community facilities and public improvements, including supporting health, social and similar services where necessary or appropriate, shall be described in a manner that fully ensures opportunity for participation by, and benefits to, the handicapped. The strategy shall include the following components:

(i) *Communitywide component* which describes the development strategy of the applicant, the major objectives the applicant seeks to accomplish, the priorities it has established, and the factors it has taken into account in selecting areas for treatment and designing programs to meet identified needs.

(ii) *Neighborhood revitalization* shall include the strategy for maintaining and preserving viable neighborhoods and for upgrading neighborhoods affected by blight and deterioration. The strategy shall emphasize the actions to be taken that will improve conditions for low- and moderate-income persons residing in or expected to reside in the community.

(iii) *Housing.* (A) Describe a communitywide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. The strategy shall include a Housing Assistance Plan (HAP) as described in § 570.306. It shall include: the strategy for any programs to be carried out on a communitywide basis, such as provision of rehabilitation financing for low- and moderate-income persons or elimination of detrimental conditions; regulatory and other actions proposed to foster housing maintenance and improvements; strategy for increasing the choice of housing opportunities for low- and moderate-income persons, including members of minority groups and female-headed households, efforts to achieve expanded housing opportunities and actions to affirmatively further fair housing; and

any community facilities and improvements to be provided in furtherance of the applicant's housing strategy and to assure accomplishment of goals for assisted housing.

(B) When displacement or other hardships to low- and moderate-income persons will result from Community Development Block Grant funded acquisition, demolition, code enforcement, and rehabilitation, the strategy shall describe what steps will be taken to minimize involuntary displacement and to enable displaced persons to remain in the same neighborhood if they prefer.

(3) *Economic development.* A description of the applicant's strategy for economic development is required from applicants that propose block grant funded economic development activities. The strategy shall include a description of:

(i) *Major needs* for economic development in the locality.

(ii) *The activities proposed* to further economic development and to attract private investment, including the coordination of block grant funded activities with other local actions, and a timetable for provision of other Federal and State resources.

(iii) *The number and types of permanent jobs* expected to result from economic development projects, particularly jobs for unemployed or underemployed population groups and low- and moderate-income persons, and the types and extent of any job training which will be provided to them.

(iv) *Evidence of financial commitments or interest by developers* in new or expanded employment facilities. In the absence of commitments, the city may supply feasibility studies or other documents evidencing the marketability of new or expanded employment facilities.

(b) *Program schedule.* Each applicant shall submit, in a format prescribed by HUD, a listing of dates for major milestones for each activity to be funded.

The program schedule must be consistent with the preapplication and must incorporate by reference the submission requirements of § 570.425(a). Should activities change in any way from the description provided in the preapplication, a complete description of the change must be submitted.

(c) *Three year project summary.* In addition to the program schedule required under paragraph (b) for the first year increment of a multiyear grant, multiyear applicants shall also submit a three year project summary. It shall consist of a tabular summary of the projects proposed to be carried out with block grant funds during the period of the multiyear commitment to implement the applicant's comprehensive strategy, grouped by location, the anticipated timing, the goals to be accomplished, the population benefitting, and the estimated block grant and other funds to be provided, and indicating whether the activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency.

(d) *Cost summary.* Each applicant shall submit a cost summary. An applicant requesting a multiyear funding commitment should indicate only those costs associated with the annual community development program for which grant funds are being requested. All other applicants should show the full costs of their programs for which grant funds are requested.

(e) *Housing Assistance Plan.* Each applicant for Comprehensive Grants shall submit a Housing Assistance Plan in accordance with § 570.306 of Subpart D. In addition to the requirements listed in § 570.306, any units proposed to be included in the Housing Assistance Plan as goals for rehabilitation must meet the Cost-Effective Energy Conservation Standards pursuant to 24 CFR Part 39. An applicant located within a county which has a HUD-approved Housing Assistance Plan developed in accordance with § 570.306 may submit that country's Housing Assistance Plan, if it elects to assume its appropriate proportion of the housing assistance established as a goal by the county, and it can demonstrate in the application that the county's survey of housing conditions and assessment of housing assistance needs have incorporated information for the applicant. An agreement between the country and the applicant must be executed which identifies the applicant's appropriate proportion of the housing assistance goals and obligates the applicant to assume responsibility for its appropriate proportion.

(f) *Assurances.* The assurances required by § 570.307 of Subpart D shall be submitted by all comprehensive applicants, except that § 570.430(f)(1)–(6) shall apply in lieu of § 570.307(d).

(g) *Map requirements.* Maps must be submitted which include the following information identified by census tract (or enumeration district), or geographic quadrant of the community where census tracts or enumeration districts are either not available or include a substantial area, such as an entire community:

(1) location of areas with minorities, showing number and percent;

(2) location of areas with low- and moderate-income persons, showing number and percent;

(3) locations of the proposed activities described in the program schedule and, if applicable, the three year project summary, including boundaries of areas in which activities will be concentrated and service areas of activities where appropriate;

(4) the median income of the Census tracts in which the proposed activities are to be undertaken;

(5) general locations of proposed new or rehabilitated housing assistance;

(6) the location of areas with substandard and deteriorated housing, showing number and percent.

Maps should be clearly legible and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

Maps submitted with the preapplication which meet these requirements need not be resubmitted with the application.

(h) *Title VI compliance.* All applicants, except previous hold-harmless grantees and applicants applying for the second or third year increment of a multiyear Comprehensive Grant, shall submit, in a form prescribed by HUD, evidence of compliance with title VI of the Civil Rights Act of 1964. This enables HUD to determine whether the benefits will be provided on a nondiscriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(i) *Multiyear applicants.*

(1) Applications for the second or third year increments of a HUD commitment for a multiyear grant shall consist of:

(i) A cost summary as required by paragraph (d);

(ii) Annual housing action program in accordance with § 570.306(b)(4);

(iii) Program schedule as required by paragraph (b), for any activities to be funded;

(iv) Assurances as required by paragraph (f);

(v) An assessment of the grantee's performance for each prior grant which addresses the capacity and performance considerations described in § 570.423(c).

(2) *Establishment of application submission dates.* Area Offices shall establish individual dates for submission of each annual application of a multiyear commitment, but in no event may such a date be less than 45 days prior to the end of the fiscal year from which funds are requested.

§ 570.427 Single Purpose Grant program general requirements.

(a) *General.* A Single Purpose Grant provides funds for one or more projects, each consisting of an activity or a set of activities and designed to meet a specific community development need. Funds are available to address serious problems with housing needs, or economic conditions which principally affect persons of low- and moderate-income, or public facilities which affect the public health and safety.

(b) *Projects.* Within a single preapplication, an applicant may seek funds for more than one project and for more than one problem area as long as the total grant request is within any established grant ceilings and individual grant amounts that is established. Each project is rated separately with respect to § 570.428 (c), (d), (g), (h), and (i). Grants requested, either by themselves or in combination with other stated funding sources, must be sufficient to complete the program.

(c) *Performance Requirements.* A community which has previously participated in the Block Grant Program must satisfy the capacity and performance criteria described in § 570.423(c) before applying for another grant. Performance determinations are made as of the date the preapplication is due in the Area Office.

§ 570.428 Selection system for Single Purpose Grants.

Preapplications are rated and scored against each of the following factors. All points for each factor are rounded to the nearest whole number. The maximum score possible is 1020 points for metropolitan applicants and 970 for nonmetropolitan applicants.

	Points
(a) Need—absolute number of poverty persons	75
(b) Need—percent of poverty persons	75
(c) Program factor—impact of the proposed program	400
(d) Benefit to low- and moderate-income persons	200
(e) Outstanding Performance	
Housing	100
Local equal opportunity efforts	50
(f) Areawide Housing Opportunity Plan (AHOP) (metropolitan applicants only)	50
(g) State's rating	25
(h) Energy conservation or production	20
(i) Other Federal programs	25

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, are scored separately with respect to the needs factors of § 570.428(a)–(b).

(a) *Need—absolute number of poverty persons (75 points).* All applicants are compared in terms of the absolute number of poverty persons below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of poverty persons by the greatest number of poverty persons of any applicant and multiplying the result by 75.

(b) *Need—percent of poverty persons (75 points).* All applicants are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of poverty persons by the highest percentage of poverty persons of any applicant and multiplying the results by 75.

(c) *Program factor—impact of the proposed program (400 points).* Each project is compared to others addressing the same problem area and rated according to the impact it will have on the needs of low- and moderate-income persons identified. The intent of this factor is to select those projects which will have the most significant impact. In assessing impact, consideration is given to the results to be achieved in relation to the amount of funds requested, the number of persons to benefit given the type of the program, the nature of the benefit, additional actions that may be necessary to fully resolve the need, previous actions taken by the applicant to address the need, whether displacement will be involved and what steps will be taken to minimize involuntary displacement and to mitigate its adverse effects and related hardships, environmental considerations, considering site selection standards where appropriate, and the nature of the activity.

(1) *Problem areas.* Each project described in the preapplication must address one of the following three categories:

(i) Housing.

(ii) Deficiencies in public facilities which affect the public health and safety.

(iii) Economic conditions.

Each applicant must use specific measurable terms to explain how its project impacts the problem area selected and benefits low- and moderate-income persons.

(2) *Rating method.* All projects addressing the same problem area are compared in terms of impact on the identified problem area, as follows:

The project would have insignificant impact	0
The project would have minimal impact	100
The project would have moderate impact	200
The project would have substantial impact	400

(d) *Benefit to low- and moderate-income persons (200 points).* All projects addressing the same problem area are compared in terms of the percent of funds benefitting low- and moderate-income persons. Determining the percentage of funds benefitting low- and moderate-income persons requires three steps. First, the amount of funds to benefit low- and moderate-income persons for each activity is determined by dividing the number of low- and moderate-income persons by the total number of persons to benefit from the activity and multiplying by the amount of Small Cities Program funds requested for that activity. Then, these amounts for each activity are added and divided by the total amount of requested Small Cities Program funds. This number multiplied by 100 is the percentage of funds benefitting low- and moderate-income persons. Cost of planning, management, and administration may not be included in this computation. HUD obtains individual scores by dividing each applicant's percentage by the highest percentage achieved by any project addressing the same problem area and multiplying the result by 200. The appropriate median income amounts for low and moderate income are supplied by HUD. Where appropriate, HUD may modify the geographic area used in the definition of low- and moderate-income persons at § 570.3 (o) and (p).

(e) *Performance in housing and equal opportunity (150 points)*—(1) *Housing efforts (100 points).* (i) Fifteen points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) Providing housing for low- and moderate-income families located in a manner which provides housing choice either in areas outside of minority and low- and moderate-income concentrations or in a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low- and moderate-income persons to remain in their neighborhood; or if the community is predominantly inhabited by persons who are members of minority and/or low-income groups, HUD shall assess the extent to which assisted housing is distributed throughout the community.

(B) Integrated occupancy by race and ethnicity in assisted housing projects and, if the applicant has a Section 8 Existing Housing Program, evidence of locational choice in the Section 8

Existing Housing Program demonstrated

balance over the past year, have been

production in the applicant's

statement should indicate the total

established as a goal by the county, and

time and provide for a balanced housing

Existing Housing Program demonstrated in the occupancy of units.

(C) Active enforcement of a fair housing ordinance at least equivalent in scope and coverage to Title VIII of the Civil Rights Act of 1968.

(D) Implementation of a HUD-approved New Horizons Fair Housing Assistance Project (or demonstrated participation in a HUD-approved county/State/regional New Horizons Project) or a fair housing strategy that is equivalent in scope to a New Horizons Project.

(ii) Twenty points for each of the following criteria are awarded to each applicant that demonstrates outstanding performance in:

(A) Meeting its large family housing assistance needs in relation to that proportion of need.

(B) Carrying out housing assistance goals from previous HAP(s) or, if the applicant has no prior HAP, meeting a significant proportion of its housing assistance needs.

(2) *Local Equal Employment and Entrepreneurial Efforts (50 points).*

(i) Twenty-five points are awarded to each applicant that demonstrates that its percentage of minority permanent, full-time employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants, unless the percentage of minority population in the community itself exceeds that of the county or SMSA, in which case minority employment must generally reflect the minority population of the community.

(ii) Twenty points are awarded to each applicant that demonstrates that at least five percent of all its contracts based on dollar value have been awarded within the past two years to minority owned and controlled businesses, providing the applicable percentage of minority population is five percent or less. If the applicable percentage of minority population exceeds five percent, then the applicant must have a corresponding percentage of its contracts awarded to minority businesses; however, twenty percent of the total dollar value of its contracts awarded to minority business enterprise will be sufficient for award of points for any applicant. The applicable percentage of minority population is the percentage of minorities in the applicant's jurisdiction, or in the county for nonmetropolitan applicants, or in the SMSA for metropolitan applicants, whichever is higher.

(iii) Five points are awarded to each applicant that demonstrates that at least five percent of its deposits from all sources, measured as an average daily balance over the past year, have been deposited in a minority owned and controlled financial institution. The year measured is the year ending the date the preapplication is due in the HUD Area Office.

(f) *Areawide Housing Opportunity Plan (metropolitan applicants only, 50 points).* Fifty points are awarded to each metropolitan applicant that is in its first year of participation in a HUD-approved Areawide Housing Opportunity Plan (AHOP). Each applicant which has been a participating jurisdiction in a HUD-approved AHOP for more than one year is awarded the fifty points if the areawide planning organization with the approved AHOP certifies that the applicant is adequately carrying out its responsibility to implement the AHOP. An applicant which is a participating jurisdiction in an AHOP but which is not adequately fulfilling its commitments to implement the AHOP is awarded zero points. The time period considered is measured from the date of written HUD approval of the AHOP to the date the preapplication is due in the Area Office. The Area Office may reject the certification by the areawide planning organization if there are data or facts available to the Area Office which indicate that a community is not carrying out its responsibility to implement the AHOP.

(g) *State's rating (25 points).* Where there is a HUD approved 701 strategy statement, the State may recommend award of zero to 25 points to each applicant, except itself, whose program implements a State growth or resource coordination strategy or enhances the community's position as a regional center of economic development, as determined by the State. The State may take into consideration regional growth or resource coordination strategies. The State must submit its recommendation within 45 days after the date preapplications are due in the Area Office. If the State's recommendation is not received within 45 days or if the State chooses not to recommend point awards, each applicant is awarded zero points.

In the absence of an approved State strategy, the Area Office shall award zero or 25 points in consultation with the State. The Area Office shall consider whether the proposed project implements a State growth or resource coordination strategy, or enhances the community's position as a regional center of economic development.

(h) *Energy conservation or production (20 points).* Twenty points are awarded to each applicant that demonstrates that its proposed program will promote energy conservation or support energy production in the applicant's jurisdiction.

(i) *Other Federal programs (25 points).* Twenty-five points are awarded to each applicant which demonstrates that its proposed program supports another Federal program or programs being undertaken in the community or deals with the adverse impact of another recent Federal action. The other Federal program or action must be of substantial size or impact in the community in relation to the proposed program.

(j) *Final ranking.* The points received by each project on the rating factors are totalled, and the projects ranked according to the point totals. Invitations for full applications are based on this final ranking to the extent funds are available. However, if an Area Office made a procedural error in the previous year's competition, that, when corrected, would have resulted in awarding sufficient points to warrant an invitation to an applicant, HUD may invite that applicant to submit a full application for current year funding. HUD may invite additional applications on a standby basis in the event one of the higher-ranked projects is not approved or additional funds become available.

§ 570.429 Preapplications for Single Purpose Grants.

(a) *Submission requirements.* Preapplications shall be submitted in a form prescribed by HUD, to the appropriate HUD Area Office and shall consist of the following:

(1) Standard Form 424, as prescribed by OMB Circular A-102.

(2) A program narrative statement which consists of the following:

(i) A brief description of the applicant's community development problems/needs to be served by the proposed activity(ies); an identification of which of the three possible problem areas (housing, public facilities which affect the health or safety, or economic conditions) that each project(s) will address; and whether the program principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency;

(ii) A description of the activity(ies) to be carried out with assistance under this Subpart and an estimate of the cost;

(iii) A statement describing the impact the activity will have on the problem area selected and the needs of low- and moderate-income persons, including information necessary for considering the program impact factor.

(iv) A statement on the percent of funds requested that will benefit low- and moderate-income persons. The

statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(v) Other information appropriate to respond to the criteria for selection set forth in § 570.428, particularly information on outstanding performance, AHOP, State's rating, and other Federal programs factors.

(vi) A certification assuring compliance with the citizen participation requirements of § 570.431(c)(1).

(3) *Maps.* A map of the applicant's jurisdiction which identifies:

(i) census tracts and/or enumeration districts;

(ii) location of the proposed activities including boundaries of areas in which activities will be concentrated, if any, and service areas of activities where appropriate;

(iii) location of areas with minorities, showing number and percent;

(iv) location of areas with low- and moderate-income persons, showing number and percent.

(4) *Performance reporting.* If an applicant has received prior assistance under this Part, an assessment of performance under each prior grant addressing the capacity and performance considerations described in § 570.423(c).

(5) *Submission of additional data.* Only that data received by the deadline established for preapplications will be considered in the selection process unless additional data are specifically requested, in writing, by HUD. Unrequested material received after the deadline will be returned to the applicant.

§ 570.430 Applications for Single Purpose Grants.

(a) *Program schedule.* Each applicant shall submit, in a format prescribed by HUD, a listing of dates for major milestones for each activity to be funded.

The program schedule must be consistent with the preapplication and must incorporate by reference the submission requirements of § 570.429(a). Should activities change in any way from the description provided in the preapplication, a complete description of the change must be submitted.

(b) *Housing assistance plan.* Each applicant is required to submit a Housing Assistance Plan. An applicant located within a county which has a HUD-approved Housing Assistance Plan may submit that county's Housing Assistance Plan in lieu of preparing a separate Plan, if it elects to assume its fair share of the housing assistance established as a goal by the county, and it can demonstrate in the application that the county's survey of housing conditions and assessment of housing assistance needs have incorporated information for the applicant. An agreement between the county and the applicant must be executed which identifies the applicant's fair share of the housing assistance goals and obligates the applicant to assume responsibility for its fair share.

(1) *Housing needs and goals.* (i) The applicant shall describe the condition of the housing stock in the community by tenure (renter or owner). Estimates shall be made of the vacancy rates for non-seasonal, available units in standard condition, using the best estimate at the time the application is prepared, but in no case including units to be vacant at a future date.

(ii) The applicant shall assess the housing assistance needs of lower-income households currently residing in the commuity by tenure and by household type (elderly and handicapped, family and non-elderly individuals, and large family), including any identifiable segment of the total group of lower income households in the community and those households to be displaced by public action and, where information is available, by private action during the program period. Housing assistance needs of lower-income households expected to reside shall be assessed in accordance with § 570.306(b)(2)(ii).

(iii) The applicant shall propose a realistic goal to address the identified needs of lower-income households. The goal should specify the number of dwelling units or persons to be assisted by housing type (new, rehabilitated and existing units), by tenure, and by household type. The goal should address relative proportions of need insofar as practicable while providing for the development of feasible projects. The applicant shall describe the actions it plans to take to further fair housing for minorities and women pursuant to its certifications under § 570.307(1)(2).

(2) *HUD review of HAP.* Where substantial housing needs are identified pursuant to paragraph (b)(1) of this section, HUD may determine that a Housing Assistance Plan with only minimal goals is plainly inappropriate to meeting the applicant's needs. Housing types (new, rehabilitated or existing dwelling units) proposed to meet housing assistance needs should be established in relation to a community's housing market and should be realistic in terms of estimating the number and types of units which can be absorbed by the market within a reasonable period of time and provide for a balanced housing market. Any units proposed to be included in the HAP as goals for rehabilitation must meet, at a minimum, the Section 8 Existing Housing Quality Standards pursuant to 24 CFR 882.109 and the Cost-Effective Energy Conservation Standads pursuant to 24 CFR Part 39, upon completion. Weatherization and other similar activities will not alone satisfy rehabilitation housing assistance goals.

(c) *Map requirements.* Maps must be submitted which include the following information identified by census tract (or enumeration district), or geographic quadrant of the community where census tracts or enumeration districts are either not available or include a substantial area, such as an entire community;

(1) location of areas with minorities, showing number and percent;

(2) location of areas with low- and moderate-income persons showing number and percent;

(3) locations of proposed activities including boundaries of areas in which activities will be concentrated, if any, and service areas of activities if appropriate;

(4) the median income of the census tracts in which the proposed activities are to be undertaken;

(5) general locations of proposed new or rehabilitated housing assistance;

(6) the location of areas with substandard and deteriorated housing, showing number and percent.

Maps shall be clearly legible and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

Maps submitted with the preapplication which meet these requirements need not be resubmitted with the application.

(d) *Cost analysis.* The total cost of each activity must be identified as well as the amount of Single Purpose grant funds that will be used for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated.

(e) *Title VI compliance.* All applicants, except previous hold-harmless grantees shall submit, in a form prescribed by HUD, evidence of compliance with Title VI of the Civil Rights Act of 1964. This enables HUD to determine whether the benefits will be provided on a nondiscriminatory basis

and will achieve the purposes of the

development of, and any changes to the

(8) Provide full public access to program records and information and

to its submission to the HUD Area Office

(4) *Assessment of performance.* A

Area Office at any time concerning the

and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(f) *Certifications of assurances.* The certifications of assurance required by § 570.307 of Subpart D shall be submitted by all Single Purpose applicants except that in lieu of § 570.307(d) the applicant shall certify that it:

(1) Has prepared and followed a written citizen participation plan that meets the requirements of 24 CFR 570.431(b);

(2) Has provided citizens with an opportunity to participate in the development of the Housing Assistance Plan;

(3) Has provided adequate notices of public hearings as required by the written plan;

(4) Has held hearings on the proposed application before adoption of a resolution or similar action by the local governing body authorizing the filing of the application;

(5) Will provide for citizen participation when considering amendments to the Community Development Program and the Housing Assistance Plan; and

(6) Will provide for citizen participation in the planning, implementation and assessment of the Community Development Program including the development of the report on performance and the submission of views to the HUD Area Office.

§ 570.431 Citizen participation requirements for Comprehensive and Single Purpose Grants.

(a) *General.* Each applicant shall provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of the program. The applicant shall provide adequate information to citizens, hold public hearings at the initial stage of the planning process to obtain views and proposals of citizens, and provide citizens an opportunity to comment on the applicant's community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Plan.

(b) *Written Citizen Participation Plan.* To achieve these goals, each applicant shall prepare and follow a written citizen participation plan that serves as a citizens' guide to interacting with the block grant program in a meaningful way. Citizens shall be involved in the development of, and any changes to the plan. The plan shall remain in effect until all activities assisted under this Subpart are completed or until it is superseded by a new plan. The plan must provide procedures that meet the following requirements:

(1) Provide a process of citizen participation at the communitywide level with regard to the overall application, the Community Development Program, and the assessment of performance where applicable.

(2) Solicit and respond in a timely manner, to views and proposals of citizens, particularly low and moderate income persons, members of minority groups, and residents of blighted areas where activities are proposed. Written responses shall be made to written proposals.

(3) Provide technical assistance to facilitate citizen participation, where requested. The level and type of technical assistance shall be determined by the applicant.

(4) Provide adequate notices of public hearings and the availability of the report on assessment of performance, where applicable, in a timely manner and in such a way as to make them accessible and understandable to all citizens, including non-English speaking persons. The plan must state the number of days prior to a hearing that a notice will be published.

(5) Schedule hearings to obtain citizen views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low- and moderate-income persons, members of minority groups, handicapped persons, and residents of blighted neighborhoods and project areas.

(6) Conduct a minimum of two public hearings at both preapplication and application stages. A public hearing shall be held during both planning processes and a public hearing shall be held prior to the submission of both documents to the HUD Area Office. An exception is provided at paragraph (c)(2)(ii)(A) of this section for subsequent full applications under a multiyear commitment. Citizens shall be given an opportunity to assess performance under previous grants in at least one public hearing at the preapplication and at least one public hearing at the full application stage.

(7) Conduct at least one public hearing during the grant closeout process, prior to submission to HUD of the assessment of performance report, if such a report has not been made and a hearing has not been held concerning performance in the last 12 months.

(8) Provide full public access to program records and information and make affirmative efforts to get adequate information to citizens, especially persons of low and moderate income and residents of blighted neighborhoods and project areas. The citizen participation plan shall identify the information that will be made available to the public by the applicant.

(9) Conduct a minimum of two public hearings on any amendment requiring HUD approval. A public hearing shall be held to consider the merits of the amendment in its formative stages and a public hearing shall be held on the amendment when it is ready for submission. Citizens, particularly affected citizens, shall also be involved in amendments not requiring prior HUD approval, budget revisions, and changes to the Community Development Program and the Housing Assistance Plan. The methods by which citizens will be involved shall be described in the plan.

(10) Involve citizens in planning, implementing and assessing the Community Development Program and performance. The methods by which citizens and citizen organizations will be given the opportunity to assess and submit comments on the applicant's community development performance shall be described in the plan.

(11) Advise citizens of the bases and process to be used to submit objections to HUD to the approval of a preapplication or full application.

(12) Ensure low- and moderate-income persons and minorities substantial representation on any advisory committee.

(13) Provide bilingual opportunities at public hearings, when necessary.

(14) Provide written responses to written complaints generally within 15 working days.

(c) *Requirements for citizen participation in each stage of the application process*—(1) *Preapplication Stage.* The objective of citizen participation at this stage is to provide for meaningful citizen input in the decision making process during the consideration of priorities and of options associated with the development and submission of the preapplication. At this stage the applicant shall assure that the following citizen participation requirements have occurred:

(i) Developed and made available to the public a written Citizen Participation Plan at the beginning of the preapplication stage that meets the requirements of paragraph (b). The procedures outlined in this plan were followed during the planning and development of the preapplication prior to its submission to the HUD Area Office.

(ii) Provided the public with the following information:

(A) The likelihood that more applications will be submitted to HUD than can be funded.

(B) Amount of funds that may be applied for by the applicant for community development.

(C) Range of activities that may be undertaken with these funds, the kind of activities previously funded if any, and the progress made with respect to those activities.

(D) The processes to be followed in soliciting and responding to the views and proposals of citizens in a timely manner.

(E) A summary of other important program requirements.

(2) *Full Application Stage.* The citizen participation process at this stage should reflect primarily on the development and adoption of the HAP, and where applicable, the three year Community Development and Housing Plan, in addition to the final adoption of the full application prior to its submission to the HUD area office. The applicant shall assure that the following citizen participation requirements have occurred:

(i) *Initial Full Application.* (A) The citizen participation plan as prescribed in paragraph (b) of this section has been followed insofar as it relates to the full application.

(B) Provide certifications of assurance as prescribed in § 570.430(f).

(ii) *Subsequent full applications under multiyear commitments.*

(A) Conduct at least one hearing prior to the second and the third year submission of the full application under a multiyear commitment that provides citizens with an opportunity to comment on the application and to assess prior program progress and performance. The requirements of paragraph (b) of this section that are applicable to full applications shall be met, except that only one hearing need be held.

(B) Involve citizens and citizen organizations in the assessment of all activities of the applicant's community development program, including development of the report on assessment of performance.

(C) Provide to HUD certifications of assurances as prescribed in § 570.430(f).

(3) *Post Approval Stage.* Assure citizen participation when considering subsequent amendments to the Community Development Program and the Housing Assistance Plan in accordance with the requirements at § 570.431(b)(9) and during closeout in accordance with § 570.431(b)(7).

(4) *Assessment of performance.* A copy of each written citizen comment or complaint on the grantee's community development performance, the grantee's assessment of the comment or complaint, and the grantee's description of any actions taken and any written response made to the comment or complaint, if any, shall be submitted to HUD with the report on assessment of performance.

(5) *Consideration of objections to preapplication/applications*—(i) *Notice of Submission of preapplication/application.* The applicant shall, at the time of submission to HUD, publish a notice in a newspaper of general circulation stating that the preapplication/application has been submitted to HUD and is available to interested parties upon request, and describing the conditions whereby citizens may submit objections to approval of preapplications/applications to HUD, as described below.

(ii) *Citizen objections to preapplications/applications.* Persons wishing to object to approval of a preapplication/application by HUD may make such objection known to the appropriate HUD Area Office. HUD will consider objections made only on the following grounds:

(A) The applicant's description of needs and objectives is plainly inconsistent with available facts and data.

(B) The activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant.

(C) The preapplication/application does not comply with the requirements of this Subpart or other applicable law.

(D) The preapplication/application proposes activities which are otherwise ineligible under this Part.

Such objections should include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely.

Although HUD will consider objections submitted at any time, such objections should be submitted within 30 days of the publication of the notice that the preapplication/application has been submitted to HUD in accordance with paragraph (c)(5)(i) of this section. HUD will not approve a preapplication/application until at least 45 days after receipt of the preapplication/application.

(6) *Citizen comment to HUD.* Persons may comment to the appropriate HUD Area Office at any time concerning the applicant's failure to comply with the citizen participation requirements contained in this section.

§ 570.432 Single Purpose Grants for imminent threat to public health or safety.

(a) *Criteria.* The following criteria apply for an imminent threat to public health or safety:

(1) Notwithstanding the provisions of § 570.428, the Area Manager may, at any time invite a full application for funds available under this Subpart in response to a request for assistance to alleviate an imminent threat to public health or safety that requires immediate resolution by waiving the requirements for preapplications. HUD shall verify the urgency and the immediacy of the threat with an appropriate authority other than the applicant prior to submission of the full application, and the Area Manager shall review the claim to determine if, in fact, an imminent threat to public health or safety does exist. For example, an applicant with documented cases of disease resulting from a contaminated drinking water supply has an imminent threat to public health, while an applicant ordered to improve the quality of its drinking water supply over the next two years does not have an imminent threat within the definition of this paragraph. These funds are to be used to deal with those threats which represent a unique and unusual circumstance, not for the type of threat that occurs with frequency in a number of communities within a State.

(2) The applicant does not have sufficient local resources, and other Federal or State resources are unavailable to alleviate the imminent threat.

(b) *HUD action.* (1) Each Area Office Manager is authorized to reserve up to 15 percent of the funds allocated pursuant to Subpart B and assigned to the Area Offices for Small Cities Grants in metropolitan and nonmetropolitan areas for use in funding full applications to alleviate imminent threats to the public health or safety. Funds reserved are part of the percentage of funds available for Single Purpose Grants. The 15 percent limit may be applied separately to the metropolitan and nonmetropolitan balances. Full applications shall be submitted in accordance with § 570.430.

(2) The only funds reserved for imminent threats to the public health or safety are those set aside by the Area Manager. After these funds have been depleted, HUD shall not consider further applications relating to imminent threat during that fiscal year.

(c) *Waiver of A–95 requirements.* The

be specified. Failure to satisfy the

moderate income persons and having a

funding approval or issuance of a letter

met. The recipient shall provide all

comments are addressed. HUD shall not

(c) *Waiver of A–95 requirements.* The requirements for A–95 review and comment pursuant to § 570.435(c) may be waived in the case of an imminent threat. HUD shall notify the appropriate State and areawide A–95 clearinghouses that it is inviting a full application for an imminent threat from an applicant.

(d) *Letter to proceed.* HUD may issue the applicant a letter to proceed to incur costs to alleviate the imminent threat.

(e) Pursuant to 24 CFR 58.21(b)(6), Single Purpose Grants for imminent threat to public health or safety are categorically excluded from the environmental review requirements of 24 CFR Part 58.

§ 570.433 HUD review and actions on full applications for Single Purpose and Comprehensive Grants.

(a) *Full applications.* Only applications from communities that have been invited to submit full applications, including second or third year submissions of multiyear commitments, are accepted for review, and then only if:

(1) The application has been received before the deadline that has been established by the Area Manager, unless the Area Manager decides that an extension of the deadline is warranted;

(2) The application requirements are complete;

(3) The funds requested do not exceed the amount of the invitation by HUD, unless a higher amount is acceptable to HUD;

(4) The activities are essentially the same as those for which a full application was invited;

(5) Any conditions that were established at the time of invitation are satisfied;

(6) Any resources that may be required at the full application stage are, in fact, available; and

(7) The application is submitted to the clearinghouse prior to or concurrently with submission to HUD. The applicant shall indicate in its full application the date it was submitted to the clearinghouse.

(b) *HUD action on full applications—*

(1) *Review and notification:* While HUD is not required to review discretionary applications within 75 days, it will try to do so. Following the review, HUD promptly notifies the applicant of the actions taken with regard to its application.

(2) *Criteria for conditional approval.* HUD may make a conditional approval in which case the grant will be approved but the obligation and utilization of funds is restricted. The reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a termination of the grant. Conditional approval may be made:

(i) Where local environmental reviews under § 570.603 have not yet been completed;

(ii) The requirements of § 570.607 regarding the provision of public services and flood or drainage facilities have not yet been satisfied;

(iii) To ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time;

(iv) To ensure the project can be completed within estimated costs; or

(v) Pending site and neighborhood standards approval for proposed housing projects, if applicable.

(3) *Criteria for disapproval of an application.* HUD may disapprove an application if:

(i) Based on field review of the applicant's proposal or other information received after invitation of a full application, or where the more complete information in the application shows that the preapplication was improperly rated, the rating of the preapplication should be changed and no longer rates sufficiently high to warrant approval when compared with other preapplications in the competition, given funds available.

(ii) On the basis of significant facts and data generally available and pertaining to community and housing needs and objectives, HUD determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be published data accessible to both the applicant and HUD such as census data, or other data available to both the applicant and HUD, such as recent local, areawide, or State comprehensive planning data.

(iii) On the basis of the application, or other available information HUD determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant. The following are examples of situations in which activities may be determined to be "plainly inappropriate" to meeting the identified needs of the applicant:

(A) Experience over a period of time has demonstrated that the types of activities proposed have not been or are unlikely to be effective in alleviating the conditions they were designed to affect;

(B) The application does not meet the requirements of § 570.420(k) with respect to the extent of funding proposed to principally benefit low and moderate income persons and having a direct impact on the applicant's needs;

(C) Proposed activities will have a detrimental affect on low- and moderate-income persons or members of minority groups, and adequate measures to mitigate those effects are not proposed;

(D) Housing goals, locations, and strategy do not meet the criteria of § 570.306(c) or § 570.430(b);

(E) The proposed program does not reflect previous requirements of HUD for corrective or remedial actions, or activities proposed have previously been the basis of such requirements;

(F) Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time;

(G) The activities cannot be completed within the estimated costs or resources available to the applicant;

(H) The applicant has received other funds for the activities and assistance under this Subpart is no longer required.

(iv) HUD determines that the application does not comply with the requirements of this Subpart with specific regard to the primary purposes of principally benefitting persons of low and moderate income, or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency, or with other applicable laws, or the application proposes activities which are ineligible under Subpart C.

(v) Conditions established at the time of invitation have not been fully met.

(vi) There is new evidence of a lack of performance, or capacity of a recipient to carry out the proposed activities.

(vii) Performance under the HAP is inadequate.

(viii) The community, or community in whose behalf the application is submitted, has an outstanding audit finding, or an outstanding monetary obligation to HUD.

(4) *Letter to proceed.* HUD may issue a letter authorizing an applicant to incur costs for the planning and preparation of an application for funds available under this Subpart, including citizen participation and environmental studies. Reimbursement for such cost is dependent upon HUD approval of the application. Only those costs associated with the actual cost of preparation of the application may be assisted. In no instance is a planning or preparation fee reimbursed when it is based upon a percentage of the assistance received under this Subpart. These fees must comply with the requirements set forth in § 570.200. Costs incurred by an applicant prior to notification of a funding approval or issuance of a letter to proceed by HUD are not eligible for assistance under this Subpart.

§ 570.434 Program amendments for Single Purpose and Comprehensive Grants.

(a) HUD may consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior HUD approval for all program amendments involving new activities or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries. Approval is subject to the following:

(1) New or significantly altered activities are rated in accordance with the criteria for selection applicable at the time the original preapplication was rated. The rating of the new program or activity proposed by the amendment must be equal to or greater than the lowest rating received by a funded activity or program during that cycle of preapplication ratings.

(2) Consideration shall be given to whether any new activity proposed can be completed promptly.

(b) *Housing Assistance Plan Amendments.*

(1) *Comprehensive Grant.* Recipients shall request prior HUD approval of Housing Assistance Plan amendments when any of the following conditions exist:

(i) The recipient proposes a reduction of any goal for housing assistance pursuant to § 570.306(b)(3)(i) or § 570.306(b)(4)(i);

(ii) The recipient proposes the inclusion of a goal by household type or housing type, not previously specified pursuant to § 570.306 (b)(3)(i) or (b)(4)(i);

(iii) The recipient proposes to exceed any three year goal by housing type or household type by the percentage cited in 24 CFR Part 891;

(iv) The recipient proposes a revision of the general locations for assisted housing established pursuant to § 570.306(b)(3)(ii); or,

(v) There is a significant change in, or new data available regarding, the conditions of the housing stock or the housing needs of lower income persons.

(2) *Single Purpose Grant.* Recipients shall request prior HUD approval when any of the following conditions exist:

(i) The recipient proposes an increase or decrease of any goal by housing type or household type;

(ii) The recipient proposes a revision of general locations for assisted housing.

(c) *A–95 and citizen participation requirements.* Whenever an amendment requires HUD approval, the requirements of this Subpart for A–95 review and citizen participation must be met. The recipient shall provide all appropriate State and areawide A–95 clearinghouses with thirty days in which to review and comment on the proposed amendment prior to its submission to HUD.

§ 570.435 Modified OMB Circular No. A–95 procedures for the Small Cities Program.

(a) *General.*

(1) Applicants for grants (both Single Purpose and Comprehensive) under the Small Cities Program must comply with all of the procedures set forth in Part I of OMB Circular No. A–95 except as modified below. These procedures also require that program amendments which must receive HUD approval shall be submitted for a thirty day review and comment period prior to submission to HUD pursuant to 24 CFR 52.101(g).

(2) All applicants are urged to contact their A–95 clearinghouses for forms and instructions which the clearinghouses have developed to facilitate their reviews, and to consult with clearinghouses during the development of both preapplications and applications.

(3) Clearinghouses will be of assistance to the applicant and to HUD if their reviews address the appropriate performance factors (§ 570.423(c)), the criteria for selection for Comprehensive Grants (§ 570.424), and the criteria for selection for Single Purpose Grants (§ 570.428), as well as the "subject matter of comments and recommendations" in item 5, Part I, Attachment A of OMB Circular No. A–95, with emphasis on consistency with State, areawide, and local plans and compliance with environmental and civil rights laws.

(b) *A–95 procedures for preapplications.*

(1) Each applicant is required to notify the appropriate clearinghouses of its intent to file a preapplication at least 30 days prior to the deadline for receipt of preapplications in order to insure that clearinghouses have an opportunity to provide assistance and guidance to preapplicants. No information other than intent is required.

(2) Preapplications for either Comprehensive Grants or for Single Purpose Grants shall be submitted to the appropriate State and areawide A–95 clearinghouses prior to or concurrent with the submission of the preapplication to HUD. The clearinghouses shall have forty-five days from receipt of the preapplication in which to conduct its review and provide a response to the applicant with a copy to HUD. The clearinghouse must clearly identify the applicant and the activity or program to which the comments are addressed. HUD shall not make a final decision on a preapplication until all clearinghouse comments are considered, or if no clearinghouse comments are received by HUD, forty-five days after the deadline for submission of preapplications. Applicants are urged to provide preapplications to the clearinghouses prior to submission to HUD whenever possible.

(c) *A–95 procedures for full applications.*

(1) Applications and annual submissions of multiyear applications shall be submitted to the appropriate State and areawide A–95 clearinghouses prior to or concurrently with submission to HUD. In addition, applicants shall have resolved all outstanding clearinghouse findings raised at the preapplication stage prior to submission of the full application to HUD. The clearinghouses shall have forty-five days from receipt of the application to review the application and give the comments to HUD and the applicant.

(2) HUD takes no final action on the application until comments have been received or until forty-five days after the application was sent to the clearinghouse. The applicant is provided an opportunity to respond to clearinghouse comments before HUD takes final action on an application.

(3) If the A–95 review comments contain any findings of inconsistency with State, areawide, or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, the applicant must consider these findings and state what action it plans to take as a result of these findings and the reasons therefor.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–123); and Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., August 6, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80–25449 Filed 8–20–80; 8:45 am]

BILLING CODE 4210–01–M

V
4
5

A
G
2
1
8
0
UMI

federal register

Thursday
August 21, 1980

Part VI

Water Resources Council

Coal Liquefaction Demonstration Plant Near Morgantown, W. Va.; Water Assessment Report

WATER RESOURCES COUNCIL

under provisions of Section 13(b) of the 1974 Federal Nonnuclear Energy

project are approximately 50 percent greater than those in the draft

lock and dam 8 and 1.3 percent of the

commercial project after results of the

conditions throughout the basin.

WATER RESOURCES COUNCIL

Coal Liquefaction Demonstration Plant Near Morgantown, W. Va. Water Assessment Report

AGENCY: United States Water Resources Council.

ACTION: Notice of water assessment report for public review and comment.

SUMMARY: This notice incorporates the Water Assessment Report prepared by the Water Resources Council staff under the provisions of Section 113(b) of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended.

DATE: Comments on this report are due on or before September 22, 1980.

ADDRESS: Send comments to: Acting Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Frank S. Davenport, Program Leader or Ronald L. Scullin, Staff Specialist, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 200–37, Phone: 202–254–6352.

Dated: August 15, 1980.

Gerald D. Seinwill,

Acting Director.

Contents

Preface

I. Principal Findings
- A. Introduction
- B. SRC–II Demonstration Project
- C. SRC–II Commercial Project
- D. Further Action Needed

II. Project Description
- A. Location
- B. SRC–II Project.
- C. Coal Preparation
- D. Liquefaction Process
- E. Waste Containment and Treatment
- F. Water Reclamation
- G. Base Resources
- H. Schedule

III. Project Water Requirements
- A. Process and Cooling Water
- B. Electric Power Generation
- C. Coal Mining and Land Reclamation
- D. Navigation

IV. Water Supply Availability
- A. Background
- B. Surface Water
- C. Groundwater
- D. Basin Consumptive Use
- E. Water Quality Conditions
- F. Policy for Consumptive Use Makeup

V. Water-Related Impacts
- A. SRC–II Versus Other Offstream Uses
- B. Navigation
- C. Water Quality

Preface

The U.S. Water Resources Council staff (WRC) has prepared this report under provisions of Section 13(b) of the 1974 Federal Nonnuclear Energy Research and Development Act, as amended. The report is the result of an assessment of water requirements and water supply availability for a proposed coal liquefaction demonstration project at Fort Martin, near Morgantown, West Virginia.

WRC was requested to perform this assessment by the U.S. Department of Energy (DOE) on February 11, 1980. WRC entered in to a Memorandum of Agreement with the Ohio River Basin Commission (ORBC) to perform technical phases of the assessment and to prepare a technical report. The ORBC formed a study committee including representation from the States of West Virginia and Pennsylvania, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and U.S. Department of Energy. The Technical report, completed and approved by the ORBC in June 1980, was the principal supporting document for this report.

Publication of this report in the **Federal Register** is mandated under provisions of Section 13 to enable public review and comment during a 30-day period. Comments on the report are to be submitted to Gerald D. Seinwill, Acting Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, DC 20037.

After the 30-day review period, WRC staff will analyze the comments received and will forward the comments, the WRC analysis, and the water assessment report to the Secretary of the Department of Energy.

DOE's industrial partner, Pittsburgh and Midway Coal Mining Company (a subsidiary of Gulf Oil), expects that—subject to a successful demonstration of the technical operability, economic viability, and environmental acceptability of the solvent-refined coal (SRC) process—the project will be expanded to a full-scale commercial plant. Pursuant to Subsection 13(c) of the above-cited Act, WRC will prepare a subsequent full assessment of the water resources available for the commercial-scale coal liquefaction development. This 13(b) report includes only a preliminary assessment of the commercial project as currently planned. Final design of the commercial facility will be based largely on the experience gained from operation of the SRC–II demonstration project.

Chapter I. Principal Findings

A. Introduction

The water consumption figures in this assessment of the proposed SRC–II (solvent-refined coal) demonstration project are approximately 50 percent greater than those in the draft Environmental Impact Statement (EIS) prepared by the Department of Energy. The lower EIS figures resulted from design modifications that had not yet been defined when the assessment data analysis was conducted. The project water consumption figures in this report are also based on summer conditions when consumption will be highest. Streamflow assessments at low-flow conditions have not been adjusted for water conservation measures for offstream users or for low-flow augmentation from Stonewall Jackson Reservoir, which is under construction (i.e., primarily land acquisition) and presently under litigation. The streamflow conditions do include other current augmentation. Thus, this assessment is based on a "worst case" condition for water availability for the SRC–II project.

B. SRC–II Demonstration Project

Under most flow conditions, the Monongahela River has enough water to support the combined effect of the SRC–II demonstration project and the increased consumption by other sectors of the economy through 1990 without reduction to streamflow below that projected to meet navigation requirements (including SRC–II barge traffic) and to meet water quality standards in West Virginia and Pennsylvania.

There are, however, exceptions during various low-flow conditions. For example, during minimum navigation flow (i.e., recurrent drought of record with low-flow augmentation), the total increased consumption will reduce streamflow 12 percent below 1990 navigation needs at Maxwell lock and dam. Half of this deficit would be due to the SRC–II demonstration project.

In addition, the Monongahela River at lock and dam 4 in Pennsylvania does not currently have the estimated streamflow necessary to achieve the total dissolved solids standard during 7-day, 10-year low-flow conditions. The SRC–II demonstration project would contribute only about 1 percent to the projected streamflow deficit by 1990.

The projected increase in new offstream consumptive uses in the basin will be approximately 18 cubic feet per second (cfs) by 1990. The SRC–II demonstration project will account for half of this increase. The 8.7 cfs, however, is only 7 percent of the total 133 cfs consumption (existing and new uses including SRC–II) projected for 1990.

The 8.7 cfs represents 2.4 percent of the 7-day, 10-year low flow (360 cfs) at lock and dam 8 and 1.3 percent of the present 7-day, 10-year low flow (650 cfs) downstream at lock and dam 4.

The economic capacity of lock and dam 7 (Pennsylvania) is projected to be exceeded by 1988 if coal for the SRC–II demonstration project is transported by barge. Economic capacity is determined by factors such as congestion at the lock, competing traffic modes, etc., rather than the availability of water.

Groundwater at the site is insufficient to meet project water requirements. Further investigation should determine whether groundwater can be used as a supplemental source of water during low-flow conditions.

C. SRC–II Commercial Project

During low flows, the SRC–II commercial project, together with other increased consumptive uses projected for the basin by 2020, will worsen the streamflow deficits at Maxwell lock and dam, without further augmentation. Moreover, the Monongahela River at lock and dam 8 near the plantsite will not have sufficient flow to meet the dissolved oxygen standard in West Virginia for the 7-day, 10-year low flow. The project would contribute less than 2 percent to the estimated deficit in the flow required to meet Pennsylvania's total dissolved solids standard at lock and dam 4 under the 7-day, 10-year low-flow conditions in 2020.

The projected new consumptive uses in the basin will need 52 cfs by 2020. The SRC–II commercial project will account for 23 cfs or 44 percent of the increase. This 23 cfs, however, is only 10 percent of the total 167 cfs consumption (existing and new uses including SRC–II) projected for 2020. This 23 cfs is about 6 percent of the 7-day, 10-year low flow at back and dam 8 and about 4 percent of the 7-day, 10-year low flow downstream at lock and dam 4.

A followup Section 13(c) water assessment will more accurately assess the water availability and related water impacts of the proposed SRC–II commercial project after results of the demonstration project are available.

D. Further Action Needed

A plan of operation should be developed for the SRC–II demonstration project (and ultimately the commercial project) to allow for reduced water consumption and/or alternate water sources during critical low flows in the Monongahela River. Offstream storage and conjunctive use of groundwater are two options to consider.

Unless substantive action is taken during critical flow periods, projected river flow under present basin conditions will not be sufficient to meet the West Virginia dissolved oxygen standard in 2020 at lock and dam 8, the Pennsylvania total dissolved solids standard for 1990 and 2020 at lock and dam 4, and the projected navigation flow required at Maxwell lock and dam in 1990 and 2020.

To resolve the basin's present and future water problems, West Virginia and Pennsylvania need to develop a coordinated water management program for the Monongahela River Basin. Under a basin-wide plan, the impacts of competing water uses during the critical low-flow conditions could be reduced (or offset) by various water management options. The options include: Low-flow augmentation from Stonewall Jackson Reservoir; water conservation; temporary curtailment of offstream uses; additional storage and/or reallocation of storage at basin reservoirs, including Stonewall Jackson, Tygart, and Stonecoal; additional water storage sites; and development of supplemental groundwater resources.

The water management program should balance all competing uses against available water supplies. Particular attention should be given to providing critical flows at key points along the river. A predictable water budget would help provide for beneficial economic, social and environmental conditions throughout the basin.

In addition to developing a water budget, West Virginia, Pennsylvania, the Ohio River Sanitation Commission, and the U.S. Environmental Protection Agency (EPA) should establish a water quality program that would provide for additional water quality monitoring and analysis (particularly total dissolved solids) along the Monongahela River. The monitoring and analysis should provide the information needed to identify and characterize water quality problems in specific stream reaches. This effort can also lead to further coordination of water quality policies between West Virginia and Pennsylvania.

The instream needs of fish and wildlife must be included in a water management program. Under a Section 13(c) assessment, a streamflow management study should be conducted to assess the SRC–II commercial project and other consumptive uses of their combined effects on fish and wildlife habitat in the Monongahela River.

Chapter II. Project Description

A. Location

The proposed project site is located near Morgantown at Fort Martin, West Virginia, along the Monongahela River, approximately 2 miles south of the West Virginia-Pennsylvania State line. Figure 1 shows the Monongahela River Basin where the proposed project is to be located. Figure 2 illustrates the site plan of the proposed project. The project site is bounded on the southeast by the Monongahela River, on the east by the Fort Martin Power Plant (Monongahela Power Company), on the north by the West Virginia-Pennsylvania State line, and on the west and south by land in private or corporate ownership. Except for a narrow floodplain along the river, the site is hilly, at an elevation of about 1108 feet mean sea level or 311 feet above the river.

BILLING CODE 6410–01–M

Figure 1
Map of Monongahela River Basin

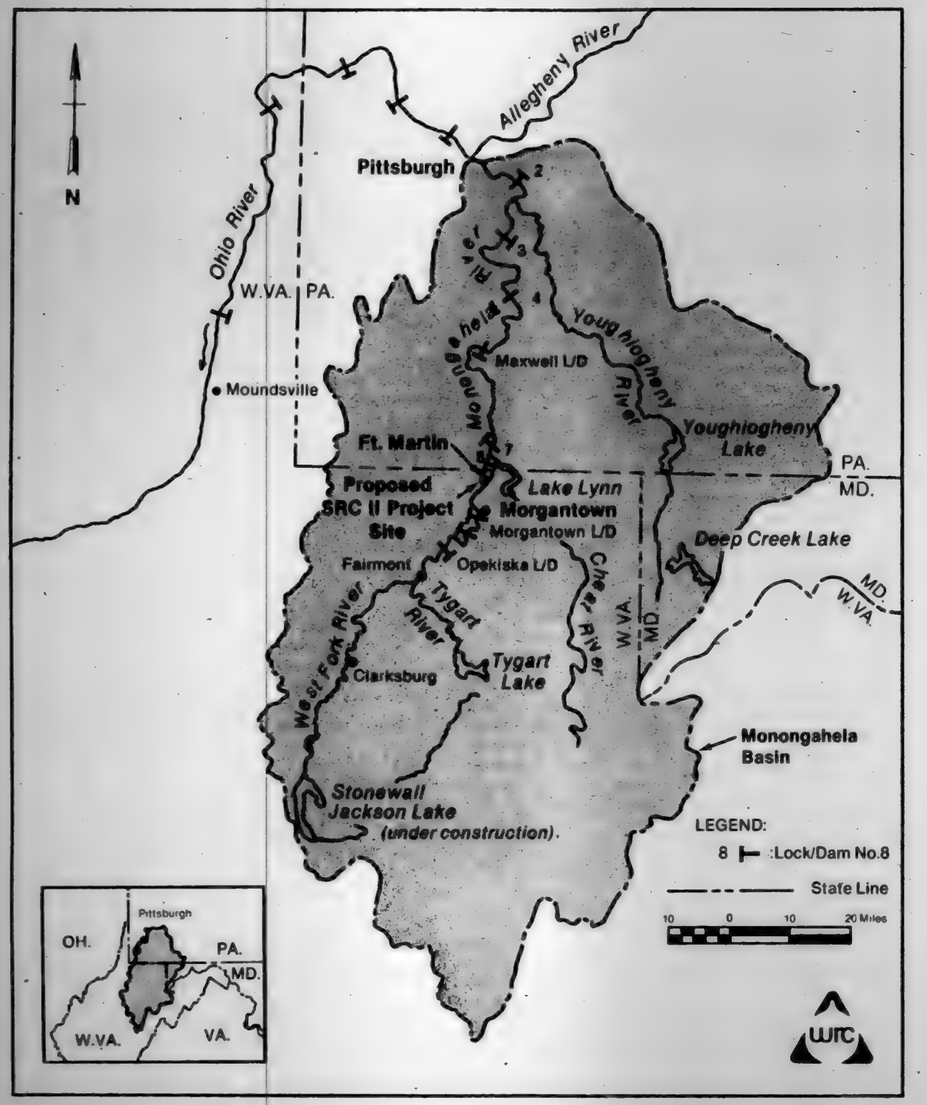

Figure 2
Site Plan of Proposed Project

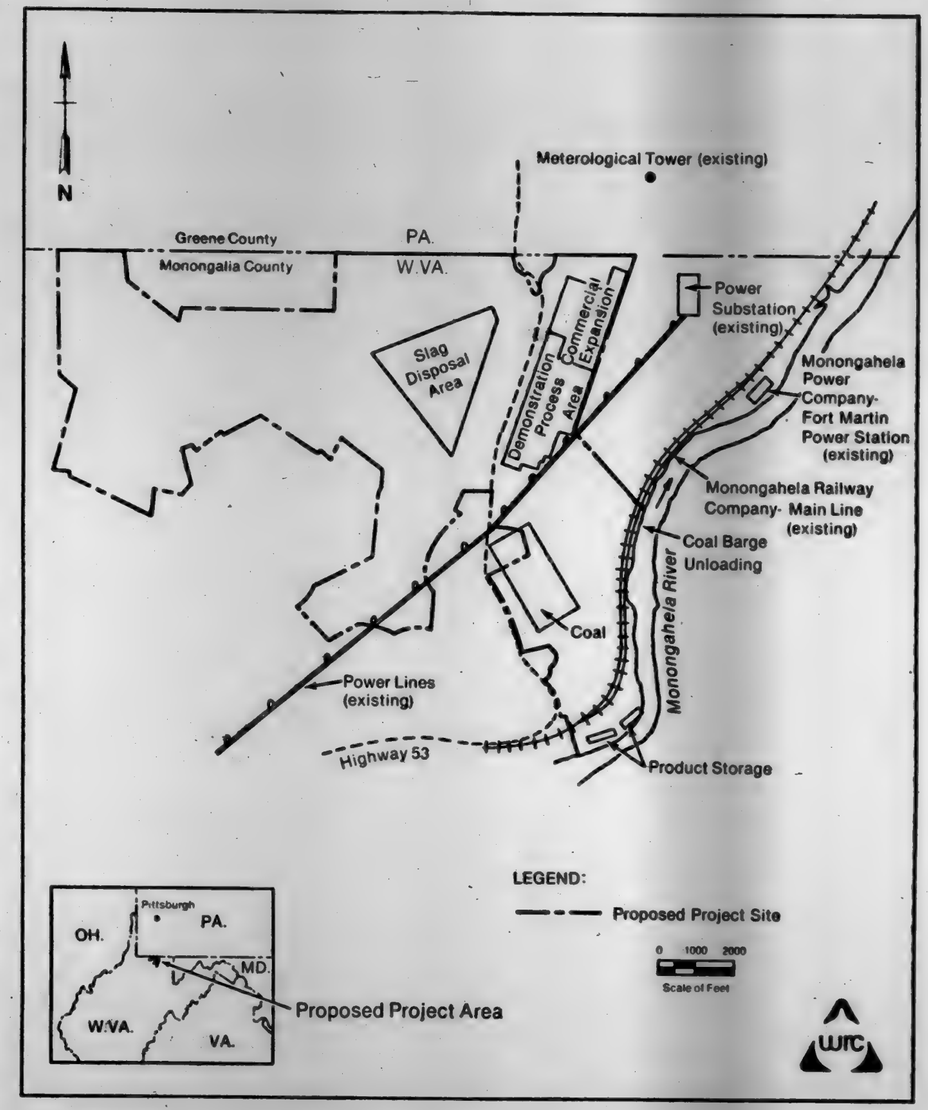

BILLING CODE 6410-01-C

B. SRC–II Project

The demonstration project facilities have been designed to produce a solvent-refined coal (SRC) product of low-sulfur distillate fuel oil from Pittsburgh seam coal. The demonstration plant will produce approximately 20,000 barrels of oil equivalent per day and the commercial plant approximately 100,000. Byproducts include synthetic natural gas, mixed liquid butanes, propane, naphtha, ammonia, elemental sulfur, and tar acids.

C. Coal Preparation

Coal will be delivered by barge to a storage area where conveyors will transport the coal to pulverizing-drying equipment. The fine coal is then transferred to surge storage bins from which it is withdrawn for slurry mixing.

D. Liquefaction Process

The demonstration SRC–II facility will liquefy 6000 tons of bituminous coal per day. The pulverized feed coal is mixed with a recycled hydrocarbon-mineral residue slurry stream from the process and, together with hydrogen-rich gases, the mixture is pumped through a preheater to the dissolver. In the dissolver, hydrogenation and liquefaction reactions convert the coal into liquid and gas. By a series of separation, distillation, and gasification steps, the process produces: (1) A high-purity hydrogen stream that is recycled to the dissolver, (2) a methane-rich stream that is upgraded to produce a pipeline-quality synthetic natural gas, and (3) a methane-rich stream, part of which is used as plant fuel; the rest is converted to synthetic natural gas in the methanation step.

E. Waste Containment and Treatment

The demonstration plant, which is designed to produce zero liquid waste discharge under normal operating conditions, has facilities to contain and reclaim runoff from a 24-hour rainfall event having a 10-year recurrence (the 10-year, 24-hour storm). The wastewater discharge is eliminated through evaporation in the cooling towers plus a water reclamation and recovery system in which wastewaters are pretreated and evaporated. The condensates produced in this evaporation process are recovered for reuse, while the sludge is reincinerated to destroy organic materials. The residue from the incinerator will be disposed of in accordance with the requirements of the Resource Conservation and Recovery Act (Pub. L. 95–609).

Zero-discharge is presently being considered for the SRC–II demonstration project. Operation experience from the demonstration project should help resolve questions on the efficiency of wastewater treatment and disposal of solid plant wastes.

F. Water Reclamation

The water reclamation system will treat: process wastewater, leachates from the slag disposal area and coal storage piles, and contaminated rain runoff from the process area and from all product storage and shipping areas. The system will also treat process liquids spilled in the main process area and in the product storage and shipping areas.

G. Base Resources

Coal for the demonstration project will be mined near the Ohio River at Moundsville, West Virginia (see Figure 1). The source of coal for the commercial phase may also be Moundsville, depending on how well the coal characteristics meet the requirements of the demonstration project. Approximately 6,000 tons per day (tpd) will be required for the demonstration phase and 30,000 tpd for the commercial phase. This tonnage is based on a 90-percent load factor for the SRC–II project.

It is currently anticipated that the Monongahela Power Company will supply the electrical power service for the demonstration project. The demonstration project will require about 75 megawatts (MW) and the commercial project about 225 MW. The source of electrical power supply for the commercial project is still under review.

The source of water for the SRC–II project will be the Monongahela River. The raw water quality requires some pretreatment before it is acceptable for project use.

H. Schedule

If the decision is to proceed with the demonstration project, preliminary site preparation will begin in late 1980, with actual construction beginning in the spring of 1981. Scheduled operational startup would be in 1985. The demonstration phase would operate for approximately 5 years. If the demonstration phase is successful, the project will be expanded to a full-scale commercial facility. Operation of the commercial phase will begin around 1990.

Chapter III. Project Water Requirements

Consumptive water use from the Monongahela River is 8.7 cubic feet per second (cfs) for the demonstration plant and 23.0 cfs for the commercial plant.

A. Process and Cooling Water

The cooling tower consumes the largest amount of water. The second largest use is the process reaction, primarily for the production of hydrogen. Water is also lost in vents as steam, in the incinerators from combustion, and in the water reclamation system. In the demonstrations phase, approximately 10 percent (0.9 cfs) of the water is consumed for processing and 90 percent (7.8 cfs) for cooling. In the commercial phase, about 19.6 percent (4.5 cfs) is consumed for processing and 80.4 percent (18.5 cfs) for cooling.

The draft Environmental Impact Statement (EIS) reports a lower average consumption of 3.8 cfs for the demonstration plant, with a maximum summer demand of 5.8 cfs when cooling tower evaporation is the greatest. The lower EIS figures resulted from design modifications that had not yet been defined when the assessment data analysis was conducted. These lower EIS values may be reduced even more, since further plant design changes to reduce consumption are currently being considered.

B. Electric Power Generation

The 75 MW of electricity required by the SRC–II demonstration project will be provided through a power grid that receives electricity from a network of electric power plants, which includes the Monongahela Power Company. The water consumed for generating the 75 MW (approximately 1 cfs) was not included in this assessment.

C. Coal Mining and Land Reclamation

Water consumed for coal mining and land reclamation at Moundsville, West Virginia, is only an insignificant portion of the nearby water available along the Ohio River mainstream.

D. Navigation

Current plans call for coal to be barged to the SRC–II project. Therefore, for this assessment, coal traffic along the Ohio and Monongahela Rivers was assumed to be 6,000 tpd from 1985 to 1989 when the demonstration SRC–II is in operation and 30,000 tpd from 1990 to 2020, when the commercial SRC–II is in operation. The lock and dam (L&D) system on the Monongahela River does not generate hydroelectric power. The L&Ds upstream have higher numbers than those downstream.

Chapter IV. Water Supply Availability

A. Background

The Monongahela and the Allegheny Rivers comprise the headwaters of the Ohio River. The Monongahela River drains 7,384 square miles. It lies in the eastern portion of the Ohio River Basin, and includes southwestern Pennsylvania, northern West Vriginia, and extreme western Maryland.

The U.S. Army Corps of Engineers (Corps) maintains and operates a series of locks and dams along the Ohio and Monongahela Rivers. Presently, seven locks and dams in Pennsylvania (including Emsworth on the Ohio River) and three in West Virginia provide a minimum 9-foot depth for navigation along the Monongahela River from Pittsburgh, Pennsylvania, upstream to Fairmount, West Virginia. The proposed project site is located in the navigation pool of lock and dam 8 (see Figure 1). The Monongahela River and its two major upper tributaries, the West Fork and Tygart Valley Rivers, drain the 2,700 square-mile drainage area upstream of the project.

The West Fork River drains 882 square miles. Its flow is essentially uncontrolled except for two U.S. Soil Conservation Service small watershed projects and Stonecoal Lake. With the completion of Stonewall Jackson Reservoir, approximately 12 percent of the West Fork Basin will be controlled.

Stonewall Jackson Reservoir under construction (i.e., primarily land acquisition) by the Corps is presently scheduled for completion by 1987, although the project is presently under litigation. (On July 11, 1974, the Upper West Fork River Watershed Association filed suit in the U.S. District Court for the Northern District of West Virginia seeking an injunction against further prosecution of the project base, primarily on alleged inadequacy of the project EIS. On May 3, 1976, the Federal District Court dismissed the action by the Upper West Fork River Watershed Association. The Plaintiff appealed before the U.S. Court of Appeals (Fourth Circuit) on January 13, 1977. The U.S. Court of Appeals (Fourth Circuit) affirmed the decision of the District Court on May 9, 1977. The Upper West Fork River Watershed Association and other environmental interest groups filed suit on April 21, 1980, in the U.S. District Court of the District of Columbia, alleging that the Corps used the wrong interest rate for the project, exceeded the Congressional authorization in the scope of the project, and wrongfully included water quality benefits.) The 75,000 acre-foot storage reservoir is to be located in northern West Virginia on the West Fork River, upstream of the proposed SRC–II site. The reservoir project is authorized for flood control, water supply, water quality maintenance, and recreation. Up to 80 cfs will be released during low-flow periods for water quality augmentation.

Tygart Dam controls 86 percent of the 1,374 square mile drainage area of the Tygart Valley Basin. In 1938, the Corps constructed Tygart Lake for flood control and low-flow augmentation. The Corps presently regulates flow at Tygart Lake Dam to maintain a minimum flow of 340 cfs at L&D 8, about 2½ miles downstream of the project site. During periods of minimum navigation flow (i.e., recurrent drought of record with low-flow augmentation), most of Monongahela River flow upstream of its confluence with the Youghiogheny River comes from controlled releases from Tygart Lake. The approximate storage at Tygart Lake is 279,000 acre-feet.

B. Surface Water

The Corps developed several flow frequencies for the Monongahela River. Table 1 shows these figures for six locks and dams (L&D). See Figure 1 for the location of the L&Ds. Streamflows are based on existing (1980) levels of basin development, including current augmentation.

Table 1.—*Flow Data for Monongahela River* [1]

(In cubic feet per second)

Lock and dam	River mile	Mean	80 pct exceedence	7-day, 10-year	7-day, 50-year	Minimum navigation flow
2	11.2	12,300	2,970	1,150	910	790
4	41.5	8,980	1,700	650	510	316
Maxwell	61.2	8,580	1,620	620	495	325
7	85.0	8,090	1,520	590	480	340
8	90.8	4,580	790	360	350	340
Opekiska	115.4	4,300	740	340	340	340

[1] Low-flow augmentation at Stonewall Jackson Reservoir not included.

The project site is approximately 2.5 miles upstream of L&D 8. Present mean flow at L&D 8 is 4580 cfs; the 7-day, 10-year low flow is 360 cfs; and the minimum navigation flow is 340 cfs.

C. Groundwater

Although available information is insufficient for a complete assessment of groundwater quantity and quality, several general observations can be made.

Pittsburg & Midway Coal Mining Company, the project industry participant, has recently explored the groundwater availability. Their September 1979 investigation concluded that local deposits of unconsolidated materials (alluvium, soils, and mine spoils) "are not an important source of groundwater because of limited areal extent and thickness, or impermeability * * *" Springs and shallow wells in the area reportedly yield from 0.0022 to 0.0067 cfs. Recent data are unavailable for deeper Allegheny and Pottsville aquifers; however, according to earlier investigations, the Allegheny aquifer would yield less than 0.0056 cfs, which may be sufficient for some industrial and public water use in central and northeastern Monongalia County. The Pottsville aquifer reportedly yields upwards of 0.56 cfs, with an average of about 0.10 cfs in the portions of Monongalia County near the proposed project site. Groundwater should be further investigated as supplemental water source for meeting SRC–II water requirements during low-flow conditions.

D. Basin Consumptive Use

There is no water use allocation program in operation for the Monongahela River Basin. The Pennsylvania Department of Environmental Resources has proposed such a program, which will be brought before the State legislature this year. The program would affect offstream users withdrawing 10,000 gallons per day or more.

Present and future total consumptive withdrawals have been estimated for the basin, including withdrawals by the municipal, industrial, power, and agricultural sectors. Table 2 presents the cumulative consumptive withdrawals from selected upstream to downstream L&Ds in the basin.

Table 2.—*Estimated Cumulative Consumptive*

and industrial water users, but

Monongahela River TDS loadings are

the higher streamflow may be received

Table 2.—*Estimated Cumulative Consumptive Withdrawals from Monongahela River*[a]

[In cfs]

	1980	1990	2020
West Virginia:			
L&D 8	78	80	87
Pennsylvania:			
L&D 7	82	84	91
L&D 4	115	121	133
L&D 2	115	124	144

[a] Does not include SRC–II project.

The estimated consumption of the Monongahela River in West Virginia will increase 2 cfs by 1990 and 9 cfs by 2020. Similarly, the estimated consumption in Pennsylvania will increase approximately 9 cfs by 1990 and 29 cfs by 2020.

Information on future consumptive groundwater withdrawals in the basin is not available. However, the quantity is expected to be relatively small. Less recent use data (1964) on surface and groundwater sources suggest that groundwater supplied less than 3 percent of the water used in the basin. Groundwater supplied farm, domestic, and industrial water users, but groundwater has not been used to meet large water requirements of powerplants.

E. Water Quality Conditions

Water quality policies for the Monongahela River are governed by the West Virginia Department of Natural Resources and the Pennsylvania Department of Environmental Resources. From the water quality plans of both States, three parameters were selected as pertinent to this assessment: dissolved oxygen (DO), pH, and total dissolved solids (TDS). Table 3 presents the current standards for these parameters at two streamflow points for which adequate data were available. West Virginia specified streamflows to maintain minimum water quality standards at L&D 8. For the stretch of river in Pennsylvania, streamflows to maintain minimum quality standards were projected for L&D 4. This is a location with the most available data, but not necessarily the worst water quality conditions.

Table 3.—*Selected Water Quality Standards; Monongahela River*

	Water quality criteria	Standard	Specified streamflow (cubic feet per second)		
			1980	1990	2020
West Virginia: L&D 8	DO	≥4 mg/l	345	345	345
	pH	≥6	345	345	345
	TDS	(1)	(1)	(1)	(1)
Pennsylvania: L&D 4	DO	≥5 mg/l	1,140	[2]400	[2]800
	pH	6 to 9			
	TDS	<500 mg/l month avg	1,980	2,230	2,800
		<750 mg/l daily avg	1,100	1,490	1,860

[1] None.
[2] State-recommended treatment levels would reduce flow requirement.

The overall water quality as measured by DO, pH, and TDS in the Monongahela River is generally improving. The Ohio River Sanitation Commission (ORSANCO), an interstate water quality agency, assessed water quality data from 1962 to 1976 for L&D 4 in Pennsylvania. Violations for DO and TDS were most often recorded in the 1960s, but the trend toward acceptable limits improved in the 1970s. Although the frequency of pH violations has also improved, some local pH problems still remain. Moreover, the pH relationship to flow has not been clearly established.

Recent (1977–1979) water quality data from the Storage and Retrieval (STORET) system of the U.S. Environmental Protection Agency (EPA) show a continued improvement in river quality. Average values for DO, pH, and TDS at L&D 4, L&D 7, L&D 8, and Morgantown L&D were within State water quality standards, although extreme values for pH dropped below the standard five times at L&D 7 and once at L&D 8.

Of particular concern in the Monongahela River is the accumulative concentration of TDS. Unlike many other pollutants, TDS are not "assimilated" in streams, so the accumulated TDS create a loading problem downstream.

This is particularly significant, because the Monongahela River flow does not substantially increase except at the confluence with the Cheat and Youghiogheny Rivers (see Figure 1). Thus, the TDS loadings are not well diluted along significant portions of the river. In West Virginia, the Monongahela River TDS loadings are not presently a water quality problem. Downstream in Pennsylvania, the TDS accumulation is a problem until flow from the Youghiogheny River dilutes the loadings.

Both States recognize that increased monitoring of TDS in the Monongahela River is needed to better characterize TDS problems.

The Pennsylvania TDS instream standards of less than 500 milligrams per liter (mg/l) average monthly and 750 mg/l daily are based on EPA secondary guidelines for potable water. Most public water utilities along the river do not treat raw water to remove TDS. Therefore, Pennsylvania has applied the drinking water TDS standard as an instream standard to ensure that the TDS in potable water coming from municipal water treatment facilities is acceptable.

Pennsylvania estimates that the Monongahela River now contains up to five times the TDS concentration than that to be expected from natural conditions. The State projects that TDS loadings from coal mining will continue to increase, so that by 2020 approximately 80 percent of the TDS problem will come from new mining activities and from the treatment required to satisfy discharge requirements for acid mine drainage.

Coal mined for the SRC–II demonstration project would not contribute to this specific TDS problem because the coal would be mined downstream from the Monogahela River Basin.

Present TDS levels in the river are not known to adversely affect fish and wildlife.

F. Policy for Consumptive Use Makeup

The Pennsylvania Department of Environmental Resources has an administrative policy requiring that water users make up consumptive use losses during low-flow conditions. West Virginia presently has no policy on makeup water during low flow.

Under the Pennsylvania policy, when the river flow drops below the streamflow necessary to meet water quality standards, offstream diversions of new or increased consumptive uses, including interbasin transfers, shall not further diminish the flow of the stream. Under such flow conditions, either consumptive uses are curtailed or compensating releases must be provided from storage. Streamflow criteria are specified to meet water quality standards. If streamflow criteria for various water quality standards differ,

the higher streamflow may be required to: protect public health; control water quality; conserve fisheries, aquatic habitats, and recreation; and protect instream and downstream water uses. The policy for consumptive use makeup presently is enforced by Pennsylvania for municipal water supply users along the river and for all users who withdraw from reservoirs in the Monongahela River Basin. This policy is under review to include all water users along the Monongahela River in Pennsylvania.

Chapter V. Water-Related Impacts

A. SRC–II Versus Other Offstream Uses

The SRC–II project will be a significant new water consumer. The SRC–II demonstration project is estimated to account for half of the new offstream consumptive uses from 1980 to 1990 and 7 percent of the total offstreams consumptive uses (existing and new) by 1990. The commerical project is estimated to account for 44 percent of the new offstream consumptive uses from 1980 to 2020 and 10 percent of the total offstream consumptive uses by 2020.

Navigation

For this assessment, the SRC–II coal traffic on the Ohio and Monongahela Rivers is currently projected to be 6000 tpd from 1985 to 1989 when the demonstration SRC–II is in operation and 30,000 tpd from 1990 to 2020 when the commercial SRC–II is in operation. The Corps estimated streamflow reqirements for projected navigation on the Monogahela River, both with and without coal barge traffic for the SRC–II project. Table 4 presents these requirements. Flow estimates are based on existing locks, current operating practices, and average tow size.

Table 4.—*Streamflow Requirements for Projected Navigation on the Monongahela River*

[In cubic feet per second]

Lock and dam	Minimum navigation flows	1985		1990		2020	
		Without SRC–II	With Demo. SRC–II	Without SRC–II	With Comm. SRC–II	Without SRC–II	With Comm. SRC–II
2	750	174	184	184	236	[1]264	[1]264
3	NA	111	116	123	[1]136	[1]136	[1]136
4	315	185	195	206	257	247	264
Maxwell	325	314	327	[2]290	[2]350	[2]325	[2]385
7	340	75	79	[2]80	[2]80	[2]80	[2]80
8	340	98	100	103	[1]108	[1]108	[1]108
Morgantown	NA	75	75	80	80	83	NA
Hildebrand	NA	84	84	87	87	90	NA
Opekiska	340	71	71	73	73	74	NA

[1] Demand exceeds estimated economic lock capacity.
[2] Includes conservation measures proposed by Corps.
[3] Demand exceeds estimated lock capacity by 1988 with SRC–II traffic.

NA Not analyzed for this assessment.

During the 1980's the Corps intends to develop a water conservation plan that includes improvements to reduce water losses in the lock and dam system. These improvements would reduce the flow required to support navigation at Maxwell L&D from 341 cfs to 290 without SRC–II traffic and from 403 to 350 cfs with SRC–II traffic by 1990. By 2020, the required navigation flow at Maxwell will be 325 cfs without SRC–II and 385 cfs with SRC–II. The Corps reports that the Maxwell L&D will remain the critical flow site, even it other locks are enlarged in the future. Maxwell currently has the largest lock on the Monongahela River.

Table 5 summarizes the estimated water availability of the Monongahela River for selected needs in 1990 and 2020. "Without SRC–II" shows the estimated streamflow availability (or deficit) for existing basin conditions, projected instream flow requirements for water quality and navigation, and estimated offstream consumption for all uses, excluding SRC–II. The streamflows have not been adjusted for curtailment of offstream uses during low-flow conditions or augmentation from Stonewall Jackson Reservoir.

BILLING CODE 6410–01–M

Table 5

ESTIMATED WATER AVAILABILITY a/
SURPLUS (+)/DEFICIT (-) in cfs

NEED	LOW FLOW COMPARISON	PROJECT SITE/L&D 8		MAXWELL L&D		L&D 4	
		WITHOUT SRC-II	WITH SRC-II	WITHOUT SRC-II	WITH SRC-II	WITHOUT SRC-II	WITH SRC-II
-1990-							
TOTAL DISSOLVED SOLIDS	7-day, 10-year	NS	NS	NA	NA	- 846	- 855
DISSOLVED OXYGEN	7-day, 10-year	+13	+4	NA	NA	+ 244	+ 23
NAVIGATION:							
Without SRC-II	7-day, 10-year	+255	+266	+275	+266	+ 438	+ 429
Demo. Traffic	7-day, 50-year	+245	+236	+150	+141	+ 298	+ 289
	Min. Navig. Flow	+235	+226	- 20	- 29	+ 103	+ 94
With SRC-II	7-day, 10-year	-	+241	+262	+253	+ 397	+ 419
Demo. Traffic	7-day, 50-year	-	+231	+137	+128	+ 257	+ 279
	Min. Navig. Flow	-	+221	- 33	- 42	+ 62	+ 84
-2020-							
TOTAL DISSOLVED SOLIDS	7-day, 10-year	NS	NS	NA	NA	-1236	-1251
DISSOLVED OXYGEN	7-day, 10-year	+ 6	- 17	NA	NA	+ 24	+ 9
NAVIGATION:							
Without SRC-II	7-day, 10-year	+243	+220	+284	+261	+ 385	+ 362
Comm. Traffic	7-day, 50-year	+233	+210	+159	+136	+ 245	+ 222
	Min. Navig. Flow	+223	+200	- 11	- 34	+ 50	+ 27
With SRC-II	7-day, 10-year	-	NA	+224	+201	NA	NA
Comm. Traffic	7-day, 50-year	-	NA	+ 99	+ 76	NA	NA
	Min. Navig. Flow	-	NA	- 71	- 94	NA	NA

a/ Low-flow augmentation at Stonewall Jackson Reservoir not included.

NS: No standard.

NA: Not analyzed for this assessment.

BILLING CODE 8410-01-C

Maxwell L&D will be the critical lock in the Monongahela River navigation system during low-flow conditions. Except for Maxwell L&D, current projections indicate that the Monongahela River can satisfy navigation flow requirements through 2020, even with the added SRC–II barge traffic and offstream uses. However, as Table 5 illustrates, projected drought of record conditions without further upstream augmentation would result in flows 13 percent and 29 percent below minimum navigation needs at Maxwell L&D for 1990 and 2020, respectively. Implementation of the Corps water conservation plan will not fully offset the estimated streamflow deficits.

The projected demands on the existing navigation system will equal the economic capacity of L&D 7 by 1988, if all coal for the SRC–II demonstration project is shipped by barge.

C. *Water Quality*

Low-flow, 7-day, 10-year conditions combined with projected off-stream uses may leave insufficient flow in the river to meet water quality standards of West Virginia and Pennsylvania.

In West Virginia, the 7-day, 10-year low flow at L&D 8 is 360 cfs (Table 1). With the West Virginia dissolved oxygen standard based on 345 cfs at L&D 8, an estimated 15 cfs "surplus" is available for other uses. The SRC–II project and increased water use by the muncipal, industrial, and agricultural sectors will consume an estimated 11 cfs in 1990 and 32 cfs in 2020. Thus, at L&D 8, the SRC–II demonstration project consumption will still leave 4 cfs "surplus" in the stream by 1990; however, the SRC–II commerical project will create a 17 cfs "deficit" by 2020. The West Virginia Department of Natural Resources anticipates that low-flow augmentation from Stonewall Jackson will compensate for this deficit.

At L&D 4 in Pennsylvania, projected streamflows with the SRC–II project will be sufficient to meet the dissolved oxygen standard in 1990 and 2020, but not the TDS standard (with or without SRC–II). The demonstration project will account for about 1 percent of the 855 cfs deficit in 1990 and the commerical project will account for about 2 percent of the 1251 cfs deficit in 2020.

A preliminary analysis of flow projections at L&D 2 indicates that flow augmentation from the Youghiogheny River will be sufficient to meet Pennsylvania water for water quality standards at that L&D.

Estimated future streamflows at L&D 8 will be sufficient to meet the West Virginia pH standard. Pennsylvania has not established a relationship of pH to flow.

Because the navigation system maintains a minimum depth of 9-feet, it is assumed that minimal instream low-flow needs for fish, wildlife, and recreation will be satisfied if water quality and navigation requirements are met.

The Pennsylvania Department of Environmental Resources recommends that the present authorized allocation of water quality and water supply from Stonewall Jackson Reservoir should not be considered available for consumptive use by the SRC–II project. Rather, the State would prefer the development of a reservoir management plan that would use other designated storage (e.g., recreational or flood control storage) to provide releases for SRC–II consumptive use. Similar potentials may exist at Tygart Reservoir and other existing reservoirs in West Virginia. If such an option is not found feasible, Pennsylvania would then recommend further exploration of augmenting the size of Tygart or Stonewall Jackson Reservoir or providing additional storage in Stonecoal Reservoir as a means for providing releases to support downstream consumptive water users, including the SRC–II project.

[FR Doc. 80-25413 Filed 8-20-80; 8:45 am]
BILLING CODE 8410-01-M

V 45 A G 21 80 UMI

V 45 A G 21 80 UMI

Reader Aids

Federal Register

Vol. 45, No. 164

Thursday, August 21, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1
51539-51754.....4
51755-52138.....5
52139-52354.....6
52355-52768.....7
52769-53074.....8
53074-53436.....11
53437-53800.....12
53801-54008.....13
54009-54296.....14
54299-54710.....15
54711-55136.....18
55137-55418.....19
55419-55688.....20 [1]
55689-56004.....21

[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139
12232.....53437

Proclamations:
4776.....51539
4777.....53075
4778.....53439
4779.....53441
4780.....53443
4781.....53445

Administrative Orders:

Presidential Determinations:
No. 80-25 of August 8, 1980.....54299

Memorandums:
July 31, 1980.....51169, 51171, 51173

4 CFR
21.....55689

5 CFR
Ch. XIV.....51541
213.....55137-55140
297.....52769
410.....51755
581.....53447

Proposed Rules:
339.....53481
359.....51214
432.....53481
752.....53481
831.....53481
930.....53485

6 CFR
705.....51175
706.....51541, 52769

7 CFR
2.....52355
6.....54301
210.....51175
245.....52770
272.....53448
273.....53448
282.....54638
301.....51176
319.....53449
331.....51755, 53450, 54302
401.....54711
418.....54718
419.....54720
427.....54722
430.....54723
437.....54711
722.....51755
800.....55118
801.....55118
802.....55118
908.....52356, 53801, 54063, 55140, 55692
910.....51177, 52771, 54304
916.....53450
917.....51179, 53450, 54724
919.....54305
921.....51180
922.....53451
924.....51180
926.....52772
946.....52141
948.....51182
958.....52141
967.....52143
991.....55419
993.....54064, 54725
1137.....51542
1421.....53801, 54305, 55141-55159
1427.....53077, 55166
1446.....51756
1701.....54307
2853.....51757
2890.....54307
2891.....54307
2892.....54307
2893.....54307
2894.....54307
2895.....54307
2898.....54307
2897.....54307
2898.....54307
2899.....54307

Proposed Rules:
29.....51572
272.....51216, 53792
273.....51216, 53066, 53792
301.....52816
404.....51573
427.....54346
431.....53486
722.....52817
800.....52339
910.....53487
965.....51818
1001.....54066
1065.....55213
1435.....54347
1464.....51579
1701.....54354
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR
236.....54310
264.....52143

Proposed Rules:
Ch. I.....51832

27 CFR
920.....54752

29 CFR
52.....51199, 51199, 52148

40 CFR

214 51580

9 CFR

78 52772
92 52773
318 54310
381 54310

Proposed Rules:

94 52818
317 53002
318 51832
381 53002

10 CFR

2 54725
40 55419
50 ..... 55402, 55413
70 55402
110 51184
211 55374
212 ..... 52112, 54325
220 55374
430 53488
445 51763
456 52434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:

2 53972
50 54662
205 51833
211 54662
212 ..... 54069, 54688, 54694, 55467
378 51581
430 53714
456 53422
500 ..... 53368, 55467
503 ..... 53368, 55467
504 ..... 53368, 55467
505 ..... 53368, 55467
506 ..... 53368, 55467
799 54264

11 CFR

100 52356
110 52356

12 CFR

7 53080
201 ..... 52144, 54009
217 55692
220 53452
225 54326
265 54011
303 54326
563 55693

Proposed Rules:

Ch. I 52166
Ch. II 51581
Ch. VI 55213
Ch. VII 55214
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177, 55750
544 55750
545 ..... 52173, 52177 55750
561 ..... 52177, 55750
563 ..... 52173, 52177, 55750
563c 55750
569a 55750
577 55750
578 55750

13 CFR

301 55696
303 55696
304 55696
307 55696
309 55420
311 55696

Proposed Rules:

101 ..... 51763, 53081
107 55468
108 53835
124 55468

14 CFR

39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014, 54725–54732, 55704–55710
71 ..... 51546, 53086–53090, 54015, 54027, 54028, 54733, 55710, 55711
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:

Ch. I 53161, 53162, 54766
39 ..... 53162, 54071, 54072, 55754
45 ..... 53163, 54766
71 ..... 51587–51590, 52396, 53163, 54072–54080, 54766, 55755–55760
73 51591
75 ..... 52396, 54081
121 ..... 53316, 55760
123 55760
127 55760
135 ..... 53316, 55760
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR

17a 54028
200 55166
359 55711
373 54031
378 53090

Proposed Rules:

19 51592

16 CFR

13 ..... 52776, 52778, 53455, 55171, 55421
305 53340
436 ..... 51763, 51765
455 52750
460 54702
1019 53036

Proposed Rules:

13 ..... 51593, 51596, 55219
239 51838
406 55223
441 53839
705 51218

17 CFR

Ch. I 54032
7 51520

Proposed Rules:

Ch. I 55469
1 51598
4 51600

18 CFR

2 ..... 53091, 53099
35 55714
154 53091
270 ..... 53091, 53099
271 53099
277 53116
281 54733
282 ..... 52359, 54741
290 54033
292 52779
375 53456

Proposed Rules:

2 ..... 54354, 55761
154 54354
260 54082
271 ..... 51219, 54085
273 ..... 51219, 54085
274 ..... 51219, 54085
301 51614

19 CFR

353 52780
355 54035

Proposed Rules:

Ch. I 51490
123 55474
177 54085
207 54086

20 CFR

Ch. III 53806
404 ..... 52078, 55566
416 ..... 52078, 54742, 55566

Proposed Rules:

Ch. II 51615

21 CFR

172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458, 54035
510 ..... 54327, 54328
520 52781
540 54329
555 54327
558 ..... 53457, 54328
561 55715
740 55170
884 ..... 51185, 51186
1306 54329

Proposed Rules:

Ch. II 51832, 52397
101 53023
310 54354
346 54354
600 52821
606 52821
610 51226
660 51226

22 CFR

2 55716
220 54751
221 54751
222 54751

Proposed Rules:

Ch. II 53164–53182

23 CFR

657 ..... 52365, 55716
658 ..... 52365, 55716

Proposed Rules:

Ch. I 55763
625 51720
652 51720
663 51720

24 CFR

200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
570 55968
571 51516
590 52762
803 54330
869 52371
885 51186
888 54330
1710 52144

Proposed Rules:

51 55223
570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:

171 53164
172 53164
173 53164
177 53164
182 53164
231 54331

26 CFR

1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:

1 ..... 52399, 52824
14 52824
26 51840
301 55764

27 CFR

Proposed Rules:

Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR

0 52145
18 54752
42 54036
31 53772

Proposed Rules:

Ch. I 51506, 51832
16 52183
42 54770
50 52183

29 CFR

11 51187
40 51192
102 51192
575 55175
1440 55394
1625 51547
1910 54333
1913 54333
1952 ..... 51775, 53457, 54334
1999 51187
2520 51446
2550 51194
2617 55636

Proposed Rules:

Ch. XIV 51229
1960 54355
2520 ..... 51231, 52824, 54370
2530 ..... 51231, 52824, 54370
2550 ..... 51231, 51840

30 CFR

Ch. VII 51547, 52834
211 53128
700 54752
762 52375
785 54752
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306
816 54752
817 54752
820 54752

Proposed Rules:

Ch. VII 52407, 52408, 53180, 53839, 54371, 54372, 55477–55479, 55767
104 54656
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR

341 53393
346 ..... 53393, 55178

32 CFR

706 54753
763 51776
853 52800
865 55422
888d 52145

33 CFR

110 ..... 54754, 54755
117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:

117 ..... 51617, 51618
174 55768
209 54770

34 CFR

64 ..... 353412, 53414
709 53788

Proposed Rules:

100 ..... 52052, 53841
797 54000

36 CFR

1228 54334

Proposed Rules:

7 51618
14 54771
1190 55006
1202 51843

37 CFR

304 51197

38 CFR

17 ..... 53807, 55716
21 51777
36 ..... 53807, 55720

39 CFR

Proposed Rules:

111 51848

40 CFR

35 ..... 51484, 53382
51 52676
52 ..... 51196, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336, 55178–55180, 55197, 55422, 55720
80 55138
81 ..... 53147, 54052
86 53400
122 52149
122–124 55386
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053, 54340 55187–55199, 55721
260–265 55386
413 55200

Proposed Rules:

6 53187
35 53187
50 ..... 55066, 55083
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372, 54772, 55227–55230, 55480, 55484,
58 ..... 54772, 54773, 55230
60 54385
61 53842
80 54090
81 ..... 52841, 55230, 55231
122–124 55237
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
260–265 55232
408 52411
410 52185
717 51855
720 54642

41 CFR

Ch. 44 55348
Ch. 101 ..... 51201, 53149
1–1 55721
1–3 55721
3 53806
5A–7 55723
5A–26 55723
5A–76 55723
7–6 55724
7–7 55724
7–12 54755
8–3 55425
101–26 55726
128–1 55727

Proposed Rules:

101–6 55769
101–17 52842

42 CFR

Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205, 55727
58 ..... 51209, 51556
62 55426
110 55122
405 ..... 51783, 54757
455 51559

Proposed Rules:

51 53492
72 51241
405 54774
460 53189
461 53189

43 CFR

4100 53154
8351 51740

Proposed Rules:

2560 52303

Public Land Orders:

5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR

64 ..... 52383, 55433, 55436
65 ..... 51212, 51788, 52384, 55438
67 ..... 51213, 51559, 51789, 51796, 55448
70 54760–54764
205 ..... 53334, 53956
322 53479

Proposed Rules:

6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427, 54774–54776, 55232–55236, 55483

45 CFR

Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
71 54765
151 53996
185 54004
1211 52130
1210 52130
1212 52130
1213 52130
1217 52130
228 55382
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:

1210 52136
190 51243

46 CFR

30 52386
61 52386
151 52386
520 55729

Proposed Rules:

11 54776
93 54095

47 CFR

Ch. I 52389
1 55200
13 52154
22 52149
68 ..... 52151, 54341
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821, 55201–55205, 55731
74 51563
76 52153
81 52154
83 52154
87 52154
90 ..... 51811, 55200

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

94 55731
95 55200
97 51564
Proposed Rules:
Ch. I 51251
2 ..... 51251, 51252, 53843
13 54778
15 ..... 51251, 54784, 55775
21 51252
22 53843
63 55777
73 ..... 51624, 52843, 52845, 52846, 52848, 53843, 54788, 55237–55244, 55491
74 51252
81 54778
83 54778
87 54778
90 ..... 53843, 53844, 55245
94 ..... 51252, 55775

48 CFR

Proposed Rules:
9 51253

49 CFR

1 54054
172 55734
571 ..... 51569, 52365, 53157
840 54055
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A 51213, 52158
1056 ..... 51213, 52158, 55465
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827, 55205
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1249 55209
1309 52161
1310 52161
1331 55734
Proposed Rules:
Ch. X 53846
171 54097
173 54097
178 54097
398 51625
571 ..... 51626, 51628
1039 ..... 54111, 54385
1060 53190
1100 55246
1102 51858
1116 52186

50 CFR

17 ..... 52803, 52807, 53968 54678, 55654
18 54056
20 55960
26 ..... 52391, 55742
27 55742
32 ..... 52392, 52393, 54057–54060, 54344, 55210, 55743, 55746–55749
285 53479
611 53831
652 53480
653 52810
661 53832

Proposed Rules:
13 52849
17 ..... 52849, 53495, 54111, 54112, 54682, 54685
20 53982
32 52163
216 51254
265 51858
285 52853
611 ..... 51254, 53500, 53847
655 51254
661 ..... 51861, 54113

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

49934 7–28–80 / Simplification of marine radio rules for recreational boaters

47429 7–15–80 / Table of assignments, Sebring, Fla.

LABOR DEPARTMENT

Occupational Safety and Health Administration—

35212 5–23–80 / Provisions for access to employee exposure and medical records

35284 5–23–80 / Rules of practice and procedure concerning OSHA access to employee medical records

PERSONNEL MANAGEMENT OFFICE

48847 7–22–80 / Processing garnishment orders for child support and/or alimony

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 14, 1979

Just Released

CODE OF FEDERAL REGULATIONS

V 45 A G 21 80 UMI

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1980)

Quantity	Volume	Price	Amount
_____	CFR Index and finding aids volume	$8.50	$_____

[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $_____ (check or money order) or charge to my Deposit Account No. _____

Please send me _____ copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name _____

Street address _____

City and State _____ ZIP Code _____

FOR USE OF SUPT. DOCS.

Enclosed
To be mailed later
Subscription
Refund
Postage
Foreign handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name _____

Street address _____

City and State _____ ZIP Code _____

V 4 5 A G 2 1 8 0 UMI

8-22-80
Vol. 45 No. 165
Pages 56005-56328

federal register

Friday
August 22, 1980

Highlights

56324 **Rent Subsidies** HUD issues final rule for program whereby the government provides difference between approved rent and family's contribution; effective 9–29–80 (Part VIII of this issue)

56027 **Flood Insurance** FDIC revises regulations that relate to flood insurance protection required for loans secured by improved real estate or mobile homes located in areas with special flood hazards; effective 9–22–80

56304 **Construction Grants Program** EPA invites comment on proposed policy memorandum entitled "Criteria and Guidelines for Evaluating the Profit Element of Subagreements for Architectural/ Engineering Services"; comments by 10–15–80 (Part III of this issue)

56060 **Medicare** HHS/HCFA publishes regulations defining "radiological services" for which Medicare program provides for payment at 100 percent of reasonable charges; effective 9–22–80

56074 **Black Lung Benefits** HHS/SSA issues proposed rule regarding recovery of overpayments from benefits due survivors; comments by 10–21–80

56316 **Grant Programs—Food Stamps** USDA/FNS in a proposed rulemaking announces its intention to conduct a demonstration project; apply by 10–21–80; effective 8–22–80

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

56046 **Natural Gas** DOE/FERC authorizes transportation of natural gas to end-users for the displacement of fuel oil; effective 8–31–80

56070 **Credit Practices** FTC announces availability of staff report on proposed trade regulation rule and requests comments by 10–21–80

56308, 56312 **Mine Safety and Health** Labor/MSHA proposes requirements for telephones and signaling devices, and amends requirements regarding mobile diesel-powered transportation equipment in mines; comments by 10–21–80 (Parts IV and V of this issue)

56074 **Alien Workers** Labor/ETA proposes requirement that employers provide temporary aliens in agriculture with meals; comments by 9–22–80

56082, 56093 **Veterans** VA proposes changes in Rules of Practice to reflect conformance with directive to improve Government regulations, and proposes regulations that protect confidentiality of certain medical records; comments by 9–22 and 10–31–80 (2 documents)

56054, 56057 **Postal Service** PS issues final rules concerning handling of matter not bearing postage, time limit for honoring address changes, delivery of mail with duel addresses, and use of ZIP codes; effective 9–21–80 (2 documents)

56104 **Grant Programs—Environmental Protection** EPA in a proposed rule has notified the Secretary of Agriculture of final rule regarding assistance for pesticide enforcement and applicator certification

56034, 56072 **Natural Gas** DOE/FERC issues regulations covering natural gas produced from tight formations, and proposes recommendations of areas for designation as tight formations; effective 9–22–80; comments by 9–29–80 (2 documents)

Privacy Act Documents

56123 Commerce

56221 Treasury/Customs

56223 **Sunshine Act Meetings**

Separate Parts of This Issue

56262 **Part II, Labor/ESA**
56304 **Part III, EPA**
56308 **Part IV, Labor/MSHA**
56312 **Part V, Labor/MSHA**
56316 **Part VI, USDA/FNS**
56320 **Part VII, EPA**
56324 **Part VIII, HUD/FHC**

Contents

Federal Register
Vol. 45, No. 165
Friday, August 22, 1980

Agricultural Marketing Service
RULES
56008 Grapes (Tokay) grown in Calif.
56007 Lemons grown in Ariz. and Calif.
PROPOSED RULES
56069 Grapes (Tokay) grown in Calif.

Agricultural Stabilization and Conservation Service
RULES
Indemnity payment programs:
56007 Beekeeper
56005 Tobacco (flue-cured); marketing quotas and acreage allotments; records and reports of warehousemen and dealers
PROPOSED RULES
56067 Tobacco (burley); marketing quotas and acreage allotments; records and reports of warehousemen and dealers
NOTICES
56118 Wheat; 1981 natural program acreage determination

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Food and Nutrition Service; Forest Service; Soil Conservation Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
56191 September

Army Department
NOTICES
Meetings:
56124 Science Board

Center for Disease Control
NOTICES
Meetings:
56191 National Immunization Records Steering Group

Civil Aeronautics Board
NOTICES
Hearings, etc.:
56121 Competitive marketing of air transportation
56121 Former large irregular air service investigation
56223 Meetings; Sunshine Act (4 documents)

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; Maritime Administration.
NOTICES
56123 Privacy Act; systems of records

Commodity Futures Trading Commission
PROPOSED RULES
Commodity Exchange Act regulations:
56071 Futures commission merchants; monthly and confirmation statements to customers, requirements; correction
56071 Commodity pool operators and trading advisors; correction

Customs Service
NOTICES
56221 Courier services; importations; extension of time
56221 Privacy Act; systems of records

Defense Department
See Army Department.

Economic Regulatory Administration
PROPOSED RULES
Oil; administrative procedures and sanctions:
56070 Applications for assignments, adjustment; and other ERA actions; notice to aggrieved persons; termination of proceedings
NOTICES
Consent orders:
56131 Mesa Petroleum Co.
56132 Natomas North America, Inc.; correction
56131 Westate Oil Co.

Education Department
NOTICES
Meetings:
56124 Adult Education National Advisory Council

Employment and Training Administration
PROPOSED RULES
Alien temporary agricultural and logging employment in U.S.; labor certification:
56074 Meals for alien workers

Employment Standards Administration
NOTICES
56262 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions Calif., Fla., Iowa, Ill., Kans., Ky., La., Maine, Mass., Mich., S.C., Tenn., Tex., Wash., and W.Va.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
Environmental statements; availability, etc.:
56125 Hanford Site, Richland, Wash.; decommissioning
56126 International energy program proposed approval of participation by U.S. companies in third allocation systems test; request for comments

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
56060 Pennsylvania; correction
56060 West Virginia; correction

PROPOSED RULES

Air quality planning purposes; designation of areas:
56104 Ozone; areas east of the Mississippi

Grants; State and local assistance:
56104 Pesticide enforcement and applicator certification assistance; notification to Agriculture Secretary of final rule

Water pollution; effluent guidelines for point source categories:
56115 Oil and gas extraction; withdrawal

NOTICES

Air pollution; standards of performance for new stationary sources:
56169 Amionoil U.S.A., Inc.; applicability determination
56176 Hooker Chemical & Plastics Corp., N.Y.; applicablity determination

Air quality implementation plans; approval and promulgation:
56166, 56173–56177, 56182 Prevention of significant air quality deterioration (PSD); nonapplicability (9 documents)
56166, 56169–56173 Prevention of significant air quality deterioration (PSD); permit approvals (11 documents)
56165 Conservation and solar energy program (DOE); hearings

Environmental statements; availability, etc.:
56182 Agency statements; weekly receipts

Grants; State and local assistance:
56304 Architectural/engineering services, criteria and guidelines for evaluating the profit element of subagreements for; proposed policy memorandum

Meetings:
56177 Interagency Toxic Substances Data Committee; cancellation
56187 Science Advisory Board

Pesticide programs:
56187 N-nitroso compounds, registration policy; inquiry; extension of time

Pesticides; emergency exemption applications:
56177 Permethrin

Water pollution; discharge of pollutants (NPDES):
56320 Georgia
56320 Mississippi
56320 South Carolina
56321 Tennessee

Water pollution control; safe drinking water; public water systems designations:
56178 Montana

Equal Employment Opportunity Commission

NOTICES

56223 Meetings; Sunshine Act

Federal Communications Commission

PROPOSED RULES

Common carrier services:
56115 Authorized users of international telecommunications facilities provided by Comsat; extension of time

Radio broadcasting:
56116 Equal employment opportunity; filing requirements, applicant flow, job hires and promotions, modification of annual employment report (Form 395); extension of time

NOTICES

Hearings, etc.:
56187 Academy Radio Corp. et al.
56188 Canem Systems, Inc.
56188 Craig Bible Institute et al.
56189 Microband Corp. of America et al.
56190 Sterling Recreation Organization Co. et al.

Meetings:
56189 Marine Services Radio Technical Commission
56190 Television broadcast applications accepted for filing and notification of cut-off date

Federal Deposit Insurance Corporation

RULES

56027 Loans in areas having special flood hazards

Federal Emergency Management Agency

RULES

Flood elevation determinations:
56062 Illinois; correction
56062 Indiana et al.; correction

Federal Energy Regulatory Commission

RULES

Natural Gas Policy Act of 1978:
56034 High cost natural gas produced from tight formations
56046 Transportation certificates for natural gas for fuel oil displacement

PROPOSED RULES

Natural Gas Policy Act of 1978:
56073 Civil penalties for knowing violations; assessment procedures; withdrawn
56072 High cost natural gas produced from tight formations; recommended designations for Texas

NOTICES

Hearings, etc.:
56132 Alaskan Northwest Natural Gas Transportation Co. et al.
56157 Arkansas Power & Light Co.
56136 Bob's Phillip 66 Service Station
56136 Bogert Brothers Exxon
56136 Central Hudson Gas & Electric Corp.
56137 Colorado Interstate Gas Co.
56137, 56138 Columbia Gas Transmission Corp. (2 documents)
56138 El Paso Natural Gas Co.
56139 Granite State Gas Transmission, Inc.
56139 Kansas City Power & Light Co.
56140 Kansas Gas & Electric Co.
56142 Maloney, Gerald P.
56142 Northern Natural Gas Co. et al.
56145 Northwest Alaskan Pipeline Co.
56148 Ohio Edison Co.
56150 Oklahoma Natural Gas Gathering Corp.
56151 Philadelphia Electric Power Co. et al.
56152 Public Service Co. of Colorado
56153 S&R Shell Service Station
56154 Shoreline Texaco
56154 Tennessee Gas Pipeline Co.
56155 Transcontinental Gas Pipe Line Corp. (3 documents)
56156 Vermont Marble Co.
56156 White, Willis S., Jr.
56157 Wisconsin Power & Light Co.
56224 Meetings; Sunshine Act (2 documents)

Natural Gas Policy Act of 1978:
56154 Jurisdictional agency determinations

Small power production facilities; qualifying status; certification applications, etc.:
56136 Boott Mills
56138 Custer, Glen L.

Federal Home Loan Bank Board

RULES

Federal mutual savings banks:
56031 Five percent leeway and corporate demand deposit account authority, corporate bonds and consumer loans investment limitations, etc., temporary rule

Federal savings and loan system:
56029 Investments in service corporations

NOTICES

56225 Meetings; Sunshine Act (2 documents)

Federal Housing Commissioner—Office of Assistant Secretary for Housing

PROPOSED RULES

Mortgage and loan insurance programs:
56080 Prepayment of mortgages assisted by housing assistance payments contract; prohibition; transmittal to Congress
56081 Preservation of existing housing, etc.; demonstration program; transmittal to Congress

Federal Maritime Commission

NOTICES

56225 Meetings; Sunshine Act

Federal Reserve System

RULES

56009 Reserve requirements of depository institutions (Regulation D)

Federal Trade Commission

RULES

Prohibited trade practices:
56034 Beneficial Corp. et al.

PROPOSED RULES

56070 Credit practices; staff report availability

Fiscal Service

NOTICES

Surety companies acceptable on Federal bonds:
56222 Prestige Casualty Co.

Fish and Wildlife Service

RULES

Hunting:
56063 National wildlife refuges to migratory game bird and resident game hunting; Colo., Utah, and Wyo.; special regulations

PROPOSED RULES

Endangered and threatened species:
56117 Kangaroos; completion of five year status review and proposed commercial importation; hearing

Food and Drug Administration

RULES

Food additives:
56052 Dipropylene glycol dibenzoate
56051 Glycerol ester of tall oil rosin

PROPOSED RULES

Human drugs:
56075 Sulfones; bioequivalence requirements

NOTICES

Food additives, petitions filed or withdrawn:
56192 Dow Chemical Co.; correction

Meetings:
56191, 56192 Consumer participation; information exchange (6 documents)

X-ray systems variance approvals, etc.:
56193 Precise Optics

Food and Nutrition Service

PROPOSED RULES

Food stamp program:
56316 Demonstration project, requirements for participating State agencies

Foreign-Trade Zones Board

NOTICES

Applications, etc.:
56121 Florida

Forest Service

PROPOSED RULES

56082 Timber management planning; inquiry

Geological Survey

PROPOSED RULES

56081 Coal mining operating rules; hearing and extension of time

NOTICES

Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
56196 Mobil Oil Exploration & Producing Southeast Inc.

Health, Education, and Welfare Department

See Education Department; Health and Human Services Department.

Health and Human Services Department

See Alcohol, Drug Abuse, and Mental Health Administration; Center for Disease Control; Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; Social Security Administration.

Health Care Financing Administration

RULES

Medicare:
56060 Radiological services reimbursement; hospital inpatients

NOTICES

Meetings:
56193 National Professional Standards Review Council

Hearings and Appeals Office, Energy Department

NOTICES

Applications for exception:
56159, 56161, 56163, 56164 Decisions and orders (4 documents)

Remedial orders:
56160, 56164 Objections filed (2 documents)

Heritage Conservation and Recreation Service

NOTICES

56197 Historic Places National Register; National Historic Landmark recreation theme study; inquiry

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
RULES
Low income housing:
56324 Housing assistance payments program (Section 8); State housing agencies; final

Human Development Services Office
NOTICES
Committees; establishment, renewals, terminations, etc.:
56194 White House Conference on Aging (1981); delegate criteria
Meetings:
56193 White House Conference on Aging National Advisory Committee (1981)

Interior Department
See Fish and Wildlife Service; Geological Survey; Heritage Conservation and Recreation Service; Land Management Bureau; National Park Service; Water and Power Resources Service.

International Trade Administration
NOTICES
Scientific articles; duty free entry:
56121 University of Illinois et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
56199 Intercorporate hauling operations; intent to engage in

Justice Department
NOTICES
Organization, functions, and authority delegations:
56207 Criminal Division; Election Crimes Branch; establishment

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Wage and Hour Division.
NOTICES
Adjustment assistance:
56207 Cornielius Buick Pontiac, GMC, Inc., et al.
56213 Ford Motor Co.
56213 Howton Manufacturing Co.
56213 New Jersey Steel & Structural Corp.
56214 Union Railroad Co.
56214 Privacy Act; systems of records

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
56195 APS/SDG&E interconnection project, Ariz. and Calif.; inquiry
56194 Rocky Mountain Pipeline Project, Colo.; meetings and intent to prepare with FERC
Meetings:
56195 National Public Lands Advisory Council
Motor vehicles, off-road etc.; area closures:
56196 Nevada
Withdrawal and reservation of lands, proposed, etc.:
56195 Idaho; correction

Management and Budget Office
NOTICES
Meetings:
56218 National Agenda for the Eighties, President's Commission

Maritime Administration
NOTICES
Applications, etc.:
56123 Lyke Bros. Steamship Co., Inc.

Mine Safety and Health Administration
PROPOSED RULES
Electrical equipment:
56312 "Signaling device"; definition
Mechanical equipment for mines:
56308 Mobile diesel-powered transportation equipment, electrical components and headlights

Minimum Wage Study Commission
NOTICES
56215 Meetings

National Park Service
RULES
Special regulations:
56054 Lake Mead National Recreation Area, Ariz. and Nev.; alcoholic beverages
NOTICES
Boundary establishment, descriptions, etc.:
56198 Edgar Allan Poe National Historic Site, Pa.
Environmental statements; availability, etc.:
56198 Chickasaw National Recreation Area, Okla.; proposed management plan
Management and development plans:
56197 Cedar Pass, Badlands National Park, S. Dak.
56198 Snake Range/Spring Valley Area; Nev.; alternatives study and meetings
Meetings:
56197 Cape Cod National Seashore Advisory Commission
56197 Delta Region Preservation Commission
56198 Indiana Dunes National Lakeshore Advisory Commission

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
56215 Duke Power Co.
Meetings:
56215, 56217 Reactor Safeguards Advisory Committee (2 documents)

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
56052 Utah
56053 Virgin Islands

Postal Service
RULES
Domestic Mail Manual:
56057 Change of address orders, dual addresses, and ZIP Code

56054 Mailable matter not bearing postage; uniform handling procedures

Securities and Exchange Commission
NOTICES
Hearings, etc.:
56220 Columbus & Southern Ohio Electric Co.
56219 Industrial Growth Fund of North America, Inc.
56225 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
56218 American Stock Exchange, Inc.
56220 National Association of Securities Dealers, Inc.

Social Security Administration
PROPOSED RULES
Black lung benefits:
56074 Overpayments, recovery from benefits due survivors

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
56120 Glen Hills Watershed, Wis.
56120 Grand Prairie Watershed, Oreg.
56120 Lipscomb County Critical Area Treatment RC&D Measures, North Rolling Plains RC&D Area, Tex.

Trade Representative, Office of United States
NOTICES
Import quotas:
56218 Mushrooms, prepared or preserved; inqiury

Treasury Department
See Customs Service; Fiscal Service.

Veterans Administration
PROPOSED RULES
56093 Board of Veterans Appeals; rules of practice
56082 Medical records, confidentiality
NOTICES
Meetings:
56222 Cooperative Studies Evaluation Committee

Wage and Hour Division
NOTICES
Child labor for agricultural employment:
56215 Waiver of provisions for 10–11 year old minors in hand harvesting of short season crops

Water and Power Resources Service
NOTICES
Contract negotiations:
56199 Bonneville Unit, Central Utah Project

MEETINGS ANNOUNCED IN THIS ISSUE

DEFENSE DEPARTMENT
Army Department—
56124 Army Science Board, 9–22 and 9–23–80

EDUCATION DEPARTMENT
56124 Adult Education National Advisory Council, 9–15 through 9–19–80

ENVIRONMENTAL PROTECTION AGENCY
56187 Sampling Protocols Study Group of the Science Advisory Board, 8–26–80

FEDERAL COMMUNICATIONS COMMISSION
56189 Marine Services Radio Technical Commission, 9–15 through 9–19–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
56191 Mental Health Small Grant Review Committee, 9–18 through 9–20–80
56191 Psychiatry Education Review Committee, 9–28–80
Disease Control Center—
56191 National Immunization Records Steering Group, 9–10–80
Food and Drug Administration—
56191, 56192 Consumer Participation, 9–8, 9–24, and 9–30, 10–1, 10–2, and 10–20–80
Health Care Financing Administration—
56193 National Professional Standards Review Council, 9–15 and 9–16–80
Human Development Services Office—
56193 White House Conference on Aging Technical Committee, 9–30–80

INTERIOR DEPARTMENT
Land Management Bureau—
56195 Public Lands National Advisory Council, 9–22 and 9–23–80
National Park Service—
56197 Cape Cod National Seashore Advisory Commission, 9–12–80
56197 Delta Region Preservation Commission, 9–25–80
56198 Indiana Dunes National Lakeshore Advisory Commission, 9–13–80

MANAGEMENT AND BUDGET OFFICE
President's Commission for a National Agenda for the Eighties—
56218 Panel VIII (The Quality of American Life), 9–3–80

NUCLEAR REGULATORY COMMISSION
56215, 56217 Reactor Safeguards Advisory Committee, various committees and dates, August through November

VETERANS ADMINISTRATION
56222 Cooperative Studies Evaluation Committee, 10–27 and 10–28–80

CANCELLED MEETING

ENVIRONMENTAL PROTECTION AGENCY
56177 Interagency Toxic Substances Data Committee, 9–2–80

CHANGED MEETING

MINIMUM WAGE STUDY COMMISSION
56215 Meeting, 9–8–80

HEARINGS

ENVIRONMENTAL PROTECTON AGENCY
56165 Conservation and solar energy program, 9–24 and 9–25–80

INTERIOR DEPARTMENT
Fish and Wildlife Service—
56117 Commercial importation of kangaroos, 9–16–80
Geological Survey—
56081 Coal mining operating rules on Federal lands, 9–22–80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
725 56005
760 56007
910 56007
926 56008
Proposed Rules:
272 56316
726 56067
926 56069

10 CFR
Proposed Rules:
211 56070

12 CFR
204 56009
339 56027
545 56029
563 56031
578 56031

16 CFR
13 56034
Proposed Rules:
444 56070

17 CFR
Proposed Rules:
1 56071
4 56071

18 CFR
271 56034
273 56034
274 56034
284 56046
Proposed Rules:
271 56072
286 56073

20 CFR
Proposed Rules:
410 56074
655 56074

21 CFR
172 56051
176 56052
178 56052
Proposed Rules:
320 56075

24 CFR
883 56324
Proposed Rules:
220 56080
221 (2 documents) 56080, 56081
231 56080
234 56081
235 56081
236 56080

29 CFR
1952 (2 documents) 56052, 56053

30 CFR
Proposed Rules:
23 56312
36 56308
211 56081

36 CFR
7 56054
Proposed Rules:
221 56082

38 CFR
Proposed Rules:
1 56082
19 56093

39 CFR
111 (2 documents) 56054, 56057

40 CFR
52 (2 documents) 56060
Proposed Rules:
35 56104
81 56104
435 56115

42 CFR
405 56060

44 CFR
67 (2 documents) 56062

47 CFR
Proposed Rules:
Ch. I 56115
73 56116

50 CFR
32 56063
Proposed Rules:
17 56117

Rules and Regulations

Federal Register
Vol. 45, No. 165
Friday, August 22, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 725

[Amdt. 15]

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule (1) defines the phrase "tobacco in the form not normally marketed by producers", (2) expands the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season, (3) strengthens the reporting requirements and expands the inspection requirements for tobacco purchased by dealers and warehousemen from processors or manufacturers, (4) requires dealers to report their gross receipts for each lot of tobacco purchased and resold, (5) requires dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013. (202) 447–7935. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request form Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". On June 10, 1980, the proposed rule was published in the **Federal Register** (45 FR 39277). The public was given 30 days to comment on the proposal. The Department received from the public eleven comments. Since the 1980 marketing season is underway, dealers and warehousemen need to know now the changes provided in this rule. It is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553, and Executive Order 12044 is impractical and contrary to the public interest.

Discussion of Comments

1. Define the phrase "tobacco in the form not normally marketed by producers". Eleven comments—all favorable—were received regarding this proposal. No specific reason for favoring the proposal was given by the respondents.

2. Expand the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

3. Strengthen the reporting requirements and expand the inspection requirements for tobacco purchased by dealers and warehousemen from processors and manufacturers. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

4. Require dealers to report their gross receipts for each lot of tobacco purchased and resold. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

5. Require dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers. Eleven comments were received, all favoring the proposal. No specific reason for favoring the proposal was given by the respondents.

The basic purpose of the proposed changes is to prevent dealers and warehousemen from substituting low quality, low price tobacco for good quality "excess" producer tobacco (tobacco produced in excess of 110 percent of a farm's marketing quota) to avoid the payment of marketing quota penalties. Current rules do not provide for adequate inspection by ASCS representatives of warehouse and dealer tobacco on hand at the end of the marketing season.

After giving careful consideration to all comments received the proposed rule is hereby adopted with the following changes: Paragraphs 725.99(g)(17) and 725.100(c)(6) as set forth in the proposed rule have been rewritten to clarify that warehousemen and dealers will be assessed penalty based on the reinspection of carryover tobacco when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales after the initial certification and reconciliation.

Final Rule

Accordingly, 7 CFR Part 725 is amended to read as follows:

1. In § 725.51 paragraphs (oo), (pp), and (qq) are revised and a new paragraph (rr) is added to read as follows:

§ 725.51 Definitions

* * * * *

(oo) *Tobacco in the form not normally marketed by producers.* Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, green prized, stemmed, tipped, threshed or otherwise processed.

(pp) *Trucker.* A person who trucks or otherwise hauls tobacco for a producer, or any other person.

(qq) *Undermarketings.* The number of pounds by which the effective farm marketing quota is more than the number of pounds marketed.

(rr) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. Section 725.99 is amended by adding a new subparagraph (g)(17) as follows:

§ 729.99 Warehouseman's records and reports.

* * * * *

(g) * * *

(17) Before the next marketing season begins, carryover tobacco reported by the warehouseman as provided in (g)(16)(i), (ii) and (iii) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouseman shall provide for the weighing of such tobacco which shall be witnessed by ASCS. The warehouseman shall furnish to ASCS at the time of weighing a certification as to the actual weight of the tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (g)(16) of this section shall be used for the purpose of determining the amount of penalty, if penalty is due. Penalty will be assessed after the initial certification and reconciliation when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be creditited to the account as carryover tobacco.

3. In § 725.100 paragraph (a) is revised; paragraph (c) is amended by revising the first sentence in subparagraphs (4) and (5) and by adding a new subparagraph (6); and a new paragraph (g) is added.

§ 725.100 Dealer's records and reports.

* * * * *

(a) *Record of marketing.* Each dealer shall keep such records as will enable the dealer to furnish the State ASCS office for each lot of tobacco purchased by the dealer the following information:

(1)(i) The name of the warehouse through which the tobacco was purchased if the tobacco was purchased by the dealer at a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller if the tobacco was purchased by the dealer at a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller if the tobacco was purchased by the dealer at a nonauction sale from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer, and as to each lot of tobacco sold by the dealer the following information:

(i) Name of the warehouse through which the tobacco was sold if the tobacco was sold at a warehouse sale, and the name of the purchaser if the tobacco was sold at other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Gross sale price.

(v) If tobacco bought by the dealer and carried over from a crop which was produced before the current crop is resold, the fact that such tobacco was bought and carried over.

* * * * *

(c) *Record and report of purchases and resales.*

* * * * *

(4) At the end of the dealer's annual marketing operation, but not later than December 15, the dealer shall for each kind of tobacco: * * *

(5) Notwithstanding the provisions of paragraph (c)(4) of this section, any dealer having tobacco transactions after December 15 shall make reports on Form MQ–79 at the end of each week, as provided in paragraph (c)(2).

(6) Before the next marketing season begins, carryover tobacco reported by the dealer as provided in subparagraph (c)(4) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the dealer shall provide for the weighing of such tobacco which shall be witnessed by ASCS. The dealer shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification the initial weight together with the reweighed quantity, after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (c)(4) of this section, shall be used for the purpose of determining penalty, if penalty is due. Penalty will be assessed after the initial certification and reconciliation when the redetermined pounds exceeds the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover tobacco.

* * * * *

(g) *Reporting of tobacco in the form not normally marketed by producers.* Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers under conditions provided in § 725.101(c) shall maintain on a separate Form MQ–79 a record of all such purchases and resales.

(4) § 725.101 paragraphs (a) and (b) are revised and a new paragraph (c) is added to read as follows:

§ 725.101 Dealer purchases of damaged tobacco or tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that a representative of ASCS can determine the marketable value of such damaged tobacco, and so that the weighing and removal of such tobacco can be witnessed by a representative of ASCS. Any damaged tobacco purchased by the dealer before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(b) Purchase from processor or manufacturer. Any dealer, warehouseman, or other person who plans to purchase tobacco from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that a representative of ASCS can determine the marketable value of the tobacco, and whether the tobacco is in the form normally marketed by producers. The weighing and removal of the tobacco shall be witnessed by a respresentative of ASCS. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative shall be deemed to be excess tobacco and penalty at the full rate shall be due.

(c) Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers which is determined by an ASCS representative to be in the form not normally marketed by producers shall, before such tobacco is disposed of or blended with other tobacco in the form normally marketed by producers, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow an ASCS representative to witness the disposition of or the blending of such tobacco. Any such tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of such tobacco.

(Sections 301, 313, 314, 316, 317, 363, 372–375, 377, 378 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995, section 401, 63 Stat. 1054, as amended, sections 106.112, 125, 70 Stat. 191, 195, 198, as amended, section 16(e), 76 Stat. 606: (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372, 1377, 1378, 1421, 1813, 1824, 1836), (16 U.S.C. 590p(e)))

Signed at Washington, D.C., on August 12, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–25330 Filed 8–21–80; 8:45 am]

BILLING CODE 3410–05–M

7 CFR Part 760

[Amdt. 2]

Indemnity Payment Programs: Beekeeper Indemnity Payment Program (1978–1981)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the Beekeeper Indemnity Payment Program Regulations to provide that indemnity claims filed after June 15, 1979 will be paid on the basis of the earliest filing date.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, 4702 South Building, Washington, D.C. 20013 (202) 447–7997. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This regulation has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of this regulation contained in 7 CFR 1446.38–40 for need, currency, clarity and effectiveness will be made within the next five years.

The title and number of the Federal assistance program that this final rule applies to is: Title—Beekeeper Indemnity Payments, NUMBER—10.060 as found in the Catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of this action.

Section 207 of the Food and Agriculture Act of 1977, 91 Stat. 921, 7 U.S.C. 284, extended the authority of the Secretary to conduct the Beekeeper Indemnity Payment Program through September 30, 1981. On July 14, 1978, the Department published final regulations (43 FR 30264) to govern the conduct of the program through September 30, 1981. It is not mandatory that the program be conducted.

Since the proposed budget for the Department of Agriculture for fiscal year 1980 contained no provision for funding the Beekeeper Indemnity Payment Program, the Beekeeper Indemnity Payment Program Regulations were amended on June 15, 1979 to provide that the payment of claims filed after that date would be conditioned upon the availability of funds.

Subsequently, the Agriculture Appropriations Act for Fiscal Year 1980 authorized $2.89 million for the Beekeeper Indemnity Payment Program. The proposed budget for the Department for fiscal year 1981 again requests no funding for the program. All claims filed prior to June 15, 1979 have been paid. The Department now has remaining approximately $900,000 to pay an estimated $4.0 million in claims filed after June 15, 1979. In addition claims are continuing to be filed by beekeepers under the program.

On June 3, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register** at 45 FR 37454, which proposed to pay the remaining claims filed after June 15, 1979 under the Beekeeper Indemnity Payment Program on the basis of the earliest filing date. Comments were solicited on this proposal or on any alternative proposals for payment of such claims. The deadline for receiving comments was July 18, 1980.

Comments on the method of disbursing funds were received from nineteen parties. Only one person commented in favor of making payments on the basis of the earliest filing date. Five parties commenting were opposed to making payments on the basis of the earliest filing date, but offered no alternative method. Thirteen parties suggested disbursing the available funds on a pro rata basis.

One of the primary concerns expressed in the comments was that making payments on the basis of the earliest filing date would favor beekeepers located in southern States. This position is not correct in that Department records indicate there is no significant difference in the patterns of filing claims by beekeepers located in the various States. Generally, beekeepers have filed their claims for losses in the fall and not at the time that the losses occurred. If payments are made on the basis of the earliest date of filing, over fifty percent of the claims filed prior to April 1, 1980, could be paid in full. Claims are continuing to be filed by beekeepers under the program as losses caused by pesticide are incurred. Therefore, if all claims filed were to be honored and payments were to be made on a pro rata basis, beekeepers filing claims from June 15, 1979 to any termination date established for the program would receive relatively small indemnities in proportion to their claims.

Final Rule

Accordingly, the regulation at 7 CFR 760.119 is revised to read as follows:

§ 760.119 Availability of funds.

Payment of indemnity claims filed after June 15, 1979, is contingent upon availability of funds to the Department to pay such claims. Claims filed after such date will be paid in full, in the order in which they were filed, to the extent that funds are available.

(Sec. 804, 84 Stat. 1382 (7 U.S.C. 135b note); sec. 1(27), 87 Stat. 237 (7 U.S.C. 135b note); and sec. 207, 91 Stat. 921 (7 U.S.C. 284 note))

Signed at Washington, D.C. on August 19, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–25708 Filed 8–21–80; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 266]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 24–30, 1980.

Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 24, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 19, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues very easy.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.566 Lemon Regulation 266.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 24, 1980, through August 30, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 20, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–25645 Filed 8–21–80; 1:38 pm]

BILLING CODE 3410–02–M

---

7 CFR Part 926

Tokay Grapes Grown in San Joaquin County, Calif.; Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, AMS.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1980–81 fiscal period to be collected from handlers to support activities of the Industry Committee which locally administers the Federal marketing order for Tokay grapes grown in San Joaquin County, California. It also authorizes the carryover of unexpended funds from the 1979–80 fiscal period.

DATES: Effective April 1, 1980, through March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This final rule is issued under Marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Industry Committee, established under the order, and upon other information. It is found that the expenses, rate of assessment, and carryover of unexpended funds, as hereafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). This order requires that the rate of assessment for a particular fiscal year shall apply to all assessable fruit handled from the beginning of such year which began April 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, new § 926.220 (M.O. 926) is added to read as follows: (§ 926.220 expires March 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 926.220 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Industry Committee during the fiscal period April 1, 1980, through March 31, 1981, will amount to $153,040.

(b) The rate of assessment for said period payable by each handler in accordance with § 926.46 is fixed at $0.10 per No. 38K grape lug (as specified in § 1380.19(14) of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) A portion of the unexpended assessment funds in excess of expenses incurred during the fiscal period ended March 31, 1980, shall be carried over as a reserve in accordance with § 926.47.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 18, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–25651 Filed 8–21–80; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D, Docket No. R–0306]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96–221) imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. The Act authorizes the Federal Reserve to require reports from depository institutions as necessary or desirable to monitor and control monetary and credit aggregates, provides access to the Federal Reserve discount window for depository institutions with transaction accounts or nonpersonal time deposits, and requires the Federal Reserve to price its services and provide access to system services to all depository institutions. The Board has adopted a revised Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to implement the reserve requirement provisions of the Monetary Control Act. The revised reserve requirement regulation will also apply to Edge Act and Agreement Corporations and United States branches and agencies of foreign banks.

DATE: November 13, 1980. On that date, depository institutions, U.S. branches and agencies of foreign banks, and Edge and Agreement Corporations will be required to commence maintaining required reserves under revised Regulation D based upon deposits held during the seven-day reserve computation period beginning October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Paul S. Pilecki, Attorney (202/452–3281), or Thomas D. Simpson, Senior Economist (202/452–3361), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("Act") (Title I of Pub. L. 96–221; 94 Stat. 132) imposes Federal reserve requirements on depository institutions that maintain transaction accounts or nonpersonal time deposits. Depository institutions subject to reserve requirements include any Federally-insured commercial or savings bank, or any such bank that is eligible to become insured by the Federal Deposit Insurance Corporation; any mutual or stock savings bank; any savings and loan association that is a member of a Federal Home Loan Bank, insured by, or eligible to apply for insurance with, the Federal Savings and Loan Insurance Corporation; and any credit union that is insured by, or eligible to apply for insurance with, the National Credit Union Administration Board. The reserve requirements of the Act will apply to United States branches and agencies of foreign banks with total worldwide consolidated bank assets in excess of $1 billion, and to Edge and Agreement Corporations. In this regard, the Act provides that nothing in the reserve requirement provisions of the Act limits the authority of the Board under section 7 of the International Banking Act of 1978 ("IBA") (12 U.S.C. 3105). On March 19, 1980, the Board adopted amendments to Regulation D to impose reserve requirements on such branches and agencies (45 FR 19216); however, as discussed below, the revised regulation modifies certain aspects of that action in view of the enactment of the Monetary Control Act. In addition, since U.S. branches of foreign banks are eligible to apply for Federal deposit insurance, Regulation D also will apply to foreign banks with total worldwide consolidated bank assets of $1 billion or less in the same manner as applicable to other nonmember depository institutions.

In light of the enactment of the Monetary Control Act, on June 4, 1980, the Board requested public comment (45 FR 38388) on a revised Regulation D to implement the provisions of the Act. The period for public comment expired on July 15, 1980. After consideration of the more than 750 comments received from the public (primarily from depository institutions and financial institution trade groups), the Board has adopted a revised Regulation D substantially in the form proposed. However, certain modifications were made, as discussed below, relating primarily to the definition of a transaction account and in the area of nonpersonal time deposits. In addition, certain technical changes were made in order to clarify regulation.

Digest of Board Actions

The following is a general description of certain aspects of the Board's actions with respect to the imposition of reserve requirements that are broadly applicable to all depository institutions. A detailed discussion of the reserve requirements and various technical issues follows this digest.

General Requirement. A depository institution is required to maintain reserves against its transaction accounts and nonpersonal time deposits. An institution's reserve requirements are computed on the basis of the institution's average daily net deposit balances during a seven-day period beginning each Thursday (the "computation period"). Required reserve balances must be maintained at a Federal Reserve Bank during a corresponding seven-day period (the "maintenance period") which begins on the second Thursday following the end of the computation period. However, in determining the reserve balance to be held with the Federal Reserve during the maintenance period, the average daily United States currency and coin held during the computation period is deducted from the institution's reserve requirements. The first reserve maintenance period under revised Regulation D will begin November 13, 1980 based on deposits held during the reserve computation period beginning October 30, 1980.

Transaction Accounts. A "transaction account" is defined to include demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfers (ATS), share draft accounts, accounts that permit payments to third parties through use of a check, draft, negotiable instrument, debit card or other similar items, accounts under the terms of which a depositor is *permitted* to make more than three preauthorized or telephone transfers per month (whether to another account of the depositor or to a third party), and accounts that permit a depositor to make payments to third parties through automated teller machines or remote service units. An account is not regarded as a transaction account merely because it permits repayments or transfers in connection with loans made by the institution itself (as originator or servicer). Whether an account is a transaction account by virtue of the number of telephone or preauthorized transfers (excluding loan repayments) permitted is to be determined based upon the terms of the account contract or by practice of the depository institution and not on the basis of the actual number of transfers made in a particular calendar month. Institutions are expected to establish adequate monitoring procedures or systems to insure that the number of transfers made in a calendar month does not exceed the permissible amount in order for such accounts not to be regarded as transaction accounts.

The reserve ratio on transaction accounts will be 3 percent on amounts of $25 million or less and 12 percent on amounts in excess of $25 million. In

computing the amount of its transaction accounts, a depository institution is permitted to deduct all cash items in process of collection and balances due on demand from other depository institutions.

Nonpersonal Time Deposits. The Act defines "nonpersonal time deposit" as a (1) time deposit or account that is transferable or (2) a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor that is not a natural person. Under the regulation, a time deposit includes certificates of deposit, certificate accounts, credit union share certificates, notice accounts, and regular accounts, savings deposits and share accounts that are not regarded as transaction accounts. Time deposits issued to and held by natural persons are not subject to reserve requirements if they are not transferable. Time deposits that are issued in transferable form on or after October 1, 1980 will be regarded as nonpersonal time deposits because of the transferability feature. The definition of nonpersonal time deposit excludes a time deposit issued to and held by a natural person on or after October 1, 1980, if it includes on the deposit instrument or other document evidencing the account a specific statement that it is not transferable, or is transferable *only* on the books of, or with the permission of, the depository institution. To meet this requirement, a depository institution may use the following terminology or any other statement of equivalent legal effect: "Not transferable;" "Nontransferable;" "Not transferable, as defined in 12 CFR Part 204;" or "Not transferable except on the books of the depository institution." However, the words "Not negotiable" and "Nonnegotiable" will not meet this requirement. Depository institutions may stamp the required terminology on existing stocks of deposit documents.

A transferable time deposit issued before October 1, 1980, to a natural person will not be regarded as a nonpersonal time deposit. Prior to that date, depository institutions shall refrain from issuing transferable time deposits to natural persons that might otherwise be issued in the name of a corporation or other organization for the purpose of avoiding reserve requirements.

Since the provision of the Act defining transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units, the Board will not regard as "transfers" a number of transactions that normally would not be undertaken as reserve avoidance devices. A time deposit will not be regarded as "transferable" because it can be pledged as collateral for a loan, or because title or beneficial interest in the deposit can be passed in circumstances involving death, bankruptcy, divorce, marriage, judicial attachment, incompetency, or by operation of law. In addition, the reissuance of a time deposit by a depository institution in the name of another will not be regarded as a transfer.

Nontransferable time deposits representing funds held pursuant to Individual Retirement Accounts (IRA) and Keogh (H.R. 10) Plans will be regarded as personal time deposits. Escrow accounts, such as funds held for tax or insurance payments, will be regarded as personal time deposits if the depositor is a natural person and the other conditions of a time deposit are met, even though the funds are held by the depository institution or other organization as escrow agent. In addition, the Board will regard nontransferable time deposits held by fiduciaries as personal time deposits exempt from reserve requirements where the entire beneficial interest in the funds is held by natural persons. A natural person is an individual or a sole proprietorship. A partnership, corporation (including one solely owned by an individual), governmental unit, or other association or organization (including a not-for-profit organization) is *not* a natural person.

Depository institutions will be permitted to estimate (using standard sampling methods) the breakdown between personal an nonpersonal categories of fixed maturity time deposits issued prior to October 30, 1980, the beginning of the first deposit reporting period under the revised regulation. All existing savings deposits, time deposit open accounts and notice accounts, as well as fixed maturity time deposits issued on or after October 30, 1980, are required to be classified as either personal or nonpersonal. Savings deposits, time deposit open accounts and notice accounts may not be estimated since these accounts do not have a stated maturity and if estimation were permitted for such accounts, they would always be reported on the basis of estimates rather than actual amounts.

Nonpersonal time deposits with original maturities of 14 days or more but less than four years will be subject to a reserve requirement ratio of 3 per cent. Nonpersonal time deposits in the form of borrowings from non-U.S. offices of unrelated depository institutions with original maturities of less than four years also will be subject to a reserved requirement of 3 per cent. All nonpersonal time deposits with original maturities of four years or more will be subject to a zero per cent reserve requirement.

Eligible Reserve Assets. The reserves of a depository institution may be held in the form of vault cash or a balance maintained at the Federal Reserve Bank, either directly or indirectly on a pass-through basis. A depository institution that is a member of the Federal Reserve System must hold its required reserve balances directly with its Federal Reserve Bank. A nonmember depository institution may hold its required reserve balance directly with its Federal Reserve Bank or, alternatively, it may pass its required reserve balance to the Federal Reserve through a correspondent. Such a correspondent may be a depository institution that holds a required reserve balance directly with the Federal Reserve, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility. A depository institution is permitted to use all of its vault cash, that is, United States currency and coin, as eligible reserve assets. However, silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value will not be regarded as vault cash.

On June 26, 1980, the Board announced (45 FR 44962) proposed procedures for nonmember depository institutions to follow if they maintain required reserves under a pass-through arrangement. The Board's final pass-through procedures will be announced shortly.

Phase-in of Reserve Requirements. (1) *Member banks* will be phased down to the new structure of reserve requirements over a three and one-half year period from the effective date of the Act, September 1, 1980. During this period, reserves required to be maintained will equal required reserves under the reserve structure in effect on August 31, 1980 ("old structure") less a portion of the difference between reserves calculated under the structure of the Act ("new structure") and the old structure. In order to relieve the reporting burden during the phase-in period, a member bank's required reserves will be computed under the old structure using its average reserve ratio on time deposits during the 14-day period from July 24–August 6, 1980. This average ratio will be used throughout the phase-in period to compute required reserves on time deposits under the old structure.

Member banks will begin to phase down to the new reserve requirement structure during the reserve maintenance period beginning November 13, 1980. At that time, required reserves will be reduced by ¼ of the difference between reserves under the old structure and the new structure. The phase-down adjustment will increase by ⅓ of the difference between reserves computed under the old and new structures beginning in September 1981, and at each six-month interval thereafter until the new reserve structure is phased in fully.

(2) *Nonmember depository institutions* will be required to hold an amount equal to ⅓ of reserve requirements calculated under the Act beginning with the reserve maintenance period beginning November 13, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution will maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning October 30, 1980. Thereafter, the amount of required reserves will increase by an additional ⅓ of the reserve requirements under the Act on the first maintenance period beginning after September 1, of each succeeding year until the new reserve structure is implemented fully.

(3) *United States branches and agencies* of foreign banks will phase in to the new reserve requirements on a quarterly basis over a two-year period beginning November 13, 1980.

(4) *Reserve requirements on NOW accounts* outside New England, New York and New Jersey, authorized pursuant to Federal law on December 31, 1980, will not be subject to the phase-in provisions.

Quarterly Reporting and Reserve Maintenance. To ease the reporting burden and Reserve Bank administration, the Board has adopted a procedure of quarterly reporting and reserve maintenance for institutions that have less than $5 million in total deposits. This procedure will begin in January 1981. This procedure will not apply to Edge or Agreement Corporations or to U.S. branches and agencies of foreign banks.

Deferred Effective Date for Smaller Institutions. To further relieve potential operational problems during the initial period of reserve maintenance by depository institutions, the Board has deferred until May 1981 reserve requirements and reporting for institutions with total deposits of less than $1 million. At that time, the Board will make a determination as to whether to continue to defer reserve requirements on such institutions.

Contemporaneous Reserve Accounting. The Board is disposed toward returning to contemporaneous reserve accounting, possibly by September 1981, if a further investigation indicates that such a system is operationally practical.

Detailed Discussion

Transaction Accounts

Definition. The Board proposed to define transaction accounts to include all demand deposits, negotiable order of withdrawal (NOW) accounts, savings accounts subject to automatic transfer (ATS), share draft accounts, accounts subject to preauthorized or telephone transfer or withdrawal and all accounts that permit the account holder to make third-party payments using automated teller machines (ATMs) or remote service units (RSUs). The Board invited comment on the desirability and feasibility of exempting from reserve requirements those accounts subject to preauthorized or telephone transfers that are limited to a minimal number of transfers per month for special purposes, such as loan repayments and occasional transfers or withdrawals by telephone from a savings account to a checking account.

Comments from the public indicated that the proposed definition of a transaction account was too broad, that accounts that were not normally used for transaction purposes would be covered and that the proposal could adversely affect the level of services offered by depository institutions. Consequently, the Board has narrowed the definition of the term "transaction account" so as not to interfere with occasional withdrawal or payment arrangements. Under the regulation, "transaction account" includes demand deposits, NOW accounts, ATS accounts, share draft accounts, accounts that permit payments to third parties through use of checks, drafts, negotiable instruments, debit cards or other similar items, accounts that permit a depositor to make payments to third parties through ATMs or RSUs, and accounts that permit a depositor to make more than three telephone or preauthorized transfers per calendar month. Under this approach, those accounts that are actively used for transaction purposes will be subject to transaction account reserve requirements.

With regard to accounts subject to telephone or preauthorized transfer, the determination of whether such an account is a transaction account must be made on the basis of the number of transfers *authorized* in a calendar month under the terms of the account agreement rather than on the basis of the number of transfers *actually* made in a particular month. A preauthorized transfer includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. For example, if under the terms of a savings account agreement (written or oral) or if permitted by custom or practice of the institution a depositor is allowed to make more than three telephone transfers during a calendar month, including transfers to third parties for purposes of making payments or transfers to another account, then such an account would be a transaction account. This account would be a transaction account at all times even if a depositor never made more than three transfers during a particular calendar month.

In order for an account that permits telephone or preauthorized transfers to be exempt from transaction account reserve requirements, the account must provide that no more than three such transfers per calendar month are permitted and the account must not otherwise meet the definition of a transaction account. A depository institution is required to establish a system or other procedure to insure that no more than three such transfers are made during any calendar month from such accounts. A savings account will not be regarded as a transaction account merely because it permits the depositor to make loan repayments and pay associated expenses, such as insurance and escrow requirements, to the institution itself (as servicer or originator). (Arrangements providing for credit extended to cover checks drawn on a zero balance or low balance account are regarded as ATS accounts.) In addition, an account would not be regarded as a transaction account because withdrawals to be paid directly to the depositor could be effected by telephone or preauthorized order. All other telephone and preauthorized transfers, including those made to third parties or to another deposit account of the same depositor, would count toward the three permissible transfers per month.

transferable or if it is transferable only

deposits from natural persons to

regarded as a personal time deposit if

Summary of Transaction Account Classifications Always Regarded as Transaction Accounts

1. Demand deposits
2. NOW accounts
3. Share draft accounts
4. ATS accounts
5. Accounts that permit third party payments through ATMs or RSUs
6. Accounts that permit third party payments through use of checks, drafts, negotiable instruments, debit cards or other similar items.

Accounts Regarded as Transaction Accounts If More Than Three of the Following Transactions Per Calendar Month Are Permitted To Be Made by Telephone or Preauthorized Order or Instruction

1. Payments or transfers to third parties
2. Transfers to another account of the depositor at the same institution
3. Transfers to an account at another depository institution

Not Regarded as Transaction Accounts (Unless Specified Above)

1. Accounts that permit telephone or preauthorized transfers or transfers by ATMs or RSUs to repay loans made or serviced by the same depository institution
2. Accounts that permit telephone or preauthorized withdrawals where the proceeds are to be mailed to or picked up by the depositor
3. Accounts that permit transfers to other accounts of the depositor at the same institution through ATMs or RSUs
4. Accounts that permit three or less telephone or preauthorized payments or transfers to third parties or to other accounts

Bona Fide Cash Management Arrangements. In determining the amount of outstanding transaction accounts to which the reserve ratio will apply, a depository institution shall not treat overdrafts in a demand deposit account as negative demand deposits. Since overdrafts are properly reflected on an institution's books as assets, they shall not be netted against positive balances in other transaction accounts; for purposes of reporting deposits, accounts in overdraft status shall be regarded as having a zero balance. However, under present interpretations, in cases where a customer has multiple demand deposit accounts with a member bank, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against demand balances in other accounts for reserve requirement purposes. Under revised Regulation D, depository institutions will be permitted to continue this practice.

Computation of Net Transaction Accounts. In computing demand deposit reserve requirements, member banks currently are permitted to deduct from their gross demand deposits cash items in the process of collection ("CIPCs") and demand balances due from other banks. The purpose of this deduction is to prevent situations in which more than one institution holds required reserves against the same deposit liability to the nonbank public.

The Board requested comment on the desirability of substituting an exemption from reserve requirements for balances "due to" depository institutions for a "due from" deduction. It was noted that such a treatment of "due from's" and "due to's" is more consistent with an institutional environment in which all depository institutions are subject directly to Federal reserve requirements and, in such an environment, there is no longer a need to control the deposits of nonmember institutions indirectly through reserve requirements on the deposits nonmembers hold with their member bank correspondents. Moreover, it was suggested that such a treatment of interbank transactions would reduce the risk that distortions in measures of the monetary aggregates could arise from the clearing of checks and improve monetary control by removing one source of disturbance to the multiplier connecting reserves to the money stock.

Comment from the public generally was adverse on this issue, indicating that such an approach would be operationally burdensome. In view of the comments received, the Board has determined not to adopt this procedure at this time, but will continue to study the matter. Consequently, a depository institution generally will be permitted to deduct all cash items in process of collection and all balances due on demand from U.S. offices of other institutions subject to Federal reserve requirements from the sum of all transaction accounts in computing reserve requirements. Although requests have been received by the Board to expand the definition of CIPC to include credit card sales slips, the Board has determined that credit card sales slips will continue not to be regarded as cash items in process of collection.

Reserve Requirement Ratio. The Act specifies that any reserve requirement imposed by the Board shall be solely for the purpose of implementing monetary policy and shall be applied uniformly to all transaction accounts at all depository institutions. A reserve ratio of 3 per cent on transaction accounts of $25 million or less is established by the Act. This low reserve requirement tranche will be adjusted annually beginning in 1982 based on the change in the total of transaction accounts at all depository institutions during the previous year. With regard to transaction accounts in excess of $25 million, the Board has established a reserve ratio of 12 per cent, the initial ratio established by law. This ratio may be varied within a range of from 8 to 14 per cent.

Nonpersonal Time Deposits

Definition. The Act defines "nonpersonal time deposit" as a (1) transferable time deposit or account, or (2) a time deposit or account representing funds deposited to the credit of or in which any beneficial interest is held by a depositor that is not a natural person. Nontransferable time deposits solely in the name of, or in which the entire beneficial interest is held by, a natural person are not to be subject to reserve requirements. Under the revised Regulation D, the term "savings deposit" will continue to be included in the definition of "time deposit;" thus any savings deposit that is not otherwise regarded as a transaction account and that is held by a business or nonprofit organization or a domestic governmental unit would be regarded as a nonpersonal time deposit.

Time deposits that are issued in transferable form on or after October 1, 1980 will be regarded as nonpersonal time deposits because of the transferability feature. The provision of the Act that defines transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements through the transfer of time deposits from individuals to organizations or governmental units. Accordingly, the Board has determined that a transferable time deposit issued before October 1, 1980, to a natural person in a denomination of less than $100,000 would not be regarded as a nonpersonal time deposit.[1] In addition, a transferable time deposit of *any* denomination issued to a natural person before that date will be regarded as exempt from the reserve requirement on nonpersonal time deposits. The definition of nonpersonal time deposit excludes a time deposit issued to and held by a natural person on or after October 1, 1980, if it includes on its face a statement that it is not transferable or if it is transferable only on the books of, or with the permission of, the depository institution. To meet this requirement, a depository institution may use the following terminology or any other statement of equivalent legal effect: "Not Transferable;" "Nontransferable;" "Not transferable, as defined in 12 CFR Part 204;" or "Not transferable except on the books of the depository institution." However, the words "Not negotiable" and "Nonnegotiable" will not meet this requirement since such terms would not prohibit the depositor from engaging in certain types of transactions that could lead to an evasion of reserve requirements. In this regard, the transferee of a nonnegotiable time deposit would not be a holder in due course and would not have the ability to cut off certain defenses of an obligor. Although such a transferee would be in a less desirable position vis-a-vis a transferee of a negotiable time deposit, an exchange for value can be made and reserve avoidance transactions would be possible. Consequently, in order to prevent this possibility, a time deposit issued to a natual person on or after October 1, 1980 must be nontransferable in order to be exempt from reserve requirements.

Depository institutions may stamp, type or otherwise affix the required legend to existing stocks of deposit documents. Any personal time deposit or account originally issued before October 1, 1980, would not require a legend to be exempt from reserve requirements, including time deposits that automatically renew after that date and accounts to which additional funds can be added. The required legend must appear on the document that evidences an account issued on or after October 1, 1980 whether in certificate, passbook, statement, or book-entry form.

Depository institutions should not issue time deposits in the name of natural person prior to October 1 that normally would be issued in the name of a corporation or other organization. The Board expects that depository institutions will observe the grandfather date for transferable personal time deposits in good faith.

Transferability. A number of comments received from the public raised questions concerning the potential limitations that could be imposed by designating a time deposit "not transferable." As stated above, the provision of the Act including transferable time deposits as nonpersonal time deposits was intended to prevent the evasion of reserve requirements by transferring time deposits from natural persons to nonexempt entities. Accordingly, the Board will not regard a time deposit as "transferable" although it can be pledged as collateral for a loan from any lender, or even if title or beneficial interest in the deposit or account can be passed on in circumstances arising from death, bankruptcy, divorce, marriage, incompetency, attachment or otherwise by operation of law. In addition, the reissuance of a time deposit by an institution in the name of another or the addition or subtraction of names on the time deposit will not be regarded as a transfer. In this regard, a depository institution's involvement in the transaction would enable it to know if any beneficial interest in the time deposit is being acquired by other than a natural person, and, thus, the appropriate reserve requirement change could be made.

IRA and Keogh Plan Time Deposits and Escrow Funds. The Monetary Control Act provides that any time deposit held in the name of a depositor that is not a natural person is subject to reserve requirements on nonpersonal time deposits. Under this provision IRA and Keogh Plan time deposits, which can only be issued to individuals, would be treated as nonpersonal time deposits since they are held by the depository institution as trustee or custodian due to the technical requirements of the Internal Revenue Code. Since these deposits are indistinguishable from other personal time deposits and are regarded by the depositor as his own funds subject to his direct control, the Board will regard such funds as personal time deposits.

In addition, escrow accounts, such as funds held for tax or insurance payments, will be regarded as personal time deposits if the depositor is a natural person and the other conditions of a time deposit are met, notwithstanding that the funds are held by the depository institution or other organization as escrow agent. (If escrow funds are held in any other type of deposit account, they will be regarded as a transaction account.)

Time Deposits Held by Trustees. A number of commentators raised the issue as to the appropriate treatment of time deposits held by trustees and other fiduciaries where the entire beneficial interest is held by natural persons. The Board believes that the imposition of reserve requirements on such funds is not necessary for the conduct of monetary policy. Therefore, any nontransferable time deposit held in the name of a trustee or other fiduciary, whether or not a natural person, will be regarded as a personal time deposit if the entire beneficial interest is held by natural persons. A nontransferable time deposit that is an asset of a pension fund would normally be regarded as a personal time deposit since the entire benefical interest of such funds normally is held by natural persons.

Definition of Natural Person. Consistent with its longstanding positions currently embodied in Regulations D and Q as to what constitutes an individual for purposes of maintaining a NOW, ATS, or savings account, the Board will regard a "natural person" to consist of an individual and a sole proprietorship. "Natural person" will not include a partnership, corporation (including one solely owned by an individual), governmental unit, or other association or organization.

Estimation of Personal Time Deposits. A number of depository institutions inquired during the comment period whether they would be permitted to estimate the breakdown between the amount of outstanding personal and nonpersonal time deposits. The Board has determined to permit depository institutions to estimate (using standard sampling methods) funds held in fixed maturity time deposits issued before October 30, 1980, the beginning of the first computation period for reserve requirements under the revised regulation.

Amounts of personal and nonpersonal time deposits held in savings accounts, time deposit open accounts and notice accounts may not be estimated since such accounts do not have a stated maturity and reliance on estimates of such accounts, therefore, would continue indefinitely into the future. An institution will be required to classify as personal or nonpersonal all existing savings, time deposit open accounts and notice accounts as well as new fixed maturity time deposits issued on or after October 30, 1980.

Maturity of Time Deposits. The Board has adopted its proposal to shorten the minimum maturity of time deposits for purposes of Regulations D and Q from the present 30 days to 14 days. The Board believes that the shorter minimum maturity on time deposits will improve the competitive position of domestic depository institutions vis-a-vis open market instruments and foreign banking offices. Beginning October 30, 1980, member banks and U.S. branches and agencies of foreign banks that are subject to Regulation Q (12 CFR Part 217) may issue time deposits with original maturities between 14 and 29 days issued in denominations of $100,000 or more and pay interest on

[1] The date was originally proposed as July 15, 1980. However, in response to numerous comments expressing concern over the ability of institutions to meet this deadline, the Board modified the date to September 1, 1980 (see 45 FR 47846). This date has been modified further to October 1, 1980.

V 4 5 A G 2 2 8 0 UMI

such deposits at any rate since there are no Federal interest rate limitations on time deposits issued in such denominations. It is anticipated that the other Federal financial institution regulatory agencies will consider taking similar action with respect to the definition of the term time deposit and that the Depository Institutions Deregulation Committee will consider the establishment of an interest rate ceiling on time deposits under $100,000 with maturities of 14 to 29 days.

Gross Borrowings From Non-U.S. Offices of Unrelated Institutions. The Board has determined that the term time deposit also will include, regardless of maturity, a promissory note, an acknowledgment of advance, or a similar obligation that is issued to any office located outside the United States of another depository institution or another foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under § 217.3(g) of Regulation Q (12 CFR Part 217.3(g)).

Reserve Requirement Ratio. The Board has established a reserve ratio of 3 per cent on nonpersonal time deposits with original maturities of less than four years. Nonpersonal time deposits with original maturities of four years or more will be subject to a zero per cent reserve ratio.

Treatment of Promissory Notes, Due Bills and Other Miscellaneous Obligations of Depository Institutions

Regulation D currently defines as deposits a number of sources of funds that frequently are not classified as deposits for other purposes. The Board will continue to regard as deposits promissory notes (commercial paper), ineligible acceptances (finance bills), due bills, acknowledgments of advance, repurchase agreements against assets other than obligations of, or fully-guaranteed as to principal and interest by, the United States government and its agencies, and funds supplied from nondepository affiliates. Generally, such obligations having original maturities of less than 14 days will be regarded as demand deposits and will be subject to the reserve requirement on transaction accounts; those having maturities of 14 days or more will be regarded as nonpersonal time deposits, if transferable or held by a depositor other than a natural person. Under this approach, certificates of indebtedness issued by credit unions and mortgage-backed bonds and commercial paper issued by all depository institutions including savings and loan associations will be defined as deposits. While such obligations with original maturities of four years or more will be regarded as time deposits, they will be subject to a zero percent reserve requirement.

Subordinated Notes. Under Regulations D and Q (Interest on Deposits) subordinated capital debt of member banks is not regarded as a deposit subject to reserve requirements or interest rate limitations provided that certain conditions are met, including a minimum maturity of seven years or more. The Board proposed to retain these conditions for depository institutions. In this regard, the Federal Deposit Insurance Corporation has similar rules concerning issuance of subordinated notes exempt from interest rate limitations by insured nonmember commercial banks (see 12 CFR Part 329). For thrift institutions, the Board proposed a similar exemption from reserve requirements for subordinated capital debt. Such a debt obligation would be exempt from reserve requirements if it would have a minimum original maturity of seven years or more and was approved by the institution's primary Federal supervisor or was issued under the rules of the primary Federal supervisor. The Board has adopted these proposals as published.

Obligations of Nondepository Affiliates. The Board has adopted its proposal to revise the reserve treatment of funds advanced by affiliates to depository institutions. At present, deposits of member banks include the liability of an affiliate that it has issued to the extent that the proceeds are used for the purpose of supplying funds to the affiliated institution. However, these rules relating to determination of deposit status of such obligations are complex. In order to simplify the determination of the deposit status of affiliate obligations, the Board will apply the following rules. An obligation issued by the affiliate will not be regarded as a deposit of the affiliated depository institution if the obligation has a maturity of four years or more. In addition, an obligation issued by an affiliate will not be regarded as a deposit of the affiliated depository institution if the obligation would not have been a deposit had it been issued directly by the affiliated depository institution. For example, a borrowing by an affiliate from an unaffiliated depository institution will not be regarded as a deposit of the affiliated depository institution. However, if the proceeds from such obligations are placed with the affiliated depository institution in the form of a deposit or other nonexempt borrowing, then such funds are reservable to the affiliated depository institution. An obligation of a nondepository affiliate will be regarded as a deposit if the obligation issued by the affiliate would have been a deposit had it been issued directly by the affiliated depository institution. For example, a borrowing by an affiliate from a nondepository business organization will be regarded as a deposit of the affiliated depository institution if the funds are supplied to the depository institution by the affiliate. If the affiliate's obligation is determined to be a deposit, then the appropriate reserve ratio to be applied will be determined by the shorter of the maturity of the affiliate's obligation or the maturity of the obligation issued to the affiliate by its affiliated depository institution. If the affiliate's obligation is determined to be a deposit and the proceeds are used to purchase assets, then the appropriate reserve ratio to be applied will be determined by the shorter of the affiliate's obligation or the remaining maturity of the assets purchased.

Due Bills. A due bill is a promise by the depository institution to deliver at some future date a security purchased by the institution's customer. Under existing provisions, due bills issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business are regarded as deposits subject to reserves. However, due bills that are not issued principally as a means of obtaining funds to be used in the banking business are deposits only if they are not collateralized with a similar security within three days after issuance. The principal questions that arise in connection with these transactions involve whether a member bank is utilizing due bill transactions as a means of obtaining funds principally for use in its banking business and whether such obligations are collateralized with a "similar" security.

In order to minimize compliance and enforcement problems involving due bills, the Board proposed to revise Regulation D so that *all* due bills would be reservable deposits from the date of issuance without regard to the purpose of the due bill unless collateralized within three days from date of issuance by a security *identical* to the security purchased by the depository institution's customer.

Comments from the public indicated that the requirement that securities identical to those purchased be used as collateral would place dealer banks at a significant competitive disadvantage to nonbank dealers and could impair the market for U.S. government securities. In view of these comments, the Board has adopted the proposed simplifications concerning due bills in modified form, that is, eliminating the distinction between *bona fide* and other due bills, but requiring that the collateral provided by *similar* to, rather than identical to, the securities purchased. In this regard, a security will be regarded as "similar" if it is of the same type and if its maturity is comparable to that of the obligation purchased by the customer. A due bill that remains uncollateralized after three business days is a deposit from that time forward. In addition, the Board is reviewing other aspects relating to due bills and may adopt additional operational safeguards on due bills at some future date.

Eurocurrency Reserve Requirement

Under the Act, the Board's authority to establish a reserve requirement necessary for the implementation of monetary policy on Eurocurrency transactions is extended to cover all domestic depository institutions. In addition to imposing basic reserve requirements on all depository institutions, the Board is authorized also to place reserve requirements on: net borrowings from related foreign offices, net borrowing from unaffiliated foreign depository institutions, loans to United States residents made by overseas offices of depository institutions located in the United States, and sales of assets by depository institutions in the United States to their overseas offices. With the exception of net borrowings from unaffiliated foreign depository institutions, these are essentially the same categories that are reservable under Regulation D currently. As explained below, using its basic reserve requirement authority as well as a portion of its Eurocurrency reserve requirement authority, the Board has determined to continue to subject to reserve requirements the same categories of transactions that currently are reservable as Eurocurrency transactions, except that the proceeds of sales to foreign branches of all assets—rather than only domestic assets—will be reservable. Loans to U.S. residents made by non-U.S. offices of foreign banks will not be reservable.

Under the Board's proposed regulations, borrowings from foreign offices of unaffiliated depository institutions would continue to be reservable on a gross rather than a net basis. U.S. agencies and branches of foreign banks and some large domestic banks objected to the proposal to reserve such liabilities on a gross basis. These institutions indicated their view that the Monetary Control Act authorizes the Board to impose reserve requirements on borrowings from unaffiliated institutions only on a net basis. The Board has determined to treat these borrowings on a gross basis as time deposits under the basic reserve requirement authority of the Board rather than under the Board's additional Eurocurrency reserve requirement authority. The Board intends to review the matter of gross versus net borrowings from unaffiliated depository institutions in the context of proposals to establish Domestic International Banking Facilities.

The Board has adopted a reserve ratio of 3 per cent on Eurocurrency transactions, the same ratio applied to nonpersonal time deposits. The Board believes that this action will eliminate any artificial incentive through the reserve requirement structure that favors raising funds offshore as compared with the domestic market. As a technical matter, the revised Regulation D reflects a change in the four-week computation and maintenance period for Eurocurrency reserves to one week periods coinciding with normal reserve computation and maintenance periods, as proposed.

Eligible Reserve Assets

The reserves of a depository institution may be held in the form of vault cash or a balance maintained at the Federal Reserve Bank, either directly or indirectly on a pass-through basis. A depository institution that is a member of the Federal Reserve System must hold its required reserve balances directly with its Federal Reserve Bank. A nonmember depository institution may hold its required reserve balance directly with its Federal Reserve Bank or, alternatively, it may pass its required reserve balance to the Federal Reserve through a correspondent. Such a correspondent may be a depository institution that holds a required reserve balance directly with the Federal Reserve, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility.

The Board has the authority to specify the portion of vault cash that a depository institution may use to meet its reserve requirements. Under Regulation D, a depository institution will be permitted to use all of its vault cash as eligible reserve assets. Vault cash consists of United States currency and coin, and does not include securities or earnings assets of any type. In addition, all silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value will not be regarded as vault cash.

Reserve Requirement Calculation by United States Branches and Agencies of Foreign Banks

The Board has determined to continue the system of statewide aggregation for reserve computation and maintenance for branches and agencies. This procedure was adopted by the Board on March 19, 1980, in regulations (45 FR 19216) implementing section 7 of the IBA (12 U.S.C. 3105), which authorizes the Board to impose reserve requirements on United States branches and agencies of foreign banks with total worldwide consolidated assets in excess of $1 billion. However, only one $25 million low reserve requirement tranche on transaction accounts will be permitted for each foreign bank, since its U.S. branches and agencies compete primarily with domestic money center banks, which, by statute, have only one low reserve requirement tranche. Allowing a foreign bank only one low reserve tranche is consistent with the IBA's goal of promoting competitive equality between branches and agencies and domestic depository institutions. The Board also will allow an Edge or Agreement Corporation only one low reserve tranche on transaction accounts regardless of the number of its branches.

Under the Board's rules, a foreign bank or an Edge or Agreement Corporation will be allowed to assign its low reserve requirement tranche to any of its offices. However, if possible, the low reserve tranche must be assigned to a single office or to a group of offices filing a single aggregated report of deposits. In the event that the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing an aggregated report of deposits, the unused portion may be assigned to other offices. Reassignment of the low reserve requirement tranche will be permitted on an annual basis.

Phase-in of Reserve Requirements

Member Banks. Member banks will be phased down to the new structure of reserve requirements over a three and one-half year period from the effective date of the Act, September 1, 1980. During this period, reserves required to be maintained will equal required reserves under the reserve structure in effect on August 31, 1980 ("old structure"), less a portion of the difference between reserves calculated under the structure of the Act ("new structure") and the old structure.

In order to relieve the reporting burden during the phase-in period, the Board has adopted a simplified procedure for computing reserve requirements under the old structure

V 45 A G 22 80 UMI

during this period. The Board believes that this procedure will be beneficial to the Federal Reserve and to member banks and is consistent with Congressional intent concerning transitional adjustments. Under this approach, required reserves of a member bank on time deposits under the old structure will be computed by using its average reserve ratio on total time deposits during the 14-day period from July 24–August 6, 1980. This average ratio will be used throughout the entire phase-in period. A former member bank that did not maintain Federal reserves during this period and, thus, did not report deposits to the Federal Reserve may use the period from August 14–27, 1980 as its base period for purposes of determining its average reserve ratio on time deposits. Required reserves on remaining deposits (including savings deposits) will be computed using the existing ratios.

The current reserve ratios on time deposits are as follows:

	Percent
By original maturity less than 180 days:	
—$0—5 million	3
—over $5 million	6
180 days to less than 4 years	2½
4 years or more	1

Time deposits are subject, at present under the Federal Reserve Act, to a 3% minimum reserve ratio. The average reserve ratio on time deposits will be computed by dividing the daily average total amount of required reserves on such deposits by the daily average total time deposits for the 14-day period.

Member banks will begin to phase-down to the new reserve requirement structure during the reserve maintenance period beginning November 13, 1980. Required reserves computed under the old structure will be reduced at that time by ¼ of the difference between required reserves under the old structure and required reserves under the new structure. By having an initial reserve reduction of 25 per cent rather than ⅛ as originally proposed, member banks will be compensated for the two-month delay in implementation of the new reserve requirements. The phase-down adjustment will increase by ⅛ of the difference between reserves computed under the old and new structures, beginning in September 1981, and at each six-month interval thereafter until the new reserve structure if fully implemented.

Nonmember Banks and Thrift Institutions. Reserve requirements of nonmember banks and thrift institutions will be phased in over an eight-year period. Nonmember institutions (other than U.S. branches and agencies of foreign banks) will be required to hold an amount equal to ⅛ of reserve requirements calculated under the Act, starting with the reserve maintenance period which begins on Thursday, November 13, 1980. During the seven-day maintenance period beginning on that date, a nonmember depository institution will maintain reserves based on its deposits and vault cash outstanding during the seven-day computation period beginning October 30, 1980. Thereafter, the amount of required reserves will increase by an additional ⅛ of the reserve requirements under the Act on the first maintenance period beginning after September 1 of each succeeding year until the new reserve structure is fully implemented.

The Act provides a special phase-in provision for certain State-chartered nonmember depository institutions located in a State outside the continental United States. The Board's proposed Regulation D would have applied this provision to such institutions located in Alaska and Hawaii. However, because the Alaska Omnibus Act (Pub. L. 86–70) provides that Alaska is part of the "continental United States," the special phase-in provision of the Monetary Control Act can only apply to certain State-chartered nonmember depository institutions in Hawaii. State-chartered nonmembers in Alaska that were engaged in business on July 1, 1979, and that were not Federal Reserve members will receive the eight-year phase-in applicable to other depository institutions.

Deposits or Accounts Authorized After April 1, 1980. The Act exempts from the transitional phase-in provisions any category of deposits or accounts that are first authorized pursuant to Federal law in any State after April 1, 1980. This provision most immediately applies to interest-bearing negotiable order of withdrawal (NOW) accounts that are authorized in States outside of New England,[2] New York and New Jersey on December 31, 1980. Therefore, depository institutions outside of New England, New York and New Jersey maintaining NOW accounts will be required to maintain reserves against such accounts at the full transaction account reserve ratio.

In computing reserves required to be maintained on net NOW accounts, a depository institution located outside of New England, New York and New Jersey will be permitted to deduct from its total NOW accounts a portion of its cash items in process of collection and balances due on demand from other depository institutions equal to the ratio of its NOW accounts to its total transaction accounts. In order to provide the most benefit to depository institutions, the Board will permit the $25 million low reserve tranche for transaction accounts to apply to transaction accounts subject to the highest reserve ratio. Under this approach, a nonmember depository institution outside of New England, New York and New Jersey phasing in reserves may apply the $25 million tranche to its NOW accounts initially with any remaining portion applied to other transaction accounts subject to the phase-in. Transaction accounts in excess of $25 million (other than NOW accounts) will be subject to a reserve ratio of 12 per cent, but the effective reserve ratio applicable to these accounts will be lower than 12 per cent because of the phase-in. A member bank may apply the $25 million low reserve tranche to demand deposits or NOW accounts in computing its reserve requirements.

Branches and Agencies. Under the amendments to Regulation D adopted in connection with implementation of the IBA, branches and agencies were granted a phase-in of reserve requirements over a two-year period. This phase-in period is similar to that allowed to nonmember banks joining the Federal Reserve System. The Board has determined to allow branches and agencies to phase-in to the new reserve requirement structure that becomes effective on November 13, 1980, rather than requiring a more complicated and burdensome procedure of phasing up to member bank actual reserve requirements by the end of two years, and then phasing down to the new structure over the next two years in line with member banks. On November 13, when revised Regulation D becomes effective, branches and agencies will begin to maintain reserves subject to a two-year phase-in schedule similar to that proposed in June. Reporting will not be required of branches and agencies until the reserve computation period that begins on October 30, 1980. The deposits of new branches and agencies of a foreign bank that has existing United States Branches or agencies will be entitled only to the remaining phase-in, if any, available to the existing United States branches or agencies.

The amendments to Regulations D and Q (Interest on Deposits (12 CFR Part 217)) that were adopted in March in connection with implementation of the IBA will go into effect on September 4, 1980, as originally scheduled, although reserves will not be required to be held until November 13, 1980. Federal Reserve credit facilities also will be available beginning September 4, 1980. System services will be made available to branches and agencies beginning in November 1980 when they actually begin holding reserves. However, clearing balances may be required commensurate with the level of services provided. This will promote competitive equality with member banks and take into account the shorter reserve requirement phase-in period applicable to branches and agencies.

De Novo Banks and New Members. The Act provides an eight-year phase-in only for nonmember depository institutions engaged in business on July 1, 1979. Consequently, a *de novo* nonmember depository institution opening after July 1, 1979, would be required to maintain full reserve requirements beginning on the effective date of the Act. In addition, under the Act, a *de novo* member or a nonmember joining the System ("new member") would be required to maintain full present member bank reserve requirements, and then phase down to the new requirements of the Act. Current Board policy provides a two-year transitional period to full reserve requirement levels for *de novo* and new member banks.

The Board believes that, in order to provide an orderly adjustment to reserve requirements, it is appropriate for the Federal Reserve to continue its policy of providing a 24-month transitional phase-in for all *de novo depository institutions and new members. Under the Board's action, de novo* institutions and new members will be phased in to the new reserve requirements under the Act rather than to preseht member bank reserve requirements. New member banks on or after September 1, 1980, will not be required to report deposits or maintain reserves until the revised regulation becomes effective. This transition policy will also apply to a newly formed Edge or Agreement Corporation, or a foreign bank establishing its initial branch or agency in the United States.

Former Members and Mergers. On April 23, 1980, the Board announced an interpretation (12 CFR 204.120; 45 FR 28305) of section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. § 461(b), as amended by section 103 of the Act). This interpretation applies to the reserves required of any bank that was a member of the Federal Reserve System on July 1, 1979, and which subsequently withdraws from membership. That interpretation also establishes a System policy for reserve requirements of depository institutions involved in mergers.

Coverage of the Act

During the comment period, several questions were received concerning the scope of institutions covered by the Act. The Board has determined that industrial banks that engage in a deposit-taking function are covered by the Act and are subject to reserve requirements on their transaction accounts and nonpersonal time deposits, since they are eligibile for Federal deposit insurance.

New York Investment (Article XII) Companies, on the other hand, are not subject to reserve requirements under the IBA, and since they accept credit balances rather than deposits, they are not eligible for Federal deposit insurance. Consequently, the Board has concluded that New York Investment Companies are not depository institutions subject to the Act.

Under the Act, bankers' banks are not subject to Federal reserve requirements. Bankers' banks are defined as depository institutions that are organized solely to do business with other financial institutions, do not do business with the general public, and are owned primarily by the financial institutions with which they do business. Questions have arisen with respect to how the Board will apply these criteria in individual cases, particularly with regard to corporate central credit unions. The Board will consider in the near future the issue of what institutions qualify for the exemption.

Quarterly Reporting for Certain Depository Institutions

The Board recognizes that many very small depository institutions—especially credit unions—may not be equipped to report to the Federal Reserve and to maintain reserves on a weekly basis. Moreover, given the substantial number of such very small institutions that might have small amounts of reservable liabilities, the Federal Reserve could encounter operational difficulty in processing reports of these institutions on a weekly basis. In an effort to reduce the reporting and reserve management burdens of very small depository institutions and to reduce the processing burden of the Reserve Banks, depository institutions with total deposits of less than $5 million will report their deposits to the Federal Reserve for a 7-day computation period only once each calendar quarter and maintain reserves over a subsequent three-month period based on such deposits reported.

Quarterly reporting will be staggered so that each month one-third of all quarterly reporters will report deposit data for one week. Reserves will be maintained during a period beginning two weeks after the start of the computation period and ending one week after the end of the institution's next computation period. Balances to be held at the Federal Reserve over the three-month maintenance period, either directly or indirectly on a pass-through basis, would equal required reserves based on the deposit report for one week less vault cash held during the seven-day reporting period. An institution will remain eligible for quarterly reporting until its total deposits are $5 million or more for two consecutive quarterly reports. Depository institutions eligible for quarterly reporting and reserve maintenance would retain the option of reporting and maintaining required reserves on a weekly rather than quarterly basis. Additional details will be supplied to depository institutions in the near future.

The quarterly reporting system will commence in January 1981. Small member banks will continue to report deposits and maintain reserves on a weekly basis until that time. Eligible nonmember institutions will not be required to report or maintain reserves until the quarterly procedure begins. It should be noted that Edge and Agreement Corporations and U.S. branches and agencies of foreign banks will not be eligible for quarterly reporting and reserve maintenance. Rather, all such institutions will—regardles of size—be required to report and to maintain reserves on a weekly basis.

In addition, the Board has deferred reserve requirements for institutions that have less than $1 million in total deposits as of December 31, 1979. These institutions will be exempt from reporting and reserve maintenance until May 1981, at which time the Board will determine whether a further delay is warranted.

Contemporaneous Reserve Accounting

The Federal Reserve Board is disposed toward returning to contemporaneous reserve accounting, possibly by September 1981, if a further investigation of potential operational difficulties indicates that such a system is practical. Under contemporaneous reserve accounting, the reserve computation and reserve maintenance weeks would coincide. Reserve

[2] Massachusetts, New Hampshire, Connecticut, Rhode Island, Vermont and Maine.

V 45 AG 22 80 UMI

computation would be based on daily opening-of-business balances while reserves maintained would be based on daily close-of-business balances. Among the issues to be studied are the feasibility of such a reserve accounting system for all types of depository institutions, potential complications arising from pass-through arrangements, and the relation to reserve carryover.

Business Day Computation Period

The Board has determined not to adopt a business-day computation period at this time. However, the Federal Reserve Board expects that depository institutions will not engage in reserve avoidance practices under which reserve requirements are lowered by transactions that artificially increase cash items in the process of collection and "due from" deductions. Included among such practices are so-called "week-end Eurodollar arbitrage" transactions and borrowing arrangements involving the receipt of uncollected funds and repayment in collected (or Federal) funds. To ensure compliance, the Federal Reserve will monitor individual institutions and consider the need for implementation of additional measures, including adoption of a business-day reserve computation week.

* * * * *

The following table presents reporting categories that will be required of depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks.

Table

Reporting categories for institutions subject to reserve requirements:

1. Demand deposits to banks.
2. Demand deposits due to other depository institutions.
3. Demand deposits due to the U.S. Government.
4. Other demand deposits (including noninterest-bearing negotiable orders of withdrawal).
5. Savings deposits authorized for automatic transfer (ATS accounts).
6. Savings deposits that permit more than three telephone or preauthorized transfers or payments per calendar month or that permit payments to third parties through automated teller machines, including remote service units.
7. Negotiable order of withdrawal (NOW) accounts; share drafts.
8. Demand deposits due from depository institutions.
9. Cash items in process of collection.
10. Other savings deposits (i.e., all savings deposits other than those included in items 5, 6, or 7 above)—personal.
11. Other savings deposits—nonpersonal.
12. Personal time deposits.
13. Nonpersonal time deposits with original maturities of 14 days or more but less than 4 years.
14. Nonpersonal time deposits with original maturities of 4 years or more.
15. Time deposits of $100,000 or more.
16. Vault cash.
17. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances have remaining maturities of less than 14 days.
18. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more but less than 4 years—personal.
19. Funds received from issuance of obligations by affiliates and from the sale of ineligible bankers' acceptances that have remaining maturities of 14 days or more but less than 4 years—nonpersonal.
20. Borrowings from offices of other depository institutions outside the United States, foreign national governments, and international institutions.
21. Gross balances due to own non-U.S. branches.[1]
22 Gross balances due from own non-U.S. branches.[1]
23. Assets sold to and held by own non-U.S. branches acquired from U.S. offices (including assets that are claims on both U.S. and non-U.S. residents.[1]
24. Credit extended by own non-U.S. branches to U.S. residents.[1]
25 Gross liabilities to the foreign bank (including its offices located outside the United States).[2]
26. Gross claims on the foreign bank (including its offices located outside the United States).[2]
27. Total assets less the sum of United States coin and currency, cash items in process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks and net balances due from the foreign bank and the foreign bank's United States and non-United States offices.[2]
28. Assets sold by a branch or agency to its foreign bank (including its offices located outside the United States) or its foreign parent bank holding company.[2]

Effective November 13, 1980, pursant to the Board's authority under sections 19, 25, and 25(a) of the Federal Reserve Act (12 U.S.C. §§ 461 *et seq.*, 601 *et seq.*, 611 *et seq.*) and section 7 of the International Banking Act of 1978 (12 U.S.C. § 3105), Regulation D (12 CFR Part 204) is revised to read as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

Sec.

204.1 Authority, purpose and scope.
204.2 Definitions.
204.3 Computation and maintenance.
204.4 Transitional adjustments.
204.5 Emergency reserve requirement.
204.6 Supplemental reserve requirement.
204.7 Penalties.
204.8 Reserve requirement ratios.

[1] To be reported only by U.S. depository institutions and Edge and Agreement Corporations.

[2] To be reported only by U.S. branches and agencies of foreign banks.

Authority: Sections 19, 15, 25(a) of the Federal Reserve Act, 12 U.S.C 461, 601, 611; and Section 7 of the International Banking Act of 1978, 12 U.S.C 3105.

§ 204.1 Authority, purpose and scope.

(a) *Authority.* This Part is issued under the authority of section 19 (12 U.S.C. 461 *et seq.*) and other provisions of the Federal Reserve Act and of section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

(b) *Purpose.* This Part relates to reserves that depository institutions are required to maintain for the purpose of facilitating the implementation of monetary policy by the Federal Reserve System.

(c) *Scope.* (1) The following depository institutions are required to maintain reserves in accordance with this Part:

(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(f), (g));

(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and

(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).

(2) Except as may be otherwise provided by the Board, a foreign bank's branch or agency located in the United States is required to comply with the provisions of this Part in the same manner and to the same extent as if the branch or agency were a member bank, if its parent foreign bank (i) has total worldwide consolidated bank assets in excess of $1 billion; or (ii) is controlled by a foreign company or by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1 billion. In addition, any other foreign bank's branch located in the United States that is eligible to apply to become an insured bank under section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is required to maintain reserves in accordance with this Part as a nonmember depository institution.

(3) Except as may be otherwise provided by the Board, an Edge Corporation (12 U.S.C. 611 *et seq.*) or an Agreement Corporation (12 U.S.C. 601 *et seq.*) is required to comply with the provisions of this Part in the same manner and to the same extent as a member bank.

(4) This Part does not apply to any financial institution that (i) is organized solely to do business with other financial institutions; (ii) is owned primarily by the financial institutions with which it does business; and (iii) does not do business with the general public.

(5) The provisions of this Part do not apply to any deposit that is payable only at an office located outside the United States.

§ 204.2 Definitions.

For purposes of this Part, the following definitions apply unless otherwise specified:

(a)(1) *"Deposit"* means:

(i) The unpaid balance of money or its equivalent received or held by a depository institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to an account, including interest credited, or which is evidenced by an instrument on which the depository institution is primarily liable;

(ii) Money received or held by a depository institution, or the credit given for money or its equivalent received or held by the depository institution in the usual course of business for a special or specific purpose, regardless of the legal relationships established thereby, including escrow funds, funds held as security for securities loaned by the depository institution, funds deposited as advance payment on subscriptions to United States government securities, and funds held to meet its acceptances;

(iii) An outstanding draft, cashier's check, money order, or officer's check drawn on the depository institution and issued in the usual course of business for any purpose, including payment for services, dividends, or purchases;

(iv) Any due bill or other liability or undertaking on the part of a depository institution to sell or deliver securities to, or purchase securities for the account of, any customer (including another depository institution), involving either the receipt of funds by the depository institution, regardless of the use of the proceeds, or a debit to an account of the customer before the securities are delivered. A deposit arises thereafter, if after three business days from the date of issuance of the obligation, the depository institution does not deliver the securities purchased or does not fully collateralize its obligation with securities similar to the securities purchased. A security is similar if it is of the same type and if it is of comparable maturity to that purchased by the customer;

(v) Any liability of a depository institution's affiliate that is not a depository institution, on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of less than four years, to the extent that the proceeds are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any such obligation that, had it been issued directly by the depository institution, would not constitute a deposit. If an obligation of an affiliate of a depository institution is regarded as a deposit and is used to purchase assets from the depository institution, the maturity of the deposit is determined by the shorter of the maturity of the obligation issued or the remaining maturity of the assets purchased. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, no reserves need be maintained against the obligation of the affiliate since reserves are required to be maintained against the deposit issued by the depository institution. However, the maturity of the deposit issued to the affiliate shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit;

(vi) Credit balances;

(vii) Any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds, that is issued or undertaken by a depository institution as a means of obtaining funds, except any such obligation that:

(A) Is issued or undertaken and held for the account of:

(*1*) An office located in the United States of another depository institution, foreign bank, Edge or Agreement Corporation, or New York Investment (Article XII) Company;

(*2*) The United States government or an agency thereof; or

(*3*) The Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility;

(B) Arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government or any agency thereof that the depository institution is obligated to repurchase;

(C) Is not insured by a Federal agency, is subordinated to the claims of depositors, has a weighted average maturity of seven years or more, is not subject to Federal interest rate limitations, and is issued by a depository institution with the approval of, or under the rules and regulations of, its primary Federal supervisor;

(D) Arises from a borrowing by a depository institution from a dealer in securities, for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds (commonly referred to as "Federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions; or

(E) Arises from the creation, discount and subsequent sale by a depository institution of its bankers' acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372).

(2) *"Deposit"* does not include:

(i) Trust funds received or held by the depository institution that it keeps properly segregated as trust funds and apart from its general assets or which it deposits in another institution to the credit of itself as trustee or other fiduciary. If trust funds are deposited with the commecial department of the depository institution or otherwise mingled with its general assets, a deposit liability of the institution is created;

(ii) An obligation that represents a conditional, contingent or endorser's liability;

(iii) Obligations, the proceeds of which are not used by the depository institution for purposes of making loans, investments, or maintaining liquid assets such as cash or "due from" depository institutions or other similar purposes. An obligation issued for the purpose of raising funds to purchase business premises, equipment, supplies, or similar assets is not a deposit;

(iv) Accounts payable;

(v) Hypothecated "deposits" created by payments on an installment loan where (A) the amounts received are not used immediately to reduce the unpaid balance due on the loan until the sum of the payments equals the entire amount of loan principal and interest; (B) and where such amounts are irrevocably assigned to the depository institution

and cannot be reached by the borrower or creditors of the borrower;

(vi) Dealer reserve and differential accounts that arise from the financing of dealer installment accounts receivable, and which provide that the dealer may not have access to the funds in the account until the installment loans are repaid, as long as the depository institution is not actually (as distinguished from contingently) obligated to make credit or funds available to the dealer;

(vii) A dividend declared by a depository institution for the period intervening between the date of the declaration of the dividend and the date on which it is paid;

(viii) An obligation representing a "pass through account," as defined in this section;

(ix) An obligation arising from the retention by the depository institution of no more than a 10 per cent interest in a pool of conventional 1–4 family mortgages that are sold to third parties;

(x) An obligation issued to a State or municipal housing authority under a loan-to-lender program involving the issuance of tax exempt bonds and the subsequent lending of the proceeds to the depository institution for housing finance purposes;

(xi) Shares of a credit union held by the National Credit Union Administration or the National Credit Union Administration Central Liquidity Facility under a statutorily authorized assistance program; and

(xii) Any liability of a United States branch or agency of a foreign bank to another United States branch or agency of the same foreign bank, or the liability of the United States office of an Edge Corporation to another United States office of the same Edge Corporation.

(b)(1) *"Demand deposit"* means a deposit that is payable on demand, or a deposit issued with an original maturity or required notice period of less than 14 days, or a deposit representing funds for which the depository institution does not reserve the right to require at least 14 days' written notice of an intended withdrawal. The term includes all deposits other than time and savings deposits. Demand deposits may be in the form of (i) checking accounts; (ii) certified, cashier's and officer's checks (including checks issued by the depository institution in payment of dividends); (iii) traveler's checks and money orders that are primary obligations of the issuing institution; (iv) checks or drafts drawn by, or on behalf of, a non-United States office of a depository institution on an account maintained at any of the institution's United States offices; (v) letters of credit sold for cash or its equivalent; (vi) withheld taxes, withheld insurance and other withheld funds; (vii) time deposits that have matured or time deposits upon which the required notice of withdrawal period has expired and have not been renewed (either by action of the depositor or automatically under the terms of the deposit agreement); and (viii) an obligation to pay on demand or within 14 days a check (or other instrument, device, or arrangement for the transfer of funds) drawn on the depository institution, where the account of the institution's customer already has been debited. The term does not include an obligation that is a time deposit under section 204.2(c)(1)(ii).

(2) A "demand deposit" does not include checks or drafts drawn by the depository institution on the Federal Reserve or on another depository institution.

(c)(1) *"Time deposit"* means (i) a deposit that the depositor does not have a right to withdraw for a period of 14 days or more after the date of deposit. "Time deposit" includes funds:

(A) Payable on a specified date not less than 14 days after the date of deposit;

(B) Payable at the expiration of a specified time not less than 14 days after the date of deposit;

(C) Payable upon written notice which actually is required to be given by the depositor not less than 14 days before the date of repayment;

(D) Such as "Christmas club" accounts and "vacation club" accounts, that are deposited under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than three months even though some of the deposits may be made within 14 days from the end of the period; or

(E) That constitute a "savings deposit" which is not regarded as a "transaction account."

(ii) Borrowings, regardless of maturity, represented by a promissory note, an acknowledgement of advance, or similar obligation described in section 204.2(a)(1)(vii) that is issued to any office located outside the United States of another depository institution or Edge or Agreement Corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR Part 217.3(g)).

(2) A time deposit may be represented by a transferable or nontransferable, or a negotiable or nonnegotiable, certificate, instrument, passbook, statement, or otherwise. A "time deposit" includes share certificates and certificates of indebtedness issued by credit unions, and certificate accounts and notice accounts issued by savings and loan associations.

(d)(1) *"Savings deposit"* means a deposit or account with respect to which the depositor is not required by the deposit contract but may at any time be required by the depository institution to give written notice of an intended withdrawal not less than 14 days before withdrawal is made, and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. A deposit may continue to be classified as a savings deposit even if the depository institution exercises its right to require notice of withdrawal. A "savings deposit" includes a regular share account at a credit union and a regular account at a savings and loan association.

(2) For depository institutions subject to 12 CFR Part 217 or 12 CFR Part 329, funds deposited to the credit of, or in which any beneficial interest is held by, a corporation, association, partnership or other organization operated for profit may be classified as a savings deposit if such funds do not exceed $150,000 per depositor at the depository institution.

(3) "Savings deposit" does not include funds deposited to the credit of the depository institution's own trust department where the funds involved are utilized to cover checks or drafts. Such funds are "transaction accounts."

(e) *"Transaction account"* means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others. "Transaction account" includes:

(1) Demand deposits;

(2) Deposits or accounts subject to check, draft, negotiable order of withdrawal, share draft, or other similar item;

(3) Savings deposits or accounts in which withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to, such accounts (automatic transfer accounts);

(4) Deposits or accounts in which payments may be made to third parties by means of an automated teller machine, remote service unit or other electronic device; and

(5) Deposits or accounts in which payments may be made to third parties by means of a debit card;

(6) Deposits or accounts under the terms of which, or which by practice of the depository institution, the depositor is permitted or authorized to make more than three withdrawals per month for purposes of transferring funds to another account or for making a payment to a third party by means of preauthorized or telephone agreement, order or instruction. An account that permits or authorizes more than three such withdrawals in a calendar month is a "transaction account" whether or not more than three such withdrawals actually are made in a calendar month. A "preauthorized transfer" includes any arrangement by the depository institution to pay a third party from the account of a depositor upon written or oral instruction (including an order received through an automated clearing house (ACH)), or any arrangement by a depository institution to pay a third party from the account of the depositor at a predetermined time or on a fixed schedule. An account is not a "transaction account" by virtue of an arrangement that permits withdrawals for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer).

(f)(1) *"Nonpersonal time deposit"* means:

(i) A time deposit, including a savings deposit, that is not a transaction account, representing funds in which any beneficial interest is held by a depositor which is not a natural person;

(ii) A time deposit, including a savings deposit that is not a transaction account, that represents funds deposited to the credit of a depositor that is not a natural person, other than a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iii) A time deposit that is transferable, except a time deposit originally issued before October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest in the deposit is held by one or more natural persons;

(iv) A time deposit that is transferable, issued on or after October 1, 1980, to and held by one or more natural persons, including a deposit to the credit of a trustee or other fiduciary if the entire beneficial interest is held by one or more natural persons. A time deposit is transferable unless it contains a specific statement on the certificate, instrument, passbook, statement or other form representing the account that it is not transferable. A time deposit that contains a specific statement that it is not transferable is not regarded as transferable even if the following transactions can be effected: a pledge as collateral for a loan; a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment or otherwise by operation of law or a transfer on the books or records of the institution; and

(v) A time deposit represented by a promissory note, an acknowledgement of advance, or a similar obligation described in section 204.2(a)(1)(vii) that is issued to any office located outside the United States of another depository institution or Edge or Agreement Corporation organized under the laws of the United States, to any office located outside the United States of a foreign bank, or to institutions whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR 217.3(g)).

(2) "Nonpersonal time deposit" does not include nontransferable time deposits to the credit of or in which the entire beneficial interest is held by an individual pursuant to an Individual Retirement Account or Keogh (H.R. 10) Plan under 26 U.S.C. (I.R.C. 1954) §§ 408, 401.

(g) *"Natural person"* means an individual or a sole proprietorship. The term does not mean a corporation owned by an individual, a partnership or other association.

(h) *"Eurocurrency liabilities"* means the sum of the following:

(1) *Transactions with related offices outside the United States.*

(i) In the case of a depository institution or an Edge or Agreement Corporation organized under the laws of the United States,

(A) Positive net balances due to its non-United States offices from its United States offices, and

(B) Assets (including participations) held by its non-United States offices or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired from its United States offices.

(ii) In the case of a United States branch and agency of a foreign bank,

(A) Positive net balances due to its foreign bank (including offices thereof located outside the United States) after deducting an amount equal to 8 percent of the following: the United States branch's or agency's total assets less the sum of United States coin and currency, cash items in the process of collection and unposted debits, balances due from domestic banks and other foreign banks, balances due from foreign central banks, and net balances due from its foreign bank and the foreign bank's United States and non-United States offices; however, the amount that may be deducted may not exceed net balances due to the foreign bank (including offices thereof located outside the United States), and

(B) Assets (including participations) held by its foreign bank (including offices thereof located outside the United States) or by its parent holding company that were acquired from the United States branch or agency (other than assets required to be sold by Federal or State supervisory authorities) or from an affiliated Edge or Agreement Corporation.

(2) *Foreign branch credit extended to United States residents.* Credit outstanding from the non-United States office of a depository institution organized under United States law to United States residents (other than assets acquired and net balances due from its United States offices), except credit extended (i) in the aggregate amount of $100,000 or less to any United States resident, (ii) by a non-United States office that at no time during the computation period had credit outstanding to United States residents exceeding $1 million, or (iii) to an institution that will be maintaining reserves on such credit pursuant to this Part. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations is regarded as credit extended to a United States resident unless the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s). This subparagraph does not apply to United States branches and agencies of foreign banks.

(i)(1) *"Cash item in process of collection"* means:

(i) Checks in the process of collection, drawn on a bank or other depository institution that are payable immediately upon presentation in the United States, including checks forwarded to a Federal Reserve Bank in process of collection and checks on hand that will be presented for payment or forwarded for collection on the following business day;

(ii) Government checks drawn on the Treasury of the United States that are in the process of collection; and

(iii) Such other items in the process of collection, that are payable immediately upon presentation in the United States and that are customarily cleared or collected by depository institutions as cash items, including:

(A) Drafts payable through another depository institution;
(B) Redeemed bonds and coupons;
(C) Food coupons and certificates;
(D) Postal and other money orders, and traveler's checks;
(E) Amounts credited to deposit accounts in connection with automated payment arrangements where such credits are made one business day prior to the scheduled payment date to insure that funds are available on the payment date;
(F) Commodity or bill of lading drafts payable immediately upon presentation in the United States;
(G) Returned items and unposted debits; and
(H) Broker security drafts.
(2) "Cash item in process of collection" does not include items handled as noncash collections and credit card sales slips and drafts.
(j) *"Net transaction accounts"* means the total amount of a depository institution's transaction accounts less the deductions allowed under the provisions of § 204.3.
(k)(1) *"Vault cash"* means United States currency and coin owned and held by a depository institution that may, at any time, be used to satisfy depositors' claims.
(2) "Vault cash" includes United States currency and coin in transit to a Federal Reserve Bank or a correspondent depository institution for which the reporting depository institution has not yet received credit, and United States currency and coin in transit from a Federal Reserve Bank or a correspondent depository institution when the reporting depository institution's account at the Federal Reserve or correspondent bank has been charged for such shipment.
(3) Silver and gold coin and other currency and coin whose numismatic or bullion value is substantially in excess of face value is not vault cash for purposes of this Part.
(l) *"Pass through account"* means a balance maintained by a depository institution that is not a member bank, by a U.S. branch or agency of a foreign bank, or by an Edge or Agreement Corporation, (1) in an institution that maintains required reserve balances at a Federal Reserve Bank, (2) in a Federal Home Loan Bank, (3) in the National Credit Union Administration Central Liquidity Facility, or (4) in an institution that has been authorized by the Board to pass through required reserve balances if the institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains the funds in the form of a balance in a Federal Reserve Bank of which it is a member or at which it maintains an account in accordance with rules and regulations of the Board.
(m)(1) *"Depository institution"* means:
(i) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or any bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);
(ii) Any savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813(f), (g));
(iii) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or any credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. § 1761);
(iv) Any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); and
(v) Any insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or any institution which is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).
(2) "Depository institution" does not include international organizations such as the World Bank, the Inter-American Development Bank, and the Asian Development Bank.
(n) *"Member bank"* means a depository institution that is a member of the Federal Reserve System.
(o) *"Foreign bank"* means any bank or other similar institution organized under the laws of any country other than the United States or organized under the laws of Puerto Rico, Guam, American Samoa, the Virgin Islands, or other territory or possession of the United States.
(p) *"De novo depository institution"* means a depository institution that was not engaged in business on July 1, 1979, and is not the successor by merger or consolidation to a depository institution that was engaged in business prior to the date of merger or consolidation.
(q) *"Affiliate"* includes any corporation, association, or other organization:
(1) Of which a depository institution, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 percent of the numbers of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;
(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a depository institution who own or control either a majority of the shares of such depository institution or more than 50 percent of the number of shares voted for the election of directors of such depository institution at the preceding election, or by trustees for the benefit of the shareholders of any such depository institution;
(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one depository institution; or
(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a depository institution or more than 50 percent of the number of shares voted for the election of directors, trustees or other persons exercising similar functions of a depository institution at the preceding election, or controls in any manner the election of a majority of the directors, trustees, or other persons exercising similar functions of a depository institution, or for the benefit of whose shareholders or members all or substantially all the capital stock of a depository institution is held by trustees.
(r) *"United States"* means the States of the United States and the District of Columbia.
(s) *"United States resident"* means (1) any individual residing (at the time of the transaction) in the United States; (2) any corporation, partnership, association or other entity organized in the United States ("domestic corporation"); and (3) any branch or office located in the United States of any entity that is not organized in the United States.

§ 204.3 Computation and maintenance.

(a) *Maintenance of required reserves.* A depository institution, a U.S. branch or agency of a foreign bank, and an Edge or Agreement Corporation shall maintain reserves against its deposits and Eurocurrency liabilities in accordance with the procedures prescribed in this section and § 204.4 and the ratios prescribed in § 204.8. Penalties shall be assessed for deficiencies in required reserves in accordance with the provisions of § 204.7. Every institution holding transaction accounts or nonpersonal time deposits shall file a report of deposits each week with the Federal Reserve Bank of its District (see § 204.3(d) for the special rule for depository institutions with total deposits of less than $5 million) and any other reports that the Board may require by rule, regulation or order. For purposes of this Part, the obligations of

a majority owned (50% or more) U.S. subsidiary (except an Edge or Agreement Corporation) of a depository institution shall be regarded as obligations of the parent depository institution.
(1) *United States branches and agencies of foreign banks.*
(i) A foreign bank's United States branches and agencies operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.
(ii) United States branches and agencies of the same foreign bank shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.8(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same foreign bank until the amount of the tranche or net transaction accounts is exhausted. The foreign bank shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The designation of office(s) to which the low reserve tranche is assigned may be changed at the beginning of a calendar year.
(2) *Edge and Agreement Corporations.*
(i) An Edge or Agreement Corporation's offices operating within the same State and within the same Federal Reserve District shall prepare and file a report of deposits on an aggregated basis.
(ii) An Edge or Agreement Corporation shall, if possible, assign the low reserve tranche on transaction accounts (§ 204.8(a)) to only one office or to a group of offices filing a single aggregated report of deposits. If the low reserve tranche cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche may be assigned to other offices of the same institution until the amount of the tranche or net transaction accounts is exhausted. An Edge or Agreement Corporation shall determine this assignment subject to the restriction that if a portion of the tranche is assigned to an office in a particular State, any unused portion must first be assigned to other offices located within the same State and within the same Federal Reserve District, that is, to other offices included on the same aggregated report of deposits. The designation of office(s) to which the low reserve tranche is assigned may be changed at the beginning of a calendar year.
"(b) *Form of reserves.* Reserves shall be held in the form of (1) vault cash, (2) a balance maintained directly with the Federal Reserve Bank in the District in which it is located, or (3) a pass through account. Reserves held in the form of a pass through account shall be considered to be a balance maintained with the Federal Reserve.
(c) *Computation of required reserves.* Required reserves are computed on the basis of the daily average deposit balances during a seven-day period ending each Wednesday (the "computation period"). Reserve requirements are computed by applying the ratios prescribed in section 204.8 to the classes of deposits and Eurocurrency liabilities of the institution. In determining the reserve balance that is required to be maintained with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding seven-day period (the "maintenance period") which begins on the second Thursday following the end of a given computation period.
(d) *Special rule for depository institutions that have total deposits of less than $5 million.*
(1) A depository institution with total deposits of less than $5 million shall file a report of deposits once each calendar quarter for a seven-day computation period that begins on the third Thursday of a given month during the calendar quarter. Each Reserve Bank shall divide the depository institutions in its District that qualify under this paragraph into three substantially equal groups and assign each group a different month to report during each calendar quarter.
(2) Required reserves are computed on the basis of the depository institution's daily average deposit balances during the seven-day computation period. In determining the reserve balance that a depository institution is required to maintain with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves. The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a corresponding period that begins on the second Thursday following the end of the institution's computation period and ends on the first Wednesday after the close of the institution's next computation period.
(3) A depository institution that has less than $5 million in total deposits as of December 31, 1979, shall qualify under this paragraph until it reports total deposits of $5 million or more for two consecutive calendar quarters.
(4) A depository institution that qualifies under this paragraph may elect at the beginning of a calendar year to report deposits and maintain reserves on a weekly basis.
(5) This paragraph shall not apply to an Edge or Agreement Corporation or a United States branch or agency of a foreign bank.
(e) *Computation of transaction accounts.* Overdrafts in demand deposit or other transaction accounts are not to be treated as negative demand deposits or negative transaction accounts and shall not be netted since overdrafts are properly reflected on an institution's books as assets. However, where a customer maintains multiple transaction accounts with a depository institution, overdrafts in one account pursuant to a *bona fide* cash management arrangement are permitted to be netted against balances in other related transaction accounts for reserve requirement purposes.
(f) *Deductions allowed in computing reserves.*
(1) In determining the reserve balance required under this Part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and Agreement Corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts. However, if a depository institution maintains any transaction accounts that are first authorized under Federal law after April 1, 1980, it may deduct from these balances cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States only to the extent of the proportion that such newly authorized transaction accounts are of the institution's total transaction accounts. The remaining cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States shall be deducted from the

institution's remaining transaction accounts.

(2) United States branches and agencies of a foreign bank may not deduct balances due from another United States branch or agency of the same foreign bank, and United States offices of an Edge or Agreement Corporation may not deduct balances due from another United States office of the same Edge Corporation.

(3) Balances "due from other depository institutions" do not include balances due from Federal Reserve Banks, pass through accounts, or balances (payable in dollars or otherwise) due from banking offices located outside the United States. An institution exercising fiduciary powers may not include in "balances due from other depository institutions" amounts of trust funds deposited with other banks and due to it as a trustee or other fiduciary.

(g) *Availability of cash items as reserves.* Cash items forwarded to a Federal Reserve Bank for collection and credit shall not be counted as part of the reserve balance to be carried with the Federal Reserve until the expiration of the time specified in the appropriate time schedule established under Regulation J, "Collection of Checks and Other Items and Transfers of Funds" (12 CFR Part 210). If a depository institution draws against items before that time, the charge will be made to its reserve account if the balance is sufficient to pay it; any resulting impairment of reserve balances will be subject to the penalties provided by law and by this Part. However, the Federal Reserve Bank may, at its discretion, refuse to permit the withdrawal or other use of credit given in a reserve account for any time for which the Federal Reserve bank has not received payment in actually and finally collected funds.

(h) *Carryover of deficiencies.* Any excess or deficiency in a required reserve balance for any maintenance period that does not exceed 2 percent of institution's required reserves shall be carried forward to the next maintenance period. Any carryover not offset during the next period may not be carried forward to additional periods.

§ 204.4 Transitional adjustments.

The following transitional adjustments for computing Federal reserve requirements shall apply to all member and nonmember depository institutions, except for reserves imposed under §§ 204.5 and 204.6.

(a) *Nonmembers.* Except as provided below, the required reserves of a depository institution that was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date shall be determined by reducing the amount of required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
Nov. 13, 1980 to Sept. 2, 1981	87.5
Sept. 3, 1981 to Sept. 1, 1982	75
Sept. 2, 1982 to Aug. 31, 1983	62.5
Sept. 1, 1983 to Sept. 5, 1984	50
Sept. 6, 1984 to Sept. 4, 1985	37.5
Sept. 5, 1985 to Sept. 3, 1986	25
Sept. 4, 1986 to Sept. 2, 1987	12.5
Sept. 3, 1987 forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980.

(b) *Members and former members.* The required reserves of any depository institution that is a member bank on September 1, 1980, or was a member bank on or after July 1, 1979 and withdrew from membership before March 31, 1980, or withdraws from membership on or after March 31, 1980, shall be determined as follows:

(1) A depository institution whose required reserves are higher using the reserve ratios in effect during a given computation period (§ 204.8(a)) than its required reserves using the reserve ratios in effect on August 31, 1980 (§ 204.8(b)) (without regard to required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980):

(i) Shall maintain the full amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

(ii) Shall reduce the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed under section 204.3 exceeds the amount of required reserves computed using the reserve ratios that were in effect on August 31, 1980 (§ 204.8(b)), times the appropriate percentage specified below in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage applied to difference to compute amount to be subtracted
Nov. 13, 1980 to Sept. 2, 1981	75
Sept. 3, 1981 to Sept. 1, 1982	50
Sept. 2, 1982 to Aug. 31, 1983	25
Sept. 1, 1983 forward	0

(2) A depository institution whose required reserves are lower using the reserve ratios in effect during a given computation period (§ 204.8(a) (than its required reserves computed using the reserve ratios in effect on August 31, 1980 (§ 204.8(b)) (without regard to required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980):

(i) Shall maintain the full amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980; and

(ii) Shall increase the amount of its required reserves on all other deposits computed under section 204.3 by an amount determined by multiplying the amount by which required reserves computed using the reserve ratios that were in effect on August 31, 1980 (§ 204.8(b)), exceeds the amount of required reserves computed under section 204.3, times the appropriate percentage specified below in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage applied to difference to compute amount to be added
Nov. 13, 1980–Sept. 2, 1981	75
Sept. 3, 1981–Mar. 3, 1982	62.5
Mar. 4, Sept. 1, 1982	50
Sept. 2, 1982–Mar. 2, 1983	37.5
Mar. 3–Aug. 31, 1983	25
Sept. 1, 1983–Feb. 29, 1984	12.5
Mar. 1, 1984 forward	0

(c) *Certain nonmembers and branches and agencies of foreign banks.* The required reserves of a nonmember depository institution that was not engaged in business on or before July 1, 1979, but commenced business between July 2, 1979, and September 1, 1980, and any United States branch or agency of a foreign bank with total worldwide consolidated bank assets in excess of $1 billion shall be determined by reducing the amount of its required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
Nov. 13, 1980–Feb. 11, 1981	87.5
Feb. 12–May 13, 1981	75.0
May 14–Aug. 12, 1981	62.5
Aug. 13–Nov. 11, 1981	50.0
Nov. 12, 1981–Feb. 10, 1982	37.5
Feb. 11–May 12, 1982	25.0
May 13–Aug. 11, 1982	12.5
Aug. 12, 1982 forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980. An additional United States branch or agency of a foreign bank operating a branch or agency in the United States as of September 1, 1980, shall be entitled only to the remaining phase-in available to the existing U.S. branch or agency.

(d) *New members.* The required reserves of nonmember depository institution that was engaged in business but was not a member bank during the period between July 1, 1979 and September 1, 1980, inclusive, and which becomes a member of the Federal Reserve System after September 1, 1980, shall be determined under paragraph (a) or (c), as applicable, as if it had remained a nonmember and adding to this amount an amount determined by multiplying the difference between its required reserves computed using the ratios specified in § 204.8(a) and its required reserves computed as if it had remained a nonmember times the percentage specified below in accordance with the following schedule:

Maintenance periods occurring during successive quarters after becoming a member bank	Percentage applied to difference to compute amount to be added
1	12.5
2	25.0
3	37.5
4	50.0
5	62.5
6	75.0
7	87.5
8 and succeeding	100.0

(e) *De novo institutions.* The required reserves of any depository institution that was not engaged in business on September 1, 1980, shall be computed under § 204.3 in accordance with the following schedule:

Maintenance periods occurring during successive quarters after entering into business	Percentage of reserve requirement to be maintained
1	40
2	45
3	50
4	55
5	65
6	75
7	85
8 and succeeding	100

This paragraph shall also apply to a United States branch or agency of a foreign bank if such branch or agency is the foreign bank's first office in the United States. Additional branches or agencies of such a foreign bank shall be entitled only to the remaining phase-in available to the initial office.

(f) *Certain nonmembers chartered under laws of Hawaii.* Any State-chartered depository institution that was engaged in business on August 1, 1978, which was not a member of the Federal Reserve System on that date, and whose principal office was located in Hawaii on and after that date shall not maintain reserves against its deposits imposed under this Part until January 2, 1986. On or after January 2, 1986, the required reserves of such a depository institution shall be determined by reducing the amount of required reserves computed under § 204.3 in accordance with the following schedule:

Maintenance periods occurring between	Percentage that computed reserves will be reduced
Jan. 2 to Dec. 31, 1986	87.5
Jan. 1, 1987 to Jan. 6, 1988	75
Jan. 7, 1988 to Jan. 4, 1989	62.5
Jan. 5, 1989 to Jan. 3, 1990	50
Jan. 4, 1990 to Jan. 2, 1991	37.5
Jan. 3, 1991 to Jan. 1, 1992	25
Jan. 2, 1992 to Jan. 6, 1993	12.5
Jan. 7, 1993 forward	0

(g) *Mergers and consolidations.* The following rules concerning transitional adjustments apply to mergers and consolidations of depository institutions:

(1) *Nonmembers.* Where the surviving institution of a merger or consolidation between nonmember depository institutions that were engaged in business on July 1, 1979, and were not members of the Federal Reserve System on or after that date is a nonmember institution, it shall compute its transitional adjustment of required reserves under paragraph (a), except that the amount of required reserves shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the institutions had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

Reserve maintenance periods occurring during quarterly periods following merger	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

(2) *Member with surviving nonmember.* Where the surviving institution of a merger or consolidation between a nonmember bank and a bank that was a member bank on or after July 1, 1979, is a nonmember bank, it shall apply the transitional rules for member banks in paragraphs (b) or (d), as applicable, on the proportion of its deposits attributable to the absorbed member bank. This proportion will be the ratio that daily average deposits of the absorbed member bank were to the daily average deposits of the combined banks during the reserve computation period immediately preceding the date of the merger. The bank will compute and maintain reserves against the remaining proportion of deposits applying the transitional rules applicable to nonmember depository institutions in paragraphs (a), (c) or (e), as applicable. A ratio of vault cash also will be computed and applied.

(3) *De novo with surviving nonmember.* Where the surviving institution of a merger or consolidation between a depository institution that was engaged in business on July 1, 1979, and was not a member of the Federal Reserve System on or after that date, and a *de novo* depository institution is a nonmember depository institution, it shall compute and maintain reserves applying the transitional rules for *de novo* depository institutions in paragraphs (c) or (e), as applicable, on a proportion of its deposits attributable to the absorbed *de novo* bank. This proportion will be the ratio that daily average deposits of the absorbed *de novo* institution were to the daily average deposits of the combined institutions during the reserve computation period immediately

preceding the date of the merger. The institution will compute and maintain reserves against the remaining proportion of its deposits by applying the transitional rules applicable to nonmember depository institutions in paragraph (a). A ratio of vault cash also will be computed and applied.

(4) *Nonmember with surviving member.* Where the surviving institution of a merger or consolidation between a member bank and a nonmember bank is a member bank, it shall apply the transitional rules under paragraphs (a), (c) or (e), as applicable, only on the amount of deposits of the nonmember bank outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the balance of the deposits of the surviving member bank under paragraphs (b), (d) or (e), as applicable.

(5) *Members.* Where a merger or consolidation involves member banks, required reserves shall be computed and maintained applying the transitional rules in paragraph (b), except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the banks had merged) exceeds the sum of the actual required reserves of each bank during the same computation period times the appropriate percentage as specified in the following schedule:

Reserve maintenance periods occurring during quarterly periods following merger	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

(6) *De novo with surviving member.* Where the surviving institution of a merger or consolidation between a bank that was a member bank at any time between July 1, 1979, and September 1, 1980, or that was engaged in business on July 1, 1979 and became a member after September 1, 1980, and a *de novo* depository institution is a member bank, it shall compute and maintain reserves by applying paragraph (e) only to the amount of deposits of the *de novo* institution outstanding on a daily average basis during the computation period immediately preceding the date of the merger. Reserves will be computed and maintained against the remaining deposits of the surviving member bank under paragraphs (b) or (d), as applicable.

(7) *De novos.* Where a merger involves *de novo* depository institutions, required reserves shall be computed and maintained in accordance with section 204.3, except that the amount of reserves which shall be maintained shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance periods occurring during quarterly periods following merger	Percentage applied compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

§ 204.5 Emergency reserve requirement.

(a) *Finding by Board.* The Board may impose, after consulting with the appropriate committees of Congress, additional reserve requirements on depository institutions at any ratio on any liability upon a finding by at least five members of the Board that extraordinary circumstances require such action.

(b) *Term.* Any action taken under this section shall be valid for a period not exceeding 180 days, and may be extended for further periods of up to 180 days each by affirmative action of at least five members of the Board for each extension.

(c) *Reports to Congress.* The Board shall transmit promptly to Congress a report of any exercise of its authority under this paragraph and the reasons for the exercise of authority.

(d) *Reserve requirements.* At present, there are no emergency reserve requirements imposed under this section.

§ 204.6 Supplemental reserve requirement.

(a) *Finding by Board.* Upon the affirmative vote of at least five members of the Board and after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board may impose a supplemental reserve requirement on every depository institution of not more than 4 percent of its total transaction accounts. A supplemental reserve requirement may be imposed if:

(1) The sole purpose of the requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(2) The requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of basic reserve requirements;

(3) Such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(4) On the date on which supplemental reserve requirements are imposed, the total amount of basic reserve requirements is not less than the amount of reserves that would be required on transaction accounts and nonpersonal time deposits under the initial reserve ratios established by the Monetary Control Act of 1980 (Pub. L. 96-221) in effect on September 1, 1980.

(b) *Term.* (1) If a supplemental reserve requirement has been imposed on for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need for continuing such requirement.

(2) Any supplemental reserve requirement shall terminate at the close of the first 90-day period after the requirement is imposed during which the average amount of supplemental reserves required are less than the amount of reserves which would be required if the ratios in effect on September 1, 1980, were applied.

(c) *Earnings Participation Account.* A depository institutions's supplemental reserve requirement shall be maintained by the Federal Reserve Banks in an Earnings Participation Account. Such balances shall receive earnings to be paid by the Federal Reserve Banks during each calendar quarter at a rate not to exceed the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. Additional rules and regulations maybe prescribed by the Board concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve Banks.

(d) *Report to Congress.* The Board shall transmit promptly to the Congress a report stating the basis for exercising its authority to require a supplemental reserve under this section.

(e) *Reserve requirements.* At present, there are no supplemental reserve requirements imposed under this section.

§ 204.7 Penalties.

(a) *Penalties for Deficiencies.*—(1) *Assessment of Penalties.* Deficiencies in a depository institution's required reserve balance, after application of the 2 per cent carryover provided in § 204.3(f) are subject to penalties. Federal Reserve Banks are authorized to assess penalties for deficiencies in required reserves at a rate of 2 per cent per year above the lowest rate in effect for borrowings from the Federal Reserve Bank on the first day of the calendar month in which the deficiencies occurred. Penalties shall be assessed on the basis of daily average deficiencies during each computation period. Reserve Banks may, as an alternative to levying monetary penalties, after consideration of the circumstances involved, permit a depository institution to eliminate deficiencies in its required reserve balance by maintaining additional reserves during subsequent reserve maintenance periods.

(2) *Waivers.* (i) Reserve Banks may waive the penalty for reserve deficiencies except when the deficiency arises out of a depository institution's gross negligence or conduct that is inconsistent with the principles and purposes of reserve requirements. Each Reserve Bank has adopted guidelines that provide for waivers of small penalties. The guidelines also provide for waiving the penalty once during a two-year period for any deficiency that does not exceed a certain percentage of the depository institution's required reserves. Decisions by Reserve Banks to waive penalties in other situations are based on an evaluation of the circumstances in each individual case and the depository institution's reserve maintenance record. If a depository institution has demonstration a lack of due regard for the proper maintenance of required reserves, the Reserve Bank may decline to exercise the waiver privilege and assess all penalties regardless of amount or reason for the deficiency.

(ii) In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Reserve Bank in the District where the involved depository institution is located shall waive the reserve requirement imposed under this Part for such depository institution when requested by the Federal supervisory authority involved.

(b) *Penalties for Violations.* Violations of this Part may be subject to assessment of civil money penalties by the Board under authority of section 19(1) of the Federal Reserve Act (12 U.S.C § 505) as implemented in 12 CFR Part 263. In addition, the Board and any other Federal financial institution supervisory authority may enforce this Part with respect to depository institutions subject to their jurisdiction under authority conferred by law to undertake cease and desist proceedings.

§ 204.8 Reserve requirement ratios.

(a) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
$0 to $25 million	3 percent of amount.
Over $25 million	$750,000 plus 12 percent of amount over $25 million.
Nonpersonal time deposits:	
By original maturity (or notice period):	
Less than 4 years	3 percent.
4 years or more	0 percent.
Eurocurrency liabilities	3 percent.

(b) *Reserve ratios in effect during last computation period prior to September 1, 1980.*

Category	Reserve requirement
Net Demand Deposits:	
Deposit Tranche:	
$0 to $2 million	7 percent.
Over $2 million to $10 million.	$140,000+9¼ percent of amount over $2 million.
Over $10 million to $100 million.	$900,000+11¾ percent of amount over $10 million.
Over $100 million to $400 million.	$11,475,000+12¾ percent of amount over $100 million.
Over $400 million	$49,725,000+16¼ percent of amount over $400 million.
Savings deposits	3 percent.
Time deposits (subject to 3 percent minimum specified by law):	
By initial maturity:	
Less than 180 days:	
$0 to $5 million	3 percent.
Over $5 million	6 percent.
180 days to 4 years	2½ percent.
4 years or more	1 percent.
Accounts authorized pursuant to Section 303 of Public Law 96-221 offered by member banks located in States outside Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont.	12 percent.
Club accounts	3 percent.

For purposes of computing the reserves under this Part, that would have been required using the reserve ratios that were in effect on August31, 1980, the reserve ratio on time deposits of a member bank shall be the average time deposit ratio of the member bank during the 14-day period ending August 6, 1980, except that the reserve ratio on time deposits of a nonmember bank that was a member bank on or after July 1, 1979, but which became a nonmember bank before March 31, 1980, may be the average time deposit ratio of the nonmember during the 14-day period ending August 27, 1980.

By order of the Board of Governors, August 15, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-25715 Filed 8-21-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 339

Loans in Areas Having Special Flood Hazards; Notice of Revision

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: As part of its regulatory reform program for improving the quality of its regulations, FDIC has revised Part 339 of its regulations. Part 339 relates to the flood insurance protection that is required for certain loans that are secured by improved real estate or mobile homes located in areas having special flood hazards. The revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT:

Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation,

550 17th Street, N.W., Washington, D.C. 20429, (202) 389–4237.

SUPPLEMENTARY INFORMATION: On December 21, 1979 FDIC published for public comment a proposed revision of Part 339. The comment period ended on February 19, 1980. During the comment period six comment letters were received. The majority favored FDIC's efforts to simplify the regulation. However, a number of suggestions were made. Two of the comments suggested that the regulation be eliminated because it is costly for banks to administer and the customers can adequately protect themselves without government intervention. FDIC, however, cannot eliminate the regulation since its requirements are mandated by statute.

Another comment suggested that the sample notices in the regulation be expanded to include a statement regarding the borrower's responsibilities under the statutory mandate so that the responsibilities of both the lender and borrower can be covered on the same form. The sample notices in § 339.6(b) of the regulation provide language which FDIC considers sufficient to satisfy the notice requirements that are imposed on insured State nonmember banks under § 339.6(a). The sample notices were developed and included in the regulation solely for the purpose of assisting the banks in understanding what these specific notices should contain. The banks may, and often do, place the notices on the same form containing statements regarding the borrower's responsibilities. This is a matter that is not restricted by the regulation and within the discretion of the bank.

It was also suggested that the references to the Secretary of Housing and Urban Development be deleted and replaced by references to the Director of the Federal Emergency Management Agency since the latter official has been given the responsibility for the Federal flood insurance program. This correction has been made in the final rule.

Further, it was suggested that FDIC not issue its final revision of Part 339 until after the Federal Emergency Management Agency (FEMA) has completed its new program which will permit lenders to obtain a telephonic determination regarding whether improved real estate or a mobile home is located in a flood hazard area by calling the Federal Insurance Administration Map Information Facility at a toll free number. The suggestion presumes that the new FEMA program will require modifications to FDIC's flood insurance regulation. FDIC has reviewed the program with FEMA and does not believe that the program will require any changes to its regulation. Thus, the issuance of the final revision of Part 339 has not been delayed for the completion of the new telephone program.

In addition to minor editorial changes and the correction noted above regarding the reference to the Secretary of the Department of Housing and Urban Development, the final regulation differs from the proposed regulation as follows:

(1) The words "at least" have been added to the third sentence in the sample customer notice under § 339.6(b)(1) so that it reads: "This area has at least a 1 percent chance of being flooded within any given year." The new language makes it clear that the designated area can have more than a 1 percent chance of flooding at the time of the loan.

(2) The words "for the property" have been added after the words "Federal disaster relief assistance" in the third sentence of § 339.6(b)(2)(ii) to clearly indicate that the statement regarding the availability of Federal disaster relief assistance relates only to the property securing the loan.

(3) A clarifying footnote has been added to § 339.3.

The revised Part 339 will not have any adverse impact on insured banks since it merely simplifies the structure of existing provisions and does not impose any new requirements. Further, the revision will not affect the competitive status of the banks. Accordingly, a cost/benefit analysis (including a small bank impact statement) regarding the changes was not prepared.

The revised Part 339 does not reflect a flexible regulatory approach that distinguishes between small and large bank requirements because the provisions of the part are not amenable to such an approach. All of the requirements in the part are specifically mandated by statute except the procedural requirements in § 339.6(a)(2). The § 339.6(a)(2) requirements were designed to insure that borrowers would receive the required notices in a timely manner. They are considered to be appropriate for customers of both large and small banks.

Accordingly, under Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), the FDIC Board of Directors revises Part 339 as stated below:

PART 399—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Sec.
339.1 Authority and scope.
339.2 Definitions.
339.3 Requirement to purchase flood insurance.
339.4 Exemption.
339.5 Records of compliance.
339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

Authority: Secs. 102(b) and 202(b), Pub. L. 93–234, 87 Stat. 978, 982 as amended by Secs. 704(a) and 703(a), Pub. L. 95–128, 91 Stat. 1145 (42 U.S.C. §§ 4012a (b), 4106(b)); Sec. 1364, Pub. L. 93–383, 88 Stat. 739 (42 U.S.C. § 4104a).

§ 339.1 Authority and scope.

This Part is issued under section 1364 of the Housing and Community Development Act of 1974 and sections 102(b) and 202(b) of the Flood Disaster Protection Act of 1973 as amended by section 703 of the Housing and Community Development Act of 1977. Its provisions apply to loans which are secured by improved real estate or mobile homes and are made by insured State nonmember banks or insured State branches of foreign banks.

§ 339.2 Definitions.

(a) The term "bank" means an insured State nonmember bank and an insured State branch of a foreign bank.

(b) The term "loan" means an extension of credit secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director of the Federal Emergency Management Agency as an area having special flood hazards.

§ 339.3 Requirement to purchase flood insurance.

No bank shall make, increase, extend, or renew any loan as defined in § 339.2(b) when the improved real estate or mobile home securing the loan is located or is to be located in an area in which flood insurance has been made available under the National Flood Insurance Act of 1968,[1] unless the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance. The amount of the insurance must be at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available for the particular type of property under the Act, whichever is less.

§ 339.4 Exemption.

Flood insurance shall not be required on any State-owned property that is covered under an adequate policy of self-insurance satisfactory to the Director of the Federal Emergency Management Agency who will publish and periodically revise the list of States

[1] Flood insurance is available to a community when the community is participating in the National Flood Insurance Program.

falling within the exemption provided by this section.

§ 339.5 Records of compliance.

Each bank shall maintain for all extensions of credit secured by improved real estate or a mobile home sufficient records to indicate the method used by the bank to determine whether the extensions of credit fall within the provisions of § 339.3 or § 339.4 of this part.

§ 339.6 Notice of special flood hazard and of the availability of Federal disaster relief assistance.

(a) *Notice Requirement.* In making, increasing, extending, or renewing a loan as defined in Section 339.2(b), each bank shall mail or deliver a written notice to the borrower stating: (1) that the property securing the loan is or will be located in an area identified as a flood hazard area (or in lieu of such notification, the bank may obtain satisfactory written assurance from the seller or lessor that the seller or lessor has notified the borrower, before the execution of any agreement for sale or lease, that the property securing the loan is or will be located in such an area); and (2) whether Federal disaster relief assistance will be available for the property if the property is damaged by a flood in a federally declared disaster. The notice must be mailed or delivered as soon as feasible but not later than 10 days before the closing of the transaction (or not later than the bank's commitment if any, if the period between commitment and closing is less than 10 days). Each bank shall require the borrower, before closing, to provide the bank with a written acknowledgment that the borrower realizes the property securing the loan is or will be located in an area identified as a flood hazard area and that the borrower has received the required notice regarding Federal disaster relief assistance.

(b) *Sample Notices.* A bank providing written notice containing language substantially similar to that presented below, as appropriate, within the time limits prescribed in paragraph (a) will be considered to be in compliance with the notice requirements of paragraph (a).

(1) *Notice to Borrower of Special Flood Hazard Area.* Notice is hereby given to ———— (Name of borrower) that the improved real estate or mobile home described in the attached instrument is or will be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area. This area is delineated on ———— (Name of Community) Flood Insurance Rate Map (FIRM) or, if the FIRM is unavailable, on the Flood Hazard Boundary Map (FHBM). The area has at least a 1 percent chance of being flooded within any given year. The risk of exceeding the 1 percent chance increases with time periods longer than one year. For example, during the life of a 30-year mortgage, a structure located in a special flood hazard area has a 26 percent chance of being flooded.

(2) *Notice to Borrower about Federal Disaster Relief Assistance.—(i) Notice in participating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is now participating in the National Flood Insurance Program. If the property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance may be available. However, such assistance will be unavailable if your community has been identified as a flood-prone area for one year or longer and is not participating in the National Flood Insurance Program when the assistance is approved. This assistance, usually in the form of a loan with a favorable interest rate, may be available for damages incurred in excess of your flood insurance.

(ii) *Notice in nonparticipating communities.* The improved real estate or mobile home securing your loan is or will be located in a community that is not participating in the National Flood Insurance Program. This means that the property is not eligible for Federal flood insurance. If the property is damaged by flooding in a federally declared disaster, Federal disaster relief assistance for the property will be unavailable if your community has been identified as a flood-prone area for one year or longer. Such assistance may be available only if, at the time the assistance would be approved, your community is participating in the National Flood Insurance Program or has been identified as a flood-prone area for less than one year.

By Order of the Board of Directors, August 18, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80–25553 Filed 8–21–80; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 80–488]

Federal Savings and Loan Associations; Service Corporation Investment Authority

August 15, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: Pursuant to title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980, the Board has amended its regulations to authorize Federally-chartered savings and loan associations to invest up to three percent of association assets in service corporations. An association investing in service corporations to the full extent permitted must allocate one percent of assets to investments that serve primarily community, inner-city or community development purposes.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone number: (202) 377–6445.

SUPPLEMENTARY INFORMATION: On April 3, 1980, the Federal Home Loan Bank Board, by Resolution No. 80–233 (45 FR 24178) proposed amendments to its regulations pertaining to investment in service corporations by Federal associations. The public comment period ended on May 9, 1980, with receipt of approximately 75 comment letters from savings and loan associations, service corporations, trade associations and others. The comments generally supported the proposed amendments, although many recommended modification or clarification of one or more of the provisions. After reviewing the comments received and other available information, the Board has decided to adopt the proposed amendments with modifications, as described below.

Increased Investment Authority

Section 401 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (the "Act"), Pub. L. No. 96–221, 94 Stat. 132, amends section 5(c)(4)(B) of the Home Owners' Loan Act of 1933, as amended, to provide Federally-chartered savings and loan associations with authority to invest up to three percent of assets in the capital stock, obligations or other securities of service corporations. Section 401 further

subsidiaries, whether or not the

banks in corporate bonds and consumer

"Activities engaged in" include

requires that one-half of the aggregate outstanding investment in excess of the current one percent limitation shall be used primarily for community, inner-city and community development purposes. This provision requires that a Federal association investing in service corporations to the full extent permitted must allocate one percent of assets to investments that serve community development purposes.

The Board's proposed implementing regulation would have required that one-half of any investment in excess of one percent of assets be allocated to programs that serve community, inner-city and community development purposes. Several commenters expressed concern regarding the restrictive character of the proposed formula for increased investment, and pointed out the difficulty in operating under the formula. These commenters questioned whether conditioning the use of any of the increased general investment authority on allocation to community development programs was consistent with the legislative purpose in increasing service corporation investment. In addition, commenters pointed out the difficulty of specifically "matching" community development and other projects for each service corporation investment in excess of one percent of assets.

Service corporations of Federal associations typically are organized to engage in activities in which the association may not engage directly. Such activities often earn a yield on investment in excess of that which may be earned on the usual investments of a Federal association. Increased investment authority in service corporations gives greater flexibility to Federal associations to diversify their asset portfolios and increase earnings. Upon consideration, the Board believes that a requirement of matching community development and other service corporation investments may result in associations foregoing use of their increased service corporation investment authority because matching investments might not be available. In addition, matching presents administrative problems for an institution exercising this new authority by requiring coordination of the timing, size and term of service corporation activities funded by an investment. This may be particularly difficult in the case of service corporations owned by more than one savings and loan association.

In order to facilitate the use of the increased investment authority provided by section 401, the Board has modified the proposal to provide for investment in the capital stock, obligations or other securities of service corporations under § 545.9–1 in an amount not to exceed two percent of assets, and an additional investment of one percent of assets where such investment serves primarily community, inner city or community development purposes.

In order to facilitate supervision through the examination process of the use of the additional one percent investment authority for community development purposes, the Board has required an association with service corporation investments in excess of two percent of assets to designate qualifying investments. However, the Board desires to encourage community development investments by permitting such investments to be counted in either the one or two percent investment categories and to be moved from one category to the other at the association's option.

Investment for Community, Inner-City and Community Development Purposes

In the proposal, the Board stated its belief that investments qualifying as serving community, inner-city, and community development purposes should be directed substantially at programs for development, preservation and revitalization of low- and moderate-income areas, both urban and rural. The Board cited investment approved for Community Investment Fund advances or which meet the criteria enumerated in the Board's Community Reinvestment Act regulations (12 CFR 563e.7) as examples of qualifying investments. The Board specifically solicited comments regarding what types of investments should qualify or what standards should be applied to determine whether an investment qualifies.

Almost every comment received suggested types of qualifying investments or standards for determining whether an investment would qualify for community development purposes. These suggestions varied greatly. However, most comments urged the Board to construe the community development requirement broadly. Such an approach is supported in the legislative direction that one-half of the increased investment authority be used "primarily" for community development purposes and would permit flexibility in addressing the varying needs of different communities across the nation.

In order to encourage use of the authority to invest in community development projects and to permit flexibility in selecting qualified investments, the Board has decided to adopt broad standards to determine whether an investment qualifies as having a community development purpose. These include investments in governmentally sponsored programs for housing, small farms or businesses that are local in character; investments for the preservation or revitalization of either urban or rural communities; and investments designed to meet the community development needs of and primarily benefit low- and moderate-income communities. In addition, the Board has authorized its Principal Supervisory Agent, i.e. the president of the Federal Home Loan Bank of which the Federal association investing in the service corporation is a member, to qualify investments on a case-by-case basis.

Other Comments

Several commenters urged the Board to preapprove new types of investment authority for service corporations of Federal associations; one commenter urged the Board to limit rather than increase the amount and scope of the service corporation investment authority. The Board's proposal was limited to implementation of a statutory increase in the amount of investment by Federal associations in service corporations, and consideration of expansion or limitation of the scope of activities of service corporations is not being considered at this time.

The Board finds that a 30-day delay of effective date under 5 U.S.C. 553(d) and 12 CFR 508.14 with regard to these amendments is unnecessary because the amendments implement a statute and relieve a restriction.

Accordingly, the Federal Home Loan Bank Board hereby amends § 545.9–1(d)(1) of the Rules and Regulations for the Federal Savings and Loan System to read as follows:

PART 545—OPERATIONS

§ 545.9–1 Service corporations.

* * * * *

(d) *Amount of investment.* (1) An association may invest under this section in the capital stock, obligations, or other securities of service corporations, *provided,* that its aggregate outstanding investment does not exceed 3 percent of assets, and any investment in excess of 2 percent of assets serves primarily community, inner-city or community development purposes. The investment limitations of this paragraph shall include all loans, secured and unsecured, and all guarantees or takeout commitments of such loans, to service corporations or any subsidiaries thereof, and to joint ventures of such service corporations or

subsidiaries, whether or not the association is a stockholder therein. An association with an aggregate outstanding investment in excess of 2 percent of assets shall designate investments that serve primarily community, inner-city or community development purposes, which shall include the following:

(i) Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing, small farms, or businesses that are local in character;

(ii) Investments for the preservation or revitalization of either urban or rural communities;

(iii) Investments designed to meet the community development needs of, and primarily benefit, low- and moderate-income communities; or

(iv) Other community, inner city or community development-related investments approved by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this Chapter).

* * * * *

(Sec. 401, Pub. L. No. 96–221; sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 C.F.R., 1943–48, Comp. p. 1071).

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80–25714 Filed 8–21–80; 8:45 am]

BILLING CODE 6720–01–M

---

12 CFR Parts 563 and 578

[No. 80–489]

Amendments Relating to Federal Mutual Savings Banks

Dated: August 15, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Temporary final regulations.

SUMMARY: The Federal Home Loan Bank Board adopts regulations on a temporary basis to implement changes to the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464), regarding Federal mutual savings banks. Comments are invited on the amendments through October 15, 1980. The regulations will be reconsidered by the Board and either modified or adopted permanently on the basis of comments received and experience with the temporary regulations.

The amendments (1) authorize a 5 percent leeway authority and corporate demand deposit account authority for Federal mutual savings banks; (2) reconcile inconsistent investment limitations for Federal mutual savings banks in corporate bonds and consumer loans as provided in the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. No. 95–630, 92 Stat. 3641), and the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96–221, 94 Stat. 132); (3) define terms and conditions relating to the Board's authority to grandfather a mutual savings bank's activities and investments; and (4) add a technical revision to the Board's reserve account regulation to include types of investments typically held by mutual savings banks.

DATES: Effective date August 21, 1980. Comments are invited on the amendments through October 15, 1980.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Lois G. Jacobs, Office of General Counsel, at the above address. Telephone No. (202) 377–6456.

SUPPLEMENTARY INFORMATION: Title XII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRA") amended the Home Owners' Loan Act ("HOLA") (12 U.S.C. § 1464) to authorize the Federal Home Loan Bank Board to grant Federal charters to existing state-chartered mutual savings banks ("MSBs") and to provide for their examination, operation, and regulation. On June 14, 1979, by Board Resolution No. 79–325 (44 FR 36013; June 20, 1979), the Board adopted regulations implementing title XII at 12 CFR 575 *et seq.*

At this time, the Board has decided to make temporary amendments to those regulations to define terms and further describe the conditions pertaining to grandfathered activities and investments, as provided by FIRA and 12 CFR 578.2. FIRA states that a Federal mutual savings bank may, "* * * to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date * * *" (12 U.S.C. § 1464(a)), and the current regulation incorporates similar language. In the amended regulation, "activity" is defined in order to clarify that it includes acceptance of deposit accounts, non-deposit services, and any consistent pattern of investment activity, except those investments subject to the 5-year average ratio investment limitation set forth at 12 CFR 578.2(d).

"Activities engaged in" include activities that MSBs were performing on December 31, 1977; had performed before and after December 31, 1977, although temporarily suspended on that date; and had committed to perform on that date. Commitment to perform an activity may be shown by any board of trustees action which approved: a binding contract to perform an activity, a commitment of either financial or personnel resources to the development of an activity, a budget which includes a contemplated activity, or a resolution evidencing a decision to engage in an activity.

For purposes of this regulation, an "investment" is defined as a security or other property purchased or otherwise acquired for income or profit, and an "investment held" also includes an investment that an MSB had acquired the right to hold on December 31, 1977, through binding contract or specific court order.

Section 578.2 is also amended to allow a Federal mutual savings bank to retain any investment it held at the time of filing the conversion application, if such investment is not prohibited by the National Housing Act (12 U.S.C. § 1724 *et seq.*). The Board believes that it may properly grandfather any specific investments held by a converting MSB if such investments are not prohibited by statute for institutions insured by the Federal Savings and Loan Insurance Corporation.

The Board has added two conditions to the grandfathering section that indicate when the Board will use its prerogative to modify those activities and investments that otherwise might be grandfathered. The Board will not grandfather any activity or investment which prevents a strong orientation toward mortgage financing and community development or is detrimental to an MSB's safety and soundness. The Board believes these conditions are necessary to fulfill the Congressional mandate regarding continued home financing by mutual savings banks.

The Board has also amended the grandfathering section to reconcile apparently inconsistent investment limitations for corporate bonds and consumer loans in FIRA and the Depository Institutions Deregulation and Monetary Control Act of 1980 ("Deregulation Act"). Under FIRA, the equity, corporate bond, and consumer loan investments held by a Federal mutual savings bank may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of a

conversion application. The

amended to state that unless specified

the ACNWI should include all

(2) *Asset Composition and Net Worth*

on December 31, 1977, (ii) performed

§ 578.2–1 Commercial, corporate and

conversion application. The Deregulation Act authorizes all Federal associations to invest up to 20 percent of their assets in consumer loans, commercial paper, and corporate debt securities. Federal mutual savings banks are associations under the HOLA and are authorized to make investments permitted associations under the HOLA.

Based on analysis of the legislative history of FIRA, the Board believes that the two statutes may be reasonably reconciled by providing authority for a Federal mutual savings bank to invest in corporate bonds and consumer loans according to their five-year average or the 20 percent limit for Federal associations, whichever is greater. Therefore, the Board has amended this section as follows:

(1) the equity investment held by a mutual savings bank shall not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application.

(2) If, when an MSB files a conversion application, its combined five-year average ratio investment in corporate bonds and consumer loans exceeds 20 percent, then its combined investment ratio shall not exceed its five-year average ratio.

(3) If, when an MSB files a conversion application, its combined five-year average ratio investment in corporate bonds and consumer loans is less than 20 percent, then the total amount of its combined investment ratio in corporate bonds, consumer loans, and any commercial paper investments that are not grandfathered under 12 CFR 578.2(b), shall not exceed 20 percent.

The Board will also be considering limitations on commercial paper investments by Federal MSBs in cases where: (1) an MSB has no grandfathered authority to invest in commercial paper and its combined consumer loan/corporate debt average exceeds 20 percent, and (2) an MSB with grandfathered authority to invest in commercial paper chooses to take advantage of commercial paper investment authority under Board regulations promulgated under Sec. 5(c)(2)(B) of the HOLA. With regard to this issue, the Board may require such limitations on a case-by-case basis in connection with applications filed before permanent regulations are adopted, but may propose a general rule on this subject in the near future.

The Board believes that the existing regulations may not adequately reflect the Board's view that Federal mutual savings banks should continue to operate as mutual savings banks. With that view in mind, 12 CFR 578.4 is amended to state that unless specified otherwise by Board resolution, a Federal mutual savings bank may continue to follow applicable state laws and regulations in effect on December 31, 1977, for all types of activities and investments grandfathered under 12 CFR 578.2 (b)(2) and (b)(3).

Section 408 of the Deregulation Act provides new authority for Federal mutual savings banks to invest up to 5 percent of assets in corporate, business, and commercial loans, so long as the loan is made within 75 miles of the home office or within the state where the MSB is located Part 575 is amended to add a new section implementing this authority. Excluded from this new section are real estate loans, consumer loans, and participation interests in such loans. The Board will consider a loan made: (1) where the main office, corporate headquarters, or regional office of the borrower is located; (2) where the loan proceeds are to be primarily used; or (3) if the loan is for the purchase of mobile equipment, where such equipment is primarily used, maintained, or stored. The Board believes that these definitions give proper scope to the 75-mile limitation. Since a Federal MSB will be subject to the Board's Insurance of Accounts Regulations, loans made under this section will be subject to the limitations regarding loans to one borrower contained in § 563.9–3 of such regulations.

Section 408 also allows a Federal mutual savings bank to accept demand deposits in connection with a commercial, corporate, or business loan relationship. The Board believes that such deposits may be accepted in connection with any such loan, as defined in new § 578.2–1(a), not just those made under the 5 percent leeway authority. The Board is concerned, however, that these loans represent true business transactions, and has defined a loan relationship to include (1) any outstanding loan, (2) the establishment of a line of credit, and (3) a consistent pattern of lending between an MSB and a business evidencing a legitimate lending relationship between the MSB and the business entity.

The Board is also amending the existing Asset Composition and Net Worth Index ("ACNWI") to include three components—business loans, common stock, and corporate bonds—that are typically held by mutual savings banks. The Board is adding these components at this time even though it has proposed to eliminate the ACNWI. (See Board Resolution No. 80–445, dated July 24, 1980, and published on July 31, 1980 at 45 FR 50797.) The Board believes the ACNWI should include all appropriate assets as long as it does exist.

The Board also has determined to revise its admission fee for those institutions obtaining insurance from the Federal Savings and Loan Insurance Corporation. Effective August 21, 1980, the existing fee of 3/100 of one percent of saving capital, or a minimum of $300, is no longer in effect. The new admission fee is 2/1000 (.002) of one percent of savings capital, or a minimum fee of $1,000. The Board believes that this schedule better reflects the costs to the Board of processing insurance applications. For all applications in process in the Federal Home Loan Bank System or at the Board before August 21, 1980, applicants will be charged the lower of the two fees.

The Board believes it is in the public interest to adopt these amendments on a temporary final basis without delay so that it may begin to process existing mutual savings bank applications and gain experience in this area and, therefore, finds that notice and public procedure with respect to such amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. § 553(b); the Board also finds that publication of the amendments for the 30-day period specified in 12 CFR 508.12 and 5 U.S.C. § 553(d) prior to the effective date is unnecessary for the same reason.

The Board will reconsider these temporary regulations promptly in the light of comment received on them and experience with them, and accordingly either modify them or adopt them on a permanent basis.

Accordingly, the Board, on a temporary basis, hereby (1) amends § 563.13 (12 CFR 563.13) of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation, and (2) amends §§ 578.1, 578.2, and 578.4 (12 CFR 578.1, 578.2 and 578.4) of the Rules and Regulations for Federal Mutual Savings Banks, and adds new §§ 578.2–1 and 578.2–2 (12 CFR 578.2–1 and 578.2–2) thereto, to read as set forth below.

SUBCHAPTER D—RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

PART 563—OPERATIONS

1. Amend § 563.13 by revising the entry entitled "Other Assets" in subparagraph (b)(3)(i) to read as follows:

§ 563.13 Reserve accounts.

* * * * *

(b) *Net worth requirements.*

* * * * *

(3) *Asset Composition and Net Worth Index.* (i) * * *

Asset category	Minimum net worth percentage
* * * * *	
Other assets:	
Furniture, fixtures, and equipment	10
Investment in service corporations and subsidiaries	5
Corporate bonds	3
Business loans	7
Common stock	20
All other (except excluded assets)	3

* * * * *

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 578—OPERATIONS

2. Revise § 578.1 to read as follows:

§ 578.1 General.

(a) Except as otherwise provided in this Subchapter or by specific Board resolution, or except to the extent otherwise inconsistent with this Subchapter or with the Act, as determined by the Board's Office of General Counsel, a Federal mutual savings bank shall be subject to the Rules and Regulations for Federal Savings and Loan Associations (Part 541 *et seq.* of this chapter), the Rules and Regulations for Insurance of Accounts (Part 561 *et seq.* of this Chapter) and as a member of a Federal Home Loan Bank, to the Regulations for the Federal Home Loan Bank System (Part 521 *et seq.* of this Chapter), all as now in effect or as hereinafter amended.

(b) References in the Federal rules and regulations to associations with a Charter K (Rev.) or Charter N, other than § 545.4, shall be deemed as also referring to Federal mutual savings banks with a Charter B. In addition, the trustees of each mutual savings bank shall be subject to all of the above rules and regulations that pertain to directors of Federal savings and loan associations just as if they were directors.

3. Revise 12 CFR 578.2 to read as follows:

§ 578.2 Investments and activities.

(a) *Definitions.* For purposes of this section: (1) "Activity" includes acceptance of deposit accounts, non-deposit services, and any consistent pattern of investment activity, except for those investments subject to the five-year average ratio in paragraph (d) of this section.

(2) "Activities engaged in" include activities that banks (i) were performing on December 31, 1977, (ii) performed before and after December 31, 1977, although temporarily suspended on that date, and (iii) had committed to perform on that date. Commitment to perform an activity may be shown by board of trustees action approving: (*a*) a binding contract to perform an activity; (*b*) a commitment of either financial or personnel resources to the development of an activity; (*c*) a budget which includes a contemplated activity; or (*d*) a resolution evidencing a decision to engage in an activity.

(3) An "investment" is a security or other property purchased or otherwise acquired for income or profit.

(4) "Investment held" includes any investment actually held or one that a bank had acquired the right to hold by binding contract or specific court order on December 31, 1977.

(b) *General.* A bank may, to the extent authorized by the Board, (1) retain any investment it held at the time of filing the conversion application if such investment were not prohibited by statute for institutions insured by the Federal Savings and Loan Insurance Corporation on that date; (2) continue to carry on any activities it was engaged in on December 31, 1977, as a State-chartered savings bank, and (3) continue to hold and make any investment of a type it held on December 31, 1977.

(c) *Conditions.* A bank shall not engage in any activity or retain or make any investment which (1) prevents the bank from a strong orientation toward mortgage financing and community development, or (2) is detrimental to its safety and soundness.

(d) *Equity, corporate bonds, and consumer loans.* (1) The equity investments held by a bank shall not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application. (2) If, when a bank files a conversion application, the combined average ratio of its investments in corporate bonds and consumer loans for the five-year period immediately preceding the filing exceeds 20 percent, then the combined corporate bond and consumer loan investments shall not exceed such average. (3) If, when a bank files a conversion application, the combined average of its investments in corporate bonds and consumer loans for the five-year period immediately preceding the filing is less than 20 percent, then the total of such investments plus investments in commercial paper not grandfathered under paragraph (b) of this section shall not exceed 20 percent.

4. Add new §§ 578.2–1 and 578.2–2, to read as follows:

§ 578.2–1 Commercial, corporate, and business loans.

(a) *Definition.* For purposes of this section, a commercial, corporate, or business loan is any loan other than (1) a real estate loan (2) a loan to a natural person for personal, family, or household use, or (3) a participation interest in such loans.

(b) *General.* In addition to other provisions of this Chapter, a bank may invest up to 5 percent of its assets in commercial, corporate, and business loans.

(c) *Geographic limitation.* (1) Loans under this section must be made within the state where the bank is located or within 75 miles of the bank's home office. (2) A loan shall be deemed made: (i) where the main office, corporate headquarters, or regional office of the borrower is located; or (ii) where the loan proceeds are to be primarily used; or (iii) if the loan is for the purchase of mobile equipment, where such equipment is primarily used, maintained, or stored.

§ 578.2–2 Demand deposits.

(a) A bank may accept demand deposits in connection with a commercial, corporate, or business loan relationship, as defined in § 578.2–1(a) of this Part.

(b) A loan relationship includes (1) any outstanding loan, (2) the establishment of a line of credit, and (3) a consistent pattern of lending between a bank and a business evidencing a legitimate lending relationship between the bank and the business.

5. Revise § 578.4 to read as follows:

§ 578.4 Applicability of State laws and regulations.

(a) *Lending discrimination.* Banks permitted to convert to Federal charter will be subject, as enforced and supervised by the Board, to the requirements of State laws (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, pertaining to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area, or to the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*), if the Board determines that the State law imposes more stringent requirements than Federal law and regulations.

(b) *Grandfathered investments and activities.* Unless otherwise provided by the Board, a bank may continue to follow applicable State laws and regulations in effect on December 31, 1977, for all types of activities and

V 45 AG 2 22 80 0 UMI

investments grandfathered under § 578.2 (b)(2) and (b)(3) of this Part until such time as the Board may amend this Part to provide rules regarding those activities and investments.

(Sec. 5, 48 Stat. 132, as amended by title IV, § 408, Pub. L. 96–221, 94 Stat. 160 (12 U.S.C. 1464); Secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-25564 Filed 8-21-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3032]

Beneficial Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Wilmington, Del. firm and Beneficial Management Corp. of Morristown, N.J. to cease, in connection with the extension of consumer credit and purchase of consumer contracts, from misrepresenting the effect of state laws and consumer's right to assert against contract holder any claim or defense arising from the contract. The order further bars respondents from using past notice to defeat any valid consumer claim and requires them to notify all active account consumers who received the notice that their claims and defenses have not been waived.

DATES: Complaint and order issued August 5, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174, (206) 442–4655.

SUPPLEMENTARY INFORMATION: On Tuesday, May 13, 1980, there was published in the **Federal Register**, 45 FR 31416, a proposed consent agreement with analysis In the Matter of Beneficial Corporation, a Corporation, and Beneficial Management Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records. Subpart-Misrepresenting Oneself and Goods-Business Status, Advantages Or Connections: § 13.1370 Business methods, policies, and practices; § 13.1417 Financing activities.—Goods: § 13.1675 Law or legal requirements.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25475 Filed 8-21-80; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271, 273, 274

[Docket No. RM79-76; Order No. 99]

Regulations Covering High-Cost Natural Gas Produced From Tight Formations

August 15, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Federal Energy Regulatory Commission pursuant to sections 107 (b) and (c) of the NGPA hereby adopts regulations that establish an incentive maximum lawful price ceiling for certain natural gas produced from tight formations. The regulations also provide guidelines for formally designating tight formations and for determining which wells drilled into such formations will qualify for the incentive price.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT:

June G. Perin, Office of the General Counsel, 825 North Capitol Street, NE., Room 8100–D, Washington, D.C. 20426, (202) 357–8473.

Colette Bohatch, Office of the General Counsel, 825 North Capitol Street, NE., Room 8100–B, Washington, D.C. 20426, (202) 357–8140.

Webster Gray, Division of NGPA Compliance, Office of Pipeline and Producer Regulation, 825 North Capitol Street, NE., Room 6000, Washington, D.C. 20426, (202) 357–8682.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) firmly supports the national policy to encourage production of natural gas from unconventional sources that can be put into production only at extraordinary risk or cost. One such source of gas is a fairly common geological feature known as a "tight formation" or "tight sand" that is described in detail below. By the final regulations promulgated in this order the Commission establishes an incentive price ceiling for certain natural gas produced from tight formations.

This rule implements the Congressional authorization to the Commission in section 107(b) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3317), to set a "special price" which is "necessary to provide reasonable incentives for the production of * * * high-cost natural gas." In exercising this authority, the Commission has been concerned that any section 107 special price provide an incentive during the period before the NGPA deregulation beginning in 1985. The key question addressed by the Commission in this rulemaking is what incentive price best meets the statutory standard of a "necessary" incentive during the transitional period between issuance of this rule and 1985.

In addition to specifying an incentive price, the regulations also provide guidelines for formally designating tight formations and for determining which wells drilled into such formations will qualify for the incentive price. Under the rule, most new wells and recompleted wells producing from designated tight formations will be eligible for the incentive price.

II. Background

A "tight formation" is a sedimentary layer of rock cemented together in a manner that greatly hinders the flow of any gas through the rock.[1] Because such

[1] One commenter was concerned that the Commission referred to "tight sands" in the preamble of the inerim rule. Any use or reference to "sands" in the interim rule or in this rule does not have the effect of limiting the applicability of the

Footnotes continued on next page

a formation is characterized by low permeability, wells drilled into gas-bearing formations of this kind usually produce at very low rates.

To stimulate production from these formations, producers must use expensive enhanced recovery techniques. The technique usually applied to tight formations involves massive hydraulic fracturing, which creates a system of cracks permitting trapped gas to flow more easily into a wellbore.

It is estimated that between 200 and 700 trillion cubic feet (Tcf) of natural gas is trapped in tight formations within the United States. Depending upon the applicable price incentive, it is estimated that the gas recoverable in tight formation might equal the amount of proven domestic conventional gas reserves.

The estimated amount of tight formation gas includes formations that are presently being developed as well as formations that are known but undeveloped. This rule will provide an incentive price for production of gas produced from several types of drilling programs: (1) Infill wells drilled into certain developed tight formations; (2) recompletion of wells that are already producing from formations vertically situated in relationship to the designated tight formations; and (3) new wells drilled and completed in undeveloped tight formations. Most of the first gas to be produced from tight formations under this incentive program is likely to be gas produced through recompleted wells. Some of these wells can be brought into production without any additional drilling by completing existing wells in tight formations.

The Commission issued a Notice of Inquiry (Docket No. RM79–44, 44 FR 34969, June 18, 1979) regarding high-cost gas. The public response to the notice generally recommended that tight formation gas be considered for qualification as a high-cost gas. President Carter, in his energy address to the nation on July 16, 1979, also urged the Commission to set a price incentive for tight formation gas.

A Notice of Proposed Rulemaking was issued by the Commission on August 29, 1979 (Docket No. RM79–76, 44 FR 52255, September 7, 1979), proposing an incentive price ceiling for tight formation gas. Public hearings were held in Washington, D.C. on September 24th and in Denver, Colorado, on September 27th. Numerous written comments were received. The Commission encouraged State agencies that would be affected by these regulations to participate in the rulemaking process.

Interim regulations were developed from the proposed regulations taking into account the suggestions submitted during the public proceedings. The interim regulations were issued on February 20, 1980, along with newly proposed regulations for recompletion tight formation gas. The Commission requested comments on both the interim regulations and the proposed regulations.

The Commission has been persuaded by the final series of comments to adjust upward the incentive price ceiling for new tight formation gas, to incorporate an incentive price ceiling for recompletion tight formation gas, and to refine further the designation and well category determination procedures of the interim rule.

III. Summary of the Rule

A. Price

These regulations establish an incentive price ceiling for new and recompletion tight formation gas produced from designated tight formations (see § 271.703(b) (2) and (3)). The maximum lawful price for both categories is the effective negotiated contract price (see § 271.703(a)) between the buyer and seller or 200 percent of the maximum lawful price for section 103 gas, whichever is lower.

B. Negotiated Contract Price Requirement

The incentive price established in this rule is only a ceiling price. Once gas is found to qualify as new or recompletion tight formation gas, the seller can collect a price higher than the otherwise applicable maximum lawful price up to the ceiling if the contract contains an effective negotiated contract price.

As defined in § 271.702 of this rule an effective negotiated contract price is one that either is established by reference to the incentive pricing authority of the Commission under section 107 of the NGPA or is established by a fixed rate or fixed escalator clause, *i.e.* a clause that changes the price for the gas by a specified amount on a specified date.

C. Designation of Tight Formations

As provided in the interim rule, the price incentives in the final rule are available only for gas produced from tight formations that are designated in accordance with the procedures set forth in the rule. The designation procedure begins with the jurisdictional agency. The jurisdictional agency will establish procedures and conduct investigations to identify tight formations that meet the guidelines set forth in § 271.703(c). The jurisdictional agency will then recommend to the Commission that specific formations or portions thereof be designated as tight formations.

The guidelines for identifying tight formations contain standards regarding permeability, gas productivity, and production of associated oil. In addition, if infill drilling had been approved for the formation prior to the date of recommendation, the guidelines require an exclusion for any portions of the formation for which an incentive price is not warranted.

1. *Permeability Standard.* The Commission has established a permeability limit of 0.1 millidarcy. Pursuant to this limitation the average permeability throughout the "pay" or gas-producing section of the recommended formation may not exceed 0.1 millidarcy. If the formation does not meet the 0.1 millidarcy permeability standard, the jurisdictional agency may still recommend the formation under the alternative guideline contained in § 271.703(c)(2)(ii). Under this guideline, the jurisdictional agency must make an adequate showing that the formation exhibits low permeability characteristics and must find that, due to extraordinary costs, the incentive price is necessary for production.

2. *Gas Productivity Standard.* The guidelines also impose a gas productivity standard. According to this standard production expected from the recommended formation, without stimulation, may not exceed a certain rate. The standard applicable to a given formation depends upon the average depth from the surface location to the top of the formation. The cost of drilling and completing gas wells increases exponentially with the depth of the well, so deeper wells must produce more to be economical. We have provided this productivity scale to allow a greater production rate for the deeper, more expensive wells.

3. *Associated Oil Productivity Standard.* A well in a designated tight formation may not be expected to produce more than five barrels of crude oil per day. The definition of crude oil includes only hydrocarbons that exist in the liquid phase in underground reservoirs and remain liquid at atmospheric pressure after passing through surface separating facilities. The five-barrel limit has been imposed because the value of oil in greater quantities should, by itself, provide the necessary incentive for the development

Footnotes continued from last page

rule to "tight sands." The rule makes the incentive price available for all gas produced from qualifying tight formations.

of the formation, obviating the need for

IV. Comment Analysis

being a decrease in the nation's total

of the formation, obviating the need for additional incentives.

4. *Infill Drilling Standard.* A guideline has been added in § 271.703(c)(2)(i)(D) concerning infill drilling that was authorized prior to the date of recommendation. Under this guideline the jurisdictional agency should exclude that portion of the formation it determines can be developed without the incentive price.

D. Recommendation and Designation of Tight Formations

Section 271.703(c)(3) of the rule also provides that a jurisdictional agency's recommendation must be accompanied by engineering, geological, geographic, and other information identifying the characteristics of the formation. Upon receipt of a recommendation the Commission will publish it in the **Federal Register**, will accept written comments on the recommendation, and will provide an opportunity for public hearing. After the comments have been reviewed, the Commission will prescribe a rule approving, disapproving, or modifying the recommendation. No modification will be made until the jurisdictional agency has been consulted. If the formation is approved, the Commission will list the qualifying formation in new § 271.703(d) of the regulations.

E. Well Determinations

Once a recommended formation has been approved by the Commission, a well category determination can be made regarding the eligibility of the gas as either new tight formation gas or recompletion tight formation gas. To qualify for one of these categories, the gas must meet the definitional criteria set forth in the definitions of new or recompletion tight formation gas in § 271.703(b) (2) and (3), respectively.

Section 274.205 of the rule also provides two sets of filing requirements for well determinations: one for new tight formation gas and the other for recompletion tight formation gas. In the case of new gas, the requirements are designed to elicit the following information: first, whether such gas has been produced from a designated tight formation; second, whether the surface drilling of the well was begun on or after July 16, 1979; and third, whether the gas qualifies as new natural gas or is produced through a new onshore production well. In the case of recompletion gas, the application must show that the gas is produced from a designated tight formation through a well which was not completed for production from the designated tight formation before July 16, 1979.

IV. Comment Analysis

A. Price

Under § 271.702 of the interim rule, an incentive price ceiling of 150 percent of the section 103 price was available for "new tight formation gas," defined in § 271.703 as gas: (1) Which is new natural gas, or gas produced through a new onshore production well;

(2) Which is produced from a designated tight formation through a well the surface drilling of which began on or after July 16, 1979; and

(3) For the first sale of which a negotiated contract price is effective.

At the time the interim rule issued, the Commission proposed the following definition for tight formation gas produced through recompleted wells: (c) "Recompletion tight formation gas" is natural gas: (1) Which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979, if such well was not completed for production from such formation before July 16, 1979; and

(2) For the first sale of which a negotiated contract price is effective.

and proposed a maximum price as follows: (2) *Recompletion tight formation gas.* The maximum lawful price, per MMBtu, for recompletion tight formation gas shall be the lesser of: (i) The negotiated contract price; or

(ii) The maximum lawful price specified for the Subpart C of Part 271 in Table I of § 271.101(a) [section 103].

In this final rule, the Commission has increased the interim ceiling price for new tight formation gas and has also made the incentive price applicable to recompletion tight formation gas. Modifications to the above-quoted definitions were made and are described in a separate discussion below.

The ceiling price for new tight formation gas provided in the interim rule was considered by the Commission to be a substantial incentive at 150 percent of the section 103 price.[2] However, the Commission was open to suggestions recommending a higher incentive price but requested that such recommendations be supported by data.

The Commission's reluctance to adopt a higher price also reflected a concern that a higher price might create perverse incentives, that is, manpower and material resources would be shifted from the production of other types of gas to less productive but higher priced tight formation gas with the consequence being a decrease in the nation's total production of natural gas. Because the interim record was punctuated with legal and practical questions, the Commission set a moderate interim price and invited further comment and submission of information on the need for a higher price.

The next round of comments submitted in response to the interim rule presented for the most part conclusions unsubstantiated with data or empirical information, even though the Commission strongly urged that such supporting information be submitted on the price issue. The Commission particularly requested that additional information be submitted to enable it to make the requisite statutory findings that a higher incentive price is "necessary to provide reasonable incentives." Despite this appeal, most of the commenters asserted without substantiating information that a higher price is necessary and that the price should be indexed to a commodity value of gas.

Commenters can be divided into three groups. Some suggested a commodity value based upon the marginal value of gas supplies such as imported gas. Others suggested a Btu-equivalent price based upon oil products with which gas would compete. The third but smaller group of commenters supported prices in line with the interim price.

Comments filed on behalf of several members of the U.S. Senate, producers, and governmental agencies supported a Btu-equivalent price for new tight formation gas. Some suggested using decontrolled domestic oil, while others suggested imported oil. Utilizing an oil price as an index would probably require a ceiling price around 250 percent of the section 103 price as of August, 1980.

Others suggested pricing new tight formation gas at the border price of imported Mexican or Canadian gas, which is approximately 200 percent of the section 103 price as of August, 1980.

Numerous arguments were offered in support of the higher incentive price. Several commenters argued that production costs for gas from tight formations are approximately twice as high as production costs from conventional formations. The greater cost of tight formation production, they contended, is attributable to the massive hydraulic fracturing that is required to enable gas to flow at a producible rate to a wellbore.

Commenters stated that gas production from tight formations is also accompanied by a slow rate of production that extends the payback period to approximately twice what

[2] Regarding incentive prices, the Conference Report stated that the price need not be cost-justified. H. Rep. No. 95-1752, 95th Cong., 2d Sess., 88 (1978).

would be expected for a conventional well. The commenters contended that together, the increased costs and the extended payback period require the price of tight formation gas to be approximately four times greater than the price for conventional gas in order to provide an incentive for the development and production of tight formation gas.

A commodity price was further supported by the commenters' argument that tight formation reserves can be added to the nation's total gas reserve potential only if investment dollars are attracted to tight formation development. If the incentive price is high enough, investment dollars will be attracted to the development of tight formation gas reserves. The anticipated return on capital investment in a tight formation will be compared, however, to other investment opportunities. The commenters argued that energy investment dollars will not flow to tight formation development if the price for such gas is not, at least, comparable to the free market value of the gas.

Commenters argued that the statute permits a commodity value price if that price is necessary to provide reasonable incentives for production of high-cost gas. They also emphasize that the Conference Report suggests that the price need not be cost-based or require cost justification.[3] They argued that a cost comparison between tight formation drilling and conventional drilling indicates that tight formation gas must be priced at least twice as high as conventional gas to provide an incentive that exceeds the cost basis. It is asserted by these commenters that the Commission is free to boost the incentive to reflect a commodity value price for this gas if the Commission finds that the price will provide reasonable incentives.

Several Senators further argued that this statutory interpretation is supported by the legislative history. The House Ad Hoc Committee of Energy stated that the incentive price is extended to provide the "fullest practicable development" of our gas reserves.[4] This can be accomplished by extending a commodity value price so as to make development of tight formations competitive with other energy sources. In this way, tight formations can successfully compete with other energy sources for investment dollars.

The interim price was supported by Northwest Pipeline, the Public Service Commission of New York, and Southern California Gas Company. Texas Oil and Gas Company suggested a variation of the interim price, *i.e.* 150 percent of the otherwise applicable maximum lawful price, either the section 103 or 102 price. Professor Dorfman from the University of Texas and the Interstate Oil Compact Commission suggested a graduated price based on the depth of a well. Under this last approach a shallow well would qualify for a price approximately at the interim price but a deep well would qualify for a higher price approaching the Btu-equivalent price of oil.

Some commenters maintained that a higher price would result in a windfall to producers and not necessarily result in increased production from tight formations. They shared the concern about perverse incentives expressed by the Commission in the interim rule, that even if increased production from tight formations occurred, drilling rigs would be diverted from conventional wells to tight formations. They argued that because the drilling rig industry would be unable to meet the increase in the total demand for new rigs there would be less activity in other, more productive formations. Their conclusion was that the nation's total gas production would decline because of the shift of investment dollars and drilling activity from conventional sources to tight formations that have lower rates of productivity.

Commenters further argued that actual delivery of gas produced from tight formations would be deferred because of a lack of pipeline capacity to handle increased production from many tight formations.

On statutory grounds, these commenters argued that price treatment under section 107 does not warrant a Btu-equivalent or a commodity-value price. Indexing the price of tight formation gas to a commodity value effectively deregulates the price because the suggested commodities, imported oil, domestic decontrolled oil, and imported Canadian or Mexican gas, are free of price controls.

In support of this argument, the commenters stated that Congress' explicit deregulation of certain categories of gas, including for example high-cost gas, section 107(c) (1) through (4), did not mean that other categories can or should be deregulated. Although the Commission was given discretion over determination of additional categories of high-cost gas under section 107(c)(5) and establishment of a ceiling price for these additional categories under section 107(b), they contended that the Commission does not have the authority to deregulate the price of such gas.

After these comments were received, the Commission held a hearing on June 10, 1980, to discuss the commenters' suggestions regarding the interim rule. This meeting provided an opportunity for a frank exchange between interested parties and the Commission regarding, among other issues, the price issue. Since the majority of participants at this hearing urged a price higher than the interim price, the discussion centered around the economic basis for a higher price and the policy that would be furthered by a higher price.

V. Price Analysis

The Commission is in a unique position in implementing section 107. Congress established a pricing scheme in Title I of the NGPA and mandated prices which it believed provided appropriate incentives for all categories of gas, except for categories of high-cost gas under section 107(c)(5). Thus, in sharp contrast to other categories of gas under the NGPA, Congress left unanswered the question of what incentive price should be set for high-cost gas and granted to the Commission the discretionary authority to establish the appropriate incentive price.

In establishing prices for high-cost gas, the Commission must be sensitive not to undermine Congress' overall pricing scheme. Section 107(c)(5) prices must not create perverse incentives but must be in harmony with the overall Congressional scheme.

In addition, the Commission must balance the competing interests of suppliers and consumers. On the supply side, gas producers must make long term resource commitments for the development of tight formations. It is in the nation's interest that they view development of tight formation gas as an attractive investment. The higher the incentive price, the more attractive it will be to develop this resource. The price should provide an incentive for producers to begin such development now. Absent this additional incentive, some producers may decide to defer production efforts until decontrol, which begins in 1985. On the other hand, consumers should not be required to pay a price higher than the otherwise applicable NGPA price unless there is a reasonable basis for assuming that a higher price is necessary and will result in an increased supply of gas.

Keeping in mind the needs of producers and consumers, the focus of our pricing inquiry is to determine the necessary incentive for the transition period between now and 1985. It is our intention to establish a price that will

[3] H. Rep. No. 95-1752, 95th Cong. 2d Sess., 88 (1978).

[4] H. Rep. No. 95-543 (Vol. I), 95 Cong., 1st Sess, 46 (1977).

stimulate production of gas from tight formations during the transition period.

The Commission has developed and applied two different approaches in determining the necessary and appropriate incentive price for this transition period. One approach is value-related, while the other is cost-related. The value-related approach attempts to index the price of tight formation gas to that of other energy forms. The cost-related approach looks instead to the costs and risks associated with tight formation gas production. Taken together, the two approaches define a range of reasonableness for the incentive price which would seem to be fully consistent with the statutory mandate.

A. Value-Related Price Approach

Congress, in enacting the NGPA, stated that natural gas prices should no longer be set on a utility-type, cost-based approach as had been the practice under the Natural Gas Act (NGA). In connection with this change from cost-based prices to incentive prices, Congress realized that the NGA prices discouraged producers from producing expensive, unconventional resources. The incentive prices established by Congress are not based upon a strict commodity-value concept because the NGPA price ceilings do not explicitly track any alternative fuel price. But it seems that the Congress intended a pricing scheme that related incentive prices to the price of competing fuels rather than just to the cost of producing gas.

Many commenters who urged a commodity-value approach for tight formation gas would have the Commission adopt an incentive price tied explicitly to the price of some other fuel. The fuels most commonly suggested were crude oil and fuel oil. These commenters concluded, on the basis of current prices, that the price for tight formation gas should be $6.00 or more.

The commodity value of gas is tied to end-user costs of competing or alternative fuels. The value of each additional unit of gas to the end user will depend upon the alternative fuel capability of that user. Over the near term (0–5 years), additional or "marginal" gas supplies will tend to be used in industrial or electric utility applications. For these uses, the principal competing fuel will be No. 6 (residual) or No. 2 (distillate) fuel oil. Few, if any, of these applications can be served by burning unrefined crude oil. So the appropriate basis for measuring the end-use market value of tight formation gas is fuel oil. Therefore, the Commission believes that a properly designed commodity-value approach must utilize fuel oil rather than crude oil as the point of reference.

The appropriate maximum lawful first sale (wellhead) price of tight formation gas can be derived using this approach by subtracting from the end-use market value of fuel oil the average cost of moving gas from wellhead to industrial and utility customers. It should be apparent that the comments of those who recommended a wellhead price for tight formation gas based on Btu equivalence with imported crude oil do not present a logically consistent model. The Commission cannot adopt the suggestion to derive the first sale price ceiling of tight formation gas by reference to the price of imported fuel oil. There can be no assurance that these two prices would result in comparable values at the point of end use, which is the best transactional point for measuring value of fuel because no further value is added to the fuel when it is burned.

Having established that the preferred method of implementing a commodity-value approach is by reference to the price of fuel oil, the Commission must next decide which grade of fuel oil is most appropriate. Because the Commission seeks to establish a favorable incentive for tight formation gas, it has chosen to use No. 2 fuel oil, which is generally the more expensive.

The most recently available Btu-equivalent price based on the delivered price for No. 2 fuel oil to electric utility facilities was $5.78[5] effective April, 1980 as reported by the Energy Information Agency (EIA).[6] Prices of No. 6 residual fuel oil were lower by $2.00 or more.

Using this Btu-equivalent delivered price, the imputed value of tight formation gas at the wellhead can be obtained by subtracting the average cost of transporting gas from the wellhead to the user. Transportation costs will vary depending primarily upon the distance of the industrial or utility user from the tight formation source. However, referring to the EIA's *Monthly Energy Review* for March, 1980, the average transportation and distribution costs for gas appear to be roughly $1.00 for industrial and utility customers. Reducing the Btu-equivalent delivered price, $5.78, by this $1.00 average transportation cost results in a "net back" wellhead value of equal to $4.78 for marginal supplies of gas. As measured by this method, we believe a price of around $4.78 reflects the upper bound on the wellhead value of gas to the economy for additional domestic production as defined by the commodity-value or the Btu-equivalent approach using No. 2 fuel oil as an index.[7] This price is sharply lower than the $6.00 price advocated by proponents of a simple imported crude oil equivalent price for tight formation gas.

Another commodity-value approach that the Commission considers to be of merit would relate the maximum lawful price for tight formation gas to the price of imported gas rather than to fuel oil. At present, the border price for Canadian and Mexican gas is $4.47.

B. Cost-Related Approaches

A "necessary" price within the meaning of the statute must at a minimum cover reasonable production costs and provide a reasonable profit. While the Commission need not establish a cost-justified price, estimates regarding the costs of production do provide one vital source of information for judging the adequacy of an incentive price. The Commission has considered two cost-related approaches, a supply-response approach, and a relative-costs approach that compares costs of tight formation production to the costs of other NGPA production.

1. *Supply-Response Approach.* At the time this rulemaking was initiated, the National Petroleum Council (NPC) had begun an extensive study of the resource base and production potential of domestic gas reserves in undeveloped tight formations.[8] The Commission has analyzed the NPC data to estimate

[5] In quoting prices throughout the discussion of the price analysis, the Commission eliminated in most instances references to unit measures, of Mcf (thousand cubit feet) and MMBtu (million British thermal units). For the purpose of this discussion, the terms are interchangeable because an average Mcf contains approximately one MMBtu.

[6] The Energy Information Agency publishes monthly a report entitled Energy Data Report, FPC Form No. 423.

[7] The extensive record on incremental pricing developed in connection with the Commission's Title II implementation activities forcefully suggests that high sulfur residual fuel oil should be used to define a commodity value. However, because the Btu-equivalent price for No. 6 oil is now in the range of $2.50 to $3.75 even before subtracting $1.00 of transportation charges, the Commission is of the opinion that despite the logic and strong record linking the gas produced from tight formations to residual fuel oil, indexing the prices for tight formation gas to this fuel would not provide adequate incentive.

[8] The National Petroleum Council is a Federal advisory committee to the Secretary of Energy. The sole purpose of the NPC is to advise, inform, and make recommendations to the Secretary of Energy on any matter requested by the Secretary relating to petroleum or the petroleum industry. The Commission encouraged its staff to contact the NPC regarding an exchange of information which the NPC has collected on this topic.

potential supply responses to price increases.[9]

The available NPC data indicate that prices higher than the otherwise applicable maximum lawful prices under sections 102 or 103 of the NGPA will produce increases in supply. A significant supply response occurs in the $3.50–$4.00 price range. Beyond this range, however, additional increases in price produced smaller increases in supply. Analysis of the NPC data also indicates that beyond the $3.50–$4.00 price range, the effective cost of the additional supply response may be as high at $7.54. Therefore, the NPC data would support a price of $4.00 on the basis of economically efficient increases in supply.[10]

2. *Relative-Incentive Approach.* A second cost-related approach would relate the ceiling price for tight formation gas to the prices Congress established in the NGPA to provide incentives for developing conventional gas. The measure of a necessary price for high-cost gas under this approach would be derived from consideration of the relative cost, yield, and risk of production from tight formations as compared with conventional gas production.

Relative Cost. Several commenters argued without providing substantiating data that the average total cost of drilling and completing a tight formation well is roughly twice as great as the cost of bringing a comparably deep conventional well into production. This is because the cost of fracturing can be as great as the cost of drilling a well. All other things being equal, this means that a producer will require an incentive price at least twice as high for tight formation production as for conventional production in order for the expected financial return from the two production categories to be equal.

Clearly, this two-fold ratio will not hold for every tight formation well. Some production has a sufficiently low relative cost that it enjoys a positive incentive relative to current conventional development opportunities even at existing NGPA prices. But, on the average, if the relative cost of tight formation drilling is higher, then logic implies that such gas should be afforded a relatively high incentive price for production from this source to be a comparably attractive investment.

Relative Yields. A second prong of this approach is to examine the relative yields of tight formation wells compared to conventional wells. This is more difficult to analyze because upon fracturing, the production rate of a tight formation well may be comparable to or even exceed production from a conventional well during its first year or two. After that point in time, however, production usually falls off dramatically and continues at a relatively low rate for 15 to 20 years or more. In contrast, production rates of conventional wells tend to be relatively high for a period typically between 5 to 7 years, but then drop off dramatically. In that 5 to 7 year period a conventional well typically will have produced as much gas as the tight formation well will produce over its 15 to 20 year life.

Commenters argued that the discounted present value of the revenues expected from tight formation wells tends to be much lower than the discounted present value of the revenues expected from wells drilled in conventional formations. However, it is difficult to define and to quantify "typical" production profiles for tight formation wells and conventional wells, making it impossible to consider lower yields, by themselves, a basis for a higher tight formation gas incentive price.

Relative Risks. The third step in determining a price using the relative incentive approach is to examine relative risks of production. Section 107(c)(5) refers to production "under such conditions as the Commission determines to present extraordinary *risks* or costs" (emphasis added). The record identifies two types of risks involved in tight formation gas production. One is the normal drilling risk of failing to find a gas bearing formation. The second risk especially pertinent to tight formation development is that of a partially or totally unsuccessful fracturing job. This second element of risk exposure provides a basis for arguing that tight formation production is more risky than conventional gas production. Neither the record nor staff's analysis has yielded an acceptable quantitative estimate of the extent to which the risk exposure of tight formation drilling exceeds conventional activities.

In summary, a "necessary" price can be viewed as the price necessary to create an equal or positive relative incentive as compared with the NGPA incentive for typical conventional drilling. Other NGPA categories, especially sections 102 and 103, provide a new incentive environment to producers. The premise underlying the relative incentive approach is that the price under section 107(c)(5) must be necessary to create a "reasonable" incentive in comparison with other NGPA categories. The record indicates that the Commission can reasonably determine that the combined factors of risk, cost, and yield warrant a relative incentive price for tight formation gas that is at least twice as high as would otherwise be available under Title I (generally the NGPA section 103 or 102 price). This two-fold ratio would indicate a current price of about $4.50 in the case of section 103 (development) wells and about $5.00 in the case of section 102 (new gas).

C. Conclusion—Price Issue

Applied collectively to the information gathered on the record in this proceeding, the value-related and cost-related approaches yield a $3.50–$5.00 zone of prices that can be considered reasonably necessary to create an incentive for tight formation gas production.

As a basis for narrowing this range, the Commission acknowledges that the cost of producing tight formation gas will vary considerably among formations and among specific drilling projects. Virtually any incentive ceiling price that the Commission establishes for tight formation gas will provide a more than ample return on some wells and an insufficient return on other wells. Indeed, the same can be said of the present NGPA ceiling prices for which new tight formation production would otherwise qualify. If the Commission chooses the low end of the $3.50 to $5.00 range, its action would tend to minimize any unnecessary windfalls associated with this rulemaking. On the other hand, a low price will operate to discourage producers from drilling more difficult formations and could retard the development of costly, but promising, fracturing and recovery techniques.

The Commission seeks to resolve this difficult issue in favor of providing as great a production incentive as can be supported by both cost-related and commodity-value concepts. From the standpoint of energy policy, economic policy, and environmental policy, enhanced production of natural gas is in the nation's interest. On the basis of these policy considerations, the Commission rejects the low end of the $3.50 to $5.00 range because it seeks to create a truly favorable drilling

[9] A subsidiary problem is to estimate the time pattern of response. To know that eventually the response to a price of X dollars will be Y Tcf's is of only limited assistance if the price of X dollars will be in effect for only a few years and then a different and deregulated price will apply.

[10] Commission staff noted that the NPC estimates were based on certain assumptions regarding the availability of capital, manpower, equipment, and pipeline capacity. Staff believes that the NPC assumptions were somewhat optimistic and that these factors will actually restrain the supply-response. However, staff was not able to quantify the effect these factors would have on the supply response and therefore did not account for them in their supply-response analysis.

environment for tight formation

The commenters generally justified their

will negotiate with a pipeline for

grounds and urged that it be deleted.

tight formations yet to be developed. It

bargain for increased production of tight

environment for tight formation producers.

On the other hand, the Commission rejects the high end of the price range (above $4.78) on the ground that such prices are not supported by assessments of the commodity value of marginal gas supplies. In seeking to provide a high price, but one capable of being supported by both commodity-related and cost-related concepts, the Commission is drawn to the $4.50 to $4.78 range.

A final policy consideration for selecting a specific ceiling price for tight formation gas focuses on the price of imported natural gas, the fuel most likely to be directly displaced by increased tight formation production. On policy grounds, a strong argument can be made that domestic producers of high-cost gas should be permitted to receive at least the $4.47 border price paid by U.S. pipelines for imported gas.

The Commission hereby adopts a price ceiling for tight formation gas at 200 percent of the NGPA section 103 price. For the month of August, 1980, the maximum price is $4.548. Future tight formation gas prices will escalate each month as the section 103 price escalates. For September and October, 1980, the maximum price of tight formation gas will be $4.586 and $4.624, respectively. Maximum prices for subsequent months will be included in the Commission's quarterly ceiling price publications.

A final point of emphasis on the issue of prices for tight formation gas is that the Commission by this rule is establishing ceiling prices only. A producer of tight formation gas does not have authority to charge these ceiling prices unless the producer has the requisite contractual authority. If the contract entered by the producer and the purchaser includes a negotiated contract price as described in this rule, the producer can collect the contract price even if it exceeds the otherwise applicable NGPA price, but the producer cannot collect a price which exceeds the ceiling price established by this rule. The concept of negotiated contract price is discussed more extensively below.

D. Recompletion Tight Formation Gas

At the time the interim rule was issued, the Commission proposed establishing an incentive price for gas produced from existing wells which were not completed for production in a designated tight formation before July 16, 1979. The proposed incentive price for such gas was the section 103 price.

Most commenters agreed that gas produced from recompleted wells should qualify for an incentive on par with the price afforded new tight formation gas. The commenters generally justified their recommendation on the basis that costs of producing from a recompleted well are comparable to costs of producing from a new well (even though drilling costs are lower or are not incurred at all) because a producer would still incur the completion costs that represent a significant portion of the cost of production from a tight formation.

Another factor that argues in favor of an increased incentive price is that recompletion gas is the most readily accessible tight formation gas. The Commission's goal is to encourage producers to employ the most cost efficient and least time consuming programs for recovering tight formation gas. A price discrepancy between new gas and recompletion gas may cause producers to embark upon new well drilling programs with a lag time up to 3 years from inception to delivery in order to receive the higher incentive price for new gas rather than institute more cost-efficient recompletion programs.

To encourage producers to bring tight formation gas into production as soon as possible, the Commission is, therefore, establishing the same incentive price for both categories of gas. The maximum lawful price for recompletion tight formation gas under the final rule is 200 percent of the section 103 price.

E. Other Considerations

The price set in the interim rule at 150 percent of the section 103 price was significantly grounded on a concern that a higher price would create perverse incentives that could result in less, rather than more gas supply on a national basis. A key concern was the predicted inability of the drilling rig industry to meet the increased demand for rigs to drill in tight formations while meeting the demand for rigs for other conventional formations. The NPC study has concluded and has convinced the Commission that the drilling rig industry has the capability to respond to likely increased demand that may result from this rule. If recompletion tight formation gas is the first to be placed into production, we believe this rule, in the short run, will place a smaller demand on the drilling rig industry than originally predicted.

Similarly, we find the arguments that have been raised regarding the adequacy of currently available pipeline capacity near tight formations to be a minor matter. Customarily, arrangements regarding transportation are made in advance of gas production. In the case of tight formation development, such large capital investments must be committed that it is reasonable to assume that a producer will negotiate with a pipeline for capacity long before the gas begins to flow. We believe that pipelines will make every effort to provide transportation capacity to satisfy the needs of the production industry.

A third concern, not ascribed to by many commenters, is the potential inadequacy of capital to invest in tight formation development. We cannot predict how much capital will be available in the future for tight formation development. It is reasonable however to expect that a good investment will attract capital regardless of the economic environment. If tight formation gas is priced appropriately high, such development will successfully compete for investment capital.

F. Negotiated Contract Price

The negotiated contract price requirement appeared in the interim rule definition of "new tight formation gas" and the proposed definition of "recompletion tight formation gas." The negotiated contract price requirement was also reflected in the maximum lawful prices for new and recompletion tight formation gas.

The interim definitions of "negotiated contract price" and "fixed rate or fixed escalator clause" have been adopted in the final rule. Thus, as defined in § 271.702(a)(1) the term "negotiated contract price" means any price established by a contract which either references the incentive pricing authority of the Commission under section 107 of the NGPA or contains a fixed rate or fixed escalator clause. Fixed rate or fixed escalator clause defined in § 271.702(a)(2) means a provision in a contract for the first sale of natural gas which changes the price for gas by a specified amount on a specified date.

In the interim rule, the Commission stated that negotiated contract requirement was added to insure that the incentive maximum lawful price is extended as an *incentive* for the production of additional new tight formation gas, rather than as a windfall to the sellers. The same rationale would apply to recompleted tight formation gas. The Commission noted that contracts which do not presently contain a negotiated contract price may be amended to permit collection of the incentive price. In addition the Commission clarified that the negotiated contract price requirement in no way constitutes an interpretation of an area rate clause.

The overwhelming majority of comments opposed the negotiated contract requirement on legal and policy

grounds and urged that it be deleted. Many comments stated that the Commission is without authority under the NGPA or NGA to require that specific contract language be employed as a condition precedent to collecting the maximum lawful price. The comments asserted that the statutory scheme of the NGPA and the NGA in view of the *Mobile Sierra* [11] line of cases grants parties to gas sales contracts an absolute right to pay or to collect any price they may agree upon, subject only to price ceilings lawfully imposed by a governmental authority. In particular, paragraphs 101(b) (5) and (9) of the NGPA permit parties to sell gas at the applicable highest maximum lawful price not in excess of the contract price. It is argued that the Commission lacks authority to impose a requirement that contracts be renegotiated before the maximum lawful price can be collected.

Certain commenters asserted that contracts entered into post-NGPA, specifically reference the NGPA in order to permit the collection of higher prices and that the requirement to specifically reference section 107 could not possibly have been foreseen. Therefore, it is claimed that the rule operates unfairly to preclude sellers, who renegotiated their contracts in contemplation of NGPA prices and who undertook development of tight formations in anticipation of the Commission's action, from collecting the incentive price.

Under section 107, it is contended that the Commission's authority goes to establishing tight formation gas as high-cost natural gas and establishing an incentive price for its development and production. While it is agreed that the Commission has the discretion to establish the parameters for classification, it is submitted that the Commission does not have the authority to condition a well determination upon the presence of specific contract language. Rather, it is claimed that the NGPA provides that once an incentive price is established the producer must have contractual authority to collect the price (a contract that references the NGPA established price is sufficient to permit collection of the incentive price).

In addition, it is submitted that if the Commission's purpose in issuing this rule is to encourage the development and production of tight formation gas the negotiated contract requirement will not advance this purpose.

Still other commenters submitted that market forces will operate to set prices at an appropriate level only for those tight formations yet to be developed. It is asserted that most tight formations are already identified and are located near conventional gas which is already being produced or is dedicated to pipelines. For these reasons, it is argued that the negotiated contract requirement will place pipelines in superior bargaining positions and they will either refuse to renegotiate contracts up to the incentive price or will require additional consideration. In both cases the requirement will operate as a disincentive to production.

This argument led some commenters to request that purchasers be precluded from demanding additional consideration for existing contracts. If a purchaser refuses to amend his contract he should be required to release the seller from existing contractual obligations. It is also proposed that the Commission should permit producers to file petitions for exceptional relief in circumstances in which the pipeline is being arbitrary and capricious in not offering the required amendment, and in which the producer petitioner can demonstrate that the full incentive price is necessary for further development and production of tight formation gas.

The Commission reaffirms the position taken in the interim rule that it must limit the availability of the incentive price ceiling to those contracts which specifically refer to it (or to the extent permitted under a fixed rate or fixed escalator clause) because its pricing authority is limited to setting incentive prices "necessary" to encourage additional production. Therefore, the negotiated contract price requirement has been retained in § 271.703(a) of the final rule which sets forth the maximum lawful price for both categories of tight formation gas. However, the Commission agrees that an effective negotiated contract price is not a necessary incident to obtaining a well determination and has deleted the requirement from the definitions of new and recompletion tight formation gas.

The Commission believes that the price ceiling if applied to all tight formation gas may operate as a windfall to sellers rather than an incentive to increase production of tight formation gas. This occurs in any case in which one incentive price is established to cover a broad range of production costs and risks. This is especially true where both parties to the contract did not contemplate the availability of an incentive price. The Commission believes that the imposition of the negotiated contract price requirement is therefore necessary to insure that a purchaser is given an opportunity to bargain for increased production of tight formation gas before he agrees to pay a price higher than the otherwise applicable maximum lawful price. In this regard, the negotiated contract price requirement will operate as part of the ceiling price which the Commission is establishing under section 107(b). Thus, in the Commission's view a "necessary" price for tight formation gas is one that is contractually agreed upon either at or below the ceiling price.

The statutory scheme of the NGPA or the NGA and the *Mobile-Sierra* line of cases do not compel a different conclusion. As we stated in the interim rule, parties to gas sales contracts are free to enter into or amend their contracts to permit the collection of the incentive maximum lawful price. Existing contracts that specifically reference the Commission's incentive pricing authority under section 107 of the NGPA or that contain fixed rate or fixed escalator clauses are sufficient to permit collection of any price up to the ceiling price of 200 percent of the 103 price.

VI. Definitions for New and Recompletion Tight Formation Gas

Under § 271.703(b)(1) of the interim rule, gas qualifies as

> new tight formation gas" is natural gas: (1) Which is either new natural gas or gas produced through a new onshore production well; (2) which is produced from a designated tight formation through a well the surface drilling of which began on or after July 16, 1979; and (3) for the first sale of which a negotiated contract price is effective.

In addition, the Commission requested comments on the proposed definition of "recompletion tight formation gas." Under this proposal, gas qualifies as

> recompletion tight formation gas" is natural gas: (1) Which is produced from a designated tight formation through a well the surface drilling of which was begun on or before July 16, 1979, if such well was not completed for production from such formation before July 16, 1979; and (2) for the first sale of which a negotiated contract price is effective.

A. Negotiated Contract Price

As stated in the previous section, the negotiated contract price requirement has been deleted from the definitions of new and recompletion tight formation gas, but has been retained in § 271.703 that establishes the maximum lawful price.

B. Spud Date

Only a few comments discussed the requirement that to qualify as new tight formation gas, the gas had to be produced from a well the surface drilling of which began on or after July 16, 1979.

[11] *United Gas Pipeline Company v. Mobile Gas Service Corporation*, 350 U.S. 332 (1956); *FPC v. Sierra-Pacific Power Company*, 350 U.S. 348 (1956).

V 45 AG 22 80 UMI

One comment suggested that the spud date should be changed to "the date before which a well was not being commercially produced."

Another commenter suggested that February 19, 1977, be adopted as the spud date, for both categories of gas, since it is the pivotal date in the wellhead pricing scheme under the NGPA. This commenter argued that producers who commenced drilling into tight formations prior to July 16, 1979, did so with the expectation that the Commission adopt the suggestion in the Conference Report that gas produced from tight formations should be eligible for incentive price treatment.

Comments of a similar nature were made prior to the adoption of the interim rule. The first suggestion that the cut-off date apply to the date on which gas was first commercially produced from the well has been at least partially accommodated since the incentive price is now available for recompletion gas. In effect, so long as the well was not completed for production in the tight formation prior to July 16, 1979, the gas may qualify for the incentive price. The date of July 16, 1979, (as a spud date) was chosen in the interim rule in recognition of the fact that this rule was undertaken to give effect to a policy initiated by the President's July 16, 1979, speech. This date then, is consistent with the Conference Report, at page 88, which indicates that the pivotal date for section 107(c)(5) gas is the date the Commission exercises its authority under section 107(c)(5). The Commission is not free to make available special prices for gas whose development was encouraged by previously available prices. Therefore, July 16, 1979, will remain as a spud date for new tight formation gas, and as a completion date, for recompletion tight formation gas.

C. Conclusion

The definitions of new and recompletion tight formation gas appear in § 271.703(b) (2) and (3) of the rule. Gas qualifies as new tight formation gas if it is produced from a designated tight formation through a well which was spudded on or after July 16, 1979, and it is either new natural gas (as defined in section 102(c) or (d) of the NGPA), or gas produced through a new onshore production well, (as defined in section 103(c)). To qualify as recompletion tight formation gas, the natural gas must be produced from a designated tight formation through a well which was spudded before July 16, 1979, but not completed for production from such formation before July 16, 1979.

VII. Procedure for Designating Tight Formations

The procedure for designating tight formations was contained in § 271.705 of the interim rule. That section set forth guidelines for identifying tight formations and established procedures whereby a jurisdictional agency may recommend the designation of a tight formation. Upon the receipt of a jurisdictional agency recommendation, the Commission will publish it in the Federal Register and will accept comments on the recommendation. After a review of the comments the Commission will prescribe a rule approving or disapproving the designation of the recommended tight formation.

Several comments and proposals concerning the designation procedure in general were received. Some commenters urged the Commission to "predesignate" or at a minimum to take the lead in designating formations that have been studied by the Department of Energy (DOE) and the United States Geological Survey (USGS). Another suggestion was that there be automatic approval of jurisdictional agency or the USGS recommendations that meet the permeability, gas productivity, and crude oil production guidelines, reserving for Commission action recommendations made under the alternate permeability guidelines. Other commenters stated that the jurisdictional agency process combined with the Commission process will be lengthy, unnecessarily burdensome and will cause a substantial delay in the production of gas from tight formations. These commenters suggest that the time periods and standard of review set forth in section 503 (a) and (b) be utilized.

The Commission is not persuaded that a modification to the designation procedure is warranted. As stated in the interim rule the Commission does not have the information needed to accurately identify qualifying tight formations.[12] The interim rule's designation procedure was established to enable the Commission to fully utilize the information and expertise available to jurisdictional agencies and to thereby *prevent* undue delay in the identification of tight formations. To the extent that other Federal agencies have studied certain tight formations, we expect this information will be available to jurisdictional agencies and will facilitate the jurisdictional agency process.

[12] The Commission adopted this procedure in response to comments which suggested that the Commission should rely on the jurisdictional agencies' information and expertise in designating tight formations.

Still another commenter submitted that there are not enough procedural safegards in the interim rule. The rule does not provide producers an opportunity to seek review of a jurisdictional agency's refusal to make a recommendation. Commenters suggested a procedure to allow review in such a case.

Jurisdictional agencies are not obligated to recommend tight formations. The Commission believes the review procedure suggested is unnecessary and would constitute an unwarranted intrusion into the state jurisdictional agency process.

Proposals respecting interim collection authority were also received. One commenter urged that producers be permitted to make interim collections prior to designation of a formation after it has submitted information and certified to the jurisdictional agency that the formation meets the criteria set forth in the guidelines. Pursuant to this proposal, interim collections would be allowed pending jurisdictional agency designation recommendation and final Commission approval. Another comment requested clarification of whether interim collection authority will be permitted prior to designation of the formation upon filing of an application for a well determination.

As discussed above, the procedure in the final rule provides for the expeditious designation of tight formations. The Commission believes that interim collection of the incentive price prior to designation of the formation is inappropriate. However, the Commission in § 273.204 has provided for retroactive collection for gas produced from qualifying wells in designated tight formations.

VIII. Guidelines

The interim rule provided that the Commission would approve the designation of any formation recommended by a jurisdictional agency if it met the three guidelines relating to permeability, gas production, and oil production. Certain of the comments were directed to these guidelines. The Commission has added a guideline that will be discussed below concerning formations or portions thereof which have been authorized to be developed by infill drilling programs.

The interim rule also provided that if a formation met the gas productivity and oil production guidelines but did not meet the permeability standard, then the Commission would consider the recommendation if the jurisdictional agency made an adequate showing that the formation exhibited low permeability characteristics and that an

incentive price would be necessary. No comments specifically addressed this provision, and it has been adopted without change in § 271.703(c)(2)(ii) of the final rule.

A. Permeability Standard

The interim rule required that the estimated *in situ* gas permeability, throughout the pay section be 0.1 millidarcy or less. A few commenters suggested that this standard is still unduly restrictive and will disqualify many formations that should be considered "tight." Higher standards ranging from 0.15 millidarcy to 0.5 millidarcy were suggested.[13]

Several arguments were presented in support of a greater permeability threshold. First, average permeability depends on the number of wells drilled and their location in the formation. Since most tight formations have not been developed extensively, the average permeability of a small number of wells would probably not be representative of the formation as a whole. Thus, the amount of necessary preliminary drilling and the greater expense and time involved in *in situ* permeability testing requires a millidarcy standard that is flexible enough to warrant the increased costs.

Some comments urged that the permeability standard be eliminated. One commenter asserted that a permeability determination of 0.1 millidarcy requires an expensive drawn down and build up test. It was proposed that a 30-day flow test based upon the depth criteria set forth in the interim rule be the sole factor in determining if a zone is tight.

Another alternative presented was that the designation by the jurisdictional agency should be based solely on production rates from newly drilled wells that had been tested in accordance with the procedures set forth by the United States Bureau of Mines Monograph No. 7. This commenter stated that the gas productivity standard should be retained until such time as information based on the testing of actual wells indicates that a revision would be appropriate.

The Commission remains cognizant of the difficulties inherent in adopting a permeability guideline. However, the objective of the rule is to identify and provide incentives for the development of tight formations, not to provide incentives to develop all formations with low pre-stimulation production rates. The Commission still believes that the problem presented by formations of extremely variable characteristics is not present in many tight formations and that estimates of average permeability may reasonably represent the permeability that will be encountered from one location to the next. However, if the average permeability cannot be reasonably estimated or if the average permeability does not fall within the 0.1 millidarcy guideline, then under the alternate guideline the formation may still be recommended for designation if the jurisdictional agency makes an adequate showing that the incentive price is necessary for production of gas from the formation because the formation is high-risk and high-cost and has low permeability characteristics.

[13] The NPC study and "various DOE reports" are cited for the proposition that a formation may be "tight" if it has a permeability of 1.0 millidarcy.

B. Gas Production Standard

The interim rule set forth maximum allowable production rates. One commenter suggested that the gas productivity standard should only be applied to formations from zero to two thousand feet in depth since the costs of drilling and completing deeper wells multiply at a rate disproportionate to those for shallower drilling. If the standards for deeper wells are retained, the commenter urged a 35 percent higher price.

A similar argument was made that the straight payout of original drilling, completion, and equipping costs over a more feasible period than is indicated by the present gas productivity standard would be more appropriate for these high-risk ventures. This commenter proposed that in the event a Btu-equivalent price is not allowed, then the maximum allowable production rate should be increased.

The Commission believes that the higher incentive maximum lawful price provided in this rule will be adequate to cover the increased costs of equipping and completing deeper wells. Therefore, a revision to the gas productivity formula is unnecessary.

C. Production of Crude Oil

The interim rule provided that no well drilled into the recommended tight formation should be expected to produce more than five barrels of crude oil per day. This requirement was added to ensure that the gas is not produced with any more than a *de minimus* amount of oil. The production of more than five barrels of oil per day would, in itself, create an incentive for the development of the formation. One commenter claims that this limitation is unclear since "oil" is undefined and questioned whether it would include "condensate" from gas wells.

The interim rule and § 271.702(a)(3) of the final rule refers to the definition of "crude oil" contained in § 270.102(b)(5) of our regulations. Thus, as defined, crude oil includes any mixtures of hydrocarbons that are liquid in underground formations and remain liquid at atmospheric pressure.

Another commenter suggested that this guideline should be modified to provide that:

> • • • no well drilled into the recommended tight formation is expected to produce, *without stimulation*, more than five barrels of crude oil per day . . .

The commenter asserted that the addition of the phrase "without stimulation" appears in the gas productivity standard and should be tracked here to remove any ambiguity. We agree. Section 271.703(c)(2)(i)(C) has been so modified in the final rule.

D. Infill Drilling

In the preamble to the interim rule, the Commission stated that its objective in establishing the incentive program—

> Consist[s] of identifying and including tight formations that could not be commercially developed absent application of enhanced production techniques, and excluding the types of development activities that could occur under the otherwise applicable maximum lawful prices. (*mimeo* at p. 24).

The Commission did not adopt any of the several alternatives considered which would have mechanically excluded infill or developed portions of an otherwise tight formation. The Commission chose instead to rely on the skill and judgment of the jurisdictional agencies to identify and exclude the portions of a formation which would otherwise qualify as a tight formation but which could be developed without the incentive price. The following guidance was provided to jurisdictional agencies:

> While new infill wells are not excluded from qualification under this rule, jurisdictional agencies should be sensitive to the fact that some portions of tight formations have been developed to such an extent as to indicate that the incentive maximum lawful price is not necessary to encourage full production of that portion of the formation. If the agency has information which indicates such portions can be developed without the incentive price, such portions should be excluded from the jurisdictional agency's recommendation (*mimeo* at p. 27).

Subsequent to the adoption of the interim rule, it has come to the Commission's attention that there is some uncertainty regarding the appropriateness of recommending formations or portions of formations that are currently being developed by infill drilling programs. To clarify this

uncertainty and to give effect to the

incentive pricing authority of the

amendment may provide for the

developed absent the incentive price

uncertainty and to give effect to the policy enunciated in the interim rule, the Commission has added a new guideline, at § 271.703(c)(2)(i)(D). Under this guideline, if a formation or portion thereof was authorized to be developed by an infill drilling program prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be further developed without the incentive price established in §271.703(a), then the jurisdictional agency may not include such formation or portion thereof in its recommendation.

Two aspects of this guideline warrant clarification. The guideline has been added to focus jurisidictional agency attention on only those formations (or portions thereof) where development by infill drilling has been authorized *prior* to the date of recommendation. In this situation development of such formation may have been economical at previously available prices and therefore may indicate that the full development could occur absent the incentive price. If information available to the jurisidictional agency indicates that this is the case, it should not recommend the formation or should exclude that portion of the formation from its recommendation. Second, it should be emphasized that once a formation has been approved by the Commission as a designated tight formation, future infill wells will be eligible to receive the incentive price.

A definition of "infill drilling" has been added in § 271.703(b)(6). As defined, "infill drilling" means any drilling that occurs in a substantially developed formation or portion thereof that is subject to requirements respecting well-spacing or proration units which were amended by the jurisdictional agency after the formation or portion thereof was substantially developed and which were adopted for the purpose of promoting more effective and efficient drainage of the reservoirs in such formation. Such amendment may provide for the establishment of smaller drilling or production units or may permit the drilling of additional wells on the original units.

The Commission wishes to emphasize that the infill drilling must have taken place in a substantially developed formation or portion of a formation *after* a jurisdictional agency amendment to well-spacing or proration unit requirements. In some situations, field or spacing rules are in effect and applicable to undeveloped portions of a field and these rules are amended prior to substantial development in order to permit the drilling of wells at closer spacing than permitted by the original rules. Where the original units had not been drilled prior to the creation of the smaller units or prior to the adoption of amended rules which permit the drilling of an additional well on the original unit, drilling in such circumstances would not be covered under this definition.

IX. Contents of Recommendations

The interim rule prescribed information that is required to accompany the jurisdictional agency's recommendation that a formation be designated as a tight formation. The comments criticized the requirement that a jurisdictional agency must submit a map or list locating all wells "which have produced" natural gas from the recommended tight formation. The comments argued that this requirement is unnecessary, burdensome, and may be impossible to meet in cases where records on these wells were either never compiled, were lost, or were destroyed over the years. One comment suggests that the requirement be limited to the identification of wells producing on or after January 1, 1980. Another proposal is that the requirement be retained for only those formations that did not meet the 0.1 millidarcy permeability standard and are being recommended under the alternative standard.

In response to these comments we have reduced the burden by amending § 271.703(c)(3)(iii) of the final rule to require jurisdictional agencies to submit either a map or list which locates wells which are *currently producing* from the recommended tight formation. We have retained the requirement, as amended, so that the Commission can have information indicating how much the formation was developed prior to its being recommended as a tight formation.

X. Environmental Impact

As stated in the interim rule, staff completed an environmental assessment of this rule in which staff concluded that establishing an incentive price would not constitute a major Federal action significantly affecting the quality of the human environment.

The Commission will continue to investigate the possible effects of the tight formations program and will make a final determination as to environmental impact at such time as the jurisdictional agencies submit their recommendations for tight formations. The information of the jurisdictional agencies when they make their recommendations includes information regarding the identification and location of fresh water aquifers which may be affected by development of the formation.

XI. Retroactive Collections

Some commenters questioned whether interim collection authority under §§ 273.202 and 273.203 would be permitted prior to final designation of a formation as a tight formation. As previously stated the Commission is not providing interim collection authority prior to final designation of the formation. However, the retroactive collection provisions contained in § 273.20(a)(1)(ii) of the Commission's regulations are applicable to new and recompletion tight formation gas that qualifies under § 271.703(b) to receive the incentive maximum lawful price set forth in § 271.703(a).

XII. Effective Date

These rules shall become effective as final regulations September 22, 1980.

(Department of Energy Organization Act, 42 U.S.C. § 7101, et seq.; E.O. 12009, 42 FR 46267, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Subpart G of Part 271, Subpart B of Part 273, and Subpart B of Part 274, of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, are revised as set forth below, effective as final rules on September 22, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

1. Part 271 is amended in Table of Contents under Subpart G to read as follows:

Subpart G—High-Cost Natural Gas

Sec.
271.701 Applicability.
271.702 General rules.
271.703 Tight formations.

Authority: Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, (15 U.S.C. 3301–3432)).

2. Subpart G of Part 271 is revised to read as follows:

Subpart G—High-Cost Natural Gas

§ 271.701 Applicability.

This subpart implements section 107 (b) and (c) of the NGPA and applies to the first sale of natural gas which a jurisdictional agency determines is:

(a) Tight formation gas for which there is a negotiated contract price.

(b) [Reserved]

§ 271.702 General rules.

(a) *Definitions.* For purposes of this subpart:

(1) "Negotiated contract price" means any price established by a contract which either specifically references the

incentive pricing authority of the Commission under section 107 of the NGPA or contains a fixed rate or a fixed escalator clause.

(2) A "fixed escalator clause" is a provision in a contract for the first sale of natural gas which changes the price for the gas by a specified amount on a specified date.

(3) For the definition of "crude oil," *see* § 270.102(b)(5).

(b) *Cross reference.* For special rules applicable to high-cost natural gas retroactive collections, *see* § 273.204.

§ 271.703 Tight formations.

(a) *Maximum lawful price for tight formation gas.* The maximum lawful price, per MMBtu, for the first sale of tight formation gas for which there is a negotiated contract price shall be the lesser of:

(1) The negotiated contract price; or

(2) 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a).

(b) *Definitions.* (1) "Tight formation gas" means new tight formation gas or recompletion tight formation gas.

(2) "New tight formation gas" is natural gas:

(i) Which is new natural gas, (as defined in section 102(c)), certain OCS gas qualifying for the new natural gas ceiling price (as defined in section 102(d)), or gas produced through a new onshore production well (as defined in section 103(c)); and

(ii) Which is produced from a designated tight formation through a well the surface drilling of which began on or after July 16, 1979.

(3) "Recompletion tight formation gas" is natural gas which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979, if such well was not completed for production from such designated formation before July 16, 1979.

(4) "Formation" means any geological formation, or portion thereof described by geological as well as geographical parameters.

(5) A "designated tight formation" is a natural gas formation which is designated a tight formation by the Commission pursuant to paragraph (c) of this section.

(6) "Infill drilling" means any drilling in a substantially developed formation (or a portion thereof) subject to requirements respecting well-spacing or proration units which were amended by the jurisdictional agency after the formation (or portion thereof) was substantially developed and which were adopted for the purpose of more effective and efficient drainage of the reservoirs in such formation. Such amendment may provide for the establishment of smaller drilling or production units or may permit the drilling of additional wells on the original units.

(c) *Designation of tight formations*—(1) *General.* Upon the written recommendation by a jurisdictional agency, submitted in accordance with the requirements of this section, the Commission may approve a recommendation that a natural gas formation be designated as a tight formation.

(2) *Guidelines.* (i) The Commission will approve the designation of any formation recommended by a jurisdictional agency if the formation meets each of the following guidelines:

(A) The estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less.

(B) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed the production rate determined in accordance with the following table:

If the average depth to the top of the formation (in feet)		The maximum allowable production rate (in thousand cubic feet per day) may not exceed—
exceeds—	but does not exceed—	
0	1,000	44
1,000	1,500	51
1,500	2,000	59
2,000	2,500	68
2,500	3,000	79
3,000	3,500	91
3,500	4,000	105
4,000	4,500	122
4,500	5,000	141
5,000	5,500	163
5,500	6,000	188
6,000	6,500	217
6,500	7,000	251
7,000	7,500	290
7,500	8,000	336
8,000	8,500	388
8,500	9,000	449
9,000	9,500	519
9,500	10,000	600
10,000	10,500	693
10,500	11,000	802
11,000	11,500	927
11,500	12,000	1,071
12,000	12,500	1,238
12,500	13,000	1,432
13,000	13,500	1,655
13,500	14,000	1,913
14,000	14,500	2,212
14,500	15,000	2,557

(C) No well drilled into the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

(D) If the formation or any portion thereof was authorized to be developed by infill drilling prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be developed absent the incentive price established in paragraph (a) of this section then the jurisdictional agency shall not include such formation or portion thereof in its recommendation.

(ii) The Commission will consider and may approve or disapprove a recommendation by a jurisdictional agency to designate as a tight formation any formation which meets the guidelines contained in paragraph (c)(2)(i) (B) and (C) of this section, but does not meet the guideline contained in paragraph (c)(2)(i)(A) of this section, if the jurisdictional agency makes an adequate showing that the formation exhibits low permeability characteristics and the price established in paragraph (a) of this section is necessary to provide reasonable incentives for production of the natural gas from the recommended formation due to the extraordinary costs associated with such production.

(3) *Content of recommendations.* A recommendation that a formation should qualify as a designated tight formation shall contain the following information:

(i) Geological and geographical descriptions of the formation which is recommended for classification as a tight formation;

(ii) Geological and engineering data to support the recommendation and the source of that data;

(iii) A map which clearly locates wells which are currently producing from the recommended tight formation or a list locating all wells which are currently producing natural gas from the recommended tight formation;

(iv) A report of the extent to which existing State and Federal regulations will assure development of the recommended tight formation will not adversely affect any fresh water aquifers (during both hydraulic fracturing and waste disposal operations) that are or are expected to be used as a domestic or agricultural water supply;

(v) If the formation is recommended under paragraph (c)(2)(ii) of this section, the types and extent of enhanced production techniques which are expected to be necessary and the estimated expenditures necessary for employing those techniques; and the degree of increase in production to be expected from use of such techniques and engineering and geological data to support that estimate;

(vi) Any other information which the jurisdictional agency deems relevant; and

(vii) Any other information requested by the Commission.

(4) *Commission review of recommendations.* Upon receipt of a recommendation submitted in

V 45 A G 2 22 80 UMI

accordance with this section, the Commission shall publish in the **Federal Register**, a notice of proposed rulemaking containing such recommendation. After review of any comments, the Commission will prescribe a rule approving or disapproving the recommendation.

(d) *Designated tight formations.* [Reserved]

PART 273—COLLECTION AUTHORITY; REFUNDS

§ 273.204 [Amended]

3. Section 273.204(a)(1) is amended by deleting "; and" in clause (i) and inserting in lieu thereof a period at the end of clause (i), and by deleting "new" in clause (ii) and by deleting the semi-colon and inserting in lieu thereof a period at the end of clause (ii).

PART 274—DETERMINATION BY JURISDICTIONAL AGENCIES

4. Section 274.205 is amended by revising paragraph (e) to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(e) *Natural gas produced from designated tight formations*—(1) *New tight formation gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is new tight formation gas shall file with the jurisdictional agency an application which contains the following items:

(i)(A) If the gas is produced from a well which qualifies as a new, onshore production well, all information required in § 274.204 (except for the item specified in paragraph (d)(1) of that section); or

(B) If the gas qualifies for the new natural gas price, the information required in § 274.202 or § 274.203;

(ii) A map which locates and identifies the well for which the determination is sought as being within the designated tight formation;

(iii) The heading and pertinent portions of the well log, or a drilling report identifying the designated tight formation; and

(iv) A statement by the applicant, under oath, that:

(A) The surface drilling of the well for which a determination is sought was begun on or after July 16, 1979;

(B) The gas is being produced from a designated tight formation; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusions.

(2) *Recompletion tight formation gas.* A person seeking a determination for purposes of Subpart G of Part 271 of this chapter that natural gas is recompletion tight formation gas shall file with the jurisdictional agency an application which contains the following items: (i) FERC Form No. 121;

(ii) The well completion report;

(iii) A map which locates and identifies the well for which the determination is sought as being within the designated tight formation;

(iv) The heading and pertinent portions of the well log, or a drilling report identifying the designated tight formation; and

(v) A statement by the applicant, under oath, that:

(A) The gas is being produced from a designated tight formation;

(B) The well was not completed for production in the designated tight formation prior to July 16, 1979; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusions.

[FR Doc. 80-25858 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

---

18 CFR Part 284

[Docket No. RM79-34]

Transportation Certificates for Natural Gas for the Displacement of Fuel Oil

August 15, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission hereby adopts a final rule extending and amending its Order No. 30 program. Under the Order No. 30 program, fuel oil users certified by the Economic Regulatory Administration may purchase natural gas from producers, distributors or pipelines. The final rule authorizes the transportation of such natural gas to end-users for the displacement of fuel oil. The Order No. 30 program is extended until 11:59 p.m. on May 31, 1981.

EFFECTIVE DATE: August 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert Platt, Assistant Advisory Counsel, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8433.

Glenn Berger, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8364.

Robert J. Cupina, Office of Pipeline and Producer Regulations, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-9036

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission), by this order, adopts a final rule extending until May 31, 1981, and amending its Order No. 30 program for the transportation of natural gas to displace the consumption of fuel oil.

I. Background

On May 17, 1979, the Commission issued Order No. 30 which established a short term program authorizing the transportation of natural gas for the displacement of fuel oil (44 FR 30323, May 25, 1979). That order was adopted in response to a proposal of the Economic Regulatory Administration (ERA) of the Department of Energy which was referred to the Commission pursuant to section 403(a) of the Department of Energy Organization Act, 42 U.S.C. 7173(a) (DOE Act).[1]

In Order No. 30, the Commission authorized interstate pipelines to transport natural gas to end-users certified by ERA.[2] In significant part, the Commission determined that the public interest was served by action to displace fuel oil with natural gas in order to relieve demand pressure on distillate and related stocks of petroleum products as the peak winter heating season approached. The Commission perceived the fuel oil shortages would be relieved by the beginning of the next summer period. Hence we terminated the program on June 1, 1980.

On May 12, 1980, the ERA proposed, pursuant to section 403(a) of the DOE Act, that the program should be extended for an additional year ending May 31, 1981.[3] The ERA found "that the urgent need to reduce oil imports still exists." No claim was made that a "fuel shortage" exists in absolute terms as was the case in 1979. Rather the rationale was grounded on the general and urgent need to simply reduce oil imports. The Commission sought comment upon the ERA proposal extension by **Federal Register** notice of 45 FR 34264 (May 22, 1980).[4]

[1] In a related rule, the ERA established a procedure to certify the eligibility of end-users for this program. 10 CFR Part 595. 44 FR 20398 (April 5, 1979).

[2] The ERA certification procedure is set forth at 10 CFR Part 595.

[3] The ERA proposal was published in the **Federal Register** concurrently with the interim rule at 45 FR 34299.

[4] Consolidated Edison Company of New York, Public Service Electric and Gas, and National Fuel Gas Supply Corporation have filed motions in this docket seeking an extension of the program.

Footnotes continued on next page

While section 403(a) of the DOE Act authorizes the Secretary of Energy to propose rules with respect to any function within the jurisdiction of the Commission, section 403(b) of that Act provides that the Commission shall have exclusive jurisdiction over such proposals. Accordingly, the Commission proceeded in Order No. 30-B, 45 FR 34364 (May 22, 1980), by requesting written comments [5] and holding a public hearing on June 16, 1980. Order No. 30-B also provide for an interim extension of the Order No. 30 program through August 31, 1980. For the reasons explored below, the Commission amends its rules herein to extend the Order No. 30 program for the full year proposed by ERA.

II. Discussion

A. Adequate Natural Gas Supplies Support Continuation of the Program

A short term oversupply of natural gas now exists in the interstate market. Data filed with the Commission indicate that every major interstate pipeline will enter the 1980-81 winter heating season with storage filled to capacity.[6] Furthermore, data reported to the Commission by the 28 major interstate pipelines indicate that 6,288.8 Bcf of natural gas is projected to be delivered during this coming winter as compared with 6,264.3 Bcf for the corresponding period in 1979-80. In addition, telephone surveys conducted by both the Commission staff and the ERA,[7] indicate that several interstate pipelines lack a market for all of the deliverable gas supplies that they have a right to obtain under contract.[8] In general, it appears that in the next nine months, interstate pipelines and their distributors will be able to satisfy current customer requirements with gas remaining which could be made available for short term sales.[9]

Several commenters argue that such a short-term assessment of the nation's natural gas supplies overlooks the long-term consequences of a failure to husband current supplies of natural gas for future requirements. The essence of this argument is that it is bad public policy to spend today's excess supplies (even for the admitted benefits resulting from displacement of imported oil) unless we are confident that the current excess will not be needed to meet the priority requirements of tomorrow.

The Commission collected extensive expert opinion on this question at the Informal Public Conference on the Availability and Pricing of Natural Gas and Alternative Fuels, convened on April 2, 1980, in Docket No. GP80-76.[10] Although the projections of the experts vary, nothing in this record supports a conclusion that a short-term extension of the Order No. 30 program would drain pipelines and distribution companies so as to imperil their ability to meet their service obligations in the future.

On the contrary, the concern was raised by numerous parties that a sustained but under-utilized delivery capability in excess of demand could have the principal effect of inducing producers to defer exploration and development efforts. Moreover, pipelines confronting take-or-pay problems may be forced to accommodate the demand deficit by reducing or postponing new supply initiatives. In effect, the brunt of any market softness would really be borne by producers of potential new sources of gas,[11] thus posing a more significant risk to future service than would occur by draining off the short-term excess presently available.

One comment theorized that if the natural gas could be husbanded, such gas could be used to displace premium fuels (such as distillate fuel oil) at some unstated future date, rather than residual fuel oil at present. The Commission does not agree. Of the 13 million barrels of fuel oil displaced by the program through June, 1980, only 2 million barrels were high-sulphur residual fuel oil.[12] Of greater significance, however, is that the comment failed to consider how cost of any such husbanding effort would be borne or that the existing unabsorbed deliverability would have a detrimental

Footnotes continued from last page

Comments have also been filed, some in favor of and others in opposition to an extension. Futhermore, the Commission convened an informal conference on April 2, 1980, to study the nation's natural gas supply outlook. Notice of Informal Conference, Docket No. GP80-76, 45 FR 15944 (March 12, 1980).

[5] Written comments favoring the extension of the program were filed in Docket No. RM79-34 by: Asarco, Inc., Public Service Electric and Gas Company, Air Products and Chemicals, Inc., Anchor Hocking, Southern California Edison Company, Aluminum Company of America, Olinkraft, New England Power Service Company, Northern Natural Gas Co., Montana Power Company, Arizona Public Service Company, Edison Electric Institute, Pacific Gas and Electric Company, Georgia-Pacific Company, Calcasieu Refining Company, Equitable Gas, Public Service Commission of the State of New York, Michigan Wisconsin Pipe Line Company, Salt River Project Agricultural Improvement and Power District, Delhi Gas Pipeline, Northern Natural Gas Company, Tucson Electric Company, Sen. Jacob R. Javits, Sen. Daniel P. Moynihan, and the New York State Congressional Delegation.

Written comments opposing the extension were filed in Docket No. RM79-34 by: New England Gas Distributors, Northern Illinois Gas Company, Petrochemical Energy Group, Tosco Corporation, Process Gas Consumers Group, Georgia Industrial Group, American Iron and Steel Institute, Brooklyn Union Gas Company, and Concerned Municipal Gas Systems.

Written comments were also filed in Docket No. RM79-34 by: Transcontinental Gas Pipeline Corporation, Philadelphia Electric Company, and Bristol-Myers Company.

In addition, oral presentations or written comments were filed in Docket No. GP80-76 by: Gas Research Institute (GRI), Economic Regulatory Administration, Ohio Producers, National Gas and Oil Corporation, Public Service Electric and Gas Company, Texas Oil and Gas Corporation, Edward W. Erikson, William L. Murray, Jr., Harvard Business School Energy Project, Henry B. Taliferro, Jr., Texas Railroad Commission, Interstate Natural Gas Association of America, Transcontinental Gas Pipe Line Company, Tennessee Gas Transmission, Natural Gas Pipeline Company of America, National LP-Gas Association, Oil Jobbers Council, Midwest Fuel Oil Council, American Gas Association, Michigan Consolidated Gas Company, Edison Electric Institute, Consolidated Edison of New York, System Fuels, Inc., Florida Power and Light, Process Gas Consumers Group, American Iron and Steel Institute, Georgia Industrial Group, Petrochemical Energy Group, Public Service Commission of the State of New York, Columbia Gas Systems Service Corporation, New Jersey Natural Gas Company, Northern Natural Gas Company, New England Power Service, Weirton Steel Division of the National Steel Corporation, Independent Petroleum Association of America, and The Honorable John D. Dingell.

[6] FERC Form 8 data.

[7] June 16, 1980, transcript at 5-6.

[8] Staff obtained the following measure of interstate pipeline surplus from phone calls to the interstate pipelines and from information supplied to the Commission in response to its April 15, 1980, order requesting information on supply situations of 26 interstate pipelines for the upcoming winter. Panhandle Eastern Pipe Line Co. is currently not purchasing 148 MMcf per day of available pipeline supplies and projects a backoff of at least 86 MMcf per day through the winter. Transcontinental Gas Pipe Line Corporation is currently declining to take 300 MMcf per day from its producer supplies but does not expect to be backing off in the upcoming winter. Columbia Gas Transmission Corp. projects a surplus supply of 43 Bcf during the summer with liquefied natural gas (LNG) supplies and a surplus 22 Bcf without LNG, and projects a surplus of 22 Bcf with LNG in the coming winter. (Columbia also expects to totally replace LNG with other supplies if needed in the upcoming winter.) Consolidated Gas Supply Corp. projects a surplus of 14 Bcf during the coming winter without LNG supplies and a surplus of 64 Bcf with LNG supplies. Northern Natural Gas Co. is currently declining to take from its supply sources 250 MMcf per day. Michigan-Wisconsin Pipe Line Co. is expecting to decline to take 24 Bcf of supplies from producer and pipeline suppliers during the upcoming winter.

[9] This current market circumstance is further complicated by take-or-pay obligations which interstate pipelines frequently accepted when attaching new long-term supplies. One indication of the severity of the problems posed by these obligations is the expense data submitted this year by major pipelines in rate proceedings pursuant to section 4 of the Natural Gas Act. For example, Transcontinental Gas Pipe Line Company projects the largest take-or-pay obligation, $157,197,443, for a 12-month test period in Docket RP80-121, followed by Northern Natural Gas Company with $61,940,560 in Docket No. RP80-68.

[10] The record of the conference was made an item by reference in this proceeding, June 16, 1980, transcript at 68.

[11] *See e.g.* April 2, 1980, transcript at 106-07, 109, 173-75.

[12] August 8, 1980 letter of Lynne H. Church, Director of Natural Gas Regulations Division of ERA.

effect upon the development of new long-term supplies.[13]

Over the next nine months, the demonstrably adequate supplies of pipeline system supply gas will most likely cause the actual volumes of direct purchases under this program to be minimal. This is because system supply gas reflects average pipeline acquisition costs, while direct sales are generally at higher prices associated with new or uncommitted gas. Nonetheless, the value of extending the Order No. 30 program should not be underestimated. The program provides a measure of enhanced certainty that users will be able to meet their gas requirements, and so should contribute to a greater willingness on the part of industry and electric utilities to restore natural gas burning capability.

B. Desirability of the Present Program

(1) *Detrimental Dependence on Imported Oil.* When the Order No. 30 program was first proposed by the Secretary of Energy, in March, 1979, the Secretary of the Treasury had just completed a study under section 232 of the Trade Expansion Act of 1962, 19 U.S.C. 1862. That study concluded that "the national dependence on foreign oil was so great as to threaten to impair the national security."[14] The Secretary's findings were based upon both uncertainty as to continuity of supplies and the detrimental effect upon the balance of payments. In March of 1979, the weighted average international price of crude oil was $14.59 per barrel. The current price is $32.00.[15] This recent dramatic price increase further magnifies the adverse effect of oil imports upon the nation's balance of payments. The Secretary of the Treasury found that $42 billion had been spent on oil imports in 1978. That figure has been projected to be $82 billion for 1980.[16] Aside from the balance of payment consequences of America's dependence on foreign oil, this dependence is not without its international strategic costs as well.

In addition to the direct dependence upon foreign oil imports, the nation's domestic refinery capacity has developed to reflect the historic availability of the "sweet" crude oil generally produced in the Middle East. However, new crude oil supplies, including the Alaskan North Slope heavy crude, require different adjustments in refinery operations to account for the changes in sulphur content and density.[17] Because the adjustment in domestic refinery capacity requires both time and available capital, corrective measures are necessary to prevent a detrimental dependence upon imported refined products during the transition. In this regard, the types of fuel oil predominantly displaced to date under the Order No. 30 program, middle distillates and low sulphur residual fuel oil, are the very forms of fuel oil which require the additional refinery equipment (e.g. desulphurizers and coking facilities).[18]

(2) *Effects on Refinery Runs.* Several comments, from fuel oil suppliers, suggested terminating the Order No. 30 program on the grounds that the program creates an oversupply of residual fuel oil which in turn causes a lower than normal crude oil refinery run. In other words, the comments predict that refiners would convert a reduced quantity of crude oil into gasoline, fuel oil and other products. Douglas G. Robinson, Deputy Administrator of ERA, testified that the ERA is aware of such an effect upon refinery runs, and that the ERA has been and will continue to monitor such effects.[19] However, recent Department of Energy statistics indicate that refinery runs and refined product stocks are adequate to meet national needs.[20]

Any impact of the Commission's fuel oil displacement program on refinery runs would be regional rather than natonwide and would be indistinguishable from the impact of the ERA special public interest exemption program under the PIFUA. Given the ERA's ongoing commitment to monitor such regional effects (an effort beyond this Commission's resources and expertise), the Commission will continue to defer to the ERA on assessing the program's impact on refinery runs.

Should the ERA's monitoring of the program's effect on refinery runs show that the Order No. 30 program was adversely affecting refinery utilization, the ERA has retained authority to withdraw the certification of eligible users and/or their PIFUA exemptions in an affected region.[21]

(3) *Criteria for Certification of End Users.* The Commission will continue the practice of requiring end-users to obtain certificates of eligible use from the ERA pursuant to 10 CFR Part 595 as a condition for the authorization of covered transportation under this program.

One of the factors considered by the ERA in certificating eligible uses is that the natural gas will displace fuel oil rather than coal. This restriction reflects both the legislative intent of the PIFUA as well as a recognition of the long-term need to shift both fuel oil and natural gas users on to more abundant or renewable energy resources.

Although the possibility of excluding high sulphur residual fuel oil users was raised, the Commission does not see the need to foreclose the ERA from exercising its discretion to certify such users. Given that high sulphur residual fuel oil is generally less expensive than the delivered cost of natural gas under this program;[22] the use of natural gas to displace high sulphur residual fuel oil is unlikely to occur in current market conditions.

Fuel oil suppliers also suggested restricting the program to the displacement of fuels from offshore refineries. As the August 6 letter from Lynne H. Church, Director of the Natural Gas Regulations Division of ERA, indicates, 66% of the fuel oil displaced to date under the program was in East Coast markets[23] which rely heavily upon fuel oil refined offshore. Given this trend, and the regional nature of fuel oil spot markets, the Commission does not see the need to restrict the ERA's discretion by limiting the program to the displacement of fuel oil refined offshore.

One comment suggested expanding the program to include new powerplants which demonstrate an overall oil saving. Given the short-term nature of the Order No. 30 program and the overriding long-term need to switch powerplants from both fuel oil and gas onto coal and other more abundant energy sources, the Commission believes that suggestion is neither feasible nor desirable.

Another comment suggested that the program be extended to include interstate pipelines as purchasers who will in turn sell natural gas to fuel oil displacement users from the pipeline's system supplies. The Commission does not believe that such an amendment is necessary, for these categories of transactions are already authorized under Subparts B through E of Part 284. So long as natural gas will become a part of the interstate pipeline's system supply, the pipelines may purchase gas under section 311(b) or 312 of the NGPA and transport gas under section 311(a) of the NGPA. The deliveries to end-users authorized by Order No. 30 do not meet the system supply requirement imposed by other Part 284 authorizations.

One comment sought clarification of the role of the ERA certification program with respect to the review of the seller of the natural gas. The Commission views the provisions of both these and the ERA regulations as unambiguous on this point. The ERA examines and certifies the proposed participating end-user rather than the person who sells the natural gas. Although Subpart F of Part 284 does impose different eligibility criteria depending upon whether the seller is a producer, distributor, intrastate pipeline, or interstate pipeline, the responsibility for determining whether those eligibility criteria are met rests with the transporting pipeline, and ultimately with the Commission.

(4) *Self-implementation.* Order No. 30 sought to permit fuel oil displacement transactions which satisfy the eligibility criteria of § 284.202 to go forward with a minimum of regulatory delay. Accordingly, the Commission relied upon its authority under section 311(a) of the NGPA to authorize the transportation of natural gas on a categorical basis. The Commission also exercised its exemptive authority under section 7(c)(1)(B) of the Natural Gas Act, to exempt the construction of certain facilities (§ 284.204) and certain other transportation not otherwise eligible for section 311(a) authorization. Such actions were consistent with the Commission's determination that the original Order No. 30 program was premised on a perceived fuel oil emergency. Our extension of this program is not similarly grounded on the determination that an emergency in fuel oil supply today exists. The Commission therefore will withdraw the section 7(c)(1)(B) authority in Order No. 30 transactions, after August 31, 1980.

Transportation authorized pursuant to section 311(a) of the NGPA by § 284.202 may commence immediately upon the issuance of an ERA certificate of eligible use. The Commission takes this opportunity to emphasize that in the case of an intrastate pipeline selling natural gas to the eligible user, existing regulations require any application under § 284.123(b)(2) for Commission approval of a transportation rate allowance incorporated in the sales price to be filed by the selling pipeline as a condition to the commencement of the sale. Once such an application is filed, the sale may proceed without prior Commission approval, except that, the sales price will be subject to refund under § 284.2.

(5) *Direct Sales of Natural Gas.* Some comments contend that fuel oil displacement can be better achieved through the sales of interstate pipeline system supplies to traditional boiler fuel customers. As a result, the comments argue that a separate program for the transportation of natural gas outside the scope of pipeline system supplies (and interstate pipeline curtailment plans) is unnecessary and has a detrimental effect upon the acquisition of new pipeline supplies. One comment suggests that the eligible user be required to demonstrate that supplies are not available from its pipeline and distributor suppliers as a prerequisite to participation in the Order No. 30 program.

These concerns are not supported by our experience during the first year of the program. Although § 284.208 provides interstate pipelines with the opportunity to intervene and seek for their own system the natural gas supply proposed for sale to an eligible user, no pipeline has yet expressed such a need for the gas in any Order No. 30 proceeding. The pattern of actual sales occurring under the Order No. 30 program indicates that distributors and some interstate pipelines do not have a market among traditional customers for all natural gas presently under contract. Conversely, eligible users who were able to obtain natural gas from traditional suppliers did not consummate transactions under Order No. 30.[24]

Although the direct sale of natural gas is an effective means for targeting fuel oil displacement gas to specific end users, the Commission reaffirms its intent to give first priority to interstate pipeline system supplies. Interstate pipeline off-system sales to eligible users from general system supply will be subject to case-by-case scrutiny based upon an evidentiary record assembled by an Administrative Law Judge. One of the issues to be considered is the price charged and the treatment of the revenues by the interstate pipeline (§ 284.208(d)(2)). This inquiry will extend to whether the pipeline's other customers are disadvantaged by the sale to the eligible user. Should the transaction be priced in terms which effectively require subsidization by system supply customers (who may also be displacing fuel oil) a strong showing would have to be made to establish how such a circumstance would be consistent with the public interest. Moreover, when a transporting pipeline lacks sufficient capacity to transport both system supplies and Order No. 30 volumes, § 284.205(f) requires that the Order No. 30 volumes are first to be interrupted.

C. Long-Term Disposition of Supply Imbalances

As outlined above, the excess deliverability of natural gas supplies committed to pipelines and distributors is likely to recur. Although the Order No. 30 program is a valuable means of directing some of the excess deliverability to serve an important national interest in displacing imported oil, it is not necessarily the optimum program for fulfilling the Commission's regulatory objectives. In particular, although the program has proven successful in satisfying the short-term goal of rebuilding critically short fuel oil supplies, the Order No. 30 program does not advance the Commission's primary

[13] The Commission has taken a number of steps to develop new short-term demand in order to absorb the excess deliverability created by the Natural Gas Policy Act of 1978, (NGPA), Pub. L. 95-621. These measures were designed to be compatible with the high priority that the Commission attributes to promoting the development of system supplies.

The Commission believes that the best method of displacing fuel oil is to increase system supplies of natural gas. As system supplies are increased, customers who use fuel oil when natural gas was in short supply return to the use of natural gas. Thus, the development of system supplies serves to displace fuel oil. Increasing system supplies also protects high priority customers by reducing the likelihood of curtailment.

However, the Commission has also expanded its direct sales program to permit schools, hospitals, essential agricultural users, and process and feedstock users to consume natural gas purchased from producers even if used as boiler fuel. Prior to these amendments, boiler fuel loads were not eligible for direct sale gas, and the participants in the direct sale programs were ineligible to take system supplies for boiler fuel uses.

All of the above initiatives address the ability of a boiler fuel user to obtain natural gas from either pipeline system suppliers or in a direct sale arrangement. The broader question of whether natural gas may be used as a primary fuel in a particular installation is governed by the Powerplant and Industrial Fuel Use Act of 1978 (PIFUA), Pub. L. 95-620, 92 Stat. 3291. Section 301 of PIFUA, 42 U.S.C. 8341, limits the natural gas used in powerplants to levels historically used during 1974 through 1976, (subject to certain exemptions granted by the ERA). However, the ERA, as part of its comprehensive fuels policy, grants temporary public interest exemptions from the PIFUA when consistent with the objectives of the Act and national policy. Although the Commission's exercise of its Natural Gas Act authority significantly affects the use of natural gas transported in interstate commerce, the Secretary of Energy's authority and responsibilities under the PIFUA are even broader.

[14] Report of the Secretary of Treasury dated March 14, 1979.

[15] Energy Information Administration Weekly Petroleum Status Report, issued August 1, 1980 (No. 0208(31)) at 38. *See* also June 16, 1980, transcript at 60.

[16] August 6, 1980 letter from Lynne H. Church.

[17] *See* written comments of Douglas G. Robinson, April 2, 1980, at 24-27.

[18] *Id.*

[19] April 2, 1980, Transcript at 61-62, 71, 83-84. See also 10 CFR 595.05.

[20] The Energy Information Administration Weekly Petroleum Status Report (No. 0208 (80-31)) issued August 1, 1980 indicates that primary stocks of motor gasoline is 11.1% above last year's level, residual fuel oil stocks are 3.0% below levels a year ago, and middle distillate stocks are 27.9% above levels a year ago. In addition, crude oil imports are 19.2% lower than last year, and the four-week average of distillate imports are 54.9% lower than the level one year ago.

[21] April 2, 1980 Transcript at 88.

[22] April 2, 1980, Transcript at 314-15, 330.

[23] The August 6 letter refers to Petroleum Allocation for Defense District (PADD) I, which includes all states on the Atlantic coast.

[24] June 16, 1980 transcript at 12.

objective of developing a balanced load included in the natural gas company's

In consideration of the foregoing, Part

objective of developing a balanced load of end-users on the interstate pipeline systems. The original fuel oil displacement program proposed by ERA was to be limited to a year's duration subject to renewal for a second year.[25] Similarly, the current ERA proposed extension is confined to limit the total duration of the program to a two-year period.[26] Although this rule would extend the program to complete the full two years originally envisioned by ERA, the Commission wishes to emphasize that any further extension of the program would be well beyond the contemplation of this short-term structure. Accordingly, all participating end-users should plan to assure that alternative energy supplies will be available upon the final termination of the program in May 1981.

By that time, the Commission expects to implement more effective programs to dispose of excess natural gas deliverabilities. It is our objective to reassess current policies and programs and so develop a comprehensive long term policy prior to May 31, 1981.

III. Section-by-Section Analysis of Amendments

Section 284.201(e) has been amended to extend the Order No. 30 program until May 31, 1981.

Section 284.202(a) has been amended by authorizing covered transportation under section 311(a)(1) of the NGPA if such transportation is on behalf of an intrastate pipeline or local distribution company and the sale of such natural gas is a first sale. The term "first sale" is defined in section 2(21) of the NGPA. Natural gas eligible for this authorization cannot have been committed or dedicated to interstate commerce on November 8, 1978. The effect of this amendment is to implement producer sales of natural gas for fuel oil displacement either under section 311(a) of the NGPA (for transportation on behalf of an intrastate pipeline or local distribution company) or under the § 1.32 shortened hearing procedure for section 7(c) certificate authorization.

Section 284.204 is amended by withdrawing the exemption regulation promulgated under section 7 of the Natural Gas Act. Although the exemption rule ceases to apply on September 1, the amendment continues the requirement preventing any costs associated with the construction or operation of facilities by a natural gas company under this subpart from being included in the natural gas company's jurisdictional rates.

Section 284.205(c)(2)(ii) is amended by only requiring a recertification of eligible use by the Administrator pursuant to 10 CFR 595.03, if it is necessary.

Under the present § 284.206, volumes of natural gas purchased pursuant to Order No. 30 are not considered as either a natural gas supply or market in a determination of an interstate pipeline's customer requirements for present or future allocations of natural gas during periods of natural gas curtailment. Because such a provision may circumscribe the latitude of the Commission and the ERA in implementing Title IV of the NGPA, we do not view the extension of § 284.206 to cover any further volumes as desirable. Section 284.206 is amended to limit the effect of this existing provision to volumes of natural gas purchased prior to September 1, 1980.

Section 284.207 is amended by no longer requiring a certified copy of any currently effective determination by a jurisdictional agency under NGPA section 503 and Part 274 of this chapter and applicable to the natural gas to be transported. The affidavit formally requested is no longer required. An affidavit, that natural gas purchased in a first sale by an eligible user was not purchased at a price above the maximum lawful price, is required.

Section 284.208 has been amended to utilize the statutory hearing procedure for natural gas which is not committed or dedicated and is purchased by the eligible user in a first sale. The hearing shall be conducted in accordance with § 1.32 of this chapter. In all other Order No. 30 cases not eligible for self-implementing authorization under section 311(a) of the NGPA, an evidentiary hearing will be conducted before an administrative law judge.

IV. Effective Date

The Commission finds that the public interest is best served by the continuation of the fuel oil displacement program for an additional nine months. In order to avoid a disruption of on-going transactions authorized under Order No. 30, this rule must take effect before September 1, 1980. For this reason, the Commission finds good cause to waive the 30-day requirement set forth in 5 U.S.C. 553(d) and to make this rule effective on August 31, 1980.

(Natural Gas Act, 15 U.S.C. 717–717w, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Department of Energy Organization Act, 42 U.S.C. 7101–7352, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 284 of Chapter I, Title 18, Code of Federal Regulations, is amended, as set forth below, effective August 31, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 284.201 is amended by revising paragraph (e) to read as follows.

§ 284.201 Definitions.

* * * * *

(e) "Fuel shortage emergency period" means the period starting May 17, 1979, and ending at 11:59 p.m. on May 31, 1981.

* * * * *

2. Section 284.202 is amended by revising paragraph (a) to read as follows.

§ 284.202 Interstate pipeline transportation authorization.

(a) *General Rule.* Subject to paragraph (b) and the conditions specified in § 284.203.

(1) Covered transportation is authorized under section 311(a)(1) of the NGPA if such transportation is on behalf of an intrastate pipeline or local distribution company and if the seller of such natural gas is:

(i) A local distribution company, with respect to volumes which are attributable to local supplies; or

(ii) An intrastate pipeline; or

(iii) (A) The sale of such natural gas is a first sale as defined in section 2(21) of the NGPA; and

(B) Such natural gas was not committed or dedicated to intrastate commerce on November 8, 1978.

(2) Covered transportation not described in paragraph (a)(1) of this section is authorized if a certificate of public convenience and necessity is issued under section 7(c) of the Natural Gas Act in accordance with § 284.208.

* * * * *

3. Section 284.202 is further amended in paragraph (b) by striking each reference to "paragraph (a)(2)" and inserting in lieu thereof "paragraph (a)(1)."

* * * * *

4. Section 284.204 is amended to read as follows:

§ 284.204 Construction of facilities.

No costs associated with the construction or operation of facilities by a natural gas company necessary for the transportation of natural gas under this subpart shall be included in the natural gas company's jurisdictional rates.

5. Section 284.205 is amended in paragraph (c)(2)(ii) to read as follows:

[25] Proposed 18 CFR 157.204 (c) and (d), 44 FR 17644 (March 22, 1979).

[26] 45 FR 34290.

§ 284.205 General conditions.

* * * * *

(c) *Duration.* * * *

(2) *Renewals.* * * *

(ii) The application for renewal shall include a recertification of eligible use by the Administrator pursuant to 10 CFR 595.03, if necessary.

* * * * *

6. Section 284.206 is amended to read as follows:

§ 284.206 Effect on curtailment plans.

All volumes of natural gas purchased prior to September 1, 1980, by an eligible user and transported by an interstate pipeline pursuant to this subpart shall not be considered as either a natural gas supply or market in a determination of an interstate pipeline's customers' requirements for present or future allocations of natural gas during periods of natural gas curtailment.

7. Section 284.207 is amended by revising paragraph (2)(c)(5) to read as follows:

§ 284.207 Reporting requirements.

* * * * *

(c) *Reports by eligible users.* * * *

(5) With respect to natural gas purchased by the eligible user in a first sale; an affidavit that the eligible user never paid a price above the maximum lawful price.

8. Section 284.208 is amended by revising paragraph (d) to read as follows:

§ 284.208 Certificate procedures.

* * * * *

(d) *Hearing.* (1) In the case of natural gas which is not committed or dedicated and is purchased by the eligible user in a first sale, the Commission shall conduct an expedited hearing in accordance with § 1.32 of this chapter.

(2) In all other cases, upon the issuance of a temporary certificate, the Chief Administrative Law Judge shall set the application for an expedited evidentiary hearing. The evidentiary hearing shall examine, among other issues prescribed by the Presiding Law Judge:

(i) Whether any other natural gas company seeks to purchase for system supply the natural gas to be transported;

(ii) The price charged for the natural gas and the revenues retained by the seller;

(iii) The disposition of the natural gas in the event that certificate authorization is not granted; and

(iv) The actual impact of the transaction upon both the seller's other customers as well as the customers of the seller's interstate pipeline supplies.

* * * * *

[FR Doc. 80-25664 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 79F-0210]

Glycerol Ester of Tall Oil Rosin; Food Additives Permitted for Direct Addition to Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations by changing the acid number specification of glycerol ester of tall oil rosin as a component of chewing gum base to read "2–12" rather than "5–12" as presently listed. American Cynamid Co. filed a petition requesting such use.

DATES: Effective August 22, 1980; objections by September 22, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of August 17, 1979 (44 FR 48351) announced that a food additive petition (FAP 7A3322) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the specifications for glycerol ester of tall oil rosin, presently listed for use as a component of chewing gum base in § 172.615(a) (21 CFR 172.615(a)), be amended by changing the acid number specification to read "not to exceed 10" rather than "5–12" as presently stated.

A comment was received in response to the notice of filing, recommending that a minimum acid number specification be retained for the additive. The commentor stated that if there were no minimum number, an attempt could be made to obtain an acid number approaching zero, which, although difficult to accomplish, could result in a rosin that could be decarboxylated or degraded to such a degree that it would not be the same product as currently regulated. Likewise, the decarboxylated rosin could contribute a different taste to the chewing gum. Because of this, the commentor suggested that the minimum acid number specification be retained at 5 or as low as 3, if desired.

Subsequently, the petitioner amended his petition proposing that the acid number specification be changed to read "2–12". The Food and Drug Administration (FDA) has reviewed the comment and agrees that a minimum acid number specification should be retained. FDA concludes that a range of "2–12" would serve to accomplish the proposed objective, and is a suitable acid number specification for identifying the regulated additive.

FDA has evaluated data in the petition and other relevant material, and concludes that the food additive regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.615(a) by changing the acid number specification in the item "Glycerol ester of tall oil rosin" to read as follows:

§ 172.615 Chewing gum base.

* * * * *

(a) * * *

Plasticizing Materials (Softeners)

* * * * *	
Glycerol ester of tall oil rosin.	Having an acid number of 2–12, a softening point (ring and ball) of 80°–88° C and a color of N or paler. The ester is purified by steam stripping.

Any person may at any time on or before September 22, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure

to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 22, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25527 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Parts 176 and 178

[Docket No. 80F-0126]

Indirect Food Additives; Dipropylene Glycol Dibenzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dipropylene glycol dibenzoate as a plasticizer in polymeric substances to be used as components of paper and paperboard in contact with dry food. Velsicol Chemical Corp. petitioned for this use.

DATES: Effective August 22, 1980; objections by September 22, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: FDA issued a notice in the **Federal Register** of April 29, 1980 (45 FR 28496) announcing that a food additive petition (FAP 4B3009) had been filed by Velsicol Chemical Corp., 341 E. Ohio St., Chicago, IL 60611, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) and § 178.3740 *Plasticizers in polymeric substances* (21 CFR 178.3740) be amended to provide for the safe use of dipropylene glycol dibenzoate as a plasticizer in polymeric substances to be used as components of paper and paperboard in contact with dry food.

FDA has evaluated data in the petition and other relevant material and concludes that §§ 176.180 and 178.3740 should be amended as set forth below to include the petitoned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), chapter I of title 21 of the Code of Federal Regulations is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. Part 176 is amended in § 176.180(b)(2) by inserting a new entry alphabetically in the table, to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
Dipropylene glycol dibenzoate (CAS Registry No. 94-51-9).	For use only as plasticizer in polymeric substances.
* * * * *	

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

2. Part 178 is amended in § 178.3740(b) by inserting a new entry alphabetically in the table, to read as follows:

§ 178.3740 Plasticizers in polymeric substances.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Dipropylene glycol dibenzoate (CAS Registry No. 94-51-9).	For use only as provided in § 176.180 of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 22, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 22, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25528 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of the Amendments to the Utah Field Operations Manual

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice gives approval of amendments to the Utah Field Operations Manual. Modifications to the Utah Manual were made by the State to bring it into conformity with program and policy changes made by the Occupational Safety and Health Administration in its Field Operations Manual.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210 (202) 523–8081.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved under Section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1978, notice was published in the **Federal Register** of the approval of the Utah plan and of the adoption of Subpart E of Part 1952 containing the decision (38 FR 1178). On August 23 and December 17, 1979, the State of Utah submitted supplements to the plan involving Federal program changes (see Subpart C of 29 CFR Part 1953).

Description of Plan Supplements

Field Operations Manual. The amendments to the Utah Field Operations Manual generally parallel the Federal Operations Manual. Minor revisions to several Chapters were made by the State in response to OSHA's Federal program changes. The amendments included the following: (1) the establishment of safety inspection priorities, (2) a change in the calculation and classification of penalties, (3) definitional changes, and (4) other minor administrative changes.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Technical Data Center, Room S–6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; and the Utah Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Utah plan supplements described above are substantially identical to OSHA policies and procedures. Accordingly, it is found that further public comment is unnecessary.

Decision

After careful consideration, the Utah plan supplements are hereby approved under Subpart C of 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 15th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-25617 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-26-M

---

29 CFR Part 1952

Approval of Supplements to Virgin Islands State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice announces the approval of the completion of two developmental steps and the approval of a state-initiated change under the Virgin Islands Occupational Safety and Health plan. The completed developmental steps include the public employee program and the Occupational Safety and Health Administrative Regulations. The state-initiated change is a clarification to the rules concerning the filing and publication of regulations.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: John Smith, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N–3613, Washington, D.C. 20210, (202) 523–8081.

SUPPLEMENTARY INFORMATION:

Background

The Virgin Islands Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter referred to as the Act) and Part 1902 of this Chapter on September 11, 1973 (38 FR 24896). Part 1953 of this Chapter provides procedures for the review and approval of change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of the Supplements

1. *Public Employee Program.* The Virgin Islands public employee program was implemented in July 1975. The rules and regulations applicable to the Virgin Islands private sector also apply to the public sector in all areas, including where serious violation or imminent danger situations exist, with the exception that no penalty assessments are imposed in the public sector.

The Federal OSHA standards adopted by the Virgin Islands for enforcement in the private sector are also applicable in the public sector. Although the State plan excludes health coverage in the private sector, the State designee has expressed the intention to provide health coverage in the public sector when adequately trained personnel becomes available.

2. *Administrative Regulations.* On March 8, 1976, the Virgin Islands submitted its Occupational Safety and Health Administrative Regulations as a developmental supplement.

A notice was published in the **Federal Register** on October 1, 1976 (41 FR 43411), announcing the submission of the proposed supplement of the Virgin Islands Occupational Safety and Health Administrative Regulations, and requesting public comment on the supplement. The Administrative Regulations contain the basic provisions for implementing the Virgin Islands Occupational Safety and Health Act, including the following subject areas: promulgating, modifying or revoking OSHA standards; advisory committees; variances; inspections, citations, proposed penalties; recordkeeping and reporting; discrimination; and proceedings for hearing examiner.

3. *Filing and Publication of Regulations.* This change was submitted with additional language amending the Virgin Islands Code, Title 3, Chapter 35, to make it clear that this section applies to the promulgation of permanent as well as emergency standards by means of newspaper notice until publication in the Virgin Islands Register.

Location of the Plan and its Supplements for Inspection and Copying

A copy of these supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State programs, Occupational Safety and Health

---

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5977

[Montana 21]

Withdrawal of Public Land for Protection of Recreation Values; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 1,280 acres of public land from mining for a period of 50 years to protect the recreation values of the Missouri River Breaks Interpretive Association Site. The land will remain open to mineral leasing.

EFFECTIVE DATE: August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Jack A. Eaves, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

Subject to valid existing rights, the following described public land is withdrawn from location and entry under the mining laws, but not from leasing under the mineral leasing laws, to protect the recreation values of the Missouri River Breaks Interpretive Association Site:

Principal Meridian, Montana

T. 20 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 21 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 22 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 23 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 24 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 25 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 26 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 27 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 28 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 11, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 12, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 13, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 14, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 15, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 16, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 17, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 21, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 22, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 23, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 24, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 25, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 26, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 27, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 28, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 29, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 33, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 35, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 36, lots 1 to 4, inclusive, E½W½, and E½.

T. 29 N., R. 29 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 7, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 8, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 9, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 10, lots 1 to 4, inclusive

Administration, Room N3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Department of Labor, Occupational Safety and Health Division, Building No. 1, Second Floor, Government Complex, Room 207, Lagoon Street, Frederiksted, St. Croix, Virgin Islands 00840.

Public Participation

Interested persons were afforded thirty days to submit written comments or request a hearing concerning the Virgin Islands Occupational Safety and Health Adminstrative Regulations. No public comments were received.

With regard to the remaining changes, under § 1953.2(c) of this Chapter the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that these changes are consistent with Federal requirements and with commitments contained in the plan and previously were made available for public comment. Therefore, further public comment and notice would be unnecessary.

Decision

After careful consideration, the Virgin Islands plan supplements described above are hereby approved under 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart S of 29 CFR Part 1953 is hereby amended to reflect these approved changes by adding paragraphs (j) and (k) to § 1952.254 as follows:

§ 1952.254 Completed developmental steps.

* * * * *

(j) In accordance with § 1952.253(e), the Virgin Islands implemented the public employee program in July 1975.

(k) In accordance with § 1952.253(c), the Virgin Islands adopted the Administrative Regulations on March 11, 1974.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 15th day of August 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–25771 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Lake Mead National Recreation Area, Arizona and Nevada; Alcoholic Beverages

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to delete the regulation pertaining to the sale, gift or possession of alcoholic beverages at Lake Mead National Recreation Area presently codified in 36 CFR § 7.48(b). This special regulation duplicates the general regulation applying to all areas of the National Park Service (36 CFR § 2.16), and as such is no longer necessary.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION CONTACT:

Jerry Wagers, Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, (702) 293–4041.

SUPPLEMENTARY INFORMATION:

Background

Special Regulation 36 CFR § 7.48(b) prohibits the sale, gift or possession of alcoholic beverages by any person under 21 years of age at Lake Mead National Recreation Area. The National Park Service's general regulations found in 36 CFR § 2.16 prohibit the sale, gift or possession of alcoholic beverages to any person under 21 years of age except where state laws prescribe a lower minimum age. In view of the fact that this special regulation duplicates the authority found in 36 CFR § 2.16, the Service has decided that it is no longer necessary. This review of rules was undertaken in accordance with 43 CFR Part 14.7 which establishes procedures for the periodic review of existing regulations to assure that they are needed, up-to-date and clear.

The National Park Service has determined that it is impractical and unnecessary to provide a notice of proposed rulemaking on this action. Therefore, in accordance with 5 U.S.C. 553(b)(B) and 43 CFR 14.5(b)(3)(i), this document is published as a final rule. However, interested persons who wish to make comments or suggestions on this rule may do so by writing to the address noted at the beginning of this rulemaking. All comments received will be reviewed to determine if further revision is necessary.

Drafting Information

The following individuals participated in the writing of this regulation: Joseph L. Orr, Former Chief Ranger, Western Region, National Park Service, San Francisco, California, and Maureen Finnerty, National Park Service, Washington, D.C.

Impact Analysis

The National Park Service has made a determination that the regulation contained in this rulemaking is not significant, as that term is defined in 43 CFR Part 14, nor does it require the preparation of a regulatory analysis pursuant to the provisions of this authority. In addition, the Service has determined that this regulation is not a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478), as amended.

L. E. Surles,

Acting Associate Director, Management and Operations, National Park Service.

§ 7.48 [Amended]

In consideration of the foregoing, Part 7 of Title 36, Code of Federal Regulations, is amended as follows:

36 CFR § 7.48(b) is hereby deleted and reserved.

[FR Doc. 80–25719 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

POSTAL SERVICE

39 CFR Part 111

Handling of Mailable Matter Not Bearing Postage Placed in Private Mail Receptacles or in the Mails

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends postal regulations governing the manner in which the Postal Service handles mailable matter not bearing postage which is found (a) in collection boxes or other mail receptacles or processing facilities, or (b) in or on private mail delivery receptacles.

The primary purposes of the rule change is to establish uniform procedures to be followed by all offices when a distribution outside the mails of mailable matter not bearing postage is found in or on mail delivery receptacles.

Such distributions are violations of 18 U.S.C. 1725 or of postal regulations.[1] In the past there have been different administrative practices in different locations because of varying interpretations of current regulations. This change is intended to solve those problems by establishing more detailed instructions.

The final rule also specifies that the kinds of mailable matter covered by the regulation include parcels, newspapers and magazines, books, records, and other mailable material. .

EFFECTIVE DATE: September 21, 1980.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Harris, (202) 245–5757.

SUPPLEMENTARY INFORMATION: On October 25, 1979, the Postal Service published for comment in the **Federal Register** (44 FR 61383) proposed changes to 146.123 and 146.22 of the Domestic Mail Manual, as described above in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by November 24, 1979.

Sixteen parties submitted comments. The major comments are discussed below.

A. Phraseology

1. The phrase "unpaid mail matter" in proposed 146.123 was said to be an inappropriate way to describe matter which is not intended for delivery by the Postal Service. In response to this comment, we revised the phrase to read "mailable matter not bearing postage." This is consistent with the usage in 146.2 and avoids any implication that the matter was intended to be mailed.

2. It was suggested that the phrases "found * * * in the mail" in proposed 146.123 and "private mail receptacles" in proposed 146.22 should be defined.

The final rule changes the phrase "found * * * in the mail" to "found in * * * other receptacles designated for the deposit of mail by the public or in any facilities or mail processing operations" of the Postal Service. The final rule also amends 151.1 to provide that door slots and non-lockable bins or troughs used in connection with apartment house mailboxes are not letter boxes within the meaning of 18 U.S.C. 1725 and not private mail receptacles within the meaning of 146.2.

B. Relationship to Private Express Statutes

1. It was contended that a requirement for the payment of postage on newspapers which are placed in mail receptacles would deprive them of their exemption from the Private Express Statutes. The contention betrays a misunderstanding of the Private Express Statutes, as well as these rules. Neither the existing nor the proposed rules are based on any requirement that the affected material be carried by mail instead of by private carriers. Rather, these rules deal with the attempted free use of collection boxes and other Postal Service facilities, and private receptacles established for the delivery of U.S. mail. Similarly, section 1725 of title 18, U.S. Code, which prohibits the deposit of "matter on which no postage has been paid, in any letter box established, approved or accepted by the Postal Service for the receipt or delivery of mail matter," does not turn upon whether such matter may or may not be carried outside the mails. While it may be true that some private deliveries could be effected more easily if access to mail delivery receptacles were permitted, such access would be inconsistent with the Federal policy of maintaining the integrity of mail receptacles, on which section 1725 and related regulations are based.

2. One comment maintained that the use of the phrase "selective distribution of pieces on a route" in proposed 146.221 conflicted with that part of the proposed Private Express rulemaking of December 28, 1978 (43 FR 60615), which proposed to explain that "selective delivery" is a form of addressing. The commenter urged that the present rulemaking be suspended until the proposed Private Express regulations are issued.[2] While the terms "selective delivery" and "selective distribution" were not used for the same purpose in these two proposed rulemakings, it is apparent that the accidental choice of similar phrasing can be confusing. To avoid such misunderstanding, we have replaced the term "selective distribution" in 146.221 with the phrase "distribution * * * to some, but not all, addresses on a route."

C. Due Process

A number of comments argued that the proposal permitted removal of the matter in question from a mail receptacle and assessment of postage against a private delivery carrier without opportunity for a defense. Mentioned as potential defenses were an erroneous interpretation by the mail carrier removing the material, or deposit of the material in the mail receptacle by someone other than the private carrier.

It is not our intent to deny the private carrier or the sender of the material the right to point out any mistake by the postal employee, at the time a request for postage is made.

If the regulations have been misapplied, the Postal Service will deliver the item without charging postage. We believe the final rule is clear enough that such mistakes should not be made. One comment suggested that consideration of such a defense be assigned to the Postal Service Judicial Officer under the Private Express Regulations (see 39 CFR 310.5), and another suggested the local postal inspector. We think the factual and interpretative questions involved are simple enough for quick resolution at the local level. The postmaster would have the services of the Inspection Service available if needed.

It is also not our intent to find anyone "guilty" or to "assess" postage based simply on the discovery of unpaid matter in a mail receptacle. Regardless of who put it there, its deposit in the receptacle is not lawful. While we believe that whoever put it there owes the appropriate postage, we do not propose to take any action against anyone in particular without notification and opportunity for investigation. We do not regard the removal of the material from the mail receptacle in an attempt to collect the lawful postage as an adjudication of the responsibility for putting the matter in the box or as a penalty against anyone. If a private delivery firm which delivered the item properly completed its job and did not put it in the mail receptacle, it should say so upon receiving a request for the postage and decline to pay. The Postal Service cannot compel payment of the postage or take punitive action without litigating the matter in court.

In order to allow time for a private delivery firm to investigate whether it is responsible for a particular improper deposit in a mail receptacle or whether the Postal Service may have made some mistake, 146.223a of the final rule provides that the Postal Service will

[1] In *Council of Greenburgh Civic Associations and The Saw Mill Valley Civic Association* v *U.S. Postal Service*, No. 77Civ. 483 (S.D.N.Y. April 24, 1980), (*Final Judgment* entered May 24, 1980), the U.S. District Court for the Southern District of New York held 18 U.S.C. 1725 to be unconstitutional as applied to certain civic associations in Westchester County, New York, which had placed their materials into letter boxes. The effect of the decision is limited to the associations named in the *Final Judgment*.

A Notice of Appeal was filed in behalf of the Postal Service on June 19, 1980. Pending further litigation, the Postal Service will not apply 18 U.S.C. 1725, or the regulations which implement that statute, to the distribution of non-commercial materials by the organizations in Westchester County, New York, which are listed in the *Final Judgment*.

[2] On January 7, 1980 the Postal Service published a revised notice of proposed rulemaking on this and other matters at 45 FR 1427. The comment period was subsequently extended to April 8, 1980. 45 FR 6801.

remain ready to deliver the item upon payment of postage within 5 days following the initial request for postage, or within 5 days following a renewed request if some objection is made.

D. Notification of Violations

It was suggested that firms be notified of violations within a seven day period. The final regulations specify, in 146.123, that mailable matter found in collection boxes or any facility of the Postal Service will be returned "as promptly as possible". Sections 146.223a and .223b use the same term in connection with items removed from a mail delivery receptacle.

E. Waiver for First Violations

Several parties contended that the first instance of a violation should not result in the removal of materials from a mail receptacle. We believe that giving official permission for a free "first bite" would only introduce an unnecessary complication. Moreover, we see no justification for treating a violation as an excused violation simply because it is the first time a mail carrier observes it happening.

F. Liability of Publishers

It was contended that a publisher should not be held liable for the acts or omissions of independent contractors who deliver its publication, when it has no knowledge of such acts or omissions. Yet, it would appear that a publisher typically exercises substantial control over the conduct of the firm which it uses to effect delivery of its materials, and it does not appear unreasonable to look to the publisher for the payment of postage when infractions occur. In any event, the regulations provide in 146.223a and b that the Postal Service will initially look to the apparent distributor in the event of an infraction.

G. Payment of Postage

A number of objections were raised about the manner in which postage would be computed on materials found in mail receptacles. Some parties argued that a flat fee should be charged; others argued that the postage should be based upon the bulk rates which would be charged on materials which qualify for such rates. We adhere to the view that bulk rates are applicable only to materials which are shipped through the Postal Service in accordance with applicable regulations, and that such rates are not applicable to situations involving the improper use of mail receptacles. Moreover, the establishment of a flat fee, rather than using the postage applicable to the item in question, would appear inconsistent with section 1725 of title 18, U.S. Code, which prohibits the deposit of matter in letter boxes with the intent to avoid payment of "lawful postage". In addition, we do not agree with the comment that the rates of postage charged under these regulations constitute new rates or penalties. The critical fact is that the regulations apply to materials which have not been tendered to the Postal Service under circumstances which warrant the application of bulk rates.

It was also suggested that no items be removed from mail receptacles except labels or addressing materials, or alternatively, that the letter carrier only document each improper delivery without removing the materials in question. We have adopted neither suggestion because each entails administrative burdens which would unduly interfere with the carrier's primary function of delivering the mail on time for the people on the route.

One party suggestd that private distributors be allowed to maintain accounts from which postage could be paid. We believe that this would add an unnecessary administrative overlay and, in addition, could imply that private distributors have a license to use the mail receptacles.

As in the past, postage due on items which are not removed from mail receptacles will be receipted by providing cancelled stamps or meter strips on sheets of paper to the person paying the postage. See 146.223c. A new sentence has been added to provide that postage due on items which are removed from receptacles must be receipted in the same way. See 146.223a.

H. Miscellaneous

The phrase "general distribution" in 146.222 has been changed for purposes of clarity to read "distribution of identical pieces * * * to all or substantially all addresses on a route". We have also made certain minor and editorial changes in the rule as adopted.

After careful consideration of all the comments, the Postal Service hereby adopts the following revisions of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register** under 39 CFR 111.1.

Part 146—Prepayment and Postage Due

1. In 146.12, revise .123 to read as follows:

146.12 *Mailable Matter Not Bearing Postage Found in the Mail.*

* * * * *

.123 Except as provided in 146.123a or b, mailable matter not bearing postage (including but not limited to parcels, newspapers and magazines, books, and records) intended for delivery by a private delivery company but found in collection boxes or other receptacles designated for the deposit of mail by the public or in any facilities or mail processing operations of the Postal Service, will be returned as promptly as possible to the sender postage due, and not delivered to the addressee or returned to the private delivery company. Address correction service or forwarding service will not be provided. Postage due, rated according to 146.221c, will be determined by computing postage due from the point at which the unpaid mailable matter entered the mail to the sender's location. However, when the entry point of the unpaid mailable matter is unknown, postage due will be computed from the point where it was first found in the mail to the sender's location.

a. If the sender cannot be identified or if mailable matter is refused by sender, the procedures in 159.5 will be followed.

b. If it appears that mailable matter was inadvertently delivered to a post office, the private delivery company will be notified as promptly as possible to pick up the matter by the close of the company's next working day. If the company fails to do so, the matter will be returned to sender postage due.

2. In 146.2, revise .22 to read as follows:

146.2 *Mailable Matter Not Bearing Postage Found in or on Private Mail Receptacles.*

* * * * *

.22 *Collection of Postage.*

Except as permitted in 156.56, any mailable matter not bearing postage found in, upon, attached to, supported by, or hung from the private mail receptacles described in 151.1, is subject to the payment of the same postage as would be paid if carried by mail. For mailable matter not bearing postage found in the mail, see 146.12.

.221 *Distribution to less than complete route.*

When there is a distribution of pieces to some, but not all, addresses on a route, they will be handled as follows:

a. Each piece will be taken to the delivery unit.

b. The date and approximate time of finding will be recorded on the piece. If the address where the piece if found is different from the address, if any, on the label, the address where found will be recorded, as well as the approximate time and date.

c. Postage on each piece found will be computed as follows: (1) First-Class Matter. First-class rates will be applied to matter which would require first-class postage if mailed.

(2) Second Class Publications. The transient rate in 411.42 will be applied.

(3) Controlled Circulation Publications. The applicable single piece third-class or fourth-class rate in 611.11 or 711 will be applied.

(4) Books, Records, Circulars, Catalogs, and Merchandise. If the piece weighs less than 16 ounces, either the single piece third-class rate, or the applicable fourth-class rate, whichever is lower, will be applied. See 611.12. If the piece weighs 16 ounces or more, the applicable fourth-class rate will be applied.

.222 *Distribution to all or substantially all addresses on a route.*

If there is a distribution of identical pieces to all or substantially all addresses on a route, only two copies, each dated, initialed, and marked with the address where found, will be taken to the office along with a written notation of the total number of identical pieces observed on the route. The postmaster must prepare a memorandum showing the details to support the claim of postage, which will be computed in accordance with 146.221c.

.223 *Request for payment.*

a. If there is reason to believe that a private delivery firm or an individual within the delivery area of the post office is responsible for the delivery, the local postmaster will notify the firm or individual as promptly as possible concerning the number of pieces and the amount of postage due. The applicable provisions of this manual will be explained. If the firm or individual receiving a request for postage offers objection that these regulations have not been applied properly in the particular case, the facts will be investigated before any action is taken. If, within five days after receiving a request for the postage, or within five days after receiving a renewed request following investigation of an objection, the firm or individual agrees to pay the postage due, payment will be accepted and the articles will be delivered to the addressees. The firm or individual paying the postage may choose to redeliver the pieces rather than have the Postal Service deliver them. Receipt for payment will be handled in accordance with 146.223c. If the pieces are found to have been removed improperly, they will be delivered without postage charge.

b. If the firm or individual responsible for delivery is not known or if the firm presented with a request fails to pay the postage, the pieces will be returned as promptly as possible to the publisher or manufacturer, postage due, with each piece endorsed to show that the articles were found in or on the addressee's mailbox without postage. If a publisher or manufacturer provides the name and telephone number of a person to contact about pieces found in mailboxes and orally or in writing guarantees payment of postage, the pieces will not be returned but will be redelivered promptly to the addressees. If the pieces are refused by the publisher or manufacturer or if the publisher or manufacturer is unknown, the procedures in 159.5 will be followed.

c. An equivalent amount of postage due stamps affixed to a sheet of paper and properly canceled as a receipt for money collected will be given the person or firm paying postage. If payment is in the form of uncanceled stamps or meter stamps, they will be affixed to a sheet, canceled and return as a receipt for payment. No other receipt will be issued.

Part 151—Private Mail Receptacles

3. Amend 151.1 to read as follows:

151.1 Designation As authorized Depository.

Every letterbox or other receptacle intended or used for the receipt or delivery of mail on any city delivery route, rural delivery route, highway contract route, or other mail route is designated an authorized depository for mail within the meaning of 18 U.S.C. sections 1702, 1705, 1708, and 1725, except that door slots, and nonlockable bins or troughs used in connection with apartment house mailboxes are not letter boxes within the meaning of 18 U.S.C. 1725 and not private mail receptacles within the meaning of 146.2. The post is not part of the receptacle.

A transmittal letter making changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the **Federal Register** as provided in 39 CFR § 111.3.

(39 U.S.C. 401(2), 404(a)(2); 18 U.S.C. 1725)

W. Allen Sanders,

Associate General Counsel.

[FR Doc. 80-25652 Filed 8-21-80; 8:45 am]

BILLING CODE 7710-12-M

---

39 CFR Part 111

Change of Address Orders, Dual Addresses, ZIP Code

AGENCY: Postal Service.

ACTION: Final rule

SUMMARY: The purposes of the final rule are (1) to provide a uniform time limit of one year for the honoring of all permanent change of address orders, (2) to establish a consistent procedure for delivery of mail showing two addresses (such as a street address and a post office box) and (3) to encourage the usage of correct ZIP Codes. These rule changes are intended to reduce mail processing expenses.

EFFECTIVE DATE: September 21, 1980.

FOR FURTHER INFORMATION CONTACT: Eugene R. McGill, (202) 245-4512.

SUPPLEMENTARY INFORMATION: On October 26, 1977, the Postal Service published for comment in the **Federal Register** proposed changes to various sections of the Postal Service Manual as described above (42 FR 56509). Interested persons were invited to submit written comments concerning the proposed changes by November 25, 1977.

Written comments were received from twenty-five businesses, associations and individuals. One commenter favored the rule as proposed and urged the Postal Service to put it into effect at the earliest date.

Several commenters mistakenly thought that under the proposal mail addressed to a street address after the one year forwarding period would not be delivered. If the addressee is physically located at or resides at the street address shown on the mail, the Postal Service will begin or resume delivery of mail addressed to a street address. To ensure delivery of mail so addressed, customers must install a mail receptacle or a door slot or be on hand to receive the mail when the carrier arrives. See Domestic Mail Manual, 155.41.

One commenter thought there would be not way for a mailer to learn the box number of an addressee after the one year forwarding period except through long distance telephone calls. If a mailer knows only the street address, the mail will be delivered to that address, unless the addressee does not maintain a mail receptacle or door slot, or office available to receive mail at that location. If an addressee is secretive about his post office box and maintains no street address delivery point, the commenter may be right. Telephone calls may be the last resort, assuming he can find the telephone number. However, we think the commenter describes an entirely hypothetical or at least infrequent situation. Mailers are generally aware of the need, and, if they are business mailers, are eager to provide correspondents with the address where they want their mail delivered. The post office has a form for this very purpose that may be filled in and mailed to one's correspondents.

Three commenters requested that the forwarding proposal be modified to permit postmasters to determine which boxholders should receive forwarding beyond one year and which should not, depending upon the amount of mail that would have to be forwarded and the effect on the particular post office. We think it would be unwise to permit exceptions quite this broad, with such built-in potential for unequal treatment of mailers and confusion of postal employees.

Two commenters, a mail order catalog firm and a missionary organization, indicated that the proposed one year forwarding limitation would have a severe adverse effect on them. Both organizations have physically moved to other cities and maintained post office boxes at their former post offices to receive mail orders, contributions, and legacies addressed to their former locations. In both cases, it is probably impossible for the organizations to contact all possible correspondents to notify them of the new addresses. Under the proposal, mail addressed to the former street addresses would be treated as undeliverable after one year. Each commenter requested that some flexibility be provided in the final rule to take such situations into account.

The Postal Service agrees that elimination of forwarding service after one year for such boxholders could have a serious and detrimental economic impact on them. To prevent such hardships the final rule provides for an exception to allow postmasters to extend the forwarding period for one additional year where mail is regularly being received addressed to the old address. However, the addressee must demonstrate that an economic or financial hardship will ensue if extended forwarding is not granted and that a reasonable effort is being made to notify correspondents of the new mailing address.

Two commenters requested that all third-class mail, not merely third-class mail of obvious value, be forwarded locally without additional postage being required. Since these comments go beyond the scope of the forwarding part of the proposed rule, which establishes a uniform time period for forwarding to a local post office box, they will not be adopted in this rulemaking.

One commenter suggested that the proposal be modified to limit the forwarding of mail to post office boxes to three years rather than the proposed one year. One of the purposes of the proposed change is to simplify the complex regulations regarding the forwarding of mail. Little simplification would result if the general period for forwarding mail to lockboxes was different from the period for forwarding other forwardable mail. Furthermore, if mail were forwarded to lockboxes for more than one year, the increased volume of misaddressed box mail could exceed manageable limits for machine distribution for box section mail.

To eliminate the additional sortations required to forward mail to post office boxes, one commenter suggested that a carrier caller service be provided so that addressees could pick up their street-addressed mail from the carrier sections of post offices. The Postal Service currently offers a caller service to firms and individuals meeting the criteria in Part 952, Domestic Mail Manual. Under caller service a customer picks up his mail from a call window or the loading dock. The mail is generally presented in sacks, pouches, trays or bundles.

One commenter said that it was unnecessary to warn mailers that failure to use a ZIP Code or the use of an incorrect ZIP Code would result in delayed or incorrect delivery, since errors in addressing may be logically assumed to have those results. He suggested that correct ZIP Code use would increase if any mail endorsed "Address Correction Requested" and bearing an incorrect ZIP Code were returned to the sender showing the correct ZIP Code.

The problem with this solution is that it would greatly delay mail delivery, since correctly addressed (except for the ZIP Code) deliverable mail would not be delivered, but returned to the sender. We believe that few mailers would like this solution. Moreover, the existing "Address Correction Requested" procedure does not contemplate return of the mail piece to a sender. During the one-year forwarding period, when a piece of mail endorsed "Address Correction Requested" bears an addressee's old address, the Postal Service generally forwards the mail to the addressee's new address, if known, and notifies the sender of the new address or the reason why the mail piece was undeliverable.

It would be possible to treat mail with a correct street address but an incorrect ZIP Code the same as "Address Correction Requested" forwardable mail. However, there are certain drawbacks. For example, this kind of mail would suffer a delay of at least one day, due to the work entailed in taking the mail piece from the mailstream and addressing a card to the sender with the addressee's name, address and correct ZIP Code on it. We anticipate, moreover, that the startup costs of any such system, which would require reprogramming of our computerized mail forwarding system, could be very significant and might well outweigh the expected benefits for a number of years. In any event, the commenter's suggestion is beyond the scope of this rulemaking but could be addressed in a future rulemaking if other mailers should show sufficient interest in the idea to make it worth pursuing.

When a piece of mail bears both a street address and a post office box number, the postal carrier under existing rules delivers the piece to the address shown on the line immediately preceding the city, State and ZIP Code, unless the addressee has issued contrary instructions. Under the proposed rule an addressee would lose the option of issuing instructions contrary to the usual rule. Following such contrary instructions in the past has required manual processing of the mail, which the Postal Service has, through mechanization, been steadily reducing.

Several commenters, however, reported that they have only limited control of the format and placement of their addresses on mail sent to them, and that, as a general rule, they prefer that their mail be delivered to the post office box, regardless of where the box number appears in the address.

In our opinion, a mail recipient has considerable control over the format and placement of his address. Most mail is addressed the way the recipient intends from the return address, letterhead, order blank, etc. Moreover, the commenters' suggestion to require delivery to the box regardless of its position in the address would significantly add to the responsibility of the carrier in that the carrier would have to look throughout the address for a box number when casing the mail for his delivery route.

For the above reasons, and after careful consideration of all the comments, the Postal Service hereby adopts, with the modifications discussed above, the following amendments to the Domestic Mail Manual, which replaced Chapter 1 of the Postal Service Manual on July 30, 1979 (44 FR 39742), and which is incorporated in the **Federal Register** by reference. See 39 CFR 111.1.

Part 122—Addresses

1. In 122.1 revise .16 to read as follows:

122.1 General information

* * * * *

.16 Mail should be specifically addressed to the place where the post office is to deliver it. Mail bearing both a street address and a post office box number will be distributed for delivery in accordance with the address shown on the line immediately preceding the city and State of destination. The ZIP Code must correspond with the unit (box location or street address) through which delivery is to be effected. The requirements of this paragraph are also applicable to return addresses on mail matter.

Example:

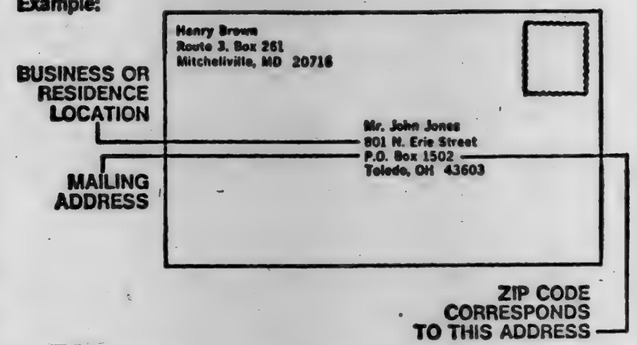

Note: Mail bearing the names of more than one post office in either the return address or recipient's address is not acceptable for mailing.

2. In 122.6 revise .62 to read as follows:

122.6 ZIP Code System

* * * * *

.62 Purpose. The purpose of the ZIP Code is to achieve greater accuracy and speed in the dispatch and delivery of mail. Lack of a ZIP Code on mail, or a ZIP Code which does not correspond with the delivery address, could result in delayed or incorrect delivery.

Part 159—Undeliverable Mail

3. In 159.2 revise .213b and .241 to read as follows:

159.2 Forwarding

* * * * *

.213 Time Limit of Change of Address Order

* * * * * * *

b. *Time Limit Not Specified by Addressee.*

Records of permanent change of address orders (other than those subject to 159.213d) are held one year for forwarding purposes from the end of the month in which the change becomes effective. An address change to a post office box at the same post office filed before October 1, 1980, will expire on September 30, 1981.

Exception: When a boxholder has notified the post office of a permanent change in mailing address, or the Postal Service has administratively changed a customer's mailing address, the postmaster may extend the forwarding period for one additional year providing mail is being regularly received addressed to the old address. To qualify, the addressee must demonstrate that an economic or financial hardship will ensue if extended forwarding is not granted and that a reasonable effort is being made to notify correspondents of the new mailing address.

* * * * *

.241 Change in Local Address

All mail, other than third-class mail of no obvious value, will be delivered as directed if the old and the new addresses are served by the same post office. If a change of address order to a post office box at the same post office as the old address was filed before October 1, 1980, *all* mail will be forwarded to the box in accordance with the instructions shown on Form 1093, through September 30, 1981. Additional postage is not required.

Part 951—Post Office Lockbox Service

4. In 951.1 revise .122 to read as follows:

951.1 Purpose and Definition

* * * * *

.122 Lockboxes are located only in postal facilities. Customers receive their mail in these boxes and may open the boxes by means of a key or combination. A number is assigned to each box. Mail intended for delivery through a box must show the assigned post office box number in the address immediately above the city, State, and ZIP Code. Lack of a ZIP Code on mail, or use of a ZIP Code other than that assigned to the box section, could result in delayed or incorrect delivery. Mail without a box number will be delivered to the street address if shown in the address. If no street address is shown, the mail may be treated as undeliverable as addressed. Mail bearing both a street address and box number will be delivered in accordance with 122.16.

Part 952—Caller Service

5. In 952.1 revise .125 to read as follows:

952.1 Purpose and Definition

* * * * *

.125 A caller number is assigned to the caller for each separation used, and the caller must use the term *Box Number* and the assigned number in the mailing address immediately above the city, State, and ZIP Code. Lack of a ZIP Code on mail, or use of a ZIP Code other than that assigned to the box section which provides the caller service, could result in delayed or incorrect delivery. Mail without a box number will be delivered to the street address if shown in the address. If no street address is shown, the mail may be treated as undeliverable as addressed. Mail bearing both a street address and a box number will be delivered in accordance with 122.16.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers

automatically. These changes will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80-25707 Filed 8-21-80; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1578-4]

Approval and Revision of the Pennsylvania Implementation Plan: Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: The Environmental Protection Agency is correcting the preamble to amendments to the Pennsylvania State Implementation Plan in FR Document 79-38510 published December 17, 1979, at 44 FR 73031.

EFFECTIVE DATE: August 22, 1980. This notice clarifies information which appeared in a previous Federal Register notice and does not alter the intent or substance of that rulemaking.

FOR FURTHER INFORMATION CONTACT:
Patricia Sheridan (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8176.

SUPPLEMENTARY INFORMATION: This notice clarifies a paragraph by changing a referenced Section number from 121.2 to 121.8 as contained in the preamble to EPA's approval of a revision to Pennsylvania's State Implementation Plan (SIP), published in the Federal Register on December 17, 1979, 44 FR 73031. Paragraph (2) on page 73031 should read as follows:

"(2) Clarification of the intent of Section 121.8 of the regulations, relating to compliance and enforcement responsibilities, namely, that unless explicit reference is made to another section of the regulations, each section shall be constructed and enforced according to its own terms."

Authority: 42 U.S.C. 7401-642.

Dated: July 31, 1980.

Alvin R. Morris,
Acting Regional Administrator.

[FR Doc. 80-25679 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1578-2]

Approval and Revision of the West Virginia Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: The Environmental Protection Agency is correcting amendments to the West Virginia State Implementation Plan made by FR Doc. 78-31604 published November 9, 1978, at 43 FR 52239.

EFFECTIVE DATE: August 22, 1980. This notice clarifies information which appeared in a previous Federal Register notice and does not alter the intent or substance of that rulemaking.

FOR FURTHER INFORMATION CONTACT:
Hank Sokolowski (3AH12), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106 (215) 597-8991.

SUPPLEMENTARY INFORMATION: This notice clarifies a paragraph by adding Sections 2.11 through 2.16 and Section 3.01 which was inadvertently left out as contained in the preamble to EPA's approval of a revision to West Virginia's State Implementation Plan (SIP), published in the Federal Register on November 9, 1978, 43 FR 52239.

Section 52.2520(c)(9) on page 52240 should read as follows:

"(9) Amendments to regulation X (to prevent and control air pollution from the emission of sulfur oxides) §§ (2.07 added), 2.08 (former section 2.07), 2.09 (former section 2.08), 2.10 (former section 2.09), 2.11 (former section 2.10), 2.12 (former section 2.11), 2.13 (former section 2.12), 2.14 (former section 2.13), 2.15 (former section 2.14), 2.16 (former section 2.15), § 3.01 is superseded by new 3.01 except 3.01(1) Kammer Power Station which retains the old 3.01(a), § 3.02 is replaced by new § 3.02, § 3.03 is superseded by new 3.03 except for 3.03(2) Rivesville Power Station, which retains the old 3.03(a) and 3.01(b), § 3.03(1) (Harrison Power Plant) is approved as an interim emission limitation only, §§ 3.05, 3.06, and 3.07 (added), § 3.08 (former section 3.05), § 6.01 is superseded by new § 6.01, new § 10 is added, § 11 (replaces former section 10) of the West Virginia Administrative Regulations submitted on January 25, 1978 (as amended September 13, 1978), by the Governor."

Authority: 42 U.S.C. §§ 7401-642.

Dated: July 31, 1980.

Alvin R. Morris,
Acting Regional Administrator.

[FR Doc. 80-25680 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Reimbursement for Radiological Services Furnished to a Hospital Inpatient by a Physician in the Field of Radiology

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations define "radiological services" for which the Medicare program provides for payment at 100 percent of reasonable charges. Section 1833(a)(1)(B) of the Act provides for the 100 percent reimbursement for "radiological services" when furnished to hospital inpatients by physicians in the field of radiology. Current administrative guidelines restrict the 100 percent reimbursement to services in which X-rays or rays from radioactive substances are used.

Proposed regulations published on January 25, 1979 (44 FR 5162) would have extended the 100 percent reimbursement to other diagnostic imaging services such as ultrasound. On the basis of information acquired through public comments on the proposed regulations, we have concluded that there is not sufficient reason at this time to extend the 100 percent reimbursement to services not already so reimbursed. Accordingly, these regulations follow current operating instructions and define "radiological services" as those in which ionizing radiation is used for diagnostic or therapeutic purposes.

EFFECTIVE DATE: September 22, 1980.

FOR FURTHER INFORMATION, CONTACT:
Henry J. Hehir, 301-594-8561.

SUPPLEMENTARY INFORMATION:

Background

Section 131 of the Social Security Amendments of 1967 (Pub. L. 90-248) provided, in part, for 100 percent payment of the applicable reasonable charge for radiological services furnished to a hospital inpatient by a physician in the field of radiology (Section 1833(a)(1)(B) of the Social Security Act). This amendment to the Medicare law was enacted to simplify

reimbursement procedures and to facilitate claims processing by hospitals and Medicare carriers and intermediaries for inpatient radiological services.

Prior to the 1967 amendments, many hospitals submitted bills containing a single combined charge both for physicians' services for a hospital inpatient and for the supporting hospital services. This is known as "combined billing." However, it was difficult to process those bills. Physicians' services are reimbursable under Part B of Medicare on a reasonable charge basis, while supporting hospital services are reimbursable under Part A of Medicare on a reasonable cost basis. In addition, the deductible and coinsurance amounts for Part A and Part B are different. The 1967 amendments simplified reimbursement procedures and claims processing for radiological services by removing the Part B deductible for those services and by providing for 100 percent payment of reasonable charges.

The 1967 amendments were not developed because Congress believed that the coverage of radiological services needed to be expanded, or because they deserved more favorable reimbursement than other physicians' services. The amendments were merely intended to simplify reimbursement procedures, improve beneficiary understanding, and streamline claims processing in combined billing situations. See H.R. Rep. No. 544, 90th Cong., 1st Sess. 39f. (1967), and S. Rep. No. 744, 90th Cong., 1st Sess. 66ff. (1967). However, the amendments were not limited to combined billing situations. All radiological services to hospital inpatients furnished by physicians in the field of radiology were included in the 100 percent reimbursement provision, whether or not combined billing was involved.

At the time of enactment of the amendments, the only generally accepted and widely available radiological services were those in which X-rays or rays from other radioactive substances were used for diagnostic or therapeutic purposes. The use of ultrasound and other forms of radiant energy as diagnostic tools was in an incipient stage of development and was not a generally accepted and available diagnostic imaging modality.

Ultrasound or ultrasonography is a noninvasive diagnostic technique that utilizes, by machinery, high frequency sound waves to image deep organs of the body—liver, kidneys, pancreas—as well as the heart, eyes and and brain. Echocardiography refers to the application of ultrasound techniques to diagnose anatomic and functional impairment of the heart. As such, it is one separate and distinct application of diagnostic ultrasound methods. The ultrasound instrumentation approaches or systems used for abdominal and pelvic imaging, for cardiac imaging, for brain imaging, and for eye imaging all differ from one another and are suitable only for those particular uses.

Current Medicare administrative guidelines limit 100 percent payment for radiological services to the traditional services described above, in which X-rays or rays from radioactive substances are used for diagnostic or therapeutic purposes. This was how the term "radiological services" was understood when Congress enacted section 1833(a)(1)(B), and Congress has never questioned our continued use of this interpretation. The Medicare guidelines do not allow 100 percent payment for new procedures that use other forms of radiant energy, such as light, heat, or sound, to produce images for diagnosis. (See Sec. 3146 of the Medicare Part A Intermediary Manual (HIM-13-3) and Sec. 2020.9 of the Medicare Carriers Manual (HIM-14-3).)

In reviewing the development of new procedures, we initially believed that their continued exclusion from the 100 percent payment provision would subject both hospitals and radiologists to the same billing complexities and administrative burdens which the 1967 amendments were intended to alleviate. Therefore, we published a Notice of Proposed Rulemaking (NPRM) on January 25, 1979 (44 FR 5162). The NPRM would have defined "radiological services" in such a way that all diagnostic imaging services furnished to hospital inpatients by physicians in the field of radiology would be reimbursed at 100 percent of reasonable charges.

It is now apparent that ultrasound and other new procedures are in widespread use by a number of medical specialities, not just radiology. It is clear that the term "radiological services" in section 1833(a)(1)(B) was understood, when it was enacted, to refer solely to techniques using ionizing radiation; and we have consistently interpreted this term in this fashion ever since. Moreover, there is no consensus within the medical profession about how ultrasound or other diagnostic imaging techniques should be categorized, and we believe there is now no compelling reason for us to change the current definition of "radiological services".

It should be emphasized that we are not attempting to affect the medical profession's definition of the elements or limits of the specialty of radiology or any other medical specialty. We are merely interpreting section 1833(a)(1)(B) of the Act for purposes of determining the amount of Medicare payment.

Discussion of Comments

Public response to the NPRM focused on whether ultrasound should be identified as a radiological service.

1. Comments from Radiologists. Radiologists supported the proposed regulations. They maintained that most ultrasound services furnished to hospital inpatients are performed in the radiology departments. However, because section 1833(a)(1)(B) of the Act is not being applied to those services, hospitals which use combined billing for those services do not receive the benefit of simplified Medicare claims processing procedures intended by that provision of the Act. Hospitals may use simplified billing procedures for services using X-rays or rays from radioactive substances, but they must continue to follow the complicated billing procedures for ultrasound services, even though all of these services might be furnished by the same radiologist.

These commenters also emphasized that the proposed regulations would protect Medicare patients from liability for the deductible and coinsurance amounts for ultrasound services that they receive as hospital inpatients. The proposed regulations would have provided for Medicare payment of 100 percent of reasonable charges for these services, and patients would not have been liable for deductible and coinsurance amounts.

The radiologist group agreed, however, that certain ultrasound techniques, that is, echocardiography and ophthalmological ultrasound, could be excluded from the definition of radiological services since these are performed mainly by cardiologists and ophthalmologists.

2. Comments from Physicians Other than Radiologists. The majority of comments came from other physician specialists, mainly cardiologists, ophthalmologists, gynecologists, and internists who opposed the NPRM because they believed it would have a detrimental impact on health care and advances in medical technology. Their comments included the following:

a. Hospital administrators would be encouraged to assign responsibility for all ultrasound services to the radiology departments in order to obtain the greater reimbursement. This action could discourage other specialties from improving their ultrasound techniques.

b. Some of the commenters argued that the original purpose of section 1833(a)(1)(B) of the Act, namely, to simplify Medicare claims processing where combined billing is used, is no

longer applicable. They maintain that only 30–40 percent of hospital-based radiologists now bill for their services to inpatients through the hospitals.

c. These specialty groups emphasized that costs to the Medicare program would increase substantially by eliminating the deductible and coinsurance requirements for ultrasound services if they were included as "radiological services".

Response

As indicated above, the comments received on this proposal represented strongly opposing views on the part of the professional groups affected. In light of the lack of a professional consensus and our own further consideration of the issues, we have decided not to expand the current definition of "radiological services" to include other diagnostic imaging services, specifically ultrasound. We do not wish to promulgate regulations that represent a premature judgement on the development of ultrasound technology. As noted, Congress has never questioned our continued use of the original definition. Therefore, there is no need to create exceptions for echocardiography and ophthalmological ultrasound.

We have also considered the comment that, although the intent of section 1833(a)(1)(B) of the Act is to simplify billing procedures, currently only 30–40 percent of hospital-based radiologists take advantage of that provision. Our own research disclosed that most hospital-based radiologists do not now use the combined billing method contemplated by section 1833(a)(1)(B), although we do not have exact figures. We do not believe that more radiologists would bill for their services to inpatients through the hospitals if ultrasound were included among "radiological services". Thus, it is likely that a major objective in our proposal, that is, to increase use of combined billing, would not be achieved in actual practice.

Several commenters suggested that promulgation of the regulations as proposed might discourage further advancement of ultrasound diagnostic techniques by cardiologists and other specialists. This is based on the commenters' belief that the hospital administrators might be inclined to assign ultrasound services to the radiology department in order to realize the greater revenues. We did not contemplate any adverse effect on the development of these techniques when we proposed to change the existing rules. However, we believe that our decision not to include ultrasound in the definition of "radiological services" will avoid this unintended result. We are, therefore, maintaining the current reimbursement policies regarding "radiological services" and codifying them in our regulations.

Finally, our principal concern in these regulations is the proper classification of ultrasound and other new diagnostic imaging techniques as either included in or excluded from the definition of "radiological services". Nevertheless, we recognize that the way we classify these new techniques will determine whether or not beneficiaries will be liable for the 20 percent coinsurance amounts for these techniques. Coinsurance provisions follow automatically from the definition. Because we have concluded that it would be inappropriate to change the long-standing definition of "radiological services", beneficiaries will continue to be liable for coinsurance amounts for the new techniques only to the same extent as in the past.

42 CFR 405.240 is amended by revising paragraph (a)(2) to read as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243–405.246, be made as follows:

(a)(1) * * *

(2) With respect to radiological and pathological services, 100 percent of the reasonable charges for such services furnished to an inpatient of a hospital by a physician in the field of radiology or pathology (see § 405.232 (f) and (g)).

For purposes of this paragraph, "radiological services" means services in which ionizing radiation is used for diagnostic or therapeutic purposes (for example, X-ray and the use of radioisotopes).

* * * * *

(Secs. 1102, 1833, and 1871 of the Social Security Act; (42 U.S.C. 1302, 13951, and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare-Hospital Insurance and No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: June 27, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: August 8, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-25405 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-36-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Correction

In FR Doc. 80–23500, appearing on page 51789 in the issue of Tuesday, August 5, 1980, make the following corrections:

1. On page 51790, in the right hand column "#Depth in feet above ground. Elevation in feet (NGVD)", the ninth figure down reading "666" should have read "664". Immediately below that the figure "666'" was inadvertently omitted.

BILLING CODE 1505-01-M

---

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Correction

In FR Doc. 80–23299, appearing on page 51796 in the issue of Tuesday, August 5, 1980, make the following corrections:

1. On page 51799, in the "Source of flooding" column, the 16th entry reading "Yellow Fork" should have read "Yellow Fork Buck Creek". The 17th entry reading "Buck Creek" should be deleted.

2. On page 51803, in the column reading "#Depth in feet above ground. Elevation in feet (NGVD)", the thirteenth entry reading "1,000" should read "1,001".

The twenty-fourth entry reading "791" should have appeared one line lower across from "Just upstream of Third Street".

The thirtieth entry reading "1,374" should have read "1,347".

3. On page 51805, in the "Location" column, under "Grant River", in the entry reading "City of Painesville corporate limits, approximately 1,800 feet upstream of Walnut Avenue." The figure "1,800" should have read "1,180".

4. On page 51806, the Zip Code for Painesville, Ohio should have read "44077".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Colorado, Utah, and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of certain national wildlife refuges to migratory game bird and resident game hunting in Colorado, Utah, and Wyoming is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below.

Robert H. Shields, Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 S. State Street, Salt Lake City, Utah 84138. Telephone: 801/524–5630.

Melvin T. Nail, Refuge Manager, Alamosa-Monte Vista National Wildlife Refuge, P.O. Box 1148, Alamosa, Colorado 81101. Telephone: 303/589–4021.

Eugene C. Patten, Refuge Manager, Arapaho/Pathfinder National Wildlife Refuge, P.O. Box 457, Walden, Colorado 80480. Telephone: 303/723–4717.

James A. Creasy, Refuge Manager, Browns Park National Wildlife Refuge, Maybell, Colorado 81640. Telephone: 303/365–3695.

Ned I. Peabody, Refuge Manager, Bear River Migratory Bird Refuge, P.O. Box 459, Brigham City, Utah 84302. Telephone: 801/744–2488.

Glenn W. Elison, Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, Utah 84022. Telephone: 801/522–3663.

Herbert G. Troester, Refuge Manager, Ouray National Wildlife Refuge, 477 East Main Street, Suite 4, Vernal, Utah 84078. Telephone: 801/789–0351.

Joe B. Rodriguez, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Kemmerer, Wyoming 83101. Telephone: 307/877–6334.

SUPPLEMENTARY INFORMATION:

General

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System, published in November 1976.

Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual refuge areas.

Colorado

Alamosa-Monte Vista National Wildlife Refuge

Effective Dates: To run concurrently with the open waterfowl season as established by the Colorado Division of Wildlife for 1980.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on Alamosa-Monte Vista National Wildlife Refuge, Colorado, but only on the areas designated by signs as being open to hunting. The Alamosa Refuge area comprising 3,946 acres, and the Monte Vista Refuge area comprised of 5,314 acres, are delineated on maps available at refuge headquarters, Alamosa, Colorado or from the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal Regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe subject to the following special conditions:

(1) The refuge will be open to hunting of mourning doves and Wilson's snipe only during the open waterfowl seasons as established by the Colorado Division of Wildlife for 1980.

(2) Admittance—Entrance to the area open to hunting, and parking of vehicles will be restricted to designated parking areas.

Browns Park National Wildlife Refuge

Effective Dates: To run concurrently with the open waterfowl season as established by the Colorado Division of Wildlife for 1980.

Hunting of duck, coot, and merganser will be permitted on the Browns Park National Wildlife Refuge on approximately 10,000 acres as posted, during the regular Colorado waterfowl season.

Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special condition.

(1) Hunting of Canada geese shall be only from November 3, 1980 through December 7, 1980 inclusive and the bag limit shall be one goose per day and one in possession.

Utah

Bear River Migratory Bird Refuge

Effective Dates: To run concurrently with the open waterfowl seasons as established by the Utah Division of Wildlife Resources for 1980.

Public hunting of ducks, geese, coots, mergansers, and whistling swans is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres, are delineated on maps available at the refuge headquarters, Brigham City, and from the Area Office, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required in all guns on all days in all hunting areas. Possession of lead shot is prohibited in all hunting areas. The possession of lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Hunting Areas.* No hunting is permitted from roadways or within 100 yards of any roadway in Area "A". No hunting is permitted from roadway or adjacent area as posted by signs in Area "B". Permanent blinds such as sink boxes may not be erected in either area.

(3) *Boat Use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Units 1 and 3 of Hunting Area "A". Airboats may be launched only from designated boat ramps. Boats may be left at designated sites one week prior to and during the hunting season. All boats and trailers must be removed within two weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter Check Station.* All hunters entering Area "A" are required to self register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to Area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

(7) *Hours of Entry.* There is no admittance beyond refuge headquarters earlier than 1 hour before shooting time. All hunters must check out of hunting areas no later the 1½ hours after the close of official shooting hours.

Fish Springs National Wildlife Refuge

Effective Dates: To run concurrently with the open duck season as established by the Utah Division of Wildlife Resources for 1980.

Hunting for ducks, coots, and mergansers only is permitted on Fish Springs National Wildlife Refuge on areas designated by signs as being open to hunting comprising 6,773 acres, is delineated on maps available at the refuge headquarters, 66 miles southwest of Dugway, Utah, and from the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all State and Federal regulations applicable to the hunting of ducks, coots, and mergansers, subject to the following conditions:

(1) Hunting of geese and swans is prohibited.

(2) All hunters must register at the Visitor Information Station prior to hunting each day and must check out at the end of each day.

(3) Shooting from, upon, or across dikes or roads, open to vehicular traffic is prohibited.

(4) The use of small boats, canoes, etc. is permitted, but outboard motors or air thrust boats are prohibited.

(5) Dogs may be used for hunting, but must be kept under control at all times.

Ouray National Wildlife Refuge

Effective Dates: To run concurrently with the open duck season as established by the Utah Division of Wildlife Resources for 1980.

Migratory game bird hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. These areas, comprising 1,375 acres, are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, Salt Lake City, Utah. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Ducks, mergansers and coots only may be hunted. Goose hunting is not permitted.

(2) Vehicle travel within the refuge will be restricted to designated routes and parking areas.

Wyoming

Pathfinder National Wildlife Refuge

Effective Dates: As established by Wyoming Game and Fish Commission for Calendar Year 1980.

Hunting of ducks, geese, coots, and mergansers is permitted on Pathfinder National Wildlife Refuge, Wyoming in accordance with dates established by Wyoming Game and Fish Commission, but only on areas of Pathfinder Refuge known as Goose Bay, DeWeese Creek, and Sage Creek-Platte Units. This open area, comprising 3,760 acres, is delineated on maps available at refuge headquarters in Walden, Colorado and from the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special condition:

(1) Blinds—The construction of permanent blinds or pits is not permitted. Portable blinds may be used but not left on the refuge.

Seedskadee National Wildlife Refuge

Effective Dates: As established by Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of ducks, geese, coot and mourning doves is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting and shall be in accordance with all applicable State regulations governing the hunting of migratory game birds.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Colorado

Alamosa-Monte Vista National Wildlife Refuge

Hunting for pheasants, cottontail rabbits, white and black-tailed jack rabbits is permitted on the Alamosa-Monte Vista Refuge, Colorado, but only on the areas designated by signs as being open to hunting. These areas, comprising 9,260 acres, are delineated on maps available at refuge headquarters, Alamosa, Colorado or from the Office of the Area Manager, Salt Lake City, Utah.

Hunting shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The refuge will be open to hunting of cottontail rabbits and white and black-tailed jack rabbits only during the established waterfowl hunting season.

(2) Pheasant hunting will be permitted in accordance with State seasons and regulations for the San Luis Valley.

(3) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and hand guns is prohibited.

Arapaho National Wildlife Refuge

Hunting of sage and sharp-tailed grouse is permitted on Arapaho National Wildlife Refuge, Colorado in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 13,943 acres. Maps delineating these areas are available at the refuge headquarters in Walden, Colorado. All portions of the refuge are open except within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of sage and sharp-tailed grouse.

Browns Park National Wildlife Refuge

Hunting of cottontail rabbits and white and black-tailed jack rabbits will be permitted on Browns Park National Wildlife Refuge only during the open waterfowl season as established by the Colorado Division of Wildlife. Approximately 10,000 acres will be posted as open with maps available from the refuge office or the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State regulations covering the hunting of cottontail rabbits, white and black-tailed jack rabbits.

Wyoming

Pathfinder National Wildlife Refuge

Effective Dates: As established by the Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of cottontail rabbits is permitted on Pathfinder National Wildlife Refuge, Wyoming. All of the refuge area, comprising 16,807 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, and the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State regulations governing the hunting of cottontail rabbits.

Seedskadee National Wildlife Refuge

Effective Dates: As established by the Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of sage grouse and cottontail rabbits is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting and shall be in accordance with all applicable State regulations governing the hunting of sage grouse and cottontail rabbits.

Utah

Bear River Migatory Bird Refuge

Effective Dates: As established by the Utah Division of Wildlife Resources for Calendar Year 1980.

Public hunting of pheasants is permitted on Bear River Migratory Bird Refuge, Utah only on the areas designated by signs as being open to hunting. Those areas comprising 12,855 acres, are delineated on maps available at the refuge headquarters, Brigham City, or from the Area Office, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of pheasants subject to the following special conditions:

(1) *Steel Shot.* The exclusive use of steel shot is required in all guns on all days in all hunting areas. Possession of lead shot is prohibited in all hunting areas. The possession of lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Hunting Areas.* No hunting is permitted from roadways or within 100 yards of any roadway in Area "A". No hunting is permitted from roadway or adjacent area as posted by signs in Area "B". Permanent blinds such as sink boxes may not be erected in either area.

(3) *Boat Use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Units 1 and 3 of Hunting Area "A". Airboats may be launched only from designated boat ramps. Boats may be left at designated sites one week prior to and during the hunting season. All boats and trailers must be removed within two weeks after close of the hunting season.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Hunter Check Station.* All hunters entering Area "A" are required to self register at the check station and check out before leaving the refuge. All hunters entering the Perry gate entrance to Area "B" are required to register and check out at the self registration counter provided.

(6) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

(7) *Hours of Entry.* There is no admittance beyond refuge headquarters earlier than 1 hour before shooting time. All hunters must check out of hunting areas no later than 1½ hours after the close of official shooting hours.

Ouray National Wildlife Refuge

Effective Dates: As established by the Utah Division of Wildlife Resources for Calendar Year 1980.

Upland game hunting is permitted on the Ouray National Wildlife Refuge, Utah, except in the areas designated by signs as being closed. The open areas, comprising 7,500 acres, are delineated on maps at the refuge headquarters. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Male pheasants only may be hunted.

(2) Sheppard Bottom is closed to hunting.

(3) Vehicles will be restricted to designated travel routes and parking lots.

(4) Lands leased from the Ute Indian Tribe may be hunted with a Tribal Hunting License only through November 14, 1980.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Colorado

Arapaho National Wildlife Refuge

Hunting of antelope is permitted on Arapaho National Wildlife Refuge, Colorado in accordance with dates and areas designated in regulations published by Colorado Division of Wildlife. Arapaho National Wildlife Refuge is comprised of three separate areas totaling 13,943 acres. Maps delineating these areas are available at the refuge headquarters in Walden, Colorado. All portions of the refuge are open except areas within 300 yards of residences. Hunting shall be in accordance with all applicable State regulations covering the hunting of antelope.

Wyoming

Pathfinder National Wildlife Refuge

Hunting of deer and antelope is permitted on Pathfinder National Wildlife Refuge, Wyoming in accordance with dates and areas designated in the Wyoming 1980 Orders regulating deer and antelope hunting. These areas, comprising 16,807 acres, are composed of four separate units and are delineated on maps available at

refuge headquarters in Walden, Colorado and from the Office of the Area Manager, Salt Lake City, Utah. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and antelope.

Seedskadee National Wildlife Refuge

EFFECTIVE DATES: As established by Wyoming Game and Fish Commission for the Calendar Year 1980.

Public hunting of antelope and mule deer is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and as designated by signs, is open to hunting. Hunting shall be in accordance with all applicable State regulations governing the hunting of antelope.

The provisions of these special regulations supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

Assistant Area Manager Jimmie L. Tisdale, 801/524–5630, is the primary author of these special regulations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: August 15, 1980.

William C White,

Acting Area Manager, Area 5.

[FR Doc. 80-25710 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 165
Friday, August 22, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Tobacco (Burley); Marketing Quotas and Acreage Allotments; Reporting and Recordkeeping Requirements

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture is considering amending the regulations governing the reporting and recordkeeping requirements pertaining to warehousemen, dealers, and producers. Experience gained in past marketing seasons indicates a need to clarify and strengthen existing reporting and recordkeeping requirments as a means of discouraging warehousemen and dealers from substituting good quality "excess" tobacco for inferior tobacco so as to avoid payment of marketing quota penalties, and to obtain from producers a report of their estimated burley acreage planted so as to insure the proper issuance of marketing cards and to prevent and monitor violations. Most of the proposed changes are the result of recommendations by the Department's Office of the Inspector General (OIG) which has conducted recent investigations of warehouse and dealer marketing operations.

The proposed rule would:

1. Define the phrase "tobacco in the form not normally marketed by producers."

2. Expand the exspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season.

3. Strengthen the reporting requirements and expand the inspection requirements for tobacco purchased by dealers and warehousemen from processors or manufacturers.

4. Require dealers to report their gross receipts for each lot of tobacco purchased and resold.

5. Require dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers.

6. Provide for producers to report the estimated planted acreage of burely tobacco.

DATE: Comments must be received before September 22, 1980, in order to be sure of consideration.

ADDRESS: Mail comments to the Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, 3630 South-Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservation Service, Washington, D.C. 20013, (202) 447–7935. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Jeffress A. Wells, Director, Production Adjustment Division has determined that an emergency exists which warrants less than a 60-day comment period on this proposed action because dealers, warehousemen and producers are making preparations for the 1980–81 marketing season and they need to know as soon as possible these proposed changes in their recordkeeping and reporting requirements. Accordingly, the Agricultural Stabilization and Conservation Service is considering amendments to the burley tobacco regulations (7 CFR Part 726), as follows:

1. Section 726.51 would be amended by adding a definition of "tobacco in the form not normally marketed by producers".

2. Section 726.81 would be amended to provide for the producer to report the estimated planted acreage of burley tobacco on Form MQ–38, Certification of Use or Nonuse of Pesticides on Tobacco, before the marketing card is issued.

3. Section 726.93 would be amended to provide for the reinspection of warehouse carryover tobacco before the beginning of the next marketing season.

4. Section 726.94 would be amended to: (1) Provide for the reinspection of dealer carryover tobacco by an ASCS representative before the next marketing year begins; (2) Provide for the keeping of such records as will enable a dealer to enter on Form MQ–79 the gross amount of money for each lot of tobacco purchased and the gross amount of money for each lot of tobacco sold at resale; (3) Provide for a separate accounting on Form MQ–79 of all marketing transactions relating to acquisitions by dealers and warehousemen of tobacco in the form not normally marketed by producers; (4) Require dealers, warehousemen, or other persons who purchase from processors or manufacturers tobacco in the form not normally marketed by producers to obtain inspection by an ASCS representative when this tobacco is marketed, disposed of by any other means or blended with other tobacco. The failure to arrange for this inspection would be cause for the tobacco to be deemed to have been substituted for excess tobacco and penalty at the full rate would be due; and (5) Provide that tobacco purchased for resale by a dealer, warehouseman, or other person before such plans are reported to the State ASCS office issuing Form MQ–79, Dealer's Record Book, and such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

5. Section 726.104 would be amended to provide for the operator or producer to report the estimated planted acreage of burley tobacco on Form MQ–38, Certification of Use or Nonuse of Pesticides on Tobacco. Current rules do not provide for adequate inspection by ASCS representatives of warehouse and dealer tobacco on hand at the end of the marketing season. The proposed changes are needed to prevent dealers and warehousemen from substituting low quality, low price tobacco for good quality "excess" producer tobacco (tobacco produced in excessd of 110 percent of the farms' marketing quota) to avoid the payment of marketing quota penalties.

Prior to making any determinations, the Department will consider comments, views, and recommendations timely

submitted in writing to the Director,

of this section shall be reinspected by a

sold by the dealer the following

submitted in writing to the Director, Production Adjustment Division. All written submissions made pursuant to the notice will be made available for public inspection from the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday in Room 3630—South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Proposed Rule

It is proposed that 7 CFR Part 726 be amended as follows:

1. In § 726.51, paragraphs (nn), (oo), and (pp) are revised and a new paragraph (qq) is added to read as follows:

§ 726.51 Definitions.

* * * * *

(nn) *Tobacco in form not normally marketed by producers.* Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, green prized, stemmed, tipped, threshed or otherwise processed.

(oo) *Trucker.* A person who trucks or otherwise hauls tobacco for a producer, or any other person.

(pp) *Undermarketings* (1) *Actual.* The pounds by which the effective farm marketing quota is more than the pounds marketed.

(2) *Effective.* The smaller of actual undermarketings or the sum of the previous year's farm marketing quota plus pounds leased to the farm for the previous year.

(qq) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. Section 726.81, paragraph (a)(1) introductory text, is amended by revising the first sentence to read as follows:

§ 726.81 Issuance of marketing cards.

(a) *General.* (1) A marketing card (MQ–76) shall be issued for the current marketing year for each farm having tobacco available for marketing. The operator or producer's estimated planted acreage as reported on MQ–38 shall be considered in determining whether or not tobacco is available for marketing. * * *

* * * * *

3. Section 726.93 is amended by adding a new paragraph (g)(17) to read as follows:

§ 726.93 Warehouseman's records and reports.

* * * * *

(g) * * *

(17) Before the next marketing season begins, carryover tobacco reported by the warehouseman as provided in (g)(16) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouseman shall provide for the reweighing of such tobacco which shall be witnessed by an ASCS representative. The warehouseman shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighted quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (g)(16) of this section shall be used for the purpose of determining the amount of penalty, if penalty is due. Penalty will be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover tobacco.

4. In § 726.94, paragraph (a) is revised; paragraph (c) is amended by adding a new subparagraph (6); paragraph (e) (1) and (2) are revised and a new paragraph (e)(3) is added; and a new paragrph (h) is added.

§ 726.94 Dealer's records and reports.

* * * * *

(a) *Record of marketing.* Each dealer shall keep such records as will enable the dealer to furnish the State ASCS office for each lot of tobacco purchased by the dealer the following information:

(1)(i) The name of the warehouse through which the tobacco was purchased if the tobacco was purchased by the dealer at a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller if the tobacco was purchased by the dealer at a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller if the tobacco was purchased by the dealer at a nonaucton sale from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deducton on account of penalty from the price paid the producer, and as to each lot of tobacco sold by the dealer the following information:

(i) Name of the warehouse through which the tobacco was sold if the tobacco was sold at a warehouse sale, and the name of the purchaser if the tobacco was sold at other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) If tobacco bought by the dealer and carried over from a crop, which was produced before the current crop is resold, the fact that such tobacco was bought and carried over.

* * * * *

(c) *Record and report of purchases and resales.*

* * * * *

(6) Before the next marketing season begins, carryover tobacco reported by the dealer as provided in paragraph (c)(4) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the dealer shall provide for the weighing of such tobacco which shall be witnessed by an ASCS representative. The dealer shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in (c)(4) of this section shall be used for the purpose of determining penalty, if penalty is due. Penalty shall be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover.

* * * * *

(e) *Damaged tobacco or tobacco purchased from processor or manufacturer.—*

(1) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of such damaged tobacco, and so that the weighing and removal of such tobacco can be witnessed by an ASCS representative. Any damaged tobacco purchased by the dealer before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(2) *Purchase from processor or manufacturer.* Any dealer, warehouseman, or other person who plans to purchase tobacco from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of the tobacco, and whether the tobacco is in the form normally marketed by producers. The weighing and removal of the tobacco shall be witnessed by an ASCS representative. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative shall be deemed to be excess tobacco and penalty at the full rate shall be due.

(3) Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers which is determined by an ASCS representative to be in the form not normally marketed by producers shall, before such tobacco is disposed of or blended with other tobacco in the form normally marketed by producers, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow an ASCS representative to witness the disposition of or the blending of such tobacco. Any such tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified, shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of tobacco.

* * * * *

(h) *Reporting of tobacco in the form not normally marketed by producers.* Any dealer, warehouseman, or any other person who purchases tobacco from processors or manufacturers under conditions provided in § 726.94(e)(3) shall maintain on a separate Form MQ–79 a record of all such purchases and resales.

5. In § 726.104 paragraph (b) is amended to read as follows:

§ 726.104 Determination of use of DDT, TDE, toxaphene, or endrin.

* * * * *

(b) *Producer's report.* The operator, or any producer, on each farm producing burley tobacco shall file a report on MQ–38 (Burley) showing the estimated acres of tobacco planted and whether or not toxaphene, endrin, DDT, or TDE was used on the tobacco in the field or after being harvested. If the operator refuses to file a report on MQ–38 (Burley) showing whether or not toxaphene, endrin, DDT, or TDE was used on the tobacco in the field or after being harvested, all burley tobacco produced on each farm shall be considered by the county committee to have been treated with such a pesticide.

(Secs. 301, 312, 313, 314, 316, 318, 319, 363, 372–375, 377 378, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 80 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 85 Stat. 23; 7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314e, 1363, 1372–1375, 1377, 1378, Pub. L. 92–10)

Signed at Washington, D.C. on August 15, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Sevice.

[FR Doc. 80–25300 Filed 8–15–80; 3:30 pm]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 926

Tokay Grapes Grown In San Joaquin County, Calif.; Proposed Grade and Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through November 30, 1980, minimum grade and container marking requirements currently in effect for fresh shipments of Tokay grapes grown in San Joaquin Country, California. The current regulation requires that fresh shipments of Tokay grapes meet the specification of the U.S. No. 1 Table Grape grade and that the container be marked with the Federal-State Inspection Service lot stamp number. These requirements are designed to assure shipment of satisfactory quality Tokay grapes in the interest of producers and consumers.

DATES: Written comments must be received by September 15, 1980. Proposed effective dates: October 1, 1980, through November 30, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Draft Impact Analysis relative to this proposed rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

Tokay Grape Regulation 16 (§ 926.317; 45 FR 52772) specifies grade and container marking requirements for the period August 14, 1980, through September 30, 1980. The proposed regulation would continue these requirements through November 30, 1980. This notice is issued under the marketing agreement, as amended, an Order No. 926, as amended, (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Industry Committee, established under the order.

The committee has estimated that 1980 production of Tokay grapes will be about 119,140 tons, and fresh shipments are estimated at 17,250 tons. The grade and container marking requirements are designed to prevent the shipment of fresh Tokay grapes of a lower quality than specified and to provide ample supplies of good quality fruit in the interest of producers and consumers. The requirements would specify that such grapes meet the grade and size specifications of U.S. No. 1 Table Grapes and that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. the requirement for more even distribution of color is included to assure the availability to consumers of Tokay grapes of satisfactory quality. Each container of such grapes must bear a

Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. Compliance with the container marking requirement will verify inspection, thus assuring compliance with the quality requirements specified herein.

The proposal is that Section 926.317 Tokay Grape Regulation 16 (45 FR 52772) be amended to read as follows:

§ 926.317 Tokay Grape Regulation 16.

(a) During the period October 1, 1980, through November 30, 1980, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Defintions.* As used herein, the terms "handler," "ship," and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 2851.880–912).

Dated: August 18, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–25650 Filed 8–21–80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA–R–79–51]

Applications for Assignment, Adjustment and Other Agency Actions; Notice to Aggrieved Persons

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Termination of Rulemaking Proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that its rulemaking proceeding on a proposed rule to revise its notice to aggrieved persons procedures (44 FR 67338, November 23, 1979) has been terminated and that no final rule will be issued on this proposal. The proposed rule would have required applicants for assignments, adjustments and certain other agency actions, instead of DOE, to give notice of their applications to aggrieved persons in order to expedite DOE's handling of applications and to ensure that notice is given to all aggrieved parties. However, DOE has determined that this increased burden on applicants would not necessarily relieve the burden on the regional offices or expedite the processing of applications.

FOR FURTHER INFORMATION CONTACT:

Cynthia Ford (Office of Public Hearing Management), Economic Regulatory Administration, Room B–210, 2000 M Street NW., Washington, D.C. 20461, (202) 653–3971.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461, (202) 653–4055.

William E. Caldwell (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202, 2000 M Street NW., Washington, D.C. 20461, (202) 653–3256.

William Funk or Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6736 or 252–6744.

Issued at Washington, D.C., on August 18, 1980.

Hazel R. Rollings,

Administrator, Economic Regulatory Administration.

[FR Doc. 80–25681 Filed 8–21–80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 444

Credit Practices; Publication of Staff Report on Proposed Trade Regulation Rule and Announcement of Public Comment Period

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report.

SUMMARY: On October 13, 1978, the notice of publication of the Presiding Officer's report on the proposed trade regulation rule on credit practices was published in the **Federal Register**, 43 FR 47197.

The Bureau of Consumer Protection staff report, which summarizes and analyzes the evidence in the rulemaking proceeding on credit practices and makes recommendations for final Commission action, has now been made public and placed on Public Record 215–42. The publication of the staff report commences a final 60-day public comment period on both the staff report and the Presiding Officer's report.

EFFECTIVE DATE: Comments will be accepted for the public record if received on or before October 21, 1980.

ADDRESSES: Comments should be sent to: Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

Requests for copies of the report should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

David H. Williams, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1100; or Martin B. White, (202) 724–1157.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1.13(g) of the Commission's Rules of Practice, the staff has submitted its report, containing its summary and analysis of the record and its recommendations for a final rule. The report is now available for public comment, as provided by § 1.13(h) of the Commission's Rules of Practice.

To focus discussion of the evidentiary record in this proceeding, a memorandum from Albert H. Kramer, Director of the Bureau of Consumer Protection, which discusses the staff report and solicits comment on particular issues, is attached to the staff report as Appendix D. Commenters are not limited to the issues raised in Mr. Kramer's memorandum but may discuss all aspects of the staff report and Presiding Officer's report. A memorandum commenting on the staff report, prepared by the FTC Bureau of Economics, has also been placed on the rulemaking record and is available to persons who would like to consider it in preparing their comments on the two reports. Commentary must be limited to evidence already on the rulemaking record; no new evidence may be submitted.

The rulemaking record and a computer index to the record are available for use by the public at the Public Reference Branch, Room 130 of the Federal Trade Commission Building, in Washington, D.C. Copying of these materials is permitted, upon payment of the appropriate fees.

Requests for copies of the staff report and the Presiding Officer's report should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. Comments on these reports will be accepted on or before October 21, 1980. Comments should be identified as "Credit Practices TRR Comments," and addressed to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. When possible, five copies of comments should be submitted. Copies of the Bureau of Economics memorandum can also be obtained from the Public Reference Branch at the above address.

After the comment period is over the Commission may, pursuant to § 1.13(i) of its Rules of Practice, allow persons who have previously participated in the rulemaking to make oral presentations before the Commission, unless it determines that such presentations would not significantly assist it in its deliberations. Such presentations shall be confined to information already in the rulemaking record. Requests to participate in an oral presentation should be received by the Commission no later than October 21, 1980 and should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

The Commission's final determination in this matter will be based on the entire rulemaking record, including the staff and Presiding Officer's reports, comments received on them, and any oral presentations that may be scheduled. The staff report has not been reviewed or adopted by the Commission, and its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof.

Approved:

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 80–25307 Filed 8–21–80; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly and Confirmation Statements; Proposed Rules

Correction

In FR Doc. 80–23359, appearing at page 51598 in the issue of Monday, August 4, 1980, the following changes should be made:

1. On page 51599, first column, the seventeenth line of the first complete paragraph should read, "FR 1918, 1922 (January 8, 1979). Under".

2. Also on page 51599, second column, the third line of the second complete paragraph should read, "2(a)(1), 4b, 4c, 4*l*, 4m, 4n, 4*o*, 8a and 19" and the fourth word in the twelfth line of § 1.33(a)(1) should read, "other".

BILLING CODE 1505-01-M

17 CFR Part 4

Revisions of Commodity Pool Operator and Commodity Trading Advisor Regulations; Proposed Rules

Correction

In FR Doc. 80–23381, appearing at page 51600 in the issue of Monday, August 4, 1980, the following changes should be made:

1. On page 51601, third column, the third line of the second complete paragraph should read, "exemption from registration specified".

2. On page 51602, first column, fourth complete paragraph, the eighth line should read, "for CPOs and § 4.31(a)(5), (6), and (7)", the eleventh line should be deleted, and the twelfth line should read, "under § 4.31(a)(5) would have to state".

3. Also on page 51602, the seventh line from the bottom of the first column should read, "and (13) for CPOs and § 4.31(a)(1) for" and the fifth line of the third complete paragraph in the second column should read, "Beginning net asset value; (2) all".

4. On page 51603, second column, the fourteenth line of the first complete paragraph should read, "material inaccuracy or inadequacy in" and a comma should appear at the end of the second line of the paragraph designated "3."

5. Also on page 51603, third column, the fifth and fourteenth lines of the paragraph designated "5." should read, "qualifications or abilities have been" and "behalf of CPOs and CTAs. (Proposed," respectively).

6. On page 51604, the ninth and fifteenth lines in the first column should read, "permitted. (Proposed § 4.42.) [10] these" and "comments on and alternatives to these" respectively.

7. Also on page 51604, first column, the seventh and ninth lines of the first complete paragraph should read, "pool in a CPO's name and the" and "resulted in abuses of customers' funds." respectively.

8. Also on page 51604, first column, the third line of the last complete paragraph should read, "sections 2(a)(1), 4b, 4c 4*l*, 4m, 4n, 4*o*, 8a".

9. Also on page 51604, second column, the eighth entry in the table of sections should read, "4.14 Exemption from registration as a commodity trading advisor.", the third line of the authority citation should read, "U.S.C. 2, 6b, 6c, 6*l*, 6m, 6n, 6*o*, 12a and 23, as" and the last word in the second line of § 4.1(a)(1) should read, "paper".

10. On page 51605, first column, the last word in the last line of § 4.11 should read, "registration" and the third word in the heading of § 4.13 should read, "registration".

11. On page 51605, second column, the second word in the tenth line of § 4.13(c) should read, "accounting" and the first word in the eighth line of § 4.13(d) should read, "registration".

12. Also on page 51605, the first word in the third line of § 4.14(a)(2) should read "organization".

13. On page 51606, second column, the second sentence appearing in § 4.21(a)(3)(i)(F) should appear by itself as the closing text of paragraph (a)(3)(i).

14. On page 51607, first column, a semi-colon rather than a colon should appear between the words "principals" and "*Provided*" in the twenty-third line of § 4.21 (a)(4)(ii)(C).

15. On page 51608, second column, the fourth line from the bottom should read, "RISK DISCLOSURE STATEMENT".

16. Also on page 51608, third column, the fourth line from the bottom should read, "LIABILITY OF A PARTICIPANT IN THIS".

17. On page 51609, first column, the third word in the last line of § 4.21(b)(1)(ii) should read, "Document".

18. Also on page 51609, second column, a period should appear at the end of § 4.21(g) and the first word in the eighth line of § 4.21(h)(1)(i) should read "prospective".

19. Also on page 51609, third column, the last word in the first line of § 4.22(a)(1) should read, "Account" and the second line of that paragraph should read, "Statement which must be presented in the form".

20. Also on page 51609, third column, the first word in the second line of § 4.22(a)(1)(iii) should read, "loss" and the colon at the end of the paragraph should be a semi-colon.

21. Also on page 51609, third column, § 4.22(a)(1)(vi) should end with a semi-colon rather than a period and the introductory text of § 4.22(a)(2) should end with a colon rather than a period.

22. On page 51610, first column, the third word in the third line of § 4.22(b)(4)(ii) should read, "Income".

23. Also on page 51610, second column, the third and fourth words in the tenth line of § 4.22(f)(1) should read, "Annual Report" and the paragraph designated as "(f)2." should be designated as "(f)(2)".

24. On page 51611, first column, a space should appear between the words "gain" and "or" in the tenth line of § 4.23(a)(1).

25. On page 51612, second column, the second sentence appearing in § 4.31(a)(5)(i)(D) should appear by itself as the closing text of paragraph (a)(5)(i).

26. On page 51613, third column, the second line of the introductory text of § 4.32 should read, "registered or required to be registered under the Act must make and keep the following books and records in".

27. On page 51614, first column, the next to last word in the fifth line § 4.42 should read, "texts".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76; Texas—1]

High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final rule designating natural gas produced from tight formations as high-cost gas subject to a higher ceiling price (18 CFR 271.705). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendation of the Texas Railroad Commission that Cotton Valley Sand Formation, Cotton Valley Lime Formation, and Bossier Shale Formation be designated as tight formations pursuant to section 271.705.

COMMENT DATE: Comment period expires on September 29, 1980.

ADDRESS: comments to this Notice should be addressed to the Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should reference Docket No. RM79-76.

FOR FURTHER INFORMATION CONTACT:
Leslie J. Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, D.C. 20426, (202) 357-8027.
Teresa Ponder, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Washington, DC 20426, (202) 357-8151.

SUPPLEMENTARY INFORMATION:

Issued: August 15, 1980.

I. Background

On July 11, 1980, the Texas Railroad Commission (Texas) submitted to the Commision a recommendation, in accordance with § 271.705 of the Commission's regulations (18 CFR § 271.705), that the Cotton Valley Sandstone Formation, the Cotton Valley Lime Formation and the Bossier Shale Formation be designated as tight formations in the Commission's regulations. Pursuant to § 271.705(d) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Cotton Valley Sandstone, Cotton Valley Lime and Bossier Shale Formations be designated as tight formations, should be adopted. Texas' recommendations and supporting data are on file with the Commission and are available to the public for inspection.

The recommended formations are found in the northeastern part of the State of Texas, encompassing parts of Railroad Commission Districts 1, 3, 5 and 6. Northern limits of the recommended formations lie immediately south of the Texas-Oklahoma border through Fannin, Lamar, and Red River Counties, and the eastern border extends to the Arkansas and Louisiana borders. The southern boundary is determined by the Angelina-Caldwell flexture from Sabine through San Augustine, Angelina, and Trinity Counties. The western boundary is determined by the Mexia-Talco fault zone through Limestone, Navarro, and Kaufman Counties.

The recommended formations are described by Texas, in pertinent part as follows: The Cotton Valley Sand lies above the Bossier Shale, and the Bossier Shale lies above the Cotton Valley Lime. These three formations are referred to, collectively, as the Cotton Valley Group. The average depth at which the Cotton Valley Sand can be encountered is approximately 7000' to the north, 8000' to the east, between 10,000' to 11,000' to the south, and 5000' to the west. Thickness of the Cotton Valley Sand reaches a maximum of 1600'. The top of the Bossier Shale is located at approximately 7700' to the north, 10,720' to the east, 12,600' to the south, and 5340' to the west. Formation thickness of the Bossier Shale ranges from 110' to 580'. Within this formation, laminated sand bodies are present which range up to 90' in thickness. The Cotton Valley Lime is encountered at depths of approximately 8000' to the north, 11,400' to the east, 13,200' to the south, and 5500' to the west.

Texas asserts that its recommendations meet all the requirements set forth in § 271.705(b)(1) of the Commission's regulations which must be satisfied in order for a formation to receive a formal designation as a tight formation. Under § 271.705(b)(1), the three requirements which must be met are:

(1) The estimated average *in situ* gas permeability throughout the pay section of the formation is expected to be 0.1 millidarcy or less;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed production levels determined by reference to well depth, as found in the table in § 271.705(b)(1)(ii); and

(3) No well drilled into the formation is expected to produce more than five barrels of crude oil per day.

II. Discussion of the Proposal

In its submission, Texas presents a geographical and geological description of the recommended formations. Calculations were presented, demonstrating that the estimated *in situ* gas permeability throughout the pay section of each recommended formation is expected to be 0.1 millidarcy or less. Texas' filing shows that the stabilized production rates of wells completed for production, without stimulation, are within the limits of the table set forth in § 271.705(b)(1)(ii). It is also asserted by Texas that production history establishes that no well drilled into the Cotton Valley Group is expected to produce more than five barrels of crude oil per day. A list of wells which have produced natural gas from the recommended formations was submitted. Texas stated that existing state and federal regulations will assure that development of the recommended formations will not adversely affect any fresh water aquifers that are or are expected to be used as domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated by Commission Order No. 97, issued August 1, 1980, in Docket No. RM80-68, it is proposed that the Cotton Valley Sandstone, Cotton Valley Lime and Bossier Shale Formations, as they are described and delineated in Texas's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.705.

III. Public Comment Procedures

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426. Comments should reference Docket No. RM79-76 (Texas-1). All comments and information received by the Commission prior to September 29, 1980 will be considered prior to the issuance of the rule.

Dates and locations of any hearings held on this rulemaking will be announced in the near future.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342)

In consideration of the foregoing the following amendments to Part 271, Chapter I, Title 18, Code of Federal Regulations, are proposed, as set forth below.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

1. The Table of Contents for Subpart G of Part 271 is changed by adding a new § 271.706 to read as follows:

* * * * *

271.706 Designated tight formations.

2. Part 271 is amended by adding a new § 271.706 to read as follows:

§ 271.706 Designated tight formations.

(a) The following formations are designated as tight formations:

(1) *The Cotton Valley Group in Texas.* Cotton Valley Sandstone, Cotton Valley Lime and Bossier Shale Formations, comprising the Cotton Valley Group.

(i) *Delineation of Formations.* The northern boundary of the Cotton Valley Group is the Texas-Oklahoma border extending through Fannin, Lamar and Red River Counties; the eastern boundary is formed by the Texas-Arkansas and Texas-Louisiana borders; the southern boundary is along the Angelina-Caldwell flexture running through Sabine, San Augustine, Angelina and Trinity Counties; the western boundary is set by the Mexia-Talco fault zone through Limestone, Navarro and Kaufman Counties.

(ii) *Depth.* Cotton Valley Sand is encountered at an average depth of approximately 7,000' to the north, 8,000' to the east, between 10,000'and 11,000' to the south, and 5,000' to the west; Bossier Shale is encountered at 7,700' to the north, 10,720' to the east, 12,600' to the south, and 5340' to the west; Cotton Valley Lime is encountered at 8000' to the north, 11,400' to the east, 13,200' to the south, and 5500' to the west.

(2) [Reserved]

(b) A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, and is also located in the official files of the jurisdictional agency which submitted the recommendation.

[FR Doc. 80-25692 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-85-M

18 CFR Part 286

[Docket No. RM79-42]

Procedures Governing the Assessment of Civil Penalties Under the Natural Gas Policy Act; Withdrawal of a Proposed Rulemaking and Termination of a Docket

August 11, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of withdrawal of a proposed rulemaking and termination of Docket No. RM79-42.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby gives notice of the withdrawal of the proposed rulemaking in Docket No. RM79-42 and the termination of that docket. In Docket No. RM79-42, the Commission issued on May 15, 1979 (44 FR 29101, May 18, 1979) a Notice of Proposed Rulemaking entitled "Procedures Governing the Assessment of Civil Penalties Under the NGPA." In withdrawing the proposed rule the Commission has determined that it will follow the procedures required by the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. §§ 3311-3432) and will not establish any rules which are not required by law.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT:
Richard Meyer, Office of Enforcement, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5293.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission hereby gives notice of the withdrawal of the NOTICE OF PROPOSED RULEMAKING issued May 15, 1979 in Docket No. RM79-42 and the termination of Docket No. RM79-42 because the proposed rulemaking is unnecessary.

The Commission had proposed the adoption of certain rules to govern the assessment of civil penalties under the Natural Gas Policy Act of 1978 (NGPA). In withdrawing the proposed rules, the Commission has determined that in assessing civil penalties under the NGPA it will follow the procedures required by the statute and not establish any rules which are not required by law.

A number of the comments suggested that the Commission afford a hearing prior to assessing a civil penalty. The Commission does not believe that such a trial-type hearing at that stage is either required or desirable. There is no statutory requirement in the NGPA or Administrative Procedure Act ("APA") that the Commission afford a violator a hearing prior to assessing a civil penalty. In fact, section 504(b)(6) of the NGPA provides that in any action by the Commission to enforce its assessment of a civil penalty, the "* * * court shall have authority to review de novo the law and the facts involved * * *" In light of that provision, any disputes of fact or law involved in a particular assessment would be best resolved in a hearing before a court after the Commission has assessed a penalty following notice to the person involved. Further legal authority in support of this proposition is provided by the legislative history of section 504(b) of the NGPA. Although the House provision required a hearing on the record prior to the Commission's assessment, the subsequent conference agreement eliminated this language of the House provision and provided instead that a review of the Commission's assessment may be obtained by a trial *de novo* in federal district court. Accordingly, due process requirements are met when an opportunity for a *de novo* trial is afforded the violator prior to judicial enforcement of the civil penalty. *Accord, United States* v. *International Harvester Co.*, 387 F. Supp. 1338, 1340-41 (D.D.C. 1974); 2 K. Davis, *Administrative Law Treatise* section 12:13, at 459-62 (2d ed. 1979) (administrative hearing unnecessary where *de novo* review). The APA expressly recognizes that its adjudicatory requirements are inapplicable to situations where a *de novo* review of the facts and law is provided in a subsequent proceeding. *See* 5 U.S.C. 554(a)(1). Therefore, no hearing will be held by the Commission before assessing the penalty. The notice of the proposed penalties will, of course,

clarify the requirements of that

charge workers for meals. The

Code of Federal Regulations, to read as

be provided by the Commission. However, the only opportunity for a hearing will take place in court.

If the Commission decides at some future time to establish a program for assessing civil penalties in specified amounts as part of a general program for assessing such penalties, the Commission may propose appropriate rules at that time.

In consideration of the foregoing, the NOTICE OF PROPOSED RULEMAKING issued May 15, 1979 in Docket No. RM79–42 is hereby withdrawn and Docket No. RM79–42 is hereby terminated.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25699 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 410

[Regulations No. 10]

Federal Coal Mine Health and Safety Act of 1969, Title IV, as amended, Recovery of Black Lung Overpayments From Benefits Due Survivors

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The proposed regulations correct an unjustified inconsistency between our treatment of overpayments of social security benefits and black lung benefits. They also clarify how we adjust or recover a black lung overpayment made to a black lung beneficiary during his or her lifetime, when the beneficiary dies before adjustment or recovery of the overpayment. The proposed regulations will provide that when an overpayment of black lung benefits is made to a black lung beneficiary, we may recover the overpayment from subsequent black lung benefits payable to the decedent's survivors. This revision is designed to bring § 410.560(d) of Regulations No. 10, which applies to adjusting overpayments of black lung benefits made to a deceased black lung beneficiary, into conformity with § 404.502 of SSA Regulations No. 4, which permits recoupment from a worker's survivors of an overpayment of social security benefits made to a worker. The authority for both regulations comes from section 204 of the Social Security Act.

DATES: We will consider your comments if we receive them on or before October 21, 1980.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

You may see copies of all comments we receive during regular business hours at the Washington Inquiries Section, Office of Governmental Affairs, Social Security Administration, Department of Health and Human Services, North Building, Room 1169, 330 Independence avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301–594–7463.

SUPPLEMENTARY INFORMATION: Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended, provides for black lung overpayments to be recovered as provided by section 204 of the Social Security Act, "as if [black lung] benefits . . . were . . . [social security] benefits." Section 204(a) provides authority to recover overpayments under regulations issued by the Secretary. Those regulations could provide for a deceased individual's overpayment to be recovered from the decedent's estate (i.e., repayment by the decedents estate or by withholding amounts due the estate) and from benefits payable to other individuals because of the decedent's death. These provisions are reflected in § 404.502 (20 CFR 404.502). However, § 410.560(d) of the black lung regulations (20 CFR 410.560(d)) provides that a deceased black lung beneficiary's overpayment is recoverable only from the black lung beneficiary's estate (i.e., repayment by the decedent's estate or by withholding amounts due the estate). Since § 410.560(d) does not currently provide for recovery of a black lung overpayment from subsequent black lung benefits payable to the decedent's survivors, this method of recovering a deceased black lung beneficiary's overpayment is currently barred, and we have an unjustified inconsistency in administering the two acts.

Accordingly, we are amending § 410.560(d) to provide that when an overpayment of black lung benefits is made to a black lung beneficiary during his or her lifetime, we can recover the overpayment from subsequent black lung benefits payable to the decedent's survivors. Thus, the proposed regulations will provide the same means of recovering black lung overpayments as are provided for under title II of the Social Security Act.

(Catalog of Federal Domestic Assistance Programs No. 13.802—Special Benefits for Disabled Coal Miners)

Dated: May 14, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: August 18, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 410 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Section 410.560 is amended by revising paragraph (d) to read as follows:

§ 410.560 Overpayments.

* * * * *

(d) *Overpaid beneficiary dies before adjustment.* If an overpaid beneficiary dies before adjustment is completed under the provisions of paragraph (b) of this section, the overpayment may be recovered through—

(1) Repayment by the estate of the deceased overpaid beneficiary;

(2) Withholding benefit amounts due the estate of the deceased overpaid beneficiary;

(3) Withholding benefit amounts due any other individual because of the black lung disease of the miner; or

(4) Any combination of the methods described in this paragraph.

(Sec. 413(b) of the Federal Coal Mine Health and Safety Act of 1969, as amended, and secs. 204 and 1102 of the Social Security Act; 83 Stat. 793, 30 U.S.C. 921; 49 Stat. 624, 647, as amended, 42 U.S.C. 404 and 1302)

[FR Doc. 80-25687 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Requirements as to the Provision of Meals

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: The Employment and Training Administration of the Department of Labor proposes to revise its regulation which requires employers to provide meals to alien workers to clarify the requirements of that regulation. The proposed revision would require the employer to provide the workers with three meals a day, except where, under prevailing practice or long-standing arrangements the workers prepare the meals, employers need only provide free cooking and kitchen facilities and free transportation to purchase food.

DATES: Interested persons are invited to submit written comments on this proposed rulemaking on or before September 22, 1980.

ADDRESS: Send written comments to: Mr. David O. Williams, Administrator, United States Employment Service, Employment and Training Administration, United States Department of Labor, Suite 8000—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Bell, United States Employment Service, Employment and Training Administration, United States Department of Labor, Suite 8410—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213. Telephone: 202–376–6297.

SUPPLEMENTARY INFORMATION: The Employment Service regulations at 20 CFR 655.202 require employers requesting temporary alien labor certifications to include, as part of their application, a job offer containing specified minimal benefits, wages, and working conditions. As one benefit, § 655.202(b)(4) now states that:

> The employer will provide the worker with three meals a day. The job offer shall state the cost to the worker for such meals. The cost shall be no more than $4.00 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part.

The requirement that the employer provide the worker with three meals a day originated in the March 10, 1978, amendments to the regulations on the Labor Certification Process for the Temporary Employment of Alien Agricultural and Logging Workers in the United States (43 FR 10306).

The Department of Labor proposes to clarify this requirement to reflect the Department's application of the meals provision. Under this application, the employer is required to provide meals except where prevailing practice or long-standing arrangement at the establishment is to provide cooking and kitchen facilities where the workers can prepare meals. Prior to the 1978 amendments, the meals provision (then at 20 CFR 602.10a(f)) did not specifically require employers to provide workers with meals; the provision merely set a ceiling on the amount employers could charge workers for meals. The Department's policy was to accept job offers that followed the prevailing practice in the area of employment as to furnishing of meals. Since the issuance of the current meals provision on March 10, 1978, the Department has continued to accept job orders which offer the prevailing practice as to meals. This application of the meals provision is reflected in the Employment and Training Administration's General Administrative Letters Nos. 24–79 (March 16, 1979) and 24–80 (March 26, 1980).

It should also be noted that employers seeking agricultural workers through intrastate and interstate clearance in the Employment Service System are required to offer prevailing working conditions under 20 CFR 653.501(d)(4) and (e)(1) (45 FR 39467, June 10, 1980). This requirement was previously found at 20 CFR 653.108(c)(4) and (d)(1). Intrastate and interstate clearance requirements are applicable under § 655.201(c) to employers filing applications for temporary alien agricultural labor certifications.

Some question has arisen as to whether the current meals provision imposes an absolute requirement on employers to furnish meals to workers notwithstanding prevailing practice. The Department, therefore, proposes to clarify the language of § 655.202(b)(4) to conform it to the Department's practice in accepting job offers. The proposed rule would provide that where, under prevailing practice or long-standing arrangements at the establishment the agricultural workers prepare their meals, the employer need furnish only free cooking and kitchen facilities and free transportation to purchase food.

This proposed clarification does not change the requirement that employers, in areas where the provision of cooking facilities is not the prevailing practice, must provide each worker with three meals a day.

Since the proposed revision would merely conform the meals provision to current practice, it would not impose any additional cost on employers. Accordingly, the financial and other impact of this proposed rulemaking does not require a regulatory analysis. See 44 FR 5576 (January 26, 1979).

The comment period for this proposal is 30 days rather than 60 days since the problem which the proposed revision seeks to resolve is generally known to the affected parties and there is a strong need to eliminate the confusion surrounding the meals provision.

Accordingly, it is proposed to revise § 655.202(b)(4) of Part 655 of Title 20, Code of Federal Regulations, to read as follows:

§ 655.202 Contents of job offers.

* * * * *

(b) * * *

* * * * * *

(4) The employer will provide the worker with three meals a day, except that where under prevailing practice or long-standing arrangement at the establishment workers prepare their meals, employers need furnish only: free cooking and kitchen facilities and free transportation to purchase food. Where the employer provides the meals, the job offer shall state the cost to the worker for such meals. The cost shall not be more than $4.00 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part.

(Immigration and Nationality Act, (8 U.S.C. 1101, 1184(c)); 8 CFR 214.2(h)(3)(i); (5 U.S.C. 301); Wagner-Peyser Act of 1933, as amended (29 U.S.C. 49 *et seq.*))

Signed at Washington, D.C., this 14th day of August, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-25723 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 320

[Docket No. 80N–0235]

Sulfones; Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration proposes to establish bioequivalence requirements for dapsone and sodium sulfoxone oral drug products, categorized as sulfones, used for treating leprosy. This action is taken because available data suggest that the various marketed brands of the sulfones may not have comparable therapeutic effects. The proposed regulations would ensure the bioequivalence of different brands of these sulfone drug products and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by October 21, 1980. It is proposed that the final regulation based on this proposal be effective 30 days after its date of publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and

Drug Administration, Rm. 4–62, 5600

The general structural formula of

alcohol and has a pKa_1 of 11.51 and pKa_2

Adverse reactions induced by various

have a serious adverse effect in the

specified reference material, and to

Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Henry J. Malinowski, Bureau of Drugs (HFD–522), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1640.

SUPPLEMENTARY INFORMATION: Under 21 CFR Part 320, the Commissioner of Food and Drugs, on his own initiative or in response to a petition from an interested person, may propose and establish bioequivalence requirements for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect if there is a known or potential bioequivalence problem with the drug products. This authority to establish bioequivalence regulations for drug products for human use is delegated to the Director and Deputy Director of FDA's Bureau of Drug by § 5.79 (21 CFR 5.79).

Data available to FDA show, based on the criteria in §320.52 (21 CFR 320.52), that there is evidence of potential bioequivalence differences in oral formulations of sulfones among currently marketed brands of the same drug product produced by various manufacturers. Therefore, the Director of the Bureau of Drugs, on his own initiative, tentatively concludes that a bioequivalence requirement involving in vivo and in vitro dissolution testing should be established for the oral sulfones dapsone and sodium sulfoxone. The evidence on which the Director bases his tentative conclusion and the proposed bioequivalence requirement are discussed below.

Background

The sulfones are derivatives of 4, 4'-diaminodiphenyl-sulfone (dapsone, DDS) and have certain pharmacological properties in common. Despite the development of a large variety of sulfones, the parent compound dapsone remains the most useful clinically (Ref. 2).

The sulfones are bacteriostatic against human and avian tubercle bacilli and mycobacterium leprae. They are considered drugs of choice in the treatment of all forms of leprosy and are clinically useful in controlling the symptoms of dermatitis herpetiformis (Refs. 2 and 5).

The sulfonamides and the sulfones probably act in a like fashion since they approximate each other in the range of their antibacterial activity and both are inhibited by paraminobenzoic acid (Refs. 2 and 5).

The general structural formula of dapsone and sodium sulfoxone is shown below.

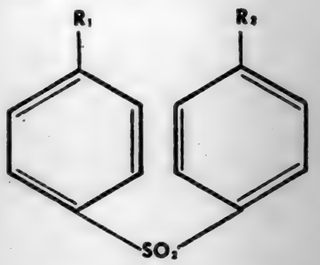

Substitutents R_1 and R_2 are shown in Table 1.

Table 1 [1]

Drug	R_1	R_2
Dapsone (DDS)	NH_2	NH_2
Sodium sulfoxone	$NHCH_2SO_3Na$	$NHCH_2SO_3Na$

[1] Source—Ref. 2.

The structure-activity relationship studies indicate that:

a. Nuclear substitution results in a reduction of tuberculostatic activity.

b. Substitution in both amino($-NH_2$) groups destroys the antibacterial activity unless the substituents can be easily removed in the body to yield dapsone.

c. A stable substituent in one amino group is retained.

d. Heterocyclic analogs of dapsone retain antibacterial activity provided they are isosteric (identical external electron arrangement) with dapsone.

The antibacterial activity and the toxicity of the disubstituted sulfones are thought to be due chiefly to the formation of dapsone in vivo. Hydrolysis of disubstituted derivatives to the parent sulfone apparently occurs readily in the acid medium of the stomach, but only to a very limited extent following parenteral administration. Mono-substituted and nuclear-substituted derivatives are believed to act as entire molecules (Refs. 4 and 5). Therefore, sodium sulfoxone, a disubstituted derivative, is hydrolyzed and absorbed chiefly in the form of the active parent compound dapsone.

Sodium sulfoxone occurs as a white to pale yellow powder with a characteristic odor and should be protected from light (Refs. 4 and 5). It is very soluble in water, slightly soluble in alcohol and has a pKa_1 of 11.51 and pKa_2 of 12.70 (Refs. 6 and 7). pK is defined as the negative logarithm of dissociation constant.

Dapsone is an odorless, white crystalline powder and should be protected from light because the presence of traces of impurities makes it photosensitive (Refs. 4 and 5). It is very slightly soluble in water (about 1 milligram per milliliter (mg/mL)), freely soluble in alcohol, soluble in dilute mineral acids, and has a pKb of 13.0 (Refs. 6, 7, and 8).

Dapsone is slowly absorbed after oral administration, reaching peak plasma concentrations in 1 to 3 hours (Ref. 2). Peak plasma levels of 1.1 to 1.5 micrograms per milliliter (mcg/mL) in 2 to 4 hours occur following a single 100-mg oral dose of dapsone (Ref. 9). Orally administered dapsone is absorbed mainly from the upper part of the small intestine (Ref. 5) and is detectable for 8 to 12 days (Refs. 2 and 9). A dose of 100 mg of dapsone per day yields a plasma concentration in the range of 10 to 20 mcg/mL. About 50 percent of the drug is bound to plasma protein (Ref. 2). Dapsone has a half-life of 17.0 to 21.0 hours (Refs. 9 and 10).

Following oral administration, sodium sulfoxone undergoes hydrolysis and is about 50 percent absorbed, chiefly in the form of the parent compound dapsone (Refs. 5 and 11). Peak plasma levels occur between 5.5 and 8 hours suggesting relatively slow hydrolysis of sulfoxone (Ref. 12). Steady-state plasma concentrations following conventional doses of sodium sulfoxone are 10 to 15 mcg/mL. These values fall relatively rapidly with appreciable quantities still present at 8 hours (Ref. 2).

The sulfones are distributed throughout the total body water and are present in all tissues. Skin, muscle, liver, and kidney tend to retain sulfones, with traces still present up to 3 weeks after therapy is stopped. The sulfones are retained in the circulation for a long time because of intestinal reabsorption from the bile (Refs. 2 and 5). Dapsone is acetylated in the liver, and the degree of acetylation is genetically determined (Ref. 2).

The urinary excretion of sulfones varies with the type of drug; about 70 to 80 percent of a dose of dapsone and 50 percent of the dose of sodium sulfoxone is excreted in the urine (Refs. 2, 5, and 12). Two dapsone metabolites are present in the urine with mono-*N*-glucuronide as the major metabolite (Refs. 2, 5, and 8). A very small percentage of the dose of dapsone (11 percent) and approximately 44 percent of sodium sulfoxone is excreted in the feces (Refs. 5, 8, and 11).

Adverse reactions induced by various sulfones are quite similar. The most common untoward effect is anemia. Less frequently occurring adverse reactions are methemoglobinemia, leukopenia, agranulocytosis, allergic dermatitis, hepatic inflammation, and muscular weakness. The erythema nodosum leprosum type of "lepra reaction" is a common occurrence during sulfone treatment of lepromatous leprosy (Refs. 2, 5, and 11).

Treatment with the sulfones should be initiated at a low dosage level with gradual increments, depending upon the response of the patient, until an optimal level is reached. Administration of larger than recommended doses does not appear to increase the speed of clinical or bacteriological improvement. Because of the cumulative effect of the sulfones, rest periods from drug therapy are included in sulfone dosage schedules (Refs. 2 and 5).

On the basis of the similarity of structure, physicochemical and pharmacologic properties, the sulfone drug products are considered as a class in establishing bioequivalence requirements.

Evidence To Establish a Bioequivalence Requirement

The Director considered the following criteria as set forth in § 320.52. *Criteria and evidence to establish a bioequivalence requirement* (21 CFR 320.52) in tentatively concluding that bioequivalence requirements should be established for dapsone and sodium sulfoxone oral drug products.

1. *Evidence that the drug products exhibit a narrow therapeutic ratio, e.g., have less than a two-fold difference in the minimum toxic concentrations and minimum effective concentrations in the blood, and safe and effective use of the drug products requires careful dosage titration and patient monitoring.* A safe and effective dosage of dapsone is reflected in blood levels of 2 to 10 mcg/mL (Ref. 13). Plasma concentrations following conventional doses of sodium sulfoxone are 10 to 15 mcg/mL (5 to 7 mcg/mL of free dapsone). Blood levels above 20 mcg/mL of dapsone result in severe toxic reactions such as acute hemolysis and liver damage (Ref. 13). Hematological side effects, such as methemoglobinemie and Heinz-body formation, are related to the plasma dapsone concentrations (Ref. 14).

Treatment with sulfones requires careful dosage titration and constant laboratory and clinical supervision for optimum therapeutic effect and to avoid toxic reactions (Refs. 2 and 5).

2. *Competent medical determination that a lack of bioequivalence would have a serious adverse effect in the treatment or prevention of a serious disease or condition.* The patient on sulfone drug therapy is stabilized on a certain drug product used to treat leprosy. Substitution of a poorly bioavailable drug product in the regimen of a patient controlled on an available drug product would result in failure of the patient to respond to sulfone therapy in treatment of the disease. If a patient is switched to a fully available drug product, the patient is subject to the toxic effects of the drug including lepra reactions and hematological side effects (Refs. 11, 12, 13, and 14).

3. *Physicochemical evidence that the active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter.* Dapsone is very slightly soluble in water (Refs. 6 and 7). At 37° C in water the solubility of dapsone is about 1 mg/mL (Ref. 8). As used here, the term "very slightly soluble" refers to a solubility from 0.05 mg/mL to 1.0 mg/mL (Ref. 6).

4. *Physicochemical evidence that specific inactive ingredients, e.g., hydrophilic or hydrophobic excipients and lubricants, either may be required for absorption of the active drug ingredient or therapeutic moiety or, alternatively if present, may interfere with such absorption.* Sodium sulfoxone is marketed as an enteric-coated tablet. Enteric coatings are hydrophobic, and some have been shown to interfere with the absorption of the active drug ingredient or therapeutic moiety (Ref. 15).

For sodium sulfoxone approximately 50 percent of the orally administered drug is absorbed (Refs. 2, 5, 11, and 12).

The disubstituted sulfones such as sodium sulfoxone are incompletely absorbed when administered orally, and large amounts are found in the feces.

The Bioequivalence Requirement

On the basis of this data, the Director tentatively concludes that the evidence meets one or more of the criteria in § 320.52. He therefore proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following sulfones: dapsone and sodium sulfoxone.

The proposed bioequivalence requirement would apply to all manufacturers of these drug products. It would require each manufacturer, except the manufacturers of the reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirement of this section, to conduct an in vitro dissolution test comparing its drug product to a specified reference material, and to conduct an in vivo bioavailability study comparing the same lot of its drug product to a specified reference material.

The Director advises that whenever possible, the reference material listed in the guideline is a drug product subject to an approved full new drug application (NDA) which contains in vivo data demonstrating the bioavailability of the drug product and in vitro dissolution data indicating that the drug product meets the proposed in vitro bioequivalence requirement. In exceptional cases, for example where no approved full NDA holder has conducted an acceptable bioavailability study, other factors may be considered appropriate by the agency. The selection of a drug product as the reference material does not imply superiority in any way, but is intended only to provide for a common standard for the determination of bioequivalence.

Under this proposed requirement, test drug products would be considered to meet the in vitro portion of the bioequivalence requirement if, in the case of uncoated dosage formulations, the in vitro data show that the dissolution rate for the test drug product is not less than 75 percent of the labeled amount of sulfone in 60 minutes and, in the case of enteric-coated dosage formulations, if after placement in 900 mL of simulated gastric juice (minus enzymes) for 1 hour without dissolving the dissolution rate for the test drug product in 900 mL of simulated intestinal juice (minus enzymes) is not less than 75 percent in 60 minutes. The test for uncoated dosage formulations is to be conducted in 900 mL of 0.1N HCl using U.S.P. apparatus 1 at a speed of 100 rpm. The test for enteric-coated dosage formulations is to be conducted using U.S.P. apparatus 1 at a speed of 100 rpm. The number of dosage units to be tested in all instances is to be determined by reference to the official U.S.P. acceptance table for dissolution testing.

Samples of the reference material run in comparison to a test drug product are to be tested in the same manner as the test drug product. If the samples from one lot of the reference material do not meet the applicable dissolution specifications for the product, test additional lots of reference material, up to a total of three lots until a lot of reference material which meets the applicable dissolution specification is tested. If none of the three lots of reference material tested meets the applicable dissolution specifications, notify the Director, Division of Biopharmaceutics, Bureau of Drugs,

Food and Drug Administration, before conducting any in vivo studies. Because of the manner of selecting the reference material, manufacturers would normally not have to test more than one lot of the reference material.

The in vivo data for all drug products subject to these requirements must show that the test drug product meets the following conditions:

1. The test drug product and the reference material do not differ by more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, rate of absorption (measured by time to peak plasma levels (Tmax) or the absorption constant (Ka)), peak plasma levels (Cmax), and area under the plasma concentration-time curves (AUC).

2. In at least 75 percent of the subjects the test drug product is at least 75 percent as bioavailable as the reference material, using each subject as his or her own control, i.e., administering both the reference material and the test drug product to each subject using a crossover procedure.

In addition, analytical and statistical techniques used must be sensitive enough to detect those differences in rate and extent of absorption that are not attributable to subject variability.

Methodology specifications are in the text of the proposed bioequivalence requirements that appear later in this document, and in guidelines on file in the office of the Hearing Clerk.

The Director also proposes that a manufacturer of a drug product selected by FDA as the reference material shall conduct an in vitro test on one batch of the reference material. In addition, if the manufacturer of the reference material has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, the manufacturer would be required to conduct an in vivo bioavailability study in humans comparing the reference material with an oral solution or oral suspension of an equivalent amount of sulfone contained in the reference material.

A manufacturer of a sulfone drug product subject to this proposed section who has previously conduced in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a Drug Efficancy Study Implementation notice, may request FDA to evaluate these studies to determine whether they are adequate and conclusive to ensure the bioequivalence of the drug product in light of current scientific knowledge and methodology. If they are found acceptable, the manufacturer would be required to conduct an in vitro test on one batch of the product.

To correlate in vivo data with in vitro dissolution data, where in vivo testing is required, the Director proposes that the same batch of the test product and the same batch of the reference material used in the vitro tests be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavilability/bioequivalence before the effective date of these proposed requirements. If more than one batch of the reference material had to be used in the in vitro testing because some batches of the reference material did not meet the applicable dissolution specifications, the batch which meets the applicable dissolution specifications must be used in the in vivo test.

General guidelines for in vivo testing are in § 320.25 (21 CFR 320.25). Specific draft guidelines for in vivo testing and for in vitro dissolution testing of sulfone drug products are on file in the Office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to this proposed section is named in the guidelines for in vivo bioavailability studies for sulfone drug products.

The proposed effective date of the final regulation is 30 days after its date of publication in the **Federal Register**. The Director proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days after the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days after the effective date of the final regulation. The Director believes this will allow sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA.

The Director advises, however, that for the manufacturer to meet an in vivo bioavialability requirement for some sulfone drug products, FDA may recommend that a manufacturer conduct a pilot study in certain instances, e.g., when an analytical assay method has not been used previously in an in vivo bioavailability/bioequivalence study, or where optimal sampling times have not been determined. The recommendation that a pilot study be conducted will appear in the "Guidelines for In Vivo Bioavailability Studies."

An extension of up 180 days may be granted by the Director upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. FDA encourages the submission of protocols for conducting in vivo bioavailability studies. If a manufacturer submits a protocol for FDA to evalaute, the Director will grant an extension of time necessary for the initial review of the protocol.

The Director advises that any drug product subject to this proposal is regarded as a new drug as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), requiring either an approved full or abbreviated new drug application as a condition to the lawful marketing of the product. Marketing of such a drug product must be in accordance with the requirements of § 320.58 (21 CFR 320.58).

After the effective date of a final regulation establishing a bioequivalence requirement, each manufacturer would be required uner § 320.56 (21 CFR 320.56) to conduct the in vitro dissolution test on a sample of each batch of the oral sulfone drug products to ensure batch to batch uniformity. The Director further proposes to require that the dissolution test be incorporated into a manufacturer's stability testing program. A batch of drug product whose dissolution falls below the specifications required by this regulation after entering the marketplace is subject to regulatory action.

References

Copies of all references cited below are on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

(1) Skelly, J. P., et al., Antilepra Agent Bioavailability Monograph with collaborator Shewsbury, R.

(2) Weinstein, L., "Antimicrobial Agents, Drugs Used in the Chemotherapy of Tuberculosis and Leprosy," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, pp. 1216–1220, 1975.

(3) Weinstein, L., "Drugs Used in the Chemotherapy of Leprosy and Tuberculosis," *in* "The Pharmacological Basis of Therapeutics," Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, 4th Ed., pp. 1311–1315, 1970.

(4) Wilson, C. O., et al., "Textbook of Organic Medicinal and Pharmaceutical Chemistry," 7th Ed., J. B. Lippincott Co., Philadelphia, pp. 218–221, 1977.

(5) Reilly, Mary Jo (Ed.), "American Hospital Formulary Service," American Society of Hospital Pharmacists, Washington, DC, pp. 8–26, 1976.

(6) Harvey, S. C., "Antimicrobial Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Mack Publishing Co., Easton, Pa., pp. 1150–1154, 1975.

(7) Windholz, M. (Ed.), "The Merck Index," 9th Ed., Merck & Co., Inc., Rahway, NJ, pp. 370, 1162, 1976.

(8) Israill, Z. H., et al., "Studies of the Metabolism of Dapsone in Man and Experimental Animals: Formation of *N*-Hydroxy Metabolites," *Journal of Pharmacology and Experimental Therapeutics*, 187(1): 138–151, 1973.

(9) Glazko, A. J., et al., "A New Analytical Procedure for Dapsone. Application to Blood-Level and Urinary-Excretion Studies in Normal Man," *American Journal of Tropical Medicine and Hygiene*, 17(3): 465–473, 1968.

(10) Pagaro, L. A., and L. Z. Benet, "Pharmacokinetic Data. Critical Complication of Terminal Half-Lives, Percent Excreted Unchanged, and Changes of Half-Life in Rental and Hepatic Dysfunction of Studies in Humans with References," *Journal of Pharmacokinetics and Biopharmaceutics*, 3(5): 333, 1975.

(11) *Modren Drug Encyclopedia and Therapeutic Index*, 14th Ed., Edited by A. J. Lewis, Dun-Donnelley, New York, pp. 323, 842–843, 1977.

(12) Peters, J. H., et al., "The Disposition of Sulfoxone and Solasulfone in Leprosy Patients," *Leprosy Rev.*, 6: 171–180, 1975.

(13) Lowe, J., "Studies in Sulphone Therapy," *Leprosy Rev.*, 23: 4–29, 1952.

(14) Ellard, G. A., et al., "Dapsone Acetylation in Dermatitis Herpetiformis," *British Journal of Dermatology*, 90: 441–444, 1974.

(15) "Biopharmaceutics and Relevant Pharmacokinetics", 1st Ed., J. G. Wagner, Drug Intelligence Publications, Hamilton, Illinois, p. 170, 1971.

The agency has carefully considered the potential environmental impacts of this proposal and has concluded that the action will not have a significant effect on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the office of the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended in Subpart D by adding new § 320.245 to read as follows:

§ 320.245 Sulfone oral drug products.

(a) *Applicability.* The requirements of this section apply to all single-active-ingredient oral dosage form drug products containing the following sulfone products: dapsone and sodium sulfoxone.

(b) *In vitro test requirements*—(1) *General.* Each manufacturer of a drug product that is subject to this section, except for the manufacturer of the reference material who is subject to paragraph (b)(3) of this section and manufacturers of products previously tested in vivo which are subject to paragraph (b)(4) of this section, shall conduct an in vitro dissolution test by the dissolution procedure set forth in the official U.S.P., comparing samples from a lot of the drug product with samples from a lot of the reference material specified by the Food and Drug Administration. If the samples from the lot of the reference material do not meet the applicable dissolution specification for the product, test additional lots of reference material, up to a total of three lots, until a reference lot which meets the applicable dissolution specifications is tested. If none of the three lots of reference material tested meets the applicable dissolution specifications, notify the Director, Division of Biopharmaceutics, Bureau of Drugs, Food and Drug Administration, before any in vivo testing.

(2) *Specific requirements for test drug products*—(i) *For uncoated dosage formulations.* (*a*) The test is to be conducted using 900 milliliters of 0.1N HCl, U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute.

(*b*) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each has a dissolution of not less than 75 percent in 60 minutes.

(ii) *For enteric-coated dosage formulations.* (*a*) The test is to be conducted by first using 900 milliliters of simulated gastric juice (minus enzymes), U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute for 60 minutes and then using 900 milliliters of simulated intestinal juice (minus enzymes), U.S.P. apparatus 1, and a basket speed of 100 revolutions per minute for another 60 minutes.

(*b*) The test drug product and reference material meet the in vitro portion of the bioequivalence requirement if each does not dissolve in 900 milliliters of simulated gastric juice (minus enzymes) for 1 hour, and when placed in 900 milliliters of simulated intestinal juice (minus enzymes) the dissolution rate is not less than 75 percent in 60 minutes.

(3) *Specific requirement for manufacturer of reference material.* Each manufacturer of a specified reference material shall conduct an in vitro dissolution test on one batch of the reference material using the U.S.P. dissolution procedure and the U.S.P. dissolution acceptance table in determining the number of samples to be tested. In addition, the applicable requirements of paragraph (b)(2) of this section must be met.

(4) *Specific requirements for products tested in vivo to demonstrate bioavailability/bioequivalence.* If a manufacturer of a drug product subject to this section has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product and the product has been found acceptable by the Food and Drug Administration under paragraph (d)(5) of this section, the manufacturer shall conduct an in vitro dissolution test on one batch of its drug product using the U.S.P. dissolution procedure and the U.S.P. dissolution acceptance table in determining the number of samples to be tested. In addition, the applicable requirements of paragraph (b)(2) of this section must be met.

(5) *Submission of test results.* Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *In vitro testing of each batch.* An in vitro dissolution test must be performed on each batch of drug product subject to this section. The test procedure, specifications to be met, and number of samples to be tested must meet the applicable requirements of paragraph (b)(1) and (2) of this section. It is not necessary, however, to compare samples of the reference material with the batch of drug product being tested.

(d) *In vivo portion of the bioequivalence requirement.* (1) Each manufacturer of a drug product subject to this section, except a manufacturer of the reference material who is subject to paragraph (d)(3) of this section and a manufacturer who has conducted in vivo bioavailability/bioequivalence studies in humans before the effective date of this section, which have been found acceptable under paragraph (d)(5) of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product to the reference material.

(2) The test drug product meets the in vivo portion of the bioequivalence requirement in humans if the following conditions are met:

SUMMARY: Recently enacted legislation

This interim rule would amend 24 CFR

on September 22, 1980, beginning at 9:30

(i) The test drug product and the reference material do not differ by more than 20 percent as determined by comparing the mean values for measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), rate of absorption (measured by time to peak plasma level (Tmax) or the absorption constant (Ka)), and area under the plasma concentration–time curves (AUC).

(ii) In at least 75 percent of the subjects, the test drug product is at least 75 percent as bioavailable as the reference material using each subject as his or her own control, that is, administering both the reference material and the test drug product to each subject using a crossover procedure.

(iii) Analytical and statistical techniques used are sensitive enough to detect differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section before (the effective date of the final regulation) shall conduct an in vivo bioavailability study in humans comparing its product (i.e., the reference material) with an oral solution or oral suspension of an equivalent amount of the sulfone contained in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of up to 180 days upon request when a manufacturer can document the need for an extension, for example, by submitting a protocol for review or demonstrating that pilot studies are required before starting the tests.

(5) Any manufacturer of a drug product subject to this section who has conducted one or more in vivo bioavailability/bioequivalence studies in humans before the effective date of this section may request an evaluation of these studies to determine whether the studies are adequate and conclusive to ensure the bioavailability/bioequivalence of the drug product in light of current scientific knowledge and methodology. Each request is required to contain the new drug application number, the established (generic) name of the drug product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) Each manufacturer requesting this evaluation who holds an approved or pending full new drug application for the drug product shall submit the request for evaluation to the Division of Anti-Infective Drug Products (HFD-140), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Each manufacturer requesting the evaluation who holds an approved or pending abbreviated new drug application for the drug product shall submit the request for evaluation to the Division of Generic Drug Monographs (HFD-530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(e) *Inclusion of bioequivalence data in full or abbreviated new drug application.* Each manufacturer of a drug product subject to this section that is currently marketed under a full or abbreviated new drug application shall submit the required in vitro and in vivo data in the form of a supplement to the application. Each manufacturer of a drug product subject to this section that is not marketed on the effective date of the final regulation shall include the required in vitro and in vivo data in the original full or abbreviated new drug application submitted to the Food and Drug Administration.

(f) *Failure to meet bioequivalence requirement.* Any manufacturer unable to meet either the in vitro or in vivo specifications required by this section will be required to reformulate the drug product.

(g) *Reference material and guidelines for testing.* (1) The reference material to use in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Studies for Sulfones." The same batch of the test drug product and of the reference material used in the in vitro test are to be used in the in vivo test, unless a manufacturer conducted adequate in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this section. If more than one batch of the reference material has to be used in the in vitro test because some batches of the reference material do not meet the applicable dissolution specifications, the batch which meets the applicable dissolution specifications must be used in the in vivo test.

(2) Guidelines for the conduct of in vivo and in vitro tests of oral sulfone drug products are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

(h) *Modifications.* Alternative methods for conducting the in vitro or in vivo testing required in this section may be used if evidence is submitted that demonstrates that the method will ensure the bioequivalence of the drug to an extent equal to or greater than the methods in this section. The justification data should be submitted to the Director, Division of Biopharmaceutics (HFD–520), Food and Drug Administration, and must be approved before they are used. Any approved modification will be incorporated into the appropriate guidelines for the drug.

Interested persons may, on or before October 21, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 13, 1980.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 80–25568 Filed 8–21–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 220, 221, 231, and 236

[R–80–859]

Mortgage and Loan Insurance Programs Under the National Housing Act; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would amend 24 CFR Parts 220, 221, 231 and 236 by prohibiting the prepayment of a mortgage which is assisted by a Housing Assistance Payments Contract during the term of the mortgage without the prior consent of the Commissioner.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 220, 221, 231 and 236—Subchapter B—Mortgage and Loan Insurance Programs Under the National Housing Act

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 15, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80–25556 Filed 8–21–80; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Parts 221, 234, and 235

[R–80–858]

Existing Multifamily Housing Demonstration; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review. This interim rule would amend 24 CFR Parts 221, 234 and 235 to set up a demonstration program to test new ways to preserve existing, conventionally financed, multifamily housing, particularly for current low- to middle-income tenants.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 221, 234 and 235—Existing Multifamiy Housing Demonstration

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 18, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80–25555 Filed 8–21–80; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 211

Coal Mining Operating Rules on Federal Lands; Public Hearing and Reopening of Comment Period

AGENCY: Geological Survey (GS), Department of the Interior.

ACTION: Notice of public hearing and reopening of comment period for proposed rulemaking.

SUMMARY: The Geological Survey is scheduling a public hearing and reopening the public comment period on proposed rules published in the **Federal Register** on May 19, 1980 (45 FR 32715) which govern coal mining operations on federally owned coal under the Mineral Leasing Act of 1920 (MLA), as amended, and which recodify the regulations in 30 CFR Part 211 relating to the initial Federal lands program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

DATES: A public hearing to review the substance of the proposed and recodified rules will be held in Washington, D.C., at the address below on September 22, 1980, beginning at 9:30 a.m. until 12:00 noon and from 1:30 p.m. to 4:00 p.m., or until all persons desiring to speak have been heard.

Written comments, data, or other relevant information on the proposed rules may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Written comments on the proposed rules may be submitted during the reopened comment period from September 15 until September 29, 1980.

ADDRESSES: Written comments should be addressed to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 650, National Center, Reston, Virginia 22092. Copies of comments will be available for public review at the above address from 7:45 a.m. to 4:15 p.m. on regular working days.

The public hearing will be held in Washington, D.C., at the main auditorium of the Department of the Interior, 18th and C Streets, N.W., Washington, D.C., 20240. Access to the auditorium is available at the C Street entrance of the building.

FOR FURTHER INFORMATION CONTACT: Wright Sheldon or Tom Leshendok, Branch of Coal Management, Conservation Division, U.S. Geological Survey, National Center, Reston, Virginia 22092, at (703) 860–7136.

SUPPLEMENTARY INFORMATION: The initial Federal lands program under SMCRA was incorporated into 30 CFR 211 by rulemaking of August 22, 1978 (43 FR 37181). The permanent Federal lands program, 30 CFR Chapter VII, Subchapter D, was published on March 13, 1979 (44 FR 15332 to 15341). The implementation schedule for the permanent phase of the Federal Lands Program was postponed by amendments to the permanent program regulations on December 31, 1979 (44 FR 77440).

The proposed GS rules, which were published in the **Federal Register** (45 FR 32715–32743) on May 19, 1980, delineate in §§ 211.1 to 211.80 the functions and responsibilities of the GS for coal mining operations on federally-owned coal and govern coal mining operations for production, development, mineral resource recovery and protection, royalties, diligent development, and maximum economic recovery (MER) on Federal coal under the MLA, as amended. They also recodify, in §§ 211.81 to 211.99, rules in 30 CFR Part 211 relating to the initial Federal lands program under SMCRA.

On July 16, 1980, the comment period on the proposed rules was extended for 3 weeks until July 24, 1980 (45 FR 47712). Several commenters have requested a public hearing on the proposed and recodified rules.

This notice sets forth the times and

regulations 36 CFR Part 219 requires the

(30 Stat. 34, 44 Stat. 242; 16 U.S.C. 475, 616)

This notice sets forth the times and locations of a public hearing and reopens the comment period from September 15 until September 29, 1980. The public hearing will be held in Washington, D.C., on September 22, 1980.

At the public hearing, all persons wishing to comment on the proposed regulations will, again, have the opportunity to do so. The hearing shall be informal. Individual testimony at the hearing may be limited as the schedule permits. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled and wish to do so will be heard following the schedued speakers.

Dated: August 19, 1980.

Doyle G. Frederick,

Acting Director.

[FR Doc. 80-25896 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 221

Timber Management Planning

AGENCY: Forest Service, USDA.

ACTION: Review of Regulation Under E.O. 12044.

SUMMARY: Regulation 36 CFR Part 221, Timber Management Planning, is scheduled for review under provisions of Executive Order 12044 dated March 23, 1978. The regulation requires National Forest timber to be disposed of according to Timber Management plans. The Forest Service invites comments on its intention to review Regulations 36 CFR Part 221 to determine whether it should be (a) abolished, (b) modified, or (c) retained in its present form.

DATES: Comments must be received on or before September 30, 1980.

ADDRESSES: Written comments should be sent to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert C. Van Aken, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 447-8709.

SUPPLEMENTARY INFORMATION: The National Forest System Land and Resource Management Planning recent regulations 36 CFR Part 219 requires the integration of planning for all National Forest System lands and resources. The final environmental impact statement on September 17, 1979, already assessed the impact of adopting the new rules. These rules also provide limitations on timber removal.

The Forest Service intends to review Regulation 36 CFR 221 to determine whether it should be (a) abolished, (b) modified, or (c) retained in its present form.

Dated: July 30, 1980.

R. Max Peterson,

Chief, Forest Service.

[The existing regulation follows.]

PART 221—TIMBER MANAGEMENT PLANNING

§ 221.3 Disposal of national forest timber according to management plans.

(a) Management plans for national forest timber resources shall be prepared and revised, as needed, for working circles or other practicable units of national forest. Such plans shall:

(1) Be designed to aid in providing a continuous supply of national forest timber for the use and necessities of the citizens of the United States.

(2) Be based on the principle of sustained yield, with due consideration to the condition of the area and the timber stands covered by the plan.

(3) Provide, so far as feasible, an even flow of national forest timber in order to facilitate the stabilization of communities and of opportunities for employment.

(4) Provide for coordination of timber production and harvesting with other uses of national forest land in accordance with the principles of multiple use management.

(5) Establish the allowable cutting rate which is the maximum amount of timber which may be cut from the national forest lands within the unit by years or other periods.

(6) Be approved by the Chief, Forest Service, unless authority for such approval shall be delegated to subordinates by the Chief.

(b) When necessary to promote better utilization of national forest timber or to facilitate protection and management of the national forests, a management plan may include provisions for requirements of purchasers for processing the timber to at least a stated degree within the working circle, or within a stated area, and, when appropriate, by machinery of a stated type; and agreements for cutting in accordance with the plan may so require.

(30 Stat. 34, 44 Stat. 242; 16 U.S.C. 475, 616)

[FR Doc. 80-25808 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 1

Confidentiality of Certain Medical Records; Proposed Regulatory Development

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The following additions to Veterans Administration regulations are proposed to implement specific provisions of the Veterans Omnibus Health Care Act of 1976 concerning the confidentiality of certain medical records. These proposed regulations protect the confidentiality of Veterans Administration records pertaining to drug abuse, alcoholism and sickle cell anemia treatment, rehabilitation, education, training, evaluation and research information.

The Veterans Administration is mandated by this Act to publish its own regulations relative to the confidentiality of alcohol, drug abuse and sickle cell anemia medical records. The Veterans Administration, generally, has been following the Department of Health, Education, and Welfare's regulations which were published in the **Federal Register**, July 1, 1975. The Department of Health, Education, and Welfare regulations (sections 2.1–2.67 of Title 42, Code of Federal Regulations) were promulgated with the enactment of legislation specific to alcohol and drug abuse programs and confidentiality of records. The proposed regulations take into consideration the existing Department of Health, Education, and Welfare's regulations in implementing the confidentiality section of the Veterans Omnibus Health Care Act of 1976. For convenience in comparing specific sections of the Department of Health, Education and Welfare Regulations with these proposed VA Regulations a cross index has been prepared which is set forth below.

DATES: Comments must be received on or before October 21, 1980. All comments received on or before 60 days following publication of this notice will be considered before final action is taken on these regulations, which may be changed in light of the comments received.

It is proposed to make these regulations effective on the date of their republication in the **Federal Register.**

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Linda Nugent, Medical Administration Specialist, Policies and Procedures Division, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–2143).

SUPPLEMENTARY INFORMATION: Pub. L. 93–282 cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974" provided that the Administrator of Veterans Affairs, through the Chief Medical Director, consistent with responsibilities under title 38, United States Code, prescribe regulations applicable to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care and medical services under title 38 to veterans suffering from alcohol abuse, alcoholism, and drug abuse. In prescribing and implementing these regulations, the Administrator is to consult with the Secretary of the Department of Health, Education, and Welfare (HEW) in order to achieve the maximum possible coordination of the regulations. In addition, the Administrator of Veterans Affairs will submit to the appropriate committees of the House of Representatives and the Senate a full report on the regulations prescribed, and explain the basis for any inconsistencies and the results of consultations with the Secretary of the Department of Health, Education, and Welfare.

Congress, recognizing that the particular problems of confidentiality of records in the Veterans Administration health care system would best be handled by placing applicable provisions in title 38, United States Code, added a new section 4132 to title 38, United States Code, with the enactment of Pub. L. 94–581, Veterans Omnibus Health Care Act of 1976. The intent of this legislation was to insure confidentiality of certain medical records by establishing civil sanctions for unauthorized disclosure of information, at the same time, meeting the legitimate needs for disclosure under certain conditions. As part of this legislation, Congress imposed upon the Veterans Administration requirements similar to those of Pub. L. 93–282 noted above (38 U.S.C. 4134). The Veterans Administration, in response to this mandate, has consulted with HEW on numberous occasions during the development of these regulations and will submit a comprehensive report to Congress explaining any differences between these proposed regulations and HEW's existing regulations. Such report will also be submitted for publication in the **Federal Register.**

Section 111 of Pub. L. 94–581 replaced for Veterans Administration purposes, the provisions of sections 122(a) and 303 of Pub. L. 93–282 (21 U.S.C. 1175, for drug records; 42 U.S.C. 4582, for alcohol records) as the statutory base for confidentiality of drug and alcohol abuse records for those patients treated by Veterans Administration medical facilities. Additionally, it replaced section 109 of Public Law 93–82 (38 U.S.C. 653(b)) which provided for confidentiality of sickle cell anemia records and required the Veterans Administration to promulgate regulations. Thus, Pub. L. 94–581, Veterans Omnibus Health Care Act of 1976, addressed all three subjects—drug abuse, alcoholism and sickle cell anemia records—in its confidentiality mandate. Accordingly, sickle cell anemia as well as drug/alcohol records are included in these proposed regulations.

The Veterans Administration has applied regulations on the confidentiality of patients' records as prescribed by the Secretary of the Department of Health, Education, and Welfare, through an agencywide memorandum. However, certain provisions of the Department of Health, Education, and Welfare regulations are inconsistent with the Veterans Administration requirements. These proposed regulations address those inconsistencies. Some of the inconsistencies follow. The Department of Health, Education, and Welfare regulations separate alcohol and drug abuse programs from other activities of an agency. As a consequence, under the HEW regulations an agency official who is not assigned to an alcohol treatment or drug abuse program, could have to obtain written consent even if the record is to be used within the agency. The concept of "program" as used in the Department of Health, Education, and Welfare regulations does not have applicability to the Veterans Administration because, in the Veterans Administration, provision of medical care and treatment is considered to be an integral part of the Veterans Administration's medical and benefits functions rather than a separate program isolated from other agency functions. Since the Veterans Administration considers any treatment program to be an integral part of the agency's medical and benefits functions, a patient's written consent is not needed if the records are to be used within the Veterans Administration. Under these proposed regulations, the Veterans Administration allows recognized veterans' service organizations direct access to patient records if they have a power of attorney. The Department of Health, Education, and Welfare does not address a power of attorney as including patient consent for access to his/her own records.

The Department of Health, Education, and Welfare regulations leave the determination to destroy patient records to officials of an individual program. The Veterans Administration has an agencywide policy regarding record retention.

The drafting of these proposed regulations has necessarily involved minor clarifying and editorial changes in the Department of Health, Education, and Welfare regulations to more speifically use VA terminology and already established requirements. These changes have addressed the above-mentioned pre-existing inconsistencies of the Department of Health, Education, and Welfare and VA procedures under the earlier applicable confidentiality statutes as well as inconsistencies generated by Pub. L. 94–581. For example, whereas the Department of Health, Education, and Welfare regulations do not qualify the conditions under which disclosure of information from the records of deceased patients may be made, section 4132 of title 38, only allows this disclosure with consent of the patient's next-of-kin or personal representative when the purpose has been determined by the chief Medical Director or designee to be necessary to obtain Veterans Administration or other survivorship benefits.

The Department of Health, Education, and Welfare regulations as well as section 4132 of title 38 allow for disclosure by an appropriate court order after the court determines the need for disclosure and imposes appropriate safeguards against unauthorized disclosure. These proposed regulations clarify the court order process and restrict mandatory disclosure to a Federal court. A Veterans Administration facility in these regulations, as part of the Federal government, is not bound by an order from a State court as in the Department of Health, Education, and Welfare regulations, but may, in its discretion, honor a State court order. However, it is contemplated that the Veterans

treatment, or any other procedure

program or activity functions. Sections

between the payer and the patient (or a

Administration will cooperate with State courts to the fullest extent appropriate.

Finally, these regulations are not intended to direct the manner in which substantive functions, such as research, treatment, and evaluation, should be carried out, but rather to define the minimum requirements for the protection of confidentiality of patient records which must be satisfied in connection with the conduct of those functions in order to carry out the purposes of the authorizing legislation.

Approved: August 18, 1980.
By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

Cross Index

VA Regulations governing release of information from Veterans Administration records containing drug abuse, alcoholism or alcohol abuse or sickle cell anemia information.

Department of Health, Education and Welfare Regulations Title 42, Code of Federal Regulations (Section Number) and VA Regulations Title 38, Code of Federal Regulations Section Number.

Subpart A—Introductory Statement

2.1
2.2
2.3
2.4 ..... Supplemented by an unnumbered abbreviated, prefatory statement.
2.5
2.6
2.7

Subpart B—General Provisions

2.11 ..... 1.460.
2.12 ..... 1.461.
2.13 ..... 1.462.
2.14 ..... 1.463.
2.15 ..... 1.464.
2.16 ..... 1.465.
2.17 ..... 1.466.
2.18 ..... 1.467.
2.19 ..... 1.468.
2.20 ..... 1.469.
2.21 ..... Eliminated.
2.22 ..... Eliminated.
2.23 ..... Eliminated.
2.24 ..... 1.470.

Subpart C—Disclosures with Patient's Consent

2.31 ..... 1.475.
2.32 ..... 1.476.
2.33 ..... 1.477 and 1.478.
2.34 ..... 1.479.
2.35 ..... 1.480.
2.36 ..... 1.481.
2.37 ..... 1.482.
2.38 ..... 1.483.
2.39 ..... 1.484.
2.40 ..... 1.485.

Subpart D—Disclosures without Patient Consent

2.51 ..... 1.490.
2.52 ..... 1.491.
2.53 ..... 1.492.
2.54 ..... Eliminated.
2.55 ..... 1.493.
2.56 ..... 1.494.

Subpart E—Court Orders

2.61 ..... 1.496(a).
2.62 ..... 1.496(b).
2.63 ..... 1.496(c).
2.64 ..... 1.496(d).
2.65 ..... 1.497.
2.66 ..... Eliminated.
2.67 ..... 1.498.

PART 1—GENERAL PROVISIONS

1. Sections 1.460 through 1.499 are added as follows:

Release of Information From VA Records Containing Drug Abuse, Alcoholism or Alcohol Abuse, or Sickle Cell Anemia Information

General Provisions

Sec.
1.460 Definitions for §§ 1.460 through 1.499.
1.461 Applicability.
1.462 General rules regarding confidentiality.
1.463 Penalty for violations.
1.464 Minor patients.
1.465 Incompetent and deceased patients.
1.466 Security precautions.
1.467 Extent of disclosure.
1.468 Undercover agents and informants.
1.469 Identification cards.
1.470 Relationship to section 502(c) of Controlled Substances Act.

Disclosures With Patient's Consent

1.475 Disclosures with patient's consent.
1.476 Prohibition of redisclosure.
1.477 Disclosure for Diagnosis, Treatment, and Rehabilitation.
1.478 Emergency disclosure for traveling, incarcerated, or hospital patients on medication.
1.479 Prevention of certain multiple enrollments; not applicable to sickle cell anemia records.
1.480 Legal counsel for patient.

Sec.
1.481 Patient's family and others.
1.482 Third party payers.
1.483 Employers and employment agencies.
1.484 Criminal justice system referrals.
1.485 Situations not otherwise provided for.
1.486–1.489 [Reserved]

Disclosures Without Patient's Consent

1.490 Medical emergencies.
1.491 Research, audit and evaluation.
1.492 Governmental agencies.
1.493 Supervision and regulation of narcotic maintenance and detoxification programs; not applicable to sickle cell anemia records.
1.494 Prohibition on disclosure of patient identities for research, audit, or evaluation records.
1.495 [Reserved]

Court Orders

1.496 Court orders.
1.497 Investigation and prosecution of patients.
1.498 Undercover agents and informants.
1.499 [Reserved]

Release of Information From Veterans Administration Records Containing Drug Abuse, Alcoholism or Alcohol Abuse, or Sickle Cell Anemia Information

Introductory Statement

Sections 1.460 through 1.499 concern the confidentiality of drug abuse, alcoholism or alcohol abuse, or sickle cell anemia information from Veterans Administration records and are applicable in addition to other regulations pertaining to the release of information from Veterans Administration records. Sections 1.500 through 1.527 implement the provisions of 38 U.S.C. 3301 and 3302. Sections 1.550 through 1.559 implement the provisions of 5 U.S.C. 552 (The Freedom of Information Act). Sections 1.575 through 1.584 implement the provisions of 5 U.S.C. 552a (The Privacy Act of 1974).

Authority: The provisions of §§ 1.460 through 1.499 pertain to any program or activity, including education, training, evaluation, treatment, rehabilitation or research, which relates to drug abuse, alcoholism or alcohol abuse or sickle cell anemia. The statutory authority for the drug abuse provisions is section 408 of Pub. L. 92–255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175), as amended by section 303 of Pub. L. 93–282 (88 Stat. 137); the authority for the alcoholism or alcohol abuse provisions is section 333 of Pub. L. 91–616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4582), as amended by section 122(a) of Pub. L. 93–282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act amendments of 1974 (88 Stat. 131); the authority for the sickle cell anemia provisions is section 109 of Pub. L. 93–82 the Veterans Health Care Expansion Act of 1973 (38 U.S.C. 651–654); additional statutory authority for § 1.460 through 1.499 is section 111 of Pub. L. 94–581, the Veterans Omnibus Health Care Act of 1976 (38 U.S.C. 4131 through 4134).

General Provisions

§ 1.460 Definitions for §§ 1.460 through 1.499.

(a) *Alcohol abuse.* The term "alcohol abuse" includes alcoholism and connotes dysfunctional use of alcoholic beverages.

(b) *Drug abuse.* The term "drug abuse" includes drug addiction and connotes dysfunctional use of drugs other than alcohol.

(c) *Sickle cell anemia.* The term "sickle cell anemia" includes any activities relating to testing, diagnosis, treatment, or any other procedure relating to the disease.

(d) *Diagnosis and treatment.* The terms "diagnosis" and "treatment" includes interviewing, counseling, and other services or activities carried on for the purpose of or as an incident to diagnosis, treatment, or rehabilitation with respect to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia whether or not conducted by a member of the medical profession. See also paragraph (h) of this section.

(e) *Patient.* The term "patient" means any individual (whether referred to as a patient, client, or otherwise) who has applied for or been given diagnosis or treatment for drug abuse, alcoholism or alcohol abuse, or sickle cell anemia and includes any individual who, after arrest on a criminal charge, is interviewed and/or tested in connection with drug abuse, alcoholism or alcohol abuse or sickle cell anemia preliminary to a determination as to eligibility to participate in a treatment or rehabilitation program. The term "patient," for the purpose of sickle cell anemia, includes one tested for the disease.

(f) *Person.* The term "person" means an individual, a partnership, a corporation, a trust, a Federal or State governmental agency, or any other legally cognizable entity.

(g) *Contractor.* The term "contractor" means a person who provides services to the Veterans Administration such as data processing, dosage preparation, laboratory analyses or medical or other professional services. Each contractor shall be required to enter into a written agreement subjecting such contractor to the provisions of §§ 1.460 through 1.499.

(h) *Records.* The term "records" includes any information received, obtained or maintained (whether recorded or not) by an employee or contractor of the Veterans Administration, for the purpose of performing Veterans Administration drug abuse, alcoholism, or sickle cell anemia program or activity functions regarding an identifiable patient. A drug abuse, alcoholism, or sickle cell anemia program or activity function includes treatment, education, training, rehabilitation, research, or referral for one of these conditions. Sections 1.460 through 1.499 apply to a primary or other diagnosis, or other information which identifies, or could reasonably be expected to identify, a patient as having a drug abuse, alcoholism, or sickle cell anemia condition (e.g., alcoholic psychosis, drug dependence), but only if such diagnosis or information is received, obtained or maintained for the purpose of performing one of the above program or activity functions. Sections 1.460 through 1.499 do not apply if such diagnosis or other information is not received, obtained or maintained for the purpose of performing a drug abuse, alcoholism or sickle cell anemia function or activity for the patient in question. Whenever such diagnosis or other information, not originally received or obtained for the purpose of providing one of the above program or activity functions, is subsequently used in connection with such program or activity function, those original entries become a "record" and §§ 1.460 through 1.499 thereafter apply to those entries. Segregability: these regulations do not apply to records or information contained therein, the disclosure of which (the circumstances surrounding the disclosure having been considered) could not reasonably be expected to disclose the fact that a patient had been connected with a Veterans Administration drug abuse, alcoholism or sickle cell anemia program or activity function.

(i) *Communications not constituting disclosure.* The following types of communication do not constitute disclosures of records:

(1) Communication of information within the Veterans Administration between or among personnel of Veterans Administration components having a need for such information in connection with their duties. When information is exchanged between Veterans Administration health care providers, including medical facility administrative personnel, and Veterans Administration nonhealth care providers, the Veterans Administration nonhealth care provider shall receive the confidential record on loan from the Veterans Administration health care provider, shall make no copies of subject records, and shall, after adjudication or other proceedings have taken place, return the confidential records to the Veterans Administration health care provider source of origin.

(2) Communication between the Veterans Administration and a contractor of information needed by the contractor to perform his or her services.

(3) Communications of information which include neither patient identifying information nor identifying numbers assigned to patients.

(j) *Third party payer.* The term "third party payer" means any organization (or person acting as agent or trustee for an organization or fund) which pays or agrees to pay for diagnosis or treatment furnished or to be furnished to a particular individual, where such payment or agreement to pay is on the basis of an individual relationship between the payer and the patient (or a member of the patient's family in the case of self-and-family insurance coverage or similar arrangements) evidenced by a contract, an insurance policy, a certificate of membership or participation or similar documentation. (38 U.S.C. 210(c), 4132, 4134)

§ 1.461 Applicability.

(a) *General.* Except as provided in paragraph (b) of this section, §§ 1.460 through 1.499 apply to any communications and to all records which are maintained in connection with the performance of any Veterans Administration drug abuse, alcoholism, or sickle cell anemia program or activity, and they apply to all communications between any person within the components of the Veterans Administration and to any person outside of the components.

(b) *Veterans Administration and Armed Forces.* The provision of §§ 1.460 through 1.499 do not apply to any interchange, between or among those components of the Veterans Administration who have a need for the information in the performance of their duties, except as limited to § 1.460(i)(1), or between such components and the Armed Forces, of records pertaining to a person relating to a period when such person is or was subject to the Uniform Code of Military Justice.

(c) *Period covered as affecting applicability.* The provisions of §§ 1.460 through 1.499 apply to records of identity, diagnosis, prognosis, or treatment pertaining to any given individual maintained over any period of time which, irrespective of when it begins, does not end before March 21, 1972, in the case of diagnosis or treatment for drug abuse, or before May 14, 1974, in the case of diagnosis or treatment for alcoholsim or alcohol abuse, or before September 1, 1973, in the case of testing, diagnosis or treatment of sickle cell anemia. (38 U.S.C. 210(c), 4132, 4134, sec. 408, Pub. L. 92–255; sec. 109, Pub. L. 93–82, 38 U.S.C. 651–654; secs. 122(a), 303, Pub. L. 93–282)

§ 1.462 General rules regarding confidentiality.

(a) *General.* Records to which §§ 1.460 through 1.499 apply shall be confidential and, 38 U.S.C. 3301 to the contrary notwithstanding, may be disclosed only as authorized by those regulations, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority whether such proceeding is commenced before or after the effective date of these regulations.

(b) *Crimes on Veterans Administration premises or against Veterans Administration personnel.* Where a patient commits or threatens to commit a crime on the premises of the facility or against personnel of the Veterans Administration, nothing in §§ 1.460 through 1.499 shall be construed as prohibiting personnel of the Veterans Administration from seeking the assistance of, or reporting such crime to, a law enforcement agency, but such report shall not identify the suspect as a drug abuse, alcoholism or alcohol abuse, or sickle cell anemia patient. In any such situation, immediate consideration should be given to seeking an order under §§ 1.496 through 1.498 to permit the disclosure of such limited information about the patient as may be necessary under the circumstances.

(c) *Implicit and negative disclosures prohibited.* The disclosure that a person (whether actual or fictitious) answering to a particular description, name or other identification is not or has not been receiving treatment, whether over a period of time or on a particular occasion, is fully as much subject to the prohibitions and conditions of §§ 1.460 through 1.499 as a disclosure that such a person is or has been receiving such treatment. Any improper or unauthorized request for any disclosure of records or information subject to §§ 1.460 through 1.499 must be met by a non-committal response.

(d) *Inpatients and residents.* The presence of any inpatient in a medical facility or resident in a residential facility for the treatment of drug abuse, alcoholism or alcohol abuse, or sickle cell anemia may be acknowledged to callers and visitors with the patient's written consent. Without such consent, the presence of any inpatient or resident in a facility for the treatment of a variety of conditions may be acknowledged if done in such a way as not to indicate that the patient is being treated for drug abuse, alcoholism or alcohol abuse, or sickle cell anemia. (38 U.S.C. 210(c), 4132, 4134)

§ 1.463 Penalty for violations.

(a) *Penalty provided by law.* Any person who violates any provision of §§ 1.460 through 1.499 shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense, consistent with 38 U.S.C. 4132(f).

(b) *Application to subsequent offenses.* Where a defendant has committed one offense under any section of §§ 1.460 through 1.499, any offense thereafter committed under the same section or any other section of such regulations shall be treated as a subsequent offense. (38 U.S.C. 210(c), 4132, 4134)

§ 1.464 Minor patients.

(a) *Definition of minor.* The term "minor" means a person who has not attained the age of 18 years or, in a State where a different age is expressly provided by State law as the age at which a person ceases to be minor, the age prescribed by the law of such State.

(b) *Consent of disclosure in general.* Except as provided in paragraph (c) of this section, where consent is required for any disclosure under §§ 1.460 through 1.499, such consent in the case of a minor must be given by both the minor and his or her parent, guardian, or other person authorized under State law to act in the minor's behalf, but any disclosure made after the patient has ceased to be a minor may be consented to only by the patient.

(c) *Rule when State law authorizes treatment without parental consent.* Whenever a patient, acting alone, has the legal capacity under the applicable State law to apply for and obtain such diagnosis, counseling, adminstration of medication, or other services as actually are or were provided to him or her by the Veterans Administration with respect to which such person is or was a patient, any consent required for disclosure under these regulations may be given only by the patient, notwithstanding the fact that the patient may be a minor.

(d) *Initial contacts.* When a minor applies for services under circumstances other than those described in paragraph (c) of this section, the fact of such application may not be disclosed except as an incident to a communication authorized under paragraph (f) of this section, without consent of the applicant, to the applicant's parent, guardian, or other person authorized under State law to act on behalf of the applicant. When such an applicant refuses consent, it must be explained to the applicant that while he or she has the right (subject to the provisions of paragraph (f) of this section) to withhold such consent, the services applied for cannot be provided without it.

(e) *Communications regarding services.* Where State law authorizes the furnishing of services to a minor without the consent of the minor's parent or guardian, no communication may be made to the parent or guardian, either directly or indirectly, with respect to such services without the express written consent of the patient. Such consent may not be made a condition of the furnishing of services.

(f) *Applicant lacking capacity for rational choice.* When, in the judgment of the appropriate Veterans Administration facility director, a minor applicant for services, because of extreme youth or mental or physical condition, lacks the capacity to make a rational decision on whether to consent to the notification of a parent or guardian, and the situation of the applicant poses a substantial threat to the life or physical well-being of the applicant or any other individual, and such threat might be reduced by communicating the relevant facts to a parent or guardian of the applicant, such facts may be so communicated by the facility director or by personnel authorized by the director to do so. (38 U.S.C. 210(c), 4132, 4134)

§ 1.465 Incompetent and deceased patients.

(a) *Incompetent patients other than minors.* Where consent is required for any disclosure under §§ 1.460 through 1.499, such consent in the case of a patient who has been adjudicated as lacking the capacity, for any reason other than insufficient age, to manage his or her own affairs may be given by the guardian or other person authorized under State law to act in the patient's behalf.

(b) *Deceased patients*—(1) *General.* Except as provided in paragraph (b)(2) of this section, where the patient whose records are subject to §§ 1.460 through 1.499 is deceased, the Chief Medical Director or designee may, upon the prior written request of the next of kin, executor/executrix, administrator/administratrix, or other personal representative of such deceased patient, disclose the contents of such records, only if the Chief Medical Director or designee determines such disclosure is necessary to obtain survivorship benefits for the deceased patient's survivor. This would include not only Veterans Administration benefits, but also payments by the Social Security Administration, Worker's Compensation Boards or Commissions, or other Federal, State, or local government agencies, or nongovernment entities, such as life insurance companies.

(2) *Vital statistics.* In the case of a deceased patient, disclosures required under Federal or State laws involving the collection of death and other vital statistics may be made without consent. (38 U.S.C. 210(c), 4132, 4134)

§ 1.467 Security precautions.

Appropriate precautions must be taken for the security of records to which §§ 1.460 through 1.499 apply. Records containing any information pertaining to patients shall be kept in a secure room or in a locked file cabinet, safe, or other similar container, when not in use. These security precautions shall be consistent with the Privacy Act of 1974 (5 U.S.C. 552a) and the Veterans Administration confidentiality statute (38 U.S.C. 3301). (38 U.S.C. 210(c), 3301, 4132, 4134, 5 U.S.C. 552a)

§ 1.466 Extent of disclosure.

Any disclosure made under §§ 1.460 through 1.499, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.468 Undercover agents and informants.

(a) *Definitions.* As used in this section and § 1.498—(1) The term "undercover agent" means a member of any Federal, State, or local law enforcement or investigative agency whose identity as such is concealed from either the patients or personnel of a facility in which he or she enrolls or attempts to enroll.

(2) The term "informant" means a person who, at the request of a Federal, State, or local law enforcement or investigative agency or officer, carries on observation of one or more persons enrolled in or employed by a facility in which he or she is enrolled or employed, for the purpose of reporting to such agency or officer information concerning such persons which he or she obtains as a result of such observation subsequent to such request.

(b) *General prohibition.* Except as otherwise provided in paragraph (c) of this section, or as specifically authorized by a Federal court order granted under §§ 1.496 through 1.498:

(1) No undercover agent or informant may be employed by or enrolled in any Veterans Administration drug abuse, alcoholism or alcohol abuse treatment unit;

(2) No supervisor or other person having authority over an undercover agent may knowingly permit such agent to be or remain employed by or enrolled in any such unit; and

(3) No law enforcement or investigative officer may recruit or retain an informant with respect to such a unit.

(c) *Exceptions.* The enrollment of a law enforcement officer in a treatment unit shall not be deemed a violation of this section if (1) such enrollment is solely for the purpose of enabling the officer to obtain treatment for his or her own alcoholism, alcohol abuse or drug abuse, and (2) such person's status as a law enforcement officer is known to the facility director. (38 U.S.C. 210(c), 4132, 4134)

§ 1.469 Identification cards.

(a) *Required use prohibited.* No facility may require or request any patient to carry in his or her possession, while away from the facility premises, an identification card or other form of identification which is issued by the facility and which would tend to identify the bearer as a participant in any Veterans Administration drug abuse, alcoholism, or alcohol abuse treatment program, or as a sickle cell anemia patient.

(b) *Conditions of voluntary use.* Nothing in this section prohibits a facility from issuing an identification card to a patient if the patient's counselor or other authorized member of the facility staff has explained to the patient that acceptance and use of the card is entirely voluntary and that neither an initial rejection nor a subsequent discontinuation of its use will in any way prejudice his or her record or standing with the Veterans Administration. In the case of any patient to whom an identification card or similar device was issued prior to the implementation of §§ 1.460 through 1.499, or subsequent thereto in violation of such regulations, a counselor, or other authorized member of the facility staff shall explain to the patient his or her right to turn it in without prejudice at any time.

(c) *On-premises exemption.* A facility is not prohibited from maintaining and using on its premises cards, photographs, tickets, or other devices, or using passwords or other information to assure positive identification of patients, correct recording of attendance or medication, or for other proper purposes, as long as no pressure is brought on any patient to carry any such device when away from the facility. (38 U.S.C. 210(c), 4132, 4134)

§ 1.470 Relationship to section 502(c) of Controlled Substances Act.

(a) *Research privilege description.* In some instances there may be concurrent coverage of a Veterans Administration activity by the provisions of §§ 1.460 through 1.499 and by a regulation or other administrative action under section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)). This provision of law, referred to hereinafter in this section as the research privilege section, confers on the Attorney General the power to authorize researchers to withhold from all persons not connected with the research, the names and other identifying information concerning individuals who are the subject of such research. The Attorney General's power is conferred as part of a section authorizing research related to enforcement of laws under the jurisdiction of the Attorney General concerning substances which are or may be subject to control under the Controlled Substances Act, but is not expressly limited to such research. It is expressly provided that persons who obtain a grant of research privilege "may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify" the subjects of research for which the privilege was obtained.

(b) *Comparison with authority for §§ 1.460 through 1.499.* Although it deals, in a sense, with the same subject matter, and may on occasion concurrently cover the same transactions, it is important to note the differences between the research privilege section (21 U.S.C. 872(c)) and the provisions of law (21 U.S.C. 1175, 38 U.S.C. 4134, and 42 U.S.C. 4582) which authorize §§ 1.460 through 1.499. Briefly, these differences are as follows:

(1) Although it contains a broad grant of express rulemaking authority, the provisions of law by which §§ 1.460 through 1.499 are authorized are self-executing in the sense that they are operative irrespective of whether the rulemaking authority is exercised. The protection afforded by the research privilege section, on the other hand, can only come into existence as a result of affirmative administrative action.

(2) The provisions of law authorizing §§ 1.460 through 1.499, as well as the provisions of these regulations themselves, impose affirmative duties with respect to the records to which they apply, and the violation of such duties is subject to criminal penalties. To the extent that a privilege is thereby created, it grows out of the duties thus imposed. The research privilege section, by contrast, imposes no duties by its own terms, and if any duties are implied from its existence, they would have to be enforced on the basis of an implicit civil liability for damages or by equitable relief, as there are no criminal or administrative sanctions available.

(3) The exercise of the authority conferred by the research privilege section is subject to administrative discretion, whereas in the case of the duties imposed under these regulations there is judicial discretion, within the limits and subject to procedures and criteria prescribed by statute and regulations, to grant relief in particular cases.

(c) *Grant of research privilege not affected by § 1.496 order.* The issuance of an order under § 1.496 based on the sections authorizing §§ 1.460 through 1.499 (21 U.S.C. 1175, 38 U.S.C. 4134, and

42 U.S.C. 4582) in no way affects the

(e) of this section. (38 U.S.C. 210(c), 4132,

central registry except as authorized by

the Veterans Administration facility and

Veterans Administration treatment

42 U.S.C. 4582) in no way affects the continuing effectiveness of any exercise of the authority of the Attorney General under section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)). (38 U.S.C. 210(c), 4132, 4134).

§§ 1.471–1.474 [Reserved]

Disclosures With Patient's Consent

§ 1.475 Disclosure with patient's consent.

(a) *Written consent required.* Except as otherwise provided, a consent for a disclosure under §§ 1.460 through 1.499 must be in writing and must contain the following:

(1) The name of the facility which is to make the disclosure.

(2) The name or title of the person or organization to which disclosure is to be made.

(3) The name of the patient.

(4) The purpose or need for the disclosure.

(5) The extent or nature of information to be disclosed.

(6) A statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon and a specification of the date, event, or condition upon which it will expire without express revocation.

(7) The date on which the consent is signed.

(8) The signature of the patient; or the signature of the minor and the person authorized to act in his or her behalf, when required by § 1.464; or the signature of the person authorized to give consent in lieu of the patient, when required under § 1.465.

(b) *Duration of consent.* Any consent given under §§ 1.475 through 1.485 shall have a duration no longer then that reasonably necessary to effectuate the purpose for which it is given.

(c) *Disclosure prohibited with deficient consent.* The Veterans Administration will not disclose any information on the basis of a consent form—

(1) Which on its face substantially fails to conform to any of the requirements set forth in paragraph (a) of this section, or

(2) Which is known, or in the exercise of reasonable care should be known, to the responsible personnel of the Veterans Administration to be materially false with respect to any item required to be contained therein pursuant to paragraph (a) of this section.

(d) *Falsification prohibited.* No person may knowingly make, sign, or furnish to the Veterans Administration any consent form which is materially false with respect to any item required to be contained therein pursuant to paragraph (a) of this section. (38 U.S.C. 210(c), 4132, 4134)

§ 1.476 Prohibition of redisclosure.

(a) *Notice to accompany disclosure.* Whenever a written disclosure is made under authority of § 1.475 through 1.485, except a disclosure to a facility or other person whose records pertaining to the patient are otherwise subject to these regulations, the disclosure shall be accompanied by a written statement substantially as follows: "This information has been disclosed to you from records whose confidentiality is protected by Federal law. Federal regulations (38 CFR 1.460 through 1.499) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or except as otherwise permitted by §§ 1.460 through 1.499. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure will be accompanied or followed by such a notice.

(b) *Consent required for redisclosure.* A person who receives information from patient records and has been notified substantially in accordance with paragraph (a) of this section is prohibited from making any disclosure of such information except with the specific written consent of the person to whom it pertains, or as otherwise permitted under §§ 1.460 through 1.499.

(c) *Restriction on redisclosure.* Whenever information from patient records is needed by any person, such information must be obtained directly from the facility maintaining such records and not from another person to whom disclosure was intentionally and expressly made for the purpose of redisclosure (as for example in the case of an employment agency). (38 U.S.C. 210(c), 4132, 4134)

§ 1.477 Disclosure for diagnosis, treatment, and rehabilitation.

Where consent is given in accordance with § 1.475, disclosure of information subject to §§ 1.460 through 1.499 may be made to non-veterans Administration medical personnel or to a treatment or rehabilitation program where such disclosure is needed in order to better enable them to furnish services to the patient to whom the information pertains. (38 U.S.C. 210(c), 4132, 4134)

§ 1.478 Emergency disclosure for traveling, incarcerated, or hospitalized patients on medication.

Where a patient on medication is at a distance from his or her normal residence or treatment facility or is incarcerated or hospitalized, or is otherwise unable to deliver a written consent to his or her treatment facility at the time the disclosure is needed, confirmation of the patient's status and information necessary to appropriately continue or modify the patient's medication may be given to non-Veterans Administration personnel in a position to provide services to the patient upon the oral representation of such personnel that the patient has requested medication and consented to such disclosure. Any person making a disclosure in accordance with this section shall make an accounting of the disclosure. The accounting will consist of the patient's name and Veterans Administration file number, the date and time the disclosure was made, the information disclosed, the purpose of the disclosure, the authority for making the disclosure (§ 1.478), the name and address of the person or facility to whom the disclosure was made, and the name of the individual making the disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.479 Prevention of certain multiple enrollments; not applicable to sickle cell anemia records.

(a) *Definitions.* For the purpose of this section and § 1.493:

(1) The terms "administer," "controlled substance," "dispense," "maintenance treatment," and "detoxification treatment," shall respectively have the meanings defined in paragraphs (2), (6), (10), (27), and (28) of section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "program" means a non-Veterans Administration program which offers maintenance treatment or detoxification treatment.

(3) The term "permissible central registry" means a qualified entity which collects or accepts, from two or more programs (referred to hereinafter as member programs), all of which are located either within a given State or not more than 125 miles from the nearest point on the border of such State, patient identifying information about persons applying for maintenance treatment or detoxification treatment for the purpose of enabling the member programs to prevent any individual from being concurrently enrolled in more than one such program.

(b) *Use of central registries prohibited except as expressly authorized.* The furnishing of patient identifying information by the Veterans Administration to any central registry which fails to meet the definition of a permissible central registry set forth in paragraph (a)(3) of this section is prohibited, and the furnishing of patient identifying information to or by any central registry except as authorized by this section is prohibited. Information pertaining to patients held in a central registry may be furnished or used in accordance with paragraphs (e), (f) and (g) of this section for the purpose of preventing multiple enrollments, but may not be otherwise furnished or used in connection with any legal, administrative, supervisory, or other action with respect to any patient.

(c) *Safeguards and procedures required.* To minimize the likelihood of disclosures of information to impostors or others seeking to bring about unauthorized or improper disclosure, any communications carried on by the Veterans Administration and programs pursuant to this section must be conducted by authorized personnel designated by specific written procedures regulating and controlling access by those members of the Veterans Administration, other programs, and the central registry whose responsibilities require such access, and providing for security and accountability as required by §§ 1.460 thorugh 1.499.

(d) *Disclosures with respect to patients in treatment.* The Veterans Administration may supply patient identifying information and information concerning the type of drug used or to be used in treatment and the dosage thereof, with relevant dates, to a permissible central registry with respect to any patient:

(1) When the patient is accepted for treatment,

(2) When the type or dosage of the drug is changed, and

(3) When the treatment is interrupted, resumed, or terminated.

(e) *Disclosures with respect to applications.* When any person applies to the Veterans Administration for maintenance treatment or detoxification treatment, then for the purpose of inquiring whether such person is currently enrolled in another program for such treatment, the Veterans Administration may furnish patient identifying information with respect to such person:

(1) To any permissible central registry of which the Veterans Administration is a member, and

(2) To any other program which is not more than 200 miles distant and which is not a member of any central registry of which the inquiring program is a member.

(f) *Program procedure in case of apparent concurrent enrollment.* When an inquiry pursuant to paragraph (e)(2) of this section is made of a non-Veterans Administration treatment program and its response is affirmative, the Veterans Administration facility and the program may engage in such further communication as may be necessary to establish whether an error has been made and, if none, the Veterans Administration facility should proceed in accordance with sound clinical practice and any applicable regulations pertaining to the type of treatment involved.

(g) *Registry procedure in case of apparent concurrent enrollment.* When inquiry pursuant to paragraph (e)(1) of this section is made of a permissible central registry and its response is affirmative, it may advise the inquiring Veterans Administration facility of the name, address, and telephone number of the other program, or it may advise the other program of the identity of the patient and the name, address, and telephone number of the inquiring Veterans Administration facility, or it may do both, and in any case the program and the Veterans Administration facility may then communicate as provided in paragraph (f) of this section.

(h) *Advice to patients.* When the policies and procedures of any Veterans Adminstration facility or program involve any disclosures pursuant to this section, before any patient is accepted for or continued in treatment (other than detoxification treatment), written consent in accordance with § 1.475 shall be obtained. Such consent shall set forth a current list of the names and addresses either of any programs or of any central registries to which such disclosures will be made. Notwithstanding the requirement of § 1.475(a)(2), such consent shall be effective with respect to any other such program thereafter established within 200 miles, or any registry serving such programs, and shall so state. Such consent shall be effective for as long as the patient remains in treatment status at the Veterans Administration facility to which it is given. (38 U.S.C. 210(c), 4132, 4134)

§ 1.480 Legal counsel for patient.

When a bona fide attorney-client relationship exists between an attorney-at-law and a patient, disclosure of any information in the patient's records may be made to the attorney upon the written application of the patient endorsed by the attorney. Information so disclosed may not be further disclosed by the attorney. (38 U.S.C. 210(c), 4132, 4134)

§ 1.481 Patient's family and others.

Where consent is given in accordance with § 1.475, information evaluating the patient's current or past status in a Veterans Administration treatment facility or program may be furnished to any person with whom the patient has a personal relationship unless, in the judgment of the person responsible for the patient's treatment, the disclosure of such information would be harmful to the patient. (38 U.S.C. 210(c), 4132, 4134)

§ 1.482 Third party payers.

(a) *Acquisition of information.* Disclosure of patient information to third-party payers may be made only with the written consent of the patient given in accordance with § 1.475 and any such disclosure must be limited to that information which is reasonably necessary for the discharge of the legal or contractual obligations of the third-party payer.

(b) *Prohibition on disclosure.* Where a third-party payer maintains records of the identity of recipients of testing, treatment or rehabilitation services for drug abuse, alcoholism or alcohol abuse, or sickle cell anemia, such records are, under the authorizing legislation, maintained in connection with the performance of a drug abuse, alcoholism or alcohol abuse, or sickle cell anemia function, and are subject to the restrictions upon disclosure set forth in §§ 1.460 through 1.499. (38 U.S.C. 210(c), 4132, 4134)

§ 1.483 Employers and employment agencies.

(a) *Disclosure permitted.* Where consent is given in accordance with § 1.475, the Veterans Administration facility may make disclosures in accordance with this section.

(b) *Eligible recipients.* The Veterans Administration may make disclosures under this section to public or private employment agencies, employment services, or employers.

(c) *Scope of disclosure.* Ordinarily, disclosures pursuant to this section should be limited to a verification of the patient's status in treatment of a general evaluation of progress in treatment. More specific information may be furnished where there is a bona fide need for such information to evaluate hazards which the employment may pose to the patient or others or where such information is otherwise directly relevant to the employment situation.

(d) *Criteria for approval.* A disclosure under this section may be made if, in the judgment of the Veterans Administration facility director or designee, the following criteria are met:

(1) The Veterans Administration facility director or designee has reason to believe, on the basis of past experience or other credible information (which may in appropriate cases consist

of a written statement by the employer), that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to deny the patient employment or advancement because of his or her history of drug abuse, alcoholism, or alcohol abuse, or sickle cell anemia.

(2) The information sought appears to be reasonably necessary in view of the type of employment involved. (38 U.S.C. 210(c), 4132, 4134)

§ 1.484 Criminal justice system referrals.

(a) *Consent authorized.* Where participation by an individual in treatment is made a condition of such individual's release from confinement, the disposition or status of any criminal proceedings against the person or the execution or suspension of any sentence imposed upon the person, such individual may consent to unrestricted communication between the Veterans Administration facility and (1) the court granting probation, or other posttrial or pretrail conditional releases, (2) the parole board or other authority granting parole, or (3) probation or parole officers responsible for his or her supervision. The consent format should follow generally the provisions of § 1.475 but it should also contain the requirements of paragraphs (b), (c), and (d) of this section.

(b) *Duration of consent.* Where consent is given for disclosures described in paragraph (a) of this section, such consent shall expire 60 days after it is given or when there is a substantial change in such person's status, whichever is later. For the purposes of this section, a substantial change occurs in the status of a person who, at the time such consent is given, has been—

(1) Arrested, when such person is formally charged or unconditionally released from arrest;

(2) Formally charged, when the charges have been dismissed with prejudice, or the trial of such person has been commenced;

(3) Brought to a trial which has commenced, when such person has been acquitted or sentenced;

(4) Sentenced, when the sentence has been fully executed.

(c) *Revocation of consent.* An individual whose release from confinement, probation or parole is conditioned upon participation in a program at a Veterans Adminstration treatment facility may not revoke a consent given in accordance with paragraph (a) of this section, until there has been a formal and effective termination or revocation of such release from confinement, probation or parole.

(d) *Restrictions on redisclosure.* Any information directly or indirectly received pursuant to this section may be used by the recipients thereof only in connection with their official duties with respect to the particular individual with respect to whom it was acquired. Such recipients may not make such information available for general investigative purposes, or otherwise use it in unrelated proceedings or make it available for unrelated purposes. (38 U.S.C. 210(c), 4132, 4134)

§ 1.485 Situations not otherwise provided for.

(a) *Criteria for approval.* In any situation not otherwise specifically provided for in §§ 1.475 through 1.484, where consent is given in accordance with § 1.475, the Veterans Administration facility director or designee may make a disclosure for the benefit of a patient from the records of that patient if, in the judgement of the Veterans Administration director or designee, all the following criteria are met:

(1) There is no suggestion in the written consent or the circumstances surrounding it, as known to the Veterans Administration facility personnel, that the consent was not given freely, voluntarily, and without coercion.

(2) Granting the request for disclosure will not cause substantial harm to the relationship between the patient and the Veterans Administration facility or to the Veterans Administration facility's capacity to provide services in general.

(3) Granting the request for disclosure will not be harmful to the patient.

(b) *Circumstances deemed beneficial.* For the purpose of this section the circumstances under which disclosure may be deemed to be beneficial to a patient include, but are not limited to, those in which the disclosure may assist the patient in connection with any public or private claim, right, privilege, gratuity, grant or other interest accruing to, or for the benefit of, the patient or the patient's immediate family. Examples of the foregoing include welfare, medicare, unemployment, worker's compensation, accident or medical insurance, public or private pension or other retirement benefits, and any claim or defense asserted or which is an issue in any civil, criminal, adminstrative or other proceeding in which the patient is a party or is affected. (38 U.S.C. 210(c), 4132, 4134)

§§ 1.486–1.489 [Reserved]

Disclosures Without Patient's Consent

§ 1.490 Medical emergencies.

(a) *General.* Disclosure to medical personnel, either private or governmental, is authorized without the consent of the patient when and to the extent necessary to meet a bona fide medical emergency.

(b) *Food and Drug Administration.* Where treatment involves the use of any drugs, and appropriate officials of the Food and Drug Administration determine that the life or health of patients may be endangered by an error in the manufacture or packaging of such drug, disclosure of the identities of the recipients of the drug may be made without their consent to appropriate officials of the Food and Drug Administration to enable them to notify the patients or their physicians of the problem in order that corrective action may be taken.

(c) *Incapacitated persons.* Where a patient is incapacitated and information concerning the treatment being given him or her by a Veterans Administration facility is necessary to make a sound determination of appropriate emergency treatment, such information may be given without the patient's consent to personnel providing such emergency treatment.

(d) *Notification of family or others.* When an individual suffering from a serious medical condition resulting from drug abuse, alcoholism or alcohol abuse, or sickle cell anemia, is receiving treatment at a Veterans Administration facility, the treating physician may, in his or her discretion, give notification of such condition to a member of the individual's family or any other person with whom the individual is known to have a responsible personal relationship. Such notification may not be made without such individual's consent at any time such individual is capable of rational communication.

(e) *Record required.* Any Veterans Administration employee making an oral disclosure under authority of this section shall make an accounting of the disclosure. The accounting will consist of the name and Veterans Administration file number of the patient, the date and time the disclosure was made, the information disclosed, the nature of the emergency, the authority for making the disclosure (§ 1.490), the name and address of the person or agency to whom the disclosure was made, and the name of the individual making the disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.491 Research, audit, and evaluation.

(a) *General.* Subject to any applicable specific provision set forth in this section, the content of records pertaining to any patient which are maintained in connection with the performance of a function subject to §§ 1.460 through 1.499 may be disclosed, whether or not the patient gives consent, to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personal may not identify, directly or indirectly, and individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. For the purposes of this section, the term "qualified personnel" means persons whose training and experience are appropriate to the nature and level of the work in which they are engaged and who, when working as part of an organization, are performing such work with adequate administrative safeguards against unauthorized disclosures.

(b) *Use of disclosures of patient identifying information.* (1) Where a disclosure made to any person pursuant to paragraph (a) of this section includes patient identifying information with respect to any patient, such information may not be further disclosed, and may not be used in connection with any legal, administrative, supervisory, or other action whatsoever with respect to such patient, except as provided in paragraph (b)(2) and (3) of this section.

(2) The inclusion of patient identifying information in any written or oral communication between a person to whom a disclosure has been made pursuant to paragraph (a) of this section and the Veterans Administration employee making such disclosure does not constitute the identification of a patient in a report or otherwise in violation of paragraph (a) of this section.

(3) Where a disclosure is made pursuant to paragraph (a) of this section to a person qualified to determine, on the basis of such disclosure, the presence of a substantial risk to the health and well being, whether physical or psychological, of any patient, and, in the judgment of such person, such a risk exists and the situation cannot be dealt with solely by means of communications as described in paragraph (b)(2) of this section without intensifying or prolonging the risk as compared with other means of dealing with it, then the initial disclosure under paragraph (a) of this section and any subsequent disclosure or redisclosure of patient identifying information for the purpose of reducing the risk to the patient involved shall be subject to the provisions of § 1.490. (38 U.S.C. 210(c), 4132, 4134)

§ 1.492 Governmental agencies.

(a) *General.* Where research, audit, or evaluation functions are performed by a State or Federal governmental agency on behalf of the Veterans Administration, the minimum qualifications of personnel performing such functions may be determined by the Veterans Administration, subject to the provisions of §§ 1.460 through 1.499, with particular reference to the organizational requirements and limitations on the categories of records subject to review by different categories of personnel.

(b) *Financial and administrative records.* Where Veterans Administration records are reviewed by personnel who lack either the responsibility for, or appropriate training and supervision for, conducting scientific research, determining adherence to treatment standards, or evaluating treatment as such, such review should be confined as far as practicable to administrative and financial records. Under no circumstances should such personnel be shown caseworker or counselor notes, or similar clinical records. Records should be so organized that financial and administrative matters can be reviewed without disclosing clinical information and without disclosing patient identifying information except where necessary for audit verification. (38 U.S.C. 210(c), 4132, 4134)

§ 1.493 Supervision and regulation of narcotic maintenance and detoxification programs; not applicable to sickle cell anemia records.

(a) *Definition of "registrant."* For the purposes of this section, the term "registrant" means a person who (1) has pending an application for registration under section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)), or (2) has been registered under such section and whose registration has not expired or been surrendered or revoked.

(b) *Drug Enforcement Administration.* Duly authorized agents of the Drug Enforcement Administration shall have access to the premises of registrants for the purpose of ascertaining compliance (or ability to comply) with standards established by the Attorney General under section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) respecting the security of stocks of narcotic drugs and the maintenance of records (in accordance with section 307 of the Controlled Substances Act (21 U.S.C. 827)) on such drugs. Registrants shall maintain such records separate from and in addition to patients' clinical records required to be maintained under 21 CFR 291.505(d)(7)(iii), which shall not be available to such agents except as authorized under a Federal court order in accordance with §§ 1.496 through 1.498. Records maintained by registrants for the purposes of section 307 of the Controlled Substances Act (21 U.S.C. 827) need not identify patients by name, address, social security number, or otherwise except by an identifying number assigned by the registrant, but where such a system is used, the registrant shall maintain on a current basis a cross-index referencing each identifying number to the name and address of the patient to whom it refers. Upon request at any time and without advance notice, such agents shall be granted immediate access to any such index. Such agents may use names and addresses so obtained strictly for the purposes of auditing or verifying records, and shall exercise all reasonable precautions to avoid inadvertent disclosure of patient identities to third parties. Names and other identifying information so obtained may not be compiled or used in any registry or personal data bank of any description.

(c) *Food and Drug Administration.* Duly authorized agents of the Food and Drug Administration shall have access to the premises of registrants and to all records maintained by registrants, for the purpose of ascertaining compliance (or ability to comply) with standards established by the Secretary of Health, Education, and Welfare under section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 257a), sections 303(g)(1) and 303(g)(3) of the Controlled Substances Act (21 U.S.C. 823(g)(1) and 823(g)(3), and sections 505 and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 and 371(a)). When necessary in the conduct of their duties, agents may use names and addresses of patients strictly for the purposes of auditing or verifying records, and shall exercise all reasonable precaution to avoid inadvertent disclosure of patient identities to third parties. Names and other identifying information on patients obtained pursuant to this section or by any other compulsory process may not be compiled or used in any registry or personal data bank of any discription. Except as authorized under this paragraph or by a Federal court order granted under §§ 1.496 through 1.498, (1) such agents may not, either orally or in writing, except in conversation with personnel of the registrant while on the

premises of the registrant, identify any patient otherwise than by reference to an identifying number assigned by the registrant, and (2) such agents may not remove from the premises of the registrant any notes, documents, or copies thereof which contain patient identifying information. (38 U.S.C. 210(c), 4132, 4134)

§ 1.494 Prohibition on disclosure of patient identities from research, audit, or evaluation records.

Where the content of patient records has been disclosed pursuant to §§ 1.490 through 1.494 for the purpose of conducting scientific research, management audits, financial audits or treatment evaluation, information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State. This prohibition does not affect the accessibility of the original records under the authority of a Federal court order referred to in §§ 1.496 through 1.498. (38 U.S.C. 210(c), 4132, 4134)

§ 1.495 [Reserved]

Court Orders

§ 1.496 Court orders.

(a) *Legal effect of order*—(1) *General.* Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans Administration may be disclosed if authorized by an appropriate order of a court of competent jurisdiction (either Federal or State) granted after application showing good cause therefor. In assessing good cause the court is statutorily required to weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, is required by statute to impose appropriate safeguards against unauthorized disclosure. An order of a court of competent jurisdiction, Federal or State, to produce records subject to §§ 1.460 through 1.499 will not be sufficient unless the order reflects that the court has complied with the requirements of 38 U.S.C. 4132(b)(2)(C). Such an order from a Federal court compels disclosure. However, such an order from a State court only acts to authorize the Administrator to exercise discretion to disclose such records. It does not compel disclosure.

(b) *Inapplicability to secondary records.* The authority in paragraph (a) of this section which authorizes disclosures, applies only to records maintained by treatment or research programs which have patients, and not to secondary records generated by disclosure of the records to researchers, auditors, or evaluators authorized in § 1.491.

(c) *Limitation to objective data*—(1) *General.* Except as provided in paragraph (c)(2) of this section, the scope of an order issued pursuant to §§ 1.496 through 1.498 may not extend to communications by a patient to personnel of the treatment service, but shall be limited to the facts or dates of enrollment, discharge, attendance, medication, and similar objective data, and may include only such objective data as is necessry to fulfill the purposes for which the order is issued.

(2) *Exception.* When a patient in litigation offers testimony or other evidence pertaining to the content of his or her communications with a Veterans Administration facility, an order under §§ 1.496 through 1.498 may authorize the submission of testimony or other evidence by the Veterans Administration facility or its personnel.

(d) *Procedures and criteria in general*—(1) *Identity of patient.* Applications for court orders to authorize disclosure of records pertaining to a known patient shall not use the real name of the patient unless the patient consents thereto voluntarily and intelligently. In the case of an ex parte application initiated by the patient, the application should be instituted in the name of a fictitious person, such as John Doe, unless the patient requests otherwise. The same procedure should be followed in the case of a separate proceeding held in conjunction with a pending criminal or civil action. Any court order should identify the patient fictitiously, and the disclosure of the patient's real name should be communicated to the Veterans Administration in such manner as to protect the confidentiality of the patient's identity.

(2) *Notice.* In any proceeding not otherwise provided for in §§ 1.496 through 1.498, in which the patient or the Veterans Administration has not been made a party, each shall be given appropriate notice and an opportunity to appear in person or to file a responsive statement, deposition or other form of response consistent with local rules of procedures. The court shall give due consideration to any such statement, deposition or other response in exercising its discretion as to the existence of good cause, and, if deemed necessary or desirable, consistent with local rules of procedure, it may order the Veterans Administration facility director to appear and give direct testimony.

(3) *Hearings.* All hearings and all evidence in connection therewith shall be held or taken in the judge's chambers, unless the patient requests an open hearing or the court determines that such hearing is consistent with the public interest and the proper administration of justice.

(4) *Good cause.* No order shall be issued unless the record shows that good cause exists, and in assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(5) *Need for disclosure.* If other competent evidence or sources of information are available, the court should ordinarily deny the application.

(6) *Adverse effects.* If there is evidence that disclosure would have an adverse effect upon successful treatment or rehabilitation of the patient or would impair the effectiveness of the treatment service, or other programs similarly situated, in the treatment or rehabilitation of other patients, the application should be denied unless the court finds that the adverse effects are outweighed by other factors.

(7) *Content of order.* Any order authorizing disclosure shall:

(i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted;

(ii) Limit disclosure to those persons whose need for information is the basis for the order; and

(iii) Include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship and the treatment services.

(8) *Applications not otherwise provided for.* In any case not otherwise provided for in §§ 1.496 through 1.498, application for an order authorizing disclosure of records to which §§ 1.460 through 1.499 apply may be made by any person who has a legally cognizable interest in obtaining such disclosure. (38 U.S.C. 210(c), 4132, 4134)

§ 1.497 Investigation and prosecution of patients.

(a) *Applicability.* This section applies to any application by an investigative, law enforcement, or prosecutorial agency for an order to permit disclosure of patient records for the purpose of conducting an investigation or prosecution of an individual who is, or who is believed to be, a present of former patient in a program.

(b) *Notice.* Any Veterans Administration facility with respect to whose records an order is sought under this section shall be notified of the application and afforded an opportunity to appear and be heard thereon.

(c) *Criteria.* A court may authorize disclosure of records pertaining to a patient for the purpose of conducting an investigation of or a prosecution for a crime of which the patient is suspected only if the court finds that all of the following criteria are met:

(1) The crime was extremely serious, such as one involving kidnapping homicide, assault with a deadly weapon, armed robbery, rape, or other acts causing or directly threatening loss of life or serious bodily injury, or was believed to have been committed on the premises of the Veterans Administration or against personnel of the Veterans Administration.

(2) There is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) There is no other practicable way of obtaining the information or evidence.

(4) The actual or potential injury to the physician-patient relationship in the treatment service affected and in other programs similarly situated, and the actual or potential harm to the ability of such programs to attract and retain patients, is outweighed by the public interest in authorizing the disclosure sought.

(d) *Scope.* Both disclosure and dissemination of any information from the records in question shall be limited under the terms of the order to assure that no information will be unnecessarily disclosed and that dissemination will be no wider than necessary. Under no circumstances may an order under this section authorize the Veterans Administration facility to turn over patient records in general, pursuant to a subpoena or otherwise, to a grand jury or a law enforcement, investigative, or prosecutorial agency.

(e) *Counsel.* Any application to which this section applies shall be denied unless the court makes an explicit finding to the effect that the Veterans Administration facility has been afforded the opportunity to be represented by counsel independent of counsel for the applicant and is so represented. (38 U.S.C. 210(c), 4132, 4134)

§ 1.498 Undercover agents and informants.

(a) *Applicability.* this section applies to any application by an administrative, regulatory, supervisory, investigative, or law enforcement agency for an order to permit such agency to have an undercover agent or informant in a facility under circumstances which would otherwise be prohibited under § 1.468.

(b) *Notice.* An order under this section may be granted without notice where the criminal conduct for the investigation of which it is granted is believed to be carried on by the Veterans Administration treatment facility director or by any employee or agent of the facility with the knowledge of the director or under such circumstances that in the exercise of reasonable care the director should know of such conduct. Under any other circumstances, an order under this section may be granted only after the director has been afforded notice and opportunity for hearing.

(c) *Criteria.* An order under this section may be granted only where there is reason to believe that a facility or any principal, agent, or employee thereof is engaged in serious criminal misconduct and that other means of securing evidence of such criminal misconduct are not available or would not be effective.

(d) *Scope.* An order granted pursuant to this section may authorize the use by the applicant of an undercover agent or informant, either as a patient or as an employee, of the Veterans Administration facility in question.

(e) *Time periods.* An order under this section may not authorize the use of an undercover agent for an initial period exceeding 60 days. At any time prior to the expiration of such 60-day period, the applicant may apply for an order extending such period for an additional period not to exceed 60 days, but in no event may the use of an undercover agent in any Veterans Administration treatment facility be authorized for more than 180 days in any period of 12 consecutive months.

(f) *Duty of agent.* Except to the extent expressly authorized in an order under this section, which shall be limited to disclosure of information directly related to the purpose for which the order is granted, an undercover agent or informant shall for the purposes of §§ 1.460 through 1.499 be deemed an agent of the Veterans Administration treatment facility within which he or she is acting as such, and as such shall be subject to all of the prohibitions of §§ 1.460 through 1.499 applicable to disclosure of any information which he or she may acquire. (38 U.S.C. 210(c), 4132, 4134)

§ 1.499 [Reserved]

§ 1.513 [Amended]

2. Section 1.513 is amended by deleting the words "his duly" and inserting the words "his or her duly" in paragraph (b)(1)(xi).

§ 1.513a [Revoked]

3. Section 1.513a is revoked.

§ 1.514 [Amended]

4. Section 1.514 is amended by deleting the words "his duly" and inserting the words "his or her duly" in the first sentence of paragraph (a) and in the introductory portion of paragraph (b).

[FR Doc. 80-25705 Filed 8-21-80; 8:45 am]
BILLING CODE 3320-01-M

---

38 CFR Part 19

Rules of Practice; Appeals Regulations

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The proposed regulation changes to the Rules of Practice reflect the Veterans Administration's conformance with the directive to improve Government Regulations. References to gender have been omitted and existing practices before the Board of Veterans Appeals have been clarified.

An addition to the Appeals regulations has been made to reiterate the Board of Veterans Appeals' jurisdiction over appeals of Department of Medicine and Surgery determinations.

DATES: Comments must be received on or before September 22, 1980. It is proposed to make these changes effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Jan Donsbach, Special Assistant to the Chairman (Legal), Board of Veterans Appeals, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2978).

SUPPLEMENTARY INFORMATION: The following substantive changes have

been made to the Rules of Practice (38

Rule 51: (old Rule 29) The term

members who may participate in a

By direction of the Administrator.

19.132 Rule 32: legal holidays

Action by the Board

been made to the Rules of Practice (38 CFR 19.101–19.199; Rules 1–99).

Rule 1: New paragraphs (b) and (c) have been added to include the scope of the rules and the manner in which the rules will be construed.

Rule 2: The rule has been added to establish an effective date for the revised rules and specify how these rules will be applied to pending cases.

Rule 3: Paragraph (b) clarifies that, in its decisions, the Board is not bound by administrative issues not approved by the Administrator and is not bound by medical opinions.

Rule 6: The new rule set forth procedure wherein an appellate or representative may request that a case be advanced on the docket.

Rule 7: The rule has been added to assist appellants or representatives in corresponding with the Board of Veterans Appeals.

Rule 11: (old Rule 8) The rule has been amended to specify that the Board of Veterans Appeals makes jurisdictional determinations.

Rule 13: The new rule covers the release of records certified to the Board for appellate review and the making of copies of such records.

Rule 16: The new rule refers to the existing practice of notifying the parties of the Board's decision.

Rules 20, 21 and 22: Old Rule 15 is revised to clarify the purpose of a substantive appeal. The rule with respect to a supplemental statement of the case has been clarified to point out that a supplemental statement of the case is required following a developmental remand.

Rule 23: (old Rule 16) The rule is revised to specify that the filing of a substantive appeal is the last requirement placed on the appellant in perfecting the appeal.

Rule 27: (old Rule 20) The rule is amended to point out that the notice of disagreement and the substantive appeal are filed with the agency of original jurisdiction.

Rule 28: (old Rule 11) Paragraph (c) has been added to allow the spouse or close friend to prepare the notice of disagreement or substantive appeal when the appellant is seriously disabled provided the appeallant demonstrates approval of these actions.

Rule 32: This rule was added to clarify what days are considered holidays when computing time limits.

Rules 33, 34, 35, 36 and 37: These rules are a restatement of old Rule 19.

Rules 43, 44, 45, 46, 47, 48 and 49: These rules are a restatement of old Rules 17 and 18 as they pertained to contested claims.

Rule 51: (old Rule 29) The term "service organization" has been changed to read "recognized organizations" in order to include any organizations approved by the Office of the General Counsel. Paragraph (b) has been amended to indicate that the revocation is effective when received by the Veterans Administration.

Rules 52 and 53: (old Rule 30) These rules are a restatement of old Rule 30 in order to separate the responsibilities applicable to agents and attorneys. Paragraph (a) of Rule 52 allows the attorney to use letterhead to show that he/she is a member in good standing of the bar in the State.

Rule 54: (old Rule 31) Paragraph (b) has been added to inform an individual agent how to obtain a waiver of the one claimant limitation rule.

Rule 56: This rule sets forth the procedure to be followed by legal interns.

Rule 60: (old Rule 38) A sentence has been added to indicate the circumstances under which the members of the hearing panel render the final decision.

Rules 61, 62, 63 and 64: These new rules cover existing practices associated with personal hearings.

Rule 65: (old Rule 35) Paragraph (b) has been restated to clarify the procedure to be followed when, instead of an oath, an affirmation is made.

Rule 68: (old Rule 40) Amended to clarify that a hearing held after the notice of disagreement is filed must be recorded. (38 U.S.C. 4002)

Rule 69: This rule sets forth the procedure for specialized recording of personal hearings.

Rules 70 and 71: These rules explain the status of the Board's hearing transcript.

Rule 73: (old Rule 42) This rule has been revised to exclude substitutes for a supplemental statement of the case.

Rule 74: This rule sets forth the existing practice of allowing the appellant or representative to waive the right to a supplemental statement of the case.

Rules 76 and 77: (old Rule 44) These rules are a restatement of old Rule 44 in order to include opinions by the Armed Forces Institute of Pathology (AFIP).

Rule 78: The rule sets forth the procedure for requesting medical specialty opinions.

Rule 79: This rule provides for furnishing of the opinion to the appellant or representative and allowing a period of 30 days within which to file any response.

Rules 80 and 81: Old Rule 45 has been restated and a limitation has been set forth with regard to the number of members who may participate in a decision.

Rule 82: (old Rule 46) Paragraph (b) has been amended to include due process remands.

Rule 88: This rule has been added to allow the Board to remand for evidence when reconsidering a decision.

Rule 89: (old Rule 51) This rule has been revised to omit the requirement that a request for a personal hearing in connection with reconsideration be filed within 1 year from the date of the mailing of notice of the original decision.

Rule 90: This is a restatement of old Rule 52 and requires the assignment of additional Board members to equal those participating in the original decision. Such participation is limited to 12 Board members.

Rule 91: The finding of harmless error will not require that the decision be vacated.

Rule 94: (old Rule 55) This has been restated to stress that a reopened claim involves both questions of materiality and the question of whether a new factual basis is provided warranting an allowance.

Rule 96: Allows the Board to review "de novo" service connection cause of death cases notwithstanding the fact that a final appellate decision had been rendered during the veteran's lifetime.

Rule 97: Although Board decisions must be consistent, the decisions of any given section are not binding upon the other sections of the Board.

Rules 98 and 99: These rules set forth the procedure for amendment of records under the Privacy Act.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until October 2, 1980. Any person visiting Veterans Administration Central Office in Washington, DC for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and room number.

Approved: August 18, 1980

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

Part 19 is revised to read as follows:

PART 19—BOARD OF VETERANS APPEALS

Subpart A—Appeals—General

Sec.
19.1 General Appellate Jurisdiction.
19.2 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.
19.3 Subject matter of appeals.
19.4 Disclosure of information.
19.5 Restriction as to change in payments pending determination of administrative appeals.
19.6 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.

Subpart B—Appeals—Rules of Practice

General

19.101 Rule 1; authority, scope of rules, and construction.
19.102 Rule 2; effective dates.
19.103 Rule 3; governing criteria.
19.104 Rule 4; finality of decisions.

Docketing

19.105 Rule 5; docketing of appeals.
19.106 Rule 6; advance on the docket.

The Board

19.107 Rule 7; name and business hours.
19.108 Rule 8; establishment of Board.
19.109 Rule 9; composition of Board.
19.110 Rule 10; appointment, assignment, and rotation of members.
19.111 Rule 11; function of the Board.
19.112 Rule 12; jurisdiction.
19.113 Rule 13; Board records.

Notification of Appellate Rights

19.114 Rule 14; notification of right to appeal.
19.115 Rule 15; failure to receive notice.
19.116 Rule 16; decision notification.

Commencement of Appeal

19.117 Rule 17; what constitutes an appeal.
19.118 Rule 18; notice of disagreement.
19.119 Rule 19; action by agency of original jurisdiction on notice of disagreement.
19.120 Rule 20; statement of the case.
19.121 Rule 21; furnishing the statement of the case and instructions for filing a substantive appeal.
19.122 Rule 22; supplemental statement of the case.
19.123 Rule 23; substantive appeal.
19.124 Rule 24; closing—failure to respond to statement of the case.
19.125 Rule 25; withdrawal.
19.126 Rule 26; dismissal.

Filing

19.127 Rule 27; place of filing, notice of disagreement and substantive appeal.
19.128 Rule 28; who can file an appeal.
19.129 Rule 29; time limit for filing.
19.130 Rule 30; extension of time for filing.
19.131 Rule 31; computation of time limit.
19.132 Rule 32; legal holidays.
19.133 Rule 33; timely filing of appeal questioned by agency of original jurisdiction.
19.134 Rule 34; adequacy of notice of disagreement questioned by agency of original jurisdiction.
19.135 Rule 35; untimely filing of appeal protested by claimant.
19.136 Rule 36; inadequacy of the notice of disagreement.
19.137 Rule 37; adequacy of the substantive appeal.
19.138 Rule 38; administrative appeal.
19.139 Rule 39; officials authorized and time limits for filing administrative appeals.
19.140 Rule 40; notification of claimant.
19.141 Rule 41; merger of administrative appeal and claimant's appeal.
19.142 Rule 42; effect of decision on administrative or merged appeal.

Contested Claims

19.143 Rule 43; notification of right to appeal in contested claims.
19.144 Rule 44; who can file an appeal in contested claims.
19.145 Rule 45; time limits for filing in contested claims.
19.146 Rule 46; notice of contesting parties on receipt of notice of disagreement.
19.147 Rule 47; notice of substance of appeal to other contesting parties.
19.148 Rule 48; extension of time for filing in contested claims.
19.149 Rule 49; notices to last addresses of record in contested claims.

Representation

19.150 Rule 50; right to representation.
19.151 Rule 51; recognized organizations.
19.152 Rule 52; attorneys.
19.153 Rule 53; agents.
19.154 Rule 54; other persons as representative.
19.155 Rule 55; general.
19.156 Rule 56; legal interns.

Hearings

19.157 Rule 57; general.
19.158 Rule 58; who may appear.
19.159 Rule 59; scheduling and notice of hearing.
19.160 Rule 60; place of hearing.
19.161 Rule 61; composition of the hearing panel.
19.162 Rule 62; functions of the presiding member.
19.163 Rule 63; prehearing conference.
19.164 Rule 64; procurement of additional evidence following a hearing.
19.165 Rule 65; witnesses.
19.166 Rule 66; expenses.
19.167 Rule 67; hearings in contested claims.
19.168 Rule 68; recorded hearing.
19.169 Rule 69; recording of hearings.
19.170 Rule 70; official transcript.
19.171 Rule 71; alternate transcript versions.

Evidence

19.172 Rule 72; submission of additional evidence.
19.173 Rule 73; consideration of additional evidence by agency of original jurisdiction.
19.174 Rule 74; waiver of agency of original jurisdiction action.

Action by the Board

19.175 Rule 75; order of consideration.
19.176 Rule 76; medical opinions.
19.177 Rule 77; independent medical expert opinions.
19.178 Rule 78; filing of requests for the procurement of medical opinions.
19.179 Rule 79; notification of medical opinions secured by the Board.
19.180 Rule 80; the decision.
19.181 Rule 81; voting by Board members.
19.182 Rule 82; remand for further development.
19.183 Rule 83; disqualification of members.
19.184 Rule 84; administrative allowance.

Reconsideration

19.185 Rule 85; when accorded.
19.186 Rule 86; requirements in application.
19.187 Rule 87; evidence considered.
19.188 Rule 88; remand pursuant to reconsideration.
19.189 Rule 89; filing of request.
19.190 Rule 90; number of members on reconsideration panel.

Finality

19.191 Rule 91; harmless error.
19.192 Rule 92; finality of decisions of the agency of original jurisdiction where appeal is not perfected.
19.193 Rule 93; finality of determinations of the agency of original jurisdiction affirmed on appeal.
19.194 Rule 94; new claim after appellate decision.
19.195 Rule 95; death of appellant during pendency of appeal.
19.196 Rule 96; claim for death benefits by survivor—prior unfavorable decision.
19.197 Rule 97; nonprecedential nature of Board decisions.

Privacy Act

19.198 Rule 98; Privacy Act request—appeal pending.
19.199 Rule 99; amendment of appellate decisions.

Authority: 38 U.S.C. 210(c)(1).

Subpart A—Appeals—General

§ 19.1 General appellate jurisdiction.

All questions on claims involving benefits under the laws administered by the Veterans Administration are subject to review on appeal to the Administrator of Veterans Affairs, decisions in such cases to be made by the Board of Veterans Appeals. In its decisions, the Board is bound by the regulations of the Veterans Administration, instructions of the Administrator and precedent opinions of the General Counsel. This statutory jurisdiction permits the Board to apply all the adjudicative criteria and exercise the authority of the department having original adjudicative responsibility for claims for benefits. (38 U.S.C. 4004)

§ 19.2 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.

In addition to the authority vested in the Chairman and Vice Chairman, Board of Veterans Appeals, by law, Veterans Administration regulations and manuals, authority is delegated to each as follows:

(a) To authorize assumption of appellate jurisdiction of an adjudicative determination which has not become final.

(b) To authorize administrative action on an adjudicative determination which has become final by appellate decision or failure to timely appeal.

(c) To authorize Central Office investigations of matters before the Board. (38 U.S.C. 210(b))

§ 19.3 Subject matter of appeals.

The Board's appellate jurisdiction includes but is not limited to questions of service connection and entitlement to: pension for disability without regard to service connection; death compensation and pension; dependency and indemnity compensation; vocational rehabilitation, including need therefor; education and training allowance; subsistence allowance; educational assistance allowance and special training allowance (38 U.S.C ch. 35); special allowance (38 U.S.C 412); death gratuity (38 U.S.C. 423); insurance contracts, including total disability income provision; reinstatements, conversions, and changes of plan, and all insurance benefits; payment or reimbursement for unauthorized medical expenses; burial allowances; disability suffered as the result of examination, treatment or hospitalization or vocational training; emergency officers retirement benefits; basic eligibility to loans and unemployment compensation; adjusted compensation; waiver or recovery of overpayments; waiver of payment of loan guaranty indebtedness (38 U.S.C. 1820(a)(4)); forfeiture of rights; and all related mixed questions of fact and law, such as character of discharge and type of service, marital relations, dependency, validity of claims, apportionment, reduction and increase in compensation or pension benefits, and all other claims for benefits under the laws administered by the Veterans Administration. Under 38 U.S.C 3203(b)(3), jurisdiction extends to determinations on the following questions: needs of a dependent parent; payments from appropriated funds to a dependent parent for his or her support; and use of appropriated funds for the veteran's institutional care and maintenance. (38 U.S.C. 4004(a))

§ 19.4 Disclosure of information.

Appellate decisions and statements of the case will not disclose matters that would be contrary to 38 U.S.C. 3301 or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant. (38 U.S.C. 4005(d)(2))

§ 19.5 Restriction as to change in payments pending determination of administrative appeals.

In the event of an administrative appeal, no change in payments based on that review or determination will be made until a decision is made by the Board of Veterans Appeals. (38 U.S.C. 4006)

§ 19.6 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.

(a) The Board's appellate jurisdiction extends to legal questions of eligibility for hospitalization, outpatient treatment and domiciliary care, and devices such as prostheses, canes, wheelchairs, back braces, orthopedic shoes, and similar appliances. Questions regarding eligibility for provision of specially adaptive equipment on an automobile and air conditioners may be appealed to the Board of Veterans Appeals.

(b) Nonlegal determinations such as "need for," and "nature of," medical treatment are not adjudicative matters and so are not appealable. Typical examples of issues beyond the Board's jurisdiction are whether a particular drug should be prescribed, whether a specific type of physiotherapy may be or has been ordered, and similar judgmental treatment decisions with which an attending physician may be faced. (38 U.S.C. 4004(a))

Subpart B—Appeals—Rules of Practice

General

§ 19.101 Rule 1; authority, scope of rules, and construction.

(a) *Authority.* Pursuant to the authority vested in the Administrator of Veterans Affairs (38 U.S.C. 210(c)(1)) there are hereby issued revised Rules of Practice which govern proceedings in appeals to the Board of Veterans Appeals.

(b) *Scope.* These rules govern the practices and procedures in all cases and proceedings in the Board of Veterans Appeals. Where in any instance there is no applicable rule of procedure, the Board Member before whom the matter is pending may prescribe the procedure. (38 U.S.C. 4002)

(c) *Construction.* In accordance with the agency's policy of providing assistance to the appellant under section 3.103, Title 38, Code of Federal Regulations, these rules shall be construed to secure the just and speedy determination of every appeal. (38 CFR 3.102)

§ 19.102 Rule 2; effective dates.

These rules as revised will take effect on ———. They govern all proceedings and cases commenced after they take effect and also all further proceedings in cases then pending. The Board of Veterans Appeals may apply the former procedure to cases pending on ———, in the event the revised rules would not be feasible or would effect an injustice.

§ 19.103 Rule 3; governing criteria.

(a) *General.* In the consideration of appeals, the Board shall be bound by the laws and regulations of the Veterans Administration, decisions and instructions of the Administrator of Veterans Affairs, and precedent opinions of the General Counsel. (38 U.S.C. 4004(c))

(b) *Manuals, circulars and opinions.* In its appellate decisions, the Board is not bound by agency manuals, circulars and similar administrative issues not approved by the Administrator. Opinions of the Chief Medical Director, Armed Forces Institute of Pathology, and independent medical experts obtained pursuant to Rules 76 and 77 (38 CFR 19.176 and 19.177) are only advisory in nature. (38 U.S.C. 4004(c), 4009)

§ 19.104 Rule 4; finality of decisions.

Decisions of the Board of Veterans Appeals are final, with the exception that certain claims involving insurance contracts are subject to court review. (38 U.S.C. 211(a), 784, 4004(a)). Reconsideration by the Board may be accorded under Rules 85 through 90 (38 CFR 19.185 through 19.190).

Docketing

§ 19.105 Rule 5; docketing of appeals.

(a) *In order received.* Applications for review on appeal shall be docketed in the order in which they are received. (38 U.S.C. 4007)

(b) *Remanded cases.* Cases returned to the Board following action pursuant to a remand shall assume their original places on the docket. (38 U.S.C. 4007)

§ 19.106 Rule 6; advance on the docket.

(a) A case may be advanced on the docket for good cause shown such as terminal illness and extreme financial hardship. A motion for this purpose must be filed with the Chairman, Board of Veterans Appeals, and be specific as to the urgent nature of the cause. Interpretation of law of general application affecting other claims may afford a basis for advancing a case on the docket. (See order of consideration, Rule 75, 38 CFR 19.175)

(b) A decision to advance a case on the docket pursuant to a motion will be noted in the decision when rendered. (38 U.S.C. 4007)

The Board

§ 19.107 Rule 7; name and business hours.

(a) *Name.* The name of the Board is the Board of Veterans Appeals.

(b) *Business hours.* The Board shall be open during business hours on all days except Saturday, Sunday and legal holidays. Business hours are from 8 a.m. to 4:30 p.m. (For legal holidays, see Rule 32, 38 CFR 19.132.)

(c) *Mailing address.* Mail to the Board should be addressed to: Chairman (01), Board of Veterans Appeals, 810 Vermont Avenue, N.W., Washington, D.C. 20420. (38 U.S.C. 4001(a))

§ 19.108 Rule 8; establishment of Board.

The Board of Veterans Appeals is established by authority of and functions pursuant to chapter 71, Title 38, United States Code.

§ 19.109 Rule 9; composition of Board.

The Board shall consist of a Chairman, Vice Chairman, Members, and necessary professional, administrative, clerical and stenographic personnel. (38 U.S.C. 4001(a))

§ 19.110 Rule 10; appointment, assignment, and rotation of members.

(a) *Appointment.* Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President of the United States. (38 U.S.C. 4001(b))

(b) *Assignment.* The Chairman may divide the Board into sections of three members and assign the members of the Board thereto. (38 U.S.C. 4002)

(c) *Rotation.* The Chairman may from time to time rotate the members of the sections. (38 U.S.C. 4002)

(d) *Vacancy or absence.* If as a result of a vacancy, absence, or inability of an assigned member to serve, a section of the Board does not have a full complement of members, the Chairman may assign other members or direct the section to proceed without any additional assignment of members. (38 U.S.C. 4002)

§ 19.111 Rule 11; function of the Board.

The principal function of the Board is to make jurisdictional determinations and to consider all applications on appeal properly before it, conduct hearings on appeal, evaluate the evidence of record and enter decisions in writing on the questions presented on appeal. (38 U.S.C. 4002, 4004)

§ 19.112 Rule 12; jurisdiction.

(a) *Statutory.* The Board's jurisdiction extends to all questions on claims involving benefits under the laws administered by the Veterans Administration. (38 U.S.C. 4004(a))

(b) *Delegated authority.* The Board may assume jurisdiction of an unappealed issue on its own motion in a case properly before it, as provided in section 19.2 Title 38, Code of Federal Regulations. (38 U.S.C. 212(a))

§ 19.113 Rule 13; Board records.

(a) *Removal of records.* No original record, paper, document or exhibit certified to the Board shall be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or to transmit copies for other official purposes. (38 U.S.C. 3301)

(b) *Release of information.* Information requested from records, including copies of such records in the custody of the Board of Veterans Appeals, will be furnished to the extent permitted by law and Veterans Administration regulations. (See 38 CFR 1.500–1.584.)[5 U.S.C. 552, 552a; 38 U.S.C. 3301)

(c) *Fees.* The fees to be charged and collected for the release of information and for any copies will be in accordance with Sections 1.526, 1.555, and 1.579, Title 38, Code of Federal Regulations.

(d) *Waiver of fees.* When information is requested from records certified to and in the custody of the Board, the required fee may be waived if such information is requested in connection with a pending appeal (see 38 CFR 1.500–1.584) or in accordance with 38 CFR 1.526(e) or 1.555(g).

(e) *Review of records.* Information in the records may be reviewed by agency employees on a "need to know" basis. (5 U.S.C. 552a(b)(1))

Notification of Appellate Rights

§ 19.114 Rule 14; notification of right to appeal.

(a) *General.* The claimant and the representative, if any, will be informed of the right to initiate an appeal and the time within which to do so. This information will be included in each notification of a determination of entitlement or non-entitlement to Veterans Administration benefits by the agency of original jurisdiction. (38 U.S.C. 4005(a))

(b) *Administrative appeals.* Claimants will be notified of administrative appeals pursuant to Rule 40 (38 CFR 19.140).

(c) *Contested claims.* Contesting claimants will be notified of appellate rights pursuant to Rule 43 (38 CFR 19.143).

§ 19.115 Rule 15; failure to receive notice.

While it is contemplated that the agency of original jurisdiction will give proper notice of the right to appeal and the time limit, failure to notify the claimant of the right to such appellate review or of the time limit applicable to a notice of disagreement of substantive appeal will not extend the applicable period for taking this action. (38 U.S.C. 4005)

§ 19.116 Rule 16; decision notification.

After a decision has been rendered by the Board, all parties to the appeal and the representatives, if any, will be notified of the results. (38 U.S.C. 4004(a), (d))

Commencement of Appeal

§ 19.117 Rule 17; what constitutes an appeal.

An appeal consists of a timely filed notice of disagreement in writing and, after a statement of the case has been furnished, a timely filed substantive appeal. (38 U.S.C. 4005)

Cross References: Notice of disagreement. See Rule 18 (§ 19.118). Substantive appeal. See Rule 23 (§ 19.123)

§ 19.118 Rule 18; notice of disagreement.

A written communication from a claimant or the representative expressing dissatisfaction or disagreement with an adjudicative determination of an agency of original jurisdiction (the Veterans Administration regional office, medical center or clinic which notified the claimant of the action taken) will constitute a notice of disagreement. The notice should be in terms which can be reasonably construed as a desire for review of that determination. It need not be expressed in any special wording. (38 U.S.C. 4005)

§ 19.119 Rule 19; action by agency of original jurisdiction on notice of disagreement.

(a) *Preliminary action.* When a notice of disagreement is timely filed, the agency of original jurisdiction may develop and review the claim again. (38 U.S.C. 4005(d)(1))

(b) *Statement of the case.* If no preliminary action is required or when it is completed, the agency of original

jurisdiction will prepare a statement of

§ 19.122 Rule 22; supplemental statement

to determinations on adequacy or

jurisdiction will prepare a statement of the case pursuant to Rule 20 (38 CFR 19.120), if the issue or issues are not resolved by granting the benefit sought in the appeal, or the notice of disagreement is withdrawn. (38 U.S.C. 4005(d)(1))

§ 19.120 Rule 20; statement of the case.

(a) *Purpose.* The statement of the case should provide the appellant notice of those facts and applicable laws and regulations upon which the agency of original jurisdication based its determination of the issue or issues. It should be complete enough to allow the appellant to present written and/or oral arguments before the Board of Veterans Appeals. (38 U.S.C. 4005(d)(1))

(b) *Contents.* A statement of the case shall consist of:

(1) A summary of the evidence in the case relating to the issue or issues with which disagreement has been expressed.

(2) A summary of the applicable law and Veterans Administration regulations, with appropriate citations.

(3) The decision on the issue or issues and the reasons for the determination. (38 U.S.C. 4005(d)(1).

§ 19.121 Rule 21; furnishing the statement of the case and instructions for filing a substantive appeal.

(a) *Copies of statement of the case.* The statement of the case will be forwarded to the appellant at the latest address of record, and a separate copy provided to the representative (if any). (38 U.S.C. 4005(d)(3))

(b) *Information on filing substantive appeal.* With the statement of the case, the appellent and the representative will be furnished information on the right and time limit to file a substantive appeal, and VA Form 1–9, Appeal to Board of Veterans Appeals. Instructions to the appellant will include:

(1) That the benefits sought must be clearly identified.

(2) That the substantive appeal should set out specific arguments as to error of fact or law, related to the issues.

(3) That the appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.

(4) That the agency of original jurisdiction may close the appeal for failure to respond to the statment of the case.

(5) That the Board of Veterans Appeals will base its decision on the evidence and argument of record, and will not be limited to that cited in the statement of the case. (38 U.S.C. 4005)

§ 19.122 Rule 22; supplemental statement of the case.

A supplemental statement of the case, so identified, will be furnished when subsequent actions are taken, evidence is received, a material defect is discovered, or for any other reasons the original statement is inadequate under the requirements of Rule 20 (38 CFR 19.120). A supplemental statement of the case will also be issued following development pursuant to a remand of the Board. (See Rule 82 (38 CFR 19.182).) For waiver of the supplemental statement of the case, see Rule 74 (38 CFR 19.174). (38 U.S.C. 4005(d))

§ 19.123 Rule 23; substantive appeal.

A substantive appeal shall consist of a properly completed VA Form 1–9, Appeal to Board of Veterans Appeals, or correspondence containing the necessary information. See Rule 21(b) (38 CFR 19.121(b)). The appeal should set out specific allegations of error of fact or law. To the extent feasible, allegations should be related to specific items in the statement of the case. This is the last action the appellant needs to take to perfect the appeal. The Board will construe such allegations in a liberal manner in determining their adequacy. (38 U.S.C. 4005(d)(4)(5))

§ 19.124 Rule 24; closing—failure to respond to statement of the case.

The agency of original jurisdiction may close the appeal without notice to an appellant for failure to respond to a statement of the case within the period or periods allowed. (38 U.S.C. 4005(d)(3)); see Rule 29(b) (38 CFR 19.129(b).) However, if a response is subsequently received within the 1-year appeal period (except for contested claims), the appeal will be considered to be reactivated. (38 U.S.C. 4005(d)(3))

§ 19.125 Rule 25; withdrawal.

(a) *Notice of disagreement.* A notice of disagreement may be withdraw in writing before a timely substantive appeal is filed. The agency of original jurisdiction may not withdrawn a notice of disagreement for failure to cooperate in reporting for an examination or in furnishing evidence requested. (38 U.S.C. 4005(d)(1))

(b) *Substantive appeal.* A substantive appeal may be withdrawn in writing at any time before the Board enters a decision except where withdrawal would be detrimental to the appellant. The agency of original jurisdiction may not withdraw a substantive appeal for failure to cooperate in reporting for an examination or in furnishing evidence requested or on the basis of deficiency in allegations of error of fact or law. As to determinations on adequacy or timeliness of substantive appeals, see Rules 33, 35 and 37 (38 CFR 19.133, 19.135 and 19.137). (38 U.S.C. 4005(d)(3))

(c) *Who may withdraw.* Withdrawal may be by the appellant or the authorized representative (person or organization) except that a representative may not withdraw either a notice of disagreement or substantive appeal filed by the appellant personally. (38 U.S.C. 4005(b)(2))

§ 19.126 Rule 26: dismissal.

Appeals which are insufficient in allegations of error of fact or law may be dismissed by the Board of Veterans Appeals. (38 U.S.C. 4005(d)(5), 4008).

Filing

§ 19.127 Rule 27; place of filing, notice of disagreement and substantive appeal.

The notice of disagreement and substantive appeal shall be filed with the Veterans Administration office from which the claimant received notice of the decision being appealed. (38 U.S.C. 4005(b)(1) and (d)(3)

§ 19.128 Rule 28: who can file an appeal.

(a) *Persons authorized.* A notice of disagreement and substantive appeal may be filed by a claimant personally or by an accredited representative of a recognized organization, attorney or agent, provided a proper power of attorney or declaration of representation, as applicable, is on record. As to filing a power of attorney or declaration of representation, see Rules 51 through 54 (38 CFR 19.151 through 19.154). Where contesting claimants are involved, see Rule 44 (38 CFR 19.144). (38 U.S.C. 4005(b)(2))

(b) *Incompetent claimant.* If the claimant is incompetent, a notice of disagreement and a substantive appeal may be filed by the legal guardian or other legal fiduciary; or, in the event there is no legal fiduciary, by the next of kin or next friend. (38 U.S.C. 4005(b)(2))

(c) *Claimant seriously disabled and unrepresented.* If the claimant is seriously disabled and has not appointed a representative, a notice of disagreement and a substantive appeal may be prepared by the next of kin or next friend. However, the claimant must ratify these documents by signature or other satisfactory evidence of approval. (38 U.S.C. 4005(b)(2))

§ 19.129 Rule 29; time limit for filing.

(a) *Notice of disagreement.* A notice of disagreement shall be filed within 1 year from the date of mailing of notification of the initial review or determination; otherwise, that determination will become final. (38 U.S.C. 4005(b)(1)) For contested claims, see Rule 45 (38 CFR 19.145).

(b) *Substantive appeal.* A substantive appeal shall be filed within 60 days from the date of mailing of the statement of the case, or within the remainder of the 1-year period from the date of mailing of notification of the review or determination being appealed, whichever period ends later. (38 U.S.C. 4005(b)(1), (d)(3)) Where a supplemental statement of the case is furnished, a period of 30 days will be allowed for response. For contested claims, see Rule 45 (38 CFR 19.145).

§ 19.130 Rule 30; extension of time for filing.

(a) *General.* An extension of the 60-day period for filing a substantive appeal or the 30-day period for responding to a supplemental statement of the case may be granted for good cause shown. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. (38 U.S.C. 4005(d)(3))

(b) *Additional evidence filed.* The filing of additional evidence after receipt of notice of an adverse decision shall not extend the time limit for initiating or completing an appeal from that decision. (38 U.S.C. 4005(d)(3)) (NOTE: For contested claims, see Rule 48 (38 CFR 19.148).)

§ 19.131 Rule 31; computation of time limit.

(a) *Acceptance of postmark date.* A notice of disagreement or a substantive appeal postmarked prior to expiration of the applicable time limit will be accepted as having been timely filed. (38 U.S.C. 4005(b)(1))

(b) *Computation of time limit.* In computing the time limit for filing a notice of disagreement or a substantive appeal, the first day of the specified period will be excluded and the last day included. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation. (38 U.S.C. 4005(b)(1)

§ 19.132 Rule 32; legal holidays.

For purposes of Rule 31 (38 CFR 19.131), the legal holidays, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows: New Year's Day—January 1; Inauguration Day—every fourth year; Washington's Birthday—third Monday in February; Memorial Day—last Monday in May; Independence Day—July 4; Labor Day—first Monday in September; Columbus Day—second Monday in October; Veterans' Day—November 11; Thanksgiving Day—fourth Thursday in November; and Christmas Day—December 25, (38 U.S.C. 4005(b)(1))

§ 19.133 Rule 33; timely filing of appeal questioned by agency of original jurisdiction.

If the agency of original jurisdiction questions the timely filing of a notice of disagreement or substantive appeal, the procedures for an administrative appeal must be followed. (Rule 38 through 42 (38 CFR 19.138 through 19.142)) The Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction. (38 U.S.C. 4005(d)(3), 4006)

§ 19.134 Rule 34; adequacy of notice of disagreement questioned by agency of original jurisdiction.

If the agency of original jurisdiction questions the adequacy of a notice of disagreement, the procedures for an administrative appeal must be followed (Rules 38 through 42 (38 CFR 19.138 through 19.142)). The Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction. (38 U.S.C. 4005(d)(3), 4006)

§ 19.135 Rule 35; untimely filing of appeal protested by claimant.

If the claimant or his/her representative protests an adverse determination made by the agency of original jurisdiction with respect to timely filing of the notice of disagreement or substantive appeal, the claimant will be furnished a statement of the case. The Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction. (38 U.S.C. 4005(d))

§ 19.136 Rule 36; inadequacy of the notice of disagreement.

If the claimant or his-her representative protests an adverse determination made by the agency of original jurisdiction with respect to adequacy of the notice of disagreement, the claimant will be furnished a statement of the case. The Board of Veterans Appeals will make a final decision regarding it appellate jurisdiction. (38 U.S.C. 4005(d))

§ 19.137 Rule 37; adequacy of the substantive appeal.

A determination as to the adequacy of allegations of error of fact or law in a substantive appeal will be made by the Board of Veterans Appeals. When the Board raises the issue of adequacy of the substantive appeal, the appellant or representative will be given a period of 30 days within which to present written or oral argument on this question. (38 U.S.C. 4005(d)(3), 4008)

§ 19.138 Rule 38; administrative appeal.

(a) *General.* An administrative appeal from a decision of the agency of original jurisdiction may be filed by officials of the Veterans Administration authorized to do so to resolve a conflict of opinion or a question of a claim involving benefits under laws administered by the Veterans' Administration. Such appeals may be taken from unanimous decisions denying or allowing the benefit claimed, in whole or in part, or from decisions involving dissenting opinions. (38 U.S.C. 4006)

(b) *Form of appeal.* An administrative appeal is entered by memorandum entitled "Administrative Appeal" in which the issues and the bases for the appeal are set forth. (38 U.S.C. 4006)

§ 19.139 Rule 39; officials authorized and time limits for filing administrative appeals.

The following officials of the Veterans Administration are authorized by the Administrator of Veterans Affairs to file administrative appeals within the time limits specifed:

(a) *Central office*—(1) *Officials.* The Chief Benefits Director or a Service Director of the Department of Veterans Benefits, the Chief Medical Director or a Service Director of the Department of Medicine and Surgery, and the General Counsel.

(2) *Time limit.* Such officials must file an administrative appeal within 1 year from the date of the decision, or within 1 year from the date of mailing notice of such decision, whichever is later.

(b) *Agencies of original jurisdiction*—(1) *Officials.* Directors, Adjudication Officers, and officials at comparable levels in field offices deciding any claims for benefits, from any decision originating within their established jurisdction.

(2) *Time limit.* The Director or comparable official must file an administrative appeal within 6 months from the date of the decision appealed or within 6 months from the date of mailing notice of the decision, whichever is the later date. Officials below the level of Director must do so within 60 days from such date. (38 U.S.C. 4006)

§ 19.140 Rule 40; notification of claimant.

When an administrative appeal is entered, the claimant and the representative, if any, will be promptly informed concerning the question at issue, and will be allowed a period of 60 days to joint in the appeal if he/she so desire. Information will be included relative to the effect of such action and preservation of normal appeal rights if he/she does not elect to join. (38 U.S.C. 4006)

V 45 A G 2 2 8 0 UMI

§ 19.141 Rule 41; merger of administrative appeal and claimant's appeal.

If the claimant or the representative elects to join in the administrative appeal, it becomes a merged appeal and the rules governing an appeal initiated by a claimant are for application. The presentation of evidence or argument in response to notification of the right to join in the administrative appeal will be construed as merging the appeal. (38 U.S.C. 4006)

§ 19.142 Rule 42; effect of decision on administrative or merged appeal.

If the administrative appeal is merged, the appellate decision on the merged appeal will constitute final disposition of the claimant's appellate rights. If the claimant does not merge, normal appellate rights on the same issue are preserved, and a decision in any separate appeal perfected by the claimant will be entered by another section of the Board. For disqualification of members, see Rule 83 (38 CFR 19.183). (38 U.S.C. 4006)

Contested Claims

§ 19.143 Rule 43; notification of right to appeal in contestd claims.

In a contested claim, where one claim is allowed and the other is denied or the allowance of one claim would result in payment of a lesser amount to another claimant, all parties of interest will be specifically notified of the action taken and of the right and time limit for initiation of an appeal. (38 U.S.C. 4005A(a)) (See Rule 167) for hearings in contested claims.)

§ 19.144 Rule 44; who can file an appeal in contested claims.

In a contested claim, any claimant or representative of a claimant (as specified in Rule 28 (38 CFR 19.128)) may file a notice of disagreement or substantive appeal within the time limits set out in Rule 45 (38 CFR 19.145). (38 U.S.C. 4005(b)(2))

§ 19.145 Rule 45; time limits for filing in contested claims.

(a) *Notice of disagreement.* Where one claim is allowed and one denied, or the allowance of one claim would result in payment of a lesser amount to another claimant, the notice of disagreement from the person adversely affected must be filed within 60 days from the date of mailing of notification of the review or determination; otherwise, that determination will become final.(38 U.S.C. 4005A(a))

(b) *Substantive appeal.* A substantive appeal must be filed within 30 days from the date of mailing of the statement of the case. (38 U.S.C. 4005A(b)) For computation of time limits for filing, see Rules 31 through 33 (38 CFR 19.131 through 19.133).

§ 19.146 Rule 46; notice of contesting parties on receipt of notice of disagreemnt.

Upon the filing of a notice of disagreement in a contested claim, all parties in interest and their representatives will be furnished a copy of the statement of the case as prescribed in Rule 21 (38 CFR 19.121). The party or parties in interest who file notices of disagreement will be duly notified of the right and time limit to file a substantive appeal and of the requirements, and furnished with VA Form 1–9, Appeal to Board of Veterans Appeals. (38 U.S.C. 4005A(b))

§ 19.147 Rule 47; notice of substance of appeal to other contesting parties.

When a substantive appeal is filed, the substance of the appeal will be communicated to the other party or parties of interest and a period of 30 days will be allowed for filing a brief or argument in answer. (38 U.S.C. 4005A(b))

§ 19.148 Rule 48; extension of time for filing in contested claims.

An extension of the 30-day period to file a substantive appeal may be granted for good cause shown. In granting an extension in contested claims, consideration will be given to the interests of the other parties involved. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. (38 U.S.C. 4005A(b))

§ 19.149 Rule 49; notices to last addresses of record in contested claims.

Notices in contested claims will be forwarded to the last known address of record of the parties concerned and such action will constitute sufficient evidence of notice. (38 U.S.C. 4005A(b))

Representation

§ 19.150 Rule 50; right to representation.

A claimant will be accorded full right to representation in all stages of an appeal by a recognized organization, attorney or agent, or other person authorized to represent claimants before the agency of original jurisdiction. (38 U.S.C. 3401–3405, 4005(a))

§ 19.151 Rule 51; recognized organizations.

(a) *Designation.* The designation of a recognized organization will be by duly executed VA Form 23–22, Appointment of Veterans Service Organization as Claimant's Representative. (38 CFR 14.631(a)) (38 U.S.C. 4005(b)(2))

(b) *Revocation or change of power of attorney.* A claimant shall be permitted to revoke a power of attorney to a recognized organization whenever the person so desires, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 4005(b)(2))

§ 19.152 Rule 52; attorneys.

(a) *Signed consent.* A signed consent by the appellant or appellant's guardian permitting access to all information in the individual's records and a signed statement by the attorney that he/she is authorized to represent the appellant prepared on the attorney's letterhead will be accepted as an executed power of attorney. (38 CFR 14.629(c)) (38 U.S.C. 3401, 3404)

(b) *Individual attorney.* A power of attorney must be executed in favor of one attorney. A power of attorney given to a law firm or several attorneys is invalid for purposes of the appeal. (See 38 CFR 14.631 (c).) (38 U.S.C. 3402, 3403, 3404, 4005(b)(2))

(c) *Revocation or change of representation by an attorney.* A claimant may revoke a declaration of representation by an attorney at any time, but such revocation shall not be effective as to the Veterans Administration until notice of such action is received by the Veterans Administration. (38 U.S.C. 3404)

§ 19.153 Rule 53; agents.

(a) *Designation.* The designation of an agent will be by duly executed VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent (38 CFR 14.631(a)). The designation should be an individual agent, rather than a firm or partnership. (38 U.S.C. 3404)

(b) *Admission to practice.* The provisions of section 3404, title 38, United States Code, and section 14.629(b), Title 38, Code of Federal Regulations, are applicable to admission of agents to practice before the Veterans Administration. Authority for making determinations concerning admission to practice rests with the General Counsel of the Veterans Administration, and any questions concerning admissions should be addressed to that office, 810 Vermont Avenue, NW., Washington, D.C. 20420.

(c) *Revocation or change of representation by an agent.* A claimant may revoke a power of attorney to an agent at any time, but such revocation shall not be effective as to the Veterans Administration until notice of such action is received by the Veterans Administration. (38 U.S.C. 3403, 3404)

§ 19.154 Rule 54; other persons as representative.

(a) *General.* Any competent person may be recognized as a representative for a particular claim, unless that person has been barred from practice before the Veterans Administration. (38 U.S.C. 3403) The designation must be by power of attorney which stipulates that no fee or compensation of any nature will be charged or paid for the services. The designation will be by VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent. (38 U.S.C. 3403)

(b) *More than one claimant.* If an individual has been recognized as a representative for one claimant and has not appealed such limitation to the Office of the General Counsel as provided in section 14.630, Title 38, Code of Federal Regulations, he/she must obtain permission from the Chairman of the Board of Veterans Appeals to represent a subseqent appellant and to present a case in a hearing before the Board. (38 U.S.C. 3403)

§ 19.155 Rule 55; general.

(a) *One representative.* A specific claim may be prosecuted by only one attorney, agent or recognized organization at any one time. (38 U.S.C. 4005(b)(2))

(b) *Change of status from spouse to surviving spouse.* A power of attorney or designation of representation submitted by the spouse of a veteran may continue in effect after the veteran's death. (38 U.S.C. 3402–3404)

(c) *Recognition of representation after death of veteran.* A recognized organization, attorney, agent or person properly designated to represent a veteran may, in the event of death of the veteran, be recognized as the representative of surviving claimants for a reasonable period thereafter, but not as representative of a survivor claimant who has appointed another representative (38 CFR 1.525(d), 14.631(e)). (38 U.S.C. 3402–3404)

§ 19.156 Rule 56; legal interns.

Legal interns must be under the direct supervision of a recognized attorney (Rule 52, 38 CFR 19.152) in order to present cases before the Board of Veterans Appeals. Legal interns may present cases at hearings only if the recognized attorney is present. Otherwise, such individuals must qualify as agents under Rule 53 (38 CFR 19.153). Legal interns who desire to present cases at a hearing before the Board must make advance arrangements with the Chief of the Hearing Section. (38 U.S.C. 3404, 4005(b)(2))

Hearings

§ 19.157 Rule 57; general.

(a) *Right to a hearing.* A hearing on appeal shall be granted where a claimant or a representative expresses a desire to appear in person. (38 U.S.C. 4002)

(b) *Purpose of hearing.* The purpose of a hearing is to receive argument or testimony relevant and material to the appellate issue. (38 U.S.C. 4002)

(c) *Nonadversary proceedings.* Hearings conducted by and for the Board are ex parte in nature and nonadversary. Cross-examination by parties to the hearing will not be permitted. Proceedings will not be limited by legal rules of evidence, but reasonable bounds of relevancy and materiality will be maintained. (38 U.S.C. 4002)

§ 19.158 Rule 58; who may appear.

The claimant, the authorized representative, Members of Congress and their staffs may appear and present argument in support of a claim. At the request of a claimant, a Veterans Benefits Counselor of the Veterans Administration may present the appeal at a hearing before the Board of Veterans Appeals or a hearing agency acting for the Board. (38 U.S.C. 4002, 4005(b)(2))

§ 19.159 Rule 59; scheduling and notice of hearing.

(a) *General.*To the extent that facilities permit, hearings will be scheduled at the convenience of claimants and their representatives, with consideration of the travel distance involved. While a statement of the case should be prepared prior to the hearing it is not a prerequisite for entitlement to a hearing, and an appellant may request that the hearing be scheduled prior to one's issuance. (38 U.S.C. 4002)

(b) *Notification of hearing.* When a hearing is scheduled, the person requesting it will be notified of its time and place, and that the Government may not assume any expense incurred by the claimant, the representative or witnesses attending the hearing. (38 U.S.C. 4002)

(c) *Extension of time.* An extension of time for appearance at a hearing may be granted for good cause shown, with due consideration of the interests of other parties if a contested claim is involved. Ordinarily, hearings will not be postponed more than 30 days. (38 U.S.C. 4002, 4005A)

§ 19.160 Rule 60; place of hearing.

A hearing may be held in one of the following places:

(a) Before a section of the Board of Veterans Appeals in Washington, D.C.

(b) To the extent scheduling permits, before a traveling section of the Board of Veterans Appeals during regularly scheduled visits to Veterans Administration facilities.

(c) Before appropriate personnel in the Veterans Administration regional or other office nearest the claimant's residence, acting as a hearing agency for the Board of Veterans Appeals.

Hearings under paragraphs (a) and (b) of this section are held before members who will make the final decision on the appeal. (38 U.S.C. 4002)

§ 19.161 Rule 61; composition of the hearing panel.

The hearing panel of the Board shall consist of a presiding member acting as the chairman, and two other Board members, all of whom will participate in the final decision. In case of vacancy or absence of a Board member, see Rule 10(d) (38 CFR 19.110(d)). (38 U.S.C. 4002)

§ 19.162 Rule 62; functions of the presiding member.

The presiding member is responsible for the conduct of the hearing, administration of the oath or affirmation, and for ruling on questions of procedure. (Rule 1(b), 38 CFR 19.101(b)) The presiding member will assure that the course of the hearing remains relevant to the issue on appeal and that there is no cross-examination of the parties or witnesses. (38 U.S.C. 4002)

§ 19.163 Rule 63; prehearing conference.

Any representative desiring a prehearing conference with the presiding member must make advance arrangements through the Chief of the Hearing Section. Such conference should be limited to issue identification, stipulations of fact and procedural matters. (38 U.S.C. 4002)

§ 19.164 Rule 64; procurement of additional evidence following a hearing.

If during the course of the hearing it appears that additional evidence would assist in the review of the question at issue, the record may be left open from 30 to 60 days, or longer for good cause shown, to afford the claimant and any representative the opportunity to obtain the desired evidence. See Rule 74 (38 CFR 19.174) for waiver of the supplemental statement of the case. (38 U.S.C. 4002, 4004)

§ 19.165 Rule 65; witnesses.

(a) *General.* The testimony of witnesses will be heard. A claimant or a representative may arrange for the voluntary appearance of such witnesses

as he/she desires, but the Board will not require the appearance of any Veterans Administration official or other person. (38 U.S.C. 4002)

(b) *Testimony under oath.* All testimony must be given under oath unless excused because of religious principles or other good cause. If the witness declines to take an oath, he/she should be informed that the testimony will be permitted on affirmation. The witness should then be requested to make a solemn declaration as to the truth of the testimony about to be given. The witness may use such words as he/she can consider binding on his/her conscience. Administration of the oath for the sole purpose of presenting contentions and argument is not required. (38 U.S.C. 4002)

§ 19.166 Rule 66; expenses.

No expenses incurred by an appellant, counsel, or witnesses incident to attendance at a hearing may be paid by the Government. (38 U.S.C. 4002)

§ 19.167 Rule 67; hearings in contested claims.

If a hearing is scheduled for either party to a simultaneously contested claim, the Board will either accord the other contesting claimant or his/her representative the opportunity to be present but not participate, or will advise the other contesting claimant or his/her representative in writing of the substance of the argument or contentions advanced. In either event, a reasonable time will be allowed for argument or testimony in refutation, and separate hearing for the other contesting claimant will be scheduled for that purpose, if requested. (38 U.S.C. 4005A)

§ 19.168 Rule 68; recorded hearing.

(a) *Board of Veterans Appeals.* The proceedings at the hearing before a section of the Board shall be recorded and a tape of such proceedings shall be on file at the Board of Veterans Appeals. A written transcript or a copy of the tape may be furnished without cost to the appellant or representative upon request made at the time of or prior to the hearing; otherwise a charge may be made in accordance with 38 CFR 1.579.

(b) *Field offices.* The proceedings at the hearing before field office personnel after the filing of a notice of disagreement shall be recorded and a copy of the complete transcript incorporated as a permanent part of the claims record. A copy may be furnished without cost to the appellant or representative upon request made at the time of or prior to the hearing; otherwise a charge may be made in accordance with 38 CFR 1.579. (38 U.S.C. 4002)

§ 19.169 Rule 69; recording of hearings.

An appellant or representative may record the hearing with his/her own equipment. Filming, videotaping or televising the hearing may be authorized provided a written consent is obtained from the appellant and made a matter of record. In all such situations, advance arrangements must be made with the Chief of the Hearing Section. (38 U.S.C. 4002)

§ 19.170 Rule 70; official transcript.

Only the Board of Veterans Appeals transcript prepared pursuant to section 4002, title 38, United States Code, is the official transcript. (38 U.S.C. 4002)

§ 19.171 Rule 71; alternate transcript versions.

Alternate transcript versions prepared by the appellant and representative may be considered as a supplemental argument and filed in the appellant's record. (38 U.S.C. 4002, 4005)

Evidence

§ 19.172 Rule 72; submission of additional evidence.

A claimant may submit additional evidence or information as to the availability of additional evidence after initiating an appeal. As to failure to submit evidence requested by an agency of original jurisdiction after initiation of an appeal, see Rule 25 (38 CFR 19.125). (38 U.S.C. 4005(d)(1))

§ 19.173 Rule 73; consideration of additional evidence by agency of original jurisdiction.

(a) *Evidence received prior to transfer of records to Board of Veterans Appeals.* Evidence received in the agency of original jurisdiction after the initiation of an appeal and prior to transfer of the records to the Board of Veterans Appeals, including that in cases in which certification may have been completed, will be referred to the rating or authorization activity for review and disposition. A supplemental statement of the case will be furnished the claimant and his/her representative as provided Rule 22 (38 CFR 19.122). (38 U.S.C. 4005(d)(1))

(b) *Evidence recieved after transfer of records to the Board of Veterans Appeals.* Additional evidence received in an agency of original jurisdiction after the records have been transferred to the Board of Veterans Appeals for appellate consideration will be forwarded to the Board if it has a direct bearing on the appellate issue or issues. The Board will then determine what procedural steps are required with respect to the new evidence. (38 U.S.C. 4004(b), 4005(d)(1))

Cross-Reference: Waiver of agency of original jurisdiction action. See Rule 74 (38 CFR 19.174).

§ 19.174 Rule 74; waiver of agency of original jurisdiction action.

The appellant and/or representative may submit additional evidence following certification and transfer of the appeal to the Board. This evidence, as well as any referred by the originating agency under Rule 73(b) (38 CFR 19.173(b)), must be referred to the agency or original jurisdiction for review and preparation of a supplemental statement of the case unless this procedural right is waived by the appellant. Such waiver must be in writing or formally entered as part of the hearing transcript. (38 U.S.C. 4005)

Action by the Board

§ 19.175 Rule 75; order of consideration.

Applications for review on appeal shall be considered in the order in which they are entered on the docket, except that a case may be advanced on the docket for earlier consideration for sufficient cause shown. (38 U.S.C. 4007) (To advance a case on the docket, see Rule 6 (38 CFR 19.106).)

§ 19.176 Rule 76; medical opinions.

(a) *Opinion of the Chief Medical Director.* The Board may obtain an expert medical opinion from the Chief Medical Director of the Veterans Administration on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of the appeal. (38 U.S.C. 4004(c))

(b) *Armed Forces Institute of Pathology opinions.* The Board may refer pathologic material to the Armed Forces Institute of Pathology for review and expression of opinion. See Rule 3 (38 CFR 19.103). (38 U.S.C. 4004(c))

§ 19.177 Rule 77; independent medical expert opinions.

When, in the judgment of the Board, additional medical opinion is warranted by the medical complexity or controversy involved in an appeal, the Board may obtain an advisory medical opinion from one or more medical experts who are not employees of the Veterans Administration. Opinions will be secured, as requested by the Chairman of the Board, from recognized medical schools, universites, clinics or medical institutions, with which arrangements for such opinions have been made by the Administrator of Veterans Affairs. Selection of the individual expert or experts within the insitution to give the opinion will be made by an appropriate official of the institution. (38 U.S.C. 4009)

§ 19.178 Rule 78; filing of requests for the procurement of medical opinions.

The appellant or representative may request that the Board obtain a medical opinion under Rule 76 or 77 (38 CFR 19.176 or 19.177). Such request must be in writing and will be granted for good cause shown. (38 U.S.C. 4002, 4004(c), 4009)

§ 19.179 Rule 79; notification of medical opinions secured by the Board.

When an opinion under Rule 76 or 77 (38 CFR 19.176 or 19.177) has been obtained by the Board, a copy of such opinion will be furnished to the appellant's representative or, subject to the limitations provided in section 3301, title 38, United States Code, to the appellant if there is no representative. A period of 30 days will be allowed for response. (38 U.S.C. 4005, 4009)

§ 19.180 Rule 80; the decision.

(a) *Decisions based on entire record.* The claimant is presumed to be in agreement with any statement of fact contained in a statement of the case to which no exception is taken. Decisions of the Board, however, shall be based on a review of the entire record. (38 U.S.C. 4005(d)(4)(5))

(b) *Disposition of issues.* The decision of the Board will dispose of each issue on appeal by allowance, denial, remand or dismissal, in whole or in part. (38 U.S.C. 4004(a))

(c) *Format.* The decision of the Board shall be in writing and shall set forth specifically the issue or issues, findings of fact and conclusions of law separately stated and the reasons for the Board's decision. (38 U.S.C. 4004(d))

§ 19.181 Rule 81; voting by Board members.

(a) *Unanimous decisions.* A decision unanimously concurred in by the members of the Section and duly promulgated shall be final. (38 U.S.C. 4003(a))

(b) *Dissent.* Where the members do not agree, the Chairman of the Board may either concur with the majority, in which event this will constitute final determination of the Board, or may direct further consideration by two or more sections, not to exceed 12 members, including the section to which the case was originally assigned. Any decision by an expanded panel which is not unanimous will require concurrence of the Chairman of the Board; if the members are equally divided, the Chairman will participate in the determination by casting the deciding vote. (38 U.S.C. 4003(b))

§ 19.182 Rule 82; remand for further development.

(a) *General.* When, during the course of review, it is determined that further evidence or clarification of the evidence or correction of a procedural defect is essential for a complete appellate determination, the section of the Board shall remand the case to the agency of original jurisdiction, specifying the further development to be undertaken. (38 U.S.C. 4002, 4004(a)

(b) *Review by agency of original jurisdiction.* Where the development results in additional evidence, a supplemental statement of the case will be furnished the claimant and any representative, and the records will again be reviewed by the agency of original jurisdiction. Review by the agency of original jurisdiction is not required where the remand is only for assembly of records previously considered by the agency of original jurisdiction. A remand to cure a procedural defect may also require issuance of a supplemental statement of the case to assure full notification to the appellant of the status of the case. (38 U.S.C. 4005(d)(1))

(c) *Resubmission to Board of Veterans Appeals.* Unless benefits in issue on appeal are awarded on review by the agency of original jurisdiction, the records will be returned to the Board of Veterans Appeals for completion of appellate review. Remanded cases will not be closed for failure to respond to the supplemental statement of the case. (38 U.S.C. 4005(d))

§ 19.183 Rule 83; disqualification of members.

(a) *General.* A member of the Board shall disqualify himself/herself in a hearing or decision on an appeal from a determination in which he/she participated or had supervisory responsibility in the agency of original jurisdiction prior to his/her appointment as a member of the Board, or where there are other circumstances which might give the impression of bias either for or against the appellant. (38 U.S.C. 4002)

(b) *Appeal on same issue subsequent to decision on administrative appeal.* Members of the Board signatory to the decision on administrative appeal will disqualify themselves from acting on a subsequent appeal by the claimant on the same issue. (38 U.S.C. 4002)

Cross Reference: Effect of decision on administrative or merged Appeal. See Rule 42 (38 CFR 19.142).

§ 19.184 Rule 84; administrative allowance.

The Chairman or Vice Chairman under authority delegated in section 19.2(b), Title 38, Code of Federal Regulations, may authorize an administrative allowance, following review and recommendation by members of the Board, in adjudicative actions which are otherwise final. (38 U.S.C. 210(b))

Reconsideration

§ 19.185 Rule 85; when accorded.

Reconsideration of an appellate decision may be accorded by the Board of Veterans Appeals:

(a) Upon allegation of obvious error of fact or law by a claimant or his/her representative;

(b) On the Board's own motion;

(c) Upon discovery of additional service department records. (38 U.S.C. 4003(a))

§ 19.186 Rule 86; requirements in application.

Application for reconsideration shall set forth clearly and specifically the alleged obvious error(s) of fact or law in the decision of the Board or other appropriate basis for requesting reconsideration. (38 U.S.C. 4003, 4008)

§ 19.187 Rule 87; evidence considered.

Reconsideration of an appellate decision shall not be limited to review of the evidence of record at the time the decision was entered, and the Board may secure additional medical or legal opinion. (38 U.S.C. 4003, 4009)

§ 19.188 Rule 88; remand pursuant to reconsideration.

In connection with a reconsideration, the Board may remand to develop the evidence of record. However, such evidence obtained may provide the basis for a reopened claim under the provisions of Rule 94 (38 CFR 19.194). (38 U.S.C. 4004(b))

§ 19.189 Rule 89; filing of request.

A brief for the purpose of showing error may be filed at any time. If a hearing is requested, those members who participate in the original decision, if available, will be a part of the hearing panel. (38 U.S.C. 4002, 4003)

§ 19.190 Rule 90; number of members on reconsideration panel.

(a) *Board member(s) signatory to decision available.* When a reconsideration request is received, the Chairman may create a panel to review the merits of the request. The number of Board members assigned to the reviewing panel shall be determined by doubling the number of members who

participated in the original decision (to a maximum number of 12 members). All members who were signatory to the decision being reconsidered and are still available will be assigned to the panel. (38 U.S.C. 4002)

(b) *Board member(s) signatory to decision unavailable.* When a reconsideration request is approved and the Board members who participated in the decision being reconsidered are no longer available, the Chairman may create a panel consisting of 3 members to review the merits of the request. (38 U.S.C. 4002)

Finality

§ 19.191 Rule 91; harmless error.

An error or defect in any decision by the Board of Veterans Appeals which does not affect the merits of the issue or substantial rights of the appellant will be considered harmless and not a basis for vacating, reversing, or modifying such decision. (38 U.S.C. 4003)

§ 19.192 Rule 92; finality of decisions of the agency of original jurisdiction where appeal is not perfected.

A determination on a claim by the agency of original jurisdiction of which the claimant is properly notified shall become final if an appeal is not perfected as prescribed in Rule 29 (38 CFR 19.129). (38 U.S.C. 4005(c))

§ 19.193 Rule 93; finality of determinations of the agency of original jurisdiction affirmed on appeal.

When the determination of the agency of original jurisdiction is affirmed by the Board of Veterans Appeals, such determination becomes a part of the appellate decision. (38 U.S.C. 4004(a))

§ 19.194 Rule 94; new claim after appellate decision.

When a claimant requests that a claim be reopened after an appellate decision and submits evidence in support thereof, a determination must be made whether such evidence is new and material and, if so, whether it provides a new factual basis for allowance of the claim. An adverse determination as to either issue is appealable. (38 U.S.C. 4004(b))

§ 19.195 Rule 95; death of appellant during pendency of appeal.

When an appeal is pending before the Board of Veterans appeals at the time of the appellant's death, the Board may complete its action on issues properly before it without application from the survivors. (38 U.S.C. 4008)

§ 19.196 Rule 96; claim for death benefits by survivor—prior unfavorable decision.

Issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of them during the veteran's lifetime. (38 U.S.C. 4004(b))

§ 19.197 Rule 97; nonprecedential natural of Board decisions.

The Board will strive for uniformity and consistency of approach in issuing its decisions. Its decisions shall not, however, be considered binding in subsequent cases involving different appellants. (38 U.S.C. 4004(a))

Privacy Act

§ 19.198 Rule 98; Privacy Act request—appeal pending.

When a Privacy Act request is filed by an individual seeking records pertaining to him or her (under 38 CFR 1.577) and the relevant records are in the custody of the Board, such request will be reviewed and processed prior to appellate action. (5 U.S.C. 552a; 38 U.S.C. 4002, 4007)

§ 19.199 Rule 99; amendment of appellate decisions.

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 85 through 90 (38 CFR 19.185 through 19.190). Where the request to amend under the Privacy Act is an attempt to attack the adjudicatory function of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack on a decision of the Board. The denial will satisfy the procedural requirements of 38 CFR 1.577. If otherwise appropriate, the request will be considered one for reconsideration under Rules 85 through 90 (38 CFR 19.185 through 19.190). (5 U.S.C. 552a(d); 38 U.S.C. 4003(a), 4008)

[FR Doc. 80-25704 Filed 8-21-80; 8:45 am]
BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 1580-8]

Assistance for Pesticide Enforcement and Applicator Certification Programs

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notification to Secretary of Agriculture of final rule.

SUMMARY: Notice is given as required by Section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's final rule which implements a program of assistance for those States and Indian tribes which are interested in entering into cooperative agreements with EPA to undertake pesticide enforcement and applicator certification.

FOR FURTHER INFORMATION CONTACT: David Stangel, Policy and Strategy Branch, Pesticides and Toxic Substances Enforcement Division (EN-342), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-9404.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall publish in the **Federal Register** (with the final regulation) the comments of the Secretary, if requested, and the response of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign such regulation for publication in the **Federal Register** any time after the 15 day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The final regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136(w))

Dated: August 15, 1980.

R. Sarah Compton,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-25688 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

---

40 CFR Part 81

[FRL 1576-3]

Air Quality; Section 107—Proposed Designations of Attainment Status—Areas East of the Mississippi River—Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In compliance with a recent decision of the United States Court of Appeals for the District of Columbia Circuit, EPA, today proposes new attainment/unclassifiable designations for ozone (O_3) for all areas east of the Mississippi River which were originally designated as attainment or unclassifiable for ozone by EPA on March 3, 1978, and which have not already been redesignated as nonattainment. EPA invites the public to comment on the ozone designations proposed today. The proposed designations are identified in the charts below.

DATE: Comments on these new designations are due on or before September 22, 1980.

ADDRESSES: Address comments of a general nature should be addressed to: Lanny M. Deal, Control Programs Division, USEPA-(MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5365 or FTS 629-5365.

Comments relative to a specific state or to specific designations should be submitted directly to appropriate EPA Regional Office contacts as listed below:

Region I: Harley Laing, (Acting) Chief, Air Branch, EPA Region I, JFK Federal Building, Boston, Massachusetts, 02203, (617) 223-5186 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

Region II: William Baker, Chief, Air Branch, EPA Region II, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-2517 (New Jersey, New York, Puerto Rico, Virgin Islands).

Region III: Robert Blanco, (Acting) Chief, Air Branch, EPA Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-8131 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia).

Region IV: Winston Smith, Chief, Air Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404) 881-3454 (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina).

Region V: Steven Rothblatt, Chief, Air Branch, EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2212 (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin).

In addition, background information generally relevant to this action will be available for public inspection during normal business hours at the following location: Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street S.W., Washington, D.C. 20460.

Background information and data relevant to specific designations will be available during normal business hours at the appropriate EPA Regional Office as listed above.

FOR FURTHER INFORMATION CONTACT: Requests for information of a general nature about this proposed action should be directed to Lanny M. Deal at the address given above, (919) 541—5365 or FTS 629-5365.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 required EPA to designate those areas of the country with air quality worse than the levels set by EPA's national ambient air quality standards ("nonattainment areas"), those areas with air quality better than the national standards level ("attainment areas"), and those areas which could not be classified for lack of sufficient reliable data on which to make a determination ("unclassifiable areas"). Section 107(d), 42 U.S.C. 7407(d).

EPA promulgated attainment status designations for all areas of the country on March 3, 1978 at 43 FR 8962. The State of New Jersey challenged the attainment/unclassifiable designations for ozone promulgated by EPA for areas east of the Mississippi River. New Jersey alleged that EPA had violated the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b) and (c), by failing to provide notice and an opportunity to comment prior to taking final action on these designations. New Jersey also challenged various aspects of EPA's policy for promulgating attainment/unclassifiable designations for ozone. In particular, New Jersey objected to EPA's policy of designating as "unclassifiable" areas for which no monitoring data was available, claiming that sufficient information existed to support nonattainment designations for all areas east of the Mississippi. This information consisted primarily of data collected from air craft at elevated altitudes showing readings above the 0.08 parts per million ozone standard.

The District of Columbia Court of appeals stayed proceedings in the lawsuit to allow New Jersey to submit comments to EPA and to allow EPA to evaluate and respond to these comments. EPA found New Jersey's data to be unreliable. This response was announced at 44 Fed. Reg. 6395 (Feb. 1, 1979) and in EPA's Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable and Nonattainment Areas for Ozone (January 1979). (A copy of this document is included in the background information available at EPA's Public Information Reference Unit).

In a separate rulemaking, EPA relaxed the ozone standard from 0.08 parts per million to 0.12 parts per million. 44 FR 82020 (Feb. 8, 1979).

The District of Columbia Circuit ultimately found that EPA had violated the notice and comment requirements of the Administrative Procedure Act. *State of New Jersey, Department of Environmental Protection* v. *EPA*,— F.2d—(D.C. Cir., decided June 30, 1980). The Court ordered EPA to promulgate new designations, after first providing notice and opportunity for comment, to replace those designations that were challenged by the State of New Jersey. The Court did not address New Jersey's substantive arguments.

New Jersey's opening brief requested the Court to set aside only ozone attainment and unclassifiable designations for areas east of the Mississippi. *See* Brief for Petitioners at 61. In addition, New Jersey's petition for review requested the Court to review only those designations promulgated by EPA on March 3, 1978. Thus, any attainment and unclassifiable designations for ozone promulgated after March 3, 1978 are outside the scope of New Jersey's challenge and the Court's remand. For the same reasons, EPA considers any ozone attainment or unclassifiable designations promulgated on March 3, 1978, but subsequently revised to nonattainment to be outside the scope of the Court's order.

EPA wishes to point out that all designations for pollutants other than ozone, all ozone nonattainment designations and all attainment and unclassifiable ozone designations for areas west of the Mississippi River are not affected. Furthermore, because the Court's decision does not affect any nonattainment designations, the ongoing Part D state implementation plan revision process will not be disrupted.[1]

Current Action

EPA today proposes to designate all those areas affected by the Court's decision as "cannot be classified or better than national standards." The affected areas and the proposed

[1] Under the new prevention of significant deterioration (PSD) regulations recently promulgated by EPA, any new or modified major source of pollution located in an area which is designated as attainment or unclassifiable for any pollutant is reviewed for PSD purposes for *all* pollutants regulated under the Clean Air Act which the source emits in significant amounts (except pollutants for which the area is designated nonattainment). All areas affected by today's notice are designated as attainment or unclassifiable for at least one other pollutant in addition to ozone. Accordingly, PSD review of ozone sources will not be disrupted in these areas.

designations are listed in the charts below. With minor exceptions, these charts duplicate the original lists of ozone attainment status designations promulgated by EPA on March 3, 1978. The exceptions consist of areas which were originally designated as attainment/unclassifiable but which have already been redesignated as nonattainment. Such areas are shown as nonattainment areas. EPA wishes to emphasize that it is proposing new designations for only those areas designated on the charts as attainment/unclassifiable. The nonattainment designations appearing in the charts are included only for informational purposes. EPA is not proposing action on these nonattainment designations.

EPA is not proposing any new ozone designations for the states of Connecticut, Rhode Island, Vermont, Massachusetts, New Jersey, New York, Pennsylvania, or the District of Columbia. All areas in these states were designated as nonattainment for ozone on March 3, 1978, and are not affected by the Court's decision. Accordingly, EPA is not publishing charts for these states in this notice.

EPA is basing these proposals on its original ozone attainment/unclassifiable designations for several reasons. First, both EPA Headquarters and Regional Offices have conducted a preliminary review of new ozone data available to them at this time, and have found that these data suggest that the original attainment/unclassifiable designations are still appropriate. (The data reviewed by EPA Headquarters is available as part of the background information for this proposed rulemaking.) Second, at this time EPA proposes to support the same policy on the type and sufficiency of data needed to support specific ozone designations that it used in promulgating its original ozone designations. See EPA's "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattainment Areas for Ozone."

EPA invites the States and the public to submit comments on all of the proposed attainment/unclassifiable designations identified in the charts below. EPA particularly wishes to solicit submittals of new or more detailed air quality data relevant to any of the proposed designations. EPA also wishes to solicit comments on the effects of the relaxation of the ozone standard on data which has already been submitted. EPA will consider all comments and data received within thirty days publication of this notice, and will evaluate its policies and proposed designations in light of these comments.

During this comment period EPA's Regional Offices for Regions I–V will perform a more detailed evaluation of all recent ozone air quality data submitted to EPA by states and local air quality agencies for the areas proposed to be redesignated.

EPA has determined that this document does not propose a significant regulation and does not require the preparation of a regulatory analysis under Executive Order 12044.

(Sec. 107(d), 171(2), and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 74707(d), 7501(2), and 7601(a))

Dated: August 12, 1980.

Edward Tuerk,

Assistant Administrator for Air, Noise and Radiation Division.

The following charts identify the new ozone attainment/unclassifiable designations EPA is proposing today:

Alabama—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Jefferson County	X	
Madison County	X	
Mobile County	X	
Morgan County	X	
Russel County	[1]X	
Rest of State		X†

[1] EPA designation replaces State designation.
† Only these designations are reproposed for comment.

Delaware—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
New Castle County	X	
Kent County		[2]X†
Sussex County		[2]X†

† Only these designations are reproposed for comment.

Florida—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Duval County	X**	
Leon County	X**	
Broward County	X**	
Dade County	X**	
Palm Beach County	X**	
Escambie County	X**	
Orange County	X**	
Hillsborough County	X**	
Pinellas County	X**	
Rest of State		X**†

** EPA designation only.
† Only these designations are reproposed for comment.

Georgia—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Atlanta Area—Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Fulton, Gwinnet, Henry, Spaulding and Rockdale Counties.	X	
Muscogee County	X*	
Rest of State		X†

* EPA designation replaces State designation.
† Only these designations are reproposed for comment.

Illinois—O_3

Designated area	Does not meet primary standards	Cannot Be Classified or Better Than National Standards
AQCR 65:		
Fulton County		X†
Hancock County		X†
Henderson County		X†
Knox County		X†
McDonough County		X†
Mason County		X†
Peoria County	X	
Tazewell County	X	
Warren County		X†
Woodford County		X†
AQCR 66:		
Champaign County	X	
Clark County		X†
Coles County		X†
Cumberland County		X†
DeWitt County		X†
Douglas County		X†
Edgar County		X†
Ford County		X†
Iroquois County		X†
Livingston County		X†
McLean County	X	
Moultrie County		X†
Piatt County		X†
Shelby County		X†
Vermillion County		X†
AQCR 67:		
Cook County	X	
DuPage County	X	
Grundy County	X	
Kane County	X	
Kankakee County	X	
Kendall County	X	
Lake County	X	
McHenry County	X	
Will County	X	
AQCR 68:		
JoDaviess County		X†
AQCR 69:		
Carroll County		X†
Henry County		X†
Mercer County		X†
Rock Island County	X	
Whiteside County		X†
AQCR 70:		
Bond County		X†
Clinton County		X†
Madison County	X	

Illinois—O_x

Designated area	Does not meet primary standards	Cannot Be Classified or Better Than National Standards
Monroe County	X	
Randolph County		X†
St. Clair County	X	
Washington County		X†
AQCR 71:		
Bureau County		X†
LaSalle County	X	
Lee County		X†
Marshall County		X†
Putnam County		X†
Stark County		X†
AQCR 72:		
Alexander County		X†
Johnson County		X†
Massac County		X†
Pope County		X†
Pulaski County		X†
Union County		X†
AQCR 73:		
Boone County	X	
DeKalb County	X	
Ogle County		X†
Stephenson County		X†
Winnebago County	X	
AQCR 74:		
Clay County		X†
Crawford County		X†
Edwards County		X†
Effingham County		X†
Fayette County		X†
Franklin County		X†
Gallatin County		X†
Hamilton County		X†
Hardin County		X†
Jackson County		X†
Jasper County		X†
Jefferson County		X†
Lawrence County		X†
Marion County		X†
Perry County		X†
Richland County		X†
Saline County		X†
Wabash County		X†
Wayne County		X†
White County		X†
Williamson County	X	
		X†
AQCR 75:		
Adams County	X	
Brown County		X†
Calhoun County		X†
Cass County		X†
Christian County		X†
Greene County		X†
Jersey County		X†
Logan County		X†
Macon County	X	
Macoupin County		X†
Menard County		X†
Montgomery County		X†
Morgan County		X†
Pike County		X†
Sangamon County	X	
Schuyler County		X†
Scott County		X†

† Only these designations are reproposed for comment.

Indiana—O_x

	Does not meet primary standards	Cannot be classified or better than national standards
Allen County	X*	
Clark County	X*	
Elkhart County	X*	
Floyd County	X	
Lake County	X	
Marion County	X	
Porter County	X*	
St. Joseph County	X*	
Vanderburgh County	X	
All portions of all other Indiana counties		X†

* EPA designations replace State designations.
† Only these designations are reproposed for comment.

Kentucky—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Cincinnati Area—Boone, Kenton, and Campbell Counties	X	
Daviess County	X	
Fayette County	X	
Henderson County	X	
Jefferson County	X	
McCracken County	X	
Boyd County	X	
Rest of State		X†

†Only these designations are reproposed for comment.

Maine—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 110	X	
AQCR 107	X	
AQCR 109	X	
AQCR 108		X†
AQCR 111		X†

†Only these designations are reproposed for comment.

Maryland—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Cumberland-Keyser Interstate AQCR	X	
Central Maryland Intrastate AQCR		X†
Metropolitan Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR—Maryland Portion	X	

V 45 AG 22 80 UMI

Maryland—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Southern Maryland Intrastate AQCR		X†
Eastern Shore Intrastate AQCR		X†

†Only these designations are reproposed for comment.

Michigan—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 82 (Michigan portion)	X	
AQCR 122—Except sub-area defined		X†
1. Muskegon, Ottawa, Allegan, Kent, Montcalm, Ionia, Gratiot, Midland, Bay, Saginaw, Shiawas- ee, Genesee, Tuscola, Lapeer, Sanilac and Huron Counties.	X	
AQCR 123	X	
AQCR 124 (Michigan portion)	X	
AQCR 125	X	
AQCR 126—Except sub-area defined		X†
1. Marquette County	X*	

*EPA designations replace State designations.
† Only these designations are reproposed for comment.

Mississippi—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide		X†

† Only these designations are reproposed for comment.

New Hampshire—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Central N.H. Intrastate AQCR 149	X	
N.H. portion of Androscoggin Valley Interstate AQCR 107		X†
N.H. portion of Merrimack Valley So. N.H. Interstate AQCR 121	X	

† Only these designations are reproposed for comment.

North Carolina—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Mecklenburg County	X	
Buncombe County	X*	

North Carolina—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Durham County	X*	
Rest of State		X†

*EPA designations replaces State designation.
†Only these designations are reproposed for comment.

Ohio—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Adams		X*†
Allen	X*	
Ashland	X	
Ashtabula	X	
Athens		X*†
Auglaize		X*†
Belmont	X	
Brown	X	
Butler	X	
Carroll	X	
Champaign	X	
Clark	X	
Clermont	X	
Clinton	X	
Columbiana	X	
Coshocton		X*†
Crawford		X*†
Cuyahoga	X	
Darke	X	
Defiance		X*†
Delaware	X	
Erie	X	
Fairfield	X	
Fayette	X	
Franklin	X	
Fulton	X	
Gallia		X*†
Geauga	X	
Greene	X	
Guernsey		X*†
Hamilton	X	
Hancock	X	
Hardin		X*†
Harrison	X	
Henry	X	
Highland	X	
Hocking	X	
Holmes	X	
Huron	X	
Jackson		X*†
Jefferson	X	
Knox	X	
Lake	X	
Lawrence	X	
Licking	X	
Logan	X	
Lorain	X	
Lucas	X	
Madison	X	
Mahoning	X	
Marion	X	

Ohio—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Medina	X	
Meigs	X	
Mercer	X	
Miami	X	
Monroe	X	
Montgomery	X	
Morgan	X	
Morrow	X	
Muskingum	X	
Noble	X	
Ottawa	X	
Paulding	X	
Perry	X	
Pickaway	X	
Pike	X	
Portage	X	
Preble	X	
Putnam	X	
Richland	X	
Ross	X	
Sandusky	X	
Scioto	X	
Seneca	X	
Shelby	X	
Stark	X	
Summit	X	
Trumbull	X	
Tuscarawas	X	
Union	X	
Van Wert	X	
Vinton	X	
Warren	X	
Washington	X	
Wayne	X	
Williams	X	
Wood	X	
Wyandot	X	
Rest of State		X†

*EPA designations replaces State designation.
†Only these designations are reproposed for comment.

Tennessee—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide		X†

† Only these designations are reproposed for comment.

Virginia—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Northern Virginia Intrastate AQCR		X†
Richmond Intrastate AQCR		X†
Hampton Roads Intrastate AQCR		X†
Rest of State		X†

† Only these designations are reproposed for comment.

West Virginia—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide		X†

† Only these designations are reproposed for comment.

Wisconsin—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide		X†

† Only these designations are reproposed for comment.

[FR Doc. 80-25280 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-C

Ohio—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Medina	X	
Meigs		X*†
Mercer		X*†
Miami	X	
Monroe		X*†
Montgomery	X	
Morgan		X*†
Morrow	X	
Muskingum		X*†
Noble		X*†
Ottawa	X	
Paulding		X*†
Perry	X	
Pickaway	X	
Pike		X*†
Portage	X	
Preble	X	
Putnam		X*†
Richland	X	
Ross	X	
Sandusky	X	
Scioto		X*†
Seneca	X	
Shelby	X	
Stark	X	
Summit	X	
Trumbull	X	
Tuscarawas	X	
Union	X	
Van Wert		X*†
Vinton		X*†
Warren	X	
Washington		X*†
Wayne	X	
Williams		X*†
Wood	X	
Wyandot		X*†

*EPA designation replaces state designation
†Only these designations are reproposed for comment.

South Carolina—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Charleston Area—Charleston and Berkeley Counties	X*	
Columbia Area—Richland and Lexington Counties	X*	
York County	X*	
Rest of State		X†

* EPA designation replaces state designation
† Only these designations are reproposed for comment.

Tennessee—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Nashville Area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties	X**	
Shelby County	X**	
Maury County	X**	
Hamilton County	X**	
Knox County	X**	
Sullivan County	X**	
Bradley County	X**	
Roane County	X**	
Rest of State		X†

** EPA designation only.
† Only these designations are reproposed for comment.

Virginia—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR	X*	
Valley of Virginia AQCR	X*	
Central Virginia AQCR		X†
Northeastern Virginia AQCR	X*	
State Capital AQCR	X*	
Hampton Roads AQCR	X*	
Virginia Portion of National Capital Interstate AQCR	X*	

** EPA designation only.
† Only these designations are reproposed for comment.

West Virginia—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Kanawha Valley Intrastate AQCR	X	
Remainder of State		X†

† Only these designations are reproposed for comment.

Wisconsin—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 68: Grant County	X	
AQCR 73: Rock County		X†
AQCR 128:		
Barron County		X†
Buffalo County		X†
Chippewa County		X†
Clark County		X†
Crawford County		X†
Dunn County		X†
Eau Claire County		X†

Wisconsin—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Jackson County		X†
LaCrosse County	X	
Monroe County		X†
Pepin County		X†
Pierce County		X†
Polk County		X†
St. Croix County		X†
Trempealeau County		†
Vernon County		†
AQCR 129:		
Ashland County		X†
Bayfield County		X†
Burnett County		X†
Douglas County	X	
Iron County		X†
Price County		X†
Rusk County		X†
Sawyer County		X†
Taylor County		X†
Washburn County		X†
AQCR 237:		
Brown County	X	
Calumet County		X†
Door County		X†
Fond du Lac County		X†
Green Lake County		X†
Kewaunee County		X†
Manitowoc County		X†
Marinette County		X†
Marquette County		X†
Menominee County		X†
Oconto County		X†
Outagamie County		X†
Shawano County		X†
Sheboygan County		X†
Waupaca County		X†
Waushara County		X†
Winnebago County		X†
AQCR 236:		
Adams County		X†
Florence County		X†
Forest County		X†
Juneau County		X†
Langlade County		X†
Lincoln County		X†
Marathon County		X†
Oneida County		X†
Portage County		X†
Vilas County	X	
Wood County		X†
AQCR 239:		
Kenosha County	X	
Milwaukee County	X	
Ozaukee County	X	
Racine County	X	
Walworth County		X†
Washington County		X†
Waukesha County	X	
AQCR 240:		
Columbia County	X	
Dane County	X	
Dodge County		X†
Green County		X†
Iowa County		X†
Jefferson County		X†
Lafayette County		X†
Richland County		X†
Sauk County		X†

†Only these designations are reproposed for comment.

[FR Doc. 80-25548 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 435

[FRL 1574-5]

Offshore Subcategory of the Oil and Gas Extraction Point Source Category, Withdrawal of Proposed New Source Standards of Performance

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed regulations.

SUMMARY: In settlement of *Natural Resources Defense Council* v. *Costle*, the Environmental Protectin Agency has agreed to promulgated final new source standards for the offshore subcategory. However, because of the length of time since proposal (40 FR 42572) and revision (44 FR 22075) of the subcategorization, EPA believes that examination of additional data and reproposal is necessary before promulgation. Consequently, EPA is now withdrawing the proposal published on September 15, 1975. EPA intends to propose revised new source standards as soon as possible.

FOR FURTHER INFORMATION CONTACT: John W. Lum or Teresa Wright, (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or telephone, (202) 426-4617.

SUPPLEMENTARY INFORMATION: On September 15, 1975, the Environmental Protection Agency (EPA) published, pursuant to section 306 of the Clean Water Act, proposed new source standards of performance for the near and far offshore subcategories of Oil and Gas Extraction Point Source Category. 40 FR 42572. On that same day, EPA also added the Oil and Gas Extraction Point Source Category to the list of industries, established pursuant to Section 306(b)(1)(A) of the Act, for which new source standards are to be promulgated. 40 FR 42596.

Although EPA has promulgated effluent limitations representing "best practicable technology currently available" applicable to all oil and gas facilities in a revised "offshore" subcategory, 44 FR 22075 (April 13, 1979), the Agency has not promulgated final new source standards of performance for this subcategory. On December 29, 1979, the Natural Resources Defense Council files suit seeking an order to compel the Administrator to promulgate such standards. *Natural Resources Defense Council* v. *Costle*, C.A. No. 79-3442 (D.D.C.).

The Administrator recognizes the statutory requirement to promulgate new source standards of performance for all industries listed pursuant to Section 306(b)(1)(A), and in settlement of *NRDC* v. *Costle*, the Agency has agreed to promulgate final new source standards for the offshore subcategory. However, because of the length of time since proposal and revision of the subcategorization, EPA believes that examination of additional data and reproposal is necessary before promulgation. Consequently, EPA is now withdrawing the proposal published on September 15, 1975. Pursuant to the Settlement Agreement in *NRDC* v. *Costle*, EPA intends to propose revised new source standards as soon as possible.

Dated: August 18, 1980.

Barbara Blum,

Acting Administrator.

[FR Doc. 80-25598 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch.1

[CC Docket No. 80-170; RM-3525]

Authorizing the Communications Satellite Corporation To Provide International Satellite Communications Services Directly to the Public; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time to file comments and replies.

SUMMARY: On April 22, 1980, the

we see no reason to deny this request

SUMMARY: On April 22, 1980, the Commission adopted a Notice of Proposed Rulemaking (NPRM) which addresses Comsat's authority to deal directly with the public as a retail carrier. The NPRM also seeks comments as to which entities may be permitted to deal directly with Comsat in its wholesale capacity. Under the proposed policy revisions, Comsat, through a separate subsidiary, would no longer be limited to serving only as a wholesaler of international satellite services. The Commission tentatively concludes that by authorizing Comsat to enter the retail market, along with permitting separate rates for cable and satellite services, the competition which results will encourage the realization of economies made possible by satellite terminology.

DATES: Comments must be received on or before August 19, 1980. Reply Comments must be received on or before September 23, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gene P. Belardi, International Facilities, Authorization and Licensing Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-7265.

Order

Adopted: July 30, 1980.

Released: July 31, 1980 (45 FR 43441).

By the Common Carrier Bureau:

1. Western Union International, Inc. (WUI), has filed a request for an extension of time from August 8, 1980, until August 12, 1980, to file comments in the *Notice of Proposed Rulemaking in CC Docket No. 80-170,* FCC 80-129, released May 6, 1980, wherein the Commission is proposing to permit the Communications Satellite Corporation (Comsat) to provide international satellite communications services directly to the public. In support of its request, WUI states that it needs a brief extension of time in order that its lengthy comments may be printed and bound. WUI asserts that such printed comments would be more manageable and readable for the Commission and the public. Lastly, WUI contends that the public would not be adversely affected by the four-day extension.

2. We agree that the public would not be harmed by grant of this request for short extension of time. While we believe that WUI should have calculated the additional time needed to print its comments into its schedule for filing,[1] we see no reason to deny this request for such a minimal extension of time. However, our action here should not be regarded as precedent for every occasion that a party to a proceeding plans to file printed comments. Since we have extended the comment date by four days we will also extend the reply date from September 19, 1980, to September 23, 1980.

3. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules and Regulations, 47 C.F.R. Section 0.291 (1979), that the request by Western Union International, Inc., for an extension of time to file comments in CC Docket No. 80-170 is granted, and that interested parties shall file comments in this proceeding on or before August 12, 1980. Replies shall be filed on or before September 23, 1980.

Federal Communications Commission.

William F. Adler,

International Facilities Authorization and Licensing Division Common Carrier Bureau.

[FR Doc. 80-25736 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[1] We note that the original date for filing comments in this proceeding was July 3, 1980, was extended to August 8, 1980. See *Order,* Mimeo No. 32498, released June 11, 1980.

---

47 CFR Part 73

[Docket No. 21474; RM-1968; RM-2810; RM-2978]

Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments regarding the FCC's Second Further Notice of Proposed Rule Making in Docket No. 21474, in response to a motion filed by the National Association of Broadcasters. This aspect of the proceeding concerns revisions to the FCC's broadcast model equal employment opportunity ("EEO") program.

DATES: Comments must be filed on or before October 24, 1980, and reply comments on or before November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 14, 1980.

Released: August 15, 1980.

By the Chief, Broadcast Bureau:

1. On June 4, 1980, the Commission adopted a *Second Further Notice of Proposed Rule Making* concerning the above-captioned proceeding, FCC 80-328, 45 FR 42729, published June 25, 1980. The present dates for filing comments and reply comments are August 25, 1980, and September 25, 1980, respectively.

2. On August 5, 1980, the National Association of Broadcasters ("NAB") filed a motion seeking extension of time for filing comments and reply comments to and including October 24, 1980, and November 24, 1980, respectively.[1] NAB states that it is undertaking a study of the costs of compliance with the Commission's present and proposed EEO requirements, in terms of both revenues and personnel utilization. Approximately 300 licensees will be involved. Additionally, the study will solicit licensees' suggestions as to various EEO alternatives, including those proposed in the *Further Notice.*

3. We are of the view that the public interest would be served by this extension as the information developed by NAB may be helpful to the Commission in resolving the issues in this proceeding.

4. Accordingly, it is ordered, That the dates for filing comments and reply comments in Docket No. 21474 are extended to and including October 24, 1980, and November 24, 1980, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 80-25699 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[1] NAB supplemented its motion on August 13, 1980. Supporting comments were filed by the law firm of Dow, Lohnes and Albertson on behalf of its licensee clients.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Permit Commercial Importation of Kangaroos, Public Hearing

AGENCY: Fish and Wildlife Service, Department of Interior.

ACTION: Reopening of comment period; notice of public hearing.

SUMMARY: The public comment period on the Service's proposed regulation to permit commercial importation of the red (*Megaleia rufa*), eastern gray (*Macropus giganteus*), and western gray (*M. fuliginosus*) Kangaroos, is hereby reopened between September 16 and October 1, 1980. In addition, a public hearing will be held on this proposal. The date, time, and place of the hearing are set forth below.

DATES: The Service will consider all comments on the proposal to permit commercial importation of these kangaroos that are received between September 16, 1980, and October 1, 1980. The public hearing will be held on Tuesday, September 16, 1980, commencing at 9:00 A.M.

ADDRESSES: The public hearing will be held in Room 8068, Main Interior Department Building, 18th and C Streets, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information on the proposal or the hearing, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S.. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: On June 16, 1980, the Service published in the **Federal Register** (45 FR 40958) a proposed rulemaking to permit the importation of eastern gray, western gray, and red kangaroos for commercial purposes. On July 16, 1980, the Society and Animal Protective Legislation and the Humane Society of the United States petitioned the Service to hold a public hearing on the proposal. In the interest of insuring full public participation in the rulemaking process, the Service has decided that it will accept this petition, and will hold a public hearing on the issue at the time and place specified above.

Accordingly, the comment period on the Services' proposal to permit commercial importation of kangaroos is hereby reopened between September 16, 1980, and October 1, 1980.

A public hearing on this proposal will be held as set forth above. All comments and statements presented at this hearing will be made part of the public record and will be considered before any final decision is made concerning the proposal.

Dated: August 19, 1980.

Ronald E. Lambertron,

Director, Fish and Wildlife Service.

[FR Doc. 80-25700 Filed 8-21-80; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 45 No. 165
Friday, August 22, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

1981 Wheat Program; Determinations Regarding the Proclamation of 1981—Crop National Program Acreage, Set-Aside Level and Other Program Provisions for Wheat

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of determination of 1981—crop national program acreage, set-aside level and other program provisions for wheat.

SUMMARY: This notice is for the purpose of proclaiming a national program acreage, announcing that there will be no set-aside requirement, and setting forth other program provisions for the 1981 crop of wheat in accordance with applicable sections of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act"). Provisions of the 1949 Act require that a determination of national program acreage, set-aside requirements and recommended voluntary reduction, be made for wheat not later than August 15 prior to the year in which the crop is harvested.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Program Specialist, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447–6688. The Final Impact Statement describing the options considered in developing this Notice of Determination and the impact of implementing each option will be available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This Notice of Determination has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

The title and number of the federal assistance programs that this notice applies to are: TITLE-Wheat Production Stabilization: NUMBER 10.058, as found in the Catalog of Federal Domestic Assistance.

A notice that the Secretary was preparing to make determinations with respect to the 1981-crop wheat program was published in the **Federal Register** on June 20, 1980 (45 FR 41672), in accordance with 5 U.S.C. 553, and provided for a 30-day comment period. The comment period was limited to 30 days to allow the Secretary sufficient time to properly consider the comments received before the final program determinations were made as provided for by the 1949 Act. Comments were received from 300 entities in 25 States. The comments received were from 209 farmers, 8 national organizations, 7 State and county farm organizations, 55 State and county ASC committees, 2 State government agencies, 1 State agribusiness, 1 State Senator, 3 bankers, 2 realtors, 6 national farm organizations, 3 national agribusinesses, 1 member of Congress, and 2 consumer groups. A majority of the comments centered around the following six issues: (1) set-aside; (2) land diversion; (3) target price; (4) loan rate; (5) compliance with the normal crop acreage (NCA); and (6) special wheat acreage grazing and hay program. Over 88 percent of the comments favored some form of production adjustment program, such as: a set-aside program (49 percent); a land diversion program (12 percent); or a combination of both (27 percent). The general level of recommended required set-aside was from 10–20 percent, 10–20 percent for a voluntary land diversion and a combination of set-aside and diversion at 10 percent each, with suggestions as high as 50 percent. The suggested rate of payment for the land diversion program ranged from $.60 per bushel to the total costs of producing wheat, with a general level of $2.00–$3.00 per bushel. Suggested established "target" prices for the 1981 crop of wheat generally fell within a $4.00–$4.50 per bushel range, with suggestions of as high as 100 percent of parity. Comments suggested a loan and purchase rate ranging from $2.50 per bushel to 100 percent of parity but the majority of suggestions were from $3.00 to $3.50 per bushel. Over 77 percent of the comments received favored requiring compliance with the farm normal crop acreage (NCA) as a condition of eligibility for program benefits. Nearly 84 percent of the respondents favored implementation of the Special Wheat Acreage Grazing and Hay Program with a payment rate ranging from $.75 to $1.00 per bushel. All comments received were duly considered by the Secretary.

Accordingly, the Secretary has made the following program decisions pertaining to the 1981 crop of wheat:

Notice of Determinations

1. *No Set-Aside for 1981-Crop Wheat.* Section 107(f)(1) of the 1949 Act provides that the Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. In accordance with these criteria, it is hereby determined and proclaimed that no set-aside of cropland will be required for the 1981 crop of wheat. The absence of a set-aside requirement for the 1981 crop of wheat in plantings will likely be slightly below the 80.9 million acres planted for the 1980 crop. It is projected that there will be a modest buildup in ending stocks.

World wheat production for the 1980 crop year is estimated at 443.2 million metric tons (MMT) (based on August 11, 1980 Foreign Agricultural Circular-World Crop Production) up almost six percent from the 1979 crop. World export trade of wheat in 1980/81 (July 1980 through June 1981) will likely be a record (86.8 MMT) exceeding last year's record by 2.0 MMT. Production is expected to exceed consumption of wheat, therefore, world 1980/81 ending stocks may increase by almost six percent. Over three-fourths of the stocks increase is expected to occur outside the U.S. Carryover stocks of the major wheat exporters (U.S., Canada, Australia and Argentina) are expected to decline by over six percent from year earlier levels. The world 1980/81 ending stocks level for wheat is now estimated to be 21.0 percent of the world consumption of wheat, compared with 18 percent during the extremely tight stocks situation of the 1972–75 period.

Therefore, the world supply-demand picture for wheat is expected to remain in a relatively tight position.

At this time, about three-fourths of the world wheat crop has been harvested. However, the advent of unfavorable weather in areas not yet harvested, especially in the Southern Hemisphere, could further tighten current year world wheat supplies and exacerbate the 1980/81 and 1981/82 wheat supply-demand situations.

U.S. wheat production for the 1980 crop is estimated at a record 2325 million bushels, despite the extreme drought experienced in the Northern Plains States. Although U.S. wheat supplies will be at record levels, total expected domestic use and exports for the 1980/81 season (June 1980 through May 1981) are also projected to be at a record level (about 2.3 million bushels) resulting in only a modest five percent buildup in 1980/81 carryover stocks (948 million bushels) over last year.

Although U.S. 1980/81 carryover stocks are likely to increase moderately, they are still expected to be over 10 percent below what is considered a maximum carryover objective (an amount equal to 6.6 percent of the world consumption of wheat or about 1060 million bushels).

Given the current year outlook and the prospect for continued strong export demand of U.S. wheat for the 1981/82 marketing year, it was determined that no set-aside was needed for the 1981 crop of wheat. Other measures such as expanded use of the farmer-owned reserve program and implementation of a land diversion program, if later information indicates an adjustment is needed, will be used in designing an appropriate 1981/82 supply management program. Such a program will be aimed at providing remunerative prices to wheat producers as well as assuring the U.S. consumer and our foreign customers of a reliable and adequate supply of wheat.

2. *National Program Acreage for 1981-Crop Wheat.* It is hereby proclaimed that the preliminary national program acreage (NPA) for the 1981 crop of wheat shall be 71.0 million acres. The NPA is based on the following data:

(a) Estimated domestic consumption, 1981–82 (million bushels)	835
(b) Plus estimated exports, 1981–82 (million bushels)	1,425
(c) Minus estimated imports, 1981–82 (million bushels)	−2
(d) Plus adjustment to increase stocks to desired level (million bushels) [1]	+112
(e) Divided by estimated national weighted average farm program yield (bushels/acre)	33.4
(f) Equals: Preliminary 1981 National Program Acreage (million acres)	71.0

[1] The 112 million bushel adjustment for increased stocks has been determined appropriate relative to the maximum carryover objective for 1981/82. The maximum carryover objective is equal to 6.6 percent of the 1980/81 world consumption of wheat (6.6% x 438.0 MMT = 28.9 MMT x 36.7437 = 1060 million bushels). Difference between maximum carryover (1060 million bushels) and estimated 1981/82 carryin (948 million bushels) is + 112 million bushels.

The Secretary may revise the NPA as proclaimed for the purpose of determining the allocation factor (to be determined in the fall of 1981) if he determines it is necessary based on latest information.

3. *Voluntary Reduction from 1980 Plantings for 1981-Crop Wheat.* It is hereby determined and proclaimed that producers who plant no more wheat for 1981 harvest than was planted and considered planted for harvest in 1980 shall be guaranteed established "target" price protection on the normal production from the entire 1981 acreage. In applying the voluntary reduction for 1981, the 1980 wheat acreage shall be:

The 1980 wheat acreage planted for harvest including any approved prevented planted acreage.

The voluntary reduction determination is based on the following data:

(a) 1980 national harvested acreage (million acres)	71.6
(b) Plus acreage credited as harvested (million acres) [1]	.3
(c) Equals: 1980 considered harvested acreage (million acres)	71.9
(d) Minus 1981 preliminary national program acreage (NPA) (million acres)	71.0
(e) Equals: Acreage reduction needed from previous year's harvested acreage (million acres)	.9
(f) Divided by 1980 considered harvested acreage (million acres)	71.9
(g) Equals: 1981 Recommended voluntary reduction (percent)	[2]0

[1] Includes estimated 1980-crop prevented planted acreage.
[2] Rounded to zero for simplicity of administering this program provision.

4. *1981 Land Diversion.* It is hereby determined that in accordance with the decision not to require a set-aside of cropland as a condition of eligibility for loans, purchase, and payments, no land diversion program will be implemented at this time for the 1981 crop of wheat. If later information such as U.S. and world crop conditions, exports, and winter wheat plantings indicate that the 1981/82 supply of wheat will be excessive, a land diversion program will be considered and implemented by early next spring.

5. *1981 Established "Target" Price for Wheat.* Section 107A(b)(1)(B) of the Agricultural Act of 1949, as amended by the Agricultural Adjustment Act of 1980, provides that the 1981-crop established "target" price shall not be less than the 1980-crop established "target" price ($3.63 per bushel), adjusted upward to reflect such changes in the cost of producing wheat as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for wheat and competing commodities. It is hereby determined in accordance with those criteria that the 1981 established "target" price for wheat shall be established using the estimated short-term costs [1] per acre of producing wheat for the 1981 crop divided by an estimated yield per planted acre. In order to determine the 1981-crop established "target" price on the latest available costs of production data, a final decision on the established "target" price is being delayed and will be announced by early next spring. The final 1981-crop established "target" price for wheat will not be less than $3.81 per bushel. It is hereby determined that the 1981-crop established "target" price for wheat will not be further increased to compensate producers for not exceeding the established farm normal crop acreage (NCA).

6. *1981-Crop Loan and Purchase Level for Wheat.* It is hereby determined that the 1981-crop wheat loan and purchase level shall be at least $3.00 per bushel. It has been determined that this level will maintain the competitive relationship of wheat to other grains in domestic and export markets. A final decision, on the loan and purchase level will be made by early next spring following a further review of the farmer-owned reserve program objectives for the 1981 crop of wheat.

7. *Compliance With Farm Normal Crop Acreage (NCA) for Program Benefit Eligibility.* It is hereby determined for the 1981 crop of wheat that wheat producers shall be required to plant within the established farm NCA as a condition of eligibility for loans, purchases, and payments (deficiency and disaster, if applicable).

8. *Special Wheat Acreage Grazing and Hay Program.* It is hereby determined that in accordance with the no set-aside decision, the Special Wheat Acreage Grazing and Hay Program will not be implemented at this time for the 1981 crop of wheat. However, if a need for this program is determined based on new information, the program will be implemented before the spring grazing season begins.

[1] Short-term costs are those costs considered nonpostponable and include: (1) variable costs less producer labor, (2) machinery ownership costs less replacement and interest, (3) general farm overhead cost, (4) land at acquisiton value (this is a composite cost consisting of owner-operator land costs, share rental costs and cash rent costs), and (5) a return for family living based on a median family income.

V 45 A G 22 80 UMI

Signed at Washington, D.C. on August 15, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 80-25350 Filed 8-18-80; 10:49 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Glen Hills Watershed, Wis.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone number (608) 252–5351.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deletion of the remaining work of improvement to be installed in the Glen Hills Watershed, St. Croix and Dunn Counties, Wisconsin.

The environmental assessment of this action indicates that the project will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Jerome C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project being modified concerns a plan for watershed protection, flood prevention, recreation, and enhancement of fish and wildlife resources. The remaining planned works of improvement include 7.3 miles of stream channel improvement and 6.25 miles of trout stream improvement.

The notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Jerome C. Hytry. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 26, 1980.

James W. Mitchell,

Associate Deputy Chief for Natural Resource Projects.

[FR Doc. 80-25637 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-16-M

Grand Prairie Watershed, Oreg.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Guy W. Nutt, State Conservationist, Soil Conservation Service, Federal Building, 1220 SW., Third Avenue, Portland, Oregon 97204, telephone number (503) 221–2751.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for works of improvement to be carried out in the Grand Prairie Watershed located in Linn County, Oregon.

The environmental assessment of this federally assisted action indicates that the action will not cause significant impacts to the human environment. As a result of these findings, Mr. Guy W. Nutt, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

Project action will include land treatment measures to provide more efficient distribution and use of irrigation water, removal of excess rainwaters, wildlife habitat improvement, cropping systems, and pasture and hayland planting and management. Structural measures will include shaping and seeding the present channel system where needed for stability or increased capacity to carry flood flows, improvements to irrigation canals and structures for irrigation water control. Additional measures will provide not less than 20 acres to be improved and dedicated to wildlife habitat.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Guy W. Nutt. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 13, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-25639 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-16-M

Lipscomb County Critical Area Treatment R.C. & D. Measures, North Rolling Plains R.C. & D. Area, Tex.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone 817–773–1214.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Lipscomb County Critical Area Treatment Measures in the North Rolling Plains R.C. & D. Area, Lipscomb County, Texas.

The environmental assessment of these federally-assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects.

The measures concern plans for critical area treatment practices on public and private land to reduce damage caused by gully erosion and the resulting sediment deposition. The planned works of improvement include erosion control practices such as shaping, smoothing, and establishing permanent vegetative cover, installing two grade stabilization structures, fencing, and constructing a lined waterway.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone 817–773–1214. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 22, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: August 13, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-25636 Filed 8-21-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 36595]

Competitive Marketing of Air Transportation; Rescheduling of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing now scheduled to be held on September 3, 1980 (45 FR 51865, August 5, 1980), is rescheduled for October 14, 1980 at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., August 19, 1980.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 80-25667 Filed 8-21-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363 and 34923]

Former Large Irregular Air Service Investigation, Application of Conquest International Airlines, Inc.; d.b.a. Conquest Airline; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding will be held on October 15, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. 20428.

For information concerning the issues involved and other details in this procceding, interested persons are referred to the aforementioned docket in the Dockets Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 18, 1980.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 80-25666 Filed 8-21-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

[Docket No. 1–80]

Foreign-Trade Zones Board

Panama City Port Authority; Application

This notice concerns the application of the Panama City Port Authority, a Florida municipal corporation, filed by the Foreign-Trade Zones Board on January 4, 1980, requesting authority to establish a foreign-trade zone within the applicant's port complex and industrial park in Port Panama City, Florida (45 FR 2077, 1–10–80). The proposal includes a large diameter steel pipe plant.

A public hearing was held on the matter on February 12, 1980, and in March the open record period for comments was extended to April 18, 1980 (45 FR 18045, 3–20–80). During the open record period a number of comments in opposition were received from the domestic steel industry.

In order to assist the Examiners Committee in its evaluation of the proposal, the Board's Executive Secretary requested from the Bureau of Industrial Economics, U.S. Department of Commerce (BIE), an economic analysis as to the impact on the national economy and competing domestic industry of allowing the steel pipe plant to operate under foreign-trade zone procedures. The analysis was completed on August 14, 1980.

Notice is hereby given that the application record has been reopened to parties of record for comments on the BIE economic impact report. Comments should be submitted with 12 copies and must be received or postmarked by September 22, 1980.

The report is available for inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Room 6886–B, Washington, D.C. 20230. Requests for copies may be made by calling the office (202) 377–2862.

Dated: August 19, 1980.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80-25678 Filed 8-21-80; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scienfic and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, September 11, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 and 5:00 P.M., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00344. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. Ariticle: Superconducting High-Resolution Magnet System (250 MHz). Manufacturer: Oxford Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of a very low concentration of a wide variety of dilute nuclei in systems of chemical and biological interest, and importance, e.g., coal, drugs, antibiotics, catalysts. Experiments will consist of

observation of chemical shifts, relaxation rates, nuclear quadrupole couplings via Fourier transform nuclear magnetic resonance techniques under conditions of high resolution. The objectives of these studies are to determine the molcular structures of new materials used in energy research, improvement of drug design, analysis of molecular structure of new antibiotics, anti-cancer compounds, etc. Application received by Commissioner of Customs: June 12, 1980.

Docket No. 80-00345. Applicant: U.S. Customs Service, Technical Services Division, 1301 Constitution Avenue, N.W., Rm. 7113, Washington, D.C. 20229. Article: Atmospheric Pressure Mass Spectrometer, TAGA 3000. Manufacturer: Sciex Inc., Canada. Intended use for article: The article is intended to be used for a Customs contraband detection research program. The research will include fundamental studies involving build up times of drug vapors, migration rates of vapors, and permeation rates of vapors in typical concealment scenarios. Factors such as environmental conditions and vapor background will be carefully evaluated in terms of system performance. Ion molecule chemistry will be applied through selected chemical ionization reagent gases to optimize system performance under various operating conditions. The thrust of this work will be to precisely characterize a drug detection scheme. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00346. Applicant: National Institute of Enviromental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies on deposition of minerals in the lung, and translocation of elements in inhaled particles, studies on cells and tissues from lung cultivated in vitro, and ultrastructural studies on transformed cells and cytotoxic events induced by inhaled inorganic particles. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00347. Applicant: The Regents of the University of California, Riverside, Materiel Management Department, Riverside, CA 92521. Article: Cryokit, LKB 14800-3 Freezing Accessory. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory to an existing ultramicortome being used for the study of plant tissues and cells. Investigations will include the study of the localization of mineral ions within the cells and tissues, using the electron microprobe. In these studies, to prevent or minimize dislocation of soluble ions, frozen thin sections or frozen thin, freeze-dried sections are utilized. Application Received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00348. Applicant: Deborah Heart & Lung Foundation, 1 Trenton Road, Browns Mills, New Jersey 08015. Article: Electron Microscope, Model EM 10CR with Scanning Attachment. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to investigate on an ultrastructural level alterations in the myocardium, prior to, during and following infarction, degrees of damage and type of damage to the ischemic myocardium, as well as the effects of various pharmacologic neurodynamic and metabolic interventions, i.e., vasodilators and beta adrenergic blocking agents in the development of tissue injury. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00349. Applicant: University of Maryland Center for Environmental & Estuarine Studies, Horn Point Environmental Laboratories, P.O. Box 775, Cambridge, Maryland 21613. Article: N-15 Analyzer, Model NOI-5. Manufacturer: DEV Straton (Company) East Germany. Intended use of article: The article is intended to be used for nitrogen stable isotope studies and evaluation of biological pathways of nitrogen metabolism. The objectives of these studies are to determine the rate of nitrogen in the environment, including determinations of the rates of nitrogen utilization. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00350. Applicant: University of Arizona, Tucson, Arizona 85724. Article: Electron Microscope, Model EM 109R with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of bacteria, viruses and their respective genetic information including both DNA and RNA molecules. Experiments to be conducted will include:

(a) A structural analysis of specific genes of a bacterium, *escheichia coli;*

(b) A study of tumor causing virus including an analysis of the structure and function of the viral genes and how they relate to cancer induction; and

(c) Heteroduplex mapping of the T4 bacteriophage genes.

In addition, the article will be used to teach students how to study nucleic acids in the transmission electron microscope and ultimately the processes of cellular growth and virus replication and virus-induced cancer. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00351. Applicant: University of California, Lawrence Berkeley Laboratory, One Cycolotron Road, Berkeley, CA 94720. Article: Cryo Microtome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare sections of 20 micron to 100 micron thickness of rats, mice, monkey and rabbit heads, and some organs from large animals. The sections are prepared after injecting the animal with a C-14 or tritium labelled radiopharmaceutical, sacrifice, and preparation of the animal in a matrix of carboxymethyl cellulose. The article will be used in the following programs:

(a) DOE project involving evaluations of the influx of carbon monoxide into the brain under various environmental conditions.

(b) Measurement of the effects of magnetic fields on the blood brain barrier and the metabolism of the brain using rats and radioactive labelled amino acids and sugars.

(c) Evaluation of the oxygen distribution in bone marrow using oxygen-18 and subsequent activation with protons of the tissue sections to produce fluorine-18.

(d) Evaluation of the uptake and transport of amino acids in the brain and heart with specific emphasis on taurine.

(e) Evaluation of the uptake and distribution of choline in animals as a function of diet and aging. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00352. Applicant: Notre Dame University, Notre Dame, Indiana 46556. Article: Electron Microscope, Model H-600-3 with Accessories. Manufacturer: Hitachi Instruments, Japan. Intended use of article: The article is intended to be used for the following research projects:

(1) Examination of fish gill and kidney tissue from fresh and salt water species and comparisons between tissues which have been treated with ion transport inhibitors and untreated controls.

(2) Studies of cells derived from lines of normal and malignant kidney cells as well as virus particles to identify cell surface moitics with respect to specific virus related antigens and specific tumor cell related antigens.

(3) Experiments involving the immunological localization of membrane binding sites of glycoproteins to characterize some of the biochemical processes underlying cell transformation and endocystotic phenomena.

(4) Experiments to characterize the membrane binding and uptake sites of vitamin B_{12}.

(5) Study of the capacity of the mammalian central nervous system to repair damage and to discover methods of increasing its innate capacity to do so.

In addition, the article will be used in the course B558 Biological Electron Microscopy which is designed to teach students the basic transmission electron microscopic techniques; both specimen preparation and instrument operation. Application received by Commissioner of Customs: June 19, 1980.

Docket No. 80-00353. Applicant: The University of Texas at Dallas, P.O. Box 688, Richardson, Texas 75080. Article: Coherent NMR Pulse Spectrometer, Model CPS-2. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article will be used to study the binding of paramagnetic metal ions to biological macromolecules. These studies will in part be M.S. Level Research in Chemistry. The objectives of this work include in an examination of the metal ion hydration sphere free in aqueous solution and upon binding to a large macromolecules such as a nucleic acid or protein. This information may be derived from relaxation studies of the water solvent using the various pulse sequence established by the article. Application received by Commissioner of Customs: June 20, 1980.

Docket No. 80-00354. Applicant: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Bethesda, MD 20205. Article: Electron Microscope, Model EM 400T and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for a variety of research projects. These include examination of DNA-DNA and DNA-RNA heteroduplexes formed between genomes of recombinant phages, bacteriophages, and their respective parental genomes. The genetic material of a series of molecularly cloned RNA tumor viruses will be similarly examined. The same procedures will be used to examine eukaryotic genes cloned in bacterial plasmids. The article will also be used to monitor restriction enzyme digestion of nucleic acids and their recombination of the enzyme DNA ligase. Application received by Commissioner of Customs: June 26, 1980.

Docket No. 80-00355. Applicant: University of Wisconsin-Madison, 750 University Avenue, Madison, WI 53706. Article: Earth Resistivity System, RAC-8. Manufacturer: Scientrex Limited, Canada. Intended use of article: The article is intended to be used to study the electrical resistivity of glaciers and ice sheets. The principal experiments planned are on the Greenland and Antarctic ice sheets. Standard geo-physical techniques are to be used to investigate the variations of electrical resistivity as a function of depth within the ice. This leads to better understanding of the electical characteristics of the ice itself, which are of direct importance to understanding ice as a material, and also are of use in determining the temperature variations within the ice. This research will be carried out principally by graduate students as an essential part of their education. Application received by Commissioner of Customs: June 26, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-25833 Filed 8-21-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket S-674]

Lyke Bros. Steamship Co., Inc.; Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated August 8, 1980, to amend its present Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451, so as to increase its maximum sailing limitation from 24 subsidized sailings to 36 subsidized sailings for calendar year 1980 only on its subsidized Trade Route No. 15-B—Freight Service (Line E—Africa Line) between U.S. Gulf ports and ports in South and East Africa.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230 by the close of business on August 27, 1980.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board.

Dated: August 15, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-25533 Filed 8-21-80; 8:45 am]

BILLING CODE 3510-15-M

Office of the Secretary

Privacy Act of 1974; Proposed New System of Records

The purpose of this notice is to propose a new system of records for the National Bureau of Standards (NBS), entitled: COMMERCE/NBS-7, NBS Emergency Locator System.

The new system of records reflects the Bureau's concern that in the case of an emergency at NBS (e.g., fire, explosion, power outage, heavy snow) it could be necessary to contact, in a systematic way, scientists and engineers who might be working on experiments which will be affected by such an emergency or those employees who will be required to deal with the emergency.

The only personal information in this system of records is home telephone numbers of some NBS employees, and other individuals using NBS facilities. The records, both paper and machine-readable, will be retrieved by building and room number as well as organizational code. They will not be retrieved alphabetically; however, it is felt that this list is small enough that a person's home telephone number could be easily obtained with only the knowledge that the person works at an NBS facility. Accordingly, it is being published as a Privacy Act system of records.

The National Bureau of Standards will maintain the system in a manner to assure the protection of the privacy of the individuals covered by these records. Access to machine-readable records will be limited through the use of security codes; and access to paper records, through the use of locked file cabinets.

The description of the system is set forth below and a new system report dated August 18, 1980, was submitted to the Congress and the Office of Management and Budget as required by the Privacy Act.

The "routine uses" of this new system of records will be the general routine uses noted by the Department which apply to, and are incorporated by reference into, each Department system

of records. There are no other "routine uses" for this system of records.

A comment period of 30 days will be given and any comments will be given due consideration. Any interested person may submit written data, views, or arguments to the Assistant Secretary for Administration (ATTN: Information Management Division, Room 5319), U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230, any time on or before September 22, 1980. The comments received will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

This system will become effective October 21, 1980, unless the Department notices to the contrary.

Authority: 5 U.S.C. 552a, Sec. 3, Privacy Act of 1974 (P.L. 93–579, 88 Stat. 1896).

Dated: August 18, 1980.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

Commerce/NBS–7

SYSTEM NAME:

NBS Emergency Locator System.

SYSTEM LOCATION:

National Bureau of Standards, Gaithersburg, Maryland: Physical Security Office, Fire Protection Service Office, Health Physics Unit Office; National Bureau of Standards, Boulder, Colorado: Guard Office, Deputy Security Office; homes of Department of Commerce management officials having overall responsibility for the protection of personnel, buildings, and equipment.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NBS employees and other individuals utilizing NBS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and home telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 278e, 40 U.S.C. 490(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual and machine-readable.

RETRIEVABILITY:

Building and room number; organizational code.

SAFEGUARDS:

Paper records will be kept in lockable file cabinets with limited access; machine-readable records will have limited access with security key required.

RETENTION AND DISPOSAL:

Records will be updated every 6 months or more frequently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Facilities Services Division, Office of the Director of Administrative and Information Systems, NBS, Washington, D.C. 20234; Staff Services Officer, Boulder Executive Office, Radio Building, Room 4011, NBS, Boulder, Colorado 80303.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and building location or organizational unit.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear at 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individuals and those authorized by the individual to furnish information.

[FR Doc. 80–25711 Filed 8–21–80; 8:45 am]

BILLING CODE 3510–17–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board.
Dates of Meeting: September 22–23, 1980.
Place: Presidio of San Francisco, CA (exact location can be determined by contacting Helen Pipon at 202 697–9703).
Time: 0800–1315 hours, September 22, 1980 (Open); 1315–1700 hours, September 22, 1980 (Closed); 0800–1300 hours, September 23, 1980 (Open); 1300–1500 hours, September 23, 1980 (Closed).

Proposed Agenda:

The Army Science Board will hold its fall General Membership Meeting to present and receive briefings as shown in the Agenda:

Monday, September 22

0800–0810 Welcome by 6th Army Host
0810–0830 Opening remarks
0830–1000 Presentations by Sixth Army; Asst AG, State of Washington
1000–1015 Break
1015–1630 ASB Briefings and Discussions:
1015–1045 National Training Center
1045–1115 Energy Needs of the Army
1115–1145 Vertical Lift Technology
1145–1315 Lunch
1315–1345 Summer Study I—Statistical Techniques in Testing
1345–1500 Summer Study II—High Technology Light Division
1500–1515 Break
1515–1535 Night Vision Common Module
1535–1600 HF/DF C–C³ Follow-On
1600–1645 Army RDA
1645–1700 Update on ASB activities

Tuesday, September 23

0800–1200 Break in three groups for visit to Letterman Army Institute of Research
1200–1300 Lunch
1300–1500 Round Table Discussion
1500– Meeting Adjourns

Portions of the meeting as indicated will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed during those portions are so inextricably intertwined so as to preclude opening those portions.

Helen Pipon,

Administrative Officer.

[FR Doc. 80–25641 Filed 8–21–80; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Sec. 10(a)(2)).

DATES: Public hearings; September 15, 1980;
Anchorage, Alaska: Community College, Adult Education Center; 3:00 p.m. to 6:30 p.m.
Boise, Idaho: Boise State University; 1:00 p.m. to 4:30 p.m.
Salem, Oregon; Oregon Department of Education; 10:00 a.m. to 12 noon.
Seattle, Washington: Seattle Community College; 9:00 a.m. to 11:30 a.m.
State Visitations; September 16, 1980; September 17, 1980, 1:30 p.m. to 10:00 p.m.; September 18, 1980, 9:00 a.m. to 5:30 p.m.; September 19, 1980, 9:00 a.m. to 1:00 p.m.

ADDRESS: Regional Office, Arcade Building, Room 1021, 1321 2nd Avenue, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

State public hearings on the reauthorization of the Adult Education Act. (Alaska, Idaho, Oregon, and Washington) September 15, 1980.
Program visitations. (Alaska, California, Idaho, Oregon, and Washington) September 16, 1980.
Council meeting. (Seattle, Washington) September 17–19, 1980.

Other agenda items are:

Executive Committee meeting.
Standing and Ad Hoc Committee meetings.
State visitation reports.
Public hearing on reauthorization of the Adult Education Act.
Report of the Long Range Planning Committee.
Discussion of public hearing results.
Fiscal Year 1981 operational budget.
Future Council meetings.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on August 18, 1980.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80–25532 Filed 8–21–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Finding of No Significant Impact, 100 F-Area Decommissioning Program; Hanford Site

The Department of energy has prepared an environmental assessment on the proposed 100 F-Area Decommissioning Program at the Department's Hanford site near Richland, Washington. Based on the findings of the environmental assessment, which is available to the public on request, the Department has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

The proposed decommissioning program would be a full scale decontamination and decommissioning demonstration project directed toward the removal or stabilization of all radioactive materials in the 100 F–Area. The proposed action would include complete decontamination and dismantlement of Building 105 (the retired F–Reactor building), buildings 115 and 117 (ancillary buildings near the reactor), 107–F retention basin and 116–F–2 liquid waste trench, and buildings 108–F and 141–C (Battelle biology buildings). In addition, six radioactive solid waste burial grounds and seven contaminated liquid waste disposal facilities (cribs and trenches) in the 100 F–Area would be isolated in place or, in a few cases, exhumed for removal to more suitable burial grounds.

There are no significant environmental impacts associated with the 100 F–Area decommissioning program. All contaminated material resulting from the decomissioning activity will be transported within the controlled area of the Hanford reservation by truck or rail to approved disposal facilities in the 200 area. Approximately 120,000 gallons of contaminated liquid will be shipped to the 200 West area by 20,000 gallon railway tanks cars for evaporation to a solid and in-tank storage. Contaminated solid waste, approximately 100,000 ft^3 per year during each of the four years of decommissioning, will be transported to the 200 area burial ground and buried. While this amount will increase the annual volume currently being buried in the 200 area by about 50%, the increase will have only a minor effect on the overall capacity available in the 200 area. No adverse impacts have been identified for historical or archeological sites, or for recreational, ecological, or wildlife resources as a result of this action. No significant release of radioactive or nonradioactive pollutants is anticipated as a result of the normal decommissioning operation, and off-site dose estimates of radioactive material released as a result of transportation accidents would be less severe than the credible accidents described in ERDA–1538, Final Environmental Impact Statement, Waste Management Operations, Hanford Reservation, December 1975. In all cases, occupational exposure to the project personnel would be lower than the maximum permissible effluent release concentrations found in Department of Energy Manual Chapter 0524, "Standards for Radiation Protection." Additional manpower needed to implement the program is minor and should not result in any socioeconomic impacts.

The alternatives to the proposed action discussed in the environmental assessment include layaway, or no further action on the area beyond what is presently occurring (maintenance, security, etc.), protective storage, entombment, and dismantlement.

Single copies of the environmental assessment are available from: Mr. Oscar Elgerd, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352.

For further information contact: Mr. robert Strickler, U.S. Department of Energy, Office of Environmental Compliance and Overview, NEPA Affairs Division, Forrestal Building, Room 4G–064, 1000 Independence Ave., S.W., Washington, D.C. 20585, (202) 252–4610.

Date Issued: August 18, 1980.
Ruth C. Clusen,
Assistant Secretary for Environment.
[FR Doc. 80-25888 Filed 8-21-80; 8:45 am]
BILLING CODE 6450-01-M

International Energy Program; Request for Comment on Proposed Approvals by the Secretary of Energy Pursuant to Section 5 of the Voluntary Agreement and Plan of Action

AGENCY: Department of Energy.

ACTION: Publication of Notice of Proposed Approval of Participation by U.S. Companies in the International Energy Agency's Third Allocation Systems Test and Request for Comment.

SUMMARY: A draft of a proposed letter of approval and recordkeeping guidelines with respect to U.S. oil company participation in the third test of the International Energy Agency's international oil allocation system is being published for public comment.

DATE: Written comments to be submitted by September 12, 1980.

ADDRESS: Comments should be submitted to Department of Emergy, Office of General Counsel, International Trade and Emergency Preparedness, Room 6E-067, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, Attention: Mr. Martin S. Kaufman.

FOR FURTHER INFORMATION CONTACT: Craig S. Bamberger or Martin S. Kaufman, Office of the General Counsel, International Trade and Emergency Preparedness, Room 6E-067, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Secretary of Energy monitors the carrying out of voluntary agreements to implement the Agreement on an International Energy Program (TIAS 8278, November 18, 1974) by U.S. companies and issues certain approvals with respect thereto. In this connection, U.S. companies who are members of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, 2 CCH Federal Energy Guidelines, para. 15,845, will be requested to assist the International Energy Agency (IEA) in conducting a test of the IEA's emergency oil allocation system beginning October 1, 1980. The Department of Energy, in cooperation with the staffs of the Department of State, the Department of Justice, and the Federal Trade Commission, has developed the drafts of the various clearance documents which follow below and are published today for comment.

The first document is a draft letter of approval for U.S. companies participating in the IEA's third allocation systems test (AST-3). The second document is the "Requirements for Recordkeeping" which U.S. participants will be required to observe in AST-3. These recordkeeping requirements will apply existing DOE regulations, contained in Title 10, CFR, Part 209, to AST-3.

The proposed approval letter is substantially similar to the approval letter which was provided for the IEA's second allocation systems test (AST-2) held in 1978. See 43 FR 12060 (March 23, 1978). However, the categories of data which may be exchanged have been more precisely drawn, and new provisions have been introduced to provide flexibility for possible unanticipated data exchanges. Additional aspects of the system which are tested for the first time in AST-3 are provided for. The recordkeeping requirements also are similar in substance to those issued in 1978. Several changes have been made based on experience of the U.S. Government in monitoring the prior tests and IEA activities subsequent to AST-2, and the expanded scope of AST-3.

DOE has determined that, based on experience in AST-2, utilization of a verbatim transcript for portions of the test is practicable. Accordingly, as provided in section 252(c)(3) of EPCA, it is contemplated that a transcript will be taken of many of the group sessions during AST-3. In addition, U.S. Government observers will maintain a full and complete record of AST-3 in the form of memoranda, documents and communications logs of U.S. oil company personnel involved in AST-3.

AST-3 will test certain aspects of the IEA emergency allocation system not previously tested. This will include company-to-company communications concerning voluntary offers by oil companies to reallocate oil under the IEA system and communications between the Industry Supply Advisory Group (ISAG), an industry group serving at IEA headquarters as part of the IEA Emergency Management Organization, and governmental National Emergency Sharing Organizations (NESOs) in each participating IEA member country.

U.S. Companies will participate in AST-3 as "Reporting Companies" which will provide information and data to ISAG and the IEA, including information and data with respect to oil availability during the hypothetical supply disruption and with respect to possible actions to reallocate available oil in accordance with the IEA sharing formula. U.S. companies also will assist the IEA by providing staff for the ISAG.

Comment Procedure

Written comments regarding the proposed approval letter and recordkeeping guidelines will be accepted and considered if received by 4:30 p.m., September 12, 1980. Any person submitting written comments with respect to the letter and recordkeeping requirements should submit ten (10) copies to the Department of Energy, Office of General Counsel, International Trade and Emergency Preparedness, Room 6E-067, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, Attention: Mr. Martin S. Kaufman. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Proposed Approval Letter and Recordkeeping Requirements for AST-3".

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., August 15, 1980.
Eric J. Fygi,
Acting General Counsel.

Appendix A

Proposed letter from the Deputy Secretary, United States Department of Energy, to United States Reporting Companies.

1. The International Energy Agency (IEA) will conduct in the near future a third test of the emergency allocation system (AST-3). The Department of Energy (DOE) considers AST-3 a vital part of our preparedness activities. We hope your company will participate and provide full cooperation to the IEA in this undertaking.

2. This letter sets out guidelines for participation in AST-3 by U.S. oil companies and personnel of U.S. oil companies and provides required approvals for the exchange of confidential and proprietary information or date in connection with AST-3, as required by the Voluntary Agreement and Plan of Action to Implement the International Energy Program

("Voluntary Agreement"), 2 CCH Federal Energy Guidelines, para. 15,845. Participation by U.S. companies is governed by section 252 of the Energy Policy and Conservation Act (EPCA), DOE regulations, 10 CFR Part 209, and the Voluntary Agreement.

3. AST-3 will begin on October 1, 1980 and will continue for approximately 10 weeks. The primary objective of AST-3 is to further test the concepts, procedures, data collection and data processing systems which have been devised to implement the emergency oil allocation procedures of the International Energy Program (IEP), including modifications and improvements made since the spring of 1978, as further delineated in the Emergency Management Manual of the IEA (EMM), the ISAG/Secretariat Operations Manual (ISOM) and the AST-3 Test Guide. AST-3 also will be used to assess the interaction of the IEA emergency oil sharing system with Phase II of the Eruopean Community's emergency energy system. The test will serve as a vehicle for training personnel of the IEA Secretariat, the Industry Supply Advisory Group (ISAG), Reporting Companies and their affiliates, participating country National Emergency Sharing Organizations (NESOs) and in some cases Non-Reporting Companies, in the functioning of the emergency allocation system. The scope of AST-3 is designed to be significantly broader than the first Allocation Systems Test (AST-1) held in the autumn of 1976 and the second Allocation Systems Test (AST-2) held in the spring of 1978 and will more fully involve NESOs of member countries, Reporting Companies, affiliates of Reporting Companies and some Non-Reporting Companies.

4. Industry will participate in several ways. First, industry representatives will staff the ISAG, which, with the IEA's Allocation Coordinator, Secretariat and an SEQ Emergency Group composed of representatives of IEA member countries, will comprise the IEA Emergency Management Organization at IEA headquarters in Paris, France conducting the test. Second, Reporting Companies will submit IEA Questionnaire "A" and other data to the IEA Secretariat and the ISAG, and will discuss these data with the IEA Secretariat and with the ISAG to the extent required for the test; their affiliates will make similar data submissions and have similar discussions with the NESOs of the participating countries in which they operate. Third, Reporting Companies will propose and carry out certain hypothetical supply reallocation measures called "Type 2" allocation by the IEA, and, in this connection, may communicate with other Reporting Companies (i) for the purpose of identifying suitable suppliers or receivers of oil to formulate "closed loop" Type 2 offers and (ii) to enable Reporting Companies to work out logistics needed to implement, or undertake needed subsequent modification of Type 2 offers which have been accepted by the Allocation Coordinator. Finally, it is our understanding that some NESOs may have employees of Reporting or Non-reporting Companies or their affiliates as members or advisors.

5. In Paris, the test will be conducted, for notice purposes, under the Voluntary Agreement, as a single meeting of ISAG carried out in accordance with Section 5 of the Voluntary Agreement. In addition to individual tasks and contacts with the Secretariat by ISAG members, working sessions will include meetings of all ISAG members, smaller group meetings of several ISAG members, as well as joint working sessions of a few ISAG members assigned to solve particular problems. A verbatim transcript of certain sessions will be made under the supervision of U.S. Government observers; for some other ISAG sessions, a full and complete record will be prepared by U.S. Government observers who are present. A full and complete record of other communications will be maintained by the U.S. test participants. More detailed recordkeeping requirements, including operating procedures, are set out in the attachment to this letter. These recordkeeping requirements have been prepared in cooperation with the Department of State, the Department of Justice and the Federal Trade Commission, and are to be considered as an integral part of this letter of approval.

6. In order to carry out the test, it will be necessary for Reporting Companies to provide the IEA Secretariat and the ISAG with certain information or data on IEA questionnaire forms and IEA formats, and to submit voluntary offers to supply or receive reallocated oil, and they may have to engage in other communications with the IEA Secretariat or ISAG to clarify, amplify, correct, or supplement such data submissions and voluntary offers. Further, ISAG members may have to exchange this and other information or data among themselves, with members of the IEA Secretariat, with IEA Reporting Companies, and with NESOs. Access to such information or data and to ISAG discussions also will be open to official observers from the European Community and IEA member countries authorized by the IEA to be present at the test. Aside from the IEA questionnaire and format data and information as to voluntary offers, much of the data or information will be available from public sources, particularly that described below in paragraph 7(a) through (g). Some such information or data, while actually public information, may not be definitely known to be publicly available by those exchanging it or it may be considered confidential by some companies. Some of the data or information needed to be provided or exchanged clearly will be confidential or proprietary.

7. Accordingly, approval under section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees engaged in AST-3 to submit and exchange the types of information or data listed below which involve or might involve disclosure of confidential or proprietary information or data. However, this approval is granted only to the extent that the submission or exchange of these types of confidential or proprietary information or data is necessary to implement the oil allocation procedures of the International Energy Program as delineated in the EMM and ISOM and as elaborated in the AST-3 Test Guide, and to meet specific problems as they arise during AST-3. Approval is further limited to information or data covering the historical period October, November and December 1979 and January, February and March 1980. This approval does not cover the activities of company employees serving on NESO's or any communication between the Reporting Company or its affiliate and a NESO. Under these limitations, the submission and exchange of the following types of information or data is approved:

(a) Disaggregated October 1979 through March 1980 Questionnaire A or B data submitted during AST-3, *i.e.*, data as required by the Questionnaire A and B reporting instructions in effect for AST-3 as further defined in the AST-3 Test Guide, including:

Indigenous production of crude oil and natural gas liquids (NGLs) and feedstocks;

Crude imports and exports;

Petroleum product imports and exports (in crude oil equivalent);

International marine bunkers;

Inventory levels and changes.

This data base will be disrupted by Reporting Companies, coordinating as required with their affiliates, and by

NESOs for non-Reporting Companies operating within their boundaries, based on the Secretariat's disruption telex at the beginning of each cycle, and as elaborated during each cycle by updating telexes from the Secretariat. Reporting Companies may mask data if they so choose. Reporting Companies will rearrange their international supply plans to reflect the reduced availability of certain types of crude oil as well as certain other restrictions as indicated in the disruption telex and updating telexes and will report the new supply plan on Questionnaire A submitted to the Secretariat. In addition, each NESO will compile Questionnaire B from information or data received from Reporting Companies or their affiliates operating within its country and from non-Reporting Companies operating within its country and will submit Questionnaire "B" to the Secretariat. Company submissions to the Secretariat may include as actual undisrupted data the following:

Starting inventories as of October 1, 1979;

Indigenous crude/NGL production through all six months in the data base;

International marine bunkers.

(b) Capability of a refinery to process crude oils or specific crude oils, and the capability of a pipeline, dock, terminal or other storage or transit facility to receive, store, or throughput crude oils or specific crude oils, and physical capability of such installations to receive, store or throughput petroleum products.

(c) Capability of a port, installation, or waterway to receive or move vessels of various sizes and configurations.

(d) Main characteristics of crude grades and product types, excluding individual company product specifications.

(e) Actual and estimated historical production data on crude oil and natural gas liquids for individual countries.

(f) Specific refinery considerations that prevent acceptance or processing of certain crudes, e.g., the inability of the refinery to make certain specialty products for which the crude is particularly suited; the inability of a crude to meet certain general product specifications; hazards to refinery operations which use of a particular crude might cause; or the need for a refinery to operate at a minimum throughput level.

(g) Identification of supply logistics problems relating to certain countries.

(h) Identification of the existence of certain individual company considerations, involving:

(1) commercial policy,

(2) supply or transportation factors, or

(3) affiliate, third-party, concessional or other contractual arrangements

which would preclude or make impracticable a proposed movement of oil. In each case, these considerations only would be described as such, without disclosure of calculations or examples of specific costs, prices or other financial information, or any other underlying facts.

(i) Identification of product imbalances in certain countries or regions of certain countries, on EMM Format 7, and communications between NESOs and ISAG personnel concerning such product imbalances. Any discussion or communication about product imbalance questions with ISAG or to which ISAG personnel may have access shall not include disclosure of individual company confidential or proprietary information or data.

(j) Such additional information or data or types of information or data as may be utilized to implement the oil allocation procedures of the EMM and the ISOM as elaborated in the AST–3 Test Guide and to meet specific problems as they arise within ISAG, the disclosure of which is adequately justified in writing by the ISAG Manager or Deputy Manager and which is approved on an interim basis by a U.S. Government representative attending the test and confirmed by him in writing. Such interim approval can be terminated by the Department of Energy representative or the Department of Justice representative. Such interim approval shall not be applicable to information or data disclosed more than twenty-four hours after the interim approval is granted, unless it is extended in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the representative of the Federal Trade Commission. Such approvals shall be telexed to the Reporting Company involved, if appropriate. Any such request by the ISAG Manager or Deputy Manager shall, to the extent practicable, be processed within twenty-four hours after receipt.

(k) Clarification, amplification, correction, explanation or supplementation of the types of information or data enumerated in subparagraphs (a) through (j), provided that this subparagraph (k) does not supersede any specific prohibition contained in subparagraphs (a) through (j) or elsewhere in this letter.

8. In order to carry out the test, these data and information must be provided and exchanged on a disaggregated basis and the finding required by section 5(b)(2) of the Voluntary Agreement in this regard is hereby made, with the following limitations:

(i) During each test cycle, U.S. ISAG personnel will examine Questionnaire A's and B's to detect supply or logistical anomalies that might indicate that an error had been made by a Reporting Company or NESO in transmitting the data. After detecting a potential supply or logistical anomaly, a U.S. ISAG member may bring this to the attention of Secretariat personnel, but U.S. ISAG personnel may not discuss potential supply or logistical anomalies with any other ISAG member, any Reporting Company, or any NESO, other than the Reporting Company or NESO which transmitted the Questionnaire A or B. When responding to an inquiry from the ISAG member regarding such anomalies a Reporting Company may only confirm the accuracy of the reported data or provide corrected data. The Reporting Company may provide an explanation of such anomalies to personnel of the IEA Secretariat.

(ii) Company-specific opening inventory data shall not be made available to U.S. ISAG personnel on a routine basis, but only as necessary to solve specific supply problems when they arise. A U.S. Government observer present at the AST–3 test site may give written approval for disclosure of such data, upon receipt and consideration of a written determination by the ISAG Manager or Deputy Manager that access to such data is necessary.

(iii) The Department of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the Federal Trade Commission representative at AST–3 may terminate this approval as it applies to the conduct of any supply analysis by U.S. ISAG personnel if such analysis may lead to unwarranted disclosure of competitively sensitive supply or logistical information, or have any other unwarranted anticompetitive effect.

9. This approval does not extend to provision or exchange of:

(a) Confidential or proprietary crude oil or petroleum product prices;

(b) Costs or market shares of crude oil or products (other than those which can be derived from the Questionnaire "A" or "B" data submitted during AST–3);

(c) Individual company information regarding overall long-term investment, divestment, refining, operating, transportation or marketing programs.

10. A U.S. Reporting Company will be permitted to communicate with another Reporting Company to enable them to formulate "closed-loop" voluntary offers or to enable them to work out the logistics needed to implement Type 2 offers which have been accepted by the Allocation Coordinator. Type 2 transactions are those intended to balance allocation rights/obligations and to remove significant product imbalances. These communications will be limited to discussions of the quality and volumes of oil that would be involved in a voluntary offer and the timing or logistics involved in effecting the physical transfer of such oil. No other confidential or proprietary information or data shall be discussed or exchanged. Prices or value of the oil shall not be discussed. Type 1 transactions are transactions made by a company to satisfy its own commercial supply, distribution or logistics needs in light of Allocation Rights and Allocation Obligations notified by the IEA. Type 1 transactions will be assumed to have occurred, without inter-company communications during AST–3.

Communications between Reporting Companies (involving one or more U.S. Companies) as described in this Paragraph 10 are permitted from October 15 through October 28, 1980 (for Cycle 1) and November 16 through 26, 1980 (for Cycle 2). During the period October 29 through November 15, 1980 communciations between such Reporting Companies are permitted if, in the supplying or receiving company's opinion, it is necessary to modify a Cycle 1 Type 2 transaction approved for implementation by the Allocation Coordinator.

11. Participation in AST–3 does not create an obligation on ISAG members or Reporting Companies to exchange any information or data which may be confidential.

12. In no case shall an employee or representative of a U.S company participant in Voluntary Agreement or any affiliate of a U.S. company which affiliate is listed as a participant in the Voluntary Agreement supply to his company or any other person, any confidential or proprietary information or data obtained as a consequence of his membership in the ISAG or participation in any NESO, except such information or data as is necessary to be supplied in the course of carrying out AST–3 or related NESO activities. Upon completion of AST–3, no ISAG member may remove any documents related to the test from the IEA premises.

13. Three (3) copies of all Questionnaire "A" data shall be provided on Questionnaire "A" formats, as distinguished from telex form, to: Voluntary Agreement Coordinator, International Affairs, Department of Energy, Forrestal Building, Room 7F–031, 1000 Independence Ave., S.W., Washington, D.C. 20585.

An additional copy should be sent to each of the following: Office of General Counsel, International Trade and Emergency Preparedness, Department of Energy, Forrestal Building, Room 6E067, 1000 Independence Ave., S.W., Washington, D.C. 20585. Donald A. Kaplan, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044.

14. Any confidential or proprietary information or data exchanged or furnished pursuant to the test shall be supplied upon request to U.S. Government observers from the Department of Energy, Department of Justice or Federal Trade Commission. During AST–3 U.S. Government observers may obtain access to those offices of U.S. participants for the purpose of observing AST–3 related activities, reviewing records kept in connection with AST–3 or interviewing employees participating in AST–3.

15. This approval may be modified or revoked in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative in consultation with the Federal Trade Commission representative if developments during AST–3 indicate that modification or revocation is warranted. Any modification or revocation shall be in writing and conveyed to all participants in the Voluntary Agreement and the ISAG Manager or Deputy Manager. No modification or revocation shall have retroactive effect.

16. This approval of the test and the provision of certain data and information (including the need to provide it in disaggregated form) has been the subject of consultation with the Department of State and has been concurred in by the Department of Justice, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of correspondence reflecting our consultation with the Department of State, and the Department of Justice's concurrence in our approval, after consultation with the Federal Trade Commission, are annexed.

Sincerely,

Deputy Secretary of Energy

Requirements for Recordkeeping by U.S. Companies *Participating in the Third Allocation Systems Test (AST–3)*

1. Introduction

The following requirements apply existing U.S. recordkeeping requirements (10 CFR, Part 209) to the Fall 1980 IEA Allocation Systems Test (AST). These requirements apply to U.S. Reporting Companies and to U.S. Reporting Company employees who are members of the Industry Supply Advisory Group (ISAG) who will be participating in the test in Paris.

These requirements set out detailed recordkeeping requirements for AST–3. If experience indicates the need, the U.S. Government representatives will have discretion to allow alternative recordkeeping procedures consistent with Section 252 of the Energy Policy and conservation Act and existing regulations.

2. Definitions

For purposes of these requirements the following definitions apply:

(a) The term "Communication" means any exchange of data or other information relating to the carrying out of AST–3, except that such terms does not include administrative, procedural, or ministerial information exchanged within the test site.

(b) The term "Test Site" means that portion of the building housing the headquarters of the International Energy Agency where IEA offices and conference rooms are located and such other office space or conference rooms as may be assigned by the IEA during the test.

(c) The term "Test Site Communication" means any face-to-face communication occurring within the test site which involves two or more ISAG members, at least one of whom is an employee of a U.S. company participant in the Voluntary Agreement or its affiliates.

(d) The term "Test Site Telephone Conversation" means any telephonic communication between a U.S. ISAG member and (i) another ISAG member, (ii) a Reporting Company, (iii) any NESO representative, or (iv) the IEA Secretariat.

(e) The term "Test Meeting" means the following Test Site Communications:

(i) Meetings of the entire ISAG;

(ii) Meetings of the ISAG Country Supply, Supply Coordination or Supply Analysis subgroups;

(iii) Meetings of the ISAG manager and/or deputy manager with ISAG subgroup heads.

3. Communications by U.S. ISAG Members

(a) *Permissible Communications*

Subject to the procedures and limitations in Sections 4 and 5, the following types of oral communications are permitted:

(i) Test Site Communications;

(ii) Test Site Telephone Conversations;
(iii) Off-Site Communications;
(iv) Communications by a U.S. ISAG member with representatives of the IEA Secretariat or members of the SEQ Emergency Group. The recordkeeping requirements set out in Section 5 below do not apply to such communications.

(b) *Restrictions on Communications*

All communications shall occur on the test site except when special circumstances make an off-site communication necessary, e.g., when a need for immediate communication arises unexpectedly or otherwise makes a return to the test site impracticable, or when time zone differences involved in necessary communications would otherwise require very early morning arrival or very night stay at the test site.

4. U.S. Government Monitoring and Recordingkeeping at Paris

(a) A U.S. Government representative shall be present throughout all test meetings. He may be present during any other communications. While it is intended that U.S. Government representatives will be present continuously at the test site to monitor test meetings, communications, work sessions and individual work by ISAG members (1) during such regular work hours as ISAG adopts and (2) at any extraordinary hours if given advance notice, it will not be necessary for U.S. Government observers to be present at times other than the above for permissible communications other than Test Site Communications, or individual work by ISAG members to be undertaken.

(b) Test meetings shall be monitored by a U.S.Government employee who shall be responsible for keeping a "full and complete" written record of each session, or for ensuring that a verbatim transcript is made.

(c) U.S. Government representatives may make use of tape recording devices or other recording devices, to assist in their personal recordkeeping.

(d) The "full and complete" record of the Paris portion of AST–3 shall consist of (i) the records of all test meetings' (ii) records of other test site communications which may be taken by U.S. Government representatives; (iii) the communication records required to be supplied to U.S. Government representatives by U.S. ISAG members pursuant to Section 6(a); (iv) the telexes, written communications and other records required to be supplied to U.S. Government representatives pursuant to Sections 6(b) through (d); and (v) a daily log summarizing the overall test activities of ISAG at Paris. As they are accumulated in appropriate batches, these materials will be transmitted to the U.S. Government in Washington at approximately weekly intervals, to be correlated and analyzed with the remainder of the test records, i.e., the records of Reporting Company communications on voluntary offers and their reports of actions taken, as required pursuant to Section 7.

5. Recordkeeping Requirements for U.S. ISAG Members

Recordkeeping with respect to test site communications other than test meetings will be conducted in accordance with subsections (a) through (d) below:

(a) A U.S. ISAG member shall maintain the full and complete record of a test site communication, test site telephone conversation or off-site communication by means of entering in a standardized log the date, time, identity of the parties (by name and organization) and a description of the transaction or information discussed, including identification of any problem involved and any conclusions reached or recommendations made. In the case of an off-site communication, he shall also state the special circumstances necessitating this communication.

(b) Where a U.S. ISAG member has been assigned to joint work sessions to solve specific identified problems, the overall subject matter of which is already contained in a full and complete record of a test meeting, and the results of which will be reported at a session where a full and complete record will be maintained, then, notwithstanding subsection (a), the record of such session to be kept by the U.S. ISAG member need only include the date, time, identity of the parties and a brief identification of the substance of the discussion during the work session, with a reference to the test meeting where it was more fully discussed.

(c) Where more than one U.S. ISAG member is involved, the parties may designate who shall make and supply such records. By mutual agreement, non-U.S. ISAG members may make records of communications with U.S. Reporting Companies and with U.S. ISAG members if such records are kept in the required form and supplied to the U.S. Government representatives promptly, in accordance with these guidelines.

6. Disposition of Records at the Test Site

(a) Copies of records required to be maintained by U.S. ISAG members under Section 5 shall be submitted to a U.S. Government representative within three days following the communication involved.

(b) Documents, information or data furnished by the IEA to U.S. ISAG members to be used in balancing allocation rights and obligations, including the member country allocation rights and obligations and any other information furnished in Step 1 of the *IEA* Allocation *Implementation Steps* shall be provided to a U.S. Government representative.

(c) All documents, information or data furnished by or on behalf of U.S. Reporting Companies or the ISAG to the IEA in connection with balancing allocation rights and obligation shall be submitted to a U.S. Government representative.

(d) Telexes or other written communications from the ISAG to U.S. Reporting Companies and from U.S. Reporting Companies to the ISAG, shall be provided to a U.S. Government representative.

7. Records of U.S. Reporting Companies

(a) A U.S. Reporting Company is required to maintain intra-corporate documents relating to the Voluntary Agreement. With respect to the test, this is expected to include telexes received and sent, memoranda concerning intra-company discussions of hypothetical sales or exchanges, documentation concerning actions requested by the ISAG or proposed by a Reporting Company, and any other documents generated by the test.

(b) A U.S. Reporting Company is also required to make a full and complete record of any communication with ISAG members, including any of its own employees who are members of the ISAG, except when the Reporting Company has agreed with the ISAG or with an ISAG member that the communication will be recorded by the ISAG or the ISAG member.

(c) A U.S. Reporting Company is required to maintain copies of all written communications with another company or make a full and complete written record of any non-written communication with another company, in connection with carrying out the test, i.e., a communication with respect to developing or implementing a voluntary offer.

(d) Records of *unwritten* communications should be made in the manner described in section 5(a) of these guidelines.

(e) Each Reporting Company is required to forward within two weeks copies of all test records set forth in section 7(a) through (d) to an appropriate office at company headquarters, where they shall be maintained for five years separately from other company records. These records may be subject to U.S. Government examination during and after the test.

8. Reports of Communications with Other Companies

(a) A copy of any written communication by a U.S. Reporting Company shall be simultaneously sent to the Departments of Energy and Justice and the Federal Trade Commission by the same means of transmission as used to send the original.

(b) A U.S. Reporting Company shall make a copy of each written communication received from another company and forward it to the Departments of Energy and Justice and the Federal Trade Commission within 24 hours of its receipt by the company office and/or individual to whom it is specifically addressed.

(c) A U.S. Reporting Company shall forward to the Departments of Energy and Justice and the Federal Trade Commission, within 24 hours of its recordation, a copy of each record of an unwritten communication required to be made pursuant to Section 7(c).

(d) If a Reporting Company anticipates a substantial number of such communications with other companies, then, notwithstanding subsections (b) and (c), it may accumulate these individual reports and forward them in batches to the U.S. Government agencies at intervals no greater than three working days.

(e) Upon advance notice by the Department of Energy, U.S. Reporting Companies shall permit personnel from the Departments of Energy and Justice and the Federal Trade Commission to monitor communications with other companies by means of on-site inspections at that Reporting Companies' office or three-way conference telephone calls.

9. Reports of Actions Taken

(a) U.S. Reporting Companies must report to the U.S. Government actions taken pursuant to a plan of action. Therefore, for the purposes of AST–3, each U.S. Reporting Company shall report to the Departments of Energy and Justice actions taken as part of the test, such as details of voluntary offers made, those accepted, and simulated reallocations of supply in response to requests for voluntary offers.

(b) A report should be submitted within seven days of the end of the week in which the action was taken.

(c) The manner and particular content of a report is left to the discretion of the individual Reporting Company. It can be submitted in any fashion a company believes will best reflect what it has done.

10. Addresses of Reporting Company Reports to the U.S. Government

Reports to U.S. Government agencies required pursuant to Sections 8 and 9 should be addressed, respectively, as follows:

Office of General Counsel, International Trade and Emergency Preparedness, Department of Energy, Forrestal Building, Room 6E–067, 1000 Independence Avenue, S.W., Washington, D.C. 20585.
Donald A. Kaplan, Chief, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044.
Ronald B. Rowe, Assistant Director, Bureau of Competition, Federal Trade Commission, 425 13th Street, N.W., Suite 932, Washington, D.C. 20004.

[FR Doc. 80-25703 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Mesa Petroleum Co.; Final Action on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of comments received from the public.

EFFECTIVE DATE: August 11, 1980.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Office of Enforcement, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: On July 7, 1980, the Office of Enforcement of the ERA Published Notice of a Consent Order which had been executed between Mesa Petroleum Company and DOE. With that Notice, and in accordance with 10 CFR 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. A press release was issued simultaneously, in conformity with 10 CFR 205.199J(c). Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until the DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby gives Notice of final action taken on the Consent Order.

Comments Received

No comments were received with respect to the terms of the Consent Order.

II. Determination

The Office of Enforcement of the ERA has determined that the refund procedures as provided in the Consent Order are appropriate under the circumstances of this case.

The Office of Enforcement has concluded that the Consent Order as executed between DOE and Mesa Petroleum Company is an appropriate resolution of the compliance proceedings described in the Notice published on July 7, 1980, and hereby gives Notice that the Consent Order is made effective by written notice to mesa Petroleum Company on this date.

Issued in Kansas City, Missouri on this 7th day of August, 1980.

William D. Miller,
District Manager, Economic Regulatory Administration.

Concurrence:

David H. Jackson,
Chief Enforcement Counsel.

[FR Doc. 80-25692 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

Westate Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of July 1980. The Consent Order represents resolution of an outstanding compliance investigation by the DOE and the firm and concerns overcharges in sales of gasoline during the period covered by the audit. This Consent Order is concerned exclusively with the firm's agreement to refund overcharges through price reduction on all customer purchases.

For further information regarding this Consent Order, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, N. E. Atlanta, Georgia 30367, telephone number (404) 881–2396.

Firm name and address, settlement terms, period covered

Westate Oil Company, Milan, Tenn. Refund $52,122 through price reduction on customer purchases. Nov. 1, 1973 to Dec. 31, 1974.

Issued in Atlanta, Ga., on the 13th day of August 1980.

James C. Easterday,

District Manager of Enforcement.

[FR Doc. 25603 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

Natomas North America, Inc.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction to notice of action taken and opportunity for comment on consent order.

SUMMARY: This corrects the document that was published in **Federal Register** Vol. 45, FR 52865 (August 8, 1980). The following correction should be made in Section I. "The Consent Order." Paragraph 2, *add* the following:

"This Consent Order constitutes neither an admission by Natomas North America that ERA regulations have been violated nor a finding by the ERA that Natomas has violated ERA regulations."

Issued in Dallas, Texas on the 13th day of August 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Adminstration.

[FR Doc. 80-25643 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Alaskan Northwest Natural Gas Transportation Co., Northwest Alaskan Pipeline Co.; Notice of Application and Order Establishing Procedures

[Docket Nos. CP80-435, CP78-123, et al and RM78-12]

Issued August 1, 1980.

Notice of Application

On July 1, 1980,[1] Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1528, Salt Lake City, Utah 84110, filed in Docket No. CP80-435 an application, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), for a certificate of public convenience and necessity authorizing the construction and operation of the Alaska segment of the Alaska Natural Gas Transportation System (ANGTS), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct a pipeline commencing at the discharge side of the gas processing and conditioning facilities in the Prudhoe Bay field. The processing and conditioning facilities would receive the gas from production fields and treat and compress it to a delivery pressure of 1260 psig with an approximate temperature of 25 to 30 degrees F. The gas would be delivered into and transported by a 48 inch diameter pipeline with a pipe wall thickness varying from 0.600 to 0.864 inch depending upon location. Applicant states that, with the exception of three aerial crossings, the pipe would be installed in the buried mode at depths of from 5 to 16 feet, and would operate at temperatures between 0 and 32 degrees F.

Applicant states that the pipeline would parallel the Trans-Alaska Pipeline System (TAPS) south for 274 miles, then turn southeast at Prospect Creek, Alaska, for the next 261 miles. At Delta Junction, the pipeline would diverge from the TAPS route and continue southeast (generally along the route of the Alaska Highway) to the Alaska-Yukon border and interconnect with the Canadian segment of the ANGTS. Applicant further notes that the pipeline would cross 24 major streams requiring special construction considerations; aerial crossings would be utilized at three streams. In addition, Applicant states that there would be 38 encased wood crossings, 35 wood crossings with 56-inch casings, and 10 wood crossings with 66-inch casings. The pipeline would cross TAPS at 23 locations and the TAPS fuel line at ten locations. Applicant maintains, however, that the proposed 743 mile pipeline route minimizes adverse impact to the environment and utilizes existing transportation corridors and other facilities as well.

Pursuant to Section 13(b) of ANGTA, 15 U.S.C. § 719k(b), Applicant has agreed to transport the State of Alaska's royalty gas in the ANGTS and to withdraw such gas within Alaska. Applicant states that, after analysis of existing and potential gas markets within the State, it would provide six intermediate gas taps along the pipeline route.

Applicant maintains that, in order to provide the initial design flow rate capacity of 2,000,000 Mcf per day, seven compressor stations would be required, each rated at 26,500 horsepower. Applicant also asserts that refrigeration units would be installed at each compressor station to maintain the pipeline gas temperature within the 0 to 32 F range. Gas heaters would also be constructed at Compressor Stations No. 2 and No. 4 to assure that gas temperatures would be maintined above the hydrocarbon dew point under all operating conditions. In addition, each compressor station would include buildings for the compressors, refrigeration equipment, utilities, flammable liquid storage, gas scrubber units, pumps and living quarters.

Applicant also proposes to construct and operate two metering stations, one to measure the quantity of gas supplied to the pipeline from the Prudhoe Bay gas processing and conditioning facilities and the other to measure the gas delivered to the Canadian segment at the Alaska Yukon border.

Applicant states that it would install a supervisory control system located at the Operations Control Center in Fairbanks, Alaska, which would operate the pipeline, perform related system balancing, and consolidate functions with the gas processing and conditioning plant and the Canadian segment. Applicant also states that it would provide a communications system, operation and maintenance facilities, and temporary support facilities at various locations along the pipeline route.

Applicant states that it has prepared a Certificate Cost Estimate (CCE) for the Alaska segment in accordance with the President's *Decision and Report on the Alaska Natural Gas Transportation System (Decision)*,[2] the directions of the Commission in conditions 7 and 8 of Order No. 31,[3] and the Certification Cost Estimate format criteria developed by the Commission's Alaskan Delegate and reflecting numerous cost changes that have resulted from increased government requirements and delays since the issuance of the President's *Decision*. However, Applicant warns that this estimate is not the final cost estimate because further design and

[1] The application was initially tendered for filing on July 1, 1980. However, the $50 fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR § 159.1) was not paid until July 2, 1980. Thus, filing was not completed until the latter date.

[2] Executive Office of the President, Energy Policy and Planning (September 1977).

[3] "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions," Docket No. RM78-12 (June 6, 1979).

engineering changes would take place between the time the costs were "frozen" on April 30, 1980, in order to prepare its application, and the time the Applicant would present its final design cost estimate and construction schedule to the Federal Inspector, which is prior to actual commencement of construction.

Applicant states that the CCE for the total Alaska segment is $7,900,000,000, which includes $4,100,000,000 for pipeline and civil work, $887,000,000 for temporary facilities and services, $893,000,000 for compressor and metering stations, $97,000,000 for communications and supervisory systems, $53,000,000 for operation and maintenance facilities, $1,200,000,000 for project directorate and $846,000,000 for the normal contingency allowance.

Applicant requests a Center Point of 1,292, which is based upon risk analysis of abnormal or unlikely events that would affect project costs and does not include design changes or changes in scope. Because of both design changes and schedule delays that have taken place since issuance of the President's *Decision*, Applicant states that it has chosen a Center point without reference to the 1977 cost estimate.

Applicant requests: (1) review and approval of the Certification Cost Estimate, as submitted, and a Center Point of 1.292; (2) permission to use the index or indices in the Project Labor Agreement for deflation of direct construction labor costs; (3) provisions for adjustment of the CCE to reflect actual third-party monitoring and other government-related costs in computing the Cost Performance Ratio; (4) deferral of its comparison of the 1977 and 1980 cost estimates pending submission of Applicant's financing plan and related materials; and (5) issuance of a final unconditional certificate of public convenience and necessity after review and approval of Applicant's financing plan.

Procedural Considerations

As described more elaborately in the formal notice set forth above, Alaskan Northwest's application requests:

(1) approval of the remaining parameters necessary to implement the Incentive Rate of Return (IROR) mechanism,

(2) approval of the project sponsor's plan for financing of the Alaska segment, and

(3) a determination that the project costs do not "materially and unreasonably exceed" those considered as part of the President's *Decision*.[4]

The application further requests that the labor cost index required for administering the inflation adjustment aspect of the IROR mechanism be conformed to that defined in the terms and conditions of the project labor agreement, and that the certification cost and schedule estimate (CCSE) be adjusted to reflect actual (as opposed to estimated) third party monitoring and other government related costs in establishing the cost performance ratio.

The application omits all materials associated with financing and cost of service analysis for the Alaska segment and for the completed ANGTS. The application informs the Commission that this material is omitted because agreements have recently been reached between the project sponsors and the principal North Slope producers for finalizing the engineering and design of both the Alaska segment and the conditioning facilities required to prepare the gas for entry into the ANGTS and for developing a financing plan for the Alaska segment. The application contemplates the filing of a final financing plan as soon as practicable.

The Commission observes that there are a number of matters associated with final certification of the Alaska segment which must await the submission of the financing plan for that segment. Questions associated with marketability of the gas, the continuing relationship of the project to the national interest, and the relationship of project costs to those considered at the time of the President's *Decision*, are all matters which must be considered by the Commission in granting final certification to the Alaska segment but which are vitally affected by the financing plan for that segment. Accordingly, the Commission will defer such matters to a final certification proceeding which will be initiated upon submission of the financing plan.[5]

On the other hand, the Commission is sympathetic to the need to resolve outstanding matters regarding the IROR mechanism as it applies to the Alaska segment. Accordingly, the Commission will institute a special sub-proceeding to deal with the project sponsors' proposed CCSE and Center Point (CP) values, plus the remaining IROR matters which they have identified for resolution.

The Commission intends to utilize notice and comment procedures, rather than adjudication, to resolve these particular matters. This approach is consistent with the procedures utilized in Docket No. RM78-12 to establish the IROR,[6] and is best suited to satisfy the ANGTA mandate for expedition.[7] The notice and comment procedures will be preceded by a series of technical conferences to resolve many of the issues and to clarify those that remain.[8]

The technical conferences will be presided over by the Commission's Alaskan Delegate in conjunction with the Office of the Federal Inspector (OFI) through the Director of its Division of Audit and Cost Analysis (OFI Division Director).[9] The OFI may also provide support to this process in the form of agency personnel and contractors assisting the Division Director at the conferences. With the concurrence of the Alaskan Delegate, the OFI Division Director may preside in the absence of the Delegate. Because of the Federal Inspector's responsibilities for administering the IROR mechanism after final certification by the Commission, the Commission believes that it is appropriate for OFI representatives to be involved in the development of the remaining IROR parameters.[10]

[4] *See*, e.g., Finance Condition No. 2 at pages 36-37 of the *Decision*.

[5] Other matters, such as final resolution of quality specifications for the gas to be transported by the pipeline, can be addressed and resolved by the Commission as soon as the parties believe that those issues are ripe for decision. Still other matters, such as shipper tracking of Alaskan and Canadian segment charges, will be initiated by the Commission in due course.

[6] *See* Order No. 31 at 232-233.

[7] In its order of April 28, 1980, in Docket No. CP78-123, *et al.* (at page 74, fn. 96), the Commission noted that adjudicatory procedures "may not be the most expeditious for consideration of the cost estimates for the Alaska segment, and that the Commission may develop special procedures for consideration of those estimates." In particular, the Commission pointed to the fact that the certification cost estimate requirement flows from the President's *Decision*, not the Natural Gas Act, and that in any event review of the estimate is more akin to "ratemaking," which, pursuant to Section 403(c) of the Department of Energy Organization Act, may be conducted by rulemaking.

[8] In the event that the Alaskan Delegate determines that factual questions exist for which the project sponsors have not provided adequate supporting information, or if the Delegate perceives a need for cross-examination to resolve one or more particular, limited issues, the Delegate in his discretion may request the Commission to provide for limited cross-examination of appropriate project sponsor witnesses, or of witnesses of other parties, with that record to be certified to the Delegate. The Commission anticipates, however, that such instances would occur rarely, if at all; our preference and present intention is to resolve all of these issues through the technical conferences followed by notice, comment and reply comment on the report culminating the conferences.

[9] The OFI's Director of the Division of Audit and Cost Analysis will also be the Commission's Agency Authorized Officer at the OFI. In this context, the OFI does not function as a party.

[10] By procedural order of March 18, 1980, in Docket No. CP78-123, *et al.* (10 FERC ¶61,239), the Commission expressly modified its regulations to recognize that such consultation is both appropriate and desirable.

The conferences will be held at places and on dates to be determined by the Alaskan Delegate. The Delegate shall issue timely notice of the conferences (including place and date), such notice to be served on all persons on the restricted service list (discussed below). To the extent feasible, the notice should indicate the agenda matters to be discussed, but the discussion need not be confined to that agenda.

Any party of record in this proceeding (including the Commission's trial staff) may participate in the conferences. In addition, the Delegate may in his discretion authorize any person who is not a party to participate in the conferences if such participation would contribute to comprehensive and expeditious resolution of the matters under consideration.

The project sponsors have requested that their application, as described above, be maintained in a separately docketed proceeding with a restricted service list, to reduce the burden of serving documents on parties of limited interest. We recognize that Docket No. CP78–123, *et al.*, now comprises a large number of applications, dockets, and assorted proceedings. Accordingly, to minimize confusion and to reduce the burdens on the Commission and its staff as well as the parties, we will not at this time consolidate Docket No. CP80–435 with Docket No. CP78–123, *et al.*

On the other hand, we recognize the obvious relationship between these two dockets [11] and we anticipate that many or most of the parties in Docket No. CP78–123, *et al.*, may wish to become parties to Docket No. CP80–435. We wish to spare everyone the burden of processing duplicate petitions to intervene. Accordingly, all parties to Docket No. CP78–123, *et al.*, will be deemed to be parties to Docket No. CP80–435 as if the two dockets had been consolidated (or as if such persons had filed separate petitions to intervene in Docket No. CP80–435, which petitions had been granted).

The matters to be discussed at the technical conferences, however, raise a separate problem. These matters are highly technical and complex, and may necessitate voluminous filings that would be of interest to only a small number of parties. Accordingly, with respect to the matters to be taken up in the technical conferences presided over by the Alaskan Delegate with OFI's Division Director, a restricted service list shall be established and maintained by the Delegate. All parties who wish to be included in that service list shall forward a notice to that effect, by no later than August 15, 1980, to John B. Adger, Jr., Director, Alaska Gas Project Office, Room 3004, Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426. Any other interested person that is not a party but wishes to be included on the restricted service list for the technical conference issues should also forward a notice to that effect by the same date to the same place. Upon request, parties of record shall be included in the restricted service list as a matter of right; other interested persons shall be added to the list at the Delegate's discretion. [12] The Delegate will circulate copies of the restricted service list to all persons on that list, as an attachment to his notice of the first technical conference.

At the outset, we anticipate that many of the persons who participated in Docket No. RM78–12, the IROR proceeding, may have an interest in the technical conference issues. Accordingly, this notice and order will be served on all persons on the service list for Docket No. RM78–12.

To summarize, all parties to Docket No. CP78–123, *et al.*, shall have the right to participate in Docket No. CP80–435 as parties to that proceeding for all purposes. Filings of a general nature that are not pertinent to the IROR type issues to be pursued in the technical conferences (e.g. amendments to the application, financing plans, gas marketing studies, etc.) must be served on all parties in Docket No. CP78–123, *et al.*, as they will now be parties to Docket No. CP80–435. Such filings, however, will be filed in Docket No. CP80–435 and will be maintained there as a separate and distinct docket. Filings pertinent to the IROR type issues under consideration in the Alaskan Delegate's technical conferences (including motions and other procedural filings, as well as data and requests for data, and whether addressed to the Delegate or to the Commission) need be served only on the persons listed on the restricted service list for that sub-proceeding.

The first conference should be held in early September of 1980, in Washington, D.C., to determine procedures for future conferences. Future conferences may be held in Washington, in California, in Alaska, or at any other appropriate place. At such time as the Commission's Alaskan Delegate and OFI's Division Director determine that further conferences are unnecessary, they will submit a report to the Commission, served on all parties in Docket No. CP80–435, which details those issues about which there is general agreement and those issues on which the parties disagree and makes substantive and procedural recommendations for Commission resolution of all issues. The Alaskan Delegate and the OFI Division Director may also provide such interim reports to the parties and the Commission as they deem necessary or appropriate. The Commission will provide an opportunity for comment and reply comment on the Delegate and Division Director's final report before taking any final action based on that report.

The Alaskan Delegate will determine at the first conference, after consultation with the participants at that conference, whether transcripts will be kept of the technical conferences. The participants are encouraged to pursue their deliberations through free and open discussion. Stipulations and other agreements are encouraged, and will be included in the final report to the Commission. Unanimous agreement among the participants at a conference shall be deemed to constitute unanimous agreement among the parties. Objections to stipulations must be supported by substantial rationale.

The Alaskan Delegate (or in his absence, the OFI Division Director) is authorized to make rulings with respect to discovery of information and production of documents, either *sua sponte* or at the request of a conference participant. In the event that the Delegate (or Director) rules that information is to be provided, and the person or party in possession of that information refuses to do so, the Delegate may submit a report to the Commission describing the information or document desired and the need for its production, and requesting that the Commission issue a subpena to obtain the information. Copies of such report shall be served on all persons on the restricted service list. All parties on the restricted service list shall have an opportunity to file comments on the Delegate's report within 10 calendar days of the date of issuance of the report. If the Delegate (or Director) rules against a party requesting information, such party may refer the matter to the Commission by filing an appropriate motion, with service of copies on all persons on the restricted service list. Any party may file a response to such motion within 10 calendar days after the date of filing of the motion. [13]

We view the above described procedures for referring discovery disputes to the Commission as a necessary ultimate safeguard to protect the rights of all participants to the conferences. However, in light of the need for expedition, as mandated by ANGTA, as well as the need for precision, as mandated by the President's *Decision* and Orders No. 31 and 31–B, we would expect the participants in the conferences to cooperate fully with the Delegate and the Division Director in promptly producing the documents, data and other information that the Delegate and/or the Division Director determine to be necessary to enable them to properly prepare their report to the Commission. Routine or repeated referral of discovery issues to the Commission would not, in our view, be consistent with the ANGTA mandate for expedition.

A special concern of the Commission is that, as is evidenced by the producer-sponsor agreement on further study of design issues, certain of those issues remain outstanding. The Commission's orders establishing the IROR mechanism contemplated that all such issues would have been resolved prior to the filing of the CCSE. [14] Because of this concern, the Commission directs the Delegate to conduct the conferences in such a manner as to identify completely all of the major outstanding design issues and to address the cost consequences of alternative resolutions of those issues. The Commission requests that the Office of the Federal Inspector prepare for circulation to the persons on the restricted service list at the earliest possible time, a brief report identifying the major outstanding design issues, in order that identification of those issues could be addressed at the earliest stages of the conferences.

At present, the Commission is not certain how to deal with the question of outstanding major design issues at the time of approval of the CCSE and CP values for the Alaska segment. Accordingly, the Commission also directs that the technical conferences address the question of alternative values for the CCSE and CP parameters, depending on the alternative resolutions of the major outstanding design issues, and also address the development of guidelines for the design change process contemplated by Orders No. 31 and No. 31–B. The Alaskan Delegate and the OFI Division Director are also directed and requested to address resolution of these questions in their report to the Commission.

The Commission recognizes that the design and cost estimation process for the Alaska segment is an iterative process; that of necessity the project sponsors had to "freeze" their design at some arbitrary point in time for the purpose of preparing their application herein; and that analysis of costs based on that design would meaningfully advance the development of the ANGTS and its regulatory approval. Nevertheless, the Commission can not and will not issue final orders having substantial ratemaking consequences based on design data that fail to consider design alternatives known to the project sponsors at the time of issuance of the orders. Accordingly, the project sponsors in this proceeding (like project sponsors in any other certificate proceeding before this Commission) have an affirmative obligation to disclose voluntarily, promptly and fully all design alternatives under consideration that could have a significant impact on the cost estimates set forth in their application. [15]

The Commission believes that interested parties should have an opportunity to comment on the procedures for the technical conferences, as described above. Accordingly, any interested party may file comments on that subject. The comments should be filed with the Commission's Alaskan Delegate (at the address set forth above) no later than August 15, 1980. The Delegate is directed to review those comments with the participants at the first conference. Thereafter, the Delegate may, in his discretion, advise the Commission of any recommendations he may have as to procedural revisions that might be necessary or appropriate in light of the comments received. In view of the ANGTA mandate for expedition, however, the procedures set forth in this order shall become effective immediately on the date of issuance of this order and shall remain in effect until such time, if any, as they are revised by further order of the Commission.

The Commission orders:

(A) Any person desiring to be heard or to make any protest with reference to the above described application of Alaskan Northwest Natural Gas Transportation Company filed on July 1, 1980, in Docket No. CP80–435 should, on or before August 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any herein therein must file a petition to intervene in accordance with the Commission's Rules.

(B) Parties of record in Docket No. CP78–123, *et al.*, are hereby made parties of record in Docket No. CP80–435. The Secretary of the Commission shall add those parties to the service list for Docket No. CP80–435.

(C) The Commission's Alaskan Delegate is instructed to convene a series of technical conferences to consider the Certification Cost and Schedule Estimate and Center Point values proposed by Alaskan Northwest in its application in Docket No. CP80–435, and to consider all related Alaska segment incentive rate of return issues not previously decided by the Commission that are now ripe for decision and fall within the Commission's jurisdiction to decide. The conferences shall be conducted pursuant to the procedures set forth in this order, including utilization of a restricted service list, discovery of all information necessary to identify and resolve all outstanding issues, and recording of stipulations and agreements. The Director of the Division of Audit and Cost Analysis of the Office of the Federal Inspector is authorized to preside over the conferences jointly with the Delegate, and (with the Delegate's concurrence) to preside in lieu of the Delegate. The Delegate and the OFI Division Director shall submit a report to the Commission at the conclusion of the conferences, and may also submit interim reports. The deliberations at the

[11] Docket No. CP80–435 entails an application for a final certificate to construct and operate the same pipeline for which the same applicants were issued a conditional certificate in Docket No. CP78–123, *et al.*

[12] Interested persons who are not parties to the proceeding will not be made parties by virtue of their inclusion in the restricted service list.

[13] The Alaskan Delegate and the Division Director are not authorized to exercise the Commission's power to approve depositions or issue subpenas.

[14] *See*, e.g., Order No. 17–A, "Order Confirming the Incentive Rate of Return Mechanism and Denying Petition for Reconsideration and Clarification," Docket No. RM78–12 (Jan. 17, 1979) at page 7.

[15] In this regard, *see* "Findings and Order Issuing Certificates of Public Convenience and Necessity and Authorizing the Importation of Natural Gas" (April 28, 1980) at pages 100–101, fn. 121, and "Order Granting Applications for Rehearing in Part" (June 20, 1980) at pages 23–25, both orders issued in docket No. CP78–123, *et al.*

conferences shall be based on the most current pipeline design alternatives, and the final report shall be based on the pipeline design that is current as of the date of the final conference, including all major design alternatives under consideration by the project sponsors, whether or not such design alternatives are identified in the application.

(D) The Secretary of the Commission shall cause this notice and and order to be published in the **Federal Register**, and shall serve copies of this notice and order on all parties to the proceedings in Docket No. CP78–123, *et al.*, and Docket No. RM78–12.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25566 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80–46]

Bob's Phillip 66 Service Station; Filing of Petition for Review Under 42 U.S.C. 7194

August 14, 1980.

Take notice that Robert Cope d/b/a Bob's Phillip 66 Service Station on June 6, 1980 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 28, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Ave. S.W. Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25575 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80–79]

Bogert Bros. Exxon; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

August 14, 1980.

Take notice that Bogert Brothers Exxon on April 25, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 28, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Ave. S.W., Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25570 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80–16]

Boott Mills, Proprietors of the Locks and Canals on Merrimack River; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 14, 1980.

On July 31, 1980, Boott Mills and Proprietors of the Locks and Canals on Merrimack River (Boott Mills) filed with the Federal Energy Regulatory Commission (Commission) an application for certification of its Lowell Hydroelectric Project as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility, Lowell Hydroelectric Project, is located at Pawtucket Dam on the Merrimack River in Lowell, Massachusetts. Boott Mills states that the facility includes a proposed 15 megawatt powerplant and existing smaller generating stations at four separate locations along about 5.5 miles of canals, which would be hydraulically integrated and operated as a single project. Boott Mills states that the sole source of energy to be used is falling water which utilizes the hydraulic head of the Merrimack river at the Pawtucket Dam. The total nameplate rating of the project is projected by Boott Mills to be 22,915 kilowatts. Boott Mills further states that no part of the facility will be owned by any electric utility or by any public utility holding company, or by any person owned by either. No usage of natural gas, oil or coal is planned at the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25581 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80–589]

Central Hudson Gas & Electric Corp.; Filing

August 14, 1980.

The filing Company submits the following:

Take notice that the Central Hudson Gas & Electric Corporation (Central Hudson), on August 7, 1980, tendered for filing as a rate schedule an executed agreement dated July 15, 1980 between Central Hudson and Connecticut Light & Power Company (CL&O). The proposed rate schedule provides for the transmission of energy by Central Hudson as available and as scheduled from day to day.

The rate schedule provides for a transmission charge of $1 per megawatthour.

Central Hudson requests waiver of the notice of requirements of Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective on July 20, 1980 in accordance with the terms thereof.

Central Hudson states that a copy of its filing was served on CL&P.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25571 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP76–422]

Colorado Interstate Gas Co.; Petition To Amend

August 14, 1980

Take notice that on July 28, 1980, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76–422 a petition to amend the order issued May 9, 1977,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to transport and deliver natural gas from the Windmill Draw Contract area for the account of Cities Service Company (Cities) and to file tariff revisions on an annual basis, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order issued May 9, 1977, in the instant docket authorizes it to transport and exchange natural gas from an area consisting of portions of Sweetwater and Carbon Counties in the Greater Green River Basin in South Central Wyoming. It is stated that this order only covers natural gas from wells completed prior to January 1, 1979. Petitioner asserts that it is authorized to transport and redeliver natural gas to Cities and Kansas-Nebraska Natural Gas Company, Inc. (K-N) for Cities' account pursuant to a gas purchase and exchange agreement dated March 11, 1976. Petitioner also states that it has the option to purchase up to 25 percent of all volumes delivered to it. According to Petitioner, the balance, less fuel and unaccounted for gas, is redelivered on a thermally equivalent basis to Cities and K-N at existing delivery points located in Kearny County, Kansas, and Beaver County, Oklahoma.

Petitioner proposes to add the Windmill Draw Contract area in Sweetwater County, Wyoming, to the area covered by the order issued May 9, 1977. It is stated that gas produced from this area would not be limited to wells completed prior to January 1, 1979. Any additional facilities required to connect Cities' supplies in the Windmill Draw Contract area would be constructed under budget-type authority or pursuant to a separate certificate application, it is stated.

Petitoner also proposes to submit annually a tariff filing to keep the Commission advised of any additions or deletions of delivery points and wells covered by the gas purchase and exchange agreement hereinbefore noted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25572 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1979 (10 CFR 100.1), it was transferred to the Commission.

[Docket No. TA80–2–21 (PGA80–4, IPR80–3, LFUT80–2, TT80–2, and AP80–2)]

Columbia Gas Transmission Corp.; Proposed changes in FERC Gas Tariff

August 14, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Sixty-second Revised Sheet No. 16
Tenth Revised Sheet No. 16A
Fifteenth Revised Sheet No. 64
Third Revised Sheet Nos. 64E through 64I

These proposed changes to be effective September 1, 1980, reflect an overall decrease in Columbia's rates and consistent of the following rate adjustments:

(1) A PGA rate adjustment, pursuant to Section 20 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover an increase in the cost of gas purchased of $103,324,665 based on six months ending February 28, 1981.

(2) A Commodity Surcharge, pursuant to Section 20.2 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to flow through a deferred purchased gas credit balance of $5,621,261 at June 30, 1980, over the six month period September 1, 1980 through February 28, 1981.

(3) A Louisiana First Use Tax Sales Adjustment (LFUT) of (0.09¢) and a surcharge to flow through a credit deferred balance of $1,250,547 at June 30, 1980. Such sales adjustment and surcharge is being filed pursuant to Section 22 of Columbia's FERC Gas Tariff, Original Volume No. 1.

(4) A Transportation Adjustment and Surcharge filed pursuant to Article XI of the Stipulation and Agreement in Docket No. RP78–19, *et al.*, approved by the Commission Order issued July 3, 1979. The transportation adjustment provides for an annual reduction of $1,872,254, while the surcharge provides for the flow through of the Deferred Transportation Cost Credit Balance at May 31, 1980 of $4,736,222 over the six month period September 1, 1980 through February 28, 1981.

(5) An Advance Payment Adjustment, pursuant to Article IX of the Stipulation and Agreement in Docket No. RP76–94, *et al.*, approved by Commission Letter Order issued March 16, 1978. Such Advance Payment Adjustment provides for an annual reduction of $1,595,862.

Copies of the filing were served upon the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on

or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25573 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-478]

Columbia Gas Transmission Corp.; Notice of Application

August 14, 1980.

Take notice that on August 1, 1980, Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in docket No. CP 80-478 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation of an exchange point and the construction and operation of interconnecting facilities for the exchange of natural gas with national Fuel Gas Supply Corporation (National), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to construct a point of interconnection with National between Applicant's Line 1862 and a 12-inch National line at a point near Emporium, Cameron County, Pennsylvania. Subsequent to National's construction of a new section of 12-inch pipline, Applicant proposes herein to relocate the exchange point and construct and operate interconnecting facilities at Firstfork, Cameron County, Pennsylvania, approximately 4.3 miles southeast of the existing point of exchange. Applicant further states that the Emporium exchange point would be retired from service and the lease to operate measuring facilities there would be terminated.

Applicant estimates the cost of the proposed facilities to be $18,500 which would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25574 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. QF80-15]

Glen L. Custer; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 14, 1980.

On July 24, 1980, Glen L. Custer filed with the Federal Energy Regulatory Commission (Commission) an application for certification of as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is located three miles east of Copan, Oklahoma. Glen L. Custer states that the plant is a 175 kilowatt generator powered by an internal combustion engine, wholly owned by applicant. The plant's energy will be waste natural gas from a stripper oil well. The gas is of such low quantities that it cannot be sold to consumers or commercial users.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25575 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC80-89]

El Paso Natural Gas Company; Notice Granting Petitions for Leave to Intervene Out of Time

August 14, 1980.

On June 20, 1980, the Commission issued an Order Accepting Tariff Sheets and Granting Petitions to Intervene in Docket No. TC80-89. That order accepted tariff sheets filed by El Paso Natural Gas Company (El Paso) effectively amending its FERC curtailment plan to permit El Paso to sell and deliver to its customers volumes of gas in excess of the customers' respective peak day entitlements, as presently prescribed in El Paso's curtailment plan. El Paso requested, and the Commission authorized, such sales and deliveries on any day when the total gas volumes available for sale equals or exceeds the volumes necessary to serve all customers' requests up to peak day entitlement and to meet El Paso's own storage injection needs.

Several petitions for leave to intervene out-of-time in this proceeding have been filed with the Commission. Southern Union Company (Southern Union) states that due to an unusually heavy work load, it inadvertently failed to file its petition by June 12, 1980, the due date set by the Commission. In view of the shortened notice period—notice of El Paso's tariff filings was published in the **Federal Register** June 3, 1980 (45 FR 37511)—and the fact that Southern Union's petition was filed only one day late, it is found that good causes exists for allowing Southern Union to intervene.

The City of Willcox (Willcox) and Arizona Electric Power Cooperatives, Inc. (AEPCO), filed a petition to intervene July 2[illegible]1980, almost a month after the tariff filing was noticed in the **Federal Register** and 12 days after the order accepting El Paso's tariff sheets was issued. The reason for the delay cited by Willcox and AEPCO is that "Counsel for AEPCO only recently were informed that the filing date for petitions to intervene had passed through the receipt of petitions to intervene from other parties." Because of the shortened notice period, however, it is found that good cause pursuant to section 1.8(d) of the Commission's Rules and Regulations exists to permit the late petition to intervene.

Pacific Gas and Electric Company (PG&E) filed a petition for leave to intervene on June 25, 1980. PG&E states that it had just learned of the Commission's action through the reading of industry news letters. PG&E also complains that it has yet to receive a copy of the notice from the Commission. PG&E is mistaken if it believes the Commission has an independent responsibility to serve all of the pipelines' customers whenever a new tariff filing is made.

Sections 154.16 and 154.22 of the Commission's Rules and Regulations require a natural gas company to mail to each of its customers a copy of any tariff filing made with the Commission. The Commission is informed that El Paso made such service on Willcox and AEPCO and PG&E in this instance. Further, the Commission publishes a notice of such filings in the **Federal Register** pursuant to sections 2.1 and 154.23 of the regulations but is not required to send a copy of such notice to each of the applicant's customers. It is the duty of those customers to read the **Federal Register** and to file petitions to intervene within the time provided by the Commission. [1] However, because of the shortened notice period, it is found that good cause exists to permit the late intervention of PG&E.

In view of the foregoing, participation in this proceeding by Southern Union, the City of Willcox and AEPCO, and PG&E may be in the public interest.

Southern Union Company, the City of Willcox and Arizona Electric Power Cooperative, Inc., and Pacific Gas and Electric Company are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided however,* that participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25577 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The Federal Register Act, 44 U.S.C. § 1508, states that the publication in the **Federal Register** of a notice of hearing or of opportunity to be heard is sufficient to give notice to all persons residing within the United States.

[Docket No. CP80-471]

Granite State Gas Transmission, Inc.; Application

August 14, 1980.

Take notice that on July 31, 1980, Granite State Gas Transmission, Inc. (Applicant), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP80-471 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 375 horsepower compressor unit on its main pipeline facilities in Plaistow, New Hampshire, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant states that it purchases its entire supply of gas from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) and delivers such gas to its parent company, Northern Utilities, Inc. (Northern). It is stated that usually Tennessee can deliver Applicant's gas at an adequate pressure; however, under certain conditions Applicant must operate its existing Plaistow compressor unit to maintain high enough pressures for deliveries to Northern. Applicant states that should the Plaistow compressor unit go out of service, Northern's compressor unit at Wells, Maine, would be unable to bring the line back up to required pressure and service to approximately 15,000 Maine customers would be jeopardized.

Consequently, Applicant proposes to install and operate a second 375 horsepower compressor unit in its Plaistow Station to ensure system reliability. Applicant states it would transfer and install Northern's Wells Compressor unit which is no longer useful in its present location. Applicant estimates the total cost of relocating the unit at Plaistow would be $134,716 which would be financed by funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25578 Filed 8-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-588]

Kansas Gas and Electric Co.; Proposed Tariff Change;

August 14, 1980.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company on August 6, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff No's. 110, 113, 126, 128, 129, 132 and 134.

The proposed tariff change applies to the Economy and Emergency Service Schedules with nine (9) jurisdictional

---

---

partial requirements municipal customers and is necessary to eliminate the 10% adder to purchased power sales as ordered in FERC Rule 84.

Copies of the filing were served upon the Company's jurisdictional customers and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25579 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER80-315 and ER80-450]

Kansas City Power & Light Co.; Order Denying Rehearing, Accepting for Filing and Suspending Proposed Increased Rates, Denying Request for Waiver of Notice Requirement, Denying Motion for Summary Judgment, Consolidating Proceedings, Granting Interventions and Establishing Procedures

Issued August 1, 1980.

Our April 1, 1980, Kansas City Power & Light Company (KCP&L) submitted for filing in Docket No. ER80-315 revised rates for firm power service to 16 wholesale customers resulting in an increase of $7.4 million for the 12-month period ending May 31, 1981. KCP&L's proposed rates were based on a cost of service which reflected, *inter alia*, inclusion of full-CWIP in rate base. By order issued May 30, 1980, the filing was rejected as a change in rate under Section 205 of the Federal Power Act (Act) and accepted as an application for prospective inclusion of full-CWIP in rate base under the severe financial difficulty exception of Section 2.16(b) of our regulations. On July 1, 1980, KCP&L filed an application for rehearing of that order urging reversal and acceptance of its filing Pursuant to Section 205 of the Act. Alternatively, KCP&L requests modification of the order to reflect its subsequent filing of revised rates in Docket No. ER80-450, which are stated to be identical in all respects to those filed in Docket No. ER80-315, with the exception of the exclusion of all nonqualifying CWIP from rate base. KCP&L urges the Commission to modify the order of May 30, 1980, by accepting the original filing, consolidating the CWIP and rate proceedings, and suspending the effective date of the Docket No. ER80-450 rates for a period of time deemed appropriate by the Commission under the circumstances of the case.

On June 6, 1980, KCP&L tendered for filing in Docket No. ER80-450 proposed increased rates for service to its 16 wholesale customers located in the states of Missouri and Kansas.[1] The proposed rates provide for an annual increase of $4.7 million based on KCP&L's cost of service for the 12-month period ending May 31, 1981. The rates reflect inclusion only of qualifying CWIP in rate base KCP&L requests that, in view of purported financial difficulties, the submittal in Docket No. ER80-450 be considered a supplement to its filing in Docket No. ER80-315, that it be assigned a retroactive filing date of April 1, 1980 (the filing date assigned in Docket No. ER80-315), and that it be permitted to become effective June 1, 1980, the date originally requested in Docket No. ER80-315. Alternatively, KCP&L requests that the rates proposed in Docket No. ER80-450 become effective August 6, 1980 (60 days after filing) and, in the event the Commission concludes that a hearing should be conducted, KCP&L requests a one day suspension.

Public notice of the filing was issued on June 16, 1980, with responses due on or before July 7, 1980. Timely petitions to intervene were filed by Missouri Power & Light Company (MPL); the Cities of Osawatomie, Ottawa, Garnett, Gardner, Powona, and Baldwin City, Kansas, and the Cities of Higginsville, Salisbury, and Slater, Missouri (Cities); and Coffey County Rural Electric Cooperative Association, Inc. and United Electric Cooperative, Inc. (Coops). A late notice of intervention was filed on July 22, 1980, by the Missouri Public Service Commission, which stated that the notice was filed late because of "administrative delays." The Missouri Commission did not request any time extensions and asserted that its participation will not unreasonably delay the proceeding. In its answer filed July 18, 1980, KCP&L urged the Commission to grant intervention to MPL, the Cities, and the Coops. Since participation in this proceeding by each of the petitioners, incuding the Missouri Public Service Commission, may be in the public interest, we shall grant the requests for intervention in this proceeding as hereinafter ordered.

In addition to their petition to intervene, the Cities protest the use of certain cost of service procedures by KCP&L and urge the Commission to suspend the proposal for the maximum five month period. Further, the Cities allege price squeeze, move for summary judgment on certain issues and for consolidation with the Docket No. ER80-315 proceeding. The Coops also protest certain cost of service procedures, request a five month suspension, allege price squeeze, and request consolidation with the proceeding in Docket No. ER80-315. In its answer, KCP&L supports the motion for consolidation, objects to the requests for summary judgment and for a five month suspension, and suggests that it is not yet appropriate to address the price squeeze issue.

Discussion

As previously indicated KCP&L's filing in Docket No. ER80-315 contained non-qualifying CWIP in rate base as support for its rate increase proposal in violation of Section 2.16 of our regulations. We, therefore, rejected the filing as a Section 205 rate change application, since it was a patent nullity as a matter of substantive law. In its application for rehearing, KCP&L alleges that the Commission's action on similar CWIP filings has been inconsistent and that its filing conformed to the method used by El Paso Electric Company, which the Commission previously accepted for filing with the requirement that El Paso refile rates excluding all non-qualifying CWIP from rate base.[2] KCP&L thus argues that the Commission's treatement of its filing is "an unlawful denial of equal protection" and should be reversed. Alternatively, KCP&L urges consolidation of the two subject proceedings, modification of our order of May 30, 1980, to accept the original filing and "suspend the effective date for such *revised* rates (i.e., those filed in Docket No. ER80-450) for a period of time deemed by the Commission to be appropriate under the circumstances of this case" (Application for Rehearing, p. 5).

Section 2.16 of our regulations reflected the Commission's policy for appropriate filing requirements for public utilities that sought full CWIP treatment for generating plants under construction. Because Section 2.16

[1] *See* Attachment A for a list of customers and rate schedule designations.

[2] *El Paso Electric Company*, Docket No. ER77-488, order issued July 19, 1977.

represents a substantive filing requirment, and tender that patently fails to comply is subject to rejection. *Municipal Light Boards of Reading and Wakefield, Massachussetts* v. *F.P.C.*, 450 F. 2d 341 (D.C. Cir., 1971). KCP&L does not challenge that proposition. Instead, it argues that its filing conforms to the *El Paso* situation and that it is, therefore, entitled to comparable treatment. However, *El Paso* was exceptional in that it was one of the first filings under Section 2.16 when the industry may have been uncertain as to the proper filing requirements for rate change proposals that included CWIP requests. The *El Paso* proceeding established a basis for the Commission to advise the industry of the appropriate procedures for future filings. If any reliance is to be placed on *El Paso* as precedent, it should be for the proposition that the Commission would not countenance a rate change filing based upon full inclusion of CWIP prior to Commission approval; hence, *El Paso* was required to refile its rates excluding non-qualifying CWIP from rate base. KCP&L itself cites three cases[3] subsequent to *El Paso*, in which electric utilities filed either rates excluding non-qualifying CWIP or alternative rates. We must assume that KCP&L was on notice of the Commission's strong policy against permitting rate filings that fail to isolate non-CWIP rates for collection during the pendency of an investigation. Accordingly, KCP&L application for rehearing will be denied.

Our review of the filing in Docket No. ER80-450 and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under the Federal Power Act. We will therefore accept the proposed rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that KCP&L's tendered rates are just and reasonable. Accordingly, we will suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on January 6, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here. Neither has good cause been shown to waive our notice requirements and assign a retroactive filing date to KCP&L's submittal in Docket No. ER80-450. The Commission must view this rate proposal on its individual merits and not on the impediment of the previously tendered and rejected submittal in Docket No. ER80-315.

The motions for consolidation of Docket Nos. ER80-315 and ER80-450 are based on the existence of common facts involved in both filings and are supported by all parties. We find that the consolidation of these cases is in the public interest and we will grant the motions.

In their pleadings, the Cities and the Coops allege that the proposed increased rates may create an unlawful price squeeze. Cities assert that phasing of the price-squeeze issue is not appropriate in this proceeding because of the fundamental difference in principle between the retail rates that are about to go into effect in Missouri and Kansas and the wholesale rates. KCP&L responds that this issue is not appropriate to address because of the phasing procedures adopted by the Commission in *Arkansas Power and Light Company*, Docket No. ER79-339, order issued August 6, 1979. Consistent with prior practice, we will phase the price squeeze issue in this case. Moreover, in view of our consolidation of Docket Nos. ER80-315 and ER80-450, we anticipate that a separate initial phase will be necessary to expeditiously consider KCP&L's allegations of severe financial difficulty under Section 2.16 of the regulations. Accordingly, subject to modification by the presiding judge[6] upon a showing of good cause, this proceeding will be conducted in three phases as follows: Phase I—consideration of KCP&L's Section 2.16 application; Phase II—consideration of the rates proposed in Docket No. ER80-450; and Phase III—consideration of price squeeze in the event that the Commission determines this final phase to be necessary upon a showing by intervenors or staff that a price squeeze may continue to exist after a decision is reached on the CWIP, cost of service, capitalization and rate of return issues.

Cities move for summary determination on the issues of capital structure, rate of return, and demand allocation. KCP&L properly argues that those matters are issues of fact which should be resolved on the basis of a full evidentiary record. We agree and will deny Cities' motion for summary judgment of those issues.

The Commission orders

(A) KCP&L's application for rehearing of our order issued May 30, 1980, in Docket No. ER80-315, is hereby denied.

(B) KCP&L's request for waiver of the Commission's notice provisions to permit a retroactive filing date for its rates filed in Docket No. ER80-450 is hereby denied.

(C) The rates tendered by KCP&L on June 6, 1980, in Docket No. ER80-450 are hereby accepted for filing and suspended for five months from 60 days

[3] *Public Service Company of New Hampshire* (Docket Nos. EL78-15 and ER78-339), *Public Service Company of New Mexico (Docket No. ER77-533), and Louisiana Power & Light Company* (Docket No. ER77-533).

[4] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commision*, —— F.2d —— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[6] We note that a presiding administrative law judge has already conducted an initial conference with respect to KCP&L's Section 2.16 application in Docket No. ER80-315.

after filing, to become effective January

By the Commission

Vice president (principle financial officer)

Docket No. CP80-135 an application, as

after filing, to become effective January 6,
1981, subject to refund.

(D) Cities' motion for summary judgment of various cost of service issues discussed above is hereby denied.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and by the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by KCP&L in Docket No. ER80-450.

(F) The proceedings is Docket Nos. ER80-315 and ER80-450 are hereby consolidated for purposes of hearing and decision.

(G) The Cities, Coops, MPL, and the Missouri Public Service Commission are hereby permitted to intervene in Docket No. ER80-450 subject to the Rules and Regulations of the Commission; *Provided, however,* that participation of such intervenors shall be limited to the matters specifically set forth in their petitions to intervene; and, *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders by the Commission entered in this proceeding.

(H) The Commission Staff shall serve top sheets on or before October 14, 1980.

(I) We hereby order initiation of price squeeze procedures.

(J) Subject to modification by the presiding judge upon a showing of good cause, this proceeding shall be conducted in three phases as follows: Phase I—consideration of KCP&L's Section 2.16 application, Phase II—consideration of the rates proposed in Docket No. ER80-450; and Phase III—consideration of price squeeze in the event that the Commission determines this final phase to be necessary, upon a showing by intervenors or staff that a price squeeze may continue to exist after a decision is reached on the CWIP, cost of service, capitalization and rate of return issue.

(K) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Kansas City Power & Light Co., Docket No. ER80-450

Filed: June 6, 1980.

Dated: Undated.

Designation and other party

(1) Supplement No. 10 to Rate Schedule FPC No. 73 (Supersedes Supp. No. 9 to R. S. FPC No. 73), Missouri Power & Light Company.
(2) Supp. No. 11 to R. S. FPC No. 74 (Supersedes Supp. No. 10 to R. S. FPC No. 74), Missouri Public Service Company.
(3) Supp. No. 12 to R. S. FPC No. 69 (Supersedes Supp. No. 11 to R. S. FPC No. 69), Coffey County Rural ECA.
(4) Supp. No. 8 to R. S. FPC No. 84 (Supersedes Supp. No. 7 to R. S. FPC No. 84), United Electric Cooperative.
(5) Supp. No. 15 to R. S. FPC No. 83 (Supersedes Supp. No. 14 to R. S. FPC No. 83), City of Marshall, Missouri.
(6) Supp. No. 3 to R. S. FPC No. 87 (Supersedes Supp. No. 2 to R. S. FPC No. 87), City of Salisbury, Missouri.
(7) Supp. No. 7 to R. S. FPC No. 81 (Supersedes Supp. No. 6 to R. S. FPC No. 81), City of Slater, Missouri.
(8) Supp. No. 6 to R. S. FPC No. 79 (Supersedes Supp. No. 5 to R. S. FPC No. 79), City of Gardner, Kansas.
(9) Supp. No. 7 to R. S. FPC No. 82 (Supersedes Supp. No. 6 to R. S. FPC No. 82), City of Pomona, Kansas.
(10) Supp. No. 10 to R. S. FPC No. 72 (Supersedes Supp. No. 9 to R. S. FPC No. 72), City of Higginsville, Missouri.
(11) Supp. No. 10 to R. S. FPC No. 76 (Supersedes Supp. No. 9 to R. S. FPC No. 76), City of Prescott, Kansas.
(12) Supp. No. 11 to R. S. FPC No. 85 (Supersedes Supp. No. 10 to R. S. FPC No. 85), City of Baldwin City, Kansas.
(13) Supp. No. 12 to R. S. FPC No. 78 (Supersedes Supp. No. 11 to R. S. FPC No. 78), City of Garnett, Kansas.
(14) Supp. No. 11 to R. S. FPC No. 77 (Supersedes Supp. No. 10 to R. S. FPC No. 77), City of Osawatomie, Kansas.
(15) Supp. No. 11 to R. S. FPC No. 86 (Supersedes Supp. No. 10 to R. S. FPC No. 86), City of Carrollton, Missouri.
(16) Supp. No. 9 to R. S. FPC No. 70 (Supersedes Supp. No. 8 to R. S. FPC No. 70), City of Ottawa, Kansas.

[FR Doc. 80-25568 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1549]

Gerald P. Maloney; Filing

August 14, 1980.

Take notice that on July 22, 1980, Gerald P. Maloney (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice president and director, Appalachian Power Company, electric utility.
Vice president (principle financial officer), Columbus and Southern Ohio Electric Company, electric utility.
Vice president, Indiana-Kentucky Electric Corporation, electric utility.
Vice president and director, Indiana & Michigan Electric Company, electric utility.
Vice president, Kanawha Valley Power Company, electric utility.
Vice president and Director, Kentucky Power Company, electric utility.
Vice president and director, Kingsport Power Company, electric utility.
Vice president and director, Michigan Power Company, electric utility.
Vice president and director, Ohio Power Company, electric utility.
Vice president, Ohio Valley Electric Company, electric utility.
Vice president and director, Wheeling Electric Company, electric utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25560 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CP80-135, etc.]

Northern Natural Gas Co., et al; Order Initiating Hearing, Consolidating Proceedings, and Granting Petitions To Intervene

August 1, 1980.

Northern Natural Gas Company, Lloyd V. Crum, Applicant, Docket No. CP80-135; Northern Natural Gas Company, Respondent, City of Tipton, Iowa, Applicant, Docket No. CP79-423; Northern Natural Gas Company, Respondent, Docket No. CP79-492.

I. Northern's Application

On December 13, 1979, Northern Natural Gas Company, Division of Internorth Inc., (Northern) [1] filed in Docket No. CP80-135 an application, as amended on February 15, 1980, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation and sale of natural gas in interstate commerce. Northern seeks authority to provide increased volumes of seasonal service demand gas totaling 256,646 Mcf per day under the presently effective Rate Schedule SS-1 to certain customers purchasing gas under its Rate Schedules CD-1 and PL-1 for the 1980-81 and successive winter heating seasons. Seasonal service demand gas is available from November 27 through March 26 of each heating season to those customers of Northern who have executed a seasonal service demand service agreement. Rate Schedule SS-1 applies to volumes of gas delivered to customers in excess of the volumes delivered under the contract demand and pipeline rate schedules. Seasonal service is firm service. The proposed increased seasonal service is intended to serve Priority 1 requirements.[2]

To implement the proposed service, Northern proposes to construct and operate three compressor stations totaling 7,530 horsepower, approximately 65 miles of 4-inch through 8-inch pipeline, measurement facilities and appurtenances at an estimated cost of $15,350,800, to be financed from general corporate funds.

Northern further requests authority to realign peak day contract demand entitlements of certain of its customers within their total authorized volumes in order to permit them to maximize utilization of the additional peak day entitlements.

Notices of the application and amendment to the application were published in the Federal Register on January 11, 1980 (45 FR 2376-77), and March 4, 1980 (45 FR 14119), respectively. Petitions to intervene and notices of intervention were filed by numerous parties who are listed in the appendix to this order. The following parties filed late petitions to intervene or notices of intervention:

Wisconsin Power and Light Company
Department of Public Utilities of Virginia, Minnesota
Sac City Municipal Gas
Island Gas, Inc.
Natural Gas, Inc.
Railroad Commission of Texas
Public Utilities Commission of the City of Hibbing, Minnesota
Iowa State Commerce Commission

We find good cause to grant late intervention for each of these parties. Most of them were mailed to the Commission and arrived only a few days out of time. In addition, as stated below, the Railroad Commission of Texas filed a timely request for an extension of time to file a notice of intervention, which will be acted upon herein. The late-filed petition to intervene of Natural Gas, Inc., (NGI) will be granted since, as discussed below, it raises an issue to be pursued by NGI in this proceeding. The Public Utilities Commission of the City of Hibbing, Minnesota, provided good cause for accepting its late filing. We will grant intervention to the Iowa State Commerce Commission since it is the State agency that regulates natural gas service in the State of Iowa and since no other party is prejudiced by the granting of its intervention.

On January 29, 1980, the Railroad Commission of Texas filed a motion for an extension of 20 days to file a notice of intervention. We herein grant the Railroad Commisson's motion. The Railroad Commission filed a notice on February 19, 1980, stating its concern over the impact on existing customers if their rights to receive gas supplies are vitiated by approval of Northern's application. The Railroad Commission requests this Commission to examine fully the impact of this proposed service on existing customers and to deny the application "in the absence of clear and convincing evidence that those customers will continue to receive adequate service." On July 29, 1980, however, the Railroad Commission filed a letter stating that it has "no objection to the consideration of [Northern's application] without additional proceedings."

On January 29, 1980, a protest, petition to intervene and request for formal hearing was filed by the Brick People, Region VI of the Brick Institute of America, Dickey Clay Manufacturing Company and Griffin Pipe Products Company (Brick People), a group of industrial gas users on Northern's system. The Brick People assert that Northern's application raises several factual issues to be examined in a formal hearing. The first issue raised by the Brick People is the adequacy of Northern's gas supply over both the short and long terms to permit the proposed increase in winter season entitlements. The Brick People cite as the basis for their concern Northern's decline in net reserves, which they state is projected to continue in the future, and Northern's increased reliance on short-term Canadian imports. The second issue raised by the Brick People is the possible detriment to existing high-priority and other customers caused by the attachment of new customers resulting from approval of the new level of SS-1 service. The Brick People assert that Commission review of Northern's application must include consideration of the impact of the proposed new service on existing customers.

The third issue raised by the Brick People is whether it is economically preferable for high-priority customers to use alternate fuel rather than natural gas. The Brick People assert that in certain areas of the country electric utility companies have facilities designed to provide peak service in the summer and may be able to provide additional winter season service using existing facilities. The Brick People assert that a factual determination of the use of alternate fuels and relative benefits and detriments is appropriate.

Finally, the Brick People challenge an assertion made in Northern's application (at p. 3) that approval of the new service will reduce the North Central region's dependence on imported oil. The Brick People assert that the attachment of new high-priority customers by Northern's distributor-customers may result in curtailment of existing industrial gas users who may be forced to shift to imported oil.

On January 29, 1980, Terra Chemicals International, Inc. (Terra), a manufacturer on Northern's system, filed a petition to intervene in which it requested that an evidentiary hearing be held. Relying upon Northern's representation that its application is supported by sufficient gas supplies, Terra filed a motion on May 8, 1980, to withdraw its request for a hearing. We will grant Terra's motion below.

On April 7, 1980, and on May 12, 1980, respectively, comments were filed in this proceeding by the State of Minnesota, Office of the Governor, and the Minnesota Public Service Commission (collectively referred to as Minnesota). Minnesota, which supports Northern's application, reports that in recent years the average use of natural gas per customer has decreased in Minnesota. However, Minnesota further reports that the number of potential new gas customers is much greater than the number who can be served with gas available as a result of conservation efforts. Additionally, Minnesota foresees an energy shortage unique to that state beginning in the 1980-81 winter heating season. The causes of this shortage are the drastic decline in petroleum imports from Canada and the lack of capacity in oil pipelines to

[1] Northern, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order issued April 6, 1943 in Docket No. G-280 (3 FPC 967).

[2] Northern's presently effective curtailment plan was approved by order of November 30, 1979, in Docket No. RP78-52.

increase domestic deliveries to Minnesota. Accordingly, Minnesota states that approval of Northern's application is critically needed by that state.

On March 28, 1980, NGI, a local distribution company on Northern's system operating in the town of New Richmond, Wisconsin, filed a petition to intervene in which it requested that its allotment of increased SS–1 service of 500 Mcf per day be amended to include 300 Mcf per day of SS–1 service and 200 Mcf per day of annual, CD–1 service, to satisfy summer requirements of its high-priority customers. We note that an increase in CD–1 service is not included in Northern's application so that the purpose of NGI's request appears to be to obtain an additional amount of annual service. Under § 1.8(c) of the Commission's rules of practice and procedure, when a local distribution company such as NGI seeks in a petition to intervene an additional gas supply for sale to the public it must comply with the requirements of Part 156 of the Regulations. NGI has failed to do this. However, we will grant NGI leave to supplement its filing in order to comply with the regulations.

Upon consideration of the various pleadings filed herein, we find it appropriate to set for formal hearing certain of the issues raised by the Brick People. We will set for hearing the first two issues concerning the adequacy of Northern's gas supply and the possible detriment to existing customers due to decreased reliability of service. The hearing on the latter issue requires an inquiry into projections of both customer requirements and supply. We set these issues for hearing out of a concern that we obtain a factual basis prior to making a determination on Northern's application, which seeks authorization for a substantial increase in winter season service.

The fact that Northern seeks authorization for an increase in the total level of authorized SS–1 service distinguishes the present case from *Michigan Wisconsin Pipe Line Company*, Docket No. CP79–289, November 1, 1979, *reh. den.*, May 14, 1980, appeal pending, *General Motors Corp.* v. *FERC*, D.C. Cir. No. 80–1776 (filed July 3, 1980). In *Michigan Wisconsin*, we declined to order an evidentiary hearing on the adequacy of the gas supply to support the proposal in Michigan Wisconsin's application. Although Michigan Wisconsin sought to increase peak day service to certain customers, we determined it was not seeking to provide additional annual service above the level of volumes authorized in existing and amended certificates. *See*, order of May 14, 1980, mimeo at p. 5. In *Michigan Wisconsin*, the effect of the increased peak day service was "basically to shift gas deliveries from one period of time to another period of time", without a change in annual limits set by outstanding certificates. *Id.* We decided that no new inquiry into gas supply on an annual basis was needed. *Id.* The present case, on the contrary, involves an application for an increase in the amount of gas authorized to be sold.

We decline to set for hearing the third and fourth issues raised by the Brick People concerning the preferability of electric power use by homeowners in place of natural gas and the effect of granting the application on the North Central region's dependence on imported oil.

Both the issues are virtually identical to two issues raised in the *Michigan Wisconsin* proceeding, which we declined to set for hearing. *See*, order of November 1, 1979, mimeo at p. 5; order of May 4, 1980, mimeo at p. 7. We are satisfied that the reasons we gave in that proceeding to decline to set for hearing these two issues apply to the present case. As stated there, the issue of alternate use of electric power is primarily one of state commission concern. Order of November 1, 1979, at 5. The issue of fuel oil imports was determined to be tangential to the certificate authorization and it was further determined that approval of the certificate authorization would reduce fuel oil imports. Order of November 1, 1979, at 5; Order of May 14, 1980, at 7.

The conerns raised by Minnesota and others regarding the need for approval of this service lead us to direct the presiding administrative law judge assigned to this proceeding and the parties to make every effort to conclude this proceeding in as short a time as possible consistent with the public interest.[3]

II. Section 7(a) Applications

On July 30, 1979, Lloyd V. Crum, an individual who owns and operates a gas distribution system, whose office is in Racine, Minnesota, and who is currently a customer of Northern's, filed in Docket No. CP79–423 an application, as amended on October 18, 1979, pursuant to Section 7(a) of the Natural Gas Act, for an order directing Northern to deliver to Mr. Crum an additional 300 Mcf of gas per day under Northern's Rate Schedule SS–1. Mr. Crum seeks the additional 300 Mcf of gas per day to serve residential and a few small commercial customers in the towns of Racine and Grand Meadow, Minnesota, and their immediately surrounding areas. Mr. Crum currently has contracted with Northern for up to 450 Mcf of gas per day under Northern's Rate Schedule CD–1 and 200 Mcf under Northern's Rate Schedule SS–1.

On September 18, 1979, the City of Tipton, Iowa (Tipton) an existing municipal customer of Northern, filed in Docket No. CP79–492 an application, as amended on October 9, 1979, pursuant to Section 7(a) of the Natural Gas Act, for an order directing Northern to deliver to Tipton an additional 80 Mcf of gas per day under Northern's Rate Schedule SS–1. Tipton currently has contracted with Northern for 1,406 Mcf of gas per day under the Rate Schedule CD–1, 214 Mcf of gas under Rate Schedule SS–1, and 80 Mcf of gas under peaking service Rate Schedule PS. The 80 Mcf of additional gas sought herein would be used by Tipton to serve residential and small commerical customer requirements.

On September 27, 1979, Northern filed in Docket No. CP79–423 its answer to Mr. Crum's application.[4] Northern objected to making gas available under the Rate Schedule CD–1, as Mr. Crum initially proposed, and limited the amount of SS–1 gas it would make available to 200 Mcf per day. Mr. Crum subsequently amended his application to request SS–1 service rather than CD–1 service.

On November 2, 1979, Northern filed in Docket No. CP79–492 its answer to Tipton's application in which Northern stated its willingness to deliver to Tipton an additional 80 Mcf of gas per day, as proposed by Tipton, under Northern's Rate Schedule SS–1.

After due notice by publication in the **Federal Register** on September 24, 1979 (44 FR 55041), protests to Mr. Crum's application were filed by Northern Illinois Gas Company (NI-Gas), Iowa-Illinois Gas and Electric Company (Iowa-Illinois), Iowa Power and Light Company (Iowa Power), and North Central Public Service Company, a Division of Donovan Companies (North Central). NI-Gas and North Central subsequently withdrew their protests and petitions to intervene. Iowa-Illinois subsequently amended its petition to intervene to state it does not oppose Mr. Crum's application so long as no increase in CD–1 service is involved. Iowa Power's opposition is in regard to Mr. Crum's initial request for an increase in CD–1 service. Its opposition is no longer material since, as stated above, Mr. Crum has amended his application to seek SS–1 service in lieu of CD–1 service. Iowa-Illinois' and Iowa Power's petitions to intervene will be granted herein.

After due notice by publication of Tipton's application in the **Federal Register** on October 11, 1979 (44 FR 58779), protests were filed by Interstate Power Company (Interstate Power) and NI-Gas. Interstate Power subsequently requested that its petition for leave to intervene be withdrawn. NI-Gas subsequently amended its protest stating that it did not oppose Tipton's application so long as CD–1 service was not involved. Additional petitions to intervene were filed in Docket No. CP79–492 by Iowa Power, Iowa Public Service Company (IPS), and Iowa-Illinois, each of which will be granted herein. Iowa-Illinois, each of which will be granted herein. Iowa-Illinois and IPS stated that they do not oppose Tipton's application if Tipton would receive SS–1 gas. Iowa Power takes the position that any increase in service should be made available and apportioned system-wide, but does not request a hearing on Tipton's application.

The applications of Mr. Crum and Tipton, as stated above, seek additional SS–1 service. Northern's application in Docket No. CP80–135 is for authorization to provide additional SS–1 service to numerous existing customer's including Mr. Crum and Tipton. We conclude that consolidation of Northern's application with that of Mr. Crum and Tipton's is appropriate since it will put those other customers of Northern who are proposed to receive increased SS–1 service on the same footing with Mr. Crum and Tipton and will, accordingly, avoid a potentially discriminatory result.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application for a certificate of public convenience and necessity in Docket No. CP80–135 and the applications for a Section 7(a) order in Docket Nos. CP79–423 and CP79–492 be consolidated due to common questions of law and fact and set for evidentiary hearing in accordance with the procedure hereinafter detailed.

(2) Participation in the proceeding by all petitioners to intervene may be in the public interest.

The Commission orders:

(A) The motion of the Texas Railroad Commission for an extension of time to file a notice of intervention in Docket No. CP80–135 is hereby granted.

(B) The motion of Terra in Docket No. CP80–135 to withdraw its request for an evidentiary hearing is hereby granted.

(C) NGI is hereby granted leave to supplement its filing for the reason stated above.

(D) The filing deadline set by Section 156.7 of the Regulations is hereby waived in regard to Northern's answer in Docket No. CP79–423.

(E) Pursuant to the authority of the Natural Gas Act, particularly Section 7 and 15 thereof, the Commission's Rules of practice and procedure (18 CFR Part 1) and the regulations under the Natural Gas Act (18 CFR Chapter I, Subchapter (E)), a hearing is hereby ordered to be held on the applications in Docket Nos. CP79–423, CP79–492 and CP80–135 and those applications are consolidated for hearing.

(F) A Presiding Administrative Law Judge designated by the Chief Administration Law Judge shall preside at a prehearing conference and any subsequent hearing in these consolidated proceedings with authority to establish and change all procedural dates and to rule on all motions as provided by the rules of practice and procedure.

(G) The Presiding Judge shall convene a prehearing conference on August 13, 1980 at 10:00 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 Capitol Street, NE., Washington, D.C.

(H) Petitioners to intervene in Docket Nos. CP80–135, CP79–423 and CP79–492 are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interest as specifically set forth in their petitions to intervene; *And, provided, further*, That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix—Petitions To Intervene and Notices of Intervention Filed in Docket No. CP80–135

Northwestern Public Service Company
Minnesota Gas Company
Iowa-Illinois Gas and Electric Company
North Central Public Service Company, a Division of Donovan Companies, Inc.
Iowa Public Service Company
Northern States Power Company (Minnesota) and (Wisconsin)
Iowa Southern Utilities Company
Iowa Electric Light and Power Company
Metropolitan Utilities District of Omaha
Inter-City, Limited, Inc.
Northern Municipal Defense Group
Michigan Wisconsin Pipe Line Company
Iowa Power and Light Company
The Board of Trustees of the Municipal Gas Utilities of Cedar Falls, Iowa
Peninsular Gas Company
Great Plains Natural Gas Company
Greeley Gas Company
Lake Superior District Power Company
City of Duluth, Minnesota
Superior Water, Light and Power Company
Interstate Power Company
City of Watertown Municipal Utilities Department
Wisconsin Gas Company
Elroy Gas Inc.
High Plains Natural Gas Company
The Public Service Commission of Wisconsin
Brick People, et al.
Allied Chemical Corporation
Michigan Power Company
Nebraska Natural Gas Company
City of Tipton, Iowa
St. Croix Valley Natural Gas Company, Inc.
Farmland Industries, Inc.
Terra Chemicals International, Inc.
Minnesota Public Service Commission
Northern Illinois Gas Company
Wisconsin Power and Light Company
Department of Public Utilities, Virginia, Mn.
Sac City Municipal Gas
Island Gas, Inc.
Railroad Commission of Texas
Natural Gas, Inc.
Pubic Utilities Commission of the City of Hibbing, Minnesota
Iowa State Commerce Commission

[FR Doc. 80–25582 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–85–M

[3] In this regard, we call attention to Order No. 90, issued June 23, 1980 in Docket No. RM80–57, which provides for the appointment of a settlement judge to preside over settlement negotiations. (18 CFR 1.18)

[4] Northern's answer was not filed within the 30 day time period prescribed in Section 156.7 of the Commission's Regulations. Northern requests a waiver of the filing deadline set by Section 156.7 on the ground that its late filing will not prejudice Mr. Crum or any other party. We shall grant Northern's requested waiver of the Section 156.7 filing time.

[Docket No. CP78–123, etc.]

Northwest Alaskan Pipeline Co.; Filing of an Amendment to Partnership Agreement, and Order Inviting Comments

August 1, 1980.

Notice of the Filing of a Notice of Amendment

On February 6, 1980, Northwest Alaskan Pipeline Company (Northwest Alaskan) and Alaskan Northwest Natural Gas Transportation Company (Alaskan Northwest), a partnership formed under the laws of the State of New York (hereinafter referred to as the

Partnership), filed in Docket No. CP78–

for a period of 30 days following the

	Admission date	Percent

Partnership), filed in Docket No. CP78–123, *et al.*, a document entitled "Notice of Amendment to Partnership Agreement," in which the Commission was advised that American Natural Alaskan Company (American Natural Alaskan), a subsidiary of American Natural Resources Company, has been admitted to the Partnership as of January 1, 1980. A copy of the amendment to the Partnership Agreement (Amendment No. 2) was attached to the filing.

As described by the Partnership in its filing, the instant amendment admits American Natural Alaskan to the Partnership pursuant to section 11 of the Partnership Agreement. Pursuant to that provision, the following terms and conditions were agreed to as the basis for the admission of American Natural Alaskan: (1) American Natural Alaskan agrees to abide by all conditions and obligations of the Partnership Agreement, unless specifically waived. (2) American Natural Alaskan will make a cash contribution to the capital account of the Partnership in an amount equal to that contributed by any individual Partner for the period between the formation of the Partnership and January 1, 1980, the date of admission to the Partnership of American Natural Alaskan. (3) American Natural Alaskan will have the right to submit to the Board of Partners for inclusion in the American Natural Alaskan Capital Account certain sums expended prior to admission, called Qualified Expenditures, that the Partners determine to be of value to the project. (4) American Natural Alaskan will be entitled to a representative on the following committees of the Partnership: Executive, Audit, and Compensation. (5) Solely for purposes of Section 5 of the Partnership Agreement, American Natural Alaskan will be deemed to have been a Partner on or before March 17, 1978. (According to the Partnership, this acts to waive the requirement of section 5.2 that a Partner admitted after that date is subject to a deduction from the allocation of profits, losses and credits.) (6) The admission of American Natural Alaskan is conditioned upon the approval by the Commission of the terms and conditions of admission.

In addition, the Partnership's Notice of Amendment also states that the Partnership is willing to provide other interested persons with the opportunity to join the Partnership on the same terms as those accepted by American Natural Alaskan. The Partnership Notice indicates that the Partnership has decided that this offer will remain open for a period of 30 days following the issuance by the Commission of this notice.

The Partnership's Notice of Amendment also states that should any person join the Partnership after the 30 day period, that person will be subject to a deduction from the allocation of profits, losses, and audits of the Partnership, and that as of January 1, 1980, the rate of the discount is 10 percent.

Background

In his *Decision and Report to Congress on the Alaska Natural Gas Transportation System (Decision),*[1] the President directed that the corporation building the Alaska Natural Gas Transportation System (ANGTS) be "open to ownership participation by all persons without discrimination, except producers of Alaska Natural Gas." Accordingly, the General Partnership Agreement among the partners [2] of the Alaskan Northwest Natural Gas Transportation Co., which agreement became effective January 31, 1978,[3] provides in section 11.2 for the admission of new partners "as freely as possible, with only such restrictions on admissions and capital contributions as are necessary to maintain the financial and operating integrity of the Partnership and to treat the existing Partners as equitably as possible." Section 5.2 of the Agreement established the terms and conditions for carrying out this admission policy. Specifically, section 5.2 provides that non-contemporaneous joinder will result in a partner being subject to "an unequal allocation of all net profits and net losses and credits in the Partnership, * * * in recognition of the greater degree of financial risk, Partnership responsibility and commitment" of resources made by the original partners. This allocation was to be accomplished by discounting the otherwise equal share of the new Partner as follows:

Admission date	Percent
After commitment date	15
11–1–78 through commitment date	10

[1] Executive Office of the President, Energy Policy and Planning (September, 1977), at pages 4–5.

[2] These parties to the agreement consist of Northern Arctic Gas Co., a subsidiary of Northern Natural Gas Co.; Northwest Alaskan, a subsidiary of Northwest Energy Co.; Pan Alaska Gas Co., a subsidiary of Panhandle Eastern Pipe Line Co.; Pacific Interstate Transmission Co. (Arctic), a subsidiary of Pacific Interstate Transmission Co.; and United Alaska Fuels Corp., a subsidiary of United Gas Pipe Line Co.

[3] A copy of the Partnership Agreement was filed with the Commission on April 19, 1978.

Admission date	Percent
9–1–78 through 10–31–78	9
8–1–78 through 8–31–78	8
7–1–78 through 7–31–78	7
6–1–78 through 6–30–78	6
5–1–78 through 5–31–78	5
4–1–78 through 4–30–78	4
3–1–78 through 3–31–78	2

The discounts thus deducted from the allocation of profits, losses and credits of the new Partner would then be distributed to the original partners.

On May 26, 1978, Northwest Alaskan and Alaskan Northwest jointly filed with the Commission a "Notice of Amendment of Partnership Agreement," which amendment had been in effect since May 19, 1978. The May 19, 1978 amendment (Amendment No. 1) revised the discount schedule in section 5.2 of the original Agreement "to encourage additional members in the Partnership during the period preceding the commencement of construction on the Alaska Gas Project," and thus to facilitate private financing. The new discount schedule was as follows:

Admission date	Percent
After commitment date	15
1–1–80 through commitment date	10
7–1–79 through 12–31–79	6
1–1–79 through 6–30–79	4
7–1–78 through 12–31–78	2
3–18–78 through 6–30–78	1

In its Order of June 20, 1978,[4] The Commission considered the admission policy and discounting mechanism of the agreement and found that the policy adopted under section 11.2 was consistent with the President's *Decision.* The Commission also found (at 4) that section 5 of the agreement provided a reasonable incentive to partiipation in the ANGTS, and further found (at 8) that:

The different returns on partnership investment resulting from the operation of the discount schedule do not constitute undue discrimination. The discount is a recognition of varying degrees of risk to be assumed by the partners dependent upon date of membership * * *

The Commission held (at 9) that the increase in the discount should be reasonably related to assumptions relative to the project planning events which

Reduce financial risk so as to afford potential future partners the opportunity to

[4] "Order Transferring Conditional Certificate of Public Convenience and Necessity from Alcan Pipeline Company to Alaskan Northwest Natural Gas Transportation Company, Reviewing Relevant Portions of Underlying Partnership Agreement and Granting Intervention," Docket No. CP78–123.

assess the progress of the project before being subject to the next escalation of the discount schedule.

However, the Commision was unable to find sufficient correlation between the proposed discount schedule and actual events, particularly in later years.[5] Absent further explanation of this point by the applicants, the Commission deferred consideration of the properiety of the specific discount schedule and found (at 10–11).

Specifically, persons who join the partnership within 30 days of the date of this order shall not be subject to the discount schedule of Section 5.2. After this date, however, the then-current 2% discount rate will operate. In light of the aforementioned need for further information concerning the values in the discount schedule, however, we direct that this 2% discount rate remain in effect until such time as Alaskan Northwest has provided the Commission adequate information supporting the higher discount rates.

On February 6, 1980, Northwest Alaskan and Alaskan Northwest submitted their above described Notice of Amendment to the Partnership Agreement, for the purpose of admitting American Natural Alaskan Co. to the Partnership. This Amendment No. 2 proposes that section 5.2 (the discounting of profits, losses and credits for non-contemporaneous partners) be waived for the purposes of admitting American Natural. As described more fully above, the amendment further states that for a 30 day period following Commission notice of the amendment, any qualified entity would be accorded full partnership status on the same terms and conditions as those agreed to be the partners with American Natural. Anyone seeking partnership after the thirty day period would be subject to the 10% discount as provided for in Amendment No. 1. The amendment also provides a schedule for American Natural to fulfill its capital obligations to the partnership.

Subsequent to that date, Alaskan Northwest signed an agreement with the Alaska producers and the State of Alaska [6] for the design and engineering work for the Alaska segment of the pipeline. In this agreement, filed with the Department of Energy, the Partnership referred to its admission of American Natural Alaskan as a full partner, and reiterated its intention to allow other parties to join the Partnership on the same basis during a period of 30 Secretary of Energy forwarded a copy of this document to the Commission in July 1980.

In its June 30, 1978 Order, the Commission accepted in principle the concept of a discount schedule as a condition of partnership for new partners. Amendment No. 2 to the Partnership Agreement in effect waives this discount for the purpose of admitting American Natural to the Partnership on the same terms enjoyed by the original partners. The amendment evidently reflects the judgment of the original partners that the addition of American Natural as a partner is sufficiently valuable to warrant a waiver of the discount. Recognizing the uniquely judgmental nature of this matter, the Commissiuon is inclined to approve the waiver for American Natural Alaskan as a product of negotiation among the parties.[7] However, in light of our invitation for comment on related maters, as discussed below, the Commission will also afford an opportunity for comment on this subject as well.

Similarly, although the Commission reaffirms its 1978 determination of the appropriateness of a discount as a means of compensating the original partners for the risks they have taken, we are also inclined to accept the 30 day period for allowing a waiver of the discount (a 30 day "grace period") as a product of negotiations between the Partnership and American Natural, on the one hand, and between the Partnership and the producers and the State of Alaska, on the other; at the end of the grace period, the prevailing discount rate would once more become effective.[8] Again, in light of our invitation for comments on related matters, as discussed below, we will afford an opportunity for comment on this subject as well before making a final determination on this matter.

The 30 day grace period itself, however, will commence running on the date of issuance of this order, without waiting for the receipt of comments in response to this order. This determination is not inconsistent with our invitation for comments discussed below. We make no determination at this time as to what discount rate (or grace periods) might prevail in the future. Subject to receipt and analysis of comments, the determinations in our June 30, 1978 Order remain in effect (a maximum 2 percent discount rate, subject to waiver by the partnership if such waiver is approved by the Commission). The immediate commencement of the running of the 30 day grace period does not constitute advance approval by the Commission of any waiver that the Partnership might grant in response to its 30 day invitation; this order merely serves to provide public notice of the Partnership's offer, which offer, if accepted, would presumably result in a further filing by the Partnership with the Commission which the Commission would consider at that time.

Our publication of notice of the Partnership's offer, however, as well as its commencement on the date of issuance of this order (and its termination 30 days thereafter) is not without considerable significance. Subject to receipt and analysis of comments, the Commission has stated its inclination to approve the admission of American Natural Alaskan as a partner pursuant to the terms and conditions negotiated by the parties and submitted to the Commission in the February 6, 1980 filing; those terms and conditions include waiver of the discount rate for American Natural and any other prospective partner that responds to the Partnership's 30 day offer. Prospective partners who defer decision have no assurance as to whether the Partnership will be willing to waive the discount at any point in time in the future after the expiration of the 30 days, nor whether the Commission would approve such future waiver if offered. Nor is there any assurance as to what discount rates and schedules the Commission might approve in response to the comments received.

Regarding the appropriate discount schedule, in its Order of June 30, 1978 the Commission noted [9] that in the earlier years the discount schedule appeared to be related not only to precommitment capital investment, but also to such events as the enactment of the Natural Gas Policy Act of 1978, negotiation of Prudhoe Bay gas sales, and projections concerning the certification date. Alaskan Northwest, however, in its February 6, 1980 filing, declined to specify which events were linked to each phase of the schedule. The Partnership considers the discount schedule to be a reflection of their business judgement—their assessment

[5] In the lower range of the schedule, the discount appeared to relate to the amount of each partner's capital contribution at risk. See Order at 9, fn. 10.

[6] Cooperative Agreement for Design and Engineering of Alaska Gas Pipeline and Conditioning Plant, between Alaska Northwest Natural Gas Transportation Company, Prudhoe Bay Natural Gas Producers, and the State of Alaska, June 1980.

[7] In other words, the Commission is inclined to determine that the admission of American Natural Alaskan to the Partnership, on the terms set forth in Amendment No. 2 of the Partnership Agreement, is not inconsistent with the requirements set forth in the President's *Decision.*

[8] To be precise, the Commission reaffirms its determination that the discount rate scheme in principle is not inconsistent with the President's *Decision.*

[9] Order of June 30, 1978 at 9, fns. 9 and 10.

V 45 A G 2 2 8 0 UMI

of the relative risk of their capital expenditures to date. One could consider the discount akin to a syndication fee, which is standard business practice in ventures such as this project. As with most fees, it is an arbitrary number, its reasonableness tested only by its acceptability to all parties affected by it.

Under the Commission's Order of June 30, 1978, the governing discount (i.e., the only discount then approved by the Commission pending submission of further data) is 2 percent. The Commission believes that, since that time, events have altered the risk inherent in the project sufficiently to warrant an additional discount. The Commission believes that sufficient progress has been made on the project that the 10 percent discount now applicable under Amendment No. 1 could be appropriate, although a discount of 5 percent might well be more appropriate.

Clearly, inasmuch as the prebuild portions of the project have been certificated and the producers have signed a participatory agreement with the Partnership and the State of Alaska for one phase of the Alaskan segment of the pipeline, much risk in the venture has been obviated. On the other hand, the risk perceptions of potential investors in the project may be different from ours. They could reason that the reduction in risk inherent in events that have transpired would warrant a lesser discount (i.e., less than 10 percent) at the end of the 30 day grace period. Accordingly, the Commission will seek comment on the appropriate level of discount to be put into effect at the end of the grace period (assuming that the grace period is approved). Parties wishing to comment on the appropriate discount schedule are commended to the Commission's Order No. 31, [10] and the accompanying material in the record of that proceeding (Docket No. RM78–12) on the appropriate methodology for calculating allowances for risk exposure.

As noted above, the Commission is supportive of the principle of increasing the discount rate when events result in reduction of risk. The Commission notes that the Partnership's discount schedule calls for an increase to 15 percent at the commitment date for equity contributions to construction. The Commission does not fully understand the significance of the commitment date in terms of risk exposure to the partners. However, the Commission certainly anticipates material changes in the risk exposure of partners at the time of certain future events which the Commission can foresee. Final Commission certification, and final design and cost estimate approval by the Federal Inspector, are examples of events at which the Commission would anticipate further changes to the discount schedule. [11] The Commission particularly invites comment on the appropriateness of utilizing particular events in determing the trigger points on the discount schedule

The Commission orders:

(A) Any person desiring to be heard or to make any protest with reference to the above described Notice of Amendment of Partnership Agreement should on or before August 22, 1980, file with the Federal Energy Regulatory commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the instant proceeding must file a petition to intervene in accordance with the Commission's rules. (Persons who are already parties of record in Docket No. CP78–123, *et al.*, need not file additional petitions to intervene.)

(B) Parties of record in Docket No. CP78–123, *et al.* (including persons who have filed petitions to intervene which are pending for decision on the relevant deadlines) are invited to submit comments and reply comments on the matters discussed in this order. The Commission particularly desires comment on the appropriate level of the discount for prospective new partners in Alaskan Northewest, including appropriate rates and schedules for such discounts. Comments may also be submitted with respect to the Partnership's Amendment No. 2, including the waiver of discount for American Natural Alaskan as well as for any prospective partner that accepts the Partnership's 30 day grace period offer. Comments may be filed on or before August 22, 1980, and reply comments may be filed on or before September 5, 1980. Comments and reply comments should be served on all parties of record in Docket No. CP78–123, *et al.*

(C) The Secretary shall cause prompt publication of this notice and order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25563 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[10] "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions," Docket No. RM78–12 (June 6, 1979). *See*, especially, the discussion of the Project Risk Premium at pages 72–80.

[11] Because of our inability to anticipate fully the nature of risks at those junctures, the Commission would prefer to seek comment at those times on the appropriate changes to the discount schedule on each of those occasions.

[Docket No. ER80–454]

Ohio Edison Co.; Order Accepting for Filing and Suspending Proposed Rate Schedule Changes, Granting Intervention, Denying Motions, Establishing Hearing Procedures and Phased Price Squeeze Procedures

August 1, 1980.

On June 10, 1980, Ohio Edison submitted for filing a proposed increase in rates for full requirements service to its 21 municipal wholesale customers (Customers). [1] The proposed rates would result in increased revenues of $14,382,000 (37.6%) for the twelve months following the proposed effective date of August 8, 1980. Ohio Edison concurrently filed a proposed increase in rates for partial requirements wholesale service. Although Ohio Edison has offered to make such service available, none of the affected customers presently takes partial requirements service from Ohio Edison.

Ohio Edison currently renders full requirements service to Customers under separate rate schedules which provide for service either at a primary voltage level (below 15 kV) or a transmission level (above 15 kV). [2] Under the proposed full requirements rates, Customers would receive service under a single rate containing a surcharge provision applicable to Customers at primary voltage. Both the current and proposed rates are subject to tax and fuel adjustment clauses. As with the proposed full requirements rates, Ohio Edison proposes to convert its existing partial requirements rates for service at transmission voltage and primary voltage levels from separate rates to a single rate with a surcharge for service at primary voltage.

Notice of Ohio Edison's filing was issued on June 16, 1980, with comments required to be filed on or before July 7, 1980. On July 7, 1980, Customers jointly

[1] See Attachment for a list of customers and rate schedule designations.

[2] Three municipal cutomers are served at the primary voltage level while 18 are served at the transmission voltage level.

filed a timely protest, petition to intervene, motion to reject and motion for summary judgment. [3]

Customers allege a variety of filing requirements deficiencies [4] and therefore request that the Commission reject the filing for failure to comply with the Commission's regulations. In the alternative, Customers contend that the proposed rates should be suspended for the maximum statutory period of five months.

Customers further request summary disposition of several issues reflected in Ohio Edison's cost of service. These matters include:

(1) An alleged rate design error in the development of the primary voltage service rates;

(2) Use of a capital structure that includes the common equity of a subsidiary—Pennsylvania Power Company;

(3) Calculation of interest expense, for tax purposes, on a non-synchronized basis;

(4) Failure to synchronize fuel clause revenues and expenses for the test period;

(5) Use of beginning and end of year plant balance averages;

(6) An alleged improper allocation of administrative and general expenses and payroll taxes;

(7) Annualization of certain expenses (wages, pensions and nuclear fuel disposal costs); and

(8) An alleged failure to flow through certain investment tax credits in accordance with the company's election to flow through those investment tax credits.

In addition to the above-identified matters, Customers raise a number of cost of service issues and allege that Ohio Edison's proposed rates will create a price squeeze.

Discussion

Initially, we find that participation in this proceeding by Customers may be in the public interest. Consequently, we shall grant them intervenor status.

Our review of Ohio Edison's filing indicates that it substantially complies with the filing requirements contained in § 35.13 of the Commission's regulations. Customers' motion to reject will therefore be denied. However, according to our analysis the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rate schedules for full and partial requirements service for filing and suspend them as ordered below. Although Ohio Edison is not currently providing partial requirements service, the rates proposed for such service are based on the same cost data as those submitted in support of the full requirements rates, and the cost allocation methodologies utilized in developing each of the rates are essentially the same. Thus, the same suspension period is appropriate with respect to the rates for both types of service.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings. [5] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "any (emphasis added) rate or charge that is not just and reasonable is herby * * * declared unlawful." [6] This declaration places on the Commision a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that Ohio Edison's tendered rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effet subject to refund thereafter on January 10, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

Based upon our review of the information provided by Customers in support of their motion for summary disposition, we find that such action is not warranted with respect to the issues raised. As with the other cost of service issues identified by Customers, these matters should be considered on the basis of an evidentiary record compiled at the hearing ordered below.

In accordance with the Commission's policy established in *Arkansas Power & Light Company*, Docket No. ER79–339, order issued August 6, 1979, we shall phase the price squeeze issue raised by Customers. As we have noted in previous orders, this procedure will allow a decision first to be reached on the cost of service, capitalization and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

As previously indicated, Ohio Edison's proposed rates are subject to a tax adjustment clause provision. Implementation of any change under the tax adjustment clause will require a timely filing with the Commission pursuant to § 35.13 of the Commission's regulations.

The Commission orders:

(A) Ohio Edison's proposed full and partial requirements rates are hereby accepted for filing and suspended for five months to become effective, subject to refund, on January 10, 1981.

(B) Customers' motion to reject the filing is hereby denied.

(C) Customers' motion for summary disposition of various cost of service issues is hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and the

[3] Ohio Edison responded to Customers' contentions in an answer filed under a miscaptioned docket on July 22, 1980. Since nothing raised in Ohio Edison's answer would suggest determinations other than those expressed in this order, we will not separately address that answer.

[4] The purported deficiencies relate primarily to the sufficiency of Ohio Edison's explanations of the derivation of certain Period II estimates.

[5] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, —— F.2d —— (D.C. Cir. May 30, 1980).

[6] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a formal settlement conference in this proceeding to be held within 10 days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(F) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) Customers are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act: *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petition to intervene: *And provided, further,* That the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(H) The Commission staff shall serve top sheets in this proceeding on or before October 27, 1980.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Ohio Edison Company

[Docket No. ER80-454]

Filed: June 10, 1980.

Designation and other party

(1) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 142 (Supersedes Supplement No. 2 to Supplement No. 2)—Amherst

(2) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 2 to Supplement No. 2)—Beach City

(3) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 2 to Supplement No. 2)—Brewster

(4) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 2 to Supplement No. 2)—Columbiana

(5) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 126 (Supersedes Supplement No. 2 to Supplement No. 2)—Cuyahoga Falls

(6) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 127 (Supersedes Supplement No. 2 to Supplement No. 2)—Galion

(7) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 128 (Supersedes Supplement No. 2 to Supplement No. 2)—Grafton

(8) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 129 (Supersedes Supplement No. 2 to Supplement No. 2)—Hubbard

(9) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 130 (Supersedes Supplement No. 2 to Supplement No. 2)—Monroeville

(10) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 131 (Supersedes Supplement No. 2 to Supplement No. 2)—Husdon

(11) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 132 (Supersedes Supplement No. 2 to Supplement No. 2)—Lodi

(12) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 133 (Supersedes Supplement No. 2 to Supplement No. 2)—Lucas

(13) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 134 (Supersedes Supplement No. 2 to Supplement No. 2)—Milan

(14) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 135 (Supersedes Supplement No. 2 to Supplement No. 2)—Prospect

(15) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 136 (Supersedes Supplement No. 2 to Supplement No. 2)—Seville

(16) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 137 (Supersedes Supplement No. 2 to Supplement No. 2)—South Vienna

(17) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 138 (Supersedes Supplement No. 2 to Supplement No. 2)—Wadsworth

(18) Supplement No. 3 to Supplement No. 2 to Rate Schedule FPC No. 139 (Supersedes Supplement No. 2 to Supplement No. 2)—Wellington

(19) Supplement No. 3 to Supplement No. 3 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 2 to Supplement No. 3)—Oberlin

(20) Supplement No. 3 to Supplement No. 3 to Rate Schedule FPC No. 141 (Supersedes Supplement No. 2 to Supplement No. 3)—Niles

(21) Supplement No. 3 to Supplement No. 3 to Rate Schedule FPC No. 122 (Supersedes Supplement No. 2 to Supplement No. 3)—Newton Falls

(22) Original Sheet Nos. 18 through 21 Under FERC Electric Tariff, Original Volume No. 1 (Supersedes Original Sheet Nos. 10 through 17)—Partial Requirements Tariff Customers

[FR Doc. 80-25584 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-137]

Oklahoma Natural Gas Gathering Corp.; Application for Staff Adjustment

August 14, 1980.

On July 29, 1980, Oklahoma Natural Gas Gathing Corporation (ONGG) filed an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). The requested adjustment would exempt ONGG from making filing under the Commission's incremental pricing regulations, 18 CFR Part 282. ONGG states that the requested relief is necessary to prevent hardship, inequity and unequal distribution of burdens.

ONGG maintains that it sells all of the gas which it purchases to Cities Service Gas Company (Cities Service) and to eight residential farm tap customers. ONGG also maintains that since the only customer to which ONGG's incremental gas costs flow is Cities Service, it serves no useful purpose to require ONGG to receive and determine the maximum surcharge absorption capacity (MSAC) against which the incremental pricing surcharges will have to be assessed on a monthly basis and make reports pursuant to § 282.603 of the Commission's regulations. ONGG alleges that the subject requirements are overly burdensome given its unique situation and that no purpose will be served by requiring it to duplicate the information which Cities Service has and reports.

Accordingly, ONGG requests that it be permitted to (1) determine the incremental natural gas costs that would require a surcharge above a base rate on its system each month and report those costs to Cities Service so that Cities Service can use those costs in determining the allocations of incremental costs to its MSAC's, (2) be exempt from performing all other tasks required by the incremental pricing rules.

Any person desiring to be heard or to protest this adjustment shall file a petition to intervene or protest in accordance with the provisions of § 1.8 or § 1.10 of the Commission's rules of practice and procedure. All petitions to intervene or protest shall be filed with the Secretary of the Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426, and must be filed on or before September 8, 1980. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make the protestant a party to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25585 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL80-38; Project Nos. 405, 1025, 1881 and 1888]

Philadelphia Electric Power Co. & Susquehanna Power Co., Safe Harbor Water Power Co., Pennsylvania Power & Light Co., York Haven Power Co.; Order Providing for Hearing

August 14, 1980.

By separate orders issued this same day, the Commission has granted new licenses for the four licensed hydroelectric projects on the Susquehanna River: Conowingo Project No. 405 (Philadelphia Electric Power Co. & Susquehanna Power Co.); Safe Harbor Project No. 1025 (Safe Harbor Water Power Co.); Holtwood Project No. 1881 (Pennsylvania Power & Light Co.); and York Haven Project No. 1888 (York Haven Power Co.), hereinafter referred to collectively as "the licensed Susquehanna projects."[1] A common question raised by intervenors, state and federal agencies, and others with respect to each of the licensed Susquehanna projects was whether or not the respective licensees should be required to construct and operate fish passage facilities at their projects.[2]

Large numbers of anadromous fish once migrated up the Susquehanna River through Maryland and Pennsylvania and as far upstream as New York. Records of the National Marine Fisheries Service indicate that over 7 million pounds of American shad were taken commercially in Maryland in 1889, prior to major dam construction on the Susquehanna. The construction of York Haven Project No. 1888 in 1904, Holtwood Project No. 1881 in 1910, Conowingo Project No. 405 in 1928 and Safe Harbor Project No. 1025 in 1928 blocked access to spawning areas for anadromous fish stocks. Since that time the American shad fishery in the Susquehanna River has declined to extremely low levels. In addition to the physical obstruction of migration, problems of water quality and fishery management also appear to have contributed to the decline of anadromous fish in the Susquehanna River Basin.

A number of studies of the decline of the anadromous fishery resources and the feasibility of fish passage facilities have been conducted by state and federal agencies, the licensees of the licensed Susquehanna projects and others. The various interested parties have held differing positions on the suitability of the Susquehanna for restoring anadromous fish stocks and the technical and economic feasibility of installing fish passage facilities at the licensed Susquehanna projects. The licensees of these projects maintain that the evidence to date does not justify the installation of fish passage facilities. The licensees question whether the anadromous fish would utilize fish passage facilities and whether the cost of installing such facilities would be justified in light of any benefit to the anadromous fishery that could be derived. Philadelphia Electric Power Company, licensee for Conowingo Project No. 405, stated that, as a compromise, it would accept a condition in the Conowingo Project license requiring the construction of fish passage facilities at a maximum cost of $5 million, provided such a condition were included in the license as a result of such studies as are deemed necessary by the FERC. The licensees for the Safe Harbor, Holtwood and York Haven Projects recommended that the issue be placed into a separate docket for Commission consideration following the relicensing of the Susquehanna licensed projects.

In light of the unresolved questions regarding the feasibility and cost of installing fish passage facilities or undertaking other mitigative measures at the licensed Susquehanna projects, we find that this matter will be best resolved in a hearing. The hearing should focus on the status of the andromous fishery in the Susquehanna River Basin and its environs, the effects of project operations on the anadromous fishery, and the feasibility, including costs and benefits, of measures to protect or enhance those fishery resources. In addition to the consideration that must be given to the feasibility, design and cost of fish passage facilities, the proceeding should investigate, as well, any other measures that would be required for the restoration of a viable anadromous fishery in the Susquehanna River Basin, including but not limited to, hatchery programs and flow releases.

At such time as the scope of the proposed action on the fishery resource matters is sufficiently defined, the Commission staff shall determine the need, if any, for the preparation of an environmental impact statement.

Deferring resolution of the anadromous fisheries question while going forward with issuing new licensees for the licensed Susquehanna projects will not in any way diminish our authority to resolve this question. The Commission has reserved sufficient authority in the new licenses concurrently issued for the licensed Susquehanna projects to require the licensees to undertake any appropriate measures related to the fishery resources of the project area.

The Commission orders:

(A) Pursuant to the provisions of the Federal Power Act, particularly Sections 10(a), 10(g), 308, and 309, the Commission's rules of practice and procedure, and the licenses for FERC Project Nos. 405, 1025, 1881 and 1888, a hearing shall be held to determine the status of the anadromous fishery in the Susquehanna River Basin and what measures, if any, should be required of the licensees of FERC Project Nos. 405, 1025, 1881 and 1888 to protect or enhance that anadromous fishery. Such measures shall include, but not be limited to, fish passage facilities, hatcheries, flow releases, and other operational constraints.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall preside at the hearing in this proceeding. The Presiding Judge shall convene a prehearing conference in this proceeding at 10:00 a.m. on September 30, 1980 at the Commission's offices, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) All parties to the relicensing proceedings for FERC Project Nos. 405, 1025, 1881 and 1888 shall be parties to this proceeding. Others who desire to participate as a party in the hearing

[1] The Conowingo Project is the first dam on the Susquehanna River 10.0 miles upstream from the mouth of the river on Chesapeake Bay. The Holtwood Project, Safe Harbor Project and York Haven Project are located upstream from Conowingo in that order.

[2] Comments in favor of installing fish passage facilities at the licensed Susquehanna projects now or at sometime in the future were offered by, *inter alia*, Susquehanna River Basin Commission, Pennsylvania Fish Commission, Pennsylvania Department of Environmental Resources, Pennsylvania Federation of Sportsman's Clubs, U.S. Department of the Interior-U.S. Fish & Wildlife Service, U.S. Environmental Protection Agency and U.S. Department of Commerce-National Marine Fisheries Service.

V 45 A G 22 80 UMI

must file on or before September 15, 1980 a petition to intervene in accordance with § 1.8 of the Commission's rules of practice and procedure.

(D) The Secretary shall cause prompt publication of this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25586 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-447]

Public Service Co. of Colorado; Order Accepting for filing and Suspending Rates, Granting Intervention, Initiating Hearing and Establishing Procedures

August 1, 1980.

On June 5, 1980, Public Service Company of Colorado (Company) tendered for filing proposed rates for electric service to its ten wholesale customers who are each served by a separate rate schedule. [1] The cost of service submitted in support of the proposed increased rates reflects inclusion in the Company's rate base of construction work in progress (CWIP) for (1) pollution control facilities and (2) the Company's Pawnee Electric Generating Station. The latter CWIP item is proposed to be included in rate base on a showing of "severe financial stress" after a final order on rehearing in this proceeding. The proposed rates, which include both CWIP items in rate base, would increase revenues by $16,884,000 (53.7%) for the test period ending December 31, 1980. However, in view of § 2.16(b) of the Commission's regulations, [2] the Company included alternate revised rates which did not reflect inclusion in rate base of CWIP related to the Pawnee Station. Such alternate rates result in an increase in revenues of $10,721,348 (34.1%). The Company requests that if the alternate rates are accepted and suspended, the suspension period be limited to one day.

Notice of the filing was issued June 11, 1980, with responses due on July 3, 1980. Petitions to intervene and protests were filed by Central Telephone and Utilities Corporation, Southern Colorado Power Division (CTU) on June 30, 1980, and by Intermountain Rural Electric Association (IREA) on July 2, 1980. On July 1, 1980, the City of Glenwood Springs filed a petition to intervene. Protests were filed on June 30, 1980, by the City of Burlington and on July 2, 1980, by the Town of Julesburg. An untimely notice of intervention was filed by the Public Service Commission of Colorado on July 7, 1980.

[1] See Attachment for rate schedule designations.

[2] Section 2.16(b) provides in pertinent part that "[i]n no event shall a utility collect amounts related to CWIP under this subsection, subject to refund, prior to the issuance of a final order on rehearing approving inclusion of such amounts in rate base."

Discussion

We will treat the Company's filing which included CWIP for the Pawnee Electric Generating Station in rate base as an application under § 2.16(b) of the Commission's regulations. Accordingly, we will consider the alternate rates which do not include CWIP for the Pawnee Station in rate base to be the rates tendered for filing in this docket.

Our review indicates that the Company's alternate rates may produce excessive revenues [3] and have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Thus, we will accept the alternate rates for filing and suspend them as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings. [4] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that *"any* (emphasis added) rate or charge that is not just and reasonable is hereby * * * declared unlawful.[5] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards. Such circumstances are presented here. The Commission is unable to conclude on the basis of the filings before it that the Company's alternate rates are just and reasonable, and believes that the rates may be unjust and unreasonable. Accordingly, we shall suspend the rates for a period of five months permitting the rates to take effect subject to refund thereafter on January 4, 1981.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. No such showing has been made here.

Our review also reveals that the Company functionalized general plant on a basis other than wage and salary ratios. In accordance with our policy on this matter, the Company shall have the burden—in the hearing to be ordered in this proceeding—of showing that the use of wage and salary ratios is unreasonable as applied to the Company.[6]

The application under § 2.16(b) is also accepted for filing and the matters raised in the application will be considered at the hearing to be held pursuant to this order. Additionally, the hearing will be phased, and this application will be considered in Phase I of the proceeding, subject to modification of this procedure by the presiding judge upon a showing of good cause.

All petitions to intervene are hereby granted. Such petitions have been filed by wholesale customers which have a direct interest in this proceeding.[7] In addition, we find that good cause exists to authorize late intervention by the Colorado Public Service Commission.

Numerous issues were raised in the petitions to intervene and protestss filed by CTU and IREA. They will have full opportunity to have these issues explored at the hearing.

The Commission orders: (A) Public Service Company of Colorado's proposed rates which included CWIP for Pawnee Electric Generating Station in rate base are hereby considered to be an application for the inclusion of CWIP in rate base under § 2.16(b) of the Commission's regulations. The application will be considered at the hearing herein ordered to be convened in this proceeding, but the rates proposed therein shall not become effective, if at all, until after the Commission approves such application.

(B) This proceeding shall be phased, with the application under § 2.16(b) to be considered in Phase I. The presiding judge may order a change in this schedule for good cause.

(C) Public Service Company of Colorado's proposed alternate rates which do not include CWIP for the Pawnee Electric Generating Station in rate base are hereby accepted for filing and suspended for five months, to become effective January 4, 1981, subject to refund at the outcome of this proceeding.

(D) The Public Utilities Commission of Colorado; Central Telephone and Utilities Corporation, Southern Colorado Power Division, Intermountain Rural Electric Association, and the City of Glenwood Springs are hereby allowed to intervene in this proceeding; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene or notices of intervention; *And provided, further,* That the admission of any intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(A) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and to the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Public Service Company of Colorado as well as the issues raised in the application for inclusion of CWIP in rate base under § 2.16(b).

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within 15 days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. This conference shall be held for purposes of establishing a schedule for expeditious consideration of the application for CWIP relief under § 2.16(b). A second prehearing conference shall be scheduled within 10 days of the service of top sheets. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's rules of practice and procedure.

(G) Public Service Company of Colorado must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing its general plant.

(H) Staff shall serve top sheets in this proceeding by October 23, 1980.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[3] Our analysis indicates that the proposed increased rates result in excess revenues for all customers except Colorado-Ute. However, we will also suspend the proposed increase to Colorado-Ute since, under the terms of an agreement with the Company, the amount of the proposed increase to Colorado-Ute must be decreased if a settlement lowers the rate increases to the other wholesale customers. *See Public Service Company of Colorado,* Order Approving Settlement, Docket No. ER78-507 (October 9, 1979).

[4] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission,* —— F.2d —— (D.C. Cir. May 30, 1980).

[5] Section 205(a) of the Federal Power Act, section 4(e) of the Natural Gas Act, and section 15 of the Interstate Commerce Act.

[6] *Minnesota Power & Light Co.,* Docket Nos. E-9489, E-7502, ER76-20 (October 30, 1978); *Missouri Public Service Co.,* Docket No. ER80-108 (January 22, 1980).

[7] The pleadings submitted by the City of Burlington and the Town of Julesburg are construed as being protests under § 1.10 of the Commission's regulations. Thus, they are not granted intervenor status in this proceeding.

Public Service Co. Colorado Rate Schedule Designations

Filing Date: June 5, 1980.

Dated: Undated.

Other Parties: Wholesale Customers, as indicated.

Designation	Description
City of Aspen, Colo.:	
Supplement No. 9 to Rate Schedule FPC No. 3 (Supersedes Supp. No. 8).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 3 (Redesignation of Supp. No. 1 to Supp. No. 8).	Fuel Cost Adjustment Clause.
Town of Lyons, Colo.:	
Supplement No. 9 to Rate Schedule FPC No. 6 (Supersedes Supp. No. 8).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 6 (Redesignation of Supp. No. 1 to Supp. No. 8).	Fuel Cost Adjustment Clause.
Home Light and Power Co.:	
Supplement No. 13 to Rate Schedule FPC No. 9 (Supersedes Supp. No. 12).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 13 to Rate Schedule FPC No. 9 (Redesignation of Supp. No. 1 to Supp. No. 12).	Fuel Cost Adjustment Clause.
City of Glenwood Springs, Colo.:	
Supplement No. 8 to Rate Schedule FPC No. 11 (Supersedes Supp. No. 7).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 8 to Rate Schedule FPC No. 11 (Redesignation of Supp. No. 1 to Supp. No. 7).	Fuel Cost Adjustment Clause.
Colorado-Ute Electric Association, Inc.:	
Supplement No. 15 to Rate Schedule FPC No. 12 (Supersedes Supp. No. 13).	Schedule of Rates for Service (Including Transmission Agreement).
Supplement No. 1 to Supplement No. 15 to Rate Schedule FPC No. 12 (Redesignation of Supp. No. 1 to Supp. No. 13).	Fuel Cost Adjustment Clause.
Central Telephone & Utilities Corp.: (Southern Colorado Power Division):	
Supplement No. 9 to Rate Schedule FPC No. 13 (Supersedes Supp. No. 6).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 13 (Redesignation of Supp. No. 1 to Supp. No. 6).	Fuel Cost Adjustment Clause.
Intermountain Rural Electric Association:	
Supplement No. 3 to Supplement No. 2 to Rate Schedule FERC No. 21 (Supersedes Supplement No. 2 to Supplement No. 2 to FERC No. 21).	Schedule of Rates for Service.
City of Burlington, Colo.:	
Supplement No. —— to Rate Schedule FPC No. 15 (Supersedes Supp. No. ——).	Schedule of Rates for Service.
Supplement No. 1 to Supplement No. —— to Rate Schedule FPC No. 15 (Redesignation of Supp. No. 1 to Supp. No. ——).	Fuel Cost Adjustment Clause.
Town of Center, Colo.:	
Supplement No. —— to Rate Schedule FPC No. 17	Schedule of Rates for Service.

[FR Doc. 80-25587 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-73]

S&R Shell Service Station; Filing of Petition for Review

August 14, 1980.

Take notice that S&R Shell Service Station on July 14, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 28, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Ave. SW., Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25586 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RA80–60]

Shoreline Texaco; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

August 14, 1980.

Take notice that Ahmad Avash d.b.a. Shoreline Texaco on June 17, 1980 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before August 28, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Ave. SW., Washington, D.C. 20585. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25585 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. GP80–110]

State of Ohio § 108 NGPA Determination; BSC Natural Resources Corp. Pallant #1 Well et al. (JD80–42000 through JD80–42003 and JD80–42008 through JD80–42013); Notice of Preliminary Finding

Issued August 4, 1980.

On June 20, 1980, the Ohio Department of Natural Resources (Ohio) notified the Commission of its determinations that the subject wells [1] of BCS Natural Resources Corporation qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*

Section 108(b)(1) of the NGPA provides that in order for natural gas to qualify as stripper well natural gas, the well must have produced nonassociated natural gas at its maximum efficient rate of flow (MER) and production must not have exceeded 60 Mcf per production day for the 90-day production period preceding the date on which the application for determination under section 108 was made.

The records submitted with the Ohio determinations indicate only the total annual volumes of natural gas produced by the subject wells in 1979. Monthly production records, required under § 274.206(a)(2), which cover the 90-day production periods upon which the applications were based, were not included in the record. Thus the applications failed to satisfy section 108(b) in that this section specifically requires such production data for this 90-day period. Furthermore, crude oil production data for the 90-day period required under § 274.306(a)(8) were also omitted.

Finally, section 274.206(a)(7) (i) and (ii) require the applicant to state the number of days during the 90-day qualifying period in which a well did not produce natural gas and the reasons for the failure to produce. The applications covering the subject wells contained only the following statement in reference to the days of non-production:

Various days throughout the year. No record kept as to exactly when or how many. A year's production should be enough.

Inasmuch as the applications for determination filed for the subject wells do not contain production records for the 90-day production periods required to be filed by §§ 274.206(a)(2) and 274.206(a)(8), nor do the applications contain any information regarding the number of days in which the subject wells did not produce natural gas during the 90-day qualifying period, the Commission finds that information which is necessary to support an eligibility determination under section 108 is missing in the record.

Accordingly, on the basis of the record submitted with the determinations, the Commission hereby makes a preliminary finding, pursuant to § 275.202(a)(1)(i) of the Commission's regulations, that the determinations submitted by the Ohio Department of Natural Resources that the subject wells qualify as stripper wells under section 108 of the NGPA, are not supported by substantial evidence in the record upon which the determinations were made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25589 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP80–472]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

August 14, 1980.

Take notice that on July 31, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80–472 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of compression and related facilities on South Marsh Island Block 257, offshore Louisiana (Block 257), all as more fully described in the application which is on file with the Commission and open to public inspection.

Pursuant to an April 1, 1978, gas purchase and sales agreement, Applicant has acquired the reserves underlying Block 257 which are produced by Houston Oil and Mineral

[1] The subject wells are as follows:
Pallant No. 1, JD80–42000, State File No. 7480.
Hayford Unit No. 1, JD80–42001, State File No. 7483.
Bitala No. 1, JD80–42002, State File No. 7482.
Phillips No. 1, JD80–42003, State File No. 7481.
Blauman No. 1, JD80–42008, (no state file number).
Girard No. 1, JD80–42009, State File No. 7479.
Kindig-Shimandle No. 1, JD80–42010, State File No. 7487.
Kasdan *et al.* No. 3, JD80–42011, State File No. 7486.
Evans Unit No. 1, JD80–42012, State File No. 7485.
Cohodas, JD80–42013, State File No. 7484.

Corporation (HOM) and has agreed to furnish at its own expense the necessary compressor facilities on the production platform. It is stated that HOM has subsequently installed a 360 horsepower compressor unit on the Block 257 production platform in order to create the line pressure necessary for the gas to enter Applicant's system. Applicant, therfore, proposes herein to purchase the 360 horsepower compressor unit, to reimburse HOM for all appropriate operating and maintenance expenses including the cost of fuel gas, and to lease from HOM the platform space to be occupied by such compressor facilities.

Applicant estimates the total cost to acquire the compressor unit and related facilities to be $448,224 which would be financed by funds on hand, revolving credit arrangements, or permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25588 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP79–228]

Transcontinental Gas Pipe Line Corp.; Rejection of Filing

August 14, 1980.

On July 21, 1980, the Energy Users Group filed an application for rehearing of a denial by the presiding administrative law judge of its petition to intervene. The application for rehearing, however, was erroneously filed directly with the Commission relying upon § 1.34 of the rules of practice and procedure. The rehearing is in the nature of an appeal from a ruling of a presiding officer. Procedures recently adopted in Order No. 82 revising §1.28 of the rules provide that no appeal may be taken from a ruling of a presiding officer without first presenting a request to him for referral of the ruling to the Commission and then following the procedures set forth in § 1.28 (b) and (c). The matters presented in the application, therefore, should have first been presented to the presiding administrative law judge for his consideration in determining whether to refer his ruling pursuant to § 1.28.

Since the application filed July 21, 1980, does not meet the procedural rules of the Commission, it is hereby rejected.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25590 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TA80–2–29]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

August 14, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on August 17, 1980 Third Substitute Eighteenth Revised Sheet No. 12, Third Substitute Eighteenth Revised Sheet No. 15 and Second Revised Sheet No. 16 to Second Revised Volume No. 1, and Third Substitute Twenty-Fourth Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective Septemer 1, 1980, reflect a net increase of 55.5¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S–2 rate schedules, a net increase of 55.7¢ per dt in the commodity charge under the ACQ rate schedule, and a net decrease of 2.7¢ per dt in the delivery charge of the X–20 rate schedule.

Transco states that these changes have been computed in accordance with the tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under the PGA clause (section 22) amounts to an increase of 58.2¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S–2 and ACQ rate schedules. The tracking rate change to reflect curtailment credits (section 20) is a decrease of 0.2¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S–2 and X–20 rate schedules. The tracking rate change for Louisiana First Use Tax (section 25) is a decrease of 2.5¢ per dt in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S–2, ACQ and X–20 rate schedules.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 29, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–25591 Filed 8–21–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP74–33]

Transcontinental Gas Pipe Line Corp.; Petition to Amend

August 14, 1980.

Take notice that on July 21, 1980, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74–33 a petition to amend the

order issued February 20, 1975[1] as

[Docket No. QF80–17]

applicant. Protests will be considered by

with the Commission and are available

municipally-owned utilities of Conway

accepted for filing and suspended as

order issued February 28, 1975[1], as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the top storage capacity of Petitioner's Washington Storage Field, St. Landry Parish, Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes to increase the top storage capacity of the field from 66,000,000 dekatherms (dt) equivalent, the present level of top storage capacity as authorized in the amending order of September 1, 1978, to 75,000,000 dt equivalent. It is stated that no additional facilities would be required to increase the top storage capacity. Petitioner states that the base gas requirement to support the 75,000,000 dt equivalent of top storage capacity would remain at 45,000,000 dt equivalent because the performance characteristics of the field have exceeded Petitioner's earlier expectations.

Petitioner asserts that the additional 9,000,000 dt equivalent of top capacity would be used during the 1980–81 winter season to provide for the husbanding, of gas supplies in an effort to satisfy its potential "take or pay" gas purchase obligations or to provide flexibility for Petitioner's general system depending upon operating circumstances during the forthcoming winter.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25582 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[1] This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. QF80-17]

Vermont Marble Co.; Application for Commission Certification of Qualifying Status of Four Small Power Production Facilities

August 14, 1980.

On August 6, 1980, Vermont Marble Company filed with the Federal Energy Regulatory Commission (Commission) an application for certification of four small hydroelectric facilities as qualifying small power production facilities pursuant to § 292.207 of the Commission's rules.

The first facility, Center Rutland Station, is located on Otter Creek in Center Rutland, Vermont. The Vermont Marble Company states that the existing capacity is 275 kilowatts and the improved capacity will be 2400 kilowatts.

The second facility, Proctor Station, is located by Sutherland Falls, on Otter Creek in Proctor, Vermont. The existing capacity is 4050 kilowatts. Vermont Marble Company states that an additional 3000 kilowatt station will be attached alongside the existing station for a total capacity of 7050 kilowatts.

The third facility, Beldens Station, is located on Otter Creek in New Haven, Vermont. The company states that the existing capacity is 1600 kilowatts and it projects the improved capacity to be 4200 kilowatts.

The fourth facility, Huntington Falls Station, is located on Otter Creek in Weybridge, Vermont. Vermont Marble Company states that the existing capacity is 1600 kilowatts. The company asserts that the improved capacity will be 4800 kilowatts if no changes are made to the dam, or 6400 kilowatts if the dam is raised 12 feet.

The primary energy source is water power at all facilities. Vermont Marble Company states that the four hydroelectric stations are located on Otter Creek in west central Vermont and are scattered along a 40 mile stretch. No two of these stations are within one mile of each other. It further states that there is no intention to use any other energy source such as natural gas, oil or coal.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25583 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1596]

Willis S. White, Jr.; Filing

August 14, 1980.

Take notice that on July 22, 1980, Willis S. White, Jr. (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board & Director, Appalachian Power Company, Electric Utility
President & Director, Beech Bottom Power Company, Electric Utility
President & Director, Cardinal Operating Company, Electric Utility
Chairman of the Board (chief executive officer), Columbus and Southern Ohio Electric Company, Electric Utility
President & Director, Indiana-Kentucky Electric Corporation, Electric Utility
Chairman of the Board & Director, Indiana & Michigan Electric Company, Electric Utility
President & Director, Kanawha Valley Power Company, Electric Utility
Chairman of the Board & Director, Kentucky Power Company, Electric Utility
Chairman of the Board & Director, Kingsport Power Company, Electric Utility
Chairman of the Board & Director, Michigan Power Company, Electric Utility
Chairman of the Board & Director, Ohio Power Company, Electric Utility
President & Director, Ohio Valley Electric Company, Electric Utility
Chairman of the Board & Director, Wheeling Electric Company, Electric Utility

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, and 1.10. All such petitions or protests should be filed on or before September 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25584 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-591]

Wisconsin Power & Light Co.; Filing

August 14, 1980.

The filing Company submits the following:

Take notice that on August 8, 1980, Wisconsin Power and Light Company (WPL) tendered for filing a Common Use Transmission Facility Agreement dated March 25, 1980, between the Adams-Marquette Rural Electric Cooperative and MPL. WPL states that this Agreement is a new Agreement between itself and the REC.

WPL requests a proposed effective date of March 25, 1980 and, therefore, requests waiver of the notice requirements of the Commission's regulations. WPL states that a copy of the Common Use Transmission Facility Agreeement and the filing have been provided to the Adams-Marquette Electric Cooperative and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-25585 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-373]

Arkansas Power & Light Co.

Order Accepting for Filing and Suspending Proposed Rate Changes, Waiving Notice Requirements, and Establishing Procedures

Issued August 1, 1980.

The Arkansas Electric Cooperative Corporation (AECC) and the municipally-owned utilities of Conway, Jonesboro and West Memphis, Arkansas (municipals) have become part owners of the White Bluffs coal-fired generating units, now being constructed by Arkansas Power & Light Company (AP&L).[1] As part of this transaction, AP&L has submitted for filing power coordination, interchange and transmission agreements with AECC and each municipal.[2] The agreements contain formula rates for determining the monthly charges for transmission and distribution services provided by AP&L, demand and energy charges for any partial requirements service which is rendered to Conway and West Memphis,[3] and a monthly dispatching charge to AECC.[4] AP&L initially tendered these agreements on May 6, 1980. However, the filing was not completed until July 14, 1980. AP&L requested an effective date coincident with the anticipated date of commercial operation of White Bluff Unit No. 1, the first of the units for which the parties have joint ownership entitlements.[5]

Notice of the filing was issued by the Secretary on May 13, 1980, with comments protests or petitions to intervene due by June 3, 1980. No responses were received.

Analysis of the production demand and energy charge formula rates for partial requirements service to Conway and West Memphis and the proposed charges for such services during 1980 indicates that the use of such formulas may produce excessive revenues and may therefore produce results that are unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Therefore, these rates for partial requirements service will be accepted for filing and suspended as ordered below. Additionally, the cost of service formula used to determine these rates will be investigated during an evidentiary hearing which we shall order to be convened.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[6] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[7] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Special circumstances will often warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. The Commission notes that with the commencement of commercial operation of White Bluff Unit No. 1, the ownership interests of the parties will become effective. Because existing agreements do not accommodate this change in

[1] The proportionate ownership shares are: AP&L—57%, AECC—35%, Jonesboro—5%, Conway—2%, and West Memphis—1%.

[2] See Attachment A for rate schedule designations.

[3] AECC, which owns generating facilities and purchases peaking hydro electric capacity from Southwestern Power Administration, will become self-sufficient with its ownership interest in White Bluff Unit No. 1. Jonesboro currently purchases partial requirements service from AP&L pursuant to a January 23, 1973 contract. However, on July 2, 1980, in Docket No. ER80-507, APL filed a notice of cancellation of that contract effective on the date of commercial operation of White Bluff Unit No. 1.

[4] Under the terms of its present (and proposed) agreement with AECC, AP&L dispatches the generating resources of AECC together with its own generating resources to achieve maximum combined efficiency of the two systems. The municipals have not contracted for such service from AP&L.

[5] The originally anticipated commercial operation date was July 15, 1980. Accordingly, AP&L specified that date as the proposed effective date. However, it now appears that White Bluff Unit No. 1 is expected to become commercially operable between July 30 and August 5, 1980. We construe the proposed effective date to be that date upon which the unit begins commercial operation.

[6] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*,—— F.2d——(D.C. Cir. May 30, 1980).

[7] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate.

operating circumstances, *i.e.*, the ownership interests that will arise, it is desirable to permit the proposed agreements to become effective on or about the commercial operation date of the White Bluff unit. Absent such treatment of the proposed agreements, there would be no suitable rate schedule on file to reflect the service contemplated. Furthermore, the affected parties have agreed to the entire arrangement, including the proposed effective date. Accordingly, we believe we should exercise our discretion to suspend the proposed rates for production demand and energy service for only one day permitting the rates to take effect, subject to refund, one day following the commencement of commercial operation of White Bluff Unit No. 1.

Our analysis of the rates proposed for 1980 for transmission and distribution service, bulk power management service to AECC, and replacement energy service to AECC and Jonesboro indicates that such charges are cost justified. Accordingly, we shall accept these 1980 rates for filing without suspension.

All of the cost of service formulas used to derive the rates discussed above except for the formulas used to derive replacement energy charges and charges for the White Bluff output have not been shown to be just and reasonable, and may produce results that are unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, these formulas will be investigated at the hearing.

Because AECC and the municipals have purchased ownership interests in White Bluff Unit No. 1 and the present agreements will be inapplicable for the services to be provided after that date, the notice requirements of Section 35.3 of the Commission's regulations will be waived.

Additionally, (1) changes in the charges resulting from the operation of the proposed formula rates other than changes in the replacement energy charge or the energy charges for White Bluff output,[8] and (2) changes in the formula components shall be considered changes in rate schedules pursuant to Section 35.13 of the Commission's regulations which must be timely filed with the Commission together with appropriate cost support as required by that section.[9]

However, with respect to changes in the production energy charges to Conway and West Memphis resulting from operation of the formula rates, we shall waive the full filing requirements of Section 35.13 provided that AP&L agrees to collect any increase in the rate under the formula subject to refund pending the outcome of the hearing convened pursuant to this order.[10]

The Commission orders:

(A) The proposed rates for services during 1980, other than for production demand and energy service to Conway and West Memphis, are hereby accepted for filing to become effective on the date of commercial operation of White Bluff Unit No. 1.

(B) The proposed rates for production demand and energy service to Conway and West Memphis during 1980 are hereby accepted for filing and suspended for one day to become effective subject to refund one day following the commencement of commercial operation of White Bluff Unit No. 1.

(C) The notice requirement of Section 35.3 is hereby waived.

(D) All of the cost of service formulas except for the formulas used to derive (1) replacement energy charges and (2) charges for the White Bluff output shall be considered at the hearing to be held pursuant to this order.

(E) Changes in (1) the charges resulting from the operation of the forumula rates contained in AP&L's submittal, other than changes in the replacement energy charges or the energy charges for White Bluff output, and (2) changes in the formula components constitute changes in rate schedule pursuant to Section 35.13 of the Commission's regulations, which must be timely filed with this Commission together with appropriate cost support as required by that section.

(F) The full filing requirements of Section 35.13 with respect to changes in the production energy charges to Conway and West Memphis resulting from operation of the formula rates are hereby waived provided that AP&L agrees to collect any increases in the rate under the formula subject to refund pending the outcome of the hearing convened pursuant to this order. Additionally, this waiver in no way relieves AP&L from filing changes in the formula components pursuant to Section 35.13.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commision by Section 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates and formulas proposed by AP&L.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within 30 days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

Kenneth F. Plumb,

Secretary

Arkansas Power & Light Company, Docket No. ER80-373, Rate Schedule Designations

Designation	Other party	Description
Rate Schedule FERC No. 79 (supersedes Rate Schedule FPC No. 57 as supplemented.	Conway, Ark	Power Coordination, Interchange and Transmission Agreement.
Supplemental No. 1 to Rate Schedule FERC NO. 79.	do	Exhibit A Delivery Points.
Supplement No. 2 to Rate Schedule FERC NO. 79.	do	Production Demand Charge Formula.
Supplement No. 3 to Rate Schedule FERC NO. 79.	do	Transmission and Distribution Service Demand Charge Formulas.

[8] It is noted that charges for replacement energy, energy charges to Conway and West Memphis, and charges for White Bluff energy are calculated monthly based upon average system or incremental cost procedures. Such charges will change from month to month (or hour to hour); however, the calculation of these costs generally reflects standard procedures for determining such costs.

[9] *See Central Power & Light Company,* Declaratory Order Granting Motion to Consolidate, Granting Petition to Intervene and Denying Motion for Summary Disposition and Refund Order, or in the Alternative, a Hearing, Docket Nos. EL79-28 and ER79-600, issued October 12, 1979.

[10] *See Southern Company Services, Inc.,* Docket Nos. ER80-243, ER80-160, *et al.* (April 23, 1980).

Arkansas Power & Light Company, Docket No. ER80-373, Rate Schedule Designations—Continued

Designation	Other party	Description
Rate Schedule FERC NO. 80 (supersedes Rate Schedule FPC No. 55 as supplemented).	West Memphis, Ark.	Power Coordination Interchange and Transmission Agreement.
Supplement No. 1 to Rate Schedule FERC NO. 80.	do	Exhibit A Delivery Points.
Supplemental No. 2 to Rate Schedule FERC NO. 80.	do	Production Demand Charge Formula.
Supplement No. 3 to Rate Schedule FERC NO. 80.	do	Transmission and Distribution Service Demand Charge Formulas.
Rate Schedule FERC NO. 81.	Jonesboro, Ark	Power Coordination, Interchange and Transmission Agreement.
Supplement No. 1 to Rate Schedule FERC NO. 81.	do	Transmission Service Demand Charge Formula.
Rate Schedule FERC NO. 82 (supersedes Rate Schedule FPC No. 72 as supplemented).	Arkansas Electric Cooperative Corp.	Power Coordination Interchange and Transmission Agreement.
Supplement No. 1 to Rate Schedule FERC NO. 82.	do	Exhibit A Delivery Points.
Supplement No. 2 to Rate Schedule FERC NO. 82.	do	Exhibit B Points of Receipt.
Supplement No. 3 to Rate Schedule FERC NO. 82.	do	Transmission and Distribution Service Demand Charge Formulas.
Supplement No. 4 to Rate Schedule FERC NO. 82.	do	Bulk Power Management Service Charge Formula.
Supplement No. 5 to Rate Schedule FERC NO. 82.	do	Redispatching Principles.
Supplement No. 6 to Rate Schedule FERC No. 82 (supersedes Supplement No. 5 to FERC No. 82).	do	First Amendment Revised Redispatching Principles.
Supplement No. 7 to Rate Schedule FERC NO. 82 (supersedes Supplement No. 1 to FERC No. 82).	do	Second Amendment Amended Exhibit A Delivery Points.
Supplement No. 8 to Rate Schedule FERC NO. 82 (supersedes Supplement No. 2 to FERC No. 82).	do	Amended Exhibit B Points of Receipt.

[FR Doc. 80-25567 Filed 8-21-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of June 30 through July 7, 1980

During the week of June 30 through July 7, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written Notice of Objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice (August 22, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed Statement of Objections within 30 days of the date of service of the proposed decision and order. In the Statement of Objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George Breznay,

Deputy Director, Office of Hearings and Appeals.

August 18, 1980.

A. O. Smith Corp., Kankakee, Ill., BEE-1128, furnaces

A. O. Smith Corporation filed an Application for Exception from the test procedures specified in 10 C.F.R. Part 430 (the Energy Conservation Program for Consumer Appliances). The exception request, if granted, would exempt A. O. Smith Corporation from testing in accordance with the test procedures specified in 10 CFR Part 430 the finned copper tubed boilers with modulating controls which it manufactures. On July 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Caribou Four Corner's Inc., Afton, Wyo., BEE-1067, crude oil

Caribou Four Corner's, Inc. filed an Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). The exception request, if granted, would relieve Caribou of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Illinois Ayers Oil Co., Quincy, Ill., BEE-0562, gasohol

Illinois Ayers Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Illinois Ayers to purchase 250,000 gallons of unleaded gasoline over and above its base period allocation in order to expand its gasohol marketing program. On July 2, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part, and that Illinois Ayers' base period allocation of unleaded gasoline be increased by 100,000 gallons per month.

L. H. Smith Oil Corp., Indianapolis, Ind., BEE-0913, motor gasoline

L. H. Smith Oil Corporation filed an Application for Exception from the privisions of 10 CFR Part 211. The exception request, if granted, would permit Smith to supply motor gasoline to specified federal installations under the provisions of Section 8(A) of the Small Business Act of 1958. On July 1, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Plateau, Inc., Washington, D.C., BEE-1049, crude oil

Plateau, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Plateau of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 to account for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Notice of Objection to a Proposed Remedial

On July 2, 1980, Peterson & Hill, 3151

Priest Explorations, Inc., Oklahoma City, Okla., BXE–0818, crude oil

Priest Explorations, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Choate Well 3A and the Choate Well 4A for the benefit of the working interest owners at market price levels. On July 1, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Region Oil Co., Inc., Bloomsburg, Pa., BEE–0405, gasohol

Region Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Region to receive an additional allocation of unleaded gasoline for the purpose of producing and marketing gasohol. On July 1, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Sage Creek Refining Co., Cowley, Wyo., BEE–0604, crude oil

Sage Creek Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Sage Creek of a portion of its entitlement purchase obligations during the period June 1980 through October 1980 to account for crude oil receipts and runs to stills during the period April 1980 through August 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Southland Oil Co., Jackson, Miss., BXE–1021 crude oil

Southland Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Southland of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Thriftway Co., Washington, D.C., BEE–1206, crude oil

Thriftway Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Thriftway of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 to account for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Warrior Asphalt Co. of Alabama, Tuscaloosa, Ala., BXE–1051, crude oil

Warrior Asphalt Company of Alabama filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Warrior of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Young Refining Corp., Washington, D.C., BEE–1038, crude oil

Young Refining Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relive Young of a portion of its entitlement purchase obligations during the period June 1980 through November 1980 for crude oil receipts and runs to stills during the period April 1980 through September 1980. On June 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

O.K. Petroleum Products Corp., DEE–6685, New York, NY.
R&W Motor Sales, DEE–6770, Taunton, MA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Beaver's Texaco, DEE–5008, Washington, DC.
E & B Oil Co. of Burgaw, Inc., DEE–7280, Burgaw, NC.
L. W. Green, DEE–7081, Oxford, KS.
Lou Nargiso Service Center, DEE–7095, Danbury, CT.
North Side Center, DEE–7919, Hamilton, MT.
SPC Service Company, Inc., DEE–7426, Dudley, MA.

[FR Doc. 80–25640 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed Week of July 7 through July 11, 1980

During the week of July 7 through July 11, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Enegy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 September 11, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

August 18, 1980.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

Allen Union, San Leandro, Calif., BRO–1266 Motor Gasoline

On July 9, 1980, Allen Union, 1903 Doolittle Drive, San Leandro, California 94577 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on May 20, 1980. In the PRO the Western District found that during the period August 1, 1979 to November 13, 1979, Allen Union had charged prices in excess of the maximum lawful selling prices for motor gasoline pursuant to 10 CFR 211.93. According to the PRO the Allen Union violation resulted in $2,793.79 of overcharges.

Crow Canyon Shell, San Ramon, Calif., BRO–1265, Motor Gasoline

On July 9, 1980, Andrew R. Krissovich d.b.a. Crow Canyon Shell, 2735 Crow Canyon Road, San Ramon, California 84583, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District of Enforcement issued on June 27, 1980. In the Proposed Remedial Order, the Enforcement District found that during the time August 1, 1979 to April 11, 1980, Crow Canyon Shell committed pricing violations in the State of California in connection with the sale of motor gasoline. The Proposed Remedial Order would require Crow Canyon Shell to roll back its motor gasoline prices until a total of $6,725.78 in overcharges is refunded to its customers.

Gary Pfister Mobil, Pinole, Calif., BRO–1267, Motor Gasoline

On July 9, 1980, Gary Pfister Mobil, 2298 Appian Way, Pinole, California 94564 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 27, 1980. In the PRO the Western District found that during the audit period from August 1, 1979 to January 11, 1980, Gary Pfister had charged prices in excess of the maximum lawful selling price for motor gasoline pursuant to 10 CFR 211.93. According to the PRO the Gary Pfister violation resulted in a $4,029.11 of overcharges.

Ken's No. 2 Shell, Los Angeles, Calif., BRO–1261, Motor Gasoline

On July 7, 1980, Ken's No. 2 Shell, 3155 S. Cahuenga Boulevard, Los Angeles, California 90028 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1,
1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Ken's No. 2 Shell violation resulted in $630.05 of overcharges.

Marine Enterprises, Inc., Lake Perry, Kans., BRO–1255, Motor Gasoline

On July 7, 1980, Marine Enterprises, Inc., Lake Perry, Kansas 66073, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 19, 1980. In the PRO the Central District found that from March 1, 1980 through June 4, 1980, Marine Enterprises, Inc. charged prices for certain grades of gasoline in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Marine Enterpriaes, Inc. violation resulted to $641.20 in of overcharges.

North Oak Shell, Sangus, Calif., BRO–1260, Motor Gasoline

On July 7, 1980, North Oak Shell, 19223 Soledad Cyn., Sangus, California 91350 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the North Oak Shell violation resulted in $1,096.01 of overcharges.

Olympic Shell, Los Angeles, Calif., BRO–1256, Motor Gasoline

On July 7, 1980, Olympic Shell, 955 S. Alvarado Street, Los Angeles, California 90006 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Olympic Shell violation resulted in $1,287.49 of overcharges.

Petersen & Hill, Alamo, Calif., BRO–1264, Motor Gasoline

On July 9, 1980, Petersen & Hill, 3151 Danville Boulevard, Alamo, California 94507 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 27, 1980. In the PRO the Western District found that during April 1, 1980 to April 30, 1980, the firm committed pricing violations on $2,565.47 in connection with the sale of motor gasoline in the State of California.

Robbins Shell, Granada Hills, Calif., BRO–1259, Motor Gasoline

On July 7, 1980, Robbins Shell, 16205 Devonshire Street, Granada Hills, California 91344 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR 212.93. According to the PRO the Robbins Shell violation resulted in $867.39 of overcharges.

Tom's Shell, Sherman Oaks, Calif., BRO–1257, motor gasoline.

On July 7, 1980, Tom's Shell, 13261 Riverside Drive, Sherman Oaks, California 91403 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR § 212.93. According to the PRO the Tom's Shell violation resulted in $1,431.58 of overcharges.

Union Shell, Los Angeles, Calif., BRO–1256, motor gasoline.

On July, 1980, Union Shell, 1551 West 7th Street, Los Angeles, California 90017 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades fo gasoline in violation of 10 CFR § 212.93. According to the PRO the Union Shell violation resulted in $344.68 of overcharges.

Ventura Shell, Woodland Hills, Calif., BRO–1262, motor gasoline.

On July 7, 1980, Ventura Shell, 21347 Ventura Boulevard, Woodland Hills, California 91364 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 10, 1980. In the PRO the Western District found that during August 1, 1979 to February 29, 1980, the firm charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 CFR § 212.93. According to the PRO the Ventura Shell violation resulted in $845.35 of overcharges.

Village Parkway Mobil, Dublin, Calif., BRO–1263, motor gasoline.

On July 8, 1980, Village Parkway Mobil, 7197 Village Parkway, Dublin, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 12, 1980. In the PRO the Western District found that during the period December 1, 1979 to May 21, 1980, Village Parkway had charged prices in excess of the maximum lawful selling price for motor gasoline pursuant to 10 CFR § 211.93. According to the PRO the Village Parkway Mobil violation resulted in $483.28 of overcharges.

Walt's Danville Chevron, Danville, Calif., BRO–1254, motor gasoline.

On July 7, 1980 Walt's Danville Chevron, 530 San Ramon Valley Boulevard, Danville, California 94526 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on June 27, 1980. In the PRO the Western District found that during December 1, 1979 to May 22, 1980, the firm committed pricing violations of $12,134.16 in connection with the sale of motor gasoline in the State of California.

[FR Doc. 80–25647 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders Week of July 21 through July 25, 1980

During the week of July 21 through July 25, 1980, the proposed decisions and orders summarized below were issued by the Office of hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice August 22, 1980 or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of

the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 18, 1980.

Requests for Exceptions

Acme Inc., Lincolnton, N.C., BEE–0035, Gasohol.

Acme Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Acme to receive an increased allocation of unleaded gasoline for the express purpose of blending and marketing gasohol. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Alger Oil Company, Rising Sun, MD., BEE–0920, Gasohol.

Alger Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Alger to purchase 63,000 gallons of unleaded gasoline in addition to its base period allocation in order to maintain and expand its gasohol marketing operations. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part, and that Alger's base period allocation be increased by 42,000 gallons of unleaded gasoline per month.

Brock Exploration Corp., Washington, D.C., BEE–0066, BES–0066, crude oil.

Brock Exploration Corporation filed an Application for Exception from the provisions of 10 CFR 212.75 and 212.79. The exception request, if granted, would permit Brock to classify the crude oil that it produces from three unitized properties as newly discovered crude oil. On July 22, 1980, a Proposed Decision and Order was issued in which the DOE preliminarily determined that the exception request should be granted.

Drug Abuse Preventive Center, San Luis Obispo, Calif., BEL–0050, motor gasoline.

Drug Abuse Preventive Center (Center) has been deemed to have filed an Application for Exception from the provisions of the Mandatory Allocation Program for motor gasoline. The exception request, if granted, would permit Center to receive an allocation of motor gasoline for the express purpose of marketing gasohol. On July 24, 1980, the Department of Energy issued a decision which was deemed to be a Proposed Decision and Order. That decision determined that the exception request be granted.

Ferel Little Oil Co., San Augustine, Tex., BEE–1258, motor gasoline.

Ferel Little Oil Company filed an Application for Exception in which it sought to be relieved of the requirement that it irrevocably elect one of two regulatory pricing mechanisms for motor gasoline by July 1, 1980. On July 23, 1980, the Department of Energy issued a Proposed Decision and Order in which it concluded that the request should be denied.

Independent oil & Tire Co., Elyria, Ohio, BEE–0947, gasohol.

Independent Oil and Tire Company requested an exception from the provisions of 10 CFR Part 211. The exception request, if granted, would result in an increase in the firm's base period allocation of unleaded motor gasoline for the express purpose of blending and marketing gasohol. On July 24, 1980, the DOE issued a Proposed Decision and Order which tentatively determined that the exception request be granted.

Indiana Farm Bureau Cooperative Assoc., Inc., Indianapolis, Ind., BEE–0239, gasoline and propane

The Indiana Farm Bureau Cooperative Assoc., Inc. filed an Application for Exception from the provisions of 10 CFR 210.62(a). The exception request, if granted, would permit Indiana Farm Bureau to alter the credit terms of discounts for early payment which the firm offered to certain of its customers on May 15, 1973. On July 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Mallard Resources, Inc., Cameron Parish, La., BEE–0537 crude oil

Mallard Resources, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would permit Mallard to be relieved of its obligation to purchase entitlements with respect to certain of its initial crude oil receipts used to build a starting inventory. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that exception relief in the form of additional entitlements reflecting the volumn of Mallard's permanent inventory be granted.

Martinoil Company, Fresno, Calif., BEE–0078, gasohol

Martinoil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Martinoil to purchase unleaded gasoline over and above its base period allocation in order to expand its gasohol operations. On July 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

O'Meara Brothers, New Orleans, La., BXE–1081, crude oil

O'Meara Brothers filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Louisiana State Lease 2192 for the benefit of the working interest owners at market price levels. On July 24, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

The Oasis, Catheys Valley, Calif., DEE–7216, motor gasoline

The Oasis filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit the Oasis to purchase motor gasoline in excess of its base period allocation. On July 25, the Department of Energy issued a Proposed Decsion and Order which determined that the exception request be granted.

Pennzoil Producing Co., Houston, Tex., BXE–1148, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell all of the crude oil which it produces from the McGraw-Stevens Waterflood Unit for the benefit of the working interest owners at upper tier ceiling prices. On July 23, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

United Company, Overland Park, Kans., BEE–0713, gasohol

United Company filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit United to receive an increased allocation of motor gasoline for gasohol production. On July 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

City of Phila./Bur. of Invest.—BEE–1080—Philadelphia, PA
Ft. Oglethorpe Tire & Serv. Center, Inc.—DEE–6300—Rossville, GA
Melvin's Sunoco—DEE–4948—Crisfield, MD
Southern Oil Co.—DEE–3876—Geiger, AL

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determine that the exception requests be denied.

Company name, Case No., and Location

Acme Rubbish—DEE–5985—Montebello, CA
Interstate United—DEE–6173—Gary, IN
City of Naples, FL—DEE–7744—Naples, FL
Central Ave. Friendly—DEE–6838—Dover, NH
Mid-Atlantic Pet. Corp.—DEE–7881—Washington, DC
Northland Oil Co.—DEE–7737—Ely, MN
P F & E Oil Co.—DEE–6411—Brownwood, TX
Vantage Pet. Corp.—DEE–6605, DEE–1732—Bohemia, NY

[FR Doc. 80–25642 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders Week of July 28 through August 1, 1980

During the week of July 28 through August 1, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedual regulations, the date of service is deemed to be the date of publication of this Notice (August 22, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. except federal holidays.

August 18, 1980

George b. Breznay,

Deputy Director, Office of Hearings and Appeals

Proposed Decisions and Orders

Chevron U.S.A. Inc., San Francisco, Calif., BEE–0576 motor gasoline

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2)(iii)(E), which govern the amount of non-product marketing cost increases a refiner may include in establishing a maximum lawful selling price for motor gasoline. The request, if granted, would permit Chevron to reduce its non-product marketing cost base by eliminating that portion of May 1973 non-product marketing costs which are attributable to the firm's commission agents which are being converted to branded independent jobbers. On August 1, 1980, the Department of Energy issued a Proposed Decision and Order which it tentatively determined that the exception request should be granted.

Chevron U.S.A. Inc., San Francisco, Calif., DEE–8033, crude oil

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Greeley Unit located in Kern County, California, at upper tier ceiling prices. On July 31, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that exception relief should be denied.

Colony Oil Service, Newport News, Va., DEE–6945 gasohol

Colony Oil Service filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the firm to receive an allocation of unleaded gasohol for the express purpose of blending and marketing gasohol. On July 31, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Holland Oil Company, Newark, Calif., BEE–0567, gasohol

Holland Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Holland to receive an increased allocation of motor gasoline for the express purpose of blending and marketing gasohol. On July 31, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Pennzoil Producing Company, Houston, Tex., BXE–1179, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell all of the crude oil which it produces from the Woodruff Sand Waterflood Unit for the benefit of the working interest owners at market price levels. On July 28, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

W. H. Price, Granbury, Tex., DEE–1949, crude oil

W. H. Price filed an Application for Exception from the provisions of 10 CFR Part 212, Subparts D and I. The exception request, if granted, would permit Price to recertify as stripper well crude oil the crude oil which he produced and sold at upper tier levels during the period September 1, 1976 through March 31, 1978. On July 28, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Redding Petroleum, Inc., Concord, Calif., BEE–0721, gasohol

Redding Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Redding to receive an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. On July 28, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Reserve Oil, Inc., Denver, Colo., BEE–0325, crude oil

Reserve Oil, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil which it produces from the SL–071595A Lease and the SL–069551 Lease for the benefit of the working interest owners at prices in excess of the applicable ceiling price levels. On July 28, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that an extension of exception relief should be granted.

Rhodes, Inc., Reedley, Calif., BEE–0768, gasohol

Rhodes, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Rhodes to receive an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. On July 30, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Southern Farmers Assoc., North Little Rock, Ark., BEE–0665, gasohol

Southern Farmers Association filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Southern to receive an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. On July 30, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Texas Oil Marketers Assoc., Austin, Tex., BEE–0436, motor gasoline

The Texas Oil Marketers Association (TOMA) filed an Application for Exception from the provisions of 10 CFR 212.93, the price rule applicable to resellers of motor gasoline. The exception request, if granted, would permit members of TOMA to charge prices for motor gasoline which are in excess of applicable maximum allowable selling prices under DOE regulations. On August 1, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Vicksburg Refining, Inc., Vicksburg, Miss., BEE–0116, crude oil

Vicksburg Refining, Inc. filed an Application for Exception from the provisions

of 10 CFR § 211.65. The exception request, if granted, would have permitted Vicksburg to participate in the DOE Crude Oil Buy-Sell Program. On August 1, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

Young Refining Co., Washington, D.C., BEE–1296, crude oil

Young Refining Company filed an Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). The exception request, if granted, would relieve Young of a portion of its entitlement purchase obligations during the period July 1980 through November 1980 for crude oil receipts and runs to stills during the period May 1980 through September 1980. On July 29, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Wherrell Oil Co., DEE–6498; DES–6498, Okeechobee, FL.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Blue Ridge Oil Co., DEE–6946, Wash., DC.
Carl's Sunoco, DEE–6780, Cambridge, MA.
Howell Insulation, DEE–1285, Birmingham, AL.
National Car Rental System, DEE–6576, Honolulu, HI.
Oliver's Exxon, DEE–3109, Lafayette, TN.
Ron's Sunoco, DEE–6068, Covington, KY.
Shell Oil Co., DEE–1016, Anaheim, CA.

[FR Doc. 80–25644 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed; Week of July 28 Through August 1, 1980

During the week of July 28 through August 1, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before September 11, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in this proceeding and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

August 18, 1980.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

Proposed Remedial Orders

Doug Davidson, Santa Ana, Calif. BRO–1285, motor gasoline

On August 1, 1980, Doug Davidson d.b.a. Davidson's Service, 224 E. First Street, Santa Ana, California 92701 filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Western District Office of Enforcement issued to him on July 9, 1980. In the PRO the Western District found that during the period December 15, 1979 through May 8, 1980, Mr. Davidson sold motor gasoline in the State of California at prices in excess of the maximum lawful selling prices allowed by Part 212 of the Mandatory Petroleum Price Regulations. According to the PRO these violations resulted in $2,307.23 of overcharges.

Mallard Resources, Inc., Houston, Tex. BRO–1277, crude oil

On July 29, 1980, Mallard Resources, Inc., 2800 North Loop West, No. 314, Houston, Texas 77092 filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Program Manager for Entitlements issued to the firm on June 27, 1980. In the PRO the Program Manager found that for the months of July and August 1979 Mallard filed Refiner's Monthly Reports which failed to include as part of the firm's crude oil receipts certain volumes of crude oil which it processed. According to the PRO, Mallard received unwarranted entitlements benefits of $1,482,637.

Taylor Oil Co., Sioux Falls, S. Dak., BRO–1284 Residual fuel oil

On July 28, 1980, Taylor Oil Co., 3600 So. Minnesota Ave., Sioux Falls, South Dakota, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Rocky Mountain District Office of Enforcement issued to the firm on June 26, 1980. In the PRO the Rocky Mountain District found that during the period November 1, 1973 to April 030, 1975, Taylor committed pricing violations in connection with the resale of residual fuel oil in the State of South Dakota. According to the PRO the Taylor Oil Company violation resulted in $147,055.43 of overcharges.

Frederick Walentynowicy, Buffalo, N.Y., BRO–1283, motor gasoline

On July 28, 1980, Frederick Walentynowicy, 460 Elmwood Avenue, Buffalo, New York filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Northeast District Office of Enforcement issued to the firm on May 22, 1980. In the PRO the Northeast District found that from August 1, 1979 through October 30, 1979, Frederick Walentynowicy committed pricing violations in the sale of motor gasoline in the State of New York. According to the PRO the Frederick Walentynowicy violation resulted in $802.71 of overcharges.

[FR Doc. 80–25645 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of August 4 Through August 8, 1980

During the week of August 4 through August 8, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service is deemed to be the date of publication of this Notice (August 22, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objections within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 18, 1980.

Proposed Decisions and Orders

Bratz Oil Corporation, Centerville, Iowa, Bee–0489, gasohol

Bratz Oil Corporation filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Bratz to receive an increased allocation of unleaded gasoline for the purpose of blending and marketing gasohol. On August 6, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

DeMartin Truck Lines, Inc., Bakersfield, California, DEE–1420, propane/butane.

DeMartin Truck Lines, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would excuse DeMartin from refund obligations arising from overcharges in propane and butane sales during the period November 1, 1973 through June 1978. On August 6, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that exception request should be granted in part.

Parker Energy & Petroleum Co., Richmond, Virginia, BEE–1234, motor gasoline

Parker Energy & Petroleum Co. filed an Application for Exception from the provisions of 10 CFR 212.62. The exception request, if granted, would require Cities Service Company to permit Parker to deliver motor gasoline to a retail outlet which Parker owns. On August 5, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

PMM Corporation, Mansfield, Massachusetts, BEE–0217, motor gasoline

The PMM Corporation filed an Application for Exception from the provisions of 10 CFR 211.102. The exception request, if granted, would permit PMM to receive an allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. On August 8, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted in part.

S. M. Scwartz Oil Co., Blytheville, Alaska, BEE–0555, gasohol

S. M. Scwartz Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Scwartz to receive an increased allocation of unleaded gasoline for the purpose of blending and marketing gasohol. On August 4, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Hull Grocery, Inc., DEE–7127, Hull, GA
Martin County, FL, BEE–1025, Stuart, FL

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase of the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

McMahon Oil Co., DEE–2904, Cleveland, TX
Menard & Holmberg Car Wash, DEE–6155, Chicopee, MA
Modern Oil Co., Inc., DEE–6265, Shawnee, OK
Henery Reese, DEE–6158, Cheektowaga, NY

[FR Doc. 80–25506 Filed 8–21–80; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1579–7]

Adequacy of Attention to Conservation and the Environment by the Department of Energy; Public Hearing

The Environmental Protection Agency (EPA) announces a Public Hearing on the Department of Energy's (DOE's) Conservation and Solar Energy Program. The Hearings will be held at the Office of Personnel Management's Auditorium, 1900 E Street NW., Washington, DC from 9 am to 5 pm, on September 24 and 25, 1980. The public is invited.

A pre-hearing document is also available for public review and comment. Requests for copies of this document and for more information on the Hearing should be addressed to the Environmental protection Agency at the address below.

Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93–577) directs the responsible agency (formerly the Council on Environmental Quality, now EPA) to carry out a continuing analysis of the Federal nonnuclear energy research and development program. The analysis assesses the "adequacy of attention" to energy conservation methods and environmental protection, as well as to the environmental consequences of the application of nonnuclear technologies.

The 1980 hearings will focus on the adequacy of attention to energy conservation and solar energy within the Department of Energy. Aspects of the review include:

(1) *Policy:* Have the potential contributions of conservation and solar programs been considered adequately by the Department in formulating its energy policies and in planning its programs?

(2) *Programs:* Has adequate attention been given to the implementation of DOE Conservation and Solar programs at the Federal, state, and local levels to ensure their maximum effectiveness?

(3) *Evaluation:* Has the Department equipped itself well to allocate resources wisely and to maintain quality control over the management of its programs, by providing adequately for the evaluation of the effectiveness of its programs?

Under the direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify. The September Public Hearing has been preceded by a series of Section 11 regional workshops held during June and July in Raleigh-Durham, NC; San Francisco, CA; St. Paul-Minneapolis, MN; Denver, CO; and Portland, OR. The workshops dealt with Federal conservation and solar energy policy analysis; program evaluation; research, development, and applications; and state and local assistance programs. A half day session during the two day hearing will be focused on each of these four topics.

A Report to the President and Congress, to be available in January 1981, will summarize the 1980 Section 11 program. Specific findings and recommendations will be made relative to EPA's review of DOE's conservation and solar energy program.

Further information about this Hearing and the pre-hearing document, which will summarize the regional workshops and outline the issues for discussion at the Hearing, may be obtained by contacting Gregory Ondich (202) 426–9434.

Individuals or organizations wishing to testify at the Hearing should submit, by September 15, 1980, a brief summary of their intended testimony to: Section 11 Cordinator (RD–681), Office of Environmental Engineering and Technology, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten (10) minutes in length. Additional time will be available for questions and comments from a panel of experts. An open period will be provided each day for unscheduled public testimony or questions. Transcripts of the September Hearing will be available to the public.

Dated: August 15, 1980.

Kurt Riegel,

Associate Deputy Assistant Administrator, Office of Environmental Engineering and Technology.

[FR Doc. 80-25415 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1582-4]

PSD Non-Applicability to the American Cyanamid Co., Linden, N.J.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the American Cyanamid Company (ACC) proposal to construct a new incinerator at their Warners Plant in Linden, New Jersey is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

A review of the ACC project in accordance with the requirements of this administrative order indicates that the project is not subject to PSD review. The potential (uncontrolled) emissions of particulate matter (PM) and sulfur dioxide (SO_2) were calcuated to be over the PSD threshold of 100 tons per year, and, therefore, subject to PSD under the June 19, 1978, regulations. However, the administrative order stays the application of the June 19, 1978, regulations as to any source or modification for which there is no significant net increase in emissions relative to each pollutant for which the source would be "major" under the September 5, 1979, proposed amendments. There will be no significant net increase in the amount of PM or SO_2 emissions from the proposed ACC project and there will be no signficiant net increases from any other pollutant for which ACC would be major. Therefore, on the basis of the condition of the stay, ACC is *not* subject to PSD review.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals, for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25621 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1582-5a]

Approval of PSD Permit to B.F. Goodrich Co. (Chemical Division)

In the matter of the proceedings under Title 1, Part C of the Clean Air Act (the Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for the Prevention of Significant Air Quality Deterioration (PSD) to the B.F. Goodrich Company (Chemical Division) (BFG).

On March 1, 1979, BFG submitted an application to the United States Environmental Protection Agency (EPA), Region II Office, for a proposed expansion of its polyvinyl chloride (PVC) manufacturing plant located in Pedricktown, New Jersey. The application was submitted pursuant to the PSD regulations. Supplemental information was received by the EPA on March 9, 1979, June 9, 1979, and July 6, 1979. The BFG PSD application was determined to be complete on July 18, 1979. Additional details on the project were received by the EPA on August 10, 1979, August 30, 1979, and November 15, 1979.

On January 28, 1980, a Preliminary Determination of Approvability (PD) was issued. On February 6, 1980, the EPA published notice of its decision to grant a preliminary approval to BFG and to request public comment on the decision (PD).

During the course of the public comment period, the EPA received a request for a public hearing from the Oldsman Township Planning Board (OTPB) dated February 19, 1980. This letter addressed several concerns of the OTPB relative to the proposed project. On March 6, 1980, at the request of BFG, the OTPB held a meeting with BFG representatives for the purpose of discussing the proposed project. As a result of this meeting, the issues raised by OTPB relative to the BFG project were resolved, The OTPB was satisfied with the agreements that were reached with BFG. On March 22, 1980, in a letter to the EPA, the OTPB withdrew its request for a public hearing.

On March 10, 1980, the EPA received a letter from BFG contesting the best available control technology (BACT) limitation of 1 part per million by volume (ppmv) of vinyl chloride monomer (VCM) established by the EPA for the VCM recovery system. The EPA review of the additional information submitted by BFG in support of its request indicated that a revision of the BACT limitation from 1 ppmv to 10 ppmv (the National Emission Standards for Hazardous Air Pollutants (NESHAPS)), was necessary. The permit condition(s) contained herein addresses this revision.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on

January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the 1978 PSD regulations and the proposed September 5, 1979, PSD regulations.

The BFG project was reviewed by the EPA in accordance with the requirements of the January 30, 1980, administrative order staying the 1978 PSD regulations. It was concluded that the project was still PSD affected and that it satisfied all the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations.

This approval to construct does not relieve BFG of the responsibility to comply with the control strategy and all local, state and federal regulations which are part of the applicable State Implementation Plan as well as all other applicable federal, state and local requirements.

This approval is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

For further information, please contact Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Region II Office, 26 Federal Plaza, New York, New York 10273, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

Region II, Approval to Construct

In the matter of the proposed expansion of The B.F. Goodrich Company (Chemical Division) polyvinyl chloride (PVC) manufacturing plant, Pedricktown, New Jersey; Proceeding Pursuant to the Clean Air Act, as amended.

Authority

The approval to construct is issued pursuant to the Clean Air Act as amended, 42 U.S.C. 7401 et. seq., (the Act), and the Federal Prevention of Significant Air Quality Deterioration (PSD) regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978).

Findings

1. The B.F. Goodrich Company (Chemical Division) (BFG) proposes to expand its PVC manufacturing plant located in Pedrickton, New Jersey from 159 million pounds per year to 344 million pounds per year of PVC. This will be accomplished in three phases.

Phase I—involves the debottlenecking of dispersion resin production line by adding a new spray dryer and a new feed tank and concentrator. The PSD affected facilities are:

Concentrator Slurry Tank TK-2N
Concentrator Slurry Tank TK-3N
Dryer Feed/Tank TK-4N
Spray Dryer DR-2P
Product Bagging SE-9P
Product Bagging SE-10P
Fuel Oil Storage Tank TK-10S

Phase II—involves the installation of a new 200 million pound per year suspension resin production line. The PSD affected facilities are:

Poly Evacuation Jets VJ-2E, PLY-1E thru 4E
Spot Ventilation BL-3E
Rotary Dryer SED-IH thru 3H
Blend Tanks TK-2G
Blend Tanks TK-5G
Blend Tanks TK-6G
VCM Sphere TK-2B
Pigment System
All Reactors

Phase III—involves the conversion of the existing 84 million pound per year suspension resin production line to a 48 million pound per year dispersion resin production line; this phase includes the installation of a new spray dryer and feed/tank and a new concentrator and concentrator feed/tank and the modification of existing reactors. The PSD affected facilities are:

Wastewater Stripping Column CL-2AA
Concentrator Slurry Tank TK-5N
Concentrator Slurry Tank TK-6N
Dryer Feed/Tank TK-7N
Spray Dryer Dr-3P
Product Bagging SE-13P
Product Bagging SE-14P
Slurry Stripping Column
Premix Tank
All Reactors

2. The Pedricktown area is designated non-attainment for Hydrocarbons pursuant to Section 107 of the Act. However, BFG was determined to be not subject to the requirements of the Emission Offset Policy (applicable to non-attainment areas).

3. The proposed expansion was determined to be subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act.

4. BFG submitted a PSD application to the United States Environmental Protection Agency (EPA), Regin II Office, on March 1, 1979, with additional submittals received by the EPA on March 9, 1979, June 19, 1979, and July 6, 1979.

On July 18, 1979, the BFG application was determined to be complete. Additional details of the projects were received by the EPA on August 10, 1979, August 30, 1979, and November 15, 1979.

On January 28, 1980 a Preliminary Determination of Approvability (PD) was issued.

5. On February 6, 1980, a notice to the public was published in the *Philadelphia Inquirer*, the Wilmington, News Journal and the Salem Sun Beam, requesting comments on the PD and soliciting the need to hold a public hearing on such determination. The public comment period expired on March 6, 1980.

6. During the course of the public comment period, the EPA received a request for a public hearing from the Oldsman Township Planning Board (OTPB) dated February 19, 1980. This letter addressed several concerns of the OTPB relative to the proposed project. On March 6, 1980, at the request of BFG, the OTPB held a meeting with BFG representatives for the purpose of discussing the proposed project. As a result of this meeting, the issues raised by the OTPB relative to the BFG project were resolved. The OTPB was satisfied with the agreements that were reached with BFG. On March 22, 1980, in a letter to the EPA, the OTPB withdrew its request for a public hearing.

7. On March 10, 1980, the EPA received a letter from BFG contesting the best available control technology (BACT) limitation of 1 part per million by volume (ppmv) vinyl chloride monomer (VCM) established by the EPA for the VCM recovery system. The EPA review of the additional information submitted by BFG in support of its request indicated that a revision of the BACT limitation from 1 ppmv to 10 ppmv (the National Emission Standards for Hazardous Air Pollutants (NESHAPS)) was necessary. The permit condition addresses this revision.

8. After review of all materials submitted by BFG, EPA has determined that emissions from the proposed expansion will be controlled by the application of BACT.

BFG shall employ the following BACT strategies to control VCM emissions from the facilities associated with the Pedricktown, New Jersey, plant expansion.

1. Residual VCM Emissions

BFG shall remove the suspension resin product and the dispersion resin product from the closed reactor after

completion of reaction to a slurry stripping surge tank. From this tank, the slurry shall be steam stripped of the residual VCM (RVCM) to average levels not to exceed 25 ppmw on an annual basis and 400 ppmw on a daily basis (in suspension resin) and 1350 ppmw on an annual basis and 2000 ppmw on a daily basis (in dispersion resin). The stripped RVCM shall then be piped to a monomer recovery system.

2. Monomer Recovery

BFG shall treat the gaseous stream of unrecovered VCM and inerts from the monomer recovery system using a solvent absorption system with a final exit gas concentration of less than 10 ppmv of VCM. A backup incinerator shall be available for use in the event that the solvent absorber is inoperable.

3. Relief Valve Discharges from Reactors

BFG shall implement a program of maintenance, training and operational design review which will focus on premature rupture disc failure prevention. In addition, BFG shall use a computer reaction controller which will be capable of monitoring temperature and pressure of the reaction and controlling the reaction by altering the cooling water and other process variables; an automatic sequence of corrective actions for unusual reaction problems shall be adopted.

4. Reactor Opening Loss

BFG shall reduce reactor openings (and thereby reduce VCM emissions) by utilizing the company's "closed poly technology" (a technology which reduces the need for reactor opening). In addition, BFG shall steam strip the reactor of the unpolymerized VCM after the product leaves the chamber to the level specified in the NESHAPS regulations (VCM emissions shall not exceed 0.02 grams per kilogram (0.00002 pounds of VCM per pound) of polyvinyl chloride product, with the product determined on a dry solid basis).

5. Fugitive Emissions

BFG shall control fugitive emissions by reducing the frequency of equipment openings which release fugitive emissions, using a stream sweep and vacuum or water purge technology. Fugitive emissions from wastewater shall be controlled via a wastewater stripper.

Leaks from pumps, agitators, compressors, and various other pieces of process equipment, fugitive emissions from loading and unloading, and relief valve discharges from equipment other than reactors shall be controlled using equipment specified in the NESHAPS regulations and shall be monitored by a leak detection program.

Conditions for Approval

Construction and operation of facilities comprising the BFG project were subject to the following conditions:

1. BFG shall limit the products of suspension resin to 200 million pounds per year; documentation shall be submitted to the EPA as part of the semiannual reporting requirements pursuant to the NESHAPS regulations (on March 15 and September 15 of each year).

2. BFG shall limit the production of dispersion resin to 96 million pounds per year; documentation shall be submitted to the EPA as part of the semiannual reporting requirements pursuant to the NESHAPS regulations (on March 15 and September 15 of each year).

3. BFG shall limit the concentration (weighted average) of residual vinyl chloride monomer (RVCM) in suspension resin to 25 ppmw on an annual basis and 400 ppmw on a daily average (measured for each calendar day). Measurements of the RVCM concentrations must be made immediately after the stripping process is completed. BFG shall submit daily averages to the EPA in accordance with the NESHAPS regulations; BFG shall submit the annual average as part of the September 15 semiannual report (a reporting requirement under NESHAPS regulations). The time frame for measuring the annual average shall be August 1 through July 31 of each year.

4. BFG shall limit the concentration (weighted average) of RVCM in dispersion resin to 1350 ppmw on an annual basis and 2000 ppmw on a daily average (measured for each calendar day). Measurements of the RVCM concentrations must be made immediately after the stripping process is completed. BFG shall submit the daily average to the EPA in accordance with the NESHAPS regulations; BFG shall submit the annual averages as part of the September 15 semiannual report (a reporting requirement under NESHAPS regulations). The time frame for measuring the annual average shall be August 1 through July 31 of each year.

5. BFG shall stack test the baghouses (or a representative baghouse) for each PSD affected dryer facility for the pollutant particulate matter in accordance with EPA method 5 procedures. BFG shall notify the EPA at least 10 days prior to such testing; test reports shall be submitted to EPA within 30 days after completion of testing.

6. BFG shall notify the EPA of the anticipated dates of commencement of construction and commencement of operation for each phase of this project not more than 60 days nor less than 30 days prior to such dates. The actual dates when such activities were undertaken shall be submitted to the EPA within 15 days of each activity.

7. BFG shall meet all the specifications described in its PSD permit application. The BACT strategies delineated by the EPA must be achieved.

8. BFG shall comply with all requirements of the NESHAPS regulations and the New Jersey State Implementation Plan.

9. BFG shall meet all other applicable federal, state and local requirements.

All notification required herein (excepting those modification requirements pursuant to the NESHAPS regulations) shall be submitted to Mr. Kenneth Eng, Chief of the Air and Environmental Applications Section, Permits Administration Branch, Room 432, United States Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. All notification required pursuant to the NESHAPS regulations shall be submitted to Mr. Marcus Kantz, Regional NESHAPS Coordinator, Air Facilities Branch, United States Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. All reports shall clearly indicate whether they are being submitted pursuant to the PSD requirements, the NESHAPS requirements, or both.

Approval

Approval to expand the Pedricktown Plant is hereby granted to BFG subject to the conditions expressed herein and consistent with the materials and data included in the application filed by BFG. Any departure from the conditions of this approval or the terms expressed in the application, must receive the prior written authorization of the EPA.

Authority to commence construction on this project shall be effective on the date of this approval. If construction is not commenced within eighteen months or more, or not completed within a reasonable time, such authority shall become invalid. In accordance with the regulations set forth in 40 CFR 52.21(r)(2)(viii), this notification shall be made available for public inspection at the Southern Field Office, Bureau of Air Pollution Control, New Jersey Department of Environmental Protection, 100 Larwin Road, Cherry Hill, New Jersey 08034.

On December 14, 1979, in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.), the U.S. Court of Appeals for the District of Columbia Circuit issued its final opinion on the challenges to the existing PSD regulations. In response to this, on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978 as to any source or modification which would not be major under the amendments to those regulations proposed at 40 FR 51924 (September 5, 1979). In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under both the 1978 PSD regulations and the proposed September 5, 1979, PSD regulations. The BFG project was reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review and in compliance with all applicable requirements; thus, a PSD permit is necessary and approvable. The final regulations are expected to be promulgated in accordance with the final court opinion within the next few months. The permittee is advised to keep abreast of EPA activities relating to the PSD permitting program. It is possible that the final regulations may contain requirements that are substantially different from those which have been imposed on the source in issuing its a PSD permit; if such is the case, the permittee is advised to make arrangements with this office to resolve the differences.

Any questions concerning the determination herein communicated or the impact of the court decision on the BFG permit should be directed to Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, 26 Federal Plaza, Region II Office, New York, New York 10278, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80–25620 Filed 8–21–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1582–6]

Approval of PSD Permit to Colgate Palmolive Co., Jersey City, N.J.

Notice is hereby given that on May 13, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to the Colgate Palmolive Company (CPC) for approval to construct and operate a new detergent-base manufacturing operation at its existing plant in Jersy City, New Jersey. Specifically, the modifications include the facilities and equipment necessary to carry out processes involved in detergent-base sulfonation.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to chemical process plants subject to certain conditions, including:

1. CPC must meet all the specifications described in their June 28, 1979, PSD permit application;

2. CPC must conduct a stack test to determine the sulfur dioxide emissions using the approved EPA method(s);

3. CPC must notify the EPA of the anticipated date of commencement of construction and the anticipated date of commencement of operation not more than 60 days nor less than 30 days prior to such dates. The actual dates of commencement of construction and operation must be submitted to the EPA within 30 days after such dates.

4. CPC must comply with all other applicable federal, state and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307 (b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80–25619 Filed 8–21–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1583–4]

Applicability Determination for New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of applicability.

SUMMARY: Applicability of New Source Performance Standards (NSPS) has been determined as indicated below.

Amionoil U.S.A., Inc

Amionoil proposes to build a gas liquid facility approximately 13 miles south of George West, Texas on U.S. Highway 59. The plant will be of the cryogenic turbo expander type. It will be capable of producing utility grade natural gas and propane-plus natural gasoline type hydrocarbon liquid from an inlet gas stream. This facility will use a 3,291 horsepower (hp) natural gas turbine to power a Solar Centaur compressor. New Source Performance Standards (40 CFR Part 60, Subpart GG), have been promulgated to regulate the emission of nitrogen oxides (NO_x) and sulfur oxides (SO_x) into the atmosphere from stationary gas turbines. Under these regulations, stationary gas turbines constructed after September 10, 1979, with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (which is approximately equal to 1000 hp output), based on the lower heating value of the fuel fired, must meet the requirements of this subpart. Since, Amionoil's turbine is rated at 3,291 hp, it is subject to the requirements of 40 CFR Part 60, Subpart GG.

Circle "S" Paving Co., Inc.

The Circle "S" Paving Company has installed a new Asphalt plant, replacing their old plant. The new plant is located at the junction of Interstate 40 and U.S. Highway 183, 1½ miles south of and ¾ of a mile east of Clinton, Oklahoma. The plant will produce approximately 60,000 tons per year of asphaltic paving materials. New Source Performance Standards, (40 CFR Part 60, Subpart I), have been promulgated to regulate the

[FRL 1584–2]

emission of particulate matter (PM) into the atmosphere from asphalt concrete plants constructed or modified after June 11, 1973. Since this plant was put into operation after this date, it is subject to the requirements of 40 CFR Part 60, Subpart I.

Petromax Refining Co.

Petromax proposes to build a petroleum fractionation, storage, and shipping facility at 1201 Sheldon Road, Channelview, Texas. This facility will produce diesel fuel, aviation fuel, and leaded gasoline. New Source Performance Standards (40 CFR Part 60, Subparts J and Ka) have been promulgated to regulate the emission of particulate matter (PM), carbon monoxide (CO), and sulfur dioxide (SO_2) under Subpart J, and volatile organic compounds (VOC) under Subpart Ka from petroleum refineries and storage vessels for petroleum liquids. Under these regulations the provisions of Subpart J are applicable to the following affected facilities in petroleum refineries: Fluid catalytic cracking unit catalyst regenerators, (FCCU's), fuel gas combusion devices, and all claus sulfur recovery plants, except claus plants of 20 long tons per day (LTD) or less associated with a small petroleum refinery. Since this plant does not have a FCCU or a claus plant, but will burn fuel gas in all of its combustion devices, it is subject to the requirements of 40 CFR Part 60, Subpart J. Also, since this facility will have seven petroleum storage vessels with storage capacities greater than 151,412 liters (40,000 gallons), it is subject to the requirements of 40 CFR Part 60, Subpart Ka.

Coral Petroleum, Inc.

Coral proposes to construct a petroleum storage terminal to be located in St. James Parish, Louisiana. The terminal will consist of two crude oil floating roof tanks, six number 6 fuel oil tanks, two natural gas boilers, a dock, and ballast water treating facility. New Source Performance Standards (40 CFR Part 60, Subpart Ka) have been promulgated to regulate the emission of volatile organic compounds, (VOC) from petroleum storage vessels. Under these regulations petroleum storage tanks with a capacity of 151,412 liters (40,000 gallons) or greater, must meet the requirements of 40 CFR Part 60, Subpart Ka. Vessels which store fuel oils number 2–6 are exempted from these regulations. Since this facility will have two storage vessels which will store VOC other than fuel oils No. 2–No. 6, and have storage capacities greater than 151,412 liters, it is subject to the requirements of 40 CFR Part 60, Subpart Ka, for the two vessels.

Petroleum Fuel & Terminal Co.

Petroleum Fuel and Terminal Company proposes to build a 20,000 barrel per standard day vacuum distillation unit, and 17 petroleum storage tanks, and a petroleum transfer facility. The proposed project will be located on Route 141 near Carville, Louisiana. The refinery will produce No. 2 and No. 6 fuel oils and light and heavy vacuum gas oils. New Source Performance Standards (40 CFR Part 60, Subpart J and Ka) have been promulgated to regulate the emission of particulate matter (PM), carbon monoxide (CO), and sulfur dioxide (SO_2) under Subpart J, and volatile organic compounds (VOC) under Subpart Ka from petroleum refineries and storage vessels for petroleum liquids. Under these regulations, the provisions of Subpart J are applicable to the following affected facilities in petroleum refineries: fluid catalytic cracking unit catalyst regenerators (FCCU's), fuel gas combusion devices, and all claus sulfur recovery plants, except claus plants of 20 long tons per day (LTD) or less associated with a small petroleum refinery. Since this plant does not have a FCCU or a claus plant, but will burn fuel gas in its combustion devices it is subject to the requirements of 40 CFR Part 60, Subpart J. Also, since this facility will have 17 petroleum storage vessels with storage capacities greater than 151,412 liters (40,000 gallons), it is subject to the requirements of 40 CFR Part 60, Subpart Ka, except those vessels storing No. 2–No. 6 fuel oils, which are exempt under this subpart.

DATES: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of the background material and determination are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, EPA Library, Room 2922, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Carl Edlund, Chief, Air Enforcement Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2755.

Dated: August 1, 1980.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 80-25612 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-3]

Approval of PSD Permit to Concrete Materials Inc., Brockport, N.Y.

Notice is hereby given that on May 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Concrete Materials, Inc. (CMI) for approval to construct and operate a rock crushing plant in Brockport, New York. Specifically, the project includes the construction of a 2000 ton per day rock crushing plant consisting of 3 rock crushers, a hopper and feeder, 2 screens and numerous conveyors.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* [No. 78–1006, D.C. Cir.]), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review. The EPA had determined that CMI satisfies all of the requirements under both the 1978 PSD regulations and the applicable provisions of the proposed regulations; thus, the approval of the PSD permit request is granted.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to rock crushing plants subject to certain conditions, including:

1. CMI shall meet all the specifications described in their September 12, 1979, PSD permit application;

2. CMI shall not operate the plant beyond May 12, 1983;

3. Upon expiration of the company's current New York State Department of Environmental Conservation Certificate to Operate for this plant, CMI shall either relocate the rock crushing plant or perform ambient air quality impact analyses; these analyses shall be submitted (and a PSD permit subsequently issued) before CMI can operate the plant after May 12, 1983. If CMI chooses to relocate, they shall submit notification of such to the EPA for approval. This notification shall be submitted within 30 days prior to the relocation;

4. CMI shall notify the EPA of the anticipated date of commencement of construction and the anticipated date of commencement of operation not more than 60 days nor less than 30 days prior to such dates. The actual dates of commencement of construction and operation shall be submitted to the EPA within 30 days after such dates;

5. CMI shall comply with all other applicable federal, state and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren.

Regional Administrator.

[FR Doc. 80-25622 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-2]

Approval of PSD Permit to Mitchell Energy Corp.

Notice is hereby given that on July 25, 1980, the Environment Protection Agency (EPA) issued an amended Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–139, to Mitchell Energy Corporation for approval to change the design of a crude/condensate fractionating facility which Mitchell Energy plans to construct on U.S. Highway 380, two miles west of Bridgeport, Wise County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD–TX–139 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Regiona 6, Air Enfofcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Administrator, City Hall, 812 Halsell, Bridgeport, Texas 76020.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25608 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-1]

Approval of PSD Permit to Endevco, Inc.

Notice is hereby given that on July 23, 1980, the Environmental Protection Agency (EPA) issued Prevention of Significant Deterioration (PSD) permit, Number PSD–AR–240, to Endevco, Incorporated for approval to construct a natural gas sweetening plant located onState Route 134, eight miles northeast of Fouke, Miller County, Arkansas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD–AR–240 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, City Hall, Main Street, P.O. Box 173, Fouke, Arkansas 71837.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25607 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-8]

Approval of PSD Permit to Panhandle Eastern Pipeline Co.

Notice is hereby given that on July 17, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD–TX–274, to the Panhandle Eastern Pipeline company for approval to modify the Blair-Heydrick Natural Gas compressor station located approximately 8 miles south of Borger on Highway 207 in Carson County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD–TX–274 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, P.O. Box 5250, Borger, Texas 79007.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25608 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-7]

Approval of PSD Permit to Southern Natural Gas Co.

Notice is hereby given that on July 17, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-267, to the Southern Natural Gas Company for approval to install a 5000 HP reciprocating engine located at the existing Franklinton Compressor Station in Washington Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-267 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Clerk Treasurer, City Hall, P.O. Box 584, Franklinton, Louisiana 70438.

August 13, 1980.

Frances E. Phillips,

Actng, Regional Administrator, Region 6.

[FR Doc. 80-25609 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-6]

Approval of PSD Permit to Georgia-Pacific Corp.

Notice is hereby given that on July 17, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-AR-304a, to the Georgia-Pacific Corporation for approval to construct a formaldehyde facility located at First Avenue, Crossett, Ashley County, Arkansas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-AR-304a is available *only* by the filing of a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the Mayor, 309 Main Street, Crossett, Arkansas 71635.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25610 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-5]

Approval of PSD Permit to Texaco, Inc.

Notice is hereby given that on July 10, 1980, the Environmental Protection Agency (EPA) issued an amended Prevention of Significant Deterioration (PSD) permit, number PSD-TX-141, to Texaco, Incorporated for approval to expand their refinery located in Port Arthur, Jefferson County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-141 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, 444 Fourth Street, Port Arthur, Texas 77644.

Dated: August 13, 1980.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-25611 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-8]

Approval of PSD Permit to GAF Corp., Wayne, N.J.

Notice is hereby given that on March 14, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deteroriation (PSD) permit to the GAF Corporation (GAF) for approval to modify their plant in Bridgewater Township, New Jersey. Specifically, the modification includes an expansion (removal of three conveyors, replacement of two screens and an elevator, addition of a new screen, crushing rolls, and three belt conveyors) of the mill processes and the construction of a new rotary kiln.

The PDS regulations have changed signficantly since their intitial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to roof granule manufacturing plants subject to certain conditions, including:

I. Expansion of mill processes:

A. GAF shall limit the allowable particulate matter emissions of the expansion to 15 pounds per hour (as specified in GAF's submittals of May 16, 1979, and July 26, 1979).

B. GAF shall employ good engineering practices (GEP) to the extent possible to control all sources of fugitive emissions from the mill expansion (i.e., dust pickups or control of the elevators, screens, conveyors, crushers, etc.). GEP shall also include limiting fugitive emissions from the granule stockpiling operations.

C. GAF shall employ GEP to control fugitive emissions from the increased truck traffic for incoming and outgoing rock and finished product deliveries. This shall include, at a minimum, road watering and/or paving for reduction in fugitive emissions.

D. GAF shall stack test the mill bag collector to ensure compliance with the permit conditions and applicable regulations.

II. Construction of rotary kiln:

A. GAF shall limit the rotary kiln processing rate to 120,000 pounds per hour of rock.

B. GAF shall stack test the kiln scrubber to ensure compliance with the permit conditions and applicable regulations within 90 days of the start of operaitons.

III. The entire GAF project shall comply with all other applicable requirements of the New Jersey State Implementation Plan not specifically defined above.

IV. GAF shall comply with other applicable federal, state and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location:

Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25617 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-7]

Approval of PSD Permit to the Curtiss-Wright Corp., Wood-Ridge, N.J.

Notice is hereby given that on June 13, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a Prevention of Significant Air Quality Deterioration (PSD) permit to the Curtiss-Wright Corporation (CW) for approval to construct a pressurized fluidized-bed coal combustion boiler and related equipment at their Wood-Ridge, New Jersey plant.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78-1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations. This source has been reviewed in conformance with the requirements of the stay and was found to be still subject to PSD review.

This permit has been issued under EPA's PSD regulations codified at 40 CFR 52.21 (43 FR 26388, June 19, 1978) applicable to aerospace manufacturing plants subject to certain conditions, including:

1. CW shall meet all the specifications described in the November 14, 1979, PSD permit application package;

2. CW shall comply with all applicable requirements contained in the New Jersey State Implementation Plan;

3. CW shall not operate the project in excess of 3100 hours per year for a period not to exceed two years;

4. CW shall submit all emissions data obtained during the test period to the EPA every 3 months throughout the duration of the pilot test. Each data submittal shall include operating parameters, such as, but not limited to: Ca/S ratio, gas residence time and sorbent particle size. A final report shall be submitted to the EPA upon completion of the CW project. This final report shall include a narrative on the effect of the various operating parameters on the emissions from the plant;

5. CW shall meet all other applicable federal, state, and local requirements.

This approval is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this approval is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25618 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-2]

PSD Nonapplicability to Clinton Corn Processing Co., Montezuma, N.Y.

Notice is hereby given that on February 26, 1808, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Clinton Corn Processing Co. (CCP) proposal to construct a rotary Heil dryer at their Montezuma, New York plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78-1006, D.C.

Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations

The construction of the CCP Heil dryer, which will be used to dry corn fiber, is operated in conjunction with a cyclone. Cyclones installed on fiber dryers function primarily as product collectors which separate the dried product from the exhaust gas steam. This cyclone is considered to be vital to the production process; therefore, potential (uncontrolled) emissions are measured after the cyclone. On this basis, the potential emissions of particulate matter associated with the source are calculated to be approximately 80 tons per year (TPY). In addition, the potential emissions of all other pollutants associated with the source (sulfur dioxide, hydrocarbons and nitrogen oxides) fall well below the threshold level for PSD applicability under the June 19, 1978, PSD regulations (100 TPY potential emissions). Thus, the CCP corn fiber dryer is *not* subject to PSD review because the potential emissions of all pollutants are less than the applicable PSD threshold level of 100 TPY.

This determination is final action under the Clean Air Act (the Act). Under Section 307 (B)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307 (b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Date: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25623 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1582-1]

PSD NonApplicability to Hercules Inc., Parlin, N.J.

Notice is hereby given that on May 13, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Hercules Inc. proposal to modify the existing nitrocellulose production facility located in Parlin, New Jersey is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for chemical process plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Parlin, New Jersey is not attaining the NAAQS for the pollutant hydrocarbons (the only applicable pollutant emitted from the referenced project). Hercules satisfies the requirements of the administrative order and, therefore, PSD review of this project is *not* required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25624 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-7]

PSD Non applicability to Armstrong Cork Co., Fulton, N.Y.

Notice is hereby given that on June 30, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Armstrong Cork Company (ACC) proposal to construct seven new storage silos to store fibrous materials used in making tiles at their Fulton, New York plant is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for fiber ceiling and floor tile manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on

January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which would not be major under the proposed September 5, 1979, regulations. Our finding is that the ACC modification is *not* subject to PSD review pursuant to the proposed 1979 PSD regulations because it is not a major modification. Under the proposed regulations, a modification to a major source is subject to PSD review (major modification) if the modification has potential (controlled) emissions which exceed the specified *de minimis* level for a particular pollutant for which the source is "major" (actual emissions of 250 tons per year of a pollutant). The ACC plant is not major for any pollutant for which there is a greater than *de minimis* increase. Specifically, although the ACC plant is considered to be a major source of sulfur dioxide (SO_2), the affected emission points only increase the emissions of the pollutant particulate matter (PM). Therefore, on the basis of the condition of the stay, ACC is *not* subject to PSD review.

this determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25625 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-6]

PSD Non applicability to Arcata Graphics, Depew, N.Y.

Notice is hereby given that on April 7, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Arcata Graphics proposal to construct two new gravure presses at their Depew, New York, plant is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for commercial printing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under both the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as nonattainment (not attaining the National Ambient Air Quality Standards (NAAQS)) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Depew, New York, is a non-attainment area with respect to the pollutant hydrocarbons (HC) and HC is the only applicable pollutant emitted from the gravure presses. The Arcata modification satisfies the applicable requirements of the order and, thus, PSD review of the project is not required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25626 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-5]

PSD Nonapplicability to The Exolon Co., Tonawanda, N.Y.

Notice is hereby given that on February 6, 1980, and March 6, 1980, the Environmental Protection Agency (EPA), Region II Office, issued determinations that the modifications to the existing luminum oxide crushers and screens and the addition of a new aluminum oxide rotary kiln at the Exolon plant in Tonawanda, New York, are not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. These determinations of non-applicability have been issued under EPA's PSD regulations (40 CFR 52.21) for aluminum oxide and silicon carbide manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a per curiam opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On Setember 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be

PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Based upon this Administrative order, the EPA has determined that the Exolon modifications are not PSD affected for the following reasons:

(1) There is no net increase in potential emissions of any applicable pollutant associated with the modifications to the existing aluminum oxide crushers and screens (this exempts a facility from the PSD requirements under the June 19, 1978, PSD regulations);

(2) The allowable particulate matter emissions associated with the new aluminum oxide rotary kiln were calculated to be approximately 9.5 tons per year (less than the threshold limitation for PSD affectability under the September 5, 1979, proposed PSD regulations).

Therefore, the subject modifications are *not* PSD affected.

These determinations are final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of these deteminations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determinations which are the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determinations are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25627 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-4]

NSPS Applicability to Hooker Chemical and Plastics Corp., Niagara Falls, N.Y.

Notice is hereby given that on May 22, 1980, the Environmental Protection Agency (EPA), Region II Office, issued determinations that the Hooker Chemical and Plastics Corp. (Hooker) proposal to construct an Energy-from-Waste (EFW) facility in Niagara Falls, New York is subject to the New Source Performance Standards (NSPS) regulations (40 CFR 60 *et seq.)* for fossil fuel-fired steam generators (40 CFR 60.40) and that the proposed Hooker EFW facility is not subject to the NSPS regulations for incinerators (40 CFR 60.50). Specifically, the two Hooker EFW project consists of two boilers, each boiler having the capability of burning refuse-derived fuel (RDF) and fossil fuel; that is, each boiler will be capable of burning only RDF or only fossil fuel or a combination of RDF and fossil fuel.

The NSP regulations for fossil fuel-fired steam generators apply to any unit capable of firing fossil fuel at a heat input rate of more than 250 million British thermal units (Btus) per hour. Each of the Hooker EFW boilers has the capability to fire fossil fuel at a heat input rate in excess of 250 million Btus per hour; therefore, both units *are* subject to the NSPS regulations for fossil fuel-fired steam generators.

The NSPS regulations for incinerators apply to any unit capable of charging more than 50 tons of solid waste per day. Solid waste (as defined in 40 CFR 60.51(b)) means refuse, more than 50 percent of which is municipal type waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustibles, and noncumbustible materials such as glass and rock. The Hooker EFW project will involve removing the noncumbustible materials prior to incineration. Therefore, since the two units will not be burning "solid waste" (as defined in the NSPS regulations), the units are *not* subject to the NSPS regulations for incinerators.

These determinations are final actions under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of these determinations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determinations which are the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determinations are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25628 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1581-3]

PSD Nonapplicability to International Business Machines Inc., Endicott, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the International Business Machines (IBM) proposal to modify its Endicott, New York plant is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This project consists of various modifications to existing plant equipment and additions of new facilities; the principal emission facilities include two carbon adsorption units, two strippers and a transfer fan for five carbon adsorption units. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for electronic computing equipment manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company* v. *Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

A review of the IBM project in accordance with the requirements of this administrative order indicates that the project is not subject to PSD review. The potential (uncontrolled) hydrocarbon (HC) emissions relative to this project were calculated to be approximately 625 tons per year and, therefore, subject to PSD review under the June 19, 1978, regulations. However, the administrative order stays the application of June 19, 1978, regulations as to any source or modification for which there is no significant increase of emissions relative to each pollutant for which the source is "major" under the September 5, 1979, proposed amendments. When taking into account all additions and the shutdown of existing equipment, there is a net decrease in the amount of HC emissions. In addition, there will be no significant emission increases from any other pollutant for which IBM would be major. Based upon this review, the IBM project is *not* PSD affected.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25629 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1481-8]

PSD Nonapplicability to the Carborundum Co., Niagara Falls, N.Y.

Notice is hereby given that on April 21, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the Carborundum Company proposal to construct a submerged arc furnace at their Electro Minerals Division plant in Niagara Falls, New York is not subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for abrasive product manufacturing plants.

The PSD regulations have changed significantly since their initial promulgation on June 19, 1978. On June 18, 1979, in response to numerous challenges to these regulations (consolidated in *Alabama Power Company v. Costle* (No. 78–1006, D.C. Cir.)), the U.S. Court of Appeals for the District of Columbia Circuit issued a *per curiam* opinion on the validity of the existing PSD regulations; the court remanded pertinent sections of the rules to EPA for revision in accordance with its decision. On September 5, 1979, the EPA published proposed regulations in response to the court opinion. On December 14, 1979, the court issued its final opinion on the subject and on January 30, 1980, the Administrator of the EPA issued an administrative order partially staying the regulations of 1978. In essence, this order states that a new source or source modification will be PSD affected only if it is subject to PSD review under *both* the June 19, 1978, PSD regulations and the proposed September 5, 1979, PSD regulations.

Specifically, the January 30, 1980, order stays the application of the June 19, 1978, PSD regulations as to any source or modification which either (1) would not be major under the proposed September 5, 1979, regulations or (2) would be located in an area designated under Section 107 of the Clean Air Act (the Act) as not attaining the National Ambient Air Quality Standards (NAAQS) for each pollutant for which the source or modification would be "major" under the September 5, 1979, proposed amendments. Niagara Falls, New York is not attaining the NAAQS for the pollutant particulate matter (the only applicable pollutant that would be emitted from the referenced furnace). Carborundum Company satisfies the requirements of the administrative order and, therefore, PSD review of this project is *not* required.

This determination is final action under the Act. Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch—Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278. Attention: Mr. Kenneth Eng (212) 264–4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25631 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-4; OPTS-00014]

Interagency Toxic Substances Data Committee; Cancellation of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The September meeting of the Interagency Toxic Substances Data Committee has been cancelled.

FOR FURTHER INFORMATION CONTACT: Nan Fremont (TS–793), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202–755–8040).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee take place on the first Tuesday of each month at 9:30 a.m. and are open to the public. The meetings are held in: Room 2010, New Executive Office Building, 17th St. and Pennsylvania Ave., NW., Washington, D.C. 20006.

The September meeting has been cancelled. The next meeting of the Interagency Toxic Substances Data Committee will take place on October 7, 1980.

Dated: August 15, 1980.

Nan Fremont,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 80-25604 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-3; OPP-180476]

Kansas; Issuance of Specific Exemption To Use Permethrin on Field Corn To Control Southwestern Corn Borer

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the State of Kansas (hereafter referred to as the "Applicant") to use permethrin on a maximum of 265,164 acres of field corn to control the southwestern corn borer. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 15, 1980.

V 45 A G 22 80 UMI

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Rm: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: The southwestern corn borer is a serious pest of irrigated field corn in much of southwestern and south central Kansas. The Applicant estimated that the southwestern corn borer accounted for a 33.6 percent yield reduction in field corn in 1979. Total losses, when using the registered alternative which has given the best control, are estimated to be about $18.3 million, while losses with the use of permethrin are estimated to be $7.4 million.

Currently, diazinon, carbaryl and carbofuran are registered for southwestern corn borer control on field corn. However, the Applicant claims that diazinon has not significantly reduced borer populations; carbaryl has given inconsistent results; and carbofuran does not work during extremely dry conditions. Cultural, biological and mechanical control measures, as well as the use of short-season hybrids, have not consistently controlled borer populations, according to the Applicant.

The Applicant proposes to make a maximum of two applications of permethrin (Pounce and Ambush) using air or ground equipment to control second brood populations of southwestern corn borers. A 30-day pre-harvest interval will be observed.

EPA has determined that the proposed use should not result in residues of permethrin of more than 0.05 part per million (ppm) in or on field corn grain, and 2.0 ppm in or on forage and fodder. These levels have been judged by EPA to be adequate to protect the public health. Established meat and milk tolerances should not be exceeded as a result of feeding forage and fodder. Because of permethrin's toxicity to fish and other aquatic organisms, and bees, appropriate restrictions have been imposed. The use of permethrin under this specific exemption is not expected to present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ambush 2E (EPA Reg. No. 10182-18) and Pounce 3.2EC (EPA Reg. No. 279-30140) may be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Permethrin may be applied at a rate of 0.1 to 0.2 pound per acre;

3. A maximum of two applications may be made. Under no circumstances may any more than two applications be made in the 1980 growing season;

4. Applications may begin when eggs of the second generation of southwestern corn borers begin to hatch. The additional application may be made as needed;

5. A maximum of 265,164 acres of field corn may be treated;

6. Applications may be made by State-certified applicators using either ground or aerial equipment. A minimum spray volume of 15 gallons per acre, when applied by ground equipment, and 3 gallons per acre, when applied by aerial equipment, will be used;

7. A 30-day pre-harvest interval will be observed;

8. The use of permethrin is not authorized until it has been determined that eggs of the second generation of the southwestern corn borer are present or when heavy first generation moth flights are present in the area;

9. A 60-day crop rotation restriction will be observed;

10. It is recommended that permethrin not be applied any closer to fish-bearing waters than as follows:

Application height/method	Buffer zone in feet	
	Freshwater	Saltwater
Application rate 0.1 lbs per acre:		
2 ft Ground spray	50	300
8 ft Ground spray	200	900
15 ft Ground spray	350	1,700
Application rate 0.2 lbs per acre:		
2 ft Ground spray	80	350
8 ft Aerial spray	340	1,400
15 ft Aerial spray	650	2,700

Applications closer than these may result in fish and/or other aquatic organism kills. It is recommended that applications be made when wind speeds are between 2 and 5 miles per hour. No applications are to be made when wind speeds exceed 10 miles per hour;

11. Precautions must be taken to avoid or minimize spray drift to non-target areas;

12. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. They may not be applied or allowed to drift to weeds in bloom on which significant numbers of bees are actively foraging;

13. Permethrin is toxic to fish. It may not be applied directly to water and drift control precautions must be observed. It may not be applied when excessive runoff is likely to occur. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticides;

14. Residues of permethrin resulting from the above application are not expected to exceed 0.05 ppm in or on field corn grain and 2.0 ppm in or on field corn forage or fodder. Secondary residues in meat and milk are not expected to exceed 0.05 ppm. Commodities which do not exceed the above levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

15. All applicable directions, restrictions, and precautions on the EPA-registered labels are to be adhered to;

16. The Kansas State Board of Agriculture is responsible for ensuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1981; and

17. The EPA shall be immediately informed of any adverse effects resulting from use of permethrin in connection with this program.

(Sec. 18, as amended (92 Stat. 819; [7 U.S.C. 136))

Dated: August 12, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-25605 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1583-2]

Region VIII—Ground Water System of the Shallow Aquifers in the Helena Valley, Lewis and Clark County, Mont.; Request for EPA Determination Regarding Aquifers

A petition has been submitted by the Lewis and Clark City-County Health Department, Helena, Montana pursuant to section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, 88 Stat. 1661 *et seq.*, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying a portion of the Helena Valley northeast of the City of Helena is the sole or principal drinking water source for that portion of the Helena Valley, which, if contaminated would create a significant hazard to public health.

The petition is reprinted in full below.

Before the United States Environmental Protection Agency, Douglas M. Costle, Administrator, and Roger L. Williams, Region VIII Administrator.

In the matter of the Petition of the Lewis and Clark City-County Health Department, Helena, Montana, under section 1424(e) of the Safe Drinking Water Act of 1974 with respect to the Helena Valley Shallow Aquifer System; Lewis and Clark County, Montana.

Petition for Designation of Sole Source Aquifer

Presented by the Lewis and Clark City-County Health Department, 316 North Park, Helena, Montana 59601, 443-1010 (351).

(1) The Lewis and Clark City-County Health Department hereby petitions the Administrator and the Region VIII Administrator of the United States Environmental Protection Agency requesting that the Helena Valley Shallow Aquifer system be designated as a sole source aquifer as provided under section 1424(e) of the Safe Drinking Water Act (Public Law 93-523). This office is interested in such a designation because of the beneficial effect such a designation would have on numerous public oriented goals and objectives established to protect a major domestic water supply. It is our position that existing ground water quality should be protected from further contamination. Currently the state has no ground water standards that provide adequate protection for this important water supply. Thus, ground water protection in the subject area is limited to sewage treatment facility review. In evaluating ground water quality, the primary drinking water standards are used, since they most closely correspond with goals and objectives in the maintenance of water quality. Because of rapid development in the petitioned area, water quality is showing deleterious effects, such as increasing nitrate levels. However, population densities are too low to economically support central sewer or water systems. In addition, a petroleum pipeline is to be built through the valley, up-gradient from the major portions of residences using the water supply, bringing with it the potential for adverse impacts on local ground water supplies and their recharge areas.

Contamination of the aquifer would result in unsatisfactory water quality for 6000-6700 people who rely on this water source. These 6000 or more people draw their water from either individual or community water supplies using the Helena Valley Shallow Aquifer System.

(2) The approximate boundary of the aquifer is presented in the attached map. The shaded area indicates the region of concern where the aquifer is the primary source of domestic water. Surface streams that cross the aquifer and subsequently recharge it are also indicated on the map. The ground water flow system parallels the flow of the stream recharge system, more or less, as it moves towards Lake Helena. The valley floor deposits, which make up the aquifer could be classified as unconsolidate alluvium.

Surface soil permeability varies throughout the valley. In terms of percolation tests (to a 36" depth) the soil permeabilities vary from less than one minute per inch to more than 30 minutes per inch, the average being 6-8 minutes per inch. Permeabilities at lower depths can be surmised from soil maps.

Declines in water table elevations have occurred in those portions of the valley where agricultural water users have switched from flood to sprinkler irrigation. Unfortunately, the beneficial effect of these new water management practices on ground water levels has been very localized.

Data and conclusions concerning the ground water quality can be found in two U.S. Geological Survey reports:

Wilke, K. R., and D. L. Coffin 1973. "Appraisal of the Quality of Ground Water in the Helena Valley, Montana." Water-Resources Investigations 32-73. U.S. Geological Surveys, Helena, Montana.

Moreland, J. A., R. B. Leonard, T. E. Reed, R. O. Clausen; and W. A. Wood 1979. "Hydrologic Data from Selected Wells in the Helena Valley, Lewis and Clark County, Montana." Open-File Report 79-1676. U.S. Geological Survey, Helena, Montana.

These reports will not be summarized here.

(3) Population data for north suburban Helena, collected in a recent survey, indicate that 6700 people draw their domestic water from the shallow aquifer system. The availability of alternative sources of drinking water is limited. The most readily available alternative involves the extension of Helena's central water system. Water for the City of Helena now comes from two sources. One source is the Missouri River Water Treatment Plant; the other source is a surface water supply from the Ten Mile Creek drainage, which is currently running near capacity. This option requires extensive water treatment and the pumping of water for 2 to 13 miles, making this alternative economically unreasonable.

(4) Only two alternative sources of water exist which could provide drinking water to the valley population that now draws its water from the shallow aquifer system. One alternative is to drill deep, high volume wells. Studies have not been conducted that would identify potential locations of wells which could deliver adequate supplies. The other alternative involves enlarging the current Missouri River Treatment Facility. The water from the Missouri River currently undergoes rapid-sand filtration and chlorination (with some flocculation). The cost of expanding these facilities and pumping the water to the main area of current ground water use would be considerable. Installation of the water distribution system alone to provide service to the estimated 30 square mile area having such low housing densities would be cost prohibitive.

(5) Several public water supply systems are served by the aquifer. They are listed here along with the number of people that they serve. An average of 2.9 persons per residence was used for the calculation of trailer court (TC) populations. The systems are identified here:

(a) Rossiter School, elementary school	200
(b) Sun Garden (TC)	36
(c) Valley Vista KOA (TC)	104
(d) Trails End (TC)	35
(e) Meadow Lark (TC)	61
(f) Pebble Gardens (TC)	104
(g) E & B (TC)	29
(h) Jim Darcy, elementary school	270
(i) Novak's (TC)	32
(j) T-L (TC)	35
(k) Evergreen (TC)	110
(l) Rose's (TC)	29
(m) Anniversary (TC)	29
(n) Green Meadow Country Club	180
(o) Pleasant View (TC)	44
(p) Cactus Flats (TC)	32
Total (estimate)	1,332

(6) Several activities and projects have been proposed that may cause contamination of the aquifer to occur. These include increased subdivision activity, mining and the installation of a petroleum pipeline. The major projects and their locations are listed here:

(a) Major residential subdivision activity is under consideration in section 28, T.10N. R.4W., within the petitioned area. Currently a health spa has been built in the NE¼ of section 28, served by a subsurface waste treatment system located above Ten Mile Creek. The system was approved for an application rate of 3.2-3.5 gpd/sq. ft. with a total flow of 8000 gpd maximum. The system has had operational problems that have led to local effluent spills and to the degradation of ground water locally.

(b) A 4-6 acre lagoon serving Fort William Henry Harrison is strongly suspected of leakage by the engineers at the State Water Quality Bureau. This lagoon is located in section 15, T.10N., R.4W., in the petitioned area.

(c) The proposed petroleum pipeline will follow Seven Mile Creek into sections 13 and 14, T.10N., R.4W., then through the southern portion of sections 13, 14, 15, 16, 17, and 18, T.10N., R.3W., and finally southeast toward East Helena and to the north of East Helena. This route causes the pipeline to cross several rivers that flow into the petitioned area. The pipeline also is routed to cross the southern portion of the Helena Valley Shallow Aquifer System.

(d) There is considerable interest in reopening mines in the mountains that lie west of the Helena Valley. Mining activity in these areas would have a direct impact on the surface streams and recharge areas that interact with the aquifer.

(e) Sections 31 and 32, T.11N., R.3W. Sections 5, 6, 7, 8, 17, and 18, T.10N., R.3W. Section 36, T.11N., R.4W., and Section 1, T.10N., R.4W., all show increased subdivision activity. Major subdivisions have been proposed in Sections 24 and 25, T.11N., R.4W., around Silver Creek, which recharges the aquifer system.

(f) Sections 16 and 17, T.10N., R.3W. have two sites which have been used for burial of dewatered municpal sewage plant sludge. The city has hopes of continuing dumping of the sludge at this site. Monitoring wells are showing high nitrate levels down-gradient from the original dumping site. The sludge disposal activities appear to be causing and are expected to continue to cause contamination of the aquifer.

V 45 A G 2 2 8 0 UMI

(7) A large number of individuals draw their private water supply from the same shallow aquifer system. It has been estimated that 5,400 people in the proposed designation area obtain their drinking water from the aquifer in question.

On the basis of the information presented in this petition and on the basis of further information to be collected during the designation proceeding, it is believed that the Helena Valley Shallow Aquifer System must be designated as a Sole Source Aquifer to prevent serious contamination of an important drinking water supply. Failure to designate the Helena Valley Shallow Aquifer System as a Sole Source Aquifer could lead to the creation of a significant hazard to Public Health.

Respectfully submitted:

Dated: May 30, 1980.

Will Selser,

Acting Health Officer, Lewis and Clark-County Health Department, Helena, Montana.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and informtion, and a full opportunity for public participation. In this regard the Agency is developing a full factual record and solicits comments, data, and references to addtional sources of information relevant to the determination required by Section 14244(e). In particular, information is sought concerning the hydrogeology of the Helena Valley Shallow Aquifer System, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this notice must be submtted in writing to Roger L. Williams, Regional Administrator, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, attention: Helena Valley Aquifer, within ninety (90) days of publication of notice. Information concerning the Helena Valley Aquifer System will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold an informal public hearing on October 7, 1980 at 7:00 p.m. at the City-County Building in Helena, Montana.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. Max Dodson, Environmental Protection Agency, Montana Office-Federal Building, 301 South Park, Drawer 10096, Helena, Montana 59601. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: July 29, 1980.

Gene A. Lucero,

Deputy Regional Administrator.

BILLING CODE 6560-01-M

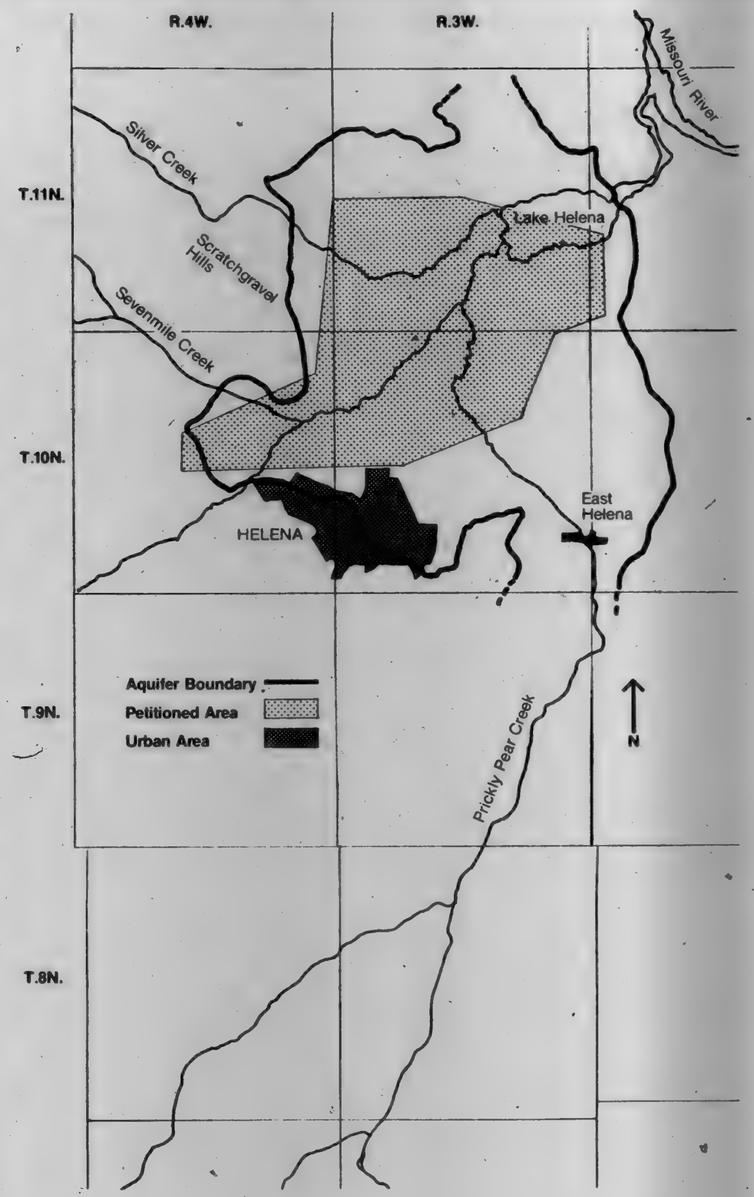

[FR Doc. 80-25615 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-C

[FRL 1583-1]

PSD Non-Applicability to SK & F Lab Co. Cidra, P.R.

Notice is hereby given that on June 12, 1980, the Environmental Protection Agency (EPA), Region II Office, issued a determination that the SK & F Lab Company proposal to construct a new pharmaceutical manufacturing facility in Cidra, Puerto Rico is *not* subject to the Prevention of Significant Air Quality Deterioration (PSD) regulations. This determination of non-applicability has been issued under EPA's PSD regulations (40 CFR 52.21) for pharmaceutical manufacturing plants.

Specifically, the potential (uncontrolled) emissions of sulfur dioxide (the only applicable pollutant that would be emitted from this facility) were calculated to be approximately 67 tons per year which is less than the threshold limitation of PSD affectability under the June 19, 1978, PSD regulations; therefore, the SK & F project is *not* subject to PSD review.

This determination is final action under the Clean Air Act (the Act). Under Section 307(b)(1) of the Act, judicial review of this determination is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the determination which is the subject of today's notice shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Copies of the determination are available for public inspection upon request at the following location: Permits Administration Branch, Room 432, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, Attention: Mr. Kenneth Eng, (212) 264-4711.

Dated: July 25, 1980.

Charles S. Warren,

Regional Administrator.

[FR Doc. 80-25616 Filed 8-21-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1584-7]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups organization and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of August 11, 1980, to August 15, 1980

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from August 22, 1980, and will end on October 6, 1980. The 30-day review period for final EIS's as calculated from August 22, 1980, will end on September 22, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For Public Availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For Hard Copy Reproduction or Microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week, Therefore, for all final EIS's received during the week of August 11, 1980 to August 15, 1980, the 30-day review period will be calculated from August 22, 1980. The review period will end on September 22, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 11, 1980 to August 15, 1980. The Federal agency filed the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on Draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, state(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by the Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V set forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth officical corrections which have been called to EPA's attention.

Dated: August 19, 1980.

Thomas R. Sheckells,

Acting Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of August 11 through 15, 1980

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Mobile Bay Exploratory/Appraisal Hydrocarbon Wells, Alabama, August 14: Proposed is the issuance of a permit for the drilling of four exploratory/appraisal hydrocarbon wells in Mobile Bay, Alabama. The alternatives to consider: (1) issue permit with conditions; (2) modifications of drill sites; (3) minimize number of sites; (4) drill fewer straight wells; (5) alternate types of drilling equipment, service areas, spill clean-up plans, and evacuation plans; and (6) deny permit. (Mobile district.) (EIS Order No. 800598.)

Coinjock Bridge Replacement, Atlantic ICWW, Currituck County, N.C., August 11: Proposed is the replacement of the Coinjock Bridge located along US-158 at its intersection with the Atlantic Intercoastal Waterway in the community of Coinjock, Currituck County, North Carolina. The type of bridge would be fixed-span with a 65 foot vertical clearance over the waterway, three alignments for the bridge are considered. The cooperating agency is the State of North Carolina. (Wilmington district.) (EIS Order No. 800585.)

Final

Surry Power Station Unit 1, Generator Repair, Dade County, Fla., August 11: Proposed is approval of an application for the expansion of the Port of Miami in Biscayne Bay, Dade County, Florida. The plan would involve the sequential development of passenger and cargo facilities which will include: (1) expansion of Dodge Island incorporating Lummus and Sams Islands, (2) dredging of a new channel and deepening and widening existing channels, (3) the creation of Dodge Island by bulkheading and filling. When completed the Port of Miami will have been expanded by 284 acres to provide total area of 522 acres. (Jacksonville district.) Comments made by: DOC, DOI, EPA, HEW, State and local agencies, businesses. (EIS Order No. 800589.)

Missouri National Recreational River (F-2), Nebraska and South Dakota, August 12: Proposed is the inclusion of a portion of the Missouri National Recreational River from Gavins Point Dam to Ponca State Park in the National Wild and Scenic Rivers system. The portion of the river to be included and the adjacent lands lie in the States of Nebraska and South Dakota. This statement finalizes a portion of the action addressed in the draft EIS, #770176, filed 2-18-77. An earlier final EIS, #780606, filed 6-5-78 addressed the bank erosion portion of the draft. The cooperating agency is the HCRS. (Omaha District.) Comments made by: USDA, EPA, DOI, State agencies. (EIS Order No. 800591.)

Draft Supplement

Barataria Bay Waterway, GIWW to Gulf of Mexico (DS-1), Jefferson County, La., August 12: Proposed is a navigation project for Barataria Bay Waterway from the Gulf Intercoastal Waterway to the 15 foot depth contour in the Gulf of Mexico, Jefferson Parish, Louisiana. The project would include maintenance dredging of the channel to 12 foot deep mean low gulf depth. This EIS supplements a portion of the project discussed in final EIS, #761600, filed 11-8-76. (New Orleans district.) (EIS Order No. 800593.)

Tamaqua Flood Control Protection Plan (DS-1), Schuylkill County, Pa., August 14: Proposed is a Flood Control Protection plan for the Borough of Tamaqua, within the Little Schuykill River Watershed, Schuylkill County, Pennsylvania. The alternatives are: (1) no action, (2) a bypass channel to divert Wabash Flood Flows, (3) construction of a closed-conduit bypass channel to divert flood flows, (4) a bypass tunnel plus a dry detention dam, and (5) a closed-conduit bypass channel plus a dry detention dam. (Philadelphia district). (EIS Order number 800600.)

Department of Commerce

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7814, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.

National Oceanic and Atmospheric Administration

Final

Narragansett Bay Estuarine Sanctuary, Grant, Rhode Island, August 15: Proposed is the awarding of a grant for establishment of an estuarine sanctuary in Narragansett Bay, Rhode Island. The grant would be used for acquisition of 203 acres of uplands and wetlands on Patience Island. The sanctuary would be used primarily for research and educational purposes, especially to provide information useful for coastal zone management decision making. Recreational uses would be encouraged where compatible. Boundary and management alternatives are considered. Comments made by: COE, DOC, DOE, HUD, DOI, DOT, EPA, GAS, State and local agencies, groups, individuals, and businesses. (EIS Order number 800605.)

Northern Marianas Islands Coastal Resources Management, U.S. territory, August 15: Proposed is a Coastal Resources Management Plan for the commonwealth of the Northern Mariana Islands. Approval would permit implementation of the proposed program, allow program administration grants to be awarded to the State, and require that Federal actions be consistent with the program. The effect of these policies and standards is to condition, restrict, or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. Comments made by: USDA, EPA, DOI, local agencies, businesses. (EIS Order number 800606.)

Environmental Protection Agency

Contact: Ms. Lisa Corbin, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1285.

final

Reeder Reservoir Maintenance Operations, Ashland, Jackson County, Oreg., August 15: Proposed is the approval or disapproval of the Reeder Reservoir element of the Roque Valley Water Quality Management Plan for the City of Ashland, Jackson County, Oregon. This element of the plan involves the cleaning of the Reeder Reservoir by means of draining in the early spring of relatively wet years with the sediments being sluiced through the reservoir outlet to be carried downstream in Ashland Creek into Bear Creek, and eventually into the Roque River. The alternatives consider the various discharge times which would move the sediments in the least harmful manner. (EPA-10-OR-Jackson-Ashland-WQMP-79.) Comments made by: USDA, DOI, DOC, HUD, ASP, State and local agencies, businesses. (EIS Order number 800602.)

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Bldg., Room 2203, Boston, Massachusetts 02203 (617) 223-4635.

Draft

Northern Middlesex Water Quality Management Plan, Middlesex County, Mass., Auguse 12: Proposed is a water quality management plan for the northern Middlesex area of Lowell, Middlesex County, Massachusetts. Examined are major water quality problems confronting the northern Middlesex area and proposes alternative solution to the following municipal facilities for sanitary waste control, industrial discharges, combined sewer overflow management in Lowell, storm runoff management, nonpoint source controls, land use controls, septage and sludge management, and legal/financial/institutional considerations. The cooperating agency is the State of Massachusetts. (EIS Order number 800531.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6300.

The following is a community development block grant statement prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

San Buenaventura downtown redevelopment, UDAG, Ventura County, Calif., August 15: Proposed is the awarding of a UDAG grant to the city of Buenaventura, Ventura County, California. The plan would include construction of a commercial shopping center and removal of existing structures. In addition to no action, three alternatives are included. (EIS Order No. 800608.)

Final

Hamilton east multipurpose project, UDAG, Butler Ohio, August 13: Proposed is the issuance of a HUD/UDAG to the city of Hamilton located in Butler County, Ohio. The project involves roadway improvements and water and sewer lines in support of an 88-acre residential and commercial development in east Hamilton. This development will consist of 135 single family units, 326 multifamily units, and a 180,000 square foot shopping center. Six alternatives are considered. Comments made by: EPA, DOT, GSA, USDA, HUD, COE, State and local agencies. (EIS Order No. 800597.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

Lower Cook Inlet-Shelikof Strait OCS sale No. 60, Alaska, August 15: Proposed is the leasing of 153 blocks of OCS lands in the lower Cook Inlet and Shelikof Strait, Alaska. The alternatives consider: (1) no sale, (2) delay of sale, (3) delete 19 blocks in Shelikof Strait, (4) delete 19 blocks in lower Cook Inlet and 66 blocks in Shelikof Strait, (5) delete 19 blocks in lower Cook Inlet and 81 blocks in Shelikof Strait, and (6) delete all of the 66 blocks in the lower Cook Inlet. (DES-80-52.) (EIS Order No. 800601.)

South Coast and Curry units, timber mgmt.

Fish and Wildlife Service

result from the proposed policy for

South Coast and Curry units, timber mgmt. plan, several counties in Oregon, August 14: Proposed is a timber management plan for the south coast and curry sustained yield units in Coos, Curry, Douglas and Lane Counties, Oregon. The units encompass 326,372 acres of public land. Treatments specified include: clearcut and single tree selection methods, slash disposal, site preparation, planning of trees, herbicide application, precommercial thinning, fertilization, and road construction. The plan would reduce the annual timber harvest to 32.04 million board feet. In addition to no action eight alternatives are considerd. (DES–80–51.) (EIS Order No. 800599.)

Final

Royal Gorge domestic livestock grazing mgmt., several counties in Colorado, August 12: Proposed is a livestock grazing management plan for the Royal Gorge resource area in the Counties of Chaffee, Custer, El Paso, Fremont, Huerfano, Lake, Park, and Teller, Colorado. This encompasses approximately 589,675 acres of public land. Components of the plan are: (1) intensive grazing management on 379,380 acres, (2) less intensive management of 189,000 acres, and (3) building range improvements and applying land treatment. The alternatives consider: (1) no action, (2) elimination of grazing, (3) management constraints, and (4) nonintensive grazing. (FES–80–24.) Comments make by: USDA, DOI, EPA, State agencies, groups, individuals, and businesses. (EIS Order No. 800592.)

Anaconda Nevada Moly Project, permit, Lander and Nye Counties, Nev., August 12: Proposed is issuance of a right-of-way permit for the placement of a 230 KV transmission line from Austin to north of Tonopah in Lander and Nye Counties, Nevada. The transmission is being placed in conjunction with construction of an open pit molybdenum mine and mill which would require the removal of 88,000 metric tons of waste and 20,000 metric tons of ore per day. Mine waste would be stored near the pit and tailings would be placed in a pond on the site. Electrical power requirements for the mine and mill are estimated to be 30 megawatts. Comments made by: EPA, DOI, USAF, DOE, State and local agencies, groups, individuals, and businesses. (EIS Order No. 800590.)

National Park Service

Final

Chickasaw National Recreation Area, Murray County, Okla., August 15: Proposed is a management plan for the Chickasaw National Recreation Area in Murray County, Oklahoma. The plan would provide coordinated facility development, visitor use programs, and resource management actions. The facilities include a visitor center/headquarters adjacent to the city of Sulphur, a 9.5 mile biking/hiking trail, a 6.5 mile hiking trail, a net of 32 additional campsites, and other facilities. A shallow overflow channel would be constructed to provide a floodwater bypass around Tavertine Nature Center. (FES–80–22), comments made by: USDA, HUD, DOI, DOT, EPA, State agencies, individuals. (EIS Order #800604.)

Fish and Wildlife Service

Final

Sheldon National Wildlife Refuge Mgmt. Plan, Lake County, Oreg.; Washoe and Humboldt Counties, Nev., August 15: Proposed is a renewable natural resources management plan for the Sheldon National Wildlife Refuge in Lake County, Oregon and Washoe and Humboldt Counties, Nevada. The plan will include: (1) intensive grazing management on 67,000 acres, (2) control of livestock movements, (3) development of springs and water reservoirs, (4) a 197,000 acre special area, and (5) special management emphasis of sensitive habitats. Comments made by: EPA, DOI, State agencies, groups, individuals and businesses. (EIS Order #800603.)

Nuclear Regulatory Commission

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555, (301) 492–8446.

Draft

Three Mile Island, Radioactive Waste Disposal, Pennsylvania, Programmatic, August 14: This programmatic EIS proposes activities necessary for decontamination of the facility, defueling, and disposition of the radioactive wastes which resulted from the accident at the Three Mile Island Nuclear Station, Unit 2 in Pennsylvania. The clean-up operations will include: (1) Treatment of radioactive liquids; (2) building and equipment decontamination; (3) defueling and cooling system decontamination; and (4) packaging, handling, storage and transportation of radioactive wastes (NUREG–0683). (EIS Order #800563.)

Final

Surry Power Station Unit 1, Generator Repair, Surry County, Va., August 11: Proposed is the repair of the steam generators for unit 1 of the Surry Power Station, Surry County, Virginia. The method of repair involves removing all fuel from one generator at a time and cutting it out of the reactor system. The lower and upper assemblies would be cut in half. The lower assembly would be replaced and the upper assembly welded back on along with the cut piping. The alternatives involve: (1) Decontamination, (2) retubing of existing generators, (3) replacement of the entire steam generator, and (4) alternate disposal methods. (NUREG–0692), comments made by: FERC, EPA, DOT, DOI, groups and businesses. (EIS Order #800587.)

Department of Transportation

Contact:Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Aviation Administration

Final

Metropolitan Washington Airport Policy, Arlington County, Va., August 15: This final EIS analyzes the impacts which presently occur and the impacts which are expected to result from the proposed policy for Washington National and Dulles International Airports. In addition, the report evaluates the impacts of alternative policy scencrious as well as the secondary effects of the proposed policy on the Baltimore-Washington International Airport. The present or base case condition is considered within the report to be 1976 and the impacts of future policy options are evaluated for the year 1990. Comments made by: EPA, DOI, USAF, USPS, State and local agencies, groups, individuals and businesses. (EIS Order #800607.)

Federal Highway Administration

Draft

I–670 Extension/East Corridor transit alternatives, Franklin County, Ohio, August 15: Proposed is the extension of I–670 and related roadway from I–670/I–71 near the Ft. Hayes interchange to the Columbus outerbelt/I–270 in Franklin County, Ohio. A second proposed action addressed in this statement involves three transit alternatives for the east corridor which are: (1) A transportation improvement program, (2) bus priority, and (3) a two-lane busway. The cooperating agency is UMTA (FHWA–OH–EIS–80–01–D) (UMTA–OH–09–0040). (EIS Order #800609.)

Montage Access Rd., I–81 to Montage Recreation Area, Lackawanna County, Pa., August 11: Proposed is the construction of the Montage access road from the Davis Street exit off I–81 to the Montage Recreation Area in Scranton, Lackawanna County, Pennsylvania. The facility would be 2.1 miles in length and have controlled access. Three alternative designs and no build are considered. The cooperating agency is the State of Pennsylvania (FHWA–PA–EIS–80–1–D). (EIS Order No. 800584.)

Final

IA–163 Improvement, Pella, Marion and Mahaska Counties, Iowa, August 11: Proposed is the improvement of a 10 mile segment of IA–163 in Marion and Mahaska Counties, Iowa. The facility would be extended from approximately two and one-half miles northwest of the city of Pella to approximately four miles southeast of the east corporate limits. The alternatives consider two alignments through Pella providing a four-lane facility, improvements to the present facility, and three alignments which would bypass Pella providing a two-lane rural facility. The cooperating agency is the State of Iowa (FHWA–IOWA–EIS–79–02–F). Comments made by: DOI, USDA, COE, HUD, DOT, State and local agencies. (EIS Order No. 800588.)

South L Street and Niewoehner Extension Study, Wayne County, Iowa, August 13: Proposed is improvement of South L Street from Liberty Avenue east to Garwood Road then north to U.S. 40 on the Niewoehner extension in the city of Richmond, Wayne County, Indiana. The total length of the project would be 3.3 miles. The improvements include: Reconstruction on South L Street between South 8th and South 23rd to four lanes, construction of two new lanes between South 23rd and Henley Road, reconstruction of two lanes on Hodgin Road, and construction of the Niewoehner extension as two lanes (FHWA–IND–EIS–78–05–F). Comments made by: USDA, DOI, EPA, HUD, DOT, DOE, State agencies, groups. (EIS Order No. 800595.)

Rainbow Arch Bridge Replacement, Cannonball River, Hettinger County, N. Dak., August 13: Proposed is the removal and replacement of the Rainbow Arch Bridge over the Cannonball River in Mott, Hettinger County, North Dakota. Two alternate bridge sites are under consideration which include: (1) The 1st Street location near the existing bridge, and (2) the 3rd Street location approximately two blocks to the northwest. Other features considered are: (1) A diversion channel, (2) reservoirs, and (3) evacuation of the flood plain. Other alternatives considered include: (1) Raising the existing bridge, (2) moving the existing bridge, (3) construction of a new bridge, (4) documenting the bridge, and (5) no action (FHWA–ND–EIS–79–02–F).

Comments made by: DOT, USDA, HUD, COE, EPA, State agencies. (EIS Order No. 800596.)

OR–213, Oregon City Bypass, Clackamas County, Oreg., August 11: Proposed is funding for the construction of OR–213, the Oregon City bypass from the Park Place interchange at I–205 to Clackamas Community College located in Clackamas County, Oregon. The facility would be a non-freeway primary arterial bypass around downtown Oregon City of four lanes to Redland Road and two lanes to the college. Access would be provided at three points along the bypass and will include signalization. Modifications to existing roads near the bypass would also be constructed. The cooperating agency is the State of Oregon (FHWA–OR–EIS–79–08–F). Comments made by: COE, DOC, DOI, EPA, State agencies, groups. (EIS Order No. 800586.)

Final Supplement

Clackamas Highway, OR–244 and Forest Hwy 55 (FS–1), Clackamas County, Oreg., August 13: This statement supplements a draft EIS No. 730985, filed 6–8–73. Proposed is the construction of a portion of Clackamas Highway (Forest Highway 55/OR–244) from Faraday to the confluence of the north fork of the Clackamas River and the north fork reservoir in Clackamas County, Oregon. Two corridors are considered. Corridor I would be constructed as a 30 mph facility following the existing alignment of FH–55/OR–244. Corridor III would be constructed as a 50 mph facility on a new alignment, incorporating county roads and opening some unroaded timber lands to public entry. Each corridor would provide a two-lane, paved road adequate for the diversified uses of the area (FHWA–ORFP–72–02–FS). Comments made by: DOI, AHP, EPA, USDA, DOE, State and local agencies, individuals and businesses (EIS Order No. 800594).

EISs Filed During the Week of Aug. 11 Through 15, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Alabama		Draft	Mobile Bay Exploratory/Appraisal Hydrocarbon Wells.	800598	Aug. 14, 1980	COE
Alaska		Draft	Lower Cook Inlet-Shelikof Strait OCS Sale #60	800601	Aug. 15, 1980	DOI
California		Draft	San Buenaventura Downtown Redevelopment, UDAG.	800608	Aug. 15, 1980	HUD
Colorado	Several	Final	Royal Gorge Domestic Livestock Grazing Mgmt.	800592	Aug. 12, 1980	DOI
Florida	Dade	Final	Surry Power Station Unit 1, Generator Repair	800589	Aug. 11, 1980	COF
Indiana	Wayne	Final	South L Street and Niewoehner Extension Study	800595	Aug. 13, 1980	DOT
Iowa	Mahaska	Final	IA–163 Improvement, Pella	800588	Aug. 11, 1980	DOT
	Marion	Final	IA–163 Improvement, Pella	800588	Aug. 11, 1980	DOT
Louisiana	Jefferson	Supple	Barataria Bay Waterway, GIWW to Gulf of Mexico (DS).	800593	Aug. 12, 1980	COE
Massachusetts	Middlesex	Draft	Northern Middlesex Water Quality Mgmt. Plan	800531	Aug. 12, 1980	EPA
Nebraska		Final	Missouri National Recreational River (F–2)	800591	Aug. 12, 1980	COE
Nevada		Final	Sheldon National Wildlife Refuge Mgmt. Plan	800603	Aug. 15, 1980	DOI
	Lander	Final	Anaconda Nevada Moly Project, Permit	800590	Aug. 12, 1980	DOI
	Nye	Final	Anaconda Nevada Moly Project, Permit	800590	Aug. 12, 1980	DOI
North Carolina	Currituck	Draft	Coinjock Bridge Replacement, Atlantic ICWW	800585	Aug. 11, 1980	COE
North Dakota	Hettinger	Final	Rainbow Arch Bridge Replacement, Cannonball River.	800596	Aug. 13, 1980	DOT
Ohio	Butler	Final	Hamilton East Multipurpose Project, UDAG	800597	Aug. 13, 1980	HUD
	Franklin	Draft	I–670 Extension/East Corridor Transit Alternatives	800609	Aug. 15, 1980	DOT
Oklahoma	Murray	Final	Chickasaw National Recreation Area	800604	Aug. 15, 1980	DOI
Oregon		Final	Sheldon National Wildlife Refuge Mgmt. Plan	800603	Aug. 15, 1980	DOI
	Several	Draft	South Coast and Curry Units, Timber Mgmt. Plan	800599	Aug. 14, 1980	DOI
	Clackamas	Final	OR–213, Oregon City Bypass	800586	Aug. 11, 1980	DOT
	Humboldt	Final	Sheldon National Wildlife Refuge Mgmt. Plan	800603	Aug. 15, 1980	DOI
	Jackson	Final	Reeder Reservior Maintenance Operations, Ashland.	800602	Aug. 15, 1980	EPA
	Clackamas	Fsuppl	Clackamas Hwy/OR–55 Faraday to the North Fork Clackamas River.	800594	Aug. 13, 1980	DOT
Pennsylvania		Draft	Three Mile Island, Radioactive Waste Disposal	800563	Aug. 14, 1980	NRC
	Lackawanna	Draft	Montage Access Rd., I–81 to Montage Recreation Area.	800584	Aug. 11, 1980	DOT
	Schuylkill	Supple	Tamaqua Flood Control Protection Plan (DS–1)	800600	Aug. 14, 1980	COE
Programmatic		Draft	Three Mile Island, Radioactive Waste Disposal	800563	Aug. 14, 1980	NRC
Rhode Island		Final	Narragansett Bay Estuarine Sancturary, Grant	800605	Aug. 15, 1980	DOC
South Dakota		Final	Missouri National Recreational River (F–2)	800591	Aug. 12, 1980	COE
U.S Territory		Final	Northern Mariana Islands Coastal Resources Mgmt.	800606	Aug. 15, 1980	DOC
Virginia	Arlington	Final	Metropolitan Washington Airport Policy	800607	Aug. 15, 1980	DOT
	Surry	Final	Surry Power Station Unit 1, Generator Repair	800587	Aug. 11, 1980	NRC

V 45 A G 22 80 UMI

Appendix II.—Extension/Waiver of Review Periods On EIS's Filed With EPA

Federal agency contact	Title of EIS Filing status accession No.		Date notice of availability published in FEDERAL REGISTER	Waiver/extension	Date review terminates
U.S. DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250, (202) 447–3965.	Catawba Nuclear Station Unit 1 and 2, York County, South Carolina.	Draft Supplement 800545	Aug. 1, 1980	Extension	Oct. 6, 1980.
DEPARTMENT OF THE INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.	South Coast and Curry Units, Timber Mgmt. Plan, Oregon.	Draft 800569	Aug. 22, 1980 (see app. I).	Extension	Oct. 16, 1980.
ENVIRONMENTAL PROTECTION AGENCY					
Ms. Lisa Corbin, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1285.	Reeder Reservoir Maintenance Operations, Rouge Valley Water Quality Mgmt. Plan, Ashland City, Oregon.	Final 800602	Aug. 22, 1980 (see app.).	Extension	Sept. 29, 1980.
DEPARTMENT OF COMMERCE					
Dr. Robert T. Mild, Acting Deputy, Assistant Secretary for Regulatory Policy, Room 7814, Department of Commerce, Washington, D.C. 20230, (202) 377–2482.	Pink Shrimp Fishery FMP, WA/OR/CA.	Draft 800469	July 7, 1980	Extension	Sept. 5, 1980.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contract	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number date notice published in FEDERAL REGISTER	Reason for retraction
None.			

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
DEPARTMENT OF ENERGY				
Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600	Great Plains Gasification Project, Construction and Operating, Mercer County, North Dakota.	Final 800582	Aug. 15, 1980	Published with incorrect State designation. The project is located in the State of North Dakota.

[FR Doc. 80-25709 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1586-1; OPP-00047D]

Proposed Policy on Pesticides Contaminated With N-Nitroso Compounds; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the period for submittal of comments on the proposed policy for pesticides contaminated with N-nitroso compounds.

DATE: The comment period now closes on August 25, 1980.

ADDRESS: Comments should be addressed to: Document Control Officer, Chemical Information Division (TS–793), Rm. E–447, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gunter Zweig, Senior Science Advisor, Hazard Evaluation Division (TS–769), Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, (202–557–7377).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1980 (45 FR 42854) a proposed policy statement appeared on EPA's approach to regulating pesticides which may contain N-nitroso compounds. The period for submitting comments closed on July 25, 1980. The Chemical Specialties Manufacturers Association and the National Agricultural Chemicals Association have requested additional time to enable their members to respond to the proposal. Dow Chemical Company also requested an extension to the comment period time.

EPA has concluded that additional time would be beneficial to insure the submission of complete responses to this notice of policy making. Therefore, all interested persons shall have until August 25, 1980 to submit comments. These submissions should be sent to the Document Control Officer at the address given above. All comments should bear the identifying notation "OPP–00047D." The proposed policy and all written comments filed will be available for public inspection in the office of the Document Control Offier at the above address from 8:00 a.m. to 4:00 p.m. daily except holidays.

Dated: August 18, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-25801 Filed 8-21-80; 9:44 am]
BILLING CODE 6560-01-M

[FRL 1587-2]

Science Advisory Board; Open Meeting

The purpose of the meeting is to provide review and comment on the sampling protocols that have been proposed for the Love Canal area, as requested by the Office of Research and Development.

The meeting is to be held in less than the 15 days advance notice because the nature of the sampling to be performed must commence at once if it is to be completed before the onset of winter. Under Pub. L. 92–463, notice is hereby given for a meeting of the Study Group on Sampling Protocols of the Science Advisory Board of the U.S. Environmental Protection Agency to be held on August 26, 1980, starting at 1:00 p.m. and ending 5:00 p.m. The meeting location is: National Environmental Research Laboratory, Conference Room 212, 944 E. Harmon Drive, Las Vegas, Nevada 89114.

Visitors will be directed to the meeting room by the guard. If necessary, the meeting will continue on August 27, 1980 from 9:00 a.m. to 11:30 a.m.

The meeting is open to the public but the seating capacity is limited. Persons desiring additional information may contact Dr. Douglas Seba, Science Advisory Board, Environmental Protection Agency, 202–472–9444.

J. Frances Allen,

Acting Staff Director Science Advisory Board.

August 19, 1980.

[FR Doc. 80-25812 Filed 8-21-80; 10:35 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 80–417, File No. BPED–2208 and BC Docket No. 80–418, File No. BPED 2245]

Academy Radio Corp. and Christian Broadcasting Corp.; New Noncommercial Educational FM Station

Released: August 19, 1980.

In re Applications of Academy Radio Corporation, Rio Piedras, Puerto Rico, Req: 90.5 MHz, Channel 213, 4.427 kW (H&V), minus 104 feet; Christian Broadcasting Corporation, Carolina, Puerto Rico, Req: 90.5 MHz, Channel 213, 25 kW (H&V), 1869 feet for construction permits for a new noncommercial educational FM station.

1. By Hearing Designation Order released August 1, 1980, the above-captioned mutually exclusive applications for new stations were designated for hearing. Inadvertently, however, the contingent comparative issue that was specified did not contain the unique language applicable to noncommercial educational applicants. That error is hereby corrected.

2. Accordingly, it is ordered, That Issue 4 in this proceeding is corrected as follows:

4. To determine, in the event it is

control and mobile relay equipment. The the above-captioned applications of

2. Accordingly, it is ordered, that Ben Child, Chairman SC-77, U.S. Power

Memorandum opinion and order

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on consideratons relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall cultural and educational operation and objectives of the respective applicants as well as the manner in which such objectives meet the needs of the communities to be served; and/or whether other factors in the record demonstrate that one applicant will provide a superior educational FM broadcast service.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-25659 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 80-510 Files Nos. 38499-IB-050 and 40057-IB-060]

Canem Systems, Inc.; Designating Application for Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: August 15, 1980.

Released: August 21, 1980

For Authorizations for New Facilities in the Business Radio Service.

By the Chief, Private Radio Bureau:

1. The chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned applications of Canem Systems, Inc. (Canem), 1920 Ellis Street, Bellingham, Washington 98225, for authorization of new facilities in the Business Radio Service. One application, filed May 27, 1980, (File No. 38499-IB-050), seeks authorization of new itinerant mobile facilities in several counties in the State of Washington. The other application, filed June 9, 1980, (File No. 40057-IB-060), seeks authorization of control, mobile and mobile relay facilities on 463.825 MHz and 468.825 MHz at various locations in Washington. Also before the Bureau is information concerning an investigation conducted by the Ferndale, Washington Monitoring Station of the Commission's Field Operations Bureau into Canem's alleged unlicensed operation of facilities in the Business Radio Service.

2. It appears from the Ferndale Monitoring Station's investigation that Canem's alleged unlicensed operation commenced on or about January 15, 1980, on the frequency pair 463.825 MHz and 468.825 MHz, the same as sought in the latter of the above-captioned applications, and utilized 16 mobile transmitters together with associated control and mobile relay equipment. The unlicensed operation allegedly continued until January 28, 1980, when a Commission engineer, after six days of monitoring the 463.825/468.825 MHz channel pair, inspected Canem's radio facilities. Canem has denied that it engaged in unlicensed operation.

3. The information before the Bureau concerning Canem's unlicensed operation raises serious questions as to whether Canem possesses the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorizations which it here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-referenced applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for hearing.

4. Accordingly, it is ordered, that in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Canem Systems, Inc., File Nos. 38499-IB-050 and 40057-IB-060, for authorization of new facilities in the Business Radio Service are, pursuant to authority delegated in § § 0.131(a) and 0.331 of the Commission's Rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Canem Systems, Inc. operated radio facilities in the Business Radio Service which were not licensed to it.

(b) To determine whether any unlicensed operation by Canem Systems, Inc. was knowing or willful or negligent.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Canem Systems, Inc. possesses the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Canem Systems, Inc. has exhibited such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorizations which it is here seeking.

(e) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned applications of Canem Systems, Inc. will best serve the public interest, convenience and necessity.

5. It is further ordered, that Canem Systems, Inc. and the Chief, Private Radio Bureau are made parties in this proceeding.

6. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Canem Systems, Inc. with respect to the issues set forth in paragraph 4 hereinabove.

7. It is further ordered, that each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in Section 1.221 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Canem Systems, Inc. at the address furnished in its applications, and upon the attorney who filed the applications on behalf of the applicant.

Federal Communications Commission.

Arlan K. van Doorn,

Acting Chief, Private Radio Bureau.

[FR Doc. 80-25658 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-321, File No. BPED 2306; BC Docket No. 80-322, File No. BPED 2428]

Craig Bible Institute and Bangor Christian Schools; Construction Permit for a New FM Station

Released: August 15, 1980.

In re Applications of Craig Bible Institute, Bangor, Maine, Req. 88.5 MHz, Channel 203, 0.45 kW (H&V), −15 feet; Bangor Christian Schools, Bangor, Maine, Req. 88.5 MHz, Channel 203, 16 kW (H&V), 785 feet.

1. By Hearing Designation Order released July 10, 1980, the above-captioned mutually exclusive application for new stations were designated for hearing. Inadvertently, however, the comparative issues applicable to both noncommercial educational and commercial applicants were included.

2. Accordingly, it is ordered, that Issue 4 in this proceeding is deleted.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-25661 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 76

"Maritime Advisory Committee In Preparation for the 1982 Mobile Services World Administrative Radio Conference (1982 Mobile Services WARC)", Notice of 3rd Meeting, Monday, September 15, 1980—9:30 a.m., 1st Floor Auditorium, Comsat General Building, 950 L'Enfant Plasa, SW., Washington, D.C.

Agenda

1. Call to Order; Chairman's Report.
2. Discussion of Proposals.
3. Review of Work Program.
4. Establishment of future meeting schedule.

Charles Dorian, Chairman, SC-76, Comsat General, Washington, DC, Phone: (202) 554-6756.

Special Committee No. 74

"Digital Selective Calling." Notice of 15th Meeting, Tuesday, September 16, 1980—9:30 a.m., Wednesday, September 17, 1980—8:00 a.m. (Full-day meetings), Conference Room 6332, Nassif (DOT) Building, 400 Seventh Street, SW. (at D Street), Washington, DC.

Agenda

September 16, 1980

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

September 17, 1980

1. Administrative Matters.
2. Working Group Reports.

CDR J. G. Williams, Chairman, SC-74, U.S. Coast Guard Headquarters, Washington, DC, Phone: (202) 426-1345.

Special Committee No. 77

"Committee to Revise the RTCM Marine Radiotelephone Handbook." Notice of 2nd Meeting, Wednesday, September 17, 1980—9:30 a.m., Conference Room 6332, Nassif (DOT) Building, 400 Seventh Street, SW. (at D Street), Washington, DC.

Agenda

1. Call to Order; Chairman's Report.
2. Review of revised material submitted.
3. Assignment of work projects.
4. Establishment of future meeting schedule.

Dan Child, Chairman SC-77, U.S. Power Squadrons, Hyattsville, MD, Phone (301) 864-2169.

Executive Committee Meeting

Notice of September Meeting, Thursday, September 18, 1980—9:30 a.m., Conference Room 8283, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, DC.

Agenda

1. Administrative matters and committee reports.
2. Action on petition received by National Ocean Industries Association to modify RTCM By-Laws.

Special Committee No. 75

"MPS—Automatic Coordinate Conversion Systems," Notice of 5th Meeting, Friday, September 19, 1980—9:30 a.m., Conference Room 6438, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, DC.

Agenda

1. Call to Order; Chairman's Report.
2. Approval of the Summary Record of previous meeting.
3. Review and discussion of questionnaire to manufacturers.
4. Discussion of initial draft of Minimum Performance Specifications.
5. Establishment of future meeting schedule.

Mortimer Rogoff, Chairman, SC-75, 4201 Cathedral Avenue, NW., Apartment 914W, Washington, DC 20016.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone) (202) 632-6490.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25655 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-508, File No. 3848-CM-P-79; CC Docket No. 80-509; File No. 4475-CM-P-79]

Microband Corp. of America and Radiocall Corp.; Applications for Construction Permits in the Multipoint Distribution Service for a New Station at Maui, Hawaii

Adopted: August 12, 1980.

Released: August 19, 1980.

By the Chief, Common Carrier Bureau.

Memorandum opinion and order designating applications for consolidated hearing on stated issues.

1. The Commission has before it the above-referenced application of Microband Corporation of America, filed on July 16, 1979 (Accepted on Public Notice July 23, 1979) and the application of RadioCall Corporation, filed on August 28, 1979 (Accepted on Public Notice September 10, 1979). Both applications are for a construction permit in the Multipoint Distribution Service and both propose to operate on Channel 1 in Maui, Hawaii. The applications are therefore mutually exclusive and require comparative consideration. Both applications have been amended as a result of informal requests by the Commission staff for addtional information, and not petitions to deny or other objections to either of the applications have been filed.

2. Upon review of the captioned applications, we find that both applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), and Section 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a Consolidated Proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Microband Corporation of America, RadioCall

[1] Consideration of these factors shall be made in light of the Commission's discussion in *Application of Frank K. Spain*, 77 FCC 2d 20 (1980).

Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules.

Sue D. Blumenfeld,

Acting Chief, Common Carrier Bureau.

[FR Doc. 80-25639 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

Sterling Recreation Organization Co., et al.; Hearing Designation Order

In re Applications of Sterling Recreation Organization Co., Eugene, Oregon (BC Docket NO. 80-441, File No BPCT-78092OKE); Community Vision Systems, Inc., Eugene, Oregon (BC Docket No. 80-442, File No. BPCT-790504KE); Willamette Broadcasting Corporation, Eugene, Oregon (BC Docket No. 80-443, File No. BPCT-79050KJ); Springfield Broadcasting Associates Limited Partnership (Sperry A. MacNaughton, Zachary Holt Smith, Springfield Broadcasting Corporation, and Neal K. Orr, General Partners), Springfield, Oregon (BC Docket No. 80-444, File No. BPCT-790507KK); For construction permit; Hearing designation order designating applications for consolidated hearing on stated issues.

Adopted: August 1, 1980.

Released: August 18, 1980.

By the Chief, Broadcast Bureau.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above captioned mutually exclusive applications for a construction permit for a new commercial televsiion station to operate on Channel 16, Eugene or Springfield, Oregon.

2. Sterling Recreation Organization Co. (Sterling), one of the above-captioned applicants, is the licensee of KSND-FM, Springiled, Oregon. The predicted Grade A contour of Sterling's proposed television station completely encompasses the community of license of Sterling's FM station. Section 73.636(a)(1) of the rules, 47 CFR 73.636(a)(1) (the "one-to-a-market" rule), set forth a policy against granting television construction permits to applicants who directly or indirectly own, operate or control a radio station licensed to a community which is completely encompassed by the predicted Grade A contour of their proposed television station. Note 8 to this rule provides, *inter alia*, that applications for UHF television facilities ". . . will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be specified to determine whether common ownership of Sterling's FM station and its proposed television station would be consistent with the public interest.

3. One proposal specifies Springfield, Oregon; the others specify Eugene, Oregon. Consequently, it will be necessary to determine, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television services. An appropriate issue will be designated. However, the Springfield and Eugene proposals each provide relatively similar coverage of the population and of the geographical area. Thus, a Section 307(b) issue may not be determinative. In that case, the proposals for both Springfield and Euguene would be considered under the standard comparative issue. (If, under Section 307(b), it is determined that Eugene is preferable, the three Eugene proposals would be considered under the standard comparative issue.)

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant would serve the public interest, convenience and necessity. These applications must therefore be designated for hearing in a consolidated proceeding on the issues set out below.

5. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place and before an Administrative Law Judge to be specified in a subsequent order, upon the following issues:

1. To determine whether common ownership, operation or control of Station KSND-FM and Sterling Recreation Organization Company's proposed television station would be in the public interest.

2. To determine which of the proposals provides a fair, efficient and equitable distribution of television services within the meaning of Section 307(b) of the Communications Act of 1934, as amended.

3. To determine, in the event it is concluded that a choice between the applications should not be based on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, that, the applicants herein shall, pursuant to section 311(a)(2) of the Commission's Act of 1934, as amended, and § 73.3594 of the Commisison's Rules, give notice of the hearing (either individually, or, if feasible and consistent with the Rules, jointly) within the time and the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-25657 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-15]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: August 21, 1980.

Cut-Off Date: October 1, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after October 1, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 1, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than October 1, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 1, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Applications for a new station may not be filed against any application appearing on this list which is designated by an asterisk (*).

BPCT-800724KF (New), Wilmington, Del., Sixty-One Corp., Channel 61, ERP: Vis. 1164 kW; HAAT: 974 feet.

BPCT-800612KF (New), Murfreesboro, Tenn., Family Television, Inc., Channel 39, ERP: Vis. 896 kW; HAAT: 1286 feet.

BPCT-800627KE (New), Murfreesboro, Tenn., Channel 39 of Murfreesboro, Inc., Channel 39, ERP: Vis. 1762 kW; HAAT: 808 feet.

BPCT-800715KE (New), Salem, Oreg., Greater Willamette Vision Ltd., Channel 22, ERP: Vis. 1702 kW; HAAT: 1187 feet.

BPCT-800630KE (New), Denison, Tex., (Sherman allocation), Broadcast Affiliates, Inc., Channel 20, ERP: Vis. 5000 kW; HAAT: 1089 feet.

*BPCT-800701KE, WAIM-TV, Anderson, S.C., New South Television Corp., Chanpel 40, change site; increase ERP Vis. to 2588 kW; increase HAAT to 839 feet.

*BMPCT-800625KF, WJFT-TV, Albany, Ga., Southwest Broadcasting, Inc., Channel 19, change site; increase ERP Vis. to 5000 kW; increase HAAT to 1518 feet.

*BPCT-800808KE, WGNN-TV, Winston-Salem, N.C., Good News TV, Inc., Channel 45, change site; increase ERP Vis. to 5000 kW; increase HAAT to 2000 feet.

BMPCT-800701KF, WTSP-TV, St. Petersburg, Fla., Incorporated, Channel 10, change city of license from Largo, Fla.

[FR Doc. 80-25660 Filed 8-21-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of September 1980.

Mental Health Small Grant Review Committee

September 18-20; 11 a.m., Parkview and Westview Rooms, The Gramercy Inn, 1616 Rhode Island Avenue, N.W., Washington, D.C. 20036.

Open: September 18, 11 a.m.-12 p.m.

Closed: Otherwise.

Contact: LaVerl P. Klein, Room 9-104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4843.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychology, sociology, anthropology, psychiatry, and the biological sciences, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 11:00 a.m.-12:00 p.m. on September 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552 (c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Psychiatry Education Review Committee

September 26; 9 a.m., Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open: September 26, 9 a.m.-11 a.m.

Closed: Otherwise.

Contact: Brian B. Doyle, M.D., Room 9C-02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4728.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for psychiatric education to meet mental health services personnel needs in priority areas: services to unserved or underserved populations, geographic areas, or public mental health facilities; to develop linkages with the general health services delivery system and provide mental health training for general health services personnel; and to increase the supply of minority mental health personnel, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m.-11:00 a.m. on September 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552 (c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Committee Management Office will furnish, upon request, summaries of the meetings and rosters of the committee members. Contact Mrs. Val Dowdy, Office of the Associate Director for Extramural Programs, Parklawn Building, Room 9-95, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-4333.

Dated: August 18, 1980.

Elizabeth A. Connolly,

Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-25646 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-86-M

Center for Disease Control

National Immunization Records Steering Group; Open Meeting

The following meeting will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: September 10, 1980.

Time: 9:00 a.m. to 4:00 p.m.

Place: American Red Cross, 16th and D Streets, N.W., Washington, D.C.

Purpose: To draft guidelines for possible activities (joint and individual) to be undertaken by participants of National Immunization Records Work Group to promote the concept, the production, and the use of a family-maintained standardized immunization record within every State.

Additional information may be obtained from: Alan R. Hinman, M.D., Director, Immunization Division, Bureau of State Services, Center for Disease Control, Atlanta, Georgia, telephones: FTS: 236-3741, Commercial: 404/329-3741.

Dated: August 18, 1980.

William C. Watson, Jr,

Acting Director, Center for Disease Control.

[FR Doc. 80-25640 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-86-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Monday, October 20, 1980.

ADDRESS: The meeting will be held at the Federal Bldg. and U.S. Courthouse, Rm. 220, 85 Marconi Blvd., Columbus, OH.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44144, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to

enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25601 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Wednesday, October 1, 1980.

ADDRESS: The meeting will be held at the Federal Bldg., Rm. 5004K, 500 Main St., Cincinnati, OH 45202.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44144, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25602 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 7 p.m., Thursday, October 2, 1980.

ADDRESS: The meeting will be held at the Paul J. Dunbar Bldg., Conference Rm., 1141 Central Parkway, Cincinnati, OH.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44144, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25603 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0210]

Dow Chemical Co.; Filing of Food Additive Petition

Correction

In FR Doc. 80-19302 appearing on page 43474 in the issue for Friday, June 27, 1980, make the following corrections: (1) In the "**Summary**" paragraph, in the fourth line, the word "methly" should be "methyl".

(2) In the first paragraph under "**Supplementary Information**" in the eleventh line, the word "methly" should be spelled "methyl".

BILLING CODE 1505-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Thomas Hooker, District Director, Baltimore District Office, Baltimore, MD.

DATE: The meeting will be held at 10 a.m., Tuesday, September 9, 1980.

ADDRESS: The meeting will be held at the Wicomico Co. Extension Office, Corner Parsons and Quantico Rd., Salisbury, MD.

FOR FURTHER INFORMATION CONTACT: Anne B. Lane, Consumer Affairs Officer, Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21201, 301-962-3731.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Baltimore District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25437 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George J. Gerstenberg, District Director, New York District Office, Brooklyn, NY.

DATE: The meeting will be held at 10 a.m., Tuesday, September 30, 1980.

ADDRESS: The meeting will be held at 26 Federal Plaza, Rm. 1434, New York City, NY 10007.

FOR FURTHER INFORMATION CONTACT: Nancy B. Goldstein, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25438 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George J. Gerstenberg, District Director, New York District Office, Brooklyn, NY.

DATE: The meeting will be held from 7 p.m. to 9 p.m., Wednesday, September 24, 1980.

ADDRESS: The meeting will be held at the Comprehensive Family Care Center, 1175 Morris Park Ave., Bronx, NY 10561.

FOR FURTHER INFORMATION CONTACT: Alicia Martinex, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage diaglogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 14, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25439 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0229]

Precise Optics; Approval of Variance for Intradent Intraoral Source

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the approval of a variance from the performance standard for the Intradent Intraoral Source Radiological Unit, used for panoramic radiography of the oral-facial region and for conventional periapical and bitewing radiography, and manufactured by Precise Optics. The manufacturer submitted a petition for the variance. The Director of the Bureau of Radiological Health has determined that the device may be manufactured without meeting alignment requirements and with X-ray field size exceeding the limit set by the standard, and that suitable radiation protection will be provided.

DATES: The variance became effective on July 24, 1980, and will terminate on July 26, 1982.

ADDRESS: The application and all correspondence on the application have been placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond F. Coakley, Jr., Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4, Precise Optics, 239 South Fehr Way, Bay Shore, NY 11706, has been granted a variance from § 1020.31(f)(4) (21 CFR 1020.31(f)(4)) of the performance standard for diagnositic X-ray systems for the Intradent Intraoral Source Radiological Unit (formerly called Dentix). The variance relieves the product from the requirement that means be provided to align the centers of the X-ray field and the image receptor to within 2 percent of the source-to-image receptor distance (SID) and from the requirement that the dimensions of the X-ray field not exceed the corresponding dimensions of the image receptor by more than 2 percent of the SID. The variance became effective on July 24, 1980, and will terminate on July 26, 1982.

The product will bear the variance number 80P-0229. The application and all correspondence on the application have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 15, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-25600 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: September 15, 1980 (10:00 a.m. to 5:00 p.m.); September 16, 1980 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor) HHS North Building 330 Independence Avenue, S.W. Washington, D.C. 20201.

Purpose of Meeting: The Council was established to advise the Secretary of Health and Human Services on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On August 31, 1980 a tentative agenda will be available to the public.

The meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairperson will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Cleo E. Hancock, Jr., Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 4520, Health and Human Services Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245-6097.

Dated: August 18, 1980.

Cleo E. Hancock, Jr.,

Staff Director, National Professional Standards Review Council.

[FR Doc. 80-25562 Filed 8-21-80; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 95-463, 5 U.S.C. App. 1, sec. 10, 1976) the technical committee on Creating an Age Integrated Society Implications of Societal Institutions will hold a meeting on September 5, 1980 from 9:30 a.m. to 4:30 p.m. in Room 529A-HHH, Washington, D.C.

At this meeting the committee will discuss the impact our changing demographics will have upon Societal Institutions and ways in which their institutions should respond to these changes.

Further information on the technical committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-1914. Technical

Committee meetings are open for public

S.W., Room 4059, Washington, D.C.

Lake City and Cedar City, Utah Los

Committee meetings are open for public observation.

Arnold Sampson,

HDS Committee Management Officer.

August 19, 1980.

[FR Doc. 80-25686 Filed 8-21-80; 8:45 am]
BILLING CODE 4110-92-M

1981 White House Conference on Aging

AGENCY: Department of Health and Human Services.

ACTION: Delegate criteria for 1981 White House Conference on Aging.

DISCUSSION: The following criteria have been established for 1,000 delegates to be selected at the state and territorial level to attend the 1981 White House Conference on Aging. Delegates will be selected by the mechanisms established by the Governor of each state or territory.

1. At least 50% of the delegation must be 55 years of age or older.
2. At least 50% of the delegation must be female.
3. Percentage of minority group representation to reflect, at a minimum, the percentage these minority groups constitute in the nation's total population. For purpose of this criteria, minority groups are defined as Blacks, Hispanics, Native Americans and American Indians, and Pacific Asians.
4. Urban/Rural representation must reflect the same percentage as the urban/rural population of the nation. For purpose of this criteria, urban population comprises all persons living in urbanized areas and in places of 2,500 inhabitants or more outside urbanized areas. Population not classified as urban constitutes the rural population.

In addition to the above stated criteria, special consideration will be given to the following factors in the selection of the delegates:

- Low income representation
- Handicapped representation
- National organizations representation
- A balance of professional, lay and private sector representation

Any questions regarding delegate selection criteria should be addressed to: Mr. Jerome R. Waldie, Executive Director, 1981 White House Conference on Aging, 330 Independence Avenue, S.W., Room 4059, Washington, D.C. 20201.

Jerome R. Waldie,

Executive Director, White House Conference on Aging.

August 18, 1980.

[FR Doc. 80-25709 Filed 8-21-80; 8:45 am]
BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Prepare With the Federal Energy Regulatory Commission an Environmental Impact Statement on the Proposed Rocky Mountain Pipeline Project and To Conduct Public Participation Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: In joint lead with tthe Federal Energy Regulatory Commission, the Bureau of Land Management Special Projects Environmental Impact Team, Denver, Colorado, will prepare an Environmental Impact Statement on the proposed Rocky Mountain Pipeline Project and will conduct public participation scoping meetings in the States of Utah, Nevada and California, September 15–18, 1980.

SUMMARY: A joint venture, consisting of Pacific Gas Transmission Company, El Paso Natural Gas Company, Pacific Interstate Transmission Company and Northwest Pipeline Company, has filed an application with the Department of the Interior to construct and operate an interstate natural gas pipeline transmission system from 27 miles west of Kemmerer, Wyoming to 12 miles south of Needles, California, crossing portions of Utah and Nevada, and transporting an initial volume of 413 million cubic feet per day of natural gas with provisions for an optimum volume of 800 million cubic feet per day through the addition of compressor stations. The proposed project would provide potential customers in Utah, Nevada and California with natural gas supplies from the overthrust belt and hingeline resource areas of the central Rocky Mountain region. The Bureau of Land Management, in joint lead with the Federal Energy Regulatory Commission, will prepare an Environmental Impact Statement (EIS) covering the proposed Rocky Mountain Pipeline Project and all reasonable alternatives, in accordance with the National Environmental Policy Act of 1969 and appropriate regulations and guidelines pertaining thereto. As part of the EIS process, the Bureau of Land Management will conduct public participation scoping meetings in Salt Lake City and Cedar City, Utah; Las Vegas, Nevada; and Needles, California, September 15, 16, 17, and 18, 1980, respectively. Verbal and written comments on the scope of the EIS will be accepted and should be received no later than Monday, September 22, 1980.

EFFECTIVE DATE: September 15, 1980.

ADDRESS: Bureau of Land Management, Office of Special Projects, 555 Zang Street, Third Floor East, Denver, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Janis Bowles, EIS Project Leader, Bureau of Land Management, 555 Zang Street, Third Floor East, Denver, Colorado 80228, 303–234–6737.

A summary and map is available upon request.

SUPPLEMENTARY INFORMATION: The Rocky Mountain Pipeline system would include 610 miles of 36-inch diameter steel piepline constructed in a temporary right-of-way, approximately 100 feet wide. Within California, the system would include a 36-inch diameter section of intrastate pipeline constructed by the Southern California Gas Company and Pacific Gas and Electric Company to tie their existing systems to the proposed incoming pipeline from the Nevada border. Construction mileage within each of the four States would be as follows: Wyoming, 0.6 miles; Utah, 417.4 miles; Nevada, 165 miles; and California, 27 miles. The system would include compressor stations, maintenance bases, communication facilities, metering stations, mainline block valves, pipe cleaning facilities and other normal components of a natural gas pipeline transmission system.

The joint EIS will analyze construction, operation and maintenance of the proposed project. Alternatives to be considered will include, but will not be limited to, routes, facilities, other transportation modes and no action.

Public participation scoping meetings will be conducted at the following locations, dates and times: SALT LAKE CITY, UT, Monday, September 15, 7:00 p.m., Oquirrh-Lake-Capitol Rooms, 3rd Floor, University Club Buildings, 136 E. South Temple Street; CEDAR CITY, UT, Tuesday, September 16, 7:00 p.m., Small Ballroom, Southern Utah State College, 351 W. Center Street; LAS VEGAS, NV, Wednesday, September 17, 7:00 p.m., Biloxi Room, Showboat Hotel; NEEDLES, CA, Thursday, September 18, 7:00 p.m., City Civic Center Gym.

Purposes of a public participation scoping meeting are: (1) to inform the public of the nature of the proposed project, and those aspects to be analyzed in the EIS, including the tentative alternatives based on existing data and knowledge of the affected area; (2) to gather resource information from the public; and (3) to gather public concerns as to the major issues to be considered in the EIS and to identify those issues and concerns of lesser interest that can be de-emphasized in the EIS.

George D. Lea,

Acting Associate Director.

August 18, 1980.

[FR Doc. 80-25816 Filed 8-21-80; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. 1-2587]

Idaho; Proposed Withdrawal Continuation

Correction

In FR Doc. 80-22866, published on page 50664, on Wednesday, July 30, 1980, in the third column, the fourth line under **Boise Meridian, Idaho,** "Sec. 24, a metes and bounds description" should be corrected to read "Sec. 28 a metes and bounds description".

BILLING CODE 1505-01-M

National Public Lands Advisory Council: Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet September 22 and 23, 1980. The meeting will be held at the Owyhee Plaza Hotel, 1109 Main Street, Boise, Idaho. The meeting hours will be 8:30 a.m. to 5:00 p.m. on the 23nd and 8:00 a.m. to 3:00 p.m. on the 23rd.

DATES: September 22 and 23, 1980—Council Meeting. September 22, 1980—Public Statements.

ADDRESS: Copies of public statements may be mailed in advance of the meeting to: Craig Ritchey, Chairman, National Public Lands Advisory Council, c/o Director (660), Bureau of Land Management, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240 or c/o Frederick T. Cook, Public Affairs Officer, BLM Idaho State Office, Federal Building, Box 042 (550 West Fort Street), Boise, Idaho 83724.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Office of Cooperative Relations (660), at BLM's Washington Office, telephone (202) 343–8947; or Frederick T. Cook, BLM Idaho State Office, telephone (208) 384–1770.

SUPPLEMENTARY INFORMATION:

Agenda

The agenda for the two-day meeting is:

Monday, September 22: (1) Address by Idaho Governor John V. Evans, expressing his views on management of the public lands; (2) An overview, by Bureau of Land Management (BLM) Director Frank Gregg, of recent and forthcoming BLM and Department of the Interior actions; (3) Rangeland management issues, and (4) Public statements.

Tuesday, September 23: (1) Conclusion of discussion of rangeland management issues; (2) Recreation policy for the public lands; (3) Council old and new business, and meetings of Council working groups and committees.

The Council meeting will be preceded by a one-day tour, on Sunday, September 21, of rangeland improvement project sites, for Council members. Following the rangeland tour, on Sunday evening, September 21, BLM Idaho representatives will present a slide show on rangeland management practices, for Council members, who will also have an opportunity to discuss what they saw during the day's tour. Interested citizens are invited to attend this slide presentation and discussion, in the Regency Room of the Owyhee Plaza Hotel, from 7:30 to 9 p.m.

On Monday, September 22, at 5:30 p.m., Council members will travel to the Snake River Birds of Prey Area, for an on-the-ground visit and dinner. Because of transportation and other logistical limitations, the Snake River visit, as well as the rangeland tour on Sunday, will be limited to Council members and accompanying government representatives.

Copies of the detailed agenda may be requested from Karen Slater, BLM Washington Office, or from Frederick Cook, BLM Idaho State Office, at the addresses or telephone numbers given above.

Background

The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, as to policies, plans, and programs for management of the public lands and related resources administered by the Bureau. Meetings of the Council are open to the public.

Public Statements

Opportunity will be provided for members of the public to make oral statements to the Council, from 2:30 to 5:00 p.m., Monday, September 22. Any such statements should address specific national public lands issues. Summaries of oral statements should be submitted in writing, also, and at least two copies filed with the Council Chairman. Depending upon the number of people who wish to speak, it may be necessary to limit oral presentations to 10 minutes. Those who wish to address the Council should prior to 12 o'clock noon on Monday, September 22, inform the Council Chairman of their request, and provide their name, organization represented (if any), phone number, and issue or issues to be addressed. In addition, written statements alone may be filed with the Council. The Council encourages early filing or mailing of such summaries and statements, and of requests to address the Council.

Dated: August 19, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-25724 Filed 8-21-80; 8:45 am]
BILLING CODE 4310-84-M

[INT DEIS 80-53]

APS/SDG&E Interconnection Project

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (DEIS).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM has prepared a DEIS for the proposed APS/SDG&E Interconnection Project. The California Public Utilities Commission (CPUC) was a joint lead agency for the preparation of this combined environmental document. The document also complies with the requirements of the California Environmental Quality Act.

DATE: Comments will be accepted until October 15, 1980.

ADDRESS: Comments should be sent to: State Director (920), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

FOR FURTHER INFORMATION CONTACT: Stan Wagner, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, Phone; (602) 261–4127.

SUPPLEMENTARY INFORMATION: The BLM and CPUC have prepared a combined environmental document on a proposal by Arizona Public Service Company and San Diego Gas and Electric Company to construct a 500KV transmission line and ancillary facilities from the Palo Verde Nuclear Generating Switchyard near Phoenix, Arizona, through Yuma,

Arizona to the Miguel Substation near San Diego, California.

The document analyzes environmental effects of the proposal in addition to alternatives of various route alignments, no action, energy conservation and load management, alternative generating sources, and other transmission systems and technologies.

A limited number of copies are available upon request to the Arizona State Director at the above address.

Public reading copies will be available for review at the following locations:

Arizona State Office, BLM, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261–3706.

Phoenix District Office, BLM, 2929 W. Clarendon Ave., Phoenix, Arizona 85017 (602) 241–2501.

Yuma District Office, BLM, 2450 Fourth Ave., Yuma, Arizona 85364 (602) 726–6300.

Office of Public Affairs, Bureau of Land Management, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240.

California State Office, BLM, Federal Office Bldg., Rm. E–2841, 2800 Cottage Way, Sacramento, California 95825 (916) 484–4541.

Riverside District Office, BLM, 1695 Spruce St., Riverside, California 92507 (714) 787–1462.

El Centro Resource Area, BLM, 333 S. Waterman Ave., El Centro, California 92243 (714) 352–5842..

Public Meetings to receive oral or written comments on the proposed project will be held at 7:00 P.M. at the following dates and locations:

October 1, 1980 Phoenix—Maricopa County Supervisors, Auditorium 205 W. Jefferson.

October 2, 1980 Yuma—Civic and Convention Center (East Wing), 1440 Desert Hill Drive.

October 6, 1980 El Centro—Imperial Irrigation District Auditorium, 1285 Boarway.

October 7, 1980 El Cajon (San Diego)—Sears Roebuck Assembly Hall, 575 Fletcher Parkway.

California Public Utilities Commission personnel will preside over the California hearings and BLM personnel over the hearings in Arizona. Oral comments should be limited to 10 minutes.

Dated: August 18, 1980.

Clair M. Whitlock,

Arizona State Director, Bureau of Land Management.

[FR Doc. 80–25632 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–84–M

Off-Road Vehicle Designations Within the Tonopah Resource Area

The Battle Mountain District of the Bureau of Land Management, in response to Executive Orders 11644 and 11989 and the National Environmental Policy Act of 1969, has completed the off-road vehicle (ORV) standard designation process for approximately 3.6 million acres of public land within the Tonopah Resource Area. An ORV is defined as any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain. Regulations (43 CFR Part 6340 ORV Use of Public Lands) governing ORV use and the designation process were published in the **Federal Register** on June 15, 1979.

The entire resource area is designated as open to ORV use except in the following areas:

Lunar Crater Volcanic Field (33,280 acres). Limited Designation. Vehicles permitted on existing roads only to protect the areas for the scenic and geologic values. Legal description:

T. 6 N., R. 52 E., M.D.M.,
Secs. 1, 12, 13, all.
T. 6 N., R. 53 E., M.D.M.,
Secs. 1–12, 14–19, all.
T. 7 N., R. 52 E., M.D.M.,
Sec. 36, all.
T. 7 N., R. 53 E., M.D.M.,
Secs. 2–4, 9–11, 13–36, all.

The above area includes Blackrock Lava Flow, Easy Chair Crater, and Lunar Crater.

Railroad Valley Wildlife Management Area (14,720 acres). Limited Designation. Vehicles permitted on existing roads only to protect the area's critical wildlife habitat. Legal description:

T. 9 N., R. 56 E., M.D.M.,
Sec. 34 S½.
Sec. 35 S½.
T. 8 N., R. 56 E., M.D.M.,
Sec. 1 SW¼.
Secs. 2, 3, 10, 11, 14, and 15.
Sec. 9 E½.
Sec. 12 NW¼.
Sec. 16 E½.
Sec. 18 S½SW¼.
Sec. 19 S½.
T. 9 N., R. 57 E., M.D.M.,
Sec. 33 S½.
Sec. 34 S½.
T. 8 N., R. 57 E., M.D.M.,
Secs. 3, 4, 9, and 16.
Sec. 2 NW¼ N½SW¼ SW¼SW¼.
Sec. 10 N½ SW¼.
Sec. 11 W½NW¼ NE¼NW¼.
Sec. 15 W½.
T. 8 N., R. 55 E., M.D.M.,
Sec. 13 S½S½.
Sec. 14 S½S½.
Sec. 23 N½.
Sec. 24.
T. 7 N., R. 55 E., M.D.M.,
Secs. 15, 16, 21, and 28.
Sec. 27 W½.

This wildlife management area also includes the fenced portions of Lockes Pond and Big Well Pond.

An open house for public input regarding the alternatives including the proposed action was held July 2, 1980 in Tonopah, Nevada. The public comment period took place between June 25 and July 24, 1980. No comments were received.

For more information, please contact the responsible officer, Gene Nodine, District Manager, at the following address: Bureau of Land Management, Battle Mountain District Office, P.O. Box 194, 2nd and Scott Streets, Battle Mountain, Nevada 89820, phone: (702) 635–5181.

Dated: August 14, 1980.

Peter J. Keenan,

Acting District Manager, Battle Mountain District, Nevada.

[FR Doc. 80–25635 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–84–M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Mobil Oil Exploration & Producing Southeast Inc., Unit Operator of the Ship Shoal Block 72 Federal Unit Agreement No. 14–08–001–2945, submitted on August 8, 1980, a proposed Annual Plan of Development/Production describing the activities it proposes to conduct on the Ship/Shoal Block 72 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays, 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 14, 1980.

J. Courtney Reed,

Staff Asstistant for Resource Evaluation.

[FR Doc. 80–25634 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–31–M

Heritage Conservation and Recreation Service

National Register of Historic Places; National Historic Landmark Recreation Theme Study

AGENCY: Heritage Conservation and Recreation Service.

ACTION: Notice of study and request for public comment.

SUMMARY: The heritage Conservation and Recreation Service, through the National Register Division will be conducting a National Historic Landmark theme study of the history of recreation in the United States. The purpose of the study is to identify recreation associated properties that illustrate and commemorate the development of recreation in this country. The recreation theme study will cover a wide variety of historic properties ranging from public and private recreation facilities that have had a major impact on recreational activities to the homes of persons who have made important contributions in the field of recreation. Examples of the types of historic resources to be covered in the study are historic indoor multipurpose structures, outdoor spectator and participant sports facilities, outdoor landscaped areas and natural or nature associated facilities.

The National Register Division welcomes any comments concerning the theme study or suggestions on properties to be included in the study.

DATES: Comments should be received by the National Register Division on or before October 21, 1980.

ADDRESS: Written comments should be addressed to the Acting Keeper of the National Register of Historic Places, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Shull, Acting Keeper of the National Register, Heritage Conservation and Recreation Service, United States Department of the Interior, Washington, D.C. 20243 (202–343–6401).

Dated: August 8, 1980.

Chris T. Delaporte,

Director, Heritage Conservation and Recreation Service.

[FR Doc. 25598 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–03–M

National Park Service

Badlands National Park; Availability of Development Concept Plan for Cedar Pass

The Development Concept Plan for Cedar Pass, Badlands National Park has been completed and is ready for final distribution.

The document identifies the overall concept for development at Cedar Pass and provides the conceptual framework for the design of the visitor contact and concession complex. The document also identifies the program for development and preliminary cost estimates.

Copies of the document may be obtained by contacting either of the following: Superintendent, Badlands National Park, P.O. Box 6, Interior, South Dakota 57750, or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

Dated: August 15, 1980.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 80–25694 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

Cape Cod National Seashore, South Wellfleet, Mass., Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Pub. L. 92–464 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, September 12, 1980, at 1:30 pm at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Pub. L. 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will have a field trip at 10:30 am to view the Beachcomber Restaurant operation, in Wellfleet. The Commission will consider the following matters: (1) swearing in of Commission members; (2) election of officers; (3) report on 1980 summer operations; and (4) Beachcomber Restaurant operation.

Commission members are as follows:

Dexter M. Keezer, Truro
Francis R. King, Wellfleet
Sally H. Lunt, Weston
Nathan Malchman, Provincetown
Barbara S. Mayo, Provincetown
Joshua A. Nickerson, Chatham
David F. Ryder, Chatham
Sherrill B. Smith, Jr., Orleans
Clifford H. White, Wrentham
Elizabeth F. Worthing, Eastham.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, Telephone 617–349–3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: August 15, 1980.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 80–25687 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–71–M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 1:30 p.m. CST on September 25, 1980, at the Saint Bernard Parish Police Jury Conference Room, 8201 West Judge Perez Drive, Chalmette, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95–265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

Matters to be discussed at this meeting include:

1. Status of guidelines for development and use of properties in the park protection zone of the Barataria unit.
2. Workshop session—General Management Plan.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 200, New Orleans, Louisiana 70130, telephone area code 504 589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: August 14, 1980

Robert I. Kerr,

Regional Director, Southwest Region, National Park Service.

[FR Doc. 80–25690 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, as amended by Pub. L. 94–409, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10:00 a.m., CDT, on Saturday, September 13, 1980, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by Pub. L. 89–761, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Dr. Albert Sawyer (Chairman)
Lynton K. Caldwell
Anna R. Carlson
Neil P. Frankel
John A. Hillenbrand II
James L. Kntzele
William L. Lieber
Celia Nealon
Gail H. Pugh
John R. Schnurlein
Norman E. Tufford

Matters to be discussed at this meeting include:

1. Status of land acquisition.
2. Review and critique of 1980 summer activities at Lakeshore.
3. Status of concurrent jurisdiction within Lakeshore including roads rehabilitation.
4. Implementation of the General Management Plan and public participation.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: August 12, 1980

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 80–25689 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

Proposed General Management Plan, Chickasaw National Recreation Area, Okla.; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed General Management Plan for Chickasaw National Recreation Area, Oklahoma. The final statement describes general development proposals for the Travertine and Lake Districts of the National Recreation Area.

Copies are available from and for inspection at the following locations:

Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501.

Field Assistant to the Regional Director, National Park Service, Room 10–G–3, Fritz Latham Federal Center, 819 Taylor Street, Fort Worth, Texas 76102.

Chickasaw National Recreation Area, Post Office Box 201, Sulphur, Oklahoma 73086.

Dated: August 15, 1980.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 80–25688 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

Study of Alternatives for Management of Snake Range/Spring Valley Area, Nev.; Notice of Intent

Notice is hereby given that the National Park Service will hold two public meetings the latter part of September to hear public comment on the Study of Alternatives for the management of the Snake Range/Spring Valley area in eastern Nevada.

The meetings will be held as follows: Monday, Sept. 22, at 7:00 p.m. PDT, in Baker Hall, Baker, Nev., and Tuesday, Sept. 23, at 7:00 p.m. PDT, in the Ely Junior High School, Ely, Nev.

The full Study of Alternatives is available for public review at the Denver Service Center, Division of New Area Studies, 755 Parfet St., Denver, Colo. 80225; Office of the Superintendent, Lahman Caves National Monument, Baker, Nev., and the National Park Service Western Regional Office, 450 Golden Gate Ave., San Francisco, CA 94102. A summary of the study will be available after Sept. 8, 1980, by writing to the Denver Service Center, at the address above.

The purpose of these meetings is to afford the public an opportunity to provide comments on the alternatives for the management of the Snake Range/Spring Valley area. The study, required by the General Authorities Act of 1976, directs the Secretary of the Interior to investigate the area since it exhibits nationally significant qualities and determines if it should be recommended to the Congress for inclusion in the National Park System.

The record will remain open until Oct. 24, 1980, in order to receive written comments about the study.

Anyone wanting additional information about the meetings, or the National Park Service planning process, or those wishing to submit comments on the Study of Alternatives should write to the Denver Service Center, at the above address.

Dated: August 11, 1980.

Howard H. Chapman,

Regional Director, Western Region, National Park Service.

[FR Doc. 80–25691 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

Edgar Allan Poe National Historic Site; Notice of Establishment

Whereas, the United States has acquired the land described in Section 503(c) of Pub. L. 95–625, November 10, 1978, and has placed it under administration of the National Park Service for the purposes specified in the Act.

Now, therefore, I, Cecil D. Andrus, Secretary of the Interior, hereby give notice of the establishment of Edgar Allan Poe National Historic Site in Philadelphia, Pennsylvania.

Edgar Allan Poe National Historic Site shall be administered in accordance with the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented (16 U.S.C. 1–4).

Dated: August 14, 1980.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80–25695 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–70–M

Water and Power Resources Service

Contract Negotiations With the Central Utah Water Conservancy District; Intent To Negotiate a Supplemental Repayment Contract Bonneville Unit, Central Utah Project

In accordance with procedures established by the department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service intends to initiate negotiations with the Central Utah Water Conservancy district (CUWCD) for a supplemental repayment contract to cover the increased costs of municipal and industrial (M&I) water to be developed by the Bonneville Unit of the Central Utah Project. Construction on the Bonneville Unit was initiated in 1967.

The Bonneville Unit will provide 99,000 acre-feet of M&I water for use in Salt Lake and Utah Counties. The CUWCD entered into a repayment contract on December 28, 1965, amended April 1966, with the United States to repay the costs associated with the Bonneville Unit in the CUWCD service area. That contract provides for repayment of about $102,403,000 of costs associated with 79,000 acre-feet of M&I water.

Total estimated costs have increased due to inflation and design changes since the execution of that contract. Presently, a difference of about $200,000,000 exists between estimated construction costs allocated to 99,000 acre-feet of M&I water and the present maximum contract repayment obligation for M&I costs. The facilities expected to be completed under the existing contract could deliver less than 50 percent of the anticipated M&I yield for the project.

The supplemental contract would provide for the repayment of the additional costs which would be incurred to deliver the full amount of M&I water.

The new contract provisions would apply only to the water supply to be repaid under the supplemental contract. The existing contract would remain in effect for repayment of the costs associated with the project irrigation and remaining M&I water supplies.

The terms and conditions of the proposed contracts are ultimately dependent upon the Commissioner of the Water and Power Resources Service and the Secretary of the Interior approvals of the form of the proposed contract.

All meetings scheduled by the Service with the CUWCD for the purpose of discussing terms and conditions of the proposed supplemental contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties who have furnished a written request for notification. Requests should be addressed to: Regional Director, Water and Power Resources Service, Attention: UC–440, P. O. Box 11568, Salt Lake City, Utah 84147. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is made available to the public. The Commissioner of the Water and Power Resources Service will review comments submitted and based on the number, source, and nature of the comments, will decide whether to hold a public hearing.

For further information on the contract negotiations, please contact Ms. Deborah Linke, Contract Specialist, Division of Water and Power Resources Management, at the address stated above, telephone number (801) 524–5435.

Dated: August 15, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80–25536 Filed 8–21–80; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(B)(1) that the below named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(B).

1. *Parent corporation:* AMF Incorporated, 777 Westchester Avenue, White Plains, New York 10604.

2. *Wholly-owned subsidiaries:*

(a) AMF Voit, Inc., 3801 South Harbor Boulevard, Santa Ana, California 92704.
(b) Paragon Electric Company, Inc., 606 Parkway Boulevard, Two Rivers, Wisconsin 54241.
(c) AMF Wyott, Inc., 1938 Wyott Drive, Cheyenne, Wyoming 82001.
(d) AMF Tuboscope, Inc., 2919 Holmes Road, Houston, Texas 77051.
(e) Harley-Davidson Motor Co., Inc., 3700 West Juneau Avenue, Milwaukee, Wisconsin 53201.
(f) Immuno Reagents, Inc., 1015 North Austin Street, Seguin, Texas 78155.

1. Parent corporation and address of principal office: Alco Standard Corporation, 825 Duportail Road, Chesterbrook, Valley Forge, PA 19482.

2. Wholly-owned subsidiaries (including divisions of the parent corporation and such wholly-owned subsidiaries) which may participate in the operations, and address of their respective principal offices:

Ace Fork Truck Company, 43 Irving, Wichita, KS
Acme Pumps & Wellpoints, Inc., 220 Fifth Street, Fort Myers, FL
Acme Wellpoint of Florida, Inc., 220 Fifth Street, Fort Myers, FL
Alco Automotive Products Company, P.O. Box 398, Devon Industrial Park, Devon, PA 19333
Alco Chemical Corporation, 909 Mueller Drive, Chattanooga, TN 37406
Alco Dispensing Systems, 455 East Kehoe Boulevard, Carol Stream, IL 60187
Alco Foodservice Equipment Company, The Courtyards, 8181 N.W. 36th Street, Suite No. 20, Miami, FL 33166
Alco Health Services Group, Inc., 983 Old Eagle School Road, Wayne, PA 19087
The American Stamping Company, 26650 Lakeland Boulevard, Cleveland, OH 44132
American Warehouses, Inc., 1918 Collingsworth Street, Houston, TX 77009
AMPCO Corporation, 1401 Monticello Avenue, Norfolk, VA 23510
Ashton Automotive Inc., 345 East 16th Street, Erie, PA 16512
Avonmore Company, c/o Alco Standard Corporation, P.O. Box 834, Valley Forge, PA 19482
Avonmore Mining Company, c/o Alco Standard Corporation, P.O. Box 834, Valley Forge, PA 19482
Baldwin Paper Company, 161 Avenue of the Americas, New York, New York 10013
Bar-O-Matic Dispensers, 14749 Arminta Street, Van Nuys, CA 91402
Barnes and Tucker Company, 825 Duportail Road, Chesterbrook, Valley Forge, PA 19482
Bearing-Belt & Chain, Inc., 729 East Buckeye Road, Phoenix, Arizona 85034
The Belko Corporation, 11931 Jericho Road, Kingsville, MD 21087

Big Drum, Inc., 1740 Joyce Avenue, Columbus, OH 43219
Binghamton Paper Company, 97 Ely Street, Binghamton, NY 13902
Blower Paper Company, 1525 East Edinger Avenue, Santa Ana, CA 92705
The Broaster Co., Beloit Industrial Park, I–90, Beloit, WI 53511
Brotherston Hospital Supply Company, 56th & Lancaster Avenue, Philadelphia, PA 19131
Carpenter/Offutt Paper, Inc., 333 Oyster Point Boulevard, South San Francisco, CA 94080
Central Automotive Warehouse, Inc., 178 Ridge Road, Lackawanna, NY 14218
Central Paper Company, 741 Fourth Street, P.O. Box 330, Menasha, WI 54952
Chope-Stevens Paper Company, 1800 Eighteenth Street, Detroit, MI 48216
Clauss Cutlery Company, 223 North Prospect Street, Box 667, Fremont, OH 43420
Cleveland Range Co., 1333 East 179th Street, Cleveland, OH 44110
Commercial Machine Works, Inc., 1099 Touhy Avenue, Elk Grove Village, IL 60007
Copco Papers, Inc., 228 North Fifth Street, P.O. Box 597, Columbus, OH 43216
Cortez Service Parts Company, 1323 Middlebury Road, Kent, OH 44240
Cream Cone Company, 1740 Joyce Avenue, Columbus, OH 43219
Cream Cone Company Bakery Division, 1195 Essex Avenue, Columbus, OH 43201
Cream Cone Company Shop Division, 1740 Joyce Avenue, Columbus, OH 43219
Custom Coach Corporation, 1400 Dublin Road, Columbus, OH 43215
Dean Industries, 8479 Steller Drive, Culver City, CA 90230
The Delfield Co., 980 South Isabella Road, P.O. Box 470, Mt. Pleasant, MI 48858
Deluxe Specialties Manufacturing Company, Box 979, R.R. #2, Hutchinson, KS 67501
The Drug House, Inc., 1011 West Butler Street, Philadelphia, PA 19101
Drum Cup Company, 1740 Joyce Avenue, Columbus, OH 43219
Drumstick Company, 1740 Joyce Avenue, Columbus, OH 43219
Dudley Paper, 301 North Hosmer Street, Lansing, MI 48912
Duff Brothers, Inc., 200 North Holly Street, P.O. Box 31, Chattanooga, TN 37401
Ehrhardt Tool & Machine Co., Inc., 2224 North 10th Street St. Louis, Mo 63102
Emcor, Inc., 336 South Spring, Port Washington, WI 53074
56th & Lancaster Avenue Corp., 5600 Lancaster Avenue, Philadelphia, PA 19131
Flodar Corporation, 16911 St. Clair Avenue, Cleveland, OH 44110
Franklin-Cowan Paper, Inc., 210 Ellicott Street, Buffalo, NY 14203
Garrett-Buchanan Company, 10th & Spring Garden Streets, Philadelphia, PA 19123
Gas Machinery Company, The, 336 South Spring Street, Box 324, Port Washington, WI 53074
Geer Drug Company, The, 1505 King Street Extension, Charleston, SC 29405
Genesee Valley/Whalen Paper Co., Inc., 48 King Street, Rochester, NY 14608
Gibraltar Warehouses, Box 1125, 33300 Dowe Avenue, Union City, CA 94587
Good Steel Service, Inc., 7500 Grand Division Avenue, Cleveland, OH 44125
Hardee Maintenance & Steel Fabricators, Inc., P.O. Drawer 1780, Plant City, FL 33566
Harold Paper Company, 2737 Adams Road, Pontiac, MI 48057
Haysite Division, Synthane-Taylor Corporation, P.O. Box 6180, Erie, PA 16512
Hunt Auto Supply Company, Inc., 1300 Monticello Avenue, Norfolk, VA 23510
Indiana Land Company, 2625 Concord Pike, Box 7138, Wilmington, DE 19803
Ispen Ceramics, 325 John Street, Pecatonica, IL 61063
Ispen Commercial Heat Treating, P.O. Box 6225, Rockford, IL 61125
Ipsen Industries, P.O. Box 6266, Rockford, IL 61125
Ipsen Industries, Inc., 984 Ipsen Road, Cherry Valley, IL 61016
Jackson Products Company, 4009 East Bougainvillea, Tampa, FL 33674
K–T Corporation, 850 Elston Drive, Shelbyville, IN 46176
The Kauffman-Lattimer Company, 1200 E. 5th Avenue, Columbus, OH 42216
Kay-Townes, Inc., 607 Turner Chapel Road, Box 593, Rome, Georgia 30161
Kex Copy Products, Inc., 48 King Street, Rochester, NY 14603
Kilroy Steel, Inc., 8500 Union Avenue, Cleveland, OH 44105
The Kilroy Structural Steel Co., 8500 Union Avenue, Clevland, OH 44105
The Otto Konigslow Mfg. Company, 13300 Coit Road, Cleveland, OH 44110
The Lancashire Company, 2625 Concord Pike, Box 7138, Wilmington, DE 19801
LaSalle Messinger Paper Company, 2601 South 25th Avenue, Broadview, IL 60153
Lauderdale Machine Company, Box 9275, Tampa Industrial Park, Tampa, FL 33674
Ledo-Dionysus, Inc., 5757 E. 42nd Avenue, Denver, CO 80216
A. E. Macadam & Co., Inc., 65 Maxess Road, Melville, Long Island, NY 17746
Macadam Associates, Inc., 239 Weston Street, Hartford, CT 06101
The McDowell Manufacturing Company, Old Airport Industrial Park, P.O. Box 665, DuBois, PA 15801
The Metalsource Corporation, 7500 Grand Division Avenue, Cleveland, OH 44125
Metalsource (Charlotte), 7950 Pence Road, P.O. Box 25846, Charlotte, NC 28212
Metalsource (Florida), 4009 A East Bougainvillea Avenue, P.O. Box 16621, Temple Terrace, FL 33687
Metalsource—Great Western Steel, 2310 West 58th Street, Chicago, IL 60636
Metalsource (Texas), P.O. Box 3166, 1319 South Belt Line Road, Irving, TX 75061
Metalsource—Triumph Industries, 8687 South 77th Avenue, Bridgeview, IL 60455
Metalsource—Western Division, 11939 Woodriff Avenue, Downey, CA 90241
Mid Continent Paper Corporation, 2904 South Spruce, Wichita, KS 67216
Midwest Paper Products, 911 Southwest 4th, P.O. Box 26807, Oklahoma City, OK 73126
Miether Machine Works, Inc., 8700 West County Road, Odessa, TX 79760
Miller Chemical & Fertilizer Corporation, Radio Road Off Route 94, Hanover, PA 17331
Milwaukee Machine Products Company, 10300 North Enterprise Drive, Mequon, WI 53092
Minerva, Inc., 310 Grant Boulevard, Minerva, OH 44657
Missouri Metal Shaping Company, 9970 Page Boulevard, St. Louis, MO 63132
Modern Equipment Company, 336 South Spring, Port Washington, WI 53074
Monarch Paper Company, 2800 North Loop West, Suite 505, Houston, TX 77001
National Automotive Systems, 530 West 172nd Street, South Holland, IL 60473
Paper Corporation of United States, 486 Madison Avenue at 51st Street, New York, NY 10022
Ed. Phillips & Sons Co., 2345 Kennedy Street, N.E., Minneapolis, MN 55413
Ed. Phillips & Sons Co. (Nebraska), 10100 J Street, Omaha, NE 68127
Ed. Phillips & Sons of Eau Claire, Inc., 3505 Melby Street, Eau Claire, WI 54701
Ed. Phillips & Sons Co. of North Dakota, 318 5th Street, North, Fargo, ND 58102
H. Phillips Co., Inc., 801 Jefferson Street, Wausau, 54401
The Phipps Coal Company, c/o Barnes & Tucker Company, P.O. Box 883, Valley Forge, 19482
Pratt-Gabriel Division, Miller Chemical, 122 Sharon Road Robbinsville, NJ 08691
Relco Financial Corp., 1818 Leavenworth Street, Omaha, NE 68102
Rex Financial Corporation, Specialty Products Group, The Maylee Building, Room 301, 2490 Lee Boulevard, Cleveland, OH 44118
Rex Precision Products, Inc., 14831 Maple Avenue, P.O. Box 270, Gardena, CA 90247
Rice-Chadwick Rubber Co., North Main Street, Killbuck, OH 44637
Riekes Crisa Corporation, P.O. Box 2489, 1600 Justo Penn Road, Laredo, TX 78041
Riekes Crisa Corporation of Canada, Ltd., 1818 Leavenworth Street, Omaha, NE 68102
Riekes Group, Inc., 1818 Leavenworth Street, Omaha, NE 68102
S. Riekes & Sons, Inc., 1818 Leavenworth Street, Omaha, NE 68102
The Rourke-Eno Paper Company, Incorporated, The Conference Center, 936 Silas Deane Highway, Wethersfield, CT 06109
Rousselle Corporation, 2310 West 78th Street, Chicago, IL 60620
Royston Distributors, Inc., P.O. Box 200, Devon Industrial Park, Devon, PA 19333
Santa Ana Container Co., 1525 East Edinger Avenue, Santa Ana, CA 92705
Savory Equipment Company, 349 Essex Road, P.O. Box 610, Neptune, NJ 07753
Schroeder Brothers Corporation, P.O. Box 72, Nichols Avenue, McKees Rocks, PA 15136
Seneca Paper Company, 210 Ellicott Street, Buffalo, NY 14203
Service Paper Products, 855 West 15th Street, Merced, CA 95340
Shelley Manufacturing Company, 4225 N.W. 72nd Avenue, Miami, FL 33166
The Sperry Rubber & Plastics Company, Inc., Route 2, Box 42, Brookville, IN 47012
Stylette Plastics, Inc., Willow Avenue, Oakdale, PA 15071
Synthane-Taylor Corporation, Route 363, Under Betzwood Bridge, Valley Forge, PA 19482
Synthane-Taylor (Canada) Limited, 23 Commander Boulevard, Agincourt, Ontario, Canada
Tempo Products Company, 6200 Cochran Road, Cleveland (Solon), OH 44139

Toscany Imports Ltd., 245 Fifth Avenue, New York, NY 10016
U.S. Chemical & Plastics, Inc., 1446 West Tuscarawas Street, Box 6208, Station B, Canton, OH 44706
U.S. Range Co., 14501 South Broadway, Gardena, CA 90248
The Unisource Corporation, 963 Old Eagle School Road, Wayne, PA 19087
Unisource West, Inc., 333 Oyster Point Boulevard, South San Francisco, CA 94080
Universal Paper Corporation, 1800 West Rogers Avenue, P.O. Box 537, Appleton, WI 54911
Upshur Coals Corporation, P.O. Box 789, Buckhannon, WV 26201
Virginia Beach Auto Supply, 839 Virginia Beach Boulevard, Virginia Beach, VA 23451
Weber Paper Co., 1200 Union Avenue, Kansas City, MO 64101
Wheelock, Lovejoy & Company, 7500 Grand Division Avenue, Cleveland, OH 44125
Wichita Paper Co., Inc., 2904 South Spruce Wichita, KS 67216
Wire Cloth Products, Inc., 2801 Eisenhower Expressway, Bellwood, IL 60104
Wood Industrial Products Company, Inc., 100 Washington Street, Conshohocken, PA 19428
Wyomissing Corporation, Seventh and Reading Avenues, West Reading, PA 19603

1. Parent company: Anheuser-Busch Companies, Inc., 721 Pestalozzi Street, St. Louis, MO 63118.
2. Wholly-owned subsidiaries:

(a) Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(b) August A. Busch & Co. of Massachusetts, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(c) August A. Busch & Co. of Florida, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(d) Busch Properties, Inc., 500 Community Federal Center, 12555 Manchester Rd., St. Louis, MO 63131
(e) Consolidated Farms, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(f) Metal Container Corporation, 721 Pestalozzi Street, St. Louis, MO 63118
(g) Kingsmill Realty, Inc., 100 Kingsmill Road, Williamsburg, VA 23185
(h) Busch International Sales Corporation, 721 Pestalozzi Street, St. Louis, MO 63118
(i) St. Louis Refrigerator Car Co., 2850 South Broadway, St. Louis, MO 63118
(j) Manufacturers Railway Co., 2850 South Broadway, St. Louis, MO 63118
(k) Manufacturers Cartage Co., 2850 South Broadway, St. Louis, MO 63118
(l) M.R.S. Redevelopment Corporation, 2850 South Broadway, St. Louis, MO 63118
(m) M.R.S. Transport Company, 2850 South Broadway, St. Louis, MO 63118
(n) Columbus Cartage, Inc., 2850 South Broadway, St. Louis, MO 63118
(o) Williamsburg Transport, Inc., 2850 South Broadway, St. Louis, MO 63118
(p) Busch Entertainment Corp., 500 Community Federal Center, 12555 Manchester Rd., St. Louis, MO 63131 (formerly Lianco Container Corp.)
(q) Fairfield Transport, Inc., 2850 South Broadway, St. Louis, MO 63118
(r) Kingsmill Resorts, Inc., 721 Pestalozzi Street, St. Louis, MO 63118
(s) Container Recovery Corporation, 727 N. 1st Street, Raeder Bldg., Suite 410, St. Louis, MO 63102
(t) Metal Label Corporation, 721 Pestalozzi Street, St. Louis, MO 63118

1. Parent: Benjamin Moore & Co., 51 Chestnut Ridge Road, Montvale, New Jersey 07645.
2. Wholly-owned subsidiaries which will participate in operations:

(a) Technical Coatings Co., 57 E. Centre Street, Nutley, New Jersey 07110
(b) Dal-Worth Paint Mfg. Co., 733 Dal-Worth Drive, P.O. Box 173, Mesquite, Texas 75149

1. Parent: Bissell Inc., 900 Old Kent Building, Grand Rapids, Michigan 49503, July 9, 1980.
2. Subsidiaries:

(a) Atlantic Precision Works, Inc.
(b) Atlas Tag & Label, Inc.
(c) Bissell Ltd.
(d) Imperial Business Forms, Inc.
(e) Michigan Tag Company
(f) Penn Champ Inc.
(g) Slip-X Safety Treads, Inc.
(h) Venturi, Inc.

1. Parent corporation and address of principal office: Borman's, Inc., 18718 Borman Avenue, Detroit, Mich. 48228, Mailing Address: P.O. Box 446, Detroit, Mich. 48232
2. Wholly-owned subsidiaries which will participate in the operations, and their respective principal offices:

(a) Arnold's, Inc., 18718 Borman Ave., Detroit, Mich. 48228. Mailing Address: P.O. Box 28015, Joyfield Station, Detroit, Michigan 48228
(b) Detroit Pure Milk Company, 18940 Weaver, Detroit, Mich. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(c) Wesley's Quaker Maid, Inc., 18940 Weaver, Detroit, Mich. 48227. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(d) Modern Foto, 18718 Borman Avenue, Detroit, Mich. 48228. Mailing Address: P.O. Box 28010, Joyfield Station, Detroit, Mich. 48228
(e) Farmer Jack's of Ohio, Inc., 18718 Borman Avenue, Detroit, Mich 48232. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(f) Carton Company, Inc., 18718 Borman Ave., Detroit, Mich. 48228. Mailing Address: P.O. Box 446, Detroit, Mich. 48232
(g) Y.D.S., Inc., 18718 Borman Avenue, Detroit, Mich. 48228. Mailing Address: P.O. Box 446, Detroit, Mich. 48232

1. Parent corporation and address of principal office: CFS Continental, Inc., 100 South Wacker Drive, Chicago, Illinois 60606.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

CFS Continental Transportation Company, 2550 North Clybourn Avenue, Chicago, Illinois 60614
Sugar Food-Dallas, 4930 Sharp Street, Dallas, Texas 75247
Continental Chicago, 9915 West Bryn Mawr Avenue, Rosemont, Illinois 60018
Continental-Topper, Inc., Route 136—P.O. Box 127, Eighty-four, Pennsylvania 15330
Continental-Dayton, Inc., 2680 Titus Avenue, Dayton, Ohio 45414
Continental-Minnesota, Inc., 1109 Zane Avenue North, Golden Valley, Minnesota 55422
Sugar Food Corporation, 2000 Westbelt Drive, Columbus, Ohio 43228
Sugar Food—Monroe, 600 Detroit Avenue, Monroe, Michigan 48161
Kothe, Wells and Bauer, Koweba Lane, Indianapolis, Indian 46201
Continental-Indianapolis, Inc., P.O. Box 248, 4000 West 62nd Street, Indianapolis, Indiana 48212
Continental-Michigan, Inc., 14255 Dequindre Avenue, Detroit, Michigan 48212
Continental-Big Red, Inc., 415 Fourth Street North, Box 2945, Fargo, North Dakota 58108
Continental-Crystal, Inc., 3931 West First Street, P.O. Box 6146, Duluth, Minnesota 55806
Continental-South Dakota, 1509 Industrial Avenue, Sioux Falls, South Dakota 57104
Continental-Atlanta, Inc., 6614 Best Friend Road, Doraville, Georgia 30340
Continental Coffee Company of Florida, 15 N.E. 11th Street, Miami, Florida 33132
Continental-Institutional, Inc., P.O. Box 4747, Liberty Church Road and Georgia Highway 247, Macon, Georgia 31208
Continental-Arctic, Inc., P.O. Box 660, 601 S.W. 7th Avenue, Renton, Washington 98055
Continental-Los Angeles, Inc., 2300 E. 57th Street, Vernon, California 90058
CFS Continental-Phoenix, Inc., 4545 N. 43rd Avenue—Zip 85031, P.O. Box 27127—Zip 85061, Phoenix, Arizona
Houston Foods, Inc., 4245 North Knox Avenue, Chicago, Illinois 60641
Shari Candies, Inc., 1804 North Second Street, Mankato, Minnesota 56001
Melster Candies, Madison Street, Cambridge, Wisconsin 53523
Continental-Iowa, Inc., 2420 West Grand Avenue, West Des Moines, Iowa 50265
East/South Region Office, 6855 Jimmy Carter Boulevard, Suite 1420, Norcross, Georgia 30071
Continental-Central Florida, Inc., 2100 Country Club Road, P.O. Drawer D, Sanford, Florida 32771
Continental Coffee-South Brunswick, P.O. Box 280, Monmouth Junction, New Jersey 08852 (Located at Black Horse Lane & Progress Road)
Continental-Mulberry, Inc., 444 Mulberry Street, P.O. Box 784, Macon, Georgia 31202
Continental-Keil, Inc., P.O. Box 31198, Billings, Montana 59107
Continental-San Diego, Inc., 2191 Main Street, San Diego, California 92138
Continental-G&M Foods, Inc., P.O. Box 4377, Fresno, California 93744
Continental Coffee Products Company & Continental Food Products Company, 2550 North Clybourn Avenue, Chicago, Illinois 60614
Barg & Foster, 4057 North Wilson Drive, Shorewood, Wisconsin 53211
Continental Coffee Manufacturing, P.O. Box 9389, Houston, Texas 77011

V 45 A G 22 80 UMI

Continental Commodities Company, 2750 Jewell, Vernon, California 90058
Intercon Company, 351 Roosevelt Avenue, Carteret, New Jersey 07008
Harold Freund Baking Company (Hawaii), 94–071 Leonui Street, Waipahu, Hawaii 96797
Harold Freund Baking Company (San Jose), 577 Burke Street, San Jose, California 95112
Interstate Foods Company, 3800 South Morgan Street, Chicago, Illinois 60609
Harold Freund Baking Company, 649 South Seventh Avenue, P.O. Box 1283, City of Industry, California 91749
Harold Freund Baking Company (Florida), 2737 24th Street North, St. Petersburg, Florida 33713

1. Parent Corporation: A. M. Castle & Co., 3400 N. Wolf Road, Franklin Park, IL 60131.

2. Wholly Owned subsidiary: Hy-Alloy Steels Co., 5100 W. 73rd St., Chicago, IL 60638.

1. Parent corporation and address of principal office: The Central Foundry Company, P.O. Box 188, Holt, Alabama 35404.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(A) Quakertown Foundry, Inc., P.O. Box 636, Quakertown, Pennsylvania 18951
(B) Fulton Foundry, Inc., 135 Forestdale Avenue, South Fulton, Tennessee 42041
(C) Southeastern Assembly Company, P.O. Box 1, Felton, Georgia 30140

1. Parent corporation and address of principal office: Cities Service Company, 110 West 7th Street, P.O. Box 300, Tulsa, Oklahoma 74102.

2. Wholly-owned subsidiary which will participate in the operations, and address of principal office: Columbian Chemicals Company, 521 South Boston, P.O. Box 37, Tulsa, Oklahoma 74102.

1. Parent corporation and address of principal office: Adolph Coors Company, Golden, CO 80404.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Coors Container Company, 17755 West 32nd Avenue, Golden, CO 80401
Coors Porcelain Company, 600 Ninth Street, Golden, CO 80401
Alumina Ceramics, Inc., 1912 Dale Street, P.O. Box 878, Benton, AR 72015
CIPCO Pte. Ltd., Block 2, 3841 Jalan Bukit Merah, Redhill Industrial Estate, Singapore 0315, Republic of Singapore
R I Ceramic Company, 450 24th Avenue, N.W., Norman, OK 73069
Wilbanks International, Inc., 2770 S.E. Tualatin Valley Highway, Hillsboro, OR 97123
Coors Distributing Company, 1280 West 47th Avenue, Denver, CO 80211
American Center for Occupational Health, Inc., 11275 East Mississippi Avenue, Suite 2N2, Aurora, CO 80012
Cadco Incorporated, Golden, CO 80401
Coors Food Products Company, Golden, CO 80401
Coors Transportation Company, 5101 York Street, Denver, CO 80216
The Rocky Mountain Water Company, P.O. Box 507, Golden, CO 80401
The Wannamaker Ditch Company, P.O. Box 507, Golden, CO 80401

1. Parent Corporation and address of principal office: Cowan Enterprises, Inc., 820 South Oldham Street, Baltimore, Maryland 21224.

2. Wholly-owned subsidiary which will participate in the operations, and address of their respective principal offices: (a) Key Way Transport, Inc., 820 South Oldham Street, Baltimore, Maryland 21224.

1. Parent Corporation and address of principal office: Crawford Beverage, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Crawford Trucking, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559
(b) Crawford Beverage, Inc., P.O. Box 582, U.S. Highway 98 North, Montrose, Alabama 36559
(c) Crawford Wholesale, Inc., P.O. Box 532, U.S. Highway 98 North, Montrose, Alabama 36559

(1) Parent Corporation and address of principal office: Cummins Engine Co., Inc., 1000 5th Street, Columbus, Indiana 47201.

(2) Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Atlas Crankshaft Corporation, P.O. Box 845, Fostoria, Ohio 44830
(b) Cummins Americas, Inc., 1000 5th Street, Columbus, Indiana 47201
(c) Cummins Charleston, Inc., 2301 Leeds Avenue, Charleston, South Carolina 29405
(d) Cummins Diesel Sales Corporation, 1000 5th Street, Columbus, Indiana 47201
(e) Fleetguard, Inc., Route 8, Cookeville, Tennessee 38501

(3) Cummins as the parent corporation would indicate to the Commission that the following subsidiaries may participate in compensated intercorporate hauling:

(a) Atlas Crankshaft Corporation, P.O. Box 845, Fostoria, Ohio 44830
(b) Fleetguard, Inc., Route 8, Cookeville, Tennessee 38501

1. Parent Corporation: Diamond International Corporation, 733 Third Ave., New York, NY 10017.

2. Wholly-owned subsidary: Groveton Papers Company, Mechanic Street, Groveton, NH 03582.

1. The name of the parent corporation: Great Northern Nekoosa Corporation, 75 Prospect Street, Stamford, Connecticut.

2. Wholly-owned subsidiaries which will participate in the operations, and the address of their respective principal offices is as follows:

Bibler Brothers, Inc., Highway 7 South, Russellville, Arkansas 72801
Butler Paper Company, 100 Wisconsin River Drive, Port Edwards, Wisconsin 54469
East Texas Iron Company, 100 Wisconsin River Drive. Port Edwards, Wisconsin 544669
Great Northern Overseas Corporation, 75 Prospect Street, Stamford, Connecticut 06901
Great Northern Properties, Inc., Katahdin Avenue, Millinocket, Maine 04462
Great Southern Properties, Inc., P.O. Box 44, Cedar Springs, Georgia 31732
Marplex Products Co., Inc., P.O. Box 279, Rhinelander, Wisconsin 54501
Nekoosa Envelopes Inc., 720 South Colorado Boulevard, Denver, Colorado 80222
Nekoosa Overseas Corporation, 100 Wisconsin River Drive, Port Edwards, Wisconsin 544669
Nekoosa Papers Inc., 100 Wisconsin River Drive. Port Edwards, Wisconsin 54469
Point Pleasant Paper Company, 511 Charleston National Bank Building, Charleston, West Virginia 25301
Whitewood Post & Pole Co., Inc., 100 Wisconsin River Drive. Port Edwards, Wisconsin 54469
Wisco Envelope Company, Inc., 1509 N. Washington, Street, Tullahoma, Tennessee 37388

1. Parent corporation and address of principal office: Equipment Company, Inc., 20 Dunean Street, P.O. Box 8492, Station A, Greenville, South Carolina 29604.

2. Wholly owned subsidiary which will participate in the operations, and address of its principal office: Eastern Carriers, Inc., Anderson Road, P.O. Box 8492, Station A, Greenville, South Carolina 29604.

1. Parent corporation and address of principal office: General Host Corporation, 22 Gate House Road, Stamford, CT 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) Cudahy Company, 100 W. Clarendon, Phoenix, AZ 85013.

(1) Parent: Leroy Schecter, 55 Passaic Avenue, Kearny, NJ, 07032.

(2) Wholly-owned companies which will participate in the operations, and addresses of their respective principal offices:

(a) American Strip Steel, Inc., 55 Passaic Avenue, Kearny, NJ, 07032
(b) David Graham Company, P.O. Box 254, Levittown, PA, 19059
(c) Harris Steel International, 55 Passaic Avenue, Kearny, NJ, 07032

(d) Ware Industries, Ltd., 61 Avenue K, New York, NY, 07105
(e) Devon Transportation Co., P.O. Box 254, Levittown, PA, 19059

(1) Parent corporation: Hanover Brands, Incorporated, P.O. Box 334, Hanover, PA 17331.

(2) Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Hanover Guest Quality Foods Corporation, P.O. Box 471, Hanover, PA 17331
(b) Tri-Co. Foods Corporation, P.O. Box 334, Hanover, PA 17331
(c) Consumers Packing Company, 1236 Plum & Liberty Streets, Lancaster, PA 17604
(d) Alcosa, Apartado Postal 31–C, Guatemala, C.A.

1. Parent corporation and address of principal office: Hardee's Food Systems, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. Fast Food Merchandisers, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801
B. Gol-Pak Corporation, 1233 N. Church Street, Rocky Mount, North Carolina 27801
C. HED, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801
D. Continental Franchise Corporation, 1233 N. Church Street, Rocky Mount, North Carolina 27801
E. Hairston & Company, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801
F. Sandy's Franchise, Inc., 1233 N. Church Street, Rocky Mount, North Carolina 27801

1. Parent Corporation and address of principal office: The Hoosier Panel Co., Inc., 2043 Silver Street, P.O. Box 499, New Albany, Ind. 47150.

2. Wholly owned subsidiaries which will participate in the operation, and address of their respective principal offices: Hesco Industries, Inc., P.O. Box 7, R.R. #1, Highway 62, Charlestown, Ind. 47111.

1. Parent corporation and address of principal office: The Ingalls Iron Works Company, 620 Fourth Avenue South, P.O. Box 2527, Birmingham, Alabama 35202.

2. Wholly-owned subsidiaries which will participate in the operations, and address of respective principal offices:

1. Jones and Armstrong Steel Company
A. *Birmingham,* 901 Second Court West, P.O. Box 10287, Birmingham, Alabama 35217
B. *Mobile,* 1566 Dublin Street, P.O. Box 5181, Mobile, Alabama 36605
C. *Tucker (Atlanta),* 2001 Steel Drive, P.O. Box 127, Tucker, Georgia 30084
D. *Savannah,* 1618 W. Gwinett Street, P.O. Box 2006, Savannah, Georgia 31402
E. *Memphis,* 2315 Pier Street, P.O. Box 13124, Memphis, Tennessee 38113
2. New City Steel Corporation, 5401 Western Boulevard South, P.O. Box 09013, Chicago, Illinois 60609
3. Gibson Steel Company, 816 North 30th Street, P.O. Box 10983, Birmingham, Alabama 35202
4. Steel Supply Company Inc., 4800 Beverly Road, P.O. Box 5331, Knoxville, Tennessee 37918
5. Ingalls Steel of Pennsylvania, Inc., Selden & Ridge Avenue, Verona, Pennsylvania 15147
6. Blue Ridge Steel Company, 1000 9th Street N.E., P.O. Box 2845, Roanoke, Virginia 24001
7. City Steel Corporation, 975 High Street, P.O. Box 280, Jackson, Mississippi 39205
8. Tennessee Steel and Supply Company, 710 2nd Street, P.O. Box 1971, Nashville, Tennessee 37202
9. South Central Steel Company, Camp Coleman Road, P.O. Box 73, Trussville, Alabama 35173
10. McMurray Structural Steel Company, Inc., 1015 Herman Street, P.O. Box 1112, Nashville, Tennessee 37202
11. Seminole Steel Company, 2431 Airport Road, P.O. Box 1034, Bainbridge, Georgia 31717
12. Charles County Steel Company, St. Charles Industrial Park, P.O. Box 657, Waldorf, Maryland 20601
13. Ingalls of Florida, 711 Central Florida Parkway, P.O. Box 13948, Orlando, Florida 32859
A. *Jacksonville,* 3451 West 20th Street, P.O. Box 37207, Jacksonville, Florida 32205
14. Richards Tank Company, Pinson Highway, P.O. Box 6288, Tarrant Branch, Birmingham, Alabama 35217

3. Divisions of the parent corporation which will participate in the operations, and address of their respective principal offices:

1. The Ingalls Iron Works Company, Marine Division, P.O. Box 368, Decatur, Alabama 35601
2. Birmingham Tank Company, 2716 North 26th Street, P.O. Box 2527, 35202, Birmingham, Alabama 35207

1. Parent corporation and address of principal office: Instrument Systems Corporation, 100 Jericho Quadrangle, Jericho, New York 11753.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) ISC Transystems, Inc., 100 Jericho Quadrangle, New York 11753.
(b) Telephonics Corporation, 100 Jericho Quadrangle, New York 11753.
(c) Lightron Corporation, 100 Jericho Quadrangle, New York 11753.
(d) Bendix Mouldings Incorporated, 235 Pegasus Avenue, Northualr, NJ 07647.
(e) Laurel Lamp Mfg. Co., Inc., Rome and Magazine Streets, Newark, NJ 07105.
(f) Markstone Mfg. Company, 1240 North Homan Avenue, Chicago, IL 60651
(g) ISC Government & Energy Products Corporation, 6755 Garden Road, Riviera Beach, Florida 33404.

1. Parent corporation and address of principal office: Knape & Vogt Manufacturing Co., 2700 Oak Industrial Drive, N.E., Grand Rapids, MI 49505.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices;

(a) Knape & Vogt Canada, Inc., 340 Carlingview Drive, Rexdale, Ontario.
(b) Modar, Inc., 1349 East Empire Avenue, Benton Harbor, MI 49022.

1. Parent corporation and address of principal office: Lacy Diversified Industries, Inc. Suite 3200, One Indiana Square Indianapolis, IN. 46204.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. U.S. Corrugated-Fibre Box Company, Inc. 3200 One Indiana Square Indianapolis, IN 46204
B. U.S. Packaging Company, Inc., 4721 Burbank Road, Memphis, TN. 38118
C. Acme Paper Stock Company, Inc., 141 N. Second Street, Louisville, KY. 40202.
D. U.S. Corrugated-Fibre Box Company of Alabama, Inc. 801 Wall Triana Road, Huntsville, AL. 35807
E. Jessup Door Company, Inc. 300 E. Railroad Street Dowagiac, MI. 49047.
F. LDI Leasing, Inc., 3200 One Indiana Square, Indianapolis, IN. 46204.

Parent: The Logan Clay Products Company, 201 E. Bowen Street, Logan, Ohio 43138.

Wholly-owned subsidiary: The Logan Foundry & Machine Company, 169 E. Front St., Logan, Ohio 43138.

1. Parent corporation and address of principal office: Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Emro Marketing Company, 2525 N. Limestone St., Springfield, Ohio 45503; and
(b) Muesing, Inc., 199 South Sherman Drive, Indianapolis, Indiana 46201.

1. Parent corporation and address: McKee Baking Company, P.O. Box 750, 10260 McKee Road, Collegedale, TN 37315.

2. Wholly-owned subsidiaries and addresses.

(a) Sovex Natural Foods, Inc., P.O. Drawer 310, 9500 Apison Pike, Collegedale, TN 37315
(b) Supreme Broom Company, Inc., P.O. Drawer E, 9950 Apison Pike, Collegedale, TN 37315
(c) Better Foods, Inc., P.O. Box 1640, 9500 Apison Pike, Collegedale, TN 37315

1. Name of the parent corporation and address of principal office is: NCR

Corporation, World Headquarters, 1700 South Patterson Blvd., Dayton, Ohio 45479.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) NCR Canada Ltd., 2010 Winston Park Drive, Oakville, Ontario, Canada L6H 5R7
(b) NCR Europe, Inc., 1700 South Patterson Blvd., Dayton, Ohio 45479
(c) NCR Comten, Inc., 2700 North First Street, San Jose, California 95134
(d) NCR Credit Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(e) NCR Information Systems Limited, 206 Marylebone Road, London NW1 6LY, England
(f) NCR Japan, Ltd., Shinjuku Nomura Building, 1–26–2 Nishi-Shinjuku, Shinjuku-ku, Tokyo 160, Japan
(g) NCR Pacific, Inc., 1700 South Patterson Blvd., Dayton, Ohio 45479
(h) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(i) NCR Systems Engineering Corporation, 2700 North First Street, San Jose, California 95134
(j) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(k) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(l) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(m) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(n) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(o) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(p) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(q) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(r) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(s) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(t) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(u) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(v) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(w) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(x) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(y) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479
(z) NCR Systems Engineering Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479

1. Parent corporation and address of principal office: Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(b) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(c) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(d) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(e) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(f) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(g) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(h) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(i) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(j) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(k) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(l) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(m) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(n) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(o) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(p) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(q) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(r) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(s) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(t) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(u) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(v) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(w) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(x) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(y) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108
(z) Eagle Mail Service, Inc., 990 City Center, Ann Arbor, Michigan 48108

(1) Beverages, Foods & Service Industries

(37) East Moline Pizza Hut, Inc., c/o Pizza
(75) Pizza Hut of West Allis, Inc., c/o Pizza
e. Specialized Parts Distribution, Inc., 3600

Corporation, World Headquarters, 1700 South Patterson Blvd, Dayton, Ohio 45479.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices are:

(1) NCR Corporation, Micrographic Systems Division, 520 Logan Avenue, Mountain View, California 94043
(2) COMTEN, Inc., 1950 West County Road B–2, St. Paul, Minnesota 55113

(1) Parent corporation and address of principal office: Nabisco, Inc., East Hanover, NJ 07936.

(2) Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Associated Products, Inc., 445 Park Ave., NYC 10022
(1) Everlon Fabrics Corp., 295 Fifth Ave., NYC 10016
(2) The Hervin Company, P.O. Box 309, Tualatin, OR 97062
(3) Hygiene Industries, 295 Fifth Ave., NYC 10016
(b) Fireside Food Products Co., East Hanover, NJ 07936
(c) Freezer Queen Foods, Inc., 2544 Clinton St., Buffalo, NY 14240
(d) Nabisco Confections, Inc., 610 Main St., Cambridge, MA 02139
(e) The J. B. Williams Co., Inc., 767 Fifth Ave., NYC 10022

1. Parent corporation and address of principal office: Newell Companies, Inc., 29 E. Stephenson Street, Freeport, Illinois 61032.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) The Brearley Company, 2107 Kishwaukee Street, Rockford, Illinois 61101
(b) Counselor Products, Limited, 56 Torlake Crescent, Toronto, Ontario, Canada M8Z 1C1
(c) EZ Paintr Corporation, 4051 S. Iowa Avenue, Milwaukee, Wisconsin 53207
(d) Newell Industries, Canada, Inc., 1866 Aimco Blvd., Mississauga, Ontario, Canada L4N 1V4

1. Parent corporation and address of principal office: Newpark Resources, Inc., 5120 One Shell Square, New Orleans, LA 70139.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

The Aztec Corporation, P.O. Box 52821, Lafayette, LA 70505
Aztec Mud & Chemical Co., Inc., P.O. Box 52821, Lafayette, LA 70505
B.F.C. Oil Company, 5120 One Shell Square, New Orleans, LA 70139
Blodworth Shipyard, Inc., P.O. Box 5426, Houston, TX 77012
Eagle Mud Service, Inc., 860 City Center Building, Oklahoma City, OK 73102
Eagle Mud of Colorado, 475 17th Street, Suite 800, Metro Bank Bldg., Denver, CO 80202
Eisenman Transport, Inc., 312 E. 16th Street, Greeley, CO 80631
Eisenman Chemical Co., 312 E. 16th Street, Greeley, CO 80631
Elpac, Inc., 5120 One Shell Square, New Orleans, LA 70139
Executive Air, Inc., P.O. Box 52821, Lafayette, LA 70505
F & S Boat Company, Inc., 5120 One Shell Square, New Orleans, LA 70139
F & S Marine Services, Inc., 5120 One Shell Square, New Orleans, LA 70139
F & S Offshore, Inc.,5120 One Shell Square, New Orleans, LA 70139
George W. Townsend Lease Service, Inc., P.O. Box 470, Bay City, TX 77414
Newpark Major, Inc., 5120 One Shell Square, New Orleans, LA 70139
Newpark Marine Service, Inc., P.O. Box 976, Morgan City, LA 70380
Newpark Offshore Marine, Inc., P.O. Box 976, Morgan City, LA 70380
Newpark Oilfield Service, Inc., P.O. Box 51246 Oil Center Station, Lafayette, LA 70501
Newpark Shipbuilding and Repair, Inc., P.O. Box 5426, Houston, TX 77012
South Louisiana Contractors, P.O. Box 51772, Lafayette, LA 70501
SOLOCO Pipeline Contractors, Inc., P.O. Box 51772, Lafayette, LA 70501
Trinity Bay Construction Company, Inc., P.O. Box 666, Winnie, TX 77665
Warfield Towing Service, Inc., 5120 One Shell Square, New Orleans, LA 70139
Weathers Towing, Inc., 5120 One Shell Square, New Orleans, LA 70139

1. Parent corporation and address of principal office: Noel Canning Corporation, d/b/a/ "Noel Canning Corp.", "Modern Mill Work", and "Noel Investments". 1001 South First Street, Yakima, Washington, 98901.

2. Wholly-owned subsidiaries which will participate in the operations and address of their principal offices:

(a) Noel Transport, Inc. (MC–143156), same address as parent corporation.
(b) PDQ Institutional Foods, Inc., 20 East King, Yakima, Washington, 98901.
(c) Pepsi-Cola Bottling Co. of Yakima, same address as parent corporation.
(d) Moultray's, Ltd., same address as parent corporation.
(e) M & M Catering Services, Inc., same address as parent corporation.
(f) Holiday Motor Hotel and Restaurant, Inc., same address as parent corporation.
(g) Towne Plaza Hotel, Inc., same address as parent corporation.
(h) Morco Co., same address as parent corporation.

1. Parent corporation and address of principal office: PepsiCo, Inc., Purchase, NY 10577.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Beverages, Foods & Service Industries, Inc., c/o PepsiCo, Purchase, NY 10577
(2) Conroe Packaging, Inc., 222 Loop 336 East, P.O. Box Y, Conroe, TX 77301
(3) Frito-Lay, Inc., P.O. Box 35034, Dallas, TX 75235
(4) National Beverages, Inc., 1700 Directors Row, Orlando, FL 32809
(5) PBG Beverage Distributors, Inc., c/o PepsiCo, Purchase, NY 10577
(6) Pepsi-Cola Bottling Co. of Los Angeles, Inc., P.O. Box 3338, Torrace, CA 90510
(7) Pepsi-Cola Bottling Company of Puerto Rico, Inc., P.O. Box 1709, Hato Rey, Puerto Rico 00919
(8) Pepsi-Cola Interamericana, S.A., c/o PepsiCo, Purchase, NY 10577
(9) Pepsi-Cola Metropolitan Bottling Company, Inc., c/o PepsiCo, Purchase, NY 10577
(10) Pepsi-Cola Panamericana, S.A., c/o PepsiCo, Purchase, NY 10577
(11) PepsiCo World Trading Company, Inc., c/o PepsiCo, Purchase, NY 10577
(12) Advance Moving & Storage, Inc., 650 North Second Ave., Phoenix, AZ 85003
(13) Agency Media Services, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(14) Fleet Insurance Management, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(15) Great Falls North American, Inc., P.O. Box 1414, Great Falls, MT 59401
(16) Lee Way Motor Freight, Inc., P.O. Box 12750, Oklahoma City, OK 73157
(17) Marlew of El Paso, Inc., 8201 Lockheed Drive, El Paso, TX 79225
(18) Moving Credit, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(19) NACAL, Inc., 12842 Valley View, Garden Grove, CA 92645
(20) North American Distribution Systems, Inc., P.O. Box 411, New Haven, IN 46774
(21) North American Forwarding, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(22) North American Moving & Storage, Inc., 2122 Bremer Road, Fort Wayne, IN 46803
(23) North American Properties, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(24) North American Van Lines, Inc., P.O. Box 988, Fort Wayne, IN 46801
(25) North American Van Lines of Texas, Inc., 611 Central Expressway, Richardson, TX 75080
(26) Tractor Power, Inc., d/b/a, Fleet Service, c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(27) Transportation Collections, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(28) Triangle Fleet Service, Inc., 801 W. California Road, Fort Wayne, IN 46808
(29) PepsiCo Building Systems, Inc., 3031 LaJolla St., Anaheim, CA 92806
(30) Pizza Hut, Inc., P.O. Box 428, Wichita, KS 67201
(31) Aurora Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(32) Bender Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita KS 67201
(33) Buckeye PH, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(34) Blues Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(35) Chesapeake Bay Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(36) Denver Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201

(37) East Moline Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(38) Fiesta Cantina of Ohio, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(39) Franchise Services, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(40) Franchise Services of Kansas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(41) Indianapolis Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(42) J & G Products, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(43) Lake Michigan Management Co., Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(44) Long's Appleton, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(45) Long's Green Bay #2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(46) Long's Marshfield, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(47) Long's Neenah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(48) Long's Wausau No. 2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(49) Mountaineer Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(50) Oriole Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(51) Pizza Hut, Inc. of LaCrosse, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(52) Pizza Hut of America, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(53) Pizza Hut of Boston, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(54) Pizza Hut of Columbia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(55) Pizza Hut of Gainesville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(56) Pizza Hut of Georgia, Inc., P.O. Box 428, Wichita, KS 67201
(57) Pizza Hut of Jeffersonville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(58) Pizza Hut of Kalamazoo, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(59) Pizza Hut of Knoxville Corporation, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(60) Pizza Huts of Las Vegas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(61) Pizza Hut of Louisiana, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(62) Pizza Hut of Louisville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(63) Pizza Hut of Massachusetts, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(64) Pizza Hut of North Carolina, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(65) Pizza Hut of North Haven, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(66) Pizza Hut of Oklahoma, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(67) Pizza Hut of Oregon, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(68) Pizza Hut of Racine, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(69) Pizza Hut of Rochester, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(70) Pizza Hut of San Diego, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(71) Pizza Hut of Santa Fe, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(72) Pizza Hut of Spokane, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(73) Pizza Hut of Utah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(74) Pizza Hut of Virginia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(75) Pizza Hut of West Allis, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(76) Pizza Hut of Wichita, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(77) Pizza Hut of Wisconsin, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(78) Pizza Hut of Zion, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(79) Ross Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(80) Second Concept, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(81) Sioux Falls Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(82) Sun Devil Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(83) Taco Kid of Wichita No. 2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(84) Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714
(85) Bell Food Serivces, Inc., c/o Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714
(86) Taco Bell of Ohio, Inc., c/o Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714

1. Address of parent corporation: Perdue, Inc., P.O. Box 1537, Salisbury, MD 21801.

2. Wholly owned subsidiaries which will participate in these operations: Perdue Farms, Inc. (address same as above); Perdue Food, Inc. (address same as above); Perdue Transportation, Inc. (address same as above).

1. *Parent Corporation:* Peter Cooper Corporations, Palmer Street, Gowanda, New York 14070.

2. *Wholly-owned subsidiaries which will participate in the operations: Mid States By Products, P.O. Box 8, Papillion, Nebraska 68046 and MSBP, Inc., P.O. Box 904, Council Bluffs, Iowa 51501.*

1. Parent Corporation: Pratt & Lambert, Inc., 75 Tonawanda Street, Buffalo, NY 14207.

2. Wholly-owned subsidiaries which will particpate in the operations, and address of their respective principal offices:

a. Pierce & Stevens Chemical Corp., 710 Ohio Street, Buffalo, NY 14203
b. United Paint Co., 404 E. Mallory Street, Memphis, TN 38109

1. Parent corporation and address of principal office: Ryder System, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. Complete Auto Transit, Inc., East 4111 Andover Road, Bloomfield Hills, Michigan 48013
b. Janesville Auto Transport Company, 1800 South Jackson Street, Janesville, Wisconsin
c. M & G Convoy, Inc., 590 Elk Street, Buffalo, New York 14240
d. Ryder Truck Rental, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166
e. Specialized Parts Distribution, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166
f. Jack Rabbit Express Company, 3732 Brynmawr, Orlando, Florida 32802
g. Specialized Transportation, Inc., 3600 N.W. 82nd Avenue, Miami, Florida 33166
h. Truckstops Corporation of America, 5042 Linbar Drive, Nashville, Tennessee 37211
i. Moore Brothers Oil Company, Inc., 30 Ridge Road, Mahwah, New Jersey 07430

1. Parent Corporation and Address of Principal Office is: Sonoco Products Company, North Second Street, Hartsville, South Carolina 29550.

2. Wholly-owned subsidiaries which will participate in the operations and addresses of their principal offices:

1. Baker Industries, Hartselle, Alabama
2. Paper Stock Dealers, Inc., Statesville, North Carolina

1. Parent corporation and address of principal office: Sundstrand Corporation, 4751 Harrison Avenue, Rockford, IL 61101

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. The Falk Corporation, 3001 West Canal Street, Milwaukee, WI 53208
b. Sundstand Heat Transfer, Inc., East Prairie Ronde Street, Dowagiac, MI 49047
c. Sundstrand Tubular Products, Inc., P.O. Box 636, Camdenton, MO 65020
d. Sundstrand Data Control, Overlake Industrial Park, Redmond, WA 98052
e. Global Navigation, 2144 Michelson Drive, Irvine, CA 92715
f. Airborne Navigation, Inc., P.O. Box 1591, Prescott, AZ 86302

1. The name and address of the principal office of the parent corporation is: Superior Distributing Co., Inc., 125 Caldwell Avenue, Tiffin, Ohio 44883 d.b.a. Kleppers of Tiffin and Kleppers of Lima.

2. The wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices are as follows: Hanson Distributing Co. d.b.a. Beerco, RR Ohio State Route 12, West, Fostoria, Ohio.

1. Parent corporation and address of principal office: Texas Refinery Corporation, 840 North Main, Fort Worth, Texas 76106.

2. Wholly-owned subsidiaries which will participate in the operation, and address of their respective principal offices:

(a) American Lubricants Company, 1227 Deeds Ave., Dayton, Ohio 45401
(b) Texas Refinery Corp. Intercontinental, S.A., 840 North Main, Fort Worth, Texas 76106
(c) Southwestern Cooperage Company, 2550 Glendale Ave., Fort Worth, Texas
(d) Lehman-Phillips, 2550 Glendale Ave., Fort Worth, Texas

(e) National Photographers Album Company, 921 North Main, Fort Worth, Texas 76106

1. Parent corporation and address of principal office: Trans Union Corporation, 90 Half Day Road, Lincolnshire, Illinois 60015.

2. Wholly-owned subsidiaries which may participate in the operations, and addresses of their respective principal offices:

(a) Ecodyne Corporation, 90 Half Day Road, Lincolnshire, Illinois 60015
(b) The Getz Corporation, 640 Sacramento Street, San Francisco, California 94111
(c) Getz Bros. & Co., Inc., 640 Sacramento Street, San Francisco, California 94111
(d) MilBrands, Inc., Suite 480, Bent Tree Tower, 16475 Dallas Parkway, Dallas, Texas 75248
(e) Tucor Services, Inc., 640 Sacramento Street, San Francisco, California 94111
(f) Rochester Instrument Systems, Inc., 255 North Union Street, Rochester, New York 14605
(g) Solidstate Controls, Inc., 875 Dearborn Drive, Columbus, Ohio 43085
(h) Trans Union Financial Corporation, 1164 Triton Drive, Foster City, California 94404
(i) Leasametric, Inc., 1164 Triton Drive, Foster City, California 94404
(j) Trans Union Leasing Corporation, 111 West Jackson Boulevard, Chicago, Illinois 60604
(k) Union Tank Car Company, 111 West Jackson Boulevard, Chicago, Illinois 60604
(l) Lithcote Company, 111 West Jackson Boulevard, Chicago, Illinois 60604
(m) Speno Rail Services, Inc., 1140 Ivanhoe Road, Cleveland, Ohio 44110
(n) Trans Union Fastener Corporation, 90 Half Day Road, Lincolnshire, Illinois 60015
(o) White Machinery Corporation, 1251 South Larkin, Joliet, Illinois 60436

1. Parent Corporation and address of principal office: U.S. Industries, Inc., a Delaware Corporation, 250 Park Avenue, New York, New York 10177.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) A & S Building Systems, Inc., a Texas corporation, P.O. Box 40099, Houston, Texas 77040
(b) Anderson Hickey Company, a Texas corporation, P.O. Box 241, Henderson, Texas 75652
(c) Axelson, Inc., a Delaware corporation, 110 Industrial Boulevard, P.O. Box 2427, Longview, Texas 75601
(d) Brown Moulding Company, Inc., an Alabama corporation, P.O. Box 170, Montevallo, Alabama 35115
(e) Columbian Optical Company, a Washington corporation, 2217 5th Avenue, Seattle, Washington
(f) Duke City Lumber Company, Inc., a New Mexico corporation, P.O. Box 25807, Albuquerque, New Mexico 87125
(g) Gerring Industries, Inc., an Indiana corporation, Highway #5 South, Shipshewana, Indiana 46565
(b) Jernberg Forgings Co., an Illinois corporation, 328 West 40th Place, Chicago, Illinois 60609
(i) Memphis Optical Dispensary, a Tennessee corporation, 720 Exchange Building, Memphis, Tennessee
(j) Northeast Optical Co., Inc., a New Hampshire corporation, 4 Northeast Avenue, Concord, New Hampshire
(k) Oomphies, Inc., a Delaware corporation, 5 Franklin Street, Lawrence, Massachusetts 01840
(l) Properties Capital Corporation, a Texas corporation, 733 Third Avenue, New York, New York 10017
(m) Seaway Importing Company, an Illinois corporation, 7200 North Oak Park Avenue, Niles, Illinois 60648
(n) Steel Tank Construction Company, a Texas corporation, 6200 Kansas Street, P.O. Box 3052, Houston, Texas 77001
(o) Superlite, Inc., an Arizona corporation, P.O. Box 23163, Phoenix, Arizona 85063
(p) Superlite Builders Supply, Inc., an Arizona corporation, P.O. Box 23163, Phoenix, Arizona 85063
(q) Thunander & Son, Inc., an Indiana corporation, 1923 Markle Avenue, P.O. Box 1166, Elkhart, Indiana 46515
(r) Uhleman Optical Company of Illinois, a Delaware corporation, 1100 Remington Road, Schaumberg, Illinois
(s) USI Charter Realty Services Corp., a Delaware corporation, 733 Third Avenue, New York, New York 10017
(t) USI Properties Corp., a Delaware corporation, 733 Third Avenue, New York, New York 10017
(u) USI International, Inc., a Delaware corporation, 3131 West Alabama, Suite 300, Houston, Texas 77098
(v) Wyatt Industries, Inc., a Texas corporation, 6200 Kansas Street, P.O. Box 3052, Houston, Texas 77001
(w) Young Squire, Inc., a North Carolina corporation, 350 Fifth Avenue, Suite 5700, New York, New York 10001
(x) Ingraham Plywood, Inc., a North Carolina corporation, P.O. Box 947, Thomasville, North Carolina 27230

1. The name of the parent corporation is: Waples-Platter Companies (Waples-North) P.O. Box 1350, Fort Worth, Texas 76101.

2. The subsidiaries wholly owned by Waples-Platter Companies which will participate in intercorporate hauling operations are:

Waples-Platter West Texas, Inc. (Waples-West), P.O. Box 1350, Fort Worth, Texas 76101
Ranch Style, Inc., P.O. Box 1350, Fort Worth, Texas 76101
White Swan, Inc., P.O. Box 1350, Fort Worth, Texas 76101
Graphic Arts, Inc., P.O. Box 1350, Fort Worth, Texas 76101

1. Parent corporation: Waters Furniture Industries, P.O. Box 1195 (Hogan Drive), Lenoir, N.C. 28645,

2. Wholly-owned subsidiary: Maxwell Royal Chair Company, P.O. Box 579 (1859 Main Ave., S.E.), Hickory, N.C. 28601.

1. Parent Corporation: Wausau Paper Mills Company, Brokaw, Wisconsin 54417,

2. Wholly-owned subsidiaries:

(a) Rhinelander Paper Company, 515 W. Davenport Avenue, Rhinelander, Wisconsin 54501
(b) Hennepin Paper Company, 100 S.W. Fifth Avenue, Little Falls, Minnesota 56345

(1) Parent corporation and address of principal office: Weinstein International Corporation, 5738 Olson Highway, Minneapolis, MN 55422.

(2) Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Twin Continental Transport Corporation, 5738 Olson Highway, Minneapolis, MN 55422.
(b) Iowa Pork Industries, 5738 Olson Highway, Minneapolis, MN 55422.

(1) Parent corporation and address of principal office: Wolverine World Wide, Inc., 9341 Courtland Drive, Rockford, Michigan 49351.

(2) Wholly-owned subsidiaries which will participate in the operations and addresses of their respective principal offices:

WWW Retail, Inc., 10901 Northland Drive, Rockford, Michigan 49341
Indianapolis Glove Co. Inc., 430 North Park Avenue, Indianapolis, Indiana 46206

1. Parent: XTRA Corporation, 2625 Concord Pike, Wilmington, Delaware 19803.

2. Subsidiaries:

XTRA, Inc.
XTRA Leasing, Inc.
MMX Corporation
Dunham Manufacturing Co., Inc.
Mercury Motor Express, Inc.
MOTAC, Inc.
Rowland Truck Equipment, Inc.
TG Railway Enterprises, Inc.
X-L-CO., Inc.
Channel Trucking & Services, Inc.
XILON, Inc.
AJF Industries, Inc.
AJF Warehouse Distributors, Inc.
Shippers Service, Inc.
Intermodal, Inc.
XTRA Inc.
Kirkwood's Inc.
Fairmont Retread, Inc.
Tampa Retread, Inc.
XTRA International Ltd.
XTRA Netherlands B. V.
XTRA France
XTRA (U.K. Leasing) Limited
XTRA (Leasing Services) Limited

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-25561 Filed 8-21-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Criminal Division Order; Establishment of Election Crimes Branch

Effective August 11, 1980, there is established within the Public Integrity Section a separate organizational unit to administer, and to discharge the Criminal Division's responsibilities for the enforcement of Federal crimes involving elections, campaign financing, patronage and abuses of the franchise.

The Unit shall be known as the Election Crimes Branch. It shall be headed by a Director, and it shall be staffed by other professionals and non-professionals as needed. The Director of the Election Crimes Branch shall report to the Chief of the Public Integrity Section through the Assistant Chief for Operations.

The Election Crimes Branch shall be responsible for the development and implementation of enforcement policy concerning all statutes and theories of prosecution which focus upon the manner in which elections are conducted. It shall perform the oversight function of the Criminal Division described in 9 U.S.A.M. 2–133(h) and 2–133(o), and it shall assist United States Attorneys in the preparation and trial of election-related offenses as its resources permit. It shall be responsible for making legislative recommendations concerning the subject of election laws, and it shall discharge the liaison functions with the Federal Election Commission pursuant to the Memorandum of Understanding between the Criminal Division and the Commission dated December 7, 1977. The Director of the Election Crimes Branch shall be the principal contact person for the Federal Election Commission in its dealings with the Department of Justice with respect to enforcement of the Federal Election Campaign Act.

In addition, the Election Crimes Branch shall assist the Chief and the Assistant Chief of the Public Integrity Section with respect to matters arising under the Special Prosecutor provisions of the Ethics in Government Act (28 U.S.C. 591, *et seq.*), and it shall from time to time perform such other special assignments for the Chief and Assistant Chief of the Public Integrity Section as the need requires and resources permit.

Present Federal statutes that are specifically assigned to the Election Crimes Branch include the following: 18 U.S.C. 241 and 242 and 1341 (as they relate to election fraud); 18 U.S.C. 245 (as it relates to interference with the operation of polling places); 18 U.S.C. 592 through 607 inclusive; 42 U.S.C. 1973i(c) and 42 U.S.C. 1973i(e); the Federal Election Campaign Act (2 U.S.C. 431 through 455 inclusive); and 18 U.S.C. 1913.

Craig C. Donsanto of the Public Integrity Section is hereby named as Director of the Election Crimes Branch.

Philip B. Heymann,
Assistant Attorney General, Criminal Division.

[FR Doc. 80-25136 Filed 8-21-80; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Cornelius Buick Pontiac, GMC, Inc. et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 1, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 1, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,
Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cornelius Buick, Pontiac, GMC, Inc. (workers).	Fairfield, CA	8/4/80	7/23/80	TA-W-10,031	Sold Buicks, Pontiacs, GMC Trucks, mobile homes.
DSB Engineering, Inc. (Co.)	Algonac, MI	8/6/80	7/31/80	TA-W-10,032	Automotive electronic control systems consultants.
Henry I. Siegel (workers)	Dickerson, TN	8/1/80	7/30/80	TA-W-10,033	Pants for ladies and men.
Hoover Universal, Inc. (Co.)	Georgetown, KY	8/4/80	7/29/80	TA-W-10,034	Automotive seating.
Ideal Engineering Company (Co.)	Livonia, MI	8/4/80	8/5/80	TA-W-10,035	Automated production line equipment.
Inmont Corp.—Auto Trim Plant 2 (workers)	Port Huron, MI	8/4/80	7/24/80	TA-W-10,036	Production and office workers.
Morgan Refractory Contractors, Inc. (Co.)	Detroit, MI	8/6/80	7/24/80	TA-W-10,037	Produce ladle insert for roto pour lines for auto co.
Polaroid Sunglasses, Inc. (workers)	Braintree, MA	8/1/80	7/29/80	TA-W-10,038	Selling sunglasses.
Quality Sportswear Inc. (workers)	Haledon, NJ	8/4/80	7/31/80	TA-W-10,039	Tailors ladies garment.
Chrysler Credit Corp. (company)	Pittsburgh, PA	5/27/80	5/14/80	TA-W-10,040	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Lanham, MD	5/27/80	5/14/80	TA-W-10,041	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Towson, MD	5/27/80	5/14/80	TA-W-10,042	Wholesale and retail financing of Chrysler cars and trucks.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Norfolk, VA	5/27/80	5/14/80	TA-W-10,043	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Charlotte, NC	5/27/80	5/14/80	TA-W-10,044	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Charleston, WV	5/27/80	5/14/80	TA-W-10,045	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Fayetteville, NC	5/27/80	5/14/80	TA-W-10,046	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Greensboro, NC	5/27/80	5/14/80	TA-W-10,047	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wayne, NJ	5/27/80	5/14/80	TA-W-10,048	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Lenkintown, PA	5/27/80	5/14/80	TA-W-10,049	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Garden City, NJ	5/27/80	5/14/80	TA-W-10,050	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Cherry Hill, NJ	5/27/80	5/14/80	TA-W-10,051	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wallingford, CT	5/27/80	5/14/80	TA-W-10,052	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Hartsdale, NY	5/27/80	5/14/80	TA-W-10,053	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	South Plainfield, NJ	5/27/80	5/14/80	TA-W-10,054	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Dedham, MA	5/27/80	5/14/80	TA-W-10,055	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Buffalo, NY	5/27/80	5/14/80	TA-W-10,056	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wilkes-Barre, PA	5/27/80	5/14/80	TA-W-10,057	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Springfield, MA	5/27/80	5/14/80	TA-W-10,058	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Rochester, NY	5/27/80	5/14/80	TA-W-10,059	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Syracuse, NY	5/27/80	5/14/80	TA-W-10,060	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Albany, NY	5/27/80	5/14/80	TA-W-10,061	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Seekonk, MA	5/27/80	5/14/80	TA-W-10,062	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	North Andover MA	5/27/80	5/14/80	TA-W-10,063	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Falmouth, ME	5/27/80	5/14/80	TA-W-10,064	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Bedford, NH	5/27/80	5/14/80	TA-W-10,065	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Coral Gables, FL	5/27/80	5/14/80	TA-W-10,066	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Jacksonville, FL	5/27/80	5/14/80	TA-W-10,067	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Tampa, FL	5/27/80	5/14/80	TA-W-10,068	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Orlando, FL	5/27/80	5/14/80	TA-W-10,069	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Tallahassee, FL	5/27/80	5/14/80	TA-W-10,070	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Pensacola, FL	5/27/80	5/14/80	TA-W-10,071	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Columbia, SC	5/27/80	5/14/80	TA-W-10,072	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Charleston, SC	5/27/80	5/14/80	TA-W-10,073	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Fort Lauderdale, FL	5/27/80	5/14/80	TA-W-10,074	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Southfield, MI	5/27/80	5/14/80	TA-W-10,075	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Beachwood, OH	5/27/80	5/14/80	TA-W-10,076	Wholesale and retail financing of Chrysler cars and trucks.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Cincinnati, OH	5/27/80	5/14/80	TA-W-10,077	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Kentwood, MI	5/27/80	5/14/80	TA-W-10,078	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Dayton, OH	5/27/80	5/14/80	TA-W-10,079	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Troy, MI	5/27/80	5/14/80	TA-W-10,080	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Toledo, OH	5/27/80	5/14/80	TA-W-10,081	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Saginaw, MI	5/27/80	5/14/80	TA-W-10,082	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Marquette, MI	5/27/80	5/14/80	TA-W-10,083	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Hillside, IL	5/27/80	5/14/80	TA-W-10,084	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Indianapolis, IN	5/27/80	5/14/80	TA-W-10, 085	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Louisville, KY	5/27/80	5/14/80	TA-W-10, 086	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Calumet City, IL	5/27/80	5/14/80	TA-W-10, 087	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Brookfield, WI	5/27/80	5/14/80	TA-W-10, 088	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Arlington Heights, IL	5/27/80	5/14/80	TA-W-10, 089	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Evansville, IN	5/27/80	5/14/80	TA-W-10, 090	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Edina, MN	5/27/80	5/14/80	TA-W-10, 091	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Fort Wayne, IN	5/27/80	5/14/80	TA-W-10, 092	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Atlanta, GA	5/27/80	5/14/80	TA-W-10, 093	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Birmingham, AL	5/27/80	5/14/80	TA-W-10, 094	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Mobile, AL	5/27/80	5/14/80	TA-W-10, 095	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Greenville, SC	5/27/80	5/14/80	TA-W-10, 096	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Huntsville, AL	5/27/80	5/14/80	TA-W-10, 097	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Savannah, GA	5/27/80	5/14/80	TA-W-10, 098	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Chattanooga, TN	5/27/80	5/14/80	TA-W-10, 099	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Macon, GA	5/27/80	5/14/80	TA-W-10, 100	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Montgomery, AL	5/27/80	5/14/80	TA-W-10, 101	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Metairie, LA	5/27/80	5/14/80	TA-W-10, 102	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Memphis, TN	5/27/80	5/14/80	TA-W-10, 103	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Baton Rouge, LA	5/27/80	5/14/80	TA-W-10, 104	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Jackson, MS	5/27/80	5/14/80	TA-W-10, 105	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Little Rock, AR	5/27/80	5/14/80	TA-W-10, 106	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Nashville, TN	5/27/80	5/14/80	TA-W-10, 107	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Knoxville, TN	5/27/80	5/14/80	TA-W-10, 108	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Shreveport, LA	5/27/80	5/14/80	TA-W-10, 109	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Dallas, TX	5/27/80	5/14/80	TA-W-10, 110	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	Houston, TX	5/27/80	5/14/80	TA-W-10, 111	Wholesale and retail financing of Chrysler Cars and trucks.
Chrysler Credit Corp. (company)	San Antonio, TX	5/27/80	5/14/80	TA-W-10,112	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Lubbock, TX	5/27/80	5/14/80	TA-W-10,113	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Oklahoma City, OK	5/27/80	5/14/80	TA-W-10,114	Wholesale and retail financing of Chrysler cars and trucks.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Chrysler Credit Corp. (company)	Fort Worth, TX	5/27/80	5/14/80	TA-W-10,115	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Corpus Christi, TX	5/27/80	5/14/80	TA-W-10,116	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Houston, TX	5/27/80	5/14/80	TA-W-10,117	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	San Diego, CA	5/27/80	5/14/80	TA-W-10,118	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Phoenix, AZ	5/27/80	5/14/80	TA-W-10,119	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Santa Ana, CA	5/27/80	5/14/80	TA-W-10,120	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Sherman Oaks, CA	5/27/80	5/14/80	TA-W-10,121	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Las Vegas, NV	5/27/80	5/14/80	TA-W-10,122	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	El Paso, TX	5/27/80	5/14/80	TA-W-10,123	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Long Beach, CA	5/27/80	5/14/80	TA-W-10,124	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	West Covina, CA	5/27/80	5/14/80	TA-W-10,125	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	San Mateo, CA	5/27/80	5/14/80	TA-W-10,126	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Sacramento, CA	5/27/80	5/14/80	TA-W-10,127	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Portland, OR	5/27/80	5/14/80	TA-W-10,128	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Bellevue, WA	5/27/80	5/14/80	TA-W-10,129	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Salt Lake City, UT	5/27/80	5/14/80	TA-W-10,130	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Spokane, WA	5/27/80	5/14/80	TA-W-10,131	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Albuquerque, NM	5/27/80	5/14/80	TA-W-10,132	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Dublin, CA	5/27/80	5/14/80	TA-W-10,133	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Boise, ID	5/27/80	5/14/80	TA-W-10,134	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Kansas City, MO	5/27/80	5/14/80	TA-W-10,135	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Englewood, CA	5/27/80	5/14/80	TA-W-10,136	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	St. Louis, MO	5/27/80	5/14/80	TA-W-10,137	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Springfield, MO	5/27/80	5/14/80	TA-W-10,138	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Des Moines, IA	5/27/80	5/14/80	TA-W-10,139	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Wichita, KS	5/27/80	5/14/80	TA-W-10,140	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Omaha, NB	5/27/80	5/14/80	TA-W-10,141	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Cape Girardeau, OM	5/27/80	5/14/80	TA-W-10,142	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Bismarck, ND	5/27/80	5/14/80	TA-W-10,143	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Casper, WY	5/27/80	5/14/80	TA-W-10,144	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	New York, NY	5/27/80	5/14/80	TA-W-10,145	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Chicago, IL	5/27/80	5/14/80	TA-W-10,146	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Los Angeles, CA	5/27/80	5/14/80	TA-W-10,147	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Stamford, CT	5/27/80	5/14/80	TA-W-10,148	Wholesale and retail financing of Chrysler cars and trucks.
Chrysler Credit Corp. (company)	Irvine, CA	5/27/80	5/14/80	TA-W-10,149	Wholesale and retail financing of Chrysler cars and trucks.
Cayadutta Tanning (ACTWU)	Gloversville, NY	6/1/80	7/29/80	TA-W-10,150	Leather tanners.
Farmington Manufacturing Co. (ACTWU)	Farmington, MO	6/1/80	7/29/80	TA-W-10,151	Clothing.
Fremont Tanner (ACTWU)	Gloversville, NY	6/1/80	7/31/80	TA-W-10,152	Leather tanners.
Hagaman Manufacturer (ACTWU)	Hagaman, NY	6/1/80	7/31/80	TA-W-10,153	Leather tanners.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Independent Leather Manufacturing (ACTWU)	Gloversville, NY	6/1/80	7/29/80	TA-W-10,154	Leather tanners.
Joseph Perrella Inc. (ACTWU)	Gloversville, NY	6/1/80	7/30/80	TA-W-10,155	Men's and ladies' dress clothes.
Karg Brothers, Inc. (ACTWU)	Johnstown, NY	6/1/80	7/31/80	TA-W-10,156	Leather tanners.
Karg Finishing (ACTWU)	Johnstown, NY	6/1/80	7/31/80	TA-W-10,157	Leather tanners.
Wood and Hyde (ACTWU)	Gloversville, NY	6/1/80	7/29/80	TA-W-10,158	Leather tanners.
Bee Chemical Co. (Co)	Belleville, MI	6/1/80	7/29/80	TA-W-10,159	Auto paint, exterior and interior.
Bee Chemical Co. (Co)	Gardena, CA	6/1/80	7/29/80	TA-W-10,160	Auto paint, exterior and interior.
Bee Chemical Co. (Co)	Lansing, IL	6/1/80	7/29/80	TA-W-10,161	Auto paint, exterior and interior.
Eiffel Leather Fashion, Inc. (workers)	N.Y.C., NY	7/29/80	7/22/80	TA-W-10,162	Leather garments.
Essex Group of Boyne (workers)	Boyne City, MI	7/21/80	7/10/80	TA-W-10,163	Automotive switches for American made cars.
MuRata Corp. (IUE)	Marietta, GA	7/21/80	7/9/80	TA-W-10,164	Electronic components, poelstors and resistors for electronic circuits.
MuRata Corp. (IUE)	Rockmart, GA	7/21/80	7/9/80	TA-W-10,165	Electronic capacitors.
S.P. Penick (ICWU)	Lyndhurst, NJ	8/5/80	7/31/80	TA-W-10,166	Pharmaceutical raw materials.
Stan Kinnaman Cedar Products (workers)	Copalis Crossing, WA	5/19/80	5/12/80	TA-W-10,167	Cedar shakes.
Ambroson Gloves Inc. (ACTWU)	Gloversville, NY	8/1/80	7/30/80	TA-W-10,168	Men's and ladie's leather sport and dress gloves.
Colonial Tanning (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,169	Contract leather tanning.
Crown Leather Finishing (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,170	Leather tanning.
Ferro Manufacturing Corp. (workers)	Detroit, MI	8/4/80	7/31/80	TA-W-10,171	Tool and die.
Johnstown Leather Corp. (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,172	Leather tanners of shoes, gloves, garments.
Peerless Tanning Co. (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,173	Leather tanners.
Risedorph, Inc. (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,174	Leather tanners.
Simco Leather (ACTWU)	Johnstown, NY	8/1/80	7/29/80	TA-W-10,175	Leather tanners.
Twin City Leather (ACTWU)	Gloversville, NY	8/1/80	7/29/80	TA-W-10,176	Leather tanners.
Asheville Mica Co. (workers)	Newport News, VA	8/5/80	8/1/80	TA-W-10,177	Produce parts from natural mica.
Carr Tool Co. (workers)	Farmington Hills, MI	8/5/80	8/1/80	TA-W-10,178	Die details for auto industry.
C & B Enterprises, Inc. (workers)	Marine City, MI	7/25/80	5/26/80	TA-W-10,179	Rods for pistons for autos.
Clifton Heights Sportswear (union)	Bridgeport, PA	5/7/80	5/1/80	TA-W-10,180	Shirts.
Dyna Kleen (workers)	Youngstown, OH	8/5/80	7/31/80	TA-W-10,181	Industrial vacuum clean up for steel industries.
Elgin, Joliet and Eastern Railway Co. (workers).	Joliet, IL	6/17/80	6/13/80	TA-W-10,182	Transportation of steel.
Lilly Mgf. (ILGWU)	Lilly, PA	8/5/80	8/1/80	TA-W-10,183	Dresses.
Monarch Steel, Inc. (workers)	Detroit, MI	8/5/80	8/1/80	TA-W-10,184	Supply steel to parts manufacturers of the auto industry.
Uniwear Inc. (workers)	Akron, OH	8/5/80	7/18/80	TA-W-10,185	Rent industrial uniforms to industries in Akron and Cleveland areas.
California Shellfish Co. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,186	Fish processing.
California Shellfish Co. (union)	Crescent City, CA	7/18/80	7/15/80	TA-W-10,187	Fish processing.
Depoe Bay Fish Co. (union)	Newport, OR	7/18/80	7/15/80	TA-W-10,188	Fish processing.
Humbolt Seafood Co. (union)	Eureka, CA	7/18/80	7/15/80	TA-W-10,189	Fish processing.
Meredith Fish Co. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,190	Fish processing.
Meredith Fish Co. (union)	Eureka, CA	7/18/80	7/15/80	TA-W-10,191	Fish processing.
Meredith Fish Co. (union)	Bodega Bay, CA	7/18/80	7/15/80	TA-W-10,192	Fish processing.
Point St. George Fisheries (union)	Santa Rosa, CA	7/18/80	7/15/80	TA-W-10,193	Fish processing.
Tide Wharfs Co. (union)	Bodega Bay, CA	7/18/80	7/15/80	TA-W-10,194	Fish processing.
A. Puccini and Sons (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,195	Fish processing.
Astoria Seafoods Co. (union)	Astoria, OR	7/18/80	7/15/80	TA-W-10,196	Fish processing.
Charter International Oil (union)	Charleston, OR	7/18/80	7/15/80	TA-W-10,197	Fish processing.
Grader Fish Co. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,198	Fish processing.
M. Alioto Seafoods/Harbor Fisheries (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,199	Fish processing.
North Beach Star, Inc. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,200	Fish processing.
Ocean Foods of Astoria, Inc. (union)	Astoria, OR	7/18/80	7/15/80	TA-W-10,201	Fish processing.
Standard Fisheries Inc. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,202	Fish processing.
Tarantino Fish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,203	Fish processing.
Caito Fisheries, Inc. (union)	Fort Bragg, CA	7/18/80	7/15/80	TA-W-10,204	Fish processing.
California Shellfish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,205	Fish processing.
Crescent Fisheries (union)	Crescent City, CA	7/18/80	7/15/80	TA-W-10,206	Fish processing.
Hallmark Fisheries Co. (union)	Charleston, OR	7/18/80	7/15/80	TA-W-10,207	Fish processing.
J. Griffin and Co. (union)	Coos Bay, OR	7/18/80	7/15/80	TA-W-10,208	Buys fish for a Canadian firm.
Lucas Wharf Inc. (union)	Bodega Bay, CA	7/18/80	7/15/80	TA-W-10,209	Fish distributers.
Tom Lazio Fish Inc. (union)	Eureka, CA	7/18/80	7/15/80	TA-W-10,210	Fish processing.
Western California Fish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10,211	Fish processing.
Wisconsin Bridge and Iron (union)	Milwaukee, WI	7/18/80	7/15/80	TA-W-10,212	Fabricator and erector of steel.
American Bumper Co. (union)	Ionia, MI	8/1/80	7/29/80	TA-W-10, 213	Small car parts.
Bel-Mor Knitwear Inc. (union)	Farmingdale, NY	7/28/80	7/24/80	TA-W-10, 214	Sweaters, tops, and skirts.
Crouse-Hinds, Arrow Hart Division (union)	Lewiston, MA	8/4/80	8/1/80	TA-W-10, 215	Specialty switches.
Delaran Industries, Inc. (union)	Buffalo, NY	8/1/80	7/29/80	TA-W-10, 216	Haul cars.
E. I. duPont de Nemours and Co. (Co.)	Flint, MI	8/4/80	7/31/80	TA-W-10, 217	Automotive finishes.
F. Alioto Fish Co. (union)	San Francisco, CA	7/18/80	7/15/80	TA-W-10, 218	Fish processing.
Ironton Coke Co. (union)	Ironton, OH	8/5/80	7/29/80	TA-W-10, 219	Coke manufacturer.
Markay Handbags (Co.)	Plainfield, NJ	7/29/80	7/23/80	TA-W-10, 220	Ladies fashion handbags.
Philadelphia, Bethlehem and New England Railroad.	Bethlehem, PA	8/1/80	7/29/80	TA-W-10, 221	Supplies transportation service for the shipment of steel.
Sheller Globe Co. (union)	Grabill, IN	8/4/80	7/30/80	TA-W-10, 222	Steering wheels for domestic automobiles.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A. Paladini Fish Co. (FMA)	San Francisco, CA	7/18/80	7/15/80	TA-W-10, 223	Fish distribution and processing.
Eureka Fisheries, Inc. (FMA)	Fort Bragg, OR	7/18/80	7/15/80	TA-W-10, 224	Fish processing.
Ice and Cold Storage, (FMA)	Eureka, OR	7/18/80	7/15/80	TA-W-10, 225	Fish processing.
Ilwaco Fish Co. (FMA)	Ilwaco, WA	7/18/80	7/15/80	TA-W-10, 226	Fish processing.
Meredith Fish Co. (FMA)	Sacramento, CA	7/18/80	7/15/80	TA-W-10, 227	Fish processing.
Meredith Fish Co. (FMA)	Brookings, OR	7/18/80	7/15/80	TA-W-10, 228	Fish processing.
Nor-Cal Seafoods (FMA)	Eureka, OR	7/18/80	7/15/80	TA-W-10, 229	Fish processing.
Schnaubelt Fisheries, Co. (FMA)	Ft. Bragg, CA	7/18/80	7/15/80	TA-W-10, 230	Fish processing.
Seal Rock Fish Co. (FMA)	Santa Rosa, CA	7/18/80	7/15/80	TA-W-10, 231	Fish distribution and processing.
Alaska Packers Ass., Inc. (FMA)	Hammond, OR	7/18/80	7/15/80	TA-W-10, 232	Fish processing.
Alaska Packers Ass., Inc. (FMA)	Charleston, OR	7/18/80	7/15/80	TA-W-10, 233	Receiving center for shipping.
Alaska Packers Ass., Inc. (FMA)	Newport, OR	7/18/80	7/15/80	TA-W-10, 234	Fish processing.
Eureka Fisheries, Inc. (FMA)	Cresent City, OR	7/18/80	7/15/80	TA-W-10, 235	Fish processing.
Eureka Fisheries, Inc. (FMA)	Fields Landing, CA	7/18/80	7/15/80	TA-W-10, 236	Fish processing.
Eureka Fisheries, Inc. (FMA)	Harbor, OR	7/18/80	7/15/80	TA-W-10, 237	Fish processing.
BF Goodrich Co. (URW)	Akron, OH	8/5/80	7/31/80	TA-W-10,238	Conveyor belting.
Diversified Engineered Products Inc., (workers).	Lansing, MI	8/6/80	7/29/80	TA-W10,239	Products for American auto industries.
Douglas & Lamason Co. (Co.)	Cleveland, MS	7/11/80	7/7/80	TA-W10,240	Aluminum auto parts.
Holiday Chrylar Plymouth, Inc. (workers)	Elyria, OH	7/21/80	7/10/80	TA-W10,241	Sell and service autos.
International Harvester Co., Components Div., Machining Plant & Foundry (UAW).	Indianapolis, IN	7/29/80	7/23/80	TA-W10,242	Engines fabricated, machined and assembled.
Lukens Steel Co. (USWA)	Coatesville, PA	7/29/80	7/23/80	TA-W10,243	Steel plates and heads.
Micanot Corp. (workers)	Livonia, MI	8/6/80	7/31/80	TA-W10,244	Tooling for automobiles.
Reichhold Chemical, Inc. (ICWU)	Tuscaloosa, AL	8/5/80	7/31/80	TA-W10,245	Octyl phenol, octyl resins, and novolic resins.
Stahl Manufacturing (workers)	Detroit, MI	7/9/80	7/3/80	TA-W10,246	Auto parts.
Century Machine Co. (UAW)	Riverview, MI	7/29/80	7/25/80	TA-W10,247	Specialized machining.
Davis Tool and Engineering Co. (UAW)	Romulus, MI	7/29/80	7/15/80	TA-W10,248	Auto parts (Ford).
Kay Industries, Inc. (UAW)	Detroit, MI	7/29/80	7/25/80	TA-W10,249	Marine/ordinance.
May Knitting Co. (UAW)	N.Y.C., NY	8/4/80	7/31/80	TA-W10,250	Sweaters.
New Jersey Zinc Co. (workers)	Palmerton, PA	8/6/80	8/25/80	TA-W10,251	Zinc metal, zinc oxide.
Real Industries Inc. (UAW)	Southgate, MI	7/29/80	7/25/80	TA-W10,252	Service auto parts.
Reilly Plating Co. (UAW)	Melvindale, MI	7/29/80	7/25/80	TA-W10,253	Plating for auto parts.
Roland La Rose Ind. (UAW)	Mt. Clemens, MI	7/29/80	7/25/80	TA-W10,254	Sheet metal auto parts.
Selestomer Detroit Inc. (UAW)	Farmington, MI	7/29/80	7/15/80	TA-W10,255	Auto parts, rotating shaft seals.
Benner Spring and 4-Slide Co. (USWA)	Taylor, MI	8/4/80	8/1/80	TA-W10,256	Wire and rod forms and stampings for auto cos. and scissor jack screws for jack supplies.
Brafco Steel Forgings Co. (Co.)	Ferndale, MI	8/1/80	7/28/80	TA-W10,257	Pitman arms, steering arms for auto industry.
Consolidation Coal Co. Laurel Mine, (Co.)	Central City, PA	8/5/80	7/30/80	TA-W10,258	Metallurgical coal.
ITT Automotive Electrical Products Division (workers).	Bellaire, MI	8/6/80	8/1/80	TA-W10,259	Electrical mechanical switches.
Jones and Laughlin Steel Corp. (USAW)	Louisville, OH	7/28/80	7/23/80	TA-W10,260	Stainless steel sheets and coil.
Mago Plastics Inc. (workers)	Cumberland, RI	8/4/80	7/31/80	TA-W10,261	Injection and blow molded plastic products for jewelry industry.
Naugatuck Chemical Division of Uniroyal Inc., (Co.).	Naugatuck, CT	8/1/80	7/28/80	TA-W10,262	Rubber chemicals, specialty rubber, thermal plastic rubber.
Uniroyal Inc., (Co.)	Painesville, OH	8/1/80	7/25/80	TA-W10,263	Nitryle rubber.
Uniroyal Inc., (Co.)	Geismar, LA	8/1/80	7/25/80	TA-W10,264	Synethetic rubber, rubber chemicals.
Birmingham Southern Railroad Co. (UTU)	Fairfield, AL	8/4/80	7/28/80	TA-W-10, 265	Steel railroad
Hercules Inc. (ICWU)	Partin, NJ	8/1/80	7/28/80	TA-W-10, 266	Nitrocellulose.
Huntington Alloys (ICWU)	Catalettsburgh, KY	8/1/80	7/21/80	TA-W-10, 267	Nickel pipes.
Pentasote Inc.	London, OH	8/1/80	7/29/80	TA-W-10, 268	Molded parts.
St. Regis Paper Co. (#2581)	Libby, MT	8/1/80	7/23/80	TA-W-10, 269	Produces lumber plywood and stubs.
C & A Coal Co.	Anawalt, WVA	8/1/80	7/30/80	TA-W-10, 270	Coal.
Unger Public Warehouse (Teamsters)	Detroit, MI	8/1/80	7/25/80	TA-W-10, 271	Store automotive parts.
Unger Public Warehouse (Teamsters)	Wayne, MI	8/1/80	7/25/80	TA-W-10, 272	Store automotive parts.
Unger Public Warehouse (Teamsters)	Highland, MI	8/1/80	7/25/80	TA-W-10, 273	Store automotive parts.
Fairplane Engineering (workers)	Benton Harbor, MI	8/6/80	8/2/80	TA-W-10, 274	Tonearms bender.
General Motors Corp. (workers)	Baltimore, MD	8/14/80	8/13/80	TA-W-10, 275	Parts distribution.
Hancock Products, Inc. (workers)	Detroit, MI	8/6/80	8/4/80	TA-W-10, 276	Rocker arms, plate cam thrusts.
ITT Higbie Mfg. Co. Avon Div. (workers)	Rochester, MI	8/6/80	7/30/80	TA-W-10, 277	Manufacture steel tubing automotive parts.
K. J. Quinn & Co., Inc. (workers)	Malden, MA	8/7/80	7/28/80	TA-W-10, 278	Chemical coatings for shoes and leather.
Lanny Thiele Ford, Inc. (workers)	Johnstown, PA	7/28/80	7/21/80	TA-W-10, 279	New car Ford dealership sales and service.
Mississippi Valley Structural Steel Co. (Teamsters).	St. Louis, MO	8/6/80	8/4/80	TA-W-10, 280	Fabricated structured steel.
Tyghem Tool Co. (workers)	Detroit, MI	8/8/80	8/6/80	TA-W-10, 281	Manufactures tools, dies, fixtures, replacement parts and guages.
Z & W Foods, Inc. (workers)	Buffalo, NY	8/6/80	8/4/80	TA-W-10, 282	Meat products.
B & C Machine Co. Wheel Division (workers).	Barberton, OH	8/6/80	8/4/80	TA-W-10, 283	Automotive parts.
E & S Sportswear Inc. (workers)	Passaic, NJ	8/11/80	8/7/80	TA-W-10, 284	Manufacturing ladies and junior coats.
Hanna Mining (workers)	Cleveland, OH	8/4/80	7/30/80	TA-W-10, 285	Iron ore pellets.
Hawley Coal Mining Corp., Bottom Creek 1 and 2 (UMWA).	Landgraft, WV	8/6/80	8/4/80	TA-W-10, 286	Low-volatile metallurgical coal.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Industrial Metals Corp. (workers)	Centerville, TN	8/11/80	7/29/80	TA-W-10, 287	Transmission oil pump housing.
Leonard Automatics (CO)	Denver, NC	8/11/80	8/8/80	TA-W-10, 288	Sell pressing machines to garment industries.
Midland Ross Corp. Brake Div. (UAW)	Cleveland, OH	8/4/80	8/1/80	TA-W-10, 289	Manufactures brake products.
Platers Service, Inc. (workers)	Englewood, OH	8/11/80	8/8/80	TA-W-10, 290	Re-cycle bumpers.
Sen-Wel Industries (USWA)	Buffalo, NY	8/1/80	7/29/80	TA-W-10, 291	Fabricated steel.
Art's Wood Models and Plastics (Workers)	Mt. Clemens, MI	8/11/80	8/4/80	TA-W-10,293	Wood bottles, keller aids.
Auto Tube Inc. (workers)	Bradford, OH	8/11/80	8/6/80	TA-W-10,294	Exhaust and tailpipes for U.S. Market.
Baldor Electric Company (union)	St. Louis, MO	8/11/80	8/6/80	TA-W-10,295	Industrial quality electric motors and grindings.
B.I.C./Div. of Avnet, Inc. (workers)	Westbury, NY	8/11/80	7/29/80	TA-W-10,296	High fidelity products.
Crew Products Co. (workers)	Au Gres, MI	8/11/80	8/7/80	TA-W-10,297	Wire parts, production painting, and metal finishing.
Joseph T. Ryerson & Son, Inc. (workers)	Dayton, OH	8/11/80	8/5/80	TA-W-10,298	Buy steel in bulk quantities and sell to smaller companies.
Tri-State Engineering (union)	Springport, MI	8/11/80	8/7/80	TA-W-10,299	Wire containers.
Wisne Automation & Engineering Co. (workers).	Novi, MI	8/7/80	7/21/80	TA-W-10,300	Tools and fixtures for autos.
American Safety Equipment Corp. (Co.)	Palmyra, Mo	8/11/80	8/6/80	TA-W-10,301	Seat belts.
Demlow Products, Inc. (workers)	Clayton, MI	8/11/80	8/7/80	TA-W-10,302	Car seat springs, seat frames.
Duffy Tool and Stamping (workers)	Muncie, IN	8/11/80	8/8/80	TA-W-10,303	Metal stampings for automotive use.
Fleetline Industries (Co.)	Lumberton, NC	8/11/80	8/7/80	TA-W-10,304	Mens knit sport shirts.
Frazer Company (Co.)	Cincinnati, Oh	8/11/80	8/6/80	TA-W-10,305	Wax.
Trissi-Avaneti Division (workers)	Fayetteville, NC	8/7/80	7/31/80	TA-W-10,306	Textile industry.
Wickes Forest Industry (workers)	Grangeville, ID	8/7/80	8/4/80	TA-W-10,307	Lumber.
W.T. Armstrong Co. (Co.)	Elkhart, IN	8/7/80	8/4/80	TA-W-10,308	Woodwind musical instruments.
Zeller Corp. (union)	Defiance, Oh	8/7/80	7/24/80	TA-W-10,309	Universal joints.
Colonial Rubber Works (workers)	Dyersburg, TN	8/8/80	8/4/80	TA-W-10,310	Carpet underlay for houses, sponge parts for GM and Ford, thermo plastics, and rubber custom mixing.
J&S Investments, Inc. (Co.)	South Holland, IL	8/11/80	8/4/80	TA-W-10,311	Smoking accessories.
Keiper U.S.A. (workers)	Battles Creek, MI	8/11/80	8/8/80	TA-W-10,312	Seat reclinars.
Owens-Corning Fiberglass Corp. (workers)	Jackson, TN	8/11/80	8/7/80	TA-W-10,313	Glass fiber reinforcements for plastics and rubber industry.
Sea Ray Boats, Inc. (workers)	Oxford, MI	8/11/80	8/6/80	TA-W-10,314	Fiberglass boats.

[FR Doc. 25876 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9580]

Ford Motor Co., Brownstown Redistribution Center; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980 in response to a worker petition received on June 18, 1980 which was filed on behalf of workers and former workers at the Brownstown Redistribution Center of the Ford Motor Company, Brownstown Township, Michigan.

On August 1, 1980 workers of the Brownstown Redistribution Center of the Ford Motor Company, Brownstown Township, Michigan were denied eligibility to apply for adjustment assistance (TA-W-8511). The investigation revealed the Brownstown Redistribution Center supplied parts and accessories required to maintain all car and truck lines produced by Ford Motor to franchised dealers and independent customers.

The majority of the replacement parts and accessories which Ford sells through the distribution centers are manufactured by unaffiliated domestic firms. Further, most of the parts produced by Ford at certified component parts plants were used in the manufacture of original equipment at certified assembly plants. Production of replacement parts for trade-impacted Ford cars, trucks, vans and utility vehicles accounted for in insignificant portion of total output at each of the 44 certified component parts plants.

On June 18, 1980 the Department instituted another investigation on behalf of workers at the Brownstown Redistribution Center of Ford Motor Company, Brownstown Township, Michigan (TA-W-9580).

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-9590) and since the current petition presents no additional information pursuant to the previous determination (TA-W-8511) that would change that determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-25674 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9441]

Howton Manufacturing Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a worker petition received on June 27, 1980 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing sportswear at Howton Manufacturing Company, Elizabeth, New Jersey.

In a letter dated August 1, 1980, the petitioner requested that the petition be withdrawn. On the basis of this withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-25671 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9596]

New Jersey Steel and Structural Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980 in response to a worker petition received on July 15, 1980 which was filed by the United Steelworkers on behalf of workers and former workers producing concrete reinforcing bar at the New Jersey steel and Structural Corporation, Sayreville, New Jersey.

The Notice of Investigation was published in the **Federal Register** on August 12, 1980 (45 FR 53620). No public

hearing was requested and none was held.

During the course of the investigation, it was established that all workers at the New Jersey Steel and Structural Corporation were previously denied eligibility to apply for adjustment assistance on November 16, 1979 (see TA–W–6067). That investigation was initiated on September 20, 1979 in response to a worker petition which had been received on September 18, 1979.

The plant in question was shut down on September 12, 1979 and employment of all hourly workers was terminated as of that date.

Since the entire previous investigation was conducted after the plant closed, and since the plant has never since reopened, and since no new evidence has been presented which contradicts the findings of the previous investigation, the findings of the previous investigation are still valid and further investigation would serve no purpose; consequently this investigation has been terminated.

Signed at Washington, D.C. this 18th day of August 1980.

Harold A Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–25673 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–28–M

Privacy Act Issuance; DOL/OIG–1: Routine Uses

AGENCY: Office of the Secretary.

ACTION: Publication of a clarification of routine uses for Privacy Act System DOL/OIG–1, Office of the Inspector General.

SUMMARY: The Office of the Inspector General conducts investigations into potential violations of the law, including investigations of contractors, subcontractors and grantees. The Office of the Inspector General finds it necessary to provide sufficient information from its files so that an information source may be able to provide relevant information and further so that a contractor, subcontractor or grantee may be able to take corrective action. The Department believes that the general routine uses published with its system of records annually and the routine uses published for this system of records are authority for the Office of the Inspector General to make such disclosures. However, in order to clarify any misunderstanding and to conform to similar notices published by agencies handling similar files, the Department publishes this technical amendment by republishing this routine use in its entirety and by adding clarifying language.

DATE: Persons wishing to comment may do so by September 22, 1980.

EFFECTIVE DATE: Unless otherwise notices in the **Federal Register**, this notice shall become final September 22, 1980.

COMMENTS MAY BE ADDRESSED TO: Ronald Whiting, Associate Solicitor for General Legal Services, United States Department of Labor, Room N–2464, 200 Constitution Ave., N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, 523–6807.

Republication of Routine Uses: DOL/OIG–1

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Labor hereby republishes its routine uses for a system of records maintained by the Office of the Inspector General, DOL/OIG–1, previously published at 44 FR 61680 (October 26, 1979). The purpose of this notice is to clarify the routine uses previously published for this system to indicate that in the course of conducing investigations, the Office of the Inspector General discloses sufficient identifying information from its records to a source or to a contractor or grantee so that relevant information may be obtained or that contractors or grantees may be able to take corrective action based upon the findings resulting from the investigation. The Department believes that its previous publications incorporate such disclosures, but is publishing this notice setting forth the parameters of the disclosures as related to the investigations conducted by the Office of the Inspector General.

DOL/OIG–1

SYSTEM NAME:

General Investigative Files, Case Tracking Files, and Subject/Title Index, USDOL/OIG

* * * * *

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses

Information may be disclosed to other Federal, State and local law enforcement agencies for civil or criminal law enforcement agencies for civil or criminal law enforcement, including the Justice Department regarding potential litigation and during the course of actual litigation. These records may be disclosed to other Federal Agencies for hiring or retention of employees; security clearances; letting of contracts; and issuance of licenses, grants or other benefits. The records may be disclosed to participants in the President's Anti-Organized Crime Program, and also as part of any proceeding where the Federal Employees' Compensation Act and related Acts, Longshoremen's and Harbor Workers' Compensation Act and related Acts, Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, is in issue. The records may be disclosed as part of any proceeding in which the Secretary of Labor, or any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the above Acts, is a party or otherwise involved in an official capacity. In addition, records may also be provided to (1) the Merit Protection Board, (2) the Office of Personnel Management, (3) any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual being investigated, inform the source of the nature and purpose of the investigation, and to identify the type of information requested, and (4) disclose, as necessary, to a contractor, subcontractor, or grantee firm or organization to the extent that the disclosure is in USDOL's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action.

Dated: August 14, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80–25677 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–23–M

[TA–W–8507]

Union Railroad Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a petition received on July 10, 1980 which was filed by the United Steelworkers of American on behalf of workers and former workers of the Union Railroad Company in Pittsburgh, Pennsylvania.

The Notice of Inverstigation was published in the **Federal Register** on July 25, 1980 (45 FR 49705–8). No public hearing was requested and none was held.

On May 28, 1980, a petition was filed on behalf of the same group of workers (TA–W–8986).

The Notice of Investigation was published in the **Federal Register** on June 27, 1980 (45 FR 43494–6). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA–W–8986, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 12th day of August 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–25672 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–28–M

Wage and Hour Division

Granted Waivers of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops

Notice is hereby given that pursuant to section 13(c)(4) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, *et seq.*) and the regulation concerning waivers of the child labor provisions of the Act for agricultural employment of 10 and 11-year-old hand harvesters of short season crops (29 CFR Part 575), the employer listed in this notice has been granted such a waiver. The requirements for granting a waiver specified in the statute and in the regulations have been satisfied, including the statement that no pesticides or other chemicals were used on the crop—tulip, daffodil and iris bulbs—to be hand harvested. This notice sets forth the name and address of the employer and the dates of the period the waiver will be in effect:

Mr. Leo Roozen, Washington Bulb Company, Inc., 1599 Beaver Marsh Road, Mt. Vernon, Wash. 98273. June 16–July 11, 1980, July 14–July 25, 1980, July 28–August 8, 1980.

Signed at Washington, D.C., this 15th day of August, 1980.

Henry T. White, Jr.

Deputy Administrator, Wage and Hour Division.

[FR Doc. 80–23739 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–27–M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the change in date of the following meeting:

NAME: Minimum Wage Study Commission.

DATE: Monday, September 8, 1980 (changed from Sept. 9).

TIME: 10:30 a.m.

PLACE: 1430 K St. NW, Suite 700.

Original notice of this meeting appeared in the **Federal Register** July 22, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, 1430 K St. NW, Suite 500, Washington, D.C. 20005; telephone (202) 376–2450.

Proposed Agenda:

(1) Presentation of Working Papers on employment effects, noncompliance, handicapped, and demographics.
(2) Status Report.
(3) Pending Business.

Louis E. McConnell,

Executive Director.

[FR Doc. 80–25675 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 413A]

Duke Power Co.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Duke Power Company, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney general for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. for the Catawba Nuclear Station, Unit 1. The current holder of the construction permit is Duke Power Company.

The information was filed in connection with the application by Duke Power Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on August 7, 1975 at the Catawba site located in Mecklenburg County, North Carolina. Although the Catawba facilities consist of two nuclear power plants, the proposed action affects only Catawba Nuclear Station, Unit 1.

The original application was dated November 10, 1972. The Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on December 7, 1972 (37 FR 26053). Previously, the Notice of Hearing had been published in the **Federal Register** on December 1, 1972 (37 FR 25560).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina.

Any person who wishes to have his views on the antitrust matters with respect to the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before October 7, 1980

Dated at Bethesda, Maryland, this 30th day of July, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80–24004 Filed 8–7–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published July 25, 1980 (45 FR 49723). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published

prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the September 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT.

ACRS Subcommittee Meetings

**Class 9 Accidents,* August 28, 1980, Washington, DC. The Subcommittee will discuss hydrogen generation and control methods and degraded core/core melt accidents. Notice of this meeting was published August 13.

**Structural Engineering,* September 2, 1980, Washington, DC. The Subcommittee will review the structural integrity of Ice Condenser Containments similar to that for the Sequoyah Plant. Notice of this meeting was published August 18.

**Safety Philosophy, Technology and Criteria,* September 3, 1980, Washington, DC. The Subcommittee will review the NRC Staff's general approach to developing licensing requirements in a number of areas, including Near-Term Construction Permit (NTCP) requirements, the effect of non-safety systems on plant safety functions, and the requirements for future LWRs. The Subcommittee will also begin a review of the potential for cascading failures in nuclear power plants. Notice of this meeting was published August 19.

**Reactor Fuel,* September 3, 1980 (Afternoon), Washington, DC. The Subcommittee expects to complete its review of NUREG 0630, "Cladding Swelling and Rupture Models for LOCA Analysis." Notice of this meeting was published August 19.

**Regulatory Activities,* September 3, 1980, Washington, DC. Postponed to October 8. Notice of this meeting was published July 25.

**Combination of Dynamic Loads,* September 18–19, 1980, Washington, DC. Postponed to November (exact date to be determined). Notice of this meeting was published July 25.

**Ad Hoc ACRS Subcommittee,* September 19–20, 1980, Washington, DC (Rescheduled from September 18–19, Pasadena, CA). The Subcommittee will meet with representatives of the Reactor Safety Committee (RSK) of the Federal Republic of Germany to discuss the design of B&W NSSS small break LOCAs, feedwater systems and changes in the NRC siting criteria. Notice of this meeting was published July 25.

**Crystal River Nuclear Power Plant, Unit No. 3,* September 26, 1980 (Tentative), Washington, DC. The Subcommittee will review a transient that caused flooding of the Crystal River 3 containment and will review the NRC Staff recommendation on the Crystal River 3 fix. Notice of this meeting was published July 25.

**Dresden Nuclear Power Plant, Unit 1,* October 3, 1980, Washington, DC. The Subcommittee will discuss: (1) The method proposed by Commonwealth Edison Company to decontaminate the primary cooling system of Dresden Unit 1. (2) The Canadian Decontamination Process (CAN–DECON Concept). (3) Adequacy of processing and disposing of the radioactive waste resulting from the chemical decontamination. (4) Comments received from Federal Agencies and the public relating to decontamination of Dresden Unit 1.

**Waste Management,* October 3, 1980, Washington, DC. The Subcommittee will discuss proposed rulemaking on the technical criteria for regulating geological disposal of high-level radioactive waste (PR–60, published May 13, 1980, 45 FR 31393, "Geological Disposal Technical Criteria").

**Reactor Operations,* October 7, 1980, Washington, DC. The Subcommittee will review a draft of the NRC Proposed Plan to Implement the Requirement of Section 110 of the NRC FY–80 Authorization Bill (The Bingham Amendment) which calls for the identification of each current rule and regulation that the Commission determines to be of particular significance to the protection of the public health and safety, and determination of the extent to which each currently operating plant complies with these identified rules and regulations. Also, the Subcommittee plans to address various ACRS generic items assigned to it to monitor.

**Regulatory Activities,* October 8, 1980, (Rescheduled from September 3), Washington, DC. The Subcommittee will review Proposed Regulatory Guide 1.12, Revision 2, "Instrumentation for Earthquakes"; Regulatory Guide (Task No. RS 705–4), "Lightning Protection for Nuclear Power Plants"; Regulatory Guide (Task No. SC 704–5), "Functional Specification for Safety-Related Valve Assemblies in Nuclear Power Plants"; and Regulatory Guide (Task No. RS 809–5), "Qualification Tests for Cable Penetration Fire Stops for Use in Nuclear Power Plants." Notice of this meeting was published July 25.

**Safety Philosophy, Technology and Criteria,* October 8, 1980, Washington, DC. Cancelled.

**Emergency Core Cooling Systems,* October 15–16, 1980, Idaho Falls, ID. The Subcommittee will review new data from the LOFT and Semiscale Programs on Reactor Coolant Pump (RCP) Trip, and the progress of and plans for these Programs. Notice of this meeting was published July 25.

**Improved Safety Systems,* October 1980, Washington, DC. Cancelled. Notice of this meeting was published July 25.

**Three Mile Island Nuclear Power Plant, Unit No. 1,* October 30–31, 1980, (Rescheduled from August 5–6,), Washington, DC. The Subcommittee will review the modification made to TMI–1 in preparation for a restart following the TMI–2 accident. Notice of this meeting was published August 1.

**Regulatory Activities,* November 5, 1980, Washington, DC. The Subcommittee will review proposed regulatory guides, regulations and revisions to existing regulatory guides and regulations; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Combination of Dynamic Loads,* November, 1980 (exact date to be determined, rescheduled from September 18–19) Washington, DC. The Subcommittee will continue its review regarding the use of dynamic load combinations as a design basis for nuclear power plants.

**Evaluation of Licensee Event Reports (LERs),* November, 1980 (exact date to be determined), Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff possible modifications to the NRC collection and storage of operational data from nuclear power plants.

ACRS Full Committee Meetings

September 4–6, 1980

A. **Sequoyah Nuclear Power Plant, Units No. 1 and No. 2:* Topics related to plant operation and ability to deal with a major accident.

B. **Boiling Water Reactors:* Reliability of control rod scram systems.

C. **Quantitative Risk Criteria:* Proposed criteria for regulation of nuclear plants.

D. **Review of NRC Regulatory Criteria and Reevaluation of Operating Nuclear Power Plants:* Proposed plan of action.

E. **Cladding Swelling and Rupture Models for LOCA Analysis (NUREG–0630):* Proposed revisions.

F. **North Anna Nuclear Power Station, Unit No. 2:* Review of operation and risk assessment.

G. **NRC Safety Research Program:* Proposed budget for FY–1982/1983.

October 9–11, 1980

Agenda to be announced.

November 6–8 1980

Agenda to be announced.

Dated: August 19, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–25684 Filed 8–21–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 4–6, 1980, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was previously published in 45 FR 49723 on July 25, 1980.

The agenda for the subject meeting will be as follows:

Thursday, September 4, 1980

8:30 A.M.–9:30 A.M.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding matters to be considered during the meeting with the NRC Commissioners [1] and miscellaneous matters relating to ACRS activities.

The Committee will also hear and discuss the report of its Fluid Dynamics Subcommittee and reports of its consultants and Fellows who may be present regarding the performance of hydraulic scram systems for BWR control rod drive mechanisms.

9:30 A.M.–12:30 P.M.: Hydraulic Scram Systems for Boiling Water Reactors (Open)—The Committee will hear and discuss reports from representatives of the NRC Staff, the General Electric Company and the utility industry who may be present regarding the performance and reliability of hydraulic scram systems for BWR control-rod drive mechanisms.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1:30 P.M.–2:15 P.M.: Report of ACRS Subcommittee on Reliability and Probabilistic Assessment (Open)—The ACRS will hear and discuss the report of its Subcommittee and its consultants and Fellows who may be present regarding the effort to develop quantitative risk criteria for use in the regulation of nuclear facilities.

2:15 P.M.–6:45 P.M.: Sequoyah Nuclear Power Plant Units 1 and 2 (Open)—The Committee will hear and discuss the reports of ACRS Subcommittees and consultants who may be present regarding aspects of the Sequoyah Nuclear Power Plant design including provisions to control flammable gases after a serious accident and the ability of the containment to withstand combustion of such gases. The Committee will also hear and discuss reports from representatives of the NRC Staff and the applicant with respect to items noted above as well as the results of the augmented low power test program at the Sequoyah plant. Portions of this session will be closed as necessary to discuss Proprietary Information related to this project.

Friday, September 5, 1980

8:30 A.M.–12:30 P.M.: Quantitative Risk Criteria (Open)—The Committee will discuss its proposed report to the Nuclear Regulatory Commission proposing quantitative risk criteria for use in the regulation of nuclear facilities.

1:30 P.M.–2:30 P.M.: Meeting with NRC Chairman and Other NRC Commissioners [1] (Open)—The Committee will meet with the NRC Chairman and other NRC Commissioners who may be present to discuss safety related matters including the proposed NRC safety research budget for FY 1982.

2:30 P.M.–4:30 P.M.: Review of NRC Regulatory Requirements and the Extent to Which Operating Facilities Comply With Such Requirements (Open)—The Committee will hear and discuss a report from the NRC Staff regarding the plan of action to conduct a review of NRC rules and regulations and to determine the degree to which each operating nuclear plant licensed under Sections 103 and 104(b) of the Atomic Energy Act complies.

4:30 P.M.–6:30 P.M.: Cladding Swelling and Rupture Models for LOCA Analysis (Open)—The Committee will hear and discuss reports from members of the NRC Staff and representatives of the nuclear industry who may be present regarding the implementation of NUREG–0630, Cladding Swelling and Rupture Models for LOCA Analysis.

Saturday, September 6, 1980

8:30 A.M.–4:00 P.M.: Concluding Session (Open)—The Committee will discuss its proposed reports to the Nuclear Regulatory Commission regarding items discussed during this meeting. In addition, the Committee will complete preparation of a report to the Nuclear Regulatory Commission regarding a proposed rule on fire protection for nuclear plants (10 CFR Part 50.48 and Appendix R to 10 CFR Part 50). Proposed replies to correspondence regarding clarification of the ACRS report of April 16, 1980 on Anticipated Transients Without Scram and the condition of steam generator tubes in the Turkey Point Nuclear Power Plant will also be discussed.

The Committee will discuss the future scheduled for its activities including anticipated subcommittee meetings.

The Committee will hear and discuss reports of its Subcommittees regarding safety related matters such as the potential for cascading failures in nuclear power plants.

The Committee will discuss the qualifications of candidates proposed as nominees for appointment to the Committee.

Portions of this session will be closed as necessary to discuss Proprietary Information and to protect information the release of which would represent an unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1979 (44 FR 56408). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the release of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting

[1] Tentative.

The Exchange's Statement of the Terms

Comments Received From Members

has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, or in his absence the ACRS Deputy Director, Mr. Marvin C. Gaske, (telephone 202/634-3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: August 19, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-25005 Filed 8-21-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

August 19, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of the staff of Panel VIII (The Quality of American Life) of the President's Commission for a National Agenda for the Eighties. The meeting is scheduled for September 3, 1980, from 9:00 a.m. until 4:00 p.m. at Radcliff University, Cambridge, Massachusetts.

The purpose of the meeting is to discuss the panel's draft report.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006. (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-25003 Filed 8-21-80; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Public Views, Section 201 Case: Mushrooms, Prepared or Preserved

Pursuant to section 201 of the Trade Act of 1974, the President received, on August 18, 1980, a report from the United States International Trade Commission (USITC) on the case of Mushrooms, Prepared or Preserved, (Investigation No. TA-201-43). The Commission submitted a report containing an affirmative determination that mushrooms provided for in item 144.20 of the Tarriff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission found and recommended that to prevent or remedy the serious injury to the domestic industry, it would be necessary to impose quantitative restrictions on mushrooms provided for in item 144.20, as follows—

Year	Quota [1]
July 1, 1980-June 30, 1981	90
July 1, 1981-June 30, 1982	94
July 1, 1982-June 30, 1983	100

[1] Quantity in millions of pounds drained weight.

The Commission also recommended that the President allocate the quotas on a per country basis as he deems appropriate.

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditions consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist in the development of recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes briefs from interested parties on the above listed subjects. For further information, contact, Tim Regan, Room 725, telephone 202-395-6127. (Additional information on this case is available in USITC report TA-201-43).

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 735, Office of the United States Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506.

To be considered by the Office of the USTR, submissions should be received no later than the close of business Tuesday, September 9, 1980.

Ann H. Hughes,

Chairman, Trade Policy Staff Committee.

[FR Doc. 80-25702 Filed 8-21-80; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17071; File No. SR-Amex-80-22]

American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange has revised its procedure for the disposition of minor rule violations pursuant to Article V, section 1(c) of the Exchange Constitution. Minor rule violations include any act or omission tending to disrupt the orderly conduct of business on the floor or which causes serious interference with the personal comfort or safety of other persons on the floor, and any failure of a member or member organization to comply with any on-floor or off-floor operational procedure established by the Exchange.

The procedure would be revised as follows: (1) A member or member organization would be allowed six violations of the same type within a six-month period before being required to appear before a Disciplinary Committee; however, the Division of Market Operations, in consultation with the Floor Governor or Exchange Official bringing the charge, will retain discretion to refer a violation to a Disciplinary Committee after a second offense;

(2) The schedule of minimum fines would be extended for the four additional offenses as follows: 1st Offense—$50; 4th Offense—$300; 2nd Offense—$100; 5th Offense—$400; 3rd Offense—$200; 6th Offense—$500.

(3) The procedure would now expressly provide that, in addition to on-floor operational matters, noncompliance with off-floor operational matters, may be considered a minor rule violation.

The Exchange's Statement of Purpose and Basis

While the minor rule violation procedure has helped to improve the operational effectiveness of both member firms and the Exchange, experience with the procedure has indicated than an automatic referral to a Disciplinary Committee after two violations is too inflexible. The revised procedure, allowing six violations with discretionary referral to a Disciplinary Committee after two offenses, will increase flexibility without a reduction in the effectiveness of the procedure. The proposed rule change is consistent with section 6(b) of the Act, in particular sections 6(b) (1) and (7) in that it will enhance the effectiveness and fairness of its disciplinary procedures.

Comments Received From Members, Participants or Others on Proposed Rule Change

The revised procedures have been discussed with and approved by the Exchange's Committee on Market Operations.

Burden on Competition

The Exchange has determined that no burden on competition will be imposed by this amendment.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-memtioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 11, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25531 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11306; 811-1133]

Industrial Growth Fund of North America, Inc.; Proposal To Terminate Registration

August 18, 1980.

Notice Is Hereby Given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Industrial Growth Fund of North America, Inc. ("Fund"), c/o Oswald Ruggero, Esq., Joseph & Ruggero, 261 Broadway, New York, N.Y. 10007 registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Delaware on May 11, 1961; that it registered under the Act on December 5, 1961, and that it filed a registration statement (File No. 2-20271) pursuant to the Securities Act of 1933 ("1933 Act") in connection with a proposed public offering of shares of its capital stock. The 1933 Act registration statement was not made effective, and the Fund did not make a public offering of its securities. The Fund requested withdrawal of this registration statement, pursuant to Rule 477 under the 1933 Act, and the Commission ordered it withdrawn as of August 2, 1962. The Fund has not filed any of the periodic reports required by the Act since 1965. Finally, information in the Commission's files indicates that after the withdrawal of such registration statement the Fund was abandoned, and that it ceased to exist as a corporate entity and to profitably engage in any business. Thus is appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare be order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice Is Further Given that any interested person may not later than September 15, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date, unless the Commission thereafter orders

a hearing upon request, or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25529 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17065; File No. SR-NASD-80-15]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

A. Section 6 of Part IV of Schedule C of the Association's By-Laws is deleted.

B. The various parts of Schedule C are renumbered to conform to the following:

Part and Title

I—Registration of Principals
II—Registration of Representatives
III—Disciplinary Actions
IV—Persons Exempt From Registration
V—Qualification Examinations and Waiver of Requirements
VI—Confidentiality of Examinations
VII—Transfer From SECO Members
VIII—Foreign Associates
IX—Summary Suspension

Cross reference within the Schedule are changed accordingly.

The NASD's Statement of Purpose of Proposed Rule Change

The rule change makes only editorial changes to Schedule C. Specifically, the deletion of Section 6 of Part IV (now Part V) of Schedule C eliminates duplicative material found in Section 2 of Part VI (now Part VII) of Schedule C. The renumbering of the parts of Schedule C presents the material in a more logical order.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

It is the responsibility of the Association, under Section 15A(g)(3) of the Act, to implement appropriate qualification standards for persons seeking entrance into the securities industry. Schedule C of the Association's By-Laws contains these standards.

Comments Received from Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

The NASD's Statement on Burden on Competition

Since the proposed rule change involves only editorial changes, the Association envisions no effects on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 14, 1980.

[FR Doc. 80-25530 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21680; 70-6451]

Columbus and Southern Ohio Electric Co.; Proposed Revisions to Fuel Inventory Financing Portion of Short-Term Debt Authorization

August 15, 1980.

Notice is hereby given, that Columbus and Southern Ohio Electric Company ("CSOE"), 215 North Front Street, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated May 28, 1980 (HCAR No. 21594), CSOE was granted a short-term borrowing authorization through July 1, 1981, in an aggregate principal amount not to exceed $200,000,000. CSOE's credit arrangements for such borrowings consisted of (1) lines of credit totaling $113,086,000 with 38 banks; (2) a loan agreement with certain banks for up to $80,000,000 of loans for use in retiring certain of its preferred shares; (3) a credit agreement ("Credit Agreement") with Prulease, Inc. ("Prulease"), for up to $30,000,000 of fuel inventory financing; and (4) arrangements for borrowing up to $23,000,000 from funds managed by certain banks' trust departments. With respect to the Credit Agreement borrowings, each loan is to be an amount equal to or less than CSOE's estimated average inventory value of coal and oil for the month in which the loan is made, is to be evidenced by a note, and is to be secured by a security interest in CSOE's supply of coal and fuel oil at its generating stations. Each note now matures at the end of the month for which the loan is made, bears interest at an annual rate equal to 1.125 percent plus 0.1 percent (subject to adjustment) as an indemnity for state and local income taxes plus the rate borne by (or quoted on) commercial paper issued by Prulease. No compensating balances are required. The present Credit Agreement expires September 30, 1980.

By post-effective amendment CSOE requests authorization to enter into an amendment to the Credit Agreement, to be dated as of October 1, 1980, which

amendment would extend its termination date to September 30, 1982, and would make certain other changes. Under the amendment each note would bear interest at an annual rate equal to 1.5 percent plus 0.13 percent (subject to adjustment) as an indemnity for State and local income taxes plus the rate borne by (or quoted on) commercial paper issued by Prulease. In addition, there will be a commitment fee, payable if the average daily outstanding borrowings are less than 50 percent of the average daily available commitment during the period October 1, 1980, through September 30, 1982, of an amount equal to (i) 1.125 percent multiplied by (ii) the excess of such average daily available commitment during such period over such average daily outstanding borrowings during such period, multiplied by (iii) a fraction, the numerator of which is the number of months in such period and the denominator of which is 12. Such fee, if any, is payable on September 30, 1982, and annually thereafter if the termination date is extended. The amendment also contains provisions for annual extensions of the termination date. The effective cost of borrowings under the Credit Agreement, as proposed to be amended, based on the 8.75 percent interest rate for commercial paper issued by Prulease on July 15, 1980, and assuming no commitment fee, would be 10.38 percent.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given, that any interested person may, not later than September 11, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-25607 Filed 8-21-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Privacy Act of 1974; Notice of Clarification

AGENCY: Department of the Treasury, United States Customs Service

ACTION: To provide clarification for the general public with regard to the Privacy Act system Internal Security Records System, Treasury/Customs 00.127

SUMMARY: Systems exempt in whole or part from provisions of 5 USC 552a, and the reasons therefore, are published for each constituent unit of the Department in *Title 31 of the Code of Federal Regulations.* One listing for the U.S. Customs Service has been found to be incomplete. This notice is provided to inform the general public of this omission.

DATES: Not applicable. No public comments required.

ADDRESSES: Entry Procedures and Penalties Division, Office of Regulations and Rulings, United States Customs Service, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Pinter, Chief, FOIA and Privacy Branch, United States Customs Service, (202) 566-8669.

Dated: August 6, 1980.

W. J. McDonald,

Assistant Secretary (Administration).

The system description for the Internal Security Records System Treasury/Customs 00.127 indicates that, since its creation in 1975 (in accordance with 5 USC 552a), it has been determined to be an exempt system of records. To provide the reasons for this determination, the system name should have appeared in the listing under § 1.36 al and bl and in paragraph c. These paragraphs relate to exemptions (j)(2), (k)(2) and (k)(5), respectively. However, the system name in the al listing was inadvertently omitted.

This notice is provided to inform the general public that records requested from this system may be exempt under (j)(2), (k)(2) and (k)(5) for the reasons provided in section 1.36.

The Privacy Act regulation is currently being reviewed for revision and, therefore, no action will be taken to update only § 1.36al until the entire regulation is reviewed.

[FR Doc. 80-25292 Filed 8-21-80; 8:45 am]

BILLING CODE 4810-22-M

Customs Service

[521851]

Extension of Time for Comments Concerning Courier Services; Invitation To the Public to Comment

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to a notice published in the **Federal Register** on June 19, 1980 (45 FR 41565), inviting the public to comment on Customs handling of importations by courier services. Comments were to have been received on or before August 18, 1980. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before September 18, 1980.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2426, U.S. Customs Serivce, 1301 Contitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harold Loring, Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

Dated: August 14, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-25717 Filed 8-21-80; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 3]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $673,000 has been established for the company.

Name of Company:
PRESTIGE CASUALTY COMPANY
Business Address:
5454 West Fargo Avenue
Skokie, Illinois 60077
State of Incorporation:
Illinois

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44510 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: August 14, 1980.

W. E. Douglas,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-25537 Filed 8-21-80; 8:45 am]
BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Park Central Hotel, 705 18th Street, NW, Washington, DC, on October 27 and 28, 1980. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on October 27 and 28, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC (202-389-3702) prior to October 17.

The meeting will be closed from 8:30 a.m. to 5 p.m., on October 27, and from 8:30 a.m. to 1 p.m. on October 28, for consideration of specific proposals in accordance with provisions set forth in Subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 15, 1980.

Max Cleland,
Administrator.

[FR Doc. 80-25663 Filed 8-21-80; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 165
Friday, August 22, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1-4
Equal Employment Opportunity Commission	5
Federal Energy Regulatory Commission	6, 7
Federal Home Loan Bank Board	8, 9
Federal Maritime Commission	10
Securities and Exchange Commission	11

1

[M-288 Amdt. 3; August 18, 1980]

CIVIL AERONAUTICS BOARD.

Notice of continuation of item from the August 14 meeting.

TIME AND DATE: 10 a.m., August 15, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 37949 and 36595, petition of the American Society of Travel Agents, Inc. (ASTA) for revocation of exemption and motion of ASTA for consolidation of dockets 36595 and 37949 (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1577-80 Filed 8-19-80; 4:15 pm]
BILLING CODE 6320-01-M

2

[M-289 Amdt. 1; August 19, 1980]

CIVIL AERONAUTICS BOARD.

Short Notice of Addition to the August 21, 1980 board meeting.

TIME AND DATE: 9:30 a.m., August 21, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1a. Air carrier tariffs governing "involuntary" refunds. (Memo No. 9873, BCP.)

1b. Draft Order to Show Cause proposing an increase in domestic baggage liability limits from $750 to $1000 per passenger. (Memo No. 9874, BCP, BDA, OGC.)

4a. Docket 38216, application of Yukon Air Service, Inc. d/b/a Air North for a certificate of public convenience and necessity and a petition for an order to show cause for an expedited fitness hearing. (Memo No. 9872, BDA.)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1578-80 Filed 8-19-80; 4:15 pm]
BILLING CODE 6320-01-M

3

[M-288 Amdt. 2; August 18, 1980]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the August 14, 1980 board meeting

TIME AND DATE: 9:30 a.m., closed meeting; 2 p.m., open meeting, August 14, 1980.

PLACE: Room 1012, closed; room 1027, open, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Closed (deleted): 1. Background Information Relating to U.S.-Philippine Negotiations Scheduled to Begin September 1, 1980, in Manila. (BIA)

Closed (added): 4a. Upcoming consultations with China. (BIA)

Open (added): 7a. Dockets 37949 and 36595, Petition of the American Society of Travel Agents, Inc. (ASTA) for Revocation of Exemption and Motion of ASTA for Consolidation of Dockets 36595 and 37949. (BDA)

Open (deleted): 19. Docket 37588, *Palm Beach Environmental Study.* (Memo 9446-E, BDA.)

STATUS: 1-4a, closed; 5-22, open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1579-80 Filed 8-19-80; 4:15 pm]
BILLING CODE 6320-01-M

4

[M-290, August 18, 1980]

CIVIL AERONAUTICS BOARD.

Short notice of closed meeting, August 15, 1980.

TIME AND DATE: 8 a.m., August 15, 1980.

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Background Information Relating to U.S.-Philippine Negotiations Scheduled to Begin September 1, 1980 in Manila. (BIA)

STATUS: Closed:

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: This Item was originally scheduled for the August 14, 1980 Board Meeting. However, due to time constraints it was not possible to reach discussion of it then. Therefore, the members decided to schedule another Closed Board Meeting on this Item for the following morning. Accordingly, the following Members have voted that a short notice meeting be held on August 15, 1980 and that no earlier announcement of the meeting was possible:

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.
Member George A. Dalley.

For Closure reason and Persons Expected to Attend, please see M-288 dated August 7, 1980.

[S-1580-80 Filed 8-19-80; 4:15 pm]
BILLING CODE 6320-01-M

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, August 26, 1980.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public.

1. Freedom of Information Act Appeal No. 80-5-FOIA-280, involving a request by a charging party for access to all material contained in his age charge file.
2. Several proposed contracts for services needed in connection with court cases.
3. Revised proposal of the Contracts and Procurement Directive, EEOC Order 385.
4. State and Local Program: Proposed allocation of remaining fiscal years 1980 and 1981 funds and proposed charge contracts for individual 706 agencies.
5. Management Directives establishing a system of notification to agencies of policy issuances under development.
6. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued August 19, 1980.

[S–1561–80 Filed 8–19–80; 4:15 pm]

BILLING CODE 6730–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published August 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., August 20, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item number, Docket number and Company

CAP–2(B): Project 2342, Pacific Power & Light Co.

Kenneth F. Plumb,

Secretary.

[S–1563–80 Filed 8–20–80; 1:31 pm]

BILLING CODE 6450–85–M

7

FEDERAL ENERGY REGULATORY COMMISSION.

August 20, 1980.

TIME AND DATE: 10 a.m., August 27, 1980.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—460th Meeting, August 27, 1980, Regular Meeting (10 a.m.)

CAP–1. Docket No. ER80–518, New York State Electric & Gas Corp.
CAP–2. Docket No. ER80–222, Georgia Power Co.
CAP–3. Docket No. EL78–23, Sierra Pacific Power Co. versus Utah Power & Light Co.

Miscellaneous Agenda—460th Meeting, August 27, 1980, Regular Meeting

CAM–1. Docket No. RM79–64, revised requirements for filing changes in rate schedules and the preparation and submission of supporting data.
CAM–2. Docket No. QF80–8, Brooks County Dairy; small power production and cogeneration facilities—qualifying status.
CAM–3. Docket No. QF80–12, Furniture Division of the Singer Co.; small power production and cogeneration facilities—qualifying status.
CAM–4. Docket No. RM80–59, revisions of Form No. 1–F, Annual Report for Public Utilities and Licensees (class C and class D) and Form No. 2–A, Annual Report for Natural Gas Companies (class C and class D).
CAM–5. Docket No. GP80– , NGPA well category determination USGS New Mexico, El Paso Natural Gas Co., FERC No. JD80–34000.

Gas Agenda—460th Meeting, August 27, 1980, Regular Meeting

CAG–1. Docket No. TA80–2–28 (PGA80–3, IPR80–3, AP80–2, LFUT80–2, TT80–2, and ST80–2), Mississippi River Transmission Corp.
CAG–2. Docket No. TA80–2–22 (PGA80–5, IPR80–2, LFUT80–2 and RD&D80–2), Consolidated Gas Supply Corp.
CAG–3. Docket No. TA80–2–24 (PGA80–1), Equitable Gas Co.
CAG–4. Docket No. TA80–1–33 (PGA80–1) (IPR80–1) and (GRI80–1), El Paso Natural Gas Co.
CAG–5. Docket No. TA80–2–31 (PGA80–2), (IPR80–2) and (LFUT80–2), Arkansas Louisiana Gas Co.
CAG–6. Docket No. TA80–2–12 (PGA80–2 and GRI80–1, Distrigas Corp. and Distrigas of Massachusetts Corp.
CAG–7. Docket No. TA80–2–26 (PGA80–2, LAFUT80–2, AP80–2 and TT80–1), Natural Gas Pipeline Co. of America.
CAG–8. Docket No. TA80–2–27 (PGA80–3 and IPR80–3), North Penn Gas Co.
CAG–9. Docket No. TA80–2–60 (PGA80–2), Locust Ridge Gas Co.
CAG–10. Docket No. TA80–2–21 (PGA80–4, IPR80–3, LFUT80–2, TT80–2 and AP80–2), Columbia Gas Transmission Corp.
CAG–11. Docket No. RP80–95, National Fuel Gas Supply Corp.
CAG–12. Docket No. RP80–75, Southern Natural Gas Co.
CAG–13. Docket No. RP77–51, Public Service Co. of North Carolina versus Transcontinental Gas Pipe Line Co.
CAG–14. Docket No. OR78–1 (PD49–G–1, et al.), Trans Alaska Pipeline System.
CAG–15. Docket No. OR78–1, Trans Alaska Pipeline System.
CAG–16. Docket No. CI80–290, Kerr-McGee Corp.; Docket No. CI80–403, General American Oil Co. of Texas; Docket No. CI80–328, Anadarko Production Co.; Docket No. CI80–303, Pan Eastern Exploration Co.
CAG–17. Docket Nos. RI74–188 and RI75–21, Independent Oil & Gas Association of West Virginia.
CAG–18. Docket No. CP80–257, Southern Natural Gas Co. and Florida Gas Transmission Co.
CAG–19. Docket No. CP78–256, Algonquin Gas Transmission Co. and Algonquin LNG.
CAG–20. Docket No. CP80–316, Columbia Gulf Transmission Co. and Michigan Wisconsin Pipe Line Co.
CAG–21. Docket No. CP80–395, Mississippi River Transmission Corp.
CAG–22. Docket No. CP80–297, Michigan Wisconsin Pipe Line Co.
CAG–23. Docket No. CP79–229, Transcontinental Gas Pipe Line Corp.
CAG–24. Docket No. CP74–150, Transcontinental Gas Pipe Line Corp.
CAG–25. Docket No. CP80–382, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–26. Docket No. CP80–375, Consolidated Gas Supply Corp., Northern Natural Gas Co., Division of Internorth, Inc., Michigan Wisconsin Pipe Line Co. and El Paso Natural Gas Co.

Power Agenda—460th Meeting, August 27, 1980, Regular Meeting

I. Licensed Project Matters

P–1, Reserved.

II. Electric Rate Matters

ER–1. Docket No. ER80–520, Montaup Electric Co.
ER–2. Docket No. ER80–495, Iowa Public Service Co.
ER–3. Docket No. ER80–235, Public Service Co. of New Mexico.
ER–4. (A) Docket No. E–9563, Bonneville Power Administration (Wheeling rates); (B) Docket No. EF80–2011, Bonneville Power Administration (system rates); Docket No. RM80– , proposed rulemaking on review of Federal rate schedules; (C) Docket No. EF79–4011, Southwestern Power Administration (system rates); (D) Docket No. EF79–4011, Southwestern Power Administration (System rates); (E) Docket No. EF79–4021, Southwestern Power Administration (Sam Rayburn Dam project).
ER–5. Docket No. E–7704, the Electric & Water Plant Board of the City of Frankfort, Ky. versus Kentucky Utilities Co.; Docket No. E–7669, Public Service Co. of Indiana; Docket No. E–7937, Indianapolis Power & Light Co.; Docket No. E–8053, Kentucky Utilities Co.
ER–6. Docket No. E–7777 (phase II), Pacific Gas & Electric Co.; Docket No. E–7796, Pacific Power & Light Co.
ER–7. Docket No. EL80–4, Metropolitan Edison Co.

Miscellaneous Agenda—460th Meeting, August 27, 1980, Regular Meeting

M–1. Docket No. RM80–65, exemption of small hydroelectric power projects of 5 megawatts or less from all or part of part I of the Federal Power Act.
M–2. (A) Docket No. RM79–55, small power production and cogeneration facilities—qualifying status; (B) Docket No. RM79–55, Windfarms, Ltd.; small power production and cogeneration facilities—qualifying status.
M–3. Reserved.
M–4. Reserved.
M–5. Docket No. RM80–14, final regulations under sections 105 and 106(b) of the Natural Gas Policy Act of 1978.
M–6. Docket No. RM80–21, regulations under section 110 of the Natural Gas Policy Act of 1978.
M–7. Docket No. RM80– , blanket certificate authorization for certain new sales of committed or dedicated natural gas.
M–8. Docket No. RM79–53, part 273 regulations under the Natural Gas Policy Act of 1978.

Gas Agenda—460th Meeting, August 27, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Reserved.

II. Producer Matters

CI–1. Reserved.

III. Pipeline Certificate Matters

CP–1. Docket No. RP75–79 (phase II), Lehigh Portland Cement Co. versus Florida Gas Transmission Co.; Docket No. CP77–44, Abitibi Corp. versus Florida Gas Transmission Co.
CP–2. Docket No. CP79–150, Northwest Pipeline Corp.
CP–3. Docket No. CP80–176, Michigan Wisconsin Pipe Line Co.
CP–4. Docket Nos. CP79–337, CP79–450 and CP76–37, El Paso Natural Gas Co.
CP–5. Docket No. SA80–59, Southern Natural Gas Co.

[S–1564–80 Filed 8–20–80; 3:04 pm]

BILLING CODE 6450–85–M

8

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 54935, August 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Aug. 21, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Application for Permission to Convert from a State Mutual to State Stock Form—First Financial Savings & Loan Association, Stevens Point, Wisconsin.
Application for Permission to Convert from a State Mutual to State Stock Form—First Federal Savings & Loan Association of High Point, High Point, North Carolina.
Regulation On Conversion From State Stock to Federal Charter.
Regulation On Trust Powers Authorization.

Announcement is being made at the earliest practicable time.

No. 381, August 20, 1980.

[S–1585–80 Filed 8–20–80; 3:05 pm]

BILLING CODE 6720–01–M

9

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 54935, August 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Aug. 21, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Regulation On Mutual Fund Investment Counting Toward Liquidity.

Announcement is being made at the earliest practicable time.

No. 382, August 20, 1980.

[S–1585–80 Filed 8–20–80; 3:05 pm]

BILLING CODE 6720–01–M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 54517, August 15, 1980.

PREVIOUSLY ANNOUCED TIME AND DATE OF THE MEETING: 9 a.m., August 20, 1980.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

4. Special Docket No. 724—Application of Sea-Land for benefit of Star-Kist Foods, Inc.—Consideration of the Record.

[S–1586–80 Filed 8–20–80; 3:59 pm]

BILLING CODE 6730–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 25, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will held on Tuesday, August 26, 1980, following the 10:00 a.m. open meeting, and on Thrusday, August 28, 1980, at 10:00 a.m. An open meeting will be held on Tuesday August 26, 1980, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioner Loomis, Evans, and Friedman determined to hold the aforesaid matter of the open meeting scheduled for Tuesday, August 26, 1980, at 10:00, will be:

1. Consideration of whether to grant the application filed by the investment companies in the Union Service Group, the affiliated service companies of the Union Service Group, J. & W. Seligman & Co., and J. & W. Seligman & Co., Inc., seeking an order of the Commission pursuant to Section 17(b) of the Investment Company Act of 1940 (the "Act"), and Section 17(d) of the Act and Rule 17d–1 thereunder to permit the externalization of the presently internalized advisory, management, and distribution functions of the investment companies. For further information, please contact Glen A. Payne at (202) 272–3015.

2. Consideration of whether to grant the application of First Florida Securities, Inc. for relief pursuant to Rule 252(f) of Regulations A. For further information, please contact Thomas J. Baudhuin at (202) 272–2644.

3. Consideration of whether to grant the request by Carole E. Broderick, Esq., one of the attorneys for the plantiff class in *Alten, et al.* v. *Cabot, Cabot & Forbes Land Trust*, to interview, and if necessary take deposition testimony of, two present Commission staff members of the Division of Corporation Finance concerning their review of proxy and other materials filed with the Commission. For further information, please contact Douglas J. Scheidt at (202) 272–2454.

4. Consideration of whether to adopt proposed amendments to Form MSD, the registration from used by municipal securities dealers that are banks or separately identifiable departments or divisions of banks. For further information, please contact Thomas G. Lovett at (202) 272–2411.

The subject matter of the closed meeting scheduled for Tuesday, August 26, 1980, following the open meeting, will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.

The subject mater of the closed meeting scheduled for Thursday, August 28, 1980, at 10:00 a.m., will be:

Litigation matters.
Regulatory matters bearing enforcement implications.
Regulatory matter bearing enforcement implications and formal order of investigation.
Settlement of administrative proceedings of an enforcement nature.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Freedom of Information Act appeals.
Chapter XI proceeding.
Formal order of investigation.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Administrative proceeding of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272–2468.

August 19, 1980.

[S–1562–80 Filed 8–20–80; 1:31 pm]
BILLING CODE 6010–01–M

V 45 A G 22 80 UMI

federal register

Friday
August 22, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions of the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determination, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the deicisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California: CA80–5117	May 23, 1980.
Florida: FL79–1118	Aug. 17, 1979.
Illinois: IL79–2053	Aug. 24, 1979.
Kansas:	
KS80–4055	July 18, 1980.
KS80–4054	July 18, 1980.
Louisiana:	
LA80–4026	June 13, 1980.
LA80–4027	June 13, 1980.
LA80–4039	May 23, 1980.
Maine: ME80–2009	Mar. 14, 1980.
Massachusetts: MA80–2045	July 7, 1980.
South Carolina:	
SC79–1016	Feb. 2, 1979.
SC79–1020	Feb. 2, 1979.
SC79–1062	Apr. 6, 1979.
SC79–1130	Sept. 28, 1979.
SC79–1047	Mar. 16, 1979.
SC79–1048	Mar. 16, 1979.
Texas:	
TX79–4035	Sept. 28, 1979.
TX79–4041	Sept. 28, 1979.
TX80–4001	Jan. 4, 1980.
TX80–4003	Jan. 4, 1980.
TX80–4006	Jan. 4, 1980.
TX80–4018	Mar. 14, 1980.
TX80–4028	Apr. 25, 1980.
TX80–4031	June 6, 1980.
TX80–4032	June 6, 1980.
TX80–4034	June 6, 1980.
West Virginia: WV80–3016	May 30, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decision being superseded.

Iowa: IA78–4106 (IA80–4047)	Nov. 24, 1978.
Kentucky:	
KY79–1016 (KY80–1097)	Feb. 2, 1979.
KY79–1023 (KY80–1095)	Feb. 2, 1979.
KY79–1034 (KY80–1094)	Feb. 9, 1979.
KY79–1106 (KY80–1090)	July 6, 1979.
KY79–1143 (KY80–1096)	Nov. 9, 1979.
KY79–1144 (KY80–1098)	Nov. 16, 1979.
KY79–1159 (KY80–1093)	Dec. 7, 1979.
Michigan:	
MI79–2016 (MI80–2066)	May 4, 1979.
MI79–2019 (MI80–2068)	May 4, 1979.
South Carolina: SC79–1124 (SC80–1092)	Sept. 7, 1979.
Tennessee:	
TN79–1007 (TN80–1100)	Jan. 5, 1979.
KY79–1144 (KY80–1098)	Nov. 16, 1979.
Washington: WA78–5103 (WA80–5125)	June 16, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 15th day of August 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

UMI 0 8 2 2 G A 5 4 V

MODIFICATION PAGE 1

DECISION NO. CA80-5117 - Mod. #4
(45 FR 35110 - May 23, 1980)
Imperial, Kern, Los Angeles, Orange, Riverside San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, Calif.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
LABORERS:					
Group 1	$8.98	1.25	2.55	.95	.12

FOOTNOTES:

a. Employer contributes $.23 per hour to Holiday Fund plus $.14 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.34 per hour to Vacation Fund, 5 years but less than 10 years $.44 per hour to Vacation Fund, over 10 years $.54 per hour to Vacation Fund.

Add:					
ELECTRICIANS:					
Vandenberg AFB:					
Electricians	19.50	1.10	3%+1.50		.03
Cable Splicers	21.00	1.10	3%+1.50		.03
LINE CONSTRUCTION:					
Vandenberg AFB:					
Lineman	19.50	1.10	3%+1.50		.03
Cable Splicer	21.00	1.10	3%+1.50		.03
Groundman	15.25	1.10	3%+1.50		

DECISION NO. FL79-1118
Mod. #4
(44 FR 48564 - August 17, 1979)
Pinellas County, Florida

Change:					
Sprinklerfitters	11.36	.75	1.05		.10

MODIFICATION PAGE 2

Decision No. IL79-2053 - Mod. #1
(44 FR 48833 August 24, 1979)
Madison and St. Clair Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Residential and Commerical:					
Residential and Commerical	$12.31	.65	.35		
Spray and Blast	13.76	.65	.35		
Repaint Residential	12.31	.65	.35		
Industrial and Taping:					
Industrial and Taping	13.01	.65	.35		
Spray and Blast	14.01	.65	.35		
Hazardous work, Bridges, Grain Elevators, Radio and TV Towers and Stacks	13.26	.65	.35		
Smoke Stacks, Radio, TV and Electricial Towers 150 Feet or Higher	15.76	.65	.35		

MODIFICATION PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS80-4055, MOD.#1 (45 FR 48411, July 18, 1980) Shawnee County, KANSAS Residential Construction					
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Ironworkers	13.35	.80	1.50		.05
DECISION #KS80-4054, MOD.#1 (45 FR 48409, July 18, 1980) Shawnee County, KANSAS Building construction					
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Ironworkers	13.35	.80	1.50		.05

MODIFICATION PAGE 4

DECISION NO. LA80-4026 - MOD. #3
(45 FR 40438-June 13, 1980)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers - Zone 1	$13.32	.775	.90		.04
Carpenters:					
Zone 5:					
Carpenters & soft floor layers	11.65	.70	.60		.06
Millwrights	12.04	.70	.60		.06
Piledrivermen	11.75	.70	.60		.06
Zone 6:					
Carpenters & soft floor layers	11.485	.70	.60		.06
Millwrights	12.04	.70	.60		.06
Piledrivermen	11.75	.70	.60		.06
Cement masons - Zone 1	11.31				
Zone 2	11.95				
Ironworkers - Zone 1	11.77	.93	.65		.08
Marble, tile & terrazzo workers & finishers:					
Zone 1 - Tile & terrazzo workers	11.45	.40			.10
Painters:					
Zone 1 - Group 1	12.615		.30		
Group 2	12.815		.30		
Group 3	12.96		.30		
Group 4	14.405		.30		
Plasterers - Zone 3	12.62				
Plumbers & pipefitters:					
Zone 2	12.75	.88	.955		.09
Roofers:					
Zone 5 - Roofers	11.38		.20		.04
Kettlemen	7.88		.20		.04
ADD:					
Roofers:					
Zone 2:					
Preparers remove old roofing. place, stock or more materials, tools or equipment for the journeymen	4.55	.45			

MODIFICATION PAGE 5

DECISION NO. LA80-4027 - MOD. #2 (45 FR 40451-June 13, 1980) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters:					
Zone 1 - Group 1	$12.615		.30		
Group 2	12.96		.30		
Group 3	14.405		.30		
DECISION NO. LA80-4039 - MOD. #3 (45 FR 35136-May 23, 1980) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Asbestos workers:					
Calcasieu Parish	13.32	.775	.90		.04
Cement masons:					
Calcasieu Parish	11.95				
Painters:					
Calcasieu Parish:					
Group 1	12.615		.30		
Group 2	12.815		.30		
Group 3	12.96		.30		
Plasterers:					
Calcasieu Parish	12.62				
Roofers:					
Bossier & Caddo Parishes:					
Roofers	11.38		.20		.04
Kettlemen	7.88		.20		.04
Decision No. ME80-2009 - Mod. #1 (44FR 16817 March 14, 1980) York County, Maine					
Change:					
Electricians	$12.65	.75	3%+.25		.02

MODIFICATION PAGE 6

DECISION NO. MA80-2045 MOD#2 (45 FR 45794 - July 7, 1980) Worcester County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS:					
Entire County	12.85	1.15	2.05		.10
MARBLE SETTERS:					
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northbridge, Oakham, Oxford, Paxton, Ruthland, Shrewsburg, Sutton, Upton, Uxbridge, Webster, West Boylston, Westboro and Worcester	11.50	.95	1.35		.02
PAINTERS:					
Remainder of County:					
Brush	12.38	.90	1.65		.04
Steel	14.50	.90	1.65		.04
Sandblasting/Spray	13.38	.90	1.65		.04
Repaint	10.52	.90	1.65		.04
Residential	9.29	.90	1.65		.04
PILEDRIVERMEN	12.80	1.00	1.00		
PLUMBERS:					
Remainder of County	12.08	1.15	.90		.05
SPRINKLER FITTERS	14.28	.85	1.20		.08
TERRAZZO WORKERS and TILE SETTERS:					
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge,					

MODIFICATION PAGE 7

DECISION NO. MA80-2045 MOD #2 (cont.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS and TILE SETTERS: (cont.)					
Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, West Boylston, Westboro and Worcester	11.50	.95	1.35		.02
Hubbardston, Gardner, Phillipston, Petersham, Athol, Royalston and Winchenden	10.90	.85	1.50		

MODIFICATION PAGE 8

DECISION NO. SC79-1016 - MOD. #2 (44 FR 6888 - February 2, 1979) Beaufort, Colleton, Hampton, and Jasper Counties, South Carolina	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Sprinkler fitters	$11.00	.85	1.20		.08
DECISION NO. SC79-1020 - MOD. #2 (44 FR 6888 - February 2, 1979) Chester, Chesterfield, Fairfield, Kershaw, and Lancaster Counties, South Carolina					
Change:					
Sprinkler fitters	11.00	.85	1.20		.08
DECISION NO. SC79-1062 - MOD. #2 (44 FR 20937 - April 6, 1979) Georgetown and Horry Counties, South Carolina					
Change:					
Asbestos Workers	10.65	.55	.50		.02
Boilermakers	11.75	1.275	1.10		.04
Plumbers & Steamfitters:					
Georgetown	10.00	.55	.50		.10
Sprinkler fitters	11.00	.85	1.20		.08

MODIFICATION PAGE 9

DECISION NO. SC79-1130 - MOD. #1 (45 FR 56107 - September 28, 1979) Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties, South Carolina	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT: Hampton County					
CHANGE: Power Equipment Operators: Backhoe	$ 4.38				
DECISION NO. SC79-1047 - Mod. #2 (44 FR 16322 - March 16, 1979) Greenville County, South Carolina					
CHANGE: Ironworkers, structural and ornamental	10.50	.60	.50		.02
DECISION NO. SC79-1048 - MOD. #2 (44 FR 16295 - March 16, 1979) Spartanburg County, South Carolina					
Change: Sprinkler Fitters	11.00	.85	1.20		.08

MODIFICATION PAGE 10

DECISION NO. TX79-4035 - MOD. #5 (44 FR 56108-September 28, 1979) Gregg County, Texas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Carpenters: Carpenters	$10.60				.015
Millwrights	13.25				.015
Piledrivermen	11.10				.015
DECISION NO. TX79-4041 - MOD. #4 (44 FR 56108 - September 28, 1979) Taylor County, Texas					
CHANGE: Plumbers & pipefitters	10.68	.50	.70		.05
DECISION NO. TX80-4001 - MOD. #7 (45 FR 1376-January 4, 1980) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE: Cement masons	11.40				
DECISION NO. TX80-4003 - MOD. #7 (45 FR 1380-January 4, 1980) Jefferson & Orange Cos., Texas					
CHANGE: Asbestos workers: Orange County	13.32	.775	.90		.04

MODIFICATION PAGE 11

DECISION NO. TX80-4006 - MOD. #6 (45 FR 1388-January 4, 1980) Travis County, Texas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Elevator constructors: Mechanics	$11.71	1.195	.95	4%+a+b	.035
Helpers	70%JR	1.195	.95	4%+a+b	.035
Glaziers	10.26		.50		.01
ADD: Roofers: Roofers; deckmen	8.21	.50			
Kettlemen	7.27	.50			
Waterproofer	7.72	.50			
DECISION NO. TX80-4018 - MOD. #2 (45 FR 16828-March 14, 1980) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
CHANGE: Asbestos workers	12.95	.55	1.00		
DECISION NO. TX80-4028 - MOD. #5 (45 FR 28013-April 25, 1980) Galveston & Harris Cos., Texas					
CHANGE: Glaziers	13.39	.67	.875		.03
Marble setters: Galveston County	12.26				
Harris County	12.42	.89	.30		.06
Terrazzo workers: Galveston County	12.26				
Harris County	12.42	.89	.30		.06
Tile setters: Galveston County	12.26				
Harris County	12.42	.89	.30		.06

MODIFICATION PAGE 12

DECISION NO. TX80-4031 - MOD. #3 (45 FR 38250 - June 6, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Building Construction: Bricklayers	$11.50	.70	.55		.03
DECISION NO. TX80-4032 - MOD. #3 (45 FR 38254-June 6, 1980) Bexar County, Texas					
CHANGE: Elevator constructors: Mechanics	12.30	1.195	.95	4%+a+b	.035
Helpers	70%JR	1.195	.95	4%+a+b	.035
Line construction: Lineman	12.73	.60	3%		1/2%
Cable splicer	12.98	.60	3%		1/2%
Groundman	7.00	.60	3%		1/2%
Marble setters	10.52	.57	.30	.25	
Terrazzo workers	10.52	.57	.30	.25	
Tile setters	10.52	.57	.30	.25	
DECISION NO. TX80-4034 - MOD. #3 (45 FR 38255-June 6, 1980) Brazos County, Texas					
CHANGE: Glaziers	13.39	.67	.875		.03

MODIFICATION PAGE 13

DECISION NO. WV80-3016 - Mod. #1
(45 FR 36771 - May 30, 1980)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers and Stone Masons:					
Area 1	14.08	.65	.50		.02
Area 3	13.24	.65	.74		.02
Area 4	13.88	.65			.03
Area 7	11.34	.80	1.00		
Area 8	11.70				
Electricians:					
Area 1					
Wiremen	15.00	.50	3%+.75		.04
Cable Splicers	16.50	.50	3%+.75		.04
Area 2					
Contracts $15,000 or less:					
Wiremen	10.67	.50	3%+.67	.77	.06
Cable Splicers	10.97	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	13.57	.50	3%+.67	.77	.06
Cable Splicers	13.87	.50	3%+.67	.77	.06
Area 3					
Wiremen	11.95	.50	3%+1.00	2.00	.05
Cable Splicers	13.145	.50	3%+1.00	2.00	.05
Area 4					
Wiremen	13.20	.50	3%+1.00	1.25	.04
Cable Splicers	13.45	.50	3%+1.00	1.25	.04
Area 5	15.95	7%	14%		1%
Area 6					
Contracts under $12,000:					
Wiremen	7.40	.50	3%+1.25	1.75	.04
Contracts $12,000 or more:					
Wiremen	12.35	.50	3%+1.25	1.75	.04
Cable Splicers	12.50	.50	3%+1.25	1.75	.04
Area 8					
Wiremen	14.02	.50	3%+1.00	1.00	.04
Cable Splicers	14.73	.50	3%+1.00	1.00	.04
Area 9					
Wiremen	14.52	.50	3%+1.00	1.00	.04
Cable Splicers	15.25	.50	3%+1.00	1.00	.04
Area 10					
Wiremen	14.52	.50	3%+1.00	1.00	.04
Cable Splicers	15.25	.50	3%+1.00	1.00	.04

MODIFICATION PAGE 14

DECISION NO. WV80-3016 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians: (Continued)					
Area 11					
Wiremen	12.40	.80	3%+.70		3/4%
Area 12					
Wiremen	12.40	.80	3%+.70		3/4%
Area 13					
Wiremen	13.20	.80	3%+.70		3/4%
Area 14					
Wiremen	10.86	.50	3%		½%
Cable Splicers	11.26	.50	3%		½%
Area 15					
Contracts $15,000 or less:					
Wiremen	10.97	.50	3%+.67	.77	.06
Cable Splicers	11.27	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	13.87	.50	3%+.67	.77	.06
Cable Splicers	14.17	.50	3%+.67	.77	.06
Area 16					
Contracts $15,000 or less:					
Wiremen	11.17	.50	3%+.67	.77	.06
Cable Splicers	11.47	.50	3%+.67	.77	.06
Contracts over $15,000:					
Wiremen	14.07	.50	3%+.67	.77	.06
Cable Splicers	14.37	.50	3%+.67	.77	.06
Area 17					
Contracts under $30,000:					
Wiremen	6.95	.50	3%		3/4%
Contracts $30,000 or more:					
Wiremen	10.95	.50	3%		3/4%
Ironworkers:					
Area 1	13.14	1.00	1.60		.09
Area 2	13.47	.90	2.10		.05
Area 3	12.95	1.00	1.60		.03
Line Construction					
Area 1					
Linemen	15.08	.70	3%+.50	.90	
Cable Splicers and Lineman Welder	16.59	.70	3%+.50	.90	

MODIFICATION PAGE 15

DECISION NO. WV80-3016 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Area 1 (Continued):					
Mechanized Equipment					
Operator	12.06	.70	3%+.50	.90	
Groundmen	9.80	.70	3% + .50	.90	
Area 2					
Linemen and all mechanized equipment operators	13.47	.70	3%+.67	.77	
Cable Splicers	13.77	.70	3%+.67	.77	
Groundmen	10.77	.70	3%+.67	.77	
Area 4					
Linemen and Equipment operators	11.95	.50	3%+1.00	2.00	
Cable Splicers	13.145	.50	3%+1.00	2.00	
Groundmen and Truck Drivers	9.56	.50	3%+1.00	2.00	
Area 5					
Linemen and Equipment Operators	13.20	.50	3%+1.00	1.25	
Cable Splicers	13.45	.50	3%+1.00	1.25	
Groundmen	10.56	.50	3%+1.00	1.25	
Area 6					
Linemen, Equipment Operators, and Truck Drivers	14.50	7%	14%	10%	
Cable Splicers	16.00	7%	14%	10%	
Groundmen	10.08	7%	14%	10%	
Area 7					
Linemen and Operators (All mechanized equipment)	12.35	.50	3%+1.25	1.75	
Cable Splicers	13.585	.50	3%+1.25	1.75	
Groundmen	9.88	.50	3%+1.25	1.75	
Area 8					
Linemen	12.40	.80	3%+.70		
Equipment Operators	11.78	.80	3%+.70		
Truck Drivers and Groundmen	8.06	.80	3%+.70		
Area 9					
Linemen	12.40	.80	3%+.70		
Equipment Operators	11.78	.80	3%+.70		
Truck Drivers and Groundmen	8.06	.80	3%+.70		

MODIFICATION PAGE 16

DECISION NO. WV80-3016 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction: (Continued)					
Area 10					
Linemen	13.20	.80	3%+.70		
Equipment Operators	12.58	.80	3%+.70		
Truck Drivers and Groundmen	8.86	.80	3%+.70		
Area 12					
Linemen and Operators (all mechanized equipment)	13.77	.70	3%+.67	.77	
Cable Splicers	14.07	.70	3%+.67	.77	
Groundmen	11.01	.70	3%+.67	.77	
Area 13					
Linemen and Operators (all mechanized equipment)	13.97	.70	3%+.67	.77	
Cable Splicers	14.27	.70	3%+.67	.77	
Groundmen	11.17	.70	3%+.67	.77	
Painters:					
Area 1					
Painters:					
An area within 50 miles of Huntington, W.V.	10.65	.45	.35		.02
An area beyond 50 miles of Huntington, W.V.	12.11	.45	.35		.02
Bridge and Hazardous work (include towers, smoke stacks, flag poles, and tanks):					
An area within 50 miles of Huntington, W.V.	12.77	.45	.35		.02
An area beyond 50 miles of Huntington, W.V.	14.23	.45	.35		.02
Area 3					
Painters	12.25		.50		
Structural Steel after erection	13.45		.50		
Bridge painting	13.35		.50		
Towers, tanks, and stacks	13.90		.50		
Sandblasting	14.55		.50		
Repainting of industrial and structural steel	12.65		.50		
Sprayers shall receive an additional $2.00 per hour above the aforementioned applicable rates					

MODIFICATION PAGE 17

DECISION NO. WV80-3016 (Con't)

	New Basic Hourly Rates	Repaint Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: (Continued)						
Area 5						
Brush	10.70	9.74	.55			
Air Compressor Operator	10.70	9.74	.55			
Roller, Spray, Dipping, and Mitten Work	11.13	10.16	.55			
Water Blasters, Steam jenny, nozzle men, swinging scaffold and boatswain chair, window belt and window jack work	11.68	11.03	.55			
Brush painters on Bridge, Needle Beam, Cable Work, Power Tool Work, Brush and Flame Cleaning	12.12	11.53	.55			
Sandblasting	12.49	11.91	.55			
All stacks, vent pipes, flag poles in excess of 30 feet high, all towers, elevated tanks, electrical switch yards, transformer banks, and television towers	13.60	13.10	.55			
Spray painter or sandblaster on bridges needle beam cable work	12.12	11.53	.55			

MODIFICATION PAGE 18

DECISION NO. WV80-3016 (Con't)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: (Continued)					
Area 6					
Brush & Roller	11.02	.65	.60		.02
Glove	11.27	.65	.60		.02
Spray, Sandblasting, and steam cleaning	12.02	.65	.60		.02
Height over 40 feet - Brush	11.52	.65	.60		.02
Locks and Dams - Brush	12.10	.65	.60		.02
Towers - Brush	13.34	.65	.60		.02
Elevated Tanks over 35' - Brush & Roller	13.34	.65	.60		.02
Standpipe tanks over 35 feet - Brush and Roller, Powerline towers - Brush, flagpoles over 40 feet - Brush, and Substations - Brush	13.34	.65	.60		.02
Railroad & Highway Bridges:					
Brush	12.34	.65	.60		.02
Spray and Sandblasting	13.34	.65	.60		.02
Glove and Roller	12.59	.65	.60		.02
Plumbers and Pipefitters:					
Area 1	12.48	.75	1.00	1.248	.04
Area 2	12.73	.75	1.00	1.273	.04
Area 3	12.98	.75	1.00	1.298	.04
Area 4	13.23	.75	1.00	1.323	.04
Area 5	12.59	.75	1.13	1.26	.05
Area 7	13.53	.50	1.00		
Area 8					
Zone 1	13.77	.60	1.95		.02
Zone 2	13.97	.60	1.95		.02
Zone 3	14.17	.60	1.95		.02
Zone 4	14.42	.60	1.95		.02
Area 9					
Contracts $75,000 or less	8.55	.67	.80		.09
Contracts over $75,000	13.06	.67	.80		.09
Area 10	14.25	.65	.80		.05

SUPERSEDEAS DECISION

Page 2

STATE: Iowa COUNTY: Linn
DECISION NO. IA80-4047 DATE: Date of Publication
Supersedes Decision No. IA78-4106, dated Nov. 24, 1978 in 43 FR 55169
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	13.81		.55		.02
CARPENTERS:					
Carpenters	12.50	.55	.55		.08
Millwrights	14.00	.65	1.30		.25
Piledrivermen	13.00	.55	.55		.08
CEMENT MASONS	11.84	.45			
ELECTRICIANS	14.07	.65	3%+1.00		3/4%
ELEVATOR CONSTRUCTORS	12.065	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.045	.82	a	.035
GLAZIERS	12.86	.75	1.00		.02
IRONWORKERS	13.50	.58	.75		.06
LABORERS:					
GROUP 1 - Common Laborers	10.77	.40	.80		.05
GROUP 2 - Machine Rock Drills, Vibrators, Air, Electric or gasoline powered jack hammers, tampers, chipping hammers, power driven buggies, cutting torches, chain saws, sewer tile layers, mason mortar makers	11.12	.40	.80		.05
LATHERS	12.57				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technician; All rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	b	1/2%
GROUP 2 - Groundmen; Truck driver (without winch); Experienced (not less than 6 months)	7.77	.45	7%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	7.89	.45	7%	b	1/2%

DECISION NO. IA80-4047

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (cont'd):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 9.57	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 months	6.58	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	12.82				.03
Paperhangers	13.07				.03
Sandblasting; Spraying	13.47				.03
PLASTERERS	13.77				
PLUMBERS & STEAMFITTERS	14.35	.60	.70		.13
ROOFERS	10.30				
SHEET METAL WORKERS	13.65		.88		.06
SOFT FLOOR LAYERS	12.50	.55	.55		.06
SPRINKLER FITTERS	14.10	.85	1.20		.08
TILE SETTERS	12.98		.55		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES
a - Employer contributes 8% of basic hourly rate for over 5 years' service; 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Paid Holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

UMI 0 8 2 2 G A 5 4 V

DECISION NO. IA80-4047

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Fayette
DECISION NUMBER: KY80-1097 DATE: Date of Publication
Supersedes Decision Number: KY79-1018, dated February 2, 1979, in 44 FR 6866
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	.60	.25		
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	12.45	.45	.50		
CARPENTERS & SOFT FLOOR LAYERS	12.40	.70	.70		.05
CEMENT MASONS	12.20				
ELECTRICIANS	14.20	.45	3%+.50		.01
ELEVATORS CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a + b	.035
Helpers	9.53	1.195	.82	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	13.25				
IRONWORKERS	12.75	1.70	1.60		.06
LATHERS	11.65		.10		
LINE CONSTRUCTION:					
Linemen & equipment operators	14.70	.60	3%		½ of 1%
Cable splicers	14.95	.60	3%		½ of 1%
Groundman-truck drivers	11.76	.60	3%		½ of 1%
Groundmon	11.03	.60	3%		½ of 1%
MARBLE, TILE, & TERRAZZO WORKERS	10.85	.45	.50		.01
MILLWRIGHTS & PILEDRIVERMEN	12.90	.70	.70		
PAINTERS:					
Brush, drywall finishers, paperhangers	9.90	.45			
Steeple jack work, window jack work, work in enclosed buildings over 35' in height above permanent working floor area, steam cleaning	10.30	.45			
Sandblasting & spray	10.55	.45			
PLASTERERS	9.65				
PLUMBERS & PIPEFITTERS	13.85	1.05	1.00		.05
ROOFERS	9.90	.75			.02
SHEET METAL WORKERS	12.88	1.563	1.47		.16
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. KY80-1097

FOOTNOTES:
a. Seven Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.
b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.
c. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.30	.40	.70		
GROUP II	9.70	.40	.70		
GROUP III	9.90	.40	.70		
GROUP IV	10.00	.40	.70		
GROUP V	10.50	.40	.70		
GROUP VI	10.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air), sand hog or mucker (pressure or free air).

DECISION NO. KY80-1097

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Boyd
DECISION NUMBER: KY80-1095 DATE: Date of Publication
Supersedes Decision Number: KY79-1023, dated February 2, 1979, in 44 FR 6874
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.15	.50	.70		.03
BOILERMAKERS	11.70	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	13.48	.45	.50		
CARPENTERS	12.70	.75	1.25		.05
CEMENT MASONS	11.92		.60		
ELECTRICIANS:					
Wiremen	14.02	.50	3%+1.00	1.00	.04
Cable splicers	14.73	.50	3%+1.00	1.02	.04
ELEVATOR CONSTRUCTORS:					
Mechanics	12.95	1.045	.69	8%+a+b	.025
Helpers	9.065	1.045	.69	8%+a+b	.025
GLAZIERS	11.30		.80		
IRONWORKERS - Structural, Ornamental & Reinforcing	11.92	.90	1.20		.01
LATHERS	11.725		.10		
LINE CONSTRUCTION:					
Linemen	15.08	.70	3%+.50	.90	
Cable splicers	16.59	.70	3%+.50	.90	
Groundmen	9.80	.70	3%+.50	.90	
Mechanical equipment operator	12.06	.70	3%+.50	.90	
MILLWRIGHTS	10.79	.40	.37		.03
PAINTERS:					
Brush & paperhanging, roller, drywall, saping, spray, steamcleaning, mittens or rags, sandblasting, drywall machine operator	11.64		1.00		.06
PILEDRIVERMEN	13.03	.75	1.25		.05
PLASTERERS	11.92		.60		
PLUMBERS & PIPEFITTERS:					
Area 1 - Within a 5 mile radius of 17th St. and Winchester Ave., Ashland	13.22	.90	1.30	1.00	
Area 2 - over 5 miles and within a 15 mile radius of 17th St. and Winchester Ave., Ashland	13.42	.90	1.30	1.00	
Area 3 - over 15 miles and within a 30 mile radius of 17th St. and Winchester Ave., Ashland	13.62	.90	1.30	1.00	

DECISION NO. KY80-1095

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS (cont'd)					
Area 4 - over a 30 mile radius of 17th St. and Winchester Ave., Ashland	13.72	.90	1.30	1.00	
ROOFERS:					
New construction	13.50		.65		
Re-roofing	9.30		.65		.095
SHEET METAL WORKERS	12.56	1.20	.825		
SOFT FLOOR LAYERS	10.67	.55	1.00		.03
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					
LABORERS:					
GROUP 1	10.59	.35	.47		
GROUP 2	10.74	.35	.47		
GROUP 3	10.76	.35	.47		
GROUP 4	10.79	.35	.47		
GROUP 5	10.84	.35	.47		
GROUP 6	11.09	.35	.47		
GROUP 7	11.29	.35	.47		
GROUP 8	11.79	.35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Laborers, carpenter tenders, cement finisher tenders, concrete men, wrickers and wall men, flag men and water boys, handling of empty oxygen and acetylene bottles

GROUP 2 - Hod carriers and mortar men, lather and plaster tenders

GROUP 3 - Wrapping, hoating, and applying hot and cold tar on all pipes, applying tape on pipes and operating of tester

GROUP 4 - Deck hand and scow men

DECISION NO. KY80-1095

LABORERS' CLASSIFICATIONS DEFINITIONS (cont'd)

GROUP 5 - Jackhammer and electrical, gas or air power driven tools, burning torch wagon, drill operators and tile layers, handling of all creosote material, signal men, and asphalt rakers

GROUP 6 - Rock and powder men

GROUP 7 - Sand hog or mucker, and tunnel miners

GROUP 8 - Caisson workers

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

DECISION NO. KY80-1095

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (Cont'd)

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.77	d	e		
Group 2	9.87	d	e		
Group 3	10.02	d	e		
Group 4	10.07	d	e		
Group 5	10.12	d	e		
Group 6	10.17	d	e		
Group 7	10.42	d	e		

UMI 0 8 2 2 G A 5 4 V

DECISION NO. KY80-1095

TRUCK DRIVERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 -Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flat-body material trucks (straight jobs), greasers, washers, tiremen, dump trucks (up to 5 cu. yds.)
GROUP 2 - Tank trucks (straight)
GROUP 3 - Dump trucks (5 cu. yds. or over), semi-dump trucks, semi-trailers (whether flat, rack or pole and hauled or pushed by trucks or tractors), agitator or mixer trucks (up to 5 cu. yds.), tank trucks (semi)
GROUP 4 - Lowboy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck cranes, monirail trucks
GROUP 5 - Material checkers & receivers, mechanics helpers
GROUP 6 - Agitator or mixer trucks (5 cu. yds. and over)
GROUP 7 - Tri-axle dump trucks, hydraulic lifts, tailgate trucks, farm type tractors, ross carriers, athey wagons or similar equipment, A-frame, hydro-lifts, dual purpose trucks, end dumpsters, mechanics

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, 6% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes $93.17 per month per employee employed 30 days or more.

e. Employer contributes $60.67 per month per employee employed 30 days or more.

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Henderson
DECISION NO: KY80-1094 DATE: Date of Publication
Supersedes Decision Number: KY79-1034, dtd. Feb. 9, 1979, 44 FR 8504
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.61	.65	1.00		.03
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, PLASTERERS, TILE SETTERS, & TERRAZZO WORKERS	10.99	.45	.40		
CARPENTERS	12.27	.70	1.00		
CEMENT MASONS	12.30	.85	.65		
ELECTRICIANS:					
Wiremen	13.28	.50	3%		1/8 of 1%
Cable splicers	13.53	.50	3%		1/8 of 1%
GLAZIERS	10.905	.48	.50	.25	
IRONWORKERS:					
Structural, Ornamental, & Reinforcing	10.22	.55	.75		.025
MILLWRIGHTS	12.29	.60	.90		
PILEDRIVERMEN	12.52	.70	1.00		
PAINTERS:					
Brush & Rollers	11.90	.80	.40		
Drywall tapers, Paperhangers	12.15	.80	.40		
Sandblasters, Power tools, Spray	12.90	.80	.40		
PLUMBERS & PIPEFITTERS	14.98	.85	1.05		.05
ROOFERS	12.28	.75	.70		
SHEET METAL WORKERS	12.97	.55	.55		.03
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY80-1094

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP A	$ 9.90	.85	.75		.09
GROUP B	10.10	.85	.75		.09
GROUP C	10.20	.85	.75		.09
GROUP D	10.90	.85	.75		.09

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP A
Building & Construction Laborers, Scaffold Builders other than for Mason or Plasterers, Ironworkers' Helpers, Mechanic Helpers, Mechanic Tenders, Window Washers & Cleaners, Roofers' Helpers, Railroad Laborer, Masonary Wall Washers (interior & exterior), Cement Finishers' Helpers, Carpenters Helper; all portable water pumps with discharge up to 3".

GROUP B
Waterproofing Handling of Creosote Lumber on like treated material (excluding railroad material), Asphalt Rakers & Lutemen, Kettlemen, Air Tool Operating, Vibrators, Chipping Hammer Operator, Jackmen & Sheeting Men Working in ditches 6' in depth or deeper, assembly of Unicrete Pump, Chain Saw Operators, Tile Layers (sewer or field), Sewer Pipe Layers (metallic & non-metallic), Motor-driven Wheelbarrows & Concrete Buggies, Hyster Opera-pump Crete Assemblers, Conveyors Assemblers, Core Drill Operators, Cement, Lime, or Silica Clay Handlers (bulk or bag), Pneumatic Spikers, Deck, Engine & Winch Operator, Water Main & Cable Dumking (metallic & non-metallic)

GROUP C
Plaster Tenders, Mortar Mixers, Welders (acetylene or electric), Cutting Torch or Burner, Cement Nozzle Laborers, Cement Gun Operator, Scaffold Builders when working for Plasterer or Masons, Mason Tenders.

GROUP D
Dynamite Men

DECISION NO. KY80-1094

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

UMI 0 8 2 2 G A 5 4 V

Page 4

DECISION NO. KY80-1094

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.29	.35	.35		
GROUP 2	7.41	.35	.35		
GROUP 3	7.52	.35	.35		
GROUP 4	7.60	.35	.35		
GROUP 5	7.64	.35	.35		
GROUP 6	7.35	.35	.35		
GROUP 7	7.47	.35	.35		
GROUP 8	7.11	.35	.35		
GROUP 9	7.19	.35	.35		

TRUCK DRIVERS' CLASSIFICATIONS DEFINITIONS

GROUP 1
Single axle straight truck, wet or dry, over 3(34E) batches
GROUP 2
Tandem trucks or dog-legs, trucks over 15 ton payload, single-axle semi-truck (3-axle unit), Low-boys single axle (3-axle unit), Winch trucks or A-frames when used to transport material; Batch truck wet or dry, over 3(34E) batches, farm tractors pulling trailers
GROUP 3
Tandem axle semi-trucks (4-axle unit), drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment 12 cu. yds. & under; Low-Boys, Tandem axle (4 axle unit), drivers on pavement breakers
GROUP 4
Tandem-Tandem Semi-Trucks (5-axle unit Low Boys Tandem (5 axle unit)
GROUP 5
Drivers on equipment when not self-loaded or pusher loaded on such Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment over 12 cu. yds., Truck Mechanic Drivers on mixer trucks all types
GROUP 6
Drivers on bituminous distributors two-man
GROUP 7
Drivers on bituminous distributors one-man
GROUP 8
Drivers of pickup trucks when hauling equipment, supplies, & material to & from & on the job site
GROUP 9
Helpers, Greasers, Tire Men & Members tenders batch boards

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: Hardin, Jefferson, & Meade

DECISION NUMBER: KY80-1090 DATE: Date of Publication
Supersedes Decision Number: KY79-1108, dated July 6, 1979, in 44 FR 39905
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	.60	1.25		
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	11.44	.50	.40		.01
CARPENTERS	10.75	.55	.55		.05
CEMENT MASONS	10.94	1.00	.70		.08
ELECTRICIANS	15.10	.75	3%+1.25		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a + b	.035
Helpers	9.53	1.195	.82	a + b	.035
GLAZIERS	8.90	.35	.45		
IRONWORKERS:					
Structural, ornamental, reinforcing, riggers, fence erectors, sheeters, machinery movers, and conveyormen	12.75	1.70	1.60		.06
LATHERS	11.79		.20		.01
LINE CONSTRUCTION:					
Linemen, line truck operators & hole diggers	13.30	.50	3%+.60		½ of 1%
Groundmen	8.246	.50	3%+.60		½ of 1%
MARBLE MASONS	11.10	.50	.40		
MARBLE FINISHERS	9.65				
MILLWRIGHTS	13.85	.70	.85		.05
PAINTERS:					
AREA 1 - 35 mile radius from the Jefferson County Courthouse, Louisville, KY.:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging;	10.41	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack work over 50' in height	10.76	.35	.20		.03
Spray	10.86	.35	.20		.03

Page 2

DECISION NO. KY80-1090

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd):					
AREA 1					
REPAINT WORK:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging	$ 9.72	.35	.20		.03
Spray	9.64	.35	.20		.03
AREA 2 - over a 35 mile radius from the Jefferson County Courthouse, Louisville, KY.:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging	10.76	.45	.40		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack over 50' in height	11.11	.45	.40		.03
Spray	11.21	.45	.40		.03
REPAINT WORK:					
Brush, roller, drywall painting, taping, & finishing, and paperhanging	10.07	.45	.40		.03
Spray	10.52	.45	.40		.03
PILEDRIVERMEN	11.00	.55	.55		.05
PLASTERERS	11.85				.02
PLUMBERS & PIPEFITTERS:					
AREA 1 - Jefferson County:					
Plumbers	14.42	1.05	1.40	.77	.15
Pipefitters	14.56	.80	1.55		.11
AREA 2 - Hardin (northern portion of county up to but not including Elizabethtown) and Meade Counties:					
Plumbers	14.92	1.05	1.40	.77	.15
Pipefitters	15.06	.80	1.55		.11

Page 3

DECISION NO. KY80-1090

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd):					
AREA 3					
Hardin (remainder of County) County:					
Plumbers	$15.17	1.05	1.40	.77	.15
Pipefitters	15.31	.80	1.55		.11
ROOFERS:					
Roofers	8.80	.65	.45		
Slab, tile, & precast concrete slab	9.20	.65	.45		
SHEET METAL WORKERS	12.88	1.563	1.47		.15
SOFT FLOOR LAYERS	10.75	.55	.55		.05
SPRINKLER FITTERS	14.30	.85	1.20		.08
TERRAZZO WORKERS	11.10	.50	.40		
TERRAZZO FINISHERS	9.65				
TILE LAYERS	11.10	.55	.55		
TILE FINISHERS	9.65				
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					
TRUCK DRIVERS:					
Truck helper & warehousemen;	8.86	.525c	.50c	d	
Driver, 3 tons and under, greaser, tire changer and mechanic helper;	8.98	.525c	.50c	d	
Driver, over 3 tons, semi-trailer or pole trailer, dump trucks, tandem axle, farm tractor when used to pull building material or equipment;	9.09	.525c	.50c	d	
Driver, concrete mixer trucks (all types, hauling only on jobsites);	9.16	.525c	.50c	d	
Driver, Euclid & other heavy earth moving equipment and low-boy, winch truck and A-frame & monorail truck when used to transport building materials	9.26	.525c	.50c	d	

DECISION NO. KY80-1090

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.30	.35	.60		
Group 2	8.50	.35	.60		
Group 3	8.65	.35	.60		
Group 4	8.80	.35	.60		
Group 5	9.50	.35	.60		
Group 6	7.60	.35	.60		

LABORERS' CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers, mobile sweepers

Group 2 - Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air, diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker

Group 3 - Air track driller, mason tender, side rail setter (metal), stackman

Group 4 - Powderman, introflax burning rod, gunnite nozzle man operator, sewer & tunnel laborers (free air), sand hog or mucker (free air)

Group 5 - Holeman drilled, piers, augured caissons, sand miner (tunnel free air), caisson wurkers

Group 6 - Traffic flagman

DECISION NO. KY80-1090

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

DECISION NO. KY80-1090

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to five years of service as Vacation Pay Credit.

c. Employer contribution to employees whose names appear on the payroll and have been employed a minimum of 20 work days within any 90 consecutive day period.

d. Vacation and pay equal to 40 hours to any employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year.

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Franklin
DECISION NUMBER: KY80-1096 DATE: Date of Publication
Supersedes Decision Number: KY79-1143, dtd. Nov. 9, 1979, 44 FR 65308
DESCRIPTION OF WORK: BUILDING PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	.60	1.25		
BOILERMAKERS	13.20	1.27	1.20		.04
BRICKLAYERS & STONEMASONS	12.45	.45	.50		
CARPENTERS & SOFT FLOOR LAYERS	12.40	.70	.70		.05
CEMENT MASONS	12.20				
ELECTRICIANS	14.35	.45	3%+.50		.01
ELEVATOR CONSTRUCTORS:					
Mechanics	13.62	1.195	.82	a + b	.035
Helpers	9.53	1.045	.69	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	13.25				
IRONWORKERS	12.75	1.70	1.60		.06
LATHERS	11.65		.10		
LINE CONSTRUCTION:					
Linemen & equipment operators	14.70	.60	3%		½ of 1%
Cable splicers	14.95	.60	3%		½ of 1%
Groundmen-truck drivers	11.76	.60	3%		½ of 1%
Groundmen	11.03	.60	3%•		½ of 1%
MARBLE, TILE, TERRAZZO WORKERS	10.85	.45	.50		.01
MILLWRIGHTS & PILEDRIVERMEN	12.90	.70	.70		.05
PAINTERS:					
Brush, drywall finishers, paperhangers	10.15	.45			
Steeple jack work, window jack work, work in enclosed buildings over 35' in height from permanent work floor area, steam cleaning	10.65	.45			
Sandblasting & spraying	10.90	.45			
PLASTERERS	9.65				
PLUMBERS & PIPEFITTERS:					
Western 3/4 of County, including the City of Frankfort:					
Plumbers	15.17	1.05	1.40		.15
Pipefitters	16.21	.85	1.59		.12
Remainder of County	14.60	1.05	1.00		.05

DECISION NO. KY80-1096

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$ 8.80	.65	.45		
Slate, tile, & precast concrete slab	9.20	.65	.45		
SHEET METAL WORKERS	12.88	1.563	1.47		.16
SPRINKLER FITTERS	14.30	.85	1.20		.08
WELDERS - Rate for craft					

FOOTNOTES:

a. Seven Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

c. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

LABORERS:					
GROUP I	9.30	.35	.47		
GROUP II	9.70	.35	.47		
GROUP III	9.90	.35	.47		
GROUP IV	10.00	.35	.47		
GROUP V	10.50	.35	.47		
GROUP VI	10.80	.35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

DECISION NO, KY80-1096

LABORERS' CLASSIFICATIONS DEFINITIONS (cont'd)

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air), sand hog or mucker (pressure or free air).

POWER EQUIPEMNT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

DECISION NO. KY80-1096

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATES: Kentucky & Tennessee

LOCATION: Fort Campbell (located in Christian County, Ky. and Montgomery County, Tn.)

DECISION NUMBER: KY80-1098

DATE: Date of Publication

Supersedes Decision Number: KY79-1144, dated November 16, 1979, in 44 FR 66137

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.70	.75	1.25		.05
BOILERMAKERS	13.20	1.275	1.20		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, CEMENT MASONS, & PLASTERERS	10.45	.45	.40		
CARPENTERS & SOFT FLOOR LAYERS	11.50	.45	.25		.02
ELECTRICIANS:					
Wiremen:					
Kentucky portion	12.65	.50	13%		½ of 1%
Tennessee portion	12.40	.60	3%		½ of 1%
Cable splicers:					
Kentucky portion	12.90	.50	13%		½ of 1%
Tennessee portion	12.65	.60	3%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.81	1.195	.82	a + b	.035
Helpers	7.57		.82	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	10.50	.60	.50	c	.02
IRONWORKERS	12.20	.80	.80		.12
LATHERS	10.20		.30	.90	.01
MILLWRIGHTS & PILEDRIVERMEN	12.00	.45	.25		.07
PAINTERS:					
Brush & roller	10.45	.40	.60		.10
Spray work, drywall finishing	10.70	.40	.60		.10
Structural steel, swing stage, & chair, & motor stage	10.80	.40	.60		.10
Paperhangers	10.95	.40	.60		.10
Sandblasting	11.20	.40	.60		.10
PLUMBERS & PIPEFITTERS	12.14	.75	.80		.07
ROOFERS	9.25	.60	.45	.26	
SHEET METAL WORKERS	13.00	.53	.32		.07
SPRINKLER FITTERS:					
Kentucky portion	14.30	.85	1.20		.08
Tennessee portion	11.94	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

UMI 08 22 GA 54V

DECISION NO. KY80-1098

FOOTNOTES:
a. Seven Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.
b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.
c. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.30	.40	.70		
Group 2	8.45	.40	.70		
Group 3	8.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete pudlers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riprap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; doping and wrapping; swampers and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardner; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

DECISION NO. KY80-1098

POWER EQUIPMENT OPERATORS: (Kentucky portion)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.60	.50	.80		.05
CLASS B	8.86	.50	.80		.05
CLASS C	8.09	.50	.80		.05

POWER EQUIPMENT OPERATORS' CLASSIFICATION DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevation grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), Hydorcrane, backfiller, gurries, subgrader.

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap, and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

DECISION NO. KY80-1098

POWER EQUIPMENT OPERATORS: (Tennessee Portion)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$10.98	.50	.50		.20
CLASS B	10.36	.50	.50		.20
CLASS C	9.73	.50	.50		.20
CLASS D	9.23	.50	.50		.20

CLASS A: Shovels, backhoes, draglines, cranes, derricks, gantreys, graddall, winches with boom, motor patrol, trenching machines (18" or over), pile driver, tug boat operator, mechanic, forklift, central mixing plant, locomotive engineers, straddle carrier, core drills, tower cranes, hydro-cranes, austin western and all similar type cranes, drilling of piling (all types), tugger, hoist more than one drum, earth freezing equipment, sideboom, dredge operator & engineer, hopto, pump crete, mucking machine, cableway, finishing machine, central compressor, derrick boat, concrete pump, welders, helicopters, de-watering system (all types) sweeper, bulldozers, pans, pulls, scrapers, traxcavators, front end loaders, concrete placing machines, two tower cranes requiring three operators.

CLASS B: Trenching machines (18" or smaller), tandem rollers, pavers, mixer mobiles, backfillers, blade graders, dinkey operators, elevating graders, winches operated from trucks and tractors without booms, distributors bituminous surfaces, hoist (1) drum, mixers, grout pumps, motor boat, switchman, brake man, elevator earth compactors, tractors, conveyors.

CLASS C: Locomotive fireman on boilers, air compressor (stationary), earth drills, scale operators, motor crane driver and oiler, pumps 4" and larger, oilers on gantreys, greasers, drill helpers.

CLASS D: Air compressor, mechanic helper, firemen (low pressure pumps under 4"), oilers, welding machine operators, deckhand.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: Boone, Campbell, Kenton, & Pendleton

DECISION NUMBER: KY80-1093 DATE: Date of Publication

Supersedes Decision Number: KY79-1159, dated December 7, 1979, in 44 FR 70635

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.16	.75	1.25		.02
BOILERMAKERS	11.70	1.275	1.20		.04
BRICKLAYERS & STONE MASONS	13.595	.65	.45		.02
CARPENTERS	14.30	.90	1.10		.075
CEMENT MASONS	14.23	.90	.95		.38
ELECTRICIANS	14.10	.70	3%+.80		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	14.32	1.195	.82	a + b	.035
Helpers	10.02	1.195	.82	a + b	.035
Probationary Helpers	50%JR				
GLAZIERS	14.10		.60		.01
IRONWORKERS:					
Reinforcing	14.33	1.00	1.60		.02
Structural & Ornamental	14.08	1.00	1.60		.03
LATHERS	14.02	-	.35		.025
LINE CONSTRUCTION:					
Linemen & machine operators	13.90	.70	3%+.60		½ of 1%
Groundmen	10.41	.70	3%+.60		½ of 1%
MARBLE SETTERS	13.435	.65	.45		
MARBLE SETTER FINISHERS	12.35				
MILLWRIGHTS	14.84	.60	1.10		.10
PAINTERS:					
Brush, roller, taping, paperhanging, wall covering, & washing	14.70				
Steamcleaning (40' or over	14.85		.35		
Taping (on stilts)	15.10		.35		
Spray	15.20		.35		
Sand & water blasting	15.60		.35		
Drywall machine operators	15.70		.35		
PILEDRIVERMEN	14.30	.90	1.10		.075
PIPEFITTERS	14.60	1.025	1.90		.08
PLASTERERS	14.895		1.00		.02
PLUMBERS & GAS FITTERS	13.82	1.05	1.20		.07
RESILIENT FLOOR LAYERS	11.50	.75	.85		.05
ROOFERS	15.47		1.20		.02
SHEET METAL WORKERS:					
Pendleton County	12.88	1.563	1.47		.16
Remaining Counties	13.835	1.06	.85		.06
SPRINKLER FITTERS	14.30	.85	1.20		.08

Page 2

DECISION NO. KY80-1093

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$13.385	.65	.45		
TERRAZZO FINISHERS	12.35				
TILE SETTERS	13.385	.65	.45		
TILE FINISHERS	12.35				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for 5 years or more of service, or 6% of the basic hourly rate for 6 months to five years of service as Vacation Pay Credit.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

Page 3

DECISION NO. KY80-1093

LABORERS - Boone, Campbell, & Kenton Counties:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group A	$12.35	.80	.80		.10
Group B	12.45	.80	.80		.10
Group C	12.50	.80	.80		.10
Group D	12.55	.80	.80		.10
Group E	12.70	.80	.80		.10
Group F	12.85	.80	.80		.10
Group G	13.10	.80	.80		.10

LABORERS' CLASSIFICATIONS DEFINITIONS

Group A - Common laborers, cement masons tenders, hand operated mechanical sweeper, signal man

Group B - Bottom man, pipe layers

Group C - Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man

Group D - Plaster tender, mason tender, stone mason tender, bottom jackhammer man

Group E - Plaster mixer pump operator

Group F - Tunnel laborer

Group G - Gunnite nozzle operator

Page 4

DECISION NO. KY80-1093

LABORERS - Pendleton County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.30	.40	.70		
GROUP II	9.70	.40	.70		
GROUP III	9.90	.40	.70		
GROUP IV	10.00	.40	.70		
GROUP V	10.50	.40	.70		
GROUP VI	10.80	.40	.70		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheeting and shoring, signalman for concrete bucket, and general cleaning.

GROUP II - All air tool operators, air track drills, asphalt rakers, barco tampers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia Buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

GROUP III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

GROUP IV - Powderman and Blaster.

GROUP V - Caisson holes (6 ft. & over) pressure and free air including tools

GROUP VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air), sand hog or mucker (pressure or free air).

Page 5

DECISION NO. KY80-1093

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$13.94	1.11	1.25		.11
GROUP B	13.82	1.11	1.25		.11
GROUP C	12.78	1.11	1.25		.11
GROUP D	12.35	1.11	1.25		.11
GROUP E	9.49	1.11	1.25		.11

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS

CLASS A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer & tower, concrete plants (over 4 yds. capacity), concrete pumps, cranes (all types, including A-frame, boom truck, cherry picker), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator hoist or winch), hoes (all types), hoisting engines or shaft or tunnel work, hoisting engines, industrial type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator class A mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), Rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shedder, trench machines (over 24" wide), truck mounted concrete pumps tug boat, tunnel machine, wheel excavator.

CLASS B - Asphalt paver, automatic subgrader machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - Dirt), lead grease man, maintenance operators Class B, power grader, power scoops & scrapers, push cat, trench machines (24" wide & under).

CLASS C - Air compressors on tunnel work (low pressure), asphalt plant, locomotive (narrow gauge), mixers, concrete (more than 1 bag capacity), mixers, side loader (1 bag capacity), power boilers over 15 lbs. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers (asphalt, utility operator - small equipment), welding machines & generators.

UMI 0 8 2 2 G A 5 4 V

DECISION NO. KY80-1093

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (cont'd)

CLASS D - Backfillers, bar, joint & mesh installing machines, batch plant bull floats, burlap & curing machines, compressors (portable - sewer, heavy & highway), concrete plant (capacity 4 yds. & under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway with integral power), farm type tractors with attachment (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenches, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled sub-graders, steam fireman, survey instrument man, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breaker.

CLASS E - Drum fireman (asphalt plant, helpers, inboard-outboard motor boat-launch, oil heaters (asphalt plants), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen.

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION No. MI80-2066 DATE: Date of Publication
Supersedes Decision No. MI79-2016, dated May 4, 1979 in 44 FR 26450
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction Projects.

COUNTIES: Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac Shiawassee & Tuscola	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$13.85	1.61	1.69		.07
Remainder of Counties	12.60	1.05	1.78		.02
BOILERMAKERS	13.065	1.28	1.30	2.00	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.:					
Bricklayers & Stonemasons	12.45	.80	1.30		
Marble-Tile-Terrazzo Workers	11.70	.80	1.30		
St. Clair & Sanilac Cos.					
Bricklayers & Stonemasons	14.28	1.40	1.30		
Marble Setters	13.38	1.00	1.40		
Terrazzo Workers	12.42	1.00	1.40		
Tile Setters	12.88	1.00	1.40		
Remainder of Counties					
Bricklayers & Stonemasons	12.77	1.05	.95		
Marble-Tile-Terrazzo Workers	12.20				
CARPENTERS:					
Sanilac (Except the West 5 Miles & St. Clair Cos.					
Carpenters & Piledrivermen	12.78	1.00	11%	11%	.04
Soft Floor layers	11.49	1.00	7%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac County:					
Carpenters & Piledrivermen	11.99	.60	.80		.02
Soft Floor Layers	11.34	.60	.80		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	13.40	1.40	1.30		
Lapeer County	11.10	.80	1.30		
Genesee & Shiawassee Counties	10.80	.70	.75		.02
Remainder of Counties					
Cement Masonry on sidewalks, curbs & Gutters not related to highway, road & Street Constr.	12.07	1.05	.95		

DECISION No. MI80-2066 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Iosco County; Northern ½ of Co., Contracts over $35,000	$13.30	.75	3%+.30		1/10of1%
Contracts under $35,000	11.35	.75	3%+.30		1/10of1%
Bay Co., & Southern ½ of Iosco co.,	14.00	.75	3%+.68		½ of 1%
Genesee, Lapeer & Shiawassee Cos.,	12.55	.60	3%+1.50		.02
Saginaw & Tuscola Cos	13.65		3%+1.25		½ of 1%
Remainder of Counties	14.40	1.65	3%+1.20		.05
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Remainder of Counties:					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.,	9.64	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Isoco, Tuscola & Saginaw Cos.,	9.15		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	.98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
LABORERS:					
Iosco County; Unskilled Motar & Plaster Mixers, Sewer & Caisson Workers, Plasterer Tenders,	7.35	.65	.35	.55	.04
Cement Gun Nozzlemen	7.50	.65	.35	.55	.04
	7.95	.65	.35	.55	.04

DECISION No. MI80-2066 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Saginaw & Genesee Counties	$13.02	1.06	.30		.01
PAINTERS:					
Bay Iosco Cos., Huron (West of M-53) Cos., & the Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner in Tuscola Co.					
Commercial - Old	9.55	.55	.80		.02
Commercial - New	10.15	.55	.80		.02
Industrial	10.95	.55	.80		.02
Spray & Sandblasting	11.00	.55	.80		.02
Saginaw Cos., & Remainder of Tuscola County:					
Brush	9.95		.35		.02
Spray	10.70		.35		.02
Genesee, Lapeer & Shiawassee Cos.	10.70	.50	.70		10.00p/mo
Western ½ of Shiawassee Cos	13.00	.65	.40		.0025
Huron (East of Hwy 53) St. Clair & Sanilac Cos., Commercial & Industrial Brush	14.28	.65	.80		.01
Open Steel & Spray	14.83	.65	.90		.01
PLASTERERS:					
Lapeer County	11.35	.80	1.30		
Bay, Huron, Iosco, Saginaw & Tuscola Counties	11.29	.88	.20		
Genesee & Shiawassee Cos.	12.22	.80	1.00		.03
St. Clair & Sanilac Cos.,	13.68	1.40	1.30		
PLUMBERS AND STEAMFITTERS:					
Bay Iosco., N. ½ of Tuscola & the NW ¼ of Huron (running from the Port Autin south to Sanilac County line)	15.12	1.12	.70		.05
Genesee, Lapeer Shiawassee Cos.,	14.44	1.17	1.70		.03
Saginaw & S. ½ of Tuscola (including Carco, Washjamerga ans South of the Lapeer County line Cos.,	12.87	1.09	1.50	1.25	.07
Remainder of Huron Cos., St. Clair & Sanilac Cos.,	12.00	1.25	1.60	1.90	.07

DECISION No. MI80-2066 Page 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw & Tuscola Cos.	$11.95	1.05	.60		
Genesee, Lapeer & Shiawassee Cos., Composition	12.25	.60	.60		
Slate & Tile	12.70	.60	.60		
St. Clair, Sanilac & Huron Cos.,	9.95				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	12.86	.80	1.00		.03
Genesee, Lapeer & Shiawassee Cos.,	10.65	.79	1.20	1.00	
St. Clair & Sanila Counties	11.305	1.81	1.73	1.24	.12
SPRINKLER FITTERS	14.61	.85	1.20		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	9.40	b31.00	b37.00	.50	
8 cu. yds. & over	9.50	b31.00	b37.00	.50	
Euclid Type Equipment	9.70	b31.00	b37.00	.50	
Genessee, Lapeer & Shiawassee	9.60	b32.50	b37.00		
Huron, St. Clair & Sanilac					
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	11.30	b32.50	b37.00		
Semi Drivers	11.20	b32.50	b37.00		
All Other Truck Drivers	11.05	b32.50	b37.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day. plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee, (plus $3.00 per week - optical & dental H&W T/D in Bay, Iosco, Saginaw & Tuscola Cos. - only)

DECISION No. MI80-2066 Page 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Cos.					
CLASS A	$ 9.49	.65	.35		.04
CLASS B	9.61	.65	.35		.04
CLASS C	9.69	.65	.35		.04
CLASS D	10.26	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos.					
CLASS A	10.44	.75	.85		.04
CLASS B	10.59	.75	.85		.04
CLASS C	10.69	.75	.85		.04
CLASS D	10.79	.75	.85		.04
CLASS E	11.04	.75	.85		.04
St. Clair & Sanilac Cos.					
CLASS 1	11.13	.65	.35		.04
CLASS 2	11.25	.65	.35		.04
CLASS 3	11.38	.65	.35		.04
CLASS 4	11.30	.65	.35		.04
CLASS 5	11.48	.65	.35		.04

LABORERS:

Bay, Huron, Saginaw & Tuscola Counties

CLASS A - All Construction Laborers on Building & Heavy Construction not specified in classes. B, C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator and Motar Mixer when done by hand.

CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; vibrators

CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker

CLASS D - Drillers & Plasters; Burners

Page 6

DECISION No. MI80-2066

LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS b - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Men Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool. Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

Page 7

DECISION No. MI80-2066

LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$14.38	1.50	9%		4%
Cable Splicer	15.00	1.50	9%		4%
Combination equipment Operator & Groundman	11.52	1.50	9%		4%
Combination Driver-Groundman	10.84	1.50	9%		4%
Groundman	9.98	1.50	9%		4%

LC-ZONE-II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technician	$12.50	.45	3%+4%	a+5%	.5%
Cable Splicer	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator Tractor Operator Groudman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

UMI 008 22 GA 54V

DECISION No MI80-2066

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.73	.95	1.50	11%	.05
CLASS B	13.50	.95	1.50	11%	.05
CLASS C	13.10	.95	1.50	11%	.05
CLASS D	12.86	.95	1.50	11%	.05
CLASS E	12.49	.95	1.50	11%	.05
CLASS F	10.77	.95	1.50	11%	.05
CLASS G	9.89	.95	1.50	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Crane with boom and jib 120' or longer
CLASS D - Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operting compressor or welding machine
CLASS G - Fireman or Oiler

ICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	.05

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

DECISION No. MI80-2066

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		.05

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

DECISION No. MI80-2066

MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION No MI80-2066

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
DECISION No. MI80-2068
Supersedes Decision No.: MI79-2019 dated May 4,1979 in 44 FR 26457
DESCRIPTION OF WORK: Building Construction (including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction Projects.
COUNTIES: *See Below
DATE: Date of Publication

*Counties: Macomb, Monroe, Oakland, Washtenaw & Wayne

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	$13.83	.55	1.40		.04
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	12.60	1.05	1.78		.02
Remainder of Counties & the Remainder of Washtenaw County	13.85	1.61	1.69		.07
BOILERMAKERS:					
Monroe County	13.575	1.075	1.00		.03
Remainder of Counties	13.065	1.28	1.30	2.00	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy #23 in Monroe Cos.	13.37	1.16	.55		.05
Washtenaw County	15.47		1.30		
Remainder of Counties & East of Hwy. #23 in Monroe County	14.07	1.28	8%+.60	11%	.06
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	12.84	.60	.80		.05
Remainder of Counties	12.78	1.00	11%	11%	.04
CEMENT MASONS:					
South of Hwy. #151 in Monroe County	14.14	.60			.02
Washtenaw County	15.37		1.30		
Remainder of Counties & North of Hwy. #151 in Monroe County	13.29	1.00	11%		.02
ELECTRICIANS:					
Washtenaw County	13.07	1.00+4%	3%+.70	10%	.26
Monroe County:					
Building	15.10	.85	3%+.95		.3%
Residential	9.42	.65	3%+.55		.1%
Remainder of Counties:					
Building	14.40	1.65	1.20		.05
Residential	14.40	1.65	1.20		.05

DECISION No. MI80-2068 Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	$15.23	1.195	.95	a	.035
Helpers	70%JR	1.195	.95	a	.035
Washtenaw County					
Constructors	12.41	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Remainder of Counties					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
GLAZIERS	9.77	.55	.65		
IRONWORKERS:					
Monroe County	15.26	1.06	1.68		.09
Remainder of Counties:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
Riggers & Machinery Erectors	11.60	1.84	1.80+5.10	18%	.08
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:					
Construction Laborer & Capenter Tender	10.97	.65	.35	.90	.04
Mortar Mixer, Mason & Plaster Tender,	11.17	.65	.35	.90	.04
LATHERS:					
Monroe County; excluding s/w corner-eastern portion of Washtenaw County & Remainder of Counties	12.08	1.62	1.07		.04
MILLWRIGHTS:					
Washtenaw County	12.84	.60	.80		.05
Remainder of Counties	12.50	1.00	13%	23%	.06

DECISION No. MI80-2068 Page 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	$15.47		1.30		
Remainder of Counties:					
Marble Mason	14.61	1.00	1.75		
Marble Mason Finishers	7.74	.85	.70	.95	
PAINTERS:					
Brush - Roller	12.10	1.01	1.35	1.15	50.00p/y
Spray	12.60	1.01	1.35	1.15	50.00p/y
Drywall Tapers	12.35	1.01	1.35	1.15	50.00p/y
PLASTERERS:					
South of Hwy. #151 in Monroe Cos.	14.65	.60			.01
Washtenaw County	15.47		1.30		
Remainder of Counties & Remainder of Monroe Cos.	13.22	.85	.75		
PLUMBER & STEAMFITTERS:					
Monroe County	14.45	1.06	.80		.12
Washtenaw County	13.53	1.25	.85		.05
Remainder of Counties:					
Plumbers	12.00	1.25	1.60	1.90	.07
Pipefitters	14.06	1.75	1.65	1.70	.05
ROOFERS:					
Monroe County	13.34	1.20	1.00		.02
Washtenaw County:					
Composition	10.65	.94	.65	1.05	.10
Slate	11.68	.94	.65	1.05	.10
Remainder of Counties:					
Composition	14.41	1.05	1.05	1.20	
Slate	15.41	1.05	1.05	1.20	
SHEET METAL WORKERS:					
Monroe County	13.155	1.20	1.57		.045
Remainder of Counties	11.305	1.81	1.73	1.24	.12

DECISION No. MI80-2068 Page 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$12.84	.60	.80		.05
Remainder of Counties	11.49	1.00	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	b1.60	b6.00		
Electrical Technician Jr.	6.86	b1.60	b6.00		
SPRINKLER FITTERS:					
Monroe County	12.37	.75	1.05		.08
Remainder of Counties	15.055	80+.50	1.05		.10
TILE & TERRAZZO WORKERS:					
Washtenaw County	13.47		1.00		
Remainder of Counties:					
Terrazzo Workers	12.42	1.00	1.40		
Terrazzo Workers' Finishers	11.02	1.00	.50	1.00	
Tile Setters	12.88	1.00	1.40		
Tile Setters' Finishers	9.27	.85	.80	.90	
TRUCK DRIVERS: Building, Heavy & Residential					
Construction Pole Trailer; Low Boys; Stradle Carrier; Double Bottoms & special Load Permits	11.30	b32.50	b37.00		
Semi Drivers	11.20	b32.50	b37.00		
All Other Truck Drivers	11.05	b32.50	b37.00		
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cu. yd. capacity or over, pole trailers, semis, low boys, Euclid, double bottom & Fuel trucks	10.31	b36.50	b37.00		
Truck Drivers on dump trucks 8 cu. yds. capacity or over, Pole trailers, semis & fuel trucks	10.44	b36.50	b37.00		
Low boys, Euclid & double bottom driver	10.64	b36.50	b37.00		

FOOTNOTES: a. 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day Thanksgiving Day-Day after Thanksgiving-Christmas Day plus Employer contributes 8% or Regular Hourly Rate to Vacation Pay Credit for employee who has worked in Business more than 5 years & 6% for employees in business less than 5 years.
b. Per Week; Per Employee

UMI 0 8 2 2 G A 5 4 V

LABORERS BUILDING, RESIDENTIAL & HEAVY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Washtenaw County:					
GROUP 1	$10.04	.65	.35	1.00	.04
GROUP 2	10.24	.65	.35	1.00	.04
GROUP 3	10.36	.65	.35	1.00	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	10.53	1.00	.95	1.10	.04
GROUP 2	10.13	1.00	.95	1.10	.04
GROUP 3	10.30	1.00	.95	1.10	.04
GROUP 4	10.28	1.00	.95	1.10	.04
GROUP 5	10.55	1.00	.95	1.10	.04
GROUP 6	10.38	1.00	.95	1.10	.04
GROUP 7	10.43	1.00	.95	1.10	.04
GROUP 8	10.80	1.00	.95	1.10	.04

LABORERS: BUILDING, RESIDENTIAL & HEAVY
Washenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Oprs., Power Buggie Oprs., Scaffold Building or Dismantler; Windlass Oprs., Tar and Kettle Oprs.,
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal men, Air gas or electric tool oprs., Windlass and Tugger Opr., Jackhmmer and Vibrator Opr.,
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lansing Burners, Blasters, Powderman

LABORERS: OPEN CUT CONSTRUCTION WASHTENAW COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.20	.65	.35	.55	.04
CLASS 2	9.28	.65	.35	.55	.04
CLASS 3	9.33	.65	.35	.55	.04
CLASS 4	9.38	.65	.35	.55	.04
CLASS 5	9.43	.65	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS:					
CLASS 1	9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.44	1.00	.95	.95	.04
CLASS 5	9.04	1.00	.95	.95	.04
MONROE COUNTY					
CLASS 1	9.20	.65	.35	.55	.04
CLASS 2	9.30	.65	.35	.55	.04
CLASS 3	9.40	.65	.35	.55	.04
CLASS 4	9.45	.65	.35	.55	.04
CLASS 5	9.55	.65	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete Form Man, Signal Man, Wheel Point Man, Manhole, Headwall & Catch Basin Building, Guard Rail Builders & Fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Oprs., Vibrator Oprs., Drillers, Pumpman Tar kettle Oprs., bracers, rodder, Reinforced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION WASHTENAW & MONROE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.83	.65	.35	.55	.04
CLASS 2	9.91	.65	.35	.55	.04
CLASS 3	9.96	.65	.35	.55	.04
CLASS 4	10.11	.65	.35	.55	.04
CLASS 5	10.31	.65	.35	.55	.04
CLASS 6	10.56	.65	.35	.55	.04
Wayne, Oakland & Macomb Cos:					
CLASS 1	9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.59	1.00	.95	.95	.04
CLASS 5	9.74	1.00	.95	.95	.04
CLASS 6	9.99	1.00	.95	.95	.04

CLASS 1 - Tunnel, Shaft & Caisson laborer, dump man Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Headwall catch basin builder, Bricklayers Tender, Mortar man, Material mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool oprs., (Jackhammer man, Bruch Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carrier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool Oprs., Gunnite man, grout Opr., Heading dinry man, inside lock tender, pea gravel opr., pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, top signal man, switch man, track man, Tugger man, Utility man, Vibrator man, winch Opr., concrete saw opr., (under 40 H.P.)
CLASS 4 - Tunnel, shaft & Caisson mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Runner, Key board Opr., Power Knife Opr., reinfornced steel or mesh man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powerman

LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$ 7.21				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	5.46				

DECISION No. MI80-2068 Page 9

LINE CONSTRUCTION Wayne, Macomb & Remainder of Washtenaw, Monroe & Oakland Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$14.38	1.50	9%		4%
Cable splicers	15.00	1.50	9%		4%
Combination Equipment Oprs. & Groundman	11.52	1.50	9%		4%
Combination Driver-Groundman	10.84	1.50	9%		4%
Groundman	9.98	1.50	9%		4%
LINE CONSTRUCTION: Twps. of Lyndon, Manchester Sharon & Sylvan in Washtenaw Cos., Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County-Twp. of Holly in Oakland Cos.,					
Lineman; Technician	12.50	.45	3%+4%	a+5%	.5%
Cable Splicers	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator: Tractor Operator Groundman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Opr., Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION No MI80-2068 Page 10

POWER EQUIPMENT OPERATORS: BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.73	.95	1.50	11%	.05
CLASS B	13.50	.95	1.50	11%	.05
CLASS C	13.10	.95	1.50	11%	.05
CLASS D	12.86	.95	1.50	11%	.05
CLASS E	12.49	.95	1.50	11%	.05
CLASS F	10.77	.95	1.50	11%	.05
CLASS G	9.89	.95	1.50	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom & jib or leads 140' or longer
CLASS C - Crane with boom & jib 120' or longer
CLASS D - Regular Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operating compressor or welding machine
CLASS G - Firemen or oiler

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib or longer tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

DECISION No. MI80-2068 Page 11

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. P. or over)

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: See below*
DECISION NUMBER: SC80-1092 DATE: Date of Publication
Supersedes Decision No.: SC79-1124 dated September 7, 1979 in 44 FR 52578
DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and apartments up to and including 4 stories.

*Counties: Aiken, Allendale, Bamberg, Barnwell, Calhoun, Edgefield, Hampton, and Orangeburg

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning & Heating Mechanic	$ 5.00				
Bricklayers	6.35				
Carpenters	5.01				
Concrete Finisher	5.50				
Drywall Finisher	6.19				
Drywall hanger	5.45				
Electricians	5.30				
Insulation Installer	4.86				
Laborers:					
Laborers, Unskilled	3.50				
Mortar Mixers	4.48				
Pipelayers	4.29				
Painters, brush	4.75				
Plumbers & Steamfitters	6.30				
Roofers	5.13				
Sheet Metal Workers	5.25				
Soft Floor Layers	4.00				
Tile Setters	5.00				
Truck Drivers	3.50				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	$:55				
Bulldozers	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

UMI 0 8 2 2 G A 5 4 V

SUPERSEDEAS DECISION

STATE: TENNESSEE — COUNTIES: FAYETTE, SHELBY, & TIPTON

DECISION NUMBER: TN80-1100 — DATE: DATE OF PUBLICATION

Supersedes Decision Number TN79-1007, dated January 5, 1979, in 44 FR 1668.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 6.13				
BRICKLAYERS	8.95				
CARPENTERS	5.93				
CARPET INSTALLERS	5.50				
CEMENT MASONS	5.24				
DRYWALL FINISHERS	6.31				
DRYWALL HANGERS	7.04				
ELECTRICIANS	7.54				
INSULATION INSTALLERS	7.00				
IRONWORKERS	4.50				
LABORERS:					
Unskilled	3.84				
Mortar mixers	4.25				
Mason tenders	4.25				
Asphalt rakers	5.01				
PAINTERS	5.97				
PLUMBERS & PIPEFITTERS	7.76				
ROOFERS	6.76				
SHEET METAL WORKERS	7.48				
SOFT FLOOR LAYERS	4.63				
TILE SETTERS	5.25				
TRUCK DRIVERS	4.75				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Motor grader	6.50				
Paver	5.95				
Roller	5.56				
Tractor	4.40				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 80-25316 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: Washington — COUNTIES: Clallam, King, Kitsap, Pierce, Snohomish, and Thurston

DECISION NUMBER: WA80-5125 — DATE: Date of Publication

Supersedes Decision No. WA78-5103 dated June 16, 1978, in 43 FR 26271

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS:					
King County	$12.48				
CARPENTERS	14.93	.75	.95		.04
CEMENT MASONS	11.46				
DRYWALL TAPERS	13.04	.72	.70		.04
ELECTRICIANS:					
Clallam, King, and Kitsap Counties	8.75	.85	3%+.40	.18	.03
ELEVATOR CONSTRUCTORS	15.735	1.045	.82	*	.03
IRONWORKERS	13.66	.93	1.70		.10
LABORERS	7.70				
PAINTERS	10.92				
PLUMBERS:					
Clallam and King Counties	13.42				
Remaining Counties	8.30	.85	.30	.37	.11
ROOFERS:					
Pierce and Thurston Cos.	10.18	.65	.40		.02
Remaining Counties	12.71	.75	1.00		.03
SHEET METAL WORKERS:					
Clallam and Kitsap Cos.	12.24	.37	.83	1.50	.06
King and Snohomish Cos.	14.45				
SOFT FLOOR LAYERS:					
King and Snohomish Cos.	12.08	.63	1.25		.05

*VACATION PAY (Elevator Constructors):
Employer contributes 8% of basic hourly rate for 5 years or more of service as vacation pay credit and 6% of basic hourly rate for 6 months to 5 years of service. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses 29 CFR 5.5 (a)(1)(ii)

federal register

Friday
August 22, 1980

Part III

Environmental Protection Agency

Intent To Issue Guideline for Evaluating the Profit Element of Subagreements for Architectural/Engineering (A/E) Services Funded Under Title II of the Clean Water Act

professionals who possess the talents and — 1. The profit guideline criteria should be — The additional profit, which cannot

ENVIRONMENTAL PROTECTION AGENCY

Intent To Issue Guidance for Evaluating the Profit Element of Subagreements for Architectural/Engineering (A/E) Services Funded Under Title II of the Clean Water Act

Construction Grants Program—Catalog of Federal Domestic Assistance No. 66.418

Purpose of This Notice

The Environmental Protection Agency (EPA) invites interested persons to review and comment on a proposed policy memorandum entitled "Criteria and Guidelines for evaluating the Profit Element of Subagreements for Architectural/Engineering Services."

The proposed policy memorandum would provide guidance to grantee, State and EPA reviewers who approve the profit element of A/E subagreements. The policy memorandum sets forth criteria for establishing the range of profits that are normally considered reasonable by EPA. This means that only that portion of the profit element that is less than or equal to the amount determined by the evaluation criteria would be normally eligible for grant participation.

Where and When To Send Comments

Any comments received by October 15, 1980, will be considered in developing the final document. Please submit comments to Mr. James R. Murphy, Municipal Construction Division (WH–547), Office of Water Program Operations, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (telephone 202–426–8945.)

Dated: August 13, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Program Requirements Memorandum

Subject: Criteria and guidlines for Evaluating the Profit Element of Subagreements for Architectural/Engineering Services

From: Henry L. Longest II, Deputy Assistant Administrator for Water Program Operations (WH–546)

To: Regional Administrators (Regions I–X) Attention: Water Division Directors

Purpose

The purpose of this memorandum is to establish National guidelines for evaluating the profit element of subagreements for architectural/engineering (A/E) services funded under Title II of the Clean Water Act.

For the purpose of this memorandum, the terms profit, cost and price have the definitions contained in the Environmental Protection Agency (EPA) subagreement regulations (40 CFR 35.936 thru 35.938).

The profit evaluation criteria and guidelines contained in this memorandum are not intended to be an absolute requirement nor are they intended to restrict the amount of profit paid by the grantee to the consultant. Rather, the evaluation criteria is intended to provide guidance to the grantee, State and EPA regional offices on the range of profits that are normally considered allowable by EPA.

Background

EPA regulation 40 CFR 35.936–4 states that "only fair and reasonable profits may be earned by contractors in subagreements under EPA grants." This requirement applies to all subagreements, including contracts for architectural/engineering services.

EPA enacted its current policy of having each regional office develop internal review procedures and guidelines for evaluating profits in a memorandum dated January 18, 1977, from Alvin L. Alm to the Regional Administrators. The decision to allow the regional offices to develop internal guidelines was made after considering the wide variety of existing circumstances and in preference to establishing, at that time, numerical profit limits or formulas in a national policy. It should be noted that EPA distributed drafts of a proposed national policy for establishing profit ranges and weighted guidelines in September 1976, but a number of offices within the agency, as well as associations representing the A/E profession, expressed a strong objection to the issuance of the proposed policy. Accordingly, a decision was made, at that time, not to establish profit ranges and weighted guidelines as national policy.

In carrying out the responsibilities mandated by the January 18, 1977 memorandum, the regional offices have developed differing internal guidelines for evaluting profit levels. The differences between the regional guidelines and the variation in their application have created a concern about the lack of a uniform national profit policy. The January 18, 1977 memorandum stated that "It is essential that the agency maintain some level of consistency among the regions in the performance of cost reviews, cost analyses and profit levels allowed." The memorandum also stated that EPA would continue to explore various options for the possible future issuance of direct labor and profit gudelines.

On June 8, 1977, the California State Water Resources Control Board, issued "Bulletin No. 29H—Guidelines for Architectural/Engineering Services." This bulletin included an evaluation criteria for reviewing the profit elements of A/E subagreements.

Over the past two years the California guidelines have been discussed and examined in depth both within EPA and the consulting engineering profession. Although everyone is not in complete agreement with all the provisions of the California guidelines, the consensus is that proper application of guidelines can provide for a fair and reasonable profit for the performance of engineering services. Accordingly, EPA is establishing a review criteria based on the principles of the California Guidelines.

In understanding the following profit guideline criteria, it should be recognized that:

A. EPA regulation 40 CFR 35.937–7 defines profit as "the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on Federal procurement principles, it may vary from the firm's definition of profit for other purposes.)"

B. Federal procurement principles do not consider the following expenses to be considered as allowable costs: interests on borrowed capital, job cost overruns, bad debts including losses on other contracts and uncollectable accounts. Various other expenses such as entertainment costs are also considered unallowable. Accordingly, these expenses, if incurred on an EPA funded project, must be paid out of the profit element of the subagreement.

Discussion

EPA regulation 40 CFR 35.937(b) describes the Agency's policy regarding subagreements for architectural/engineering services as follows:

Policy. Step 1, step 2, or administration or management of step 3 project work may be performed by negotiated procurement of architectural or engineering services. The Federal Government's policy is to encourage public announcement of the requirements for personal and professional services, including engineering services. Subagreements for engineering services shall be negotiated with candidates selected on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices. All negotiated procurement shall be conducted in a manner that provides to the maximum practicable extent, open and free competition. Nothing in this subpart shall be construed as requiring competitive bids or price competition in the procurement of architectural or engineering services.

EPA regulation 40 CFR 35.937–7 states that: Profit should be sufficient to attract professionals who possess the talents and skills necessary to accomplish the project objectives and to stimulate efficient and expeditious completion of the project.

EPA regulation 40 CFR 35.937–7 describes the objectives of profit negotiations between the grantee and the A/E as follows: The exercise of sound business judgement and good administrative practice including the determination of a fair and reasonable profit based on the firm's assumption of risk and input to the total performance, *and not merely the application of a predetermined percentage factor.* (emphasis added)

Policy

It is EPA policy that only that portion of the profit element that is less than or equal to the amount determined by the profit guideline criteria is eligible for grant participation.

In certain exceptional circumstances a profit beyond the range of the criteria may be approved by EPA. Any request for approval of a profit in excess of that allowed by the evaluation criteria should be submitted by the grantee to the EPA regional office. The EPA regional office will make the final determination on the request. If a waiver to the evaluation criteria is approved by the regional office, the justification should be documented and included in the official grant file.

Weighted Guidelines

Cost element (From EPA Form 5700–41)	Approvable profit as a percent of cost element	
	CPFF contract	Lump sum contract
1. Direct Labor Cost (Item 7)	Up to 24	Up to 26
2. Indirect Cost (Item 8)	Up to 16	Up to 18
3. Other Direct Cost (Items 9a,9b,9d).	Up to 7	Up to 7
4. Subcontract Cost (Item 9c)	[1] 4 to 8	[1] 4 to 8
5. Additional Profit Factor to be Applied to those Subcontracts Involving Less Experienced Contractors, Unusual Risks or Responsibilities.	Up to 5	Up to 5
6. Additional Profit Factor to be Applied to those Subagreements Involving the Design of an Innovative and Alternative Technology Project (See attached memorandum).	Up to 2	Up to 2

[1] Subcontract cost/total cost item 9c/item 10:

[In percent]

Less than 30%	Up to 8.
Between 30–70%	Up to pro-rata share between 4–8.
Greater than 70%	Up to 4.

Application of Profit Guideline Criteria

The procedures for applying the weighted guidelines, and a more detailed description of the evaluation criteria, are outlined below:

1. The profit guideline criteria should be applied whenever EPA performs a preaward cost and price review under applicable regulations including all subagreements for A/E services where price is not the prime consideration in the award of the contract, and to all lower tiered subcontracts thereunder.

2. The weighted guidelines should be applied independently to the prime contract and applied independently to each subcontract including lower tiered subcontracts. Accordingly, no attempt should be made, when applying the evaluation criteria, to allocate profit between the various contract levels within a subagreement.

3. For the purpose of applying the profit guideline criteria, total cost is the approvable amount shown in Item 10 of EPA Form 5700–41 and total profit is the approvable amount shown in Item 11 of the same form.

4. The maximum profit that normally will be approved by EPA for an A/E subagreement is determined by multiplying the dollar value of each approvable cost element by the corresponding maximum weighted guideline and summing the results.

5. The maximum profit should not exceed 20 percent of the total approvable cost for lump sum (LS) contracts and 18 percent of the total approvable cost for cost plus fixed fee (CPFF) contracts.

The profit ceiling may be increased an additional 2 percent for a Step 2 subagreement involving the design of an innovative and alternative technology project. This additional 2 percent premium is risk compensation to be added to the profit and is not subject to any profit limitations. See attached March 20, 1980 memorandum.

6. If the total negotiated profit is less than or equal to the value determined by the procedures described in Item 3 and Item 4 above, and all other appropriate requirements have been met, the negotiated profit should be approved by the EPA reviewing office.

7. The weighted guidelines criteria should only be used to determine the maximum profit that will normally be approved by EPA. The actual profit negotiated by the grantee should be based on the A/E's assumption of risk and input to total performance and not simply on the application of a percentage factor.

8. The weighted profit guideline criteria should only be applied to negotiated lump sum and cost plus fixed fee contracts.

9. In certain circumstances and A/E may be required to enter into an agreement with less experienced, but otherwise qualified small, minority or woman owned business enterprises. In such instances an additional profit factor of up to 5 percent may be applied to the approvable value of the subcontract(s). However EPA does not normally require the utilization of less experienced subcontractors on more than 20 percent of the total work of the subagreement. Accordingly, the additional profit factor should not be applied to subcontract(s) cost in excess of 20 percent of the total approvable value of the subagreement.

The additional profit, which cannot exceed 1 percent of the total cost of the subagreement (0.05 x 0.20) is intended to compensate the A/E for the increased risk and liability associated with the utilization of less experienced subcontractors.

10. If the grantee believes that special circumstances justify a total subagreement price or profit above that which is approved by EPA, such additional cost shall be borne by the grantee.

11. The profit evaluation criteria assumes indirect (total allowable overhead) cost between 100 and 175 percent of direct labor cost. For extraordinarily high or low overhead costs, adjustment of profit downward or upward, respectively, may be appropriate.

12. For negotiated profits within the guideline criteria, the record of the negotiations shall be considered adequate justification for meeting the objectives of 40 CFR 35.937–7—negotiation of profit.

13. The profit guideline criteria recognizes the differences in risk between a lump sum (LS) contract and a cost plus fixed fee (CPFF) contract. In a true CPFF contract only the fixed fee is limited to the original contract amount, the cost ceiling is a figure to be periodically evaluated, and if necessary, adjusted upward or downward by contract amendment, provided of course, that any incremental costs are normal and necessary to the proper completion of the original scope of work.

EPA regulations require all CPFF contracts to include a cost ceiling or a limitation of cost clause. Normally, the provisions of a CPFF contract require the A/E to notify the grantee and EPA, in writing, whenever there is reason to believe that (1) the costs to be incurred within the next 60 days, when added to all previously incurred costs, are expected to exceed 75 percent of the estimated contract cost, or (2) the total costs (exclusive of fee) are expected to exceed the cost ceiling. The A/E's revised estimate of that total cost should accompany the notification. The grantee should review and act on the A/E's revised estimate within a reasonable period of time. If the grantee determines that additional services are needed for the proper completion of the original scope of work, and if the costs are necessary and reasonable, the grantee should submit a request to EPA for additional funds. Unless EPA takes action on the request, either in the form of a grant increase or a release of contingency funds, the agency will not be obligated to reimburse the grantee for costs incurred in excess of the amount

initially funded. Furthermore, the A/E is not obligated to continue performance once he has incurred costs up to the approved cost ceiling. An A/E who incurs cost in excess of the amount approved by the grantee does so at his own risk. While the costs incurred in the perfomance of a cost-reimbursable contract may vary from the initially agreed-to estimate, the fee remains fixed as an expressed dollar amount and is subject only to adjustment by reason of an approved change in the scope of work. In the event that the work cannot be completed within the initially agreed-to estimate, the grantee, with the approval of EPA, can require the A/E to provide additional services without an increase in fee by simply amending the contract amount, or the contract can be terminated. However, if a CPFF contract is terminated solely because the incurred costs have reached a predetermined cost ceiling, the A/E would not be required to provide a completed product.

The profit guidelines criteria are designed to allow a higher profit for a lump sum contract than for a CPFF contract. However, some contracts may combine the contractural provision of a lump sum contract and a CPFF contract. In such instances, the contractural provisions that describe the cost ceiling, the limitation of cost clause, or the not to exceed clause must be closely examined in order to properly classify the contract as to type. Accordingly, for the purpose of applying the profit guideline criteria, any contract, regardless of its stated designation, should be evaluated as a lump sum (LS) contract if:

a. The contract contains an absolute upper limit, i.e., the cost ceiling cannot be exceeded under any circumstances.

b. The contract establishes a guaranteed maximum price.

c. The language used to define the upper limit of the contract is the same as the language normally used to define the upper limit of a lump sum contract, e.g., the contract ceiling may not be increased without a change in scope.

Profit Negotiation

The grantee, when negotiating the amount of profit with the consulting engineer, should give consideration to the following factors:

1. Consulting engineers input to total performance:

a. Direct Labor—Evaluate the comparative quality and level of the talents, skills and experience to be employed. Consider the mix of professionals, para-professionals and non-professionals.

b. Overhead Expense and General and Administrative Expenses—Consider the amount of labor within the overhead pool and how this labor would be treated if it were considered as direct labor under the contract. Consider whether the costs are routine expenses such as utilities, depreciation, and maintenance, and accordingly, given less profit consideration than the pool as a whole.

c. Equipment—Equipment generally includes purchases of capital items which may or may not be an integral part of the final product. When equipment is not an integral part of the final product, consider the availability of equipment; when equipment will be an integral part of the final product, consider the complexity of equipment; and in all cases the ratio of equipment costs to total costs should be considered.

d. Materials and Supplies—Evaluate the managerial and technical effort necessary to obtain materials and services required to directly support the project (i.e., number of orders, availability of resources, accountability systems, the complexity of the contractor's task, and the ratio of material or supplies costs to total costs).

e. Other Direct Costs—This include costs for such items as travel, subsistence, printing, laboratory and ADP services. Analysis of these costs should be similar to the analysis of purchases and subcontracts.

2. Sub-Consultants and Subcontracts: Analyze from the standpoint of what talents, skills, and experience they possess, and how they will be used on the project.

3. Past Performance of the Architect/Engineer: Consider known past performance of the architect/engineer in management ability, cost control, timely performance and thoroughness of work.

4. Size of Project: Small projects may justify a higher profit level.

Implementation

The proposed effective date of this policy is November 1, 1980.

The policy is to be applied to all A/E subagreements approved by the EPA regional office, or other cognizant agency, on or after the effective date.

Attachment to Program Requirements Memorandum

Subject: Engineering Fees for Innovative and Alternative Technology (I&A) Construction Grant Projects.
From: Harold P. Cahill Jr., Director, Municipal Construction Division (WH-547).
To: Water Division Directors, Regions I–X.
Dated: March 20, 1980.

Policy

In arriving at contracts for Step 2 architect-engineer (A/E) services on innovative and alternative (I&A) technology projects, the Region will encourage grantees to increase the contract fee (line 11. of 5700–4) in recognition of the increased reputational risk of I&A projects as an incentive to develop these peojects in the constructing grants program.

Background

Section 201(g)(5) of the Clean Water Act gives the Environmental Protection Agency (EPA) the authority to make construction grants to projects that use I&A technologies. EPA encourages and, where possible, assists in development of I&A technologies for wastewater treatment construction grants projects (40 CFR 35.908(a)). I&A projects are more complex and involve more risk than conventional projects. As a result, the Clean Water Act provides I&A projects 85 percent Federal funding and a cost-effectiveness preference of 15 percent. Further, if the I&A project fails within two years of final inspection, the Act provides 100 percent funding for the eligible costs for necessary modifications or replacement.

Generally, the fee component of A/E contract price includes additional compensation based on complexity of work and, in some cases, for technical risks. However, such risks are usually based on the degree of assurance of recoupement of costs as indicated by the type of contract utilized. To assure A/E's give I&A technologies adequate consideration, additional compensation for Step 2 work is necessary.

Implementation

Grantees may negotiate an increase in the free component by up to two percent of the contract amount for design of I&A projects. This additional two percent premium is risk compensation to be added to the profit and is not subject to any profit limitations. In determining the additional contract fee amount warranted, grantees should consider the following:

1. The additional contract fee may not exceed two percent of the total cost component of the Step 2 design.

2. The increased contract fee for I&A projects is for Step 2 work only.

3. The I&A increase should be proportionate to the I&A portion of the project. For example, if the project is 100 percent innovative and/or alternative, the I&A increase may not exceed two percent. If the project is 50 percent innovative and/or alternative, the I&A increase may not exceed one percent.

4. The I&A increase is grant eligible only when requested by the grantee and certified by the State. While EPA supports and encourages use of the I&A increase, it is not mandatory.

[FR Doc. 80-25614 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

federal register

Friday
August 22, 1980

Part IV

Department of Labor

Mine Safety and Health Administration

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment; Removal of Design Restrictions

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 36

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify MSHA's requirements and conditions for approval of permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines by amending 30 CFR Part 36. The proposed amendments would remove current design restrictions which prohibit the use of certain electric-powered accessories on permissible mobile diesel-powered transportation equipment. The change would allow operators of gassy mines to obtain equipment incorporating advanced technology, and thereby afford greater safety and health protection for the miners. Interested persons may participate by submitting written comments to the address provided below.

DATES: Comments must be received on or before October 21, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

Rulemaking for Part 36 was initiated by the Department of the Interior, Bureau of Mines, on September 24, 1959 (24 FR 7696). After extensive public participation, the regulations were re-proposed on November 3, 1960 (25 FR 10534). Part 36 was promulgated as a final rule on January 24, 1961 (26 FR 645).

The Federal Mine Safety and Health Amendments Act of 1977 (the Amendments Act), Pub. L. 95-164, 91 Stat. 1290 *et seq.*, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, 83 Stat. 742, 30 U.S.C. § 801 *et seq.*, (1976 ed.), and repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966, Pub. L. 89-577, 80 Stat. 772, 30 U.S.C. § 721 *et seq.*, (1976 ed.). The resulting law, the Federal Mine Safety and Health Act of 1977 (the Mine Act), 30 U.S.C. § 801 *et seq.*, established a single statute applicable to all mining. Section 301(a), (b)(1) and (c)(2) of the Amendments Act, 91 Stat. 1317, 1318, 30 U.S.C. §§ 961(a), (b)(1) and (c)(2) (Supp. I (1977)), transferred responsibility for mine safety and health from the Secretary of the Interior to the Secretary of Labor and provided that current standards, rules and regulations issued by the Secretary of the Interior were to remain in effect under the new Mine Act.

This proposed amendment of 30 CFR Part 36, Subparts B and C is authorized under Section 101(a) of the Mine Act, 91 Stat. 1291, 30 U.S.C. § 811 (Supp. I (1977)).

II. Discussion and Summary of the Proposed Rule

A. General Discussion

Presently Part 36 of 30 CFR prohibits the use of all electrical devices except self-contained, battery-powered headlights on permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines. Since 1961, manufacturers of mining equipment have developed and designed electric-powered devices which MSHA believes present no hazard as an ignition source in gassy mines. Examples are engine-driven lighting units which provide a high level of illumination, and methane detection instrumentation which are incorporated into mobile equipment safety controls. These devices materially contribute to the safety of miners. MSHA has accepted certain of these devices as safe for use in gassy mines under Part 18 [Electric Motor-Driven Mine Equipment and Accessories] and Part 27 [Methane-Monitoring Systems], but has been unable to approve mobile diesel-powered equipment which incorporates the same devices because of the restrictions presently existing in Part 36.

The proposed amendments to Part 36 would revise the requirements for approval and certification of mobile diesel-powered transportation equipment in gassy metal and nonmetal mines. The resulting rule would change Subpart B which contains construction and design criteria, and Subpart C which contains testing requirements. Subpart A, which establishes general requirements, would remain unaltered.

The proposed rule would permit MSHA to investigate for approval and certification, mobile diesel-powered transportation equipment containing electric devices whose construction and design satisfy the applicable requirements of 30 CFR Parts 18, 20, and 27. If the rule is promulgated as proposed, operators could more readily obtain permissible equipment which meets MSHA's mandatory requirements for gassy mines. With the installation of such state-of-the-art devices, operators' compliance with mandatory standards would be facilitated. MSHA believes that this also will result in a safer working environment for metal and nonmetal miners using diesel haulage equipment.

This rulemaking proposes to amend 30 CFR Part 36, Sections 36.32 and 36.33 of Subpart B and revoke Section 36.51 of Subpart C.

B. Section-by-Section Analysis

Section 36.32. Section 36.32 entitled "Restriction of electrical components" now provides that mobile diesel-powered transportation equipment will not be investigated for approval and certification unless the electrical components of the equipment are restricted to headlight units constructed in accordance with present Section 36.33, and tested pursuant to present § 36.51. Since 1961, electrically-powered accessories have been developed which can operate safely on diesel equipment in metal and nonmetal gassy mines. These accessories, such as methane detection and engine-driven illumination systems, offer technology which will contribute to miners' safety and health at gassy workplaces.

This proposed amendment to § 36.32 would permit the investigation for certification and approval of mobile diesel-powered transportation equipment having: (1) electrical *components* which are certified under 30 CFR Part 18 (Electric Motor-Driven Mine Equipment and Accessories), 30 CFR Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or 30 CFR Part 27 (Methane-Monitoring Systems), and which bear the certification data assigned by MSHA; or (2) electrical *systems* which meet the requirements of either Part 18 or Part 27.

This amendment of the regulation will facilitate compliance with the requirements of certain mandatory standards in MSHA's metal and nonmetal "Gassy mines" section (30 CFR Part 57.21-1 through .21-101).

The proposed rule would continue the restriction against electric starting currently implicit in § 36.32, and specifically stated in § 36.21. MSHA seeks comments specifically directed to this issue.

The proposed rule also changes the heading of § 36.32 to retain consistency with the substantive revisions.

Section 36.33. Section 36.33 (Headlight units) currently states that any headlight unit used on mobile diesel-powered transportation equipment shall be constructed as a locked or sealed unit containing the battery; conform to the applicable requirements in Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or be constructed with equivalent safeguards acceptable to MSHA; and be mounted in a fixed position on the mobile equipment and protected from external damage. The Section also requires that at least one headlight unit must be provided on the front and rear of each piece of equipment.

MSHA recognizes that certain engine-driven illumination systems can be safely used in gassy mines. They also illuminate more effectively than self-contained battery-powered units. The proposed rule, therefore, deletes the provisions in § 36.33 which restrict lighting units on mobile diesel-powered transportation equipment to self-contained devices. The proposal retains the requirements that each vehicle must have at least one headlight on each end, and that any lighting fixtures on the equipment must be protected from damage.

The effect of the amendment is to provide for the alternative of either engine-driven lighting systems which meet the requirments of Part 18 (Electric Motor-Driven Mine Equipment and Accessories) and whose components are certified under Part 18, or self-contained devices certified under Part 20. Regardless of the type of lighting used, each end of mobile equipment still must have at least one such unit and each unit must be protected. Interested parties are invited to comment on any foreseeable problems relating to this proposed amendment.

The proposed rule makes the additional editorial changes of renumbering the retained paragraphs and changing the heading to retain consistency with the substantive revisions to § 36.33.

Section 36.51. Section 36.51 currently provides that headlight units must be inspected and tested according to the applicable criteria contained in 30 CFR Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps). The proposal would revoke the Section because the inspection and testing criteria for all electric devices installed on mobile diesel-powered equipment are referenced in proposed §§ 36.32 and 36.33.

Interested individuals or organizations are asked to submit written comments and data on issues raised by this proposed rulemaking. If requested, MSHA will hold a public hearing pursuant to Section 101(a)(3) of the Mine Act.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978) and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

IV. Drafting Information

The principal persons responsible for preparation of this proposed rule are: George J. Dvorznak, Approval and Certification Center, MSHA, and Mitchell M. Eskenazi, Office of the Solicitor, Department of Labor.

PART 36—MOBILE DEISEL-POWERED TRANSPORTATION EQUIPMENT FOR GASSY NONCOAL MINES AND TUNNELS

Subpart B—Construction and Design Requirements

1. It is proposed to revise the title and wording of 30 CFR § 36.32 "Restriction of electrical components"as follows:

§ 36.32 Electrical components and systems.

(a). Electrical components on mobile diesel-powered transportation equipment shall be certified under Parts 18, 20, or 27 of this chapter, as applicable, and shall bear the certification number assigned by the Mine Safety and Health Administration (MSHA).

(b) Electrical systems on mobile diesel-powered transportation equipment shall meet the requirements of Parts 18 or 27 of this chapter, as applicable.

2. It is proposed to revise the title of § 36.33 "Headlight units" and change the wording of the Section by deleting paragraphs (a) and (b). The remaining two paragraphs are revised and redesignated (a) and (b), as follows:

§ 36.33 Headlights and lighting fixtures.

(a) Headlights and lighting fixtures on mobile diesel-powered transportation equipment shall be protected from external damage by recessing them in the equipment frame, enclosing them within a shield of substantial construction, or otherwise protecting them in accordance with sound engineering practice.

(b) Mobile diesel-powered transportation equipment shall be equipped with at least one headlight on each end.

§ 36.51 [Revoked]

3. It is proposed to revoke 30 CFR 36.51, *Inspection and tests of headlight units.*

Note.—As a result of the above actions, the table of contents for 30 CFR Part 36 would be changed as follows:

Sec.
36.32 Electical components and systems.
36.33 Headlights and lighting fixtures.

The table of contents for "36.51 Inspection and tests of headlight units" would be deleted since the section is proposed to be revoked.

(Sec. 101, Pub. L. 91-173, as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. § 811))

Dated: August 14, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 80-25682 Filed 8-21-80; 8:45 am]
BILLING CODE 4510-43-M

V 4 5 A G 2 2 8 0 UMI

federal register

Friday
August 22, 1980

Part V

Department of Labor

Mine Safety and Health Administration

Definition of Signaling Device; Removal of Design Restriction Requirement

PART 23—TELEPHONES AND

DEPARTMENT OF LABOR

30 CFR Part 23

Definition of Signaling Device

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends 30 CFR Part 23, which sets forth the requirements and conditions for MSHA approval of permissible telephones and signaling devices for use in mines. The proposed amendment would delete a portion of the definition of "Signaling Device" because new developments in communications technology no longer require the design restriction included in the current definition. The amendment would also add a new paragraph (g) to § 23.7 which would require all line powered telephone and signaling devices to be equipped with a standby power source. Interested persons may participate in the rulemaking process by submitting written comments, suggestions and objections to the address provided below.

DATE: Comments must be received on or before October 21, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

The definition of a signaling device set forth in section 23.2 was issued on April 11, 1939, by the Bureau of Mines, as part of Schedule 9B (4 FR 1555) pursuant to An Act for the Protection of the Lives of Miners in the Territories, 51st Congress, Chapter 564 (1891). The specifications in Schedule 9B were not mandatory until the enactment of the Federal Coal Mine Safety Act (Pub. L. 89–552, sec. 212, 66 Stat. 709) in 1952. Schedule 9B became Part 23 when amended by Supplement I (20 FR 2975) on May 4, 1955. Subsequent amendments to Part 23 have not changed the definition of a signaling device.

Pursuant to section 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811), the Secretary of Labor proposes to amend 30 CFR 23.2(f) to conform with advances in technology which have occurred since 1939.

II. Purpose and Effect of Rule

Section 23.2 is the "Definitions" section of 30 CFR Part 23. Section 23.2(f) defines "signaling device" and states that only signaling devices which are not designed to operate from a lighting or power circuit will be approved by MSHA as permissible equipment for use in mines. Because of the provision, MSHA is only allowed to approve telephones and signaling devices which are powered exclusively by batteries. This is a design restriction which was included in the definition in 1939 for two reasons: (1) signaling devices powered exclusively by batteries provided continuous communications in the event the mine power circuit failed or was cut off; and (2) technology at that time could not provide a means to insure that mine power circuits would be adequately isolated from signaling system circuits. Although § 23.7(a) requires circuits external to telephone and signaling devices to be intrinsically safe, insufficient isolation of the signaling system circuit from the mine power circuit could result in a higher level of current and voltage in the signaling system circuit, causing it to become unsafe. Damage to such a circuit could generate a spark capable of initiating an explosion in mines that have gassy or dust-laden atmospheres.

New technology, including the application of the concept of intrinsic safety and the use of solid state components has eliminated the hazards against which the restrictions contained in § 23.2(f) were directed. Communication systems exist today in which isolation between power circuits and intrinsically safe circuits is achieved through physical separation of bare circuit components and specially designed barrier circuits. The barrier circuits limit the maximum voltage and current that can be transmitted to the signaling system. Most European mine communication systems use a power supply that is isolated from the power circuit in this way and which continuously supplies a small current to the telephone or signaling device so as to maintain a "trickle" charge on the standby batteries in each device. The batteries provide communication capabilities when the mine power circuit is off.

The proposed rule would eliminate the current design restriction in § 23.2 (f) and permit MSHA to accept applications for the approval of telephones and signaling devices operated from mine power or lighting circuits. Also, a new paragraph would be added to § 23.7 to limit the approval of the line powered telephones and signaling devices to those provided with a standby power source, such as storage batteries with a charging feature. The new requirement is necessary to retain the communication capabilities provided by telephones and signaling devices powered exclusively by batteries. The amendment will also make Part 23 consistent with 30 CFR 75.1600–2(c) which requires operators who use a communication system that is powered solely from the mine electric system to provide a means to permit continued communications in the event the mine electric power fails or is cut off. The amended Part 23 would permit MSHA to approve mine telephones and signaling devices that increase the protection of miners' safety by providing more reliable communications and a direct connection to commercial lines for emergency situations.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

IV. Drafting Information

The principal persons responsible for preparation of this proposed rule are: Robert P. Lenart, Approval and Certification Center, MSHA; Herbert P. LeVan, Office of Standards, Regulations and Variances, MSHA; and Inga A. Watkins, Office of the Solicitor, Department of Labor.

Dated: August 14, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

Part 23, Chapter 1 of Title 30, Code of Federal Regulations, is proposed to be amended as follows:

PART 23—TELEPHONES AND SIGNALING DEVICES

§ 23.2 [Amended]

* * * * *

1. By revising paragraph (f) of § 23.2 to read as follows:

(f) "Signaling device." As used in this part, a signaling device is one that gives visual or audible signals.

§ 23.7 [Amended]

* * * * *

2. By adding a paragraph (g) to § 23.7 to read as follows:

(g) Line powered telephones and signaling devices shall be equipped with standby power sources capable of permitting the telephones or signaling devices to continue functioning in the event the line power fails or is cut off.

(Sec. 101, Pub. L. 91–173, 83 Stat. 745 as amended by Pub. L. 95–164, 91 Stat. 1291, (30 U.S.C. 811)

[FR Doc. 80–25713 Filed 8–21–80; 8:45 am]

BILLING CODE 4510–43–M

V
4
5

A
G

2
2

8
0
UMI

federal register

Friday
August 22, 1980

Part VI

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Demonstration Project; Requirements for Participating State Agencies

DEPARTMENT OF AGRICULTURE

standards for days and hours of

In the preamble to the proposed

V 45 A G 22 80 UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service,

7 CFR Part 272

[Amdt. No. 180]

Food Stamp Program; Demonstration Project; Requirements for Participating State Agencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent.

SUMMARY: This Notice announces the Department of Agriculture's intention to conduct a demonstration project under the authority of Subsection 17(b)(1) of the Food Stamp Act of 1977. This project will provide information on the costs, operation, and results of offering extra service to Food Stamp Program participants during early morning, evening and weekend hours in a variety of settings. This Notice solicits applications from program service areas, as defined herein, to participate in the project.

DATES: Potential sponsors shall apply, as instructed in the Notice, by close of business, October 21, 1980. Applications postmarked after this date will not be considered.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this Notice are pending approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This Notice will become effective August 22, 1980. The reporting and recordkeeping requirements may be subject to revision prior to implementation if the requirements as presently formulated are not approved without change by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, USDA, Room 658, 500 12th Street, S.W., Washington, D.C. 20250. Telephone (202) 447–8325.

SUPPLEMENTARY INFORMATION: Sections 11(e)(2) and 11(e)(13) of the Food Stamp Act of 1977 (Title XIII, Pub. L. 95–113) call for the U.S. Department of Agriculture (USDA) to set minimum standards which all State welfare agencies in charge of food stamp operations must meet in establishing facilities for food stamp certification and issuance. Pursuant to these provisions, the Department's Food and Nutrition Service (FNS) issued proposed regulations in the **Federal Register** on July 13, 1979 and final rules on January 11, 1980. The regulations defined a set of standards for days and hours of operation in a variety of program service areas and were based on population and distance variables. They also required State agencies to assess their county-level certification and issuance needs and to develop corrective action plans for those locales which do not meet minimum standards.

One issue remaining in the development of standards for points (locations) and hours is the potential needs to provide extra hours of service outside of "normal" business hours (i.e., 35 or 40 hours per week). Both Congressional and Departmental hearings have indicated that the working poor may be precluded from participating in the program because of the unavailability of service during early morning, evening, or weekend hours. Lack of these "extra" hours may cause employed applicants to sacrifice work hours (and income they represent) to apply for and obtain benefits. The Departent had initially considered developing detailed regulations which would have extended such services at least in the more populous areas. However, after extended deliberations, it was concluded that more information was needed on an extra service requirement before FNS could offer a public rulemaking.

As a result, FNS is undertaking a demonstration project which will provide more information on whether such additional services are needed, and if so, what the service requirements might be. The demonstration project will test a variety of approaches to providing extra service to food stamp households in different program service areas. During the course of this project, food stamp households in the demonstration sites will be able to apply for certification and receive benefits during the extra hours and at designated locations in the same manner as they now do under the current service arrangements. FNS is therefore publishing the following Notice of Intent to solicit potential sponsors.

Notice of Intent

Subsection 17(b)(1) of the Food Stamp Act of 1977 permits the Department of Agriculture to test program changes (conduct demonstrations) that might improve the delivery of food stamp benefits to eligible households and increase the efficiency of the Food Stamp Program. This Notice announces the Department's intention to conduct a demonstration project to assess the feasibility, costs, and outcomes of providing extra service at selected sites around the country.

In the preamble to the proposed rulemaking on standards for points and hours of service published in the **Federal Register** on July 13, 1979, the Department's Food and Nutrition Service (FNS) announced its decision to conduct a demonstration project to obtain more information about providing extra service outside of normal working hours and locations. From this demonstration project FNS hopes to learn about: (1) the extent to which various types of Food Stamp Program participants make use of the extra service and whether such service is necessary for these participants or merely a convenience; (2) any administrative, operational, and other obstacles associated with providing extra service; and (3) the cost of providing extra service.

In the preamble to the proposed rulemaking FNS suggested a set of possible standards relating to number of extra service hours and locations to the size of the service area. The standards were:

—Counties with more than 2,500 and fewer than 25,000 participating households should provide at least four extra hours of basic certification service, in no more than two blocks of time, every two weeks.
—Counties with more than 25,000 but fewer than 75,000 households should provide at least eight extra hours of basic certification service, in no more than four blocks of time, every two weeks, at no fewer than two locations.
—Counties with more than 75,000 households should offer a total of at least 12 hours of basic certification service, in no more than six blocks of time, at no fewer than three locations, every two weeks.

These standards should be viewed only as one possible set of *guidelines* to be used by sponsors applying to participate in the demonstration project. Applicants are encouraged to develop their own plans for extra points and hours of service which they estimate to be most suitable to their service areas. FNS is interested in examining a variety of plans to provide extra service (e.g., weekend hours, evening or early morning hours, service at locations not used during normal operation, etc.).

State or local welfare agencies already providing "extra" service may also apply if they with to expand the level of extra service they currently provide.

For purposes of this demonstration, the food stamp service areas which may apply to sponsor projects are limited to State or local welfare agencies (administrative units) responsible for the operation of the Food Stamp Program in counties, parishes, townships, or incorporated cities, or similar areas of a State. A potential sponsor may apply with the intention of operating a demonstration site in the entire service are or in a portion of the area it serves such as a county precinct or a city ward.

All potential sponsors must provide in their applications a description of: (1) the services to be provided; (2) the blocks of time to be involved (how many and when); (3) the number of locations to be used; (4) the staff required to provide extra service; (5) the cost of providing extra service; and (6) the rationale for their particular proposals.

To apply for the project, applicants may plan to provide extra certification services, extra issuance services, or both. While FNS' primary interest is in extra certification, FNS is also interested in extra issuance service. Sponsors may elect to provide any combination of extra service (e.g., early morning, evening, and weekend hours) in excess of the current levels of service. Alternatively, sponsors may choose to reschedule their current hours of operation to provide service outside the "normal" business hours. For those potential sponsors planning to shift their current hours of operation, FNS shall provide additional funding under the demonstration project for *only* those costs directly associated with demonstration activities (e.g., data collection, additional staff). Sponsors must maintain the current level of service to food stamp participants during this project; i.e., sponsors may not reduce the number of current hours or staffing levels.

FNS will establish procedures for monitoring the conduct of the demonstration activities. The evaluation of the demonstration project will be conducted by an independent contractor selected by FNS. The sponsors shall provide the evaluation contractor with access to all information pertaining to the project operations and shall cooperate with the contractor in implementing evaluation procedures.

A. Basic Operational Requirements

1. Extra hours may be contiguous with normal hours of operation (e.g., with extra hours beginning when regular hours end), separated by closure of the facility for one or more hours, or provided during weekends.

2. Sponsors shall provide the expedited certification and issuance services required in §§ 273.2(i) and 274.2(g) of the Food Stamp Program Regulations during their extra hours of service.

3. Sponsors must notify program participants of the availability of extra service at least 30 days prior to the initiation of the demonstration. Sponsors must also notify the participants of the termination of the demonstration at least 30 days before such termination takes effect.

4. Sponsors shall develop and conduct efforts to ensure that potential participants are informed of the availability of the extra service.

5. Sponsors must provide the extra service for a period of six months.

6. Sponsors must cooperate with the evaluation contractor in providing data for evaluation purposes, in accordance with the procedures developed by the contractor and approved by FNS, including data on program participation, project operations, staff training, and costs.

7. Sponors must provide information to FNS on program participation during the period beginning three months prior to the start of the demonstration projects. Such information must include: (1) the number of participants by week; and (2) data on the characteristics of the current participant population (e.g., age, sex, employment status, Public Assistance status, handicapping condition, minority status).

B. Sponsor Responsibilities

The sponsors of the extra service demonstration shall be responsible for:

1. Selecting those locations (points) in which extra service will be provided to Food Stamp Program participants.

2. Providing sufficient staff at each location where extra service will be available to ensure adequate and timely service.

3. Establishing a firm schedule of extra hours at individual service sites. This schedule shall be strictly adhered to so that the participants can rely on and use effectively the times available.

4. Preparing and implementing activities to ensure that potential participants are informed of the extra service.

5. Preparing notices and notifying program participants of the availability of extra service prior to the initiation of the demonstration project and before its termination.

6. Providing reports on program participation, operation, and costs in a form and on a schedule determined by FNS.

7. Maintaining records of the operation of the demonstration in accordance with procedures developed by the contractor and approved by FNS.

8. If conditions require any changes in the operation of the demonstration project, sponsors must obtain approval from FNS to institute such changes.

C. Federal Responsibilities

1. FNS will engage a contractor to develop monitoring and data collection procedures for the demonstration as well as to evaluate the demonstration.

2. FNS will monitor the operation of the demonstration.

3. FNS will provide funding for the demonstration project based on the budgets netogiated with the sponsors selected to conduct the demonstration.

D. Records

All records pertaining to this demonstration shall be available to FNS representatives or their designees for purposes of inspection and verification Such records shall be maintained for a period of three (3) years from the date of project completion.

E. Federal Financial Participation

1. FNS shall pay 100 percent of those approved administrative costs associated with the demonstration project which are identified as over and above such costs as are usual or customary to normal Food Stamp Program operations.

(a) To be eligible for 100 percent funding as specified above, administrative costs must be specifically identifiable with the demonstration.

(b) Funding shall be provided through the State agency Program Letter of Credit for costs incurred from conducting the demonstration.

(c) FNS shall assume the cost for any data compilations which are separate and in addition to those recordkeeping requirements necessary for normal program operation and which are performed by the sponsors at the request of the evaluation contractor.

(d) The sponsor shall receive no additional reimbursement from FNS for activities which it would normally undertake as a result of its regular hours of food stamp operations, but which it might choose to conduct during the extra service hours.

(e) Sponsors shall receive no additional reimbursement from FNS for providing extra service beyond the six-month demonstration period.

F. Applications

Potential sponsors of extra service demonstration projects shall submit their applications using the Federal Assistance Short Form (AD–625), prescribed by the Office of Management and Budget (OMB) Circular A–102. Application kits can be obtained from and applications shall be submitted in one original and two copies to the

Director, Program Development Division, Family Nutrition Programs, Room 658, Food and Nutrition Service, USDA, Washington, D.C. 20250; Attention: *Extra Points and Hours Demonstration Project.* At least one copy must contain original signatures. Applications must be sent to the address noted above by close of business, October 21, 1980. Applications postmarked after that date will not be considered. Sponsors shall provide the name, address, and telephone number of the person to contact about the application. Any sponsor questions about completing an application should be directed to Robert Davis or Linda Basham at (202) 447–8332. All applications shall be sumitted in accordance with all appropriate requirements as established under OMB Circular A–95 and must be signed by the representative with authority to commit the sponsor to the demonstration project. To ensure that no commitment is made without appropriate officials being informed and giving their concurrence, the following requirements must be met before FNS will consider the application:

(1) If any local administrative unit (e.g., county or district) submits an application for participation in this project, then written concurrence from the State central office must accompany any such application.

(2) If other agencies or units/functions within the State agency will be involved in this project (e.g., in the delivery of information to participants about extra hours, or in the provision of certification services for AFDC applicants), then a plan for documenting their willingness to participate must be included as well.

In addition the sponsors' applications must include the following:

(a) A detailed description of the service area in which the sponsor provides certification and issuance services including a geographic description of the area, demographic and economic descriptions of the population, and current and historical participation in the Food Stamp Program.

(b) A description of the sponsoring agency including its organization, relationship to parent agencies, scope of authority, and other programs administered by the agency and including the address(es) of service points, their current hours of operation, and the number of certification and issuance staff employed at each location.

(c) An assessment of the need for extra service in the Food Stamp service area to serve as justification for installing the demonstration at the applicant's site.

(d) A description of the point or points in the service area which will provide extra service, including a detailed schedule of the extra service to be provided. This description should include any services in addition to food stamp certification that will be provided (e.g., AFDC certification, ATP card issuance, coupon issuance, etc.)

(e) Plans for conducting activities to inform eligible nonparticipants of the availability of extra service.

(f) Plans for notifying current participants about the availability of extra service prior to the initiation of the demonstration and about termination of extra services before the end of the demonstration.

(g) A description of the staffing of the demonstration project, including a project director, which will be used in conducting the demonstration and providing extra service and the number of hours each staff member will be assigned to the project. An organization chart of staff assigned to the demonstration should be included.

(h) A detailed description of the administrative procedures to be used, and a work plan which establishes a schedule for development and implementation of the demonstration project. The work plan should include a description of and anticipated deadlines for:

(1) staff procurement or assignment for the project;

(2) staff training;

(3) any acquisition of additional facilities;

(4) modification of any existing programs currently employed to reach the potential participant population.

(i) A discussion of any foreseeable problems, and proposed procedures for handling such situations.

(j) A proposed budget for conducting the demonstration activities, including a budget for administrative costs to be funded at 100 percent Federal Financial Participation.

G. Monitoring and Evaluation

The monitoring of the demonstration activities will be be carried out by FNS. The evaluation of the demonstration will be conducted by a contractor engaged by FNS for that purpose.

H. Selection of Sponsors

1. *Federal procedures.* All applications for sponsorship of demonstration projects will be reviewed by a panel of FNS and other Deparmental representatives. Applications will be ranked on the criteria established in 2. below.

2. *Criteria for selection.* (a) Workable and efficient plan for meeting the need for extra service as evidenced by the justification or rationale.

(b) Consistency of the work Plan with the defined need for exta service.

(c) Clarity and completeness of the work plan.

(d) The adequacy of the plans and procedures for notifying current and potential participants.

(e) Variability of demonstration sites including considerations of:

(1) A mix of geographic locations and administrative structures across the seven FNS administrative regions;

(2) Sizes of service areas;

(3) A mix of strategies for the delivery of extra service.

(f) The capability of applicants to conduct the demonstration based on:

(1) Description of the qualifications of staff;

(2) Adminstrative and supervisory capacity;

(3) Current participation level of the target population within the project area.

(4) Evidence of a past history of efficient and effective operation by the sponsor in administering program service.

(g) The amount of Federal funding sought for participation in the project, including considerations of:

(1) Amount of funding requested for the extra services to be provided.

(2) Cost-effectiveness of the plans for providing extra services.

3. *Selection.* USDA will notify all applicants of those service areas selected for demonstration project operations.

(91 Stat. 958 as amended (7 U.S.C. 2011–2027))

Dated: August 6, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–25831 Filed 8–21–80; 8:45 am]

BILLING CODE 3410–30–M

federal register

Friday
August 22, 1980

Part VII

Environmental Protection Agency

National Pollutant Discharge Elimination System (NPDES); Memorandum of Agreements

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1585-5; Public Notice No. 80GA008]

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Georgia

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Georgia. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290, et. seq.). In order for the State of Georgia's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. NE., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25852 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-6; Public Notice No. 80MS003]

August 22, 1980.

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Mississippi

The United States of Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Mississippi. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290. et. seq.). In order for the State of Mississippi's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days to the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25854 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-7; Public Notice No. 80SC003]

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of South Carolina

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of South Carolina. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290, et. seq.). In order for the State of South Carolina's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 pm Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25855 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-8; Public Notice No. 80TN005]

Notice of Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Tennessee

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Tennessee. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et seq.). A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 FR 32854, et seq.) and on May 19, 1980 (45 FR 33290, et seq.). In order for the State of Tennessee's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25856 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

UMI 0 8 0 2 2 2 G A V 4 5

DECISION NO. KY80-1093

POWER EQUIPMENT OPERATORS' CLASSIFICATIONS DEFINITIONS (cont'd)

CLASS D - Backfillers, bar, joint & mesh installing machines, batch plant bull floats, burlap & curing machines, compressors (portable - sewer, heavy & highway), concrete plant (capacity 4 yds. & under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway with integral power), farm type tractors with attachment (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenches, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled subgraders, steam fireman, survey instrument man, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breaker.

CLASS E - Drum fireman (asphalt plants, helpers, inboard-outboard motor boat-launch, oil heaters (asphalt plants), oilers, power drivan heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen.

STATE: Michigan
DECISION No. MI
Supersedes Decis
DESCRIPTION OF
and apartments
Bridge, Airport

COUNTIES: Bay,
Iosco, Lapeer,
St. Clair, San
Shiawassee & T

ASBESTOS WORKERS
St. Clair Count
Remainder of Co
BOILERMAKERS
BRICKLAYERS:
Genesee, Lapeer
see Cos.:
Bricklayers
Marble-Tile-T
kers
St. Clair & San
Bricklayers &
Marble Setters
Ter zzo Worke
Tile Setters
Remainder of Co
Bricklayers &
Marble-Tile-Te
Workers
CARPENTERS:
Sanilac (Except
5 Miles & St.
Carpenters &
Soft Floor lay
Remainder of Co
West 5 Miles
County:
Carpenters &
Piledriverme
Soft Floor L
CEMENT MASONS:
St. Clair & San
ties
Lapeer County
Genesee & Shia
ties
Remainder of Co
Cement Masonry
walks,curbs
not related
road & Stree

DECISION No. MI80-2066 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W.	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Iosco County; Northern ½ of Co., Contracts over $35,000	$13.30	.75	3%+.30		1/10of1%
Contracts under $35,000	11.35	.75	3%+.30		1/10of1%
Bay Co., & Southern ½ of Iosco co.,	14.00	.75	3%+.68		½ of 1%
Genesee, Lapeer & Shiawassee Cos.,	12.55	.60	3%+1.50		.02
Saginaw & Tuscola Cos	13.65		3%+1.25		½ of 1%
Remainder of Counties	14.40	1.65	3%+1.20		.05
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Remainder of Counties:					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.,	9.64	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Isoco, Tuscola & Saginaw Cos.,	9.15		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	.98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
LABORERS:					
Iosco County; Unskilled Motar & Plaster Mixers, Sewer & Caisson Workers, Plasterer Tenders,	7.35	.65	.35	.55	.04
Cement Gun Nozzlemen	7.50	.65	.35	.55	.04
	7.95	.65	.35	.55	.04

DECISION No.

LATHERS:
Saginaw & Ger
PAINTERS:
Bay Iosco Cos
of M-53) Cos
ships of Akr
Columbia, El
Elmwood, Fai
Novesta, &
Tuscola Co.
Commercial
Commercial
Industrial
Spray & San
Saginaw Cos.
of Tuscola
Brush
Spray
Genesee, Lape
& Shiawasse
Western ½ of
Huron (East
St. Clair &
Commercial
Brush
Open Steel
PLASTERERS:
Lapeer County
Bay, Huron,
& Tuscola Co
Genesee & Shi
St. Clair &
PLUMBERS AND
Bay Iosco., I
& the NW ¼ o
from the Port
to Sanilac Co
Genesee, Lape
Cos.,
Saginaw & S.
(including
Washjamerga
the Lapeer
Cos.,
Remainder of
St. Clair &

Federal Register
Friday
August 22, 1980

DECISION No. MI80-2066 Page 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw & Tuscola Cos.	$11.95	1.05	.60		
Genesee, Lapeer & Shiawassee Cos., Composition	12.25	.60	.60		
Slate & Tile	12.70	.60	.60		
St. Clair, Sanilac & Huron Cos.,	9.95				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	12.86	.80	1.00		.03
Genesee, Lapeer & Shiawassee Cos.,	10.65	.79	1.20	1.00	
St. Clair & Sanila Counties	11.305	1.81	1.73	1.24	.12
SPRINKLER FITTERS	14.61	.85	1.20		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	9.40	b31.00	b37.00	.50	
8 cu. yds. & over	9.50	b31.00	b37.00	.50	
Euclid Type Equipment	9.70	b31.00	b37.00	.50	
Genessee, Lapeer & Shiawassee	9.60	b32.50	b37.00		
Huron, St. Clair & Sanilac					
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	11.30	b32.50	b37.00		
Semi Drivers	11.20	b32.50	b37.00		
All Other Truck Drivers	11.05	b32.50	b37.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day. plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee, (plus $3.00 per week - optical & dental H&W T/D in Bay, Iosco, Saginaw & Tuscola Cos. - only)

DECISION No. MI80-2066 Page 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Cos.					
CLASS A	$ 9.49	.65	.35		.04
CLASS B	9.61	.65	.35		.04
CLASS C	9.69	.65	.35		.04
CLASS D	10.26	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos.					
CLASS A	10.44	.75	.85		.04
CLASS B	10.59	.75	.85		.04
CLASS C	10.69	.75	.85		.04
CLASS D	10.79	.75	.85		.04
CLASS E	11.04	.75	.85		.04
St. Clair & Sanilac Cos.					
CLASS 1	11.13	.65	.35		.04
CLASS 2	11.25	.65	.35		.04
CLASS 3	11.38	.65	.35		.04
CLASS 4	11.30	.65	.35		.04
CLASS 5	11.48	.65	.35		.04

LABORERS:

Bay, Huron, Saginaw & Tuscola Counties

CLASS A - All Construction Laborers on Building & Heavy Construction not specified in classes. B, C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator and Motar Mixer when done by hand.

CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; vibrators

CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker

CLASS D - Drillers & Plasters; Burners

Page 6

DECISION No. MI80-2066

LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS b - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Men Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool. Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

Page 7

DECISION No. MI80-2066

LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$14.38	1.50	9%		4%
Cable Splicer	15.00	1.50	9%		4%
Combination equipment Operator & Groundman	11.52	1.50	9%		4%
Combination Driver-Groundman	10.84	1.50	9%		4%
Groundman	9.98	1.50	9%		4%

LC-ZONE-II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technician	$12.50	.45	3%+4%	a+5%	.5%
Cable Splicer	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator Tractor Operator Groudman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman: Distribution Line Truck Driver Operator Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

Page 8

DECISION No MI80-2066

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.73	.95	1.50	11%	.05
CLASS B	13.50	.95	1.50	11%	.05
CLASS C	13.10	.95	1.50	11%	.05
CLASS D	12.86	.95	1.50	11%	.05
CLASS E	12.49	.95	1.50	11%	.05
CLASS F	10.77	.95	1.50	11%	.05
CLASS G	9.89	.95	1.50	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Crane with boom and jib 120' or longer
CLASS D - Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operting compressor or welding machine
CLASS G - Fireman or Oiler

ICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	.05

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

Page 9

DECISION No. MI80-2066

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		.05

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

Page 10

DECISION No. MI80-2066

MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

Page 11

DECISION No MI80-2066

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
DECISION No. MI80-2068
Supersedes Decision No.: MI79-2019 dated May 4,1979 in 44 FR 26457
DESCRIPTION OF WORK: Building Construction (including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction Projects.

COUNTIES: *See Below
DATE: Date of Publication

*Counties: Macomb, Monroe, Oakland, Washtenaw & Wayne

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	$13.83	.55	1.40		.04
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	12.60	1.05	1.78		.02
Remainder of Counties & the Remainder of Washtenaw County	13.85	1.61	1.69		.07
BOILERMAKERS:					
Monroe County	13.575	1.075	1.00		.03
Remainder of Counties	13.065	1.28	1.30	2.00	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy #23 in Monroe Cos.	13.37	1.16	.55		.05
Washtenaw County	15.47		1.30		
Remainder of Counties & East of Hwy. #23 in Monroe County	14.07	1.28	8%+.60	11%	.06
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	12.84	.60	.80		.05
Remainder of Counties	12.78	1.00	11%	11%	.04
CEMENT MASONS:					
South of Hwy. #151 in Monroe County	14.14	.60			.02
Washtenaw County	15.37		1.30		
Remainder of Counties & North of Hwy. #151 in Monroe County	13.29	1.00	11%		.02
ELECTRICIANS:					
Washtenaw County	13.07	1.00+4%	3%+.70	10%	.26
Monroe County:					
Building	15.10	.85	3%+.95		.3%
Residential	9.42	.65	3%+.55		.1%
Remainder of Counties:					
Building	14.40	1.65	1.20		.05
Residential	14.40	1.65	1.20		.05

DECISION No. MI80-2068 Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	$15.23	1.19%	.95	a	.03%
Helpers	70%JR	1.19%	.95	a	.03%
Washtenaw County					
Constructors	12.41	.74%	.56	a	.02%
Helpers	70%JR	.74%	.56	a	.02%
Remainder of Counties					
Constructors	12.475	.74%	.56	a	.02%
Helpers	70%JR	.74%	.56	a	.02%
GLAZIERS	9.77	.55	.65		
IRONWORKERS:					
Monroe County	15.26	1.06	1.68		.09
Remainder of Counties:					
Structural & Ornamental	13.90	9%	17%	18%	.09
Reinforcing	12.08	98+.50	19%	19%	.12
Fence Erectors	11.59	9%	17%	18%	.09
Riggers & Machinery Erectors	11.60	1.84	1.84+1.10	18%	.08
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:					
Construction Laborer & Capenter Tender	10.97	.65	.35	.90	.04
Mortar Mixer, Mason & Plaster Tender,	11.17	.65	.35	.90	.04
LATHERS:					
Monroe County; excluding s/w corner-eastern portion of Washtenaw County & Remainder of Counties	12.08	1.62	1.07		.04
MILLWRIGHTS:					
Washtenaw County	12.84	.60	.80		.05
Remainder of Counties	12.50	1.00	13%	23%	.06

DECISION No. MI80-2068 Page 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	$15.47		1.30		
Remainder of Counties:					
Marble Mason	14.61	1.00	1.75		
Marble Mason Finishers	7.74	.85	.70	.95	
PAINTERS:					
Brush - Roller	12.10	1.01	1.35	1.15	50.00p/y
Spray	12.60	1.01	1.35	1.15	50.00p/y
Drywall Tapers	12.35	1.01	1.35	1.15	50.00p/y
PLASTERERS:					
South of Hwy. #151 in Monroe Cos.	14.65	.60			.01
Washtenaw County	15.47		1.30		
Remainder of Counties & Remainder of Monroe Cos.	13.22	.85	.75		
PLUMBER & STEAMFITTERS:					
Monroe County	14.45	1.06	.80		.12
Washtenaw County	13.53	1.25	.85		.05
Remainder of Counties:					
Plumbers	12.00	1.25	1.60	1.90	.07
Pipefitters	14.06	1.75	1.65	1.70	.05
ROOFERS:					
Monroe County	13.34	1.20	1.00		.02
Washtenaw County:					
Composition	10.65	.94	.65	1.05	.10
Slate	11.68	.94	.65	1.05	.10
Remainder of Counties:					
Composition	14.41	1.05	1.05	1.20	
Slate	15.41	1.05	1.05	1.20	
SHEET METAL WORKERS:					
Monroe County	13.155	1.20	1.57		.045
Remainder of Counties	11.305	1.81	1.73	1.24	.12

DECISION No. MI80-2068 Page 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$12.84	.60	.80		.05
Remainder of Counties	11.49	1.00	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	b1.60	b6.00		
Electrical Technician Jr.	6.86	b1.60	b6.00		
SPRINKLER FITTERS:					
Monroe County	12.37	.75	1.05		.08
Remainder of Counties	15.055	80+.50	1.05		.10
TILE & TERRAZZO WORKERS:					
Washtenaw County	13.47		1.00		
Remainder of Counties:					
Terrazzo Workers	12.42	1.00	1.40		
Terrazzo Workers' Finishers	11.02	1.00	.50	1.00	
Tile Setters	12.88	1.00	1.40		
Tile Setters' Finishers	9.27	.85	.80	.90	
TRUCK DRIVERS: Building, Heavy & Residential					
Construction Pole Trailer; Low Boys; Stradle Carrier; Double Bottoms & special Load Permits	11.30	b32.50	b37.00		
Semi Drivers	11.20	b32.50	b37.00		
All Other Truck Drivers	11.05	b32.50	b37.00		
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cu. yd. capacity or over, Pole trailers, semis, low boys, Euclid, double bottom & Fuel trucks	10.31	b36.50	b37.00		
Truck Drivers on dump trucks 8 cu, yds. capacity or over, Pole trailers, semis & fuel trucks	10.44	b36.50	b37.00		
Low boys, Euclid & double bottom driver	10.64	b36.50	b37.00		

FOOTNOTES: a. 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day Thanksgiving Day-Day after Thanksgiving-Christmas Day plus Employer contributes 8% or Regular Hourly Rate to Vacation Pay Credit for employee who has worked in Business more than 6 years & 6% for employees in business less than 5 years.
b. Per Week; Per Employee

UMI 0 8 2 2 G A 5 4 V

DECISION No MI80-2068 Page 5

LABORERS BUILDING, RESIDENTIAL & HEAVY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Washtenaw County:					
GROUP 1	$10.04	.65	.35	1.00	.04
GROUP 2	10.24	.65	.35	1.00	.04
GROUP 3	10.36	.65	.35	1.00	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	10.53	1.00	.95	1.10	.04
GROUP 2	10.13	1.00	.95	1.10	.04
GROUP 3	10.30	1.00	.95	1.10	.04
GROUP 4	10.28	1.00	.95	1.10	.04
GROUP 5	10.55	1.00	.95	1.10	.04
GROUP 6	10.38	1.00	.95	1.10	.04
GROUP 7	10.43	1.00	.95	1.10	.04
GROUP 8	10.80	1.00	.95	1.10	.04

LABORERS: BUILDING, RESIDENTIAL & HEAVY

Washenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Oprs., Power Buggie Oprs., Scaffold Building or Dismantler; Windlass Oprs., Tar and Kettle Oprs.,
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal man, Air gas or electric tool oprs., Windlass and Tugger Opr., Jackhammer and Vibrator Opr.,
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lansing Burners, Blasters, Powderpan

DECISION No. MI80-2068 Page 6

LABORERS: OPEN CUT CONSTRUCTION WASHTENAW COUNTY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.20	.65	.35	.55	.04
CLASS 2	9.28	.65	.35	.55	.04
CLASS 3	9.33	.65	.35	.55	.04
CLASS 4	9.38	.65	.35	.55	.04
CLASS 5	9.43	.65	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS					
CLASS 1	9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.44	1.00	.95	.95	.04
CLASS 5	9.04	1.00	.95	.95	.04
MONROE COUNTY					
CLASS 1	9.20	.65	.35	.55	.04
CLASS 2	9.30	.65	.35	.55	.04
CLASS 3	9.40	.65	.35	.55	.04
CLASS 4	9.45	.65	.35	.55	.04
CLASS 5	9.55	.65	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete Form Man, Signal Man, Wheel Point Man, Manhole, Headwall & Catch Basin Building, Guard Rail Builders & Fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Oprs., Vibrator Oprs., Drillers, Pumpman Tar kettle Oprs., bracers, rodder, Reinforced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

DECISION No. MI80-2068 Page 7

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION WASHTENAW & MONROE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.83	.65	.35	.55	.04
CLASS 2	9.91	.65	.35	.55	.04
CLASS 3	9.96	.65	.35	.55	.04
CLASS 4	10.11	.65	.35	.55	.04
CLASS 5	10.31	.65	.35	.55	.04
CLASS 6	10.56	.65	.35	.55	.04
Wayne, Oakland & Macomb Cos:					
CLASS 1	9.26	1.00	.95	.95	.04
CLASS 2	9.34	1.00	.95	.95	.04
CLASS 3	9.39	1.00	.95	.95	.04
CLASS 4	9.59	1.00	.95	.95	.04
CLASS 5	9.74	1.00	.95	.95	.04
CLASS 6	9.99	1.00	.95	.95	.04

CLASS 1 - Tunnel, Shaft & Caisson laborer, dump man Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Headwall catch basin builder, Bricklayers Tender, Mortar man, Material mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool oprs., (Jackhammer man, Bruch Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carrier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool Oprs., Gunnite man, grout Opr., Heading dinry man, inside lock tender, pea gravel opr., pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, top signal man, switch man, track man, Tugger man, Utility man, Vibrator man, Winch Opr., concrete saw opr., (under 40 H.P.)
CLASS 4 - Tunnel, shaft & Caisson mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Runner, Key board Opr., Power Knife Opr., reinfornced steel or mesh man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powerman

DECISION No. MI80-2068 Page 8

LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$ 7.21				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	5.46				

UMI 08 22 GA 54V

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne, Macomb & Remainder of Washtenaw, Monroe & Oakland Counties					
Linemen - Technician	$14.38	1.50	9%		½%
Cable splicers	15.00	1.50	9%		½%
Combination Equipment Oprs. & Groundman	11.52	1.50	9%		½%
Combination Driver-Groundman	10.84	1.50	9%		½%
Groundman	9.98	1.50	9%		½%
LINE CONSTRUCTION: Twys. of Lyndon, Manchester Sharon & Sylvan in Washtenaw Cos., Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County-Twp. of Holly in Oakland Cos.,					
Lineman; Technician	12.50	.45	3%+4%	a+5%	.5%
Cable Splicers	13.01	.45	3%+4%	a+5%	.5%
Combination Digger Operator: Tractor Operator Groundman	9.75	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Opr., Groundman	8.56	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman	8.17	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	6.92	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

POWER EQUIPMENT OPERATORS: BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.73	.95	1.50	11%	.05
CLASS B	13.50	.95	1.50	11%	.05
CLASS C	13.10	.95	1.50	11%	.05
CLASS D	12.86	.95	1.50	11%	.05
CLASS E	12.49	.95	1.50	11%	.05
CLASS F	10.77	.95	1.50	11%	.05
CLASS G	9.89	.95	1.50	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom & jib or leads 140' or longer
CLASS C - Crane with boom & jib 120' or longer
CLASS D - Regular Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operating compressor or welding machine
CLASS G - Firemen or oiler

MICH-2-PEO-5E

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib or longer tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. P. or over)

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: See below*
DECISION NUMBER: SC80-1092 DATE: Date of Publication
Supersedes Decision No.: SC79-1124 dated September 7, 1979 in 44 FR 52578
DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and apartments up to and including 4 stories.

*Counties: Aiken, Allendale, Bamberg, Barnwell, Calhoun, Edgefield, Hampton, and Orangeburg

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning & Heating Mechanic	$ 5.00				
Bricklayers	6.35				
Carpenters	5.01				
Concrete Finisher	5.50				
Drywall Finisher	6.19				
Drywall hanger	5.45				
Electricians	5.30				
Insulation Installer	4.86				
Laborers:					
Laborers, Unskilled	3.50				
Mortar Mixers	4.48				
Pipelayers	4.29				
Painters, brush	4.75				
Plumbers & Steamfitters	6.30				
Roofers	5.13				
Sheet Metal Workers	5.25				
Soft Floor Layers	4.00				
Tile Setters	5.00				
Truck Drivers	3.50				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.55				
Bulldozers	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

UMI 800 222 GA 45 V

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: FAYETTE, SHELBY, & TIPTON

DECISION NUMBER: TN80-1100

DATE: DATE OF PUBLICATION

Supersedes Decision Number TN79-1007, dated January 5, 1979, in 44 FR 1668.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 6.13				
BRICKLAYERS	8.95				
CARPENTERS	5.93				
CARPET INSTALLERS	5.50				
CEMENT MASONS	5.24				
DRYWALL FINISHERS	6.51				
DRYWALL HANGERS	7.04				
ELECTRICIANS	7.54				
INSULATION INSTALLERS	7.00				
IRONWORKERS	4.50				
LABORERS:					
Unskilled	3.84				
Mortar mixers	4.25				
Mason tenders	4.25				
Asphalt rakers	5.01				
PAINTERS	5.97				
PLUMBERS & PIPEFITTERS	7.76				
ROOFERS	6.76				
SHEET METAL WORKERS	7.48				
SOFT FLOOR LAYERS	4.63				
TILE SETTERS	5.25				
TRUCK DRIVERS	4.75				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Motor grader	6.50				
Paver	5.95				
Roller	5.56				
Tractor	4.40				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (i) (ii)).

[FR Doc. 80-25318 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: Washington

COUNTIES: Clallam, King, Kitsap, Pierce, Snohomish, and Thurston

DECISION NUMBER: WA80-5125

DATE: Date of Publication

Supersedes Decision No. WA78-5103 dated June 16, 1978, in 43 FR 26271

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS:					
King County	$12.48				
CARPENTERS	14.93	.75	.95		.04
CEMENT MASONS	11.46				
DRYWALL TAPERS	13.04	.72	.70		.04
ELECTRICIANS:					
Clallam, King, and Kitsap Counties	8.75	.85	3%+.40	.18	.03
ELEVATOR CONSTRUCTORS	15.735	1.045	.82	*	.03
IRONWORKERS	13.66	.93	1.70		.10
LABORERS	7.70				
PAINTERS	10.92				
PLUMBERS:					
Clallam and King Counties	13.42				
Remaining Counties	8.30	.85	.30	.37	.11
ROOFERS:					
Pierce and Thurston Cos.	10.18	.65	.40		.02
Remaining Counties	12.71	.75	1.00		.03
SHEET METAL WORKERS:					
Clallam and Kitsap Cos.	12.24	.37	.83	1.50	.06
King and Snohomish Cos.	14.45				
SOFT FLOOR LAYERS:					
King and Snohomish Cos.	12.08	.63	1.25		.05

*VACATION PAY (Elevator Constructors):
Employer contributes 8% of basic hourly rate for 5 years or more of service as vacation pay credit and 6% of basic hourly rate for 6 months to 5 years of service. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses 29 CFR 5.5 (a) (1) (ii)

federal register

Friday
August 22, 1980

Part III

Environmental Protection Agency

Intent To Issue Guideline for Evaluating the Profit Element of Subagreements for Architectural/Engineering (A/E) Services Funded Under Title II of the Clean Water Act

ENVIRONMENTAL PROTECTION AGENCY

Intent To Issue Guidance for Evaluating the Profit Element of Subagreements for Architectural/ Engineering (A/E) Services Funded Under Title II of the Clean Water Act

Construction Grants Program—Catalog of Federal Domestic Assistance No. 66.418

Purpose of This Notice

The Environmental Protection Agency (EPA) invites interested persons to review and comment on a proposed policy memorandum entitled "Criteria and Guidelines for evaluating the Profit Element of Subagreements for Architectural/Engineering Services."

The proposed policy memorandum would provide guidance to grantee, State and EPA reviewers who approve the profit element of A/E subagreements. The policy memorandum sets forth criteria for establishing the range of profits that are normally considered reasonable by EPA. This means that only that portion of the profit element that is less than or equal to the amount determined by the evaluation criteria would be normally eligible for grant participation.

Where and When To Send Comments

Any comments received by October 15, 1980, will be considered in developing the final document. Please submit comments to Mr. James R. Murphy, Municipal Construction Division (WH–547), Office of Water Program Operations, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (telephone 202–426–8945.)

Dated: August 13, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Program Requirements Memorandum

Subject: Criteria and guidlines for Evaluating the Profit Element of Subagreements for Architectural/ Engineering Services

From: Henry L. Longest II, Deputy Assistant Administrator for Water Program Operations (WH–546)

To: Regional Administrators (Regions I–X) Attention: Water Division Directors

Purpose

The purpose of this memorandum is to establish National guidelines for evaluating the profit element of subagreements for architectural/ engineering (A/E) services funded under Title II of the Clean Water Act.

For the purpose of this memorandum, the terms profit, cost and price have the definitions contained in the Environmental Protection Agency (EPA) subagreement regulations (40 CFR 35.936 thru 35.938).

The profit evaluation criteria and guidelines contained in this memorandum are not intended to be an absolute requirement nor are they intended to restrict the amount of profit paid by the grantee to the consultant. Rather, the evaluation criteria is intended to provide guidance to the grantee, State and EPA regional offices on the range of profits that are normally considered allowable by EPA.

Background

EPA regulation 40 CFR 35.936–4 states that "only fair and reasonable profits may be earned by contractors in subagreements under EPA grants." This requirement applies to all subagreements, including contracts for architectural/engineering services.

EPA enacted its current policy of having each regional office develop internal review procedures and guidelines for evaluating profits in a memorandum dated January 18, 1977, from Alvin L. Alm to the Regional Administrators. The decision to allow the regional offices to develop internal guidelines was made after considering the wide variety of existing circumstances and in preference to establishing, at that time, numerical profit limits or formulas in a national policy. It should be noted that EPA distributed drafts of a proposed national policy for establishing profit ranges and weighted guidelines in September 1976, but a number of offices within the agency, as well as associations representing the A/E profession, expressed a strong objection to the issuance of the proposed policy. Accordingly, a decision was made, at that time, not to establish profit ranges and weighted guidelines as national policy.

In carrying out the responsibilities mandated by the January 18, 1977 memorandum, the regional offices have developed differing internal guidelines for evaluting profit levels. The differences between the regional guidelines and the variation in their application have created a concern about the lack of a uniform national profit policy. The January 18, 1977 memorandum stated that "It is essential that the agency maintain some level of consistency among the regions in the performance of cost reviews, cost analyses and profit levels allowed." The memorandum also stated that EPA would continue to explore various options for the possible future issuance of direct labor and profit gudelines.

On June 8, 1977, the California State Water Resources Control Board, issued "Bulletin No. 29H—Guidelines for Architectural/Engineering Services." This bulletin included an evaluation criteria for reviewing the profit elements of A/E subagreements.

Over the past two years the California guidelines have been discussed and examined in depth both within EPA and the consulting engineering profession. Although everyone is not in complete agreement with all the provisions of the California guidelines, the consensus is that proper application of guidelines can provide for a fair and reasonable profit for the performance of engineering services. Accordingly, EPA is establishing a review criteria based on the principles of the California Guidelines.

In understanding the following profit guideline criteria, it should be recognized that:

A. EPA regulation 40 CFR 35.937–7 defines profit as "the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on Federal procurement principles, it may vary from the firm's definition of profit for other purposes.)"

B. Federal procurement principles do not consider the following expenses to be considered as allowable costs: interests on borrowed capital, job cost overruns, bad debts including losses on other contracts and uncollectable accounts. Various other expenses such as entertainment costs are also considered unallowable. Accordingly, these expenses, if incurred on an EPA funded project, must be paid out of the profit element of the subagreement.

Discussion

EPA regulation 40 CFR 35.937(b) describes the Agency's policy regarding subagreements for architectural/ engineering services as follows:

Policy. Step 1, step 2, or administration or management of step 3 project work may be performed by negotiated procurement of architectural or engineering services. The Federal Government's policy is to encourage public announcement of the requirements for personal and professional services, including engineering services. Subagreements for engineering services shall be negotiated with candidates selected on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices. All negotiated procurement shall be conducted in a manner that provides to the maximum practicable extent, open and free competition. Nothing in this subpart shall be construed as requiring competitive bids or price competition in the procurement of architectural or engineering services.

EPA regulation 40 CFR 35.937–7 states that: Profit should be sufficient to attract professionals who possess the talents and skills necessary to accomplish the project objectives and to stimulate efficient and expeditious completion of the project.

EPA regulation 40 CFR 35.937–7 describes the objectives of profit negotiations between the grantee and the A/E as follows: The exercise of sound business judgement and good administrative practice including the determination of a fair and reasonable profit based on the firm's assumption of risk and input to the total performance, *and not merely the application of a predetermined percentage factor.* (emphasis added)

Policy

It is EPA policy that only that portion of the profit element that is less than or equal to the amount determined by the profit guideline criteria is eligible for grant participation.

In certain exceptional circumstances a profit beyond the range of the criteria may be approved by EPA. Any request for approval of a profit in excess of that allowed by the evaluation criteria should be submitted by the grantee to the EPA regional office. The EPA regional office will make the final determination on the request. If a waiver to the evaluation criteria is approved by the regional office, the justification should be documented and included in the official grant file.

Weighted Guidelines

Cost element (From EPA Form 5700–41)	Approvable profit as a percent of cost element	
	CPFF contract	Lump sum contract
1. Direct Labor Cost (Item 7)	Up to 24	Up to 26
2. Indirect Cost (Item 8)	Up to 16	Up to 18
3. Other Direct Cost (Items 9a,9b,9d).	Up to 7	Up to 7
4. Subcontract Cost (Item 9c)	[1] 4 to 8	[1] 4 to 8
5. Additional Profit Factor to be Applied to those Subcontracts Involving Less Experienced Contractors, Unusual Risks or Responsibilities.	Up to 5	Up to 5
6. Additional Profit Factor to be Applied to those Subagreements Involving the Design of an Innovative and Alternative Technology Project (See attached memorandum).	Up to 2	Up to 2

[1] Subcontract cost/total cost item 9c/item 10:

[In percent]

Less than 30%	Up to 8.
Between 30–70%	Up to pro-rata share between 4–8.
Greater than 70%	Up to 4.

Application of Profit Guideline Criteria

The procedures for applying the weighted guidelines, and a more detailed description of the evaluation criteria, are outlined below:

1. The profit guideline criteria should be applied whenever EPA performs a preaward cost and price review under applicable regulations including all subagreements for A/E services where price is not the prime consideration in the award of the contract, and to all lower tiered subcontracts thereunder.

2. The weighted guidelines should be applied independently to the prime contract and applied independently to each subcontract including lower tiered subcontracts. Accordingly, no attempt should be made, when applying the evaluation criteria, to allocate profit between the various contract levels within a subagreement.

3. For the purpose of applying the profit guideline criteria, total cost is the approvable amount shown in Item 10 of EPA Form 5700–41 and total profit is the approvable amount shown in Item 11 of the same form.

4. The maximum profit that normally will be approved by EPA for an A/E subagreement is determined by multiplying the dollar value of each approvable cost element by the corresponding maximum weighted guideline and summing the results.

5. The maximum profit should not exceed 20 percent of the total approvable cost for lump sum (LS) contracts and 18 percent of the total approvable cost for cost plus fixed fee (CPFF) contracts.

The profit ceiling may be increased an additional 2 percent for a Step 2 subagreement involving the design of an innovative and alternative technology project. This additional 2 percent premium is risk compensation to be added to the profit and is not subject to any profit limitations. See attached March 20, 1980 memorandum.

6. If the total negotiated profit is less than or equal to the value determined by the procedures described in Item 3 and Item 4 above, and all other appropriate requirements have been met, the negotiated profit should be approved by the EPA reviewing office.

7. The weighted guidelines criteria should only be used to determine the maximum profit that will normally be approved by EPA. The actual profit negotiated by the grantee should be based on the A/E's assumption of risk and input to total performance and not simply on the application of a percentage factor.

8. The weighted profit guideline criteria should only be applied to negotiated lump sum and cost plus fixed fee contracts.

9. In certain circumstances and A/E may be required to enter into an agreement with less experienced, but otherwise qualified small, minority or woman owned business enterprises. In such instances an additional profit factor of up to 5 percent may be applied to the approvable value of the subcontract(s). However EPA does not normally require the utilization of less experienced subcontractors on more than 20 percent of the total work of the subagreement. Accordingly, the additional profit factor should not be applied to subcontract(s) cost in excess of 20 percent of the total approvable value of the subagreement.

The additional profit, which cannot exceed 1 percent of the total cost of the subagreement (0.05 x 0.20) is intended to compensate the A/E for the increased risk and liability associated with the utilization of less experienced subcontractors.

10. If the grantee believes that special circumstances justify a total subagreement price or profit above that which is approved by EPA, such additional cost shall be borne by the grantee.

11. The profit evaluation criteria assumes indirect (total allowable overhead) cost between 100 and 175 percent of direct labor cost. For extraordinarily high or low overhead costs, adjustment of profit downward or upward, respectively, may be appropriate.

12. For negotiated profits within the guideline criteria, the record of the negotiations shall be considered adequate justification for meeting the objectives of 40 CFR 35.937–7—negotiation of profit.

13. The profit guideline criteria recognizes the differences in risk between a lump sum (LS) contract and a cost plus fixed fee (CPFF) contract. In a true CPFF contract only the fixed fee is limited to the original contract amount, the cost ceiling is a figure to be periodically evaluated, and if necessary, adjusted upward or downward by contract amendment, provided of course, that any incremental costs are normal and necessary to the proper completion of the original scope of work.

EPA regulations require all CPFF contracts to include a cost ceiling or a limitation of cost clause. Normally, the provisions of a CPFF contract require the A/E to notify the grantee and EPA, in writing, whenever there is reason to believe that (1) the costs to be incurred in the next 60 days, when added to all previously incurred costs, are expected to exceed 75 percent of the estimated contract cost, or (2) the total costs (exclusive of fee) are expected to exceed the cost ceiling. The A/E's revised estimate of that total cost should accompany the notification. The grantee should review and act on the A/E's revised estimate within a reasonable period of time. If the grantee determines that additional services are needed for the proper completion of the original scope of work, and if the costs are necessary and reasonable, the grantee should submit a request to EPA for additional funds. Unless EPA takes action on the request, either in the form of a grant increase or a release of contingency funds, the agency will not be obligated to reimburse the grantee for costs incurred in excess of the amount

initially funded. Furthermore, the A/E is

pool and how this labor would be

technology projects, the Region will

initially funded. Furthermore, the A/E is not obligated to continue performance once he has incurred costs up to the approved cost ceiling. An A/E who incurs cost in excess of the amount approved by the grantee does so at his own risk. While the costs incurred in the perfomance of a cost-reimbursable contract may vary from the initially agreed-to estimate, the fee remains fixed as an expressed dollar amount and is subject only to adjustment by reason of an approved change in the scope of work. In the event that the work cannot be completed within the initially agreed-to estimate, the grantee, with the approval of EPA, can require the A/E to provide additional services without an increase in fee by simply amending the contract amount, or the contract can be terminated. However, if a CPFF contract is terminated solely because the incurred costs have reached a predetermined cost ceiling, the A/E would not be required to provide a completed product.

The profit guidelines criteria are designed to allow a higher profit for a lump sum contract than for a CPFF contract. However, some contracts may combine the contractural provision of a lump sum contract and a CPFF contract. In such instances, the contractural provisions that describe the cost ceiling, the limitation of cost clause, or the not to exceed clause must be closely examined in order to properly classify the contract as to type. Accordingly, for the purpose of applying the profit guideline criteria, any contract, regardless of its stated designation, should be evaluated as a lump sum (LS) contract if:

a. The contract contains an absolute upper limit, i.e., the cost ceiling cannot be exceeded under any circumstances.

b. The contract establishes a guaranteed maximum price.

c. The language used to define the upper limit of the contract is the same as the language normally used to define the upper limit of a lump sum contract, e.g., the contract ceiling may not be increased without a change in scope.

Profit Negotiation

The grantee, when negotiating the amount of profit with the consulting engineer, should give consideration to the following factors:

1. Consulting engineers input to total performance:

a. Direct Labor—Evaluate the comparative quality and level of the talents, skills and experience to be employed. Consider the mix of professionals, para-professionals and non-professionals.

b. Overhead Expense and General and Administrative Expenses—Consider the amount of labor within the overhead pool and how this labor would be treated if it were considered as direct labor under the contract. Consider whether the costs are routine expenses such as utilities, depreciation, and maintenance, and accordingly, given less profit consideration than the pool as a whole.

c. Equipment—Equipment generally includes purchases of capital items which may or may not be an integral part of the final product. When equipment is not an integral part of the final product, consider the availability of equipment; when equipment will be an integral part of the final product, consider the complexity of equipment; and in all cases the ratio of equipment costs to total costs should be considered.

d. Materials and Supplies—Evaluate the managerial and technical effort necessary to obtain materials and services required to directly support the project (i.e., number of orders, availability of resources, accountability systems, the complexity of the contractor's task, and the ratio of material or supplies costs to total costs).

e. Other Direct Costs—This include costs for such items as travel, subsistence, printing, laboratory and ADP services. Analysis of these costs should be similar to the analysis of purchases and subcontracts.

2. Sub-Consultants and Subcontracts: Analyze from the standpoint of what talents, skills, and experience they possess, and how they will be used on the project.

3. Past Performance of the Architect/Engineer: Consider known past performance of the architect/engineer in management ability, cost control, timely performance and thoroughness of work.

4. Size of Project: Small projects may justify a higher profit level.

Implementation

The proposed effective date of this policy is November 1, 1980.

The policy is to be applied to all A/E subagreements approved by the EPA regional office, or other cognizant agency, on or after the effective date.

Attachment to Program Requirements Memorandum

Subject: Engineering Fees for Innovative and Alternative Technology (I&A) Construction Grant Projects.
From: Harold P. Cahill Jr., Director, Municipal Construction Division (WH-547).
To: Water Division Directors, Regions I-X.
Dated: March 20, 1980.

Policy

In arriving at contracts for Step 2 architect-engineer (A/E) services on innovative and alternative (I&A) technology projects, the Region will encourage grantees to increase the contract fee (line 11. of 5700-4) in recognition of the increased reputational risk of I&A projects as an incentive to develop these peojects in the constructing grants program.

Background

Section 201(g)(5) of the Clean Water Act gives the Environmental Protection Agency (EPA) the authority to make construction grants to projects that use I&A technologies. EPA encourages and, where possible, assists in development of I&A technologies for wastewater treatment construction grants projects (40 CFR 35.908(a)). I&A projects are more complex and involve more risk than conventional projects. As a result, the Clean Water Act provides I&A projects 85 percent Federal funding and a cost-effectiveness preference of 15 percent. Further, if the I&A project fails within two years of final inspection, the Act provides 100 percent funding for the eligible costs for necessary modifications or replacement.

Generally, the fee component of A/E contract price includes additional compensation based on complexity of work and, in some cases, for technical risks. However, such risks are usually based on the degree of assurance of recoupement of costs as indicated by the type of contract utilized. To assure A/E's give I&A technologies adequate consideration, additional compensation for Step 2 work is necessary.

Implementation

Grantees may negotiate an increase in the free component by up to two percent of the contract amount for design of I&A projects. This additional two percent premium is risk compensation to be added to the profit and is not subject to any profit limitations. In determining the additional contract fee amount warranted, grantees should consider the following:

1. The additional contract fee may not exceed two percent of the total cost component of the Step 2 design.

2. The increased contract fee for I&A projects is for Step 2 work only.

3. The I&A increase should be proportionate to the I&A portion of the project. For example, if the project is 100 percent innovative and/or alternative, the I&A increase may not exceed two percent. If the project is 50 percent innovative and/or alternative, the I&A increase may not exceed one percent.

4. The I&A increase is grant eligible only when requested by the grantee and certified by the State. While EPA supports and encourages use of the I&A increase, it is not mandatory.

[FR Doc. 80-25614 Filed 8-21-80; 8:45 am]
BILLING CODE 6560-01-M

federal register

Friday
August 22, 1980

Part IV

Department of Labor

Mine Safety and Health Administration

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment; Removal of Design Restrictions

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 36

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify MSHA's requirements and conditions for approval of permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines by amending 30 CFR Part 36. The proposed amendments would remove current design restrictions which prohibit the use of certain electric-powered accessories on permissible mobile diesel-powered transportation equipment. The change would allow operators of gassy mines to obtain equipment incorporating advanced technology, and thereby afford greater safety and health protection for the miners. Interested persons may participate by submitting written comments to the address provided below.

DATES: Comments must be received on or before October 21, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

Rulemaking for Part 36 was initiated by the Department of the Interior, Bureau of Mines, on September 24, 1959 (24 FR 7696). After extensive public participation, the regulations were re-proposed on November 3, 1960 (25 FR 10534). Part 36 was promulgated as a final rule on January 24, 1961 (26 FR 645).

The Federal Mine Safety and Health Amendments Act of 1977 (the Amendments Act), Pub. L. 95-164, 91 Stat. 1290 *et seq.*, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, 83 Stat. 742, 30 U.S.C. § 801 *et seq.*, (1976 ed.), and repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966, Pub. L. 89-577, 80 Stat. 772, 30 U.S.C. § 721 *et seq.*, (1976 ed.). The resulting law, the Federal Mine Safety and Health Act of 1977 (the Mine Act), 30 U.S.C. § 801 *et seq.*, established a single statute applicable to all mining. Section 301(a), (b)(1) and (c)(2) of the Amendments Act, 91 Stat. 1317, 1318, 30 U.S.C. §§ 961(a), (b)(1) and (c)(2) (Supp. I (1977)), transferred responsibility for mine safety and health from the Secretary of the Interior to the Secretary of Labor and provided that current standards, rules and regulations issued by the Secretary of the Interior were to remain in effect under the new Mine Act.

This proposed amendment of 30 CFR Part 36, Subparts B and C is authorized under Section 101(a) of the Mine Act, 91 Stat. 1291, 30 U.S.C. § 811 (Supp. I (1977)).

II. Discussion and Summary of the Proposed Rule

A. General Discussion

Presently Part 36 of 30 CFR prohibits the use of all electrical devices except self-contained, battery-powered headlights on permissible mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines. Since 1961, manufacturers of mining equipment have developed and designed electric-powered devices which MSHA believes present no hazard as an ignition source in gassy mines. Examples are engine-driven lighting units which provide a high level of illumination, and methane detection instrumentation which are incorporated into mobile equipment safety controls. These devices materially contribute to the safety of miners. MSHA has accepted certain of these devices as safe for use in gassy mines under Part 18 [Electric Motor-Driven Mine Equipment and Accessories] and Part 27 [Methane-Monitoring Systems], but has been unable to approve mobile diesel-powered equipment which incorporates the same devices because of the restrictions presently existing in Part 36.

The proposed amendments to Part 36 would revise the requirements for approval and certification of mobile diesel-powered transportation equipment in gassy metal and nonmetal mines. The resulting rule would change Subpart B which contains construction and design criteria, and Subpart C which contains testing requirements. Subpart A, which establishes general requirements, would remain unaltered.

The proposed rule would permit MSHA to investigate for approval and certification, mobile diesel-powered transportation equipment containing electric devices whose construction and design satisfy the applicable requirements of 30 CFR Parts 18, 20, and 27. If the rule is promulgated as proposed, operators could more readily obtain permissible equipment which meets MSHA's mandatory requirements for gassy mines. With the installation of such state-of-the-art devices, operators' compliance with mandatory standards would be facilitated. MSHA believes that this also will result in a safer working environment for metal and nonmetal miners using diesel haulage equipment.

This rulemaking proposes to amend 30 CFR Part 36, Sections 36.32 and 36.33 of Subpart B and revoke Section 36.51 of Subpart C.

B. Section-by-Section Analysis

Section 36.32. Section 36.32 entitled "Restriction of electrical components" now provides that mobile diesel-powered transportation equipment will not be investigated for approval and certification unless the electrical components of the equipment are restricted to headlight units constructed in accordance with present Section 36.33, and tested pursuant to present § 36.51. Since 1961, electrically-powered accessories have been developed which can operate safely on diesel equipment in metal and nonmetal gassy mines. These accessories, such as methane detection and engine-driven illumination systems, offer technology which will contribute to miners' safety and health at gassy workplaces.

This proposed amendment to § 36.32 would permit the investigation for certification and approval of mobile diesel-powered transportation equipment having: (1) electrical *components* which are certified under 30 CFR Part 18 (Electric Motor-Driven Mine Equipment and Accessories), 30 CFR Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or 30 CFR Part 27 (Methane-Monitoring Systems), and which bear the certification data assigned by MSHA; or (2) electrical *systems* which meet the requirements of either Part 18 or Part 27.

This amendment of the regulation will facilitate compliance with the requirements of certain mandatory standards in MSHA's metal and nonmetal "Gassy mines" section (30 CFR Part 57.21-1 through .21-101).

The proposed rule would continue the restriction against electric starting currently implicit in § 36.32, and specifically stated in § 36.21. MSHA seeks comments specifically directed to this issue.

The proposed rule also changes the heading of § 36.32 to retain consistency with the substantive revisions.

Section 36.33. Section 36.33 (Headlight units) currently states that any headlight unit used on mobile diesel-powered transportation equipment shall be constructed as a locked or sealed unit containing the battery; conform to the applicable requirements in Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or be constructed with equivalent safeguards acceptable to MSHA; and be mounted in a fixed position on the mobile equipment and protected from external damage. The Section also requires that at least one headlight unit must be provided on the front and rear of each piece of equipment.

MSHA recognizes that certain engine-driven illumination systems can be safely used in gassy mines. They also illuminate more effectively than self-contained battery-powered units. The proposed rule, therefore, deletes the provisions in § 36.33 which restrict lighting units on mobile diesel-powered transportation equipment to self-contained devices. The proposal retains the requirements that each vehicle must have at least one headlight on each end, and that any lighting fixtures on the equipment must be protected from damage.

The effect of the amendment is to provide for the alternative of either engine-driven lighting systems which meet the requirments of Part 18 [Electric Motor-Driven Mine Equipment and Accessories) and whose components are certified under Part 18, or self-contained devices certified under Part 20. Regardless of the type of lighting used, each end of mobile equipment still must have at least one such unit and each unit must be protected. Interested parties are invited to comment on any foreseeable problems relating to this proposed amendment.

The proposed rule makes the additional editorial changes of renumbering the retained paragraphs and changing the heading to retain consistency with the substantive revisions to § 36.33.

Section 36.51. Section 36.51 currently provides that headlight units must be inspected and tested according to the applicable criteria contained in 30 CFR Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps). The proposal would revoke the Section because the inspection and testing criteria for all electric devices installed on mobile diesel-powered equipment are referenced in proposed §§ 36.32 and 36.33.

Interested individuals or organizations are asked to submit written comments and data on issues raised by this proposed rulemaking. If requested, MSHA will hold a public hearing pursuant to Section 101(a)(3) of the Mine Act.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978) and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

IV. Drafting Information

The principal persons responsible for preparation of this proposed rule are: George J. Dvorznak, Approval and Certification Center, MSHA, and Mitchell M. Eskenazi, Office of the Solicitor, Department of Labor.

PART 36—MOBILE DEISEL-POWERED TRANSPORTATION EQUIPMENT FOR GASSY NONCOAL MINES AND TUNNELS

Subpart B—Construction and Design Requirements

1. It is proposed to revise the title and wording of 30 CFR § 36.32 "Restriction of electrical components" as follows:

§ 36.32 Electrical components and systems.

(a). Electrical components on mobile diesel-powered transportation equipment shall be certified under Parts 18, 20, or 27 of this chapter, as applicable, and shall bear the certification number assigned by the Mine Safety and Health Administration (MSHA).

(b) Electrical systems on mobile diesel-powered transportation equipment shall meet the requirements of Parts 18 or 27 of this chapter, as applicable.

2. It is proposed to revise the title of § 36.33 "Headlight units" and change the wording of the Section by deleting paragraphs (a) and (b). The remaining two paragraphs are revised and redesignated (a) and (b), as follows:

§ 36.33 Headlights and lighting fixtures.

(a) Headlights and lighting fixtures on mobile diesel-powered transportation equipment shall be protected from external damage by recessing them in the equipment frame, enclosing them within a shield of substantial construction, or otherwise protecting them in accordance with sound engineering practice.

(b) Mobile diesel-powered transportation equipment shall be equipped with at least one headlight on each end.

§ 36.51 [Revoked]

3. It is proposed to revoke 30 CFR 36.51, *Inspection and tests of headlight units.*

Note.—As a result of the above actions, the table of contents for 30 CFR Part 36 would be changed as follows:

Sec.
36.32 Electical components and systems.
36.33 Headlights and lighting fixtures.

The table of contents for "36.51 Inspection and tests of headlight units" would be deleted since the section is proposed to be revoked.

(Sec. 101, Pub. L. 91-173, as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. § 811))

Dated: August 14, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 80-25682 Filed 8-21-80; 8:45 am]

BILLING CODE 4510-43-M

V
4
5

A
G
2
2
8
0
UMI

federal register

Friday
August 22, 1980

Part V

Department of Labor

Mine Safety and Health Administration

Definition of Signaling Device; Removal of Design Restriction Requirement

DEPARTMENT OF LABOR

30 CFR Part 23

Definition of Signaling Device

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends 30 CFR Part 23, which sets forth the requirements and conditions for MSHA approval of permissible telephones and signaling devices for use in mines. The proposed amendment would delete a portion of the definition of "Signaling Device" because new developments in communications technology no longer require the design restriction included in the current definition. The amendment would also add a new paragraph (g) to § 23.7 which would require all line powered telephone and signaling devices to be equipped with a standby power source. Interested persons may participate in the rulemaking process by submitting written comments, suggestions and objections to the address provided below.

DATE: Comments must be received on or before October 21, 1980.

ADDRESS: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

The definition of a signaling device set forth in section 23.2 was issued on April 11, 1939, by the Bureau of Mines, as part of Schedule 9B (4 FR 1555) pursuant to An Act for the Protection of the Lives of Miners in the Territories, 51st Congress, Chapter 564 (1891). The specifications in Schedule 9B were not mandatory until the enactment of the Federal Coal Mine Safety Act (Pub. L. 89–552, sec. 212, 66 Stat. 709) in 1952. Schedule 9B became Part 23 when amended by Supplement I (20 FR 2975) on May 4, 1955. Subsequent amendments to Part 23 have not changed the definition of a signaling device.

Pursuant to section 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811), the Secretary of Labor proposes to amend 30 CFR 23.2(f) to conform with advances in technology which have occurred since 1939.

II. Purpose and Effect of Rule

Section 23.2 is the "Definitions" section of 30 CFR Part 23. Section 23.2(f) defines "signaling device" and states that only signaling devices which are not designed to operate from a lighting or power circuit will be approved by MSHA as permissible equipment for use in mines. Because of the provision, MSHA is only allowed to approve telephones and signaling devices which are powered exclusively by batteries. This is a design restriction which was included in the definition in 1939 for two reasons: (1) signaling devices powered exclusively by batteries provided continuous communications in the event the mine power circuit failed or was cut off; and (2) technology at that time could not provide a means to insure that mine power circuits would be adequately isolated from signaling system circuits. Although § 23.7(a) requires circuits external to telephone and signaling devices to be intrinsically safe, insufficient isolation of the signaling system circuit from the mine power circuit could result in a higher level of current and voltage in the signaling system circuit, causing it to become unsafe. Damage to such a circuit could generate a spark capable of initiating an explosion in mines that have gassy or dust-laden atmospheres.

New technology, including the application of the concept of intrinsic safety and the use of solid state components has eliminated the hazards against which the restrictions contained in § 23.2(f) were directed. Communication systems exist today in which isolation between power circuits and intrinsically safe circuits is achieved through physical separation of bare circuit components and specially designed barrier circuits. The barrier circuits limit the maximum voltage and current that can be transmitted to the signaling system. Most European mine communication systems use a power supply that is isolated from the power circuit in this way and which continuously supplies a small current to the telephone or signaling device so as to maintain a "trickle" charge on the standby batteries in each device. The batteries provide communication capabilities when the mine power circuit is off.

The proposed rule would eliminate the current design restriction in § 23.2 (f) and permit MSHA to accept applications for the approval of telephones and signaling devices operated from mine power or lighting circuits. Also, a new paragraph would be added to § 23.7 to limit the approval of the line powered telephones and signaling devices to those provided with a standby power source, such as storage batteries with a charging feature. The new requirement is necessary to retain the communication capabilities provided by telephones and signaling devices powered exclusively by batteries. The amendment will also make Part 23 consistent with 30 CFR 75.1600–2(c) which requires operators who use a communication system that is powered solely from the mine electric system to provide a means to permit continued communications in the event the mine electric power fails or is cut off. The amended Part 23 would permit MSHA to approve mine telephones and signaling devices that increase the protection of miners' safety by providing more reliable communications and a direct connection to commercial lines for emergency situations.

III. Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's final guidelines for implementing the Executive Order (44 FR 5570, January 26, 1979).

IV. Drafting Information

The principal persons responsible for preparation of this proposed rule are: Robert P. Lenart, Approval and Certification Center, MSHA; Herbert P. LeVan, Office of Standards, Regulations and Variances, MSHA; and Inga A. Watkins, Office of the Solicitor, Department of Labor.

Dated: August 14, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

Part 23, Chapter 1 of Title 30, Code of Federal Regulations, is proposed to be amended as follows:

PART 23—TELEPHONES AND SIGNALING DEVICES

§ 23.2 [Amended]

* * * * *

1. By revising paragraph (f) of § 23.2 to read as follows:

(f) "Signaling device." As used in this part, a signaling device is one that gives visual or audible signals.

§ 23.7 [Amended]

* * * * *

2. By adding a paragraph (g) to § 23.7 to read as follows:

(g) Line powered telephones and signaling devices shall be equipped with standby power sources capable of permitting the telephones or signaling devices to continue functioning in the event the line power fails or is cut off.

(Sec. 101, Pub. L. 91–173, 83 Stat. 745 as amended by Pub. L. 95–164, 91 Stat. 1291, (30 U.S.C. 811)

[FR Doc. 80–25713 Filed 8–21–80: 8:45 am]

BILLING CODE 4510–43–M

V
4
5

A
G

2
2

8
0
UMI

federal register

Friday
August 22, 1980

Part VI

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Demonstration Project; Requirements for Participating State Agencies

V 45 AG 2 2 80 0 UMI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service,

7 CFR Part 272

[Amdt. No. 180]

Food Stamp Program; Demonstration Project; Requirements for Participating State Agencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent.

SUMMARY: This Notice announces the Department of Agriculture's intention to conduct a demonstration project under the authority of Subsection 17(b)(1) of the Food Stamp Act of 1977. This project will provide information on the costs, operation, and results of offering extra service to Food Stamp Program participants during early morning, evening and weekend hours in a variety of settings. This Notice solicits applications from program service areas, as defined herein, to participate in the project.

DATES: Potential sponsors shall apply, as instructed in the Notice, by close of business, October 21, 1980. Applications postmarked after this date will not be considered.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this Notice are pending approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This Notice will become effective August 22, 1980. The reporting and recordkeeping requirements may be subject to revision prior to implementation if the requirements as presently formulated are not approved without change by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, USDA, Room 658, 500 12th Street, S.W., Washington, D.C. 20250. Telephone (202) 447–8325.

SUPPLEMENTARY INFORMATION: Sections 11(e)(2) and 11(e)(13) of the Food Stamp Act of 1977 (Title XIII, Pub. L. 95–113) call for the U.S. Department of Agriculture (USDA) to set minimum standards which all State welfare agencies in charge of food stamp operations must meet in establishing facilities for food stamp certification and issuance. Pursuant to these provisions, the Department's Food and Nutrition Service (FNS) issued proposed regulations in the **Federal Register** on July 13, 1979 and final rules on January 11, 1980. The regulations defined a set of standards for days and hours of operation in a variety of program service areas and were based on population and distance variables. They also required State agencies to assess their county-level certification and issuance needs and to develop corrective action plans for those locales which do not meet minimum standards.

One issue remaining in the development of standards for points (locations) and hours is the potential needs to provide extra hours of service outside of "normal" business hours (i.e., 35 or 40 hours per week). Both Congressional and Departmental hearings have indicated that the working poor may be precluded from participating in the program because of the unavailability of service during early morning, evening, or weekend hours. Lack of these "extra" hours may cause employed applicants to sacrifice work hours (and income they represent) to apply for and obtain benefits. The Departent had initially considered developing detailed regulations which would have extended such services at least in the more populous areas. However, after extended deliberations, it was concluded that more information was needed on an extra service requirement before FNS could offer a public rulemaking.

As a result, FNS is undertaking a demonstration project which will provide more information on whether such additional services are needed, and if so, what the service requirements might be. The demonstration project will test a variety of approaches to providing extra service to food stamp households in different program service areas. During the course of this project, food stamp households in the demonstration sites will be able to apply for certification and receive benefits during the extra hours and at designated locations in the same manner as they now do under the current service arrangements. FNS is therefore publishing the following Notice of Intent to solicit potential sponsors.

Notice of Intent

Subsection 17(b)(1) of the Food Stamp Act of 1977 permits the Department of Agriculture to test program changes (conduct demonstrations) that might improve the delivery of food stamp benefits to eligible households and increase the efficiency of the Food Stamp Program. This Notice announces the Department's intention to conduct a demonstration project to assess the feasibility, costs, and outcomes of providing extra service at selected sites around the country.

In the preamble to the proposed rulemaking on standards for points and hours of service published in the **Federal Register** on July 13, 1979, the Department's Food and Nutrition Service (FNS) announced its decision to conduct a demonstration project to obtain more information about providing extra service outside of normal working hours and locations. From this demonstration project FNS hopes to learn about: (1) the extent to which various types of Food Stamp Program participants make use of the extra service and whether such service is necessary for these participants or merely a convenience; (2) any administrative, operational, and other obstacles associated with providing extra service; and (3) the cost of providing extra service.

In the preamble to the proposed rulemaking FNS suggested a set of possible standards relating to number of extra service hours and locations to the size of the service area. The standards were:

—Counties with more than 2,500 and fewer than 25,000 participating households should provide at least four extra hours of basic certification service, in no more than two blocks of time, every two weeks.

—Counties with more than 25,000 but fewer than 75,000 households should provide at least eight extra hours of basic certification service, in no more than four blocks of time, every two weeks, at no fewer than two locations.

—Counties with more than 75,000 households should offer a total of at least 12 hours of basic certification service, in no more than six blocks of time, at no fewer than three locations, every two weeks.

These standards should be viewed only as one possible set of *guidelines* to be used by sponsors applying to participate in the demonstration project. Applicants are encouraged to develop their own plans for extra points and hours of service which they estimate to be most suitable to their service areas. FNS is interested in examining a variety of plans to provide extra service (e.g., weekend hours, evening or early morning hours, service at locations not used during normal operation, etc.).

State or local welfare agencies already providing "extra" service may also apply if they with to expand the level of extra service they currently provide.

For purposes of this demonstration, the food stamp service areas which may apply to sponsor projects are limited to State or local welfare agencies (administrative units) responsible for the operation of the Food Stamp Program in counties, parishes, townships, or incorporated cities, or similar areas of a State. A potential sponsor may apply with the intention of operating a demonstration site in the entire service are or in a portion of the area it serves such as a county precinct or a city ward.

All potential sponsors must provide in their applications a description of: (1) the services to be provided; (2) the blocks of time to be involved (how many and when); (3) the number of locations to be used; (4) the staff required to provide extra service; (5) the cost of providing extra service; and (6) the rationale for their particular proposals.

To apply for the project, applicants may plan to provide extra certification services, extra issuance services, or both. While FNS' primary interest is in extra certification, FNS is also interested in extra issuance service. Sponsors may elect to provide any combination of extra service (e.g., early morning, evening, and weekend hours) in excess of the current levels of service. Alternatively, sponsors may choose to reschedule their current hours of operation to provide service outside the "normal" business hours. For those potential sponsors planning to shift their current hours of operation, FNS shall provide additional funding under the demonstration project for *only* those costs directly associated with demonstration activities (e.g., data collection, additional staff). Sponsors must maintain the current level of service to food stamp participants during this project; i.e., sponsors may not reduce the number of current hours or staffing levels.

FNS will establish procedures for monitoring the conduct of the demonstration activities. The evaluation of the demonstration project will be conducted by an independent contractor selected by FNS. The sponsors shall provide the evaluation contractor with access to all information pertaining to the project operations and shall cooperate with the contractor in implementing evaluation procedures.

A. Basic Operational Requirements

1. Extra hours may be contiguous with normal hours of operation (e.g., with extra hours beginning when regular hours end), separated by closure of the facility for one or more hours, or provided during weekends.

2. Sponsors shall provide the expedited certification and issuance services required in §§ 273.2(i) and 274.2(g) of the Food Stamp Program Regulations during their extra hours of service.

3. Sponsors must notify program participants of the availability of extra service at least 30 days prior to the initiation of the demonstration. Sponsors must also notify the participants of the termination of the demonstration at least 30 days before such termination takes effect.

4. Sponsors shall develop and conduct efforts to ensure that potential participants are informed of the availability of the extra service.

5. Sponsors must provide the extra service for a period of six months.

6. Sponsors must cooperate with the evaluation contractor in providing data for evaluation purposes, in accordance with the procedures developed by the contractor and approved by FNS, including data on program participation, project operations, staff training, and costs.

7. Sponors must provide information to FNS on program participation during the period beginning three months prior to the start of the demonstration projects. Such information must include: (1) the number of participants by week; and (2) data on the characteristics of the current participant population (e.g., age, sex, employment status, Public Assistance status, handicapping condition, minority status).

B. Sponsor Responsibilities

The sponsors of the extra service demonstration shall be responsible for:

1. Selecting those locations (points) in which extra service will be provided to Food Stamp Program participants.

2. Providing sufficient staff at each location where extra service will be available to ensure adequate and timely service.

3. Establishing a firm schedule of extra hours at individual service sites. This schedule shall be strictly adhered to so that the participants can rely on and use effectively the times available.

4. Preparing and implementing activities to ensure that potential participants are informed of the extra service.

5. Preparing notices and notifying program participants of the availability of extra service prior to the initiation of the demonstration project and before its termination.

6. Providing reports on program participation, operation, and costs in a form and on a schedule determined by FNS.

7. Maintaining records of the operation of the demonstration in accordance with procedures developed by the contractor and approved by FNS.

8. If conditions require any changes in the operation of the demonstration project, sponsors must obtain approval from FNS to institute such changes.

C. Federal Responsibilities

1. FNS will engage a contractor to develop monitoring and data collection procedures for the demonstration as well as to evaluate the demonstration.

2. FNS will monitor the operation of the demonstration.

3. FNS will provide funding for the demonstration project based on the budgets netogiated with the sponsors selected to conduct the demonstration.

D. Records

All records pertaining to this demonstration shall be available to FNS representatives or their designees for purposes of inspection and verification Such records shall be maintained for a period of three (3) years from the date of project completion.

E. Federal Financial Participation

1. FNS shall pay 100 percent of those approved administrative costs associated with the demonstration project which are identified as over and above such costs as are usual or customary to normal Food Stamp Program operations.

(a) To be eligible for 100 percent funding as specified above, administrative costs must be specifically identifiable with the demonstration.

(b) Funding shall be provided through the State agency Program Letter of Credit for costs incurred from conducting the demonstration.

(c) FNS shall assume the cost for any data compilations which are separate and in addition to those recordkeeping requirements necessary for normal program operation and which are performed by the sponsors at the request of the evaluation contractor.

(d) The sponsor shall receive no additional reimbursement from FNS for activities which it would normally undertake as a result of its regular hours of food stamp operations, but which it might choose to conduct during the extra service hours.

(e) Sponsors shall receive no additional reimbursement from FNS for providing extra service beyond the six-month demonstration period.

F. Applications

Potential sponsors of extra service demonstration projects shall submit their applications using the Federal Assistance Short Form (AD–625), prescribed by the Office of Management and Budget (OMB) Circular A–102. Application kits can be obtained from and applications shall be submitted in one original and two copies to the

Director, Program Development Division, Family Nutrition Programs, Room 658, Food and Nutrition Service, USDA, Washington, D.C. 20250; Attention: *Extra Points and Hours Demonstration Project.* At least one copy must contain original signatures. Applications must be sent to the address noted above by close of business, October 21, 1980. Applications postmarked after that date will not be considered. Sponsors shall provide the name, address, and telephone number of the person to contact about the application. Any sponsor questions about completing an application should be directed to Robert Davis or Linda Basham at (202) 447–8332. All applications shall be sumitted in accordance with all appropriate requirements as established under OMB Circular A–95 and must be signed by the representative with authority to commit the sponsor to the demonstration project. To ensure that no commitment is made without appropriate officials being informed and giving their concurrence, the following requirements must be met before FNS will consider the application:

(1) If any local administrative unit (e.g., county or district) submits an application for participation in this project, then written concurrence from the State central office must accompany any such application.

(2) If other agencies or units/functions within the State agency will be involved in this project (e.g., in the delivery of information to participants about extra hours, or in the provision of certification services for AFDC applicants), then a plan for documenting their willingness to participate must be included as well.

In addition the sponsors' applications must include the following:

(a) A detailed description of the service area in which the sponsor provides certification and issuance services including a geographic description of the area, demographic and economic descriptions of the population, and current and historical participation in the Food Stamp Program.

(b) A description of the sponsoring agency including its organization, relationship to parent agencies, scope of authority, and other programs administered by the agency and including the address(es) of service points, their current hours of operation, and the number of certification and issuance staff employed at each location.

(c) An assessment of the need for extra service in the Food Stamp service area to serve as justification for installing the demonstration at the applicant's site.

(d) A description of the point or points in the service area which will provide extra service, including a detailed schedule of the extra service to be provided. This description should include any services in addition to food stamp certification that will be provided (e.g., AFDC certification, ATP card issuance, coupon issuance, etc.)

(e) Plans for conducting activities to inform eligible nonparticipants of the availability of extra service.

(f) Plans for notifying current participants about the availability of extra service prior to the initiation of the demonstration and about termination of extra services before the end of the demonstration.

(g) A description of the staffing of the demonstration project, including a project director, which will be used in conducting the demonstration and providing extra service and the number of hours each staff member will be assigned to the project. An organization chart of staff assigned to the demonstration should be included.

(h) A detailed description of the administrative procedures to be used, and a work plan which establishes a schedule for development and implementation of the demonstration project. The work plan should include a description of and anticipated deadlines for:

(1) staff procurement or assignment for the project;

(2) staff training;

(3) any acquisition of additional facilities;

(4) modification of any existing programs currently employed to reach the potential participant population.

(i) A discussion of any foreseeable problems, and proposed procedures for handling such situations.

(j) A proposed budget for conducting the demonstration activities, including a budget for administrative costs to be funded at 100 percent Federal Financial Participation.

G. Monitoring and Evaluation

The monitoring of the demonstration activities will be be carried out by FNS. The evaluation of the demonstration will be conducted by a contractor engaged by FNS for that purpose.

H. Selection of Sponsors

1. *Federal procedures.* All applications for sponsorship of demonstration projects will be reviewed by a panel of FNS and other Deparmental representatives. Applications will be ranked on the criteria established in 2. below.

2. *Criteria for selection.* (a) Workable and efficient plan for meeting the need for extra service as evidenced by the justification or rationale.

(b) Consistency of the work Plan with the defined need for exta service.

(c) Clarity and completeness of the work plan.

(d) The adequacy of the plans and procedures for notifying current and potential participants.

(e) Variability of demonstration sites including considerations of:

(1) A mix of geographic locations and administrative structures across the seven FNS administrative regions;

(2) Sizes of service areas;

(3) A mix of strategies for the delivery of extra service.

(f) The capability of applicants to conduct the demonstration based on:

(1) Description of the qualifications of staff;

(2) Adminstrative and supervisory capacity;

(3) Current participation level of the target population within the project area.

(4) Evidence of a past history of efficient and effective operation by the sponsor in administering program service.

(g) The amount of Federal funding sought for participation in the project, including considerations of:

(1) Amount of funding requested for the extra services to be provided.

(2) Cost-effectiveness of the plans for providing extra services.

3. *Selection.* USDA will notify all applicants of those service areas selected for demonstration project operations.

(91 Stat. 958 as amended (7 U.S.C. 2011–2027))

Dated: August 6, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–25831 Filed 8–21–80; 8:45 am]

BILLING CODE 3410–30–M

federal register

Friday
August 22, 1980

Part VII

Environmental Protection Agency

National Pollutant Discharge Elimination System (NPDES); Memorandum of Agreements

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1585-5; Public Notice No. 80GA006]

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Georgia

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Georgia. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290, et. seq.). In order for the State of Georgia's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. NE., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25802 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-6; Public Notice No. 80MS003]

August 22, 1980.

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Mississippi

The United States of Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Mississippi. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290. et. seq.). In order for the State of Mississippi's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days to the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25804 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-7; Public Notice No. 80SC003]

Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of South Carolina

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of South Carolina. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et. seq.) A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 Fed. Reg. 32854, et. seq.) and on May 19, 1980 (45 Fed. Reg. 33290, et. seq.). In order for the State of South Carolina's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 pm Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25855 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

[FRL 1585-8; Public Notice No. 80TN005]

Notice of Proposed Revision of the NPDES Memorandum of Agreement Between EPA and the State of Tennessee

August 22, 1980.

The United States Environmental Protection Agency proposes to revise the Memorandum of Agreement entered into between EPA and the State of Tennessee. The Memorandum of Agreement represents the obligations and agreements between the state and federal agencies concerning State administration of the National Pollutant Discharge Elimination System (NPDES) permit program. This program is a national program for requiring and enforcing permits and pretreatment standards under Sections 307, 318, 402 and 405 of the Clean Water Act (33 U.S.C. 1251 et seq.). A Memorandum of Agreement is required for any approved State NPDES program under Section 402 of the Clean Water Act.

The federal regulations governing NPDES programs were significantly revised and republished on June 7, 1979 (44 FR 32854, et seq.) and on May 19, 1980 (45 FR 33290, et seq.). In order for the State of Tennessee's NPDES program to conform to the new federal regulations, many changes in the existing Memorandum of Agreement are mandated. The purpose of this public notice is to advise the public of the proposed revision to the Memorandum of Agreement and to solicit comments from interested persons.

Persons wishing to comment or request a public hearing upon the proposed revisions to the Memorandum of Agreement are invited to submit them in writing within thirty (30) days of the date of this notice to the Enforcement Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland St. N.E., Atlanta, Georgia 30365, Attn: Earline Hanson. A public hearing will be held if there is significant public interest based on the requests received. Public notice of any public hearing will be published at least forty-five (45) days prior to the hearing.

The proposed revisions to the Memorandum of Agreement may be reviewed by the public between the hours of 8:15 a.m. and 4:30 p.m. Monday through Friday at the EPA office in Atlanta at the address appearing at the start of this notice. A copying machine is provided for public use at a charge of $.20 per page. Copies of the revisions may also be obtained at a charge of $.20 per page by writing to EPA at the same address. Questions on the revisions may be directed to Mr. William H. Cloward at the same address or by telephone at (404) 881-2328.

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-25856 Filed 8-21-80; 9:53 am]

BILLING CODE 6560-01-M

V
4
5

A
G
2
2
8
0
UMI

federal register

Friday
August 22, 1980

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program—State Housing Agencies

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 883

[Docket No. R-80-760]

Section 8 Housing Assistance Payments Program—State Housing Agencies

AGENCY: Department of Housing and Urban Development (HUD), Office of Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: The regulations governing the Section 8 Program for State Housing Agencies were published as an interim rule on January 30, 1980. The interim rule had completely revised the prior regulation to accomplish three major objectives. First, the language of the regulations was simplified and the format altered to make the regulations easier to read and use. Second, some clarifying changes were made to the processing instructions in order to respond to recurring questions, to reduce and level out field office workload, and to assure coordination of this program with other Section 8 regulations (Parts 880, 881 and 882). Third, rent, cost and amenities limitations, and requirements for cost justification of rents in certain cases were added to control and reduce the cost of the program. In addition, relocation requirements were revised to provide more equitable treatment to tenants temporarily and permanently displaced under the Program. The basic relationship between State Agencies and HUD which allows Agencies to certify that certain program requirements are met was not altered in the interim regulation.

This rule revises and makes final certain sections of the January 30, 1980 interim rule based on comments received. It is impractical to revise the interim rule in its entirety at this time in response to comments, so the Department has determined that only the specified changes will be made final. It is important that they take effect during this fiscal year.

EFFECTIVE DATE: September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Lynda M. Murphy, Office of State Agency and Bond Financed Programs, Room 6138, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, 202-426-7113. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The interim rule revising the Section 8 State Housing Agencies regulations (24 CFR Part 883) in their entirety was published in the **Federal Register** at 45 FR 6886 for public comment. Interested parties were given until March 31, 1980 to submit comments on this amended regulation.

The Section 8 Program for State Housing Agencies is a rental assistance program. Under this program, the government provides the difference between the approved rent for an eligible lower-income family, including elderly and handicapped single persons, and the family's contribution to the established rent. Program funds are administered by State Agencies to whom HUD has granted a set-aside of contract authority for assignment by the Agency for use with existing, new construction, substantial rehabilitation and moderate rehabilitation projects. After HUD approves the new construction and substantial rehabilitation projects selected by the Agency, the construction and management is overseen by the State Agency. The projects may be processed under special Fast Track procedures if the Agency provides permanent financing without Federal mortgage insurance. The Section 8 program does not provide financing.

More than 50 individuals and organizations submitted written comments. After careful consideration of these comments, the Department has determined to revise the entire regulation. At this time it is not practical to quickly complete a total revision, therefore, this final rule changes only the sections of the interim rule which require revision in order to enhance the State Housing Agencies' production capability this fiscal year. A revision of the rest of the interim rule is being prepared for publication at a later date as a final rule.

A discussion of the principal changes contained in this partial revision and of the more recurrent and significant comments on these sections is set forth below.

1. *Agency Notification and Selection Requirements.* In response to several comments, § 883.204 is being revised to require State Agencies to have a system for open and competitive selection of projects.

2. *Definition of Partially-Assisted Project.* Many comments pointed out that the definition in § 883.302 of partially-assisted project ("A project for non-elderly families under this part which includes more than 50 units of which 20 percent or fewer are assisted") could conflict with state statutes which require that more than 20 percent of the units be assisted. Some comments noted that pending Federal legislation (H.R. 5741—the Mortgage Subsidy Bond Tax Act of 1979), if passed, would require that at least 20 percent of the units of any project financed with the proceeds of obligations tax-exempt under § 103(b)(4)(A) of the Internal Revenue Code be available for Section 8-eligible tenants. If strictly interpreted, the requirements of § 883.302 and of H.R. 5741 would conflict, unless the total number of units is divisible by five. The definition is being changed in two respects, which are appropriate regardless of whether H.R. 5741 becomes law. A partially-assisted project under Part 883 is being defined as one in which the number of assisted units is not more than 20 percent of the units in the project, rounded up to the next higher whole number of units. An alternative higher percentage is provided where required by State Agency enabling legislation. Use of the provision permitting a higher percentage for each state will require approval of the Assistant Secretary for Housing.

3. *Fair Market Rents and Detrending.* Many of the comments objected to the requirement for detrending of the Fair Market Rents (FMRs) for individual projects based on anticipated construction time as provided in § 883.305(b)(1). Since the anticipated construction period for development is only one of many factors considered by HUD in determining the FMRs for an area, the comments objected to providing for a reduction to the FMRs and Contract Rents based solely upon this one factor.

The language for the detrending of FMRs due to reduced construction time has been retained. The forthcoming handbook will, however, explain that detrending will not require the total housing expense to be less than the maximum FMR limitation except in those cases where increased rents are required for a project that is already substantially under construction and where FMRs published after execution of the Agreement are applied. Detrending is not required when rents are increased by use of the Financing Cost Contingency.

4. *Replacement Cost Limits.* Some comments expressed the concern that the concept of replacement cost limits in § 883.305(c) was unclear. Paragraph (c)(1) is being revised and clarified to be consistent with the other Section 8 regulations, 24 CFR Parts 880 and 881. Paragraph (c)(2) of that section has been revised to clarify that replacement cost of a project consists of costs attributable to dwelling use, which are subject to

dollar limits, and costs not attributable to dwelling use, which must be reasonable. Costs not attributable are described in terms compatible with the Treasury regulations for purposes of the exemption provided by § 103(b)(4)(A) of the Internal Revenue Code. This section is also being revised in order to clarify that the replacement cost limits apply to all units in a project even when less than 100 percent of the units are subsidized, except where a project fits the definition of "partially-assisted" under this Part.

5. *Limitations on Distributions.* Some comments suggested that § 883.306(b) was not clear in stating that the six percent and ten percent returns on equity were maximums, and that Agencies were free to impose lower limitations. This section requires the Agencies to "certify that distributions will not exceed the following *maximum* returns * * *" Accordingly, no change is necessary since the language permits Agencies to impose lower ceilings.

6. *Foreclosure and Other Transfers.* Many comments strongly objected to the provisions of § 883.307(d) which requires that the Agreement, the Contract and the ACC continue in effect in the event of foreclosure, assignment or deed in lieu of foreclosure or other disposition of a property. State Agencies argue that, as public lenders taking the financial risk for the development and long term management of Section 8 projects, they should be entitled to some flexibility with respect to continuation of the subsidy arrangement, to protect their financial interests. Unlike a private lender or an owner, they have a clear responsibility under their State enabling legislation to protect the interest of the families receiving subsidies under this program.

The Department feels the only types of Section 8 projects likely to encounter such difficulties are those with less than 100 percent of the units subsidized. In recognition of State Agencies' positions as public lenders and in an effort to encourage projects with less than 100 percent of the units subsidized, the language in § 883.307(d) has been revised to permit amendment or termination of the contracts for a project with approval of the Assistant Secretary for Housing. Approval to amend or terminate the Agreement, Contract, or the ACC may be granted on a case by case basis where the State Agency demonstrates that the interests of the subsidized tenants will be protected. Such approval will not be unreasonably withheld.

7. *Certifications of Actual Financing Terms.* Several comments stated that certifications as to actual financing terms required under § 883.308(c) should be submitted to HUD on a timely basis. It is expected that the certifications are to be filed promptly after the terms are finally known. However, the Department will defer including a specific time limit until this entire rule is finalized since other substantive changes will be made to this section.

8. *Relocation Requirements.* Numerous comments were received concerning the relocation requirements of Section 883.311. Most of the comments were critical of the requirements set forth in Section 883.311(b) regarding temporary relocation and permanent displacement of tenants in projects not covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The consensus of those who submitted comments was that the new requirements would impose unreasonable financial and administrative burdens on private owners.

This section of the regulation is being totally revised and will be included in the subsequent revision of this Part. A final § 883.311(b)(9) has been added to the interim rule which provides that the lump-sum rental assistance payment provided to a permanent displacee who cannot otherwise be relocated to an affordable replacement dwelling need not exceed $4,000.

In addition, paragraph (c) is being revoked since Part 812 contains the rules for making single persons eligible for Section 8 assistance.

9. *Increases in Contract Rents or Utility Allowances Before Contract Execution.* Comments pointed out that the language of § 883.408(d) appeared to conflict with the provisions of § 883.308(e) by implying that adjustments permitted under the Financing Cost Contingency (FCC) provisions of § 883.308 could only be applied prior to execution of the HAP Contract. The interim rule was not intended to impose this limitation. The language of § 883.408(d) has been changed to indicate clearly that the FCC is a separate adjustment not limited to the period of time between execution of the Agreement and execution of the HAP Contract.

10. *Format for Submission of Cost Certifications.* Section 883.411(a) of the interim regulations requires that the owner's cost certifications be consistent with a HUD-prescribed format. Many comments pointed out that HUD does not presently prescribe a format for cost certification, and that this requirement may be unduly rigid in view of the HFAs' use of their own procedures for underwriting, processing, and construction oversight. The subsection is being revised to require that the owner's cost certifications be consistent with any HUD requirements. Until such requirements are established, HFA's may use their current format for cost certification by the owner, including the summary which is to be transmitted to HUD with the HFA's certification that it has reviewed and approved the owner's cost certifications. HUD may, in its revised handbook, specify minimum requirements or a standard format of owner's cost certification, and may also require submission of summary information in a standard format for purposes of data-gathering and cost comparability analysis. The requirement in paragraph (a)(3) of the interim regulation is being deleted, because the summary to be submitted to HUD under paragraph (a) will serve the purpose of data-gathering. Paragraph (a) is being condensed for simplicity.

11. *Contract Term.* The large majority of the many comments received on this issue objected to the imposition of 30- and 40-year Contract terms for uninsured projects in § 883.603. These longer one-term Contracts would put uninsured projects at a significant disadvantage compared to insured projects with their 20-year Contract term. Both syndication and resale of uninsured projects would be adversely affected by this provision. The regulation is being revised so that both insured and uninsured projects are treated in a substantially equal manner. After the initial term of 20 years, there will be an option to renew at intervals of not more than five years, up to a maximum of 30 or 40 years, depending on whether or not the project fits the criteria for receiving a 30-year or 40-year commitment and the actual term of the permanent financing.

12. *Reduction of Number of Units Covered by Contract.* Many comments expressed uncertainty about the applicability of the provisions of § 883.605 to certain tenants. The requirements of this section were not intended to relate to those units which were initially rented to eligible tenants who subsequently became ineligible. This section refers to tenants ineligible for assistance only at their initial occupancy. Formerly eligible tenants who become ineligible for assistance payments but stay in a project will not count toward the 10 percent limitation on units rented to ineligible tenants. The administrative procedures to implement this section and the revised Section 8 Contract will reflect this policy.

13. *Advance Marketing Requirements.* With respect to marketing of Section 8

non-elderly family units (see

withdrawals may be made with Agency

§ 883.302 Definitions.

non-elderly family units (see § 883.702(a)(3)), the regulation is being revised to require the owner to undertake advance marketing activities in advance of marketing to other prospective tenants, in order to provide opportunities to non-elderly families who are *least likely to apply* as specified in the Affirmative Fair Housing Marketing Plan, and to non-elderly families *expected to reside* in the community by reason of current or planned employment. This corrects an unintended difference between Part 883 and the corresponding regulations for new construction and substantial rehabilitation, § 880.601(a)(3) and § 881.601(a)(3).

14. *Contracting for Services.* Numerous comments were received questioning the provision of § 883.702(c) that the owner may not contract with the Agency for marketing, management and maintenance services. Comments argued that Agencies must have the ability, as lenders, to manage a property in the event a management agent has been terminated and a suitable replacement is not immediately available. Agencies must also be able to uphold their program administration responsibilities under this Part. This section is being revised to allow an Agency to manage a property on a temporary, emergency basis. Nothing in this section precludes the Agency from taking over management and maintenance responsibilities pursuant to its regulatory agreement with the owner.

15. *Use of Project Funds.* Objections to this provision of § 883.702(e) concentrated on the term "interest bearing residual receipts account." The financing documents for many state agencies and the regulations for HUD insurance programs refer to clearly defined residual receipts accounts. In order not to conflict with these provisions and to avoid confusion, the regulation is being changed so it now refers to an unnamed "interest bearing account."

In addition and in response to several comments, it was determined that the account could be held by an Agency-approved depository, as opposed to a HUD-approved depository, since most other project related funds are now held by Agency-approved depositories.

Finally, many comments objected to the uncertainty of the requirement that withdrawals from this account must be "in accordance with HUD guidelines", since HUD has not yet adopted guidelines specifically for projects developed under Part 883. This phrase is being deleted. The forthcoming handbook will amplify and illustrate the "project purposes" for which withdrawals may be made with Agency approval.

16. *Contract Forms.* The forms of Annual Contributions Contract, Agreement to Enter Into Housing Assistance Payments Contract, and Housing Assistance Payments Contract are currently being revised. They will reflect the Part 883 interim regulations and this final rule. Pending issuance of the revised forms, Area and Regional Counsel have been instructed to insert an appropriate clause in the existing forms, to ensure that the rights and duties of the parties are consistent with the regulations in effect when the documents are signed.

Inapplicability of NEPA: HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is listed as item number H-68-78 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12221.

Accordingly, the following sections of Part 883 are amended and republished as a final rule as follows:

Subpart B—Allocation and Assignment of Contract Authority

1. In § 883.204, paragraph (d) is revised to read as follows:

§ 883.204 Set-asides.

* * * * *

(d) Agency Notification and Selection Requirements. Promptly after the Agency receives notification of its set-aside from HUD, the Agency must make a public announcement that it has been allocated a set-aside, specify the amount of the set-aside by housing and household type, indicate where and when applications to the Agency for fund commitments may be submitted by owners, and indicate that the Agency's selection procedure is available upon request. The Agency must have a written procedure for open and competitive owner selection. The Agency must certify that these requirements have been met.

Subpart C—Definitions, Project Eligibility and Requirements

2. Section 883.302 is revised by changing the definition of "Partially-Assisted Project" to read as follows:

§ 883.302 Definitions.

* * * * *

Partially-Assisted Project—A project for non-elderly families under this Part which includes more than 50 units, of which the number of assisted units does not exceed the greater of (a) 20 percent of the units in the project, rounded to the next highest whole number of units, or (b) the minimum percentage required by State law as a condition of HFA permanent financing, if the Assistant Secretary approves such minimum percentage for purposes of applicability of this definition.

* * * * *

3. In § 883.305, paragraph (c) is revised to read as follows:

§ 883.305 Limitation on contract rents, replacement costs and amenities.

* * * * *

(c) *Limitation of Replacement Costs.* (1) The HFA must certify to HUD that the estimated replacement costs for the dwelling units in any new construction or substantial rehabilitation proposal do not exceed the following limits which are applicable to the part of the project attributable to dwelling use: (i) The basic limits are: (A) $23,720 per dwelling unit without a bedroom; (B) $27,129 per dwelling unit with one bedroom; (C) $32,983 per dwelling unit with two bedrooms; (D) $42,217 per dwelling unit with three bedrooms; (E) $47,032 per dwelling unit with four or more bedrooms.

(ii) Where necessary to compensate for the higher costs incident to construction or rehabilitation of elevator type structures of sound construction and design, the HFA may certify that the replacement costs exceed the limits in paragraph (c)(1)(i) of this section but do not exceed: (A) $24,962 per dwelling unit without a bedroom; (B) $28,614 per dwelling unit with one bedroom; (C) $34,795 per dwelling unit with two bedrooms; (D) $45,011 per dwelling unit with three bedrooms; (E) $49,409 per dwelling unit with four or more bedrooms.

(iii) For any market area where the cost levels so require, the Assistant Secretary for Housing may increase, at the request of the field office, the dollar limits set forth in paragraphs (c)(1) (i) and (ii) by an amount not to exceed 75 percent.

(iv) If the Assistant Secretary finds that, because of high costs, it is not feasible to construct dwellings in Alaska, Guam, or Hawaii without the sacrifice of sound standards of construction, design, livability, and within the limits in paragraphs (c)(1) (i) and (ii), the principal amount of the replacement cost limits may be increased by amounts as are necessary to compensate for additional costs but not to exceed the maximum, including high cost area increases under paragraph (c)(1)(iii), if any, otherwise applicable by more than 50 percent.

(2) Replacement cost of the project will consist of replacement costs attributable to dwelling use (which are subject to the limits in paragraph (c)(1) of this section) plus replacement costs not attributable to dwelling use. The HFA must certify that replacement costs not attributable to dwelling use are reasonable. Replacement costs not attributable to dwelling use may include the costs for some or all "functionally related and subordinate" facilities or areas, within the meaning of 26 CFR 1.103-8(b)(2). Except for the exemption contained in paragraph (c)(3) of this section, the limitations on replacement costs apply to all projects in their entirety regardless of whether or not 100 percent of the units are subsidized.

(3) Partially-assisted projects are exempt from the replacement cost limitations of this paragraph.

(4) Subsequent changes to the limitations on replacement costs under paragraphs (c)(1) (i) and (ii) of this section will be made by notice published in the **Federal Register** and will be available on request.

* * * * *

4. In § 883.307 paragraph (d) is revised to read as follows:

§ 883.307 Financing.

* * * * *

(d) Foreclosure and Other Transfers. In the event of assignment, sale, or other disposition of the project or the contracts agreed to by the HFA and approved by HUD (which approval shall not be unreasonably delayed or withheld), foreclosure, or assignment of the mortgage or deed in lieu of foreclosure,

(1) The Agreement, the Contract and the ACC will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract,

unless approval to amend or terminate the Agreement, the Contract or the ACC has been obtained from the Assistant Secretary for Housing.

5. Section 883.311 is amended by adding a new paragraph lettered and numbered (b)(9) and revoking paragraph (c) as follows:

§ 883.311 Relocation and land acquisition requirements.

* * * * *

(b) * * *

(9) The maximum lump sum payment (permitted under paragraph (b)(8) of this section) which may be required to be paid to a tenant for whom replacement housing within the tenant's ability to pay cannot otherwise be identified, and for whom government assistance that would satisfy the owner's obligation cannot be secured, shall not exceed $4000.

(c) [Revoked]

Subpart D—Fast Track Procedures for New Construction and Substantial Rehabilitation Projects

6. Section 883.402 is revised to read:

§ 883.402 Obtaining proposals.

Agencies may establish their own procedures (by published invitation, negotiation, or otherwise, in accordance with applicable State and local laws) for obtaining and selecting a Proposal for submission to HUD pursuant to § 883.403. HFAs must have a written procedure for owner selection in accordance with § 883.204(d).

7. In § 883.408 paragraph (d) is revised to read as follows:

§ 883.408 Construction or rehabilitation period.

* * * * *

(d) *Increases in Contract Rents or Utility Allowances Before Contract Execution.* (1) Increases in Contract Rents or Utility Allowances after execution of the Agreement and prior to execution of the Contract are permitted in the following circumstance: (i) To correct substantial errors by HUD or the HFA in the original processing which would otherwise result in serious inequities;

(ii) To reflect substantial and necessary changes in the plans and specifications which have been approved by the HFA (no optional betterments may result in rent increases);

(iii) To reflect additional costs for interest, taxes, hazard insurance, mortgage insurance premiums, and commitment fees, due to construction delays excusable under the Agreement;

(iv) To reflect additional costs which result from requirements imposed by local or State governments, HUD, or other Federal agencies which are beyond the control of the owner, which have been approved by the HFA and which could not have been anticipated at the time the Agreement was executed; or

(v) To reflect increased costs which result from a change in contractors which is necessary because the original contractor became bankrupt, was terminated by the owner due to inadequate performance or abandoned the job.

(vi) To reflect additional costs incurred by the owner in providing the relocation assistance and payments required by § 883.311 (except for payments made to tenants permanently relocated under § 883.311(b)(8)(ii)), or as a result of altering construction work schedules in order to minimize displacement, or as a result of other activities which minimize displacement or related hardships.

(2) The HFA must certify that any increases granted are limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in paragraph (d)(1) of this section and do not result in rents that exceed the limitations to which the HFA certified under § 883.305(b)(2) or the limitations in §§ 883.305(b)(1) and 883.305(c).

(3) Contract rents may also be increased under the provision of § 883.308(e), either prior to or after execution of the Contract.

8. In § 883.411 paragraphs (a)(1), (2) and (3) are deleted and replaced by a new paragraph (a) to read:

§ 883.411 Cost certification.

(a) As soon as possible after execution of the Contract, the HFA must certify to HUD that it has reviewed and approved the certified costs submitted by the owner. The HFA must submit to HUD with its certification a summary of the owner's cost certifications. The certifiable cost may include relocation costs incurred by the owner under § 883.311, except for payments to tenants permanently relocated under § 883.311(b)(8)(ii). The owner's cost certifications must be consistent with any HUD requirements and be supported by the unqualified opinion of an Independent Public Accountant. A cost certification submission is not required by HUD for projects with rents that are equal to or less than comparable rents, or except as required by § 883.305(b)(2), for partially-assisted projects or small projects. HFAs may impose their own cost certification requirements in addition to any required by HUD.

* * * * *

Subpart F—Housing Assistance Payments Contract

9. Section 883.603 is revised to read:

§ 883.603 Term of the contract.

(a) *New Construction.* The term of the Contract will be governed by the following provisions: (1) For assisted units in a project financed with the aid of a loan insured by the Federal government (including coinsurance

V 45 A G 22 80 UMI

under section 244 of the National Housing Act) or a loan made, guaranteed or intended for purchase by the Federal government, the term is 20 years.

(2) For assisted units in a project owned by or financed by a loan or loan guarantee from a State or local agency, where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary for Housing as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 40 years for any dwelling unit, or (ii) the term of the permanent financing.

(3) For assisted units in all other projects, the Contract will be for an initial term of 20 years for any dwelling unit, with provision for renewal for additional terms of not more than 5 years each. The total term of initial and renewal terms will not exceed the lesser of (i) 30 years for any dwelling unit, or (ii) the term of the permanent financing.

(b) *Substantial Rehabilitation.* The Contract will be for a term which is consistent with paragraph (b)(1) and with paragraph (b)(2), (3), or (4).

(1) The Contract term will cover the longest term, but not less than 20 years, of a single credit instrument covering: (i) The cost of rehabilitation or

(ii) The existing indebtedness, or

(iii) The cost of rehabilitation and the refinancing of the existing indebtedness, or

(iv) The cost of rehabilitation and the acquisition of the property; and

(2) For assisted units in a project financed with the aid of a loan (including Coinsurance under Section 244 of the National Housing Act), or a loan made, guaranteed or intended for purchase by the Federal government, the Contract term will not exceed 20 years for any dwelling unit; or

(3) For assisted units in a project owned or financed by a loan or loan guarantee from a State or local agency where the assisted units are intended for occupancy by non-elderly families and where it is located in an area designated by the Assistant Secretary for Housing as one requiring special financial assistance, the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal for additional terms of not more than 5 years each. The total of initial and renewal terms will not exceed the lesser of: (i) 40 years for any dwelling unit, or

(ii) The term of the permanent financing; or

(4) For assisted units in projects financed other than as described in paragraphs (b) (2) or (3), the Contract will be for an initial term of 20 years for any dwelling unit. There will be a provision for renewal for additional terms of not more than 5 years each. The total of initial and renewal terms will not exceed the lesser of: (i) 30 years for any dwelling unit, or

(ii) The term of the permanent financing.

(c) *Staged Projects.* If a project is completed in stages, the term of the Contract must relate separately to the units in each stage unless the Agency and the owner agree that only the units in the first stage will be assisted for the maximum term of the Contract. The total Contract term, for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

* * * * *

Subpart G—Management of New Construction and Substantial Rehabilitation Projects

10. In § 883.702 paragraphs (a)(3), (c) and (e) are revised to read as follows:

§ 883.702 Responsibilities of owner.

(a) * * *

(3) With respect to non-elderly family units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide opportunities to reside in the project: (i) to non-elderly families who are *least likely to apply* as determined in the Affirmative Fair Housing Marketing Plan, and

(ii) to non-elderly families *expected to reside* in the community by reason of current or planned employment.

* * * * *

(c) *Contracting for Services.* With approval of the Agency, the owner may contract with a private or public entity (but not with the Agency unless temporarily necessary for the Agency to protect its financial interest and to uphold its program responsibilities where no alternative management agent is immediately available) for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the owner of responsibility for these services and duties.

* * * * *

(e) *Use of Project Funds.* Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with § 883.703, or to provide distributions to the owner as provided in § 883.306. Any remaining project funds must be deposited with the Agency, other mortgagee or other Agency-approved depository in an interest-bearing account. Withdrawals from this account may be made only for project purposes and with the approval of the Agency. In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted projects under this Part which are subject to the applicable mortgage insurance provisions.

(Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., August 18, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-25554 Filed 8-21-80; 8:45 am]
BILLING CODE 4210-01-M

Reader Aids

Federal Register
Vol. 45, No. 165
Friday, August 22, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538	1
51539-51754	4
51755-52138	5
52139-52354	6
52355-52768	7
52769-53074	8
53074-53436	11
53437-53800	12
53801-54008	13
54009-54298	14
54299-54710	15
54711-55136	18
55137-55418	19
55419-55688	20 [1]
55689-56004	21
56005-56328	22

[1] **Note:** Between 45 FR 55433 and 55465, August 20, 1980, there were several pagination errors. Please refer to the cover of the issue for Thursday, August 21, 1980, for explanation.

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:	
11790 (*See* 12231)	52139
12230	51167
12231	52139
12232	53437
Proclamations:	
4776	51539
4777	53075
4778	53439
4779	53441
4780	53443
4781	53445
Administrative Orders:	
Presidential Determinations:	
No. 80-25 of August 8, 1980	54299
Memorandums:	
July 31, 1980	51169, 51171, 51173

4 CFR

21	55689

5 CFR

Ch. XIV	51541
213	55137-55140
297	52769
410	51755
581	53447
Proposed Rules:	
339	53481
359	51214
432	53481
752	53481
831	53481
930	53485

6 CFR

705	51175
706	51541, 52769

7 CFR

2	52355
6	54301
210	51175
245	52770
272	53448
273	53448
282	54638
301	51176
319	53449
331	51755, 53450, 54302
401	54711
418	54718
419	54720
427	54722
430	54723
437	54711
722	51755
725	56005
760	56007
800	55118
801	55118
802	55118
908	52356, 53801, 54063, 55140, 55692
910	51177, 52771, 54304, 56007
916	53450
917	51179, 53450, 54724
919	54305
921	51180
922	53451
924	51180
926	52772, 56008
946	52141
948	51182
958	52141
967	52143
991	55419
993	54064, 54725
1137	51542
1421	53801, 54305, 55141-55159
1427	53077, 55166
1446	51756
1701	54307
2853	51757
2890	54307
2891	54307
2892	54307
2893	54307
2894	54307
2895	54307
2896	54307
2897	54307
2898	54307
2899	54307
Proposed Rules:	
29	51572
272	51216, 53792, 56316
273	51216, 53066, 53792
301	52816
404	51573
427	54346
431	53486
722	52817
726	56067
800	52339
910	53487
926	56069
985	51818
1001	54066
1065	55213
1435	54347
1464	51579
1701	54354
1482	52342
1990	51818
2858	51217
2871	51217

886	51228	1999	51187	**Proposed Rules:**	
				41	54347
				42	54347
				43	54347
				44	54347

8 CFR

238 54310
264 52143

Proposed Rules:

Ch. I 51832
214 51580

9 CFR

78 52772
92 52773
318 54310
381 54310

Proposed Rules:

94 52818
317 53002
318 51832
381 53002

10 CFR

2 54725
40 55419
50 ..... 55402, 55413
70 55402
110 51184
211 55374
212 ..... 52112, 54325
220 55374
430 53488
445 51763
456 53434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:

2 53972
50 54662
205 51833
211 ..... 54662, 56070
212 ..... 54069, 54688, 54694, 55467
378 51581
430 53714
456 53422
500 ..... 53368, 55467
503 ..... 53368, 55467
504 ..... 53368, 55467
505 ..... 53368, 55467
506 ..... 53368, 55467
799 54264

11 CFR

100 52356
110 52356

12 CFR

7 53080
201 ..... 52144, 54009
204 56009
217 55692
220 53452
225 54326
265 54011
303 54326
339 56027
545 56029
563 ..... 55693, 56031
578 56031

Proposed Rules:

Ch. I 52166
Ch. II 51581
Ch. VI 55213
Ch. VII 55214
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177, 55750
544 55750
545 ..... 52178, 52177, 55750
561 ..... 52177, 55750
563 ..... 52173, 52177, 55750
563c 55750
569a 55750
577 55750
578 55750

13 CFR

301 55696
303 55696
304 55696
307 55696
309 55420
311 55696

Proposed Rules:

101 ..... 51763, 53081
107 55468
108 53835
124 55468

14 CFR

39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014, 54725–54732, 55704–55710
71 ..... 51546, 53086–53090, 54015, 54027, 54028, 54733, 55710, 55711
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:

Ch. I 53161, 53162, 54766
39 ..... 53162, 54071, 54072, 55754
45 ..... 53163, 54766
71 ..... 51587–51590, 52396, 53163, 54072–54080, 54766, 55755–55760
73 51591
75 ..... 52396, 54081
121 ..... 53316, 55760
123 55760
127 55760
135 ..... 53316, 55760
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR

17a 54028
200 55166
359 55711
373 54031
378 53090

Proposed Rules:

19 51592

16 CFR

13 ..... 52776, 52778, 53455, 55171, 55421, 56034
305 53340
436 ..... 51763, 51765
455 52750
460 54702
1019 53036

Proposed Rules:

13 ..... 51593, 51596, 55219
239 51838
406 55223
441 53839
444 56070
705 51218

17 CFR

Ch. I 54032
7 51520

Proposed Rules:

Ch. I 55469
1 ..... 51598, 56071
4 ..... 51600, 56071

18 CFR

2 ..... 53091, 53099
35 55714
154 53091
270 ..... 53091, 53099
271 ..... 53099, 56034
273 56034
274 56034
277 53116
281 54733
282 ..... 52359, 54741
284 56046
290 54033
292 52779
375 53456

Proposed Rules:

2 ..... 54354, 55761
154 54354
260 54082
271 ..... 51219, 54085, 56072
273 ..... 51219, 54085
274 ..... 51219, 54085
286 56073
301 51614

19 CFR

353 52780
355 54035

Proposed Rules:

Ch. I 51490
123 55474
177 54085
207 54086

20 CFR

Ch. III 53806
404 ..... 52078, 55566
416 ..... 52078, 54742, 55566

Proposed Rules:

Ch. II 51615
410 56074
655 56074

21 CFR

172 ..... 51766, 56051
175 51767
176 ..... 51767, 56052
178 56052
193 ..... 51768, 53457, 53458, 54035
510 ..... 54327, 54328
520 52781
540 54329
555 54327
558 ..... 53457, 54328
561 55715
740 55170
884 ..... 51185, 51186
1306 54329

Proposed Rules:

Ch. II 51832, 52397
101 53023
310 54354
320 56075
346 54354
600 52821
606 52821
610 51226
660 51226

22 CFR

2 55716
220 54751
221 54751
222 54751

Proposed Rules:

Ch. II 53164–53182

23 CFR

657 ..... 52365, 55716
658 ..... 52365, 55716

Proposed Rules:

Ch. I 55763
625 51720
652 51720
663 51720

24 CFR

200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
570 55968
571 51516
590 52762
803 54330
869 52371
883 56324
885 51186
888 54330
1710 52144

Proposed Rules:

51 55223
220 56080
221 ..... 56080, 56081
231 56080
234 56081
235 56081
236 56080
570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:

171 53164
172 53164
173 53164
177 53164
182 53164
231 54331

26 CFR

1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:

1 ..... 52399, 52824
14 52824
26 51840
301 55764

27 CFR

Proposed Rules:

Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR

0 52145
18 54752
42 54036
31 53772

Proposed Rules:

Ch. I 51506, 51832
16 52183
42 54770
50 52183

29 CFR

11 51187
40 51192
102 51192
575 55175
1440 55394
1625 51547
1910 54333
1913 54333
1952 ..... 51775, 53457, 54334, 56052, 56053
1999 51187
2520 51446
2550 51194
2617 55636

Proposed Rules:

Ch. XIV 51229
1960 54355
2520 ..... 51231, 52824, 54370
2530 ..... 51231, 52824, 54370
2550 ..... 51231, 51840

30 CFR

Ch. VII 51547, 52834
211 53128
700 54752
762 52375
785 54752
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306
816 54752
817 54752
820 54752

Proposed Rules:

Ch. VII 52407, 52408, 53180, 53839, 54371, 54372, 55477–55479, 55767
23 56312
36 56308
104 54656
211 56081
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR

341 53393
346 ..... 53393, 55178

32 CFR

706 54753
763 51776
853 52800
865 55422
888d 52145

33 CFR

110 ..... 54754, 54755
117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:

117 ..... 51617, 51618
174 55768
209 54770

34 CFR

64 ..... 353412, 53414
709 53788

Proposed Rules:

100 ..... 52052, 53841
797 54000

36 CFR

7 56054
1228 54334

Proposed Rules:

7 51618
14 54771
221 56082
1190 55006
1202 51843

37 CFR

304 51197

38 CFR

17 ..... 53807, 55716
21 51777
36 ..... 53807, 55720

Proposed Rules:

1 56082
19 56093

39 CFR

111 ..... 56054, 56057

Proposed Rules:

111 51846

40 CFR

35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336, 55178–55180, 55197, 55422, 55720, 56060
80 55136
81 ..... 53147, 54052
86 53400
122 52149
122–124 55386
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053, 54340 55187–55199, 55721
260–265 55386
413 55200

Proposed Rules:

6 53187
35 ..... 53187, 56104
50 ..... 55066, 55083
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372, 54772, 55227–55230, 55480, 55484, 58 ..... 54772, 54773, 55230
60 54385
61 53842
80 54090
81 ..... 52841, 55230, 55231, 56104
122–124 55237
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
260–265 55232
408 52411
410 52185
435 56115
717 51855
720 54642

41 CFR

Ch. 44 55346
Ch. 101 ..... 51201, 53149
1–1 55721
1–3 55721
3 53806
5A–7 55723
5A–26 55723
5A–76 55723
7–6 55724
7–7 55724
7–12 54755
8–3 55425
101–26 55726
128–1 55727

Proposed Rules:

101–6 55769
101–17 52842

42 CFR

Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205, 55727
58 ..... 51209, 51556
62 55426
110 55122
405 ..... 51783, 54757, 56060
455 51559

Proposed Rules:

51 53492
72 51241
405 54774
460 53189
461 53189

43 CFR

4100 53154
8351 51740

Proposed Rules:

2560 52303

Public Land Orders:

5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR

64 ..... 52383, 55433, 55436
65 ..... 51212, 51788, 52384, 55438
67 ..... 51213, 51559, 51789, 51796, 55448, 56062
70 54760–54764
205 ..... 53334, 53956
322 53479

Proposed Rules:

6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427, 54774–54776, 55232–55236, 55483

45 CFR

Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
71 54765
151 53996
185 54004
121i 52130

121o.....52130
121p.....52130
121q.....52130
121r.....52130
228.....55382
801.....52800
1050.....53155
1060.....51561
1480.....52782

Proposed Rules:

121q.....52136
190.....51243

46 CFR

30.....52386
61.....52386
151.....52386
520.....55729

Proposed Rules:

11.....54776
93.....54095

47 CFR

Ch. I.....52389
1.....55200
13.....52154
22.....52149
68.....52151, 54341
73.....51561–51563, 52152, 52800, 52801, 53156, 53818, 53821, 55201–55205, 55731
74.....51563
76.....52153
81.....52154
83.....52154
87.....52154
90.....51811, 55200
94.....55731
95.....55200
97.....51564

Proposed Rules:

Ch. I.....51251, 56115
2.....51251, 51252, 53843
13.....54778
15.....51251, 54784, 55775
21.....51252
22.....53843
63.....55777
73.....51624, 52843, 52845, 52846, 52848, 53843, 54786, 55237–55244, 55491, 56116
74.....51252
81.....54778
83.....54778
87.....54778
90.....53843, 53844, 55245
94.....51252, 55775

48 CFR

Proposed Rules:

9.....51253

49 CFR

1.....54054
172.....55734
571.....51569, 52365, 53157
840.....54055
941.....52389
1002.....51213, 52158, 52802
1003.....51213, 52158
1033.....51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A.....51213, 52158
1056.....51213, 52158, 55465
1062.....51213, 52158
1100.....51213, 52158
1120A.....53827, 55205
1130.....51213, 52158
1150.....51213, 52158
1249.....55209
1309.....52161
1310.....52161
1331.....55734

Proposed Rules:

Ch. X.....53846
171.....54097
173.....54097
178.....54097
398.....51625
571.....51626, 51628
1039.....54111, 54385
1080.....53190
1100.....55246
1102.....51858
1116.....52186

50 CFR

17.....52803, 52807, 53968, 54678, 55654
18.....54056
20.....55960
26.....52391, 55742
27.....55742
32.....52392, 52393, 54057–54060, 54344, 55210, 55743, 55746–55749, 56063
285.....53479
611.....53831
652.....53480
653.....52610
661.....53832

Proposed Rules:

13.....52849
17.....52849, 53495, 54111, 54112, 54682, 54685, 56117
20.....53982
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254, 53500, 53847
655.....51254
661.....51861, 54113

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HHS/FDA		DOT/SLSDC	HHS/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Indian Affairs Bureau—

49224 7–23–80 / Referendum to permit Yurok voters to determine whether they wish to consider formal organization through creation of interim Yurok governing committee

Rules Going Into Effect Sunday, August 24, 1980

CIVIL AERONAUTICS BOARD

42593 6–25–80 / Data to support fitness determinations requirements

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 14, 1980

V 45 A G 2 2 8 0 UMI

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1980)

Quantity	Volume	Price	Amount
_____	Title 24—Housing and Urban Development (Parts 500 to 1699)	$9.00	$_____
_____	Title 26—Internal Revenue (Part 1, §§ 1.170–1.300)	6.50	_____
_____	Title 26—Internal Revenue (Parts 500 to 599)	6.50	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $..... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name _____

Street address _____

City and State _____ ZIP Code _____

FOR USE OF SUPT. DOCS.

Enclosed

To be mailed later

Subscription

Refund

Postage

Foreign handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name _____

Street address _____

City and State _____ ZIP Code _____

V 4 5 A G 2 2 8 0 UMI